

CITY OF DUNDEE
PLANNING COMMISSION AGENDA
P.O. Box 220
620 SW 5th Street
Dundee, Oregon 97115

MEETING WILL BE TELECONFERENCED

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Meeting ID: 897 3232 7027

MEETING DATE: July 1, 2020
Meeting Time: 7:00pm

- I.** Call Meeting to Order.
- II.** Public Comment
- III.** Approval of Minutes
 - June 17, 2020
- IV.** Public Hearing(s)
 - CU/SDR 20-06, Acom Communications (for Verizon Wireless)
(Continued from June 17, 2020)
- V.** Issues from Planning Commissioners
- VI.** Adjournment

If you wish to testify at the meeting, please contact Melody Osborne, Administrative Assistant by email at Melody.Osborne@dundeecity.org with your "screen name" or phone number so that we are able to identify you.

If testifying, PLEASE NOTE THE FOLLOWING:

- Testimony will be limited to three minutes, followed by any questions of you that the Commissioners may have.
- Comments must be directed toward the applicable decision criteria in the Dundee Development Code: CUP -Section 17.404.030; SDR – Section 17.402.050; and Wireless Communication Facilities 17.203.170(C)
- Microphones will be muted upon entering the hearing, unmuted for testimony, and then muted again until the end.

CITY OF DUNDEE

Meeting: Planning Commission Meeting

Location: Meeting was held virtually via Zoom.
City Council Meeting Chambers
620 S.W. 5th Street
Dundee, Oregon 97115

Date: June 17, 2020

Time: 7:00 p.m.

I. Meeting called to order.

Chairman Howland called the meeting to order. Commissioners present, which consisted of quorum, were Shannon Howland, Maria Hinoveanu, David Hinson, Doug Pugsley, Eugene Gilden, James Kay, and Ed Carlisle. City Administrator Rob Daykin, City Attorney Tim Ramis, and Interim City Planner Jim Jacks were also present.

Members of the audience included Mike Connors and Tammy Hamilton, representing the applicant; Evan Karp and Ryan Harris of Wine Country Legacy Partners, Keeley O'Brien, Susan Baird, Rebecca Minifie, Matt Frey, Saj Jivanjee, Holly Altimus, and Frank Gregory.

II. Introduction of New Commissioner James Kay

Commissioner Kay introduced himself and stated why he had chosen to join the Planning Commission.

III. Public Comment

Saj Jivanjee spoke and stated that his biggest issue was that most cities have urban design guidelines that are very specific about protecting other development so that any investors would have certainty about the future vision that all have "bought into". He asked that the Commissioners get down to the fine grain of urban design and have guidelines that everyone has bought into, because without them there will be a lot of conflict on subjective matter. He also felt there were a lot of generalities in the City's current development code.

VI. Approval of Minutes from Previous Meeting(s)

It was moved and seconded to approve the February 19, 2020 minutes. Motion carries, unanimously.

V. Public Hearing **CU/SDR 20-06 – Acom Communications (on behalf of Verizon Wireless)**

Chairman Howland read the statements in to record and read the list of persons having requested to testify during the public hearing.

1. Declarations of Ex-Parte, Bias, or Conflict of Interest

Chairman Howland questioned the Commissioners about ex-parte, bias, or conflict of interest.

Commissioner Carlisle declared a conflict of interest, stating that his engineering firm provided services for the cell tower; therefore, he stated he was not going to participate in the questioning, deliberation, or voting.

Chairman Howland declared professional relationships with Ryan Harris and Keeley O'Brien but stated that it would not cause a bias. She also declared ex-parte contact with a citizen who emailed her to express support of the proposal.

Commission Pugsley noted that he was a City Councilor when the discussions and contract negotiations with Verizon took place regarding placement of the cell tower on the fire department property; however, he stated that this prior knowledge would not affect his objectivity. His deliberations, actions, and decisions would be based only on the application at hand, testimony on record, and criteria in the development code. Commissioner Pugsley then declared ex-parte contact in that he had driven by the subject property and also stated that he had driven by the monopine cell tower on College Street in Newberg to gain a real-life perspective.

Commissioner Hinson declared ex-parte contact in that he had also driven past the subject property, driven past the monopine in Newberg, and had also driven to McMinnville to survey various towers.

Commissioner Gilden and Commissioner Hinoveanu declared ex-parte contact in that they were familiar with the subject property.

Chairman Howland then questioned if there were any objections to jurisdiction. Saj Jivanjee stated that he objected to the Planning Commission and City Council deciding on the application since the subject property was owned by the City. He felt that this was a conflict of interest and that the process was contaminated due to the direct benefit to the City if the tower was approved.

Chairman Howland asked the City Attorney to comment on the objection to jurisdiction that was noted. City Attorney Tim Ramis suggested that each planning commissioner state for the record whether the city's ownership of the property would make a difference to them with regard to their ability to make a decision based on the criteria. He felt this would adequately address the issue.

Chairman Howland stated that it did not have an impact on her decision. Commissioner Gilden stated that the city's ownership would not influence his decision. Commissioner Kay also stated that he did not believe the city's ownership would influence his ability to make a sound and fair decision. Commissioner Pugsley stated that the city ownership of the property would influence his deliberations or ability to make a decision. Commissioner Hinoveanu felt the city's ownership would not influence her decision. Commissioner Hinson stated that the city ownership of the property would not affect his ability to make a decision.

There were no further objections to jurisdiction.

2. Staff Report

Interim Planner Jim Jacks introduced himself, read the legal statements into record, and then provided a summary of the staff report with the Commissioners and audience.

Commissioner Hinoveanu asked, regarding the distance requirement from residences, whether any of the empty lots on Maple Street were planned to be residences. Planner Jacks responded that all of the land was zoned Light Industrial zone and clarified that the distance requirement was specific to residentially zoned land.

There were no additional questions of the Commission to staff, so the Chairman opened the floor to the applicant.

3. Public Testimony – Applicant

Mike Connors, an attorney with Hathaway Larson Law Firm, representing Verizon, introduced himself. He noted that the application was for an 80-foot monopine stealth cell tower. He explained that it was called a stealth tower because it was designed to mimic a tree. The actual height of the antenna tower was 74-feet, but they needed an additional 6-feet so that there could be a natural crown to the tree. He commented on the previous applications that Verizon had brought forward, but withdrew, and stated that the design for the monopine tower was in response to those previous meetings and comments received. Mr. Connors explained that the antenna height was the 74-feet because that was what they needed to achieve the objectives necessary. He went on to state that another thing different from previous applications for the tower was that the generator had been removed, so the noise barrier was no longer necessary. Therefore, they were hoping the condition for the noise barrier could be removed.

Mr. Connors then gave some background to the Commission on why the site was chosen. He stated that it was both a coverage and capacity facility. The target area was downtown Dundee and Highway 99W; the coverage was currently fair to moderate, but the issue with moderate was inadequate for in-building use. Regarding capacity, there were three towers in adjoining cities, but they were dealing with capacity issues that were causing dropped calls and slow response. The proposed tower at the fire station was strategically placed to help serve as a relay tower between all points to help increase capacity. He noted that there was an AT&T tower not located not too far away, but it was inadequate to achieve the goals and pointed the Commission to documents in their packet showing the issues with that location.

Mr. Connors stated that the reason for the conditional use is because the 45-foot building height would be exceeded. Then, he directed the Commission's attention to section 17.202.040(B) of the development code it states that certain kind of structures are not subject to the building height restrictions and one of those items is a tower, so he did not believe that the 45-foot height limitation applied. However, he did note that they had applied for the Conditional Use and believed they met the criteria. They did apply for the minimum height needed, which was a 74-foot antenna. To put the tower in perspective, he noted that the surrounding towers ranged in height from 154-feet to 170-feet. Mr. Connors then reviewed the criteria and their belief that they met it.

Mr. Connors concluded by addressing some of the testimony comments received from the public. Regarding noise, they had taken away the generator to reduce the impact. Regarding health concerns, he noted the FCC ruling prohibiting jurisdictions from factoring emissions into their

decisions. Mr. Connors pointed out the inclusion of the emissions report in the packet and noted that the tower proposed by Verizon would only meet 1% of the FCC's maximum allowed emission standards. Regarding the aesthetics, he felt that they had minimized the impacts to the extent possible. As pertaining to location, they had looked at co-location options, but none of the existing towers would work. Regarding property values, Oregon State Law requires specific code provisions- especially with regard to wireless facilities- that would make it an applicable issue. There also needed to be tangible evidence that property value would be impacted. Neither of those things was present. Finally, regarding the distance requirement from residential zoned property, they had verified it was met.

Commissioner Gilden asked Mr. Connors to clarify the improvement in coverage and capacity, specifically how far the range of coverage was currently and what the expected future coverage would be. Mr. Connors responded that it would increase coverage for the entire town and directed attention to the maps in the packet showing existing coverage and future coverage. Commissioner Gilden asked what the definition of "poor coverage" would mean to a user. Mr. Connors responded that it meant there was very unreliable coverage both inside and outside. There was additional conversation regarding percentages of dropped calls, which ended with Mr. Connors stating that the trigger point for Verizon exploring the option of a new tower was the result of customer complaints.

Commissioner Hinoveanu asked about the forecasted "near future" and how long a period that may be. Mr. Connors responded that he believed there were issues now. Commissioner Hinoveanu asked why a 4G antenna was being proposed as 5G was beginning to be constructed. Mr. Connors responded that his understanding was that 5G was a slower rollout that was mostly focused and limited to denser metropolitan areas.

No further applicant testimony; no additional proponents.

4. Public Testimony – Opponents

Chairman Howland opened the floor to opponent testimony.

Evan Karp read his statement into record, which was included in the packet as a late edition received via email June 17 at 4:36pm. Included in the letter was a request to leave the record open.

Ryan Harris spoke next and stated that there was a reason that cell towers were not allowed in the central business district, which he felt the fire station property effectively was zoned as even though the official zoning was Public (P). He noted that this was the third time Verizon had come forward with their application, but that previous attempts were withdrawn. He expressed concern regarding a potential decrease in property values. He also gave a reminder to the Commission that it was "their duty to oppose this kind of thing", as it was the Commission's duty to look out for the long-term planning of the city. He stated a belief that once the tower went up Verizon would be able to add additional equipment as there was an incentive to do so. Mr. Harris concluded by stating that he felt the monopine would dominate the city skyline and that the aesthetics of that was enough for the Commission to deny the application.

Keeley O'Brien asked the Commission to focus on the aesthetic consideration of DMC 17.4.04. He asked that the Commissioners think of the residents on the hill whose view will be of the monopine, and of the tourists visiting who may be off-put by the visual impact. He concluded by requesting that the Commission deny the application.

Matt Frey spoke, highlighting a few points in his written testimony received via email June 9 at 2:13pm. He stated concern for property values, he also noted that although the adjoining property was not zoned residential there were several residences close by. Mr. Frey expressed disappointment that the notice area had not been expanded. He concluded by asking the Planning Commission to not take the application lightly given its permanence.

Saj Jivanjee asked how far the tower would be from the Fire Department building, as he was worried about the possibility of a seismic event and the tower falling on the building. He stated that he did not mind cell towers but did not feel that one should be placed next to a fire station. He also questioned the height and setbacks, believing that the setbacks should be increased given the height of the tower. He requested that the Planning Commission look at the proposal from a life and safety viewpoint. Mr. Jivanjee stated that he wished to hear from Tualatin Valley Fire Department about whether the tower would be safe during a seismic event. He concluded by asking what Dundee was all about—whether the city wanted a huge structure dominating the skyline.

Rebecca Minifie spoke and stated that the applicant's entire search ring was in the Central Business District zone and that it was evident from the many opponents that the citizens did not want the cell tower in the middle of downtown. She noted that four former Planning Commissioners had written to oppose the cell tower and that over 40 people had written in opposition of the proposal. She felt that the city would not gain anything from the placement of the cell tower, but that it would lose the potential for a beautiful central business district, lose property value, the sense of trust in the community, and feeling of safety. She expressed concern regarding the proximity of the tower to her house. She requested that the city change the notification policies for public hearings, as the radius of 100-feet was not enough. Due to the drastic nature of the application she felt that every business owner and citizen deserved to know what was happening. Ms. Minifie concluded by reading a statement from the city's homepage and asking if the proposal fit the statement; she asked that the Commissioners deny the request.

Chairman Howland noted that the next person scheduled to testify was Wendy Stec, however she had emailed to state she was unable to attend. Chairman Howland noted Ms. Stec's opposition for the record.

Holly Altimus spoke and voiced her opposition. She felt her concerns were the same as the persons before her, and expressed bewilderment that health was not able to be a consideration as she was also worried about those effects. She hoped that more clarification could be given to emission standards. She concluded by restating that she did not want the tower to be built.

Susan Baird introduced herself and asked the Planning Commission to deny the application mainly based on the aesthetics. She expressed an exception to the idea that aesthetics is simply an impact to be mitigated, and that DMC 17.404.030 states that aesthetics can be used as criteria to make a decision. She stated that people in the city had been working to beautify the city and that placing a cell tower seemed counter to that effort. Ms. Baird also noted that the public zone provided for public and semi-public uses "when such used do not unreasonably disrupt or alter other areas of the community". She felt that the tower would certainly disrupt the surrounding community and businesses, especially when one of the tenants of the CBD zone is to "encourage a walkable and attractive downtown". Accordingly, she felt the tower should be denied because it failed to meet the purpose of uses allowed in the public zone. Ms. Baird also expressed concern with the noise that the tower would generate and how it would affect the personnel working at the fire station. She

concluded by asking that the Commission listen to the pleas of the citizens that have submitted comments and deny the proposal.

The hearing was paused for a five-minute break.

5. Proponent Rebuttal

Mike Connors spoke and addressed some of the comments. Regarding the compliance with the 300-foot requirement, he stated that the code applies specifically to residentially zoned property and not right-of-way. Concerning impacts to property values, he restated that in order for that to be applicable to the decision making process it would need to be specifically listed in the code as criteria, and that it is not in Dundee's code. He addressed a comment about Dundee increasing its building height limitation and noted that the code already allows for that under the conditional use process. Mr. Connors reiterated that his interpretation of the development code was that cell towers were exempt from the height limitation but noted that they had filed for the conditional use anyway. He also noted that this was not a variance request.

Mr. Connors acknowledged testimony about cell towers not being allowed in the CBD zone, but noted that this was not correct, and that the CBD zone did allow them through a conditional use process. He recognized the comment about seismic concerns and stated that they would be required to comply with the structural code and go through the building permit process. Mr. Connors responded to Ms. Altimus question about emissions guidelines and directed her to the submittal that was included in the planning packet.

Mr. Connors stated that they had done their best to mitigate the aesthetic impacts by proposing the stealth design. He felt that Verizon had done all they could to work with the city and the citizens based on previous hearings, as well as contract negotiations with the city. Finally, he believed that the city had taken into consideration the fire department employees as they were negotiating the contract proposal. He concluded by stating that there had been a request to keep the record open and expressed a desire to submit a closing argument if the Commission chose to do so.

Chairman Howland asked Tammy Hamilton of Acom Communication if she had anything she wanted to add. Ms. Hamilton responded that she did not have anything to add.

Chairman Howland acknowledged the request for continuance and asked City Attorney Tim Ramis to let the Planning Commission know their options. She also requested that he speak to process and where the Commission should halt the hearing process.

City Attorney Ramis responded that the continuance could take place in writing on an agreed upon schedule, with the applicant having the final rebuttal. He stated the second option was to continue the hearing to a date certain. With respect to final comment from the staff, if this would be the last evening of oral testimony then the staff could give their recommendation. However, if the hearing would be continued to a date certain then staff could give their recommendation at that time.

Chairman Howland asked the Commissioners to express their preference on the continuance. A discussion regarding the 120-day rule and expiration date took place. There was a request of the applicant to extend the deadline. Mr. Connors stated that he could verbally agree to a two-week

extension, but that anything longer would require consent of the applicant. He stated that he would get in touch with them and respond with an answer when available.

It was the unanimous consent of the Commissioners to continue to a date certain.

It was **moved** and seconded to continue the hearing to July 1, 2020 at 7:00pm for the purpose of allowing new information and additional public testimony. Motion passes, unanimously.

VI. Planning Issues from Commission Members.

CA Daykin reviewed the Commissioners meeting schedule with them and gained acknowledgement that there would be another meeting on the regularly scheduled meeting date of July 15.

VII. Adjournment

The meeting was adjourned.

Shannon Howland, Chairman

ATTEST:

Melody Osborne, Planning Secretary



CITY OF DUNDEE
Staff Report – Continued Hearing
Type III Conditional Use Permit and Site Development Review
File No. CU 20-06/SDR 20-07 – Verizon Cell Tower

Request: An 80-foot wireless communications tower (74' + 6' of branches) and ground equipment. The tower and equipment will be enclosed within a 232 square foot fenced area in the SE corner of the Dundee Fire Station. In addition to the fencing, landscaping will be provided to screen the equipment from surrounding properties.

Project Information	
Applicant and Agent	Verizon Wireless. Tammy Hamilton, ACOM Consulting, Inc.
Property Owner	City of Dundee
Continued Hearing Date	July 1, 2020

Location Map



Background:

On June 17, 2020 the Planning Commission opened a public hearing for the above noted cases and received testimony. The Commission continued the hearing to July 1, 2020 and limited the testimony on July 1 to receive only new information.

Comments Received Since June 17:

After the June 17 hearing four additional written comments have been received and they are attached to this staff report. As of 5 p.m., June 23, emailed comments have been received from Alexis Howes, Jaclyn Force, Kara Johnson and Saj Jivanjee. Regarding Mr. Jivanjee's email comment, it is anticipated he will provide the article mentioned in the email, and as soon as it is provided, it will be forwarded to the Commission.

Discussion

The Planning Commission is tasked with making a decision based on whether the approval criteria have been met. Some of the criteria are subjective which necessitates the Commission exercise discretion when determining if each criterion has been met.

The Commission is also tasked with making a decision in accordance with Federal laws, primarily the 1996 Telecommunications Act, and applicable Federal Communications Commission Orders as noted in the applicant's narrative, Section V, p. 12. The Act prohibits local jurisdictions from making decisions that "prohibit[s] or [has] the effect of prohibiting the provision of personal wireless services." An FCC Order prohibits decisions that "materially limits or inhibits the ability of any competitor or potential competitor to compete in a fair and balanced legal and regulatory environment." The Act also prevents local jurisdictions from considering the environmental and health effects of radio frequency emissions.

Staff Recommendation

At the July 1, 2020 continued hearing, staff recommends the Planning Commission:

1. Consistent with the Commission's June 17 motion, accept only new testimony from parties.
2. Consider the June 17 and July 1 testimony, and the June 17 and July 1 staff reports.
3. Deliberate and make findings. Proposed findings are shown in Exhibit A of the Planning Commission Order in the June 17 packet.
4. Pass a motion adopting the Planning Commission Order.

ATTACHMENTS: Emails from Alexis Howes, Jaclyn Force, Kara Johnson and Saj Jivanjee.

Melody Osborne

From: alexis Howes <alexis_howes@icloud.com>
Sent: Wednesday, June 17, 2020 4:55 PM
To: Melody Osborne
Subject: Cell tower

Follow Up Flag: Follow up
Flag Status: Flagged

We'd (My family and I) would really love for this tower to not be put in! We know it will effect our health and well being! Thank you for listening to our cries! God bless Dundee

Melody Osborne

From: Jaclyn Force <jaclyn.force@gmail.com>
Sent: Wednesday, June 17, 2020 6:25 PM
To: Melody Osborne
Subject: Cell Tower

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Melody,
I am a Dundee resident and do not want to see a cell tower built in our town.

Thank you,
Jaclyn Forcd

Sent from my iPhone

Melody Osborne

From: Kara Johnson <kara.jjohnson@gmail.com>
Sent: Thursday, June 18, 2020 2:23 PM
To: Melody Osborne
Subject: Dundee cell tower

To whom it may concern,

I am a Dundee resident with four young children and I oppose the placement of a cell tower near the fire station. It is too close to the school and the center of town and would absolutely cheapen the aesthetics of the city for anyone driving through.

Thank you for considering,

Kara Johnson

Sent from my iPhone

Melody Osborne

From: Saj Jivanjee <sajtj@icloud.com>
Sent: Saturday, June 20, 2020 9:21 AM
To: Melody Osborne
Subject: The Hidden Health Effects of Cell Towers - It Takes Time

Melody,
Please include this article for planning commissioners review.

<http://it-takes-time.com/2015/09/22/health-effects-of-cell-towers/>

Saj
Sent from my iPhone

Additional
Written
Public
Testimony
06.26.2020

Melody Osborne

From: Alba Corpus <abcorpus7@gmail.com>
Sent: Thursday, June 25, 2020 2:54 PM
To: Melody Osborne
Subject: Verizon Cell Tower

Melody.Osborne@dundeecity.org

Dear Planning Commissioners:

I am a resident of Dundee and I'm asking that you DENY Verizon's cell tower application for the following reasons:

1. An 80-foot fake tree cell tower in the heart of Dundee would be unattractive and unappealing and would fail to meet the "aesthetic considerations" criteria of DMC 17.404.030(A)(1);
2. The Planning Commission must base it's findings on ALL criteria, including aesthetic considerations, per DMC 17.404.030;
3. The proposed tower's aesthetics would have negative impacts on the appeal and attractiveness of downtown Dundee and the applicant has failed to mitigate these impacts, in violation of DMC 17.404.030(A)(2). Just because the applicant throws more money into a "stealth" tree does not mean the negative impacts are mitigated, as required by the Code.
4. The noise of the proposed tower and associated electrical cabinets would violate Dundee's nighttime noise requirements.
5. The tower would violate the purpose of the Public Zone. DMC 17.202.010(I) only allows uses in the Public Zone which don't "unreasonably disrupt" other areas of the community. The unattractiveness of the tower would disrupt the "attractive" downtown intended for the CBD by DMC 17.202.010(G).
6. The Oregon Land Use Board of Appeals (LUBA), the agency to whom the City's decision could eventually be appealed, has determined that a purpose statement imposes an "affirmative duty" on decision makers. Accordingly, the Commission has an affirmative duty to consider the fact that the proposed tower violates the purpose statement of the Public Zone.
7. Verizon doesn't need a cell tower in the heart of Dundee. Page 65 of the staff report shows that Verizon already has moderate to good cell service in Dundee.
8. There's an AT&T tower only 1.3 miles away from the proposed site and the applicant hasn't satisfied the DMC 17.203.170 requirement of providing written verification as to why co-location on the AT&T tower isn't feasible.
9. The #1 Statewide Land Use Planning Goal for the State of Oregon is citizen involvement. The Planning Commission has a duty to consider public input. As a Dundee resident, I don't want an unattractive 80ft cell tower in the heart of our beautiful City.

Sent from my iPhone

Melody Osborne

From: Jaclyn Force <jaclyn.force@gmail.com>
Sent: Thursday, June 25, 2020 4:27 PM
To: Melody Osborne
Subject: Cell Tower

Dear Planning Commissioners:

I am a resident of Dundee and I'm asking that you DENY Verizon's cell tower application for the following reasons:

1. An 80-foot fake tree cell tower in the heart of Dundee would be unattractive and unappealing and would fail to meet the "aesthetic considerations" criteria of DMC 17.404.030(A)(1);
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6. The Oregon Land Use Board of Appeals (LUBA), the agency to whom the City's decision could eventually be appealed, has determined that a purpose statement imposes an "affirmative duty" on decision makers. Accordingly, the Commission has an affirmative duty to consider the fact that the proposed tower violates the purpose statement of the Public Zone;
7. Verizon doesn't need a cell tower in the heart of Dundee. Page 65 of the staff report shows that Verizon already has moderate to good cell service in Dundee;
8. There's an AT&T tower only 1.3 miles away from the proposed site and the applicant hasn't satisfied the DMC 17.203.170 requirement of providing written verification as to why co-location on the AT&T tower isn't feasible;
9. The #1 Statewide Land Use Planning Goal for the State of Oregon is citizen involvement. The Planning Commission has a duty to consider public input. As a Dundee resident, I don't want an unattractive 80ft cell tower in the heart of our beautiful City.

Jaclyn and Drew Force

Sent from my iPhone

Melody Osborne

From: Jody Guyette de Ruijter <jodyspnc@gmail.com>
Sent: Thursday, June 25, 2020 1:20 PM
To: Melody Osborne
Subject: cell tower in Dundee

Dear Planning Commissioners:

I am a resident of Dundee and I'm asking that you DENY Verizon's cell tower application for the following reasons:

1. An 80-foot fake tree cell tower in the heart of Dundee would be unattractive and unappealing and would fail to meet the "aesthetic considerations" criteria of DMC 17.404.030(A)(1);
2. The Planning Commission must base its findings on ALL criteria, including aesthetic considerations, per DMC 17.404.030;
3. The proposed tower's aesthetics would have negative impacts on the appeal and attractiveness of downtown Dundee and the applicant has failed to mitigate these impacts, in violation of DMC 17.404.030(A)(2). Just because the applicant throws more money into a "stealth" tree does not mean the negative impacts are mitigated, as required by the Code.
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8. There's an AT&T tower only 1.3 miles away from the proposed site and the applicant hasn't satisfied the DMC 17.203.170 requirement of providing written verification as to why co-location on the AT&T tower isn't feasible.
9. The #1 Statewide Land Use Planning Goal for the State of Oregon is citizen involvement. The Planning Commission has a duty to consider public input. As a Dundee resident, I don't want an unattractive 80ft cell tower in the heart of our beautiful City.

--

Jody de Ruijter, PsyD
915 SW Tomahawk Pl
Dundee OR 97115

Melody Osborne

From: Jennifer Matthiesen <Jenmatthiesen@outlook.com>
Sent: Thursday, June 25, 2020 12:56 PM
To: Melody Osborne
Subject: Dundee Cell Tower

Melody.Osborne@dundeecity.org

Dear Planning Commissioners:

I am a resident of Dundee and I m asking that you DENY Verizon s cell tower application for the following reasons:

1. An 80-foot fake tree cell tower in the heart of Dundee would be unattractive and unappealing and would fail to meet the “aesthetic considerations” criteria of DMC 17.404.030(A)(1);
2. The Planning Commission must base it s findings on ALL criteria, including aesthetic considerations, per DMC 17.404.030;
3. The proposed tower s aesthetics would have negative impacts on the appeal and attractiveness of downtown Dundee and the applicant has failed to mitigate these impacts, in violation of DMC 17.404.030(A)(2). Just because the applicant throws more money into a “stealth” tree does not mean the negative impacts are mitigated, as required by the Code.
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7. Verizon doesn't need a cell tower in the heart of Dundee. Page 65 of the staff report shows that Verizon already has moderate to good cell service in Dundee.

8. There's an AT&T tower only 1.3 miles away from the proposed site and the applicant hasn't satisfied the DMC 17.203.170 requirement of providing written verification as to why co-location on the AT&T tower isn't feasible.

9. The #1 Statewide Land Use Planning Goal for the State of Oregon is citizen involvement. The Planning Commission has a duty to consider public input. As a Dundee resident, I don't want an unattractive 80ft cell tower in the heart of our beautiful City.

Sincerely,

Jennifer Matthiesen
21000 NE Big Fir Ln
Dundee, OR
Get [Outlook for iOS](#)

Melody Osborne

From: Whitney Shaw <whitney.shaw512@gmail.com> on behalf of Whitney Shaw <whitney@thekellygroup.com>
Sent: Thursday, June 25, 2020 2:26 PM
To: Melody Osborne
Subject: Please "say no" to Verizon cell tower

Dear Planning Commissioners:

I am a resident of Dundee and I'm asking that you DENY Verizon's cell tower application for the following reasons:

1. An 80-foot fake tree cell tower in the heart of Dundee would be unattractive and unappealing and would fail to meet the "aesthetic considerations" criteria of DMC 17.404.030(A)(1);
2. The Planning Commission must base its findings on ALL criteria, including aesthetic considerations, per DMC 17.404.030;
3. The proposed tower's aesthetics would have negative impacts on the appeal and attractiveness of downtown Dundee and the applicant has failed to mitigate these impacts, in violation of DMC 17.404.030(A)(2). Just because the applicant throws more money into a "stealth" tree does not mean the negative impacts are mitigated, as required by the Code.
4. The noise of the proposed tower and associated electrical cabinets would violate Dundee's nighttime noise requirements.
5. The tower would violate the purpose of the Public Zone. DMC 17.202.010(I) only allows uses in the Public Zone which don't "unreasonably disrupt" other areas of the community. The unattractiveness of the tower would disrupt the "attractive" downtown intended for the CBD by DMC 17.202.010(G).
6. The Oregon Land Use Board of Appeals (LUBA), the agency to whom the City's decision could eventually be appealed, has determined that a purpose statement imposes an "affirmative duty" on decision makers. Accordingly, the Commission has an affirmative duty to consider the fact that the proposed tower violates the purpose statement of the Public Zone.
7. Verizon doesn't need a cell tower in the heart of Dundee. Page 65 of the staff report shows that Verizon already has moderate to good cell service in Dundee.
8. There's an AT&T tower only 1.3 miles away from the proposed site and the applicant hasn't satisfied the DMC 17.203.170 requirement of providing written verification as to why co-location on the AT&T tower isn't feasible.
9. The #1 Statewide Land Use Planning Goal for the State of Oregon is citizen involvement. The Planning Commission has a duty to consider public input. As a Dundee resident, I don't want an unattractive 80ft cell tower in the heart of our beautiful City.

I am also a Verizon customer and have exceptional coverage in Dundee and surrounding areas. Adding a cell tower seems redundant. Please also consider the health of your community members. In good conscience, I can't imagine this is worth harming our citizens?

Thank you for your time and thorough consideration of this issue.

Regards,

Whitney Shaw
Dundee Citizen

Melody Osborne

From: Gretchen Boock <gretchen@winebyjoe.com>
Sent: Friday, June 26, 2020 9:26 AM
To: Melody Osborne
Subject: Cell Tower Rejection

Hi Melody- I hope you are well. Please forward my letter of opposition on to the City Planning Commissioners. Thank you!

Dear Planning Commissioners:

As the CEO of Dobbles Family Estate Winery, I know many local businesses like ours have worked hard to make Dundee an attractive, relaxing, and pleasant place for residents and visitors.

I'm asking that you DENY Verizon's cell tower application for the following reasons:

1. An 80-foot fake tree cell tower in the heart of Dundee would be unattractive and unappealing and would fail to meet the "aesthetic considerations" criteria of DMC 17.404.030(A)(1);
2. The Planning Commission must base its findings on ALL criteria, including aesthetic considerations, per DMC 17.404.030;
3. The proposed tower's aesthetics would have negative impacts on the appeal and attractiveness of downtown Dundee and the applicant has failed to mitigate these impacts, in violation of DMC 17.404.030(A)(2). Just because the applicant throws more money into a "stealth" tree does not mean the negative impacts are mitigated, as required by the Code;
4. The noise of the proposed tower and associated electrical cabinets would violate Dundee's nighttime noise requirements;
5. The tower would violate the purpose of the Public Zone. DMC 17.202.010(I) only allows uses in the Public Zone which don't "unreasonably disrupt" other areas of the community. The unattractiveness of the tower would disrupt the "attractive" downtown intended for the CBD by DMC 17.202.010(G);
6. The Oregon Land Use Board of Appeals (LUBA), the agency to whom the City's decision could eventually be appealed, has determined that a purpose statement imposes an "affirmative duty" on decision makers. Accordingly, the Commission has an affirmative duty to consider the fact that the proposed tower violates the purpose statement of the Public Zone;
7. Verizon doesn't need a cell tower in the heart of Dundee. Page 65 of the staff report shows that Verizon already has moderate to good cell service in Dundee;
8. There's an AT&T tower only 1.3 miles away from the proposed site and the applicant hasn't satisfied the DMC 17.203.170 requirement of providing written verification as to why co-location on the AT&T tower isn't feasible; and
9. The #1 Statewide Land Use Planning Goal for the State of Oregon is citizen involvement. The Planning Commission has a duty to consider public input. As a Dundee business owner, I don't want an unattractive 80ft cell tower in the heart of our beautiful City.

Regards,



Gretchen Boock | CEO

240 SE 5th Street • PO Box 517 • Dundee, OR 97115

Office: 503-538-1141 ext. 113

Cell: 503-537-8213

www.dobbesfamilyestate.com

www.winebyjoe.com



Join us in our new *Hideaway!*

Melody Osborne

From: dtbradshaw5@gmail.com
Sent: Friday, June 26, 2020 9:36 AM
To: Melody Osborne
Subject: Cell Tower

Dear Planning Commissioners:

I am a resident of Dundee and I'm asking that you DENY Verizon's cell tower application for the following reasons:

1. An 80-foot fake tree cell tower in the heart of Dundee would be unattractive and unappealing and would fail to meet the "aesthetic considerations" criteria of DMC 17.404.030(A)(1);
2. The Planning Commission must base its findings on ALL criteria, including aesthetic considerations, per DMC 17.404.030;
3. The proposed tower's aesthetics would have negative impacts on the appeal and attractiveness of downtown Dundee and the applicant has failed to mitigate these impacts, in violation of DMC 17.404.030(A)(2). Just because the applicant throws more money into a "stealth" tree does not mean the negative impacts are mitigated, as required by the Code.
4. The noise of the proposed tower and associated electrical cabinets would violate Dundee's nighttime noise requirements.
5. The tower would violate the purpose of the Public Zone. DMC 17.202.010(I) only allows uses in the Public Zone which don't "unreasonably disrupt" other areas of the community. The unattractiveness of the tower would disrupt the "attractive" downtown intended for the CBD by DMC 17.202.010(G).
6. The Oregon Land Use Board of Appeals (LUBA), the agency to whom the City's decision could eventually be appealed, has determined that a purpose statement imposes an "affirmative duty" on decision makers. Accordingly, the Commission has an affirmative duty to consider the fact that the proposed tower violates the purpose statement of the Public Zone.
7. Verizon doesn't need a cell tower in the heart of Dundee. Page 65 of the staff report shows that Verizon already has moderate to good cell service in Dundee.
8. There's an AT&T tower only 1.3 miles away from the proposed site and the applicant hasn't satisfied the DMC 17.203.170 requirement of providing written verification as to why co-location on the AT&T tower isn't feasible.
9. The #1 Statewide Land Use Planning Goal for the State of Oregon is citizen involvement. The Planning Commission has a duty to consider public input. As a Dundee resident, I don't want an unattractive 80ft cell tower in the heart of our beautiful City.

Melody Osborne

From: Sean Devine <seanmdevine@gmail.com>
Sent: Friday, June 26, 2020 9:20 AM
To: Melody Osborne
Subject: Please stop the Dundee cel tower.
Attachments: Stop the Dundee cel tower.pdf

Please consider not putting the potentially dangerous cel tower right in the middle of Dundee, next to a neighborhood.

Thank you,
Sean

--

Sean Devine
Big Brown Dog Inc.
cel - 310.962.2808

Dear Planning Commissioners:

I am a resident of Dundee and I'm asking that you DENY Verizon's cell tower application for the following reasons:

1. An 80-foot fake tree cell tower in the heart of Dundee would be unattractive and unappealing and would fail to meet the "aesthetic considerations" criteria of DMC 17.404.030(A)(1);
2. The Planning Commission must base its findings on ALL criteria, including aesthetic considerations, per DMC 17.404.030.
3. The proposed tower's aesthetics would have negative impacts on the appeal and attractiveness of downtown Dundee and the applicant has failed to mitigate these impacts, in violation of DMC 17.404.030(A)(2). Just because the applicant throws more money into a "stealth" tree does not mean the negative impacts are mitigated, as required by the Code.
4. The noise of the proposed tower and associated electrical cabinets would violate Dundee's nighttime noise requirements.
5. The tower would violate the purpose of the Public Zone. DMC 17.202.010(I) only allows uses in the Public Zone which don't "unreasonably disrupt" other areas of the community. The unattractiveness of the tower would disrupt the "attractive" downtown intended for the CBD by DMC 17.202.010(G).
6. The Oregon Land Use Board of Appeals (LUBA), the agency to whom the City's decision could eventually be appealed, has determined that a purpose statement imposes an "affirmative duty" on decision makers. Accordingly, the Commission has an affirmative duty to consider the fact that the proposed tower violates the purpose statement of the Public Zone.
7. Verizon doesn't need a cell tower in the heart of Dundee. Page 65 of the staff report shows that Verizon already has moderate to good cell service in Dundee.
8. There's an AT&T tower only 1.3 miles away from the proposed site and the applicant hasn't satisfied the DMC 17.203.170 requirement of providing written verification as to why co-location on the AT&T tower isn't feasible.
9. The #1 Statewide Land Use Planning Goal for the State of Oregon is citizen involvement. The Planning Commission has a duty to consider public input. As a Dundee resident, I don't want an unattractive 80ft cell tower in the heart of our beautiful City.

Sincerely,

Signature: 

Printed Name: SEAN DEVINE

Date: 6/26/2020

Address: 20805 NE BIG FIR LN Dundee, OR 97115

Melody Osborne

From: matt <stopdundeeceelltower@gmail.com>
Sent: Friday, June 26, 2020 8:12 AM
To: Melody Osborne
Subject: public comment submission for Planning Commission meeting
Attachments: signed letter.pdf

Hi Melody,

Can you please add the attached pdf to the record for the upcoming Planning Commission meeting regarding the proposed cell tower?

If you could email me back confirming you received this, that would be great.

Thanks,
Matt Frey

Dear Planning Commissioners:

I am a resident of Dundee and I'm asking that you DENY Verizon's cell tower application for the following reasons:

1. An 80-foot fake tree cell tower in the heart of Dundee would be unattractive and unappealing and would fail to meet the "aesthetic considerations" criteria of DMC 17.404.030(A)(1);
2. The Planning Commission must base it's findings on ALL criteria, including aesthetic considerations, per DMC 17.404.030.
3. The proposed tower's aesthetics would have negative impacts on the appeal and attractiveness of downtown Dundee and the applicant has failed to mitigate these impacts, in violation of DMC 17.404.030(A)(2). Just because the applicant throws more money into a "stealth" tree does not mean the negative impacts are mitigated, as required by the Code.
4. The noise of the proposed tower and associated electrical cabinets would violate Dundee's nighttime noise requirements.
5. The tower would violate the purpose of the Public Zone. DMC 17.202.010(I) only allows uses in the Public Zone which don't "unreasonably disrupt" other areas of the community. The unattractiveness of the tower would disrupt the "attractive" downtown intended for the CBD by DMC 17.202.010(G).
6. The Oregon Land Use Board of Appeals (LUBA), the agency to whom the City's decision could eventually be appealed, has determined that a purpose statement imposes an "affirmative duty" on decision makers. Accordingly, the Commission has an affirmative duty to consider the fact that the proposed tower violates the purpose statement of the Public Zone.
7. Verizon doesn't need a cell tower in the heart of Dundee. Page 65 of the staff report shows that Verizon already has moderate to good cell service in Dundee.
8. There's an AT&T tower only 1.3 miles away from the proposed site and the applicant hasn't satisfied the DMC 17.203.170 requirement of providing written verification as to why co-location on the AT&T tower isn't feasible.
9. The #1 Statewide Land Use Planning Goal for the State of Oregon is citizen involvement. The Planning Commission has a duty to consider public input. As a Dundee resident, I don't want an unattractive 80ft cell tower in the heart of our beautiful City.

Sincerely,

Signature: _____



Printed Name: _____

MATT FREY

Date: _____

6/26/20

Address: _____

809 SE ELM ST

Dundee, OR 97115

Melody Osborne

From: Ingrid Moriarty <ingrid@ifmphoto.com>
Sent: Friday, June 26, 2020 10:03 AM
To: Melody Osborne
Subject: Please stop cel tower

Please consider not adding the potentially dangerous cel tower in Dundee. It is not good for our health and will not be good for the home values in the nearby neighborhoods.

Thank you for your consideration.

Best,

Ingrid Moriarty
Dundee Citizen and Homeowner

Sent from my iPhone

www.ifmphoto.com
ingrid@ifmphoto.com
[323.829.6532](tel:323.829.6532)

Melody Osborne

From: susan ortloff <susan.ortloff@yahoo.com>
Sent: Friday, June 26, 2020 10:34 AM
To: Melody Osborne
Subject: Stop cell tower tree

Dear Planning Commissioners:

I'm a long time resident of Dundee and owner of Worden Hill Farm. We've worked hard to help make Dundee an attractive, relaxing and pleasant place for residents and visitors.

I'm asking that you DENY Verizon's cell tower application for the following reasons:

1. An 80-foot fake tree cell tower in the heart of Dundee would be unattractive and unappealing and would fail to meet the "aesthetic considerations" criteria of DMC 17.404.030(A)(1);
2. The Planning Commission must base it's findings on ALL criteria, including aesthetic considerations, per DMC 17.404.030;
3. The proposed tower's aesthetics would have negative impacts on the appeal and attractiveness of downtown Dundee and the applicant has failed to mitigate these impacts, in violation of DMC 17.404.030(A)(2). Just because the applicant throws more money into a "stealth" tree does not mean the negative impacts are mitigated, as required by the Code;
4. The noise of the proposed tower and associated electrical cabinets would violate Dundee's nighttime noise requirements;
5. The tower would violate the purpose of the Public Zone. DMC 17.202.010(I) only allows uses in the Public Zone which don't "unreasonably disrupt" other areas of the community. The unattractiveness of the tower would disrupt the "attractive" downtown intended for the CBD by DMC 17.202.010(G);
6. The Oregon Land Use Board of Appeals (LUBA), the agency to whom the City's decision could eventually be appealed, has determined that a purpose statement imposes an "affirmative duty" on decision makers. Accordingly, the Commission has an affirmative duty to consider the fact that the proposed tower violates the purpose statement of the Public Zone;
7. Verizon doesn't need a cell tower in the heart of Dundee. Page 65 of the staff report shows that Verizon already has moderate to good cell service in Dundee;
8. There's an AT&T tower only 1.3 miles away from the proposed site and the applicant hasn't satisfied the DMC 17.203.170 requirement of providing written verification as to why co-location on the AT&T tower isn't feasible; and
9. The #1 Statewide Land Use Planning Goal for the State of Oregon is citizen involvement. The Planning Commission has a duty to consider public input. As a Dundee business owner, I don't want an unattractive 80ft cell tower in the heart of our beautiful City.

Susan Ortloff
Worden Hill Farm
1305 SW 9th
Dundee, Or

Melody Osborne

From: Brooke Rapet <brookerapet@gmail.com>
Sent: Friday, June 26, 2020 11:59 AM
To: Melody Osborne
Subject: 2nd Letter Regarding Cell Tower

Dear Planning Commissioners:

I'm a resident of Dundee and a mom of a Dundee Elementary student. I'm asking that you DENY Verizon's cell tower application for the following reasons:

1. An 80-foot fake tree cell tower in the heart of Dundee would be unattractive and unappealing and would fail to meet the "aesthetic considerations" criteria of DMC 17.404.030(A)(1);
2. The Planning Commission must base its findings on ALL criteria, including aesthetic considerations, per DMC 17.404.030;
3. The proposed tower's aesthetics would have negative impacts on the appeal and attractiveness of downtown Dundee and the applicant has failed to mitigate these impacts, in violation of DMC 17.404.030(A)(2). Just because the applicant throws more money into a "stealth" tree does not mean the negative impacts are mitigated, as required by the Code;
4. The noise of the proposed tower and associated electrical cabinets would violate Dundee's nighttime noise requirements;
5. The tower would violate the purpose of the Public Zone. DMC 17.202.010(I) only allows uses in the Public Zone which don't "unreasonably disrupt" other areas of the community. The unattractiveness of the tower would disrupt the "attractive" downtown intended for the CBD by DMC 17.202.010(G);
6. The Oregon Land Use Board of Appeals (LUBA), the agency to whom the City's decision could eventually be appealed, has determined that a purpose statement imposes an "affirmative duty" on decision makers. Accordingly, the Commission has an affirmative duty to consider the fact that the proposed tower violates the purpose statement of the Public Zone;
7. Verizon doesn't need a cell tower in the heart of Dundee. Page 65 of the staff report shows that Verizon already has moderate to good cell service in Dundee;
8. There's an AT&T tower only 1.3 miles away from the proposed site and the applicant hasn't satisfied the DMC 17.203.170 requirement of providing written verification as to why co-location on the AT&T tower isn't feasible; and
9. The #1 Statewide Land Use Planning Goal for the State of Oregon is citizen involvement. The Planning Commission has a duty to consider public input. As a Dundee business owner, I don't want an unattractive 80ft cell tower in the heart of our beautiful City.

Thank you for your consideration,

Brooke Rapet

Melody Osborne

From: Cody Wright <cody@purplehandswine.com>
Sent: Friday, June 26, 2020 8:53 AM
To: Melody Osborne
Subject: Deny Verizon Cell Tower

Dear Planning Commissioners:

Please except this as my official letter in opposition of the cell tower.

I'm the owner of Purple Hands Winery on 99W in Dundee. We've worked hard to help make Dundee an attractive, relaxing and pleasant place for residents and visitors.

I'm asking that you DENY Verizon's cell tower application for the following reasons:

1. An 80-foot fake tree cell tower in the heart of Dundee would be unattractive and unappealing and would fail to meet the "aesthetic considerations" criteria of DMC 17.404.030(A)(1);
2. The Planning Commission must base it's findings on ALL criteria, including aesthetic considerations, per DMC 17.404.030;
3. The proposed tower's aesthetics would have negative impacts on the appeal and attractiveness of downtown Dundee and the applicant has failed to mitigate these impacts, in violation of DMC 17.404.030(A)(2). Just because the applicant throws more money into a "stealth" tree does not mean the negative impacts are mitigated, as required by the Code;
4. The noise of the proposed tower and associated electrical cabinets would violate Dundee's nighttime noise requirements;
5. The tower would violate the purpose of the Public Zone. DMC 17.202.010(I) only allows uses in the Public Zone which don't "unreasonably disrupt" other areas of the community. The unattractiveness of the tower would disrupt the "attractive" downtown intended for the CBD by DMC 17.202.010(G);
6. The Oregon Land Use Board of Appeals (LUBA), the agency to whom the City's decision could eventually be appealed, has determined that a purpose statement imposes an "affirmative duty" on decision makers. Accordingly, the Commission has an affirmative duty to consider the fact that the proposed tower violates the purpose statement of the Public Zone;
7. Verizon doesn't need a cell tower in the heart of Dundee. Page 65 of the staff report shows that Verizon already has moderate to good cell service in Dundee;
8. There's an AT&T tower only 1.3 miles away from the proposed site and the applicant hasn't satisfied the DMC 17.203.170 requirement of providing written verification as to why co-location on the AT&T tower isn't feasible; and
9. The #1 Statewide Land Use Planning Goal for the State of Oregon is citizen involvement. The Planning Commission has a duty to consider public input. As a Dundee business owner, I don't want an unattractive 80ft cell tower in the heart of our beautiful City.

Additional
Written
Public
Testimony
06.29.2020

Melody Osborne

From: Susan Baird <susan@bairdlawoffices.com>
Sent: Saturday, June 27, 2020 11:06 AM
To: Melody Osborne
Subject: Comment letter to Planning Commission re cell tower
Attachments: 2nd Letter to Dundee Planning Commission Opposing Verizon's Cell Tower 6.27.20.pdf

Hi Melody,

Please see my attached comment letter for the planning Commission. Please also include me in the list of people providing oral testimony at the Zoom hearing on 7/1.

Thank you,
Susan

[Susan Baird](#)
Attorney at Law

[Baird Law Office, LLC](#)
971-832-9044
P.O. Box 373
Dundee, OR 97115
susan@bairdlawoffices.com
www.bairdlawoffices.com

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Baird Law Office, LLC
P.O. Box 373, Dundee, OR 97115
susan@bairdlawoffices.com
971-832-9044

Dundee Planning Commission
Via email to: melody.osborne@dundeecity.org

June 27, 2020

Re: Type III Conditional Use Permit and Site Development Review
File No. CU 20-06/SDR 20-07 – Verizon Cell Tower (the “Application”)

Dear Planning Commissioners:

As a Dundee resident and business owner, I believe the Application should be denied for the following additional reasons:

1. An 80-foot cell tower in the heart of Dundee would violate the “aesthetic considerations” criteria of DMC 17.404.030(A)(1).

An 80-foot cell tower in the heart of Dundee is unattractive. Even with a “stealth” design, a huge, looming fake tree tower in the middle of our City is an unappealing eyesore that would, for up to 30 years (or more, if extended), mar the beauty of our downtown. Aesthetics matter – not only to the residents who live here and the businesses who thrive here, but also as a matter of law.

Aesthetics are so important that they are actually a “criteria” of conditional use permitting, but don’t just take my word for it – read Dundee Municipal Code (DMC) Section 17.404.030(A)(1):

“A. Use Criteria.

1. The site size, dimensions, location, topography and access are adequate for the needs of the proposed use, considering the proposed building mass, parking, traffic, noise, vibration, exhaust/emissions, light, glare, erosion, odor, dust, visibility, safety, and **aesthetic considerations**.” (emphasis added)

Because the proposed tower would greatly detract from the current aesthetic appeal of our City, the proposed location fails the “aesthetic considerations” criteria of DMC 17.404.030(A)(1).

2. The Planning Commission's decision must be based on aesthetic considerations.

The Dundee Code makes it clear that the Planning Commission's decision must be based on findings of fact with respect to all criteria. Aesthetic considerations are a criteria, so clearly the Commission's decision must be based on aesthetic considerations. DMC 17.404.030 states as follows:

"By means of a Type III procedure, the planning commission shall approve, approve with conditions or deny an application, including requests to enlarge or alter a conditional use, **based on findings of fact with respect to all of the criteria** and standards in subsections (A) through (C) of this section.

A. Use Criteria.

1. The site size, dimensions, location, topography and access are adequate for the needs of the proposed use, considering the proposed building mass, parking, traffic, noise, vibration, exhaust/emissions, light, glare, erosion, odor, dust, visibility, safety, and **aesthetic considerations.**" (emphasis added)

The DMC makes it patently clear that the Planning Commission's decision must be based on all criteria, including the criteria of aesthetic considerations.

"Criteria" is a significant requirement; it is not something the applicant can attempt, or throw money at, or just reasonably mitigate. Rather, Oregon courts have made it clear that "criteria" are the "yardstick against which the evidence [or legislation] is to be measured." *Application of Portland General Electric Co.*, [277 Or 447](#), 465, [561 P2d 154](#) (1977).

The concept of "criteria" is so important that it's written into our State land use law. Oregon Revised Statutes (ORS) 227.178(3)(a) states that decisions must be based on the applicable criteria: "approval or denial of the application **shall be based** upon the standards and **criteria** that were applicable at the time the application was first submitted."

Oregon state statutes and the Dundee Municipal Code explicitly require that the Planning Commission's decision be based on the applicable criteria. Under the DMC, "aesthetic considerations" are specifically listed as a "use criteria." Accordingly, your decision must be based on aesthetic considerations and you must determine whether it's appropriate to locate a hideous, 80-foot fake tree tower in the heart of Dundee, surrounded by a Central Business District whose stated purpose is to create an "attractive" downtown (see DMC 17.202.010.G), and vehemently opposed by a

great many of our residents and businesses. If you conclude, as so many of us have, that the location of the proposed tower is not appropriate given the “aesthetic considerations,” then you have both the authority and the duty, under Oregon law and the Dundee Code, to deny the Application for failure to satisfy the criteria of the aesthetic considerations.

3. The Application should be denied for failure to mitigate negative impacts under Code Section 17.404.030(A)(2).

The applicant has indicated that because the “stealth” version of the proposed tower would be so much more expensive, that this somehow satisfies the mitigation requirements of the Dundee Code. This is not the case. The Code does not allow a use simply because the applicant throws a lot of money at it or because the applicant proposes a design which would be less in violation of the aesthetic considerations than a cheaper alternative. A lesser violation is still a violation and you, Commissioners, do not have to choose between an ugly tower or an even uglier tower; you can (and should) deny the Application altogether.

Dundee Code Section 17.404.030(A) requires (1) that the location of the proposed use be adequate, given the “aesthetic considerations” and (2) that any negative impacts be mitigated. Specifically, DMC 17.404.030(A)(2) states as follows:

2. The negative impacts of the proposed use, if any, on adjacent properties and on the public can be mitigated through application of other code standards, or other reasonable conditions of approval.

Please note the Code requires that “any” negative impacts be mitigated. Mitigation may come in the form of application of code standards or reasonable conditions of approval. The conditions of approval may be reasonable, but the mitigation itself must be complete.

The applicant seems to have conflated these ideas. The applicant indicated that so long as its mitigation measures were “reasonable” (i.e., more expensive) this would satisfy the DMC, but this is not what the DMC says. The Dundee Code requires that any negative impacts be mitigated. Accordingly, making the 80-foot tower an even more expensive “stealth” tower in an attempt to make it less unattractive is not enough. An 80-foot stealth tower would still have negative aesthetic impacts on the surrounding properties and the beauty of our small town. Hence, the Application should be denied for failure to mitigate the negative aesthetic impacts under DMC Section 17.404.030(A)(2).

4. The Application should be denied because an 80-foot cell tower would violate the stated purpose of the Public Zone.

The purpose of the Public Zone, according to DMC Section 17.202.010(I), is as follows: “The P zone provides for public and semi-public uses, where such uses do not unreasonably disrupt or alter other areas of the community.”

An ugly 80-foot tower in the heart of downtown Dundee would unreasonably disrupt surrounding uses in the Central Business District (CBD), where our local businesses have worked so hard to create an attractive aesthetic for residents and visitors alike. The Dundee Code even requires that uses in the CBD create an “attractive” downtown. DMC 17.202.010(G) states: “The CBD zone is intended to promote pedestrian-oriented development in order to encourage a walkable and **attractive** downtown.”

The tower would be extremely unattractive (no matter how much money Verizon dumps into its supposedly “stealth” appearance”) and it would disrupt the attractive look and pedestrian-friendly flow of the businesses in the CBD. Taking a stroll through the tasting rooms, restaurants, and retail shops of downtown Dundee would be much less appealing with an 80-foot cell tower looming overhead. Accordingly, the proposed cell tower in the Public Zone should be denied because it would violate the stated purpose of the Public Zone.

5. The Public Zone’s purpose statement places an “affirmative duty” on the Planning Commission.

The Public Zone’s purpose statement is not insignificant; rather, the Oregon Land Use Board of Appeals (LUBA), the agency to whom the City’s decision could eventually be appealed, has determined that a municipal code’s purpose statement actually imposes an affirmative duty on decision-makers to consider its language.

For example, in the case *Concerned Homeowners Against the Fairways v. City of Creswell*, LUBA Nos. 2006-053, 2006-054, 52 Or LUBA 620, 628–629 (2006), *aff’d without opinion*, [210 Or App 467](#) (2007), LUBA stated that even though the purpose statement wasn’t worded as an approval criterion, it nonetheless imposed “additional affirmative duties” that the City had to fulfill. See also *Renaissance Development v. City of Lake Oswego*, LUBA No. 2003-031, 45 Or LUBA 312, 322–327 (2003) (remand required to determine meaning and role of purpose statement); *Freeland v. City of Bend*, LUBA No. 2003-059, 45 Or LUBA 125 (2003) (the purpose statement required that certain impacts be “considered”).

Accordingly, the purpose statement of Dundee’s Public Zone, allowing only uses which “do not unreasonably disrupt or alter other areas of the community” imposes “additional affirmative duties” on the Planning Commission. The Commission cannot

approve a use in the Public Zone which would violate the stated purpose of the Public Zone. The proposed 80 foot cell tower would most certainly disrupt the pleasant aesthetic and the “attractive” design requirements of the surrounding CBD; accordingly, the proposed project must be denied because it would violate the purpose statement of the Public Zone.

6. A Verizon cell tower is not needed in the proposed location because Verizon’s service is already “moderate” to “good.”

The applicant has indicated a cell tower is needed in the proposed location because Verizon cell service in the Dundee area is currently “poor,” yet Figure 4 of applicant’s own narrative shows coverage in Dundee without the proposed tower is already “moderate” (in yellow) to “good” (in green).

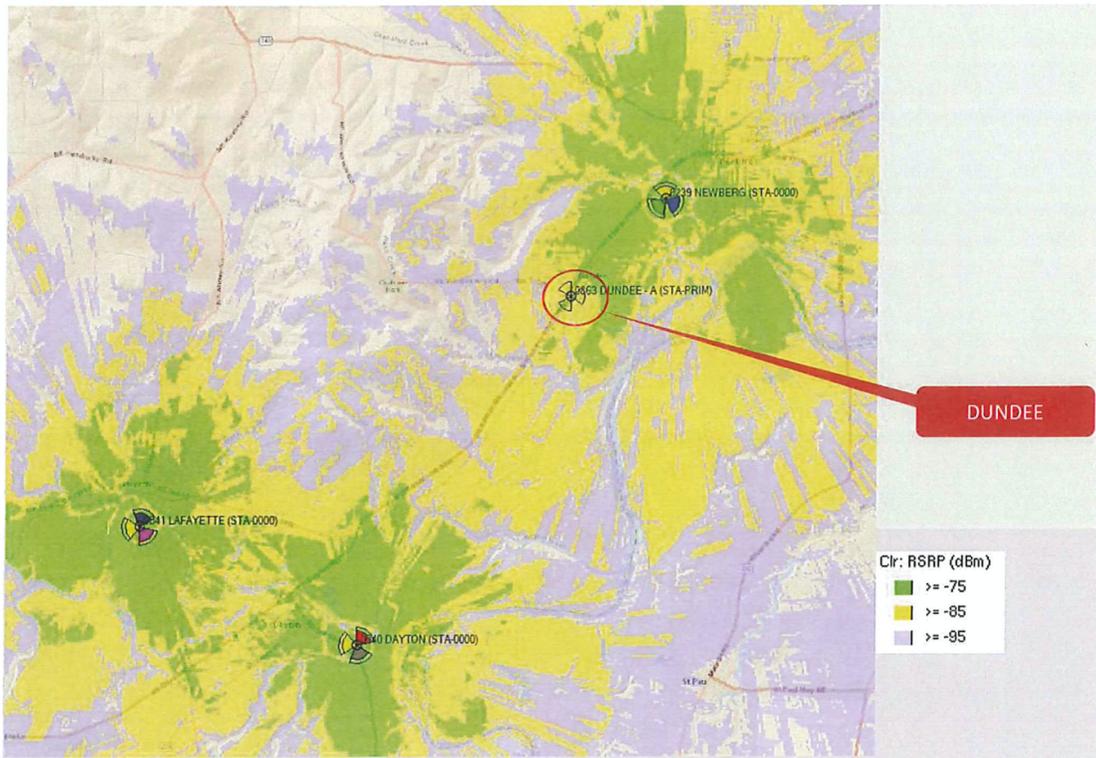
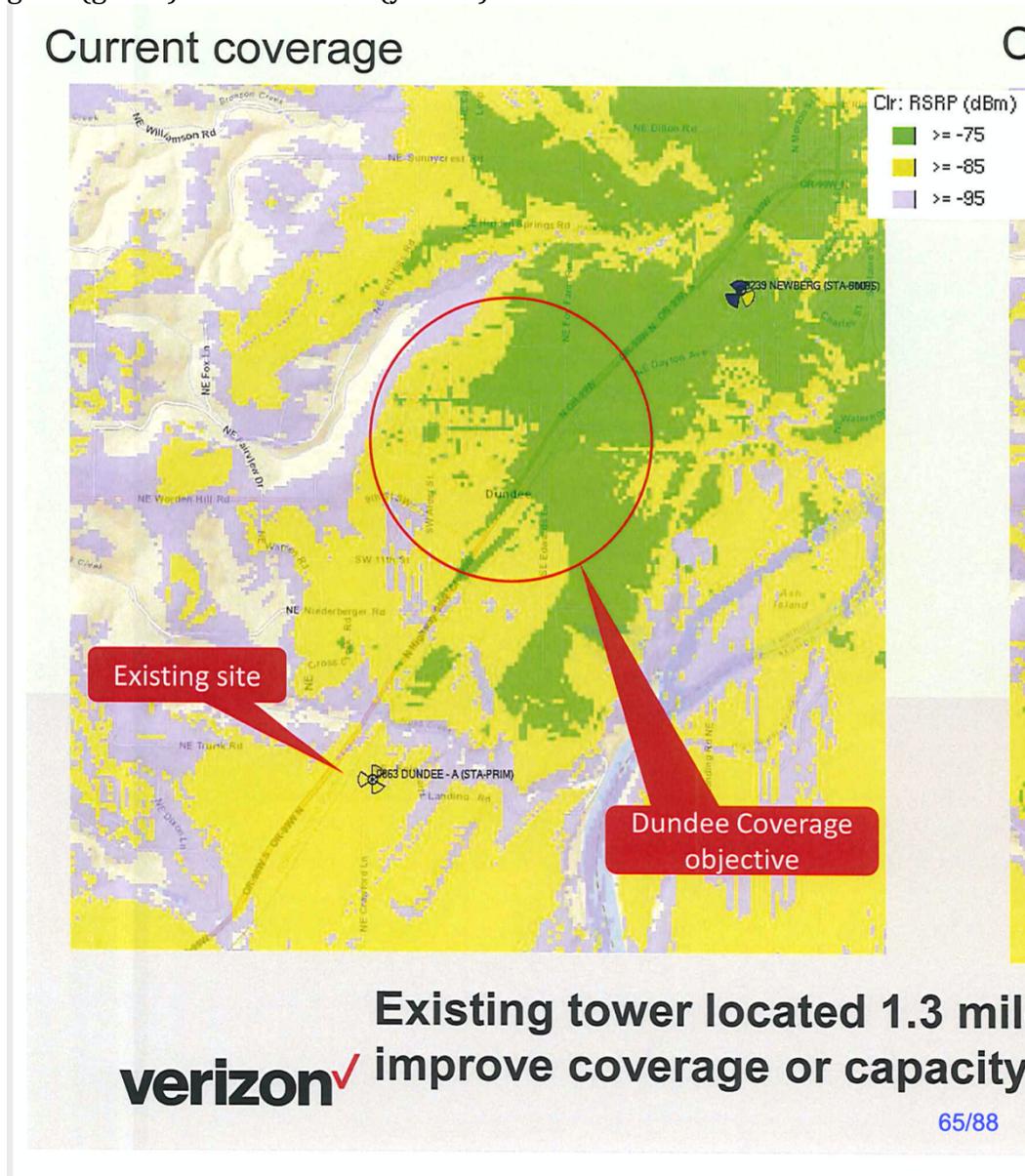


Figure 4 – Existing Coverage without the proposed site and area of RF Capacity Issue. Adjacent sites: Newberg, Dayton and Lafayette.

Coverage plots from Ertaz Islam of the Verizon Wireless System Design Network Department, detail the location of the new structure, current and anticipated coverage. A plot of the existing network coverage without the proposed site is shown above in Figure 4. The green represents a high RF signal strength which generally provides good coverage inside vehicles and buildings. Yellow represents moderate RF signal strength that generally provides good service inside vehicles and moderate service inside buildings. The mauve (purple) areas represent RF signals that generally provide weak quality of service particularly inside buildings, but fair service in vehicles or outdoor coverage.

Likewise, applicant's map on page 65 of the staff report shows Dundee as primarily good (green) and moderate (yellow).



Clearly, Verizon coverage in Dundee is already good to moderate and it's certainly better than Verizon coverage in outlying areas. Surely Verizon could find a more appropriate location where enhanced cell service is actually needed.

7. The Planning Commission must take public opinion into consideration.

The foundation of land use planning in Oregon is a set of 19 Statewide Land Use Planning Goals. Quite literally, the #1 goal is citizen involvement:

“Goal 1 is Citizen Involvement – including the public in the land use decision making processes is a hugely important part of successful planning.”¹ (emphasis added)

In Oregon, citizen involvement is not only “hugely important,” but it is also a mandatory component of every land use decision and this includes, specifically, decision-makers responding to public input:

“Public involvement is a required part of land use planning in Oregon. This requirement is one of the things that makes Oregon's land use planning program unique. The requirement for public participation is written in the first goal of nineteen in the statewide land use planning system.

Goal 1 calls for "the opportunity for citizens to be involved in all phases of the planning process." It requires each city and county to have a citizen involvement program that addresses: ... (5) Feedback mechanisms for policy-makers to respond to public input...”²

In other words, the Planning Commission must consider public input and provide feedback on that input. There’s a reason that the State of Oregon has made citizen involvement the #1 goal of land use planning – public opinion matters.

8. Conclusion.

In conclusion, the Planning Commission has the authority to deny the Application (i) for failure to satisfy the “criteria” of “aesthetic considerations” under DMC 17.404.030(A)(1), (ii) for failure to mitigate all negative impacts of the proposed project under DMC 17.404.030(A)(2), and (iii) for violation of the stated purpose of the Public Zone, under DMC 17.202.010(I).

In addition, under the #1 land use planning goal for the State of Oregon, the Planning Commission has the duty to take into account the “hugely important” component of public input. The residents and businesses of Dundee have flooded you with comments because we don’t want an ugly, 80-foot tower in the middle of our beautiful town. So, we ask that you, Commissioners, fulfill your obligations under the DMC, the ORS, and the statewide land use planning goals, and deny the Application.

¹ See Oregon Planning at <https://www.oregon.gov/lcd/OP/Pages/index.aspx>

² See Oregon Planning, Goal 1 – Citizen Involvement at <https://www.oregon.gov/lcd/OP/Pages/Goal-1.aspx>

Melody Osborne

From: Jamie Davis <jamielavis423@gmail.com>
Sent: Saturday, June 27, 2020 9:14 PM
To: Melody Osborne
Subject: Letter to oppose cell tower
Attachments: Cell phone tower opposition letter.pdf

Hi Melody,

Please find my attached letter in opposition to the proposed cell tower in Dundee. Please forward to the commissioners. Thank you very much.

Jamie Davis

Dear Planning Commissioners:

I am a resident of Dundee and I'm asking that you DENY Verizon's cell tower application for the following reasons:

1. An 80-foot fake tree cell tower in the heart of Dundee would be unattractive and unappealing and would fail to meet the "aesthetic considerations" criteria of DMC 17.404.030(A)(1);
2. The Planning Commission must base its findings on ALL criteria, including aesthetic considerations, per DMC 17.404.030.
3. The proposed tower's aesthetics would have negative impacts on the appeal and attractiveness of downtown Dundee and the applicant has failed to mitigate these impacts, in violation of DMC 17.404.030(A)(2). Just because the applicant throws more money into a "stealth" tree does not mean the negative impacts are mitigated, as required by the Code.
4. The noise of the proposed tower and associated electrical cabinets would violate Dundee's nighttime noise requirements.
5. The tower would violate the purpose of the Public Zone. DMC 17.202.010(I) only allows uses in the Public Zone which don't "unreasonably disrupt" other areas of the community. The unattractiveness of the tower would disrupt the "attractive" downtown intended for the CBD by DMC 17.202.010(G).
6. The Oregon Land Use Board of Appeals (LUBA), the agency to whom the City's decision could eventually be appealed, has determined that a purpose statement imposes an "affirmative duty" on decision makers. Accordingly, the Commission has an affirmative duty to consider the fact that the proposed tower violates the purpose statement of the Public Zone.
7. Verizon doesn't need a cell tower in the heart of Dundee. Page 65 of the staff report shows that Verizon already has moderate to good cell service in Dundee.
8. There's an AT&T tower only 1.3 miles away from the proposed site and the applicant hasn't satisfied the DMC 17.203.170 requirement of providing written verification as to why co-location on the AT&T tower isn't feasible.
9. The #1 Statewide Land Use Planning Goal for the State of Oregon is citizen involvement. The Planning Commission has a duty to consider public input. As a Dundee resident, I don't want an unattractive 80ft cell tower in the heart of our beautiful City.

Sincerely,

Signature:  _____

Printed Name: Jamie Davis

Date: 6/27/2020

Address: 175 SW Hemlock Street Dundee, OR 97115

Melody Osborne

From: Pamela Donaldson <planedon2@yahoo.com>
Sent: Saturday, June 27, 2020 6:29 PM
To: Melody Osborne
Subject: Letters of opposition to cell tower
Attachments: Scan_20200627 (2).png; Scan_20200627.png

Enclosed find two scans of our letters. We have looked at the cell tower. I don't think it looks bad. The problem with it is there are no other trees nearby to make it look more natural. I think it shouldn't be right on main st, but further back from road and hopefully in an area of at least scattered Doug Firs to make it fit in. It's very isolation makes it very noticeable.

Thank you,

Pamela Lane and Kelton E. Donaldson
Dundee

Dear Planning Commissioners:

I am a resident of Dundee and I'm asking that you DENY Verizon's cell tower application for the following reasons:

1. An 80-foot fake tree cell tower in the heart of Dundee would be unattractive and unappealing and would fail to meet the "aesthetic considerations" criteria of DMC 17.404.030(A)(1);
2. The Planning Commission must base it's findings on ALL criteria, including aesthetic considerations, per DMC 17.404.030.
3. The proposed tower's aesthetics would have negative impacts on the appeal and attractiveness of downtown Dundee and the applicant has failed to mitigate these impacts, in violation of DMC 17.404.030(A)(2). Just because the applicant throws more money into a "stealth" tree does not mean the negative impacts are mitigated, as required by the Code.
4. The noise of the proposed tower and associated electrical cabinets would violate Dundee's nighttime noise requirements.
5. The tower would violate the purpose of the Public Zone. DMC 17.202.010(I) only allows uses in the Public Zone which don't "unreasonably disrupt" other areas of the community. The unattractiveness of the tower would disrupt the "attractive" downtown intended for the CBD by DMC 17.202.010(G).
6. The Oregon Land Use Board of Appeals (LUBA), the agency to whom the City's decision could eventually be appealed, has determined that a purpose statement imposes an "affirmative duty" on decision makers. Accordingly, the Commission has an affirmative duty to consider the fact that the proposed tower violates the purpose statement of the Public Zone.
7. Verizon doesn't need a cell tower in the heart of Dundee. Page 65 of the staff report shows that Verizon already has moderate to good cell service in Dundee.
8. There's an AT&T tower only 1.3 miles away from the proposed site and the applicant hasn't satisfied the DMC 17.203.170 requirement of providing written verification as to why co-location on the AT&T tower isn't feasible.
9. The #1 Statewide Land Use Planning Goal for the State of Oregon is citizen involvement. The Planning Commission has a duty to consider public input. As a Dundee resident, I don't want an unattractive 80ft cell tower in the heart of our beautiful City.

Sincerely,

Signature: Keston E. Donaldson

Printed Name: KESTON E. DONALDSON

Date: JUNE 27, 2020

Address: 6995 CROSSCREEK RD

Dundee, OR 97115

Dear Planning Commissioners:

I am a resident of Dundee and I'm asking that you DENY Verizon's cell tower application for the following reasons:

1. An 80-foot fake tree cell tower in the heart of Dundee would be unattractive and unappealing and would fail to meet the "aesthetic considerations" criteria of DMC 17.404.030(A)(1);
2. The Planning Commission must base it's findings on ALL criteria, including aesthetic considerations, per DMC 17.404.030.
3. The proposed tower's aesthetics would have negative impacts on the appeal and attractiveness of downtown Dundee and the applicant has failed to mitigate these impacts, in violation of DMC 17.404.030(A)(2). Just because the applicant throws more money into a "stealth" tree does not mean the negative impacts are mitigated, as required by the Code.
4. The noise of the proposed tower and associated electrical cabinets would violate Dundee's nighttime noise requirements.
5. The tower would violate the purpose of the Public Zone. DMC 17.202.010(I) only allows uses in the Public Zone which don't "unreasonably disrupt" other areas of the community. The unattractiveness of the tower would disrupt the "attractive" downtown intended for the CBD by DMC 17.202.010(G).
6. The Oregon Land Use Board of Appeals (LUBA), the agency to whom the City's decision could eventually be appealed, has determined that a purpose statement imposes an "affirmative duty" on decision makers. Accordingly, the Commission has an affirmative duty to consider the fact that the proposed tower violates the purpose statement of the Public Zone.
7. Verizon doesn't need a cell tower in the heart of Dundee. Page 65 of the staff report shows that Verizon already has moderate to good cell service in Dundee.
8. There's an AT&T tower only 1.3 miles away from the proposed site and the applicant hasn't satisfied the DMC 17.203.170 requirement of providing written verification as to why co-location on the AT&T tower isn't feasible.
9. The #1 Statewide Land Use Planning Goal for the State of Oregon is citizen involvement. The Planning Commission has a duty to consider public input. As a Dundee resident, I don't want an unattractive 80ft cell tower in the heart of our beautiful City.

Sincerely,

Signature: Pamela Lane Donaldson

Printed Name: Pamela Lane Donaldson

Date: 27 June 2020

Address: 6995 NE CROSS CREEK RD Dundee, OR 97115

Melody Osborne

From: David Ford <davidford27@gmail.com>
Sent: Saturday, June 27, 2020 9:20 AM
To: Melody Osborne
Subject: Letter to Planning Commission - Opposing the Verizon Cell Tower Application
Attachments: Ford_Letter Opposing Verizon Cell Tower Application_27_June2020.pdf

Melody:

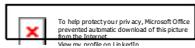
Attached is a letter to the Planning Commission regarding the Verizon cell tower application. Please provide this to the Planning Commission members prior to their meeting on July 1.

Thank you,
David Ford

--

David A. Ford
Principal

L&C Carbon
a division of Jory Resources Inc.
710 SW Carmen Heights Drive
Dundee, OR 97115
503-449-6957
davidford27@gmail.com



To help protect your privacy, Microsoft Office prevented automatic download of this picture from the Internet.

<https://www.linkedin.com/pub/david-ford/0/741/39b>

June 27, 2020

Dear Planning Commissioners:

We are residents of Dundee and we urge you to DENY Verizon's cell tower application for the following reasons:

1. An 80-foot fake tree cell tower in the heart of Dundee would be unattractive and unappealing and would fail to meet the "aesthetic considerations" criteria of DMC 17.404.030(A)(1), as well as be consistent with the goals of the Dundee Urban Renewal Agency's goals.

As a citizen member of the Dundee Budget Committee and the Dundee Urban Renewal Agency Budget Committee (David Ford), the proposed massive cell tower in the middle of our downtown core is in direct conflict with the investments we are making to beautify our downtown core, make it more attractive, welcoming and safe, as well as to attract new commercial investment consistent with the Dundee master plan goals.

2. The Planning Commission must base its findings on ALL criteria, including aesthetic considerations, per DMC 17.404.030.

3. The proposed tower's aesthetics would have negative impacts on the appeal and attractiveness of downtown Dundee and the applicant has failed to mitigate these impacts, in violation of DMC 17.404.030(A)(2). Dressing up the huge cell tower does not mean the negative impacts are mitigated, as required by the Code.

4. It is our understanding that the noise of the proposed tower and associated electrical cabinets would violate Dundee's nighttime noise requirements.

5. The tower would violate the purpose of the Public Zone. DMC 17.202.010(I) only allows uses in the Public Zone which do not "unreasonably disrupt" other areas of the community. The unattractiveness of the tower would disrupt the "attractive" downtown intended for the CBD by DMC 17.202.010(G) and is in direct conflict with the Dundee Urban Renewal Agency goals for the downtown core.

6. The Oregon Land Use Board of Appeals (LUBA), the agency to whom the City's decision could eventually be appealed, has determined that a purpose statement imposes an "affirmative duty" on decision makers. Accordingly, the Commission has an affirmative duty to consider the fact that the proposed tower violates the purpose statement of the Public Zone.

7. Verizon does not need a cell tower in the downtown Dundee core. Page 65 of the staff report shows that Verizon already has moderate to good cell service in Dundee. We are Verizon customers and our cell service is very good in and all around Dundee.

8. There is an AT&T tower only 1.3 miles away from the proposed site and the applicant hasn't satisfied the DMC 17.203.170 requirement of providing written verification as to why colocation on the AT&T tower isn't feasible.

9. The #1 Statewide Land Use Planning Goal for the State of Oregon is citizen involvement. The Planning Commission has a duty to consider public input.

As Dundee residents, we do not want an unattractive 80ft cell tower in the heart of our beautiful City. We urge you to deny the Verizon cell tower application.

Sincerely,

A handwritten signature in black ink, appearing to read "David and Jen Ford". The signature is fluid and cursive, with the first name "David" being the most prominent.

David and Jen Ford
710 SW Carmen Heights Dr
Dundee, OR 97115

Melody Osborne

From: Rebecca Ponzi <rebecca@ponzi-international.com>
Sent: Saturday, June 27, 2020 4:15 PM
To: Melody Osborne
Subject: Citizen Input - NO CELL TOWER IN DUNDEE

Dear Planning Commissioners,

As owners of The Dundee Bistro, we have dedicated over 20 years to help make Dundee an attractive and wonderful place to live and work by investing considerable resources back into our local businesses and community. We recently learned of the 80 foot Verizon cell tower application that is up for consideration on the parcel next to the Dundee Fire Station. We strongly oppose to the location of the cell tower that is in the heart of Dundee and are asking you to DENY Verizon's application.

We object to allowing the construction of the cell tower due to long term ramifications it will have on our community in Dundee. This decision could forever shape the direction of its future to attract viable businesses and families to call Dundee home. We do not believe that an approval for the cell tower in the center of Dundee can be justified to residents and business leaders as it is not in the best interest of the community, nor its future. The Planning Commission has a duty and is obligated to consider public input and citizen involvement according to the State of Oregon. As leading Dundee business owners, we don't want an unattractive 80-foot cell tower in the heart of our town.

Allowing an 80-foot cell tower to be erected in the center of Dundee will cripple the opportunity to create a viable and attractive downtown area. It will limit possibilities with business opportunities on and near that property as well as diminish the desire to be in Dundee as a business owner, resident or visitor. Essentially, it is amputating a portion of downtown Dundee if the cell tower is erected. It will have negative, long-term financial effects on the City, therefore, have negative effects on residents and businesses.

Dundee is the gateway to Oregon's prestigious wine region, thriving agricultural area and growing adventure sport enterprises. It's unique location to many wineries and outdoor activities offer tremendous potential to expand and evolve into an active and liveable downtown community. Young families are moving to Dundee for these reasons and we have health and "liveability" as a top priority concern for our neighbors due to the proximity of the tower. Dundee, as a tourist destination, will be marred with the tower as it would be an ugly distraction from all the beauty that surrounds the area and fails to meet the "aesthetic considerations" criteria of DMC 17.404.030(A)(1). Furthermore, Dundee residents would have to endure ongoing light and noise pollution from the added (unnecessary) technology infrastructure.

Please do not approve the cell tower to be constructed in the heart of this community. We have so much more we can do that would make a positive impact in Dundee. It's a beautiful place to live and work, let's keep it that way. NO CELL TOWER.

Thank you for your consideration.

Sincerely,

Michel and Rebecca Ponzi

Rebecca Ponzi



us: 503-438-6860 eu: 393459155590 w: ponzi-international.com
rebecca@ponzi-international.com



Melody Osborne

From: Jennifer Sitter <jensitter@gmail.com>
Sent: Saturday, June 27, 2020 8:11 AM
To: Melody Osborne
Subject: DENY Verizon's cell tower application

Dear Planning Commissioners:

I'm a Dundee resident and part owner of the Market Lofts in Dundee. We've worked hard to help make Dundee an attractive, relaxing, and pleasant place for residents and visitors.

I'm asking that you DENY Verizon's cell tower application for the following reasons:

1. An 80-foot fake tree cell tower in the heart of Dundee would be unattractive and unappealing and would fail to meet the "aesthetic considerations" criteria of DMC 17.404.030(A)(1);
2. The Planning Commission must base its findings on ALL criteria, including aesthetic considerations, per DMC 17.404.030;
3. The proposed tower's aesthetics would have negative impacts on the appeal and attractiveness of downtown Dundee and the applicant has failed to mitigate these impacts, in violation of DMC 17.404.030(A)(2). Just because the applicant throws more money into a "stealth" tree does not mean the negative impacts are mitigated, as required by the Code;
4. The noise of the proposed tower and associated electrical cabinets would violate Dundee's nighttime noise requirements;
5. The tower would violate the purpose of the Public Zone. DMC 17.202.010(I) only allows uses in the Public Zone which don't "unreasonably disrupt" other areas of the community. The unattractiveness of the tower would disrupt the "attractive" downtown intended for the CBD by DMC 17.202.010(G);
6. The Oregon Land Use Board of Appeals (LUBA), the agency to whom the City's decision could eventually be appealed, has determined that a purpose statement imposes an "affirmative duty" on decision makers. Accordingly, the Commission has an affirmative duty to consider the fact that the proposed tower violates the purpose statement of the Public Zone;
7. Verizon doesn't need a cell tower in the heart of Dundee. Page 65 of the staff report shows that Verizon already has moderate to good cell service in Dundee;
8. There's an AT&T tower only 1.3 miles away from the proposed site and the applicant hasn't satisfied the DMC 17.203.170 requirement of providing written verification as to why co-location on the AT&T tower isn't feasible; and
9. The #1 Statewide Land Use Planning Goal for the State of Oregon is citizen involvement. The Planning Commission has a duty to consider public input. As a Dundee business owner, I don't want an unattractive 80ft cell tower in the heart of our beautiful City.

Sincerely,

Jennifer Sitter

--

www.pulp-circumstance.com

[facebook](#)

[instagram](#)

Melody Osborne

From: Camille Kern Bahar <camille.j.kern@gmail.com>
Sent: Sunday, June 28, 2020 8:48 PM
To: Melody Osborne
Cc: Bahar, Raja
Subject: Cell Tower Opposition
Attachments: EMF What You Need to Know.pdf

Dear Planning Commissioners,

I am writing to you to express my deep concern for the potential plans of a cell tower in Dundee. I have grown up in the area, as have my parents and grandparents, and knew that this is where I want to raise a family. That said, when my husband and I began looking to buy our first home, we were appalled at how many new cell towers are marring what were once beautiful rural Oregon towns. We were hoping to live in Newberg or Dundee, but because of the monopine tower in Newberg, we felt that our health was at risk and that downtown Newberg was not an option for us anymore. We believed that Dundee had integrity and commitment to the health and wellbeing of its citizens- continued plans to beautify the downtown district, clean water, support of local businesses and outdoor activities, and most importantly, no cell phone towers near neighborhoods. We are closing on our home in Dundee in just two days and are completely taken aback, disappointed, and worried (to say the least) to see this meeting regarding cell tower plans on the agenda.

A cell tower in Dundee is extremely concerning for the following reasons:

- The FCC has not updated EMF (electromagnetic field) safety standards since 1996, even though cell phone technology has grown in power and complexity.
- Safety standards have only been developed with consideration to short-term thermal effects of EMF radiation on the body. Biological implications of long term EMF radiation exposure have not been considered or adequately measured.
- Cell phone radiation has been deemed “possibly carcinogenic to humans” by the World Health Organization and is classified in the same category as DDT, lead, chloroform, exhaust, and glyphosate.
- Even if this is a 4G tower, it opens up the door for Verizon to add 5G transmitters to the tower in the future, blanketing Dundee with an additional layer of wireless radiation (5G is a drastically higher frequency and over 200 doctors and scientist have issued a declaration for a moratorium on the increase of 5G antennas citing human health effects and impacts on wildlife).
- Most people in the United States are unaware that once a tower is built, it can go *up to 20 feet higher* with no public process due to the passing of Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012.
- Studies show property values drop up to 20% on homes near cell towers.
- Plans to develop downtown Dundee will be thrown out the window, as a cell tower (monopine or not) will ruin the charming aesthetic that Dundee is working so hard to build upon. As a small business owner myself, I would be completely turned-off from having a storefront in Dundee because of this.

For the sake of citizen health, the future of city development, and the support of local businesses, I urge you to stand strong against tech-giants like Verizon and do NOT let this cell tower be installed in our beloved city of Dundee. It is an action that cannot be undone.

Please see the below link to a United States Senate Commerce Hearing, where wireless carriers concede that they are not aware of any independent 5G safety studies. Senator Blumenthal concluded “So there really is no research ongoing. We’re kind of flying blind here, as far as health and safety is concerned.”

<https://www.youtube.com/watch?v=hsi3VQE5K4&app=desktop>

Further studies regarding the safety of wireless radiation:

<https://ehtrust.org/science/top-experimental-epidemiological-studies/>

In response to the notes from the last meeting with Verizon where Mr. Connors stated that Verizon needs tangible evidence that property values would be effected, please see the links below. In addition, my husband and I are living proof of property value decreasing because of a cell tower, as we had completely ruled out any neighborhoods with towers nearby.

<https://ehtrust.org/wp-content/uploads/Cell-Towers-Home-Values.pdf>

<https://gattonweb.uky.edu/Faculty/blomquist/LE%202016%20Locke%20Blomquist%20towers.pdf>

<https://magazine.realtor/daily-news/2014/07/25/cell-towers-antennas-problematic-for-buyers>

I have also attached a PDF with further information regarding 5G and “small” cell transmitters.

I (Camille Bahar) would like to testify at the meeting on July 1st and hope that the information and links provided here are communicated with the Planning Commissioners.

Thank you,

Camille and Raja Bahar

What You Need To Know About 5G Wireless and “Small” Cells

“We recommend a moratorium on the roll-out of the fifth generation, 5G, for telecommunication until potential hazards for human health and the environment have been fully investigated by scientists independent from industry...RF-EMF has been proven to be harmful for humans and the environment.”

— 2017 5G Scientific Appeal (signed by more than 200 scientists and doctors from 35 countries)

Nationwide, communities are being told by wireless companies that it is necessary to build “small cell” wireless facilities in neighborhoods on streetlight and utility poles in order to offer 5G, a new technology that will connect the Internet of Things (IoT). At the local, state, and federal level, new legislation and new zoning aim to streamline the installation of these 5G “small cell” antennas in public rights-of-way.

The radiation from small cells is not small: Wireless antennas emit microwaves — non-ionizing radiofrequency radiation — and essentially function as cell towers. Each installation can have over a thousand antennas that are transmitting simultaneously.

Millions of small cells to be built in front yards: The Federal Communications Commission estimates that millions of these wireless transmitters will be built in our rights-of-way, directly in front of our homes.

5G will add to — not replace — our current wireless technology: 5G will not only utilize current 3G and 4G wireless frequencies already in use but also add higher frequency — submillimeter and millimeter waves — in order to transmit data at superfast speeds.

Community authority is overruled: Communities are being stripped of their right to make decisions about this new technology. “Streamlining” means almost automatic approval. Public notice and public hearings are being eliminated. Even if every homeowner on the block opposes the antennas on their street, the opposition will be disregarded.

Scientists worldwide are calling for a halt to the 5G Roll-out: Over 200 scientists and doctors issued a declaration calling for a moratorium on the increase of 5G cell antennas citing human health effects and impacts to wildlife.

[Read the 2017 Scientific Appeal on 5G To the European Commission](#)

[Read the 2015 EMF Scientist Appeal to the United Nations](#)

[Read Letters From Dozens of Scientists on Health Risks of 5G](#)

Cumulative daily radiation exposure poses serious public health risks: Peer reviewed, published science indicates that exposures to wireless radiation can increase cancer risk, alter brain development and damage sperm. Most people are unaware that wireless technology was never tested for long-term safety, that children are more vulnerable and that the accumulated scientific evidence shows harm.

Decreased property values: Studies show property values drop up to 20% on homes near cell towers. Would you buy a home with a mini cell tower in the yard? [Read research showing decreased property value from cell towers near homes.](#)

Microwave antennas in front yards present several worker and public safety issues: Unions have already filed comments that workers were injured, unaware they were working near transmitting antennas. How will HVAC workers, window washers, and tree cutters be protected? The heavy large equipment cabinets mounted on poles along our sidewalks also present new hazards. Cars run into utility poles, often, what then? [US Dept of Labor letters on cell tower safety](#)

Fiber is the safe alternative: Worldwide, many regions are investing in wired fiberoptic connections which are safer, faster, more reliable, provide greater capacity, and are more cyber-secure. Read [“Re-Inventing Wires: The Future of Landlines and Networks,”](#) by the National Institute for Science, Law & Public Policy

www.ehtrust.org

All text in this document in blue is hyperlinked to resources for more information.

Please also see <https://ehtrust.org/factsheet-need-know-5g-small-cells-science-policy-public-health/> for additional resources.

KEY RESEARCH AND REPORTS

5G Frequencies Are Absorbed Into the Skin

Physicists found that the higher millimeter frequencies intended for 5G use are preferentially absorbed into the sweat duct at much higher rates than other organ tissues. Read two published studies "[The Modeling of the Absorbance of the Sub-THz Radiation by Human Skin](#)." [The human skin as a sub-THz receiver – Does 5G pose a danger to it or not?](#) Paul Ben-Ishai, PhD Lecture.

5G Frequencies Are Used As Weapons

Millimeter frequencies have the capacity to cause a severe burning sensation in the skin and are used by the U.S. Department of Defense in [crowd control guns](#) called [Active Denial Systems](#).

Landmark US National Toxicology Program (NTP) Study Finds "Clear Evidence of Cancer" and DNA Damage

The NTP [studies found](#) male rats exposed for two years to cell phone radiation developed significantly increased gliomas (brain cancer) and schwann cell tumors, the very same types of tumors increased in long-term human cell phone users. NIH/NTP [presentation on DNA](#) results states "exposure to RFR has the potential to induce measurable DNA damage under certain exposure conditions." [Press Coverage](#), [Peer Review Report](#)

Cell Tower Radiation is Linked To Damage in Human Blood

A published study compared people living close and far from cell antennas and found people living closer to cellular antennas had changes in blood that predicts cancer development. Read [Zothansiamia et al, 2017](#). Read a [Compilation of Research on Cell Tower Radiation](#)

Published Scientific Review on 5G Finds Adverse Effects

Scientific literature documents evidence of nonthermal cellular damage from wireless radiation used in telecommunications to DNA integrity, cellular membranes, gene expression, protein synthesis, neuronal function, the blood brain barrier, melatonin production, sperm damage and immune dysfunction. [Russell 2018](#)

Cellular Radiation Negatively Impacts Birds and Bees

Published research finds the frequencies alter bird navigation and disturb honeybee colonies. [Research on EMF and Bees](#). [Research on Wildlife](#)

RESOURCES

[Research on 5G and Cell Tower Radiation](#)

[A 5G Wireless Future: Will it give us a smart nation or contribute to an unhealthy one?](#) Santa Clara Medical Association Bulletin, Cindy Russell MD, 2017

[Letters by Scientists in Opposition To 5G Research on Cell Tower Radiation, 2017](#)

[Biological Effects from Exposure to Electromagnetic Radiation Emitted by Cell Tower Base Stations and Other Antenna Arrays, Levitt and Lai, 2010](#)

[Radiofrequency radiation injures trees around mobile phone base stations, Waldmann-Selsam et al, 2016](#)

[Department of Interior Letter on the Impact of Cell Towers on Migratory Birds, Willie R. Taylor Director, Office of Environmental Policy and Compliance, 2014](#)

[Anthropogenic radiofrequency electromagnetic fields as an emerging threat to wildlife orientation, Balmori, 2015](#)

[Briefing Memorandum On The Impacts from Thermal and Non-thermal Non-ionizing Radiation to Birds and Other Wildlife, Manville, 2016](#)

[Database of Worldwide International Policy To Reduce EMF](#)

[Youtube Scientific Videos on 5G](#)

TAKE ACTION

Contact local, state and federal elected officials in person.

Share this information with your friends, family and community.

Ask for government policy that reduces RFR exposure to the public.

Citizens in all states must organize and take action to halt legislation that increases cell antennas in neighborhoods.

LEARN MORE

[Federal Legislation To Know](#)

[US States With Streamlining Bills](#)

5G Small Cell Antennas To Be Placed On:

- Street lights
- Trashcans
- Utility poles
- Bus stops
- Sides of buildings

5 Reasons Why Small Cells Are Not Small

- Increased radiation near homes
- Refrigerator-sized equipment cabinet
- Drop in property values
- Taller poles
- Fixtures weigh hundreds of pounds

Crown Castle's 2016 10-K Annual Report says:

"If radio frequency emissions from wireless handsets or equipment on our wireless infrastructure are demonstrated to cause negative health effects, potential future claims could adversely affect our operations, costs or revenues... We currently do not maintain any significant insurance with respect to these matters."

[Read warnings](#) from Crown Castle, Verizon and other wireless companies.

The American Academy of Pediatrics says:

"An Egyptian study confirmed concerns that living nearby mobile phone base stations increased the risk for developing:

- Headaches
- Memory problems
- Dizziness
- Depression
- Sleep problems"

[AAP on Cell Towers](#)

Letter from oncologist Lennart Hardell MD & Colleagues:

"There is a substantial body of evidence that this technology is harmful to humans and the environment. The 5G millimeter wave is known to heat the eyes, skin and testes... Of particular concern are the most vulnerable among us — the unborn, children, the infirm, the elderly and the disabled. It is also expected that populations of bees and birds will drastically decline."

[2017 Scientific Letter](#)

Peer Reviewed Research Studies on Radiofrequency Radiation Have Found:

- Headaches
- Sperm damage
- Altered brain development
- Depression
- Neurological symptoms
- Hormone changes
- Memory problems
- Sleep problems
- Cancer

Science:

[BioInitiative 2012 Report by Independent Scientists](#)
[Dr. Moskowitz, University of California at Berkeley](#)
[Dr. Lennart Hardell Örebro University Sweden](#)
[The Baby Safe Project](#)
[WhatIs5g.info](#)
[Physicians for Safe Technology](#)
[Environmental Health Trust 5G Resources](#)

[www.ehtrust.org](#)

 ENVIRONMENTAL
HEALTH TRUST

Melody Osborne

From: Jesse Lange <jesse@langewinery.com>
Sent: Sunday, June 28, 2020 7:33 AM
To: Melody Osborne
Cc: Don Lange; Wendy Lange
Subject: Proposed City of Dundee Cell Tower (objection letter)

Dear Melody Osborne and Planning Commissioners:

As a long time resident of Dundee and owner of Lange Winery, I know many local businesses like ours have worked hard, for many years, to make Dundee an attractive, relaxing and pleasant place for residents and visitors.

I'm asking that you DENY Verizon's cell tower application for the following reasons:

1. An 80-foot fake tree cell tower in the heart of Dundee would be unattractive and unappealing and would fail to meet the "aesthetic considerations" criteria of DMC 17.404.030(A)(1);
2. The Planning Commission must base its findings on ALL criteria, including aesthetic considerations, per DMC 17.404.030;
3. The proposed tower's aesthetics would have negative impacts on the appeal and attractiveness of downtown Dundee and the applicant has failed to mitigate these impacts, in violation of DMC 17.404.030(A)(2). Just because the applicant throws more money into a "stealth" tree does not mean the negative impacts are mitigated, as required by the Code;
4. The noise of the proposed tower and associated electrical cabinets would violate Dundee's nighttime noise requirements;
5. The tower would violate the purpose of the Public Zone. DMC 17.202.010(I) only allows uses in the Public Zone which don't "unreasonably disrupt" other areas of the community. The unattractiveness of the tower would disrupt the "attractive" downtown intended for the CBD by DMC 17.202.010(G);
6. The Oregon Land Use Board of Appeals (LUBA), the agency to whom the City's decision could eventually be appealed, has determined that a purpose statement imposes an "affirmative duty" on decision makers. Accordingly, the Commission has an affirmative duty to consider the fact that the proposed tower violates the purpose statement of the Public Zone;
7. Verizon doesn't need a cell tower in the heart of Dundee. Page 65 of the staff report shows that Verizon already has moderate to good cell service in Dundee;
8. There's an AT&T tower only 1.3 miles away from the proposed site and the applicant hasn't satisfied the DMC 17.203.170 requirement of providing written verification as to why co-location on the AT&T tower isn't feasible; and
9. The #1 Statewide Land Use Planning Goal for the State of Oregon is citizen involvement. The Planning Commission has a duty to consider public input. As a Dundee business owner, I don't want an unattractive 80ft cell tower in the heart of our beautiful City.

Thank you very much for consideration of this letter.

Sincerely,

Jesse Lange
Wendy Lange
Don Lange

Melody Osborne

From: ffh@hevanet.com <farfromhome@hevanet.com>
Sent: Sunday, June 28, 2020 1:12 PM
To: Melody Osborne
Subject: Re: Dundee cell tower
Attachments: form letter to sign.pdf

Sent from my iPhone

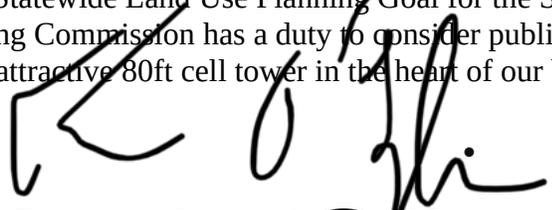
Dear Planning Commissioners:

I am a resident of Dundee and I'm asking that you DENY Verizon's cell tower application for the following reasons:

1. An 80-foot fake tree cell tower in the heart of Dundee would be unattractive and unappealing and would fail to meet the "aesthetic considerations" criteria of DMC 17.404.030(A)(1);
2. The Planning Commission must base its findings on ALL criteria, including aesthetic considerations, per DMC 17.404.030.
3. The proposed tower's aesthetics would have negative impacts on the appeal and attractiveness of downtown Dundee and the applicant has failed to mitigate these impacts, in violation of DMC 17.404.030(A)(2). Just because the applicant throws more money into a "stealth" tree does not mean the negative impacts are mitigated, as required by the Code.
4. The noise of the proposed tower and associated electrical cabinets would violate Dundee's nighttime noise requirements.
5. The tower would violate the purpose of the Public Zone. DMC 17.202.010(I) only allows uses in the Public Zone which don't "unreasonably disrupt" other areas of the community. The unattractiveness of the tower would disrupt the "attractive" downtown intended for the CBD by DMC 17.202.010(G).
6. The Oregon Land Use Board of Appeals (LUBA), the agency to whom the City's decision could eventually be appealed, has determined that a purpose statement imposes an "affirmative duty" on decision makers. Accordingly, the Commission has an affirmative duty to consider the fact that the proposed tower violates the purpose statement of the Public Zone.
7. Verizon doesn't need a cell tower in the heart of Dundee. Page 65 of the staff report shows that Verizon already has moderate to good cell service in Dundee.
8. There's an AT&T tower only 1.3 miles away from the proposed site and the applicant hasn't satisfied the DMC 17.203.170 requirement of providing written verification as to why co-location on the AT&T tower isn't feasible.
9. The #1 Statewide Land Use Planning Goal for the State of Oregon is citizen involvement. The Planning Commission has a duty to consider public input. As a Dundee resident, I don't want an unattractive 80ft cell tower in the heart of our beautiful City.

Sincerely,

Signature:



Printed Name:

Kevin O'loughlin

Date:

6/28/20

Address:

Dundee, OR 97115

20810 NE Big Fir lane

Melody Osborne

From: shanna@thera-volve.com
Sent: Monday, June 29, 2020 3:27 PM
To: Melody Osborne
Subject: Cell Tower Letter
Attachments: Dundee Cell Tower.pdf

Shanna Severn, LPC, NCC, MS
30150 SW Parkway Ave. Suite 300
Wilsonville, OR 97070
971-264-4505
shanna@thera-volve.com
www.thera-volve.com

Dear Planning Commissioners:

I am a resident of Dundee and I'm asking that you DENY Verizon's cell tower application for the following reasons:

1. An 80-foot fake tree cell tower in the heart of Dundee would be unattractive and unappealing and would fail to meet the "aesthetic considerations" criteria of DMC 17.404.030(A)(1);
2. The Planning Commission must base its findings on ALL criteria, including aesthetic considerations, per DMC 17.404.030.
3. The proposed tower's aesthetics would have negative impacts on the appeal and attractiveness of downtown Dundee and the applicant has failed to mitigate these impacts, in violation of DMC 17.404.030(A)(2). Just because the applicant throws more money into a "stealth" tree does not mean the negative impacts are mitigated, as required by the Code.
4. The noise of the proposed tower and associated electrical cabinets would violate Dundee's nighttime noise requirements.
5. The tower would violate the purpose of the Public Zone. DMC 17.202.010(I) only allows uses in the Public Zone which don't "unreasonably disrupt" other areas of the community. The unattractiveness of the tower would disrupt the "attractive" downtown intended for the CBD by DMC 17.202.010(G).
6. The Oregon Land Use Board of Appeals (LUBA), the agency to whom the City's decision could eventually be appealed, has determined that a purpose statement imposes an "affirmative duty" on decision makers. Accordingly, the Commission has an affirmative duty to consider the fact that the proposed tower violates the purpose statement of the Public Zone.
7. Verizon doesn't need a cell tower in the heart of Dundee. Page 65 of the staff report shows that Verizon already has moderate to good cell service in Dundee.
8. There's an AT&T tower only 1.3 miles away from the proposed site and the applicant hasn't satisfied the DMC 17.203.170 requirement of providing written verification as to why co-location on the AT&T tower isn't feasible.
9. The #1 Statewide Land Use Planning Goal for the State of Oregon is citizen involvement. The Planning Commission has a duty to consider public input. As a Dundee resident, I don't want an unattractive 80ft cell tower in the heart of our beautiful City.

Sincerely,

Signature: _____



Printed Name: _____

SHANNA SEVERN

Date: _____

6/29/2020

Address: _____

1225 SW FIR CT.

Dundee, OR 97115



HATHAWAY LARSON

Koback · Connors · Heth

June 29, 2020

VIA EMAIL (Melody.Osborne@dundeecity.org & JJacks@mwvcog.org)

Planning Commission
City of Dundee
PO Box 220
620 SW Fifth Street
Dundee, OR 97115

Re: Verizon Wireless – Wireless Communications Facility
Application No. CU 20-06/SDR 20-07
Property: 801 N Highway 99W

Dear Chair Howland & Commissioners:

As you know, this firm represents Verizon Wireless (VAW) LLC (“Verizon”) with respect to the above-referenced Conditional Use and Site Design Review applications for a wireless communications facility consisting of a monopine stealth tower with antennas and related equipment (the “Application”). We are submitting this letter to provide additional information and responses to issues raised by the public at the June 17, 2020 Planning Commission hearing.

1. Height of the Monopine Tower.

Several people argued that the Application should be denied because the height of the monopine tower exceeds the maximum height of 45 feet allowed in the Public (“P”) zone and Verizon is not entitled to a variance. This argument is flawed for multiple reasons.

As Verizon explained in the Application and at the June 17 hearing, the tower is the minimum height necessary to achieve Verizon’s coverage and capacity objectives for this site. Staff Report, dated June 17, 2020, p.50 & 66. The minimum antenna tip height necessary to achieve Verizon’s coverage and capacity objectives is 74 feet. The monopine tower includes an additional 6 feet to provide a crown on the top of the tower to make it look like a more realistic tree. This height is significantly lower than the 95-foot height tower Verizon originally proposed in 2017/2018 and was reduced to the minimum height necessary in response to community concerns.

The tower is also significantly shorter than a typical Verizon wireless communications tower for this area. The other three existing Verizon towers in this area (Newberg, Dayton and Lafayette) range in height from 154 to 170 feet.

E. Michael Connors
1331 NW Lovejoy Street, Suite 950
Portland, OR 97209
mike@hathawaylarson.com
(503) 303-3111 direct
(503) 303-3101 main

The tower does not exceed the maximum height in the P zone nor does it require a variance. Wireless communication towers are exempt from the maximum height limits. Dundee Municipal Code (“DMC”) 17.202.040(B) provides: “Projections such as chimneys, spires, domes, elevator shaft housing, towers, aerials, flagpoles, and other similar objects not used for human occupancy are not subject to the building height limitations of the underlying zone.” (Emphasis added). The tower is clearly a “tower” that is “not used for human occupancy,” and therefore is not subject to the height limitation in the P zone. Wireless communication towers that exceed 45 feet require conditional use approval under DMC 17.202.030(C)(m), but conditional use approval is very different from a variance.

Nor is the City granting an exception or favor to Verizon by allowing it to exceed 45 feet. Verizon is relying on the general exception in DMC 17.202.040(B). This same general exception is available to all property owners. None of the other types of projections subject to this height exception require a conditional use approval. Therefore, Verizon’s tower is subject to more requirements than similar projections that are allowed to exceed the maximum height in the base zone.

2. Proximity to the Central Business District.

Several people argued that the Application should be denied because the wireless communication facility is too close to the Central Business District (“CBD”) and Verizon is supposedly using a loophole by proposing the Dundee Fire Station property. There are multiple flaws with this argument.

Verizon did not zone the Dundee Fire Station property or any of the surrounding properties. Verizon identified the property as a candidate because it was within Verizon’s search ring, the City’s P zoning allows wireless communication towers as a special use and the City Council was willing to lease this property for the facility.

Wireless communication towers are allowed as a conditional use in the CBD zone. DMC Table 17.202.020. Therefore, there is nothing improper about proposing a wireless communication facility on a property that is adjacent to CBD zoned properties. It is also worth noting that there are Light Industrial (“LI”) zoned properties to the east.

To the extent the DMC attempts to protect certain zones from proximity to wireless communication towers, it does so for residential zoned properties and dwellings, not CBD zoned properties or commercial uses.¹ The DMC does not contain any similar restrictions or protections for CBD zoned property.

¹ DMC 17.203.170(B)(3) requires an applicant to provide an “[a]nalysis of the visual impacts of the proposed facility on residential dwellings within 250 feet of the proposed site * * *.” (Emphasis added). DMC 17.203.170(C)(3) requires an applicant to “minimize visual impacts from residential areas.” (Emphasis added). DMC 17.203.170(C)(5) requires wireless communication “[s]tructures greater than 35 feet in height shall be at least 300 feet from any residentially (R) zoned property.” (Emphasis added).

3. Colocation on existing tower(s) or alternative sites.

Several people argued that Verizon should collocate on the existing AT&T tower located 1.3 miles away. As I noted at the June 17 hearing, it would be significantly faster, cheaper and easier for Verizon to collocate on an existing tower than site a new tower. Unfortunately, the existing AT&T tower is too far from the search ring and will not accomplish the coverage and capacity objectives for this site. Verizon's RF engineer analyzed the existing AT&T tower and showed why it will not satisfy either the coverage or capacity objectives for this site. Staff Report, dated June 17, 2020, p.65. No contrary evidence has been submitted. Verizon is entitled to a considerable amount of discretion in defining the coverage and/or capacity objectives for the facility and determining how to address those coverage and/or capacity objectives. *Sprint PCS c. Washington County*, 42 Or LUBA 512 (2002), *aff'd in part and modified in part*, 186 Or App 470 (2003).

Additionally, Evan Karp claimed that Verizon failed to consider collocating on an existing tower that is 0.53 miles from the proposed site but that tower does not exist. Mr. Karp does not identify where this alleged tower is located, but he may be referring to a misstatement from an earlier application for a tower on this site. In the previous application process, the City staff clarified that there is no such tower: "The closet facility was noted .53 miles away near the intersection of SE 10th Street and Hwy 99W; however there is no known facility in this location. Staff also visited the site and did not observe any facility." Staff Report, July 18, 2018, p.7. There is no existing tower within 0.53 miles of the site.

Some people argued that Verizon should locate the wireless communications tower on an alternative site outside of town. There is no basis for requiring Verizon to find an alternative site. Wireless communication towers are allowed as a special use in the P zone. None of the applicable approval criteria require Verizon to consider or give preference to a different location or zone. The wireless communication facility satisfies all of the approval criteria. The alternative sites noted by these parties are well outside the search ring and therefore cannot satisfy the coverage and capacity objectives. Moving the tower to another location will simply bring out a different set of neighbors whom are closer to the alternative location.

4. Wireless communication towers are allowed in the P zone.

Susan Baird argued that the wireless communication facility is not allowed in the P zone because it is inconsistent with the P zone purpose statement set forth in DMC 17.203.010(I). Mr. Baird claims that wireless communications towers are not allowed in the P zone because they are unreasonably disruptive and alter other areas of the community. This argument is flawed for two reasons.

Ms. Baird's position is inconsistent with the express language of DMC 17.202.020 and Table 17.202.020. Table 17.202.020 identifies "Wireless Communication Facilities" as "Public and Institutional Uses." (Emphasis added). Wireless communication facilities are listed as a special use in the P zone. Most of the zones require a conditional use approval (regardless of height). The only other zones that allow them without a conditional use are the LI and Exclusive Farm Use ("EFU") zones. Table 17.202.020.

DMC 17.203.010(I) is a purpose statement, not an approval criterion. Purpose statements are not applied as approval criteria unless there is specific language stating that they are intended to be

mandatory approval criterion. *Jones v. City of Grants Pass*, 64 Or LUBA 103, 110 (2011); *SEIU v. City of Happy Valley*, 58 Or LUBA 261, 271-72, *aff'd*, 228 Or App 367, 208 P3d 1057, *rev'd en*, 347 Or 42 (2009). Neither DMC 17.203.010 nor subsection (I) state that the purpose statements are intended to be approval criteria.

5. Impact on property values.

Several people argued that the Application should be denied because the wireless communication facility will reduce property values in the surrounding area and the City as a whole. There are several problems with this argument.

The impacts on property values is not relevant under the City's approval criteria. A local government cannot consider a wireless communication facility's impact on property values unless there is a specific requirement in the City code to do so. *Hill v. City of Portland*, 66 Or LUBA 250, 258-59 (2012). The DMC does not require or allow impacts on property values to be considered.

Even if the impact on property values could be considered, no specific evidence supporting the claim that the wireless communication facility will negatively impact property values has been provided. A wireless communications tower cannot be denied on the grounds that it will negatively impact property values unless there is evidence demonstrating that the tower will have a negative impact on the property values in that specific instance. *Johnson v. City of Eugene*, 42 Or LUBA 353, 366-67 (2002). Generalized claims of impacts on property values are insufficient. *Id.* None of the parties submitted specific evidence demonstrating a negative impact on property values and relied instead on personal opinions, anecdotal evidence and newspaper articles.

Finally, this argument would make it impossible to site any wireless communication facilities because it is based on the presence of a wireless communications tower in general, not this specific proposal. If the Planning Commission accepted this argument, all wireless communication towers would run afoul of this argument and could never be approved even though it is allowed as a special use or conditional use in almost every zone.

6. Noise Study.

At the June 17 hearing, I misspoke about one issue related to SSA Acoustics' revised Noise Study, dated June 16, 2020 (the "June 16 Noise Study"), which Verizon submitted to the City prior to the June 17 hearing. The June 16 Noise Study re-evaluated the noise impact of the wireless communication facility given the removal of the emergency generator and concluded that the facility complies with the applicable noise standards. Since the June 16 Noise Study did not identify the need for a noise barrier, unlike the original noise study dated October 17, 2017, I assumed a noise barrier was not required and therefore requested that the City remove condition of approval no. 1 because a noise barrier is not necessary.

After the June 17 hearing, Verizon's noise consultant SSA Acoustics clarified that a noise barrier would still be required. Verizon requested that SSA Acoustics provide a new report that clarifies this issue. We attached the updated Noise Study from SSA Acoustics, dated June 19, 2020 (the

“June 19 Noise Study”), for the Planning Commission’s consideration. The June 19 Noise Study was performed consistent with the noise standards set forth in Oregon Administrative Rules 340-035-0035(3)(b) and DMC Chapter 8.28. June 19 Noise Study, p.1. The June 19 Noise Study demonstrates that the facility complies with the applicable noise standards with a noise barrier as the noise levels will be 53 dBA at the nearest receiving property. June 19 Noise Study, p.5. The June 19 Noise Study also demonstrates that the noise barrier can be accommodated within the project area, including the proposed fencing and landscaping. June 19 Noise Study, p.4.

7. Distance to residential properties.

Mr. Karp raised an issue regarding Verizon’s compliance with DMC 17.203.170(C)(5), which requires that “Structures greater than 35 feet in height shall be at least 300 feet from any residentially (R) zoned property.” Mr. Karp argued that Verizon failed to provide adequate evidence that the monopine tower is more than 300 feet from residential property in the form of a survey and the measurement must include City right-of-way adjacent to the residential properties. Mr. Karp is wrong in both respects.

Verizon provided substantial evidence in the Application that the monopine tower is more than 300 feet from the closest residentially zoned property. Staff Report, dated June 17, 2020, p.84. The City staff independently confirmed Verizon’s evidence: “The applicant has provided a plan showing this but staff also used GIS maps and Yamhill County assessor’s maps to verify the distance.” Staff Report, dated June 17, 2020, p.12. Although Verizon was not required to obtain a survey to confirm this distance, Verizon did so after the June 17 hearing to put this issue to rest. We attached a site survey, dated June 24, 2020, which demonstrates that the monopine tower is more than 328 from the nearest residentially zoned property based on a new survey conducted on June 24, 2020.

DMC 17.203.170(C)(5) does not require the measurement to include City right-of-way adjacent to the residential properties. DMC 17.203.170(C)(5) applies to “residentially (R) zoned property,” not public rights-of-way. DMC 17.201.020 distinguishes between “Rights-of-way” and “parcel, lots and tracts.” DMC 17.201.020(A) & (B). Nor would it make sense to include City right-of-way because DMC 17.203.170(C)(5) is intended to minimize the impacts of towers on residential property owners, not the City right-of-way.

8. Aesthetic considerations.

Ms. Baird argued that Verizon failed to satisfy the “aesthetic considerations” element of DMC 17.404.030(A)(1) “on the basis of its unattractive and unpleasant aesthetics.” Ms. Baird does not explain what Verizon would be required to do to make the tower more aesthetically pleasing in order to satisfy this standard. Instead, Ms. Baird argued that wireless communication towers are inherently unattractive and unpleasant and therefore they should be prohibited like other uses the City has prohibited. There are several problems with this assertion.

DMC 17.404.030(A)(1) focuses on the adequacy of the subject property to accommodate the needs of the proposed use, not the surrounding area. DMC 17.404.030(A)(1) provides: “The site size, dimensions, location, topography and access are adequate for the needs of the proposed use, considering the proposed building mass, parking, traffic, noise, vibration, exhaust/emissions, light, glare, erosion, odor, dust, visibility, safety, and aesthetic considerations.” (Emphasis added). Ms.

Baird's argument is based on the aesthetic considerations of the surrounding area, not the adequacy of the subject property or needs of the proposed use.

The City code specifically allows wireless communication towers as a special use or conditional use in every zone except for the Parks and Open Space Zone ("PO") zone. DMC Table 17.202.020. If wireless communication towers are allowed in almost every zone, the City cannot prohibit them on the grounds that they are not aesthetically pleasing.

Ms. Baird's suggestion that the City should prohibit all wireless communication towers on aesthetic grounds would violate the Federal Telecommunications Act. The Federal Telecommunications Act expressly prohibits a city from adopting decisions that "prohibit or have the effect of prohibiting" wireless communication facilities within the city. 47 U.S.C. § 253(a); 47 U.S.C. § 332(c)(7)(B)(i)(II).

The conditional use criteria require that the impacts be reasonably mitigated or minimized, not avoided or eliminated. DMC 17.404.030(A)(2) & (B).² Verizon satisfied and exceeded the approval criteria applicable to wireless communication towers and did everything reasonably possible to minimize the impacts. Verizon was not required to limit the tower to the minimum height necessary to achieve its objectives, but Verizon agreed to do so. Verizon was not required to use a stealth design to minimize visual impacts, but it agreed to do so. Verizon was not required to locate it behind the Fire Station to provide an additional visual buffer, but it agreed to do so. Verizon was not required to double the amount of required landscaping to provide an additional visual buffer, but it agreed to do so. Verizon did everything reasonably possible to minimize the impacts and that is sufficient to satisfy DMC 17.404.030(A)(1).

9. Emissions.

Several people raised concerns about the health and safety impacts of the RF emissions from the wireless communications facility. The Planning Commission is legally prohibited from considering RF emissions, but the community need not be concerned about this issue because the wireless communications facility will emit a fraction of the legally allowed RF emissions.

The Federal Telecommunications Act prohibits local governments from adopting any decision based even partially on the health effects of RF emissions. 47 U.S.C. §332(c)(7)(B)(iv). Any decision based on RF emissions, even if other legitimate reasons were listed as well, violates Section 332(c)(7)(B)(iv). *T-Mobile Ne. LLC v. Inc. Vill. of E. Hills*, 779 F.Supp.2d 256, 265 (E.D.N.Y.2011); *Firstenberg v. City of Santa Fe*, 782 F.Supp.2d 1262, 1271 (D.N.M. 2011); *T-Mobile Ne. LLC v. Town of Ramapo*, 701 F.Supp.2d 446, 460 (S.D.N.Y. 2009). Therefore, the Planning Commission cannot and should not base its decision on RF emissions.

² DMC 17.404.030(A)(2) provides: "The negative impacts of the proposed use, if any, on adjacent properties and on the public can be mitigated through application of other code standards, or other reasonable conditions of approval." (Emphasis added). DMC 17.404.030(B) provides: "The city may impose conditions that are found necessary to ensure that the use is compatible with other uses in the vicinity, and that any negative impact of the proposed use on the surrounding uses and public facilities is minimized." (Emphasis added).

Additionally, the wireless communications facility will emit a fraction of the allowed RF emissions. As part of the Application, Verizon submitted a RF emissions study. Staff Report, p.67-70. The RF emissions study concluded that the wireless communications facility will emit less than 4% of the FCC outdoor RF emissions limit and less than 1% of the FCC indoor RF emissions limit. Staff Report, p.69.

Conclusion

For the reasons set forth in the Application, the Staff Report, our letters and the testimony at the June 17 public hearing, we respectfully request that the Planning Commission approve the Application. We appreciate your consideration of this letter and look forward to addressing these issues further at the July 1, 2020 hearing.

Very truly yours,

HATHAWAY LARSON LLP

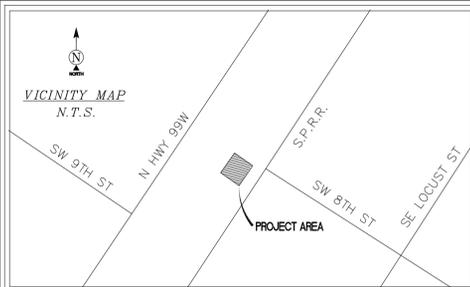
/s/

E. Michael Connors

Enclosures

EMC/ph

cc: Verizon Wireless
ACOM Consulting



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 PUBLIC UTILITY LOCATING SERVICES AND ANY OTHER INVOLVED AGENCIES TO LOCATE ALL UTILITIES PRIOR TO CONSTRUCTION. REMOVAL, RELOCATION AND/OR REPLACEMENT IS THE RESPONSIBILITY OF THE CONTRACTOR.

FLOOD_ZONE
 THIS PROJECT APPEARS TO BE IN FLOOD_ZONE X, NO BASE FLOOD ELEVATION DETERMINED, ACCORDING TO FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP, PANEL 219 OF 675, MAP NUMBER #41071C02190, DATED MARCH 2, 2010.

BASIS OF BEARING
 BEARINGS SHOWN HEREON ARE BASED UPON U.S. STATE PLANE N.A.D.83 COORDINATE SYSTEM OREGON STATE PLANE COORDINATE NORTH ZONE, DETERMINED BY REAL TIME KINEMATIC (R.T.K.) GPS DATA PROCESSED/CORRECTED ON THE OREGON DEPARTMENT OF TRANSPORTATION (O.D.O.T.) C.O.R.S. NETWORK.

SURVEYOR'S NOTES
 THE DESCRIPTION OF PROPERTY BOUNDARY SHOWN HEREON, REPRESENT THAT INFORMATION PROVIDED AND MEASUREMENTS FOUND DURING THE COURSE OF THE SURVEY. THE PURPOSE OF THIS SURVEY IS TO ESTABLISH OR DETERMINE LEASE AREA(S) & ASSOCIATED EASEMENT(S). THE BOUNDARY SHOWN HEREON IS PLOTTED FROM RECORD INFORMATION PROVIDED BY RECORD/TITLE AND DOES NOT CONSTITUTE A BOUNDARY SURVEY OF THE PROPERTY.

BENCHMARK
 PROJECT ELEVATIONS ESTABLISHED FROM GPS DERIVED ORTHOMETRIC HEIGHTS BY APPLICATION OF N.G.S. 'GEOID 12A' MODELED SEPARATIONS TO ELLIPSOID HEIGHTS DETERMINED BY REAL TIME KINEMATIC (RTK) GPS DATA PROCESSED/CORRECTED ON THE OREGON DEPARTMENT OF TRANSPORTATION (O.D.O.T.) C.O.R.S. NETWORK. ALL ELEVATIONS SHOWN HEREON ARE IN FEET AND REFERENCED TO N.A.V.D.88.

LEASE AREA LEGAL DESCRIPTION

THAT PORTION OF A TRACT OF LAND, BEING ALL OF LOTS 1, 2, 3 AND 4, AND A PORTION OF LOT 5, BLOCK 24, OF THE TOWNSITE OF DUNDEE AND DUNDEE ORCHARD HOMES NO. 1, AND A PORTION OF PARCEL 1 OF PARTITION PLAT NO. 1995-55, LOCATED IN THE SOUTHWEST ONE-QUARTER OF SECTION 25, TOWNSHIP 3 SOUTH, RANGE 3 WEST, OF THE WILLAMETTE MERIDIAN, IN THE CITY OF DUNDEE, YAMHILL COUNTY, OREGON, SAID TRACT OF LAND BEING MORE SPECIFICALLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 1/2 INCH IRON PIPE FOUND AT THE MOST EASTERLY CORNER OF SAID LOT 1, BLOCK 24 OF SAID TOWNSITE OF DUNDEE, SAID POINT BEING AT THE INTERSECTION OF THE SOUTHWESTERLY RIGHT OF WAY LINE OF SE 8TH STREET WITH THE NORTHWESTERLY RIGHT OF WAY LINE OF THE S.P. RAILROAD RIGHT OF WAY, SAID POINT BEING THE TRUE POINT OF BEGINNING OF THE TRACT OF LAND HEREIN DESCRIBED; THENCE SOUTH 30°28'39" WEST, ALONG SAID S.P. RAILROAD RIGHT OF WAY, A DISTANCE OF 106.53 FEET TO A POINT; THENCE NORTH 59°31'21" WEST, PARALLEL WITH SAID SOUTHWESTERLY RIGHT OF WAY LINE OF SAID SE 8TH STREET, A DISTANCE OF 207.25 FEET TO A POINT ON THE SOUTHEASTERLY RIGHT OF WAY LINE OF HIGHWAY 99W; THENCE NORTH 30°38'33" EAST, ALONG SAID SOUTHEASTERLY RIGHT OF WAY LINE, A DISTANCE OF 106.53 FEET TO A POINT ON SAID SOUTHWESTERLY RIGHT OF WAY OF SAID SE 8TH STREET; THENCE SOUTH 59°31'21" EAST, ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE, A DISTANCE OF 206.95 FEET TO THE TRUE POINT OF BEGINNING OF THE TRACT OF LAND HEREIN DESCRIBED. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE ABOVE DESCRIBED PROPERTY. THENCE NORTH 33°13'58" EAST ALONG THE SOUTHEASTERLY LINE THEREOF, A DISTANCE OF 3.31 FEET TO THE POINT OF BEGINNING; THENCE NORTH 56°46'02" WEST, A DISTANCE OF 39.00 FEET; THENCE NORTH 33°13'58" EAST, A DISTANCE OF 13.00 FEET; THENCE SOUTH 56°46'02" EAST, A DISTANCE OF 39.00 FEET; THENCE SOUTH 33°13'58" WEST, A DISTANCE OF 13.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 507 SQ. FT.

ACCESS EASEMENT LEGAL DESCRIPTION

THAT PORTION OF A TRACT OF LAND, BEING ALL OF LOTS 1, 2, 3 AND 4, AND A PORTION OF LOT 5, BLOCK 24, OF THE TOWNSITE OF DUNDEE AND DUNDEE ORCHARD HOMES NO. 1, AND A PORTION OF PARCEL 1 OF PARTITION PLAT NO. 1995-55, LOCATED IN THE SOUTHWEST ONE-QUARTER OF SECTION 25, TOWNSHIP 3 SOUTH, RANGE 3 WEST, OF THE WILLAMETTE MERIDIAN, IN THE CITY OF DUNDEE, YAMHILL COUNTY, OREGON, SAID TRACT OF LAND BEING MORE SPECIFICALLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 1/2 INCH IRON PIPE FOUND AT THE MOST EASTERLY CORNER OF SAID LOT 1, BLOCK 24 OF SAID TOWNSITE OF DUNDEE, SAID POINT BEING AT THE INTERSECTION OF THE SOUTHWESTERLY RIGHT OF WAY LINE OF SE 8TH STREET WITH THE NORTHWESTERLY RIGHT OF WAY LINE OF THE S.P. RAILROAD RIGHT OF WAY, SAID POINT BEING THE TRUE POINT OF BEGINNING OF THE TRACT OF LAND HEREIN DESCRIBED; THENCE SOUTH 30°28'39" WEST, ALONG SAID S.P. RAILROAD RIGHT OF WAY, A DISTANCE OF 106.53 FEET TO A POINT; THENCE NORTH 59°31'21" WEST, PARALLEL WITH SAID SOUTHWESTERLY RIGHT OF WAY LINE OF SAID SE 8TH STREET, A DISTANCE OF 207.25 FEET TO A POINT ON THE SOUTHEASTERLY RIGHT OF WAY LINE OF HIGHWAY 99W; THENCE NORTH 30°38'33" EAST, ALONG SAID SOUTHEASTERLY RIGHT OF WAY LINE, A DISTANCE OF 106.53 FEET TO A POINT ON SAID SOUTHWESTERLY RIGHT OF WAY OF SAID SE 8TH STREET; THENCE SOUTH 59°31'21" EAST, ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE, A DISTANCE OF 206.95 FEET TO THE TRUE POINT OF BEGINNING OF THE TRACT OF LAND HEREIN DESCRIBED. BEING A 12.00 FOOT WIDE STRIP OF LAND, LYING 6.00 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT THE SOUTHEAST CORNER OF THE ABOVE DESCRIBED PROPERTY. THENCE NORTH 33°13'58" EAST ALONG THE SOUTHEASTERLY LINE THEREOF, A DISTANCE OF 3.31 FEET; THENCE LEAVING SAID LINE NORTH 56°46'02" WEST, A DISTANCE OF 39.00 FEET; THENCE NORTH 33°13'58" EAST, A DISTANCE OF 13.00 FEET; THENCE SOUTH 56°46'02" EAST, A DISTANCE OF 15.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 34°12'09" EAST, A DISTANCE OF 94.36 FEET; THENCE NORTH 33°23'53" EAST, A DISTANCE OF 178.36 FEET; THENCE NORTH 28°22'55" WEST, A DISTANCE OF 15.63 FEET; THENCE NORTH 56°33'25" WEST, A DISTANCE OF 171.14 FEET MORE OR LESS TO THE EASTERLY RIGHT OF WAY OF HIGHWAY 99 AND BEING THE POINT OF TERMINUS.

CONTAINING 5,514 SQ. FT. MORE OR LESS

LESSOR'S LEGAL DESCRIPTION (PARCEL R3325CC00800)

LOTS 10 AND 11, BLOCK 23, TOWN OF DUNDEE, YAMHILL COUNTY, OREGON.

RECORDED INFORMATION

REFERENCE IS MADE TO THE RECORD TITLE REPORT ORDER #471816053897, ISSUED BY TICOR TITLE COMPANY OF OREGON, DATED AUGUST 16, 2016. ALL EASEMENTS CONTAINED WITHIN SAID RECORD TITLE REPORT AFFECTING THE IMMEDIATE AREA SURROUNDING THE LEASE HAVE BEEN PLOTTED.

ITEMIZED NOTES:
 ITEMS 1, 2 AND 3 ARE NOT A SURVEY MATTER.

ITEM 4: ZONE CHANGE FOR VACATED 8TH STREET (ADOPTED 8TH STREET VACATION AND ZONE CHANGE)

THE SURVEYORS OPINION IS THAT NO RECORDED INFORMATION ITEMS PROVIDED BY SAID REPORT AFFECT THE PROPOSED WIRELESS FACILITY PREMISES SHOWN HEREON.

LESSOR'S LEGAL DESCRIPTION (PARCEL R3325CC00900)

LOTS 1, 2, 3 AND 12, BLOCK 23, IN THE TOWN (NOW CITY) OF DUNDEE, COUNTY OF YAMHILL, STATE OF OREGON.

RECORDED INFORMATION

REFERENCE IS MADE TO THE RECORD TITLE REPORT ORDER #471816052921, ISSUED BY TICOR TITLE COMPANY OF OREGON, DATED JULY 14, 2016. ALL EASEMENTS CONTAINED WITHIN SAID RECORD TITLE REPORT AFFECTING THE IMMEDIATE AREA SURROUNDING THE LEASE HAVE BEEN PLOTTED.

ITEMIZED NOTES:
 ITEMS 1 AND 2 ARE NOT A SURVEY MATTER.

ITEM 3: ZONE CHANGE FOR VACATED 8TH STREET (ADOPTED 8TH STREET VACATION AND ZONE CHANGE)

ITEM 4: DEED PRIOR TO CURRENT PROPERTY DESCRIPTION. (DOES NOT AFFECT THE PROJECT AREA)

THE SURVEYORS OPINION IS THAT NO RECORDED INFORMATION ITEMS PROVIDED BY SAID REPORT AFFECT THE PROPOSED WIRELESS FACILITY PREMISES SHOWN HEREON.

LESSOR'S LEGAL DESCRIPTION (PARCEL R3325CC03900)

A TRACT OF LAND, BEING ALL OF LOTS 1, 2, 3 AND 4, AND A PORTION OF LOT 5, BLOCK 24, OF THE TOWNSITE OF DUNDEE AND DUNDEE ORCHARD HOMES NO. 1, AND A PORTION OF PARCEL 1 OF PARTITION PLAT NO. 1995-55, LOCATED IN THE SOUTHWEST ONE-QUARTER OF SECTION 25, TOWNSHIP 3 SOUTH, RANGE 3 WEST, OF THE WILLAMETTE MERIDIAN, IN THE CITY OF DUNDEE, YAMHILL COUNTY, OREGON, SAID TRACT OF LAND BEING MORE SPECIFICALLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 1/2 INCH IRON PIPE FOUND AT THE MOST EASTERLY CORNER OF SAID LOT 1, BLOCK 24 OF SAID TOWNSITE OF DUNDEE, SAID POINT BEING AT THE INTERSECTION OF THE SOUTHWESTERLY RIGHT OF WAY LINE OF SE 8TH STREET WITH THE NORTHWESTERLY RIGHT OF WAY LINE OF THE S.P. RAILROAD RIGHT OF WAY, SAID POINT BEING THE TRUE POINT OF BEGINNING OF THE TRACT OF LAND HEREIN DESCRIBED; THENCE SOUTH 30°28'39" WEST, ALONG SAID S.P. RAILROAD RIGHT OF WAY, A DISTANCE OF 106.53 FEET TO A POINT; THENCE NORTH 59°31'21" WEST, PARALLEL WITH SAID SOUTHWESTERLY RIGHT OF WAY LINE OF SAID SE 8TH STREET, A DISTANCE OF 207.25 FEET TO A POINT ON THE SOUTHEASTERLY RIGHT OF WAY LINE OF HIGHWAY 99W; THENCE NORTH 30°38'33" EAST, ALONG SAID SOUTHEASTERLY RIGHT OF WAY LINE, A DISTANCE OF 106.53 FEET TO A POINT ON SAID SOUTHWESTERLY RIGHT OF WAY OF SAID SE 8TH STREET; THENCE SOUTH 59°31'21" EAST, ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE, A DISTANCE OF 206.95 FEET TO THE TRUE POINT OF BEGINNING OF THE TRACT OF LAND HEREIN DESCRIBED.

TOGETHER WITH THAT PORTION OF VACATED SE 8TH STREET INURING THERETO BY REASON OF CITY OF DUNDEE ORDINANCE NO. 516-2012, RECORDED JANUARY 24, 2013, RECORDER'S NO. 201301102.

RECORDED INFORMATION

REFERENCE IS MADE TO THE RECORD TITLE REPORT ORDER #471819085482, ISSUED BY TICOR TITLE COMPANY OF OREGON, DATED SEPTEMBER 20, 2019. ALL EASEMENTS CONTAINED WITHIN SAID RECORD TITLE REPORT AFFECTING THE IMMEDIATE AREA SURROUNDING THE LEASE HAVE BEEN PLOTTED.

ITEMIZED NOTES:
 ITEMS 1, 2 AND 3 ARE NOT A SURVEY MATTER.

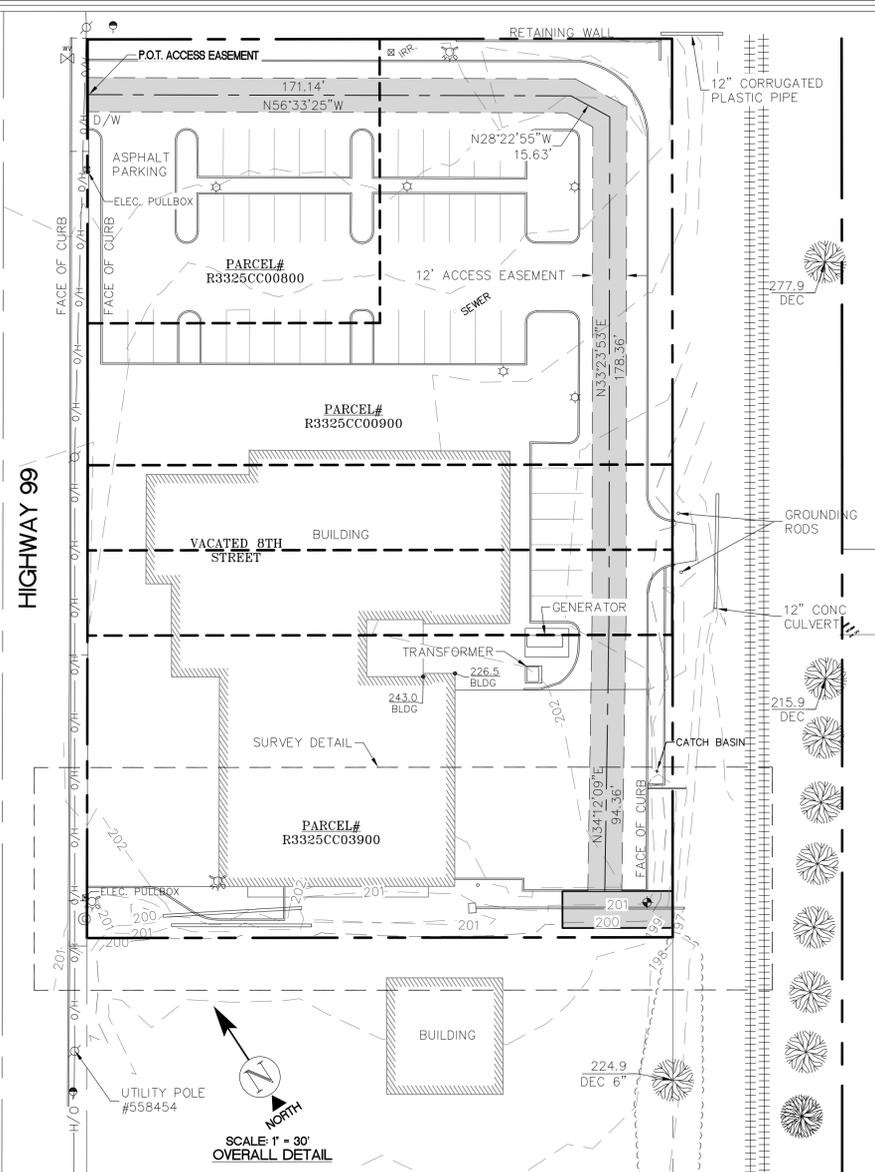
ITEMS 4 AND 5: ZONE CHANGE FOR VACATED 8TH STREET (ADOPTED 8TH STREET VACATION AND ZONE CHANGE)

ITEMS 6 AND 7 ARE BLANKET IN NATURE - NOTHING TO PLOT

THE SURVEYORS OPINION IS THAT NO RECORDED INFORMATION ITEMS PROVIDED BY SAID REPORT AFFECT THE PROPOSED WIRELESS FACILITY PREMISES SHOWN HEREON.

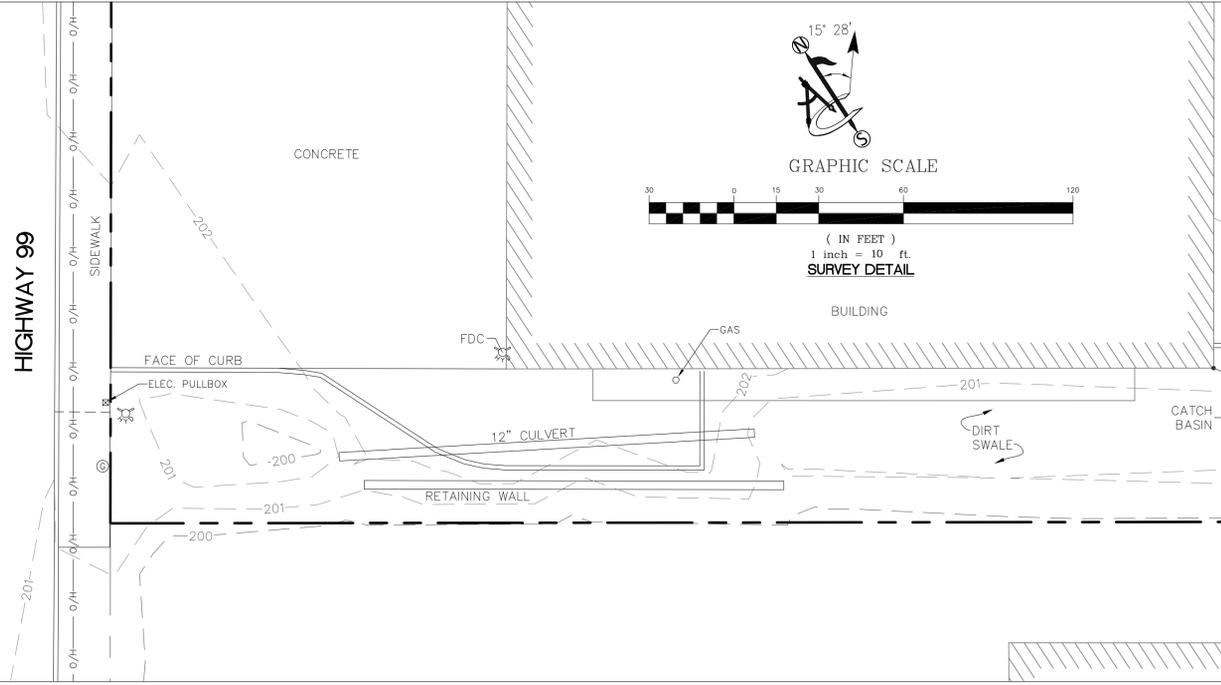
POSITION OF GEODETIC COORDINATE
 LATITUDE 45° 16' 35.21" (45.276447) NORTH (NAD83)
 LONGITUDE 123° 00' 40.27" (-123.011186) WEST (NAD83)
 ELEVATION = 201.0' (NAVD88)

SURVEY DATE
 JULY 28, 2016
REVISIT SURVEY DATE
 JUNE 24, 2020



LEGEND

BLDG	TOP OF BUILDING
D/W	ACCESS DRIVEWAY
NG	NATURAL GROUND
EP	EDGE OF PAVING
EG	EDGE OF GRAVEL
CONC	CONCRETE
BLDG	BUILDING
○	POWER POLE
○	GUY ANCHOR
○	POSITION OF GEODETIC COORDINATES
○	SPOT ELEVATION
---	LIMITS OF LESSOR'S PROPERTY
---	ADJOINING PROPERTY LINE
---	LEASE AREA
---	STREET CENTERLINE
---	TREE/SWASH LINE
---	OVERHEAD UTILITY
---	RAILROAD TRACKS
---	CURB LINE
○	DECIDUOUS TREE
○	CONIFEROUS TREE



verizon
 5430 NE 122ND AVE.
 PORTLAND, OR 97230

PROJECT INFORMATION:
OR1 DUNDEE
 759 N. HWY. 99W
 DUNDEE, OR 97115
 YAMHILL COUNTY

ORIGINAL ISSUE DATE:
 08/04/2016

REV.:	DATE:	DESCRIPTION:	BY:
9	6/24/20	UPDATE	PD
1	8/04/16	GEO COORD	AC
2	8/23/16	ADD TITLES	AC
3	1/26/17	ADD LEASE	AC
4	6/12/17	REV. LEASE AREA	RC
5	7/26/17	REV. ACCESS	DH
6	1/11/18	REV. LEASE AREA	SR
7	11/11/19	REV. LEASE AREA	PD
8	11/18/19	TITLE UPDATE	CK

PLANS PREPARED BY:

Acom
 CONSULTING INC.

CONSULTANT:
Ambit
 CONSULTING
 245 SAINT HELENS AVE. SUITE 3A
 TACOMA, WA 98402 (253)572-9181

DRAWN BY: _____ CHK.: _____ APV.: _____
 AC SR DG

LICENSER:
 REGISTERED PROFESSIONAL LAND SURVEYOR
 DAN L. GILBERT
 OREGON JULY 11, 2000
 DAN L. GILBERT 60121
 EXP 6-30-21

SHEET TITLE:
 SITE SURVEY

SHEET NUMBER:
 SV-1

verizon

5430 NE 122ND AVE.
PORTLAND, OR 97230

PROJECT INFORMATION:

OR1 DUNDEE

759 N. HWY. 99W
DUNDEE, OR 97115
YAMHILL COUNTY

ORIGINAL ISSUE DATE:

08/04/2016

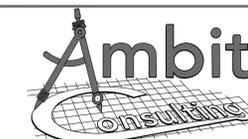
REV.: DATE: DESCRIPTION: BY:

REV.	DATE	DESCRIPTION	BY
9	6/24/20	UPDATE	PD
1	8/04/16	GEO COORD	AC
2	8/23/16	ADD TITLES	AC
3	1/26/17	ADD LEASE	AC
4	6/12/17	REV. LEASE AREA	RC
5	7/26/17	REV. ACCESS	DH
6	1/11/18	REV. LEASE AREA	SR
7	11/11/19	REV. LEASE AREA	PD
8	11/18/19	TITLE UPDATE	CK

PLANS PREPARED BY:



CONSULTANT:



245 SAINT HELENS AVE. SUITE 3A
TACOMA, WA 98402 (253)572-9181

DRAWN BY: CHK.: APV.:

AC	SR	DG
----	----	----

LICENSER:

REGISTERED
PROFESSIONAL
LAND SURVEYOR

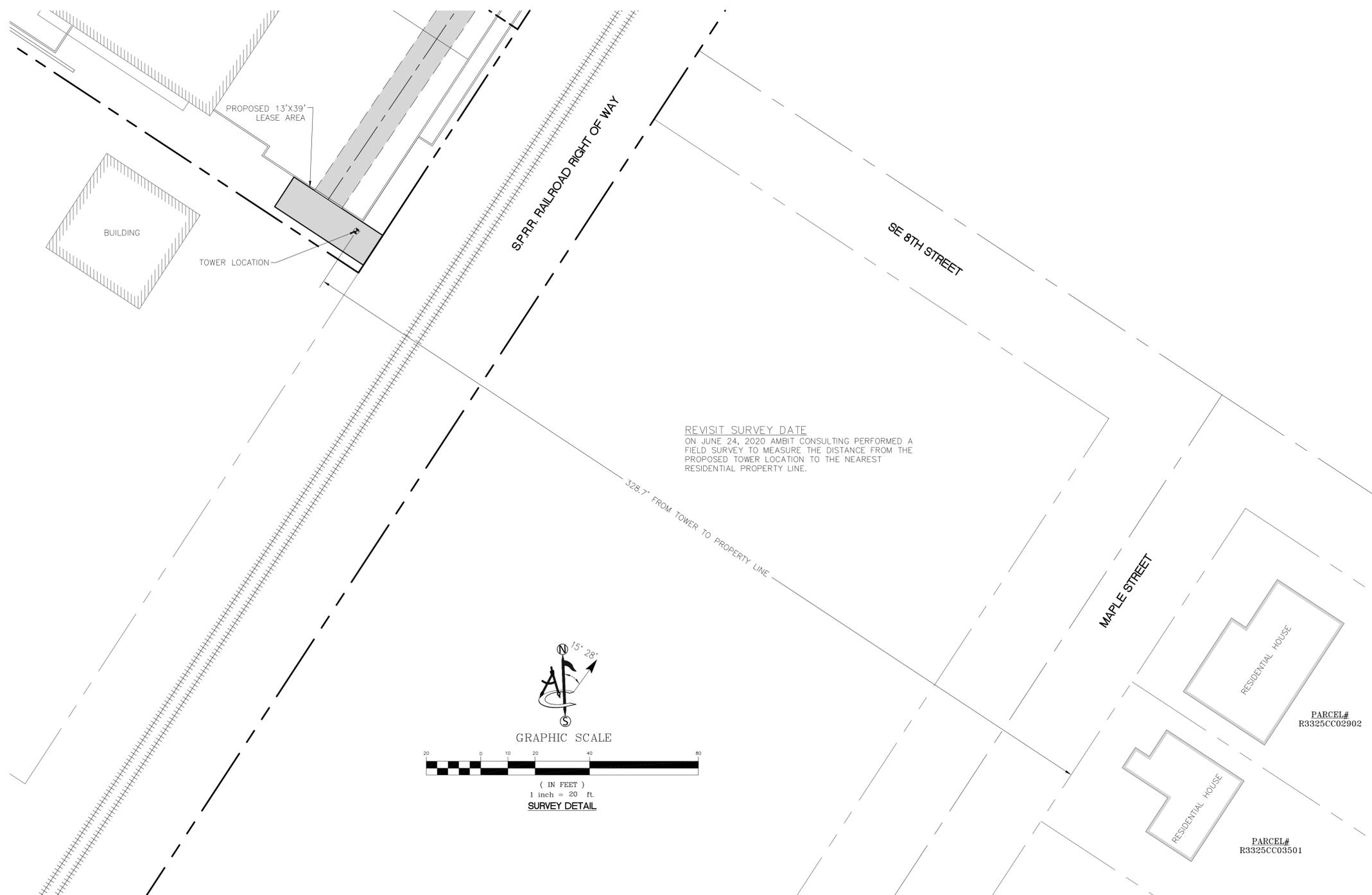
Dan L. Gilbert
OREGON
JULY 11, 2000
DAN L. GILBERT
60121
EXP 6-30-21

SHEET TITLE:

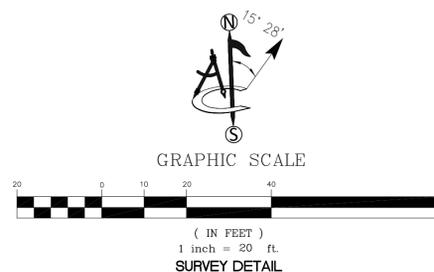
SITE SURVEY

SHEET NUMBER:

SV-2



REVISIT SURVEY DATE
ON JUNE 24, 2020 AMBIT CONSULTING PERFORMED A
FIELD SURVEY TO MEASURE THE DISTANCE FROM THE
PROPOSED TOWER LOCATION TO THE NEAREST
RESIDENTIAL PROPERTY LINE.





June 19, 2020

Melinda Allhands
Acom Consulting
5200 SW Meadows Road, Suite 150
Lake Oswego, OR 97035

Re: Acoustical Report – Verizon OR1 Dundee
Site: 801 N Highway 99W, Dundee, OR, 97115

Dear Melinda,

The following report presents a noise study for the proposed Verizon Wireless telecommunications facility 801 N Highway 99W in Dundee, Oregon. This noise study extends from the proposed equipment to the nearest properties. The purpose of this report is to document the existing conditions and the impacts of the acoustical changes due to the proposed equipment. This report contains data on the existing and predicted noise environments, impact criteria and an evaluation of the predicted sound levels as they relate to the criteria.

Ambient Conditions

Existing ambient sound levels of the site were measured on June 13, 2020 with a Svantek 971 Type 1 sound level meter. Measurements were conducted in accordance with Oregon Administrative Rules (OAR) 340-35-035 subsection (3)(b). The average ambient noise level was 50 dBA primarily due to noise from local automotive traffic on Hwy 99W.

Code Requirements

The site is located within the City of Dundee Zoning jurisdiction on property with a “Public” zoning designation. The nearest receiving property is zoned Central Business District. For the purposes of Dundee Municipal Code 8.28.040 both of these zonings are considered Commercial.

The proposed new equipment includes equipment support cabinets which are expected to run 24 hours a day.

Dundee Municipal Code limits noise to a Commercial property as follows:

Noise is limited to 60 dBA during daytime hours. During nighttime, defined as the hours between 10 p.m. and 7 a.m., maximum sound levels are reduced to 55 dBA. Since the support cabinets are expected to operate 24 hours a day, they must meet the 55 dBA nighttime limit.

Predicted Equipment Sound Levels

24
The following table presents a summary of the equipment and their associated noise levels:

Table 1: Equipment Noise Levels

Equipment	dBA (each)	Quantity	Combined dBA @ 5 ft
Charlars CUBE BB48E2XV1	61 dBA @ 5 ft	2	64
Charles CUBE SS4B228LX1	65 dBA @ 5 ft	1	65
Total dBA (All cabinets combined)			6

Methods established by ARI Standard 275-2010 and ASHRAE were used in predicting equipment noise levels to the receiving properties. Application factors such as location, height, and reflective surfaces are accounted for in the calculations.

The equipment will be located at grade surrounded by a 6'-0" chain-link fence with privacy slats. The nearest receiving property to the southwest is approximately 12 feet from the equipment. The following table presents the predicted sound level at the nearest receiving property:

Table 2: Predicted Noise Levels: Proposed Equipment Cabinets

Line	Application Factor	SW
1	Sound Pressure Level at 5 ft (dBA), Lp1	68
2	Distance Factor (DF) Inverse-Square Law (Free Field): $DF = 20 \cdot \log(d1/d2)$	-8 (12 ft)
3	New Equipment Sound Pressure Level at Receiver, Lpr (Add lines 1 and 2)	60

As shown in Table 2, the sound pressure level from the proposed equipment is predicted to be 60 dBA at the nearest receiving property, which exceeds the 55 dBA nighttime code limit. In order for the equipment to meet code, the following noise mitigation measures must be implemented.

Noise Mitigation

Noise levels will need to be reduced by 5 dB for the cabinets to meet the code limit at the southwest receiving property. To provide the noise reduction, a noise barrier will need to be installed between the equipment and the receiving property as follows:

Noise Barrier

- Install a noise barrier along the southwest side of the equipment as indicated by the bold red line in Figure 2.
- The top of the noise barrier shall be minimum 5'-0" above grade.
- Construct the noise barrier with a solid material that has a surface mass of at least 2.5 lbs/sq ft. The following are common barrier materials that meet this requirement:
 - 3/4-inch exterior grade plywood
 - 16-gauge sheet metal
 - HardiPanel Vertical Siding or HardiBacker 1/2-inch
- Install sound absorbing material inside of the barrier with a minimum NRC rating of 0.80. The material should be installed between 1'-0" and 5'-0" above grade. Recommended products for this application include minimum 1" thick [F-Sorb](#).
- A detail of the barrier construction is presented in the following figure.

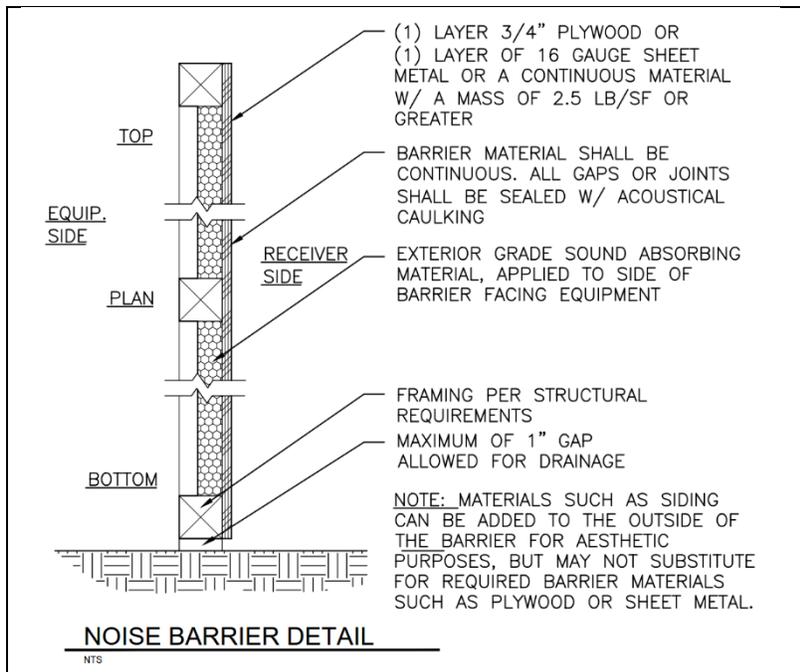


Figure 1: Noise Barrier Detail

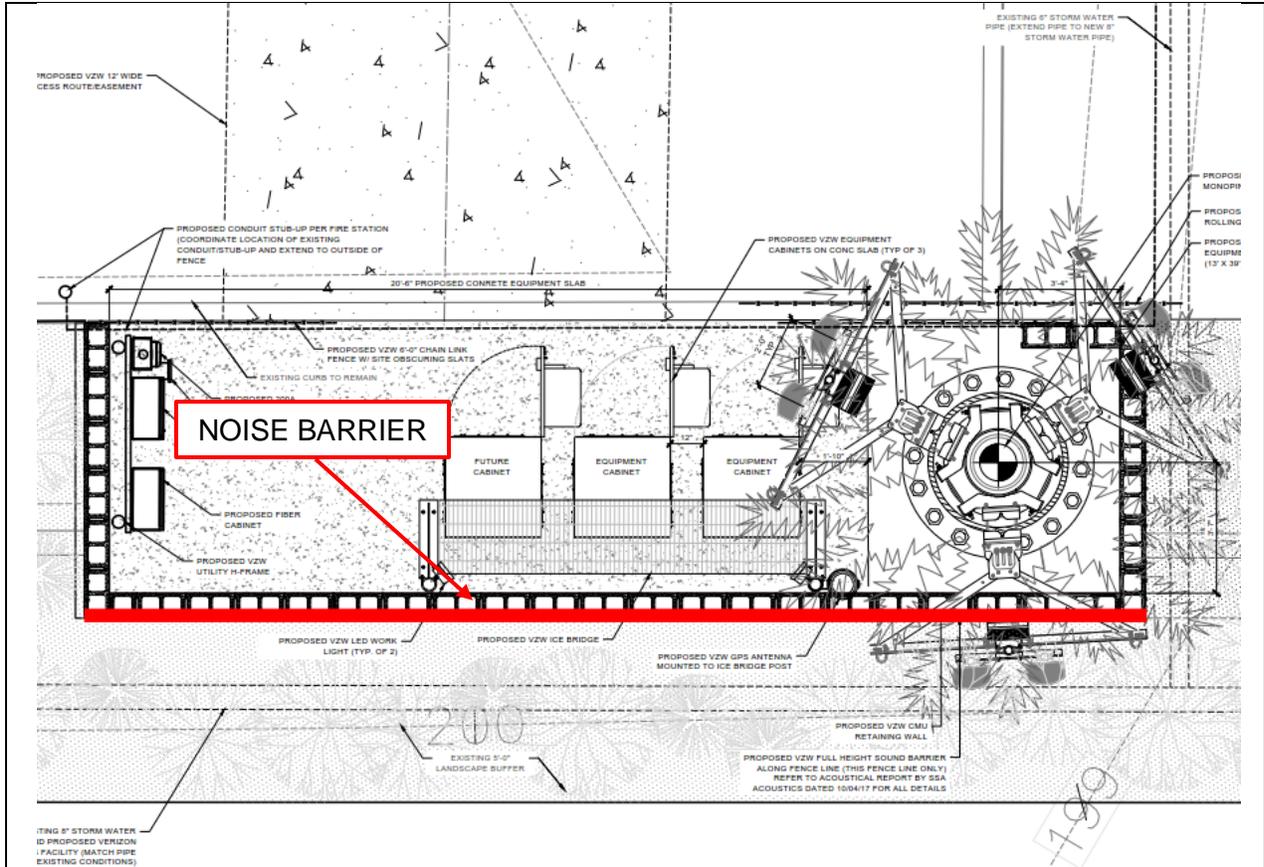


Figure 2: Noise Barrier - Plan

Predicted Noise Levels - with Mitigation

The following tables present the predicted noise levels with the noise mitigation implemented.

Table 3: Predicted Noise Levels: Proposed Equipment Cabinets

Line	Application Factor	SW
1	Sound Pressure Level at 5 ft (dBA), Lp1	68
2	Noise reduction – noise barrier	-7
3	Distance Factor (DF) Inverse-Square Law (Free Field): $DF = 20 \cdot \log(d1/d2)$ (12 ft)	-8
4	New Equipment Sound Pressure Level at Receiver, Lpr (Add lines 1 through 3)	53

As shown in Table 3, the sound pressure level from the proposed equipment with the proposed mitigation is predicted to be 53 dBA at the nearest receiving property, which is within the 55 dBA nighttime code limit.

Please contact us if you have any questions or require further information.

Sincerely,
SSA Acoustics, LLP



Alan Burt, P.E.
PARTNER



RENEWAL DATE: 12/31/21

This report has been prepared for the titled project or named part thereof and should not be used in whole or part and relied upon for any other project without the written authorization of SSA Acoustics, LLP. SSA Acoustics, LLP accepts no responsibility or liability for the consequences of this document if it is used for a purpose other than that for which it was commissioned. Persons wishing to use or rely upon this report for other purposes must seek written authority to do so from the owner of this report and/or SSA Acoustics, LLP and agree to indemnify SSA Acoustics, LLP for any and all resulting loss or damage. SSA Acoustics, LLP accepts no responsibility or liability for this document to any other party other than the person by whom it was commissioned. The findings and opinions expressed are relevant to the dates of the works and should not be relied upon to represent conditions at substantially later dates. Opinions included therein are based on information gathered during the study and from our experience. If additional information becomes available which may affect our comments, conclusions or recommendations SSA Acoustics, LLP reserves the right to review the information, reassess any new potential concerns and modify our opinions accordingly.

Additional
Written
Public
Testimony
06.30.2020

Melody Osborne

From: Saj Jivanjee <sajtj@icloud.com>
Sent: Saturday, June 27, 2020 8:29 PM
To: Melody Osborne
Subject: Planning commissioners lack of knowledge of aesthetics cell tower
Attachments: Chap04.pdf

Melody,

Please include this attached article for planing commission to study the theory of aesthetic. I understand that none of of planning commissioners have study the value aesthetics. I am against cell tower.

Saj

http://www.glencoe.com/sec/art/ose/art_in_focus/2005/docs/Chap04.pdf

Sent from my iPhone

Melody Osborne

From: Melody Osborne
Sent: Monday, June 29, 2020 6:37 PM
To: Saj Jivanjee
Cc: Jacks, Jim; Jim Jacks (JJacks@cityofsheridanor.com)
Subject: RE: Planning commissioners lack of knowledge of aesthetics cell tower

Importance: High

Saj,

I am unable to include the attachment to the Commission. The document has been secured and I am unable to either print it or attach it to anything. You will need to remove the protection and resend it if you want it included.

Melody

From: Saj Jivanjee <sajtj@icloud.com>
Sent: Saturday, June 27, 2020 8:29 PM
To: Melody Osborne <Melody.Osborne@dundeecity.org>
Subject: Planning commissioners lack of knowledge of aesthetics cell tower

Melody,

Please include this attached article for planing commission to study the theory of aesthetic. I understand that none of of planning commissioners have study the value aesthetics. I am against cell tower.

Saj

http://www.glencoe.com/sec/art/ose/art_in_focus/2005/docs/Chap04.pdf

Sent from my iPhone

Melody Osborne

From: Saj Jivanjee <saj@jcaoregon.com>
Sent: Tuesday, June 30, 2020 6:37 AM
To: Melody Osborne
Subject: Fwd: Cell Tower, Fire Station, Dundee
Attachments: site plan_cell tower_01_06-29-20.pdf; aerial view_cell tower_01_06-29-20.pdf

Melody.

Please see attached. I would like to include in my testimony that planning commissioners need to take into consideration that during seismic event the tower will collapse and impact the fire department building. The applicant claims they will meet building code. The building code only addresses very limited calculation related to seismic event. It does not address the harmonic impact of the tower.

Also note planning commissioners need to address that the tower is twice the allowable height but the set back remains the same 20 feet. Normally the setback should be related to increase in height always in this case twice the require amount since the tower is twice the allowable height.

Thanks.
Saj

----- Forwarded message -----

From: <lars@jcaoregon.com>
Date: Monday, June 29, 2020
Subject: Cell Tower, Fire Station, Dundee
To: Saj Jivanjee <saj@jcaoregon.com>

Please see attached drawing and aerial view. This is scaled off the provided pdf so it may be off by a little bit.

Lars Johansson

Jivanjee Consulting Architecture, LLP

Partin Hill Architect, LLC

[209 NE Lincoln St., Suite A](#)

[Hillsboro, OR 97124](#)

503-640-1216 ext. 2

--

Saj Jivanjee

Jivanjee Group of Companies

M.Arch, AIA, M.U.P, NCARB

Architecture | Real Estate Development | Multi-Family Housing | Winery | Vineyard

phone: 503.970.0326

saj@jcaoregon.com

saj@archervineyard.com

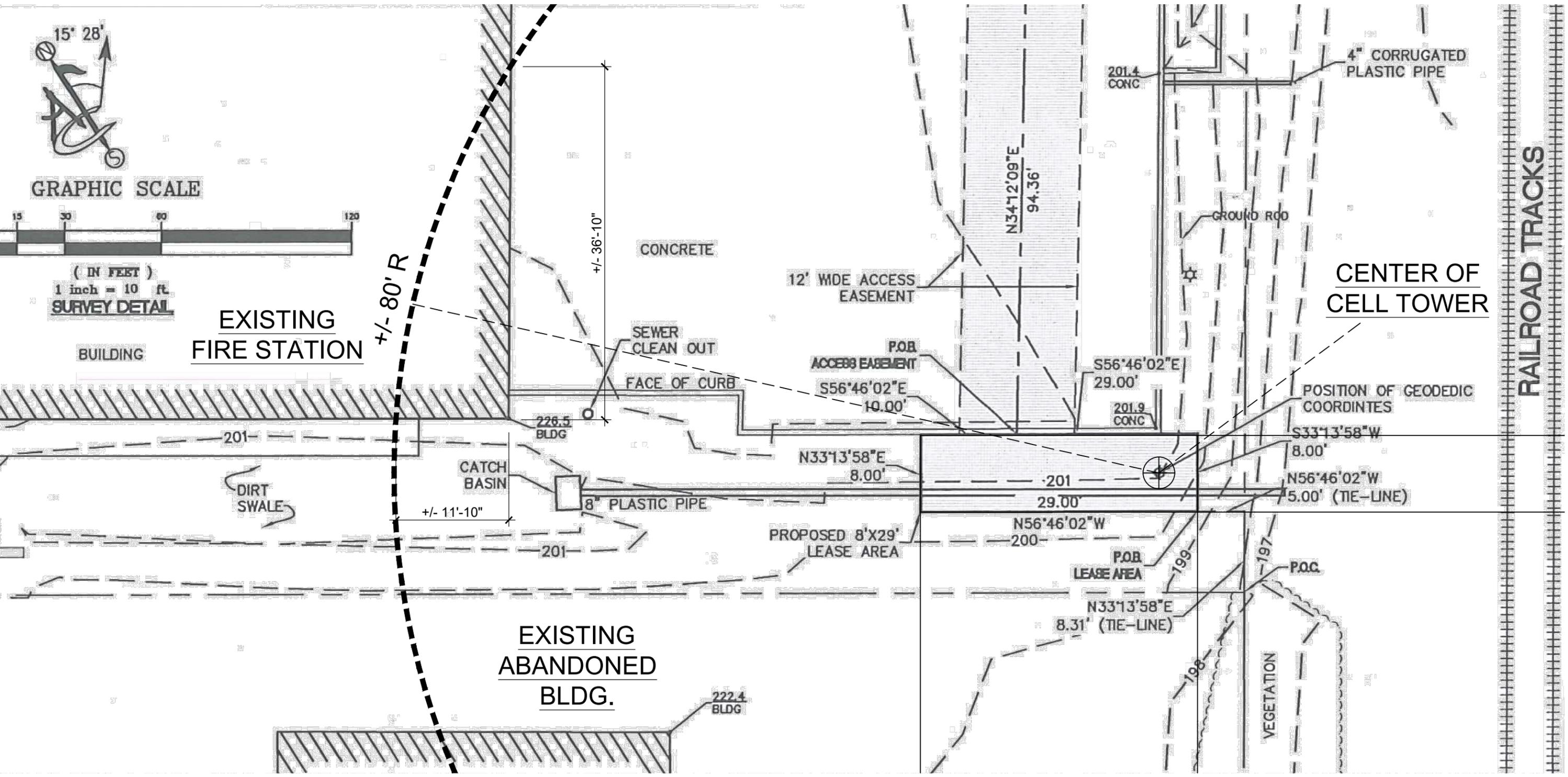
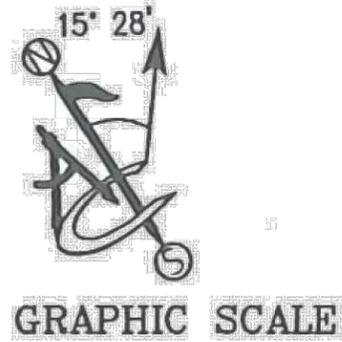
Partin & Hill Architects, LLC

209 Lincoln Street

Hillsboro, OR 97124

503.640.1216

fax: 503.640.8552



SITE DETAIL

SCALE: 1" = 10'-0"

**VERIZON MONOPINE
LOCATION STUDY**



AERIAL VIEW

SCALE: NTS

VERIZON MONOPINE LOCATION STUDY

Melody Osborne

From: Rebecca Minifie <rebeccaminifie@gmail.com>
Sent: Tuesday, June 30, 2020 11:20 AM
To: Melody Osborne
Subject: Cell tower opposition
Attachments: r.minifie.pdf

Hi Melody,

Attached is an opposition letter for the 7/1 continued Planning Commission cell tower meeting. Please let me know that you got this.

Thank you,
Rebecca Minifie

Dear Planning Commissioners:

I am a resident of Dundee and I'm asking that you DENY Verizon's cell tower application for the following reasons:

1. An 80-foot fake tree cell tower in the heart of Dundee would be unattractive and unappealing and would fail to meet the "aesthetic considerations" criteria of DMC 17.404.030(A)(1);
2. The Planning Commission must base it's findings on ALL criteria, including aesthetic considerations, per DMC 17.404.030.
3. The proposed tower's aesthetics would have negative impacts on the appeal and attractiveness of downtown Dundee and the applicant has failed to mitigate these impacts, in violation of DMC 17.404.030(A)(2). Just because the applicant throws more money into a "stealth" tree does not mean the negative impacts are mitigated, as required by the Code.
4. The noise of the proposed tower and associated electrical cabinets would violate Dundee's nighttime noise requirements.
5. The tower would violate the purpose of the Public Zone. DMC 17.202.010(I) only allows uses in the Public Zone which don't "unreasonably disrupt" other areas of the community. The unattractiveness of the tower would disrupt the "attractive" downtown intended for the CBD by DMC 17.202.010(G).
6. The Oregon Land Use Board of Appeals (LUBA), the agency to whom the City's decision could eventually be appealed, has determined that a purpose statement imposes an "affirmative duty" on decision makers. Accordingly, the Commission has an affirmative duty to consider the fact that the proposed tower violates the purpose statement of the Public Zone.
7. Verizon doesn't need a cell tower in the heart of Dundee. Page 65 of the staff report shows that Verizon already has moderate to good cell service in Dundee.
8. There's an AT&T tower only 1.3 miles away from the proposed site and the applicant hasn't satisfied the DMC 17.203.170 requirement of providing written verification as to why co-location on the AT&T tower isn't feasible.
9. The #1 Statewide Land Use Planning Goal for the State of Oregon is citizen involvement. The Planning Commission has a duty to consider public input. As a Dundee resident, I don't want an unattractive 80ft cell tower in the heart of our beautiful City.

Sincerely,

Signature: _____

Printed Name: _____

Date: _____

Address: _____

Rebecca Minitie
Rebecca Minitie

6/29/20

809 SE Elm St.

*Please deny this proposal!
Thank you!*

Dundee, OR 97115

Melody Osborne

From: mike osborne <dorymen1968@gmail.com>
Sent: Tuesday, June 30, 2020 5:37 PM
To: Melody Osborne
Subject: Cell Tower Letter of Support
Attachments: OpenPSYC_ Introduction to Psychology_ Bottom-up vs. Top-down Processing.pdf

To the Dundee Planning Commission,

I am writing to support the approval of the tower. My support mainly comes as a result of my horrible internet service. We have had both Comcast and Frontier (now Zply); we cancelled Comcast because it was constantly going down, only to find that Frontier has the same issue. Under normal circumstances, it is an inconvenience that we grumble about, but this changed in early April.

“Pandemic” is not something I had on my bingo card for 2020. We didn’t expect to be working from home, or attempting to attend school online. However, those two things came to pass. Due to our unreliable internet, I was forced to get a Hotspot from the school district in an effort to provide a consistent means of allowing my daughter to communicate with teachers and complete homework. When I went to pick up the Hotspot we were presented with two connection choices, T-Mobile or Verizon. I knew we didn’t get T-Mobile service where we live, so I opted for the Verizon service. Much to my dismay, the Verizon signal was not strong enough to help with our connection issues. That is to say, it works *sometimes*. We will get a flicker of a signal and then nothing.

I do not know what school is going to look like in the fall, but it is very likely that using online communication services is going to be a necessary component. While I do not have numbers, I do not believe that our household is the only one facing the above issues. There are a number of families that need to use these Hotspots so that their children can virtually attend school. If our choices are T-Mobile or Verizon, and neither of them works, there is a problem. I believe Verizon’s claim that they need to place the tower to provide a stronger signal because my family is living that reality.

It’s also worth pointing out that Dundee will be growing. It is probable that in the next decade we will see a significant increase in size and a greater strain is going to be put on infrastructure such as cell service. I would hope that Dundee would see fit to be proactive, rather than forcing a reactive situation, in assuring services to its citizens.

I agree that a traditional cell tower in the center of town would be an eyesore, which is why I’m glad that Verizon has chosen to propose the monopine design. Although many comments have been submitted to say that this variety would still provide a detrimental view, I disagree. The brain’s top-down and predictive processing will likely mean that most people traveling through Dundee will recognize it as a tree. It’s an unproven theory, but it is why I believe there are so many people that have no idea there are two cell towers in the middle of the high school grounds. People expect to see stadium lights, so the brain passes over them and dismisses them as unimportant. But, there they stand- have stood for years- without protest. In walking distance of an elementary school, a middle school, and next to our high school; close enough to touch and hear, separated by only a fence. (Photos attached.)

I’ve also attached a short explanation of top-down processing for your review.

But again, my main reason for writing is to say that not everyone is enjoying “great” service with Verizon. I worry that other children dependent upon those Hotspots are also losing the ability to receive as best an education that can be expected during a pandemic. I hope you will approve the proposal.

Signed,
Michael Osborne
Dundee, Oregon

Attachments


[Home](#)


Bottom-up vs. Top-down Processing

There are two general processes involved in sensation and perception. **Bottom-up processing** refers to processing sensory information as it is coming in. In other words, if I flash a random picture on the screen, your eyes detect the features, your brain pieces it together, and you perceive a picture of an eagle. What you see is based only on the sensory information coming in. Bottom-up refers to the way it is built up from the smallest pieces of sensory information.

Top-down processing, on the other hand, refers to perception that is driven by cognition. Your brain applies what it knows and what it expects to perceive and fills in the blanks, so to speak. First, let us look at a visual example:

Look at the shape in the box to the right. Seen alone, your brain engages in bottom-up processing. There are two thick vertical lines and three thin horizontal lines. There is no context to give it a specific meaning, so there is no top-down processing involved.



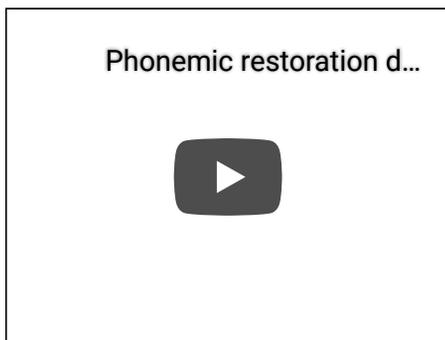
Now, look at the same shape in two different contexts.

Surrounded by sequential letters, your brain expects the shape to be a letter and to complete the sequence. In that context, you perceive the lines to form the shape of the letter “B.” Surrounded by numbers, the same shape now looks like the number “13.” When given a context, your perception is driven by your cognitive expectations. Now you are processing the shape in a top-down fashion.



Next, watch this video for an example of top-down processing with auditory stimuli. Note that at the end, once you have heard the full sentence, you can understand it even when it is broken up again. A “phoneme” is just a basic unit of speech sound.

Watch: *Phonemic Restoration Demo / Examples* (<http://youtu.be/k74KCfSDCn8>)



FACE:



To the right is one final example of top-down processing. From a bottom-up perspective, you should see a bunch of meaningless blobs. However, our brain is wired to detect faces, which, from a biosociological perspective, is among the most important stimuli in the world. So the floating blob becomes an eye, and from there we construct a nose and a mouth, and the fact that the picture is labeled as “face” tells your brain that is what it is supposed to see. So here is the twist... instead of a face, now look at the image and see a saxophone player wearing a big hat. Some of you may have noticed that from the beginning, but for most, being told there is another image there will alert your brain to search for the pattern.

So again, with these top-down processing example, your brain adds meaning what you perceive based on what it knows or expects.

Visit: *Perceptual Comparisons* (<http://goo.gl/lh4Bs0>) so that you can describe the general nature of perceptual contrast. You do not need to focus on the details of perimeters and such, but be able to explain (using the examples provided) how our perceptual experience is influenced by comparisons that we make.

Finally, check out a demonstration of how top-down processing drives your ability to read.

Visit: <http://www.ecenglish.com/learnenglish/lessons/can-you-read>

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Additional
Written
Public
Testimony
07.01.2020

Melody Osborne

From: Keeley O'Brien <keeley@obrien-co.com>
Sent: Wednesday, July 01, 2020 9:35 AM
To: Melody Osborne
Subject: CU 20-06/SDR 20-07 Verizon Cell Tower
Attachments: Dundee_CellTower_06_2020.wmv; Verizon Dundee O'Brien .pdf

Melody,

Please accept my letter and my short video of what the Verizon tower will look like for the planning commission meeting.

Thank you,

Keeley

Dear Planning Commissioners:

I am a resident of Dundee and I'm asking that you DENY Verizon's cell tower application for the following reasons:

1. An 80-foot fake tree cell tower in the heart of Dundee would be unattractive and unappealing and would fail to meet the "aesthetic considerations" criteria of DMC 17.404.030(A)(1);
2. The Planning Commission must base its findings on ALL criteria, including aesthetic considerations, per DMC 17.404.030.
3. The proposed tower's aesthetics would have negative impacts on the appeal and attractiveness of downtown Dundee and the applicant has failed to mitigate these impacts, in violation of DMC 17.404.030(A)(2). Just because the applicant throws more money into a "stealth" tree does not mean the negative impacts are mitigated, as required by the Code.
4. The noise of the proposed tower and associated electrical cabinets would violate Dundee's nighttime noise requirements.
5. The tower would violate the purpose of the Public Zone. DMC 17.202.010(I) only allows uses in the Public Zone which don't "unreasonably disrupt" other areas of the community. The unattractiveness of the tower would disrupt the "attractive" downtown intended for the CBD by DMC 17.202.010(G).
6. The Oregon Land Use Board of Appeals (LUBA), the agency to whom the City's decision could eventually be appealed, has determined that a purpose statement imposes an "affirmative duty" on decision makers. Accordingly, the Commission has an affirmative duty to consider the fact that the proposed tower violates the purpose statement of the Public Zone.
7. Verizon doesn't need a cell tower in the heart of Dundee. Page 65 of the staff report shows that Verizon already has moderate to good cell service in Dundee.
8. There's an AT&T tower only 1.3 miles away from the proposed site and the applicant hasn't satisfied the DMC 17.203.170 requirement of providing written verification as to why co-location on the AT&T tower isn't feasible.
9. The #1 Statewide Land Use Planning Goal for the State of Oregon is citizen involvement. The Planning Commission has a duty to consider public input. As a Dundee resident, I don't want an unattractive 80ft cell tower in the heart of our beautiful City.

Sincerely,

Signature: _____



Printed Name: Keeley O'Brien

Date: 6/30/20

Address: 249 SW 9th

Dundee, OR 97115

Melody Osborne

From: Brigitte Hoss <franziskahausdundee@gmail.com>
Sent: Wednesday, July 01, 2020 8:22 AM
To: Melody Osborne
Subject: Citizen Tower Letter
Attachments: No on Tower p1.pdf; No on Tower p2.pdf

Good Morning Melody,

We would like to submit our letter with regard to the proposed cell tower in Dundee.
(please see both page 1 and 2 attachments)

Thank you,

Brigitte & Clark Hoss

Dear Planning Commissioners:

I am a resident of Dundee and I'm strongly asking that you **DENY** Verizon's cell tower application for the following reasons:

1. An 80-foot fake tree cell tower in the heart of Dundee would be unattractive and unappealing and would fail to meet the "aesthetic considerations" criteria of DMC 17.404.030(A)(1); The City of Dundee and surrounding area residents and businesses **have spent decades improving our community**. An 80 ft cell tower right in the heart of our small quaint down town would significantly harm all these decades of hard work. We are finally getting getting downtown sidewalk and road improvements. **This tremendous oppressive eye soar would significantly harm these efforts.**
2. The Planning Commission must base it's findings on ALL criteria, including aesthetic considerations, per DMC 17.404.030. The scale of an 80-foot tower is significantly out of proportion to the size of downtown Dundee and as well as the very small size of its homes and business structures. **An installation of an 80 foot cell tower would show serious violation of the purpose of DMC 17.404.030 code.**
3. The proposed tower's aesthetics would have negative impacts on the appeal and attractiveness of downtown Dundee and **the applicant has failed to mitigate these impacts**, in violation of DMC 17.404.030(A) (2). Just because the applicant throws more money into a "stealth" tree **does not mean the negative impacts are mitigated, as required by the Code. The size of a "stealth tree" would itself be a significant eye soar and look completely out of place. It would very clearly not mitigate the negative impact.** DMC 17.404.030 (A) (2) again clearly not met.
4. The noise of the proposed tower and associated electrical cabinets would **violate Dundee's nighttime noise requirements.**

5. The tower would violate the purpose of the Public Zone. DMC 17.202.010(I) only allows uses in the Public Zone which don't "unreasonably disrupt" other areas of the community. The unattractiveness of the tower would disrupt the "attractive" downtown intended for the CBD by DMC 17.202.010(G). **Allowing for the installation of an 80 foot would be an egregious violation of the purpose of the Public Zone DMC 17.202.010 (I).**

6. The Oregon Land Use Board of Appeals (LUBA), the agency to whom the City's decision could eventually be appealed, has determined that a purpose statement imposes an "affirmative duty" on decision makers. Accordingly, the Commission has an affirmative duty to consider the fact that the proposed tower violates the purpose statement of the Public Zone.

7. Verizon doesn't need a cell tower in the heart of Dundee. Page 65 of the staff report shows that **Verizon already has moderate to good cell service in Dundee.**

8. There's an AT&T tower only 1.3 miles away from the proposed site and **the applicant has not satisfied the DMC 17.203.170 requirement of providing written verification as to why co- location on the AT&T tower is not feasible.**

9. The #1 Statewide Land Use Planning Goal for the State of Oregon is citizen involvement. The Planning Commission has a duty to consider public input. As a Dundee resident, I do not want an unattractive oppressive 80ft cell tower in the heart of our beautiful City.

Sincerely,
Signature:  / 
Printed Name: Brigitte Hoss / Clark Hoss
Date: 6.30.20
Address: 10305 NE Fox Farm Rd.
Dundee, OR 97115

Melody Osborne

From: Jeremi Carroll <jeremi_c@yahoo.com>
Sent: Wednesday, July 01, 2020 10:22 AM
To: Melody Osborne
Subject: Dundee cell tower
Attachments: b58bfd3-9183-4094-868d-490a5a6ffc80.pdf

Jeremi Carroll
CFD
503-487-6796
Jeremi@pollinateflowers.com

Jeremi Carroll
360-747-2339
Jeremi_c@yahoo.com

Dear Planning Commissioners:

I am a resident of Dundee and I'm asking that you DENY Verizon's cell tower application for the following reasons:

1. An 80-foot fake tree cell tower in the heart of Dundee would be unattractive and unappealing and would fail to meet the "aesthetic considerations" criteria of DMC 17.404.030(A)(1);
2. The Planning Commission must base its findings on ALL criteria, including aesthetic considerations, per DMC 17.404.030.
3. The proposed tower's aesthetics would have negative impacts on the appeal and attractiveness of downtown Dundee and the applicant has failed to mitigate these impacts, in violation of DMC 17.404.030(A)(2). Just because the applicant throws more money into a "stealth" tree does not mean the negative impacts are mitigated, as required by the Code.
4. The noise of the proposed tower and associated electrical cabinets would violate Dundee's nighttime noise requirements.
5. The tower would violate the purpose of the Public Zone. DMC 17.202.010(I) only allows uses in the Public Zone which don't "unreasonably disrupt" other areas of the community. The unattractiveness of the tower would disrupt the "attractive" downtown intended for the CBD by DMC 17.202.010(G).
6. The Oregon Land Use Board of Appeals (LUBA), the agency to whom the City's decision could eventually be appealed, has determined that a purpose statement imposes an "affirmative duty" on decision makers. Accordingly, the Commission has an affirmative duty to consider the fact that the proposed tower violates the purpose statement of the Public Zone.
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8. There's an AT&T tower only 1.3 miles away from the proposed site and the applicant hasn't satisfied the DMC 17.203.170 requirement of providing written verification as to why co-location on the AT&T tower isn't feasible.
9. The #1 Statewide Land Use Planning Goal for the State of Oregon is citizen involvement. The Planning Commission has a duty to consider public input. As a Dundee resident, I don't want an unattractive 80ft cell tower in the heart of our beautiful City.

Sincerely,

Signature:



Printed Name:

Jeremi Carroll

Date:

07/01/2020

Address:

10623 ne fox farm rd Dundee, OR 97115

Melody Osborne

From: Cathy Martin <cathy@argylewinery.com>
Sent: Wednesday, July 01, 2020 9:26 AM
To: Melody Osborne
Subject: FW:
Attachments: ArgyleDundee_2007010921000.pdf

Hi Melody. A day seems to make all the difference. Now this is working for me. Here are my contributions to the cell tower discussion.

Thanks.

Cathy

Cathy Martin

Argyle Winery
691 Highway 99W
Dundee, OR 97115
Phone: (503) 538-8520 x231
cathy@argylewinery.com
ArgyleWinery.com



July 1, 2020

Dear Planning Commission:

Argyle opposes the cell tower for all of the reasons listed in the letter (proposed appearance, apparent legal issues, health issue considerations). As one of the anchor businesses of downtown Dundee, we have worked hard to make sure visitors have an experience that matches the reputation of the world class wines, epic scenery, and amazing hospitality that the Dundee Hills are known for. Last year we had approximately 60,000 visitors to the Tasting House, and while Argyle is a large property—there is more outside space than inside. This means the majority of our guests would be enjoying their Argyle wine while viewing a large, 80 foot cell tower. Not the experience we had in mind. And truly not the memory we want visitors to our town to take away. We would propose a different location that is not in the middle of town.

Sincerely,

A handwritten signature in black ink that reads "Cathy Martin". The signature is written in a cursive, flowing style.

Cathy Martin

Argyle Tasting House

691 Hwy 99W

Dundee, OR 97115

The
Argyle
Tasting
House is

Dear Planning Commissioners:

I am a resident of Dundee and I'm asking that you DENY Verizon's cell tower application for the following reasons:

1. An 80-foot fake tree cell tower in the heart of Dundee would be unattractive and unappealing and would fail to meet the "aesthetic considerations" criteria of DMC 17.404.030(A)(1);
2. The Planning Commission must base it's findings on ALL criteria, including aesthetic considerations, per DMC 17.404.030.
3. The proposed tower's aesthetics would have negative impacts on the appeal and attractiveness of downtown Dundee and the applicant has failed to mitigate these impacts, in violation of DMC 17.404.030(A)(2). Just because the applicant throws more money into a "stealth" tree does not mean the negative impacts are mitigated, as required by the Code.
4. The noise of the proposed tower and associated electrical cabinets would violate Dundee's nighttime noise requirements.
5. The tower would violate the purpose of the Public Zone. DMC 17.202.010(I) only allows uses in the Public Zone which don't "unreasonably disrupt" other areas of the community. The unattractiveness of the tower would disrupt the "attractive" downtown intended for the CBD by DMC 17.202.010(G).
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7. Verizon doesn't need a cell tower in the heart of Dundee. Page 65 of the staff report shows that Verizon already has moderate to good cell service in Dundee.
8. There's an AT&T tower only 1.3 miles away from the proposed site and the applicant hasn't satisfied the DMC 17.203.170 requirement of providing written verification as to why co-location on the AT&T tower isn't feasible.
9. The #1 Statewide Land Use Planning Goal for the State of Oregon is citizen involvement. The Planning Commission has a duty to consider public input. As a Dundee resident, I don't want an unattractive 80ft cell tower in the heart of our beautiful City.

Sincerely,

Signature: Cathy Martin

Printed Name: Cathy Martin

Date: 7/1/2020

Address: 691 Hwy 99W. Dundee, OR 97115

Melody Osborne

From: Russell Halstead <pottsdundee@hotmail.com>
Sent: Wednesday, July 01, 2020 12:28 PM
To: Melody Osborne
Subject: Dundee Cell Tower

We are writing to voice our objection to a cell tower in Dundee. The people of Dundee have been working really hard to get

the city attractive as a tourist destination and now Verizon wants to put in a major eyesore . There has to be another location

just outside the main thoroughfare area that would serve its purpose.

Alice and Russ Halstead
Business property owners on Hwy. 99

Additional
Written
Public
Testimony
07.01.2020(1)

Melody Osborne

From: Susan Baird <susan@bairdlawoffices.com>
Sent: Wednesday, July 01, 2020 2:03 PM
To: Melody Osborne
Subject: Additional written comments for Verizon hearing
Attachments: Microsoft Word - 3rd Letter to Dundee Planning Commission Opposing Verizon's Cell Tower.docx.pdf

Hi Melody,

Please include the attached, additional written comments into the record. If you would, please let me know if the attached will be distributed to Planning Commissioners this afternoon or read into the record.

Thank you,
Susan

Susan Baird
Attorney at Law

Baird Law Office, LLC
971-832-9044
P.O. Box 373
Dundee, OR 97115
susan@bairdlawoffices.com
www.bairdlawoffices.com

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Baird Law Office, LLC
P.O. Box 373, Dundee, OR 97115
susan@bairdlawoffices.com
971-832-9044

Dundee Planning Commission
Via email to: melody.osborne@dundeecity.org

July 1, 2020

Re: Type III Conditional Use Permit and Site Development Review
File No. CU 20-06/SDR 20-07 – Verizon Cell Tower (the “Application”)

Dear Planning Commissioners:

With regard to the letter sent to you by Verizon’s attorney dated June 29, 2020, I have the following responses:

1. Violation of the Purpose of the Public Zone

I’m not saying ALL wireless communication facilities violate the P Zone requirement of not “unreasonably disrupting other areas of the community;” I’m only saying **the applicant’s huge, 80-foot** tower violates the stated purpose of the P Zone. If applicant were proposing a 35 foot tower, it would be a different story.

DMC 17.202.010(I) states: “The P zone provides for public and semi-public uses, where such uses do **not unreasonably disrupt** or alter other areas of the community.” Verizon’s attorney wants you to ignore the stated purpose of the P Zone because he claims it is not an “approval criterion;” however, the Land Use Board of Appeals (LUBA) disagrees. In *Concerned Homeowners Against the Fairways v. City of Creswell*, LUBA Nos. 2006-053, 2006-054, 52 Or LUBA 620, 628–629 (2006), *aff’d without opinion*, [210 Or App 467](#) (2007), LUBA stated that **even though the purpose statement wasn’t worded as an approval criterion, it nonetheless imposed “additional affirmative duties” that the decision-makers had to fulfill.**

Accordingly, not all cell towers would violate the stated purpose of the P Zone, but this one does. You, Commissioners, can’t ignore the stated purpose of the P Zone; rather, you have “additional affirmative duties” to consider it.

2. Aesthetic Considerations.

I have stated that the Application fails to satisfy the “aesthetic considerations” requirements of DMC 17.404.030(A)(1). In his rebuttal, Verizon’s attorney said: “Ms. Baird does not explain what Verizon would be required to do to make the tower more aesthetically pleasing in order to satisfy this standard.” (Page 5). That’s because it’s not my job.

In land use law, the applicant bears the burden of proof. Verizon needs to **prove** that their application meets the approval criteria. I have no obligation to tell them how to do that and neither do you, Commissioners.

3. Not all wireless towers are the same.

On page 6, Verizon’s attorney says “If wireless communication towers are allowed in almost every zone, the City cannot prohibit them on the grounds that they are not aesthetically pleasing.”

Number 1, yes you can. “Aesthetic considerations” is expressly listed as a “Use Criteria” in DMC 17.404.030(A).

Number 2, not all wireless towers are the same. Just because you deny **this, 80-foot tower** for violating aesthetic considerations, does not mean you’re denying all towers.

4. Noise violation.

DMC 8.28.040 provides that noise ***equal to*** or in excess of 60 dBA from 7am to 10pm or 55 dBA 10pm to 7am in a Commercial Zone is unlawful. According to the Applicant’s revised acoustic report dated June 19, 2020, the “sound pressure level from the proposed equipment is predicted to be 60 dBA at the nearest receiving property.” This means the proposed equipment ***violates both day and nighttime noise requirements.***

8.28.040 Unlawful noise levels.

SHARE

A. A noise measured as provided above from any source, other than as provided in this chapter, which is equal to or in excess of the dBA established for the time period and zones listed below is declared to be unlawful:

Zone	7:00 a.m. to 10:00 p.m.	10:00 p.m. to 7:00 a.m.
Residential	60 dBA	50 dBA
Commercial	60 dBA	55 dBA
Light industrial	70 dBA	65 dBA

Melody Osborne

From: Ryan Harris <Ryan@domaineserene.com>
Sent: Wednesday, July 01, 2020 2:25 PM
To: Melody Osborne
Cc: Evan Karp
Subject: Written Testimony at the July 1 Planning Commission Hearing

Dear Melody,

Please submit this written testimony to the Planning Commission to be read out loud in tonight's meeting as I am unable to attend via Zoom.

Dear Members of the Planning Commission,

My name is Ryan Harris and I am a founding member of Wine Country Legacy Partners, LLC. Our Company owns multiple Central Business District tax lots directly across from the Dundee Fire Department as well as a single tax lot adjacent to the Dundee Fire Department.

Our goal at Wine Country Legacy Partners is to develop wine country properties to build long-term value for ourselves and for the community. We aim to do this in Dundee with appropriate and sustainable investments that enrich the local community and quality of life of residents while enhancing residential and commercial property values in the area.

We are attracted to Dundee for many reasons, including the high potential we see for it and by the vision of the Mayor, City Council and Planning Commission to beautify the town while encouraging high-end development. We believe that the aesthetic improvements and resultant increasing land values will attract new investment into the community that will build the tax base and ultimately benefit the community in the form of increased resources for schools, infrastructure and public services. We believe strongly that Dundee can benefit from this "Virtuous Cycle" of investment well into the future.

Concurrently we believe that the proposed cell tower proposed to be located in downtown Dundee would be a major step back from the positive progress that the city has made and aspires to make in the near future. Why would the City go to such efforts and expense to masterplan and beautify the City and take such a major step back by building an eyesore in the center of town? I have to wonder why the Planning Commission would impose a 3-story limit on buildings and then approve a 10-story cell tower that would be far less attractive than a well-designed building.

We are convinced as businesspeople that this move would drastically and negatively impact our property values due to the ugly nature of the tower. It would certainly change our opinion about the direction of Dundee and therefore impacts our desire to invest in the future development of Dundee. We were shocked to learn that the City could be willing to sell out the aesthetic future of the town for a meager amount of revenue that would be more than offset by the lost tax revenue associated with the declining values due to the tower.

We are surprised to see the City of Dundee taking advantage of the zoning exception that it received for the Fire Department to now extend into non-related, revenue producing activities. We firmly believe this kind of self-dealing is immoral and possibly illegal.

We feel strongly about this matter and are prepared to appeal this matter to the Oregon Land Use Board of Appeals and beyond to the Oregon State Supreme Court, if necessary. We hope that the City of Dundee will vigorously pursue other options, so they do not unnecessarily scar the town forever and deplete financial resources to fight our appeal that could better spent on urban development and the betterment of the community.

We would also like to point out that this is the fourth attempt by Verizon to receive approval to construct an 80-foot tower. We are squandering taxpayer resources on this matter and should remain focused on more important matters.

Thank you,

Ryan

Melody Osborne

From: Jacob Denbrook <jakedenbrook@gmail.com>
Sent: Wednesday, July 01, 2020 3:10 PM
To: Melody Osborne
Subject: No Cell Phone Tower

Dear Planning Commissioners:

I am a resident of Dundee and I'm asking that you DENY Verizon's cell tower application for the following reasons:

1. An 80-foot fake tree cell tower in the heart of Dundee would be unattractive and unappealing and would fail to meet the "aesthetic considerations" criteria of DMC 17.404.030(A)(1);
2. The Planning Commission must base its findings on ALL criteria, including aesthetic considerations, per DMC 17.404.030;
3. The proposed tower's aesthetics would have negative impacts on the appeal and attractiveness of downtown Dundee and the applicant has failed to mitigate these impacts, in violation of DMC 17.404.030(A)(2). Just because the applicant throws more money into a "stealth" tree does not mean the negative impacts are mitigated, as required by the Code.
4. The noise of the proposed tower and associated electrical cabinets would violate Dundee's nighttime noise requirements.
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6. The Oregon Land Use Board of Appeals (LUBA), the agency to whom the City's decision could eventually be appealed, has determined that a purpose statement imposes an "affirmative duty" on decision makers. Accordingly, the Commission has an affirmative duty to consider the fact that the proposed tower violates the purpose statement of the Public Zone.
7. Verizon doesn't need a cell tower in the heart of Dundee. Page 65 of the staff report shows that Verizon already has moderate to good cell service in Dundee.
8. There's an AT&T tower only 1.3 miles away from the proposed site and the applicant hasn't satisfied the DMC 17.203.170 requirement of providing written verification as to why co-location on the AT&T tower isn't feasible.
9. The #1 Statewide Land Use Planning Goal for the State of Oregon is citizen involvement. The Planning Commission has a duty to consider public input. As a Dundee resident, I don't want an unattractive 80ft cell tower in the heart of our beautiful City.

Sincerely,
Jacob Denbrook

Melody Osborne

From: Jill D <jilldenbrook@gmail.com>
Sent: Wednesday, July 01, 2020 3:11 PM
To: Melody Osborne
Subject: No Cell Phone Tower in Dundee

Dear Planning Commissioners:

I am a resident of Dundee and I'm asking that you DENY Verizon's cell tower application for the following reasons:

1. An 80-foot fake tree cell tower in the heart of Dundee would be unattractive and unappealing and would fail to meet the "aesthetic considerations" criteria of DMC 17.404.030(A)(1);
2. The Planning Commission must base its findings on ALL criteria, including aesthetic considerations, per DMC 17.404.030;
3. The proposed tower's aesthetics would have negative impacts on the appeal and attractiveness of downtown Dundee and the applicant has failed to mitigate these impacts, in violation of DMC 17.404.030(A)(2). Just because the applicant throws more money into a "stealth" tree does not mean the negative impacts are mitigated, as required by the Code.
4. The noise of the proposed tower and associated electrical cabinets would violate Dundee's nighttime noise requirements.
5. The tower would violate the purpose of the Public Zone. DMC 17.202.010(I) only allows uses in the Public Zone which don't "unreasonably disrupt" other areas of the community. The unattractiveness of the tower would disrupt the "attractive" downtown intended for the CBD by DMC 17.202.010(G).
6. The Oregon Land Use Board of Appeals (LUBA), the agency to whom the City's decision could eventually be appealed, has determined that a purpose statement imposes an "affirmative duty" on decision makers. Accordingly, the Commission has an affirmative duty to consider the fact that the proposed tower violates the purpose statement of the Public Zone.
7. Verizon doesn't need a cell tower in the heart of Dundee. Page 65 of the staff report shows that Verizon already has moderate to good cell service in Dundee.
8. There's an AT&T tower only 1.3 miles away from the proposed site and the applicant hasn't satisfied the DMC 17.203.170 requirement of providing written verification as to why co-location on the AT&T tower isn't feasible.
9. The #1 Statewide Land Use Planning Goal for the State of Oregon is citizen involvement. The Planning Commission has a duty to consider public input. As a Dundee resident, I don't want an unattractive 80ft cell tower in the heart of our beautiful City.

Sincerely,
Jill Denbrook

Additional

Written

Public

Testimony

07.01.2020(2)

Melody Osborne

From: Evan Karp <evan@domaineserene.com>
Sent: Wednesday, July 01, 2020 4:27 PM
To: Melody Osborne
Subject: Meeting
Attachments: Letter To Planning Commission 7.1.20.pdf

Hi Melody,

I would like to attend and speak at this evening's meeting.

Will you please forward me the invite?

Attached is my written testimony.

Kind regards,
Evan

Evan Karp
Chief Financial Officer
Domaine Serene Vineyards & Winery / Château de la Créé
t. 971.545.2240
www.domaineserene.com



July 1, 2020

Dear Members of the Planning Commission,

My name is Evan Karp and I am a founding member of Wine Country Legacy Partners, LLC. Our Company owns multiple Central Business District tax lots directly across from the Dundee Fire Department as well as a single tax lot adjacent to the Dundee Fire Department. Our goal at Wine Country Legacy Partners is to develop wine country properties to build long-term value for ourselves and for the community. We aim to do this in Dundee with appropriate and sustainable investments that enrich the local community and quality of life of residents while enhancing residential and commercial property values in the area.

We would like to thank the Planning Commission for continuing this hearing so that other members of the Community could have a voice in this process. Now that there is greater transparency into this issue, it is not surprising to see so many well-established businesses as well as local residents unite in their opposition to the massive 80 foot tower in the heart of the city.

Given time constraints, we will be clear and concise with our concerns:

Concern 1: Aesthetics

We concur with attorney Baird's position on the aesthetics, and would like to remind the Planning Commission that your decision must be based on findings of fact with respect to all criteria, including aesthetic considerations, as per DMC 17.404.030. As a reminder, you are fully empowered to deny based on aesthetic considerations.

Concern 2: Seismic Risks / Setbacks

We agree with Mr. Jivanjee's position regarding seismic risks. The Applicant has not proven that the cell tower could withstand a seismic event. We also believe that Mr. Jivanjee makes an excellent point about requiring additional setbacks given the height of this mammoth tower.

Concern 3: Colocation on existing tower(s) or alternative sites.

In his rebuttal letter, Mr. Connors points out that I do "not identify where this alleged tower is located, but he may be referring to a misstatement from an earlier application for a tower on this site." I can confirm that I did in fact retrieve this information from earlier applications. It is good to see that we are in agreement about previous misstatements in earlier applications, but this begs the question, how do we know that there are not misstatements in the current application? In land use law, the applicant bears the burden of proof. Verizon needs to prove that their application meets the approval criteria, and consequently, should be required to provide third party evidence on all major points before this matter should even be considered.

Concern 4: Conflict of Interest

We believe that the City Manager has a conflict of interest as the Reviewer of this application. Please remember that the City Manager reports to the City Council. The City Council is very much in favor of this tower. We were very disappointed to see the City Manager provide the minimum legal notice allowable under the code, despite his knowledge that the previous applications from Verizon were widely opposed. We were equally shocked that the City Manager failed to notify Verizon within 30 days that their application was incomplete. During our last meeting, Mr. Connors testified that he too had a different understanding of the date the application was deemed complete. Lastly, the City Manager signed a lease with Verizon approximately 1-2 months before the Applicant had submitted their application.

Concern 5: Market Values

During the last Planning Commission meeting, Mr. Connors testified that he did not believe market values would decrease, and could possibly increase. In his rebuttal letter, Mr. Connors is now trying to avoid this issue by stating that “this criteria is not relevant under the City’s approval criteria.” This directly speaks to the credibility of the Applicant, as well as the lack of alignment between the Applicant and the Dundee Transportation Plan, which cost more to create than the first year rent that would be received from Verizon.

Concern 6: The Lease

The tenor of the signed lease between the City of Dundee and Verizon can last up to 30 years. If the Planning Commission approves this application, we will need to live with this decision for what will be the remainder of our lives.

Concern 7: Service

During the last Planning Commission meeting, Mr. Connors stated that the cell tower would be used for 4G service, even though 5G service is widely regarded as the future of telecommunications. In previous applications, the Applicant stated that this tower was needed to meet future demand of new technologies. Now, it appears that the story has changed. Is this because Verizon has found already found a way to monetize the proposed 4G tower through colocation with another provider? Or does this mean that Verizon will be coming back to Dundee in a few years and looking to provide a second cell tower on this site?

Concern 8: Emissions

Like COVID-19, it is clear that the science around cell towers is constantly evolving, so it is quite possible that we will later discover that there are adverse health effects of cell towers. Does the Planning Commission want to be responsible for the countless lives that could be impacted?

Concern 9: Economics

An enormous cell tower in the heart of Dundee will impact the desire of others to invest in the future development of Dundee. We were shocked to learn that the City could be willing to sell out the aesthetic future of the town for \$32,000 per year that would be more than offset by the lost tax revenue associated with the declining values due to the tower. If the math is correct, the City could more than recover this amount with the first \$5MM of development in the CBD. A development on our acreage alone could potentially cost \$50MM - \$100MM.

In closing, we strongly oppose a cell tower in the heart of the Central Business District and are prepared to appeal this matter to the Oregon Land Use Board of Appeals, and beyond, if possible and necessary. We hope that the City of Dundee understands that they are at a tipping point, where the city could live up to its potential and become the next great Oregon wine town (think downtown Carlton or 3rd street in McMinnville), or the city can continue to languish in its current state, with a gigantic cell tower as its landmark. We hope that the City of Dundee will pursue other options, so that they do not unnecessarily scar the town forever and deplete resources from the citizens that could be better spent on urban development and the betterment of the community.

Sincerely,



Evan Karp

Wine Country Legacy Partners, LLC