

**CITY OF EL MIRAGE
PLANNING AND ZONING COMMISSION
REGULAR MEETING MINUTES
JANUARY 13, 2015**

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Planning and Zoning Commission Chairman Frank Carnal called the meeting to order at 6:00 p.m. & led the Pledge of Allegiance.

II. ROLL CALL

Members present were Frank Carnal, Brian Crosby, Monica Dorcey, Robin Freberg, and Justin McCarty. City staff present was Jorge Gastelum; Director of Development & Community Services/City Engineer, Jose A. Macias, Development Services Coordinator/GIS and Tom Doyle, Economic Specialist.

III. APPROVAL OF THE MINUTES OF NOVEMBER 18, 2014

There being no changes, Crosby made a motion to approve the minutes for the November 18, 2014 Regular Meeting, seconded by McCarty, and the motion passed with a vote of 4 to 0. Dorcey abstained herself from the vote; she was not in attendance at the November 18, 2014 meeting.

IV. OLD BUSINESS

None

V. NEW BUSINESS/PUBLIC HEARING ITEM

1. Appoint a new Planning and Zoning Commission Member Vice-Chair.

Chairperson Carnal opened the nominations and discussion for a new vice-chair. Dorcey nominated Brian Crosby for vice-chair and seconded by McCarthy. Carnal asked for any additional nominations; there being none, the motion for Brian Crosby to become vice-chair passed with a 5-0 vote.

2. Public hearing, discussion, & recommendation for a conditional use permit for a small cell wireless communication facility at 12900 N 124th Lane, 12325 N B Street and 11006 N. El Mirage Road.

Chairperson Carnal opened the public meeting; Macias presented a PowerPoint presentation regarding the proposed wireless communication facilities conditional use permit for three (3) small cell sites. Macias stated that City staff has no objections to the proposal and recommended approval with the following stipulation: 1) Applicant shall revise the landscape plans per City staff instructions prior to final building permits.

Carnal opened the hearing for questions from the Commission Members. Candice Sutherland-Mott from Shaw & Associates (Verizon Wireless Representative) was in attendance to answer questions regarding the project. Carnal asked if the dishes located on the poles were temporary. Sutherland-Mott stated that the dishes are temporary and would be up for six (6) to nine (9) months. Carnal asked how wide the dishes were. Sutherland-Mott answered that the dishes are two (2) feet wide maximum and that they could be even smaller

than two (2) feet depending on the need. Sutherland-Mott also confirmed that there are only two (2) antennas on the poles and not three (3) as presented in the staff report.

Freberg asked if the City had any concerns with the space being taken up by the pole and cabinet. Gastelum stated that City staff reviewed the plans and had no concerns with the space occupied.

Crosby asked about the time of construction and how long it would take to install the equipment. Sutherland-Mott answered that from start to finish it would take a week or two and in some cases a few days. Crosby asked if the parks will be shut down during the construction period; Sutherland-Mott stated that Verizon will work with the City to address the method of construction.

McCarthy was concerned, about the radiation output. Sutherland-Mott stated that everything Verizon does is below FCC standards regarding radiation and there is no safety hazard. Carnal asked the public if they wanted to speak for or against the project.

Tony Caiuolas, an El Mirage resident against the project, stated that he disagrees with Verizon's statement on the levels of microwave. Mr. Caiuolas requested that the project be put on hold due to the timing of public notices. Carnal clarified the public notice process and stated that the Commission Members only make recommendations and City Council has the final decision. Mr. Caiuolas questioned the lease agreement and stated it was unfair for the residents not to be aware of the project. Dorsey again clarified the public meeting process. Gastelum confirmed that the terms of the lease agreement have been accepted by City staff and it will be up to Council to approve the agreement. Mr. Caiuolas then stated his concern for the poles being placed in the parks, and is afraid that more wireless sites will start to appear in City parks and stated that these wireless sites are not needed. Mr. Caiuolas then mentioned the effects the wireless sites will have on the health of the resident. Carnal stated that the Commission and Council members would not make decisions that would harm the residents.

Sandra Caiuolas, an El Mirage resident against the project, stated her concerns regarding the children's safety and interaction with the wireless equipment. Mr. Caiuolas also added his concerns about the safety of the children.

Joshua Horse, an El Mirage resident in favor of the project, stated that he sees no problem with the project and the wireless services are needed in the area and that his kids use wireless services for homework, school projects and restated that he has no concerns about the radiation.

Carnal closed the public hearing and asked for a motion; Dorsey made the motion recommending approval of the conditional use permit with the stipulation noted by staff, seconded by McCarthy the motion passed with a 5-0 vote.

3. Public hearing, discussion, & recommendation for a conditional use permit for a water & ice kiosk in an Urban Corridor Zoning District at 12420 W Thunderbird Road.

Chairperson Carnal opened the public meeting Macias presented a PowerPoint presentation regarding the proposed conditional use permit for a water and ice kiosk. Macias stated that City staff has no objections to the proposal and recommended approval with the following stipulations:

- 1) Property owner shall repair the block wall along the east property line in accordance with current city masonry Wall standards prior to receiving permits. As an alternative to the wall replacement, the owner may have the option to remove the remainder of the east wall, its footing and any debris to the satisfaction of the Director of Development and Community Services/City Engineer.
- 2) Applicant to acknowledge that in the event of any other noncompliance issues related to the owner or their representative of the Mercado site, the Conditional Use Permit for Kiosk may be revoked and/or the utility services to the site may be shut off.
- 3) The applicant shall work with City Engineering staff to address any utility connection issues prior to submitting final building plans.

Carnal opened the hearing for questions from the Commission members. Carnal asked to hear from the applicant regarding the stipulations.

Greg Thielen and John Asher, the applicants from H2O Cube LLC, were in attendance. Mr. Thielen stated that they were aware of the first stipulation regarding the wall but wanted to make it clear that they are not the property owner and were just leasing the land. Carnal stated that the property manager filed a claim with the City regarding the fallen wall and that he would let the City's risk services and/or property ownership/management handle the first stipulation. Carnal also mentioned the history of non-compliance items with the property. Mr. Thielen stated they were aware of some issues and therefore proposed not to connect their utilities to the existing building and be on their own. Mr. Thielen stated that the second stipulation is getting them involved with the property owner's problems and that the stipulation adds more money to invest in the setup of the kiosk operation, which would not be a good investment and would put the operation in jeopardy. Mr. Thielen stated that they like the location; Carnal and Dorcey agreed.

Carnal opened the floor for commission questions and discussion. Crosby stated that it would be a good business and that stipulation #2 is more of a legal issue and by placing the kiosk on the property the applicant runs the risk. Mr. Thielen stated the wording of stipulation #2 was his big concern stating that the conditional use permit could be revoked if the property falls out of compliance. McCarty stated stipulation #2 makes no sense from a business prospective if the person leasing is tied to the property ownership. Thielen stated that they could be a stand-alone business based on having their own utilities. Dorcey asked for clarification from Gastelum on the process of recommendation to Council; Dorcey asked if the Commission board recommends the project as is, would the Council be able to make changes. Gastelum stated that the Council would have the final determination on the issue. Gastelum also stated that the matter has been discussed with the City Attorney and based on the previous code violations staff wanted to make the applicant aware. Gastelum also stated that City staff does not have the authority to revoke the conditional use permit, but that it would be up to the Council. Crosby asked if Council can amend the stipulations. Gastelum stated that Council can amend or remove the stipulation. McCarty asked if there are any City Codes that would allow them to operate under a different business if the other business were in violation.

Freberg started the discussion by stating his disagreement with the stipulations. The Commission Members discussed the effects the stipulations would have on the proposed conditional use permit. The Commission Members felt that the water and ice kiosk should not be accountable for any code violations accrued by the property owner and management.

Carnal opened the floor for public comments and questions; there being none, Carnal closed the public hearing and called for a motion. McCarty made a motion to recommend approval of the conditional use permit removing stipulations one (1) and two (2). Dorsey seconded, motion passed with a 5-0 vote.

**4. Public hearing, discussion, & recommendation to amend the City Code
Section 151.009 Terms of Construction.**

Carnal opened the public hearing. Macias introduced City staff member Christopher Hauser, Asst. Engineer to present the text amendment. Hauser gave a presentation on pavement restoration and fees.

McCarty asked if there was a breakdown on the type of road, and type of material to be used. Hauser stated that the pavement restoration does not include the material underneath the seal coat. Crosby asked about the increase of cost of material over time. Hauser stated that staff would review the proposed fee and revised it on a yearly basis during the budget process.

Carnal opened the floor to the public for questions and comments; there being none, Carnal closed the public hearing and called for a motion. Dorsey made the motion to recommend approval of the text amendment to the City Code as written, seconded by Crosby, the motion passed with a 5-0 vote.

VI. DISCUSSION ITEM

None

VII. STAFF REPORT

None

VIII. COMMISSIONER COMMENTS

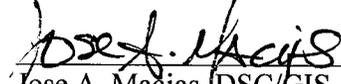
Crosby thanked the members of the public for attending the meeting and appreciated the comments and recommended they attend the Council meeting and reminded them that the Commission just recommends and the Council makes the final approval. Mr. Caiolas wanted to discuss the statement that the wireless communication facility in the Buenavida Park was in a flood plain. Carnal stated the he can discuss that at the Council meeting.

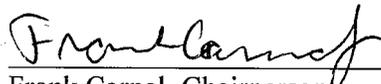
Freberg stated he was happy to be on the Commission Board.

Carnal thanked City staff for their work and efforts.

IX. ADJOURNMENT

Planning and Zoning Commission Chairperson, Frank Carnal, adjourned the commission meeting at 7:05 p.m.


Jose A. Macias, DSC/GIS


Frank Carnal, Chairperson