



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

1900 SW 4th Avenue, Suite 5000
Portland, Oregon 97201
503-823-7300
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TTY 503-823-6868
www.portlandonline.com/bds

Date: May 14, 2009
To: Interested Person
From: Dave Skilton, Land Use Services (503-823-0660)
dave.skilton@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 09-117918 DZ - ROOFTOP RADIO FREQUENCY EQUIPMENT

GENERAL INFORMATION

Applicant: Oregon-DDP LLC, Owner
PO Box 50025
Pasadena, CA 91115-0025

Kevin Maki, Leasee
Clearwire US LLC
4400 Carillon Point
Kirkland, WA 98033

Representative: Steven Topp, Consultant (503-708-7337)
12566 SW Bridgeview Court
Tigard, OR 97223

Site Address: 1210 NW Johnson Street

Legal Description: LOT 1-8 BLOCK 125, COUCHS ADD
Tax Account No.: R180211210
State ID No.: 1N1E33AD 01700
Quarter Section: 2928

Neighborhood: Pearl District, contact Patricia Gardner at 503-228-3273.
Business District: Pearl District Business Assoc., contact Adele Nofield at 503-223-0070.
District Coalition: Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.
Plan District: Central City - River District

Zoning: EXd, Central Employment, with Design overlay.
Case Type: DZ, Design Review
Procedure: Type II, an administrative decision with appeal to the Design Commission.

Proposal:

The applicant is seeking approval of a proposal to install the following radio frequency equipment on the rooftop of an approximately 38' tall building:

- one (1) microwave dish;
- six (6) panel antennas;
- one (1) GPS antenna; and
- one (1) site support cabinet.

All the equipment, as well as two existing HVAC units and an exhaust fan vent, will be contained within a 20' wide, 50' long, and 10' high solid, screening enclosure, painted to match the roof color. Design Review is required because the proposal is for exterior alterations to a building within the Central City Plan District – River Subdistrict.

Relevant Approval Criteria:

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

- 33.825 Design Review
- River District Design Guidelines
- Central City Fundamental Design Guidelines

ANALYSIS

Site and Vicinity: The subject building, built in 1931 as a utilitarian industrial structure, is approximately 38' tall to the top of the parapet. It features a shallow, bowstring truss roof system which means that the height at the center of the roof rises slightly higher than the parapet. The building predates the building up of the Pearl District by decades, and displays the true industrial character that has been mimicked, with varying degrees of effectiveness, in many new buildings in the vicinity. The average height of buildings in the surrounding blocks is similar, meaning that views down onto the roof are from more than 200 feet away.

The neighborhood is one of mixed new and older development, and the site adjoins the NW Thirteenth Avenue Historic District to the west. NW Johnson Street to the north is designated as a City Bikeway and NW 12th Avenue as a Local Service Bikeway. The surrounding area is designated as a Pedestrian District

Zoning: The Central Employment (EX) zone implements the Central Employment map designation of the Comprehensive Plan. The zone allows mixed-uses and is intended for areas in the center of the City that have predominantly industrial type development. The intent of the zone is to allow industrial and commercial uses which need a central location. Residential uses are allowed, but are not intended to predominate or set development standards for other uses in the area. The development standards are intended to allow new development which is similar in character to existing development.

The Design Overlay (d) zone promotes the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. The Design Overlay Zone also promotes quality high-density development adjacent to transit facilities. This is achieved through the creation of design districts and applying the Design Overlay Zone as part of community planning projects, development of design guidelines for each district, and by requiring design review or compliance with the Community Design Standards. In addition, design review or compliance with the Community Design Standards ensures that certain types of infill development will be compatible with the neighborhood and enhance the area.

Land Use History: City records indicate that prior land use reviews include the following cases in the last ten years:

- LU 03-153323 DZ, approving exterior alterations;
- LU 03-178692 DZM, approving three new signs; and
- LU 04-009682 DZ, approving removal of existing an installation of new rooftop equipment.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **April 17, 2009**. The following Bureaus have responded with no issues or concerns:

- Water Bureau
- Life Safety Review Section of BDS

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on April 17, 2009. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

Chapter 33.825 Design Review

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. 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 guidelines for the area.

Findings: The site is designated with design overlay zoning (d), therefore the proposal requires Design Review approval. Because of the site’s location, the applicable design guidelines are the Central City Fundamental Design Guidelines and River District Guidelines.

River District Design Guidelines and Central City Fundamental Design Guidelines

The River District is a remarkable place within the region. The area is rich with special and diverse qualities that are characteristic of Portland. Further, the River District accommodates a significant portion of the region’s population growth. This area emphasizes the joy of the river, connections to it, and creates a strong 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 considered all guidelines and has addressed only those guidelines considered applicable to this project.

A6. Reuse/Rehabilitate/Restore Buildings. Where practical, reuse, rehabilitate, and restore buildings and/or building elements.

Findings: By providing an income stream with minimal visual impact, the proposal continues and supports the successful reuse of an existing building that has already been adapted from industrial to commercial usage. *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: The screening around the rooftop equipment will not impact the integrity of existing building character because it will not be visible from the adjoining NW 12th Avenue right-of-way, and will be only minimally visible from the north side of NW Johnson Street. From the upper floors of nearby buildings it will effectively cut off views of the new rooftop equipment. *This guideline is therefore met.*

C5. Design for Coherency. Integrate the different building and design elements including, but not limited to, construction materials, roofs, entrances, as well as window, door, sign, and lighting systems, to achieve a coherent composition.

Findings: The straightforward expedient of painting the screening material to match the color of the roof will serve to integrate the new structure with the existing one. The size of the screening element, although large, is in scale with the large roof structure. *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: The proposal is primarily concerned with use of an existing rooftop as a vantage point for the location of radio frequency equipment. The screening enclosure around the equipment will be set back 11'-6" from the north parapet and 25'-00" from the east parapet. It will coincidentally also enclose two large HVAC units and an exhaust vent. The unarticulated rectangular shape of the enclosure will give it a pure

Euclidean character similar to that of the curving roof, and the two will match in color.
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

This straightforward proposal to place and screen new radio frequency equipment on an existing rooftop succeeds because it is set well back from the parapets and displays a purity of form similar to that of the existing bowstring truss roof. The proposal therefore merits approval.

ADMINISTRATIVE DECISION

Approval, per the Central City Fundamental and River District Design Guidelines, of:

- Installation of the following radio frequency equipment on the roof: one (1) microwave dish; six (6) panel antennas; one (1) GPS antenna; and one (1) site support cabinet.
- Installation of a solid screening enclosure 20' wide, 50' long, and 10' high solid, painted to match the roof color.

Approval per Exhibits C-1 through C-7, signed and May 12, 2009, subject to the following condition:

- 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 through C-7. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 09-117918 DZ. No field changes allowed."

Staff Planner: Dave Skilton

Decision rendered by:  on May 12, 2009.
By authority of the Director of the Bureau of Development Services

Decision mailed: May 14, 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 March 31, 2009, and was determined to be complete on **April 9, 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 March 31, 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 Design Commission, which will hold a public hearing. Appeals must be filed **by 4:30 PM on May 28, 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 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 **May 29, 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.

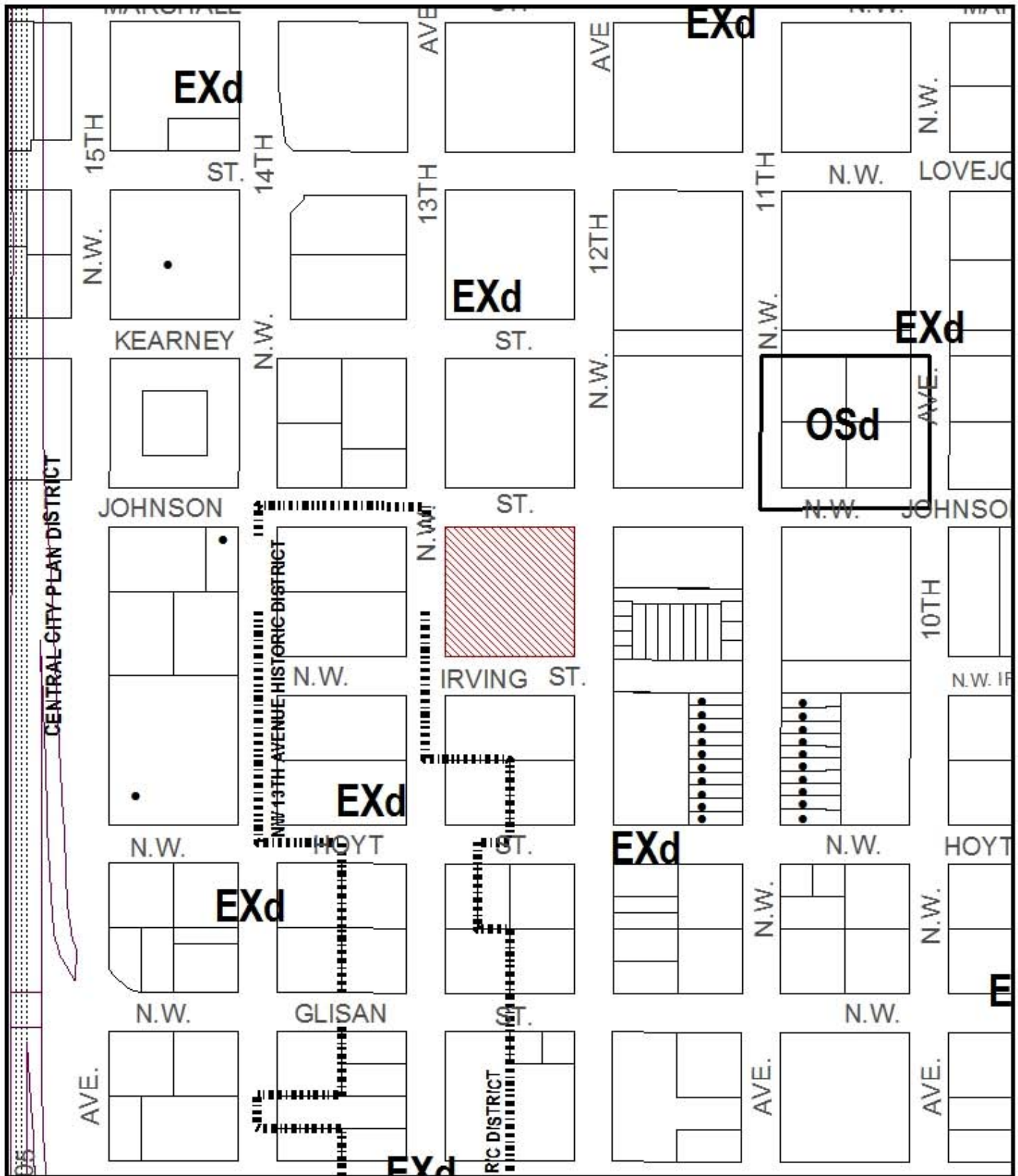
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)


- C. Plans/Drawings:
 - 1. Vicinity Plan and Index
 - 2. Landscape Plan
 - 3. Site Plan (attached)
 - 4. Screening Enclosure Plan
 - 5. West and North Elevations (attached)
 - 6. East and South Elevations (attached)
 - 7. Enclosure and Equipment 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. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
- F. Correspondence: None
- G. Other:
 - 1. Original LU Application
 - 2. 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

 Historic Landmark



This site lies within the:
CENTRAL CITY PLAN DISTRICT

File No. LU 09-117918 DZ
 1/4 Section 2928
 Scale 1 inch = 200 feet
 State_Id 1N1E33AD 1700
 Exhibit B (Apr 03,2009)

clear wire
 A DIVISION OF
 PACIFIC TELECOM SERVICES, LLC
 344 1st Avenue, Suite 100
 Portland, OR 97209
 Phone: (503) 321-1909 Fax: (503) 321-1911

PTS
 PACIFIC TELECOM SERVICES, LLC

REGISTERED ARCHITECT
 RICHARD B. HALL
 SEATTLE, WA 98108
 EXPIRATION DATE OF THE LICENSE: 06/30/09

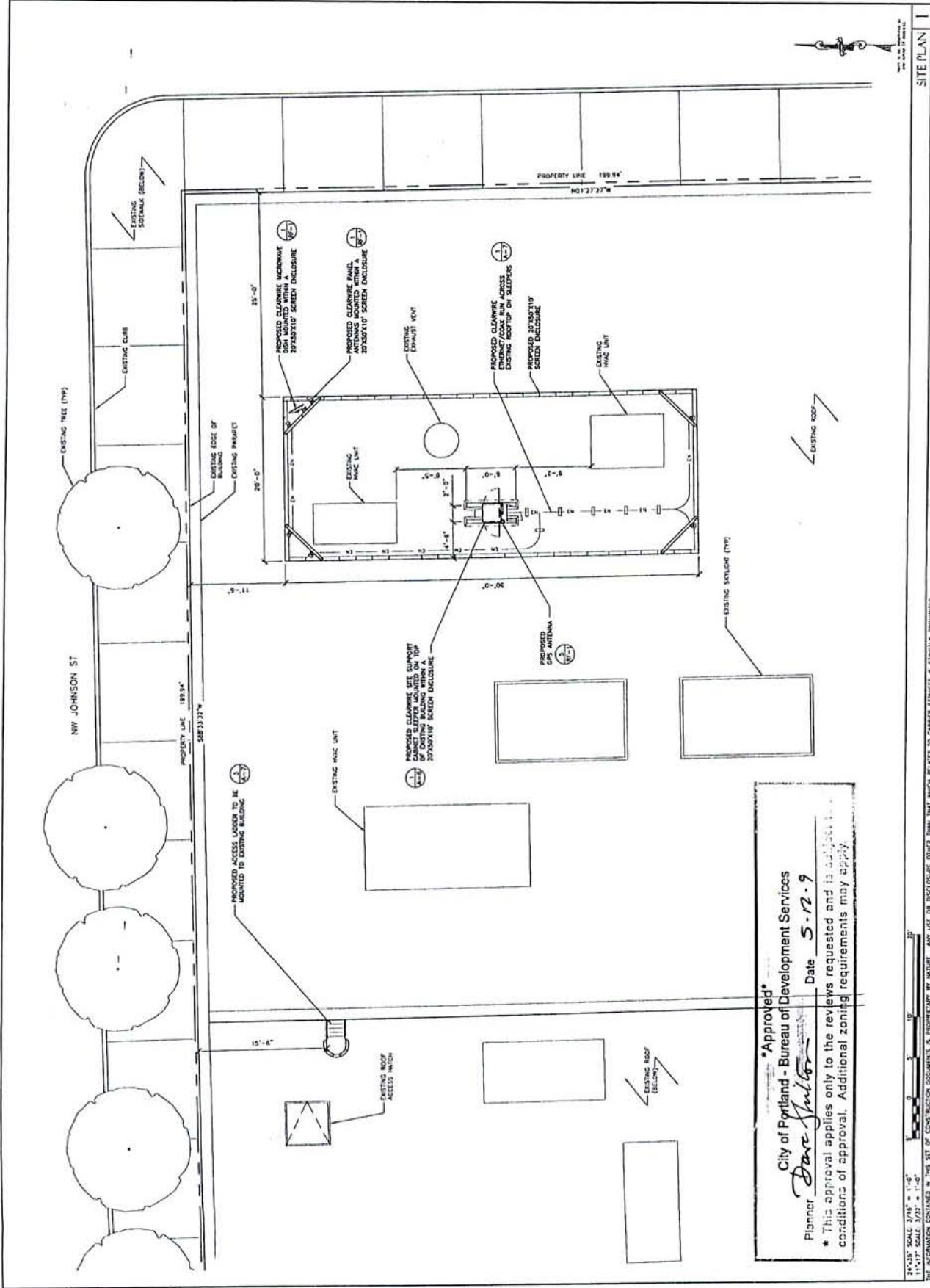
24 HR. FITNESS
 OR-POR-413-A
 1210 NW JOHNSON ST
 PORTLAND, OR 97209

NO.	DATE	REVISIONS
1	05-08-09	PRELIMINARY 2D'S OR 3D'S
2	05-23-09	PRELIMINARY 3D'S OR 3D'S
3	05-23-09	PRELIMINARY 3D'S OR 3D'S
4	05-23-09	PRELIMINARY 3D'S OR 3D'S
5	05-23-09	PRELIMINARY 3D'S OR 3D'S
6	05-23-09	PRELIMINARY 3D'S OR 3D'S
7	05-23-09	PRELIMINARY 3D'S OR 3D'S
8	05-23-09	PRELIMINARY 3D'S OR 3D'S
9	05-23-09	PRELIMINARY 3D'S OR 3D'S
10	05-23-09	PRELIMINARY 3D'S OR 3D'S

SHEET TITLE
 SITE PLAN

SHEET NUMBER
A-2

EXHIBIT C-3
 LU 09-117918 DZ



Approved
 City of Portland - Bureau of Development Services
 Planner *Dore Jults* Date **5-12-09**
 * This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.

24'-0" SCALE 3/16" = 1'-0"
 11'-0" SCALE 3/32" = 1'-0"
 THE INFORMATION CONTAINED IN THIS SET OF CONSTRUCTION DOCUMENTS IS PROPRIETARY BY NATURE. ANY USE OR DISCLOSURE OTHER THAN THAT WHICH RELATES TO GARDNER SERVICES IS STRICTLY PROHIBITED.

SITE PLAN 1

NOTE: ALL WORK IS TO BE PERFORMED TO MATCH EXISTING BUILDING

clear wire®
 4420 CARLETON POINT
 GLENDALE, WA 98033

PTS
 PACIFIC TELECOM SERVICES, LLC
 188 The Commons, Suite 600
 Seattle, WA 98101
 Phone: (206) 447-7868 Fax: (206) 447-9111

STEREOD ARCHITECTS
 RICHARD B. HALL
 SEATTLE, WA
 5008
 EXPIRATION DATE OF THE LICENSE 06/30/09

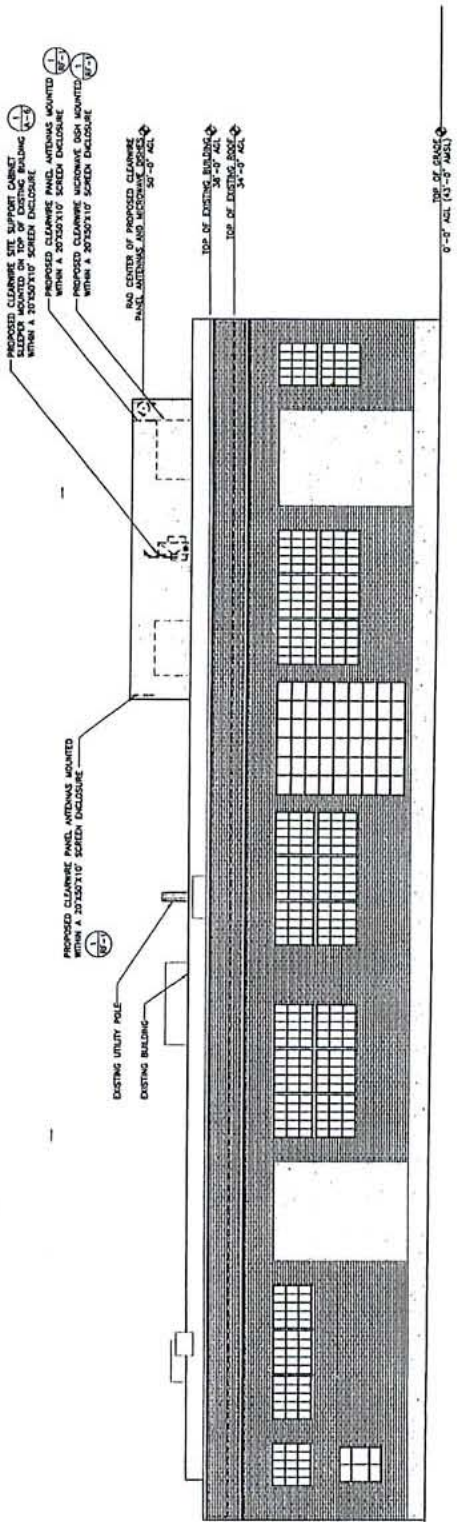
24 HR FITNESS
 OR-PR-413-A
 1210 NW JOHNSON ST
 PORTLAND, OR 97209

NO.	DATE	DESCRIPTION
1	10-28-08	ISSUED FOR PERMITS
2	11-13-08	REVISIONS
3	11-13-08	REVISIONS
4	11-13-08	REVISIONS
5	11-13-08	REVISIONS
6	11-13-08	REVISIONS
7	11-13-08	REVISIONS
8	11-13-08	REVISIONS
9	11-13-08	REVISIONS
10	11-13-08	REVISIONS

SHEET TITLE
 SOUTH & EAST ELEVATIONS

SHEET NUMBER
A-5

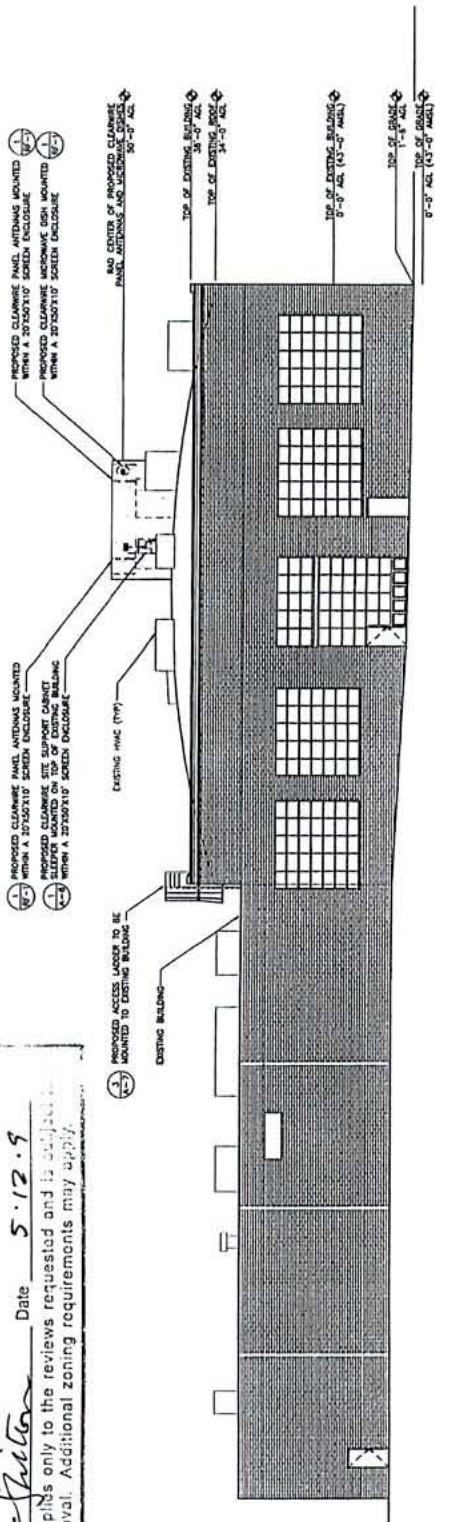
EXHIBIT C-6
 LU 09-117918 DZ



1" = 10'-0" SCALE
 1" = 20'-0" SCALE

EAST ELEVATION 2

Approved
 City of Portland - Bureau of Development Services
 Planner *Dave Fulton* Date *5.12.09*
 * This approval applies only to the reviews requested and is subject to the conditions of approval. Additional zoning requirements may apply.



1" = 10'-0" SCALE
 1" = 20'-0" SCALE

SOUTH ELEVATION 1

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