



Community Development Department

Planning Division Building Safety Division Environmental Soils Division

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STAFF REPORT

FILE NUMBER: 247-16-000081-CU

HEARING DATE: August 30, 2016, 6:00 p.m.

HEARING LOCATION: Barnes and Sawyer Hearing Rooms
Deschutes Service Center
1130 NW Wall Street
Bend, OR 97701

APPLICANT: Verizon Wireless c/o Land Services Northwest
Attn: Ed Fournier
Land Services Northwest
Post Office Box 302
Bend, Oregon 97709-0302

OWNER: Central Oregon Irrigation District
1055 SW Lake Court
Redmond, Oregon 97760

REQUEST: The applicant is requesting a Conditional Use permit to establish a new wireless telecommunication facility consisting of a 140-foot lattice tower with antennas and ground-mounted equipment shelter. The subject property is within the Rural Residential Zone.

STAFF CONTACT: Cynthia Smidt, Associate Planner

I. APPLICABLE CRITERIA:

Title 18, Deschutes County Zoning Ordinance

Chapter 18.16. Exclusive Farm Use Zone
Chapter 18.60. Rural Residential Zone
Chapter 18.116. Supplementary Provisions
Chapter 18.128. Conditional Uses

Title 22, Deschutes County Development Procedures Ordinance

II. BASIC FINDINGS:

- A. LOCATION:** The proposed wireless telecommunication facility will be located on property identified on Deschutes County Assessor's map 18-13-09A as tax lot 100. Tax lot 100, is recognized as one legal lot of record together with neighboring tax lot 500 on map 18-13-10 and tax lot 1000 on map 18-13-03. The subject property is made up of three tax lots and is identified with the following addresses: 23325, 23345, and 23355 Highway 20, Bend.¹
- B. LOT OF RECORD:** The subject property, consisting of tax lot 100 on map 18-13-09A, tax lot 500 on map 18-13-10, and tax lot 1000 on map 18-13-03, is recognized together as one legal lot of record pursuant to County file no LR-05-63 and reconfigured through property line adjustments LL-05-98 and LL-06-120.
- C. ZONING:** The subject property is zoned Rural Residential (RR-10) and Exclusive Farm Use. The proposed wireless telecommunications facility is proposed on tax lot 100, which is zoned RR-10. Tax lots 500 and 1000 are within the Exclusive Farm Use Alfalfa (EFUAL) and Tumalo/Redmond/Bend (EFUTRB) subzones, respectively. Tax lot 100, where the facility is proposed, is designated rural residential exception area by the Deschutes County Comprehensive Plan. The remaining area is designated agricultural.
- D. SITE DESCRIPTION:** The subject property, encompassing three tax lots, is approximately 56.63 acres and irregularly shaped. The site consists of natural topography of rolling terrain. The proposed wireless facility will be located on the approximate 13.5 acres of residentially zoned land in the southwestern region of the property. This region of the property is currently vacant and covered with a mix of juniper trees and native shrubs and grasses. A small irrigation canal traverses this region of the property in a north-south direction, connecting to the larger main Central Oregon Canal to the south, which is adjacent to the south-southeast boundary of the property. The proposed telecommunications tower will be located approximately 250 feet north of the main canal. The remaining approximate 43.13 acres of the property is farm-zoned with past evidence of irrigated lands together with a mix of juniper trees, and native shrubs and grasses. County Assessor records show a one-story residence established in 1940 on the property. Staff is unsure if the residence is still in use as a home. Highway 20 abuts the property along its northeastern boundary. Access to the site will be from Highway 20. According to the Flood Insurance Rate Map (FIRM) for Deschutes County and the National Wetlands Inventory, respectively, the subject property is not located in the 100-year flood plain and does not contain wetlands.
- E. SURROUNDING LAND USES:** The area surrounding the subject property consists of mostly developed and vacant rural residential and farm-zoned properties. Residential parcels are located to the west and south of the proposed building site. The majority of the residential parcels are eight (8) to 10 acres in size with some as small as five (5) acres. To the east and north are larger farm-zoned parcels. Parcels zoned for farm use range in size from 4.81 to 160 acres. Highway 20 abuts the northeastern boundary. Kennel Airstrip is located approximately 1,900 feet south of the proposed tower and is located on

¹ Tax lot 100 previously had the address of 61604 Gribbling Road, Bend, which was the address provided in the Notice of Application and Notice of Public Hearing related to the proposal. As identified in comments provided by the County Property Address Coordinator, the address changed to 23355 Highway 20 based on the access point to the property.

tax lot 800 on map 18-13-10 and tax lot 900 on map 18-13-09A.² Juniper Airpark is located approximately 2.0 miles east of the proposed tower and is located on tax lots 302 and 303 on map 18-13-12.³ Zoning in the area is a mixture of Rural Residential and Exclusive Farm Use – Alfalfa subzone and Tumalo/Bend/Redmond subzone.

F. PROPOSAL: The applicant is proposing to establish a wireless telecommunications facility consisting of a 140-foot-tall steel lattice tower with antennas and a ground-mounted equipment shelter within a 60-foot-by-60-foot lease area on tax lot 100. The ground-mounted equipment area will be approximately 196 square feet (8 feet by 24.5 feet) and includes equipment cabinets, back-up generator, and other related equipment. The applicant indicates that the location is necessary to “improve the voice and data coverage/capacity, for its customers in east of Bend city limit, and as much of rural area along HWY 20.” According to the submitted site plan, the facility will be set back approximately 541.4 feet and 330 feet from the north and south boundaries, respectively. In addition, the facility will be set back approximately 192.2 feet from the west boundary and over 400 feet from the east boundaries. The proposal will require removal of vegetation (trees) for the area leased for development. The lease area will be accessed via Highway 20 to the east, using an existing roadway that runs parallel to, and north of the main Central Oregon Canal. Approximately one to two vehicle trips per month will be made to the site. The applicant has submitted a burden of proof statement, and other documents, and a plot plan in support of this application.

G. PUBLIC AGENCY COMMENTS: The Planning Division mailed notice to several agencies and received the following comments:

1. Bend Fire Department: Comments were submitted by Jeff Bond, Deputy Fire Marshal, on March 21, 2016. Mr. Bond’s comments are below:

FIRE APPARATUS ACCESS ROADS:

- *Approved fire apparatus access roads shall be provided for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction. **The fire apparatus access road shall comply with the requirements of this section and shall extend to within 150 feet of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building or facility. 2014 OFC 503.1.1***
- ***Fire apparatus roads shall have an unobstructed width of not less than 20 feet, exclusive of shoulders, except for approved security gates in accordance with Section 503.6, and an unobstructed vertical clearance of not less than 13 feet 6 inches. Where a fire hydrant is located on a fire apparatus road, the minimum width shall be 26 feet, exclusive of shoulders. Traffic calming along a fire apparatus road shall be approved by the fire code official. Approved signs or other approved notices or markings that include the words NO PARKING-FIRE LANE shall be provided for fire apparatus roads to prohibit parking on both sides of fire lanes 20 to 26 feet wide and on***

² The addresses assigned to tax lot 800 and 900 are 61425 K Barr Road and 23080 Timland Lane Trail, respectively.

³ The addresses assigned to tax lot 302 and 303 are 24135 Skywagon Drive and 61520 Cougar Trail, respectively.

one side of fire lanes more than 26 feet to 32 feet wide. **2014 OFC 503.2.1, D103.1, 503.4.1, 503.3**

- **Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus (60,000 pounds GVW) and shall be surfaced (asphalt, concrete or other approved driving surface) as to provide all weather driving capabilities.** Inside and outside turning radius shall be approved by the fire department. All dead-end turnarounds shall be of an approved design. Bridges and elevated surfaces shall be constructed in accordance with AASHTO HB-17. The maximum grade of fire apparatus access roads shall not exceed 10 percent. Fire apparatus access road gates with electric gate operators shall be listed in accordance with UL325. Gates intended for automatic operation shall be designed, constructed and installed to comply with the requirements of ASTM F 2200. A Knox® Key Switch shall be installed at all electronic gates. **2014 OFC D102.1, 503.2.4,**

OTHER FIRE SERVICE FEATURES:

- **New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property.** These numbers shall be Arabic numbers or alphabetical letters. Numbers shall be a minimum 4 inches high with a minimum stroke width of 0.5 inch. Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole, or other sign or means shall be used to identify the structure. Address numbers shall be visible under low light conditions and evening hours. Provide illumination to address numbers to provide visibility under all conditions. Address signs are available through the Deschutes Rural Fire Protection District #2. An address sign application can be obtained from the City of Bend Fire Department website or by calling 541-388-6309 during normal business hours. **2014 OFC 505.1**
 - **A KNOX-BOX® key vault is required for all newly constructed commercial buildings, facilities or premises to allow for rapid entry for emergency crews.** A KNOX® Key Switch shall be provided for all electrically operated gates restricting entry on a fire apparatus access road. A KNOX® Padlock shall be provided for all manually operated gates restricting entry on a fire apparatus road and security gates restricting access to buildings. **2014 OFC Section 505**
2. Central Oregon Irrigation District (COID): Provided site plan does not show proposed power. Verizon has agreed to keep power outside canal and access road.
 3. Deschutes County Building Safety Division: Comments were submitted by Randy Scheid, Building Safety Director, on March 11, 2016. Mr. Scheid's comments are below:

The Deschutes County Building Safety Division code required Access, Egress, Setbacks, Fire & Life Safety, Fire Fighting Water Supplies, etc. will be specifically addressed during the plan review process for any proposed structures and occupancies. All Building Code required items will be addressed, when a specific

structure, occupancy, and type of construction is proposed and submitted for plan review.

4. Deschutes County Property Address Coordinator: Because of the stated access point, an address change is recommended for this parcel to 23355 Hwy 20, pending notification to property owners.

Staff Comment: Based on this comment, the address of tax lot 100 has changed from 61604 Gribbling Road to 23355 Highway 20. However, this change did not occur prior to the mailing of the Notice of Application and Notice of Public Hearing and thus the reference to 61604 Gribbling Road may be included in various documents (e.g. public comments).

5. Deschutes County Transportation Planner: Comments were submitted by Peter Russell, Senior Transportation Planner, on March 16, 2016. Mr. Russell's comments are below:

I have reviewed the transmittal materials for 247-16-000081-CU to develop a 140-foot cell tower in the Rural Residential (RR-10) zone at 61604 Gribbling Road, aka 18-13-09A, Tax Lot 100.

Deschutes County Code (DCC) at 18.116.310(C)(3)(a) states no traffic analysis is required for any use that will generate less than 50 new weekday trips. The proposed land use will not meet the minimum threshold for additional traffic analysis.

The cell tower will not penetrate any imaginary surfaces for either the Bend Municipal Airport or Juniper Air Park, which is a private-use airport near Dodds Road and Cougar Trail.

Board Resolution 2013-020 sets a transportation system development charge (SDC) rate of \$3,852 per p.m. peak hour trip. As a cell tower does not consume road capacity as that term is commonly used and understood, no SDC applies.

6. Oregon Department of Aviation (ODA): Comments were submitted by Jeff Caines, Aviation Planner, on March 16, 2016. Mr. Caines's comments are below:

This letter is in response to Deschutes County's notice of application for a new wireless telecommunications facility; specifically located at 61604 Gribbling Road, Bend, OR; Tax Lot 100 on Deschutes County Assessor's Map 18-13-09A.

- *Prior to issuance of a building permit the applicant must file and receive a determination from the Oregon Department of Aviation as required by OAR 738-070-0060 on FAA Form 7460-1 Notice of Proposed Construction or Alteration to determine if the new development will pose a hazard to aviation safety. A subsequent submittal may be required by the FAA due to its location to the Bend Municipal Airport.*
- *The height of the new telecommunications tower should not penetrate FAA Part 77 Imaginary Surfaces, as determined by ODA and the FAA.*
- *Marking Lights, per FAA design, may be needed to identify the structure due its proximity to Kennel Airstrip and Juniper Airpark .*

7. The following agencies did not respond or had no comments: Avion Water Company, Deschutes County Assessor, Central Electric Cooperative, Deschutes County Road Department, and Pacific Power and Light.

H. PUBLIC COMMENTS: The Planning Division sent notice of this proposal to all property owners within 1,250 feet of the subject property. Numerous comments were received, both in opposition and in support of the proposal, which are summarized below.

Opponent Comments:

- Facility height and design
- Facility location on the property and surrounding area
- Visual impacts to surrounding area
- Visual impacts to protected roadway (e.g. Highway 20)
- Impacts to rural character
- Impacts to property values
- Impacts to humans, livestock, and wildlife
- Impacts to aviation operations of Juniper Airpark and Kennel Airstrip

Proponent Comments:

- Facility location on the property and surrounding area
- Lessen Visual impacts to surrounding area through different facility design
- Expand general service to surrounding area
- Expand and improve service for emergencies and law enforcement

Submitted comments are incorporated in the record by reference and available for review.

I. NOTICE REQUIREMENT: The applicant complied with the posted notice requirements of Section 22.23.030(B) of Deschutes County Code (DCC) Title 22. The applicant submitted a Land Use Action Sign Affidavit, dated March 11, 2016, indicating the applicant posted notice of the land use action on March 11, 2016.

J. REVIEW PERIOD: The application was submitted to the Planning Division on February 25, 2016. The Planning Division deemed the application complete and accepted it for review on March 25, 2016. On May 4, 2016, the applicant placed the application on hold and tolled the 150-day review limit until August 2, 2016. The clock restarted on August 2, 2016. As of the date of this staff report, August 23, 2016, staff estimates 90 days remain on the extended 150-day period (November 21, 2016).

III. CONCLUSIONARY FINDINGS:

Title 18, Deschutes County Zoning Ordinance.

A. CHAPTER 18.16. EXCLUSIVE FARM USE ZONE

1. Section 18.16.030. Conditional Uses Permitted – High Value and Non-high Value Farmland.

The following uses may be allowed in the Exclusive Farm Use zones on either high value farmland or non-high value farmland subject to applicable provisions of the Comprehensive Plan, DCC 18.16.040 and 18.16.050, and other applicable sections of DCC Title 18.

...
K. Commercial utility facility, including a hydroelectric facility (in accordance with DCC 18.116.130 and 18.128.260, and OAR 660-033-0130), for the purpose of generating power for public use by sale, not_including wind power generation facilities.

FINDING: The subject property, comprised of three tax lots, is zoned RR-10 and EFU. A majority of the property, which includes tax lots 500 and 1000, are within the EFU Zone. However, the proposed wireless telecommunications facility will be sited on tax lot 100, which is zoned RR-10, rather than the EFU-Zoned portion. Therefore, this criterion does not apply.

As detailed by the Hearings Officer in file MA-09-5 and AD-09-2, proposing a wireless telecommunications facility in the EFU Zone (resource land) require the applicant to demonstrate that all non-resource land options have been exhausted and thus siting the facility in the EFU Zone is the only choice.⁴ This is not the case with Verizon as they are requesting approval in a non-resource zone.

B. CHAPTER 18.60. RURAL RESIDENTIAL ZONE

1. Section 18.16.030. Conditional Uses Permitted.

The following uses may be allowed subject to DCC 18.128:

...
V. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).⁵

FINDING: The applicant proposes to establish a wireless telecommunications facility consisting of a 140-foot steel lattice tower that will support antennas and microwave dishes and will include an equipment shelter in the RR-10 zone. The proposal does not qualify for either a Tier 1 or Tier 2 wireless communication facility allowed outright or subject to site plan review under DCC 18.116.250(A) or (B). Therefore, Conditional Use approval is required satisfying the applicable criteria in Sections 18.128.015 and 18.128.340 of Title 18.

2. Section 18.60.040. Yard and Setback Requirements.

In an RR-10 Zone, the following yard and setbacks shall be maintained.

⁴ Hearings Officer's decision for files MA-09-5 and AD-09-2 is incorporated into the record.

⁵ Deschutes County Code, Section 18.04, defines "Wireless telecommunications facility" to mean: "Wireless Telecommunications Facility" means an unstaffed facility for the transmission or reception of radio frequency (RF) signals usually consisting of an equipment shelter, cabinet or other enclosed structure containing electronic equipment, a support structure such as a self-supporting monopole or lattice tower, antennas, microwave dishes or other transmission and reception devices. This definition includes "personal wireless services facilities" as defined under the Telecommunications Act of 1996.

A. The front setback shall be a minimum of 20 feet from a property line fronting on a local street right of way, 30 feet from a property line fronting on a collector right of way and 50 feet from an arterial right of way.

FINDING: Highway 20, a designated arterial right-of-way, is adjacent to the property along its northeastern boundary. The proposed wireless telecommunications facility will have a front setback of over 2,300 feet, meeting the 50-foot minimum standard above.

B. There shall be a minimum side yard of 10 feet for all uses, except on the street side of a corner lot the side yard shall be 20 feet.

FINDING: The subject property has an irregular shape, with as many as five (5) side lot lines. The closest side lot lines are to the north and south. According to the submitted application materials and site plan, the setbacks from these two side lot lines are approximately 541.4 feet and 330 feet, respectively. The proposed setbacks meet the minimum 20-foot standard above.

C. The minimum rear yard shall be 20 feet.

FINDING: As noted above, the subject property has an irregular shape. The front lot line is to the northeast and thus the rear lot line is the westernmost property boundary. According to the submitted site plan, the proposed facility will have a setback of approximately 192.2 feet, which meets the 20-foot minimum standard.

D. The setback from the north lot line shall meet the solar setback requirements in DCC 18.116.180.

FINDING: Solar Access is defined under DCC 18.04.030 as the “protection from shade for a specific area during specific hours and dates, but not including protection from shade cast by exempt vegetation.” Furthermore, shade is defined as “a shadow, except a shadow caused by a narrow object, including, but not limited to, a utility pole, an antenna, a wire or a flagpole.” In land use file CU-11-14, the Hearings Officer made the following findings,

“I would concur with staff that a simple unadorned monopole would be a ‘narrow object’ as defined in the solar access requirements of DCC 18.116.180 and that the provision of Subsection D of 18.69.040 would not apply to such a monopole. However, that is not the proposal submitted by the applicant, who instead has specifically proposed a ‘monopine’ structure...Based on the foregoing, I find that the proposed ‘monopine’ is not a ‘narrow object’ within the meanings of ‘solar access’ and ‘shade’ as found in DCC 18.04.030. As such, the proposed monopine is simply not exempt from the solar access criteria of DCC 18.116.180.”

The applicant proposes to establish a 140-foot tall wireless telecommunications *lattice tower*. [*Emphasis added*] A lattice tower is self-supported with three or four sides as structural support and as the name implies, using a method of steel latticework to provide the support. The steel latticework frame allows light to pass through the structure. Staff believes the proposed lattice tower is not considered a “narrow object” as discussed by the Hearings Officer in file CU-11-14 and thus, the proposed tower is not exempt from the solar standards. The 140-foot tall tower will

require a solar setback of 372.7 feet (perpendicular measurement) from the north property boundary. As proposed, the lattice tower will observe a setback of approximately 541.4 feet from the north property boundary. Staff finds the lattice tower meets the solar setback requirements in DCC 18.116.180.

E. In addition to the setbacks set forth herein, any greater setbacks required by applicable building or structural codes adopted by the State of Oregon and/or the County under DCC 15.04 shall be met.

FINDING: Staff does not believe and is not aware of any greater setbacks required by applicable building or structural codes adopted by the State of Oregon or the County.

3. Section 18.60.060. Dimensional Standards.

In an RR-10 Zone, the following dimensional standards shall apply:

A. Lot Coverage. The main building and accessory buildings located on any building site or lot shall not cover is excess of 30 percent of the total lot area.

FINDING: Staff believes that the proposed tower is considered a building.⁶ The tower would be used for supporting cellular telephone antennas and any proposed microwave dish that are “chattels or property.” The ground equipment is also considered a building. The proposed ground equipment area is approximately 196 square feet. The applicant’s submitted elevation and site plan drawings show the footprint for the lattice tower would be approximately 324 square feet in size and the equipment shelter would be 196 square feet in size. The region of the subject property within the RR-10 Zone is approximately 13.5 acres in size. The total lot coverage of approximately 520 square feet would be under one (1) percent and well below the 30 percent standard above.

B. Building Height. No building or structure shall be erected or enlarged to exceed 30 feet in height, except as allowed under DCC 18.120.040.

FINDING: Prior decisions by the County Hearings Officer have determined that the height limit under DCC 18.128.340(A)(1) discussed below supersedes the 30-foot height limit above. See file nos. CU-08-86, CU-09-14, CU-09-53, and CU-11-14, incorporated into the record.

C. Minimum lot size shall be 10 acres, except planned and cluster developments shall be allowed an equivalent density of one unit per 7.5 acres. Planned and cluster developments within one mile of an acknowledged urban growth boundary shall be allowed a five-acre minimum lot size or equivalent density. For parcels separated by new arterial rights of way, an exemption shall be granted pursuant to DCC 18.120.020.

FINDING: Staff finds that the minimum lot size in this instance is not applicable to the proposed use, since the no land division is proposed.

⁶ Deschutes County Code, Section 18.04, defines “Building” to mean:
“Building” means a structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind.

4. Section 18.60.070. Limitations on Conditional Uses.

The following limitations shall apply to uses allowed by DCC 18.60.030:

- A. The Planning Director or Hearings Body may require establishment and maintenance of fire breaks, the use of fire resistant materials in construction and landscaping, or may attach other similar conditions or limitations that will serve to reduce fire hazards or prevent the spread of fire to surrounding areas.***
- B. The Planning Director or Hearings Body may limit changes in the natural grade of land, or the alteration, removal or destruction of natural vegetation in order to prevent or minimize erosion or pollution.***

FINDING: Staff believes that the proposed wireless telecommunications facility will not create any need for fire breaks, nor will it create a fire hazard. The materials used for the facility are fire resistant, thus preventing the spread of wildfire based on its construction. Given the relatively small disturbance area associated with the tower and equipment cabinets, and the area of level ground proposed for the development, staff believes no limitations to grading or removal of vegetation are necessary.

C. CHAPTER 18.116, SUPPLEMENTARY PROVISIONS

1. Section 18.116.250. Wireless Telecommunications Facilities.

C. Tier 3 Facilities. Wireless telecommunications facilities (or their equivalent uses described in the EFU, Forest, and SM Zones) not qualifying as either a Tier 1 or 2 facility may be approved in all zones, subject to the applicable criteria set forth in DCC 18.128.330 and 18.128.340.

- 1. A request for a written determination from the County as to whether a proposed facility falls within Tiers 1 or 2 of DCC 18.116.250 shall be submitted to the County in writing and accompanied by a site plan and proposed schematics of the facility. If the County can issue a written determination without exercising discretion or by making a land use decision as defined under ORS 197.015(10), the County shall respond to the request in writing.***
- 2. A request for a written determination from the County as to whether a proposed facility falls within Tiers 1 or 2 of DCC 18.116.250 that involves exercising discretion or making a land use decision shall be submitted and acted upon as a request for a declaratory ruling under DCC 22.40.***

FINDING: The applicant proposes to establish a wireless telecommunications facility on land zoned Rural Residential. The proposed lattice tower and equipment shelter do not qualify as either a Tier 1 or Tier 2 facility and thus it shall be reviewed as a Tier 3 facility. The criteria set forth in DCC 18.128.340 are applicable and addressed in this report.

D. CHAPTER 18.128. CONDITIONAL USES

1. Section 18.128.015. General Standards Governing Conditional Uses.

Except for those conditional uses permitting individual single-family dwellings, conditional uses shall comply with the following standards in addition to the standards of the zone in which the conditional use is located and any other applicable standards of the chapter:

A. The site under consideration shall be determined to be suitable for the proposed use based on the following factors:

1. Site, design and operating characteristics of the use;

FINDING: The location of the proposed wireless telecommunications facility is in the southwestern region of the 56.63-acre property. The facility will be located in a RR-10 Zone. The property has natural topography of rolling terrain with a mix of juniper trees, native shrubs and grasses, and past evidence of irrigated land in the northeast region of the property. Today, staff believes the subject property does not have water rights or irrigated lands. County records show a residence established in 1940 in the northeastern region of the property. Staff is unsure if the residence is still in use as a home. Highway 20 abuts the property along its northeastern boundary. The Central Oregon Canal is adjacent to the south-southeastern boundary of the property.

The proposed telecommunications facility includes a lattice tower and ground equipment. The proposed building site will be approximately 250 feet north of the Central Oregon Canal. The site will also be set back approximately 192.2 feet from the western boundary and 541.4 feet from the north boundary. At its closest reach, the site is over 2,300 feet from Highway 20. This portion of the site does not have topography or vegetation that would interfere with or preclude siting the facility as proposed. Additionally, the site has adequate land area to accommodate the required 3,600 square foot lease area and the new 140-foot tower with antennas and ground equipment.

The operating characteristics include the initial construction activity, and after completion, periodic inspection of the site, with maintenance and possible repair, if it becomes necessary. The facility will be unmanned except for one or two vehicle trips per month for maintenance purposes.

Based on the applicant's description of the facility's design and operating characteristics, staff finds the proposal demonstrates that the site under consideration is suitable for the proposed wireless telecommunications facility.

2. Adequacy of transportation access to the site; and

FINDING: The proposed facility will be using an existing vehicle access taken from Highway 20 to the east. The access road runs parallel to and north of the main Central Oregon Canal and first crosses tax lot 1001 (map 18-13-03), which is also owned by COID. The road is at least 20 feet wide and consists of compact gravel. The applicant submitted a copy of the lease agreement, which includes "non-exclusive rights for ingress and egress" along such road to the Verizon lease area. Staff finds the road is adequate for passenger vehicles and can accommodate a low number of vehicle trips generated by the use.

3. *The natural and physical features of the site, including, but not limited to, general topography, natural hazards and natural resource values.*

FINDING: The natural and physical features of the site include the existing trees and other vegetation, open space, and the natural topography. There are no identified natural hazards, other than wildfire. Natural resource values of the site include native trees and vegetation, and the undisturbed terrain.

Submitted comments expressed concern regarding impacts the proposed facility may have on the mule deer in the area. Staff notes the subject property is not within a big game habitat and, therefore, has not been mapped within a Wildlife Area Combining Zone. Once constructed, the proposed facility will generate only one or two maintenance trips per month. Staff finds this level of activity is likely far less than that produced by surrounding residential uses and Highway 20. Staff did not observe any other natural or physical features of the site that would preclude its siting on the property. For these reasons, staff finds the proposal will be suitable to the site considering its natural and physical features. .

B. *The proposed use shall be compatible with existing and projected uses on surrounding properties based on the factors listed in DCC 18.128.015(A).*

FINDING: The applicant proposes a 140-foot lattice tower with associated ground equipment in the southwestern region of the property in the RR-10 Zone. The facility's operating characteristics are limited to the reception and the transmission of communication calls. Maintenance personnel will make one to two vehicle trips to the site per month for equipment inspection and maintenance.

The subject property is surrounded in all directions primarily by residential and agricultural uses, with some vacant lands nearby. The two closest residential developments to the proposed tower location are approximately 650 feet and 630 feet to the north and west, respectively. Highway 20 lies approximately 2,300 feet to the east from the wireless telecommunication facility. Two private airstrips, Juniper Airpark and Kennel Airstrip, are within 2.0 miles and 1,900 feet, respectively, of the proposed development.⁷ The projected land uses based on the current zoning will likely be similar to those already established such as single-family dwellings, agricultural uses, and aviation related activity.

Submitted comments by property owners in the surrounding area address several issues including scenic views, health impacts, airport impacts, and property values. Comments submitted in support recognized the value of having expanded and improved personal service, but more importantly improved contact with emergency personnel and law enforcement.

⁷ The proposed building site for the wireless facility is approximately 1.6 miles west of the end of Juniper Airpark approach surface and outside of the Airport Safety (AS) Combining Zone associated with the airpark. Regarding Kennel Airstrip, the Deschutes County Transportation System Plan acknowledges the private airport; however, the zoning ordinance does not include Kennel Airstrip as a designated airport for the purposes of the AS Zone.

Staff notes scenic views are westerly in the direction of the Cascade Mountain Range. Neighboring property owners also recognize the significance of the viewshed in all directions, including those views when traveling on Highway 20. Submitted comments expressed concern that the significant size and design of the proposed facility would have substantial visual impact on the adjacent privately owned lands and by those traveling in the area.

In County files CU-12-15, the Hearings Officer states the following:

Prior hearings officer's decisions have construed this provision to require that the existing and projected "uses" on surrounding lands will be allowed to continue if the proposed telecommunications facility were approved – CU-11-14, CU-08-79. I agree with that analysis. This criterion is concerned with permitted and conditional uses allowed under the development code, not with surrounding property owners' enjoyment of their land. I explained this distinction in CU-09-36 as follows:

I understand the neighbors' concerns about the appearance of the tower in their neighborhood. However, the existence of the tower will not so much affect the use, but the enjoyment of their properties. This criterion is concerned mainly with making the proposed use compatible with other uses. There is no evidence in the record that the proposed monopole will impact the ability of current neighbors to use their properties for all the residential and associated uses that they now enjoy.

This finding applies equally to the current application. The surrounding lands are primarily rural residential lands consisting of homes, outbuildings and perhaps some small hobby farm type uses. There is nothing inherent about the presence of a cell tower which would prevent those rural residential uses from continuing. Staff is correct that "the proposed facility would not inhibit the ability of property owners to build dwellings or any accessory structures"- and that conclusion is sufficient to show compliance with this criterion. The fact that the tower may be aesthetically displeasing to surrounding residents is outside the scope of consideration of this provision.

Incorporating this finding here, staff finds the proposed facility is compatible with existing and proposed uses on the surrounding properties. The proposed location and design takes advantage of the vegetation that will provide some screening for the facility and lessen the visual impact on the viewshed for surrounding residential properties. Additional concerns regarding visual impacts and alternative designs are addressed below in DCC 18.128.340(B)(5). Staff finds the use would not create excessive traffic and would not generate any noise, dust, or vibration levels that would interfere with or impact surrounding uses and wildlife.

Regarding other noted concerns, staff recommends the Hearings Officer address health impacts to humans and animals based on the location of the facility. Opposing comments reference studies that address health impacts from such wireless telecommunications facilities.⁸ In addition, neighbors have expressed

⁸ Gretchen Valido, in her March 21, 2016 submittal, references four studies or articles regarding the health impacts.

concerns about property values. However, the record does not contain evidence that property values would decrease or the inability to sell a home in the neighborhood as result of allowing the proposed facility.

As the neighbor's comments suggest other locations in the area that would be superior to the subject property, staff believes the existence of such sites is not relevant to meeting this particular criterion but will be addressed below in DCC 18.128.340(B)(2). Staff finds these areas are also in conflict regarding EFU zoning (see previous finding in DCC 18.16.030), land use jurisdiction (public lands managed by BLM), and relocating to a different area of the county. The existence of other properties that might be available for a proposed facility is not enough to invalidate the subject property selected by the applicant.

2. Section 18.128.040. Specific Use Standards.

A conditional use shall comply with the standards of the zone in which it is located and with the standards and conditions set forth in DCC 18.128.045 through DCC 18.128.370.

FINDING: The proposed wireless telecommunications facility is proposed within the RR-10 Zone. The specific criteria for this zone have been reviewed above and the proposed use complies with specific criteria of the RR-10 Zone.

3. Section 18.128.340. Wireless Telecommunications Facilities.

An application for a conditional use permit for a wireless telecommunications facility or its equivalent in the EFU, Forest, or Surface Mining Zones shall comply with the applicable standards, setbacks and criteria of the base zone and any combining zone and the following requirements. Site plan review under DCC 18.124 including site plan review for a use that would otherwise require site plan review under DCC 18.84 shall not be required.

A. Application Requirements. An application for a wireless telecommunications facility shall comply with the following meeting, notice, and submittal requirements:

1. Neighborhood Meeting. Prior to submission of a land use application for a wireless telecommunications facility, the applicant shall provide notice of and hold a meeting with interested owners of property nearby to a potential facility location. To the greatest extent practicable, the neighborhood meeting shall be held in the general vicinity of the proposed wireless telecommunications facility. Notice shall be in writing and shall be mailed no less than 10 days prior to the date set for the meeting to owners of record of property within:

- a. One thousand three hundred twenty feet for a tower or monopole no greater than 100 feet in height, and***
- b. Two thousand feet for a tower or monopole at least 100 feet and no higher than 150 feet in height. Such notice shall not take the place of notice required by DCC Title 22.***

FINDING: The application includes a copy of the September 29, 2015 notice of the October 19, 2015 neighborhood meeting. The neighborhood meeting for the

proposal was held on at 6:00 p.m. on October 19, 2015 in the Deschutes County Public Library (downtown Bend branch), 601 NW Wall Street, Bend. Notice of the meeting was mailed to all owners of record of property within 2,000 feet. Based upon a proposed tower height of 140 feet, the required noticing radius was 2,000 feet. The applicant has complied with this criterion.

As noted above, the height limit for structures in the RR-10 Zone is 30 feet. However, subsection (b) of this criterion allows a tower or monopole height of up to 150 feet. This section supersedes the height limit standard of the RR-10 Zone.

- 2. *Pre-Application Conference. Applicant shall attend a scheduled pre-application conference prior to submission of a land use application. The applicant shall provide the proposed location of the required neighborhood meeting for review by Planning Division staff to ensure compliance with subsection A(1) above. An application for a wireless telecommunications facility permit will not be deemed complete until the applicant has had a pre-application conference with Planning Division staff.***

FINDING: The applicant attended a pre-application conference with Paul Blikstad, Senior Planner, of the Deschutes County Community Development Department on March 30, 2015. This criterion has been met.

- 3. *Submittal Requirements. An application for a conditional use permit for a wireless telecommunications facility shall include:***
 - a. *A copy of the blank lease form.***

FINDING: The applicant submitted a signed Memorandum of Option and Land Lease Agreement, attached as Exhibit F to the submittal. On August 17, 2016, the applicant also submitted a blank lease form for the record. This criterion has been met.

- b. *A copy of the applicant's Federal Communications Commission license.***

FINDING: The applicant provided the Federal Communications Commission (FCC) web page with the license information as Exhibit G. The FCC information indicates approval for wireless services, with a call sign/license number shown as KNLH656 – Verizon Wireless (VAW) LLC.

- c. *A map that shows the applicant's search ring for the proposed site and the properties within the search ring, including locations of existing telecommunications towers or monopoles.***

FINDING: The application materials include search ring maps attached as Exhibit B and Exhibit C, in particular Exhibit 2 through 7 of Exhibit C. The search ring maps show six (6) existing tower locations in relation to the proposed site on the subject property. The analysis illustrates that the sites in the area eligible to collocate Verizon wireless and microwave antennas will not meet the coverage objective for the area. The closest existing towers are located closer to the city of Bend, located near Hamby Road and Ward Road, and are at least four (4) miles from the subject

property and development site. The applicant indicates that four miles is too far out of the search ring to produce any positive effect in filling wireless service coverage.

Comments submitted by attorney Daniel Kearns, who represents Justin and Amy Ward, property owners living closest to the proposed tower, asserts that the applicant did not make a good effort to site the facility somewhere else including co-location on other facilities. Mr. Kearns includes a list of nine other facilities located within four miles of the proposed Verizon tower. The exact location and co-location availability of these nine towers is unclear to staff. Staff recommends the applicant and Hearings Officer address these other facilities, in addition to the six already presented. This is further discussed below in DCC 18.127.340(B)(2).

d. A copy of the written notice of the required neighborhood meeting and a certificate of mailing showing that the notice was mailed to the list of property owners falling within the notice area designated under DCC 18.128.340(A)(1).

FINDING: As indicated previously, the applicant provided a copy of the September 29, 2015 notice of the October 19, 2015 neighborhood meeting. The application materials also include a list of the owners of record of property within the notice area. In the notice area, there were 21 different owners and 41 parcels. The applicant did provide an affidavit of mailing indicating that notice of the meeting was sent to these property owners.

e. A written summary of the neighborhood meeting detailing the substance of the meeting, the time, date and location of the meeting and a list of meeting attendees.

FINDING: As noted previously, the applicant provided a copy of the September 29, 2015 notice regarding the October 19, 2015 neighborhood meeting. The applicant also provided a summary of the neighborhood meeting comments, which included the main topics of “design of the facility, need for the facility, and that there is not an existing tower that can be used” in the area. In addition, facility compatibility to the rural residential area was a concern at the meeting.

f. A site plan showing the location of the proposed facility and its components. The site plan shall also identify the location of existing and proposed landscaping, any equipment shelters, utility connections, and any fencing proposed to enclose the facility.

FINDING: The application includes a site plan that shows the lease area on site, including the ground equipment and tower, and the utility connections. However, the site plan lacks good illustration of the existing and proposed vegetation in the area of the proposed development in relation to the lease area. The applicant does state that no significant trees will be removed. Exhibit H of the application materials includes photos of the area that shows existing vegetation.

g. A copy of the design specifications, including proposed colors, and/or elevation of an antenna array proposed with the facility.

FINDING: The application includes drawings of the proposed lattice tower with antennas and the ground equipment area. The proposed tower will be finished in a matte gray or tan color.

h. An elevation drawing of the facility and a photographic simulation of the facility showing how it would fit into the landscape.

FINDING: The application includes an elevation drawing of the proposed lattice tower (Exhibit H, View A, B, and C). The applicant has submitted a photographic simulation of the lattice tower showing how it would fit into the landscape, as depicted in Exhibit H. The photographic simulations are from three locations surrounding the proposed area, and are depicted on the aerial photo that is the first page Exhibit H (Exhibit H, Map).

i. A copy of a letter of determination from the Federal Aviation Administration or the Oregon Department of Aviation as to whether or not aviation lighting would be required for the proposed facility.

FINDING: The applicant has submitted documentation from the Oregon Department of Aviation, dated November 12, 2015. Oregon Department of Aviation states the following:

We do not object with conditions to the construction described in this proposal. This determination does not constitute ODA approval or disapproval of the physical development involved in the proposal. It is a determination with respect to the safe and efficient use of navigable airspace by aircraft and with respect to the safety of persons and property on the ground.

The November 12, 2015 letter does not specify that marking and lighting of the facility is recommended for aviation safety. However, subsequent comments submitted by ODA on March 16, 2016 indicate aviation lighting may be needed to identify the facility due to the proximity of Juniper Airpark and Kennel Airstrip. Staff recommends, as a condition of any approval, that the proposed wireless telecommunications facility comply with FAA design standards for aviation lighting.

B. Approval Criteria: An application for a wireless telecommunication facility will be approved upon findings that:

- 1. The facility will not be located on irrigated land, as defined by DCC 18.04.030.⁹***

FINDING: The proposed wireless telecommunication facility will not be located on irrigated land. Furthermore, the site does not have water rights. This criterion is satisfied.

- 2. The applicant has considered other sites in its search area that would have less visual impact as viewed from nearby residences than the site***

⁹ Deschutes County Code, Section 18.04, defines "Irrigated" to mean:

"Irrigated." As used in DCC 18.16, irrigated means watered by an artificial or controlled means, such as sprinklers, furrows, ditches or spreader dikes. An area or tract is "irrigated" if it is currently watered, or has established rights to use water for irrigation from a water or irrigation district or other provider....

proposed and has determined that any less intrusive sites are either unavailable or do not provide the communications coverage necessary. To meet this criterion, the applicant must demonstrate that it has made a good faith effort to co-locate its antennas and microwave dishes on existing monopoles in the area to be served. The applicant can demonstrate this by submitting a statement from a qualified engineer that indicates whether the necessary service can or cannot be provided by co-location within the area to be served.

FINDING: The County Hearing's Officer states the following in file CU-12-15:

Prior hearings officer's decisions have interpreted DCC 18.128.340(B)(2) to require both a search for co-location opportunities and a search for alternative sites that "would have less visual impact as viewed from nearby residences than the site proposed." Former hearings officer Gerald Watson, in CU-11-14, concluded that this criterion requires an applicant to consider alternatives suggested by opponents based on the holdings in T-Mobile USA v. City of Anacortes, 572 F.3rd 987 (9th Cir. 2009) Van Nalts v. Benton County, 42 Or LUBA 497, 499 (2002). I agree with that analysis. For the reasons set forth below, the hearings officer agrees with the opponents.

As addressed previously, the application materials include search ring maps (Exhibit B and C). Six existing tower locations in this search ring were considered as eligible for co-location. The applicant indicates that the search area does not include another facility that can accommodate the necessary elevation for adequate coverage. In the submitted burden of proof statement, the applicant states the following:

...The applicant has considered other sites in the search area, and in consideration of the mixed EFU and RR-10 zoning, has determined that this site is less intrusive than other sites while providing the necessary communications coverage. This parcel offers as dense coverage of Juniper trees as is naturally occurring in the area to afford screening of the facility. The parcel offers the ability to use existing access roads minimizing removal of trees and impacts to the property. The parcel offers separation from adjacent homes and has no known impact on any scenic views, especially to the west. Additional land owners were contacted, including the 2 parcels immediately west, but neither owner to the west had interest. As previously stated, there are no other existing towers or tall structures in the search area that can accommodate the needed antenna elevation to achieve the needed signal coverage and capacity. A detailed letter and maps have been provided by Verizon Wireless as Exhibit C. As can be seen in the provided maps, the coverage in the area is poor and intermixed with white areas with no coverage. Given this, the coverage is erratic in the area and much of this coverage is from Verizon Wireless sites far from the location. This also creates a system capacity issue with coverage from great distances as far away as Pine Mountain and Powell Butte. Every cellular site has a fixed amount of capacity and the only way to add capacity into the network is with additional cellular sites.

Daniel Kearns, attorney for Justin and Amy Ward, argues that the applicant did not make a good effort to site the facility somewhere else. Mr. Kearns provided a list of

nine existing tower locations within four miles of the proposed facility. As noted previously, staff is unclear about the location and co-location availability of these nine facilities. In addition, staff recommends the applicant and Hearings Officer address these other facilities to demonstrate that all possible co-location sites have been exhausted.

Comments submitted by neighbors speak to significant visual impact based on the size and design of the tower and suggest siting the facility in other locations in the area, especially further east and not necessarily related to other existing wireless telecommunications facilities. For example, Mr. Kearns presented a list of at least 18 parcels, most of which are in public ownership by Deschutes County, Bend Metro Parks and Recreation District, State of Oregon, or BLM, and two parcels owned by COID, which may have less visual impact as viewed from nearby residences. Staff asks the applicant to address whether there are nearby properties upon which a wireless telecommunications facility could be sited that would have less visual impact than the subject property, as seen from nearby residences.

3. The facility is sited using trees, vegetation, and topography to the maximum extent practicable to screen the facility from view of nearby residences.

FINDING: The overall height and design of the facility is the focus of many neighboring complaints. The proposed facility is located in an area surrounded by mature and dense juniper trees on both the subject property and adjacent properties that would provide partial screening of the facility from nearby residences. The site includes juniper trees ranging up to 40 feet. The natural topography of rolling terrain and distance will also provide additional screening for nearby residences. However, based on the proposed height of 140 feet, the facility will still be visible from nearby residences.

Based on previous decisions (CU-08-86, CU-09-14, CU-09-53, CU-11-14, and CU-12-15), the facility shall be sited to the maximum extent practicable with respect to screening on and around the subject property. As noted above, the applicant has taken advantage of available screening on the subject property and surrounding properties. Moreover, there are no other areas of the subject property that could provide substantially greater screening. Although the proposed facility cannot be completely screened, staff believes the facility will be screened to the maximum extent practicable on the subject property.

4. A tower or monopole located in an LM Zone is no taller than 30 feet. Towers or monopoles shall not be sited in locations where there is no vegetative, structural or topographic screening available.

FINDING: The proposed telecommunications facility is not located in a LM Zone. Therefore, the first criterion is not applicable. As indicated in the previous finding, the proposed tower is sited in a location where vegetative, topographic, and structural screening is available. The second criterion is satisfied.

5. In all cases, the applicant shall site the facility in a manner to minimize its impact on scenic views and shall site the facility using trees, vegetation, and topography in order to screen it to the maximum extent

practicable from view from protected roadways. Towers or monopoles shall not be sited in locations where there is no vegetative, structural or topographic screening available.

FINDING: The proposed facility, including a 140-foot lattice tower and associated equipment, will be located in an area of the property that is vegetated with mature and dense juniper trees and native shrubs and grasses. Natural topography consists of rolling terrain. The vegetation, topography, and distance help minimize visual impacts. As discussed in a foregoing finding, the facility will be screened to the maximum extent practicable on the subject property. However, staff understands how the size and design can be imposing to the surrounding area and from Highway 20.¹⁰ The known scenic views are westerly in the direction of the Cascade Mountain Range. Neighboring property owners also recognize the significance of the viewshed in all directions including from Highway 20. Based on file CU-12-15, the Hearings Officer concluded,

“...that a reasonable person, and most particularly the people who have chosen to reside in the area, would conclude that those views are ‘scenic’ for the purposes of DCC 18.128.340(B)(5).”

In addition, the Hearings Officer found that the second sentence of DCC 18.128.340(B)(5) requires, “the second sentence be enforced as written.”

In addressing the first part of this criterion, staff notes the applicant is required to minimize scenic view impacts, not eliminate those impacts. Staff believes the question before the Hearings Officer is whether the applicant has done enough to minimize scenic view impacts. As noted above, the applicant has sited the facility to take advantage of available vegetative screening. It does not appear to staff that another location on the property would provide more screening and, therefore, further minimize scenic view impacts.

Several neighbors in support of the proposal suggested changing the design of the tower so it is less obtrusive. For example, a monopine, which mimics the look of a ponderosa pine tree, may blend in with a ponderosa pine forested area. This is not to suggest a 140-foot faux juniper tree would blend in to the surrounding juniper trees, which have a height of no more than 40 feet. However, a “stealth” monopole may be less detectable as it blends into the landscape and mountains in the distance. In addition, lowering the height of the proposed facility may also minimize visual impacts to the surrounding area and from the protected roadway.

Staff asks the Hearings Officer to determine if the applicant has minimized scenic view impacts in compliance with this criterion.

The second part of this criterion prohibits the siting of a tower or monopole in areas with no vegetative, structural, or topographic screening. As noted above, the proposed facility will be somewhat screened by existing mature juniper trees. Staff finds the second part of this criterion will be met.

¹⁰The Comprehensive Plan identifies Highway 20 as a protected roadway inasmuch as the Landscape Management (LM) Combining Zone is associated with the roadway. A majority of the subject property falls within the LM Zone. However, the proposed facility does not fall with this zone.

6. Any tower or monopole is finished with natural wood colors or colors selected from amongst colors approved by Ordinance 97-017.

FINDING: The applicant indicates the proposed wireless telecommunications tower will be finished in a matte grey or tan color, both of which are amongst colors approved by Ordinance 97-017.

7. Any required aviation lighting is shielded to the maximum extent allowed by FAA and/or ODOT-Aeronautics regulations.

FINDING: As noted in a previous finding, ODA indicated in their March 16, 2016 letter that aviation lighting might be needed to identify the facility based on the proximity of two private airstrips. Staff recommends as a condition of any approval, the proposed facility comply with FAA design standards for aviation lighting.

8. The form of lease for the site does not prevent the possibility of co-location of additional wireless telecommunication facilities at the site.

FINDING: The applicant submitted a copy of the form of the lease, which indicates the applicant has the unreserved and unqualified right to sublet the telecommunications tower, building, and ground space to subtenants. Staff has reviewed the lease and found no other language that prevents the possibility of co-locating an additional wireless carrier at this site.

9. Any tower or monopole shall be designed in a manner that it can carry the antennas of at least one additional wireless carrier. This criterion may be satisfied by submitting the statement of a licensed structural engineer licensed in Oregon that the monopole or tower has been designed with sufficient strength to carry such an additional antenna array and by elevation drawings of the proposed tower or monopole that identifies an area designed to provide the required spacing between antenna arrays of different carriers.

FINDING: The submitted application indicates the proposed 140-foot tower is designed to carry at least two additional array of cellular antennas. The height of the co-location sites will be below the top level antennas. Based on the submitted documentation, the proposed tower has been designed with sufficient strength to carry the antenna platform of another wireless carrier.

10. Any approval of a wireless telecommunication facility shall include a condition that if the facility is left unused or is abandoned by all wireless providers located on the facility for more than one year the facility shall be removed by the landowner.

FINDING: The submitted lease agreement indicates the property will be restored upon termination of the lease and/or operations of the wireless telecommunications facility and therefore, showing the applicant has met or can meet this criterion. To ensure compliance, staff recommends this be made a condition of any approval to address this criterion.

IV. CONCLUSION AND RECOMMENDATION:

Based on the evidence in the record submitted to date, staff recommends the Hearings Officer review the issues raised in the Staff Report specifically:

- Whether the wireless telecommunications facility is compatible with existing and projected uses on surrounding properties, in particular, impacts to human and animal health and impacts to property values as specified in 18.128.015(B)
- Whether other sites in the search area have less visual impact as viewed from nearby residences than the proposed site and whether the applicant has demonstrated that any less intrusive sites are either unavailable or do not provide the communications coverage necessary as specified in DCC 18.128.340(A)(3)(c) and 18.128.340(B)(2)
- Whether the proposed wireless telecommunications facility has been sited in a manner to minimize its visual impact on scenic views as specified in DCC 18.128.340(B)(5)

Dated this 23rd day of August, 2016

Mailed this 23rd day of August, 2016