



## **MULTNOMAH COUNTY OREGON**

### **LAND USE AND TRANSPORTATION PROGRAM**

1600 SE 190<sup>TH</sup> Avenue Portland, OR 97233

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[http://www.co.multnomah.or.us/dbcs/LUT/land\\_use](http://www.co.multnomah.or.us/dbcs/LUT/land_use)

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# **NOTICE OF DECISION**

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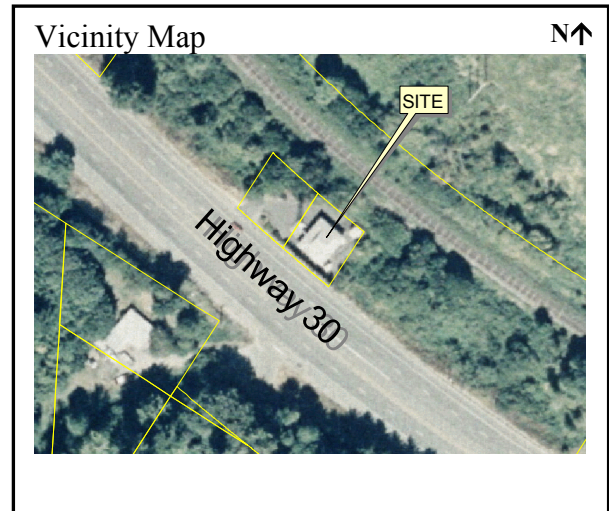
This notice concerns a Planning Director Decision on the land use case(s) cited and described below.

**Case File:** T2-04-012

**Permit:** Verification and Modification of a Non-Conforming Use.

**Location:** TL 900, Sec 20BB, T2N, R1W, W.M.  
Tax Account #R11990-0080

**Applicant/  
Owner:** Julie COE  
Qwest  
421 SW Oak, RM 112  
Portland, Oregon 97204



**Summary:** This is a request to add a 1,050 square feet addition wrapping around the northeast and northwest side of an existing communication equipment building that serves a transmission tower on the subject property. This request will be processed through a request to modify a non-conforming use as the equipment building does not meet the 30-foot minimum front and rear yard setbacks required in the Rural Center District (Multnomah County Code, MCC 34.3355).

**Decision:** **Approved, with conditions.**

**Unless appealed, this decision is effective October 20<sup>th</sup>, 2004 at 4:30 PM.**

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Issued by:

By: \_\_\_\_\_  
Adam Barber, Planner

For: Karen Schilling - Planning  
Director

Date: October 6, 2004

**Opportunity to Review the Record:** A copy of the Planning Director's 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 Adam Barber, 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 costs \$250 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 **October 20th, 2004 at 4:30 pm**.

**Applicable Approval Criteria:** Multnomah County Code (MCC): **MCC 34.3300 – 33.85**, Rural Center Zoning District; **MCC 34.7200 – 34.7215**, Non-Conforming Uses; Chapter 37, Administration and 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 37.0700**, **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.

### **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 property owner shall record a copy of the Notice of Decision cover sheet and conditions of approval with the Multnomah County Recorder within 30 days of the date this decision becomes final. This decision will become final October 20th 2004 at 4:30 pm if no appeal is filed. A copy of the recorded document shall be submitted to the Land Use Planning Office prior to the building permit sign-off (MCC 37.0670).**
2. **The applicant must install the landscaping illustrated on the plan presented as Exhibit A8 within 6-months of project completion. The applicant is responsible for the continued survival of the landscaping planted and must replace any landscaping that does not survive within 3-months of the damage occurring.**

3. **The radio tower approved in 1987 which is located immediately west of the main equipment building shall be removed from the site prior to construction of the new equipment building addition. The location of the tower to be removed is identified on the demo plan presented as Exhibit A10 to this decision.**
4. **Storm water disposal shall be handled on-site through the use of an infiltrating vegetated strip, as recommended by Karl Koroch, P.E., TM Rippey Consulting Engineers (Exhibit A5).**

**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.

# **DECISION OF THE PLANNING DIRECTOR**

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## **Findings of Fact**

### **1.0 Summary of Request**

Staff: The applicant proposes a 1,050 square foot addition to be constructed along the northeast and northwest side of an existing telephone equipment facility in order to enlarge the existing 1,235 square foot building. The addition's exterior wall and roof construction will match the appearance of the existing building originally constructed in 1946 and enlarged in 1955 and 1967. Because the existing structure does not meet the front, rear or side minimum yard setbacks for the Rural Center District today, this request will be processed through a request to modify a non-conforming use (Multnomah County Code, MCC 34.3355). Processing this request as an expansion of a non-conforming use is possible as the structure was non-conforming to the first yard setback requirements established through R-7 zoning ordinance on April 19, 1955. This is the date the non-conforming use was established.

The building frame, where phone lines enter the building, needs to be lengthened to allow additional telephone lines to enter the building for future service needs. Essentially, the building needs to be enlarged to serve the local area with reliable phone service. Additional switching equipment to handle the connections of the telephone calls will also need to be placed within the building – thus the need for the additional space. The switching equipment takes the signal from the incoming call off the frame, connects the call and then returns the signal back to the frame to forward the call as the call leaves the building. There will be no additional employees for this building after the addition is constructed as it is an un-manned facility. The applicant proposes removal of a 114 square foot storage building, removal of 300 square feet of asphalt surface and removal of the existing transmission tower to better facilitate the addition and mitigate the effects of adding the additional impervious surface of the addition's roof.

### **2.0 Vicinity and Property Description**

Staff: The subject property contains lots 6, 7, 8 & 9 of the Burlington Subdivision located 1.8 miles to the north of the Sauvie Island Bridge in the Community of Burlington, Oregon (Exhibit A1). Lots 8 and 9 contain the active communication facility and are referred today as Tax Lot 900 within Section 20BB, Township 2 North, Range 1 West of the Willamette Meridian. Together, lots 8 and 9 total 0.52 acres. The subject property is zoned Rural Center within the Sauvie Island Rural Plan Area and is currently developed with a radio tower and central office equipment building owned and operated by the Qwest phone company. The site is located roughly 2,000 feet southwest of the Multnomah Channel.

The subject property lies within a strip of generally level Rural Center zoned land paralleling the northeast side of Highway 30. This area is developed with a number of residences and small scale businesses. Land to the west of Highway 30 is zoned Rural Center and Commercial Forest Use-1, is typically steep and heavily forested. The work area around the building is currently paved to facilitate parking and is landscaped to help screen the building. There is a fence around the facility for security with planting along the Highway 30 side of the site. The neighboring properties on both sides paralleling Highway 30 are currently undeveloped. The property adjoins the rail road right of way along the rear side and abuts Highway 30 along the front side.

### **3.0 Lot of Record**

- 3.1 **MCC 34.3370 and 34.0005(L)(12) state, a Lot of Record, For the purposes of this district is a parcel, lot, or group thereof which when created and when reconfigured satisfied all applicable zoning and land division laws.**

Staff: The subject property (Lots 6,7,8 & 9) were placed into the configuration currently represented on Assessment and Taxation maps (Exhibit A2) through a deed recorded March 24, 1909 in Book 452, pages 59-60. The lots have not changed configuration since creation and were created before subdivision regulations existed (beginning April 19, 1955). The lots are considered Lot's of Record today eligible for this development request (MCC 34.0005(L)(12)).

### **4.0 Nonconforming Uses**

- 4.1 **The purpose of this section is to establish standards and procedures regulating the continuation, alteration, expansion, and replacement of nonconforming uses. The intent is to allow procedures for considering changes to nonconforming uses that do not increase the level of adverse impacts on the neighborhood, or changes required for the use to comply with State or County health or safety requirements (MCC 34.7200(A)).**

Staff: The existing equipment exchange building does not meet minimum front and rear yard setbacks in the Rural Center district (MCC 34.3355(C)). The applicant is proposing an addition to the non-conforming building which will also not meet the current yard setbacks of MCC 34.3355(C). The impacts resulting from the alteration of the non-conforming building will be evaluated on a standard by standard basis within this decision.

- 4.2 **Nonconforming uses shall be allowed to continue without additional permission, except that such uses may be replaced, altered or expanded only as provided in MCC 34.7205 or 34.7210, (MCC 34.7200(B)).**

Staff: The applicant is proposing an alteration and expansion of the non-conforming use, therefore the standards of MCC 34.7210 apply to this proposal

### **5.0 Verification of Nonconforming Use Status**

- 5.1 **The Planning Director shall verify the status of a nonconforming use upon application for a determination by an owner on application for any land use or other permit for the site, or on finding there is a need for a determination (e.g., on learning of a possible Code violation). The determination shall be based on findings that the use (MCC 34.7215(A)):**
- 5.1.1 **Was legally established and operating at the time of enactment or amendment of this Zoning Code, and (MCC 34.7215(A)(1)):**

*Applicant: "This use has been in operation at this location since 1946."*

Staff: The first identifiable record for the equipment building appears as a final building permit issued on October 24, 1955 for a 16-ft, 5-inch x 19-ft, 4-inch Exchange Building addition to an existing structure. The owner on record was Pacific Tel. & Tel. suggesting the building was related to telephone service in the 1950's. This building permit is presented as Exhibit A3 which demonstrates the use as an enlarged equipment building legally established in 1955.

**5.1.2 Has not been abandoned or interrupted for a continuous two year period (MCC 34.7215(A)(2)).**

*Applicant: "This facility has been in continuous use as a telephone exchange serving the surrounding area since the original building was placed in 1946. The building has had various expansions and upgrades throughout its life. There have been two additions placed on the building as the local needs increased. The first addition was placed in 1955 and the second was placed in 1967. The equipment contained within the building has also changed over this same time; however, the needs of the community are now requiring additional space with the building to continue to provide service. Enclosed are copies of the 1955 and 1967 building addition permits, a well as permits from 1987 to replace the tower, 1995 to replace the water service, 2000 to replace electrical service and remove wheeled generator and mount permanent generator, and 2003 for mechanical unit replacement...The building has maintained the same use and has been in continuous use as a telephone exchange serving the surrounding area since the original building was placed."*

Staff: Multnomah County issued a building permit in 1955 for a 16-feet, 5-inch by 19-feet, 4-inch equipment storage addition to an existing building constructed in 1946. In 1955, the subject property was owned by Pacific Tel. & Tel. on the subject property (Exhibit A3). Verification of the final building permit for the addition was documented on October 24, 1955. Since that time, various building permits have been issued for a 16-ft x 38-ft building addition (1967), parking and landscaping changes (1967), Heating and Air-Conditioning and Addition (1987), plumbing (1995), electrical generator (2000), and electrical work (2003). These permits supported the main use of the greater structure as a communication equipment building and have not changed the primary use of the structure since establishment in 1946.

The applicant has provided records demonstrating power has been continuously supplied to the equipment building since February 11, 1964 with no documented interruption. This suggests the use of the building has not been abandoned for more than two years since 1964. Records detailing energy consumption were only available back to June 28, 2001. These records show the energy consumption fluctuates month to month supporting the argument the building had not been abandoned since June 28, 2001.

A land use Design Review conducted in 1987 (case DR 87-08-03), includes a site plan labeling the structure in question as an "Exchange Building". Various building permits lists the use of the structure as an equipment building using the terminology "Exchange Building" (1955), "Equipment Storage" (1967) and "Dial Office" (1987) which provide spot evidence suggesting the use has always been used to house communication equipment.

Taking all evidence in aggregate, Staff believes the use has not been abandoned for more than two years since establishment. The written narrative statements to the approval criteria submitted by the applicant are presented as Exhibit A4.

**5.2 The Planning Director shall verify the status of a nonconforming use as being the nature and extent of the use at the time of adoption or amendment of the Zoning Code provision disallowing the use. When determining the nature and extent of a nonconforming use, the Planning Director shall consider (MCC 34.7215(B)):**

Staff: In 1987, a telephone tower was added to the site by approved cases CS 5-87, and DR 87-07-03. As of August 24, 1987, the use of this property was established as a modern community service telephone provider. The equipment exchange building has not been expanded and the use of the structure has not changed since that approval. This proposal will change the size of the structure, but will not alter the scope or intensity of the use. A description of the current use is provided below.

**5.2.1 Description of the use (MCC 34.7215(B)(1));**

*Applicant: "This is a utility serving the needs of the neighborhood by providing communications services. Regardless of the carrier company, the call is switched at this facility. The use is not readily apparent as the equipment is totally contained within the building; thus, the external effect and appearance on the neighborhood are minimized."*

Staff: The structure is used today to house electrical equipment running the communication service. The existing structure will be expanded by 1,050 square feet to provide for more equipment storage space. No net change to the use of the structure will occur. The structure is currently not in conformance to today's front, rear and side yard setbacks and has been non-conforming since the establishment of setbacks in the R-7 zone district on April 19, 1955.

**5.2.2 The types and quantities of goods or services provided and activities conducted (MCC 34.7215(B)(2));**

*Applicant: "Services are all provided over the telephone line infrastructure. This building houses the switching equipment which allows the calls to be connected. No goods or services are physically presented to the customer by their coming to the site."*

Staff: The service provided by this use is not a typical goods type service. The public does not and will not enter the property to receive service or goods but will be serviced electronically through continued access to electronic communication. The enlargement of the building footprint will not change the type or level of service provided by the use.

**5.2.3 The scope of the use (volume, intensity, frequency, etc.), including fluctuations in the level of activity (MCC 34.7215(B)(3));**

*Applicant: "The use is relatively constant with peaks at holidays and emergencies. Equipment within the building is sized to meet the peak demands. The phone company is required to maintain a 60% redundancy on all of their major equipment to maintain constant available service."*

Staff: As indicated by the applicant, the scope of the use has remained relatively consistent, slowly increasing in communication capacity over time as the local population increased. The applicant is proposing another expansion of the equipment building to provide service to a growing demand.

**5.2.4 The number, location and size of physical improvements associated with the use (MCC 34.7215(B)(4));**

*Applicant: "There are three existing wall mounted air-conditioning units placed on the north and west walls of the building. The units will be removed and relocated to their respective wall of the addition in the same positions along with the existing associated maintenance platform. Two new mechanical units will be installed on the north and west walls. There is an emergency generator which was placed in 2000 to the east of the building on a concrete housekeeping pad, which will remain in place. A 144 Sq. Ft. portable storage building at the NE corner of the site will be removed to allow circulation around the building."*

Staff: The applicant proposes to add a 1,050 square foot addition along the northeast and northwest sides of the equipment building, thus expanding the non-conforming structure. Again, this structure pre-dates yard setback requirements as it was established prior to the original R-7 zoning ordinance first regulating minimum required yard setbacks (April 19, 1955).

Existing air-conditioning units and maintenance decking and rails will be relocated from the existing wall to the outside of the new addition. A 114 square foot storage building and 300 square feet of asphalt parking area will be removed to better facilitate the addition. A registered professional engineer has verified that the storm water runoff attributed to the development will be handled on-site during the 10-year/ 24-hour storm event which satisfies Multnomah County Plan Policy 37 dealing with appropriate drainage provisions (Exhibit A5).

**5.2.5 The amount of land devoted to the use (MCC 34.7215(B)(5)); and**

*Applicant: "The site is relatively small consisting of 10,098 Sq. Ft. (0.2318 Acres), and the structure will increase from 1,232 Sq. Ft. to 2,282 Sq. Ft. with this addition. The paved circulation area currently is 5,666 Sq Ft which after the 1,050 sq ft addition will be reduced 4,616 Sq. Ft. The current landscaping portion of the site is 2,716 Sq. Ft."*

Staff: The 0.218 acre site the applicant is referring to is Lot 9 of the two lot subject property. Lot 9 contains the structure in question as illustrated on the 2002 aerial photo presented as Exhibit A6. Although the new addition will add 1,050 square feet to the equipment building, a 114 square foot storage shed will be removed, 300 square feet of asphalt parking will be removed and landscaped and the communication tower west of the building will be removed to allow the addition. According to the applicant's site plan presented as Exhibit A7, the communication tower to be removed has a fenced perimeter roughly 144 square feet in size. The result of the development will be further encroachment into the currently non-conforming rear and side yard setbacks.

Staff finds the land devoted to the proposed use has been limited to the smallest possible footprint considering that roughly 558 square feet of existing development will be removed



to offset the proposed 1,050 square foot addition. Stepping back, it is clear in this case that a small addition on a 0.218 acre property is not requiring amounts of land to be dedicated to the use considering the widespread benefits of continuous, dependable communication service gained by the community as a result of the property loss. No virgin land will be occupied since the addition will be placed in areas currently covered in asphalt paving. In a sense, one type of development (asphalt for parking/storage and vehicular travel) will be replaced with a structure used for storage. No new land will be needed for this request that is not already being used in support of the use today.

**5.2.6 Other factors the Planning Director may determine appropriate to identify the nature and extent of the particular use (MCC 34.7215(B)(6)).**

*Applicant: "The use is not readily apparent as the equipment is totally contained within the building; thus, the external effect and appearance on the neighborhood are minimized."*

Staff: The nature and extent of the use has been adequately documented with the information both submitted and contained within County records.

**5.2.7 A reduction of scope or intensity of any part of the use as determined under MCC 34.7215 (B) for a period of two years or more creates a presumption that there is no right to resume the use above the reduced level. Nonconforming use status is limited to the greatest level of use that has been consistently maintained since the use became nonconforming. The presumption may be rebutted by substantial evidentiary proof that the long-term fluctuations are inherent in the type of use being considered (MCC 34.7215(B)(7)).**

*Applicant: "As more homes and businesses are building in the area, as well as a higher demand with facsimile machines, computer access lines, and DSL for example have placed a continued need for added lines and equipment. As technology has increased the size of the equipment needed to perform the switching has also reduced allowing building to increase capacity without the need of major expansions. However, there is a point where the building must grow as requirements for additional equipment to maintain service to all of its customers is needed."*

Staff: Since 1955, the building has been enlarged once in 1967 and again proposed in 2004 through this request. A radio tower was added to the site in 1987 to facilitate communications to a larger area. This would suggest the structure's non-conforming location has only been enlarged over time further into the setbacks and has not been reduced in size since establishment. Power was provided to the site in 1964 with no interruption identified from that time to the current date. This criterion is met.

**5.3 In determining the status of a nonconforming use, the Planning Director shall determine that, at the time of enactment or amendment of the Zoning Code provision disallowing the use, the nature, scope and intensity of the use, as determined above, was established in compliance with all land use procedures, standards and criteria applicable at that time. A final and effective County decision allowing the use shall be accepted as a rebuttable presumption of such compliance (MCC 34.7215(C)).**

*Applicant: "This building and use were in compliance prior to the enactment of the zoning codes."*

Staff: This use was first officially permitted on April 13, 2004 through a building permit expanding the communication equipment building. The use was again permitted as a Community Service use (Conditional Use) in 1987 and continues to serve the community today as a lawfully permitted use not conforming to current setback requirements. Setback requirements began on April 19, 1955 through the adoption of the first R-7 zone district – six days after the non-conforming use was first permitted.

**5.4 Except for nonconforming uses considered under MCC 34.7210 (B), the Planning Director may impose conditions to any verification of nonconforming use status to insure compliance with said verification (MCC 34.7215(D)).**

*Applicant: "The original 1946 building permit has not been located, and may have been built prior to permitting being required. The 1955, 1967, 1987, 19, 2000, and 2003 have been found and are included as reference only. For the 1967 and 1978 land use reviews please refer to the Multnomah County land use plan file(s)."*

Staff: A condition of the 1987 County Community Service approval (CS 5-87) states: "All areas within 25-feet of the front property line and along US Highway 30 that are not absolutely needed for vehicle maneuvering, access and walkways for utilizing access must have landscaping that meets the standards of MCC 11.15.7035(B)(11)."

The 1987 Community Service approval, and associated conditions of approval relating to landscaping requirements, was associated with the establishment of the communication tower located to the immediate northwest of the existing exchange building (Exhibit A10). Today, asphalt paving is located where landscaping was required to be installed by the 1987 tower approval. The current proposal involves constructing an addition in the same area occupied by the tower today meaning the tower would need to be removed to facilitate the addition along the northwest wall. Since the landscaping requirements conditioned in 1987 related to the presence of the tower, they would no longer be relevant if the communications tower were to be removed. The applicant has proposed to remove the communications tower to comply with the 1987 Community Service approval. This approval is conditioned such that the tower must be removed from the site before the addition is built. This condition of approval will assure the property will be in full compliance with previous conditions of approval prior to the new addition being constructed.

The applicant has also proposed to remove a 300 square foot strip of asphalt along the southeastern side of the property and install an evergreen hedge in that area to help offset impacts created by the unpermitted asphalt pad. This planting strip will also help better screen the structure as viewed from the southeast. The proposed landscaping plan is presented as Exhibit A8 which will also be used to dispose of storm water runoff attributed to the new addition.

**5.5 Any decision on verification of nonconforming use status shall be processed as a Type II permit as described in MCC Chapter 37 (MCC 34.7215(E)).**

Staff: This request has been processed as a Type II permit as required by MCC 34.7215(E).

- 5.6 **An applicant may prove the existence, continuity, nature and extent of the nonconforming use only for the 10-year period immediately preceding the date of application. Evidence proving the existence, continuity, nature and extent of the use for the 10-year period preceding application creates a rebuttable presumption that the use, as proven, lawfully existed at the time the applicable zoning ordinance or regulation was adopted and has continued uninterrupted until the date of application (MCC 34.7215(F)).**

*Applicant: "The building has been maintained with the same continuous use as a telephone exchange serving the surrounding area prior to the enactment of the zoning codes."*

Staff: The evidence submitted by the applicant provides evidence of the nature and extent of the use as far back as 49 years as explained in detail within previous findings.

## **6.0 Alteration, Expansion or Replacement of Nonconforming Uses § 34.7210**

- 6.1 **Alteration, expansion or replacement of a nonconforming use includes a change in the use, structure, or physical improvement of no greater adverse impact on the neighborhood, or alterations, expansions or replacements required for the use to comply with State or County health or safety requirements (MCC 34.7210(A)).**

*Applicant: "There will be no increase of external impacts on the neighborhood. The existing mechanical units on the existing north wall will be removed and relocated on the new north wall. The east and west walls of this one story building will increase in length while maintaining the same: elevation lines, materials, and finish of the existing building. The internal use does not emit sound as the switching equipment within has little to no noise, or odder. This building is unmanned so trips will not be increased, personnel are only there to maintain equipment on occasion."*

Staff: The expansion of the building's size will allow the necessary equipment to be installed to provide continued, uninterrupted phone service to a growing community. This is the only proposed change to the non-conforming use other than reducing the amount of impervious surface on the site through the removal of a 114 square foot storage shed, the removal/landscaping of 300 square feet of asphalt and the removal of the existing communication tower. The proposal results in a positive impact when realizing dependable communication is a primary component to a safe community.

The removal of the storage shed, asphalt and communication tower will not have any foreseeable negative impact on the community and will help offset visual impacts that may be associated with the proposed addition. The proposed landscaping plan presented as Exhibit A8 will help visually screen the new addition as viewed from the south which will be an improvement over the current conditions.

The City of Portland sanitarian has verified the proposal will not impact the existing septic system. The Burlington Water District Superintendent has verified adequate water pressure will be provided to the site and the Portland Fire District has verified the existing

access to the proposed development is adequate and there is adequate water pressure and flow for fire fighting purposes. All of these issues relate to health and safety requirements.

- 6.2 **After verification of the status of a nonconforming use pursuant to the applicable provisions of MCC 34.7215, the Planning Director may authorize alteration, expansion or replacement of any nonconforming use when it is found that such alteration, expansion or replacement will not result in a greater adverse impact on the neighborhood. In making this finding, the Planning Director shall consider all of the criteria listed below. Adverse impacts to one of the criterion may, but shall not automatically, constitute greater adverse impact on the neighborhood (MCC 34.7210(C)).**

- 6.2.1 **The character and history of the use and of development in the surrounding area (MCC 34.7210(C)(1));**

*Applicant: "Other buildings in the area do not have any single distinguishing factor. The single floor stucco construction with a sloped asphalt composition roof blends with the other homes and building in the area."*

Staff: Multnomah County issued a building permit in 1955 for an equipment storage building owned by Pacific Tel. & Tel. on the subject property (Exhibit A3). Verification of the final building permit was documented on October 24, 1955. Since that time, various building permits have been issued for parking and landscaping changes (1967), Heating and Air-Conditioning and Addition (1987), plumbing (1995), electrical generator (2000), and electrical work (2003). These permits are peripheral to the main use of the structure as an equipment building and have not changed the primary use of the structure over time.

The Burlington area has been a moderate density, rural meeting place since the 1950's due in part to the location at the intersection of Logie Trail Road and Highway 30. The Burlington subdivision containing the subject property was platted in the early 1900's and has changed little over time with respect to individual lot sizes and orientations. In 1962 the zoning of the area was R-7, a rural land use zone which continued until 1980 when the zoning was changed to Rural Center (RC). The zoning of the immediate area has been RC since August 14, 1980. The surrounding area's regulations and uses have not changed drastically in the past with exception to increasing environmental protection of fish and wildlife habitat and water quality. The area today is primarily residential with small scale commercial uses. The use of this property has been formally permitted as a communication center since 1955 which continues today. The building will be slightly expanded to allow more of the same type of use with no discernable change in use proposed that would bring out of balance the history of the use on the site or those uses surrounding the project area. This criterion is met.

- 6.2.2 **The comparable degree of noise, vibration, dust, odor, fumes, glare or smoke detectable within the neighborhood (MCC 34.7210(C)(2));**

*Applicant: "The internal use does not emit sound as the switching equipment within has little to no noise. The mechanical equipment and emergency generator currently on the site will remain. These buildings are similar to a clean room, as Qwest Standards will not allow large dust particles into the space, due to the sensitive electronics within the equipment. None of the equipment within the building emits an odor fume or smoke."*

Staff: The applicant has suggested the proposal meets the standards of MCC 34.7210(C)(2) as the new equipment will be housed inside the structure. The addition will be used in much the same way as the existing building and no complaints have recently been filed by the public complaining about any problematic noise, vibration, dust, odor, fumes, glare or smoke. It appears most reasonable that the new addition will not significantly alter these attributes as observed from surrounding properties.

**6.2.3 The comparative numbers and kinds of vehicular trips to the site (MCC 34.7210(C)(3));**

*Applicant: "The building is an equipment building and thus unmanned. Personnel are only there to service and install equipment as needed by increase in service needs. Maintenance of the equipment is only occasional so trips will not be increased."*

Staff: This is an un-manned building and no new on-site employees will work within the structure. Maintenance traffic associated with the structure is expected to continue as normal with no increase in the number or kinds of vehicular trips to the site after construction is completed. Staff does not believe this standard relates to the necessary, short term increase in traffic associated with construction.

**6.2.4 The comparative amount and nature of outside storage, loading and parking (MCC 34.7210(C)(4));**

*Applicant: "A current outside storage building is planned to be removed with this building addition. It is being removed as it will not allow circulation around the building with the new building footprint. Storage is not allowed within Qwest facilities with the exclusion of with an uncrating room. Loading will be at grade and items will be carried into the building as most of the equipment is sensitive in nature. The gates are closed and locked at all hours other than when service personnel are at the facility to do maintenance."*

Staff: No new outside storage, loading and parking facilities are proposed. The addition will facilitate internal equipment only.

**6.2.5 The comparative visual appearance (MCC 34.7210(C)(5));**

*Applicant: "The building's north wall being relocated closer toward the back property line, abutting the railroad track, will have little effect as the equipment and the maintenance platform will be relocated maintaining the same appearance. The building's west wall being relocated in the westerly direction will maintain a similar appearance that currently exists, matching the existing finishes and architectural shape. The east and south walls which will be extended the width of the addition will maintain the finishes of the existing building with its stucco walls, composition roof, trim, and paint color. The neighboring property on both the east and west side of the property are undeveloped at this time."*

Staff: Staff concurs with the applicant's statement above. The visual appearance of the addition will be minimal as the building's shape will not be altered substantially, the

building will not be constructed higher and the new addition will match the design and construction of the main building. In addition, the applicant proposes removal of the existing tower which will improve the visual appearance of the skyline. The proposed landscaping south of the building will help screen the addition as viewed from Highway 30 south of the development. Existing landscaping partially screens the work area from the north. Elevations showing how the addition will look are presented as Exhibit A9. This criterion is met.

**6.2.6 The comparative hours of operation (MCC 34.7210(C)(6));**

*Applicant: "The building is in operation at all hours; although, noticeable noises, lighting, odors are not emitted."*

Staff: This proposal will not alter the hours of operation as the building is now and will be in the future in continuous operational mode.

**6.2.7 The comparative effect on existing flora (MCC 34.7210(C)(7));**

*Applicant: "The footprint of the proposed addition is within the existing paved portion of the site. The existing 2,716 Sq. Ft. of vegetation will not be removed in the construction process."*

Staff: No flora will be disturbed during construction. The addition will be placed in areas covered by asphalt paving. An asphalted area of 300 square feet will be removed along the southeast property line in order to facilitate an evergreen landscaped hedge helping to add diversity to the existing on-site flora established primarily in the north corner and southwest portion of the property (Exhibit A8).

**6.2.8 The comparative effect on water drainage or quality (MCC 34.7210(C)(8)).; and**

*Applicant: "The existing roof rain drains are currently being dispersed directly onto the paved circulation area. All storm water from the impervious areas leaves the site at the NE corner of the property where they flow into the Burlington Northern railroad right-of-way ditch line. Additional storm run-off created by the 1,050 square foot addition will be mitigated by a combination of detention and seepage trench located within the existing landscaped area on the northwest corner and will conform with the County requirements. The specifics of the design will be finalized during the design process."*

Staff: "A registered professional engineer has verified that the storm water runoff attributed to the development will be handled on-site during the 10-year/ 24-hour storm event which satisfies Multnomah County Plan Policy 37 dealing with appropriate drainage provisions (Exhibit A5)."

**6.2.9 Other factors which impact the character or needs of the neighborhood (MCC 34.7210(C)(9)).**

*Applicant: "The addition to this building will not make a great impact to the area surrounding the site. The floor line of the building is approximately four feet below Highway 30 and buffered by a row of trees and landscaping along the south property line, parallel to Highway 30. The addition will be the most visible to the west side traveling*

*east along the highway and north of the site from the railroad tracks. The building will maintain the existing architectural character and look relatively similar.*

Staff: No factors outside of the discussion contained in this report have been identified that may negatively impact the character or needs of the neighborhood. On the contrary, this proposal improves communication in the area and provides more landscaping on-site than exists today – both considered positive outcomes for the community.

## **7.0 Comments**

- 7.1 Upon receipt of a complete application, notice of the application and an invitation to comment is mailed to the applicant, recognized neighborhood associations and property owners within 750-feet of the subject tract (**MCC 37.0530(B)**). Written comments were not received from any party noticed pursuant to the provisions of **MCC 37.0530(B)**.

## **Conclusion**

Considering the findings and other information provided herein, this application, as conditioned, satisfies applicable Multnomah County Zoning Ordinance requirements. The building addition shall be constructed as indicated in the plans approved by this decision, as further indicated in the **Scope of Approval** section of this report.

## **Exhibits**

All materials submitted by the applicant, prepared by County staff, or provided by public agencies or members of the general public relating to this request are hereby adopted as exhibits hereto and may be found as part of the permanent record of this application. Exhibits referenced herein are enclosed, and a brief description of each is listed below:

<u>Label</u>	<u>Pages</u>	<u>Description</u>
A1	1	Vicinity map
A2	1	Plat Map
A3	1	1955 building permit
A4	12	Applicant's narrative
A5	1	Storm water analysis, TM Rippey Consulting Engineers
A6	1	2002 aerial photo
A7	1	Site plan
A8	1	Landscaping plan
A9	4	Structural elevations
A10	1	Demo Plan