

**DECISION ON CONDITIONAL USE PERMIT
FILE NO. Z1500063CEL2**

I. SUMMARY OF REQUEST AND RECOMMENDATIONS:

DESCRIPTION OF PROPOSAL: The applicant, Crown Castle, on behalf of the property owner, has requested approval of an Administrative Conditional Use Permit (Type II) from the City Planning and Development Director to replace an existing 60 foot glulam (wooden) pole with a new 60 foot steel wireless communication tower within the existing fenced and landscaped area on site in a commercial zone.

Staff approves this application with conditions.

II. GENERAL INFORMATION:

- A. Applicant: Crown Castle
Attn: Sandra Walden
1501 Westlake Ave. North, Ste. 800
Seattle, WA 98109
- B. Agent: Same as Applicant
- C. Property Owner: Gary R. Fox
4308 N. Molter Road
Otis Orchards, WA 99027
- D. Location of Proposal: 1723 S. Ray Street
Spokane, WA 99223
- E. Existing Zoning: "NR-35" (Neighborhood Retail – 35' Height Limit)
- E. Land Use Plan Designation: Mini Center
- F. SEPA Status: DNS – September 29, 2015
- G. Enabling Zoning: SMC 17G.060.170 – Decision Criteria and
SMC 17C.355 – Wireless Communication
Facilities
- H. Decision Date: October 2, 2015
- I. Staff Contact: Dave Compton

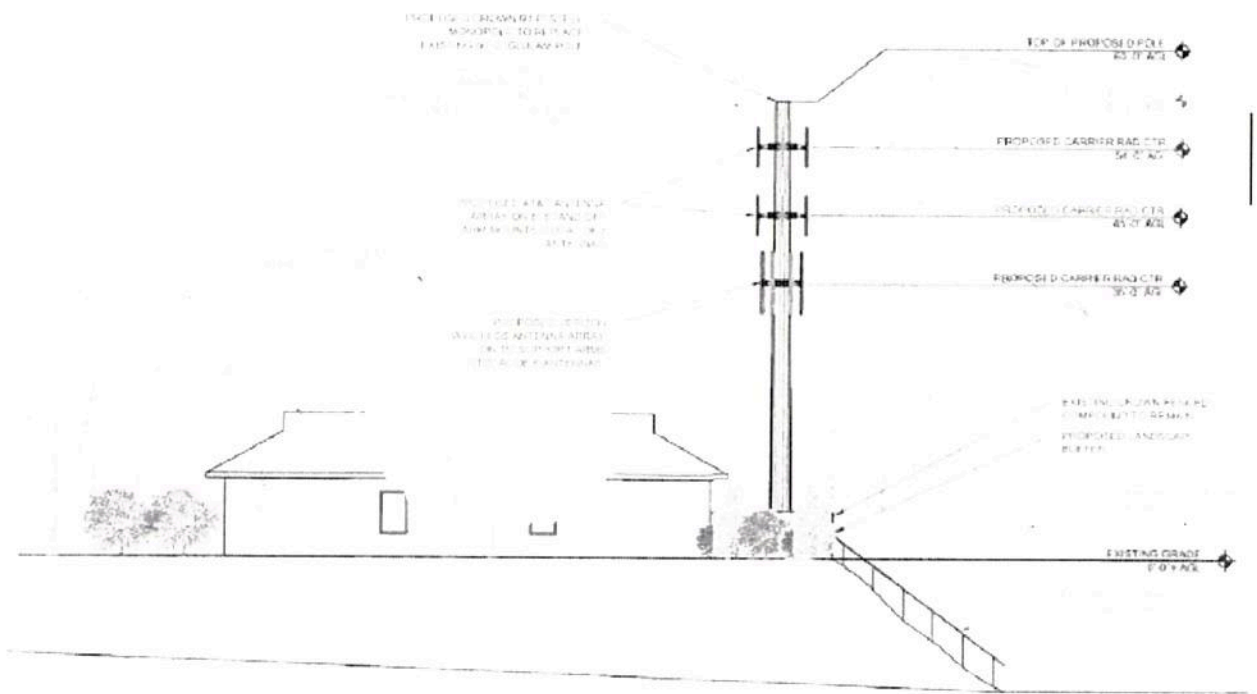
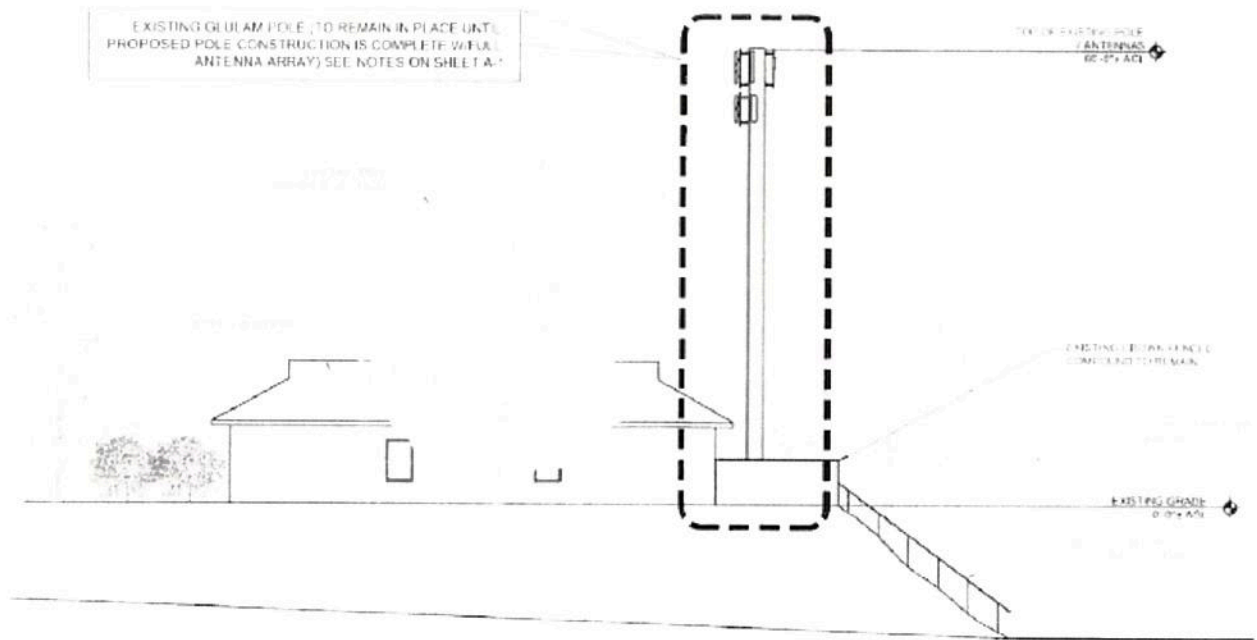
III. FINDINGS OF FACT:

- A. Site Description: The subject parcel is a corner lot where a Denture Clinic currently operates. The lot is approximately 13,179 square feet in area dimensioned at 122 foot in width fronting South Ray Street and 110 foot in depth that fronts East 18th Avenue. The topography of the proposal site is relatively flat, however slope up to 18th Avenue to the south and slopes down to an adjacent parking lot to the north on a separate parcel.



- B. Project Description: The applicant has submitted an application to replace an existing 60 foot glulam (wooden) pole with a new 60 foot steel wireless communication tower within the existing fenced and landscaped area on site. A Type II Conditional Use Permit from the Planning and Development Director is

required due the replacement structure material is not of like kind. The existing ground equipment will remain.



- C. Surrounding Zoning: Neighborhood Retail (NR) abuts the proposal on the north and east boundaries. To the south and across Ray Street to the west lies Residential Single-Family (RSF) zoning.
- D. Zoning History: The subject property has been zoned Neighborhood Retail – 35 since June 2005 with the adoption of the current commercial development regulations. Prior to that it was designated NR (Neighborhood Retail) zoning without the 35 foot height limit designation.
- E. Adjacent Land Use: The adjacent land use follows the same boundary as the above mentioned zoning categories within the proposal site area, that being Mini Center and Residential 4-10.
- F. Applicable Zoning Regulations: SMC 17C.120, Commercial Zones; SMC 17C.355; Wireless Communication Facilities and SMC 17G.060.170; Decision Criteria.
- G. Procedural Requirements:
- Application was submitted on August 11, 2015;
 - Applicant was notified in writing on September 10, 2015 of technically complete status of the application,
 - Notice of Application was mailed to adjacent property owners and occupants within 400 feet of the proposal and a sign posted on the subject property on September 11, 2015 which began the 15-day public comment period;
 - SEPA Determination of Non-significance issued on September 29, 2015.

IV. DEPARTMENT REPORTS:

Notice of this proposal was sent to City departments and outside agencies for their review and comments. Their comments are included with the file and are made part of this application by reference.

V. CONCLUSIONS

SMC 17G.060.170 Decision Criteria

A. Criteria.

The intent of the below listed decision criteria procedure is to determine the conditions under which a use may be permitted. Type II or III applications are subject to specific review during which conditions may be imposed to assure compatibility of the use with other uses permitted in the surrounding area. A Type II or Type III Conditional Use Permit may be granted only if the following facts and conditions are found to exist:

1. *The proposal is allowed under the provisions of the land use codes.*

Wireless Communication Facilities are either permitted outright or require a Type II or Type III Conditional Use Permit (CUP) based on location and type of facility. For this proposal to be allowed in this commercially zoned location a Type II Conditional Use Permit (CUP) is required if it did not exceed sixty (60') feet in height. As mentioned previously a Type II Conditional Use Permit from the Planning and Development Director is required due the replacement structure material is not of like kind. Development standards found in Spokane Municipal Code (SMC) 17C.355 – Wireless Communication Facilities must be adhered to and completed prior to the issuance of a certificate of occupancy from the Building Department. The application meets all requirements listed under the above mentioned SMC section.

2. *The proposal is consistent with the comprehensive plan designation and goals, objectives and policies for the property.*

The applicant did not list any specific Comprehensive Plan goals and policies by element or express how they are applicable to this proposal (see applicant's responses #2 on the CUP application). Staff notes the following goals and policies that pertain to this application; (1) CFU 3.4 - Natural and Man-Made Disasters and (2) CFU 5.7 - Telecommunication Structures. Both are found in the Capital Facilities and Utilities chapter. These focus on one: being able to provide communications necessary for first responders by having backup generators on site in the event of a power outage cause by natural or man-made disasters and two: by controlling the visual impact of such facilities by insuring the efficiency of their placement and minimizing the number of such sites through measures such as co-location on existing facilities. The applicant notes that this proposed tower is just replacing a wood tower that does not have sufficient capacity for the new technology and antennas proposed. The applicant notes in the SEPA checklist and their CUP application that this new tower will be designed to accommodate their proposal and additional carriers in the future unlike the current wooden tower. This replacement proposal aids in the goal of not having to erect an additional tower due to the inability to co-locate their facilities on an existing tower inside the one-half mile buffer area. This also negated their need to locate any new antennas on any city or publicly owned buildings or structures that could have accommodated the proposal's needs. (3) ED 6.4 – Communications Facilities and Networks in that this new tower will aid in allowing the latest technology to be made available to local residents, educational facilities, and businesses that encourage growth in the economic sector that use or rely on it. (4) there is also further discussion found in the Urban Design and Historic Preservation Element in Chapter 8. There DP 3.17 – Telecommunication Facilities discusses controlling the visual impact of such facilities by insuring the efficiency their placement and minimizing the number of such sites through such measures as co-location on existing facilities. This goal was previously mentioned in CFU 5.7 above. (5) Lastly staff notes there is

discussion in Chapter 4 – Transportation. Though there is not a specific goal or policy in this chapter, it covers a broad range of topics such as wireless communication in general reducing the need for many people to travel by auto or other means to various destinations to conduct business or other day to day activities. This in turn reduces the number of people on the roadways and helps lower congestion.

3. *The proposal meets the concurrency requirements of SMC Chapter 17D.010.*

All applicable city departments and agencies had the opportunity to review this proposal with no one denying concurrency. The applicant submitted a SEPA Environmental Checklist and it was reviewed for compliance by all departments and agencies. A Determination of Non-significance (DNS) was issued on September 29, 2015. The applicant gives comment within the CUP application that there will not be any impacts on any city services and that the site will be unmanned and only require electrical power from Avista.

4. *If approval of a site plan is required, the property is suitable for the proposed use and site plan considering the physical characteristics of the property, including but not limited to size, shape, location, topography, soils, slope, drainage characteristics, the existence of ground or surface water and the existence of natural, historic or cultural features.*

The site area is suitable for development according to all city departments and agencies that commented. This site is free from critical areas according to available data. The proposal does not conflict substantially with adjacent land uses, is readily accessible to adequate transportation, utility, and service systems. All development will be required to meet any commercial and applicable development standards as directed in the SMC 17C.355 – Wireless Communication Facilities. This proposal must also comply with any and all county, state, or federal regulations applicable to it currently or in the future. Conditions of approval will be listed at the end of this staff report. These and additional recommendations from agencies are located in the file of record. No known historical or cultural features are known to exist within the site area. Please reference the applicant's response to this (#4) on the CUP application.

5. *The proposal will not have a significant adverse impact on the environment or the surrounding properties, and if necessary conditions can be placed on the proposal to avoid significant effects or interference with the use of neighboring property or the surrounding area, considering the design and intensity of the proposed use.*

Please reference the applicant's response to this (#5) on the CUP application. No comments were received from the public during this process.

B. Time Limitation.

*A CUP (type II or type III) application automatically expires and becomes void if the applicant fails to apply for a building permit within **three** years of the effective date of the CUP.*

STAFF CONCLUSION: The staff recommends approval of the requested Type II Conditional Use Permit.

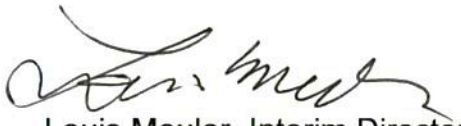
VI: Recommendations

The staff recommends approval of the proposal subject to the following conditions:

1. Adhere to all development standards outlined in Spokane Municipal Code (SMC) 17C.355 – Wireless Communication Facilities (setbacks, screening, lighting, landscaping and the continued maintenance of such).
2. Any wireless communication facility that is no longer needed and its use is discontinued shall be reported immediately by the service provider to the Planning and Development Director. Discontinued facilities shall be completely removed within six months and the site restored to its pre-existing condition.
3. At the time of application for building permit, the proponent shall provide the City of Spokane with copies of the approved F.C.C. permit application, a visual impact analysis, or other visual representation, and all supporting document.
4. All surface drainage must be disposed of on-site in accordance with the Spokane Regional Stormwater Manual.
5. The broken driveway approach needs to be removed and replaced per City Standards.
6. Notify a tribal archaeologist if any evidence of Native American importance is found during any excavation activity. Pursuant to RCW 27.53.060 it's unlawful to destroy any historic or prehistoric archaeological resources.
7. Adhere to any additional performance and development standards documented in comment or required by City of Spokane, Spokane County Washington State, and any Federal agency.

NOTICE OF RIGHT TO APPEAL

Appeals or requests for reconsideration of decisions by the Planning and Development Director are governed by Spokane Municipal Code 17G.060.210 - Appeals. Decisions of the Planning and Development Director regarding Type I or II applications are final unless appealed to the City of Spokane Hearing Examiner. All appeals must be filed with Planning and Development within fourteen (14) calendar days of the date of the decision. All requests for reconsideration must be filed with Planning and Development within seven (7) days of the date of the decision. The date of the decision is October 2, 2015. **THE DATE OF THE LAST DAY TO APPEAL IS THE 16th DAY OF OCTOBER 2015 AT 5:00 P.M.** In addition to paying the appeal fee to appeal the decision, the ordinance requires payment of a transcript fee to the City of Spokane to cover the costs of preparing any required transcripts.



Louis Meuler, Interim Director
Planning and Development

By: Dave Compton, Assistant Planner
Planning and Development *DBC*

October 2, 2015