



City of Portland  
**Bureau of Development Services**  
Land Use Services Division

1900 SW Fourth Ave. Suite 5000  
Portland, Oregon 97201  
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[www.portlandonline.com/bds](http://www.portlandonline.com/bds)

**Date:** August 14, 2008  
**To:** Interested Person  
**From:** Justin Fallon Dollard, Land Use Services  
503-823-5276 / [jfdollard@ci.portland.or.us](mailto:jfdollard@ci.portland.or.us)

**NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

**CASE FILE NUMBER: LU 07-166150 DZ**

*Radio Frequency Transmission Facility / Mechanical Penthouse Addition*

**GENERAL INFORMATION**

**Applicant:** Association Of Unit Owners  
234 NW 5th Ave  
Portland, OR 97209-3812

**Representative & Listed Contact:** Kevin Martin, 503.469.0234  
Clearwire US LLC  
2495 NW 121st Place  
Portland, OR 97229

**Site Address:** 221NW 5TH AVE. FACA CONDOMINIUM (KALBERER COMPANY)

**Legal Description:** LOT 1 POTENTIAL ADDITIONAL TAX, FACA CONDOMINIUM  
**Tax Account No.:** R263700050  
**State ID No.:** 1N1E34CA 90001  
**Quarter Section:** 3029

**Neighborhood:** Old Town-China Town, contact Carol McCreary at 503-984-4081  
**Business District:** Old Town Chinatown Business Association, contact Dorian Yee at 503-224-7066  
**District Coalition:** Neighbors West/Northwest, contact Mark Sieber at 503-823-4212

**Plan District:** Central City - River District

**Zoning:** CXd, Central Commercial with Design Overlay Zone

**Case Type:** DZ, Design Review  
**Procedure:** Type II, an administrative decision with appeal to the Design Commission.

**Proposal:**

The applicant requests Design Review of a proposed radio frequency transmission facility and mechanical penthouse additions located on the rooftop of an existing building located in the River District subdistrict of the Central City Design District.

The overall proposal is comprised of the following elements:

- Mechanical penthouse addition to house and screen 1 antenna and 1 microwave dish;
- Mechanical penthouse addition to house and screen 2 antennas and 2 microwave dishes;
- Flush wall mounting of an equipment cabinet and GPS antenna on the side of an existing stairwell roof access penthouse and painted to match the penthouse; and
- Roof mounted cabling and cable trays painted match the existing rooftop.

Per Section 33.420.041 of the City of Portland Zoning Code, proposed alterations to existing development within a Design Overlay Zone required Design Review Approval before permitting, unless otherwise exempt.

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33, City of Portland Zoning Code. The relevant criteria are:

- 33.520 Central City Plan District
- Central City Fundamental Design Guidelines
- River District Design Guidelines

**ANALYSIS**

**Site and Vicinity:** The site is three-quarters of a city block, or 30,000 square feet located between NW 5<sup>th</sup> and NW 6<sup>th</sup> Avenues and NW Davis Street and located in the River District subdistrict of the Central City Plan District. The site is located in the North of Burnside Pedestrian District and NW 5<sup>th</sup> and NW 6<sup>th</sup> Avenues are classified as Community Main Streets in the City of Portland Transportation System Plan. Community Main Streets are designed to accommodate motor vehicle traffic, with special features to facilitate public transportation, bicycles, and pedestrians.

Existing development is limited to a six story, mixed-use, 136,966 square feet brick and stucco building. The brick is red and dark brown and the stucco is beige. The building is built fully to the lot lines. Architecturally the building is comprised of a well-defined two and one-half story base, three story middle finished in stucco, and a brick clad top story with shallow cornice and metal cap. The rooftop of the building includes two mechanical penthouses and one stairwell/roof access penthouse. Unlike the building, the penthouses are clad in vertical oriented corrugated metal, metal caps, and painted beige to match the stucco. The roof itself is a waterproof synthetic membrane that is beige appearance. *The applicant proposes vertical additions to the mechanical penthouses, to flush mount equipment on the stairwell / roof access penthouse, and flush mount cabling and cable trays on the rooftop surface.*

The remaining quarter block is the Sally McCracken Building, a historic landmark used as a Single Room Occupancy hotel. There are seven other landmark buildings within a 2-block radius of the site and the New Chinatown/Japantown Historic District begins immediately to the east. The surrounding vicinity is characterized by 2 to 5 story mixed-use buildings, the transit mall, one-story retail structures, and parking lots.

The Central Commercial (CX) base zone, is Portland's most densely built, urban zone which allows for a variety of uses that reinforce the city's role as a commercial, cultural, and governmental center. This type of development is intended to have large buildings that are placed close together and typically cover most of their respective lot areas. This development is

also intended to be pedestrian-oriented, with a strong emphasis on a safe and attractive streetscape.

The Design (d) overlay zone designation also ensures that exterior alterations to existing development conserve and enhance the identified historic, scenic, architectural, and cultural values of each design district: in this case, the **Central City Plan District** and **River District**.

**Land Use History:** City records indicate that prior land use reviews include the following:

- LUR 97-01149 DZ AD- Design Review Approval with Adjustments of a six story, mixed-use, 136,966 square feet brick and stucco building.
- LUR 97-01150 PR- Central City Parking Review and Adjustment.
- LUR 98-01039 DZ-Approved additional balconies on the building approved under LUR 97-01149 DZ AD.

**Agency Review:** A “Notice of Proposal in Your Neighborhood” was mailed **October 19, 2007**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Bureau of Transportation Engineering
- Fire Bureau
- Life Safety Review Section of BDS

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on October 19, 2007. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

## **ZONING CODE APPROVAL CRITERIA**

### **Design Review, 33.825**

#### **Section 33.825.010, Purpose of Design Review**

- Design review ensures that development conserves and enhances the recognized special design values of a site or area.
- Design review is used to ensure the conservation, enhancement, and continued vitality of the identified scenic, architectural, and cultural values of each design district or area and to promote quality development near transit facilities.
- Design review ensures that certain types of infill development will be compatible with the neighborhood and enhance the area.
- Design review is also used in certain cases to review public and private projects to ensure that they are of a high design quality.

#### **Section 33.825.055, Design Review Approval Criteria**

A design review application will be approved if the review body finds the applicant to have shown that the proposal complies with the design district guidelines.

### **River District Design Guidelines and Central City Fundamental Design Guidelines**

The River District is planned to become a place that is remarkable within the region. The area is intended to grow rich with special and diverse qualities that are, or will become characteristic of Portland. Further, the River District will accommodate a significant portion of the region’s population growth. The plan calls for the creation of a new community of dense neighborhoods, housing a resident population of over 15,000 people, and providing jobs, services, and recreation to this population and others. This area is intended to emphasize the joy of the river, connections to it, and create a sense of community. The goals frame the urban design direction for Central City and River District development.

The Central City Fundamental Design Guidelines and the River District Design Guidelines

focus on four general categories. **(A) Portland Personality**, addresses design issues and elements that reinforce and enhance Portland's character. **(B) Pedestrian Emphasis**, addresses design issues and elements that contribute to a successful pedestrian environment. **(C) Project Design**, addresses specific building characteristics and their relationships to the public environment. **(D) Special Areas**, provides design guidelines for the four special areas of the Central City.

### **River District Design Goals**

1. Extend the river into the community to develop a functional and symbolic relationship with the Willamette River.
2. Create a community of distinct neighborhoods that accommodates a significant part of the region's residential growth.
3. Enhance the District's character and livability by fostering attractive design and activities that give comfort, convenience, safety and pleasure to all its residents and visitors.
4. Strengthen connections within River District, and to adjacent areas.

### **Central City Plan Design Goals**

1. Encourage urban design excellence in the Central City;
2. Integrate urban design and preservation of our heritage into the development process;
3. Enhance the character of the Central City's districts;
4. Promote the development of diversity and areas of special character within the Central City;
5. Establish an urban design relationship between the Central City's districts and the Central City as a whole;
6. Provide for a pleasant, rich and diverse pedestrian experience for pedestrians;
7. Provide for the humanization of the Central City through promotion of the arts;
8. Assist in creating a 24-hour Central City which is safe, humane and prosperous;
9. Ensure that new development is at a human scale and that it relates to the scale and desired character of its setting and the Central City as a whole.

*Staff has addressed only those guidelines considered applicable to this project.*

**C2. Promote Quality and Permanence in Development.** Use design principles and building materials that promote quality and permanence.

**Findings for C2:** The antennas, mounting hardware, equipment cabinet, cabling, and cable tray will be of durable metal and installed to meet all-weather conditions. The penthouse addition screening is made of molded fiberglass reinforced polymer (FRP). This material is also very sturdy. The addition is framed with FRP and treated wood. Fasteners to construct the addition are galvanized metal. *This guideline is therefore met.*

**C3. Respect Architectural Integrity.** Respect the original character of an existing building when modifying its exterior. Develop vertical and horizontal additions that are compatible with the existing building, to enhance the overall proposal's architectural integrity.

**Findings for C3:** The proposed mechanical penthouse additions used to screen most of the facility will be fabricated to resemble existing conditions. The metal cap proportion and profile, and sidewall treatment of the additions will match the character of the existing penthouses in physical dimension and visual character. The new proportions of the mechanical penthouses, with the vertical additions in place, are appropriate for the main building. The additions could be removed without compromising the architectural integrity of the existing building. *This guideline is therefore met.*

**C11. Integrate Roofs and Use Rooftops.** Integrate roof function, shape, surface materials, and colors with the building's overall design concept. Size and place rooftop mechanical equipment, penthouses, other components, and related screening elements to enhance views of

the Central City's skyline, as well as views from other buildings or vantage points. Develop rooftop terraces, gardens, and associated landscaped areas to be effective stormwater management tools.

**Findings C11:** Placing the radio frequency transmission facility in the open on the rooftop would be visually incongruent with what is an otherwise architecturally cohesive and simple rooftop. The existing rooftop contributes neutrally to surrounding skyline and does not visually dominate adjacent and nearby historic resources. The proposed addition to the mechanical penthouses to screen and house most of the facility ensures that the overall roof form maintains its simplicity and does not draw unnecessary attention away from the historic Sally McCracken Building or nearby contributing resources within the New Chinatown / Japantown Historic District. Whereas a stepping back from the penthouse would create an uncharacteristic roof form; the height, proportions, and massing of the penthouses, after the additions, will read as an integrated roof form.

For the portion of the facility that will be flush mounted to the stairwell access penthouse, the applicant will paint the antennas and mounting hardware to match the adjacent wall area. The cabling and cable tray will be painted to match the existing rooftop. Painting out the antennas, equipment cabinet, cabling, and cable tray helps to blend this portion of the facility with the overall rooftop and prevents surface glare to the immediate surroundings. The combination of working within the architectural form of the penthouses and flush mounting and painting the remainder of the facility successfully integrates roof function, shape, surface materials, and colors with the building's overall design concept. *This guideline is therefore met.*

## **DEVELOPMENT STANDARDS**

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

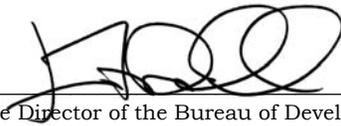
## **CONCLUSIONS**

The proposed radio frequency transmission facility and mechanical penthouse addition use design principles and building materials that promote quality and permanence through durable materials and detailing. The proposal respects the original character the building in creating a vertical addition that is proportionally appropriate and in the use of material finishes and profiles that resemble the existing mechanical penthouses. The mechanical penthouse addition and radio frequency transmission facility integrate roof function, shape, surface materials, and colors with the building's overall design concept and will enhance views of the Central City's skyline, as well as views from other buildings or vantage points. *The proposal meets the applicable design guidelines and therefore warrants approval.*

## **ADMINISTRATIVE DECISION**

Design Review Approval of a Radio Frequency Transmission Facility and two Mechanical Penthouse Additions limited to 3 antennas and 3 microwave dishes placed inside the additions; flush wall mounting of an equipment cabinet and GPS antenna on the side of an existing stairwell roof access penthouse and painted to match the penthouse; and roof mounted cabling and cable trays painted to match the existing roof, per the approved site plans, Exhibits C-1 through C-10, signed and dated 8/8/2008, subject to the following conditions:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.10. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 07-166150 DZ. No field changes allowed."

**Decision rendered by:**  **on August 8, 2008**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: August 14, 2008**

**Staff Planner: Justin Fallon Dollar**

**About this Decision.** This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

**Procedural Information.** The application for this land use review was submitted on September 28, 2007, and was determined to be complete on October 17, 2007.

*Zoning Code Section 33.700.080* states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on September 28, 2007.

*ORS 227.178* states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant requested that the 120-day review period be extended a total of 240 days.

**Some of the information contained in this report was provided by the applicant.**

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

**Conditions of Approval.** If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

**Appealing this decision.** This decision may be appealed to the Design Commission, which will hold a public hearing. Appeals must be filed **by 4:30 PM on 8/28/08** at 1900 SW Fourth Ave. Appeals can be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property

within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-7967 to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at [www.portlandonline.com](http://www.portlandonline.com).

**Attending the hearing.** If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Design Commission is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Design Commission an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

**Recording the final decision.**

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed*, The final decision may be recorded on or after **8/29/08 – (the next business day following the last day to appeal)**.
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- **By Mail:** Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- **In Person:** Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034  
For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

**Expiration of this approval.** An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a

new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

**Applying for your permits.** A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

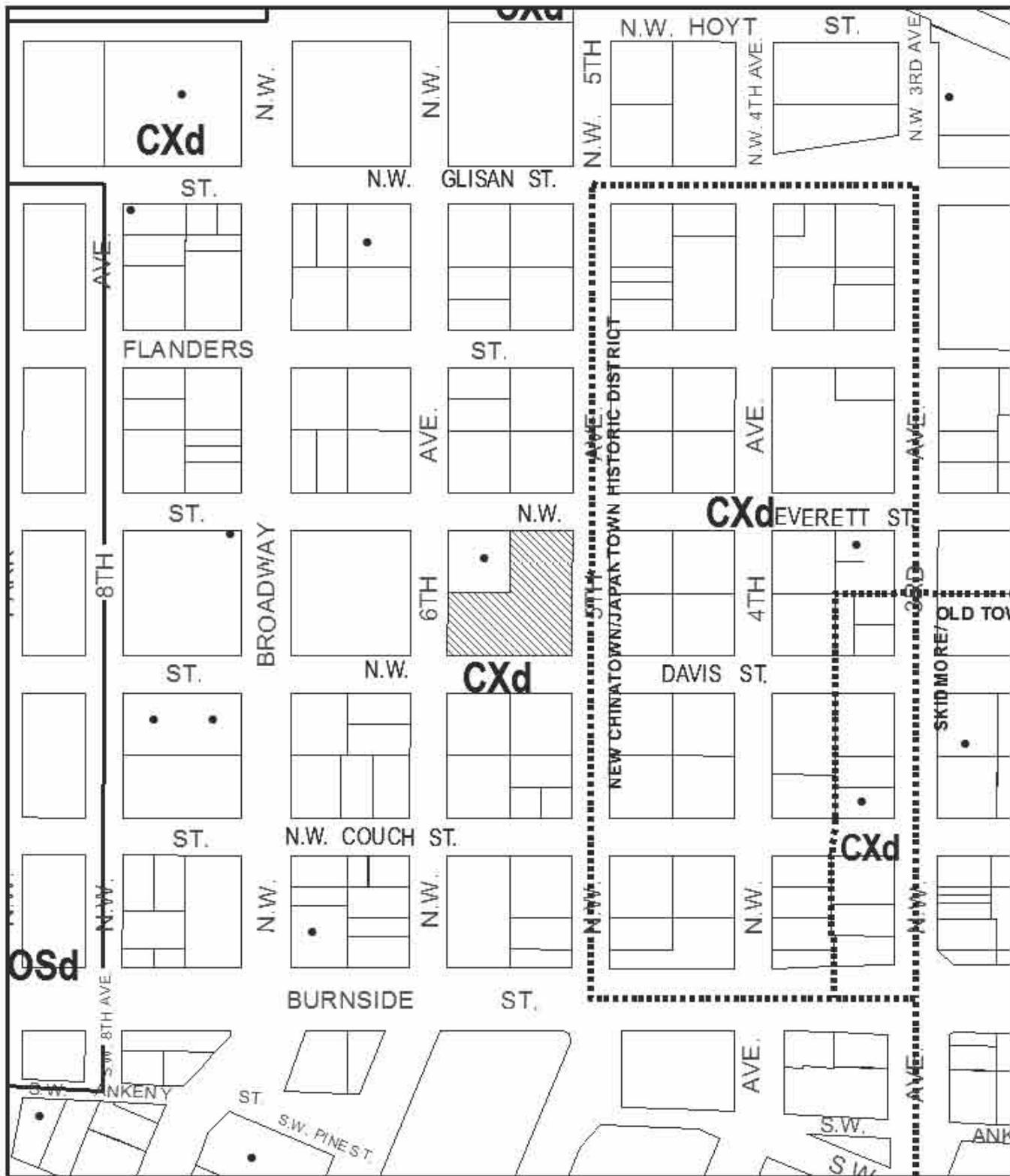
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Enlarged Site Plan
  - 3. Elevations (attached)
  - 4. Equipment Details (attached)
  - 5. Antenna Details (attached)
  - 6. Electrical/Grounding Plan & Details
  - 7. Structural Details
  - 8. Structural Details
  - 9. Structural Details
  - 10. Structural Details
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Fire Bureau
  - 4. Life Safety Review Section of BDS
- F. Correspondence: None
- G. Other:
  - 1. Original LU Application
  - 2. Site History Research
  - 3. Requests to Extend 120-Day Review Timeline by the Applicant.

**The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).**



# ZONING

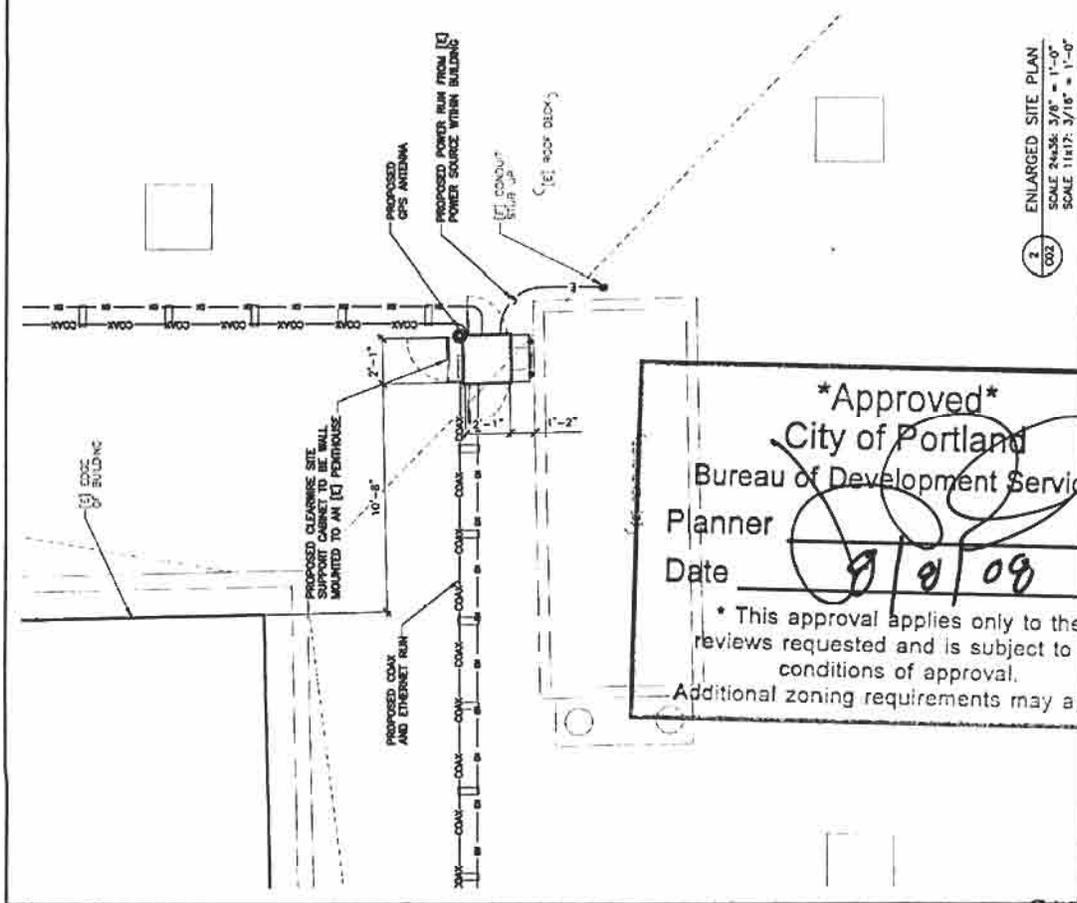
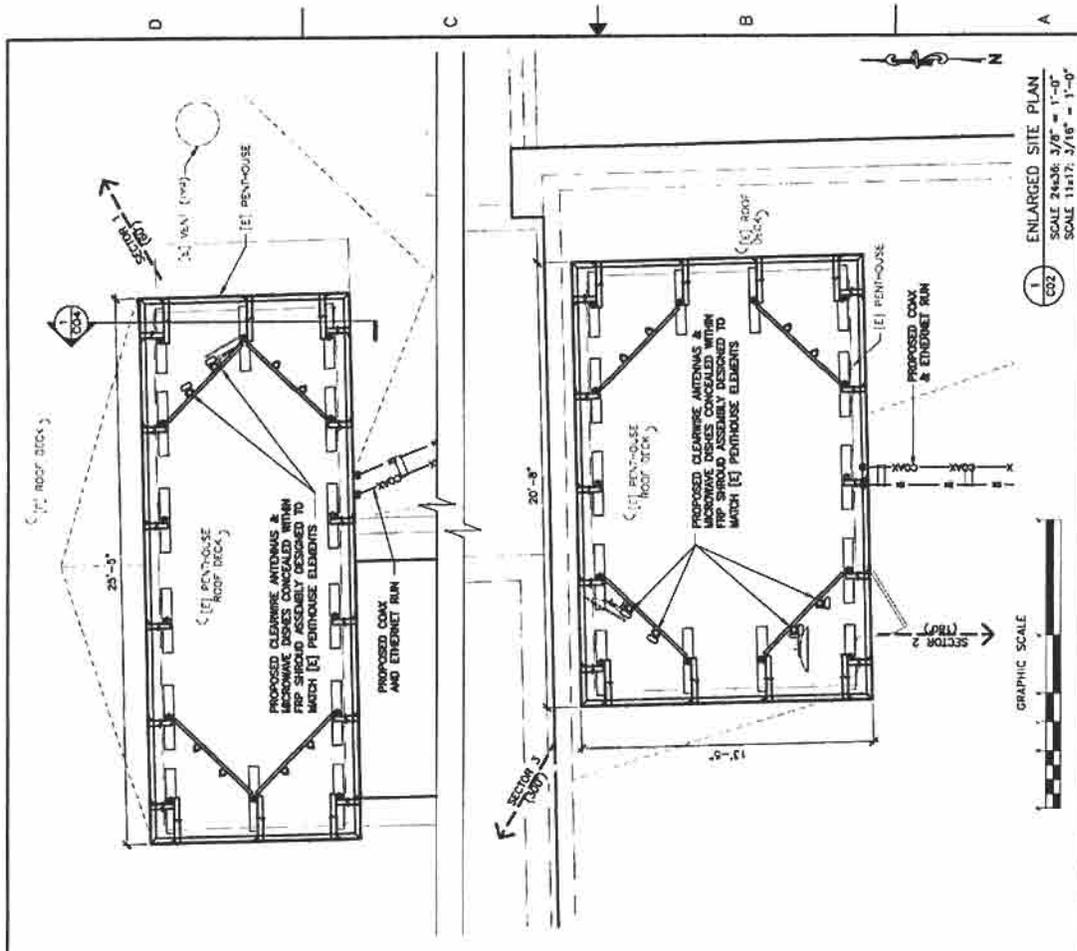
-  Site
-  Historic Landmark



This site lies within the:  
CENTRAL CITY PLAN DISTRICT

File No.	<u>LU 07-166150 DZ</u>
1/4 Section	<u>3029</u>
Scale	<u>1 inch = 207 feet</u>
State_Id	<u>1N1E34CA 90000</u>
Exhibit	<u>B (Oct 04, 2007)</u>





1 ENLARGED SITE PLAN  
SCALE 24x36: 3/8" = 1'-0"  
SCALE 11x17: 3/16" = 1'-0"

2 ENLARGED SITE PLAN  
SCALE 24x36: 3/8" = 1'-0"  
SCALE 11x17: 3/16" = 1'-0"

3 ENLARGED SITE PLAN  
SCALE 24x36: 3/8" = 1'-0"  
SCALE 11x17: 3/16" = 1'-0"

4 ENLARGED SITE PLAN  
SCALE 24x36: 3/8" = 1'-0"  
SCALE 11x17: 3/16" = 1'-0"

5 ENLARGED SITE PLAN  
SCALE 24x36: 3/8" = 1'-0"  
SCALE 11x17: 3/16" = 1'-0"

6 ENLARGED SITE PLAN  
SCALE 24x36: 3/8" = 1'-0"  
SCALE 11x17: 3/16" = 1'-0"

5TH & COURT  
OR-POR140-C  
321 NW 5TH AVE  
PORTLAND, OR 97209

clear wire®  
4400 CARILLON POINT  
KIRKLAND, WA 98033

PACIFIC TELECOM SERVICES, LLC  
1000 10th Street, Suite 1000  
Portland, OR 97209

REVISIONS  
NO. DATE BY CHK APP'D  
1 09-12-07 PRELIMINARY CONSTRUCTION DOCUMENTS  
2 03-03-08 REVISED PRELIMINARY CONSTRUCTION DOCUMENTS  
3 04-02-08 DESIGN REVIEW REVISIONS  
4 08-04-08 FINAL CONSTRUCTION DOCUMENTS

DESIGNED BY: CBK  
DRAWN BY: CBK

OR-POR140-C-02  
ENLARGED SITE PLAN  
DRAWING NUMBER

REVISIONS  
NO. DATE BY CHK APP'D  
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2 03-03-08 REVISED PRELIMINARY CONSTRUCTION DOCUMENTS  
3 04-02-08 DESIGN REVIEW REVISIONS  
4 08-04-08 FINAL CONSTRUCTION DOCUMENTS

\*Approved\*  
City of Portland  
Bureau of Development Services  
Planner  
Date 8/8/09  
\* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

CASE NO. 07-16615002  
EXHIBIT C-2





