

City of Lee's Summit

Development Services Department

March 31, 2017

TO: Planning Commission

FROM: Robert G. McKay, AICP, Director of Planning and Special Projects *RMJ*

RE: **Continued PUBLIC HEARING – Appl. #PL2016-185 – SPECIAL USE PERMIT renewal for a telecommunication tower – 2750 NW Clifford Rd; American Tower Asset Sub, LLC, applicant**

Commentary

This application is for a special use permit renewal for a 350-foot telecommunication tower located at 2750 NW Clifford Road. The tower was constructed in 1996 under the original special use permit that was granted for a period of ten (10) years. The special use permit was renewed in 2007 for an additional ten (10) years. The subject application for special use permit renewal does not propose any increased height to the existing tower.

The Uniform Wireless Communications Infrastructure Deployment Act was signed into law in the state of Missouri in 2013. The law placed limitations on the ability of cities and other political subdivisions to place certain requirements or restrictions on wireless infrastructure applications. Whereas special use permits are normally granted for a specific period of time, the subject application will not have a time period limitation placed on it. Missouri Revised Statutes (RSMo) §67.5094, Subpart 14 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. The special use permit shall be granted for a period of twenty (20) years. (Added at the Planning Commission meeting at the applicant's request.)**

Project Information

Proposed Use: 350-foot telecommunications tower

Location: 2750 NW Clifford Road

Zoning: AG (Agricultural)

Surrounding zoning and use:

North: AG—vacant unplatted land

South (across I-470 Hwy): AG & R-1—Bent Tree Bluffs subdivision

East: AG—vacant unplatted land

West: AG—vacant unplatted land

Background

- November 5, 1996—The City Council approved a special use permit (Appl. #1996-042) for a 350-foot telecommunication tower for a period of ten (10) years by Ordinance No. 4358, expiring November 5, 2006.

- April 10, 1997 – A building permit (Permit #97-429) was issued for the construction of the 350-foot telecommunication tower and associated ground structures.
- September 20, 2007 – The City Council approved a special use permit renewal (Appl. #2007-029) for a period of ten (10) years by Ordinance No. 6493, expiring November 5, 2016.

Analysis of the Special Use Permit

Setback from Property Lines.

- Required – a minimum distance equal to the height of the tower as measured from the base, in this case 350 feet
- Existing Setback – the tower is set back approximately 245 feet and 305 feet from the northwest and south property lines, respectively
- Recommendation – No action needs to be taken. This is a lawful non-conforming condition. The zoning ordinance in effect at the time required a minimum property line setback of one-half the height of the tower, in this case 175 feet. The tower complied with the setback requirement in effect at the time.

Setback from Residential.

- Required – a minimum distance equal to four (4) times the height of the tower (in this case 1,400 feet) from any existing single-family or two-family dwelling not on the same lot with the tower; any property zoned for single-family or two-family residential use; any property where the future use indicated on the Comprehensive Plan is low density residential use
- Existing Setback – at its closest point, the tower is set back approximately 1,100 feet from the nearest residence (located to the northeast) not on the same lot
- Recommendation – No action needs to be taken. This is a lawful non-conforming condition. The zoning ordinance in effect at the time did not provide for any setback requirements from residential.

Separation from other Telecommunications Towers.

- Required – a minimum separation of one (1) mile between towers over 90 feet in height
- Existing Separation – the tower is located approximately one (1) mile from the nearest tower over 90 feet in height
- Recommendation – No action needs to be taken. This is a lawful non-conforming condition. The zoning ordinance in effect at the time did not provide for any minimum separation requirements between towers.

Landscaping.

- Required – a telecommunication tower facility shall be landscaped in accordance with Article 14 of the UDO to provide a buffer of plant materials that effectively screen the view of the telecommunication tower base and accessory structures from adjoining property
- Existing Landscaping – The existing tower facility is located in the middle of a 12-acre AG-zoned parcel. The facility sits in a clear area surrounded by significant mature tree cover on all sides.
- Recommendation – No action needs to be taken. This is a lawful non-conforming condition. The zoning ordinance in effect at the time did not provide for any landscaping requirements.

Ordinance Criteria. The criteria enumerated in Section 10.050 were considered in analyzing this request.

- The proposed continued operation of a telecommunication towers at this location is not expected to detrimentally affect the appropriate use of neighboring property.
- The tower has existing at this location for approximately 20 years.
- The use is not expected to negatively impact traffic and/or parking in the area. Typical wireless carriers service their equipment 1-2 times per month utilizing a pick-up truck or SUV. The impact on the street system will range from negligible to no impact.

In considering all the criteria and regulations, staff finds the continued use of the tower to be appropriate and recommends renewal of the special use permit.

RGM/hsj

Attachments:

1. Site Plan, date stamped October 7, 2016—6 pages
 - Title Sheet
 - Site Plan – 2 pages
 - Tower Elevation
 - Signage – 2 pages
2. Pictures of Site and Surrounding Area, date stamped October 7, 2016—6 pages
3. Statement in Support of Application for Special Use Permit Renewal, date stamped October 7, 2016 – 10 pages
4. Table of Special Use Permits for Telecommunication Towers—3 pages
5. RSMo. §67.5094 of the Uniform Wireless Communications Infrastructure Deployment Act
6. Location Map