

**MULTNOMAH COUNTY****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/landuse>

NOTICE OF DECISION

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

Case File: T2-06-054

Permit: Design Review

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

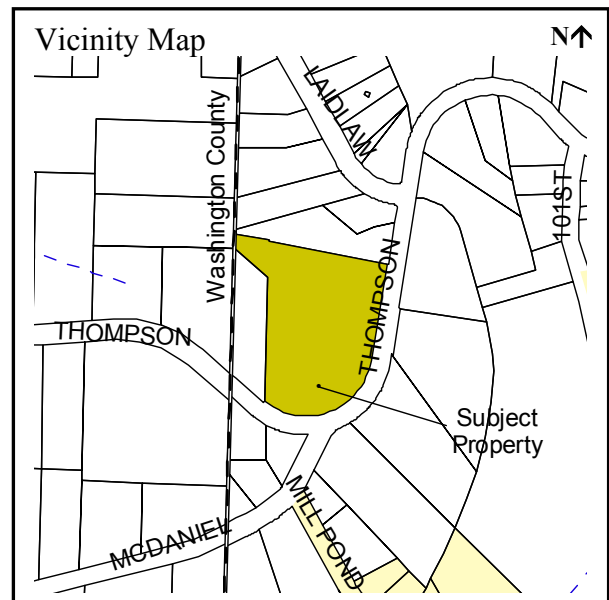
Applicant: Marv Steadman
C/O Alcoa Wireless Services for Sprint
PCS

Owner: Beaverton School District #48

Base Zone: Rural Residential (RR)

Overlay Hillside Development and Erosion

Zone: Control (HDP)



Summary: Applicant is requesting Design Review for the previously approved wireless communication facility approved under T2-05-017.

Decision: Approved with conditions.

Unless appealed, this decision is effective Wednesday, August 2, 2006, at 4:30 PM.

Issued by:

By: _____
Lisa Estrin, Planner

For: Karen Schilling- Planning Director

Date: Wednesday July 19, 2006

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 Lisa Estrin, Staff Planner at 503-988-3043 x22597.

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 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 Wednesday, August 2, 2006 at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC):

Administration & Procedures

Chapter 37, particularly MCC 33.0530(B) Type II process, MCC 33.0550 Initiation of Action, MCC 33.0560 Code Compliance

Design Review

MCC 33.7040 Final Design Review Plan, (A) Site Development and Landscape Plans;

MCC 33.7050 Design Review Criteria

MCC 33.7055 Required Minimum Standards

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/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. **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 or 37.0700, as applicable. A request for permit extension may be required to be granted 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. Prior to any ground disturbing activity or commencement of construction, the contractor for the wireless communication facility shall protect the natural area north of the construction zone with an orange construction fence. This fence shall encompass the existing trees and shrubs and shall include a 7 to 10 ft additional root zone area to protect the existing vegetation's root zone. The fence shall run in a linear fashion and should protect the 35 to 40 ft area south of the northern property line. No equipment or vehicle movement and/or storage of earth or construction materials shall trespass within this protected area. [MCC 33.7050(A)(1)(c)(4)]
2. Pursuant to MCC 33.7050(C)(4), the applicant shall provide for the watering of the plants adjacent to the equipment enclosure and the tower. Prior to issuance of a building permit, the applicant shall demonstrate what provisions have been made.
3. The Photinias around the equipment enclosure and tower (Exhibit A.10) shall be continuously maintained on the site in a living state for as long as the wireless communication facility exists on this site. Should the plants die or become diseased, the plant material shall be immediately replanted at the appropriate planting time for their survival. [MCC 33.7050(C)(5)]
4. Prior to operation of the wireless communication facility, Sprint PCS or their representative shall install the required landscaping on the site. If it is not the appropriate period for planting, a performance bond shall be presented to Multnomah County for the required cost to purchase and install the required landscaping as shown on Exhibit A.10. [MCC 33.4135]

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

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

Findings of Fact

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

Project History:

Staff: In the recent land use approval, T2-05-017 the County’s Hearings Officer granted permission to construct and operate a wireless communication facility at the subject site. The antennae will be concealed within a 80 ft tall tower which will mimic a *Pine Tree*. The tower pole will be painted brown and have ponderosa pine branches and simulated tree bark for the first fifteen feet from the ground. The nearby equipment structure will be enclosed on all four side and roof area by chain link with brown vinyl slats. This enclosure will be surrounded by Photinia shrubs and will have a tree at each corner for screening. The following conditions of approval must be met as part of Design Review:

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.
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 tot the site.
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 application shall provide documentation from a licensed engineer that the access pavement will meet this condition.

Condition No. 1: The applicant applied for Design Review on 5/11/06 and this decision was issued on July 19, 2006. *This condition has been met.*

Condition No. 3: The applicant has demonstrated that there is one parking space adjacent to the equipment enclosure. *This condition has been met.*

Condition No. 10: Staff has found that the proposed gravel accessway from the parking area to the equipment enclosure and tower is a dustless and durable surface. The applicant’s engineer has certified that gravel designed in accordance with Exhibit A.13 is capable of supporting 4,000 lbs. *This condition has been met.*

1.00 ***Administration and Procedures***

1.01 **Type II Case Procedures**

MCC 37.0530(B): ...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...

Staff: The application was submitted May 11, 2006 and was deemed complete as of May 12, 2006. An “Opportunity to Comment” notice was mailed on June 14, 2006 to all properties within 750 feet of the subject properties in compliance with MCC 37.0530. One written comment was received (Exhibit B.4). The comment questioned the need for additional service capacity in this area. The service capacity question was considered as part of the conditional use permit application. The Hearings Officer determined that additional capacity was needed to serve the area inside and outside of the Urban Growth Boundary.

1.02 **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: The proposed project is located on Tax Lot 2600, Section 26BB, Township: 1 North, Range: 1 West. Assessment & Taxation records show that the land is owned by Beaverton School District #48. The property owners have granted approval for Marv Steadman with Alcoa Wireless Services for Sprint PCS to make application for the necessary permits to establish a wireless communication facility on the property (Exhibit A.1). *This criterion has been met.*

1.03 **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.**

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

Staff: There are no known violations on the subject site.

2.00 **Design Review Criteria**

2.01 **MCC 33.7050 Design Review Criteria**

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

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

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

Applicant: The elements of the design review do comply with and relate to the natural environment and existing structures having a visual relationship with the site in that the antenna

support structure is designed as a stealth monopine tree and the enclosure form the equipment will be in keeping with the chain link fences and backstop in then immediate area. In addition the chain link fencing will be a brown vinyl and the site concealing vinyl slats inserted in the chain link fence will also be brown in color.

The Hearing Officer found that the applicant is using concealment technology, which further contributes to compliance with this section of the code.

Staff: Staff concurs. *This criterion has been met.*

2.02 **(b) The elements of the design review plan should promote energy conservation and provide protection from adverse climatic conditions, noise, and air pollution.**

Applicant: The elements of the design review do in fact promote energy conservation by using the most advanced & low power requirement electronic equipment available. The equipment used is stored and housed in weatherproof cabinets providing the maximum protection from adverse climatic conditions. An engineered noise study was provided to the County Planning department in a previous CUP application and complies with MCC requirements. There is no air pollution related to the operation or use of this WCF.

Staff: Staff concurs. *This criterion has been met.*

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

Applicant: The elements of the design review plan are achieved in this section in that they are effectively, efficiently and attractively designed to serve their function. The reference to “be on a human scale, inter-related and shall provide special variety and order” don’t seem to apply to this WCF.

Staff: The elements of the wireless communication facility are the tower and the equipment shelter. The tower will be camouflaged to look like a ponderosa pine tree. This matches a nearby tree. The equipment shelter is designed to hold two cell providers equipment which is the maximum number of antennas that the tower can hold concealed in its internal structure. The shelter will be brown vinyl clad chain link with vinyl slats interlaced to screen the equipment. The shelter will be twelve feet tall and encompass an area 28 ft wide by 41 ft long. It will be screened by a Photinia hedge with a tree planted at each corner of the rectangle. These components will attractively serve its purpose while being on a human scale. *This criterion has been met.*

2.04 **(2) Safety and Privacy – The design review plan shall be designed to provide a safe environment, while offering appropriate opportunities for privacy and transitions from public to private spaces.**

Applicant: The design of the plan provides a safe environment through the use of a chain link enclosure (sides and top) with a locked access gate. “while offering appropriate opportunities for privacy and transitions from public to private spaces doesn’t seem to apply to this facility. It is located within a “public” school grounds while being secured so as to not allow a transition from public to private spaces.

Staff: The proposed shelter complete encloses the wireless communication ground equipment as the chain link will also be placed on top as a roof structure to prevent balls from entering the area. The proposed tower will not have branches lower than 15 ft from the ground and no way for interested parties to climb up into the branches. As designed, the wireless communication

facility provides a safe and secure environment on the school ground.

- 2.05 **(3) Special Needs of Handicapped – Where appropriate, the design review plan shall provide for the special needs of handicapped persons, such as ramps for wheelchairs and Braille signs.**

Applicant: This section does not apply nor is it appropriate.

Staff: Staff concurs. The wireless communication facility does not need to be ADA accessible.

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

Applicant: The landscaping and natural grade has been preserved to the maximum practical degree, in fact enhanced by the addition of native plantings as required by the Hearing Officer conditions. Tree and shrubs will be protected during the construction process.

Staff: The wireless communication facility is to be located within the school's play field. The site is relatively flat and does not have any trees or shrubs that would need to be removed. The area is currently in grass. To the immediate north of the tower on the subject property is a natural area of trees and shrubs that is approximately 30 ft wide. This natural area must be protected during development of the wireless communication facility. A condition of approval has been included requiring that this area be marked, protected and that no vehicles or materials are to be stored within 40 ft of the northern property boundary. *As conditioned, this criterion can be met.*

- 2.07 **(5) Pedestrian and Vehicular circulation and Parking – The location and number of points of access to the site, the interior circulation patterns, the separations between pedestrians and moving and parked vehicles, and the arrangement of parking areas in relation to buildings and structures, shall be designed to maximize safety and convenience and shall be harmonious with proposed and neighboring buildings and structures.**

Applicant: The requirements of this section will be complied with where practical. This is a specialized site with no public access, parking or circulation. There will be parking space provided either at the site or on an adjacent existing paved parking lot at the school. Buildings are determined to harmonize in that the Hearing Office has found the following: "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 found in the area".

Staff: The access to the wireless communication facilities shall be via the existing parking lot area for the school. No additional driveway approaches are requested or allowed. The graveled (Exhibit A.12) 12 ft wide by 120+/- ft long access way to the facilities lead from the northwestern portion of the existing paved parking area and stops at the entrance to the enclosure. Technicians, typically visit the site once a month for maintenance to the facilities. One parking space exists at the end of the accessway for the technician to park and readily access the site by parking in front of the enclosure or the technician could parking within the existing paved area and walk along the access easement. *This criterion has been met.*

- 2.06 **(6) Drainage – Surface drainage systems shall be designed so as not to adversely affect neighboring properties or streets.**

Applicant: Surface drainage is minimum and will not adversely affect neighboring properties.

Staff: The proposed enclosure will be constructed of chain link and vinyl slats with a mixture

of concrete slab and gravel. Under the equipment, a concrete pad will be poured or placed. The remainder of the enclosure floor will be gravel. The applicant has decided to alter the accessway to a gravel surface. Since the accessway is used on an intermittent basis (typically once a month), MCC 33.4180(A)(1) & (2) Off-Street Parking and Loading – Improvements allows in certain cases alternatives to asphalt or concrete provided the surface can be found to be a durable and dustless surface capable of carrying a wheel load of 4,000 pounds. In addition, in the case of intermittent uses requiring parking, the parking space may be surfaced with gravel or grass and spaces may be unmarked. The applicant has provided engineering that the gravel accessway can carry a wheel load of 4,000 pounds (Exhibit A.13). With the creation of less than 500 ft of new impervious surface area, no stormwater certification is required. Any water generated will travel south into the existing large grassed play field for absorption.

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

Applicant: All structure and facilities for equipment are designed, located, buffered and screened to minimize adverse impacts on the site and neighboring properties.

Staff: The equipment storage enclosure will be screened by a row of Photinia shrubs encompassing the structure. On each corner of the enclosure, a tree will be planted. All power lines on the property will be underground. No refuse or mail will be generated by the facility. Parking will be limited to monthly maintenance only. No daily parking generation will occur. The tower will be camouflaged to appear as a ponderosa pine tree. *This criterion has been met.*

- 2.08 **(8) Utilities – All utility installations above ground shall be located so as to minimize adverse impacts on the site and neighboring properties.**

Applicant: The very limited above ground utilities, such as an electric meter pedestal, will be located so as to minimize adverse impacts on the site and neighboring properties.

Staff: The electric meter pedestal will be located within the equipment enclosure (Exhibit A.7). The enclosure will be screened with slats and Photinia shrubs to minimum adverse impacts on the site and the neighboring properties. *This criterion has been met.*

- 2.09 **(9) Signs and Graphics - The location, texture, lighting, movement, and materials of all exterior signs, graphics or other informational or directional features shall be compatible with the other elements of the design review plan and surrounding properties.**

Applicant: Condition number 11 of the Hearing Officer's conclusion prohibits any use of any portion of a tower for signs other than warning or equipment information.

Staff: Staff concurs. No signage is requested. *This criterion is not applicable.*

(C) Required Landscape Areas

The following landscape requirements are established for developments subject to design review plan approval:

- (1) A minimum of 15% of the lot area shall be landscaped; provided, however, that computation of this minimum may include areas landscaped under subpart 3 of this subsection.**

Applicant: The minimum landscape requirement of 15% of the lot area have been complied

with in the site design/drawings and conditions of approval.

Staff: The lease area involved for the project as shown on the Lease Area Plan (Exhibit A.7) is a total of 1,503.05 sq. ft. Fifteen percent would be equal to an area of 196 sq ft. Surrounding the enclosure and tower, vegetation will be planted. This landscaping is required by the County's wireless communication facilities code to screen these structures. This landscape area is approximately 340 sq. ft. *This criterion has been met.*

(2) All areas subject to the final design review plan and not otherwise improved shall be landscaped.

Applicant: This section will be complied with per the drawings and/or conditions of approval.

Staff: All areas on the entire parcel that are not utilized for school functions or the wireless communication facility are currently in landscaping (Exhibit A.

2.10

(3) The following landscape requirements shall apply to parking and loading areas:

(a) A parking or loading area providing ten or more spaces shall be improved with defined landscaped areas totaling no less than 25 square feet per parking space.

(b) A parking or loading area shall be separated from any lot line adjacent to a street by a landscaped strip at least 10 feet in width, and any other lot line by a landscaped strip at least 5 feet in width.

(c) A landscaped strip separating a parking or loading area from a street shall contain:

1. Street trees spaces as appropriate to the species, not to exceed 50 feet apart, on the average;

2. Low shrubs, not to reach a height greater than 3'0", spaced no more than 5 feet apart, on the average; and

3. Vegetative ground cover.

(d) Landscaping in a parking or loading area shall be located in defined landscaped areas which are uniformly distributed throughout the parking or loading area.

(e) A parking landscape area shall have a width of not less than 5 feet.

Applicant: The following landscape requirements shall apply to parking and loading areas:

(a) Not applicable to this project as there will be less than 10 parking spaces..

(b) Not applicable to this project as there are no parking or loading areas adjacent to a street.

(c) Not applicable as there are no parking or loading areas near a street.

(d) Not applicable.

(e) Not applicable.

Staff: One parking space is required adjacent to the enclosure. The accessway/parking space is approximately 30+ feet from the north property line. A 30 ft wide strip of landscaping exists along this property line. The front yard is currently landscaped except for the driveway approach onto Thompson Road. No additional landscaping is required for the one additional parking space added to this site by the project. *These criteria have been met.*

2.11

(4) Provision shall be made for watering planting areas where such care is

required.

Applicant: Provisions will be made for watering planting areas as required.

Staff: A condition of approval has been included requiring the applicant to explain what provisions have been made for the care, watering and maintenance of the required landscaping. *As conditioned, this criterion has been met.*

2.12 **(5) Required landscaping shall be continuously maintained.**

Applicant: The landscaping will be maintained continuously.

Staff: A condition of approval has been included requiring the applicant to explain what provisions have been made for the care, watering and maintenance of the required landscaping. *As conditioned, this criterion has been met.*

2.13 **(6) Maximum height of tree species shall be considered when planting under overhead utility lines.**

Applicant: Not applicable as there are no overhead utility lines.

Staff: Staff concurs. *This criterion is not applicable at this time.*

2.14 **(7) Landscaped means the improvement of land by means such as contouring, planting, and the location of outdoor structures, furniture, walkways and similar features.**

Applicant: The term *Landscaped* is understood by the applicant and has been considered in the site design.

Staff: The applicant is installing Photinias and Douglas fir as landscaping around the enclosure. Twelve Photinias will be planted at the base of the tower (Exhibit A.10). This qualifies as landscaping pursuant to the above standard. *This criterion has been met.*

3.00 **Conclusion**

Based on the findings and other information provided above, the applicant has carried the burden necessary for the approval of the Design Review application to establish a Wireless Communication Facility in the Rural Residential zoning district. This approval is subject to the conditions of approval established in this report.

4.00 **Exhibits**

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Procedural Exhibits

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	General Application Form	5/11/06
A.2	1	Title Sheet	5/11/06
A.3	1	Material List, Antenna Notes, Legend, & Abbreviations – T2	5/11/06
A.4	1	Site Survey – LS-1	5/11/06
A.5	1	Existing Site Survey – A0	5/11/06

A.6	1	Overall Site Plan – A1	5/11/06
A.7	1	Lease Area Plan Antenna Layout Equip. Elevation Equipment Layout – A2	5/11/06
A.8	2	Elevations – A3 & A4	5/11/06
A.9	1	Erosion Control Plan, Details & Notes – EC1	5/11/06
A.10	1	Landscape Plan & Notes – L1	5/11/06
A.11	2	Narrative	5/12/06
A.12	1	Email regarding changing accessway material from paving to gravel	7/14/06
A.13	6	Engineering for Gravel Accessway	7/14/06
‘B’	#	Staff Exhibits	Date
B.1	1	A&T Property Record for 1N1W26BB – 2600	5/11/06
B.2		Hearings Officer Decision for T2-05-017	6/12/06
B.3	1	2004 Air Photo	6/14/06
B.4	1	Comments from Rick Beson	6/27/06
‘C’		Administration & Procedures	Date
C.1	1	Complete Letter – Day 1 (May 12, 2006)	6/13/06
C.2		Opportunity to Comment	6/14/06
C.3	11	Administrative Decision	7/19/06