



# City of West Allis

## Legislation Text

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**File #:** R-2010-0080, **Version:** 2

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Resolution relative to determination of Special Use Permit for proposed collocation of high speed wireless equipment to be attached to the existing water tower located at 1981 S. 84 St. & 8435-37 W. National Ave.

WHEREAS, Mark Russert, representing Infinigy Engineering and Surveying PLLC (agent for Clear Wireless, LLC), duly filed with the City Administrative Officer, Clerk/Treasurer an application for a Special Use Permit, pursuant to Sec. 12.16, 12.23 and 12.48(3) of the Revised Municipal Code to attach three (3) panel antennas and three (3) dish antennas to the existing water tower, and to construct an equipment cabinet within the base of the tower at 8435-37 W. National Ave.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on March 2, 2010, at 7:00 p.m. in the Common Council Chamber to consider the application; and,

WHEREAS, the Common Council, having carefully considered the evidence presented at the public hearing and the following pertinent facts noted:

1. The applicant, Clear Wireless LLC, has offices at 4400 Carillion Point, Kirkland, WA 98033.
2. Clear Wireless, LLC has a valid offer to lease a 7-foot by 7-foot space within the base of the water tower at 8435-37 W. National Ave., West Allis, Milwaukee County, Wisconsin 53214, more particularly described as follows:

All the land of the owner being located in the Southwest  $\frac{1}{4}$  of Section 4, Township 6 North, Range 21 East, in the City of West Allis, Milwaukee County, State of Wisconsin, described as follows:

Lot 2 in Block 2 in the Assessors Plat No. 254.

Tax Key No. 478-0030-001

Said land being located at 8435-37 W. National Ave.

3. The applicant is proposing to attach three (3) panel antennas and three (3) dish antennas to the existing water tower at the 175 ft. level. An equipment cabinet will also be installed within the base of the water tower. Clear Wireless will obtain a new lease on the water tower and for space within the base of the water tower.
4. The property is zoned P-1 Park District under the Zoning Ordinance, which permits collocation/attachment of telecommunication equipment as a special use, pursuant to Section 12.16, 12.23 and Section 12.48(3) of the Revised Municipal Code.
5. The property is located along the south side of W. National Ave., just west of S. 84 St. Properties to the north are zoned commercial, to the east are zoned residential and commercial and to the south are zoned residential.
6. The use, value and enjoyment of other property in the surrounding area for permitted uses will not be substantially impaired or diminished by the establishment, maintenance or operation of the special use.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application of the Mark Russert, d/b/a Clear Wireless, LLC, duly filed with the City Administrative Officer, Clerk/Treasurer an application

for a Special Use Permit, pursuant to Sec. 12.16, 12.23 and 12.48(3) of the Revised Municipal Code to attach three (3) panel antennas and three (3) dish antennas to the existing water tower, and to install an equipment cabinet within the water tower base at 8435-37 W. National Ave., be, and is hereby granted on the following grounds:

That the establishment, maintenance and operation of the proposed use, with the imposition of certain conditions hereinafter set forth, reasonably satisfies the standards set forth in Sec. 12.16 of the Revised Municipal Code, so as to permit the issuance of a Special Use Permit as therein provided.

BE IT FURTHER RESOLVED that said Special Use Permit is granted subject to the following conditions:

1. Site, Landscaping and Architectural. The grant of this Special Use Permit is subject to and conditioned upon site, landscaping, screening and architectural plans approved on February 24, 2010, by the West Allis Plan Commission as provided in Sec. 12.13 of the Revised Municipal Code of the City of West Allis. No alteration or modification of the approved plan shall be permitted without approval by the West Allis Plan Commission.
2. Building Plans and Fire Codes. The grant of this special use is subject to building plans being submitted to and approved by the Department of Building Inspection and Zoning and by the Fire Department.
3. Equipment Removal. Telecommunication equipment shall be removed from the property if the equipment becomes unusable, outdated, or if the lease expires.
4. Access. The City of West Allis may request access to the lease area for the purpose of attaching communication equipment. The City shall provide a detailed description to Mark Russert and Clear Wireless, LLC of all equipment proposed for installation. Mark Russert and Clear Wireless, LLC shall determine the impact of such equipment upon the integrity of the building. Clear Wireless, LLC shall provide the City with a written response to the City's request either allowing the request or providing an explanation for rejecting the request.
5. Outdoor Lighting. All outdoor lighting shall be shielded in such a manner that no light splays beyond the property lines.
6. Sidewalk Repair. The grant of this Special Use is subject to compliance with section 2814 of the City's Policy and Procedures Manual relative to that policy as it relates to the replacement and repair to City walkways of damaged or defective (if any) abutting sidewalk.
7. Expiration of Special Use Permit. Any special use approved by the Common Council shall lapse and become null and void one (1) year from and after that approval if the use has not commenced, construction is not underway, or the owner has not obtained a valid building permit. An extension of these time limitations may be granted without a public hearing by the Common Council by resolution reauthorizing the special use in accordance with the following criteria:
  - A. The applicant requesting the extension shall complete a planning application available from the Department of Development and shall submit a \$250.00 extension fee.
  - B. A written explanation for the extension of time shall accompany the planning application along with a timeline/schedule for obtaining necessary permits, zoning, state and municipal approvals and a target date for construction start;
  - C. The request for extension shall be submitted within sixty (60) days of the expiration of the special use permit;
  - D. The extension, if granted, shall be valid for a period of six (6) months. If no building permit has been issued and construction has not commenced within six (6) months from and after the extension has been granted, the special use shall become null and void.

8. Miscellaneous.

A. Applicant is advised that the foregoing conditions are reasonably necessary to protect the public interest and to secure compliance with the standards and requirements specified in Sec. 12.16 of the Revised Municipal Code; that the issuance of the special use is expressly subject to compliance with said conditions.

B. The use, as granted herein, is subject to applicant's compliance with all other state and local laws and regulations, which may be applicable to the proposed use of the real estate in question.

C. The special use, as granted herein, shall run with the land and benefit and restrict all future owners and occupants of the property, unless the use shall lapse or be terminated and the use will not be altered or extended (including structural alterations and/or additions) without the approval of the Common Council, following public hearing, all as provided in Sec. 12.16 of the Revised Municipal Code.

9. Lapse. If the applicant does not meet all of the terms and conditions set forth in this grant of a special use within one year of the granting thereof, then the Special Use Permit shall lapse and become null and void and the applicant shall forfeit any right to use the property as conferred by the Special Use Permit. The failure of the applicant to meet the terms and conditions of the Special Use Permit shall subject the permit to being declared void by the Common Council after notice to the applicant and a hearing before the Safety and Development Committee. Upon a finding and recommendation by the Committee to the Common Council on the matter, the applicant and/or any interested person may make comments regarding the matter to the Common Council prior to the Common Council's next regular meeting following the recommendation. Upon the Common Council's finding that the Special Use Permit has lapsed and become void, the applicant shall cease all operations at the property.

10. Termination of Special Use. The person or entity granted the special use violates, allows or suffers the violation of the ordinances of the City of West Allis, the State of Wisconsin or the United States on the premises covered by the Special Use.

11. Acknowledgement. That the applicant signs an acknowledgment that he has received these terms and conditions and will abide by them.

The undersigned applicant agrees to the terms and conditions and has agreed that the grant of the Special Use Permit is conditioned on meeting the terms and conditions of this resolution.

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Ella Horn, Project Manager, Clear Wireless, LLC

Mailed to applicant on the  
day of \_\_\_\_\_, 2010

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Assistant City Clerk

cc: Dept. of Development  
Dept. of Building Inspections and Zoning  
Div. of Planning & Zoning

ZON-R748-3-2-10  
(Scrivener corrections to this resolution made by Monica Schultz per Mayor Devine, 6/10/10.)