

**DECISION ON CONDITIONAL USE PERMIT
FILE NO. Z140035CEL2**

I. SUMMARY OF REQUEST AND RECOMMENDATIONS:

DESCRIPTION OF PROPOSAL: The applicant, Verizon, has requested approval of an Administrative Conditional Use Permit (Type II) from the City Planning and Development Director to allow the construction of a new 60 foot wireless communication tower and supporting ground equipment in a residential zone located at 2949 W. 22nd Avenue, Spokane, WA.

Staff approves this application with conditions.

II. GENERAL INFORMATION:

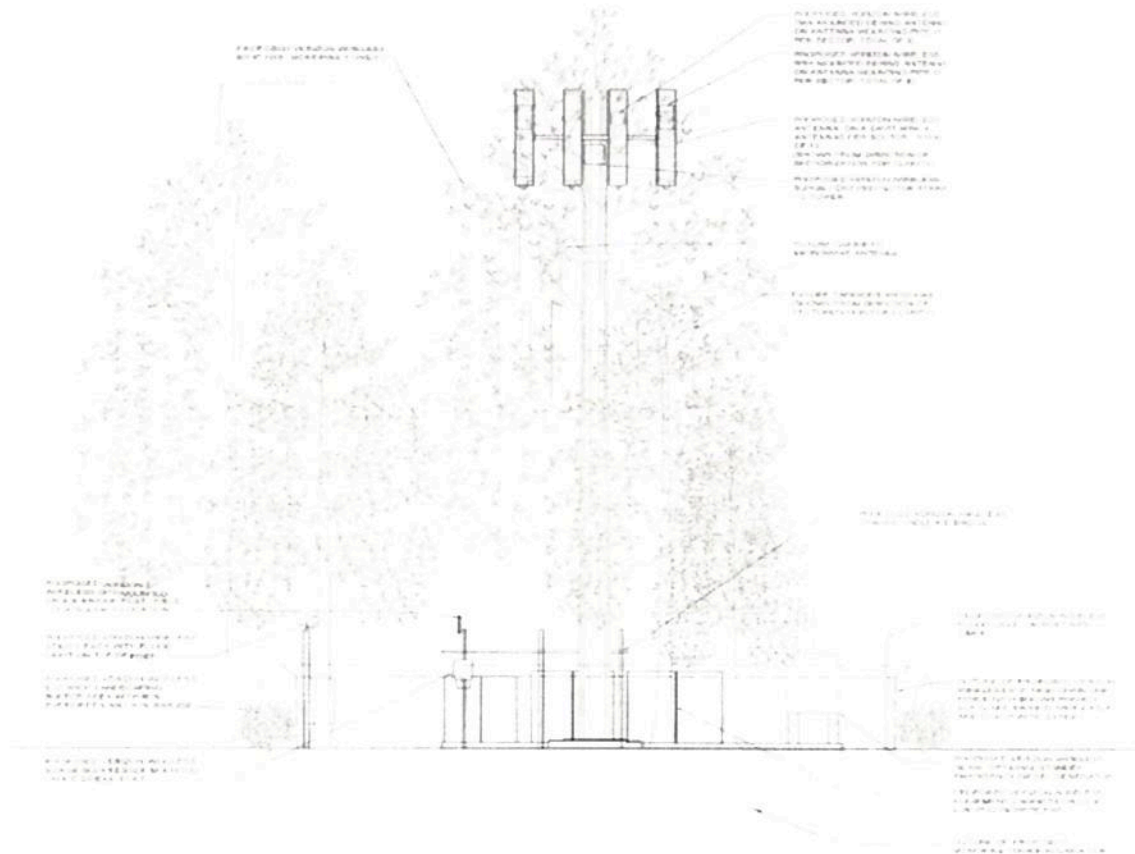
- | | |
|-------------------------------|--|
| A. Applicant/
Agent: | ProLand, L.L.C.
Attn: Derek Budig
2607 S. Southeast Boulevard
Spokane, WA 99223 |
| B. Property Owner(s): | Stephen True
P.O. Box 649
Spokane, WA 99204 |
| C. Location of Proposal: | 2949 W. 22 nd Avenue
Spokane, WA 99224 |
| D. Existing Zoning: | "RSF" (Residential Single Family) |
| E. Land Use Plan Designation: | R 4-10 |
| F. SEPA Status: | DNS – October 3, 2014 |
| G. Enabling Zoning: | SMC 17G.060.170 and
SMC 17C.320.080 - Decision Criteria |
| H. Decision Date: | October 31, 2014 |
| I. Staff Contact: | Dave Compton |

III. FINDINGS OF FACT:

- A. Site Description: The subject property was originally platted in the late 50's and early 60's as the Highlands Addition, a replat of the City View Addition final plat. It currently is a vacant residential lot situated between two existing single family residences. The topography of the proposal site is relatively flat but begins to slope outside the project area up to 30% plus.



- B. Project Description: The applicant has submitted a Conditional Use Permit – Type II application to construct a new 60 foot monopole wireless communication tower (monopine with stealth technology) and accessory ground support equipment within a fenced and landscaped area.



- C. Surrounding Zoning: Residential Single Family (RSF) abuts the proposal on all boundaries except the southern one zoned Residential Multi-Family (RMF) where both single and multi-family homes exist.
- D. Zoning History: The subject property has been zoned RSF since June 2006 with the adoption of the current residential development regulations. Prior to that it was designated R-1 (Residential One-Family) zoning.
- E. Adjacent Land Use: The adjacent land use follows the same boundary as the above mentioned zoning categories within the proposal site area.
- F. Applicable Zoning Regulations: SMC 17C.110, Residential Zones; SMC 17C.355; Wireless Communication Facilities, SMC 17G.060.170 and 17C.320.080 - Decision Criteria.
- G. Procedural Requirements:
 - Application was submitted on July 24, 2014;
 - Applicant was notified in writing on September 5, 2014 of technically complete status of application;
 - A second Notice of Application was mailed on and a sign posted on the subject property on October 10, 2014 which began the 15-

day public comment period. The initial notice was deemed null and void due to sign being posted on wrong property by sign company;

- SEPA Determination of Non-significance issued on October 3, 2014.

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 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 or require a Conditional Use Permit (CUP) based on location and type of facility. For this application to be allowed in this RSF (Residential Single-Family) zoned location a Type II Conditional Use Permit (CUP) is required if it did not exceed sixty (60') feet in height and deploys stealth technology. 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 lists specific Comprehensive Plan goals and policies by element and expresses how they are applicable to this proposal (see applicant's responses #2 on the CUP application). The applicant noted 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 addresses this concern and reasons for erecting a new wireless communication tower due to the inability to co-locate their facilities in the immediate area such as on the city water tank which nearby. This tank is currently at capacity with wireless arrays according to the city water department. Three known existing cell towers are all over one mile away thus being outside the designated one-half mile buffer that would have prohibited any new standalone tower. This new tower will be designed to accommodate the applicant's proposal and up to two or more other co-location occupants for the future. (3) The applicant cites 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) The applicant notes there is also further discussion under Telecommunications noted in chapter CFU 5.14 - Private Utilities that requires that the proposed electrical and telecommunications lines be inventoried with the current utilities coordinator. (5) The last element of the Comprehensive Plan that the applicant addresses is 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. Staff notes there is also further 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 October 3, 2014. 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, use an existing curb cut for access, 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 regulation 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, however if any evidence of Native American importance is found during any ground disturbing actions all activities must cease immediately and the Spokane Tribe of Indians be notified to insure the site contains no cultural resources of significant importance. This will be noted as a condition of approval. 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. A significant amount of comment was received from the public during this process opposing the proposal. The majority of the comments focused on deflation of adjacent property values, the unknown effects of electronic communication emissions, the reason why an existing water tower nearby is not considered a cell tower, how this use can be allowed in a residential zone, the lack of co-locating actions by the applicant and city, etc. A public records request was received, as well as several letters, emails and phone calls requesting information. The requested information was forwarded to the individuals or discussed with them on the phone, email, or in person at city hall.

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 Conditional Use Permit.

VI: Recommendations

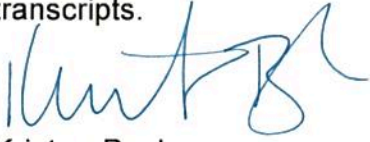
The staff recommends approval of the proposal subject to the following conditions:

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. 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.
3. 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.
4. 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.
5. All surface drainage must be disposed of on-site in accordance with the Spokane Regional Stormwater Manual.
6. 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 November 3, 2014. **THE DATE OF THE LAST DAY TO APPEAL IS THE 17TH DAY OF NOVEMBER 2014 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.

A handwritten signature in blue ink, appearing to read 'Kristen Becker', written in a cursive style.

Kristen Becker
Development Services Center Manager

By: Dave Compton, Assistant Planner
Planning and Development

November 3, 2014