



**City of Sherwood
PLANNING COMMISSION**

855 N. Sherwood Blvd

Tuesday, January 7, 1997

6:00 PM - Study Session

8:00 PM - Regular Meeting

A G E N D A

- 1. 6:00 PM - Study Session for discussion of pending Zoning and Community Development Code Changes**
- 2. 8:00 PM - Call to Order/Roll Call**
- 3. Approval of Minutes of December 3, 1996**
- 4. Community Comments:** *Community comments are limited to items NOT on the printed agenda.*
- 5. Consent Agenda - No applications scheduled.**
- 6. Public Hearings:** (Hearing Disclosure Statement. Also, declare conflict of interest, ex-parte contact, or personal bias)
 - A. SP 96-4 Woodhaven Apartments Site Plan:** (continued from December 3, 1996) **the applicant is requesting a withdrawal of the application.**
 - B. PA 96-1 Plan Text Amendment** amending Zoning Code Section 2.306 to permit telecommunications towers under 200 feet and amending the Code to require a conditional use permit to locate telecommunications towers in Commercial and Industrial Zones. The Code would also be amended to permit telecommunications towers in Institutional/Public Zones.
 - C. PA 97-1 Plan Text Amendment** amending Zoning Code Section 2.109.02N removing mini-warehouses as a permitted use in the General Commercial (GC) zone.
 - D. PA 97-2 Plan Text Amendments** amending Zoning Code Sections 3.103.01 Deadlines and 3.103.02 Acceptance.
- 7. Other Business**
- 8. Adjourn**

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
January 7, 1997

1. 6:00 PM Study Session

Prior to calling the meeting to order, the Planning Commission held a study session for discussion of pending Zoning and Community Development Code changes.

2. Call to Order/Roll Call

Chairman Bill Whiteman called the meeting to order at 8:20 PM.

Commission Members present:

Allen Baker
George Bechtold
Susan Claus
Angela Weeks
Bill Whiteman

Commission Members absent:

Chris Corrado
Rick Hohnbaum

Staff:

Jon Bormet, City Manager
Sue Engels, Development Director
Greg Turner, City Planner
Jason Tuck, Assistant Planner
Jan Youngquist, Planning Intern
Roxanne Gibbons, Recording Secretary

3. Minutes of December 3, 1996 Commission Meetings

Chairman Whiteman asked if there were any corrections, additions or deletions to the minutes of December 3, 1996. There were no comments.

George Bechtold moved the Planning Commission accept the December 3, 1996, Planning Commission meeting minutes as presented. Seconded by Susan Claus.

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

4. Community Comments

Chairman Whiteman called for comments from the audience regarding any items not on the printed agenda.

John McGinity, Teacher, Sherwood High School, 1155 Meinecke Road, Sherwood, Oregon 97140, addressed the Commission. Mr. McGinity distributed pictures of Middle School students at Stella Olsen Park doing some restoration work and students collecting native plants off of a developing site in King City, for the Commission's review. He presented an overview of the School District environmental program and discussed how there may be some opportunities for the City and School District to work together. There are a number of environmental studies at the various grade levels, starting at the elementary school and going through the high school. The High School has an Environmental Science Class and part of the activities require students to attend public meetings, focusing on environmental issues. The students are also involved in environmental monitoring of water quality in streams. Monitoring the water quality of retention ponds would be of interest to this class. He offered assistance to the City to be involved in this process. It would be excellent for the students to be involved in this monitoring work. The class

has four sites in the Sherwood area, two on Cedar Creek and two on Rock Creek. The data for Cedar Creek and Stella Olsen Park goes back four years.

Chairman Whiteman thanked Mr. McGinity for his presentation and offer of assistance in monitoring the retention ponds. The Commission commended and encouraged all of the students involved in these studies.

There were no further community comments.

5. Consent Agenda

There were no land use applications scheduled.

Prior to opening the public hearings, Chairman Whiteman reported on the status of the signalization at Sunset Boulevard and Highway 99W. ODOT will open the bids for the traffic light on Thursday, January 9, 1997. They hope to have a permit issued by Friday or Monday and award the bid within the ten (10) days after opening. It would be a 150-day contract. There seems to be some concern that the question of SDC credits between the City and Genstar would not cause the signal to be delayed and installed. Mr. Bormet said Genstar may ask that the \$200,000 cost of the signal be credited against their traffic impact fees. From the outset, the signalization was a condition of approval for the PUD. The Commission concurred. He has advised Genstar if they want to change that condition, they would need to come back before the Commission and City Council. Chairman Whiteman said that Genstar is also in the process of negotiating for the property in the 800 foot line-of-sight to the south of intersection of Sunset and Highway 99W.

6. Public Hearings

Chairman Whiteman read the hearings disclosure statement and requested that Commission members reveal any conflict of interest, ex-parte contact or bias regarding any issues on the agenda.

6A. SP 96-4 Woodhaven Apartments Site Plan

Chairman Whiteman announced that the applicant is withdrawing their application.

Susan Claus moved, based upon the written request of the applicant, that the Planning Commission accept the applicant's withdrawal of the application for SP 96-4 Woodhaven Apartments Site Plan. Seconded by Allen Baker.

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

Angela Weeks asked if the land purchase for the YMCA was finalized. Jon Bormet responded it was final and noted:

- The property was owned by GSL Properties, not Woodhaven.
- The property was identified as early as late July/August for the YMCA site. This was subsequent to the appraisal for the Langer property behind Albertson's at \$300,000 per acre. At that point they had to come up with a Plan B. This was discussed with the YMCA Committee that was working on the ballot issue.
- On October 22, 1996, the City Council acted to acquire the GSL property. The City negotiated for the purchase of the property.

- The primary reason for selecting this location was that the City wanted to have the YMCA located to the inside of Highway 99W, so kids could ride their bikes to a YMCA without having to cross the highway.
- Commercially-zoned property was not affordable for this purpose. The only other land that could have been considered was near Meinecke Road, but there are unanswered questions about the future alignment of the Meinecke Road intersection.
- Both the YMCA and the City thought there was no other property which was appropriate for the YMCA site.
- It is important for people to remember that the reason the YMCA is building in Sherwood is not because of Sherwood residents. The YMCA is here is because it's going to be a regional facility. When the YMCA did their market study, they found that the second largest subscriber group would come from Newberg.
- It was the feeling of the City Council that the City had to move forward with the purchase of property to get the YMCA built as soon as possible.
- Part of the Woodhaven PUD amendments which are forthcoming will include a rezone to Institutional/Public (IP) of the property which was approved for 140 multi-family units.

Chairman Whiteman asked if it was the expectation of the Woodhaven representatives that the Commission make a decision on the PUD amendments at the January 21, 1997 Commission meeting. Ms. Engels said the applicant would like to see the Commission make a decision, but the Commission has the option to make a decision or continue the application to another date if further review is needed.

6B. PA 96-1 Plan Text Amendments (Nextel)

Chairman Whiteman called for the Staff Report. Greg Turner referred the Commission to the Staff Report dated January 7, 1997, a complete copy of which is contained in the Planning Commission's minutes book. He presented the background information for the application and noted:

- Following the July 23, 1996, City Council direction, Staff did more research and met with representatives of Nextel Communications (formerly OneComm Corporation).
- Staff is now recommending that a Conditional Use Permit (CUP) be required for wireless communications facilities in General Commercial (GC) as well as Light and General Industrial zones. The CUP option rather than being site specific with an overlay zone would enable the City to review each proposal and to tailor conditions to the specific proposal and site.
- Staff changed the original proposal to allow wireless communications facilities in the Institutional Public (IP) zones. Permitting the facilities in the IP zone would encourage cell towers to locate in these areas in addition to generating revenue for the City.
- Wireless communication facilities would be prohibited in all residential zones. In addition, all wireless communications facilities would need to be 300 feet from residential areas.
- All wireless communications facilities shall be designed for co-location and shall be a minimum of 1,000 feet from existing wireless facilities.
- The applicant shall justify the proposed height of the antenna as well as evaluate alternative designs which might result in a lower antenna height.
- The proposed amendment limits wireless facilities to a height of 200 feet or less.

- A wireless communications facility shall be removed by the facility owner within 6 months of the date the facility ceases to be operational or if the facility falls into disrepair.
- Current code language prohibits communications towers in most commercial zones, except for General Commercial (GC) which requires a conditional use permit. It is not mentioned in Light Industrial (LI) zones and is prohibited in General Industrial (GI) zones. Staff recommends changing this to allow towers in GI and LI zones as conditional uses.

In conclusion, Staff recommends approval of the code amendments contained in the draft ordinance regarding the siting of wireless communication facilities within the City of Sherwood.

Mr. Bormet discussed the reason for recommending allowing the towers as a permitted use relative to franchise fees.

Chairman Whiteman opened the public hearing on PA 96-1 Nextel and asked if the applicant wished to provide testimony.

Scott Greenberg, AICP, D. Garvey Corporation, 1700 Westlake Avenue, N., Suite 400, Seattle, Washington 98109, addressed the Commission. Mr. Greenberg said they supported the proposed ordinance. He distributed a copy of Section 704 of the Federal Telecommunications Act of 1996, and specifically noted:

- This application for a Plan Text Amendment was originally submitted about one year ago.
- They would recommend including emergency clause language in the ordinance which would allow for an immediate effective date in lieu of the thirty (30) day effective date. There has been no public testimony in opposition to this plan text amendment.
- They would recommend including language in the ordinance regarding Section 704 of the Federal Telecommunications Act of 1996 which requires local governments to allow for personal wireless services facilities within a reasonable period of time after the request is duly filed, taking into account the nature and scope of such request.
- The market rate for leases right now is between \$300 to \$1,000 per month, dependent on the type of facility, and amount of land the building spaces leases. This is what most carriers are paying today.
- The benefit of allowing the facilities as permitted uses in the IP zones is if it works from a technical engineering standpoint, the carrier can get the coverage they need. Most carriers will go to an IP zone because it is a permitted use and they do not have to go through a hearing process for a conditional use permit. Most carriers want to give money back to the community, if possible. If the publicly-owned land is not available, they will go to privately-owner land. Most carriers prefer to work with public jurisdictions.
- Carriers can locate on PGE towers, if it works from a radio frequency and coverage standpoint. Also, legal agreements must be provided between the utility and the carrier for this use. Each carrier differs regarding the type of agreements required.
- Regarding radio frequency emissions at public schools, it would not be any different than anywhere else in the City. The Nextel wattage is about 100 watts per channel, the same as a 100 watt lightbulb. They have to meet FCC federal standards for radio frequency emissions and this is also a part of the Telecommunications Act. There are hundreds of sites at schools throughout the United States.

- They would recommend adding language which would allow for a one time 6 month extension for removal of the facility. Every lease they have used has a similar clause with the landlord regarding maintenance and removal of equipment. In many cases the carrier can re-use the equipment and it is not likely they would let equipment sit idle for a long period of time. This could include finding another carrier that could use the tower, in lieu of removing it.

Mr. Greenberg said he would be happy to answer any questions. Regarding maintenance, technicians come in once or twice per month to check or service the radios and assure that the tower is fine. The height of the tower on public buildings would depend on the coverage needs of the system. Not all facilities would necessarily be 200 feet high.

Chairman Whiteman said he was told that Motorola was building 25 satellites to replace this type of technology. Mr. Greenberg said satellite technology is underway, but the Enhanced Specialized Mobile Radio (ESMR) system is not something that would be used by a satellite system and it would not be compatible with the technology. The ESMR technology includes a two-way radio, so for it to work it would have to be beamed up to and back down from a satellite which he did not believe to be feasible. The ESMR technology they are currently dealing with is about 5-10 years old.

Chairman Whiteman asked if there was anyone else who wished to speak in favor of the application. There was no further proponent testimony. Chairman Whiteman asked if there was anyone who wished to speak in opposition to the application. There was no opponent testimony and therefore the rebuttal portion of the hearing was dispensed with. Chairman Whiteman closed the public hearing on PA 96-1 Nextel for discussion by the Commission.

Chairman Whiteman reviewed the applicant's requested changes to the proposed ordinance; emergency clause language, Section 704 language for municipalities to allow for personal wireless services facilities, and additional language regarding a one time 6 month extension under Item J.

Sue Engels recommended adding language under "Permit Approval" which would state that the applicant has demonstrated that the proposed wireless communications facility cannot be located in an IP zone. Under Section 4.302.03, adding as the first item, "The applicant has demonstrated that the proposed wireless communication facility cannot be located in an IP zone."

In addition, the applicant's suggestion regarding a one-time extension to the 6 months is a reasonable request. Regarding the amount of time it has taken to review this application, the current code language does not permit this type of application and to make code changes requires research and time. Other cities have simply put a moratorium on these facilities pending review. Staff would agree to the emergency ordinance clause language.

Angela Weeks suggested adding language which would require the applicant to maintain the facility while it is being used.

The Commission discussed at length the one-time 6 month extension timeframe, rewording Item J under 4.302.03 and locating the facilities in the IP zones.

The Commission agreed to the following changes to the language of the proposed ordinance and plan text amendments to the Development Code Sections:

- Adding language to the ordinance which would allow for the emergency enactment of the ordinance.
- Amend Code Sections 2.109, 2.110, and 2.111, change the word “facilities” to “towers” which would read, “wireless communication towers”.
- Under Section 4.302.03, adding as the first item, “The applicant has demonstrated that the proposed wireless communication facility cannot be located in an IP zone, due to the coverage needs of the applicant.”
- Under “Permitted Uses” add language regarding wireless communication facilities which are co-located on an existing tower, or located on an existing building or structure, not to exceed the top of the structure.
- Under the IP zone, Section 2.113.02, change “Conditional Uses” to “Permitted Uses”, which would read, “Wireless communications facilities on city-owned property or attached to an existing building or structure, not to exceed the top of the structure. All other wireless facilities in the IP zone would require a conditional use permit.”
- Amend Item J to, “The proposed wireless communication facility shall be removed by the facility owner within 6 months of the date the facility ceases to be operational. Staff may allow a one-time extension for repair or removal of the facility not to exceed 6 months, as long as the facility is maintained.”
- Add Item K to read, “If the facility falls into disrepair, it shall be removed or repaired with seven (7) calendar days of notification by the City. Staff shall allow a one-time extension of not more than seven (7) calendar days for repairs.”

Susan Claus moved the Planning Commission recommend approval of PA 96-1 Nextel Plan Text Amendments to the City Council based on the staff report, public testimony, findings of fact, with the amendments as outlined above. This recommendation includes the emergency ordinance consideration and adoption. Seconded by Angela Weeks.

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

6C. PA 97-1 Plan Text Amendment

(Remove mini-warehouses as a permitted use in GC Zone)

Chairman Whiteman called for the Staff Report. Jason Tuck referred the Commission to the Staff Report dated January 7, 1997, a complete copy of which is contained in the Planning Commission’s minutes book. He noted:

- The City-initiated Plan Amendment would remove the word, “wholesale” from Section 2.109.01 and remove, “Wholesale trade, warehousing, commercial storage and mini-warehousing” as permitted uses in the General Commercial (GC) zone.
- Staff recommends approval of these Code amendments.

Chairman Whiteman opened the public hearing on PA 97-1 Plan Text Amendment. He asked if there was anyone who wished to speak in favor of the plan text amendment. There was no proponent testimony. Chairman Whiteman asked if there was anyone who wished to speak in opposition to the application. There was no opponent testimony and therefore

the rebuttal portion of the hearing was dispensed with. Chairman Whiteman closed the public hearing on PA 97-1 Plan Text Amendment for discussion by the Commission.

There was no further Commission discussion.

George Bechtold moved the Planning Commission recommend approval of PA 97-1 Plan Text Amendments to the City Council as recommended by Staff. Seconded by Susan Claus.

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

The following Plan Text Amendments were recommended to the City Council:

- 1) Modify Code Section 2.109.01 by deleting “Wholesale” from the sentence.
- 2) Modify Code Section 2.109.02N by deleting “Wholesale trade, warehousing, commercial storage and mini-warehousing” as permitted in the General Commercial (GC) zone.”

6D. PA 97-2 Plan Text Amendments (Deadlines and Acceptance)

Chairman Whiteman called for the Staff Report. Jason Tuck referred the Commission to the Staff Report dated January 7, 1997, a complete copy of which is contained in the Planning Commission’s minutes book. He presented background information for the proposed plan text amendments and noted:

- Currently the Code requires submittal of a complete application for a land use action at least forty-five (45) days in advance of the Commission hearing. This deadline restricts the City’s flexibility and makes the 120-day final decision deadline on the application unreasonable. Staff recommends removing this 45 day requirement.
- Currently the Code requires the City to deem an application complete within seven (7) days from the date of submittal. ORS 227.178 allows a City to have thirty (30) days to deem an application complete or incomplete from the date of submittal. Staff recommends adopting the state requirement of thirty (30) days.
- Staff proposes to change the sentence in 3.103.2 Acceptance to read, “Incomplete applications shall be returned to the applicant along with a written notification of all the application’s deficiencies” removing “and all materials and fees submitted”. Staff recommends changing the City’s administrative policy so the applicant would submit 10% of the total development fee and/or \$200, whichever is greater. The money collected would cover the cost of reviewing applications. In the case an application is withdrawn the money collected will still pay for Staff’s review. This would alleviate refunding any monies for incomplete applications.

In conclusion, Staff recommends adoption of the proposed changes to Section 3.103.01 Deadlines and Section 3.103.02 Acceptance, as noted in the Staff Report.

Chairman Whiteman opened the public hearing on PA 97-2 Plan Text Amendment. He asked if there was anyone who wished to speak in favor of the plan text amendment. There was no proponent testimony. Chairman Whiteman asked if there was anyone who wished to speak in opposition to the application. There was no opponent testimony and therefore the rebuttal portion of the hearing was dispensed with. Chairman Whiteman closed the public hearing on PA 97-2 Plan Text Amendment for discussion by the Commission.

Following discussion, the Commission agreed that 25% of the total fee or \$500, whichever is greater, should be collected when the land use application is submitted. If the application is withdrawn, these fees are non-refundable. This recommendation should be made to the City Council to amend the ordinance regarding Fee Schedules.

The Commission recommended adding "Application fees submitted are non-refundable" to the Section 3.103.02 Acceptance.

Allen Baker moved based on the findings of fact the Planning Commission recommend to the City Council adoption of PA 97-2 Plan Text Amendments to Development Code Section 3.103.01 Deadlines and 3.103.02 Acceptance, as amended. Seconded by George Bechtold.

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

The following Plan Text Amendments for PA 97-2 were recommended for adoption by the City Council:

1. Remove Code Section 3.103.01 Deadlines
2. Modify Code Section 3.103.02 Acceptance by replacing the seven (7) day review for complete deadline with thirty (30) days. Rewrite the third line to read, "Incomplete applications shall be returned to the applicant along with a written notification of the application's deficiencies. Application fees submitted are non-refundable."

7. Other Business

The Commission recommended placing the Nextel Site Plan application as the first agenda item for the January 21, 1997, Commission meeting. This would be dependent on the action taken by the City Council at their January 14, 1997 meeting regarding the Plan Text Amendment.

There being no further business to discuss, the meeting was adjourned at 10:30 PM.

Respectfully submitted,

Planning Department