

ITEM NO. 2 SPECIAL USE PERMIT FOR VERIZON WIRELESS; 1725 BULLENE AVE (SLD)

SUP-14-00312: Consider a Special Use Permit for a new 120' Verizon Wireless communications tower located at 1725 Bullene Ave. Submitted by PAMCORP LLC for Verizon Wireless LLC on behalf of Steven L. Eudaly, property owner of record.

STAFF PRESENTATION

Ms. Sandra Day presented the item.

APPLICANT PRESENTATION

Mr. Scott Goble, Verizon Wireless, said there were challenges in finding the location. He showed the search area map on the overhead. He said they were trying to improve service to people who live and use the area. He said a third party review confirmed that there were no current co-locations available.

PUBLIC HEARING

Ms. Andrea Repinsky said the neighborhood was opposed to construction of the tower. She expressed concern about it being a visual intrusion and the potential health effects.

Mr. Michael Almon, Brookcreek Neighborhood Association, said the surrounding area was primarily residential with commercial uses in the area, not industrial. He felt the tower was an accessory use to an existing business on site. He said the equipment cabinets were larger than the primary structure and expressed concern about the fall zone.

Ms. Martha Chapin, Woods on 19th Homeowners Association, said she did not receive notice of the item. She said there was no photo simulation from her neighborhood. She stated there were lots of families and children living in the area. She expressed concern about property values and the impact of lost taxes over time on the city.

Ms. Day showed the notification area on the overhead, which included two property owners inside The Woods neighborhood. She said there was no specific study done regarding tax issues.

Mr. Russell Livingston, 1712 Learnard Ave, said he did not want a cell tower in his backyard. He wondered what other locations the tower could be located on, such as the grain elevators.

Mr. Byron Wiley asked why a cellular antenna could not go on the existing grain elevator nearby. He said the burden of proof to show there was not another good location was on the applicant.

Ms. Bonnie Efman said she lives in the Barker neighborhood and that she was not notified and that it was not appropriate for the neighborhood. She said she was a Verizon user and she has no issues. She expressed concern about potential health issues.

Commissioner Liese asked staff to discuss accessory use and address the health effects of radio towers.

Mr. McCullough said it was a Special Use Permit, not an accessory use. He said no tower would be an accessory use because it was a primary use when introduced onto a property. He said they were accessory on a few districts, such as the Hospital District and the GPI District.

Commissioner Liese asked if a cell tower would be an accessory use if it was being used for that business.

Mr. McCullough said yes. He said the 1996 Telecommunications Act specifically prohibited jurisdictions from looking at health impacts that may or may not be caused by cellular antennas. He said by Federal Law Planning Commission was not to take that into consideration.

Mr. Randy Larkin, staff attorney, said if the radio emissions at the site were within the federal guidelines then the local jurisdiction was prohibited from looking at health impacts.

Mr. McCullough said it was the first set of new towers for the community in several years. He said the City hired a third party review, with the applicant's funds, to justify and confirm building a new tower versus co-locating. He said the Code required that a tower be able to carry at least two providers to allow for co-location. He said it was allowed in residential districts with a Special Use Permit but staff encourages applicants to locate within non-residential districts.

Commissioner Liese asked staff to address co-location on the grain tower.

Ms. Day said part of the third party review was to look at other structures. She said it was evaluated by Burns & McDonnell and they concluded that the applicant provided reasonable burden of proof that the structure would not support the Verizon plan. She said moving farther outside of the search ring would involve installing another antenna to sync up with it.

APPLICANT CLOSING COMMENTS

Mr. Goble said this location was chosen because the property was zoned industrial and that it was the closest industrially zoned land to the center of the target. He said he had conversations with the people who own the grain elevator and the site did not work because there were environmental impact concerns. He said it was also too far away for it to work. He said they exhausted all other possible options.

COMMISSION DISCUSSION

Commissioner von Achen asked how wide the tower was.

Mr. Goble said at the base of the 120' tower it was roughly 3' diameter and tapers as it nears the top. He said the top was approximately 1' in diameter.

Commissioner Britton asked why the tower was only 120' high.

Mr. Goble said they did not need the more height for their coverage objective.

Commissioner Britton asked how many co-locations could be on the antenna.

Mr. Goble said the antenna was designed for three carriers. He said Verizon would be at the top and two co-locaters could be below.

Commissioner Kelly asked if a 120' tower was needed based on other towers in the area.

Mr. Goble said coverage was always based on where other towers were and the topography of the ground, density of buildings, number of users, population, etc.

Commissioner Kelly said the maps the applicant showed tonight were different than what Verizon shows as their coverage on their website.

Mr. Goble said he was not a marketing person and he could not speak to what the map was showing.

Commissioner Denney said a statement was made by the public regarding the change in the character of the neighborhood. He asked if a tower could be built like this in a commercial area with a Special Use Permit.

Ms. Day said yes. She said the Special Use Permit would not alter the base zoning district, that was a separate action.

Commissioner Denney said a tower could still be built if the property was zoned commercial with a Special Use Permit.

Ms. Day said that was correct.

Commissioner Culver asked about co-location of equipment for other carriers and if that would be considered a Special Use, not an accessory use.

Ms. Day said the ground equipment was included.

Commissioner Britton asked if a small, but just as tall, grain elevator could be built at the site.

Ms. Day said potentially yes. She said there were some height limitations of the district. She said there were some exemptions from communications from the overall height of the base district.

Commissioner Britton asked what the height restriction was for the industrial district.

Mr. McCullough said 75'.

Commissioner Liese asked how the community should treat aesthetic issues.

Mr. McCullough said that screening of the base was possible. He said in urbanized areas these were some of the supporting uses that were needed for the life the community leads. He said there was no way to hide a tower but that a monopole design could be encouraged versus the lattice design, which was a little less visible over time.

Commissioner Britton said he was dissatisfied with the federal law that said they could not consider factors related to health or safety. He said it boiled down to aesthetics and the classic "not in my backyard" problem. He said he was trying to picture where other cell towers were located around town but he couldn't although he would probably notice it in his backyard. He said it was unfortunate that some have to bear the burden of others but he did not think it was a reason to deny the request. He said the land was zoned industrial and had been zoned for a more intense use for a long time. He said it was aesthetics versus utility and that it should probably be approved. He said over time it would become part of the landscape the way the grain elevator or campus buildings had become.

ACTION TAKEN

Motioned by Commissioner Britton, seconded by Commissioner Culver, to approve the Special Use Permit, SUP-14-00312, for a communication tower located at 1725 Bullene Ave and forwarding the request to the City Commission with a recommendation of approval, subject to the following conditions:

1. Prior to release of the site plan for issuance of a building permit, the applicant shall provide the following changes and documentation:
 - a. Submission of documentation to demonstrate the tower fall zone will be maintained within the proposed enclosure area.
 - b. Submission of lighting details to show the fixture type, lamp type and size not to exceed 150 watt incandescent lighting, and cut-off feature to shield and direct light downward.
2. Provision of a revised site plan to include a landscape plan per City Staff approval that shows additional landscape to include evergreen shrubs planted 5' on center along the west half of the north property line to provide screening between the proposed tower and the abutting residential zoning to the north.

Commissioner Denney agreed with Commissioner Britton. He said aesthetics was a hard one to deal with. He said aesthetics was a hard issue and that many communities had built into their regulations "stealth" antennas. He said a monopole was a vast improvement over the old cell towers. He said with the advancement of LTE

systems they would probably see more of these towers. He said it might be worth Planning Commission's time to have staff look at an addition to the Code for aesthetic improvements that "stealth" antennas could provide.

Commissioner Kelly said the information regarding the grain tower was helpful. He said he liked this area of town and that it had exciting character with industry next to residential. He struggled with the zone of notification for something so tall. He felt that it made more sense to include a larger area of notification due to the extreme height of the use. He said he supported this because it was consistent with the use. He said it was the balance of the community needs versus the abutting use of residential to industrial.

Commissioner Josserand said he was disappointed with the 200' property owner notification on such a tall tower. He felt the notification range was too narrow. He said he was a believer in telecommunications and that a resident in the Barker neighborhood had complained to him about Verizon's service.

Mr. McCullough said public notice was sent to the Brookcreek Neighborhood and The Woods on 19th Homeowner Association (Tyler Edwards).

Commissioner Struckhoff said he was a member of the Burroughs Corridor Plan Committee. He wished they could have used the grain elevator and he would like to see Code changes to improve aesthetics for the future.

Commissioner Liese said he was in favor of increased public notification but he did not see any evidence that they would have gotten different information if more people were at the meeting. He said if he thought there was more to learn he might have requested a delay but there did not seem to be more information to obtain from the public. He said they needed utilities to live the life they want to live. He said it was part of life to support that.

Commissioner von Achen said she would support the motion. She said she lived in the country and she would not want it in her backyard. She said if she lived adjacent to industrially zoned property this was one of the least objectionable possibilities that could be there.

Unanimously approved 8-0.