

NOTICE OF DECISION

Case File: T2-2019-12125

Permits: Administrative Decision by the Planning Director, Design Review, Lot of Record Verification and Significant Environmental Concern for wildlife habitat

Applicant: Sara Mitchell **Owner(s):** Jon & Lisa Deleonardo

Location: 23405 NW Moreland Rd., North Plains **Tax Account #**R972100210.
Map, Tax Lot: 2N2W10A – 00500 **Property ID #**R325605

Zoning: Commercial Forest Use -1 (CFU-1)

Overlays: Significant Environmental Concern for wildlife habitat (SEC-h), Geological Hazards (GH)

Proposal Summary: AT&T is requesting approval to construct a 153-ft. tall cell tower using concealment technology as a monopine and fenced 50-ft by 50-ft compound to house equipment including a diesel power generator. The application must be found to comply with the applicable criteria for a Wireless Communication Facility, Design Review and Significant Environmental Concern for wildlife habitat. In addition, the applicant has requested a Lot of Record Verification that the subject property was lawfully established in accordance with the zoning and land division regulations at the time of its creation/reconfiguration.

Decision: Approved with Conditions

This decision is final and effective at the close of the appeal period, unless appealed. The deadline for filing an appeal is Friday, June 5, 2020, at 4:00 pm.

Opportunity to Review the Record: The complete case file, including the Planning Director Decision containing Findings, Conclusions, Conditions of Approval, and all evidence associated with this application is available for review at the Land Use Planning office. Copies of all documents are available at the rate of \$0.30/per page. For further information, contact case planner, Lisa Estrin at 503-988-0167 or at lisa.m.estrin@multco.us.

Opportunity to Appeal: An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning office at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision is not appealable to the Land Use Board of Appeals until all local appeals are exhausted.

Issued By: Lisa Estrin Digitally signed by Lisa Estrin
Date: 2020.05.20 11:56:46
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Lisa Estrin, Senior Planner

For: Carol Johnson, AICP
Planning Director

Date: Friday, May 22, 2020



For this application to be approved, the proposal will need to meet the applicable approval criteria below:

Multnomah County Code (MCC): *General Provisions:* MCC 39.1515 Code Compliance and Applications, MCC 39.2000 Definitions, MCC 39.6850 Dark Sky Lighting Standards

Lot of Record: MCC 39.3005 Lot of Record – Generally, MCC 39.3020 Lot of Record - Commercial Forest Use – 1

Commercial Forest Use: MCC 39.4075 (I) Review uses, Wireless Communication Facilities that employ concealment technology, MCC 39.4105 Building Height Requirements, MCC 39.4110 Forest Practice Setbacks and Fire Safety Zones, MCC 39.4115 Development Standards for Dwellings and Structures, MCC 39.4145 Off-Street Parking and Loading

Wireless Communication Facilities: MCC 39.7710 Review Procedures Distinguished, MCC 39.7715 Definitions, MCC 39.7725 General Requirements, MCC 39.7735(B) Application Submittal Requirements, MCC 39.7740 Approval Criteria for Lands Not Zoned Exclusive Farm Use

Design Review: MCC 39.8010 Design Review Plan Approval Required, MCC 39.8020 Application of Regulations, MCC 39.8040(A)(1)(a) and (1)(c), (4) and (7)

Significant Environmental Concern: MCC 39.5860 SEC-h

Geologic Hazards: MCC 39.5075 Permits Required

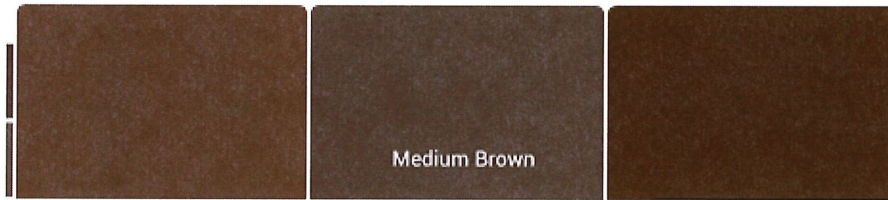
Copies of the referenced Multnomah County Code sections are available by contacting our office at (503) 988-3043 or by visiting our website at <https://multco.us/landuse/zoning-codes/> under the link *Chapter 39: Zoning Code*.

Conditions of Approval

Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein. The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parenthesis.

1. This land use permit shall become null, void, and non-renewable if the Wireless Communication Facility is not constructed and placed into service within two years of the date of this decision becoming final. No extensions may be approved through MCC 39.1195. [MCC 39.7725(H)]
2. Prior to Land Use Planning review and sign-off for a building plan check, the property owners or their applicant/representative shall:
 - a) Demonstrate that the existing 4,500 sq. ft. outbuilding is being used solely for agricultural purposes and file an *Agricultural 'Farm' Building or Equine Facility Building (Structural) Permit Exemption Application* with Land Use Planning. If the building is being used for both farm and accessory use to the dwelling, a building permit shall be obtained. [MCC 39.1515]
 - b) Provide contour information so that the exact dimensions of the Primary Fire Safety Zone (FSZ) can be determined. Once the size of the Primary FSZ is determined, both the Primary and Secondary FSZs shall be added to the site plan. This new site plan shall be used for building plan check and obtaining building permits. [MCC 39.4110(D)]
 - c) Provide the structural integrity report, failure characteristics of tower report and ice hazards and mitigation measures report. No modifications to the proposed physical improvements can be made due to these reports unless the applicant re-applies for the modification of the Wireless Communication Facility permit. [MCC 39.7735(B)(4)(f) – (h)]
 - d) AT&T Mobility shall revise the Co-Location Agreement (Exhibit A.13) to include the following provisions:
 - (1) AT&T Mobility and their successors and assigns shall agree to:
 - (a) Respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
 - (b) Negotiate in good faith for shared use of the WCF by third parties; and
 - (c) Allow shared use of the WCF if an applicant agrees in writing to pay reasonable charges for co-location.Once the revised Co-Location Agreement is signed by an agent of AT&T Mobility, it shall be submitted to Land Use Planning. [MCC 39.7740(A)(1)]
 - e) The applicant shall demonstrate compliance with the County's Ground Disturbing regulations listed in MCC 39.6200 *et al.* [MCC 39.7740(A)(4) & MCC 39.7725(J)]

- f) The applicant shall delineate on the site plan that is to be included in the building plan set, the location of any and all signage to be installed on site. In addition, the building plans shall include design details (size, materials, what the sign says) on the plans. [MCC 39.7740(B)(9)]
 - g) The applicant shall revise the Landscape Plan (Exhibit A.28.f) as follows:
 - i. The revised Landscape Plan (revised plan) shall show the Primary Fire Safety Zone and Secondary Fire Safety Zone (FSZ).
 - ii. The revised plan shall show any trees that exist within the Primary FSZ and that they will be spaced a minimum of 15 feet between the tree crowns. The crown is the total of an individual plant's above ground parts, including stems, leaves and reproductive structures.
 - iii. The revised plan must show any existing trees to be removed to comply with the Primary Fire Safety Zone.
 - iv. The trees proposed to be planted to screen the Wireless Communication Facility on the east and south shall be reconfigured to stagger them so that there is 15 ft. between the crowns as shown on Exhibit B.8. In addition, at least two more trees shall be added to ensure adequate screening on the north side of the facility similar to what is shown on Exhibit B.8.
 - v. The applicant shall then submit the revised Landscape Plan to Land Use Planning so that it can be reviewed for compliance with both MCC 39.7740(B)(11) and MCC 39.4110(D).
 - vi. The approved Revised Landscape Plan shall be added to the Building Plan Set and any obsolete plans removed. [MCC 39.5860(C)(5) & MCC 39.4110(D)]
 - h) The applicant shall provide a Wildlife Conservation Plan (Plan) that demonstrates compliance with the requirements listed in MCC 39.5860(C)(5), Mitigation Option 2. The Plan shall include the planting of at least 28 trees [in addition to those required for compliance with MCC 39.7740(B)(11)] and 142 shrubs on the subject site. The Plan shall show the location of these plantings on a revised site plan and the revised Landscaping Plan. The location of the plantings shall consider the requirements of the Primary and Secondary Fire Safety Zones for any existing or proposed structure. [MCC 39.5860(C)(5)]
 - i) The applicant shall provide a paint sample that complies with Condition No. 4.c) below. The color choice shall be added to the building plan set details.
3. AT&T shall obtain all necessary approvals and permits in compliance with building codes, State and Federal regulations. The building permits shall be final/certificate of occupancy issued before the Wireless Communication Facility it operated. [MCC 39.7725(A)]
 4. Prior to use of the Wireless Communication Facility, the following shall be completed:
 - a) The Primary and Secondary Fire Safety Zones shall be established around the facility as determined by Condition No. 2.b.) above. [MCC 39.4110(D)(4)]
 - b) The equipment building shall be painted in compliance with Exhibit A.30 "Pebble-gray". The paint used shall be "flat" paint to reduce reflectivity. [MCC 39.7740(B)(4)]
 - c) The Wireless Communication tower shall be painted with a "flat" medium dark brown color to match a tree trunk similar to one of the following shades:



[MCC 39.7740(B)(5)]

5. The Primary and Secondary Fire Safety Zones shall be maintained by the property owner and/or their Lessee in compliance with requirements of MCC 39.4110(D)(1) and (2) and Condition No. 2.b) and Condition No. 3 above. [MCC 39.4110(D)(5)]
6. The Lessee of the Wireless Communication Facility (currently AT&T Mobility) and/or the property owner shall notify the Planning Director of all changes in the tenants of Wireless Communication Facility within 90 days of change. Failure to provide appropriate notice shall constitute a violation of this permit approval. [MCC 39.7725(I)]
7. No on-premises storage of material or equipment shall be allowed other than that used in the operation and maintenance of the WCF site. [MCC 39.7725(K)]
8. No testing of the back-up diesel generator shall occur between the hours of 8 PM and 8 AM. [MCC 39.7740(A)(3)]
9. AT&T Mobility and/or any future carriers shall maintain the Wireless Communication Facility (WCF) in compliance with this permit. Maintenance includes the paint on the tower and any other physical improvements associated with the facility, the fencing around the facility, the structural integrity of the tower, and all required landscaping. Failure to maintain the WCF is a violation of this condition and MCC 39.7750. [MCC 39.7750]
10. If lighting becomes necessary due to building code regulations, all exterior light fixtures on the accessory building shall comply with the County's Dark Sky Lighting Standards listed in MCC 39.6850. [MCC 39.4115]

Note: Once this decision is final, application for building permits may be made with the City of Portland. When ready to have building permits signed off by land use planning, the applicant shall complete the following steps:

1. Read your land use decision, the conditions of approval and modify your plans, if necessary, to meet any condition that states, "Prior to land use sign-off for building plan check..." Be ready to demonstrate compliance with the conditions.
2. Contact Right-of-Way Permits at row.permits@multco.us, or schedule an appointment at <https://multco.us/transportation-planning/webform/right-way-appointment-request/>, or at 503-988-3582 for an appointment to review your plans, obtain your access permit, and satisfy any other requirements. Failure to make an appointment with County Right-of-Way will result in delaying your building plan review and obtaining building permits.
3. Contact the City of Portland, Bureau of Development Services, On-site Sanitation at 503-823-6892 or e-mail septic@portlandoregon.gov for information on how to complete the Septic Evaluation or Permit process for the proposed development. All existing and/or proposed septic system components (including septic tank and drainfield) must be accurately shown on the site plan.

4. Contact case planner, Lisa Estrin, at 503-988-0167 or at lisa.m.estrin@multco.us, for an appointment for review of the conditions of approval and to sign the building permit plans. Land Use Planning must sign off on the plans and authorize the building permit before you can go to the Building Department. At the time of this review, Land Use Planning will collect additional fees.

The above must be completed before the applicant can obtain building permits from the City of Portland. Five (5) sets each of the site plan and building plans are needed for building permit sign off. At the time of building permit review, a fee will be collected. In addition, an erosion control inspection fee may be required.

Notice to Mortgagee, Lien Holder, Vendor, or Seller:

ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser.

Findings of Fact

FINDINGS: Written findings are contained herein. The Multnomah County Code (MCC) criteria and Comprehensive Plan Policies are in **bold** font. Staff analysis and comments are identified as ‘**Staff:**’ and address the applicable criteria. Staff comments may include a conclusionary statement in *italic*.

1.0 Project Description:

Staff: The applicant states that AT&T is proposing to construct a 153-ft wireless communication facility (WCF) using concealment technology as a monopine within a fenced 50-ft by 50-ft compound. Within the compound there will be an 8-ft by 16-ft cabinet in which there will be a diesel power generator. The facility is intended to improve coverage around the area. In addition, the facility will be used to support the FirstNet Nationwide Safety Public Broadband Network by deploying a new frequency band for first responders. An Administrative Decision by the Planning Director for a wireless communication facility, Significant Environmental Concern for wildlife habitat permit and a Geologic Hazards exemption must be granted in order to gain approval for the proposed tower. In addition, the applicant has requested a Lot of Record Verification as part of the application.

Through the Lot of Record Verification process, the County reviews the creation or reconfiguration of each parcel, lot or unit of land involved in the request. The County then verifies that the creation or reconfiguration of the unit of land satisfied all applicable zoning laws and all applicable land division laws in effect on the date of its creation or reconfiguration. If the unit of land met all the applicable zoning and land division laws in effect at the time, it may be determined to be a Lot of Record.

2.0 Property Description & History:

Staff: The subject property is 11.32 acres and is zoned Commercial Forest Use – 1 (CFU-1). It has an environmental overlay of Significant Environmental Concern for wildlife habitat (SEC-h) over the entire property. In addition, some areas of land within the tax lot have Geologic Hazards overlay for slopes over 25%. The property is located within the County’s Rural Reserves. It is also located within the Tualatin River watershed.

The subject property is occupied by a single family dwelling which was constructed around 1935 prior to zoning. In addition, the property has a large 4,500 +/- sq. ft. outbuilding.

3.0 Code Compliance Criteria:

MCC 39.1515 CODE COMPLIANCE AND APPLICATIONS.

Except as provided in subsection (A), the County shall not make a land use decision approving development, including land divisions and property line adjustments, or issue a building permit for any property that is not in full compliance with all applicable provisions of the Multnomah County Zoning Code and/or any permit approvals previously issued by the County.

(A) A permit or other approval, including building permit applications, may be authorized if:

- (1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Zoning Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or
- (2) It is necessary to protect public safety; or
- (3) It is for work related to and within a valid easement over, on or under an affected property.

(B) For the purposes of this section, Public Safety means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger the life, health, personal property, or safety of the residents or public. Examples of that situation include but are not limited to issuance of permits to replace faulty electrical wiring; repair or install furnace equipment; roof repairs; replace or repair compromised utility infrastructure for water, sewer, fuel, or power; and actions necessary to stop earth slope failures.

Staff: Presently, the subject property does not have an open code compliance case. Planning staff reviewed 1977, 1986 and 1990 historical aerial photographs to determine the approximate age of the 4,500 sq. ft. outbuilding. The front half of the building was visible on the 1977 & 1986 aerial photo (Exhibit B.3 & B.4). The rear portion of the building was constructed between the taking of the 1986 aerial photo and 1990 aerial photo. The building is used for agricultural purposes. Planning staff found no exempt agricultural building registration or building permits for an accessory building. A condition of approval has been included with this decision that the property owner obtain permission for the outbuilding prior to land use approval for building plan check. If additional issues exist on the property, planning staff is not aware of them at this time. *Through a condition of approval, the outbuilding will be brought into compliance with the zoning code.*

4.0 Lot of Record Criteria

4.1 MCC 39.3005 LOT OF RECORD – GENERALLY.

(A) An area of land is a “Lot of Record” if it meets the standards in Subsection (B) of this Section and meets the standards set forth in this Part for the Zoning District in which the area of land is located.

(B) A Lot of Record is a parcel, lot, or a group thereof that, when created or reconfigured, either satisfied all applicable zoning laws and satisfied all applicable land division laws, or complies with the criteria for the creation of new lots or parcels described in MCC 39.9700. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.

(a) “Satisfied all applicable zoning laws” shall mean: the parcel, lot, or group thereof was created and, if applicable, reconfigured in full compliance with all zoning minimum lot size, dimensional standards, and access requirements.

(b) “Satisfied all applicable land division laws” shall mean the parcel or lot was created:

1. By a subdivision plat under the applicable subdivision requirements in effect at the time; or
2. By a deed, or a sales contract dated and signed by the parties to the transaction, that was recorded with the Recording Section of the public office responsible for public records prior to October 19, 1978; or
3. By a deed, or a sales contract dated and signed by the parties to the transaction, that was in recordable form prior to October 19, 1978; or
4. By partitioning land under the applicable land partitioning requirements in effect on or after October 19, 1978; and
5. “Satisfied all applicable land division laws” shall also mean that any subsequent boundary reconfiguration completed on or after December 28, 1993 was approved under the property line adjustment provisions of the land division code. (See Date of Creation and Existence for the effect of property line adjustments on qualifying a Lot of Record for the siting of a dwelling in the EFU and CFU districts.)

Staff: To qualify as a Lot of Record, the subject property, when created or reconfigured, must have (a) satisfied all applicable zoning laws, and (b) satisfied all applicable land division laws.

The subject property was zoned Agricultural District (F-2) in 1972 per County Zoning Maps (Exhibit B.5 & B.6). The minimum lot size for the F-2 zone in 1972 was 2 acres. There was no minimum lot width or requirement for road frontage. The applicant provided a deed (Exhibit A.26) which was recorded in 1972 that describes the subject property in its current configuration (Exhibit A.27). The total size of the subject property is 11.32 acres. *The subject property satisfied the applicable zoning laws of the F-2 zone in 1972.*

In 1972, the process to divide a parcel of land into two new units of land was the preparation of a deed and/or contract with the new legal description. The deed or contract had to be in recordable form or recorded with the County Recorder prior to October 19, 1978. The Personal Representative deed with the new legal description was record in September 1972 (Exhibit A.26). The applicable land division laws were satisfied. *The subject property satisfied all applicable land division laws.*

- 4.2 (c) Separate Lots of Record shall be recognized and may be partitioned congruent with an “acknowledged unincorporated community” boundary which intersects a Lot of Record.
1. Partitioning of the Lot of Record along the boundary shall require review and approval under the provisions of the land division part of this Chapter, but not be subject to the minimum area and access requirements of this district.
 2. An “acknowledged unincorporated community boundary” is one that has been established pursuant to OAR Chapter 660, Division 22.

Staff: The entire property is zoned Commercial Forest Use – 1. It is not located within an “acknowledged unincorporated community”. *Criterion are not applicable.*

4.3 **MCC 39.3020 LOT OF RECORD – COMMERCIAL FOREST USE-1 (CFU-1).**

(A) In addition to the standards in MCC 39.3005, for the purposes of the CFU-1 district a Lot of Record is either:

- (1) A parcel or lot which was not contiguous to any other parcel or lot under the same ownership on February 20, 1990, or
- (2) A group of contiguous parcels or lots:
 - (a) Which were held under the same ownership on February 20, 1990; and
 - (b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.
 1. Each Lot of Record proposed to be segregated from the contiguous group of parcels or lots shall be an existing legally created lot lines and shall not result in any remainder individual parcel or lot, or remainder of contiguous combination of parcels or lots, with less than 19 acres in area. See Examples 1 and 2 in this subsection.
 2. There shall be an exception to the 19 acre minimum lot size requirement when the entire same ownership grouping of parcels or lots was less than 19 acres in area on February 20, 1990, and then the entire grouping shall be one Lot of Record. See Example 3 in this subsection.
 3. Three examples of how parcels and lots shall be aggregated are shown in MCC 39.3070 Figure 1 with the solid thick line outlining individual Lots of Record:
 4. The requirement to aggregate contiguous parcels or lots shall not apply to lots or parcels within exception or urban zones (e.g. MUA-20, RR, BRC, R-10), but shall apply to contiguous parcels and lots within all farm and forest resource zones (i.e. EFU and CFU), or
- (3) A parcel or lot lawfully created by a partition or a subdivision plat after February 20, 1990.
- (4) Exceptions to the standards of (A)(2) above:
 - (a) Where two contiguous parcels or lots are each developed with a lawfully established habitable dwelling, the parcels or lots shall be Lots of Record that remain separately transferable, even if they were held in the same ownership on February 20, 1990.
 - (b) Where approval for a "Lot of Exception" or a parcel smaller than 19 acres under the "Lot Size for Conditional Uses" provisions has been given by the Hearing Authority and the parcel was subsequently lawfully created, then the parcel shall be a Lot of Record that remains separately transferable, even if the parcel was contiguous to another parcel held in the same ownership on February 20, 1990.

Staff: The subject property is 11.32 acres in size. Planning staff reviewed the 1989 and 1990 tax rolls to determine if any adjacent properties were in the same ownership as the subject property. Planning staff found no contiguous ownership with the subject site. *The subject property is not currently aggregated with any adjacent parcels.*

- 4.4** (B) In this district, significant dates and ordinances applicable for verifying zoning compliance may include, but are not limited to, the following:
- (1) July 10, 1958, F-2 zone applied;
 - (2) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;

- (3) October 6, 1977, MUF-20 and CFU-38 zones applied, Ord. 148 & 149;
- (4) August 14, 1980, MUF-19 & 38 and CFU-80 zones applied, Ord. 236 & 238;
- (5) February 20, 1990, lot of record definition amended, Ord. 643;
- (6) January 7, 1993, MUF-19 & 38 zones changed to CFU-80, Ord. 743 & 745;
- (7) August 8, 1998, CFU-1 zone applied, Ord. 916 (reenacted by Ord. 997);
- (8) May 15, 2002, Lot of Record section amended, Ord. 982 & reenacted by Ord. 997;

Staff: The above section is informational only and is not an approval criterion.

- 4.5 (C) A Lot of Record which has less than the minimum lot size for new parcels, less than the front lot line minimums required, or which does not meet the access requirements of MCC 39.4135, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.**

Staff: The subject property is 11.32 acres. The minimum lot size to create a new parcel in the CFU-1 zone is 80 acres. The CFU-1 zone has a required 50-ft Front Lot Line length for the creation of new parcels. The front lot line of the subject property fronts onto the public right-of-way known as NW Moreland Road and has a length of 768.66+/- ft. As the subject property was found to be a Lot of Record in findings 4.1 through 4.6, it may be used pursuant to the Allowed, Review and Conditional Uses provided in compliance with the uses approval criterion and any other permit. *Criterion met.*

- 4.6 (D) The following shall not be deemed a Lot of Record:**

- (1) An area of land described as a tax lot solely for assessment and taxation purposes;
- (2) An area of land created by the foreclosure of a security interest;
- (3) A Mortgage Lot;
- (4) An area of land created by court decree.

Staff: The subject property was found in Finding 4.1 above to be a lawfully created unit of land. It is not an area of land described solely for taxation purposes. It was not created by the foreclosure of a security interest or by court decree. It is not a mortgage lot. *Criterion met.*
Based on the findings in Sections 4.1 through 4.6, the subject property is a Lot of Record.

5.0 Commercial Forest Use – 1 Criteria:

5.1 MCC 39.4075 REVIEW USES.

The following uses may be permitted when found by the approval authority to satisfy the applicable standards of this Chapter:

- (I) Wireless communications facilities that employ concealment technology or co-location as described in MCC 39.7710(B) pursuant to the applicable approval criteria of MCC 39.7700 through MCC 39.7765.**

Staff: The subject application is for a wireless communication facility (WCF) that employs concealment technology as a tree. Through conditions of approval, the proposed WCF has met the approval criteria listed in MCC 39.7700 through MCC 39.7765. *Criterion met.*

5.2 MCC 39.4105 BUILDING HEIGHT REQUIREMENTS.

(A) Maximum structure height – 35 feet.

(B) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirements.

Staff: The proposed WCF will have a pre-fabricated building that will house equipment and generator. The building will be 9.5+/- ft. tall. The tower height is regulated by MCC 39.7740(B)(2).

5.3 MCC 39.4110 FOREST PRACTICES SETBACKS AND FIRE SAFETY ZONES.

Use	Forest Practice Setbacks		Fire Safety Zones
Description of use and location	Front Property Line Adjacent to County Maintained Road (feet)	All Other Setbacks (feet)	Fire Safety Zone Requirements (FSZ)
Other Accessory Structures	30	130	Primary and Secondary required

The Forest Practice Setbacks and applicability of the Fire Safety Zones is based upon existing conditions, deviations are allowed through the exception process and the nature and location of the proposed use. The following requirements apply to all structures as specified:

Staff: The proposed equipment building is over 300 feet west of the front property line which is adjacent to Moreland Road. The site plan has the building 134 feet from the northern property line adjacent to Skyline Road. The building will be 300+/- feet from the western property line and over 500 feet from the southern property line (Exhibit A.28.c). Discussion regarding the Primary and Secondary fire safety zone occurs in findings 5.6 and 5.7 below. *Criterion met.*

5.4 (A) Reductions to a Forest Practices Setback dimension shall only be allowed pursuant to approval of an adjustment or variance.

(B) Exception to the Secondary Fire Safety Zone shall be pursuant to MCC 39.4155 only. No reduction is permitted for a required Primary Fire Safety Zone through a nonconforming, adjustment or variance process.

Staff: The applicant has not requested a reduction to the Forest Practice Setbacks or the Fire Safety Zones. *Criterion met.*

5.5 (C) The minimum forest practices setback requirement shall be increased where the setback abuts a street having insufficient right-of-way width to serve the area. The county Road Official shall determine the necessary right-of-way widths based upon the county “Design and Construction Manual” and the Planning Director shall determine any additional setback requirements in consultation with the Road Official.

Staff: Both Moreland Road and Skyline Blvd are designated as local access roads within the area. The right-of-ways for these roads are 60 feet in width. No additional right-of-way is required for these roadways at this time. The Forest Practice Setbacks listed above are not increased. *Criterion met.*

5.6 (D) Fire Safety Zones on the Subject Tract.

(1) Primary Fire Safety Zone.

(a) A primary fire safety zone is a fire break extending a minimum of 30 feet in all directions around a dwelling or structure. Trees within this safety zone shall be spaced with greater than 15 feet between the crowns. The trees shall also be pruned to remove low branches within 8 feet of the ground as the maturity of the tree and accepted silviculture practices may allow. All other vegetation should be kept less than 2 feet in height.

(b) On lands with 10 percent or greater slope the primary fire safety zone shall be extended farther down the slope from a dwelling or structure as follows:

Percent Slope	Distance in Feet
Less than 10	No additional required
Less than 20	50 additional
Less than 25	75 additional
Less than 40	100 additional

(c) The building site must have a slope less than 40 percent.

Staff: The applicant has indicated that they intend to comply with the Primary Fire Safety Zone (FSZ) (Exhibit A.4), but have not shown the Primary FSZ on the plans (Exhibit A.17 & A.28). The area surrounding the lease area is fairly flat so that an increase in the Primary FSZ is unlikely in some areas. The lease area is adjacent to a Geologic Hazard area to the northwest and it is likely that the Primary FSZ will need to be increased in this area. There is approximately 300 feet between the lease area and the western property line so an extension of the Primary FSZ can be accommodated. A condition of approval has been included for the applicant to provide contour information so that the exact dimensions of the Primary FSZ can be determined prior to building plan check. *Through a condition, this criterion can be met.*

5.7 (2) Secondary Fire Safety Zone.

A secondary fire safety zone is a fire break extending a minimum of 100 feet in all directions around the primary safety zone. The goal of this safety zone is to reduce fuels so that the overall intensity of any wildfire is lessened. Vegetation should be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees should be removed to prevent the spread of fire up into the crowns of the larger trees. Assistance with planning forestry practices which meet these objectives may be obtained from the State of Oregon Department of Forestry or the local Rural Fire Protection District. The secondary fire safety zone required for any dwelling or structure may be reduced under the provisions of MCC 39.4155.

Staff: The applicant's plans (Exhibit A.17 & A.28) do not show the Secondary Fire Safety Zone (FSZ). The location of the lease area is setback far enough from the various property lines that it can be accommodated. A condition of approval has been included that the

Secondary FSZ be shown on the site plan prior to approval for building plan check. *Through a condition, this criterion can be met.*

- 5.8 **(3) No requirement in (1) or (2) above may restrict or contradict a forest management plan approved by the State of Oregon Department of Forestry pursuant to the State Forest Practice Rules; and**
- (4) Required Primary and Secondary Fire Safety Zones shall be established within the subject tract as required by Table 1 above.**
- (5) Required Primary and Secondary Fire Safety Zones shall be maintained by the property owner in compliance with the above criteria listed under (1) and (2).**

Staff: The applicant has not provided any information regarding a forest management plan for the property. A significant area of the property is used for horses. The applicant has indicated an intent to comply with the Primary and Secondary Fire Safety Zone for the project (Exhibit A.4). A condition of approval has been included that the fire safety zones be established and maintained for the life of the Wireless Communication Facility. *Through a condition, criteria (4) and (5) will be met.*

5.9 **MCC 39.4115 DEVELOPMENT STANDARDS FOR DWELLINGS AND STRUCTURES.**

All dwellings and structures shall comply with the approval criteria in (B) through (D) below except as provided in (A). All exterior lighting shall comply with MCC 39.6850:

(A) For the uses listed in this subsection, the applicable development standards are limited as follows:

* * *

(3) Accessory buildings.

(a) Accessory buildings within 100 feet of the existing dwelling: Shall meet the development standards of MCC 39.4115(C);

(b) Accessory buildings located farther than 100 feet from the existing dwelling: Shall meet the development standards of MCC 39.4115(B) and (C);

* * *

Staff: The proposed lease area for the Wireless Communication Facility (WCF) is over 100 feet from the existing dwelling on the site. The proposed accessory building for the wireless tower must comply with MCC 39.4115(B) and (C) below.

The applicant states that no lighting will be installed in the WCF. A condition of approval has been included that if lighting becomes necessary due to building code regulations, the light fixtures comply with the County's Dark Sky Lighting Standards listed in MCC 39.6850.

- 5.10 **(B) New dwellings shall meet the following standards in (1) and (3) or (2) and (3); restored or replacement dwellings greater than 100-feet from an existing dwelling, and accessory buildings (or similar structures) greater than 100-feet from the existing dwelling shall meet the following standards in (1) and (3) or (2) and (3):**

(1) The structure shall satisfy the following requirements:

(a) To meet the Forest Practices Setback, the structure shall be located a minimum of 30-feet from a front property line adjacent to a county maintained road and 130-feet from all other property lines;

- (b) The structure shall be located in a cleared area of at least 10,000 square feet that meets the tree spacing standards of a primary fire safety zone;
- (c) The entirety of the development site is less than 30,000 square feet in total cleared area, not including the driveway;
- (d) The structure is sited within 300-feet of frontage on a public road and the driveway from the public road to the structure is a maximum of 500-feet in length;
- (e) The local Fire Protection District verifies that their fire apparatus are able to reach the structure using the proposed driveway; or

Staff: The proposed accessory building to the Wireless Communication Facility (WCF) will be 130 feet or more from all property lines. The area involved in the lease area is 50 feet by 50 feet and with the Primary Fire Safety Zone and area to be cleared will be approximately 17,600 sq. ft. The cleared area will comply with both (1)(b) and (1)(c) above. The proposed accessory building will be 134 feet from NW Skyline Blvd. The driveway from NW Skyline to the lease area is 144 feet in length. The Tualatin Valley Fire and Rescue has reviewed the proposed plans and has determined that the proposed access from NW Skyline Blvd is acceptable provided that the roadway is constructed properly (Exhibit A.24). *The criteria listed in (B)(1)(a) through (e) have been met.*

* * *

(3) The risks associated with wildfire are minimized. Provisions for reducing such risk shall include:

- (a) Access roadways shall be approved, developed and maintained in accordance with the requirements of the structural fire service provider that serves the property. Where no structural fire service provider provides fire protection service, the access roadway shall meet the Oregon Fire Code requirements for fire apparatus access;
- (b) Access for a pumping fire truck to within 15 feet of any perennial water source of 4,000 gallons or more within 100 feet of the driveway or road on the lot. The access shall meet the fire apparatus access standards of the Oregon Fire Code with permanent signs posted along the access route to indicate the location of the emergency water source;

Staff: The Tualatin Valley Fire and Rescue has determined that the proposed driveway leading from NW Skyline Blvd to the lease area is acceptable to provide service to the facility (Exhibit A.24). There is a small stream on the subject property but it is not a perennial water source. It is the headwaters for the stream and does not provide 4,000 gallons or more of water per minute. No access to the stream is required. *The criterion listed in (3)(a) and (3)(b) have been met.*

The proposed project has complied with both (B)(1) and (B)(3). Criteria met.

5.11 (C) The dwelling or structure shall:

- (1) Comply with the standards of the applicable building code or as prescribed in ORS 446.003 through 446.200 relating to mobile homes;
- (2) If a mobile home, have a minimum floor area of 600 square feet and be attached to a foundation for which a building permit has been obtained;
- (3) Have a fire retardant roof; and
- (4) Have a spark arrester on each chimney.

Staff: The Wireless Communication Facility includes an accessory building and generator. Building permits will be obtained before its construction. The accessory building is constructed of metal (Exhibit A.30). The building will not have a chimney.

- 5.12 (D) The applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (OAR 690, Division 10) or surface water (OAR 690, Division 20) and not from a Class 1 stream as defined in the Forest Practices Rules.**

(1) If the water supply is unavailable from public sources, or sources located entirely on the property, the applicant shall provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners.

(2) Evidence of a domestic water supply means:

- (a) Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water; or**
- (b) A water use permit issued by the Water Resources Department for the use described in the application; or**
- (c) Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the county upon completion of the well.**

Staff: The Wireless Communication Facility will not be occupied on a regular basis. No water will be provided on-site for the service personnel visiting the site. *Criterion not applicable.*

5.13 MCC 39.4145 OFF-STREET PARKING AND LOADING.

Off-street parking and loading permitted as an accessory use shall be provided as required by MCC 39.6500 through 39.6600.

Staff: The Wireless Communication Facility has parking available within the lease area for service personnel visiting the site. *Criterion met.*

6.0 Wireless Communication Facility Criteria

6.1 MCC 39.7710 REVIEW PROCEDURES DISTINGUISHED.

(A) An application for a WCF that employs co-location upon a tower or structure approved under 39.7700 through 39.7765 shall be reviewed under a Building Permit Review/Type I process in any zone.

(B) An application for a WCF that employs concealment technology or co-location upon a tower or structure not approved under 39.7700 through 39.7765 shall be reviewed under a Planning Director Review/Type II process.

* * *

Staff: The subject site does not contain an existing Wireless Communication Facility (WCF). The applicant is proposing to construct a WCF with a monopine tower. The WCF employs concealment technology. The subject application is being processed via the County's Type II process (Exhibit C.1 through C.3).

6.2 MCC 39.7725 GENERAL REQUIREMENTS.

(A) No WCF shall be constructed or operated within unincorporated Multnomah County until all necessary approvals and permits, whether local, state, or federal have been secured.

Staff: The applicant has requested approval through the County to build a WCF. After this approval, they will obtain building permits through the City of Portland. *A condition of approval has been included that the applicant obtain all necessary permits before the construction of the tower on the site.*

6.3 (B) No more than one ground mount shall be allowed per subject property.

Staff: The subject site does not contain a WCF. *Criterion met.*

6.4 (C) An application for a WCF shall include both the licensed carrier and the landowner of the subject property.

Staff: AT&T is the licensed carrier for the proposed WCF. They have obtained approval from the property owners Jonathan & Lisa Deleonardo (Exhibit A.20). *Criterion met.*

6.5 (D) A permit shall be required for the construction and operation of all WCFs. Review and approval shall be under either a Community Service Review, Planning Director Review, or a Building Permit Review.

Staff: As the project proposes the use of concealment technology, the Planning Director will make the initial decision as specified in MCC 39.7710(B). *Criterion met.*

6.6 (E) Design Review shall be required of all WCF towers regardless of review procedure and may at applicant's option be processed concurrently with the respective review process pursuant to MCC 39.8000 through 39.8020.

Staff: The applicant has applied for Design Review approval as part of the subject application. See Section 7 below.

6.7 (F) A new permit shall be required for all modifications, not constituting maintenance, to an approved permit for any WCF.

Staff: The applicant is aware of this requirement. *Criterion met.*

6.8 (G) If co-location or concealment technology is not feasible, the applicant shall demonstrate that such locations or concealment technology designs are unworkable for the carrier's coverage plan.

Staff: The proposed tower will employ concealment technology as a monopine. *Criterion not applicable.*

6.9 (H) All approvals for a WCF shall become null, void, and non-renewable if the facility is not constructed and placed into service within two years of the date of the Community Service Review Decision, Planning Director Review Decision, Building Permit, or superseding decision.

Staff: A condition of approval has been included above to inform the applicant of this requirement and to overriding the timelines listed for permits in MCC 39.1185. *Through a condition, criterion will be met.*

- 6.10 (I) The applicant, co-applicant, or tenant shall notify the Planning Director of all changes in applicant and/or co-applicants or tenants of a previously permitted WCF permitted under MCC 39.7700 through 39.7765 within 90 days of change. Failure to provide appropriate notice shall constitute a violation of the original permit approval and be processed pursuant to 39.1510.**

Staff: A condition of approval has been included to remind the applicant of this requirement. *Criterion met through a condition of approval.*

- 6.11 (J) All WCFs must comply with all applicable Multnomah County codes and regulations, including, but not limited to the Uniform Building Code, ground disturbing activities, Flood Hazard, and Significant Environmental Concern.**

Staff: The application will comply with all Multnomah County Codes. The applicant has applied for the WCF approval, Design Review and a Significant Environmental Concern permit. A condition of approval will require compliance with the County's Ground Disturbance requirements of MCC 39.6200 et al before sign off of the building permit. *The proposed WCF will meet this requirement.*

- 6.12 (K) No on-premises storage of material or equipment shall be allowed other than that used in the operation and maintenance of the WCF site.**

Staff: A condition of approval has been included to remind the Carrier of their responsibility.

- 6.13 (L) Self-supporting lattice towers not employing concealment technology and speculation towers are not permitted in any zone.**

Staff: The proposed WCF is a single pole that will be disguised as a monopine. AT&T will utilize this tower. *Criterion met.*

6.14 MCC 39.7735 APPLICATION SUBMITTAL REQUIREMENTS.

For an application for a Planning Director Review or Building Permit Review to be deemed complete the following information is required:

*** * ***

(B) Construction of a New Tower. For an application for either a Planning Director Review or Community Service Review to be deemed complete the following information is required:

- (1) An accurate and to-scale site plan showing the location of the tower, guy anchors (if any), antennas, equipment cabinet and other uses accessory to the communication tower or antenna. The site plan shall include a description of the proposed tower including use of concealment technology if applicable;**
- (2) A visual study containing, at a minimum, a graphic simulation showing the appearance of the proposed tower, antennas, and ancillary facilities from at least five points within a five mile radius. Such points shall include views from public places including but not limited to parks, rights-of-way, and waterways and chosen by the Planning Director at the pre-application conference to ensure that various potential views are represented.**
- (3) The distance from the nearest WCF and nearest potential co-location site.**
- (4) A report/analysis from a licensed professional engineer documenting the following:**

- (a) The reasons why the WCF must be located at the proposed site (service demands, topography, dropped coverage, etc.)
 - (b) The reason why the WCF must be constructed at the proposed height;
 - (c) Verification of good faith efforts made to locate or design the proposed WCF to qualify for an expedited review process. To this end, if an existing structure approved for co-location is within the area recommended by the engineers report, the reason for not co-locating shall be provided;
 - (d) Tower height and design, including technical, engineering, economic, and other pertinent factors governing selection of the proposed design such as, but not limited to, an explanation for the failure to employ concealment technology if applicable;
 - (e) Total anticipated capacity of the structure, including number and types of antennas which can be accommodated;
 - (f) Evidence of structural integrity of the tower structure as required by the Building Official;
 - (g) Failure characteristics of the tower; and
 - (h) Ice hazards and mitigation measures which can be employed.
- (5) Documentation demonstrating compliance with non-ionizing electromagnetic radiation (NIER) emissions standards set forth by the Federal Communications Commission as outlined in A Local Government Official's Guide to Transmitting Antenna RF Emission Safety: Rules, Procedures, and Practical Guidance or a subsequent FCC publication delineating required radio frequency performance standards.
- (6) A signed agreement, stating that the applicant will allow co-location with other users, provided all safety, structural, and technological requirements are met. This agreement shall also state that any future owners or operators will allow co-location on the tower.
- (7) A statement documenting a binding commitment to lease or option to lease an antenna mount upon the proposed tower by a service provider.
- (8) A landscape plan drawn to scale showing the proposed and existing landscaping, including type, spacing, and size.
- (9) Plans showing the connection to utilities/right-of-way cuts required, ownership of utilities and easements required.
- (10) Documents demonstrating that any necessary easements have been obtained.
- (11) Plans showing how vehicle access will be provided.
- (12) Signature of the property owner(s) on the application form or a statement from the property owner(s) granting authorization to proceed with building permit and land use processes.
- (13) Documentation that the ancillary facilities will not produce sound levels in excess of those standards specified below in the Approval Criteria for lands not zoned Exclusive Farm Use.
- (14) A map of the county showing the approximate geographic limits of the "cell" to be created by the facility. This map shall include the same information for all other facilities owned or operated by the applicant within the county, or

extending within the county from a distant location, and any existing detached WCF of another provider within 1,000 feet of the proposed site.

(15) Documentation demonstrating that the FAA has reviewed and approved the proposal, and the Oregon Aeronautics Division has reviewed the proposal.

(16) Full response to the Approval Criteria for lands not zoned Exclusive Farm Use specified below as applicable.

Staff: Most of the required information has been provided as discussed below:

- (1) The plans are labeled as Exhibit A.28.
- (2) The Visual Study is labeled as Exhibit A.14
- (3) AT&T found no existing WCF that would serve as a co-location site (Exhibits A.8 & A.4)
- (4) The information required in (B)(4)(a) through (e) is contained in Exhibit A.8 & A.28, Sheet A-4. The applicant has requested that the structural integrity report (f), failure characteristics of tower (g) and ice hazards and mitigation measures (h) be delayed to prior to building plan check (Exhibit A.4). A condition of approval has required that (B)(4)(f) through (h) be provided prior to plan check.
- (5) The NIER report is labeled at Exhibit A.9.
- (6) Co-Location Agreement is labeled as Exhibit A.13.
- (7) AT&T has committed to lease space on the proposed tower. See Exhibit A.20.
- (8) Landscape Plans can be found in Exhibit A.17 and A.28.
- (9) A Utility Coordination Report have been provided and is labeled as Exhibit A.25.
- (10) No easements are needed for the development.
- (11) The plans labeled as Exhibit A.28 show the proposed driveway from NW Skyline Blvd to the lease area.
- (12) The applicant has provided the property owners signatures in Exhibit A.20.
- (13) The Noise Report is labeled as Exhibit A.12.
- (14) This information is provided in Exhibit A.8.
- (15) The FAA Report is labeled as Exhibit A.10. The ODA information is provided as Exhibit A.11.
- (16) The applicant has provided narrative addressing the approval criteria. The narrative is labeled as Exhibit A.4.

Through conditions of approval, all of the above information will be provided.

6.15 MCC 39.7740 APPROVAL CRITERIA FOR LANDS NOT ZONED EXCLUSIVE FARM USE.

To be approved all applications for Planning Director Review, Community Service Review or Building Permit Review of a wireless communications facility (WCF) shall demonstrate compliance with the following:

(A) General and Operating Requirements

- (1) The service provider of the WCF and their successors and assigns shall agree to:**
 - (a) Respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;**
 - (b) Negotiate in good faith for shared use of the WCF by third parties; and**
 - (c) Allow shared use of the WCF if an applicant agrees in writing to pay reasonable charges for co-location.**

Staff: The applicant has provided Exhibit A.13 (Co-Location Requirement Agreement) as evidence that they intend to comply with the above requirements. A condition of approval has been included requiring Exhibit A.13 be revised to include the above information, signed by an agent of AT&T and submitted to the County before the project can be submitted into building plan check. *Through a condition, this criterion will be met.*

6.16 (2) Radiofrequency Standards. The applicant shall comply with all applicable FCC RF emissions standards (FCC Guidelines).

Staff: The applicant has provided a report to address the Radio Frequency Emissions for the proposed WCF (Exhibit A.9). The engineer has determined in the report that the project will comply with the FCC emission standards. *Criterion met.*

6.17 (3) Noise. Noise levels shall not exceed 5 dBA above ambient levels or 55 dBA Sound Pressure Level (SPL), whichever is greater, on adjacent properties. Operation of a back-up generator in the event of power failure or the testing of a back-up generator between 8 AM and 8 PM are exempt from this standard. No testing of back-up power generators shall occur between the hours of 8 PM and 8 AM.

Staff: The applicant has provided information regarding the diesel generator and the ancillary equipment to be placed in the accessory building (Exhibit A.12). At 50 feet from the ancillary equipment, the noise level would be 45.6 dBA. The proposed building is over 130 feet away from all property lines. A condition of approval has been included that the diesel generator shall not be tested between the hours of 8 pm and 8 am. *As conditioned, this criterion will be met.*

6.18 (4) Environmental Resource Protection. All wireless communication facilities shall be sited so as to minimize the effect on environmental resources. To that end, the following measures shall be implemented for all WCFs:

- (a) The facility shall comply with Significant Environmental Concern regulations when applicable, including the conditions of an SEC permit for any excavation or removal of materials of archaeological, historical, prehistorical or anthropological nature;**
- (b) The facility shall comply with ground disturbing activities regulations of MCC 39.6200 through 39.6235 when applicable;**
- (c) The facility shall comply with Flood Hazard regulations of MCC 39.5000 through 39.5055 when applicable; and**
- (d) Alteration or disturbance of native vegetation and topography shall be minimized.**

Staff: The applicant has applied for a Significant Environmental Concern permit for wildlife habitat. The proposed location was found to be in compliance with the SEC-h standards listed in Section 8 below. A condition of approval has been included that the applicant demonstrate compliance with the Ground Disturbing regulations listed at MCC 39.6200 et al. The property is not located within a FEMA designated floodplain and is not altering a watercourse so it is exempt from the County's Flood Hazard regulations. The location of the lease area is within an area used for horse pasture. No native vegetation exists. The lease area is flat and alteration to the ground will only be needed to prepare for gravel placement within the lease area and construction of the driveway. *Through a condition, this criterion will be met.*

6.19 (B) Siting Requirements.

(1) Location. WCFs shall be located so as to minimize their visibility and the number of distinct facilities. The ranking of siting preferences is as follows: first, co-location upon an existing tower or existing structure; second, use of concealment technology; and third, a vegetatively, topographically, or structurally screened monopole.

(b) Use of concealment technology.

1. When demonstrated that it is not feasible to co-locate the antenna(s) on an existing structure or tower, the WCF shall be designed so as to be camouflaged to the greatest extent possible, including but not limited to: concealment technology, use of compatible building materials and colors.

Staff: The applicant has provided information that no existing physical improvements in the area can be used to co-locate the facility on (Exhibit A.8). The maximum height of most structures in the CFU-1 zone is 35 feet which is significantly less than the requested 155 feet for the tower. The applicant is proposing to utilize concealment technology to camouflage the tower as a tree (Exhibit A.28). The exterior of the accessory building will have metal siding

6.20 (2) Height. Notwithstanding the maximum structure height requirements of each base zone, wireless communications facilities shall comply with the following requirements:

(a) Ground mounted facilities. The maximum height of a tower shall be 120 feet, unless:

- 1. The tower and facility uses concealment technology; or**
- 2. It is demonstrated by an engineer that a greater height is required to provide the necessary service.**

(b) Building or other structure mounted WCF shall not project more than ten additional feet above the highest point on the existing building or structure.

Staff: The proposed tower will utilize concealment technology as a tree adjacent to a forested area. The tower will have a height of 153 to its top. An additional two feet will be added for branches to extend above the top to make the monopine look more natural. The engineer has demonstrated in the RF Justification report (Exhibit A.8) the need for the 153-ft tower to provide significantly better coverage than if the tower was only 120 feet tall. The accessory building will be 9.6 feet high. Chain link fence will be 6 feet high. No structure other than the tower will exceed 10 feet in height above the ground. *Criterion met.*

6.21 (3) Setback/Yard.

(a) No dwelling on the subject property shall be closer to a ground mounted facility than a distance equal to the total height of the WCF measured from finished grade or according to the yard requirements of the zone, whichever is greater.

(b) All ground mounted towers shall be setback from any property line a minimum distance equal to the total height of the tower.

(c) All equipment shelters shall be set back from property lines according to the required yard of the zone.

(d) A WCF setback and yard requirement to a property line may be reduced as much as fifty percent (50%) of the proposed tower height when it is found that the reduction will allow the integration of a WCF into an existing or proposed structure such as a light standard, power line support device, or similar structure or if the approval authority finds that visual subordination may be achieved.

(e) A reduction of the setback/yard requirement below fifty percent (50%) under (d) of this section may be authorized subject to the variance approval criteria, variance classification and landing field height limitation of this chapter.

Staff: The existing dwelling on the property is over 500 feet away from the 153-ft tall tower (Exhibit A.28). The tower and other improvements are closest to the northern property line adjacent to NW Skyline Blvd. The proposed 153-ft tall tower will be setback 156 feet from the northern property line. The proposed accessory building will be 134 feet back from the northern property line. The CFU-1 zone has a minimum Forest Practice Setback of 130 feet from NW Skyline Blvd. No reduction to the requirements in (a) through (c) has been requested to achieve visual subordination. *Criteria met.*

6.22

(4) Storage.

(a) Wireless communications storage facilities (i.e., vaults, equipment rooms, utilities, and equipment cabinets or enclosures) shall be constructed of non-reflective materials (exterior surfaces only). The placement of equipment in underground vaults is encouraged.

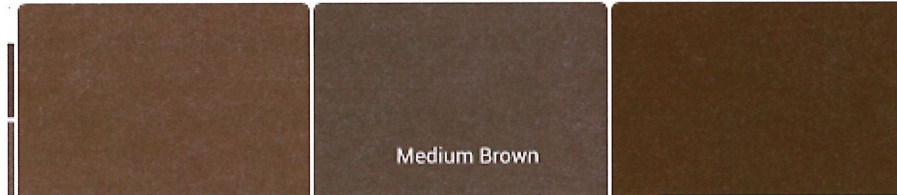
(b) Wireless communications storage facilities shall be no taller than one story (fifteen feet) in height and shall be treated to look like a building or facility typically found in the area.

Staff: The applicant is proposing to construct a 9.6-ft tall metal accessory building to house the auxiliary equipment for the tower (Exhibit A.30). No vaults are proposed. The proposed metal building is consistent with many barns in the area that have been sided with metal. Metal is highly reflective unless treated with flat paint. A condition of approval has been included that requires the building be treated with flat paint to reduce reflectivity. *Through a condition, this criterion will be met.*

6.23

(5) Color and materials. All buildings, poles, towers, antenna supports, antennas, and other components of each wireless communications site shall initially be colored with "flat" muted tones. The color selected shall be one that in the opinion of the approval authority minimizes visibility of the WCF to the greatest extent feasible.

Staff: The applicant has indicated that the tower and accessory building will be treated with nonglare paint and will be of neutral colors. The applicant has indicated the color of the accessory building will be “Pebble-Gray” (Exhibit A.30). Pebble-Gray is a light colored gray. As the tower will use concealment technology as a monopine, the tower needs to be painted brown to match a tree trunk. The applicant has not specified a color for the tower preferring to leave color choice to after the appeal period is over. Staff has conditioned that the tower be painted a medium dark brown similar to the following shades:



Through a condition, this criterion will be met.

6.24 (6) Fences.

(a) A sight obscuring fence shall be installed and maintained around the perimeter of the lease area of a ground mounted facility not employing concealment technology. The sight-obscuring fence shall surround the tower and the equipment shelter.

(b) A ground mounted facility located in a public right-of-way may be exempted from fencing requirements.

(c) Chain link fences shall be painted or coated with a non-reflective color.

Staff: The applicant has indicated that that a neutral-color, nonglare finish will be used on the chain link fence (Exhibit A.4). *Criterion met.*

6.25 (7) Security. In the event a fence is required, WCFs shall insure that sufficient anti-climbing measures have been incorporated into the facility, as needed, to reduce potential for trespass and injury.

Staff: The lease area will be secured by installing a chain link fence with barbed wire on top (Exhibit A.4 & A.28). *Criterion met.*

6.26 (8) Lighting.

(a) A new WCF shall only be illuminated as necessary to comply with FAA or other applicable state and federal requirements.

(b) No other exterior lighting shall be permitted on premises.

Staff: The applicant has stated that the FAA is not requiring lighting of the tower (Exhibit A.4 & A.16). In addition, they have stated that “no artificial lighting of the Facility is proposed or required. *Criterion met.*

6.27 (9) Signs. The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

Staff: The applicant has stated that no signage is proposed except signs required by certain State or Federal law. A condition of approval has been included that the applicant supply details of the signage to be installed on the site. *Through a condition of approval, criterion will be met.*

- 6.28 (10) **Access driveways and parking.** All access drives and parking areas shall be no longer or wider than necessary and be improved to comply with the requirements of the local Rural Fire Base zone.
- (a) Existing driveways shall be used for access whenever possible.
 - (b) New parking areas shall whenever feasible, be shared with subsequent WCFs and/or other permitted uses.
 - (c) Any new parking area constructed shall consist of a durable and dustless surface capable of carrying a wheel load of 4,000 pounds and be no larger than three hundred (350) square feet.

Staff: A new driveway will be constructed to access the facility off of NW Skyline Blvd. The existing residential improvements on the site take access off of NW Moreland Road near the southern boundary. Access to the lease area would need to be over 500 feet in length to combine access points. The lease area will be graveled and will allow for service vehicles to park at the site. The lease area will have gravel installed to provide a durable surface that should be dust free. The Tualatin Valley Fire and Rescue requires the driveway to have an all-weather surface capable of supporting 75,000 pounds gross vehicle weight and a 12,500 pound wheel load. *Criterion met.*

- 6.29 (11) **Landscape and Screening.** All WCFs shall be improved in such a manner so as to maintain and enhance existing native vegetation and suitable landscaping installed to screen the base of the tower and all accessory equipment, where necessary. To this end, all of the following measures shall be implemented for all ground mounted WCFs including accessory structures.
- (a) A landscape plan shall be submitted indicating all existing vegetation, landscaping that is to be retained within the leased area on the site, and any additional vegetation that is needed to satisfactorily screen the facility from adjacent land and public view areas. Planted vegetation shall be of the evergreen variety and placed outside of the fence. The landscape plan shall be subject to review and approval of the Design Review process. All trees, larger than four inches (4") in diameter and four and a half feet high (4 1/2') shall be identified in the landscape plan by species type, and whether it is to be retained or removed with project development;
 - (b) Existing trees and other screening vegetation in the vicinity of the facility and along the access drive and any power/telecommunication line routes involved shall be protected from damage, during the construction period.

Staff: The applicant has provided a landscape plan to screen the WCF from NW Skyline Blvd and NW Moreland Road. The applicant proposes to plant four Western Hemlock trees to the east of the lease area and two to the south of the tower. A total of six trees are proposed. To screen the northern and western sides of the lease area, the applicant is proposing to use the existing forested area. Staff would find this to be adequate, but it does not take into consideration the CFU-1 Primary Fire Safety Zones (FSZ). In the Primary FSZ, trees must be spaced a minimum of 15 feet between the tree crowns. The *crown is the total of an individual plant's above ground parts, including stems, leaves and reproductive structures.* The applicant has not shown the Primary or Secondary FSZ on the plans (Exhibit A.28). The Primary FSZ will affect the density of trees to the north and west. Trees may need to be planted to the north outside of the Primary FSZ to adequately screen the lease area

from NW Skyline Road. In addition, the trees to the east and south will need to be staggered so that there is 15 feet between the crowns and that they screen the lease area. A condition of approval has been included requiring the applicant to demonstrate compliance with the Primary and Secondary FSZ and to redesign the landscaping to screen the facility. *Through a condition of approval, these criteria will be met.*

6.30 MCC 39.7750 MAINTENANCE.

(A) The applicant/co-applicant or tenant shall maintain the WCF. Such maintenance shall include, but shall not be limited to painting, maintaining structural integrity, and landscaping.

(B) In the event the applicant/co-applicant or tenant/carrier fails to maintain the facility in accordance with permit conditions regarding visual impacts or public safety, Multnomah County may undertake the maintenance at the expense of the applicant or co-applicant landowner.

Staff: A condition of approval has been included to remind the tenant and property owner of the requirement to maintain the facility. *Through a condition, these criteria will be met.*

6.31 MCC 39.7755 ABANDONMENT.

(A) At such time that a carrier plans to abandon or discontinue, or is required to discontinue, the operation of a WCF, such carrier will notify Multnomah County Land Use Planning Division by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations.

(B) In the event that a carrier fails to give such notice, the WCF shall be considered abandoned if the antenna or tower is not operated for a continuous period of twelve months, unless the owner of said tower provides proof of continued maintenance on a quarterly basis.

(C) Upon abandonment or discontinuation of use, the person who constructed the facility, the person who operated the facility, carrier, or the property owner shall physically remove the WCF within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:

(1) Removal of the antenna(s), mounts, equipment cabinets, security barriers, and foundations down to three feet below ground surface.

(2) Transportation of the antenna(s), mount, equipment cabinets, and security barriers to an appropriate disposal site.

(3) Restoring the site of the WCF to its pre-construction condition, except any remaining landscaping and grading.

(4) The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition.

(D) If a party as stated in (C) fails to remove a WCF in accordance with this section, Multnomah County shall have the authority to enter the subject property and physically remove the facility. Costs for the removal of the WCF shall be charged to the landowner of record in the event Multnomah County must remove the facility.

(E) If there are two or more carriers/operators of a single tower, then provisions of this section shall not become effective until all carriers/operators cease using the tower.

(F) Failure to remove an abandoned facility as required by this section shall constitute a violation and be subject to the penalties prescribed in this Chapter.

Staff: MCC 39.7755 are not approval criteria but enforcement criteria for an abandoned tower. *Criterion not applicable.*

7.0 Design Review Criteria:

7.1 MCC 39.8010 DESIGN REVIEW PLAN APPROVAL REQUIRED.

No building, grading, parking, land use, sign or other required permit shall be issued for a use subject to this section, nor shall such a use be commenced, enlarged, altered or changed until a final design review plan is approved by the Planning Director, under this Code.

Staff: The applicant has applied for Design Review as required by the Wireless Communication Facilities requirement. *Criterion met.*

7.2 MCC 39.8020 APPLICATION OF REGULATIONS.

(A) Except those exempted by MCC 39.8015, the provisions of MCC 39.8000 through 39.8050 shall apply to all conditional and community service uses, and to specified uses, in any base zone.

(B) Uses subject to Design Review that require the creation of fewer than four new parking spaces pursuant to MCC 39.6590 shall only be subject to the following Design Review approval criteria: MCC 36.8040(A)(1)(a) and (1)(c), (4) and (7), except when located in the RC, BRC, OR, OCI, PH-RC or SRC zone base zones.

(C) All other uses are subject to all of the Design Review Approval Criteria listed in MCC 39.8040 and 39.8045.

Staff: Pursuant to MCC 39.7725(E), the Wireless Communication Facility (WCF) regulations require that a new facility be reviewed through Design Review at the same time as it is reviewed for compliance with MCC 39.7700 through MCC 39.7765.

The proposed WCF will only need one parking space. The facility is only subject to MCC 39.8040(A)(1)(a) and (1)(c), (4) and (7). The property is located in the CFU-1 zone. *Criteria met.*

7.3 MCC 39.8040 DESIGN REVIEW CRITERIA.

(A) Approval of a final design review plan shall be based on the following criteria:

(I) Relation of Design Review Plan Elements to Environment.

(a) The elements of the design review plan shall relate harmoniously to the natural environment and existing buildings and structures having a visual relationship with the site.

Staff: The proposed tower will utilize concealment technology as a monopine to make it appear to be a tree in the nearby forest to the west (Exhibit A.28). The accessory building will be a metal building treated with nonglare paint. Its color will be Pebble-Gray (Exhibit A.30). The building is similar to other outbuildings existing in the area. *Criterion met.*

7.4 (c) Each element of the design review plan shall effectively, efficiently, and attractively serve its function. The elements shall be on a human scale, inter related, and shall provide spatial variety and order.

Staff: The tower will use concealment technology as a monopine to make it appear like a tree. To the west is a large forested area that will make the tower seem like an extension of the forest. The accessory building will be small in scale at 8-ft wide by 16-ft long by 9.6-ft tall and screened by vegetation from the adjacent right-of-way and other nearby properties. The building will use nonglare paint and is similar to other outbuildings in the area.

Criterion met.

- 7.5 (4) Preservation of Natural Landscape - The landscape and existing grade shall be preserved to the maximum practical degree, considering development constraints and suitability of the landscape or grade to serve their functions. Preserved trees and shrubs shall be protected during construction.**

Staff: The proposed Wireless Communication Facility (WCF) is located on terrain that is fairly flat. No significant change in the topography will be necessary to construct it or its driveway. The location of the WCF is within a pasture area where horses are kept. Other than for the Primary Fire Safety Zone requirements, no trees will be removed. At a minimum, six trees will be planted for screening purposes. *Criterion met.*

- 7.6 (7) Buffering and Screening - Areas, structures and facilities for storage, machinery and equipment, services (mail, refuse, utility wires, and the like), loading and parking, and similar accessory areas and structures shall be designed, located, buffered or screened to minimize adverse impacts on the site and neighboring properties.**

Staff: The Wireless Communication Facility code requires that the facility's compound be screened with evergreen vegetation. Trees will be added to the east and south and possible the north after alterations for the Primary Fire Safety Zone. No mail or refuse will be generated after the construction of the facility. Parking will occur within the enclosure and will be screened from neighboring properties. The utility wires will be undergrounded (Exhibit A.28). The tower will utilize concealment technology to look like a tree. The enclosure will be screened with vegetation. *Criterion met.*

8.0 Significant Environmental Concern Criteria:

8.1 MCC 39.5850 SEC-H CLEAR AND OBJECTIVE STANDARDS.

(A) At the time of submittal, the applicant shall provide the application materials listed in MCC 39.5520(A) and 39.5860(A). The application shall be reviewed through the Type I procedure and may not be authorized unless the standards in MCC 39.5860(B)(1) through (4)(a)-(c) and (B)(5) through (7) are met. For development that fails to meet all of the criteria listed above, a separate land use application pursuant to MCC 39.5860 may be submitted.

Staff: The proposed application has failed to meet the criteria listed in MCC 39.5860(B)(3). A Type II SEC-h permit will need to be reviewed and approved.

8.2 MCC 39.5860 CRITERIA FOR APPROVAL OF SEC-H PERMIT – WILDLIFE HABITAT

(B) Development standards:

(1) Where a parcel contains any non-forested "cleared" areas, development shall only occur in these areas, except as necessary to provide access and to meet minimum clearance standards for fire safety.

Staff: The location of the Wireless Communication Facility (WCF) is within an existing pasture area (Exhibit A.28). There will potentially be some trees affected to the west and north but that is strictly for the Primary Fire Safety Zone. *Criterion met.*

8.3 (2) Development shall occur within 200 feet of a public road capable of providing reasonable practical access to the developable portion of the site.

Staff: The center of the tower will be located 156 feet from NW Skyline Blvd right-of-way. The chain link enclosure goes an additional 25 feet. The development, except for potentially the Primary Fire Safety Zone will occur within 200 feet of NW Skyline Blvd. The driveway takes access from this road. *Criterion met.*

8.4 (3) The access road/driveway and service corridor serving the development shall not exceed 500 feet in length.

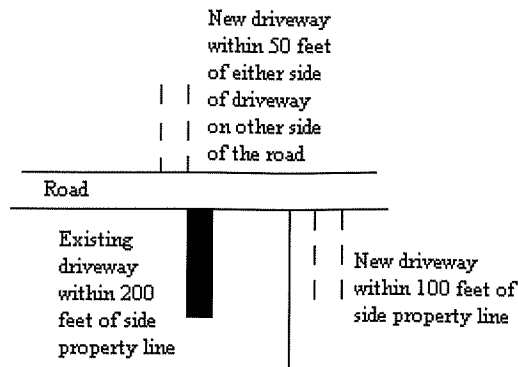
Staff: The driveway length from NW Skyline Blvd to the fenced enclosure is 168.03 feet in length. *Criterion met.*

8.5 (4) For the purpose of clustering access road/driveway approaches near one another, one of the following two standards shall be met:

(a) The access road/driveway approach onto a public road shall be located within 100 feet of a side property line if adjacent property on the same side of the road has an existing access road or driveway approach within 200 feet of that side property line; or

(b) The access road/driveway approach onto a public road shall be located within 50 feet of either side of an existing access road/driveway on the opposite side of the road.

(c) Diagram showing the standards in (a) and (b) above.



For illustrative purposes only.

Staff: The subject property fronts onto NW Skyline Blvd and NW Moreland Road. The property to the northwest of the subject property (2N2W03 -01100) driveway is 240 feet from the shared side property line. The forest land to the northeast (2N2W10A -00100) has a shared access point with other Weyerhaeuser property that is 155 feet from the subject property's northeast corner at the intersection of NW Skyline Blvd and NW Moreland Road. The southern property line of the subject property is where the existing driveway is located for the dwelling and outbuilding. The property to the south (2N2W10A -00601) has a

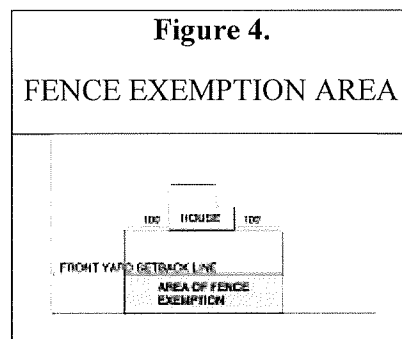
driveway that is approximately 14 feet from the shared side property line. For the proposed development to comply with (4) above the driveway for the Wireless Communication Facility should be within 100 feet of the southern side property line and should actually be shared with the dwelling that exists on the subject property. The driveway for the dwelling is approximately 84 feet from the shared property line and would comply with this criterion. *Criterion not met. A Wildlife Conservation Plan will be required.*

8.6 (5) The development shall be within 300 feet of a side property line if adjacent property has structures and developed areas within 200 feet of that common side property line.

Staff: The property to the northwest of the subject property has development within 250 feet of the shared common side property line. The property to the south of the subject property has development within 20 feet of the shared common side property line. The proposed WCF is approximately 450 feet from the southern side property line and 515 feet from the northern side property line. *Criterion not met. A Wildlife Conservation Plan will be required.*

8.7 (6) Fencing within a required setback from a public road shall meet the following criteria:

- (a) Fences shall have a maximum height of 42 inches and a minimum 17 inch gap between the ground and the bottom of the fence.
- (b) Wood and wire fences are permitted. The bottom strand of a wire fence shall be barbless. Fences may be electrified, except as prohibited by County Code.
- (c) Cyclone, woven wire, and chain link fences are prohibited.
- (d) Fences with a ratio of solids to voids greater than 2:1 are prohibited.
- (e) Fencing standards do not apply in an area on the property bounded by a line along the public road serving the development, two lines each drawn perpendicular to the principal structure from a point 100 feet from the end of the structure on a line perpendicular to and meeting with the public road serving the development, and the front yard setback line parallel to the public road serving the development. (See Figure 4 below.)



- (f) Fencing standards do not apply where needed for security of utility facilities.

Staff: The proposed Wireless Communication Facility is a utility facility. The fencing around the lease area is exempt from these standards. *Criterion met.*

- 8.8** (7) The nuisance plants in MCC 39.5580 Table 1 shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property.

Staff: The Wireless Communication Facility will be located in an open area used for pasture. There are no existing nuisance plants in the lease area (Exhibit A.15). The applicant has acknowledged that they cannot plant nuisance plants within their lease area (Exhibit A.15). The proposed Western Hemlock trees to be planted around the lease area are not listed on the County's Nuisance Plant list. *Criterion met.*

- 8.9** (C) Wildlife Conservation Plan. An applicant shall propose a wildlife conservation plan if one of two situations exist.

(1) The applicant cannot meet the development standards of subsection (B) because of physical characteristics unique to the property. The applicant must show that the wildlife conservation plan results in the minimum departure from the standards required in order to allow the use; or

(2) The applicant can meet the development standards of subsection (B), but demonstrates that the alternative conservation measures exceed the standards of subsection (B) and will result in the proposed development having a less detrimental impact on forested wildlife habitat than the standards in subsection (B).

Staff: The proposed development does not comply with (B)(4) and (B)(5). The subject property is capable of meeting these development, but the project does not. The Wildlife Conservation Plan (WCP) will need to comply with (C)(2).

- 8.10** (3) Unless the wildlife conservation plan demonstrates satisfaction of the criteria in subsection (C)(5), the wildlife conservation plan must demonstrate the following:

(c) That no fencing will be built and existing fencing will be removed outside of areas cleared for the site development except for existing cleared areas used for agricultural purposes.

Staff: The proposed development is unable to demonstrate satisfaction of the criteria in (C)(3) as a security fence needs to be built as part of the project. The WCP will need to demonstrate compliance with (C)(5).

- 8.11** (5) Unless the wildlife conservation plan demonstrates satisfaction of the criteria in subsection (C)(3) of this section, the wildlife conservation plan must demonstrate the following:

(a) That measures are included in order to reduce impacts to forested areas to the minimum necessary to serve the proposed development by restricting the amount of clearance and length/width of cleared areas and disturbing the least amount of forest canopy cover.

Staff: The proposed driveway and lease area for the Wireless Communication Facility will be located in an existing pasture. The only portion of the development to affect the forested areas to the west and northwest is the Primary Fire Safety Zone. As the applicant is using concealment technology for the tower, the shifting of it away from the forest would hinder the tower's ability to blend in with the trees in the forest. *Criterion met.*

- 8.12 (b) That any newly cleared area associated with the development is not greater than one acre, excluding from this total the area of the minimum necessary accessway required for fire safety purposes.

Staff: The area to be affected by the Primary Fire Safety Zone will have the number of trees reduced to allow adequate spacing between the crowns. The area affected would be a between 8,000 sq. ft. to 10,500 sq. ft. *Criterion met.*

- 8.13 (c) That no fencing will be built and existing fencing will be removed outside of areas cleared for the site development except for existing cleared areas used for agricultural purposes. Existing fencing located in the front yard adjacent to a public road shall be consistent with subsection (B)(6).

Staff: The fencing to be built is exempt from the fencing requirements because it is for security for a utility facility. The fencing for the Wireless Communication Facility is setback 156 feet from NW Skyline Road so it will not impede animal movement off of the right-of-way. In addition, the subject property is used to board horses, so any existing fencing is for agricultural purposes. *Criterion met.*

- 8.14 (d) For mitigation areas, all trees, shrubs and ground cover shall be native plants selected from the Metro Native Plant List. An applicant shall meet Mitigation Option 1 or 2, whichever results in more tree plantings; except that where the total developed area (including buildings, pavement, roads, and land designated as a Development Impact Area) on a Lot of Record will be one acre or more, the applicant shall comply with Mitigation Option 2:

1. Mitigation Option 1. In this option, the mitigation requirement is calculated based on the number and size of trees that are removed from the development site. Trees that are removed from the development site shall be replaced as shown in the table below. Conifers shall be replaced with conifers. Bare ground shall be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

Tree Replacement Table:

Size of tree to be removed (inches in diameter)	Number of trees and shrubs to be planted
6 to 12	2 trees and 3 shrubs
13 to 18	3 trees and 6 shrubs
19 to 24	5 trees and 12 shrubs
25 to 30	7 trees and 18 shrubs
over 30	10 trees and 30 shrubs

Staff: The exact number of tree to be removed has not been provided by the applicant. Trees will need to be removed to construct the Primary Fire Safety Zone and possibly along the driveway. Without this information this mitigation option cannot be calculated. Staff is

able to calculate the size of the disturbance area for the project, so Mitigation Option 2 will be used.

8.15

2. Mitigation Option 2. In this option, the mitigation requirement is calculated based on the size of the disturbance area associated with the development. Native trees and shrubs are required to be planted at a rate of five (5) trees and twenty-five (25) shrubs per every 500 square feet of disturbance area (calculated by dividing the number of square feet of disturbance area by 500, and then multiplying that result times five trees and 25 shrubs, and rounding all fractions to the nearest whole number of trees and shrubs; for example, if there will be 330 square feet of disturbance area, then 330 divided by 500 equals .66, and .66 times five equals 3.3, so three trees must be planted, and .66 times 25 equals 16.5, so 17 shrubs must be planted). Bare ground shall be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

(e) Location of mitigation area. All vegetation shall be planted within the mitigation area located on the same Lot of Record as the development and shall be located within the SEC-h overlay or in an area contiguous to the SEC-h overlay; provided, however, that if the vegetation is planted outside of the SEC-h overlay then the applicant shall preserve the contiguous area by executing a deed restriction, such as a restrictive covenant. (Note: an off-site mitigation option is provided in a streamlined discretionary review process). The mitigation area shall first be located within any existing non-forested cleared areas contiguous to forested areas, second within any degraded stream riparian areas and last in forested areas or adjacent to landscaped yards.

(f) Prior to development, all work areas shall be flagged, fenced, or otherwise marked to reduce potential damage to habitat outside of the work area. The work area shall remain marked through all phases of development.

(g) Trees shall not be used as anchors for stabilizing construction equipment.

(h) Native soils disturbed during development shall be conserved on the property.

(i) An erosion and sediment control plan shall be prepared in compliance with the ground disturbing activity standards set forth in MCC 39.6200 through MCC 39.6235.

(j) Plant size. Replacement trees shall be at least one-half inch in caliper, measured at 6 inches above the ground level for field grown trees or above the soil line for container grown trees (the one-half inch minimum size may be an average caliper measure, recognizing that trees are not uniformly round), unless they are oak or madrone which may be one gallon size. Shrubs shall be in at least a 1-gallon container or the equivalent in ball and burlap and shall be at least 12 inches in height.

(k) Plant spacing. Trees shall be planted between 8 and 12 feet on-center and shrubs shall be planted between 4 and 5 feet on-center, or clustered in

single species groups of no more than four (4) plants, with each cluster planted between 8 and 10 feet on-center. When planting near existing trees, the drip line of the existing tree shall be the starting point for plant spacing measurements.

(l) Plant diversity. Shrubs shall consist of at least two (2) different species. If 10 trees or more are planted, then no more than 50% of the trees may be of the same genus.

(m) Nuisance plants. Any nuisance plants listed in MCC 39.5580 Table 1 shall be removed within the mitigation area prior to planting.

(n) Planting schedule. The planting date shall occur within one year following the approval of the application.

(o) Monitoring and reporting. Monitoring of the mitigation site is the ongoing responsibility of the property owner. Plants that die shall be replaced in kind so that a minimum of 80% of the trees and shrubs planted shall remain alive on the fifth anniversary of the date that the mitigation planting is completed.

Staff: The disturbance area encompasses the Wireless Communication Facility which is a 50-ft by 50-ft square (2,500 sq. ft.) and the access driveway. The driveway is 168 feet long by 20 feet wide (336 sq. ft.). The total disturbance area is 2,836 sq. ft.

$2836 \text{ sq. ft.} / 500 \text{ sq. ft.} = 5.672 \times 5 \text{ trees (x 25 shrubs)} = 28.36 \text{ trees and } 141.8 \text{ shrubs}$

The applicant is required to plant a total of 28 trees and 142 shrubs on the subject site. A condition of approval has been included requiring the applicant to provide the planting plan with an identified the mitigation area in compliance with (e) through (o) above. *Through a condition, the Wildlife Conservation Plan will be met.*

9.0 Geologic Hazards Criteria:

9.1 MCC 39.5075 Permit Required.

Unless exempt under this code or authorized pursuant to a Large Fill permit, no development, or ground disturbing activity shall occur: (1) on land located in hazard areas as identified on the Geologic Hazards Overlay map, or (2) where the disturbed area or the land on which the development will occur has average slopes of 25 percent or more, except pursuant to a Geological Hazards permit (GH).

Staff: The subject property contains areas designated as a hazard area on the County's Geologic Hazards Overlay map. The development is proposed outside of the hazard overlay. In addition, the terrain within the area has slopes of 10 percent or less. *The project is exempt from obtaining a Geologic Hazard permit.*

10.0 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the approval of an Administrative Decision by the Planning Director to establish a Wireless Communication Facility in the CFU-1 zone. This approval is subject to the conditions of approval established in this report.

11.0 Exhibits

‘A’ Applicant’s Exhibits

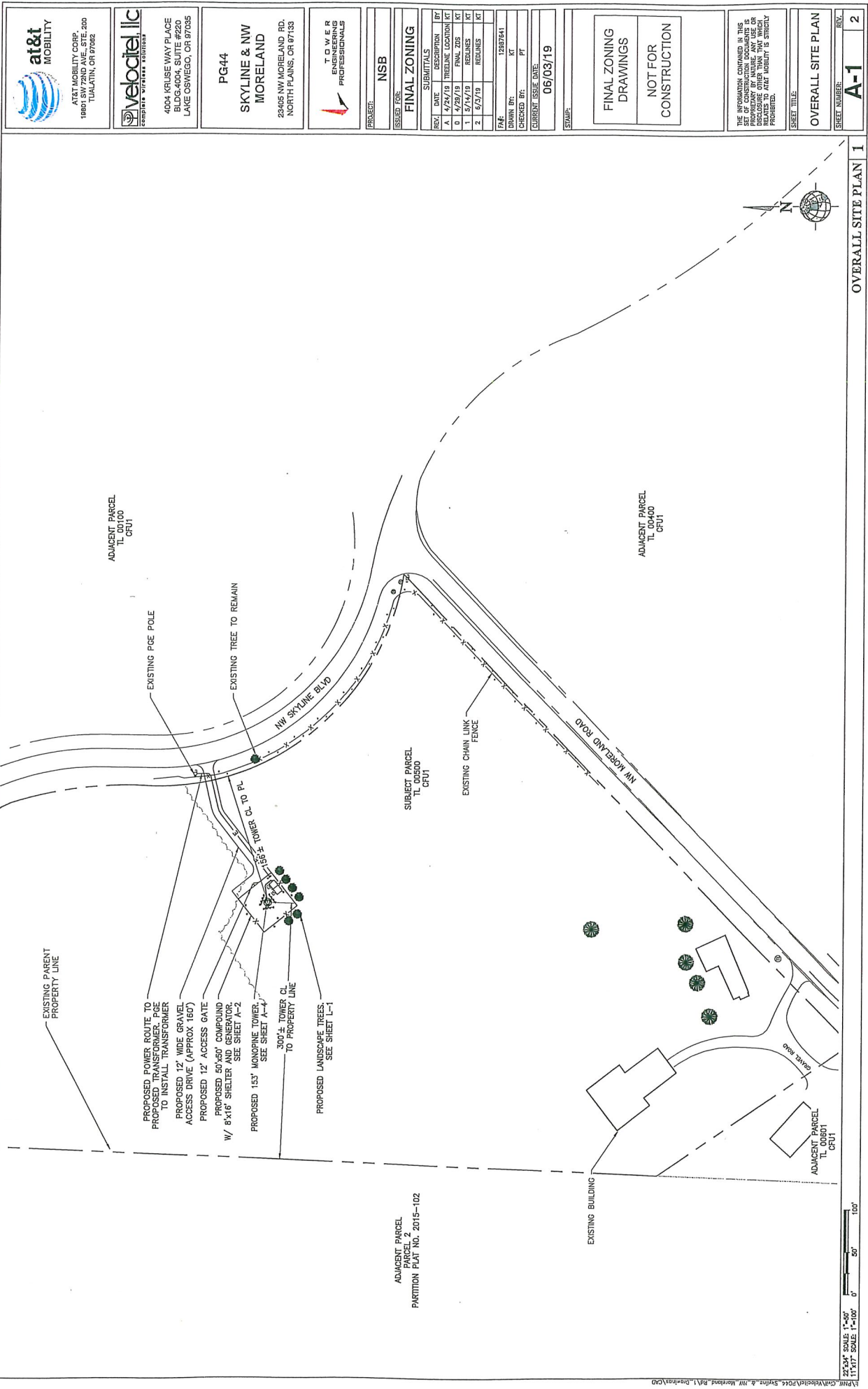
‘B’ Staff Exhibits

‘C’ Procedural Exhibits

Exhibits with a “*” after the exhibit # have been included as part of the mailed decision. All other exhibits are available for review in Case File T2-2019-12125 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	Application Form	6.14.2019
A.2	1	Entry and Testing Authorization for Sky Ranch Stables, LLC	6.14.2019
A.3	1	Cover Letter	6.14.2019
A.4	8	Project Narrative	6.14.2019
A.5	27	Attachment 2 - Statement of Code Compliance	6.14.2019
A.6	8	Pre-filing Meeting Summary Notes	6.14.2019
A.7	1	Radio Frequency Engineering Justification Cover Letter	6.14.2019
A.8	11	NSB RF Justification Report	6.14.2019
A.9	6	RF Emissions Compliance Report	6.14.2019
A.10	3	FAA Report	6.14.2019
A.11	1	OR Dept of Aviation Comments dated May 21, 2019	6.14.2019
A.12	2	Marvair Unit Sound Standard	6.14.2019
A.13	1	Co-Location Requirement Agreement	6.14.2019
A.14	2	Skyline Photos Simulation	6.14.2019
A.15	7	Significant Environmental Concern for Wildlife Habitat Worksheet (Type I)	6.14.2019
A.16	1	Towair Determination Results	6.14.2019
A.17	8	Title Sheet (Sheet T-1) (a) Site Survey (Sheet 1 of 2) dated 05/15/2019 (b) Site Survey (Sheet 2 of 2) dated 05/15/2019 (c) Overall Site Plan (Sheet A-1) (d) Compound Layout Plans (Sheet A-2) (e) Elevations (Sheet A-4) (f) Landscape Plan (Sheet L-1) (g) Landscape Notes (Sheet L-2)	6.14.2019
A.18	1	Resubmittal Cover Letter	12.10.2019
A.19	1	Entry and Testing Authorization dated 10.08.2019	12.10.2019
A.20	5	Memorandum of Lease	12.10.2019
A.21	8	Property Profile	12.10.2019

A.22	2	Septic Review Certificate	12.10.2019
A.23	1	Tualatin Valley Fire & Rescue Application/Permit	12.10.2019
A.24	5	Fire Service Agency Review Form – 2 pages (a) TVFR Letter dated November 26, 2019- 2 pages (b) TVFR Stamped Site Plan – 1 page	12.10.2019
A.25	9	Utility Coordination Report	12.10.2019
A.25.1	25	Plans	12.10.2019
A.26	3	Deed of Personal Representative recorded in Book 880, Pages 1011 – 1013 on September 1972	03.03.2020
A.27	2	Statutory Warranty Deed recorded at 2015-052139 on 05/06/2015	03.03.2020
A.28	8	Title Sheet – T1 (Revised Plans) (a) Site Survey – Sheet 1 of 2 (b) Site Survey – Sheet 2 of 2 (c) Overall Site Plan – A-1 (d) Compound Layout Plans - A-2 (e) Elevations – A-4 (f) Landscape Plan – L-1 (g) Landscape Notes – L-2	03.13.2020
A.29	1	Tolling Agreement	03.23.2020
A.30	1	Email Regarding Accessory Building Height and Accessory Building Materials	04.30.2020
A.31	15	Accessory Building Information	04.30.2020
'B'	#	Staff Exhibits	Date
B.1	2	A&T Property Information for parcel 2N2W10A-00500	6.5.2019
B.2	1	1986 Aerial Photo of Subject Property	4.30.2020
B.3	1	1977 Aerial Photo of Subject Property	4.30.2020
B.4	1	1990 Aerial Photo of Subject Property	4.30.2020
B.5	1	1962 Zoning Map	5.08.2020
B.6	1	October 5, 1977 Zoning Map	5.08.2020
B.7	2	F-2 Regulations	5.08.2020
B.8	1	Concept Landscape Screen Plan for compliance with MCC 39.7740(B)(11)	5.15.2020
'C'	#	Administration & Procedures	Date
C.1	3	Incomplete Letter	7.12.2020
		Application Complete	12.10.2019
C.2	5	Opportunity to Comment	3.18.2020
C.3	36	Administrative Decision	5.21.2020



AT&T MOBILITY CORP.
18801 SW 72ND AVE., STE. 200
TULALIN, OR 97062

4004 KRUISE WAY PLACE
BLDG-4004, SUITE #220
LAKE OSWEGO, OR 97035

PG44

**SKYLINE & NW
MORELAND**

23405 NW MORELAND RD.
NORTH PLAINS, OR 97133

TOWER
ENGINEERING
PROFESSIONALS

PROJECT: NSB

ISSUED FOR: FINAL ZONING

REV.	DATE	DESCRIPTION	BY
A	4/24/19	TREELINE LOCATION	KT
B	4/29/19	FINAL ZON	KT
1	5/14/19	REDLINES	KT
2	5/27/19	REDLINES	KT
TAK			
DRAWN BY: 12887441			
CHECKED BY: PT			
CURRENT ISSUE DATE: 06/03/19			

STAMP:

FINAL ZONING
DRAWINGS

NOT FOR
CONSTRUCTION

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SHEET TITLE:

OVERALL SITE PLAN

SHEET NUMBER: A-1

REV. 2

OVERALL SITE PLAN 1

1. CONTRACTOR TO VERIFY RF DATA WITH CONSTRUCTION MANAGER AND/OR RF ENGINEER PRIOR TO CONSTRUCTION



4004 KILUSE WAY PLACE
BLDG. 4004, SUITE #220
LAKE OSWEGO, OR 97035

PG44
SKYLINE & NW
MORELAND
23405 NW MORELAND RD.
NORTH PLAINS, OR 97133

T O W E R
ENGINEERING
PROFESSIONALS

PROJECT:
NSB

ISSUED FOR:	
FINAL ZONING	
SUBMITTALS	
REV.	DATE
1	4/24/19
2	5/14/19
3	5/27/19

DATE: 12/28/14
DRAWN BY: PT
CHECKED BY: PT
CURRENT ISSUE DATE: 06/03/19

FINAL ZONING
DRAWINGS
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CONSTRUCTION

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SHEET NUMBER: A-4
REL: 2

