

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

October 4, 2019

Portland Water Bureau
Attn. Robert Fraley
400 SW 6th Ave, Ste 400
Portland, OR 97204

RE: Application for a Community Service/Conditional Use, Design Review, Forest Development Standards, a Variance, an Exception to Secondary Fire Safety Zone, and a Category 1 Land Division (Case T3-2019-12391)

Dear Robert Fraley:

Your application has been reviewed by Land Use Planning to determine if all required materials have been provided to demonstrate compliance with Multnomah County Code (MCC). As is common with applications subject to multiple approval criteria, I have identified additional information needed in order to process your application. Your application has been deemed incomplete as of October 4, 2019.

Information and Materials Requested:

1. Please submit a site plan of Lot 4 (minimum size needed for the use - see #5 below), drawn to scale (engineer scale) that shows topography around the Microwave Tower, showing tower and other structures locations, and the primary and secondary fire safety zones.
2. For the Land Division and Lot of Record findings, the documents submitted as Appendix: B Title Report are quite confusing. There is a deed (?) that starts on what appears to be page 156 (Book?) starting mid-document (?). There is reference labeling info added on the deed (?) on page 157 in red sharpie and red pen linking to a map showing those properties labeled. The property descriptions on page 157 are labeled "2B", "2C" and "2D" as parcel 2 and there is a legal description labeled 3. On the second page, there is no page number and does not appear to be a continuation of the previous page. There is a label in red sharpie 2E with no indication what this document is. Next page is labeled page 168 with a note in the margin that it is Book 851, Page 168 and also has a red sharpie note "2F". With these single page legal descriptions, without any other information like, what the document is, if it was recorded (Book #, Page #) and a date on the document, staff can not verify Lot of Record status. The narrative and map is helpful but we cannot substitute narrative for actual deed documentation that includes information such as, type of deed/contract, date recorded/or date of contact in recordable form, recording number (usually a Book and Page).

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Appendix: B also includes a Warranty Deed labeled in red sharpie as "2A", which was recorded on 07/02/2004 at County Records as Instrument 2004-121621. Was this parcel/lot created in 2004, or is there an older deed?

Appendix: B also includes a deed labeled in red sharpie as Parcel 1B & 5 recorded on 12/17/1897 at Clackamas County Records in Book 246 on Page 418. Also included is a page without any indication of what document it is part of, no Book or Page number and no date with red ink stating it is for Parcel 1B and red sharpie #5. These submittals refer to Parcel 1B, but the map does not have Parcel 1B on it. Perhaps that is because it is in Section 23, 1S5E, which is not on the map and not part of the subdivision. The 12/17/1897 deed recorded at Clackamas County Records in Book 246 on Page 418 appears to meet the requirements; however there are several dashed line areas and some labeled Lots 1 – 4. Please explain those.

Also included are four pages with a deed with the Book and Page numbers added in pencil as "Book 911 Pages 8-9" with red sharpie indicating it is 6A. On page three in pencil on the last page of the deed "Book 911 Pages 8-9", it indicates it is now Book 800 Pages 293-4, which is labeled in what appears to be copied sharpie as 6B. Please provide a document with Book and Page numbers and recording information, including the date it was recorded.

These documents are at best very confusing, staff cannot determine if they are deeds, if they were recorded, what type of document they are part of and what the rest of the document states, and the recording information. With the current submitted documents, staff cannot make lot of record findings.

Please provide the most current deed for each of the lots and parcels, and the oldest deed as it is currently configured. Please provide a clarification, possibly additional documents that include dates when recorded. Explain why there are several areas on the Tentative Plan that are dashed lines with no label. Please include on the existing lots and parcels maps, deeds book and page numbers for each property.

3. Given the microwave tower was established with a Variance and an Exception to the Secondary Fire Safety Zone, staff believes that this request need not be addressed through this application. If your request for the Variance and the Exception are purely to address these previously approved reduction of the forest practice setback and the Secondary Fire Safety Zone, then these application requests are not needed and can be withdrawn.

The previously approved Variance in Case T3-2018-10227 was to reduce the forest practice setback from 130 feet to 30 feet to the eastern property line, and an Exception to the Secondary Fire Safety Zone to reduce the secondary fire safety zone to zero to the east while providing a 30 foot Primary Fire Safety Zone. If the use has been established with those dimensions, and they will not be changed by the proposed new land division (new lot), then there is no need to revisit these approvals. The Community Service/Conditional Use (CS/CU) is different because your proposal is using the use to create an under-sized lot, and the findings may be affected by the lot size (needs new findings).

If withdrawn, we will not bill any more to the Variance account. Once the decision is issued, we will refund any of the deposits that remain and 100 percent of the Exception

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fee if money is left after the Community Service/Conditional Use and Land Division costs are determined.

4. Please submit an existing lot/parcel plat map that shows and labels all existing lots/parcels, not just Tax Lots. Show existing area size (acres) of each existing lot/parcel. The submitted Preliminary Subdivision Plat Map appears to show, with dashed lines, that there may be several existing lots that are not labeled within the proposed subdivision. Is that the case? If not, then what are the dashed lines showing? Explain why there are several areas on the Tentative Plan that are dashed lines, but no labels.

There are solid lines around a parcel described by County Assessment and Taxation as Tax Lot 01000 (1S5E), Property ID: R343033 or Alt Acct: R995240090. Does that mean that parcel will continue to exist after the subdivision? Please include on the existing lots and parcels maps, deeds book and page numbers for each existing lot/parcel. Label the map as existing properties.

For the Subdivision Tentative Plan Map and information, please include a proposed name for the subdivision in the title according to standards in MCC 39.9400(E). Please include the street name for Waterworks Road. Please provide confirmation from a County/City (Bureau of Development Services sanitarian (via the green form and signed plan map) stating that there are no concerns about feasibility to provide on-site sewage disposal for any of the proposed lots if needed in the future. And especially if Lot 4 is proposed significantly smaller than the current submittal, as discussed under number 5 below. Is the noted existing power line in an easement? If so that should be noted and on the plan map.

5. For MCC 39.4140(A): *"A finding that the new lot is the minimum site size necessary for the proposed use."* This standard requires new lots to be the minimum necessary for the use, the microwave tower site including fire safety zones and the forest practices setbacks with a Variance and Exception approved in the previous case T3-2018-10227. The microwave tower site was located in an area where 30 feet in all directions has a shallow slope of less than 10 percent, meeting the minimum Primary Fire Safety Zone. The 100 foot secondary fire is required surrounding the Primary Fire Safety Zone on all sides, except the eastern side, for which an Exception to the Secondary Fire Safety Zone was approved.

For this standard, *"new lot is the minimum site size necessary for the proposed use"* the narrative states the proposed size for the lot will be 1,200 feet from south and west property lines and 240 feet from the north property (closest point). Minimum area required for the microwave tower is 130 feet to the south, west and north to meet the County development standards. The submitted narrative addressing this standard states that the reduction in size to 41.9 acre, *"ensures that the existing communication tower continues to meet all County standards..."* The narrative continues on to state that, *"The 41.9 acre lot is also the minimum size needed to successfully achieve the land exchange between PWB and USFS."* The last statement has nothing to do with the minimum size standard and the previous statement does not explain why the property needs to be 41.9 acres. In another statement about proposed Lot 4, the narrative (page 75) states, *"Lot 4, a 41.9 acre lot, is an appropriately sized lot for the CFU-3 District and for the use."* The State of Oregon decided that appropriate minimum size for a forest zoned property (CFU-

3) is 80 acres, not 41.9 acres. To deviate from the 80 minimum acres for Conditional Use approved utility use lot, the lot must be the minimum needed for the use, not the minimum needed for a land trade (a land trade is not a use). Instead of the 41.9 acre CU utility lot, staff suggests that lot should be designed to meet the County standards for the use, the utility facility, such as setbacks and required fire safety zones minimums. The property must be about 320 feet wide north to south and about 210 feet in depth east to west (my figures might be a little off since there are no submitted scaled site plans), or about 2 acres. Two acres would be enough area for the tower, accessory structures surrounded by the 30 foot Primary Fire Safety Zone, and surrounded by the 100 foot Secondary Fire Safety Zone on the south, west and north sides. Perhaps it may be prudent for one or two additional acres to cover any future utility needs on the site and a replacement area. Please change Lot 4 to about two acres to four acres. Any size larger than two acres will need a narrative explanation of why it needs to be larger (remember a land trade is not a use and we are not reviewing the trade). The standard that must be met is "*the minimum site size necessary for the proposed use*" which is not only a Multnomah County Code requirement, but is also required by Oregon Administrative Rules (OAR).

6. If you propose a smaller Lot 4 size, please amend the narrative section that refers to that lot to reflect that change. The standards and criteria for the CS/CU needs to be modified addressing the correct size of the proposed parcel.

Once you have gathered all of the requested information and materials, you will need to submit all items in **one single submittal packet**. Once you have submitted a complete packet addressing the requested items, I will conduct a new completeness review of your application.

The County's code gives you two options at this point. You can either elect to provide this missing information **by March 2, 2020** or deem your application complete as it exists. We recommend you elect to provide the additional information within the 180 day time period, because without it, we may not be able to approve the application. We have enclosed a written option statement to assist you.

If you are unable to make your application complete within the 180 days, your application will be closed and your materials returned. Please indicate on the attached form which option you would like to proceed under. You must sign the form and return it to my attention no later than **November 4, 2019**. Please do not hesitate to contact me at George Plummer, Planner at (503) 988-0202 (8 am to 4 pm Tuesday through Friday) or george.a.plummer@multco.us or (503) 988-3043 (Planner on Duty) if you have any questions.

I look forward helping you move forward with this project as soon as possible.

Sincerely,



George A. Plummer
Planner

Enclosure(s)

cc: File

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

Application: T3-2019-12391
Case Planner: George Plummer

APPLICANT'S RESPONSE

(November 4, 2019)

- ☐ **I intend** to provide the additional information identified in the attached letter from Multnomah County Planning within 180 days. I understand that if I do not make my application complete **by March 2, 2020** my application will be closed and I will forfeit my application fees.
- ☐ **I refuse** to provide the additional information identified in the attached letter from Multnomah County Planning and I am deeming my application complete. I understand that my application will be processed with the supplied information. I am aware that failure to meet the applicable code requirements is grounds for denial of my application.

Signed and Acknowledged (Applicant)


Date

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Signed and Acknowledged (Applicant)

10.17.19
Date



February 19, 2020

Robert Fraley, Senior Planner
City of Portland – Water Bureau
400 SW 6th Ave.
Portland, OR 97204

RE: Application for a Category 1 Land Division and a Modification of T3-2018-10227 for a Community Service Conditional Use, Design Review, Forest Development Standards (Case #T3-2019-12391)

Dear Robert Fraley:

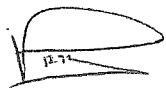
I am pleased to inform you that I have received all materials required to process your land use application on the properties located at 1S6E20 -02500 (56150 National Forest Road #1200126, Corbett), 1S5E24 -00900, 1S5E24 -01000, 1S6E19 -02200, and 1S6E20 -02400.

Your Case #**T3-2019-12391** is deemed complete as of **Thursday, February 20, 2020**.

Now that the application is complete, your case will go into my queue of complete cases. I will work to schedule a hearing on an available hearing date and mail notice at least 20 days prior to the hearing. The notice will go to property owners within 750 feet of the subject property and any recognized neighborhood associations for the area [MCC 39.1105(C)]. Recipients of this notice can provide comments and/or attend the hearing. Comments can be submitted at the hearing either by staff or by parties in attendance. A staff report will be available to the public at least seven (7) days prior to the hearing.

I look forward to helping you move this project through the process. Please do not hesitate to contact me at (503) 988-0176 or rithy.khut@multco.us if you have any questions.

Sincerely,



Rithy Khut
Planner

cc: file

