



NOTICE OF DECISION ON A TYPE II LAND USE PERMIT

Decision: Approved with Conditions

Permit Type: Wireless Telecommunication Facility – Level II Collocation/Eligible Facilities Request

File No. Z0067-22-PDR

Proposal: Addition of an emergency generator in a 160 square foot expansion of the fenced compound area. No change in tower height is proposed and the application is for an existing, approved user of the facility.

Decision Date: March 14, 2022

Deadline for Filing Appeal: March 28, 2022, at 4:00 pm

Unless appealed, this decision is effective on March 28, 2022 at 4:00 pm

Issued By : Andrew Yaden, Planner I, Ayaden@clackamas.us

Assessor's Map & Tax Lot(s): T3S R3E Section 06B Tax Lot 01000

Site Address: 18281 S Fischers Mill Rd

Applicant: Valerie Peterson

Owner of Property: Terry Emmert

Zoning: RA-1

Community Planning Organization (CPO) for Area:

Redland-Viola-Fischer's; Lance Ward; lancecward@aol.com

Community Planning Organizations (CPOs) are part of the county's community involvement program. They are advisory to the Board of County Commissioners, Planning Commission and Planning and Zoning Division on land use matters affecting their communities. CPOs are notified of proposed land use actions and decisions on land within their boundaries and may review these applications, provide recommendations or file appeals. If this CPO currently is inactive and you are interested in becoming involved in land use planning in your area, please contact the Community Involvement Office at 503-655-8552.

OPPORTUNITY TO REVIEW THE RECORD: The submitted application is available for review online at <https://accela.clackamas.us/citizenaccess/>. Select the Planning tab and enter the file number to search. Select Record Info and then select Attachments from the dropdown list, where you will find the submitted application. The complete application file is available for inspection at no cost by contacting the Planner listed on the first page of this decision. Copies of all documents may be purchased at the rate of \$2.00 per page for 8 1/2" x 11" or 11" x 14" documents, \$2.50 per page for 11" x 17" documents, \$3.50 per page for 18" x 24" documents and \$0.75 per sq. ft. with a \$5.00 minimum for large format documents.

APPEAL RIGHTS: Any party disagreeing with this decision, or the conditions of approval, may appeal this decision to the Clackamas County Land Use Hearings Officer. An appeal must include a completed County Appeal Form and a \$250.00 filing fee and must be received by the Planning and Zoning Division by the appeal deadline identified on the first page of this decision.

Please check <https://www.clackamas.us/planning> for our current hours of in-office operation. Appeals may be submitted in person during office hours. Appeals may also be submitted by email or US mail.

The County Appeal Form is available at www.clackamas.us/planning/supplemental.html. Any party or parties appealing this decision may withdraw their appeal at any time prior to the hearing or final decision by the Hearings Officer. A party wishing to maintain individual appeal rights may file an individual appeal and pay the \$250.00 fee, even if an appeal by another party or parties has been filed.

A person who is mailed written notice of this decision cannot appeal this decision directly to the Land Use Board of Appeals under ORS 197.830.

APPLICABLE APPROVAL CRITERIA: This application is subject to Clackamas County Zoning and Development Ordinance (ZDO) Section(s) 202, 835 and 1307.

PUBLIC AND AGENCY COMMENTS:

Notice was sent to applicable agencies and owners of property within 500 feet. Comments received relating to the applicable approval criteria listed above are addressed in the Findings Section. Comments from the following were received: No comments received.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST PROMPTLY BE FORWARDED TO THE PURCHASER.

Clackamas County is committed to providing meaningful access and will make reasonable accommodations, modifications, or provide translation, interpretation or other services upon request. Please contact us at 503-742-4545 or email DRenhard@clackamas.us.

503-742-4545: ¿Traducción e interpretación? |Требуется ли вам устный или письменный перевод? 翻译或口译? |

Cán Biên dịch hoặc Phiên dịch? | 번역 또는 통역?

Location Map



CONDITIONS OF APPROVAL

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parentheses.

1. Approval of this land use permit is based on the submitted written narrative and plan(s) filed with the County on February 8, 2022. No work shall occur under this permit other than which is specified within these documents, unless otherwise required or specified in the conditions below. It shall be the responsibility of the property owner(s) to comply with this document(s) and the limitation of any approval resulting from the decision described herein.
2. Existing landscaping shall not be disturbed
3. The project shall not increase the height of the wireless facility by more than the greater of:
 - a. More than 10%; or
 - b. The height of one additional antenna array with a separation from nearest existing antenna of 20 feet.
4. Appurtenances shall not extend more than the greater of:
 - a. 20 feet from the edge of the existing facility; or
 - b. The width of the tower at the connection point of the appurtenance.
5. The fence surrounding the new 160 sq. ft. lease area shall be a minimum of 6 ft. in height and sight obscuring.

FINDINGS

The findings below identify the standards and criteria that are relevant to this decision, state the facts relied upon in rendering the decision, and explain the justification for the decision.

1. **PROJECT OVERVIEW:** The applicants are proposing an “eligible facility” request to site an emergency generator in support of an existing user of an

existing wireless telecommunication facility. The tower and ancillary facilities were reviewed and approved under land use file no. Z1310-95.

2. ZDO Section 835 Wireless Telecommunications Facilities

835.06 Standards

D. Level Two Wireless Telecommunication Facilities: A level two wireless telecommunication facility (including a level two collocation or placement on a utility pole) shall be subject to the following standards:

1. New Towers: If a new wireless telecommunication tower is proposed:

a. No new tower will be permitted unless no existing support structure can accommodate the proposed antenna. All proposals for new wireless telecommunication facilities must be accompanied by a statement from a qualified person that the necessary telecommunication service cannot be provided by collocation for one or more of the following reasons:

- i. No existing support structures, or approved but not yet constructed support structures, are located within the geographic area required to meet the applicant's engineering requirements;
- ii. Existing support structures are not of sufficient height to meet the applicant's engineering requirements;
- iii. Existing support structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment;
- iv. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing support structure, or the existing antenna would cause interference with the applicant's proposed antenna; or
- v. The applicant demonstrates that there are other limiting factors that render existing support structures unsuitable.

b. If the tower is inside the Portland Metropolitan Urban Growth Boundary, it shall be a monopole.

c. The tower shall be designed and built to accommodate collocation or additional loading. This means that the tower shall be designed specifically to

accommodate no less than the following equipment, in addition to the applicant's proposed equipment:

- i. Twelve antennas with a float plate wind-loading of not less than four square feet per antenna;
 - ii. A standard mounting structure, standoff arms, platform, or other similar structure designed to hold the antennas;
 - iii. Cable ports at the base and antenna levels of the tower; and
 - iv. Sufficient room within or on the tower for 12 runs of 7/8-inch coaxial cable from the base of the tower to the antennas.
- d. The tower shall be painted or coated in a manner that blends with the surrounding area. The finished coloring shall result in a non-reflective surface that makes the tower as visually unobtrusive as possible unless state or federal regulations require different colors.
- e. If the proposed wireless telecommunication facility requires approval of a conditional use permit, placement of the tower in an alternate location on the tract may be required, if the alternate location would result in greater compliance with the criteria in Section 1203, Conditional Uses, than the proposed location. In order to avoid relocating the proposed tower, the applicant shall demonstrate that the necessary wireless telecommunication service cannot reasonably be provided from the alternate location.

Finding: *The proposal is for an expansion of an existing facility whereby the tower is not changing in height and the fenced compound area will expand by 160 sq. ft. No new tower is proposed. These criteria are not applicable.*

2. Equipment shelters shall be entirely enclosed. They may be painted or coated with a finish that best suits the operational needs of the facility, including the ability to reflect heat and to resist accumulations of dirt. If there is a conflict between acceptable colors and the operational needs of the facility, the use of architectural screen panels may be required.

Finding: *The proposal is for an expansion of an existing facility whereby the tower is not changing in height and the fenced compound area will expand by 160 sq. ft. The expanded lease area, as proposed, will be entirely enclosed by a sight obscuring fence that matches the existing conditions. The additional equipment is an emergency generator. No additional equipment shelters are proposed. This criterion is not applicable.*

3. No lighting shall be permitted on a wireless telecommunication tower, except as required by state or federal regulations. If lighting is required, the light shall be shielded or deflected from the ground, public rights-of-way, and other lots, to the extent practicable.

Finding: *The proposal is for an expansion of an existing facility whereby the tower is not changing in height and the fenced compound area will expand by 160 sq. ft. No changes to the existing tower are proposed. This criterion is met.*

4. Unless the wireless telecommunication facility is located entirely on a utility pole, it shall be located within an area that is enclosed on all sides. The enclosure shall be a minimum of six feet tall and sight-obscuring.

Finding: *The proposal is for an expansion of an existing facility whereby the tower is not changing in height and the fenced compound area will expand by 160 sq. ft. The expanded lease area, as proposed, will be entirely enclosed by a sight obscuring fence that matches the existing conditions. A review of past permits shows that the existing fence is at least 6 feet in height and has sight obscuring slats. A condition of approval is warranted that the fence surrounding the expanded lease area shall be a minimum of six feet in height and be sight obscuring.*

6. Landscaping shall be placed outside of the enclosed area required pursuant to Subsection 835.06(D)(4) and shall include ground cover, shrubs, and trees that are reflective of the natural surrounding vegetation in the area. However, if a portion of the wireless telecommunication facility is screened from points offsite by a building with a height of at least eight feet, landscaping is not required for the screened area. In addition, Subsection 1009.10 applies.

Finding: *A review of existing permits, along with views obtained by aerial and street level imagery (GoogleMaps, PlanMap, ConnectXplorer) shows that the proposed location of the compound expansion is obscured from adjacent properties and rights-of-way by existing evergreen trees. No additional landscaping is required for this project. This criterion is met.*

7. Noise generated by the wireless telecommunication facility shall not exceed the maximum levels established by the Oregon Department of Environmental Quality (DEQ). If lots adjacent to the subject property have a lower DEQ noise standard than the subject property, the lower standard shall be applicable.

Finding: *The proposal is for an emergency generator. The generator will only operate during times of power outage. Daily operations will not be impacted. Noise will be at de minimus levels during operation, which would only be during emergency situations. This criterion is met.*

8. Dimensional Standards: Dimensional standards applicable to wireless telecommunication towers are listed in Table 835-2, Dimensional Standards for Wireless Telecommunication Towers.

***Finding:** There is no change in the existing tower. The standards of Table 835-2 are not applicable.*

Section 6409(a)

Section 6409(a) provides that a local government *must* approve an *Eligible Facilities* request. An eligible facility is one that does not have a *Substantial Change* from the proposed collocation. For a wireless telecommunication facility outside of the public right-of-way, an Eligible Facility is one that:

- Is expanding equipment or antennas on an existing and approved facility, and
- Does not increase the facility height by more than 20 feet, or 10%, whichever is greater, and
- Does not protrude from the edge of tower more than 20 feet or more than the width of the tower structure at the level of appurtenance, whichever is greater.

Finding:** The proposed collocation is for an existing, approved facility. The project does not increase the height of the tower. There is no change in the number of equipment shelters. Staff finds that this proposal is an Eligible Facilities Request, and is authorized under Section 6409(a) of the Spectrum Act. **These criteria are met.