



May 12, 2014

Land Use File(s): CSU-14-02

## NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Director on May 9, 2014.

**Applicant(s):** Amanda Hoffman on behalf of Smartlink LLC  
**Location(s):** 5552-5558 SE International Way  
**Tax Lot(s):** 1S2E31D\_01000  
**Application Type(s):** Modification of a Community Service Use -  
Wireless Communication Facility  
**Decision:** Approved with Conditions  
**Review Criteria:** Milwaukie Zoning Ordinance:

- MMC 19.904 Community Service Uses
- MMC 19.1005 Type II Review

**Neighborhood(s):** Milwaukie Business Industrial

**Appeal period closes: 5:00 p.m., May 27, 2014**

This notice is issued in accordance with Milwaukie Municipal Code (MMC) Section 19.1005 Type II 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, Johnson Creek Facility, 6101 SE Johnson Creek Blvd. Please contact Vera Kolas, Associate Planner, at 503-786-7653 or [koliasv@milwaukieoregon.gov](mailto:koliasv@milwaukieoregon.gov), if you wish to view this case file.

**This decision may be appealed by 5:00 p.m. on May 27, 2014, which is 15 days from the date of this decision.** Any person who is adversely affected or aggrieved by this decision may appeal the decision by filing a written appeal. 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).

Per MMC Subsection 19.1001.7.E, this land use approval expires unless the applicant has: (1) obtained and paid for all necessary development permits and started construction within 2 years of land use approval, and (2) passed final inspection and/or obtained a certificate of occupancy within 4 years of land use approval. Extensions can be granted per MMC Section 19.908.

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

1. Amanda Hoffman ("the applicant"), on behalf of Smartlink LLC, proposes to modify an existing wireless communication facility by adding three (3) new antennas and three (3) remote radio units (RRU) to the existing monopole at 5552-5558 SE International Way. There are currently three (3) antennas on the tower as well as the associated cabinets on the ground. The installation would add the equipment at the same height and location of the existing Sprint panel antennas on the monopole. The proposal does not include any ground equipment or changes to the existing ground equipment.

The subject property is zoned Business Industrial BI. According to Clackamas County records, the property is owned by Ran-Tech Engineering and Aerospace, Inc. Property manager John Rupp has authorized the land use application to allow the proposed installation. The wireless communications tower is owned by ATT Towers, which has conditionally authorized the proposed installation.

2. A 100-ft-tall wooden monopole was originally approved for the subject property in 1991 (land use file #CSO-91-01). The approval included a variance to exceed the 50-ft maximum height allowed for community service uses at that time (file #VR-91-02). In 1996, the existing steel monopole was approved to replace the original wooden monopole as a minor change to CSO-96-03.

Three previous applications have been made for minor modifications regarding similar equipment exchanges and additions. CSU-11-04 was approved on July 27, 2011, but was voided on January 30, 2012, due to expiration of the 6-month time frame allotted for construction per MMC 19.904.11.H. CSU-12-04 was approved on May 17, 2012, but was declared void on December 3, 2012, as conditions had not been met within the allotted 6-month time frame. CSU-12-12 was approved on December 10, 2012.

3. The proposal is subject to the following provisions of the Milwaukie Zoning Ordinance (MMC Title 19):
  - MMC 19.904 Community Service Uses
  - MMC 19.904.11 Community Service Use, Standards for Wireless Communication Facilities
  - MMC 19.1005 Type II Review

MMC sections that are not addressed in these findings are found to be not applicable decision criteria for the proposed development.

4. MMC 19.904.4 Approval Criteria

- A. MMC 19.904.4.D

The public benefits of the proposed use are greater than the negative impacts, if any, on the neighborhood.

*The application is consistent with this criterion by proposing to provide enhanced service to the community. The proposed panel antennas would be installed on an existing monopole which has co-located antennas. This requirement is met.*

B. MMC 19.904.4.E

The location is appropriate for the type of use proposed.

*The application is consistent with the goals of MMC 19.904.4.E by proposing to use an existing monopole as an antenna support structure instead of constructing a new tower. This requirement is met.*

5. MMC 19.904.11 Standards for Wireless Communication Facilities (Community Service Use)

A. MMC 19.904.11.B Purpose

The goal of the wireless communication facilities standards is to allow for the siting of wireless communication facilities (WCFs) while preventing clutter and designs that are not consistent with existing and future land uses.

*The application is consistent with the goals of MMC 19.904.11.B by proposing to (1) enhance the ability of wireless communication providers to provide comprehensive service to the community and (2) use an existing monopole as an antenna support structure instead of constructing a new tower.*

B. MMC 19.904.11.C Application Process

MMC 19.904.11.C.1 establishes that modifications of WCFs not involving the construction of a new monopole shall be processed with Type II review.

*The proposal involves replacement of equipment on an existing monopole. The application has been processed and public notice has been provided in accordance with MMC 19.1005.3. Properties receiving notice of this decision are shown on the map in Exhibit 6.*

C. MMC 19.904.11.D Application Submission Requirements

MMC 19.904.11.D.2 establishes application requirements for WCFs that do not involve construction of a new monopole.

- i) MMC 19.904.11.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.*

- ii) MMC 19.904.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 panel antennas would be installed on an existing monopole which has co-located antennas. Unused antennas would be removed from the structure after six (6) months. As proposed, the installations would allow room for the placement of additional antenna equipment in the future. This requirement is met.*

- iii) MMC 19.904.11.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 provided authorization from New Cingular Wireless PCS, LLC, owner of the monopole, to conduct the proposed work. This requirement is met.*

- iv) MMC 19.904.11.D.2.d requires documentation that all necessary applications, permits, agreements, and easements have been obtained.

*The applicant has indicated that all necessary easements and agreements remain in place for the operation of WCFs on the existing monopole. This requirement is met.*

- v) MMC 19.904.11.D.2.e requires that extensions to existing facilities provide documentation of Federal Aviation Administration (FAA) approval.

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

- vi) MMC 19.904.11.D.2.f requires a site plan that includes such details as existing and proposed landscaping and locations of proposed related base equipment.

*The applicant submitted plans that show the location of the monopole and associated equipment area. No new landscaping or changes to the equipment area are proposed. No new utility connections, easements, or access drives are proposed. This requirement is met.*

#### D. MMC 19.904.11.E Use of Existing Tower or Antenna Support Structure

- i) MMC 19.904.11.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 attach the antennas to an existing monopole, and no new tower or pole is proposed. This requirement is met.*

- ii) MMC 19.904.11.E.4 requires that support structures over 80 ft in height shall be designed to allow co-location of other antennas.

*The existing monopole is approximately 101 ft tall and includes three existing mounting structures at elevations of approximately 82 ft, 90 ft, and 101 ft, designed to accommodate additional antennas. This requirement is met.*

#### E. MMC 19.904.11.F Location and Size Restrictions

MMC 19.904.11.F.2 establishes a 100-ft height limit for monopoles in the BI zone. For co-location on existing towers, MMC 19.904.11.F.2.b allows extensions up to 120 ft.

*A variance request in 1991 (File #VR-91-02) approved the original wooden monopole for a 100-ft height, an increase from the previous 50-ft standard. In 1996, a 100-ft steel monopole was approved as a replacement for the original wooden pole, though it appears that the installation resulted in a final pole height of approximately 101 ft. The highest existing antennas extend approximately four (4) feet above the top of the monopole. The new antennas are all below 100 feet in height. No additional extensions are proposed. This standard is met.*

#### F. MMC 19.904.11.G Development Standards for All WCFs

- i) MMC 19.904.11.G.1 establishes standards for equipment cabinets, including a requirement to meet the vegetative screening requirements provided in MMC 19.904.11.G.6.

*This requirement is addressed in Finding 4-F(iv), below.*

- ii) MMC 19.904.11.G.4 establishes standards for lighting.

*The equipment area is not currently lighted and no additional lighting is proposed. This standard is met.*

- iii) MMC 19.904.11.G.5 establishes standards for buffering noise-generating equipment, particularly when surrounding properties are zoned for residential uses.

*The subject property is adjacent to other BI zone properties on the west, north, and east and is adjacent to right-of-way for Highway 224 on the south. This standard is not applicable.*

- iv) MMC 19.904.11.G.6 establishes standards for landscaping to effectively screen the view of the base of the tower as well as equipment cabinets and any security fencing.

*The applicant submitted a request for exemption from the landscaping requirements in CSU-12-12, stating that it is not practical to landscape in this area due to existing footprint of the WCF. The exemption was approved. It remains impractical to landscape in this area. This requirement is met.*

- v) MMC 19.904.11.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.

*The applicant's narrative acknowledges this requirement, and a condition has been established to ensure that this standard is met.*

- vi) MMC 19.904.11.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.

*The applicant's narrative acknowledges this requirement, and a condition has been established to ensure that this standard is met.*

*As conditioned, the proposed development complies with all applicable standards of MMC 19.904.11.G.*

G. MMC 19.904.11.H Expiration of Approval

As per MMC 19.904.11.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.

*As conditioned, if this approval becomes void, all wireless communication equipment installed pursuant to the approval of CSU-14-02 shall be removed and the site shall be returned to its pre-existing condition. This standard is met.*

*As conditioned, the Planning Director finds that the proposed development complies with applicable standards of MMC 19.904.11.*

5. The application was forwarded to the following City departments and related entities for review and comment: City of Milwaukie Building and Engineering Departments and Clackamas County Fire District #1. The Engineering Department confirmed that MMC 19.700 Public Facility Improvements does not apply to the proposed development. Other reviewers responded with no comments on the project.

### **Conditions of Approval**

1. Within 6 months of the approval of CSU-14-02, the applicant shall schedule a Planning Inspection to demonstrate compliance with this approval and related conditions. At the time of inspection, the following items shall be addressed:
  - A. Final site plans, elevations, drawings, and equipment details shall be in substantial conformance with the plans approved by CSU-14-02, which are the plans received by the Milwaukie Planning Department on March 24, 2014.
  - B. As necessary, provide a narrative describing any changes to the plans approved by CSU-14-02. Any such changes shall be evaluated by the Planning Director to determine whether further review and approval is necessary.
2. The applicant shall notify the Planning Department when it ceases use of any existing antennas. Per MMC 19.904.G.9.a, the applicant shall remove the abandoned equipment within 90 days of notice from the City. The applicant shall notify the Planning Department when removal of the abandoned equipment is complete.
3. The operator of the wireless communication facility shall provide an annual report to the Planning Director that verifies continued use of the facility and describes any change in the status of the operation of the facility including:
  - A. Change in or loss of Federal Communication Commission (FCC) license
  - B. Receipt of notice of failure to comply with regulations of any authority over the business or facility.
  - C. Loss or termination of lease for the wireless communication facility for a period of 6 months or longer.
4. Approval of this application shall be void after 6 months from the expiration of the final appeal period unless substantial construction has taken place. If this approval becomes void, all wireless communications equipment installed pursuant to approval of application CSU-14-02 must be removed and the site must be returned to its pre-existing condition.

### **Exhibits**

*Exhibits are not attached to the decision but are available for viewing upon request. All exhibits are available for public viewing upon request.*

1. Notice of Decision for CSO-91-01
2. Notice of Decision for VR-91-02
3. Notice of Tentative Decision for CSU-11-04
4. Notice of Decision for CSU-12-04
5. Notice of Decision for CSU-12-12
6. Map of Properties Receiving Notice of Land Use Proposal (attached)
7. Applicant's Narrative
8. Applicant's Site Plans (Sheets A-1 to A-4, attached)

*The application and related materials can be accessed online at  
<http://www.milwaukieoregon.gov/planning/submitted-applications-0>*



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Dennis Egner, AICP  
Planning Director

cc: Smartlink LLC c/o Amanda Hoffman (621 SW Alder St., Suite 660, Portland, OR 97205)  
Planning Commission *(via e-mail)*  
Steve Butler, Community Development Director *(via e-mail)*  
Jason Rice, Engineering Director *(via e-mail)*  
Philip Kolb, Engineering Technician II *(via e-mail)*  
John Stelzenmueller, Building Official *(via e-mail)*  
Bonnie Lanz, Permit Specialist *(via e-mail)*  
Mike Boumann and Shawn Olson, CCFD#1  
Interested Persons  
Land Use File(s): CSU-14-02