

TV/SP
12/2/2010
2010.367 Special Use

ORIGINAL



CITY OF AURORA
CITY COUNCIL

ORDINANCE NUMBER 010-073

DATE OF PASSAGE December 21, 2010

PETITIONER: Shetland Properties of Aurora, LLC

AN ORDINANCE GRANTING A SPECIAL USE PERMIT FOR A 150 FOOT TELECOMMUNICATION TOWER WITHIN 500 FEET OF RESIDENTIALLY ZONED PROPERTY USE LOCATED 225 S. HIGHLAND AVENUE, AURORA, ILLINOIS, 60505

WHEREAS, the City of Aurora has a population of more than 25,000 persons and is, therefore, a home rule unit as defined in Article 7 Section 6(a), of the 1970 Constitution of the State of Illinois; and

WHEREAS, said section of the Constitution authorizes a home rule unit to exercise any power and perform any function pertaining to its government and affairs for the protection of the public health, safety, morals and welfare; and

WHEREAS, Shetland Properties of Aurora, LLC is the owner of record of the real estate legally described on Exhibit "A", attached hereto and incorporated herein by reference as if fully set forth, and hereafter referred to as Exhibit "A;" and

WHEREAS, by petition dated November 9, 2010, Shetland Properties of Aurora, LLC filed a special use petition with the City of Aurora to authorize the use of the real property legally described in said Exhibit "A" for a ; and

WHEREAS, after referral of said petition from the Aurora City Council, and after due notice and publication of said notice, the Aurora Planning Commission conducted a public hearing on December 1, 2010, with respect to said petition for special use and found that said petition met the standards prescribed by Section 10.6-5 of said Ordinance Number 3100 being the Aurora Zoning Ordinance, and recommended the special use be granted subject to the following conditions:

1. That the property described in Exhibit "A" be developed in accordance with the site plan described on Exhibit "B"; and
2. That the petitioner agrees to implement the above-stated conditions, and sign the Memorandum of Agreement attached hereto as Exhibit "C" within fourteen (14) days from the date of passage of this Ordinance.

WHEREAS, the City Council, based upon the conditional recommendation and the stated standards of the Planning Commission, finds that the proposed special use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare, will not be injurious to the use of other property in the immediate vicinity, nor diminish or impair property values in the neighborhood and, further, the City Council finds that the granting of this special use will not impede normal and orderly development and improvement of surrounding property for uses permitted in the district and that adequate utilities, access roads, drainage and other facilities are being provided and that the special use will in all respects conform to the applicable regulations of the M-2(S) District zoning classification except as varied herein; and

WHEREAS, the City Council, finds that the proposed special use is not contrary to the purpose and intent of said Ordinance Number 3100, being the Aurora Zoning Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Aurora, Illinois, As follows:

Section One: That said City Council of the City of Aurora, Illinois finds as fact all of the preamble recitals of this Ordinance.

Section Two: In accordance with the Ordinance Number 3100, being the Aurora Zoning Ordinance and the Zoning Map Attached Thereto, and Section 19-71 of the Telecommunication Services and Facilities Ordinance of Aurora Code of Ordinances, a special use permit is hereby granted for a 150 foot telecommunication tower within 500 feet of residentially zoned property, and permitted for the real estate legally described in Exhibit "A".

Section three: That this special use permit hereby granted is solely for the purpose of a use subject to all of the conditions hereinafter set forth which shall be binding and remain in full force and effect upon the applicant and his respective heirs, executors, administrators, successors, assigns, devisees for the duration of said use.

Section Four: That said special use permit is granted specifically contingent upon the following conditions:

1. That the property described in Exhibit "A" be developed in accordance with the site plan described on Exhibit "B"; and
2. That the petitioner agrees to implement the above-stated conditions, and sign the Memorandum of Agreement attached hereto as Exhibit "C" within fourteen (14) days from the date of passage of this Ordinance.

Section Five: That should any of the above-stated conditions not be met, the City Council shall take the necessary steps to repeal this Ordinance.

Section Six: That future proposals for expansion or intensification of whatever kind for the real property legally described in said Exhibit "A", except as provided for herein, shall be considered only upon proper application, notice and hearing as provided by Section 10.6 of said the Ordinance Number 3100, being the Aurora Zoning Ordinance.

Section Seven: That the real property legally described in said Exhibit "A" shall remain in the underlying zoning classification of M-2 District and, upon termination of the use of said property for a telecommunications tower, this special use permit shall terminate and the classification of M-2 shall be in full force and effect.

Section Eight: That failure to comply with any condition provided for herein shall render this special use permit null and void.

Section Nine: That this shall remain subject to compliance, except as herein modified, with the minimum standards of all applicable City ordinances.

Section Ten: That all other ordinances or parts of ordinances in conflict herewith are hereby repealed insofar as any conflict exists.

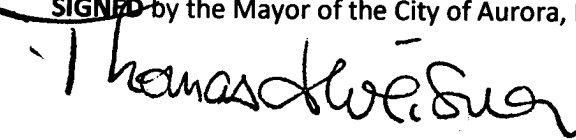
Section Eleven: That this ordinance shall be in full force and effect, and shall be controlling, upon its passage and approval.

Section Twelve: That any section, phrase or paragraph of this Ordinance that is construed to be invalid, void or unconstitutional shall not affect the remaining sections, phrases or paragraphs of this Ordinance which shall remain in full force and effect.

PASSED AND APPROVED by the City Council of the City of Aurora, Illinois on this 21 day of Dec., 2010.

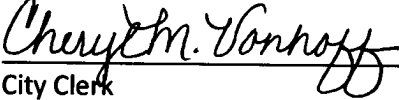
AYES 11 **NAYS** 0 **NOT VOTING**

SIGNED by the Mayor of the City of Aurora, Illinois, on this 21 day of Dec., 2010.



Mayor
City of Aurora, Illinois

Attest:



City Clerk

Case File Number: AU21/3-10.367-Su
Parcel Number: 15-21-377-041

This instrument prepared by:
Aurora Planning Division
1 South Broadway
Aurora, Illinois 60505

Exhibit "A"

LEGAL DESCRIPTION

For the Final Plan for the property located at the 225 S. Highland Avenue

Exhibit "B"

INFORMATION SHEET

For the Final Plan for the property located at the 225 S. Highland Avenue

Owner: Shetland Properties of Aurora, LLC
5420 W. Roosevelt Road
Chicago, IL 60644

Date Plan Received By Planning: December 6, 2012

Plan Prepared By: Fullerton Engineering Consultants
9600 W. Bryn Mawr Avenue
Rosemont, IL 60018

Note: A copy of this plan as referenced hereon is on file in the City of Aurora Planning Division Office on the Second Floor, 1 South Broadway, Aurora, Illinois, 60505.

Exhibit "C"

MEMORANDUM OF AGREEMENT

For the Final Plan for the property located at the 225 S. Highland Avenue

Shetland Properties of Aurora, LLC, petitioner for the special use permit for Special Use Petition on 17.4 acres for a 150 foot telecommunication tower located at 225 S. Highland Avenue granted in Ordinance Number _____, agrees to abide by all of the provisions of said Ordinance.

This agreement shall be mutually binding upon the heirs, executors, administrators, successors, devisees and assigns of future owners.

As petitioner for the special use granted for the subject property, I sign this agreement with full knowledge of the contents of said Ordinance and with total understanding of my/our responsibilities to comply with conditions set forth within said Ordinance. I hereby affirm that I have the full legal capacity to sign this document.

WHEREAS, I/We do affix my/our signature(s) hereto and acknowledge receipt of a certified copy of Ordinance Number _____.

Dated this _____ day of _____, 20__.

Signed : _____

Name : _____

Address: _____

Phone: _____

STATE OF ILLINOIS)
) SS
COUNTY OF _____)

I, the undersigned, a Notary Public in and for the said County and State aforesaid, DO HEREBY CERTIFY that _____, is known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed and delivered said instrument as his free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notary seal this _____ day of _____, AD 20__.

Notary Public

My Commission Expires _____, 20__.

PD10.129

RECOMMENDATION

TO: THE COMMITTEE OF THE WHOLE
FROM: THE PLANNING & DEVELOPMENT COMMITTEE

The Planning & Development Committee At Their Meeting On Thursday, December 16, 2010 Recommended **APPROVAL** An Ordinance Granting A Special Use Permit For A 150 Foot Telecommunication Tower Within 500 Feet Of Residentially Zoned Property Use Located 225 S. Highland Avenue, Aurora Illinois, 60505 (Shetland Properties Of Aurora, LLC - AU21/3-10.367-Su - TV - Ward 4)

VOTE: 3-0

Submitted By Michael B. Saville
Alderman Michael Saville, Chairman

Rick B. Mervine
Alderman Rick Mervine

Abby Schuler
Alderman Abby Schuler

John "Whitey" Peters
Alderman John "Whitey" Peters, Alternate

Dated This 17th Day Of December 2010