

**BEFORE THE LAND USE HEARINGS OFFICER  
OF CLACKAMAS COUNTY, OREGON**

**REVISED**

Regarding an application by Vertical Bridge for approval of a conditional use permit for a 195-foot tall communications tower and accessory structure at 18133 S. Steiner Road in unincorporated Clackamas County, Oregon ) **FINAL ORDER**  
)  
) **File No. Z0339-24-C**  
) **(Verizon Goat Yoga)**

**A. SUMMARY**

1. Vertical Bridge (the “applicant”) requests approval of a conditional use permit to build a wireless communications facility including a 195-foot tall steel self-supporting lattice tower plus antennas and equipment shelters. Verizon Wireless will lease space to locate its antenna on the tower and for ground mounted equipment.

a. The applicant proposes to build the facility on a leased 5,625-square foot (75- x 75-foot) area of a roughly 217.55-acre property at 18133 S. Steiner Road; also known as tax lot 600, Section 19, Township 3 South, Range 3 East, of the Willamette Meridian, Clackamas County (the “site”). The majority of the site is forested and with a home and barn at the southern edge of the property.

b. The site and surrounding properties to the east, west, northeast, and southeast are zoned TBR (Timber). Properties to the northwest and southwest, across S. Steiner Road, are zoned RRFF-5 (Rural Residential Farm Forest, five-acre minimum lot size).

c. The applicant proposed to locate the facility in the northwest corner of the site, roughly 785 feet from the north boundary and 260 feet from the west boundary. The applicant proposes to locate the facility within a 75- x 75-foot lease area enclosed by a six-foot high cyclone fence with green screening slats. The applicant will construct a 195-foot tall self-supporting lattice tower in the center of the lease area to support wireless communication antenna. The applicant will place an equipment cabinet and generator in the southeast corner of the lease area. The applicant designed the tower and lease area to accommodate additional antennae and equipment from three additional wireless providers.

2. Hearings Officer Joe Turner (the "hearings officer") conducted a public hearing to receive testimony and evidence about the application. County staff recommended that the hearings officer approve the application subject to conditions of approval. See the Staff Report and Recommendation to the Hearings Officer dated October 17, 2024 (the "Staff Report") as amended by Exhibit 18. The applicant accepted the findings and conditions as amended with the exception of the requirement to utilize a stealth tower design. Nine persons testified orally and other persons testified in writing against the application. Contested issues in the case include the following:

a. Whether the County provided adequate notice of the public hearing;

- b. Whether wireless communication towers should be allowed in the timber zone;
- c. Whether the proposed use will create or exacerbate the risk of wildfire in the area;
- d. Whether the site contains a historic structure subject to ZDO 707;
- e. Whether the applicant sustained the burden of proof that the site is suitable for the proposed use, particularly given the existence of a large oak tree and historic residence on the site. (ZDO 1203.01.B);
- f. Whether the applicant sustained the burden of proof that the proposed use will not alter the character of the area, particularly with regard to potential health effects of RF/EMF radiation on humans and wildlife, property value impacts, visual impacts, and noise, in a manner that substantially limits, impairs or precludes the use of surrounding properties for the primary uses permitted in the underlying zone (ZDO 1203.01.D); and
- g. Whether the applicant sustained the burden of proof that there are no alternative locations for the antennas on existing or approved towers or structures (ZDO 835.05(D)).

3. The hearings officer concludes that the applicant sustained the burden of proof that the proposed use does or can comply with the relevant approval standards of the Clackamas County Zoning and Development Ordinance (the “ZDO”), provided the applicant complies with conditions of approval recommended by County staff or warranted by the facts and law to ensure the proposed use complies in fact with those standards. Therefore the hearings officer approves the application subject to the conditions at the end of this final order, based on the findings and conclusions in this final order.

## **B. HEARING AND RECORD HIGHLIGHTS**

1. The hearings officer received testimony at the public hearing about this application on October 24, 2024. All exhibits and records of testimony are filed at the Clackamas County Department of Transportation and Development. At the beginning of the hearing, the Hearings Officer made the declaration required by ORS 197.763. The Hearings Officer disclaimed any *ex parte* contacts, bias or conflicts of interest. The following is a summary by the hearings officer of selected testimony at the public hearing.

2. County planner Joy Fields summarized the Staff Report and her PowerPoint presentation (Exhibit 14).

a. The applicant proposed to construct a 195-foot tall self-supporting lattice tower with wireless communication antennae and associated ground mounted equipment within a 75- x 75-foot lease area surrounded by a six-foot high sight obscuring fence.

b. She noted that neighboring residents expressed concerns with fire risk, health effects from Electro Magnetic Frequency (EMF) or Radio Frequency (RF) emissions from the wireless communication antennae, potential impacts on property value and wildlife. The Hamlet of Beaver creek CPO proposed that the tower should be disguised as a tree. (Exhibit 13). The Oregon Department of State Lands (ODSL) did not have any specific concerns, but noted that erosion control Best Management Practices (BMPs) are required during construction in order to protect Abernethy Creek east of the site. (Exhibit 9).

c. The site is more than 200 acres in size and zoned TBR. There is a creek on the far east side of the site, away from the tower. The applicant proposed to locate the tower and equipment in an existing cleared area in the northwest corner of the site in order to avoid impacts to natural resources including: steep slopes, landslide hazards, and surface waters. The applicant proposed to locate the tower below the top of a hill in order to limit its visual impact. The trees on the site will screen the ground mounted equipment and the lower portions of the tower. She argued that the applicant should be required to utilize a monopole stealth design to disguise the tower as a fir tree to better blend in with the surrounding forest. However, the County is willing to waive this requirement if it is not feasible to utilize stealth design for this facility.

d. The applicant will be required to maintain a primary fuel break area around the facility to reduce the risk of fire. This will require the applicant to thin trees within the fuel break area to 15 feet or more apart and prune the lower limbs to reduce the risk of fire. The Fire District approved the proposed site plan. (Exhibit 12).

e. The site is located within the boundaries of the Redland/Viola Citizen Planning Organization (CPO). However, it is very near the border of the Hamlet of Beaver creek CPO. The County mailed notice of this application to the Redland/Viola CPO, who forwarded it to the Hamlet of Beaver creek CPO. (Exhibit 17). The Hamlet of Beaver creek CPO recently responded. (Exhibit 13).

f. The County no longer has a heritage tree program. That program ended around 2012.

g. Pursuant to ZDO 707, the County regulates historic landmarks that are designated by the County Historic Review Board or listed on the National Register of Historic Places. There are no regulated historic landmarks on the site. Historic markers do not require designation by the County Historic Review Board and are not subject to ZDO 707.

3. Brandon Clower testified for the applicant and showed his PowerPoint presentation (Exhibit 15) summarizing the development and responded to the Staff Report and public comments.

a. He noted that Vertical Bridge will own the tower. Verizon will lease space on the tower and equipment area as a tenant of Vertical Bridge.

b. The proposed tower is needed to improve wireless communication service in the area of the Mompano Reservoir and S. Henrici Road. There are no existing towers in the area that can provide the needed coverage; the closest towers are 1.7 and two miles away from the site and are inadequate to serve the area where enhanced service is needed. There are no existing structures available on which the applicant could locate the proposed antennae.

c. Construction of the facility will require minimal clearing as the applicant will locate the facility in an existing cleared area of the site and extend an existing road on the site to access the facility.

d. The tower and equipment area are designed to allow other wireless providers to collocate on the tower, which will limit the need for additional towers in the area. Verizon will locate its antenna near the top of the tower, at approximately the 190 foot level. Other providers will locate antennae at lower levels of the tower.

e. The applicant did consider the health and safety of the facility and the facility will comply with FCC standards to ensure it will not have adverse health effects. With the exception of areas within ten feet vertically and 92 feet horizontally from the antennae, RF/EMF levels around the tower will not exceed FCC standards for the general public. (Exhibit 15 at 9).

f. He argued that the proposed facility will benefit the public by providing enhanced wireless service in areas where existing wireless service is very limited. This will enhance , 911 access, education, health care, and future 5G readiness in those currently underserved areas.

g. He testified that a stealth design monopole tower disguised as a fir tree may not be feasible. Monopole towers are generally limited to a maximum 150 to 160 feet and cannot exceed 180 feet. This facility must be 195 feet high in order to provide the needed coverage as well as to ensure that the antennae will clear the surrounding trees. It is not feasible to add “branches” to a self-supporting lattice tower as the structure is not designed to accommodate the resulting wind impacts.

h. The FCC, a federal agency, considered the potential adverse health effects of wireless communication facilities through the NEPA process. That analysis is outside of the County’s review process and federal regulations prohibit the County from reconsidering that issue in its review of applications for wireless communication facilities.

i. The proposed facility is intended to improve coverage in the surrounding area generally, not just the area immediately surrounding the site, including the nearby canyon. This facility will improve wireless coverage on many roads and in residences and public areas, improving reliability and speed of service, providing an immense improvement in coverage over several areas.

j. The applicant is aware of and will avoid impacts to the large oak tree on the site, locating all construction activities outside of the drip area of this tree. They will use the existing road to access the site and will locate the facility in an existing clearing, which will significantly reduce or eliminate tree removal on the site. They are not aware of any historic markers on the site.

4. Diane Brown noted that much of the area around the site is located in a canyon. She questioned how the applicant will provide wireless coverage in the canyon. There is a heritage/historic marker on the site near the existing on-site road and a “giant” oak tree that should be designated a heritage tree. She questioned whether the proposed development will impact either of these features.

5. Phil Brown testified in support of the proposed tower as it will improve wireless coverage, which will increase the resale value of affected properties. The proposed tower will look similar to other existing towers in the area. The applicant should provide a backup power source as this area experiences frequent power outages.

6. Barbara Markwell noted that she submitted a letter in opposition to the proposed facility, signed by 35 area residents. (Exhibit 8). She noted that the FCC regulations for wireless communication facilities have not been updated since they were adopted in 1996 and there has been no testing of the effects of 5G service. Many studies show adverse health effects from wireless facilities on humans and wildlife.

7. Joseph and Bernadette Hayden argued that there is no need for the proposed tower. They had adequate wireless service when they were Verizon customers. T-Mobile also provides good coverage in this area. They have not experienced any connectivity issues. There are other options available, such as Starlink, for remote workers to obtain wireless service. They noted that the West Linn/Wilsonville School District banned wireless communication towers on School District properties. There is a grade school 1.03 miles from this site. Most of the surrounding neighbors oppose this application as it will reduce the value of their properties.

8. Stephanie and Charles Houston argued that the County should consider the potential adverse health effects of the facility. They have adequate coverage under existing conditions and there are no safety issues with lack of service.

9. Larry Franklin-LaRue questioned who at the FCC reviewed the health effects of wireless communication facilities.

10. At the conclusion of the public hearing, the hearings officer held the record open for three weeks, subject to the following schedule:

a. For one week, until 4:00 p.m. on October 31, 2024, for all parties to submit additional testimony and evidence;

b. For a second week, until 4:00 p.m. on November 7, 2024, for all parties to respond to the whatever was submitted during the first weeks; and

c. For a third week, until 4:00 p.m. on November 14, 2024, for the applicant to submit a final argument.

11. The following documents were submitted during the open record period.

a. Ms. Fields submitted a memorandum proposing changes to the conditions of approval (Exhibit 18);

b. Oliver Korsness submitted a letter expressing concerns with potential health effects of the facility (Exhibit 19);

c. The applicant submitted a letter discussing the infeasibility of designing this facility as a stealth tower (Exhibit 20); and

d. The applicant submitted a final argument dated November 12, 2024 and requested the examiner close the record (Exhibit 21).

## **C. DISCUSSION**

### **1. NOTICE**

The hearings officer finds that the County provided adequate notice of the hearing. The County mailed notice of this application and public hearing to the applicant, the neighborhood association, property owners within 2,640 feet (½ mile) of the site, and other agencies on September 19, 2024, as required by ZDO 1307.11(A) (Exhibit 2 at 1). The County is not required to provide notice to the owners or properties located outside of the 2,640-foot radius notice area.

The hearings officer finds that the public had an adequate opportunity to review and respond to the proposed development, consistent with the limitations of the Code. The neighborhood was well represented at the hearing. Residents of the neighborhood testified clearly and succinctly regarding issues of concern to them. The hearings officer held the record open after the hearing to allow the public the opportunity to submit additional testimony and evidence.

### **2. ZDO SECTION 406 TIMBER DISTRICT**

*Section 406 regulates the Timber District, which includes the subject property. This application is for a Wireless Telecommunication Facility. Table 406-1 identifies that use as subject to Section 835. In Section 835, Table 835-1 further identifies that Level Two Wireless Telecommunication Facilities in the TBR District are a Conditional Use subject to 406.05(A)(1).*

**Finding:** The proposed use is a Conditional Use in the Timber District. **This criterion is met.**

Neighbors argued that this type of use should not be allowed in the TBR zone. (Exhibit 7). However, this use is currently permitted and the hearings officer has no authority to change the Code. The Board of County Commissioners has exclusive authority to modify the Code. In addition, federal law requires local governments to allow wireless communication facilities in most zones, although the local government may require that applicants demonstrate that such facilities cannot be located in certain preferred zones and still provide the desired coverage prior to being allowed to locate in other zones.

*406.05(A)(1): the use may be approved only where such uses: (a) will not force a significant change in farm or forest practices on surrounding lands devoted to farm or forest use; and (b) will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.*

**Finding:** The applicant is proposing to upgrade and use an existing gravel road and foot path to access the project site that is 75 x 75 feet in size. Although the access road is over 3,000 feet long, it utilizes an existing road and walking path for much of the length. The proposed access road also skirts the western property boundary, leaving the majority of the 217 acre site available for farm and forest practices. As the applicant states in the application:

The compound is proposed near the northwest corner of the property to minimize impacts to the parcel and future forest or farming practices. It is anticipated that this proposed use will not force a significant change or increase the cost of farming/forest practices on the parcel. The proposed development will require a fuel break per Clackamas County requirements around the proposed compound, which will help minimize the potential for fire hazards. Additionally, a fire approved turnaround will be provided at the equipment area as well as required pullouts along the access road. These improvements will assist in reducing the overall risk and costs associated with a wildfire.

**As conditioned, this criterion can be met.**

**406.08(A)(1):** *A primary fuel-free break area shall be maintained surrounding any new structure, including any new dwelling.*

- a. *The primary safety zone is a fire fuel break extending a minimum distance around structures. The minimum distance is established by Table 406-2 and Figure 406-1. The goal within the primary safety zone is to remove fuels that will produce flame lengths in excess of one foot. Vegetation within the primary safety zone may include green lawns and shrubs less than 24 inches in height. Trees shall be spaced with greater than 15 feet between the crowns and pruned to remove dead and low (less than eight feet) branches. Accumulated leaves, needles, limbs and other dead vegetation shall be removed from beneath trees. Nonflammable materials (i.e., rock) instead of flammable materials (i.e., bark mulch) shall be placed next to the structure. As slope increases, the primary safety zone shall increase away from the structure and down the slope at a 45-degree angle from the structure, in accordance with Table 406-02 and Figure 406-1.*

**Finding:** As demonstrated by the submitted site plan, the proposed telecommunication tower site can comply with the primary safety zone fire fuel break distance around the structure. The applicant is proposing a tower and equipment cabinet structures within the 75- x 75-foot compound that is and thus the primary fuel-free break area should begin at the fence around the compound. Proposed condition of approval 7 in the Staff Report should be modified to that effect.

A condition of approval will ensure compliance with this criteria. The condition of approval also requires the applicant to submit a signed and notarized form acknowledging compliance with the fuel-free fire break standards prior to Planning and Zoning approval of development permits for the new structure. **As conditioned, this criterion can be met.**

**406.08(A)(2):** *For any new dwelling, a secondary fuel-free break area shall be cleared and maintained on land surrounding the dwelling that is owned or controlled by the owner.*

- a. *The secondary fuel-free break extends around the primary safety zone required pursuant to Subsection 406.08(A)(1). The goal of the secondary fuel-free break shall be to reduce fuels so that the overall intensity of any wildfire would be lessened and the likelihood of crown fires and crowning is reduced. Vegetation within the secondary fuel-free break shall be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees shall be removed to prevent spread of fire up into the crowns of the larger trees. Dead fuels shall be removed. The minimum width of the secondary fuel-free break shall be the lesser of:*



- i. 100 feet; or
- ii. The distance from the dwelling to the edge of land surrounding the dwelling that is owned or controlled by the owner.

**Finding:** The proposed structure is not a dwelling. Therefore, a secondary fuel-free break area is not applicable to the proposed project. **This criterion is not applicable.**

**406.08(A)(3):** *Structures within a River and Stream Conservation Area or the Willamette River Greenway shall be sited consistent with the requirements of Sections 704 and 705, respectively. Structures shall be sited so that a primary safety zone can be completed around the structure outside of the river or stream corridor setback/buffer area. The area within the river or stream setback/buffer area shall be exempt from the secondary fuel-free break area requirements.*

**Finding:** The subject site is not located within a River and Stream Conservation Area. Specifically, there is a protected stream beginning along the eastern part of the 217.55-acre property. The associated RSCA areas are Large Type F streams with a 100-foot buffer from the mean high water line of the stream. As demonstrated by the submitted site plan, the proposed structure will be more than 1000 feet west of the mean high water line of the nearest regulated stream, which easily allows the primary safety zone to be completed around the structure outside of the stream setback/buffer area. The subject property is not located within the Willamette River Greenway. **This criterion is met.**

**406.08(A)(4):** *The fuel-free break standards shall be completed and approved prior to issuance of any septic, building, or manufactured dwelling permits. Maintenance of the fuel-free breaks shall be the continuing responsibility of the property owner.*

**Finding:** A condition of approval requires compliance. The condition of approval also requires the applicant to submit a signed and notarized form acknowledging compliance with the fuel-free fire break standards prior to Planning and Zoning approval of development permits for the new structure. **As conditioned, this criterion can be met.**

**406.08(B):** *B. Additional Fire-Siting Standards for New Dwellings:*

**Finding:** The proposal is not a dwelling. **These criterion are not applicable.**

**406.08(C).** *Compatibility Siting Standards: The following compatibility siting standards shall apply to any new structure, including any new dwelling, approved pursuant to a land use application based on standards in effect on or after April 28, 1994:*

1. *Structures shall be sited on the subject property so that:*

- a. *They have the least impact on nearby or adjoining forest or agricultural lands;*
  - b. *The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;*
  - c. *The amount of forest lands used to site access roads, service corridors, and structures is minimized; and*
  - d. *The risks associated with wildfire are minimized.*
2. *Siting criteria satisfying Subsection 406.08(C)(1) may include setbacks from adjoining properties, clustering near or among existing structures, siting close to existing roads, and siting on that portion of the subject property least suited for growing trees.*

**Finding:** The structure is proposed inside a 75 x 75 foot compound located approximately 260 feet from the nearest property boundary. Therefore, the impact from the proposed use is limited to a 75 x 75 foot area and associated access road. The applicant proposed to locate the access road close to the property boundary in order to limit impacts to forest uses. The proposal separates the wireless telecommunication facility from the home and barn located at the southern area of the property. The property is over 200 acres in size and is surrounded by large parcels that have predominantly been involved in timber use. Therefore, although the structures are not clustered, the location of proposed tower minimizes impacts to farm and forest use by limiting project impacts to an area along the western property boundary. *These criteria are met.*

**3. ZDO SECTION 707 HISTORIC LANDMARK (HL), HISTORIC DISTRICT (HD), AND HISTORIC CORRIDOR (HC)**

**707.02 Applicability**

- A. *Section 707 applies to designated Historic Landmarks, Historic Districts, and Historic Corridors.*
- B. *Historic Landmark: A site, structure, or object may be zoned Historic Landmark if it is listed on the National Register of Historic Places, or if it is rated as significant under the County's procedure for evaluating historic resources under the specific architectural, environmental, and historic association criteria.*

**Finding:** The site does not contain a historic landmark as defined by ZDO 707.02(B). Neighbors testified that there is a historic marker on the site. In addition, the residence on the site, the “Jones, David, House”, is listed on the states “Oregon Historic Sites Database.” (Exhibit 7, Attachment A). However, ZDO 707 only applies to sites,

structures, or objects listed on the National Register of Historic Places or rated as significant under the County's procedure for evaluating historic resources. Sites, structures, or objects listed on the Oregon Historic Sites Database do not constitute historic landmarks as defined by ZDO 707.02(B). The site is not located in a Historic District or Historic Corridor as defined by ZDO 707.02(C) and (D). **This criteria is not applicable.**

#### **4. ZDO SECTION 1203.02 CONDITIONAL USES**

##### ***1203.02: Submittal Requirements***

**Finding:** This application includes a site plan, application fee, and a completed land use application form addressing the criteria in ZDO Section 1203. The application also includes a description of the proposed use and vicinity map. All the submittal requirements under Subsection 1203.02 are included in the application. The application was submitted on August 19, 2024. The application was deemed complete on September 6, 2024.

*1203.03(A): The use is listed as a conditional use in the zoning district in which the subject property is located.*

**Finding:** The subject property is located in the Timber (TBR) zoning district. ZDO Section 406, Table 406-1 controls land uses in the underlying TBR zone and indicates that wireless telecommunication facilities are subject to Section 835. Wireless telecommunication facilities are listed as a conditional use in Table and 835-1. The proposed use is a conditional use in the underlying zoning district. **This criterion is met.**

*1203.03(B): The characteristics of the subject property are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features.*

**Finding:** The subject property is approximately 217 acres in size. The site and most surrounding parcels are in timber use. The structural development and access are concentrated along the western property boundary in order to minimize impacts to surrounding forest uses. The access road utilizes an existing road and walking path. The tower is located at an elevation that maximizes the service area provided, but is not on the very top of the hill so the visual impact of the tower is mitigated by nestling the tower into the trees.

As the applicant states

The area chosen for the proposed tower is in the NW corner of the parcel, partially accessible by an existing gravel access road which transitions to a wide walking path that will be improved for access. The topography in the area is also relatively flat, so minimal grading will occur, and erosion will be kept to a bare minimum. Additionally,

approximately 66% of the parcel is heavily forested with mature, coniferous trees and ground cover. Because of this, the entire compound will be screened from adjacent properties, and the tower will be screened. The tower will only be visible as it extends above the trees, which range in height from ~70-150' tall.

Therefore, impacts and perceived impacts from the proposed wireless telecommunication tower are minimized while providing infrastructure to fill a gap in wireless communication coverage.

There is a very large oak tree on site that neighbors argued should be designated as a heritage tree. However, the County no longer has a heritage tree program. Regardless, the proposed development will not impact this tree. As the applicant noted at the hearing, they designed the access road to avoid the dripline of this tree.

Neighbors testified that there is a historic marker on the site. In addition, as noted above, the residence on the site is listed on the states "Oregon Historic Sites Database." (Exhibit 7, Attachment A). However, the residence is located in the southern portion of the property, roughly 2,000 feet away from the proposed facility. Therefore, the hearings officer finds that the facility will not impact the historic character of the residence.

**This criterion is met.**

*1203.03(C): The proposed use is consistent with Subsection 1007.07, and safety of the transportation system is adequate to serve the proposed use.*

**Finding:** Transportation staff reviewed the proposal for compliance with 1007.07. The staff findings are included below. Additionally, the applicant states;

Per Section 1007.07.B.3, unmanned facilities, such as wireless telecommunication facilities, where no employees are present except to perform periodic servicing and maintenance, are exempt from this requirement. However, an existing and proposed 12' wide gravel access road meeting ingress/egress requirements will be utilized to access the site. Required County turnouts will be utilized on the access road at 400' intervals, and a 70' long County approved hammerhead will be provided at the compound to provide adequate fire apparatus turnaround and temporary maintenance parking, as needed.

**This criteria is met.**

*1203.03(D): The proposed use will not alter the character of the surrounding area in a manner that substantially limits, impairs or precludes the use of surrounding properties for the primary uses allowed in the zoning district(s) in which surrounding properties are located.*

**Finding:** The site is in the Timber (TBR) districts. Permitted uses in the TBR district are included in ZDO Section 406.

This criterion does not prohibit any impacts from the proposed use. Rather the impacts must not “[s]ubstantially limit, impair or preclude the use of surrounding properties for the allowed primary uses.” The proposed location of the wireless telecommunication tower and the use of the property for a tower, will not substantially limit adjacent properties from continuing as timber properties or preclude the use of adjacent properties for timber or rural residential uses.

The applicant states:

We assert that the facility will not alter the character of the area in the following ways:

1. **Aesthetic Integration:** The design of the facility incorporates materials and colors that blend with the natural and built environment of the surrounding area. This approach minimizes visual impact and preserves the aesthetic character of the neighborhood.
2. **Height and Visibility:** The height of the wireless communication facility is within the permissible limits set by the county. The facility has been strategically placed to minimize visibility from surrounding properties, thereby reducing any potential visual intrusion.
3. **Noise and Emissions:** The facility will operate within the standards set by local, state, and federal regulations regarding noise and emissions. This ensures that there will be no substantial impact on the environmental quality of the surrounding properties.
4. **Land Use Compatibility:** The wireless communication facility is compatible with the primary uses allowed in the zoning districts of the surrounding properties. It will not introduce activities or operations that conflict with residential, agricultural, or other land uses in the area.
5. **Access and Infrastructure:** The facility will not impede access to surrounding properties. All construction and operational activities will be conducted with minimal disruption to existing infrastructure and traffic patterns.

The hearings officer recognizes concerns that the proposed antennas emit electromagnetic energy could have an impact on public health. However there is no evidence that it does have such an impact, and the Federal Communications Act of 1996 expressly prohibits the County from considering such impacts when evaluating an application of this kind.

Moreover the energy emitted by antennas transmitting at the frequencies used for cellular and personal service communications networks is several orders of magnitude less than the amount of energy known to have any effect, much less a hazardous one, on people. Fear of such effects is not substantial evidence that such effects occur.

Concerns were expressed that energy from the proposed antennae may effect wildlife on and near the tower. However there is no substantial evidence in the record that RF/EMF energy from the antennae will have any effect on wildlife given the lack of impact on humans as determined by the FCC.

The hearings officer acknowledges the tower will be visible. However, although some people may not want to see the tower, views of the tower do not have a significant impact on use of surrounding properties. Also the site and surrounding area include many tall trees that will screen views of the lower portions of the tower. (See Exhibit 1 at 41-43). The upper portions of the tower and antennas will be visible above the trees, but these portions of the facility have a relatively narrow cross section, minimizing their visual impact by design. The applicant will paint the facility a neutral gray to further blend with existing sky against which it will be seen.

Staff and the Hamlet of Beavercreek CPO recommended that the applicant be required to utilize a “stealth tower” design, designing the tower to look like a fir tree, a “monofir” design. (Staff testimony and Exhibits 13 and 18). However, the applicant submitted evidence that it is not feasible to utilize a stealth design for this facility, noting that “Monofirs are most commonly designed in the 80-foot to 160-foot range, which is insufficient to meet the coverage and functionality requirements for this site. Additionally, typical monofir branches cannot be attached to a lattice tower without creating significant structural stability, wind loading, and safety concerns.” (Exhibit 20). There is no evidence to the contrary. Therefore, the hearings officer concludes that a stealth tower design (in this case, a tower made to look like a tree) is not “reasonably necessary” to protect the public welfare (in this case, the public interest in a rural aesthetic appearance), because the subject property does not contain scenic views or vistas or other unique resources identified in the Comprehensive Plan, the tower is the minimum height necessary, it is not feasible to utilize a monofir design for this size of tower, and the tower will be painted neutral gray and will be situated against a background of trees and screened by existing tall trees.

Noise from the facility could impair the permitted use of surrounding land if it is excessive. The hearings officer finds that noise is excessive if it exceeds ODEQ standards as required by ZDO 835.06(D)(6).<sup>1</sup> The hearings officer also finds, based on the

<sup>1</sup> OAR 340-35-035, Table 9, provides the following maximum noise levels for new commercial uses:

<i>Measure</i>	<i>Maximum Statistical Noise Level</i>	
	7 a.m. to 10 p.m.	10 p.m. to 7 a.m.
L <sub>50</sub> (up to 50% of an hour)	55 dBA	50 dBA
L <sub>10</sub> (up to 10% of an hour)	60 dBA	55 dBA
L <sub>1</sub> (up to 1% of an hour)	75 dBA	60 dBA

applicant's noise study, that noise from the emergency generator is reasonably likely to comply with ODEQ standards, which determined that noise from the site will not exceed 33 dBA at the nearest receiving property located approximately 272 feet west of the facility. (Exhibit 1 at 44).

Several owners of nearby properties alleged that the proposed facility will adversely affect the value of their properties. However the hearings officer finds that the impact of the tower on property value, if any, is not relevant to the applicable approval criteria. The Oregon Land Use Board of Appeals (LUBA) held that "[p]otential loss of property value does not affect the use of surrounding properties for residential and other primary uses within the meaning of ZDO 1203.01(D). . ." *Tylka v. Clackamas County*, 34 Or LUBA 14 (1998). The hearings officer agrees with and adopts that conclusion.

Neighbors expressed concerns with the impact on wildlife of prior on site logging activities. (Exhibit 4). However, the impacts of prior logging activities are not relevant to the approval criteria as no logging is proposed with this application. In addition, the site and surrounding property are zoned TBR where logging is a permitted use.

**This criteria is met.**

**1203.03(E):** *The proposed use is consistent with the applicable goals and policies of the Comprehensive Plan.*

**Finding:** The hearings officer has reviewed this proposal relative to the Comprehensive Plan and the application and finds the goals and policies from the following Sections apply and are adequately addressed by the applicant:

Chapter 3 - Natural Resources and Energy: The proposed facility is designed with a minimal environmental footprint. We have conducted thorough environmental assessments to select a location that avoids sensitive natural resources. This includes maintaining existing forested areas, utilizing existing roads, protection of an existing large Oak tree on the property, and minimizing utility trench routes.

Chapter 4 - Land Use: Our project adheres to the county's land use policies by selecting a site that is appropriately zoned and compatible with surrounding land uses. The facility design complies with all zoning regulations and integrates seamlessly into the existing landscape, minimizing visual impact and maintaining the character of the area.

Chapter 7 - Public Facilities and Services: Our facility will enhance public safety and emergency response capabilities by providing improved wireless communication services. This aligns with the county's objective to ensure that public facilities and services are efficient, effective, and resilient.

The applicant addressed additional sections of the Comprehensive Plan and the hearings officer find that 3.C.1.1 is met with the distance the tower is from the river stream conservation area; 3.I.1 is met with the placement of the tower to minimize disturbance to forest lands; 3.L.2 is met with the location choice of the tower in the western portion of the property that avoids mass movement hazards, wetlands, and steep slopes; 4.OO.11 is met through this land use application and 7.C.3 is met through the erosion control and stormwater management proposed by the applicant. **These criteria are met.**

*1203.03(F): The proposed use complies with any applicable requirements of the zoning district and overlay zoning district(s) in which the subject property is located, Section 800 Special Use Requirements, and Section 1000 Development Standards.*

**Finding:** The hearings officer reviewed compliance with ZDO Section 800 and 1000, as applicable. The findings are included below.

#### **4. ZDO SECTION 835 WIRELESS TELECOMMUNICATION FACILITIES**

**835.05 Uses Permitted:** The types of wireless telecommunication facilities permitted in each zoning district are listed in Table 835-1, Permitted Wireless Telecommunication Facilities. Except for essential public communication services and small wireless facilities, wireless telecommunication facilities are classified as level one or two. Wireless telecommunication facilities, except small wireless facilities, are subject to the applicable provisions of Subsections 835.06(A through D) and 835.08, and an adjustment may be approved pursuant to Subsection 835.07.

**Finding:** Level Two Wireless Telecommunication Facility not included in any other category in Table 835-1 are listed as a Conditional Use in the Timber zoning district. **This criteria is met.**

##### ***835.06(D) Standards for Level Two Wireless Telecommunication Facilities:***

1. *New Towers: If a new wireless telecommunication tower is proposed:*
  - a. *No new tower will be permitted unless no existing support structure can accommodate the proposed antenna. All proposals for new wireless telecommunication facilities must be accompanied by a statement from a qualified person that the necessary telecommunication service cannot be provided by collocation for one or more of the following reasons:*
    - i. *No existing support structures, or approved but not yet constructed support structures, are located within the geographic area required to meet the applicant's engineering requirements;*



- ii. *Existing support structures are not of sufficient height to meet the applicant's engineering requirements;*
- iii. *Existing support structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment;*
- iv. *The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing support structure, or the existing antenna would cause interference with the applicant's proposed antenna; or*
- v. *The applicant demonstrates that there are other limiting factors that render existing support structures unsuitable.*

**Finding:** The ZDO does not authorize the hearings officer to consider the need for the facility, the minimum needed level of coverage, or whether alternative sites may be subjectively “better.” Although this section refers to “the applicant’s engineering requirements”, the term “engineering requirements” is not defined. The applicant largely determines what service is necessary, based on proprietary information, market factors, characteristics of RF/EMF propagation and system design and engineering, among other things. The county policy in this regard was shaped in part by the Federal Communications Act of 1996 which requires that local governments allow the development of telecommunications resources subject only to reasonable health, safety and welfare standards. In this case the applicant demonstrated that there are gaps in coverage, and that the proposed facility will fill them. (Exhibit 1 at 32-37). This is *prima facie* evidence that the facility will provide necessary service to the public using the applicant’s telecommunications system. There is no evidence to the contrary. Neighbors’ assertions that they currently have adequate wireless service are not sufficient to dispute the applicant’s service coverage analysis. As noted in the application, this facility is primarily intended to address “[d]ropped calls and poor service on Henrici Road in the area of the Mampano Reservoir” (Exhibit 1 at 33) and the proposed facility will significantly improve wireless service in that area, as well as areas southeast of the site. (Exhibit 1 at 33-34).

The applicant provided a map showing that the closest tower was 1.7 miles away from the search area for the new tower and there are no other existing structures tall enough to provide wireless communication coverage in the areas this facility is intended to serve. Therefore, there are no existing towers or other support structures in the area needed to sufficiently support the needed wireless communication and data coverage.

Neighbors argued that the facility could be located elsewhere in the area. However, there is no evidence in the record demonstrating that a tower located elsewhere would deliver the necessary telecommunication service this facility is intend provide.

**This criteria is met.**

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

**Finding:** The proposed tower is not inside the Portland Metro UGB. **This criteria is not applicable.**

- c. *The tower shall be designed and built to accommodate collocation or additional loading. This means that the tower shall be designed specifically to accommodate no less than the following equipment, in addition to the applicant's proposed equipment:*
  - i. *Twelve antennas with a float plate wind-loading of not less than four square feet per antenna;*
  - ii. *A standard mounting structure, standoff arms, platform, or other similar structure designed to hold the antennas;*
  - iii. *Cable ports at the base and antenna levels of the tower; and*
  - iv. *Sufficient room within or on the tower for 12 runs of 7/8-inch coaxial cable from the base of the tower to the antennas.*

**Finding:** As stated by the applicant “*The tower has been designed to accommodate up to four (4) wireless carriers which includes their respective mounts, antennas, ancillary equipment, and cabling, therefore, this requirement has been met.*” As shown on sheet A3.0 the tower is designed to accommodate collocation by three additional wireless service providers and meets the above requirements. **This criteria is met.**

## **5. ZDO SECTION 1000 DEVELOPMENT STANDARDS**

Not all review subsections in ZDO Section 1000 are applicable. Below is an evaluation of the criteria that are applicable to the proposed conditional use.

**Finding:** Sections 1002, 1003, and 1004 are not applicable to the proposed site on the subject property.

**A. Section 1005** relates to the design of the buildings and the site.

**Finding:** The proposal does not involve the construction of any buildings; Subsection 1005.02 and 1005.03 are not applicable. Subsection 1005.04 provides requirements for outdoor lighting; no outdoor lighting is proposed. This section is not applicable to this specific development. **This criteria is not applicable.**

**B. 1006.03(E) Water Supply.** *The following standards apply outside the Portland Metropolitan Urban Growth Boundary, Government Camp, Rhododendron, Wemme/Welches, Wildwood/Timberline, and Zigzag Village:*

*Applicants shall specify a lawful water source for the proposed development, such as a public or community water system, certificated water right, or exempt-use well.*

**Finding:** The property is not within a public or private water district, and is not within a groundwater limited area. The proposed development does not propose using any water as this is a telecommunication tower. **This criteria is not applicable.**

**C. 1006.06 Surface Water Management and Erosion Control.** *The following surface water management and erosion control standards apply:*

*Positive drainage and adequate conveyance of surface water shall be provided from roofs, footings, foundations, and other impervious or near-impervious surfaces to an appropriate discharge point.*

*The requirements of the surface water management regulatory authority apply. If the County is the surface water management regulatory authority, the surface water management requirements of the Clackamas County Roadway Standards apply*

*Approval of a development shall be granted only if the applicant provides a preliminary statement of feasibility from the surface water management regulatory authority. The statement shall verify that adequate surface water management, treatment and conveyance is available to serve the development or can be made available through improvements completed by the developer or the system owner.*

*The service provider may require a preliminary storm water management plan, storm drainage report, natural resource assessment and buffer analysis prior to signing the preliminary statement of feasibility. The statement shall be dated no more than one year prior to the date a complete land use application is filed and need not reserve surface water treatment and conveyance system capacity for the development.*

**Finding:** In those areas that are not within a surface water management district, the preliminary statement of feasibility shall be signed by the Surface Water Management Agency of Clackamas County (SWMACC).

Clackamas County is the surface water management authority for the area including the subject site. The applicant has submitted a Preliminary Statement of Feasibility signed by Development Engineering indicating that adequate surface water management, treatment,

and conveyance is available to service the development or can be made available through improvements completed by the development or the system owner.

The proposed site development is subject to compliance with Clackamas County Roadway Standards, Chapter 4. A stormwater management plan will be required if 10,000 square feet or more of new or reconstructed impervious surface is developed.

**This criterion can be met as conditioned.**

*D. 1007 Roads and Connectivity. The location, alignment, design, grade, width, and capacity of all roads shall be planned, coordinated, and controlled by the Department of Transportation and Development and shall conform to Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards. Where conflicts occur between Section 1007, the Comprehensive Plan, and the Clackamas County Roadway Standards, the Comprehensive Plan shall control.*

*Right-of-way dedications and improvements shall be required of all new developments, including partitions, subdivisions, multifamily dwellings, two- and three-family dwellings, condominiums, single-family dwellings, and commercial, industrial, and institutional uses, as deemed necessary by the Department of Transportation and Development and consistent with Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards. Developments shall comply with the intersection sight distance and roadside clear zone standards of the Clackamas County Roadway Standards. Transportation Facilities Concurrency applies to the following development applications, with exceptions: design review, subdivisions, partitions, and conditional uses.*

**Finding:** The Clackamas County Development Engineering division reviewed the application materials and provide the following comments:

1. S. Steiner Road is classified as a rural local roadway. Per Clackamas County Roadway Standards, the minimum right-of-way width for a rural local is 48 feet. The existing right-of-way width of S. Steiner Road appears to be 60 feet, based on the County Assessor's map. The existing right-of-way is adequate to serve the proposed development.
2. Access to the communication facility is proposed from an approximately 3,600+-foot long access road. The *Clackamas County Roadway Standards* requires the first 20 feet of an access drive to be paved per Standard Drawing D500. The remainder of the roadway can be gravel. The proposed access road will utilize and existing road on site, with improvements as necessary to meet minimum standards.

3. The applicant is required to provide adequate on-site circulation for the parking and maneuvering of all vehicles anticipated to use the site in accordance with ZDO section 1015 and applicable Roadway Standards requirements. The minimum access road includes a 12- foot wide gravel surface, within a minimum 20-foot wide, unobstructed clear zone. For roadways less than 20 feet in width, turnouts are required every 400 feet. Designated vehicle parking spaces will be required to comply with ZDO section 1015 dimensional requirements and require a surface of screened gravel or better.
4. Based on ZDO subsection 1007.07.B3, the use qualifies for an exemption regarding transportation facilities concurrency.

**As conditioned, this criterion can be met.**

***E. 1009 Landscaping.***

**Finding:** There is no minimum landscape requirement for properties in the TBR district; however, landscaping is required pursuant to Subsection 835. Section 835 requires the trees, shrubs, and ground cover that are reflective of the natural surrounding vegetation in the area. The applicant is proposing to use the existing forest trees to serve as landscaping. For the landscaping screen to utilize the existing trees surrounding the leased area, the landscaping area should extend 25 feet outside of the compound to ensure the landscaping screen is maintained and thinned to reduce fire potential. Using the existing trees within the landscaping screen will reflect the natural vegetation in the area. However, they should be thinned, pruned, and maintained so that fire will not spread between crowns of trees to reduce fire fuel as required by ZDO 406. Small trees and brush growing underneath larger trees shall be removed to prevent spread of fire up into the crowns of the larger trees. Dead fuels within a 25 foot landscaped strip shall be removed. The planting and maintenance required by 1009.10 are met with the utilization of the existing trees and the removal of undergrowth. **As conditioned, this criterion can be met.**

***F. 1015 Parking and Loading.*** Section 1015 is designed to ensure that developments in Clackamas County provide sufficient and properly designed parking for motor vehicles and bicycles as well as appropriate off-street loading areas. Outside the UGB, areas used for parking, loading, and maneuvering of vehicles shall be surfaced with screened gravel or better, and shall provide for suitable drainage [1015.01(B)]. Parking and loading requirements for uses and structures not specifically listed in Tables 1015-1 shall be subject to the requirements for the most similar use.

**Finding:** Applicant plans to use the existing driveway access from S. Steiner Road to access the proposed development.

The land use categories in Table 1015-1 do not provide a similar use to the proposed telecommunication facility; however, the parking demand is most similar to “on-site vehicular parking for employees, customers and visitors, determined through Conditional Use process” like the surface mining standards.

The facility will operate as an unstaffed facility. There is a need to accommodate at least one vehicle for occasional maintenance and inspection needs of the unstaffed facility. At least one 8.5 feet wide by 16 feet long parking space shall be provided. Designated vehicle parking spaces will be required to comply with ZDO Section 1015 dimensional requirements and require a surface of screened gravel or better. **As conditioned, this criterion can be met.**

**G. 1021 Solid Waste and Recyclable Material Collection.** Outlines the standards for refuse and recycling for commercial developments.

**Finding:** The requirements and standards of Section 1021 are applicable to conditional uses; yet since the development site does not include any administrative office, workshop, or other area for employees to work, it is unlikely that there will be any garbage or recycling generated by this development site. Moreover, the telecommunication facility will operate as an unstaffed facility and will not generate waste. Based on the scope of work of the proposed development the hearings officer finds that there is no need for solid waste and recycling material collection on site, and therefore compliance with Section 1021 is not necessary. **This criteria is not applicable.**

#### **D. CONCLUSION**

Based on the findings and discussion provided or incorporated herein, the hearings officer concludes that File No. Z0339-24-C (Verizon Goat Yoga) should be approved, because the application does or can comply with applicable standards of the Clackamas County ZDO, provided it is subject to conditions that ensure timely compliance in fact with those standards.

#### **E. DECISION**

Based on the findings, discussion and conclusions provided or incorporated herein and the public record in this case, the hearings officer hereby approves File No. Z0339-24-C (Verizon Goat Yoga) subject to the following conditions:

1. Approval of this land use permit is based on the submitted written narrative and plans filed with the County on August 19, 2024. No work shall occur under this permit other than which is specified within these documents, unless otherwise required or specified in the conditions below. It shall be the responsibility of the property owner(s) to comply with this document(s) and the limitation of any approval resulting from the decision described herein.

2. The conditional use approval is valid for four (4) years from the date of the final written decision (ZDO 1203.05). During this four year period, the approval shall be implemented, or the approval will become void. “Implemented” means all major development permits shall be obtained and maintained for the approved conditional use, or if no major development permits are required to complete the development contemplated by the approved conditional use, “implemented” means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained. A “major development permit” is:
  - a. A building permit for a new primary structure that was part of the conditional use approval; or
  - b. A permit issued by the County Engineering Division for parking lot or road improvements required by the conditional use approval.

If the approval of a conditional use is not implemented within the initial approval period established by Subsection 1203.05(A), a two-year time extension may be approved pursuant to Section 1310, Time Extension.

3. If a conditional use is implemented pursuant to Subsection 1203.05 and later discontinued for a period of more than five consecutive years, the conditional use shall become void. [1203.06]
4. **Prior to obtaining a building permit**, the landowner for the project shall sign and record in the deed records for Clackamas County a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.930(2) and (4). A sample of the required document may be obtained from Planning and Zoning. **A copy of the recorded document shall be submitted to Planning and Zoning.** [OAR 660-033-0130(38)(l)]
5. The following fire fuel break standards shall be required. Maintenance of the fuel-free breaks shall be the continuing responsibility of the property owner. **Prior to a building permit**, the applicant shall submit a signed and notarized form acknowledging compliance with the fuel-free fire break standards. A copy of the Fuel-Free Break Standards Compliance Form may be obtained from Planning and Zoning. [ZDO 406.08(A)]
  - a. The primary safety zone is a fire fuel break extending a minimum distance around structures. The minimum distance is established by Table 406-2, *Minimum Primary Safety Zone* and Figure 406-1, *Example of Primary Safety Zone*. Vegetation within the primary safety zone may include green lawns and shrubs less than 24 inches in height. Trees shall be spaced with greater than 15 feet between the crowns and pruned to remove dead and

low (less than eight feet) branches. Accumulated leaves, needles, limbs, and other dead vegetation shall be removed from beneath trees. Nonflammable materials (i.e., rock) instead of flammable materials (i.e., bark mulch) shall be placed next to the structure. As slope increases, the primary safety zone shall increase away from the structure and down the slope at a 45-degree angle from the structure, in accordance with Table 406-2 and Figure 406-1.

6. Wireless telecommunication facilities will be considered abandoned when there has not been a provider licensed or recognized by the Federal Communications Commission operating on the facility for a period of 365 consecutive days. Determination of abandonment will be made by the Planning Director, who shall have the right to demand documentation from the facility owner regarding the tower or antenna use. Upon determination of abandonment, the facility owner shall have 60 calendar days to reuse the facility or transfer the facility to another owner who will reuse it within 60 calendar days of the determination of abandonment. [ZDO 835.08]
7. Landscaping screen shall utilize the existing trees within 30 feet of the leased area. These trees shall be spaced with greater than 15 feet between the crowns and pruned to remove dead and low (less than eight feet) branches. Small trees and brush growing underneath larger trees shall be removed to prevent spread of fire up into the crowns of the larger trees. Dead fuels within this 30 foot landscaped strip shall be removed. ZDO 1009 , 406.08(A)(1), and 835.06(D)(5).
8. At least one 8.5 feet wide by 16 feet long parking space shall be provided as a designated vehicle parking spaces in compliance with dimensional standards found in ZDO Section 1015. ZDO 1015.01.

**Development Engineering recommended conditions of approval:**

9. All frontage and onsite improvements shall comply with Clackamas County Roadway Standards.
10. The applicant shall obtain a Development Permit from Clackamas County Department of Transportation and Development prior to the initiation of any construction activities associated with the project.
11. The applicant shall design and construct a minimum 12-foot wide, gravel access road from the end of the public portion of S. Steiner Road to the communication facility site. The access road shall be consistent with Roadway Standards Drawing R100.
12. A turnaround shall be constructed at or near the end of the access road, constructed per Standard Drawing C350.



13. Adequate storm drainage facilities shall be provided. A storm water management plan, Roadway Standards Chapter 4 shall be provided when 10,000 square feet or more of impervious is proposed to be developed. Adequate conveyance of stormwater runoff shall be provided for the site and access road.
14. If an acre or more of area are disturbed for construction of the roadway and site improvements, the applicant obtain a NPDES 1200-C Erosion Control Permit from the Oregon Department of Environmental Quality. Any Oregon DEQ permitting shall be obtained and submitted prior to Development Permit issuance.
15. The applicant shall provide adequate on site circulation areas for the parking and maneuvering of all vehicles anticipated to use the facility. Parking spaces shall meet ZDO section 1015 dimensional requirements, and Roadway Standards, Drawing P100/P200.
16. Prior to the issuance of a building permit or the initiation of any construction activities associated with the facility, the applicant shall submit to Clackamas County Development Engineering:
  - a. Written approval from the local Fire District for the planned access, circulation, fire lanes. The approval shall be in the form of site stamped and signed by the Fire Marshal.
  - b. A set of street and site improvement construction plans, in conformance with Clackamas County Roadway Standards Section 140, to Clackamas County's Engineering Office and obtain written approval, in the form of a Development Permit.
    - i. The permit will be for driveway, drainage, parking and maneuvering areas, and other site improvements.
    - ii. The minimum fee deposit is required upon submission of plans for the Development Permit. The fee will be calculated based on 8.83% of the public improvements and 5% of the onsite transportation improvements, according to the current fee schedule.
    - iii. The applicant shall have an Engineer, registered in the state of Oregon, design and stamp construction plans for all required improvements, or provide alternative plans acceptable to the Engineering Division.

DATED this 27th day of November 2024.



Joe Turner, Esq., AICP  
Clackamas County Land Use Hearings Officer

### **APPEAL RIGHTS**

ZDO 1307.14(D)(6) provides that, with the exception of an application for an Interpretation, the Land Use Hearings Officer's decision constitutes the County's final decision for purposes of any appeal to the Land Use Board of Appeals (LUBA). State law and associated administrative rules promulgated by LUBA prescribe the period within which any appeal must be filed and the manner in which such an appeal must be commenced. Presently, ORS 197.830(9) requires that any appeal to LUBA "shall be filed not later than 21 days after the date the decision sought to be reviewed becomes final." This decision will be "final" for purposes of a LUBA appeal as of the date of mailing (which date appears on the last page herein).