



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

1900 SW 4th Avenue, Suite 5000
Portland, Oregon 97201
503-823-7300
Fax 503-823-5630
TTY 503-823-6868
www.portlandonline.com/bds

Date: September 2, 2010
To: Interested Person
From: Sylvia Cate, Land Use Services
503-823-7771 / scate@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 10-154036 AD

GENERAL INFORMATION

Applicant: David R and Linda I Adams, property owners
6614 N Curtis Ave
Portland, OR 97217-4062

Clearwire US LLC, lessee
4400 Carillon Point
Kirkland Wa 98033

Representative: Jim Barta
Clearwire Wireless
2317 NE 12th Avenue
Portland, OR 97212
503-544-2429

Site Address: 5330 N COLUMBIA CT

Legal Description: BLOCK 28 LOT 3&4, COLLEGE PL
Tax Account No.: R169809240; R169809220; R169809260; R169809300; R169809420
State ID No.: 1N1E05CC 01000; -01100; -00900; - 00800; -01200;
Quarter Section: 2025

Neighborhood: Portsmouth, contact Matthew Denton at 503-866-2185.
Business District: Columbia Corridor Association, contact Peter Livingston at 503-796-2892.
District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-4099.

Zoning: EG2
Case Type: AD, Adjustment
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

PROPOSAL: Clearwire Wireless proposes to collocate a wireless telecommunications facility on the existing monopole, which is allowed by right. However, the Clearwire facility includes an equipment cabinet located at grade. The development standards for wireless facilities includes a requirement to install a 5 foot deep L3 standard landscaping to buffer and screen equipment located on the ground [33.274.040 C 9 a]. The equipment cabinet will be placed inside a fenced compound near the base of the monopole. Because the equipment is screened from all sides by topography, buildings and fences, the applicant requests an Adjustment to waive the landscaping. Attached to this notice is a site plan depicting the proposal.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. of Section 33.805.040, Adjustment Approval Criteria, have been met.

ANALYSIS

Site and Vicinity: The site comprises several adjacent and contiguous parcels 24,964 square feet in area and developed with an industrial building and associated parking lot. It is currently occupied by an auto repair and storage use. An 80 foot monopole hosting several wireless telecommunications facilities is located near the southeastern corner of the site. The site is in the General Employment 2 zone and to the north are several large parcels zoned Heavy Industrial. Surrounding development and uses are consistent with the industrial character fostered by the EG and I zones. The site has frontage on N Columbia Court, which also contains a rail line. To the east is an electrical substation.

Zoning: The site is zoned General Employment 2. The General Employment zones implement the Mixed Employment map designation of the Comprehensive Plan. The zones allow a wide range of employment opportunities without potential conflicts from interspersed residential uses. The emphasis of the zones is on industrial and industrially-related uses. Other commercial uses are allowed to support a wide range of services and employment opportunities. The development standards for each zone are intended to allow new development which is similar in character to existing development. The intent is to promote viable and attractive industrial/commercial areas.

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

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **August 3, 2010**. The following Bureaus have responded with no issues or concerns:

- 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 August 3, 2010. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

33.805.010 Purpose (Adjustments)

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review

process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue providing certainty and rapid processing for land use applications.

33.805.040 Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. below have been met.

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

Findings: The regulation to be Adjusted, 33.274.040.C.9.a., is one of the development standards for wireless facilities. The purpose for these standards are found at 33.274.040 A, Purpose, which states:

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.

Wireless facilities in the EG2 zone are allowed by right, and therefore are considered compatible with the adjacent uses found in the EG2 zone. The landscaping and screening standard [33.274.040C.9.a.] is intended to reduce the visual impact of towers and accessory equipment located at grade. The other purposes are addressed via other standards, such as RF emission level documentation to demonstrate there is not excessive emission levels, and structural review of tower strength at time of building permit review.

Given the existing conditions of the site, the existing and proposed equipment located at grade will be adequately screened by existing fences, building, topography, and a wide strip of vegetation along the southern edge of the site. Given the configuration of the site and the use there, there is no apparent area where required landscaping can be installed that would help provide additional buffering and screening. Given that the equipment is adequately screened and residential and open space zoned properties are more than 200 feet away, to the south and southeast, the proposal equally meets the purpose of the landscaping and therefore 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 an OS, 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: The site is in the EG2 zone. The proposal has no impact on the classifications of the adjacent streets. The facility is unmanned and will generate approximately one vehicle trip a month for routine maintenance. The proposed waiver of landscaping will not impinge on the desired character of the area because the equipment at grade is currently screened by fences and structures. Given the specific circumstances of the site [large paved area to stage and store vehicles in need of repair,

there is no reasonable opportunity to install additional landscaping that would provide significant screening or buffering of the collocated wireless facility. 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: City designated resources are shown on the zoning map by the 's' overlay; historic resources are designated by a large dot, and by historic and conservation districts. There are no such resources present on the site. 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. 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. 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, Clearwire Wireless, is collocating a telecommunications facility on the existing 80 foot monopole on the site, which is allowed by right in the EG2 zone. However, the proposed equipment cabinet located at grade is required to be screened with landscaping. Alternatively, if the equipment is screened by fences, buildings or similar structures, then the required landscaping can be relocated elsewhere on the site. The applicant requests that the landscaping relocation be waived as there are no reasonable opportunities to install vegetation on the site without conflicting with the auto repair and storage use. The proposal meets all of the applicable approval criteria and therefore should be approved.

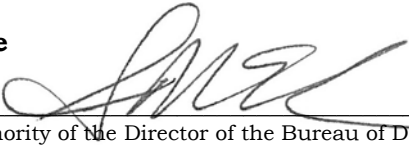
ADMINISTRATIVE DECISION

Approval of:

- An Adjustment to waive the required landscaping, per the approved site plans, Exhibits C-1 through C-2, signed and dated August 30, 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.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 10-154036 AD."

Staff Planner: Sylvia Cate

Decision rendered by:  **on August 30, 2010**

By authority of the Director of the Bureau of Development Services

Decision mailed: September 2, 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 July 7, 2010, and was determined to be complete on July 28, 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 July 7, 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. However, the applicant did extend the FCC shot clock to accommodate this review. Unless further extended by the applicant, **the 120 days will expire on: November 25, 2010.**

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 September 16, 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 **September 17, 2010 – (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:

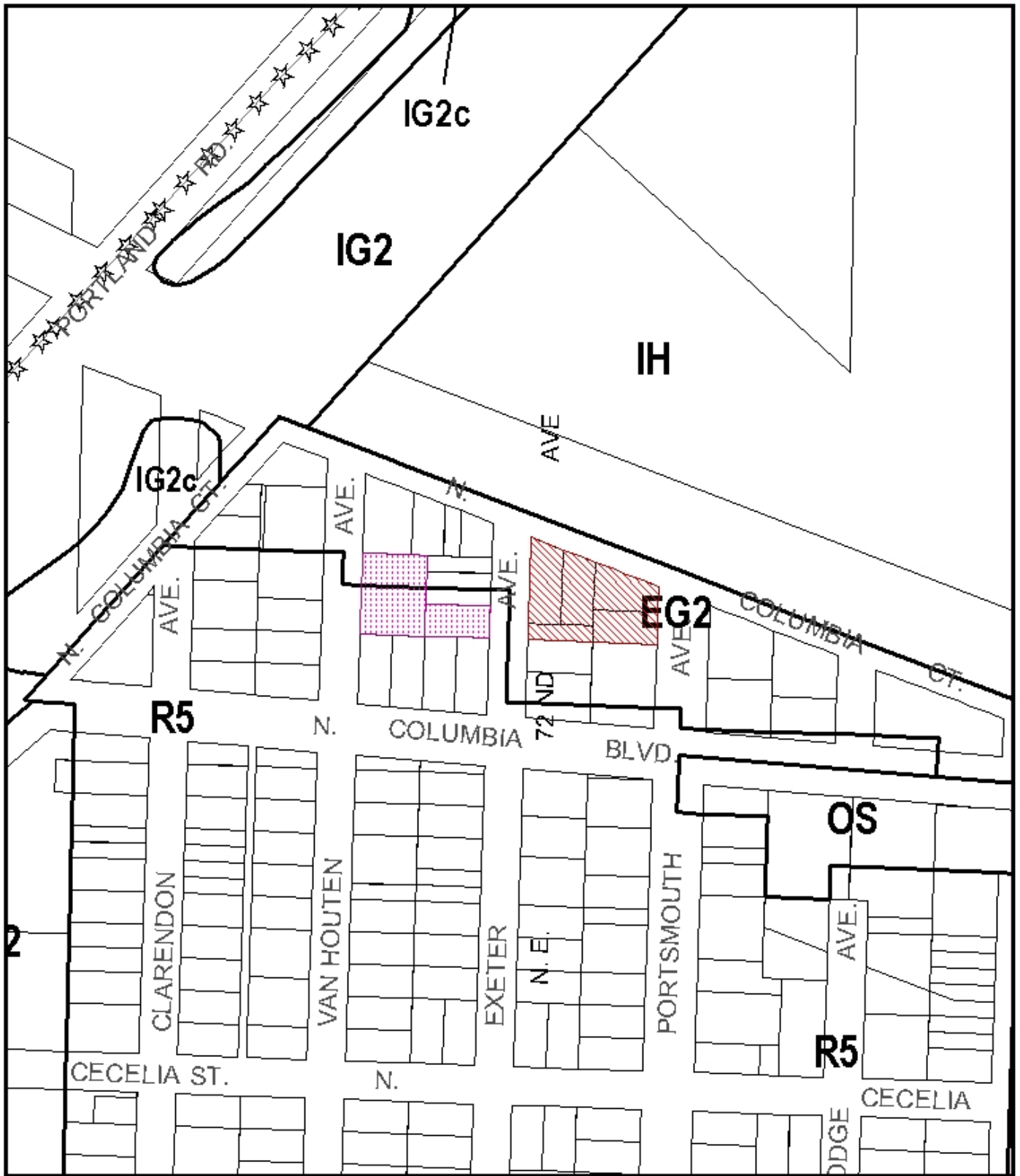
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Enlarged site plan
- 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 received
- 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. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING

-  Site
-  Also Owned



File No. LU 10-154036 AD
 1/4 Section 2025
 Scale 1 inch = 200 feet
 State_Id 1N1E05CC 1000
 Exhibit B (Aug 30, 2010)

clearwire
wireless broadband
1000 N. Columbia Court
Portland, OR 97204
Tel: (503) 241-7900
Fax: (503) 241-7900

C&S
CONSULTING ENGINEERING & PERMITTING
CONSTRUCTION MANAGEMENT
C.A. Simon and Associates, Inc.
1000 N. Columbia Court
Portland, OR 97204
360-694-8019 for 360-694-8225

CAS PROJ. NO.:
DRAWN BY: B.K.L.
CHECKED BY:

SUBMITTALS

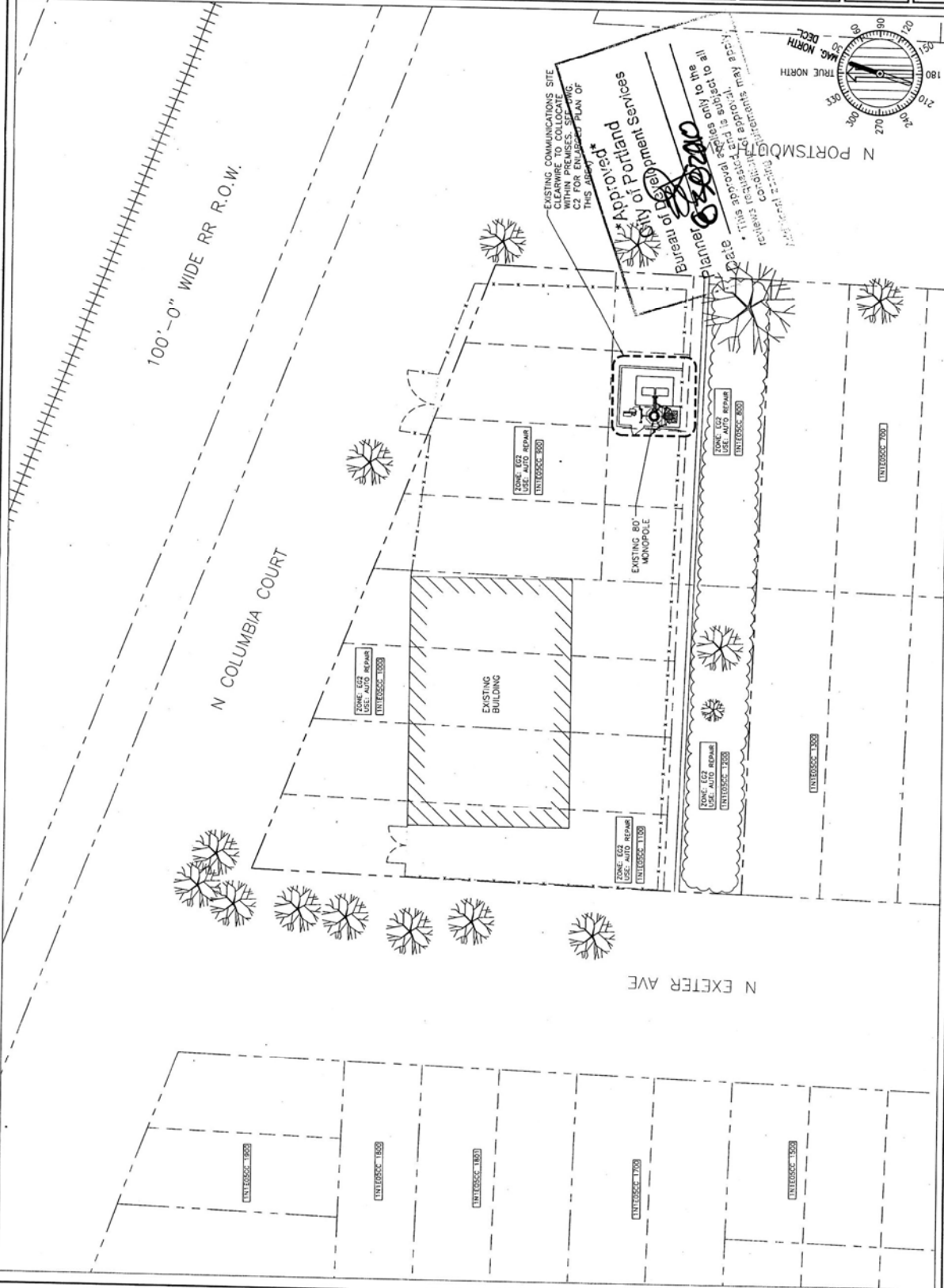
| | | |
|---|----------|----------------------------|
| 4 | 04/10/10 | 100% CONSTRUCTION DRAWINGS |
| 3 | 02/17/10 | 90% CONSTRUCTION DRAWINGS |
| 2 | 05/18/09 | 100% Zoning Drawings |
| 1 | 02/10/09 | 95% Zoning Drawings |
| 0 | 02/10/10 | ISSUED FOR REVIEW |

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PORTSMOUTH
OR-POR5147
5330 N. COLUMBIA COURT
PORTLAND, OR 97204

SHEET TITLE:
SITE PLAN

SHEET NUMBER:
C-1



SCALE: 1"=60'-0" 1

SITE PLAN