**PLANNING COMMISSION MINUTES**

January 10, 2017

ROLL CALL

The Planning Commission of the City of Prairie Village met in regular session on Tuesday, January 10, 2017 in the Municipal Building Multi-Purpose Room at 7700 Mission Road. Chairman Nancy Wallerstein called the meeting to order at 7:00 p.m. with the following members present: James Breneman, Gregory Wolf, Melissa Brown and Jeffrey Valentino.

The following persons were present in their advisory capacity to the Planning Commission: Chris Brewster, City Planning Consultant; Wes Jordan, Assistant City Administrator, Serena Schermoly, Council Liaison and Joyce Hagen Mundy, Commission Secretary.

###### **APPROVAL OF MINUTES**

James Breneman moved for the approval of the minutes of the Special Planning Commission meeting of November 30, 2016 and the minutes of the December 6, 2016 regular Planning Commission meeting as submitted. The motion was seconded by Gregory Wolf and passed by a vote of 5 to 0.

**PUBLIC HEARINGS**

**PC2016-07 Request for Renewal of Special Use Permit for Wireless Antenna by AT&T**

 **7700 Mission Road**

Justin Anderson, 9900 West 109th Street, Suite 300, Overland Park, with Selective Site Consultants presented the request for renewal of the Special Use Permit for the AT&T Wireless Communication Antenna and equipment at 7700 Mission Road. The SUP was reviewed by the Planning Commission in December 2006, and approved by ordinance by the City Council in September 2007, for a period of 10 years. Mr. Anderson stated AT&T is seeking renewal of the Special Use Permit for a period of 10 years and that the renewal does not include any changes to the existing antennae or existing equipment.

James Breneman noted the plans show Sprint, Verizon and AT&T are all located on his tower. Mr. Anderson replied that each of the three carriers have their own special use permit to locate on the tower. Mr. Breneman asked if they could all be renewed at the same time.

Wes Jordan stated that the Assistant City Attorney and David Waters of Lathrop and Gage are currently reviewing the city’s wireless communications ordinance for compliance with new FCC regulations and new legislation passed by the State of Kansas. He noted that all current providers will be coming before the Planning Commission within the next four months for renewal. Mr. Jordan also noted that the City wants to coordinate the renewal of the special use permits and any applicable leases with the city having the same term and expiration. Chris Brewster noted that the recent state statute may require that all permits be for a period of at least ten years.

Mr. Breneman would like to see them all be renewed at the same time. Nancy Wallerstein confirmed that each carrier has to apply for a special use permit. Chris Brewster replied that is what is required in the current ordinance and the Assistant City Attorney recommends that requirement continue rather than having one special use for the entire tower.

Chairman Nancy Wallerstein noted that this was a public hearing and opened the meeting for public comment. With no one present to speak, the public hearing was closed at 7:06 p.m.

Chris Brewster briefly reviewed the application as it addresses the City’s ordinance for Wireless Communication Facilities and has the following comments regarding the information submitted, noting that it is only an application for renewal of an antenna installation and not a tower, and no new equipment is proposed in association with this application therefore a number of items in the ordinance are not applicable. The required application information is shown in bold type.

1. **A study comparing potential sites within an approximate one mile radius of the proposed application area. The study shall include the location and capacity of existing towers, alternative tower sites, a discussion of the ability or inability of each site to host the proposed communications facility and reasons why certain of these sites were excluded from consideration. The study must show what other sites are available and why the proposed location was selected over the others. It must also establish the need for the proposed facility and include a map showing the service area of the proposed facility as well as other alternative tower site and antennas.**

**If the use of exiting towers, alternative tower structures, and sites are unavailable, a reason or reasons specifying why they are unavailable needs to be set out and may include one or more of the following: refusal by current tower or site owner; topographical limitations; adjacent impediments blocking transmission; site limitations to tower or facility or tower; no space on existing facility or tower; other limiting factors rendering existing facilities or towers unusable. The documentation submitted must use technological and written evidence, that these sites are inadequate to fulfill the grid needs of the wireless service provider, or that a reasonable co-location lease agreement could not be reached with the owners of said alternative sites.**

**The applicant shall submit an overall plan that shows the coverage gaps in service or lack of network capacity throughout the entire City and provide an indication of future needed/proposed wireless communication facilities, towers, and/or antenna.**

**The applicant shall demonstrate how the proposed communication facility, will impact its overall network within the City of Prairie Village and adjacent cities on both sides of the state line.**

**The study shall demonstrate how the proposed communication facility, will impact its overall network within the City of Prairie Village and adjacent cities on both sides of the state line.**

**The study shall also provide documentation establishing the minimum height necessary to provide the applicant’s services and the height required to provide for co-location. The study shall include coverage maps for the proposed monopole at the requested height and at ten feet descending intervals to 50 feet.**

**The Planning Commission or Governing Body at its discretion may require a third party analysis, at the applicant’s expense, to confirm the need for the facility.**

**The applicant shall be responsible to provide timely updates of the above described study and information during the Special Use Permit process.**

Since this is the renewal of an existing installation, the City has not required a study of alternative locations within a one-mile radius. The applicant has indicated that this installation is an important location in servicing their customers and has modified it throughout previous renewal periods to provide better services.

1. **Multiple photo simulations of the proposed facility as viewed from the adjacent residential properties and public rights of way as directed by City Staff.**

Since the antennas are installed, Staff has submitted photos of the actual installation.

1. **When possible, all wireless communication towers and alternative tower structures must be designed to accommodate multiple providers (co-location), unless after consideration of the recommendation of the Planning Commission, the City Council finds that the height or other factors required to make such an accommodation will have a more detrimental effect on the community than having multiple sites. Failure of a permit holder to negotiate in good faith to provide fairly priced co-location opportunities, based on industry standards may be grounds for denial or revocation of the Special Use Permit. A signed statement shall be submitted indicating the applicant’s intention to share space on the tower with other providers.**

This is an existing tower that has multiple service providers already located on the tower. The current leases and the overall SUP for the tower ensure that the tower is reserved for multiple providers. In an unrelated application it was determined that the tower is at capacity, and although all current providers will remain on the tower, no new equipment may be put on the tower without a detailed structural analysis.

1. **Any application for construction of a new wireless communication facility, tower, and antenna or equipment compound must provide a detailed site plan of the proposed project. This properly scaled site plan will include one page (including ground contours) that portrays the layout of the site, including the proposed facility, the fall radius of any proposed monopole, as well as proposed and existing structures within 200 feet of the tower base and the identification of the specific trees, structures, improvements, facilities and obstructions, if any, that the applicant proposes to temporarily or permanently remove or relocate. Access to and from the site, as well as dimensioned proposed and existing drives, must be included on this plan. Detailed exterior elevations (from all views) of the tower, screening wall, and all proposed buildings must also be submitted. Finally, a landscape plan detailing location, size, number and species of plant materials must be included for review and approval by the Planning Commission.**

Not applicable, however this information has been provided for the current site conditions.

1. **Description of the transmission medium that will be used by the applicant to offer or to provide services and a statement that applicant will meet all federal, state and city regulations and law, including but not limited to FCC regulations.**

**The applicant shall provide an engineer’s statement that anticipated levels of electromagnetic radiation to be generated by facilities on the site, including the effective radiated power (ERP) of the antenna, shall be within the guidelines established by the FCC. The cumulative effect of all antennas and related facilities on a site will also comply with the radio frequency radiation emission guidelines established by the FCC. An antenna radiation pattern shall be included for each antenna**.

Not applicable.

1. **Preliminary construction schedule including completion dates.**

Not applicable.

1. **The applicant shall provide a copy of its FCC license**

Submitted with previous renewal.

1. **Copies of letters sent to other wireless communication providers and their response regarding their interest to co-locate.**

Not applicable since this is an existing tower that has multiple providers and is at capacity.

1. **Any other relevant information requested by City Staff.**

None requested.

**FACTORS FOR CONSIDERATION:**

The Planning Commission shall make findings of fact to support its recommendation to approve, conditionally approve, or disapprove this Special Use Permit. It is not necessary that a finding of fact be made for each factor. However, there should be a conclusion that the request should be approved or denied based upon consideration of as many factors as are applicable. The factors to be considered in approving or disapproving a Special Use Permit for a wireless facility shall include the following:

1. **The character of the neighborhood.**

The site is located on the west side of Mission Road within the municipal complex and behind City Hall. The complex is surrounded by other institutional uses including Shawnee Mission East High School, Harmon Park with Prairie Village Pool and a church. There are residences across Mission Road to the east. These locations are appropriate for wireless communication facilities and the scale of the area in relation to the surroundings was previously determined to be appropriate for a monopole.

1. **The zoning and uses of property nearby.**

North: R-1A Single-Family District – SM East High School

East: R-1A Single-Family District – Single Family Dwellings

South: R-1A Single-Family District – Church

West: R-1A Single-Family District – Park & Single Family Dwellings

1. **The extent that a change will detrimentally affect neighboring property**

This is the renewal of an existing Special Use Permit that will not have a detrimental effect on neighboring property. The installation has been in place since 1997, and the City has not received any complaints.

1. **The relative gain to public health, safety and welfare by destruction of value of the applicant’s property as compared to the hardship on other individual landowners.**

This is a renewal of an existing installation with no changes proposed, and therefore it will not create any hardship on adjacent landowners.

1. **The proposed special use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitations.**

The proposed antenna installation meets all the setback, height and area regulations contained in the Zoning Ordinance.

1. **The proposed special use at the specified location will not adversely affect the welfare or convenience of the public.**

This application will have no adverse effect on the welfare or convenience of the public. The City has not received any complaints regarding this installation.

1. **The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such as the special use will not cause substantial injury to the value of the property in the immediate neighborhood so as to hinder development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the special use will cause substantial injury to the value of property in the immediate neighborhood, consideration shall be given to:**
	1. **The location, size, nature and height of buildings, structures, walls, and fences on the site; and**
	2. **The nature and extent of landscaping and screening on the site.**

The installation of the antennas on this tower has had relatively little impact and has not dominated the immediate neighborhood as to hinder development. The tower and compound are integrated into the internal portion of the City Hall building and no landscaping or screening on the site is necessary.

1. **Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations and such areas will be screened from adjoining residential uses and located so as to protect such residential uses from any injurious effect.**

Off street parking will not be necessary for this particular use other than a parking space currently available for service people entering the building to maintain equipment. The parking that is provided on the site will be adequate for this need.

1. **Adequate utility, drainage, and other such necessary facilities have been or will be provided.**

Since there are not external improvements on the site, existing utility, drainage, and other facilities should be adequate.

1. **Adequate access roads or entrance and exist drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.**

The site and the equipment should require only service vehicles for periodic maintenance. The traffic generated by the use is so minimal that it will not create any additional congestion on the streets.

1. **Adjoining properties and the general public shall be adequately protected from any hazardous or toxic materials, hazardous manufacturing processes, obnoxious odors or unnecessarily intrusive noises.**

The antennas and equipment do not have any hazardous or toxic materials, obnoxious odors, or intrusive noises that would affect the general public.

1. **Architectural design and building materials are compatible with such design and materials used in the neighborhood in which the proposed facility is to be built or located.**

This is an existing monopole design with multiple providers, and the SUP renewal is only for the AT&T equipment. The design and location of the pole was previously determined appropriate though the existing tower SUP. However this tower is at capacity. Should any new facilities be determined to be necessary in the future, a new design or a new tower structure be required for any reason, this SUP should be amended to reflect compliance with any changes to the overall facility.

1. **City Staff recommendations.**

It is the opinion of Staff that the proposed renewal of the Special Use Permit meets the Factors for Consideration and recommends that it be approved subject to the conditions on the site that made the original application and subsequent renewals appropriate.

Gregory Wolf moved the Planning Commission find that the application meets the Factors for Consideration as outlined by City Code and recommend that the Governing Body approve the renewal of the Special Use Permit for wireless communication facility at 7700 Mission Road to AT&T subject to the following conditions recommended by staff:

1. That the renewal of the special use permit shall be for a maximum of ten years. At the end of the ten-year period, the applicant shall resubmit the application and shall demonstrate to the satisfaction of the Planning Commission and City Council that a need still exists for the antennas and that all the conditions of approval have been met.
2. All equipment cabinets and wiring shall be contained within the existing walled area.
3. The antennas and the frame for mounting them shall be painted a color that blends with the other antennas and the tower so visibility is minimized.
4. If the applicant is found to be in non-compliance with the conditions of the special use permit, the permit will become null and void within 90 days of notification of non-compliance, unless the non-compliance is corrected. If a special use permit becomes null and void, the applicant shall remove the antennas, equipment cabinets and all other appurtenances and shall restore the site to its original condition.
5. The applicant shall comply with all state and federal regulations.
6. The applicant shall have a structural inspection of the antennas performed by a licensed professional engineer prior to every ten-year renewal and submit it as part of the renewal application.
7. The plans for any changes to the antenna connections shall be prepared and sealed by a structural engineer licensed in the State of Kansas with construction observation provided by a design engineer that is not an employee of the tower’s owner.
8. The Compound Plan submitted as a part of the original application, and the Site Plan dated 06/03/14 documenting current conditions and submitted as part of this renewal application shall be incorporated as part of the approval of this application.
9. The coax line installed on the tower shall be either inside the monopole or enclosed in an encasement that is painted the same color as the tower.
10. The applicant shall comply with all terms of its lease agreement with the City. Termination of the lease agreement will be cause to terminate the Special Use Permit.
11. If the existing tower, or the overall SUP for the existing tower is amended in any way to accommodate structural changes for new equipment or a different capacity for this tower, or a new tower is constructed, the applicant shall comply with all design conditions of this new construction.

**PC2016-06 Request for Rezoning of Homestead Estates from**

 **R-1a (Single Family Residential) to RP-1a (Planned**

 **Single Family Residential)**

 **Current Zoning: R-la**

 **Applicant: Cory Childress, Evan-Talan Homes**

Wes Jordan advised the Commission that the City had received written communication from the applicant that they are withdrawing their application. No further action is needed by the Planning Commission.

**NON PUBLIC HEARINGS**

There were no Non Public Hearings scheduled before the Planning Commission.

**OTHER BUSINESS**

**Countryside East Overlay District Update**

Wes Jordan reported the Countryside East Homes Association was meeting this evening (January 10th) to discuss the status of the existing overlay district. He will advise the Commission as to their decision.

Nancy Wallerstein noted that the Meadowbrook Country Club building has been demolished. Melissa Brown noted the construction on the office building at 7501 Mission Road. James Breneman asked for the status of the Chadwick Court development and noted that two homes are under construction at Homestead Estates. Mr. Jordan replied that Chadwick Court is ready for development and waiting on the sale of the lots.

**NEXT MEETING**

One application has been filed for the February 7th meeting for a new monument sign at 7301 Mission Road. Wes Jordan noted that the office building has been sold. The new owner is not planning any exterior changes, only interior changes.

**ADJOURNMENT**

With no further business to come before the Commission, Chairman Nancy Wallerstein adjourned the meeting at 7:12 p.m.

Nancy Wallerstein

Chairman