

Legislation Details (With Text)

File #: 2017-1046 **Name:**

Type: Public Hearing - Sworn **Status:** Passed

File created: 3/9/2017 **In control:** City Council - Regular Session

On agenda: 4/6/2017 **Final action:** 4/6/2017

Title: PUBLIC HEARING - Appl. #PL2017-037 - SPECIAL USE PERMIT for a telecommunication tower, 244 NW Executive Way; Selective Site Consultants, Inc., applicant

Sponsors: Planning and Special Projects

Indexes:

Code sections:

Attachments: 1. Staff Letter, 2. Planning Commission minutes, 3. Drawings, 4. Narrative, 5. Waiver Request with Addendums, 6. Photos of Surrounding Properties, 7. Proposed Tower, 8. Previously Proposed Tower, 9. Site Map - Location Comparison, 10. Tower Table, 11. Location Map

Date	Ver.	Action By	Action	Result
4/6/2017	1	City Council - Regular Session	approved with conditions	Pass
3/14/2017	1	Planning Commission	recommended for approval	Pass

PUBLIC HEARING - Appl. #PL2017-037 - SPECIAL USE PERMIT for a telecommunication tower, 244 NW Executive Way; Selective Site Consultants, Inc., applicant

Issue/Request:

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.*

Proposed City Council Motion:

I move to direct Staff to present an ordinance approving **Appl. #PL2017-037 - SPECIAL USE PERMIT for a telecommunication tower, 244 NW Executive Way; Selective Site Consultants, Inc., applicant**

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.

Other Boards and Commissions Assigned: Planning Commission

Planning Commission Action: On the motion of Mr. DeMoro, seconded by Mr. Rader, the Planning Commission members voted unanimously by voice vote to recommend **APPROVAL of Appl. #PL2017-037 - SPECIAL USE PERMIT for a telecommunication tower, 244 NW Executive Way; Selective Site Consultants, Inc., applicant;** subject to staff's letter of March 10, 2017, specifically Recommendation Items 1 through 3.