



STAFF REPORT

DATE: June 5, 2024
TO: Planning Commission
FROM: Sheldon Howa, Planner II
SUBJECT: Conditional use approval of a site plan for a Utility Substation (fiber equipment cabinet) located at 11917 S Mustang Trail Way in the R-2-10 Residential Zone.
Applicant: Mont Flygare, All West Communications (authorized agent)
Acres: ±55.78
File No: C2024-053

RECOMMENDATION:

Staff recommends the Commission approve the following findings:

- Subject to compliance with staff recommendations, the proposed site plan and land use complies with the following:
 - a. The proposed use complies with the Conditional Use standards.
 - b. The proposed use complies with all other zoning ordinance requirements.

Staff recommends **approval** of a Conditional Use Permit for a Utility Substation (fiber equipment cabinet) at 11917 S Mustang Trail Way in the R-2-10 Zone with the following requirements:

1. Receive and agree to all recommendations from other agencies.
2. The utility cabinet shall be finished in a neutral, low-contrast color to mitigate the cabinet's visual impact.
3. The utility cabinet shall be setback a minimum of two (2) feet from the sidewalk or in line with existing utilities, whichever is greater.

ISSUE BEFORE COMMISSION:

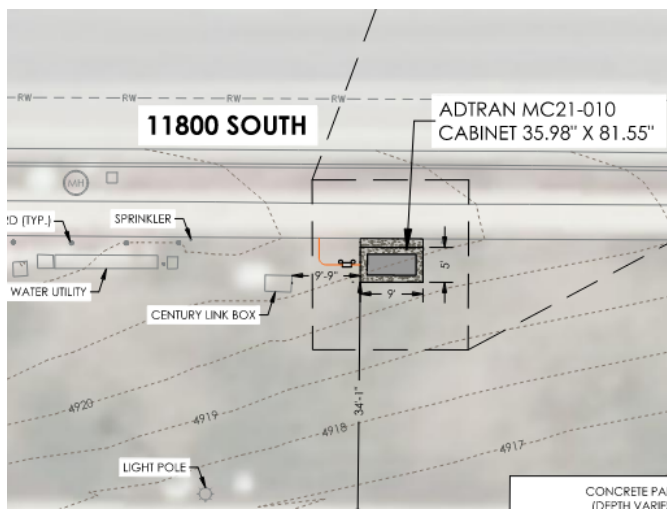
Based on the enclosed findings and recommended conditions, should the Planning Commission approve the proposed Conditional Use?

If approved by the Planning Commission with any required conditions, the applicant will continue working with staff to make all necessary corrections before any permits are issued.

BACKGROUND & SUMMARY:

The applicant requests approval of a site plan to locate a small utility substation to accommodate fiber communication equipment. The substation will be located on property owned by the Jordan School District (Herriman High School). The applicant provided a lease agreement with the Jordan School District that permits the placement of the utility on the property.

The new utility cabinet will be situated approximately one hundred and five (105) feet east of the northwest corner of the intersection of 11800 South and Mustang Trail Way. The cabinet will be set back approximately two (2) feet from the “back of sidewalk,” which aligns with the existing utilities along the lot’s frontage. The new 5’-6” tall cabinet, which has a 7’ x 3’ footprint, will be mounted on a 9’ x 5’ concrete pad (see images below).



The proposal does not include fencing or landscaping to screen the utility cabinet from the adjacent right-of-way, 11800 South. However, City Code does not specifically require screening of utility substations in the R-2-10 Residential Zone. Upon review, staff determined that screening the new utility cabinet without screening the other existing utility cabinets would not reduce the visual impact of the proposal. Furthermore, due to the proposal’s proximity to the other utility cabinets and their underground infrastructure, using landscaping to screen the site would be difficult, limited, and likely ineffective. As such, staff recommends the cabinet be finished in a neutral, low-contrast color to mitigate any visual impacts of the proposal.



DISCUSSION:

ENGINEERING REVIEW

***Staff Finding:** The Engineering Department has reviewed the proposed site plan and has identified no issues with the proposal.*

CONDITIONAL USE REVIEW (STANDARDS FROM 10-5-11.E.1):

Per 10-16 of City Code, a utility substation is a Conditional Use in the R-2-10 Residential Zone and subject to compliance with the “Approval Standards” listed in 10-5-11(E), which have been summarized and reviewed below:

Consistent with the applicable objectives, goals, and policies of the General Plan

***Staff Finding:** The General Plan does not specify goals or objectives for public infrastructure, though the General Plan does prioritize providing community amenities. However, according to the overall goals of the General Plan, the Community Amenity’s objective is to:*

Offer exceptional amenities, including trails, recreation opportunities, improved public realm, social gathering places, and the services and resources for a healthy, happy life. (Herriman General Plan, Policy - 4)

Whereas the proposed use is consistent with the stated goal of providing services and resources to our communities, the proposal is consistent with the objectives and goals of the General Plan.

The proposed conditional use and associated plans include substantial mitigation of reasonably anticipated detrimental effects arising from the conditional use, including, but not limited to:

- a) Detrimental effects of decreased street service levels and/or traffic patterns including the need for street modifications such as dedicated turn lanes, traffic control devices, safety, street widening, curb, gutter and sidewalks, location of ingress/egress, lot surfacing and design of off-street parking and circulation, loading docks, as well as compliance with off-street parking standards, including other reasonable mitigation as determined by a qualified traffic engineer.**

***Staff Finding:** Whereas the proposal is for the installation of a ground-mounted utility that may require periodic or occasional maintenance as needed, staff finds the proposal does not have a material impact on traffic patterns in the area.*

- b) Detrimental effects on the adequacy of utility systems, service delivery, and capacities, including the need for such items as relocating, upgrading, providing additional capacity, or preserving existing systems, including other reasonable mitigation as determined by the City's engineering staff, contracted engineers, and utility service providers.**

Staff Finding: *The proposed fiber telecommunication utility installation will improve broadband connectivity and benefit residents, businesses, and the city. The Engineering Department has reviewed the applicant's plans and determined that the proposal will not have a detrimental impact on existing utility systems, services, or capacities.*

c) Detrimental effects on connectivity and safety for pedestrians and bicyclists.

Staff Finding: *The proposed location of the utility is set back two (2) feet from the back of the sidewalk and will not impede any pedestrian or bicycle movement within the right-of-way. However, staff recommends that the utility cabinet maintain a minimum of a two (2) foot setback or in line with the existing utilities, whichever is greater.*

d) Detrimental effects by the use due to its nature including (1) noise that exceeds sound levels normally found within the neighborhood or surrounding zone, (2) odors beyond what is normally considered acceptable within the neighborhood or surrounding zone, and (3) environmental impacts such as dust, fumes, smoke, odor, noise, vibrations, chemicals, toxins, pathogens, gases, heat, light, electromagnetic disturbances, and radiation. Detrimental effects by the use may also include hours of operation and the potential to create an attractive nuisance.

Staff Finding: *Staff has not found any environmental impacts associated with the proposed use. The equipment will not generate any noise, odors, fumes, or other nuisances (above acceptable limits) within the surrounding neighborhood or zone in which it is located.*

e) Detrimental effects that increase the risk of contamination of or damage to adjacent properties and injury or sickness to people arising from, but not limited to, waste disposal, fire safety, geologic hazards, soil or slope conditions, liquefaction potential, site grading/topography, storm drainage/flood control, high groundwater, sensitive lands, environmental health hazards, or wetlands, as determined by City Engineer, City geologist and other qualified specialists.

Staff Finding: *Concerns regarding waste disposal, fire safety, geologic hazards, soil or slope conditions, liquefaction potential, site grading/topography, high groundwater, sensitive lands, and environmental health hazards have been addressed by the applicant or are not impacted by the proposal.*

f) Detrimental effects of modifications to or installation of signs and exterior lighting that conflict with neighborhood compatibility.

Staff Finding: *No signs are included in this proposal. All signs will require a separate application and permit. Lighting fixtures shall comply with City standards and be shielded from neighboring properties or residential uses.*

g) Detrimental effects arising from incompatible designs in terms of use, scale, intensity, height, mass, setbacks, character, construction, solar access, landscaping, fencing, screening, and architectural design and exterior detailing/finishes and colors within the neighborhood in which the conditional use will be located.

Staff Finding: Staff determined that screening the proposed utility without screening the other existing utility cabinets would not reduce the visual impact of the proposal. Also, due to the proposal's proximity to the other utility cabinets and their underground infrastructure, the effectiveness of planting a "landscape screen" would be limited. As such, staff recommends the new utility cabinet be finished in a neutral, low-contrast color to mitigate any visual impacts caused by the proposal.

h) Detrimental effects on the tax base and property values.

Staff Finding: Approval of the proposal will not harm the City's tax base or property values.

i) Detrimental effects on the current level of economy in governmental expenditures.

Staff Finding: The City is not providing any economic incentives for the proposed use, nor will the use impose any negative impacts on governmental expenditures.

j) Detrimental effects on emergency fire service and emergency vehicle access.

Staff Finding: The appropriate agencies have reviewed the proposed use and found no detrimental impacts on the site for emergency and fire services and access.

k) Detrimental effects on usable open space.

Staff Finding: The location of the proposed utility substation is on "improved" land owned and maintained by the Jordan School District, which contains Herriman High School. Outside of outdoor areas used for school activities, no additional open space was required for the site's development. Whereas the location of the proposed utility is not within the usable open space or outdoor activity areas, staff finds the proposal complies with this standard.

l) Inadequate maintenance of the property and structures in perpetuity including performance measures, compliance reviews, and monitoring.

Staff Finding: Upon review of City records, staff has not identified any outstanding compliance issues related to the site or existing structures.

ZONING ORDINANCE REVIEW

Utility Substation:

As per 10-3-6 of City Code, utility substations are defined as follows:

UTILITY SUBSTATION: Any above-ground, free-standing structure which regulates the use of electricity, natural gas, sewer, water, telecommunications, or any other utility system except:

1. Utility poles, features, or equipment to be placed on such a pole;
2. Equipment attached to a building; and
3. Structures with maximum horizontal and vertical dimensions of three feet (3').

Staff Finding: Based on the definition noted above, the proposed structure (utility cabinet) exceeds the maximum horizontal and vertical dimensions and, therefore, is categorized as a utility substation.

In conclusion, staff determined that the applicant's request is consistent with applicable standards and recommends Planning Commission approval with conditions.

ALTERNATIVES:

Action from the Planning Commission may include the following:

Alternatives	Recommendation	Considerations for Alternative	Considerations against Alternative
Approve proposal as submitted		Approval facilitates the expansion of broadband services to residents	Without staff recommendations, the proposal may have an increased impact on surrounding properties
Approve proposal with conditions	Yes	Approval with conditions facilitates the expansion of broadband services to City residents	Commission may determine additional conditions are warranted
Postpone proposal (with or without date)		Commission may identify additional issues that warrant further research and review. A motion to postpone should identify any additional information required	Staff has not identified any issues that warrant postponement
Deny proposal		Commission may deny the proposal based on findings relative to the applicable standards	Staff has not identified any findings that warrant denial

ATTACHMENTS:

- A. Application
- B. Vicinity Map
- C. Site Plan
- D. Lease Agreement (redacted) – Jordan School District
- E. Conditional Use Standards