

**BEFORE THE HEARING EXAMINER
FOR THE CITY OF REDMOND**

In the Matter of the Application of)	NO. L090455
)	
Michael Cady,)	
on behalf of T-Mobile)	South Kern Wireless Communication
)	Facility
)	
)	
For an Essential Public Facility Permit)	ORDER ON REQUEST FOR
_____)	RECONSIDERATION
)	

BACKGROUND

On March 17, 2010, the City of Redmond Hearing Examiner (Examiner) issued Findings, Conclusions, and a Recommendation to the City Council to approve with conditions a request for Essential Public Facilities permit submitted by T-Mobile.

On March 23, 2010, City of Redmond Department of Planning and Community Development Staff (the City) timely requested reconsideration of the Examiner's recommendation.

JURISDICTION

Requests for reconsideration of Hearing Examiner Type IV applications (Essential Public Facilities) are governed by Redmond Community Development Code (RCDG) 20F.30.45-100(6), which states:

Any party of record may file a written request with the Hearing Examiner for reconsideration within 10 business days of the date of the Hearing Examiner's decision. The request shall explicitly set forth alleged errors of procedure or fact. The Hearing Examiner shall act within 14 days after the filing of the request for an appeal by either denying the request, issuing a revised decision, or calling for an additional public hearing.

REQUEST

1. The City's request for reconsideration noted that, at public hearing, City Staff had provided testimony relating to the request of an adjacent property owner. The neighbor had requested that the City require the Applicant to change the proposed species of screening vegetation to Sarcococca and that the City require a solid wood fence rather than the proposed chain link fence with privacy slats, as noted in Exhibit 2, Attachment h and Exhibit 3. The City's request for reconsideration noted that the Applicant had agreed to these changes prior to the hearing.

2. In the reconsideration request, the City submitted a proposed additional condition of approval, to be added as Condition 4(c):

The proposed landscaping species for low shrubs shall be modified to Sarcococca surrounding the equipment shelter. The equipment shelter shall be screened with a wood fence.

3. The City requested that Finding number 3 be amended to reflect that surrounding zoning consists of both R-4 and R-1 zoned areas, consistent with Exhibit 1, Attachment 2.

DISCUSSION

Planting species:

Pursuant to RCDG 20D.80.10-80(2)(a)(vi), Type I landscaping - defined as vegetation that creates a solid sight barrier - is required to screen the proposed equipment shelter from view. The City code establishes a Recommended Plant List (Appendix 20D-1), which establishes a list of species from which to choose to provide the required level of screening. The necessary inference of the adoption of such a list is that any listed species, or combination of species, capable of achieving the required level of sight-obscuring screen mitigates visual impacts equally well.

The Applicant submitted landscaping plans that depict Type I landscaping, through retention of existing mature vegetation and new plantings, along with fencing. City Staff accepted the preliminary landscaping plans. Conditions of approval in the March 17, 2010 recommendation would ensure submission and approval of final landscaping plans, including planting schedule and landscape bond, prior to building permit issuance.

The City understandably wishes to acknowledge the member of the public who participated in the public meetings held through the Essential Public Facilities' amplified public involvement process; however, there is nothing in the record to suggest that another species besides Sarcococca would not provide the same or better degree of screening. Absent evidence that the specific species is the only one capable of obtaining the desired level of screening in the location in question, the preference of one neighbor for a particular species is not appropriately raised to the level of a condition of permit approval.

Fencing Material:

Pursuant to RCDG 20D.170.45-060(1)(f), fencing that is required for the security of the proposed utility equipment must be consistent with the requirements of RCDG 20D.120.20.¹

With regard to fencing, the required Type I landscaping screen is intended to provide a solid sight barrier, meaning the fence would not be visible. As stated in Exhibit 2, Attachment h, the neighbor's preference for wood fencing stems from the desire to completely hide the equipment. The required Type I vegetation screen would completely hide both the utility equipment and the fence.

¹ 20D.120.20-020 Service Area Screening. Service area screening shall be of a material or vegetation sufficient to provide a solid visual barrier at least eight feet high.

CONCLUSIONS

1. The requested condition (requiring specific species and fencing materials) was intentionally excluded from the March 17, 2010 recommendation. The reconsideration request has not convinced the Examiner that modification of the recommendation is warranted. As issued, the recommendation would ensure compliance with Type I landscaping requirements, which is the full extent of visual impact mitigation required in the Community Development Guide. The Applicant is, of course, free to choose the species and fencing materials preferred by the neighbor who participated in the public involvement process; it would be laudable to do so.
2. At its discretion, the City Council may elect to condition permit approval on particular species and fencing material selections, particularly in deciding the Special Exception requests (see RCDG 170.45-080(1)(b)).
3. The final sentence of *Finding number 3* of the March 17, 2010 recommendation is amended to read as follows: "The South Kern site is surrounded by residential development in the R-4 and R-1 zoning districts."
4. The Examiner will take the opportunity of this reconsideration order to correct three scrivener errors in the March 17, 2010 recommendation:
 - a) The file number in the case header should read "L090455", consistent with the footer.
 - b) In both the *Summary of Record* and in *Finding number 1*, the address of the subject property is listed as "16610 NE **11th** Street in Redmond". In both places, the subject property address should read "NE **111th** Street".

ORDER

1. The request for reconsideration is **DENIED** to the extent that no additional conditions of approval are added to the March 17, 2010 recommendation.
2. Findings numbers 1 and 3, the file number in the case header, and the Summary of Record are amended consistent with the conclusions above.
3. The City's March 23, 2010 request for reconsideration and this order on reconsideration shall be added to the record of the above captioned matter.

By:



Sharon A. Rice
Towell Rice Taylor LLC
City of Redmond Hearing Examiner