

STAFF REPORT
Planning Commission Meeting November 23, 2009

AGENDA ITEM NO.: 2

PROJECT NUMBER / TITLE: Application # 09-14

REQUEST: Special Use Permit (SUP) for rooftop telecommunications equipment

LOCATION: Mission Towers
5700 Broadmoor Street

APPLICANT/OWNER: Mission Towers Properties I, LLC
5700 Broadmoor St
Mission, KS 66202

STAFF CONTACT: Danielle Murray

ADVERTISEMENT: November 3, 2009-The Legal Record Newspaper

PUBLIC HEARING: November 23-Planning Commission



Property Information:

The applicant owns a 10-story building on land identified by Johnson County Parcel ID# Number KF251208-1023. This entire parcel is zoned “CP-0” Planned Office Building District. The property is currently home to multiple offices as allowed by code. The property is located within the boundaries of the West Gateway Form Based Code District-Broadmoor Sector, block C. Block C is planned for high density re-development with optimal locations for residential in proximity to the park. The Comprehensive Plan Future Land Use recommendation for this area is mixed-use medium density.

Surrounding properties are zoned and developed as follows:

North- “M-P” Industrial Park District, vacant building

East- "CP-0" Planned Office Building District, city park and office building
South-"C-1" Restricted Business District, restaurant
West-"M-P" and "CP-2B" Industrial Park and Planned Retail/Service District,
warehouse, research and office buildings

Background:

Mission City Code requires the issuance of a Special Use Permit for new towers and new antennae except in the "MXD" district which allows collocation of antennas on existing structures by right and the "MP" or "M1" zones which allow towers as accessory structures 60' or less in height with and equal setback. Collocation in other districts on existing buildings, towers or structures is favored but unclear in the City Code. As a policy, if a facility exists legally under a valid Special Use Permit for communication facilities staff has allowed for the collocation of equipment via building permit review.

In June of 2009 the City was approached by Selective Site Consultants (SSC) to inquire what permits would be required by the City for installation of new telecommunication equipment at the subject property. SSC was informed that a valid Special Use Permit (SUP) would be required for all existing and proposed equipment to bring the site into conformance with City codes before a building permit for additional equipment could be issued. SSC appealed this decision to the Board of Zoning Appeals (BZA) in September 2009. At that time, the BZA upheld the interpretation of staff. Therefore, SSC has prepared this application on behalf of the property owner Mission Towers I, LLC to bring the entire site into conformance.

The applicant is requesting that all existing rooftop equipment shown on the submitted site plan be allowed and any future equipment the carriers may choose to install on existing sled mounts be authorized. The site plan shows 14 sled mounts belonging to three different carriers located along the periphery of the rooftop. The sled mounts are served by cable conduits, generators, and equipment shelters. The building owner also has their own private communication equipment located on the roof which would not require a SUP.

According to Section 445.190 special uses may be approved by action of the City Council after recommendation from the Planning Commission. Special uses may be approved with conditions including, but not limited to, the following:

1. Requirements for special yards, open spaces, density, buffers, fences, walls and screening.
2. The installation of landscaping and maintenance.
3. Provisions for erosion control.
4. Limitations on ingress and egress movements into and out of the site and traffic circulation.
5. Limitation on signage.
6. Limitation on hours of operation and other characteristics of operation.
7. Conditions specifically listed under the individual special use.
8. Other conditions deemed necessary to ensure compatibility with surrounding land uses.

In addition, Section 445.220 of the Municipal Code states that special use permits generally run with the use of the property, however, in certain instances, conditions may

be added providing that the permit is valid only for a particular user or tenant. In either circumstance, requirement or conditions placed must be clearly spelled out in the motion for approval. Section 445.230 of the City Code allows for the termination of a SUP at any time for several reasons. This includes if conditions in the neighborhood have changed to the extent that approval of the permit would be clearly unwarranted if being applied for at the time of revocation.

Of the 15 existing special use permits in the City eight are for telecommunications equipment. A table summarizing their details of these permits is attached. The last SUP approved in 2008 was granted for a 25 year period. The motion recommended by staff addresses location, mounting style, duration, number, and allows future collocation. Additional elements the Planning Commission could consider include height, setbacks from roof edge, color and screening.

Special Use Permit:

Section 440.140.E, Criteria for Considering (SUP) applications, lists the criteria to be used by the Planning Commission and City Council in the consideration of this application. An evaluation of these criteria is as follows:

1. The character of the neighborhood.

The Mission Towers building is located northeast of the intersection of Johnson Drive and Metcalf Avenue. This area is characterized by high rise office and low rise industrial buildings. The high rise office buildings are occupied by multiple tenants. Single family residential uses are located 300-1,000 feet (.5-1.5 blocks) to the north and east.

The proposed use would not be out of character with the neighborhood.

2. The zoning and uses of nearby properties, and the extent to which the proposed use would be in harmony with such zoning and uses.

The immediate neighborhood is a mix of industrial and office zoning districts. Some of the existing telecommunication facilities have been in place since the late 1990's.

The proposed use is in harmony with surrounding zoning and uses.

3. The suitability of the property for the uses to which it has been restricted under the applicable zoning district regulations.

The property is suitable for its current use. Regardless of zoning classification, all telecommunication equipment requires a special use permit.

4. The extent to which approval of the application would detrimentally affect nearby properties.

As the use currently exists on the property, approval of the application is not expected to detrimentally affect nearby properties. No significant complaints have been received by the City about the subject equipment.

5. The length of time the property has remained vacant as zoned.

The property is currently developed and used as zoned. As stated above, this is an existing condition.

6. The relative benefit to the public health, safety and welfare by retaining applicable restrictions on the property as compared to the destruction of the value of the property or hardship to the owner association with denying its request.

If the restrictions are retained, the public may benefit from the elimination of visual clutter if the existing antennas are removed, however they may also suffer from a reduction of wireless service. If the application is denied, the property owner would lose lease income.

The public will not benefit substantially from denial of this application.

7. The master plan or comprehensive plan.

The proposed use conforms to the Future Land Use section of the Comprehensive Plan.

8. The extent to which the proposed use would adversely affect the capacity or safety of that portion of the road network influenced by the use, or present parking problems in the vicinity of the property.

The proposed use will not generate any additional traffic or parking needs.

9. The recommendation of the professional staff.

Approval with conditions as noted in recommendation below.

10. The extent to which utilities and services, including but not limited to, sewers, water service, police and fire protection, and parks and recreation facilities, are available and adequate to serve the proposed use.

All utilities and services are in place and are adequate to serve the proposed use.

11. The extent to which the proposed use would create excessive stormwater runoff, air pollution, water pollution, noise pollution or other environmental harm.

The proposed use will not result in any additional or excessive stormwater runoff or any form of pollution.

12. The extent to which there is a need for the use in the community.

The use provides wireless service for the community.

13. The economic impact of the proposed use on the community.

While the lease income of these facilities primarily benefits the property owner, the public benefits from the provision of wireless services.

14. The ability of the applicant to satisfy any requirements applicable to the specific use imposed pursuant to the zoning district regulations.

Staff expects the applicant will be able to satisfy any applicable requirements.

Recommendation:

Staff recommends the Planning Commission recommend approval of special use permit for Case # 09-14 to the City Council for all existing rooftop equipment as shown on the submitted site plan and any future equipment carriers may choose to install on existing sled mounts subject to renewal after no more than 25 years.

Current Special Use Permits for Telecommunications Equipment

Case #	Name	Address	Use	Duration of SUP	Date Approved	EXPIRES
1993-2	Southwest Bell Mobile	5341 Martway Street	Cellular Telephone Communications Site	15 YRS	1/26/1994	3/21/2012
2000-12	AT&T Wireless	5950 Roe Avenue	Extension of existing pole not to exceed 20' and antenna	25 YRS	8/9/2000	8/9/2025
2000-18	Sprint Sites USA	5950 Roe Avenue	Monopole and microwave dish	25 YRS	8/11/2000	8/11/2025
2001-10	Sprint Sites USA	5950 Roe Avenue	Tower	24 YRS	9/26/2001	9/26/2025
2004-42	Entercom KC LLC	7000 Squibb Road	New transmission tower with rooftop dishes	Indefinite	1/02/2004	Until new use
2004-44	Southwestern Bell Corp	5400 Foxridge Drive	Satellite Field 12-15 units	Indefinite	12/8/2004	until new use
2005-17	Southwestern Bell Corp	5400 Foxridge Drive	Additional Satellite Dish Antenna	Indefinite	3/8/2006	until new use
2008-09	Johnson County Emergency Communications	4800 Nall Avenue	Communications Tower	25 Years	6/18/2008	6/18/2033

