



November 17, 2023

Land Use File(s): CSU-2023-006

## NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Director on November 17, 2023

<b>Applicant(s):</b>	New Cingular Wireless PCS (DBA AT&T)
<b>Applicant(s) Rep:</b>	Valerie Cardenas, Smartlink Group
<b>Location(s):</b>	2889 SE Hillside Ct
<b>Tax Lot(s):</b>	11E25CD00100
<b>Application Type(s):</b>	Community Service Use (CSU)
<b>Decision:</b>	Approved with Conditions
<b>Review Criteria:</b>	Milwaukie Zoning Ordinance: <ul style="list-style-type: none"><li>• MMC 19.904 Community Service Uses (CSU)</li><li>• MMC 19.1004 Type I Review</li></ul>

**Appeal period closes: 5:00 p.m., December 4, 2023**

### **Findings in Support of Approval**

The Findings for this application are included as Exhibit 1.

This notice is issued in accordance with Milwaukie Municipal Code (MMC) Section 19.1004 Type I Review. The complete case file for this application is available for review between 8:00 a.m. and 5:00 p.m. on regular business days at the Planning Department at Milwaukie City Hall at 10501 SE Main St. Please contact Adam Heroux, Associate Planner at [heroux@milwaukieoregon.gov](mailto:heroux@milwaukieoregon.gov) or by phone at 503-786-7658 if you wish to view this case file.

## **Appeal**

This decision may be appealed by 5:00 p.m. (please arrive by 4:45 for payment processing) on December 4, 2023, which is 15 days from the date of this decision.<sup>1</sup> An appeal of this decision would be heard by the Milwaukie Planning Commission following the procedures of MMC Section 19.1010 Appeals. This decision will become final on the date above if no appeal is filed during the appeal period. Milwaukie Planning staff can provide information regarding forms, fees, and the appeal process at 503-786-7630 or [planning@milwaukieoregon.gov](mailto:planning@milwaukieoregon.gov).

## **Conditions of Approval**

1. Approval of this application shall be void after 6 months from the expiration of the final appeal period unless substantial construction has taken place.

## **Director's Declaration of Impartiality**

I certify that neither I nor any member of my immediate family has a material, personal, or financial relationship with the applicant. I further certify that no other relationship, bias, or ethical conflict exists which would have prevented me from evaluating the land use application solely on its merits and in accordance with the Milwaukie Municipal Code.

## **Decision**

- Approved  
 Approved with Conditions  
 Denied



---

Laura Weigel, AICP  
Planning Manager

## **Exhibits**

1. Findings in Support of Approval

cc: Valerie Cardenas, Smartlink Group, Applicant's Representative (via email)  
Joseph Briglio, Community Development Director (via email)  
Laura Weigel, Planning Manager (via email)  
Jennifer Garbely, City Engineer (via email)  
Engineering Development Review (via email)  
Patrick McLeod, Building Official (via email)  
Stephanie Marcinkiewicz, Inspector/Plans Examiner (via email)  
Harmony Drake, Permit Technician (via email)  
Land Use File(s): CSU-2023-006

---

<sup>1</sup> As per MMC Section 19.1010, if the 15<sup>th</sup> day falls on a weekend or legal holiday, the end of the appeal period shall be extended to the end of the next business day.

**EXHIBIT 1**  
**Findings in Support of Approval**  
**File #CSU-2023-006, Wireless Transmission Equipment Modification**

Sections of the Milwaukie Municipal Code not addressed in these findings are found to be inapplicable to the decision on this application.

1. The applicant's representative, Valerie Cardenas with Smartlink Group, has applied on behalf of New Cingular Wireless PCS (doing business as AT&T), to modify transmission equipment at an existing wireless communication facility at 2889 SE Hillside Ct. This site is in the Residential High Density (R-HD) zone. The land use application file number is CSU-2023-006.
2. The applicant proposes to make the following modifications to the existing facility at 2889 SE Hillside Ct: Remove (6) antennas from (6) positions, install (9) antennas in (6) positions, please note: (2) small antennas will be stacked one on top of the other in (1) position so there will be no changes to the physical dimensions of the support structure with this modification. Relocate (9) remote radios (RRH's), remove (1) power cabinet, remove (1) battery cabinet with batteries, remove (1) UMTS cabinet, remove (2) GSM cabinets, remove (8) converters, remove (7) rectifiers, remove (5) information cards, install (1) power plant, install (11) rectifiers, install (1) battery cabinet with (5) battery strings.
3. The existing wireless communication facility (WCF) was approved in 1997 through a variance (VR-97-08) and CSO review (CSO-97-10) on top of the 8-story residential building on the site at 2889 SE Hillside Ct.

The city has approved six similar modification applications since the facility was established, including five Type II reviews in 2005 (CSU-05-05), 2010 (CSU-10-08), 2011 (CSU-11-03 *expired before construction*), 2012 (CSU-12-05), and 2016 (CSU-2016-001) and one Type I review in 2021 (CSU-2021-001).

4. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC): MMC Section 19.904 - Community Service Uses

The application has been processed in accordance with MMC Section 19.1004 Type I Review.

5. MMC Section 19.904 Community Service Uses (CSU)
  - a. MMC 19.904.2 lists the uses that are applicable to being a Community Service Use (CSU).

The list has communication facilities, which includes the following: telephone switching stations; telephone and microwave facilities; radio and television transmission facilities, including studios; wireless communication facilities.

*The proposal is a modification to an existing wireless communication facility.*

*The Planning Manager finds that the proposal meets the applicability of a CSU.*

6. MMC 19.904.10 Standards for Wireless Communication Facilities

a. MMC 19.904.10.A Applicability

The placement, construction, or modification of wireless communication facilities are subject to the provisions of this subsection. In addition, wireless communication facilities shall comply with all municipal codes, heretofore or hereafter amended.

*The proposal is a modification to an existing wireless communication facility and the standards of this section are applicable.*

b. MMC 19.904.10.B Purpose

The purpose of this subsection is to establish regulations for the siting of wireless communication facilities to allow service to the community while protecting the community from clutter and designs which are not consistent with existing and future land uses.

c. MMC 19.904.10.C Application Process

(1) Type I Review

- (i) Modification of WCFs involving the following activities are subject to Section 19.1004, provided that the proposal does not substantially change the physical dimensions of the support structure:

- Change the number of antennas
- Removal of existing transmission equipment
- Replacement of existing transmission equipment

*The applicant is proposing to replace existing antennas. There will be no change in the number of antennas. The applicant proposes to remove and replace existing transmission equipment. These changes do not substantially change the physical dimensions of the support structure as noted below.*

- (ii) For the purposes of this section, a modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

- For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 ft, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than 10 ft, whichever is greater.

*The proposed work will not increase the height of the existing facility which is located on the roof of the 8-story building on site. The existing facility is not a tower.*

- For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 ft, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than 6 ft.

*As a rooftop wireless communications facility, the facility is not a traditional tower. As a result, this criteria is not applicable.*

- For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed 4 cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure.

*The facility is not located in the public right-of-way. As proposed, the applicant plans to remove 1 power cabinet, 2 GSM cabinets, 1 battery cabinet and 1 UMTS cabinet. The applicant proposes replacing two of those five cabinets (power cabinet and battery cabinet) with new cabinets. None of these replacement cabinets will be installed at the ground level since they will be located on the roof.*

It entails any excavation or deployment outside the current site;

*The proposed work does not entail any excavation or deployment outside the current site. All modifications are happening within the existing facility structure located on the 8-story building on-site.*

- It would defeat the concealment elements of the eligible support structure.

*The proposed work will not defeat the concealment elements of the support structure. The facility is not easily visible from the ground-level on site. All modifications are happening within the existing facility structure located on the 8-story building on-site.*

- It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment.

*The proposed modification of the support structure complies with the conditions of approval associated with the siting approval of the*

*construction or modification of the eligible support structure and base station equipment.*

*The Planning Manager finds that this proposal meets the standards for a Type I review and is not substantially changing the physical dimensions of the eligible support structure.*

7. MMC 19.904.10.D Application Submittal Requirements

MMC 19.904.10.D.2 establishes application requirements for WCFs that do not involve the construction of a new monopole.

- a. MMC 19.904.10.D.2.a requires a detailed narrative description of the proposed antenna location.

*The applicant submitted a project narrative as part of the application. This requirement is met.*

- b. MMC 19.904.10.D.2.b requires antennas to be placed so as to allow for placement of additional antennas on the same antenna support structure in the future.

*The proposed antennas will be placed in the same location as the antennas they are replacing. The applicant confirmed that additional antennas can be added to the tower, subject to structural adequacy. This requirement is met.*

- c. MMC 19.904.10.D.2.c requires the applicant to provide documentation that demonstrates the proposal has been approved by the owner of the structure to which the wireless communication equipment will be attached.

*The applicant's representative, Valerie Cardenas, via employment for Smartlink Group, is authorized by AT&T to submit the application. This requirement is met.*

- d. MMC 19.904.10.D.2.d requires documentation that all necessary applications, permits, agreements, and easements have been obtained.

*The proposal is to replace and upgrade existing antennas and transmission equipment on a wireless communications facility. The applicant has indicated that all necessary easements and agreements remain in place. This requirement is met.*

- e. MMC 19.904.10.D.2.e requires that extensions to existing facilities provide documentation of Federal Aviation Administration (FAA) approval.

*No extension to the existing facility is proposed. This requirement is not applicable.*

- f. MMC 19.904.10.D.2.f requires a site plan that includes such details as existing and proposed landscaping and locations of proposed related base equipment.

*The wireless communication equipment will be installed on the existing facility on top of the 8-story building on site. The proposed antennas will be replacing antennas that are to be removed, and no new landscaping is proposed. No new utility connections, easements, or access drives are proposed. No ground disturbance is proposed. A site plan was submitted reflecting the proposed work. This requirement is met.*

8. MMC 19.904.10.E Use of Existing Tower or Antenna Support Structure

- a. MMC 19.904.10.E.1 requires the applicant to attempt to co-locate on existing antenna support structures before proposing the construction of a new tower.

*The proposal would replace existing antennas and other transmission equipment at the existing facility. This requirement is met.*

- b. MMC 19.904.10.E.4 requires that support structures over 80 ft in height shall be designed to allow co-location of other antennas.

*None of the proposed modifications will impact allowing co-location of other antennas. All replacement antennas will be installed in the same location as existing antennas. This requirement is met.*

9. MMC 19.904.10.F Location and Size Restrictions

- a. MMC 19.904.10.F.2 establishes that new towers are not permitted in the R-HD zone. Additionally, facilities on buildings must not extend greater than 15 ft from the rooftop, and shall not project more than 5 ft from the side of a building.

*A variance request in 1997 (File #VR-97-08) approved the siting of the facility in the R-3 zone which prohibited wireless communication facilities at the time. The site's zoning has been updated to R-HD. This facility can remain in the R-HD due to the variance approval in 1997. Structural plans show that the facility size and shape are consistent with prior approvals. The proposed modifications will not extend the facility further above the rooftop and there will be no increase in projection from the side of the building. This standard is met.*

10. MMC 19.904.10.G Development Standards for All WCFs

- a. MMC 19.904.10.G.1 establishes standards for equipment cabinets.

*The equipment cabinets for the existing facility are located on the roof of the existing building and have received prior land use approval. This standard is met.*

- b. MMC 19.904.10.G.2-8 establishes standards for ladder rungs, guy anchorage, lighting, noise, landscaping, access drives, and signage.

*No changes to the existing situation are proposed. No additional lighting or equipment that could create noise is proposed. This standard is met.*

- c. MMC 19.904.10.G.9 establishes a requirement that any WCF not operated for a continuous period of 6 months shall be considered abandoned and must be removed by the landowner of the subject property.

*A condition of approval has been established to ensure that this standard is met.*

- d. MMC 19.904.10.G.10 establishes a requirement that WCF operators keep the City informed of any changes in the status of the WCF's operation and to provide an annual statement verifying the continued use of the WCF and compliance with applicable State and federal regulations.

*This standard has been met for this facility and can be met through continued compliance.*

*As conditioned, the proposed development complies with all applicable standards of MMC 19.904.10.G.*

11. MMC 19.904.10.H Expiration of Approval

As per MMC 19.904.10.H, approval of WCF applications shall be void after 6 months from the end of the final appeal date for the application unless substantial construction has taken place.

*If no substantial construction has taken place within 6 months of the final appeal date for this approval, the approval becomes void. A prior approval in 2011 at this site was voided for this reason. This standard is met.*

*As conditioned, the Planning Manager finds that the proposed development complies with applicable standards of MMC 19.904.10.*