

ROSEVILLE
REQUEST FOR COUNCIL ACTION

DATE: 1/11/2010
ITEM NO: 12.c

Department Approval:



City Manager Approval:



Item Description: Request by Clearwire LLC for approval of a 125-foot telecommunication tower facility in Acorn Park, 266 County Road C, as a CONDITIONAL USE (PF09-032)

1.0 REQUESTED ACTION

Clearwire is currently requesting approval of the erection of a 125-foot-tall telecommunication tower at Acorn Park as a CONDITIONAL USE, pursuant to §1013 (General Requirements) and §1014 (Conditional Uses) of the City Code. While the initial installation would include only Clearwire, the tower will be designed to accommodate a height extension and the ground facilities are such that additional equipment can be installed with minimal impact to the aesthetics or use of the park; such future expansion, however, is not currently being considered and would need to be considered through a renewed conditional use approval process.

Project Review History

- Application submitted and determined complete: October 9, 2009
- Sixty-day review deadline: February 6 2010
- Planning Commission recommendation (4-1 to deny): January 6, 2010
- Project report prepared: January 7, 2010
- Anticipated City Council action: January 11, 2010

2.0 SUMMARY OF RECOMMENDATION

In contrast to the recommendation of the Planning Commission to deny the application, Planning Division staff recommends approval of the proposed CONDITIONAL USE, subject to certain conditions; see Section 9 of this report for the detailed recommendation.

3.0 SUMMARY OF SUGGESTED ACTION

Adopt a resolution approving the proposed CONDITIONAL USE, pursuant to §1014.01 (Conditional Uses) of the City Code, subject to conditions; see Section 10 of this report for the detailed action.

24 **4.0 BACKGROUND**

25 4.1 City of Roseville owns the property at 286 County Road C, which has a Comprehensive
26 Plan designation of Park & Open Space (POS) and an identical zoning classification of
27 Park & Open Space (POS).

28 4.2 This CONDITIONAL USE request has been prompted by the applicant's desire to erect the
29 tower, convey it to the City, and lease space for their telecommunication equipment on
30 and at the base of the tower, which makes the City a potential partner in the application in
31 addition to being the landowner.

32 **5.0 INFORMATION TECHNOLOGY COMMENTS**

33 5.1 During staff discussions, Terrence Heiser, Director of Information Technology, explained
34 that Clearwire provides both fixed (i.e., home) Internet access as well as mobile access.
35 Once their system is deployed in the metro area subscribers will be able to take their
36 Internet connection with them if they have a notebook computer, and Twin Citians will
37 have another option in addition to Qwest DSL or Comcast Cable Modem for Internet
38 access. To accomplish this, Clearwire will need hundreds of sites throughout the
39 metropolitan area in addition to several within Roseville's boundaries. Current tower
40 owners were contacted first and, to fill in the holes, Clearwire is exploring the
41 development of new towers, making the question less about *whether* such towers will
42 appear and more about *where* they will be installed and how continuous the wireless
43 network will be.

44 5.2 The current communication technology being used by Clearwire is being called Wi-
45 Max"; a Wi-Max antenna can cover a radius of .3 to 1.2 miles. Given this coverage it is
46 expected that there will be 7 - 9 antenna sites in or around Roseville. Clearwire is specific
47 about the elevation, keeping the antennas about 120' from the ground: in Roseville (and
48 most suburban communities) this creates a challenge since there are very few 10-story
49 buildings to attach antennas. So they need to find free-standing towers. Currently there
50 are 5 free-standing towers in Roseville, but the area around Acorn Park remains a critical
51 void.

52 5.3 A 125-foot-tower in the proposed location within Acorn Park would satisfy Clearwire's
53 minimum height requirements but, without the possibility of increasing the height of the
54 pole, such height would most likely preclude other service providers from co-locating on
55 the tower. And although none of the area's cellular providers indicated to Mr. Heiser an
56 immediate interest in installing transmission equipment in Acorn Park, the current
57 location was selected as a place in which additional providers' equipment could be
58 installed in the future with minimal marginal impact on the aesthetics or functionality of
59 the surrounding park.

60 **6.0 PARKS AND RECREATION COMMENTS**

61 6.1 Aside from suggesting the presently-proposed location as being most out-of-the-way with
62 respect to park users, Parks and Recreation Director, Lonnie Brokke, has indicated that
63 the Parks and Recreation Department is generally supportive of a tower in the proposed
64 Acorn Park location as long as:

- a. the initial tower is limited to 125 feet in height and a diameter that is similar to that of a hockey rink light pole;
- b. the color of the tower structure blends into the park setting; and
- c. the ground-mounted equipment be limited to a 7-foot-by-7-foot area in the proposed location.

6.2 Roseville's Parks and Recreation Commission reviewed the revised proposal for the telecommunication facility during its meeting of January 5, 2010. The Chair of the Parks and Recreation Commission, Bob Willmus, summarized the Commission's action in this way: "the Parks Commission voted down the Clearwire Proposal located at Acorn Park. With the onset of the Parks Master Planning, and the potential that this and many parks may be re-tasked the group did not feel it would be prudent to plan a park around this tower site."

7.0 COMMUNITY DEVELOPMENT COMMENTS

7.1 Roseville's zoning ordinances pertaining to telecommunication towers are as follows:

- a. Section 1013.10A4 (Commercial Towers – Non-City Sites) of the City Code allows privately-owned telecommunication towers as CONDITIONAL USES on private property zoned for business or industrial uses; privately-owned towers are prohibited in all other zoning districts. Clearwire's technological needs have led them to identify the area in or around the western end of Acorn Park as being a critical node in a wireless network, but there are no business or industrial districts in that area. The business-zoned properties along Rice Street are too far east to be considered as suitable alternatives to the proposed Acorn Park location.
- b. Section 1013.10A1 (City-Owned Towers) allows telecommunication towers that are owned by the City as permitted uses in business and industrial districts or as CONDITIONAL USES in all other zoning districts. This provision allows a service provider like Clearwire to erect a tower, convey ownership of the tower to Roseville, and lease the tower and ground space required for their telecommunication equipment within Acorn Park as a CONDITIONAL USE in the POS zoning district.
- c. Section 1013.10A3 (Co-location on City Sites) further requires that new telecommunication equipment be mounted on existing towers when it is "technically feasible" to mount the new equipment among or around existing equipment.

All of the above Code regulations work together to support a telecommunication tower as a CONDITIONAL USE in a City park, but to require that such a tower be owned by the City and accommodate multiple users when it's possible to do so. Although the initial tower is only to be 125 feet tall (in effect a single-user facility), Planning Division staff has determined that there is no technical barrier to increasing the height in the future to accommodate additional telecommunication service providers and, therefore, supports the current proposal as being consistent with the requirements of the zoning ordinances.

7.2 Planning Division staff has some concerns about the technical feasibility of requiring the diameter of the telecommunication pole to be similar to the light poles at the hockey rink, as recommended by the Parks and Recreation Department. Limiting the diameter in this fashion might be physically possible, but the existing light poles appear to be less than 33 feet in height whereas the proposed telecommunication pole would be 125 feet tall– and would be designed to be extended to accommodate other providers in the future.

7.3 REVIEW OF CONDITIONAL USE CRITERIA

Section 1014.01 (Conditional Uses) of the City Code requires the Planning Commission and City Council to consider the following criteria when reviewing a CONDITIONAL USE application:

- Impact on traffic;
- Impact on parks, streets, and other public facilities;
- Compatibility of the site plan, internal traffic circulation, landscaping, and structures with contiguous properties;
- Impact of the use on the market value of contiguous properties;
- Impact on the general public health, safety, and welfare; and
- Compatibility with the City’s Comprehensive Plan.

a. Impact on traffic: The Planning Division has determined that an increase in traffic volume due to the installation of the proposed tower will not be an issue given that such a facility is not the origin or destination of vehicle trips beyond the initial construction and occasional maintenance.

b. Impact on parks, streets and other public facilities: The Planning Division has determined that the only potential impact of a telecommunications tower on the City’s parks, streets, and/or other facilities would be aesthetic given that the presently-proposed location has been selected to ensure that the equipment does not physically interfere with park-related activities.

c. Compatibility ... with contiguous properties: A tower would not change the circulation on the property. While a 125-foot tower in a City park might not be aesthetically compatible with the park and nearby residential uses, Planning Division staff believes that the proposed use (i.e., the provision of wireless Internet service itself) would be seen by most property owners as a residential amenity.

d. Impact of the use on the market value of contiguous properties: Planning Division staff does not believe that a 125-foot telecommunications in the proposed location is likely to have a negative impact on the value of nearby residential parcels in light of the fact that the park has several existing – albeit shorter – light poles.

e. Impact on the general public health, safety, and welfare: The Planning Division is unaware of negative impacts on the general public health, safety, and welfare caused by the provision of wireless Internet service as proposed. Moreover, the Federal Communications Commission, which is the regulating authority for communications equipment like what is currently proposed, prohibits a local government from denying such equipment for reasons pertaining to health.

f. Compatibility with the City's Comprehensive Plan: Although the Land Use chapter of Roseville's Comprehensive Plan makes only one reference to telecommunication infrastructure or the technologies they support, the Plan advocates for such infrastructure in the following statements:

i. VISION CHAPTER

Page 2-1, IR2025 vision statement: *"We value and invest in lifelong learning opportunities and life-cycle housing that attract a diverse mix of residents and businesses and keep our community strong. Leading-edge technology and a comprehensive and reliable transportation system support residents and businesses, and a variety of convenient, flexible, and safe transit alternatives serve all community members."*

Page 2-2, IR2025 goals: *"Roseville has technology that gives us a competitive advantage."*

ii. LAND USE CHAPTER

Page 4-2, General goal/policy 1.10: *"Promote and support the provision of a citywide technology infrastructure that is accessible to both the public and private sectors."*

iii. TRANSPORTATION CHAPTER

Page 5-4, Sustainable Transportation Goals: *"Encourage telecommuting through the development of technology infrastructure."*

iv. ECONOMIC DEVELOPMENT AND REDEVELOPMENT CHAPTER

Page 7-2, business infrastructure policy 3.4: *"Encourage and promote the development of advanced, state-of-the-art telecommunication and information technology infrastructure to and within Roseville."*

v. UTILITIES CHAPTER

Page 10-2, goal 3: *"Coordinate the installation of communication technology infrastructure to be responsive to rapidly evolving systems."*

Page 10-11, Utility improvements: *"In addition to water, sanitary sewer, and storm sewer service, development relies upon the availability of private utilities, notably electricity, natural gas, and communications. While local governments do not control the provision of these services, they do have limited regulatory authority over the location and design of the conveyance infrastructure. The City will continue to facilitate development of these private utilities, while minimizing associated adverse impacts. ... Although water supply and sanitary sewer are the primary focus of this chapter, private utilities (electric, natural gas and telecommunications) are essential elements of Roseville's well-being and future vitality.*

Reliable and high-quality service is required to attract and keep people and businesses in Roseville. As with municipal utilities, the ongoing replacement and upgrading of aging infrastructure is essential. In the coming years, technology infrastructure will be increasingly important. This technology connects Roseville to the global economy."

8.0 PUBLIC HEARING

The duly noticed public hearing for the CONDITIONAL USE application was concluded by the Planning Commission on January 6, 2010.

- 187 8.1 Several members of the public addressed the Planning Commission during the public
188 hearing. All of the residents who spoke live near Acorn Park and most of them were
189 opposed to the tower; the primary concern appeared to be aesthetic, but some were also
190 apprehensive about the facility interfering with park activities. One resident spoke in
191 favor of the proposal because the tower would tend to be overlooked over time but the
192 amenity of increased wireless services would remain.
- 193 8.2 Individual members of the Planning Commission had definite opinions, but there was
194 more ambivalence in the body as a whole. For the most part, Members were sensitive to
195 the visual impacts of the proposed monopole structure and they were reluctant to
196 recommend approving such a facility before the Parks Master Planning effort had yielded
197 its conclusions for this park.
- 198 8.3 Despite their objections, Commissioners seemed to recognize the value of the services
199 provided by the sort of facility being discussed, and most of the discussion revolved
200 around relocating the tower to someplace where the impacts might be diminished. Some
201 locations suggested by the Commission included the commercial properties in the
202 southwest corner of Rice Street and County Road C, or in the easternmost finger of
203 Acorn Park adjacent to Rice Street; these locations were viewed as being no more
204 visually obtrusive and more out-of-the-way with respect to the park. In addition to being
205 significantly closer to individual residences in one of these suggested locations, Planning
206 Division staff is given to understand that these locations are not apt substitutes for the
207 proposed location in terms of the intent of providing the wireless service coverage.

208 **9.0 RECOMMENDATION**

209 9.1 In its review of the CONDITIONAL USE application, the Planning Commission found that a
210 telecommunication tower in the proposed location could have adverse impacts on the
211 public park, which is to be considered with such requests, and consequently voted (4-1)
212 to recommend denial of the proposed CONDITIONAL USE.

213 9.2 Based the general consensus of City staff in support of the proposed location of the
214 telecommunication tower indicated in Sections 5-6 of this report and the findings
215 outlined in Section 7 of this report, the Planning Division continues to recommend
216 approval of the proposed CONDITIONAL USE, subject to the following conditions:

- 217 **a.** The applicant shall provide documentation demonstrating that Clearwire's
218 equipment will operate within the technical requirements of the Federal
219 Communications Commission;
- 220 **b.** The tower and ground-mounted equipment shall be located as shown on the site
221 plan included with this report as part of Attachment D;
- 222 **c.** The top of the proposed monopole tower shall not be higher than 125 feet above
223 the grade at the base of the structure and the color of the tower structure shall be
224 selected so as to blend into the park setting as much as possible;
- 225 **d.** External lights (i.e., those not integral to the equipment itself) shall not be
226 installed on the tower or equipment; and
- 227 **e.** Any wiring serving the equipment shall be buried.

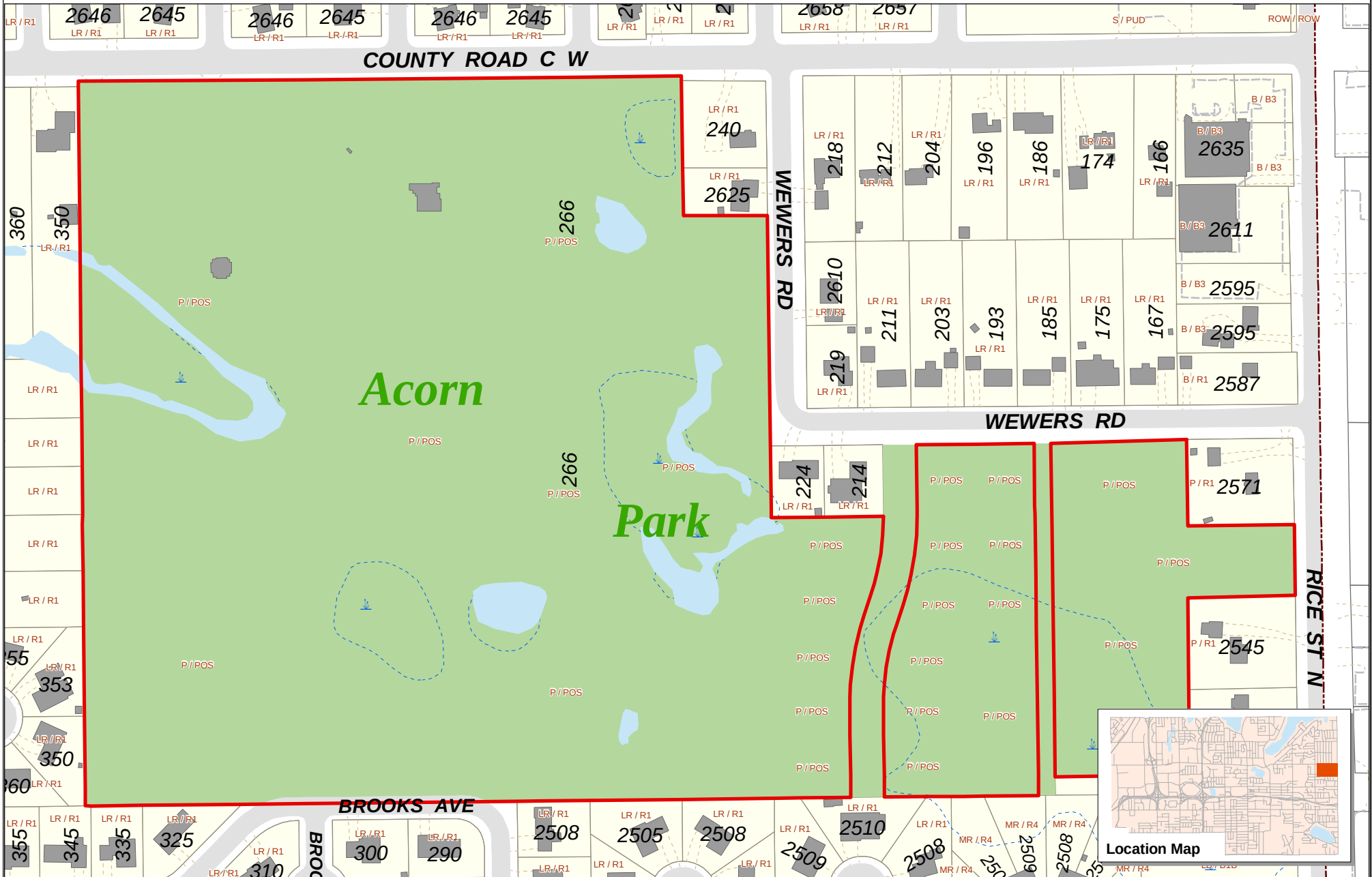
228 **10.0 SUGGESTED ACTION**

229 **Adopt a resolution approving the proposed** CONDITIONAL USE for Clearwire, LLC to
230 allow the erection of a 125-foot telecommunication tower at 286 County Road C, based
231 on the comments and findings of Sections 4-7 and conditions of Section 8 of this report.

Prepared by: Associate Planner Bryan Lloyd (651-792-7073)

Attachments: A: Area map C: Proposed plans
B: Aerial photo D: Draft resolution

Attachment A: Location Map for Planning File 09-032



Prepared by:
Community Development Department
Printed: October 30, 2009

Site Location

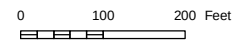
LR / R1 Comp Plan / Zoning
Designations

Data Sources

* Ramsey County GIS Base Map (9/29/2009)
For further information regarding the contents of this map contact:
City of Roseville, Community Development Department,
2660 Civic Center Drive, Roseville MN

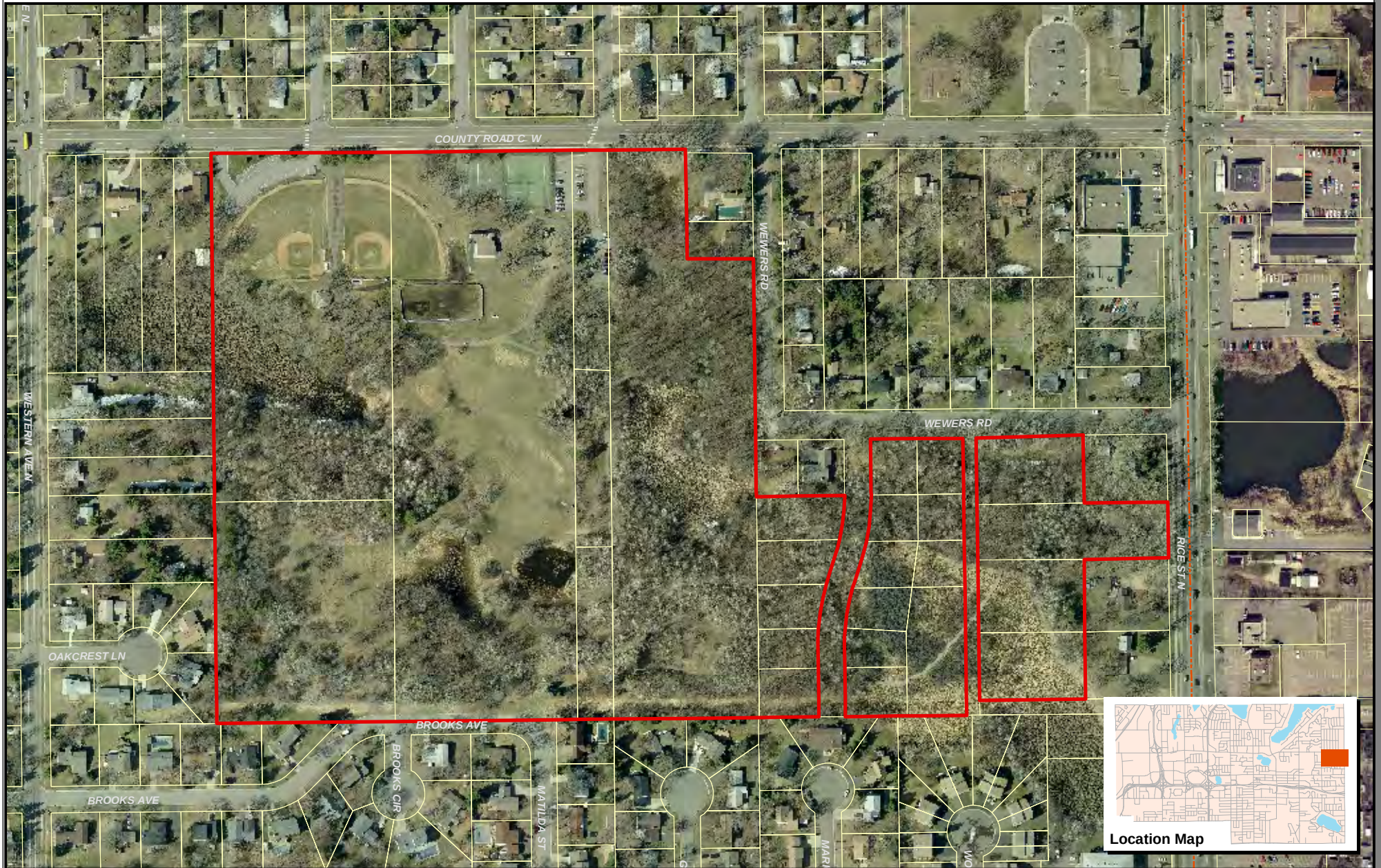
Disclaimer

This map is neither a legally recorded map nor a survey and is not intended to be used as one. This map is a compilation of records, information and data located in various city, county, state and federal offices and other sources regarding the area shown, and is to be used for reference purposes only. The City does not warrant that the Geographic Information System (GIS) Data used to prepare this map are error free, and the City does not represent that the GIS Data can be used for navigational, tracking or any other purpose requiring exacting measurement of distance or direction or precision in the depiction of geographic features. If errors or discrepancies are found please contact 651-792-7085. The preceding disclaimer is provided pursuant to Minnesota Statutes §466.03, Subd. 21 (2000), and the user of this map acknowledges that the City shall not be liable for any damages, and expressly waives all claims, and agrees to defend, indemnify, and hold harmless the City from any and all claims brought by User, its employees or agents, or third parties which arise out of the user's access or use of data provided.



mapdoc: planning_commission_location.mxd

Attachment B: Aerial Map of Planning File 09-032



Prepared by:
Community Development Department
Printed: October 30, 2009



Site Location

Data Sources

* Ramsey County GIS Base Map (9/28/2009)

* Aerial Data: Pictometry (4/2008)

For further information regarding the contents of this map contact:
City of Roseville, Community Development Department,
2660 Civic Center Drive, Roseville MN

Disclaimer

This map is neither a legally recorded map nor a survey and is not intended to be used as one. This map is a compilation of records, information and data located in various city, county, state and federal offices and other sources regarding the area shown, and is to be used for reference purposes only. The City does not warrant that the Geographic Information System (GIS) Data used to prepare this map are error free, and the City does not represent that the GIS Data can be used for navigational, tracking or any other purpose requiring exacting measurement of distance or direction or precision in the depiction of geographic features. If errors or discrepancies are found please contact 651-792-7085. The preceding disclaimer is provided pursuant to Minnesota Statutes §466.03, Subd. 21 (2009), and the user of this map acknowledges that the City shall not be liable for any damages, and expressly waives all claims, and agrees to defend, indemnify, and hold harmless the City from any and all claims brought by User, its employees or agents, or third parties which arise out of the user's access or use of data provided.

0 50 100 150 200
Feet



Clearwire – Acorn Park Wireless Communications Pole



Current view from West Parking Lot – Facing South East



Proposed Communication Pole- View from West Parking Lot – Facing South East

Clearwire – Acorn Park Wireless Communications Pole



Proposed Site – Viewing West/South West from Pathway



Pedestrian View of Proposed Pole and Ground Equipment

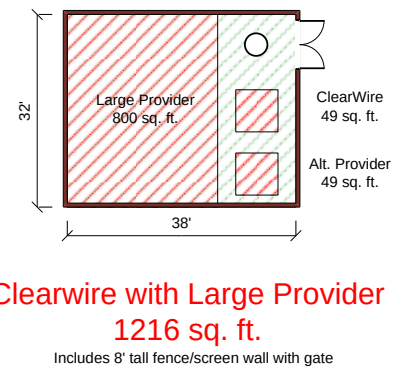
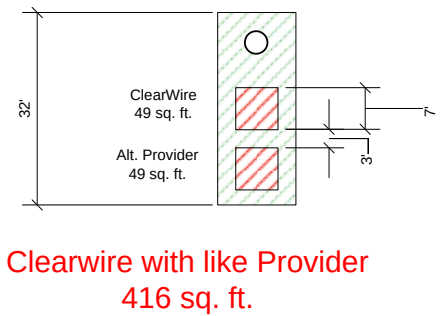
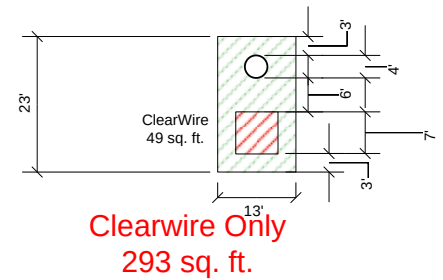
Clearwire - Acorn Park Location



DISCLAIMER: This map is neither a legally recorded map nor a survey and is not intended to be used as one. This map is a compilation of records, information and data located in various city, county, state and federal offices and other sources regarding the area shown, and is to be used for reference purposes only.

SOURCES: City of Roseville and Ramsey County, The Lawrence Group; December 1, 2009 for City of Roseville data and Ramsey County property records data, December 2009 for commercial and residential data, April

Clearwire – Acorn Park Wireless Communications Pole



Legend

- 150' Monopole
- ▨ Ground Lease Area 49 sq. ft.

**EXTRACT OF MINUTES OF MEETING OF THE
CITY COUNCIL OF THE CITY OF ROSEVILLE**

Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of Roseville, County of Ramsey, Minnesota, was held on the 11th day of January 2010, at 6:00 p.m.

The following Members were present: _____;
and the following Members were absent: _____.

Council Member _____ introduced the following resolution and moved its adoption:

**RESOLUTION NO. _____
A RESOLUTION APPROVING A 125-FOOT TELECOMMUNICATION TOWER
FACILITY AS A CONDITIONAL USE IN ACCORDANCE WITH §1013.10 AND
§1014.01 OF THE ROSEVILLE CITY CODE FOR CLEARWIRE LLC AND CITY OF
ROSEVILLE (PF09-032)**

WHEREAS, City of Roseville owns the property at 286 County Road C; and

WHEREAS, the subject property is legally described as:

**SECTION 12 TOWN 29 RANGE 23 S 400 FT OF N 930 FT OF E 82 5/10 FT OF W 1309
2/10 FT OF NE 1/4 (SUBJ TO RDS AND ESMTS) IN SEC 12 TN 29 RN 23
PIN: 12-29-23-12-0002**

WHEREAS, Clearwire LLC in conjunction with the property owner seeks to allow the construction of a 125-foot telecommunication tower to be owned by City of Roseville, which is a conditionally permitted use in the applicable Park & Open Space Zoning District; and

WHEREAS, the Roseville City Council has determined that approval of the requested CONDITIONAL USE will not adversely affect the conditions on, or the value of, nearby properties and will not compromise the health, safety, and general welfare of the citizens of Roseville;

NOW THEREFORE BE IT RESOLVED, by the Roseville City Council, to APPROVE the request for a CONDITIONAL USE in accordance with Sections §1014.01 and §1013.10 of the Roseville City Code, subject to the following conditions:

- a. The applicant shall provide documentation demonstrating that Clearwire's equipment will operate within the technical requirements of the Federal Communications Commission;
- b. The tower and ground-mounted equipment shall be located as shown on the site plan included with this report as part of Attachment D;
- c. The top of the proposed monopole tower shall not be higher than 125 feet above the grade at the base of the structure and the color of the tower structure shall be selected so as to blend into the park setting as much as possible;

34 **d.** External lights (i.e., those not integral to the equipment itself) shall not be
35 installed on the tower or equipment; and

36 **e.** Any wiring serving the equipment shall be buried.

37 The motion for the adoption of the foregoing resolution was duly seconded by Council
38 Member _____ and upon vote being taken thereon, the following voted in favor: _____;
39 and _____ voted against;

40 WHEREUPON said resolution was declared duly passed and adopted.

[illegible]

WITNESS MY HAND officially as such Manager this 11th day of January 2010.

(SEAL)