

**THE CITY OF KEY WEST
PLANNING BOARD
Staff Report**



To: Chairman and Planning Board Members

From: Brendon Cunningham

Through: Amy Kimball-Murley, AICP, Planning Director

Meeting Date: July 15, 2010

Agenda Item: Conditional Use Application for a proposed wireless telecommunications facility (consisting of a mono-pole and associated equipment shelters) as a private utility within the Commercial General (CG) zoning district per Section 122-418(9) of the LDRs for property located at 1010 Kennedy Drive (RE # 00065650-000500).

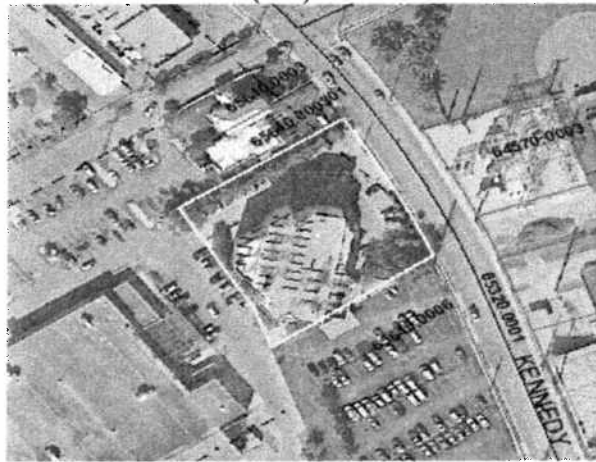
Request: To allow the construction of a wireless telecommunications facility with equipment shelters and a 105 foot tall mono-pole to be constructed within a designated common area on property located at 1010 Kennedy Drive.

Applicant: AT&T Mobility, Kennedy Building Associates, LLC. and Kennedy Center Condominium Association, Inc.

Property Owner: Kennedy Building Associates, LLC. and Kennedy Center Condominium Association, Inc.

Location: 1010 Kennedy Drive (RE# 00065650-000500)

Zoning District: General Commercial (CG)



Background:

The proposed project is located on property with an existing four story commercial building. The property is surrounded on three sides by commercially zoned properties and on one side by City owned ball fields in a public service-zoned district across Kennedy Drive. There is a residential neighborhood southwest of the property, abutting the rear-yard of the adjacent commercial uses.

Request:

The applicant is proposing to construct a wireless telecommunications facility that will consist of three equipment shelters and one equipment cabinet on the rooftop of an existing structure and with an associated 105 foot tall mono-pole capable of serving four FCC registered wireless providers located adjacent to the existing structure. Cellular phones have become an essential public service and as such are defined as a public and private utility per Section 86-9 of the Code. Public and Private Utilities are allowed conditionally in the CG zoning district per Section 122-418(9) of the Code. The purpose of this application is to accommodate the increased use and number of users of cellular telephones within the community and address the applicant's described "gap" in cellular service. The applicant held three public meetings on the proposed site to address questions and concerns of nearby residents and to describe the project as it evolved over time. In addition, the applicant has responded to staff requests for additional information on a variety of topics and provided a revised application to reflect the full body of information provided over time.

The proposed facility will meet all dimensional requirements regarding setbacks. The existing building coverage will remain the same and the impervious surface ratio will be slightly reduced. However, the height of the associated mono-pole antennas and equipment shelters will require a height variance. The variance is part of a separate application that will be reviewed by the City Commission sitting as the Board of Adjustment.

Surrounding Zoning and Uses:

North: CG, Commercial

South: CG, Parking Lot

East: PS, Wicker's Field

West: CG, Commercial Retail - Key Plaza Shopping Center

Permitted Uses in the CG Zoning District Per Section 122-417

- (1) Group homes with less than or equal to six residents as provided in section 122-1246.
- (2) Cultural and civic activities.
- (3) Hospitals and extensive care.
- (4) Places of worship.
- (5) Business and professional offices.
- (6) Commercial retail low and medium intensity less than or equal to 10,000 square feet.
- (7) Commercial retail high intensity less than or equal to 5,000 square feet.
- (8) Hotels, motels, and transient lodging.
- (9) Medical services.
- (10) Parking lots and facilities.

- (11) Restaurants, with or without drive-through.
- (12) Veterinary medical services with or without outside kennels.

Conditional Uses Per Section, 122-418

- (1) Single-family/two-family residential dwellings.
- (2) Multiple-family residential dwellings.
- (3) Group homes with seven to 14 residents as provided in section 122-1246.
- (4) Community centers, clubs and lodges.
- (5) Educational institutions and day care.
- (6) Nursing homes, rest homes and convalescent homes.
- (7) Parks and recreation, active and passive.
- (8) Protective services.
- (9) Public and private utilities.**
- (10) Bars and lounges.
- (11) Boat sales and service.
- (12) Commercial retail low and medium intensity greater than 10,000 square feet.
- (13) Commercial retail high intensity greater than 5,000 square feet.
- (14) Commercial amusement.
- (15) Funeral homes.
- (16) Gasoline stations.
- (17) Light industrial.
- (18) Marinas.
- (19) Small recreational power-driven equipment rentals (allowed only as an accessory use to a hotel/motel).
- (20) Vehicular sales and related services.
- (21) Tattoo establishments (see division 13 of Article V)

Process:

Development Review Committee:

September 17, 2009; March 25, 2010

Tree Commission:

April 12, 2010

Planning Board:

July 15, 2010

Conditional Use Review:

Code Sec.122-62 (a) provides, in part, that “a conditional use shall be permitted upon a finding by the Planning Board that the proposed use, application, and, if applicable, development plan comply with the criteria specified in this section, including specific conditions established by the Planning Board and or the City Commission during review of the respective application in order to ensure compliance with the Comprehensive Plan and Land Development Regulations.” The same section also specifies that “A conditional use shall be denied if the City determines that the proposed use does not meet the criteria provided in this section and, further, that the proposed conditional use is adverse to the public’s interest.”

Conditional Use Criteria Per Code Sec. 122-62:

(a) Findings:

The Planning Board may find that the application meets the Code purpose of ensuring that “a conditional use shall only be permitted on specific sites where the proposed use may be adequately accommodated without generating adverse impacts on properties and land uses within the immediate vicinity.”

The following criteria form the basis for a finding of compliance.

(b) Characteristics of Use Described:

1) Scale and Intensity

a. Floor Area Ratio (FAR):

Not applicable; the proposal is for equipment shelters and a mono-pole, none of which are considered to be habitable space and thus are not considered floor area.

b. Traffic Generation:

Traffic generation will be associated with scheduled maintenance which would consist of one trip per month for each service provider.

c. Square Feet of Enclosed Building for Each Specific Use:

Not applicable; the shelters are for equipment and are not habitable space.

d. Proposed Employment

According to the applicant, there will be no onsite employees. The applicant states that the service providers will use existing staff to service the facility as needed.

e. Proposed Number of Service Vehicles:

Each wireless provider will service the facility with one team and associated vehicle monthly.

f. Off-Street Parking:

Although this application addresses a change in use, it does not constitute a factor which is expected to increase parking demand per Section 108-571. Further, on site parking is now provided as part of the legally established structure.

2) On or Off site Improvements Required and Not Listed in Subsection (b)(1)

a. Utilities:

No utility improvements are expected to be required as a result of the proposed conditional use. Further, Keys Energy Services and the Florida Keys Aqueduct Authority have no objections to the proposed conditional use.

b. Public facilities:

The addition of the unmanned equipment shelters and the mono-pole will not increase the need for sewer, water, or stormwater management facilities. The project, as presented, will result in a minor decrease to the impervious surface ratio on the site.

c. Roadway or Signal Improvements:

Not applicable; no changes are being proposed to roadway or signal improvements.

d. Accessory Structures or Facilities:

Not applicable; no improvement needs are generated by the proposed conditional use.

e. Other Unique Facilities/Structures Proposed as Part of On-Site Improvements:

Equipment shelters on the site will be located above flood levels as they are to be placed on the roof of the building.

3) On-Site Amenities Proposed to Enhance the Site and Planned Improvements.

a. Open Space:

The applicant proposes to remove existing pavement and landscape to install the mono-pole. The landscaping will be reinstalled in another location.

b. Setbacks from Adjacent Properties:

The property has legal non-conforming left and rear yard setbacks. The equipment will be located on the roof and as such is not subject to setback requirements. The mono-pole does not further increase the non-conforming rear yard setback.

Yard	Allowed	Existing	Proposed
Front	25'*	NA	NA
Rear	25'*	12'	12'
L. Side	15'^	0'	0'
R. Side	15'^	NA	NA

* Can be increased to 20% of lot depth up to 50 feet for buildings over 25 feet in height

^ Can be increased to 10% of lot width up to 20 feet

c. Screening and Buffers:

The addition of equipment on the roof and the mono-pole do not require additional buffers.

d. Landscaped Berms Proposed to Mitigate Against Adverse Impacts to Adjacent Sites:

Landscape berms are not proposed and are not considered to be effective mitigation for the utility.

e. Mitigative Techniques for Abating Smoke, Odor, Noise, and Other Noxious Impacts:

Not applicable; the proposed facility will not produce smoke, odor, noise or other noxious impacts.

c) Criteria for Conditional Use Review and Approval: Applications For a Conditional Use Review Shall Clearly Demonstrate the Following.

1) Land Use Compatibility:

The project parcel is surrounded by existing commercial development. The leasehold area is located on the roof of an existing four story commercial building. The associated mono-pole is proposed to be at the rear of the property adjacent to the building. The property is surrounded on all sides by uses that require pole lighting. The adjacent parking areas of the commercial uses have pole lighting as do the ball fields across Kennedy Drive. Additionally, there is a Keys Energy substation with associated power poles on Kennedy Drive. Although the mono-pole will be higher than nearby poles and structures, its location within an area with many existing structures is expected to minimize visual impacts thus the monopole is expected to blend in from most perspectives.

2) Sufficient Site Size, Adequate Site Specifications and Infrastructure to Accommodate the Proposed Use:

The size and shape of the site are adequate to accommodate the proposed scale and intensity of the conditional use requested. No proposed changes to access or internal circulation are being proposed. The applicant intends to use existing infrastructure on the site. Urban design amenities are not considered appropriate to the leasehold area based on the proposed location on the roof of the building. The surface development of the site (the equipment shelters) is not expected to be visible from nearby residential areas; however, the monopole may be visible from a number of different locations in the immediate vicinity and will add to skyline clutter already existing in the area. However, typical approaches to visual impacts (such as screening and landscaping) are not expected to be helpful for a project of this type, regardless of its location.

The applicant has provided structural information on the proposed mono-pole including an assessment of the likelihood of failure and a radius of impact should the pole structure collapse. This analysis was prepared for a 125' structure; 105' is proposed now. The information submitted by the applicant shows a maximum catastrophic impact area of approximately 125' from the center of the pole. The entire impact area includes commercial structures and pavement; no residential uses are located within the area.

3) Proper Use of Mitigative Techniques:

The proposed leasehold area is located on the roof of an existing building, and is surrounded by commercial shopping centers and ball fields. However, the height of the monopole structure may result in aesthetic impacts to areas beyond the immediate vicinity. The visual impacts of tall structures can be mitigated by distance from sensitive uses as well as obscuring structures between the monopole and the viewer. The applicant has submitted simulations showing how the structure may appear from various locations. In many cases the proposed structure will blend in with existing structures, including light standards and power poles which are common in the area.

However, there may not be a practical way to mitigate appearance from all possible locations in the vicinity.

The applicant has included, at the Department's request, a series of general notes, equipment notes, and tower notes on the site plan series accompanying the application. These notes require tower inspection every five years, structural standards for the tower, compliance with federal standards, limits to co-location of service providers, prohibition of accessory structures, safety signage and contact information requirements, prohibition of lighting except as required by the FAA or FCC, prohibitions of interference with public safety signals, limits to noise created by generators in the event of electrical power failure, and requirements for the facility to be automated.

4) Hazardous Waste:

No hazardous waste will be generated by the proposed conditional use.

5) Compliance with Applicable Laws and Ordinances:

The applicant will comply with all applicable laws and regulations as a condition of approval, including federal requirements pertaining to air traffic safety, wireless communication facilities, and the National Historic Preservation Act.

6) Additional Criteria Applicable to Specific Land Uses. Applicants Shall Demonstrate the Proposed Conditional Use Satisfies the Following Criteria:

a. Land Uses Within a Conservation Area:

Not applicable; the site is not located in a conservation area.

b. Residential Development:

Not applicable; residential development is not proposed.

c. Commercial or Mixed Use Development:

Not applicable; mixed use development is not proposed

d. Development Within or Adjacent to Historic Districts:

Not applicable; the proposed facility is not proposed to be located within an historic district. The applicant has provided documentation acceptable to the HARC Planner demonstrating that there are no significant historic structures within 500 feet of the site.

e. Public Facilities or Institutional Development:

Not applicable; while the equipment and mono-pole are considered a utility, no public facilities or institutional developments are being proposed.

f. Commercial Structures, Uses and Related Activities Within Tidal Waters:

Not applicable; this site is not located within tidal waters.

g. Adult Entertainment Establishments:

Not applicable; no adult entertainment is being proposed.

Concurrency Facilities and Other Utilities or Service (Section 108-233):

Concurrency management has been previously addressed in this report. The proposed application is in compliance with Chapter 94 of the City Code of Ordinances.

RECOMMENDATION:

The Planning Department, based on the criteria established by the Comprehensive Plan and the Land Development Regulations, recommends the request for conditional use be **approved** with the following conditions:

1. The applicant must receive a height variance from the City of Key West Board of Adjustment.
2. The site plan package, including general notes, equipment shelter notes, and tower notes are fully incorporated into this approval and constitute conditions of approval.
3. Pending Federal Aviation Association and National Historic Preservation Act approvals as required for the facility will be obtained.
4. The applicant will provide revised plans which consistently show the proposed tower height as 105'.