



MULTNOMAH COUNTY OREGON

LAND USE AND TRANSPORTATION PROGRAM

1600 SE 190TH Avenue Portland, OR 97233

PH: 503-988-3043 FAX: 503-988-3389

http://www.co.multnomah.or.us/dbcs/LUT/land_use

NOTICE OF DECISION

This notice concerns a Planning Director Decision on the land use case(s) cited and described below.

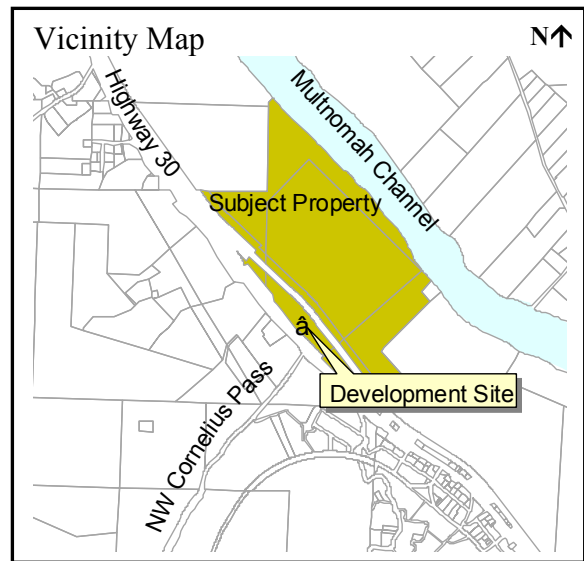
Case File: T2-04-002

Permits: Co-location of Cellular Antennae

Location: 17622 NW St. Helens Road
Section 18, T 2N, R 1W, TL 200, 300
Tax Acc. #'s R971180340, R971180900

Applicant: Don Larson
8405 B SW Nimbus Ave.
Beaverton, OR 97008

Owner: Joshua Enyart
20803 NW Reeder Road
Portland, OR 97231



Summary: A request to co-locate two panel antennas on the existing 130-foot tall monopole at the 117-foot level. Also, an equipment cabinet will be installed within a 14 x 16-foot sublease area within the existing compound.

Decision: Approved with conditions

Unless appealed, this decision is effective Monday, October 18, 2004 at 4:30 PM.

Issued by:

By: _____
Don Kienholz, Planner

For: Karen Schilling- Planning Director

Date: Monday, October 4, 2004

Opportunity to Review the Record: A copy of the Planning Director Decision, and all evidence submitted associated with this application, is available for inspection, at no cost, at the Land Use Planning office during normal business hours. Copies of all documents may be purchased at the rate of 30-cents per page. The Planning Director's Decision contains the findings and conclusions upon which the decision is based, along with any conditions of approval. For further information on this case, contact Rick Roth, Staff Planner at 503-988-3043.

Opportunity to Appeal: This decision may be appealed within 14 days of the date it was rendered, pursuant to the provisions of MCC 37.0640. 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 offices at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision cannot be appealed to the Land Use Board of Appeals (LUBA) until all local appeals are exhausted.

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Monday, October 18, 2004 at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): 34.2820 Allowed Uses; 34.2855 Dimensional Standards and Development Requirements in Multiple Use Agriculture District; 34.2870 Lot of Record in the Multiple Use Agriculture District; 34.6175 Wireless Communications Facilities; Chapter 37 Administrative Procedures

Copies of the referenced Multnomah County Code sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at <http://www.co.multnomah.or.us/dscd/landuse>.

Scope of Approval

1. 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.
2. **Pursuant to MCC 37.0690, this land use permit expires two years from the date the decision is final if; (a) development action has not been initiated; (b) building permits have not been issued; or (c) final survey, plat, or other documents have not been recorded, as required. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0690 and 37.0700. Such a request must be made prior to the expiration date of the permit.**

Conditions of Approval

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. **The applicant shall adhere to and fulfill the requirements of the Voluntary Compliance Agreement for UR 04-053 signed on August 18, 2004 by Mr. Enyart and Multnomah County [MCC 37.0560].**
2. **The antenna must be in place within two years of this decision becoming final or this decision shall become void [MCC 34.6180(H)].**

3. **The applicant, co-applicant, or tenant shall notify the Planning Director of any and all changes in applicant and/or co-applicants or tenants of a previously permitted WCF permitted under this section within 90 days of change. [MCC 34.6180(I)].**
4. **The equipment shed shall be non-reflective. If it is made of steel, it shall be treated to eliminate the smooth surface and not reflect light. If the surface needs to be treated, the applicant will provide a sample of the treatment to staff prior to building permit sign-off [MCC 34.6183(B)(4)].**

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: Written findings are contained herein. The Multnomah County Code criteria and Comprehensive Plan Policies are in **bold** font. Staff comments and analysis are identified as **Staff:** and follow Applicant comments identified as **Applicant:** to the applicable criteria. Staff comments include a conclusionary statement in *italic*.

1. **Project Description**

Applicant: Nextel Communication (Nextel) seeks to expand its Pacific Northwest Enhanced Specialized Mobile Radio (EMSR) network to include the proposed co-location on an existing cell tower located at 17622 NW St. Helens Rd.. The existing site is located on a 5.63 acre parcel that is zoned Multiple Use Agriculture (MUA 20), is identified as Tax lot 200 within Section 18, Township 2N, Range 1 W, and has the alternative Tax number R97 1180340. The Multnomah County Pre-Filing Meeting number is PF-03-135.

Currently Nextel has no wireless service provided to the Sauvie Island area. The proposed co-location at the 117-foot level on the existing 130-foot tall monopole will allow Nextel to provide the greater Sauvie Island area with excellent wireless phone coverage. The original approval for the existing monopole, that included opportunities for future co-locations, was granted by Multnomah County in 1996 under case numbers CS 1-96, WRG 2-96, and DR 4-96.

The specific proposal is to co-locate two (2) panel antennas on the existing 130-foot tall monopole at the 117-foot level. There will be no expansion of the existing fenced compound as Nextel will sub-lease a 14-foot x 16-foot area inside the fence of the existing Sprint compound. If required, landscaping will be provided in accordance with the Multnomah County Code. Nextel has also submitted the appropriate applications to the Federal Communications Commission (FCC) for their approval.

Multnomah County Zoning Application and required submittal materials are attached along with several exhibits describing in detail the co-location proposal.

Exhibit A Site Development Information

Exhibit B Signed Multnomah County General Application Form

Exhibit C Section 34.6180 "General Requirements"

Exhibit D Section 34.618 1 "Registration of Wireless Communication Carriers and Providers", and Section 34.6182 "Application Submittal Requirements."

Exhibit E Section 34.6183 "Approval Criteria for Lands Not Zoned EFU"

Exhibit F Radio Frequency Maps

Exhibit G Radio MPE Documentation AND Antenna Specifications

Exhibit H Aerial Photo and Photographic Simulations

Exhibit I Noise Analysis of the Heating and Cooling System

Exhibit J OSAD Letter and FAA Filing

Exhibit K Structural Calculations for the Monopole and Antennas

Exhibit L Lease Documents

Exhibit M Site Plan

Exhibit N Survey (full size)

EXHIBIT SITE A DEVELOPMENT

PROJECT NAME: Sauvie Island #OR0267-1

APPLICANT INFORMATION

Applicant: Tetra Tech Communication Services for Nextel 8405-B SW Nimbus Avenue Beaverton, Oregon 97008

Contact: Don Larson (for Tom McAuliffe) Telephone: 971 563-9677

Fax: 503 277-5550

E-mail: dlaron@ttwireless.com

SITE INFORMATION

Owner: Josh Enyart

Address: 17622 NW St. Helens Highway Portland, Oregon 9723 1

Site Address: 17622 NW St. Helens Highway, Current Zoning: MUA-(Multiple Use Agricultural District) Lease Area: 16-feet by 14-feet

TOWER INFORMATION

Tower height: 131 -feet Antennas: 2 (two) EMS Wireless #RS90-12-OOXA2 antennas

Equipment Building: A Sun West Engineering pre-fabricated cabinet that measures 197-inches long (with doors open) by 64-inches wide by 92-inches tall.

PROPERTY The USE: subject property currently contains agricultural buildings utilized for storage.

EMPLOYEES: Nextel will not have any permanent employees on site service technician will inspect the cellular equipment on a routine basis, usually once a month.

HOURS OF OPERATION: cellular site will be in operation continuously 24 hours a day, 7 days a week, and 365 days a year.

INSTALLATION: Two panel antennas will be installed at the 117-foot height on an existing 131-foot tall monopole. The equipment shelter will be located within the existing Sprint compound, which is surrounded by an existing chain-link security fence.

LANDSCAPING: The existing landscaping will not be disturbed.

CONTOURS: The existing grades and contours will not be altered except to provide a concrete slab as a base for the equipment building.

LIGHTING: No additional tower lighting is proposed.

SIGNAGE: Nextel will not install any signs except as required by the Federal Communication Commission.

SCHEDULE: Installation will start with 30 to 90-days from approval *of permits and will be completed within 60 days from the start of construction.*

Staff: The Applicant is proposing to expand an existing, previously approved Conditional Use with a co-location of a cellular.

2. **Site Vicinity and Characteristics**

Staff: After considerable research it was determined that the site is part of one parcel roughly 150-acres in size. It is located off of State Highway 30 and across from the intersection of Highway 30 and Cornelius Pass Road. A railroad right of way bisects the portion of the property the co-location will occur on from the bulk of the property adjacent to the Multnomah Channel. The property is zoned Multiple Use Agriculture-20 (MUA-20) and in the Sauvie Island/Multnomah Channel Rural Plan Area. The property has overlays for the Willamette River Greenway and the 100-year flood plain as well as National Wetland Inventory wetlands. The cell tower site is not located in the floodplain or the wetlands as seen on the County's GIS system. The subject site is mostly cleared of trees but does contain considerable vegetation and bushes. Across from the project site is the West Hills Rural Plan Area. Most properties on the south side of Highway 30 are zoned for forest use except for a small portion south and across Highway 30 that is zoned Rural Center.

3. **Proof of Ownership**

MCC 37.0550 Initiation Of Action.

Except as provided in MCC 37.0760, Type I - IV applications may only be initiated by written consent of the owner of record or contract purchaser. PC (legislative) actions may only be initiated by the Board of Commissioners, Planning Commission, or Planning Director.

Staff: Multnomah County Assessment and Taxation records show Joshua Enyart as the owner of the subject property (Exhibit 1). Mr. Enyart has signed the General Application Form authorizing an action to be taken on the property with Thomas McAuliffe signing on behalf of Nextel Communications (Exhibit 2).

Criterion met.

4. **Code Compliance**

MCC 37.0560 Code Compliance And Applications.

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

Staff: During a site visit by County Staff, it was discovered that there were several violations of the Multnomah County Code. These violations consisted of unauthorized second dwellings, unauthorized modifications and additions to the existing single-family dwelling, and an unauthorized septic system. The owner, Joshua Enyart and Multnomah County entered into a Voluntary Compliance Agreement pursuant to MCC 37.0560(A)(1) that will result in the property coming into full compliance. Conforming to and subsequent adherence to that Voluntary Compliance Agreement shall be required as a Condition of Approval.

Criterion met.

5. **Public Notice**

MCC 37.0530(B) Type II Decisions

(B) Type II decisions involve the exercise of some interpretation and discretion in evaluating approval criteria. Applications evaluated through this process are assumed to be allowable in the underlying zone. County Review typically focuses on what form the use will take, where it will be located in relation to other uses and natural features and resources, and how it will look. However, an application shall not be approved unless it is consistent with the applicable siting standards and in compliance with approval requirements. Upon receipt of a complete application, notice of application and an invitation to comment is mailed to the applicant, recognized neighborhood associations and property owners within 750 feet of the subject Tract. The Planning Director accepts comments for 14 days after the notice of application is mailed and renders a decision. The Planning Director's decision is appealable to the Hearings Officer. If no appeal is filed the Planning Director's decision shall become final at the close of business on the 14th day after the date on the decision. If an appeal is received, the Hearings Officer decision is the County's final decision and is appealable to LUBA within 21 days of when the decision is signed.

Staff: The application was submitted on January 16, 2004 and was deemed complete on July 13, 2004. An Opportunity to Comment notice was mailed on July 16, 2004 to the applicant, property owners within 750 feet of the subject property, and recognized neighborhood associations. Two comment letters were received in that 14-day comment period.

Both letters contained statements in opposition to additional antennas being added to the existing monopole. Concerns were also expressed over the permitting of the original monopole. The permitting of the original monopole is a past decision that cannot be revisited in this process. The Multnomah County Zoning Code does not have any provisions that speak to the aesthetics of a co-located antenna. However, the applicant must demonstrate that all approval criteria are met. The approval criteria will be addressed below.

Procedures met.

6. **The Property is a Lot of Record**

MCC 34.0005(L)(12) Lot of Record – Subject to additional provisions within each Zoning District, a Lot of Record is a parcel, lot, or a group thereof which when created and when reconfigured (a) satisfied all applicable zoning laws and (b) satisfied all applicable land

division laws. 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 district.)

MCC 34.2870 Lot of Record

(A) In addition to the Lot of Record definition standards in MCC 34.0005, for the purposes of this district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following:

- (1) July 10, 1958, SR zone applied;
- (2) July 10, 1958, F-2 zone applied;
- (3) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;
- (4) October 6, 1977, MUA-20 zone applied, Ord. 148 & 149;
- (5) October 13, 1983, zone change from EFU to MUA-20 for some properties, Ord. 395;
- (6) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997.

Staff: Lot of Record Standards within the Multiple Use Agriculture (MUA 20) District under MCC 34.2870 and as defined by the definition section under 34.0005(L)(12), provide two major criteria for compliance. First, the lot must have been created legally by complying with partitioning laws in place at the time it was created. Secondly, it must have met all zoning

regulations, including minimum lot size, setbacks, and access requirements at the time it was created.

The current lot was created on March 17, 1992 by combining two parcels into the current parcel of approximately 150-acres. The combination of two parcels into one does not require County review and therefore meets Land partitioning requirements. For zoning requirements, the new property was well over the 20-acre minimum lot size, had road frontage and all the structures on the site met the setbacks. As it is configured today, it would meet all zoning and land partitioning requirements. But to meet the full compliance requirements, staff must look at the two original parcels and make sure they were Lots of Record themselves that were eligible for consolidation into a new parcel that could be a Lot of Record.

The two parcels that were combined to create the subject lot were created in 1972 in Book 895, pages 647 through 648. At that time, there were no land partitioning requirements for creating three or fewer lots in one calendar year. So, the properties met the land division rules in place at that time.

In 1972, the properties were zoned F-2. The F-2 zoning district at that time, the only requirement of the district was for a minimum lot size of two acres. Both properties were well over 2-acres in size and in fact over 50-acres in size. Therefore, both parcels met the requirements in place at the time and the new parcel they formed when consolidated is a Lot of Record.

Criterion met.

7. **The Proposal Meets the Dimensional Requirements**

A. **MCC 36.2855(A) Except as provided in MCC 36.2860, 36.2870, 36.2875, and 36.4300 through 36.4360, the minimum lot size shall be 20 acres.**

Staff: As described in Finding 6, the lot is not new and was legally established at the time it was created.

Criterion met

B. **(C) Minimum Yard Dimensions – Feet**

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height - 35 feet

Staff: The addition of an antennae onto an existing lawfully established monopole does not need to address the setback requirements since the collocation will not create a new structure on the ground. The equipment shed that will be located on the site is over 100-feet from any property line. The shed is also less than 13-feet tall. Therefore, all dimensional requirements are satisfied.

Criteria met.

8. **The Application Submittal Requirements Have Been Met**

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

A. MCC 34.6182(A) Co-location of antennas upon existing towers or structures.

(1) An accurate and to-scale site plan showing the location of the tower, or structure upon which the proposed antenna is to be mounted including guy anchors (if any), antennas, equipment cabinets and other uses accessory to the communication tower or antenna. The site plan shall include a description of the proposed antenna including use of concealment technology if applicable;

Applicant: The site plan shall antenna including use of Exhibit M of this application contains a complete site plan drawn by an architect licensed in the State of Oregon. There will be no guy anchors required and, in an effort to utilize concealment technology, Nextel proposes to flush-mount the 2 proposed panel antennas to the existing monopole at the 117-foot height. The proposed panel antennas will be flush-mounted on supports within 1 foot of the monopole itself. This will leave the profile of the existing monopole virtually unchanged, and Nextel will color the proposed antennas in a non-reflective gray to match the color of the existing monopole. Please refer to Exhibit H of this application for photographic simulations of the proposed antennas installation.

Staff: A site plan has been submitted into the record.

Criterion met.

B. MCC 34.6182(A)(2) A report/analysis from a licensed professional engineer documenting the following for each antenna:

(a) Antenna height above ground, design, dimensions, wind load rating, gain and radiation pattern;

Applicant: Exhibit G contains a Product Data Sheet from the supplier of the actual flat-panel antennas and an internal Nextel RF Antennas Configuration Form that contains antenna elevation and orientation data. The AGL height of the antenna tip will be 121-feet, the RAD center will be at 117 feet. The number of the EMS Wireless antennas are RS90-12-OOXA2's, the panel antenna dimensions are 96-inches tall, 12-inches wide, and 7-inches deep. The front wind load rating @ 100 mph (161 kph) is 230 lbs (1023 N), and the side wind load rating @100 mph (161 kph) is 134 lbs (597 N). The gain is 11 dBi (13.6dBi) and the radiation patterns are contained on the bottom of the Product Data Sheet.

Staff: The required report and analysis has been submitted into the record. Structural specifications are included in this report as staff Exhibit 3.

Criterion met.

C. MCC 34.6182(A)(2)(b) Failure characteristics of the antenna and documentation that the site and setbacks are of adequate size to contain debris; and

Applicant: The weight of each panel antennas is 36 pounds including the mounting brackets. The mounting hardware are standard chain-mounts #B 1652, which are manufactured by Valmont, who is also the manufacturer of the existing monopole. A Valmont engineer is sending a letter containing the calculations for the failure characteristics of the mounting hardware and these will be provided to Multnomah County as soon as they are received. The location of the WCF inside the subject property is in excess of the minimum setbacks. As approved by Multnomah County under CS 1-96 and DR 4-96, the setback from the existing monopole are 200' for the front yard, 937' for the northwest side yard, 885' for the southeast side yard, and over 44' for the rear yard. The setback distances are of adequate size to contain any structural failure of the antennas.

Staff: The letter by the Valmont engineer has been submitted showing the collocation exceeds the minimum load failure ratings and meets this standard (Exhibit 4).

Criterion met.

D. MCC 34.6182(A)(2)(c) Ice hazards and mitigation measures that can be employed.

Applicant: The applicant proposed to co-locate on an existing WCF monopole. The mounting elevation is at 117-feet, with the lower part of the proposed 8-foot long panel antennas extending down to an elevation of approximately 113-feet, which is about 5 feet directly above the existing Sprint triangular platform. Any radial ice build-up that falls from the proposed Nextel flush-mounted antennas will land on the triangular Sprint platform which has grated steel flooring. The proposed Nextel co-location will extend no more than 18-inches outward from the exiting monopole, while the existing Sprint steel-grated triangular platform extends more than 3-feet outward from the monopole and will mitigate any falling ice from the proposed Nextel co-location.

Staff: The proposed mitigation measures are adequate for this structure. Any ice build up that falls will be caught by a lower grating that will break it up prior to hitting the ground. The site of the monopole only receives servicing by an employee roughly once a month. That servicing typically takes place in the equipment shed which is covered. Therefore, the County does not see any danger to the health and welfare of any employees working the site.

Criterion met.

E. MCC 34.6182(A)(3) A statement documenting that placement of the antenna is designed to allow future co-location of additional antennas if technologically possible.

Applicant: The applicant proposes to co-locate on an existing WCF monopole at the 121-foot height (tip of antenna). There are two (2) other existing wireless carriers on this monopole, the original applicant Western Wireless at 131-feet and Sprint at 112-feet. If the existing monopole is determined to be structurally sufficient, there are potential co-location opportunities below 107-feet.

Staff: The existing monopole has two existing carriers located on it. Nextel will be the third. It is unclear if additional carriers can be located on the tower due to the tower being shorter than most monopoles. Conversations with other carriers in the past have indicated that there is a very limited capacity on the existing tower for co-location and that the current proposal will max out the available slots. However, the applicant has indicated that there is room for an

additional co-location at the 107-foot level if the location would provide coverage for the hilly area the pole is located in.

Criterion met.

F. MCC 34.6182(A)(4) Plans showing the connection to utilities/right-of-way cuts required, ownership of utilities and access easements required.

Applicant: Exhibit N of this application includes a full size drawing by a surveyor registered in the State of Oregon and the legal descriptions of the proposed utility and access easements. Utility easement excavations will be approximately 2-feet wide, at least 3-feet deep and will extend 450-feet to the source of the utility pole and 350-feet to the telephone pedestal. The respective utility companies for telephone and electrical service will own the proposed easements in the ROW, and the applicant, Nextel, will own the easements on the subject property from the ROW to the lease compound.

Staff: The required plan has been included in the application.

Criterion met.

G. MCC 34.6182(A)(5) Documents demonstrating that necessary easements have been obtained.

Applicant: Exhibit L of this application contains copies of the lease documents that have been agreed to by both the landlord and Nextel.

Staff: The leasing information has been included in the application.

Criterion met.

H. (A)(6) 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.

Applicant: Not The standard contained in Section 34.6 183 (A)(3) is that the noise level cannot be more than 55 dBA at the property lines. Exhibit I contains the manufacturers noise analysis calculations for the heating and cooling equipment. Mr. Hillman states the sound level should be below 55 dBA at 60 feet. The proposed air conditioning units will be 60.5 feet from the eastern property line and will be facing west towards the barn and away from the nearest property line. The barn will attenuate the sound level to keep it well below the 55 dBA at all property lines.

Staff: The applicant has supplied an analysis of the sound that would emit from the equipment shed and it will be below the threshold at the property line. (Exhibit 5)

Criterion met.

I. (A)(7) If ancillary facilities will be located on the ground, a landscape plan drawn to scale showing the proposed and existing landscaping, including type, spacing, and size.

Applicant: Figure 3 on Page A-2 of Exhibit M of this application depicts the existing landscaping, consisting of Photinia shrubs. Since Nextel proposes to locate a new equipment shelter inside the existing fenced compound, no additional new landscaping is proposed

Staff: No additional landscaping is required since the location of the equipment shed is within the footprint of the originally approved leased area for the original monopole.

Criterion met.

- J. **(A)(8) 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.**

Applicant: Exhibit F of this application depicts the complete inventory of Nextel WCF's inside and adjacent to Multnomah County. There are no existing detached WCF's from another provider within 1000 feet of the existing monopole.

Staff: The map has been included in the application.

Criterion met.

- K. **(A)(9) 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 radiofrequency performance standards.**

Applicant: Exhibit G of this application contains a Nextel RF Certification Form signed by a Radio Frequency Engineer that certifies the proposed Sauvie Island site complies with the FCC's Maximum Permissible Exposure (MPE) standards.

Staff: The required documentation has been submitted.

Criterion met.

- L. **(A)(10) Documentation demonstrating that the FAA has reviewed and approved the proposal, and the Oregon Aeronautics Division has reviewed the proposal.**

Applicant: The applicant proposes to co-locate upon an existing WCF monopole and proposes no changes to the tower concerning the FAA and the Oregon Department of Transportation Aeronautics Division (OSAD). Exhibit J contains a copy of the letter dated May 6, 1996 from the Thomas Highland of the OSAD when the monopole was originally proposed. Mr. Highland recommended the proposed monopole be lighted with "dual fitting red obstruction light." Also included is a copy of an FM Form dated November 22, 1995 notifying the FAA of the monopole's construction and has an FM registration number 1034934. A visual inspection of the existing monopole on January 10, 2004 confirms the light is installed per OSAD's 1996 request and is in operation.

Staff: A new monopole is not being proposed nor is an extension of the existing pole. The existing pole was approved by both the FAA and the Oregon Aeronautics Division; therefore, no new documentation is required.

Criterion met.

9. **The Proposal Meets the Approval Criteria for General Requirements**

- A. **MCC 34.6180(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.**

Applicant: The applicant agrees to seek and obtain all necessary local, state, and federal approvals and/or permits.

Staff: The applicant is in the process of obtaining the required permits prior to erecting the collocation.

Criterion met.

- B. **MCC 34.6180(B) No more than one ground mount shall be allowed per subject property.**

Applicant: The applicant proposes to co-locate upon an existing WCF monopole.

Staff: No additional ground mount is a part of this application.

Criterion met.

- C. **MCC 34.6180(C) An application for a WCF shall include both the licensed carrier and the landowner of the subject property.**

Applicant: Exhibit B of this application includes the application form containing signatures of both the applicant and the landlord.

Staff: The licensed carrier (Nextel) and the land owner both have signed the general application form.

Criterion met.

- D. **MCC 34.6180(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.**

Applicant: In accordance the Multnomah County Code, the applicant seeks to obtain a Planning Director Review to co-locate new wireless equipment upon a previously approved and existing WCF.

Staff: Because the new antenna is a co-location, the only permit required is a Planning Director Review.

Criterion met.

- E. **MCC 34.6180(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 34.7000 through 34.7020.**

Applicant: The applicant requests concurrent Design Review.

Staff: Design Review is not required because this is not a new tower.

Criterion met.

- F. **MCC 34.6180(F) A new permit shall be required for all modifications, not constituting maintenance, to an approved permit for any WCF.**

Applicant: The applicant is submitting this application seeking a new permit to co-locate upon a previously approved and existing WCF.

Staff: This application is modifying the original approval to allow a co-location

Criterion met.

- G. **MCC 34.6180(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.**

Applicant: The applicant proposes to co-locate upon a previously approved and existing WCF and will utilize concealment technology in the form of flush-mounted antennas.

Staff: The proposal is for a co-location, therefore this standard is met. It should also be noted that flush-mounted antennas are not concealment technology.

Criterion met.

- H. **MCC 34.6180(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 superceding decision.**

Applicant: The applicant will construct and place into service the proposed co-location facility within 1 year of obtaining all required affirmative decisions and permits.

Staff: A Condition of Approval will require the antenna to be placed within 2-years.

Criterion met.

- I. **MCC 34.6180(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 this section within 90 days of change. Failure to provide**

appropriate notice shall constitute a violation of the original permit approval and be processed pursuant to 34.0910.

Applicant: The applicant agrees to notify the Planning Director within 90 days of all changes in the applicant's co-locations status.

Staff: This shall be met with a condition of approval.

Criterion met.

- J. MCC 34.6180(J) All WCFs must comply with all applicable Multnomah County codes and regulations, including, but not limited to the Uniform Building Code, Grading and Erosion Control, Flood Hazard, and Significant Environmental Concern.**

Applicant: The applicant will comply with all applicable Multnomah County codes and regulations.

Staff: The applicant has applied for all permits identified by the Multnomah County Planning Department.

Criterion met.

- K. MCC 34.6180(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.**

Applicant: The applicant proposes no on-premise storage of any material or equipment not to be used in the operation and maintenance of the WCF site.

Staff: The application does not include any on-premises storage. All equipment is proposed to be in the equipment shed.

Criterion met.

- L. MCC 34.6180(L) Self-supporting lattice towers not employing concealment technology and speculation towers are not permitted in any zone.**

Applicant: Not applicable. The applicant proposes to co-locate upon a previously approved and existing WCF.

Staff: Staff concurs.

Criterion met.

10. **Compliance with Approval Criteria for Lands Not Zoned Exclusive Farm Use (MCC 34.6183)**

MCC 34.6183(A) General and Operating Requirements

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. (1) The service provider of the WCF and his or her 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;

Applicant: The applicant is requesting a colocation upon an existing WCF monopole. The owner of the existing monopole responded in a timely and comprehensive manner.

Staff: The applicant has leased the space required for the co-location and therefore has come to agreement with the service provider.

Criterion met.

B. MCC 34.6183(A)(1)(b) Negotiate in good faith for shared use of the WCF by third parties; and

Applicant: After a successful negotiation, the applicant is requesting a co-location on an existing WCF monopole.

Staff: An application has been made for co-location thus demonstrating negotiation has taken place.

Criterion met.

C. MCC 34.6183(A)(1)(c) Allow shared use of the WCF if an applicant agrees in writing to pay reasonable charges for co-location.

Applicant: After a successful negotiation, the applicant is requesting a co-location on an existing WCF monopole.

Staff: An application has been made for co-location thus demonstrating an agreement has taken place.

Criterion met.

D. MCC 34.6183(A)(2) Radiofrequency Standards. The applicant shall comply with all applicable FCC RF emissions standards (FCC Guidelines).

Applicant: Exhibit G of this application contains a Nextel RF Certification Form signed by a Radio Frequency Engineer that certifies the proposed Sauvie Island site complies with the FCC's Maximum Permissible Exposure (MPE) standards.

Staff: After reviewing applicants Exhibit G (staff Exhibit 3) Staff concurs.

Criterion met.

- E. **MCC 34.6183(A)(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.

Applicant: Exhibit I of this application contains an analysis of the noise levels from the operation of Nextel's proposed heating and cooling system. The manufacturer, Fedders has furnished calculations for the proposed 3-ton air conditioning (AC) units that achieve a 55 dBA level at 60-foot distance directly away from the unit. The applicant proposes to face the AC units away from the property line and towards the back of the existing barn, which is approximately 80 feet away, and which will totally buffer the AC noise from all property lines. The applicant does not propose to store a back-up generator at this site and agrees not to test back-up power generators between the hours of 8PM and 8AM.

Staff: The analysis by Fedders is not conclusive at 60-feet as stated by Steve Hillman of Fedders. However, staff believes that since the sound level at 60-feet is at or near 55db, it will be below 55db at the property lines which are hundreds of feet away.

Criterion met.

- F. **MCC 34.6183(A)(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;

Applicant: The applicant is requesting to colocate upon an existing WCF monopole that was approved in 1996 under CS 1-96 and DR 4-96. The applicant proposes to locate the equipment cabinet inside the existing Sprint compound that was approved for co-location in 1997 under MC 7-99. The facility is in compliance with Significant Environmental concerns.

Staff: There is no SEC overlay on the cell tower site.

Criterion met.

- G. **MCC 34.6183(A)(4)(b) The facility shall comply with Grading and Erosion Control regulations of MCC 29.300 through 29.305 when applicable;**

Applicant: The applicant proposes to co-locate upon an existing WCF monopole and locate the equipment cabinet inside the existing Sprint compound. The applicant will comply with Grading and Erosion Control regulations of MCC 29.300 through 29.305 if applicable.

Staff: The site of the equipment shed as seen during the staff site visit is completely flat and will not require any additional grading. It may be a Minimal Impact Project but that is to be determined at the time of building permit sign off.

Criterion met.

- H. **MCC 34.6183(A)(4)(c) The facility shall comply with Flood Hazard regulations of MCC 29.600 through 29.611 when applicable; and**

Applicant: The applicant proposes to co-locate upon an existing WCF monopole and locate the equipment cabinet inside the existing Sprint compound. The applicant will comply with Flood Hazard regulations of MCC 29.600 through 29.611 if applicable.

Staff: The site is not within the 100-year flood plain as seen on the County's FIRM maps.

Criterion met.

- I. **MCC 34.6183(A)(4)(d) Alteration or disturbance of native vegetation and topography shall be minimized.**

Applicant: The proposed equipment cabinet will be located inside the existing fenced area to minimize disturbance to native vegetation and topography.

Staff: No vegetation shall be disturbed since the site of the equipment shed is already cleared.

Criterion met.

- J. **MCC 34.6183(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.

- (a) Co-location.**

1. All co-located and multiple-user WCFs shall be designed to promote facility and site sharing. To this end wireless communications towers and necessary appurtenances, including but not limited to, parking areas, access roads, utilities and storage facilities shall be shared by site users when in the determination of the Planning Director or Hearings Officer, as appropriate. This will minimize overall visual impact to the community.

Applicant: The applicants request for a co-location includes a design to share the access road, sharing the routing of utilities, and location of the proposed Nextel compound inside Sprint's compound, which is inside the perimeter of the existing security fence.

Staff: This application is for a co-location and will be sharing the tower with two other carriers.

Criterion met.

- K. **MCC 34.6183(B)(1)(a)(2) Existing sites for potential co-location, may include but are not limited to buildings, water towers, existing WCFs, utility poles and towers, and related**

facilities, provided that such installation preserves the character and integrity of those sites. In particular, applicants are urged to consider use of existing telephone and electric utility structures as sites for their WCF.

Applicant: The applicant proposes to co-locate upon an existing WCF monopole.

Staff: The application is for a co-location.

Criterion met.

- L. **MCC 34.6183(B)(1)(a)(3) No commercial WCF operating at an effective radiated power (ERP) of more than 7 watts shall be located on any residential structure, including accessory buildings.**

Applicant: Not Applicable. The applicant is requesting a co-location upon an existing WCF monopole.

Staff: The monopole is not located on a residential structure.

Criterion met.

- M. **MCC 34.6183(B)(2) Height. Notwithstanding the maximum structure height requirements of each zoning district, 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.**

Applicant: Not Applicable. The applicant is requesting a co-location upon an existing WCF monopole.

Staff: Staff concurs.

Criteria met.

- N. **MCC 34.6183(B)(2)(c) Building or other structure mounted WCF shall not project more than ten additional feet above the highest point on the existing building or structure.**

Applicant: Not Applicable.

Staff: As shown on the applicant's elevation plans, the Nextel antenna is the middle antenna and not near the top of the monopole and therefore cannot extend beyond the highest point.

Criterion met.

- O. **MCC 34.6183(B)(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 underlying zone, which ever is greater.

Applicant: The applicant is requesting to co-locate on an existing WCF monopole. As approved by Multnomah County under CS 1-96 and DR 4-96, the setback from the existing monopole are 200-feet for the front yard, 937-feet for the northwest side yard, 885-feet for the southeast side yard, and over 44-feet for the rear yard.

Staff: Neither a new monopole or a new dwelling is proposed as part of this application; therefore this criterion is not applicable.

- P. MCC 34.6183(B)(3)(b) All ground mounted towers shall be setback from any property line a minimum distance equal to the total height of the tower.**

Applicant: The applicant is requesting to co-locate on an existing WCF monopole

Staff: No new towers are proposed.

Criterion met.

- Q. MCC 34.6183(B)(3)(c) All equipment shelters shall be set back from property lines according to the required yard of the underlying zone.**

Applicant: The applicant is requesting to co-locate on an existing WCF monopole and the proposed equipment cabinet will exceed the minimum distances of all the required yard setbacks in the MUA-zone. As approved by Multnomah County under CS 1-96 and DR 4-96, the setback from the existing monopole are 2001" for the front yard, 937'for the northwest side yard, 885'for the southeast side yard, and over 44'for the rear yard.

Staff: The equipment shed is over 100-feet from any property line. The applicant's distance of 44-feet to the rear yard is only to a tax lot boundary, not the property line.

Criterion met.

- R. MCC 34.6183(B)(3)(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.**

Applicant: The applicant is requesting to co-locate on an existing WCF monopole. The applicant proposes concealment technology by utilizing flush-mount panel antennas colored to match the patina of the existing monopole.

Staff: No new towers are proposed.

Criterion met.

- S. **MCC 34.6183(B)(3)(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.**

Applicant: Not Applicable. The applicant is requesting a co-location upon an existing WCF monopole.

Staff: No new towers are proposed.

- T. **MCC 34.6183(B)(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.

Applicant: The applicant proposes to install an equipment cabinet manufactured by Sun West Engineering. The exterior surface is made of steel, and will be colored a light non-reflective flat color to approximate the color of existing equipment. Please see photo in Exhibit G.

Staff: The structure in the applicant's Exhibit G is a white or cream color. The materials, while metal, do not appear to be reflective. Untreated steel is not allowed because smooth metal surfaces are reflective. The applicant will need to treat the structure to make it non-reflective if necessary.

Criterion met with condition of approval.

- U. **MCC 34.6183(B)(4)(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.**

Applicant: The applicant proposes to install a pre-fabricated equipment cabinet that is 7-feet 8-inches tall and manufactured by Sun West Engineering.

Staff: The proposed equipment shed is under 15-feet tall as discussed by the applicant.

Criterion met.

- V. **MCC 34.6183(B)(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.**

Applicant: The applicant proposes the antennas be colored to match the flat grey color of the existing monopole.

Staff: Making the additional antenna the same color as the existing monopole will prevent contrasting colors and prevent it from visually sticking out. Grey is a muted tone that is acceptable.

Criterion met.

W. MCC 34.6183(B)(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.

Applicant: The applicant proposes to utilize concealment technology and to locate the equipment cabinet inside the existing fenced compound. The existing perimeter security fence will be remain in place and not be altered.

Staff: A sight obscuring fence already exists on the development site.

Criterion met.

X. MCC 34.6183(B)(6)(b) A ground mounted facility located in a public right-of-way may be exempted from fencing requirements.

Applicant: Not Applicable, the existing monopole is located on private property.

Staff: Staff concurs, the monopole is not within the right of way.

Criterion met.

Y. MCC 34.6183(B)(6)(c) Chain link fences shall be painted or coated with a non-reflective color.

Applicant: The existing perimeter security fence will remain intact and is coated with non-reflective color. The applicant proposes to locate the equipment cabinet inside the existing Sprint compound.

Staff: The existing fence will be utilized.

Criterion met.

Z. MCC 34.6183(B)(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.

Applicant: The existing WCF monopole has anti-climbing devices installed.

Staff: The existing fence meets the criterion and will be utilized.

Criterion met.

AA. MCC 34.6183(B)(8) Lighting.

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

Applicant: In accordance with an OSAD letter dated May 6, 1996, the WCF has two dual fitted red lights mounted on the top of the monopole. See Exhibit J.

Staff: No additional lighting other than what already exists and was approved is proposed.

Criterion met.

BB. MCC 34.6183(B)(8)(b) No other exterior lighting shall be permitted on premises.

Applicant: The applicant understands and will comply.

Staff: No new lighting is proposed as part of this application. Staff did not observe any exterior lighting during the site visit.

Criterion met.

CC. MCC 34.6183(B)(9) Signs. The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

Applicant: The applicant understands and will comply.

Staff: No signs are proposed are part of this application.

Criterion met.

DD. MCC 34.6183(B)(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 District.

Applicant: The applicant t proposes to co-locate upon an existing WCF monopole and will utilize the existing vehicular access which is already in compliance.

Staff: The site is serviced by an existing driveway and no new driveways or accessways are proposed.

Criterion met.

EE. (a) Existing driveways shall be used for access whenever possible.

Applicant: The applicant proposes to co-locate upon an existing WCF monopole and will utilize the existing vehicular access.

Staff: The applicant has indicated on the site plan and in the narrative that the existing driveway will be utilized.

Criterion met.

FF. MCC 34.6183(B)(10)(b) New parking areas shall whenever feasible, be shared with subsequent WCFs and/or other permitted uses.

Applicant: The applicant proposes to co-locate upon an existing WCF monopole and will utilize the existing parking space. No new parking space is required.

Staff: No new parking spaces are proposed. The site has an existing parking area that will be utilized.

Criterion met.

- GG. **MCC 34.6183(B)(10)(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.**

Applicant: There are two existing parking spaces approved under CS 1-96. The existing parking space will be sufficient and no new parking space is proposed.

Staff: No new parking areas are required or proposed.

Criterion met.

- HH. **MCC 34.6183(B)(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 (4½') shall be identified in the landscape plan by species type, and whether it is to be retained or removed with project development;

Applicant: The applicant proposes to co-locate upon an existing WCF monopole and to locate the equipment cabinet inside the existing fenced compound and utilize the existing landscaping.

Staff: A new monopole is not proposed and therefore landscaping is not required.

Criterion met.

- II. **MCC 34.6183(B)(11)(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.**

Applicant: The applicant will protect all existing trees and other screening vegetation from damage during the construction period.

Staff: The existing site is not near any large trees or vegetation that could cause damage to the new structure. Additionally, the driveway is not near any trees or vegetation that could cause damage and seen during the staff site visit.

Criterion met.

Conclusion

Based on findings and other information provided above, this application for co-location of an antenna and the associated equipment shed within the Multiple Use Agriculture Zone District satisfies, with conditions, the Multnomah County Zoning Code requirements.

Exhibits

1. Multnomah County Assessment and Taxation Printout
2. General Application Form
3. Applicant's Exhibit G – Cell Tower Load Rating
4. Applicant's Letter From Valmont Discussing Failure Characteristics
5. Applicant's Sound Analysis