



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

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**Date:** March 27, 2009  
**To:** Interested Person  
**From:** Chris Caruso, Land Use Services  
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**NOTICE OF A TYPE II DECISION ON A PROPOSAL IN  
YOUR NEIGHBORHOOD**

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

**CASE FILE NUMBER: LU 09-104180 CU HDZ**  
**(ROOFTOP TELECOMM AT 2140 NW KEARNEY)**

**GENERAL INFORMATION**

**Applicant:** Zach Phillips (project manager)  
Pacific Telecom Services, LLC  
1001 SE Water Avenue, Suite 180  
Portland, OR 97214  
(503) 232-5213

**Representative:** Roger Moore (owner's rep)  
Housing Authority of Portland  
135 SW Ash Street  
Portland OR 97204  
(503) 802-8360

**Site Address:** 2140 NW KEARNEY STREET

**Legal Description:** TL 11800 BLOCK 1, KINGS 2ND ADD  
**Tax Account No.:** R452300110  
**State ID No.:** 1N1E33BD 11800  
**Quarter Section:** 2927  
**Neighborhood:** Northwest District, contact John Bradley at 503-313-7574  
**Business District:** Nob Hill, contact Kay Wolfe at 503-227-0898  
**District Coalition:** Neighbors West/Northwest, contact Mark Sieber at 503-823-4212

**Plan District:** Northwest  
**Other Designations:** Alphabet Historic District  
**Zoning:** RH – Residential High-Density  
**Case Type:** CU HDZ - Conditional Use Review and Historic Design Review  
**Procedure:** Type II - an administrative decision with appeal to the Landmarks Commission

**Proposal:**

The applicant, Clearwire U.S., LLC a wireless telecommunications company in the process of constructing a series of transmission sites in the Portland area, seeks historic design review and conditional use approval for the installation of a rooftop transmission facility on the six-story Gallagher Plaza residential tower at 2140 NW Kearney Street. The proposed facility is divided into two sectors and contains a total of 6 panel antennas, 3 microwave dishes, one equipment support cabinet, one GPS unit, and associated conduit runs.

One sector faces west and south and is located 3'-0" from the southwest corner of the building parapet. Equipment for this sector includes four 42" H x 6.1" W panel antennae with DAP units and one 2'-1" diameter microwave dish, all contained within a 4' x 4' x 10' square RF-transparent shroud, colored to match the building. The top of the shroud is 10'-0" above the top of the existing roof and will be anchored to the building on 4" x 6" sleepers.

The second sector consists of two 42" H x 6.1" W panel antennae with DAP units, one pole-mounted to the east face of the stair tower and the other pole-mounted to the north face of the stair tower. Two 2'-1" diameter microwave dishes will also be pole-mounted to the upper east center portion of the stair tower, one above the other. The tops of the three 4.5' tall mounting poles will align with the top of the stair tower parapet with no equipment projecting above the stair tower. Individual antennae measure 45.3" tall by 6.1" wide by 2.7" deep. All equipment and mounting devices will be painted to match the building.

One equipment cabinet is mounted to the west central portion of the rooftop surface within a 7'-0" by 7'-0" lease area on a built-up platform. The cabinet has a 2'-1" square footprint, attached HVAC and electrical panel projections, and rises 5'-2" above the support platform. Attached to one of the two cabinets is a GPS antenna, rising 5'-7" above the platform. Electrical and telecommunication conduit runs that are flush with the roof surface connect these various elements flush, as well as via one vertical conduit run along the south face of the building, connecting to the existing electrical room at ground level. All equipment and conduit will be painted to match the building.

Because the project involves non-exempt exterior alterations to a building in the Alphabet Historic District, a Type II Historic Design Review is required. Because the project involves a building-mounted Radio Frequency Transmission (wireless) Facility in a residential zone, a Type II Conditional Use Review is also required.

**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 for Radio Frequency Transmission Facilities operating at 1,000 watts ERP or less, locating on an existing building in a residential zone
- 33.274, Radio Frequency Transmission Facilities
- 33.846, Historic Design Reviews
- Community Design Guidelines
- Historic Alphabet District: Community Design Guidelines Addendum

**ANALYSIS**

**Site and Vicinity:** The subject site is located on the block bounded by NW 21<sup>st</sup> and 22<sup>nd</sup> Avenues and by NW Johnson and NW Kearney Streets in the Alphabet Historic District, which was placed on the National Register of Historic Places on November 16, 2000. The site is approximately 26,000 square feet in size and is the location of the Gallagher Plaza residential tower, a six-story concrete structure built in 1981, that is owned and operated by the Housing Authority of Portland.

A large parking lot and commercial building are located across NW Kearney Street to the north. A parking lot and commercial building containing a restaurant are located on the adjacent lot to the east. Legacy Hospital is located directly north and west of the project site. Older multi-family residences are located on lots immediately west of the site. The vicinity contains a mixture of residential structures, medical facilities, industrial buildings, retail storefronts, and small offices. NW 21<sup>st</sup> and 23<sup>rd</sup> Avenues are the nearest commercial corridors, containing mostly small boutiques, restaurants, bars, and coffee shops.

**Zoning:** The High-Density Residential (RH) zone is a high-density multi-dwelling residential zone. Density is not regulated by a maximum number of units per acre. Rather, the maximum size of buildings and intensity of use is regulated by floor-area ratio (FAR) limits and other site development standards. Generally, the density ranges from 80 to 125 units per acre. Allowed housing is characterized by medium to high height and relatively high percentage of building coverage. The major types of new housing development are low-, medium-, and high-rise apartments and condominiums. RH zones are usually well-served by transit facilities or are near areas with supportive commercial services.

The Historic Resource Protection overlay zone is comprised of Historic and Conservation Districts, as well as Historic and Conservation Landmarks. The regulations that pertain to these properties protect certain historic resources in the region and preserve significant parts of the region's heritage. Historic preservation beautifies the city, promotes the city's economic health, and helps to preserve and enhance the value of historic properties.

**Land Use History:** City records indicate one prior land use review for the site:

- VZ 322-80 – approval of a variance to reduce the number of off-street parking spaces from the required 68 to 11.

**Agency Review:** A “Notice of Proposal in Your Neighborhood” was mailed **February 27, 2009**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Site Development Section of BDS
- Parks Bureau – Urban Forestry
- Life Safety Section of BDS
- Water Bureau
- Fire Bureau
- Bureau of Transportation Engineering

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on February 27, 2009. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

## **ZONING CODE APPROVAL CRITERIA**

### **CONDITIONAL USE REVIEW**

#### **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 project involves a series of six antennae mounted to the existing 6-story building rooftop and east stair tower. Four antennae are located inside a new 4' x 4' x 10' RF-transparent shroud mounted 3 feet away from the building's southwestern edge. The applicant has proposed to paint the shroud the same color as the building, to mimic other rooftop enclosures present on the building such as the stair overruns. In order to ensure that the equipment's visual impact is minimized as much as possible, a condition of approval will require that this new shroud be painted a color to match existing and future building colors.

The remaining two antennae are mounted to the outside faces of the eastern stair tower structure. These pieces of equipment, unlike the other four, will be viewed against the background of the existing stair tower. The applicant has proposed to paint these antennae to match the existing building color. In order to ensure that the equipment's visual impact is minimized as much as possible, a condition of approval will require that these two antennae, two microwave dishes and their mounting devices be painted a color to match existing and future building colors.

The visible rooftop antennae have been separated and placed one on each face of the stair tower so that no equipment projects beyond the edges of the tower. *With the noted conditions of approval requiring a specific paint treatment for the various antennae, their visual impact can be minimized, and this criterion is therefore 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; and

**Findings:** Accessory equipment associated with the facility includes one microwave dish inside the new shroud, two microwave dishes attached to the west face of the east stair tower, one electrical cabinet with a GPS antenna mounted directly to the rooftop surface, horizontal rooftop electrical conduit runs, and a vertical conduit run extending from the rooftop facility to the electrical meter at grade. The new shroud will prevent direct views of some equipment and the height of the building will prevent direct views of the roof-mounted cabinet and conduit from the street or adjacent properties. The two stair tower-mounted microwave dishes have been located on the eastern face of the stair tower so they do not project above or beyond the edges of the tower structure. The applicant has proposed to paint this accessory equipment to match the existing building color. In order to ensure that the accessory rooftop equipment, including the vertical conduit run to grade, are adequately screened, a condition of approval will require that all accessory equipment be painted a color to match existing and future building colors. *With the noted condition of approval regarding a paint color for the accessory equipment and conduit run, this criterion is therefore met.*

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

**Findings:** The relevant regulations and standards for this proposal as discussed below, are the development standards of Chapter 33.274 - Radio Frequency Transmission Facilities. *As discussed in detail below, all applicable regulations are met; therefore, 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 development standards of Title 33 can be met, or have received an Adjustment review prior to the approval of a building or zoning permit.

**33.274.040 Development Standards Radio Frequency Transmission Facilities****A. Purpose.** The development standards:

- Ensure that Radio Frequency Transmission Facilities will be compatible with adjacent uses;
- Reduce the visual impact of towers in residential and open space zones whenever possible;
- Protect adjacent populated areas from excessive radio frequency emission levels;
- Protect adjacent property from tower failure, falling ice, and other safety hazards; and

**B. When standards apply.** Unless exempted by 33.274.030, above, the development standards of this section apply to all Radio Frequency Transmission Facilities. Applications to modify existing facilities regulated by this chapter are only required to meet the standards of Paragraphs C.3, C.4, C.5, C.6, and C.9 in addition to any previous conditions of approval. Increasing the height of a tower is not considered modification of an existing facility.

**C. General requirements**

1. **Tower sharing.** Where technically feasible, new facilities must co-locate on existing towers or other structures to avoid construction of new towers. 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 facilities operating at 1,000 watts ERP or more on a site is encouraged where technically feasible. However, tower grouping may not result in radio frequency emission levels exceeding the standards of this chapter.
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.
7. **Setbacks.** 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. Accessory equipment or structures must meet the base zone setback.
8. **Guy anchor setback.** Tower guy anchors must meet the main building setback requirements of the base zone.
9. **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:
  - 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.
10. **Tower design.**
  - a. For a tower accommodating a Radio Frequency Transmission Facility of 100,000 watts or more, the tower must be designed to support at least two additional transmitter/antenna systems of equal or greater power to that proposed by the applicant 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.

**12. Abandoned facilities.** A tower 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 has been in use for more than six months.

**Findings for C.1, C.2, C.3, C.4, C.7, C.8, C.9a & b, C.10a, b & c and C.12:** The proposal is to mount the facility on an existing building. No new tower or tower accessory equipment is proposed. *Therefore, these criteria are not applicable.*

**5. Radio frequency emission levels.** All existing and proposed Radio Frequency Transmission Facilities are prohibited from exceeding or causing other facilities to exceed the radio frequency emission standards specified in Table 274-1, except as superseded by Part 1, Practice and Procedure, Title 47 of the Code of Federal Regulations, Section 1.1310, Radio Frequency Radiation Exposure Limits.

<b>Table 274-1</b> <b>Radio Frequency Emission Standards [1]</b>			
Frequency Range	Mean Squared Electric ( $E^2$ ) Field Strength ( $V^2/m^2$ ) [2]	Mean Squared Magnetic ( $H^2$ ) Field Strength ( $A^2/m^2$ ) [3]	Equivalent Plane-Wave Power Density ( $mW/cm^2$ ) [4]
100 KHz – 3 MHz	80,000	0.5	20
3 MHz – 30 MHz	4,000 ( $180/f^2$ ) [5]	0.025 ( $180/f^2$ )	$180/f^2$
30 MHz – 300 MHz	800	0.005	0.2
300 MHz – 1500 MHz	4,000 ( $f/1500$ )	0.025 ( $f/1500$ )	$f/1500$
1500 MHz – 300 GHz	4,000	0.025	1.0

Notes:

[1] All standards refer to root mean square (rms) measurements gathered by an approved method.

[2]  $V^2/m^2$  = Volts squared per meter squared.

[3]  $A^2/m^2$  = Amperes squared per meter squared.

[4]  $mW/cm^2$  = Milliwatts per centimeter squared.

[5]  $f$  = Frequency in megahertz (MHz).

**Findings:** The proposed facility will operate within frequencies in the range of 2500-2690 MHz for the panel antennae and 5-24 GHz for the point to point microwave dish antennae. The Effective Radiated Power for the facility is less than 100 watts, and the maximum allowed power density level is 1.0  $mW/cm^2$  [Milliwatts per centimeter squared]. Calculations submitted by the applicant indicate that the power density exposure levels are approximately 0.002731  $mW/cm^2$ , which is significantly less (0.27%) than the maximum allowed. *Therefore, this criterion is met.*

*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, which are virtually the same as those reflected in Table 274-1. Because this land use review was submitted after those standards took effect, this conditional use review cannot be denied solely on the issue of harmful radio frequency emission levels.*

**6. Antenna requirements.** The antenna on any tower or support structure must meet the minimum siting distances to habitable areas of structures shown in Table 274-2. Measurements are made from points A and B on the antenna to the nearest habitable area

of a structure normally occupied on a regular basis by someone other than the immediate family or employees of the owner/operator of the antenna. Point A is measured from the highest point of the antenna (not the mounting device) to the structure, and Point B is measured from the closest point of the antenna to the structure.

<b>Table 274-2</b> <b>Distance Between Antenna and Habitable Area of Structure</b> (Where f is frequency in megahertz.)			
Effective Radiated Power	Frequency (MHz)	Point A: Minimum Distance From Highest Point of Antenna To Habitable Area of Structure (feet)	Point B: Minimum Distance From Closest Portion Of Antenna To Habitable Area of Structure (feet)
< 100 watts		10	3
100 watts to 999 watts		15	6
1,000 watts to 9,999 Kw	< 7	11	5
	7 - 30	$f/0.67$	$f/1.5$
	30 - 300	45	20
	300 - 1500	$780/\sqrt{f}$	$364/\sqrt{f}$
	> 1500	20	10
10 Kw plus	< 7	17.5	8
	7 - 30	$f/0.4$	$f/0.91$
	30 - 300	75	33
	300 - 1500	$1300/\sqrt{f}$	$572/\sqrt{f}$
	1500	34	15

**Findings:** The antennae will operate at less than 100 watts ERP, and thus the top of the antennae are required to be at least 10'-0" feet from habitable space (Point A) and the bottom of the antennas are required to be at least 3'-0" feet from habitable space (Point B), per Table 274-2. The applicant proposes that the top of the antennas are mounted 10'-0" feet from the habitable space, and the bottom of the antennas will be 5'-11" feet from habitable space of the building. *This criterion is therefore met.*

- 11. Mounting device.** The device or structure used to mount facilities operating at 1,000 watts ERP or less to an existing building or other non-broadcast structure may not project more than 10 feet above the roof of the building or other non-broadcast structure.

**Findings:** The pole mounts used to support the antennae are proposed to be 10'-0" maximum above the rooftop. *This criterion is therefore met.*

**D. Additional requirements in OS, R, C, and EX zones and EG and I zones within 50 feet of an R zone.**

- 1. Purpose.** These additional regulations are intended to ensure that facilities operating at 1,000 watts ERP or less have few visual impacts. The requirements encourage facilities that look clean and uncluttered.
- 2. Standards.** In addition to the regulations in Subsection C., above, facilities operating at 1,000 watts ERP or less located in OS, R, C, or EX zones or 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 unicell style top cylinder, or other similar mounting technique that minimizes visual impact.

**Findings:** The proposal is to mount the antennas on an existing building. No new tower is proposed. *Therefore, this criterion is not applicable.*

- b. Antennas mounted on existing buildings or other non-broadcast structures. This standard only applies to facilities located in OS or R zones or within 50 feet of an R zone. The visual impact of antennas that are mounted to existing buildings or other non-broadcast structures must be minimized. For instance, on a pitched roof, an antenna may be hidden behind a false 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. The specific technique will be determined by the conditional use review.

**Findings:** As previously discussed under criterion 33.815.225 A.1, the visual impact of the antennae has been minimized by virtue of their placement within a new RF transparent shroud as well as on a localized area of the east stair tower. In addition, conditions of approval will ensure an appropriate paint finish for the antennae, ensuring that their visual impacts are minimized. *As discussed in this earlier finding, and with the noted conditions regarding paint finish, this criterion is therefore met.*

- c. Lattice. Lattice towers are not allowed.

**Findings:** The proposal is to mount the facility on an existing building. No new tower is proposed. *Therefore, this criterion is not applicable.*

- E. Additional requirements in R zones.** The minimum site area required for a tower in an R zone is 40,000 square feet. This regulation must be met in addition to the regulations in Subsections C. and D., above.

**Findings:** The proposal is to mount the facility on an existing building. No new tower is proposed. *Therefore, this criterion is not applicable.*

## **Chapter 33.846 – Historic Reviews**

### **Purpose of Historic Design Review**

Historic Design Review ensures the conservation and enhancement of the special characteristics of historic resources.

### **Historic Design Review Approval Criteria**

Requests for historic design review will be approved if the review body finds the applicant has shown that all of the approval criteria have been met.

**Findings:** The site is located within the Alphabet Historic District; therefore, the proposal requires Historic Design Review approval. The applicable design guidelines are the Community Design Guidelines and the Historic Alphabet District Community Design Guidelines Addendum [33.846.060 E.1.c]

### **Historic Alphabet District - Community Design Guidelines Addendum**

These guidelines were adopted on September 5, 2000 and were developed to work with the Community Design Guidelines to provide a set of guidelines specific to the district.

### **Community Design Guidelines**

These guidelines provide the constitutional framework for all design review areas outside the Central City that are not covered by their own specific area design guidelines. The Community Design Guidelines focus on three general categories: **(P) Portland Personality**, which establishes Portland's urban design framework; **(E) Pedestrian Emphasis**, which states that Portland is a city for people as well as cars and other transportation systems; and **(D) Project Design**, which assures that each development is sensitive to both Portland's urban design framework and the users of the city.

*Staff has considered all guidelines and has only addressed those considered applicable to this proposal. Historic Alphabet District Guidelines and Community Design Guidelines are addressed concurrently.*



**Historic Alphabet District Approval Criteria**

- 1. Historic Changes.** Most properties change over time; those changes that have acquired historic significance will be preserved.

**Findings:** No features of the building have achieved historic status nor is it a contributing resource in the Historic Alphabet District. *This guideline is therefore not applicable.*

- 2. Differentiate New from Old.** New additions, exterior alterations, or related new construction will retain historic materials that characterize a property to the extent practicable. Replacement materials should be reasonable facsimiles of the historic materials they replace. The design of new construction will be compatible with the historic qualities of the district as identified in the Historic Context Statement.

**Findings:** No historic material is present on the building so none will be affected by the proposal. The new RF-transparent shroud hides a portion of the rooftop equipment from view, mimics rooftop structures often found on these modern concrete buildings, and does not visually detract from the historic qualities of the District. The stair tower-mounted antennae and equipment does not project beyond the visual frame of the stair tower, will be painted to match the building and will not negatively impact the historic qualities of the District. *This guideline is therefore met.*

- 3. Hierarchy of Compatibility.** Exterior alterations and additions will be designed to be compatible primarily with the original resource, secondarily with adjacent properties, and finally, if located within a historic or conservation district, with the rest of the District. Where practical, compatibility will be pursued on all three levels. New development will seek to incorporate design themes characteristic of similar buildings in the Historic Alphabet District.

**Findings:** The proposed telecom facility will be located on the roof and exterior stair tower walls of a non-contributing modern concrete building constructed in 1981. The building abuts a commercial zone to the east, a hospital and associated parking facilities to the north and northwest and high density residential to the west and south. Portions of the equipment will be housed within a new RF-transparent shroud, painted to match the building, and designed to mimic rooftop enclosures seen on these types of buildings, thereby reducing its visibility. The remaining stair tower-mounted and rooftop equipment is also painted to match the existing building and will be visually unobtrusive within the District. *This guideline is therefore met.*

**Community Design Guidelines**

- P2. Historic and Conservation Districts.** Enhance the identity of historic and conservation districts by incorporating site and building design features that reinforce the area's historic significance. Near historic and conservation districts, use such features to reinforce and complement the historic areas.

**Findings:** The building is an existing non-historic modern concrete multi-family structure erected in 1981. The building abuts a commercial zone to the east, a hospital and associated parking facilities to the north and northwest, and high density residential to the west and south. No additions or alterations are being made that would impact nearby historic resources or warrant the use of historic elements as part of this proposal. The new rooftop equipment shroud is designed in proportion with the existing building and mimics similar rooftop structures found on modern buildings of this type. Additional equipment is being mounted to the east stair tower and fits the modern aesthetic of this particular building. *This guideline is therefore met.*

- D6. Architectural Integrity.** Respect the original character of buildings when making

modifications that affect the exterior. Make additions compatible in scale, color, details, material proportion, and character with the existing building.

- D8. Interest, Quality, and Composition.** All parts of a building should be interesting to view, of long lasting quality, and designed to form a cohesive composition.

**Findings for D6 & D8:** The proposed telecom facility is integrated into the existing design of this 1981 modern concrete building. The new RF-transparent shroud fits within the overall architectural composition established by the two flanking stair towers. The support cabinet is centered within the existing roof and will be screened from view by the existing parapet. The tower-mounted equipment on the east façade of the building is set within the compositional boundary of the stair tower walls. Painting the new telecomm equipment to match the building further reduces its visibility and respects the building's original character. *These guidelines are therefore met.*

- D7. Blending into the Neighborhood.** Reduce the impact of new development on established neighborhoods by incorporating elements of nearby, quality buildings such as building details, massing, proportions, and materials.

**Findings:** The building is one of a number of modern concrete buildings located within this portion of the Alphabet Historic District. Two antenna sectors will be located within a RF-transparent shroud designed to mimic rooftop enclosures seen on these types of buildings. This shroud, which will be painted to match the building, maintains its existing proportions. The remaining antenna sector equipment is mounted to the face of the existing stair tower which faces east, toward the NW 21<sup>st</sup> commercial area. This equipment will also be painted to match the building so it blends into the façade. The equipment cabinet's location in the center of the roof will be obscured by the parapet, reducing its impact from the street and nearby buildings. *This guideline is therefore met.*

## DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33, Portland Zoning Code 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 proposal involves the installation of a wireless telecommunications facility atop the 6-story Gallagher Plaza apartments at 2140 SW Kearney. The applicant has proposed a new facility with horizontal spacing and placement of antennae designed to minimize their visual impact from the street and from adjacent properties. With conditions of approval ensuring a visually minimizing paint finish, all applicable criteria and guidelines can be satisfied, and the request merits approval.

## ADMINISTRATIVE DECISION

**Approval of Historic Design Review and Conditional Use Review** for the installation of a rooftop Radio Frequency Transmission Facility in the Alphabet Historic District, consisting of the following:

- Four panel antennae with DAP units plus one microwave dish contained in a new 4' x 4' x 10' RF-transparent shroud mounted 3' from the southwestern corner of the parapet edge;
- One panel antenna, one DAP unit and two microwave dishes pole-mounted to the east face of the eastern stair tower;
- One panel antenna and one DAP units pole-mounted to the north face of the east stair tower;

- Accessory equipment including one equipment cabinet and GPS antenna mounted to a platform at the center section of the roof; and
- Electrical and telecommunications conduit flush with the roof surface, and extending down the south face of the building façade to grade

per the approved site plans, Exhibits C-1 through C-17, signed and dated, March 25, 2009, subject to the following conditions:

- A. All antennae, conduit, shrouds, cabinets and accessory equipment are to be painted to match existing and future building color.
- B. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C-1 through C-17. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 09-104180 CU HDZ. No field changes allowed."

Decision rendered by: Chris Caruso on March 25, 2009  
By authority of the Director of the Bureau of Development Services

**Decision mailed: March 27, 2009**  
**Staff Planner: Chris Caruso**

**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 January 23, 2009, and was determined to be complete on **February 23, 2009**.

*Zoning Code Section 33.700.080* states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on January 23, 2009.

*ORS 227.178* states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period.

**Some of the information contained in this report was provided by the applicant.**

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

**Conditions of Approval.** If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term “applicant” includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

**Appealing this decision.** This decision may be appealed to the Landmarks Commission, which will hold a public hearing. Appeals must be filed **by 4:30 PM on April 10, 2009** at 1900 SW Fourth Ave. Appeals can be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-7967 to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at [www.portlandonline.com](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 Landmarks Commission is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Landmarks Commission an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

**Recording the final decision.**

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed,* The final decision may be recorded on or after **April 13, 2009**.
- 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

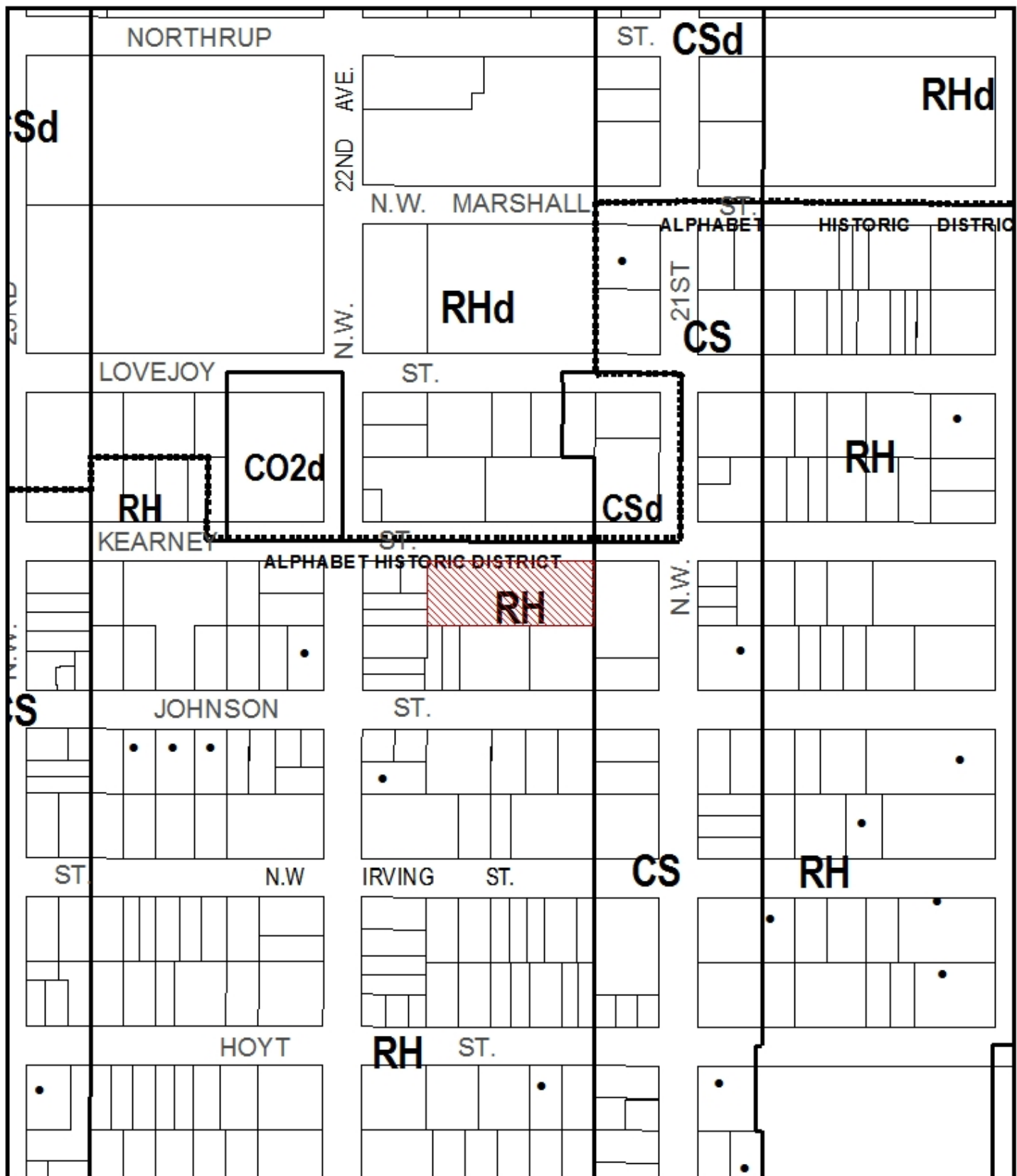
- A. Applicant's Statements
  - 1. February 24, 2009 Applicant's Statement
  - 2. January 12, 2009 Letter of transmission frequencies
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. A-2 Site Plan (attached)
  - 2. G-1 General Notes
  - 3. T-1 Title Sheet
  - 4. A-1 Parcel Plan
  - 5. A-3 Enlarged Site Plan
  - 6. A-4 South Elevation (attached)
  - 7. A-5 East Elevation (attached)
  - 8. A-6 North Elevation (attached)
  - 9. A-7 West Elevation (attached)
  - 10. A-8 Enlarged Elevations
  - 11. A-9 Cabinet Details
  - 12. A-10 Antenna Details
  - 13. A-11 Antenna Details
  - 14. RF-1 Radio Frequency Details
  - 15. E-1 Electrical Grounding Plan & Details
  - 16. Before & After Photos
  - 17. Before & After Photos
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses: none

F. Correspondence: none

G. Other:

1. Original LU Application
2. Site History Research
3. Incomplete Letter

**The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-7300 (TTY 503-823-6868).**



# ZONING



Site



Historic Landmark



NORTH

This site lies within the:  
ALPHABET HISTORIC DISTRICT HISTORIC DISTRICT  
NORTHWEST PLAN DISTRICT

File No. LU 09-104180 CU,HDZ

1/4 Section 2927

Scale 1 inch = 200 feet

State\_Id 1N1E33BD 11800

Exhibit B (Feb 06,2009)

clear wire®  
4400 CABELLON POINT  
IRVING, WA 98033

PTSS

PACIFIC TELECOM SERVICES,  
188 Pacific Avenue, Suite 400  
Seattle, WA 98101  
Phone: (206) 747-9999 Fax: (206) 747-9933

REGISTERED ARCHITECT  
RICHARD B. HALL  
SEATTLE, WA  
5008  
OF OREGON  
ELTALS

GALLACHER PLAZA

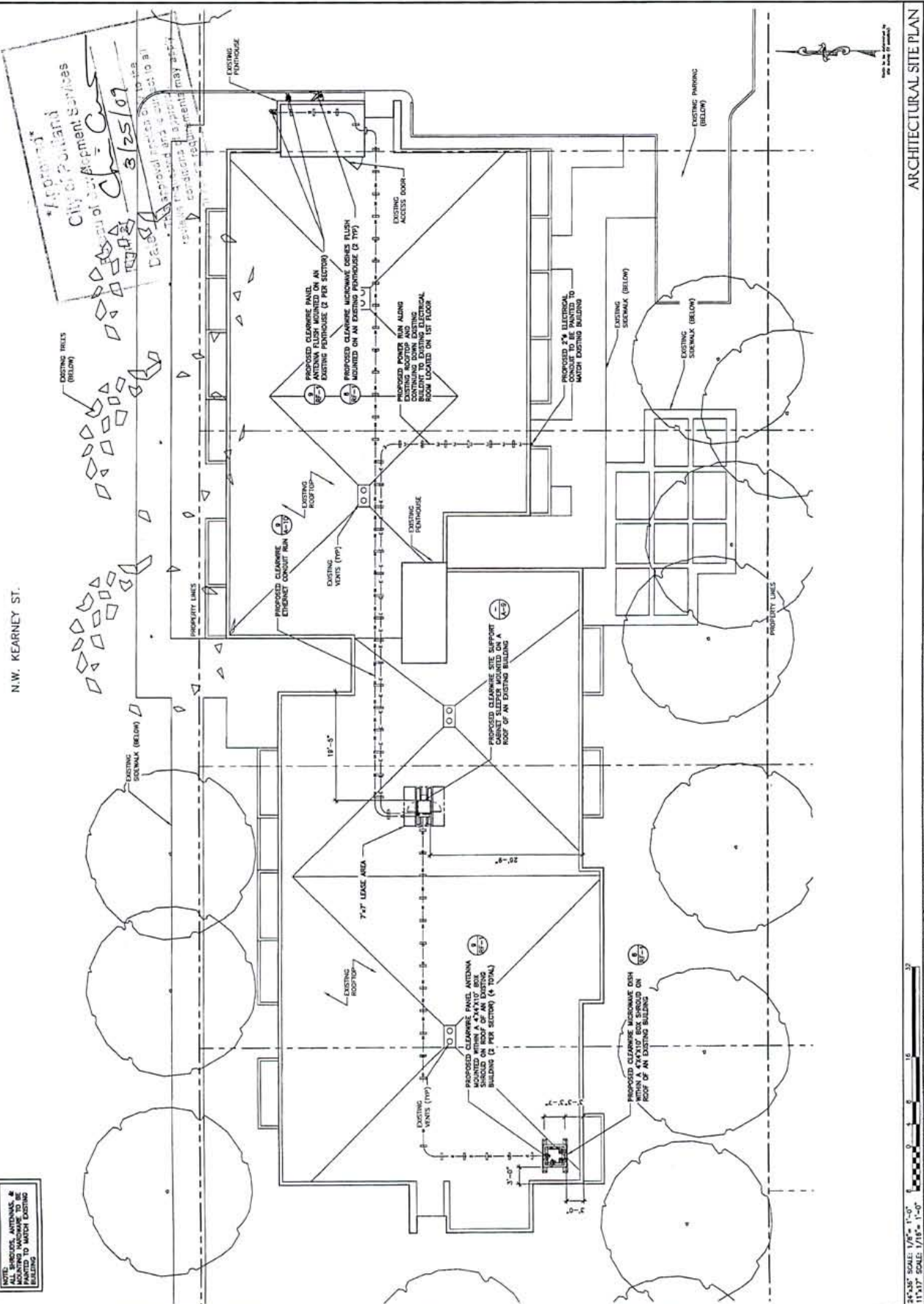
OR-POR-417-A  
2140 NW KEARNEY ST  
PORTLAND, OR 97210

REV	DATE	REVISION	NOTES
1	11-14-08	PRELIMINARY SET	20' TO 40'
2	11-14-08	FINAL SET	20' TO 40'
3	11-14-08	FINAL SET	20' TO 40'
4	11-14-08	FINAL SET	20' TO 40'
5	11-14-08	FINAL SET	20' TO 40'
6	11-14-08	FINAL SET	20' TO 40'
7	11-14-08	FINAL SET	20' TO 40'
8	11-14-08	FINAL SET	20' TO 40'
9	11-14-08	FINAL SET	20' TO 40'
10	11-14-08	FINAL SET	20' TO 40'

NOT FOR CONSTRUCTION UNLESS  
LABELLED AS CONSTRUCTION SET

SHEET TITLE  
ARCHITECTURAL SITE PLAN

SHEET NUMBER  
A-2



ARCHITECTURAL SITE PLAN

THE INFORMATION CONTAINED IN THIS SET OF CONSTRUCTION DOCUMENTS IS PROPRIETARY BY NATURE. ANY USE OR DISCLOSURE OTHER THAN THAT WHICH RELATES TO CARRIER SERVICES IS STRICTLY PROHIBITED.

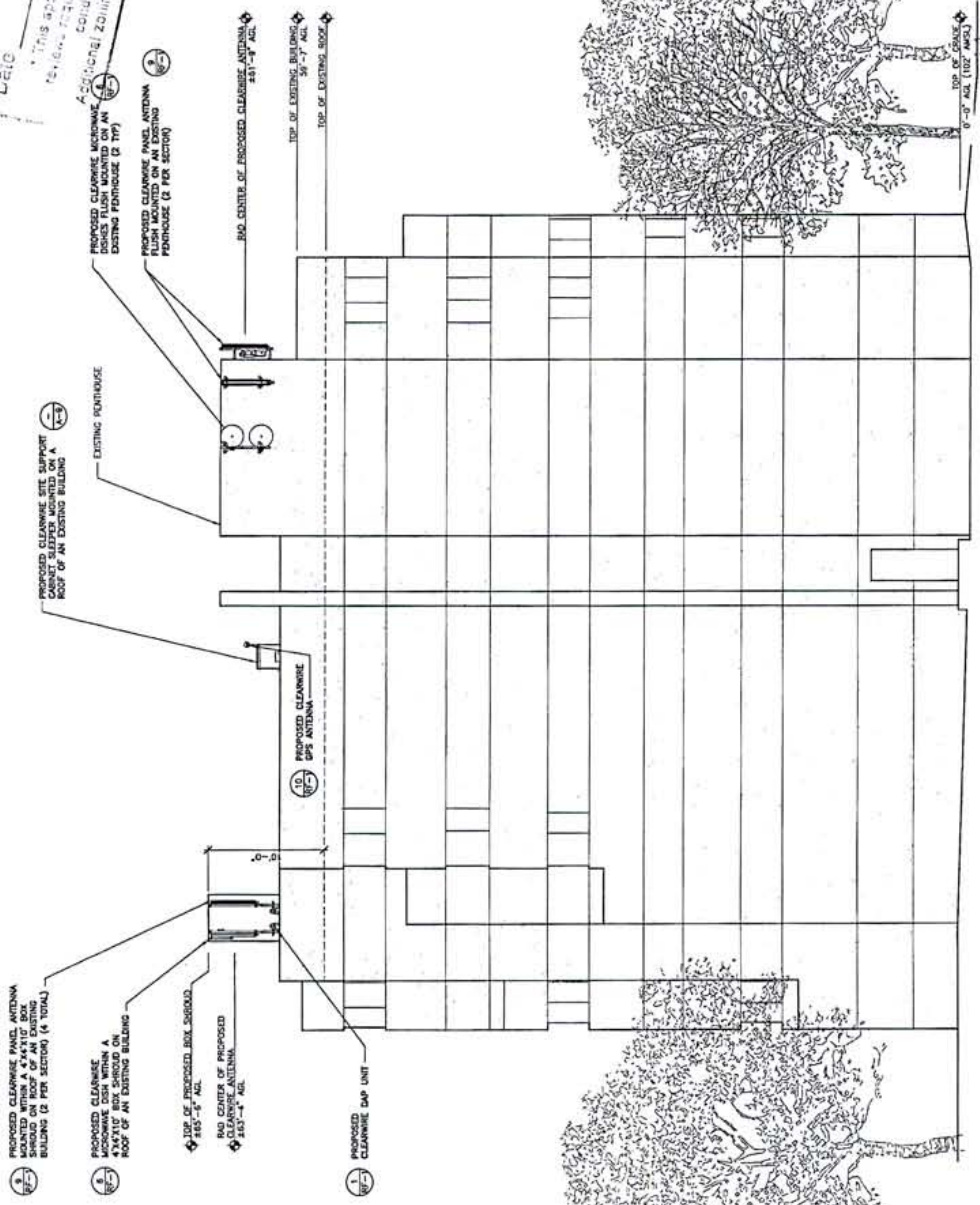
LU 09-104180 CU HD2 EXH. C-1





NOTES:  
ALL SHROUDS, ANTENNAS, &  
CLEARANCE MARKERS SHALL BE  
PAINTED TO MATCH EXISTING  
BUILDING

7/10/09  
City of Seattle  
Planning Department  
Date: 3/25/09  
This approval applies only to the  
review, requests and is subject to all  
Additional zoning requirements may apply.



24"x36" SCALE: 3/16" = 1'-0"  
11"x17" SCALE: 3/32" = 1'-0"  
THE INFORMATION CONTAINED IN THIS SET OF CONSTRUCTION DOCUMENTS IS PROPRIETARY BY NATURE. ANY USE OR DISCLOSURE OTHER THAN THAT WHICH RELATES TO GANEX SERVICES IS STRICTLY PROHIBITED.

EAST ELEVATION

NO.	DATE	REVISIONS	INITIALS
1	10-10-08	PRELIMINARY 2D'S	JDS
2	11-10-08	REVISED 2D'S	JDS
3	01-10-09	REVISED 2D'S	JDS
4	03-25-09	REVISED 2D'S	JDS

NOT FOR CONSTRUCTION UNLESS  
LABELLED AS CONSTRUCTION SET

SHEET TITLE  
EAST ELEVATION

SHEET NUMBER  
A-5

# GALLAGHER PLAZA

OR-POR417-A  
2140 NW KEARNEY ST  
PORTLAND, OR 97210

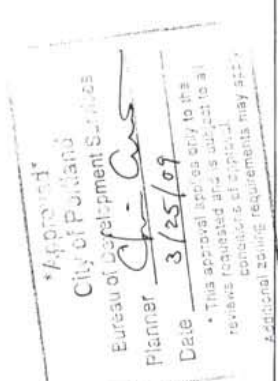
REGISTERED ARCHITECT  
OF OREGON  
RICHARD B. HALL  
SEATTLE, WA  
5008

clear wire®  
4400 CARLSON POINT  
KIRKLAND, WA 98033

Pacific Telecom Services, LLC  
1000 1st Avenue, Suite 400  
Seattle, WA 98101  
Phone: (206) 444-0000 Fax: (206) 444-0011



NORTH ELEVATION



ALL INFORMATION CONTAINED IN THIS SET OF CONSTRUCTION DOCUMENTS IS PROPRIETARY BY NATURE. ANY USE OR DISCLOSURE OTHER THAN THAT WHICH RELATES TO CAHNER'S SERVICES IS STRICTLY PROHIBITED.

clear wire®  
4400 CABELLUM POINT  
KINGLAND, WA 98033

PTS  
PACIFIC TELECOM SERVICES,  
LLC  
1001 First Avenue, Suite 400  
Seattle, WA 98101  
Phone: (206) 247-2800 Fax: (206) 247-0413

REGISTERED ARCHITECT  
RICHARD B. HALL  
SEATTLE, WA  
5008  
OF  
ELIOTS  
OREGON

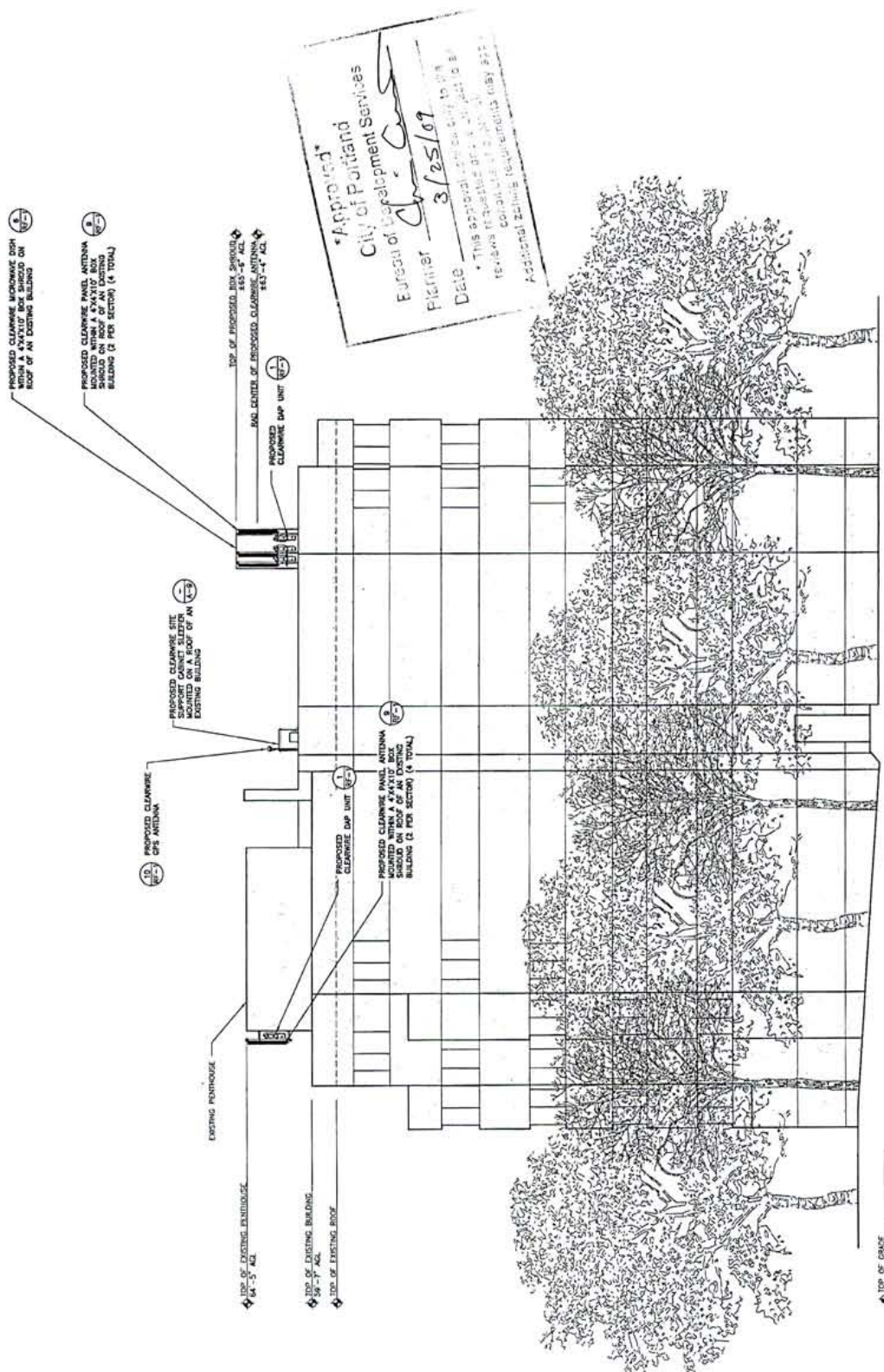
GALLAGHER PLAZA  
OR-POR-417-A  
2140 NW KEARNEY ST  
PORTLAND, OR 97210

NO.	DATE	REVISION	INITIALS
1	11-15-06	PRELIMINARY 2D SET	JPS
2	11-15-06	REVISED 2D SET	JPS
3	10-18-07	REVISED PANEL, STORMS SET	JPS
4	10-18-07	REVISED PANEL, STORMS SET	JPS
5	10-18-07	REVISED PANEL, STORMS SET	JPS
6	10-18-07	REVISED PANEL, STORMS SET	JPS
7	10-18-07	REVISED PANEL, STORMS SET	JPS
8	10-18-07	REVISED PANEL, STORMS SET	JPS
9	10-18-07	REVISED PANEL, STORMS SET	JPS
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15	10-18-07	REVISED PANEL, STORMS SET	JPS
16	10-18-07	REVISED PANEL, STORMS SET	JPS
17	10-18-07	REVISED PANEL, STORMS SET	JPS
18	10-18-07	REVISED PANEL, STORMS SET	JPS
19	10-18-07	REVISED PANEL, STORMS SET	JPS
20	10-18-07	REVISED PANEL, STORMS SET	JPS

SHEET TITLE  
WEST ELEVATION

SHEET NUMBER  
A-7

NOTE:  
ALL SHROUDS, ANTENNAS &  
MOUNTS SHALL BE  
PAINTED TO MATCH EXISTING  
BUILDING



Approved:  
City of Portland Services  
Eureau of Development Services  
Planner: *[Signature]*  
Date: 3/25/07  
This approval is subject to the  
revisions required by the City of Portland  
Additional zoning requirements (city 22.2)

WEST ELEVATION  
24\"/>