



Legislation Text

File #: ID-46-18, **Version:** 1

Department of Community Development

Reference:

To: Mayor Kenneth J. Kreutzer and Members of City Council

Through: Philip Rodriguez - City Manager

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Date Prepared: January 4, 2018

PURPOSE

This Conditional Use Permit application for a cellular tower and accessory equipment in north Brighton is being brought before you for review. Per Section 17-8-60 of the City of Brighton *Land Use and Development Code*, an application seeking a Conditional Use Permit must be presented before the City Council at a public hearing. Following the public hearing, Council shall provide by resolution an approval or denial of the request.

BACKGROUND

Black & Veatch Corp., the Applicant, on behalf of Verizon Wireless, is requesting City approval for the installation of a 75' monopole to replace an existing pole that is currently supporting only a siren. The new monopole will support a siren as well as cellular equipment for Verizon Wireless. Pictures will be presented at the public hearing presentation showing how the site looks now from the street and how it will look with the new pole. The subject property is located at the southeast corner of Tower Road and Baseline Road, on the City's water tower site

The conditional use approval is generally the fourth step in the development process when a conditional use permit is required. The process for these instances is as follows:

Annexation > Zoning > Platting > Conditional Use Permit > Building Permits

At this stage, the property has been annexed into the City and given a zoning designation, which generally lays out the allowed land uses for the property. During platting, property lines are determined. Now, the applicant has proposed a use, which may or may not fit in the surrounding area, depending on many factors. The City Council will ultimately determine if the use is appropriate at this location.

The Property was annexed into the City in 1985 as part of the Bromley Park Annexation. Currently, the parcel is zoned PL (Public Land) and is owned by the City of Brighton. The City uses this land as a water storage facility as well as operating a civil warning siren at the location. The Applicant, Verizon Wireless, has been negotiating a lease agreement with the City ("Site Lease") that would allow Verizon to move the existing warning siren equipment to the new pole, install high-speed fiber cable to the site, to allow the co-location of other communications equipment, and to allow Verizon to operate a cellular communications facility. According to the Charter, the Site Lease for City-owned property requires review and approval by City Council via ordinance, and approval of the Site Lease by ordinance is a condition of approval here.

Surrounding Land Use(s):

Surrounding	Land Use(s)	Zoning	Annexation Status
North	Residential	Jacob's Run PUD	City
South	Residential	Bromley Park PUD	City
East	Residential	Bromley Park PUD	City
West	Residential	County Zoning	Unannexed

CRITERIA BY WHICH COUNCIL MUST CONSIDER THE ITEM

Comprehensive Plan:

The property this cell tower will be located on is designated for Public Uses on the future land use map of the Comprehensive Plan. As previously stated, the site already supports water storage and a warning siren. With this project, the City would receive a new pole for its siren as well as high-speed fiber. All this would be done while replacing a pole so that once it is completed, the site will look virtually the same from off the site. The monopole itself will be white with a black siren mounted on the top, which is the color scheme of the existing pole. This was done to attract as little attention as possible.

Land Use and Development Code:

When reviewing a Conditional Use Permit, the City Council may use the following criteria to assist in determining if an application will have adverse impacts to the surrounding area:

- a. *The conditional use complies with the requirements of these regulations and with the zone district in which it is to be located;*
The proposed cell tower complies with the regulations of the PL (Public Land) zone district. The monopole will be a total height of seventy-five feet, which is allowed by the *Land Use and Development Code*. The pole also meets the setbacks of the PL zone district.
- b. *The conditional use provides consistency with the purpose and intent of these regulations;*
The purpose and intent of a conditional use is to allow uses that may be compatible with the surrounding uses in the zone district if restrictions or conditions are placed on the use. This proposed cell tower, with its similar location and color scheme, can meet the purpose and intent of the conditional use provision.
- c. *The conditional use provides compatibility with the surrounding areas, is harmonious with the character of the neighborhood, is not detrimental to the immediate area, is not detrimental to the future development of the area, and is not detrimental to the health, safety, or welfare of the inhabitants of the City;*
The new monopole will house an existing siren and is within an area already fenced by the City. These two actions are being done to provide compatibility to the surrounding neighborhood.
- d. *The conditional use complies with the Comprehensive Plan and other master plans of the City; and*
As stated previously, this proposed cell tower does comply with the Comprehensive Plan for the area.
- e. *Does the conditional use require restrictions or conditions upon approval?*
The restrictions the Council should consider include the construction hours of work and operation.
- f. *The following should be considered in the decision in addition to any other criteria deemed relevant to the particular use requested:*
 1. *Hours of operation;*
Council should consider the condition of construction and maintenance occurring only between the hours of 7:00 AM and 7:00 PM. This time frame will allow for construction with minimal impact on the surrounding neighborhood.
 2. *Street and road capacity;*
This project will use Baseline Road during construction and is anticipated to create minimal additional traffic trips.

3. *Off-street parking;*
No additional off-street parking will be needed due to this proposed cell tower.
4. *Fencing, screening, and landscaping;*
The area is currently fenced for security purposes due to housing City facilities. The existing screening was found sufficient for the project and reviewed by the Development Review Committee (DRC).
5. *Building bulk, height, setback, location, and external appearance;*
This project will be consistent with the building height and setbacks for the PL (Public Land) zone district.
6. *Useable open space;*
The proposed cell tower will replace the pole for an existing warning siren. The rest of the site is used to house City facilities, such as water storage.
7. *Signs and lighting; and*
This project is not proposing any new lighting as it is not required.
8. *Noise, vibration, air pollution, or similar environmental considerations.*
The applicant will be required to meet all environmental requirements when constructing the monopole.

STAFF ANALYSIS

Staff finds the Conditional Use application complies with the *Brighton Municipal Code* and the regulations both for the zoning (Section 17-16-220) and conditional uses (Section 17-20-60). The Development Review Committee (DRC) and referral agencies have reviewed the Conditional Use and all comments have been resolved. A complete list of comments and the agencies who made them are available upon request.

PUBLIC NOTICE

As required, mailings were sent to all property owners within 300' of this proposed Conditional Use. These mailings were sent on January 12, 2018, and included a letter describing the proposed Conditional Use as well as the time and place for the public hearing. Also included with the letter was a map of the subject area. Along with the public mailings, public hearing signs were posted on January 17, 2018, on Tower Road and on Baseline Road, both adjacent to the property. Finally, a notice was published in the *Brighton Blade* on January 17, 2018, to give notice to those who are not affected property owners or those who do not drive near this intersection on a consistent basis. As of the date of this staff report, no formal comments have been received by staff.

STAFF RECOMMENDATION

Due to meeting the review criteria of Section 17-8-60 of the City of Brighton *Land Use and Development Code*, staff recommends approval of the Conditional Use Permit, with the following conditions:

- 1) Construction and maintenance of the new monopole, and the accompanying equipment, shall take place only between the hours of 7:00 AM and 7:00 PM on the days of Monday through Sunday.
- 2) Verizon Wireless and its successors and assigns, shall install the cell tower and related equipment consistent with the specifications set forth in Exhibit A, attached hereto as by this reference made a part hereof.
- 3) Verizon Wireless shall provide to the City a 24/7 contact number.
- 4) Verizon Wireless shall remedy any damages within a reasonable time.
- 5) Verizon Wireless shall finalize and execute a Land Lease Agreement with the City for the Project; said Lease Agreement shall be approved by a duly adopted ordinance of the City Council of the City prior to and as a condition precedent to the City's issuance of any building permits for the Project.
- 6) The terms and conditions set forth in the Land Lease Agreement are incorporated into this Conditional Use approval as if set forth in their entirety herein.

A draft resolution has been provided for the City Council should it decide to proceed with the application as presented.

OPTIONS FOR COUNCIL CONSIDERATION

The City Council has four options when reviewing this Conditional Use Permit application.

- 1) The City Council can approve the Conditional Use Permit as presented.
- 2) The City Council can approve the Conditional Use Permit with specific additional (or modified) conditions.
- 3) The City Council can deny the Conditional Use Permit.
- 4) The City Council can continue the application to be heard at a later, specified date.

ATTACHMENTS

- Conditional Use Review Documents
- Vicinity Map
- Draft Resolution with Conditions
- Mailing Notice for City Council Public Hearing
- Newspaper Notice for City Council Public Hearing