

MEMORANDUM

To: City of Whitewater Plan and Architectural Review

Commission

From: **Allison Schwark, Zoning**

Administrator

Date: August 12, 2024

Re: Conditional Use Permit

Summary of Request	
Requested Approvals:	Conditional Use Permit for WIRELESS TELECOMMUNICATIONS FACILITIES AND UNDERGROUND TRENCHING IN C-1 OVERLAY DISTRICT
Location:	1002 S Janesville Street
Current Land Use:	Landscape Supply Company
Proposed Land Use:	Same use with added Telecommunication facility
Current Zoning:	B-3
Proposed Zoning:	N/A
Future Land Use, Comprehensive Plan:	Highway Commercial

The purpose of Section 19.55 is as follows:

- A. Mitigate the potential for adverse visual impacts caused by wireless telecommunications facilities through design and siting standards.
- B. Ensure that a business environment characterized by high service quality, competition and nondiscrimination prevails with regard to wireless telecommunication services in a manner consistent with the Federal Telecommunications Act of 1996.
- C. Establish a clear process for obtaining necessary permits for wireless telecommunications facilities that adequately protect the interests of the citizens of the city while minimizing the burden of compliance to service providers.
- D. Protect environmentally and aesthetically sensitive areas of the city by restricting the design, height, location and operation of wireless telecommunications facilities in these areas, and by promoting their disguise, camouflage, screening or other design treatments intended to minimize their obtrusiveness.

E. Encourage use of multiple-antenna alternative support structures such as buildings and water towers as an alternative to stand-alone, single-use, single-provider structures, and require good faith attempts for co-location of facilities.

Site Plan Review

The applicant is requesting a Conditional Use Permit for a Wireless Telecommunication Facility to be placed at 1002 S Janesville Street. The proposed mobile service facility will consist of a 195'-0" tall self-supporting tower within a 75'-0" x 75'-0" lease area. The proposed mobile service support structure is intended to fill in coverage gaps and improve AT&T wireless internet service in the eastern area of the City of Whitewater to provide adequate space for AT&T to deploy FirstNet, the first nationwide communications network dedicated for first responders. The proposed tower will be erected, owned, and managed by Tillman Infrastructure, and AT&T Mobility will locate its antennas on the tower and its equipment in the compound upon completion. The facility is unstaffed and will only require service technicians, in a pick-up/van sized vehicle, to visit the site approximately once per month after the facility is completed.

C-1 Shoreland Wetland Overlay:



Currently the property has areas where the C-1 Shoreland Wetland Overlay is present.

The C-1 shoreland wetland overlay district is intended to preserve, protect, and enhance the ponds, streams, and wetland areas within the shoreland jurisdiction of the city. The preservation, protection, and enhancement of these areas will serve to maintain safe and healthful conditions; maintain and improve water quality, both ground and surface; prevent flood damage; control stormwater runoff; protect stream banks from erosion; protect groundwater recharge and discharge areas; protect wildlife habitat; protect native plant communities; avoid the location of structures on soils which are generally not suitable for use; and protect the water-based recreation resources of

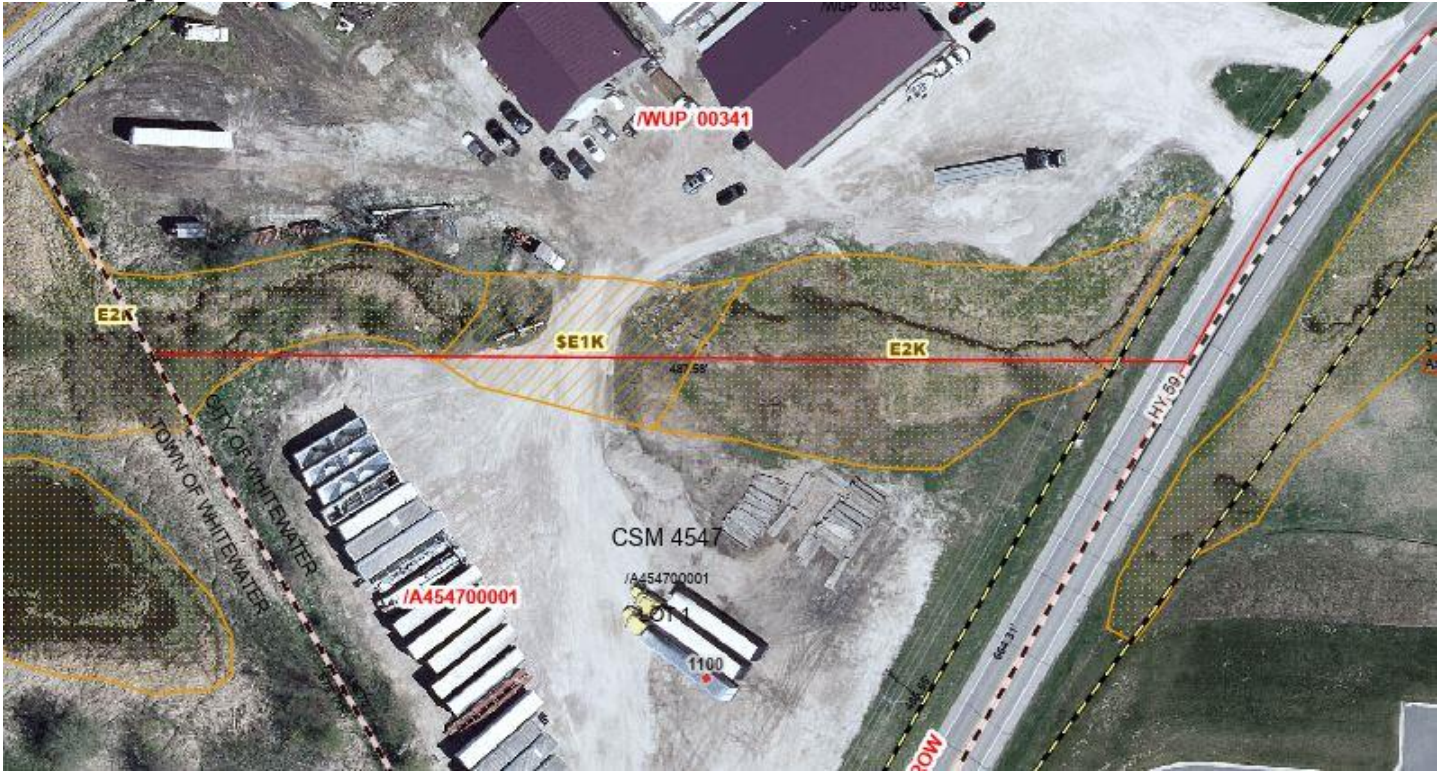
the city.

The following uses are conditional uses in the C-1 shoreland wetland district and may be permitted as specified. The city plan commission shall transmit a copy of each application for a conditional use in the C-1 shoreland wetland district to the Wisconsin Department of Natural Resources (DNR) at least ten days prior to the public hearing. Final action on the application shall not be taken for thirty days or until the DNR has made its recommendation, whichever comes first. A copy of all C-1 shoreland wetland district conditional use permits shall be transmitted to the DNR within ten days following the decision:

- D. The construction and maintenance of electric, gas, telephone, water and sewer transmission and distribution lines, and related facilities, provided that:
 - 1. The transmission and distribution lines and related facilities cannot as a practical matter be located outside the conservancy district; and
 - 2. Any filling, draining, dredging, ditching, or excavating that is done must be necessary for the construction or maintenance of the utility and must be done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the conservancy area.

The proposed site plan now depicts the C-1 overlay area, and where they will be trenching through it.

DNR Mapped Wetland:



19.55.050 - Required application submittal information.

All items have been received and reviewed, and the project generally conforms to the requirements of our municipal ordinance and regulations.

19.55.060 - Co-location and use of alternative support structures.

The co-location report has been provided to the City of Whitewater and has been reviewed as a part of the submittal.

The following question has been asked to the applicant: There is a co-location area available on top of the City water tower, why is this location not sufficient or suitable, as it is within the radius and range of the co-location report?

19.55.070 - Structural, design and aesthetic standards.

Design:

The submittal has been reviewed, and the site plan is now in full compliance with all requirements of our City ordinance.

Setback:

The minimum setback of a new wireless telecommunications facility from all property lines and principal buildings on the site shall equal the height of the wireless telecommunications facility, including the height of any alternative support structure. A reduced setback below this minimum may be considered by the plan and architectural review commission based on submittal of a structural engineering analysis demonstrating that the facility would not pose a threat to the public, existing principal buildings, or adjacent properties in the event of failure. All wireless telecommunications support facilities shall be set back from property lines the same distance as required for principal buildings in the zoning district.

State Statute Sec 66.0404 on mobile tower siting regulations requires the following setback requirements:

(4e) SETBACK REQUIREMENTS.

(a) Notwithstanding sub. (4) (r), and subject to the provisions of this subsection, a political subdivision may enact an ordinance imposing setback requirements related to the placement of a mobile service support structure that applies to new construction or the substantial modification of facilities and support structures, as described in sub. (2).

(b) A setback requirement may apply only to a mobile service support structure that is constructed on or adjacent to a parcel of land that is subject to a zoning ordinance that permits single-family residential use on that parcel. A setback requirement does not apply to an existing or new utility pole, or wireless support structure in a right-of-way that supports a small wireless facility, if the pole or facility meets the height limitations in s. 66.0414 (2) (e) 2. and 3.

(c) The setback requirement under par. (b) for a mobile service support structure on a parcel shall be measured from the lot lines of other adjacent and nonadjacent parcels for which single-family residential use is a permitted use under a zoning ordinance.

(d) A setback requirement must be based on the height of the proposed mobile service support structure, and the setback requirement may not be a distance that is greater than the height of the proposed structure.

The proposed tower setbacks, and location to property lines and adjacent properties are generally acceptable due to the structural engineering fall report, and the limited adjacent residential property.

Landscaping and Fencing:

The site including the wireless telecommunications facility shall be attractively landscaped, with particular emphasis on landscaping near buildings, tower foundations, and driveways. New vegetation for screening purposes shall be a minimum of five feet in height upon planting and shall be located on the outside of any required fencing. The base of all freestanding wireless telecommunications facilities shall be enclosed with security fencing, unless the applicant provides other acceptable improvements designed to secure the base of the facility (tower) from public access.

The plans have been reviewed and are generally in compliance with the following, however it is recommended that landscaping be added around the fence, due to proximity to other buildings.

Planner's Recommendations

- 1) Staff recommends the PARC **APPROVE** the Conditional Use Permit for a wireless telecommunications facility with trenching in the C-1 overlay with the following conditions:
 - A. Any wireless telecommunications facility not continuously operating for a period of twelve months shall be considered abandoned and shall be removed (along with its wireless telecommunication support facilities) within ninety days of receiving an order to remove from the zoning administrator. The cost of removal and site restoration shall be borne entirely by the permit holder. In the event that the permit holder fails to remove the facility, the city may cash the required performance bond and remove the facility and all support facilities itself.
 - B. All wireless telecommunications facilities granted site plan or conditional use permit approval after the effective date of this chapter shall remain in compliance with approved plans, conditions of approval, the provisions of this chapter as they existed at the time of permit approval, and applicable standards of Sections 19.63.100 and 19.66.050. The permit holder shall be responsible for the continued maintenance and/or replacement of all buildings, fencing, landscaping and other site improvements.
 - C. The permit holder for all wireless telecommunications facilities granted conditional use permit approval after the effective date of this chapter shall file an annual report with the zoning administrator demonstrating continued compliance with approved plans, conditions of approval, the provisions of this chapter as they existed at the time of permit approval, and the standards of Sections 19.63.100 and 19.66.050. The petitioner shall also demonstrate that the term of any performance bond or liability insurance policy required under Section 19.55.050 shall remain in effect for at least

- two years from the date the annual report is submitted. Such report shall be filed within thirty days of the original month of conditional use permit approval.
- D. Failure to comply with the above requirements shall be grounds for revocation of permit, penalties, or both.
 - E. The property owner/tenant shall be responsible for obtaining all applicable building permits.
 - F. Any other conditions stipulated by the PARC

