



City of Portland
Bureau of Development Services
Land Use Services Division

1900 SW Fourth Ave. Suite 5000
Portland, Oregon 97201
Telephone: 503-823-7300
TDD: 503-823-6868
FAX: 503-823-5630
www.portlandonline.com/bds

Date: July 11, 2008
To: Interested Person
From: Sylvia Cate, Land Use Services
503-823-7771 / scate@ci.portland.or.us

NOTICE OF A TYPE I 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 to the Oregon Land Use Board of Appeals (LUBA) at 550 Capitol St. NE, Suite 235, Salem, OR 97301. The phone number for LUBA is 1-503-373-1265. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 08-109543 CU

GENERAL INFORMATION

Applicant: Fremont Street Methodist Church, Property Owner
2620 NE Fremont St
Portland, OR 97212-2540

Representative: Tom Spaulding, Main Contact
SAI Communications
130 Andover Park East, Suite 300
Seattle, WA 98188
650 380 3140

Site Address: 2620 NE FREMONT ST

Legal Description: BLOCK 1 LOT 1&2 INC 18' STRIP E OF & ADJ, EDGEMONT
Tax Account No.: R237500010
State ID No.: 1N1E25BB 02400
Quarter Section: 2733

Neighborhood: Alameda, contact Kenneth Bailey at 503-287-1685.
Business District: North-Northeast Business Assoc, contact Joyce Taylor at 503-445-1321.
District Coalition: Northeast Coalition of Neighborhoods, contact Robin Denburg at 503-823-4135.

Plan District: None
Other Designations: None

Zoning: R5h, Single Dwelling Residential 5,000 with Aircraft Landing overlay
Case Type: CU, Conditional Use
Procedure: Type I, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal:

The applicant, AT&T, requests a conditional use for equipment cabinets associated with a wireless telecommunications facility mounted on a PPL owned replacement utility pole in the public right of way. The replacement pole will be 10 feet taller than the existing utility pole, as allowed by the franchise agreement the City has that regulates wireless service providers within the public rights of way.

The associated equipment will be located on adjacent private property, as follows: 1] two equipment cabinets plus battery power units are proposed to be placed inside an existing lower level boiler room inside the church; 2] immediately adjacent to the outside wall of the boiler room is an area proposed for one equipment cabinet, plus room for a future cabinet, which would be located behind a 6 foot high cedar fence enclosure, and 3] two air conditioner condenser units located further east on the property and also enclosed within a 6-foot high cedar fence compound. The applicant notes that the fenced enclosure for the condenser units will have on the interior of the cedar fencing sheathing consisting of ½ inch thick marine plywood with sound absorbing acoustical material to achieve a sound proofed accessory equipment containment area. The application includes an acoustical engineer's noise survey and report of predicted noise levels from the proposed equipment, and the acoustical mitigation measures required for the equipment to meet the City of Portland's noise code [Title 18].

The associated equipment will be connected to the antennas mounted in the right of way via an underground coaxial cable run. Because the facility is not exempted from the zoning requirements of 33.274, a Type I Conditional Use review is required for the associated equipment located on private property. Please refer to the attached plans for a graphical depiction of the proposal. The replacement pole in the public right of way is not subject to this review.

Please note that City of Portland policies and regulations allow wireless facilities to be mounted on existing or replacement utility poles located within public rights of way via a franchise agreement with the City. Additional information about franchise agreements with the City can be found on the City's web site at:

<http://www.portlandonline.com/cable/index.cfm?c=33150>. Because the antennas and utility pole are located in the public right of way, zoning regulations, such as a conditional use review, do not apply to that portion of the overall facility. However, the associated equipment cabinets placed on private property require a conditional use review.

Relevant Approval Criteria:

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

- 33.815.225 A, Conditional Use
- 33.274.040, Development Standards

ANALYSIS***City Wireless Policy Background***

It is important to distinguish between this application, which seeks conditional use approval for associated equipment cabinets on private property, from a wireless facility located entirely on private property, consisting of such equipment and a tall vertical structure known as a 'monopole' or 'cell tower' that is specifically intended to elevate a radio transmission facility high above the ground. In this case, the antennas for the wireless facility will be mounted to a utility pole located within the public right of way. The utility pole is considered a non-broadcast structure and because of its location within the public right of way neither it, nor the antennas, are subject to a conditional use review.

Wireless telecommunication facilities installed in the right of way are encouraged by the City via a number of policies, including right of way franchise agreements and revisions to the zoning code itself. A summary of these policies and how they coordinate to encourage

facilities being located in the public rights of way in order to provide wireless services and to reduce the proliferation of new 'cell towers' follows:

The City Council passed a Wireless Resolution on July 24, 2002 authorizing the City's Office of Cable Management to grant right of way use agreements to wireless telecommunications service providers. In adopting this policy, the City Council found that "[e]xpansion of wireless services and users has increased at a rapid rate. Today in the United States over 50% of households and one-third of the population now have a wireless phone. Portland's penetration rates appear to be slightly higher than the national average. The City seeks to promote the availability of high-quality and diverse wireless telecommunications services to city residents, businesses, the city and other public institutions, and seeks to encourage competition and neither to promote nor to hinder one wireless telecommunication service provider or technology over others. New technology and competition may foster intensive use and occupancy of city rights of way by multiple users. Intensive use and occupancy of city rights of way requires coordination and management to ensure orderly planning, entry, construction, repair, maintenance and coordination of city rights of way, as well as mechanisms to protect and assure the public health, safety and welfare, and reliable delivery of essential city services."

Portland's public rights of way contain approximately 4,300 linear miles of paved roadways, with over 100,000 utility poles, 35,000 banks of electrical transformers, millions of miles of wires and cables, thousands of land line based telephone boxes and cable boxes. No notice is given for the installation of these and multiple other related items when installed within the City's public rights of way. Additional information about franchise agreements with the City can be found on the City's web site at:

<http://www.portlandonline.com/cable/index.cfm?c=33150>.

One of the many objectives of the City in allowing wireless facilities to be placed in the public rights of way is to foster co-location of these facilities on existing or replacement structures in the right of way. This will minimize the visual impact and reduce the number of monopoles in the City, particularly in residential areas, that are necessary to provide wireless telecommunications service to the community. In adopting this policy, the Council made a conscious policy choice to try to take the pressure off of private property owners, residential neighborhoods, and the planning process by co-locating as many of these facilities in the public right of way as possible. The policy intent recognizes that the presence of wireless facilities co-located with other facilities in and of itself tends to reduce visual clutter and intrusiveness. The ordinance that was adopted has specific criteria requiring that the visual impact of such facilities to be minimized via specific methods as outlined in the ordinance.

Because the proposed antennas and utility pole are located in the public right of way, zoning regulations, such as a conditional use review, do not apply to that portion of the overall facility. However, because there are instances when a wireless facility cannot wholly fit within the public right of way due to the associated equipment cabinets being too large to mount on a utility pole, the wireless provider will propose placing this equipment on adjacent private property. Such requests are subject to the Portland Zoning Code [Title 33] and require a conditional use review, if exemption thresholds are not met.

Site and Vicinity: The site is a relatively flat parcel, 15,949 square feet in area developed with the Fremont Street Methodist Church built circa 1923. Directly east, across NE 27th is the Alameda Elementary school building. The rest of the surrounding vicinity in one block in all directions is zoned R5h and developed with residential uses. Two blocks to the west is a small node of CN2 zoning with small businesses that generally front NE Fremont Street.

Zoning: The site lies within the R5 zone, one of several zones that implements the Comprehensive Plan Map designation for Single Dwelling Residential. The Aircraft Landing 'h' Overlay zone is also applied on the site and in the immediate vicinity. The proposal has no impact on the 'h' overlay regulations, which restricts the height of structures and vegetation to ensure safe approach and take off areas for the Portland International Airport.

Land Use History: City records indicate there are two prior land use reviews for this site:

Case File 100-67 approved the erection of a roof in November, 1967. Case file LUR 92-00150 CU AD approved an addition to the entry of the church building and a front yard setback. Neither of these cases are relevant to the current proposal.

Agency Review: A Notice of Proposal in your Neighborhood was mailed on **March 26, 2008**. The following Bureaus have responded with no issues or concerns about the proposal:

- Bureau of Environmental Services
- Bureau of Transportation Engineering
- Water Bureau
- Fire Bureau
- Site Development Section of BDS
- Bureau of Parks-Forestry Division

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **March 26, 2008**. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

33.815.010 Conditional Use Purpose

Certain uses are conditional uses instead of being allowed outright, although they may have beneficial effects and serve important public interests. They are subject to the conditional use regulations because they may, but do not necessarily, have significant adverse effects on the environment, overburden public services, change the desired character of an area, or create major nuisances. A review of these uses is necessary due to the potential individual or cumulative impacts they may have on the surrounding area or neighborhood. The conditional use review provides an opportunity to allow the use when there are minimal impacts, to allow the use but impose mitigation measures to address identified concerns, or to deny the use if the concerns cannot be resolved.

33.815.225 Radio Frequency Transmission Facilities

These approval criteria allow Radio Frequency Transmission Facilities in locations where there are few impacts on nearby properties. The approval criteria are:

A. Approval criteria for facilities operating at 1,000 watts ERP or less, proposing to locate on an existing building or other non-broadcast structure in an OS or R zone or in a C, E, or I zone within 50 feet of an R zone:

1. The visual impact of an antenna must be minimized. For instance, it can be hidden behind a compatible building feature such as a dormer, mounted flush to the facade of the building and painted to match, mounted on a structure designed with minimal bulk and painted to fade into the background, or mounted by other technique that equally minimizes the visual impact of the antenna;

Findings: The applicant requests a conditional use for equipment cabinets associated with a wireless telecommunications facility mounted on a utility pole in the public right of way. While this is considered a non-broadcast structure, the utility pole is located in the public right of way and therefore is not subject to this conditional use review because the regulations of Title 33, Portland Zoning Code, are not applicable to the public rights of way, except under a few specific instances [ref 33.10.030 B 1-5]. This proposal is not one of the five specific situations in which zoning regulations and review criteria apply, and therefore, this criterion is not applicable to the antennas mounted on the utility pole in the right of way.

Staff Note: If readers of this decision are interested in the appearance of the proposed antennas and utility pole, they can view the attached elevation drawings that depict the utility pole and the methodology utilized to minimize the appearance of the antennas.

2. Accessory equipment associated with the facility must be adequately screened. If a new structure will be built to store the accessory equipment, the new structure must be designed to be compatible with the desired character of the surrounding area and be adequately screened; and

Findings: The accessory equipment for the facility is proposed to be placed in two locations: most of the equipment will be located within the church basement in a boiler room, the rest of the equipment that cannot fit inside the basement will be placed on the south side of the church building enclosed within a cedar fence enclosure. Some of the equipment located outside includes a proposed air conditioner split system which will place the condenser units outside, behind a cedar fence enclosure.

In the initial submittal, the applicant included an Acoustical Noise Study that included discrepancies between the condenser's anticipated noise levels during operation and the maximum amount of decibels allowed in the R 5 zone. After a period of approximately two months, during which the applicant placed this application on hold until revisions could be made, the applicant submitted a revised noise study which was reviewed by the City's Noise Officer. This criterion is intended to review accessory equipment to ensure that it is adequately screened via methods that are compatible with the desired character of the surrounding area. In this instance, the proposed cedar fence enclosure has been modified to provide a noise barrier in order to prevent noise levels from the air condensers to exceed levels allowed in residential zones.

The Noise control officer reviewed the additional acoustical information, and noted that conditions of approval are warranted to ensure that the proposal complies with off-site impacts and the city's Noise Ordinance, as follows:

- 1) The consultant shall return to the site after all the new equipment is installed and set up a sound level meter for a period of two weeks in the summer, (before September 15th), to measure the unit for compliance with Title 18. The consultant shall be required to get sign off from the Noise Control Officer on the sound meter settings and approach they will use to collect the necessary readings prior to collecting the data. The specific goal of this compliance check measure is to collect data at a point in time when the temperature is anticipated to be warmer and therefore, the cooling units should be expected to operate more frequently.
- 2) The consultant shall notify all neighbors within 250 feet of the compliance effort they are undertaking to ensure there is as minimal an impact on the community as can reasonably be expected from the Cell cooling site.

If the equipment is not operating in full compliance, the consultant will offer any necessary changes and the City shall commence with enforcement measures to ensure full compliance in a timely fashion.

With these conditions, this criterion can be met.

3. The regulations of Chapter 33.274, Radio Frequency Transmission Facilities are met.

Findings: The relevant regulations and standards for this proposal as discussed below, are the development standards of Chapter 33.274 - Radio Frequency Transmission Facilities. As discussed in detail under 33.274.040, *Development*

Standards, below, all applicable regulations are met, and therefore, this criterion is 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.

33.274.040 Development Standards Radio Frequency Transmission Facilities (Amended by Ord. No. 165376, effective 5/29/92.)

A. Purpose. The development standards:

- Ensure that Radio Frequency Transmission Facilities will be compatible with adjacent uses;
- Reduce the visual impact of towers in residential and open space zones whenever possible;
- Protect adjacent populated areas from excessive radio frequency emission levels;
- Protect adjacent property from tower failure, falling ice, and other safety hazards; and

Staff Note: The above purpose statements are not mandatory approval criteria, but rather explain the intent and purpose of the development standards found below, in this section of Chapter 33.274.

B. When standards apply. Unless exempted by 33.274.030, above, the development standards of this section apply to all Radio Frequency Transmission Facilities [regulated by the Portland Zoning Code]. Applications to modify existing facilities regulated by this chapter are only required to meet the standards of Paragraphs C.3, C.4, C.5, C.6, and C.9 in addition to any previous conditions of approval. Increasing the height of a tower is not considered modification of an existing facility.

Staff note: Because these standards apply only to facilities regulated by the zoning code, only the accessory equipment on private property will be considered in the findings below. The City's franchise agreements that allow wireless facilities to locate within the public rights of way include requirements that the facility [antennas] comply with emission levels and separation distances at time of building permit review.

C. General requirements

1. Tower sharing. Where technically feasible, new facilities must co-locate on existing towers or other structures to avoid construction of new towers. Requests for a new tower must be accompanied by evidence that application was made to locate on existing towers or other structures, with no success; or that location on an existing tower or other structure is infeasible.

Findings: The proposal is to mount the antennas on a utility pole in the public right of way, thus avoiding the construction of a new tower on private property. No new tower is proposed, and the utility pole will be located in the public right of way. The regulations of Title 33, Portland Zoning Code, are not applicable to the public rights of way, except under a few specific instances [ref 33.10.030 B 1-5]. This proposal is not one of the five specific situations in which zoning regulations and review criteria apply, and therefore, this criterion is not applicable.

Staff note: The utility pole which will host the antennas associated with the wireless facility will be located in the public right of way, and is a use allowed by right via the City of Portland’s right of way agreement with the wireless telecommunications service provider, in this specific instance, AT&T Wireless.

2. Grouping of towers. The grouping of towers that support facilities operating at 1,000 watts ERP or more on a site is encouraged where technically feasible. However, tower grouping may not result in radio frequency emission levels exceeding the standards of this chapter.

Findings: The proposal does not include a new tower, nor is the utility pole subject to Title 33 for the reasons stated above. Therefore, this criterion is not applicable.

3. Tower finish. For towers not regulated by the Oregon Aeronautics Division or Federal Aviation Administration, a finish (paint/surface) must be provided that reduces the visibility of the structure.
4. Tower illumination. Towers must not be illuminated except as required for the Oregon State Aeronautics Division or the Federal Aviation Administration.

Findings: The proposal does not include a new tower, nor is the existing utility pole subject to Title 33 for the reasons stated above. Therefore, this criterion is not applicable.

5. Radio frequency emission levels. All existing and proposed Radio Frequency Transmission Facilities are prohibited from exceeding or causing other facilities to exceed the radio frequency emission standards specified in Table 274-1, except as superseded by Part 1, Practice and Procedure, Title 47 of the Code of Federal Regulations, Section 1.1310, Radio Frequency Radiation Exposure Limits.

Table 274-1 Radio Frequency Emission Standards [1]			
Frequency Range	Mean Squared Electric (E ²) Field Strength (V ² /m ²) [2]	Mean Squared Magnetic (H ²) Field Strength (A ² /m ²) [3]	Equivalent Plane-Wave Power Density (mW/cm ²) [4]
100 KHz – 3 MHz	80,000	0.5	20
3 MHz – 30 MHz	4,000 (180/f ²) [5]	0.025 (180/f ²)	180/f ²
30 MHz – 300 MHz	800	0.005	0.2
300 MHz – 1500 MHz	4,000 (f/1500)	0.025 (f/1500)	f/1500
1500 MHz – 300 GHz	4,000	0.025	1.0

Notes:

- [1] All standards refer to root mean square (rms) measurements gathered by an approved method.
- [2] V²/m² = Volts squared per meter squared.
- [3] A²/m² = Amperes squared per meter squared.
- [4] mW/cm² = Milliwatts per centimeter squared.
- [5] f = Frequency in megahertz (MHz).

Findings: The antennas will be mounted on a utility pole located in the public right of way. The wireless telecommunications company has a franchise agreement with the City of Portland that allows wireless facilities to be mounted on structures in the public rights of way. Clauses in the franchise agreement require that antennas so mounted comply with the above Emission Level Standard limits. At time of building permit for the facility, the applicant must submit calculations prepared by a qualified engineer documenting that the

facility will meet and not exceed the applicable emission standards in Table 274-1, above.

Staff note: The Federal Telecommunications Act of 1996 prohibits a local government from denying a request to construct such facilities based on “harmful radio frequency emissions” as long as the wireless telecommunications facility meets the standards set by the FCC. Furthermore, the Act required the FCC to adopt standards for radio frequency emissions from wireless telecommunications by August, 1996. In a rule making procedure, the FCC adopted standards effective August 1, 1996, which are virtually the same as those reflected in Table 274-1. Because this land use review was submitted after those standards took effect, this conditional use review cannot be denied solely on the issue of harmful radio frequency emission levels.

6. Antenna requirements. The antenna on any tower or support structure must meet the minimum siting distances to habitable areas of structures shown in Table 274-2. Measurements are made from points A and B on the antenna to the nearest habitable area of a structure normally occupied on a regular basis by someone other than the immediate family or employees of the owner/operator of the antenna. Point A is measured from the highest point of the antenna (not the tower) to the structure, and Point B is measured from the closest point of the antenna to the structure.

Findings: This standard is not applicable to the accessory equipment cabinets. However, at time of building permit, the applicant must submit plans demonstrating that the antennas placed within the public right of way meet the above standards, in addition to height and spacing dimensions as required by the right of way franchise agreement with the City of Portland.

7. Setbacks. All towers must be set back at least a distance equal to 20 percent of the height of the tower or 15 feet, whichever is greater, from all abutting R and OS zoned property and public streets. Accessory equipment or structures must meet the base zone setback standards.

Findings: The proposal does not include a new tower, nor is the utility pole subject to Title 33 for the reasons stated above. As discussed earlier in this report, the ground-based equipment will comply with the base zone setback standards. Therefore, this criterion is met.

8. Guy anchor setback. Tower guy anchors must meet the main building setback requirements of the base zone.

Findings: The proposal does not include a new tower, nor is the utility pole subject to Title 33 for the reasons stated above. Therefore, this criterion is not applicable.

9. Landscaping and screening. The base of a tower and all accessory equipment or structures located at grade must be fully screened from the street and any abutting sites as follows:

- a. In C, E or I zones more than 50 feet from an R zone. A tower and all accessory equipment or structures located in the C, E, or I zones more than 50 feet from an R zone must meet the following landscape standard:

Findings: The proposal does not include a new tower, nor is the utility pole subject to Title 33 for the reasons stated above. Additionally, the site for the proposed accessory equipment is within 50 feet of an R zone. Therefore, this criterion is not applicable.

- b. In OS or R zones or within 50 feet of an R zone. A tower and all accessory equipment or structures located in an OS or R zone or within 50 feet of an R zoned site must meet the following landscape standards:

- (1) Tower landscaping. A landscaped area that is at least 15 feet deep and meets the L3 standard must be provided around the base of the tower.
- [2] Accessory equipment and structures. A landscaped area that is at least 10 feet deep and meets the L3 standard must be provided around the base of all accessory equipment or structures located at grade.

Findings: The proposal does not include a new tower, nor is the utility pole subject to Title 33 for the reasons stated above. Therefore, this criterion is not applicable.

- c. In all zones, equipment cabinets or shelters located on private property that are associated with Radio Transmission Facilities mounted in a public right of way must be screened from the street and any adjacent properties by walls, fences or vegetation. Screening must comply with at least the L3 or F2 standards of Chapter 33.248, Landscaping and Screening, and be tall enough to screen the equipment.

Findings: The applicant proposes to locate a majority of the associated equipment within the basement area of the existing building on site. The balance of the equipment that cannot be placed inside the limited basement area will be placed at grade on the south side of the church building and enclosed with a cedar fence. The enclosure surrounding the condensers for the air conditioning system will have acoustical buffering included to ensure that the noise levels of the equipment will comply with city standards. These two enclosures will meet or exceed F2 standards.

10. Tower design.

- a. For a tower accommodating a Radio Frequency Transmission Facility of 100,000 watts or more, the tower must be designed to support at least two additional transmitter/antenna systems of equal or greater power to that proposed by the applicant and one microwave facility, and at least three two-way antennas for every 40 feet of tower over 200 feet of height above ground.
- b. For any other tower, the design must accommodate at least three two-way antennas for every 40 feet of tower, or at least one two-way antenna for every 20 feet of tower and one microwave facility.
- c. The requirements of Subparagraphs a. and b. above may be modified by the City to provide the maximum number of compatible users within the radio frequency emission levels.

Findings: The proposal does not include a new tower, nor is the utility pole subject to Title 33 for the reasons stated above. Therefore, this criterion is not applicable.

11. Mounting device. The device or structure used to mount facilities operating at 1000 watts ERP or less to an existing building or other non-broadcast structure may not project more than 10 feet above the roof of the building or other non-broadcast structure.

Findings: The proposal does not include a new tower, nor is the utility pole subject to Title 33 for the reasons stated above. Therefore, this criterion is not applicable.

12. Abandoned facilities. A tower erected to support one or more Federal Communication Commission licensed Radio Frequency Transmission Facilities must be removed from a site if no facility on the tower has been in use for more than six months.

Findings: The proposal does not include a new tower, nor is the utility pole subject to Title 33 for the reasons stated above. Therefore, this criterion is not applicable.

D. Additional requirements in OS, R, C, and EX zones and EG and I zones within 50 feet of an R zone.

1. Purpose. These additional regulations are intended to ensure that facilities operating at 1000 watts ERP or less have few visual impacts. The requirements encourage facilities that look clean and uncluttered.
2. Standards. In addition to the regulations in Subsection C., above, facilities operating at 1000 watts ERP or less located in OS, R, C, or EX zones or EG or I zones within 50 feet of an R zone must meet all of the following standards:
 - a. Antennas mounted on towers. Triangular “top hat” style antenna mounts are prohibited. Antennas must be mounted to a tower either on davit arms that are no longer than 5 feet, flush with the tower, within a unicast style top cylinder, or other similar mounting technique that minimizes visual impact.

Findings: The proposal does not include a new tower, nor is the utility pole subject to Title 33 for the reasons stated above. Therefore, this criterion is not applicable.

Staff note: Mounting techniques for antennas on utility poles are addressed in the right of way franchise agreement the wireless provider has with the City. At time of building permit, the mounting technique will be reviewed for compliance.

- b. Antennas mounted on existing buildings or other non-broadcast structures. This standard only applies to facilities located in OS or R zones or within 50 feet of an R zone. The visual impact of antennas that are mounted to existing buildings or other non-broadcast structures must be minimized. For instance, on a pitched roof, an antenna may be hidden behind a false dormer, mounted flush to the facade of the building and painted to match; mounted on a structure designed with minimal bulk and painted to fade into the background; or mounted by other technique that equally minimizes the visual impact of the antenna. The specific technique will be determined by the conditional use review.

Findings: The antennas will be mounted to a non-broadcast structure, a utility pole in the right of way. However, the facility located within the right of way is not subject to this review and therefore, this criterion is not applicable.

- c. Lattice. Lattice towers are not allowed.

Findings: The proposal does not include a new tower, nor is the proposed utility pole subject to Title 33 for the reasons stated above. Therefore, this criterion is not applicable.

E. Additional requirements in R zones. The minimum site area required for a tower in an R zone is 40,000 square feet. This regulation must be met in addition to the regulations in Subsections C. and D., above.

Findings: The proposal does not include a new tower, nor is the utility pole subject to Title 33 for the reasons stated above. Therefore, this criterion is not applicable.

33.274.060 Registration of Existing Facilities

All Radio Frequency Transmission Facilities subject to this chapter and existing as of September 19, 1987 must complete and submit the Radio Frequency Transmission Facility registration form available from the City.

Staff Note: A registration form is required for this facility, and the registration form must be submitted to the City at time of permit issuance for the wireless facility.

CONCLUSIONS

The applicant requests a conditional use review for equipment cabinets associated with a wireless telecommunications facility mounted on a utility pole in the public right of way. The majority of the associated equipment will be located on private property adjacent to the utility pole's location, and housed inside the basement of the existing building on site. The balance of the equipment will be placed at grade on the south side of the church building, but enclosed with a cedar fence enclosure [with acoustical buffers included with the enclosure for the air condenser units]. With conditions of approval, the proposal meets all of the applicable approval criteria, and therefore should be approved.

ADMINISTRATIVE DECISION

Approval of:

- A Conditional Use for the equipment cabinets and related cooling units and hardware for a wireless facility with antennas located in the public right of way of NE Fremont Street, per the approved site plans, Exhibits C-1 through C-3, signed and dated July 8, 2008, subject to the following conditions:
 - A. As part of the building permit application submittal, the following development-related conditions (B through C) must be noted on each of the four required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE- Case File LU 08-109543 CU." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
 - B. The consultant shall return to the site after all the new equipment is installed and set up a sound level meter for a period of two weeks in the summer, (before September 15th), to measure the unit for compliance with Title 18. The consultant shall be required to get sign off from the Noise Control Officer on the sound meter settings and approach they will use to collect the necessary readings prior to collecting the data. The specific goal of this compliance check measure is to collect data at a point in time when the temperature is anticipated to be warmer and therefore, the cooling units should be expected to operate more frequently.
 - C. The consultant shall notify all neighbors within 250 feet of the compliance effort they are undertaking to ensure there is as minimal an impact on the community as

can reasonably be expected from the Cell cooling site. If the equipment is not operating in full compliance, the consultant will offer any necessary changes and the City shall commence with enforcement measures to ensure full compliance in a timely fashion.

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

Decision mailed July 11, 2008

Staff Planner: Sylvia Cate

About this Decision. This land use decision is **not a permit** for development. A Final Plat must be completed and recorded before the proposed lots can be sold or developed. 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 February 15, 2008, and was determined to be complete on March 24, 2008.

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 February 15, 2008.

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 for forty-five days from April 21, 2008 until June 5, 2008.

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.

This decision, and any conditions associated with it, is final. It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. You may call LUBA at 1-503-373-1265 for further information on filing an appeal.

The file and all evidence on this case is available for your review by appointment. Please contact the receptionist at 503-823-7967 to schedule an appointment. Copies of all information in the file can be obtained for a fee equal to the cost for such services. You may also find additional information about the City of Portland and City Bureaus, as well as a digital copy of the Portland Zoning Code, by visiting the City's homepage on the Internet at www.portlandonline.com.

Recording the final decision.

If this Land Use Review is approved, the final decision must be recorded with the Multnomah County Recorder. A building or zoning permit will be issued only after the final decision is recorded. The final decision may be recorded on or after **July 11, 2008**. 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 503-823-7967.

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.

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 for the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

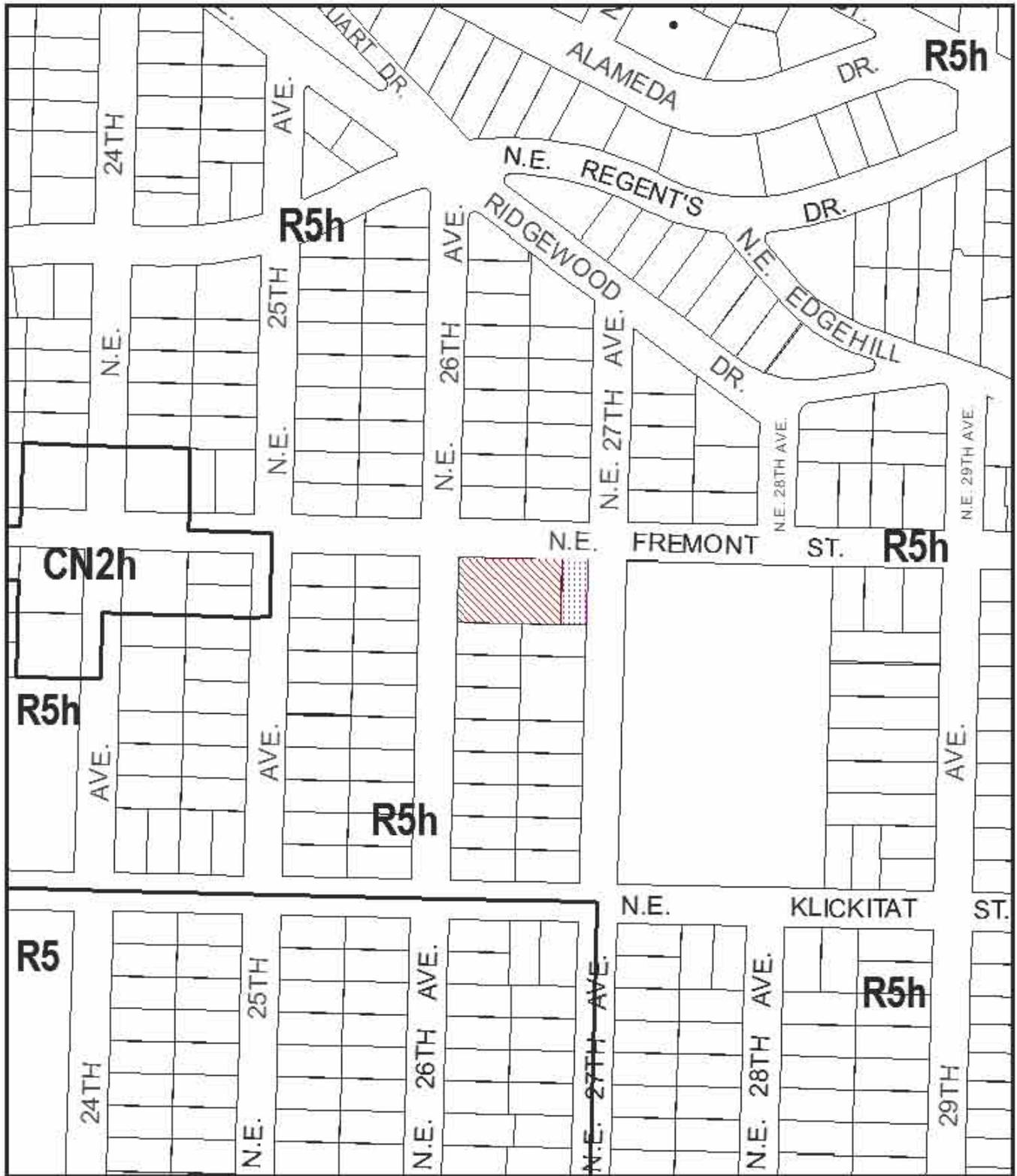
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Narrative
 - 2. Supplemental revised Noise Study
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Enlarged Site Plan
 - 3. Fence details

4. Equipment enclosure detail plan [Sheet A-4.3]
- 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. Water Bureau
 4. Fire Bureau
 5. Site Development Review Section of BDS
 6. Bureau of Parks, Forestry Division
 7. Memo June 23, 2008 Noise Control Officer
- F. Correspondence: None received
- G. Other:
1. Original LU Application
 2. Site History Research
 3. Letter to applicant re: noise study

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).

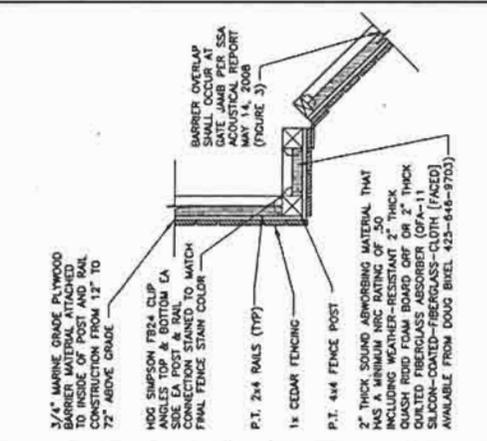


ZONING

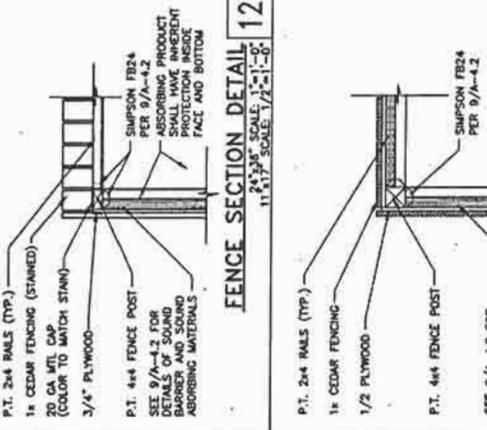
-  Site
-  Also Owned



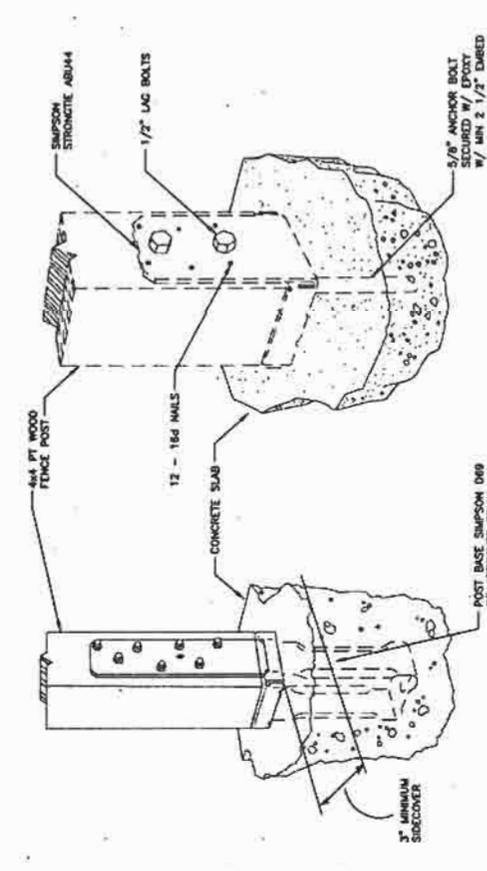
File No. LU 08-109543 CU
 1/4 Section 2733
 Scale 1 inch = 200 feet
 State_Id 1N1E25BB 2400
 Exhibit B (Feb 21, 2008)



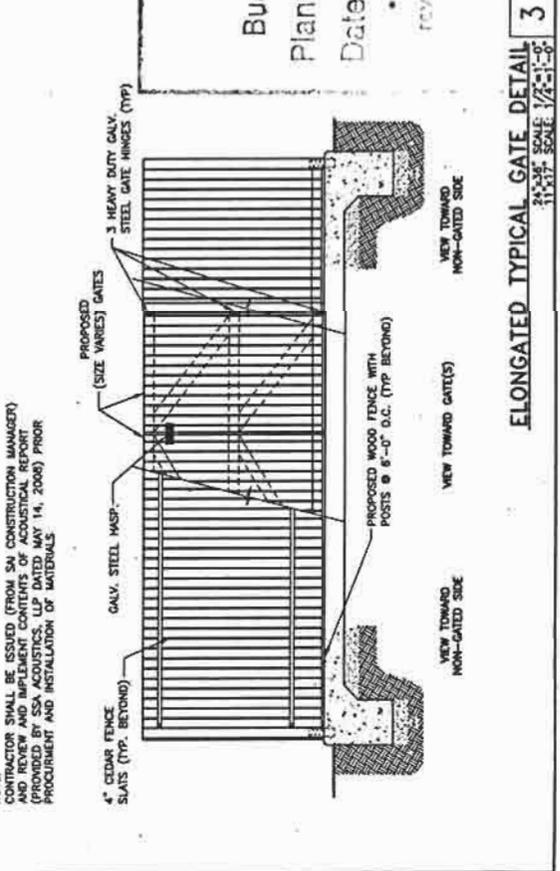
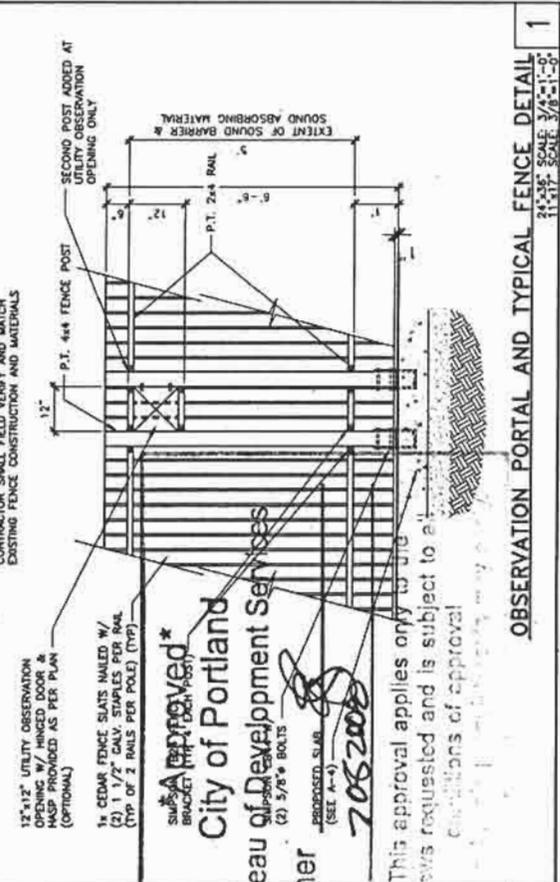
GATE DETAIL
 24\"/>



CORNER FENCE DETAIL
 24\"/>



FENCE POST ATTACHMENT DETAIL (TWO OPTIONS)
 24\"/>



OBSERVATION PORTAL AND TYPICAL FENCE DETAIL
 24\"/>

ELONGATED TYPICAL GATE DETAIL
 24\"/>

City of Portland
 Bureau of Development Services
 Planner
 Date: 7/06/2008

Approved
 [Signature]

CONTRACTOR SHALL FIELD VERIFY AND MATCH EXISTING FENCE CONSTRUCTION AND MATERIALS

NOTE: CONTRACTOR SHALL BE ISSUED (FROM SA CONSTRUCTION MANAGER) AND REVIEW AND IMPLEMENT CONTENTS OF ACoustICAL REPORT (PROVIDED BY SSA ACoustICS, LLP DATED MAY 14, 2008) PRIOR PURCHASING AND INSTALLATION OF MATERIALS

THIS APPROVAL APPLIES ONLY TO THE REVIEWS REQUESTED AND IS SUBJECT TO ALL CONDITIONS OF APPROVAL

7062008

DATE

PLANNER

BUREAU OF DEVELOPMENT SERVICES

CITY OF PORTLAND

Exhibit C-3

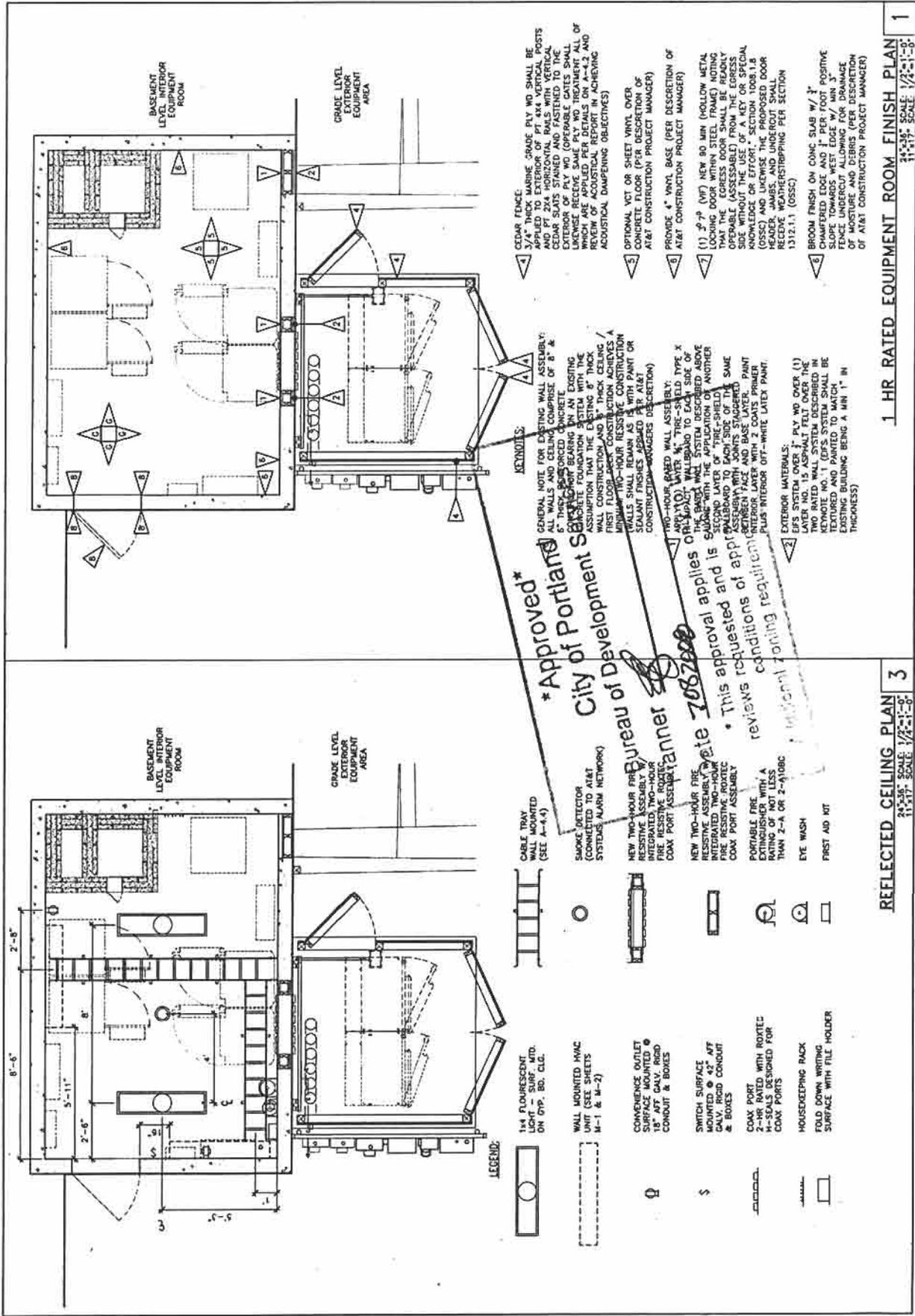
DATE:	01-08-08
DRAWN BY:	JPD
CHECKED BY:	RBN
REVISIONS	
NO.	DESCRIPTION
1	REV. SHEET TO 100-200
2	REV. SHEET TO 100-200
3	REV. SHEET TO 100-200
4	REV. SHEET TO 100-200
5	REV. SHEET TO 100-200
6	REV. SHEET TO 100-200
7	REV. SHEET TO 100-200
8	REV. SHEET TO 100-200
9	REV. SHEET TO 100-200
10	REV. SHEET TO 100-200

SITE
 PK78-D
 IRVINGTON
 2620 NE FREMONT ST
 PORTLAND, OR 97212

SHEET TITLE
 CONSTRUCTION DETAILS

SHEET NUMBER
A-4.3

Exhibit C-4



REFLECTED CEILING PLAN
 1/8"=1'-0" SCALE: 1/2"=1'-0"
 3

1 HR RATED EQUIPMENT ROOM FINISH PLAN
 1/8"=1'-0" SCALE: 1/2"=1'-0"
 1

NOTICE:

GENERAL NOTE FOR EXISTING WALL ASSEMBLY:
 6" THICK REINFORCED CONCRETE
 CONCRETE FOUNDATION SYSTEM WITH THE
 ASSUMPTION THAT THE EXISTING 8" THICK
 WALL CONSTRUCTION AND 1" THICK CEILING
 SHALL REMAIN AS IS WITH PAINT OR
 MINIMUM TWO-HOUR RESISTIVE CONSTRUCTION
 SEALANT FINISHES APPLIED PER AT&T
 CONSTRUCTION-MANAGER'S DISCRETION

APPLY (1) WATER W/ THIR-SHIELD TYPE X
 ORLYKACT WALLBOARD TO EACH SIDE OF
 THIS BASE WALL SYSTEM DESCRIBED ABOVE
 WITH THE APPLICATION OF ANOTHER
 WALLBOARD TO EACH SIDE OF THE SAME
 ASSEMBLY WITH JOINTS STAGGERED
 BETWEEN FACE AND BASE LAYER. PAINT
 INTERLAYER WITH 2 COATS PRIMER
 PLUS TRUBOR OFF-WHITE LATEX PAINT.

EXTERIOR MATERIALS:
 EPS SYSTEM OVER 1" PLY WD OVER (1)
 LAYER NO. 15 ASPHALT FELT OVER THE
 TWO RATED WALL SYSTEM DESCRIBED IN
 THIS SECTION. THE WALL SHALL BE
 TEXTURED AND PAINTED TO MATCH THE
 EXISTING BUILDING BEING A MIN 1" IN
 THICKNESS

CEILING FINISHING REQUIREMENTS

KEYNOTES:

1 CEDAR FENCE:
 THICK EXTERIOR GRADE PLY WD SHALL BE
 APPLIED TO EXTERIOR OF FT 2X4
 AND FT 2X4 HORIZONTAL RAIS WITH VERTICAL
 CEDAR SLATS STAINED AND FASTENED TO THE
 EXTERIOR OF PLY WD OPERABLE GATES SHALL
 BE REINFORCED WITH 2" REINFORCING BARS
 WHICH ARE APPLIED PER DEANS TREATMENT ALL OF
 REVIEW OF ACUSTICAL REPORT IN ACHIEVING
 ACUSTICAL DAMPENING OBJECTIVES)

2 OPTIONAL VCT OR SHEET VINYL OVER
 CONCRETE FLOOR (PER DESCRIPTION OF
 AT&T CONSTRUCTION PROJECT MANAGER)

3 PROVIDE 4" VINYL BASE (PER DESCRIPTION OF
 AT&T CONSTRUCTION PROJECT MANAGER)

4 (1) 2" x 2" (VP) NEW 90 MIN (HOLLOW METAL
 LOCKING DOOR WITHIN STEEL FRAME) NOTING
 THAT THE EGRESS DOOR SHALL BE READILY
 OPERABLE (ASSESSABLE) FROM THE EGRESS
 SIDE OF THE DOOR. SEE SECTION 05200
 KNOWLEDGE OF THE DOOR SECTOR
 (OSS) AND LIKEWISE THE PROPOSED DOOR
 HEADER, JAMBS, AND UNDERCUT SHALL
 RECEIVE WEATHERSTRIPPING PER SECTION
 1312.1.1 (OSS)

5 BROOM FINISH ON CONC SLAB W/ 3"
 CHAMFERED EDGE AND 1" PER FOOT POSITIVE
 SLOPE TOWARDS WEST EDGE W/ MIN 3"
 FENCE UNDERCUT ALLOWING FOR DRAINAGE
 OF MOISTURE AND DEBRIS (PER DESCRIPTION
 OF AT&T CONSTRUCTION PROJECT MANAGER)

Approved
 City of Portland
 Bureau of Development Planning
 7062000

This approval applies to the application of another wallboard to each side of the same assembly with joints staggered between face and base layer. Paint interlayer with 2 coats primer plus Trubor off-white latex paint.

This approval applies and is subject to the review of the City of Portland Bureau of Development Planning. This approval is subject to the review of the City of Portland Bureau of Development Planning.

LEGEND:

1x4 FLUORESCENT LIGHT - SURF. MTD. ON GYP. BD. CLG.

WALL MOUNTED HVAC UNIT (SEE SHEETS M-1 & M-2)

CONVENIENCE OUTLET MOUNTED @ 42" AFF 18" AFF TO FACE OF CONDUIT & BOXES

SWITCH SURFACE MOUNTED @ 42" AFF GALLY. RIGID CONDUIT & BOXES

COAX PORT 2-HR RATED WITH ROXTEC H-SEALS DESIGNED FOR COAX PORTS

HOUSEKEEPING RACK FOLD DOWN WRITING SURFACE WITH FILE HOLDER

CABLE TRAY WALL MOUNTED (SEE A-4.4)

SMOKE DETECTOR (CONNECTED TO AT&T STAYSIDE ALARM NETWORK)

NEW TWO-HOUR FIRE RESISTIVE ASSEMBLY INTEGRATED TWO-HOUR COAX PORT ASSEMBLY

NEW TWO-HOUR FIRE RESISTIVE ASSEMBLY INTEGRATED TWO-HOUR COAX PORT ASSEMBLY

PORTABLE FIRE EXTINGUISHER WITH A RATING OF NOT LESS THAN 2-A OR 2-A10BC

EYE WASH

FIRST AID KIT