



Legislation Text

File #: 24-0385, Version: 2

TO: Mayor Richard C. Irvin
FROM: Planning and Zoning Commission
DATE: May 23, 2024

SUBJECT:

An Ordinance Granting a Conditional Use Permit for a Telecommunications Facility (4211) Use and the establishment of modified standards on the Property located at 2725 Bilter Road being south of Bilter Road, west of Eola Road, and north of Interstate 88 (C1 Chicago Aurora III LLC - 24-0385 / NA06/4-24.158 - CUPD/Ppn/Psd - JM - Ward 10)

PURPOSE:

The Petitioner C1 Chicago Aurora III LLC is requesting approval of a Conditional Use for a Telecommunications Facility (4211) use for the property located at 2725 Bilter Road being south of Bilter Road, west of Eola Road, and north of Interstate 88 which includes allowing for the construction of two towers and associated support facilities with modified standards to support the development of a data center campus.

BACKGROUND:

The Subject Property is currently vacant with PDD Planned Development District zoning, which is part of the Butterfield Planned Development District.

The Petitioner is requesting approval of a Conditional Use for a Telecommunications Facility (4211) use and the establishment of modified standards. The details of the request include allowing two telecommunications facilities, specifically 350-foot, non-guyed tower structures with associated antennas and communication support facilities. The first tower is proposed to be located 199 feet from the northern property line and 140 feet from the eastern property line. The second tower will be located at the southeast corner of the property about 185 feet from the closest property line.

The petitioner is seeking a Conditional Use to construct a tower within the I-88 Technology Corridor and to waive or reduce the burden on the application pursuant to Chapter 19 Article III, including the following:

- a. Height of the proposed communications facility is above what is allowed as an Administrative Review (Sec. 19-70): The Conditional Use process allows for the Petitioner to seek a tower which is greater than the 200-foot Administrative Review allotment. The towers being requested are 350 feet.
- b. Facility Setback requirement from any adjoining lot line (Sec. 19-68 (o)): The Conditional Use process allows for the Petitioner to seek a Facility Setback which is less than 75%

of the height of the facility or 263 feet. The request is for a Facility Setback of 135 feet.

c. Separation of the communications facility from other communication facilities (Sec. 19-68 (p)(2)): The Conditional Use process allows for the Petitioner to seek a Category D tower (being more than 200 feet in height) that is less than 2,000 feet from a Category A tower (being more than 50 feet and less than 100 feet in height) and less than 3,000 feet from another Category D tower. The request is for a separation requirement between the proposed new Category D towers and existing towers to be 1,600 feet for a Category A tower and 1,550 feet for a Category D tower. In addition, the proposal requests to waive the separation requirement with respect to towers on the Subject Property to allow two towers on the property with an approximate 600-foot separation.

d. The communications support facilities used in association with such antennas (Sec. 19-72 (c)): The Conditional Use process allows for the Petitioner to seek a communication support facility that is in the front and exterior rear yards that are greater than ten (10) feet in height or 240 square feet in gross floor area. The request is for support facilities that have a maximum building height of 20 feet and a maximum floor area of 1,500 square feet.

Concurrently with this proposal, the Petitioner is requesting approval of an Amendment to the Plan Description for the Butterfield Planned Development District. The Petitioner is requesting approval of an amendment to the Plan Description to allow a 3300 Warehouse, Distribution and Storage Services Use in the form of a data center only. All other 3300 Warehouse, Distribution and Storage Services would be prohibited on the parcel. In addition, other minor variations from the Plan Description are being approved, including allowing all uses within the building to be calculated under the general parking requirement for an Electronic Data Storage use, to permit a twelve-foot screen wall within the district setback, and to allow lots to not have direct access to a street if an access easement is provided.

The Petitioner is also requesting approval of a Preliminary Plan and Plat for Butterfield Phase II Subdivision, Unit 5B for a Warehouse, Distribution and Storage Services (3300) use in the form of a data center campus on approximately 32 acres. Improvements to the Data Center Campus will be constructed in three phases. The first phase will include the construction of a 411,000 square foot building, two generator yards (one facing Bilter Road and one facing the Interstate), and two towers with associated communication support facilities. The second phase is for the completion of a utility substation to support the electrical requirements of the data centers. The third phase is a future approximately 153,000 square foot building constructed adjacent to the first building with generator yard facing the western property line.

There are two means of ingress and egress for the Data Center Campus off Bilter Road. The western most entrance will serve as the primary means of ingress/egress and will be a full access. A secondary access point is being proposed towards the eastern edge of the property, which will be limited to a right-in and right-out. This access will be limited to serve as ingress/egress for the public utility substation and egress for any traffic that is not granted access to the secure portion of the data center. This proposed access point is contingent upon approval by the Tollway Authority due to the close proximity of the interstate ramps.

The data center complex will be screened from the surrounding properties in a variety of manners. A 3-foot berm is proposed along a portion of Bilter Road where feasible. The northeast corner of the property and much of the southern and eastern property lines feature detention facilities. The

complex will be secured by an 8-foot decorative security fence. In addition, the generator yards will be screened by a 20-foot wall. The walls will be designed to achieve the noise mitigation rating required of a noise modeling study. The substation will be screened by a 12-foot decorative wall as coordinated with ComEd. The rooftop will include equipment screening, but additional noise mitigation measures will be provided if required to comply with the noise modeling study.

While not being approved until Final Plan and Plat, a draft Landscape Plan and Elevations are provided. Views of the buildings and substation are heavily buffered by berms and trees. Elevations are still being coordinated with staff but will incorporate architectural treatments atypical of traditional warehouse or industrial buildings.

The Preliminary Plat shows the subdivision of the property into one lot for the data center and two lots for the associated detention. In addition, per the requirement of ComEd, the Plat shows one lot for the substation and one lot for the detention associated with the substation.

DISCUSSION:

Staff has reviewed the Planned Development District Ordinance petition and have sent comments back to the petitioner on those submittals. The petitioner has made the requested revisions to these documents and they now meet the applicable codes and ordinances except as outline below.

In 2015, the owners agreed to restrict certain uses seen as more industrial and heavy truck traffic, including Warehouse, Distribution and Storage Services (3300) use. Since then, the business and retail markets have substantially changed, reducing the market demand. Staff felt that the data center would not be a heavy traffic use and would have little truck traffic compared to other warehouse uses. Staff believes that the Plan Description revision to allow a data center would still adhere to the goal of the 2000s revisions to restrict more industrial and heavy truck uses. Staff worked with the developers to provide heavy buffering to the project through berms, screen walls, and heavy landscaping.

The proposed towers are integral to the development of the site as they will provide all the wireless network colocation space required to interconnect to the data center complex for the foreseeable future. The towers will contain a large number of networks and antennas in a limited space to avoid the proliferation of other smaller towers adjacent to the site. Given the site context along I-88 and the existence of other towers in the area, the proposed towers will not impact public health or general welfare. Per the developer, there are no suitable existing communications facilities, other structures, or alternative technologies which could address the anticipated demand associated with the Data Center Campus. There have been a number of inquiries regarding the installation of new towers in the area; leading staff to believe that, although there are several existing towers in the corridor, there is still a demand for even more connectivity.

Staff has the following comments regarding the Findings of Facts:

1. The project will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare. The Telecommunication Facilities is integral to Petitioner's anticipated operation of the Data Center Campus. The proposed Telecommunication Facilities are substantially similar to the existing Telecommunication Facilities located at the existing C1 Facility on Diehl Road. The current telecommunication facilities have not been detrimental to the public health, safety, morals, comfort, or general welfare and given the similar nature of these proposed towers, it is believed that the

proposed towers would also not be detrimental to the general public's welfare. The location of the Telecommunication Facilities provides the most optimal and efficient path to connect to internal facilities while also ensuring compliance with strict federal regulations.

2. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity or diminish or impair property values as the property is located in the Manufacturing Area of Butterfield Planned Development and the proposed data center and towers are relatively low intensity compared to other manufacturing/industrial uses. The documentation provided by the petitioner demonstrates that the towers meet the city's technical requirements and will not conflict with existing telecommunications facilities. In the general vicinity of the Property, electrical distribution facilities, other existing Telecommunication Facilities, and the I-88 corridor are defining features that influence land use and the manner in which property in the immediate vicinity is enjoyed. The two proposed towers are consistent with the established character of the area and are appropriately located to avoid disturbance of other quieter or less intensive areas of the community.

3. The development will not impede the normal and orderly development and improvement of surrounding properties as the proposed Telecommunication Facilities are consistent with the character of the Telecommunication Facilities in the area. Since the first tower was installed at the existing C1 Facility, the City has seen substantial additional investment at the C1 Facility and in the area around the C1 Facility. The trend of development around the C1 Facility shows that Telecommunication Facilities have not impeded normal and order development in the area.

4. The proposal will provide adequate utilities, drainage, etc. as the petitioner has submitted material establishing the sufficient infrastructure is available and a series of additional stormwater management basins are being provided to address current requirements for the entire development, including the towers.

5. The project does provide adequate ingress/egress. Due to the nature of the Telecommunication Facilities, Petitioner anticipates very limited traffic (less than 1 car/day) associated with the daily operation.

6. The Telecommunication Facilities comply with the applicable regulations as set forth in Chapter 19 except as outlined above. The City has engaged a third-party consultant to review the documents provided to the City with regards to this project and it is of his opinion that the proposed modifications by the Petitioner will not have a negative impact on the surrounding properties. The modifications proposed by Petitioner are generally consistent with the character of modifications that the City has approved for other Telecommunication Facilities in the vicinity of the Property.

Public Input: Due public notice was given for the public hearing on this matter. As of the date of this memo, staff has received public inquiries requesting additional information on this petition and one letter from the DuPage County Forest Preserve that is included in the packet.

POLICIES AND GUIDELINES:

The Staff's Evaluation and Recommendation are based on the following Physical Development Policies:

10.0 To provide for the orderly, balanced and efficient growth and redevelopment of the City through the positive integration of land use patterns, functions, and circulation systems. To protect and enhance those assets and values that establishes the desirable quality and general livability of the City. To promote the City's position as a regional center.

11.1 (5) To guide and promote development to areas where public utilities, public roads and municipal services are either available or planned.

12.0 To plan and provide for the growth of the city through the integration of land use patterns and functions that promotes complementary interactions between different land use components.

40.1 (1) To attract and encourage industrial, office and office-research development to planned sites where requisite public facilities are either present or proposed.

40.1 (5) To plan and promote the extension of the office and office-research corridor along the tollway in the City of Aurora.

40.1 (6) To promote attractive, well-maintained industrial and office-research areas through landscaping and site design.

RECOMMENDATIONS:

The Planning and Zoning Commission recommended **CONDITIONAL APPROVAL** of An Ordinance Granting a Conditional Use Permit for a Telecommunications Facility (4211) Use and the establishment of modified standards on the Property located at 2725 Bilter Road being south of Bilter Road, west of Eola Road, and north of Interstate 88 with the following conditions:

1. That the Conditional Use approval be contingent upon the Third-Party Consultant's final approval.
2. That the Petitioner allow for the maximum number of antenna co-locations on the telecommunication facility at fair market rate.

ATTACHMENTS:

EXHIBITS:

Exhibit "A" Legal Description
Exhibit "B" Memorandum of Agreement
Site Plan for Tower
North Tower 1 Mile Radius of Bilter
South Tower 1 Mile Radius of Bilter
Tower Separation Exhibit
Third Party Affidavit for Compliance with Laws
Affidavit for Colocation
Affidavit for Franchises
Land Use Petition with Supporting Documents
Legistar History Report
Findings of Fact

Legistar Number: 24-0385

cc:

Alderwoman Patty Smith, Chairperson
Alderwoman Shweta Baid, Vice Chairperson

Alderman Michael B. Saville
Alderman Bill Donnell
Alderman Carl Franco



CITY OF AURORA, ILLINOIS

ORDINANCE NO. _____
DATE OF PASSAGE _____

An Ordinance Granting a Conditional Use Permit for a Telecommunications Facility (4211) Use and the establishment of modified standards on the Property located at 2725 Bilter Road being south of Bilter Road, west of Eola Road, and north of Interstate 88

WHEREAS, the City of Aurora has a population of more than 25,000 persons and is, therefore, a home rule unit under subsection (a) of Section 6 of Article VII of the Illinois Constitution of 1970; and

WHEREAS, subject to said Section, a home rule unit may 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, DuPage Properties Venture as sole beneficiary of Chicago Title Land Trust Company Trust 43123, is the owner of record of the real estate legally described on Exhibit "A", attached hereto, located at 2725 Bilter Road, being south of Bilter Road, west of Eola Road, and north of Interstate 88 (the "Subject Property"); and

WHEREAS, on March 21, 2024, C1 Chicago Aurora III LLC filed with the City of Aurora a petition (the "Petition") requesting approval of a Conditional Use for a Telecommunications Facility (4211) use for the Subject Property; and

WHEREAS, after due notice and publication of said notice, the Planning and Zoning Commission conducted a public hearing on May 22, 2024, at which time the Planning and Zoning Commission reviewed the Petition, approved findings of fact in support of the Petition, and recommended **CONDITIONAL APPROVAL** of the Petition; and

WHEREAS, on May 29, 2024, the Building, Zoning and Economic Development Committee of the Aurora City Council reviewed the Petition, the recommendation of the Planning and Zoning Commission, and recommended **CONDITIONAL APPROVAL** of the Petition; and

WHEREAS, the City Council, based upon the recommendation and findings of fact adopted by the Planning and Zoning Commission, finds that the proposed Conditional Use meets the standards for the approval of a Conditional Use and is not contrary to the purpose and intent of Chapter 49 of the Code of Ordinances, City of Aurora.

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

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

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

Section Three: That all Ordinances or part of Ordinances in conflict herewith are hereby repealed insofar as any conflict exists.

Section Four: 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.

Section Five: In accordance with Sec. 104.3 of Chapter 49 of the Code of Ordinances, City of Aurora, being the Zoning Ordinance and the Zoning Map attached thereto, and Article V of Chapter 34 of the Code of Ordinances, City of Aurora, being the Planning and Development Ordinance, and Chapter 19 of the Code of Ordinances, City of Aurora, being the Telecommunications and Cable Television Ordinance, a Conditional Use permit is hereby granted for Telecommunications Facility (4211) uses for Subject Property with the following modified standards:

- 1.) Sec. 19-70: To permit two 350' towers.
- 2.) Sec. 19-68 (o): To reduce the setback to a minimum of 135 feet as measured from the base of the tower to the nearest property line.
- 3.) Sec. 19-68 (p)(2): (i) To reduce the separation of a Category D tower (more than 200 feet in height) to a Category A tower (more than 50 feet but less than 100 feet) from 2,000 feet to 1,600 feet; (ii) To reduce the separation of a Category D tower (more than 200 feet in height) to a Category D tower (more than 200 feet in height) from 3,000 feet to 1,550 feet; and (iii) To waive the separation requirement with respect to the two towers to be located on the Subject Property.
- 4.) Sec.19-72 (c): To allow an increase of height and size for communication support facility in the front and exterior rear yards from ten (10) feet in height and 240 square feet in gross floor area to 20 feet in height and 1,500 square feet in gross floor area.

Section Six: That this Conditional Use permit hereby granted is solely for the purpose of the Telecommunication Facilities (4211) and is subject to all of the conditions set forth herein which shall be binding and remain in full force and effect upon the Subject Property, the petitioner and their respective heirs, executors, administrators, successors, assigns and devisees for the duration of said Conditional Use.

Section Seven: That the petitioner agrees to sign the Memorandum of Agreement attached hereto as Exhibit "B" within fourteen (14) days from the date of passage of this Ordinance and that said Conditional Use permit is granted specifically contingent upon the following conditions:

1. That the Conditional Use approval be contingent upon the Third-Party Consultant's final approval.

2. That the Petitioner allow for the maximum number of antenna co-locations on the telecommunication facility at fair market rate.

Section Eight: That should any of the above-stated conditions not be met or that the property described in Exhibit "A" is not developed in accordance with the Conditional Use the City Council may take the necessary steps to repeal this Ordinance.

Section Nine: That future proposals for expansion or intensification of whatever kind for the 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 Article V of Chapter 34 of the Code of Ordinances, City of Aurora.

Section Ten: That the property legally described in Exhibit "A" shall remain in the underlying zoning classification of PDD Planned Development District and upon termination of the use of said property for a Telecommunications Facility (4211), this Conditional Use permit shall terminate and the classification of PDD Planned Development District shall be in full force and effect.

Section Eleven: That this Telecommunications Facility (4211) shall remain subject to compliance, except as herein modified, with the minimum standards of all applicable City Ordinances.