



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

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Date: May 26, 2010
To: Interested Person
From: Lois Jennings, Land Use Services
503-823-2877

**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 10-126953 AD

GENERAL INFORMATION

Applicant: Verizon Wireless
5430 NE 122nd Ave
Portland, OR 97230

Representative: Jim Barta
Verizon Wireless
2317 NE 12th Av
Portland, OR 97212

Owner of Property: Meek Building LLC
3347 SE Belmont St #1
Portland, OR 97214

Site Address: 3341-3357 SE BELMONT ST

Legal Description: BLOCK 17 LOT 13&14, SUNNYSIDE & PLAT 2 & 3
Tax Account No.: R810403040
State ID No.: 1S1E01AB 23000
Quarter Section: 3134

Neighborhood: Sunnyside, contact Paul Loney at 503-233-8265.
Business District: Belmont Business Association, contact John Barker at 503-231-9118.
District Coalition: Southeast Uplift, contact Leah Hyman at 503-232-0010.

Zoning: CS- Commercial Storefront

Case Type: AD -Adjustment
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal: Verizon Wireless is installing a wireless facility on the rooftop of this building, which is an allowed use in this CS-Commercial Storefront zone per Section 33.274.035 of the Zoning code. The accessory equipment for this wireless facility will be located at grade behind the building. The Zoning Code Section 33.274.040.C.9 requires the accessory equipment to be screened at grade level. This required landscape screening consists of evergreen shrubs, trees and groundcover plants within a five-foot landscape area. The applicant is requesting to waive this 5-foot landscape screening requirement, since existing development on the site constrains locating landscaping on the site. The accessory equipment will, however be screened by existing buildings along the west lot line and north property line and a masonry wall/gate from the street.

ANALYSIS

Site and Vicinity: The site is located on the northeast corner of SE Belmont Street and SE 34th Avenue, and is approximately 6,667 square feet in size. The property contains a two-story mixed use commercial building, with restaurant/bar on the ground level and residential on the upper level. The building covers approximately eighty-five percent of the site. The remaining 10 feet of area along the north property line is being utilized as a delivery/loading area, garbage area and area for mechanical equipment for the existing building.

The properties surrounding the site contain mixed-use buildings with multi-tenants, which vary in different retail sales & service uses and some residential uses. To the north of the site, properties are zoned CS and are developed with mixed use buildings with attached single-dwelling residences and multi-dwelling structures. To the west of the site is the Belmont Dairy a mixed use building with retail sales on the lower level and residential on the upper level. South of the site, abutting SE Belmont Street, are properties zoned CS, developed with commercial storefronts, primarily retail sales and service uses including restaurants, bakery and coffee shop. Northeast of the site, closer to SE Morrison Street, are properties zoned R2.5, developed with detached single-dwelling residences and multi-dwelling structures. East of the site, between SE 34th Avenue and SE 35th Avenue and along the north side of SE Belmont Street, are properties zoned CS and are developed with restaurants, bar and retail sales uses.

Zoning: The site is zoned CS, Storefront Commercial. The Storefront Commercial (CS) zone is intended to preserve and enhance older commercial areas that have a storefront character. The zone intends that new development in these areas will be compatible with this desired character. The zone allows a full range of retail, service and business uses with a local and regional market area. The desired character includes areas which are predominantly built-up, with buildings close to and oriented towards the sidewalk especially at corners. Development is intended to be pedestrian-oriented and buildings with a storefront character are encouraged.

Land Use History: City records indicate there are no prior land use reviews for this site.

Neighborhood and Agency Review: A Notice of Proposal in your Neighborhood was mailed on April 28, 2010. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal. The following Bureaus have responded with no issues or concerns.

- Water Bureau
- Fire Bureau
- Life Safety of BDS
- Site Development Section of BDS

The Bureau of Transportation Engineering responded with the following comment: The proposed work is estimated at a value that is minimal as compared to the assessed property value. Based on this proposal; no impact to the public transportation system is anticipated and no work is proposed within the public right-of-way. Transportation has no objection to this proposal provided no work is performed within the public right-of-way. Any additional work outside this scope of this proposal will need to be assessed for Transportation impacts and

requirements at the time of submittal (i.e. permitting).

The Bureau of Environmental Services (BES) responded with the following comment: Although BES supports the installation of landscaping because it helps in reducing stormwater run-off by providing permeable surface, BES understands the existing development on this site constrains locating landscaping. Therefore BES has no objections to the proposed adjustment. Further development of the property would be subject to the Bureau of Environmental Services standards and requirements during the building permit review process.

ZONING CODE APPROVAL CRITERIA

33.805.040 Approval Criteria

- A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Findings: The standard that addresses accessory equipment associated with radio transmission facilities is Section 33.274.040.C.9, which requires the accessory equipment to be screened at grade level. This required landscape screening consists of evergreen shrubs, trees and groundcover plants within a five-foot landscape area. The purpose of this standard is standard is the following:

- 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;

The accessory equipment associated with the Radio Frequency Transmission facility is compatible with other accessory equipment (rooftop mechanical equipment, air conditioning units, heat pumps, generators etc.) associated with adjacent uses in the vicinity.

Eighty-five percent of this 6,667 square foot site is covered by the existing two-story building. The accessory equipment being installed will be located at grade level behind the building along the north property line. This area behind the building is only 10 ft x 100 ft in area and is already developed with mechanical equipment, trash/recycling and a delivery/loading area, which limits adding landscaping within the existing space. With the existing area already being utilized for the existing business, it restricts the site from being landscaped with trees, shrubs and groundcover plants to provide screening for this new accessory equipment. However, the accessory equipment will be screened by existing buildings, masonry wall, structure and existing gate which reduces the visual impact to adjacent properties and from the street.

The accessory equipment will be located behind the building at grade level and screened by the adjacent buildings to the west and north. A masonry wall screens the remainder of the property along the north property line and then a locked gate screens the remainder of this area from SE 34th Avenue. There is no visual impact to a residential zone or open space zone since the property to the north and east of this site is zoned Commercial Storefront. The Commercial Storefront development standard for Screening (33.130.235) requires mechanical equipment to be screened from street and any abutting residential zones. This site does not abut a residential zone property and the proposed accessory equipment at grade level will be screened from the street from existing structures and an existing locked gate. This criterion is met.

- B.** If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in a C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: This site is zoned CS–Commercial Storefront and has frontage along SE Belmont Street and SE 34th Avenue. The proposal to waive the landscape screening requirements for the radio transmission facilities accessory equipment does not conflict with the street classifications. There is no impact to the public transportation system. This request raised no concerns or objections by PDOT staff.

| Rights-of-Way | Traffic Classification | Transit Classification | Bicycle Classification | Pedestrian Classification |
|-------------------------|------------------------|------------------------|------------------------|---------------------------|
| SE Belmont | Neighborhood Collector | Major Transit | Local Service Bikeway | City Walkway |
| SE 34 th Ave | Local | Local | City Bikeway | Local Service Walkway |

The Adjustment request does not conflict with the desired character of the Commercial Storefront zone, which is intended to preserve and enhance older commercial areas that have a storefront character. This criterion is met.

- C.** If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

Findings: Only one adjustment is requested. This criterion is not applicable.

- D.** City-designated scenic resources and historic resources are preserved; and

Findings: The site is not located within the scenic overlay zone nor is it designated as a historic landmark or resource. Therefore, this criterion is not applicable.

- E.** Any impacts resulting from the adjustment are mitigated to the extent practical; and

Findings: There are no discernible impacts that would result from granting the requested adjustment, since the accessory equipment will be screened from adjacent properties by existing buildings, a masonry wall and locked gate. This criterion is met.

- F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

Findings: The site is not within an environmental zone, which is designated on the zoning map by either a “c” or “p” overlay. 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

This site is not adjacent to a residential or open space zone, therefore the existing buildings, masonry wall and gate provide enough screening to reduce the visual impact to adjacent

commercial zone properties. This request is able to meet the relevant adjustment criteria and should be approved.

ADMINISTRATIVE DECISION

Approval of an adjustment request to waive the five feet of L3-landscape screening standard required by Section 33.274.040.C.2 for the accessory equipment associated with the radio transmission facility per the approved site plan, Exhibits C-1 through C4, signed and May 26, 2010 subject to the following conditions:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.4. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 10-126953 AD.

Staff Planner: Lois Jennings

Decision rendered by:  **on May 25, 2010**

By authority of the Director of the Bureau of Development Services

Decision mailed: May 26, 2010

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 April 13, 2010, and was determined to be complete on April 27, 2010 .

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 April 13, 2010.

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 Adjustment Committee, which will hold a public hearing. Appeals must be filed **by 4:30 PM on June 9, 2010** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, 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 call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, 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 Adjustment Committee 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 Adjustment Committee 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 **June 10, 2010** –
- 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:

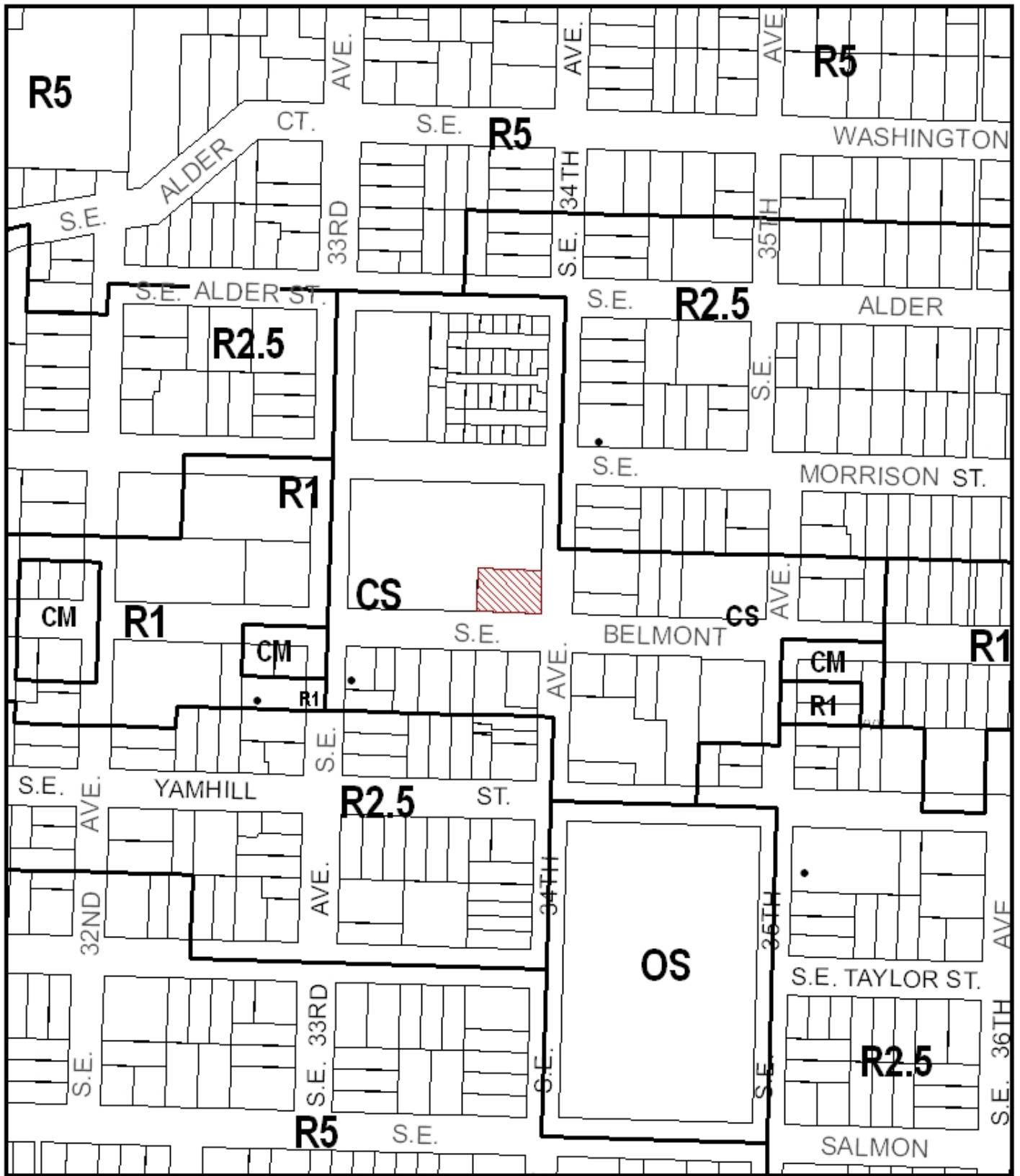
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Narrative
 - 2. Pictures of area
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Site Perspective
 - 3. North/East Elevation
 - 4. Existing Conditions
- 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. Life Safety Review Section of BDS
- F. Other:
 - 1. Original LU Application

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no later than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING

 Site

 Historic Landmark



| | |
|-------------|-------------------|
| File No. | LU 10-126953 AD |
| 1/4 Section | 3134 |
| Scale | 1 inch = 200 feet |
| State_Id | 1S1E01AB 23000 |
| Exhibit | B (Apr 14, 2010) |

