


City of Lee's Summit

Development Services Department

March 10, 2017

TO: Planning Commission
FROM: Robert G. McKay, AICP, Director of Planning and Special Projects 
RE: PUBLIC HEARING – Appl. #PL2017-037 – SPECIAL USE PERMIT for a telecommunication tower – 244 NW Executive Way; Selective Site Consultants, Inc., applicant

Commentary

Both a preliminary development plan and special use permit application were filed with the City in 2016 to locate a cell tower on property located at 244 NW Executive Way. The applications were considered by and subsequently denied by the City Council on July 14, 2016. Based upon that denial, the applicants, T-Mobile and Eco-Site, Inc., filed legal action in federal court challenging the denial of the application. The City and applicants negotiated a settlement that changed the conditions of the T-Mobile cell tower proposal as it relates to the following:

- ***Location of the tower within the proposed site area (new application proposes to locate the tower further west on the property)***
- ***Reduction of the height of the tower (new application proposes to reduce the tower height from 95 feet to 75 feet overall height)***
- ***Variation of the tower's appearance (new application revises the tower from a monopole to a stealth monopole, meaning there are no exterior antenna mounts)***

This application is for a new 75-foot stealth monopole telecommunication tower located at 244 NW Executive Way. The telecommunication tower will be enclosed within a 40' x 50' fenced area and will be accessed from NW Executive Way.

A preliminary development plan application (Appl. #PL2017-036) for the tower site layout has been submitted and is also on this agenda for consideration.

No time limitation for the special use permit is established as part of this approval due to §67.5094 R.S.Mo., Subpart 14. This statute lists "Prohibited Acts by Authority" which states: *In order to ensure uniformity across the state of Missouri with respect to the consideration of every application, an authority shall not: Limit the duration of the approval of an application.*

Recommendation

Staff recommends **APPROVAL** of the special use permit, subject to the following:

1. A modification shall be granted to the required separation distance from single and two-family residential uses and districts. The requirement is 4 times the height of the tower, or 300 feet. The tower is located approximately 120 feet to the nearest residential use to the north.
2. A modification shall be granted to the requirement that the tower be painted, to allow the tower to be galvanized as shown on the plans.
3. Approval of the special use permit is contingent upon approval of the preliminary development plan (Appl. #PL2017-036) for the telecommunication tower.

Project Information

Proposed Use: 75-foot stealth monopole wireless communications facility

Zoning: PO (Planned Office)

Land Area: 62,680 square feet (1.43 acres)

Site Area: 40' x 50' tan vinyl fenced area

Location: 244 NW Executive Way (Lot 6, Parkway Plaza, 2nd Plat)

Surrounding zoning and use:

North: R-1 (single-family residential) and PO (planned office)—single-family residence and office

South: CP-2 (planned community commercial) and PO (planned office)—office

East (across NW Executive Way): PO (planned office)—office

West (across NW O'Brien): CP-2 (Planned Community Commercial)—office

Background

- December 16, 1956 – The final plat (Appl. #1956-009) for *Broadmoor Addition, Lots 1-65* was recorded with the Jackson County Recorder of Deeds office by Instrument #1956-10675629.
- January 28, 1987 – The final plat (Appl. #1986-196) for *Parkway Plaza, 2nd Plat, Lots 1-14* was recorded with the Jackson County Recorder of Deeds office by Instrument #1987-10747599.
- July 14, 2016 – The preliminary development plan (Appl. #PL2016-053) and the special use permit for a telecommunication tower at 244 NW Executive Way (Appl. #PL2016-054), was denied by Ord. Nos. 7921 and 7922.

Analysis of the Special Use Permit

Ordinance Requirement. Under the Unified Development Ordinance (UDO), a special use permit is required for new telecommunication towers. The request is for a new 75-foot stealth monopole telecommunication tower located at 244 NW Executive Way. The stealth monopole will be enclosed within a 40' x 50' fenced area and will be accessed from NW Executive Way.

Separation Distance from Residential. Modification requested.

- Required – 300 feet from single family/ two family uses or zoning districts. The UDO states that,

*“A telecommunications tower shall be located a distance of **four (4) times the tower height** from any existing single-family or two-family dwelling that is not on the same lot with the tower, any property zoned for single-family or two family residential use, and any property where the future use indicated by the Comprehensive Plan is low density residential use.”*

and

“This requirement may be waived if it is found to effectively prevent the provision of wireless telecommunication services within the City.”

- Proposed – The proposed tower is located adjacent to a lot zoned R-1 located approximately 120 feet to the north.

- Recommended – A modification is recommended to the separation distance requirement. Without a modification, no tower could be constructed on this property or in this general vicinity, which would prevent or reduce wireless telecommunication services in this highly traveled area of the city.

Tower Appearance. Modification requested.

- Required – A telecommunications tower shall be painted a neutral color so as to reduce visual obtrusiveness, subject to any applicable standards of the FAA.
- Proposed – The applicant proposes an unpainted galvanized pole.
- Recommended – Staff recommends approval of the unpainted galvanized pole. A painted pole creates additional unneeded maintenance issues.

Surrounding Uses. The site is a vacant parcel and is surrounded by office development to the north, south, east and west. A single-family residential use is also located immediately north of this property.

Time Period. No time limitation for the special use permit is established as part of this approval due to §67.5094 R.S.Mo., Subpart 14. This statute lists "Prohibited Acts by Authority" which states: *In order to ensure uniformity across the state of Missouri with respect to the consideration of every application, an authority shall not: Limit the duration of the approval of an application.*

Code and Ordinance Requirements

The items in the box below are specific to this development and must be satisfactorily addressed in order to bring the permit into compliance with the Codes and Ordinances of the City.

Fire

1. All issues pertaining to life safety and property protection from the hazards of fire, explosion or dangerous conditions in new and existing buildings, structures and premises, and to the safety of fire fighters and emergency responders during emergency operations, shall be in accordance with the 2012 International Fire Code.

Planning

2. The security fencing will be reviewed with the building permit and will require engineered drawings.
3. A structural analysis report, liability insurance, and FAA registration shall be submitted as part of the final development plan submittal.

RGM/jmt

Attachments:

1. Preliminary Development Plan, date stamped February 21, 2017—5 pages
2. Narrative submitted by applicant describing the facility, date stamped February 21, 2017—2 pages
3. Waiver request submitted by applicant, date stamped February 21, 2017—4 pages
4. Photos of surrounding properties, date stamped February 21, 2017—4 pages
5. Photo simulation of the proposed tower as it would be viewed, date stamped February 21, 2017—2 pages
6. Photo simulation of the previously denied tower as it would be viewed, date stamped February 21, 2017—2 pages
7. Towers in Lee's Summit Table—3 pages

8. Location Map