



CITY OF  
**West Linn**

PLANNING COMMISSION / COMMISSION FOR CITIZEN INVOLVEMENT

Minutes of March 17, 2010

Members present: Chair Robert Martin, Vice Chair Michael Jones and Commissioners Charles Lytle and Christine Steel

Members absent: Commissioners Laura Horsey and Dean Wood

Staff present: John Sonnen, Planning Director; Peter Spir, Associate Planner; and William Monahan, City Attorney

CALL TO ORDER

Chair Martin called the Planning Commission meeting to order in the Council Chambers of City Hall at 7:30 p.m.

APPROVAL OF MINUTES

The Commissioners corrected the draft, and then Jones **moved** to accept the Minutes of January 6, 2009 as amended. Steel **seconded** the motion and it **passed** 3:0. 3:0. Lytle abstained. Lytle **moved** to accept the Minutes of January 13, 2010. Jones **seconded** the motion and it **passed** 4:0. Jones **moved** to accept the Minutes of January 20, 2010. Steel **seconded** the motion and it **passed** 3:0. Lytle abstained.

PUBLIC COMMENTS (None)

PUBLIC HEARING

(Note: The staff reports and all related documents for the hearings are available through the Planning Department.)

**CUP-09-02/DR-09-07, Conditional Use Permit and Design Review for Wireless Communication Facility at 19200 Willamette Drive**

Chair Martin opened the public hearing and outlined the applicable criteria and procedure. He asked the Commissioners to declare any conflict of interest, bias, or ex parte contact. Steel and Martin each reported they had made a site visit. When invited by the Chair, no one in the audience challenged the authority of the Planning Commission or the ability of any individual Commissioner to hear the matter.

*Staff Report*

**Peter Spir, Associate Planner**, presented the staff report. (See Planning & Building Department Staff Report dated March 17, 2010). The applicant proposed to add another antenna and base

equipment to the existing tower on the site, fence it, and screen it with arborvitae. The existing facility had been granted a Conditional Use Permit in 1998. A conditional use and design review was necessary to expand the existing facility.

The staff found the proposal met conditional use permitting criteria. The site was large enough to accommodate the use and a very small footprint expansion was proposed. Spir presented photographs to show views of the tower from different perspectives. Existing trees screened most of it except its top from the view from Willamette Drive. The fence and arborvitae would screen the base. Gary Hitesman had submitted testimony that it was not a particularly attractive design. The staff reasoned that the fact that it had been in place for twelve years and they had received no complaints in the intervening years between the original approval and the current application indicated that the community was used to it being there. It was a "known quantity" now and a new design might attract more attention and be seen as less compatible. Staff found the proposed facility provided for the overall needs of the community to have enhanced wireless communication and better signal quality. They recommended approval subject to the three staff-recommended conditions of approval listed in the staff report.

During the questioning period, the Commissioners observed there were people who were concerned about the potential health risks from such facilities. City Attorney Monahan read aloud applicable federal code, which he advised did not allow the City to deny placement, construction or modification of personal wireless service facilities on the basis of environmental effects or radio frequency emissions. However, the City could review placement, construction and modification of the facilities based on other criteria, such as design. Spir was asked if the existing trees were at mature height or if they might grow taller. He reasoned that because those trees seemed to be at the same height now as they were in 1998 they were not likely to grow any taller. When asked, he clarified the proposed conditions of approval did not address replacement of a tree if it fell down or had to be removed. The Planning Commission then took a four-minute break.

#### *Applicant*

Vanessa Meyer, Goodman Networks, 7360 SW Hunziker Rd., Ste. 206, Portland, Oregon 97223, testified on behalf of the applicant, AT&T Mobility, 19802 SW 72<sup>nd</sup> Ave., Ste. 200, Tualatin Oregon 97062. She explained the applicant had identified a gap in coverage that would be addressed by adding to the facility on the subject site. The tower needed to be as tall as proposed due to the topography. The new panel would match the existing panels to maintain the continuity of the design of the existing tower and nearby church. The additional radio equipment at the base would be inside an enclosure. The applicant would mitigate visual impacts with a fence and landscaping. They proposed no additional lighting. She presented the site plan and views of the tower from different perspectives. The 10-foot extension would match the existing façade. There would not be much change to what people were used to seeing.

During the questioning period, Meyer confirmed the perimeter would be planted in arborvitae. She said the applicant could agree to Steel's suggestion to also plant Poplars, or some other fast growing tree, in the interior call-outs in order to further screen the facility if that would still allow maintenance personnel to access the facility. She explained that the applicant believed it was better to put panels over upper antennae than to allow that equipment to show. She clarified that the existing trees that screened the tower were outside the area the applicant leased and belonged to the nearby church. When asked, she estimated the playground was about 100 feet from the proposed arborvitae perimeter.

*Public Testimony – Neither for nor Against*

Alice Richmond, 3939 Parker Rd., testified the community was used to having the tower there – it was almost like a landmark. She would rely on the staff's assessment and recommendation. She supported allowing the community to enjoy improved communication technology.

Paul Quackenbush, 5546 Sinclair St., was concerned that the drawings the applicant presented did not show the right dimensions. He explained that he had been at the site during surveying and had watched the stakes being placed.

*Rebuttal*

Meyer explained that two surveys had been done. After the first survey the tower owner, Crown Castle, had asked AT&T to reconfigure the lease area. It was then resurveyed and re-staked. The drawings the applicant presented at the hearing conformed to the second survey.

Monahan and the Commissioners observed that the site plan in the staff report had been reduced to 8.5" x 11" and it might have been difficult for people to read the dimensions. Chair Martin re-opened the hearing for additional testimony.

Quackenbush indicated that he represented the Church as the landowner and Crown Castle was the lessee. He explained that the agreement allowed the lessee to use an additional 350 square feet, but the fenced, treed-in area they showed in the drawing in the record appeared to be several times that large. It was not the same staked area he had been invited to look at and comment on when he was on site. It was not the same placement of the base he and the lessee had talked about a couple of years prior when they discussed leasing the area.

Monahan advised that the Planning Commission process was to determine whether a permit could be granted by the City. If there was a dispute between the property owner and the applicant, the applicant might not be able to actually implement the approval. Another issue was that in the land use process the owner of the property had to be part of the application. He advised the Commissioners to let the staff determine if there was a defect in the process because the application specified the "owner" was Crown Castle, but they might not be the landowner.

Jones **moved** to continue the hearing to a date certain to allow the property owner and lessee to come to agreement. Lytle **seconded** the motion. But they each subsequently **withdrew the motion and second** in order to allow the applicant to speak about the matter and have an opportunity to grant an extension of the 120-day rule period.

*Applicant comments*

Meyer explained she had not been aware this was an issue and she confirmed that the applicant would extend the 120-day rule period for another 49 days and try to resolve it.

Jones **moved** to continue CUP-09-02/DR-09-07 to May 5, 2010. Lytle **seconded** the motion and it **passed** 4:0.

ITEMS OF INTEREST FROM STAFF (None)

ITEMS OF INTEREST FROM THE PLANNING COMMISSION (None)

ADJOURNMENT

There being no other business, Chair Martin adjourned the Planning Commission meeting at 8:45 p.m.

APPROVED:

  
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Robert Martin, Chair

5/5/2010  
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Date