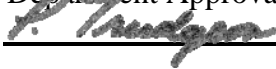


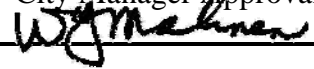

REQUEST FOR COUNCIL ACTION

DATE: 3/29/2010
ITEM NO: 12.d

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 requesting approval of a telecommunication monopole facility at Acorn Park as a **CONDITIONAL USE**, pursuant to §1013 (General Requirements) and §1014 (Conditional Uses) of the City Code.

Project Review History

- Application submitted and determined complete: October 9, 2009
- Planning Commission recommendation (4-1 to deny): January 6, 2010
- Project report prepared: March 24, 2010
- Anticipated City Council action: March 29, 2010
- Extended review deadline: April 7 2010

2.0 SUMMARY OF RECOMMENDATION

After reviewing the circumstances surrounding the application, the City Attorney recommends denying the application for **CONDITIONAL USE** approval based on the absence of a City policy for determining when or whether Roseville, as a property owner, is interested in locating telecommunication infrastructure on City-owned property; additional information explaining the basis of this recommendation is contained in the body of this report.

3.0 SUMMARY OF SUGGESTED ACTION

Adopt a resolution denying the proposed **CONDITIONAL USE**; see Section 8 of this report for the detailed action.

4.0 NEXT STEPS

As the importance and prevalence of wireless communication intensifies, it is increasingly important for the City Council to adopt a policy which:

- a. determines whether the Comprehensive Plan supports wireless telecommunication infrastructure on City-owned property;
- b. establishes a framework for determining where such infrastructure is inappropriate and where it can be considered; and
- c. identifies if or when Roseville will participate in land use applications in specific locations.

30 **5.0 BACKGROUND**

31 5.1 City of Roseville owns the property at 286 County Road C, which has a Comprehensive
32 Plan designation of Park & Open Space (POS) and an identical zoning classification of
33 Park & Open Space (POS).

34 5.2 This CONDITIONAL USE request has been prompted by the applicant's desire to erect the
35 tower, convey it to the City, and lease space for their telecommunication equipment on
36 and at the base of the tower, which makes the City a partner in the application in addition
37 to being the landowner.

38 **6.0 STAFF COMMENTS**

39 6.1 Although Roseville City staff has continued to work with Clearwire's application for
40 approval of a telecommunication tower facility as a CONDITIONAL USE in Acorn Park,
41 conflicts persist between the policies that guide the activities and recommendations of
42 various City Departments. As a specific example, the Parks and Recreation Department is
43 responsible for maintaining a high quality experience for park users and believes that a
44 telecommunication facility suitable for multiple service providers is inappropriate in
45 Acorn Park, whereas Community Development staff believes that the proposed facility is
46 consistent with the guidance of the Comprehensive Plan and the requirements of the
47 zoning code and, therefore, ought to be approved.

48 6.2 This impasse appears to be a result of the absence of a City policy for the siting of
49 telecommunications towers. Without a general City policy for determining when or
50 whether Roseville, as a property owner, is interested in locating telecommunication
51 infrastructure on City-owned property, the City is unable to answer this question as it
52 applies specifically to Acorn Park.

53 6.3 Given the City's inability to act on the specific land use request in the face of lingering
54 uncertainty on the broader policy question, City staff has asked whether Clearwire is
55 willing to withdraw the application since withdrawal would provide an opportunity to
56 resolve the policy issue without the pressure of the land use application. Clearwire was
57 not interested in withdrawing, and this is the last City Council meeting prior to the
58 deadline for final action on the application.

59 **7.0 RECOMMENDATION**

60 The City Attorney recommends denial of CONDITIONAL USE proposal, based on the
61 following findings:

- 62 **a.** as the co-applicant and property owner in the proposal, the City of Roseville does
63 not support the application at this time; and
- 64 **b.** the City of Roseville lacks a policy that adequately addresses the location of
65 telecommunication infrastructure on City-owned properties to minimize negative
66 impacts with respect to the standard conditional use review criteria.

67 **8.0 SUGGESTED ACTION**
68 **Adopt a resolution denying the proposed conditional use**, based on the comments in
69 Section 6 and the finding in Section 7 of this report.

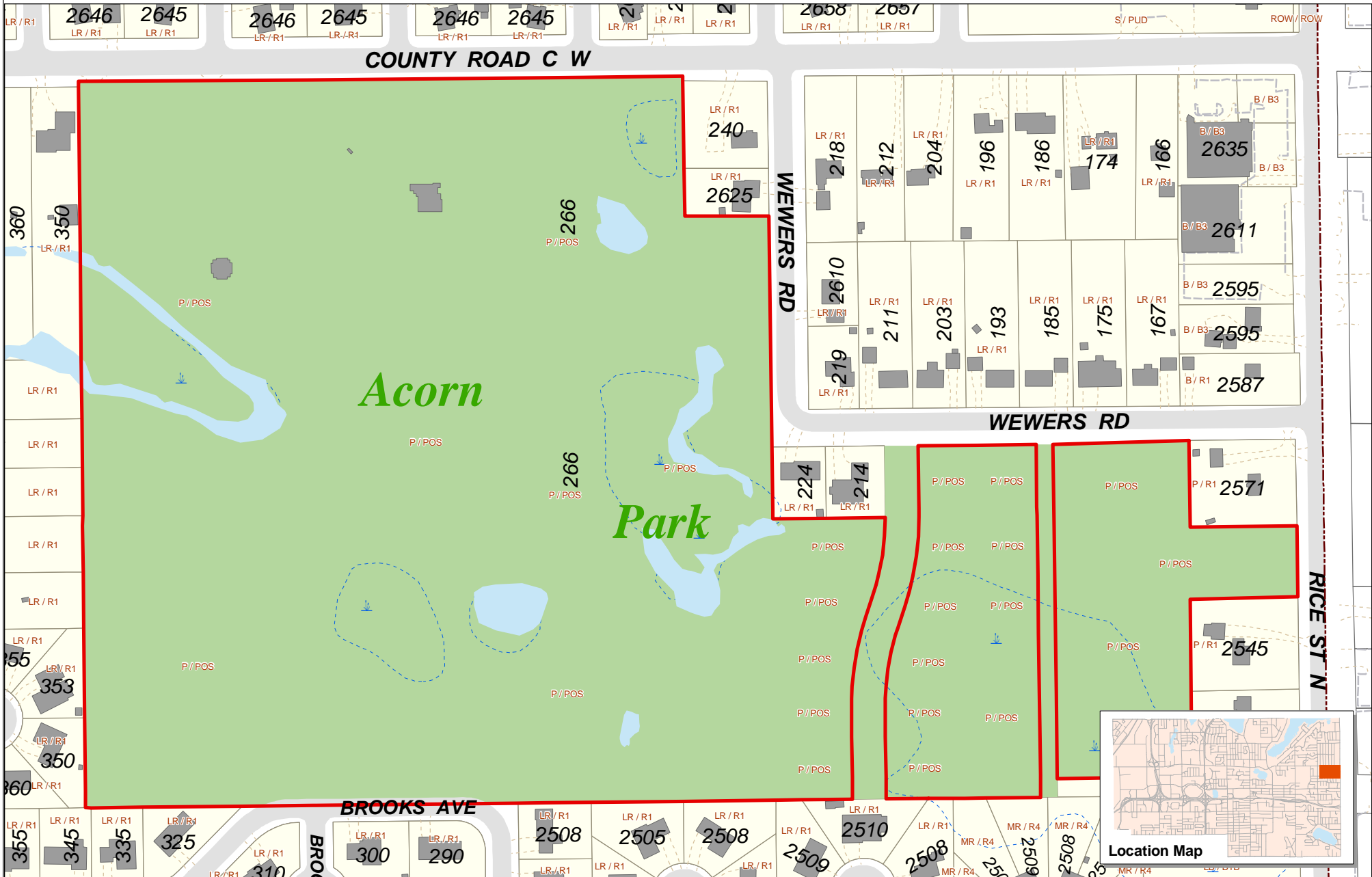
70 **9.0 NEXT STEPS**

71 Community Development staff is aware of interest in locating telecommunication
72 monopole facilities in other City-owned parks, although no proposals have yet been
73 submitted. For this reason, it is increasingly important for the City Council to adopt a
74 policy which:

- 75 **a.** determines whether the Comprehensive Plan supports wireless telecommunication
76 infrastructure on City-owned property;
- 77 **b.** establishes a framework for determining where such infrastructure is
78 inappropriate and where it can be considered; and
- 79 **c.** identifies if or when Roseville will participate in land use applications in specific
80 locations. Remember that an application for conditional use approval initiates the
81 60-day action timeline and must be approved if the proposal satisfies the
82 applicable criteria in the zoning code.

Prepared by: Associate Planner Bryan Lloyd (651-792-7073)
Attachments: A: Area map B: Draft resolution

Attachment A: Location Map for Planning File 09-032



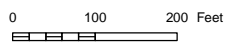
Prepared by:
 Community Development Department
 Printed: October 30, 2009



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.



**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 29th day of March 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 DENYING 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 found that:

1. as the co-applicant and property owner in the proposal, the City of Roseville does not support the application at this time; and
2. the City of Roseville lacks a policy that adequately addresses the location of telecommunication infrastructure on City-owned properties to minimize negative impacts with respect to the standard conditional use review criteria.

NOW THEREFORE BE IT RESOLVED, by the Roseville City Council, to DENY the proposed CONDITIONAL USE in accordance with Sections §1014.01 and §1013.10 of the Roseville City Code.

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

WHEREUPON said resolution was declared duly passed and adopted.

Resolution – Clearwire/Acorn Park, 286 County Road C (PF09-032)

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

I, the undersigned, being the duly qualified City Manager of the City of Roseville, County of Ramsey, State of Minnesota, do hereby certify that I have carefully compared the attached and foregoing extract of minutes of a regular meeting of said City Council held on the 29th day of March 2010 with the original thereof on file in my office.

WITNESS MY HAND officially as such Manager this 29th day of March 2010.

William J. Malinen, City Manager

(SEAL)