CITY OF OREGON CITY
PLANNING COMMISSION HEARING

December 14, 2009, 07:00 P.M.
City Commission Chambers - City Hall

CALL TO ORDER

Roll Call:	**Staff Present:**
Chair Tim Powell	Tony Konkol, Senior Planner
Commissioner Dan Lajoie	Laura Butler, Assistant Planner
Commissioner Allan Dunn	Christina Robertson Gardiner, Associate Planner
Commissioner Paul Carter Stein	Pete Walter, Associate Planner

PUBLIC COMMENT ON ITEMS NOT LISTED ON AGENDA

There was no public comment.

ADOPTION OF PLANNING COMMISSION MINUTES

August 13, 2007 Draft Planning Commission Minutes

August 13, 2007 Draft Planning Commissison Minutes

Motion by Commissioner Paul Carter Stein, second by Commissioner Dan Lajoie to Approve the August 13, 2007 Planning Commission Minutes.

A roll call was taken and the motion passed with Chair Tim Powell, Commissioner Dan Lajoie, Commissioner Allan Dunn, Commissioner Paul Carter Stein voting aye. [4:0:0]

PLANNING COMMISSION HEARING

Conditional Use and Site Plan and Design Review permit (CU 09-01 & SP 09-07). The applicant is requesting approval for the installation of a wireless communication facility on the roof of the Jackson Street High School.

CU 09-01 Staff Report

CU 09-01 Exhibit 1

CU 09-01 Exhibit 2: 1 of 3

CU 09-01 Exhibit 2: 2 of 3

CU 09-01 Exhibit 2: 3 of 3

CU 09-01 Exhibit 3

Staff Report

Chair Tim Powell read the hearing statement describing the hearing format and correct process for participation. He asked if there were any declarations of ex parte contact, conflict of interest, bias, or statements. There were none.

Chair Powell opened the public hearing.

Tony Konkol, Senior Planner, said the applicant was Clearwire LLC and owner was the Oregon City School District. This was a request for approval of a conditional use and site plan design review permit for the installation of a wireless communication facility on the roof of the Jackson Street High School. He explained what the project included. The new faux chimney would be constructed out of fiberglass and would match the existing chimneys and equipment cabinet would be screened and painted to match as well. The subject site was zoned R6, single family residential, and was surrounded on all sides by R6. Directly to the west/northwest of the existing tax lot was the boundary for the McLoughlin Historic District. The school was not a designated historic building, and the requirements of the historic overlay district were not required to be applied to this application. It was a conditional use in this zone and he discussed how the application fit the criteria for approval. The antennas would be located in excess of 100 feet from any property lines and the installation would camouflage, screen, or match the existing structures. The topograhy was flat and there were no natural features or overlays. This application would have no impact on the existing facility, transportation, water, sewer, or sanitary systems. It would provide a needed service of additional access to wireless facilities in the neighborhood. The proposal satisfied the goals and policies of the Comp Plan and met all applicable standards. The applicant would need to submit documentation demonstrating compliance with emmissions standards and decibel levels. They also had to acquire a permit for electrical and structural work to the facility and comply with the Code in terms of notifying the City if the facility stopped being utilized for more than six months. Staff recommended approval.

Chair Powell was concerned how the electromagnetic radiation and noise might affect students in the building. Mr. Konkol said they relied on the documentation submitted by the consultant to show they met the criteria.

Commissioner Stein asked about comments from the neighborhood association meeting about this application. Mr. Konkol said the McLoughlin Neighborhood Association did not submit any comments or concerns.

Commissioner Stein discussed the fact that this was a public building

and there would be a single corporation putting in their antenna and in fairness and public interest, they should provide future opportunity for competition for this kind of service. He wanted staff to look into the requirement for co-locating space for additional antennas.

Applicant's Presentation

Kevin Martin representing Clearwater LLC of Portland, Oregon, said there would be three sectors and one antenna for each. They used microwave dishes and power levels were low and complied with exposure standards. Regarding co-locating, the site was not being built for other antennas because it was a one of a kind. The lease with the School District did not preclude co-location so another company could request the same situation. Clearwater would not try to prevent another carrier from using the same facility. The lease was lengthy because of the investment going into it and the property owner did not have rights for cancellation.

Public Comment

There was no public comment.

Deliberations

Mr. Martin said regarding the neighborhood association meeting, they were more interested about the service that would be provided rather than the impacts.

Mr. Konkol explained what structures were required for co-location. He interpreted the Code that this was not a new tower, it was a facility on top of a roof.

Chair Powell thought the ambiguity in the Code about support towers should be discussed in the future. He was not concerned about this application.

Commissioner LaJoie asked if the conditions of approval could be reviewed in five years. Mr. Konkol explained what determination a conditional use permit could be revoked and under what conditions the Planning Commission could periodically review conditional use permits.

Commissioner LaJoie's concern was if the community wished to use that facility as a school in the future. Carrie Richter, Assistant City Attorney, said the City's Code did not prohibit cell towers on schools. If standards changed, the tower would be non-conforming and the amortization clause would require it to be removed within a certain time period.

Chair Powell closed the public hearing.

Commissioner Dunn said it was a good use of the facility.

Motion by Commissioner Dan Lajoie, second by Commissioner Allan

Dunn to Approve the Conditional Use and Site Plan and Design Review permit (CU 09-01 & SP 09-07) with conditions.

A roll call was taken and the motion passed with Commissioner Carter Stein, Commissioner Allan Dunn, Commissioner Dan Lajoie, Chair Tim Powell voting aye. [4:0:0]

Annexation (AN 09-01). The applicant is requesting approval of an annexation of one property (approximately 0.55 acres) that is surrounded on all four sides by properties within the City limits.

AN 09-01 Staff Report

AN 09-01 Exhibits 1 - 6

Staff Report

Chair Powell asked if there were any declarations of ex parte contact, conflict of interest, bias, or statements. There were none.

Chair Powell opened the public hearing.

Mr. Konkol said this was an application from Mr. and Mrs. Bauer at 19921 Connie Court to annex one property directly north of the Bauer property that was approximately .55 acres. The property was an existing County island surrounded on all four sides with property inside the City limits. The property had a Comprehensive Plan deisgnation of medium density residential. If it was voted in, it would come in as R5, 5,000 square foot minimum lot size, which would be 3 to 4 homes. The parcel was landlocked and any new lot constructed in the future would need to have access to a public street. The parcel was vacant and not currently served by water or sewer. If approved, the applicants would need to go before Tri-City to annex into the service district. Other services were available in close proximity. The law enforcement would be taken over by Oregon City and police services were adequate. The site was near the high school, community college, a future park, and a Tri-Met bus stop at the college. It was consistent with current plans and there were no impacts on existing facilities. There were no natural hazards, overlay districts, historic buildings, or open space designations. Staff recommended the Planning Commission forward a recommendation of approval to the City Commission and set the election date for May 18, 2010.

Commissioner LaJoie clarified the densities surrounding the property were partly low density residential and partly medium density residential.

Mr. Konkol said this parcel was identified in 2001 for annexation, but the legal description did not get included in the ordinance.

Applicant's Presentation

There was no applicant's presentation.

Public Comment

There was no public comment.

Deliberations

Chair Powell closed the public hearing.

Motion by Commissioner Paul Carter Stein, second by Commissioner Dan Lajoie to Approve AN 09-01 with conditions and to forward the recommendation of approval to the City Commission to place the annexation on the May 18, 2010 ballot.

A roll call was taken and the motion passed with Chair Tim Powell, Commissioner Dan Lajoie, Commissioner Allan Dunn, Commissioner Carter Stein voting aye. [4:0:0]

Legislative (L 08-01). Oregon City Code Amendments: 6-month update. Staff recommends that the Planning Commission open the hearing, hear staff presentation and any public comments and continue the hearing to the January 11, 2010 Planning Commission meeting.

December 14, 2009 PC Memo

Exhibit A-OCMC 17.62.059- Cottage Housing

Exhibit B- OCMC 17.20 Res Des Stds

Exhibit C- OCMC 17.41 Tree Protection

Exhibit D-OCMC 17.49 Natural Resource Overlay District

Exhibit E- OCMC 17.32 General Commercial

Exhibit F-OCMC 17.50 Administration and Procedures

Exhibit G- OCMC 16.16 Partitions

Exhibit H- Mihalik Email

Exhibit I- July 16, 2007 PC Minutes

Exhibit J -ZC 07-03 Commission Report Centex

Exhibit K- Dan Berge Public Comments

Exhibit L- Nancy Busch Comments

Staff Report

Christina Robertson-Gardiner, Associate Planner, said this was the second hearing on the six month update. She explained the proposed timeline. She and Pete Walter, Associate Planner, went through the memo and highlighted the exhibits and issues. There

was discussion regarding the proposed changes to cottage housing. There was also discussion regarding the proposed changes to the residential design standards, clarification of procedures in the tree protection code, discussion about the new natural resource overlay district, typos that would be fixed in the general commercial and administration and procedures, and differentiating between the partitions for single family duplex and partitions in commercial.

Ms. Robertson-Gardiner explained at the last meeting Colleen Mihalik made a request to down zone the Centex properties on Leland Road to R10. The Planning Commission previously approved zoning these properties R6. Down zoning was generally not something the City did without good findings and the Planning Commission had recently changed it. The Commission did not see a need to revisit the issue because they made their decision and an economic change with the developer should not change their long term plan.

Ms. Robertson-Gardiner said Dan Berge sent the City comments after the record closed in the summer and she wanted to included them in the record now. She also added exhibit L in the record, an email from Nancy Busch.

Regarding membrane structures, staff thought it should go in the land use code if there were qualifications to it. There was discussion about the details and definitions for membrane structures. Chair Powell thought anything visible from the street should be a garage or carport and defined as such and made of material that matched the house. This would be brought back to the January meeting.

Public Comment

There was no public comment.

Deliberations

Motion by Commissioner Allan Dunn, second by Commissioner Paul Carter Stein to Continue the hearing for Planning File L 08-01 to the January 11, 2010 Planning Commission meeting.

A roll call was taken and the motion passed with Commissioner Carter Stein, Commissioner Allan Dunn, Commissioner Dan Lajoie, Chair Tim Powell voting aye. [4:0:0]

ADJOURN