

Planning & Development Division

Planning & Economic Development Department

218-730-5580

planning@duluthmn.gov

Room 160 411 West First Street Duluth, Minnesota 55802

File Number	PL 23-208		Contact		Chris Lee, clee@duluthmn.gov			
Туре	Concurrent Use Permit, Wireless Utility on Light Pole		Planning Commission Date		on Date	March 12, 2024		
Deadline for Action	Application Date		January 18, 2024		60 Days		March 18, 2024	
	Date Extension Letter Mailed		January 18, 2024		120 Days		May 17, 2024	
Location of Subject Near 2904 Park		Near 2904 Parkwood Lane			• •			
Applicant	MasTec		Contact					
Agent			Contact					
Legal Description N/A								
Site Visit Date		February 27, 2024	Sign Notice Date			Febr	February 27, 2024	
Neighbor Lette	er Date	N/A	Number of Letters Sent		Sent	N/A		

Proposal: The applicant is seeking a concurrent use permit to allow an antenna and equipment on an existing pole, as well as a handhole for power and a handhole for fiber placed in the ground, within the public right of way .

Recommended Action: Recommend to the city council to approve with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation		
Subject	R-1	Right of Way	Low-density Neighborhood		
North	R-1	Residential	Low-density Neighborhood		
South	R-1	Residential	Low-density Neighborhood		
East	R-1	Residential	Low-density Neighborhood		
West	R-1	Residential	Low-density Neighborhood		

Summary of Code Requirements

UDC Section 50-37.7.C. The planning commission shall review the application, and council shall approve the application or approve it with modifications, if it determines that the proposed concurrent use will not harm or inconvenience the health, safety and general welfare of the city, and no portion of a public easement proposed of use is being physically occupied by the public.

Comprehensive Plan Governing Principle and/or Policies and Current History (if applicable):

Principle #4 - Support emerging economic growth sectors. Emerging economic sectors add economic, cultural and social diversity. These include higher education, medical, value-added manufacturing, commercial outdoor recreation, historic resources interpretation, arts and music, information technology and visitor services.

Future Land Use: Low-density Neighborhood: Single -family housing with urban services. Typified by curvilinear streets, houses with longer dimension parallel to street, and attached garages. Includes a range of house sizes and lot sizes. Non - residential uses are mainly uses such as schools and churches. Parks and open space are located within or adjacent.

This is a companion zoning application to PL 23-203, -204, -205, -206, -207, -209, -210, -212, -213, also concurrent use permits for wireless equipment on existing utility poles.

Discussion

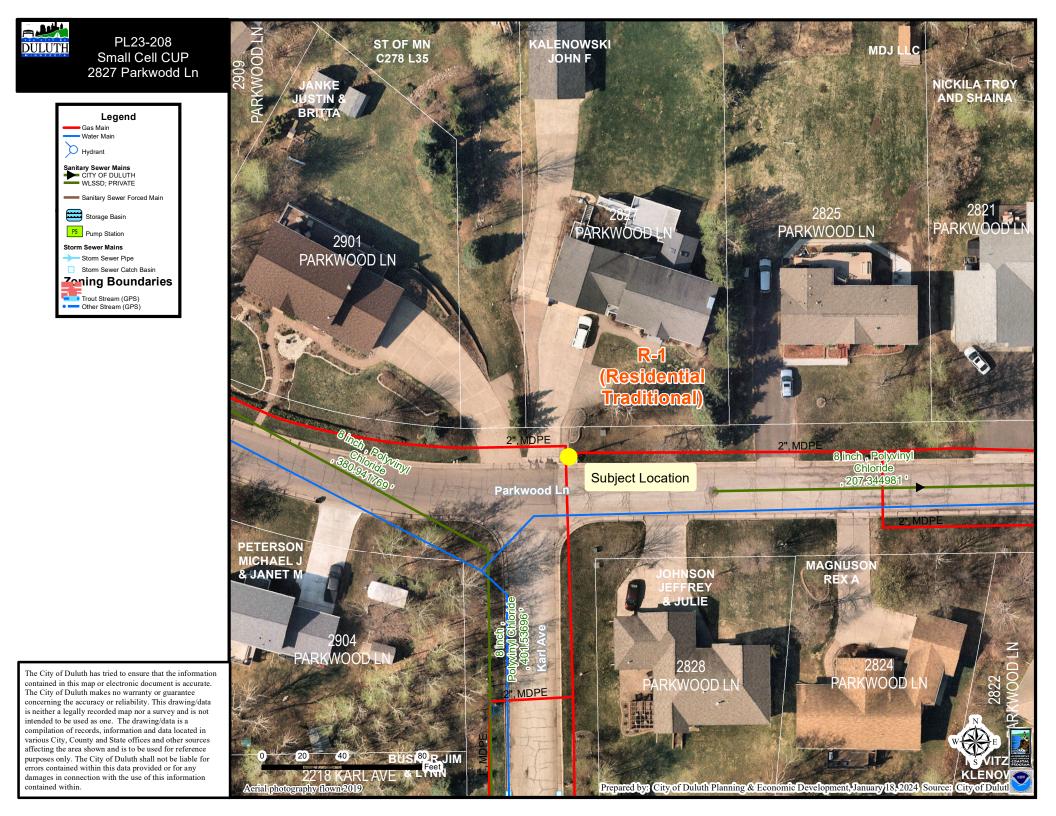
Staff finds that:

- The small cell facility will be installed on a replacement Minnesota Power wooden pole. The existing light will be
 installed at 34 feet and wireless equipment will be placed at 39 to 41 feet, with a radio at 15 feet. Wireless attachments
 will include 1 exterior mounted panel antenna and 1 radio unit. There will be no ground mounted equipment. The new
 pole will have a structural analysis by the manufacturer to ensure that they can support the weight of the private small
 cell facilities.
- 2) Granting a concurrent use permit would give the applicant the ability to use a portion of the right of way, with conditions, while preserving other existing public uses. Unlike street vacations, concurrent use permits are not recorded at the County as they are voidable permits issued by the City to applicants who are private users of public rights of way.
- 3) Ownership of the pole will remain with Minnesota Power. Liability, maintenance, and operation of the small wireless facilities will remain the responsibility of the applicant. In the event of an accident, such as a vehicle hitting the utility pole, the city is not responsible for restoring or replacing any of the applicant's equipment.
- 4) Granting the proposed concurrent use permits will not harm or inconvenience the health, safety and general welfare of the city. It will not cause any additional obstructions within the right of way, and the applicant will be required to maintain liability insurance over their facilities, with the City of Duluth named an additional insured on the policy.
- 5) The UDC generally requires that new wireless facilities follow a location standard: they should be collocated on existing towers or other structures on city owned properties first, and then existing towers or other structures on other (private) property, and so forth down the location standard list. As these small cell facilities would be located on existing infrastructure in public right of way, and as per the recent change in state statute, the city is processing these applications as concurrent use permits and not special use permits, and the UDC's use-specific standards do not apply in this specific situation.
- 6) The city has the ability to regulate land use; however, the Federal Communications Commission preempts local review on the potential environmental effects of radio frequency (RF) emissions, with the presumption that the applicant and service provider is in compliance with the Commission's RF rules. The applicant included an FCC checklist used to determine exemption from RF regulations (unlikely to cause exposure in excess of the FCC's guidelines). The installation falls with the provisions of Minnesota Statute 237.162 and 247.1643, as amended in 2017.
- 7) The ordinance will require that the project proposer will locate any underground items in accordance with Gopher State One Call rules, and that the city will bear no responsibility for locating any facility related to the concurrent use permit except as it is legally responsible under the Gopher State One Call rules.
- 8) No public, agency, or Citizen comments have been received.

Staff Recommendation:

Based on the above findings, Staff recommends that the Planning Commission recommend approval of the concurrent use permit subject to the following conditions:

- 1) The project be limited to, constructed, and maintained according to construction drawings submitted and included with this staff report along with any revisions as requested by City Engineering.
- 2) Applicant, and/or successors, shall remove the proposed obstructions at applicant's expense if directed to do so by the City with appropriate notice, and shall adhere to other standards and obligations established in the approving document (ordinance).
- 3) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission approval; however, all other changes must be approved by amending the City Council's approved ordinance.



PROJECT INFORMATION PROJECT: MNP_NEXIUS_CRAN SITE NAME: CRAN_RUMW_GECHL_012 USID: 227133 PACE NUMBER: URUMW031152 LATITUDE: 46.774830' LONGITUDE: -92.18900' SITE ADRESS: 2904 PARKWODD LANE CITY, STATE ZIP: DULTH, MN 55811 COUNTY: ST. LOUIS	PACE NUMBER: PTN NUMBER: FA NUMBER: COORDINATES: SITE ADDRESS: AERIAL PHOTO	MRUMW031152 3514A0KT5H 14828511 46.774830°, -92.169000° 2904 PARKWOOD LANE DULUTH, MN 55811 SHEET INDEX SHEET INDEX SHEET # C-1 SITE PLAN C-2 ENLARGED SITE PLAN C-4 PROPOSED POLE ELEVATIONS PS-1 PHOTO SIMULATION EQUIPMENT DETAILS EQUIPMENT DETAILS	7800 XEPGES INFINE S. BLOOMINGTON, MN 55431
JURISDICTION: CITY OF DULUTH STRUCTURE TYPE: WOOD LIGHT POLE STRUCTURE OWNER: MINNESOTA POWER POLE PART NUMBER: M5409469 GROUND ELEVATION: 1317'± A.M.S.L. APPLICANT: 7900 XERXES AVENUE S. BLOOMINGTON, MN 55431 SITE ACQUISITION: HAZEL MAURO - SITE ACQUISITION PROJECT MANAGER hazel.mauro@mastec.com (913) 710-3999 ENGINEERING SERVICES: MISTEC NETWORK SOLUTIONS 1151 SE CARY PARKWAY, SUITE 101 CARY, NC 27518 - (972) 581-9888		EQ-2 EQUIPMENT DETAILS EQ-4 EQUIPMENT DETAILS EQ-4 EQUIPMENT DETAILS EQ-4 EQUIPMENT DETAILS RF-1 PLUMBING DIAGRAM E-1 ELECTRICAL DETAILS G-1 GROUNDING DETAILS TC-1 TRAFFIC CONTROL PLAN GN-1 GENERAL NOTES	MARTED NETWORK SOLUTIONS, IS REGISTINGD IN INI PRIMETERNING SUBMITTALS REV DATE 08/02/23 COR REVEPUTION B 08/02/23 C 08/10/23
SCOPE OF WORK REPLACE EXISTING 25'-3" A.G.L. WOOD POLE WITH NEW 36'-6" A.G.L. WOOD LIGHT POLE PAINTED BROWN INCLUDING 2' OMNI ANTENNA ON TOP MOUNTED ON AN EXTENSION BRACKET. TOTAL HEIGHT OF 41'-9" A.G.L. INSTALL NEW EQUIPMENT BRACKET ON POLE INCLUDING (1) DUAL BAND B25/B66 RRH AND (1) PSU PER MANUFACTURER'S SPECIFICATIONS. AND PER UTILITY AND NEC REQUIREMENTS.	STRUCTURE PHOTO	CODE COMPLIANCE ALL WORK SHALL BE PERFORMED AND MATERIALS INSTALLED IN ACCORDANCE WITH LUCAL COVERNING AUTHORITIES. 2018 INTERNATIONAL BUILDING CODE 2020 NATIONAL ELECTRIC CODE THESE DRAWINGS ARE DESIGNED TO THE LATEST CODES. THEY ALSO MEET THE ADOPTED CODE REQUIREMENTS OF THE LOCAL JURISDICTION. ONE CALL TO OBTAIN LOCATION OF PARTICIPANTS UNDERGROUND FACILITIES BEFORE YOU DIG IN MINNESOTA, CALL GOPHER STATE ONE CALL TOLL FREE: 1-800-232-1166 OR FAX A LOCATE: 1-800-232-4967	0 06/31/23 FINAL_CO LM 1 11/03/23 FIRAL_CO MC 1 11/03/23 FIRAL_CO MC 1 11/03/23 FIRAL_CO MC 1 11/03/23 MC MC 1 11/03/23 MC MC 1 11/03/23 MC MC 1 MR MC MC 1 MC MC MC 1 MC MC MC 1 MC MC MC 2904 PARKWOOD LANE DULUTH, MN 55811 MC 46.774830°, -92.169000° MC MC MC MET TITLE TITLE SHEET TITLE SHEET MET

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