ORDINANCE NO. 2019-O-09

AN ORDINANCE REZONING THREE PARCELS LOCATED AT 7350 SOUTH 900 EAST (APPROX. 39 ACRES IN TOTAL) TO INCLUDE THE PUBLIC FACILITIES OVERLAY ZONE AND ALLOW THE CONSTRUCTION OF A TELECOMMUNICATIONS FACILITY; ALSO PROVIDING A SAVING CLAUSE AND AN EFFECTIVE DATE FOR THE ORDINANCE.

WHEREAS, the Canyons School District owns approximately 39 acres at 7350 South 900 East and this property encompasses high school campus facilities and active leases for Sprint and Verizon to have telecommunications facilities; and

WHEREAS, school district property has a zoning designations of Single Family Residential (SF-1) with a Duplex Overlay and Regional Commercial which allows a telecommunications facility with a maximum pole height of 35 feet; and

WHEREAS, new school building construction on the property has impacted the ability for Sprint and Verizon to provide adequate coverage to the surrounding community under the current zone district development regulations for telecommunications facilities; and

WHEREAS, the City has a Public Facilities Overlay Zone, which was created to provide for locations and appropriate standards for certain public uses and facilities to be constructed and operated to provide basic services and essential support services for the community, including educational institutions, and

WHEREAS, the Public Facilities Overlay Zone can allow a telecommunications facility with a pole over 35 feet in height provided the telecommunications facility complies with the specific criteria found in the Overlay Zone; and

WHEREAS, the Canyons School District has made application to rezone its properties at 7350 South 900 East as described in Exhibit A to include the Public Facilities Overlay Zone, and has requested approval for Sprint and Verizon to co-locate on an 85-foot high monopole to be constructed in a location that will be least impactful to the community and school functions; and

WHEREAS, pursuant to Sections 10-9a-503 and 10-9a-505 Utah State Code, the City has the authority to make and amend a zoning plan which divides the City into zoning districts and within those districts to regulate and restrict the erection, construction, reconstruction, alteration, repair, and use of buildings and structures and the use of land to promote the prosperity, improve the morals, peace and good order, comfort, convenience, and aesthetics of the municipality; and

WHEREAS, following appropriate notice to surrounding property owners and publication in the newspaper on May 29, 2019, the Planning Commission held a public hearing on June 12, 2019, to review the request to rezone the property and the site plan for the proposed telecommunications facility/monopole; and

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WHEREAS, after considering the proposal and public input, the Planning Commission found that the rezone and proposed site plan complies with the Public Facilities Overlay Zone criteria and criteria for a telecommunications facility and forwarded a recommendation to the City Council to approve the rezone and proposed site plan; and

WHEREAS, following appropriate notice to surrounding property owners and publication in the newspaper on June 18, 2019, the City Council held a public hearing on July 2, 2019, to review the Planning Commission's recommendation to rezone the property and the proposed site plan for the telecommunications facility/monopole; and

WHEREAS, after considering the proposal, public input and Planning Commission’s recommendation, the City Council found that the rezoning of said property is appropriate and the proposed telecommunications facility/monopole is needed by the community and complies with the criteria for a telecommunications facility in the Public Facilities Overlay Zone.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Midvale City, Utah as follows:

Section 1. The zoning ordinance, which sets forth the zone districts within Midvale City which portion of the said zoning ordinance is established by a zoning map, is hereby amended as follows:

The properties (Parcels 22-29-105-020, 22-29-153-014, 22-29-302-017) described in Exhibit A attached hereto and by this reference made a part hereof, which properties are located at approximately 7350 South 900 East, Midvale, Utah and two of which are currently zoned Single Family Residential (SF-1) with a Duplex Overlay and the other Regional Commercial shall be rezoned to include the Public Facilities Overlay Zone.

ZONING PRIOR TO EFFECTIVE DATE OF THIS ORDINANCE:

<table>
<thead>
<tr>
<th>Parcel Number</th>
<th>Zoning Description</th>
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<tbody>
<tr>
<td>22-29-153-014</td>
<td>Single Family Residential (SF-1) with Duplex Overlay</td>
</tr>
<tr>
<td>22-29-302-017</td>
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<td>Regional Commercial</td>
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<td>22-29-105-020</td>
<td>Regional Commercial and Public Facilities Overlay</td>
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Section 2. The proposed telecommunications facility with an 85 foot high monopole co-locating two cell phone service providers is allowed to be constructed on the properties as described in Exhibit A and as shown on the preliminary site plan included in Exhibit B. Said

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construction is subject to the contractor receiving a Final Site Plan approval and Building Permit from Midvale City.

Section 3. If any part of this ordinance or the applications thereof to any person or circumstances shall, for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance or the application thereof to other persons and circumstances, but shall be confined to its operation to the section, subdivision, sentence or part of the section and the persons and circumstances directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the City Council that this section would have been adopted if such invalid section, provisions, subdivision, sentence or part of a section or application had not been included.

Section 4. This ordinance shall be effective upon publication of a summary thereof.

PASSED AND APPROVED this 2nd day of July, 2019.

Robert M. Hale, Mayor

ATTEST:

Rori Andreason, MMC
City Recorder

Date of first publication: July 8, 2019

Voting by City Council
Bryant Brown ✔
Dustin Gettel ✔
Paul Glover ✔
Paul Hunt ✔
Quinn Sperry ✔
Legal Description of Rezone Properties:

22-29-105-020
BEG W 1320 FT & N 1234.5 FT FR CEN SEC 29, T 2S, R 1E, SLM; E 332.32 FT; S'LY ALG CURVE TO R 219.07 FT TO N'LY R OF W LINE OF EAST JORDAN CANAL; WLY ALG CANAL 9.78 FT; N 72°51' W 176.5 FT; WLY ALG CURVE TO L 75.7 FT; N 80° W 73.9 FT; N 82° W 112.2 FT; N 48°45' W 89.1 FT; N 27°15' E 36.38 FT; E 156.452 FT TO BEG. 1.763 AC

AND

22-29-153-014
BEG 15 FT N & 231 FT E FR W 1/4 COR SEC 29, T 2S, R 1E, SLM; E 231.65 FT; S 13.39 FT; E 1022.01 FT TO W LINE OF ST; NE'LY ALG CURVE TO L 585.23 FT M OR L; N 2°58'10" W 392.32 FT; NWLY ALG CURVE TO R 5.93 FT; W 29.07 FT; N 72°51' W 176.5 FT; NWLY ALG CURVE TO L 67.47 FT; N 80° W 62.3 FT; N 95.6 FT; N 82°15' W 95.7 FT; N 48°30' W 89.1 FT; N 72° W 272.8 FT; S'LY ALG 750 E UNION COMMERCIAL SUB TO SE COR LOT C, SD SUB; N 69°46' W 161.65 FT; N 80°45' W 96.86 FT; S 78°08'32" W 70.38 FT; S 67°24'12" W 62.94 FT; WLY & SWLY ALG E JORDAN CANAL TO PT 218.73 FT E & 324.22 FT N FR SD W 1/4 COR; W 186 FT; S 56.606 FT; N 89°56'42" E 50.081 FT; S 89°59'18" E 108.414 FT; N 89°55'08" E 19.021 FT; S 1°00'04" W 14.449 FT M OR L; E 8.737 FT M OR L; S 1° W 68.91 FT; S 3° E 85 FT; S 115.44 FT TO BEG. 35.56 AC.

AND

22-29-302-017
BEG S 89°58'15" E 251.11 FT & N 0°01'45" E 13.39 FT FR W 1/4 COR SEC 29, T 2S, R 1E, SLM; S 89°58'15" E 217.17 FT; S 0° 15'28" W 150.12 FT; S 0°54'18" W 351.73 FT TO NWLY R OF W LINE OF HUSKY DR; S 61°54' W 95.2 FT; N 11°19'55" W 28.59 FT; N 12°22'34" W 75.25 FT; N 12°27'01" W 68.69 FT; N 89°14' 13" W 18.54 FT; N 11°26'52" W 234.74 FT; N 9°42'13" W 149.97 FT TO BEG. 1.925 AC M OR L.

TOTAL AREA: 39.248 AC M OR L