

CITY OF OLYMPIA HEARING EXAMINER**STAFF REPORT****January 17, 2023**

Project Name /File No.: Mission Creek Wireless CUP 22-5612

Applicant: Phillip Kitzes, J5 Infrastructure Partners

Requested Action: The applicant is seeking a Conditional Use Permit to locate and construct a new wireless communications facility that includes a 120-foot monopine, emergency generator and associated ground equipment to meet wireless infill coverage needs. The project area is 675 square feet in size and is located within an existing parking lot.

Project Location: 1818 4th Avenue East

Zone District: High Density Corridor 2 (HDC-2)

Comprehensive Plan Designation: Urban Corridor (UC)

Scenic Vista: None

SEPA Determination: A Determination of Non-significance was issued on January 12, 2023. The optional DNS process was used which combines the SEPA comment period with the Notice of Application comment period, WAC 197-11-355. The comment period ended on November 9, 2022 and the appeal period expires on February 2, 2023.

Public Notification: Public notifications for this project is in conformance with 18.78.020. Particularly, public notification for this hearing was mailed to property owners and residents within 300 feet of the subject property, parties of record and recognized neighborhood associations on January 12, 2023; posted on-site; and published in *The Olympian* on January 27, 2023 (Attachment 2).

Staff Recommendation: The Site Plan Review Committee recommends approval of the Conditional Use Permit subject to conditions.

Staff Contact: Lydia Moorehead, Associate Planner
360.570.3746 lmoorehe@ci.olympia.wa.us

I. BACKGROUND INFORMATION

A. Project Context/Existing Site Conditions

The site is located 1818 4th Avenue East. The project site is made up of four parcels which are developed with an 8,200 square foot building currently used by the Elks Lodge and associated parking and landscaping. The owner has authorized the applicant to file applications on their behalf (Attachment 3).

The property is located in the High Density Corridor 2 (HDC-2) zoning district. The future Land Use Map designates the property as Urban Corridor (UC).

The land uses surrounding the project site are as follows:

- *North:* commercial/office/residential
- *East:* commercial
- *South:* office/residential
- *West:* office



B. Project Description

The applicant proposes to lease 675 square feet of the parcel to construct a new freestanding wireless communications tower that will be 120 feet in height. The tower will be stealth and designed to represent a pine tree in order to meet concealment requirements. The project will have an associated equipment compound that will be fenced to provide screening from the public view.

C. City Review Process

Application Submittal: The Conditional Use Permit application and an Environmental Checklist (Attachment 4) were submitted on September 9, 2022. Prior to submitting the application, the applicant had a Presubmission Conference with the Site Plan Review Committee in July 2022.

Notice of Application/Anticipated SEPA Determination: A Notice of Application and an Anticipated SEPA Determination (Attachment 5) with information about how to comment on the project was mailed to property owners and residents within 300 feet of the project site on October 26, 2022. The subject site was posted with a public notice sign.

Project Information Meeting: City staff and the applicant co-hosted a project information meeting on November 3, 2022. The purpose of this meeting was to provide business and property owners, neighborhood associations and the general public an opportunity to get detailed information about the proposal, ask questions and raise concerns. There were no attendees at this meeting besides city staff and the applicant.

SEPA Determination: The City issued a Determination of Non-significance on January 12, 2023 (Attachment 6) with an appeal period deadline of February 2, 2023. As of this report's date, no appeal has been received.

Site Plan Review Committee Review: The Site Plan Review Committee (SPRC) reviewed the plan set dated November 7, 2022 (Attachment 7) and other associated documents and reports for compliance with applicable codes and standards. The project was taken to the Site Plan Review Committee for recommendation on January 4, 2023. The Committee recommended approval of the project subject to conditions.

II. POLICY AND REGULATORY FRAMEWORK

The proposal has been reviewed for compliance with City plans and regulations. Per Olympia Municipal Code 18.82, Conditional Use Permits are within the jurisdiction of the Hearing Examiner.

This report addresses those plan and code sections that are applicable and addresses compliance in relation to the following:

- Comprehensive Plan Goals and Policies;
- Title 16, Chapter 16.60 Tree, Soil and Native Vegetation Protection and Replacement
- Title 18, Unified Development Code, in particular standards for development, wireless communications facilities, landscaping, conditional use permit, property protection standards, design review, cultural resource protection, hearing examiner authority; and
- Engineering Design and Development Standards.

A. Comprehensive Plan

The subject property is designated as *Urban Corridor (UC)* on the Future Land Use Map. Specific goals and supporting policies from relevant chapters are noted below:

Utilities

GU17: Private utilities will be located in the same area

- **Policy 17.1** Promote the co-location of new utility distribution and communication facilities when doing so is consistent with utility industry practices and national electrical and other codes.

GU18: Adverse impacts of above-ground utility facilities such as sub stations and cellular towers on surrounding land uses are minimized

- **PU18.2** Ensure that the City's zoning code includes standards that ensure that new private utility facilities are coordinated and integrated with surrounding land uses, so they are reasonably compatible with the natural and built environment. These regulatory standards should also support facility design which minimizes the visual intrusion of facilities in all areas.

Staff Analysis: The proposed project complies with the applicable goals and policies of the Comprehensive Plan by being designed with the capability for co-locations of additional antenna arrays. This will limit the need for future antenna structures in the area. The tower's design as a tree will conceal its appearance to minimize visual impacts. Ground equipment will be fenced and screened from view.

B. Tree, Soil, and Native Vegetation Protection and Replacement, OMC 16.60

The project is subject to standards in OMC 18.60 regarding tree densities and tree protection during construction.

Staff Analysis: The City's urban forester reviewed the proposal and determined that one tree will be required in the adjacent planter island in order to meet tree density requirements for existing developed sites. As conditioned, the project will comply with OMC 18.60.

C. High Density Corridor 2 (HDC-2) Districts 18.06

The standards for development in the HDC-2 zoning district include a 0-10 foot minimum front yard setback, 10 foot rear yard and there is no minimum setback on a side yard. Maximum building height allowed is 60 feet and the maximum building coverage is 70 percent, maximum impervious surface coverage of 85 percent and maximum hard surface coverage is 100 percent of the lot.

Staff Analysis: The project proposal meets the underlying development standards except that the tower reaches a height of 120 feet which exceeds the height limit of the HDC-2 district. There are additional height allowances for wireless communication facilities provided in OMC 18.44.100.C.2 which are explained further in this report. All other development standards have been met.

D. Landscaping, OMC 18.36

18.36.080 Landscaping Plan Requirements.

Landscaping Plans shall be submitted for review with a land use application and meet all requirements of 18.36.080.A.2.

Staff Analysis: A conceptual landscaping plan (page L-1 of Attachment 7) was submitted with the land use application. The landscaping plan does not meet all code requirements. Trees, shrubs and groundcover are required in the adjacent parking island. As conditioned, the Landscaping Plan will comply with OMC Chapter 18.36.

18.36.190 Landscaping Requirements for Antennas and Wireless Communication facilities. The project is subject to meeting the standards in this section. Standards include providing a Type I Solid Screen a minimum of 5 feet around the equipment compound that is visible from the street, abutting properties and incompatible uses.

Staff Analysis: The landscaping plan does not show a solid (Type I) landscaping screen of 5 feet in width around the entire equipment compound; however, a solid wood fence is proposed around the compound in addition to a re-landscaped parking island to the east of the compound. As conditioned, the Landscaping Plan will comply with OMC Chapter 18.36.

18.36.180.C.2-3 Parking Lot Landscaping and Screening. The proposal includes replanting the adjacent parking island.

Staff Analysis: To meet the landscaping code for parking islands the landscape plan will need to include the planting of two trees, shrubs and groundcover. As conditioned, the Landscape Plan will comply with OMC Chapter 18.36.

E. Property Development and Protection Standards, OMC 18.40

18.40.080.B Protection Standards, Noise

There are maximum noise levels allowed as measured at the property line. It is the responsibility of the operator or proprietor to provide reasonable evidence that demonstrates compliance with the permitted sound levels.

Staff Analysis: The applicant provided a Noise Report by SSA Acoustics (Attachment 8) that conducted a noise analysis of the planned WCF and the equipment compound at the proposed location. The report concludes that the facility will comply with daytime and nighttime sound limits at all adjacent property boundaries. The city accepts this report and its conclusions that it will comply with permitted sound levels.

F. Antennas and Wireless Communication Facilities, OMC 18.44

Siting Hierarchy 18.44.080:

Any new siting of a wireless communications facility (WCF) shall be in accordance with the following siting alternatives hierarchy for a Concealed Freestanding WCF: On City-owned property or rights-of-way of the City so designated as City Property; on other publicly owned property or ROW; on privately-owned property. The applicant must file relevant information with the application.

Staff Analysis: The project proposal locates the WCF on privately owned property which is the lowest ranked hierarchy. The applicant submitted relevant information within an RF Justification Report by a radio frequency engineer (Attachment 9) as well as an alternative site analysis within the CUP Narrative (Attachment 10) demonstrating that despite diligent efforts to adhere to the established hierarchy within the geographic search area, higher ranked options were not available for use, technically feasible or practical.

Permitted Wireless Communications Facilities by Zoning District, OMC 18.44.090, Table 44.01. The table provides guidance as to what types of wireless communication facilities are allowed in the variety of zoning districts in the city.

Staff Analysis: Concealed freestanding wireless communication facilities are allowed with a conditional use permit in the HDC-2 zoning district.

Development Standards –OMC 18.44.100

The proposal must comply with the general standards for WCF's, standards for freestanding wireless communications and specific standards for concealed freestanding facilities. (Attachment 11)

18.44.100.A General

The general standards for wireless communications include screening of equipment compounds from the public view, use of a sight-obscuring fencing, additional requirements for facilities within 300 feet of a neighborhood zone, landscaping required per OMC 18.36, signs, lighting, if required per the Federal Aviation Administration, security lighting and abandonment. The standards also require that the applicant of a proposed facility certify there is compliance with federal standards for interference protection and compliance with the American National Standards Institute standards as adopted by the Federal Communications Commission (FCC).

Staff Analysis: The Landscaping Plan provided shows a 6-foot-high solid wood fencing with landscaping around the compound. This will provide adequate screening of the WCF compound. It was determined that the project site is not located within 300 feet of a neighborhood zone or historic district nor is the property registered as historic. The applicant provided a Radio Frequency RF Safety Compliance Statement (part of Attachment 12) and a Non-Ionizing Electromagnetic Exposure Analysis (NIER) (Attachment 13) that certifies that the interference protections standards and the ANSI standards are met. As conditioned, the project will comply with OMC 18.44.100.A.

18.44.100.C.1 Freestanding Wireless Communications Facilities

The general development standards for freestanding WCFs require the applicant to demonstrate the following:

- A determination of need to demonstrate that there are no existing structures that can accommodate the proposed use;
- Designed for concealed collocation: The facility is designed for maximum collocation installations;
- Designed for non-concealed collocation: For WCFs between the height of eight-one (81) to one hundred twenty (120) feet that the facility be engineered and constructed to accommodate no less than four (4) antenna arrays;
- The facility is designed to minimize adverse effects including visual impacts and match adjacent structures;
- Grading will be minimized and limited to the area necessary for the new WCF and
- Safety for all support structures be certified by a Registered State of Washington Professional Engineer.

Staff Analysis: The information provided in the RF Justification Report by a radio frequency engineer (Attachment 9) as well as an alternative site analysis within the CUP Narrative (Attachment 10) provides information regarding the determination of need that city staff reviewed and accepts.

The applicant has stated that the WCF will be designed with three (3) additional concealed co-locations. It is unknown to staff what is the maximum number of co-locations that could be supported on the antenna structure. Staff's assessment is based on the elevation drawings on page A-4 of the plan set (Attachment 7) which shows three (3) concealed co-locations by others. This elevation drawing appears to maximize the structures capacity of antennas arrays. As conditioned, the project will comply.

The applicant provided elevations (page A-4 Attachment 7) that provides a sense of how the facility will look once constructed. With the overall design of the antenna structure concealed as a pine tree and the equipment compound being screened from public view, staff determined that it provides a less intrusive visual impact. The grading plans show the site grading contained to just the lease area.

The structural engineer's report that provides safety and structural integrity information was not provided at land use review and staff agreed to defer this report to the building permit application submittal. As conditioned, the project will comply.

18.44.100.C.2 Freestanding concealed WCFs. The specific standards in this section limit the maximum height of freestanding WCF's in all zoning districts to 120 feet and that all height limits shall exclude lightning rods or lights required by the Federal Aviation Administration (FAA). The setbacks for the WCF and its equipment compound shall be subject to the underlying zoning district and that it shall not be any closer to an adjoining property line than the proposed facility is to any dwelling unit on the property on which the facility is to be located.

Staff Analysis: The proposed WCF antenna structure (monopine) is shown to be at a height of 120 feet. The development meets the underlying zoning district setback requirements.

18.44.110 Approval Process

The city reserves the right to require supplemental technical review by a third-party expert due to the complexity of the methodology or analysis required of an application for a wireless communication facilities. This review would address the accuracy of the application, any applicability of the analysis and methodologies used and the validity of conclusions reached and whether the WCF complies with the provisions of the OMC.

Staff Analysis: The applicant has hired a licensed professional engineer and other professional consultants that have prepared reports and documents and have provided analysis of the site regarding the proposed project. City staff determined after review of the conclusions and findings in these reports and documents that a third-party review would not be needed.

A post construction field testing is required within 30 days of the facility becoming fully operational. The applicant must hire a third party to review and confirm the theoretical computation of RF emissions.

Staff Analysis: As conditioned, the project will comply.

G. Conditional Uses, OMC 18.48

18.48.040 Additional Conditions

The Hearing Examiner may impose additional conditions on a particular use if it is deemed necessary for the protection of the surrounding properties, the neighborhood, or the general welfare of the public.

Staff Analysis: No additional conditions other than the conditions listed at the end of this report were considered by staff.

H. Design Review, OMC 18.100

The project is located within the High Density Corridor Design Review District and is subject to design requirements outlined in OMC 18.130.

18.110.130 High Density Corridor

The design review criteria include standards specific to building orientation, design and parking. There are no standards related to wireless communication facilities.

Staff Analysis: The design review standards do not apply to the proposed wireless facility.

I. Historic Preservation, OMC 18.12

18.12.140 Cultural Resources

Cultural Resources shall be protected from damage during construction and all other development activities. Development projects that require a State Environmental Policy Act (SEPA) threshold shall be required to sign an Inadvertent Discovery Plan (IDP) prior to construction permits.

Staff Analysis: As conditioned, the project will comply with OMC Chapter 18.12.

J. Engineering Design and Development Standards (EDDS)

The project has been reviewed for compliance with the EDDS relative to traffic, water, stormwater, wastewater and solid waste. It was found to be conceptually compliant.

Staff Analysis: The applicant will be required to demonstrate on construction plans that any permanent construction does not change the parking island size or cause the lane of travel through the public right-of-way alley to narrow, nor prevent a solid waste truck from turning left toward State Street at the island. Emergency access shall be maintained. Plans will also be updated to reflect the accurate width of the access easement. The applicant must coordinate with private utility providers for onsite utilities and relocation if found necessary. As conditioned, the project will comply with the EDDS.

III. PUBLIC COMMENT

The City received comments from the Squaxin Island Tribe, the Department of Ecology, and the public (Attachment 14). Comments received from the public expressed the following concerns with the project:

- Potential conflicts with existing above ground power lines at the site, power pole location and potential conflicts with site maneuverability due to fencing around the wireless facility.

Tribal comments included:

- Squaxin Island Tribe – indicates no concerns, however, the tribe would like to be informed if there is inadvertent discovery of archaeological resources.

Ecology comments Included:

- Grading and fill requirements, erosion & control measures, and proximity to a known or suspected contaminated site. If contamination is discovered, testing will be required, and Ecology must be notified. A construction stormwater general permit is required from Ecology.

Staff Analysis: The applicant will work with private utility providers if private utility lines need to be relocated. All aisle way width requirements for maneuvering have been met with regard to the location of the proposed enclosure. A signed inadvertent discovery plan will be required prior to issuance of construction permits.

IV. CONCLUSION AND RECOMMENDATION

Pursuant to OMC 18.72.100, the Site Plan Review Committee finds that the project, as conditioned, meets all applicable provisions of the Municipal Code and Engineering Design and Development Standards. Therefore, the Site Plan Review Committee recommends approval of the project subject to the following:

CONDITIONS:

1. **Approved Site Plan.** The site plan shall be substantially in conformance with the site plan A.1 & A.2 dated November 7, 2022, as modified by conditions of approval herein, and as may be modified by the Hearings Examiner.

2. **Landscaping Plan.** Provide the final landscaping plan prepared in compliance with OMC 18.36 shall be submitted in conjunction with engineering permit application. The landscape island shall be revised to include two trees, shrubs and groundcover per OMC 18.36.180.C.3.
3. **Landscape Estimate.** Provide the following information with the landscape plan: cost estimate for the purchase, site preparation, installation of all landscaping.
4. **Vegetation Materials & Installation Bond.** A vegetation bond (or other assurance) shall be posted following city acceptance of the landscaping installation. The bond amount shall be 125% of the cost estimate submitted with the landscaping plan and approved by the city.
5. **Hours of Operation/Construction Noise.** Pursuant to OMC 18.40.080.C.7., construction activity detectable beyond the site boundaries shall be restricted to the hours between 7:00 a.m. and 6:00 p.m.
6. **Co-location.** All new freestanding wireless communications facilities (WCF) shall be designed for maximum co-location installations. Additional co-locations shall require an eligible wireless modification and building permit application to ensure compliance with FCC standards.
7. **Signage.** The only signage permitted upon the antenna support structure, equipment cabinets or fence shall be minimum information for the purpose of meeting FAA/FCC regulation for identifying the antenna support structure, as well as the party responsible for the operation and maintenance of the facility with current contact information, security and safety signs.
8. **Lighting.** If required by the Federal Aviation Administration (FAA), lighting shall not exceed the FAA minimum standards. Any lighting required by the FAA must be of minimal intensity and the number of flashes per minute. Any security lighting or flood lighting for the facility shall be constructed and used as to not unduly illuminate the surrounding properties.
9. **Federal Communications Commission and Interference Protection.** All facilities shall be required to continue to comply with all applicable federal regulations, including interference protection.
10. **Structural Analysis Report.** A Structural Analysis Report shall be submitted with the building permit application. Per OMC 18.44.100.C.1.F, all support structures shall be certified to comply with the safety standards contained in the Electronics Industries Association /Telecommunications Industries Association (EIA/TIA) document 222-F, or current standard, "Structural Standards for Steel Antenna Towers and Supporting Structures," or current standard, as amended, by a Registered State of Washington Professional Engineer.
11. **Post Construction Field Testing.** Within thirty days of becoming fully operational, all facilities shall be field tested by a third party reviewer, at the applicant's expense, to confirm the theoretical computations of RF emissions.
12. **Private Utilities.** Applicant shall coordinate with private utility providers for the overhead utility lines on the site and any necessary relocation prior to building permit submittal. A private utility permit shall be obtained, if needed.
13. **Solid Waste.** The applicant shall ensure that any permanent construction does not change the parking island size or cause the lane of travel through the public right-of-way alley to narrow, nor the ability for the solid waste truck to turn left toward State Street at the island. See table 3 in Chapter 8 of the EDDS

for side load and front load truck dimensions and profiles for turning. This shall be documented on a site plan with the building permit submittal.

14. **Parking Island Trees.** Trees are required in the adjacent parking island. Tree species to be determined by City Forester at time of building permit review.
15. **Emergency Access.** The applicant shall ensure that the construction of the facility does not limit access for emergency operations.
16. **Permits & Plans.** When Building permits are applied for the projects will be reviewed under the appropriate currently adopted version of the International Building Code (IBC) International Mechanical Code (IMC) International Fuel Gas Code (IFGC) as amended by Washington State.
A City of Olympia building permit will be required for the proposed work, application for the electrical permit should be submitted following the submittal of the building permit using the building permit as the parent permit, electrical permits are through the City of Olympia.
All structural plans and calculations must be designed, stamped and signed by a Washington State licensed Structural Engineer.
Depending on specific site conditions and proposed footing design a geotechnical report may be required.
17. **Survey.** The following revisions should be shown on the building permit submittal. Add bearings and distances to the exhibit map that are consistent with the legal descriptions. Reconcile description for the access easement which is described as 12 feet but labeled as 20 feet on the map.

END OF CONDITIONS.

Submitted by: Lydia Moorehead, Associate Planner, on behalf of the Site Plan Review Committee and the Director
Phone: 360.570.3746
E-mail: lmoorehe@ci.olympia.wa.us

Attachments:

1. Staff Report (This)
2. Publication Notice - The Olympian
3. Owner Authorization Letter
4. Project Applications
5. Notice of Application
6. SEPA Determination
7. Plan Set dated November 7, 2022
8. Noise Report
9. RF Justification Report
10. CUP Narrative
11. OMC Chapter 18.44 WCF Standards
12. RF Safety Compliance Statement
13. Non-Ionizing Electromagnetic Exposure Analysis (NIER) Report
14. Public Comments