

SPECIAL COMMON COUNCIL MINUTES

Wednesday, March 22, 2017 - 4:00 p.m.

The Common Council of the City of Neenah, Winnebago County, Wisconsin, met in special session at 4:00 p.m., March 22, 2017 in the Council Chambers of Neenah City Hall.

Mayor Kaufert in the chair.

Present: Aldermen Bates, Hillstrom, Lendrum, Erickson, Lang, Pollnow, Kunz & Stevenson, Director of Community Development & Assessment Haese, City Attorney Godlewski and City Clerk Sturn. Alderman Boyette, Director of Finance Easker and Director of Public Works Kaiser were excused.

Also Present: Deputy Director of Community Development Schmidt, Rodney Carter, Attorney at Husch Blackwell LLP, Milwaukee representing Central States, Court Reporter Stephanie Grosek, Ron & Steve Seegers, Guy Stewart, Rodney Carter and Duke Behnke of the Post Crescent.

Mayor Kaufert called the meeting to order at 4:04 pm.

Clerk Sturn called a voice roll call as the Mayor/Aldermen recorded their attendance in the RollCall-Pro System followed by the Pledge of Allegiance.

Special Use Permit – Telecommunications Tower 512 S. Commercial Street:

- I. Council consideration of the application by Bright Star Properties/Verizon Wireless for a Special Use Permit for the construction of a 105 foot tall telecommunication tower and associated ground equipment located at 512 S. Commercial Street.
 - A. Public Input:
 1. Guy Stewart, 3703 Northpoint, Stevens Point, gave a quick overview of the reason they are looking at this site. He was asked by Verizon to acquire a site in this area. His first task was to look for an existing site as it makes it quicker for Verizon to get up and running. Finding nothing in this area, he looked at the city ordinance and matched it up with the State Statutes and began to look for options for a new communications tower site. He then started looking for potential land owners willing to work with them. Bright Star Properties has agreed to work with them. They met with them and Verizon engineers and submitted a site plan to the city. After several meetings, they were asked to revise that site plan which they have done. The site plan now matches the city ordinance, State Statutes and the revised request by the City.
 2. Rod Carter, Attorney at Husch Blackwell LLP, Milwaukee representing Central States and Verizon Wireless, added to Mr. Stewart's comments indicating both Central States and Verizon Wireless can live with the conditions requested by the Plan Commission. Speaking to State Statute 66.04(4), the wireless siting statute, the state saw a need to declare wireless siting a

statewide concern. The state thought about the needs of the public in terms of data and wireless coverage, including governmental entities and saw fit to make it a matter of statewide concern. He urged the Council not to get into a discussion on whether this is appropriate as this is not the venue for that debate. The tower will be built so other carriers can co-locate on the tower. This will eliminate the need to site towers in the future. In closing he stated that the application meets city code and State Statutes therefore he urged approval.

3. Steven Seegers, owner of 512 S. Commercial Street, spoke on behalf of himself and his business partner Rod Seegers. He indicated the long term best use for this property is NOT what is currently there. It is an eye sore. His concern was why the Council needs to approve the cell tower lease. He feels Council has done its due diligence but also did a good job delaying the process. He does not want to take this to the media and feels we can resolve this tonight.

B. Staff Input:

1. Chris Haese, City of Neenah Director of Community Development, provided his input to the cell tower application. In his 25 years of employment with the City of Neenah he has had quite a bit of experience dealing with communications towers. He took exception to the comment it may be the last time we look at a tower since the City has a number of antennae within a couple hundred feet of this building. Capacity is always an issue. He believes the proposed tower conflicts with the goals and objectives of the 1991 S. Commercial Street Corridor Study. Those goals and objectives continue to be implemented moving forward. Even though the study was done in 1991, the validity is still with us today. Construction of a tower on this property would diminish the ability to redevelop the site. Every square foot you take away from this site for the sake of a tower, diminishes its ability as a redevelopment site. He pointed out the Winnebago Community Credit Union, just to the south of this site, indicating it is a 2,500 sq. ft. building. That building would not fit on this site with or without a cell tower particularly if you take into consideration the fact that the building would be 2,500 sq. ft. however required parking would add an additional 1,500 sq. ft. With setbacks and green space requirements you could add another 2,000 sq. ft. to that. On top of that storm water management could add another 1,000 sq. ft. The property is an eye sore and a tower would contribute to the difficulty to redevelop the site. In summary, he believes the utilization of square footage of this site for a communications antennae will diminish the ability to allow the site to be redeveloped in an efficient pattern. Furthermore, he believes this would be in direct conflict with the goals & objectives of the 1991 Corridor Study. Dir. Haese responded to Ald. Lendrum that communications antennae are not assessed as personal property. There is no change in the tax bill as a result of the tower however

we apparently receive some revenue through the shared revenue formula through the state.

2. Rod Carter clarified for Ald. Lendrum that the lease agreement requires the carriers to remove and restore the ground upon discontinuance of the use. This is a 5 year lease with options. The lease can terminate after five years however typically they would extend on for additional 5 year periods up to 25 years.

3. Deputy Dir. Schmidt outlined the timeline for the application:

- Sept. 21, 2016 – applicant was sent a copy of the site plan review application and application requirements.
- That application was received the end of November along with the fee.
- Dec. 2nd the applicant was notified that the Verizon search area map was missing.
- Dec. 9th the map was received and the applicant was informed of the need to apply for a Special Use Permit.
- Dec. 22nd the Special Use Permit was received.
- Feb. 8, 2017 he confirmed with the applicant that the application submittal date was Dec. 22, 2016.
- Jan. 2017 the additional fee was received.

Deputy Dir. Schmidt advised that they determined the need for a Special Use Permit as the site is zoned C1 and in a C1 district, if principle use of the site is residential, standards of R1 apply. In an R1 district, telecommunication towers require a Special Use Permit.

- C. Council action on Special Use Permit Application:

1. **MS Pollnow/Stevenson to deny the Special Use Permit application by Bright Star Properties/Verizon Wireless for the construction of a 105 foot tall telecommunication tower and associated ground equipment located at 512 S. Commercial Street and direct City Atty. Godlewski and Dir. Haese to draft a findings of facts and conclusion of law letter to be given to Bright Star Properties and Verizon Wireless to include and not limited to the following: incompatible with the 1991 master plan for the S. Commercial Street corridor and diminishes development potential for the remainder of the parcel.**
2. Ald. Bates questioned if Walgreen's was approach to see if access to this site could be through their driveway.
3. Guy Stewart indicated they did not contact Walgreen's as their original contact with the City indicated there was a potential to enter off Maple Street. The Plan Commission made the decision to not allow access from Maple Street. At this point, they will not be contacting Walgreens.
4. Steve Seegers advised that at a Plan Commission meeting Deputy Dir. Schmidt had proposed through Google Sketch Up, a 3,000 & 4,000 sq. ft. building could fit on the site. It would not fit a restaurant but small retail would fit. His plan would be to knock both buildings down.

5. Guy Stewart informed Ald. Kunz that when they cannot find a site within the radius, he works with the radio frequency engineer for possibilities. The ring is arbitrary and this site is not outside the search area.
6. Dir. Haese clarified for Ald. Stevenson that his position is that the tower is incompatible with the 1991 S. Commercial Street study master plan and the use is incompatible.
7. Ald. Stevenson indicated he will support the motion to deny the Street Use Permit application.
8. Ald. Kunz commented that cell towers are part of any community that wants access. As a community we try to work with people because we understand it services our community. He will vote to deny this however would like to find a way to put up cell towers in an area where they do not diminish our ability for development.
9. **The motion to deny, carried, by a 7-1 RollCall-Pro System vote, all voting aye, Ald. Bates voting nay.**

Other Business

- I. None.

Adjournment

- I. **MSC Stevenson/Pollnow to adjourn at 4:45 p.m., all voting aye.**

Patricia A. Sturn, WCPC/MMC
City Clerk