



MULTNOMAH COUNTY
LAND USE PLANNING DIVISION
1600 SE 190TH Avenue Portland, OR 97233
(503) 988-3043 FAX: (503) 988-3389

**FINAL ORDER OF THE LAND USE
HEARINGS OFFICER FOR MULTNOMAH COUNTY, OREGON**

April 12, 2006

Case File: T2-05-017

Permit: Wireless Communication Facility

Location: 10351 NW Thompson Road
TL 2600, Sec 26, T 1N, R 1W, W.M.
Tax Account #R96126-0110

Zoning: Rural Residential (RR)/Hillside Development & Erosion Control (HDP)

Site Size: 3.44 acres

Applicant: Marv Steadman
AFL Telecommunications

Owner: Beaverton School District #48
c/o Jerome Colonna

Appellants: Marv Steadman
Amber Trimble
Sprint Spectrum LP

APPEAL OF AN ADMINISTRATIVE DECISION

Appeal by applicant of an administrative decision denying the application for a wireless communication facility. After the denial, the applicant modified the proposed location of the wireless communication facility to a site near the northwest corner of the subject site. In addition, the concealment technology has been modified from a flag pole to a pine tree design.

PROCEDURAL ISSUES

1. Impartiality of the Hearings Officer

- A. No ex parte contacts. I did not have any *ex parte* contacts prior to the hearing of this matter. I did not make a site visit.
- B. No conflicting personal or financial or family interest. I have no financial interest in the outcome of this proceeding. I have no family or financial relationship with any of the parties.

2. Jurisdictional Issues

At the commencement of the hearing I asked the participants to indicate if they had any objections to jurisdiction. The participants did not allege any jurisdictional or procedural violations regarding the conduct of the hearing.

BURDEN OF PROOF

In this proceeding, the burden of proof is upon the Applicant/Appellant.

SCOPE OF APPEAL

Pursuant to ORS 215.416(11)(a)(D), an appeal from an administrative decision of the Planning Director shall be a *de novo* hearing. At the *de novo* hearing, the presentation of testimony, arguments and evidence shall not be limited to issues raised in the notice of appeal. All relevant testimony, arguments and evidence will be considered in this matter.

FINDINGS: Written findings are contained herein. The Multnomah County Code criteria and Comprehensive Plan Policies are in **bold** font. The applicant/appellant's statements are identified below as **"Applicant"**. Staff comments and analysis are identified as **"Staff"**. The Hearings Officer's discussion, analysis and findings which immediately follow statements by the applicant or staff will be identified as **"HO"**.

PROJECT INFORMATION PROVIDED BY APPLICANT

1. Project Description

Sprint Spectrum L. P., through its agent AFL Telecommunications, is requesting approval, through a Type II Planning Director Review Approval, to construct and operate a communications facility, by constructing a new 80' steel monopine and related ground pad mounted equipment. The monopine will be a concealment technology type pine tree, painted a brown color, have ponderosa pine branches, which conceal the antenna arrays, have a simulated tree bark finish, landscaped around the base and be remotely located approximately at 45' east of the fenced equipment enclosure. The equipment enclosure

is proposed to be located behind a re-located baseball field backstop, have a cable supported chain link cover over the entire enclosure to avoid balls getting inside the enclosure and add another degree of security, and landscaped with 4 Douglas fir trees, one at each corner and photinia plants to fill in between the Douglas firs. The enclosure will be fenced with an 8' chain link fence with brown vinyl slats so as to be sight obscuring and non-climbable.

The area surrounding the proposed site to the north and west has heavy tree coverage with an existing 70'+/- Ponderosa pine immediately north of the proposed monopine tree site. The equipment enclosure will be screened from neighboring properties to the north and west by the heavy vegetation and steep slope. The subject property is located in the RR zoning district with a CS overlay.

Sprint proposes to construct an un-staffed telecommunications facility consisting of a three (3) sector antenna contained (concealed) within a "monopine" tree structure. Radio/electrical power equipment cabinets will also be located on a (9' 6" x 18') concrete pad within the revised 13' x 21' fenced (leased) area. The site will initially provide for one (1) radio equipment cabinet plus a PPC cabinet and a battery backup cabinet. This site has direct access from Thompson Road via the existing West Slope Academy paved driveway/parking lot and an extension access road to be constructed from the northwest end of the existing paving to the site. The pole is of the height and size to accommodate one future carrier, for collocation purposes. All utilities are available within close proximity to the site on NW Thompson Road.

The proposed subject site candidate was selected by Sprint RF engineers and found to be acceptable to meet their requirements for coverage in this area.

2. System Information

Sprint is licensed by the Federal Communications Commission (FCC) to provide cellular telephone service to this area of the Multnomah County. Pursuant to the strict guidelines of the FCC license, Sprint is obligated to provide coverage for a particular area to maintain its license. In addition to its responsibility to the FCC, Sprint is committed to offer their customers a system that meets specific standards of quality; one which provides continuous, uninterrupted digital coverage throughout the Pacific Northwest. While portions of Multnomah County receive adequate coverage, Sprint's existing facilities do not currently provide adequate coverage to this area of the county. This site is an important component of the overall coverage objective for the area and will, in conjunction with the designed hand-off sites, provide excellent in-vehicle, portable and in-building coverage to this portion of Multnomah County.

Sprint systems operate through an interconnected network of "cell sites" that "hand-off" to one another throughout a specific region or coverage area. Each cell site consists of transmitting and receiving antennas mounted on a tower or other suitable structure and radio equipment used for transmitting and receiving wireless signals. A cell site is connected to local utilities for power and landline telephone service. Through the local

landline telephone network, the facility is connected with the Main Switching Center (MSC) that controls and monitors all of the sites in each specific region. The MSC operates the wireless network by monitoring all calls in and out of the system and tracking system usage and performance. Each site is wired with smoke and intrusion alarms that, if activated, will notify the MSC of potential emergencies.

3. Site Information

Radio Frequency Engineers, Site Acquisition Specialists and Construction Managers selected this site, after extensive analysis, as the primary candidate needed to provide adequate coverage to the surrounding area. The required site location, antenna height, and tower height was determined by an RF propagation study that evaluated the expected radio-frequency (RF) signal from the proposed site at a given height. To be considered a viable candidate, the RF signal must be strong enough to provide adequate coverage within the desired coverage area, and have the ability to hand-off from one site to another in order to achieve the objective of seamless communications coverage.

Alternative sites considered and studied are as follows:

- A. Remington Village 4062 NW Saltzman Rd
- B. PGE Power Pole 4062 SW Saltzman Rd
- C. PGE Pole #1007 11065 SW Thompson Road
- D. West Slope Academy 10351 NW Thompson Road (Various locations on the campus).

Consideration of local topographic and geographic factors, tree canopy, buildings, mountains and the ability to mitigate the antenna support structure's and equipment area's visual impact further refines the selection and design of a specific site. In addition, the facility must be compatible with existing and surrounding land uses, and must have a landlord who will negotiate and agree to a mutually beneficial lease. Radio signals must travel in an unobstructed path from the tower facility to the user; therefore, improper site location can negatively influence and/or limit the quality of radio transmissions to and from a site. For this reason, the height and location of each site is carefully selected and limited to a specific area that will function with the least amount of obstacles. This specific site was selected as the primary after it was tested and approved by Sprint's RF engineers.

The subject property is located on the west side of NW Thompson Road, in the westerly area of Multnomah County. The parcel is currently in a rural and residentially developed area with commercial service properties to the south, and residential properties to the north, south, west and east of the subject site.

As previously described, Sprint will utilize the proposed 80' monopine pole to gain the antenna elevation required to provide the appropriate RF signal to reach the required coverage area and make the hand-offs to the adjacent sites. The antennas will be entirely enclosed within a "pine tree" canopy.

Power levels emitted by the transmitters to be used at the proposed cell site are considered to be low-powered. The license the applicant has received from the FCC limits each of the cell sites to 999 watts Effective Radiated Power (ERP) or less. The equipment used by the applicant will generate 605.16 watts ERP and therefore complies with the FCC license requirements.

FCC regulation of radio transmissions mandates that the proposed facility shall not interfere with surrounding properties or their uses. The FCC has determined that the power levels emitted by wireless communications facilities is well below the minimum safety standards established for continuous exposure to Electric-Magnetic Fields (EMF). The extremely low output of power from the proposed facility, in conjunction with FCC regulation, will ensure there is no interference with surrounding properties electronic equipment, 2-way radio transmissions, computers, satellite antennas, televisions and telephone transmissions. Further, negative health effects will not result from emission of signals from the antennas on the monopole or from microwave emissions on the monopole. The FCC has conducted numerous studies that reveal telecommunications facilities do not cause harmful health effects for humans and has categorically excluded cellular and PCS carriers from causing exposure in excess of FCC guideline limits.

The proposed site will be unmanned and, therefore, will not require water, waste treatment or management of hazardous waste. Minimal traffic will be generated during the construction phase while a crew is traveling to and from the site. After construction is completed, there will be approximately one visit per month by a radio technician for routine maintenance. The site will be in operation 24 hours a day, 7 days a week.

STANDARDS, CRITERIA, ANALYSIS AND FINDINGS OF FACT

ISSUES ON APPEAL:

After the original administrative decision denying the application by the Planning Director, the applicant proposed to move the location for the tower to a different part of the subject site and significantly modified the application. The applicant submitted additional material prior to the February 10, 2006 hearing. Additional material was submitted at the hearing and since the time of the hearing. An exhibit list, showing the materials submitted is attached hereto as Exhibit "A", and is incorporated by this reference herein. After receipt of the additional exhibits prior to the February 10, 2006 hearing, the staff prepared a report to the Hearings Officer, which listed a number of code criteria which staff considered unmet by the applicant.

The applicant submitted additional evidence, both at the hearing, and subsequently, which address the outstanding issues. This Final Order will address specifically those Code criteria.

MCC 33.6182 Application Submittal Requirements.

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

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

(2) A visual study containing, at a minimum, a graphic simulation showing the appearance of the proposed tower, antennas, and ancillary facilities from at least five points within a five mile radius. Such points shall include views from public places including but not limited to parks, rights-of-way, and waterways and chosen by the Planning Director at the pre-application conference to ensure that various potential views are represented.

Amended Staff Finding: The applicant has submitted in 2 new simulations for the proposed monopine (Exhibit I.10 to staff report). Three additional graphic simulations are required before the above criterion can be met.

H.O.: Exhibit K.2.b. contains five simulations and the Bethany photo simulation key. This criteria is met.

(3) The distance from the nearest WCF and nearest potential co-location site.

Amended Staff Finding: In the applicant's narrative (Exhibit A.3 to staff report), they expresses that there is a WCF located on Skyline Blvd. In the initial decision, no specific information was provided such as a tax lot, map, address has been by the applicant. At present, no additional information has been submitted by the applicant to address this criterion. This criterion has not been met.

H.O.: During the hearing, the applicant's representatives discussed this matter and generally identified the location on Skyline Blvd. where the WCF was located. The applicant also submitted Exhibit K.2.c, which shows the Sprint wireless communication facilities and a road map showing the distances to the nearest WCF's and nearest potential co-location sites. The applicant indicated that there were no potential co-location sites that would provide the coverage needed. The fact that Cingular Wireless wants to co-locate on this proposed tower is further evidence of the lack of suitable co-location facilities in the vicinity. The applicant has submitted sufficient information to meet this application submittal requirement.

(4) A report/analysis from a licensed professional engineer documenting the following:

(a) The reasons why the WCF must be located at the proposed site (service demands, topography, dropped coverage, etc.)

Amended Staff Finding: The applicant submitted in Radio Frequency Maps (Exhibit A.24 to staff report) showing before and after the proposed installation of the WCF. Previous opponent comments indicated that the requisite data information regarding service demands, topography, and dropped coverage has not been provided to document why the WCF must be located at the proposed site. The applicant has submitted two new graphics

(Exhibit H.6 to staff report) which are supposed to show the Drop Calls and Failed Outgoing Calls. There is no legend to help staff interpret these graphics. In addition, these graphics do not provide any real data about service demands or topographic information that may affect the ability of this tower to provide service in the area. This criterion has not been met.

H.O.: At the hearing, the applicant's representatives explained graphics presented and gave a verbal legend for the graphics. Subsequently, the applicant submitted Exhibit K.2.d, which describes the limitation in coverage and shows the predicted coverage with the current drop call and failed outgoing call locations. The graphics included a legend. During the hearing, the applicant's representatives also discussed the extensive research undertaken by the applicant to determine the appropriate location for the proposed site.

Opponent Steve Edelman contends that the applicant has not provided sufficiently detailed information. However, I do find the applicant's submittals to be credible and reliable. I find that the applicant has met the application submittal requirements for this standard.

(b) The reason why the WCF must be constructed at the proposed height;

Amended Staff Finding: The applicant previously indicated (Exhibit A.3 to the staff report) that the propagation map (Exhibit A.24 to the staff report) demonstrates that the proposed height is the minimum necessary to accomplish their "network" specifications. Since the applicant has not even defined the boundaries for the service area (cell boundaries—MCC 33.6182(B)(14)) it is not clear how the information can be used to review the proposed height. The applicant has not addressed the Opponent's comments (Exhibit D.4 to the staff report) that the data does not demonstrate that the tower is the minimum height necessary to service the area. No evidence has been submitted showing that the area cannot be serviced by a shorter tower. This criterion has not been met.

H.O.: The applicant provided the following additional information regarding the required height:

"The minimum height required at the proposed facility was determined by completing a carrier wave (CW) test at the West Slope Academy location. CW tests use a crane to elevate an antenna to the test height, 50' was the test height conducted. A signal is then transmitted at a known level to determine the coverage footprint and absorption loss for surrounding clutter (i.e. trees, buildings, paved areas). The output data of the CW tests was placed in our propagation software to simulate the coverage of a cell site in the test location. A minimum height was then determined using the propagation software that takes into account the surrounding sites in our network, terrain, clutter, and the absorption losses determined by the CW test. The process above found that a tower 50' high was not adequate and that an 80' tower was needed to cover the surrounding areas and connect with the existing cell sites that surround the proposed location."

In addition, the applicant also provided information regarding the need for an 80' tower in order to be able to provide co-location opportunities for another carrier. I find that the applicant has submitted sufficient information explaining the reason why the WCF must be constructed at the proposed height.

(d) Tower height and design, including technical, engineering, economic, and other pertinent factors governing selection of the proposed design such as, but not limited to, an explanation for the failure to employ concealment technology if applicable;

Amended Staff Finding: The information submitted for the previous concealment technology may not be accurate for the new monopine design. No documentation has been provided by the applicant from technical experts that the submitted reports (Exhibit A.25, A.26 & A.27 to the Staff Report) remain applicable. The height and design of the new proposal can be found as part of Exhibit I.2.a through j. This criterion has not been met.

H.O.: The applicant has presented information regarding tower height and design, including technical, engineering, economic and other factors. The applicant is using concealment technology which is more expensive than the original flagpole design proposed by applicant. I find this criterion has been met.

(e) Total anticipated capacity of the structure, including number and types of antennas which can be accommodated;

Amended Staff Finding: The elevations for the monopine show that the tower has the capacity for two sets of antennas. Since the pine does not install the antenna internally within the tower, it may have additional capacity, but the applicant has not provided new written information regarding the capacity and types of antennas that can be accommodated. This criterion has not been met.

H.O.: The applicant has provided information regarding the capacity of the pole (2 carriers). The applicant has also explained the need for separation between carriers. I find this criterion has been met.

(f) Evidence of structural integrity of the tower structure as required by the Building Official;

Amended Staff Finding: For the previous flag pole design, the applicant submitted Structural Drawings and Calculations (Exhibit A.25 & A.26 to Staff Report). No new structural information has been submitted by the applicant. Staff is uncertain that the information submitted for the previous design (flag pole) is applicable to the current monopine tower. This criterion has not been met.

H.O.: The applicant has submitted new drawings for the proposed monopine. In addition, the applicant has submitted information prepared by Ehresmann Engineering Inc.

regarding tower specifications. The applicant will be required to submit more detailed information for Building Official review prior to actually receiving a building permit. However, the applicant, at this time, has submitted sufficient information to allow the project to proceed to final engineering design for review and approval by the Building Official.

(g) Failure characteristics of the tower; and

Amended Staff Finding: For the previous design, a study was submitted outlining the failure characteristics (Exhibit A.27 to Staff Report). No new structural information has been submitted by the applicant for the new monopine design. Staff is uncertain that the information submitted for the previous design (flag pole) is applicable to the current monopine tower. This criterion has not been met.

H.O.: In Exhibit K.2.g the applicant provided additional information relating to potential failure characteristics of the 80' monopine tower. I find this criterion is met.

(h) Ice hazards and mitigation measures which can be employed.

Amended Staff Finding: The applicant discussed the ice hazard for a smooth flag pole design. The new monopine design has a large number of branches that would affect the characteristics of the ice hazard generated. The applicant has not submitted any new ice hazard information or proposed any new mitigation measures for the monopine. Staff is uncertain that the information submitted for the previous design (flag pole) is applicable to the current monopine tower. This criterion has not been met.

H.O.: The applicant has submitted additional information about potential ice hazards and the strength of the monopine branches. The manufacturer of the monopine branches has had only one branch failure in the past ten years due to snow and ice. For the ratio of 1:10,000 failure rate, the branches have been wind tested to 150 mph and do not appear to impose any significant ice hazard. No mitigation measures appear necessary. The applicant has met this criterion.

(14) A map of the county showing the approximate geographic limits of the "cell" to be created by the facility. This map shall include the same information for all other facilities owned or operated by the applicant within the county, or extending within the county from a distant location, and any existing detached WCF of another provider within 1,000 feet of the proposed site.

Amended Staff Finding: As part of staff's review of the propagation maps (Exhibit A.24 to staff report), we did not find an established a boundary or cell for the facility. The new graphic information submitted by the applicant does not contain a legend to allow staff interpretation nor do they define a boundary of service for the proposed tower (Exhibit I.6 to staff report). This criterion has not been met.

H.O.: The applicant has submitted propagation maps with legends and the approximate geographic limits of the cell. The applicant has also submitted information regarding the other wireless communication facilities by Sprint PCS. I find this criterion has been met.

(16) Full response to the Approval Criteria for Lands Not Zoned Exclusive Farm Use specified below as applicable.

Amended Staff Finding: The applicant has not amended their narrative statements to address the new location or monopine design. The applicant submitted Exhibit I.1 to address the Reasons for Denial. These new responses address criteria MCC 33.6178, MCC 33.6182(B)(4)(a) and MCC 33.6183(A)(3). Additional approval criteria exist that require plan and narrative specific information that must be modified to show compliance. This criterion has not been met.

H.O.: The applicant has amended their narrative statements to address the new location and design. The applicant has submitted additional information to address the additional approval criteria that have been raised by the change in design. The new evidence will be discussed in the following sections.

MCC 33.6183 Approval Criteria for Lands Not Zoned Exclusive Farm Use.

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

(A) General and Operating Requirements

(B) Siting Requirements

(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.

Staff: No dwelling exists on the property. This criterion is not applicable at this time.

H.O.: This criterion is not applicable.

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

Amended Staff Finding: The proposed height of the tower is 80 ft. The closest property line to the cell tower is the northern property line. The cell tower is setback 39 ft from the property line. The modified site plan (Exhibit I.2.a) indicates that the tower will be 40 +/- from the centerline of the pole. The pole is at least 2 ft in width which would mean that the tower is proposed with a maximum setback of 39 ft. With the use of concealment technology, the tower setback requirement of 80 ft can be reduced 50% provided the criterion under MCC 33.6183(B)(3)(d) are met. With the approval of the reduction the

tower could be a minimum of 40 ft from the northern property line. As proposed, the modified location of the tower does not meet the minimum 40 ft. setback required. This criterion has not been met.

H.O.: During testimony at the hearing, the applicant's representatives indicated that the edge of the pole would be set back 40 feet from the northern property line. Sheet A1 of Exhibit K.2.f shows that the edge of pole is set back 40 feet from the northern property line. Because of the use of concealment technology, the tower setback requirement of 80 feet can be reduced 50%. Accordingly, this criterion has been met.

(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.

Amended Staff Finding: With the modification of the proposed concealment technology to a ponderosa pine, the modified tower is able to achieve visual subordination by blending with nearby landscape on the site and adjacent sites (Exhibit A.10). By achieving visual subordination, the tower setback may be reduced up to 50%. This criterion has been met.

H.O.: The modification of the proposed concealment technology to a ponderosa pine allows the applicant to achieve visual subordination. Because the design is visually subordinate, the tower setback may be reduced to 50%. This criterion is met.

(4) Storage.

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

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

Amended Staff Finding: It appears from the elevations (Exhibit I.2.c) that the equipment enclosure will be constructed of an eight ft tall chain link fence with a roof structure. No information has been included on the plans regarding the type of roofing materials to be used. Metal roofing is reflective and would not qualify as being non-reflective. In addition, the chain link fence does not screen the equipment from view as no slats or other solid materials are shown. The chain link enclosure does not look like a building or other facility typically found in the area. This criterion has not been met.

H.O.: The applicant has proposed that the equipment enclosure will be constructed with an 8 feet tall chain link fence with a chain link roof. The 8 foot high chain link fence surrounding the equipment will be sight obscuring. Brown vinyl slats will be utilized to

make the fence sight obscuring. There is chain link fencing in the nearby vicinity and a chain link backstop on the school grounds. In addition to the facilities on the school grounds that are similar to the proposed enclosure, Linda Sawaya, a resident on Laidlaw Road, testified that she has a deer fence of recycled chicken wire in her yard. I find that the wireless communication storage facility is not taller than one story in height and proposed to be treated to look like a building or facility typically found in the area.

(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.

Amended Staff Finding: The WCF includes both the pole and the equipment yard. The applicant has proposed to construct a 8 ft tall chain link fence with a roof structure around the equipment. No security measures have been proposed for the tower. It would appear from the pine design brochure that the tower would be able to be climbed as the tower structure has poles sticking out from its main stem for the branches to be installed (see Exhibit I.11 to staff report). Additional information is needed from the applicant to demonstrate that the tower will not be climbable or security measures proposed. This criterion has not been met.

H.O.: The materials submitted by applicant indicate that the lowest branch on the monopine will be 15 feet, which will make it too high to be accessible for climbing. The 8 foot tall chain link fence will have a chain link roof structure. The vinyl slats which are proposed to reduce visibility at the structure, will also have the effect of making it difficult to climb. The storage facility will be locked. I find that this criterion has been met.

(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;

(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.

Amended Staff Finding: The applicant has submitted in a revised landscape plan which shows that the enclosure will have landscaping installed on all sides except in the area of the gates. No landscaping has been proposed around the base of the tower. Based upon the current landscape plan, this criterion has not been met. The applicant should revise the plan to include landscaping around the base of the tower in addition to the enclosure structure.

H.O.: The landscape plan submitted as part of Exhibit K.2.f shows landscaping proposed around the base of the tower and the enclosure. Accordingly, I find that this criterion has been met.

CONCLUSION

Based on the testimony, evidence, exhibits, and the findings contained herein, I find that the applicant has carried the burden necessary to demonstrate that approval should be granted for the wireless communication facility at this location. The decision of the Planning Director denying the wireless communication facility is reversed.

Conditions of Approval:

1. Prior to the land use sign-off of the building permit for the Wireless Communication Facility, the application shall apply for and obtain approval of a Design Review permit. [MCC 33.6180(A) & (E)]
2. A new permit shall be required for all modifications, not constituting maintenance, to an approved permit for any Wireless Communication Facility. [MCC 33.6180(F)]
3. As part of the Design Review application, the applicant shall demonstrate that there is one parking space available currently within the parking area or show on the site plan the addition of one parking space to the site. [MCC 33.3180]
4. A building permit and all other applicable development permits shall be obtained through the City of Portland's Building Division prior to the construction of the Wireless Communication Facility. All permits shall be final prior to the facility being placed into service. [MCC 33.6180(D)]
5. All approvals for the Wireless Communication Facility shall become null, void, and non-renewable if the facility is not constructed and placed into service within two years of the Hearings Officer's decision becoming final pursuant to MCC 37.0530(B). [MCC 37.0700(B) & MCC 33.6180(H)]
6. The owner of the Wireless Communication Facility (WCF) shall notify the Planning Director of all changes in tenants located on the WCF permitted under this section within 90 days of change. Failures to provide appropriate notice shall constitute a violation of the original permit approval and may be processed pursuant to 33.0910. [MCC 33.6180(I)]

7. Prior to land use sign off of the building permit, the applicant shall add to the building plans information regarding colors and materials for the enclosure. The paint utilized for the tower and enclosure shall be of a 'flat' sheen. The color for the enclosure shall be dark earth tones of either brown or green and be non-reflective. Sight-obscuring slats shall be installed with the chain link to obscure the view of the equipment contained inside. [MCC 33.6183(B)(5) & (6)]
8. Pursuant to MCC 33.6183(B)(8), no exterior lighting shall be installed on or near or for the Wireless Communication Facility. In addition, no portion of the tower shall be used for signs other than warning or equipment information signs. [MCC 33.6183(B)(8) & (9)]
9. Within 30 days of this decision becoming final, the applicant shall record the Notice of Decision with the County Recorder. The Notice of Decision shall run with the land. Proof of recording shall be made prior to the issuance of any permits and filed with the Land Use Planning Division, and a copy of the recorded document shall be submitted to the Land Use Planning Division. Recording shall be at the applicant's expense. [MCC 37.0670]
10. The paving added to access the Wireless Communication Facility shall be a durable and dustless surface capable of carrying a wheel load of 4,000 pounds. As part of the Design Review application, the applicant shall provide documentation from a licensed engineer that the access pavement will meet this condition. [MCC 33.6183(B)(10)]
11. The use of any portion of a tower for signs other than warning or equipment information signs is prohibited. [MCC 33.6183(B)(9)]
12. As part of the Design Review application, the applicant shall provide documentation that there is at least one parking space available for parking for the Wireless Communication Facility. [MCC 33.3180]
13. The final building permit application for the proposed monopine must substantially comply with the description of the design proposed in this application. After construction of the monopine, concealment aspects of the Wireless Communication Facility must be maintained by carrier.
14. The applicant is encouraged to contact the lessor of the property for permission to plant native vegetation in the strip of land approximately 20 feet wide between the land the applicant proposes to lease and the lessor's north property line.

IT IS HEREBY ORDERED that this application for a wireless communication facility at the subject site is approved, subject to the conditions of approval listed above.

DATED this 12th day of April, 2006.



JOAN M. CHAMBERS, Hearings Officer

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T2-05-017 Exhibit List**Continued Public Hearing: February 10, 2006**

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Administration & Procedural Exhibits

‘D’ Public Comment

‘H’ November 23, 2005 Hearing Exhibits

‘I’ Applicant’s Resubmitted Materials

‘J’ Exhibits Submitted for February 10, 2006 Public Hearing

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	General Application Form	2/23/05
A.2	8	Plans a. Title Sheet – T1 b. Existing Site Conditions – A0 c. Overall Site Plan – A1 d. Lease Area Plan Antennae Layout Equip. Elevation Equipment Layout – A2 e. Elevations – A3 f. Elevations – A4 g. Landscape Plan & Notes – L1 h. Erosion Control Plan, Details & Notes – EC1	2/23/05
A.3	13	Narrative Statements	2/23/05
A.4	2	Quit Claim Deed Recorded 5/22/1998 (Book 9808 Page 8528)	2/23/05
A.5	3	Entry & Testing Agreement from Beaverton School District to AFL Telecommunications	2/23/05
A.6	1	Memo for FCC NEPA Compliance for Site PO60XC058	2/23/05
A.7	14	NEPA RF Compliance	2/23/05
A.8	8	Photographs of Site	2/23/05
A.9	15	Photographs of Various School Sites with Flag Poles	2/23/05
A.10	1	Shuregard Storage Facility with Flagpole Type Monopole	2/23/05
A.11	7	Visual Study - Existing Views Showing Proposed Monopole in Relation to Building & Photograph View Legend	2/23/05
A.12	3	Sprint PCS Site Acquisition Request Form	2/23/05

A.13	1	Unicell duct Overview	2/23/05
A.14	1	Oregon Department of Aviation Letter Regarding Tower – Attachment C	2/23/05 & 7/15/05
A.15	4	Network Systems – Product Conformance Test for Acoustical Noise Suppression	2/23/05
A.16	3	Report for MCC 33.6182(B)(4) – Dated 2/18/05	2/23/05
A.17	1	Letter of Authorization from Sprint PCS Assets for AFL Telecommunications – Attachment A	4/14/05 & 7/15/05
A.18	1	Letter from Sprint PCS stating cooperation with collocation applicants – Attachment B	7/15/05
A.19	3	Letter from Jeppesen Regarding an Aeronautical Study – Attachment D	7/15/05
A.20	2	Notice of Proposed Construction or Alteration Evaluation – Attachment E	7/15/05
A.21		Updated Zoning Drawings – Attachment F a. Title Sheet – T1 b. Existing Site Conditions – A0 c. Overall Site Plan – A1 d. Lease Area Plan Antenna Layout Equip. Elevation Equipment Layout – A2 e. Lease Area Plan Antenna Layout Equip. Elevation Equipment Layout – A2 f. Elevations – A3 g. Elevations – A4 h. Landscape Plan & Notes – L1 i. Erosion Control Plan, Details & Notes – EC1	7/15/05
A.22	2	Search Area Map and Location of Nearest Towers - Attachment G	7/15/05
A.23	10	Email Correspondence between AFL and PGE – Attachment H	7/15/05
A.24	2	Radio Frequency Maps showing Before and After Proposed Installation – Attachment I	7/15/05
A.25	4	Structural Details and Foundation Installation - Attachment J	7/15/05
A.26	14	Structural Calculations with Foundation Details for a 80 ft RF Transparent Flagpole – Attachment K	7/15/05
A.27	2	Letter from SCI regarding Failure Characteristics – Attachment L	7/15/05

A.28	1	Site I with Landlords Signature Ap, val – Attachment M	7/15/05
A.29	5	Supplemental Information and Attachment List	7/15/05
A.30	13	Site Agreement	2/23/05
'B'	#	Staff Exhibits	Date
B.1	1	A&T Property Information	No date
B.2	2	Transportation Planning Comments	8/15/05
'C'	#	Administration & Procedures	Date
C.1	1	Incomplete Letter (Deemed Incomplete 3/22/05)	3/23/05
C.2	1	180 Day Acceptance Letter	4/19/05
C.3	1	Complete Letter – Day 1 (July 22, 2005)	8/2/05
C.4	3	Opportunity to Comment	8/4/05
C.5	32	Administrative Decision by the Planning Director (T2-05-017)	10/19/05
'D'	#	Public Comments	Date
D.1	1	Letter from Parsons Co. Supporting Proposal	6/28/05
D.2	1	Letter from Cingular Supporting Proposal	6/28/05
D.3	2	Comments from Frederick Kossmann & Wanda Scott Day	8/12/05
D.4	26	Comments from Steve Edelman's Representative Jeffrey Kleinman	8/18/05
'H'	#	November 23 rd Hearing Exhibits	Date
H.1	14	Letter Regarding Health Concerns	11/17/05
H.2	1	Sign-In Sheet	11/23/05
H.3	3	Notice of Appeal	11/2/05
H.4	1	Request for Continuance to February 10, 2006	11/23/05
'I'	#	Resubmitted Materials	Date
I.1	2	Clarifications and Answers to the Planning Director's Denial of Issue	1/3/05
I.2	10	Modified Plans a. Overall Site Plan – A1 b. Elevations – A3 c. Elevations – A4 d. Landscape Plan & Notes – L1	1/3/05

		e. Emission Control Plan – EC1 f. Lease Area Plan Antenna Layout Equip. Elevation Equipment Layout – A2 g. Existing Site Conditions – A0 h. Site Survey – LS-1 i. Material List, Antenna Notes, Legend, & Abbreviations – T2 j. Title Sheet – T1	
I.3	1	Picture of Ponderosa Pine WCF being Installed – Exhibit B	1/3/05
I.4	1	The “Green” Height Solution Monopines – Exhibit C	1/3/05
I.5	2	Fax from Beaverton School District to Marv Steadman Regarding Site Plan w/Cell Tower Location for Bonny Slope – Exhibit D-1 & D-2	1/3/05
I.6	2	Sprint Nextel Drop Calls and Failed Outgoing Calls Graphics & Discussion – Exhibit E	1/3/05
I.7	6	Noise Study for a Sprint Wireless Communication Equipment Site at 10351 NW Thompson Road in Multnomah County – Exhibit F	1/3/05
I.8	1	Cingular Collocation Letter – Exhibit G	1/3/05
I.9	8	Site Photos & Portland Maps – Exhibit H-1	1/3/05
I.10	2	Graphics of Proposed Monopine – Exhibit H-2	1/3/05
I.11	1	Sabre Concealment Products Monopine – Exhibit I	1/3/05
‘J’	#	Exhibits Submitted for February 10, 2006 Public Hearing	Date
J.1	1	Email in Support of WCF Proposal	1/24/06
J.2	28	Staff Report to Hearings Officer	2/3/06
J.3	2	Letter from Milena & Jaroslav Dadaj Regarding Applicant’s Submittal	2/6/06
J.4	13	Revised Narrative from Applicant Addressing the Proposed Changes to the Application	2/7/106
J.5	23	Letter from Kossman, Thompson, Scott-Day Objecting to WCF Proposal and Additional Documents	2/8/06
J.6	1	Hearing Sign-In Sheet	2/10/06
J.7	1	Vicinity Air Photo	2/10/06
J.8	1	Dr. George Carlo Cell Phone Medical Research	2/10/06
J.9	2	Bioeffects, Health Implication and Safety Standards of Non-Ionizing Electromagnetic Radiation	2/10/06
J.10		Photo of Pine Tree a Property from Her Yard	2/10/06

J.11	3	Noise Levels in our Environment Fact Sheet	2/10/06
J.12	3	Noise Pollution	2/10/06
J.13	4	Photos of Material Samples	2/10/06
'K'	#	Exhibits Submitted After Public Hearing	Date
K.1	23	Edelman Submittal of New Evidence a. Edelman Email b. Criteria Comments	3/3/06
K.2		Alcoa New Evidence a. Outstanding Issues b. Exhibit 1: View Study c. Exhibit 2: Locations of Existing WCF d. Exhibit 3 & 4: Drop Calls & Failed Outgoing Calls e. Exhibit 5: Structural Information f. Exhibit 6 & 12: Monopole Plans g. Exhibit 7, 8 & 9: Colocation Potential, Ice Hazard Info, Specs on Pine Branches & Bark h. Exhibit 10: Cell Improvement Target i. Exhibit 11: Revised Narrative Statements	3/3/06
K.3	3	Edelman Rebuttal to New Evidence	3/8/06
K.4	2	Alcoa Rebuttal	3/10/06
K.5	2	Alcoa Final Argument	3/14/06