



City of Portland, Oregon
Bureau of Development Services
Land Use Services

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Date: March 17, 2009
To: Interested Person
From: Matt Wickstrom, Land Use Services
503-823-7840 / WickstromM@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 09-102102 CU

GENERAL INFORMATION

Applicant: Zach Phillips, PTS
Housing Authority of Portland
1001 SE Water Ave, Ste 180
Portland, OR 97214

Wireless Carrier: Kevin Maki
Clearwire US, LLC
4400 Carillon Point
Kirkland Wa 98033

Property Owner: Rodger Moore
Housing Authority of Portland
135 SW Ash St
Portland, OR 97204-3540

Site Address: 1724 SE TENINO ST

Legal Description: N 1/2 OF LOT 9 BLOCK 88 LOT 11-16 BLOCK 88, SELLWOOD
Tax Account No.: R752714950
State ID No.: 1S1E23DC 01600
Quarter Section: 3832

Neighborhood: Sellwood-Moreland, contact Mat Millenbach at 503-239-1134
District Coalition: Southeast Uplift, contact Cece Hughley Noel at 503-232-0010

Zoning: RHd (High Density Residential with a Design overlay)

Case Type: CU (Conditional Use Review)
Procedure: Type II, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant proposes to install a wireless communications facility at this site. The facility will consist of 6 panel antennas and up to 6 microwave dishes. Two of the antennas and two of the microwave dishes are proposed to be sled mounted on top of the existing building in the northwest corner of the roof. The other 4 antennas and 4 microwave dishes are proposed to be pipe mounted to the existing penthouse stairwell on the eastern edge of the roof. Each antenna will be equipped with a DAP unit which provides mechanical assistance. The accessory equipment associated with the wireless communications facility is proposed to be stored in the center of the roof adjacent to another rooftop penthouse. Installation of the accessory equipment will utilize the shelf and/or equipment cabinet abandoned by a previous wireless communications provider. A GPS antenna is proposed to be located on the accessory equipment cabinet.

This conditional use review is required because the proposed facility is located within a residential zone and proposed to be mounted to an existing building. Because the facility will operate below 1,000 watts ERP, the conditional use is processed through a Type II procedure.

Relevant Approval Criteria:

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

- 33.815.225.A.1-3 Conditional Use Approval Criteria for Radio Frequency Transmission Facilities
- 33.274.040 Mandatory Development Standards for Radio Frequency Transmission Facilities

ANALYSIS

Site and Vicinity: The 32,500 square foot site is located at the corner of SE 17th Avenue and SE Tenino Street. It is developed with a seven-story apartment building. The rooftop contains many existing radio frequency antennas which protrude above the roofline or above the rooftop penthouse. The surrounding vicinity is developed with a mix of single-dwelling, multi-dwelling and commercial development. Single-dwelling development is predominate to the east and southeast of the site while commercial development interspersed with multi-dwelling development is located to the north and west of the site.

Zoning: The site is zoned RHd (Residential High Density with a Design overlay) and is located in the Sellwood-Moreland Design District. The RH zone is a high-density multi-dwelling residential zone. Radio frequency transmission facilities are Conditional Uses in the RH zone. The “d” overlay promotes the conservation and enhancement of areas of the City with special historic, architectural or cultural value. However, exterior alterations to existing development are exempt from Design Review in the Sellwood-Moreland Design District therefore the “d” overlay is not applicable to this proposal.

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

PC 5679 (09-023922): Approval of a zone change at the site to High-Density Residential with conditions of approval that building height be limited to no more than eight stories, that one off-street parking space be provided for each four dwelling units, and that the use of the site be limited to public housing for the elderly with not more than 110 dwelling units;

LUR 94-00359 CU AD: Conditional Use approval for a cellular phone antenna installation atop the elevator shaft and accessory equipment inside the building, with adjustments to reduce the minimum required lot size and waive the required two off-street parking spaces;

LUR 94-00858 CU AD: Conditional Use approval for the original rooftop cellular facility being modified in this report, with identical adjustments to those approved under LUR 94-00359 CU AD;

LUR 03-166964 CU: Conditional Use approval for the reconfiguration of an existing Radio Frequency Transmission Facility consisting of nine antennas, and operating at less than 100 watts of Effective Radiated Power.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **February 13, 2009**. The Bureau of Environmental Services, the Water, Fire and Parks Bureaus, as well as the Development Review Section of Portland Transportation all responded with no concerns (Exhibit E-1). The Life Safety Section of BDS responded that a separate building permit is required for the work proposed (Exhibit E-2).

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on February 13, 2009. One written response has been received from the Neighborhood Association in response to the proposal. The letter asks for clarification about how two code provisions apply to the project, how residents of the building are notified about the project and if the antennas and microwave dishes are intended to serve residents of the building only or the greater vicinity.

Staff response: Details concerning how development standards apply to the proposal are included in the findings below. Type II land use review decisions are only mailed to property owners within 150 feet of the site, recognized organizations (such as the neighborhood association) and those who provided written comments during the comment period. Rental tenants do not receive a copy of the decision; however, a representative of the property owner clarified that tenants will be notified of the project by the property owner. The antennas and microwave dishes are intended to provide service to the surrounding vicinity, not just the building tenants.

ZONING CODE APPROVAL CRITERIA

Conditional Use

33.815.010 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: Four of the antennas and four of the microwave dishes are proposed to be pipe mounted to the existing penthouse stairwell on the eastern edge of the roof. Mounting the antennas to an existing structure on the roof helps to reduce visual clutter which can result from an abundance of free-standing mounting devices. Painting the antennas, microwave dishes and accessory cables and conduits also helps to minimize the visual impacts of the facilities and as a result a condition of approval has been added with this review. The condition states that all four antennas, microwave dishes and visible accessory cables or conduits placed directly against the penthouse stairwell must be painted to match the building surface against which they are mounted. Portions of the antennas, microwave dishes and accessory cables or conduits which project above the top of the penthouse stairwell must be painted a dull, matte light grey color. The final two antennas and two microwave dishes will be sled mounted on top of the existing building in the northwest corner of the roof. The sleek dimensions of the antennas as well as the sled mounting device will help to minimize visual impacts of these antennas and microwave dishes. Painting these items can also help reduce visual impacts which requires another condition of approval. The condition states that the two antennas, microwave dishes, visible accessory cables and conduits as well as the sled mounting device must be painted a dull matte light grey color.

Based on this information, this criterion is met.

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 is proposed to be located in the center of the roof adjacent to an existing rooftop penthouse. The installation of the equipment will utilize the shelf and/or equipment cabinet abandoned by a previous wireless communications provider. Locating accessory equipment in the center of the roof of a tall building is almost akin to screening the equipment or locating it inside a building. This is because the height of the building helps block the lines of sight to the accessory equipment from the pedestrian ground level or from other structures in the area which are less tall. Currently the existing shelf and/or equipment cabinet which will be used as part of this proposal is not visible from ground level and it is not expected to be visible when it contains accessory equipment associated with this proposal. Based on this information, this criterion is 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, all applicable regulations are met; therefore, this criterion is met.

DEVELOPMENT STANDARDS

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 and accessory equipment in residential and open space zones whenever possible;
- Protect adjacent populated areas from excessive radio frequency emission levels;
- and

- Protect adjacent property from tower failure, falling ice, and other safety hazards.

B. When standards apply. Unless exempted by 33.274.030, above, the development standards of this section apply to all Radio Frequency Transmission Facilities. 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.

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 facility on an existing building. No new tower is proposed. Therefore, this criterion is not applicable.

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 is to mount the facility on an existing building. No new tower is proposed. 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.

Findings: The proposal is to mount the facility on an existing building. No new tower is proposed. Therefore, this criterion is not applicable.

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 is to mount the facility on an existing building. No new tower is proposed. 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]			
	Mean Squared Electric (E ²) Field Strength	Mean Squared Magnetic (H ²) Field Strength	Equivalent Plane-Wave Power Density
Frequency Range	(V ² /m ²) [2]	(A ² /m ²) [3]	(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 proposed radio frequency antennas will operate at 1500 MHz and 300 GHz. The Effective Radiated Power for the facility is less than 100 watts, and the maximum allowed power density level is 1.0 mW/cm² [Milliwatts per centimeter squared]. Calculations submitted by the applicant indicate that the power density exposure levels are approximately 0.005861 mW/cm², which is .59% of the limit for uncontrolled areas. This criterion is met.

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 mounting device) to the structure, and Point B is measured from the closest point of the antenna to the structure.

Effective Radiated Power	Frequency (MHz)	Point A:	Point B:
		Minimum Distance From Highest Point of Antenna To Habitable Area of Structure (feet)	Minimum Distance From Closest Portion Of Antenna To Habitable Area of Structure (feet)
< 100 watts		10	3
100 watts to 999 watts		15	6
1,000 watts to 9.999 Kw	< 7	11	5
	7 - 30	f/0.67	f/1.5
	30 - 300	45	20
	300 - 1500	780/vf	364/vf
	> 1500	20	10

10 Kw plus	< 7	17.5	8
	7 - 30	f/0.4	f/0.91
	30 - 300	75	33
	300 - 1500	1300/vf	572/vf
	1500	34	15

Findings: The antennas will operate at less than 100 watts ERP, and thus the top of the antennas are required to be at least 10 feet from habitable space (Point A) and the bottom of the antennas are required to be at least 3 feet from habitable space (Point B), per Table 274-2. The applicants propose that the top of the antennas will be 11 feet and 6 inches from habitable space and the bottom of the antennas will be 8 from habitable space. This criterion is met.

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 is to mount the facility on an existing building. No new tower is proposed. Therefore, this criterion is not applicable.

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

Findings: The proposal is to mount the facility on an existing building. No new tower is proposed. 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 is to mount the facility on an existing building. No new tower is proposed. 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.

Findings: The proposal is to mount the facility on an existing building. No new tower is proposed. Therefore, this criterion is not applicable.

- (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: No accessory equipment or structures are proposed to be located at grade. Therefore, this criterion is not applicable.

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 is to mount the facility on an existing building. No new tower is proposed. Therefore, this criterion is not applicable.

11. Mounting device. The device or structure used to mount facilities operating at 1,000 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 proposed antennas will be mounted to poles that will project 10 feet above the roofline. The poles of the sled mounted antennas will project 6 feet 6 inches above the roofline. This criterion is met.

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 is to mount the facility on an existing building. No new tower is proposed. 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 1,000 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 1,000 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 unicell style top cylinder, or other similar mounting technique that minimizes visual impact.

Findings: The proposal is to mount the antennas on an existing building. No new tower is proposed. Therefore, this criterion is not applicable.

- 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: As previously discussed under criterion 33.815.225 A 1, the visual impact of the facility has been minimized by pipe mounting four of the antennas and four of the microwave dishes against the existing penthouse stairwell which helps to minimize visual clutter. All antennas, microwave dishes and visible accessory cables and conduits are required per conditions of approval to be painted to help minimize their appearance. Thus the visual impact has been significantly reduced and this criterion is met.

- c. Lattice. Lattice towers are not allowed.

Findings: The proposal is to mount the facility on an existing building. No new tower is proposed. 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 is to mount the facility on an existing building. No new tower is proposed. Therefore, this criterion is not applicable.

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 applicant proposes a Conditional Use Review associated with plans to install six panel antennas with DAP units, six microwave dishes and related accessory equipment on the roof of an existing building. As noted in this report, the proposal is able to meet the Conditional Use Review approval criteria with approval granted based on the proposed location of four of the antennas and microwave dishes to be pipe mounted to the side of the penthouse stairwell and the conditions of approval which require painting of the facility to reduce its visual impacts. With approval requiring that permit drawings substantially conform with the elevation drawings and site/roof plan attached, the request meets the applicable approval criteria and should be approved.

ADMINISTRATIVE DECISION

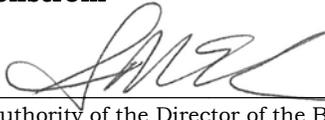
Approval of a Conditional Use Review (33.815.225) to allow 6 panel antennas with DAP units and 6 microwave dishes as well as related accessory equipment to be located on the roof of the existing building, per the approved site plans, Exhibits C-1 through C-3, signed and dated March 13, 2009, subject 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 4 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 09-102102 CU." All requirements

must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."

- B. All four antennas, microwave dishes and visible accessory cables or conduits placed directly against the penthouse stairwell must be painted to match the building surface against which they are mounted. Portions of the antennas, microwave dishes and accessory cables or conduits which project above the top of the penthouse stairwell must be painted a dull, matte light grey color.
- C. The two antennas, microwave dishes and visible accessory cables and conduits which will be sled mounted must be painted a dull matte light grey color. This condition applies to the sled-mounting device as well.

Staff Planner: Matt Wickstrom

Decision rendered by:  **on March 13, 2009**
By authority of the Director of the Bureau of Development Services

Decision mailed: March 17, 2009

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 January 22, 2009, and was determined to be complete on February 10, 2009.

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 January 22, 2009.

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 did not waive or extend the 120-day review period.

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 Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on March 31, 2009** 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.

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 Hearings Officer 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 Hearings Officer 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 **April 1, 2009 – (the 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:

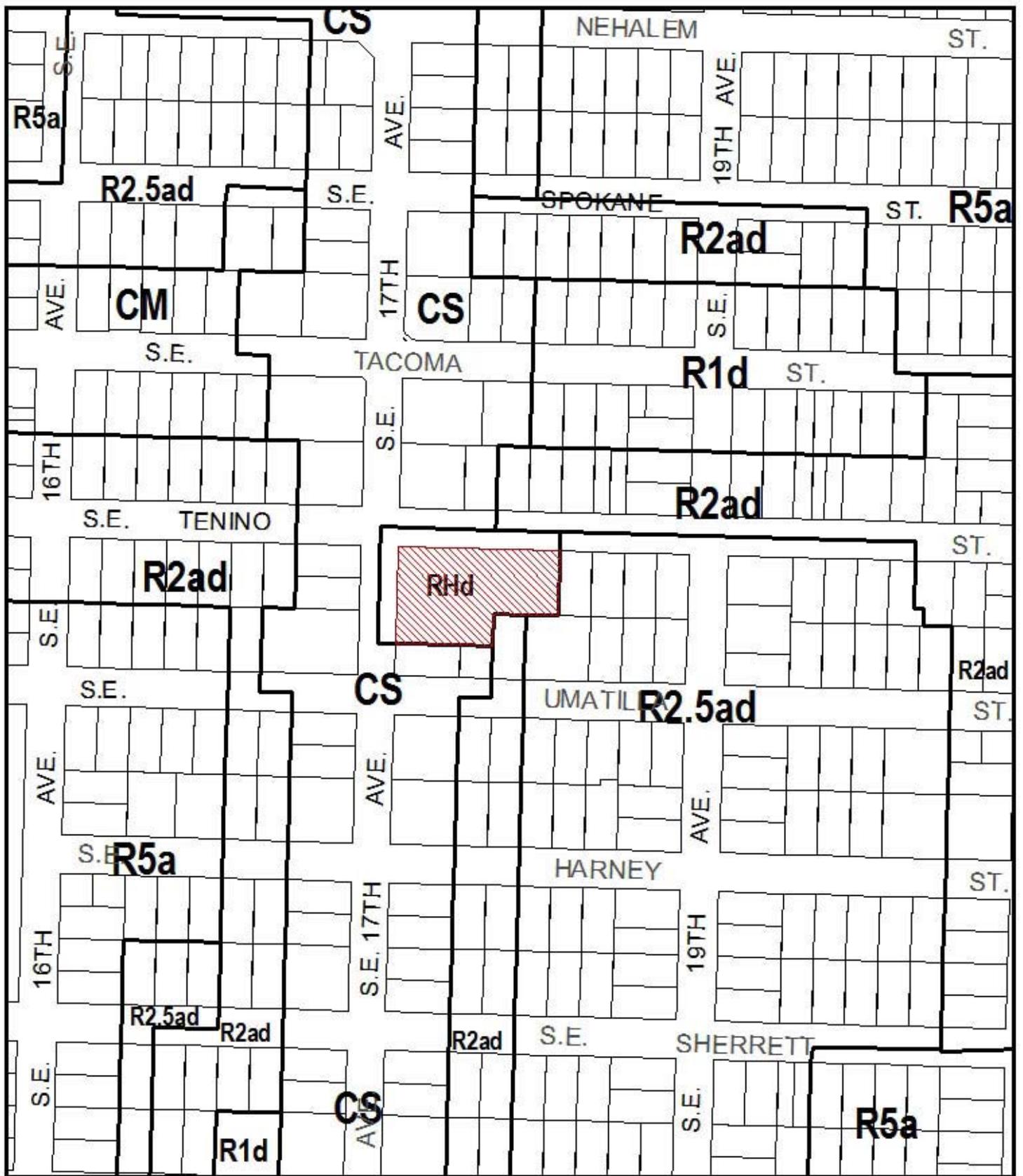
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement and Original LU Application
 - 1. Incomplete letter from Matt Wickstrom to Kevin Maki dated February 3, 2009
 - 2. Supplemental submittal received February 10, 2009
 - 3. Supplemental submittal received February 11, 2009
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan/Roof Plan (attached)
 - 3. West and South Elevation Drawings (attached)
 - 4. East and North Elevation Drawings (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Summary Sheet of Agency Responses
 - 2. Life Safety Section of BDS
- F. Correspondence:
 - 1. Mat Millenbach, March 1, 2009, questions about proposal and approval criteria
- G. Site History Research

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-7300 (TTY 503-823-6868).



ZONING

 Site



File No.	<u>LU 09-102102 CU</u>
1/4 Section	<u>3832</u>
Scale	<u>1 inch = 200 feet</u>
State Id	<u>1S1E23DC 1600</u>
Exhibit	<u>B (Jan 28, 2009)</u>

