

STATEMENT OF CODE COMPLIANCE AT&T WCF—PD31 BETHANY CREST

Submitted to Multnomah County, OR
Land Use Planning Division

AT&T's application (the "Application") for a new wireless communication facility ("WCF" and/or "Facility") in the Exclusive Farm Use (EFU) zone is subject to and complies with the following applicable provisions of Chapter 39, Multnomah County's Zoning Code ("MCC"), which are addressed in this Statement of Code Compliance in the following order:

I. ZONING

- **Part 4.A.2 – Exclusive Farm Use (EFU)**
 - **39.4225 Review Uses**
 - **39.4245 Dimensional Requirements and Development Standards**

II. WCF DEVELOPMENT & DESIGN REGULATIONS

- **Part 7.B.4 – Wireless Communication Facilities (CS)**

III. GENERAL REQUIREMENTS

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 - **39.3005 Lot of Record – Generally**
- **Part 3.B – Lot of Record Requirements Specific to Each Zone**
 - **39.3070 Lot of Record – EFU**
- **Part 6.B – Ground Disturbing Activity and Stormwater**
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 - **39.5510 Permits Required**
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- **Part 1.B – Procedures**
 - **39.1130 Complete Application – Required Information**
 - **39.1250 Code Compliance and Applications**
- **Part 8.A – Design Review**
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 - **39.8020 Application of Regulations**
 - **39.8025 Design Review Plan Contents**
 - **39.8030 Final Design Review Plan**
 - **39.8040 Design Review Criteria**

PLEASE NOTE: AT&T’s responses to applicable provisions are indicated below in *bold italicized blue text*. Any reference to an “Attachment” is in reference to an attachment included in AT&T’s application for the proposed Facility.

I. ZONING

Part 4.A.2 – Exclusive Farm Use (EFU)

39.4225 – 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:

...

(2) Wireless communications facilities 200 feet and under when found to satisfy the requirements of MCC 39.7700 through 39.7765.

Applicant Response: The proposed support structure (and antenna tip) height is 140ft; however, faux branches are proposed to extend 10ft above the top of the structure as part of the stealth design of the monofir, creating an overall height of 150ft. AT&T’s proposed WCF complies with the requirements of MCC 39.7700 through 39.7765 as addressed herein.

[The remainder of MCC 39.4225 has been OMITTED. Not applicable to AT&T’s proposal]

39.4245 – Dimensional Requirements and Development Standards

...

(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.

Applicant Response: The proposed Facility is located on an existing parcel that contains a front lot line greater than 50ft in length. The WCF is located a minimum of 150ft from all property lines, in compliance with MCC 39.7745(C)(3). As stated above, the proposed support structure (and antenna tip) height is 140ft; however, faux branches are proposed to extend 10ft above the top of the structure as part of the stealth design of the monofir, creating an overall height of 150ft. Pursuant to MCC 39.4245(E), the facility may exceed the underlying zoning height of 35ft. Please see Attachment 20—Zoning Drawings, Sheet A1.0 and A3.0, for demonstration of AT&T’s compliance with these requirements.

(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.

Applicant Response: AT&T’s proposed fence is located more than the minimum required setbacks in this section.

[The remainder of MCC 39.4245(C) is OMITTED. Not applicable to AT&T’s proposal]

(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.

Applicant Response: Acknowledged.

(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.

Applicant Response: As noted above, the WCF exceeds the 35ft height requirement, however, it will be located more than 30ft from all property lines. Please see Attachment 20—Zoning Drawings for demonstration of AT&T's compliance with this requirement.

(F) On-site sewage disposal, storm water/drainage control, water systems unless these services are provided by public or community source, shall be provided on the Lot of Record.

(1) Sewage and stormwater disposal systems for existing development may be off-site in easement areas reserved for that purpose.

(2) Stormwater/drainage control systems are required for new impervious surfaces. The system shall be adequate to ensure that the rate of runoff from the lot for the 10 year 24-hour storm event is no greater than that before the development.

Applicant Response: Please see Attachment 13—Stormwater Report & Certificate and Sheets C1.0 – C3.0, included in Attachment 20—Zoning Drawings for demonstration of AT&T's compliance with this requirement.

[MCC 39.4245(G) is OMITTED. Not applicable to AT&T's proposal]

(H) All exterior lighting shall comply with MCC 39.6850.

Applicant Response: AT&T is not proposing any illumination for the proposed Facility other than the motion-controlled security lighting that comes standard on the prefabricated equipment walk-in cabinet, and as may be required by the FAA. The security light will be shielded with opaque materials and pointed downward to avoid spillage onto the surrounding properties. Please see Attachment 12—ODA Determination Letter, which states lighting is not required for the proposed facility.

II. WCF DEVELOPMENT AND DESIGN STANDARDS

Part 7.B.4 – Wireless Communication Facilities (CS)

39.7700 – Purposes

The purpose and intent of 39.7700 through 39.7765 is to provide a process and uniform comprehensive standards for the development and regulation of wireless communications facilities. The regulations contained herein are designed to protect and promote public health, safety, community welfare, and the aesthetic quality of unincorporated Multnomah County as set forth within the State-wide Oregon Planning Goals and policies of the Comprehensive Plan; while at the same time not unduly restricting the development of needed wireless communications facilities and encouraging managed development of the evolving wireless communications network. It is furthermore intended that, to all extent permitted by law, the County shall apply these regulations to specifically accomplish the following:

(A) Protect the visual character of the County from the potential adverse effects of wireless communications facilities development;

(B) Insure against the degradation of the County's scenic corridors and ridgelines and rural communities designated under local, state or federal law;

- (C) Retain local responsibility for and control over the use of public rights-of-way to protect citizens and enhance the quality of their lives by requiring a review of any proposed WCF in a public right-of-way;
- (D) Protect the environmental resources of Multnomah County;
- (E) Insure that a competitive and broad range of personal wireless communications services including but not limited to; cellular, personal communications service (PCS), specialized mobile radio (SMR), are provided to serve residential and business communities;
- (F) Create and preserve wireless communications facilities that may serve as an important and effective part of Multnomah County's emergency response network;
- (G) Simplify and shorten the process for obtaining necessary permits for wireless communications facilities while at the same time protecting legitimate interests of Multnomah County citizens; and
- (H) Reconcile established use requirements in EFU zoned lands with Oregon Revised Statutes.

Applicant Response: AT&T acknowledges and understands the purpose and intent of MCC 39.7700 through 39.7765.

39.7705 – Applicability

- (A) Siting for a personal wireless communications facility is a use of land, and subject to the County's zoning ordinance and all other applicable ordinances and regulations.
- (B) The requirements of 39.7700 through 39.7765 shall apply to all new wireless communications facilities (WCFs).

Applicant Response: The criterion listed in MCC 39.7700 through MCC 39.7765 has been addressed herein for AT&T's proposed WCF.

39.7710 – Review Procedures Distinguished

- (A) An application for a WCF that employs co-location upon a tower or structure approved under 39.7700 through 39.7765 shall be reviewed under a Building Permit Review/Type I process in any zone.
- (B) An application for a WCF that employs concealment technology or co-location upon a tower or structure not approved under 39.7700 through 39.7765 shall be reviewed under a Planning Director Review/Type II process.
- (C) An application for a WCF not employing co-location or concealment technology shall be reviewed under a Community Service Review/Type III and Design Review process unless within an Exclusive Farm Use base zone. New WCFs within an Exclusive Farm Use base zone shall be processed under a Planning Director Review or Building Permit Review as appropriate.

REVIEW PROCESS AND HEIGHT LIMITATIONS		
TOWER/ ANTENNA TYPE	REVIEW PROCESS	HEIGHT LIMIT
All Towers within EFU zone	Planning Director	<200 feet

Applicant Response: AT&T is proposing to install a stealth wireless communication facility in the form of a monofir, designed to resemble a natural tree, which is less than 200ft in height. The WCF will be located on a parcel zoned EFU and is subject to a Type II Review.

39.7715 - Definitions

[OMITTED]

39.7720 – Exclusions

[OMITTED]

Applicant Response: Not applicable. The proposed WCF does not qualify for any of the exclusions in this section MCC 39.7720.

39.7725 – General Requirements

(A) No WCF shall be constructed or operated within unincorporated Multnomah County until all necessary approvals and permits, whether local, state, or federal have been secured.

Applicant Response: AT&T acknowledges, understands, and intends to comply with this provision.

(B) No more than one ground mount shall be allowed per subject property.

Applicant Response: AT&T is proposing to install one support structure on the subject property.

(C) An application for a WCF shall include both the licensed carrier and the landowner of the subject property.

Applicant Response: Please refer to Attachment 16—Property Owner Letter of Authorization and Attachment 17—AT&T Letter of Authorization included with AT&T's Application as demonstration of AT&T's compliance with this requirement.

(D) A permit shall be required for the construction and operation of all WCFs. Review and approval shall be under either a Community Service Review, Planning Director Review, or a Building Permit Review.

Applicant Response: An Application Form has been submitted for the proposed WCF, which requires a Type II Planning Director Review, see Attachment 1—Application Form. AT&T intends to submit a building permit prior to construction of the WCF.

(E) Design Review shall be required of all WCF towers regardless of review procedure and may at applicant's option be processed concurrently with the respective review process pursuant to MCC 39.8000 through 39.8020.

Applicant Response: AT&T's Application Form includes the request for the required Design Review process. AT&T requests the review procedures be processed concurrently.

(F) A new permit shall be required for all modifications, not constituting maintenance, to an approved permit for any WCF.

Applicant Response: Not applicable. AT&T's application is for a new structure.

(G) If co-location or concealment technology is not feasible, the applicant shall demonstrate that such locations or concealment technology designs are unworkable for the carrier's coverage plan.

Applicant Response: AT&T is proposing a stealth tower, a monofir, to resemble a natural tree.

(H) All approvals for a WCF shall become null, void, and non-renewable if the facility is not constructed and placed into service within two years of the date of the Community Service Review Decision, Planning Director Review Decision, Building Permit, or superseding decision.

Applicant Response: AT&T acknowledges, understands, and intends to comply with this provision.

(I) The applicant, co-applicant, or tenant shall notify the Planning Director of all changes in applicant and/or co-applicants or tenants of a previously permitted WCF permitted under MCC 39.7700 through 39.7765 within 90 days of change. Failure to provide appropriate notice shall constitute a violation of the original permit approval and be processed pursuant to 39.1510.

Applicant Response: AT&T acknowledges, understands, and intends to comply with this provision.

(J) All WCFs must comply with all applicable Multnomah County codes and regulations, including, but not limited to the Uniform Building Code, ground disturbing activities, Flood Hazard, and Significant Environmental Concern.

Applicant Response: Please see applicant's responses herein to all applicable criteria associated with the application. A building permit will be submitted to the City of Portland prior to construction and will comply with the Uniform Building Code.

(K) No on-premises storage of material or equipment shall be allowed other than that used in the operation and maintenance of the WCF site.

Applicant Response: AT&T acknowledges, understands, and intends to comply with this provision.

(L) Self-supporting lattice towers not employing concealment technology and speculation towers are not permitted in any zone.

Applicant Response: Not applicable. AT&T is not proposing a self-supporting lattice tower.

39.7730 – Registration of Wireless Communications Carriers and Providers

(A) Registration Required. All wireless communication carriers and providers that offer or provide any wireless communications services for a fee directly to the public, within unincorporated Multnomah County, shall register each WCF with the County pursuant to this Section on forms to be provided by the Planning Director.

Applicant Response: AT&T acknowledges, understands, and intends to comply with this provision.

39.7735 – Application Submittal Requirements

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

...

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

- (1) An accurate and to-scale site plan showing the location of the tower, guy anchors (if any), antennas, equipment cabinet and other uses accessory to the communication tower or antenna. The site plan shall include a description of the proposed tower including use of concealment technology if applicable;

Applicant Response: Please see Attachment 2—Project Narrative for a description of the proposed stealth tower and Sheets A1.0, A2.0 and A3.0 in Attachment 20—Zoning Drawings for details regarding the design.

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

Applicant Response: Please see Attachment 6—Photo Simulations for a visual representation of the proposed tower.

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

Applicant Response: Please see Attachment 2—Project Narrative and Attachment 4—AT&T Radio Frequency (RF) Justification for demonstration of AT&T's compliance with this requirement.

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

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

Applicant Response: Please see Attachment 4—AT&T Radio Frequency (RF) Justification for demonstration of AT&T's compliance with this requirement.

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

Applicant Response: Please see Attachment 4—AT&T Radio Frequency (RF) Justification for demonstration of AT&T's compliance with this requirement.

(c) Verification of good faith efforts made to locate or design the proposed WCF to qualify for an expedited review process. To this end, if an existing structure approved for co-location is within the area recommended by the engineers report, the reason for not co-locating shall be provided;

Applicant Response: Please see the Alternative Site Analysis in Attachment 2—Project Narrative as well as Attachment 4—AT&T Radio Frequency (RF) Justification for demonstration of AT&T's compliance with this requirement.

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

Applicant Response: Please see Attachment 4—AT&T Radio Frequency (RF) Justification for demonstration of AT&T's compliance with this requirement. AT&T's proposed WCF is a stealth monofir design to resemble a natural tree.

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

Applicant Response: AT&T intends to engineer the tower to accommodate a minimum of three (3) RAD centers—the primary RAD center at the top of the tower for AT&T's proposed antenna array plus a minimum of two additional RAD centers for future collocation (assuming equal loading to AT&T's proposed installation). Please see Attachment 7—Tower Design Loading, PE Stamped, Sheet A3.0 in Attachment 20—Zoning Drawings and the project details in Attachment 2—Project Narrative, which demonstrate AT&T's proposed number and type of antennas proposed on the support structure. AT&T will submit with its building permit application final construction drawings that will include a full structural analysis of the proposed tower with a minimum of three (3) RAD centers. AT&T acknowledges and understands that submission of said engineering design, which includes confirmation of the capacity of the tower in terms of number and types of collocations it is designed to accommodate pursuant to this section, will be a condition of approval.

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

Applicant Response: Please see Attachment 7—Tower Design Loading, PE Stamped for demonstration of AT&T's intent to comply with this requirement. As noted above, a structural analysis of the proposed tower with a minimum of three (3) RAD centers will be provided with the building permit.

(g) Failure characteristics of the tower; and

Applicant Response: The Tower will be engineered to meet all international building code and ANSI structural requirements applicable to the proposed tower. Additionally, AT&T intends to also engineer the tower to include a "break-point" design to ensure that in the extremely remote chance of a structural failure due to forces/actions beyond those accounted for in the structural design, the tower will "fail" at a specifically engineered point. This "break-point" design will ensure that any collapse of a portion of the tower will be within a designated fall zone (to coincide with the approved setback area).

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

Applicant Response: The tower will be engineered to meet all international building code and ANSI structural requirements applicable to the proposed tower. A structural analysis will be submitted with the building permit.

(5) Documentation demonstrating compliance with non-ionizing electromagnetic radiation (NIER) emissions standards set forth by the Federal Communications Commission as outlined in A Local Government Official's Guide to Transmitting Antenna RF Emission Safety: Rules, Procedures, and Practical Guidance or a subsequent FCC publication delineating required radio frequency performance standards.

Applicant Response: Please see Attachment 5—AT&T RFSSRP (NIER) Report for demonstration of AT&T's compliance with this requirement.

(6) A signed agreement, stating that the applicant will allow co-location with other users, provided all safety, structural, and technological requirements are met. This agreement shall also state that any future owners or operators will allow co-location on the tower.

Applicant Response: Please see Attachment 9—AT&T Collocation Statement for demonstration of AT&T's compliance with this requirement.

(7) A statement documenting a binding commitment to lease or option to lease an antenna mount upon the proposed tower by a service provider.

Applicant Response: Please see Attachment 10—Fully Executed Lease Agreement and Attachment 10a—Memorandum of Lease Agreement for demonstration of AT&T's compliance with this requirement.

(8) A landscape plan drawn to scale showing the proposed and existing landscaping, including type, spacing, and size.

Applicant Response: Please see Attachment 14—Mitigation Plan and Sheets L1.0 and L2.0 in Attachment 20—Zoning Drawings for demonstration of AT&T's compliance with this requirement.

(9) Plans showing the connection to utilities/right-of-way cuts required, ownership of utilities and easements required.

Applicant Response: Please see Attachment 20—Zoning Drawings for demonstration of AT&T's compliance with this requirement, as applicable. Detailed construction drawings will be submitted with the building permit.

(10) Documents demonstrating that any necessary easements have been obtained.

Applicant Response: Please see Attachment 10—Fully Executed Lease Agreement for demonstration of the easements in place between AT&T and the property owner. AT&T's proposed access drive extends from the existing private drive installed to the west of the subject property within the BPA right-of-way. Therefore, AT&T is working with BPA to obtain an easement within the BPA right-of-way. AT&T respectfully requests the BPA easement be submitted prior to the building permit submittal as conditioned by the Multnomah County Transportation Planning division. Please see Attachment 1a—Service Provider forms.

(11) Plans showing how vehicle access will be provided.

Applicant Response: Please see Sheets A1.0 and A2.0 in Attachment 20—Zoning Drawings for demonstration of AT&T's compliance with this requirement.

(12) Signature of the property owner(s) on the application form or a statement from the property owner(s) granting authorization to proceed with building permit and land use processes.

Applicant Response: Please refer to Attachment 16—Property Owner Letter of Authorization included with AT&T's Application as demonstration of AT&T's compliance with this requirement.

(13) Documentation that the ancillary facilities will not produce sound levels in excess of those standards specified below in the Approval Criteria for lands not zoned Exclusive Farm Use.

Applicant Response: Please see Attachment 8—Noise Study as demonstration of AT&T's compliance with this requirement.

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

Applicant Response: Please see Attachment 4—AT&T Radio Frequency (RF) Justification for demonstration of AT&T's compliance with this requirement.

(15) Documentation demonstrating that the FAA has reviewed and approved the proposal, and the Oregon Aeronautics Division has reviewed the proposal.

Applicant Response: Please see Attachment 11—FAA TOWAIR Report, demonstrating FAA registration is not required at the height proposed. Please also see Attachment 12—ODA Determination Letter, which demonstrates approval of the Facility at the proposed location and height.

(16) Full response to the Approval Criteria for lands not zoned Exclusive Farm Use specified below as applicable.

Applicant Response: Please see applicant's responses herein.

39.7740 – Approval Criteria for Lands Not Zoned Exclusive Farm Use

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

[MCC 39.7740(A) is OMITTED]

Applicant Response: Not applicable. The proposed WCF is located on an EFU zoned parcel. However, pursuant to MCC 39.7745(C), a WCF located on an EFU zoned parcel is subject to the applicable criteria in MCC 39.7740(B). Please see AT&T's responses herein.

(B) Siting Requirements.

(1) Location. WCFs shall be located so as to minimize their visibility and the number of distinct facilities. The ranking of siting preferences is as follows: first, co-location upon an existing tower or existing structure; second, use of concealment technology; and third, a vegetatively, topographically, or structurally screened monopole.

(a) Co-location.

1. All co-located and multiple-user WCFs shall be designed to promote facility and site sharing. To this end wireless communications towers and necessary appurtenances, including but not limited to, parking areas, access roads, utilities and storage facilities shall be shared by site users when in the determination of the Planning Director or Hearings Officer, as appropriate. This will minimize overall visual impact to the community.

Applicant Response: AT&T is proposing a 50ft x 50ft ground lease area, which will provide adequate space for future carriers' ground equipment. Further, the access road and parking area is adequate for future carriers. Please see Attachment 20—Zoning Drawings.

2. Existing sites for potential co-location, may include but are not limited to buildings, water towers, existing WCFs, utility poles and towers, and related facilities, provided that such installation preserves the character and integrity of those sites. In particular, applicants are urged to consider use of existing telephone and electric utility structures as sites for their WCF.

Applicant Response: Please see the Alternative Site Analysis included in Attachment 2—Project Narrative, as well as Attachment 4—AT&T Radio Frequency (RF) Justification for demonstration that there are no feasible existing wireless communication facilities or structures for collocation.

3. No commercial WCF operating at an effective radiated power (ERP) of more than 7 watts shall be located on any residential structure, including accessory buildings.

Applicant Response: Not applicable.

(b) Use of concealment technology.

1. When demonstrated that it is not feasible to co-locate the antenna(s) on an existing structure or tower, the WCF shall be designed so as to be camouflaged to the greatest extent possible, including but not limited to: concealment technology, use of compatible building materials and colors.

Applicant Response: As neither collocation nor attachment to an existing structure are feasible, AT&T is proposing an alternative stealth monofir structure to camouflage the visual impacts of the proposed new Facility. Please see Attachment 2—Project Narrative, Attachment 6—Photo Simulations, and Attachment 20—Zoning Drawings, Sheet A3.0, for further discussion and demonstration of the proposed design and AT&T's compliance with this requirement.

[MCC 39.7740 (B)(1)(c) and 39.7740 (B)(2) are OMITTED. Not applicable to AT&T's proposal]

(3) Setback/Yard.

(a) No dwelling on the subject property shall be closer to a ground mounted facility than a distance equal to the total height of the WCF measured from finished grade or according to the yard requirements of the zone, whichever is greater.

Applicant Response: Not applicable. The subject property is vacant.

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

(c) All equipment shelters shall be set back from property lines according to the required yard of the zone.

(d) A WCF setback and yard requirement to a property line may be reduced as much as fifty percent (50%) of the proposed tower height when it is found that the reduction will allow the integration of a WCF into an existing or proposed structure such as a light standard, power line support device, or similar structure or if the approval authority finds that visual subordination may be achieved.

(e) A reduction of the setback/yard requirement below fifty percent (50%) under (d) of this section may be authorized subject to the variance approval criteria, variance classification and landing field height limitation of this chapter.

Applicant Response: Please see Attachment 20—Zoning Drawings, Sheet A1.0, for demonstration of AT&T's compliance with the setback requirements.

(4) Storage.

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

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

Applicant Response: AT&T's proposed ground equipment will be located within the fenced lease area. A premanufactured walk-up-cabinet ("WUC") will be installed within a 18ft x 20ft wood framed enclosure. The enclosure will be treated with horizontal siding and a shed roof to look like a building typically found in the area. The enclosure will be painted dark green with non-reflective materials and will be no more than 15ft in height. Please see Sheets A2.0 and A3.0 in Attachment 20—Zoning Drawings.

(5) Color and materials. All buildings, poles, towers, antenna supports, antennas, and other components of each wireless communications site shall initially be colored with "flat" muted tones. The color selected shall be one that in the opinion of the approval authority minimizes visibility of the WCF to the greatest extent feasible.

Applicant Response: The new monopole will be painted brown, and the antennas and all ancillary equipment and hardware will be painted forest green to mimic a monofir and blend with the surrounding environment as shown in Attachment 6—Photo Simulations and Attachment 20—Zoning Drawings, Sheet A3.0.

(6) Fences.

(a) A sight obscuring fence shall be installed and maintained around the perimeter of the lease area of a ground mounted facility not employing concealment technology. The sight-obscuring fence shall surround the tower and the equipment shelter.

(b) A ground mounted facility located in a public right-of-way may be exempted from fencing requirements.

(c) Chain link fences shall be painted or coated with a non-reflective color.

Applicant Response: The Facility will be enclosed by a 6ft high chain-link fence coated with a non-reflective green color. Please see Attachment 20—Zoning Drawings, Sheet A2.0, for demonstration of AT&T's compliance with this requirement.

(7) Security. In the event a fence is required, WCFs shall insure that sufficient anti-climbing measures have been incorporated into the facility, as needed, to reduce potential for trespass and injury.

Applicant Response: As noted, the Facility will be enclosed by a 6ft high chain-link fence and will contain an anti-climbing device on the tower. Please see Attachment 20—Zoning Drawings, Sheet A3.0, for demonstration of AT&T's compliance with this requirement.

(8) Lighting.

(a) A new WCF shall only be illuminated as necessary to comply with FAA or other applicable state and federal requirements.

(b) No other exterior lighting shall be permitted on premises.

Applicant Response: AT&T is not proposing any illumination for the proposed Facility other than the motion-controlled security lighting that comes standard on the premanufactured equipment walk-up cabinet (WUC), and as may be required by the FAA. The security light will be shielded with opaque materials and pointed

downward to avoid spillage onto the surrounding properties. Please see Attachment 12—ODA Determination Letter, which states lighting is not required for the proposed facility.

(9) Signs. The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

Applicant Response: AT&T is not proposing any additional signage other than that required by applicable state and federal laws.

(10) Access driveways and parking. All access drives and parking areas shall be no longer or wider than necessary and be improved to comply with the requirements of the local Rural Fire Base zone.

(a) Existing driveways shall be used for access whenever possible.

(b) New parking areas shall whenever feasible, be shared with subsequent WCFs and/or other permitted uses.

(c) Any new parking area constructed shall consist of a durable and dustless surface capable of carrying a wheel load of 4,000 pounds and be no larger than three hundred (350) square feet.

Applicant Response: AT&T is proposing to utilize an existing private road within the BPA right-of-way that will be extended approximately 298ft to AT&T's proposed lease area. The drive will be improved to meet the local Rural Fire Base zone, as applicable. The Facility is unmanned and will only generate an average of up to one vehicular trip per month for regular maintenance visits by a single standard-sized maintenance vehicle. A parking area is proposed at the entrance of the lease area to accommodate a standard maintenance vehicle. However, it is becoming more common for wireless facilities to be monitored remotely. Please see Attachment 20—Zoning Drawings, Sheets A1.0 and A2.0, for demonstration of AT&T's proposed access drive and parking area.

(11) Landscape and Screening. All WCFs shall be improved in such a manner so as to maintain and enhance existing native vegetation and suitable landscaping installed to screen the base of the tower and all accessory equipment, where necessary. To this end, all of the following measures shall be implemented for all ground mounted WCFs including accessory structures.

(a) A landscape plan shall be submitted indicating all existing vegetation, landscaping that is to be retained within the leased area on the site, and any additional vegetation that is needed to satisfactorily screen the facility from adjacent land and public view areas. Planted vegetation shall be of the evergreen variety and placed outside of the fence. The landscape plan shall be subject to review and approval of the Design Review process. All trees, larger than four inches (4") in diameter and four and a half feet high (4 1/2') shall be identified in the landscape plan by species type, and whether it is to be retained or removed with project development;

(b) Existing trees and other screening vegetation in the vicinity of the facility and along the access drive and any power/telecommunication line routes involved shall be protected from damage, during the construction period.

Applicant Response: The subject property contains dense vegetation; therefore, some native vegetation must be removed in the area in and around the proposed lease area and access drive. A Tree Removal and Retention Plan has been included in Attachment 20—Zoning Drawings, Sheet L1.0, demonstrating the vegetation that is to be retained, protected, or removed. AT&T is proposing a 5ft wide landscaping buffer outside the fenced lease area as demonstrated on the landscape plan included in Attachment 20—Zoning Drawings, Sheet L-2.0. Further, the proposed facility is located within areas of significant environmental concern, specifically the Wildlife Habitat (SEC-h) and Stream overlay (SEC-s). Therefore, a mitigation plan has been included addressing the

existing vegetation removal and retention, and re-planting plan for the mitigation area. Please see Attachment 14—Mitigation Plan.

39.7745 – Approval Criteria for Land Zoned Exclusive Farm Use

A wireless communications facility located within an Exclusive Farm Use base zone shall demonstrate that the facility:

(A) Is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service.

(B) To demonstrate that a utility facility is necessary, an applicant for approval under ORS 215.283 (1)(c) 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:

- (1) Technical and engineering feasibility;
- (2) 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;
- (3) Lack of available urban and non-resource lands;
- (4) Availability of existing rights of way;
- (5) Public health and safety; and
- (6) Other requirements of state or federal agencies.

Applicant Response: The proposed facility is locationally dependent due to engineering feasibility and must be sited in an area that will provide adequate coverage within the targeted service area. AT&T's RF engineers must take into consideration the coverage objectives for the site as well as the terrain in and around the area to be covered.

AT&T's RF engineers performed an RF engineering study—considering multiple objectives—to determine the approximate site location and antenna height required to best fulfill the service objectives within the Targeted Service Area. From this study, AT&T's RF engineers identified a “search ring” area, where a new wireless facility may be located to provide effective service in the Targeted Service Area. The objective for this site is to provide new coverage along NW Kaiser Rd., NW Springville Rd., NW Laidlaw Rd., and to the residences of the North Bethany neighborhood (the Targeted Service Area). Radio frequency broadcasts travel in a straight line and diminish as they travel further away from the antennas. Accordingly, the proposed new WCF is geographically located within the identified Search Ring to maximize the coverage and signal dominance within the Targeted Service Area.

Please see the Alternative Site Analysis in Attachment 2—Project Narrative, as well as Attachment 4—AT&T Radio Frequency (RF) Justification for demonstration of the alternate locations evaluated and the reasons why they were deemed infeasible to meet AT&T's service objectives.

(C) The following standards shall apply in addition to those of ORS 215.283(1)(c) et. seq.

- (1) Location pursuant to: MCC 39.7740(B)(1),
- (2) Height. The maximum height of any tower shall be 200 feet from finished grade.

Applicant Response: The proposed support structure (and antenna tip) height is 140ft; however, faux branches are proposed to extend 10ft above the top of the structure as part of the stealth design of the monofir, creating an overall height of 150ft.

- (3) Setback pursuant to: MCC 39.7740(B)(3).
- (4) Storage pursuant to: MCC 39.7740(B)(4).
- (5) Color and materials pursuant to: MCC 39.7740(B)(5).
- (6) Fences pursuant to: MCC 39.7740(B)(6).
- (7) Security pursuant to: MCC 39.7740(B)(7).
- (8) Lighting pursuant to: MCC 39.7740(B)(8).
- (9) Signs pursuant to: MCC 39.7740(B)(9).
- (10) Access driveways and parking pursuant to: MCC 39.7740(B)(10).
- (11) Landscaping and screening pursuant to: MCC 39.7740(B)(11).

Applicant Response: Please see applicant's responses in 39.7740, which addresses 39.7745(C1) and (C3 - C11).

39.7750 – Maintenance

(A) The applicant/co-applicant or tenant shall maintain the WCF. Such maintenance shall include, but shall not be limited to painting, maintaining structural integrity, and landscaping.

(B) In the event the applicant/co-applicant or tenant/carrier fails to maintain the facility in accordance with permit conditions regarding visual impacts or public safety, Multnomah County may undertake the maintenance at the expense of the applicant or co-applicant landowner.

Applicant Response: AT&T acknowledges, understands, and intends to comply with this provision.

39.7755 – Abandonment

(A) At such time that a carrier plans to abandon or discontinue, or is required to discontinue, the operation of a WCF, such carrier will notify Multnomah County Land Use Planning Division by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations.

(B) In the event that a carrier fails to give such notice, the WCF shall be considered abandoned if the antenna or tower is not operated for a continuous period of twelve months, unless the owner of said tower provides proof of continued maintenance on a quarterly basis.

(C) Upon abandonment or discontinuation of use, the person who constructed the facility, the person who operated the facility, carrier, or the property owner shall physically remove the WCF within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:

- (1) Removal of the antenna(s), mounts, equipment cabinets, security barriers, and foundations down to three feet below ground surface.
- (2) Transportation of the antenna(s), mount, equipment cabinets, and security barriers to an appropriate disposal site.
- (3) Restoring the site of the WCF to its pre-construction condition, except any remaining landscaping and grading.
- (4) The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition.

(D) If a party as stated in (C) fails to remove a WCF in accordance with this section, Multnomah County shall have the authority to enter the subject property and physically remove the facility. Costs for the removal of the WCF shall be charged to the landowner of record in the event Multnomah County must remove the facility.

(E) If there are two or more carriers/operators of a single tower, then provisions of this section shall not become effective until all carriers/operators cease using the tower.

(F) Failure to remove an abandoned facility as required by this section shall constitute a violation and be subject to the penalties prescribed in this Chapter.

Applicant Response: AT&T acknowledges, understands, and intends to comply with this provision.

39.7760 – Appeals

Any person aggrieved by a decision of the Approval Authority made pursuant to this subpart of MCC Chapter 39 may appeal that decision as provided in MCC 39.1160.

Applicant Response: Applicant acknowledges that the decision may be appealed.

39.7765 – Statutory Severability

If any subsection, sentence, clause, phrase, or word of this subpart of MCC Chapter 39 is for any reason held to be unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this subpart. The Multnomah County Board of Commissioners hereby declares that it would have passed and adopted this subpart and each and all provisions thereof irrespective of the fact that any one or more of said provisions be declared unconstitutional.

Applicant Response: AT&T acknowledges and understands this provision.

III. GENERAL REQUIREMENTS

Part 3 Lot of Record; Part 3.A – General Provisions

39.3005 Lot of Record – Generally

(A) An area of land is a “Lot of Record” if it meets the standards in Subsection (B) of this Section and meets the standards set forth in this Part for the Zoning District in which the area of land is located.

(B) A Lot of Record is a parcel, lot, or a group thereof that, when created or reconfigured, either satisfied all applicable zoning laws and satisfied all applicable land division laws, or complies with the criteria for the creation of new lots or parcels described in MCC 39.9700. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.

(1) “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.

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

(a) By a subdivision plat under the applicable subdivision requirements in effect at the time; or

(b) 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

(c) 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

(d) By partitioning land under the applicable land partitioning requirements in effect on or after October 19, 1978; and

(e) "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.)

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

(a) 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.

(b) An "acknowledged unincorporated community boundary" is one that has been established pursuant to OAR Chapter 660, Division 22.

Applicant Response: AT&T acknowledges and understands the above provisions.

Part 3.B – Lot of Record Requirements Specific to Each Zone

39.3070 Lot of Record – Exclusive Farm Use (EFU)

(A) In addition to the standards in MCC 39.3005, for the purposes of the EFU district a Lot of Record is either:

(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 in Figure 1 below with the solid thick line outlining individual Lots 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, RC, SRC, BRC, R-10), but shall apply to contiguous parcels and lots within all farm and forest resource zones (i.e. EFU and CFU), or

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

(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.

(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, RL-C zone applied, 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, zone change from EFU-38 to EFU-76 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;

(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 39.4260 may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

(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.

Applicant Response: The parcel is currently vacant, therefore there are no permits associated with the subject property. The property owner of the subject parcel, Mr. Robert Zahler, also owns two parcels to the south; Map Tax Lot: 1N1W16C-00400 and 1N1W16C-00500. A chain of title has been included with AT&T's application for the Lot of Record Verification review. Please see Attachment 18—Chain of Title.

Part 6.B – Ground Disturbing Activity and Stormwater

39.6210 Permits Required

(A) Unless exempt under this Code, whether under MCC 39.6215, 39.5080, 38.5510 or otherwise, no ground disturbing activity shall occur except pursuant to one of the following permits: a Minimal Impact Project (MIP) permit, an Erosion and Sediment Control permit (ESC), an Agricultural Fill permit (AF), a Geologic Hazards permit (GH), or a Large Fill permit (LF).

(B) The permits referenced in subsection (A) are required in addition to and not in lieu of any other local, state or federal permit, including but not limited to permits required for ground disturbing activities within a water body regulated by the Oregon Department of State Lands, the U.S. Army Corps of Engineers or the Oregon Department of Fish and Wildlife.

(C) No ground disturbing activity shall occur except in support of a lawfully established use or in support of the lawful establishment of a use.

(D) No permit identified in subsection (A) shall be issued in any case where the planning director or a building official determines that the proposed ground disturbing activity will be hazardous by reason of flood, geological hazard, seismic hazard, or unstable soils; or is liable to endanger any other adjacent property; or result in the deposition of debris on any public right-of-way or property or water body; or otherwise create a nuisance.

(E) Responsibility. For any ground disturbing activity authorized under a permit listed in subsection (A):

(1) Whenever sedimentation is caused by ground disturbing activity, the person, corporation or other entity shall be responsible to remove that sedimentation from all adjoining surfaces and drainage systems prior to issuance of occupancy or final approvals for the project.

(2) It is the responsibility of any person, corporation or other entity doing ground disturbing activity on, in, under or around a water body, or the floodplain or right-of-way, to maintain as nearly as possible in its present state the water body, floodplain, or right-of-way during such activity, and to return the same to a functional condition equal to or better than the condition existing immediately prior to the ground disturbing activity.

(F) Implementation.

(1) Performance bond. A performance bond may be required in the amount of the full cost of the establishment and maintenance of all erosion, sedimentation and stormwater control measures for activity authorized through any permit listed in subsection (A). The bond may be used to provide for the installation of the measures if not completed by the contractor. The bond shall be released upon determination the control measures have or can be expected to perform satisfactorily. The bond may be waived if the director determines the scale and duration of the project and the potential problems arising therefrom will be minor.

(2) Inspection and enforcement. The director may take steps to ensure compliance with the requirements of any permit listed in subsection (A) and 39.6235, including but not limited to, inspections, peer review of engineering analysis (at the applicant's expense), post construction certification of the work, and the posting of a notice providing County contact information in the event that questions arise concerning work occurring on-site. The requirements of this subpart of MCC Chapter 39 shall be enforced by the planning director. If inspection by county staff reveals erosive conditions which exceed those prescribed by the permit, work may be stopped until appropriate correction measures are completed.

(G) Final approvals. A certificate of occupancy or other final approval shall be granted for development subject to the provisions of this subpart of MCC Chapter 39 only upon satisfactory completion of all applicable requirements.

Applicant Response: AT&T acknowledges, understands, and intends to comply with the above provision. AT&T's proposed application will require a MIP permit, which will be submitted prior to submitting the building permit application. Please see Sheets C1.0, C2.0 and C3.0 in Attachment 20—Zoning Drawings for a demonstration of the proposed erosion control for the site.

39.6220 Minimal Impact Project Permit

(A) An application for a Minimal Impact Project permit shall include two copies of each of the following:

(1) A scaled site plan showing the following, both existing and proposed:

(a) Property lines;

(b) Buildings, structures, driveways, roads and right-of-way boundaries;

(c) Location of wells, utility lines, stormwater disposal system, sanitary tanks and drainfields (primary and reserve);

(d) Trees and vegetation proposed for removal and planting and an outline of wooded areas;

(e) Water bodies;

- (f) Boundaries of ground disturbing activities;
- (g) Location and height of unsupported finished slopes;
- (h) Ground topography contours (contour intervals no greater than 10-feet); and
- (i) Erosion and sediment control measures.

(2) Calculations of the total area of proposed ground disturbance (square feet), volume of proposed fill (cubic yards), existing slopes in areas proposed to be disturbed (percent slope), and proposed unsupported finished slopes (percent slope);

(3) Written description of the proposed project, including but not limited to:

- (a) The use that the ground disturbing activity will support or help facilitate;
- (b) The materials to be used for any proposed fill; and
- (c) A description of the erosion and sediment control measures that will be used to ensure that visible or measurable erosion or sedimentation does not leave the site. For purposes of this subsection and subsection (B)(8) below, the term "site" shall mean either a single lot of record or contiguous lots of record under same ownership, whichever results in the largest land area.

(B) A Minimal Impact Project (MIP) permit shall not be issued unless the application for such permit establishes compliance with MCC 39.6210 and satisfaction of the following standards:

- (1) Less than 10,000 square feet of ground surface area will be disturbed;
- (2) Disturbed areas are not within 200' by horizontal measurement from the top of the bank of a water body;
- (3) Slopes before development where ground disturbing activity is proposed are 10 percent grade or less (10 Horizontal: 1 Vertical);
- (4) Unsupported finished slopes will be less than 33 percent grade (3 Horizontal: 1 Vertical) and will not exceed four feet in height;
- (5) The ground disturbing activity will involve less than 10 cubic yards of fill;
- (6) Fill will not be used to physically support a building requiring a structural building permit;
- (7) Fill shall be composed of earth materials only;
- (8) Persons conducting ground disturbing activities shall utilize erosion and sediment control best management practices. Erosion and sediment control measures must be utilized such that no visible or measurable erosion or sediment shall exit the site, enter the public right-of-way, or be deposited into any water body or storm drainage system;
- (9) Erosion and sediment control measures shall be installed prior to commencement of ground disturbing activity and are to be maintained, in working order, through all phases of development;
- (10) Approval of any new stormwater discharges into public right-of-way is granted by each governing agency having authority over the matter;
- (11) Approval of any new stormwater surcharges to sanitary drainfields is granted by the City of Portland Sanitarian and any other agency having authority over the matter;
- (12) Fill trucks shall be constructed, loaded, covered, or otherwise managed to prevent any of their load from dropping, sifting, leaking, or otherwise escaping from the vehicle. No fill shall be tracked or discharged in any manner onto any public right-of-way; and

(13) No compensation, monetary or otherwise, shall be received by the property owner for the receipt or placement of fill.

Applicant Response: AT&T acknowledges, understands, and intends to comply with the above provision.

39.6235 Stormwater Drainage Control

(A) Persons creating new or replacing existing impervious surfaces exceeding 500 square feet shall install a stormwater drainage system as provided in this section. This subsection (A) does not apply to shingle or roof replacement on lawful structures.

(B) The provisions of this section are in addition to and not in lieu of any other provision of the code regulating stormwater or its drainage and other impacts and effects, including but not limited to regulation thereof in the SEC overlay.

(C) The provisions of this section are in addition to and not in lieu of stormwater and drainage requirements in the Multnomah County Road Rules and Design and Construction Manual, including those requirements relating to impervious surfaces and proposals to discharge stormwater onto a county right-of-way.

(D) The stormwater drainage system required in subsection (A) shall be designed to ensure that the rate of runoff for the 10-year 24-hour storm event is no greater than that which existed prior to development at the property line or point of discharge into a water body.

(E) At a minimum, to establish satisfaction of the standards in this section and all other applicable stormwater-related regulations in this code, the following information must be provided to the planning director:

(1) A site plan drawn to scale, showing the property line locations, ground topography (contours), boundaries of all ground disturbing activities, roads and driveways, existing and proposed structures and buildings, existing and proposed sanitary tank and drainfields (primary and reserve), location of stormwater disposal, trees and vegetation proposed for both removal and planting and an outline of wooded areas, water bodies and existing drywells;

(2) Documentation establishing approval of any new stormwater surcharges to a sanitary drainfield by the City of Portland Sanitarian and/or any other agency authorized to review waste disposal systems;

(3) Certified statement, and supporting information and documentation, by an Oregon licensed Professional Engineer that the proposed or existing stormwater drainage system satisfies all standards set forth in this section and all other stormwater drainage system standards in this code; and

(4) Any other report, information, plan, certification or documentation necessary to establish satisfaction of all standards set forth in this section and all other applicable stormwater-related regulations in this code, such as, but not limited to, analyses and explanations of soil characteristics, engineering solutions, and proposed stream and upland environmental protection measures.

Applicant Response: AT&T acknowledges, understands, and intends to comply with the above provision. Please see Attachment 13—Stormwater Report & Certificate included with AT&T's application.

Part 6.C.1 – Parking, Loading, Circulation and Access

39.6515 – 39.6600

Applicant Response: AT&T is proposing to utilize an existing private road within the BPA right-of-way that will be extended approximately 298ft to AT&T's proposed lease area. The drive will be improved to meet the local Rural Fire Base zone, as applicable. The Facility is unmanned and will only generate an average of up to one vehicular trip per month for regular maintenance visits by a single standard-sized maintenance vehicle. A parking area is proposed at the entrance of the lease area to accommodate a standard maintenance vehicle.

However, it is becoming more common for wireless facilities to be monitored remotely. Please see Attachment 20—Zoning Drawings, Sheets A1.0 and A2.0, for demonstration of AT&T's proposed access drive and parking area.

Part 6.C.3 – Exterior Lighting

39.6850 Dark Sky Lighting Standards

...

(B) The following exterior lighting is exempt from the requirements of paragraph (C) of this section:

[OMITTED]

Applicant Response: Not applicable. The proposed WCF does not qualify for any of the exemptions in this section MCC 39.6850(B).

(C) The following standards apply to all new exterior lighting supporting a new, modified, altered, expanded, or replaced use approved through a development permit and to all existing exterior lighting on property that is the subject of a development permit approval for enlargement of a building by more than 400 square feet of ground coverage.

(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.

(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.

Applicant Response: AT&T is not proposing any illumination for the proposed Facility other than the motion-controlled security lighting that comes standard on the premanufactured equipment walk-up cabinet (WUC), and as may be required by the FAA. Please see Attachment 12—ODA Determination Letter, which states lighting is not required for the proposed facility. The security lighting will be fully shielded with opaque materials, directed downward, and contained on the subject property. Please see 20—Zoning Drawings, Sheet A2.0 for a depiction of the WUC.

IV. SIGNIFICANT ENVIRONMENTAL CONCERN OVERLAYS (SEC)

Part 5.H – Significant Environmental Concern (SEC) Overlays

39.5510 Permits Required

(A) Except as provided in MCC 39.5515 and 39.5525, an SEC Overlays permit(s) is required for:

(1) All development, including but not limited to the location, design, change, replacement, or alteration of any use or structure.

(2) Any excavation or removal of materials of archaeological, historical, precontact or anthropological nature, regardless of the zoning designation of the site.

(B) An application for a use on a property containing more than one SEC overlay designation shall address the approval criteria for all of the designated SEC overlays on the property. In the case of conflicting criteria, approval shall be based on the ability of the proposed development to comply as nearly as possible with the criteria for all designated SEC overlays that would be affected.

Applicant Response: The project site is located within portions of Significant Environmental Concern (SEC) overlay zones, including Significant Wildlife Habitat (SEC-h) and Significant Streams (SEC-s). Please see Sections

7, 8 and 9 in Attachment 14—Mitigation Plan which demonstrates compliance with the applicable approval criteria of MCC 39.5540, MCC 39.5550 and MCC 39.5590.

39.5530 SEC Permit Criteria (Significant Environmental Concern)

...

(B) Application Submittal Requirements. All applications for an SEC permit shall include the following:

(1) A written description of the proposed development and how it complies with the applicable approval criteria of MCC 39.5530(C) below.

Applicant Response: Please see Section 7 in Attachment 14—Mitigation Plan which demonstrates compliance with the applicable approval criteria of MCC 39.5530(C).

(2) A scaled site plan of the property showing:

- (a) Property lines;
- (b) Location and size of all existing and proposed buildings and structures;
- (c) Contour lines and topographic features such as ravines or ridges (contour lines no greater than 10 feet);
- (d) Boundaries of ground disturbing activities, including proposed fill, excavating, site contouring or other landform changes;
- (e) Location and predominant species of existing vegetation on the parcel (wooded areas), areas where vegetation will be removed, and location and species of vegetation to be planted, including landscaped areas;
- (f) Location and width of existing and proposed roads, driveways, and service corridors;
- (g) Location of natural drainageways, springs, seeps, water bodies and wetlands on the site;
- (h) Location of wells, utility lines, stormwater drainage control system, sanitary tanks and drainfields (primary and reserve);
- (i) A scaled drawing of the building design and elevations that show the relationship between the building and existing and finished grades, and existing or proposed vegetation.

Applicant Response: Please see the various property maps in Attachment 14—Mitigation Plan.

(3) The Planning Director may also require the applicant to provide additional information, beyond that listed in this section such as a report prepared by an appropriate subject matter expert, where needed to address relevant approval criteria.

Applicant Response: AT&T acknowledges and understands additional information may be required. Please see Attachment 14—Mitigation Plan which demonstrates compliance with the applicable approval criteria of MCC 39.5530(C).

(C) SEC Permit Approval Criteria

The SEC designation shall apply to those significant natural resources, natural areas, wilderness areas, and cultural areas that are designated SEC on the Multnomah County Zoning Map. Any proposed development, activity or use requiring an SEC permit shall meet/comply with the following:

- (1) The maximum possible landscaped area, scenic and aesthetic enhancement, open space or vegetation shall be provided between any use and a river, stream, lake, or floodwater storage area.
- (2) Agricultural land and forest land shall be preserved and maintained for farm and forest use.

- (3) A building, structure, or use shall be located on a lot in a manner which will balance functional considerations and costs with the need to preserve and protect areas of environmental significance.
- (4) Significant fish and wildlife habitats shall be protected.
- (5) The natural vegetation along rivers, lakes, wetlands and streams shall be protected and enhanced to the maximum extent practicable to assure scenic quality and protection from erosion, and continuous riparian corridors.
- (6) Archaeological areas shall be preserved for their historic, scientific, and cultural value and protected from vandalism or unauthorized entry.
- (7) Areas of annual flooding, floodplains, water areas, and wetlands shall be retained in their natural state to the maximum possible extent to preserve water.
- (8) Areas of erosion or potential erosion shall be protected from loss by appropriate means. Appropriate means shall be based on current Best Management Practices and may include restriction on timing of soil disturbing activities.
- (9) The quality of the air, water, and land resources and ambient noise levels in areas classified SEC shall be preserved in the development and use of such areas.
- (10) The design, bulk, construction materials, color and lighting of buildings, structures and signs shall be compatible with the character and visual quality of areas of significant environmental concern.
- (11) An area generally recognized as fragile or endangered plant habitat or which is valued for specific vegetative features, or which has an identified need for protection of the natural vegetation, shall be retained in a natural state to the maximum extent possible.
- (12) The applicable policies of the Comprehensive Plan shall be satisfied.

Applicant Response: AT&T acknowledges, understands, and intends to comply with the criterion herein. Please see Section 7 in Attachment 14—Mitigation Plan which demonstrates compliance with the applicable approval criteria of MCC 39.5530(C).

39.5540 SEC-h Permit Criteria (Significant Wildlife Habitats)

(A) Decision Review Process

...

- (2) Applications that do not meet all of the criteria in MCC 39.5540(C) below, shall be processed through the Type II review procedure. A mitigation plan pursuant to subsection (D) below is required.

Applicant Response: The proposed project does not meet all of the criteria in MCC 39.5540(C). Therefore, a Type II review is required. A mitigation plan has been prepared and is included in Attachment 14—Mitigation Plan.

(B) Application Submittal Requirements. All applications for an SEC-h permit shall include the following:

- (1) A written description of the proposed development and how it complies with the applicable approval criteria of MCC 39.5540 (C) and (D).

Applicant Response: Please see Section 8 in Attachment 14—Mitigation Plan which demonstrates compliance with the applicable approval criteria of MCC 39.5540(C) and (D).

- (2) A scaled site plan of the property showing:
 - (a) Property lines;

- (b) Location and size of all existing and proposed structures; and all existing and proposed type and location of fencing on the subject property and on adjacent properties and on properties entirely or partially within 200 feet of the subject property;
- (c) Contour lines and topographic features such as ravines or ridges (contour lines not greater than 10 feet);
- (d) Boundaries of ground disturbing activities, including proposed fill, excavating, site contouring or other landform changes;
- (e) Location and predominant species of existing vegetation on the parcel (wooded areas), areas where vegetation will be removed, and location and species of vegetation to be planted, including landscaped areas;
- (f) 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;
- (g) Location of all existing forested areas (including areas cleared pursuant to an approved forest management plan) and nonforested "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.
- (h) Location of wells, utility lines, stormwater drainage control systems, sanitary tanks and drainfields (primary and reserve);
- (i) A sealed drawing of the building design and elevations that show the relationship between the building and existing and finished grades and existing or proposed vegetation.

Applicant Response: Please see the various property maps in Attachment 14—Mitigation Plan.

- (3) The Planning Director may also require the applicant to provide additional information, beyond that listed in this section such as a report prepared by an appropriate subject matter expert, where needed to address relevant approval criteria.

Applicant Response: AT&T acknowledges and understands additional information may be required. Please see Section 8 in Attachment 14—Mitigation Plan which demonstrates compliance with the applicable approval criteria of MCC 39.5540(C) and (D).

(C) SEC-h Permit Approval Criteria

(1) Development Standards

- (a) Where a parcel contains any non-forested "cleared" areas within 200 feet of a public road, development shall only occur in these areas, except as necessary to provide access and to meet minimum clearance standards for fire safety.
- (b) Development shall occur within 200 feet of a public road capable of providing reasonable practical access to the developable portion of the site.
- (c) The access road/driveway and service corridor serving the development shall not exceed 500 feet in length.
- (d) 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.

(e) Nuisance and invasive nonnative plants, as defined in MCC 39.5540 shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property.

(f) Ground disturbing activity within 100 feet of a water body as defined by MC 39.2000 shall be limited to the period between May 1st and September 15th. Revegetation and soil stabilization must be accomplished no later than October 15th.

(g) Outdoor lighting shall be of a hooded fixture type and shall be placed in a location so that it does not shine directly into undeveloped habitat areas. Where illumination of habitat area is unavoidable, it shall be minimized through use of limited lumens with a hooded fixture type and proper placement. The location and illumination area of lighting needed for security of public utility facilities shall not be limited by this provision but should be done in a minimalistic manner.

Applicant Response: The proposed project does not meet all of the development standard in MCC 39.5540(C)(1) because there is no public access road within 200 feet. Please see Section 8 in Attachment 14—Mitigation Plan which demonstrates compliance with the applicable approval criteria of MCC 39.5540(C).

(D) Mitigation Plan Criteria

(1) Mitigation Plan Requirements. An applicant shall propose a mitigation plan that provides mitigation activities and plantings as outlined in subsection (2) or (3) below. The mitigation area shall first be located within any existing non-forested cleared areas contiguous to forested areas, second within any degraded stream riparian areas and last in forested areas or adjacent to landscaped yards.

(2) Addition to Lawfully Established Buildings/Structures:

[OMITTED - Not applicable]

(3) New Buildings, Structures, and Development: The mitigation 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 minimum area required for fire accessway 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) Mitigation areas:

(i) All trees, shrubs and ground cover shall be native plants selected from the Metro Native Plant List;

(ii) Native trees and shrubs shall be planted at a rate of one (1) tree and one (1) shrub for every 100 square feet of development/disturbance area. Bare ground shall be planted or seeded with perennial native grasses or herbs.

(iii) All vegetation shall be planted within the mitigation area located on the same Lot of Record as the development and shall be located within the SECh Overlay or in an area contiguous to the SEC-h Overlay.

1. If the vegetation is planted in an area contiguous to the SEC-h Overlay, then the applicant shall preserve the contiguous area by executing a deed restriction, through a restrictive covenant.

(e) The native soils disturbed during development will be conserved on the property.

(f) Plant size. Mitigation trees shall be at least one-half inch in caliper, measured at 6 inches above the ground level for field grown trees or above the soil line for container grown trees (the one-half inch minimum size may be an average caliper measure, recognizing that trees are not uniformly round).

(i) If using oak or madrone trees, the planting size may be on gallon. Shrubs shall be in at least a 1-quart container or the equivalent in ball and burlap and shall be at least 6 inches in height.

(g) Plant spacing. Trees shall be planted between 8 and 12 feet on center and shrubs shall be planted between 4 and 5 feet on center, or clustered in single species groups of no more than four (4) plants, with each cluster planted between 8 and 10 feet on-center.

(i) When planting near existing trees, the drip line of the existing tree shall be the starting point for plant spacing measurements.

(h) Plant diversity. Shrubs shall consist of at least two (2) different species. If 10 trees or more are planted, then no more than 50% of the trees may be of the same genus.

Applicant Response: AT&T acknowledges, understands, and intends to comply with the criterion herein. Please see Section 8 in Attachment 14—Mitigation Plan which demonstrates compliance with the applicable approval criteria of MCC 39.5540(D).

39.5550 SEC-s Permit Criteria (Significant Streams)

An application for an SEC-s permit shall meet the requirements and approval criteria listed in MCC 39.5590.

Applicant Response: Please see Section 9 in Attachment 14—Mitigation Plan which demonstrates compliance with the applicable approval criteria of MCC 39.5590.

39.5590 SEC-wr Permit Criteria (Significant - Water Resources)

(A) Decision Review Process.

(1) Applications that meet all of the following criteria shall be processed through the Type I review procedure:

(a) The proposed development is located at least 100 feet from the top bank of the Protected Water Feature; and

(b) The application includes a mitigation plan meeting the requirements of MCC 39.5590 (D) that enhances the entire 25 feet in depth closest to the Protected Water Feature for the length of the property, to "Good Corridor" condition as defined in MCC 39.5590 (D).

...

Applicant Response: The proposed development meets all the criteria in subsection (A)(1), which qualifies as a Type I review. Please see Attachment 14—Mitigation Plan which demonstrates compliance with the applicable requirements of MCC 39.5590(D).

(B) Application Submittal Requirements. All applicants for an SEC-wr or SEC-s permit shall include the following:

(1) A written description of the proposed development and how it complies with the applicable approval criteria of subsection (C) and (E) below.

Applicant Response: Please see Section 9 in Attachment 14—Mitigation Plan which demonstrates compliance with the applicable approval criteria of MCC 39.5590(C) and (E).

(2) A site plan of the property showing:

(a) Property lines;

(b) Location and size of all existing and proposed buildings and structures;

- (c) Contour lines and topographic features such as ravines or ridges. In addition, detailed topographic information of the development area, adjacent areas of the site, and a topographic delineation of the SECwr and SEC-s riparian area affected by the project. Contour information shall be determined by a field survey by an Oregon licensed surveyor. (Contour intervals shall be no greater than 5 feet);
- (d) Boundaries of ground disturbing activities, including proposed fill, excavating, site contouring or other landform changes;
- (e) Location and predominant species of existing vegetation on the parcel (wooded areas), areas where vegetation will be removed, and location and species of vegetation to be planted, including landscaped areas;
- (f) Location and width of existing and proposed roads, driveways, and service corridors;
- (g) Location of natural drainageways, springs, seeps, water bodies and wetlands on the site;
- (h) Location of all existing trees of a caliper greater than six (6) inches in diameter at breast height (DBH);
- (i) Location of wells, utility lines, stormwater drainage control systems, sanitary tanks and drainfields (primary and reserve);
- (j) A scaled drawing of the building design and elevations that show the relationship between the building and existing and finished grades and existing or proposed vegetation.

Applicant Response: Please see the various property maps in Attachment 14—Mitigation Plan.

- (3) A description and map of soil types in the proposed development area and the locations and specifications for all proposed draining, filling, dredging, and vegetation removal, including the amounts and methods.

Applicant Response: Please see Attachment 14—Mitigation Plan.

- (4) Preparation of a report which includes plans and surveys by a qualified wetland or riparian consultant, fish and wildlife biologist, or other qualified professional at the discretion of the Planning Director. Approval of a other qualified professional must be granted before the report is completed. Wetlands shall be identified and delineated by a qualified wetland specialist. The consultant shall prepare a report which includes:
 - (a) An assessment of the existing condition of the Riparian Area in accordance with MCC 39.5590 (D);
 - (b) An inventory of vegetation, including percentage ground and canopy coverage, and location of nuisance and invasive non-native plants as defined in MCC 39.5520;
 - (c) A detailed Mitigation Plan as described in MCC 39.5590 (D).

Applicant Response: Please see Attachment 14—Mitigation Plan, prepared by Streamscape Environmental LLC.

- (5) The applicant shall provide evidence that when federal or state requirements apply, that the agency has been contacted, and shall provide an assessment of whether the project can meet the requirements based on the agency response.

Applicant Response: AT&T acknowledges, understands and intends to comply with any federal or state requirements and shall provide evidence of compliance as required.

- (6) The Planning Director may also require the applicant to provide additional information, beyond that listed in this section such as a report prepared by an appropriate subject matter expert, where needed to address relevant approval criteria.

Applicant Response: AT&T acknowledges and understands additional information may be required. Please see Section 9 in Attachment 14—Mitigation Plan which demonstrates compliance with the applicable approval criteria of MCC 39.5590(C) and (E).

(C) SEC-wr and SEC-s Permit Approval Criteria.

(1) Except for the exempt uses listed in MCC 39.5590 and the existing uses pursuant to MCC 39.5525, no development shall be allowed within a Riparian Area unless the provisions of subsections (2) or (3) and (4) below are satisfied. An application shall not be approved unless it contains the site analysis information required (B) above.

(2) Low Impact Sites - Development on parcels in locations that would have low impacts on Riparian Areas may be exempt from the Alternatives Analysis in subsection (3) below. Development on sites that meet the following criterion may be allowed pursuant to the other applicable requirements of this Overlay including the Development Standards of subsection (4) and the provisions for Mitigation in subsection (D):

(a) The entirety of the development site is at least one hundred (100) feet from top of bank or top of ravine, which ever results in a greater distance from the Protected Water Feature. Top of ravine is the break in the > 25% slope. Slope should be measured in 25foot increments away from the water feature until the slope is less than 25% (top of ravine), up to a maximum distance of 200' from the water feature. Where multiple resources are present (e.g., stream with wetlands along banks), the starting point for measurement should be whichever offers greatest resource protection.

(3) Alternatives Analysis Sites -

[OMITTED – The proposed project qualifies as a Low Impact Site under subsection (C)(2)]

(4) Development Standards; Development within the Riparian Area shall comply with the following standards:

(a) Development of trails, rest points, viewpoints, and other facilities in public and private parks for the enjoyment of the resource must be done in such a manner so as to minimize impacts on the natural resource while allowing for the enjoyment of the natural resource.

(b) Development in areas of dense standing trees shall be designed to minimize the numbers of trees to be cut. No more than 50 percent of mature standing trees (of 6-inch DBH or greater) shall be removed without a one-for-one replacement with comparable species. Replacement trees shall be placed within the riparian corridor or adjacent to it to provide shade and water retention. Size of the replacement trees shall be 5 gallon or greater. The site plan for the proposed activity shall identify all mature standing trees by type, size, and location, which are proposed for removal, and the location and type of replacement trees.

(c) Areas of standing trees, shrubs, and natural vegetation shall remain connected or contiguous, particularly along natural drainage courses, so as to provide a transition between the proposed development and the natural resource, to provide food, water, and cover for wildlife, and to protect the visual amenity values of the natural resource.

(d) The Riparian Area shall be restored to "Good Corridor condition" as defined in MCC 39.5590 (D)(1), and maintained in accordance with the mitigation plan pursuant MCC 39.5590 (D).

(e) To the extent practicable, existing vegetation shall be protected and left in place.

(f) Prior to construction of the development, the boundaries of the Riparian Area shall be flagged, fenced or otherwise marked and shall remain undisturbed except as otherwise allowed by the permit. Such markings shall be maintained until construction is complete.

(g) Stormwater drainage control facilities:

(i) Stormwater management shall be conducted in a manner that does not increase the flow of stormwater to the stream above pre-development levels.

(ii) The stormwater drainage control facility may only encroach a maximum of 25 feet into the outside boundary of the Riparian Area of a primary water feature; and

(iii) The area of encroachment must be replaced by adding an area equal in size and with similar functions and values to the Riparian Area on the subject property.

(h) The nuisance and invasive nonnative plants, as defined in MCC 39.5520, shall not be used as landscape plantings within the Riparian Area.

(i) Areas of erosion or potential erosion shall be protected from loss by appropriate means. Appropriate means shall be based on current Best Management Practices.

(i) Soil disturbing activities within a Riparian Area shall be limited to the period between June 15 and September 15. Revegetation/soil stabilization must be accomplished no later than October 15.

(j) Outdoor lighting shall be of a fixture type and shall be placed in a location so that it does not shine directly into undeveloped Riparian Areas. Where illumination of a Riparian Area is unavoidable, it shall be minimized through use of a hooded fixture type and location. The location and illumination area of lighting needed for security of public utility facilities shall not be limited by this provision, but should be done in a minimalist manner.

(k) A bridge or open-bottom culvert, which does not disturb the bed or banks of the stream and is in compliance with the County's Flood Hazard regulations shall be utilized for any crossing of a protected streams.

Applicant Response: Please see Attachment 14—Mitigation Plan for demonstration of compliance with those development standards applicable to the proposed project.

(D) Mitigation: Mitigation shall be required to offset the impacts of development within the Riparian Area. This subsection establishes how mitigation can occur.

(1) Vegetated Corridor Condition: For the purposes of the SEC-wr Overlay, vegetated corridor conditions are defined below.

(a) Good Corridor: A combination of native trees, shrubs, and groundcover covering greater than 80% of the area, and greater than 50% tree canopy exists (aerial measure).

Applicant Response: Please see Attachment 14—Mitigation Plan for demonstration that the vegetation within the SEC-s portion of the mitigation area will be restored to meet the definition of a "Good Corridor."

[The remainder of MCC 39.5590(D) has been omitted]

(E) Required Conditions of Approval for all SEC-wr and SEC-s Permits.

(1) Provide certification by a professional wetland or riparian consultant, fish and wildlife biologist, landscape architect, or other qualified professional as determined by the Planning Director, that the riparian/vegetated corridor was restored according to the mitigation plan and that the vegetated corridor will qualify as "Good Corridor" within 5 years.

(2) The plantings shall be monitored for five years to ensure that the vegetation naturalizes. Failure of vegetation to be maintained in a healthy growing state shall require continued monitoring by a professional.

(a) A yearly report shall be provided to Multnomah County Land Use Planning outlining the condition of the plantings and if any modifications to the mitigation plan are necessary. Any proposed modifications to the mitigation plan require written approval by Multnomah County Land Use Planning.

(3) Work areas shall be carefully located and marked to reduce potential damage to the Riparian Area.

(4) Trees in the Riparian Area shall not be used as anchors for stabilizing construction equipment.

Applicant Response: Please see Section 9 in Attachment 14—Mitigation Plan which demonstrates compliance with the applicable conditions of approval of MCC 39.5590(E).

V. REVIEW PROCEDURES

Part 1.B – Procedures

39.1130 Complete Application – Required Information

Unless stated elsewhere in the Multnomah County Zoning Code, a complete application includes all the materials listed in this section. The Planning Director may waive the submission of any of these materials if not deemed to be applicable to the specific review sought. Likewise, within 30 days of when the application is first submitted, the Planning Director may require additional information, beyond that listed in this section or elsewhere in the County Zoning Code, such as a traffic study or other report prepared by an appropriate expert, where needed to address relevant approval criteria. In any event, the applicant is responsible for the completeness and accuracy of the application and all of the supporting documentation. The County will not deem the application complete until all information required by the Planning Director has been submitted. Unless specifically waived by the Planning Director, the following must be submitted:

(A) One copy of a completed county application form that includes the following information:

(1) An accurate legal description, tax account number(s), map and location of all properties that are the subject of the application.

(2) Name, address, telephone number and authorization signature of all record property owners or contract owners or a representative for the government agency that has the power of eminent domain, and the name, address and telephone number of the applicant, if different from the property owner(s) or the government agency.

Applicant Response: AT&T has submitted a complete Application Form for the proposed WCF, which includes this Statement of Code Compliance. Please see Attachment 1—Application Form and Attachment 16—Property Owner Letter of Authorization, which gives permission to Smartlink to submit on the property owner's behalf.

(B) A complete list of the permit approvals sought by the applicant.

Applicant Response: AT&T is requesting a Type II Land Use Review, a Limited Design Review, a Lot of Record Verification, a SEC-h Permit, a SEC-s Permit and a SEC-wr Permit. Please see Attachment 1—Application Form for the requested permit approvals.

(C) A current (within 30 days prior to application) preliminary title report for the subject property(ies).

Applicant Response: Please see Attachment 18—Chain of Title for the subject property.

(D) A complete and detailed narrative description that describes the proposed development, existing site conditions, existing buildings, public facilities and services and other natural features. The narrative shall also explain how the criteria are or can be met, and address any other information indicated by staff at the pre-application conference as being required.

Applicant Response: Please see Attachment 2—Project Narrative and this Attachment 3—Statement of Code Compliance.

(E) Copy of the pre-application meeting notes.

Applicant Response: A pre-filing meeting was required for the proposed WCF, which was conducted on February 20, 2025. Please see Attachment 15 – Pre-Filing Meeting Notes for a summary of the meeting.

(F) Up to 10 copies of all reports, plans, site plans and other documents required by the section of this Zoning Code corresponding to the specific approval(s) sought.

(G) At least one copy of the site plan and all related drawings shall be in a readable/legible 8 ½ by 11 inch format for inclusion into the County's record of the application.

Applicant Response: Per Multnomah County, the application filing is conducted electronically. AT&T will submit hard copies of the application materials to the county upon request.

(H) All required application fees.

Applicant Response: The required application fees will be paid on-line once an invoice is received by county staff.

39.1250 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 Zoning 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 Zoning 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; or

(4) It brings a non-conforming structure or non-conforming use into compliance with current regulations; or

(5) The Planning Director determines the development qualifies as a minor project. For purposes of this provision, a minor project is defined as small in scale, located outside a Flood Hazard zone or Geologic Hazard overlay, intended for the primary benefit of the residents, farm uses, or natural habitat on the subject property and will meet all other applicable zoning and building regulations. A minor project shall qualify under at least one of the following categories:

(a) Request for trade permits (such as electrical, mechanical and/or plumbing) that does not change the use of a structure or property; or

(b) Accessory structure(s) with an individual footprint(s) up to 200 square feet. This includes a structural addition(s) or modification(s); or

(c) Free standing renewable energy and heating systems up to 400 square feet ground coverage including, but not limited to solar (including solar panels), geothermal and wind generated systems; or

(d) Roof mounted solar renewable (including solar panels) and solar heating systems not exceeding the size of a structure's roof area, or roof height; or

(e) Mechanical equipment such as heating and air conditioning units, heat pumps, ventilation and air filtration systems, electrical boxes, back-up power generators, energy storage systems, water pumps, and similar equipment; or (f) Heating oil, propane and similar tanks; or (g) Development requests to protect or enhance natural resources, such as but not limited to water quality or wildlife habitat.

(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.

Applicant Response: AT&T acknowledges and understands the above provision.

Part 8.A – Design Review

39.8010 Design Review Plan Approval Required

No building, grading, parking, land use, sign or other required permit shall be issued for a use subject to this section, nor shall such a use be commenced, enlarged, altered or changed until a final design review plan is approved by the Planning Director, under this Code.

Applicant Response: AT&T understands and acknowledges that a design review plan approval is required for the proposed project.

39.8020 Application of Regulations

(A) Except those exempted by MCC 39.8015, the provisions of MCC 39.8000 through 39.8050 shall apply to all conditional and community service uses, and to specified uses, in any base zone.

(B) Uses subject to Design Review that require the creation of fewer than four new parking spaces pursuant to MCC 39.6590 shall only be subject to the following Design Review approval criteria: MCC 39.8040(A)(1)(a) and (1)(c), and (4) and (7), except when located in the RC, BRC, OR, OCI, PH-RC or SRC zone base zones.

Applicant Response: The proposed project is not exempt pursuant to MCC 39.8015. However, less than four new parking spaces will be created. Please see applicant's responses to MCC 39.8040(A)(1)(a) and (1)(c), and (4) and (7) herein.

39.8025 Design Review Plan Contents

(A) The design review application shall be filed on forms provided by the Planning Director and shall be accompanied by a site plan, floor plan, architectural elevations and landscape plan, as appropriate, showing the proposed development.

Applicant Response: AT&T has submitted a complete Application Form for the proposed Design Review. See Attachment 1—Application Form

(B) Plans shall include the following, drawn to scale:

- (1) Access to site from adjacent rights-of-way, streets, and arterials;

Applicant Response: Please see Attachment 20—Zoning Drawings, Sheets A1.0 and A2.0.

- (2) Parking and circulation areas;

Applicant Response: Please see Attachment 20—Zoning Drawings, Sheet A2.0.

- (3) Location, design, materials and colors of buildings and signs;

Applicant Response: AT&T is not proposing any additional signage other than that required by applicable state and federal laws. The required signage details will be included in the construction drawings, which will be submitted with the building permit. Please see Attachment 6—Photo Simulations and Attachment 20—Zoning Drawings, Sheets A1.0, A2.0 and A3.0 for demonstration of AT&T's proposed design of the Facility.

- (4) Orientation of windows and doors;

Applicant Response: Not applicable.

- (5) Entrances and exits;

Applicant Response: Not applicable.

(6) Existing topography and natural drainage;

Applicant Response: Please see Attachment 20—Zoning Drawings, Sheets LS-2 and C2.0.

(7) Pedestrian circulation;

Applicant Response: Not applicable.

(8) Boundaries of areas designated Significant Environmental Concern, Geologic Hazards and Areas of Special Flood Hazards;

Applicant Response: Please see Attachment 20—Zoning Drawings, Sheets and Attachment 14—Mitigation Plan.

(9) Service areas for uses such as mail delivery, trash disposal, above-ground utilities, loading and delivery;

Applicant Response: Not applicable.

(10) Areas to be landscaped;

Applicant Response: Please see Attachment 14—Mitigation Plan and Attachment 20—Zoning Drawings, Sheet L2.0 for the proposed landscaping plan.

(11) Exterior lighting location and design;

Applicant Response: AT&T is not proposing any illumination for the proposed Facility other than the motion-controlled security lighting that comes standard on the premanufactured equipment walk-up-cabinet. The WUC detail will be included in the construction drawings, submitted with the building application.

(12) Special provisions for handicapped persons;

Applicant Response: Not applicable.

(13) Surface and storm water drainage and on-site waste disposal systems;

Applicant Response: Please see Attachment 13—Stormwater Report & Certificate and Sheets C1.0 – C3.0, included in Attachment 20—Zoning Drawings for demonstration of AT&T's compliance with this requirement.

(14) The size, species, and approximate locations of plant materials to be retained or placed on the site; and

Applicant Response: Please see Attachment 14—Mitigation Plan and Attachment 20—Zoning Drawings, Sheets L1.0 – L2.0 for demonstration on the proposed planting plan.

(15) Proposed ground-disturbance, grading, filling and site contouring.

Applicant Response: Applicant Response: Please see Attachment 13—Stormwater Report & Certificate and Sheets C1.0 – C3.0, included in Attachment 20—Zoning Drawings for demonstration of AT&T's compliance with this requirement.

39.8030 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 drawn to scale, indicating the locations and specifications of the items described in MCC 39.8025, as appropriate;

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

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

Applicant Response: AT&T understands and intends to comply with the above provision, as applicable.

39.8040 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.

...

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

Applicant Response: The proposed Facility is the least intrusive means to meet AT&T's service objective within the Targeted Service Area while maintaining compatibility with surrounding land uses to the greatest extent feasible. AT&T's proposed Facility is a passive use and has been designed as a monofir to blend with the natural environment. The existing vegetation will be preserved to the greatest extent possible, which will assist in screening the Facility from adjacent properties. Further, there is an existing BPA transmission corridor directly west of the subject property that is more visible than the proposed stealth Facility.

[MCC 39.8040(A)(1)(b) and (A) (2-3) have been OMITTED. Per MCC 39.8020(B), these sections are not required, as AT&T's proposal creates less than four new parking spaces.]

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

Applicant Response: Minimal grading is required for the proposed WCF, as shown on the Grading and Erosion Control Plan, Sheet C1.0, in Attachment 20—Zoning Drawings. The subject property contains dense vegetation; therefore, some native vegetation must be removed in the area in and around the proposed lease area and access drive. A Tree Removal and Retention Plan has been included in Attachment 20—Zoning Drawings, Sheet L1.0, demonstrating the vegetation that is to be retained, protected, or removed. Please also see Attachment 14—Mitigation Plan for the proposed planting plan within the mitigation area.

[MCC 39.8040(A) (5-6) have been OMITTED. Per MCC 39.8020(B), these sections are not required, as AT&T's proposal creates less than four new parking spaces.]

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

Applicant Response: To mitigate visual impacts, the Facility has been designed as a stealth monofir and will utilize the existing trees on the property to help screen the Facility. The proposed Facility will be setback a minimum of 150ft from the property lines and will encompass only 2,500 square feet of the 20.07-acre parent-parcel. AT&T's proposed ground equipment will be located within the fenced lease area. A premanufactured walk-up-cabinet ("WUC") will be installed within a 18ft x 20ft wood framed enclosure. The enclosure will be treated with horizontal siding and a shed roof to look like a building typically found in the area. The enclosure will be painted dark green with non-reflective materials and will be no more than 15ft in height. Please see Attachment 20—Zoning Drawings, Sheets A1.0, A2.0, A3.0 and L1.0 and Attachment 6—Photo Simulations for a visual representation of the Facility.

[MCC 39.8040(A) (8-9) and (B) have been OMITTED. Per MCC 39.8020(B), these sections are not required, as AT&T's proposal creates less than four new parking spaces.]