



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

Dan Ryan, Commissioner  
Rebecca Esau, Director  
Phone: (503) 823-7300  
Fax: (503) 823-5630  
TTY: (503) 823-6868  
[www.portland.gov/bds](http://www.portland.gov/bds)

**Date:** July 14, 2022  
**To:** Interested Person  
**From:** Hillary Adam, Land Use Services  
503-823-8953 / [Hillary.Adam@portlandoregon.gov](mailto:Hillary.Adam@portlandoregon.gov)

## **NOTICE OF A TYPE I DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

The Bureau of Development Services has a approved proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision 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 22-138634 DZ CU – ROOFTOP RADIO FREQUENCY FACILITY ALTERATIONS**

#### **GENERAL INFORMATION**

**Applicant:** Melissa Juel 503-508-6799 / [melissa.juel@taec.net](mailto:melissa.juel@taec.net)  
Technology Associates EC Inc  
3 Monroe Parkway Suite P 313  
Lake Oswego, OR 97035

**Owner:** Nemo & Sons LLC  
1875 SE Belmont St  
Portland, OR 97214

**Party of Interest:** T-Mobile Usa, Inc.  
830 NE Holladay St  
Portland, OR 97232

**Site Address:** 1875 SE BELMONT ST

**Legal Description:** TL 13300 0.28 ACRES, SECTION 02 1S 1E  
**Tax Account No.:** R991020360  
**State ID No.:** 1S1E02AB 13300  
**Quarter Section:** 3132

**Neighborhood:** Buckman, contact John Rose or Josh Baker at [buckmanlandusepdx@gmail.com](mailto:buckmanlandusepdx@gmail.com)

**Business District:** Belmont Business Association, contact at [info@belmontdistrict.org](mailto:info@belmontdistrict.org)  
**District Coalition:** Southeast Uplift, contact Matchu Williams at [matchu@seuplift.org](mailto:matchu@seuplift.org)

**Plan District:** None

**Zoning:** CM2(MU-U)d – Mixed Use Commercial 2 with Design overlay

**Case Type:** DZ CU Design Review and Conditional Use Review  
**Procedure:** Type I, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

**Proposal:**

The applicant proposes alterations to the existing rooftop Radio Frequency Facility in a Design overlay zone. The existing facility includes three antennas located near the center of the roof, whereas the proposed facility includes one antenna in the same location with one antenna located at the northeast corner of the roof and one antenna located at the northwest corner of the roof.

The proposal requires Design Review for non-exempt exterior alterations in the Design overlay zone.

The proposal requires Conditional Use Review because the antennas are located within 50' of a residential zone.

**Relevant Approval Criteria:**

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

- Portland Zoning Code Section 33.815.225.B
- Portland Citywide Design Guidelines

## ANALYSIS

**Site and Vicinity:** The site includes two adjacent parcels which together contain approximately 18,000 square feet. The site is located at the northwest corner of the intersection of SE 19<sup>th</sup> Avenue and SE Belmont Street. Approximately the eastern two-thirds of the site is developed with a two-story commercial/industrial structure with the lower story falling below grade on the northerly portion of the site due to topographical changes between the interior of the site and SE Belmont. The building includes a large barrel roof projecting above the parapet walls and includes a large monitor with north-facing windows. The westerly section of the building is developed with a paved loading and parking area with a curb cut and access to SE Belmont Street.

The surrounding area includes a mixture of residential, office, light industrial, open space, and other uses.

**Zoning:** The Commercial/Mixed Use 2 (CM2) zone is a medium-scale zone intended for sites in a variety of centers, along corridors, and in other mixed use areas that have frequent transit service. The zone allows a wide range and mix of commercial and residential uses, as well as employment uses that have limited off-site impacts. Buildings in this zone will generally be up to four stories tall unless height and floor area bonuses are used, or plan district provisions specify other height limits. Development is intended to be pedestrian-oriented, provide a strong relationship between buildings and sidewalks, and complement the scale of surrounding residentially zoned areas.

The Design overlay zone ensures that Portland is both a city designed for people and a city in harmony with nature. The Design overlay zone supports the city's evolution within current and emerging centers of civic life. The overlay promotes design excellence in the built environment through the application of additional design standards and design guidelines that:

- Build on context by enhancing the distinctive physical, natural, historic and cultural qualities of the location while accommodating growth and change;
- Contribute to a public realm that encourages social interaction and fosters inclusivity in people's daily experience; and
- Promotes quality and long-term resilience in the face of changing demographics, climate and economy.

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

- LU 03-160669 CU AD – Conditional Use approval for a new AT&T wireless communication facility including two roof-mounted antenna sectors at the northeast and southeast corners of the building with two antennas each, for a total of four antennas as well as a 9’x22’ fenced leased area for ground-mounted support equipment. An Adjustment was also approved to reduce the required amount of landscaping around the fenced leased area.
- LU 05-176094 CU – Conditional Use approval for a new T-Mobile wireless communication facility with 4 antennas, concealed by a shroud on the roof of an existing building.
- LU 11-143466 CU – Conditional Use approval for three new AT&T panel antennas and associated equipment.

**Agency Review:** A Notice of Proposal in your Neighborhood was mailed on **June 13, 2022**. The following Bureaus have responded with no issues or concerns about the proposal:

- Police Bureau

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on **June 13, 2022**. One written response has been received from either the Neighborhood Association or notified property owners in response to the proposal.

- Jon Garrison, on June 24, 2022, wrote with safety concerns regarding exposure due to the proximity of the antennas to his home.

*Staff Response:* Staff spoke with Jon Garrison on June 27, 2022 and provided via email emission and exposure safety information provided by the applicant.

## ZONING CODE APPROVAL CRITERIA

### (1) Chapter 33.825 Design Review

#### Section 33.825.010 Purpose of Design Review

Design review implements the Design overlay zone, strengthening these areas as places designed for people. Design review supports development that builds on context, contributes to the public realm, and provides high quality and resilient buildings and public spaces.

#### 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 Portland Citywide Design Guidelines.

#### Portland Citywide Design Guidelines

The Portland Citywide Design Guidelines consist of a set of guidelines for design cases in community planning areas outside of the Central City. The Portland Community Design Guidelines focus on three tenets: **Context**, balancing the aspirations of the future desired character with today’s setting; **Public Realm**, strengthening a building and site’s relationship with the public rights-of-way and open spaces; and **Quality And Resilience**, underscoring holistic site and building designs that benefit people and climate.

*Staff has considered all guidelines and has addressed only those guidelines considered applicable to this project.*

#### **06: Integrate and minimize the impact of parking and building services.**

Possible design approaches may include, but are not limited to:

- Vehicles and Parking - Screening and buffering vehicle areas from pedestrians and integrating parking into the building design.

- Utilities, Trash and Recycling - Siting and screening utilities, trash, and recycling enclosures away from public realm.
- Vaults - Integrating and concealing vaults within open areas.
- Stormwater Planters - Integrating stormwater with multiple uses, such as buffering, placemaking, and seating opportunities.
- Long-Term Bicycle Parking - Designing bicycle parking to encourage use by adding bike lobbies and bike repair amenities.

**Findings:** The proposed radio frequency antennas are an accessory use of the existing building, meant to serve the general public through the provision of enhanced cellular connectivity. The proposed antennas are located at the roof, away from the public realm, and are proposed to be painted a light gray color to help them visually recede into the background, particularly on Portland’s often cloudy days. While they will be visible from the street and surrounding properties, locating them at the rooftop, allows the building façade to be unmarred by these attachments. Often when located on rooftops, such equipment is required to be screened with a FRP enclosure, intended to mimic a rooftop penthouse, in order to mask the antennas from the public view. However, in this instance, with the building being shorter, adding enclosures would add to the bulk of the equipment on the roof and would make the addition of the equipment even more apparent and would further impede views of the sky. *This guideline is met.*

## **(2) Chapter 33.815 Conditional Use Review**

### **33.815.010 Purpose of Conditional Use Review**

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 personal wireless service facilities 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 for 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 façade 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 proposes to mitigate the visual effect of the antennas by painting the equipment in a light gray color to match the color of the rooftop and the often-gray cloudy sky of Portland. As noted above, enclosing the antennas would unnecessarily add to the bulk of the proposal; therefore, painting the equipment light gray sufficiently minimizes the visual impact of the antennas. *This criterion is met.*

2. Accessory equipment associated with the facility must be adequately screened. If a new structure will be built to store the accessory equipment, the new structure must be designed to be compatible with the desired character of the surrounding area and be adequately screened.

**Findings:** Zoning Code Section 33.910 defines desired character as the “preferred and envisioned character (usually of an area) based on the purpose statement or character statement of the base zone, overlay zone, or plan district” and “it also

includes the preferred and envisioned character based on any adopted plans or design guidelines for an area.”

Below are the relevant purpose/character statements:

The Commercial/Mixed Use 2 (CM2) zone is a medium-scale zone intended for sites in a variety of centers, along corridors, and in other mixed use areas that have frequent transit service. The zone allows a wide range and mix of commercial and residential uses, as well as employment uses that have limited off-site impacts. Buildings in this zone will generally be up to four stories tall unless height and floor area bonuses are used, or plan district provisions specify other height limits. Development is intended to be pedestrian-oriented, provide a strong relationship between buildings and sidewalks, and complement the scale of surrounding residentially zoned areas. This is a mid-rise to high-rise zone with buildings of up to seven or more stories.

The Design overlay zone is applied to this zone. Design overlay zone purpose statement. The Design overlay zone ensures that Portland is both a city designed for people and a city in harmony with nature. The Design overlay zone supports the city’s evolution within current and emerging centers of civic life. The overlay promotes design excellence in the built environment through the application of additional design standards and design guidelines that:

- Build on context by enhancing the distinctive physical, natural, historic and cultural qualities of the location while accommodating growth and change;
- Contribute to a public realm that encourages social interaction and fosters inclusivity in people’s daily experience; and
- Promotes quality and long-term resilience in the face of changing demographics, climate and economy.

The applicant proposes that the accessory equipment on the roof will be painted with a light gray color to match the rooftop and the often-gray cloudy sky of Portland. The antennas are located at the northern end of the property which will make them less visible from the public open space to the south. Additional accessory equipment is located within the existing building.

The desired character is also defined as including the envisioned character based on design guidelines adopted for the area, which are the Citywide Design Guidelines, and the adopted plan for the area, which is the Buckman Community Plan.

The proposal meets the envisioned character defined by the Citywide Design Guidelines as stated in the Findings for the Design Review portion of this review, above, and incorporated herein by reference. *This criterion is met.*

3. The regulations of Chapter 33.274, Radio Frequency Transmission Facilities are met.

**Findings:** The applicant provided a NIER (non-ionizing electromagnetic radiation) letter, stamped and signed by a licensed engineer which confirms compliance with the Federal Communications Commission emission standards. This letter confirms that the proposed facility will operate within the allowable emission levels and will comply with exposure limits established by the Federal Communications Commission. The antennas will be secured from public access by their location on a private rooftop with limited access. 33.274.040.C.10 requires that mounting equipment may not extend more than 10’ above the roof, however, one drawing indicates this structure to extend to 14’ while another shows it closer to 10’; therefore, staff has added a condition limiting the extension to 10’.

*With the condition of approval that the mounting structure used to mount the facilities to the existing building may not project more than 10 feet above the roof of the building, this criterion is 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 requirements of Title 11 can be met, and 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 design review process implements the Design overlay zone, strengthening these areas as places designed for people. Design review supports development that builds on context, contributes to the public realm, and provides high quality and resilient buildings and public spaces. The conditional use review provides an opportunity to allow certain uses 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. The proposal meets the applicable design guidelines and Conditional Use criteria and therefore warrants approval.


## ADMINISTRATIVE DECISION

Approval of alterations to the existing rooftop Radio Frequency Facility in a Design overlay zone. The existing facility includes three antennas located near the center of the roof, whereas the proposed facility includes one antenna in the same location with one antenna located at the northeast corner of the roof and one antenna located at the northwest corner of the roof.

Tis approval is per the approved site plans, Exhibits C-1 through C-14, signed and dated July 7, 2022, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B through D) must be noted on each of the four 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 22-138634 DZ CU." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. At the time of building permit submittal, a signed Certificate of Compliance form (<https://www.portlandoregon.gov/bds/article/623658>) must be submitted to ensure the permit plans comply with the Design/Historic Resource Review decision and approved exhibits.
- C. No field changes allowed.
- D. The mounting structure used to mount the facilities to the existing building may not project more than 10 feet above the roof of the building.

**Staff Planner: Hillary Adam**

**Decision rendered by:**  **on July 7, 2022**

By authority of the Director of the Bureau of Development Services

**Decision mailed: July 14, 2022**

**Procedural Information.** The application for this land use review was submitted on May 3, 2022 and was determined to be complete on June 6, 2022.

*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 May 3, 2022.

*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: October 4, 2022.**

**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.

**This decision, and any conditions associated with it, is final.** It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. Contact LUBA at 775 Summer St NE Suite 330, Salem, OR 97301-1283 or phone 1-503-373-1265 for further 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).

**Recording the final decision.**

If this Land Use Review is approved the final decision will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded after **July 14, 2022** by the Bureau of Development Services.

The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder.

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 for 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. Engineering Letter
  - 3. Noise study
  - 4. Photos
  - 5. RF Facility Registration Form
  - 6. Original Drawings
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Title Sheet
  - 2. Notes & Legend
  - 3. Proposed Site Plan
  - 4. Existing Enlarged Site Plan
  - 5. Proposed Enlarged Site Plan (attached)
  - 6. Antenna Plans
  - 7. Equipment Plans
  - 8. Elevations (attached)
  - 9. Elevations (attached)
  - 10. Details
  - 11. Details
  - 12. Details
  - 13. Details
  - 14. Antenna Mounting Specification
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Police Bureau
- F. Correspondence:
  - 1. Jon Garrison, on June 24, 2022, wrote with safety concerns regarding exposure due to the proximity of the antennas to his home.
- G. Other:
  - 1. Original LU Application
  - 2. Incomplete Letter, dated May 26, 2022

**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).**