CITY OF REDMOND PLANNING COMMISSION
MINUTES

February 27, 2019

COMMISSIONERS PRESENT: Vice Chairman Miller, Commissioners East, Kritzer, Nichols, Rajpathak, and Rodriguez

STAFF PRESENT: Kimberly Dietz, Jae Hill, Scott Reynolds, and Cameron Zapata, Planning Department

EXCUSED ABSENCE: Chairman Captain

RECORDING SECRETARY: Carolyn Garza, LLC

CALL TO ORDER:
The meeting was called to order at 7:00 p.m. by Vice Chairman Miller.

APPROVAL OF THE AGENDA

MOTION to approve the Agenda by Commissioner Nichols. MOTION seconded by Commissioner Kritzer. The MOTION passed unanimously.

ITEMS FROM THE AUDIENCE: None

Report approval, Shoreline Master program (SMP), Cathy Beam, Redmond Planning

MOTION to approve the Shoreline Master Plan Periodic Update by Commissioner East. MOTION seconded by Commissioner Nichols. MOTION passed unanimously.


Ms. Dietz introduced Mr. Reynolds, Ms. Zapata, and Ms. Elana Zana, Redmond Legal Counsel. Commissioners had been distributed an updated issue table and a copy of the Federal Communications ruling that the amendments respond to.

The amendment is responding to a January 14, 2019, FCC ruling. The goal is to work with City Council for action by April 14, 2019, or as close as possible due to an FCC established deadline. The recommended changes are minor, necessary for compliance with the FCC’s January 2019 ruling, and limited in scale and scope. Commissioners were reminded of their 2017-2018 review of a previous FCC ruling that involved amendments to the City’s land use regulations, design standards, permit review timing, State and Federal mandates describing the efficient deployment
of small cell facilities and networks, and a predictable process for wireless service providers are affected.

Small cell facilities are smaller than macro facilities, which are the backbone of the communication network for data and wireless cell phone signals. Small cells are seen in denser areas such as urban centers and residential neighborhoods to provide additional service where needed.

Safe Harbor Fees will be discussed at this presentation but are not part of the Commissioner’s packet and will be addressed through a Resolution that the Public Works and Finance staffs are currently working on.

The following are the minor changes regarding shot clocks, aesthetic standards, and terminology.

A shot clock is created to establish certainty and encourage efficient permit review. The time frames are applicable at state and local levels, and involve the time in which an application must be reviewed and a response provided to the applicant. Review time, provided for through the shot clocks, is based on size and complexity. The shot clock starts as soon as an application is submitted and is paused if an application is incomplete with the applicant notified. The shot clock resets when needed information is received.

The FCC ruling describes an unintended prohibition that can be created through Aesthetic Standards when a state or local regulation materially inhibits the ability of a provider to engage in a variety of activities within an effort to provide service while that action is filling a gap, densifying the network or improving service capabilities. If there is an inability to accomplish this, Aesthetic Standards are not lawful. Images were displayed from the Verizon Smart Pole Product Guide and Denver Design Guidelines.

The majority of changes in the amendment package will be to terminology. RZC definitions are updated based on the FCC rulings; the changes include additions, omissions, and replacements.

Images of City of Redmond pole standard details were displayed. Staff pointed out that the included pole designs are hollow, creating an opportunity for facilities to be co-located by running conduit through the pole and installing an antenna at the top of the pole, such as in an example provided.

Staff hopes to return on March 13, 2019, for the Planning Commission recommendation and report approval. The completion date for City Council is hoped for April 13, 2019, though final action would probably be on May 7, 2019.

Vice Chairman Miller called the Public Hearing to order.

Public Hearing

There were no speakers.

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Vice Chairman Miller held the Public Hearing open for written comments until the next meeting on March 13, 2019. One letter had been received which will be entered into written comments. Ms. Dietz stated that a copy of any additional written testimony can be provided to the Commission through a packet, but the testimony could not be addressed until March 13, 2019.

**Study Session**

Vice Chairman Miller began with Issue A1, how the FCC ruling impacts procedures, workflow, and applicants. Ms. Dietz replied that the specific amendment would not impact, in any new or different way, processing of permits by staff. The new shot clocks did not create amendments to the existing code since the permit review timeframes were previously established with the 2018 amendment package. No changes are anticipated to how applicants work with the City. What is anticipated is that as demand continues to increase for this service, that staff would experience an increased demand for processing permits. Vice Chairman Miller asked if the introduction of the shot clock would have the effect of moving something else further back, and Mr. Hill replied that Planning staff would be responsible for processing permits and as a 5G rollout would occur, there would be training of the staff; this would roll into the normal daily work of processing permits. Vice Chairman Miller was satisfied with closing Issue A1.

Vice Chairman Miller stated that the definition of Safe Harbor Fees in lay terms was needed. Ms. Dietz replied that Safe Harbor Fees are addressed through the City Fee Schedule, and the Schedule is currently being updated by the Finance and Public Works departments. The two departments typically administer fees such as this. Ms. Dietz invited Ms. Zana to address the Commission. Ms. Zana continued that generally speaking, Safe Harbor Fees are not requirements, but a guideline for fair and reasonable compensation is determined by actual cost. Charges made by the City for small cell infrastructure under the FCC order for reviewing permits are what the actual cost to the City is and not an increase or fair market value. Cities are not obligated to comply with Safe Harbors which are calculations the FCC offers for use. Cities are expected to figure a reasonable approximation of costs. Vice Chairman Miller asked if there is a mechanism by which an applicant could challenge the fee, and Ms. Zana replied yes, and if the City cannot produce information in defense, the Court or FCC could become involved. The City is working hard on calculating actual costs and a challenge in Redmond is not anticipated. Vice Chairman Miller asked if the Commission would be expected to attach a fee schedule to this work, and Ms. Zana replied no, the fee schedules will come out of the Finance and Public Works departments, a fee resolution which will be resolved at the Council level. Vice Chairman Miller closed the issue.

Vice Chairman Miller continued to Issue C1, the decision-making body for special exemptions. Commissioner Nichols stated that the Issue had been answered at the last meeting to satisfaction and could be closed.

Vice Chairman Miller asked what the role of the Design Review Board would be. Ms. Dietz replied that staff had referred to code, RCZ, and RMC, to provide information. The Design Review Board would not be involved in a review of wireless facility applications because the Board is designed for a specific review process in which a building permit would be required. The permits required for the wireless facilities would be Type I or Type II, and the Board would
only become involved if an application is resulting in a building permit that has a certain value. This would not fall into that threshold. Type II is an administrative process in which staff reviews and the Technical Committee authorizes. Ms. Dietz stated having sited this on page six of the Issues Table. The Technical Committee is responsible for making decisions and recommendations on Land Use Permit Applications which is Type II. Vice Chairman Miller stated that aesthetics and design quality should be addressed and asked if, under a $50,000 threshold, the determinant of aesthetic compliance with the codes and standards of the city rests with the staff. Ms. Dietz replied that the Technical Committee would be the final decision body after an analysis of the application by staff. The Technical Committee’s review through the Type II process also includes the established special design areas such as Cleveland Street, Leary Way, Gilman and some streets in Overlake. A breakdown to the type of facility being provided and location dictates whether the application is a Type I or Type II administrative process. Vice Chairman Miller asked if there would be an institutionalized recourse if a member of the community were to complain about a facility, challenging the ruling of the Technical Committee. Mr. Reynolds replied that there is an appeal process built into the Redmond Zoning Code for appeals to a Technical Committee decision. Ms. Dietz read from D32 of the code and Design Standards which will remain unchanged from 2018. Vice Chairman Miller asked if the rules could be challenged if an applicant believed a requirement was technologically unfeasible under new language. Ms. Zana replied that Verizon had submitted a comment last week that requested the addition of technical feasibility onto the provision and a corollary provision on the next page. Vice Chairman Miller asked if this should be put onto the Matrix, and Ms. Zana replied yes and this also could be discussed later in the Study Session; the piece has not currently been added into code.

Vice Chairman Miller continued to Issue C3, the ruling impacting City aesthetics. Commissioner Kritzer asked for clarification that changes would not affect implementation in special design areas. Ms. Dietz replied yes, that there were no changes to this section of code. Commissioner Kritzer thanked staff for bringing more detailed information for the Commission overall, particularly in layman terms. Ms. Zana made a clarifying comment that the code was difficult to read individually and that all components must be reviewed together. In the larger context of the Code, there may be small changes but they may not be noticeable in their implementation.

Commissioner Rajpathak asked if poles will need to be replaced as the current design allows for 17 cubic feet and now 28 cubic feet would be allowed for equipment enclosures. Ms. Zana replied that replacement light poles would likely be needed to create enough space for the interior conduit. Commissioner Rajpathak asked for clarification that additional equipment pieces have been allowed to be outside of the pole, but now the pole needs to be made wider to accommodate everything inside. Ms. Zana replied that the preference is for full concealment inside, and then outside only if the pole cannot accommodate the equipment. ADA compliance must also be maintained. Ms. Zana displayed and described images of poles in Denver, Colorado. The pole type, pole manufacturer and carrier are all factors.

Commissioner Rajpathak asked if the shot clock would still be valid if certain poles are identified as not allowing the 28 cubic feet and a pole is required to be changed. Ms. Zana replied that applications submitted must show that the pole chosen can handle a load or a replacement pole suggested. If the reviewer of the application does not believe a pole can handle
the load being applied for there are two options. If noticed within the first 10 days, the application would be deemed incomplete and shot clock paused accordingly. On day 30, the City can deny the permit because technical qualifications for the City will not be met, or the carrier can be contacted for an agreement to resubmit the application or accept the denial.

Commissioner Rodriguez asked what entity would pay for replacement poles. Ms. Zana replied that the carriers would pay for replacement poles. PSE has separate requirements. The Issue was closed.

Issue D1, the definition of small wireless facilities or small cells, had been asked by Commissioner Rodriguez, who stated that the question had been answered during the presentation and that the issue could be closed.

Vice Chairman Miller asked what the intent of the FCC ruling regarding what is reasonable and what *materially inhibit* means. Ms. Zana replied that for the most part, the FCC is focused on costs; actual, reasonable and objective. The standard of *materially inhibit* is vague, essentially that the City is doing something to stop an applicant from actually doing what they want to do, materially inhibiting a new or existing technology from coming in. The focus is if competition is being allowed, or if effectively prohibiting an application is occurring. Ms. Zana stated not knowing how this would play out. Previously, there was a Significant Gap in Coverage test, but the FCC has eliminated this. Vice Chairman Miller stated that the Issue could be closed following one further question.

Vice Chairman Miller asked if the FCC has thrown open doors or if this is a relatively technical modification to what is already being done. Ms. Zana replied that a personal opinion was that the FCC had ignored comments from hundreds of cities regarding this.

Commissioner Rodriguez asked if Redmond is offering incentives to carriers to roll out 5G faster than other cities. Ms. Zana replied that monetary incentives were not offered but working cooperatively to understand plans as well as how the desires for technology and retention of aesthetic appeal can be accomplished.

Vice Chairman Miller asked to add an item to the Matrix as suggested in the Wireless Policy Group (WPG) letter regarding the fully screened requirement which occurs in several sections of the code; 5G antennas cannot be screened or painted. Verizon is concerned that this requirement will inhibit 5G deployment in areas where Redmond anticipates the densest development such as Cleveland, Gilman, Redmond Way and parts of Overlake. Verizon requests that the requirement be qualified by adding the language, *to the fullest extent technologically possible*. Vice Chairman Miller asked if this was reasonable or enforceable. Ms. Dietz replied that the Issue could be placed in a parking lot for future discussion and that staff was not recommended this change for the current series of code amendments. Vice Chairman Miller stated that in the interest of diligence, the issue should be addressed as a Matrix question so that the report can state exactly why the Issue would be discussed later. Commissioner Nichols stated hoping to understand the process better. Ms. Dietz replied that staff does not have enough information to accept the particular change and this would need to be discussed at a later time, possibly even as 5G
implementation occurs. Commissioner Nichols stated that the explanation was very reasonable, but that the question should be in the Matrix.

Vice Chairman Miller asked to add the second question from the WPG letter. Antennas are not permitted on any building façade other than water towers, and this is overly restrictive for Business Park, Commercial and Industrial Zones. Verizon is requesting that attachment to building facades and rooftops be allowed in these zones. Ms. Dietz replied that the issue is in the letter was in response to an earlier draft of code and no longer applies to the draft received in the recommendation to the Commission.

Commissioner Rodriguez asked hypothetically if, in a commercial or industrial scenario, a valuation of over $50,000 might occur sending the Issue to the Design Review Board. Mr. Reynolds replied that this would depend on whether the project was stand-alone or incorporated with the overall design. If a building would have wireless capabilities as a part of it, this would be considered as a larger package together. Screening elements are looked for by staff. Commissioner Rodriguez asked for clarification that there was no Venn diagram overlap in a commercial scenario. Vice Chairman Miller requested that this be included on the Matrix.

Ms. Zana clarified that WPG referred to a typo in the WPG letter, question number two. Commissioner Rodriguez replied that the Issue for the Matrix was triggered by the WPG question, but was regarding a different scenario.

Commissioner Rajpathak asked what the cost of a macro tower was and what the review process would be, looking to the $50,000 limit. Ms. Dietz replied that this would be put onto the Matrix. The current FCC ruling and recommended series of code amendments do not address changes to macro towers, but specific only to 4G and 5G small cell.

Vice Chairman Miller moved on to WPG question three; that the City should clarify why interior conduit is included toward the minimum 28 cubic feet for pole mounted equipment enclosures when this is not visible. Vice Chairman Miller asked if other utilities may be competing for space. Commissioner Rajpathak asked for clarification regarding what the third question was saying. Ms. Dietz replied that there is a differentiation between the antenna and all else which falls into the 28 cubic feet. Staff is looking at how to incorporate this to be in sync with the FCC ruling.

Ms. Dietz asked if any previous Issues remained open, and Vice Chairman Miller replied that the only issues remaining on the Matrix were the three generated from the WPG letter. Commissioner Rajpathak asked whether other carriers have similar concerns to those described in the WPG letter. Ms. Zana replied that AT&T had submitted comments in advance of the Public Hearing and that there may have been similar concerns. Different cities will be higher in priority to different carriers and additional comments might only be submitted to those cities. The issues may still be of concern, but not priorities.

*Five Minute Break*

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Mr. Weber, Redmond Cultural Arts Administrator, and Ms. Hope, Redmond Park Planning and Cultural Arts Manager, introduced themselves. Mr. Weber stated that an advocate from the Arts and Culture Commission would join presentations at future meetings.

Mr. Weber stated that over the years, the City has encouraged the private sector to play a more significant role in creating placemaking and pedestrian amenities. Critical gaps exist in both policies and procedures. Currently, there is no code or resolution addressing how and when the City should review public art projects proposed by a developer. An interim process is being used as staff continues research of other cities. This inter-departmental effort will result in the adoption of code amendments to provide more clarity about the integration of public art and private development.

The purpose of the amendments is to provide a process to follow for public art proposals from the private development community; to develop a zoning code definition for public art, to find the types of projects which require review, a city review body, submittal requirements, rating criteria, and a review process. The Planning Commission can provide questions and input on the public engagement process, draft proposals, the draft code amendment, to hold public hearings and recommend code amendments to City Council.

In 2017, the City of Redmond adopted a definition of public art. The Public Art Plan and Cultural Corridor Plan explain that public art is more than just visual. Public art needs to be defined in the code, however, as well as how in-lieu contributions will be used. A tiered approach for using in-lieu funds could be used to fulfill the public art plan in neighborhood development, give a capital fund for an art center, and add to a public arts programming fund or grants for artists or other community support programs.

Public Art includes permanent art; temporary art; events that are goal oriented, curated arts; performances; and social practice. Art for Redmond is multi-disciplinary, multi-faceted and incorporates all the forms mentioned.

Benefits of public art include making connections between people and places; placemaking; inspiring creativity and promoting understanding. The Comprehensive Plan describes many benefits of public art including building community character; promoting public participation in the arts; supporting the identity of Redmond as diverse and intellectual; strengthening cultural and economic vitality in Urban Centers; contributing to the quality of life for residents; attracting and retaining people and businesses and activating the public realm. Moreover, integrating art into private development is a strategy for humanizing development.

Ms. Hope continued. Since 1991, Redmond has had a Public Art Ordinance focused on City projects which generates 1 percent from capital programs to fund visual public art. Policies are in place to expand upon this. In Redmond’s code there are either requirements or encouraging language for developers to integrate public art into private developments; for example, blank
wall treatment, administrative design flexibility in development agreements, provisions where a development agreement must provide a public benefit and the incentive provisions in Marymoor Village design districts. A developer can either incorporate the 1 percent into public art or pay the 1 percent into the fund.

Goals are to integrate site-specific art if possible, strive for destination quality, and contribute to an exceptional place. An implementation process must be chosen including defining public art, ensuring quality, ensuring low-risk and providing maintenance. A provision for decommissioning is also needed. A review process should include what kind of projects require review, the identification of the reviewing body, submittal requirements, how proposals are rated and identifying the official approval process.

Other cities use funds similar to in-lieu and these can be presented in future meetings to evaluate what might be appropriate for Redmond. Currently, there are several projects either voluntarily providing public art or which are required to, based on code requirements. A process should be decided on to be in place and defendable by the end of 2019. While some developers are embracing the concept, others require assistance regarding, for example, posting a call for art.

In summary, there will be a future discussion regarding a definition and the process to review public art as well as clarifying the use of the in-lieu fund. The introduction to the topic is occurring in presentations to different Commissions through March and an outreach process will begin in April with key stakeholders, developers, and artists as well as continued internal research by staff. A draft amendment will then be developed and an approval process explored.

Commissioner Kritzer stated looking forward to discussing how to create opportunities for more public art, and in particular how the unique character of Redmond, local artists and the ability to celebrate diversity can be integrated. Policies should ensure that art is created that is meaningful and reflects the character of Redmond residents. Commissioner Kritzer stated that learning Best Practices from other cities will be helpful.

Commissioner Rajpathak stated that comparisons to any other local City processes would be helpful, and asked why the art process needs to be qualified as there is already an Ordinance. Ms. Hope replied that there is an Ordinance but only for publicly developed public art, the City as the public art developer. There are no procedures in place for how the City should review privately developed public art. Code provisions encourage private developers to create art but there is no formal way identified in the code to review. Commissioner Rajpathak asked if Redmond was trying to identify a City theme or acceptable art. Ms. Hope replied that there are provisions in Redmond code which require or encourage art in certain cases, and there needs to be a process to evaluate in the same way as for architectural purposes. Mr. Hill replied that not the appropriateness of the content of the art but the quality to the public and how the art fits into development was the issue; the Arts Commission looks more at the intrinsic value of the art. Ms. Hope continued that the timing of when art should be reviewed is also at issue; art inside a building would not be examined even though the public can enter the building, but pieces outside of a building visible to the public not inside the building or on a private balcony would.

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Commissioner Nichols commented to Commissioner Rajpathak being glad the process is being developed, remembering a frustrating time when there was no process for any entity involved. There are Design Standards for buildings and Design Standards for public art make sense as well.

Commissioner Rajpathak asked if adding additional processes will add additional time and cost for Redmond. Ms. Hope replied that an answer of time and cost can be brought back to the Commission, but that the process needs to be defined first.

Vice Chairman Miller stated that the presentation was a briefing on intent and not a review of the product. Vice Chairman Miller asked if the scope includes a review of festivals and in what context. Ms. Hope replied further research and ideas from stakeholders needs to be completed. Vice Chairman Miller asked if the intent was to also enter a public art relationship with other agencies such as Sound Transit, PSE or WSDOT. Ms. Hope replied that any voluntarily provided art in the public eye would require a review process. Vice Chairman Miller asked if the art consumer or public could be incorporated into the process involving stakeholders. Ms. Hope replied that the art consumer or public is not being excluded from the process, but the focus is more on developers and artists most affected. A robust public engagement process has occurred over the last two years and this is where policy language has emerged from.

Commissioner Rodriguez asked if the response from the developer community could be presented. Ms. Hope replied that the Commission would be presented with a briefing regarding this. Commissioner Rodriguez asked for clarification regarding maintenance of art, which if deterioration may devaluate the property as well as create a scenario in which the public no longer responds to the art as originally ideated; and in addition, regarding security for landmarks which may become highly targeted pieces. Also, Commissioner Rodriguez asked what sort of festival planning impact scenarios such as traffic, pedestrian access, and safety are contemplated if the art process is green lighted.

Vice Chairman Miller asked how people will have access to privately funded art on private and constricted access property. Developing a transparent and reasonable process is positive.

Reports/Scheduling/Topics for Next Meeting(s)

Mr. Hill stated that there is no meeting on March 6, 2019, but there would be a fairly busy meeting on March 13, 2019. The retreat on April 10, 2019, would replace the regular meeting. The Commission confirmed that April 10, 2019, was acceptable for the retreat. Although the term of Vice Chairman Miller will be expired, Vice Chairman Miller is invited.

Communications with Staff

Mr. Hill had no comments.

Vice Chairman Miller stated not attending the March 13, 2019, meeting and that this meeting would most likely be the last of the term. Vice Chairman Miller stated that a book, *The Job of the Planning Commissioner*, from American Planning Association Press, had been presented to Vice
Chairman Miller at the beginning of the Commission term. Details are out of date as publishing was in 1987, but the book still addresses the essence of why the Commission exists. A reminder of the citizen role in Planning is important.

A quote from Thomas Jefferson is: ...I know of no safe depository of the ultimate powers of society but the people themselves. And if we think them not enlightened enough to exercise the control with a wholesome discretion, the remedy is not to take it from them but to inform their discretion by education.

A quote from the author is: ...For another country where the management of local affairs is not permanently placed in the hands of a national ministry of bureaucrats or in provincial party hacks, in America, residents have been coming forward to give their time and common sense in unpaid service to their hometowns since 1620.

Vice Chairman Miller interjected that giving of time and common sense has occurred much longer considering tribal councils of Native Americans.

Continuing the quote: ...Membership on Planning Commissions and other citizen advisory boards is the continuation of a tradition that began in the town meetings of the first settlers. Even though planning goes through times of retrenchment and expansion, the central beliefs that support the American way of planning are more evident than ever. These beliefs are also the reason for including citizen planning Commissioners in the planning process.

Vice Chairman Miller highlighted two of the seven processes. First, citizen involvement; goals are best set by public discussion and government should be open and accountable to the public in every step of the planning process. In many instances, the Planning Commission acts as a surrogate public, particularly on broad, long range issues where it conducts the public dialogue with full access to pertinent information. Secondly, smaller is better; Americans believe in a series of little governments. We’ve been increasingly put off with big governments in recent years, particularly with bureaucratic complexity. We favor diversity in the development of local standards and a homegrown flavor to our communities. We also cherish the opportunity to fight City Hall when it might choose a flavor we don’t like. Good Commissioners know and can protect a sense of community place. They not only provide an arena for those who fight City Hall but can also give those fighters common sense responses to these concerns.

Vice Chairman Miller stated that serving on the Planning Commission has been a joy with incredible discussions, debates, and issues over the years. The Planning Commission is in grand hands moving forward but the commitment is always to fellow citizens. The quotes read summarize every reason, rationale, and motivation of Vice Chairman Miller to participate in every Wednesday meeting for ten years.

Mr. Hill asked if anyone on the Commission has the book referred to by Vice Chairman Miller and the Commission replied no. Mr. Hill would research if the book is still in press, or if there is an updated edition. Vice Chairman Miller replied that the American Planning Association Press is probably the source.
Commissioner Nichols stated having enjoyed serving with and has learned a great deal from Vice Chairman Miller during the past three years.

**ADJOURNMENT:**

MOTION to adjourn by Commissioner Nichols. MOTION seconded by Commissioner East. The MOTION passed unanimously.

The meeting adjourned at 8:46 p.m.

Minutes Approved On:

[Signature]

Planning Commission Chair

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