



City of West Allis

Legislation Text

File #: R-2013-0278, **Version:** 1

Resolution relative to determination of Special Use Permit for proposed additional antennas at existing US Cellular telecommunications tower located at 1865 S. 66 St.

WHEREAS, Kelly Schmitz of Wireless Planning, LLC (agent representing US Cellular), duly filed with the City Administrative Officer, Clerk/Treasurer an application for a Special Use Permit, pursuant to Sec. 12.16, 12.23 and 12.45(2) of the Revised Municipal Code to upgrading its communications/data transmission services to their existing cell site. US Cellular proposes to place three (3) new panel antennas at 70-ft in height above grade on the existing lattice tower. The existing tower is 150-ft in height. Existing ground level equipment and corresponding fencing will service the new antennas.

WHEREAS, after due notice, a public hearing was held by the Common Council on December 17, 2013, 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, Kelly Schmitz of Wireless Planning, LLC (agent representing US Cellular), has offices at 2310 Mill St. New London, WI 54961.
2. The applicant will continue to sublease its current 10-foot by 20-foot space in the existing fenced compound 1865 S. 66 St. in the City of West Allis, WI, Milwaukee County, more particularly described as follows:

All the land of the owner being located in the Southwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ and the Northwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 3, Township 6 North, Range 21 East, City of West Allis, Milwaukee County, State of Wisconsin, describes as follows:

Parcel 1 of the Certified Survey Map No. 4912, subject to the existing easement.

Tax Key No. 454-0255-001

Said land being located at 1865 S. 66 St.

3. The applicant is proposing to install three (3) new panel antennas at 70-ft in height above grade on the existing lattice tower. The existing tower is 150-ft in height. Existing ground level equipment within a 20-foot by 10-foot fenced compound and corresponding fencing will service the new antennas.

4. The Property is zoned M-1 Manufacturing 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 12.45(2) of the Revised Municipal Code.

5. The Property is located on the west side of S. 66 St., bordered by W. Mitchell St. to the north and the Union Pacific Railroad to the south. Properties to the north, south and west are zoned manufacturing. Properties to the east are zoned for residential use.

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 Kelly Schmitz of Wireless Planning, LLC (agent representing US Cellular), to upgrade its communications/data transmission services by installing three (3) new panel antennas at 70-ft in height above grade on the existing lattice tower which is 150-ft in height, and service the new equipment through existing ground level equipment within a 20-foot by 10-foot fenced compound and corresponding fencing, 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 West Allis Plan Commission approved the site and landscaping plan on December 4, 2013 as provided in Sec. 12.13 of the Revised Municipal Code of the City of West Allis. The Plan Commission recognizes State Statute 66.0404(3) relative to mobile tower siting/collocation regulations. No site alteration or modification of the approved plan shall be permitted without approval by the West Allis Plan Commission.
2. Permits. In accordance with the grant of this special use is subject to local permits. Building plans and permits being submitted to and approved by the Department of Building Inspections and Neighborhood Services.
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 Kelly Schmitz of Wireless Planning, LLC (agent representing US Cellular), of all equipment proposed for installation. US Cellular shall determine the impact of such equipment upon the integrity of the building. US Cellular 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. Pagers, Intercoms. The use of outdoor pagers, intercoms, or loud speakers shall not be permitted on site.
6. Litter. Employees shall inspect the site and immediate vicinity and pick up litter on a daily basis. Refuse, recyclables, and other waste materials will be fully enclosed within an approved structure and/or compactor.
7. Marketing Displays. The use of pennants, special lighting, flags, streamers or other signage typically

temporary in nature, hanging, floating or attached to a structure or vehicle shall not be permitted.

8. Sidewalk Repair. The grant of this special use is subject to compliance with Policy No. 2806 of the Revised Municipal Code relative to the City's sidewalk improvement policy as it relates to damaged, abutting sidewalk.

9. Lighting. All outdoor lighting fixtures shall be shielded in such a manner that no light splays from the property boundaries.

10. 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.

11. Miscellaneous.

A. Applicants are 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 applicants' 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.

12. 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.

13. Termination of Special Use. If 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, the special use may be terminated.

14. 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.

Kelly Schmitz of Wireless Planning, LLC (agent representing US Cellular),

Mailed to applicant on the
_____ day of _____, 2013

Assistant City Clerk

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

ZON-R-942-12-17-13-bjb