

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

In the Matter of an Application            )  
by SBA Towers for a Conditional        )       ORDER NO. 98-00  
Use Permit to Place a 250' PCS Steel   )  
Lattice Cellular Tower in a Primary    )       FINDINGS AND CONCLUSIONS  
Forest (PF-76) Zone                    )

WHEREAS, on April 19, 2000, SBA Towers, Inc., filed an application for a Conditional Use Permit and for Site Design Review to place a PCS cellular phone facility with a 250' steel lattice tower in a Primary Forest Zone (PF-76) on property located at 67501 Butler Road, Deer Island, Columbia County, Oregon, tax account number 6225-000-00300; and

WHEREAS, on April 25, 2000, said Application was deemed complete; and

WHEREAS, on June 19, 2000, the Columbia County Planning Commission held a hearing on the application and continued the hearing to July 17, 2000, at 6:30 p.m. to hear additional evidence and to deliberate; and

WHEREAS, after hearing additional evidence and deliberating, the Columbia County Planning Commission approved the applications for a conditional use permit and for site design review; and, on July 21, 2000, Planning Commission Chair, Jeffrey Vannatta, signed Final Orders CU 00-51 and DR 00-28, approving said applications; and

WHEREAS, Daniel Pereira appealed the Planning Commission's approval of the Conditional Use Permit (CU 00-51) to the Columbia County Board of County Commissioners on July 31, 2000<sup>1</sup>; and

WHEREAS, on August 30, 2000, the Board of County Commissioners held a de novo hearing on the application; and

WHEREAS, at the hearing, Glen Higgins, of the Planning Section of Land Development Services Department read the Department staff report into the record which listed the criteria to be considered and contained the Department's proposed findings, conclusions and recommendations; and

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<sup>1</sup>The Planning Commission's approval of the application for Site Design Review was not appealed to the Board of County Commissioners.

WHEREAS, Jerry Adams, Planner for SBA Towers Inc., Roger Alfred, Attorney for SBA Towers, Inc., and Jerry Brady, property owner, testified in favor of the Application, and Daniel Pereira, and Frank Hall, citizens, testified in opposition of the application; and

WHEREAS, the following Exhibits were introduced into the record:

EXHIBIT 1- Legal Counsel's File, including the following:

- 1) Notice of Public Hearing (Publication);
- 2) Notice of Public Hearing (Property Owner Notice);
- 3) Affidavit of Mailing;
- 4) Affidavit of Publication 5/30/00;
- 5) Staff Report to Planning Commission dated 7/4/00;
- 6) Board Communication from Todd Dugdale dated 8/28/00 with the following attachments:
  - A) Appeal filed 7/31/00 by Daniel Pereira;
  - B) Planning Commission Final Order CU 00-51;
  - C) Staff Report amended 8/28/00 to Board of County Commissioners;
- 7) Application for Site Design Review dated 3/25/00 with the following attachments:
  - A) Proposal and Site Information;
  - B) Engineering Statement;
  - C) 2 Site Maps;
  - D) 2 cell tower drawing maps;
- 8) Conditional Use Permit Application dated 3/25/00 with Proposal and Site Information;
- 9) Letter from D. Pereira and Family with attached article, "Gunman turns fuss over cellular phone tower violent," and "Neighbors must prove towers harm intended land use";
- 10) Minutes of 7/17/00 Planning Commission Meeting;
- 11) Board Communication from Todd Dugdale dated 8/02/00;

EXHIBIT 2- 4 maps of the subject area submitted by LDS;

EXHIBIT 3- Letter with attachments to BCC from SBA Towers, Inc. dated 7/11/00; and received 7/12/00;

EXHIBIT 4- Letter from Michelle Mathews to BCC dated 8/27/00; and received 8/28/00;

EXHIBIT 5- Letter from Roger Alfred, Perkins Coie, to BCC dated 8/30/00; and received 8/30/00;

EXHIBIT 6- Notice of Public Hearing with attached Site Map with drawn-in line of site to Tower from neighbors' property and tower deviation elevation form A3 received from Dan Pereira 8/30/00;

EXHIBIT 7- Fire Service Requirements with attached Summary of New Road Construction Standards received from Dan Pereira 8/30/00;

EXHIBIT 8- Letter from Dan Pereira to BCC, and read into record at 8/30/00 hearing;

EXHIBIT 9- Summary of Objections to Findings submitted by dan Pereira on 8/30/00; and

WHEREAS, before the conclusion of the initial evidentiary hearing, Applicant's Attorney asked that the record remain open for additional written evidence and orally agreed to waive the 150 day final order requirement; and

WHEREAS, the Board of County Commissioners agreed to keep the record open for additional written evidence, for a period of 7 days, and continued the public hearing for deliberations to September 13, 2000, at 10:00 a.m.; and

WHEREAS, on September 13, 2000, the Board of County Commissioners convened and continued the public hearing to September 20, 2000, at 10:00 a.m.; and

WHEREAS, on September 20, 2000, at 10:00 a.m., the Board of County Commissioners reconvened, closed the public hearing and deliberated on the matter; and

WHEREAS, at the hearing on September 20, 2000, the following were marked as Exhibits for the record:

- EXHIBIT 10- Letter from Thelma Bonar to BCC dated 9/05/00; and received 9/06/00;
- EXHIBIT 11- Letter from Frank and Janice Hall to BCC; and received 9/06/00;
- EXHIBIT 12- Final Order CU 00-54, with highlighted text received by BCC from Dan Pereira on 9/06/00;
- EXHIBIT 13- Letter from Dan Pereira to BCC, received 9/06/00;
- EXHIBIT 14- Letter from Dan Pereira to BCC, received 9/06/00;
- EXHIBIT 15- Letter from Deer Island Residents to BCC, received 9/06/00;
- EXHIBIT 16- Letter to John Estrom from Terry Campos dated 3/03/00; and received 9/06/00;
- EXHIBIT 17- Appeal info and final order CU 00-51 with attached staff report with underlined text, dated 7/25/00; and received 9/06/00;
- EXHIBIT 18- Fire Service Improvement Requirements received from Dan Pereira on 9/06/00;
- EXHIBIT 19- Planning for Survival Guide received from Dan Pereira 9/06/00;
- EXHIBIT 20- Faxed letter regarding additional testimony from Steven Hultberg, Perkins, Coie, LLP, to BCC, dated 9/13/00; and received 9/13/00;
- EXHIBIT 21- Letter with attachments from Jerry Adams, SBA, Inc., to BCC, dated 8/31/00 and received 9/01/00;

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

1. The Board of County Commissioners adopts Findings No. 1, 5, 6, 9, 11, 14, 16, 17 and 19 of the Amended Land Development Services Staff Report to the Board of County Commissioners, dated August 28, 2000, which is attached hereto as Attachment "A," and is incorporated herein by this reference.
2. The Board of County Commissioners adopts supplemental findings which are attached hereto in Attachment "B," and are incorporated herein by this reference.

3. The proposed Conditional Use Permit to Place a 250' steel lattice PCS Tower in a fenced 100' x 100' lease area on a 78.07 acre parcel of land, zoned PF-76, with the conditions of approval set forth below, complies with the applicable criteria of the Columbia County Zoning Ordinance, and the Goals and Policies of the Columbia County Comprehensive Plan.
4. The application of SBA Towers, Inc., for a Conditional Use Permit is **APPROVED, subject to the following conditions:**

A) Before a Building Permit may be issued, Applicant shall:

- i. Meet all of the conditions of approval of Site Design Review Final Order DR 00-28.
- ii. Submit to Land Development Services and receive approval of, details of any light fixture or service lighting as required by Columbia County Zoning Ordinance, § 1414. Location, type, wattage, and direction of each light shall be shown. All lights shall be shielded so that no light shines directly off the site (i.e., no light bulb, diffuser, or lens may be visible from surrounding properties).
- iii. Submit to Land Development Services and receive approval of, new construction drawings showing that the 6' chain link fence surrounding the site and the 12' wide access gate shall have full-height sight-obstructing slats.
- iv. Submit to Land Development Services and receive approval of, grading, landscaping and other ground treatment details (e.g. location, type, size and depth of gravel, paved areas, etc.).
- v. Construct and receive approval of the Columbia County Road Department and Rainier Rural Fire Protection Department, for all improvements to Butler Road or the access road to the leased area (e.g. graveling, widening, turn-outs, etc.), as may be required by the County Road Department or the Rainier RFPD.
- vi. Enter into an Agreement with Columbia County, in which applicant agrees to demolish or otherwise remove, or cause to be demolished or otherwise removed, the tower from the subject property when the tower has no more useful life as a public utility or facility tower. To assure the faithful compliance with the Agreement, the Agreement shall specify that applicant shall place in escrow or secure a bond for the benefit of the County, in the amount of 125% of the estimated cost of demolishing or otherwise removing the tower at the time the Agreement is signed. The bond or escrow deposit shall be continued for the lease period. Upon sale, assignment, sublease, or

any other transfer of interest in the tower, Applicant shall agree to require the new owner, assignee, sublessee, or other interested party, to post such bond or deposit such an amount into an escrow account for the remaining lease period before Applicant's bond is released or escrow deposit is returned to Applicant. Upon expiration of the lease period, if the lease is renewed, the bond or escrow deposit shall continue for the additional lease period. The County shall determine when the tower has no more useful life as a public utility or facility, when evidence suggests that no electricity or other power source is being supplied to the tower, the lease has been terminated, or other like evidence suggests that the tower is no longer being used to provide PCS communication coverage.

- B) All activities, equipment, and storage of materials associated with the operation of the PCS communication tower operation shall be kept entirely within the 100' x 100' fenced area.
- C) Applicant shall submit to Land Development Services for approval, drawings of all signs, whether free standing or mounted on the fence, except for fence-mounted warning and informational signs, according to the requirements of CCZO § 1550.6E. A plan and elevation of each sign, showing location, dimensions, lighting, materials and colors must be submitted and approved before the fabrication of each sign.
- D) The requirements of OAR 660-06-029 to 660-06-040, as interpreted by the Oregon Department of Forestry in their "Land Use Planning Notes: Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads," dated March 1991, shall be followed in the construction of the structure on the site. This includes, depending upon the percentage of slope, a 30' (0-9% slope), 50' (10-19% slope) or 150' (26-39% slope) primary fuel free break area created and maintained around the structure(s). Columbia County-approved equivalents may be applied where appropriate.

DATED this 4<sup>th</sup> day of October, 2000.

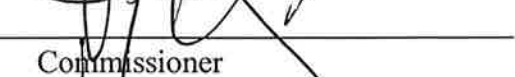
BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

Approved as to Form

By:   
Office of the County Counsel

By: NOT PRESENT  
Chair

By:   
Commissioner

By:   
Commissioner

**Columbia County  
Board of Commissioners**

STAFF REPORT  
(Amended 08/28/00)

**Conditional Use Permit - PF-76 Zone**

**FILE NUMBER:** CU 00-51

**APPLICANTS:** SBA Towers, Inc.                      **OWNER:** Jerry Brady  
123 NE 3rd. Ave., #215                              67501 Butler Road  
Portland, OR 97232                                  Deer Island, OR 97054

**PROPERTY LOCATION:** 67501 Butler Road, Deer Island, OR 97054

**REQUEST:** To place a PCS cellular phone facility with a 250' steel lattice tower in a PF-76 zone, for which a Conditional Use Permit is required.

**TAX ACCT. NUMBER:** 6225-000-00300

**ZONING:** Primary Forest (PF-76)

**APPLIC'N. COMPLETE:** 4-25-00                      **150 DAY DEADLINE:** 9-22-00

**WAIVER SIGNED?:** No

**BACKGROUND:**

The applicants request approval to place a Personal Communication Service (PCS) cellular phone facility with a 250' steel lattice tower in a leased 100' x 100' fenced area on an existing 78.07-acre parcel in a PF-76 zone. The tower itself will be 246' tall, with a 4' lightning rod on top.

Surrounding properties are in woodlands and pastures, with a few dwellings. There is an existing residence on the property, which has access to the end of Butler Road. The tower site is a gently rolling hilltop pasture, sloping down to the north, west and east. Water and sewage disposal will not be needed.

Soils on the property are not important to this application. There are no flood plains or wetlands on the tower site (FEMA map 41009C0325 C and 330 C) (National Wetlands Inventory, Trenholm quad map). The property is within the Rainier Rural Fire Protection District (RFPD). See related file, Site Design Review DR 00-28.

**FINDINGS:**

The following sections of the Zoning Ordinance and state laws apply to this application:

Columbia County Zoning Ordinance Section 503 requires the following:

"Section **503 Conditional Uses:** In the PF zone the following conditional uses and their accessory uses are permitted subject to the provisions of Sections 504 and 505. A conditional use shall be reviewed according to the procedures provided in Section 1503.

.6 Utility facilities,..."

**Finding 1:** In the PF-76 zone, a cellular telephone facility requires a Conditional Use Permit.

Zoning Ordinance Section 504 requires the following:

"Section **504 All Conditional Uses Permitted In The PF Zone Shall Meet The Following Requirements:**

.1 The use is consistent with forest and farm uses and with the intent and purposes set forth in the Oregon Forest Practices Act."

The Oregon Forest Practices Act (ORS Chapter 527) includes the following:

"**527.630 Policy.** (1) ...it is declared to be the public policy of the State of Oregon to encourage economically efficient forest practices that assure the continuous growing and harvesting of forest tree species and the maintenance of forest land for such purposes as the leading use on privately owned land, consistent with sound management of soil, air, water and fish and wildlife resources that assures the continuous benefits of those resources for future generations of Oregonians."

**Finding 2:** The proposed use of the leased parcel is for a 246' steel lattice tower and an equipment rack. The parcel is very small (0.23 acres) and is not a viable economic unit for forest production.

Continuing with Zoning Ordinance Section 504:

".2 The use will not significantly increase the cost, nor interfere with accepted forest management practices or farm uses on adjacent or nearby lands devoted to forest or farm use."

**Finding 3:** The proposed use will not interfere with farm or forest uses on adjacent lands as it will occupy a very small area which will be fenced and have a very slight fire hazard.

Continuing with Zoning Ordinance Section 504:

- "3 The use will be limited to a site no larger than necessary to accommodate the activity and, as such will not materially alter the stability of the overall land use pattern of the area or substantially limit or impair the permitted uses of surrounding properties. If necessary, measures will be taken to minimize potential negative effects on adjacent forest lands."

**Finding 4:** The proposed tower and its related equipment will be limited to a 100' x 100' fenced area in the north-central part of the property. The overall land use pattern of the area is mixed woodlands and pastures, with a few dwellings. No unusual measures will need to be taken to minimize the danger of fire spreading to adjacent forest lands, as the hazard will be very low.

Continuing with Zoning Ordinance Section 504:

- "4 The use does not constitute an unnecessary fire hazard, and provides for fire safety measures in planning, design, construction, and operation."

**Finding 5:** Fire safety measures will need to be observed in planning, design, construction and occupation of the tower site.

Continuing with Zoning Ordinance Section 504:

- "5 Public utilities are to develop or utilize rights-of-way that have the least adverse impact on forest resources. Existing rights-of-way are to be utilized wherever possible.

**Finding 6:** All public utilities will be routed via the shortest routes from the existing facilities to the tower site.

Continuing with Zoning Ordinance Section 504:

- "6 Development within major and peripheral big game ranges shall be sited to minimize the impact on big game habitat. To minimize the impact, structures shall: be located near existing roads; be as close as possible to existing structures on adjoining lots; and be clustered where several structures are proposed."

**Finding 7:** The property is in a Peripheral Big Game Habitat Area (Comprehensive Plan Map 44). However, the tower site will be very small, will be fenced, and will generate minimal traffic. The construction period will temporarily disturb game in the area; once built, however, as a passive facility should have no effect on big game in the area.



Zoning Ordinance Section 510 requires the following:

- "3 All roads in this zone, except private roads and bridges for commercial forest uses, shall be constructed so as to provide adequate access for fire fighting equipment, according to the standards provided by the local rural fire protection district or State Department of Forestry."

**Finding 8:** The driveway to the existing house is graveled. This will be extended as a 12'-wide graveled access road to the tower site; while somewhat steep in a few areas, it should present no problems for emergency vehicles.

Zoning Ordinance Section 1503 requires the following:

"1503 Conditional Uses:

- .5 Granting a Permit: The Commission may grant a Conditional Use Permit after conducting a public hearing, provided the applicant provides evidence substantiating that all the requirements of this ordinance relative to the proposed use are satisfied and demonstrates the proposed use also satisfies the following criteria:

- A. The use is listed as a Conditional Use in the zone which is currently applied to the site;"

**Finding 9:** The PF-76 zone lists "Utility facilities,..." under "Conditional Uses."

Continuing with Zoning Ordinance Section 1503.5:

- "B. The use meets the specific criteria established in the underlying zone:"

**Finding 10:** The criteria of the PF-76 zone have been shown to be met in Findings 1 through 8.

Continuing with Zoning Ordinance Section 1503.5:

- "C. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements, and natural features;"

**Finding 11:** The tower site is located on a broad hilltop and appears to be ideal for a cellular telephone facility and tower. There are no existing improvements in the 100' x 100' leased area, nor any outstanding natural features. The property is within the Rainier Rural Fire Protection District. These appear to make the site suitable for the proposed cell phone facility.

Continuing with Zoning Ordinance Section 1503.5:

- "D. The site and proposed development is timely, considering the adequacy of transportation systems, public facilities, and services existing or planned for the area affected by the use."

**Finding 12:** The only transportation system in the area is Butler Road, a one-lane graveled County road. Public facilities are electric power and telephone. These appear to make the proposed PCS facility timely, especially if Butler Road is improved with periodic turn-outs for emergency equipment.

Continuing with Zoning Ordinance Section 1503.5:

- "E. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying district;"

**Finding 13:** The surrounding area is in pasture, woodlands and a few residences. The proposed tower will not alter the character of the area, as it will occupy a very small area. A neighboring property owner, Dan Periera, testified that the tower would block his view; however, the applicant rebutted, "there is no dwelling on the property. The site's 155 acres is mainly for forest use." Staff finds that the proposed tower will not impair forest or farm uses.

Continuing with Zoning Ordinance Section 1503.5:

- "F. The proposal satisfies the goals and policies of the Comprehensive Plan which apply to the proposed use;"

**Finding 14:** The Comprehensive Plan allows non-forest structures under certain conditions within the resource zones. Public Facilities and Services Goal Policy No. 2 states, in part: "Require that the level of facilities and services provided be appropriate for, but limited to, the needs and requirements of the area(s) to be served." The applicant's July 12, 2000 supplemental information provided adequate information to satisfy this criterion.

Continuing with Zoning Ordinance Section 1503.5:

- "G. The proposal will not create any hazardous conditions."

**Finding 15:** The proposed tower and related facilities will not be hazardous if suitable precautions are taken to prevent the spread of fire to surrounding forest lands.

Continuing with Zoning Ordinance Section 1503:

- ".6 **Design Review:** The Commission may require the Conditional Use be subject to a site design review by the Planning Commission."

**Finding 16:** A Site Design Review application has been filed (see DR 00-28).

The following state laws must also be met by this application:

OAR 660-006-0025(4) permits the following:

"(4) The following uses may be allowed on forest lands subject to the review standards in section (5) of this rule:...

(h) Television, microwave and radio communication facilities and transmission towers;"

OAR 660-006-0025(5) requires the following:

"(5) A use authorized by section (4) of this rule may be allowed provided the following requirements or their equivalent are met. These requirements are designed to make the use compatible with forest operations and agriculture and to conserve values found on forest lands:

(a) The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands;"

**Finding 17:** The proposed cellular phone steel lattice tower, on a leased 100' x 100' fenced area, should have no affect on farm or forest operations in the area, especially if it is lit so as to prevent collisions with aircraft. The tower will have an FAA and ODOT required red light on top.

Continuing with OAR 660-006-0025(4):

"(b) The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel; and"

**Finding 18:** The facility will initially not have an emergency generator or propane tank on the site. These could be a significant fire hazard if installed later, so fire buffer zones should be maintained around the compound.

Continuing with OAR 660-006-0025(4):

(c) A written statement recorded with the deed or written contract with the county or its equivalent is obtained from the land owner which recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules for uses authorized in subsection (4)(e), (m), (s), (t) and (w) of this rule.

**Finding 19:** The facility does not fall within any of the above subsections of OAR 660-006-0025(4).

OAR 660-06-0040 requires the following:

"Fire Safety Design Standards for Roads: The governing body shall establish road design standards, except for private roads and bridges accessing only commercial forest uses, which ensure that public roads, bridges, private roads and driveways are constructed so as to provide adequate access for fire fighting equipment. Such standards shall address maximum grade, road width, turning radius, road surface, bridge design, culverts, and road access taking into consideration seasonal weather conditions. The governing body shall consult with the appropriate Rural Fire Protection District and Forest Protection District in establishing these standards."

**Finding 20:** All building permits in forested areas and forest zones require prior approval by the local RFPD of the driveway to the site. The driveway to the tower site is graveled, but steep in some places. Turn-outs may be required along Butler Road, which is a one-lane narrow County Road.

**COMMENTS:**

1. The Fire Marshall of the Rainier RFPD has no objection to approval of the request as submitted.
2. The County Building Official has no objection to approval of the request as submitted.
3. The County Transportation Planner has no objection to approval of the request as submitted, and commented that Butler Road was only 16½' wide and that the proposal would need an access permit.
4. Thomas Highland, Aviation Planner, Oregon Department of Transportation, Aeronautics Division, commented that ODOT concurs with applicant's plans to light the tower.

No other comments have been received from government agencies or nearby property owners as of the date of this staff report ( May 30, 2000).

**CONCLUSION AND RECOMMENDATION:**

Based on the above findings, the Planning Staff and the County Planning Commission, recommend **APPROVAL** of this request to construct a Personal Communication Service (PCS) cellular phone facility with a 250' steel lattice tower in a leased 100' x 100' fenced area on an existing 78.07-acre parcel in a PF-76 zone, with the following conditions (these are the same as for DR 00-28):

**Conditions of Approval:**

**Before a Building Permit may be issued for the project:**

1. All the conditions of Site Design Review DR 00-28 must be met.
2. Details of any light fixture or service lighting must be submitted and approved by Land Development Services (LDS), as required by CCZO §1414. Location, type, wattage and direction of each light shall be shown. All lights shall be shielded so that no light shines directly off the site (i.e., no light bulb, diffuser, or lens may be visible from surrounding properties).
3. The 6' chain link fence surrounding the site and the 12' wide access gate shall have full-height sight-obstructing slats. New construction drawings must be approved by LDS.
4. Grading, landscaping and other ground treatment details (e.g. location, type, size and depth of gravel, paved areas, etc.) must be submitted and approved by Land Development Services.
5. All activities, equipment, and storage of materials associated with the operation of the PCS cell phone operation shall be kept entirely within the 100' x 100' fenced area.
6. Except for fence-mounted warning and informational signs, drawings of all signs, free-standing or mounted on the fence, shall be submitted and approved by Land Development Services, according to the requirements of CCZO §1550.6E. A plan and elevation of each sign, showing location, dimensions, lighting, materials and colors must be submitted and approved before fabrication of each sign.
7. All improvements to Butler Road or the access road to the leased area (e.g. graveling, widening, turn-outs, etc.) required by the County Road Department or the Rainier RFPD shall be constructed by the applicant and approved in writing by both agencies.
8. The requirements of OAR 660-06-029 to 660-06-040, as interpreted by the Oregon Department of Forestry in their "Land Use Planning Notes: Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads," dated March 1991, shall be followed in the construction of the access driveway and all structures on the site. This includes, depending upon the percentage of slope, a 30' (0-9% slope), 50' (10-19% slope), 75' (21-25% slope) or 150' (26-39% slope) primary fuel-free break area created and maintained around all structures. Columbia County-approved equivalents may be applied where appropriate.

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ATTACHMENT B  
SUPPLEMENTAL FINDINGS

(In the Matter of an Application by SBA Towers for Conditional Use Permit to Place a 250' PCS Steel Lattice Cellular Tower in a Primary Forest (PF-76) Zone)

1. CCZO § 504.1 requires that all conditional uses permitted in the PF Zone shall be consistent with the intent and purposes set forth in the Oregon Forest Practices Act. ORS 527.630 states the policy of the Oregon Forest Practices Act as encouraging economically efficient forest practices that assure the continuous growing and harvesting of forest tree species and the maintenance of forest land for such purposes as the leading use on privately owned land, consistent with sound management of soil, air, water and fish and wildlife resources that assures the continuous benefits of those resources for future generations of Oregonians. Applicant has provided substantial evidence to show that the use of the 100' x 100' (10,000 square feet) piece of property will not interfere with economically efficient forest practices, or with the continuing lead use of the surrounding property for growing and harvesting of forest tree species on privately owned land. Specifically, the leased parcel on which the tower will be placed is .23 acres of pastureland, which is not a viable economic unit for the production of forest tree species. The leading use of the land will continue to be forestry as the majority of the surrounding property will be available for forest uses. Furthermore, Condition of Approval "B," requires that all activities, equipment, and storage of materials associated with the operation of the tower be kept entirely within the leased area, so there is little risk of direct impact to forest practices on surrounding property. To help alleviate any risk, Condition of Approval "A(vi)" requires that as soon as the tower is no longer used for a communication tower, it shall be removed so that the land will be returned to forest practice use. In addition, applicant has provided evidence that the use of such a tower will not emit any noxious odors, does not generate any significant noise, does not pollute, and is within FCC guidelines for RF emissions. Finally, Applicant has provided evidence that the tower will not interfere with forest management helicopters or aviation safety because it will be lighted, and mapped on aviation maps. Because of the small size of the tower site, the lead use of the surrounding property as forest land will not be effected by its presence.
  
2. CCZO § 504.2 Requires that the proposed use will not significantly increase the cost, nor interfere with accepted forest management practices or farm uses on adjacent or nearby lands devoted to forest or farm use. Applicant has provided substantial evidence to show that the existence of a cellular tower will not have an impact on the cost or use of adjacent or nearby lands in accordance with accepted forest management practices or farm uses. Specifically, the surrounding lands are used for small scale traditional farming and pastureland. Accepted farm and forest practices associated with such uses include plowing, planting, harvesting, herbicide and pesticide application and logging activities. As mentioned in supplemental finding #1, the tower will not pollute or otherwise physically interfere with such practices, except on the actual tower cite. In addition, there is minimal fire hazard from the tower which will be further minimized from the fire break requirement (Condition of Approval

“D”) and, vehicle traffic to the site is expected to be less than 10 trips per month. Therefore, the proposed use will not significantly increase the cost, or otherwise interfere with accepted forest practices.

3. CCZO § 504.3 requires that the proposed use be limited to a site no larger than necessary to accommodate the activity and, as such will not materially alter the stability of the overall land use pattern of the area or substantially limit or impair the permitted uses of surrounding properties. Applicant has provided substantial evidence in engineering maps and drawings to show that the 10,000 sq. feet of the subject property is the minimum size to accommodate the tower use. With the exception of the maintenance of a fuel-free fire break, all activities and accessory equipment will be contained entirely within such area. The Applicant has further provided substantial evidence that the overall land use pattern of the area is mixed woodlands and pastures, with a few dwellings. There are also other large public utilities and facilities (BPA power lines) in the immediate vicinity. This land use pattern will not be materially altered by the addition of a single cellular phone tower. Applicant has also provided substantial evidence to show that the use will not substantially limit or impair the permitted uses of surrounding properties (See supplement findings 1 and 2). Additional measures will be required to minimize potential negative effects on adjacent forest lands, including the firebreak requirement and the tower removal at the end of the useful life.
4. CCZO § 504.6 states that where the subject property is within a Major or Peripheral Big Game Habitat, development shall be sited to minimize the impact on Big Game Habitat. To minimize the impact, structures shall: be located near existing roads; be as close as possible to existing structures on adjoining lots; and be clustered where several structures are proposed. The subject property is within a Peripheral Big Game Habitat Area according to Columbia County Comprehensive Plan Map 44. Potential conflicting uses are typically those uses which introduce large amounts of people or traffic on a consistent basis, or uses which remove large amounts of vegetation cover from the property. Significant evidence has been presented to show that the tower will not introduce large amounts of people or traffic into the Big Game Habitat. This facility development will not generate much more traffic than was previously generated by the existing dwelling structure on the property. Applicant has provided evidence showing that after the initial construction of the tower, there will be fewer than 10 trips to the site each month. And, any additional people visiting the property will be exclusively visiting the leased area and the firebreak easement area immediately surrounding the leased area. In addition, the development will not remove large amounts of Vegetation from Big Game Habitat. The only vegetation that may be effected is the 10,000 square feet of rolling pasture that makes up the lease area and the firebreak easement area immediately surrounding the leased area. Furthermore, the tower site will be fenced so that no big game may enter the tower site. Finally, any risk to such habitat is minimized by placing the tower close to the driveway and by placing it near the existing facilities (BPA power lines) on the property.
5. CCZO § 510, Fire Siting Standards for Dwellings and Roads, sets forth fire siting standards

for new dwellings in the primary forest zone. Because the proposed tower is not a new dwelling, CCZO § 510 does not apply to this Conditional Use Permit Application. However, OAR 660-06-0035, Fire-Siting Standards for Dwellings and Structures, also sets forth fire siting standards for new structures in a Forest or Forest/Agriculture Zone. Where a new structure is a dwelling, these standards require various fire protections, including, the (1) location of the dwelling within a fire protection district; and (2) road access to the dwelling shall meet road design standards described in OAR 660-006-0040, etc. However, where a new structure is not a dwelling, such as here, only OAR 660-06-0040(3) applies, which requires the owner of the structure to maintain a primary fuel-free break area surrounding all structures in accordance with the provisions in “Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads,” as published by the Oregon Department of Forestry. This criteria is met in condition of approval “D,” which requires Applicant to follow such Design Standards in the construction and maintenance of fuel breaks around the tower. Applicant has provided substantial evidence to show that Applicant will meet such condition, and has acquired an easement from the property owner to construct and maintain fuel free fire breaks in accordance with the Fire Siting Standards.

6. CCZO § 1503.5(D) requires that the site and proposed development be timely, considering the adequacy of transportation systems, public facilities, and services existing or planned for the area affected by the use. Applicant has provided substantial evidence that the proposed development of the tower is timely. Specifically, the transportation system is adequate because the evidence shows that there will be very few trips to the site and therefore, stress on the transportation system from the new tower will be negligible. In addition, Applicants have provided substantial evidence that the electric power necessary to operate the cellular phone tower, is currently available at the site, and emergency services are available from the Rainier Rural Fire Protection District. No other public facilities or services are relevant to the operation of a cellular phone tower.
7. CCZO § 1503.5(E) requires that the proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying district. The primary uses listed the primary forest zone are forest operations, uses primarily related to forest management and farm use. Residential use is a conditional use on the property. The existing uses on surrounding property are related to forest and farm management, utility lines, and a few residences. The existence of towers will not limit, impair or preclude property owners from using the property for such primary uses. Nor, will the tower limit, impair, or preclude the use of surrounding property for residential use. Although the tower will be visible from surrounding property, substantial evidence has been provided showing that many such properties are not used for residential uses, and that the view obstruction will be minimal. Therefore, with the exception of the 10,000 sq. feet of pastureland that will be used to site the facility, all other surrounding properties will remain substantially the same. Finally, Condition of Approval “A(vi),” which requires the tower to be removed when it has no more useful life as a communication tower, assures that the lease area will be returned to primary



forest uses, and any impairment of a residential views will be minimized.

8. CCZO § 1503.5(G) requires that the proposed tower will not create any hazardous conditions. The Applicant has provided substantial evidence to show that the proposed tower will not create hazardous conditions. Although the tower will have a back up fuel source, the risks of fire spreading is minimized by Condition of Approval “D,” which will require the Applicant to construct and maintain primary fuel breaks around the tower. In addition, Applicant has provided substantial evidence that in the event that the tower structure fails, the tower is designed to collapse in on itself rather than falling to the side and potentially falling onto the BPA power lines located within its length. Finally, Applicant has provided substantial evidence that the tower will not create aviation hazards (see Supplement Finding #1).
9. As a matter of policy, the Board of County Commissioners shares the concern of Columbia County citizens that as PCS communication systems becomes obsolete, towers constructed to house such communication systems will be abandoned, with the following results:
  - a. Such towers will not be removed, and citizens of Columbia County and visitors to the County will be subjected to looking at obsolete towers;
  - b. Land on which abandoned towers are sited will not returned to the primary uses for which the land is zoned.

In response to this concern, the Board of County Commissioners finds that it is imperative that tower owners be responsible for removing and/or demolishing such towers in the event that the towers no longer operate as communication towers. The Board further finds that such owners shall, therefore, be required to sign an agreement with the County in which the owners agree to remove or demolish the towers when they are no longer operational, and shall secure the agreement with a bond or by placing cash in escrow for the benefit of the County. This finding is implemented through Condition of Improvement A(vi).

- vi. Enter into an Agreement with Columbia County, in which applicant agrees to demolish or otherwise remove, or cause to be demolished or otherwise removed, the tower from the subject property when the tower has no more useful life as a public utility or facility tower. To assure the faithful compliance with the Agreement, the Agreement shall specify that applicant shall place in escrow or secure a bond for the benefit of the County, in the amount of 125% of the estimated cost of demolishing or otherwise removing the tower at the time the Agreement is signed. The bond or escrow deposit shall be continued for the lease period. Upon sale, assignment, sublease, or

any other transfer of interest in the tower, Applicant shall agree to require the new owner, assignee, sublessee, or other interested party, to post such bond or deposit such an amount into an escrow account for the remaining lease period before Applicant's bond is released or escrow deposit is returned to Applicant. Upon expiration of the lease period, if the lease is renewed, the bond or escrow deposit shall continue for the additional lease period. The County shall determine when the tower has no more useful life as a public utility or facility, when evidence suggests that no electricity or other power source is being supplied to the tower, the lease has been terminated, or other like evidence suggests that the tower is no longer being used to provide PCS communication coverage.