



City of Sherwood
PLANNING COMMISSION
Stewart Senior/Community Center
855 N. Sherwood Boulevard
October 16, 2001
Regular Meeting -7:00 PM

A G E N D A

1. **Call to Order/Roll Call**
2. **Consent Agenda – September 18, 2001 PC Minutes**
3. **Agenda Review**
4. **Community Comments** *are limited to items NOT on the printed Agenda.*
5. **Public Hearings:** (Commissioners declare conflict of interest, ex-parte contact, or personal bias) **Public Hearings** before the City Council and other Boards and Commissions shall follow the procedure identified in Resolution 98-743, adopted June 9, 1998 (copies available on table):
 - A. **An Appeal by applicant of 8-21-01 Planning Staff Decision re: TUP 01-07 New Life Assembly of God Church Tent:** a temporary use permit for an outside tent to be used for a series of evangelistic meetings until September 30, 2001 at 420 Oregon Street, Tax Lot 201, Map 2S 1 32BA. (*Laura Anderson, Code Compliance Officer*)
6. **New Business**
 - A. **Report from Council Liaison** (*Ken Shannon*)
 - B. **Report on OPI Conference** (*Adrian, Jean, Lee*)
7. **Adjourn to Work Session to discuss Hotel/Motel Zoning** (*Dave Wechner*)

**ITEMS NOT COMPLETED BY 11:00 PM WILL BE CONTINUED
TO THE NEXT REGULARLY SCHEDULED MEETING**

APPROVED MINUTES

City of Sherwood, Oregon
Planning Commission Minutes
October 16, 2001

1. Call to Order/Roll Call

Chair Adrian Emery called the Planning Commission meeting to order at 7:00 PM.

Commission Members present:

Adrian Emery
Kevin Henry
Jean Lafayette
Lee Weislogel
Bill Whiteman

Staff:

Dave Wechner, Planning Director
Laura Anderson, Code Compliance
Shannon Johnson, Legal Counsel
Roxanne Gibbons, Recording Secretary

Commission Members absent:

Patrick Allen
Ken Shannon

2. Consent Agenda – September 18, 2001 PC Minutes

Chair Emery asked if there were any additions or corrections to the minutes. There were no comments.

Jean Lafayette moved the Planning Commission accept the September 18, 2001 Commission meeting minutes as presented. The motion was seconded by Bill Whiteman

Vote for Passage of Motion: 4-Yes, 0-No, 1-Abstain (Weislogel)

3. Agenda Review

Chair Emery announced that Jean Lafayette would provide the Council report in Ken Shannon's absence.

4. Community Comments

There were no comments.

5. Public Hearings

Shannon Johnson read the hearings disclosure statement and requested that Commission members reveal any conflicts of interest, ex-parte contact or bias regarding any issues on the agenda prior to each specific public hearing.

Ms. Lafayette announced she had attended the New Life Assembly of God Church as a visitor about one and one-half years ago. About 4 months ago, one of her co-workers had approached her and made comments regarding the tent and the sound she was hearing in her back yard. Ms. Lafayette told her to call the City about her concerns. Ms. Lafayette lives about one-half mile away from the church.

Mr. Weislogel announced he has some friends that are members of the New Life Assembly of God Church. They have not made any comments to him regarding this appeal application.

There were no other Commissioner disclosures.

5A. TUP 01-07 New Life Assembly of God Church Tent Temporary Use Permit Appeal

Chair Emery opened the public hearing and called for the Staff Report. Laura Anderson, Code Compliance Officer, referred the Commission to the Staff Report dated September 28, 2001, a complete copy of which is contained in the City Planning File for TUP 01-07. She noted:

- Part of the duties for her position is to process temporary use permits. She is attending as a representative of the process, not as the Code Compliance Officer.
- Pastor Dorothy met with her at City Hall regarding the tent in the middle of June 2001. This was after she had called him regarding a complaint the City had received about the tent.
- He told her that the tent would only be used for a short period of time for a series of evangelistic meetings. At that time, she did not require them to apply for a temporary use permit.
- After the initial meeting, it appeared that the tent was being used for a longer period of time than was originally stated. In the middle of July, the City asked the church to apply for a temporary use permit. One condition of the temporary use permit was that the tent would only remain in use until September 30, 2001. This date is what the applicant is appealing.
- The applicant would like to be able to use the tent until October 30, 2001.

In response to Mr. Emery's question, Ms. Anderson said the City had received approximately 10 complaints regarding the tent. Some of the complaints were anonymous.

Chair Emery asked if the applicant wished to provide testimony.

Jeff Dorothy, Pastor, New Life Assembly of God Church, PO Box 878, Sherwood, Oregon 97014, addressed the Commission. He distributed a written statement to the Commission that was made a part of the record. He noted:

- They are appealing the City's decision to end their temporary use permit for the tent on September 30, 2001.
- Their written statement included a number of disputed items with regard to the City Staff Report.
- The Staff Report seems to indicate that the applicant continually misrepresented what they wanted to do with the tent. He does not agree that this is true. At no time did they make a conscious decision to try to deceive the City with regard to their plans.
- He approached the City on June 5, 2001 regarding a temporary use permit before they had the tent in use. The tent was up, but they were not using it.
- They have used the tent since 1997. In previous years when they inquired about a permit for the tent, the City told them they did not know up front and that they would have to review the Code. Ms. Anderson told him the same thing this year.
- Ms. Anderson advised them that there was a noise ordinance they would need to comply with and she provided them with a copy of the ordinance.

- After about three weeks, Ms. Anderson called them to ask how long they were planning to use the tent. He responded they would be using the tent for two or three more weeks. At no time did he say they were only holding meetings on Sundays and Wednesdays. There are signs on the tent indicating the hours of service. It was not their intention to have the City believe they were only using the tent two days a week. In fact, they are using the tent six days a week and this was their intention from the beginning. At this time, Ms. Anderson said they would need to apply for a temporary use permit.
- They received the application from Ms. Anderson and returned it with the required fees.
- They were surprised that the temporary use permit was approved. The approval included the condition that the use of the tent was approved until September 30, 2001.
- They appealed the condition to allow the use of the tent through September 30, 2001.
- When they asked to use the tent, they asked to use it through October 31, 2001. They had a permit from the Fire Department to use the tent through November 2001. They were hoping to use the tent until the weather got bad.
- He asked Ms. Anderson if there was any way the City would allow the use of the tent until October 31, 2001, because they did not really want appeal the decision and they did not want to be adversarial.
- They received a call from Ms. Anderson on October 8, 2001. She asked them if they were still using the tent. They had continued to use the tent. Ms. Anderson said if they did not stop using the tent they would be cited an amount of \$500.00 per day for the use of the tent. At that point, they stopped using the tent.
- The equipment has been moved into the building and they are only using the tent on Sunday.
- They are asking the Commission to allow them to continue to use the tent through November 30, 2001. They are agreeable to using the tent only on Sundays during this time period.
- Their current church building is not large enough for their congregation even with two services.
- They are in the process of negotiating for a piece of property in Sherwood. They have made an offer on some property, but have not had a response on the offer at this time.

Chair Emery recessed the meeting at 7:20 PM to allow the Commission time to read the applicant's written statement. The public hearing reconvened at 7:25 PM.

In response to Mr. Weislogel's question, Pastor Dorothy clarified that they would like to continue to use the tent through November 30, 2001. They have services at the following times and days of the week:

- Sunday Services at 10:00 AM to 12:30 PM and 6:00 PM to 9:00 PM
- Tuesday Youth Services at 6:30 PM
- Wednesday Service at 7:00 PM
- Friday Service at 7:00 PM

They would hold the services during the week in the church building. At this time, they would probably just hold the Sunday services in the tent. In response to Ms. Lafayette's question, Pastor Dorothy identified the hours for each service. If they go past 9:00 PM for Sunday Service, they turn off the sound system. The capacity of the tent is just under 300 people.

Mr. Whiteman asked several questions about the applicant's written submittal. He asked if they are familiar with the Development Code, in particular to meet its requirements, as well as the position of the Planning Commission not being the policymakers for the City. Pastor Dorothy responded that the temporary use permit language seems to be very arbitrary. They understand that the City Council makes policy decisions. At their first meeting in June, Ms. Anderson did not ask them how long they planned to use the tent and they did not offer a time period. They first discussed using the tent on June 5, 2001 and did not start getting complaints from the City until the third week of July 2001. They started holding meetings on Tuesdays, Wednesday and Sundays through the month of June 2001. On July 1, 2001, they started holding nightly meetings in the tent. Ms. Anderson asked them how much longer they were going to use the tent and he responded two or three more weeks of nightly meetings. She said they would need to apply for a temporary use permit. He agreed that the permit process is necessary and the need for time limitations. This is the first year they have used the tent longer than 4-5 weeks. If the City would have allowed them to use the tent through October 2001, they would not have appealed the decision. They are requesting the Commission approve an extension to the length of time they may use the tent through October and hopefully, through November 30, 2001.

Pastor Dorothy said there are people in attendance who have complained about noise from the use of the tent. They have had one call to their office since the first of June 2001 from a neighbor who complained about the noise. Ms. Anderson has said the City received about 10 complaints in 4-1/2 months. To clarify the question about signage, there were two other signs on the tent that advertised Monday through Friday services. These were taken down at the request of the City.

Chair Emery called for proponent testimony.

Robert Libby, 13696 SW Liden Drive, Tigard, Oregon 97223, addressed the Commission. He has been a member of the church since 1997. They have never done something that would be considered wrong for the Sherwood community. It has always been their intention to get along with everybody. They have gone out of their way on numerous occasions to try to accommodate people who have complained in the past. They have bought new sound equipment and moved it around within the tent to lessen the noise. They have stopped the music at 10:00 PM on Friday and Sunday evenings. It is their intent to be good neighbors, to fit into the community and offer an alternative life style for the community. They have wonderful youth programs. They just don't have the facilities to house all of the programs. He asked the Commission to look at all of the issues on the table. They are desperately looking to buy property. They are willing to meet with the City to come to a consensus on the use of the tent. The Sunday morning service is a very integral part of their church. The people who come into their church are from the community. He would like to see the use continued for Sundays. In response to Mr. Whiteman's question about meeting Code requirements, he believed there is room for flexibility.

Mr. Whiteman said he wanted to make sure that people understand what the Commission's role is in hearing this appeal. There are certain boundaries the Commission cannot cross. Policy decisions are made by the City Council.

Alesha Henderson, 18755 SW 90th Avenue, #1024, Tualatin, Oregon 97062, addressed the Commission. Ms. Henderson said she used to live in Sherwood across the railroad tracks with her boyfriend. They saw the tent and after they attended one of the services it changed their lifestyle. They no longer only think about drugs and partying. They are now married and living a new, more productive lifestyle. She supported the continued use of the tent because it is a good thing for the community and young people.

Steve Joel Hamilton, 17745 SW Scholls Ferry Road, Beaverton, Oregon 97007, addressed the Commission. Mr. Hamilton said part of the complaints the City had been receiving are his fault because he runs the sound system at the church. He apologized to the citizens and City of Sherwood for any disruption. They have made great strides in lowering the tone and lessening the feedback noise from the equipment. The church that he attends is a great place and he would like to see the efforts of their Pastor commended and encouraged. Pastor Dorothy has a vision for the Sherwood community and their church. Ms. Henderson's story is a good example of how the church is a positive force for the youth and the community as a whole. They are not trying to cause trouble and they really want to help the community. There are a lot of issues the church deals with. In response to Ms. Lafayette's question about the decibel level, he said the sound system is run at about 90 decibels inside the tent. As far as he knows, the sound can be heard for about 4 blocks from the tent at a very low level. The decibel level just outside the tent is below 20 decibels.

Ms. Lafayette asked if his neighbor was running music 3-4 times a week, from 6 to 10 PM, at this level, would he think this would be acceptable? Mr. Hamilton said yes, if someone was as respectful as they have been and they have always shut down at 10 PM. They play Christian music and there is nothing offensive with this music in his opinion.

Greg Ring, 627 SE Cascade Place, Sherwood, Oregon 97140, addressed the Commission. Mr. Ring said the church has grown since he started to attend services. Commercial property has too many restrictions and is too expensive for the church to consider for holding services. The tent is a unique idea and it holds the entire congregation. He lives two miles from the Catholic Church and he hears the bells ring which he thinks is great. He asked the Commission to allow them to continue using the tent through November at least on Sundays.

Heather Clemans, 17237 SW Stellar Drive, Sherwood, Oregon 97140, addressed the Commission. Ms. Clemans and her husband have been members of the church for three years. They have made a tremendous effort to try to work within the system. She had a large box that was full of the efforts by their building committee to try and solve their space problems. They have met several times with City Planning Staff. The tent was a solution for now. By having a facility to contain the people, they believe they are serving the people. It is not their intent to deceive or upset anyone. On behalf of their church, she apologized to anyone in the audience who was offended.

Crystal Elliott, 320 SW Sunset Court, Sherwood, Oregon 97140, addressed the Commission. Ms. Elliott said she had been a member of the church for about nine years. She has known Pastor Dorothy for eighteen or twenty years. She knows that he has gone out of his way to make this work. She has seen him go out of his way to lessen the noise from the tent as

much as possible. They are really asking for the Commission to allow them to use the tent on Sundays. They use the church building for the children while the adults are using the tent for Sunday services.

Mike Robertson, 16570 SW Willow Drive, Sherwood, Oregon 97140, addressed the Commission. Mr. Robertson said he agreed with the previous testimony. The church has the potential to reach out to people and change their lives through Jesus. It is not noise from the tent, it is music. He invited everyone to come to the church and see what they are all about. They want to share what they have and they are not trying to cause trouble.

Jose Bravo, 11334 SW Summerlake Drive, Tigard, Oregon 97223, addressed the Commission. Mr. Bravo said the church has a tremendous congregation and fantastic group of people. The things that are going on as a result of the tent are positive. There are some life changing experiences happening as a result of the tent. He is speaking from the heart. They have seen salvations and deliverances happen in the tent.

Chair Emery asked if there was any opponent testimony.

Julie Smith, 635 SE Clifford Court, Sherwood, Oregon 97140, addressed the Commission. Ms. Smith said she had been patient. It has been five months where every week she hopes the tent will be taken down. In September she thought it would be taken down, only to find out it was going to be up until the end of September 2001. Now it is October and the tent is still there. Every year she dreads the appearance of the tent. It means there will be increased traffic and continuous noise from the tent. She lives over two blocks away, but she hears constant noise from the tent. She hears the noise from the tent over the sound of her television. If this noise were from a neighbor's stereo, the police would have stopped it months ago. Instead the neighbors suffer, day after day. They have no choice about listening to the noise that is generated from the tent. She has lost the use of the enjoyment of her property. She works long hours and she would like to be able to go out into her yard and enjoy some peace and quiet. With the noise that comes from the tent almost every week night and every Sunday, it is almost never quiet. Even with the windows and doors closed and an air cleaner in her bedroom that runs all of the time, she still hears the pounding bass sounds from the tent. Last year she did not hear as much noise because the tent was located off of the road, behind some trees. However, placing the tent behind the trees made the noise worse for her neighbors. This year the tent is back on the main road and there is nothing to break the noise. The sponsors of this event have constantly exceeded the noise ordinance. They also have a history of not concluding their events on time. Two years ago, at 11:35 PM on a weeknight, they were still going strong and making so much noise that she was unable to sleep. Why can't they find a location where the surrounding neighbors would not be affected by the noise and create a nuisance. She urged the Commission to not give them another permit and ruin another month or summer for the neighbors. She has had conversations with her neighbors who have the same complaint about noise. However, she appears to be the only person in attendance to testify tonight. She is primarily concerned about the noise at night, but she can also hear the noise on Sunday during the day.

Chair Emery asked if the applicant wished to provide rebuttal.

Jeff Dorothy addressed the Commission. He apologized to Julia Smith for being inconvenienced. He could not explain how different residents hear and not hear any noise from the tent. They did not locate the tent on the Catholic Church property this year because someone else was using the St. Francis parish hall and it was not available for their use with the tent. They did not get complaints during the years the tent was placed in this location. He would not dispute any of Ms. Smith's testimony. They begin services about 10:00 AM on Sunday and have approximately 45 minutes of music. There is nothing else going on in the tent from about 12:15 PM until 6:00 PM on Sunday evening. They play music from approximately one hour in the evening from 6:00 PM to 7:00 PM, Sunday night. At the end of the service, they will have more music, but they really try to hard to keep the second set at a lower level. The noise complaints seem to be from the music, not the service itself. He hears noise from the Music on the Green and football games. It seems to him that the City has conveniently eliminated itself from the noise ordinance. If you happen to be a school or City event, you are not required to meet the noise ordinance. They are. They would ask the Commission to allow them to continue using the tent on Sundays through November 2001. It would be acceptable if the Commission allowed them to use the tent on Sunday mornings only.

Mr. Wechner clarified that the appeal is based on the timeline for using the tent, not the applicant complying with the City noise ordinance. The Commission heard testimony that the sound decibels were about 90 decibels inside the tent and 20 decibels just outside the tent. He was not sure the sound level could be reduced this much by the tent.

Pastor Dorothy said they used a sound meter to measure the decibel levels.

Mr. Wechner said the setbacks for this zone would be 20 feet around structures. Section 4.502 of the Code under temporary use permits has three basic findings of fact that must be met. He read the criteria. The word "tent" is not found in the Code. The Code does not provide any clear distinction for temporary use permit timelines, other than a temporary use permit can be approved up to a period of one year.

Ms. Anderson said with regard to the noise ordinance, weekend times for the ordinance are between the hours of 7:00 AM and 8:00 PM. The police are the respondents for noise complaints. She does not know how many complaints were logged through the police department.

Mr. Johnson clarified that in certain instances the Planning Commission is the advisory body to the City Council, in this case, the Commission decision is final, unless there is an appeal. The noise issue is important, but not a specific issue of this hearing. It is relevant, if the Commission is going to impose certain conditions as to hours of use or duration of the temporary use permit. The type of music or gathering is not relevant to the Commission's consideration. Any party to this hearing may appeal the decision.

Chair Emery closed the public hearing on TUP 01-07 for deliberations by the Commission. The Commission recessed the meeting at 8:45 PM and reconvened their deliberations at 8:52 PM.

Mr. Whiteman said he was willing to offer the church an opportunity to apply for a new temporary use permit that would be from October 1, 2001 through January 31, 2002, with conditions. These conditions would be that the tent would only be used on Sundays and would not be used after 8:00 PM. The signage and noise would need to be dealt with the temporary use permit. If they desired to use the tent after January 31, 2002, they would need to file a conditional use permit for the site plan that shows the tent.

Mr. Johnson said the Code states that no temporary use permit may be issued for a period exceeding one year, unless the permit is renewed pursuant to Section 4.500 temporary use permit. He did not think the Commission had the authority to say if you want to have a temporary use beyond a certain date, then it is no longer a temporary use and you need to apply for a conditional use permit. The Commission has the authority to place a timeline on the temporary use permit as long as it is one year or less.

Mr. Wechner confirmed that any application that is denied cannot be accepted for resubmission for 180 calendar days following the date of the denial, unless the application has been sufficiently modified to abrogate the reason for denial as determined by the City. All applications resubmitted after being denied in accordance with this Code shall be required to provide new application materials and fees and shall be subject to the review process required by the Code for the land use action being considered.

Mr. Johnson said if the Commission denies the appeal, the applicant could appeal the decision and continue to use the tent while the appeal is in the process, subject to possible citation.

Mr. Johnson said the noise ordinance is a separate issue and if the noise ordinance is violated the applicant would still be subject to fines.

Bill Whiteman moved the Planning Commission approve the appeal of TUP 01-07 and allow the use of the tent until December 31, 2001 on Sundays only until 8:00 PM, all signs must meet the Code and the sound system decibels do not violate the noise ordinance. Seconded by Jean Lafayette.

Adrian Emery recommended the motion be amended to allow the use of the tent through November 30, 2001, on Sundays only until the hour of 8:00 PM and the sound decibels shall be within the noise ordinance. Mr. Whiteman and Ms. Lafayette agreed to amend the original motion.

Mr. Whiteman recommended amending the motion to include the submittal by the applicant of evidence of liability insurance to protect the public. Ms. Lafayette agreed to this amendment.

Mr. Johnson read the motion and recommended conditions by the Commission as follows:

- 1. This permit shall be valid from August 13, 2001 through November 30, 2001.**
- 2. Operation shall be limited to the areas indicated on this permit and will take place on Sundays only between the hours of 10:00 AM and 8:00 PM only.**

3. **Site operations shall take place on private property for which the applicant has permission to use. No part of the site shall be located within the public right-of-way.**
4. **Operation of the site shall not result in cars stacking onto a public street or interfering with on-site traffic circulation.**
5. **No freestanding signs including sandwich board signs are allowed. One banner sign limited to 32 square feet may be attached to the tent structure.**
6. **The applicant shall provide a certificate of insurance approved by the City Manager.**
7. **All uses are subject to compliance with the noise ordinance and other applicable regulations.**

Vote for Passage of Motion: 5-Yes, 0-No, 0-Abstain

Mr. Whiteman said the applicant should be aware that there is nothing certain about the authorization of temporary use permit for the tent next year. It would behoove the applicant to deal with the lack of space without having to use a tent. The Commission appreciates what the church is doing for the community.

6. New Business

6A. Report from Council Liaison

Jean Lafayette provided the report from the last Council meeting. The Council complimented the Commission on their review of the design elements of the Target application. In other action:

- The Council adopted revised language for the Townhome Plan Text Amendment.
- The Council continued the Target application to the October 23, 2001 meeting.

The Commission briefly discussed the status of the Target application. Mr. Johnson reported that the City has retained Mr. Ed Sullivan as special counsel on this project.

A joint City Council/Planning Commission work session is scheduled for Tuesday, October 30, 2001. One of the topics will probably be the CAP and CIF Ordinances.

6B. Report on Oregon Planning Institute (OPI) Conference

Jean Lafayette presented a written report on the 2001 Oregon Planning Institute Conference held in Eugene, Oregon on October 3-5, 2001. She distributed copies of the report to the Commission.

7. Adjourn to Work Session to discuss Hotel/Motel Zoning

The Commission reviewed the issue paper for hotels and motels in the commercial zones. They agreed that the siting criteria option would be used in drafting the proposed code language.

The work session was adjourned at 10:30 PM.

Respectfully submitted,

Planning Department