



City of West Allis

Legislation Text

File #: R-2012-0178, **Version:** 1

Resolution relative to determination of Special Use Permit for proposed cell antennas and associated equipment to be located at 7400 W. Greenfield Ave.

WHEREAS, Daniel Dean/Buell Consulting, on behalf of Jason Eiselew of Verizon Wireless, duly filed with the City Administrative Officer, Clerk/Treasurer an application for a Special Use Permit, pursuant to Sec. 12.16, 12.23 and 12.40 of the Revised Municipal Code to establish nine (9) existing penthouse mounted telecommunication antennas and supporting equipment at 7400 W. Greenfield Ave. as a special use and for modifications to replace three (3) of the existing antennas with three (3) new antennas on the rooftop penthouse of West Park Place apartments; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on September 18, 2012, 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, Daniel Dean/Buell Consulting, on behalf of Jason Eiselew of Verizon Wireless has principal offices at 2324 University Ave. W. Suite 200 St. Paul, MN 55114 and 1515 Woodfield Rd. Schaumburg, IL 60173, respectively.

2. The property more particularly described as follows:

All the land of the owner being part of the Otjen Pullen and Shenner's Subdivision, Block 9, located in the Southwest $\frac{1}{4}$ of Section 34, Township 7 North, Range 21 East, City of West Allis, Milwaukee County, State of Wisconsin, describes as follows:

Beginning at the southwest corner of Lot 24; thence Northerly, 173.00 feet; thence Northeasterly, 7.07 feet; thence Easterly, 50.00 feet; thence Southerly, 178.00 feet; thence Westerly, 60.00 feet to the Point of Beginning.

Tax Key Number: 440-0415-001

Said land being located at 7400 W. Greenfield Ave.

3. The applicant is proposing to establish nine (9) existing penthouse mounted telecommunication antennas and supporting equipment at 7400 W. Greenfield Ave. as a special use and for modifications to replace three (3) of the existing antennas with three (3) new antennas on the rooftop penthouse of West Park Place apartments. The equipment cabinet will be fully screened by the penthouse and the antennas will be painted to match the penthouse and not be placed above the highest level of the penthouse.

4. The Property is zoned C-1, Central Business District. The subject property at 7400 W. Greenfield Ave. features existing telecommunication equipment installed prior to the 1995 zoning ordinance which currently

does not permit collocation/attachment of telecommunication equipment or modifications to existing. However, a separate ordinance amendment to permit collocation/attachment of telecommunication equipment as a special use has been prepared for consideration by the Common Council with this special use resolution on September 18, 2012.

5. The Property is located on the north side of W. Greenfield Ave., between S. 70 St. and S. 76 St. which is zoned Central Business District. Properties to the north, south, east and west are zoned and developed for commercial purposes.

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 special use application of Daniel Dean/Buell Consulting, on behalf of Jason Eiselew of Verizon Wireless, duly filed with the City Administrative Officer, Clerk/Treasurer an application for a Special Use Permit, pursuant to Sec. 12.16, 12.23 and 12.40 of the Revised Municipal Code establish nine (9) existing penthouse mounted telecommunication antennas and supporting equipment at 7400 W. Greenfield Ave. as a special use and for modifications to replace three (3) of the existing antennas with three (3) new antennas on the rooftop penthouse of West Park Place apartments, 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 a site, landscaping, screening and architectural plan being submitted to and approved by the West Allis Plan Commission on September 26, 2012 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 Verizon Wireless of all equipment proposed for installation. Verizon Wireless shall determine the impact of such equipment upon the integrity of the building. Verizon Wireless 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. 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.

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

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. 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 then the special use may be terminated.

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.

Daniel Dean/Buell Consulting

Jason Eiselew of Verizon Wireless

BRE/SW West Park Place LLC

Mailed to applicant on the
day of _____, 2012

Assistant City Clerk

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

ZON-R-886-9-18-12/bjb