

AT&T Mobility Corporation

Land Use Application Narrative

Revised August 18, 2014

19230 South End Road

I. BACKGROUND

New Cingular Wireless PCS, LLC ("AT&T") is requesting approval to construct and operate a wireless communications facility site at the John McLaughlin Elementary School. The facility would be a newly constructed stealth support tower at 75 feet in height. The support tower would be camouflaged as a fir tree. The faux tree pole is designed to accommodate future collocators. The radio equipment would be in a new 12' x 26' equipment shelter. The entire facility would be within a new fenced and landscaped lease area. The proposed support structure would be 79' from the nearest property line. (See Attachment 4.)

The facility is designed to fill a significant 700 MHz LTE coverage gap in the area. AT&T has provided a Radio Frequency Engineers' (RF) letter further describing the need for the site and the projected coverage area. (See Attachment 9).

II. ALTERNATIVES ANALYSIS

AT&T seeks to collocate on existing structures whenever possible. In this instance, AT&T RF engineers determined the need for a new site near South End Road and Filbert Drive. The minimum antenna height is 75' in order to fill the significant coverage gap in the neighborhood. This is a single-family neighborhood without any existing communication towers on which AT&T can collocate. There are also no existing buildings that AT&T can mount antennas that would provide for a 75' tip height. An RF analysis is included as Attachment 9 in the application package.

III. BASIC FACTS

A. Location and Current Use

The subject site, located on the south side of South End Road and west of Filbert Drive, is zoned R-10. The proposed structure is not within any overlay districts. The site is currently developed with an elementary school.

B. Surrounding Land Uses

The surrounding land uses are

- Southwest – Unincorporated Clackamas County Low Density Residential
- Southeast – R-10
- Northeast – R-8
- Northwest – Unincorporated Clackamas County Low Density Residential

C. Use Characteristics

The proposed wireless facility would be unstaffed. An AT&T technician would visit the site approximately once per month.

There would be an emergency back-up power generator. Except for occasional testing, the generator would only operate during prolonged power outages. A sound study demonstrating that the site, with recommended sound buffering, would comply with City noise standards is provided at Attachment 7.

D. Access and Utilities

The site would be accessed via the existing School access off of South End Road. An existing walking path would serve the site from the parking area.

The facility would not require water or sewer service.

IV. APPLICABLE LAW

Federal, state and local laws apply to this application.

Federal law, primarily found in the Telecommunications Act, acknowledges a local jurisdiction's zoning authority over proposed wireless facilities, but limits the exercise of that authority in several important ways.

The regulation of the wireless communication facilities by a jurisdiction shall not prohibit or have the effect of prohibiting the provision of wireless services. 47 U.S.C. § 332(c)(7)(B)(i)(II). Any decision by a jurisdiction to deny a request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record. 47 U.S.C. § 332(c)(7)(B)(iii). With respect to concerns about property values, generalized testimony that is not site-specific or does not quantify the loss in property value for the *particular* site is not substantial evidence. *Johnson v. Eugene*, LUBA 2002-031.

Under the Telecommunications Act, a jurisdiction is prohibited from considering the environmental effects of radio frequency emissions (including health effects) of the proposed site if the site would operate in compliance with federal regulations. 47

U.S.C. 332(c)(7)(B)(iv). AT&T has included with this application a statement from its RF engineers demonstrating that the proposed facility would operate in accordance with the Federal Communications Commission's RF emissions regulations. (See Attachment 10.) Therefore, this issue is preempted under federal law and any testimony or documents introduced relating to the environmental or health effects of the proposed site should be disregarded in this proceeding.

Finally, the Telecommunications Act requires local jurisdictions to act upon applications for wireless communications sites within a "reasonable" period of time. The Federal Communications Commission has issued a "Shot Clock" rule to establish a deadline for the issuance of land use permits for wireless facilities. According to the FCC, a reasonable period of time for local government to act on wireless applications is 90 days for a co-location application and 150 days for all other applications. This time period includes all application notice and appeal periods. The reasonable time period for Oregon City's review of this application is 150 days.

Under the Oregon City Municipal Code (OCMC), new wireless communications facilities that include support structures are subject to a Conditional Use Permit (OCMC 17.56), the criteria for Wireless Communications Facilities (OCMC 17.80), and related development regulations addressing design, tree protection, and stormwater management. Applicable code provisions are specifically addressed below.

V. DECISION-MAKING CRITERIA

Chapter 17.56 Conditional Uses

17.56.010 Permit--Authorization--Standards--Conditions.

A conditional use listed in this title may be permitted, enlarged or altered upon authorization of the planning commission in accordance with the standards and procedures of this title. A conditional use permit listed in this section may be permitted, enlarged or altered upon authorization of the planning commission in accordance with the standards and procedures of this section. Any expansion to, alteration of, or accessory use to a conditional use shall require planning commission approval of a modification to the original conditional use permit.

A. The following conditional uses, because of their public convenience and necessity and their effect upon the neighborhood shall be permitted only upon the approval of the planning commission after due notice and public hearing, according to procedure as provided in Chapter 17.50. The planning commission may allow a conditional use, provided that the applicant provides evidence substantiating that all the requirements of this title relative to the proposed use are satisfied, and demonstrates that the proposed use also satisfies the following criteria:

1. The use is listed as a conditional use in the underlying district;

Response: Section 17.80.070 – Construction or Modification of a Support Tower identifies the construction of a new support tower within the R-10 zone as a conditional use. Therefore, the proposal complies.

2. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features;

Response: The site is approximately 11.8 acres and there are no natural features located on the site. There are mature trees near the proposed facility that will provide additional buffering. AT&T is proposing to camouflage the support tower as a “tree” in order to better integrate the facility into the surrounding area. Furthermore, the size of the parcel will allow for greater than required setbacks to the adjoining parcels (approximately 319-feet from the north property line; 79-feet from the south property line; 787-feet from the east property line and 530-feet from the west property line). The setbacks will reduce views from public rights-of-way.

City staff asked AT&T to analyze whether the 75’ structure would be visible from several locations ¼ mile from the proposed structure location. AT&T’s visual design consultant determined that the ‘tree’ would be minimally visible or not visible from these locations. The locations are shown in Attachment 6 – Photo Simulations of the Facility.

There are no additional improvements necessary to serve the proposed use and the tower has been located to comply with the requirements of the Communication Facility section of the Oregon City Municipal Code. The facility will be able utilize existing access drives and parking. The facility will not interfere with the School operations.

The characteristics of the proposed site are suitable for the proposed wireless facility. The property is within the area of a significant gap in existing AT&T wireless coverage. The proposed facility addresses the coverage gap. The size of the parcel allows for greater than required setbacks and visual buffering. Therefore, the proposal complies with the standard.

3. The site and proposed development are timely, considering the adequacy of transportation systems, public facilities and services existing or planned for the area affected by the use;

Response: The construction of the wireless facility will not have any significant impact on the adequacy of the transportation system, public facilities or services existing or planned for the area affected by the use. The installation of the facility will improve the wireless coverage available in the area for subscribers of the service.

4. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or precludes the use of surrounding properties for the primary uses listed in the underlying district;

Response: The proposed facility will not alter the character of the surrounding area in a manner that limits the use of the surrounding properties. The facility is camouflaged as a tree to be the least visually intrusive, better blend with the existing visual environment and minimize views from surrounding properties. The facility is also designed to accommodate two future collocators. This will eliminate the need for other wireless carriers to build in the neighborhood. Furthermore, the facility will comply with the RF emission standards established by the FCC (see Attachment 10) and the noise requirements at the property line will be met as established by the Oregon City Municipal Code (see Attachment 7). Therefore, the proposal complies with the criteria.

5. The proposal satisfies the goals and policies of the city comprehensive plan which apply to the proposed use.

Response: Section 11 of the **Oregon City Comprehensive Plan** provides the goals and policies for public facilities. Applicable to the proposed project is Policy 11.7.5, which aims to “*Maintain and enforce the cell tower ordinance. Adopt, support and encourage innovations in reducing, camouflaging or screening cell towers.*”

The proposed project comports with this Policy 11.7.5. As demonstrated throughout this application, the proposed communication facility fulfills the requirements of Oregon City’s cell tower ordinance, codified at OCMC 17.80. The proposed facility would be camouflaged as a 75-foot tall “tree” pole and is designed to allow additional collocation of future antennas, potentially reducing the overall number of antennas required to provide quality service in Oregon City. As discussed in the Alternatives Analysis (Section II.), AT&T evaluated collocation opportunities within the “search area” for this site and has demonstrated that there are no available collocation opportunities.

Additionally, the proposed facility is compatible with the uses and characteristics described in the **South End Concept Plan** (“SECP”). South End residents value their community’s rural beauty and environmental quality, family friendly character, unique culture and history, and excellent schools. *SECP* at 12. The proposed project is compatible with all of these values and would provide critical telecommunication service to the surrounding area.

Since 2007, traffic on AT&T’s mobile network has gone up 50,000%. And increasingly, people are choosing to use a wireless device as their only home or business telephone, or to support a home workspace. This demand for wireless service requires AT&T to constantly upgrade and expand its service to accommodate customers’ reliance on wireless. The proposed facility would provide

critical telecommunications service to an area of Oregon City that does not currently have consistently reliable, high quality coverage.

South End is a predominantly single-family residential area, and its residents rely on using privately maintained open space, including the open space at McLoughlin Elementary School. *SECP* at 8. The Applicant was mindful of these community features and worked closely with the school district and the PTA to ensure that the proposed facility would be located in an area of the school property that would be minimally intrusive to current uses.

The proposed facility would not prevent families from continuing to use the McLoughlin Elementary open space outside the lease area, or in anyway impact the quality of the school. Further, the facility is designed to look like a native coniferous tree to blend in with the existing tall trees in the immediate area and minimize the visual impact of the facility from the street and nearby residences. Further, the proposed site meets all of Oregon City's environmental regulations, including stormwater management requirements.

B. Permits for conditional uses shall stipulate restrictions or conditions which may include, but are not limited to, a definite time limit to meet such conditions, provisions for a front, side or rear yard greater than the minimum dimensional standards of the zoning ordinance, suitable landscaping, off-street parking, and any other reasonable restriction, condition or safeguard that would uphold the spirit and intent of the zoning ordinance, and mitigate adverse effect upon the neighborhood properties by reason of the use, extension, construction or alteration allowed as set forth in the findings of the planning commission.

Response: The proposal complies with the standards of the Oregon City Municipal Code. By locating on a large parcel with setbacks greater than required and camouflaging the facility as a "tree", AT&T is taking steps to mitigate impacts to the surrounding properties. Therefore, the proposal complies with the standard.

C. Any conditional use shall meet the dimensional standards of the zone in which it is to be located pursuant to subsection B of this section unless otherwise indicated, as well as the minimum conditions listed below.

Response: The proposal complies with the dimensional standards of the zone.

D. In the case of a use existing prior to the effective date of the ordinance codified in this title and classified in this title as a conditional use, any change of use, expansion of lot area or expansion of structure shall conform with the requirements for conditional use.

Response: Not applicable. AT&T is proposing a new use.

E. The planning commission may specifically permit, upon approval of a conditional use, further expansion to a specified maximum designated by the planning commission without the need to return for additional review. (Ord. 91-1025 §1, 1991; prior code §11-6-1)

Response: Not applicable. AT&T is not requesting further expansion of the use at a later date.

17.56.020 Permit--Application.

A. A property owner or authorized agent shall initiate a request for a conditional use by filing an application with the city recorder. The applicant shall submit a site plan, drawn to scale, showing the dimensions and arrangement of the proposed development. The application shall be accompanied by the filing fee listed in Section 17.50.[0]80 to defray the costs of publication, investigation and processing.

B. Before the planning commission may act on a conditional use application, it shall hold a public hearing thereon, following procedure as established in Chapter 17.50.

Response: AT&T has properly filed the conditional use request and a public hearing will be held before the Planning Commission.

17.56.040 Criteria and standards for conditional uses.

In addition to the standards listed herein in Section 17.56.010, which are to be considered in the approval of all conditional uses and the standards of the zone in which the conditional use is located, the following additional standards shall be applicable:

C. Public Utility or Communication Facility. Such facilities as a utility substation, water storage tank, radio or television transmitter, tower, tank, power transformer, pumping station and similar structures shall be located, designed and installed with suitable regard for aesthetic values. The base of these facilities shall not be located closer to the property line than a distance equal to the height of the structure. Hydroelectric generation facilities shall not exceed ninety megawatts of generation capacity.

Response: The 75-foot tall facility would be set back 79' from the nearest property line. (Att. 4 at Sheet A-1.0.) Therefore, the proposal complies with the requirement.

17.56.060 Revocation of conditional use permits.

Response: Not Applicable. No previous conditional use permit is being revoked.

17.56.070 Periodic review of conditional use permits.

Response: Not applicable. The site has not been identified as needing a periodic review of a previously issued permit.

Chapter 17.80 Communication Facilities.

17.80.70 Construction or Modification of a Support Tower.

- A. *Site Plan and Design Review. Required if the following exists:*
 - 1. *Property is zoned GI, CI, I, C, MUC-2 or MUE; and*
 - 2. *No adjacent parcel is zoned for residential use.*
- B. *Conditional Use Review. Required for all cases other than those identified in Section 17.80.070.A.*
- C. *Prohibited Zoning Districts and Locations. No new support towers shall be permitted within the Canemah Historic Neighborhood, McLoughlin Conservation District, The Oregon Trail-Barlow Road Historic Corridor, 500 feet of the Willamette Greenway Corridor, or any new Historic Districts unless the applicant can demonstrate that failure to allow the support tower would effectively prevent the provision of communication services in that area. If the applicant makes such a demonstration, the minimum height required to allow that service shall be the maximum height allowed for the tower.*

Response: The proposed site is zoned residential (R-10). Thus, AT&T has requested a conditional use permit approval.

17.80.090 Permit Application Requirements.

- C. *Conditional Use Review. For an application under Sections 17.80.050.C, 17.80.060.B, or 17.80.070.B the following information is required:*

Information required in OCMC 17.80.090A:

- 1. *Application fee(s);*
- 2. *Planning Division land use application form;*
- 3. *A narrative of the proposed project that includes a description of the following:*
 - i. *Need for the project;*
 - ii. *Rationale and supporting evidence for the location; and*
 - iii. *Description of the project design and dimensions.*
 - iv. *A written response demonstrating compliance with each criterion listed in OCMC Chapter 17.80.110.*

Response: AT&T has submitted all necessary fees, applications, and narratives necessary to review the application.

- 4. *Documentation demonstrating compliance with non-ionizing electromagnetic radiation (NIE) emissions standards as set forth by the Federal Communications Commission (FCC) particularly with respect to any habitable areas within the structure on which the antenna(s) are*

collocated on or in structures directly across from or adjacent to the antenna(s);

Response: Attachment 10 contains an emission statement from AT&T's FCC Licensed engineer. The letter certifies that the facility will operate between 1%-5% of the maximum FCC exposure levels. Therefore, the proposal is in compliance with the standard.

5. *Documentation that the auxiliary support equipment shall not produce sound levels in excess of standards contained in Section 17.80.110.G, or designs showing how the sound is to be effectively muffled to meet those standards.*

Response: AT&T has submitted a noise study conducted by SSA Associates (see Attachment 7). The study found that the site will conform to the City's noise ordinance if an additional noise barrier is constructed on the north and east sides of the shelter. AT&T will incorporate the recommendation into its construction drawings that will be submitted for a building permit.

6. *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;*

Response: The Oregon City School District has signed the land use application.

7. *Documentation of the integrity of the support tower, support structure, utility pole, light standard, or light pole to safely handle the load created by the collocation;*

Response: A structural analysis has been submitted demonstrating that the facility will meet structural requirements (see Attachment 13).

8. *Elevations showing all improvements and connections to utilities;*

Response: AT&T has submitted elevation plans. The full construction drawing set will be submitted as a part of its building permit submittal.

9. *Color simulations of the site after construction demonstrating compatibility;*

Response: Color photo simulations are included as Attachment 6.

Information required in OCMC 17.80.090C:

1. *Pre-application notes;*

Response: Provided at Attachment 3.

2. *A written response to demonstrating compliance with each criterion listed in the Site Plan and Design Review Standards of Chapter 17.62.050, 17.56, and all other applicable criterion as defined by the community development director as applicable;*

Response: AT&T has responded to the Site Plan and Design Review standards and all other application criterion in this narrative.

3. *For an application under Section 17.80.070 – Construction of Modification of a Support Tower, the requirements listed under Section 17.80.090.D – Supplemental Information are required;*

Response: Not applicable.

4. *Responses to Conditional Use Review criteria under Chapter 17.56.010;*

Response: AT&T has responded to the Conditional Use Permit criteria, above.

5. *For an application under Section 17.80.050.C – Collocation of Additional Antenna(s) on Support Structures, rationale for being unable to collocate in areas identified in Sections 17.80.050.A and B shall be provided;*

Response: Not applicable.

6. *For an application under Section 17.80.060.B – Collocation of Additional Antenna(s) on Utility Poles, Light Standards, and Light Poles, rationale for being unable to collocate in areas identified in Section 17.80.060.A shall be provided; and*

Response: Not applicable.

7. *For an application under Section 17.80.070.B – Construction or Modification of a Support Tower, rationale for being unable to collocate in areas identified in Section 17.80.070.A shall be provided.*

Response: Section II of this narrative addresses the fact that there are no feasible collocation opportunities available in the search area.

8. *Supplemental information listed in OCMC Chapter 17.80.090D.*

Response: Addressed directly below.

- D. Supplemental Information. *The applicant shall submit the following information:*

1. *The capacity of the support tower in terms of the number and type of antennas it is designed to accommodate;*

Response: The proposed faux tree is designed to accommodate two future collocatators.

2. *A signed agreement, as supplied by the City, stating that the applicant shall allow collocation with other users, provided all safety, structural, technological, and monetary requirements are met. This agreement shall also state that any future owners or operators will allow collocation on the tower.*

Response: AT&T will comply with this requirement and will agree to sign the agreement with the city for future collocation.

3. *Documentation demonstrating that the Federal Aviation Administration has reviewed and approved the proposal, and Oregon Aeronautics Division has reviewed the proposal. Alternatively, a statement documenting that notice of the proposal has been submitted to the Federal Aviation Administration and Oregon Aeronautics Division may be submitted. The review process may proceed and approval may be granted for the proposal as submitted, subject to Federal Aviation Administration approval. If Federal Aviation Administration approval requires any changes to the proposal as initially approved, then that initial approval shall be void. A new application will need to be submitted, reviewed, and approved through an additional Site Plan and Design Review or Conditional Use Review process. No building permit application shall be submitted without documentation demonstrating Federal Aviation Administration review and approval and Oregon Aeronautics Division review.*

Response: AT&T has submitted documentation (Attachment 5) indicating that the proposed facility is in compliance. It will not create an airspace hazard.

4. *A visual study containing, at a minimum, a graphic simulation showing the appearance of the proposed tower, antennas, and auxiliary support equipment from at least 5 points within a 1-mile radius. Such points shall be chosen by the provider with a review and approval by the Planning Manager to ensure that various potential views are represented.*

Response: AT&T has submitted a color visual study of the proposed tower from 5 different locations that have been approved by the City (see Attachment 6).

5. *Documentation that one or more wireless communications service providers will be using the support tower within sixty (60) days of construction completion*

Response: AT&T commits to use the proposed facility within 60 days of construction completion.

6. *A site plan, drawn to scale, that includes:*
 - a. *existing and proposed improvements;*
 - b. *adjacent roads;*
 - c. *parking, circulation, and access;*
 - d. *connections to utilities, right-of-way cuts required, and easements required;*
 - e. *a landscape plan describing the maintenance plan and showing areas of existing and proposed vegetation to be added, retained, replaced, or removed; and*
 - f. *setbacks from property lines or support structure edges of all existing and proposed structures. Plans that have been reduced, but have not had their scale adjusted, will not be accepted as satisfying this requirement.*

Response: AT&T has submitted a detailed site plan of the existing conditions of the site and the proposed use.

7. *An alternatives analysis for new support towers demonstrating compliance with the Support Tower Location Requirements of Chapter 17.80.100.*

Response: Please see section 17.80.100 below.

17.80.100 Support Tower Location Requirements.

No new support tower shall be permitted under the provisions of Chapter 17.80.070 unless the applicant demonstrates to the satisfaction of the Planning Manager, and the results are verified by a State of Oregon certified professional engineer, that no existing collocation or modification possibility can accommodate the service needs of the applicant's proposed support tower. All proposals for new support towers must be accompanied by a statement and documentation from a qualified engineer, as determined by the Planning Manager, that the necessary service cannot be provided by collocation on, or modification to, an existing support tower or structure for one or more of the following reasons:

- A. *No existing support towers or support structures are located within the geographic area required to meet the applicant's engineering requirements;*
- B. *Existing support towers or support structures are not of sufficient height to meet the applicant's engineering requirements;*

- C. *Existing support towers or support structures do not have sufficient structural strength to support the applicant's proposed antenna(s) and related equipment.*
- D. *The applicant's proposed antenna would cause electromagnetic interference with the antenna(s) on the existing support tower or support structure, or the existing antenna would cause interference with the applicant's proposed antenna(s);*
- E. *The applicant demonstrates that there are other limiting factors that render existing support towers and support structures unsuitable; or*
- F. *That fees, costs, or contractual provisions required by the owner in order to share or adapt to an existing support tower or support structure for collocation are unreasonable.*

Response: AT&T seeks to collocate on existing structures whenever possible. In this instance, AT&T RF engineers determined the need for a new site in the area near the intersection of South End Road and Filbert Drive. The minimum antenna height is 75' in order to fill the significant coverage gap in the neighborhood. This is a single-family neighborhood without any existing communication towers in which AT&T can collocate. There are also no existing buildings that AT&T can mount antennas that would provide for a 75' tip height. An RF analysis is included as Attachment 9 in the application package.

17.80.110 Design Standards.

Installation, collocation, construction, or modification of all support towers, structures, and antennas shall comply with the following standards, unless an adjustment is obtained pursuant to the provisions of Section 17.80.120.

- A. *Support Tower.* *The Support Tower shall be self-supporting.*

Response: The proposed tower is self-supporting.

- B. *Height Limitation.* *Support Tower and antenna heights shall not exceed the maximum heights provided below.*
 - 1. *If the property is zoned:*
 - a. *GI, CI or I; and*
 - a. *No adjacent parcel is zoned residential;*
the maximum height of a support tower, including antennas, is 120 feet.
 - 2. *If the property is zoned:*
 - a. *GI, CI or I, and an adjacent parcel is zoned residential; or*
 - b. *C, MUC-2 or MUE;*
the maximum height of a support tower, including antennas, is 100 feet.
 - 3. *If the property is zoned:*
 - a. *MUC-1, MUD or NC;*
the maximum height of a support tower, including antennas, is 75 feet.

4. *For all cases other than those identified in Section 17.80.110.B.1-3 above, the maximum height of a support tower, including antennas, is 75 feet.*

Response: The property is zoned R-10, which allows a tower up to 75 feet in height. The applicant has proposed a 75-foot tall tower, which meets this standard.

- C. Collocation. *New support towers shall be designed to accommodate collocation of additional providers.*
1. *New support towers of a height greater than 75 feet shall be designed to accommodate collocation of a minimum of two additional providers either outright or through future modification of the tower.*
 2. *New support towers of a height between 60 feet and 75 feet shall be designed to accommodate collocation of a minimum of one additional provider either outright or through future modification of the tower.*

Response: AT&T's proposed support structure will be designed to accommodate two additional carriers.

- D. Setbacks. *The following setbacks shall be required from property lines, not the lease area, for support towers, auxiliary support equipment, and perimeter fencing.*
1. *Support towers not designed to collapse within themselves shall be setback from all property lines a distance equal to the proposed height of the support tower.*
 2. *Support towers designed to collapse within themselves shall be setback from the property line a distance equal to the following:*
 - a. *If the property is zoned:*
 - i. *GI, CI, I, C, MUC-2 or MUE; and*
 - ii. *No adjacent parcel is zoned for a residential use; the underlying zone setback shall apply;*
 - b. *If the property is zoned:*
 - i. *GI, CI, I, C, MUC-2 or MUE and an adjacent parcel is zoned residential; or*
 - ii. *MUC-1, MUD or NC; the setback shall be a minimum of 25 feet from all adjacent residentially zoned property lines and the underlying zoning setback for all other adjacent property lines; or*
 - c. *For all cases other than those identified in Section 17.80.110.D.2.a and b above, the setback shall be a minimum of 25 feet from all adjacent property lines.*

Response: The proposed support structure will be set back 79' from the nearest property line. See Attachment 4, Sheet A-1.0. Therefore, the standard is met.

E. Auxiliary Support Equipment. The following standards shall be required.

- 1. If the property is zoned:*
 - a. For GI, CI, I, MUC-1, MUC-2, C, MUD, MUE or NC, the auxiliary support equipment footprint shall not exceed an area of 340 square feet and 15 feet in height at the peak;*
 - b. For all cases other than those identified in Section 17.80.110.E.1.a above, the auxiliary support equipment shall be:*
 - i. Located in an underground vault to the maximum extent practicable; or*
 - ii. The applicant shall demonstrate why locating the auxiliary support equipment underground would limit the applicant's ability to fully utilize camouflage technology that might better suit the particular situation, in which case the standards of Section 17.80.110.E.1.a shall apply.*
- 2. Only one auxiliary accessory cabinet shall be allowed per service provider located on a support structure.*

Response: AT&T's support equipment would be placed within a 12' x 26' equipment shelter. The shelter would also house AT&T's emergency back-up power generator. The shelter would be screened by a cedar fence and landscaping. The shelter would be less than 340 square feet in size and under 15' in height. It is not practical to locate the equipment underground. Vaulting the equipment would limit the space available for the generator and the equipment necessary to provide the range of technologies required for the highest quality wireless service .

F. Landscaping. In all zoning districts, existing vegetation shall be preserved to the maximum extent practicable. Screening of a site is mandatory.

- 1. If the property is zoned:*
 - a. GI or CI, and no adjacent parcel is zoned residential, landscaping may not be required if water quality issues are addressed and appropriate screening around the facility is proposed;*
 - b. For all cases other than those identified in Section 17.80.110.F.1.a above, landscaping shall be placed completely around the perimeter of the wireless communication facility, except as required to gain access. The minimum planting height shall be a minimum of 6 feet at the time of planting, densely placed so as to screen the facility. The landscaping shall be compatible with vegetation in the surrounding area, and shall be kept healthy and well maintained as long as the facility is in operation. Failure to maintain the site will be grounds to revoke the ability to operate the facility.*

Response: AT&T is proposing to landscape the perimeter of the compound as required. A six-foot tall cedar fence would also be provided around the equipment area. Therefore, the standard is met.

G. Noise Reduction. Noise generating equipment shall be baffled to reduce sound level measured at the property line to the following levels except during short durations for testing and operation of generators in emergency situations:

1. For any property where no adjacent parcel is zoned residential, the sound level at the property line shall not be greater than 50 dB;
2. For all other cases, the sound level shall not be greater than 40 dB when measured at the nearest residential parcel's property line.

The Community Development Director may approve a nominal increase in noise level above these standards, provided the intent of this standard is met.

Response: A noise study has been provided (see Attachment 7). The study found that the site would conform to the City's noise ordinance if an additional noise barrier is constructed on the north and east sides of the shelter. AT&T will incorporate the recommendation into its construction drawings that will be submitted for a building permit.

H. Lighting.

1. Unless required by the Federal Aviation Administration or the Oregon Aeronautics Division, artificial lighting of wireless communication towers and antennas shall be prohibited.
2. Strobe lighting is prohibited unless required by the Federal Aviation Administration.
3. Security lighting for equipment shelters or cabinets and other on-the-ground auxiliary equipment shall be initiated by motion detecting lighting. The lighting shall be the minimal necessary to secure the site, shall not cause illumination on adjacent properties in excess of a measurement of 0.5 footcandles at the property line, and shall be shielded to keep direct light within the site boundaries.

Response: No lighting is proposed, other than security lighting that will comply with the standards of this section.

I. Color.

1. Unless otherwise required by the Federal Aviation Administration, all support towers and antennas shall have a non-glare finish and blend with the natural background.

Response: The proposed structure is a faux tree with green limbs designed to blend with the natural environment.

J. Signage.

1. Support towers and antenna(s) shall not be used for signage, symbols, flags, banners, or other devices or objects attached to or painted on any portion of a wireless communication facility.

Response: No signs, symbols, flags, banners striping, graphics or lighting is proposed for this site other than as required by Federal, state or local law and shall be no greater than 4 square feet.

K. Access Drives.

1. *On a site with an existing use, access shall be achieved through use of the existing drives to the greatest extent practicable. If adequate intersection sight distance is unavailable at the existing access intersection with a City Street, an analysis of alternate access sites shall be required.*
2. *Site shall be serviced by an access adequate to ensure fire protection of the site.*
3. *New access drives shall be paved a minimum of 20 feet deep from the edge of the right-of-way (though the use of pervious paving materials such as F-mix asphalt, pavers, or geotech webbing is encouraged) and designed with material to be as pervious as practicable to minimize stormwater runoff.*
4. *New access drives shall be reviewed for adequate intersection sight distances.*

Response: The facility would not require the construction of any new access drives to the site. The location of the tower in the existing parking lot allows adequate access for fire protection of the site.

L. Informing the City. *All service providers with facilities within the City of Oregon City shall be required to report in writing to the Planning Manager any changes in the status of their operation.*

1. *An annual written statement shall be filed with the Planning Manager verifying continued use of each of their facilities in the City's jurisdiction as well as continued compliance with all state and federal agency regulations.*
2. *The report shall include any of the following changes:*
 - a. *Changes in or loss of Federal Communication Commission license from the Federal Communication Commission to operate;*
 - b. *Receipt of notice of failure to comply with the regulations of any other authority over the business or facility;*
 - c. *Change in ownership of the company that owns wireless communication facility or provides telecommunications services; or*
 - d. *Loss or termination of lease with the telecommunications facility for a period of six (6) months or longer.*

Response: AT&T will comply with this requirement.

17.80.120 Adjustments.

Adjustments to the standards of this Chapter may be approved by the Planning Commission at a duly noticed public hearing.

Response: AT&T is not requesting any adjustments.

17.62 Site Plan and Design Review

17.62.050 - Site Plan Review Standards

All development shall comply with the following standards:

1. *Landscaping. A minimum of fifteen percent of the lot shall be landscaped. Existing native vegetation shall be retained to the maximum extent practicable. All plants listed on the Oregon City Nuisance Plant List shall be removed from the site prior to issuance of a final occupancy permit for the building.*
 - a. *Except as allowed elsewhere in the zoning and land division chapters of this Code, all areas to be credited towards landscaping must be installed with growing plant materials. A reduction of up to twenty-five percent of the overall required landscaping may be approved by the community development director if the same or greater amount of pervious material is incorporated in the non-parking lot portion of the site plan (pervious material within parking lots are regulated in OCMC 17.52.070).*
 - b. *Pursuant to Chapter 17.49, landscaping requirements within the Natural Resource Overlay District, other than landscaping required for parking lots, may be met by preserving, restoring and permanently protecting native vegetation and habitat on development sites.*
 - c. *The landscaping plan shall be prepared by a registered landscape architect and include a mix of vertical (trees and shrubs) and horizontal elements (grass, groundcover, etc.) that within three years will cover one hundred percent of the Landscape area. No mulch, bark chips, or similar materials shall be allowed at the time of landscape installation except under the canopy of shrubs and within two feet of the base of trees. The community development department shall maintain a list of trees, shrubs and vegetation acceptable for landscaping.*
 - d. *For properties within the Downtown Design District, or for major remodeling in all zones subject to this chapter, landscaping shall be required to the extent practicable up to the ten percent requirement.*
 - e. *Landscaping shall be visible from public thoroughfares to the extent practicable.*
 - f. *Interior parking lot landscaping shall not be counted toward the fifteen percent minimum, unless otherwise permitted by the dimensional standards of the underlying zone district.*

Response: A 5' wide landscape buffer would surround AT&T's 1,500-square foot lease area. The buffer constitutes approximately 34% of the lease area. The proposed equipment location would require the removal of one 47' deciduous tree

and some grass. All other vegetation would be retained. (See Attachment 4, Sheet A-2.0) Therefore, the criterion is met.

2. *Vehicular Access and Connectivity.*

- a. *Parking areas shall be located behind buildings, below buildings, or on one or both sides of buildings.*
- b. *Ingress and egress locations on thoroughfares shall be located in the interest of public safety. Access for emergency services (fire and police) shall be provided.*
- c. *Alleys or vehicular access easements shall be provided in the following Districts: R-2, MUC-1, MUC-2, MUD and NC zones unless other permanent provisions for access to off-street parking and loading facilities are approved by the decision-maker. The corners of alley intersections shall have a radius of not less than ten feet.*
- d. *Sites abutting an alley shall be required to gain vehicular access from the alley unless deemed impracticable by the community development director.*
- e. *Where no alley access is available, the development shall be configured to allow only one driveway per frontage. On corner lots, the driveway(s) shall be located off of the side street (unless the side street is an arterial) and away from the street intersection. Shared driveways shall be required as needed to accomplish the requirements of this section. The location and design of pedestrian access from the sidewalk shall be emphasized so as to be clearly visible and distinguishable from the vehicular access to the site. Special landscaping, paving, lighting, and architectural treatments may be required to accomplish this requirement.*
- f. *Driveways that are at least twenty-four feet wide shall align with existing or planned streets on adjacent sites.*
- g. *Development shall be required to provide existing or future connections to adjacent sites through the use of vehicular and pedestrian access easements where applicable. Such easements shall be required in addition to applicable street dedications as required in Chapter 12.04.*
- h. *Vehicle and pedestrian access easements may serve in lieu of streets when approved by the decision maker only where dedication of a street is deemed impracticable by the city.*
- i. *Vehicular and pedestrian easements shall allow for public access and shall comply with all applicable pedestrian access requirements.*
- j. *In the case of dead-end stub streets that will connect to streets on adjacent sites in the future, notification that the street is planned for future extension shall be posted on the stub street until the street is extended and shall inform the public that the dead-end street may be extended in the future.*

- k. Parcels larger than three acres shall provide streets as required in Chapter 12.04. The streets shall connect with existing or planned streets adjacent to the site.*
- l. Parking garage entries shall not dominate the streetscape. They shall be designed and situated to be ancillary to the use and architecture of the ground floor. This standard applies to both public garages and any individual private garages, whether they front on a street or private interior access road.*
- m. Buildings containing above-grade structured parking shall screen such parking areas with landscaping or landscaped berms, or incorporate contextual architectural elements that complement adjacent buildings or buildings in the area. Upper level parking garages shall use articulation or fenestration treatments that break up the massing of the garage and/or add visual interest.*

Response: AT&T would utilize the School's existing access drives and parking. There is an existing path from the parking area to the site. No new access drives would be created. Therefore, the criterion is met.

- 3. Building structures shall be complimentary to the surrounding area. All exterior surfaces shall present a finished appearance. All sides of the building shall include materials and design characteristics consistent with those on the front. Use of inferior or lesser quality materials for side or rear facades or decking shall be prohibited.*
 - a. Alterations, additions and new construction located within the McLoughlin Conservation District, Canemah National Register District, and the Downtown Design District and when abutting a designated Historic Landmark shall utilize materials and a design that incorporates the architecture of the subject building as well as the surrounding district or abutting Historic Landmark. Historic materials such as doors, windows and siding shall be retained or replaced with in kind materials unless the community development director determines that the materials cannot be retained and the new design and materials are compatible with the subject building, and District or Landmark. The community development director may utilize the Historic Review Board's Guidelines for New Construction (2006) to develop findings to show compliance with this section.*
 - b. In historic areas and where development could have a significant visual impact, the review authority may request the advisory opinions of appropriate experts designated by the community development director from the design fields of architecture, landscaping and urban planning. The applicant shall pay the costs associated with obtaining such independent professional advice;*

provided, however, that the review authority shall seek to minimize those costs to the extent practicable.

Response: The proposed equipment shelter will have an aggregate finish, similar to that of the School. A materials board has been provided showing the exterior. Therefore, the criterion is met.

4. *Grading shall be in accordance with the requirements of Chapter 15.48 and the public works stormwater and grading design standards.*

Response: AT&T would grade the site consistent with Chapter 15.48 and the Public Works storm water and grading design standards. The grading plan will be incorporated into the final construction drawings that will be submitted as a part of the building permit submittal.

5. *Development subject to the requirements of the Geologic Hazard overlay district shall comply with the requirements of that district.*

Response: Not applicable.

6. *Drainage shall be provided in accordance with city's drainage master plan, Chapter 13.12, and the public works stormwater and grading design standards.*

Response: AT&T will comply with the requirements of Chapter 13.12. An analysis of the proposal's compliance with the requirements is addressed in the next section of the narrative.

7. *Parking, including carpool, vanpool and bicycle parking, shall comply with city off-street parking standards, Chapter 17.52.*

Response: This is an unstaffed facility. A technician would visit the site approximately once a month. The technician will use the school's parking lot.

8. *Sidewalks*

Response: No sidewalks will be constructed as a part of this project.

9. *Pedestrian circulation*

Response: Not applicable.

10. *There shall be provided adequate means to ensure continued maintenance and necessary normal replacement of private common facilities and areas, drainage ditches, streets and other ways, structures, recreational facilities, landscaping, fill and*

excavation areas, screening and fencing, groundcover, garbage storage areas and other facilities not subject to periodic maintenance by the city or other public agency.

Response: AT&T will maintain the facility.

11. *Site planning shall conform to the requirements of OCMC Chapter 17.41 Tree Protection.*

Response: One 47' deciduous tree will be removed to allow for the construction of this site. All other trees will remain.

12. *Development shall be planned, designed, constructed and maintained to protect water resources and habitat conservation areas in accordance with the requirements of the city's Natural Resources Overlay District, Chapter 17.49, as applicable.*

Response: The project would not impact any significant natural resource area.

13. *All development shall maintain continuous compliance with applicable federal, state, and city standards pertaining to air and water quality, odor, heat, glare, noise and vibrations, outdoor storage, radioactive materials, toxic or noxious matter, and electromagnetic interference. Prior to issuance of a building permit, the community development director or building official may require submission of evidence demonstrating compliance with such standards and receipt of necessary permits. The review authority may regulate the hours of construction or operation to minimize adverse impacts on adjoining residences, businesses or neighborhoods. The emission of odorous gases or other matter in such quantity as to be readily detectable at any point beyond the property line of the use creating the odors or matter is prohibited.*

Response: The project will not emit any odor, glare or vibrations. The equipment shelter would comply with the City's noise ordinance (see Attachment 7).

14. *Water and Sewer*

Response: The proposed facility would not require water and sewer.

15. *ROW Improvements*

Response: No ROW improvements are required for the project. AT&T would utilize the School's access.

16. *Transit*

Response: Not applicable.

17. *All utility lines shall be placed underground.*

Response: As shown on the site plan, the power and telco lines would be underground. Therefore, the standard is met.

18. *Handicap Access*

Response: Not applicable.

19. *Residential Density*

Response: Not applicable.

20. *Rooftop Mechanical Equipment*

Response: Not applicable.

13.12 Stormwater Management

Storm Water Management Applicability and Exemptions – Chapter 13.12.050

This chapter establishes performance standards for stormwater conveyance, quantity and quality.

Pursuant to each of the subsections below, proposed activities may be required to meet the performance standards for stormwater conveyance, stormwater quantity or stormwater quality.

A. Stormwater Conveyance. The stormwater conveyance requirements of this chapter shall apply to all stormwater systems constructed with any development activity, except as follows:

- 1. The conveyance facilities are located entirely on one privately owned parcel;*
- 2. The conveyance facilities are privately maintained; and*
- 3. The conveyance facilities receive no stormwater runoff from outside the parcel's property limits.*

Response: AT&T is not proposing to construct any new stormwater facilities. Less than 500 square feet of impervious surface would be created.

B. Stormwater Quantity Control. The stormwater quantity control requirements of this chapter shall apply to the following proposed activities, uses or developments:

- 1. Activities located wholly or partially within water quality resource areas pursuant to Chapter 17.49 that will result in the creation of more than five hundred square feet of impervious surface within the WQRA or will disturb more than one thousand square feet of existing impervious surface within the WQRA as part of a*

commercial or industrial redevelopment project. These square footage measurements will be considered cumulative for any given seven-year period;

- 2. Activities that create more than two thousand square feet of impervious surface, cumulated over any given seven year period; or*
- 3. Redevelopment of a commercial or industrial land use that will disturb more than five thousand square feet of existing impervious surface. This five thousand square foot measurement cumulates over any given seven year period;*
- 4. An exemption to the stormwater quantity control requirements of this chapter will be granted in the following circumstances:*

- a. The development site discharges to a stormwater quantity control facility approved by the city engineer to receive the developed site runoff after verification that the facility is adequately sized to receive the additional stormwater, or,*
- b. The development site discharges to one of the following receiving bodies of water: Willamette River, Clackamas River or Abernethy Creek; and either lies within the one hundred year floodplain or is up to ten feet above the design flood elevation as defined in Chapter 17.42*

Response: These standards do not apply to the proposed development. Less than 500 square feet of impervious surface would be created.

C. Stormwater Quality Control. The stormwater quality control requirements of this chapter shall apply to the following proposed activities, uses or developments:

- 1. Category A. Activities subject to general water quality requirements of this chapter:*
 - a. The construction of four or more single-family residences;*
 - b. Activities located wholly or partially within water quality resource areas pursuant to Chapter 17.49 that will result in the creation of more than five hundred square feet of impervious surface within the WQRA or will disturb more than one thousand square feet of existing impervious surface within the WQRA as part of a commercial or industrial redevelopment project. These square footage measurements will be considered cumulative for any given seven year period; or*
 - c. Activities that create more than eight thousand square feet of new impervious surface for other than a single-family residential development. This eight thousand square foot measurement will be considered cumulative for any given seven year period;*
 - d. An exemption to the stormwater quantity control requirements of this subsection will be granted if the development site discharges to a stormwater quality control facility approved by the city engineer to*

receive the developed site runoff after verification that the facility is adequately sized to receive the additional stormwater.

2. *Category B. Uses Requiring Additional Management Practices. In addition to any other applicable requirements of this chapter, the following uses are subject to additional management practices as contained in the Public Works Stormwater and Grading Design Standards:*

- a. Fuel dispensing facilities;*
- b. Bulk petroleum storage in multiple stationary tanks;*
- c. Solid waste storage areas for commercial, industrial or multi-family uses;*
- d. Loading and unloading docks for commercial or industrial uses;*

or

- e. Covered vehicle parking for commercial or industrial uses.*

3. *Category C. Clackamas River Watershed. In addition to any other applicable requirements of this chapter, any development that creates new waste discharges and whose stormwater runoff may directly or indirectly flow into the Clackamas River is subject to additional requirements associated with Oregon Administrative Rules (OAR) 340-41-470 (Thee Basin Rule).*

Response: The proposed facility is neither a Category A, B or C facility. Therefore the requirements do not apply.

VI. CONCLUSION

AT&T's proposed new communication facility, including a support structure, antennas and ground equipment, meets all requirements of Oregon City's land use ordinances. AT&T respectfully requests that Oregon City approve AT&T's proposal as designed, subject only to standard conditions of approval.