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BEFORE THE HEARING EXAMINER FOR THE CITY OF RENTON

RE: Emergency Communication Tower)
Extension) FINAL DECISION
Variance)
LUA16-000418, ECF, SA-H, CU-H,)
V-H)

Summary

The applicant requests approval of applications for site plan review, a height variance and a conditional use permit for a proposed 25 foot height increase and associated improvements to an existing 150-foot emergency communications tower. The project site is the King County Office of Emergency Management located at 3511 NE 2nd Street. The applications are approved with conditions.

Testimony

Matthew Herrera, City of Renton Associate Planner, summarized the proposal.
Sarah Telschow, applicant representative, testified that the project is funded by a levy approved by King County voters. The improvements will enhance emergency response capabilities. The current communications system is 20 years old and needs to be updated. The proposed height is necessary to provide for communications with surrounding emergency communications systems.
Officer Sullivan testified that the reliability of the radio tower communications is critical for safe

1 and effective emergency response. There are currently gaps in communicating capabilities that
2 the proposal will fill.

3 **Exhibits**

4 Exhibits 1-15, identified in the “Exhibit List” appended to the staff report were admitted into the
5 record during the hearing. The staff’s power point was admitted as Exhibit 16. .

7 **Findings of Fact**

8 **Procedural:**

- 9
- 10 1. Applicant. The applicant is Odelia Pacific Corporation.
 - 11 2. Hearing. A hearing was held on the applications on July 26, 2016 in the City of Renton
12 Council Chambers.
 - 13 3. Project Description. The applicant requests approvals of applications for site plan review, a
14 height variance and a conditional use permit for a proposed 25 foot height increase and associated
15 improvements to an existing 150-foot emergency communications tower. The proposal would result
16 in an overall tower height of 175-feet with an antenna and lighting rod extension extending to 193-
17 feet. The project site is the King County Office of Emergency Management located at 3511 NE 2nd
18 Street.

19 The proposed communications tower improvements are a component of the Puget Sound Emergency
20 Radio Network (PSERN), a voter approved project intended to replace and upgrade the existing
21 regional emergency network used to reach and coordinate emergency responders. Additional
22 improvements to the communications tower include six (6) microwave dishes and two (2) antennas.
23 Equipment and HVAC upgrades will occur within the interior of the existing emergency management
24 building. The proposed tower extension and antennas are proposed to be painted to closely match the
25 existing facility.

- 26 4. Adequacy of Infrastructure/Public Services. The project will be served by adequate
infrastructure and public services. The proposed height extension is for a facility that is already in full
operation and is being served by all necessary infrastructure and services. The staff report notes that
no additional staff will be necessary as a result of the height increase. For these reasons, the increase
in height will not increase the need for infrastructure and services.

1 5. Adverse Impacts. There are no significant adverse impacts associated with the project. The
2 only impact of concern would be aesthetic. The emergency communications tower is located within
3 an industrial zone and greater than 100-feet from residentially zoned property in the center of a 9.63
4 acre parcel. Significant topographic relief and mature vegetation to the south and west indicate
5 limited view shed impacts to adjacent areas. A condition of approval requires that the tower be
6 painted a similar color as the existing tower as indicated in the project narrative and photo
7 simulations. No comments were submitted to the City concerning views. As established by the well
8 documented photo simulations, Ex. 6, the increase in height will not make a material difference in
9 aesthetic impacts to surrounding properties. For all these reasons it is determined that the proposal
10 will not create any significant view impacts.

11 No light or glare impacts are anticipated as the Federal Aviation Administration will not require the
12 tower to be lighted beyond the required and existing red flashing beacon for aircraft warning of an
13 airspace obstruction and the applicant is not proposing any additional lighting.

14 **Conclusions of Law**

15 1. Authority. RMC 4-8-080(G) provides that hearing examiner site plan review, hearing
16 examiner conditional use permit review and variances are Type III applications. As Type III
17 applications, RMC 4-8-080(G) grants the Examiner with the authority to hold a hearing and issue a
18 final decision, subject to closed record appeal to the City Council.

19 2. Zoning/Comprehensive Plan Designations. The property is zoned Light Industrial. The
20 Comprehensive Plan designation is Employment Area (EA).

21 3. Review Criteria. Hearing examiner site plan review is required because the proposal meets
22 the large project scale criteria of RMC 4-9-200(D)(2)(b)(iv). Site plan review criteria are set by RMC
23 4-9-200(E)(3). Hearing examiner conditional use review is required by RMC 4-2-060(G) for
24 government facilities. Conditional use criteria are set by RMC 4-9-030. A variance is required
25 because the proposed 175 height exceeds the 100 foot maximum height authorized in the Light
26 Industrial Zone. Variance criteria are governed by RMC 4-9-250(B)(5).

27 **Variance**

28 **RMC 4-9-250(B)(5)(a):** *That the applicant suffers practical difficulties and unnecessary hardship
29 and the variance is necessary because of special circumstances applicable to subject property,
30 including size, shape, topography, location or surroundings of the subject property, and the strict
31 application of the Zoning Code is found to deprive subject property owner of rights and privileges
32 enjoyed by other property owners in the vicinity and under identical zone classification;*

1 4. The special circumstances are the surrounding topography that necessitates the additional
2 height in order for the subject emergency communications facility to be able to effectively
3 communicate with other communication facilities, most notably to the corresponding tower on
Capitol Hill in Seattle.

4 **RMC 4-9-250(B)(5)(b):** *That the granting of the variance will not be materially detrimental to the*
5 *public welfare or injurious to the property or improvements in the vicinity and zone in which subject*
6 *property is situated;*

7 5. As determined in Finding of Fact No. 5, there are no significant adverse impacts associated
8 with the proposal. As a result, the granting of the variance will not be materially detrimental to the
9 public welfare or injurious to surrounding properties as required by the criterion above.

10 **RMC 4-9-250(B)(5)(c):** *That approval shall not constitute a grant of special privilege inconsistent*
11 *with the limitation upon uses of other properties in the vicinity and zone in which the subject*
12 *property is situated;*

13 6. The applicant requests the minimum height variance necessary to provide for effective and
14 safe emergency communications with surrounding emergency communication facilities. There is
15 little question that other emergency system providers would be provided the same accommodation.
16 No special privilege is involved.

17 **RMC 4-9-250(B)(5)(d):** *That the approval as determined by the Reviewing Official is a minimum*
18 *variance that will accomplish the desired purpose.*

19 7. The requested variance is the minimum necessary for effective emergency communications.
20 The applicant contends, and there is no evidence to the contrary, that the 25-foot extension to the
21 existing 150-foot emergency communication tower is needed to locate three microwave antennas that
22 connect, as determined by field path analysis, to the towers located on Capitol Hill in Seattle.

23 **Conditional Use**

24 *The Administrator or designee or the Hearing Examiner shall consider, as applicable, the following*
25 *factors for all applications:*

26 **RMC 4-9-030(C)(1):** *Consistency with Plans and Regulations: The proposed use shall be*
compatible with the general goals, objectives, policies and standards of the Comprehensive Plan, the
zoning regulations and any other plans, programs, maps or ordinances of the City of Renton.

8. Except as to compliance with the height limits subject to the variance request, the proposal is
consistent with the City's development regulations and comprehensive plan for the reasons identified
in Findings of Fact 18 and 19 of the staff report.

1
2 **RMC 4-9-030(C)(2): *Appropriate Location:*** *The proposed location shall not result in the*
3 *detrimental overconcentration of a particular use within the City or within the immediate area of the*
4 *proposed use. The proposed location shall be suited for the proposed use.*

5 9. The existing 150-foot tower is located in the center of a 9.63 acre site and setback between
6 241-feet to 461-feet from property lines. The proposal does not exceed maximum lot coverage or
7 setback requirements. The proposed 25-foot emergency communication tower extension is
8 approximately a 17 percent increase in height to the existing tower that does not result in an over
9 scale structure to the existing development or over concentrate development in a particular portion of
10 the site.

11 **RMC 4-9-030(C)(3): *Effect on Adjacent Properties:*** *The proposed use at the proposed location*
12 *shall not result in substantial or undue adverse effects on adjacent property.*

13 10. As determined in Finding of Fact No. 5, as conditioned and mitigated, there are no adverse
14 impacts associated with the proposal, so it will not result in substantial or undue adverse effects on
15 adjacent property.

16 **RMC 4-9-030(C)(4): *Compatibility:*** *The proposed use shall be compatible with the scale and*
17 *character of the neighborhood.*

18 11. As determined in Finding of Fact No. 5, the proposal will not create any adverse aesthetic
19 impacts. As aesthetic impacts are the only negative impacts that could be associated with the
20 proposal, and the fact that the proposal is located in an industrial zoned area in the middle of a 9.63
21 acre parcel, it is concluded that the proposal is fully compatible with the scale and character of the
22 neighborhood.

23 **RMC 4-9-030(C)(5): *Parking:*** *Adequate parking is, or will be made, available.*

24 12. The proposal doesn't create any additional demand for parking and doesn't trigger and City
25 development standards for additional parking. For these reasons, it is concluded that adequate
26 parking is provided for the proposal.

RMC 4-9-030(C)(6): *Traffic:* *The use shall ensure safe movement for vehicles and pedestrians and*
shall mitigate potential effects on the surrounding area.

13. The proposal has no impact on traffic.

RMC 4-9-030(C)(7): *Noise, Light and Glare:* *Potential noise, light and glare impacts from the*
proposed use shall be evaluated and mitigated.

1 10. As determined in Finding of Fact No. 5, no light impacts will be created by the proposal. No
2 noise impacts are reasonably anticipated from the proposal as all equipment improvements will be
3 made within the building of the existing facility.

4 **RMC 4-9-030(C)(8): Landscaping:** *Landscaping shall be provided in all areas not occupied by*
5 *buildings, paving, or critical areas. Additional landscaping may be required to buffer adjacent*
6 *properties from potentially adverse effects of the proposed use.*

7 11. No changes to landscaping are proposed. Staff have determined that the existing government
8 facility development already contains appropriate landscaping including mature vegetation in
9 relatively large width along the property lines abutting residential uses.

10 **Site Plan**

11 **RMC 4-9-200(E)(3): Criteria:** *The Administrator or designee must find a proposed project to be in*
12 *compliance with the following:*

13 *a. Compliance and Consistency: Conformance with plans, policies, regulations and approvals,*
14 *including:*

15 *i. Comprehensive Plan: The Comprehensive Plan, its elements, goals, objectives, and*
16 *policies, especially those of the applicable land use designation; the Community Design*
17 *Element; and any applicable adopted Neighborhood Plan;*

18 *ii. Applicable land use regulations;*

19 *iii. Relevant Planned Action Ordinance and Development Agreements; and*

20 *iv. Design Regulations: Intent and guidelines of the design regulations located in RMC 4-*
21 *3-100.*

22 12. Except as to compliance with the height limits subject to the variance request, the proposal is
23 consistent with the City's development regulations and comprehensive plan for the reasons identified
24 in Findings of Fact 18 and 19 of the staff report.

25 **RMC 4-9-200(E)(3)(b): Off-Site Impacts:** *Mitigation of impacts to surrounding properties and*
26 *uses, including:*

i. Structures: Restricting overscale structures and overconcentration of development on a
particular portion of the site;

ii. Circulation: Providing desirable transitions and linkages between uses, streets,
walkways and adjacent properties;

1 **iii. Loading and Storage Areas:** Locating, designing and screening storage areas,
2 utilities, rooftop equipment, loading areas, and refuse and recyclables to minimize views
3 from surrounding properties;

4 **iv. Views:** Recognizing the public benefit and desirability of maintaining visual
5 accessibility to attractive natural features;

6 **v. Landscaping:** Using landscaping to provide transitions between development and
7 surrounding properties to reduce noise and glare, maintain privacy, and generally
8 enhance the appearance of the project; and

9 **vi. Lighting:** Designing and/or placing exterior lighting and glazing in order to avoid
10 excessive brightness or glare to adjacent properties and streets.

11 13. As determined in Finding of Fact No. 5, the only impacts potentially created by the proposal
12 are aesthetic and the applicant has demonstrated through its photo simulations and other evidence
13 that aesthetic impacts will not be significant. As previously determined, the proposal provides for
14 adequate landscaping and as determined in Finding of Fact No. 5 the proposal will not create any
15 significant adverse lighting impacts. The proposal does not include any loading or storage areas.
16 Views will not be significantly affected by the proposal. The criterion is met.

17 **RMC 4-9-200(E)(3)(c): On-Site Impacts: Mitigation of impacts to the site, including:**

18 **i. Structure Placement:** Provisions for privacy and noise reduction by building placement,
19 spacing and orientation;

20 **ii. Structure Scale:** Consideration of the scale of proposed structures in relation to natural
21 characteristics, views and vistas, site amenities, sunlight, prevailing winds, and pedestrian
22 and vehicle needs;

23 **iii. Natural Features:** Protection of the natural landscape by retaining existing vegetation
24 and soils, using topography to reduce undue cutting and filling, and limiting impervious
25 surfaces; and

26 **iv. Landscaping:** Use of landscaping to soften the appearance of parking areas, to provide
shade and privacy where needed, to define and enhance open spaces, and generally to
enhance the appearance of the project. Landscaping also includes the design and
protection of planting areas so that they are less susceptible to damage from vehicles or
pedestrian movements.

14. As previously determined, landscaping is adequate for the proposal. As determined in
Finding of Fact No. 5, the aesthetic impacts of the proposal are minimized by structure placement in
the center of the 9.63 acre project site and topography and surrounding vegetation minimize
aesthetic impacts. The criterion is met.

1 **RMC 4-9-200(E)(3)(d): Access and Circulation:** *Safe and efficient access and circulation for all*
2 *users, including:*

3 *i. Location and Consolidation: Providing access points on side streets or frontage streets*
4 *rather than directly onto arterial streets and consolidation of ingress and egress points on*
5 *the site and, when feasible, with adjacent properties;*

6 *ii. Internal Circulation: Promoting safety and efficiency of the internal circulation system,*
7 *including the location, design and dimensions of vehicular and pedestrian access points,*
8 *drives, parking, turnarounds, walkways, bikeways, and emergency access ways;*

9 *iii. Loading and Delivery: Separating loading and delivery areas from parking and*
10 *pedestrian areas;*

11 *iv. Transit and Bicycles: Providing transit, carpools and bicycle facilities and access; and*
12 *v. Pedestrians: Providing safe and attractive pedestrian connections between parking*
13 *areas, buildings, public sidewalks and adjacent properties.*

14 15. The proposal has no impact on circulation so no mitigation is necessary or can be legally
15 required.

16 **RMC 4-9-200(E)(3)(e): Open Space:** *Incorporating open spaces to serve as distinctive project*
17 *focal points and to provide adequate areas for passive and active recreation by the occupants/users*
18 *of the site.*

19 16. The proposal creates no demand for open space and has no impact on open space so no
20 additional open space is necessary or can be legally required.

21 **RMC 4-9-200(E)(3)(f): Views and Public Access:** *When possible, providing view corridors to*
22 *shorelines and Mt. Rainier, and incorporating public access to shorelines.*

23 17. No view corridors can reasonably be provided by the project and none are necessary.

24 **RMC 4-9-200(E)(3)(g): Natural Systems:** *Arranging project elements to protect existing natural*
25 *systems where applicable.*

26 18. The project will have no impact on natural systems.

RMC 4-9-200(E)(3)(h): Services and Infrastructure: *Making available public services and*
facilities to accommodate the proposed use.

19. The project is served by adequate services and facilities as determined in Finding of Fact No.
4.

1 **RMC 4-9-200(E)(3)(i): *Phasing: Including a detailed sequencing plan with development phases***
2 ***and estimated time frames, for phased projects.***

3 20. The project will not be phased.

4 **DECISION**

5 All applicable permitting criteria are met as outlined in the Conclusions of Law above. As
6 conditioned below, the Site Plan, Conditional Use and Variance applications are all approved
7 subject to the following condition of approval:

8 1. The applicant shall identify on the building permit construction sheets the extension and
9 antenna color scheme that is similar to the existing tower as indicated in the applicant's
10 narrative.

11 DATED this 9th day of August, 2016.

12 
13 Phil A. Olbrechts

14 City of Renton Hearing Examiner

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17 **Appeal Right and Valuation Notices**

18 RMC 4-8-080(G) classifies the application(s) subject to this decision as Type III applications
19 subject to closed record appeal to the City of Renton City Council. Appeals of the hearing
20 examiner's decision must be filed within fourteen (14) calendar days from the date of the decision.
21 A request for reconsideration to the hearing examiner may also be filed within this 14 day appeal
22 period.

23 Affected property owners may request a change in valuation for property tax purposes
24 notwithstanding any program of revaluation.
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