

**SHOREVIEW PLANNING COMMISSION  
MEETING MINUTES**

**November 24, 2009**

**CALL TO ORDER**

Chair Proud called the meeting of the November 24, 2009 Shoreview Planning Commission meeting to order at 7:00 p.m.

**ROLL CALL**

The following members were present: Chair Proud, Commissioners Feldsien, Mons, Schumer, Solomonson and Wenner.

Commissioner Ferrington was absent.

**APPROVAL OF AGENDA**

MOTION: by Commissioner Schumer, seconded by Commissioner Feldsien to approve the agenda as submitted.

VOTE:                   Ayes - 6                   Nays - 0

**APPROVAL OF MINUTES**

MOTION: by Commissioner Mons, seconded by Commissioner Wenner

VOTE:                   Ayes - 5           Nays - 0           Abstain - 1 (Schumer)

Commissioner Schumer abstained as he was absent from the October 27<sup>th</sup> meeting.

**REPORT ON CITY COUNCIL ACTIONS**

City Planner Nordine reported that the City Council approved the text amendment regarding administration of escrow deposits and provision for replenishment of surety should funds be used to correct conditions on a development site.

**NEW BUSINESS**

**VARIANCE**

**FILE NO.                   2377-09-35**  
**APPLICANT:             FRED SWENSON**  
**LOCATION:                 278 DEMAR AVENUE**

**Presentation by City Planner Kathleen Nordine**

This application is to construct a 248 square foot bedroom addition on the northwest side of the existing home, which would mean reducing the front setback from 30 feet to 27 feet from Demar Avenue. The addition will have a basement for living space with egress windows. The exterior materials will compliment the existing home with the use of stucco, hardiboard siding and asphalt shingles. The entryway to the house will be enlarged with a small covered porch that does not require a variance.

The applicants state the addition will improve the living area of their home with a third bedroom. Other options would require greater setback encroachments. This proposal is the best that does not alter the character of the neighborhood.

Staff believes hardship is present. The orientation of the house on this property is not parallel to the front property line, which limits options for expansion. The west side already encroaches into the front setback. This addition will encroach less than the current setback. Extensive interior renovation would be necessary to add the bedroom as a second story. The only buildable area for an expansion is on the front of the home. The neighborhood is dominated by single story homes. Since the house sits at an angle, the reduced setback will not have a negative visual impact.

Property owners within 150 feet were notified of the proposal. Written and phone comments received are in support of the application. Staff is recommending approval with the conditions listed in the staff report.

**MOTION:**       by Commissioner Schumer, seconded by Commissioner Wenner to adopt Resolution 09-103 approving a variance to reduce the required 30-foot setback from a street right-of-way to 27 feet for an addition at 278 Demar Avenue, Fred and Gail Swenson. Said approval is subject to the following conditions:

1. The project must be completed in accordance with the plans submitted as part of the Variance application. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.

- 3. This approval is subject to a 5-day appeal period. Once the appeal period expires, a building permit may be issued for the proposed project. A building permit must be obtained before any construction activity begins.

The approval is based on the following findings:

- 1. The request is reasonable due to the limited buildable area on the property, size of existing 2-bedroom home and interior layout.
- 2. Hardship exists due to the orientation of the existing structure on the property. The existing home currently encroaches upon the required setback and the proposed addition will not extend closer to the property line than the existing home. This situation was not created by the landowners and are circumstances unique to the property.
- 3. The proposed setback variance will not alter the character of the neighborhood because of the orientation of the home on the property and existing structure setback from the property line adjacent to Demar Avenue.

Discussion:

Commissioner Mons stated that with the 60-foot road right-of-way, the resulting 14 feet boulevard, and the fact that Demar is a local neighborhood street without a sidewalk does not make this appear to be an encroachment.

VOTE:                      Ayes - 6                      Nays - 0

**COLLATION OF WIRELESS TELECOMMUNICATIONS PERMITS**

- 1.     **FILE NO.:**                      **2374-09-32**  
       **APPLICANT:**                **BUELL CONSULTING/CLEARWIRE**  
       **LOCATION:**                    **745 COUNTY ROAD E**
  
- 2.     **FILE NO.:**                      **2375-09-33**  
       **APPLICANT:**                **BUELL CONSULTING/CLEARWIRE**  
       **LOCATION:**                    **4615 N. VICTORIA STREET**
  
- 3.     **FILE NO.:**                      **2376-09-34**  
       **APPLICANT;**                **BUELL CONSULTING/CLEARWIRE**  
       **LOCATION:**                    **5880 LEXINGTON AVENUE**

**Presentation by Senior Planner Rob Warwick**

Clearwire Legacy LLC (Clearwire) has applied for Wireless Telecommunications Facility (WTF) permits to co-locate antennae and ground equipment at existing water towers in the City. Clearwire is in the process of a multi-year network build-out plan to establish service throughout the metro area. Four sites are being proposed in Shoreview at this time. This application is for

three sites where the wireless facilities are proposed for collocation on an existing structure: the north and south water towers and the 150-foot monopole at the Maintenance Center. Each of these sites are in R1 residential districts. A ground lease would be required with the City for access to ground equipment. Clearwire uses directional microwave antennae rather than fiber-optic landlines for network traffic. The antenna is 26 inches in diameter. Panel antennae are used for radio communication between each site and subscribers.

At each water tower the Clearwire equipment would be within a fenced area. At the North Water Tower, there are two active wireless providers. Metrocom has abandoned their equipment. Clearwire will use that space and remove the Metrocom equipment. Clearwire proposes to locate antennae at 90 feet on the tower. At the South Water Tower, Clearwire will also take over the ground site abandoned by Metrocom. Clearwire antennae will be placed at a 100-foot elevation. At the Maintenance Center there is a 150-foot monopole. There is a fenced compound around the monopole with room for Clearwire ground equipment at the southern edge, where a 7 x 7 area will be fenced for Clearwire equipment. Antenna will be placed at 110 feet.

City Code includes collocation standards for wireless facilities. The proposals comply with those standards. The antennae will be finished to match the existing tower. No new screening is recommended. Use of currently fenced areas will mean no visual impact for these additions. No permanent generators are proposed for any of the sites. There is battery power backup if needed. Clearwire must comply with FCC and City regulations regarding radio frequency interference. The Public Works Director has determined that the collocation will not impact water supply or safety of the structure.

The City's consultant, OWL Engineering, will review radio frequency interference and radio frequency emissions to insure compliance once the equipment is installed and before operation. No impacts are anticipated, and the plans are in compliance with required FCC regulations.

Property owners within 350 feet were notified. Concerns expressed were use of generators during installation and health effects. Staff talked to the resident about the regulations about generators which satisfied that concern. No health impacts are anticipated and will be reassured with testing after installation.

The lease terms with the City are for 5 years with three five-year renewal periods. The annual rent for ground space at the water towers is \$25,000 and \$9,500 for ground space at the monopole. Revenue is used for the parks capital improvement fund.

Staff finds the proposals are in compliance and recommends the Commission forward the applications to the City Council for approval.

Commissioner Mons asked if there is a requirement for surety bond. Mr. Warwick stated that the leases contain provisions for a removal and restoration surety. Prior leases did not include this provision.

Commissioner Mons noted that the FCC legislation prohibits aesthetic view as a basis for denial of an application. He asked if the City would be liable if it denied an application that in a zone designated for this use. Mr. Warwick stated that the City is required to reasonably accommodate these facilities. They cannot be precluded through zoning. No changes are proposed to the overlay districts established by the City with these proposals. The City Attorney stated that it is very difficult for the City to deny any application that is in compliance with the stipulations. It would be considered arbitrary conduct on the part of the City.

Commissioner Solomonson recalled that health concerns cannot be used as a reason for denial. City Attorney affirmed and stated that if the application complies with regulations, it cannot be denied on the basis of health concerns.

**Mr. Gyan Pandey**, RF Engineer with Clearwire, stated that he is here to answer any questions and will make sure all sites are in compliance.

Commissioner Feldsien asked if Clearwire has contacted the other companies located at these sites. **Mr. Pandey** answered, yes. Steps will be taken to make sure there is no interference with other companies' transmissions.

Commissioner Proud noted the service is for both internet and cell phone and asked if antennae or equipment will be placed on homes of users. **Mr. Pandey** responded that no equipment is placed on homes. Customers can either purchase a laptop with a chip installed or a modem. No wires are used.

Chair Proud opened the discussion to public comments and questions. There were no comments or questions. There were none.

**MOTION:** by Commissioner Schumer, seconded by Commissioner Solomonson to recommend to the City Council approval of the Wireless Telecommunications Facility Permit applications for Clearwire Legacy to collocate antennae on three existing towers located at 745 County Road F, 4615 Victoria Street, and 5880 Lexington Avenue, and to install equipment shelters within a leased area at each site, subject to the following conditions:

1. The projects must be completed in accordance with the plans submitted as part of the Wireless Telecommunications Facility Permit applications. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. These approvals will expire after one year if building permits have not been issued and work has not begun on the projects.
3. These approvals are contingent upon the City Council authorizing ground leases with Clearwire for each site, including the equipment sites and easements for ingress and egress.
4. The antennae and support structures shall be painted to match the finish on the existing tower to which they are attached.

5. Each site is subject to confirmation that RF emissions conform to FCC requirements. Clearwire shall notify the City when the system is installed, prior to operation. A City-selected RF engineer shall be provided access to the site to test RF emissions.
6. A permanent emergency power generator shall not be installed on any of the sites. Temporary emergency power generation shall occur on-site only after power outages of 3 or more hours. Clearwire shall notify the City if emergency power is needed to operate any of these Wireless Telecommunications Facilities.
7. The applicant shall enter into a Wireless Telecommunications Tower/Antenna Agreement with the City for each of the sites.

VOTE:                      Ayes – 6                      Nays – 0

**WIRELESS TELECOMMUNICATIONS PERMIT**

**FILE NO.:**                      **2379-09-37**  
**APPLICANT:**                **BUELL CONSULTING/CLEARWIRE**  
**LOCATION:**                    **5900 MACKUBIN STREET**

**Presentation by Senior Planner Rob Warwick**

This application is for a WTF permit to install a 60-foot monopole and antennae in Bucher Park with ground installation of equipment cabinets. The park is located in Telecommunications Overlay District 1, where WTF towers are permitted at a maximum 60-foot height. A ground lease will be required with the City for a 10 x 20 foot area at the southeast corner of the existing hockey rink for the monopole and ground equipment. The ground equipment is smaller than what other providers have needed. The conduit cable will be underground.

The base diameter of the monopole is 38 inches that tapers to 32 inches at the top. It will replace an existing 50-foot steel light pole that has a diameter of 10 inches. Hockey rink lights will be mounted at the current level on the new monopole. Mature vegetation and topography will minimize the visual impact of the monopole. The monopole will be 10 feet taller than the existing 50-foot light standards, but staff believes the added height will have minimal effect. The monopole is proposed to be located 72 feet from the south property line and more than 300 feet to other property lines. The nearest residence is over 250 feet away. These setbacks exceed standard requirements. The Park and Recreation Director has reviewed the proposal and recommends approval. The City prefers collocation sites, but this monopole will be for a single provider with no area for collocation by another provider because of the mounted rink lights. The same material for the other light poles will be used for the monopole.

Staff would prefer to see a monopole with a smaller diameter and has requested a technical report from a structural engineer attesting that the diameter cannot be safely reduced. City consultant, OWL Engineering, reviewed the application and reported no adverse interference with RF or public safety channels. RF emissions are predicted to comply with FCC requirements. OWL will inspect the site once installation is completed to verify compliance. Installation will be according to FCC standards. The ground equipment will be fenced and

landscaped with shrubs.

Property owners within 350 feet were notified, including residents in Lino Lakes. The Lino Lakes City Planner reported no negative impacts are expected on residents of Lino Lakes. Other comments were received in regard to potential interference with household wireless devices and health concerns due to RF emissions. The Telecommunications Act of 1996 stipulates environmental health issues as outside the scope of the City review. This application is in compliance with FCC regulations and the City Code. Therefore, staff is recommending the application be forwarded to the City Council for approval.

Commissioner Wenner asked if the recommended reduced diameter would impact service from the provider. Mr. Warwick stated that a smaller diameter design would have less visual impact. Staff is requesting documentation that this is the minimum diameter needed.

Commissioner Feldsien asked if there is access to the inside of the pole. Mr. Warwick stated that inside is used only for cable routing.

Commissioner Solomonson asked if this monopole is mainly for coverage for Lino Lakes and whether sites in Lino Lakes were considered. **Mr. Pandey**, Clearwire, answered that the network is not optimized but will be in a year or two. He stated that he will get information for the Commission on sites that may have been considered in Lino Lakes.

Chair Proud asked about the level of RF the neighbors will be exposed to as compared to the lobby of this building or in a coffee shop. Mr. Pandey stated that the RF level is higher close to the antenna, but the RF levels using a cordless phone, cell phone, the City Hall lobby or a coffee shop will be the same.

Chair Proud opened the discussion to public comments and questions.

**Ms. Marcia Gandrud** distributed a packet of information to Commissioners. She stated she is concerned about radiation. Some people are much more sensitive than others. The packet includes two written statements from her doctor. There is also a petition signed by 45 Evergreen Shores residents. Her health is extremely environmentally sensitive and cannot be exposed to unnatural conditions such as radiation, chemicals and other substances. Her doctor, Dr. Kenneth J. Emonds, Associated Fellow of the American Academy of Environmental Medicine, has stated that a wireless telecommunications facility constructed closer than three miles from her home would more than likely cause her cancer to recur. Her doctor further states:

“I have been treating Marcia Gandrud for environmental sensitivities for over 24 years. She is one of the most environmentally sensitive patients I have treated in my 38 years of practicing.”

The placement of this facility in Bucher Park is a life and death situation for her. She would recommend Rice Creek Fields where it is unlikely anyone would be sensitive to it, but it would still be at the north end of the city.

Commissioner Schumer asked if Dr. Emonds is aware that for the past 10 or more years there has been a telecommunications facility at the North Water Tower, which is two miles from Ms. Gandrud's home. **Ms. Gandrud** answered that Dr. Edmonds has seen the area where she lives. The water tower is better than a few hundred feet.

Commissioner Mons noted that there is also telecommunications equipment on Turtle Lake Road in North Oaks. A medical determination transcends what the Planning Commission and City Council can decide.

Commissioner Wenner stated that he lives near Bucher Park and there was confusion in his neighborhood about Ms. Gandrud's survey. He also received calls from people who live much closer to the park who were not asked to participate in the survey. He asked if the petition is from the Evergreen Shores Homeowners Association. **Ms. Gandrud** answered, no. The petition is from residents who were home when she took it around.

**MOTION:** by Commissioner Mons, seconded by Commissioner Wenner to recommend to the City Council approval of the Wireless Telecommunications Facility Permit application for Clearwire Legacy to install a 60-foot monopole and equipment within a leased area at Bucher Park, 5900 Mackubin Street, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted as part of the Wireless Telecommunications Facility Permit application. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
3. This approval is contingent upon the City Council authorizing the lease with Clearwire Legacy LLC, including the 10 by 20 foot monopole and equipment site, and easements for access and utilities.
4. Clearwire shall submit a technical report from a structural engineer detailing the proposed monopole design and attesting to the need for the requested diameter. The report should be submitted prior to review of the application by the City Council, and is subject to review by a consultant selected by the City.
5. The monopole height, including antennae, shall not exceed 60 feet above existing ground level.
6. The conduit from the equipment cabinet to the monopole shall be routed underground.
7. The site is subject to confirmation that RF emissions conform to FCC requirements. Clearwire shall notify the City when the system is installed, prior to operation. A City-selected RF engineer shall be provided access to the site to test RF emissions.
8. A landscape plan shall be submitted for review and approval of the City Planner prior to issuance of a building permit. The plan shall include a dense planting of native shrubs. A landscape surety shall be submitted to insure the installation of landscape materials.
9. A permanent emergency power generator shall not be installed on the site. Temporary

emergency power generation shall occur on-site only after power outages of 4 or more hours. Clearwire shall notify the City if emergency power is needed to operate the Wireless Telecommunications Facility.

10. The applicant shall enter into a Wireless Telecommunications Facility Agreement with the City.

**Discussion:**

Commissioner Mons stated that he voted against a monopole in Shamrock Park of 75 feet. He continues to believe height in City parks should be limited for this use but can support this which is consistent with what was approved for the Overlay District. He further noted that health issues were considered at the time Overlay Districts were established. It is difficult to address this specific situation with an individual, but he has not heard anything to make him believe rezoning should occur.

Commissioner Solomonson stated that there were two designs for the pole at Sitzer Park. He would like to know if there are other design options for the diameter. Further, he continues to be concerned that the coverage from this site is not so beneficial for Shoreview and asked if this would be a reason for denial. City Attorney Filla stated that the City is required to provide reasonable accommodation and City boundaries are not recognized.

**VOTE:**                      Ayes – 6                      Nays – 0

**MISCELLANEOUS**

**City Council Meetings**

Commissioners Mons and Schumer will respectively attend the December 7<sup>th</sup> and December 21<sup>st</sup> City Council meetings.

**Workshop**

Chair Proud noted that the Commission did hold a workshop on infill development prior to this regular meeting.

**ADJOURNMENT**

**MOTION:**    by Commissioner Schumer, seconded by Commissioner Feldsien to adjourn the November 24, 2009 Planning Commission meeting at 8:26 p.m.

**ROLL CALL:**                      Ayes - 6                      Nays - 0

**ATTEST:**

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Kathleen Nordine - City Planner