

1600 SE 190th Ave, Portland OR 97233-5910 • PH. (503) 988-3043 • Fax (503) 988-3389

DECISION OF THE HEARINGS OFFICER

Community Service Conditional Use Permit, Design Review, Significant Environmental Concern for Wildlife Habitat, Lot Consolidation, and Sign Permits

- Case File:** T3-2018-10764
- Location** 11646 NW Skyline Boulevard
Tax Lot 400, Township 2 North, Range 1 West, Section 31C, W.M.
Tax Account #R971310310 Property ID #R325364
- Applicants:** Washington County Consolidate Communications Agency (“WCCCA”)
Josh Gertsen, Securasite LLC
- Property Owner:** Tualatin Valley Fire & Rescue (“TVFR”)
- Base Zone:** Exclusive Farm Use (EFU)
- Overlays:** Significant Environmental Concern for Wildlife Habitat (SEC-h)
Hillside Development and Erosion Control (HD)
- Site Size:** 3.00 acres
- Public Hearing:** The hearing was opened at 9:00 a.m. on May 10, 2019, in Room 103, at the Land Use Planning Division office, located at 1600 SE 190th Avenue, Portland, Oregon, and was closed at 10:00 a.m. The record was closed upon completion of the May 10, 2019 hearing.
- Testified at the Hearing:** Rithy Khut, County planner
Allen (Skip) Greene, applicant’s representative
Ken Seymour, applicant’s engineer
- Summary:** The applicant requests approval to establish a communications tower facility and to modify the conditions of approval for a previously approved fire station facility in the Exclusive Farm Use (EFU) zoning district. The applicant is requesting the following permits: Community Service Conditional Use, Design Review, Significant Environmental Concern for Wildlife Habitat (SEC-h), Sign, and Lot Consolidation. The tower facility will include a 180-foot tower, equipment shelter, generator, and propane tank within a 50-foot x 50-foot fenced area.

Vicinity Map

N↑



Applicable Approval Criteria:

Multnomah County Code (“MCC”): Chapter 37 Administration and Procedures: more specifically: MCC 37.0560 Code Compliance and Applications

General Provisions: MCC 33.0005 Definitions

Administration and Enforcement – Permits and Certificates: MCC 33.0570 Dark Sky Lighting Standards

Exclusive Farm Use - EFU: MCC 33.2610 Definitions, MCC 33.2620(O) and (Z) Allowed Uses; MCC 33.2625(A)(1) and (N) Review Uses, MCC 33.2660 Dimensional Requirements and Development Standards, MCC 33.2675 Lot of Record, MCC 33.2690 Access

Off-Street Parking and Loading: MCC 33.4100 through MCC 33.4215, more specifically MCC 33.4105 General Provisions, 33.4125 Use of Space, MCC 33.4130 Location of Parking and Loading Spaces, MCC 33.4135 Improvements Required, MCC 33.4145 Joint Parking or Loading Facilities, MCC 33.4165 Design Standards: Scope, MCC 33.4170 Access, MCC 33.4175 Dimensional Standards, MCC 33.4180 Improvements, MCC 33.4185 Lighting, MCC 33.4190 Signs, MCC 33.4195 Design Standards: Setbacks, MCC 33.4205 Minimum Required Off-Street Parking Spaces, MCC 33.4210 Minimum Required Off-Street Loading Spaces

Significant Environmental Concern: MCC 33.4510 Uses; SEC Permit Required, MCC 33.4570 Criteria for Approval of SEC-h Permit –Wildlife Habitat

Hillside Development and Erosion Control – HD: MCC 33.5505 Permits Required, MCC 33.5510 Exempt Land Uses and Activities, MCC 33.5515 Application Information Required

Conditional Uses - Community Service – CS: MCC 33.6005 General Provisions, MCC 33.6010 Approval Criteria

Radio and Television Transmission Towers: MCC 33.6105 Definitions, MCC 33.6110 Application Requirements, MCC 33.6115 Approval Criteria for New Transmission Towers, MCC 33.6120 Design Review, MCC 33.6125 Radiation Standards

Design Review: MCC 33.7020 Application of Regulations, MCC 33.7050 Design Review Criteria, MCC 33.7055 Required Minimum Standards, MCC 33.7060 Minor Exceptions: Yard, Parking, Sign, and Landscape Requirements

Signs: MCC 33.7450 Signs Generally in the EFU, CFU-1, CFU-2, CFU-5, MUA-20, RR, and BRC Zones, MCC 33.7465 Sign Placement

Land Divisions: MCC 33.7794 Consolidation of Parcels and Lots

Comprehensive Plan Policies: Chapter 2 – Farm Land: 3.7 and 3.10, Chapter 5 – Natural Resources: 5.14, and 5.43, Chapter 6 – Historic and Cultural Resources: 6.4, Chapter 11 – Public Facilities: 11.12, 11.13, and 11.17

DECISION: The applications for Community Service Conditional Use, Design Review, Significant Environmental Concern for Wildlife Habitat (SEC-h), Sign, and Lot Consolidation for the utility facility (public communications facility) and modifications to the utility facility (fire station) on the subject property are **Approved** subject to the following conditions:

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. Permit Expiration –
 - a. This land use permit shall expire as follows:
 - i. When construction has not commenced within two (2) years of the date of the final decision, or; [MCC 37.0690(B)(1)]
 - ii. When the structure has not been completed within four (4) years of the date of commencement of construction, [MCC 37.0690(B)(2)]
 - b. For purposes of Condition 2.a.i, notification of commencement of construction will be given to Multnomah County Land Use Planning Division a minimum of seven (7) days prior to date of commencement. Work may commence once notice is completed. Commencement of construction shall mean actual construction of the foundation or frame of the approved structure. For utilities and developments without a frame or foundation, commencement of construction shall mean actual construction of support structures for an approved above ground utility or development or actual excavation of trenches for an approved underground utility or development. For roads, commencement of construction shall mean actual grading of the roadway.
 - c. For purposes of Condition 2.a.ii, completion of the structure shall mean completion of the exterior surface(s) of the structure and compliance with all conditions of approval in the land use approval.

Note: The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0695, as applicable. The request for a permit extension must be submitted prior to the expiration of the approval period.

3. Prior to the recording of deeds to complete the Parcel Consolidation, the applicant(s), owner(s), or their representative(s) shall submit the draft deed with the metes and bounds description attached as “Exhibit A” for planning staff to review:
 - a. Once the new metes and bounds description is approved by Land Use Planning, the property owner shall record a deed with the new metes and bounds description attached as Exhibit A with the County Recorder. [MCC 33.7794(A)(1)(c)]
 - b. Upon recordation of the parcel consolidation via a deed with attachment “Exhibit A” the submitted metes and bounds description with the County Recorder, the property owners shall submit a copy of the recorded deed to County Land Use Planning to document completion of this process. [MCC 33.7794(A)(1)(c)]
4. Prior to Land Use Planning review and sign-off for a building permit, the applicant(s), owner(s), or their representative(s) shall:
 - a. Record pages 1 through 8 of this Decision, pages 1 through 7 of the Staff Report, and Exhibit A.20 of this application 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 shall be filed with the Land Use Planning Division. Recording shall be at the applicant’s expense. [MCC 37.0670]
 - b. Sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937. [Comprehensive Plan Policy 3.7]
 - c. Provide County Land Use Planning a copy of the recorded deed completing the Parcel Consolidation. [MCC 33.7794(A)(1)(d)]
 - d. Provide County Land Use Planning a report documenting the antenna associated with the public communications utility facility. The report shall demonstrate compliance with MCC 33.6125(F). [MCC 33.6125(F)]
5. At the time of Land Use Planning review and sign-off for a building permit, the applicant(s), owner(s), or their representative(s) shall:
 - a. Submit a revised building and elevation plan for the public communications facility showing that the propane tank is buried or an ice bridge will be erected above the propane tank to catch any potential ice falling from the tower. [MCC 33.6615(I)(1)]
 - b. Submit a building plan of the equipment shed and provide cut/specification showing all exterior lighting on the subject property. The exterior lighting shall be fully shielded with opaque materials and directed downwards.
 - i. “Fully shielded” means no light is emitted above the horizontal plane located at the lowest point of the fixture’s shielding.
 - ii. Shielding must be permanently attached.
 - iii. The exterior lighting shall be contained within the boundaries of the parcel on which it is located. [MCC 33.2660, MCC 33.0570, and Comprehensive Plan Policy 5.43]
 - c. Submit a Final Design Review Plan to show compliance with the land use approvals granted, all conditions of approval and required modifications. The Final Design review plan shall contain the following, drawn to scale:

- i. Site Development and Landscape Plans indicating the locations and specifications of the items described in MCC 33.7030, as appropriate;
 - ii. Architectural drawings indicating floor plans, sections, and elevations; and
 - iii. Approved minor exceptions from yard, parking, and sign requirements.
6. Prior to the issuance of a Certificate of Occupancy, the applicant(s), owner(s), or their representative(s) shall:
 - a. Ensure that the required parking and loading areas are constructed and improved as required by Tualatin Valley Fire & Rescue. The driveway shall be a uniform all weather service capable of sustaining 75,000 lbs. gross vehicle weight and 12,500 lbs. wheel load. The parking areas will include a landscaped strip, curb, bumper rail or other permanent barrier against unchanneled motor vehicle access or egress. The bumper rail or curbing shall be a minimum of four inches in height and at least three feet from the lot line. Alternatively, the applicant may use a five-foot wide landscape strip or yard planted with a near-continuous number of shrubs and/or trees. [MCC 33.4135, MCC 33.4180(A), MCC 33.4180(B), and Comprehensive Plan Policy 11.17]
7. As an on-going condition, the applicant(s), owner(s), or their representative(s) shall:
 - a. Register with the County all existing sources and new sources of non-ionizing electromagnetic radiation in the frequency spectrum 100 kHz to 300 GHz installed on the public communications tower. The required information as listed in MCC 33.6125(D) shall be provided in a report to the Planning Director. [MCC 33.6125(D)]
 - b. File with the FAA Form 7460-2, Notice of Actual Construction or Alternation. The notice shall be e-filed any time the project is abandoned or within 5 days after construction reaches its greatest height. [MCC 33.6115(G)(1)]
 - c. A minimum of one (1) blue "Notice" sign shall be continuously posted on the fence gate entering the site compound. [MCC 33.6125(A)]
 - d. Ensure that the site is monitored 24/7 by the Operations Center to insure normal operation and is regularly visited by local technicians to insure the site is functioning normally and is in FCC compliance. [MCC 33.6125(A)]
 - e. Ensure that the two (2) proposed parking spaces are continuously available for parking of vehicles of customers, occupants, and employees without charge and will not be used to park trucks, equipment, materials, structures, or signs in any of the required parking spaces. It will be unlawful to store or accumulate equipment, material, or goods in a loading space in a manner which would render such loading space temporarily or permanently incapable of immediate use for loading operations. [MCC 33.4125]
 - f. Ensure that turning, maneuvering, and parking of all vehicles will be provided on the parcel/lot. [MCC 33.4165]
 - g. Ensure that a minimum of 15-percent of the development area will be landscaped as approved on the Final Design Review Landscaping Plan. Provision shall be made for watering planting areas where such care is required and shall be continuously maintained. [MCC 33.7055(C)(1), MCC 33.7055(C)(4), and MCC 33.7055(C)(5)]
 - h. Ensure that the nuisance plants listed in the Table below shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property. [MCC 33.4570(B)(7)]
 - i. Be responsible for restoring, as nearly as possible to its forming condition, any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair, or reconstruction of the facility.

<i>Scientific Name</i>	Common Name	<i>Scientific Name</i>	Common Name
<i>Chelidonium majus</i>	Lesser celandine	<i>Loentodon autumnalis</i>	Fall Dandelion
<i>Cirsium arvense</i>	Canada Thistle	<i>Lythrum salicaria</i>	Purple Loosestrife
<i>Cirsium vulgare</i>	Common Thistle	<i>Myriophyllum spicatum</i>	Eurasian Watermilfoil
<i>Clematis ligusticifolia</i>	Western Clematis	<i>Phalaris arundinacea</i>	Reed Canary grass
<i>Clematis vitalba</i>	Traveler's Joy	<i>Poa annua</i>	Annual Bluegrass
<i>Conium maculatum</i>	Poison hemlock	<i>Polygonum coccineum</i>	Swamp Smartweed
<i>Convolvulus arvensis</i>	Field Morning-glory	<i>Polygonum convolvulus</i>	Climbing Binaweed
<i>Convolvulus nictagineus</i>	Night-blooming Morning-glory	<i>Polygonum sachalinense</i>	Giant Knotweed
<i>Convolvulus sepium</i>	Lady's nightcap	<i>Prunus laurocerasus</i>	English, Portuguese Laurel
<i>Cortaderia selloana</i>	Pampas grass	<i>Rhus diversiloba</i>	Poison Oak
<i>Crataegus sp. except C. douglasii</i>	hawthorn, except native species	<i>Rubus discolor</i>	Himalayan Blackberry
<i>Cytisus scoparius</i>	Scotch broom	<i>Rubus laciniatus</i>	Evergreen Blackberry
<i>Daucus carota</i>	Queen Ann's Lace	<i>Senecio jacobaea</i>	Tansy Ragwort
<i>Elodea densa</i>	South American Water-weed	<i>Solanum dulcamara</i>	Blue Bindweed
<i>Equisetum arvense</i>	Common Horsetail	<i>Solanum nigrum</i>	Garden Nightshade
<i>Equisetum telemateia</i>	Giant Horsetail	<i>Solanum sarrachoides</i>	Hairy Nightshade
<i>Erodium cicutarium</i>	Crane's Bill	<i>Taraxacum officinale</i>	Common Dandelion
<i>Geranium roberianum</i>	Robert Geranium	<i>Utricularia vulgaris</i>	Common Bladderwort
<i>Hedera helix</i>	English Ivy	<i>Urtica dioica</i>	Stinging Nettle
<i>Hypericum perforatum</i>	St. John's Wort	<i>Vinca major</i>	Periwinkle (large leaf)
<i>Ilex aquafolium</i>	English Holly	<i>Vinca minor</i>	Periwinkle (small leaf)
<i>Laburnum watereri</i>	Golden Chain Tree	<i>Xanthium spinosum</i>	Spiny Cocklebur

<i>Scientific Name</i>	Common Name	<i>Scientific Name</i>	Common Name
<i>Lemna minor</i>	Duckweed, Water Lentil	<i>various genera</i>	Bamboo sp.

8. The following procedures shall be in effect if any Cultural Resources and/or Archaeological Resources are located or discovered on the tax lots or within the project area, including finding any evidence of historic campsites, old burial grounds, implements, or artifacts:
 - a. Halt Construction – All construction activities within 100 feet of the discovered cultural resource shall cease. The cultural resources shall remain as found; further disturbance is prohibited.
 - b. Notification – The project applicant shall notify the County Planning Director and the State Historic Preservation Office (SHPO) within 24 hours of the discovery. If the cultural resources are prehistoric or otherwise associated with Native Americans, the project applicant shall also notify the Indian tribal governments within 24 hours.
 - c. Survey and Evaluation – The applicant shall follow any and all procedures outlines by SHPO and if necessary obtain the appropriate permits (see ORS 273.705 and ORS 358.905 to 358.955).
 - d. All survey and evaluation reports and mitigation plans shall be submitted to the Planning Director and SHPO. Indian tribal governments also shall receive a copy of all reports and plans if the cultural resources are prehistoric or otherwise associated with Native Americans.
 - e. Construction activities may recommence when SHPO requirements are satisfied. [MCC 34.4510(B) and Comprehensive Plan Policy 6.4]

9. The following procedures shall be in effect if human remains are discovered during excavation or construction (human remains means articulated or disarticulated human skeletal remains, bones, or teeth, with or without attendant burial artifacts):
 - a. Halt Activities – All survey, excavation, and construction activities shall cease. The human remains shall not be disturbed any further.
 - b. Notification – Local law enforcement officials, the Multnomah County Planning Director, State Historic Preservation Office and the Indian tribal governments shall be contacted immediately.
 - c. Inspection – The State Medical Examiner shall inspect the remains at the project site and determine if they are prehistoric/historic or modern. Representatives from the Indian tribal governments shall have an opportunity to monitor the inspection.
 - d. Jurisdiction – If the remains are modern, the appropriate law enforcement officials will assume jurisdiction and this protection process may conclude.
 - e. Treatment – Prehistoric/historic remains of Native Americans shall generally be treated in accordance with the procedures set forth in Oregon Revised Statutes, Chapter 97.740 to 97.760. [MCC 34.4510(B) and Comprehensive Plan Policy 6.4]

Dated this 20th day of May 2019

A handwritten signature in black ink, appearing to read 'Joe Turner', with a long horizontal flourish extending to the right.

Joe Turner, Esq., AICP
Multnomah County Land Use Hearings Officer

This Decision is final when mailed. Appeals may be filed with the Oregon Land Use Board of Appeals within the time frames allowed by State law.

A. HEARING AND RECORD HIGHLIGHTS

1. Multnomah County Land Use Hearings Officer Joe Turner (the “hearings officer”) received testimony at the duly noticed public hearing about this application on May 10, 2019. At the hearing, the hearings officer received into the record and physically inspected the file maintained by the Department of Community Services Land Use and Transportation Planning Program regarding the application. The hearings officer made the declarations required by ORS 197.763. The hearings officer disclaimed any *ex parte* contacts and any bias or conflicts of interest.

2. County planner Rithy Khut summarized the Staff Report, the applicable approval criteria, and the history of development on the site.

a. He noted that the proposed WCCCA tower is not a wireless communications facility, because the tower will not support any personal wireless communications antennae or equipment. The facility is a public utility.

b. He requested the hearings officer add two additional conditions of approval as set out in Exhibit H.1.

c. He requested the hearings officer amend the first line of the third paragraph on p. 14 of the Staff Report to state that there are no existing towers located within the applicant’s search area.

d. The applicant proposed to provide parking on the site at the end of the proposed emergency turnaround. The turnaround is longer than necessary to accommodate emergency vehicles, in order to provide employee parking spaces outside of the turnaround area.

3. Planner Skip Greene and engineer Ken Seymour appeared on behalf of the applicant.

a. Mr. Green accepted the findings and conditions in the Staff Report, as modified by Exhibit H.1, with one exception. He objected to condition 5, requiring the applicant paint the bottom portion of the tower a “dark green earth-tone.” He argued that a two-color tower would be very unusual and would not blend with the surrounding vegetation. The applicant proposed a galvanized tower, consistent with MCC 33.6115(C)(1). This section requires that communications towers be painted green from base to treeline, “If there is heavy vegetation in the immediate area...” In this case, there is no heavy vegetation in the immediate area; the tower will be located in a grass field. The nearest forested area is 410 feet to the north with a ground elevation roughly 70 feet lower elevation than the proposed tower. He submitted photo simulations of similar towers in the area to illustrate the camouflage effects of nearby trees and the lack of screening provided by distant trees. Exhibits H.4-H.6. He waived the applicant’s right to submit a final argument.

b. Mr. Seymour testified that paint can interfere with RF grounding, as the paint acts as an insulator. There are more than 100 grounding locations on the tower. The applicant could scrape off the paint in order to provide metal to metal contact for grounding. However, this would also scrape off the galvanized coating, causing the tower to rust. In addition, painted towers must be repainted every ten years. The applicant must remove all of the equipment on the tower prior to painting, thereby taking the tower “offline” while the tower is blasted and repainted. Taking the tower offline will reduce radio coverage in the surrounding area. Painting the tower will also add an additional \$10,000 to the initial cost of the tower, in addition to the future costs of periodic blasting and repainting of the tower.

4. The hearings officer closed the record at the end of the hearing and announced his intention to approve the application, subject to the conditions in the Staff Report.

B. FINDINGS OF FACT

FINDINGS: Written findings are contained herein. The Multnomah County Code (“MCC”) criteria and Comprehensive Plan Policies are in **bold** font. Staff analysis and comments are identified as “**Staff:**” and address the applicable criteria. Staff comments may include a conclusory statement in *italic*. The hearings officer accepted the Staff findings except where inconsistent with the findings in this Final Order. The hearings officer amended Staff findings to correct typographical errors and clarify the findings. Additional findings written by the hearings officer are preceded by the words “**Hearings Officer:**”

1.0 Project Description:

Staff: The applicant is requesting to establish a communications facility. The communications facility will include a 180-foot tower, equipment shelter, generator, and propane tank within a 50-foot x 50-foot fenced area. The tower and other components of the facility will be owned and operated by Washington County Consolidate Communications Agency (“WCCCA”) and located on land owned by Tualatin Valley Fire and Rescue.

The applicant is also requesting to modify a previously approved design review and landscape plan to reflect changes that have occurred since the approval of the fire station utility facility.

2.0 Property Description & History:

Staff: The proposed construction of a 180-foot tower, equipment shelter, generator, and propane tank within a 50-foot x 50-foot fenced area will be located on a property located on NW Skyline Boulevard within the Exclusive Farm Use (EFU) zoning district in the West Hills Rural Area. The property has multiple overlays including Significant Environmental Concern for Wildlife Habitat (SEC-h) and Hillside Development and Erosion Control (HD). The SEC-h overlay covers the entire property and the HD overlay is located in the northwest corner of the property where the slope is greater than 25-percent.

The Multnomah County Department of Assessment, Records, and Taxation (“DART”) indicate that Charlene R. Hopkins previously owned the property before conveying it to the current property owners, Tualatin Valley Fire and Rescue on August 3, 1999. The property is 3.00 acres and currently contains a single-family dwelling with attached garage, a farm building, and a shed. The single-family dwelling and farm building are located in the southern portion of the property, nearest to NW Skyline Boulevard, with rest of the property being a mixture of open pasture.

The single-family dwelling was first taxed in 1973, as demonstrated from DART records. The property has an extensive permit history. Below are the land use and building permits that are on record for the subject property:

Case Number	Description	Decision Date
PRE 2-98	Minor site improvements for the volunteer fire station	August 26, 1998
Case Number	Description	Decision Date
DR 5-98	Design Review for minor site improvements for the volunteer fire station	October 7, 1998

SEC 14-98	Significant Environmental Concern permit for minor site improvements for the volunteer fire station	October 7, 1998
GEC 45-99	Grading and Erosion Control permit for minor site improvements for the volunteer fire station	November 18, 1999
MC 14-99	Request for 6-month extension on DR 5-98	Withdrawn
BP-2016-4903	Interior remodel of fire station, addition of utility room and fire pump	April 1, 2016

The most recent land use case, PRE 2-98, authorized the use of this property as a utility facility containing two buildings that constitute a volunteer fire station. The fire station utility facility was authorized to be used only during periods of emergency response and for limited training of volunteers. The larger building, which DART classified as a “farm building,” is used as a truck bay and the existing single-family dwelling was converted to for use as an assembly room for volunteers responding to emergency calls and training sessions.

3.0 Code Compliance and Applications Criteria:

3.1 § 37.0560 CODE COMPLIANCE AND APPLICATIONS.

Except as provided in subsection (A), the County shall not make a land use decision approving development, including land divisions and property line adjustments, or issue a building permit for any property that is not in full compliance with all applicable provisions of the Multnomah County 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: Staff reviewed previous permit approvals and complaints. There is no active code compliance, “Under Review (UR)” complaint cases associated with this property. The subject property has been associated with six previous land use cases and/or building permits. Based on review of the previous approvals, it appears the following Conditions of Approval have not to have been completed as required in land use case, PRE 2-98:

1. Prior to zoning approval of the building permit, the applicant shall provide evidence that TL ‘31’ and ‘32’ have been combined into one parcel.

2. This approval is subject to approval of Significant Environmental Concern application SEC 14-98, and Design Review application DR 5-98....Prior to installation of any signs, the applicant shall obtain a sign permit.

In order to obtain final approval of a land use decision approving development, the applicant will have to bring the property into full compliance. The applicant has submitted as part of this application a Type 1 Application for a Lot Consolidation to combine TL '31' and '32' into one parcel. Additionally, the previously approved fire station utility facility has a sign that does not comply with Condition 2. It was previously approved to be adjacent to the driveway for the truck bay. It is located next to the driveway next to the single-family dwelling that is used for the volunteer firefighters. The applicant has submitted a Type 1 Application as a part of this land use case to permit the sign in its current location. The applicant has also provided additional narrative discussing the sign to amend the design review permit, DR 5-98, that authorized the fire station utility facility.

Lastly, the landscaping that currently exists on the property does not match the final landscaping plan that was reviewed and approved during the April 24, 2001 building permit review. The landscape plan shows four Raywood Ash trees along the front property line. Three of those trees were proposed to be in the area near the detention pond and sign (Exhibit B.15). Additionally, the area in front of the single-family dwelling that is used for volunteer firefighters was xeriscaped instead of grassed, as proposed in the previously approved landscape plan (Exhibit B.14). The applicant has chosen to amend the design review so that it matches the current layout and meets the standards as they exist today.

With the applicant fulfilling the requirements above, it will result in the property coming into full compliance and will meet any permit approvals previously issued by the County. The result will allow the County to issue this decision.

4.0 Exclusive Farm Use – EFU Criteria:

4.1 § 33.2620 ALLOWED USES

(O) Accessory Structures subject to the following:

(1) The Accessory Structure is customarily accessory or incidental to any use permitted or approved in this district and is a structure identified in the following list;

- (a) Garages or carports;**
- (b) Pump houses;**
- (c) Garden sheds;**
- (d) Workshops;**
- (e) Storage sheds, including shipping containers used for storage only;**
- (f) Greenhouses;**
- (g) Woodsheds;**
- (h) Shelter for pets, horses or livestock and associated buildings such as: manure storage, feed storage, tack storage, and indoor exercise area;**
- (i) Swimming pools, pool houses, hot tubs, saunas, and associated changing rooms;**
- (j) Sport courts;**
- (k) Gazebos, pergolas, and detached decks;**
- (l) Fences, gates, or gate support structures; and**

(m) Mechanical equipment such as air conditioning units, heat pumps and electrical boxes; and

(n) Similar structures.

(2) The Accessory Structure shall not be designed or used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use.

(3) The Accessory Structure may contain one sink.

(4) The Accessory Structure shall not contain:

(a) More than one story;

(b) Cooking Facilities;

(c) A toilet;

(d) Bathing facilities such as a shower or bathing tub;

(e) A mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose, unless such item is disassembled for storage; or

(f) A closet built into a wall.

(5) Compliance with MCC 33.0565 is required.

(6) The combined footprints of all Accessory Buildings on a Lot of Record shall not exceed 2,500 square feet.

(7) An Accessory Structure exceeding any of the Allowed Use provisions above shall be considered through the Review Use provisions.

Staff: The applicant is proposing a Utility Facility that contains a communications tower, an equipment shelter building, and associated accessory structures. The accessory structures include a generator, a propane tank, and fencing. The equipment shelter will contain the components necessary for the transmission function and operation of the communications tower. The generator and propane tank will provide electricity and backup power for the tower in the event of an emergency. The fencing will ensure that the facility is closed off from the public. All of these buildings and structures are components within the facility and are required for the operation of the facility.

The combined footprints of all accessory buildings is less than 2,500 square feet and none of the accessory buildings is designed as a dwelling. The footprint of the equipment shelter will be 288 square feet (12 feet x 24) (Exhibit A.20: C-2: Enlarged Site Plan). Outside of the Communications Facility, the subject property contains accessory buildings associated with the Utility Facility use of a Fire Station; a shed located to the north of the truck bay. The footprint of the shed is 100 square feet (10 feet x 10 feet) (Exhibit A.20: Page 2: Final Survey). The total footprint of all accessory buildings, the equipment shelter for the communications tower and the shed associated with the Fire Station utility facility total 388 square feet.

As required by MCC 33.2625 and MCC 33.6100 through MCC 33.6130, the communications tower will need to be reviewed and approved as a Conditional Use prior to authorization of the accessory structures. The conditional use permit requirements are discussed Section 5.0.

(Z) Signs, as provided in this chapter.

Staff: The applicant is seeking to retroactively approve the location of a sign that was placed incorrectly. As required by the above, the application contains a request to permit the sign, pursuant to MCC 33.7400 et al. The requirements are discussed Section 11.0.

4.2 § 33.2625 REVIEW USES

(A) Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating power for public use by sale or transmission towers over 200 feet in height provided:

- (1) Radio and television towers 200 feet and under when found to satisfy the requirements of ORS 215.275 “Utility facilities necessary for public service; criteria; mitigating impact of facility” and MCC 33.6100 through 33.6130.**
- (2) Wireless communications facilities 200 feet and under when found to satisfy the requirements of MCC 33.6175 through 33.6188.**
- (3) All other utility facilities and transmission towers 200 feet and under in height subject to the following.**
 - (a) The facility satisfies the requirements of ORS 215.275, “Utility facilities necessary for public service; criteria; mitigating impact of facility”; and (b) The facility satisfies the requirements of MCC 33.4100 through 33.4215; 33.6020(A); 33.7000 through 33.7060; and 33.7450.**

Staff: The applicant is proposing a public communications utility facility that would contain a 180-foot tall tower (194 feet 6 inch antenna tip height), equipment shelter, generator, and propane tank. The tower will be owned and operated by the Washington County Consolidated Communications Agency (“WCCCA”). According to WCCCA’s website:

“WCCCA... was formed in 1985, under the authority of Oregon Revised Statute 190 by execution of an Intergovernmental Agreement originally between Washington County and the City of Beaverton, Cornelius, Hillsboro, North Plains, and Washington County Rural Fire Protection Districts Nos. 1 (now Tualatin Valley Fire and Rescue, TVF&R) and 2. WCCCA subsequently entered into intergovernmental agreements with the cities of Banks, Durham, Forest Grove, King City, Sherwood, Tigard, Gaston, and Tualatin. Subsequent Fire Districts joining the agency are Banks, Cornelius, Forest Grove, and Gaston.”

As an ORS 190 authorized organization, WCCCA provides 9-1-1 service and public safety communications for police, fire, and emergency medical service. The tower will be designed to accommodate multiple omnidirectional antennas and microwave dishes that will support the 9-1-1 service and public safety communications.

Multnomah County code does not have a definition of what constitutes a utility facility or public service. Using definitions from Merriam-Webster, there is no definition for “utility facility,” however, there are definitions for public facility, and public service.

The definition of “utility” leads to this:

3 a : PUBLIC UTILITY

- b (1): a service (such as light, power, or water) provided by a public utility
- (2): equipment or a piece of equipment to provide such service or a comparable service

The definition of “facility” is:

“Something that is built, installed, or established to serve a particular purpose”

The definition of “public service” is:

2 : a service rendered in the public interest

Taken together, a utility facility necessary for public service can be interpreted to be, “A service provided by a public utility...that is built, installed, or established to serve ...a service rendered in the public interest.”

The WCCCA organization provides a service in the public interest, 9-1-1 service and public safety communications utilizing communication equipment.

As proposed, the public communications utility facility meets the definition of a utility facility necessary for the public service.

The proposed utility facility is subject to the provisions of (A)(1) above, because the facility will provide public communication services and not personal commercial wireless services.

As defined in MCC 33.6178, a wireless communications facility (“WCF”) is defined as:

Wireless communications facility (WCF) – An unstaffed facility for the transmission or reception of radiofrequency (RF) signals, usually consisting of an equipment cabinet or other enclosed structure containing electronic equipment, a support structure, antennas, or other transmission and reception devices.

Although the proposed public communications utility facility aligns with the definition of a WCF, the Wireless Communications Facility requirements within MCC 33.6175 though MCC 36.6188 are only applicable to personal wireless communications facilities. As proposed, this WCF will only be used by WCCCA in their functions to offer public and emergency response communications. Therefore, this application is subject to MCC 33.2625(A)(1) and not MCC 33.2625(A)(2).

The public communications utility facility is not a WCF and is required to meet subsection (A)(1) and not (A)(2).

As a utility facility necessary for the public service, the applicant will need to demonstrate that the application satisfies the requirements of Oregon Revised Statute 215.275. As required below, ORS 215.275 states:

215.275 Utility facilities necessary for public service; criteria; rules; mitigating impact of facility.

(1) A utility facility established under ORS 215.213 (1)(c)(A) or 215.283 (1)(c)(A) is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service.

(2) To demonstrate that a utility facility is necessary, an applicant for approval under ORS 215.213 (1)(c)(A) or 215.283 (1)(c)(A) must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:

(a) Technical and engineering feasibility;

(b) The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

(c) Lack of available urban and nonresource lands;

(d) Availability of existing rights of way;

(e) Public health and safety; and

(f) Other requirements of state or federal agencies.

As required above, for a utility facility to be located in the EFU zone, the applicant must demonstrate that the utility facility is necessary for public service and must be sited in this zone. As discussed previously, the proposed public communications utility facility is necessary for 9-1-1 service and public safety communications. The applicant states in their narrative that, “In order to ensure continued interoperability where emergency and public safety responders can communicate with each other via voice and data, C800 and WCCCA must transition to digital” (Exhibit A.2).

To site a utility facility, the applicant must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors: locationally dependent, lack of non-resource land, availability of right of way, public health and safety, and other requirements of state or federal agencies. As part of the narrative, the applicant provided a targeted search area and service coverage map. The targeted coverage area is located along the Cornelius Pass corridor and the lower lying areas in the Bethany neighborhood to provide Fire District and Law Enforcement communications coverage (Exhibit A.15). A second consideration for the siting location was the required redundant microwave paths to Cooper Mountain and WCCCA Dispatch site.

A search of potential towers found that there were no existing towers located within the targeted search area map. Two towers were found outside the search area that could potentially be used for co-location. However, both towers were either too short or at a significantly lower elevation.

The applicant also conducted an individual analysis of each property in the search area. The applicant contacted via certified mailings the owners of properties within the search area that were zoned Multiple Use Agriculture – 20 (MUA-20) or Rural Residential (RR). The certified mailings are found in Exhibit A.27. Based on the responses and the applicant’s analysis, an alternative site is not available outside of the EFU zone that can provide the required coverage:

Table 1 – Analysis of potential locations with Search Area

Address	Alternative Account #	Zoning District	Site Analysis
No Situs Address	R661103510	Rural Residential	Set back too far from Cornelius Pass Rd., terrain shielding, slope hazard overlay
12248 NW Skyline Blvd.	R661103410	Rural Residential	Set back too far from Cornelius Pass Rd., terrain shielding, slope hazard overlay
12126 NW Skyline Blvd.	R661103310	Rural Residential	Set back too far from Cornelius Pass Rd., terrain shielding, slope hazard overlay
12106 NW Skyline Blvd.	R661103210	Rural Residential	Set back too far from Cornelius Pass Rd., terrain shielding, slope hazard overlay
11631 NW Old Cornelius Pass Rd.	R661102111	Multiple Use Agriculture - 20	No response and slope hazard overlay
11703 NW Old Cornelius Pass Rd.	R661102210	Multiple Use Agriculture - 20	No response and slope hazard overlay

11715 NW Old Cornelius Pass Rd.	R661102310	Multiple Use Agriculture - 20	No response and slope hazard overlay
11729 NW Cornelius Pass Rd.	R661102410	Multiple Use Agriculture - 20	No response and slope hazard overlay
11741 NW Cornelius Pass Rd.	R661102510	Multiple Use Agriculture - 20	No response and slope hazard overlay
11800 NW Cornelius Pass Rd.	R661103610	Multiple Use Agriculture - 20	No response and slope hazard overlay
12115 NW Skyline Blvd.	R661102610	Multiple Use Agriculture - 20	No response
12119 NW Skyline Blvd.	R661102710	Multiple Use Agriculture - 20	Site Distance
12209 NW Skyline Blvd.	R661102810	Multiple Use Agriculture - 20	No response
12303 NW Skyline Blvd.	R661102910	Multiple Use Agriculture - 20	Opposed
12311 NW Skyline Blvd.	R661103010	Multiple Use Agriculture - 20	No response
12455 NW Skyline Blvd.	R961160250	Multiple Use Agriculture - 20	No response
12615 NW Skyline Blvd.	R649880740	Multiple Use Agriculture - 20	No response

Based on the analysis above, the proposed site is the only feasible and available site to provide the required coverage. Within the search area none of the non-resource lands zoned lands met the suitability factors or were willing to discuss a potential lease.

As described, the public communications utility facility satisfies the requirements of ORS 215.275 and is eligible to be sited at this location. These criteria are met.

(I) Off-street parking and loading pursuant to MCC 33.4100 through 33.4215.

Staff: The public communications utility facility will require two (2) parking spaces, pursuant to MCC 33.6115(D). The two (2) parking spaces will need to meet the requirements of 33.4100 through 33.4215, discussed in Section 7.0.

(N) Consolidation of Parcels and Lots pursuant to MCC 33.7794.

Staff: As part of land use case, PRE 2-98, the applicant at that time was required to fulfill the requirements of the conditions of approval. One of the conditions required that that TL ‘31’ and TL ‘32’ be combined into one parcel. Since the two parcels were not combined, the applicant has submitted an application for a Lot Consolidation as required by MCC 33.7794. The requirements are discussed Section 12.0.

4.3 § 33.2660 DIMENSIONAL REQUIREMENTS AND DEVELOPMENTAL STANDARDS

(A) Except as provided in MCC 33.2675, the minimum lot size for new parcels shall be 80 acres in the EFU district.

(B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the size of such lot.

Staff: No new parcels or lots are being created; therefore, these standards do not apply. *This criterion is inapplicable.*

(C) Minimum Yard Dimensions – Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

(1) Notwithstanding the Minimum Yard Dimensions, but subject to all other applicable Code provisions, a fence or retaining wall may be located in a Yard, provided that a fence or retaining wall over six feet in height shall be setback from all Lot Lines a distance at least equal to the height of such fence or retaining wall.

Staff: As shown and measured on the site plan (Exhibit A.20: Page 3: Final Survey, C-1 Overall Site Plan, and C-2 Enlarged Site Plan) the buildings and structures meet setback requirements as follows:

Table 2 – Yard dimensions and requirements for Communications Facility

	Yard Requirement	Distance from building/structure to Property Line
Communications Facility (measured from exterior of fence perimeter)		
Front (adjacent to NW Skyline Blvd.)	30 feet	430 feet
Rear (north property line)	30 feet	30 feet
Side (east property line)	10 feet	27 feet
Side (west property line)	10 feet	180 feet t

As shown on the Table 1 above, none of the proposed buildings on the property encroach into required yard areas.

As required by MCC 37.0560, staff also measured the distance from previously reviewed buildings and structures on the subject property to ensure that those buildings and structures continue to be in full compliance. They are located as follows:

Table 3 – Yard dimensions and requirements for existing buildings and structures

	Yard Requirement	Distance from building/structure to Property Line
Single-family dwelling assembly room		
Front (adjacent to NW Skyline Blvd.)	30 feet	44 feet
Rear (north property line)	30 feet	440 feet
Side (east property line)	10 feet	34 feet
Side (west property line)	10 feet	150 feet
Truck Bay Fire Station Building		
Front (adjacent to NW Skyline Blvd.)	30 feet	200 feet

Rear (north property line)	30 feet	170 feet
Side (east property line)	10 feet	114 feet
Side (west property line)	10 feet	32 feet
Shed		
Front (adjacent to NW Skyline Blvd.)	30 feet	258 feet
Rear (north property line)	30 feet	300 feet
Side (east property line)	10 feet	154 feet
Side (west property line)	10 feet	88 feet
Sign		
Front (adjacent to NW Skyline Blvd.)	30 feet	17 feet
Rear (north property line)	30 feet	150 feet
Side (east property line)	10 feet	138 feet
Side (west property line)	10 feet	111 feet

As shown in Table 2 above, the sign encroaches into front yard. However, as allowed in MCC 33.7465(F), signs may be erected within required yards. None of the other existing buildings on the property encroach into the yard areas.

The applicant has also provided the height measurements of the buildings and structures associated with the public communications utility facility (Exhibit A.20: C-3 Elevations). The heights are as follows:

- Fence – 6 feet.
- Equipment shelter - 10 feet, 4 inches.
- Top of Tower – 180 feet.
- Top of Air Terminal – 196 feet, 6 inches.

The heights of the accessory structures will not exceed the maximum of 35 feet. However, the tower will be 180 feet, with the top of the antennas being 196 feet, 6 inches in height. As allowed below in MCC 33.2660(E), antennas and similar structures may exceed the height requirement if located at least 30 feet from any property line. Measured to the nearest property line, the tower is 41 feet, 9 inches from the nearest, eastern, property line. *These criteria are met.*

(2) An Accessory Structure may encroach up to 40 percent into a required Yard subject to the following:

- (a) The Yard being modified is not contiguous to a road,**
- (b) The Accessory Structure does not exceed five feet in height or exceed a footprint of ten square feet, and**
- (c) The applicant demonstrates the proposal complies with the fire code as administered by the applicable fire service agency.**

(3) A Variance is required for any Accessory Structure that encroaches more than 40 percent into any required Yard.

Staff: As discussed above, no accessory structures will encroach into the required yard areas. The applicant has also not applied for an adjustment or variance to the yard. *These criteria are met.*

(D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The county Road Official shall

determine the necessary right-of-way widths based upon the county “Design and Construction Manual” and the Planning Director shall determine any additional yard requirements in consultation with the Road Official.

Staff: The subject property abuts NW Skyline Boulevard, a rural collector. As required by MCC 29.571 Right-of-Way and Improvement Standard, a rural collector requires a minimum of 60 feet of right of way width. The right of way width along this section of NW Skyline Boulevard is 60 feet. Therefore, the minimum yard requirement does not need to be increased. *This criterion is met.*

(E) Structures such as barns, silos, windmills, antennae, chimneys or similar structures may exceed the height requirement if located at least 30 feet from any property line.

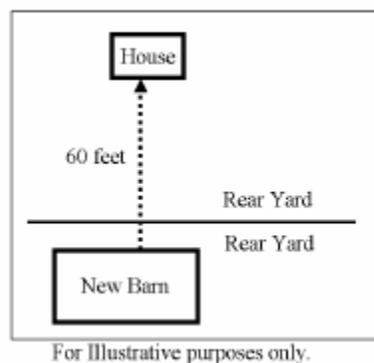
Staff: The applicant has also provided the height measurements of the buildings and structures associated with the public communications utility facility (Exhibit A.20: C-3 Elevations). The heights are as follows:

- Fence – 6 feet.
- Equipment shelter - 10 feet, 4 inches.
- Top of Tower – 180 feet.
- Top of Air Terminal – 196 feet, 6 inches.

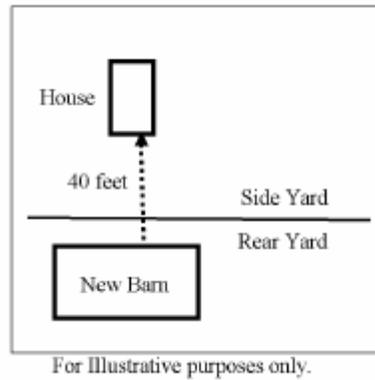
The accessory structures will all be a height less than the maximum of 35 feet, however, the tower will be 180 feet, with the top of the antennas being 196 feet, 6 inches in height. As allowed below in MCC 33.2660(E), a structure such as an antennae or similar structure may exceed the height requirement if located at least 30 feet from any property line. The tower is roughly 41 feet, 9 inches from the nearest, eastern, property line. *This criterion is met.*

(F) Agricultural structures and equine facilities such as barns, stables, silos, farm equipment sheds, greenhouses or similar structures that do not exceed the maximum height requirement may have a reduced minimum rear yard of less than 30 feet, to a minimum of 10 feet, if:

- (1) The structure is located at least 60 feet from any existing dwelling, other than the dwelling(s) on the same tract, where the rear property line is also the rear property line of the adjacent tract, or**



- (2) The structure is located at least 40 feet from any existing dwelling, other than the dwelling(s) on the same tract, where the rear property line is also the side property line of the adjacent tract.**



(3) Placement of an agricultural related structure under these provisions in (F) do not change the minimum yard requirements for future dwellings on adjacent property.

Staff: The applicant is not proposing any agricultural structures or equine facilities; therefore these standards do not apply. *These criteria are not applicable.*

(G) All exterior lighting shall comply with MCC 33.0570.

Staff: As required by MCC 33.0570, the applicant is required to ensure that all exterior lighting for the proposed new development meets Dark Sky Lighting Standards. The Dark Sky Lighting Standards are as follows:

MCC 33.0570(C)(1) The light source (bulbs, lamps, etc.) must be fully shielded with opaque materials and directed downwards. “Fully shielded” means no light is emitted above the horizontal plane located at the lowest point of the fixture’s shielding. Shielding must be permanently attached.

MCC 33.0570(C)(2) The lighting must be contained within the boundaries of the Lot of Record on which it is located. To satisfy this standard, shielding in addition to the shielding required in paragraph (C)(1) of this section may be required.

No lighting is proposed or required on the tower. The applicant is proposing one LED light that will be installed on the equipment shelter entrance. To ensure the light meets MCC 33.0570, a condition will be required. *As conditioned, these criteria are met.*

4.4 § 33.2675 LOT OF RECORD

(A) In addition to the Lot of Record definition standards in MCC 33.0005, for the purposes of this district a Lot of Record is either:

Staff: As defined in MCC 33.0005, the definition of a Lot of Record is as follows:

Lot of Record – Subject to additional provisions within each Zoning District, a Lot of Record is a parcel, lot, or a group thereof that, when created or reconfigured, (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws, or (c) complies with the criteria for the creation of new lots or parcels described in MCC 33.7785. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.

(a) “Satisfied all applicable zoning laws” shall mean: the parcel, lot, or group thereof was created and, if applicable, reconfigured in full

compliance with all zoning minimum lot size, dimensional standards, and access requirements.

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

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

(c) Separate Lots of Record shall be recognized and may be partitioned congruent with an “acknowledged unincorporated community” boundary which intersects a Lot of Record.

- 1. Partitioning of the Lot of Record along the boundary shall require review and approval under the provisions of the land division part of this Chapter, but not be subject to the minimum area and access requirements of this district.**
- 2. An “acknowledged unincorporated community boundary” is one that has been established pursuant to OAR Chapter 660, Division 22.**

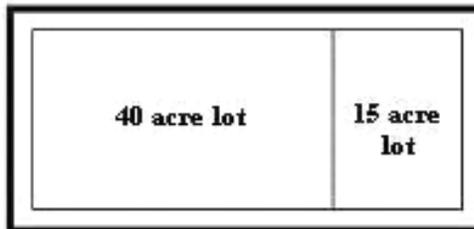
The subject property was subject to previous findings that reviewed the Lot of Record status. Land use case # PRE 2-98 found that subject property was comprised of two properties that were created by deed on September 2, 1971 and December 13, 1971. The staff report stated:

“The parcels were zoned Suburban Residential (SR) prior to 1977. The zoning ordinance at that time permitted minimum lot sizes of 40,000 square feet, 20,000 square feet and 10,000 square feet (depending on the parcel’s ability to meet other development standards) in the SR zone. The subject parcels are 87,120 square feet and 43,560 square feet in size. Therefore, the parcels satisfied the Multnomah County zoning ordinance when they were created.”

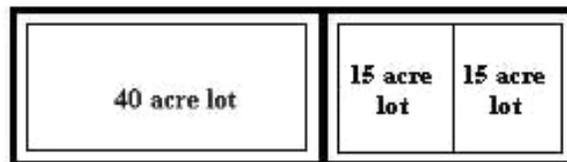
PRE 2-98 also required a condition of approval that tax lot 31 and tax lot 32 be combined into one parcel. Based on the information provided by the applicant, the applicant has not met that Condition of Approval. Therefore, the applicant is required to consolidate the two units of land into one parcel through a Lot Consolidation application as allowed in MCC 33.2625(N) and MCC 33.7794 and discussed in Section 12.0.

- (1) A parcel or lot which was not contiguous to any other parcel or lot under the same ownership on February 20, 1990, or
- (2) A group of contiguous parcels or lots:
 - (a) Which were held under the same ownership on February 20, 1990; and
 - (b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.

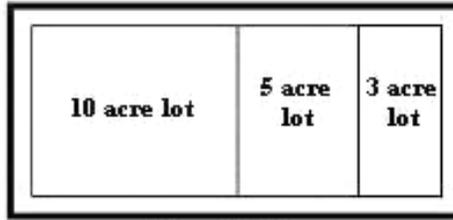
1. Each Lot of Record proposed to be segregated from the contiguous group of parcels or lots shall be a minimum of 19 acres in area using existing legally created lot lines and shall not result in any remainder individual parcel or lot, or remainder of contiguous combination of parcels or lots, with less than 19 acres in area. See Examples 1 and 2 in this subsection.
2. There shall be an exception to the 19 acre minimum lot size requirement when the entire same ownership grouping of parcels or lots was less than 19 acres in area on February 20, 1990, and then the entire grouping shall be one Lot of Record. See Example 3 in this subsection.
3. Three examples of how parcels and lots shall be aggregated are shown below with the solid thick line outlining individual Lots of Record:



**Example 1:
One 55 acre Lot of Record**



**Example 2:
One 40 acre Lot of Record and
one 30 acre Lot of Record**



**Example 3:
One 18 acre Lot of Record**

4. The requirement to aggregate contiguous parcels or lots shall not apply to lots or parcels within exception or urban zones (e.g. MUA-20, RR, BRC, R-10), but shall apply to contiguous parcels and lots within all farm and forest resource zones (i.e. EFU and CFU), or

Staff: The subject property was previously two properties known as tax lot 31 and 32. For the purposes of taxation only, tax lot 31 was 2.00 acres and tax lot 32 was 1 acre. Together they were in the same ownership of James B. Warner and Bonny J. Warner on February 20, 1990, as shown in a Deed Creating Estate by the Entirety recorded on September 5, 1998, in Book 2234, Page 1441-1442 (Exhibit B.3).

Planning staff reviewed the ownership of the surrounding tax lots and, according to Multnomah County Department of Assessment, Records, and Taxation records, none of the surrounding properties were owned by James B. Warner and Bonny J. Warner on February 20, 1990. The Table below shows the ownership of each of the surrounding properties before and after February 20, 1990.

Alternative Account #	Pre-1990 Tax Roll Property Owner	Post-1990 Tax Roll Property Owner
R971310310	James B. Warner and Bernice O Warner	James B. Warner and Bonny J. Warner
R971310320	James B. Warner and Bernice O Warner	James B. Warner and Bonny J. Warner
Adjacent Property to the Subject Properties		
R971310100	Donald L Motz, Shirley M. Motz, and Nancy M. Motz	Donald L Motz, Shirley M. Motz, and Nancy M. Motz

Based on the ownership records, the adjacent property owned by Donald L Motz, Shirley M. Motz, and Nancy M. Motz is not aggregated to what was previously tax lot 31 and 32. However, because tax lot 31 and 32 (now known as tax lot 400) are each less than 19 acres in area, contiguous, and held in the same ownership, the two separate legal parcels would be aggregated.

If tax lots 31 and 32 are separate legal parcels, they would still be aggregated in order to comply with the minimum lot size of 19 acres. Together they are considered one Lot of Record.

(3) A parcel or lot lawfully created by a partition or a subdivision plat after February 20, 1990.

Staff: The parcel was not created by partition or subdivision, therefore this criterion does not apply. *This criterion is not applicable.*

(4) Exception to the standards of (A)(2) above:

(a) Where approval for a “Lot of Exception” or a parcel smaller than 19 acres under the “Lot size for Conditional Uses” provisions has been given by the Hearing Authority and the parcel was subsequently lawfully created, then the parcel shall be a Lot of Record that remains separately transferable, even if the parcel was contiguous to another parcel held in the same ownership on February 20, 1990.

Staff: The subject parcel was not created through a Lot of Exception application, therefore this criterion does not apply. *This criterion is not applicable.*

(B) In this district, significant dates and ordinances applicable for verifying zoning compliance may include, but are not limited to, the following:

- (1) July 10, 1958, F-2 zone applied;**
- (2) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;**
- (3) October 6, 1977, MUA-20 and EFU-38 zones applied, Ord. 148 & 149;**
- (4) August 14, 1980, zone change from MUA-20 to EFU-38 for some properties, Ord. 236 & 238;**
- (5) February 20, 1990, lot of record definition amended, Ord. 643;**
- (6) April 5, 1997, EFU zone repealed and replaced with language in compliance with 1993 Oregon Revised Statutes and 1994 Statewide Planning Goal 3 Oregon Administrative Rules for farmland, Ord. 876;**
- (7) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997;**

Staff: Criterion (B) does not affect the determination on this case. *This criterion is not applicable.*

(C) A Lot of Record which has less than the minimum lot size for new parcels, less than the front lot line minimums required, or which does not meet the access requirements of MCC 33.2690 may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

Staff: Criterion (C) does not affect the determination on this case. *This criterion is not applicable.*

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

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

Staff: Criterion (B), (C), and (D) do not affect the determination of this case as Tax lot 31 and 32 (currently known as tax lot 400), Township 2 North, Range 1 West, Section 31C are two individual legal units of land that together are one Lot of Record. The parcel is not a new parcel and no sale or conveyance is being proposed as part of this application. The subject property is also not an area of land described as a tax lot solely for assessment and taxation purposes, created by the foreclosure of a security interest, or created by court decree. *These criteria are met.*

5.0 Conditional Uses – Community Service – CS Criteria:

5.1 § 33.6010 APPROVAL CRITERIA

In approving a Community Service use, the approval authority shall find that the proposal meets the following approval criteria, except for radio and television transmission towers, which shall meet the approval criteria of MCC 33.6100 through 33.6125, wireless communications facilities which shall meet the approval criteria of MCC 33.6175 through 33.6188; and except for regional sanitary landfills which shall comply with MCC 33.6200 through 33.6230.

Staff: As required by MCC 33.6125, Radiation Standards, subsection (C) the standard requires:

MCC 33.6125(C) After August 19, 1982, no installation of a new source of non-ionizing electromagnetic radiation or changes in an existing source which in any way causes increases in the NIER or radiation pattern of the NIER source shall occur without first obtaining a Community Service use designation or modification thereof, unless otherwise provided herein.

As required above under MCC 33.6010 Approval Criteria, this standard requires that any new radio and television transmission towers meet the approval criteria of MCC 33.6100 through MCC 33.6125. Those requirements are discussed in Section 6.0.

6.0 Radio and Television Transmission Towers Criteria:

6.1.0 § 33.6110 APPLICATION REQUIREMENTS

6.1.1 An application for approval of a Community Service designation for a radio or television transmission tower shall contain at least the following information before it is complete:

(A) Site plan or plans to scale specifying the location of towers(s), guy anchors (if any), transmission building and/or other accessory uses, access, parking, fences, landscaped areas, and adjacent land uses. Such plan shall also demonstrate compliance with MCC 33.6115 (I) and 33.6115 (J).

Staff: The applicant has provided a site plan specifying the location of the tower, accessory uses, access, parking, fences, and landscape areas. The site plans showing the location of the tower, accessory structures, access, parking areas, and landscaped areas are located on Sheet Number C-1, C-2, and C-4 (Exhibit A.20). The applicant has also included plans showing the site size and tower setbacks. The applicant is not proposing any guyed towers, so a site plan showing guy setbacks is not required. *This criterion is met.*

6.1.2 (B) Landscape plan to the scale indicating size, spacing and type of plantings required in 33.6115 (B).

Staff: The applicant has provided a landscape plan indicating the size, spacing, and type of plantings (Exhibit A.20: C-4 Landscape Plan). *This criterion is met.*

6.1.3 (C) Report from a professional engineer licensed in the State of Oregon, documenting the following:

(1) Tower height and design, including technical, engineering, economic, and other pertinent factors governing selection of the proposed design. A cross-section of the tower structure shall be included.

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

(3) Evidence of structural integrity of the tower structure as required by the Building Official.

(4) Failure characteristics of the tower and demonstration that site and setbacks are of adequate size to contain debris.

(5) Ice hazards and mitigation measures which have been employed, including increased setbacks and/or deicing equipment.

Staff: The applicant has provided reports and plans documenting the tower height and design, capacity of the structure, structural integrity, failure characteristics and mitigation measures for ice hazards. Those documents are found in Exhibit A.20, A.22, and A.26. *This criterion is met.*

6.1.4 (D) Statements from the F.A.A, O.S.A.D., and F.C.C., that the standards of MCC 33.6115 (G) are met or the required good faith, timely effort it achieve such responses.

Staff: The applicant has provided documentation that they have acted in good faith to obtain statements from the Federal Aviation Administration (FAA), Oregon State Aeronautics Division (OSAD), now known as the Oregon Department of Aviation, and Federal Communications Commission (FCC). Those documents are found in Exhibit A.14. *This criterion is met.*

6.1.5 (E) Written authorization from adjoining property owners, if needed, under MCC 33.6115 (J).

Staff: The applicant is not using a guyed structure, therefore this requirement is not applicable. *This criterion is not applicable.*

6.1.6 (F) Responses to the applicable Comprehensive Plan Policies.

Staff: The applicant has included responses to the applicable Comprehensive Plan Policies as part of the narrative (Exhibit A.2). *This criterion is met.*

6.2.0 § 33.6115 APPROVAL CRITERIA FOR NEW TRANSMISSION TOWERS

New transmission towers in rural districts permitted under MCC 33.6015 (A) (15) (a) or (b) may be allowed, based on findings by the approval authority that the following criteria are met.

6.2.1 (A) The site is of a size and shape sufficient to provide the following setbacks:
(1) For a tower located on a lot abutting an urban residential district or a public property or street, except a building-mounted tower, the site size standards of MCC 33.6115 (I) and 33.6115 (J) are met as to those portions of the property abutting the residential or public uses.
(2) For all other towers, the site shall be of sufficient size to provide the setback required in the underlying district between the base of the tower, accessory structures and uses, and guy anchors, if any, to all abutting property lines.

Staff: The communications tower is located on a lot that abuts a public street. The site size will be required to meet the standards of MCC 33.6115(I) and (J). These standards are discussed in Section 6.2.8 and 6.2.9.

6.2.2 (B) The required setbacks shall be improved to meet the following landscaping standards to the extent possible within the area provided:

(1) Landscaping at the perimeter of the property which abuts streets, residences, public parks or areas with access to the general public other than the owner of such adjoining property. Such landscaping plan shall demonstrate the following:

(a) For towers 200 feet tall or less, a buffer area no less than 25 feet wide shall commence at the property line. At least one row of evergreen shrubs shall be spaced not more than five feet apart. Materials should be of a variety which can be expected to grow to form a continuous hedge at least five feet in height within two years of planting. At least one row of evergreen trees or shrubs, not less than four feet height at the time of planting, and spaced not more than 15 feet apart, also shall be provided.

Trees and shrubs in the vicinity of guy wires shall be of a kind that would not exceed 20 feet in height or would not affect the stability of the guys, should they be uprooted, and shall not obscure visibility of the anchor from the transmission building or security facilities and staff.

(b) For towers more than 200 feet tall, a buffer area not less than 40 feet wide shall be provided at the property line with at least one row of evergreen shrubs spaced not more than five feet apart which will grow to form a continuous hedge at least five feet in height within two years of planting; one row of deciduous trees, not less than 1 1/2 inch caliper measured three feet from the ground at the time of planting, and spaced not more than 20 feet apart; and at least one row of evergreen trees, not less than four feet at the time of planting, and spaced not more than 15 feet apart. Trees and shrubs in the vicinity of guy wires shall be of a kind that would not exceed 20 feet in height or would not affect the stability of the guys, should they be uprooted, and shall not obscure visibility of the anchor from the transmission building or security facilities and staff.

(c) In lieu of these standards, the approval authority may allow use of an alternate detailed plan and specifications for landscape and screening, including plantings, fences, walls and other features designed to screen and buffer towers and accessory uses. The plan shall accomplish the same degree of screening achieved in (a) and (b) above, except as lesser requirements are desirable for adequate visibility for security purposes and for continued operation of existing bona fide agricultural or forest uses, including but not limited to produce farms, nurseries, and tree farms.

Staff: The applicant provided a Landscape Plan, Sheet Number C-4, showing the proposed landscape buffer adjacent to the Communications Tower (Exhibit A.20: C-4 Landscape Plan). The applicant is proposing to plant *Thuja Occidentalis* "arborvitae" around the perimeter of the fenced area. No plan was provided showing the proposed landscaping for the perimeter of the project, which abuts the street. In lieu of those standards, the applicant's Landscape Plan is adequate to screen and buffer the tower. The location of the tower at the rear of the property and the planting of *Thuja Occidentalis* around the fenced area will provide a screen between the public road and the tower. *These criteria are met.*

6.2.3 (C) The applicant shall demonstrate that the tower can be expected to have the least visual impact on the environment, taking into consideration technical, engineering, economic and other pertinent factors. Towers clustered at the same site shall be of similar height and design, whenever possible. Towers shall be painted and lighted as follows:

(1) Towers 200 feet or less in height shall have a galvanized finish or be painted silver. If there is heavy vegetation in the immediate area, such towers shall be painted green from base to treeline, with the remainder painted silver or given a galvanized finish.

(2) Towers more than 200 feet in height shall be painted in accordance with regulations of the Oregon State Aeronautics Division.

(3) Towers shall be illuminated as required by the Oregon State Aeronautics Division. However, no lighting shall be incorporated if not required by the Aeronautics Division or other responsible agency.

(4) Towers shall be the minimum height necessary to provide parity with existing similar tower supported antenna, and shall be freestanding where the negative visual effect is less than would be created by use of a guyed tower.

Hearings Officer: The applicant is proposing a 180-foot tower with the tallest antennae reaching 196 feet, 6 inches. As described in the applicant's narrative, the communications tower will be finished with a non-reflective galvanized silver color (Exhibit A.2). The tower is located within an open grassy field. The nearest areas of heavy vegetation (trees) is located approximately 410 feet to the north with a ground elevation roughly 70 feet lower elevation than the proposed tower. (Greene testimony and Exhibit B.15). The hearings officer finds that there is no heavy vegetation "in the immediate area." As shown in the applicant's photo simulations (Exhibits H.4-H.6), the tower will not blend with the distant trees in the area. Therefore, the applicant should not be required to paint the base of the tower. The proposed galvanized finish will comply with MCC(C)(1). *These criteria are met.*

6.2.3 (D) A minimum of two parking spaces shall be provided on each site; an additional parking space for each two employees shall be provided at facilities which require on-site personnel, provided additional parking may be required in accordance with MCC 33.4100 to 33.4220 if the site serves multiple purposes.

Staff: As shown on the Enlarged Site Plan Sheet Number C-2, the applicant shows a turnaround area for parking. The parking area is approximately 30 feet by 24 feet in area (Exhibit A.20). The communications tower will be unstaffed and will require a minimum of two parking spaces. As required by MCC 33.4175, required parking space dimensions are a minimum width of 9 feet and a minimum length of 18 feet. For two spaces, an area of 18 feet by 18 feet is required. As shown on the Site Plan, the turnaround area shall be sufficient to park two vehicles. *This criterion is met.*

6.2.4 (E) The applicable policies of the Comprehensive Plan are met.

Staff: The applicable policies of the Comprehensive Plan are discussed in Section 13.0.

6.2.5 (F) The NIER standards of MCC 33.6125 are met.

Staff: The applicant has provided a NIER Report from Ken Seymour, Licensed General Radiotelephone Operator. The NEIR standards are discussed in Section 6.4.

6.2.6 (G) The following agency coordination standards are met:

(1) A written statement provided by the applicant from the appropriate official in the Federal Aviation Administration that the application has not been found to be a hazard to air navigation under Part 77, Federal Aviation Regulations, or a statement that no compliance with Part 77 is required;

Staff: The applicant has provided a written statement provided by the Federal Aviation Administration (the “FAA”). The FAA Determination of No Hazard to Air Navigation revealed, “That the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following conditions” (Exhibit A.14). The condition required by the FAA is that an FAA Form 7460-2, Notice of Actual Construction or Alternation be e-filed any time the project is abandoned or within 5 days after construction reaches its greatest height. As required by the study, a condition will be required ensuring that the Communications Tower meets those requirements. *As conditioned, this criterion is met.*

(2) A written statement provided by the applicant from the appropriate official in the Oregon State Aeronautics Division that the application has been found to comply with the applicable regulations of the Division, or a statement that no such compliance is required; and,

Staff: The applicant has provided a written statement from the Oregon State Aeronautics Division, now known as the Oregon Department of Aviation (the “ODA”). The ODA conducted an aeronautical study and determined that, “notice to the FAA is required” (Exhibit A.14). As discussed in the previous standard, the applicant has provided notice to the FAA. Additionally, the ODA stated in their letter that, “We do not object with conditions to the construction described in this proposal.” *This criterion is met.*

(3) A written statement provided by the applicant from the appropriate official in the Federal Communications Commission that the application complies with the regulations of the Commission or a statement that no such compliance is necessary.

Staff: The applicant has provided a written Radio Station Authorization from the Federal Communications Commission. The applicant is registered with the FCC effective April 1, 2015 through June 28, 2025. (Exhibit A.18). *This criterion is met.*

(4) The statements in (1) through (3) may be waived when the applicant demonstrates that a good faith, timely effort was made to obtain such responses but that no such response was forthcoming, provided the applicant conveys any response received; and further provided any subsequent response that is received is conveyed to the approval authority as soon as possible.

Staff: The applicant is not waiving the requirements above and has provided written statements from the FAA, the ODA, and the FCC (Exhibit A.14 and A.18). *This criterion is met.*

6.2.7 (H) For a proposed tower in the EFU, CFU-1, CFU-2, CFU-5, and MUA districts, the following restrictions on accessory uses shall be met:

(1) Accessory uses shall include only such buildings and facilities necessary for transmission function and satellite ground stations associated with

them, but shall not include broadcast studios, offices, vehicle storage areas, nor other similar uses not necessary for the transmission function.

(2) Accessory uses may include studio facilities for emergency broadcast purposes or for other special, limited purposes found by the approval authority not to create significant additional impacts nor to require construction of additional buildings or facilities exceeding 25 percent of the floor area of other permitted buildings.

Staff: As indicated on the site plan, the applicant is proposing accessory buildings and other facilities necessary for the transmission function of the communications tower. The site plan shows a 12-foot by 24-foot equipment shelter, a 40kW generator and a 1,000 gallon propane tank (Exhibit A.20: C-1 Overall Site Plan). There will also be a transformer located outside of the fenced area. No broadcast studio, office, vehicle storage areas or other similar uses are proposed. *These criteria are met.*

6.2.8 (I) Site size and tower setbacks:

(1) The site shall be of a size and shape sufficient to provide an adequate setback from the base of the tower to any property line abutting an urban residential district, public property, or public street. Such setback shall be sufficient to:

- (a) Provide for an adequate vegetative, topographic or other buffer, as provided in MCC 33.6115 (C) and 33.6115 (B),**
- (b) Preserve the privacy of adjoining residential property,**
- (c) Protect adjoining property from the potential impact of tower failure and ice falling from the tower by being large enough to accommodate such failure and ice on the site, based on the engineer's analysis required in MCC 33.6110 (C) (4) and (5), and**
- (d) Protect the public from NIER in excess of the standard of MCC 33.6125 (A).**

(2) A site is presumed to be of sufficient size when it:

- (a) Meets the requirements of (1) (c) and (d) above,**
- (b) Provides a setback equal to 20 percent of the height of the tower to any property line abutting an urban residential district, public property, or public street, and**
- (c) Provides a setback equal to or exceeding the rear yard setback required for the adjoining property where the adjoining property is not in an urban residential district nor a public property or a public street.**

Staff: The applicant has provided a tower failure and ice hazard analysis, a NIER report, and site plans. The tower failure analysis by Robert E. Beacom, Registered Professional Engineer and Licensed Structural Engineer describes the failure characteristics of the tower. The analysis documents that if a failure were to occur, there, “would be localized buckling of a tower section...[and] the tower is most likely to buckle at the location of highest combined stress ratio in the upper portion of the tower.” Additionally, “in the event of a total separation, this, in turn, would result in collapse within a radius equal to 160 feet” (Exhibit A.22 and A.28).

The ice hazard letter detailed the potential hazards and mitigation strategies. The response discusses damage that can occur to the microwave dishes if ice were to fall on the dishes. The letter also discusses proactive measures to reduce exposure to employees by wearing helmets

(Exhibit A.26). The applicant fails to discuss the potential damage that would occur if ice were to fall on the buildings or structures on the ground. Within the fenced area, an above ground propane tank is located 20 feet south of the tower structure. Staff is unsure if ice falling on the propane tank would cause a hazardous situations. However, due to the proximity, a condition will be required that the propane tank be buried or an ice bridge be erected above the propane tank to deflect any potential ice falling from the tower away from the propane tank.

The tower is 180 feet in height and approximately 450 feet from the property line abutting a public street. To meet the requirement of (2)(b), the setback shall be equal to 20 percent of the height of the tower, which is 36 feet. At more than 450 feet from the property line abutting a public street, the tower height meets this requirement. The tower is also located approximately 44 feet from the rear property line. The rear yard setback is 30 for buildings and structures in the Exclusive Farm Use zone.

Hearings Officer: The proposed tower will be setback 41 feet or more from all adjoining properties, well more than the 30-foot rear yard setback required for the EFU zone that applies to the site and surrounding properties. Therefore, pursuant to MCC 33.6115(I)(2)(c), the site is presumed to be of sufficient size to protect adjoining properties from the potential impact of tower failure and ice falling from the tower. There is no evidence in the record to rebut this presumption. *As conditioned, these criteria are met.*

Staff: The proposal is for the placement of one tower on the subject property. The applicant is only proposing one tower; therefore, these requirements are not applicable. *This criterion is inapplicable.*

(4) Structures and uses associated with the transmission use other than the transmission tower shall be located to meet the setbacks required in MCC 33.6020.

Staff: As discussed in Section 4.3, the site plan indicates that the fence surrounding the tower and structures that are contained within the fenced area meet or exceed the yard requirements. *This criterion is met.*

6.2.9 (J) Guy setbacks:

(1) For a guyed structure, the site shall be of a size and shape sufficient to provide an adequate setback from a guy anchor to any property line abutting an urban residential district, public property or public street in addition to the size required to comply with 33.6115 (I). Such setback shall be adequate to provide a vegetative, topographic or other buffer sufficient to obscure view to the anchor from such adjoining properties.

(2) A site is presumed to be of sufficient size when it provides:

(a) A setback of at least 25 feet between a guy anchor and any property line abutting an urban residential district or public property or street, and

(b) A setback equal to or exceeding the rear yard setback required for the adjoining property where the adjoining property is not a public property or street nor in an urban residential district.

(3) A guy anchor may be located on an adjoining property when:

(a) The owner of the adjoining property on which it is to be placed authorizes it in writing, and

- (b) The guy anchor meets the requirements of (1) or (2) above as to all other adjoining property lines.
- (4) Guy anchors may be located within required landscape areas.
- (5) A guy from a tower which was previously approved under any ordinance may be extended to an adjacent site if the guy anchor will comply with MCC 33.6115 (J) (3) as determined by the Planning Director.

Staff: The applicant is not proposing a guyed structure. The proposal is for a self-supporting lattice tower without the use of diagonal cables; therefore, these requirements do not apply. *These criteria are inapplicable.*

6.3 § 33.6120 DESIGN REVIEW

The use shall comply with the design review provisions of MCC 33.7000 to 33.7070. This may be implemented as a condition of approval.

Staff: The applicable Design Review requirements are discussed in Section 8.0.

6.4 § 33.6125 RADIATION STANDARDS

Non-ionizing electromagnetic radiation standards.

- 6.4.1 (A) No source of non-ionizing electromagnetic radiation shall hereinafter be operating, which causes the general population to be exposed to radiation levels exceeding the mean squared electric (E²) or mean squared magnetic (H²) field strengths, or their equivalent plan wave free space power density, as specified in Table 1.

Staff: As specified in Table 1, the Non-Ionizing Electromagnetic Radiation Standards are as follows:

TABLE 1			
Non-Ionizing Electromagnetic Radiation Standards			
Frequency (MHz)	Mean Squared Electric (E) Field Strength* (V ² /m ²) [†]	Mean Squared Magnetic (H) Field Strength* (A ² /m ²) [‡]	Equivalent Plane-Wave Power Density* (mW/cm ²)
100 kHz - 3 MHz	80,000	0.5	20
3 MHz - 30 MHz	4,000(180/f ²)	0.025(180/f ²)	180/f ²
30 MHz - 300 MHz	800	0.005	0.2
300 MHz - 1500 MHz	4,000(f/1500)	0.025(f/1500)	f/1500
1500 MHz - 300 GHz	4,000	0.025	1.0

* All standards refer to root mean square (rms) measurements averaged over 0.5 hour (30 minutes).

† V²/m² = Volts squared per meter squared.

‡ A²/m² = Amperes squared per meter squared.

Note: f = frequency in megahertz (MHz).

The applicant has included a NIER analysis conducted by Ken Seymour, Licensed General Radiotelephone Operator and Principal Engineer that discusses the NIER/MPE standards (Exhibit A.17). The analysis found that the public communications utility facility will be, "Transmitting at frequencies in the range of 151 to 159 MHz, 851 MHz, 799 to 805 MHz, and microwave operating at 11 GHz." According to FCC standards on Maximum permissible exposure (MPE), "General MPE exposure limits less than 100-percent are consider safe."

As part of the analysis, a summary of power density calculations was done for this facility. Using multiple distance points from the tower, the analysis looked at power density at 80 feet and 250 feet. The analysis found that the total power density at 80 feet or at the maximum exposure distance at .0082 mW/cm². At 250 feet or the nearest habitable structure at .0008 mW/cm². The power density at 80 and 250 feet is less than the range allowed from the 30 MHz to the 300 GHz frequencies in the Table above.

As a part of the analysis there were two recommendations suggested that will be required as conditions of approval. The first recommendations was the posting of a minimum of one (1) blue "Notice" sign. The sign should be posted on the fence gate entering the site compound. The second recommendation is for the site to be monitored 24/7 by the operations center and is regularly visited by local technicians to insure the site is functioning normally and is in FCC compliance. *As conditioned, this criterion is met.*

(1) For near field exposures, measurements of the mean squared electric and magnetic field strengths are especially important to determine compliance with the standards in columns 2 and 3 of Table 1. For convenience, mean squared electric or magnetic field strengths may be specified as the equivalent plane-wave power density. At higher frequencies (e.g., above 30-300 MHz), measurement of mean-squared magnetic field strength may not be necessary if it can be reliably inferred from measurements of either mean squared electric field strength or equivalent plane-wave power density.

Staff: As discussed in the NIER analysis conducted by Ken Seymour, Licensed General Radiotelephone Operator and Principal Engineer the applicant has chosen to use the equivalent plane-wave power density to measure compliance with the accepted exposure to radiation levels for the general population. *This criterion is met.*

(2) In the event the federal government promulgates mandatory or advisory standards more stringent than those described herein, the more stringent standards shall apply.

Staff: The applicant based their analysis on the current standards from the FCC as outlined in Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields: OET Bulletin 65 Edition 97-01 published on August 1997. *This criterion is met.*

(3) These standards are adapted from the American National Standards Institute's American National Standard C95.1-1982, Safety Levels With Respect to Human Exposure to Electromagnetic Fields (300 kHz to 100 GHz). This ANSI standard's documentation should be consulted to help resolve any future questions about the basis or interpretation of the standards in this section.

Staff: This does not affect the determination of this case since the applicant based their analysis on the current standards from the FCC, as outlined in Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields: OET Bulletin 65 Edition 97-01 published on August 1997. *This criterion is met.*

(4) Similarly, the latest revision of ANSI's American National Standards Institute's American National Standard C95.3, Techniques and Instrumentation for the Measurement of Potentially Hazardous Electromagnetic Radiation at Microwave Frequencies, is incorporated here by reference as one source of acceptable methods for measuring non-ionizing radiation levels in determining compliance with this standard.

(a) For all measurements made to ensure compliance with this section, evidence shall be submitted showing that the instrument or instruments used were calibrated within the manufacturer's suggested periodic calibration interval; that the calibration is by methods traceable to the National Bureau of Standards; a statement that the measurements were made in accordance with good engineering practice; and a statement or statements as to the accuracy of the results of the measurements.

Staff: The NIER analysis was conducted by Ken Seymour, Licensed General Radiotelephone Operator and Principal Engineer. The analysis was certified that this information is true to the best of his knowledge. *This criterion is met.*

(5) The standards adopted herein shall be periodically reviewed by the Multnomah County Health Officer, in light of any new scientific knowledge as to the effects on the general population of non-ionizing electromagnetic radiation; and these standards may hereafter be raised, lowered or otherwise changed as the County shall require by amendment of this section. The first such reports shall be delivered on or before January 1, 1984.

(6) For average times less than 0.5 hour, the allowed power density P in $\mu\text{w}/\text{cm}^2$ as a function of averaging time τ in hours is given by $P = K/\tau$ where in turn K is equal to $\frac{1}{2}$ times the allowed power density for averaging times of 0.5 hour and greater.

Staff: This does not affect the determination of this case. *This criterion is inapplicable.*

6.4.2

(B) All existing sources of non-ionizing electromagnetic radiation in the frequency spectrum, 100 kHz to 300 GHz, except those exempted below, are within 120 days of the enactment of this section, hereby required to register with the County and provide the following information for each individual source on forms provided by the Planning Director.

- (1) Name and address of owner of transmitter and/or antenna.**
- (2) Name and address of owner of property on which the transmitter and/or antenna is located.**
- (3) Location of transmitter.**
- (4) Location of antenna by geographic coordinates by either latitude and longitude or state plane coordinates.**
- (5) Output frequency of transmitter.**
- (6) Type of modulation and class of service.**

- (7) Power output of transmitter (average and peak).
- (8) Power input to antenna.
- (9) Manufacturer, type, manufacturer's model number of antenna and a copy of the antenna radiation patterns.
- (10) Gain of antenna with respect to an isotopic radiator.
- (11) Polarization of radiation from antenna.
- (12) Height of antenna above ground.
- (13) Horizontal and radial distance of antenna to nearest point on property line and to nearest habitable space regularly occupied by others than immediate family or employees of transmitter and/or antenna owner and/or operator.
- (14) Elevation above mean sea level of ground at the antenna location and the points specified in (B)(13).
- (15) The call letters assigned to the source.
- (16) Date of installation of present transmitter, and date of installation of the associated antenna, date of installation of the structure, if any, on which the antenna is located.
- (17) Any sources not so registered shall be regarded as a new source and any registered source with different essential technical characteristics than those of (B) (3) through (B) (13) above as a changed existing source.

Staff: The applicant will be required to register with the County and provide the above information for each individual source on forms provided by the Planning Director. *As conditioned, this criterion is met.*

- 6.4.3** **(C) After August 19, 1982, no installation of a new source of non-ionizing electromagnetic radiation or changes in an existing source which in any way causes increases in the NIER or radiation pattern of the NIER source shall occur without first obtaining a Community Service use designation or modification thereof, unless otherwise provided herein.**

Staff: The applicant is proposing the installation of a new source of non-ionizing electromagnetic radiation. As required the applicant has sought approval of a Community Service use designation. Those standards are discussed in Section 5.0.

- 6.4.4** **(D) The application for the use shall be on forms provided by the Planning Director, and shall show:**
- (1) The information required under (1) through (16) of subpart (B) above.
 - (2) The measured existing non-ionizing radiation levels at the nearest point on the property lines of the predicted maximum radiation from the source, and the nearest point regularly occupied by other than the immediate family and/or employees of the transmitter owner and/or operator.
 - (a) These measurements shall be made at a height of 1.5 meters above the ground or at the greater height if habitation occurs at a greater height with lesser radial distance to the source.
 - (b) If the measured level is equal to or less than 1/5 of the limits, the measurement shall be made for the continuous period 6 a.m., to 6 p.m., on a regular business day.
 - (c) If the measured level is greater than 1/5 of the limits, the measurement shall be made for a continuous period of 168 hours.

(d) If there exists an operational situation which would cause higher levels to occur at some other time than the intervals of (b) or (c) above, the measurement shall be made during that time.

(e) These measurements may be made by whatever means the registered professional engineer under whose direction and supervision they are made deems appropriate. The effects of contributing sources of frequency below the lower frequency limit of broadband instruments may be appropriate separate single instant measurements of the contribution due to these sources. Further, levels below 20 microwatts/cm² or the minimum sensitivity of the instruments used, whichever is lesser, shall be deemed zero for further computational purposes.

(3) The calculated average levels at the three points specified in (D) (2) after installation of the new source, including both the background and the new source.

(4) The calculated levels at the boundaries of other sources at which the new source may cause a detectable increase in level.

(5) The calculated level at the predicted point of maximum radiation off of the property on which the new source is located caused by the new source along with the measured background NIER at this point. This measurement shall meet the requirements of (D) (2).

(6) The geographic coordinates (latitude and longitude or state plane coordinates) of each point of measurement and/or calculation shall be furnished.

Staff: The applicant has included a NIER analysis conducted by Ken Seymour, Licensed General Radiotelephone Operator and Principal Engineer that discusses the NIER/MPE standards (Exhibit A.17). The analysis found that the public communications utility facility will be, "Transmitting at frequencies in the range of 151 to 159 MHz, 851 MHz, 799 to 805 MHz, and microwave operating at 11 GHz." The analysis, also provided a summary of power density calculations for this facility. Using multiple distance points from the tower, the analysis looked at power density at 80 feet and 250 feet. The distances and measurements were chosen based on the requirement under subpart (D)(2) above. *This criterion is met.*

6.4.5 (E) A Community Service use designation or modification thereof may be granted if the levels calculated in MCC 33.6125 (D), including the existing measured background, do not exceed the limits set forth in MCC 33.6125 (A), and if a new tower is required, the siting standards of this section are met. However, if the calculated levels, including existing measured background at any point specified in MCC 33.6125 (D) exceed one-third of the maximum levels of MCC 33.6125 (A), then, the approval shall be conditional upon measurements made after the new source is installed showing that the maximum levels of MCC 33.6125 (A) are not exceeded. If the calculated levels exceed the maximum level of MCC 33.6125 (A), the application shall be denied.

Staff: As discussed in MCC 33.6125(A), the applicant has included a NIER analysis conducted by Ken Seymour, Licensed General Radiotelephone Operator and Principal Engineer that discusses the NIER/MPE standards (Exhibit A.17). The power density calculated levels did not exceed the maximum level of MCC 33.6125(A). *This criterion is met.*

6.4.6

(F) All commercial intermittent sole source emitters of less than 1 KW average output are exempt from the measurement requirements of MCC 33.6125 (D) if they comply with the separation requirement of MCC 33.6125 (F) and all other requirements of this section. Prior to issuance of a building permit for a tower to support an antenna associated with one of these uses, the Planning Director shall determine that the antenna meets the following requirements:

(1) For an effective radiated power (ERP) of less than 100 watts the highest current point of the antenna is located at least ten feet and all portions of the antenna three feet from the external surface of any habitable structure not located on the property containing the source and from habitable space on the same property normally occupied on a regular basis by others than the immediate family and/or employees of the owner and/or operator of the source.

(2) For an ERP greater than 100 watts, but less than 1,000 watts, the highest current point of the antenna is at least 15 feet and all portions of the antenna at least six feet from the external surface of any habitable structure not located on the property containing the source and from habitable space on the same property normally occupied on a regular basis by others than the immediate family and/or employees of the owner and/or operator of the source.

(3) For an ERP equal to or greater than 1,000 watts, but less than 10 kW, the antenna meets the following separation criteria from the external surface of any habitable structure not located on the property containing the source and from habitable space on the same property normally occupied on a regular basis by others than the immediate family and/or employees of the owner and/or operator of the source.

Frequency	Minimum Distance from Highest Current Portion	Minimum Distance from Any Portion
<7 MHz	11 feet	5 feet
7 - 30 MHz	$f/0.67$ feet	$f/1.5$ feet
30 - 300 MHz	45 feet	20 feet
300 -1500 MHz	$780 / (f \text{ feet})^{1/2}$	$364 / (f \text{ feet})^{1/2}$
>1500 MHz	20 feet	10 feet

Where f is frequency in megahertz.

(4) For an ERP equal to or greater than 10 kW, but less than 30 kW, the antenna meets the following separation criteria from the external surface of any habitable structure not located on the property containing the source, and from habitable space on the same property normally occupied on a regular basis by others than the immediate family and/or employees of the owner and/or operator of the source.

Frequency	Minimum Distance from Highest Current Portion	Minimum Distance from Any Portion
<7 MHz	17.5 feet	8 feet
7 - 30 MHz	$f/0.4$ feet	$f/0.91$ feet
30 - 300 MHz	75 feet	33 feet
300 -1500 MHz	$1300 / (f \text{ feet})^{1/2}$	$572 / (f \text{ feet})^{1/2}$
>1500 MHz	34 feet	15 feet

Staff: To ensure compliance with the above criteria, a condition will require that prior to issuance of a building permit for a tower to support antennas associated with this use, the applicant shall provide the required documentation as listed in MCC 33.6125(F). *As conditioned, these criteria are met.*

- 6.4.7 (G) The following uses are exempt from all requirements of this section:
- (1) All portable, hand-held and vehicular transmission sources.
 - (2) Industrial, scientific, and medical equipment operating at frequencies designated for that purpose by the FCC.
 - (3) Radio frequency machines:
 - (a) Which have an effective radiated power of 7 watts or less;
 - (b) Which are designated and marketed as consumer products, such as microwave ovens, citizen band radios, and remote control toys, or
 - (c) Which are in storage, shipment or on display for sale, provided such machines are not operated.
 - (4) Amateur intermittent sole source emitters of less than 1 KW average output.

Staff: The applicant is not proposing portable, hand-held and vehicular transmission sources, industrial equipment, scientific equipment, medical equipment, radio frequency machines, or amateur intermittent sole source emitters. *This criterion is not applicable.*

TABLE 1
Non-Ionizing Electromagnetic Radiation Standards

Frequency (MHz)	Mean Squared Electric (E) Field Strength* (V ² /m ²)†	Mean Squared Magnetic (H) Field Strength* (A ² /m ²)‡	Equivalent Plane-Wave Power Density* (mW/cm ²)
100 kHz - 3 MHz	80,000	0.5	20
3 MHz - 30 MHz	$4,000(180/f^2)$	$0.025(180/f^2)$	$180/f^2$
30 MHz - 300 MHz	800	0.005	0.2
300 MHz - 1500 MHz	$4,000(f/1500)$	$0.025(f/1500)$	$f/1500$
1500 MHz - 300 GHz	4,000	0.025	1.0

- * All standards refer to root mean square (rms) measurements averaged over 0.5 hour (30 minutes).
 † V²/m² = Volts squared per meter squared.
 ‡ A²/m² = Amperes squared per meter squared.
 Note: *f* = frequency in megahertz (MHz).

7.0 Off-Street Parking and Loading Criteria:

7.1 § 33.4105 GENERAL PROVISIONS

In the event of the erection of a new building or an addition to an existing building, or any change in the use of an existing building, structure or land which results in an intensified use by customers, occupants, employees or other persons, off-street parking and loading shall be provided according to the requirements of this Section. For nonconforming uses, the objectives of this section shall be evaluated under the criteria for the Alteration, Modification, and Expansion of Nonconforming Uses.

Staff: The applicant is proposing a communication tower which will result in an intensified use by occupants and employees. Although the tower will be primarily self-operating, technicians and other staff will periodically visit the site for maintenance. As required by MCC 33.6115(D) and MCC 33.7010, the application is subject to Off-Street Parking and Loading requirements. The standards are discussed below.

7.2 § 33.4125 USE OF SPACE

(A) Required parking spaces shall be available for the parking of vehicles of customers, occupants, and employees without charge or other consideration.

(B) No parking of trucks, equipment, materials, structures or signs or the conducting of any business activity shall be permitted on any required parking space.

(C) A required loading space shall be available for the loading and unloading of vehicles concerned with the transportation of goods or services for the use associated with the loading space.

(D) Except for residential and local commercial districts, loading areas shall not be used for any purpose other than loading or unloading.

(E) In any district, it shall be unlawful to store or accumulate equipment, material or goods in a loading space in a manner which would render such loading space temporarily or permanently incapable of immediate use for loading operations.

Staff: The proposed use will require two (2) additional parking spaces as required by MCC 33.6115(D). The standard does not specify if the two (2) parking spaces are to be used for the public or if they are to be loading spaces. MCC 33.4205 and MCC 33.4210 do not outline the minimum amount of required parking or loading spaces required for the use. Therefore, the two (2) parking spaces shall be available for parking of vehicles of customers, occupants, and employees without charge. Additionally, the owner, applicant and their agents will not be permitted to park trucks, equipment, materials, structures or signs in any of the required parking spaces. Further it will also be unlawful to store or accumulate equipment, material or goods in a loading space in a manner which would render such loading space temporarily or permanently incapable of immediate use for loading operations. *As conditioned, these criteria are met.*

7.3 § 33.4130 LOCATION OF PARKING AND LOADING SPACES

(A) Parking spaces required by this Section shall be provided on the lot of the use served by such spaces.

(B) Exception – The Planning Director may authorize the location of required parking spaces other than on the site of the primary use, upon a written finding by the Director that:

(1) Parking use of the alternate site is permitted by this Ordinance;

- (2) The alternate site is within 350 feet of the use;
- (3) There is a safe and convenient route for pedestrians between the parking area and the use;
- (4) Location of required parking other than on the site of the use will facilitate satisfaction of one or more purposes or standards or requirements of this Chapter; and,
- (5) There is assurance in the form of a deed, lease, contract or other similar document that the required spaces will continue to be available for off-street parking use according to the required standards.

(C) Loading spaces and vehicle maneuvering area shall be located only on or abutting the property served.

Staff: The applicant is proposing to locate two (2) additional parking spaces on the subject property as required by MCC 33.6115(D). As required below, MCC 33.4205 and MCC 33.4210 do not outline the minimum amount of required parking or loading spaces required for the use. The site plan shows that the parking spaces and vehicle maneuvering areas are located on the subject property and within 80 feet of the fenced area where the utility facility will be located. (Exhibit A.20: C-2 Enlarged Site Plan). *These criteria are met.*

7.4 § 33.4135 IMPROVEMENTS REQUIRED

(A) Required parking and loading areas shall be improved and placed in condition for use before the grant of a Certificate of Occupancy under MCC 33.0525, or a Performance Bond in favor of Multnomah County equivalent to the cost of completing such improvements shall be filed with the Planning Director.

(B) Any such bond shall include the condition that if the improvement has not been completed within one year after issuance of the Certificate of Occupancy, the bond shall be forfeited.

Any bond filed hereunder shall be subject to the approval of the Planning Director and the County Attorney.

Staff: As required above, a condition will be required that all required parking and loading areas be improved and placed in condition for use before the grant of a Certificate of Occupancy. *As conditioned, these criteria are met.*

7.5 § 33.4145 JOINT PARKING OR LOADING FACILITIES

(A) In the event different uses occupy the same lot or structure, the total off-street parking and loading requirements shall be the sum of the requirements for each individual use.

(B) Owners of two or more adjoining uses, structures, or parcels of land may utilize jointly the same parking or loading area, when approved by the Planning Director, upon a finding by the Director that the hours of operation do not overlap and provided satisfactory legal evidence is presented to the Director in the form of a deed, lease, contract or similar document, securing full access to such parking or loading areas for all the parties jointly using them.

Staff: The subject property will contain two different utility facility uses. The established use is for a Utility Facility Fire Station. The proposed use is for a Utility Facility for Public Communications. As required, in the event of different uses occupying the same lot or

structure, the total off-street parking and loading requirements shall be the sum of the requirements for each individual use. As approved in PRE 2-98 and DR 5-98, which authorized the Utility Facility Fire Station, the land use decision DR 5-98 permitted the following:

“The proposed 12-space parking lot will use an existing parking and turnaround area of the site. An existing metal storage building will be removed to provide room for seven of the 12 spaces. The parking area will be located behind the existing house.”

MCC 33.4205 and MCC 33.4210 do not outline the minimum amount of required parking or loading spaces required for the proposed Utility Facility use. Instead MCC 33.6115(d) requires that the proposed Utility Facility Communications Tower will require two (2) parking spaces. The sum of the uses will require 14 total spaces on the lot. As shown on the site plan, there are 14 total spaces (Exhibit A.20: C-1 Overall Site Plan). *These criteria are met.*

7.6 § 33.4165 DESIGN STANDARDS: SCOPE

(A) The design standards of this section shall apply to all parking, loading, and maneuvering areas except those serving a single family dwelling on an individual lot. Any non-residential use approved on a parcel containing a single family dwelling shall meet the design standards of MCC 33.4170 through 33.4200.

(B) All parking and loading areas shall provide for the turning, maneuvering and parking of all vehicles on the lot. After July 26, 1979 it shall be unlawful to locate or construct any parking or loading space so that use of the space requires a vehicle to back into the right-of-way of a public street.

Staff: The proposed use will need to meet the design standards of this section, because the parking area is not serving a single-family dwelling. Additionally, as required above, a condition will be necessary to ensure that the turning, maneuvering, and parking of all vehicles will be provided on the lot. *As conditioned, these criteria are met.*

7.7 § 33.4170 ACCESS

(A) Where a parking or loading area does not abut directly on a public street or private street approved under MCC 33.7700 et seq., the Land Division Chapter, there shall be provided an unobstructed driveway not less than 20 feet in width for two-way traffic, leading to a public street or approved private street. Traffic directions therefore shall be plainly marked.

(B) The Approval Authority may permit and authorize a deviation from the dimensional standard in paragraph (A) of this section upon finding that all the following standards in subparagraphs (1) through (4) are met:

- (1) The authorized provider of structural fire service protection services verifies that the proposed deviation complies with such provider’s fire apparatus access standards, or, if there is no such service provider, the building official verifies that the proposed deviation complies with the Oregon Fire Code;**
- (2) The County Engineer verifies that the proposed deviation complies with the County Road Rules and the County Design and Construction Manual Standards;**
- (3) Application of the dimensional standard would present a practical difficulty or would subject the property owner to unnecessary hardship; and**
- (4) Authorization of the proposed deviation would not:**
 - (a) be materially detrimental to the public welfare;**

(b) be injurious to property in the vicinity or the zoning district in which the property is located; or

(c) adversely affect the appropriate development of adjoining properties.

(C) Parking or loading space in a public street shall not be counted in fulfilling the parking and loading requirements of this section. Required spaces may be located in a private street when authorized in the approval of such private street.

Hearings Officer: The parking and loading areas do not abut directly on a public or private street; the parking spaces will be accessed via a roughly 325-foot long driveway from NW Skyline Boulevard. However, the hearings officer finds that it is feasible for the proposed facility to comply with the approval criteria for a deviation from the dimensional standard in MCC 33.4170(A).

- a. Tualatin Valley Fire and Rescue, the authorized provider of structural fire service protection services for this area, reviewed the site plan access proposal and granted preliminary approval that it complies with their fire apparatus access standards (Exhibit A.5). MCC 33.4170(B)(1).
- b. The County Engineer reviewed the site plan access proposal and determined that the access complies with the County Road Rules and the County Design and Construction Manual Standards (Exhibit B.17). MCC 33.4170(B)(2).
- c. Widening the driveway from 12 to 20 feet would impose an unnecessary hardship on the property owner, due to the increased cost of nearly doubling the driveway width. MCC 33.4170(B)(3).
- d. The proposed 12-foot driveway will not be materially detrimental to the public welfare, injurious to property in the vicinity or the EFU zoning district, or adversely affect the appropriate development of adjoining properties. MCC 33.4170(B)(4). The facility is not open to the general public. Once construction is completed, the facility will generate one or two employee vehicle trips per month, limiting the potential for conflicting vehicle movements on the driveway. The driveway only provides access to the tower site from Skyline Road. It will not serve existing or future development on adjacent properties.

These criteria are met.

7.8 § 33.4175 DIMENSIONAL STANDARDS

(A) Parking spaces shall meet the following requirements:

- (1) At least 70-percent of the required off-street parking spaces shall have a minimum width of nine feet, a minimum length of 18 feet, and a minimum vertical clearance of six feet, six inches.**
- (2) Up to 30-percent of the required off-street parking spaces may have a minimum width of eight-and-one-half feet, a minimum length of 16 feet, and a vertical clearance of six feet if such spaces are clearly marked for compact car use.**
- (3) For parallel parking, the length of the parking space shall be 23 feet.**
- (4) Space dimensions shall be exclusive of access drives, aisles, ramps or columns.**

(B) Aisle width shall be not less than:

- (1) 25 feet for 90 degree parking,**
- (2) 20 feet for less than 90 degree parking, and**
- (3) 12 feet for parallel parking.**

(4) Angle measurements shall be between the center line of the parking space and the center line of the aisle.

(C) Loading spaces shall meet the following requirements:

(1)

District	Minimum Width	Minimum Depth
All	12 Feet	25 Feet

(2) Minimum vertical clearance shall be 13 feet.

Staff: As shown on the Enlarged Site Plan Sheet Number C-2, the applicant proposes to locate two (2) additional parking spaces on the subject property. The minimum parking space dimensions are a minimum width of 9 feet and a length of 18 feet. For two spaces, an area of 18 feet by 18 feet is required to meet the minimum dimensional standards. The parking area is approximately 30 feet by 24 feet in area, which is larger than the minimum dimensional standard (Exhibit A.20: Enlarged Site Plan). The aisle width which provides access to the utility facility is 42 feet, which is larger than the minimum 25 feet required for 90-degree parking. *This criterion is met.*

7.9 § 33.4180 IMPROVEMENTS

(A) Surfacing

(1) Except as otherwise provided in this section, all areas used for parking, loading or maneuvering of vehicles, including the driveway, shall be surfaced with at least two inches of blacktop on a four inch crushed rock base or at least six inches of Portland cement, unless a design providing additional load capacity is required by the fire service provider, building official or County Engineer, as applicable.

(2) The Approval Authority may permit and authorize a deviation from the surfacing standard in paragraph (A)(1) of this section and thereby authorize alternate surfacing systems that provide a durable and dustless surface, including gravel. A deviation under this paragraph may be permitted and authorized only upon finding that each parking area supporting the existing and the proposed development meets the following standards in subparagraphs (a) and (b) and, for parking areas of four or more required parking spaces, also meets the following standards in subparagraphs (c) and (d):

(a) The authorized provider of structural fire protection services verifies that the proposed deviation complies with such provider's fire apparatus access standards, or, if there is no such service provider, the building official verifies that the proposed deviation complies with the Oregon Fire Code;

(b) The County Engineer verifies that the proposed deviation complies with the County Road Rules and the County Design and Construction Manual Standards. Alternative surfacing can be considered for all areas used for parking, loading and maneuvering, including the driveway; however, approaches to paved public rights-of-way shall be paved for a minimum distance of 21 feet from the fog line, or for a greater distance when required by the County Engineer;

(c) Authorization of the proposed deviation would not:

- 1. be materially detrimental to the public welfare;**
- 2. be injurious to property in the vicinity or zoning district in which the property is located; or**

3. adversely affect the appropriate development of adjoining properties; and

(d) Any impacts resulting from the proposed surfacing are mitigated to the extent practical. Mitigation may include, but is not limited to, such considerations as provision for pervious drainage capability, drainage runoff control and dust control. A dust control plan is required when a dwelling, excluding any dwelling served by the driveway, is located within 200-feet of any portion of the driveway for which gravel or other similar surfacing materials is proposed. Common dust control measures include, but are not limited to, reduced travel speeds, gravel maintenance planning, establishment of windbreaks and use of binder agents.

(3) Notwithstanding paragraph (A)(1) of this section, parking fields for intermittent uses such as special events associated with public parks, sporting events, and the like may be surfaced with gravel, grass or both and spaces may be unmarked if the parking of vehicles is supervised. Grass fields used for parking shall be maintained so that grass is kept short and watered to minimize fire risk and reduce dust.

Staff: The applicant is proposing to deviate from the required surfacing improvements. The required surfacing improvements require that the surface be paved with at least two inches of blacktop on a four-inch crushed rock base or at least six inches of Portland cement. Instead the applicant is proposing a gravel driveway.

The majority of the areas used for parking, loading and maneuvering of vehicles are associated with the fire station utility facility. The areas associated with the fire station utility facility are paved. For areas of new development, the applicant is proposing a driveway that consists of gravel. As required above, the applicant will need to meet the requirements of (A)(2)(a) and (A)(2)(b).

The applicant has provided a Fire Service Agency Review discussing the driveway requirements. Reviewed and signed by Drew DeBois, Deputy Fire Marshal and Certified Fire Investigator, Tualatin Valley Fire & Rescue (Exhibit A.5). The Fire Service Agency Review stated that the applicant will need to provide a “uniform all weather service capable of sustaining 75,000 lbs. gross vehicle weight and 12,500 lbs. wheel load.”

The applicant has also provided a Transportation Planning Review discussing the transportation requirements. Reviewed and signed by Kate McQuillan, Transportation Planning Specialist and Certified Planner, Multnomah County (Exhibit A.7). The Transportation Planning Review found that the proposed driveway and site plan is approved and meets all requirements of Multnomah County Road Rules.

Based on the agency reviews, the applicant will need to meet the conditions of approval to permit the deviation. As required by Tualatin Valley Fire & Rescue, the driveway will need to be uniform all weather service capable of sustaining 75,000 lbs. gross vehicle weight and 12,500 lbs. wheel load. *As conditioned, this criterion is met.*

(B) Curbs and Bumper Rails

(1) All areas used for parking, loading, and maneuvering of vehicles shall be physically separated from public streets or adjoining property by required landscaped strips or yards or in those cases where no landscaped area is required, by curbs, bumper rails or other permanent barrier against unchanneled motor vehicle access or egress.

(2) The outer boundary of a parking or loading area shall be provided with a bumper rail or curbing at least four inches in height and at least three feet from the lot line or any required fence except as provided in (3) below.

(3) Except for development within the BRC, CFU-1, CFU-2 and CFU-5 zones, the outer boundary of a parking or loading area with fewer than four required parking spaces may use a five foot wide landscape strip or yard planted with a near-continuous number of shrubs and/or trees. If the outer boundary of the parking area is within 50 feet of a dwelling on an adjacent parcel, the plant materials shall create a continuous screen of at least four feet in height except at vision clearance areas where it shall be maintained at three feet in height.

Staff: As shown on the Enlarged Site Plan Sheet Number C-2, the areas used for parking, loading, and maneuvering of vehicles are separated from public streets and adjoining properties through the use of open fields (Exhibit A.20). The applicant has not indicated that the project will contain any landscaped strips, curbs, bumper rails or other permanent barrier against unchanneled motor vehicle access or egress. Therefore, as a condition, the applicant will be required to provide landscaped strips, curbs, bumper rails or other permanent barrier against unchanneled motor vehicle access or egress. The bumper rail or curbing shall be a minimum of four inches in height and at least three feet from the lot line. Alternatively, the applicant may use a five-foot wide landscape strip or yard planted with a near-continuous number of shrubs and/or trees. *As conditioned, these criteria are met.*

(C) Marking – All areas for the parking and maneuvering of vehicles shall be marked in accordance with the approved plan required under MCC 33.4120, and such marking shall be continually maintained. Except for development within the BRC zone, a graveled parking area with fewer than four required parking spaces is exempt from this requirement.

Staff: As shown on the Enlarged Site Plan Sheet Number C-2, the applicant proposes to locate two (2) additional parking spaces on the subject property (Exhibit A.20). As allowed above, the graveled parking area with fewer than four required parking spaces is exempt from the marking requirement. *This criterion is met.*

(D) Drainage – All areas for the parking and maneuvering of vehicles shall be graded and drained to provide for the disposal of all surface water on the lot.

Staff: The applicant has provided a storm water certificate indicating the disposal of all surface water on the lot generated by the parking and maneuvering of vehicles will be provided on the lot. Reviewed by Don Cushing, Registered Professional Engineer, the certificate indicated that the construction of an on-site storm water drainage control system is not required (Exhibit A.21). *This criterion is met.*

(E) Covered Walkways – Covered walkway structures for the shelter of pedestrians only, and consisting solely of roof surfaces and necessary supporting columns, posts and beams, may be located in an O-P district. Such structures shall meet the setback, height and other requirements of the district which apply.

Staff: The applicant is not proposing any covered walkways as part of this application; therefore, this standard does not apply. *This criterion is met.*

7.10 § 33.4185 LIGHTING

Any artificial lighting which may be provided shall be shielded or deflected so as to not shine into adjoining dwellings or other types of living units, and so as not to create a hazard to the traveling public on any street.

Staff: The applicant is proposing one light that will be located on the equipment shelter. The light will be shielded and motion-detection controlled. The light will only activate if a technician were to visit in the evening or at night. The equipment shelter is also located more than 400 feet from any adjoining dwellings, other types of living units or the traveling public on any street. *This criterion is met.*

7.11 § 33.4195 DESIGN STANDARDS: SETBACKS

(A) Any required yard which abuts upon a street lot line shall not be used for a parking or loading space, vehicle maneuvering area or access drive other than a drive connecting directly to a street perpendicularly.

(B) In the BRC district, off-street parking for new, replacement or expansion of existing commercial or industrial developments on a parcel less than 1 acre shall provide a minimum of 10 foot landscaped front yard or street side setback. All other minimum yard dimensions for parking shall be as required in the Off-Street Parking and Loading Code Section.

(C) A required yard which abuts a street lot line shall not be paved, except for walkways which do not exceed 12 feet in total width and not more than two driveways which do not exceed the width of their curb cuts for each 150 feet of street frontage of the lot.

Staff: The applicant is not proposing to locate any parking, loading space, vehicle maneuvering area, or access drive in any required yard. The subject project is not located in the BRC district and the required yards are not proposed to be paved. *This criterion is met.*

7.12 § 33.4200 LANDSCAPE AND SCREENING REQUIREMENTS

(A) The landscaped areas requirements of MCC 33.7055 (C) (3) to (7) shall apply to all parking, loading or maneuvering areas which are within the scope of design standards stated in MCC 33.4165 (A).

Staff: The applicant has provided information about landscaped areas as required by MCC 33.7055(C)(3) to (7) which are within the scope of design standards stated in MCC 33.4165(A). *This criterion is met.*

7.13 § 33.4205 MINIMUM REQUIRED OFF-STREET PARKING SPACES

(E) Unspecified Uses

Any use not specifically listed above shall have the requirements of the listed use or uses deemed most nearly equivalent by the Planning Director.

Staff: The proposed use does not have a specified minimum required off-street parking spaces. However, MCC 33.6615(D) requires that the communications tower utility facility have two (2) parking spaces. The applicant is therefore proposing to locate an additional two (2) parking spaces near the utility facility in addition to the already existing twelve (12) spaces required for the fire station utility facility. *The criterion is met.*

7.14 § 33.4210 MINIMUM REQUIRED OFF-STREET LOADING SPACES

(E) Unspecified Uses

Any use not specifically listed above shall have the requirements of the listed use or uses deemed most nearly equivalent by the Planning Director.

Staff: The proposed use does not have a specified minimum required off-street loading spaces. However, MCC 33.6615(D) requires that the communications tower utility facility have two (2) parking spaces. The standard in MCC 33.6615(D) does not specify if the two (2) parking spaces are to be used for parking or loading, so the parking spaces will be used both for parking and for loading. The applicant is therefore proposing to locate an additional two (2) parking spaces near the utility facility in addition to the already existing twelve (12) spaces required for the fire station utility facility. *This criterion is met.*

8.0 Design Review Criteria:

8.1 § 33.7020 APPLICATION OF REGULATIONS

(A) Except those exempted by MCC 33.7015, the provisions of MCC 33.7000 through 33.7060 shall apply to all conditional and community service uses, and to be specified, in any district.

(B) Uses subject to Design Review that require the creation of fewer than four new parking spaces pursuant to MCC 33.4205 shall only be subject to the following Design Review approval criteria: MCC 33.7050(A)(1)(a) and (1)(c), (4) and (7), except when located in the BRC general district.

(C) All other uses are subject to all of the Design Review Approval Criteria listed in MCC 33.7050 and 33.7055.

(D) Alteration or modification of the physical development previously reviewed through the Design Review process shall be subject to the Design Review Approval Criteria listed in MCC 33.7050 and 33.7055.

Staff: The applicant is proposing to address modifications of the physical development previously reviewed through the Design Review process in land use case DR 5-98 and approved in the final landscaping plan in 2001 (Exhibit B.14). As required by the above, an alteration or modification of the physical development previously reviewed shall be subject to the approval criteria listed in MCC 33.7050 and MCC 33.7055, which is discussed below.

8.2 § 33.7040 FINAL DESIGN REVIEW PLAN

Prior to land use approval for building permit review or commencement of physical development where no additional permits are necessary, the applicant shall revise the plans to show compliance with the land use approvals granted, all conditions of approval and required modifications. Final design review plan shall contain the following, drawn to scale:

(A) Site Development and Landscape Plans, indicating the locations and specifications of the items described in MCC 33.7030, as appropriate;

(B) Architectural drawings, indicating floor plans, sections, and elevations; and

(C) Approved minor exceptions from yard, parking, and sign requirements.

Staff: To ensure compliance with the criterion above, the applicant will be required to submit prior to land use approval for building permit review revised plans to show compliance with the

land use approvals granted, all conditions of approval and required modifications. *As conditioned, this criterion is met.*

8.3 § 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.

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

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

Staff: The fire station utility facility was discussed in DR 5-98 and ultimately approved with conditions. The Decision, DR 5-98, found that the elements of the design review plan related harmoniously to the natural environment and existing buildings and structures having a visual relationship with the site. In comparing 1998 and the current development pattern, the area is essentially unchanged from the DR 5-98 decision and approval. The barn discussed in 1998 still exists across Skyline Boulevard and the single-family dwelling that acts as the assembly room for the fire station utility facility is unchanged.

The applicant is also proposing to landscape the area surrounding the public communications utility facility, xeriscape the area in front of the volunteer assembly room, and leave the area in front of the truck bay open (i.e. not planting the required three (3) trees along the front of the property). These changes should not disrupt the harmoniousness of the area as the area is still rural in nature with open space and forested areas surrounding the properties. *This criterion is met.*

(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.

Staff: The fire station utility facility was discussed in DR 5-98 and ultimately approved with conditions. The Decision, DR 5-98, found that the design review plan was designed to provide a safe environment due to the separate driveways for the emergency vehicles leaving the truck bay and volunteers arriving to the site. Additionally, the subject property has an encroachment permit authorized by Multnomah County Transportation Division ensuring safe ingress and egress. *This criterion is met.*

(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.

Staff: The site plan that was previously approved in land use case DR 5-98 and approved in the final landscape plan in 2001 (Exhibit B.14) indicates that one van accessible handicapped parking space was provided. *This criterion is met.*

(4) Preservation of Natural Landscape – The landscape and existing grade shall be preserved to the maximum practical degree, considering development constraints

and suitability of the landscape or grade to serve their functions. Preserved trees and shrubs shall be protected during construction.

Staff: The site plan that was previously approved in land use case DR 5-98 and approved in the final landscape plan in 2001 (Exhibit B.14) indicates the improvements to the site were completed and that they were clustered around existing development as much as possible. For the proposed public communications facility the applicant will flatten the area within the fenced area and the driveway leading to that area to provide level ground for the tower and driveway access to the facility. *This criterion is met.*

(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.

Staff: The site plan that was previously approved in land use case DR 5-98 and approved in the final landscape plan in 2001 (Exhibit B.14) indicates the improvements to the pedestrian, vehicular circulation, and parking areas were completed. The arrangement of the parking areas clusters the parking areas to the front of the property. The applicant is also proposing a new accessway interior to the property to provide access from the rear parking lot to the public communications utility facility. This accessway will not create new safety issues on the property. *This criterion is met.*

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

Staff: The applicant has provided a storm water certificate indicating the disposal of all surface water on the lot generated by the parking and maneuvering of vehicles will be provided on the lot. Reviewed by Don Cushing, Registered Professional Engineer, the certificate indicated that the construction of an on-site storm water drainage control system is not required (Exhibit A.21). *This criterion is met.*

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

Staff: The site plan that was previously approved in land use case DR 5-98 and approved in the final landscape plan in 2001 (Exhibit B.14) indicates the approximately 30,000 square feet of landscaping (25-percent of the lot) was to be installed. Based on review of aerial photos, it appears that most of the landscaping was completed. However, the applicant did not plant the three (3) trees that were located in front of the truck bay. The applicant is electing to either plant the three (3) trees as approved in the previously landscaping plan or propose other areas where the trees could be located. To ensure compliance, the applicant will need to ensure that 15-percent of the development area shall be landscaped as required in MCC 33.7055. *This criterion is met.*

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

Staff: As part of the public communications utility facility, the applicant is proposing to underground any utilities that will be associated with the use. As shown on the site plan, Final Survey: WCCCA – Cornelius Pass page 3, the applicant will create a utility easement for utilities needed to support the public communications utility facility. *This criterion is met.*

(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.

Staff: The applicant is proposing to permit a sign that was improperly placed on the subject property. In 1998, land use case PRE 2-98 and DR 5-98 authorized the use of the property as a fire station utility facility. As part of the final Landscape Plan, L.10, the applicant proposed to locate a sign adjacent to the eastern most driveway to the fire station utility facility (Exhibit B.14). Subsequently, in reviewing information from Google Street View, it appears that the sign has moved to the western most driveway (Exhibit B.12). Using the photos provided by Google Street View, the sign appears to be constructed of either stone or cement and is primarily a whitish stone color. The sign is at ground level and functions as an identifier of a public agency. Further the sign matches the color of the truck bay doors and white trim on the volunteer assembly building. *This criterion is met.*

§ 33.7055 REQUIRED MINIMUM STANDARDS

(C) Required Landscape Areas

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

- (1) A minimum of 15-percent of the development area shall be landscaped; provided, however, that computation of this minimum may include areas landscaped under subpart 3 of this subsection.**
- (2) All areas subject to the final design review plan and not otherwise improved shall be landscaped.**
- (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.**

Staff: The applicant is proposing to permit a sign that was improperly placed on the subject property. In 1998, land use case PRE 2-98 and DR 5-98 authorized the use of the property as a fire station utility facility. As part of the final Landscape Plan, L.10 approved in 2001, the applicant at that time proposed to landscape approximately 32,034 square feet (25-percent of the lot). Based on review of aerial photos, it appears that a majority of the landscaped areas from 2001 were landscaped according to the plan (Exhibit B.15).

The applicant is proposing alter the landscaping plan previously approved in 2001. The changes include xeriscaping the area in front of the volunteer assembly room instead of having the area seeded with lawn, leaving the area in front of the truck bay open and not planting the required three (3) trees along the front of the property.

As required a minimum of 15-percent of the development area shall be landscape. In total, the previously approved development areas totaled 130,680 square feet with an additional 6,200 square feet for the public communications utility facility. At 15-percent, a total of 20,532 square feet of areas would require landscaping. The previous 2001 plan indicated that 32,034 square feet of area would be landscaped, which exceeds the minimum 20,532 square feet required.

For the areas surrounding the public communications utility facility the applicant is proposing to plant *Thuja Occidentalis* “arborvitae” around the perimeter of the fenced area. There is no proposed landscaping along the parking area closest to the public communications facility because the parking area will be less than ten spaces.

However, to ensure that this criteria is met, a condition will be required that a minimum of 15-percent of the development area shall be landscaped. *As conditioned, these criteria are met.*

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

Staff: To ensure compliance with this criterion, a condition will be required that provisions shall be made for watering planting areas where such care is required. *As conditioned, this criterion is met.*

(5) Required landscaping shall be continuously maintained.

Staff: To ensure compliance with this criterion, a condition will be required that landscaping shall be continuously maintained. *As conditioned, this criterion is met.*

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

Staff: There are no overhead utility lines on the subject property, therefore this criterion is not applicable. *This criterion is inapplicable.*

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

Staff: This criterion is a definition and does not have an effect on the outcome of this decision. *This criterion is not applicable.*

9.0 Significant Environmental Concern Criteria:

9.1 § 33.4510 USES; SEC PERMIT REQUIRED

(A) All uses permitted under the provisions of the underlying district are permitted on lands designated SEC; provided, however, that the location and design of any use, or change or alteration of a use, except as provided in MCC 33.4515, shall be subject to an SEC permit.

Staff: The proposed use and development are located on lands designated SEC and shall be subject to the SEC permit requirements as discussed below.

(B) Any excavation or any removal of materials of archaeological, historical, prehistorical or anthropological nature shall be conducted under the conditions of an SEC permit, regardless of the zoning designation of the site.

Staff: As required above, any excavation or removal of materials of archaeological, historical, prehistorical, or anthropological nature shall be conducted under the conditions of an SEC permit. Although there are no indication of archaeological, historical, prehistorical, or anthropological areas within the project site; if archaeological artifacts are found, a condition will be required that during construction activities that the applicant or their representatives shall halt construction, notify the Planning Director, conduct a survey and evaluation, and prepare a mitigation plan. *As conditioned, this criterion is met.*

(C) Activities proposed for lands designated as scenic waterways under the Oregon Scenic Waterways System shall be subject to an SEC permit in addition to approval from the Oregon Parks and Recreation Department.

Staff: As proposed, the communications tower utility facility is not located on lands designated as scenic waterways under the Oregon Scenic Waterways System; therefore, these requirements do not apply. *This criterion is inapplicable.*

9.2 § 33.4567 SEC-H CLEAR AND OBJECTIVE STANDARDS

At the time of submittal, the applicant shall provide the application materials listed in MCC 33.4520(A) and 33.4570(A). The application shall be reviewed through the Type I procedure and may not be authorized unless the standards in 33.4570(B)(1) through (4)(a)-(c) and (B)(5) through (7) are met. For development that fails to meet all of the criteria listed above, a separate land use application pursuant to MCC 33.4570 may be submitted.

Staff: The applicant has submitted the required application materials listed in MCC 33.4520(A) and 33.4570(A). The application materials are found in Exhibit A.2, A.20, and A.23. After review of the application materials, it appears the development fails to meet all of the criteria listed in 33.4570(B)(1) through (4)(a)-(c) and (B)(5) through (7). Therefore the proposed development has submitted a separate land use application pursuant to MCC 33.4570 that application is discussed below.

9.3 § 33.4570 CRITERIA FOR APPROVAL OF SEC-H PERMIT -WILDLIFE HABITAT

(A) In addition to the information required by MCC 33.4520 (A), an application for development in an area designated SEC-h shall include an area map showing all properties which are adjacent to or entirely or partially within 200 feet of the proposed

development, with the following information, when such information can be gathered without trespass:

(1) Location of all existing forested areas (including areas cleared pursuant to an approved forest management plan) and non-forested "cleared" areas;

For the purposes of this section, a forested area is defined as an area that has at least 75 percent crown closure, or 80 square feet of basal area per acre, of trees 11 inches DBH and larger, or an area which is being reforested pursuant to Forest Practice Rules of the Department of Forestry. A non-forested "cleared" area is defined as an area which does not meet the description of a forested area and which is not being reforested pursuant to a forest management plan.

(2) Location of existing and proposed structures;

(3) Location and width of existing and proposed public roads, private access roads, driveways, and service corridors on the subject parcel and within 200 feet of the subject parcel's boundaries on all adjacent parcels;

(4) Existing and proposed type and location of all fencing on the subject property and on adjacent properties and on properties entirely or partially within 200 feet of the subject property.

Staff: The applicant has submitted Overall Site Plan C-1 that shows all properties within 200 feet of the proposed development, the location of all existing forest areas, existing and proposed structures, location, and width of existing and proposed roads/driveways (Exhibit A.20). *These criteria are met.*

(B) Development standards:

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

Staff: Adopted in 1994, Ordinance 801 created the Significant Environmental Concern for Wildlife Habitat (SEC-h) overlay. At the time of adoption, areas of wildlife habitat, which include forested areas, were protected as a Statewide Planning Goal 5 resource. As defined above, a forested area is:

“[a]n area that has at least 75 percent crown closure, or 80 square feet of basal area per acre, of trees 11 inches DBH and larger, or an area which is being reforested pursuant to Forest Practice Rules of the Department of Forestry.

Upon review of historical aerial photos from 1986 and 1998, the parcel has been clear of trees and primarily open farm land since before the enactment of Ordinance 801 (Exhibit B.9 and B.10). The parcel did not and continues to not contain forested areas. The proposed development is located in the north portion of the property and located in an existing “cleared” area. *These criteria are met.*

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

Staff: The development does not occur within 200 feet of a public road. As measured on the site plan, Final Survey: WCCCA – Cornelius Pass, the outer extent of the fenced area where the development will occur is approximately 430 feet from the public road (Exhibit A.20). *This criterion is not met.*

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

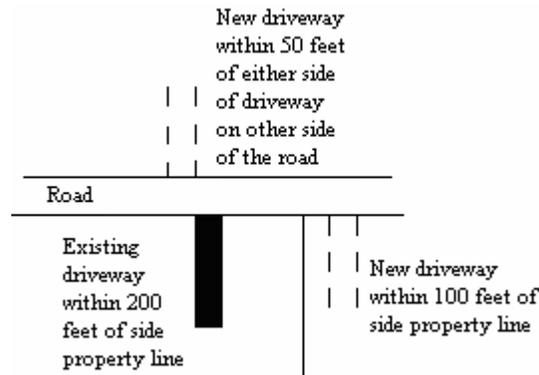
Staff: The access road/driveway does not exceed 500 feet in length. As measured on the site plan, Final Survey: WCCCA – Cornelius Pass, the distance of the access road/driveway to the outer extent of the fenced area where the development will occur is approximately 440 feet from the public road (Exhibit A.20). *This criterion is met.*

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

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

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

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



For illustrative purposes only.

Staff: The subject property has multiple driveway approaches adjacent and across the public road to this property. As measured using GIS tools within the Multnomah County Land Use Planning Map, there is one driveway on the same side of the road. The adjacent driveway is 33.01 feet from the east side property line. (Exhibit B.11). As required above, if there is a driveway approach is within 200 feet of the side property line, then the driveway must located within 100 of that side property line. As measured, on the site plan, Final Survey: WCCCA – Cornelius Pass, the existing driveway accessing the subject property is 125 feet from the east property line.

On the opposite side of the road, there is one driveway on the other side of the road. As measured using GIS tools within the Multnomah County Land Use Planning Map, the nearest access road/driveway approach on the opposite side of the road is 175.65 feet from the existing driveway on the subject property (Exhibit B.11). In both cases, the driveway for the subject property does not meet the above requirements. *This criterion is not met.*

(d) The standards in this subsection (4) may be modified upon a determination by the County Road Official that the new access road/driveway approach would result in an unsafe traffic situation using the standards in the Multnomah County “Design and Construction Manual,” adopted June 20, 2000, (or all updated versions of the manual). Standards to be used by the Road Official from the County manual include

Table 2.3.2, Table 2.4.1, and additional referenced sight distance and minimum access spacing standards in the publication A Policy on Geometric Design of Highways and Streets by the American Association of State Highway and Transportation Officials (AASHTO) and the Traffic Engineering Handbook by the Institute of Transportation Engineers (ITE).

- 1. The modification shall be the minimum necessary to allow safe access onto the public road.**
- 2. The County Road Official shall provide written findings supporting the modification.**

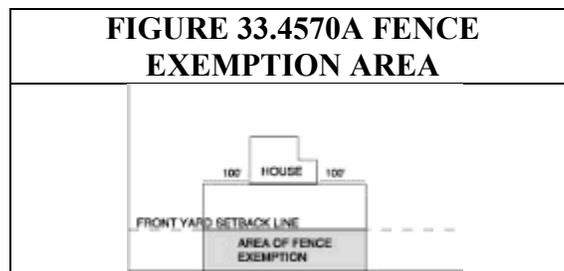
Staff: The applicant has not requested that the standards in standards in this subsection (4) be modified to accommodate the location of the existing driveway approaches; therefore, this standard is not applicable.

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

Staff: The subject property is adjacent to property that has structures and developed areas. As measured using GIS tools within the Multnomah County Land Use Planning Map, there is a structure located approximately 45 feet away from the subject property on the adjacent property to the east (Exhibit B.11). As required above, the development shall be within 300 feet of the side property line due to the location of the structure on the adjacent property. The development area is located 30 feet from the eastern property line. *This criterion is met.*

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

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



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

Staff: The applicant is not proposing to install any fencing within the required setback from a public road. The subject property does contain a fence along the eastern portion of the property. The fence begins 22 feet from the edge of the property line adjacent to the public road and follows the eastern property line 230 feet. The project also proposes the installation of a security fence that surrounds the public communications utility facility. In both instances, fencing standards do not apply where the fence is needed for security of utility facilities, as proposed in this application. *This criterion is met.*

(7) The following nuisance plants shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property:

<i>Scientific Name</i>	Common Name	<i>Scientific Name</i>	Common Name
<i>Chelidonium majus</i>	Lesser celandine	<i>Loentodon autumnalis</i>	Fall Dandelion
<i>Cirsium arvense</i>	Canada Thistle	<i>Lythrum salicaria</i>	Purple Loosestrife
<i>Cirsium vulgare</i>	Common Thistle	<i>Myriophyllum spicatum</i>	Eurasian Watermilfoil
<i>Clematis ligusticifolia</i>	Western Clematis	<i>Phalaris arundinacea</i>	Reed Canary grass
<i>Clematis vitalba</i>	Traveler's Joy	<i>Poa annua</i>	Annual Bluegrass
<i>Conium maculatum</i>	Poison hemlock	<i>Polygonum coccineum</i>	Swamp Smartweed
<i>Convolvulus arvensis</i>	Field Morning-glory	<i>Polygonum convolvulus</i>	Climbing Binaweed
<i>Convolvulus nyctagineus</i>	Night-blooming Morning-glory	<i>Polygonum sachalinense</i>	Giant Knotweed
<i>Convolvulus sepium</i>	Lady's nightcap	<i>Prunus laurocerasus</i>	English, Portuguese Laurel
<i>Cortaderia selloana</i>	Pampas grass	<i>Rhus diversiloba</i>	Poison Oak
<i>Crataegus sp. except C. douglasii</i>	hawthorn, except native species	<i>Rubus discolor</i>	Himalayan Blackberry
<i>Cytisus scoparius</i>	Scotch broom	<i>Rubus laciniatus</i>	Evergreen Blackberry
<i>Daucus carota</i>	Queen Ann's Lace	<i>Senecio jacobaea</i>	Tansy Ragwort
<i>Elodea densa</i>	South American Water-weed	<i>Solanum dulcamara</i>	Blue Bindweed
<i>Equisetum arvense</i>	Common Horsetail	<i>Solanum nigrum</i>	Garden Nightshade
<i>Equisetum telemateia</i>	Giant Horsetail	<i>Solanum sarrachoides</i>	Hairy Nightshade

<i>Scientific Name</i>	Common Name	<i>Scientific Name</i>	Common Name
<i>Erodium cicutarium</i>	Crane's Bill	<i>Taraxacum officinale</i>	Common Dandelion
<i>Geranium roberianum</i>	Robert Geranium	<i>Utricularia vulgaris</i>	Common Bladderwort
<i>Hedera helix</i>	English Ivy	<i>Urtica dioica</i>	Stinging Nettle
<i>Hypericum perforatum</i>	St. John's Wort	<i>Vinca major</i>	Periwinkle (large leaf)
<i>Ilex aquafolium</i>	English Holly	<i>Vinca minor</i>	Periwinkle (small leaf)
<i>Laburnum watereri</i>	Golden Chain Tree	<i>Xanthium spinosum</i>	Spiny Cocklebur
<i>Lemna minor</i>	Duckweed, Water Lentil	<i>various genera</i>	Bamboo sp.

Staff: To ensure compliance with this requirement, a condition will be required that the nuisance plants in the Table above shall not be planted and if found shall be removed and kept removed from the subject property. *As conditioned, this criterion is met.*

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

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

Staff: The applicant cannot meet the development standards of Section B. The location of the proposed public communications utility facility is dependent on the physical characteristics unique to the property. The subject property currently contains a previously approved fire station utility facility. The fire station utility facility and paved areas are located within the first 280 feet of the property. Additionally, the septic system, drainfield and repair area are located in the western portion of the property. These buildings and structures limit the areas that the public communications utility facility can be located. Therefore, the applicant is unable to meet the requirements of MCC 33.4570(B).

Since the applicant cannot meet the development standards of Section (B), the applicant will need to meet the requirements of MCC 33.4570(C)(4), which is discussed below.

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

- (a) That measures are included in order to reduce impacts to forested areas to the minimum necessary to serve the proposed development by restricting the amount of clearance and length/width of cleared areas and disturbing the least amount of forest canopy cover.**
- (b) That any newly cleared area associated with the development is not greater than one acre, excluding from this total the area of the minimum necessary accessway required for fire safety purposes.**
- (c) That no fencing will be built and existing fencing will be removed outside of areas cleared for the site development except for existing cleared areas used for agricultural purposes.**

- (d) That revegetation of existing cleared areas on the property at a 2:1 ratio with newly cleared areas occurs if such cleared areas exist on the property.**
- (e) That revegetation and enhancement of disturbed stream riparian areas occurs along drainages and streams located on the property.**

Staff: The applicant cannot meet the development standards of Section B and has elected to provide a wildlife conservation plan that demonstrates satisfaction with the criteria in MCC 33.4570(C)(3). The application has also include a Biological Assessment written by Tammy Stempel, Principal, Black Mountain Consulting LLC (Exhibit A.23). The Biological Assessment reviewed the site conditions and discussed federal requirements for protected species. The Assessment found that there will be no effect to federally endangered or threatened species or migratory birds.

The proposed development is not located in a forested area and there is no forest canopy cover on the subject property. The development will occur in an area that is cleared. The cleared area is limited to one acre, or 43,560 square feet. The development is approximately 6,856.50 square feet, which is less than the one acre maximum. The proposed fencing is exempt where needed for security of utility facilities.

The proposed development does not propose to revegetate existing cleared areas. As required, revegetation of existing cleared areas shall occur at a 2:1 ratio with newly cleared areas. Since the development will not create newly cleared areas and will occur in an already cleared area, no revegetation will be required. Additionally, there are no stream riparian areas on the property; therefore, no revegetation or enhancement is needed along drainages or streams. *This criterion is met.*

10.0 Hillside Development and Erosion Control – HD Criteria:

10.1 § 33.5505 PERMITS REQUIRED

Hillside Development Permit: All persons proposing development, construction, or site clearing (including tree removal) on property located in hazard areas as identified on the "Slope Hazard Map", or on lands with average slopes of 25 percent or more shall obtain a Hillside Development Permit as prescribed by this subdistrict, unless specifically exempted by MCC 33.5510.

Staff: The subject property does contain areas of slope hazard as identified on the "Slope Hazard Map. However, the proposed development is not located in the mapped hazard area on the "Slope Hazard Map," nor will the proposed development be located on in an area that will exceed an average slope of 25 percent or more. The applicant will not be required to obtain a Hillside Development and Erosion Control Permit to authorize the proposed development.

10.2 § 33.5510 EXEMPT LAND USES AND ACTIVITIES

The following are exempt from the provisions of this Chapter:

(A) Development activities approved prior to February 20, 1990; except that within such a development, issuance of individual building permits for which application was made after February 20, 1990 shall conform to site-specific requirements applicable herein.

(B) General Exemptions – Outside the Tualatin River and Balch Creek Drainage Basins, all land-disturbing activities outlined below shall be undertaken in a

manner designed to minimize earth movement hazards, surface runoff, erosion, and sedimentation and to safeguard life, limb, property, and the public welfare. A person performing such activities need not apply for a permit pursuant to this subdistrict, if :

- (1) Natural and finished slopes will be less than 25 percent; and,
- (2) The disturbed or filled area is 20,000 square feet or less; and,
- (3) The volume of soil or earth materials to be stored is 50 cubic yards or less; and,
- (4) Rainwater runoff is diverted, either during or after construction, from an area smaller than 10,000 square feet; and,
- (5) Impervious surfaces, if any, of less than 10,000 square feet are to be created; and,
- (6) No drainageway is to be blocked or have its stormwater carrying capacities or characteristics modified.

Staff: The applicant is proposing to conduct land-disturbing activities, which include the grading of the public communications utility area and the access road. As shown and measured in Final Survey: WCCCA – Cornelius Pass, Page 1, the natural slope is 15-percent at the utility facility and less than 10-percent (Exhibit A.20). On the Prelim Grading & Erosion Control Plan, the finished slope in the utility facility area will be flat with the use of a 4 feet retaining wall on the upslope side of the facility (Exhibit A.20). The utility facility will have a disturbance area of approximately 6,856.50 square feet and the volume of soil to be stored will be less than 50 cubic yards. *These criteria are met.*

11.0 Signs Criteria:

11.1 § 33.7410 CONFORMANCE

No sign may be erected unless it conforms with the regulations of this Chapter. Sign permits must be approved prior to erection of the sign.

Staff: The applicant is proposing to permit a sign that was improperly placed on the subject property. In 1998, land use case PRE 2-98 and DR 5-98 authorized the use of the property as a fire station utility facility. As part of the final Landscape Plan, L.10, the applicant proposed to locate a sign adjacent to the eastern most driveway to the fire station utility facility. Subsequently, in reviewing information from Google Street View, it appears that the sign has moved to the western most driveway (Exhibit B.12). As required above, no sign may be erected unless it conforms to the regulations of this Chapter. Therefore the applicant is submitting this application to permit the sign.

11.2 § 33.7450 SIGNS GENERALLY IN THE EFU, CFU-1, CFU-2, CFU-5, MUA-20, RR, AND BRC ZONES

For all uses and sites in the above listed zones, the following types, numbers, sizes and features of signs are allowed. All allowed signs must also be in conformance with the sign development regulations of MCC 33.7460 through 33.7500.

(A) Free Standing Signs:

- (1) Allowable Area – Free standing signs are allowed .25 square feet of sign face area per linear foot of site frontage, up to a maximum of 40 square feet.
- (2) Number – One free standing sign is allowed per site frontage.

(3) Height – The maximum height of a free standing sign is 16 feet.

(4) Extension into the Right-Of-Way – Free standing signs may not extend into the right-of-way.

Staff: The applicant is proposing to permit one free standing sign that is entirely located on the subject property. The sign is located 17 feet from the front property line, more than 500 feet from the rear and 138 feet and 111 feet from either side property line (Exhibit A.20: Page 2 Final Survey). The site frontage is approximately 255 feet. The calculated allowable area is 63.75 square feet, which is larger than the maximum of 40 square feet. The applicant states that the existing sign monument measures 54 inches in height by 83 inches in width. As described the sign face is a total of 31.13 square feet which is less than the 40 square feet allowed. The height of the sign is 4 feet 6 inches which is also less than the 16 feet allowed. *This criteria is met.*

(C) Sign Features

Permanent signs may have the following features:

(1) Signs may be indirectly illuminated downward onto the sign face.

(2) Electronic message centers are not allowed.

(3) Flashing signs are not allowed.

(4) Rotating signs are not allowed.

(5) Moving parts are not allowed.

Staff: The sign contains one lightbulb that indirectly illuminates downward onto the sign face. The sign does not contain electronic messaging or moving parts and the sign is not a flashing sign or rotating sign. *These criteria are met.*

11.3 § 33.7465 SIGN PLACEMENT

(A) Placement

All signs and sign structures shall be erected and attached totally within the site except when allowed to extend into the right-of-way.

Staff: The sign is erected and attached totally within the site. As measured the sign is located 17 feet from the front property line, more than 500 feet from the rear and 138 feet and 111 feet from either side property line (Exhibit A.20: Page 2 Final Survey). *This criterion is met.*

(B) Frontages

Signs allowed based on the length of one site frontage may not be placed on another site frontage. Signs allowed based on a primary building frontage may be placed on a secondary building frontage.

Staff: The applicant is not proposing to locate a sign on another site based on the length of the subject property's site frontage. *This criterion is met.*

(C) Vision Clearance Areas

(1) No sign may be located within a vision clearance area as defined in subsection (C) (2) below. No support structure(s) for a sign may be located in a vision clearance area unless the combined total width is 12 inches or less and the combined total depth is 12 inches or less.

(2) Location of vision clearance Areas – Vision clearance areas are triangular shaped areas located at the intersection of any combination of rights-of-way, private roads, alleys or driveways. The sides of the triangle extend 45 feet from the

intersection of the vehicle travel area (See MCC 33.7505 Figure 2). The height of the vision clearance area is from three feet above grade to ten feet above grade.

Staff: As measured on the site plan, the sign is located 37 feet from the edge of pavement (i.e. vehicle travel area) and 6.5 feet from the driveway. In extending the triangle to 45 feet from the intersection of the vehicle travel area, the sign is located outside the vision clearance area. (Exhibit A.20: Page 2 Final Survey). *This criterion is met.*

(D) Vehicle Area Clearances

When a sign extends over a private area where vehicles travel or are parked, the bottom of the sign structure shall be at least 14 feet above the ground. Vehicle areas include driveways, alleys, parking lots, and loading and maneuvering areas.

Staff: The sign does not extend over a private area where vehicles travel or are parked, therefore this standard does not apply. *This criterion is inapplicable.*

(E) Pedestrian Area Clearances

When a sign extends over private sidewalks, walkways or other spaces accessible to pedestrians, the bottom of the sign structure shall be at least 8-1/2 feet above the ground.

Staff: The sign does not extend over private sidewalks, walkways, or other spaces accessible to pedestrians, therefore this standard does not apply. *This criterion is inapplicable.*

(F) Required Yards and Setbacks

Signs may be erected in required yards and setbacks.

Staff: The sign is erected and located within one of the required yards. As measured the sign is located 17 feet from the front property line, more than 500 feet from the rear, and 138 feet and 111 feet from either side property line (Exhibit A.20: Page 2 Final Survey). At 17 feet from the front property line, the sign is located within the required front yard. *This criterion is met.*

(G) Parking Areas

(1) Unless otherwise provided by law, accessory signs shall be permitted on parking areas in accordance with the provisions specified in each district, and signs designating entrances, exits or conditions of use may be maintained on a parking or loading area.

(2) Any such sign shall not exceed four square feet in area, one side. There shall not be more than one such sign for each entrance or exit to a parking or loading area.

Staff: The applicant has not indicated that there are any accessory signs in the parking area. Therefore these criteria is not applicable. *This criterion is inapplicable.*

12.0 Land Divisions - Consolidation of Parcels and Lots Criteria:

12.1 § 33.7794 CONSOLIDATION OF PARCELS AND LOTS

This section states the procedures and requirements for removing property lines between adjacent parcels or lots in the same ownership in order to create one parcel or lot. The act of parcel or lot consolidation does not, in itself, remove prior conditions of land use approvals. A property owner may also choose to consolidate parcels or lots as part of a land division application. The parcel and lot consolidation process described in this section is different from (and does not replace) the process used by the County Assessment and Taxation Program to consolidate parcels and lots under one tax account.

Consolidation of parcels and lots may be approved under the applicable descriptions and approval criteria given in subsection (A) for parcels created by “metes and bounds” deed descriptions and subsection (B) for parcels and lots that were created by a Partition or Subdivision Plat.

(A) Consolidation of parcels created by “metes and bounds” deed descriptions may be approved under the standards of either subsections (1) or (2) as follows:

Staff: The applicant is requesting to consolidate two units of land formerly known as tax lot 31 and tax lot 32. Both units of land were created by “metes and bounds” deed descriptions. Therefore, the consolidation of the parcels may be approved under the standards of either subsection (1) or (2), as discussed below.

(1) If all the subject parcels proposed for consolidation were created by deed instruments prior to October 19, 1978, (the effective date of Ord. 174), or are Lots of Record created by deed instrument under the “minor partitions exempted” section 1.224 of Ord. 174 and MCC section 11.45.110, then the following shall apply:

Staff: The subject property was subject to previous findings that reviewed the Lot of Record status. Land use case # PRE 2-98 found that subject property was comprised of two properties that were created by deed on September 2, 1971 and December 13, 1971. The staff report stated:

“The parcels were zoned Suburban Residential (SR) prior to 1977. The zoning ordinance at that time permitted minimum lot sizes of 40,000 square feet, 20,000 square feet and 10,000 square feet (depending on the parcel’s ability to meet other development standards) in the SR zone. The subject parcels are 87,120 square feet and 43,560 square feet in size. Therefore, the parcels satisfied the Multnomah County zoning ordinance when they were created.”

As found in PRE 2-98, the subject parcels were both created by deed instruments prior to October 19, 1978. *This criterion is met.*

(a) Under a Type I Permit Review and in accordance with MCC 37.0550, an application and fee shall be submitted to the Land Use Planning office. The contents of the application shall include maps, copies of all current deeds, a title report, an affidavit signed by the owner that verifies that the owner has the authority to consolidate the parcels, and any supplementary material that is determined by the Planning Director to be necessary and relevant to demonstrate compliance with the standards in (b);

Staff: The applicant has submitted a Type 1 permit review to consolidate the two (2) parcels as part of this application.

(b) The Planning Director shall verify the following in a written report:
1. The subject parcels are in the same ownership and there are no ownership or financing obstacles to completing the consolidation;

Staff: As shown from DART property information for the subject property, the subject property is considered one (1) tax lot that is owned by Tualatin Valley Fire & Rescue, the owner of the subject property. Additionally, there are no ownership or financing obstacles to completing the consolidation. *This criterion is met.*

2. The parcels to be consolidated are either existing Lots of Record or the act of consolidation will correct a past unlawful land division;

Staff: As discussed in Section 4.4 and in PRE 2-98, the parcels were found to be two (2) individual Lots of Record. *This criterion is met.*

(c) The applicant shall submit to the Planning Director a copy of an unrecorded deed that conforms to the requirements of the Director's report; and

Staff: The applicant has not submitted a copy of an unrecorded deed that conforms to the requirements of the Director's report. Therefore, to ensure compliance with this criterion, a condition will be required that prior to building permit approval, an unrecorded deed be provided. *As conditioned, this criterion is met.*

(d) The applicant shall record the approved deed that accurately reflects the approved parcel consolidation.

Staff: To ensure compliance with this criterion, a condition will be required that prior to building permit approval, the applicant shall record the approved deed that accurately reflects the approved parcel consolidation. *As conditioned, this criterion is met.*

13.0 Comprehensive Plan Criteria:

13.1 Chapter 2 – Farm Land:

Exclusive Farm Use Zones

3.7 Restrict the use of exclusive farm use lands to agriculture and other uses, consistent with state law, recognizing that the intent is to preserve the best agricultural lands from inappropriate and incompatible development.

3.10 Allow non-agricultural uses, such as residences, on Exclusive Farm Use Lands as permitted by Oregon Statutes and Administrative Rules, with additional development standards and lot aggregation requirements to ensure protection of agricultural lands and natural and environmental resources. Limit new non-agricultural uses, and expansion of existing non-agricultural uses. This will result in a farm protection program for the County that is more restrictive than what state statutes and rules require.

Staff: The applicant is proposing a public communications utility facility as allowed in MCC 33.2625(A) and ORS 215.283(1)(c). ORS 215.283 authorizes a utility facility as a use that may be established in any area zoned for exclusive farm use. Implementing ORS 215.283, Multnomah County permits the establishment of utility facilities as a Review Use subject to certain conditions as outlined in this Report.

The proposed public communications utility facility will be located on a property that already contains another utility facility. The subject property is approximately 3 acres and already contains an existing utility facility that was permitted in 1998. The existing utility facility is a fire station and is located in the front portions of the property adjacent to NW Skyline Boulevard. The fire station utility facility contains multiple buildings and parking areas. The area where the public communications utility facility will be located is currently an open field. Due to the size of the property, it is unlikely that any substantial agricultural uses will occur on the property. The surrounding properties are owned by Motz Properties LLC. From aerial photos, it appears that the surrounding properties are farmed.

Therefore, to ensure that the surrounding properties are not subject to incompatible development, the property owner shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937. These measures will limit the impact of the utility facilities on the surrounding farming practices. *As conditioned, these criteria are met.*

13.2 Chapter 5 – Natural Resources

Water Quality and Erosion Control

5.14 Stormwater drainage for new development and redevelopment shall prioritize water quality and natural stream hydrology in order to manage stormwater runoff in accordance with the following:

- 1. The run-off from the site shall not adversely affect the water quality in adjacent streams, ponds, or lakes, or alter the drainage on adjoining lands, or cause damage to adjacent property or wildlife habitat.**
- 2. Stormwater infiltration and discharge standards shall be designed to protect watershed health by requiring onsite detention and/or infiltration in order to mimic pre-development hydraulic conditions so that post-development runoff rates and volumes do not exceed pre-development conditions.**
- 3. Apply Low Impact Development Approaches (LIDA) in order to conserve existing resources, minimize disturbance, minimize soil compaction, minimize imperviousness, and direct runoff from impervious areas onto pervious areas.**
- 4. Protect and maintain natural stream hydrology (or flow), with an emphasis on reducing hydromodification impacts such as stream incision and widening.**
- 5. Develop and adopt drainage system design guidelines and standards to accommodate fish and wildlife passage where appropriate.**
- 6. Develop and adopt standards for managing stormwater in landslide hazard areas in accordance with best management practices.**

Staff: The applicant has provided a storm water certificate indicating the disposal of all surface water on the parcel will be provided on the parcel. Reviewed by Don Cushing, Registered Professional Engineer, the certificate indicated that the construction of an on-site storm water drainage control system is not required (Exhibit A.21). Based on the findings from the Storm Water Certificate, the run-off from the site does not appear to adversely affect the water quality in on adjoining lands. The certificate states, “The existing 3 acres parcel sheet flows across grass field; the proposed <communications utility facility> will not adversely affect the natural drainage pattern of the parcel.” Additionally, the Engineering Conclusions found, “As shown, the proposed improvements will not alter the existing stormwater runoff and infiltration for the rural 3 acre parcel.” Lastly, the subject property does not contain streams, ponds, or lakes, which could be affected by storm water run-off. *This criterion is met.*

Air Quality, Noise, and Lighting Impacts

5.43 Require outdoor lighting to be low intensity and designed in a manner that minimizes the amount of light pollution.

Staff: No lights are proposed or required on the tower. The applicant is proposing one LED light that will be installed on the equipment shelter entrance. To ensure the light will be low intensity and designed in a matter that minimizes the amount of light pollution, a condition will

be required that the light meet Dark Sky requirements as described in MCC 33.0570. *As conditioned, this criterion is met.*

13.3 Chapter 6 – Historic and Cultural Resources

Cultural and Archeological Resources

6.4 Require reporting of the discovery of Native American artifacts and other cultural resources to SHPO and the Native American tribes.

Staff: There are no known areas of ecological, scientific, historical, or archaeological significance on the property. However, because there is the possibility that archaeological artifacts or deposits, a condition of approval will be required that directs the applicant or their agents' to stop work and halt construction, notify the Planning Director and Oregon State Historic Office (SHPO), and follow any subsequent actions including conducting surveys, preparing evaluations, and implementing any proposed mitigation plans. *As conditioned, this criterion is met.*

13.4 Chapter 11 – Public Facilities

Water Supply and Wastewater Treatment Systems

11.12 A water supply system for new development shall be by either of the following methods:

- 1. Connection to a public water system having adequate capacity to serve the development and all other system customers**
- 2. A private water system that produces safe drinking water with sufficient volume and pressure to meet applicable Building Code and Fire Protection Code**

Staff: The previous approval for a fire station utility facility contained a Certification of Water Service. The Certification of Water Service indicated that the subject property is serviced by a private well that flows at an approximate rate of 14.3 gallons per minute (Exhibit B.13). *This criterion is met.*

11.13 Wastewater disposal for new development shall be by any of the following methods:

- 1. Connection to a public sewer system having adequate capacity to serve the development and all other system customers**
- 2. A private system that meets Oregon Department of Environmental Quality regulations**

Staff: The applicant has submitted a Septic Review Certification. The proposed public communications utility facility was reviewed by Lilly Peterson, Registered Environmental Health Specialist, City of Portland Bureau of Development Services (Exhibit A.24). The proposed use was found to pose no concerns to the existing septic system and is “Approved – It will not impact the existing system.” *This criterion is met.*

Police, Fire, and Emergency Response Facilities

11.17 As appropriate, include school districts, police and fire protection, and emergency response service providers in the land use process by requiring review of land use applications from these agencies regarding the agency’s ability to provide the acceptable level of service with respect to the land use proposal.

Staff: The applicant has provided a Fire Service Agency Review discussing the driveway requirements. Reviewed and signed by Drew DeBois, Deputy Fire Marshal and Certified Fire Investigator, Tualatin Valley Fire & Rescue (Exhibit A.5). The Fire Service Agency Review stated that the applicant will need to provide a “uniform all weather service capable of

sustaining 75,000 lbs. gross vehicle weight and 12,500 lbs. wheel load.” Based on the agency review, the applicant will need to construct the driveway as described to meet the conditions of approval as required by Tualatin Valley Fire & Rescue. *As conditioned, this criterion is met.*

14.0 Conclusion

Based on the findings and other information provided above, the applicant **has** carried the burden necessary for a Community Service Conditional Use, Design Review, Significant Environmental Concern for Wildlife Habitat (SEC-h), Sign, and Lot Consolidation to establish a utility facility (public communications tower, accessory buildings, accessory structures) and modify previous conditions of approval for a previously reviewed utility facility (fire station) in the Exclusive Farm Use (EFU) zone.

15.0 Exhibits

- ‘A’ Applicant’s Exhibits
- ‘B’ Staff Exhibits
- ‘C’ Procedural Exhibits
- ‘D’ Comments Received

Exhibits with a “*” after the exhibit # have been included as part of the mailed decision. All other exhibits are available for review in Case File T3-2018-10764 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	General Application Form	08/08/2018
A.2	61	Narrative: Cornelius Pass Essential Public Communications Service Facility	08/08/2018
A.3	4	Search Areas and C800/WCCCA System Map	08/08/2018
A.4	2	Simplified C800/WCCCA In-Building Concept	08/08/2018
A.5	5	Fire Agency Review Letter	08/08/2018
A.6	2	Aerial Photo with Topography	08/08/2018
A.7	3	Transportation Planning Review	08/08/2018
A.8	4	Consolidated Search Program 4-Mile Radius Existing Tower Search	08/08/2018
A.9	6	Towerco Program 4-Mile Radius Existing WTS Search	08/08/2018
A.10	3	FCC ASR Registration Search Program 4-Mile Radius Existing WTS Search	08/08/2018
A.11	5	Antennasearch Program 4-Mile Radius Existing Tower Search	08/08/2018
A.12	4	Firstnet Information Packet	08/08/2018
A.13	2	Tax Lot Map	08/08/2018

A.14	5	Oregon Department of Aviation (ODA) Report and FAA Aeronautical Study	08/08/2018
A.15	3	Proposed Tower Radio Signal Propagation Maps	08/08/2018
A.16	3	Microwave Path Studies	08/08/2018
A.17	4	NIER Report	08/08/2018
A.18	5	FCC Radio Station Authorization	08/08/2018
A.19	2	Surrounding Property Zoning Map	08/08/2018
A.20	11	Site Plan and Zoning Drawings - T-1: Cover Sheet - Page 1: Final Survey: WCCCA – Cornelius Pass - Page 2: Final Survey: WCCCA – Cornelius Pass - Page 3: Final Survey: WCCCA – Cornelius Pass - Page 4: Final Survey: WCCCA – Cornelius Pass - G-1: General Notes - C-1: Overall Site Plan - C-2: Enlarged Site Plan - C-3: Elevations - C-4: Landscape Plan - C-13: Prelim. Grading and Erosion Control Plan	08/08/2018
A.21	38	Storm Water Certificate and Preliminary Storm Water Report	08/08/2018
A.22	22	Tower Structural Design Report	08/08/2018
A.23	8	Biological Assessment	08/08/2018
A.24	5	Septic Review Certification	08/08/2018
A.25	5	Recorded Deeds - Instrument #2018-001524, Recorded on January 4, 2019	08/08/2018
A.26	4	Additional Narrative in Response to Incomplete Letter	01/22/2019
A.27	4	Certified Mail Receipts	01/22/2019
A.28	2	Sabre Letter RE: Tower Failure Characteristics	01/22/2019
A.29	3	Site plan with existing Cistern Highlighted and Photo of Drafting Port	01/22/2019
A.30	1	Applicant Request to added Type 1 applications for Lot Consolidation and Sign	04/23/2019
A.31	1	Owner Request to added Type 1 applications for Lot Consolidation and Sign	05/03/2019
A.32	16	Revised narrative	05/03/2019

A.33	2	Photos of TVF&R Sign	05/03/2019
'B'	#	Staff Exhibits	Date
B.1	3	Department of Assessment, Records and Taxation ("DART"): Property Information for 2N1W31C -00400 (R971310310)	08/08/2018
B.2	1	Department of Assessment, Records and Taxation ("DART"): Map with 2N1W31C -00400 (R971310310) highlighted	08/08/2018
B.3	2	Deed Creating Estate by the Entirety recorded in Book 2234, Page 1441-1442 on September 5, 1989	03/13/2019
B.4	3	Warranty Deed recorded as Instrument #99148977 on August 3, 1999	03/13/2019
B.5	2	Statutory Quitclaim Deed recorded as Instrument #2018-001524 on January 4, 2018	03/13/2019
B.6	2	Statutory Quitclaim Deed recorded as Instrument #2018-001525 on January 4, 2018	03/13/2019
B.7	5	Statutory Quitclaim Deed recorded as Instrument #2018-007615 on January 22, 2018	03/13/2019
B.8	5	Statutory Quitclaim Deed recorded as Instrument #2018-007616 on January 22, 2018	03/13/2019
B.9	1	Aerial Photo from 1986	04/16/2019
B.10	1	Aerial Photo from 1998	04/16/2019
B.11	1	GIS Measurement obtained from Multnomah County Land Use Planning Map	04/16/2019
B.12	1	Google Streetview Photo taken on September 2018	04/28/2019
B.13	2	Certification of Water Service	04/28/2019
B.14	1	Landscape Plan as approved on 04/24/2001	04/28/2019
B.15	1	Aerial Photo from 2016	04/28/2019
B.16	1	Map showing zoning and slope hazard areas within search area	04/28/2019
B.17	1	Letter from Transportation Planning Division	05/02/2019
'C'	#	Administration & Procedures	Date
C.1	3	Incomplete letter	09/06/2018
C.2	1	Applicant's acceptance of 180 day clock	09/24/2018

C.3	1	Complete letter (day 1)	02/01/2019
C.4	7	Notice of Public Hearing & mailing list	04/17/2019
C.5		Administrative decision & mailing list	