



Planning Commission Minutes

Note: Anyone wishing to speak at any Planning Commission meeting is encouraged to do so. If you wish to speak, please rise and, after you have been recognized by the Chair, give your name and complete address for the record. You will then be allowed to speak. Please note the public testimony may be limited by the Chair.

July 9, 2024 REGULAR MEETING Minutes

I. **CALL TO ORDER:**

Chair Verner called the meeting to order at 7:00 p.m. at the Civic Center Council Chambers, 1175 E. Main Street. She noted that Commissioners Perkinson and MacCracken were attending the meeting via Zoom.

Commissioners Present:

Lisa Verner
Doug Knauer
Kerry KenCairn
Susan MacCracken Jain
Gregory Perkinson

Staff Present:

Brandon Goldman, Community Development Director
Derek Severson, Planning Manager
Aaron Anderson, Senior Planner
Michael Sullivan, Executive Assistant

Absent Members:

Eric Herron
Russell Phillips

Council Liaison:

Paula Hyatt

II. **ANNOUNCEMENTS**

1. Staff Announcements

Community Development Director Brandon Goldman made the following announcements:

- The City Council will have a study session on July 15, 2024 to discuss Climate Friendly Areas (CFAs).
- The Council will review the Building Lands Inventory Resolution and two right-of-way vacations on Fern Street and Mountain Meadow Drive on July 16, 2024. All three of these items received recommendations for approval by the Commission.
- On August 6, 2024 The Council will review a City limits map correction at 375 East Nevada Street, where an inconsistency is shown between City and County maps. The Commission initially reviewed this item on February 8, 2022, and found that there was no error per City records, but the inconsistency remains and the Commission at the time was supportive of an amendment to change the line in the event that the Council found it was warranted.
- A sub-committee of the Housing and Human Services Advisory Committee developed a homeless services masterplan which will be reviewed by the Council on August 5, 2024.





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2. Advisory Committee Liaison Announcements

Commissioner MacCracken Jain gave the following announcements:

- A new crosswalk, which was sponsored by the Public Arts Advisory Committee (PAAC), was installed the evening of July 1st in the Plaza across from Lithia Park. The artist was inspired by and used imagery from the indigenous Shasta people.
- The PAAC approved a conceptual plan for a Playwright's Walk in May, 2024. It is a privately funded, philanthropic endeavor inspired by an Iowa City project highlighting writers. The first phase is currently underway as a private enterprise but will be come into City ownership at a later date.
- The PAAC will provide its annual update to the Council on July 16, 2024.

III. **CONSENT AGENDA**

1. **Approval of Minutes**

- May 14, 2024 Regular Meeting
- May 28, 2024 Study Session

Commissioners Perkinson/Knauer m/s to approve the consent agenda as presented. Voice Vote: All AYES. Motion passed 5-0.

IV. **PUBLIC FORUM** – None

V. **TYPE I PUBLIC HEARINGS**

PLANNING ACTION: PA-T1-2024-00233

SUBJECT PROPERTY: 1250 Ashland Street (SOU Science Building)

OWNER/APPLICANT: Southern Oregon University/Verizon Wireless

DESCRIPTION: A request for a Site Design Review Permit to install wireless communication facilities (antennas and associated equipment) on the roof of the Science Building at 1250 Ashland Street on the Southern Oregon University Campus. The application also includes a request for a Conditional Use Permit because with the installation of panels proposed to screen the wireless communication facility installation, the building height will exceed 40 feet. (The proposal is the same as one previously approved by the city in PA-2017-01486 but which subsequently expired, and the applicant proposes to comply with the conditions of the prior approval.) **COMPREHENSIVE PLAN DESIGNATION:** Southern Oregon University District; **ZONING:** SO; **ASSESSOR'S MAP:** 39 IE 15BB; **TAX LOT #:** 100

Chair Verner noted that the Commission received a public comment requesting that the meeting be postponed in order to provide the public an opportunity to thoroughly review the packet materials.





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Planning Manager Derek Severson explained that a continuance of the meeting would violate the federal ninety-day time limit in which the City must make a decision regarding appeals.

Chair Verner stated that three public comments had been submitted to staff since the packet was published. These public comments were forwarded to the Commission and are included in the Public Record.

Ex Parte Contact

No ex parte contact was disclosed, though Commissioners KenCairn, Knauer, and Verner disclosed site visits. Commissioner Perkinson recused himself from this portion of the meeting due to a past association with SOU.

Chair Verner opened the Public Hearing and Public Record at 7:13.

Staff presentation

Mr. Severson stated that William Johnson would be participating as part of staff's presentation. Mr. Johnson is a third-party consultant who reviewed the applicant's initial analysis on behalf of the City and found the application to lack several components, including no trend metrics, scale of propagation plots, and a comprehensive alternate site analysis and collocation study. The lack of these key materials resulted in staff's denial of the application and the applicant's subsequent appeal (see attachment #1).

Mr. Severson described the Telecommunications Action of 1996 that include various guidelines that cities must adhere to when reviewing wireless communication facility (WCF) applications. These guidelines include:

- No discrimination among providers.
- No passing laws or taking actions that prohibit or have the effect of prohibiting wireless service.
- No regulating of wireless based on environmental concerns about radio frequency emissions if the facility will operate within FCC standards.
- Must act on siting requests in a reasonable period of time (90 days from submittal for existing structures – i.e. by July 14, 2024 with extension here).
- Must issue zoning denials in writing, supported by substantial evidence and findings contained in a written record.

Mr. Severson stated that staff included two sets of findings, one for approval and one for denial, in the meeting packet for the Commission's consideration in order meet the July 14, 2024 deadline. He displayed the proposed location of the WCF on the SOU science building, which is located to the east of South Mountain Avenue and Ashland Street, and described how the applicants propose extending





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an existing screen wall in order to screen the installation from view. He noted that extending the wall would largely conceal existing mechanical equipment on the roof that is currently visible.

Mr. Severson outlined the appellant's six points of appeal, which included:

1. The Director erred by denying a proposal that is identical to the proposal approved in 2018.
2. The Director erred by denying the Application based exclusively on comments from the City RF consultant which the Applicant was never provided an opportunity to respond to or address.
3. The Director erred by denying the Application based on the City RF consultant's request for specific technical information that is not required under the City's application submittal or approval standards.
4. The Director erred by denying the Application on the grounds that the Applicant failed to demonstrate a "service gap" in the coverage area.
5. The Director erred in denying the Application on the grounds that the Applicant failed to demonstrate "that collocation or placement on an existing structure are not feasible."
6. The Applicant reserves the right to raise additional appeal issues since AMC 18.5.010.050(G)(3) does not limit the appeal to the specific grounds listed in the notice of appeal.

Mr. Severson described how the City's standards for a wireless facility are considered in a "stepped hierarchy" method, with the following installation options ranging from most preferred to the least preferred method: collocation on an existing WCF; attached to an existing structure; an alternative, concealed structure; or a free-standing support structure. He noted that the applicant would need to explore the option of collocating at an existing WCF at the Raider Stadium before the option of attaching the proposed WCF to an existing structure could be considered.

Mr. Johnson introduced himself as a former professor of telecommunications engineering at the Rochester Institute of Technology. He stated that the possibility for other viable sites for this project to be located were not easily ascertainable from the initial application that he reviewed on April 24, 2024. He elaborated that the mid-band spectrum and how it would propagate the area was omitted from the application, stating that these radio signals would propagate differently in an urban environment versus a rural one. Mr. Johnson explained that the location of this mid-band spectrum is important to draw off customers from neighboring cells that have become too saturated, and that staff could not properly evaluate the feasibility of alternative sites without this spectrum. Mr. Johnson noted that this information is not explicitly required by Ashland Municipal Code (AMC), but that this information is necessary for applications involving zoning considerations as a way to justify the necessity for the proposal and show that the chosen location is the least intrusive to the neighborhood. He stated that this information was subsequently supplied by the appellant with their appeal application, but it did not specify which sector was designated as being over-saturated and





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requested that the applicant provide that information at the meeting. Mr. Johnson remarked that four alternative sites were considered for the proposal, but all were too far to get maximum coverage, and therefore the applicants justified the proposed location.

Mr. Severson stated the applicant had attempted to negotiate with the owner of the existing tower at the Raider Stadium, AT&T, but found that the structure was not built to accommodate additional buildings per conditions placed upon the structure by the Commission when it was approved. Mr. Severson concluded that the applicant's burden of proof has now been met and recommended that the Commission uphold the appeal, reverse the original staff denial, and approve the request with the conditions detailed in the staff report. He noted that these conditions are consistent with the 2018, the exception being a condition requiring a signed copy of the lease as one was provided after the 2018 approval. Staff also recommended that the Commission adopt findings at the meeting in order to comply with the ninety-day federal timeframe to render a decision, and that the findings supplied in the packet could be revised to match the Commission's verdict as needed.

Questions of Staff

Chair Verner asked if the screening wall would cover the entire length of the building. Mr. Severson responded that it was his understanding that the proposed screening wall would only cover certain portions of the roof but that the applicant could address that.

Commissioner Knauer requested clarification regarding the total height of the installation. Mr. Severson responded that the total height of the building is 61ft with the existing mechanical equipment, but that the proposed WCF installation would be obscured by the screening wall that would reach 49ft. Commissioner MacCracken Jain asked if the proposed screening wall extension would only encompass the newer portion of the Science Building and not the connected buildings. Mr. Severson responded that he did not believe it would but that the applicant could confirm that.

Appellant Presentation

Mike Connors introduced himself as a land use attorney for Hathaway Larson and the representative for the applicant, Verizon Wireless, and also introduced Steve Kennedy, a third-party RF engineering consultant who prepared the supplemental materials submitted with the appeal. Mr. Connors stated that the application is identical to the original application, PA-2017-01486, which was approved and subsequently appealed in 2018 before being affirmed by the Commission. He described how mitigating factors, including the COVID-19 pandemic, caused this land use approval to expire in 2020 and result in the new application.

Mr. Connors reiterated that the installation would be screened from view by extending the existing wall and showed a map displaying the existing and proposed coverage, stating that the adjacent WCFs are currently overloaded and require the new installation to increase capacity and alleviate this data traffic buildup.



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Mr. Connors pointed out that the preferred design standards under AMC 18.4.10.040(B) referenced by staff are the crux of the application, and provided an alternative site analysis detailing why the chosen site was most suitable for the installation (see attachment #2). He stated that AT&T was unable to allow collocation on its installation at the Raider Stadium due to the approved height and structural considerations, a decision that neither SOU nor the City could impact.

Mr. Connors explained that staff found the application satisfied all applicable approval criteria, with the exception of the preferred design requirement, and that the sole basis for denial was insufficient RF information related to the need for the new WCF and the alternative site analysis. He stated that the appellant's grounds for appeal is that the application and approval criteria were identical to the one approved in 2018, the appellant was not given the opportunity to the letter from the City's RF consultant, and that the RF consultant requested technical information that is not required for the application.

Mr. Connor's concluded that the appellant complied with the City's request for additional information and requested that the Commission uphold the appeal and approve the application.

Questions of the Appellant

Commissioner MacCracken Jain asked if Mr. Johnson and staff agreed with the new materials shown during the appellant's presentation. Mr. Johnson requested clarification from the appellant on the capacity information for forward data volume and average scheduled eligible users from neighboring sites. Mr. Kennedy referred to the RF design analysis within the appellant's submittal that evaluated the current best servers available, and stated that the site to the northwest of the proposed installation would be the one most likely to be offloaded. Mr. Goldman responded that staff's denial of the application contained a caveat that approval could be granted if the application approval criteria were met, and that staff recommended approval of the application with the supplemental materials provided.

Commissioner Knauer remarked that the Science Building's façade would be significant with the new screening wall and suggested that it be setback at that height. Mr. Connors responded he could not consent to that on SOU's behalf, and that a setback would be inconsistent with the existing wall and require additional engineering.

Public Comments

Kelly Marcotulli/Ms. Marcotulli remarked that the Fire Department will not extinguish a fire unless there is a power shutoff available onsite, and asked what the City's plan was for a shutoff point in the event of a fire. She recited the definition of radiation, stating that it is "the process of emitting radiant energy in the form of waves or particles," and that radiation sickness is "sickness that results from exposure to radiation and is commonly marked by fatigue, nausea, vomiting, loss of teeth and hair,





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and in more severe cases by damage to blood-forming systems.” She requested information regarding the City’s, SOU’s, and Verizon’s plan for people and animals who contract radiation sickness from the installation. She cited how seventeen people became ill when Verizon installed a WCF near their homes in Pittsfield, Massachusetts. She referred to one of the aforementioned public comments submitted to staff by Martin Pall which detailed the potential negative health effects EMF radiation could have on the brain. Ms. Marcotulli requested that the decision be delayed until it is ascertained how the facility would be shut off in the event of a fire (see attachment #3). Ms. Marcotulli inquired about the appeal process for this application if approved. Mr. Severson responded that any appeal go to the Land use Board of Appeals (LUBA).

Larry and Susan Graves/Mr. Graves remarked that the FCC claims preemptive authority over radio frequency airwaves and that their regulations state that environmental concerns over the installation of WCFs cannot be used to deny their application. He stated that there is a growing body of evidence that RF radiation can be harmful, adding that telecommunications providers are unable to obtain liability insurance against potential health and property damages. Mrs. Graves suggested that the City coordinate with neighboring municipalities to sue the FCC into updating their safety standards (see attachment #4).

Alan Rathsam/Mr. Rathsam pointed out that the City disregarded City codes when it permitted AT&T to construct a WCF without the capability of accommodating for collocation in the future, stating that the application violated AMC 18.4.19.040. This provision states that “all new wireless communication support structures shall be constructed so as to allow other users to collocate on the facility,” which was violated when the Commission upheld the City’s decision to allow the AT&T tower to be installed at a reduced height, eliminating future collocation potential (see attachment #5).

Will Wilkinson/Mr. Wilkinson expressed concern that the City did not enforce its collocation code when it permitted the installation of the AT&T WCF at Raider Stadium. He requested that the Commission require staff to consider three potential options: enforcing the collocation code; not enforcing the collocation code; or modifying the code, particularly if it is unable to be enforced.

Elain Sayre/Ms. Sayre stated that she lives near the Science Building and expressed concern over the proposed location of the WCF due to health reasons, but appreciated that the Commission cannot consider those concerns due to federal regulations.

Jasmine Lyons/Ms. Lyons stated that she would have to relocate if the WCF was installed at this location due to health concerns, and requested that the Commission consider the health impact.

Appellant Rebuttal

Mr. Connors addressed health concerns due to RF emissions, stating that he appreciates those



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concerns but that federal law dictates emission standards and that WCFs are a national utility that must be standardized. He added that the Commission should not need to make health decisions when they are not public officials or scientists.

Regarding the Raider Stadium installation, Mr. Connors stated that the Commission had found that AT&T did not satisfy the minimum height standard and its proposed installation was reduced from 95ft to 85ft. He added that the City does not require WCFs to be built to accommodate future collocation, merely that they should provide for it when possible.

Questions of the Appellant

Commissioner KenCairn remarked that many of the public comments referred to 5G and clarified that the proposed installation was 4G. Mr. Connors stated that the proposal is for a 4G tower.

Chair Verner closed the Public Hearing and Record at 8:24.

Discussion and Decision

Commissioner Knauer expressed appreciation to the arguments regarding collocation. He stated that chosen location did not visually appeal to him, but that he understood the reasons it was chosen. He added that SOU requires adequate coverage and requested that the structure be built in such a way as to allow for future collocation. Mr. Goldman stated that collocation is available at the Ashland Hills Hotel, which contains multiple carriers on its roof and is smaller than the proposed location, and therefore the SOU site would be able to accommodate future collocation.

Commissioners KenCairn/Knauer m/s to uphold the appeal and reverse staff's decision to deny the application with the conditions of approval recommended by staff. Roll Call Vote: All AYES. Motion passed 4-0.

V. UNFINISHED BUSINESS

1. Approval of Draft Findings for PA-APPEAL-2024-00019, 1250 Ashland Street

Commissioners Knauer/KenCairn m/s to approve the findings as presented by staff. Roll Call Vote: All AYES. Motion passed 4-0.

VI. TYPE III PUBLIC HEARINGS

PLANNING ACTION: PA-T3-2024-00009

SUBJECT PROPERTY: 2228 East Main Street

APPLICANT/OWNER: Ashland Parks & Recreation/City of Ashland





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DESCRIPTION: A request to annex the 6.51-acre property at 2228 East Main Street and the adjacent 0.97 acres of East Main Street right-of-way into the City of Ashland with Suburban Residential (R-1-3.5) zoning. The application also includes a request for Site Design Review approval to develop the annexed property as a new public park to include restrooms, a bike park with pump track & skills course, fenced dog park, play area, and a community garden. **COMPREHENSIVE PLAN DESIGNATION:** Suburban Residential; **ZONING:** Existing – RR-5 (County); Proposed – R-1-3.5 (City); **ASSESSOR'S MAP:** 39 1E 11CB; **TAX LOT #'s:** 200

Ex Parte Contact

Commissioners KenCairn, Knauer, and Perkinson conducted site visits. Chair Verner stated that she is familiar with the site. No ex parte contact was disclosed.

Staff Presentation

Senior Planner Aaron Anderson gave a brief timeline of this project, stating that the Parks & Recreation Department held multiple meetings between 2019–2022, with the Parks Commission approving a final design on November 8, 2023. He detailed the application's request for annexation and for Site Design Review of the property, stating that the proposed park would include restrooms, a bike park with pump track and skills course, a fenced dog park, play area, and community garden (see attachment #6).

Regarding the annexation approval criteria, Mr. Anderson stated that items A and C were met, while D and E need to be addressed. Item B will be found to have been met provided that the application is approved for Site Design Review for a park, which is an approved use in the requested zone. He noted that items F, G, and H of the annexation approval criteria do not apply to this application. He stated that the Site Design Review standards have largely been met, exceeded, or do not apply to the application. He pointed out that the application included full frontage improvements along the extent of East Main Street, as well as storm water detention on the north side of the property.

Mr. Anderson stated that findings would be adopted by the Commission on August 13, 2024 presuming it votes to recommend approval. The application would then go to the City Council for a first reading on September 17, 2024, and a second reading on October 1, 2024.

Questions of Staff

Commissioner MacCracken Jain asked if staff had received any public comments in opposition to the dog park, to which Mr. Anderson responded that staff had not.

Applicant Presentation

Clark Stevens of Richard, Stevens, and Associates introduced his firm as the land use consultants for the project, along with Piper von Chamier of Terrain Landscape Architecture to discuss site design standards. Also in attendance was Rachel Dials, deputy Director of the Parks & Recreation



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Department to answer any operational inquiries.

Mr. Stevens described how the application met the applicable approval criteria, stating that the site is within the City limits, that adequate City facilities are available, sufficient street capacity exists to serve the project, and that the application is in compliance with state annexation procedures.

Ms. von Chamier provided a brief background on the project, which started in 2017 and culminated with the proposal before the Commission. She emphasized the amount of community outreach associated with the project and displayed the site plan showing the amenities of the park as shown in the staff presentation. She pointed out that a 6ft tall fence would be installed on the east and west side of the park to provide privacy to local residences, and a 36in tall fence around the play area to prevent children from accessing the parking lot. A deer fence would also be installed around the community garden, with an existing fence along Abbott Avenue to be retained.

Ms. von Chamier explained that the park would include shade structures and restrooms, as well as path-lighting and an area for a future RVTD bus stop along East Main Street. She mentioned that there would also be vehicular and bike access off of East Main Street, as well as bike access along Abbott Avenue and Brooks Lane.

Questions of the Applicant

Commissioner Knauer remarked that some public comments received expressed concern over parking and asked if there would be sufficient parking for the expected usage. Mr. Stevens responded that peak visitor hours during the week would largely be from the local community, such as children visiting after school. He stated that the application's traffic study determined that peak park usage would not conflict with peak work traffic in mornings and evenings. He elaborated that the park is expected to see more bicycle traffic, which would not require significant parking space. Ms. von Chamier added that the applicants analyzed average parking usage from the existing dog park, community garden, and the city of Redmond's pump track to determine the number of parking spaces required.

Commissioner Knauer expressed concern that the Parks & Recreation Department would be unable to adequately maintain the proposed park due to the difficulty in maintaining current City parks. He proposed allowing the new department Director, Rocky Houston, adequate time to acclimate to his new position before moving forward with the proposal. Ms. Dials responded that the park was designed for low maintenance and that she was confident it could be adequately maintained, particularly once the department has a full staff. She added that the park may be a phased development depending on budget considerations, especially since the state is still reviewing the City's grant application for the pump track. Chair Verner pointed out that the subject application is only for the annexation of the property, the approval of which would allow the project to continue. Commissioner KenCairn stated that the development of the park would be a lengthy process, which





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would allow the Parks Department ample time to hire additional maintenance staff. She commented that the proposal includes amenities currently lacking in the City that would benefit the community.

Chair Verner closed the Public Hearing and Public Record at 9:12 p.m.

Discussion and Decision

The Commission discussed the timing of the project and whether it would be prudent to delay development. It was reiterated that this approval was merely for annexation and that maintenance of the park would not be necessary for some time. Commissioner MacCracken Jain remarked that the Commission's decision regards land use, not the design of the park. Commissioner Knauer agreed, and asked if this park would complete the City's goal of having all residences within a half-mile of a park. Ms. Dials responded that it would.

Commissioners Perkinson/KenCairn m/s to recommend that this item be forwarded to City Council for consideration based on staff's recommendation and inclusive of staff's recommended conditions. Roll Call Vote: All AYES. Motion passed 5-0.

VII. OPEN DISCUSSION - None

VIII. ADJOURNMENT

Meeting adjourned at 9:16 p.m.

*Submitted by,
Michael Sullivan, Executive Assistant*





Appeal Hearing Verizon Wireless

Planning Commission
July 9, 2024

Verizon Appeal

Before the Commission tonight...

De Novo Appeal Hearing of Staff's Administrative Denial

Site Design Review for rooftop WCF installation & Conditional Use Permit for screening panels to exceed 40-foot height.

Staff Denial

Third party review found initial analysis silent to mid-band RF, which is 90% of licensed spectrum; no trend metrics; scale of propagation plots; alternate site analysis & collocation study were lacking.

On that basis, staff found that gap analysis and collocation study were insufficient and denied the application.

Applicant Verizon Wireless Timely Filed an Appeal

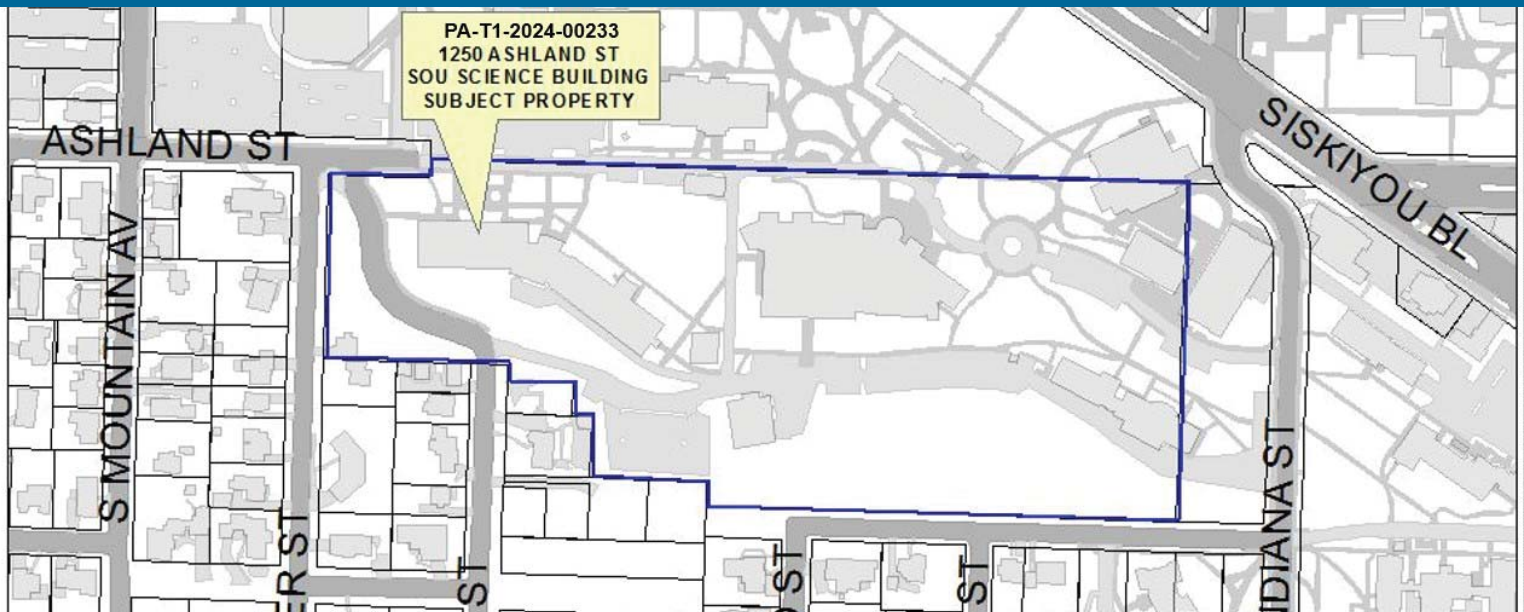
Six points noted in appeal request





Telecommunications Action of 1996...

- ✓ No discrimination among providers.
- ✓ No passing laws or taking actions that prohibit or have the effect of prohibiting wireless service.
- ✓ *No regulating of wireless based on environmental concerns about radio frequency emissions if the facility will operate within FCC standards.*
- ✓ Must act on siting requests in a reasonable period of time (*90 days from submittal for existing structures – i.e. by July 14th with extension here*).
- ✓ Must issue zoning denials in writing, supported by substantial evidence and findings contained in a written record.



Notice Map SOU Science Building

1250 Ashland Street



- Antenna locations
- Photosim #1 (Looking South West)
- Photosim #2 (Looking South East)
- Photosim #3 (Looking South)



Proposed Antenna Height: 48.8'
Existing Building Height: 39.1'
Existing Screen Wall Height: 49.1'

Project Description:
Adding new equipment, antennas and screening to proposed Verizon Wireless cell site

VIEW 2

MDF Madrone

Address: 1250 Ashland Street
Ashland, OR 97520

Before - Looking South East

After - Looking South East



Proposed Antenna Height: 48.8'
Existing Building Height: 39.1'
Existing Screen Wall Height: 49.1'

Project Description:
Adding new equipment, antennas and screening to proposed Verizon Wireless cell site

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VIEW 3

MDF Madrone

Address: 1250 Ashland Street
Ashland, OR 97520

Before - Looking South

After - Looking South



Proposed Antenna Height: 48.8'
Existing Building Height: 39.1'
Existing Screen Wall Height: 49.1'

Project Description:
Adding new equipment, antennas and screening to proposed Verizon Wireless cell site

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Points of Appeal

1. The Director erred by denying a proposal that is identical to the proposal approved in 2018.
2. The Director erred by denying the Application based exclusively on comments from the City RF consultant which the Applicant was never provided an opportunity to respond to or address.
3. The Director erred by denying the Application based on the City RF consultant's request for specific technical information that is not required under the City's application submittal or approval standards.
4. The Director erred by denying the Application on the grounds that the Applicant failed to demonstrate a "service gap" in the coverage area.
5. The Director erred in denying the Application on the grounds that the Applicant failed to demonstrate "that collocation or placement on an existing structure are not feasible."
6. The Applicant reserves the right to raise additional appeal issues since AMC 18.5.010.050(G)(3) does not limit the appeal to the specific grounds listed in the notice of appeal.

AMC 18.4.10

Ashland's WCF Regulations

Regulates the placement, appearance and visual impacts of WCF's while providing residents the ability to utilize wireless services.

Requires Independent Third-Party Review of Technical Submittals.

Preferred Designs

Considered in a "stepped hierarchy".

#1. Collocation

On an Existing WCF

Preferred Option

#2 Attached

To an Existing Structure
If #1 is not feasible

#3 Alternative Structure

Conceal, Camouflage
If #1 & #2 not feasible

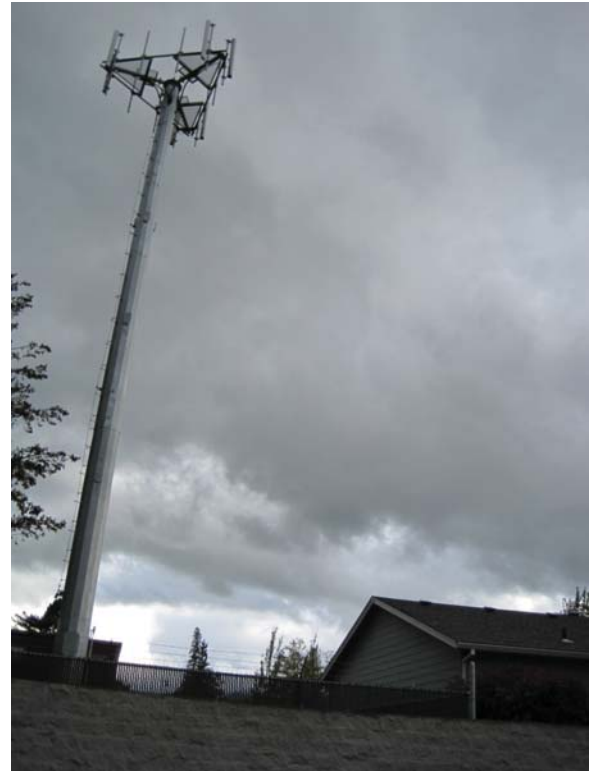
#4 Free-Standing Support Structure

No Lattice Towers
If #1-3 not feasible



Elsewhere in the Valley

Typical WCF Installations



Ashland

Typical WCF Installations





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Third Party Review of Technical Submittals

1. Target area currently served by existing sites between one- and two-miles away. Sites at that distance might provide some low-band RF coverage, but it is often unreliable and service quality depends on subscriber location and local RF "clutter." *It is nearly impossible for sites at that distance to provide reliable mid-band RF coverage in an urban/suburban area.*
2. Existing spotty low-band (700/850MHz) RF coverage from existing neighbor sites provides about ten percent of Appellant's bandwidth. Mid-band spectrum, which accounts for about 90 percent of Appellant's subscriber bandwidth, is likewise spotty and served from existing neighbor sites at or below the outdoor service level. **Third Party Reviewer concluded that Appellant has shown an RF service coverage gap in the vicinity of the proposed site that could be remedied by a new WCF.**
3. In addition to the RF coverage gaps, Appellant provided Forward Data Volume (FDV) and Average Scheduled Eligible Users (ASEU) metric plots. Those plots show two issues that will affect reliable service. First, the FDV plot shows that the serving sector cannot support the number of users and their bandwidth demands during the busiest times each day. Second, the ASEU plot likely reflects the make-and-break connections subscribers experience while trying to hold voice and data sessions on the LTE network from the un-named sector. Both metrics tend to support Appellant's claim of need for a WCF in the vicinity of the proposed site.
4. Appellant has also supplemented their materials with "Crowd-sourced" data from the "Ookla Verizon 4G" database that show user devices reporting less-than-reliable service levels in the vicinity of the proposed site. **That crowd-sourced data is consistent with the existing RF coverage levels shown for low-band and mid-band** and is consistent with Appellant's ASEU metrics that show excessive sessions held by the existing WCF sector in question.

Verizon Appeal





Third Party Review of Technical Submittals

5. Due to the propagation characteristics of both low-band and mid-band signals, **any prospective alternate sites that are more distant than Appellant's existing WCF sites are likely to fail to provide sufficient signal strength to the target coverage area.**
6. Documentation Item #2 "Alternate Site Analysis" lists site numbers 1 through 4. Sites 1, 2 and 3 are either located near existing sites operated by Appellant or are at comparable distances to existing sites. These **alternate sites would likely have the same signal level issues discussed above for existing low-band and mid-band service that create the need for a WCF in the vicinity of the proposed site.**
7. Appellant states that Site 4, the 85-foot light pole location, provides acceptable performance, but Appellant states that location is **"not available."** *[Appellant has provided significant additional information in support of this assertion.]*
8. Additional alternate sites identified by city staff or during public comment near the target area, if any, that have lower antenna center line (ACL) elevation or that are located at other coordinates will require additional propagation modeling by Appellant to assess performance should they be considered.

- Uphold the appeal.
- Reverse the original staff denial.
- Approve the request with the conditions detailed in the staff report, which are consistent with those attached to the 2018 approval.
- Adopt findings tonight to comply with the federal 90-day shot clock which runs to July 14th (*as extended*).

Staff Recommendations



Any questions?...

Appeal Hearing Verizon Wireless

Planning Commission
July 9, 2024

Verizon Wireless

MDF Madrone-2
Application No. PA-T1-2024-00233
Wireless Communications Facility (WCF)
1250 Ashland Street, Ashland, OR

Planning Commission Approved Same Proposal in 2018

- ▶ Verizon applied for the identical rooftop proposal in 2018 - PA #2017-01486.
- ▶ City Staff approved the Application – Decision appealed.
- ▶ Planning Commission affirmed the Staff decision and approved the Application.
- ▶ Land use approval expired in 2020.



Proposed WCF

- ▶ Southern Oregon University – Science Building.
- ▶ Rooftop site – Antennas and equipment on rooftop (no ground equipment).
- ▶ Extend the existing mechanical screening wall to fully screen the WCF – match screening wall.
- ▶ SOU zone – WCF allowed subject to Site Design Review.
- ▶ Conditional Use Permit – Extending existing screening wall that exceeds 40 ft. (49.1 ft.)



Photosim No. 1 – Looking SW



Photosim No. 2 – Looking SE



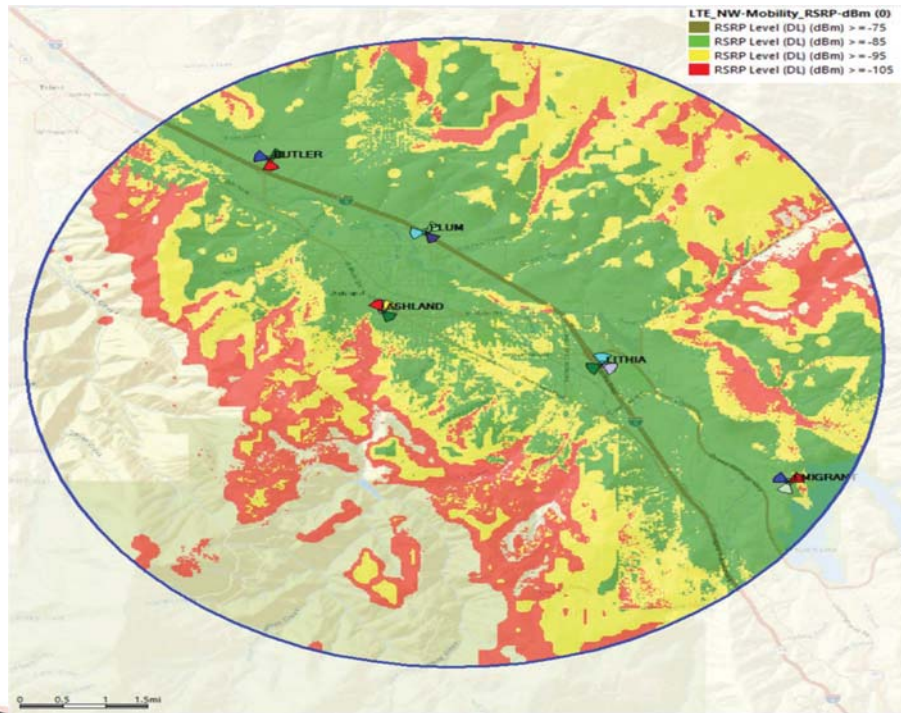
Photosim No. 3 – Looking South



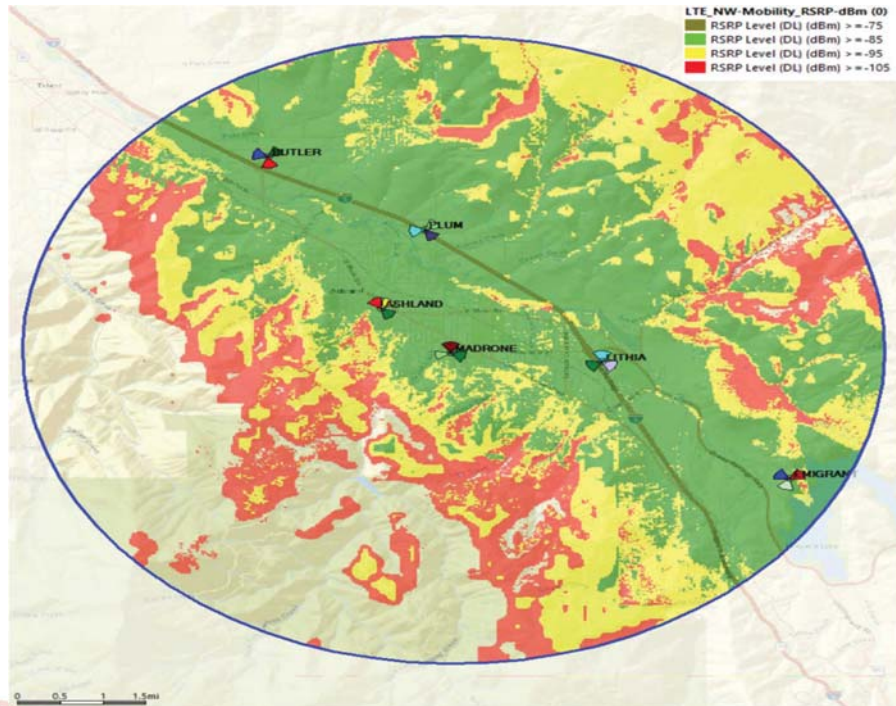
Need for new WCF location

- ▶ Coverage and capacity site.
- ▶ Lack of reliable coverage for indoor and in-vehicle users.
- ▶ Surrounding WCFs are overloaded and beyond capacity.
- ▶ Problem will only get worse over time – wireless data traffic increasing exponentially.

Current Coverage



Coverage With Proposed WCF



AMC 18.4.10.040(B) – Preferred Design

- ▶ 1. Collocation. Collocate new WCFs on pre-existing structures with WCFs in place or on pre-existing towers.
 - ▶ 2. Attached to Existing Structure. If (1) above is not feasible, WCFs shall be attached to pre-existing structures.
 - ▶ 3. Alternative Structure. If (1) or (2) above are not feasible, alternative structures shall be used with design features that conceal, camouflage, or mitigate the visual impacts.
 - ▶ 4. Freestanding Support Structure. If (1), (2), or (3) above are not feasible, a monopole design with vertical attached antennas or if not feasible a platform design.
- 

Alternative Sites Analysis

- ▶ Alt No.1(Towerco 120' wireless tower) – Not within search ring, not satisfy coverage and capacity objectives & too close to existing site (Lithia).
 - ▶ Alt No. 2 (25' Rooftop – 2290 Ashland St.) – No existing WCFs (evaluated 2018), not satisfy coverage and capacity objectives & too close to existing site (Lithia).
 - ▶ Alt No. 3 (25' Rooftop – 30 W. Hershey St.) – No existing WCFs (evaluated 2018), not satisfy coverage and capacity objectives & too close to existing site (Ashland).
- 

Alternative Sites Analysis

- ▶ Alt No. 4 (AT&T 85' stadium light standard).
 - Applicant made repeated attempts over a one-year period to explore this alternative before it was constructed.
 - AT&T was unwilling and unable to allow collocation due to the lower approved height (original proposal 95') and structural issues.
 - Southern Oregon University was unable or unwilling to assist Verizon in facilitating collocation discussions with AT&T.
 - The City was unable or unwilling to assist Verizon in facilitating collocation discussions with AT&T.
- 

City Staff Decision

- ▶ Staff decision concluded the Application satisfied all the applicable approval criteria except the preferred design requirement.
 - ▶ Sole basis for denial – lack of sufficient RF information related to the need for the WCF and the alternative sites analysis.
 - ▶ Staff position based exclusively on the City RF consultant's 4/24/24 letter.
 - ▶ City RF consultant's letter merely requested additional technical information and clarification.
 - ▶ The Applicant was not provided a copy of the City RF consultant's letter or an opportunity to respond.
- 

Grounds for Appeal

- ▶ The City approved the identical proposal in 2018 – same proposal and approval criteria.
 - ▶ The Applicant was denied an opportunity to respond to the City RF consultant's letter.
 - ▶ The City RF consultant requested technical information that is not required to be provided under AMC Chapter 18.4.10.
 - ▶ The Applicant already submitted substantial evidence demonstrating a need for the WCF and the lack of preferred alternatives.
- 

The Applicant Submitted Requested RF Information

- ▶ The Applicant's RF engineer submitted the additional requested information demonstrating a need for the WCF – RF Design Analysis.
 - ▶ The Applicant's RF engineer submitted the additional requested information demonstrating the lack of preferred alternatives– Alternative Site Analysis.
 - ▶ The City's RF consultant reviewed this additional information and agrees with the Applicant's analysis.
 - ▶ The City Staff agrees there are no preferred alternative sites that are available.
- 

Conclusion

- ▶ The City approved the identical proposal in 2018 – same proposal and approval criteria.
- ▶ The Applicant's RF engineer submitted the additional requested RF information.
- ▶ The City RF consultant agrees that the Applicant demonstrated a need for the WCF and the lack of preferred alternative sites.
- ▶ The City staff agrees the Application satisfies the applicable approval criteria.
- ▶ The Applicant requests the Planning Commission approve the Application subject to the conditions of approval.



Kelly Marcotulli, comment for the public record on Verizon appeal to denial of WCF at
SOU. 7/9/2024

What is the city's plan for assuring power is cut to a Wireless Communications Facility, in other words, this new Verizon installation (WCF) in the event of fire? Firefighters will not put water on an electrical fire until they are assured that the electrical source has been shut off from a remote location. Ashland's current code requires a power shut off to be located where the installation is located. Think about that. How will someone cut the power if the fire is where the cut off switch is? There is no provision in the current city code that the switch be accessible at a safe distance from a facility fire.

What is the city's , Verizon's and SOU's plan for people who become sick from the radiation that will be emitted from the new wireless facility? In case you are not aware, in Pittsfield MA, 17 people become very ill when Verizon put a cell tower near homes and businesses. Children became so ill that they were vomiting and missed school. They became so ill that they had to sleep in their basement to escape the radiation from the tower. What are you all going to do when this happens here? And what will SOU do when students in the Science building become ill from the tower above their heads? Dr. Martin Pall submitted documentation that clearly shows a clear effect from EMFs. He concludes" The nervous system, including the brain is the most sensitive organ in the body to EMF effects. These effects range from autism/autism spectrum disorder causation to widespread neurodegeneration including Alzheimer's. Common neurological/neuropsychiatric effects include sleep disruption, fatigue, depression, lack of concentration, memory dysfunction, anxiety,dizziness/vertigo, irritability, tinnitus. These are all bad things to have occurring on a college campus, with lack of concentration and memory dysfunction being particularly damaging to the learning process.

So, please heed your conscience and uphold the Planning Departments decision to deny this application. We have no need for this tower and other solutions are available to ensure SOU students are safe and can receive emergency updates.

July 9th, 2024

Public Comment on Planning Commission Action Item:

PA-T1-2024-00233/PA-Appeal-2024-00019

Offered by Larry Graves, 1336 Prospect St, Ashland, Oregon 97520

The FCC claims preemptive authority over radio frequency airwaves. Their regulations state that Wireless Communication Facilities environmental pollution concerns cannot be used to deny installation permits. There is a growing body of credible evidence that Radio Frequency Radiation is harmful to life, particularly to children's development.

Dr. Martin Pall, Professor Emeritus of Biochemistry and Basic Medical Sciences at Washington State University sent in his public comments on this issue to the city yesterday. Among his comments was this telling fact:

“Safety guidelines” used by the FCC and other regulatory authorities only protect us from the thermal effects [of RFR]. They do not therefore, protect us from any wireless communication EMFs which all act via strong electric and/or magnetic forces.” [Pulse modulation causes EMFs to be much more biologically active than are non-pulsed EMFs of the same average intensities.]

Regarding risk and risk assessment, the Insurance Industry is where the rubber meets the road. So, it is interesting to note that the rating agency A.M. Best, which advises insurers on risk, in 2013 topped its list of “emerging technology-based risks” with RF Radiation:

A.M. Best wrote, “The risks associated with long-term use of cell phones, although much studied over the past 10 years, remain unclear. Dangers to the estimated 250,000 workers per year who come in close contact with cell phone antennas, however, are now more clearly established. Thermal effects of the cellular antennas, which act at close range essentially as open microwave ovens can include eye damage, sterility and cognitive impairments. While workers of cellular companies are well trained on the potential dangers, other workers exposed to the antennas are often

unaware of the health risks. The continued exponential growth of cellular towers will significantly increase exposure of these workers and others coming into close contact with high energy cell phone antenna radiation.”

So, I ask, what is the plan to assure that maintenance personnel at SOU are aware of the risks associated with working in the vicinity of cellular antennas, for example the antennas proposed here for installation on the science building?

What is the commission's recommendation to the city regarding damages to personal health and property caused by WCF's, since no telecommunications providers are able to obtain liability insurance against such damage? The insurance industry considers wireless radiation to be a high-risk pollutant. Conditional use permits for other activities in Ashland recognize the adverse effects of environmental pollutants on community livability.

Why not here?

In light of the recent SCOTUS opinion (Chevron Deference) that federal regulators such as the FCC routinely overstep their statutory authority and then ignore their own regulations and court rulings against them (CHD et al vs the FCC and US Gov, Dec 2021), has the commission considered recommending that the city act preemptively to assure the safety of Ashland's men, women and children?

For example, the city could seek out and band together with other municipalities facing the same health concerns from Wireless Communications Facilities Radiation and sue the FCC to update their safety standards.

Members of the Planning Commission, City Staff, City Counselors, and fellow residents, I'm Alan Rathsam, a resident of Ashland and a retired mechanical engineer. In that field I have BS and MS degrees and a retired professional license in California.

My testimony will address how the City's priorities in favoring some City code provisions and ignoring others has denied Verizon's opportunity to collocate on AT&T's SOU Stadium Tower. To understand circumstances for this denial, we have to review past approval decisions for AT&T's stadium tower. With this information, I urge this Commission to delay a decision on tonight's appeal, pending your review of the implications.

Chapter 18.4.10 WIRELESS COMMUNICATION FACILITIES, section 18.4.10.040 Design **Standards**, section **A. General Provisions, item 8**, state "All new wireless communication support structures shall be constructed so as to allow other users to collocate on the facility." Is there anything unclear about this requirement? Verizon has not been allowed to collocate on the AT&T stadium tower because it was not constructed to meet this requirement. Verizon indicates their requirements for network coverage would be met at this location. The potential advantage to Ashland residents might be a greater setback distance from the tower to a majority of residential properties.

Here are possible reasons for this situation. Section **C. Collocation, item 2.c.**, states that relief from collocation may be granted if it is not **feasible** because "Structural support requirements cannot be met."

It's clear, the AT&T tower structure is too short to accommodate collocation and it cannot support additional weight. The record shows that Verizon expressed interest in collocation before the AT&T tower was even constructed, but the City would not reconsider the tower height issue or facilitate discussion between Verizon and AT&T.

However, under section **B. Preferred Designs**, the text defines "feasible" as capable of being done, executed or effected; possible of realization. A demonstration of feasibility requires a substantial showing that a preferred design can or cannot be accomplished." In this definition, cost or convenience are not factors in what is feasible. So, collocation would be feasible if the existing stadium pole were replaced with a taller pole.

Here is another possible reasons why Verizon was denied collocation.

Under section **A. General Provisions, item 4**, "Wireless communication facilities shall be installed at the minimum height and mass necessary for its intended use."

This requirements appears to be the reason this Commission accepted the City's decision to reduce the AT&T stadium tower height from 95 feet to 85 feet. This approval

immediately prevented the possibility of collocation by any telecom carrier in violation of Design Standards, General Provisions, Item 8.

Under **18.4.10.030 Application Submission Requirements, item I**, a permit applicant for wireless facilities must provide a copy of the lease agreement for the proposed site “showing” that the agreement does not preclude collocation.” There is no explicit showing or statement in the land-lease agreement between **Southern Oregon University** and **New Cingular Wireless, PCS, LLC** that indicates the agreement does not preclude collocation. The word “collocation” does not appear in the agreement. This omission was noted in the Planning Commission hearing that approved the AT&T cell tower at SOU Stadium, but the City has taken no action to correct the omission in the lease agreement signed by SOU and New Cingular Wireless in September 2023. This lease-agreement submission is incomplete on the issue of collocation, a major issue in Verizon’s appeal.

The implications of the City’s honoring some ordinance provisions and ignoring others justifies a need for deliberation about ordinance priorities before this Commission makes a decision about tonight’s appeal and sets a precedent for future decisions.



East Main Park

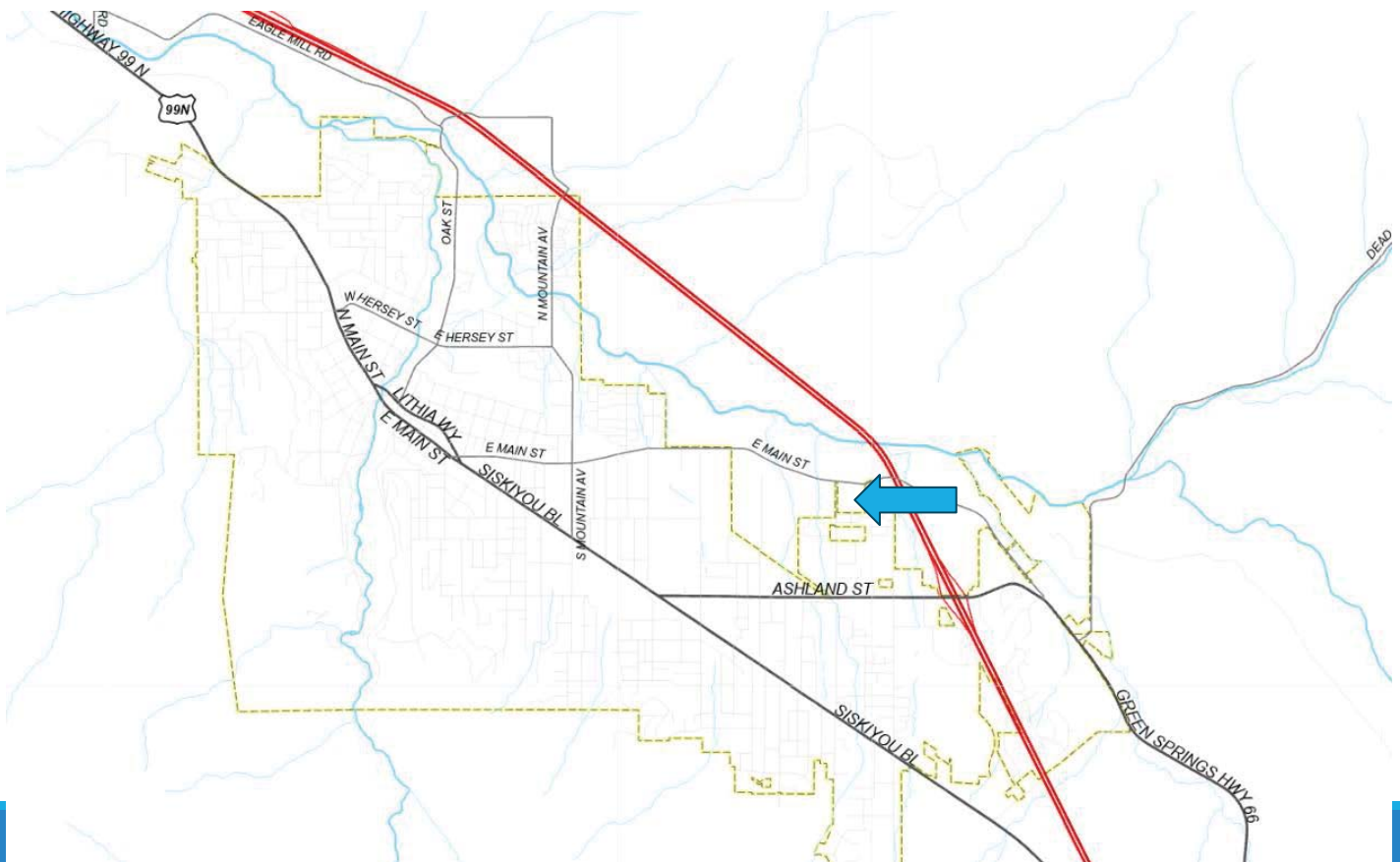
PLANNING
COMMISSION
JULY 09, 2024

Introduction - East Main Park

This is the near culmination of a project that has been many years in the making.

During the design process the Parks dept has had multiple public meetings and surveys to gain stakeholder input. These meetings were held across several years between 2019 and 2022.

The Parks Commission approved final designs at their November 08, 2023, business meeting.





RENDERING BY TERRAIN LANDSCAPE ARCHITECTURE

Application

A request for annexation and zone change of a 6.51-acre property and 0.97 acres of adjacent Right of Way (7.48 acres in total).

The application also includes a request for Site Design Review approval for a city park.

The proposed amenities include restrooms, a bike park with pump track & skills course, fenced dog park, play area, and community garden.

Annexation – Type 3 action

Type III actions are reviewed by the Planning Commission, which makes a recommendation to City Council. The Council makes final decisions on legislative proposals through enactment of an ordinance.

Legislative requests are not subject to the 120-day review period under subsection 18.5.1.090.B (ORS 227.178).

Approval Criteria - Annexation

A. That the annexed area is within the City's Urban Growth Boundary.

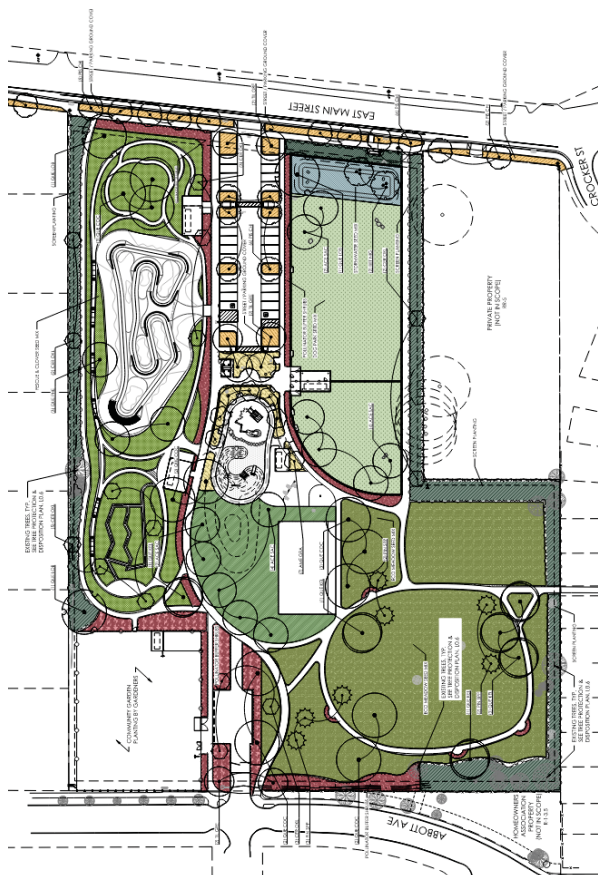
B. That the annexation proposal is consistent with the Comprehensive Plan designations.

C. That the annexed area is contiguous with the city limits.

D. That adequate City facilities are available as determined by Public Works.

E. That adequate transportation can and will be provided to serve the annexed area.

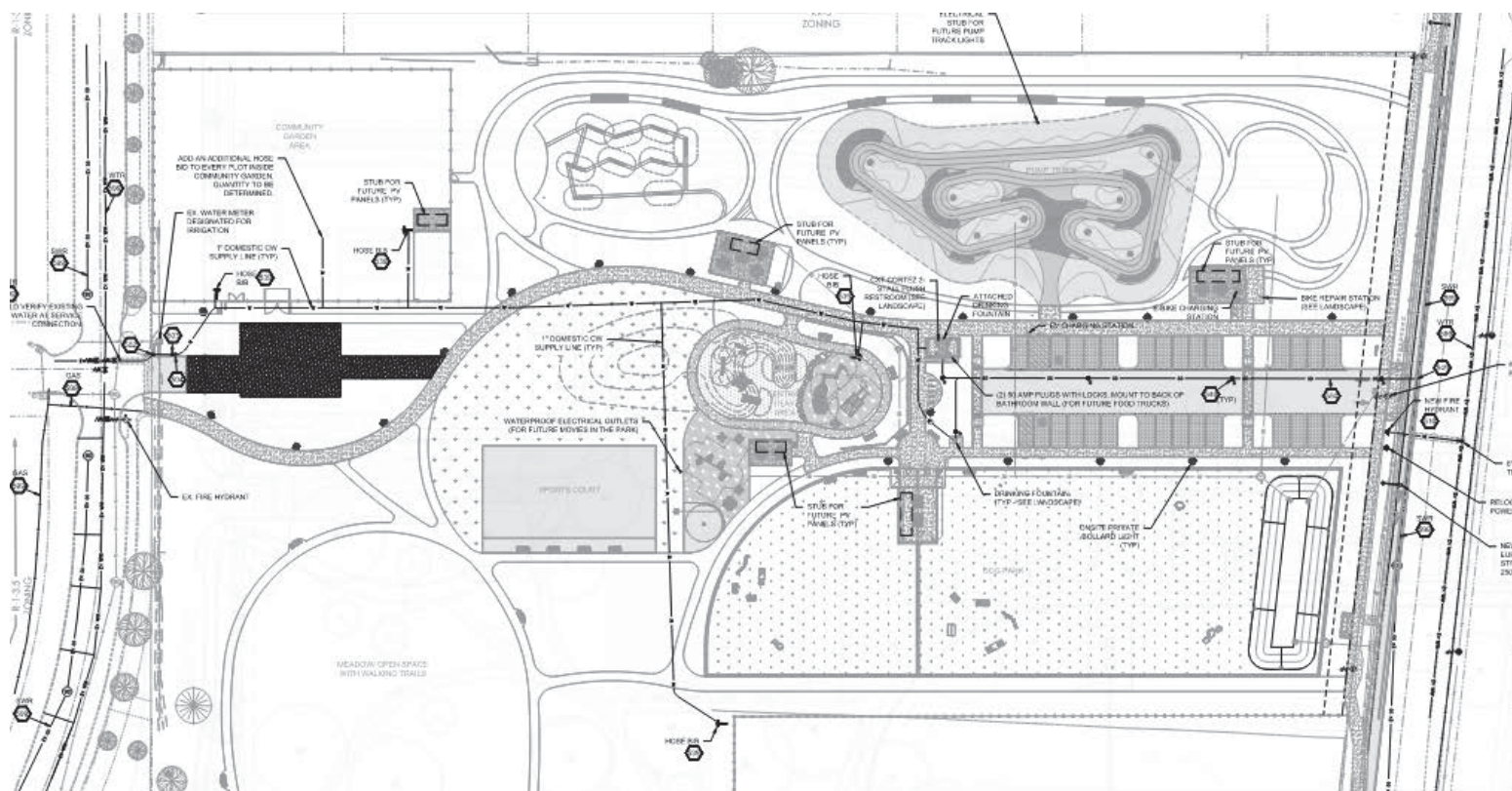
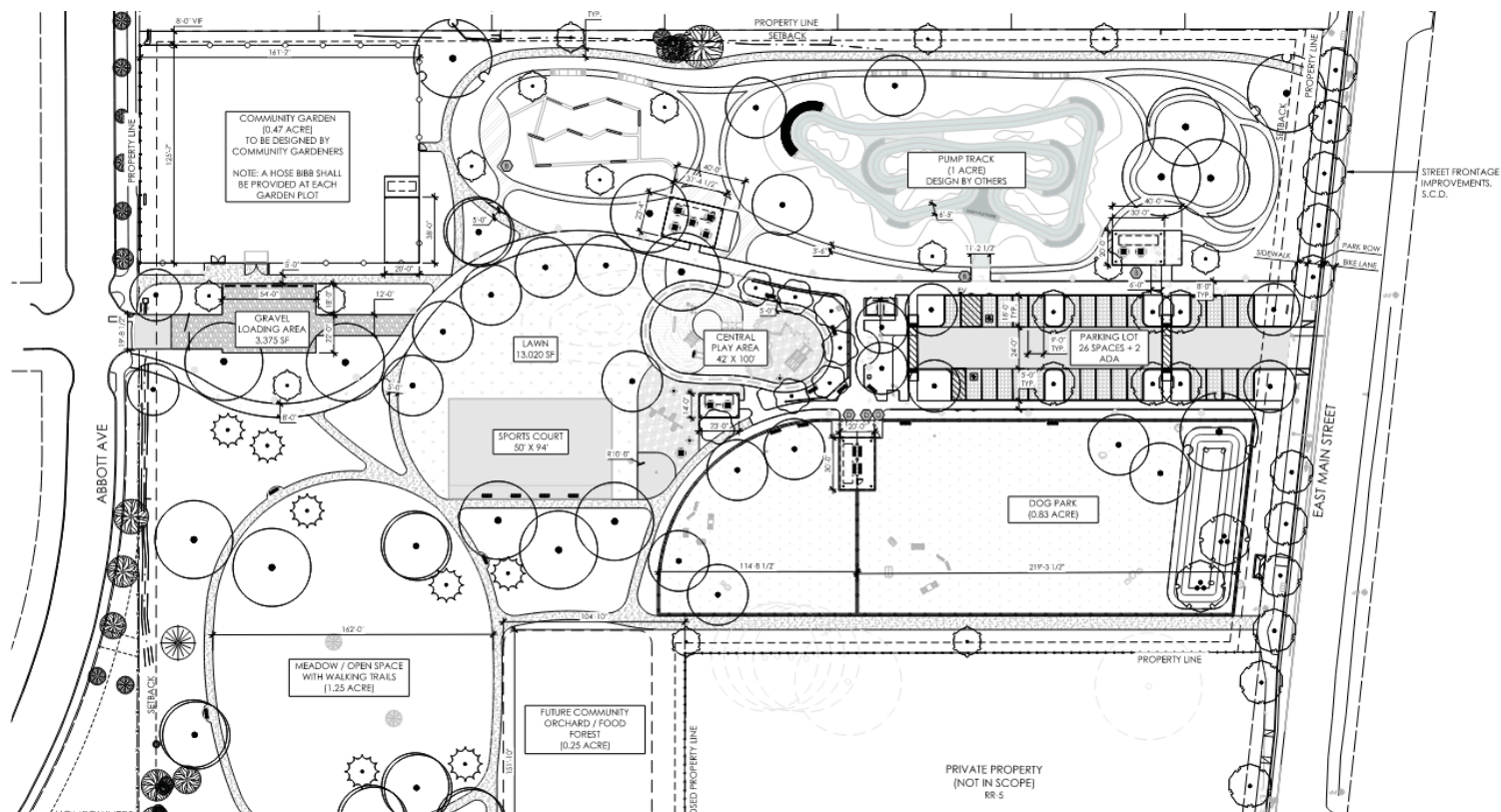
11



Site Plan

- Bike Pump Track
- Skills Course
- Dog Park
- Community Garden
- Sports Court / Play area

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Approval Criteria – Site Design

Underlying Zone (18.2)

Overlay Zones (18.3)

Site Development and Design
Standards (18.4)

City Facilities (18.4.6)

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Presuming PC recommendation of approval

- Findings for adoption by PC – Aug. 13
- Presentation to Council / Ordinance 1st reading – Sept. 17th
- Ordinance 2nd reading – Oct. 1st

Next Steps

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Questions?