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## STAFF REPORT

**STAFF REPORT**  
September 26, 2016

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### AGENDA ITEM (File No. 16019)

Consideration of a Conditional Use Permit for the installation of a new tower-mounted antenna in the public right-of-way, to be located on South 9<sup>th</sup> Street between Pine St and Oak St. The proposed antenna will be located in the Tourist and Office-Professional (C-4) zoning district and is defined on the Jackson County Assessor's map as 37S 2W 02CD, adjacent to Tax Lot 3000.

**Applicant:** Mobilitie, LLC    **Agent:** Colleen DeShazer

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### SOURCE

Molly Bradley, Community Planner I

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### BACKGROUND

Mobilitie ("Applicant") is a public utility company that provides wireless telecommunications services and infrastructure, and is regulated by the Oregon Public Utility Commission. The Applicant is requesting a Conditional Use Permit to construct a tower-mounted antenna in the public right-of-way. The purpose of the antenna is to provide high-speed, high-capacity bandwidth, and increased communication services in Central Point. The Applicant's findings state that locating the facility within the public right-of-way is necessary to ensure compatibility with existing utilities, such as telephone and electrical. Wireless communication antennas are regulated in accordance with CPMC 17.60.040 Antenna Standards and CPMC 17.76 Conditional Use Permits.

#### **Project Description:**

The proposal consists of the installation of a 75-foot tall single tower-mounted antenna, located within the public right-of-way, between the existing McDonald's parking lot and the sidewalk on South 9<sup>th</sup> Street (Attachment "A"). The proposed utility pole is made of wood, with wiring and equipment attached to the exterior.

Per Table 2 in Chapter 17.60.040 Antenna Standards, tower-mounted antennas are allowed as a conditional use in the C-4, C-5, M-1 and M-2 zoning districts. Tower-mounted antennas have been identified as a conditional use due to their unusual characteristics (height) and special considerations necessary to assure their proper location and mitigation of visual impacts. The City's Antenna Standards further acknowledge the visual concerns caused by the height of the tower-mounted antennas to the extent that, in approving a conditional use permit, additional conditions may be imposed to mitigate visual impacts, such as the use of camouflage, concealment, or stealth/disguise design. At this time, the Applicant has not submitted a proposal for mitigating the visual impacts of the proposed tower-mounted antenna.

The Applicant has submitted findings stating that the tower-mounted antenna will not have a significant adverse effect (visual or otherwise) on abutting property, as there is an existing utility pole within the public right-of-way, in the same vicinity of the project site (Attachment "B").

## ISSUES

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In consideration of this application, there are three issues: (1) Precedent; (2) Visual Impact; and (3) Site Location.

- 1. Precedent:** This application is the first request to locate a communications tower within the public right-of-way. The frequency of similar requests in the future is unknown.

**Comment:** The action taken on this application will set a precedent for how similar applications will be reviewed in the future.

- 2. Visual Impact:** As illustrated in the Applicant's findings, the proposed tower-mounted antenna will be the tallest utility pole in the area, only exceeded in height by the McDonald's freestanding sign (Attachment "C"). Being located within the public realm, the visual impact of the antenna will be very apparent to the general public, and needs to be noted and addressed at this time.

**Comment:** The purpose of the regulations set forth in CPMC 17.60.040(2)(d), is to ensure that antennas serve the needs of the community, but at the same time are properly located and have minimal visual impact on the community. In making its decision, the Planning Commission needs to further determine whether or not the proposed tower-mounted antenna has a visual impact and, if so, whether the impact to surrounding properties is adequately mitigated. Based on the Planning Commission's interpretation of visual impact, two determinations can be made:

No Visual Impact Determination – The Planning Commission agrees with the applicant's findings that the proposal will not adversely affect abutting property, and the application can be approved subject to conditions.

Visual Impact Determination– There is sufficient evidence to justify denial of the application on the basis that the proposal does not include a plan to mitigate the visual impact of proposed tower-mounted antenna.

- 3. Site Location:** The proposed tower-mounted antenna is located south of Pine Street, near the easterly entrance to the City's downtown. The Applicant has not submitted compelling findings justifying the necessity of this site location vs. another more obscure location.

**Comment:** The challenge with locating a tower-mounted antenna within the public right-of-way is its visual proximity to the general public and the ability to conceal it in limited spaces vs. a negotiated location on private lands that provide both scale and obscurity siting. In the absence of findings addressing site location considerations, the question of optional siting locations remains.

No issues or concerns have been raised from notified agencies and neighboring property owners (within 100 feet).

## FINDINGS

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The applicant has stated in their findings that all requirements outlined per the Conditional Use Permit section 17.76.040 have been met (Attachment "D").

## **ATTACHMENTS**

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- Attachment “A” – Site Plan
- Attachment “B” – Project Vicinity map
- Attachment “C” – Photo Simulations
- Attachment “D” – Applicant’s Findings
- Attachment “E” – Airport Letter
- Attachment “F” – Site Distance Triangle

## **CONDITIONS OF APPROVAL**

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1. The Applicant shall file a Notice of Proposed Construction or Alteration with the Airport at least 45 days prior to construction, per the letter dated August 12, 2016 (Attachment “E”).

## **ACTION**

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Open the public hearing to take testimony on a CUP for the installation of a 75-foot tower-mounted antenna within the C-4 zoning district.

## **RECOMMENDATION**

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The Planning Commission can choose the following actions:

1. Close the public hearing and direct Staff to prepare a resolution to approve the tower-mounted antenna application per the Applicant’s findings (Attachment “D”) for consideration at the November 1, 2016; or
2. Close the public hearing and direct Staff to prepare, for consideration at the November 1, 2016 meeting, findings for denial based on:
  - a. The Applicant has failed to address how they intend to mitigate the visual impacts of the tower mounted antenna on surrounding properties, or how the siting of the proposed antenna would not cause a visual impact in other right-of-way locations; and
  - b. The Applicant has failed to provide evidence that the proposed project site is the most critical site within the City’s rights-of-way and cannot be co-located with other towers, utility poles, or signs; or
3. At the Applicant’s request, continue the public hearing to the November 1, 2016 Planning Commission meeting, allowing them time to provide modified findings.