



**City of Portland, Oregon**  
**Bureau of Development Services**  
**Land Use Services**  
FROM CONCEPT TO CONSTRUCTION

Amanda Fritz, Commissioner  
Paul L. Scarlett, Director  
Phone: (503) 823-7300  
Fax: (503) 823-5630  
TTY: (503) 823-6868  
[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

**Date:** January 28, 2015  
**To:** Interested Person  
**From:** Matt Wickstrom, Land Use Services  
503-823-6825 / [Matt.Wickstrom@portlandoregon.gov](mailto:Matt.Wickstrom@portlandoregon.gov)

## **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 mailed copy of this document is only a summary of the decision. The reasons for the decision, including the written response to the approval criteria and to public comments received on this application, are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

### **CASE FILE NUMBER: LU 14-244780 CU AD**

#### **GENERAL INFORMATION**

**Applicant:** Noah Grodzin / Cascadia PM (on behalf of Verizon)  
5501 NE 109th Court, Suite A2 / Vancouver, WA 98662

**Site Address:** 2443 SE DIVISION ST

**Legal Description:** BLOCK 9 LOT 11&12 LAND & IMPS SEE R224435 (R595002091) FOR BILLBOARD, MURRAYMEAD; BLOCK 9 LOT 11&12 BILLBOARD SEE R224434 (R595002090) FOR LAND & IMPS, MURRAYMEAD

**Tax Account No.:** R595002090, R595002091

**State ID No.:** 1S1E01CC 18500, 1S1E01CC 18500A1

**Quarter Section:** 3233

**Neighborhood:** Hosford-Abernethy, contact Joanne Stainbrook at 503-231-9245

**Business District:** Division-Clinton Business Association, contact Darice Robinson at 503-233-1888

**District Coalition:** Southeast Uplift, contact Bob Kellett at 503-232-0010

**Zoning:** CMm (Mixed Commercial/Residential Zone with a Main Street Corridor Overlay Zone)

**Case Type:** CU AD (Conditional Use Review with a concurrent Adjustment Review)

**Procedure:** Type II, an administrative decision with appeal to the Hearings Officer.

#### **Proposal:**

The applicant requests a Conditional Use Review and concurrent Adjustment Review for equipment accessory to a wireless telecommunications facility. The wireless telecommunications facility is proposed to be located on a replacement utility pole in the public right-of-way. The equipment associated with the wireless telecommunications facility is proposed to be located in the southwest corner of the property at 2443 SE Division Street.

Locating accessory equipment for a wireless telecommunications facility on private property requires approval through a Conditional Use Review.

The Portland Zoning Code requires a 5-foot landscaped setback planted with trees, shrubs that grow to 6 feet in height and ground cover to screen views of accessory equipment for wireless telecommunications facilities. The applicant proposes to utilize an existing 6-foot tall hedge to provide screening of the accessory equipment from the south (street) and the west. Views of the accessory equipment from the north and the east would be screened by a chain link fence with slats. Requests to vary from the screening standards outlined in the Portland Zoning Code require approval through an Adjustment Review.

Because the antennas and utility pole are located in the public right-of-way, zoning regulations such as conditional use review *do not apply to that portion of the overall facility*. Please note that City of Portland policies and regulations allow wireless facilities to be mounted on existing or replacement utility poles located within public rights-of-way via a franchise agreement with the City. Additional information about franchise agreements with the City can be found on the City's web site at: <http://www.portlandoregon.gov/revenue/63234>

**Relevant Approval Criteria:**

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

- 33.815.225.A.1-3, *Conditional Use approval criteria*
- 33.274.040, *Mandatory Radio Frequency Facility development standards*
- 33.805.040 *Adjustment Review approval criteria*

## **ANALYSIS**

### **City Wireless in the Rights of Way Policy Background**

It is important to distinguish between this land use review application, which seeks Conditional Use approval for associated equipment cabinets on private property, from the antennas for the wireless facility which will be mounted to a utility pole located within the public right of way. The utility pole is considered a non-broadcast structure and because of its location within the public right of way neither it, nor the antennas, are subject to this Conditional Use review.

The City encourages wireless telecommunication facilities to be installed in the right of way via a number of policies, including right of way franchise agreements and revisions to the zoning code itself. The City Council passed a Wireless Resolution on July 24, 2002 authorizing the City's Office for Community Technology to grant use agreements to wireless service providers. One of the many objectives in allowing wireless facilities to be placed in the public rights of way is to foster co-location of these facilities on existing or replacement structures in the right of way. In adopting this policy, the Council made a conscious policy choice to take the pressure off of private property owners, residential neighborhoods, and the planning process by co-locating as many of these facilities in the public right of way as possible. The policy intent recognizes that the presence of wireless facilities co-located with other ROW facilities for utilities, such as telephone, cable, electric and natural gas, in and of itself tends to reduce visual clutter and intrusiveness. Commensurate revisions were adopted in the Portland Zoning Code, requiring applications for new monopoles [cell towers] that trigger a Conditional Use review to document why the facility *cannot be feasibly located* within the public right of way.

The Wireless in the Right of Way program was revised in 2009 to provide additional guidelines and requirements in the ministerial permit process to locate in the public right of way. In 2011, the City Council unanimously adopted Portland's *Broadband Strategic Plan*, which enumerates a number of policies and strategies to implement in order to bring high-speed, affordable broadband services to every home and business in the City. The Broadband Plan recognizes that wireless

broadband services represent basic infrastructure for Portland to prosper and compete in the 21<sup>st</sup> century. Additional information about the City's Wireless in the Right of Way program can be found on the City's website at: <http://www.portlandoregon.gov/revenue/63234>.

Additional information about the Broadband Plan can be found here: <http://www.portlandoregon.gov/revenue/article/394185>.

Because the proposed antennas and utility pole are located in the public right of way, zoning regulations, such as a Conditional Use review, do not apply to that portion of the overall facility. However, because there are instances when a wireless facility cannot wholly fit within the public right of way due to size of the associated equipment cabinets, the wireless provider will propose placing this equipment on adjacent private property. Such requests are subject to the Portland Zoning Code [Title 33] and require a Type II Conditional Use review because a concurrent Adjustment Review is requested.

**Site and Vicinity:** The approximately 7,800 square -foot site is developed with a single-story retail store, a surface parking lot and a billboard. The surface parking lot is screened from the street and the property to the west by an approximately 6-foot tall hedge planted on top of a retaining wall.

**Zoning:** The site is zoned Mixed Commercial/Residential with an "m" Main Street Corridor Overlay Zone. The CM zone promotes development that combines commercial and housing uses in a single building. This development type will support transit use, provide a buffer between busy streets and residential neighborhoods, and provide new housing opportunities in the City. The "m" overlay encourages higher density residential uses by allowing greater building heights, reducing required building coverage for residential development; and allowing more flexibility in site design. The standards of the overlay zone will not apply to this project.

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

**Agency Review:** A "Notice of Proposal in Your Neighborhood" was mailed **December 30, 2014**. The following Bureaus have responded:

The Water Bureau responded with information on water service (Exhibit E-1).

The Life Safety Section of the Bureau of Development Services responded with information on obtaining a building permit (Exhibit E-2).

The Site Development Section of BDS, the Bureau of Environmental Services, and the Parks Bureau responded with no concerns (Exhibit E-3).

**Neighborhood Review:** No written responses have been received from either the Neighborhood Association or notified property owners in response to the mailed "Notice of Proposal."

## 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:** The applicant requests a Conditional Use approval for an equipment accessory to a wireless telecommunications facility mounted on a utility pole in the public right-of-way. The utility pole located in the public right-of-way is not subject to this Conditional Use review because the regulations of Title 33, Portland Zoning Code, are not applicable to the public rights-of-way except under a few specific instances (Section 33.10.030.B. 1-5). This proposal is not one of the five specific situations in which zoning regulations and review criteria apply; therefore, this criterion is not applicable to the antennas mounted on the utility pole in the public right-of-way.

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:** As discussed under the Adjustment approval criteria, the accessory equipment will be adequately screened from the street and the property to the west by a placed inside a new equipment shelter on the western portion of the site. The accessory equipment will be screened from the east and north by a 6-foot tall, fully sight-obscuring wood fence.

The “desired character” of an area is defined in Zoning Code Section 33.910.030 as the preferred or envisioned character based on the purpose statement or character statement of the base zone and any adopted area plans.

The site is designated with the CM base zone, and the character statement for the CM zone in Section 33.130.030.G reads:

*The CM zone promotes development that combines commercial and housing uses in a single building. This development type will support transit use, provide a buffer between busy streets and residential neighborhoods, and provide new housing opportunities in the City. The emphasis of the nonresidential uses is primarily on locally oriented retail, service, and office uses. Development is intended to be pedestrian-oriented with buildings close to and oriented to the sidewalk, especially at corners.*

The accessory equipment occupies an area of the site also occupied by a billboard. The fenced area containing the accessory equipment is fairly small (approximately 290 square feet) and the fence and hedge surrounding it almost completely screen it from view. For the most part, the view from the street and property to the west will be of the existing hedge while the view from the north and east will be of the 6-foot tall wooden fence. Furthermore, the equipment is located beneath an

existing billboard which diverts attention away from the accessory equipment. Therefore, the proposal is compatible with the desired character described above.

The site is also located in the Main Street Corridor Overlay zone (“m”) and the character statement for the “m” overlay in Section 33.460.010 reads:

*These regulations encourage higher density residential uses by allowing greater building heights, reducing required building coverage for residential development; and allowing more flexibility in site design. The intent of the zone is to provide transit-supportive levels of residential and mixed-use development along identified main streets.*

Once again, the proposal is compatible with the desired character of the “m” overlay zone.

The site is also within the boundaries of the Division Green Street/Main Street Plan. However, none of the plan’s policies were found to be applicable to this type of proposal in this part of the plan area.

Based on the information above, 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 discussed below are the development standards of Chapter 33.274 - Radio Frequency Transmission Facilities. As discussed in detail under 33.274.040, below, all applicable regulations are met; therefore, this criterion is met.

## **Adjustments**

### **33.805.010 Purpose**

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 applicant requests one adjustment allow the existing hedge and new 6-foot tall wooden fence to screen the accessory equipment in lieu of the required 5-foot deep landscaped area planted to the L3 requirement of the Portland Zoning Code.

The purpose for the screening regulations for accessory equipment is found in 33.274.040.C, which states:

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

The proposal meets the intent of the screening standards. The existing hedge provides full screening from the street and the property to the west. The proposed fence provides adequate screening from the residentially-zoned property to the north and from the east. In order to ensure that the accessory equipment is properly screened from the north and east. A condition of approval will require a solid wood fence be installed rather than a chain-link fence with slats as originally proposed. The condition states that a 6-foot tall solid wood fence will be constructed to screen the accessory equipment from the north and east. The existing hedge and new wooden fence ensure the screened accessory equipment is compatible with the adjacent uses. 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 proposal is located in a C zone. SE Division Street at this location is classified as a Major Transit Priority Street, a Neighborhood Collector, a Major Emergency Response Street, a City Walkway and a Local Service Bikeway. The proposal is consistent with these classifications. The desired character is addressed above under the Conditional Use approval criteria. As found under criterion 33.815.225.A, the proposal is consistent with the descriptions of the CM zone and “m” overlay and does not conflict with any policies in the Division Green Street/Main Street Plan. 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; therefore, this criterion is not applicable.

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

**Findings:** There are no City-designated scenic or historic resources on the site; therefore, this criterion is not applicable.

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

**Findings:** Impacts are appropriately mitigated through the use of the existing mature hedge for screening from the street and west and the installation of the 6-foot tall solid wood fence for screening from the north and east. A condition of approval requires that a 6-foot tall wood fence will be built instead of the proposed chain-link fence with slats. This condition ensures a more attractive fence will be constructed. 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.

### **33.274.040 Development Standards**

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

#### **B. When the standards apply.**

1. Unless exempted by 33.274.030, above, the development standards of this section apply to all Radio Frequency Transmission Facilities.
2. Applications to modify existing facilities regulated by this chapter are required to meet the development standards and conditions of approval only for elements of the facility that are being modified. In addition, any elements of the original approval that have moved out of compliance with development standards that applied when the facility was approved, such as landscape materials, or applicable conditions of approval, must be brought back into compliance.

#### **C. General requirements**

1. Tower sharing. New facilities must co-locate on existing towers or other structures to avoid construction of new towers, unless precluded by structural limitations, inability to obtain authorization by the owner of an alternative location, or where an alternative location will not meet the service coverage objectives of the applicant. 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.
2. Grouping of towers. The grouping of towers that support radio or television broadcast facilities on a site is encouraged where technically feasible. Tower grouping may not result in radio frequency emission levels exceeding the standards stated in C.5, below.
3. Tower finish. For towers not regulated by the Oregon Aeronautics Division or Federal Aviation Administration, a finish (paint/surface) must be provided that reduces the visibility of the structure.
4. Tower illumination. Towers must not be illuminated except as required for the Oregon State Aeronautics Division or the Federal Aviation Administration.

**Findings:** The proposed facility will be mounted in the public right of way. No new tower is proposed. These standards are not applicable.

5. Radio frequency emission levels and exposure limits. All Radio Frequency Transmission Facilities must operate within the radio frequency emissions levels and comply with the exposure limits established by the Federal Communications Commission (FCC). Applicants must certify that the proposed facility will be in compliance with FCC emissions standards with the permit application.

**Findings:** The antennas will be mounted on a replacement utility pole located in the public right of way. The wireless service provider has a franchise agreement with the City of Portland that allows wireless facilities to be mounted in the public rights of way. Clauses in the franchise agreement require that antennas so mounted comply with the FCC emission limits. The FCC emission limits are not applicable to the accessory equipment, and therefore this criterion is not applicable.

*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. Because this land use review was submitted after those standards took effect, this Conditional Use review cannot be denied on the issue of harmful radio frequency emission levels.

6. Antenna requirements. Antennas must be secured from public access, either by vertical or horizontal separation, fencing, locked access, or other measures as appropriate.

**Findings:** The antennas will be located in the public right of way, and are not subject to this Conditional Use review. This standard is not applicable.

7. Setbacks.
  - a. 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.
  - b. Accessory equipment or structures must meet the base zone setback standards that apply to accessory structures.
  - c. Tower guy anchors must meet the base zone setback standards that apply to buildings.

**Findings:** These standards do not apply as the facility will be mounted on a utility pole in the public right of way. The accessory equipment will be located at grade, and based on the submitted plans, the accessory equipment meets the base zone setback standards.

8. 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:
    - (1) Generally. Except as provided in (2), below, a landscaped area that is at least 5 feet deep and meets the L3 standard must be provided around the base of a tower and all accessory equipment or structures.
    - (2) Exception. If the base of the tower and any accessory equipment or structures are screened by an existing building or fence, then some or all of the required landscaping may be relocated subject to all of the following standards.
      - The building or fence must be on the site;



- The fence must be at least six feet in height and be totally sight-obscuring;
  - The relocated landscaping must meet the L2 standard. The relocated landscaping cannot substitute for any other landscaping required by this Title;
  - The applicant must demonstrate that the lease includes provisions for planting and ongoing maintenance of the substitute landscaped area; and
  - If any part of the base of the tower or accessory equipment is not screened by a building or fence, 5 feet of L3 landscaping must be provided.
- b. In OS or R zones or within 50 feet of an R zone. A tower and all accessory equipment or structures located in an OS or R zone or within 50 feet of an R zoned site must meet the following landscape standards:
- (1) Tower landscaping. A landscaped area that is at least 15 feet deep and meets the L3 standard must be provided around the base of the tower.
  - (2) Accessory equipment and structures. A landscaped area that is at least 10 feet deep and meets the L3 standard must be provided around the base of all accessory equipment or structures located at grade.
- c. In all zones, equipment cabinets or shelters located on private property that are associated with Radio Transmission Facilities mounted in a right-of-way must be screened from the street and any adjacent properties by walls, fences or vegetation. Screening must comply with at least the L3 or F2 standards of Chapter 33.248, Landscaping and Screening, and be tall enough to screen the equipment.

**Findings:** Only standard 7.a and 7.c are applicable. Findings above under Adjustments demonstrate that adequate screening is proposed for the accessory equipment. With a condition of approval, this standard is met.

9. Tower design.
- a. For a tower accommodating a radio or television broadcast facility, the tower must be designed to support at least two additional radio or television broadcast transmitter/antenna systems 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:** These standards do not apply, as no new tower is proposed.

10. Mounting device. The mounting device or mounting structure used to mount facilities to an existing building or other non-broadcast structure may exceed the height limit of the base zone but may not project more than 10 feet above the roof or parapet of the building or other non-broadcast structure.

**Findings:** The mounting device for the antennas in the right of way is not subject to this conditional use review. This standard is not applicable.

11. Abandoned facilities. A tower or mounting device on a non-broadcast structure 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 or mounting device has been in use for more than six months.

**Findings:** The facility is located in the public right of way, and is subject to the requirements of the franchise agreement with the City that allows wireless to be located in the public rights of way. This standard is not applicable.

#### **D. Additional requirements.**

1. Personal wireless service facilities located in OS, R, C, or EX zones, and personal wireless service facilities located in EG or I zones within 50 feet of an R zone must meet all of the following standards:
  - a. Antennas mounted on towers. Triangular “top hat” style antenna mounts are prohibited. Antennas must be mounted to a tower either on davit arms that are no longer than 5 feet, flush with the tower, within a unicast style top cylinder, or other similar mounting technique that minimizes visual impact.
  - b. Lattice. Lattice towers are not allowed.
2. The minimum site area required for a tower in an R zone is 40,000 square feet.

**Findings:** These standards do not apply as the facility will be mounted on a utility pole in the public right of way.

3. Applications to locate or replace accessory equipment in or within 50 feet of an R zone must be accompanied by a signed and stamped acoustical engineer’s report demonstrating that noise levels from the equipment is in full compliance with Title 18 (Noise) regulations, or demonstrating that with appropriate sound proofing mitigation, that the equipment will comply with Title 18.

**Findings:** The proposal is not within 50 feet of an R zone; therefore, this criterion is not applicable. .

## **CONCLUSIONS**

The proposed accessory equipment will be adequately screened by fencing and existing landscaping and will not have negative impacts on adjacent properties. The proposal meets that applicable approval criteria and should be approved.

## **ADMINISTRATIVE DECISION**

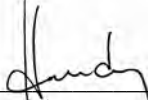
Approval of a Conditional Use Review for accessory equipment located on private property serving a Radio Transmission Facility located in the public right-of-way and approval of an Adjustment Review to allow an existing hedge and fence to substitute for the required landscaped setback and landscaping, per the approved site plans, Exhibits C-1 through C-3, signed and dated January 23, 2015, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related condition (B) 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 14-244780 CU AD." All requirements must be

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

- B. A 6-foot tall solid wood fence will be constructed to screen the accessory equipment from the north and east. The fence will also be constructed between the hedge and the equipment on the south and west sides.

**Staff Planner: Matt Wickstrom**

**Decision rendered by:**  **on January 23, 2015**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: January 28, 2015**

**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 December 3, 2014, and was determined to be complete on December 24, 2014.

*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 December 3, 2014.

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. Unless further extended by the applicant, **the 120 days will expire on: April 23, 2015.**

**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 February 11, 2015** at 1900 SW Fourth Ave. Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 12:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 12:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5<sup>th</sup> 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. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. 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](http://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 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, 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 **February 12, 2015 – (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.

**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:

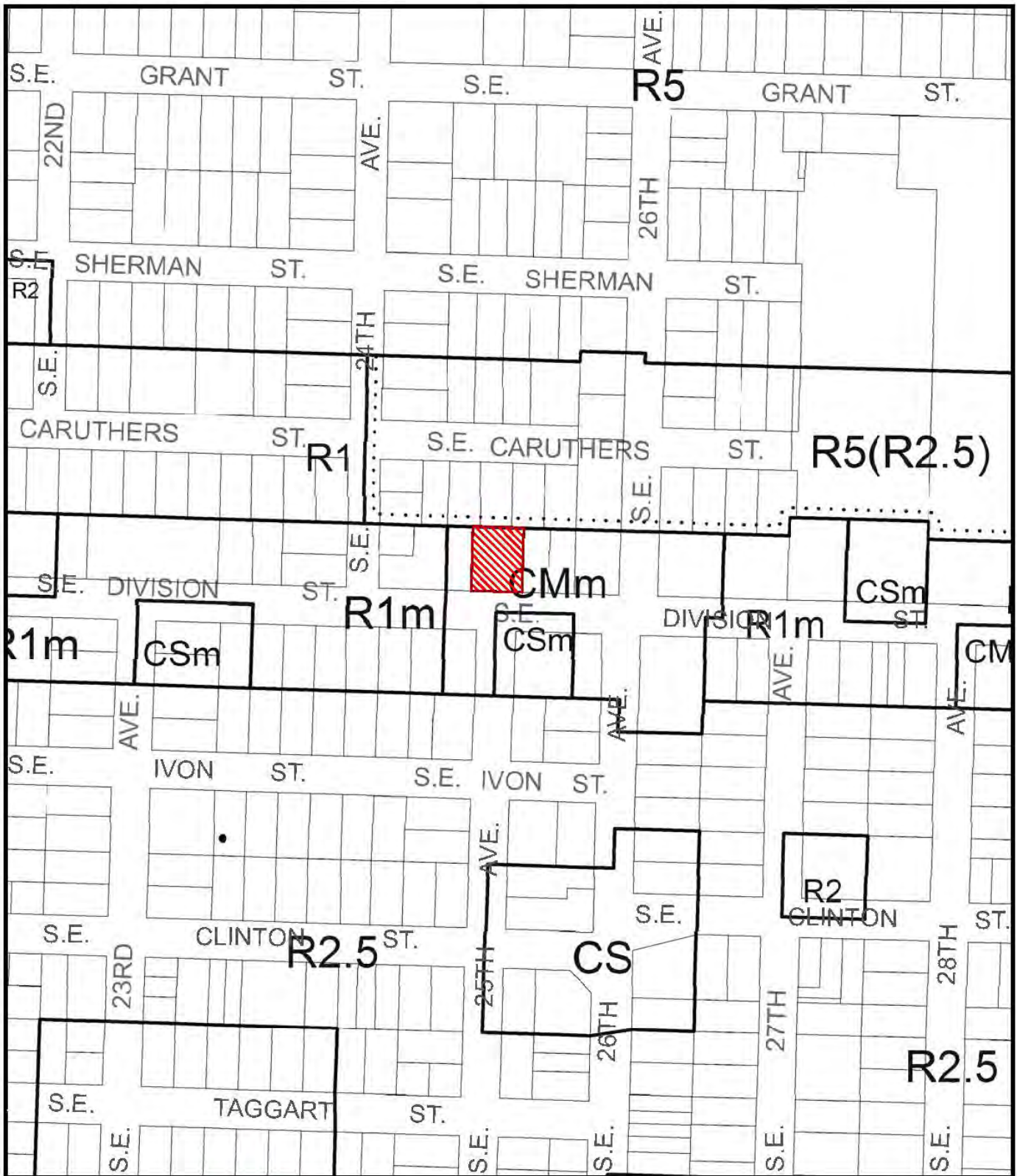
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement and Original LU Application
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Overall Site Plan (attached)
  - 2. Enlarged Site Plan (attached)
  - 3. South and West Elevation Drawings
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Water Bureau
  - 2. Life Safety Section of the Bureau of Development Services
  - 3. Summary sheet of Bureau responses
- F. Correspondence: None

**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



Historic Landmark

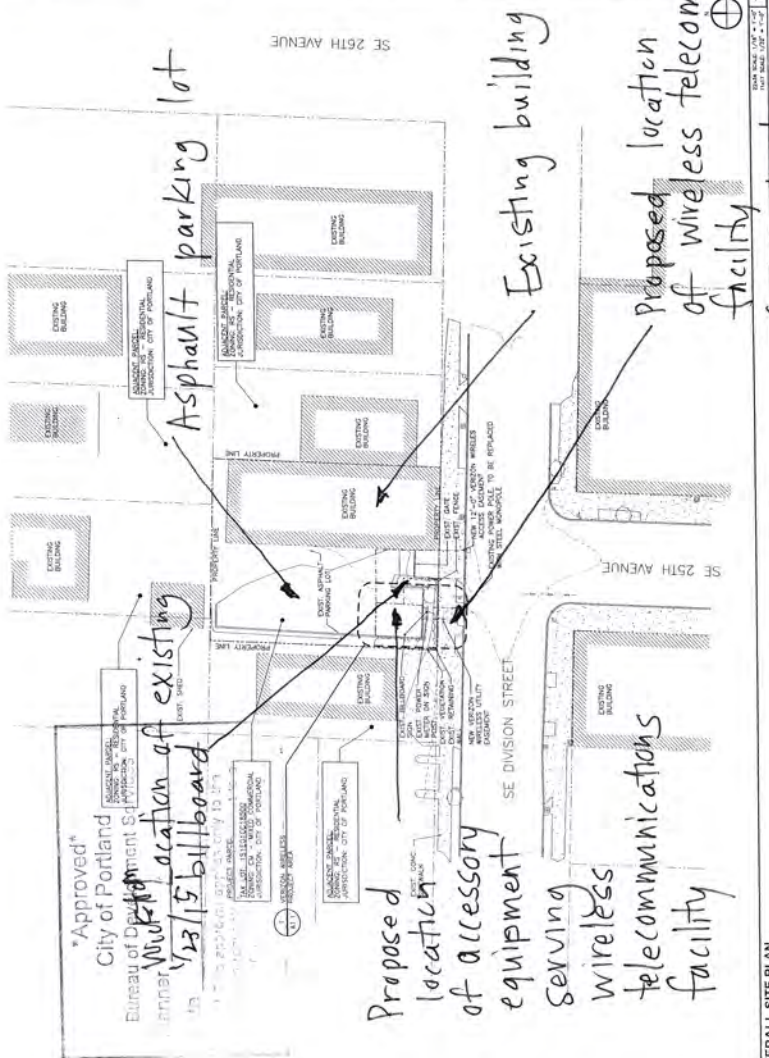


File No. LU 14-244780 CU,AD  
 1/4 Section 3233,3333  
 Scale 1 inch = 200 feet  
 State\_Id 1S1E01CC 18500  
 Exhibit B (Dec 05,2014)



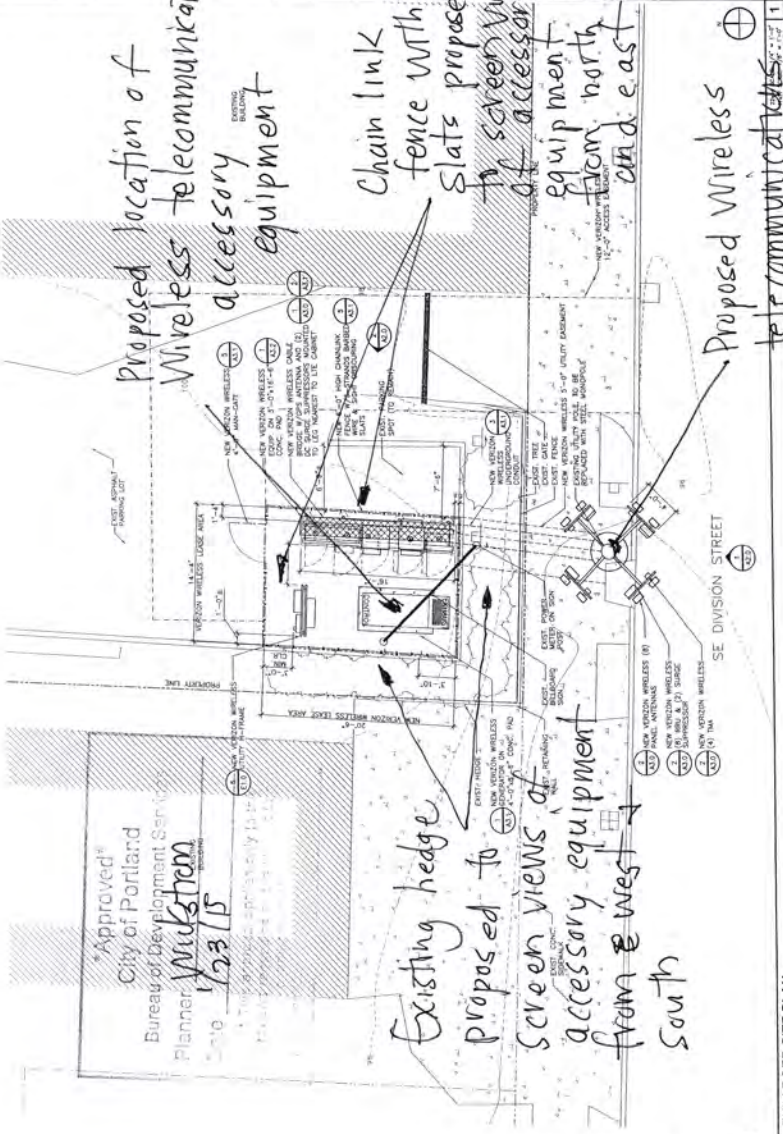
PROJECT: LU14-244780CU, AD	DATE: 10/13/2014
PROJECT: LU14-244780CU, AD	DATE: 10/13/2014
PROJECT: LU14-244780CU, AD	DATE: 10/13/2014
PROJECT: LU14-244780CU, AD	DATE: 10/13/2014
PROJECT: LU14-244780CU, AD	DATE: 10/13/2014
PROJECT: LU14-244780CU, AD	DATE: 10/13/2014
PROJECT: LU14-244780CU, AD	DATE: 10/13/2014
PROJECT: LU14-244780CU, AD	DATE: 10/13/2014
PROJECT: LU14-244780CU, AD	DATE: 10/13/2014
PROJECT: LU14-244780CU, AD	DATE: 10/13/2014
PROJECT: LU14-244780CU, AD	DATE: 10/13/2014
PROJECT: LU14-244780CU, AD	DATE: 10/13/2014
PROJECT: LU14-244780CU, AD	DATE: 10/13/2014
PROJECT: LU14-244780CU, AD	DATE: 10/13/2014
PROJECT: LU14-244780CU, AD	DATE: 10/13/2014
PROJECT: LU14-244780CU, AD	DATE: 10/13/2014
PROJECT: LU14-244780CU, AD	DATE: 10/13/2014
PROJECT: LU14-244780CU, AD	DATE: 10/13/2014
PROJECT: LU14-244780CU, AD	DATE: 10/13/2014

Drawn by: POB HOSPERO  
 200 W. 18th St  
 Portland, OR 97201  
 Project No.: 10000000000000000000  
 Title: CONSTRUCTION COMMUNICATIONS PLAN  
 Date: 10/13/2014  
 Scale: A1.0



(not subject of this review)

Condition of approval requires a 6-foot tall wooden fence to screen equipment from north and east.



Proposed location of Wireless telecommunication accessory equipment

Chain link fence with slats proposed to screen views of accessory equipment from north and east

Proposed Wireless telecommunication facility not subject of this review.

Existing hedge proposed to screen views of accessory equipment from west & south

Approved by City of Portland  
Bureau of Development Services  
Planner: Wickstrom  
1/23/15

ENLARGED SITE PLAN

LU14-244780CU, AD

Exhibit C-2

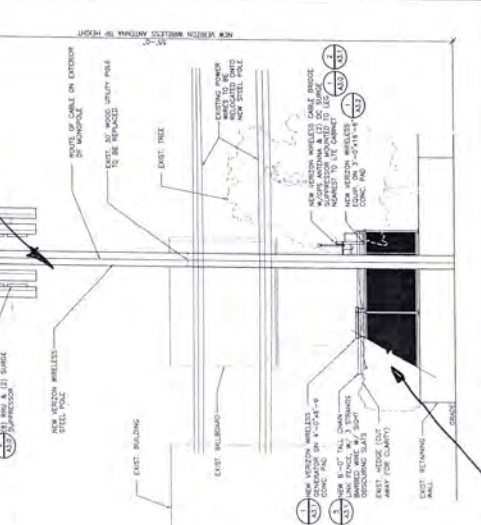
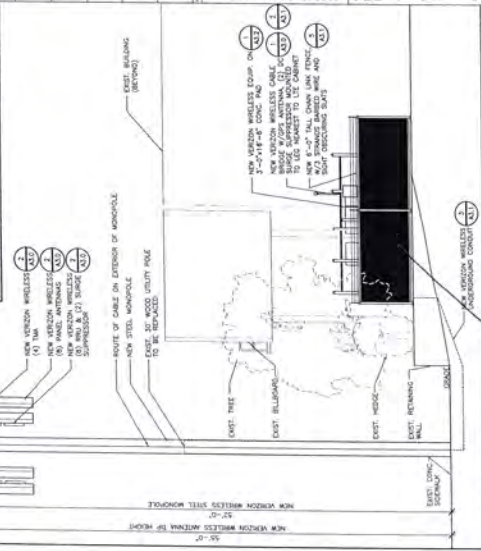
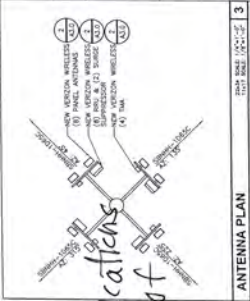


\*Approved\*  
 City of Portland  
 Bureau of Development Services  
 1/23/15

Winkler  
 1/23/15

Proposed telecommunications facility (not subject of review) This

verizon wireless  
 City of Portland  
 Bureau of Development Services  
 1/23/15



1 WEST ELEVATION  
 2 SOUTH ELEVATION  
 ELEVATIONS  
 A2.0  
 Chain link fence with slats proposed to screen accessory equipment from north and west  
 Existing 6-foot tall hedge proposed to screen accessory equipment from south and east

W14-244780CU,AD

Exhibit C-2