

**FINDINGS OF FACT and FINAL ORDER
TYPE I DESIGN REVIEW**

DATE: August 10, 2021

FILE NO.: 21-045 DR

PROJECT NAME: T-Mobile 18243 Antler Ave Cell Tower

APPLICANT: Crown Castle on behalf of T-Mobile

OWNER: Global Signal Acquisitions IV, LLC (Crown Castle)

PROPERTY ADDRESS: 18243 Antler Avenue

LEGAL DESCRIPTION: T2S R5E Section 18CC Tax Lot 10900 (Lot 84 in Deer Pointe 2)

DECISION: Approved subject to conditions of approval

The above-referenced proposal was reviewed as a Type I Design Review. The following exhibits, findings of fact, and conditions (bold text) explain the proposal and the conditions of approval.

EXHIBITS:

Applicant's Submission

- A. Land Use Application
- B. Project Description
- C. Authorized Consultant Form
- D. Eligible Facilities Request Cover Letter
- E. Plan Set
 - Sheet T-1: Title Sheet
 - Sheet T-2: General Notes
 - Sheet C-1.1: Overall Site Plan
 - Sheet C-1.2: Site Plan
 - Sheet C-1.3: Existing & Final Equipment Plans
 - Sheet C-2: Existing & Final Elevations
 - Sheet C-3: Antenna Schedules & Plans
 - Sheet C-4: Existing & Final Plumbing Diagrams
 - Sheet C-5: Equipment Specs
 - Sheet C-5.1: Equipment Specs
 - Sheet C-5.2: Equipment Specs
 - Sheet C-6: Equipment Specs

Sheet E-1: Panel Schedule and One Line Diagram
Sheet G-1: Antenna Grounding Diagram
Sheet G-2: Grounding Details
Sheet G-3: Grounding Details

FINDINGS OF FACT

General

1. These findings are based on the applicant's original submittal received on July 13, 2021 with additional information received on July 21, 2021.
2. The subject site has a total gross area of 0.18 acres, but the leased area for the cell tower is 3,016 square feet. The site is located west of Antler Avenue and north of Dubarko Road.
3. The parcel has a Plan Map designation of Village and a Zoning Map designation of Low Density Residential, R-1.
4. The existing cell tower was approved when the subject property was outside of city limits and predates the surrounding subdivision.
5. The applicant proposes to install three (3) antennas on the existing tower and new baseband modules and a new junction box within the existing ground lease area. No increase in tower height or expansion of facility footprint are proposed.
6. Another application (File No. 21-049 DR) from Crown Castle on behalf of Verizon was submitted on August 2, 2021 and is being reviewed concurrently with this land use application.
7. No written or verbal comments were received from the public as the application is a Type I design review which does not require notification to surrounding property owners.
8. USFWS prohibits anyone from disturbing an eagle or osprey to the point of injury or harm by disrupting normal breeding, feeding, or sheltering behavior. USFWS current guidelines recommends a disturbance buffer of 660 feet (200 meters) from the nest during the primary nesting season of January to early August or until the chicks have fledged if construction activity is visible from the nest, such as a cellular tower. Unfortunately, the USFWS records on nest sites are outdated. **The applicant shall contact USFWS to determine if there is a known eagle or osprey nest within 660 feet of the tower and, if so, what timing restrictions and/or permits are necessary. Send confirmation from USFWS to Planning Division staff.**

Chapter 17.36 – R-1 Low Density Residential

9. The use proposed is to install three (3) antennas and associated improvements to an existing 130 foot cellular tower. The proposed improvements are 'other development customarily

incidental to the primary use,' which is a major utility facility as listed in the conditional uses in the R-1 zoning district.

10. Section 17.36.10 (B) permits accessory uses outright. The proposal contains improvements that are accessory to the primary use.
11. Section 17.36.30 states the development standards for the R-1 Low Density Residential zoning district. The existing tower is 19 feet 7 inches from the southern side property line, 18 feet 8 inches from the rear property line, and approximately 80 feet from the front property line. The existing equipment building is approximately 10 feet from the northern side property line, but otherwise is further from other property lines than the existing cell tower. The R-1 zone requires structures to be set back a minimum of 10 feet from the front property line, 15 feet from the rear property line, and 5 feet from side yard property lines. The subject proposal meets all setback requirements. The proposed improvements are not separate structures and will not impact existing setbacks.
12. Section 17.36.30 states that structure height shall not exceed 35 feet. The existing tower is 130 feet in height and is proposed to remain at that height.

Chapter 17.76 – Major Utility Siting Standards

13. Section 17.76.10 states that in addition to a conditional use permit that major utilities shall meet four additional criteria.
14. Section 17.76.10 (A.) states that the base of a major utility structure shall be set back from an adjoining residential district by at least 20 percent of the structure height. Since the structure already exists and the height of the structure is not proposed to be modified this criterion is satisfied.
15. Section 17.76.10 (B.) states that in any residential district, commercial communication transmission facilities shall have a minimum 500 foot separation from each other. There are no other cellular towers within 500 feet of the subject tower so this criterion is satisfied.
16. Section 17.76.10 (C.) states that in any nonresidential district, the owner of a commercial communication facility shall agree to permit other businesses to attach communication facilities that do not interfere with the primary purpose of the facility, provided that an agreement is negotiated for reasonable compensation and indemnification from any liability that may result from such attachment. This cell tower already includes collocation of telecommunication providers and Crown Castle has not demonstrated anything to indicate that they are denying other telecommunication companies from collocating on the subject tower, so this criterion is satisfied.
17. Section 17.76.10 (D.) states that if scientifically validated evidence demonstrates the level of electric magnetic fields (EMFs) produced by the major utility poses a health hazard based on nationally accepted standards, the City Council may require removal of the major utility. There has not been a study submitted to the City of Sandy indicating that the existing EMFs from the subject tower pose a health hazard so this criterion is satisfied.

Chapter 17.90 – Design Standards

18. The proposal is subject to all the requirements for Design Review as stated in Section 17.90.00 as the antenna modification is an exterior alteration other than general maintenance as provided in Section 17.90.40 (A.)(1.). However, since no prominent structural or site features will be modified only a few sections of Chapter 17.90 are applicable.
19. Section 17.90.70 specifies that **design review approval shall be void after two (2) years from the date of the Final Order, unless the applicant has submitted plans for building permit approval.**
20. Section 17.90.120 (H) contains standards for lighting in regards to creating safety and an aesthetically pleasing environment. The existing site has a light near the existing equipment building man door to provide for security of the site. The existing tower has a light at the peak of the tower in compliance with Federal Aviation Administration (FAA) regulations. The applicant does not propose any additional lighting at the subject site.
21. Section 17.90.120 (I) contains standards for safety and security of public spaces. Existing lighting and a six foot tall chain link fence around the leased area already exist. The building does not contain any windows for surveillance, but the facility is unmanned so windows were not determined necessary when the facility was constructed. As part of the 2017 land use review process, staff conducted a site visit on June 16, 2017 and noticed a sign that had an outdated address for the site; there was no other address on site. Installation of address numbers at six (6) inches in height was a condition of Final Order 14-009. Staff re-inspected the site on October 25, 2018 and confirmed that the address was still outdated so staff conditioned installation of an address. On August 10, 2021 staff completed a site visit and confirmed the address is installed and affixed to the fence.
22. Section 17.90.120 (J) contains standards for external storage of materials. The existing site is an unmanned facility with no outside trash or recycling containers, or other equipment which creates a nuisance. There is no proposed storage of materials or equipment outside of the existing equipment building. Aside from the driveway area, the existing equipment building is screened from view from the public right-of-way.

Chapter 17.92 – Landscaping and Screening General Standards – All Zones

23. Section 17.92.10 (K) states that all areas not occupied by paved roadways, walkways, patios, or buildings shall be landscaped. On June 16, 2017, staff observed that the area between the driveway and the southern property line was not landscaped. On October 25, 2018, staff reconfirmed that the area between the driveway and the southern property line was still not landscaped. With approval of a previous land use file, landscaping was conditioned between the driveway and the south property line. On August 10, 2021 staff completed a site visit and confirmed that most of the new landscaping has died or is in serious decline. **The applicant shall remove dead or dying landscaping and plant new landscaping at a one-to-one ratio.**
24. Section 17.92.10 (L) specifies that all landscaping shall be continually maintained, including necessary watering, weeding, pruning and replacing. **The applicant shall remove all noxious vegetation (blackberry and overgrown grass) from the subject lot (18243**

Antler Avenue) and in the planter strip on Antler Avenue and avoid bare patches of dirt. All landscaping shall be continually maintained, including necessary watering, weeding, pruning, and replacing.

Chapter 17.98 – Parking, Loading, and Access Requirements

25. Section 17.98.130 (A) states that parking areas, driveways, aisles and turnarounds shall be paved with concrete, asphalt or comparable surfacing, constructed to city standards for off-street vehicle areas. With approval of a previous land use file a paved driveway was conditioned. On August 10, 2021 staff completed a site visit and noticed gravel on the asphalt area and on the driveway apron impeding the sidewalk. **The applicant shall remove all gravel from the asphalt surface and driveway apron to prevent gravel from impeding the sidewalk or entering the roadway.**

DECISION

For the reasons described above, the request by Crown Castle on behalf of T-Mobile to install three (3) antennas and associated improvements to an existing 130 foot cell tower is hereby **approved** as modified by the conditions listed below.

CONDITIONS OF APPROVAL

A. Prior to installation of new antennas the applicant shall complete the following:

1. Contact USFWS to determine if there is a known eagle or osprey nest within 660 feet of the tower and, if so, what timing restrictions and/or permits are necessary. Send confirmation from USFWS to Planning Division staff.

B. The applicant shall submit a building permit application.

C. General Conditions of Approval:

1. Remove all noxious vegetation (blackberry and overgrown grass) from the subject lot (18243 Antler Avenue) and in the planter strip on Antler Avenue. Maintenance of weeds shall be required in perpetuity and otherwise will be enforced by code enforcement.
2. Remove dead or dying landscaping and plant new landscaping at a one-to-one ratio.
3. Remove all gravel from the asphalt surface and driveway apron to prevent gravel from impeding the sidewalk or entering the roadway.
4. The property owner shall be responsible for on-going maintenance of the site and building in compliance with Section 17.92.140.
5. Successors-in-interest of the applicant shall comply with site development requirements prior to issuance of building permits.

6. Approval of this use may be revoked if conditions of approval are not met. Approval does not grant authority for the unrestricted use of the structure or site. Any use of the site may be prohibited until such time as all required improvements are completed.
7. Design review approval shall be void after two (2) years from the date of the Final Order, unless the applicant has submitted plans for building permit approval as specified in Section 17.90.70.
8. Any conditions or regulations required by Clackamas County, Fire District No. 72, or state or federal agencies are hereby made a part of this permit and any violation of these conditions and/or regulations or conditions of this approval will result in the review of this permit and/or revocation.



Kelly O'Neill Jr.
Development Services Director

RIGHT OF APPEAL

A decision on a land use proposal or permit may be appealed to the Planning Commission by an affected party by filing an appeal with the Director within 12 calendar days of notice of the decision. Any person interested in filing an appeal should contact the city to obtain the form, "Notice of Appeal", and Chapter 17.28 of the Sandy Development Code regulating appeals. All applications for an appeal shall indicate the nature of the interpretation that is being appealed and the matter at issue will be a determination of the appropriateness of the interpretation of the requirements of the Code.

An application for an appeal shall contain:

1. An identification of the decision sought to be reviewed, including the date of the decision;
2. A statement of the interest of the person seeking review and that he/she was a party to the initial proceedings;
3. The specific grounds relied upon for review;
4. If de novo review or review by additional testimony and other evidence is requested, a statement relating the request to the factors listed in Chapter 17.28.50; and
5. Payment of required filing fees.