

STATEMENT OF CODE COMPLIANCE FOR WIRELESS COMMUNICATIONS FACILITY
Lot of Record Verification, Significant Wildlife Habitat (SEC-h) permit, Limited Design
Review (DR), and Planning Director Decision
AT&T 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. STATE LAW

- **ORS 215.283(1)(c)(A)**
- **ORS 215.275**

II. ZONING

- **Part 4.A.2 – Exclusive Farm Use (EFU)**
 - **39.4200 Purpose**
 - **39.4205 Area Affected**
 - **39.4215 Uses**
 - **39.4225 Review Uses**
 - **39.4245 Dimensional Requirements and Development Standards**
 - **39.4260 Access**

III. WCF DEVELOPMENT & DESIGN REGULATIONS

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

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- **Part 3.A – General Provisions (Lot of Record)**
 - **39.3005 Lot of Record – Generally**
- **Part 3.B – Lot of Record Requirements Specific to Each Zone**
 - **39.3070 Lot of Record – EFU**
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 - **39.6210 Permits Required**
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- **Part 1.B – Procedures**

- **39.1130 Complete Application – Required Information**
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 - **39.8030 Final Design Review Plan**
 - **39.8035 Delay in the Construction of a Required Feature**
 - **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. STATE LAW

ORS 215.283 Uses permitted in exclusive farm use zones in nonmarginal land counties

(1) The following uses may be established in any area zoned for exclusive farm use:

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

(A) ORS 215.275 (Utility facilities necessary for public service); or

Applicant Response: AT&T is proposing a new wireless communication facility of a height less than 200 feet (at 150ft) intended to serve the public. This communication tower aims to address the pressing need for enhanced communication infrastructure, benefiting both the public and local emergency services by providing reliable and advanced communication capabilities. Additionally, as a FirstNet provider, this Facility will play a vital role in supporting local emergency services.

ORS 215.275 Utility facilities necessary for public service

(1) A utility facility established under ORS 215.213 (Uses permitted in exclusive farm use zones in counties that adopted marginal lands system prior to 1993) (1)(c)(A) or 215.283 (Uses permitted in exclusive farm use zones in nonmarginal lands counties) (1)(c)(A) is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service.

Applicant Response: See Alternative Sites Analysis within Attachment 2 – Project Narrative and Attachment 4 – AT&T Radiofrequency (RF) Justification. AT&T's RF engineers established through engineering evidence that there is a significant gap in in-building coverage within the targeted service area. This area is primarily single-family residential, EFU, or agricultural zones. As detailed in the Analysis, there were no alternatives available for siting this wireless communications facility in urban or nonresource lands that could meet AT&T's service objectives.

(2) To demonstrate that a utility facility is necessary, an applicant for approval under ORS 215.213 (Uses permitted in exclusive farm use zones in counties that adopted marginal lands system prior to 1993) (1)(c)(A) or 215.283 (Uses permitted in exclusive farm use zones in nonmarginal lands counties) (1)(c)(A) must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:

- (a) Technical and engineering feasibility;
- (b) The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
- (c) Lack of available urban and nonresource lands;
- (d) Availability of existing rights of way;
- (e) Public health and safety; and
- (f) Other requirements of state or federal agencies.

Applicant Response: The statutory criteria for demonstrating that the Facility is necessary for public service is codified in the Multnomah Zoning Code, Section 39.7745(A) and (B). See responses to that section herein.

(3) Costs associated with any of the factors listed in subsection (2) of this section may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities. The

Land Conservation and Development Commission shall determine by rule how land costs may be considered when evaluating the siting of utility facilities that are not substantially similar.

Applicant Response: This is acknowledged. AT&T did not primarily consider cost when selecting this location. The applicant evaluates alternatives on various factors, including zoning restrictions, space availability, and primarily, the fulfillment of its coverage objective. See Alternative Sites Analysis within Attachment 2 – Project Narrative.

(4) The owner of a utility facility approved under ORS 215.213 (Uses permitted in exclusive farm use zones in counties that adopted marginal lands system prior to 1993) (1)(c)(A) or 215.283 (Uses permitted in exclusive farm use zones in nonmarginal lands counties) (1)(c)(A) shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this section shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.

Applicant Response: This is acknowledged.

(5) The governing body of the county or its designee shall impose clear and objective conditions on an application for utility facility siting under ORS 215.213 (Uses permitted in exclusive farm use zones in counties that adopted marginal lands system prior to 1993) (1)(c)(A) or 215.283 (Uses permitted in exclusive farm use zones in nonmarginal lands counties) (1)(c)(A) to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmlands.

Applicant Response: This is acknowledged. Please see responses within this Attachment 3 – Statement of Code Compliance for compliance with Multnomah County regulations to limit impacts on farm practices.

(6) The provisions of subsections (2) to (5) of this section do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.

Applicant Response: Not applicable. No interstate natural gas pipelines are proposed as part of this application.

II. ZONING

Part 4.A.2 – Exclusive Farm Use (EFU)

39.4200 Purpose

The purposes of the Exclusive Farm Use Base Zone are to preserve and maintain agricultural lands for farm use consistent with existing and future needs for agricultural products, forests and open spaces; to conserve and protect scenic and wildlife resources, to maintain and improve the quality of the air, water and land resources of the County and to establish criteria and standards for farm uses and related and compatible uses which are deemed appropriate. Land within this base zone shall be used exclusively for farm uses as provided in the Oregon Revised Statutes Chapter 215 and the Oregon Administrative Rules Chapter 660, Division 33 as interpreted by this Exclusive Farm Use Subpart.

One of the implementation tools to carry out the purposes of this base zone is a Lot of Record requirement to group into larger "Lots of Record" those contiguous parcels and lots that were in the same ownership on February 20, 1990. This requirement is in addition to all "tract" grouping requirements of State Statute and Rule.

Applicant Response: The purpose of this zone is noted. The proposal is for a new WCF within a 50ft X 50ft lease area on an undeveloped and vacant EFU parcel. This WCF is a utility facility necessary for public service and is not incompatible with the underlying use of the property.

39.4205 Area Affected

MCC 39.4200 through 39.4265 shall apply to those areas designated EFU on the Multnomah County Zoning Map.

Applicant Response: The subject property is located within the EFU zone as shown on the Multnomah County Zoning Map.

39.4215 Uses

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this base zone except for the uses listed in MCC 39.4220 through 39.4230 when found to comply with MCC 39.4245 through 39.4260 provided such uses occur on a Lot of Record, except those uses listed in ORS 215.283(1) may occur on Exclusive Farm Use zone lands regardless of Lot of Record status of the land upon which the use will occur.

Applicant Response: Wireless Communications Facilities are a review use pursuant to MCC 39.4225, addressed immediately below. Compliance with MCC 39.4245 through 39.4260 is detailed in the following sections. As a use listed in ORS 215.283(1), the WCF may be sited on this EFU parcel regardless of its Lot of Record status.

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:

(1) Radio and television towers 200 feet and under when found to satisfy the requirements of ORS 215.275 "Utility facilities necessary for public service; criteria; mitigating impact of facility" and MCC 39.7550 through 39.7575.

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

(3) All other utility facilities and/or transmission towers 200 feet and under in height subject to the following:

(a) The facility satisfies the requirements of ORS 215.275, "Utility facilities necessary for public service; criteria; mitigating impact of facility"; and

(b) The facility satisfies the requirements of MCC 39.6500 through 39.6600; 39.7525(A); 39.8000 through 39.8050; and 39.6745.

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. Therefore, this qualifies as a review use.

AT&T asks that the County consider that the proposed WCF, as a use permitted "as of right" under ORS 215.283(1), is permitted subject only to the statutory necessity test and not additional County zoning requirements for wireless towers. Dierking v. Clackamas County, 170 Or. App. 683, 687, 13 P.3d 1018 (2000) ("[t]owers less than 200 feet [. . .] are subject only to the necessity test [of ORS 215.275.]"); Brentmar v. Jackson County, 321 Or. 481, 900 P.2d 1030 (1995).

AT&T has demonstrated that it has met the County's additional zoning requirements for wireless towers, but as a matter of state law, it need not do so.

(B) through (X) – *OMITTED. These sections do not apply to WCF.*

39.4245 Dimensional Requirements and Development Standards

(A) Except as provided in MCC 39.3070, the minimum lot size for new parcels shall be 80 acres in the EFU base zone.

Applicant Response: The proposed WCF will be placed on an existing parcel that is 20.07 acres. This application includes a Lot of Record determination.

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

Applicant Response: This is acknowledged. The parcel is accessed via an existing BPA right-of-way.

(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 of the EFU zone. See Sheet A1.0, Attachment 20 – Zoning Drawings for setbacks to each property line.

(2) through (3) *OMITTED. No accessory structures are being proposed.*

(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. As the tower is set back 150ft from the BPA right-of-way, even an increased yard requirement should not cause the WCF to encroach into the required yard.

(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 Sheet A1.0 of 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.

As noted in Attachment 13, the proposed improvements will not alter existing stormwater runoff or infiltration. The added impervious surface is only 0.8% of the parcel size, and the runoff rates will not exceed the pre-development runoff rates. For mitigation, AT&T proposes keeping natural drainage patterns, utilizing compound rock, installing a landscape buffer, and following BMPs during construction.

[MCC 39.4245(G) is OMITTED. No agricultural or equine facilities proposed.]

(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. Additionally, see responses to MCC 39.6850 contained herein.

39.4260 Access

All lots and parcels in this base zone shall abut a public street or shall have other access determined by the approval authority to be safe and convenient for pedestrians and for passenger and emergency vehicles. This access requirement does not apply to a pre-existing lot and parcel that constitutes a Lot of Record described in MCC 39.3070(C).

Applicant Response: This is acknowledged. The site will be accessed via the existing BPA right-of-way with an access drive proposed to the site. This is an unmanned WCF that will not need to be accessed by pedestrians. Approximately monthly maintenance visits will occur with a passenger vehicle that will utilize the access road and driveway, which can also be used by emergency vehicles. The driveway will meet applicable county requirements.

III. 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. AT&T has identified a significant coverage gap in this area. After thorough consideration of siting options, AT&T has determined the proposed location is the placement necessary to meet its objectives. The proposed monofir is meant to minimize the visual impact by appearing as something other than a WCF. Additionally, AT&T mitigated the impact to the natural environment as detailed in Attachment 14 – Mitigation Plan.

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. As noted in Attachment 15 – Pre-filing Notes, this will require a Limited Design Review. 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: Noted, but not applicable to this application. AT&T's current 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 prior to construction and will comply with the Uniform Building Code. Additionally, as this proposal is in an EFU zone, it will comply with the applicable regulations of the ORS.

(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. Additionally, AT&T will be locating antennas on this structure, so it is not a speculation 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:

(A) **OMITTED. Co-location on an existing tower or structure is not being proposed.**

(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 4—AT&T Radio Frequency (RF) Justification and Alternative Sites Analysis in Attachment 2 – Project Narrative for demonstration of AT&T's compliance with this requirement. As detailed within those documents:

- ***The nearest existing tower on which to collocate is an SBA tower approximately 1.25 to the southwest. This structure is too short, even if AT&T were to increase the structure by 20ft, to meet the coverage objectives.***
- ***There are existing PGE transmission towers approximately 1 mile to the west of the proposed site. If collocating on these structures, ground space would be needed. AT&T was unable to secure ground space with either of the nearest PGE transmission structures.***
- ***The existing BPA H-frame utility poles are adjacent to the site. These structures are too short and would need to be replaced by metal poles at a much taller height.***

(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.

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

Applicant Response: Based on ground elevation, obstructions to the signal, and the surrounding terrain, AT&T's RF engineers determined that the proposed 140ft antenna tip height is the minimum necessary to best meet AT&T's service objectives to provide dominant coverage and enhanced capacity within the Targeted Service Area. Please see Attachment 4—AT&T Radio Frequency (RF) Justification.

(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 Alternative Site Analysis in Attachment 2—Project Narrative, as well as Attachment 4—AT&T Radio Frequency (RF) Justification, for alternatives considered for co-location.

(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. AT&T's proposed WCF is a stealth monofir design to resemble a natural tree and is proposed at the minimum height necessary to meet the coverage objectives.

(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 carriers—AT&T's proposed antenna array plus space for two additional future collocators. 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 and structural analysis. 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 carriers 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: See Attachment 5—AT&T RFSSRP (NIER) Report for demonstration that the facility will operate in accordance with the FCC's RF emissions regulations. Accordingly, this issue is preempted under federal law and any testimony or documents introduced relating to the environmental or health effects of the proposed Facility should be disregarded.

(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. As outlined in these documents, AT&T proposes to install a 5ft landscaping buffer around the 50ft X 50ft lease area.

(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. Detailed construction drawings with all required utility information 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. Vehicle access will be via BPA right-of-way to a proposed access road.

(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: Noise levels will not be in excess of the allowable levels. Please see Attachment 8—Noise Study.

(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.

(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

Applicant Response: Not applicable. The proposed WCF is located on an EFU zoned parcel. However, AT&T will still demonstrate compliance with the applicable criteria within the responses to MCC 39.7745, in the following section.

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: AT&T seeks to improve wireless service, including filling a gap in in-building wireless coverage and supporting the FirstNet public safety network, within the Bethany and North Bethany neighborhoods. To do so, AT&T proposes to construct its tower on an EFU zoned property, as there are no reasonable alternatives available for location on urban or non-resource lands, after consideration of alternatives both within and near AT&T's search ring. The lack of reasonable alternatives is based primarily on the technical needs of the facility so that it will both work within the existing AT&T network and close the significant gap in coverage that exists in this area.

AT&T issued a Search Ring, providing the geographic and physical parameters for a new wireless facility, such as required antenna height, for meeting AT&T's coverage objectives. The proposed facility is located just outside the original search ring toward the center of the extended search area. See Attachment 4, AT&T Radiofrequency (RF) Justification. The original and extended search rings included properties zoned EFU, CFU or MUA-20 in Multnomah County, and primarily residential zones of Washington County:

- *The priority for both the County and AT&T is to collocate on an existing WCF. However, the nearest existing tower is a 55ft SBA tower approximately 1.2 miles to the south of the proposed site. See Figure E and Figure F of Attachment 4, which demonstrates that utilizing this existing tower will not provide equivalent or sufficient coverage to the targeted service at either at the existing height or if the tower were increased in height.*
- *The original search ring was centered on the targeted service area of the Bethany and North Bethany neighborhoods. These residential subdivisions do not currently have adequate 4G LTE coverage needed to ensure reliable in-building service. This ring included primarily residentially zoned parcels in*

Washington County. These residential lots are not of adequate size to accommodate a new support structure given the county 1-to-1 setbacks for new towers. Additionally, antennas could not be attached to those existing residential structures. The only existing non-residential structures that would provide the height to meet the coverage objectives are the PGE transmission towers. However, as detailed in the Alternatives Sites Analysis (Attachment 2 – Project Narrative), there was not available ground space, so these locations were ruled out.

- *The extended search ring and the additional search area added EFU and MUA-20 parcels in Multnomah County. The MUA-20 zone is a non-resource zone, so AT&T considered placement in that zone carefully. As demonstrated in Figure G and H of the RF Justification (Attachment 4), given the lower height limit of the MUA-20 zone and the MUA-20 parcels' location further from the targeted service area, a new tower in the MUA-20 zone would not meet the primary service objective of providing in-building 4G LTE service to the Bethany and North Bethany neighborhoods. This extended search area also included the H-frame BPA utility structures that are too short to meet the coverage objectives.*

Additional details can be found in both the Alternative Sites Analysis in Attachment 2—Project Narrative and Attachment 4—AT&T Radio Frequency (RF) Justification. This supporting documentation, and the responses contained herein, demonstrate that this proposed WCF cannot be located outside of EFU due to technical feasibility and the lack of non-resource lands that can accommodate a new tower.

(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)

Applicant Response: See responses herein for compliance with location criteria:

(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: This is acknowledged. 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 will be 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: AT&T considered multiple co-location opportunities to meet its service objectives. However, the existing structures were not feasible. Please see the Alternative Sites Analysis in Attachment 2 – Project Narrative and Attachment 4—AT&T Radiofrequency (RF) Justification.

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. No equipment will be located on any residential structure or accessory building.

(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 monopole 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.

(c) A vegetatively, topographically, or structurally screened monopole.

1. A WCF tower or monopole not employing concealment technology shall not be installed on a site unless it blends with the surrounding existing natural and human-made environment in such a manner so as to be visually subordinate. Existing trees or significant vegetation should be retained to the greatest possible degree in order to help conceal a facility or tower. Vegetation of a similar species and a size acceptable to the approval authority shall be planted immediately following the loss of any vegetation used to conceal a facility or tower. Vegetation used to demonstrate visual subordination shall be under the control of the applicant/co-applicant or tenant.

Applicant Response: Not applicable. AT&T will employ concealment technology to minimize the visual impact. However, they will also take advantage of the existing vegetation and topography to further minimize visual impact of the Facility.

2. The facility shall make available un-utilized space for co-location of other telecommunication facilities, including space for these entities providing similar competing services.

Applicant Response: AT&T will provide space for up to (2) additional carriers.

3. A proposal for a new wireless communication service tower shall not be approved unless the Approving authority finds that the wireless communications equipment for the proposed tower cannot be accommodated on an existing or approved tower or structure due to one or more of the following reasons:

- A. The wireless communications equipment would exceed the structural capacity of the existing or approved tower or structure, as documented by a qualified and licensed professional engineer, and the existing or approved tower/structure cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
- B. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or structure as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.
- C. Existing or approved towers and structures within the applicant's search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.
- D. The radiofrequency coverage objective cannot be adequately met.

Applicant Response: See Attachment 4—AT&T Radiofrequency (RF) Justification. There were no existing structures within the search ring or the extended search area that could support the proposed equipment and meet the coverage objectives.

4. Any proposed commercial wireless telecommunication service tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional facilities if the tower is over 100 feet in height or for at least one additional facility if the tower is between 60 and 100 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.

Applicant Response: The monopir is 150ft and will be able to accommodate (3) total carriers, to include AT&T.

5. Towers/monopoles shall not be sited in locations where there is no vegetative, structural, or topographic screening available.

Applicant Response: The subject property is a vacant parcel that is well vegetated. Between the proposed site and the homes to the west, there are a landscaped road, vegetated walking trail, and the BPA right-of-way providing significant buffer between the uses. Ground equipment will be further screened by the proposed fence and landscape buffer.

6. The County may require independent verification of the analysis at the applicant's expense.

Applicant Response: This is acknowledged.

(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 monopir, creating an overall height of 150ft.

(3) Setback pursuant to: MCC 39.7740(B)(3).

(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: There are no dwellings on the subject property.

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

Applicant Response: The tower will set back at least 150ft from all property lines. See Sheet A1.0 of Attachment 20—Zoning Drawings.

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

Applicant Response: The proposed equipment will be set back over 100ft from all property lines. See Sheet A1.0 of Attachment 20—Zoning Drawings.

(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.

Applicant Response: No reduction to the required setback and yard requirement is being requested.

(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: No reduction to the required setback and yard requirement is being requested.

(4) Storage pursuant to: MCC 39.7740(B)(4).

(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 pursuant to: MCC 39.7740(B)(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 fir tree to blend with the surrounding environment. See Attachment 6—Photo Simulations and Attachment 20—Zoning Drawings, Sheet A3.0.

(6) Fences pursuant to: MCC 39.7740(B)(6).

(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 pursuant to: MCC 39.7740(B)(7).

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 with barbed wire 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 pursuant to: MCC 39.7740(B)(8).

(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 pursuant to: MCC 39.7740(B)(9).

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 pursuant to: MCC 39.7740(B)(10).

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) Landscaping and screening pursuant to: MCC 39.7740(B)(11).

(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. However, existing vegetation will be retained to the extent feasible. 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. 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.

39.7750 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.

IV. 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.

Applicant Response: This is acknowledged. A Lot of Record Determination will be a part of this application. However, we assert that, regardless of the determination, a WCF should still be allowed as a review use pursuant to MCC 39.4215.

(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: See Attachment 18 – Chain of Title. We understand the general Lot of Record requirements for structures in EFU zones. However, pursuant to MCC 39.4215:

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this base zone except for the uses listed in MCC 39.4220 through 39.4230 when found to comply with MCC 39.4245 through 39.4260 provided such uses occur on a Lot of Record, except those uses listed in ORS 215.283(1) may occur on Exclusive Farm Use zone lands regardless of Lot of Record status of the land upon which the use will occur.

As the proposed WCF qualifies as a utility facility necessary for public service under ORS 283(1), it should be allowed when showing compliance with the other applicable regulations.

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. Please see Attachment 18—Chain of Title.

Part 6.B – Ground Disturbing Activity and Stormwater

39.6200 Purposes

The purposes of this Subpart 6.B is to regulate ground disturbing activity and the establishment or replacement of impervious surfaces in order to promote public health, safety and general welfare and to minimize the following

risks potentially arising from ground disturbing activity or the establishment or replacement of impervious surfaces; public and private costs, expenses and losses; environmental harm; and human-caused erosion, sedimentation or landslides.

Applicant Response: This is acknowledged. AT&T will follow all best management practices to minimize impact from the proposed ground disturbing activity.

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).

Applicant Response: The proposed scope of work will require a Minimal Impact Project to be submitted in conjunction with the building permit. The proposed development will add 7,358 square feet in new impervious surface.

(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.

Applicant Response: This is acknowledged. The proposed access road crosses over a significant streams overlay, but mitigation efforts will minimize any impacts (See Attachment 14). Additionally, as noted in Attachment 14, no ground disturbance will occur within 100ft of a mapped water body.

(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.

Applicant Response: This is acknowledged. The ground disturbing activity will not occur until all permitting and entitlements are secured.

(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.

Applicant Response: The proposed ground disturbing activity will not endanger adjacent property or generally create a nuisance. This is an unmanned wireless communications facility contained within a 50ft X 50ft fenced area. It will be set back at least 150ft from all property lines and over 300ft from the nearest dwelling. It will be constructed to comply with the Uniform Building Code and ANSI standards to ensure its structural integrity.

(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.

Applicant Response: This is acknowledged. Minimal site grading will be required, and no soil stockpiling is anticipated. Topsoil removed during gravel installation will be off-hauled to an approved disposal site. Best

Management Practices (BMPs) for temporary erosion and sediment control will be implemented during construction in accordance with County guidelines. See Attachment 14 – Mitigation Plan.

(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.

Applicant Response: This is acknowledged.

(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: This is acknowledged.

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 to show the proposed management of stormwater.

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

39.6515 Plan Required

A plot plan showing the dimensions, access and circulation layout for vehicles and pedestrians, space markings, the grades, drainage, setbacks, landscaping and abutting land uses in respect to the off-street parking area and such other information as shall be required, shall be submitted in duplicate to the Planning Director with each application for approval of a building or other required permit.

Applicant Response: See Attachment 20 – Zoning Drawings. 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. There should be a negligible impact to existing traffic circulation, and there will be no impact to pedestrian circulation as the access is off a BPA right-of-way adjacent to a walking trail not to be impacted.

39.6520 Use of Space

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

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

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

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

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

Applicant Response: This is acknowledged. This is an unmanned WCF that will only be accessed for construction and for approximately monthly maintenance visits. Available parking and loading spaces will comply with the regulations contained herein.

39.6525 Location of Parking and Loading Spaces

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

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

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

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

Applicant Response: The only parking will be on the subject parcel. No off-site parking is proposed.

39.6530 Improvements Required

(A) Required parking and loading areas shall be improved and placed in condition for use before the grant of a Certificate of Occupancy under MCC 29.014, or a Performance Bond in favor of Multnomah County equivalent to the cost of completing such improvements shall be filed with the Planning Director.

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

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

Applicant Response: This is acknowledged.

39.6535 Change of Use

(D) Any alteration of the use of any land or structure under which an increase in the number of parking or loading spaces is required by this Subpart shall be unlawful unless the additional spaces are provided.

(E) In case of enlargement or change of use, the number of parking or loading spaces required shall be based on the total area involved in the enlargement or change in use.

Applicant Response: This is acknowledged. The proposed unmanned WCF is a passive use that will not require more than (1) parking space for monthly maintenance visits.

39.6540 Joint Parking or Loading Spaces

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

Applicant Response: This is acknowledged. The current use is a vacant parcel, and the proposed use is an unmanned WCF.

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

Applicant Response: AT&T will have parking available on the subject property and will not rely on parking areas available on any adjoining parcels.

39.6545 Existing Spaces

Off-street parking or loading spaces existing prior to July 26, 1979 may be included in calculating the number of spaces necessary to meet these requirements in the event of subsequent enlargement of the structure or change of use to which such spaces are accessory. Such spaces shall meet the design and improvement standards of this Section Subpart.

Applicant Response: Not applicable. No existing off-street parking will be utilized.

39.6555 Design Standards: Scope

(A) The design standards of this Subpart shall apply to all parking, loading, and maneuvering areas except those serving a single family dwelling on an individual lot in a rural base zone and except those serving a single family or a two-family dwelling in an urban base zone. Any non-residential use approved on a parcel containing a single family dwelling shall meet the design standards of MCC 39.6560 through 39.6580.

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

Applicant Response: The proposed use is an unmanned WCF. The access road and parking areas will meet all county roads standards, including providing for turnaround.

39.6560 Access

(A) Where a parking or loading area does not abut directly on a public street or private street approved under Part 9 of this Chapter, there shall be provided an unobstructed driveway not less than 20 feet in width for two-way traffic, leading to a public street or approved private street. Traffic directions therefore shall be plainly marked.

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

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

(2) The County Engineer verifies that the proposed deviation complies with the County Road Rules and the County Design and Construction Manual Standards;

(3) Application of the dimensional standard would present a practical difficulty or would subject the property owner to unnecessary hardship; and

(4) Authorization of the proposed deviation would not:

(a) be materially detrimental to the public welfare;

(b) be injurious to property in the vicinity or in the base zone in which the property is located; or

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

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

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.

39.6565 Dimensional Standards

(A) Parking spaces shall meet the following requirements:

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

(B) Aisle width shall be not less than:

- (1) 25 feet for 90 degree parking,
- (2) 20 feet for less than 90 degree parking, and
- (3) 12 feet for parallel parking.
- (4) Angle measurements shall be between the center line of the parking space and the center line of the aisle.

(C) Loading spaces shall meet the following requirements:

(1)	(l) Base zone	Minimu m Width	Minimu m Depth
	All	12 Feet	25 Feet

- (2) Minimum vertical clearance shall be 13 feet.

Applicant Response: See Sheet A2.0 of Attachment 20 – Zoning Drawings for parking and access details.

39.6570 Improvements

(A) Surfacing

- (1) Except as otherwise provided in this section, all areas used for parking, loading or maneuvering of vehicles, including the driveway, shall be surfaced with at least two inches of blacktop on a four inch crushed rock base or at least six inches of Portland cement, unless a design providing additional load capacity is required by the fire service provider.
- (2) The Approval Authority may permit and authorize a deviation from the surfacing standard in paragraph (A)(1) of this section and thereby authorize, alternate surfacing systems that provide a durable dustless surface, including gravel. A deviation under this paragraph may be permitted and authorized only upon finding that each parking area supporting the existing and the proposed development meets the following standards in subparagraphs (a) and (b) and, for parking areas of four or more required parking spaces, also meets the following standards in subparagraphs (c) and (d):
 - (a) The authorized provider of structural fire protection services verifies that the proposed deviation complies with such provider’s fire apparatus access standards, or, if there is no such service provider, the building official verifies that the proposed deviation complies with the Oregon Fire Code;
 - (b) The County Engineer verifies that the proposed deviation complies with the County Road Rules and the County Design and Construction Manual Standards. Alternative surfacing can be considered for all areas used for parking, loading and maneuvering, including the driveway; however, approaches

to paved public right-of-way shall be paved for a minimum of 21 feet from the fog line, or for a greater distance when required by the County Engineer;

- (c) Authorization of the proposed deviation would not:
 - 1. be materially detrimental to the public welfare;
 - 2. be injurious to property in the vicinity or in the base zone in which the property is located;
or
 - 3. adversely affect the appropriate development of adjoining properties; and

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

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

(B) Curbs and Bumper Rails

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

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

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

(C) Marking - All areas for the parking and maneuvering of vehicles shall be marked in accordance with the approved plan required under MCC 39.6515, and such marking shall be continually maintained. Except for development within the RC, BRC, SRC, PH-RC, OR, or OCI zones, a graveled parking area with fewer than four required parking spaces is exempt from this requirement.

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

(E) Covered Walkways - Covered walkway structures for the shelter of pedestrians only, and consisting solely of roof surfaces and necessary supporting columns, posts and beams, may be provided. Such structures shall meet the setback, height and other requirements of the base zone which apply.

Applicant Response: The proposed access and parking will be gravel. All stormwater will be managed according to Attachment 13. The proposed material and road size is appropriate for this passive use, and is meant to be compatible with the environmental conditions of the property.

39.6575 Signs

Signs, pursuant to the provisions of this subpart shall also meet MCC 39.6780.

Applicant Response: No signs, except for those required by the FCC and the county, are proposed.

39.6580 Design Standards: Setbacks

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

(B) In the RC, BRC, SRC, PH-RC, OR and OCI base zones, off-street parking for new, replacement or expansion of existing commercial or industrial developments on a parcel less than 1 acre shall provide a minimum of 10 foot landscaped front yard or street side setback. All other minimum yard dimensions for parking shall be as required in this Subpart.

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

(D) Parking or loading areas on property located in the C-3, LM, or MR-4 base zones that adjoins any other base zone located in the Urban Planning Area and along the same street, shall not be located closer to the street property line than the required setback of the adjoining base zone for a distance of 50 feet from the boundary of any such base zone.

(E) Parking or loading areas on property located in the C-3, LM, or MR-4 base zones and across a street from any other base zone located in the Urban Planning Area, shall have a setback of not less than five feet from the street property line, and such five foot setback area shall be permanently landscaped and maintained.

Applicant Response: Parking for maintenance vehicles will be located outside the equipment compound set back over 100ft from the BPA right-of-way.

39.6585 Landscaping and Screening Requirements

(A) The landscaped areas requirements of MCC 39.8045 (C) (3) to (7) shall apply to all parking, loading or maneuvering areas which are within the scope of design standards stated in MCC 39.6555 (A).

Applicant Response: As there is only one parking space in front of the compound that is set back from the road, no additional landscaping should be required. There will be landscaping around the equipment compound.

39.6590 Minimum Required...Parking Spaces

(A) to (D) ***OMITTED. Not applicable to the proposed development.***

(E) The following Manufacturing and Storage Uses shall have at least the number of off-street parking spaces indicated:

- (1) Manufacturing - One space for each two employee positions on the largest shift, or one space for each 800 square feet of non-storage gross floor area, whichever is greater.
- (2) Storage - One space for each 5,000 square feet of storage area for the first 20,000 square feet, plus one additional space for each additional 50,000 square feet.

(F) Unspecified Uses. Any use not specifically listed above shall have the off-street parking space requirements of the listed use or uses deemed most nearly equivalent by the Planning Director.

Applicant Response: Parking spaces for WCF are an unspecified use. However, we believe that manufacturing/storage use is the closest equivalent of those uses listed which requires (1) for each two employees.

39.6595 Minimum Required... Loading Spaces

(A) to (F) **OMITTED. Not applicable to this type of development.**

(G) Unspecified Uses. Any use not specifically listed above shall have the loading space requirements of the listed use or uses deemed most nearly equivalent by the Planning Director.

39.6600 Exceptions

(G) The Planning Director may grant an exception with or without conditions for up to 30% of the required number of off-street parking or loading spaces, upon a finding by the Director that there is substantial evidence that the number of spaces required is inappropriate or unneeded for the particular use, based upon:

- (1) A history of parking or loading use for comparable developments;
- (2) The age, physical condition, motor vehicle ownership or use characteristics or other circumstances of residents, users or visitors of the use; or
- (3) The availability of alternative transportation facilities; and
- (4) That there will be no resultant on-street parking or loading or interruptions or hazards to the movement of traffic, pedestrians or transit vehicles.

(H) The Director shall file with the application for the building or other required permit, findings in support of any exception, including any conditions of approval.

(I) An exception in excess of 15% of the required number of spaces shall include a condition that a plan shall be filed with the application, showing how the required number of spaces can be provided on the lot in the future.

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. No additional parking should be needed for the intensity of this use.

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)

(A) Decision Review Process

(1) Applications shall meet all of the criteria in MCC 39.5530 (B) through (C) and shall be processed through the Type II review procedure.

- a. Properties designated with the SEC Overlay along the Sandy River in the East of Sandy River rural area, shall be subject to the approval criteria listed in MCC 39.5560 in lieu of the approval criteria in MCC 39.5530(C) below.

Applicant Response: In addition to the WCF permit, a Type II SEC permit is requested concurrently. See responses to (B) and (C) contained herein.

(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 and Attachment 20- Zoning Drawings.

(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 and Attachment 20 – Zoning Drawings.

- (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: See Section 8 in Attachment 14—Mitigation Plan which demonstrates compliance with the applicable approval criteria of MCC 39.5540(C). The mitigation plan has been provided to meet the requirements for the Type II review.

(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.

Applicant Response: See Attachment 14 – Mitigation Plan. The mitigation area is located within an existing nonforested disturbed area contiguous with the mixed-deciduous forest adjacent to the project site, and partially within a degraded stream riparian area.

(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). The mitigation plan meets or exceeds all planting requirements, including planting density, spacing, container size, and species diversity. No fencing is proposed outside of the cleared development area, and all lighting will be directed away from natural habitat areas. Nuisance and invasive species will be removed and replaced with native vegetation in accordance with County requirements.

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. The project qualifies as a Low Impact Site under subsection (C)(2), as the entire development footprint is located more than 100 feet from the top of bank of Bethany Creek, a protected water feature.

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), as well as Section 1 which provides a description of the proposed development.

- (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 and Attachment 20- Zoning Drawings.

- (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). This documentation should be sufficient to address all relevant approval criteria.

(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)] as the entire development footprint is located more than 100 feet from the top of bank of Bethany Creek, a protected water feature. Because of this, an alternatives analysis under subsection (C)(3) is not required.

(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" within five years.

[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: This is acknowledged. Please see Section 6 in Attachment 14—Mitigation Plan, which includes a Monitoring Plan for proposed plantings.

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. No previous zoning permits have been issued for this property as it is a vacant parcel. The proposed WCF will comply with all applicable provisions of the County Zoning Code for siting new WCF on EFU parcels and will receive all required permits and entitlements prior to construction. Additionally, as an EFU parcel, the proposal will comply with the applicable State regulations for utility facilities necessary for public service. More than 78% of the U.S. households are wireless only¹, meaning they do not have landlines. Additionally, it is estimated that more than 80% of 911 calls are made from wireless devices in Multnomah County². Therefore, high-quality and reliable services is a vital for everyday and emergency communications. In addition to AT&T commercial facilities, this proposed Facility will include facilities to support FirstNet. FirstNet Built with AT&T is designed to be reliable, functional, safe, and secure, and it will provide optimal levels of operational capacity at all times.

Part 8.A – Design Review

39.8000 Purposes

MCC 39.8000 through 39.8050 (Design Review) provides for the review and administrative approval of the design of certain developments and improvements in order to promote functional, safe, innovative and attractive site development compatible with the natural and human-made environment.

Applicant Response: This is acknowledged. AT&T has proposed a design that will blend with the natural environment while meeting its coverage objective to provide continuous and uninterrupted outdoor, in-vehicle, and in-building wireless service to the Targeted Service Area.

39.8005 Elements of Design Review Plan

The elements of a Design Review Plan are: The layout and design of all existing and proposed improvements, including but not limited to, buildings, structures, parking and circulation areas, outdoor storage areas, landscape areas, service and delivery areas, outdoor recreation areas, retaining walls, signs and graphics, cut and fill actions, accessways, pedestrian walkways, buffering and screening measures.

Applicant Response: Please see Attachment 20 – Zoning Drawings.

¹ CDC Wireless Substitution: Early Release of Estimates from the National Health Interview Survey, July-December 2024 (released June 2025).

² City of Portland. "How to use 911". <https://www.portland.gov/911/how-use-9-1-1>.

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 limited 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.

Applicant Response: The proposed project is not exempt pursuant to MCC 39.8015.

(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: Less than four new parking spaces will be created with this proposal, pursuant to MCC 39.6590. 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. The support structure will be designed to resemble a fir tree ("monofir"), and the equipment will be enclosed within a framed equipment enclosure.

- (4) Orientation of windows and doors;

Applicant Response: Not applicable. This is an unmanned WCF with no windows or doors proposed.

- (5) Entrances and exits;

Applicant Response: The 50ft X 50ft lease area is surrounded by a 6ft chain link fence with a 12ft access gate. There is no other access to the lease area.

(6) Existing topography and natural drainage;

Applicant Response: Please see Attachment 20—Zoning Drawings, Sheets LS-2 and C2.0. See also Attachment 13— Stormwater Report & Certificate for details on drainage.

(7) Pedestrian circulation;

Applicant Response: Not applicable. This is an unmanned WCF with no pedestrian access.

(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. The subject parcel is in the following overlay zones: Significant Wildlife Habitat (SEC-h) and Significant Streams (SEC-s).

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

Applicant Response: Not applicable. This is an unmanned WCF that will not require these services.

(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. The lease area will be surrounded by a 5ft landscape buffer.

(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. This is an unmanned WCF with no access to the site beyond authorized personnel.

(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. As detailed in this report, the grading of site will not interrupt natural sheet flow drainage patterns and will utilize the natural absorption into soil with enhanced landscaping and pervious gravel. The cuts and fills are minimal and will not require stockpiling of soil.

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.

39.8035 Delay in the Construction of a Required Feature

When the Planning Director determines that immediate execution of any feature of an approved final design review plan is impractical due to climatic conditions, unavailability of materials or other temporary condition, the Director shall, as a precondition to the issuance of a required permit under MCC 39.8010 and 39.8020, require the posting of a performance bond, cash deposit, or other surety, to secure execution of the feature at a time certain.

Applicant Response: This acknowledged. As an unmanned WCF with a relatively short construction timeline, there should be no delay required.

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.

Applicant Response: The subject property is a vacant parcel that includes open areas, as well as areas of forested and shrub-dominated habitat. The Facility will be designed to resemble a fir tree ("monofir"), which will blend with the Douglas Firs already on the property and create harmony with the natural environment.

...

(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 meaning these sorts of vertical structures are not incompatible with the landscape.

The use will be contained within a fenced lease surrounded by a 5ft landscape buffer that will screen ground equipment from view. The equipment above the fence line is screened within a wooden equipment enclosure. On the 20-acre parcel, the proposed development is less than 1% of the parcel. The design is meant to blend and maintain the naturalness of the environment.

[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: The existing landscape will be maintained to the extent feasible. 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. However, invasive and nuisance vegetation will also be removed and replaced with native vegetation as part of the mitigation efforts improving the natural landscape. 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 surrounded by a proposed 5ft landscape buffer. 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.]