

**Department of Community Planning and Economic Development – Planning Division**  
Conditional Use Permit  
BZZ-3608

**Date:** July 16, 2007

**Applicant:** US Internet

**Address of Property:** Not applicable for the development

**Project Name:** Minneapolis Wireless IP Data Access Network, Phase I

**Contact Person and Phone:** Matt Stoltz with US Internet, (952) 253-3200, ext. 206

**Planning Staff and Phone:** Hilary Dvorak, (612) 673-2639

**Date Application Deemed Complete:** May 29, 2007

**End of 60-Day Decision Period:** July 28, 2007

**End of 120-Day Decision Period:** Not applicable for this development

**Ward:** 2, 5, 6, 7 and 9      **Neighborhood Organization:** Phillips West, Midtown Phillips, East Phillips, Longfellow, Cooper, Seward, Ventura Village, Loring Park, North Loop, Downtown West, Downtown East, Elliot Park, Cedar Riverside

**Existing Zoning:** Not applicable for this development

**Proposed Zoning:** Not applicable for this development

**Zoning Plate Number:** Multiple zoning plates

**Legal Description (properties to be rezoned):** Not applicable for this development

**Proposed Use:** Telecommunications towers

**Concurrent Review:**

**Conditional use permit:** to install a wireless broadband network on a number of utility poles throughout the City of Minneapolis. This is the first phase of a multi-phase project (see Phase I boundary map attached)

**Applicable zoning code provisions:** Chapter 525, Article VII, Conditional Use Permits.

**Background:** The City of Minneapolis issued a Request for Proposal in March of 2005 to solicit proposals from the private sector to build and operate a wireless broadband network. US Internet, the applicant, was chosen as the wireless provider. The wireless network will be used to enhance public

safety, strengthen the vitality of the City’s technology infrastructure, support staff mobility and enhance the City’s livability.

The applicant has indicated that there are three major target markets for the wireless network: institutional, residential and businesses. The wireless network will enhance mobile communications for the City’s public safety personnel and 911 first responders; it will allow non-emergency personnel to interact in real time with the City’s information systems and 311 requests and will provide the residents and business community another option for internet connectivity.

As part of the installation of the wireless network, the applicant will be installing antennas on a series of existing utility poles throughout the City of Minneapolis. When an antenna is added to an existing utility pole it becomes a telecommunications tower. All new telecommunications towers require a conditional use permit. Please note that this is phase one of a six-phase project. The applicant has indicated that in Phase I there will be up to 260 telecommunications towers created.

As part of the installation of the wireless network a number of antennas will be located on buildings and/or other structures on private property. Those antenna installations will be handled through the Administrative Review process for Telecommunication Towers Antennas and Transmission Base Sites.

**CONDITIONAL USE PERMIT** - to install a wireless broadband network on a number of utility poles throughout the City of Minneapolis

**Findings as Required by the Minneapolis Zoning Code:**

The Community Planning and Economic Development Department – Planning Division has analyzed the application and from the findings above concludes that:

**1. The establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare.**

The Planning Division does not believe that converting a number of existing utility poles throughout the City of Minneapolis into telecommunications towers would be detrimental to or endanger the public health, safety, comfort or general welfare. In fact, one of the purposes of the wireless network is to enhance mobile communications for the City’s public safety personnel and 911 first responders.

**2. The conditional use will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.**

The Planning Division does not believe that building a wireless network would impede development or be injurious to the use and enjoyment of other property in the area. The utility poles that will be used for the wireless network build-out are existing and will not be made taller as a result of this project. The antennas that will be attached to the existing utility poles are small in size and similar in appearance to other devices that are located on utility poles.

**3. Adequate utilities, access roads, drainage, necessary facilities or other measures, have been or will be provided.**

The applicant will be working closely with the Public Works Department, the Plan Review Section of the Inspections Department and the various utility companies during the duration of the development to ensure that all procedures are followed in order to comply with city and other applicable requirements.

**4. Adequate measures have been or will be taken to minimize traffic congestion in the public streets.**

There is no parking requirement for telecommunications towers. While the antennas are being installed vehicles will need to be located near the base of the poles. The applicant has indicated that all necessary obstruction permits have been obtained for the installation process. As part of the permit approval, the applicant was asked to avoid any undo congestion or interruption of normal traffic flow during the installation process.

**5. The conditional use is consistent with the applicable policies of the comprehensive plan.**

According to the principles and polices outlined in *The Minneapolis Plan*, the following apply to this proposal:

- Develop technological and information infrastructure in order to offer high quality working environments to businesses (Policy 2.4).
- Plan for the installation and management of fiber optic networks in the public right-of-way at designated growth centers such as the downtown and other activity nodes in the city (Implementation Step for Policy 2.4).
- Expand the city's understanding of the role of the telecommunications industry, its needs and necessary public and private sectors, and be prepared to respond proactively (Implementation Step for Policy 2.4).
- Promote the use of "best available technology" in upgrading communication linkages to the region and the world (Implementation Step for Policy 2.4).
- Facilitate the development of communications and transportation infrastructure to support the continued growth of the city's economic base (Policy 8.12).
- Develop new means for city government to communicate with citizens, including developing the city's Internet presence and expanding voice response techniques (Implementation Step for Policy 8.12).
- Encourage the sharing of communications infrastructure (fiber optic, cellular phone antennae locations) among multiple users (Implementation Step for Policy 8.12).

The Planning Division believes that this development is in conformance with the above policies of the comprehensive plan.

**6. The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.**

In addition to the required findings for a CUP, approval of a telecommunications tower/antenna requires the applicant to submit written documentation indicating compliance with the following standards:

**535.530. Specific standards for conditional uses.** All communication towers and antennas requiring a conditional use permit shall be subject to the provisions of Chapter 525, Administration and Enforcement, and the submittal requirements of section 535.510(b). In addition, the applicant shall comply with the following standards and submit written documentation indicating such compliance:

**1. *Tower type.* Communication towers shall be of a monopole design. The city planning commission may consider the substitution of alternative tower types in cases where structural, radio frequency, and design considerations, location or the number of co-locators suggests a tower other than a monopole.**

The applicant will be installing antennas on a series of existing utility poles throughout the City of Minneapolis. When an antenna is added to an existing utility pole it becomes a telecommunications tower. The utility poles that will be used for the wireless network build-out are existing and will not be altered as a result of this project.

**2. *Co-location of communication antennas.* Shared use of existing communication towers shall be preferred to the construction of a new tower.**

The applicant has indicated that given the number of antennas that are required for a wireless network to be functional co-location on existing telecommunications towers are not feasible.

**3. *Height of freestanding towers and antennas.***

**a. *Residence, office residence and commercial districts.* The height of freestanding communication towers and antennas located in the residence, office residence and commercial districts shall not exceed seventy-five (75) feet.**

**b. *Industrial districts.* The height of freestanding communication towers and antennas located in the industrial districts shall not exceed one hundred (100) feet.**

**c. *Excess height.* The city planning commission may increase the height of freestanding towers and antennas, provided that in the residence, office residence and commercial districts such increase shall not exceed the maximum height by more than fifty (50) percent. The applicant shall submit an inventory of existing and approved communication towers within a one (1) mile radius of the proposed site outlining opportunities for shared use as an alternative to the construction of a new tower, and shall demonstrate to the satisfaction of the city planning commission the following:**

**1. The proposed antenna cannot be accommodated on an existing or approved tower due to one or more of the following reasons:**

- i. **The unwillingness of the owner of the existing or approved tower to co-locate an additional antenna.**
  - ii. **The planned antenna would exceed the structural capacity of existing or approved tower.**
  - iii. **The planned antenna would cause radio frequency interference with other existing or planned equipment, which cannot reasonably be prevented.**
  - iv. **Other reasons affecting technical performance, system coverage and system capacity make it impractical to place the proposed equipment on existing or approved towers.**
  - v. **The proposed co-location on an existing or approved tower would not conform to the requirements of the zoning ordinance.**
2. **The surrounding topography, structures, vegetation and other factors make a tower that complies with the district height regulations impractical.**
  3. **The proposed tower is designed to structurally accommodate both the applicant's antenna and at least one (1) additional user. The applicant shall submit a letter indicating the proposed tower is available for co-location with a phone number for interested parties to call.**

The utility poles that will be used for the wireless network build-out are existing and will not be made taller as a result of this project.

**4. *Height of all other towers and antennas allowed by conditional use.* The maximum height of all other towers and antennas shall be as approved by conditional use permit.**

Not applicable.

**535.540. Development standards for all permitted and conditional communication towers, antennas and base units.** In addition to the standards of sections 535.490, 535.500 and 535.530 above, all communication towers, antennas and base units shall be subject to the following standards:

1. ***Encroachments and setbacks.***
  - a. **The tower site and setback shall be of adequate size to contain guyed wires, debris and the tower in the event of a collapse.**

The utility poles that will be used for the wireless network build-out are existing and already located in the right-of-way. The applicant must ensure that the utility poles in question have the structural capacity to accommodate the antennas.

- b. Communication towers shall maintain a minimum distance from the nearest residential structure equal to twice the height of the tower. For the purposes of this article, residential structures shall also include any parking structure attached to a principal residential structure.**

Given that the utility poles are existing this provision may not be met in every instance given the poles location and the surrounding land uses. Again, the existing utility poles will not be made taller as a result of this project.

- c. No part of any communication tower, antenna, base unit, equipment, guyed wires or braces shall extend across or over any part of a public right-of-way.**

All of the telecommunications towers are located in the public right-of-way.

- d. Communication towers, antennas and base units shall comply with applicable regulations as established by the Federal Aviation Administration.**

The applicant had indicated that the project will be in compliance with the regulations established by the Federal Aviation Administration.

- e. Communication towers, antennas and base units shall comply with the minimum yard requirements of the district in which they are located.**

There are no applicable yard requirements given that all of the utility poles are located in the right-of-way.

**2. *Compatibility with nearby properties.* Communication towers, antennas and base units shall utilize building materials, colors and textures that are compatible with the existing principal structure and that effectively blend the tower facilities into the surrounding setting and environment to the greatest extent possible. Metal towers shall be constructed of, or treated with, corrosive resistant material. Outside of the industrial districts, unpainted, galvanized metal, or similar towers shall be prohibited, unless a self-weathering tower is determined to be more compatible with the surrounding area.**

The utility poles that will be used for the wireless network build-out are existing. The antennas that will be attached to the existing utility poles are small in size and similar in appearance to other devices that are located on utility poles.

**3. *Screening and landscaping.* A screening and landscaping plan designed to screen the base of the tower and the base unit shall be submitted. The plan shall show location, size, quantity and type of landscape materials. Landscape materials shall be capable of screening the site all year. One row of evergreen shrubs or trees capable of forming a continuous hedge at least six (6) feet in height within two (2) years of planting shall be provided to effectively screen the base of the tower and the base unit, except for towers and antennas designed for private reception of television and radio signals and used for amateur or recreational purposes. A maintenance plan for the**

**landscape materials shall also be submitted. The city planning commission may consider the substitution of other architectural screening plans such as a decorative fence or masonry wall in lieu of planted materials.**

Landscaping around the base of the telecommunications tower is not feasible given that all of the utility poles are located in the right-of-way.

**4. *Rooftop mounted towers and antennas.* Rooftop mounted communication towers and antennas shall not be located on residential structures less than fifty (50) feet in height, except for towers and antennas designed for private reception of television and radio signals and used for amateur or recreational purposes.**

Not applicable.

**5. *Facade mounted antennas.***

**a. *Mounted on freestanding towers and poles.* A facade mounted antenna shall not extend above the facade of the tower or pole on which it is mounted, but otherwise may project outward beyond such facade.**

There are several types of antennas being installed as part of the wireless network. All of the antennas project outward from the side of the pole but none of them extend above the top of the pole.

**b. *Mounted on all other structures.* A facade mounted antenna shall be mounted flush against the structure on which it is mounted and shall not extend beyond the facade of such structure, except that antennas designed for private reception of television and radio signals, used for amateur or recreational purposes, may extend above the facade of the structure.**

Not applicable.

**6. *Base units.* Base units shall not exceed five hundred (500) square feet of gross floor area. The city may require as a condition of approval that base units be located underground.**

The applicant has not indicated that any base equipment will be installed as part of this project.

**7. *Security.* All sites shall be reasonably protected against unauthorized climbing. The bottom of the tower, measured from ground level to twelve (12) feet above ground level, shall be designed in a manner to discourage unauthorized climbing.**

Climbing pegs will not be installed as part of this project.

**8. *Signage.* Advertising or identification of any kind on towers, antennas and base units shall be prohibited, except for applicable warning and equipment information signage required by the manufacturer or by federal, state or local regulations.**

The applicant had indicated that they will affix only the applicable warning signs necessary on the telecommunications tower and antennas.

**9. *Lighting.* Communication towers and antennas shall not be illuminated by artificial means, except when mounted on an existing light pole or where the illumination is specifically required by the Federal Aviation Administration or other federal, state or local regulations.**

Lights will not be installed as part of this project.

**10. *Heritage Preservation Ordinance compliance.* Communication towers and antennas proposed for any locally designated historic structures or locally designated historic districts shall be subject to all requirements of the city’s Heritage Preservation Ordinance.**

Some of the utility poles that are proposed to be used as part of this project may be located in a locally designated historic district. The applicant must coordinate with CPED’s Preservation and Design staff to ensure proper review of such facilities.

**11. *Radio frequency emissions and noninterference.* The applicant shall comply with all applicable Federal Communication Commission standards.**

The applicant has indicated that they will meet all regulations established by the Federal Communications Commission.

**12. *Public safety communication system.* The location of the proposed antenna, if located on publicly owned property, shall not be needed for use by the public safety communication system, or if needed, it shall be determined by the director of public works that co-location of the proposed antenna with a public safety antenna is agreeable.**

The applicant will be working closely with the Public Works Department during the duration of the development to ensure that all procedures are followed in order to comply with city and other applicable requirements.

**RECOMMENDATIONS**

**Recommendation of the Department of Community Planning and Economic Development – Planning Division for the conditional use permit:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the conditional use permit application to install a wireless broadband network on a number of utility poles throughout the City of Minneapolis.

**Attachments:**

1. Statement of proposed use
2. Description of the project, including lists of pole locations and maps
3. Conditional use permit findings
4. Photos of the various pole types
5. May 29, 2007, e-mail to the applicable Council Members and neighborhood groups
6. June 6, 2007, Star Tribune article