



## CANBY CITY COUNCIL MEETING

October 16, 2019

7:00 PM

Council Chambers

222 NE 2<sup>nd</sup> Avenue, 1<sup>st</sup> Floor

*Mayor Brian Hodson*

*Council President Tim Dale*

*Councilor Trygve Berge*

*Councilor Traci Hensley*

*Councilor Greg Parker*

*Councilor Sarah Spoon*

*Councilor Shawn Varwig*

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### AMENDED AGENDA

**1. CALL TO ORDER**

- A. Invocation
- B. Pledge of Allegiance
- C. Hometown Hero Presentation

**2. COMMUNICATIONS**

**3. CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS**

*This is an opportunity for audience members to address the City Council on items not on the agenda. Each person will be given 3 minutes to speak. Please complete a comment card prior to speaking and hand it to the City Recorder. Staff and the City Council will make every effort to respond to questions raised during citizens input before tonight's meeting ends or as quickly as possible thereafter. For Agenda items, please fill out a comment card and give to the City Recorder noting which item you wish to speak on.*

**4. MAYOR'S BUSINESS**

**5. COUNCILOR COMMENTS & LIAISON REPORTS**

**6. CONSENT AGENDA**

*(This section allows the City Council to consider routine items that require no discussion and can be approved in one comprehensive motion. An item may be discussed if it is pulled from the consent agenda to New Business.)*

- A. Approval of Minutes of the October 2, 2019 City Council Meeting. Pg. 1
- B. New Limited On-Premises Liquor License Application for Canby Pioneer Chapel Pg. 4

**7. PUBLIC HEARING**

- A. Appeal (City File No. APP 19-01) of Planning Commission Decision for Applications DR 19-01/CUP 19-01/VAR 19-02 – AT&T Wireless Communications Facility (Stealth Monopole Tower) Pg. 7

**8. RESOLUTION**

- A. Res. 1323, Supporting the submission of a technical assistance grant to the department of land Pg. 195 conservation and development.

**9. CITY ADMINISTRATOR'S BUSINESS & STAFF REPORTS**

**10. CITIZEN INPUT**

**11. ACTION REVIEW**

**12. EXECUTIVE SESSION: ORS 192.660(2)(h) Litigation**

**13. ADJOURN**

*The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to Melissa Bisset at 503.266.0733. A copy of this Agenda can be found on the City's web page at [www.canbyoregon.gov](http://www.canbyoregon.gov). City Council and Planning Commission Meetings are broadcast live and can be viewed on CTV Channel 5. For a schedule of the playback times, please call 503.263.6287.*

**CANBY CITY COUNCIL  
REGULAR MEETING MINUTES  
October 2, 2019**

**PRESIDING:** Mayor Brian Hodson

**COUNCIL PRESENT:** Tim Dale, Shawn Varwig, Sarah Spoon, Greg Parker, Trygve Berge and Traci Hensley

**STAFF PRESENT:** Rick Robinson, City Administrator; Joseph Lindsay, City Attorney; Melissa Bisset, City Recorder

**OTHERS PRESENT:** Greg Perez, Paul Ylvisaker, Amira Stanley, Shannon Hale, Cathy Rae Smith, Betty Crawford

**CALL TO ORDER:** Mayor Hodson called the Regular Meeting to order at 7:00 p.m. in the Council Chambers followed by the opening ceremonies.

Walk & Bike to School Day Proclamation – Mayor Hodson read the proclamation declaring October 2, 2019 as Walk & Bike to School Day and presented it to Shannon Hale, Bicycle and Pedestrian Advisory Committee Member.

**COMMUNICATIONS:** None

**CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS:** Paul Ylvisaker, Canby resident, discussed how the random explosions at the Canby High School football games affected him. He did not think it was an appropriate tradition when it affected pets and neighbors as well. The School District had ignored the request sent by the City Administrator for fireworks without the percussive component. When he had talked to the School District they said they would try to find a less percussive firework, but nothing had changed. He was asking the City Council to rescind the variance that allowed the School District to use fireworks and put a moratorium on the fireworks until a solution could be found.

Amira Stanley, Canby resident, shared her perspective on being a part of the LGBTQ community and a Christian. She read her church's peace covenant and mission statement. She suggested a church in Canby hold an open forum where everyone could discuss these issues.

Cathy Rae Smith, Canby Area Beautification group, announced an annual planting event on November 23. At the last Chamber of Commerce Luncheon they had presented a Business Beautification Award for 2019 to Canby Pioneer Chapel. She then presented a Canby Beautification Special Recognition Award to Rick Robinson, City Administrator.

**MAYOR'S BUSINESS:** Mayor Hodson welcomed new City Recorder, Melissa Bisset. The Planning Department was working on a grant to fund an Economic Opportunity Analysis in preparation for Comprehensive Plan updates. He reported on the Library District Association Committee for Clackamas County meeting where library district boundaries were discussed. Tomorrow was First Thursday as well as a C4 meeting. He attended the League of Oregon Cities Conference and a session on emergency preparedness. He recognized Mr. Robinson for his service and noted it was his last official meeting.

**COUNCILOR COMMENTS & LIAISON REPORTS:** Councilor Berge thanked Mr. Robinson for his service.

Councilor Parker discussed the Historic Landmark Commission's clean-up of the cemetery and the Bicycle and Pedestrian Advisory Committee's tour of the Traverso property. He encouraged everyone to attend the planting on November 23 at 10 a.m.

Councilor Hensley also attended the League of Oregon Cities Conference.

Councilor Varwig said library cards could now be given to children from birth and up. The Library Board received training from the Census representative. Canby's WIC office was located at the Library now. The Library of Things was up and going.

Councilor Spoon announced the Bridging Cultures Thanksgiving Dinner on November 23. She thanked Mr. Robinson for his work.

**CONSENT AGENDA: \*\*Councilor Dale moved to adopt the minutes of the September 18, 2019 City Council Regular Meeting. Motion was seconded by Councilor Hensley and passed 6-0.**

#### **RESOLUTIONS & ORDINANCES:**

Resolution 1322 – Mr. Robinson discussed the ownership of the Shops property which had been shared with the City and Canby Utility. Canby Utility had water rights to the Willamette River, but not a means to access those water rights. This was an exchange of land immediately adjacent to the Shops property for the Water Treatment Plant expansion with access to the Willamette River in trade for ownership of the Shops property. The property adjacent to the Shops property had been purchased many years ago to be parkland and did not have covenants that would encumber it for this use. People would not be able to see the Water Plant from Territorial and the current pathways and trails from the Logging Road and Eco Park would still remain intact.

Councilor Dale explained the City owned the infrastructure, but Canby Utility was responsible for the management and capital improvements for the City's water supply. Canby Utility had been exploring a back-up source of water for some time and dealing with aging infrastructure with no room for expansion. They had explored many options for water, but in the end, it came down to using the Willamette River and Canby Utility already had a permit to use the river.

Councilor Spoon discussed how this exemplified Mr. Robinson's work of being solution oriented and finding common ground between agencies and figuring out what the best thing for the community was.

Councilor Parker said this was quintessentially Mr. Robinson of a win win and a good example for the new City Administrator. He wanted to make sure this did not limit the City's options on Wayside Park. He asked when a Water Treatment Plant was built on the Willamette if the current plant would be decommissioned.

Mr. Robinson clarified this property was not part of Wayside Park.

Councilor Dale said there was tremendous security in having two water sources. Councilor Parker said it was beautiful riverside property and would make an excellent park or small home village.

Councilor Dale said they had talked about decommissioning the current water plant, but keeping the intake on the Molalla and piping it down to the new water plant.

Mayor Hodson said they also might need to provide water to other nearby communities as they grew and there might be a need for both water sources.

**\*\*Councilor Dale moved to adopt Resolution 1322, AUTHORIZING THE MAYOR TO EXECUTE A PROPERTY EXCHANGE AGREEMENT BETWEEN THE CITY OF CANBY AND CANBY UTILITY FOR THE EXCHANGE OF CANBY UTILITY'S 54.3% OWNERSHIP IN THE PUBLIC WORKS "SHOPS PROPERTY" FOR UNDEVELOPED PROPERTY ADJACENT TO THE "SHOPS PROPERTY", TO BE USED AS A FUTURE CANBY UTILITY WATER TREATMENT FACILITY, AND AUTHORIZING THE CITY ADMINISTRATOR TO SIGN ALL DOCUMENTS NECESSARY TO COMPLETE THE PROPERTY TRANSACTION. Motion was seconded by Councilor Spoon and passed 6-0.**

**NEW BUSINESS:** None

**CITY ADMINISTRATOR'S BUSINESS & STAFF REPORTS:** Mr. Robinson acknowledged Dan Murphy's work and Canby Utility Board on finding a water solution. He thanked the Mayor and Council for allowing him to be their City Administrator for the past five years and for the personal support they had given him during some challenging health issues with his family.

Joe Lindsay, City Attorney, expressed his appreciation to Mr. Robinson for the quality of his leadership.

**CITIZEN INPUT:** None

**ACTION REVIEW:**

1. Approved the Consent Agenda.
2. Adopted Resolution 1322.

There was no Executive Session.

Mayor Hodson adjourned the Regular Meeting at 8:09 p.m.

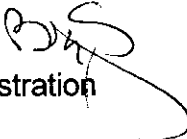
Melissa Bisset  
City Recorder

Brian Hodson  
Mayor

Assisted with Preparation of Minutes - Susan Wood



# Memo

To: Mayor Brian Hodson & Members of City Council  
From: Bret J. Smith, Chief of Police   
CC: Melissa Bisset, General Administration  
Date: October 10, 2019  
Re: Liquor License Application / Canby Pioneer Chapel LLC

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I have reviewed the attached liquor license application completed by Ms. Marilyn Nash, for the business, "Canby Pioneer Chapel" LLC, located at 508 NW 3<sup>rd</sup> Avenue, Canby, Oregon (P.O. Box 254, Aurora). Ms. Nash is the listed owner who is responsible to manage/operate the business.

On October 10, 2019, I spoke with Ms. Nash and we discussed the expectations and responsibilities involving the sale of alcoholic beverages. Ms. Nash told me she is aware that she and any employee selling alcoholic beverages must know the laws regulating the sale of alcoholic beverages and she has prior experience serving alcoholic beverages. She said she knows there are consequences for failure to comply with rules as set forth by Oregon State Law. She said she and any staff will be trained on the OLCC laws.

It is my recommendation the Canby City Council approve this application to the Oregon Liquor Control Commission (OLCC).



# LIQUOR LICENSE APPLICATION

*pd 10/9/19 \$100.00 cc*

1. Application. **Do not include** any OLCC fees with your application packet (the license fee will be collected at a later time). Application is being made for:

License Applied For:	CITY AND COUNTY USE ONLY
<input type="checkbox"/> Brewery 1 <sup>st</sup> Location	Date application received and/or date stamp:
<input type="checkbox"/> Brewery 2 <sup>nd</sup> Location	
<input type="checkbox"/> Brewery 3 <sup>rd</sup> Location	Name of City or County:
<input type="checkbox"/> Brewery-Public House 1 <sup>st</sup> location	
<input type="checkbox"/> Brewery-Public House 2 <sup>nd</sup> location	Recommends this license be:
<input type="checkbox"/> Brewery-Public House 3 <sup>rd</sup> location	
<input type="checkbox"/> Distillery	<input type="checkbox"/> Granted <input type="checkbox"/> Denied
<input type="checkbox"/> Full On-Premises, Commercial	By: _____
<input type="checkbox"/> Full On-Premises, Caterer	
<input type="checkbox"/> Full On-Premises, Passenger Carrier	Date: _____
<input type="checkbox"/> Full On-Premises, Other Public Location	OLCC USE ONLY
<input type="checkbox"/> Full On-Premises, For Profit Private Club	
<input type="checkbox"/> Full On-Premises, Nonprofit Private Club	Date application received:
<input type="checkbox"/> Grower Sales Privilege 1 <sup>st</sup> location	<i>8/29/19</i>
<input type="checkbox"/> Grower Sales Privilege 2 <sup>nd</sup> location	By: <i>Jon Z.</i>
<input type="checkbox"/> Grower Sales Privilege 3 <sup>rd</sup> location	License Action(s):
<input checked="" type="checkbox"/> Limited On-Premises	<i>N/O</i>
<input type="checkbox"/> Off-Premises	
<input type="checkbox"/> Off-Premises with Fuel Pumps	
<input type="checkbox"/> Warehouse	
<input type="checkbox"/> Wholesale Malt Beverage & Wine	
<input type="checkbox"/> Winery 1 <sup>st</sup> Location	
<input type="checkbox"/> Winery 2 <sup>nd</sup> Location	
<input type="checkbox"/> Winery 3 <sup>rd</sup> Location	

2. Identify the applicant(s) applying for the license(s). ENTITY (example: corporation or LLC) or INDIVIDUAL(S) applying for the license(s):

*Canby Pioneer Chapel LLC*  
*Marilyn D. Nash*

(Applicant #1) \_\_\_\_\_ (Applicant #2) \_\_\_\_\_

(Applicant #3) \_\_\_\_\_ (Applicant #4) \_\_\_\_\_

3. Trade Name of the Business (Name Customers Will See)

*Canby Pioneer Chapel LLC*

4. Business Address (Number and Street Address of the Location that will have the liquor license)

*508 NW 3rd Ave*

City <i>Canby</i>	County <i>Clackamas</i>	Zip Code <i>97013</i>
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OREGON LIQUOR CONTROL COMMISSION

# LIQUOR LICENSE APPLICATION

5. Trade Name of the Business (Name Customers Will See) <i>Canby Pioneer Chapel LLC</i>			
6. Does the business address currently have an OLCC liquor license? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			
7. Does the business address currently have an OLCC marijuana license? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			
8. Mailing Address/PO Box, Number, Street, Rural Route (where the OLCC will send your mail) <i>PO Box 254</i>			
City <i>Aurora</i>	State <i>OR</i>	Zip Code <i>97002</i>	
9. Phone Number of the Business Location <i>503-516-5166</i>		10. Email Contact for this Application <i>cpemarilyn@canby.com</i>	
11. Contact Person for this Application <i>Marilyn D. Nash</i>		Phone Number <i>503-516-5166</i>	
Contact Person's Mailing Address (if different)	City	State	Zip Code

Please note that liquor license applications are public records. A copy of the application will be posted on the OLCC website for a period of several weeks.

I understand that marijuana (such as use, consumption, ingestion, inhalation, samples, give-away, sale, etc.) is prohibited on the licensed premises.

I attest that all answers on all forms, documents, and information provided to the OLCC are true and complete.

### Applicant Signature(s)

- Each individual person listed as an applicant must sign the application.
- If an applicant is an entity, such as a corporation or LLC, at least one person who is authorized to sign for the entity must sign the application.
- A person with the authority to sign on behalf of the applicant (such as the applicant's attorney or a person with power of attorney) may sign the application. If a person other than an applicant signs the application, please provide proof of signature authority.

[Redacted Signature]

(Applicant #1) ✓

\_\_\_\_\_ (Applicant #2)

\_\_\_\_\_ (Applicant #3)

\_\_\_\_\_ (Applicant #4)



# City of Canby

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## MEMORANDUM

**DATE:** October 4, 2019 for October 16, 2019 Council Hearing  
**TO:** Mayor and City Council  
**FROM:** Ryan Potter, AICP, Associate Planner  
**RE:** Appeal (City File No. APP 19-01) of Planning Commission Decision for Applications DR 19-01/CUP 19-01/VAR 19-02 – AT&T Wireless Communications Facility (Stealth Monopole Tower)

### Background

At their August 26, 2019 meeting, the Canby Planning Commission voted 5-2 to deny applications DR 19-01, CUP 19-01, and VAR 19-02 related to a proposal to construct a 130-foot-tall stealth “monopole” telecommunications tower. These three related applications sought approval of design review, a conditional use permit, and a variance, respectively; approval of all three would be required to construct the proposed facility. The duly noticed meeting on August 26th included a public hearing and a presentation by planning staff summarizing the staff report dated August 16, 2019 (see Attachment G to this memorandum).

Because planning staff’s original findings supported a recommendation to approve the proposed project, alternative written findings were prepared by staff consistent with the Commission’s decision. These were reviewed by the Commission at a second meeting held on September 9, 2019, when a motion to approve the denial of request was passed by a 6-1 vote. A Notice of Decision was distributed to the applicant and other interested parties the following day—September 10, 2019—beginning the 10-day appeal period. An appeal of Planning Commission’s decision was received on September 20, 2019.

### Summary of Appeal

With their appeal application, the project applicant provided a rebuttal of Planning Commission’s decision and findings. The applicant asks that the City Council overturn the Commission’s decision based on their determination that the Commission did not “correctly interpret requirements of the CMC [Canby Municipal Code]” and did not “observe the precepts of good planning.” For a detailed description of the project applicant’s supporting reasoning,

see Attachment A to this memorandum. A revised site plan showing additional dimensions was also submitted (see Attachment B).

### **Appeal Review Criteria**

Per Section 16.89.050(I)(2) of the Land Development & Planning Ordinance (Chapter 16 of the Municipal Code), an appeal of a Type III decision:

“...shall be limited to the specific issues raised during the comment period and public hearing process unless the hearings body allows additional evidence or testimony concerning any other relevant issue. The hearings body may allow additional evidence if it determines that such evidence is necessary to resolve the case. The purpose of this requirement is to limit the scope of appeals by encouraging persons to be involved in the public hearing. Only in extraordinary circumstances should new issues be considered by the hearings body on an appeal.”

The same section of the Municipal Code states that the City Council shall overturn the decision of the Planning Commission only when one or more of the following findings are made:

- a. That the Commission did not correctly interpret the requirements of this title, the Comprehensive Plan, or other requirements of law;
- b. That the Commission did not observe the precepts of good planning as interpreted by the Council; or
- c. That the Commission did not adequately consider all of the information which was pertinent to the case.

### **Council Action**

The Planning Commission denied the applicant’s request based on a series of findings that responded to approval criteria found in the Municipal Code for the three application types involved. Both these findings and those originally prepared by planning staff are included as attachments to this memorandum (see Attachments G and F, respectively).

There are **three possible actions** that the City Council may take in regards to the appeal of the Planning Commission’s decision. These are:

1. Uphold the Planning Commission’s denial of the request and affirm the Planning Commission’s final written findings.
2. Overturn the Planning Commission’s denial of the request based on one or more of the findings listed above (see a–c under “Appeal Review Criteria”).
3. Remand the decision back to the Planning Commission.

Sample language: *“I move to approve Option \_\_\_ as indicated in the Council Staff Memorandum dated October 4, 2019.”* [Note that choices 2 or 3 (or a combination of these) require the Council to identify findings that support their decision]

## **Attachments**

- A. Project Applicant's Appeal Statement
- B. Revised Site Plan from Project Applicant (post-Planning Commission decision)
- C. Written Comments for October 16, 2019 Hearing (post-Planning Commission decision)
- D. Planning Commission Minutes for August 26, 2019 Hearing
- E. Planning Commission Minutes for September 9, 2019 Hearing
- F. Planning Commission Findings, Conclusion & Final Order for Applications DR 19-01/CUP 19-01/VAR 19-02
- G. Planning Commission Packet from August 26, 2019 Hearing, including:
  - Staff Report dated August 16, 2019 for August 26, 2019 Hearing
  - Written Comments received for August 26, 2019 Hearing
  - Applicant Submittal for Applications DR 19-01/CUP 19-01/VAR 19-02

September 20, 2019

*Via e-mail to: brownb@canbyoregon.gov  
potterr@canbyoregon.gov*

Canby City Council  
Attn: Bryan Brown, Planning Director  
PO Box 930  
222 NE 2<sup>nd</sup> Ave  
Canby, OR 97013

Re: AT&T's Appeal of the City of Canby Planning Commission's Findings, Conclusion & Final Order for DR 19-01/CUP 19-01/VAR 19-02 AT&T Monopole Cell Tower

The Honorable Mayor Hodson and City Council:

I represent New Cingular Wireless PCS, LLC ("AT&T"), the underlying applicant of the above-noted design review, conditional use permit, and variance applications (collectively, "AT&T's Application") for a new wireless communications facility to be located at 640 SW 2<sup>nd</sup> Ave (the "Facility"). Pursuant to Section 16.89.50(I) of the Canby Municipal Code ("CMC"), on behalf of AT&T please accept this letter as AT&T's formal application for appeal of the City of Canby Planning Commission's above-noted September 10, 2019 Findings, Conclusion & Final Order on AT&T's Application (the "PC Final Order"). Payment of the \$1,980 appeal application fee has been rendered electronically by AT&T's agent, Smartlink, in conjunction with the submission of this letter.

Pursuant to CMC 16.89.050(I)(3), and as further outlined below, AT&T respectfully asks for the City Council to overturn the PC Final Order based on the findings that the Planning Commission 1) did not correctly interpret the requirements of the CMC or other requirements of law; and 2) did not observe the precepts of good planning as interpreted by the Council. As demonstrated in the August 16, 2019 Staff Report issued for AT&T's Application (the "Staff Report"), AT&T's Application meets all applicable City of Canby code requirements and criteria and should be approved pursuant to staff's recommended conditions of approval.

## **1. FIRST FINDING OF PC FINAL ORDER**

The Planning Commission did not correctly interpret the requirements of the CMC or observe the precepts of good planning in making its first finding of the PC Final Order regarding the variance request for reduced setbacks.

The first finding in the PC Final Order states:

*The Planning Commission found that approval of a Major Variance would be detrimental to existing land uses on the subject property (i.e., highly flammable fuel pumps less than 50 feet away from the proposed monopole) and surrounding properties by creating a safety hazard in the event that the proposed facility fell or collapsed. The commission concluded that the required 1-1 setback (i.e., a 130-foot setback for a 130-foot facility) was intended, in part, to prevent safety hazards and that a setback of 13.5 feet from the nearest property line was an unreasonably excessive variance from the required 130 feet of setback, which was established specifically for a facility of this type in this zone. The commission concluded that, despite the collapsible, “break point” design proposed for the facility, structural failure in this location could present a danger to the community due to its fall radius and nearby storage of flammable fuels.*

**1.1 There is no evidence to support that approval of the variance would be detrimental or a danger to existing land uses.**

The finding that “...approval of a Major Variance would be detrimental to existing land uses on the subject property (i.e., highly flammable fuel pumps less than 50 feet away from the proposed monopole) and surrounding properties by creating a safety hazard in the event that the proposed facility fell or collapsed” and that, “...despite the collapsible, ‘break point’ design proposed for the facility, structural failure in this location could present a danger to the community due to its fall radius and nearby storage of flammable fuels” is not supported by any substantial evidence in the record:

- Most notably, the primary safety concern of the Planning Commission is with the distance to a use located *on the subject property*, which setback requirements do not and would not address.
- Neither the Staff Report or the PC Final Decision cite any zoning, building, or other code requirements regarding the siting of wireless facilities in relation to other buildings or uses on the same property.
- The commissioner’s failed to recognize that the proposed Facility, just like nearly every other wireless facility compound, will contain a back-up generator with fuel storage (usually either diesel or propane), *i.e.* no matter where the Facility is located, flammable material will be stored within the compound next to the tower.
- There are no comments or objections on the record by the subject property owner or surrounding property owners regarding the location of the Facility or any real or perceived dangers.



- There is no evidence in the record that the standards/code to which the monopole will be constructed (under ANSI standards) are insufficient for the proposed location—*i.e.* the finding does not state that the standards to which the monopole will be built are insufficient.
- There is nothing in the record to refute the functionality or estimated fall zone of the proposed breakpoint engineering design.
- Arguably, the siting of the oil tanks in such close proximity to a major highway presents more of a potential safety hazard than the siting of a wireless facility.

Setback requirements are inapplicable to the stated concerns of the Facility’s proximity to a use on the same property. The proposed Facility will be designed and built to meet all applicable building code standards (including ANSI standards for the monopole) pursuant to plans stamped by a state-certified engineer. As with any other structure or development, permit approval cannot be denied –and the presumption of safety cannot be based—on conjecture of what *might* happen in hypothetical circumstances, but rather must be based on whether the proposed structure meets the criteria and requirements of applicable codes and regulations.

**1.2 The CMC does not support an inference that wireless facility setbacks are for safety.**

The conclusion that “...*the required 1-1 setback (i.e., a 130-foot setback for a 130-foot facility) was intended, in part, to prevent safety hazards...*” is not supported by the record or a plain reading of the CMC:

- Nowhere in CMC 16.08.120 does it state that the reason or purpose of the wireless code section is to address safety concerns (in contrast, for example, to the signs section 16.42.010, which clearly states the safety concerns the sign code intends to address). Specifically, 16.08.120(A) states that:

*The purpose of this section is to provide standards and review process for wireless telecommunications systems facilities locating within the City of Canby. This purpose shall be realized by implementing new provisions of the Canby Land Development and Planning Ordinance that will:*

- 1. Regulate the placement, appearance and number of wireless telecommunications systems facilities;*
- 2. Ensure that the citizens of Canby will have access to a variety of wireless telecommunications systems and providers;*
- 3. Reduce the visual impact of certain wireless telecommunications systems facilities by encouraging collocation;*
- 4. Establish a graduated system of review that will expedite facilities placement in preferred locations; and*

5. *Implement the applicable provision of the Federal Telecommunications Act of 1996.*

- Setback requirements for wireless facilities are included as part of the development review process under CMC 16.08.120(C), wherein the setback requirements are varied and clearly driven by aesthetic considerations—*e.g.* a regular monopole up to 150ft on a Preferred Site, set back 660ft from Highway 99E and residential land uses has *no additional setback requirement from property lines* and only requires a building permit; additionally, a monopole with a stealth design is *specifically allowed to be located within a setback area* if doing so will take advantage of an existing feature that will help conceal or minimize the visual impacts.
- The setback requirements of CMC 16.08.120(C) only refer to property line setbacks generally and not building setbacks. Pursuant to CMC 16.08.120(D)(3), “*All WTS facilities shall observe minimum lot size, lot coverage, building height and building setback requirements of the underlying zoning district unless specifically exempted or otherwise regulated by this section.*” The proposed Facility meets the building setback requirements of the C-M zone (CMC 16.30.030), which only requires a 20ft setback from Highway 99E and a 10ft setback where abutting a residential zone (which is not applicable).

The conclusion of the Planning Commission that the setback requirement is based, in any part, on safety concerns is unfounded and not supported by the record. In fact, a plain reading of the CMC supports that the wireless facility setback requirements were established to mitigate the visual impacts of such facilities. Accordingly, the proposed Facility will utilize a stealth design and placement on the subject property to best minimize any visual impacts.

**1.3 The conclusion that a 13.5ft setback is unreasonably excessive is not supported by the record.**

The conclusion that, “*...a setback of 13.5 feet from the nearest property line was an unreasonably excessive variance from the required 130 feet of setback, which was established specifically for a facility of this type in this zone...*” is also not supported by the record:

- The finding does not cite a standard, regulation, or facts upon which the determination of “unreasonably excessive” is based or warranted other than the distance itself.
- The finding does not include any indication or justification of why the 13.5ft setback was deemed “unreasonably excessive” other than the distance itself.
- Again, there is no comment or objection on the record by the property owner to the west regarding the requested reduced setback.

## 2. SECOND FINDING OF PC FINAL ORDER

The Planning Commission did not correctly interpret the requirements of the CMC or other requirements of law in making its second finding of the PC Final Order regarding the variance request for reduced setbacks. The second finding in the PC Final Order states:

*The Planning Commission also concluded that the applicant had not adequately performed a study of—or provided sufficient documentation of—potential alternative sites, which resulted in a proposed variance from setbacks that was more than the minimum variance required to alleviate the hardship of locating the facility within AT&Ts targeted service area. The commission concluded that other nearby similarly-zoned sites would not require such a large variance and therefore the unique conditions dictated by the chosen site (i.e., close proximity to property lines and adjacent land uses) were self-imposed.*

### 2.1 Incorrect interpretation of “minimum variance required”.

The second Finding in the PC Final Order incorrectly interprets and conflates the requirements of the “minimum variance required” under CMC 16.53.020(B)(3) with 16.53.020(B)(1), which requires demonstration of circumstances that do not apply generally to other properties in the same zone. Arguably, the “minimum variance required” to relieve the hardship is in reference to the extent of the setback variance requested for the *subject property*. The only alternative site analysis required by the code is an assessment of a 250ft radius around the proposed location under CMC 16.08.120(E)(2)(b). Even if the “minimum variance” requirement could be extended to require analysis of other locations, as further discussed below, there is nothing in the record to support the finding that other locations would require a smaller setback variance request.

AT&T has demonstrated that its variance request is the minimum variance required by locating the Facility as far back from Highway 99E as possible on the subject parcel and by volunteering to employ breakpoint engineering design to reduce the fall zone on the monopole in the unlikely event of structural failure.

### 2.2 No evidence to assert that other properties would require different setbacks.

The conclusion that other nearby similarly-zoned sites would not require such a large variance is not sufficiently specific and is not supported by any evidence in the record:

- The PC Final Order does not specifically identify which sites, in particular, they are referring to in the second Finding. Though not specified in the PC Final Order, based upon the discussion of the commissioners at the public hearing, AT&T presumes that such nearby sites in question include the properties across the highway to the west of the proposed location. However, given the available space for construction and proximity to Highway 99E, it is likely that a similar setback variance request would be

required (potential rear setback distances of 10 to 25ft and front setback distances of approximately 75ft).

- There is no evidence in the record supporting a conclusion that any other nearby similarly-zoned sites would require a smaller variance than the proposed location.
- The Planning Commission did not request or provide an opportunity for the Applicant to provide information on alternative sites (though, again, such alternative site analysis is not required by the code).
- AT&T's stated in its Application and at the public hearing that no parcel exists within the targeted search area that meets CMC setback requirements, *i.e.* a setback variance will be required for *any* potential location.

### 3. HEALTH EFFECTS CANNOT BE A REASON TO DENY THE APPLICATION

The Planning Commission did not correctly interpret the requirements of federal law in making its third finding of the PC Final Order regarding perceived environmental effects of the proposed Facility. The third finding in the PC Final Order states:

*Lastly, the Planning Commission received oral and written testimony from members of the public expressing concerns related to the potential health effects of wireless technologies. While the commission acknowledged that the applicant had supplied an engineer's statement regarding human exposure to radio frequencies generated by the proposed facility (Non-Ionizing Electromagnetic Exposure Analysis & Engineering Certification)— and that this statement indicated conformance with Federal Communications Commission (FCC) guidelines—the Planning Commission also expressed concern that the facility is too close to a sensitive population (i.e., children at Canby High School approximately 250 feet to the southwest). For this reason, the commission concluded that the proposed facility was inconsistent with the City of Canby Comprehensive Plan, which promotes grouping of compatible land uses in the interest of public health and safety (e.g., Policy 1, and related implementation measures in the Comprehensive Plan Land Use Element).*

The federal law is clear—pursuant to 47 U.S.C. § 332(c)(7)(B)(iv), **the city cannot deny a wireless facility based on environmental effects** (*i.e.* alterations to the environment that have a proximate effect on human health), **either real or perceived<sup>1</sup>, if that facility meets the radio**

<sup>1</sup> The federal courts have even gone so far as to rule that psychological harm resulting from fear of potential subsection to radiation is not considered environmental harm. *See Metropolitan Edison Co. v. People Against Nuclear Energy*, 460 U.S. 766, 774 (1983).

**frequency (RF) emission limits as established by the FCC.** This federal statutory requirement has been consistently affirmed by federal courts. *See Cellular Phone Taskforce v. FCC*, 205 F.3d 82, 88 (2d Cir. 2000), cert. denied, 531 U.S. 1070, 121 S.Ct. 758, 148 L.Ed.2d 661 (2001); *Freeman v. Burlington Broadcasters*, 204 F.3d 311, 320 (2d Cir.).

As stated in the third Finding, and as required by the CMC, **the NIER Report submitted by AT&T demonstrates that the proposed Facility will not produce RF emissions beyond what is allowed by FCC regulations.** Accordingly, the third Finding of the PC Final Order is not permitted and invalid pursuant to federal law. Though the city may not consider environmental effects when reviewing AT&T's Application, AT&T acknowledges the concern as stated in the third Finding. Accordingly, at a later date and independently from the approval and appeal process for AT&T's Application, AT&T will be happy to provide the city with informational resources regarding RF emissions and the operation of wireless facilities.

**4. THE PC FINAL ORDER DOES NOT MEET PROCEDURAL REQUIREMENTS FOR A TYPE III DECISION**

Finally, pursuant to CMC 16.89.050(F)(3), the Planning Commission's decision, "...shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts. As demonstrated above, none of the three findings in the PC Final Order meet this requirement:

- The relevant criteria and standards are not explained—there are no citations to the specific criteria in which AT&T's Application does not comply and the interpretations applied to the general criteria referenced are not supported or explained.
- The findings are not based on substantial evidence in the record.
- The findings are not justified according to the criteria, standards, and facts.

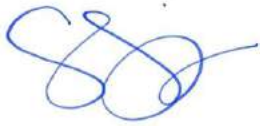
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**5. CONCLUSION**

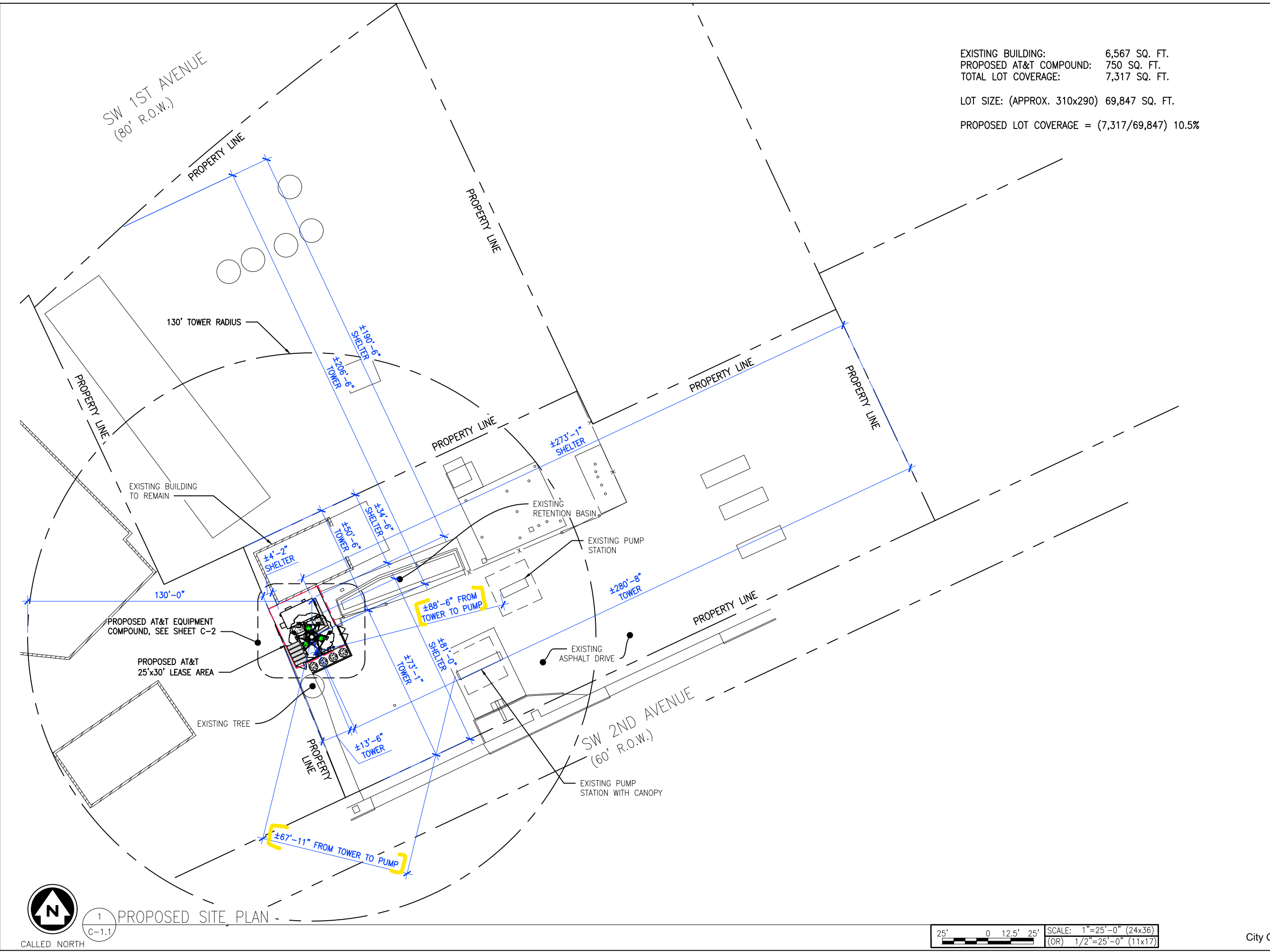
For all of the above listed reasons, AT&T respectfully requests that the Canby City Council overturn the PC Final Decision and approve AT&T's Application subject to the conditions of approval as proposed in the Staff Report.

Thank you for your consideration of AT&T's appeal.


Sincerely,

A handwritten signature in blue ink, appearing to read 'Sara Springer', with a stylized, cursive script.

Sara Springer  
Busch Law Firm, PLLC



EXISTING BUILDING: 6,567 SQ. FT.  
 PROPOSED AT&T COMPOUND: 750 SQ. FT.  
 TOTAL LOT COVERAGE: 7,317 SQ. FT.  
 LOT SIZE: (APPROX. 310x290) 69,847 SQ. FT.  
 PROPOSED LOT COVERAGE = (7,317/69,847) 10.5%

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**NOT FOR CONSTRUCTION**

Rev.	Submital / Revision	App'd	Date
1	REVISED PER COMMENTS	DZ	07/03/19
0	FINAL ZONING DRAWING	DZ	06/14/19
D	REVISED PER COMMENTS	DZ	05/24/19
C	REVISED PER COMMENTS	DZ	04/16/19
B	REVISED PER COMMENTS	DZ	04/03/19
A	90% ZONING DRAWING	DZ	02/22/19

Designed: DZ Date: 07/03/19  
 Approved: EFR Date: 07/03/19

Project Number: **499-037**

Project Title: **AT&T SITE ID: PW34**  
**FA LOCATION: 14671566**  
**SITE ADDRESS: 640 SW 2ND AVE CANBY, OR 97013**  
**SITE NAME: CANBY HIGH SCHOOL**

Drawing Scale: AS NOTED Date: 07/03/19 **ZD**

Drawing Title: **PROPOSED SITE PLAN**

Drawing Number: **G-1.1**  
 City Council Packet - Page 13 of 213



1 PROPOSED SITE PLAN - C-1.1

SCALE: 1"=25'-0" (24x36)  
 (OR) 1/2"=25'-0" (11x17)

Laney Fouse

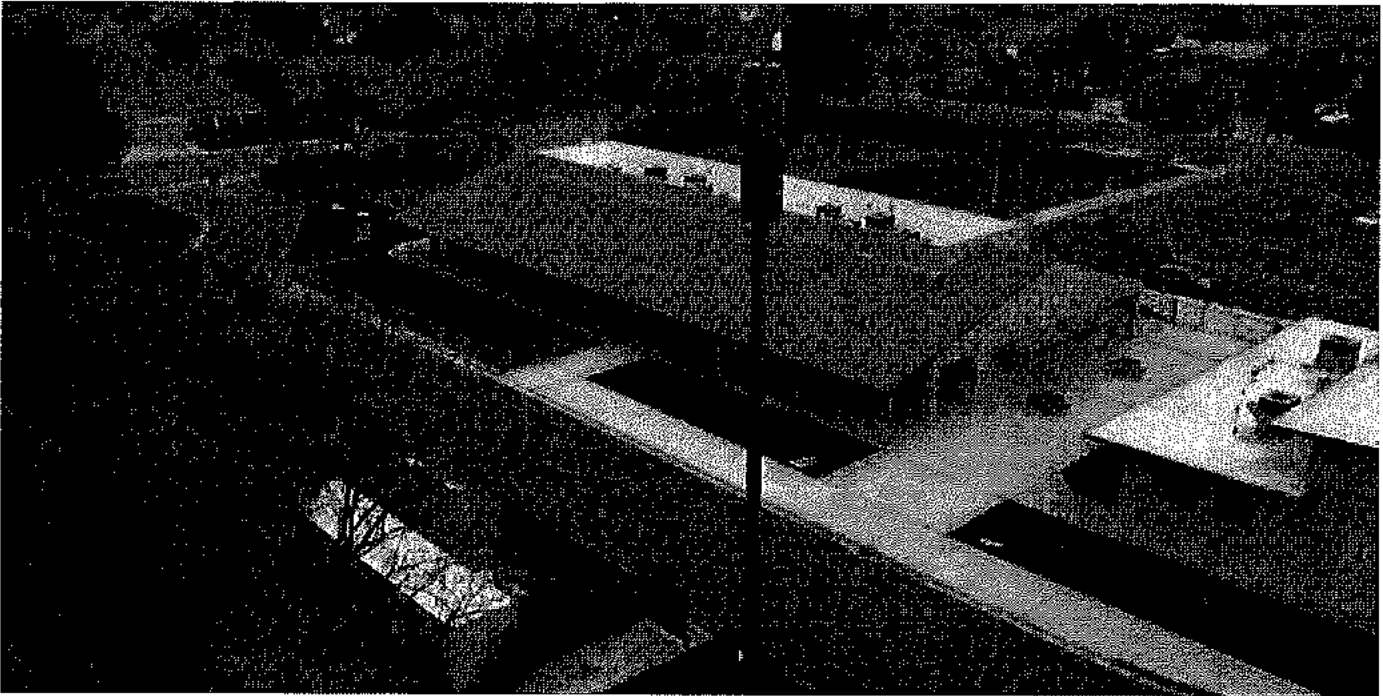
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**From:** J King <jasons19711@gmail.com>  
**Sent:** Thursday, September 5, 2019 4:14 PM  
**To:** Bryan Brown

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

<https://www.wbtv.com/2019/04/04/after-several-childhood-cancer-cases-one-school-parents-question-radiation-cell-tower/>

## After several childhood cancer cases at one school, parents question radiation from cell tower



Cell phone tower at Weston Elementary School in Ripon, California CBS NEWS (Source: CBS News)

By CBS News | April 4, 2019 at 12:10 PM EDT - Updated April 4 at 12:10 PM

Sprint shut down a cell phone tower on the campus of a California elementary school after some parents said it may be linked to several recent cases of childhood cancer. Those families at Weston Elementary School in Ripon claim the tower could have exposed their kids to harmful radiation. Sprint said the tower is safe and has operated well below federal safety limits, but the company turned it off anyway and plans to move it to a new location.

Kellie Prime's son, Kyle, was just 10 years old when he was diagnosed with kidney cancer in 2016. "My son missed growing up with his friends. My son lost all of his hair," Prime said, choking up with emotion. "It's not something that I wish on anybody to watch their child go through what our children



have gone through." Five months later, Kyle's friend and classmate, Mason Ferrulli, developed brain cancer. "Fourteen hours to get the tumor out and he had five weeks of inpatient rehabilitation. He had to learn to walk, talk, eat, everything all over again," said Mason's mother, Monica Ferrulli. Two more kids at the school were diagnosed this year. "At what point are you saying, we gotta take a close look at the school here?" CBS News correspondent Carter Evans asked.

"The moment that I found out that Mason had been diagnosed... it popped into my mind that something was not OK," Prime said. The moms believe the recent increase in cancer cases could be caused by radiation from radio frequency, or RF, waves coming from a cell tower located on the elementary school campus.

"It is classified as a possible carcinogen. That tells us that there is some evidence out there," Ferrulli said. "We're not naive to the fact that there could be other components out there -- other environmental influences... but the bottom line that we feel in regards to this tower is it doesn't belong there... if there's any indications that its unsafe."

Ferrulli said it's "absolutely" not worth the risk.

The district hired engineers to measure the exposure and concluded the tower met "government and industry standards in all respects" and posed "no threat to student safety." The parents hired their own investigator who found much higher RF levels than the district did, but still within government safety standards. Sprint network project manager Dharma Nordell said three tests have shown the tower is operating 100 times below the federal limit. "Does Sprint believe that tower could be causing cancer?" Evans asked her.

"Absolutely not," Nordell said. "It is not a safety concern to the community but we do hear the community's concerns, so we're quickly working to relocate the tower."

CBS News medical contributor and oncologist Dr. David Agus said the number of cases warrants further investigation.

"Whenever you hear of cases of cancer in a child obviously that itself is alarming. When there's several cases in one school... that's even more alarming," Agus said. But he said people exposed to RF waves at normal levels have not been found to be at higher risk for developing cancer. "The way to study this is to look at the incidents of cancer in proximity to these towers," Agus said. "We have to look at epidemiologic data... but the data today both in adults and children don't point to these causing cancer." The American Cancer Society said there is "very little evidence" to support the idea that being near a cell tower might increase the risk of cancer, but they also said "very few human studies have focused specifically" on that risk. "Do you believe the oncologists who say cell towers can't cause cancer?" Evans asked.

"I believe that everybody wants to believe our government," Prime said. "Technology is what it is and it's growing and it's growing out of control."

Ferrulli's son's cancer has returned and he's now undergoing treatment. Prime's son, Kyle, is in remission, but still undergoes scans every three months. "I've looked into his eyes and I've looked at the fear that he has as a 9-year-old facing something, asking me, 'Mom am I going to die?'" Prime said. "It would push you to fight as well. It would push any parent to fight. I won't stop until it's done, until that thing is gone."

The school district tells CBS News it has been in touch with the California Department of Health and has tested the school's soil and water. It is waiting for the results of those tests.

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**MINUTES**  
**CANBY PLANNING COMMISSION**  
7:00 PM – Monday, August 26, 2019  
City Council Chambers – 222 NE 2<sup>nd</sup> Avenue

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- PRESENT:** Commissioners John Savory, Larry Boatright, Derrick Mottern, Andrey Chernishov, Jeff Mills, Jennifer Trundy, and J Ryan Adams
- ABSENT:** None
- STAFF:** Bryan Brown, Planning Director, Ryan Potter, Associate Planner, and Laney Fouse, Recording Secretary
- OTHERS:** Brea Snyder, Sharon Gretch, Chip O’Hearn, Pat Smith, Doug Smith, Robert Taylor, Regina Taylor, and Kim Dahlberg

**CALL TO ORDER**

Chair Savory called the meeting to order at 7:00 p.m.

**CITIZEN INPUT ON NON-AGENDA ITEMS** – None

**MINUTES**

- a. Approval of Planning Commission Minutes for August 12, 2019

**Motion:** A motion was made by Commissioner Mottern and seconded by Commissioner Adams to approve the August 12, 2019 Planning Commission minutes. Motion passed 7/0.

**NEW BUSINESS** -- None

**PUBLIC HEARING**

- a. To consider Site and Design Review, Conditional Use Permit, and Variance applications for a 130-foot-tall stealth “monopole” telecommunications tower with antenna. The pole would be designed to resemble a fir tree and be located at 640 SW 2<sup>nd</sup> Ave. (*City File# DR 19-01/CUP 19-01/VAR 19-02*).

Chair Savory opened the public hearing and read the public hearing format. He asked if any Commissioner had ex parte contacts or conflicts of interest to declare. Commissioner Mottern stated he worked for a local telecommunications company and Commissioner Adams said he had AT&T cell service.

Ryan Potter, Associate Planner, entered his staff report into the record. This was a request for a site and design review, Conditional Use permit, and variance for a telecommunications tower with antenna on SW 2<sup>nd</sup> Avenue. He described the existing site conditions at the Pacific Pride fueling station. The site was zoned heavy commercial manufacturing (CM). The proposed facility would be a 130 foot stealth monopole with antennas. It would provide wireless telephone and data service to an area identified as underserved. It would be designed to resemble a Douglas fir tree. This would be 750 square feet of leased area and the existing uses on the site would remain. There would be an equipment shelter with indoor generator, perimeter fence, and landscaping buffer facing 2<sup>nd</sup> Avenue. He discussed the proposed design of the tower and showed view simulations of what it

would look like. The applicant chose this site based on a targeted search ring for signal strength and capacity. He described the applicable review criteria for the application. Staff thought the application was consistent with the Comprehensive Plan and characteristics of the site, there were adequate public facilities and services, and it would not limit or preclude the uses of the surrounding properties. The applicant had provided the necessary submittal requirements. The tower would not affect lot size and coverage, there would be landscaping and screening, it would not have lighting, and it was not in a sensitive location. There were height and setback requirements, which was a 1 to 1 setback. That meant that however tall the tower was it had to have an equal setback. However, there were property lines surrounding the parcel and the setbacks would be less than the 130 feet. They would be 73, 50, and 13.5 feet and there was need for a variance. The applicant had stated in this area of town there were no sites that would allow a proposed facility that would be tall enough to serve the unmet need and have the full setback. He then reviewed the conditions of approval regarding the design, safety, and maintenance of the facility. The City had received four items of correspondence. Letters from the City Engineer and ODOT stated they had no comments. A resident submitted a letter regarding concerns about the health effects of 5G technology and another resident wrote about concerns regarding the visual impacts. Staff recommended approval of the applications.

Commissioner Trundy asked if approval of the variance would set a precedent for more towers.

Bryan Brown, Planning Director, did not think so, especially since it was a Conditional Use which was based on this location and the nature of this tower.

Commissioner Trundy asked if they were using breakpoint technology. Mr. Potter said yes, there would be one breakpoint. The lower parts of the pole were designed to be stronger and the upper parts were a lighter steel construction and would fall down onto the lower part. He did not think there would be an issue being near the fuel station.

Commissioner Adams asked if they had any other option but to approve this application under the Federal Telecommunications Act.

Mr. Potter said the Act did make it hard for a local jurisdiction to deny a project such as this. It added a lot of restrictions on a local jurisdiction's ability to regulate these types of facilities.

Mr. Brown thought they had a choice to deny it, but they would have to provide good findings to go along with the denial. It was risky not to approve it. To provide good cellular service in the community this was what was needed.

Mr. Boatright asked how far the tower would be to the fuel pumps. Mr. Potter said it was about 50 feet.

Applicant: Sharon Gretch, SmartLink in Kirkland, WA, said it had been a challenge to find a site that would work for both the City and AT&T. They were upgrading their wireless service for 4G. The tower would help address the service gap and provide better service coverage and capacity. It would be 130 feet tall and would be a stealth monofir. The antennas would be painted green and pole would be painted brown and covered by the tree branches. The tower would be engineered and would meet all building code standards. They would be using the breakpoint technology to address the setback issues. That would happen at the 60 foot level which would protect 2<sup>nd</sup> Avenue and the pumps. There would be landscaping as well. She explained the targeted search to find the right location. This site best met their coverage objectives and had a willing landlord. She then explained the coverage gap and capacity areas they would be picking up.

Chip O’Hearn, SmartLink, discussed the alternative sites that were reviewed. The two most viable options were located outside the search ring and would not provide the coverage that was needed.

Chair Savory asked how much service people were currently getting in that area. Ms. Rush said there was limited coverage where people could not make phone calls in buildings or vehicles. It was about a 2 mile coverage ring. There was only so much capacity and when all the capacity was being used, people could not make calls or calls were dropped.

Mr. O’Hearn said there was so much data going on and the download and upload speeds were affected. They had to find a way to maximize the coverage for data and voice in this area.

Commissioner Adams asked about a citizen concern about health and the frequencies. He asked if they were allowed to consider this concern. Ms. Gretch said the Telecommunications Act precluded local jurisdictions from basing a denial on health effects. Cell towers operated thousands of times below the FCC requirements. She did not think there were any impacts on health.

Commissioner Boatright asked if this could be a 5G in the future. Ms. Gretch said it could be.

Mr. Brown said 5G was considered small cell sites right now. They were trying to locate on light poles and telephone poles instead of a cell tower.

Ms. Gretch explained the 5G small cells and how they were low powered and evenly distributed throughout the city.

Mr. O’Hearn said there were more of the small cells and they were down lower on light poles to cover smaller areas.

Commissioner Mottern thought the truck sales location across the street would be much better for the tower location. Mr. O’Hearn said that property owner was non-responsive.

Commissioner Mottern said there would not only be millimeter wave on the small cell deployment which would be for urban areas, but there would also be lower frequencies in the 3.5 range that would be on these towers for 5G.

Chair Savory asked if any AT&T tower had collapsed before. Ms. Rush had only seen one bend in a hurricane, not break.

Commissioner Chernishov asked about the tower becoming an eyesore in the future. Ms. Rush said that would be part of the maintenance agreement. When it was not useful anymore, the tower would be removed. It was a 25 year lease.

There was discussion regarding the electromagnetic exposure analysis and how it concluded that this tower would comply with FCC and County guidelines for human exposure to radiofrequency electromagnetic fields.

Proponents: None

Opposition: Brea Snyder, Oregon City resident, said her children were in the Canby School District and this tower would be erected next to the high school. She had concern about the health of the tower and did not think the tower would look good aesthetically. The Telecommunications Act was approved back when they had brick phones. The laws were dated and she did not think they were valid anymore. She was opposed to this tower.

Patricia Smith, Canby resident, thought 4G exposure caused serious damage to the human body. Teenagers had enough problems. She thought they should reduce the usage of electronics instead of endangering health. Health was more important than the latest technology.

Rebuttal: Ms. Gretch said in regard to other 4G towers in Canby, all of them were 4G at this point. There were at least two other towers in Canby.

Chair Savory closed the public hearing.

Commission Deliberation:

Commissioner Chernishov had concerns that it was near the high school.

Commissioner Adams thought the Commission was within their rights to consider the health issues of radiofrequency emissions. He was also concerned about the collapsing of the tower at 60 feet when the tower would be 50 feet from the pumps.

Commissioner Boatright did not have a problem with the design. There were fuel tanks on this site and he was concerned that the tower would only be 50 feet from the pumps. He was also concerned about the safety.

Commissioner Mills would vote in favor of the application but he was not happy about it. He thought they could raise health and safety concerns, especially about the tower collapsing. The arguments needed to go to the State and Federal government, as the Planning Commission was limited in what they could do.

Commissioner Mottern could not speak to the health issues. The industry was heavily regulated based on licensed frequencies. He thought it was a good design and would fit the area. He had an issue with the location. It was not a good location as there were many other buildings surrounding this property and it would be close to the surrounding property lines. He thought they could find a better location and would be voting no.

Commissioner Trundy said the Commission was not educated enough to know about the health issues. They had to look at the application and whether it met the criteria. She asked if there was a neighborhood meeting for this application.

Mr. Potter said one was held, but no residents attended.

Chair Savory would vote in favor, but reluctantly. He thought it was odious that they could not consider the health concerns of citizens. He agreed they could find a better location.

Motion: A motion was made by Commissioner Mills and seconded by Commissioner Trundy to approve DR 19-01/CUP 19-01/VAR 19-02. Motion failed 5/2 with Commissioners Mills and Trundy in favor.

- b. There will be a presentation and action to adopt the Canby Housing Needs Analysis which provides guidance to the City of Canby decision makers regarding the provision of land to meet the future housing need.

Matilda Deas, Long Range Planner, entered the Housing Needs Analysis into the record. There was a joint work session with the Planning Commission and City Council on the Housing Needs Analysis and some minor adjustments had been made to the document based on the City Administrator's comments regarding the financing part of the Toolkit. She made sure that each policy consideration came across as a consideration, not as a requirement. She gave a background on the regulatory framework for the analysis including Goal 10 Housing, Goal 14 Urbanization, Oregon Revised Statutes, and Oregon Administrative Rules. These described the needed housing types within the Urban Growth Boundary of the City. She explained the process for the analysis as well as demographic trends. She then discussed future housing needs. The assumptions for the needed mix of housing were: about 60% of new housing would be single family detached, nearly 7% of new housing would be single family attached, and about 33% of new housing would be multi family.

There was discussion regarding the effects of HB 2001 and the projected population growth rates.

Ms. Deas said she ran the numbers at 1.6% growth rate that was the Portland State University's number they were required to use, but she could run the numbers at the 2.3% rate which was the actual growth rate of the City and include that information in the document.

There was discussion regarding the Willamette Valley Country Club zoning and how it skewed the Buildable Lands Inventory for low density residential.

Ms. Deas continued to discuss future housing needs. The data showed the annual average of new dwelling units was 119. She also discussed household incomes and costs per unit, both for property owners and renters. Renters had a harder time affording housing and 16% were cost burdened. There were not many housing choices for low income and high income. She then explained the land sufficiency and how they came up with the partially vacant land number by looking at every half acre in the City and if it could be divided and developed. There was a deficiency in high density residential, and in the future the Commission would have to do a Comprehensive Plan amendment to accommodate the future demand for high density. Some of the recommendations and policy considerations were: remove the Mixed Density Residential designation, re-designate 14 acres of Mixed Density Residential to Medium Density Residential, re-designate 30 acres of Mixed Density Residential to High Density Residential, re-designate 15 acres of Mixed Density Residential to Highway Commercial, re-designate the remaining Mixed Density Residential to Low Density Residential, re-designate Private Recreation to Low Density Residential, remove Convenience Commercial designation, remove Residential Commercial designation from all but the two RC tax lots and re-designate as per current underlying zone, and re-designate the two noted RC tax lots to High Density Residential. The policy considerations were: consider allowing duplexes outright in the Low Density Residential zone, consider allowing cottage housing in residential zones as an affordable housing option, consider inclusionary zoning, consider allowing very small homes (500-800 square feet), and consider reducing fees for affordable housing developments to incentivize their construction. She thought they should use the Housing Strategies Toolkit to explore avenues to facilitate the development of a variety of housing types that were affordable to all residents of

Canby. She asked that the Commission make a recommendation to the Council to adopt the Housing Needs Analysis as a guiding document.

Robert Taylor, Canby resident, explained why he thought the population numbers and future growth forecast numbers had not been added correctly. The figures for the vacant acres of land were also incorrect as well as the break down for needed low, medium, and high density residential land. They needed to outline the assumptions, trends, and predictions so people would know how to read what the document was saying.

Ms. Deas said several of these had already been corrected. She thought they could get together to clarify some of the other numbers.

Regina Taylor, Canby resident, did not see a rush to submit this document to the state. She thought it was a fantastic tool to measure their progress in meeting housing goals in the next 20 years. She noted that they met the goals for needed housing inventory for low and medium density and were only lacking a small percentage for high density especially with re-designating the Mixed Density Residential zone. She also noted some of the numbers were wrong in the document. She thought the wetlands needed to be delineated so they knew how much to remove from the Buildable Lands Inventory. She also recommended adding the reasoning to Appendix A for removing the Residential Commercial zone. She pointed out some typos in the document.

Commissioner Mills would like to see the changes made and a final document redlined before recommending it to the City Council.

Commissioner Mottern was ready to move forward with the corrected document to the Council. This was a guidance tool and could be changed.

Commissioner Trundy agreed to move forward and for staff to fix the numbers and typos. She would like to include the 2.3% growth rate information.

Commissioner Chernishov also thought they should include the 2.3% rate in the document.

Commissioner Ryan was ready to move forward.

Commissioner Boatright was also ready to move forward.

Chair Savory found it odd that they were looking at the housing needs without the bigger picture of traffic, infrastructure, etc. He thought they should include the 2.3% rate information. It was difficult to say this document had any relevance to the overall growth of the City when there was no traffic assessment and impacts on roadways.

Ms. Deas explained the Transportation System Plan was based on the full build out of every zone and listed the improvements that would be needed for the full build out. That document was adopted in 2011. The other infrastructure master plans did the same thing.

There was discussion regarding the process that was done to create the Transportation System Plan.

Chair Savory thought they were putting the cart before the horse, especially with future transportation issues with tolling the freeways.

Ms. Deas said DLCD was making all cities create this document next year. Mr. Brown stated the document did not invite people in, but gave the City tools to know what they should expect. They had very little control over stopping the growth. He asked if staff could prepare the revised document for Council and send a copy of it to the Commission. He was concerned that it would not get done before Ms. Deas retired.

Ms. Deas clarified she would run the numbers for the 2.3% growth rate and fix the typos. She would also meet with the citizens who had concerns about the numbers.

**Motion:** A motion was made by Commissioner Trundy and seconded by Commissioner Adams to recommend the City Council adopt the Canby Housing Needs Analysis with the corrections to any spelling and math errors and to include the 2.3% growth rate numbers. Motion passed 7/0.

**FINAL DECISIONS** (Note: These are final, written versions of previous oral decisions. No public testimony.)

- a. DR 19-01/CUP 19-01/VAR 19-02 Monopole Cell Tower – Staff would prepare final findings reflecting the Commission’s denial and bring them back for approval.

**ITEMS OF INTEREST/REPORT FROM PLANNING STAFF**

- a. Next regularly scheduled Planning Commission meeting – Monday, September 9, 2019
- b. Update on Minor Partition (**MLP 19-02 Martin Clark**) – Mr. Brown said staff met with the applicant and shared the alternatives for the partition. The applicant chose to shorten the driveway length and keep the carport intact. It would create a larger parcel in the back and a shorter driveway access.

**ITEMS OF INTEREST/GUIDANCE FROM PLANNING COMMISSION**

None

**ADJOURNMENT**

A motion was made by Commissioner Trundy and seconded by Commissioner Chernishov to adjourn the meeting. Motion passed 7/0. The meeting adjourned at 10:10 pm.



**MINUTES**  
**CANBY PLANNING COMMISSION**  
7:00 PM – Monday, September 9 2019  
City Council Chambers – 222 NE 2<sup>nd</sup> Avenue

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**PRESENT:** Commissioners John Savory, Larry Boatright, Derrick Mottern, Andrey Chernishov, Jeff Mills, Jennifer Trundy, and J Ryan Adams  
**ABSENT:** None  
**STAFF:** Bryan Brown, Planning Director, Ryan Potter, Associate Planner  
**OTHERS:** None

**CALL TO ORDER**

Chair Savory called the meeting to order at 7:00 p.m.

**CITIZEN INPUT ON NON-AGENDA ITEMS** – None

**MINUTES**

- a. Approval of Planning Commission Minutes for August 26, 2019

**Motion:** A motion was made by Commissioner Adams and seconded by Commissioner Boatright to approve the August 26, 2019 Planning Commission minutes. Motion passed 7/0.

**NEW BUSINESS** -- None

**PUBLIC HEARING** - None

**FINAL DECISIONS** (Note: These are final, written versions of previous oral decisions. No public testimony.)

- a. DR 19-01/CUP 19-01/VAR 19-02 Monopole Cell Tower Final Findings denying application.

**Motion:** A motion was made by Commissioner Trundy to approve the Final Findings with a correction to the last page changing wording from Verizon to AT&T, motion was seconded by Commissioner Boatright to approve DR 19-01/CUP 19-01/VAR 19-02 Monopole Cell Tower Final Findings denying application. Motion passed 7/0.

**ITEMS OF INTEREST/REPORT FROM PLANNING STAFF**

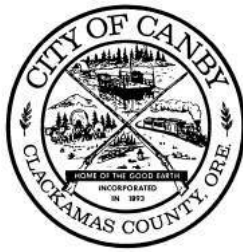
- a. Next regularly scheduled Planning Commission meeting – Monday, September 23, 2019 will be cancelled.

**ITEMS OF INTEREST/GUIDANCE FROM PLANNING COMMISSION**

None

**ADJOURNMENT**

A motion was made by Commissioner Adams and seconded by Commissioner Mottern to adjourn the meeting. Motion passed 7/0. The meeting adjourned at 7:04 pm.



**BEFORE THE PLANNING COMMISSION  
OF THE CITY OF CANBY**

<b>A REQUEST FOR SITE AND DESIGN REVIEW, CONDITIONAL USE PERMIT, &amp; MAJOR VARIANCE AT&amp;T WIRELESS COMMUNICATIONS FACILITY</b>	) ) ) ) )	<b>FINDINGS, CONCLUSION &amp; FINAL ORDER DR 19-01/CUP 19-01/VAR 19-02 NEW CINGULAR WIRELESS PCS, LLC (AT&amp;T)</b>
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**NATURE OF THE APPLICATION**

The Applicant has sought approval for Site and Design Review (**DR 19-01**), Conditional Use Permit (**CUP 19-01**), and Major Variance (**VAR 19-02**) applications to construct a 130-foot-tall stealth “monopole” telecommunications tower with antennas that would provide wireless telephone and data service to the general vicinity. The facility would be designed to resemble a fir tree. The subject property is located at 640 SW 2nd Avenue and is described as Tax Map/Lot 31E33CC06500, Clackamas County, Oregon. The property is zoned Heavy Commercial Manufacturing (C-M) under the Canby Municipal Code (CMC).

**HEARINGS**

The Planning Commission considered applications **DR 19-01**, **CUP 19-01**, and **VAR 19-02** at the duly noticed hearing on August 26, 2019 during which the Planning Commission denied by a 5-2 vote **AT&T Wireless Communications Facility (DR 19-01/CUP 19-01/VAR 19-02)**. These Findings are entered to document the denial.

**CRITERIA AND STANDARDS**

In judging whether or not the aforementioned applications shall be approved, the Planning Commission determines whether criteria from the City of Canby Land Development and Planning Ordinance are met, or can be met by observance of conditions. Applicable code criteria and standards were reviewed in the Staff Report dated August 16, 2019 and presented at the August 26, 2019 meeting of the Canby Planning Commission.

**Conditional Use Permit**

In judging whether or not a Conditional Use Permit application shall be approved, the Planning Commission determines whether criteria from the Canby Municipal Code are met, or can be met by observance of conditions, in accordance with Chapter 16.50 of the Code which states the applicable review criteria when reviewing a Conditional Use Permit to include the following:

In judging whether or not a conditional use permit shall be approved or denied, the Planning Commission shall weigh the proposal's positive and negative features that would result from

authorizing the particular development at the location proposed and to approve such use, shall find that the following criteria are either met, can be met by observance of conditions, or are not applicable.

1. The proposal will be consistent with the policies of the Comprehensive Plan and the requirements of this title and other applicable policies of the city.
2. The characteristics of the site are suitable for the proposed use considering size, shape, design, location, topography, existence of improvements and natural features.
3. All required public facilities and services exist to adequately meet the needs of the proposed development.
4. The proposed use will not alter the character of the surrounding areas in a manner which substantially limits, or precludes the use of surrounding properties for the uses listed as permitted in the zone.

*Siting of Wireless Telecommunications Systems Facilities*

In judging whether or not a wireless telecommunications systems (WTS) facility shall be approved, the Planning Commission determines whether standards from the Canby Municipal Code are met in accordance with Section 16.08.120 of the Code which states the applicable standards to include the following:

1. Site and Design Review standards and criteria (section 16.49.040) shall apply to all WTS facilities requiring Site and Design approval.
2. Conditional Use Permit standards and criteria (section 16.50.010) shall apply to all WTS facilities requiring Conditional Use Permit approval.
3. All WTS facilities shall observe minimum lot size, lot coverage, building height and building setback requirements of the underlying zoning district unless specifically exempted or otherwise regulated by this section. Underground facilities may encroach upon required yards or may be placed in appropriate easements.
4. All detached WTS facilities shall be landscaped at the base of the towers/poles, and completely around the equipment shelters. The landscaping shall conform to the ODOT standards for plant size and spacing.
5. Lighting for all WTS facilities shall be as required by the FAA or recommended by ODOT Aeronautics Division. All other lighting must be deflected away from adjoining property.
6. All detached WTS facilities shall be screened from the public right-of-way and abutting property by a security fence or wall at least 6 feet in height consisting of chain link fencing with vinyl slats, solid wood fencing, concrete masonry unit block, or brick.
7. Attached WTS facilities shall be painted to match the color of the mechanical screen wall or building to which it is attached.
8. Equipment shelters, buildings and cabinets housing radio electronics equipment shall be concealed, camouflaged or placed underground.
9. Any WTS facility sited on or designed with any of the following attributes shall first receive

FCC approval, as specified in FCC Rules 1.1301 - 1.1319, as a condition of city approval prior to construction; Wilderness Area; Wildlife Preserve; Endangered Species; Historical Site; Indian Religious Site; Flood Plain; Wetlands; High Intensity White lights in residential neighborhoods; Excessive radio frequency radiation exposure.

### Major Variance

In judging whether or not a Major Variance application shall be approved, the Planning Commission determines whether standards from the Canby Municipal Code are met in accordance with Chapter 16.53 of the Code which states the applicable standards to include the following:

The commission may authorize variances from the requirements of this title, other than Division VII, where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, the literal interpretation of the regulations would cause an undue or unnecessary hardship, except that no variance shall be granted to allow the use of property for purposes not authorized within the district in which the proposed use would be located. In granting a variance, the commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or neighborhood and to otherwise achieve the purpose of this title.

A variance may be granted only upon determination that all of the following conditions are present:

1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the city and within the same zone. These exceptional or extraordinary circumstances result from tract size or shape, topography or other circumstances over which the owners of the property have no control. Actions of previous owners do not constitute other exceptional or extraordinary circumstances.
2. The variance is necessary to assure that the applicant maintains substantially the same property rights as are possessed by the owners of other property in the city and within the same zone.
3. Granting of this variance will not be materially detrimental to the intent or purposes of the city's Comprehensive Plan or the Land Development and Planning Ordinance.
4. Granting of this variance will not be materially detrimental to other property within the same vicinity.
5. The variance requested is the minimum variance which will alleviate the hardship.
6. The exceptional or unique conditions of the property which necessitate the issuance of a variance were not caused by the applicant, or the applicant's employees or relatives.

### FINDINGS AND REASONS

The Staff Report was presented and written and oral testimony was received at the public hearing. Staff recommended approval of the Site and Design Review, Conditional Use Permit, and Major Variance applications and applied Conditions of Approval in order to ensure that the proposed project will meet all required City of Canby Land Development and Planning Ordinance approval criteria.

After holding said public hearing and considering the Staff Report dated August 16, 2019 and acceptance of written and oral testimony, the Planning Commission closed the public hearing, deliberated, and **made the following additional findings beyond those contained in the staff report to arrive at and support their decision to deny the three applications before them, as indicated below:**

1. The Planning Commission found that approval of a Major Variance would be detrimental to existing land uses on the subject property (i.e., highly flammable fuel pumps less than 50 feet away from the proposed monopole) and surrounding properties by creating a safety hazard in the event that the proposed facility fell or collapsed. The commission concluded that the required 1-1 setback (i.e., a 130-foot setback for a 130-foot facility) was intended, in part, to prevent safety hazards and that a setback of 13.5 feet from the nearest property line was an unreasonably excessive variance from the required 130 feet of setback, which was established specifically for a facility of this type in this zone. The commission concluded that, despite the collapsible, “break point” design proposed for the facility, structural failure in this location could present a danger to the community due to its fall radius and nearby storage of flammable fuels.
2. The Planning Commission also concluded that the applicant had not adequately performed a study of—or provided sufficient documentation of—potential alternative sites, which resulted in a proposed variance from setbacks that was more than the minimum variance required to alleviate the hardship of locating the facility within AT&Ts targeted service area. The commission concluded that other nearby similarly-zoned sites would not require such a large variance and therefore the unique conditions dictated by the chosen site (i.e., close proximity to property lines and adjacent land uses) were self-imposed.
3. Lastly, the Planning Commission received oral and written testimony from members of the public expressing concerns related to the potential health effects of wireless technologies. While the commission acknowledged that the applicant had supplied an engineer’s statement regarding human exposure to radio frequencies generated by the proposed facility (Non-Ionizing Electromagnetic Exposure Analysis & Engineering Certification)—and that this statement indicated conformance with Federal Communications Commission (FCC) guidelines—the Planning Commission also expressed concern that the facility is too close to a sensitive population (i.e., children at Canby High School approximately 250 feet to the southwest). For this reason, the commission concluded that the proposed facility was inconsistent with the City of Canby Comprehensive Plan, which promotes grouping of compatible land uses in the interest of public health and safety (e.g., Policy 1, and related implementation measures in the Comprehensive Plan Land Use Element).

#### **CONCLUSION**

**Therefore, IT IS ORDERED BY THE PLANNING COMMISSION** of the City of Canby that applications **DR 19-01, CUP 19-01, and VAR 19-02** be denied.

**ORDER**

I certify that a motion to approve **DR 19-01/CUP 19-01/VAR 19/02 130-FOOT-TALL STEALTH MONOPOLE CELL TOWER** failed, **THEREFORE** this request was **DENIED** by the Planning Commission of the City of Canby. **DATED** this 26th day of August, 2019.



John Savory  
Planning Commission Chair



Bryan Brown  
Planning Director



Laney Fouse, Attest  
Recording Secretary

**ORAL DECISION: August 26, 2019**

Name	Aye	No	Abstain	Absent
John Savory		✓		
Larry Boatright		✓		
Derrick Mottern		✓		
Andrey Chernishov		✓		
J. Ryan Adams		✓		
Jeff Mills	✓			
Jennifer Trundy	✓			

**WRITTEN DECISION: September 9, 2019 (Motion to approve denial of request)**

Name	Aye	No	Abstain	Absent
John Savory	✓			
Larry Boatright	✓			
Derrick Mottern	✓			
Andrey Chernishov	✓			
J. Ryan Adams	✓			
Jeff Mills		✓		
Jennifer Trundy	✓			



# City of Canby

**File #: DR 19-01/CUP 19-01/VAR 19-02 – AT&T Wireless Communications Facility (Stealth Monopole Tower)**

**HEARING DATE:** August 26, 2019  
**STAFF REPORT DATE:** August 16, 2019  
**TO:** Planning Commission  
**STAFF:** Ryan Potter, AICP, Associate Planner

### Applicant Request

The applicant is seeking approval to construct a 130-foot-tall stealth “monopole” telecommunications tower with antennas that would provide wireless telephone and data service to the general vicinity. The facility would be designed to resemble a fir tree. The proposed project requires Site and Design Review, a Conditional Use Permit (CUP), and a Major Variance.

### Property/Owner Information

**Location:** 640 SW 2nd Avenue  
**Tax Lots:** 31E33CC06500  
**Property Size:** 0.81 acre  
**Comprehensive Plan:** CM – Commercial/Manufacturing  
**Current Zoning:** CM – Heavy Commercial Manufacturing  
**Owner:** Lynx Land Holdings, LLC  
**Applicant:** New Cingular Wireless PCS, LLC (AT&T)  
**Representative:** Smartlink, LLC  
**Application Type:** Site and Design Review (Type III); Conditional Use Permit (Type III); and Major Variance (Type III)  
**City File Number:** DR 19-01/CUP 19-01/VAR 19-02



## **Staff Recommendation**

Based on the application submitted and the facts, findings, and conclusions of this report, staff recommends that the Planning Commission **Approve** DR 19-01/CUP 19-01/VAR 19-02 pursuant to the Conditions of Approval presented in Section VI at the end of this report.

## **Attachments**

- A. Land Use Applications
- B. Project Narrative
- C. Applicant Statement of Code Compliance
- D. Radio Frequency Engineering Justification
- E. Exposure Analysis and Engineering Certification Report
- F. Photo Simulations
- G. Federal Communications Commission (FCC) License
- H. FAA TOWAIR Report Determination
- I. Letter of Authorization and Lease Agreement
- J. Title Report
- K. Tower Removal Bond
- L. Pre-Application Conference Minutes
- M. Neighborhood Meeting Sign-In Sheet and Summary
- N. Drawings – Site Plans and Elevations
- O. Public Agency Comments

## **Findings**

### **I. Existing Conditions**

The subject property is located at 640 SW 2nd Avenue, which is currently used as a Pacific Pride fueling station. The property is almost entirely paved with asphalt but also includes covered fuel pumps, minor landscaped areas with trees, a linear concrete-lined detention basin, and two small buildings in its northwest corner. The property is designated for Commercial Manufacturing (CM) uses in the City of Canby Comprehensive Plan and Heavy Commercial Manufacturing (CM) on the City's zoning map.

The subject property is surrounded by a mix of light industrial uses (e.g., fleet fueling and manufacturing facilities), commercial uses (e.g. McDonalds, Dairy Queen, and Fisher's Supply), and institutional uses (e.g., Canby High School and The Canby Center). Adjacent parcels to the east are zoned for Highway Commercial (C-2) uses while parcels to the south, west, and north are zoned for Commercial Manufacturing (CM) uses.

### **II. Project Overview**

The applicant and its representatives seek to construct a 130-foot-tall monopole telecommunications tower with antennas that would provide telephone and data service to the vicinity surrounding the subject property. The facility would be designed to resemble a Douglas fir tree, with decorative faux branches and a paint scheme intended to disguise its function.

The proposed facility would be constructed on a 750-square-foot (25 feet x 30 feet) leasing area that would contain the monopole tower, an 8 feet by 16 feet equipment shelter with indoor generator, a 6-foot-tall chain link perimeter fence with privacy slats, and a landscaped screening buffer facing SW 2nd Avenue. The remainder of the



subject property would be unaltered, and would continue to function as a fueling station.

### III. **Applicable Criteria & Findings**

In addition to components of the City of Canby Comprehensive Plan, applicable criteria used in evaluating this application are listed in the following sections of the *City of Canby's Land Development and Planning Ordinance*:

- 16.08 General Provisions (see 16.08.120 Siting and Review Process for Wireless Telecommunications Systems Facilities)
- 16.10 Off-street Parking and Loading
- 16.30 C-M Heavy Commercial Manufacturing Zone
- 16.43 Outdoor Lighting Standards
- 16.49 Site and Design Review
- 16.50 Conditional Uses
- 16.53 Variances
- 16.89 Application and Review Procedures

### IV. **Summary of Findings**

#### Federal Telecommunications Law

The Telecommunications Act of 1996 acknowledges a local jurisdiction's authority over proposed wireless facilities but limits the exercise of that authority. Specifically, a state or local government may not unreasonably discriminate among providers of functionally equivalent services, may not regulate in a manner that prohibits or has the effect of prohibiting the provision of personal wireless services, must act on applications within a reasonable period of time, and must make any denial of an application in writing supported by substantial evidence in a written record. The statute also preempts local decisions premised directly or indirectly on the environmental effects of radio frequency emissions, assuming that the provider is in compliance with the Commission's radio frequency rules.<sup>1</sup>

Courts have since clarified that a local jurisdiction's action, per the Telecommunications Act, has the effect of prohibiting the provision of wireless services when it "materially limits or inhibits the ability of any competitor or potential competitor to compete in a fair and balanced legal and regulatory environment." Under a 2018 FCC order, an applicant need not prove it has a significant gap in coverage; it must simply demonstrate the need for a new wireless facility in terms of adding capacity, updating to new technologies, and/or maintaining high quality service.

#### Zoning and Conditional Use Permit

The proposed project site is located on a property zoned for Heavy Commercial Manufacturing (CM). As identified in Section 16.30.010 of the Zoning Code, some types of detached wireless telecommunications systems (WTS) facilities are permitted by right in the CM zone. However, detached WTS facilities equal to or over 100 feet in height are not; such facilities are specifically identified in Section 16.30.020 as being a

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<sup>1</sup> Federal Communications Commission (FCC). 2019. <https://www.fcc.gov/wireless/bureau-divisions/competition-infrastructure-policy-division/tower-and-antenna-siting>.

conditional use<sup>2</sup>. Accordingly, the proposed 130-foot facility requires a conditional use permit (CUP). Section 16.50 of the Zoning Code provides the following criteria for approval of a CUP:

1. *The proposal will be consistent with the policies of the Comprehensive Plan and the requirements of this title and other applicable policies of the city.*

**Finding:** The adopted City of Canby Comprehensive Plan designates the subject property for Commercial/Manufacturing (CM) uses. The request is consistent with applicable policies of the Comprehensive Plan and the property is not located within one of the designated “areas of concern.” The proposed WTS facility would not affect traffic circulation patterns, would not impact the availability or use of open space, and would not reduce opportunities for the development of housing. By incorporating a stealth “monofir” design resembling a tree, it can be argued that the proposed facility implements the Comprehensive Plan’s policy to “improve the overall scenic and aesthetic qualities of the City” (Policy 7-R) since the facility would be more aesthetically pleasing and less visually disruptive than other existing telecommunications facilities in the Canby.

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

**Finding:** The subject property contains no natural topography or natural features. Existing improvements on the site and adjacent properties are largely industrial or commercial in nature and are most appropriate for infrastructure projects compared to other development types (such as residential uses). The location of the proposed facility within the City is suitable due to its position within the targeted service area identified by the applicant’s radio frequency engineering consultant. Because the area is already developed, no new streets, service lines, or other public improvements would need to be constructed to serve the proposed leasing area.

3. *All required public facilities and services exist to adequately meet the needs of the proposed development.*

**Finding:** At the pre-application conference held on March 27, 2019, Canby Utility established that the proposed WTS facility can be adequately served by electric service. However, relocation of an existing meter and service line will need to be relocated to accommodate the facility. The proposed facility would not require water, sewer, gas, or telephone service and the leasing area is directly accessible from SW 2nd Avenue in the event that fire protection or emergency service personnel must access the facility.

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<sup>2</sup> See also Ordinance 740, Section 10.3.29(B), 1984; Ordinance 981, Section 28 & 29, 1997; and Ordinance 1237, 2007.

4. *The proposed use will not alter the character of the surrounding areas in a manner which substantially limits, or precludes the use of surrounding properties for the uses listed as permitted in the zone.*

**Finding:** The character of the area is largely transitional as it contains a mix of light industrial and commercial land uses. Although the northernmost edge of Canby High School is approximately 250 feet to the southwest, operation of the proposed WTS facility would not negatively affect or limit continued and future use of the campus. To the contrary, the improved cell service provided by the facility would better service the high-volume telephone and data needs generated by the school. Furthermore, the facility would not limit future Commercial Manufacturing uses on adjacent properties.

As discussed in the above findings, the proposed WTS facility conforms with CUP approval criteria to the extent feasible.

#### Siting of WTS Facilities

Standards regulating the placement, appearance, and number of WTS facilities are found in Section 16.08.120 of the Zoning Code. The applicable standards are based on the type of facility (e.g., lattice, monopole, attached, stealth design, or collocation), the proposed facility's location on a Preferred Site, Acceptable Site, or Conditionally Suitable Site (based on zoning), and level of review required (based on the aforementioned location categories, setbacks, and the height of the proposed WTS facility). Due to the underlying property's CM zoning, the proposed facility would be located on a Conditionally Suitable Site, as identified in Subsection 16.080.120(C)(3)(c):

"A detached, stealth design WTS facility (monopole), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on an Acceptable Site, set back from all property lines a distance equal to or greater than the height of the tower, including, unless it is demonstrated that locating the proposed facility within the required setback area will take advantage of an existing natural or artificial feature to conceal the facility or minimize its visual impacts, and equal to or over 100 feet high, with a maximum height of 130 feet."

**Finding:** Because the proposed WTS facility is 130 feet tall but less than 130 feet from adjacent properties (e.g., approximately 13 feet from the property to the immediate west), it does not conform with the above requirement for WTS facilities on Conditionally Suitable sites to be "set back from all property lines a distance equal to or greater than the height of the tower." Therefore, a variance from required setbacks is required.

Per planning staff's direction at the pre-application conference, in order to partially mitigate a reduced setback from surrounding properties, the applicant has proposed a monopole facility that will be designed to collapse from an intermediate point above the base in the unlikely event that a structural failure occurs, instead of the entire 130-foot facility potentially falling onto the subject property and adjacent parcels.

The Zoning Code provides the following additional criteria for siting of WTS facilities:

5. *Site and Design Review standards and criteria (section 16.49.040) shall apply to all WTS facilities requiring Site and Design approval.*

**Finding:** See criteria and findings under “Zoning and Conditional Use Permit,” above. Due to the small footprint of the proposed leasing area, implementation of LID best management practices are not warranted (with the exception of drought-tolerant plant species, which are featured in the proposed landscape buffer) and design criteria in Table 16.49.040 (which largely involve parking lot design, trash storage, pedestrian walkways, and signs) are not relevant.

6. *Conditional Use Permit standards and criteria (section 16.50.010) shall apply to all WTS facilities requiring Conditional Use Permit approval.*

**Finding:** See criteria and findings under “Zoning and Conditional Use Permit,” above.

7. *All WTS facilities shall observe minimum lot size, lot coverage, building height and building setback requirements of the underlying zoning district unless specifically exempted or otherwise regulated by this section. Underground facilities may encroach upon required yards or may be placed in appropriate easements.*

**Finding:** As discussed in this report, the proposed WTS facility requires a Major Variance related to setbacks from adjacent properties. The proposed monopole tower is approximately 13.5 feet from the property to the west, 50.5 feet from the property to the north, and 73 feet from the property line to the south which is the 60-foot right-of-way of SW 2nd Avenue. Per planning staff's direction at the pre-application conference, in order to partially mitigate a reduced setback from surrounding properties, the applicant has proposed a monopole facility that will be designed to collapse from an intermediate point above the base in the unlikely event that a structural failure occurs, instead of the entire 130-foot facility potentially falling onto the subject property and adjacent parcels.

The small leasing footprint would not affect the subject property's lot size or lot coverage of the existing land use. No underground facilities are proposed.

8. *All detached WTS facilities shall be landscaped at the base of the towers/poles, and completely around the equipment shelters. The landscaping shall conform to the ODOT standards for plant size and spacing.*

**Finding:** Planning staff determined that landscaping is only appropriate on the side of the facility that faces SW 2nd Avenue, since this is the only side that is visible from the public realm. Other areas of the proposed leasing area are visually obscured by existing buildings. The applicant has proposed a 5-foot-wide and 20-foot-long landscaping buffer on the southern edge of the enclosure.

9. *Lighting for all WTS facilities shall be as required by the FAA or recommended by ODOT Aeronautics Division. All other lighting must be deflected away from adjoining property.*

**Finding:** No lighting is proposed for the proposed WTS facility.

10. *All detached WTS facilities shall be screened from the public right-of-way and abutting property by a security fence or wall at least 6 feet in height consisting of chain link fencing with vinyl slats, solid wood fencing, concrete masonry unit block, or brick.*

**Finding:** The proposed equipment shelter and ground-level infrastructure would be concealed by a 6-foot-tall site-obscuring chain-link fence with brown slats. The 11-foot-tall shelter would have gray, exposed granite walls

11. *Attached WTS facilities shall be painted to match the color of the mechanical screen wall or building to which it is attached.*

**Finding:** The proposed WTS facility is a detached monopole that will be designed to resemble a fir tree; it is not an attached facility co-located on an existing structure. This criteria does not apply.

12. *Equipment shelters, buildings and cabinets housing radio electronics equipment shall be concealed, camouflaged or placed underground.*

**Finding:** The proposed equipment shelter would be concealed by a 6-foot-tall site-obscuring chain-link fence with brown slats. Drought-resistant landscaping would be provided along the southern side of the facility to the screen the tower from public views along SW 2nd Avenue.

13. *Any WTS facility sited on or designed with any of the following attributes shall first receive FCC approval, as specified in FCC Rules 1.1301 - 1.1319, as a condition of city approval prior to construction; Wilderness Area; Wildlife Preserve; Endangered Species; Historical Site; Indian Religious Site; Flood Plain; Wetlands; High Intensity White lights in residential neighborhoods; Excessive radio frequency radiation exposure.*

**Finding:** The subject property is an urbanized (developed) site that is zoned for Commercial Manufacturing uses and is not located in a wilderness area, wildlife preserve, historical site, religious site, flood plain, or wetland. As shown and described in the applicant's submittal package, the proposed WTS facility would not feature high-intensity lights (white or otherwise) and would not generate excessive radio frequency radiation. Therefore, the facility does not require FCC approval per FCC Rules 1.1301 – 1.1319.

As discussed in the above findings, the proposed WTS facility conforms with WTS siting criteria to the extent feasible.

Major Variance

As identified above, the height of the proposed monopole in relation to its distance from adjacent properties requires a major variance. The Municipal Code provides six

approval criteria for major variances. The proposed project's conformance with these criteria are discussed below.

14. *Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the city and within the same zone. These exceptional or extraordinary circumstances result from tract size or shape, topography or other circumstances over which the owners of the property have no control. Actions of previous owners do not constitute other exceptional or extraordinary circumstances.*

**Finding:** The applicant's radio frequency engineers performed an engineering study that determined the approximate site location and antenna height required to fulfil the network objective for the targeted service area of the proposed WTS facility. From this study, a search ring area where a WTS facility may be located to provide effective service (i.e., to provide new coverage and enhance existing capacity) was identified. The size and orientation of the parcels available in the search ring create an exceptional and extraordinary circumstance; namely that nonresidential parcels in the area are not large enough to site a WTS facility and provide the required minimum height-related setbacks. As outlined in the submitted materials, the proposed 130-foot height is the minimum height necessary to meet AT&T's service objectives within the targeted service area. As would be the case on other potential sites, the property owner requires the lease area for the WTS facility to be located on a small footprint at the periphery of the site to allow continued operation of the property's primary use (vehicle fueling). Strict application of the 1-1 height setback on this or another site would effectively deprive AT&T of constructing a new WTS facility within the targeted search ring that would provide the needed services in the targeted service area.

15. *The variance is necessary to assure that the applicant maintains substantially the same property rights as are possessed by the owners of other property in the city and within the same zone.*

**Finding:** The applicant's submittal documents demonstrate that this facility is needed to provide a level of telecommunications service that is offered by other wireless providers. As discussed elsewhere in this report, there are few sites available in the City that would allow development of the proposed facility. In order to assure that the applicant has substantially the same rights as other wireless telecommunications companies operating in Canby, approval of a setback variance would allow a reasonable accommodation allowing the facility.

16. *Granting of this variance will not be materially detrimental to the intent or purposes of the city's Comprehensive Plan or the Land Development and Planning Ordinance.*

**Finding:** The City's Comprehensive Plan and Zoning Code designates this general area for commercial and light industrial uses. The proposed facility's location tucked amongst other buildings and infrastructure, along with its stealth monofir design, are intended to minimize its visual impact on development of surrounding parcels. Its small physical footprint will allow the

subject property to continue to function as a fueling station, which is consistent with the property's Comprehensive Plan designation and zoning designation. Surrounding properties would also be able to continue operating businesses consistent with the Comprehensive Plan and zoning.

17. *Granting of this variance will not be materially detrimental to other property within the same vicinity.*

**Finding:** The presence of a WTS facility in the proposed location would not be a hindrance to the continued use of the area for light industrial and commercial land uses. The area is zoned for Commercial Manufacturing (CM) land uses, which would not be negatively affected by the physical or visual presence of the facility. Land uses that are typically affected by the presence of tall, shadow-producing structures, such as residential uses, are located sufficiently far away from the proposed facility. Only a few homes to the east and south would have views of the monopole tower and these views would be partially obstructed by other structures, trees, existing utility poles, and other elements of the built environment. Therefore, the proposed facility's effects on surrounding land values and community character is expected to be minimal to nonexistent.

18. *The variance requested is the minimum variance which will alleviate the hardship.*

**Finding:** The requested variance is from a 1-1 setback from the 130-foot-tall proposed WTS monopole facility, which would be 130 feet from the nearest property line. Therefore, the "minimum variance" would be a setback as close to 130 feet as feasible. As discussed above, the facility would be as few as 13.5 feet from the property line to the immediate west. However, on the selected site, there are no areas that would be significantly more set back than this location. If located on the eastern half of the subject property, the facility could potentially have larger setbacks from adjacent property lines but would be closer to residential uses, closer to customer-heavy commercial uses (i.e., Dairy Queen and U.S. Bank), and potentially closer to onsite fuel pumps. Therefore, the selected location of the proposed WTS facility requires a setback variance not unreasonable larger than elsewhere on the selected subject property.

19. *The exceptional or unique conditions of the property which necessitate the issuance of a variance were not caused by the applicant, or the applicant's employees or relatives.*

**Finding:** As stated above, there are limited sites available for the construction and operation of WTS facilities in the City of Canby. The exceptional and unique conditions of the property, namely the minimal site dimensions, are present on most sites in the City where a WTS facility could be placed. Therefore, these conditions are not caused by the applicant. An example of an applicant-caused condition would be if the middle of the subject property (over 130 feet away from any property line) could accommodate a WTS facility but the applicant chose to locate it near the property's boundary. In this particular case, there is no portion of the subject property where the WTS facility would

meet the 1-1 setback of 130 feet. Furthermore, as discussed above, the monopole facility will be engineered to mitigate safety concerns related to a reduced setback.

As discussed in the above findings, the proposed WTS facility conforms with Major Variance criteria to the extent feasible.

#### Other Findings

- **Legality of Affected Parcels.** The tax lot identified above is shown on Tax Map 31E33CC as found in the Clackamas County Online Parcel Information Application (CMap). Although the applicant's submittal package includes a deed and title report, it does not definitively establish that the current configuration of parcels is the product of legal subdivisions, partitions, and/or lot line adjustments. The property owner will need to verify the legality of the affected parcel before the applicant may proceed with development of the proposed WTS facility.
- **Comprehensive Plan.** The adopted City of Canby Comprehensive Plan designates the subject property for Commercial/Manufacturing (CM) uses. The request is consistent with applicable policies of the Comprehensive Plan and the property is not located within one of the designated "areas of concern."
- **Public Neighborhood Meeting.** The applicant held a public meeting on April 22, 2019. However, no members of the public attended. Notice of the meeting was mailed to all residents and property owners within 500 feet of the proposed facility.
- **Traffic Study.** The proposed facility is an unmanned telecommunications facility. On most days, no traffic would be generated by its operation. The applicant estimates that the facility will require approximately one trip per month for maintenance visits. For these reasons, no traffic study is required.
- **Connectivity/Access.** The proposed project would not require the construction of new streets or alleys. The subject property has existing access directly from SW 2nd Avenue.
- **Public Right-of-Way Improvements.** No improvements to the public right-of-way would be required to construct or operate the proposed facility.
- **Off-Street Parking.** Table 16.10.050 in Section 16.10.050 of the Municipal Code requires that "wireless telecommunications systems" each have one off-street parking space. The subject property is an existing 0.81-acre fueling station that is almost entirely comprised of paved ground surface, including a bank of marked parking spaces. The site has sufficient parking to accommodate an occasional maintenance vehicle accessing the proposed facility while also accommodating normal onsite fueling activities.
- **Sidewalks.** The proposed facility would be constructed on a landlocked portion of an existing developed site that features public sidewalks along SW 2nd Avenue. No new sidewalks are required.
- **Street Trees.** The proposed facility would not require street trees.
- **Storm Water Runoff.** The small footprint of the proposed facility does not warrant the construction of new stormwater management facilities.



Furthermore, the subject property's existing retention basin, which is directly adjacent to the proposed leasing area, would remain as under existing conditions.

- **Utilities.** At the pre-application conference held on March 27, 2019, Canby Utility established that the proposed facility can be adequately served by electric service. However, relocation of an existing meter and service line will need to be relocated to accommodate the facility.
- **Visual Impacts.** The applicant submittal includes six view simulations showing how the proposed WTS facility would affect the visual appearance of the surrounding vicinity. Although the proposed monopole would be disguised as a fir tree, its considerable height compared to surrounding land uses would make it visually prominent from a variety of vantage points. The six specific viewpoints shown in the simulations are discussed below:
  - **View 1:** This vantage point looks northwest toward the subject property from SW 2nd Avenue. Because this view is closest to the proposed facility, the monopole is most prominent against the sky and dramatically changes the view's overall character and appearance. The trunk of the facility is clearly visible from this view. The equipment cabinet, ground-level electrical transformers, and perimeter fencing are screened by vegetation proposed on the south side of the facility.
  - **View 2:** This vantage point looks southwest from the intersection of SW 2nd Avenue and S Elm Street, which represents the nearest edge of a residential area to the proposed facility. As shown in the applicant's submittal, the tree-like facility would appear to be part of a line of trees. However, it would be noticeably taller than surrounding trees and would differ visually since the largest of these are deciduous trees.
  - **View 3:** This vantage point looks northeast along SW 2nd Avenue toward the subject property. As in other views, the WTS facility would be visually prominent. However, there are two notable conifer trees in the distance that mimic the facility's conical profile.
  - **View 4:** This vantage point looking southeast across Highway 99E offers distance background views of conifer trees that somewhat reflect the conical shape of the proposed WTS facility. However, because the facility is much closer to the highway, is considerably more visually prominent. Note that existing buildings, storage tanks and other elements of the built environment obstruct views of the lower portions of the proposed facility.
  - **View 5:** This vantage point looks southwest toward the subject property from the intersection of Elm Street and Highway 99E. The existing view is visually cluttered with traffic lights, electrical wires, buildings, and tall trees. For this reason, the proposed facility largely blends into the existing visual environment and is less visually prominent. Note that is the general vantage point from the direction of downtown Canby.
  - **View 6:** This vantage point is that of vehicles and pedestrians entering the community on Highway 99E from the west, heading east. The proposed WTS facility is visually prominent over McDonalds as it is noticeably taller than buildings and trees in the foreground. However,

there are also trees visible behind McDonalds.

These six view simulations demonstrate that the proposed WTS facility would be visually prominent above the low-scale development in southwestern Canby and visually prominent from the highly-trafficked Highway 99E corridor that traverses the community. However, the stealth design of the structure, meant to resemble a mature fir tree, would somewhat mitigate this impact. Decorative branches creating a conical silhouette, along with a naturalistic paint scheme, would minimize—to the point feasible—the 130-foot-tall facility’s propensity to draw one’s attention from the public realm.

Staff has reviewed the applicant’s narrative and submitted material and finds that this application conforms to the applicable review criteria and standards subject to the conditions of approval noted in Section VI of the staff report.

**V. Public/Agency Comments**

Notice of this application and opportunity to provide comment was mailed to owners and residents of lots within 500 feet of the subject property and to all applicable public agencies. All citizen and agency comments/written testimony that was received to date are attached and will be presented to the Planning Commission. No items of major controversy were identified at the neighborhood meeting held April 22, 2019 and no public comments were received directly by City staff.

**VI. Conclusion and Conditions of Approval**

Based on the application submitted and the facts, findings, and conclusions of this report, staff recommends that the Planning Commission **approve** DR 19-01, CUP 19-01, and VAR 19-02 pursuant to the Conditions of Approval presented in this section.

**General Conditions:**

1. The property owner shall provide evidence that the affected property is a legal lot of record. In the event that the current configuration of parcels was not lawfully created, the property owner must complete actions required to create a legal lot of record prior to construction of the proposed WTS facility.
2. Prior to the start of construction, the applicant must schedule a pre-construction conference with the City and obtain construction plan sign-off from applicable agencies.

**Demolition:**

3. A demolition permit shall be obtained from Clackamas County prior to demolition of the existing outbuilding, which will require the City’s release letter through submission of a Site Plan (Type 1) application.

**Water/Sewer:**

4. Prior to initiation of demolition and construction activities, the applicant shall confirm with Canby Utility and the Canby Public Works Department that implementation of the project would not conflict with existing sewer or water lines.
5. The existing reduced pressure backflow assembly device located in the “shut-off” building planned for demolition shall be relocated to ensure continued water service to the subject property.

**Project Design:**

6. The monopole WTS facility and all attached equipment, including antennas, shall be designed and painted with a matte finish so as to be disguised as a fir tree. The pole structure shall be painted brown; antennas, accessory equipment, and decorative branches shall be painted green.
7. Decorative faux branches shall begin at a height of forty feet from ground level and extend upward to the top of the monopole facility. Branches shall be installed at distances closely spaced enough to mimic those on a Douglas fir and visually screen a significant portion of the vertical “trunk.”
8. The monopole WTS facility shall be engineered with break point technology that would compel the structure to break at a designated place on the structure and fold over on itself. The applicant shall provide a structural analysis to the Clackamas County Building Department and Canby Development Services Department demonstrating that the tower is designed with heavier steel cross-sections in the lower segments of the monopole and progressively lighter cross-sections in the upper segments of the monopole to ensure that in the event of failure, it would occur at a point above the base so that the monopole bends or folds over on itself.
9. Where applicable, the design of the WTS facility shall comply with City of Canby Public Works Design Standards.

**Maintenance:**

10. A Maintenance Agreement shall be provided to the City of Canby Development Services Department outlining the overall responsibilities of the property owner and the applicant/lessee of the WTS site. The agreement shall clearly identify the protocol and responsibility of maintenance of the site. Maintenance shall include any and all repairs to the site, including, but not limited to: the replacement of faux tree branches; color of said branches; wind, rain, ice, sleet, or snow damaged branches, or similar, caused by weather events and/or fire. All repairs must be made within a reasonable timeframe (3-months), so as to ensure continued operation of the facility. The agreement shall also clearly identify responsibilities and protocol for maintaining the landscaping buffer on the south side of the facility’s perimeter fence.

**Grading/Erosion Control:**

11. An erosion control permit shall be obtained from the City of Canby prior to any onsite ground disturbance.
12. The applicant shall submit an erosion control plan for approval by Canby Public Works in conjunction with construction plan approval prior to the start of onsite ground disturbance.

**Building Permits Conditions:**

13. The applicant shall apply for a City of Canby Site Plan Permit and County Building Permit for the proposed facility.
14. The applicant shall apply for a City of Canby Erosion Control Permit.
15. Clackamas County Building Codes Division will provide structural, electrical, and mechanical plan review and inspection services for construction per

contract with the City. The applicable county building permits are required prior to construction.



City of Canby  
 Planning Department  
 222 NE 2<sup>nd</sup> Avenue  
 PO Box 930  
 Canby, OR 97013  
 (503) 266-7001

# LAND USE APPLICATION

## SITE AND DESIGN REVIEW

### Downtown Canby Overlay - Type III

**APPLICANT INFORMATION:** (Check ONE box below for designated contact person regarding this application)

Applicant Name: New Cingular Wireless PCS LLC (AT&T) Phone: 425-222-1026  
 Address: 19801 SW 72nd Ave Ste 200 Email: \_\_\_\_\_  
 City/State: Tualatin, OR Zip: 97062

Representative Name: Smartlink LLC, Debbie Griffin Phone: 480-296-1205  
 Address: 11410 NE 122nd Way, Ste 102 Email: Debra.Griffin@smartlinkllc.com  
 City/State: Kirkland, WA Zip: 98034-6945

Property Owner Name: Lynx Land Holdings, LLC Phone: 503-363-7676  
 Signature: \_\_\_\_\_  
 Address: 1977 Claxter Road NE Email: \_\_\_\_\_  
 City/State: Salem, OR Zip: 97301

Property Owner Name: \_\_\_\_\_ Phone: \_\_\_\_\_  
 Signature: \_\_\_\_\_  
 Address: \_\_\_\_\_ Email: \_\_\_\_\_  
 City/State: \_\_\_\_\_ Zip: \_\_\_\_\_

NOTE: Property owners or contract purchasers are required to authorize the filing of this application and must sign above

- ① All property owners represent they have full legal capacity to and hereby do authorize the filing of this application and certify that the information and exhibits herewith submitted are true and correct.
- ② All property owners understand that they must meet all applicable Canby Municipal Code (CMC) regulations, including but not limited to CMC Chapter 16.49 Site and Design Review standards.
- ③ All property owners hereby grant consent to the City of Canby and its officers, agents, employees, and/or independent contractors to enter the property identified herein to conduct any and all inspections that are considered appropriate by the City to process this application.

**PROPERTY & PROJECT INFORMATION:**

640 SW 2nd Avenue .78 acres 31E33CC06500  
 Street Address or Location of Subject Property Total Size of Property Assessor Tax Lot Numbers

Pacific Pride Fueling CM C/M  
 Existing Use, Structures, Other Improvements on Site Zoning Comp Plan Designation

New 130' Monofir and pre-fabricated equipment shelter within a fenced 25' x 30' lease area.

Describe the Proposed Development or Use of Subject Property

STAFF USE ONLY				
FILE #	DATE RECEIVED	RECEIVED BY	RECEIPT #	DATE APP COMPLETE

## SITE AND DESIGN REVIEW APPLICATION – TYPE III—INSTRUCTIONS

**All required application submittals detailed below must also be submitted in electronic format on a CD, flash drive or via email to: [PlanningApps@canbyoregon.gov](mailto:PlanningApps@canbyoregon.gov)**

Applicant City  
Check Check

- One (1) copy of this application packet. The City may request further information at any time before deeming the application complete.
- Payment of appropriate fees – cash or check only. Refer to the city’s Master Fee Schedule for current fees. Checks should be made out to the *City of Canby*.
- Please submit one (1) electronic copy of mailing addresses in either an EXCEL SPREADSHEET or WORD DOCUMENT for all property owners and all residents within 500 feet of the subject property. If the address of a property owner is different from the address of a site, an address for each unit on the site must also be included and addressed to “Occupant.”** A list of property owners may be obtained from a title insurance company or from the County Assessor’s office.
- One (1) copy of a written, narrative statement describing the proposed development and detailing how it conforms with the Municipal Code and to the approval criteria, including the applicable Design Review Matrix, and availability and adequacy of public facilities and services. **Ask staff for applicable Municipal Code chapters and approval criteria.**  
 Applicable Code Criteria for this application includes:  
See Attachment 2 - Statement of Code Compliance. Applicable Code Criteria includes: 16.30 CM Zone, 16.08.120 Wireless Communication Facilities, 16.08.100 Height Allowances, 16.08.110 Fences, 16.49 Site and Design Review, 16.50 Conditional Use, 16.53 Variances, 16.89 Application Review Procedures.
- Three (3) copies of a Traffic Impact Study (TIS), conducted or reviewed by a traffic engineer that is contracted by the City and paid for by the applicant (payment must be received by the City before the traffic engineer will conduct or review a traffic impact study.  
 Ask staff to determine if a TIS is required.
- One (1) copy in written format of the minutes of the neighborhood meeting as required by Municipal Code 16.89.020 and 16.89.070. The minutes shall include the date of the meeting and a list of attendees.
- One (1) copy in written format of the minutes of the pre-application meeting
- One copy of either the recorded plat or the recorded deeds or land sales contracts that demonstrates how and when legal property lines were established and where the boundaries of the legal lot(s) of record are located. If the property is a lot or parcel created by plat, a copy of the recorded plat may be obtained from the Clackamas County Surveyor’s office. If the property is a legal lot of record created by recorded deed or land sales contract at a time when it was legal to configure property lines by deed or contract, then those recorded deeds may be obtained from the Clackamas County Office of the Clerk, or a Title Company can also assist you in researching and obtaining deeds.
- If the development is located in a Hazard (“H”) Overlay Zone, submit one (1) copy of an affidavit signed by a licensed professional engineer that the proposed development will not result in

significant impacts to fish, wildlife and open space resources of the community. If major site grading is proposed, or removal of any trees having trunks greater than six inches in diameter is proposed, then submit one (1) copy of a grading plan and/or tree-cutting plan.

Applicant City  
Check Check

Two (2) paper copies of the proposed plans, printed to scale no smaller than 1"=50'. The plans shall include the following information:

- Vicinity Map. Vicinity map at a scale of 1"=400' showing the relationship of the project site to the existing street or road pattern.
- Site Plan-the following general information shall be included on the site plan:
  - Date, north arrow, and scale of drawing;
  - Name and address of the developer, engineer, architect, or other individual(s) who prepared the site plan;
  - Property lines (legal lot of record boundaries);
  - Location, width, and names of all existing or planned streets, other public ways, and easements within or adjacent to the property, and other important features;
  - Location of all jurisdictional wetlands or watercourses on or abutting the property;
  - Finished grading contour lines of site and abutting public ways;
  - Location of all existing structures, and whether or not they are to be retained with the proposed development;
  - Layout of all proposed structures, such as buildings, fences, signs, solid waste collection containers, mailboxes, exterior storage areas, and exterior mechanical and utility equipment;
  - Location of all proposed hardscape, including driveways, parking lots, compact cars and handicapped spaces, loading areas, bicycle paths, bicycle parking, sidewalks, and pedestrian ways;
  - Callouts to identify dimensions and distances between structures and other significant features, including property lines, yards and setbacks, building area, building height, lot area, impervious surface area, lot densities and parking areas;
  - Location of vision clearance areas at all proposed driveways and streets.

#### Landscape Plan

The following general information shall be included on the landscape plan:

- Layout and dimensions of all proposed areas of landscaping;
- Proposed irrigation system;
- Types, sizes, and location of all plants to be used in the landscaping (can be a "palette" of possible plants to be used in specific areas for landscaping);
- Identification of any non-vegetative ground cover proposed, and dimensions of non-vegetative landscaped areas;
- Location and description of all existing trees on-site, and identification of each tree proposed for preservation and each tree proposed for removal;
- Location and description of all existing street trees in the street right-of-way abutting the property, and identification of each street tree proposed for preservation and each tree proposed for removal.

#### Elevations Plan

The following general information shall be included on the elevations plan:

- Profile elevations of all buildings and other proposed structures;
- Profile of proposed screening for garbage containers and exterior storage areas;
- Profile of proposed fencing.

#### **NA** Sign Plan.

- Location and profile drawings of all proposed exterior signage.

#### **NA** Color and Materials Plan.

- Colors and materials proposed for all buildings and other significant structures.

Applicant City  
 Check Check

- One (1) copy of a completed landscaping calculation form (see page 5)
- One (1) copy of a completed Design Review Matrix (see page 6)

## SITE AND DESIGN REVIEW APPLICATION: LANDSCAPING CALCULATION FORM

### Site Areas

1. Building area	128 sq. ft.	- Square footage of building footprints
2. Parking/hardscape	NA	- Square footage of all sidewalks, parking, & maneuvering areas
3. Landscaped area	100 sq. ft.	- Square footage of all landscaped areas
4. Total developed area	850 sq. ft. (3&6)	- Add lines 1, 2 and 3
5. Undeveloped area		- Square footage of any part of the site to be left undeveloped.
6. Total site area	750 sq. ft.	- Total square footage of site

### Required Site Landscaping (Code 16.49.080)

7. Percent of landscaping required in Zoning District		- Fill in the Appropriate Percentage: R-1, R-1.5, R-2 Zones: 30%; C-2, C-M, C-R, M-1, M-2 Zones: 15%; C-1 Zone: 7.5%
8. Required minimum square footage of landscaping		- Multiply line 4 and line 7
9. Proposed square footage of landscaping	100 sq. ft.	- Fill in value from line 3 11.8% of AT&T's site

### Required Landscaping within a Parking Lot (Code 16.49.120)

Note: This section and the next apply only to projects with more than 10 parking spaces or 3,500 square feet of parking area

10. Zone		- Fill in the Appropriate Zone and Percentage: C-1 Zone: 5%; Core Commercial sub-area of the Downtown Canby Overlay: 10%, except for parking lots with 10 or more spaces and two or more drive aisles: 50 square feet per parking space; All other zones: 15%.
11. Percent of required landscaping		
12. Area of parking lot & hardscape		- Fill in area of parking and maneuvering areas plus all paved surface within ten (10) feet of those areas.
13. Number of vehicle parking spaces		- For Core Commercial sub-area in the Downtown Canby Overlay only, fill in the total # of parking spaces on-site.
14. Required square footage of landscaping within 10 feet of parking lot		- Multiply area of parking lot (line 12) by percent of required landscaping (line 11) -OR- for the CC sub-area in the Downtown Canby Overlay multiply line 13 by 50 square feet.
15. Proposed square footage of Landscaping within 10 feet of parking lot		- Calculate the amount of landscaping proposed within 10 feet of all parking and maneuvering areas.

### Parking Lot Tree Calculation

16. Number of parking spaces		- Total number of vehicle parking spaces
17. Area of parking lot & hardscape		- Area from line 12
18. Number of parking spaces (line 16) divided by 8		- Round up to the nearest whole number



19. Area of parking lot area (line 17) divided by 2,800		- Round up to the nearest whole number
20. Number of required trees in parking lot		- Fill in the larger of row 18 and row 19
21. Number of trees provided within 10 feet of parking lot		- Fill in the number of proposed trees within 10 feet of parking and maneuvering areas.

## SITE AND DESIGN REVIEW APPLICATION: DESIGN REVIEW MATRIX

**Applicants:** Please circle the applicable point column for your project and compute the total and percentages at the end of the table.

### Table 16.49.040 Site Design Review Menu

As part of Site and Design Review, the following menu shall be used as part of the review. In order to "pass" this table 60% of total possible points shall be earned, 10% of the total possible points must be from LID elements

Design Criteria	Possible Points				
	0	1	2	3	4
<b>Parking</b>					
Screening of parking and/or loading facilities from public right-of-way	Not screened	Partially screened	Fully screened	-	-
Parking lot lighting provided	No	Yes	-	-	-
Parking location (behind building is best)	Front	Side	Behind	-	-
Number of parking spaces provided (% of minimum required)	>120%	101-120%	100%	-	-
<b>Screening of Storage Areas and Utility Boxes</b>					
Trash storage is screened from view by solid wood fence, masonry wall or landscaping.	No	Yes	-	-	-
Trash storage is located away from adjacent property lines.	0 - 10 feet from adjacent property	11 - 25 feet from adjacent property	>25 feet from adjacent property	-	-
Utility equipment, including rooftop equipment, is screened from view.	Not screened	Partially screened	Fully screened	-	-
<b>Access</b>					
Distance of access to nearest intersection.	≤70 feet	71 - 100 feet	>100 feet	-	-

Pedestrian walkways from public street/sidewalks to building entrances.	One entrance connected.	-	Walkways connecting all public streets/sidewalks to building entrances.	-	-
Pedestrian walkways from parking lot to building entrance.	No walkways	Walkway next to building only	Walkways connecting all parking areas to building entrances	-	-

Design Criteria	Possible Points				
	0	1	2	3	4
<b>Tree Retention</b>					
Percentage of trees retained	<10%	10-50%	51-75%	>75%	-
Replacement of trees removed	<50%	≥50%	-	-	-
<b>Signs</b>					
Dimensional size of sign (% of maximum permitted)	>75%	50-75%	<50%	-	-
Similarity of sign color to building color	Not similar	Somewhat similar	Similar	-	-
Pole sign used	Yes	No	-	-	-
<b>Building Appearance</b>					
Style (similar to surroundings)	Not similar	Somewhat similar (1 or 2 points possible depending on level of similarity)		-	-
Color (subdued and similar to surroundings is better)	Neither	Similar or subdued	Both	-	-
Material (concrete, wood and brick are best)	Either 1 or 2 points may assigned at the discretion of the Site and Design Review Board				
Size of building (smaller is better)	>20,000 square feet	≤20,000 square feet	-	-	-
Provision of public art (i.e. murals, statues, fountains, decorative bike racks, etc.)	No	-	-	-	Yes

Landscaping	0	1	2	3	4
Number of non-required trees provided	-	At least one tree per 500 square feet of landscaping.	-	-	-
Amount of grass (less grass is better) (% of total landscaped area)	>50%	25-50%	<25%	-	-
Low Impact Development (LID)	0	1	2	3	4
Use of pervious paving materials (% of total paved area)	<10%	-	10-50%	51-75%	>75%
Provision of park or open space area	None	-	Open space (Generally not for public use)	-	Park (public or privately owned for public use)

Design Criteria	Possible Points				
Use of drought tolerant species in landscaping (% of total plants)	<25% drought tolerant	-	25-50% drought tolerant	51-75% drought tolerant	>75% drought tolerant
Provision of additional interior parking lot landscaping (% of minimum required)	100%	101-110%	111-120%	>120%	-
Provision of an eco-roof or rooftop garden (% of total roof area)	<10%	-	-	10-50%	>50%
Parking integrated within building footprint (below-grade, structured parking, or tuck-under parking) (% of total on-site parking)	<10%	-	-	10-50%	>50%
Disconnecting downspouts from city stormwater facilities	None	Some downspouts disconnected	All downspouts disconnected	-	-
Shared parking with adjacent uses or public parking structure (% of total required parking spaces)	None	<50%	≥50%	-	-

Provision of rain gardens/bioretention areas for stormwater runoff (% of total landscaped area)	None	-	10-50%	51-75%	>75%
Total Possible Points = 71, 60%=42.6 points, 10%=7.1 points					

**Total Points Earned:** \_\_\_\_\_ (42.6 required for 60%)

**Total LID Points Earned:** \_\_\_\_\_ (7.1 required for 10%)

## **SITE AND DESIGN REVIEW – TYPE III: APPLICATION PROCESS**

1. Prior to submitting an application, all applicants are encouraged to request a pre-application meeting with the City -or- the Planning Director may determine that a pre-application meeting is required prior to submitting an application. To schedule a pre-application meeting, an applicant must submit a completed pre-application form and set of preliminary plans to the City Planner, and after receiving the Planner's initials, must then make and take (3) copies of the pre-application materials to the Canby Public Works Department to schedule the pre-application meeting. The amount of the fee for a pre-application meeting is based on whether the application involves a public hearing or not.
2. Prior to submitting an application, applicants may be required to hold a neighborhood meeting with surrounding property owners and any recognized neighborhood association representative, pursuant to the procedures described in Canby Municipal Code Section 16.89.070. In certain situations, the Planning Director may waive the neighborhood meeting requirement.
3. At the time an application is submitted to the City, payment of all required application processing fees is required. An application will not be accepted without payment of fees. City Staff can provide you with information concerning application fees.
4. Staff will check the application, making sure that it is complete and all fees are paid. Copies of the application materials are routed to various City/State/County departments, as applicable, for their comments. The application is reviewed for completeness; the City Planner will accept or return the application with a written list of omissions within thirty (30) calendar days of the submittal.
5. Staff investigates the application, writes a staff report, issues public notice, notifies surrounding property owners, and makes all facts relating to the request available to the Planning Commission and all interested parties.
6. Prior to the public hearing, the City will prepare notice materials for posting on the subject property. Staff will post this material at least ten (10) days before the public hearing.
7. The staff report will be available to all interested parties seven (7) days prior to the hearing.
8. The Planning Commission holds a public hearing. The staff report is presented to the Commission. Testimony is presented by the applicant, proponents and opponents, followed by rebuttal from the applicant.
9. The Commission then issues findings of fact which support approval, modification, or denial of the application. A decision may be appealed to the City Council.
10. If an approval or a denial is appealed, City Council holds a public hearing. The staff report is presented and testimony taken, as at the original hearing(s). Unless the City Council decides to hear the appeal de novo, only testimony regarding items already in the record is permitted, and no new information may be entered. In the case of an appeal, the Council may affirm, revise or reverse the action of the Planning Commission in all or in part. The Council may also remand the matter back to the hearing body for further consideration.
11. Prior to construction of the project, a preconstruction meeting is held with the City and all applicable utility and service providers. If required, this meeting must be held and approval of Plan set by all agencies, and payment of Canby System Development Charge (SDC) and construction excise tax to the City before issuance of any building permits for the project(s) by Clackamas County.

## **SITE AND DESIGN REVIEW – DCO TYPE III: STANDARDS AND CRITERIA**

1. The Board shall, in exercising or performing its powers, duties or functions, determine whether there is compliance with the intent of the following DCO site and design review standards:

### 16.41.070.A.1.

Design standards in this section are intended to help create an active, inviting street and sidewalk-facing storefronts and entryways that are friendly and easily accessible to passersby. They also will help ensure that the ground floor promotes a sense of interaction between activities in the building and activities in the public realm; and

### 16.41.070.B.1.

Build upon downtown Canby's traditional architectural vernacular by incorporating cohesive and repetitive architectural elements into the ground floor of street facing facades; and

### 16.41.070.C.1.

Build upon Canby's traditional downtown architecture by creating an attractive and unified building façade that celebrates ground floor activities, the top of the building (where the edifice meets the sky), and everything in between; and

### 16.41.070.D.1.

Create a strong architectural statement at street corners to create a strong identity. Establish visual landmarks and enhance visual variety; and

### 16.41.070.E.1.

Use building materials that evoke a sense of permanence and are compatible with Canby's business areas and the surrounding built environment; and

### 16.41.070.F.1.

Use colors and buildings that are generally compatible with Canby's business areas and the surrounding built environment.

2. The Board shall, in making its determination of compliance with the above requirements, be guided by the objectives and standards set forth in this section. If the site and design review plan includes utility facilities or public utility facility, then the City Planner shall determine whether those aspects of the proposed plan comply with applicable standards.
3. The Board shall, in making its determination of compliance with the requirements set forth, consider the effect of its action on the availability and cost of needed housing. The Board shall not use the requirements of this section to exclude needed housing types. However, consideration of these factors shall not prevent the Board from imposing conditions of approval necessary to meet the requirements of this section. The costs of such conditions shall not unduly increase the cost of housing beyond the minimum necessary to achieve the purposes of this ordinance.
4. As part of the site and design review, the property owner may apply for approval to cut trees in addition to those allowed in Section 12.20.080 of the City Tree Ordinance. The granting or denial of said application will be based on the criteria in Chapter 12.20 of the City Tree Ordinance. The cutting of trees does not in and of itself constitute change in the appearance of the property which would necessitate application for site and design review.



City of Canby  
 Planning Department  
 222 NE 2<sup>nd</sup> Avenue  
 P.O. Box 930  
 Canby, OR 97013  
 Ph: 503-266-7001  
 Fax: 503-266-1574

**LAND USE APPLICATION**

**Conditional Use Process Type III**

**APPLICANT INFORMATION:** *(Check ONE box below for designated contact person regarding this application)*

Applicant Name: New Cingular Wireless PCS LLC (AT&T) Phone: 425-222-1026  
 Address: 19801 SW 72nd Ave Ste 200 Email: \_\_\_\_\_  
 City/State: Tualatin, OR Zip: 97062

Representative Name: Smartlink LLC, Debbie Griffin Phone: 480-296-1205  
 Address: 11410 NE 122nd Way, Ste 102 Email: Debra.Griffin@smartlinkllc.com  
 City/State: Kirkland, WA Zip: 98034-6945

Property Owner Name: Lynx Land Holdings, LLC Phone: 503-363-7676  
 Signature: \_\_\_\_\_  
 Address: 1977 Claxter Road NE Email: \_\_\_\_\_  
 City/State: Salem, OR Zip: 97301

Property Owner Name: \_\_\_\_\_ Phone: \_\_\_\_\_  
 Signature: \_\_\_\_\_  
 Address: \_\_\_\_\_ Email: \_\_\_\_\_  
 City/State: \_\_\_\_\_ Zip: \_\_\_\_\_

*NOTE: Property owners or contract purchasers are required to authorize the filing of this application and must sign above*

- ① All property owners represent they have full legal capacity to and hereby do authorize the filing of this application and certify that the information and exhibits herewith submitted are true and correct.
- ② All property owners understand that they must meet all applicable Canby Municipal Code (CMC) regulations, including but not limited to CMC Chapter 16.49 Site and Design Review standards.
- ③ All property owners hereby grant consent to the City of Canby and its officers, agents, employees, and/or independent contractors to enter the property identified herein to conduct any and all inspections that are considered appropriate by the City to process this application.

**PROPERTY & PROJECT INFORMATION:**

<u>640 SW 2nd Avenue</u>	<u>.78 acres</u>	<u>31E33CC06500</u>
Street Address or Location of Subject Property	Total Size of Property	Assessor Tax Lot Numbers
<u>Pacific Pride Fueling</u>	<u>CM</u>	<u>C/M</u>
Existing Use, Structures, Other Improvements on Site	Zoning	Comp Plan Designation

New 130' Monofir and pre-fabricated equipment shelter within a fenced 25' x 30' lease area.  
 Describe the Proposed Development or Use of Subject Property

<u>DR 19-01, CUP 19-01, VAR 19-02</u>		<b>STAFF USE ONLY</b>		
	<u>7-3-19</u>	<u>rp/lf</u>		
FILE #	DATE RECEIVED	RECEIVED BY	RECEIPT #	DATE APP COMPLETE



City of Canby  
 Planning Department  
 222 NE 2<sup>nd</sup> Avenue  
 PO Box 930  
 Canby, OR 97013  
 (503) 266-7001

# CHECKLIST

## Conditional Use Process Type III

**All required application submittals detailed below must also be submitted in electronic format on a CD, flash drive or via email to: [PlanningApps@canbyoregon.gov](mailto:PlanningApps@canbyoregon.gov)**

Applicant City  
 Check Check

- One (1) copy of this application packet. The City may request further information at any time before deeming the application complete.
- Payment of appropriate fees – cash or check only. Refer to the city's Master Fee Schedule for current fees. Checks should be made out to the *City of Canby*.
- Please submit one (1) electronic copy of mailing addresses in either an EXCEL SPREADSHEET or WORD DOCUMENT for all property owners and all residents within 500 feet of the subject property. If the address of a property owner is different from the address of a site, an address for each unit on the site must also be included and addressed to "Occupant."** A list of property owners may be obtained from a title insurance company or from the County Assessor's office.
- One (1) copy of a written statement describing the Conditional Use Permit request, and detailing how your request meets the approval criteria. **Ask staff for applicable Municipal Code chapters and approval criteria.** Applicable Code Criteria for this application includes:  
See Attachment 2 - Statement of Code Compliance. Applicable Code Criteria includes: 16.30 CM Zone, 16.08.120 Wireless Communication Facilities, 16.08.100 Height Allowances, 16.08.110 Fences, 16.49 Site and Design Review, 16.50 Conditional Use, 16.53 Variances, 16.89 Application Review Procedures.
- One copy of either the recorded plat or the recorded deeds or land sales contracts that demonstrates how and when legal property lines were established and where the boundaries of the legal lot(s) of record are located. If the property is a lot or parcel created by plat, a copy of the recorded plat may be obtained from the Clackamas County Surveyor's office. If the property is a legal lot of record created by recorded deed or land sales contract at a time when it was legal to configure property lines by deed or contract, then those recorded deeds may be obtained from the Clackamas County Office of the Clerk, or a Title Company can also assist you in researching and obtaining deeds.
- If the development is located in a Hazard ("H") Overlay Zone, submit one (1) copy of an affidavit signed by a licensed professional engineer that the proposed development will not result in significant impacts to fish, wildlife and open space resources of the community. If major site grading is proposed, or removal of any trees having trunks greater than six inches in diameter is proposed, then submit one (1) copy of a grading plan and/or tree-cutting plan.
- Two (2) 11" x 17" paper copies** of the proposed plans, printed to scale no smaller than 1"=50'. The plans shall include the following information:
  - Vicinity Map.**
    - Vicinity map at a scale of 1"=400' showing the relationship of the project site to the existing street or road pattern.
  - Site Plan**-the following general information shall be included on the site plan:
    - Date, north arrow, and scale of drawing;



- Name and address of the developer, engineer, architect, or other individual(s) who prepared the site plan;
- Property lines (legal lot of record boundaries);
- Location, width, and names of all existing or planned streets, other public ways, and easements within or adjacent to the property, and other important features;
- Location of all jurisdictional wetlands or watercourses on or abutting the property;
- Finished grading contour lines of site and abutting public ways;
- Location of all existing structures, and whether or not they are to be retained with the proposed development;
- Layout of all proposed structures, such as buildings, fences, signs, solid waste collection containers, mailboxes, exterior storage areas, and exterior mechanical and utility equipment;
- Location of all proposed hardscape, including driveways, parking lots, compact cars and handicapped spaces, loading areas, bicycle paths, bicycle parking, sidewalks, and pedestrian ways;
- Callouts to identify dimensions and distances between structures and other significant features, including property lines, yards and setbacks, building area, building height, lot area, impervious surface area, lot densities and parking areas;
- Location of vision clearance areas at all proposed driveways and streets.

#### **Landscape Plan**

The following general information shall be included on the landscape plan:

- Layout and dimensions of all proposed areas of landscaping;
- Proposed irrigation system;
- Types, sizes, and location of all plants to be used in the landscaping (can be a "palette" of possible plants to be used in specific areas for landscaping);
- Identification of any non-vegetative ground cover proposed, and dimensions of non-vegetative landscaped areas;
- Location and description of all existing trees on-site, and identification of each tree proposed for preservation and each tree proposed for removal;
- Location and description of all existing street trees in the street right-of-way abutting the property, and identification of each street tree proposed for preservation and each tree proposed for removal.
- Elevations Plan** - The following general information shall be included on the elevations plan:
  - Profile elevations of all buildings and other proposed structures;
  - Profile of proposed screening for garbage containers and exterior storage areas;
  - Profile of proposed fencing.

#### **NA - Sign Plan.**

- Location and profile drawings of all proposed exterior signage.

#### **NA - Color and Materials Plan.**

- Colors and materials proposed for all buildings and other significant structures.

## **CONDITIONAL USE – TYPE III: APPLICATION PROCESS**

1. Prior to submitting an application, all applicants are encouraged to request a pre-application meeting with the City, or the City Planner may determine that a pre-application meeting is necessary after an application has been discussed or upon receipt of an application by the City. To schedule a pre-application meeting, an applicant must submit a completed pre-application form and set of preliminary plans to the Planning Department.

2. At the time an application is submitted to the City, payment of all required application processing fees is required. An application will not be accepted without payment of fees. City Staff can provide you with information concerning application fees.
3. Staff will check the application, making sure that it is complete and all fees are paid. Copies of the application materials are also routed to various City/State/County departments, as applicable, for their comments. The City Planner will accept or return the application with a written list of omissions within thirty (30) calendar days of the submittal.
4. Staff investigates the application, writes a staff report, issues public notice, notifies surrounding property owners, and makes all facts relating to the request available to the Planning Commission and all interested parties.
5. Prior to the public hearing, the City will prepare notice materials for posting on the subject property. Staff will post this material at least ten (10) days before the public hearing.
6. The staff report will be available to all interested parties at least seven (7) days prior to the hearing.
7. The Planning Commission holds a public hearing. The staff report is presented to the Commission. Testimony is presented by the applicant, proponents and opponents, followed by rebuttal from the applicant.
8. The Commission then issues findings of fact which support approval, approval with conditions, or denial of the application. A decision may be appealed to the City Council.
9. If the Planning Commission decision is appealed, City Council holds a public hearing. The staff report is presented and testimony taken, as at the original hearing(s). Unless the City Council decides to hear the appeal de novo, only testimony regarding items already in the record is permitted, and no new information may be entered. In the case of an appeal, the Council may affirm, revise, or reverse the decision of the Planning Commission in all or in part. The Council may also remand the matter back to the hearing body for further consideration.

## **CONDITIONAL USE PERMIT – TYPE III: STANDARDS AND CRITERIA**

Under Section 16.50.010 of the Canby Municipal Code, an application for CONDITIONAL USE PERMIT approval shall be evaluated based on the following standards and criteria:

- A. The proposal will be consistent with the policies of the Comprehensive Plan and the requirements of this title and other applicable policies of the city; and
- B. The characteristics of the site are suitable for the proposed use considering size, shape, design, location, topography, existence of improvements and natural features; and
- C. All required public facilities and services exist to adequately meet the needs of the proposed development; and
- D. The proposed use will not alter the character of the surrounding areas in a manner which substantially limits, or precludes the use of surrounding properties for the uses listed as permitted in the zone.



City of Canby  
 Planning Department  
 222 NE 2<sup>nd</sup> Avenue  
 P.O. Box 930  
 Canby, OR 97013  
 Ph: 503-266-7001  
 Fax: 503-266-1574

# LAND USE APPLIACTION

## MAJOR VARIANCE Process Type III

**APPLICANT INFORMATION:** (Check ONE box below for designated contact person regarding this application)

Applicant Name: New Cingular Wireless PCS LLC (AT&T) Phone: 425-222-1026  
 Address: 19801 SW 72nd Ave Ste 200 Email: \_\_\_\_\_  
 City/State: Tualatin, OR Zip: 97062

Representative Name: Smartlink LLC, Debbie Griffin Phone: 480-296-1205  
 Address: 11410 NE 122nd Way, Ste 102 Email: Debra.Griffin@smartlinkllc.com  
 City/State: Kirkland, WA Zip: 98034-6945

Property Owner Name: Lynx Land Holdings, LLC Phone: 503-363-7676  
 Signature: \_\_\_\_\_  
 Address: 1977 Claxter Road NE Email: \_\_\_\_\_  
 City/State: Salem, OR Zip: 97301

Property Owner Name: \_\_\_\_\_ Phone: \_\_\_\_\_  
 Signature: \_\_\_\_\_  
 Address: \_\_\_\_\_ Email: \_\_\_\_\_  
 City/State: \_\_\_\_\_ Zip: \_\_\_\_\_

*NOTE: Property owners or contract purchasers are required to authorize the filing of this application and must sign above*

- ① All property owners represent they have full legal capacity to and hereby do authorize the filing of this application and certify that the information and exhibits herewith submitted are true and correct.
- ② All property owners understand that they must meet all applicable Canby Municipal Code (CMC) regulations, including but not limited to CMC Chapter 16.49 Site and Design Review standards.
- ③ All property owners hereby grant consent to the City of Canby and its officers, agents, employees, and/or independent contractors to enter the property identified herein to conduct any and all inspections that are considered appropriate by the City to process this application.

**PROPERTY & PROJECT INFORMATION:**

<u>640 SW 2nd Avenue</u>	<u>.78 acres</u>	<u>31E33CC06500</u>
Street Address or Location of Subject Property	Total Size of Property	Assessor Tax Lot Numbers
<u>Pacific Pride Fueling</u>	<u>CM</u>	<u>C/M</u>
Existing Use, Structures, Other Improvements on Site	Zoning	Comp Plan Designation

New 130' Monofir and pre-fabricated equipment shelter within a fenced 25' x 30' lease area.  
 Describe the Proposed Development or Use of Subject Property

STAFF USE ONLY				
FILE #	DATE RECEIVED	RECEIVED BY	RECEIPT #	DATE APP COMPLETE

## MAJOR VARIANCE APPLICATION – TYPE III

**All required application submittals detailed below must also be submitted in electronic format on a CD, flash drive or via email to: [PlanningApps@canbyoregon.gov](mailto:PlanningApps@canbyoregon.gov)**

Applicant City  
Check Check

- One (1) copy of this application packet. The City may request further information at any time before deeming the application complete.
- Payment of appropriate fees – cash or check only. Refer to the city’s Master Fee Schedule for current fees. Checks should be made out to the *City of Canby*.
- Please submit one (1) electronic copy of mailing addresses in either an EXCEL SPREADSHEET or WORD DOCUMENT** for all property owners and all residents within 500 feet of the subject property. If the address of a property owner is different from the address of a site, an address for each unit on the site must also be included and addressed to “Occupant.” A list of property owners may be obtained from a title insurance company or from the County Assessor’s office.
- One (1) copy of a written, narrative statement describing the proposed development and detailing how it conforms with the Municipal Code and to the approval criteria, including the applicable Design Review Matrix, and availability and adequacy of public facilities and services. **Ask staff for applicable Municipal Code chapters and approval criteria.**  
Applicable Code Criteria for this application includes:  
See Attachment 2 - Statement of Code Compliance. Applicable Code Criteria includes:  

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16.30 CM Zone, 16.08.120 Wireless Communication Facilities, 16.08.100 Height Allowances, 16.08.110 Fences,  

---

16.49 Site and Design Review, 16.50 Conditional Use, 16.53 Variances, 16.89 Application Review Procedures  

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- Three (3) copies of a Traffic Impact Study (TIS), conducted or reviewed by a traffic engineer that is contracted by the City and paid for by the applicant (**payment must be received by the City before the traffic engineer will conduct or review a traffic impact study.**)  
Ask staff to determine if a TIS is required.
- One (1) copy in written format of the minutes of the neighborhood meeting as required by Municipal Code 16.89.020 and 16.89.070. The minutes shall include the date of the meeting and a list of attendees.
- One copy of either the recorded plat or the recorded deeds or land sales contracts that demonstrates how and when legal property lines were established and where the boundaries of the legal lot(s) of record are located. If the property is a lot or parcel created by plat, a copy of the recorded plat may be obtained from the

Applicant City  
Check Check

Clackamas County Surveyor's office. If the property is a legal lot of record created by recorded deed or land sales contract at a time when it was legal to configure property lines by deed or contract, then those recorded deeds may be obtained from the Clackamas County Office of the Clerk, or a Title Company can also assist you in researching and obtaining deeds.

- Two (2) 11" x 17" paper copies of the proposed plot plan drawn to an engineer's scale no smaller than 1"=50'. The plot plan shall include the following information:
- A. All legal lot lines, north arrow, lot size and dimensions, location of public and private easements, and location and names of all adjacent streets.
  - B. Any major topographic or landscape features, driveways, wells, septic tanks, drain fields, and jurisdictional watercourses or wetlands on or abutting the property. As a reminder, the property owner is responsible for meeting all state/federal wetland and waterway regulations.
  - C. Location and description of all existing and proposed structures. Call out the distance between the structures and lot lines, and clearly illustrate the variance that is being requested.

### **MAJOR VARIANCE – TYPE III: APPLICATION PROCESS**

1. Prior to submitting an application, all applicants are encouraged to request a pre-application meeting with the City, or the City Planner may determine that a pre-application meeting is necessary after an application has been discussed or upon receipt of an application by the City. To schedule a pre-application meeting, an applicant must submit a completed pre-application form and set of preliminary plans to the City Planner, and after receiving the Planner's initials, must then make and take 16 copies of the pre-application materials to the Canby Public Works Department to schedule the pre-application meeting. The City does not charge a fee for a pre-application meeting.
2. At the time an application is submitted to the City, payment of all required application processing fees is required. An application will not be accepted without payment of fees. City Staff can provide you with information concerning application fees.
3. Staff will check the application, making sure that it is complete and all fees are paid. Copies of the application materials are also routed to various City/State/County departments, as applicable, for their comments. The City Planner will accept or return the application with a written list of omissions within thirty (30) calendar days of the submittal.
4. Staff investigates the application, writes a staff report, issues public notice, notifies surrounding property owners, and makes all facts relating to the request available to the Planning Commission and all interested parties.

5. Prior to the public hearing, the City will prepare notice materials for posting on the subject property. This material will be posted **by staff** at least ten (10) days before the public hearing.
6. The staff report will be available to all interested parties seven (7) days prior to the hearing.
7. The Planning Commission holds a public hearing. The staff report is presented to the Commission. Testimony is presented by the applicant, proponents and opponents, followed by rebuttal from the applicant.
8. The Commission then issues findings of fact which support approval, approval with conditions, or denial of the application. A decision may be appealed to the City Council.
9. If the Planning Commission decision is appealed, City Council holds a public hearing. The staff report is presented and testimony taken, as at the original hearing(s). Unless the City Council decides to hear the appeal de novo, only testimony regarding items already in the record is permitted, and no new information may be entered. In the case of an appeal, the Council may affirm, revise, or reverse the decision of the Planning Commission in all or in part. The Council may also remand the matter back to the hearing body for further consideration.

### **MAJOR VARIANCE – TYPE III: STANDARDS AND CRITERIA**

Under Section 16.53.020 of the Canby Municipal Code, an application for MAJOR VARIANCE approval shall be evaluated based on the following standards and criteria:

- A. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the City and within the same zone. These exceptional or extraordinary circumstances result from tract size or shape, topography or other circumstances over which the owners of the property have no control. Actions of previous owners do not constitute other exceptional or extraordinary circumstances; and
- B. The variance is necessary to assure that the applicant maintains substantially the same property rights as are possessed by the owners of other property in the city and within the same zone; and
- C. Granting this variance will not be materially detrimental to the intent or purposes of the city's Comprehensive Plan or the Land Development and Planning Ordinance; and
- D. Granting this variance will not be materially detrimental to other property within the same vicinity; and
- E. The variance requested is the minimum variance which will alleviate the hardship; and
- F. The exceptional or unique conditions of the property which necessitate the issuance of a variance were not caused by the applicant, or the applicant's employees or relatives.

**PROJECT NARRATIVE  
CONDITIONAL USE PERMIT, SITE AND DESIGN REVIEW, and  
VARIANCE REQUEST APPLICATION  
AT&T—PW34 CANBY HS**

Submitted to City of Canby, OR  
Planning Division

**Applicant:** New Cingular Wireless PCS, LLC (“AT&T”)  
19801 SW 72<sup>nd</sup> Avenue Suite 200  
Tualatin, OR 97062  
(425) 222-1026

**Representative:** Smartlink, LLC  
11410 NE 122<sup>nd</sup> Way, Suite 102  
Kirkland, WA 98034-6945  
**Contact:** Debbie Griffin  
480.296.1205  
Debra.Griffin@smartlinkllc.com

**Property-Owner:** Lynx Land Holdings LLC  
**Contact:** Peter Nelson  
1977 Claxter Road NE  
Salem, OR 97301

**Project Address:** 640 SW 2<sup>nd</sup> Avenue, Canby OR 97013

**Description & Tax Lot:** GPS Coordinates: 45.259121, -122.698288  
Tax Lot Number: 31E33CC06500

**Zoning Classification:** Heavy Commercial/ Manufacturing (C-M)

Smartlink, LLC is submitting this application on behalf of New Cingular Wireless PCS, LLC (“AT&T”) and the underlying property owner.

**1. PROJECT OVERVIEW**

AT&T is upgrading and expanding its wireless communications network to support the latest 4G LTE technology. As part of this network upgrade, AT&T is proposing to build a new wireless telecommunications system facility (“WTS” and/or “Facility”), PW34 Canby HS, located at 640 SW 2<sup>nd</sup> Avenue in Canby, OR. The proposed new Facility is a service coverage and capacity site. Currently, portions of OR-99E/Pacific Highway E in Canby have minimal to no 4G voice service and AT&T’s existing coverage in the area is at or near its capacity and is insufficient for the volume of traffic (*i.e.* though this area already has AT&T coverage, additional capacity is needed to service the volume of users).

The proposed new Facility meets AT&T's service objectives to provide sufficient continuous and uninterrupted outdoor, in-vehicle, and in-building wireless service within the Targeted Service Area, resulting in fewer dropped calls, improved call quality, and improved access to additional wireless services the public now demands (this includes emergency 911 calls).

AT&T intends for its application for the proposed WCF to include the following documents (collectively, "AT&T's Application"):

- Attachment 1—Project Narrative
- Attachment 2—Statement of Code Compliance
- Attachment 3—RF Justification
- Attachment 4—AT&T NIER Report
- Attachment 5—Photo Simulations
- Attachment 6—FCC License
- Attachment 7—FAA TOWAIR Report Determination
- Attachment 8—Letter of Authorization and Lease agreement
- Attachment 9—Deed
- Attachment 10—Tower Removal Bond
- Attachment 11—Pre-application meeting minutes
- Attachment 12—Neighborhood meeting sign in sheet and summary
- Attachment 13—500ft Mailing list
- Attachment 14—Zoning Drawings

As shown in AT&T's Application, this proposed project meets all applicable Canby Municipal Code ("CMC") criteria for siting new wireless communications facilities and complies with all other applicable state and federal laws and regulations. AT&T's proposal is also the least intrusive means of meeting its service objectives for this site. Accordingly, AT&T respectfully requests the city to approve this project as proposed, subject only to the city's standard conditions of approval for similar proposals.

**Please Note:** All references to "Attachments" in this Project Narrative are in reference to the above-noted attachments included as part of AT&T's Application.

## **2. PROPOSED PROJECT DETAILS**

### **2.1 Subject Property**

Detailed information regarding the subject property and proposed Facility is included in **Attachment 14—Zoning Drawings**.

#### **2.1.1 Proposed location; zoning.**

- **Subject property.** The subject property of this proposal is located at 640 SW 2<sup>nd</sup> Avenue., in the City of Canby (the "Property"). The Property is owned by Lynx Land Holdings, LLC.



- **Zoning—Use.** The Property is zoned as Heavy Commercial/ Manufacturing (C-M) and is currently used as a Pacific Pride Fueling Station.

### **2.1.2 Lease area.**

- The proposed 25-foot x 30-foot lease area for the WTS is located on the northwest corner of the existing parking lot on the Property (the “Lease Area”).
- The Lease Area will be surrounded by a site-obscuring 6-foot chain link fence with brown privacy slats.
- The Lease Area will be secured with a locked 12-foot gate.

### **2.1.3 Access and parking.**

- **Access.** Access to the Lease Area will be from SW 2<sup>nd</sup> Avenue to the south.
- **Parking.** Maintenance vehicles will be able to utilize the existing parking lot on the Property.
- **Trip generation.** The WTS use will require approximately one trip per month for maintenance visits provided by personnel in a single vehicle. The proposed Facility will have no impact on existing vehicular access to and from the proposed site, or to pedestrian, bicycle, and transit circulation.

### **2.1.4 Utilities.**

- **Power.** Power will run from the existing transformer located within the Lease Area.
- **Telecommunications.** Telecommunications fiber will run from the existing fiber vault located next to the Lease Area.
- **Water & Sewer.** This is an unmanned facility with no requirements for access to water or sewer facilities.

## **2.2 Wireless Facilities and Equipment**

Specifications of the facilities outlined below, including a site plan, can be found in **Attachment 14—Zoning Drawings**.

### **2.2.1 Tower design.**

- AT&T proposes to install a new 130-foot stealth monopole tower within the Lease Area utilizing a stealth design to resemble a fir tree, commonly referred to as a “monofir” (the “Tower”). In addition to the tree branches, the monofir support structure (pole) will be painted brown, and the antennas, RRUs, and accessory equipment on the Tower will be painted green to match the branches. All paint will have an anti-glare finish.
- The proposed overall height of the Tower is 130-feet. The height of the monofir support structure and antennas will be 124-feet. The additional 6ft of height, for an overall height of 130ft, is an allowance for camouflaging branches to fully encompass the antennas and add a more natural taper to the monofir design
- The Tower will be engineered to meet all international building code and ANSI structural requirements applicable to the proposed Tower. Additionally, because of the setback variance request (outlined below), 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).

- Sufficient space will be made available on the Tower for a minimum of one (1) additional antenna array for future collocation.
- No artificial lighting of the Tower is required or proposed.

**2.2.2 Tower equipment.** The Tower will contain the following AT&T 4G LTE equipment:

- Twelve (12) Panel Antennas
- Twelve (12) Remote Radio Head (RRH) units
- Three (3) Surge Protectors
- Fiber/ DC Cables

**2.2.3 Ground equipment.**

- All ground equipment will be constructed within the Lease Area.
- The ground equipment will be installed in a pre-fabricated 8-foot by 16-foot walk-in cabinet (“WIC”) shelter.
- A diesel generator (for secondary power) will be installed next to the WIC shelter.

**2.2.4 Landscaping & screening.**

- The proposed stealth design of the Tower is intended to minimize the visual impact from adjoining properties and the surrounding environment, while blending in with the surrounding vegetation.
- There are two existing trees, approximately 30-45-feet tall, on the Property immediately south of the proposed Lease Area that will serve to help screen the Facility from SW 2nd Avenue.
- Drought resistant landscaping is also proposed to be installed along the southern side of the Lease Area to help screen the Facility from SW 2nd Avenue.
- There are heavy commercial use buildings to the north of the Lease Area, in between Highway 99E and the Tower, which will help screen the Facility. There is also an existing heavy commercial use building and outdoor storage to the west of the Lease Area, which will also help screen the Tower from surrounding uses.
- As noted, the ground equipment enclosure will be surrounded and screened by a site obscuring 6-foot high chain-link fence with brown privacy slats.

### **3. AT&T NETWORK COVERAGE AND SERVICES**

#### **3.1. Overview—AT&T 4G LTE**

AT&T is upgrading and expanding its wireless communications network to support the latest 4G LTE technology. LTE stands for “Long Term Evolution.” This acronym refers to the ongoing process of improving wireless technology standards, which is now in its fourth generation. With each generation

comes improvement in speed and functionality—4G LTE offers speeds up to ten times faster than 3G. LTE technology is the next step in increasing broadband speeds to meet the demands of uses and the variety of content accessed over mobile networks.

Upon completion of this update, AT&T will operate a state-of-the-art digital network of wireless communications facilities throughout the proposed coverage area as part of its nationwide wireless communications network.

### **3.2. Service Objectives and Targeted Service Area for Proposed Facility**

The proposed new Facility is a service coverage and capacity site. Currently, portions of OR-99E/Pacific Highway E in Canby have minimal to no 4G voice service and AT&T's existing coverage in the area is at or near its capacity and is insufficient for the volume of traffic (*i.e.* though this area already has AT&T coverage, additional capacity is needed to service the volume of users).

Accordingly, the proposed new Facility is intended to provide new 4G LTE coverage in Canby generally from Ivy Street—from Canby Village to the north and south to S. Vale Garden Road—southwest to the Molalla River Bridge, as well as additional 4G LTE capacity enhancements along OR-99E approximately from Ivy Street southwest to S. Barlow Street (including Canby High School and other businesses along OR-99E) (collectively, the "Targeted Service Area"). The proposed new Facility meets AT&T's service objectives to provide sufficient continuous and uninterrupted outdoor, in-vehicle, and in-building wireless service within the Targeted Service Area, resulting in fewer dropped calls, improved call quality, and improved access to additional wireless services the public now demands (this includes emergency 911 calls).

This service objective and Targeted Service Area was determined by AT&T's RF engineers through a combined analysis of market demand, customer complaints, service requests, and RF engineering design (including SINR metrics).

## **4. SEARCH RING**

AT&T's RF engineers performed an RF engineering study—considering multiple objectives—to determine the approximate site location and antenna height required to best fulfill the noted service objectives within the Targeted Service Area. From this study, AT&T's RF engineers identified a "search ring" area where a new wireless facility may be located to provide effective service in the Targeted Service Area.

As this is a service capacity site intended to offload capacity in a specific area, the proposed new Facility must be located within the identified search ring to be able to establish a dominant signal within the Targeted Service Area—*i.e.* the proposed new Facility will provide service to users' handsets and prevent them from communicating with AT&T's existing facility, thereby relieving some of the burden on the existing facility by offloading users' data requirements to the proposed new Facility. Accordingly, placing additional equipment on AT&T's existing facility to the NW of the proposed site is not a viable option, as the existing facility is too far away to provide sufficient capacity relief required in the Targeted Service Area.

The search ring established for this proposal, and a description of the methodology used to identify the search ring, is provided in **Attachment 3—RF Justification, Figure A**.

## **5. ALTERNATIVE SITE ANALYSIS**

AT&T considers all siting possibilities within, and adjacent to, a search ring to determine the best location for a new facility to meet the targeted service objectives. AT&T will first attempt to utilize an existing tower or structure for collocation at the desired antenna height. If an existing tower or structure is not available or determined to be infeasible, AT&T will then propose a new tower.

For this proposed WCF, AT&T's construction and real estate group, with the assistance of outside consultants, thoroughly analyzed all siting options.

### **5.1. Proposed Location**

The antenna site must be located in an area where the radio frequency broadcasts will provide adequate coverage within the Targeted Service Area. Because radio frequency broadcasts travel in a straight line and diminish as they travel further away from the antennas, it is generally best to place an antenna site near the center of the desired coverage area. As shown in **Attachment 3—RF Justification**, portions of OR-99E/Pacific Highway E in Canby have minimal to no 4G voice service and AT&T's existing coverage in the area is at or near its capacity and is insufficient for the volume of traffic (*i.e.* though this area already has AT&T coverage, additional capacity is needed to service the volume of users). The proposed location is the only available property within the search ring that will meet AT&T's service objectives.

As the proposed new Facility is intended to provide new coverage and enhance existing capacity, height and location play an important role. The proposed antenna tip height was determined by considering various factors such as the height of surrounding wireless sites, ground elevation, obstructions to the signal, and the surrounding terrain. Accordingly, the proposed 124ft antenna tip height is the minimum necessary to best meet AT&T's service objectives within the Targeted Service Area. A lower antenna tip height at this location would not provide as effective capacity improvement within the Targeted Service Area along OR-99E as compared to the proposed antenna tip height (*see Figure C.2, in Attachment 3—RF Justification*). The proposed antenna tip height is also the height where an AT&T wireless device can be reliably used to make and receive telephone calls and use data service in the presence of varying signals.

### **5.2. Alternative Site Analysis**

#### **5.2.2 Preferred Sites (M-1, M-2).**

- **M-1.** There are no M-1 zoned parcels within AT&T's targeted search ring. (*See Attachment 3—RF Justification*) The M-1 zoned parcels along Hwy 99E northwest of the search ring and along SW Berg Parkway are too far outside AT&T's targeted search ring and not suitable locations to meet AT&T's service objectives within the Targeted Service Area. (*See the Alternative Site Analysis in Attachment 3—RF Justification*). Furthermore, the owners of the parcels in the M-1 zone along SW Berg Parkway were unresponsive to our inquiries regarding locating a WCF on their property.

- **M-2.** Only a small portion of an M-2 zone is located within the targeted search ring for AT&T's proposed WTS. (See **Attachment 3—RF Justification**)

- **Attached Facilities / Collocation.** No existing structures within the M-2 zone in or adjacent to the search ring are suitable for attaching antennas as they are not tall enough to meet AT&T's service objectives in the Targeted Service Area (the structures are pre-dominantly only one-story). (See **Attachment 3—RF Justification**, which demonstrates that even a 100ft antenna tip height at the location of the proposed WTS would be insufficient to meet AT&T's service objectives within the Targeted Service Area.) There are no existing wireless towers available for collocation within the M-2 zone in or adjacent to the search ring.

- **Monopoles.** There are no available locations within the M-2 zone in or adjacent to the search ring that are set back more than 660ft from Hwy 99E or a residential zone (as indicated in **Attachment 3—RF Justification**, the minimum antenna tip height needed within the targeted search ring is 124ft).

- **Lattice Tower.** There are no available locations within the M-2 zone in or adjacent to the search ring that are set back more than 660ft from Hwy 99E or a residential zone.

- **Stealth Tower.** There are no available locations within the M-2 zone in or adjacent to the search ring that are set back more than 660ft from Hwy 99E or a residential zone.

### 5.2.3 Acceptable Sites (C-2, C-M)

- The majority of the targeted search ring is comprised of the C-2 and C-M zones. The proposed new WTS is located within the C-M zone pursuant to the tower setback variance request in Section 6, herein.

- **Attached Facilities / Collocation.** No existing structures within the C-2 or C-M zones in or adjacent to the targeted search ring are suitable for attaching antennas as they are not tall enough to meet AT&T's coverage objectives (the structures are pre-dominantly only one-story). (See **Attachment 3—RF Justification**, which demonstrates that even a 100ft antenna tip height would be insufficient to meet AT&T's service objectives within the Targeted Service Area.) There are no existing wireless towers available for collocation within the C-2 and C-M zones in or adjacent to the search ring.

- **Monopoles.** There are no available locations within the C-2 or C-M zones in or adjacent to the search ring that are set back more than 660ft from Hwy 99E or a residential zone (as indicated in **Attachment 3—RF Justification**, the minimum antenna tip height needed within the targeted search ring is 124ft).

- **Lattice Tower.** There are no available locations within the C-2 or C-M zones in or adjacent to the search ring that are set back more than 660ft from Hwy 99E or a residential zone.

- **Stealth Tower.** There are no available locations within the C-2 or C-M zones in or adjacent to the search ring that meet the tower height setback requirement *and* meet AT&T's service objectives within the Targeted Service Area.

Specifically, AT&T identified and evaluated two possible alternative site locations for a stealth tower:

- **Alternative Site #1:** Wholesale nursery property located in the C-2 zone just outside the search ring, approximately 0.34 miles southwest of the proposed WTS (45.254802/ -122.701481)— (“Alternative Site #1”). Alternative Site #1 is not a suitable option for locating a new facility because a tower at this location would not provide as effective capacity improvement within the Targeted Service Area along OR-99E as compared to the proposed new Facility. (See the Alternative Site Analysis Section of **Attachment 3—RF Justification**)
  
- **Alternative Site #2:** Restaurant property located in a C-M zone adjacent to the search ring, approximately 0.44 miles west of the proposed WTS (45.256168/ -122.70642) (“Alternative Site #2”). Alternative Site #2 is not a suitable option for locating a new facility because a tower at this location would not provide as effective capacity improvement within the Targeted Service Area along OR-99E as compared to the proposed new Facility. (See the Alternative Site Analysis Section of **Attachment 3—RF Justification**)

**5.2.4 Conditionally Suitable Sites.** Because AT&T’s proposed site is in a higher preference location, no Conditionally Suitable Sites in the C-R, C-C, or C-1 zoning districts were evaluated by AT&T.

## **6. GENERAL VARIANCE REQUEST—SETBACKS**

### **6.1. Variance Request.**

AT&T is respectfully requesting a variance from the setback requirements of CMC 16.08.120(C)(3)(c) as applied to the proposed WTS. Specifically, AT&T is requesting a variance to the tower setback requirement on two sides of the proposed Facility as indicated in **Attachment 14—Zoning Drawings**.

### **6.2. Criteria for Variance Approval.**

The above variance request complies with the general variance criteria of CMC 16.53.020 as follows:

**A. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the city and within the same zone. These exceptional or extraordinary circumstances result from tract size or shape, topography or other circumstances over which the owners of the property have no control. Actions of previous owners do not constitute other exceptional or extraordinary circumstances.**

AT&T’s radio frequency (“RF”) engineers performed an RF engineering study, considering multiple objectives, to determine the approximate site location and antenna height required to fulfill the noted network objectives for the Targeted Service Area. From this study, AT&T’s RF engineers identified a “search ring” area where a WCF may be located to provide effective service in the Target Service Area. As demonstrated in **Attachment 3 – RF Justification**, the search ring is rather

small, and the proposed location is able to meet AT&T's service objectives by providing new coverage and enhance existing capacity.

The sizes of the parcels available for locating a new cell tower within the identified search ring create an exceptional and extraordinary circumstance warranting approval of the requested setback variance. As noted in **Attachment 3—RF Justification**, the proposed location for the new WTS was selected because it is the best location to effectively meet AT&T's service objectives and needs within the Targeted Service Area. Additionally, the proposed 130ft height of the new Tower is the minimum height necessary to meet AT&T's service objectives within the Targeted Service Area. However, there is insufficient space on the proposed Property to setback the Tower at a distance equal to the height of the Tower (130-feet) without significantly reconfiguring the established footprint of the Property. Additionally, the property owner required the Lease Area to be located at the northwest corner of the parcel with as small a footprint as possible to allow vehicle traffic as much ingress/egress space as possible. Please also note that the building to the north of the proposed Lease Area is to be removed to allow the proposed WTS to be pushed further back from SW 2<sup>nd</sup> Avenue.

Essentially, the strict application of the CMC's WTS setback requirements would deprive AT&T of constructing a new WTS facility within the targeted search ring and providing the needed services within the Targeted Service Area.

**B. The variance is necessary to assure that the applicant maintains substantially the same property rights as are possessed by the owners of other property in the city and within the same zone.**

Approving this variance request is necessary to assure that AT&T maintains substantially the same property rights as others in the city and within the same zone as well as ensure that AT&T is treated the same as other wireless providers and is not effectively prohibited from providing needed wireless services. Requiring the restrictive setback on a stealth wireless facility that is inconsistent with the setback for other heavy commercial uses in the C-M zone (which are 20-foot or less) as well as with the setback requirements of other types of wireless facilities and would effectively prevent the proposed WTS from being built on the Property. It is also apparent that other wireless towers have been granted a variance from the siting requirements of CMC 16.08.120 (as evidenced by the 195ft lattice tower at 1233 1<sup>st</sup> Ave that is *not* set back at least 660ft of Hwy 99E, as required; and the 120ft monopole at 1004 NE 4<sup>th</sup> Ave that is within 660ft of Hwy 99E and a residential zone but is *not* under 100ft in height, as required).

**C. Granting of this variance will not be materially detrimental to the intent or purposes of the city's Comprehensive Plan or the Land Development and Planning Ordinance.**

Granting this variance request will not be materially detrimental to the intent or purposes of the City of Canby's Comprehensive Plan or the Land Development and Planning Ordinance. Specifically, this variance request and proposed WTS are consistent with the safety and aesthetic requirements of the Land Development and Planning Ordinance.

The proposed WTS is intended to blend in and fit within the existing footprint of the Property and surrounding uses. The WTS is proposed to be tucked in the northwest corner of the Property, adjacent to outdoor storage on the west side and north of two existing trees to the south. It will be stealth in design, a monofir, to blend in with the existing trees in the area. The Tower will be set back 206-feet 6-inches from the northern outer boundary property line, 280-feet 8-inches from the eastern outer boundary property line, 13-feet 6-inches from the western property line and 73-feet 1-inch from the southern property line as demonstrated on **Sheet C-1.1 in Attachment 14 – Zoning Drawings**. Additionally, as noted herein, the Tower will include a “break-point” design to ensure that in the extremely remote chance of a structural failure, the tower will collapse within a designated fall zone within an approved setback area.

**D. Granting of this variance will not be materially detrimental to other property within the same vicinity.**

Granting of this variance request will not be materially detrimental to other property within the same vicinity. The proposed WTS will not be a hinderance or out of place to the properties adjacent to the subject site as AT&T has mitigated the potential visual impact of the Facility by proposing the minimum height necessary to meet coverage objectives, utilizing a stealth design that is fitting of the surrounding environment and typical of the underlying use, and locating it within a zoning district that has much more impactful uses than the passive use of the proposed WTS.

**E. The variance requested is the minimum variance which will alleviate the hardship.**

The variance requested is the minimum variance that will alleviate the hardship and allow AT&T to provide new coverage and enhance existing capacity to the customers in the Targeted Service Area. As demonstrated in **Attachment 3—RF Justification**, the location of the proposed new WTS and necessary minimum antenna tip height is dictated by the size of the search ring targeted to meet the identified service objectives within the Targeted Service Area. Furthermore, AT&T is proposing to use all available stealth tower designs and engineering to ensure that the proposed WTS best meets the intent of the CMC’s aesthetic and safety provisions.

**F. The exceptional or unique conditions of the property which necessitate the issuance of a variance were not caused by the applicant, or the applicant's employees or relatives.**

The exceptional and unique conditions of the Property which necessitate the issuance of the requested variance were not caused by the applicant, AT&T, or the applicant’s employees or relatives. As noted, in identifying an acceptable location for the proposed WTS, AT&T has had to navigate existing zoning, parcel size, and property owner requirements to identify a location that best meets the city’s code requirements will also fulfilling AT&T’s service objectives within the Targeted Service Area.



## 7. APPLICABLE LAW

### 7.1. Local Codes

**7.1.1 Zoning and Development Standards.** Pursuant to City of Canby Zoning Ordinance, new WTS support towers in the Heavy-Commercial/ Manufacturing (C-M) zone are subject to a Conditional Use Permit and must comply with the criteria in CMC 16.08.120—Siting and review process for Wireless Telecommunications Systems Facilities. Please see **Attachment 2—Statement of Code Compliance** for AT&T’s demonstration of compliance with the applicable code.

**7.1.2 Comprehensive Plan.** The proposed facility satisfies several of the applicable goals and policies of the Canby Comprehensive Plan including, but not limited to the Land Use Element, Environmental Element, Public Facilities and Services Element, and Economic Development Element. Wireless services are key to growing urban areas. People rely on the ability to use their phones and other wireless devices at work and at home, both indoors and outdoors. As the population of the City of Canby increases and land development patterns change over time, the demand for urban services also increases and changes. These changes require that service providers, both public and private, plan for the provision of services in a coordinated manner.

- The proposed project forwards the intent of the Land Use Element, specifically Policy No. 1: “CANBY SHALL GUIDE THE COURSE OF GROWTH AND DEVELOPMENT SO AS TO SEPARATE CONFLICTING OR INCOMPATIBLE USES WHILE GROUPING COMPATIBLE USES.” The proposed WTS is consistent with the heavy-commercial and light manufacturing uses permitted in the C-M Zoning District. The project supports development and provides reliable communications services to a growing community, doing so in a manner that encourages future collocation of other providers in an inconspicuous manner on the same tower to limit the future construction of additional towers.
- The proposed project forwards the intent of Policy No. 1 of the Public Facilities and Services Element: “CANBY SHALL WORK CLOSELY AND COOPERATE WITH ALL ENTITIES AND AGENCIES PROVIDING PUBLIC FACILITIES AND SERVICES AND ENSURE THAT PUBLIC FACILITIES AND SERVICES ARE PROVIDED CONCURRENTLY WITH FUTURE DEVELOPMENT”. Though the proposed WTS is not a public facility, it will provide needed new and enhanced wireless services in a central commercial area of the city. The proposed WTS will also improve emergency responses in the Targeted Service Area through improved connectivity for making emergency calls and access to a more reliable 4G LTE network for first responders.
- Further, the proposed project forwards goals and policies of the Economic and Development Element, specifically the goal “TO DIVERSIFY AND IMPROVE THE ECONOMY OF THE CITY OF CANBY” by enhancing a public need - reliable wireless service - while preserving the characteristics of the area and thus promoting the efficient and orderly provision of urbanization. Furthermore, the proposed WTS supports the economy by providing a choice of wireless carriers in the area.

## 7.2. Federal Law

Federal law, primarily found in the Telecommunications Act of 1996 (“Telecom Act”), acknowledges a local jurisdiction’s zoning authority over proposed wireless facilities but limits the exercise of that authority in several important ways.

### 7.2.1 Local jurisdictions may not materially limit or inhibit.

The Telecom Act prohibits a local jurisdiction from taking any action on a wireless siting permit that “prohibit[s] or [has] the effect of prohibiting the provision of personal wireless services.” 47 U.S.C. § 332(c)(7)(B)(i)(II). According to the Federal Communications Commission (“FCC”) Order adopted in September 2018,<sup>1</sup> a local jurisdiction’s action has the effect of prohibiting the provision of wireless services when it “materially limits or inhibits the ability of any competitor or potential competitor to compete in a fair and balanced legal and regulatory environment.”<sup>2</sup> Under the FCC Order, an applicant need not prove it has a significant gap in coverage; it may demonstrate the need for a new wireless facility in terms of adding capacity, updating to new technologies, and/or maintaining high quality service.<sup>3</sup>

While an applicant is no longer required to show a significant gap in service coverage, in the Ninth Circuit, a local jurisdiction clearly violates section 332(c)(7)(B)(i)(II) when it prevents a wireless carrier from using the least intrusive means to fill a significant gap in service coverage. *T-Mobile U.S.A., Inc. v. City of Anacortes*, 572 F.3d 987, 988 (9th Cir. 2009).

- **Significant Gap.** Reliable in-building coverage is now a necessity and every community’s expectation. Consistent with the abandonment of land line telephones and reliance on only wireless communications, federal courts now recognize that a “significant gap” can exist based on inadequate in-building coverage. See, e.g., *T-Mobile Central, LLC v. Unified Government of Wyandotte County/Kansas City*, 528 F. Supp. 2d 1128, 1168-69 (D.Kan. 2007), *affirmed in part*, 546 F.3d 1299 (10<sup>th</sup> Cir. 2008); *MetroPCS, Inc. v. City and County of San Francisco*, 2006 WL 1699580, \*10-11 (N.D. Cal. 2006).

- **Least Intrusive Means.** The least intrusive means standard “requires that the provider ‘show that the manner in which it proposes to fill the significant gap in service is the least intrusive on the values that the denial sought to serve.’” 572 F.3d at 995, *quoting MetroPCS, Inc. v. City of San Francisco*, 400 F.3d 715, 734 (9<sup>th</sup> Cir. 2005). These values are reflected by the local code’s preferences and siting requirements.

### 7.2.2. Environmental and health effects prohibited from consideration.

Also, under the Telecom Act, a jurisdiction is prohibited from considering the environmental effects of RF emissions (including health effects) of the proposed site if the site will operate in compliance with federal regulations. 47 U.S.C. § 332(c)(7)(B)(iv). AT&T has included with this

<sup>1</sup> *Accelerating Wireless and Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, Declaratory Ruling and Third Report and Order, WT Docket No. 17-79, WC Docket No. 17-84, FCC 18-133 (rel. Sept. 27, 2018); 83 Fed. Reg. 51867 (Oct. 15, 2018) (“FCC Order”).

<sup>2</sup> *Id.* at ¶ 35.

<sup>3</sup> *Id.* at ¶¶ 34-42.

application a statement from its radio frequency engineers demonstrating that the proposed facility will operate in accordance with the Federal Communications Commission's RF emissions regulations. (See **Attachment 4—AT&T NIER Report**) 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 in this proceeding.

**7.2.3. No discrimination amongst providers.**

Local jurisdiction also may not discriminate amongst providers of functionally equivalent services. 47 U.S.C. § 332(c)(7)(B)(i)(I). A jurisdiction must be able to provide plausible reasons for disparate treatment of different providers' applications for similarly situated facilities.

**7.2.4. Shot Clock.**

Finally, the Telecom Act requires local jurisdictions to act upon applications for wireless communications sites within a "reasonable" period of time. 47 U.S.C. § 332(c)(7)(B)(ii). The FCC has issued a "Shot Clock" rule to establish a deadline for the issuance of land use permits for wireless facilities. 47 C.F.R. § 1.6001, *et seq.* A presumptively reasonable period of time for a local government to act on all relevant applications for a "macro" wireless facility on a new structure is 150 days. 47 C.F.R. § 1.6003(c)(1)(iv). The Shot Clock date is determined by counting forward 150 calendar days from the day after the date of submittal, including any required pre-application period. 47 C.F.R. § 1.6003(e).

***Pursuant to federal law, the reasonable time period for review of this application is 150 days.***

**STATEMENT OF CODE COMPLIANCE  
WCF CONDITIONAL USE, , SITE AND DESIGN REVIEW, and  
VARIANCE APPLICATION  
AT&T—PW34 Canby HS**

Submitted to the City of Canby, OR  
Planning Department

AT&T's application (the "Application") for a new wireless telecommunications system facility ("WTS" and/or "Facility") in the Heavy Commercial/Manufacturing (C-M) zone is subject to and complies with the following applicable provisions of the City of Canby's Municipal Code ("CMC"), which are addressed in this Statement of Code Compliance in the following order:

- I. **ZONING**
  - **CMC 16.30 C-M Heavy Commercial/ Manufacturing Zone**
  
- II. **WCF DEVELOPMENT & DESIGN REGULATIONS**
  - **16.08.120 CMC Wireless Communication Facilities**
  
- III. **GENERAL DEVELOPMENT & DESIGN REGULATIONS**
  - **16.08.100 CMC Height allowances**
  - **16.08.110 CMC Fences**
  
- IV. **PROCEDURES**
  - **16.49 Site and Design Review**
  - **16.50 Conditional Use**
  - **16.53 Variances**
  - **16.89 Application Review Procedures**

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

## I. ZONING

### 16.30.020 Conditional Uses

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Conditional uses in the C-M zone shall be as follows:

- A. A use permitted outright in an M-1 zone and not listed in section 16.30.010 or below;
- B. A use permitted conditionally in a C-1 or C-2 zone, other than dwelling units, and not listed in section 16.30.010 or below;
- C. Other light industrial uses as determined by the Planning Commission;
- D. Detached WTS facilities (monopole), equal to or over 100 feet in height (see 16.08.120); (Ord. 740 section 10.3.29(B), 1984; Ord. 981 section 28 & 29, 1997; Ord. 1237, 2007)

*Applicant Response: AT&T's proposed 130-foot monopir is located on a parcel in a C-M zone and falls under D of this section, detached WTS facilities equal to or over 100-feet in height.*

## II. WCF DEVELOPMENT AND DESIGN STANDARDS

### 16.08.120 Siting and review process for Wireless Telecommunications Systems Facilities.

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A. The purpose of this section is to provide standards and review process for wireless telecommunications systems facilities locating within the City of Canby. This purpose shall be realized by implementing new provisions of the Canby Land Development and Planning Ordinance that will:

1. Regulate the placement, appearance and number of wireless telecommunications systems facilities;
2. Ensure that the citizens of Canby will have access to a variety of wireless telecommunications systems and providers;
3. Reduce the visual impact of certain wireless telecommunications systems facilities by encouraging collocation;
4. Establish a graduated system of review that will expedite facilities placement in preferred locations; and
5. Implement the applicable provision of the Federal Telecommunications Act of 1996.

B. The siting and review process for WTS facilities is based on the type of facility (lattice, monopole, attached, stealth design or collocation) and its proposed location in a Preferred Site (M-1 or M-2 zoning districts), Acceptable Site (C-2 or C-M zoning districts), or Conditionally Suitable Site (C-R, C-C or C-1 zoning districts).

*Applicant Response: AT&T's proposed WTS facility is a stealth monopir design to look like a natural tree as shown in Attachment 5 – Photo Simulations. The proposed monopir is located on an Acceptable Site (C-M zoning).*

C. The development review process for wireless telecommunications systems (WTS) facilities shall be as follows:

1. Building and Electrical Permits only:
  - a. An attached WTS facility (existing structure, including collocation on cell tower), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on a Preferred Site or Acceptable Site, where the height of the attached WTS facility is no more than 10 feet higher than the existing structure.

b. A detached WTS facility (monopole), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on a Preferred Site, set back at least 660 feet from Highway 99E or land either planned or zoned for residential use, and less than 150 feet in height, including antennas.

c. A detached, stealth design WTS facility (monopole), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on an Acceptable Site, set back from all property lines a distance equal to or greater than the height of the tower, and less than 60 feet high.

***Applicant Response: AT&T's proposed Facility does not qualify for review under this process. Please see the Alternative Site Analysis discussion in Attachment 1—Project Narrative.***

2. Building and Electrical Permits, and Site and Design Review (16.49):

a. An attached WTS facility (existing structure, including collocation on cell tower), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on a Preferred Site or Acceptable Site, where the height of the attached WTS facility is more than 10 feet higher than the existing structure.

b. A detached WTS facility (monopole), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on a Preferred Site, set back at least 660 feet from Highway 99E or land either planned or zoned for residential use, and equal to or over 150 feet in height, including antennas.

c. A detached WTS facility (monopole), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on a Preferred Site, within 660 feet from Highway 99E or land either planned or zoned for residential use, and under 100 feet in height, including antennas.

d. A detached WTS facility (lattice tower), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on a Preferred Site, set back at least 660 feet from Highway 99E or land either planned or zoned for residential use, and under 150 feet in height, including antennas.

e. A detached, stealth design WTS facility (monopole), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on an Acceptable Site, set back from all property lines a distance equal to or greater than the height of the tower, and less than 100 feet high, including antennas.

***Applicant Response: AT&T's proposed Facility does not qualify for review under this process. Please see the Alternative Site Analysis discussion in Attachment 1—Project Narrative.***

3. Building and Electrical Permits, Site and Design Review (16.49), and Conditional Use Permit (16.50):

a. A detached WTS facility (monopole), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on a Preferred Site, within 660 feet from Highway 99E or land either planned or zoned for residential use, and equal to or over 100 feet in height, including antennas.

b. A detached WTS facility (lattice tower), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on a Preferred Site, set back at least 660 feet from Highway 99E or land either planned or zoned for residential use, and equal to or over 150 feet in height, including antennas.

c. A detached, stealth design WTS facility (monopole), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on an Acceptable Site, set back from all property

lines a distance equal to or greater than the height of the tower, including, unless it is demonstrated that locating the proposed facility within the required setback area will take advantage of an existing natural or artificial feature to conceal the facility or minimize its visual impacts, and equal to or over 100 feet high, with a maximum height of 130 feet.

***Applicant Response: The proposed WTS is a 130-foot stealth monofir located on an Acceptable Site (C-M zone). Accordingly, a Site and Design Review and Conditional Use Permit is required for the proposed facility. A variance has also been submitted to seek relief from the setback requirement noted above “setback from all property lines a distance equal to or greater than the height of the tower”. Please see the Alternate Site Analysis and Variance Request sections of Attachment 1—Project Narrative.***

d. An attached WTS facility (existing structure, including collocation on cell tower) on a Conditionally Suitable Site, including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, where the height of the attached WTS facility is no more than 10 feet higher than the existing structure.

D. Standards for siting WTS facilities shall be as follows:

1. Site and Design Review standards and criteria (section 16.49.040) shall apply to all WTS facilities requiring Site and Design approval.

***Applicant Response: Please see Applicant’s responses to section 16.49.040 herein.***

2. Conditional Use Permit standards and criteria (section 16.50.010) shall apply to all WTS facilities requiring Conditional Use Permit approval.

***Applicant Response: Please see Applicant’s responses to section 16.50.010 herein.***

3. All WTS facilities shall observe minimum lot size, lot coverage, building height and building setback requirements of the underlying zoning district unless specifically exempted or otherwise regulated by this section. Underground facilities may encroach upon required yards or may be placed in appropriate easements.

***Applicant Response: Please see Attachment 14—Zoning Drawings, Sheets C-1.1 and C-2, for demonstration of AT&T’s compliance with the minimum lot size, lot coverage, building height, and building setback requirements of the C-M zoning district. AT&T has submitted a variance request for relief from the setback requirement of 16.08.120(C)(3)(c) “setback from all property lines a distance equal to or greater than the height of the tower”.***

4. All detached WTS facilities shall be landscaped at the base of the towers/poles, and completely around the equipment shelters. The landscaping shall conform to the ODOT standards for plant size and spacing.

***Applicant Response: In addition to the 6-foot site obscuring chain-link fence, drought resistant landscaping will be provided along the southern side of the facility to screen the tower from SW 2<sup>nd</sup> Avenue. Please see Attachment 14—Zoning Drawings, Sheet C-2, for demonstration of AT&T’s compliance with this requirement. Additionally, a photo simulation showing the Facility screened by the landscaping and proposed site-obscuring fence can be found in Attachment 5—Photo Simulations, View 1.***

5. Lighting for all WTS facilities shall be as required by the FAA or recommended by ODOT Aeronautics Division. All other lighting must be deflected away from adjoining property.

***Applicant Response: AT&T is not currently proposing any illumination for the proposed Facility. Please see Attachment 7—FAA TOWAIR Determination, which indicates that the Facility is exempt from any FAA lighting requirements. If lighting is required by ODOT Aeronautics Division, AT&T will comply with any such requirements.***

6. All detached WTS facilities shall be screened from the public right-of-way and abutting property by a security fence or wall at least 6 feet in height consisting of chain link fencing with vinyl slats, solid wood fencing, concrete masonry unit block, or brick.

***Applicant Response: The Facility will be screened by a 6-foot site obscuring chain-link fence with brown non-reflective slats. Access to the Facility will be through a 12-foot wide locked gate. Please see Attachment 14—Zoning Drawings, Sheet C-2, for demonstration of AT&T’s compliance with this requirement.***

7. Attached WTS facilities shall be painted to match the color of the mechanical screen wall or building to which it is attached.

***Applicant Response: Not applicable, as the proposed WTS facility is a new support structure.***

8. Equipment shelters, buildings and cabinets housing radio electronics equipment shall be concealed, camouflaged or placed underground.

***Applicant Response: The proposed ground equipment shelter will be concealed by a 6-foot site obscuring chain-link fence with brown slats. Please see Attachment 14—Zoning Drawings, Sheet C-2, and Attachment 5—Photo Simulations for demonstration of AT&T’s compliance with this requirement.***

9. Any WTS facility sited on or designed with any of the following attributes shall first receive FCC approval, as specified in FCC Rules 1.1301 - 1.1319, as a condition of city approval prior to construction; Wilderness Area; Wildlife Preserve; Endangered Species; Historical Site; Indian Religious Site; Flood Plain; Wetlands; High Intensity White lights in residential neighborhoods; Excessive radio frequency radiation exposure.

***Applicant Response: Not applicable. AT&T’s proposed Facility is not sited or designed with any of the above listed attributes. Please see Attachment 4—AT&T NIER Report for demonstration of AT&T’s compliance with the FCC’s radio frequency radiation exposure.***

E. Application requirements for WTS facilities shall be as follows:

1. WTS providers whose proposals conforms with the provisions of subsection (C)(1) of this section (16.08.120) shall submit the following information with the application for permits:

a. A copy of that portion of the lease agreement (or lease memo) with the property owner, facility removal within 90 days of the abandonment and a bond to guarantee removal shall be submitted for review prior to development permit approval.

***Applicant Response: Please see Attachment 8—Redacted Lease Agreement as demonstration of AT&T’s compliance with this requirement. Additionally, please see Attachment 10—Tower Bond Removal as demonstration of AT&T’s compliance.***

b. A map of the city 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 city, or extending within the city from a distant location, and any existing detached WTS facilities of another provider within 1,000 feet of the proposed site.

***Applicant Response: Please see Attachment 3—RF Justification as demonstration of AT&T’s compliance with this requirement.***

c. A plot plan showing:

- i. The lease area;
- ii. Antenna structure;
- iii. Height above grade and setback from property lines;



- iv. Equipment shelters and setback from property lines;
- v. Access;
- vi. Connection point with land line system; and
- vii. All landscape areas associated with the WTS facility.

***Applicant Response: Please see Attachment 14 – Zoning Drawings, Sheets C-1.1 and C-2, for demonstration of AT&T’s compliance with this requirement.***

d. Anticipated capacity of the WTS facility (including number and types of antennas which can be accommodated). The method(s) of stealth design (where applicable).

***Applicant Response: Please see Attachment 14 - Zoning Drawings, Sheet C-2, which identifies the WTS facility as a stealth design, in the form of a monofir, and demonstrates AT&T’s proposed antennas and opportunity of one additional carrier.***

e. An engineer’s statement that the radio frequency emissions at grade, or at the nearest habitable space when attached to an existing structure comply with FCC rules for such emissions; the cumulative radio frequency emissions if collocated.

***Applicant Response: The proposal is for a new freestanding WTS. Please see Attachment 4—AT&T NIER Report for demonstration of AT&T’s compliance with radio frequency emissions.***

f. The radio frequency range in megahertz and the wattage output of the equipment.

***Applicant Response: The proposed WTS facility will use a 700 MHz frequency band. Please see Attachment 4—AT&T NIER Report for demonstration of this requirement.***

g. A description of the type of service offered (voice, data, video, etc.) and the consumer receiving equipment.

***Applicant Response: The proposed WTS facility will offer 4G LTE technology (voice, data, video, etc). The consumer will use mobile phones and wireless devices with the upgraded service. Please see Attachment 3—RF Justification for demonstration of this requirement.***

h. Identification of the provider and backhaul provider, if different.

***Applicant Response: Directlink is the backhaul provider on-site.***

i. A facilities maintenance regimen.

***Applicant Response: The WTS facility is a passive use and will require little maintenance. A cellular technician will visit the site approximately one time per month for maintenance and inspections.***

j. The zoning and comprehensive plan designation of the proposed site.

***Applicant Response: The zoning and comprehensive plan designation for the proposed site is C-M, Heavy Commercial/ Manufacturing.***

k. The FAA determination.

***Applicant Response: The proposed 130-foot monofir does not require FAA registration as demonstrated in Attachment 7—FAA TOWAIR Determination Report, and further demonstrates AT&T’s compliance with this requirement.***

l. The distance from the nearest WTS facility.

***Applicant Response: The nearest WTS facility is a 120-foot lattice tower owned by the Canby Telephone Association located approximately 0.4 miles east of the proposed new WTS (45.262030/ -122.691534).***

2. WTS providers whose proposals conforms with the provisions of subsection (C)(2) and (C)(3) of this section (16.08.120) shall submit, in addition to the requirements of 16.49.035 and/or 16.50.020 of the Land Development and Planning Ordinance, the following additional information:

a. Items in section (E) above.

***Applicant Response: The proposed WTS facility conforms with the provisions of subsection (C)(3) of subsection 16.08.120. The criterion in section 16.08.120 (E) has been addressed above.***

b. Alternatives for locating/relocating support structures within 250 feet of the proposed site.

***Applicant Response: AT&T determined that the location of the proposed site provides the best opportunity for the proposed WTS facility. There was only one other location for placement of the WTS facility within 250-feet of the proposed site, which was located at the east boundary of the subject property. The property owner preferred the proposed location because locating the facility at the eastern property boundary would require the WTS facility to be located closer to SW 2<sup>nd</sup> Avenue, which currently serves as parking for the Dairy Queen. All other locations north of the proposed lease area, within 250-feet, would place the WTS facility closer to Hwy 99E.***

c. Photo simulations of the proposed WTS facility from the four cardinal compass points and/or abutting right-of-way, whichever provides the most accurate representation of the proposed facility from a variety of vantage points.

***Applicant Response: AT&T has provided six view-points of the proposed Facility from a variety of vantage points. Please see Attachment 5—Photo Simulations for demonstration of AT&T’s compliance with this requirement.***

d. An engineer’s statement demonstrating the reasons why the WTS facility must be located at the proposed site (service demands, topography, dropped coverage, etc.).

***Applicant Response: Please see Attachment 3—RF Justification as demonstration of AT&T’s compliance with this requirement.***

e. An engineer’s statement demonstrating the reasons why the WTS facility must be constructed at the proposed height.

***Applicant Response: Please see Attachment 3—RF Justification as demonstration of AT&T’s compliance with this requirement.***

f. Verification of good faith efforts made to locate or design the proposed WTS facility to qualify for a less rigorous approval process (building permit and/or building permit and site and design review approval).

***Applicant Response: Please see the Alternative Site Analysis included in Attachment 1—Project Narrative for demonstration of AT&T’s compliance with this requirement.***

g. Private amateur radio (HAM) antennas, their support structures, and direct to home satellite receiving antennas are exempt from this section (16.08.120) but shall otherwise comply with the applicable provisions of the underlying zoning district in which they are located to the extent that such provisions comply with Federal Communications Commission policy. (Ord. 981 section 19, 1997)

***Applicant Response: Not applicable.***

### III. GENERAL DEVELOPMENT & DESIGN REGULATIONS

#### 16.08.100 Height allowances.

The following types of structures or structural posts are not subject to the building height limitations: chimneys, cupolas, tanks, church spires, belfries, derricks, fire and hose towers, flagpoles, water tanks, elevators, windmills, utility poles and other similar projections. The height of wireless telecommunications systems facilities shall be in accordance with section 16.08.120. (Ord. 740 section 10.3.05(J), 1984; Ord. 981 section 18, 1997)

*Applicant Response: Pursuant to CMC 16.08.120(3)(c), a maximum 130-foot tower height is allowed with the setback equal to the height of the tower. Accordingly, AT&T is proposing a 130-foot monofir tower. AT&T is also requesting a variance to seek relief from the required 130-foot setback. Please see Attachment 14—Zoning Drawings and the Variance Request section of Attachment 1—Project Narrative, for demonstration of AT&T's compliance with this requirement.*

#### 16.08.110 Fences.

A. Fences not more than three and one-half feet in height may be constructed within the street setbacks of any R-1, R-1.5, R-2 or C-1 zone. Fences not more than six feet in height may be constructed in any interior yard, rear yard, or street yard along an alley; provided, however, that in no case shall a fence be constructed in violation of the requirements of a vision clearance area.

*Applicant Response: AT&T is proposing to construct a 6-foot high fence around the Facility. Please see Attachment 14—Zoning Drawings for demonstration of AT&T's compliance with this requirement.*

B. On corner lots, the 3.5-foot height limit will apply within the required setback along both street-facing yards.

*Applicant Response: Not applicable.*

C. Arbors that are added to a fence that is constructed of proper design (height and setbacks) and in accordance with this section (16.08.110), are allowed with the following limitations:

**[REMAINDER OMITTED]**

*Applicant Response: Not applicable.*

D. No more than one row of fencing is allowed within a required street yard setback.

*Applicant Response: Not applicable.*

E. The Planning Commission may require sight-blocking or noise mitigating fences for any development it reviews.

*Applicant Response: AT&T's proposal is for a 6-foot chain link fence with brown privacy slats to screen the base of the WTS and equipment area. AT&T's acknowledges additional requirements may be required.*

F. The Planning Commission may require fences of up to eight feet in height for any development in C-2, C-M, M-1 or M-2, or Planned Unit Development zones.

*Applicant Response: AT&T's proposal is for a 6-foot chain link fence with brown privacy slats to screen the base of the WTS and equipment area. AT&T acknowledges an 8-foot fence may be required.*

G. No fence/wall shall be constructed throughout a subdivision, planned unit development or be part of a project that is/was subject to site and design review approval where the effect or purpose is to wall said project off from the rest of the community unless reviewed and approved by the Planning Commission. (Ord. 890 section 8, 1993; Ord. 740 section 10.3.05(K), 1984; Ord. 955 section 2, 1996; Ord. 981 section 43, 1997)

*Applicant Response: Not applicable.*

H. In all zones, private fences along a public pedestrian/bicycle pathway shall comply with the following in order to provide security and visibility for pathway users while maintaining privacy for the residence.

1. Fencing installed as part of a new subdivision shall comply with either (a) or (b) below.
2. Fencing installed by a property owner on an individual lot shall comply with either (a), (b), or (c) below.
  - a. Solid fencing shall be no greater than four (4) feet in height; or
  - b. Fencing shall be constructed with black open wire material, wooden slats, or some other material that allows visual access between the pathway and adjacent uses; or
  - c. Solid fencing shall be set back at least three (3) feet from the property line that abuts the pathway. (Ord 1338, 2010)

***Applicant Response: Not applicable.***

### **16.30.030 Development standards.**

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The following subsections indicate the required development standards of the C-M zone:

A. Minimum lot area: none.

B. Minimum width and frontage: none.

C. Minimum yard requirements:

1. Street yard: twenty feet where abutting Highway 99-E and S. Ivy Street. Gas station canopies shall be exempted from the twenty-foot setback requirements. Remaining property none, except ten feet where abutting a residential zone. Sign setbacks along Highway 99-E and S. Ivy Street are to be measured from the face of the curb rather than the lot line. Where no curb exists, the setback shall be measured from the property line. Other than signs which are nonconforming structures and street banners which have been approved per the requirements of the Uniform Sign Code, no signs will be allowed to be located within, or to project over, a street right-of-way.

2. Interior yard: none, except ten feet where abutting a residential zone.

***Applicant Response: The provisions of this subsection C are not applicable. Pursuant to CMC 16.08.110(3)(c), a WTS must be setback a distance equal to the height of the tower. The WTS, as proposed, does n, therefore, 130-foot for the proposed site. AT&T has submitted a variance request to seek relief from the required setbacks. The proposed setbacks are demonstrated in Attachment 14 - Zoning Drawings, Sheet C-1.1.***

D. Maximum building height:

1. Freestanding signs: thirty feet;

2. All other structures: forty-five feet.

***Applicant Response: The provisions of this subsection D are applicable. Pursuant to CMC 16.08.110, WTS facilities are exempt from the underlying zoning's height requirement and are instead subject to the height requirements of CMC 16.08.120. Pursuant to CMC 16.08.120, the proposed WTS meets the 130-foot height limitation, as demonstrated on Sheet C-2 in Attachment 14 - Zoning Drawings.***

E. Maximum lot coverage: sixty percent.

***Applicant Response: The proposed lot coverage of the Facility is 10.5%. Please see Attachment 14—Zoning Drawings, Sheet C-1.1, for demonstration of AT&T's compliance with the maximum lot coverage.***

F. Other regulations:

1. Vision clearance distances shall be fifteen feet from any alley or driveway and thirty feet from any other street or railroad.
2. Except in cases where existing building locations or street width necessitate a more narrow design, sidewalks eight feet in width shall be required:
  - a. In those locations where angle parking is permitted abutting the curb, and
  - b. For property frontage along Highway 99-E.
3. All setbacks to be measured from the foundation line of the building. Overhangs shall not exceed two feet. (Ord 830 section 9, 10, 1989; Ord. 802 section 7 [part], 1987; Ord. 740 section 10.3.29(C), 1984; Ord. 981 section 50, 1997; Ord. 1237, 2007)
4. Outside storage areas abutting a residential zone shall be screened from view by a site-blocking fence, landscaping, or berm and shall be of such material and design as will not detract from adjacent residences

*Applicant Response: The provisions of this subsection F are not applicable.*

#### IV. PROCEDURES

##### 16.49 SITE AND DESIGN REVIEW

###### 16.49.040 Criteria and standards.

A. In review of a Type II Site and Design Review Application described in Section 16.49.035.A.1, the Planning Director shall, in exercising his powers, duties or functions, determine whether there is compliance with the DCO site and design review standards.

*Applicant Response: Not applicable. AT&T's proposed WTS facility requires a Type III Site and Design Review.*

B. In review of a Type III Site and Design Review Application, the Board shall, in exercising or performing its powers, duties or functions, determine whether there is compliance with the following:

1. The proposed site development, including the site plan, architecture, landscaping and graphic design, is in conformance with the standards of this and other applicable city ordinances insofar as the location, height and appearance of the proposed development are involved; and

*Applicant Response: AT&T's proposed Facility conforms with the standards of CMC 16.08.120 Wireless Telecommunication Systems Facilities insofar as the location, height, and appearance as demonstrated in Attachment 14 – Zoning Drawings. AT&T has submitted a variance request to seek relief from the tower setback requirements, as further detailed herein and in the variance request section of Attachment 1—Project Narrative.*

2. The proposed design of the development is compatible with the design of other developments in the same general vicinity; and

*Applicant Response: AT&T's proposed WTS facility is a passive use and is compatible with other developments in the general vicinity. There are more impactful uses permitted in the C-M zoning district. The site is immediately surrounded by a fueling station, manufacturing and heavy commercial uses. There are large tanks,*

*approximately 48-feet in height, located approximately 45-feet south of Highway 99E. The proposed WTS will be located approximately 206-feet from Highway 99E as demonstrated on Sheet C-1.1, Attachment 14 – Zoning Drawings.*

3. The location, design, size, color and materials of the exterior of all structures and signs are compatible with the proposed development and appropriate to the design character of other structures in the same vicinity.  
*Applicant Response: As stated in (2) above, the facility is compatible with the uses surrounding the site.*

4. The proposed development incorporates the use of LID best management practices whenever feasible based on site and soil conditions. LID best management practices include, but are not limited to, minimizing impervious surfaces, designing on-site LID stormwater management facilities, and retaining native vegetation.  
*Applicant Response: Pursuant to discussions with city staff, due to the nature of the proposed project, the provisions of this subsection will not apply.*

5. The Board shall, in making its determination of compliance with this Ordinances, shall use the matrix in Table 16.49.040 to determine compatibility unless this matrix is superseded by another matrix applicable to a specific zone or zones under this title. An application is considered to be compatible with the standards of Table 16.49.040 if the following conditions are met:

- a. The development accumulates a minimum of 60 percent of the total possible number of points from the list of design criteria in Table 16.49.040; and
- b. At least 10 percent of the points used to comply with (a) above must be from the list of LID Elements in Table 16.49.040. (Ord. 1338, 2010).

*Applicant Response: Not applicable. Per Ryan Potter, Associate Planner, Table 16.49.040 is designed for a traditional commercial or industrial proposal. In the alternative, as demonstrated in this Statement of Code Compliance, AT&T's proposed WTS facility meets the requirements and intent of the applicable Site and Design Review standards.*

C. In review of a Type III Site and Design Review Application, the Board shall, in exercising or performing its powers, duties or functions, determine whether there is compliance with the INTENT of the design review standards set forth in this ordinance.

D. The Board shall, in making its determination of compliance with the above requirements, be guided by the objectives and standards set forth in this ordinance. It must be demonstrated that all required public facilities and services are available, or will become available through the development, to adequately meet the needs of the proposed development. If the site and design review plan includes utility facilities or public utility facility, then the City Planner shall determine whether those aspects of the proposed plan comply with applicable standards.

E. The Board shall, in making its determination of compliance with the requirements set forth, consider the effect of its action on the availability and cost of needed housing. The Board shall not use the requirements of this section to exclude needed housing types. However, consideration of these factors shall not prevent the Board from imposing conditions of approval necessary to meet the requirements of this section. The costs of such conditions shall not unduly increase the cost of housing beyond the minimum necessary to achieve the purposes of this ordinance.

F. As part of the site and design review, the property owner may apply for approval to cut trees in addition to those allowed in Chapter 12.32, the city Tree ordinance. The granting or denial of said application will be based



on the criteria in Chapter 12.32. The cutting of trees does not in and of itself constitute change in the appearance of the property which would necessitate application for site and design review. (Ord. 848, Part III, section 2, 1991; Ord. 955 section 24 & 25, 1996; Ord.1237, 2007, Ord.1296, 2008)

*Applicant Response: AT&T acknowledges the review functions of the Design Review Board and intends to comply with the intent of the criterion herein.*

## 16.50 CONDITIONAL USES

### 16.50.010 Authorization to grant or deny conditional uses.

A conditional use listed in this title shall be permitted, altered, or denied in accordance with the standards and procedures of this chapter. In the case of a use existing prior to the effective date of the ordinance codified in this title as a conditional use, a change in the use, or reduction in lot area, or an alteration of the structure, shall require the prior issuance of a conditional use permit. In judging whether or not a conditional use permit shall be approved or denied, the Planning Commission shall weigh the proposal's positive and negative features that would result from authorizing the particular development at the location proposed and to approve such use, shall find that the following criteria are either met, can be met by observance of conditions, or are not applicable.

A. The proposal will be consistent with the policies of the Comprehensive Plan and the requirements of this title and other applicable policies of the city;

*Applicant Response: As has been demonstrated herein, the proposed Facility satisfies several of the applicable goals and policies of the Canby Comprehensive Plan. Please see the Applicable Law section of Attachment 1—Project Narrative for demonstration of AT&T's compliance with this criterion.*

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

*Applicant Response: The site proposed meets the requirements set forth by the RF engineers when determining the appropriate location for the new facility. As demonstrated in Attachment 3 – RF Justification, the site is in the middle of the targeted search ring and meets AT&T's service objectives within the Targeted Service Area.*

C. All required public facilities and services exist to adequately meet the needs of the proposed development;

*Applicant Response: The required public facilities and services necessary for the WTS facility exist and adequately meet the needs of the proposed development.*

D. The proposed use will not alter the character of the surrounding areas in a manner which substantially limits, or precludes the use of surrounding properties for the uses listed as permitted in the zone. (Ord. 740 section 10.3.75 (A), 1984)

*Applicant Response: AT&T's proposed WTS is a passive use and is less impactful than other developments in the vicinity. The Facility will not alter the character of the surrounding area and is permitted through a conditional use permit in the C-M zone.*

## Chapter 16.53 VARIANCES

### 16.53.010 Minor Variances.

*[The remainder of this subsection 16.53.010 is OMITTED.]*

*Applicant Response: Not applicable. AT&T's proposed WTS requires a Major Variance.*

**16.53.015 Minor Sign Variance.**

*[The remainder of this subsection 16.53.015 is OMITTED.]*

*Applicant Response: Not applicable. AT&T's proposed WTS requires a Major Variance.*

**16.53.020 Major Variances.**

These provisions are intended to prescribe procedures which allow variations from the strict application of the regulations of this title, by reason of exceptional circumstances and other specified conditions:

A. Authorization. The commission may authorize variances from the requirements of this title, other than Division VII, where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, the literal interpretation of the regulations would cause an undue or unnecessary hardship, except that no variance shall be granted to allow the use of property for purposes not authorized within the district in which the proposed use would be located. In granting a variance, the commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or neighborhood and to otherwise achieve the purpose of this title.

B. Standards and Criteria. A variance may be granted only upon determination that all of the following conditions are present:

1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the city and within the same zone. These exceptional or extraordinary circumstances result from tract size or shape, topography or other circumstances over which the owners of the property have no control. Actions of previous owners do not constitute other exceptional or extraordinary circumstances; and

2. The variance is necessary to assure that the applicant maintains substantially the same property rights as are possessed by the owners of other property in the city and within the same zone; and

3. Granting of this variance will not be materially detrimental to the intent or purposes of the city's Comprehensive Plan or the Land Development and Planning Ordinance; and

4. Granting of this variance will not be materially detrimental to other property within the same vicinity; and

5. The variance requested is the minimum variance which will alleviate the hardship; and

6. The exceptional or unique conditions of the property which necessitate the issuance of a variance were not caused by the applicant, or the applicant's employees or relatives.

*Applicant Response: Please see the variance request included in Attachment 1—Project Narrative for AT&T's discussion of conformance with all of the variance criteria included in this section 16.53.020.*

C. Variance to Requirements of Hazard Overlay (H) Zone.

*[The remainder of this subsection 16.53.020(C) is OMITTED.]*

*Applicant Response: Not applicable. AT&T's proposed WTS is not located in a Hazard Overlay (H) Zone.*

**16.53.030 Revocation of variances.**

A. Automatic Revocation. All variances shall be automatically revoked if not exercised within one year from the date of approval, or such additional time as is specified by the granting body at the time of approval. Variances



shall not be deemed exercised until the use of the property permitted by the variance has actually commenced or, in the event that such use involves construction, that all required permits for said construction have been obtained.

B. Revocation for Noncompliance. Any major variance may be revoked by the City Council for noncompliance with conditions set forth in the original approval, after first holding a public hearing and giving written notice of such hearing to the grantee.

C. Extension of approval. A one-time extension will be allowed if applied for no later than ninety (90) days prior to the expiration of the original approval. A request for extension must:

1. Not change the original application.
2. Explain specifically why an extension is needed.
3. A minor variance or minor sign variance extension shall be approved by the City Planner. A major variance extension shall be approved by the Planning Commission as a new business item.
4. If approved, those with standing on the original application shall be notified of the extension by mail. Those so noticed may obtain a public hearing on the extension by filing a request in writing within ten (10) days of the notice date. The public hearing shall follow the notice requirements and procedure for major variances. The cost of notification and any required public hearing must be borne by the applicant.
5. An extension shall not be granted for more than one (1) year. (Ord. 740 section 10.8.20(C), 1984; Ord. 955 section 31, 1996; Ord 1237, 2007; Ord. 1299, 2008)

*Applicant Response: AT&T acknowledges the criterion in subsections A-C above.*

## Chapter 16.89 APPLICATION AND REVIEW PROCEDURES

### 16.89.020 Description and Summary of Processes.

All land use and development applications shall be decided by using the procedures contained in this Chapter. Specific procedures for each type of permit are contained in Sections 16.89.030 through 16.89.060. The procedure type assigned to each permit governs the decision-making process for that permit. Additional requirements may be found in the individual chapters governing each permit type. The four types of procedure are described below. Table 16.89.020 lists the City's land use and development applications and their required procedures.

A. Type I Procedure (Ministerial). Type I decisions are made by the Planning Director without public notice and without a public hearing. The Type I procedure is used when there are clear and objective approval criteria and applying those criteria requires no use of discretion.

B. Type II Procedure (Administrative). Type II decisions are made by the Planning Director with public notice and an opportunity for a public hearing. The appeal of a Type II decision is heard by the Planning Commission.

C. Type III Procedure (Quasi-Judicial/Legislative). Type III decisions are made by the Planning Commission after a public hearing, with appeals reviewed by the City Council. Type III procedures generally use discretionary approval criteria.

*Applicant Response: Per Table 16.89.020, Land Use and Development Application Procedures, a Conditional Use Permit requires a Type III Process type, a Notification Radius of 500-feet and a Neighborhood Meeting. A Type III Site and Design Review requires a Type III Process type, a Notification Radius of 500-feet and a Neighborhood Meeting.*

D. Type IV procedure (Council Decision). Type IV decisions generally apply to legislative matters but include certain other applications as well. Legislative matters involve the creation, revision, or large-scale implementation of public policy (e.g., adoption of land use regulations, zone changes, and comprehensive plan amendments that apply to entire districts). Type IV matters are considered initially by the Planning Commission with final decisions made by the City Council. Annexations and certain quasi-judicial applications are also processed under the Type IV process. (Ord. 1080, 2001; Ord 1237, 2007)

**16.89.050 Type III Decision.**

A. Pre-application conference. A pre-application conference may be required by the Planning Director for Type III applications.

*Applicant Response: A pre-application meeting was conducted on March 27, 2019. Pre-application meeting minutes are included as Attachment 11—Pre-App Minutes.*

B. Neighborhood meetings. As directed in Table 16.89.020, the applicant may be required to present their development proposal at a neighborhood meeting before the City accepts the application as complete. See Section 16.89.070.

*Applicant Response: A neighborhood meeting was conducted on April 22, 2019. The written response to the neighborhood meeting is included as Attachment 12—Neighborhood Mtg Summary and Sign-in.*

C. Application requirements. Type III applications shall be made on forms provided by the Planning Director. The application shall be accompanied by all required information and fees.

*Applicant Response: AT&T has submitted a complete CUP Application and Site and Design Review Application for the proposed WTS, which includes this Statement of Code Compliance.*

D. Public notice.

1. At least 20 days prior to a public hearing on a Type III decision or a Type II appeal decision, the Planning Director shall mail notice meeting the requirements of state law to:

- a. All owners of real property and, if the owner's address is different from the site address, all residents of property, within the distance prescribed in Table 16.89.020;
- b. The appointed chair of any neighborhood association whose boundaries include the subject property;
- c. Any person who submits a written request to receive notice; and
- d. Any governmental agency which is entitled to notice under an intergovernmental agreement entered into with the City.
- e. For appeals, the appellant and all persons who provided testimony.

2. Notice of any proposal that includes a new transportation facility or improvement, and where these facilities or improvements included or may impact a collector or arterial street, will be sent to the ODOT and Clackamas County or any special interest transportation groups as appropriate. Special interest transportation groups could include trucking organizations, bicycle and pedestrian interest groups, and interest groups for people with disabilities. Information that should be conveyed with the notice includes the following:

- a. Project location
- b. Proposed land use action
- c. Location of project access point(s)

3. The City shall prepare an affidavit of mailing for the public notice and make the affidavit part of the application file. Failure of any individual to receive notice as prescribed in this section does not invalidate the proceedings.

4. Written notice shall be published in a newspaper of general circulation in Canby once in either of the two consecutive weeks prior to the hearing.

5. At least ten (10) days before the hearing, written notice shall be posted at City Hall and such other conspicuous locations as the Council may determine to be appropriate.

6. At least ten (10) days before the hearing, the applicant shall post notice of the hearing on the property as directed by the Planning Director.

7. The Planning Director may expand the notice area or take other steps to assure that affected property owners or residents are made aware of the pending public hearing.

8. Any application that involves access to the state highway system must be provided to the Oregon Department of Transportation for their review and comment regarding conformance with state access management standards and requirements.

*Applicant Response: AT&T acknowledges, understands, and intends to comply with the applicable public hearing notification requirements above.*

E. Conduct of public hearing.

1. In all evidentiary hearings required by this title the following procedures shall be followed:

- a. All interested persons in attendance shall be heard on the matter of hearing, and this fact shall be communicated to those in attendance;
- b. A summary of the application or other matter for hearing shall be given by the presiding officer or their designee;
- c. The staff report shall be made followed by questions, if any, of the staff by the hearings body;
- d. The public hearing shall be opened and testimony shall be received in the following order:
  - i. Applicant;
  - ii. Proponents;
  - iii. Opponents; and
  - iv. Rebuttal by proponents or applicant;
- e. Close public hearing;
- f. Questions and discussion by hearing body;
- g. Decision by the hearing body except that further discussions, decision, or reopening of the public hearing may be postponed to another meeting, the time, date, and place of which shall be announced before adjournment.

2. All persons who speak at the hearing shall identify themselves by name, address, and interest in the matter. Attorneys or other agents shall be allowed to speak on behalf of all participants.

3. Physical evidence in the form of written documents, photographs, or other exhibits may be accepted by the hearing body if deemed to be pertinent.

4. A record made at any prior evidentiary hearing may be accepted, considered, and used by the hearing body at any subsequent hearing, and said body, by majority vote of a quorum present, may deny to accept or hear any repetitious matter.

5. The hearing body may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested. Upon recessing for these purposes, the hearing body shall announce the time and date when the hearing will be resumed.

6. Before the conclusion of the initial evidentiary hearing, any participant may ask the hearings body for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing. The hearings body shall grant the request by scheduling a date to finish the hearing as follows:

- a. If the hearings body grants a continuance, the completion of the hearing shall be continued to a date, time, and place at least seven days after the date of the first evidentiary hearing. An opportunity shall be provided at the second hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the second hearing, any person may request, before the conclusion of the second hearing, that the record be left open for at least seven days, so that they can submit additional written evidence or testimony in response to the new written evidence; or
- b. If the hearings body leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven days after the hearing. Any participant may ask the City in writing for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the hearings body shall reopen the record as follows:
  - i. When the hearings body re-opens the record to admit new evidence or testimony, any person may raise new issues which relate to that new evidence or testimony.
  - ii. An extension of the hearing or record granted pursuant to this subsection is subject to the limitations of ORS 227.178 (120-day rule), unless the continuance or extension is requested or agreed to by the applicant.
  - iii. If requested by the applicant, the City shall allow the applicant at least seven days after the record is closed to all other persons to submit final written arguments in support of the application, unless the applicant expressly waives this right. The applicant's final submittal shall be part of the record but shall not include any new evidence.

***Applicant Response: AT&T acknowledges, understands, and intends to comply with the above provisions for conduct of the Public Hearing.***

F. Decision process.

1. Approval or denial of a Type III decision or appeal of a Type II decision shall be based on standards and criteria located in the code.

2. The hearings body shall issue a final written order containing findings and conclusions that approve, approve with conditions, or deny the application.

3. The written decision shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts.

4. In cases involving attorneys, the prevailing attorney shall prepare the findings, conclusions, and final order. Staff shall review and, if necessary, revise, these materials prior to submittal to the hearings body.

***Applicant Response: AT&T acknowledges and understands the decision criterion above.***

G. Notice of Decision.

1. The written findings shall be sent to:
  - a. Any person who submits a written request to receive notice, provides written comments during the application review period, or provides written or oral testimony in the public hearing;
  - b. The applicant and owner of the subject property;
  - c. Any governmental agency which is entitled to notice under an intergovernmental agreement entered into with the City.

2. The written findings shall include information on the application, the City's decision, and a statement explaining how an appeal of the decision may be filed.

*Applicant Response: AT&T acknowledges and understands the Notice of Decision process above.*

H. Effective Date. A Type III decision is final for purposes of appeal when it is mailed by the City.

*Applicant Response: AT&T acknowledges and understands the Effective Date process above.*

I. Appeal. The Planning Commission's decision on a Type III decision or Type II appeal may be appealed to the City Council as follows:

1. The following have legal standing to appeal:
  - a. The applicant;
  - b. Any person who was mailed notice of the decision;
  - c. Any other person who participated in the proceeding by testifying or submitting written comments; and
  - d. The City Council, on its own motion.

2. Procedure.

- a. A Notice of Appeal shall be filed in writing, on forms provided for the purpose by the Planning Director, within 10 days of the date the Notice of Decision was mailed.
- b. The Notice of Appeal shall be accompanied by all required information and fees.
- c. The appeal shall be limited to the specific issues raised during the comment period and public hearing process unless the hearings body allows additional evidence or testimony concerning any other relevant issue. The hearings body may allow additional evidence if it determines that such evidence is necessary to resolve the case. The purpose of this requirement is to limit the scope of appeals by encouraging persons to be involved in the public hearing. Only in extraordinary circumstances should new issues be considered by the hearings body on an appeal.

3. The City Council shall overturn the decision of the Planning Commission only when one or more of the following findings is made:

- a. That the Commission did not correctly interpret the requirements of this title, the Comprehensive Plan, or other requirements of law;
- b. That the Commission did not observe the precepts of good planning as interpreted by the Council; or
- c. That the Commission did not adequately consider all of the information which was pertinent to the case.

4. The Council's action on an appeal shall be governed by the same general regulations, standards, and criteria as apply to the Commission in the original consideration of the application.

5. Any decision of the Planning Commission may be appealed to the City Council unless otherwise specified in this Title. Such appeals will be processed using the Type III procedures unless otherwise specified in this Title.

6. The decision of the City Council regarding a Type IV decision, appeal of a Planning Commission decision, or any other process contained within this title, is the final decision of the City. (Ord. 1080, 2001; Ord. 1111 section 5, 2003; Ord 1237, 2007)

*Applicant Response: AT&T acknowledges and understands the Appeal process above.*

#### **16.89.070 Neighborhood Meetings.**

A. Applicants are encouraged to meet with adjacent property owners and neighborhood representatives prior to submitting their application in order to solicit input, identify issues, and exchange information about the proposed meeting.

B. The Planning Commission or Planning Director may require an applicant to hold a meeting in the neighborhood prior to accepting an application as complete. A neighborhood meeting is required for some application types, as shown in Table 16.89.020, unless this requirement is waived by the Planning Director.

C. At least two weeks prior to the neighborhood meeting, the applicant shall mail notice of the meeting to:

1. The appointed chair and all active members of any neighborhood association in whose boundaries the application lies; and
2. All of those who would receive notice of the application's public hearing before the Planning Commission.

D. The meeting shall be held in a fully accessible location approved by the City.

E. Following a required neighborhood meeting, applicants shall prepare a written summary of pertinent issues raised and shall prepare a detailed response to each issue. This material shall be submitted to the Planning Department in electronic format at least two weeks before the initial public hearing.

F. Applicants or attendees may make audio or video recordings of the neighborhood meeting if desired. (Ord. 1080, 2001; Ord. 1111 section 5, 2003; Ord 1237, 2007)

*Applicant Response: A neighborhood meeting was conducted on April 22, 2019. The written response to the neighborhood meeting is included as Attachment 12—Neighborhood Mtg Summary and Sign-in. The Neighborhood Meeting notice was sent to the site addresses and property owners within 500-feet of the subject property, the Planning Commission Chair and the City Planner on April 8, 2019. A mailing list and certification of mailing is included as Attachment 13—500ft Mailing List.*

#### **16.89.080 Application Requirements and Completeness.**

A. Submittal. Applications for land use and development permits shall be filed on forms provided by the purpose by the Planning Director. The application shall be made with all required information and fees.

*Applicant Response: AT&T has submitted completed Conditional Use Permit, Site and Design Review, and Variance Application forms as part of its complete application package submittal for the proposed WTS, which includes this Statement of Code Compliance.*

B. Fees. Fees shall be set out by resolution adopted by the City Council. Fees shall differentiate between various processes and applications and no part of the fee shall be refunded unless approved by the Planning Director.

***Applicant Response: AT&T has submitted a check to the city for all fees associated with the city's review of AT&T's submittal package.***

C. Amendments to forms. Application forms may be amended by the Planning Director. The Planning Commission shall first review and approve all proposed amendments as New Business Items.

***Applicant Response: AT&T has submitted the most current versions of the Conditional Use Permit, Site and Design Review, and Variance Application forms found on the City of Canby's website.***

D. Completeness. In reviewing an application for completeness, the following procedure shall be used:

1. When an application is received by the City, the Planning Director shall immediately determine whether the following essential items are present. If they are not, the Planning Director may choose not to accept the application, in which case the application shall be immediately returned to the applicant:

- a. The required form;
- b. The required fee; and
- c. The signature of the applicant on the form and signed written authorization of the property owner of record if the applicant is not the owner.

2. Completeness.

a. After the application is accepted, the Planning Director shall review the application for completeness. If the application is incomplete, the Planning Director shall notify the applicant in writing exactly what information is missing within thirty (30) days of the application and allow the applicant 180 days to submit the missing information;

b. In accordance with the application submittal requirements, the application shall be deemed complete upon the receipt by the Planning Director of all required information. The applicant shall have the option of withdrawing the application or refusing to submit information requested under (a), above. For the refusal to be valid, it shall be made in writing and received by the Planning Director no later than fourteen (14) days after the date on the letter of incompleteness. If the applicant refuses in writing to submit the missing information, the application shall be deemed complete for the purposes of processing on the 31st day after first acceptance of the application.

***Applicant Response: AT&T acknowledges, understands, and intends to comply with the completeness requirements and process criterion above.***

E. The City shall take final action on permit applications which are subject to this chapter, including resolution of all appeals, within 120 days from the date the application is deemed complete. Any exceptions to this rule shall conform to the provisions of ORS 227.178. This 120-day rule does not apply to legislative comprehensive plan and text amendment applications as defined under ORS 227.178.

F. Standards and criteria. Approval or denial of a complete application shall be based upon the standards and criteria that were applicable at the time the application was first accepted. (Ord. 1080, 2001)



March 18, 2019

City of Canby  
Planning Department  
222 NE 2<sup>nd</sup> Avenue  
PO Box 930  
Canby, OR 97013

**Re: AT&T's Radio Frequency (RF) Engineering Justification for the Proposed Wireless Communications Facility in the City of Canby: PW34 Canby HS at 640 SW 2<sup>nd</sup> Avenue.**

To Whom It May Concern,

Enclosed please find the RF Justification document prepared for AT&T's proposed new wireless communications facility at the above noted location. This letter serves as my verification, to the best of my knowledge, of the accuracy of the RF information, propagation maps, and analysis provided in the attached RF Justification.

Thank you for your consideration of this information.

Sincerely,

A handwritten signature in black ink, appearing to read "M Samsul Bujang".

M Samsul Bujang  
RF Engineer  
AT&T Mobility





at&t

# **PW34 Canby High School RF Justification**

## SERVICE OBJECTIVES & TARGETED SERVICE AREA

AT&T is proposing to build a new wireless communication facility (“WCF” and/or “Facility”), PW34 Canby High School at 6405 SW 2<sup>nd</sup> Avenue (45.259121, -122.698288) in Canby, OR.

### Service Objectives—Generally

AT&T strives for a network design that provides high radio frequency (“RF”) signal strength and signal-to-interference-plus-noise ratio (“SINR”) resulting in quality service inside buildings and vehicles. To support this network design there are two main drivers that prompt the need for a new cell site—coverage and capacity.

“Coverage” is the need to expand wireless service into an area that either has no service or bad service. “Capacity” is the need for more wireless resources. Cell sites have a limited amount of resources to handle voice calls, data connections, and data volume. When these capacity limits are reached, user experience quickly degrades. Capacity issues for LTE networks are identified by using SINR metrics to measure the network’s signal quality when there is a high traffic load condition. High traffic areas in the network experience poor SINR due to the increased amount of signal noise/interference generated by the interfering strength of the simultaneous transmissions.

### Service Objectives—Proposed New Facility

The proposed new Facility is a service coverage and capacity site. Currently, portions of OR-99E/Pacific Highway E in Canby have minimal to no 4G voice service and AT&T’s existing coverage in the area is at or near its capacity and is insufficient for the volume of traffic (*i.e.* though this area already has AT&T coverage, additional capacity is needed to service the volume of users).

Accordingly, the proposed new Facility is intended to provide new 4G LTE coverage in Canby generally from Ivy Street—from Canby Village to the north and south to S. Vale Garden Road—southwest to the Molalla River Bridge, as well as additional 4G LTE capacity enhancements along OR-99E approximately from Ivy Street southwest to S. Barlow Street (including Canby High School and other businesses along OR-99E) (collectively, the “Targeted Service Area”). This service objective and Targeted Service Area was determined by AT&T’s RF engineers through a combined analysis of market demand, customer complaints, service requests, and RF engineering design (including SINR metrics).

The proposed new Facility meets AT&T’s service objectives to provide sufficient continuous and uninterrupted outdoor, in-vehicle, and in-building wireless service within the Targeted Service Area, resulting in fewer dropped calls, improved call quality, and improved access to additional wireless services the public now demands (this includes emergency 911 calls).

## SEARCH RING

AT&T's RF engineers performed an RF engineering study—considering multiple objectives—to determine the approximate site location and antenna height required to best fulfill the noted service objectives within the Targeted Service Area. From this study, AT&T's RF engineers identified a “search ring” area where a new wireless facility may be located to provide effective service in the Targeted Service Area.

As this is a service capacity site intended to offload capacity in a specific area, the proposed new Facility must be located within the identified search ring to be able to establish a dominant signal within the Targeted Service Area—i.e. the proposed new Facility will provide service to users' handsets and prevent them from communicating with AT&T's existing facility, thereby relieving some of the burden on the existing facility by offloading users' data requirements to the proposed new Facility. Accordingly, placing additional equipment on AT&T's existing facility to the NW of the proposed site is not a viable option, as the existing facility is too far away to provide sufficient capacity relief required in the Targeted Service Area.

**Figure A—Targeted Search Ring**, below, indicates the search ring AT&T's RF engineers established for this proposed WCF imposed over a territorial map, with the city's zoning map included to indicate the zoning designation of the properties within the search ring (C-M and C-2 zones). A discussion of the methodology AT&T's RF engineers used to identify the search ring is included at the end of this RF Justification document.

# Figure A—Targeted Search Ring





## PROPOSED NEW AT&T FACILITY

### Antennas and Equipment

To meet AT&T's service objectives within the Targeted Service Area, AT&T is proposing to install up to twelve (12) eight foot (8ft) panel antennas and twelve (12) remote radio head (RRH) units, together with all associated equipment with an 124ft antenna tip height.

### Required Height

As the proposed new Facility is intended to provide new coverage and enhance existing capacity, height and location play an important role. The proposed antenna tip height was determined by considering various factors such as the height of surrounding wireless sites, ground elevation, obstructions to the signal, and the surrounding terrain. Accordingly, the proposed 124ft antenna tip height is the minimum necessary to best meet AT&T's service objectives within the Targeted Service Area. A lower antenna tip height at this location would not provide as effective capacity improvement within the Targeted Service Area along OR-99E as compared to the proposed antenna tip height (see **Figure C.2**, below). The proposed antenna tip height is also the height where an AT&T wireless device can be reliably used to make and receive telephone calls and use data service in the presence of varying signals.

### Projected New Coverage

Based upon the above proposed equipment and antenna tip height, AT&T's RF engineers project that the proposed Facility will provide the following new AT&T coverage.

**Figure B—Existing AT&T 4G LTE Coverage** shows existing AT&T wireless coverage in the general area of the proposed new Facility (shaded in green). The Targeted Service Area is circled in red. No existing/planned AT&T WCF sites are located within a 1000ft radius of the proposed new Facility.

## PROPOSED NEW AT&T FACILITY, con't

**Figure C.1—Projected New AT&T 4G LTE Coverage** identifies the projected new AT&T 4G LTE coverage from the proposed new Facility with a 124ft antenna tip height (shaded in yellow). The Targeted Service Area is circled in red.

**Figure C.2—Comparison of New AT&T 4G LTE Coverage** compares the projected new AT&T 4G LTE coverage from the proposed new Facility with the 124ft antenna tip height versus a 100ft antenna tip height. The Targeted Service Area is circled in red. Though there does not visually appear to be a significant difference in the coverage, as indicated by the additional coverage areas shaded in yellow, the 124ft antenna tip height does provide critical additional coverage east of S. Ivy Street between SE 13<sup>th</sup> Avenue and SE 16<sup>th</sup> Avenue and further west past S. Vale Garden Road.

**Figures D.1 & D.2—Projected New AT&T DL Signal-to-Noise Ratio (DL SINR)** identifies the projected AT&T signal quality improvement from the proposed new Facility with a 124ft antenna tip height (shaded in yellow). The DL SINR illustrates the dominance and interference level where voice quality can be delivered with better quality and data can be transmitted with better speed—*i.e.*, the area where the proposed new Facility is predicted to offload AT&T's current traffic load. As shown, the proposed Facility will provide good dominance and additional capacity within the entire Targeted Service Area.

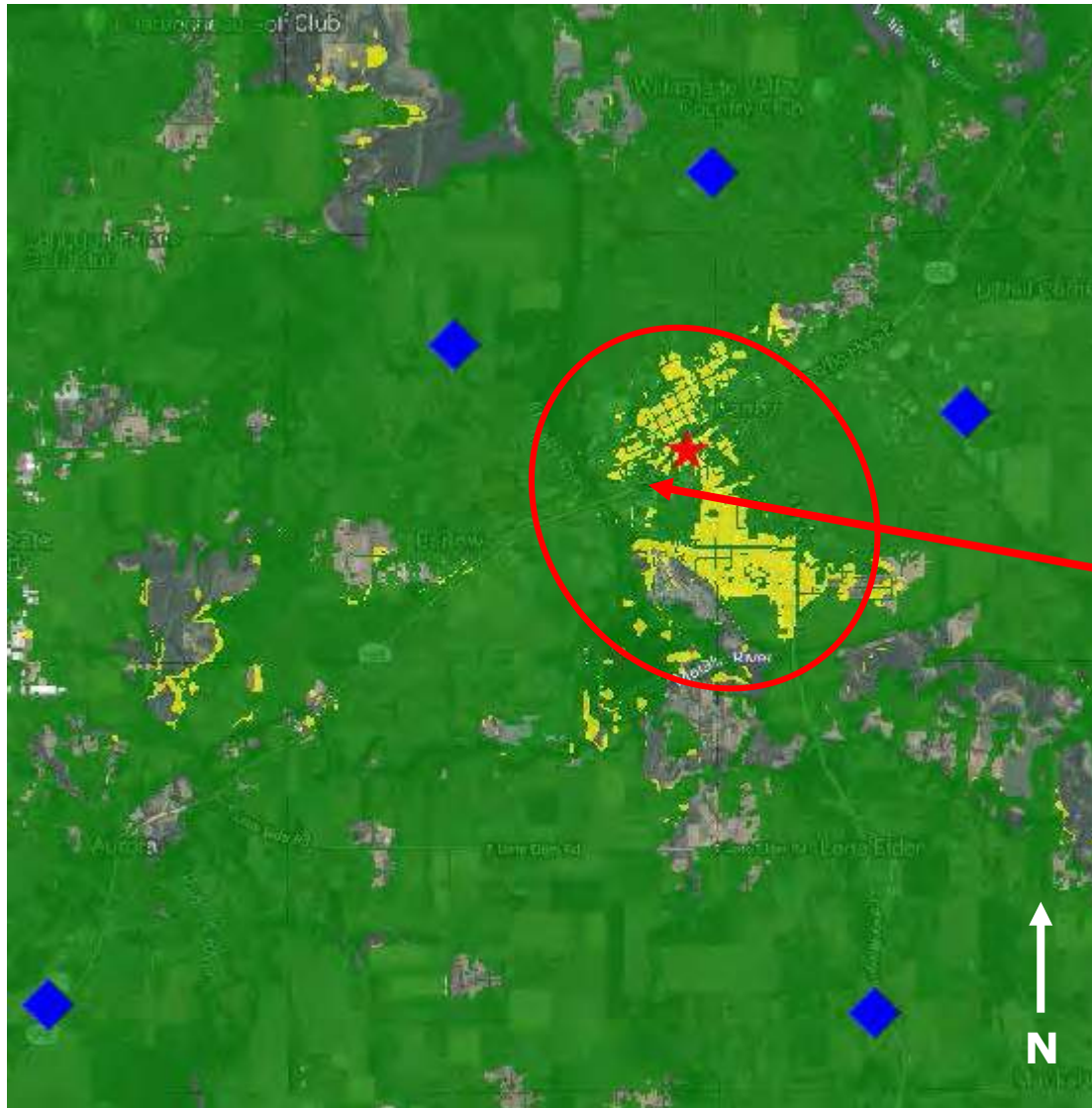
# Figure B—Existing AT&T 4G LTE Coverage Targeted Service Area BEFORE Addition of Proposed New Wireless Facility



Area to offload existing coverage and improve capacity

- Current and Anticipated AT&T Coverage
- Proposed New AT&T Site Location
- Existing AT&T Site Location

# Figure C.1—Projected New AT&T 4G LTE Coverage Coverage AFTER Proposed AT&T Facility On-Air—124ft Antenna Tip Height

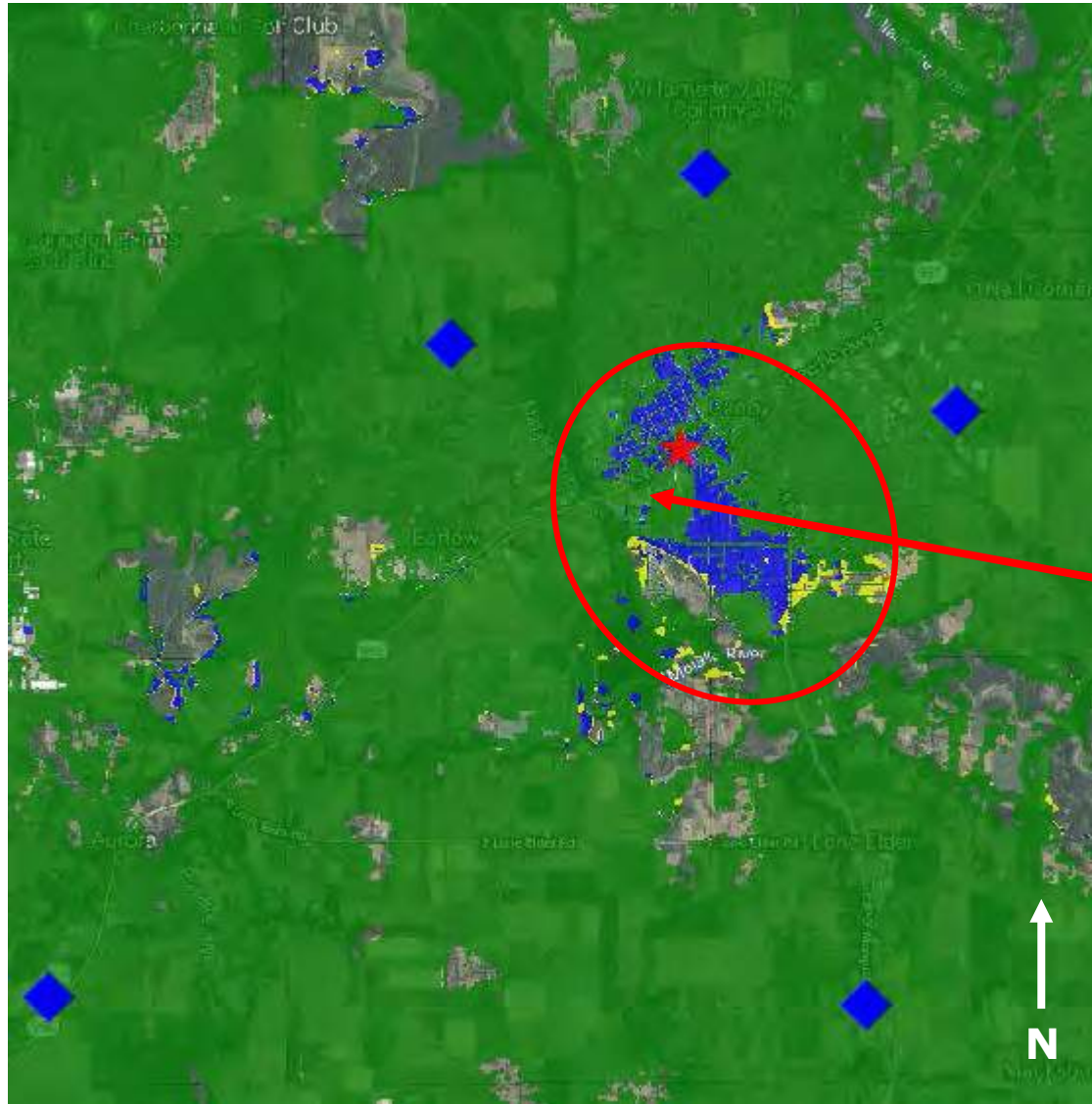


Area to offload existing coverage and improve capacity




- Current and Anticipated AT&T Coverage
- Proposed New AT&T Coverage
- Proposed New AT&T Site Location
- Existing AT&T Site Location



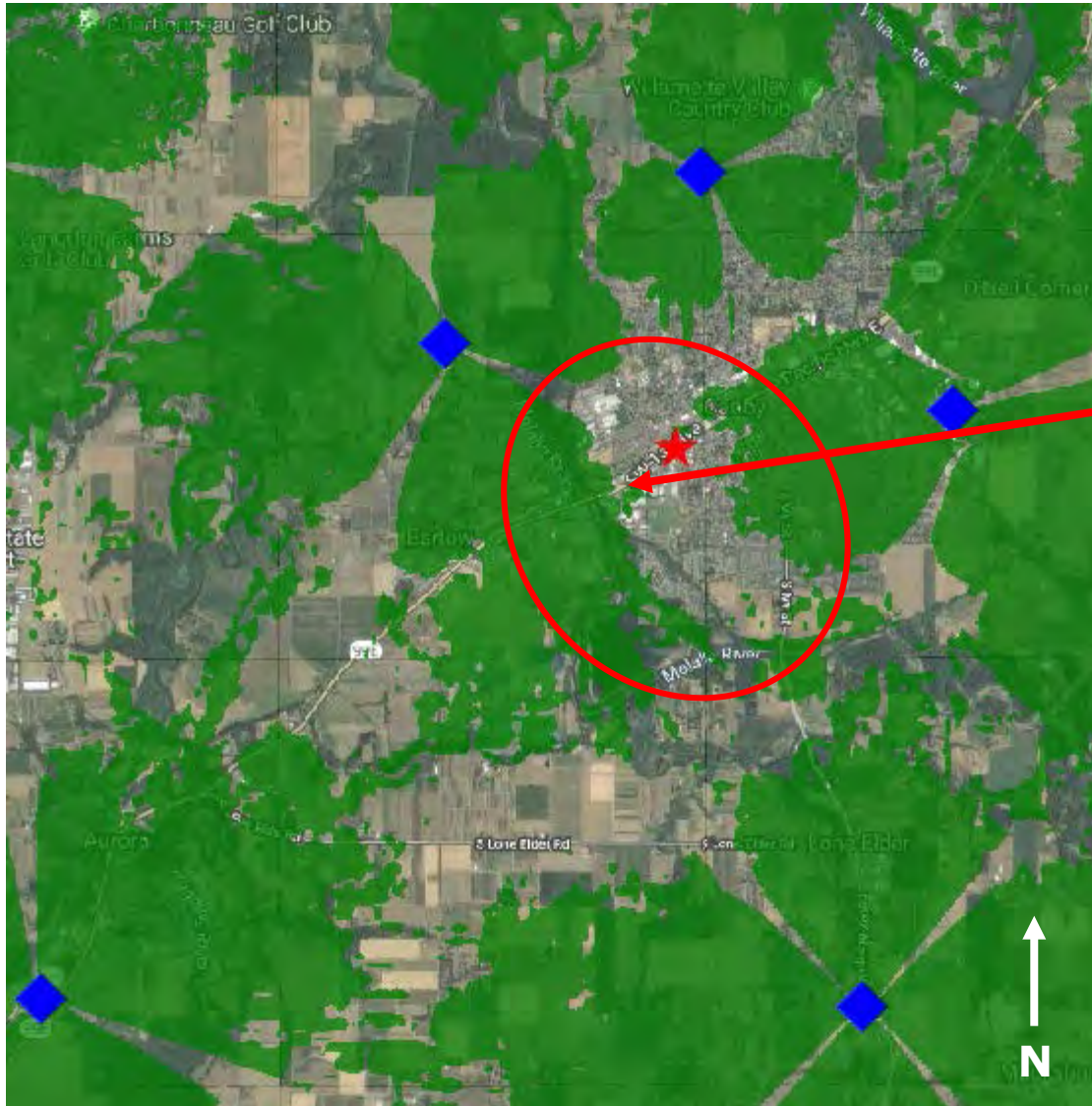
# Figure C.2—Comparison of New AT&T 4G LTE Coverage Coverage AFTER Proposed AT&T Facility On-Air—120ft vs 100ft Tip Height



Area to offload existing coverage and improve capacity

-  Existing Coverage
-  Projected New Coverage from 100ft Antenna Tip Height
-  Projected Additional New Coverage from 124ft Antenna Tip Height

# Figure D.1—Existing AT&T SINR DL SINR Before Proposed AT&T Facility On-Air

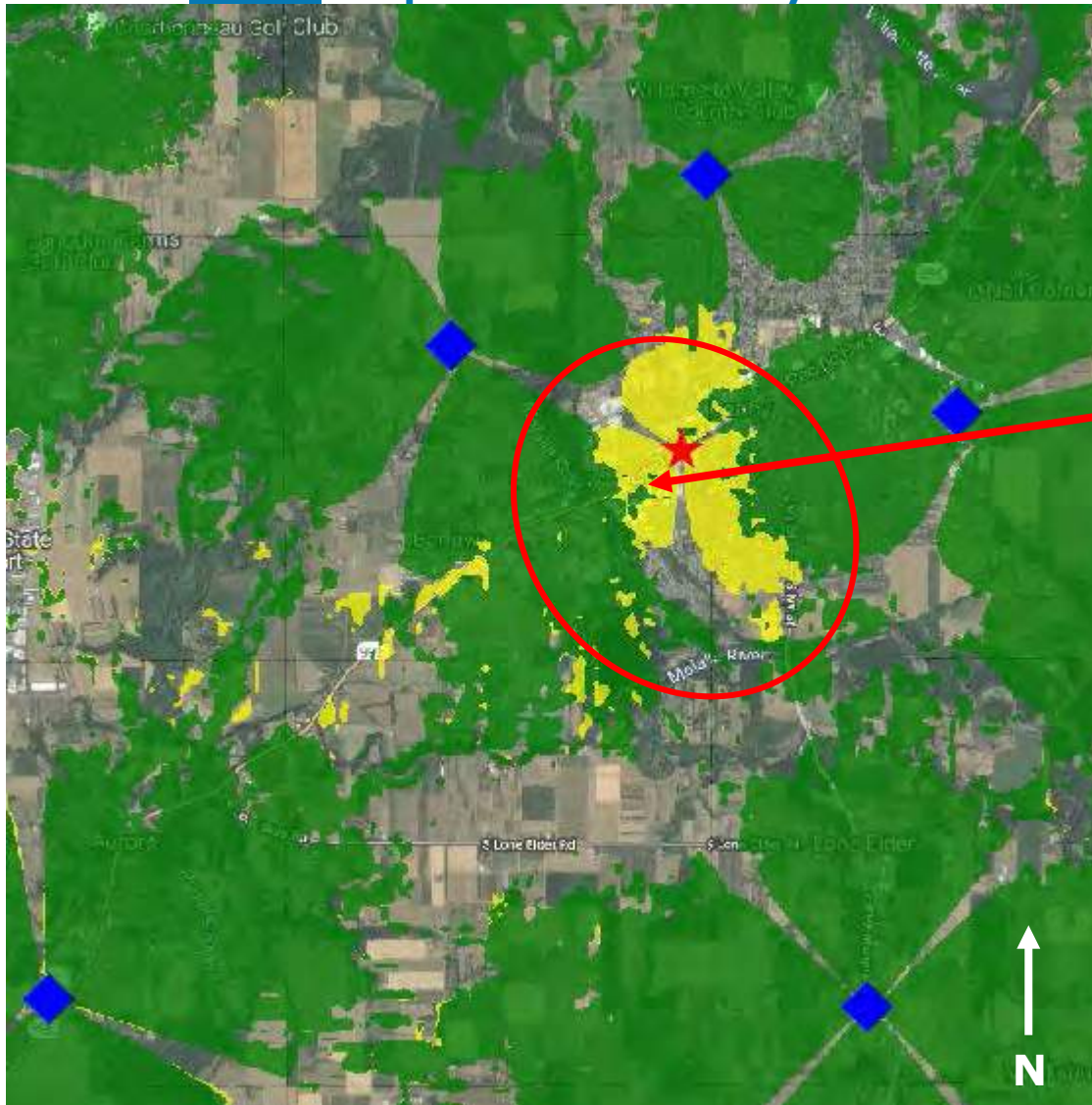


Area to offload existing coverage and improve capacity

- Baseline SINR
- ★ Proposed New AT&T Site Location
- ◆ Existing AT&T Site Location



# Figure D.2—Projected New AT&T SINR DL SINR AFTER Proposed AT&T Facility On-Air—124ft Antenna Tip Height



Area to offload existing coverage and improve capacity

- Baseline SINR
- Additional SINR Gain at 124ft Antenna Tip Height
- ★ Proposed New AT&T Site Location
- ◆ Existing AT&T Site Location

## ALTERNATIVE SITE ANALYSIS

AT&T's RF engineers evaluated the following sites within and adjacent to the search ring as a possible alternative locations for AT&T's proposed new Facility:

- **Alternative Site #1—New Tower—Nursery Property** (45.254802/ -122.701481): This alternative site location is approximately 0.12 miles southwest of the outer edge of AT&T's search ring. This Alternative Site #1 is not a suitable option for locating a new facility because a tower with a 124ft antenna tip height at this location would not provide as effective capacity improvement within the Targeted Service Area along OR-99E as compared to the proposed new Facility.
- **Alternative Site #2—New Tower—Restaurant Property** (45.256168/ -122.70642): This alternative site location is approximately 0.24 miles west of the outer edge of AT&T's search ring. This Alternative Site #2 is not a suitable option for locating a new facility because a tower with a 124ft antenna tip height at this location would not provide as effective capacity improvement within the Targeted Service Area along OR-99E as compared to the proposed new Facility.



**Proposed New WCF**

**Alternative Site #1**

**Alternative Site #2**

## SEARCH RING METHODOLOGY

AT&T's RF engineers used coverage propagation software systems to predict the coverage provided by the proposed new WCF. The software and AT&T's RF engineers considered the general factors outlined below, as well as more project-specific factors such as the type of antenna, antenna tilt, etc.

**Coverage.** The antenna site must be located in an area where the radio frequency broadcasts will provide adequate coverage within the targeted service area. The RF engineer must take into consideration the coverage objectives for the site as well as the terrain in and around the area to be covered. Because radio frequency broadcasts travel in a straight line and diminish as they travel further away from the antennas, it is generally best to place an antenna site near the center of the desired coverage area. However, in certain cases, the search ring may be located away from the center of the desired coverage area due to the existing coverage, the surrounding terrain, or other features which might affect the radio frequency broadcasts, *e.g.* buildings or sources of electrical interference.

**Clutter.** AT&T's WCFs must "clear the clutter"—the WCF site must be installed above or close to RF obstructions (the "clutter") to enable the RF to extend beyond and clear the clutter. AT&T's radio frequencies do not penetrate mountains, hills, rocks, or metal, and are diminished by trees, brick and wood walls, and other structures. Accordingly, AT&T's antennas must be installed above or close to the "clutter" to provide high quality communications services in the desired coverage areas. Additionally, if the local code requires us to accommodate additional carriers on the support structure, the structure must be even taller to also allow the other carriers' antennas to clear the clutter.

**Call Handoff.** The WCF site must be in an area where the radio broadcasts from the site will allow seamless "call handoff" with adjacent WCF sites. Call handoff is a feature of a wireless communications system that allows an ongoing telephone conversation to continue uninterrupted as the user travels from the coverage area of one antenna site into the coverage area of an adjacent antenna site. This requires coverage overlap for a sufficient distance and/or period of time to support the mechanism of the call handoff.

**Quality of Service.** Users of wireless communications services want to use their services where they live, work, commute and play, including when they are indoors. AT&T's coverage objectives include the ability to provide indoor coverage in areas where there are residences, businesses and indoor recreational facilities.

## SEARCH RING METHODOLOGY—Con't

**Radio Frequencies used by System.** The designs of wireless communications systems vary greatly based upon the radio frequencies that are used by the carrier. If the carrier uses radio frequencies in the 850 MHz to 950 MHz range, the radio signals will travel further and will penetrate buildings better than the radio frequencies in the 1900 MHz band. As a result, wireless communications systems that use lower radio frequencies will need fewer sites than wireless communications systems that use higher radio frequencies. For example, AT&T's system in Sunnyside uses only frequencies in the 1900 MHz so AT&T's system requires more sites in order to achieve the same coverage that is provided by the carriers which use the 850 MHz to 950 MHz frequency band. The site proposed is set to launch on 700 MHz.

**Land Use Classifications.** A&T's ability to construct a WCF site on any particular property is affected by state and local regulations, including zoning and comprehensive plan classifications, goals, and policies. AT&T's search rings take these laws and regulations into consideration.

**NON-IONIZING ELECTROMAGNETIC EXPOSURE ANALYSIS  
&  
ENGINEERING CERTIFICATION**



**SITE NUMBER: PW0034**

**SITE NAME: Canby High School**

**SITE ADDRESS: 640 SW 2<sup>nd</sup> Ave  
Canby, OR 97013**

**DATE: March 24, 2019  
(Revised April 12, 2019)**

**PREPARED BY:**

**B. J. THOMAS, P.E.  
7607 80<sup>th</sup> Avenue NE  
Marysville, WA 98370  
(206) 851-1106**

## PROJECT

The proposed AT&T project consists of a WCF (Wireless Communications Facility) located at 640 SW 2<sup>nd</sup> Ave, Canby, OR 97013, Clackamas County tax parcel 00793591. The planned improvements include (12) panel antennas on a 130' AGL steel monopole with supporting BTS (Base Transmission System) radio equipment located near the base of the monopole in an equipment shelter.

## EQUIPMENT

Type of Service: LTE 700

Antennas: Kathrein 80010966

Sectors: (3) (A = 0°, B = 120°, C = 240°)

Antenna Rad Center: 120' AGL

## CALCULATIONS

Calculations for RF power densities near ground level are based on the “**Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields OET Bulletin 65**” Edition 97-01, August 1997 issued by the Federal Communications Commission Office of Engineering & Technology.

Section 2 of **OET Bulletin 65** demonstrates that “for a truly worst-case prediction of power density at or near the surface, such as at ground-level or on a rooftop, 100% reflection of incoming radiation can be assumed, resulting in a potential doubling of predicted field strength and a four-fold increase in (far field equivalent) power density”, therefore the following equation is used:

$$S = \text{EIRP}/\pi R^2$$

Where S = power density (mW/cm<sup>2</sup>), EIRP = equivalent isotropically radiated power and R = distance to the center of the radiation antenna (cm)

The calculations show that the maximum MPE at ground level (6' above AGL) at the base of the monopole and the power density is 0.001301 mW/cm<sup>2</sup> with an assumed worst-case power level of 3,000 watts ERP for the lowest antenna array. This is 0.2785% of the MPE limit for the general population/uncontrolled exposure of 0.467 mW/cm<sup>2</sup> as referenced in **Table I OET Bulletin 65 Appendix A** for the lowest frequency range.



## ENVIRONMENTAL EVALUATION

Routine environmental evaluation is required if the PCS broadband facility is less than 10 m (32.81 feet) AGL and has a total power of all channels in any given sector greater than 2,000W ERP as referenced in “**Table 2 Transmitters, Facilities and Operations Subject to Routine Environmental Evaluation**” of **Bulletin 65**. As the proposed antennas’ lowest point above ground level 35.4 m (116 feet), the WCF is categorically exempt from requirement for routine environmental processing.

## FCC COMPLIANCE

The general population/uncontrolled exposure near the monopole, including persons at ground level, surrounding properties, inside and on existing structures will have RF exposure much lower than the “worst case” scenario, which is a small fraction of the MPE limit.

Only trained persons will be allowed to climb the monopole for maintenance operations. AT&T and/or its contractors will provide training to make the employees fully aware of the potential for RF exposure occupational training and they can exercise control over their exposure that is within the occupational/controlled limits.

## CONCLUSIONS

Based on calculations, the proposed WCF will comply with current FCC and county guidelines for human exposure to radiofrequency electromagnetic fields.

All representations contained herein are true to the best of my knowledge.

## EXHIBITS

- MPE Calculations
- Antenna Spec Sheets
- WCF Location Map



4/12/19

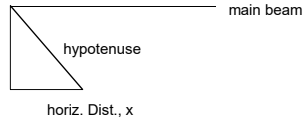
**PW0034  
Canby High School  
MPE Calculations**

Effective tower height assumes a person 6 ft tall.

120 height (ft)

1.30E-03	
0.001301	max power density in mW/cm <sup>2</sup>
0.2785%	percentage of standard

tower height, y



Note: 0.467 mW/cm<sup>2</sup> is 100% of allowable standard for lowest frequency

radiation center (feet), y	effective tower height (feet), y	minor lobe angle	dB below main lobe	horiz. dist. x	hypotenuse length (feet)	hypotenuse length (km)	hypotenuse length (cm)	ERP main lobe (watts)	ERP main lobe (dBm)	minor lobe ERP (dBm)	minor lobe EIRP (dBm)	minor lobe EIRP (mW)	Power at point x at ground level mW/cm <sup>2</sup>
120	114	90	20	0.000	114.000	0.035	3474.720	3000	64.77	44.77	46.93	49331.15	<span style="border: 1px solid black; padding: 2px;">1.30E-03</span>
<b>TOTAL</b>												<span style="border: 1px solid black; padding: 2px;">1.30E-03</span>	

# 8-Port Antenna

<b>R1</b>	<b>R2</b>	<b>Y1</b>	<b>Y2</b>
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# KATHREIN

## Frequency Range

698-960	698-960	1695-2690	1695-2690
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## Dual Polarization

X	X	X	X
---	---	---	---

## HPBW

65°	65°	65°	65°
-----	-----	-----	-----

## Adjust. Electr. DT set by **FlexRET**

1°-10°	1°-10°	2.5°-12°	2.5°-12°
--------	--------	----------	----------



**8-Port Antenna 698-960/698-960/1695-2690/1695-2690 65°/65°/65°/65° 16.5/16.5/18/18dBi  
1°-10°/1°-10°/2.5°-12°/2.5°-12°T**

<b>Type No.</b>		<b>80010966</b>			
<b>Left side, lowband</b>		<b>R1, connector 1-2</b>			
		<b>698-960</b>			
Frequency Range	MHz	698 - 806	791 - 862	824 - 894	880 - 960
Gain at mid Tilt	dBi	15.7	16.1	16.4	16.5
Gain over all Tilts	dBi	15.6 ± 0.4	16.1 ± 0.3	16.3 ± 0.3	16.4 ± 0.3
<b>Horizontal Pattern:</b>					
Azimuth Beamwidth	°	66 ± 2.9	65 ± 2.3	65 ± 2.6	64 ± 2.9
Front-to-Back Ratio, Total Power, ± 30°	dB	> 23	> 23	> 24	> 25
Cross Polar Discrimination over Sector	dB	> 10.0	> 9.5	> 10.0	> 11.5
<b>Vertical Pattern:</b>					
Elevation Beamwidth	°	9.7 ± 0.7	9.0 ± 0.5	8.7 ± 0.5	8.3 ± 0.4
Electrical Downtilt continuously adjustable	°	1.0 - 10.0			
Tilt Accuracy	°	< 0.4	< 0.4	< 0.4	< 0.4
First Upper Side Lobe Suppression	dB	> 16	> 18	> 18	> 20
Cross Polar Isolation	dB	> 30			
Port to Port Isolation	dB	> 27 (R1 // R2) > 30 (R1 // Y1, Y2)			
Max. Effective Power per Port	W	400 (at 50 °C ambient temperature)			
Max. Effective Power Port 1-2	W	800 (at 50 °C ambient temperature)			



Values based on NGMN-P-BASTA (version 9.6) requirements.

936.5298/d.1 ngmn 04.25.02.01 Subject to alteration.

All specifications are subject to change without notice.  
The latest specifications are available at [www.kathreinusa.com](http://www.kathreinusa.com)

**80010966-2018-R1.0** Page 1 of 10

Right side, lowband		R2, connector 3-4			
		698-960			
Frequency Range	MHz	698 – 806	791 – 862	824 – 894	880 – 960
Gain at mid Tilt	dBi	15.5	16.0	16.3	16.6
Gain over all Tilts	dBi	15.5 ± 0.6	16.0 ± 0.5	16.3 ± 0.4	16.5 ± 0.4
<b>Horizontal Pattern:</b>					
Azimuth Beamwidth	°	67 ± 3.5	65 ± 2.6	64 ± 3.0	63 ± 4.3
Front-to-Back Ratio, Total Power, ± 30°	dB	> 22	> 23	> 24	> 26
Cross Polar Discrimination over Sector	dB	> 9.5	> 10.5	> 10.0	> 11.5
<b>Vertical Pattern:</b>					
Elevation Beamwidth	°	9.8 ± 0.6	9.0 ± 0.7	8.6 ± 0.4	8.1 ± 0.5
Electrical Downtilt continuously adjustable	°	1.0 – 10.0			
Tilt Accuracy	°	< 0.4	< 0.4	< 0.4	< 0.3
First Upper Side Lobe Suppression	dB	> 18	> 21	> 20	> 20
Cross Polar Isolation	dB	> 30			
Port to Port Isolation	dB	> 27 (R2 // R1) > 30 (R2 // Y1, Y2)			
Max. Effective Power per Port	W	400 (at 50 °C ambient temperature)			
Max. Effective Power Port 3-4	W	800 (at 50 °C ambient temperature)			

Values based on NGMN-P-BASTA (version 9.6) requirements.

Left side, highband		Y1, connector 5-6				
		1695-2690				
Frequency Range	MHz	1695 – 1880	1850 – 1990	1920 – 2180	2300 – 2400	2500 – 2690
Gain at mid Tilt	dBi	17.6	18.0	18.3	18.1	17.9
Gain over all Tilts	dBi	17.5 ± 0.4	17.9 ± 0.4	18.1 ± 0.5	18.0 ± 0.6	17.8 ± 0.6
<b>Horizontal Pattern:</b>						
Azimuth Beamwidth	°	64 ± 4.9	64 ± 5.0	62 ± 5.4	57 ± 5.7	61 ± 7.1
Front-to-Back Ratio, Total Power, ± 30°	dB	> 24	> 26	> 26	> 25	> 24
Cross Polar Discrimination over Sector	dB	> 8.5	> 11.5	> 10.0	> 7.5	> 9.0
<b>Vertical Pattern:</b>						
Elevation Beamwidth	°	6.4 ± 0.5	5.9 ± 0.3	5.5 ± 0.4	4.8 ± 0.3	4.4 ± 0.2
Electrical Downtilt continuously adjustable	°	2.5 – 12.0				
Tilt Accuracy	°	< 0.2	< 0.2	< 0.2	< 0.2	< 0.2
First Upper Side Lobe Suppression	dB	> 19	> 19	> 17	> 19	> 17
Cross Polar Isolation	dB	> 28				
Port to Port Isolation	dB	> 30 (Y1 // R1, R2, Y2)				
Max. Effective Power per Port	W	200 (at 50 °C ambient temperature)				
Max. Effective Power Port 5-6	W	400 (at 50 °C ambient temperature)				

Values based on NGMN-P-BASTA (version 9.6) requirements.

936.5298/d.1 ngmn 04.25.02.01 Subject to alteration.

Right side, highband		Y2, connector 7-8				
		1695-2690				
Frequency Range	MHz	1695 – 1880	1850 – 1990	1920 – 2180	2300 – 2400	2500 – 2690
Gain at mid Tilt	dBi	17.5	17.9	18.2	18.3	18.1
Gain over all Tilts	dBi	17.4 ± 0.5	17.8 ± 0.4	18.0 ± 0.6	18.2 ± 0.6	17.9 ± 0.6
<b>Horizontal Pattern:</b>						
Azimuth Beamwidth	°	66 ± 3.0	66 ± 5.5	63 ± 6.9	56 ± 7.1	57 ± 7.7
Front-to-Back Ratio, Total Power, ± 30°	dB	> 25	> 24	> 25	> 27	> 25
Cross Polar Discrimination over Sector	dB	> 9.5	> 11.0	> 10.0	> 9.5	> 10.5
<b>Vertical Pattern:</b>						
Elevation Beamwidth	°	6.4 ± 0.5	5.9 ± 0.3	5.6 ± 0.4	4.9 ± 0.4	4.4 ± 0.2
Electrical Downtilt continuously adjustable	°	2.5 – 12.0				
Tilt Accuracy	°	< 0.2	< 0.2	< 0.2	< 0.2	< 0.1
First Upper Side Lobe Suppression	dB	> 19	> 18	> 18	> 19	> 18
Cross Polar Isolation	dB	> 28				
Port to Port Isolation	dB	> 30 (Y2 // R1, R2, Y1)				
Max. Effective Power per Port	W	200 (at 50 °C ambient temperature)				
Max. Effective Power Port 7-8	W	400 (at 50 °C ambient temperature)				

Values based on NGMN-P-BASTA (version 9.6) requirements.

936.5298/d.1 ngmn 04.25.02.01 Subject to alteration.

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The latest specifications are available at [www.kathreinusa.com](http://www.kathreinusa.com)

Electrical specifications, all systems		
Impedance	Ω	50
VSWR		< 1.5
Return Loss	dB	> 14
Interband Isolation	dB	> 27
Passive Intermodulation	dBc	< -153 (2 x 43 dBm carrier)
Polarization	°	+45, -45
Max. Effective Power for the Antenna	W	1200 (at 50 °C ambient temperature)

Values based on NGMN-P-BASTA (version 9.6) requirements.

Mechanical specifications		
Input	8 x 4.3-10 female	
Connector Position	bottom	
Adjustment Mechanism	FlexRET, continuously adjustable	
Wind load (at Rated Wind Speed: 150 km/h) (93 mph)	N   lbf	Frontal: 1400   315 Maximal: 1405   316 Lateral: 250   57
EPA (m <sup>2</sup>   ft <sup>2</sup> )	Front: 1.286   13.84 Lateral: .230   2.48	
Max. Wind Velocity	km/h mph	241 150
Height / Width / Depth	mm inches	2438 / 508 / 175 96.0 / 20.0 / 6.9
Category of Mounting Hardware	XH (X-Heavy)	
Weight	kg lb	52.0 / 57.0 (clamps incl.) 114.6 / 125.7 (clamps incl.)
Packing Size	mm inches	2635 / 542 / 268 103.7 / 21.3 / 10.6
Scope of Supply	Panel, FlexRET and clamps for 55-115 mm   2.2-4.5 inches diameter	

### Accessories (order separately if required)

Type No.	Description	Remarks mm   inches	Weight approx. kg   lb	Units per antenna
85010097	2 clamps	Mast diameter: 110 – 220   4.3 – 8.7	9.4   20.7	1
85010099	1 downtilt kit	Downtilt angle: 0° – 10°	10.6   23.4	1
86010154	Site Sharing Adapter	3-way (see figure below)	0.7   1.5	
86010155	Site Sharing Adapter	6-way (see figure below)	1.4   3.1	
86010162	Gender Adapter	Solely to be used in combination with the FlexRET module 86010153v01	0.045   0.099	1
86010163	Port Extender		0.16   0.35	1

### Accessories (included in the scope of supply)

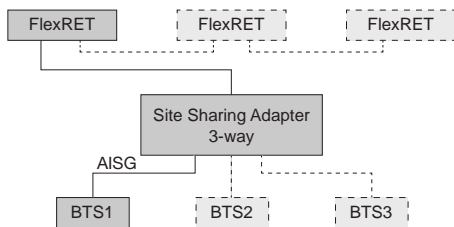
85010096	2 clamps	Mast diameter: 55 – 115   2.2 – 4.5	5.0   11.0	1
86010153v01	FlexRET			1

For downtilt mounting use the clamps for an appropriate mast diameter together with the downtilt kit. Wall mounting: No additional mounting kit needed.

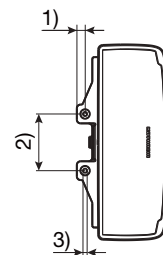
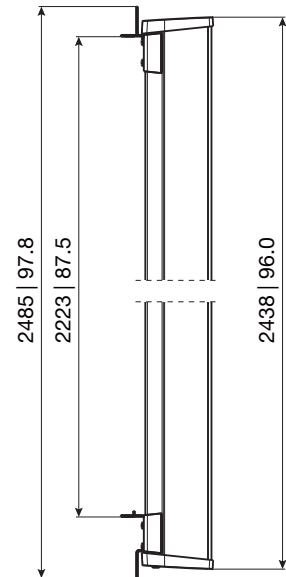
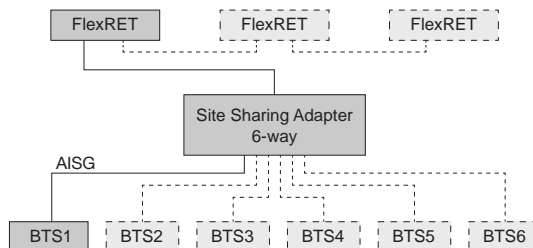
**Material:** **Reflector screen:** Aluminum.  
**Fiberglass housing:** It covers totally the internal antenna components. The special design reduces the sealing areas to a minimum and guarantees the best weather protection. Fiberglass material guarantees optimum performance with regards to stability, stiffness, UV resistance and painting. The color of the radome is light grey.  
**All nuts and bolts:** Stainless steel or hot-dip galvanized steel.

**Grounding:** The metal parts of the antenna including the mounting kit and the inner conductors are DC grounded.

### Configuration example with Site Sharing Adapter 86010154



### Configuration example with Site Sharing Adapter 86010155

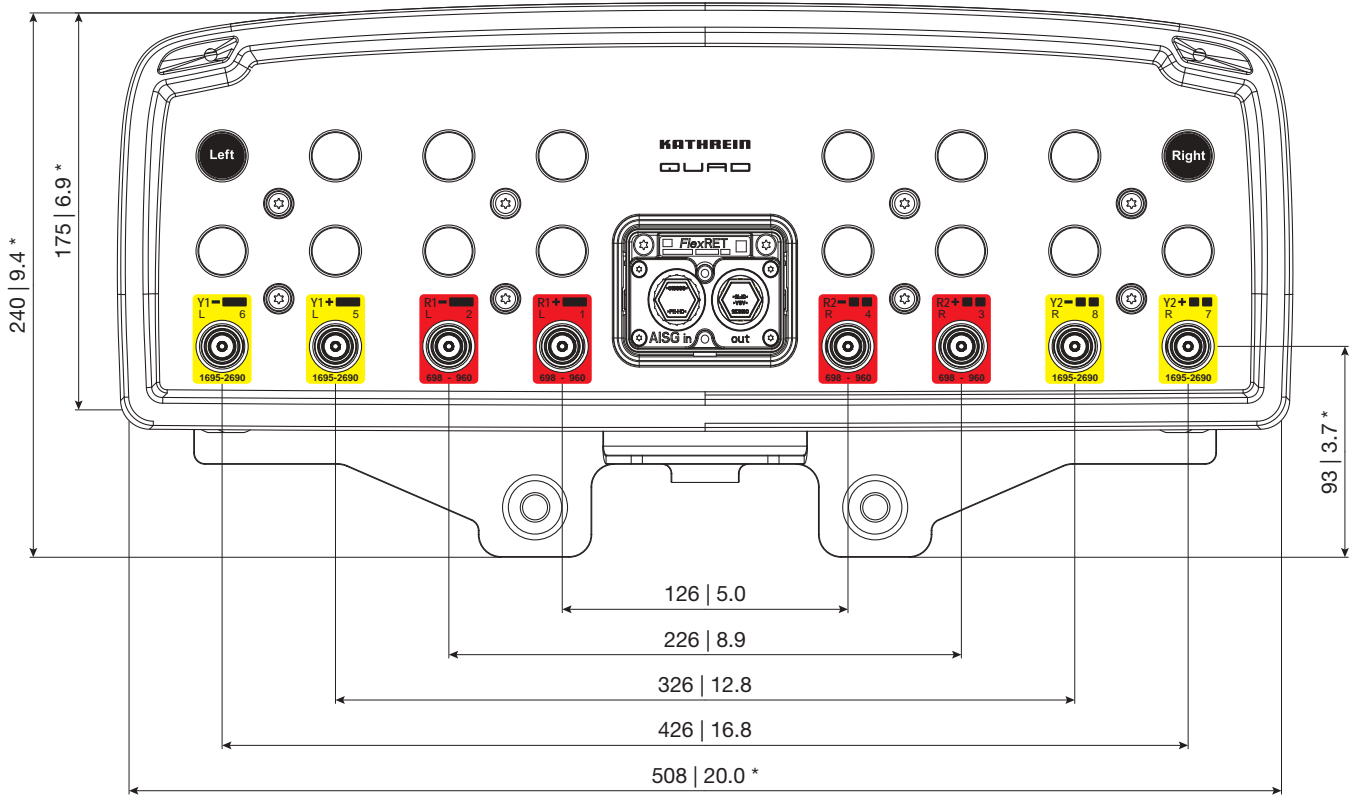


- 1) 22 | 0.9
- 2) 150 | 5.9
- 3) Ø 11 | 0.4

All dimensions in mm | inches

For more information please refer to the respective data sheets.

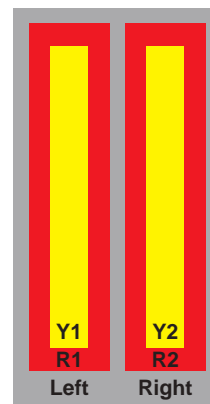
### Layout of interface:



Bottom view  
 \* Dimensions refer to radome  
 All dimensions in mm | inches

### Correlation Table

Frequency range	Array	Connector
698–960 MHz	R1	1–2
698–960 MHz	R2	3–4
1695–2690 MHz	Y1	5–6
1695–2690 MHz	Y2	7–8



### Order Information

Model	Description
80010966	8-Port antenna with mounting bracket
80010966K	8-Port antenna with mounting bracket and mechanical tilt bracket

936.5298/d.1 ngmn 04.25.02.01 Subject to alteration.

All specifications are subject to change without notice.  
 The latest specifications are available at [www.kathreinusa.com](http://www.kathreinusa.com)









TIM BRADLEY IMAGING

PHOTO SIM LOCATION MAP



**CANBY HIGH SCHOOL**  
640 SW 2ND AVE., CANBY, OR





# CANBY HIGH SCHOOL

640 SW 2ND AVE., CANBY, OR



CURRENT

VIEW #1 LOOKING NORTHWEST  
ON SW 2ND AVE.



PROPOSED

TIM BRADLEY IMAGING



**CANBY HIGH SCHOOL**  
640 SW 2ND AVE., CANBY, OR



CURRENT

VIEW #2 LOOKING SOUTHWEST  
ON SW 2ND AVE.



PROPOSED

TIM BRADLEY IMAGING





**CANBY HIGH SCHOOL**  
640 SW 2ND AVE., CANBY, OR



CURRENT

VIEW #3 LOOKING NORTHEAST  
ON SW 2ND AVE & S BIRCH STREET



PROPOSED

TIM BRADLEY IMAGING



**CANBY HIGH SCHOOL**  
640 SW 2ND AVE., CANBY, OR



CURRENT

VIEW #4 LOOKING SOUTHEAST  
ACROSS PACIFIC HIGHWAY E



PROPOSED

TIM BRADLEY IMAGING





# CANBY HIGH SCHOOL

640 SW 2ND AVE., CANBY, OR



CURRENT

VIEW #5 LOOKING SOUTHWEST  
ON SW 1ST AVE & ELM STREET



PROPOSED

TIM BRADLEY IMAGING





**CANBY HIGH SCHOOL**  
640 SW 2ND AVE., CANBY, OR



CURRENT

VIEW #6 LOOKING NORTHEAST  
ON SW 1ST AVE & S BIRCH STREET



PROPOSED

TIM BRADLEY IMAGING

ULS License

700 MHz Lower Band (Blocks C, D) License - WPWU989 - New Cingular Wireless PCS, LLC

Call Sign	WPWU989	Radio Service	WZ - 700 MHz Lower Band (Blocks C, D)
Status	Active	Auth Type	Regular

**Rural Service Provider Bidding Credit**

Is the Applicant seeking a Rural Service Provider (RSP) bidding credit?

**Reserved Spectrum**

Reserved Spectrum

**Market**

Market	EAG706 - Pacific	Channel Block	D
Submarket	0	Associated Frequencies (MHz)	000716.00000000-000722.00000000

**Dates**

Grant	01/24/2003	Expiration	06/13/2019
Effective	08/31/2018	Cancellation	

**Buildout Deadlines**

1st	06/13/2019	2nd	
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**Notification Dates**

1st		2nd	
-----	--	-----	--

**Licensee**

FRN	0003291192	Type	Limited Liability Company
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**Licensee**

New Cingular Wireless PCS, LLC 208 S Akard St., RM 1015 Dallas, TX 75202 ATTN Cecil J Mathew	P:(855)699-7073 F:(214)746-6410 E:FCCMW@att.com
---	---

**Contact**

AT&T Mobility LLC Cecil J Mathew 208 S Akard St., RM 1015 Dallas, TX 75202 ATTN Michael P. Goggin	P:(855)699-7073 F:(214)746-6410 E:FCCMW@att.com
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**Ownership and Qualifications**

Radio Service Type Fixed, Mobile

Regulatory Status Common Carrier, Interconnected No  
Non-Common  
Carrier

**Alien Ownership**

The Applicant answered "No" to each of the Alien Ownership questions.

**Basic Qualifications**

The Applicant answered "No" to each of the Basic Qualification questions.

**Tribal Land Bidding Credits**

This license did not have tribal land bidding credits.

**Demographics**

Race

Ethnicity

Gender

# TOWAIR Determination Results

A routine check of the coordinates, heights, and structure type you provided indicates that this structure does not require registration.

## \*\*\* NOTICE \*\*\*

TOWAIR's findings are not definitive or binding, and we cannot guarantee that the data in TOWAIR are fully current and accurate. In some instances, TOWAIR may yield results that differ from application of the criteria set out in 47 C.F.R. Section 17.7 and 14 C.F.R. Section 77.13. A positive finding by TOWAIR recommending notification should be given considerable weight. On the other hand, a finding by TOWAIR recommending either for or against notification is not conclusive. It is the responsibility of each ASR participant to exercise due diligence to determine if it must coordinate its structure with the FAA. TOWAIR is only one tool designed to assist ASR participants in exercising this due diligence, and further investigation may be necessary to determine if FAA coordination is appropriate.

### DETERMINATION Results

**PASS SLOPE(100:1)NO FAA REQ - 5477.0 Meters (17968.9 Feet)away & below slope by 27.0 Meters (88.5799 Feet)**

Type	C/R	Latitude	Longitude	Name	Address	Lowest Elevation (m)	Runway Length (m)
AIRP	R	45-15-14.00N	122-46-8.00W	AURORA STATE	MARION AURORA, OR	59.8	1524.9000000000001

### Your Specifications

#### NAD83 Coordinates

Latitude: 45-15-32.2 north  
 Longitude: 122-41-58.1 west

#### Measurements (Meters)

Overall Structure Height (AGL): 39.6  
 Support Structure Height (AGL): 39.6  
 Site Elevation (AMSL): 47.5

#### Structure Type

MTOWER - Monopole

### Tower Construction Notifications

Notify Tribes and Historic Preservation Officers of your plans to build a tower.

**CLOSE WINDOW**



**LETTER OF AUTHORIZATION TO APPLY FOR PERMITS**

**Date:** April 9, 2019

**Project:** PW34 Canby HS

**Address:** 640 SW 2<sup>nd</sup> Avenue

**Dear Staff:**

**Lynx Land Holdings, LLC** ("Property Owner") grants permission to apply for permits for this project to **Smartlink LLC**, as AT&T's representative. Any actual construction may not begin without a fully executed lease, all proper building and/ or right of way permits, and Property Owner's approval of the construction schedule.


**Scope of work:** Installation of an new 130' monofir and ancillary equipment, a pre-fabricated equipment shelter within a 25' x 30' compound area.

In addition, the signature below grants permission for Staff to access the subject property to examine the site as part of the permitting process and acknowledges that the Property Owner shall be deemed a co-applicant by virtue of such authorization.

**Property Owner (print):**

Peter Nelson  
\_\_\_\_\_

**Property Owner (signature):**

  
\_\_\_\_\_

**Date:**

4/19/2019  
\_\_\_\_\_

Market: PNW (OR)  
Cell Site Number: PW34  
Cell Site Name: Canby High School  
Search Ring Name: Canby High School  
Fixed Asset Number: 14671566

## OPTION AND LAND LEASE AGREEMENT

THIS OPTION AND LAND LEASE AGREEMENT (“**Agreement**”), dated as of the latter of the signature dates below (the “**Effective Date**”), is entered into by Lynx Land Holdings, LLC, a Oregon limited liability company, having a mailing address of 1977 Claxter Road NE, Salem, OR 97301 (“**Landlord**”) and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 575 Morosgo Drive NE, Atlanta, GA 30324 (“**Tenant**”).

### BACKGROUND

Landlord owns or controls that certain plot, parcel or tract of land, as described on **Exhibit 1**, together with all rights and privileges arising in connection therewith, located at 640 SW 2<sup>nd</sup> Avenue, Canby, in the County of Clackamas, State of Oregon (collectively, the “**Property**”). Landlord desires to grant to Tenant the right to use a portion of the Property in accordance with this Agreement.

The parties agree as follows:

#### 1. OPTION TO LEASE.

(a) Landlord grants to Tenant an exclusive option (the “**Option**”) to lease a certain portion of the Property containing approximately 750 square feet including the air space above such ground space, as described on attached **Exhibit 1**, (the “**Premises**”), for the placement of a Communication Facility in accordance with the terms of this Agreement.

(b) During the Option Term, and during the Term, Tenant and its agents, engineers, surveyors and other representatives will have the right to enter upon the Property to inspect, examine, conduct soil borings, drainage testing, material sampling, radio frequency testing and other geological or engineering tests or studies of the Property (collectively, the “**Tests**”), to apply for and obtain licenses, permits, approvals, or other relief required of or deemed necessary or appropriate at Tenant’s sole discretion for its use of the Premises and include, without limitation, applications for zoning variances, zoning ordinances, amendments, special use permits, and construction permits (collectively, the “**Government Approvals**”), initiate the ordering and/or scheduling of necessary utilities, and otherwise to do those things on or off the Property that, in the opinion of Tenant, are necessary in Tenant’s sole discretion to determine the physical condition of the Property, the environmental history of the Property, Landlord’s title to the Property and the feasibility or suitability of the Property for Tenant’s Permitted Use, all at Tenant’s expense. Tenant will not be liable to Landlord or any third party on account of any pre-existing defect or condition on or with respect to the Property, whether or not such defect or condition is disclosed by Tenant’s inspection. Tenant will restore the Property to its condition as it existed at the commencement of the Option Term, reasonable wear and tear and loss by casualty or other causes beyond Tenant’s control excepted.

(c) [REDACTED] within thirty (30) business days after the Effective Date. The Option may be exercised during an initial term of one (1) year commencing on the Effective Date (the “**Initial Option Term**”) which term may be renewed by Tenant for an additional one (1) year (the “**Renewal Option Term**”) upon written notification to Landlord and the payment of an additional [REDACTED] no later than five (5) days prior to the expiration date of the Initial Option Term. The Initial Option Term and any Renewal Option Term are collectively referred to as the “**Option Term**.”

(d) The Option may be sold, assigned or transferred at any time by Tenant without the written consent of Landlord. Upon notification to Landlord of such sale, assignment or transfer, Tenant shall immediately

be released from any and all liability under this Agreement, including the payment of any rental or other sums due, without any further action.

(e) During the Option Term, Tenant may exercise the Option by notifying Landlord in writing. If Tenant exercises the Option, then Landlord leases the Premises to Tenant subject to the terms and conditions of this Agreement. If Tenant does not exercise the Option during the Initial Option Term or any extension thereof, then this Agreement will terminate, and the parties will have no further liability to each other.

(f) If during the Option Term, or during the Term if the Option is exercised, Landlord decides to subdivide, sell, or change the status of the zoning of the Premises, the Property or any of Landlord's contiguous, adjoining or surrounding property (the "**Surrounding Property**"), or in the event of a threatened foreclosure on any of the foregoing, Landlord shall immediately notify Tenant in writing. Landlord agrees that during the Option Term, or during the Term if the Option is exercised, Landlord shall not initiate or consent to any change in the zoning of the Premises, the Property or the Surrounding Property or impose or consent to any other use or restriction that would prevent or materially limit Tenant from using the Premises for the Permitted Use. Any and all terms and conditions of this Agreement that by their sense and context are intended to be applicable during the Option Term shall be so applicable.

**2. PERMITTED USE.** Tenant may use the Premises for the transmission and reception of communications signals and the installation, construction, maintenance, operation, repair, replacement and upgrade of communications fixtures and related equipment, cables, accessories and improvements, which may include a suitable support structure ("**Structure**"), associated antennas, equipment shelters or cabinets and fencing and any other items necessary to the successful and secure use of the Premises (the "**Communication Facility**"), as well as the right to test, survey and review title on the Property; Tenant further has the right but not the obligation to add, modify and/or replace equipment in order to be in compliance with any current or future federal, state or local mandated application, including, but not limited to, emergency 911 communication services (collectively, the "**Permitted Use**"). Landlord and Tenant agree that any portion of the Communication Facility that may be conceptually described on **Exhibit 1** will not be deemed to limit Tenant's Permitted Use. If **Exhibit 1** includes drawings of the initial installation of the Communication Facility, Landlord's execution of this Agreement will signify Landlord's approval of **Exhibit 1**. For a period of ninety (90) days following the start of construction, Landlord grants Tenant, its subtenants, licensees and sublicensees, the right to use such portions of the Surrounding Property as may reasonably be required during construction and installation of the Communication Facility. Tenant has the right to install and operate transmission cables from the equipment shelter or cabinet to the antennas, electric lines from the main feed to the equipment shelter or cabinet and communication lines from the Property's main entry point to the equipment shelter or cabinet, install a generator and to make other improvements, alterations, upgrades or additions appropriate for Tenant's Permitted Use, including the right to construct a fence around the Premises or equipment, install warning signs to make individuals aware of risks, install protective barriers, install any other control measures reasonably required by Tenant's safety procedures or applicable law, and undertake any other appropriate means to secure the Premises or equipment at Tenant's expense. Tenant has the right to modify, supplement, replace, upgrade, expand the Communication Facility (including, for example, increasing the number of antennas or adding microwave dishes) or relocate the Communication Facility within the Premises at any time during the Term. Tenant will be allowed to make such alterations to the Premises in order to ensure that the Communication Facility complies with all applicable federal, state or local laws, rules or regulations

**3. TERM.**

(a) The initial lease term will be five (5) years (the "**Initial Term**"), commencing on the Effective Date. The Initial Term will terminate on the fifth (5th) anniversary of the Term Commencement Date.

(b) This Agreement will automatically renew for four (4) additional five (5) year term(s) (each additional five (5) year term shall be defined as an "**Extension Term**"), upon the same terms and conditions set forth herein unless Tenant notifies Landlord in writing of Tenant's intention not to renew this Agreement at least sixty (60) days prior to the expiration of the Initial Term or the then-existing Extension Term.

(c) Unless (i) Landlord or Tenant notifies the other in writing of its intention to terminate this Agreement at least six (6) months prior to the expiration of the final Extension Term, or (ii) the Agreement is

terminated as otherwise permitted by this Agreement prior to the end of the final Extension Term, this Agreement shall continue in force upon the same covenants, terms and conditions for a further term of one (1) year, and for annual terms thereafter (“**Annual Term**”) until terminated by either party hereto by giving to the other party hereto written notice of its intention to so terminate at least six (6) months prior to the end of any such Annual Term. Monthly rent during such Annual Terms shall be equal to the Rent paid for the last month of the final Extension Term. If Tenant remains in possession of the Premises after the termination of this Agreement, then Tenant will be deemed to be occupying the Premises on a month-to-month basis (the “**Holdover Term**”), subject to the terms and conditions of this Agreement.

(d) The Initial Term, any Extension Terms, any Annual Terms and any Holdover Term are collectively referred to as the “**Term.**”

#### **4. RENT.**

(a) Commencing on the first day of the month following the date that Tenant commences construction (the “**Rent Commencement Date**”), Tenant will pay Landlord on or before the fifth (5<sup>th</sup>) day of each calendar month in advance [REDACTED] (the “**Rent**”), at the address set forth above. In any partial month occurring after the Rent Commencement Date, the Rent will be prorated. The initial Rent payment will be forwarded by Tenant to Landlord within forty-five (45) days after the Rent Commencement Date.

(b) Upon the commencement of each Extension Term, the monthly Rent will increase by [REDACTED] over the Rent paid during the previous five (5) year term.

(c) All charges payable under this Agreement such as utilities and taxes shall be billed by Landlord within one (1) year from the end of the calendar year in which the charges were incurred; any charges beyond such period shall not be billed by Landlord, and shall not be payable by Tenant. The foregoing shall not apply to monthly Rent which is due and payable without a requirement that it be billed by Landlord. The provisions of this subsection shall survive the termination or expiration of this Agreement.

#### **5. APPROVALS.**

(a) Landlord agrees that Tenant’s ability to use the Premises is contingent upon the suitability of the Premises and Property for the Permitted Use and Tenant’s ability to obtain and maintain all Government Approvals. Landlord authorizes Tenant, at Tenant’s sole cost and expense, to prepare, execute and file all required applications to obtain Government Approvals for the Permitted Use and agrees to reasonably assist Tenant with such applications and with obtaining and maintaining the Government Approvals.

(b) Tenant has the right to obtain a title report or commitment for a leasehold title policy from a title insurance company of its choice and to have the Property surveyed by a surveyor of its choice.

(c) Tenant may also perform and obtain, at Tenant’s sole cost and expense, soil borings, percolation tests, engineering procedures, environmental investigation or other tests or reports on, over, and under the Premises, necessary to determine if Tenant’s use of the Premises will be compatible with Tenant’s engineering specifications, system, design, operations or Government Approvals.

#### **6. TERMINATION.** This Agreement may be terminated, without penalty or further liability, as follows:

(a) by either party on thirty (30) days prior written notice, if the other party remains in default under Section 15 of this Agreement after the applicable cure periods;

(b) by Tenant upon written notice to Landlord, if Tenant is unable to obtain, or maintain, any required approval(s) or the issuance of a license or permit by any agency, board, court or other governmental authority necessary for the construction or operation of the Communication Facility as now or hereafter intended by Tenant; or if Tenant determines, in its sole discretion that the cost of or delay in obtaining or retaining the same is commercially unreasonable;

(c) by Tenant, upon written notice to Landlord, if Tenant determines, in its sole discretion, due to the title report results or survey results, that the condition of the Premises is unsatisfactory for its intended uses;

(d) by Tenant upon written notice to Landlord for any reason or no reason, at any time prior to commencement of construction by Tenant; or

(e) by Tenant upon sixty (60) days' prior written notice to Landlord for any reason or no reason, so long as Tenant pays Landlord a termination fee equal to three (3) months' Rent, at the then-current rate, provided, however, that no such termination fee will be payable on account of the termination of this Agreement by Tenant under any termination provision contained in any other Section of this Agreement, including the following: Section 5 Approvals, Section 6(a) Termination, Section 6(b) Termination, Section 6(c) Termination, Section 6(d) Termination, Section 11(d) Environmental, Section 18 Condemnation or Section 19 Casualty.

**7. INSURANCE.** During the Option Term and throughout the Term, Tenant will purchase and maintain in full force and effect such general liability policy as Tenant may deem necessary. Said policy of general liability insurance will at a minimum provide a combined single limit of One Million and No/100 Dollars (\$1,000,000.00). Notwithstanding the foregoing, Tenant shall have the right to self-insure such general liability coverage.

**8. INTERFERENCE.**

(a) Prior to or concurrent with the execution of this Agreement, Landlord has provided or will provide Tenant with a list of radio frequency user(s) and frequencies used on the Property as of the Effective Date. Tenant warrants that its use of the Premises will not interfere with those existing radio frequency uses on the Property, as long as the existing radio frequency user(s) operate and continue to operate within their respective frequencies and in accordance with all applicable laws and regulations.

(b) Landlord will not grant, after the Effective Date, a lease, license or any other right to any third party, if the exercise of such grant may in any way adversely affect or interfere with the Communication Facility, the operations of Tenant or the rights of Tenant under this Agreement. Landlord will notify Tenant in writing prior to granting any third party the right to install and operate communications equipment on the Property.

(c) Landlord will not, nor will Landlord permit its employees, tenants, licensees, invitees, agents or independent contractors to interfere in any way with the Communication Facility, the operations of Tenant or the rights of Tenant under this Agreement. Landlord will cause such interference to cease within twenty-four (24) hours after receipt of notice of interference from Tenant. In the event any such interference does not cease within the aforementioned cure period, Landlord shall cease all operations which are suspected of causing interference (except for intermittent testing to determine the cause of such interference) until the interference has been corrected.

(d) For the purposes of this Agreement, "interference" may include, but is not limited to, any use on the Property or Surrounding Property that causes electronic or physical obstruction with, or degradation of, the communications signals from the Communication Facility.

**9. INDEMNIFICATION.**

(a) Tenant agrees to indemnify, defend and hold Landlord harmless from and against any and all injury, loss, damage or liability costs or expenses in connection with a third party claim (including reasonable attorneys' fees and court costs) arising directly from the Tests, the use and occupancy of the Premises, the installation, use, maintenance, repair or removal of the Structure or Communication Facility, or Tenant's breach of any provision of this Agreement, except to the extent attributable to the negligent or intentional act or omission of Landlord, its employees, invitees, agents or independent contractors.

(b) Landlord agrees to indemnify, defend and hold Tenant harmless from and against any and all injury, loss, damage or liability, costs or expenses in connection with a third party claim (including reasonable attorneys' fees and court costs) arising directly from the actions or failure to act of Landlord, its employees, invitees, agents or independent contractors, or Landlord's breach of any provision of this Agreement, except to the extent attributable to the negligent or intentional act or omission of Tenant, its employees, agents or independent contractors.

(c) The indemnified party: (i) shall promptly provide the indemnifying party with written notice of any claim, demand, lawsuit, or the like for which it seeks indemnification pursuant to this Section 9 and provide the indemnifying party with copies of any demands, notices, summonses, or legal papers received in connection with such claim, demand, lawsuit, or the like; (ii) shall not settle any such claim, demand, lawsuit, or the like without the prior written consent of the indemnifying party; and (iii) shall fully cooperate with the indemnifying



party in the defense of the claim, demand, lawsuit, or the like. A delay in notice shall not relieve the indemnifying party of its indemnity obligation, except (1) to the extent the indemnifying party can show it was prejudiced by the delay; and (2) the indemnifying party shall not be liable for any settlement or litigation expenses incurred before the time when notice is given.

#### **10. WARRANTIES.**

(a) Each of Tenant and Landlord (to the extent not a natural person) each acknowledge and represent that it is duly organized and validly existing and has the right, power, and authority or capacity, as applicable, to enter into this Agreement and bind itself hereto through the party or individual set forth as signatory for the party below.

(b) Landlord represents, warrants and agrees that: (i) Landlord solely owns the Property as a legal lot in fee simple, or controls the Property by lease or license; (ii) the Property is not and will not be encumbered by any liens, restrictions, mortgages, covenants, conditions, easements, leases, or any other agreements of record or not of record, which would adversely affect Tenant's Permitted Use and enjoyment of the Premises under this Agreement; (iii) then Landlord grants to Tenant sole, actual, quiet and peaceful use, enjoyment and possession of the Premises in accordance with the terms of this Agreement without hindrance or ejection by any persons lawfully claiming under Landlord; (iv) Landlord's execution and performance of this Agreement will not violate any laws, ordinances, covenants or the provisions of any mortgage, lease or other agreement binding on Landlord; and (v) if the Property is or becomes encumbered by a deed to secure a debt, mortgage or other security interest, then Landlord will provide promptly to Tenant a mutually agreeable subordination, non-disturbance and attornment agreement executed by Landlord and the holder of such security interest in the form attached hereto as **Exhibit 10(b)**.

#### **11. ENVIRONMENTAL.**

(a) Landlord represents and warrants, except as may be identified in **Exhibit 11** attached to this Agreement, (i) the Property, as of the Effective Date, is free of hazardous substances, including asbestos-containing materials and lead paint, and (ii) the Property has never been subject to any contamination or hazardous conditions resulting in any environmental investigation, inquiry or remediation. Landlord and Tenant agree that each will be responsible for compliance with any and all applicable governmental laws, rules, statutes, regulations, codes, ordinances, or principles of common law regulating or imposing standards of liability or standards of conduct with regard to protection of the environment or worker health and safety, as may now or at any time hereafter be in effect, to the extent such apply to that party's activity conducted in or on the Property.

(b) Landlord and Tenant agree to hold harmless and indemnify the other from, and to assume all duties, responsibilities and liabilities at the sole cost and expense of the indemnifying party for, payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding ("**Claims**"), to the extent arising from that party's breach of its obligations or representations under Section 11(a). Landlord agrees to hold harmless and indemnify Tenant from, and to assume all duties, responsibilities and liabilities at the sole cost and expense of Landlord for, payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any Claims, to the extent arising from subsurface or other contamination of the Property with hazardous substances prior to the Effective Date or from such contamination caused by the acts or omissions of Landlord during the Term. Tenant agrees to hold harmless and indemnify Landlord from, and to assume all duties, responsibilities and liabilities at the sole cost and expense of Tenant for, payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any Claims, to the extent arising from hazardous substances brought onto the Property by Tenant.

(c) The indemnification provisions contained in this Section 11 specifically include reasonable costs, expenses and fees incurred in connection with any investigation of Property conditions or any clean-up, remediation, removal or restoration work required by any governmental authority. The provisions of this Section 11 will survive the expiration or termination of this Agreement.

(d) In the event Tenant becomes aware of any hazardous materials on the Property, or any environmental, health or safety condition or matter relating to the Property, that, in Tenant's sole determination,

renders the condition of the Premises or Property unsuitable for Tenant's use, or if Tenant believes that the leasing or continued leasing of the Premises would expose Tenant to undue risks of liability to a government agency or other third party, then Tenant will have the right, in addition to any other rights it may have at law or in equity, to terminate this Agreement upon written notice to Landlord.

**12. ACCESS.** At all times throughout the Term of this Agreement, Tenant and its employees, agents, and subcontractors, will have twenty-four (24) hour per day, seven (7) day per week pedestrian and vehicular access ("**Access**") to and over the Property, from an open and improved public road to the Premises, for the installation, maintenance and operation of the Communication Facility and any utilities serving the Premises. Landlord shall execute a letter granting Tenant Access to the Property substantially in the form attached as **Exhibit 12**; upon Tenant's request, Landlord shall execute additional letters during the Term. If Tenant elects to utilize an Unmanned Aircraft System ("**UAS**") in connection with its installation, construction, monitoring, site audits, inspections, maintenance, repair, modification, or alteration activities at a Property, Landlord hereby grants Tenant, or any UAS operator acting on Tenant's behalf, express permission to fly over the applicable Property and Premises, and consents to the use of audio and video navigation and recording in connection with the use of the UAS. Landlord acknowledges that in the event Tenant cannot obtain Access to the Premises, Tenant shall incur significant damage. If Landlord fails to provide the Access granted by this Section 12, such failure shall be a default under this Agreement.

**13. REMOVAL/RESTORATION.** All portions of the Communication Facility brought onto the Property by Tenant will be and remain Tenant's personal property and shall be removed by Tenant at any time during or after the Term. Landlord covenants and agrees that no part of the Communication Facility constructed, erected or placed on the Premises by Tenant will become, or be considered as being affixed to or a part of, the Property, it being the specific intention of Landlord that all improvements of every kind and nature constructed, erected or placed by Tenant on the Premises will be and remain the property of Tenant and shall be removed by Tenant at any time during or after the Term. Tenant will repair any damage to the Property resulting from Tenant's removal activities. Notwithstanding the foregoing, Tenant will not be responsible for the replacement of any trees, shrubs or other vegetation.

**14. MAINTENANCE/UTILITIES.**

(a) Tenant will keep and maintain the Premises in good condition, reasonable wear and tear and damage from the elements excepted. Landlord will maintain and repair the Property and access thereto and all areas of the Premises where Tenant does not have exclusive control, in good and tenantable condition, subject to reasonable wear and tear and damage from the elements. Landlord will be responsible for maintenance of landscaping on the Property, including any landscaping installed by Tenant as a condition of this Agreement or any required permit.

(b) Tenant will be responsible for paying on a monthly or quarterly basis all utilities charges for electricity, telephone service or any other utility used or consumed by Tenant on the Premises. Tenant shall secure its own metered electrical supply.

(c) Tenant will have the right to install utilities, at Tenant's expense, and to improve present utilities on the Property and the Premises. Landlord shall grant to any service company providing utility or similar services, including electric power and telecommunications, to Tenant an easement over the Property, from an open and improved public road to the Premises, and upon the Premises, for the purpose of constructing, operating and maintaining such lines, wires, circuits, and conduits, associated equipment cabinets and such appurtenances thereto, as such service companies may from time to time require in order to provide such services to the Premises. Upon Tenant's or service company's request, Landlord will execute a separate recordable easement evidencing this grant, at no cost to Tenant or the service company.

**15. DEFAULT AND RIGHT TO CURE.**

(a) The following will be deemed a default by Tenant and a breach of this Agreement: (i) non-payment of Rent if such Rent remains unpaid for more than thirty (30) days after written notice from Landlord of such failure to pay; or (ii) Tenant's failure to perform any other term or condition under this Agreement within

forty-five (45) days after written notice from Landlord specifying the failure. No such failure, however, will be deemed to exist if Tenant has commenced to cure such default within such period and provided that such efforts are prosecuted to completion with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of Tenant. If Tenant remains in default beyond any applicable cure period, then Landlord will have the right to terminate this Agreement, such damages from Tenant, and to exercise any and all other rights and remedies available to it under law and equity.

(b) The following will be deemed a default by Landlord and a breach of this Agreement: (i) Landlord's failure to provide Access to the Premises as required by Section 12 within twenty-four (24) hours after written notice of such failure; (ii) Landlord's failure to cure an interference problem as required by Section 8 within twenty-four (24) hours after written notice of such failure; or (iii) Landlord's failure to perform any term, condition or breach of any warranty or covenant under this Agreement within forty-five (45) days after written notice from Tenant specifying the failure. No such failure, however, will be deemed to exist if Landlord has commenced to cure the default within such period and provided such efforts are prosecuted to completion with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of Landlord. If Landlord remains in default beyond any applicable cure period, Tenant will have: (i) the right to cure Landlord's default and to deduct the costs of such cure from any monies due to Landlord from Tenant, and (ii) any and all other rights available to it under law and equity.

**16. ASSIGNMENT/SUBLEASE.** Tenant will have the right to assign this Agreement without Landlord's consent. Tenant may only sublease the Premises or assign less than all of its rights hereunder upon the prior written consent of Landlord, which will not be unreasonably withheld, conditioned or delayed. Upon notification to Landlord of such assignment, Tenant will be relieved of all future performance, liabilities and obligations under this Agreement to the extent of such assignment.

**17. NOTICES.** All notices, requests and demands hereunder will be given by first class certified or registered mail, return receipt requested, or by a nationally recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undelivered. Notices will be addressed to the parties hereto as follows:

If to Tenant:                   New Cingular Wireless PCS, LLC  
  Attn: Network Real Estate Administration  
  Re: Cell Site #: PW34; Cell Site Name: Canby High School (OR)  
  Fixed Asset #: 14671566  
  575 Morosgo Drive NE  
  Atlanta, Georgia 30324

With a copy to:                New Cingular Wireless PCS, LLC  
  Attn.: Legal Dept – Network Operations  
  Re: Cell Site #: PW34; Cell Site Name: Canby High School (OR)  
  Fixed Asset #: 14671566  
  208 S. Akard Street  
  Dallas, TX 75202-4206

The copy sent to the Legal Department is an administrative step which alone does not constitute legal notice.

If to Landlord:                Lynx Land Holdings, LLC – Attn: Peter Nelson  
  1977 Claxter Road NE  
  Salem, OR 97301

Either party hereto may change the place for the giving of notice to it by thirty (30) days' prior written notice to the other party hereto as provided herein.

**18. CONDEMNATION.** In the event Landlord receives notification of any condemnation proceedings affecting the Property, Landlord will provide notice of the proceeding to Tenant within three (3) days. If a condemning authority takes all of the Property, or a portion sufficient, in Tenant's sole determination, to render the Premises unsuitable for Tenant, this Agreement will terminate as of the date the title vests in the condemning authority. The parties will each be entitled to pursue their own separate awards in the condemnation proceeds, which for Tenant will include, where applicable, the value of its Communication Facility, moving expenses, prepaid Rent, and business dislocation expenses. Tenant will be entitled to reimbursement for any prepaid Rent on a *pro rata* basis.

**19. CASUALTY.** Landlord will provide notice to Tenant of any casualty or other harm affecting the Property within three (3) days of the casualty or other harm. If any part of the Communication Facility or the Property is damaged by casualty or other harm as to render the Premises unsuitable, in Tenant's sole determination, then Tenant may terminate this Agreement by providing written notice to Landlord, which termination will be effective as of the date of such casualty or other harm. Upon such termination, Tenant will be entitled to collect all insurance proceeds payable to Tenant on account thereof and to be reimbursed for any prepaid Rent on a *pro rata* basis. Landlord agrees to permit Tenant to place temporary transmission and reception facilities on the Property, but only until such time as Tenant is able to activate a replacement transmission facility at another location; notwithstanding the termination of this Agreement, such temporary facilities will be governed by all of the terms and conditions of this Agreement, including Rent. If Landlord or Tenant undertakes to rebuild or restore the Premises and/or the Communication Facility, as applicable, Landlord agrees to permit Tenant to place temporary transmission and reception facilities on the Property until the reconstruction of the Premises and/or the Communication Facility is completed. If Landlord determines not to rebuild or restore the Property, Landlord will notify Tenant of such determination within thirty (30) days after the casualty or other harm. If Landlord does not so notify Tenant and Tenant decides not to terminate under this Section 19, then Landlord will promptly rebuild or restore any portion of the Property interfering with or required for Tenant's Permitted Use of the Premises to substantially the same condition as existed before the casualty or other harm. Landlord agrees that the Rent shall be abated until the Property and/or the Premises are rebuilt or restored, unless Tenant places temporary transmission and reception facilities on the Property.

**20. WAIVER OF LANDLORD'S LIENS.** Landlord waives any and all lien rights it may have, statutory or otherwise, concerning the Communication Facility or any portion thereof. The Communication Facility shall be deemed personal property for purposes of this Agreement, regardless of whether any portion is deemed real or personal property under applicable law; Landlord consents to Tenant's right to remove all or any portion of the Communication Facility from time to time in Tenant's sole discretion and without Landlord's consent.

**21. TAXES.**

(a) Landlord shall be responsible for (i) all taxes and assessments levied upon the lands, improvements and other property of Landlord including any such taxes that may be calculated by a taxing authority using any method, including the income method, (ii) all sales, use, license, value added, documentary, stamp, gross receipts, registration, real estate transfer, conveyance, excise, recording, and other similar taxes and fees imposed in connection with this Agreement, and (iii) all sales, use, license, value added, documentary, stamp, gross receipts, registration, real estate transfer, conveyance, excise, recording, and other similar taxes and fees imposed in connection with a sale of the Property or assignment of Rent payments by Landlord. Tenant shall be responsible for (y) any taxes and assessments attributable to and levied upon Tenant's leasehold improvements on the Premises if and as set forth in this Section 21 and (z) all sales, use, license, value added, documentary, stamp, gross receipts, registration, real estate transfer, conveyance, excise, recording, and other similar taxes and fees imposed in connection with an assignment of this Agreement or sublease by Tenant. Nothing herein shall require Tenant to pay any inheritance, franchise, income, payroll, excise, privilege, rent, capital stock, stamp, documentary, estate or profit tax, or any tax of similar nature, that is or may be imposed upon Landlord.

(b) In the event Landlord receives a notice of assessment with respect to which taxes or assessments are imposed on Tenant's leasehold improvements on the Premises, Landlord shall provide Tenant with copies of each such notice immediately upon receipt, but in no event later than thirty (30) days after the date of such notice

of assessment. If Landlord does not provide such notice or notices to Tenant in a timely manner and Tenant's rights with respect to such taxes are prejudiced by the delay, Landlord shall reimburse Tenant for any increased costs directly resulting from the delay and Landlord shall be responsible for payment of the tax or assessment set forth in the notice, and Landlord shall not have the right to reimbursement of such amount from Tenant. If Landlord provides a notice of assessment to Tenant within such time period and requests reimbursement from Tenant as set forth below, then Tenant shall reimburse Landlord for the tax or assessments identified on the notice of assessment on Tenant's leasehold improvements, which has been paid by Landlord. If Landlord seeks reimbursement from Tenant, Landlord shall, no later than thirty (30) days after Landlord's payment of the taxes or assessments for the assessed tax year, provide Tenant with written notice including evidence that Landlord has timely paid same, and Landlord shall provide to Tenant any other documentation reasonably requested by Tenant to allow Tenant to evaluate the payment and to reimburse Landlord.

(c) For any tax amount for which Tenant is responsible under this Agreement, Tenant shall have the right to contest, in good faith, the validity or the amount thereof using such administrative, appellate or other proceedings as may be appropriate in the jurisdiction, and may defer payment of such obligations, pay same under protest, or take such other steps as permitted by law. This right shall include the ability to institute any legal, regulatory or informal action in the name of Landlord, Tenant, or both, with respect to the valuation of the Premises. Landlord shall cooperate with respect to the commencement and prosecution of any such proceedings and will execute any documents required therefor. The expense of any such proceedings shall be borne by Tenant and any refunds or rebates secured as a result of Tenant's action shall belong to Tenant, to the extent the amounts were originally paid by Tenant. In the event Tenant notifies Landlord by the due date for assessment of Tenant's intent to contest the assessment, Landlord shall not pay the assessment pending conclusion of the contest, unless required by applicable law.

(d) Landlord shall not split or cause the tax parcel on which the Premises are located to be split, bifurcated, separated or divided without the prior written consent of Tenant.

(e) Tenant shall have the right but not the obligation to pay any taxes due by Landlord hereunder if Landlord fails to timely do so, in addition to any other rights or remedies of Tenant. In the event that Tenant exercises its rights under this Section 21(e) due to such Landlord default, Tenant shall have the right to deduct such tax amounts paid from any monies due to Landlord from Tenant as provided in Section 15(b), provided that Tenant may exercise such right without having provided to Landlord notice and the opportunity to cure per Section 15(b).

(f) Any tax-related notices shall be sent to Tenant in the manner set forth in Section 17. Promptly after the Effective Date, Landlord shall provide the following address to the taxing authority for the authority's use in the event the authority needs to communicate with Tenant. In the event that Tenant's tax address changes by notice to Landlord, Landlord shall be required to provide Tenant's new tax address to the taxing authority or authorities.

(g) Notwithstanding anything to the contrary contained in this Section 21, Tenant shall have no obligation to reimburse any tax or assessment for which the Landlord is reimbursed or rebated by a third party.

## **22. SALE OF PROPERTY.**

(a) Landlord may sell the Property or a portion thereof to a third party, provided: (i) the sale is made subject to the terms of this Agreement; and (ii) if the sale does not include the assignment of Landlord's full interest in this Agreement, the purchaser must agree to perform, without requiring compensation from Tenant or any subtenant, any obligation of Landlord under this Agreement, including Landlord's obligation to cooperate with Tenant as provided hereunder.

(b) If Landlord, at any time during the Term of this Agreement, decides to rezone or sell, subdivide or otherwise transfer all or any part of the Premises, or all or any part of the Property or the Surrounding Property, to a purchaser other than Tenant, Landlord shall promptly notify Tenant in writing, and such rezoning, sale, subdivision or transfer shall be subject to this Agreement and Tenant's rights hereunder. In the event of a change in ownership, transfer or sale of the Property, within ten (10) days of such transfer, Landlord or its successor shall send the documents listed below in this Section 22(b) to Tenant. Until Tenant receives all such documents, Tenant's failure to make payments under this Agreement shall not be an event of default and Tenant reserves the right to hold payments due under this Agreement.

- i. Old deed to Property
- ii. New deed to Property
- iii. Bill of Sale or Transfer
- iv. Copy of current Tax Bill
- v. New IRS Form W-9
- vi. Completed and Signed Tenant Payment Direction Form
- vii. Full contact information for new Landlord including phone number(s)

(c) Landlord agrees not to sell, lease or use any areas of the Property or the Surrounding Property for the installation, operation or maintenance of other wireless communication facilities if such installation, operation or maintenance would interfere with Tenant's Permitted Use or communications equipment as determined by radio propagation tests performed by Tenant in its sole discretion. Landlord or Landlord's prospective purchaser shall reimburse Tenant for any costs and expenses of such testing. If the radio frequency propagation tests demonstrate levels of interference unacceptable to Tenant, Landlord shall be prohibited from selling, leasing or using any areas of the Property or the Surrounding Property for purposes of any installation, operation or maintenance of any other wireless communication facility or equipment.

(d) The provisions of this Section 22 shall in no way limit or impair the obligations of Landlord under this Agreement, including interference and access obligations.

### 23. Intentionally Deleted

### 24. MISCELLANEOUS.

(a) **Amendment/Waiver.** This Agreement cannot be amended, modified or revised unless done in writing and signed by Landlord and Tenant. No provision may be waived except in a writing signed by both parties. The failure by a party to enforce any provision of this Agreement or to require performance by the other party will not be construed to be a waiver, or in any way affect the right of either party to enforce such provision thereafter.

(b) **Memorandum of Lease.** Contemporaneously with the execution of this Agreement, the parties will execute a recordable Memorandum of Lease substantially in the form attached as **Exhibit 24(b)**. Either party may record this Memorandum of Lease at any time during the Term, in its absolute discretion. Thereafter during the Term, either party will, at any time upon fifteen (15) business days' prior written notice from the other, execute, acknowledge and deliver to the other a recordable Memorandum of Lease.

(c) **Limitation of Liability.** Except for the indemnity obligations set forth in this Agreement, and otherwise notwithstanding anything to the contrary in this Agreement, Tenant and Landlord each waives any claims that each may have against the other with respect to consequential, incidental or special damages, however caused, based on any theory of liability.

(d) **Compliance with Law.** Tenant agrees to comply with all federal, state and local laws, orders, rules and regulations ("**Laws**") applicable to Tenant's use of the Communication Facility on the Property. Landlord agrees to comply with all Laws relating to Landlord's ownership and use of the Property and any improvements on the Property.

(e) **Bind and Benefit.** The terms and conditions contained in this Agreement will run with the Property and bind and inure to the benefit of the parties, their respective heirs, executors, administrators, successors and assigns.

(f) **Entire Agreement.** This Agreement and the exhibits attached hereto, all being a part hereof, constitute the entire agreement of the parties hereto and will supersede all prior offers, negotiations and agreements with respect to the subject matter of this Agreement. Exhibits are numbered to correspond to the Section wherein they are first referenced. Except as otherwise stated in this Agreement, each party shall bear its own fees and expenses (including the fees and expenses of its agents, brokers, representatives, attorneys, and accountants) incurred in connection with the negotiation, drafting, execution and performance of this Agreement and the transactions it contemplates.

(g) **Governing Law.** This Agreement will be governed by the laws of the state in which the Premises are located, without regard to conflicts of law.

(h) **Interpretation.** Unless otherwise specified, the following rules of construction and interpretation apply: (i) captions are for convenience and reference only and in no way define or limit the construction of the terms and conditions hereof; (ii) use of the term “including” will be interpreted to mean “including but not limited to”; (iii) whenever a party’s consent is required under this Agreement, except as otherwise stated in the Agreement or as same may be duplicative, such consent will not be unreasonably withheld, conditioned or delayed; (iv) exhibits are an integral part of this Agreement and are incorporated by reference into this Agreement; (v) use of the terms “termination” or “expiration” are interchangeable; (vi) reference to a default will take into consideration any applicable notice, grace and cure periods; (vii) to the extent there is any issue with respect to any alleged, perceived or actual ambiguity in this Agreement, the ambiguity shall not be resolved on the basis of who drafted the Agreement; (viii) the singular use of words includes the plural where appropriate; and (ix) if any provision of this Agreement is held invalid, illegal or unenforceable, the remaining provisions of this Agreement shall remain in full force if the overall purpose of the Agreement is not rendered impossible and the original purpose, intent or consideration is not materially impaired.

(i) **Affiliates.** All references to “Tenant” shall be deemed to include any Affiliate of New Cingular Wireless PCS, LLC using the Premises for any Permitted Use or otherwise exercising the rights of Tenant pursuant to this Agreement. “Affiliate” means with respect to a party to this Agreement, any person or entity that (directly or indirectly) controls, is controlled by, or under common control with, that party. “Control” of a person or entity means the power (directly or indirectly) to direct the management or policies of that person or entity, whether through the ownership of voting securities, by contract, by agency or otherwise.

(j) **Survival.** Any provisions of this Agreement relating to indemnification shall survive the termination or expiration hereof. In addition, any terms and conditions contained in this Agreement that by their sense and context are intended to survive the termination or expiration of this Agreement shall so survive.

(k) **W-9.** As a condition precedent to payment, Landlord agrees to provide Tenant with a completed IRS Form W-9, or its equivalent, upon execution of this Agreement and at such other times as may be reasonably requested by Tenant, including any change in Landlord’s name or address.

(l) **Execution/No Option.** The submission of this Agreement to any party for examination or consideration does not constitute an offer, reservation of or option for the Premises based on the terms set forth herein. This Agreement will become effective as a binding Agreement only upon the handwritten legal execution, acknowledgment and delivery hereof by Landlord and Tenant. This Agreement may be executed in two (2) or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties. All parties need not sign the same counterpart.

(m) **Attorneys’ Fees.** In the event that any dispute between the parties related to this Agreement should result in litigation, the prevailing party in such litigation shall be entitled to recover from the other party all reasonable fees and expenses of enforcing any right of the prevailing party, including reasonable attorneys’ fees and expenses. Prevailing party means the party determined by the court to have most nearly prevailed even if such party did not prevail in all matters. This provision will not be construed to entitle any party other than Landlord, Tenant and their respective Affiliates to recover their fees and expenses.

(n) **WAIVER OF JURY TRIAL.** EACH PARTY, TO THE EXTENT PERMITTED BY LAW, KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ITS RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING UNDER ANY THEORY OF LIABILITY ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT OR THE TRANSACTIONS IT CONTEMPLATES.

(o) **No Additional Fees/Incidental Fees.** Unless otherwise specified in this Agreement, all rights and obligations set forth in the Agreement shall be provided by Landlord and/or Tenant, as the case may be, at no additional cost. No unilateral fees or additional costs or expenses are to be applied by either party to the other party, for any task or service including, but not limited to, review of plans, structural analyses, consents, provision of documents or other communications between the parties.

(p) **Further Acts.** Upon request, Landlord will cause to be promptly and duly taken, executed, acknowledged and delivered all such further acts, documents, and assurances as Tenant may request from time

to time in order to effectuate, carry out and perform all of the terms, provisions and conditions of this Agreement and all transactions and permitted use contemplated by this Agreement.

(q) **Quitclaim Deed.** Contemporaneously with the execution of this Agreement, Tenant shall execute a Quitclaim Deed substantially in the form attached hereto as **Exhibit 24(q)**. Landlord may record the Quitclaim Deed following expiration or earlier termination of this Agreement to evidence the termination of Tenant's interest in the Property.

**[SIGNATURES APPEAR ON NEXT PAGE]**



**IN WITNESS WHEREOF**, the parties have caused this Agreement to be effective as of the Effective Date.

**“LANDLORD”**

Lynx Land Holdings, LLC  
an Oregon limited liability company

By: \_\_\_\_\_  
Print Name: [ \_\_\_\_\_ ]  
Its: \_\_\_\_\_ [Insert Title]  
Date: \_\_\_\_\_ [Insert Date]

**“TENANT”**

New Cingular Wireless PCS, LLC,  
a Delaware limited liability company

By: AT&T Mobility Corporation  
Its: Manager

By: \_\_\_\_\_  
Print Name: [ \_\_\_\_\_ ]  
Its: \_\_\_\_\_ [Insert Title]  
Date: \_\_\_\_\_ [Insert Date]

**[ACKNOWLEDGMENTS APPEAR ON NEXT PAGE]**

**TENANT ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_ )  
 ) ss:  
COUNTY OF \_\_\_\_\_ )

On the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me personally appeared \_\_\_\_\_, and acknowledged under oath that he/she is the \_\_\_\_\_ of AT&T Mobility Corporation, the Manager of New Cingular Wireless PCS, LLC, the Tenant named in the attached instrument, and as such was authorized to execute this instrument on behalf of the Tenant.

\_\_\_\_\_  
Notary Public: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**LANDLORD ACKNOWLEDGMENT**

STATE OF Oregon \_\_\_\_\_ )  
 ) ss:  
COUNTY OF \_\_\_\_\_ )

On the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ before me, personally appeared \_\_\_\_\_, who acknowledged under oath, that he/she is the person/officer named in the within instrument, and that he/she executed the same in his/her stated capacity as the voluntary act and deed of the Landlord for the purposes therein contained.

\_\_\_\_\_  
Notary Public: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**EXHIBIT 1**

**DESCRIPTION OF PROPERTY AND PREMISES**

Page            of

to the Land Lease Agreement dated [Insert Date] , 20 , by and between Lynx Land Holdings, LLC, an Oregon limited liability company, as Landlord, and New Cingular Wireless PCS, LLC, a Delaware limited liability company, as Tenant.

The Property is legally described as follows:

The Premises are described and/or depicted as follows:

**Notes:**

1. THIS EXHIBIT MAY BE REPLACED BY A LAND SURVEY AND/OR CONSTRUCTION DRAWINGS OF THE PREMISES ONCE RECEIVED BY TENANT.
2. ANY SETBACK OF THE PREMISES FROM THE PROPERTY’S BOUNDARIES SHALL BE THE DISTANCE REQUIRED BY THE APPLICABLE GOVERNMENTAL AUTHORITIES.
3. WIDTH OF ACCESS ROAD SHALL BE THE WIDTH REQUIRED BY THE APPLICABLE GOVERNMENTAL AUTHORITIES, INCLUDING POLICE AND FIRE DEPARTMENTS.
4. THE TYPE, NUMBER AND MOUNTING POSITIONS AND LOCATIONS OF ANTENNAS AND TRANSMISSION LINES ARE ILLUSTRATIVE ONLY. ACTUAL TYPES, NUMBERS AND MOUNTING POSITIONS MAY VARY FROM WHAT IS SHOWN ABOVE.

**EXHIBIT 11**

**ENVIRONMENTAL DISCLOSURE**

Landlord represents and warrants that the Property, as of the Effective Date, is free of hazardous substances except as follows:

*[INSERT AS APPLICABLE]*

**EXHIBIT 12**  
**STANDARD ACCESS LETTER**  
[FOLLOWS ON NEXT PAGE]

{This Letter Goes On Landlord's Letterhead}

[Insert Date]

Building Staff / Security Staff  
Lynx Land Holdings, LLC  
640 SW 2<sup>nd</sup> Avenue  
Canby, OR 97013

Re: Authorized Access granted to New Cingular Wireless PCS, LLC

Dear Building and Security Staff,

Please be advised that we have signed a lease with New Cingular Wireless PCS, LLC permitting said entity to install, operate and maintain telecommunications equipment at the property. The terms of the lease grant New Cingular Wireless PCS, LLC and its representatives, employees, agents and subcontractors (“representatives”) 24 hour per day, 7 days per week access to the leased area.

To avoid impact on telephone service during the day, New Cingular Wireless PCS, LLC representatives may be seeking access to the property outside of normal business hours. New Cingular Wireless PCS, LLC representatives have been instructed to keep noise levels at a minimum during their visit.

Please grant the bearer of a copy of this letter access to the property and to leased area. Thank you for your assistance.

---

Landlord Signature

**EXHIBIT 24(b)**

**MEMORANDUM OF LEASE**

[FOLLOWS ON NEXT PAGE]

**MEMORANDUM  
OF  
LEASE**

This Memorandum of Lease is entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between Lynx Land Holdings, LLC, an Oregon limited liability company having its principal office/residing at 640 SW 2<sup>nd</sup> Avenue, Canby, OR 97013 (hereinafter called "**Landlord**"), and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 575 Morosgo Drive NE, Atlanta, GA 30324 ("**Tenant**").

1. Landlord and Tenant entered into a certain Land Lease Agreement ("**Agreement**") on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, for the purpose of installing, operating and maintaining a communication facility and other improvements. All of the foregoing is set forth in the Agreement.
2. The initial lease term will be five (5) years commencing on the Effective Date, with four (4) successive automatic five (5) year options to renew.
3. The portion of the land being leased to Tenant and associated easements are described in **Exhibit 1** annexed hereto.
4. The Agreement gives Tenant a right of first refusal in the event Landlord receives a bona fide written offer from a third party seeking any sale, conveyance, assignment or transfer, whether in whole or in part, of any property interest in or related to the Premises, including without limitation any offer seeking an assignment or transfer of the Rent payments associated with the Agreement or an offer to purchase an easement with respect to the Premises.
5. This Memorandum of Lease is not intended to amend or modify, and shall not be deemed or construed as amending or modifying, any of the terms, conditions or provisions of the Agreement, all of which are hereby ratified and affirmed. In the event of a conflict between the provisions of this Memorandum of Lease and the provisions of the Agreement, the provisions of the Agreement shall control. The Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, successors, and assigns, subject to the provisions of the Agreement.

**IN WITNESS WHEREOF**, the parties have executed this Memorandum of Lease as of the day and year first above written.

**LANDLORD:**

Lynx Land Holdings, LLC, a  
Oregon limited liability company

By: \_\_\_\_\_  
Print Name: [ \_\_\_\_\_ ]  
Its: \_\_\_\_\_ [Insert Title]  
Date: \_\_\_\_\_ [Insert Date]

**TENANT:**

New Cingular Wireless PCS, LLC,  
a Delaware limited liability company

By: AT&T Mobility Corporation  
Its: Manager  
  
By: \_\_\_\_\_  
Print Name: [ \_\_\_\_\_ ]  
Its: \_\_\_\_\_ [Insert Title]  
Date: \_\_\_\_\_ [Insert Date]

**[ACKNOWLEDGMENTS APPEAR ON NEXT PAGE]**







**W-9 FORM**

[FOLLOWS ON NEXT PAGE]

**Request for Taxpayer  
Identification Number and Certification**

**Give Form to the  
requester. Do not  
send to the IRS.**

Go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9) for instructions and the latest information.

**1** Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

**2** Business name/disregarded entity name, if different from above

**3** Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.

Individual/sole proprietor or single-member LLC

C Corporation

S Corporation

Partnership

Trust/estate

Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ \_\_\_\_\_

**Note:** Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

Other (see instructions) ▶ \_\_\_\_\_

**4** Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) \_\_\_\_\_

Exemption from FATCA reporting code (if any) \_\_\_\_\_

*(Applies to accounts maintained outside the U.S.)*

**5** Address (number, street, and apt. or suite no.) See instructions.

**6** City, state, and ZIP code

**7** List account number(s) here (optional)

**Requester's name and address (optional)**

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

**Note:** If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

**Social security number**

--	--	--	--	--	--	--	--	--	--	--	--

**OR**

**Employer identification number**

--	--	--	--	--	--	--	--	--	--	--	--

**Part II Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification Instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

**Sign Here**

Signature of U.S. person ▶	Date ▶
----------------------------	--------

**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

**Purpose of Form**

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding*, later.

**EXHIBIT 24 (q)**



3 1 E 33CC  
CANBY

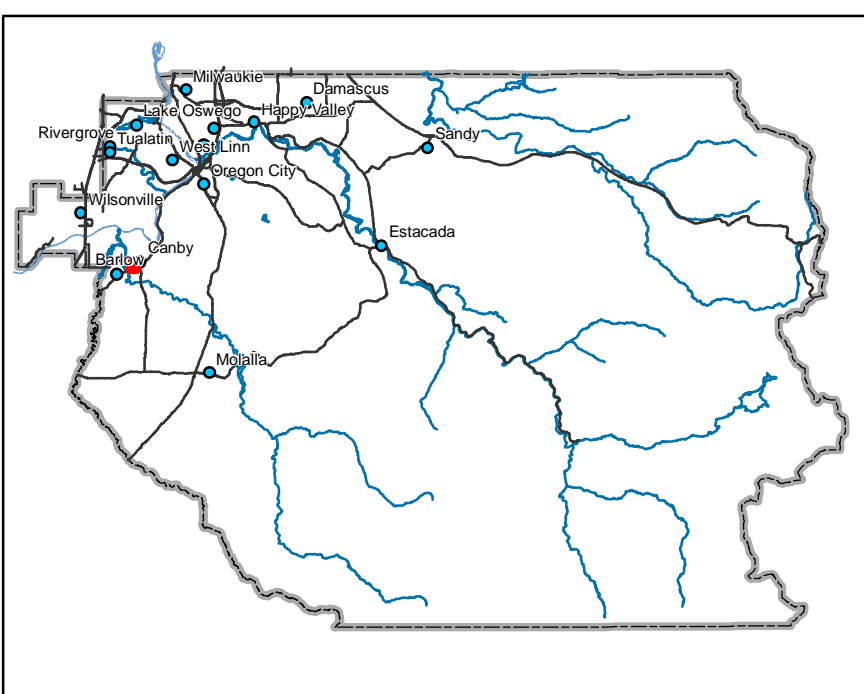
S.W.1/4 S.W.1/4 SEC.33 T.3S. R.1E. W.M.  
CLACKAMAS COUNTY  
1" = 100'

D. L. C.  
PHILANDER LEE NO. 49 & 56  
L. A. SEELY NO. 57

Cancelled Taxlots

- 1000
- 4600
- 5200E1
- 8200A1
- 8200A2
- 8200A3
- 8200A4
- 8200A5
- 8200A7
- 8200A8
- 8200A9
- 8201
- 8201A1
- 8201A2
- 8201A3
- 8201A4
- 8205A5
- 8201A6
- 8201A8
- 5800
- 8201A7
- 6102
- 8200A6
- 6600
- 6400
- 8202M1
- 8203M1
- 102
- 103
- 3100E1
- 2401
- 7200
- 7300
- 6101

- Parcel Boundary
- Private Road ROW
- Historical Boundary
- Railroad Centerline
- TaxCodeLines
- Map Index
- WaterLines
- Land Use Zoning
- Plats
- Water
- Corner
- Section Corner
- 1/16th Line
- Govt Lot Line
- DLC Line
- Meander Line
- PLSS Section Line
- Historic Corridor 40'
- Historic Corridor 20'



THIS MAP IS FOR ASSESSMENT  
PURPOSES ONLY

3 1 E 33CC  
CANBY

1/31/2019





**TOWER / STRUCTURE / ANTENNA / EQUIPMENT  
REMOVAL BOND**

Location of tower/structure/equipment:  
222 NE 2nd Ave, Canby, OR

Site: PW34 Canby HS

Fixed Asset No. 14671566

Bond Number: K15779445

**KNOW ALL MEN BY THESE PRESENTS:**

THAT New Cingular Wireless PCS, LLC, 19801 SW 72nd Avenue #200, Tualatin, OR 97062 as Principal, and Westchester Fire Insurance Company a corporation duly organized under the laws of the State of Pennsylvania as Surety, are held and firmly bound unto City of Canby, OR, 222 NE 2nd Avenue, Canby, OR 97013 as Obligee, the penal sum of Ten Thousand And No/100 (\$10,000.00) for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents, the liability of the surety being limited to the penal sum of this bond regardless of the number of years the bond is in effect.

WHEREAS, the Principal has entered into a written agreement with the property owner for the placement of a tower, structure or equipment furnishing telephone, television or other electronic media service, which agreement sets forth the terms and conditions which govern the use of such towers, structures or equipment and which agreement is hereby specifically referred to and made part hereof, and

WHEREAS, the City of Canby, OR agreement and/or the property owner, requires a bond guaranteeing the maintenance, replacement, removal or relocation of said tower or equipment,

NOW THEREFORE, the condition of this obligation is such, that if the above bounden Principal shall perform in accordance with the aforesaid ordinance and/or agreement, and indemnify the Obligee against all loss caused by Principal's breach of any ordinance or agreement relating to the maintenance, replacement, removal or relocation of a tower, structure or equipment, then this obligation shall be void, otherwise to remain in full force and effect unless cancelled as set forth below.

THIS BOND may be cancelled by Surety by giving 30 days written notice to the Obligee by certified mail. Such cancellation shall not affect any liability the surety has incurred under this bond prior to the effective date of the termination.

PROVIDED that no action, suit or proceeding shall be maintained against the Surety on this bond unless the action is brought within twelve (12) months of the cancellation date of this bond.

SIGNED and sealed this 22nd day of March, 2019.

New Cingular Wireless PCS, LLC  
Principal: by AT&T Mobility Corporation its manager

By: \_\_\_\_\_

Surety: Westchester Fire Insurance Company

By: Heidi A. Notheisen

Heidi A. Notheisen, Attorney-in-Fact



ACKNOWLEDGMENT BY SURETY

STATE OF Missouri  
City of St. Louis } ss.

On this 22nd day of March, 2019, before me personally appeared Heidi A. Notheisen, known to me to be the Attorney-in-Fact of Westchester Fire Insurance Company

\_\_\_\_\_, the corporation that executed the within instrument, and acknowledged to me that such corporation executed the same.

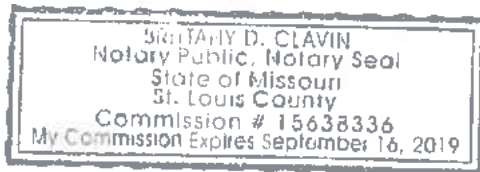
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, at my office in the aforesaid County, the day and year in this certificate first above written.

*Brittany D. Clavin*

Brittany D. Clavin  
Notary Public in the State of Missouri  
County of St. Louis  
Commission # 15638336

My Commission Expires: September 16, 2019

(Seal)





Power of Attorney

Westchester Fire Insurance Company | ACE American Insurance Company

Know All by These Presents, that WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY corporations of the Commonwealth of Pennsylvania, do each hereby constitute and appoint Pamela A. Beelman, Cynthia L. Choren, Brittany D. Clavin, Joann R. Frank, Sandra L. Ham, Kelsey M. Hartung, Leah L. Juenger, Heidi A. Notheisen, Karen L. Roider and Debra C. Schneider of St. Louis, Missouri-----

each as their true and lawful Attorney-in-Fact to execute under such designation in their names and to affix their corporate seals to and deliver for and on their behalf as surety thereon or otherwise, bonds and undertakings and other writings obligatory in the nature thereof (other than bail bonds) given or executed in the course of business, and any instruments amending or altering the same, and consents to the modification or alteration of any instrument referred to in said bonds or obligations.

In Witness Whereof, WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY have each executed and attested these presents and affixed their corporate seals on this 14th day of August, 2018.

Dawn M. Chloros

Dawn M. Chloros, Assistant Secretary

Stephen M. Haney

Stephen M. Haney, Vice President



STATE OF NEW JERSEY

County of Hunterdon

55

On this 14th day of August, 2018, before me, a Notary Public of New Jersey, personally came Dawn M. Chloros, to me known to be Assistant Secretary of WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY, the companies which executed the foregoing Power of Attorney, and the said Dawn M. Chloros, being by me duly sworn, did depose and say that she is Assistant Secretary of WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY and knows the corporate seals thereof, that the seals affixed to the foregoing Power of Attorney are such corporate seals and were thereto affixed by authority of said Companies; and that she signed said Power of Attorney as Assistant Secretary of said Companies by like authority; and that she is acquainted with Stephen M. Haney, and knows him to be Vice President of said Companies; and that the signature of Stephen M. Haney, subscribed to said Power of Attorney is in the genuine handwriting of Stephen M. Haney, and was thereto subscribed by authority of said Companies and in deponent's presence

Notarial Seal



KATHERINE J. ADELAAR
NOTARY PUBLIC OF NEW JERSEY
No. 2316566
Commission Expires July 18, 2018

Signature of Katherine J. Adelaar, Notary Public

CERTIFICATION

Resolutions adopted by the Boards of Directors of WESTCHESTER FIRE INSURANCE COMPANY on December 11, 2006 ; ACE AMERICAN INSURANCE COMPANY on March 20, 2009-

"RESOLVED, that the following authorizations relate to the execution, for and on behalf of the Company of bonds, undertakings, recognizances, contracts and other written commitments of the Company entered into in the ordinary course of business (each a "Written Commitment"):

- (1) Each of the Chairman, the President, and the Vice Presidents of the Company is hereby authorized to execute any Written Commitment for and on behalf of the Company, under the seal of the Company or otherwise.
(2) Each duly appointed attorney-in-fact of the Company is hereby authorized to execute any Written Commitment for and on behalf of the Company, under the seal of the Company or otherwise, to the extent that such action is authorized by the grant of powers provided for in such person's written appointment as such attorney-in-fact.
(3) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized, for and on behalf of the Company, to appoint in writing any person the attorney-in-fact of the Company with full power and authority to execute, for and on behalf of the Company, under the seal of the Company or otherwise, such Written Commitments of the Company as may be specified in such written appointment, which specification may be by general type or class of Written Commitments or by specification of one or more particular Written Commitments.
(4) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized, for and on behalf of the Company, to delegate in writing to any other officer of the Company the authority to execute, for and on behalf of the Company, under the Company's seal or otherwise, such Written Commitments of the Company as are specified in such written delegation, which specification may be by general type or class of Written Commitments or by specification of one or more particular Written Commitments.
(5) The signature of any officer or other person executing any Written Commitment or appointment or delegation pursuant to this Resolution, and the seal of the Company, may be affixed by facsimile on such Written Commitment or written appointment or delegation.

FURTHER RESOLVED, that the foregoing Resolution shall not be deemed to be an exclusive statement of the powers and authority of officers, employees and other persons to act for and on behalf of the Company, and such Resolution shall not limit or otherwise affect the exercise of any such power or authority otherwise validly granted or vested."

I, Dawn M. Chloros, Assistant Secretary of WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY (the "Companies") do hereby certify that

- (i) the foregoing Resolutions adopted by the Board of Directors of the Companies are true, correct and in full force and effect,
(ii) the foregoing Power of Attorney is true, correct and in full force and effect

Given under my hand and seals of said Companies at Whitehouse Station, NJ, this 22nd day of March, 2019



Dawn M. Chloros

Dawn M. Chloros, Assistant Secretary

IN THE EVENT YOU WISH TO VERIFY THE AUTHENTICITY OF THIS BOND OR NOTIFY US OF ANY OTHER MATTER, PLEASE CONTACT US AT: Telephone (908) 903-3493 Fax (908) 903-2656 e-mail, surety@chubb.com



## **Pre-Construction Meeting**

### **Stealth Wireless Tower**

640 SW 2<sup>nd</sup> Avenue

March 27, 2019

#### **Attended by:**

Gary Stockwell, Canby Utility, Electric, 503-263-4307

Sharon Gretch, Smartlink, 541-515-8263

Bryan Brown, Planning Department, 503-266-0702

Bill Makowski, Canby Utility, Water, 971-563-6315

Ryann Potter, Planning Department, 503-266-0712

Chip O'Hearn, AT & T, 503-490-2997

*This document is for preliminary use only and is not a contractual document.*

#### **SMARTLINK, Sharon Gretch**

- We are looking at constructing a new wireless facility and it will have a ground space and new tower, the tower will be designed to mimic the look of a pine tree. The ground space will be 25 x 30 ft and Chip said they were trying to minimize the size for the owner Peter Nelson. Mr. Nelson in the future wants to develop the front section of his parcel and he also wants to keep Pacific Pride. We have the footprint of the tower as small as we can get it without having anything hanging over the proposed fence line.
- The property is zoned C-2. This is a permitted use in this zone, but we are here to talk about the design and get some input from you.

#### **PUBLIC WORKS DEPARTMENT, Ronda Rozzell**

- There is a possibility of a sewer line being in conflict with your project and when you get a chance give Public Works Department a call and we can TV our sewer main and determine the exact location. Bryan told the representatives they would need to research if there is an easement between the properties to see if there is a designated easement and you should not be leasing a site within an easement. Chip stated the owner had their emergency shut-off building approximately 4 ft from the fence with Fisher Supply. Bryan asked if the buildings and structures themselves will they be no closer than this building? Chip said what Peter is proposing is to move the emergency shut-off building, which is the small building on the western side of the parcel and the reason why was go give the fueling trucks more room. He told me he will move the shut-off facility into the next building just north of its current location. The holding area for any types of spillage will need to stay and Peter calls it the swimming pool and we will be to the west of it.

### **CANBY UTILITY, ELECTRIC DEPARTMENT, Gary Stockwell**

- You will be fencing off our transformers and we will need our own padlock on the man gate, which is a double hasp arrangement. The existing transformers are serving the gas station, which the service is on the building you are removing. If the gas station is going to continue to function you will need to make arrangements to relocate the meter, whether it goes on your meter rack or whatever you plan. Additionally, it appears the service line itself is passing through where you want the foundation of the cell tower and it is not going to work either. I will need your new service requirements, what type of equipment and connective load will be installed there and we can look at see if we need to upgrade the existing transformer.
- The transformers look pretty close to the tower and we have some concerns of ice fall and we do get freezing rain occasionally and from that height, it could do some damage. Chip said we could do an ice bridge above or some type of cover to protect them.
- There is plenty of power available to serve your needs, but you will have to relocate the existing service.
- Canby Utility does things slightly different than some of the surrounding utilities, we supply and install our own conduit and you need to provide all the trenching, staking, grading and backfill. Gary handed Chip a scope of work form, which explains our process and contact numbers are at the bottom, one for scheduling and one for engineering.

### **CANBY UTILITY, WATER DEPARTMENT, Bill Makowski**

- The shut-off building they want to move has the backflow protection in it and it will need to be moved. I was at the site this morning and took a picture of the meter and as you can see the transformers with the building and a sewer cleanout, possibly 3 ft deep. I do not know where it goes and of course, your water service line does not have a trace wire for locating. The Reduced Pressure backflow assembly device will have to be located in the south west corner and Chip said okay and he would bring this up to Peter Nelson.

### **CITY OF CANBY, PLANNING DEPARTMENT, Ryan Potter**

- In the list of questions you sent, you asked about the variances and we decided you would need a variance because of the 1 to 1 setback. We were also talking about going over the 130 ft because the code reads a maximum of 130 ft, all elements would have to be under the maximum. Sharon said at 130 ft the look will be like a topped off tree because we have to have the 130 ft rad center to meet our coverage objectives. In order to make this look like a real tree and not one that has been topped we need to add at least a 10 ft evergreen cone on the top of it to have the tapered look and covers the antennas appropriately. Chip said we want to make sure it maintains the conical shape at the top. Bryan said to meet the communication objectives you have to have it at the very top, but you want to try to hide it and Sharon said yes we want to make it look decent. Bryan said it is negating part of the stealth thing and Sharon said to some extent and it would still be covered by 80% or so. Bryan said somehow the branches will be going through the antennas and Sharon said the antennas are at the specific center and the branches come in and around it to hide it. Chip said they now have screening material they put across the sector and the antennas have the same coloring as the branches to match. We have been allowed in other jurisdictions to go

above the actual height limit for the cell tower, but it is just for the branches going up to reinforce the look of the conical shape. In order to maintain and create the stealth design in the mono-fir and it comes down to how many branches per foot and it is usually 3 to 4 branches per foot and 4 covers very well and there are not any series gaps in it. It will be pretty even throughout both sides since we do not need climbing pegs on this tower because we have access to a lift. Bryan said our code does not have anything in it that stipulates it can be taller than 130 ft in this location and my thoughts are you still need a variance, but all of the explanation you just gave us should be in your narrative trying to help explain and justify the variance of the height. In your strongest argument is it is not the communication tower or antennas, if that is true, is exceeding the 130 ft maximum, but it is the stealth being added to it and it might be helpful for you to justify your variance. You are subject to the variance criteria because you are going above the maximum and this is not nearly as bad as the setback variance, which is interesting. Generally, the other category when you read through our code and pick your preferred site because most of the other ones do not have any provisions talking about setback requirements, but this particular one does and we are not sure why we did not design the code and it is a strict standard to require 130 ft and technically it is more than a 130 ft setback if you are making it above 130 ft with the limbs. I cannot imagine how in an urban setting you would ever find a property that you could have a 130 ft setback. We understand it, but it is what the code stipulates and it is pretty clear and we are trying to figure out with your setback variance how you could possibly meet the variance criteria and Ryan said demonstrating a hardship. Sharon said in reference to the hardship question I asked our legal team because our sites are locationally dependent in order to meet the coverage gap because we have a gap in coverage here, which is a hardship for us. Bryan said when you submit the application will you have some more information regarding the coverage circle and Sharon said yes I will be sending you our coverage gap and also have it in our narrative. Ryan said they will have to do it anyway from the list in the code.

- We talked about you applying for a variance and presumably behind the 1 to 1 setback was the idea it could fall across property lines onto adjacent land uses. Some of our staff has experience processing these mono-pole projects where the property lines were closer and the bottom half was more rigid and has a deeper footing and the top would collapse onto the property itself. Chip said there are a number of these towers where they are designed to fall in on themselves and they are usually a 50 ft radius and that is the goal. Sharon said you can always condition this application for the code standards, so it will not fall for ice loading and/or our standard storms. You can also ask us to alleviate the concerns of the tower falling over to be designed like emergency services and it will require us to build a different base and tower design. Bryan said we do very few variances here in Canby and this is hard for us because we have a real problem recommending approval on most variances and we do not know what the Planning Commission will do either.
- Bryan said we are trying to protect the view shed along the highway as you come into town, which we think it will be very important to show and is a requirement in the extra conditions to show how it will be actually viewed as you are driving on the highway from the west. We realize you are designing the stealth to make it a little less noticeable. The other categories of good and preferred, have a distance requirement away from the highway and that is why I have come to the conclusion and in this category, it does not mention anything about the

closeness to the highway is a problem, but the overall code seems to state it. I am not sure where we will go with it and Ryan said the category with sight does push you into this second list of requirements and I think the photo simulations try to mitigate the fact you are not regulating a distance and it gives you the chance to see what the visual impact would be. Sharon said as far as the photo simulations go, is there a certain number of photo sims you are asking and Ryan said it states from the four cardinal compass points, but like Bryan was saying we definitely will be looking at it as you are coming into town and what it will look like since it is our gateway into the city. Chip said I am sure they will do it both directions on 99E and possibly from the north to the south and Bryan agreed. Bryan said the Clackamas County's residents voted for a new emergency services tower erected in our industrial park and part of their issue was exactly what you are talking about is they have to build it to a much higher standard than a normal mono-pole structure because it has to stand if there is a major earthquake. Sharon said you would like to see if we can do this as a collapsible tower and Bryan said you need to seriously consider that option and explore it more because I think you will have a hard time with this variance application unless you get something like that proposed with it to help support and convince them. We have a senior planner who may be of assistance with this project, she worked in Beaverton and she was a part of several collapsible towers.

- Ryan said the code states the base should be landscaped at the tower base and the poles. I did not necessarily see this on here and was wondering how you conceived it and how it would be buffered from SE 2<sup>nd</sup> Avenue. Chip said he did not know if it was the same code as in Canby, but in other jurisdictions landscaped buffer is done where it is visible from the right-of-way (ROW) and we would do the south side towards 2<sup>nd</sup> Avenue, probably do the east side because it would be visible for the people driving in to fuel at Pacific Pride. I do not know if it is important to the city if there is a landscape buffer on the west side next to Randy Yoder's property or north because of another building. Ryan said we will be looking for it on the application submittal showing how it will be screened. Sharon said part of the issue with the landscaping area is it is so limited and we need at least 5 ft to put in a landscape buffer. If we do 5 ft out we would be in the "swimming pool" area and Chip said as long as we do not have to do all four sides because there is an existing fence on the east side just south of the swimming pool and it goes towards the building. This would mean we could keep the fence and keep the swimming pool fenced off and have the landscape buffer right there and the portion of the building on the north side of the leased area and I do not imagine there would be a need for landscaping there. Bryan asked what type of secure fencing do you put around these towers and Chip said 6 ft cyclone with privacy slats. Sharon said the other thing we could do because of the purpose of landscaping is to minimize the view into the leased area was to do a real fence or a CMU wall fence, whatever is more appropriate for this use. Bryan said we are most concerned with SE 2<sup>nd</sup> Avenue and you can explain it in your narrative stating the restriction of your site size and you are mainly trying to achieve the screening from SE 2<sup>nd</sup> Avenue. I do not know at this point whether something more substantial is going to be better or wood versus slatted chain link fencing.
- You had a question on a parking space and Bryan said we have had it explained to us after the construction is finished the people come in maybe twice a month and Chip said maybe once every three months. Bryan asked what are your plans and Sharon said I concur with

Chip that we would not come out more than once or twice every six months. Bryan asked Ryan if there was anything in the code for parking spaces and Ryan said not in telecommunications. Sharon stated they would likely come in and park by the tree and do their job. Bryan said they would be on private property and it is already paved and I assume the trucks will still be able to get into the filling station. I think I am okay with it since there is paving and what is around it.

- Ryan said there was one sentence in the narrative that you provided if local code requires us to accommodate additional carriers on the structure must be even higher. Does that mean the way it is proposed now it would not be able to accommodate more and Sharon said the way it is proposed right now it could accommodate one, possibly two depending upon the last person's coverage objectives. If you would like we could show future locations on these drawings. Bryan asked if there was another carrier added would you need another building or something and Chip said it varies from carrier to carrier like T-Mobile has just a couple of cabinets on the exterior sitting on a concrete pad. AT&T likes to have a small shelter where everything is enclosed and out of sight.
- Bryan asked if they knew when you will be submitting and Sharon said they did not know yet, they still had to do a neighborhood meeting and do you have specifics on the neighborhood meetings that we need to cover outside the bases of what we talked about here and Ryan said he did not think so, you just need to create a mailing list. Bryan said you will send the same mailing list with your application you will submit to the city and you use the same mailing list for your own private neighborhood meeting. Sharon asked who generates this list, our title company and Bryan said either the county assessors or a title company and we ask you to provide us the mailing list in an excel spreadsheet format. The radius is 500 ft and unique to Canby you have to do occupants, not just the ownership. You could possibly have the meeting at the new library, but I would call them and ask what the particulars are. We also have the Canby Senior Center and a couple of churches around town that will allow you to use their rooms. Laney at our front office may know more places. We just need a summary of what was discussed and any answers you were able to provide and an attendance roster.
- Bryan said if there is a sewer easement our minimum width is 15 ft, 7-1/2 ft on each side and you cannot build upon it and depending on the depth of the sewer it could be as wide as 25 ft.

**From:** [Ronda Rozzell](#)  
**To:** [Debra Griffin](#)  
**Cc:** [Bryan Brown](#); [hai@curran-mcleod.com](mailto:hai@curran-mcleod.com); [Jerry Nelzen](#)  
**Subject:** FW: Pre-Application Meeting Notice for a Stealth Wireless Communication Facility  
**Date:** Monday, March 11, 2019 2:27:24 PM

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Hello Debra,

Please pass on the Canby Fire Department's comments to your representative.

Thanks, Ronda

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**From:** Todd Gary [mailto:[tgary@canbyfire.org](mailto:tgary@canbyfire.org)]  
**Sent:** Monday, March 11, 2019 2:25 PM  
**To:** Ronda Rozzell <[RozzellR@canbyoregon.gov](mailto:RozzellR@canbyoregon.gov)>  
**Cc:** Matt English <[menglish@canbyfire.org](mailto:menglish@canbyfire.org)>  
**Subject:** Re: Pre-Application Meeting Notice for a Stealth Wireless Communication Facility

Comments for meeting if we don't make it.

All safety shut offs and controls for Pacific Pride must stay in place, operational and easily accessed during construction of the tower or they may be permanently moved for code compliance.

*Todd Gary*

**Division Chief Community Risk Reduction**  
**Canby Fire District**  
503-266-5851 / 503-969-7459  
[www.Canbyfire.org](http://www.Canbyfire.org)

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**From:** Ronda Rozzell <[RozzellR@canbyoregon.gov](mailto:RozzellR@canbyoregon.gov)>  
**Sent:** Monday, March 11, 2019 11:45:06 AM  
**To:** Bryan Brown; Ryan Potter; 'Bill Makowski'; Sandy Freund; Stockwell, Gary; 'jstuart@canbyutility.org'; Doug Erkson; Jerry Nelzen; [hai@curran-mcleod.com](mailto:hai@curran-mcleod.com); Todd Gary; Matt English; Vu, Dinh ([dinh.Vu@directlink.coop](mailto:dinh.Vu@directlink.coop)); 'andrew.Schurter@nwnatural.com'; David Benton ([D5b@nwnatural.com](mailto:D5b@nwnatural.com)); Jamie Stickel; 'danderson@wavebroadband.com'; 'rlee@wavebroadband.com'; Travis Edge ([tedge@wavebroadband.com](mailto:tedge@wavebroadband.com))  
**Cc:** Lisa Berent; Laney Fouse; David Epling  
**Subject:** Pre-Application Meeting Notice for a Stealth Wireless Communication Facility

Hello,

Please see the attached information for a pre-application meeting for a Stealth Wireless Communication Facility scheduled for Wednesday, March 27, 2019 at 10:30 am.

Thanks, Ronda

Ronda Rozzell  
Office Specialist 3  
Public Works Department  
1470 NE Territorial Road  
Canby, Oregon 97013  
Ph: 503-266-07983  
Fax: 503-266-7238  
Email: [rozzellr@canbyoregon.gov](mailto:rozzellr@canbyoregon.gov)

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PUBLIC RECORDS LEGAL DISCLOSURE

This email is a public record of the City of Canby, Oregon, and is subject to public disclosure unless exempt from disclosure under Oregon Public Records Law. This email is subject to the State Retention Schedule.

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PUBLIC RECORDS LEGAL DISCLOSURE

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March 26, 2019

Comments from DirectLink for Stealth Wireless Communication at 640 SW 2<sup>nd</sup> Ave:

DirectLink services will become available through the development.

- The Developer/Owner is required to provide trenches for placing underground communication facilities from the existing connection point. We will place and provide all materials.
- We will follow the power design as much as possible to minimize trenching; however, a separate trench may be required for communication services.
- We do not charge development fee.

Contact Information:

Engineering Manager	Eric Kehler	503-266-8255
Associate Engineer	Dinh Vu	503-266-8201
Field Inspector	Matt Downs	503-266-8252
Customer care center		503-266-8111
Open trench hotline		503-266-8242

# City of Canby Pre-Application Meeting Notice

PO Box 930, Canby, OR 97013  
City Shops, 1470 NE Territorial Road

503-266-0798  
503-266-7238

TO: Canby Planning, Bryan Brown	503-266-0702	Canby Planning, Ryan Potter	503-266-0712
CUB Water Dist., Bill Makowski	503-263-4309	Canby Planning, Sandy Freund	503-266-0775
CUB Electric Dept., Gary Stockwell	503-263-4307	Canby Public Works, Jerry Nelzen	503-266-0759
Fire District #62, Todd Gary	503-266-5851	DirectLink, Dinh Vu	503-266-8201
NW Natural, Andrew Schurter	503-585-6611	NW Natural, David Benton	971-227-6337
NW Natural, Darrell Hammond	503-585-6611	Curran-McLeod Eng., Hassan Ibrahim	503-684-3478
Econ Dev. Dir., Jamie Stickel	503-266-0701	Wave Broadband, Robert Lee	503-707-1076
Wave Broadband, Derrick Anderson	503-798-6651	Wave Broadband, Travis Edge	503-8993267
Fire District #62, Matt English	503-266-5851		

**From:** Ronda Rozzell, Shop Complex

**Date:** March 11, 2019

**Subject:** Pre-Application Meeting for a Stealth Wireless Communication Facility

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Attached is a request for pre-application meeting.

A meeting with the applicant has been scheduled for **Wednesday, March 27, 2019 at 10:30 am at the City Shops Conference Room, 1470 NE Territorial Road, Canby.**

Please come prepared to discuss any issues the applicant will need to address when submitting a site and design review application.

***If you are unable to attend*** the meeting, but have comments please submit them in writing and email them to Ronda at [rozzellr@canbyoregon.gov](mailto:rozzellr@canbyoregon.gov) and they will be forwarded to the applicant.

Comments:

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We have no concerns with this application.

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Hassan Ibrahim  
Signature

Principal Engineer  
Title

March 26, 2019  
Date

Curran-McLeod, Consulting Engineers, Inc.  
Company

April 30, 2019

City of Canby  
Planning Department  
ATTN: Ryan Potter  
222 NE 2<sup>nd</sup> Avenue  
PO Box 930  
Canby, OR 97013

**Re: Proposed AT&T Wireless Communications Facility (PW34 Canby High School)  
Neighborhood Meeting Summary**

To Whom It May Concern:

Smartlink held an informal neighborhood meeting on April 22, 2019, from 6:15pm -7:15pm at the City of Canby Public Library to discuss the proposed development. Notice of the meeting was mailed to all residents and property owners within 500' of the proposed development on April 8<sup>th</sup>, 2019 (see, Attachment 13, 500' Mailing list). The meeting was attended only by Smartlink representatives, Sharon Gretch and Chip O'Hearn, along with Ryan Potter from the City of Canby (see, Attachment 12, Sign in sheet).

The topic of discussion included:

- Photo simulations: The depiction does not resemble a natural looking tree; the taper needs to be better represented.
- Elevation drawing: The depiction does not resemble a natural looking tree; the taper needs to be better represented and branches lower on the monofir.

Smartlink representatives indicated that the simulations and drawings would better reflect a natural taper upon submittal to the City and that the current drawings were in draft form.

I look forward to working with you on this project. Please feel free to contact me upon your initial review.

Sincerely,



Debbie Griffin  
Real Estate Specialist  
Smartlink LLC, an authorized representative of AT&T  
Debra.Griffin@smartlinkllc.com  
480-296-1205



Thank you for attending.



**AT&T Wireless  
Proposed Facility  
PW34 Canby HS**

AT&T Wireless is working with the City of Canby to obtain approval of a facility located at 640 SW 2<sup>nd</sup> Avenue in Canby that will improve service for downtown Canby and the surrounding area.

**Meeting Date:**  
April 22, 2019, 6:15 – 7:15 pm  
Canby Public Library

**Please let us know of your attendance.**

We would like to know if you are in support of this project (or not). Please take a minute to share your contact information with us.

Sign in sheet

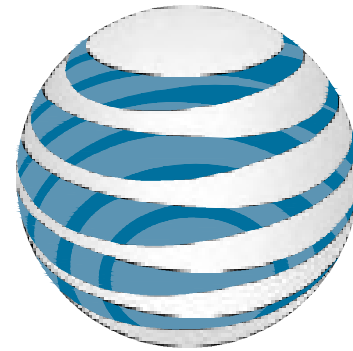
In favor  
of  
project?

Name	Mailing Address, City, State, Zip & Email	Yes	No
Sharon Gretch	Sharon.gretch@smarthinkllc.com	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Chip O'Hearn	chip.ohearn@smarthinkllc.com	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ryan Potter	potterr@canbyoregon.gov	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>





SITE PHOTO



at&t

PROJECT: AT&T NEW BUILD

SITE #: PW34

FA #: 14671566

PTN #: 3898A0HWSC

PACE #: MRWOR035063

USID #: 231657

SITE NAME: CANBY HIGH SCHOOL

SITE ADDRESS: 640 SW 2ND AVE

CANBY, OR 97013

COUNTY: CLACKAMAS

JURISDICTION: CITY OF CANBY

PROJECT SUMMARY

SITE NAME: CANBY HIGH SCHOOL  
 COUNTY: CLACKAMAS COUNTY  
 ADDRESS: 640 SW 2ND AVE  
 CANBY, OR 97013

ZONING: CM - COMMERCIAL MANUFACTURING  
 COMPREHENSIVE PLAN: CM - COMMERCIAL MANUFACTURING  
 LOT SIZE: ±0.78 ACRES  
 APN: 00793591

SITE #: PW34  
 FA#: 14671566  
 PTN#: 3898A0HWSC

LATITUDE: 45.259142' (45° 15' 32.91" N)  
 LONGITUDE: -122.698297' (-122° 41' 53.87" W)  
 GROUND ELEVATION: ±155.6'

GROUND OWNER: LYNX LAND HOLDINGS, LLC  
 CONTACT: PETER NELSON  
 ADDRESS: 1977 CLAYTON ROAD NE  
 SALEM, OR 97301  
 PHONE: (503) 363-7676

APPLICANT: NEW CINGULAR WIRELESS PCS, LLC  
 19801 SW 72ND AVENUE #200  
 TUALATIN, OR 97062

AT&T PROJECT MANAGER: TODD FIEBIG

AT&T CONSTRUCTION T.B.D.

PROJECT TEAM

SMARTLINK TEAM: 11410 NE 122ND WAY, SUITE 102  
 KIRKLAND, WA 98034

PROJECT MANAGEMENT: DAWN FANN (425) 343-3429

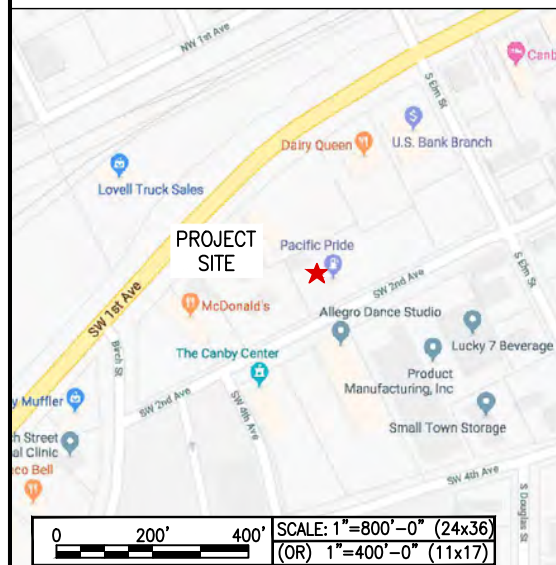
SITE ACQUISITION: CHIP O'HEARN (503) 490-2997  
 chip.ohearn@smartlinkllc.com

ZONING SPECIALIST: DEBBIE GRIFFIN (480) 296-1205  
 debbra.griffin@smartlinkllc.com

ENGINEER: INFINIGY ENGINEERING  
 2500 W. HIGGINS RD. SUITE 500  
 HOFFMAN ESTATES, IL 60169  
 (847) 648-4068

CONSTRUCTION: MASTEC

VICINITY MAP



LOCATION MAP



DIRECTIONS:

DIRECTIONS FROM AT&T REGIONAL OFFICE:

- TURN RIGHT ONTO SW SAGERT ST.
- TURN RIGHT ONTO SW MARTINAZZI AVE.
- TURN RIGHT ONTO SW TULATIN-SHERWOOD RD.
- CONTINUE ONTO SW NYBERG ST.
- TURN RIGHT ONTO I-5 S TOWARD SALEM.
- TAKE EXIT 282A TOWARD CANBY.
- CONTINUE ONTO PORTLAND-HUBBARD HWY.
- TURN LEFT ONTO ARNDT RD NE.
- TURN RIGHT ONTO S ARNDT RD.
- TURN RIGHT ONTO S BARLOW RD.
- TURN LEFT ONTO OR-99E N/ PACIFIC HWY E.
- TURN RIGHT ONTO BIRCH ST.
- TURN LEFT ONTO SW 2ND AVE.
- DESTINATION WILL BE ON THE LEFT.

LEGAL DESCRIPTION

SEE LEGAL DESCRIPTION ON SHEET LS-2

DO NOT SCALE DRAWINGS

CONTRACTOR SHALL VERIFY PLANS AND EXISTING DIMENSIONS AND CONDITIONS ON THE JOB SITE AND SHALL IMMEDIATELY NOTIFY THE ARCHITECT IN WRITING OF ANY DISCREPANCIES BEFORE PROCEEDING WITH THE WORK OR BE RESPONSIBLE FOR SAME.

BUILDING CODES

2014 OREGON STRUCTURAL SPECIALTY CODE  
 2017 OREGON ELECTRICAL SPECIALTY CODE  
 2014 OREGON MECHANICAL SPECIALTY CODE

HTTPS://WWW.CANBYOREGON.GOV/DEPARTMENTS/DEVELOP\_SERVICES/DEVELOPMENT\_SERV.HTM  
 HTTPS://WWW.CLACKAMAS.US/BUILDING



TO OBTAIN LOCATION OF PARTICIPANTS UNDERGROUND FACILITIES BEFORE YOU DIG IN OREGON, CALL OREGON UTILITY NOTIFICATION CENTER  
 TOLL FREE: 1-800-332-2344 OR  
 www.digsafelyoregon.com

Know what's below.  
 Call before you dig.

OREGON STATE  
 REQUIRES MIN OF 2  
 WORKING DAYS NOTICE  
 BEFORE YOU EXCAVATE

SHEET INDEX

SHEET	DESCRIPTION	REV
T-1	TITLE SHEET	0
LS-1	SITE SURVEY	
LS-2	OVERALL SURVEY	
SP-1	GENERAL NOTES	0
C-1	EXISTING SITE PLAN	0
C-1.1	PROPOSED SITE PLAN	0
C-2	ELEVATION & COMPOUND PLAN	0

PROJECT DESCRIPTION

AT&T PROPOSES THE INSTALLATION OF AN UNMANNED TELECOMMUNICATION FACILITY CONSISTING OF INSTALLING AN AT&T 8'x16' EQUIPMENT SHELTER WITHIN A 25'x30' FENCED COMPOUND AND AT&T ANTENNA EQUIPMENT ON A NEW 130' MONO-FIR TOWER. NO WATER OR SEWER REQUIRED.

- (3) NEW ANTENNA MOUNTS
- (12) NEW ANTENNAS
- (12) NEW RRHs
- (2) NEW RAYCAP SURGE SUPPRESSORS
- (2) NEW FIBER LINES AND (4) NEW DC POWER LINES
- (1) NEW PRE-FABRICATED EQUIPMENT SHELTER WITH NEW GPS ANTENNA, 1-TON WALL MOUNTED HVAC UNIT, AND INDOOR DIESEL GENERATOR; ON CONCRETE PAD
- NEW ELECTRICAL SERVICE

- ALL WORK SHALL BE INSTALLED IN CONFORMANCE WITH CURRENT AT&T CONSTRUCTION INSTALLATION GUIDE.
- EXISTING CONDITIONS WILL BE CHANGED & VERIFIED IN FIELD. IF SIGNIFICANT DEVIATIONS OR DETERIORATIONS ARE ENCOUNTERED AT THE TIME OF CONSTRUCTION, A REPAIR PERMIT WILL BE OBTAINED & CONTRACTOR SHALL NOTIFY ENGINEER IMMEDIATELY.
- THESE DRAWINGS ARE FULL SIZE & SCALABLE ON 11" X 17" SHEET SIZE.
- STATEMENT OF COMPLIANCE WITH ENERGY CODE IS NOT REQUIRED.
- SCOPE OF WORK DOES NOT INVOLVE MODIFICATIONS TO EXTERIOR ENVELOPE OF BUILDING, HVAC SYSTEMS OR ELECTRICAL LIGHTING.

Carrier:

THE INFORMATION CONTAINED IN THIS SET OF CONSTRUCTION DOCUMENTS IS PROPRIETARY IN NATURE. ANY USE OR DISCLOSURE OTHER THAN THAT WHICH RELATES TO INFINIGY AND AT&T MOBILITY SERVICES IS STRICTLY PROHIBITED.

Prepared By:

FROM ZERO TO INFINIGY  
 the solutions are endless  
 INFINIGY ENGINEERING PLLC  
 2500 W. HIGGINS RD. SUITE 500  
 HOFFMAN ESTATES, IL 60169  
 Phone: 847-648-4068 | Fax: 518-690-0793  
 www.infinigy.com

Prepared For:

11410 NE 122ND WAY, SUITE 102  
 KIRKLAND, WASHINGTON 98034

Engineer Stamp:

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

UNAUTHORIZED ALTERATION OR ADDITION TO THIS DOCUMENT IS A VIOLATION OF APPLICABLE STATE AND/OR LOCAL LAWS

NOT FOR CONSTRUCTION

Rev.	Submit / Revision	App'd	Date
0	FINAL ZONING DRAWING	DZ	06/14/19
D	REVISED PER COMMENTS	DZ	05/24/19
C	REVISED PER COMMENTS	DZ	04/16/19
B	REVISED PER COMMENTS	DZ	04/03/19
A	90% ZONING DRAWING	DZ	02/22/19

Designed: DZ Date: 06/14/19  
 Approved: EDR Date: 06/14/19

Project Number: 499-037

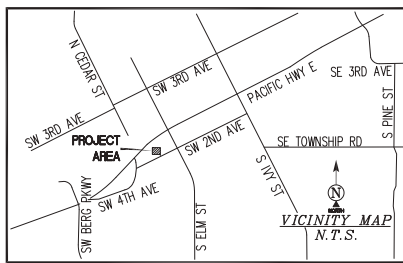
Project Title: AT&T SITE ID:  
 PW34  
 FA LOCATION:  
 14671566  
 SITE ADDRESS:  
 640 SW 2ND AVE  
 CANBY, OR 97013  
 SITE NAME:  
 CANBY HIGH SCHOOL

Drawing Scale: AS NOTED Date: 06/14/19

ZD

Drawing Title: TITLE SHEET

Drawing Number: T-1



**SURVEY DATE**  
02/05/2019

**BASIS OF BEARING**  
BEARINGS SHOWN HEREON ARE BASED UPON U.S. STATE PLANE NAD83 COORDINATE SYSTEM OREGON STATE PLANE COORDINATE ZONE NORTH, DETERMINED BY GPS OBSERVATIONS.

**BENCHMARK**  
PROJECT ELEVATIONS ESTABLISHED FROM GPS DERIVED ORTHOMETRIC HEIGHTS BY APPLICATION OF NGS "GEOID 12B" MODELED SEPARATIONS TO ELLIPSOID HEIGHTS DETERMINED BY RAW STATIC GPS DATA. ALL ELEVATIONS SHOWN HEREON ARE REFERENCED TO NAVD88.

**FLOOD ZONE**  
THIS PROJECT APPEARS TO BE LOCATED WITHIN "OTHER AREAS ZONE X" ACCORDING TO FEDERAL EMERGENCY MANAGEMENT AGENCY INSURANCE RATE MAP NO. 41005C0264D, 06/17/2008.

**UTILITY NOTES**  
SURVEYOR DOES NOT GUARANTEE THAT ALL UTILITIES ARE SHOWN OR THEIR LOCATIONS ARE DEFINITE. IT IS THE RESPONSIBILITY OF THE CONTRACTOR AND DEVELOPER TO CONTACT BLUE STAKE AND ANY OTHER INVOLVED AGENCIES TO LOCATE ALL UTILITIES PRIOR TO CONSTRUCTION. REMOVAL, RELOCATION AND/OR REPLACEMENT IS THE RESPONSIBILITY OF THE CONTRACTOR.

**SURVEYOR'S NOTES**  
SURVEYOR HAS NOT PERFORMED A SEARCH OF PUBLIC RECORDS TO DETERMINE ANY DEFECT IN TITLE ISSUED.

THE BOUNDARY SHOWN HEREON IS PLOTTED FROM RECORD INFORMATION AND DOES NOT CONSTITUTE A BOUNDARY SURVEY OF THE PROPERTY.

ALL DISTANCES SHOWN HEREON ARE GRID DISTANCES.

LEGEND			
NG	NATURAL GRADE	BLDG	BUILDING
FC	FACE OF CURB	HH	HAND HOLE
GRV	TOP OF GRAVEL	EM	ELECTRIC METER
ICV	IRRIGATION CONTROL VALVE	CONC	TOP OF CONCRETE
BOV	BLOW-OFF VALVE	B	BOLLARD
SAT	TOP OF SATELLITE ANTENNA	TOP	TOP OF SIGN
	DECIDUOUS TREE	MH	UTILITY MANHOLE
	SPOT ELEVATION		POSITION OF GEODETIC COORDINATE
	SUBJECT PROPERTY LINE		ADJACENT PROPERTY LINE
	MAJOR CONTOUR INTERVAL		MINOR CONTOUR INTERVAL

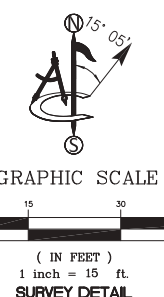
POSITION OF GEODETIC COORDINATE  
LATITUDE 45° 15' 32.87" (45.259131) NORTH(NAD83)  
LONGITUDE 122° 41' 53.84" (122.698289) WEST(NAD83)  
GROUND ELEVATION @ 155.8' (NAVD88)



**PARENT PARCEL I**  
APN: 00793564

**PARENT PARCEL III**  
APN: 00793591  
ZONING: CM  
LYNX LAND HOLDINGS, LLC

**PARENT PARCEL II**  
APN: 00793591  
ZONING: CM  
LYNX LAND HOLDINGS, LLC



PROJECT INFORMATION:  
**PW34**  
**CANBY HIGH SCHOOL**  
640 SW 2ND AVE  
CANBY, OR 97013  
CLACKAMAS COUNTY

ORIGINAL ISSUE DATE:  
**02/11/2019**

REV.:	DATE:	DESCRIPTION:	BY:
A	02/11/19	PRELIM W/ TITLE	LO
1	03/18/19	ADDED VESTING DEED NOTE (C)	SR

PLANS PREPARED BY:  
**INFINIGY**  
FROM ZERO TO INFINIGY  
the solutions are endless

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TACOMA, WASHINGTON 98402  
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www.ambitconsulting.us

DRAWN BY: \_\_\_\_\_ CHK.: \_\_\_\_\_ APV.: \_\_\_\_\_

LO	SR	DG
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LICENSER:  
**PRELIMINARY**

SHEET TITLE:  
**SITE SURVEY**

SHEET NUMBER:  
**1**



**LESSOR'S LEGAL DESCRIPTION**

PARCEL I:

A PORTION OF THE DONATION LAND CLAIM OF PHILANDER LEE AND WIFE IN SECTION 33, TOWNSHIP SOUTH, RANGE 1 EAST AND OF SECTION 4, TOWNSHIP 4 SOUTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN, IN THE CITY OF CANBY, COUNTY OF CLACKAMAS AND STATE OF OREGON, BOUNDED AND DESCRIBED AS FOLLOWS:  
 BEGINNING AT A STAKE DRIVEN IN THE SOUTHERLY SIDE LINE OF THE PACIFIC HIGHWAY AS ESTABLISHED BY RESOLUTION OF THE COUNTY COURT OF CLACKAMAS COUNTY, OREGON, APRIL 9, 1926, SAID POINT BEING SOUTH 26° EAST, 10 FEET DISTANT AND SOUTH 64° WEST, 153.15 FEET DISTANT FROM A BASALT STONE SET AT THE MOST WESTERLY CORNER OF LOT 1, BLOCK 3, WEED'S ADDITION TO CANBY, OREGON; SAID POINT BEING ALSO SOUTH 64° WEST 100.35 FEET DISTANCE FROM THE MOST NORTHERLY CORNER OF THE LAND OWNED BY THE HEIRS OF A.L. SNELL, DECEASED; THENCE SOUTH 64° WEST TRACING THE SOUTHERLY SIDE LINE OF THE PACIFIC HIGHWAY, 208.71 FEET TO A STAKE; THENCE AT RIGHT ANGLES TO SAID HIGHWAY SOUTH 26° EAST, 208.71 FEET TO A STAKE; THENCE NORTH 64° EAST, 208.71 FEET TO A STAKE; THENCE AT RIGHT ANGLES TO SAID LINE NORTH 26° WEST, 208.71 FEET TO THE PLACE OF BEGINNING.

EXCEPT THAT PORTION DESCRIBED AS FOLLOWS:  
 BEGINNING AT THE INTERSECTION OF THE NORTHERLY LINE OF SAID UNION OIL COMPANY PROPERTY AND THE 1933 RELOCATED CENTER LINE OF THE PACIFIC HIGHWAY, AT ENGINEER'S STATION 32+85.4, SAID INTERSECTION BEING SOUTH 26°53' EAST, A DISTANCE OF 10.0 FEET, AND SOUTH 63°07' WEST, A DISTANCE OF 312.05 FEET FROM THE MOST WESTERLY CORNER OF LOT 1 OF BLOCK 3, OF WEED'S ADDITION TO CANBY; THENCE NORTH 63°07' EAST ALONG SAID NORTHERLY PROPERTY LINE, A DISTANCE OF 158.9 FEET TO THE NORTHEASTERLY CORNER OF SAID UNION OIL COMPANY PROPERTY; THENCE SOUTH 26°53' EAST ALONG THE EASTERLY PROPERTY LINE OF SAID COMPANY, A DISTANCE OF 13.3 FEET TO A POINT WHICH IS 50.0 FEET SOUTHEASTERLY FROM (AND MEASURED AT RIGHT ANGLES TO) THE SAID RELOCATED CENTER LINE OF THE PACIFIC HIGHWAY, AT ENGINEER'S STATION 31+31.3; THENCE PARALLEL TO SAID RELOCATED CENTER LINE AS FOLLOWS: ALONG A 1,382.5 FOOT RADIUS CURVE TO THE LEFT (THE LONG CHORD OF WHICH BEARS SOUTH 49°08'45" WEST) A DISTANCE OF 163.0 FEET; THENCE ALONG A TALBOT'S SPIRAL CURVE TO THE LEFT, A= 2 ON THE CENTER LINE, (THE LONG CHORD OF WHICH SPIRAL BEARS SOUTH 45°28' WEST), A DISTANCE OF 53.1 FEET TO THE WESTERLY PROPERTY LINE OF THE SAID UNION OIL COMPANY; THENCE NORTH 26°53' WEST ALONG SAID PROPERTY LINE, A DISTANCE OF 68.8 FEET TO THE NORTHWESTERLY CORNER OF SAID PROPERTY; THENCE NORTH 63°07' EAST ALONG THE NORTHERLY PROPERTY LINE OF THE SAID UNION OIL COMPANY, A DISTANCE OF 49.8 FEET TO THE POINT OF BEGINNING.

PARCEL II:  
 PART OF THE PHILANDER LEE AND WIFE DONATION LAND CLAIM NO. 56, IN TOWNSHIP 3 SOUTH, RANGE 1 EAST, OF THE WILLAMETTE MERIDIAN AND NO.49, IN TOWNSHIP 4 SOUTH, RANGE 1 EAST, OF THE WILLAMETTE MERIDIAN, IN THE CITY OF CANBY, CLACKAMAS COUNTY, OREGON, DESCRIBED AS FOLLOWS:  
 BEGINNING AT AN IRON PIPE THAT IS SOUTH 64°00' WEST, 361.86 FEET DISTANT AND SOUTH 26°00' EAST, 218.71 FEET DISTANT FROM THE MOST WESTERLY CORNER OF WEED'S ADDITION TO CANBY, A TOWNPLAT RECORDED IN BOOK 4, PAGE 24, CLACKAMAS COUNTY DEED RECORDS; SAID BEGINNING POINT ALSO MARKING THE MOST SOUTHERLY CORNER OF THE UNION OIL COMPANY'S TRACT AS DESCRIBED IN THAT CERTAIN CONVEYANCE RECORDED IN BOOK 201, PAGE 147, CLACKAMAS COUNTY DEED RECORDS; THENCE NORTH 63°59' EAST ALONG THE SOUTHERLY LINE OF THE UNION OIL COMPANY TRACT, 40.00 FEET TO THE TRUE POINT OF BEGINNING OF THE TRACT TO BE DESCRIBED; THENCE CONTINUING NORTH 63°59' EAST ALONG SAID LINE, 168.61 FEET TO THE MOST NORTHERLY CORNER OF THAT TRACT DESCRIBED AS PARCEL III, RECORDED SEPTEMBER 29, 1978 AS RECORDERS FEE NO. 78-042264; THENCE SOUTH 26° 03' EAST ALONG THE NORTHEAST BOUNDARY OF SAID PARCEL III, 123.27 FEET TO A POINT ON THE NORTHERLY BOUNDARY OF SOUTH 2ND AVENUE; THENCE SOUTH 63°54' WEST ALONG SAID NORTHERLY BOUNDARY, 175.00 FEET; THENCE NORTH 23°05' WEST, 123.69 FEET TO THE POINT OF BEGINNING.

PARCEL III:  
 PART OF THE PHILANDER DONATION LAND CLAIM NO. 56 IN SECTION 33, TOWNSHIP 3 SOUTH, RANGE 1 EAST AND SECTION 4, TOWNSHIP 4 SOUTH, RANGE 1 EAST, WILLAMETTE MERIDIAN, IN THE CITY OF CANBY, CLACKAMAS COUNTY, OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
 BEGINNING AT THE MOST SOUTHERLY CORNER OF THAT TRACT OF LAND CONVEYED TO DALE W. MATZKE, ET UX, BY DEED RECORDED OCTOBER 14, 1968 AS RECORDER'S FEE NO. 68-021111, CLACKAMAS COUNTY DEED RECORDS; THENCE NORTH 26°04'00" WEST, 106.58 FEET TO A POINT 50.00 FEET SOUTHERLY AND PERPENDICULAR TO THE SOUTHEASTERLY LINE OF THE TRACT CONVEYED TO ROBERT C. LANDON, ET UX., BY DEED RECORDED AUGUST 6, 1980 AS RECORDER'S FEE NO. 80-029001, CLACKAMAS COUNTY DEED RECORDS; THENCE NORTH 63°48'10" EAST, 123.00 FEET PARALLEL WITH THE SOUTHEASTERLY LINE OF SAID LANDON TRACT; THENCE SOUTH 26°04'08" EAST, 106.74 FEET TO THE NORTHWESTERLY RIGHT OF WAY OF SOUTH 2ND AVENUE; THENCE SOUTH 63°52'45" WEST, 123.01 FEET ALONG THE NORTHWESTERLY RIGHT OF WAY OF SOUTH 2ND AVENUE TO THE POINT OF BEGINNING.

**NOTES CORRESPONDING WITH REPORT FINDINGS ITEM C**

REFERENCE IS MADE TO WFG NATIONAL TITLE INSURANCE COMPANY PROPERTY INFORMATION REPORT FILE NO.: 18-232728, DATED NOVEMBER 15, 2018. ALL EASEMENTS CONTAINED WITHIN SAID GUARANTEE AFFECTING THE IMMEDIATE AREA SURROUNDING THE LEASE HAVE BEEN PLOTTED. ITEMS 1 & 3-9 ARE NOT SURVEY RELATED ITEMS.

- EASEMENT, INCLUDING THE TERMS AND PROVISIONS THEREOF:  
 FOR : INGRESS, EGRESS AND STORAGE  
 GRANTED TO : ADRIAN FISHER  
 RECORDED : MARCH 25, 1994  
 RECORDING NO(S) : 94-025324  
 AFFECTS : A PORTION OF THE PREMISES HEREIN  
**(DOES NOT AFFECT SUBJECT PARCELS - NOT SHOWN)**

THE LESSOR'S LEGAL DESCRIPTION (AKA PARENT PARCEL) ARE PER THE "VESTING DEED" NOTED IN SAID TITLE; RECORDING NO. 2015-051544.  
**(NOTED/SHOWN AS LESSOR'S LEGAL DESCRIPTION (AKA PARENT PARCEL))**

**LEASE AREA LEGAL DESCRIPTION**

THAT PORTION OF PART OF THE PHILANDER LEE AND WIFE DONATION LAND CLAIM NO. 56, IN TOWNSHIP 3 SOUTH, RANGE 1 EAST, OF THE WILLAMETTE MERIDIAN AND NO.49, IN TOWNSHIP 4 SOUTH, RANGE 1 EAST, OF THE WILLAMETTE MERIDIAN, IN THE CITY OF CANBY, CLACKAMAS COUNTY, OREGON, DESCRIBED AS FOLLOWS:  
 BEGINNING AT AN IRON PIPE THAT IS SOUTH 64°00' WEST, 361.86 FEET DISTANT AND SOUTH 26°00' EAST, 218.71 FEET DISTANT FROM THE MOST WESTERLY CORNER OF WEED'S ADDITION TO CANBY, A TOWNPLAT RECORDED IN BOOK 4, PAGE 24, CLACKAMAS COUNTY DEED RECORDS; SAID BEGINNING POINT ALSO MARKING THE MOST SOUTHERLY CORNER OF THE UNION OIL COMPANY'S TRACT AS DESCRIBED IN THAT CERTAIN CONVEYANCE RECORDED IN BOOK 201, PAGE 147, CLACKAMAS COUNTY DEED RECORDS; THENCE NORTH 63°59' EAST ALONG THE SOUTHERLY LINE OF THE UNION OIL COMPANY TRACT, 40.00 FEET TO THE TRUE POINT OF BEGINNING OF THE TRACT TO BE DESCRIBED; THENCE CONTINUING NORTH 63°59' EAST ALONG SAID LINE, 168.61 FEET TO THE MOST NORTHERLY CORNER OF THAT TRACT DESCRIBED AS PARCEL III, RECORDED SEPTEMBER 29, 1978 AS RECORDERS FEE NO. 78-042264; THENCE SOUTH 26° 03' EAST ALONG THE NORTHEAST BOUNDARY OF SAID PARCEL III, 123.27 FEET TO A POINT ON THE NORTHERLY BOUNDARY OF SOUTH 2ND AVENUE; THENCE SOUTH 63°54' WEST ALONG SAID NORTHERLY BOUNDARY, 175.00 FEET; THENCE NORTH 23°05' WEST, 123.69 FEET TO THE POINT OF BEGINNING.  
 (BEING NOTED AS PARCEL II IN A STATUTORY WARRANTY DEED, RECORDED IN SAID COUNTY, RECORDING NO. 5015-051544; AND SHOWN ON A SURVEY MAP P.S. 25384)  
 THAT PORTION BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT AFORESAID TRUE POINT OF BEGINNING; THENCE ALONG THE SOUTHWESTERLY LINE OF THE ABOVE DESCRIBED PROPERTY, SOUTH 22°12'03" EAST, 30.49 FEET TO THE POINT OF BEGINNING, BEING THE NORTHWEST CORNER OF A 25.00'X30.00' LEASE AREA;  
 THENCE LEAVING SAID SOUTHWESTERLY LINE, NORTH 64°52'28" EAST, 25.00 FEET;  
 THENCE SOUTH 25°07'32" EAST, 30.00 FEET;  
 THENCE SOUTH 64°52'28" WEST, 25.00 FEET;  
 THENCE NORTH 25°07'32" WEST, 30.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 750 SQUARE FEET.



GRAPHIC SCALE



( IN FEET )  
 1 inch = 30 ft.  
**SURVEY DETAIL**



PROJECT INFORMATION:

**PW34**  
**CANBY HIGH SCHOOL**  
 640 SW 2ND AVE  
 CANBY, OR 97013  
 CLACKAMAS COUNTY

ORIGINAL ISSUE DATE:

02/11/2019

REV.: DATE: DESCRIPTION: BY:

A	02/11/19	PRELIM W/ TITLE	LO
1	03/18/19	ADDED VESTING DEED NOTE (C)	SR

PLANS PREPARED BY:

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DRAWN BY: CHK.: APV.:

LO	SR	DG
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LICENSER:

**PRELIMINARY**

SHEET TITLE:

OVERALL SURVEY

SHEET NUMBER:

LS of 2



GENERAL CONSTRUCTION

- 1. FOR THE PURPOSE OF CONSTRUCTION DRAWINGS, THE FOLLOWING DEFINITIONS SHALL APPLY: CONTRACTOR/CM - NEXIUS SUB-CONTRACTOR - T.B.D OWNER - AT&T WIRELESS
2. ALL SITE WORK SHALL BE COMPLETED AS INDICATED ON THE DRAWINGS AND AT&T PROJECT SPECIFICATIONS.
3. GENERAL CONTRACTOR SHALL VISIT THE SITE AND SHALL FAMILIARIZE HIMSELF WITH ALL CONDITIONS AFFECTING THE PROPOSED WORK AND SHALL MAKE PROVISIONS. GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR FAMILIARIZING HIMSELF WITH ALL CONTRACT DOCUMENTS, FIELD CONDITIONS, DIMENSIONS, AND CONFIRMING THAT THE WORK MAY BE ACCOMPLISHED AS SHOWN PRIOR TO PROCEEDING WITH CONSTRUCTION. ANY DISCREPANCIES SHALL BE BROUGHT TO THE ATTENTION OF THE ENGINEER PRIOR TO THE COMMENCEMENT OF WORK.
4. ALL MATERIALS FURNISHED AND INSTALLED SHALL BE IN STRICT ACCORDANCE WITH ALL APPLICABLE CODES, REGULATIONS, AND ORDINANCES. GENERAL CONTRACTOR SHALL ISSUE ALL APPROPRIATE NOTICES AND COMPLY WITH ALL LAWS, ORDINANCES, RULES, REGULATIONS, AND LAWFUL ORDERS OF ANY PUBLIC AUTHORITY REGARDING THE PERFORMANCE OF WORK.
5. ALL WORK CARRIED OUT SHALL COMPLY WITH ALL APPLICABLE MUNICIPAL AND UTILITY COMPANY SPECIFICATIONS AND LOCAL JURISDICTIONAL CODES, ORDINANCES, AND APPLICABLE REGULATIONS.
6. UNLESS NOTED OTHERWISE, THE WORK SHALL INCLUDE FURNISHING MATERIALS, EQUIPMENT, APPURTENANCES, AND LABOR NECESSARY TO COMPLETE ALL INSTALLATIONS AS INDICATED ON THE DRAWINGS.
7. PLANS ARE NOT TO BE SCALED. THESE PLANS ARE INTENDED TO BE A DIAGRAMMATIC OUTLINE ONLY UNLESS OTHERWISE NOTED. DIMENSIONS SHOWN ARE TO FINISH SURFACES UNLESS OTHERWISE NOTED. SPACING BETWEEN EQUIPMENT IS THE MINIMUM REQUIRED CLEARANCE. THEREFORE, IT IS CRITICAL TO FIELD VERIFY DIMENSIONS, SHOULD THERE BE ANY QUESTIONS REGARDING THE CONTRACT DOCUMENTS, THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING A CLARIFICATION FROM THE ENGINEER PRIOR TO PROCEEDING WITH THE WORK. DETAILS ARE INTENDED TO SHOW DESIGN INTENT. MODIFICATIONS MAY BE REQUIRED TO SUIT JOB DIMENSIONS OR CONDITIONS AND SUCH MODIFICATIONS SHALL BE INCLUDED AS PART OF WORK AND PREPARED BY THE ENGINEER PRIOR TO PROCEEDING WITH WORK.
8. THE CONTRACTOR SHALL INSTALL ALL EQUIPMENT AND MATERIALS IN ACCORDANCE WITH MANUFACTURER'S RECOMMENDATIONS UNLESS SPECIFICALLY STATED OTHERWISE.
9. IF THE SPECIFIED EQUIPMENT CANNOT BE INSTALLED AS SHOWN ON THESE DRAWINGS, THE CONTRACTOR SHALL PROPOSE AN ALTERNATIVE INSTALLATION FOR APPROVAL BY THE ENGINEER PRIOR TO PROCEEDING.
10. GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR THE SAFETY OF WORK AREA, ADJACENT AREAS AND BUILDING OCCUPANTS THAT ARE LIKELY TO BE AFFECTED BY THE WORK UNDER THIS CONTRACT. WORK SHALL CONFIRM TO ALL OSHA REQUIREMENTS AND THE LOCAL JURISDICTION.
11. GENERAL CONTRACTOR SHALL COORDINATE WORK AND SCHEDULE WORK ACTIVITIES WITH OTHER DISCIPLINES.
12. ERECTION SHALL BE DONE IN A WORKMANLIKE MANNER BY COMPETENT EXPERIENCED WORKMAN IN ACCORDANCE WITH APPLICABLE CODES AND THE BEST ACCEPTED PRACTICE. ALL MEMBERS SHALL BE LAID PLUMB AND TRUE AS INDICATED ON THE DRAWINGS.
13. SEAL PENETRATIONS THROUGH FIRE RATED AREAS WITH UL LISTED MATERIALS APPROVED BY LOCAL JURISDICTION. CONTRACTOR SHALL KEEP AREA CLEAN, HAZARD FREE, AND DISPOSE OF ALL DEBRIS.
14. WORK PREVIOUSLY COMPLETED IS REPRESENTED BY LIGHT SHADED LINES AND NOTES. THE SCOPE OF WORK FOR THIS PROJECT IS REPRESENTED BY DARK SHADED LINES AND NOTES. CONTRACTOR SHALL NOTIFY THE GENERAL CONTRACTOR OF ANY EXISTING CONDITIONS THAT DEVIATE FROM THE DRAWINGS PRIOR TO BEGINNING CONSTRUCTION.
15. CONTRACTOR SHALL PROVIDE WRITTEN NOTICE TO THE CONSTRUCTION MANAGER 48 HOURS PRIOR TO COMMENCEMENT OF WORK.
16. THE CONTRACTOR SHALL PROTECT EXISTING IMPROVEMENTS, PAVEMENTS, CURBS, LANDSCAPING AND STRUCTURES. ANY DAMAGED PART SHALL BE REPAIRED AT CONTRACTOR'S EXPENSE TO THE SATISFACTION OF THE OWNER.
17. THE CONTRACTOR SHALL CONTACT UTILITY LOCATING SERVICES PRIOR TO THE START OF CONSTRUCTION.
18. GENERAL CONTRACTOR SHALL COORDINATE AND MAINTAIN ACCESS FOR ALL TRADES AND CONTRACTORS TO THE SITE AND/OR BUILDING.
19. THE GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR SECURITY OF THE SITE FOR THE DURATION OF CONSTRUCTION UNTIL JOB COMPLETION.
20. THE GENERAL CONTRACTOR SHALL MAINTAIN IN GOOD CONDITION ONE COMPLETE SET OF PLANS WITH ALL REVISIONS, ADDENDA, AND CHANGE ORDERS ON THE PREMISES AT ALL TIMES.
21. THE GENERAL CONTRACTOR SHALL PROVIDE PORTABLE FIRE EXTINGUISHERS WITH A RATING OF NOT LESS THAN 2-A QT 2-A:10-B:C AND SHALL BE WITHIN 25 FEET OF TRAVEL DISTANCE TO ALL PORTIONS OF WHERE THE WORK IS BEING COMPLETED DURING CONSTRUCTION.
22. ALL EXISTING ACTIVE SEWER, WATER, GAS, ELECTRIC, AND OTHER UTILITIES SHALL BE PROTECTED AT ALL TIMES, AND WHERE REQUIRED FOR THE PROPER EXECUTION OF THE WORK, SHALL BE RELOCATED AS DIRECTED BY THE ENGINEER. EXTREME CAUTION SHOULD BE USED BY THE CONTRACTOR WHEN EXCAVATING OR DRILLING PIERS AROUND OR NEAR UTILITIES. CONTRACTOR SHALL PROVIDE SAFETY TRAINING FOR THE WORKING CREW. THIS SHALL INCLUDE BUT NOT BE LIMITED TO A) FALL PROTECTION, B) CONFINED SPACE, C) ELECTRICAL SAFETY, AND D) TRENCHING & EXCAVATION.
23. ALL EXISTING INACTIVE SEWER, WATER, GAS, ELECTRIC, AND OTHER UTILITIES, WHICH INTERFERE WITH THE EXECUTION OF THE WORK, SHALL BE REMOVED, CAPPED, PLUGGED OR OTHERWISE DISCONNECTED AT POINTS WHICH WILL NOT INTERFERE WITH THE EXECUTION OF THE WORK, AS DIRECTED BY THE RESPONSIBLE ENGINEER, AND SUBJECT TO THE APPROVAL OF THE OWNER AND/OR LOCAL UTILITIES.
24. THE AREAS OF THE OWNER'S PROPERTY DISTURBED BY THE WORK AND NOT COVERED BY THE TOWER, EQUIPMENT OR DRIVEWAY, SHALL BE GRADED TO A UNIFORM SLOPE, AND STABILIZED TO PREVENT EROSION.
25. CONTRACTOR SHALL MINIMIZE DISTURBANCE TO THE EXISTING SITE DURING CONSTRUCTION. EROSION CONTROL MEASURES, IF REQUIRED DURING CONSTRUCTION, SHALL BE IN CONFORMANCE WITH THE FEDERAL AND LOCAL JURISDICTION FOR EROSION AND SEDIMENT CONTROL.
26. NO FILL OR EMBANKMENT MATERIAL SHALL BE PLACED ON FROZEN GROUNDING. FROZEN MATERIALS, SNOW OR ICE SHALL NOT BE PLACED IN ANY FILL OR EMBANKMENT.

- 27. THE SUBGRADE SHALL BE BROUGHT TO A SMOOTH UNIFORM GRADE AND COMPACTED TO 95 PERCENT STANDARD PROCTOR DENSITY UNDER PAVEMENT AND STRUCTURES AND 80 PERCENT STANDARD PROCTOR DENSITY IN OPEN SPACE. ALL TRENCHES IN PUBLIC RIGHT OF WAY SHALL BE BACKFILLED WITH FLOWABLE FILL OR OTHER MATERIAL PRE-APPROVED BY THE LOCAL JURISDICTION.
28. ALL NECESSARY RUBBISH, STUMPS, DEBRIS, STICKS, STONES, AND OTHER REFUSE SHALL BE REMOVED FROM THE SITE AND DISPOSED OF IN A LAWFUL MANNER.
29. ALL BROCHURES, OPERATING AND MAINTENANCE MANUALS, CATALOGS, SHOP DRAWINGS, AND OTHER DOCUMENTS SHALL BE TURNED OVER TO THE GENERAL CONTRACTOR AT COMPLETION OF CONSTRUCTION AND PRIOR TO PAYMENT.
30. CONTRACTOR SHALL SUBMIT A COMPLETE SET OF AS-BUILT REDLINES TO THE GENERAL CONTRACTOR UPON COMPLETION OF PROJECT AND PRIOR TO FINAL PAYMENT.
31. CONTRACTOR SHALL LEAVE PREMISES IN A CLEAN CONDITION.
32. THE PROPOSED FACILITY WILL BE UNMANNED AND DOES NOT REQUIRE POTABLE WATER OR SEWER SERVICE, AND IS NOT FOR HUMAN HABITAT (NO HANDICAP ACCESS REQUIRED).
33. OCCUPANCY IS LIMITED TO PERIODIC MAINTENANCE AND INSPECTION, APPROXIMATELY 2 TIMES PER MONTH, BY AT&T TECHNICIANS.
34. NO OUTDOOR STORAGE OR SOLID WASTE CONTAINERS ARE NEW.
35. ALL MATERIAL SHALL BE FURNISHED AND WORK SHALL BE PERFORMED IN ACCORDANCE WITH THE LATEST REVISION AT&T MOBILITY GROUNDING STANDARD "TECHNICAL SPECIFICATION FOR CONSTRUCTION OF GSM/GPRS WIRELESS SITES", "TECHNICAL SPECIFICATION FOR FACILITY GROUNDING", ATT-TP-76300, AND ATT-TP-76416. IN CASE OF A CONFLICT BETWEEN THE CONSTRUCTION SPECIFICATION AND THE DRAWINGS, THE DRAWINGS SHALL GOVERN.
36. CONTRACTORS SHALL BE RESPONSIBLE FOR OBTAINING ALL PERMITS AND INSPECTIONS REQUIRED FOR CONSTRUCTION. IF CONTRACTOR CANNOT OBTAIN A PERMIT, THEY MUST NOTIFY THE GENERAL CONTRACTOR IMMEDIATELY.
37. CONTRACTOR SHALL REMOVE ALL TRASH AND DEBRIS FROM THE SITE ON A DAILY BASIS.
38. INFORMATION SHOWN ON THESE DRAWINGS WAS OBTAINED FROM SITE VISITS AND/OR DRAWINGS PROVIDED BY THE SITE OWNER. CONTRACTORS SHALL NOTIFY THE ENGINEER OF ANY DISCREPANCIES PRIOR TO ORDERING MATERIAL OR PROCEEDING WITH CONSTRUCTION.
39. NO WHITE STROBE LIGHTS ARE PERMITTED. LIGHTING IF REQUIRED, WILL MEET FAA STANDARDS AND REQUIREMENTS.

ANTENNA MOUNTING

- 40. DESIGN AND CONSTRUCTION OF ANTENNA SUPPORTS SHALL CONFORM TO CURRENT ANSI/TIA-222 OR APPLICABLE LOCAL CODES.
41. ALL STEEL MATERIALS SHALL BE GALVANIZED AFTER FABRICATION IN ACCORDANCE WITH ASTM A123 "ZINC (HOT-DIP GALVANIZED) COATINGS ON IRON AND STEEL PRODUCTS", UNLESS NOTED OTHERWISE.
42. ALL BOLTS, ANCHORS AND MISCELLANEOUS HARDWARE SHALL BE GALVANIZED IN ACCORDANCE WITH ASTM A153 "ZINC-COATING (HOT-DIP) ON IRON AND STEEL HARDWARE", UNLESS NOTED OTHERWISE.
43. DAMAGED GALVANIZED SURFACES SHALL BE REPAIRED BY COLD GALVANIZING IN ACCORDANCE WITH ASTM A780.
44. ALL ANTENNA MOUNTS SHALL BE INSTALLED WITH LOCK NUTS, DOUBLE NUTS AND SHALL BE TORQUED TO MANUFACTURER'S RECOMMENDATIONS.
45. CONTRACTOR SHALL INSTALL ANTENNA PER MANUFACTURER'S RECOMMENDATION FOR INSTALLATION AND GROUNDING.
46. ALL UNUSED PORTS ON ANY ANTENNAS SHALL BE CAPPED OFF WITH A DF-CAPKIT OR OTHER AT&T APPROVED METHOD, TO ENSURE ANTENNAS PERFORM AS DESIGNED.
47. PRIOR TO SETTING ANTENNA AZIMUTHS AND DOWNTILTS, ANTENNA CONTRACTOR SHALL CHECK THE ANTENNA MOUNT FOR TIGHTNESS AND ENSURE THAT THEY ARE PLUMB. ANTENNA AZIMUTHS SHALL BE SET FROM TRUE NORTH AND BE ORIENTED WITHIN +/- 3' AS DEFINED BY THE RFDS. ANTENNA DOWNTILTS SHALL BE WITHIN +/- 0.5' AS DEFINED BY THE RFDS. REFER TO ND-00246.

- 48. JUMPERS FROM THE TMA'S MUST TERMINATE TO OPPOSITE POLARIZATION'S IN EACH SECTOR.
49. CONTRACTOR SHALL RECORD THE SERIAL #, SECTOR, AND POSITION OF EACH ACTUATOR INSTALLED AT THE ANTENNAS AND PROVIDE THE INFORMATION TO AT&T.

- 50. TMA'S SHALL BE MOUNTED PER MANUFACTURER SPECIFICATION AND RECOMMENDATIONS.

TORQUE REQUIREMENTS

- 51. ALL RF CONNECTIONS SHALL BE TIGHTENED BY A TORQUE WRENCH.
52. ALL RF CONNECTIONS, GROUNDING HARDWARE AND ANTENNA HARDWARE SHALL HAVE A TORQUE MARK INSTALLED IN A CONTINUOUS STRAIGHT LINE FROM BOTH SIDES OF THE CONNECTION.
A. RF CONNECTION BOTH SIDES OF THE CONNECTOR.
B. GROUNDING AND ANTENNA HARDWARE ON THE NUT SIDE STARTING FROM THE THREADS TO THE SOLID SURFACE. EXAMPLE OF SOLID SURFACE: GROUND BAR, ANTENNA BRACKET METAL.

FIBER & POWER CABLE MOUNTING

- 53. THE FIBER OPTIC TRUNK CABLES SHALL BE INSTALLED INTO CONDUITS, CHANNEL CABLE TRAYS, OR CABLE TRAY. WHEN INSTALLING FIBER OPTIC TRUNK CABLES INTO A CABLE TRAY SYSTEM, THEY SHALL BE INSTALLED INTO AN INTER DUCT AND A PARTITION BARRIER SHALL BE INSTALLED BETWEEN THE 600 VOLT CABLES AND THE INTER DUCT IN ORDER TO SEGREGATE CABLE TYPES. OPTIC FIBER TRUNK CABLES SHALL HAVE APPROVED CABLE RESTRAINTS EVERY (60) SIXTY FEET AND SECURELY FASTENED TO THE CABLE TRAY SYSTEM. NFPA 70 (NEC) ARTICLE 770 RULES SHALL APPLY.
54. THE TYPE TC-ER CABLES SHALL BE INSTALLED INTO CONDUITS, CHANNEL CABLE TRAYS, OR CABLE TRAY AND SHALL BE SECURED AT INTERVALS NOT EXCEEDING (6) SIX FEET. AN EXCEPTION; WHERE TYPE TC-ER CABLES ARE NOT SUBJECT TO PHYSICAL DAMAGE, CABLES SHALL BE PERMITTED TO MAKE A TRANSITION BETWEEN CONDUITS, CHANNEL CABLE TRAYS, OR CABLE TRAY WHICH ARE SERVING UTILIZATION EQUIPMENT OR DEVICES, A DISTANCE (6) SIX FEET SHALL NOT BE EXCEEDED WITHOUT CONTINUOUS SUPPORTING. NFPA 70 (NEC) ARTICLES 336 AND 392 RULES SHALL APPLY.
55. WHEN INSTALLING OPTIC FIBER TRUNK CABLES OR TYPE TC-ER CABLES INTO CONDUITS, NFPA 70 (NEC) ARTICLE 300 RULES SHALL APPLY.

COAXIAL CABLE NOTES

- 56. TYPES AND SIZES OF THE ANTENNA CABLE ARE BASED ON ESTIMATED LENGTHS. PRIOR TO ORDERING CABLE, CONTRACTOR SHALL VERIFY ACTUAL LENGTH BASED ON CONSTRUCTION LAYOUT AND NOTIFY THE PROJECT MANAGER IF ACTUAL LENGTHS EXCEED ESTIMATED LENGTHS.
57. CONTRACTOR SHALL VERIFY THE DOWN-TILT OF EACH ANTENNA WITH A DIGITAL LEVEL.
58. CONTRACTOR SHALL CONFIRM COAX COLOR CODING PRIOR TO CONSTRUCTION.
59. ALL JUMPERS TO THE ANTENNAS FROM THE MAIN TRANSMISSION LINE SHALL BE PER AT&T STANDARDS.
60. ALL COAXIAL CABLE SHALL BE SECURED TO THE DESIGNED SUPPORT STRUCTURE, IN AN APPROVED MANNER, AT DISTANCES NOT TO EXCEED 4'-0" OC.
61. CONTRACTOR SHALL FOLLOW ALL MANUFACTURER'S RECOMMENDATIONS REGARDING BOTH THE INSTALLATION AND GROUNDING OF ALL COAXIAL CABLES, CONNECTORS, ANTENNAS, AND ALL OTHER EQUIPMENT.
62. CONTRACTOR SHALL GROUND ALL EQUIPMENT, INCLUDING TMA'S, RRR'S AND COAX CABLES AS A COMPLETE SYSTEM. GROUNDING SHALL BE EXECUTED BY QUALIFIED WIREMEN IN COMPLIANCE WITH MANUFACTURER'S SPECIFICATION AND RECOMMENDATION.
63. CONTRACTOR SHALL PROVIDE STRAIN-RELIEF AND CABLE SUPPORTS FOR ALL CABLE ASSEMBLIES, COAX CABLES, AND RET CONTROL CABLES. CABLE STRAIN-RELIEFS AND CABLE SUPPORTS SHALL BE APPROVED FOR THE PURPOSE. INSTALLATION SHALL BE IN ACCORDANCE WITH MANUFACTURER'S SPECIFICATIONS AND RECOMMENDATIONS.
64. CONTRACTOR TO VERIFY THAT EXISTING COAX HANGERS ARE STACKABLE SNAP IN HANGERS. IF EXISTING HANGERS ARE NOT STACKABLE SNAP IN HANGERS THE CONTRACTOR SHALL REPLACE EXISTING HANGERS WITH PROPOSED SNAP IN HANGERS IF APPLICABLE.

GENERAL CABLE AND EQUIPMENT NOTES

- 65. CONTRACTOR SHALL BE RESPONSIBLE TO VERIFY ANTENNA, TMAS, DIPLEXERS, AND COAX CONFIGURATION, MAKE AND MODELS PRIOR TO INSTALLATION.
66. ALL CONNECTIONS FOR HANGERS, SUPPORTS, BRACING, ETC. SHALL BE INSTALLED PER TOWER MANUFACTURER'S RECOMMENDATIONS.
67. CONTRACTOR SHALL REFERENCE THE TOWER STRUCTURAL ANALYSIS/DESIGN DRAWINGS FOR DIRECTIONS ON CABLE DISTRIBUTION/ROUTING.
68. ALL OUTDOOR RF CONNECTORS/CONNECTIONS SHALL BE WEATHERPROOFED, EXCEPT THE RET CONNECTORS, USING BUTYL TAPE AFTER INSTALLATION AND FINAL CONNECTIONS ARE MADE. BUTYL TAPE SHALL HAVE A MINIMUM OF ONE-HALF TAPE WIDTH OVERLAP ON EACH TURN AND EACH LAYER SHALL BE WRAPPED THREE TIMES. WEATHERPROOFING SHALL BE SMOOTH WITHOUT BUCKLING. BUTYL BLEEDING IS NOT ALLOWED. OTHER APPROVED WEATHERPROOFING METHODS PER AT&T SPECIFICATIONS ARE ALLOWED.
69. IF REQUIRED TO PAINT ANTENNAS AND/OR COAX:
a. TEMPERATURE SHALL BE ABOVE 50' F.
b. PAINT COLOR MUST BE APPROVED BY BUILDING OWNER/LANDLORD.
c. FOR REGULATED TOWERS, FAA/FCC APPROVED PAINT IS REQUIRED.
d. DO NOT PAINT OVER COLOR CODING OR ON EQUIPMENT MODEL NUMBERS.
70. ALL CABLES SHALL BE GROUNDED WITH COAXIAL CABLE GROUND KITS. FOLLOW THE MANUFACTURER'S RECOMMENDATIONS.
a. GROUNDING AT THE ANTENNA LEVEL.
b. GROUNDING AT MID LEVEL, TOWERS WHICH ARE OVER 200'-0", ADDITIONAL CABLE GROUNDING REQUIRED.
c. GROUNDING AT BASE OF TOWER PRIOR TO TURNING HORIZONTAL.
d. GROUNDING OUTSIDE THE EQUIPMENT SHELTER AT ENTRY PORT.
e. GROUNDING INSIDE THE EQUIPMENT SHELTER AT THE ENTRY PORT.
71. ALL PROPOSED GROUND BAR DOWNLEADS ARE TO BE TERMINATED TO THE EXISTING ADJACENT GROUND BAR DOWNLEADS A MINIMUM DISTANCE OF 4'-0" BELOW GROUND BAR. TERMINATIONS MAY BE EXOTHERMIC OR COMPRESSION.

STRUCTURAL STEEL NOTES:

- 72. ALL STEEL WORK SHALL BE PAINTED IN ACCORDANCE WITH THE PROJECT SPECIFICATIONS AND IN ACCORDANCE WITH ASTM A36 UNLESS OTHERWISE NOTED.
73. ALL WELDING SHALL BE PERFORMED USING E70XX ELECTRODES AND WELDING SHALL CONFORM TO AISC. WHERE FILLET WELD SIZES ARE NOT SHOWN, PROVIDE THE MINIMUM SIZE PER TABLE J2.4 IN THE AISC "MANUAL OF STEEL CONSTRUCTION". PAINTED SURFACES SHALL BE TOUCHED UP.
74. BOLTED CONNECTIONS SHALL BE ASTM A325 BEARING TYPE (3/4") CONNECTIONS AND SHALL HAVE MINIMUM OF TWO BOLTS UNLESS NOTED OTHERWISE.
75. NON-STRUCTURAL CONNECTIONS FOR STEEL GRATING MAY USE 5/8" DIA. ASTM A 307 BOLTS UNLESS NOTED OTHERWISE.
76. INSTALLATION OF CONCRETE EXPANSION/WEDGE ANCHOR. SHALL BE PER MANUFACTURER'S WRITTEN RECOMMENDED PROCEDURE. THE ANCHOR BOLT, DOWEL OR ROD SHALL CONFORM TO MANUFACTURER'S RECOMMENDATION FOR EMBEDMENT DEPTH OR AS SHOWN ON THE DRAWINGS. NO REBAR SHALL BE CUT WITHOUT PRIOR CONTRACTOR APPROVAL WHEN DRILLING HOLES IN CONCRETE. SPECIAL INSPECTIONS, REQUIRED BY GOVERNING CODES, SHALL BE PERFORMED IN ORDER TO MAINTAIN MANUFACTURER'S MAXIMUM ALLOWABLE LOADS.
77. ALL EXPANSION/WEDGE ANCHORS SHALL BE STAINLESS STEEL OR HOT DIPPED GALVANIZED. THE ANCHOR BOLT DOWEL AND ROD SHALL BE STAINLESS STEEL WITH STAINLESS STEEL WASHERS.

Carrier: at&t
THE INFORMATION CONTAINED IN THIS SET OF CONSTRUCTION DOCUMENTS IS PROPRIETARY IN NATURE. ANY USE OR DISCLOSURE OTHER THAN THAT WHICH RELATES TO INFINIGY AND AT&T MOBILITY SERVICES IS STRICTLY PROHIBITED.

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2500 W. HIGGINS RD. SUITE 500
HOFFMAN ESTATES, IL 60169
Phone: 847-648-4068 | Fax: 518-690-0793
www.infinigy.com

Prepared For: smartlink
11410 NE 122ND WAY, SUITE 102
KIRKLAND, WASHINGTON 98034

Engineer Stamp: REGISTERED PROFESSIONAL ENGINEER 74093PE
6/14/19
NOT OREGON
CHRISTOPHER J. WARREN
EXPIRATION DATE: 6-30-20

Signed: Date:

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NOT FOR CONSTRUCTION

Table with 4 columns: Rev., Submittal / Revision, App'd, Date. Includes rows for Final Zoning Drawing, Revised Per Comments, and 90% Zoning Drawing.

Designed: DZ Date: 06/14/19
Approved: EDR Date: 06/14/19

Project Number: 499-037

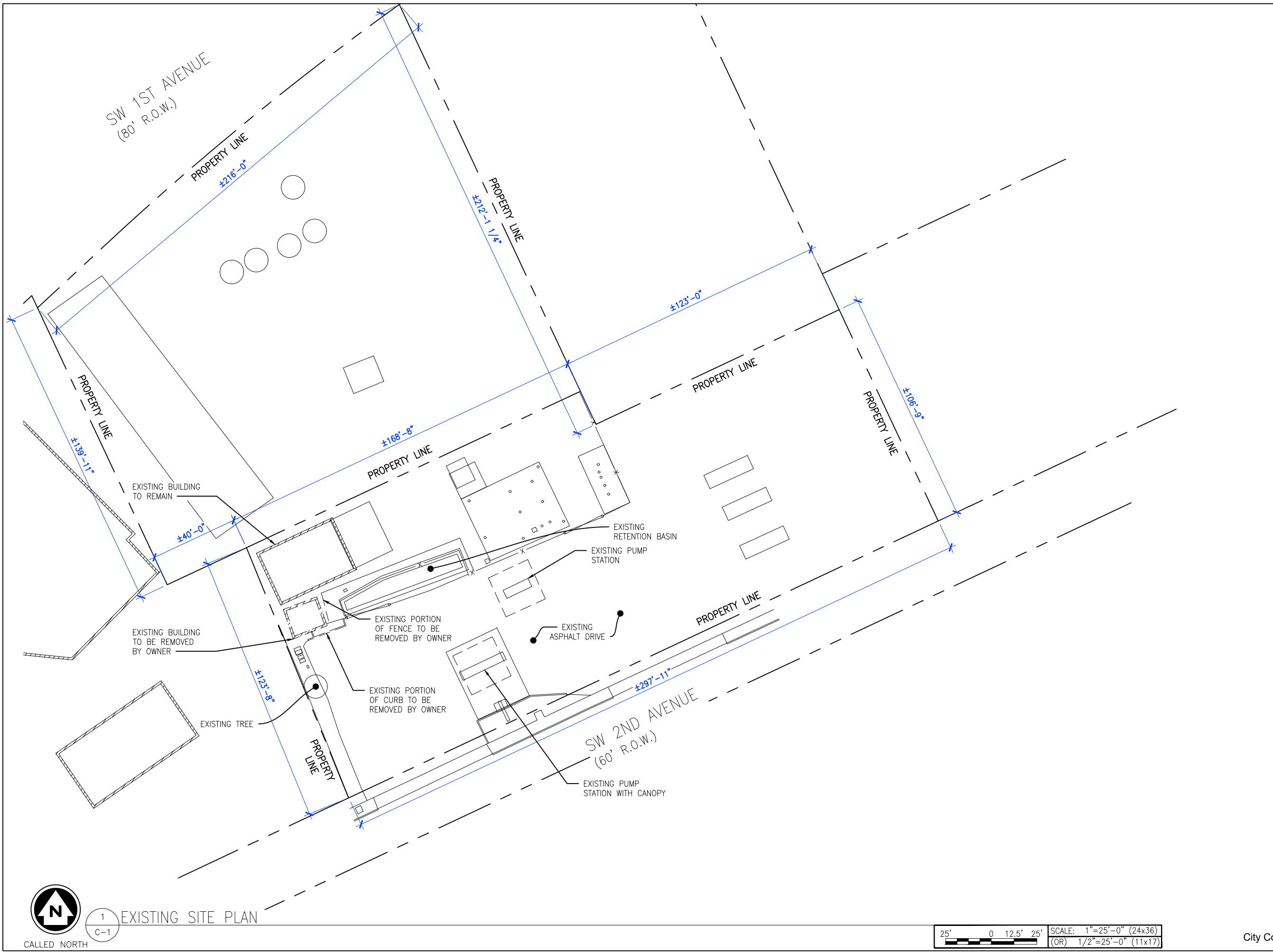
Project Title: AT&T SITE ID: PW34
FA LOCATION: 14671566
SITE ADDRESS: 640 SW 2ND AVE CANBY, OR 97013

SITE NAME: CANBY HIGH SCHOOL

Drawing Scale: AS NOTED Date: 06/14/19

Drawing Title: GENERAL NOTES

Drawing Number: SP-1



1 EXISTING SITE PLAN  
C-1

CALLED NORTH

25' 0 12.5' 25' SCALE: 1"=25'-0" (24x36)  
(OR) 1/2"=25'-0" (11x17)

Carrier:

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www.infinigy.com

Prepared For:

11410 NE 122ND WAY, SUITE 102  
KIRKLAND, WASHINGTON 98034

Engineer Stamp:

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

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0	FINAL ZONING DRAWING	DZ	06/14/19
D	REVISED PER COMMENTS	DZ	05/24/19
C	REVISED PER COMMENTS	DZ	04/16/19
B	REVISED PER COMMENTS	DZ	04/03/19
A	90% ZONING DRAWING	DZ	02/22/19
Rev.	Submit / Revision	App'd	Date
Designed:	DZ	Date:	06/14/19
Approved:	EJR	Date:	06/14/19

Project Number: 499-037

Project Title: AT&T SITE ID: PW34  
FA LOCATION: 14671566  
SITE ADDRESS: 640 SW 2ND AVE  
CANBY, OR 97013

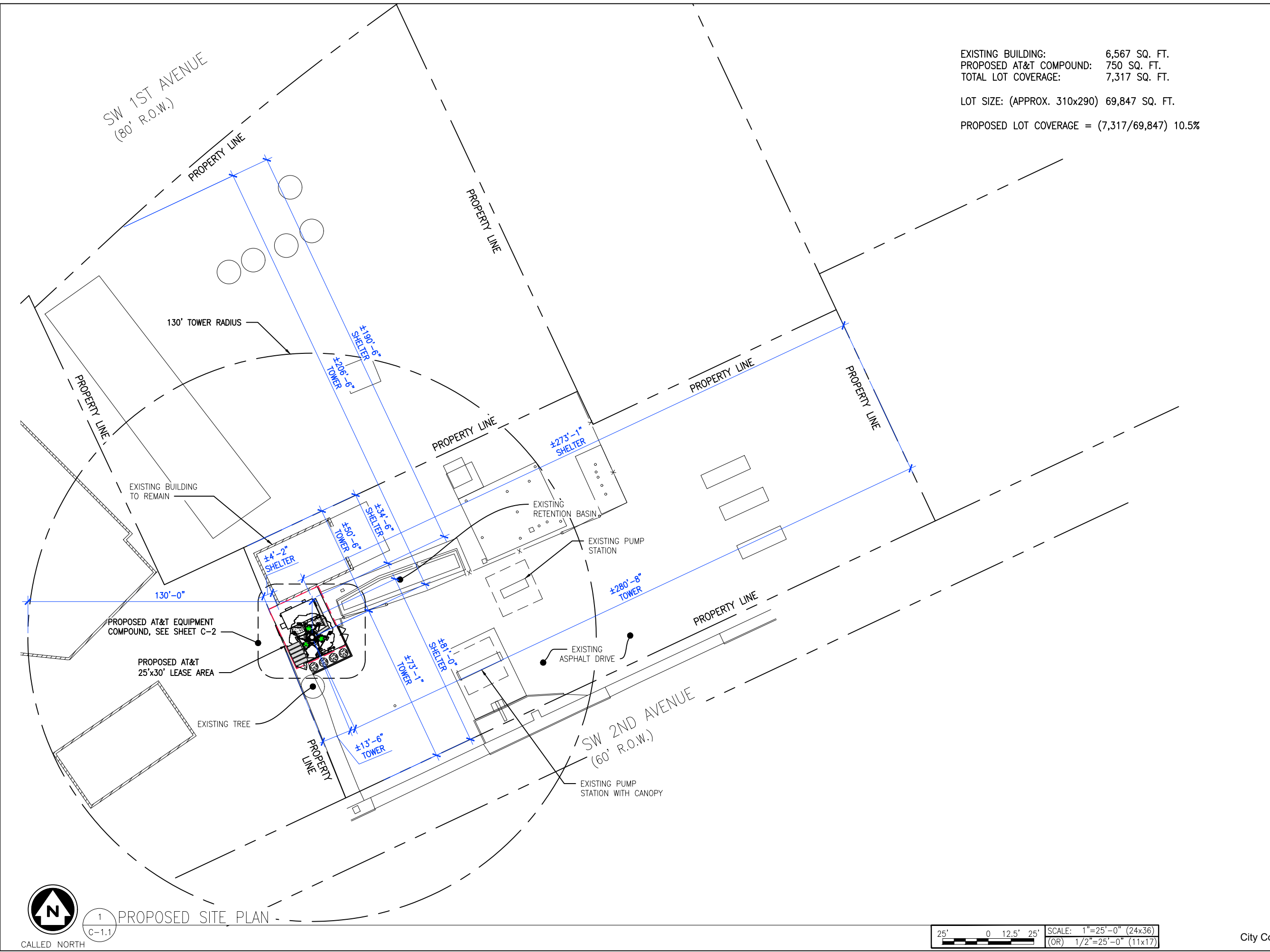
SITE NAME: CANBY HIGH SCHOOL

Drawing Scale: AS NOTED Date: 06/14/19 **ZD**

Drawing Title: EXISTING SITE PLAN

Drawing Number: C-1  
City Council Packet - Page 180 of 213





EXISTING BUILDING: 6,567 SQ. FT.  
 PROPOSED AT&T COMPOUND: 750 SQ. FT.  
 TOTAL LOT COVERAGE: 7,317 SQ. FT.  
 LOT SIZE: (APPROX. 310x290) 69,847 SQ. FT.  
 PROPOSED LOT COVERAGE = (7,317/69,847) 10.5%

Carrier:

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Prepared For:

11410 NE 122ND WAY, SUITE 102  
 KIRKLAND, WASHINGTON 98034

Engineer Stamp:

REGISTERED PROFESSIONAL ENGINEER  
 74093PE  
 6/14/19  
 NOVEMBER 13, 2009  
 CHRISTOPHER J. WARREN  
 EXPIRATION DATE: 6-30-20

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

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C	REVISED PER COMMENTS	DZ	04/16/19
B	REVISED PER COMMENTS	DZ	04/03/19
A	90% ZONING DRAWING	DZ	02/22/19

Designed: DZ Date: 06/14/19  
 Approved: EDR Date: 06/14/19

Project Number: 499-037

Project Title: AT&T SITE ID: PW34  
 FA LOCATION: 14671566  
 SITE ADDRESS: 640 SW 2ND AVE  
 CANBY, OR 97013  
 SITE NAME: CANBY HIGH SCHOOL

Drawing Scale: AS NOTED Date: 06/14/19 **ZD**

Drawing Title: PROPOSED SITE PLAN

Drawing Number: C-1.1

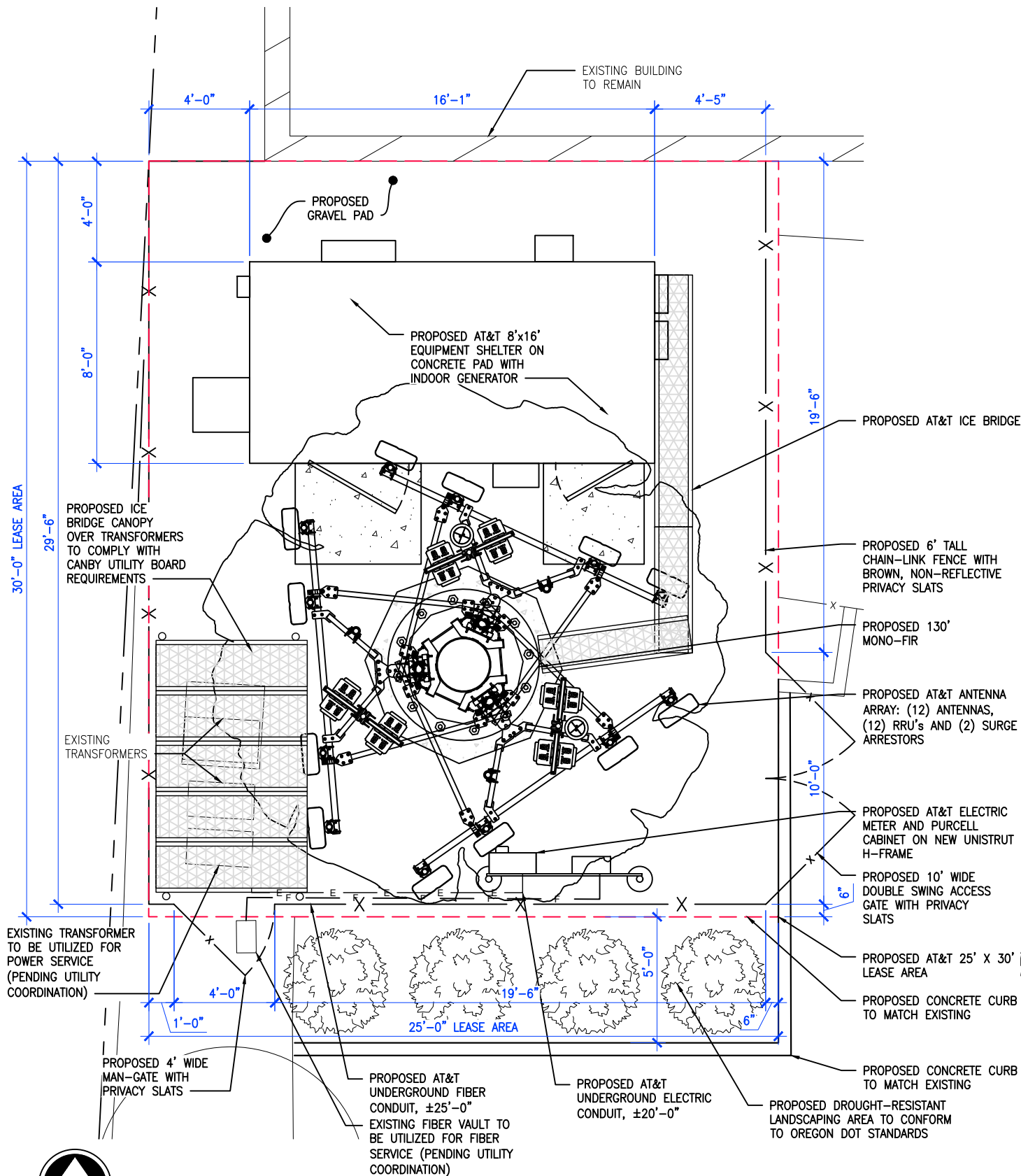
1 PROPOSED SITE PLAN  
 C-1.1

SCALE: 1"=25'-0" (24x36)  
 (OR) 1/2"=25'-0" (11x17)

PROPOSED AT&T COMPOUND: 750 SQ. FT.  
 PROPOSED LANDSCAPE AREA: 100 SQ. FT.  
 TOTAL DISTURBED AREA: 850 SQ. FT.

PROPOSED LANDSCAPE COVERAGE = (100/850) 11.8%

**NOTE:**  
 ELEVATION IS A DEPICTION OF A PROPOSED  
 BREAK-POINT DESIGN, MONO-FIR TOWER; FINAL  
 DESIGN AND ELEVATION TO BE PROVIDED BY  
 TOWER MANUFACTURER.  
 ANTENNAS AND RELATED EQUIPMENT SHALL BE  
 FULLY ENCOMPASSED TO MEET ALL JURISDICTIONAL  
 REQUIREMENTS .



1 PROPOSED COMPOUND PLAN

SCALE: 3/8"=1'-0" (24x36)  
 (OR) 3/16"=1'-0" (11x17)

2 PROPOSED ELEVATION

SCALE: 1"=40'-0" (24x36)  
 (OR) 1/2"=40'-0" (11x17)

Carrier:

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 www.infinigy.com

Prepared For:

11410 NE 122ND WAY, SUITE 102  
 KIRKLAND, WASHINGTON 98034

Engineer Stamp:

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

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Rev.	Submital / Revision	App'd	Date
1	REVISED PER COMMENTS	DZ	07/03/19
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B	REVISED PER COMMENTS	DZ	04/03/19
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Designed: DZ Date: 07/03/19  
 Approved: EDR Date: 07/03/19

Project Number: 499-037

Project Title: AT&T SITE ID: PW34

FA LOCATION: 14671566

SITE ADDRESS: 640 SW 2ND AVE CANBY, OR 97013

SITE NAME: CANBY HIGH SCHOOL

Drawing Scale: AS NOTED Date: 07/03/19

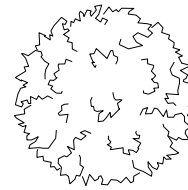
Drawing Title: ELEVATION & COMPOUND PLAN

Drawing Number: 6-2

PLANTING SCHEDULE:

QTY	SIZE	REMARKS
4	7'-0" TALL	B&B @ 5'-0" O.C.

SYM

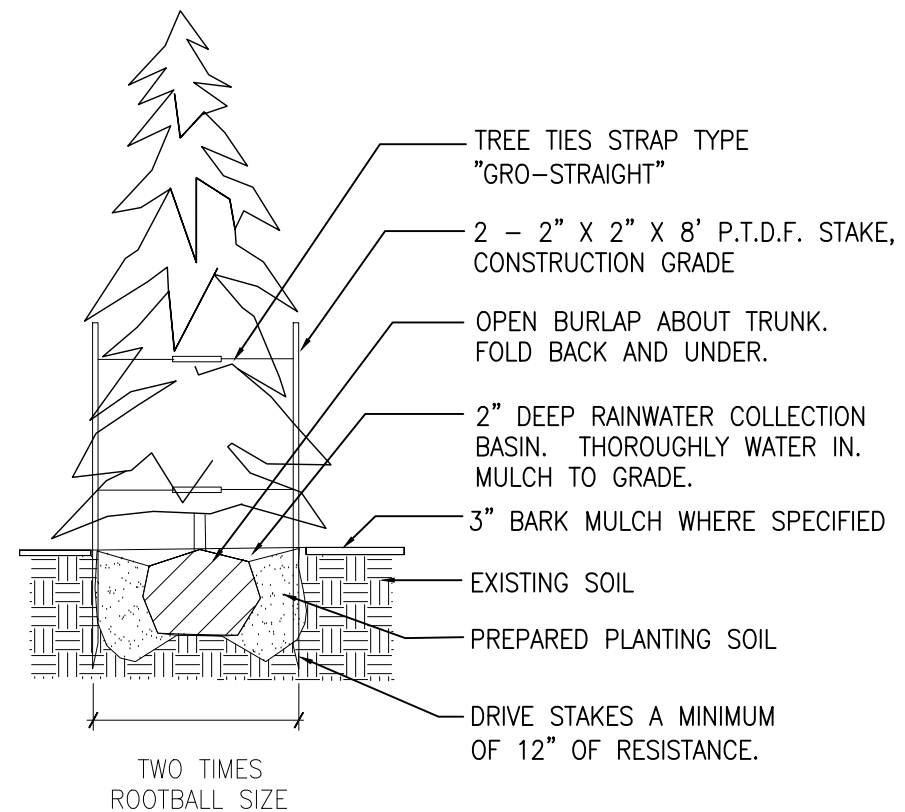
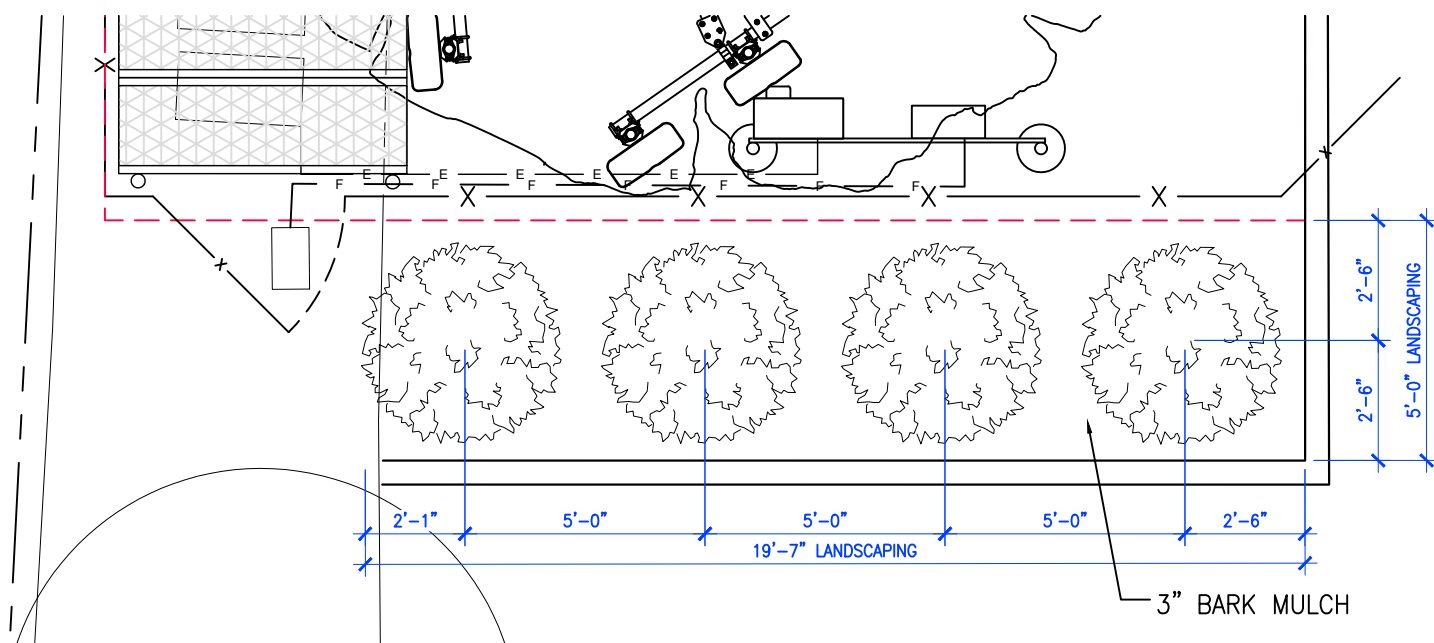


BOTANICAL/ COMMON NAME

EASTER RED CEDAR / JUNIPERUS VIRGINIANA / MATCH EXISTING

NOTES:

1. PLANTED EVERGREEN TREES SHALL BE FULLY BRANCHED AND A MINIMUM OF (6) FEET HIGH WHEN PLANTED W/ A REQUIRED TREE HEIGHT BEING MEASURED FROM THE GROUND LEVEL AT FINAL PLANTING TO THE TOP OF TREE.
2. GROUNDCOVER QUANTITIES TO BE DETERMINED BY REQUIRED SPACING

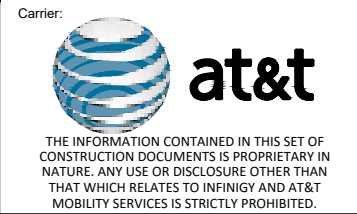


1 LANDSCAPING PLAN  
L-1

SCALE  
N.T.S.

2 LANDSCAPING DETAIL  
L-1

SCALE  
N.T.S.



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Prepared For:  
**smartlink**  
11410 NE 122ND WAY, SUITE 102  
KIRKLAND, WASHINGTON 98034

Engineer Stamp:

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

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B	REVISED PER COMMENTS	DZ	04/03/19
A	90% ZONING DRAWING	DZ	02/22/19

Designed: DZ Date: 07/03/19  
Approved: EDR Date: 07/03/19

Project Number: 499-037

Project Title: AT&T SITE ID:  
PW34  
FA LOCATION:  
14671566  
SITE ADDRESS:  
640 SW 2ND AVE  
CANBY, OR 97013  
SITE NAME:  
CANBY HIGH SCHOOL

Drawing Scale: AS NOTED Date: 07/03/19 **ZD**

Drawing Title: LANDSCAPING PLAN & DETAILS

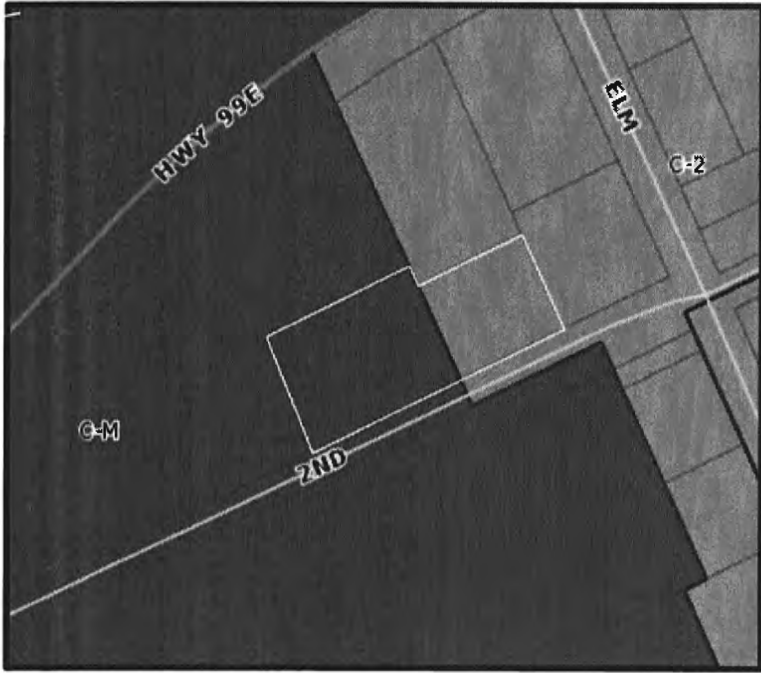




# City of Canby

**PUBLIC HEARING NOTICE & REQUEST FOR COMMENTS**  
City File No.: DR 19-01/CUP 19-01/VAR 19-AT&T Wireless  
Communication Facility (Stealth Monopole Tower)  
**PLANNING COMMISSION PUBLIC HEARING DATE:**  
**Monday, August 26, 2019, 7 Pm, City Council Chambers**

The purpose of this Notice is to invite you to a Planning Commission Public Hearing on Monday, August 26, 2019 and to request your written comments for a Site & Design Review, Conditional Use Permit, and Major Variance applications. Applicant is seeking approval to construct a 130-foot tall stealth "monopole" telecommunications tower with antennas to provide wireless telephone and data service to the general vicinity. The facility would be designed to resemble a fir tree.



**Location:** 640 SW 2<sup>nd</sup> Ave (See property outlined in blue on map at left).  
**Tax Map & Lot#:** 31E33CC06500  
**Lot Size & Zoning:** .81 Acres, C-M Heavy Commercial Manufacturing Zone  
**Property Owners:** Lynx Land Holdings, LLC  
**Applicant:** New Cingular Wireless PCS, LLC (AT&T)  
**Representative:** Smartlink, LLC  
**Application Type:** Site & Design Review & Conditional Use Permit (Type III), and Major Variance (Type III)  
**City File Number:** DR 19-01/CUP 19-01/VAR 19-02  
**Contact:** Ryan Potter, AICP, Associate Planner at 503-266-0712 or [potterr@canbyoregon.gov](mailto:potterr@canbyoregon.gov)  
**Comments due** – If you would like your comments to be incorporated into the City’s Staff Report, please return the Comment Form by Wednesday, August 14, 2019. Written and oral comments can also be submitted up to the time of the Public Hearing or be delivered in person during the Public Hearing.

**What is the Decision Process?** The Planning Commission will make a decision after the Public Hearing. The Planning Commission’s decision may be appealed to the City Council.

**Where can I send my comments?** Written comments may be mailed to the Canby Planning Department, P O Box 930, Canby, OR 97013; delivered in person to 222 NE 2<sup>nd</sup> Ave; or emailed to [PublicComments@canbyoregon.gov](mailto:PublicComments@canbyoregon.gov).

**How can I review the documents and staff report?** Weekdays from 8 AM to 5 PM at the Canby Planning Department. The staff report will be available for inspection starting Friday, August 26, 2019, and can be viewed on the City’s website: [www.canbyoregon.gov](http://www.canbyoregon.gov). Copies are available at \$0.25 per page or can be emailed to you upon request.

**Applicable Canby Municipal Code Chapters:**

- 16.08 General Provisions
- 16.10 Off-Street Parking
- 16.30 C-M Heavy Commercial Manufacturing Zone
- 16.43 Outdoor Lighting Standards
- 16.49 Site & Design Review
- 16.50 Conditional Uses
- 16.53 Variances
- 16.89 Application & Review Procedures

**Please Note:** Failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the board based on that issue.

## CITY OF CANBY – COMMENT FORM

If you are unable to attend the Public Hearings, you may submit written comments on this form or in a letter. Please send comments to the City of Canby Planning Department:

**By mail:** Planning Department, PO Box 930, Canby, OR 97013  
**In person:** Planning Department at 222 NE Second Street  
**E-mail:** [PublicComments@canbyoregon.gov](mailto:PublicComments@canbyoregon.gov)

Written comments to be included in Planning Commission packet are due by Wednesday, August 14, 2019. Written comments can be submitted up to the time of the Public Hearing and or be delivered in person during the Public Hearing on Monday, August 26, 2019.

**Application: DR 19-01/CUP 19-01/VAR 19-02 AT&T Wireless Communication Facility (Stealth Monopole Tower)**

**COMMENTS:**

WE HAVE NO COMMENTS

NAME: \_\_\_\_\_  
EMAIL: \_\_\_\_\_  
ORGANIZATION/BUSINESS/AGENCY: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
PHONE # (optional): \_\_\_\_\_  
DATE: \_\_\_\_\_

**PLEASE EMAIL COMMENTS TO**  
[PublicComments@canbyoregon.gov](mailto:PublicComments@canbyoregon.gov)

*Thank You!*

**AGENCIES: Please check one box and fill in your Name/Agency/Date below:**

- Adequate Public Services (of your agency) are available
- Adequate Public Services will become available through the development
- Conditions are needed, as indicated
- Adequate public services are not available and will not become available
- No Comments

NAME: HASSAN IBRAHIM  
AGENCY: CMU  
DATE: 8/14/2019



## Laney Fouse

---

**From:** ODOT\_R1\_DevRev <ODOT\_R1\_DevRev@odot.state.or.us>  
**Sent:** Wednesday, August 14, 2019 3:12 PM  
**To:** Laney Fouse  
**Subject:** RE: 130' Cell Tower

Thank you, Laney. ODOT does not foresee any issues with this proposal and will not be providing a response.

Please also note that we are using a new email address for our development review team. Moving forward, please direct all land use notices and related development review correspondence to [ODOT\\_R1\\_DevRev@odot.state.or.us](mailto:ODOT_R1_DevRev@odot.state.or.us)

Many thanks,

### Kate Wihtol

Associate Planner, Development Review  
ODOT Region 1  
[kate.h.wihtol@odot.state.or.us](mailto:kate.h.wihtol@odot.state.or.us)  
(503) 731 – 3049  
Preferred Pronouns: She/Her/Hers

---

**From:** Region 1 DEVREV Applications <Region1\_DEVREV\_Applications@odot.state.or.us>  
**Sent:** Monday, August 12, 2019 4:33 PM  
**To:** ODOT\_R1\_DevRev <ODOT\_R1\_DevRev@odot.state.or.us>  
**Subject:** FW: 130' Cell Tower

---

**From:** Laney Fouse[SMTP:FOUSEL@CANBYOREGON.GOV]  
**Sent:** Monday, August 12, 2019 4:33:16 PM  
**To:** Amanda Zeiber; Andy Kahut; Benton, David; Bill Makowski; Bret Smith (PD); 'Canby Disposal ([customerservice@canbydisposal.com](mailto:customerservice@canbydisposal.com))'; Christian Snuffin; [crosen@pamplinmedia.com](mailto:crosen@pamplinmedia.com); 'Curt McLeod ([cjm@curran-mcleod.com](mailto:cjm@curran-mcleod.com))'; Dan Murphy ([DMurphy@canbyutility.org](mailto:DMurphy@canbyutility.org)); Daryll Hughes; Dave Conner; DirectLink; Doug Erkson; 'Gary Stockwell'; Greg Parker; 'Hassan Ibrahim ([hai@curran-mcleod.com](mailto:hai@curran-mcleod.com))'; Jamie Stickel; Jeff Snyder; Jerry Nelzen; Jim Stuart; Jorge Tro (PD); Jose Gonzalez (PD); Joseph Lindsay; Julie Wehling; 'kenken@co.clackamas.or.us'; Kevin Batridge ([burlbatman@canby.com](mailto:burlbatman@canby.com)); Matt English ([menglish@canbyfire.org](mailto:menglish@canbyfire.org)); Michael Hemelstrand; Mindy Montecucco <[mindymonte@gmail.com](mailto:mindymonte@gmail.com)>; Region 1 DEVREV Applications; Pam Jones; Paul Belz-Templeman; Ray Kahut; Rick Robinson; Schurter, Andrew; Sharon Trimble; Tim Gettel; Clint Coleman; Jackie Jones; Julie Collinson; Robert Cambra  
**Subject:** 130' Cell Tower  
**Auto forwarded by a Rule**

Please find attached a Request for Comments for a 130' Cell Tower to be located at 640 SW 2<sup>nd</sup> Ave.

About the Author: Marilyn M Barnewall



Marilyn MacGruder Barnewall began her career in 1956 as a journalist with the Wyoming Eagle in Cheyenne. During her 20 years (plus) as a banker and bank consultant, she wrote extensively for The American Banker, Bank Marketing Magazine, Trust Marketing Magazine, was U.S. Consulting Editor for Private Banker International (London/Dublin), and other major banking industry publications. She has written seven non-fiction books about banking and taught private banking at Colorado University for the American Bankers Association. She has authored seven banking books, one dog book, and two works of fiction (about banking, of course). She has served on numerous Boards in her community. Barnewall is the former editor of The National Peace Officer Magazine and as a journalist has written guest editorials for the Denver Post, Rocky Mountain News and Newsweek, among others. On the Internet, she has written for NewsWithViews.com, World Net Daily, Christian Business Daily, Business Reform, and others. She has been quoted in Time, Forbes, Wall Street Journal and other national and international publications. She can be found in Who's Who in America, Who's Who of American Women, Who's Who in Finance and Business, and Who's Who in the World. **E-Mail:** marilynmacg@juno.com **Website:** <http://marilynwrites.blogspot.com>

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*Re: A and T Tower in Canby*

*Author's research came from scientific journals rather than the internet.*

*Submitted by Patricia Smith, Canby, 503-263-1613  
Original from computer was very small print.  
So I enlarged print and pasted it up -- for  
easier reading. Pardon the scrawly marking.*

*8/23/19.*

*PS*

# 5G: A Plan To Depopulate Earth?

By Marilyn M Barnewall | June 2nd, 2019

***Do you use a cordless telephone? A cell phone? A Smart phone? A Smart television? Wi-Fi? A Wi-Fi router? A Smart meter? If so, for the sake of your own life and health, you need to read this article. Information about health dangers is being withheld from you.***

In the following explanations of a highly dangerous and new technology, the letter G means generation and generation refers to a set of requirements that determine a standard and what compatible devices and networks qualify for the standard. It also describes technologies that power new types of communication. The letters EMF mean electromagnetic force/field.

It sounds like it's going to be a dull, complicated article. It's not. It's an attempt to help you save your health (possibly life) and that of your children.

Consumer use of the technology which has made our lives so much easier is not the only important reason you need this information. A new 5G (5<sup>th</sup> generation) technology is about to inundate us with EMFs (electromagnetic fields/forces) which, according to scientific research, are much higher than allowed in most of the technologically sophisticated world. Will they depopulate America?

## Comparison of our limit alongside other countries' standards:

- USA\Canada = 1000 microwatts /cm2 (same as ICNIRP 1998)
- Australia = 200 microwatts /cm2
- Auckland (New Zealand) = 50 microwatts /cm2
- Italy, Russia, Poland, Luxembourg, Paris (France), Hungary, Bulgaria, China, Switzerland = 2.4 to 10 microwatts /cm2
- Salzburg (Austria) = 0.0001 microwatts /cm2

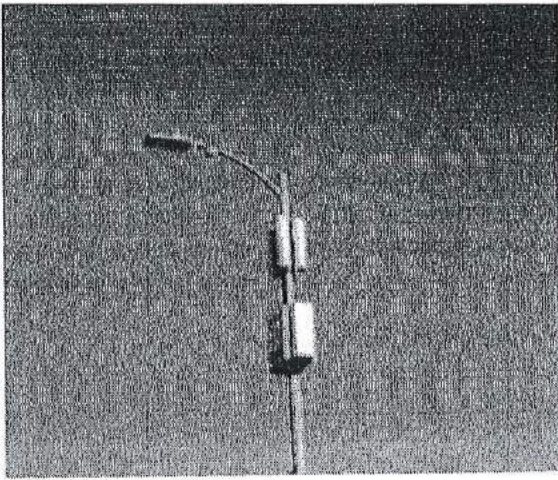
The research studies say that Russia, France, China, Italy, et al, set a legal limit of 10 microwatts emitted by towers. America's limit is 1,000 microwatts — 100 times greater than other high tech nations allow out of concern for the health of their people. Brussels, Belgium, has banned 5G altogether... as have several California cities (northern California where the tech geniuses live).

This is not just a hard article to write, it is all but impossible — so please stay with me while I explain the difference between 1G, 2G, 3G, 4G and 5G EMFs and why it is critically important for you to know and understand why autism, Alzheimer's, cancer and other diseases are rising at such alarming rates (scroll down to health risks). Scientific studies prove there is a

connection between these diseases and EMFs and there are some things you can do to protect yourself. Use the links throughout this article and at the end of it.

One other important reason for this article will be called a conspiracy theory. It has to do with President Trump — and we all know how crazy liberal socialists get when his name is mentioned... but in this case, they may be the very ones setting up the President. They've done it before... think: "Russia, Russia, Russia."



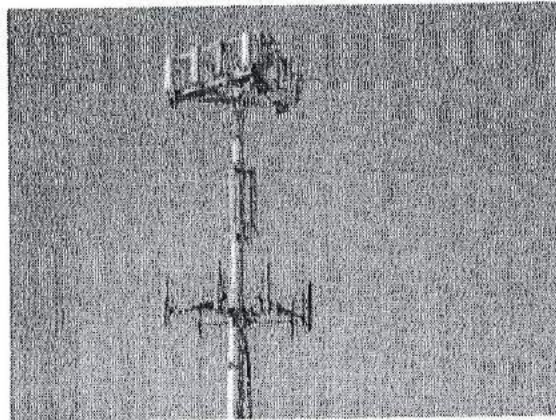


The people of America would revolt if they found the policies of their government caused children to get cancer, possibly killing them. Scientific research shows that 5G technology can sterilize young men and boys... and adult men, too. And based on the fact that the FCC has told the President that 5G technology falls within its recommended safety standards – standards rejected by American and international scientists – President Trump has come out with strong statements about America's need to spread 5G nationwide as quickly as possible. China wants to take over the

Internet and 5G technology offers the means to defeat them in this endeavor. Logically, Trump wants to avoid that and the FCC is telling him 5G is within their ridiculous safety standards. 5G can be placed on towers ... or even on your street lights.

Can you think of a better way for liberal socialists to win an election than to get their opponent to *strongly* support something they can, one month before an election, prove sickens and possibly kills children? The evidence I found is based on scientific research and is compelling. In California, Sprint had to take down a tower on the grounds of a school because 4 children and 3 teachers got cancer. It's interesting; companies that install towers appear to target schools – especially elementary schools – as their favorite location.

As a strong supporter of President Trump, I do not for one moment think he would support a major technology that would be harmful to the American people *if he knew it to be harmful.* If you know the President, please send him a copy of this article. I will be glad to provide all of my research.



I believe the President needs to make an informed and very important decision about whether 5G (fifth generation technology) dangers are being withheld from him before he offers such strong support to technology companies which intend to spread it all over the country.

But this article is not about trade negotiations with China, or charges against a Chinese company high tech company named Huawei (pronounced wah-way... sounding very close to the Hebrew name for God, Yaweh). It's about the scientifically known dangers of EMFs to human beings. It might help to keep in mind that human beings are made up of electromagnetic fields. All animal life is. Plant life, too. Human EMFs are compatible with those of nature. They are not compatible with the EMFs sent out by scientifically created technology. One of the problems with 5G is it can literally change human DNA.

The point is, in 2016 it was Russia. Perhaps the Chinese have been tapped by Hate Trumpers for 2020. Perhaps because Huawei, a Chinese company accused of being a conduit to Chinese intelligence, is pushing so hard to control the technological future, Democrat politicians know President Trump will push back. If they can get him to back a destructive technology by withholding from him information about the danger of that technology, can they make him look like a liar when he talks of his love for this nation and the American people?

That may be what is happening. *Donald Trump does love this country and its people. He would not support something destructive to either. Not knowingly.* And there, as Mr. Shakespeare would say, is the rub. No one is telling Trump of the dangers.

So I am.



## EMF – Electro-magnetic fields (or forces)

This is one of those subjects you don't want to know about because your plate is already full... maybe brimming over. You might shout at me: "I don't have time to learn about the latest scientific advances! I love my smart phone, my smart television, and the convenience of wi-fi wherever I go. My business is dependent on technology! I don't need to know how scientists give me faster downloads and make life more and more convenient via technology... I just want the technology! Keep it coming!"

Ask yourself: How much more important than technology is your life and the lives of your spouse, your children, your parents or your friends? In a bad economy if you have to work two jobs to survive, at least you'll survive. For most people, making sure government isn't plotting their demise is more important than the square footage of their homes, whether their oven informs the family cook that the roast is done, whether you can download episodes of The Blacklist in 10 rather than 20 seconds, or whether Uber will soon provide driverless cars.

< The conveniences of advancing technology are wonderful. No doubt about it. But if the price of convenience is lost health — or death — is it worth it?

Chemicals that have been banned for years in Germany, France and the UK are routinely used in America. According to the EUROPAEM EMF Guideline 2016 for the prevention, diagnosis and treatment of EMF-related health problems and illnesses, here are the less serious but bothersome illnesses caused by human exposure to EMFs:

- \* • Fatigue/weakness
- Sleep disturbance/insomnia,
- Headaches/migraines
- Brain fog/difficulty concentrating
- Depression or anxiety
- Memory loss
- Visual disruptions/light sensitivity
- Skin problems
- Heart palpitations
- Dizziness

You can add male sterility and/or reduced capacity to reproduce to that list and  dangers to pregnant women and the babies they carry. These are the LESS serious health problems caused by EMFs. Here is what the World Health Organization says some of the more serious illnesses caused not by 5G, but by 4G exposure (4G – what we have now – is weaker than 5G):

1. **Risk of damaging DNA.** Our body acts like an energy wave broadcaster and receiver, incorporating and responding to EMFs. In fact, scientific research has demonstrated that every cell in your body may have its own EMF, helping to regulate important functions and keep you healthy.
2. **Strong, artificial EMFs like those from power lines** can scramble and interfere with your body's natural EMF, harming everything from your sleep cycles and stress levels to your immune response and DNA!
3. **Risk of Cancer.** After hundreds of international studies, the **evidence linking EMFs to cancers and other health problems** is loud and clear. High Voltage power lines are the most obvious and dangerous culprits, but the same EMFs exist in gradually decreasing levels all along the grid, from substations to transformers to homes.
4. **Risk of Leukemia.** Researchers found that children living within 650 feet of power lines had a 70% greater risk for leukemia than children living 2,000 feet away or more. (As per British Medical Journal, June, 2005).
5. **Risk of Neuro-degenerative diseases.** "Several studies have identified occupational exposure to extremely low-frequency electromagnetic fields (EMF) as a potential risk factor for neuro-degenerative disease." (As per Epidemiology, 2003 Jul; 14(4):413-9).
6. **Risk of Miscarriage.** There is "strong prospective evidence that prenatal maximum magnetic field exposure above a certain level (possibly around 16 mG) may be associated with miscarriage risk." (As per Epidemiology, 2002 Jan; 13(1):9-20)

In non-scientific personal terms, 1G EMFs would be the equivalent of a ping-pong ball hitting your head; 2G a padded golf ball, 3G a basketball, 4G a football thrown by John Elway in his "hey day" and 5G is the equivalent of a needle hitting your head: it penetrates.

In scientific terms, First-generation wireless (1G) was voice transmission. It gave us cell phones. Second-generation (2G) allowed both talk and text which expanded our ability to communicate via our cell phones, online access to the internet, and it enhanced banking services. Third-generation (3G) combined the wireless and digital networks and broadened what the Internet could offer. Today's technology is based on Fourth-generation (4G) technology, not 5G. 4G completed the digital migration. It made higher speeds for more complex applications like video via computer. I read one article which says 5G will connect the unconnected. The limitations to Uber driverless cars, for example, will be eliminated by 5G.

As you look out your front door, how many towers that spread 4G EMFs from one tower to the other do you see? Chances are, none. However, 5G waves are ultra high frequency and ultra high intensity penetrates things like trees, buildings... and human bodies. In fact, scientific evidence has clearly found that human perspiration attracts 5G EMFs to our bodies. Thus, 5G towers will be much smaller but they will be much closer to one another... like every few houses on your block. In fact the street lamps outside of your home will probably become 5G towers.

According to CBS News, it is estimated that the big cell phone companies will be putting up at least 300,000 of these small towers at a cost of hundreds of billions dollars to meet 5G activation requirements. Guess what that will do to your monthly cell phone bill. The new 5G uses an as yet untested bandwidth called "millimeter wave" (MMW) and poses more health risks than 4G - and according to hundreds of scientists internationally, the risks of 4G are substantial. MMW is a pulsed radio wave of extremely high frequencies of 30 GHz and 300 GHz. There have been no government safety tests for 5G technology - which is why so many nations limit the microwatt frequencies to 10 while America considers microwatt exposure up to 1000 to be safe. And that is the information that has been given to President Trump: "It is safe to expose the public to up to 1000 microwaves."



## WRONG!

It would take a book, not an article, to give you all of the information you need. Preparing your home for EMFs may be more important than buying survival food should the electric grid go down or if an economic crisis occurs. Your family's life, health and well-being may be dependent on how much you know about EMFs and protections are available.

How did I, an old woman who lives at the foot of a big mesa in Western Colorado, a retired banker who usually writes about politics, the economy and banking end up going to a public hearing that was to be held to discuss an internet tower that would be built less than 300 feet from my home? By law, the town had to notify me. I got a letter.

Because of recent serious health problems, I thought I had better do some research. I was shocked by what I found. Surely the town administrators knew the dangers involved in towers... it only took me 15 minutes of research to realize the dangers. Surely they knew that the FCC requires them to let others use their tower – to add to it... radio and television stations, military, police... and anyone who wants to install 5G. Once a tower is installed, there is little local government control over what can be added to the tower. Surely they had researched the dangers involved in such an important decision?

An elementary school playground abuts my backyard fence. As my research showed 10 times the increased health dangers to children by comparison to adults, this research project changed from concern for my health to the health of those little kids who would be playing within feet of the proposed tower.

I began putting research data together in individual packets, one addressed to each Planning Board member. The material came from scientific journals, not Internet web sites.

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I was still not well enough to go to the meeting alone. I had to carry an oxygen tank and the packets for the Planning Commission and I was newly released from the hospital and barely able to get myself there. Rose, a dear friend who had helped me through my illness and hospital stay, carried the packets and oxygen and drove me there so I could limit how far I had to walk to get to the meeting room. When we got there, we found the public comment portion of the meeting had been cancelled. The tower installer, however, was given time to sell his project. We, the public in the audience, were not supposed to talk, but I raised my hand and they allowed me to say a few things and to ask some questions.

As a result of the material I put together for the meeting that night, I was contacted by a brilliant woman (8 years in graduate school, 10 years working for Johns Hopkins in

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Baltimore). She wanted to help. She had a son who attends the elementary school. I had contacted the principal of the school – no one had told her about the tower. I contacted the PTA President. No one had told her about the tower or the meetings.

Melissa's help was a miracle... this was a professional who really knew how to do research and document things. The second meeting – with the Mayor and Town Trustees – was only a week after the first meeting and as I gained access to more and better information, the information contained in my packets for the City Council changed. It was stated that the public comment portion of the program was cancelled, but the Mayor allowed it. The Town Council handled the matter extremely well and notified us they would make a decision within a week or two.

The Mayor and Town Council decided against the tower located by an elementary school. They will, however and undoubtedly, be pressured to put a tower in another location and so the fight has just begun. The school district and county seat of my county have already allowed two towers... one on the grounds of a high school and another at the most used athletic field for high school sports. I just received notification that another tower installation has been applied for by Verizon... on the grounds of an elementary school.

It's interesting, isn't it? They (the tower installers) appear to be fixated on putting towers in the place they can do the most health damage... especially to young boys whose reproductive capacities can be diminished or destroyed by EMFs. Perhaps the United Nations is serious about eliminating 90 percent of the population?

If I told you what I suspect, you would get out your aluminum foil and begin making me a hat.

This is a long article and if you read this far, you are probably a person I would like to meet. But, as I said, this is a very serious and long-term project. I will make some links available below. And I'm working on a blog (<http://meand5g.blogspot.com>) where all of the research Melissa and I gathered will be made available to the public. A copy of the letters each of us wrote to the Mayor and Town Council as well as to the Superintendent of our District's schools will be made available. There will be directions as to how to find and get copies of your city's or town's monthly meetings so you know when something involving tower installation is happening and how to be respond to it. When it happens, fight it! Me and 5G will give you the resources to win!

General Omar Bradley of World War II fame once said: "If we continue to develop our technology without wisdom or prudence, our servant may prove to be our executioner." The General died April 8, 1981.

That is what you call a far-sighted person.

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E-Mail Marilyn Barnewall: [marilynmacg@juno.com](mailto:marilynmacg@juno.com)

**LINKS:**

- Why 5G Towers Are More Dangerous.
- Wi-Fi Is an Important Threat to Health.
- Video about 5G Apocalypse.
- EMF Testing Professional Says 5G Must Be Outlawed.
- Newt Gingrich on Why We Need 5G.
- FCC Comments on 5G by Chairman Tom Wheeler.
- French Farmers Blame EMF for Death of Cows.
- Mobile Networks Threaten Weather Prediction.

<http://newswithviews.com/5g-a-plan-to-depopulate-earth/>

## Ryan Potter

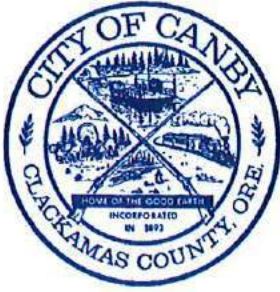
---

**From:** Karen <karenhillcatwmn@aol.com>  
**Sent:** Sunday, August 25, 2019 12:52 PM  
**To:** Ryan Potter  
**Subject:** The "Tall Tower"

Ryan: I am AGAINST the construction of this tower. I grew up in this town, and have lived here most of my life. We don't need one more big, tall, ugly thing in our town (i.e. The Dahlia building). Enough is enough!

Karen Hill





# City of Canby

## **MEMORANDUM**

**DATE:** Prepared: October 7, 2019 for October 16, 2019 Council Hearing

**TO:** Mayor and City Council

**FROM:** Sandy Freund, AICP, Senior Planner

**RE:** DLCD Technical Assistance Grant

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### **Background Summary:**

Staff has submitted a Technical Assistance Grant to the Department of Land Conservation and Development (DLCD) in order to have an Economic Opportunities Analysis (EOA) completed for the City of Canby. Timeline from DLCD to have all work completed is 18-months once grants are awarded. Anticipated commencement of work would be January 2020 through May 2021.

### **Discussion:**

Recently the City Council reviewed and adopted, as a guiding document, Canby's Housing Needs Analysis (HNA) 2019-2039. Part of the HNA included a preliminary land needs projection for commercial and industrial properties, however that body of work is only one part of a larger analysis to be completed. One of the recommended actions from the HNA was for the City to consider applying for a grant to hire consultants to conduct an Economic Opportunities Analysis. Having the EOA completed will bring the City into compliance with Statewide Planning Goal 9, and Chapter 660 (660-009-0025) of the Oregon Administrative Rules, as well as provide a foundation to begin, at a minimum, an update to the Economic Element of the Comprehensive Plan. In addition, it is anticipated that information from the HNA in concert with an EOA can be the fundamental first pieces towards a much larger, multi-phased project of overhauling the outdated Comprehensive Plan, adopted in 1984. Lastly, and most importantly, an EOA will provide a factual basis for guiding future policies and actions with regard to promoting economic development strategies for Canby.

### **Attachments:**

- Memo to City Council, Dated June 25, 2019 RE: Commercial and Industrial Buildable Lands Inventory.
- Resolution No. 1323
- Exhibit A: DLCD Technical Assistance Grant Application
- Mayor, Brian Hodson, Letter of Support



# City of Canby

## MEMORANDUM

**DATE:** June 25, 2019

**TO:** Mayor and City Council

**FROM:** Matilda Deas, AICP, Senior Planner

**RE:** Commercial and Industrial Buildable Lands Inventory

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**Issue:** Staff completed a 2019-2039 Housing Needs Analysis for the City of Canby. The Analysis included a buildable lands inventory. Staff completed a buildable lands inventory for commercial and industrial properties concurrent with the inventory for residential housing needs.

### Process

The steps to complete a buildable land analysis for commercial and industrial uses are similar to the process used for the residential analysis. Staff conducted the analysis using the Clackamas County GIS tax lot database. When necessary staff validated information with aerials and/or site visits. In brief, the procedural steps are as follows:

- Identify and remove from the database:
  - Lands with slopes > 25%,
  - Lands with landslide hazards
  - Wetlands
  - Publically owned lands, including city, state, federal, churches, charitable organizations, schools, fire, parks, public facilities etc.
  - Land committed to development
  
- Definitions:
  - Vacant lands: Land with no structures or with values of \$25,000 or less
  - Partially vacant lands and redevelopable lands: Land that have structures but have excess land that could be developed. This could include land that has very old structures or structures whose values are less than the land value.

Once the database has been modified based on the process noted above, staff reduced the acres by 10% for future infrastructure. The resulting net acres become our buildable land inventory.

Staff recommends the City pursue grants to engage consultants to conduct an Economic Opportunity Analysis. That analysis would provide a wealth of information which the City could incorporate into

their Economic Development Strategies. An EOA is a very specific analysis and requires a degree of expertise in the Economic Analysis arena not currently possessed by Staff.

Staff did project future employment based on the Oregon Employment Department Economic Projections by industry for Clackamas County for the 2016-2039 period. Our baseline employment numbers for Canby were also provided by the Oregon Employment Departments LAUS program (local area unemployment (and employment) statistics). The combined Average Annual Growth Rate for all industries in Clackamas County is 1.2%. Staff applied the growth rates for specific sectors to determine a more accurate projection by sector.

To determine an estimate of future land need by projected employment per sector, staff used Metros Employment Density Study which lists employees per square foot by individual sectors based on NAICS/SIC codes. Based on the analysis staff estimates Canby will have 2,023 new employees by 2039. The City will need approximately 66 acres of buildable lands zoned for Industrial development, and 15 acres of buildable land to accommodate future commercial employment. Canby had 163 acres of buildable land zoned for Industrial and 20 acres zoned for Commercial in 2018. The Housing Needs Analysis recommendations include rezoning approximately 15 acres currently having a land use plan map designation of Mixed Density Residential in NE Canby to Highway Commercial. This rezone should ensure sufficient land for future commercial development.

Staff completed a Location Quotient Analysis for Canby business sectors, relative to both the State of Oregon and the Nation. A location quotient (LQ) is basically a way of quantifying how concentrated a particular industry is in Canby as compared to the State of Oregon and the Nation. It can reveal what makes a particular business in Canby "unique" in comparison to the State and/or national average. A high location quotient (> than 1.25) in a specific industry may translate into a competitive advantage in that industry for the local economy.

**Attachments:**

- Exhibit A: Employment Projections and Land Need 2016-2039
- Exhibit B. Buildable Commercial & Industrial Acres, 2018
- Exhibit C. Location Quotients of Canby Commercial and Industrial Sectors 2016
- Exhibit D: Map of Vacant and Partially Vacant Commercial and Industrial Land.



**Exhibit A: Historic and Projected Employment 2016-2039**

Source: Oregon Employment Department, Analysis Staff

Employment Sector	Historic %	Employment 2039	New Jobs 2039	Needed Acres
Ag & forestry	8.7	733	177	11.8
T.W.U.	3.1	239	60	4.0
Other Services	3.6	277	65	1.1
Edu & Health Services	7.5	577	140	2.4
Retail Trade	13.7	1054	252	2.7
Leisure & Hospitality	10.1	770	177	3.1
Manufacturing	20.7	1593	383	25.5
Financial Activities	3.2	246	59	0.5
Wholesale Trade	11	847	206	13.7
Information	2.8	215	53	0.9
Construction	8.6	662	158	10.5
Government	12.3	947	226	2.7
Prof. & Bus. Services	3.5	269	67	1.2
<b>Total</b>		<b>8429</b>	<b>2023</b>	

**Exhibit B: Buildable Commercial and Industrial Acres, Canby 2018**

Source: Canby Staff

	Plan Designation	Buildable Acres
C-1	DC	0.67
C-2	HC	7.86
C-M	CM	11.82
<b>Total</b>		<b>20.35</b>
M-1	LI	137.14
M-2	HI	25.83
<b>Total</b>		<b>162.97</b>

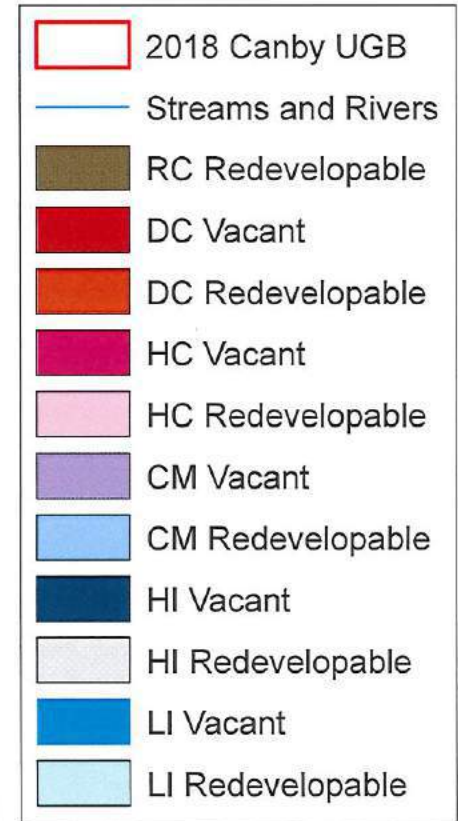
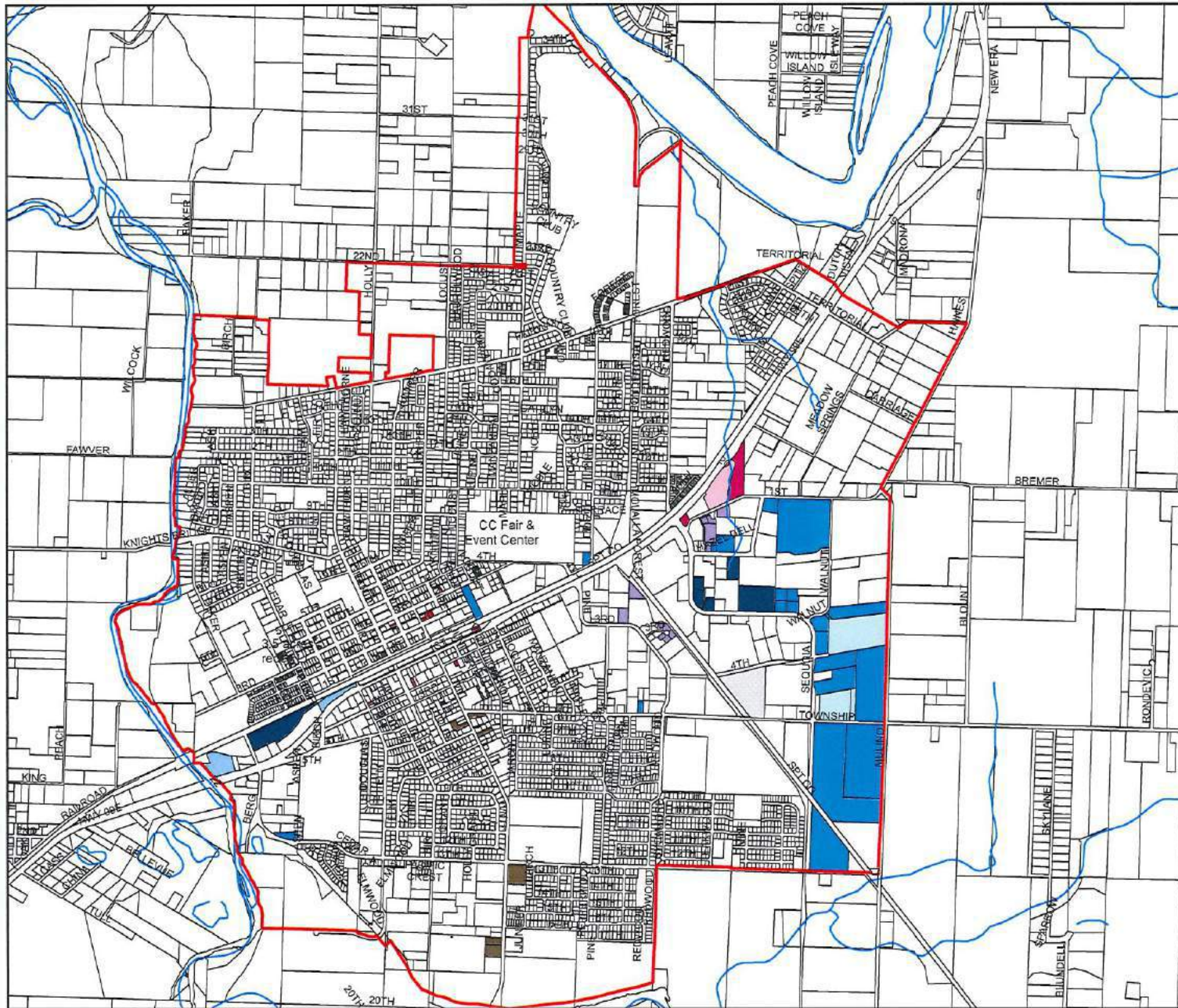
**Exhibit: C: Canby Location Quotient by Sector, US, OR, 2016**

Source: Bureau of Labor Statistics, Oregon Employment Department, Analysis Staff

Industry Sector	Employment			Canby		Canby		
	Canby	US	Oregon	Canby	US LQ (US)	Oregon LQ (OR)		
Ag, forestry	556	2,554,380	55,329	8.7%	1.8%	4.7	3.1%	2.8
T.W.U.	179	4,598,233	51,880	2.8%	3.3%	0.8	2.9%	1.0
Other Services	212	4,306,413	72,931	3.3%	3.1%	1.1	4.1%	0.8
Education & Health Services	437	21,078,627	251,322	6.8%	15.1%	0.5	14.1%	0.5
Retail Trade	802	15,639,034	201,998	12.5%	11.2%	1.1	11.3%	1.1
Leisure & Hospitality	593	15,094,372	191,142	9.3%	10.8%	0.9	10.7%	0.9
Manufacturing	1,210	12,290,293	185,399	18.9%	8.8%	2.1	10.4%	1.8
Financial Activities	187	7,827,069	81,020	2.9%	5.6%	0.5	4.5%	0.6
Wholesale Trade	641	5,875,265	73,689	10.0%	4.2%	2.4	4.1%	2.4
Information	162	2,753,845	33,056	2.5%	2.0%	1.3	1.8%	1.4
Construction	504	6,420,928	82,410	7.9%	4.6%	1.7	4.6%	1.7
Government	721	21,449,176	278,711	11.3%	15.4%	0.7	15.6%	0.7
Professional & Bus. Services	202	19,600,558	227,989	3.2%	14.1%	0.2	12.8%	0.2
<b>Total</b>	<b>6406</b>	<b>139,488,193</b>	<b>1,786,876</b>					

T.W.U= Transportation, Warehousing and Utilities

# Vacant and Partially Vacant Commercial & Industrial Land In Canby UGB 2018



The information depicted on this map is for general reference only. The City of Canby cannot accept any responsibility for errors, omissions, or positional accuracy.

## **RESOLUTION NO. 1323**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CANBY SUPPORTING THE SUBMISSION OF A TECHNICAL ASSISTANCE GRANT TO THE DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT**

**WHEREAS**, Canby has recently, 2019, completed a buildable lands inventory and Housing Needs Analysis to comply with Statewide Planning Goal 10 requirements and recommended the City have an Economic Opportunity Analysis completed by consultants with the necessary expertise for such an analysis; and

**WHEREAS**, the buildable lands analysis included an inventory of vacant commercial and industrial employment lands which would serve to assist with an Economic Opportunities Analysis; and

**WHEREAS**, an Economic Opportunities Analysis will identify Canby's current and future economic market conditions, as well as local barriers and challenges to economic development and thus provide valuable information for the City to incorporate into its economic development strategies; and

**WHEREAS**, an Economic Opportunities Analysis will provide the necessary data to assist the City in its focus for economic opportunities critical for the City's long-term viability in the employment, workforce housing, and tourism sectors; and

**WHEREAS**, an Economic Opportunities Analysis will provide an in-depth assessment that can be used to develop a cohesive strategy to update the Economic Element of the Comprehensive Plan, thus meeting the requirements of Statewide Planning Goal 9; and

**WHEREAS**, the resultant Economic Opportunities Analysis can be used as a fundamental first piece to a larger, multi-phased project of overhauling Canby's Comprehensive Plan, adopted in 1984, in order to have the Plan reflect newly adopted state laws; and

**WHEREAS**, a letter of support and resolution is required showing support from the City's governing body as part of submission for a Technical Assistance grant to produce an Economic Opportunities Analysis.

**IT IS HEREBY RESOLVED** by the City Council of the City of Canby, as follows:

1. Endorses the submittal of an application to the Department of Land Conservation and Development for the project listed in Exhibit A: Department of Land Conservation and Development Technical Assistance Grant Application form 2019-2021.

This resolution will take effect on October 16, 2019.

ADOPTED this 16<sup>th</sup> day of October 2019 by the Canby City Council.

---

Brian Hodson, Mayor

ATTEST:

---

Melissa Bisset, CMC  
City Recorder



## 1 Department of Land Conservation and Development

### 2019-21 TECHNICAL ASSISTANCE GRANT APPLICATION

Please complete each section in the form below. Type or write requested information in the spaces provided. **Submit completed applications by October 1, 2019.**

**Date of Application:** September 27, 2019

**Applicant:** City of Canby

(If council of governments, please also include the recipient jurisdiction name if applicable)

**Street Address:** 222 NE 2<sup>nd</sup> Avenue, PO Box 930

**City:** Canby

**Zip:** 97013

**Contact name and title:** Sandy Freund, AICP, Senior Planner

**Contact e-mail address:** freunds@canbyoregon.gov

**Contact phone number:** 503.266.0775

**Grant request amount** (in whole dollars): \$50,000

**Local Contribution** (recommended but not required): \$20,000

**Project Title:**

Economic Opportunity Analysis

**Project summary:** (Summarize the project and products in 50 words or fewer)

Canby seeks grant funding to complete an Economic Opportunities Analysis (EOA). Canby has recently, 2019, completed a Housing Needs Analysis and is now focusing on an EOA, which will serve as the foundation for updating the Economic Element of the Comprehensive Plan, meeting the requirements of Statewide Planning Goal 9.

**Project Description & Work Program**

Please describe the proposed project, addressing each of the following in an attachment.

**A. Goals and Objectives.** State the goals or overall purpose of the project. Describe particular objective(s) the community hopes to accomplish. Please indicate whether this is a stand-alone project or is part of a longer multi-year program. If it is the latter, describe any previous work completed, subsequent phases and expected results, and how work beyond this project will be funded.



**B. Products and Outcomes.** Clearly describe the product(s) and outcome(s) expected from the proposed project. Briefly describe any anticipated significant effect the project would have on development, livability, regulatory streamlining, and compliance with federal requirements, socioeconomic gains, and other relevant factors.

**C. Work Program, Timeline & Payment.**

**1. Tasks and Products:** List and describe the major tasks and subtasks, with:

- The title of the task
- Steps to complete task
- The interim and final products for each task

**2. Timeline:** List all dates for the project including tentative start date after the contract is signed, task completion dates, and project completion date. If the project is part of a multi-year program, provide an overview of the expected timelines in sequence of expected start dates and completion date for each phase and describe subsequent phases to be completed.

**3. Payment Schedule:** Develop a requested payment schedule showing amount of interim and final payments. Include the products that will be provided with each payment request. The payment schedule should generally include no more than two payments – an interim and final payment.

**D. Evaluation Criteria.** Include a statement in the narrative that addresses the program priorities and evaluation criteria presented in the application instructions (“Eligible Projects and Evaluation Criteria”).

**E. Project Partners.** List any other public or private entities that will participate in the project, including federal and state agencies, council of governments, city and county governments, and special districts. Briefly describe the role of each (*e.g.*, will perform work under the grant; will advise; will contribute information or services, etc.).

**F. Advisory Committees.** List any advisory committee or other committees that will participate in the project to satisfy the local citizen involvement program.

**G. Cost-Sharing and Local Contribution.** DLCD funds are only a part of overall project costs; please identify sources and amounts of other funds or services that will contribute to the project’s success. Cost-sharing (match) is not required, but could be a contributing factor to the success of the application.

**Will a consultant be retained to assist in completing grant products?** Yes  No

**Local Official Support**

The application ***must include a resolution or letter from the governing body*** of the city, county, district, or tribe demonstrating support for the project. If the applicant is a council of governments on behalf of a city, a letter or resolution from the city council supporting the application must be included. *The application will not be complete if it does not include this item.* The letter of support may be received by DLCD after the application submittal deadline, but it must be received before a grant is awarded.

**Product Request Summary**

Product	Grant Request	Local Contribution	Total Budget
1	\$ <u>-0-</u>	\$ <u>3,000</u>	\$ <u>3,000</u>
2	\$ <u>3,750</u>	\$ <u>-0-</u>	\$ <u>3,750</u>
3	\$ <u>-0-</u>	\$ <u>3,000</u>	\$ <u>3,000</u>
4	\$ <u>4,600</u>	\$ <u>-0-</u>	\$ <u>4,600</u>
5	\$ <u>-0-</u>	\$ <u>3,000</u>	\$ <u>3,000</u>
6	\$ <u>10,000</u>	\$ <u>1,000</u>	\$ <u>11,000</u>
7	\$ <u>1,400</u>	\$ <u>-0-</u>	\$ <u>1,400</u>
8	\$ <u>6,250</u>	\$ <u>-0-</u>	\$ <u>6,250</u>
9	\$ <u>5,000</u>	\$ <u>-0-</u>	\$ <u>5,000</u>
10	\$ <u>-0-</u>	\$ <u>4,000</u>	\$ <u>4,000</u>
11	\$ <u>5,000</u>	\$ <u>-0-</u>	\$ <u>5,000</u>
12	\$ <u>-0-</u>	\$ <u>3,000</u>	\$ <u>3,000</u>
13	\$ <u>8,000</u>	\$ <u>-0-</u>	\$ <u>8,000</u>
14	\$ <u>6,000</u>	\$ <u>-0-</u>	\$ <u>6,000</u>
15	\$ <u>-0-</u>	\$ <u>3,000</u>	\$ <u>3,000</u>
<b>TOTAL</b>	\$ <u>50,000</u>	\$ <u>20,000</u>	\$ <u>70,000</u>

Submit your application with all supplemental information to:

Gordon Howard, Community Services Division Manager

E-mail (preferred): [DLCD.GFGGrant@state.or.us](mailto:DLCD.GFGGrant@state.or.us)

Mail: Department of Land Conservation and Development  
635 Capitol Street N.E., Suite 150  
Salem, OR 97301

Phone: 503-934-0034

**APPLICATION DEADLINE: October 1, 2019**

## Attachment A

**A. Goals and Objectives.** State the goals or overall purpose of the project.

### Purpose

The City's purpose for this project is to conduct an Economic Opportunity Analysis (EOA) in order to identify Canby's current and future economic market conditions, and to come into compliance with Statewide Planning Goal 9. Grant assistance is needed to retain professional consulting services for preparation of the EOA.

Canby has completed various economic studies over the last ten years, however no EOA has been completed as part of those studies, although suggested. The studies include: A Downtown Retail Market Analysis, Industry Cluster Study, Economic Development Plan, and Downtown Parking Study. Changes in economic trends at the national, state, and local levels have occurred since the aforementioned studies were completed, hence an EOA will provide pertinent information necessary for Canby to determine whether it has the appropriate range of suitable employment sites to accommodate its continued growth in the region. The EOA will provide an in-depth economic assessment that can be used by the City to develop a cohesive strategy to update the Economic Element of the Comprehensive Plan, thus meeting the requirements of Statewide Planning Goal 9.

Canby is home to the Canby Pioneer Industrial Park, a 367-acre area with "shovel ready" sites of various sizes. However, the Industrial Master Plan was adopted in 1999, and there are no doubt implementation strategies that need updating, as well as a renewed look at the adequacy of transportation facilities and potential new infrastructure to support the continued economic growth of the Industrial Park. This EOA will help the City identify local barriers and challenges to economic development, market trends to inform City decisions, as well as updated policies to the Economic Element of the Comprehensive Plan.

Canby will use the EOA as an informative, data driven document that will assist the City in its focus for economic opportunities that are critical for its long-term viability in the employment, housing, and tourism sectors. Lastly, it is anticipated the information contained in the EOA, in concert with the recently completed, 2019, Housing Needs Analysis, can be used as a fundamental first piece to an eventual larger, multi-phased project of overhauling Canby's outdated Comprehensive Plan, adopted in 1984. The overhaul is intended to bring the Comprehensive Plan up-to-date by reflecting newly adopted state laws, especially those pertinent to Goal 10, such as the development of a housing production strategy for the City as addressed by the 2019 session of the Oregon Legislature.

## Objectives

1. Update the City's economic data to support the presence and scale of demand for industrial and commercial land based on anticipated employment growth rates by sector.
  2. Identify employment trends and identify whether the City has the appropriate range of suitable employment sites to accommodate expected growth over the 2020 to 2040 planning period.
  3. Verify and summarize the City's inventory of vacant and partially vacant industrial and commercial land, and potential sites for redevelopment/reuse within the City's urban growth boundary;
  4. Develop a cohesive community and stakeholder-based vision and strategy for long-term, continued economic development within the city;
  5. Develop policies for the Economic Element of the Comprehensive Plan to ensure identified employment needs are met; and,
  6. Promote economic development and job creation that is sustainable over the 20-year planning period for a diverse and inclusive workforce.
- B. Products and Outcomes.** Clearly describe the product(s) and outcome(s) expected from the proposed project. Briefly describe any anticipated significant effect the project would have on development, livability, regulatory streamlining, and compliance with federal requirements, socioeconomic gains, and other relevant factors.

## Products:

The product of this project will be an Economic Opportunities Analysis (EOA) in compliance with Goal 9. The EOA will provide the following six elements:

1. Community Economic Development Vision and Objectives: Develop policies that promote economic development and ensure sufficient availability of commercial and industrial lands to achieve desired balance of employment and housing availability.
2. Economic Trends Analysis: Provide an overview of the national, state, and local economic trends likely to expand or locate in Canby, including targeted industry typologies, as well as retail trends, employment growth, population projections, and demographic profile.
3. Site Suitability Analysis: Identify the types of sites needed to successfully implement Canby's economic development objectives. (Land Demand)
4. Inventory of Suitable Sites: Provide an inventory, mapped and documented, and assessment of suitable commercial and industrial land to determine whether supply meets the demand. (Land Supply)
5. Assessment of Potential (Reconciliation of Demand and Supply)
6. Recommendations: provide implementation policies and action measures.



**Outcomes:**

The Economic Opportunity Analysis (EOA) will serve as the foundation of future economic development planning, programming, and policymaking. Once the review period for the final EOA is finished, it is anticipated the EOA will be adopted followed by an amendment to the Economic Element of the Comprehensive Plan. These actions will ensure the City of Canby is in compliance with applicable laws, rules, regulations, plans, and programs. Notably, the update will ensure that the Comprehensive Plan reflects current community conditions and values.

**C. Work Program, Timeline & Payment**

The City Of Canby will work in partnership with a consultant to complete the following tasks between January 2020 and May 2021.

**Task 1: Consultant Selection**

The City of Canby will prepare a RFP and select a qualified economic and/or land use planning consultant to provide the technical expertise, analysis and support relative to the preparation of an economic opportunities analysis for Canby.

- Schedule:** January – March 2020
- Product 1:** Request for Proposal/Selection of Consultant
- Budget:** Product 1 - \$0 Grant Funds / City In-Kind Services \$3,000

**Task 2: Preparation and Project Advisory Committee**

The City and consultant will work together to develop a detailed scope of work. Concurrently, the City will form a Project Advisory Committee (PAC) comprised of local and regional stakeholders.

- Schedule:** March – May 2020
- Product 2:** Scope of Work
- Product 3:** Formation of Project Advisory Committee (PAC)
- Budget:** Product 2 – Consultant \$3,750 Grant Funds  
Product 3 - \$3,000 City In-Kind Services / \$0 Grant Funds

**Task 3: Community Economic Development Vision and Objectives**

The City and consultant will work with the PAC to develop an economic development vision and objectives. The vision and objectives will be vetted with the community and stakeholders to become the basis for the EOA.

- Schedule:** May – August 2020
- Meetings:** PAC meeting #1  
Community meeting #1
- Product 4:** Statement of Community and Economic Development Vision and Objectives.



**Product 5:** Community involvement documentation (meeting agendas, sign-in sheets, minutes, etc.)

**Budget:** Product 4 – Consultant \$4,600 Grant Funds  
Product 5 - \$0 Grant Funds / \$3,000 City In-Kind Services to manage PAC/Community meetings, keep minutes, etc.

#### **Task 4: Economic Trends Analysis**

The consultant with assistance from the City will help to identify economic opportunities, including targeted industry typologies, retail trends, employment growth, population projections, and demographic profile of the Canby Market Area (to be defined by staff/consultant).

**Schedule:** August – October 2020

**Product 6:** Economic Trends Analysis Memo

**Budget:** Product 6 – Consultant \$10,000 Grant Funds / \$1,000 City In-Kind Services

#### **Task 5: Site Suitability, Inventory of Suitable Sites, & Assessment of Suitable Sites**

The consultant with assistance from the City will conduct a site suitability analysis to see what types of sites are needed in order to successfully implement Canby’s Community Economic Development Objectives. The consultant will also inventory suitable sites to see if supply meets demand. PAC meeting #2 will be held in order to share and discuss findings from Tasks 4-5.

**Schedule:** October – January 2021

**Meeting:** PAC meeting #2

**Product 7:** Site Suitability Analysis Memo

**Product 8:** Provide a documented inventory of available sites suitable for employment uses likely to expand or locate in the study area within the planning period. The resultant inventory shall be summarized as well as mapped in ArcGIS, utilizing the City’s most recently completed, 2018, Vacant and Partially Vacant Commercial and Industrial Lands map.

**Product 9:** Provide an estimate of the need for employment land within the study area for the planning period by category of site type. Provide a summary assessing any identified process, costs or risk factors; and describe the community’s ability to manage those identified factors.

**Product 10:** Community involvement documentation (meeting agendas, sign-in sheets, minutes, etc.)

**Budget:** Product 7 - \$1,400 Grant Funds  
Product 8 – Consultant \$6,250 Grant Funds  
Product 9 – Consultant \$5,000 Grant Funds  
Product 10 - \$0 Grant Funds / \$4,000 City In-Kind Services to Document Community Involvement.

**Task 6: Implementation Policies and Action Measures**

The consultant with assistance from the City will develop a list of recommended economic development implementation policies to be integrated into the Comprehensive Plan Update to the Economic Element that were identified by the EOA process. Text amendments will follow in order to carry forward the policies into a regulatory framework.

- Schedule:** January – April 2021
- Product 11:** Implementation Policies and Action Measures memo.
- Product 12:** Community involvement documentation (meeting agendas, sign-in sheets, minutes, etc.)
- Budget:** Product 11 – Consultant \$5,000 Grant Funds  
Product 12 - \$0 Grant Funds / \$3,000 City In-Kind Services to Document Community Involvement.

**Task 7: Prepare Final Economic Opportunities Analysis (EOA)**

The consultant will incorporate the findings from previous task items into a draft EOA report to be reviewed by the PAC, City, DLCD, stakeholders, and community members. Subsequent to the draft review period, the final EOA will be presented to the City Council for review and adoption and to DLCD.

- Schedule:** April – May 2021
- Meetings:** PAC meeting #3  
Community meeting #2
- Product 13:** Draft Economic Development Analysis
- Product 14:** Final EOA
- Product 15:** Community involvement documentation (meeting agendas, sign-in sheets, minutes, etc.)
- Budget:** Product 13 – Consultant \$8,000 Grant Funds  
Product 14 – Consultant \$6,000 Grant Funds  
Product 15 - \$0 Grant Funds / \$3,000 City In-Kind Services to Document Community Involvement.

**Payment Schedule:**

The payment schedule will include two payments. The first (interim) payment of \$18,350 is requested to take place at the completion of Task Four. The second (final) payment of \$31,650 is requested to take place at the completion of Task Seven, May 2021.

- D. Evaluation Criteria.** The primary objective of this project is to assess, address, and promote economic development opportunities for the City of Canby, as well as provide implementation policies and action measures to subsequently enable the City to update the Economic Element of the Comprehensive Plan, both of which are identified priorities for the Technical Assistance Grant.
- E. Project Partners.** The project partners will include local community members and stakeholders, City of Canby staff, Canby Area Chamber of Commerce, Clackamas County Economic Development staff, Oregon Department of Land Conservation and Development and other local and regional stakeholders.
- F. Advisory Committees.** The City will work with the consultant in assembling a Project Advisory Committee (PAC) to consist of at least one City Council member, at least one Planning Commissioner, at least one Chamber of Commerce member, at least one City of Canby Economic Development staff member, at least one City of Canby Planning staff member, at least one community member, and any other stakeholders the City feels should participate. The PAC will guide the consultant's research, as well as community engagement activities based on their knowledge of local and regional conditions. The PAC will also assist with promoting and publicizing the Community Input Workshops.
- G. Cost-Sharing and Local Contribution.** The City of Canby will contribute up to \$20,000 in In-Kind project related expenses such as printing, supplies, and staff time.



# City of Canby

PO Box 930 Phone: 503.266.4021  
222 NE 2nd Ave Fax: 503.266.7961  
Canby, OR 97013 www.canbyoregon.gov

October 2, 2019

Mr. Gordon Howard  
Community Services Division Manager  
Department of Land Conservation and Development  
635 Capitol Street N.E., Suite 150  
Salem, OR 97301

Dear Mr. Howard,

This letter is written in support of the City of Canby's Technical Assistance Grant application, which if awarded, would be a valuable and critical resource in the City's effort to have a completed Economic Opportunities Analysis (EOA).

As the Mayor of Canby I am pleased to see the growth of our City. In the past 10 years, Canby has added approximately 594,000 square feet of industrial development; 93,000 square feet of mixed use development; and over 300 units of new multi-family residential development. Additionally, approximately 201 acres of residential land have been annexed into the city, which has led to the approval of 22 subdivisions and 680 lots, with additional residential development in the pipeline, as well as numerous commercial and residential infill projects outside of subdivisions.

It is important that we complete an Economic Opportunities Analysis (EOA) in order to address escalating growth in Canby, and the region by identifying the City's current and future economic market conditions, as well as come into compliance with Statewide Planning Goal 9, and update the Economic Element of the Comprehensive Plan.

Please accept this letter as official City support for this Technical Assistance Grant in order to procure an Economic Opportunities Analysis to guide Canby's future economic growth.

Sincerely,

Brian Hodson, Mayor