

BEFORE THE LAND USE BOARD OF APPEALS

FOR THE STATE OF OREGON

DEBRAH J. CURL, JERRY L. CURL

Petitioners

vs.

CITY OF BEND,

Respondent.

LUBA NO. 2020-_____

NOTICE OF INTENT TO APPEAL

I

Notice is hereby given that petitioners intend to appeal the final consolidated land use decision of respondent entitled DECISION OF CITY OF BEND HEARINGS OFFICER in File Numbers:

PZ 20-0179 Wireless Communication Facility Site Plan,

PZ 20-0180 Conditional Use Permit, and

PZ 20-0181 Site Plan Review Alteration

The decision ruled on a request for a Wireless Communication Facility Site Plan to approve a wireless communication facility consisting of a 60-foot tall cell tower camouflaged to look like a pine tree and a 20 foot by 20 foot fenced equipment area with a generator at the base of the tower; all located in the Commercial Convenience (CC) zone. The decision also ruled on a request for a Conditional Use Permit for the 60-foot tower that exceeds the maximum height of the zone, which is 35 feet. Finally, the decision ruled on a Site Plan Review Alteration request to alter an existing developed commercial property to accommodate the tower and fenced equipment area at the base of the tower. The existing developed commercial property is approximately .61 acres, located in the Northeast quadrant of Bend, Oregon. A Bend Land Use Hearings Officer made the decision on August 26, 2020, and the Bend City Council issued a final decision on September 17, 2020, although it explicitly declined to hear the appeal of the Hearings Officer's decision.

We have exhausted our local appeal opportunities. The Bend City Council explicitly declined to hear any discretionary appeals of the Hearings Officer's decision. The decision

issued on September 17, 2020 is a final land use decision by respondent. Both petitioners have standing to appeal because they personally participated before the Hearings Officer and in the appeal to the Bend City Council. LUBA has review jurisdiction over the challenged decision.

This appeal is timely filed within 21 days of the final decision.

II

Petitioners Debrah J. Curl and Jerry L. Curl represent themselves. Petitioner Debrah J. Curl, 703 NW Stonepine Dr., Bend, OR 97703, ph. 541-389-6562, electronic mail: debi@brickshiphouse.net, is designated lead petitioner. Petitioners' names and addresses are included on the signature page.

III

Respondent City of Bend has as its mailing address: P.O. Box 431, Bend, OR 97709, ph 541-388-5505, and is represented by Mary Winters, City Attorney, P.O. Box 431, Bend, Or, 97709, ph 541-693-2100.

IV

The applicant for the challenged decision was Cellco Partnership d/b/a Verizon Wireless, 5430 NE 122nd Avenue, Portland, OR 97230, 503-951-8909, represented by E. Michael Conners, Hathaway Larson, 1331 NW Lovejoy Street, Suite 950, Portland, OR 97209, ph. 503-303-3111. The City's records indicate that notice of the Hearings Officer's decision was sent to the parties on the attached notice lists. (*See* attached list of parties.)

NOTICE:

Anyone referred to in paragraph IV who desires to participate as a party in this appeal before the Land Use Board of Appeals must file with the Board a Motion to Intervene in this appeal proceeding as required by OAR 661-10-050.

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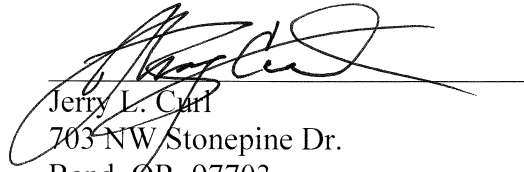
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Signature Page to follow:

Signature Page for LUBA Notice of Intent to Appeal:



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541-389-6562



Jerry L. Curl
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541-389-6562

CERTIFICATE OF SERVICE AND FILING

I hereby certify that on the date indicated below, I caused to be filed the original and two copies of the enclosed NOTICE OF INTENT TO APPEAL with the:

LAND USE BOARD OF APPEALS
Land Use Board of Appeals
775 Summer Street NE, Suite 330
Salem, OR 97301-1283

by first class certified U.S. mail. On the same date I caused to be served a true, complete and correct copy of the same documents by certified first class U.S. mail, postage prepaid, on the following parties or attorneys:

Mary Winters, City Attorney
P.O. Box 431
Bend, OR 97709

City of Bend
P.O. Box 431
Bend, OR 97709

E. Michael Connors
1331 NW Lovejoy Street, Suite 950
Portland, OR 97209

Cellco Partnership d/b/a Verizon Wireless
5430 NE 122nd Avenue
Portland, OR 97230

On the same day, I also caused to be filed a true, complete and correct copy of the same documents by first class U.S. mail, postage prepaid, on the persons named on the attached distribution list. Those on the attached list without a U.S. mail address were sent a copy via electronic mail.

DATED this 7th day of October, 2020.

By: 
Debrah J. Curl

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