

MEMORANDUM

To: City of Whitewater Plan and Architectural Review

Commission

From: Allison Schwark, Zoning
Administrator

Date: May 13, 2024

Re: Conditional Use Permit

Summary of Request	
Requested Approvals:	Conditional Use Permit for WIRELESS TELECOMMUNICATIONS FACILITIES
Location:	312 Elkhorn Road
Current Land Use:	Vacant Lot
Proposed Land Use:	Same use with added Telecommunication facility
Current Zoning:	B-1
Proposed Zoning:	N/A
Future Land Use, Comprehensive Plan:	Mixed Use

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 312 Elkhorn Road. Surrounding lands are zoned R-2, B-1, and B-3. The proposed mobile service facility will consist of a 195'-0" tall self-supporting tower within a 100'-0" x 100'-0" lease area. Electrical service will be installed as well as an access road within an existing curb cut to allow for ease of access to any ground facilities. The proposed plan does not meet all requirements of Section 19.55 of our zoning ordinance, which outlines requirements for the telecommunication facilities for the following reasons:

“Wireless Telecommunications Support Facilities. All wireless telecommunications support facilities shall be located within enclosed buildings or fully screened rooftop locations. Such accessory buildings shall not exceed fifteen feet in height and twelve hundred square feet in area, unless otherwise permitted by the plan and architectural review commission to facilitate co-location. The design and exterior surfacing of all such buildings or rooftop screening structures shall be in harmony with the existing or desired architecture for the area. The exterior walls of all such buildings shall be masonry, stone, stucco, pre-cast, concrete or other similar surface.”

The applicant will be requesting a variance for the above-mentioned condition, as the applicant would not like to have equipment placed in a building or enclosure.

Additionally, the applicant does not comply with Section 19.55.070 - Structural, design and aesthetic standards.

D. 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.

The proposed structure is 195 feet tall, and the parcel does not allow for an adequate setback from the property line, or to a road leading to an intersection with a roundabout which acts as a major thoroughfare for the City of Whitewater.

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 adjacent parcels /A 91900002, and /WUP 00007, are both zoned for residential. Each parcel is currently zoned R2- One- and two-family residence district. Per section 66.0404, and 19.55.070 the setback shall be enforced, and shall be 195 feet away from the adjacent parcels.

The current plan does not meet these setback requirements.

Planner's Recommendations

- 1) Staff recommends the PARC **DENY** the Conditional Use Permit for a wireless telecommunications facility for the following reasons which shall be defined as substantial evidence for denial:
 1. The proposed tower is incompatible with adjacent land uses.
 2. The denial is not based solely on aesthetics; however the proposed tower would diminish the surrounding neighborhood, and overall have an economic impact on neighboring properties, the use of those properties, and the lifestyle of the community members in that area.
 3. The proposed tower does not meet all the requirements of our local municipal ordinances, and the proposed tower plans do not show an adequate building for site mechanicals.
 4. The proposed tower does not meet the setback requirements outlined in our local municipal ordinances, or state statute, as the tower is only approximately 56 feet away from the lot line that meets the adjacent residential zoned property.
 5. Any other reasonable substantial evidence outlined by the PARC.