

CITY OF OREGON CITY PLANNING COMMISSION HEARING

April 28, 2008, 7:00 P.M.
City Commission Chambers - City Hall

Commissioners Present:

Chairperson, Tim Powell
Commissioner Daniel Lajoie
Commissioner Paul Carter Stein
Commissioner Allan Dunn
Commissioner Chris Groener

Staff Present:

Tony Konkol, Senior Planner

1. CALL TO ORDER

Chair Powell called the meeting to order.

2. PUBLIC COMMENT ON ITEMS NOT LISTED ON AGENDA

There was none.

3. ADOPTION OF THE PLANNING COMMISSION MINUTES

February 11, 2008, February 24, 2008 and March 10, 2008

Commissioner Stein noted that on Page 2 of 7 in the February 11, 2008 minutes, Ms. Robertson-Gardiner's comments about the Park Place Concept Plan should be corrected to state, "...ideally the ~~Planning~~**City** Commission would adopt it."

- He also noted that on Page 1 of the February 24, 2008 minutes, the motion was incorrect for Item 3 Adoption of Planning Commission Minutes seemed to have been duplicated from the next agenda item.

Commissioner Dunn moved to approve the minutes of the February 11, 2008, February 24, 2008, and March 10, 2008 Planning Commission meetings as corrected.

- Ms. Robertson-Gardiner's comments on Page 2 of 7 of the February 11, 2008 minutes were corrected to state: "...ideally the ~~Planning Commission~~ **City** Commission would adopt it."
- The motion approving the Planning Commission Minutes of Agenda Item 3 on Page 1 of the February 24, 2008 minutes should state: "Commissioner Stein moved to ~~continue the public hearing on March 10, 2008~~ **approve the December 10, 2007, January 14, 2008, and January 28, 2008 meeting minutes**".

Commissioner Groener seconded the motion, which passed unanimously.

4. PUBLIC HEARINGS

- A. CP 07-01 (Quasi-Judicial Hearing): Applicant: Clackamas Community College.** The applicant was seeking approval of a Master Plan for the Clackamas Community College Campus located at 19600 Molalla Avenue, Oregon City, Oregon 97045.
Recommendation: Continue Public Hearing to May 19, 2008.

Tony Konkol, Senior Planner reported that Staff was still working on the transportation component of their master plan and requested a continuance to May 19, 2008. The Applicant was very cooperative regarding the 120-day limitation.

Commission Groener moved to continue the public hearing for CP 07-01 to date certain of May 19, 2008. Commission Lajoie seconded the motion, which passed unanimously.

- B. CU 07-01, CP 07-04 & SP 07-05 (Quasi-Judicial Hearing): Applicant: AT&T Wireless / Cingular.** The applicant is requested the approval of a modification to the Oregon City Evangelical Church Master Plan to include the installation of a new, 75-foot tall cell tower in the southern parking lot. The site is located at 1024 Linn Avenue, Oregon City, Oregon 97045 and identified as Clackamas County Map 3-2E-6AC, Tax Lot 6400.
Recommendation: Approval with a condition.

Chair Powell read the Conduct of Hearing and Statement of Public Notice into the record for all hearings.

Ex parte contacts, conflicts of interest, bias, or any other statement to declare.

Commissioner Groener declared for the record that he had visited the site. However, no Commissioner declared a conflict of interest, bias, or conclusion from a site visit. No board member participation was challenged by any member of the audience.

Mr. Konkol presented the Staff report and reviewed the handouts distributed to the Commission as follows:

- The first handout showed the general site plan and proposed location of the cell tower on the west side of Linn Ave. Its second page showed a close up view of the facilities' location and the existing landscaping in the Evangelical Church's parking lot proposed to remain.
- The three-page, color handout showed the coverage shortage the Applicant was trying to address with the installation of the cell tower on Pg 1, and the potential coverage areas achieved with the proposed tower placed at Mountain View (Pg 2) and Linn Ave (Pg 3). The Linn Ave location achieved the coverage the Applicant sought to accommodate.

He addressed questions from the Commission as follows:

- He preferred to have the Applicant address questions regarding the 6 ft versus 8 ft fence required in the SSA Acoustics, LLP section of the Application Packet, Exhibit B, Page 2 "Noise Barrier Requirements". The fencing condition of approval might need to be amended.
- The facility was to be 25 ft from the property line and the calculation factor in Exhibit D, Page 3, Table 3, Line 2 "Distance Factor" was 30 ft. Presumably, it was quieter further away from the tower, was the decibel value of 40 decibels in Line 4 was based on 30 ft or would the noise would be more than 40 decibels at 30 ft?
 - Mr. Konkol preferred to have the Applicant address the question, but offered that the cabinets producing the noise were on the other side of the landscape strip, which gave the extra 5 ft from the property line.
- Restricting a third parking space of the church to gain maintenance access to the tower was not an issue.
- For easy reference, the Conditional Use on Page 14 of the Application should name the referenced section which was believed to be Section 17.80.110.

Steven Topp, Parsons Corporation, 9320 SW Barbur Blvd, Suite 135, Portland, OR 97219 representing the Applicant, AT&T Wireless, made the follow comments:

- The noise study recommended an 8 ft fence of specific materials, so the Applicant intended to change their plans and install an 8 ft fence to be in compliance with noise abatement recommendation.
- The Applicant generally agreed with Staff's review and findings, but requested some landscaping clarification.
- To avoid any misunderstanding regarding the noise study issues, he clarified that the total lease area was 390 sq ft and the equipment area located was approximately 330 sq ft to the north of the monopole, which was 30 ft from the property line, in compliance with the noise study issues (Staff report, Page 10, Section E).
- To explain the noise level of 42 decibels, street traffic was louder at 46 to 48 decibels, although traffic was intermittent noise, unless a heavily traveled road.
 - The unit would emit a constant 42 decibels for more than five-minute intervals at a time. The unit was cooled with fans that came on when weather is the hottest. Closing the top of the facility made the unit hotter and the fans run more often.
 - The Applicant proposed to not cover, but surround the facility with the 8 ft fence instead.
- The Provisionary Code allowed for only one auxiliary access cabinet per service provider located on a support structure. AT&T had two carriers with AT&T at the 850 bandwidth and Cingular at the 1,900 bandwidth, but AT&T was considered the provider.
 - The drawing showed the five cabinets identified on the pole: one for the 850 band, one for the 1,900 band, one for UMTS for streaming web service on cellular phones, one for battery back up and a power cabinet.
 - The Applicant was concerned about the one auxiliary accessory cabinet per carrier requirement, but in reality, there was just one cabinet per licensed bandwidth issued by the FCC, so it did not appear to be in violation.
- The sound study was based on 5 ft, 6-inch to 5 ft, 8-inch cabinets behind the 8 ft fence. The Applicant did not think they were in violation with cabinets over 5 ft, but wanted the Commission to know they would be taller than 5 ft, but that they were the ones identified and addressed in the noise study.
- The wall design standard was identified on Page 2 in "General Materials" and the Applicant chose exterior grade plywood for the fencing with the fill materials to be determined.
 - When the site was completed, a technician would perform maintenance once a month early in the morning when the system had less traffic or when the site went down. The third parking space would be available for the church to use during services, so access would not interfere.
- Regarding the 6 ft landscaping around the fence perimeter, he explained a landscape island existed on the west side between the parking stalls, which could be enhanced with 6 ft of landscaping.
 - Because of the area needed for the equipment, the monopole was located on the edge of one of the landscape islands. Though landscaping could be put on the sides, the south side might not be accessible so there would be no landscaping for about a 5-ft width. Landscaping that section would mean pushing the pole back further into the equipment area, which was already very tight due to collocation purposes.
 - The pole was located there to allow for a second set of carriers such as Sprint/Nextel, Clearwire, or Verizon. Collocation would still be possible, but it was a very confined area.
- The fence would swing out on the north side for general access. The east side fence was to roll out to allow for access to the back of the cabinets due to the tight, confined area. This was the best situation if landscaping was not possible along the east side.

- AT&T as the primary client had been working on this project for two years, so if the landscaping needed to be there, it would be done, but it would constrict space for a second carrier.

Mr. Topp addressed questions from the Commission as follows:

- AT&T would maintain the fence. The technician completing the monthly maintenance was required to do a status report of the facility and respond to trash inside the fence area and graffiti for example.
- The sound buffer plywood would have a cedar-fence facing.
- The height of a standard utility pole was 30 ft to 35 ft.
- The collocation maximum potential for the site was two antennas per sector, six antennas total, on one RAD center or one height. The design was generally referred to as a slick stick and often two RAD centers, one for the 850 band and one for the 1,900 band. For the area to be covered in this case, one antenna covered both bandwidths, so only one RAD center was needed. The coverage area is a small area being filled in among the surrounding existing coverage.
 - The pole was designed for three RAD centers. AT&T would take the top RAD center; two other RAD centers were available.
- Security lighting was located at the entrance for the maintenance technician because work was completed during night hours. The light was on a self-timer so if the technician forgot to turn it off when leaving, it would go off after a period of time.
- If landscaping was required on the south side of the site, outside the aisle, the Applicant would need to measure the area to ensure the fire lane was not too narrow. Landscaping could be up to the fire lane with the pole kept where at its proposed location.
- The possibility of shifting 5 ft into another stall to allow for a landscaping edge was discussed. The negotiated lease would be an issue, but compliance with minimum parking standards was not an issue. The church's Board of Directors was adamant about not giving up any additional parking spaces.

Chair Powell called for testimony in favor of, opposed and neutral to the application.

Dave Seward, Chairman of Board of Trustees of Oregon City Evangelical Church stated that continuing the landscape island on the south end was probably not an issue since there was room to cut to the end of the fence.

- The east side landscaping might not be necessary if a beautiful cedar fence was installed. If landscaping was necessary, it would have to be determined if the traffic lane would be impacted since expanding the landscaping area would cut into the drive lane, not remove another parking space.
- Though parking was not a problem at this point in time, the church anticipated membership growth, which was why two parking spaces was the limit for the project.

Patty Brown, Land Use Coordinator, Rivercrest Neighborhood Association, wanted the Applicant's summary letter of the neighborhood meeting corrected for the record.

- She explained that Mrs. McKnight had not attended the neighborhood meeting, and that Ms. Brown's name should be inserted.
- The tone of the summary letter implied that the Neighborhood Association was pretty much in favor of the tower when in fact she was the only representative of the Neighborhood Association present and she was not in favor of the tower.

- The neighborhood meeting was held on December 6, 2007 at the church. The summary stated that 10 people had attended, but close to 15 individuals were present for the most heated neighborhood meeting she had attended.
- The Applicant requested a neighborhood meeting to meet the City requirements. The meeting was held when the Neighborhood Association was off for the holiday season. Ms. Brown made flyers regarding the meeting and took them to residents in the two to three block area around the church.
 - The apartment houses surrounding the area where the tower would be sited did not allow anyone giving flyers and information to go door-to-door in the complex, so she posted a notice in the laundry rooms. As expected no one from the apartments attended the meeting.
 - In speaking with most of the neighbors, she learned some were delighted that better cellular service would be in the area, while others objected to the tower.
- She understood that the FCC had addressed her medical objections, but regardless of the FCC findings, believed that in time it would be proven that such towers were not good for health.
 - The parking lot was the playground for the neighborhood children from the apartment building. The church had even installed basketball hoops and other items for their use.
- She reiterated that was not in favor of the tower, and wanted the letter redone and resubmitted to reflect this.
- She clarified the Neighborhood Association had not come to a position regarding the tower. Views were still mixed and the entire neighborhood had not been contacted. The tower was in a mixed-use residential commercial, different than another anticipated application.
- Minutes had not been taken at the December 6, 2007 meeting.

Mr. Seward responded that the origin of the Neighborhood Association meeting summary was unknown. He apologized to Ms. Brown for the summary.

Mr. Konkol stated the summary was submitted by the Applicant as part of the original application and explained the Code requirements regarding applications and affected adjacent property owners and the City's notification process.

- He stated that at the discretion of the Planning Commission, the meeting summary could be amended as a condition prior to the Application being deemed complete, although he did not believe that was necessary. The summary was in the record and the transcript would reflect that corrections were made.
- As of the meeting time, no public written comment had been received. The first testimony opposing or supporting the Application was heard at this evening's Commission meeting.

Chair Powell expressed concern that the Neighborhood Association summary, as citizens' input, was a meaningless document. However, Ms. Brown had clearly stated what happened at the meeting and Mr. Seward's acknowledged that the summary was not his document, which clarified what had occurred.

- He believed stripping the summary would affect whether the Applicant had met the Code requirement.

Mr. Konkol clarified the Applicant had met with the affected parties as a requirement to the Application being deemed complete. However, it was Commission's discretion as to whether revised minutes be drawn up or the testimony given be used to amend the record.

- The summary could not be stripped out; it was on the record and part of the file. The Commission would have to weigh the testimony as it deemed appropriate.

The Commission consented to continue discussing the summary issue after the hearing.

There being no further testimony regarding the application, Chair Powell called for the Applicant's rebuttal.

Mr. Seward agreed, as Staff explained, that the purpose of including the Neighborhood Association minutes was to demonstrate that the condition to meet with the neighborhood group had been met in order for the Application could be deemed complete. The accuracy of the meeting summary was not a requirement.

- He explained the Application process started two years ago and he believed the summary was supplied by the original planner, who was now in Arizona, and that some miscommunication may have happened.
 - He did not disagree with anything that Ms. Brown stated and was willing to have her information entered into the record in lieu of the written response.
- He noted that health issues regarding the tower was not anything the Commission could base their decision on, but the issue was often discussed.
 - The Application included a non-ionizing electromagnetic radiation study, which showed that the Applicant was in compliance with FCC standards. The 75-ft antennas were radiating outward, not the ground level equipment cabinets, and did not have electromagnetic waves that could affect a person standing right in front of the tower.
 - The electromagnetic waves lose power the further they go out and down. The FCC standard was 1 and the radiation put out by the antennas was 0.0042, which was so low that it caused no discernable health hazards.
 - Being in such close proximity, technicians follow specific regulations when performing maintenance. More radiation is produced by a microwave oven than from a 75-ft tower by the time the radiation reaches a person standing at ground level.
 - Orientation was as important as proximity. A person directly horizontal to the tower at the 75-ft height received a higher intensity than someone at ground level. However, the levels were so low that the radiation exposure was negligible. He estimated the level would about double, resulting in 0.008 instead of 0.0042.
 - If another provider were to collocate the radiation level would not double because the providers were at different frequencies, though small amount of overlap did occur.
 - A monitoring program was not specifically in place to monitor how much radiation the towers were emitting. Independent studies were ongoing, and he would ask the RF engineer if AT&T had any data.
 - AT&T was careful to not exceed the FCC standards because they would risk losing their \$1 billion licenses.

Chair Powell closed the public hearing.

Planning Commission Discussion

Chair Powell noted two issues to address in particular were how to handle the summary of the Neighborhood Association meeting and the landscaping issue.

Mr. Konkol clarified that that condition referenced Section 17.80.110.F.

- He suggested the Commission might also consider a condition "The Applicant shall comply with the recommendation of the December 20, 2007 acoustical report prepared by Mr. Esselstrom and Mr. Burt of SSA Acoustics, LLP", which would require the Applicant to

comply with all the recommendations of the acoustical report, notably the 8-ft fence versus the 6 ft fence Staff had recommended.

Commissioner Stein stated that there was no question that a neighborhood meeting was held. However, while the content of the meeting summary was under question, it was also true that the City had not received any written public comments.

- He believed that just as the Applicant had a responsibility to arrange a neighborhood meeting to explain their proposal, the neighborhood also had a reciprocal responsibility to make sure the City knew their feelings.
 - The concern was State Planning Goal 1, Citizen Input; getting citizen input was one thing, but then to react and make decisions about it was another thing. The Commission should see that the citizens' input could be acted on somehow.
- He confirmed with Staff that no additional language was needed to insure that the landscaping was added to all three sides of the unit, but thought further clarification might be warranted.

Commission Lajoie was initially concerned about the appearance of the tower, but after reviewing the photographs and driving around town, he was amazed how many towers were not noticeable because they become background noise, so to speak. He did not feel the tower was an obtrusive form and had no problems with it.

- Noise was a concern; however the design was to meet the consultants' specifications, so he did not have a problem with it.
- The 8 ft fence was supposed to be cedar; however it was painted exterior grade plywood, so it did not sound aesthetically pleasing. However the maintenance program and graffiti abatement would protect the visual appearance.
- The health issue was also a concern. He understood Mr. Seward's explanation of the FCC radiation exposure maximum and although he still had questions about the health issues, he did not have any empirical data in front of him other than hearsay.
 - If anyone felt that strongly about it and such a document could be obtained, the entire Application was appealable to the City Commission. Since he was unable to base concerns on hearsay, he really did not have a problem with health issues at this time.
- He wished the extra parking stall could be sacrificed for the landscaping edge on the west side of the tower to hide the plywood wall, but also understood the landowner's parking needs. He would like to see as much landscaping as possible.
- Though he still had some concerns, he had no problems with the Application.

Commissioner Dunn stated that his concerns regarding visual and noise issues had been addressed by the Applicant

Commissioner Groener was pleasantly surprised by the design of the tower, which was more aesthetically pleasing than others he had seen.

Chair Powell believed that the tower would fit in fine and he supported the application. He added he would be more concerned if the neighborhood had agreed as a group that this was not what they wanted in their neighborhood.

- He noted for future reference that it was helpful when a neighborhood association came to the Commission with a decision.

Mr. Konkol requested clarification regarding landscaping.

- The first change was to add the Code section being referenced to the first condition regarding landscaping.
- He asked if the Commission wanted to require landscaping on the east, west, and south sides of the tower or require it as long as fire lane widths were accommodated; or was landscaping acceptable on just the east and west sides?

Chair Powell stated that he only heard one Commissioner state that the landscaping needed to be on three sides.

Commissioner Stein stated for the record that the Applicant should landscape as many as sides as possible.

Chair Powell stated that the City would generally require all the landscaping if it was public property; however the tower was in a parking lot. If the property owner was not concerned, then he was not concerned. If landscaping caused a space limitation problem, it could be bypassed and only done on two sides.

Commissioner Stein noted that although the tower was on private property, the views were public. Landscaping was meant to break up the view and this would not be a handsome unit.

Chair Powell clarified that Staff needed to know if the Code should be left as written, in which case all three sides would have to be landscaped if fire lane requirements were met; otherwise the condition should be amended.

Commissioner Lajoie moved approve the Application with the two changes, adding the referenced Code section to Condition 1 and including new Condition 2, stating, "The Applicant shall comply with the recommendation of the December 20, 2007 acoustical report prepared by Mr. Esselstrom and Mr. Burt of SSA Acoustics, LLP."
Commissioner Groener seconded the motion, which passed unanimously.

Mr. Konkol reviewed and noted changes to the Planning Commission work schedule with the following additional comments:

- Staff received tentative approval from the City Commission on the Beaver Creek Concept Plan and was working on the implementing code now that the City Commission provided direction.
 - The Concept Plan was not updated after each Planning Commission hearing, so Staff was working to produce one clean document for the first and second readings of the ordinance at the June City Commission meetings. Adoption was anticipated at the second June meeting.
- The second May 2008 meeting would be a work session to address certain housekeeping Code updates.
 - A work session presentation would also be given by the Rivers Project on the old Rossman Landfill. Staff had been working with them and ODOT on the transportation improvements on Washington, Hwy 213 and I-205, which was slowing that application.
- The Cove Development application had been submitted, but was incomplete as Staff was waiting for the transportation report. That development also hinged on how the whole north end of Hwy 213 would be redesigned to accommodate growth in the area.
- He emphasized that a quorum was needed for the May 19, 2008 meeting and asked that Staff be informed of any problems, so the meeting could be rescheduled if necessary. He reviewed the agenda items.

- He reported on the following annexations:
 - The Ziegler annexation application was being amended because an additional 8.5 acres had been acquired at the intersection of Redland and Holly Lane. Because it was small and contiguous, that application would return to the City Commission and be on the November 2008 ballot if approved.
 - The Hall annexation was approved and accepted by the voters, but was then appealed to LUBA. The LUBA hearing was held earlier in this month and a decision was expected from LUBA on Wednesday.
 - The Herberger application was approved by the City but denied by the voters. But the land use decision was appealed to LUBA. The record was finalized, but a hearing date had not yet been scheduled for that application.
- The Park Place Concept Plan was approved. The end of the appeal period was the first week of May and Staff had not received anything yet.
- The Planning Department was moving to 221 Molalla Ave in the old Copeland Lumber Building the last week of May 2008.
- The map of county roads within City limits requested by Commissioner Stein was available and would be added to a work session to discuss why the City could not take over maintenance of those roads from the County.

4. ADJOURNMENT

Respectfully Submitted,

By Paula Pinyerd, ABC Transcription for
Laura Butler, Associate Planner