

**City of Wildwood
Planning and Zoning Board/Special Magistrate
October 4, 2011**

The meeting of the Planning and Zoning Board/Special Magistrate for the City of Wildwood convened on Tuesday, October 4, 2011 in the Commission Chamber of City Hall, 100 North Main Street, Wildwood, Florida.

City Representatives Present: Special Magistrate Archie O. Lowry, Jr.; Melanie Peavy, Development Services Director; Richard Busche, Kimley-Horn and Associates (City Engineer) and Paul Ketz, Senior Development Specialist.

The hearing was called to order at 3:04 p.m. by Special Magistrate Archie O. Lowry.

Minutes were approved and signed from the August 9, 2011 Planning & Zoning Board Meeting. Mr. Lowry inquired whether the City changed or modified the sign ordinance subsequent to the August 9th meeting. Ms. Peavy indicated that the Land Development Regulations (LDRs) contain a "Design Standards" section, which encompasses the sign ordinance, and that section was recently changed to allow for larger signs in the downtown area.

Melanie Peavy and Richard Busche were sworn in at this time.

New Business:

**Rezoning, RZ 1107-01 Oxford II Retirement Residence (Lenity Group LLC), a
portion of Parcel D08=005**

Melanie Peavy: Introduced herself and read the staff report into the record to present the case before the Planning and Zoning Board. The applicant is seeking a rezoning from R-1 Residential to INS (Institutional) zoning to bring the property into conformance with the City's Comprehensive Plan, enabling the applicant to move forward with their project improvements. Staff recommends approval of the proposed Rezoning.

Mr. Lowry had a few questions regarding the surrounding properties and this property's conformance with the Comprehensive Plan, to which Ms. Peavy responded. She indicated that there were no adverse effects noted that would impact surrounding property owners or the neighborhood.

Special Magistrate: Asked for comment from the applicant at this time.

Michael Fuller with Lenity Group LLC was sworn in at this time and spoke briefly to summarize the project.

Mr. Lowry asked for any comments from the public.

Special Magistrate: Hearing no one that desires to speak (on this matter), based upon the testimony and information received today, I would give a favorable recommendation to the City Commission for their approval.

Site Plan, SP 1108-01 Oxford II Retirement Residence (Lenity Group LLC), a portion of Parcel D08=005

Melanie Peavy: Read the staff report into the record and presented the case before the Planning and Zoning Board. The applicant is seeking Site Plan approval for a 3-story, 130 suite Independent Living Facility with accessory buildings for parking garages and a pool house. Staff recommends approval of the proposed Site Plan subject to rezoning approval (granted in previous item); approval, exemption, or permitting of the project by all agencies of competent jurisdiction; and satisfaction of any requirements as noted in the City Engineer's letter dated September 2, 2011.

Special Magistrate: Asked to hear from the City Engineer at this time.

Richard Busche: Introduced himself and addressed the review of the project plans dated August 5, 2011. Comments were discussed with the applicant's engineer at the September PRC meeting.

Special Magistrate: Would this project still go before the City Commission if a re-submittal is not received?

Melanie Peavy: No.

Special Magistrate: And is the applicant aware of that?

Melanie Peavy: They are aware of our policy, and if it is not ready and approved, the Site Plan would not be forwarded to the City Commission.

Special Magistrate: Once all the items in your letter are addressed, you'll review the re-submission and make your recommendation at that time?

Richard Busche: Yes, we'll get a new submittal from Development Services, and we'd review the re-submittal at that time.

Mr. Lowry asked about the pre-application conference and whether that was new; Ms. Peavy indicated that they existed under the old LDRs as well.

Special Magistrate: Richard, for the purposes of review, I'm assuming you look at Section 4.4, and make sure those items are included in the Site Plan?

Richard Busche: Yes, sir, we do, and then we go through the plans and review the applicable sections of the LDRs and compliance with those sections, as well as certain other applicable regulatory agency codes. An example would be certain FDOT requirements.

Special Magistrate: Does the applicant want to make any further comments?

Michael Fuller: No.

Mr. Lowry asked for comment from the public at this time.

Special Magistrate: Hearing no one, based upon the testimony and information, I recommend approval of the Site Plan, subject to the matters noted in the staff recommendation and addressed to me today.

Special Exception, SE 1109-01 250' Communications Tower (New Cingular Wireless PCS LLC), parcel D29=029

Melanie Peavy: Read the staff report into the record and presented the case before the Planning and Zoning Board. The applicant is seeking Special Exception approval for a 250' Communications Tower to be constructed on City Property.

The Special Magistrate had questions regarding the proposed location of the tower and proximity to the nearest residential structure, as well as the other code requirements. It was determined that the tower will not meet camouflaging requirements under the code, due to the size of the tower.

Special Magistrate: Asked the applicant to address the case at this time.

Lauralee Westine, Esq.: Representative for AT&T (not required to be sworn as she is an attorney). Introduced the coverage maps and photos of the location (already included in staff's package). Requested that staff's file be included in the record.

Special Magistrate: So ordered.

Mr. Lowry asked Ms. Westine to address the conditions to permit a cell tower as a special exception in the LDRs subsection 3.9(E)(17), specifically item 3.9(E)(17)(d), which requires a telecommunications tower visible from a residential district to be disguised such it is not recognizable as a telecommunications tower.

Ms. Westine further introduced the application, the status of required approvals, and a narrative about the Communications Tower. Ms. Westine had studies from other towers that show that similar towers have not resulted in decreased property values. She also addressed other aspects of the application and how those requirements have been met.

Ms. Westine went on to address sub-section 3.9(E)(17)(d) at this time. Ms. Westine described alternative scenarios, such as a flagpole application, by which a tower might be camouflaged as something else. However, due to the size of the flag that would be recommended under the U.S. Flag Code (albeit a non-binding regulation), such an application would in fact draw more attention to the tower and would be a less-desirable alternative.

Special Magistrate: The issue before me as I see it is there are conditions to the approval of the special exception. And 3.9(E)(17)(d) is a specific requirement to grant a special exception. I have heard nothing that would suggest to me that it would not be recognizable as a telecommunications tower. If I have heard that, please address that issue where I have missed it.

Lauralee Westine, Esq.: No, sir. I'm not trying to tell you it won't be recognizable. It will be recognizable. The point that I was trying to make was at this height, practically speaking, there is no way not to have this structure, no matter how you disguise it, not be recognizable as a tower.

[Short break in recording at this point, due to end of tape / reversal]

Ms. Melissa Allen, agent for New Cingular/AT&T, was sworn in at this time.

Ms. Allen testified at this time regarding the how the location was vetted through the City Commission, City Manager, and City staff prior to selecting the site in question. Based on AT&T's technological requirements and the City's zoning/setback requirements, the site in question was the only location that met all of the objectives. Within the City, this is the only location (give or take fifty feet [50'] in any direction), where a tower that would meet AT&T's coverage requirements could be located due to its size. The rural character of the area is what calls for this size of tower, due to the distances between towers, as each tower must be able to communicate to the adjacent towers.

Special Magistrate: Because it was mentioned in a (citizen's comment) letter, could one of you address whether there are any health concerns posed by the tower?

Lauralee Westine, Esq.: The short answer is "No," but I would draw your Honor's attention to the Telecommunications Act of 1996 which prohibits your Honor from that as a criteria in your decision.

Special Magistrate: That issue was brought up in a letter from one of the residents.

Ms. Westine concluded her remarks regarding how New Cingular/AT&T has met the requirements under the LDRs 3.9(E)(17), then introduced Mr. Graff, Electrical Engineer from AT&T.

Mr. Jim Graff from AT&T, RF Design Engineer and RF Safety Coordinator for North Florida, was sworn in at this time.

Ms. Westine: Mr. Graff, are you familiar with the FCC emission limitations?

Mr. Graff: Yes, I am

Ms. Westine: Does AT&T comply with those?

Mr. Graff: Yes.

Ms. Westine: I want to talk about the requested height of this tower. You are requesting 250'. Does 250' meet your engineering requirement or goal?

Mr. Graff: Yes.

Ms. Westine: In the event the tower were lowered, say to a standard height of 150', what would be the outcome?

Mr. Graff: Mr. Lowry and I would become best friends, because I would be back four or five times requesting more towers. With the height, you can cover a broader area; reduce the height, reduce the coverage area – and therefore, increase the number of towers needed to cover the same area at the same capacity.

Ms. Westine: I have no further questions. Your Honor?

Special Magistrate: I have no further questions.

Ms. Westine: At this time, I would respectfully request approval of this matter, with a waiver for provision 3.9(E)(17)(d).

There was discussion at this time between Mr. Lowry, Ms. Peavy, and Ms. Westine regarding approval under the LDRs, specifically sub-section 3.9(B)(3). However, the language of sub-section 3.9(E) is a special requirement. Without a provision to bypass or waive specific elements for approval of a telecommunications tower as a special exception under 3.9(E)(17), Mr. Lowry concluded that he is constrained by the requirements for approval, e.g., he could not approve the tower without a Variance, which is not before the Planning and Zoning Board for approval today.

Ms. Westine requested a continuance for this public hearing to the November 1 Planning and Zoning Board meeting, such that New Cingular Wireless/AT&T could apply for a Variance, then to have the Special Exception heard.

Site Plan, SP 1109-01 250' Communications Tower (New Cingular Wireless PCS LLC)

This item was given a continuance to the next meeting of the Planning and Zoning Board meeting of November 1, 2011.

Special Magistrate: Is there any other business to come before me today?

Hearing none, this meeting of the Planning and Zoning Board for the City of Wildwood will be continued as to case numbers SE 1109-01 and SP 1109-01 which shall be heard at 3 p.m. on November 1, 2011.

With no further business to discuss, the Planning and Zoning Board/Special Magistrate meeting for the City of Wildwood was adjourned at approximately 4:19 p.m.

Date

11/1/2011



Archie O. Lowry, Jr., Special Magistrate
City of Wildwood, Florida