



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

Dan Saltzman, Commissioner
Paul L. Scarlett, Director
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Date: March 8, 2012

To: Interested Person

From: Mark Bello, Land Use Services
503-823-7810 / Mark.Bello@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 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 12-109463 AD

GENERAL INFORMATION

Applicant: Betty V. Baudoin
10011 NE 118th Ave #321
Vancouver, Wa 98682

Steven Topp
12566 SW Bridgeview Ct
Tigard, OR 97223

Aaron Bloom
American Tower Corporation
12830 SW Park Way
Portland OR 97225

Site Address: NE TOMAHAWK ISLAND DRIVE

Legal Description: TL 1100 4.29 ACRES, SECTION 02 1N 1E

Tax Account No.: R941020480

State ID No.: 1N1E02B 01100

Quarter Section: 1931

Neighborhood: Hayden Island Roger Staver at 503-285-1326.

Business District: Columbia Corridor Association, contact Peter Livingston at 503-796-2892.

District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-4099.

Plan District: Hayden Island

Zoning: IG2 h x, IG2 c h x General Industrial 1 with airport landing overlay zone (h); Portland International Airport Noise Impact overlay zone (x); and (away from the location of the proposed adjustment) environmental conservation overlay zone (c)

Case Type: AD Adjustment to modify or waive Zoning Code Development Standard(s)

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

Proposal: The applicant proposes to waive the zoning code requirement that requires parking areas to be designed so as to allow vehicles to enter and exit in a forward motion (zoning code section 33.266.130.F.1.b). However, the application states that location requirements for a transformer do not provide the minimum width necessary to design a large enough area.

Expected traffic will be service vehicles; the facility is a wireless communication facility. On November 10, 2011 the City issued the associated building permit, 2010 170733 CO.

Relevant Approval Criteria:

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

ANALYSIS

Zoning: The General Industrial 2 (IG2) zone is one of the three zones that implement the Industrial Sanctuary map designation of the Comprehensive Plan. The zone provides areas where most industrial uses may locate, while other uses are restricted to prevent potential conflicts and to preserve land for industry. The intent is to promote viable and attractive industrial areas. IG2 areas generally have larger lots and an irregular or large block pattern. The area is less developed, with sites having medium and low building coverage and buildings which are usually set back from the street. Minimum lot area is between 10,000 and 20,000 square feet. Wireless communication facilities are allowed by right in the IG2 zone in certain circumstances.

The Aircraft Landing Zone “h” overlay provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of

structures and vegetation. A height contour map is available for review in the Development Services Center.

The Portland International Airport Noise Impact Zone “x” overlay reduces the impact of aircraft noise on development within the noise impact area surrounding Portland International Airport. The zone achieves this by limiting residential densities and by requiring noise insulation, noise disclosure statements, and noise easements.

The Environmental Conservation Zone “c” overlay conserves important resources and functional values in areas where the resources and functional values can be protected while following environmentally sensitive urban development.

The Hayden Island Plan District regulations will preserve and enhance both the character and opportunities of Hayden Island to: create a transportation network that provides for all modes, and allows people to easily move from one mode to another; focus higher intensity, mixed-use development near the Light Rail Station; provide opportunities for a range of housing types, and encourage mixed-use development, including commercial uses, to serve the residential uses; ensure transitions between residential and nonresidential zones and neighborhoods; and recognize the current function of the Jantzen Beach Super Center as an auto-oriented shopping mall and its long-term potential for more intense development that is less auto-oriented and more pedestrian-friendly resulting from major investments in the transportation system.

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

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **February 9, 2012**. The following Bureaus have responded with no issues or concerns:

1. Bureau of Environmental Services
2. Bureau of Transportation Engineering and Development Review
3. Water Bureau
4. Fire Bureau
5. Site Development Review Section of BDS
6. Bureau of Parks, Forestry Division
7. Life Safety Plans Examiner, BDS

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on February 9, 2012. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

33.805.040 Approval Criteria

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

- A.** Granting the adjustment will equally or better meet the purpose of the regulation to be modified;
- B.** If in an I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and
- 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
- D.** City-designated scenic resources and historic resources are preserved;
- E.** Any impacts resulting from the adjustment are mitigated to the extent practical; and
- 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 AND CONCLUSIONS

The applicants' proposal meets all of the relevant approval criteria: The relevant purpose of this regulation is to ensure driveways/vehicle areas are designed to be safe and attractive for motorists and pedestrians.

As described above, the applicant seeks an adjustment to allow service truck access to the site by driving forward on to the site and exiting backwards. The lease area of the wireless facility is 15 ft. wide and 30 ft. deep and the required placement of a PGE electrical transformer only allows a drive 10 ft. wide, with no possibility of a K-turn to exit the site in a forward manner.

The site is located on NE Tomahawk Island Drive at the eastern end of Hayden Island/Tomahawk Island. The island is lined with marinas and similar businesses.

NE Tomahawk Island Drive dead ends just east of the applicant's site. It is not a local service street but Transportation reports a low volume of traffic. Also, only occasional maintenance vehicles will be coming to serve the facility.

Transportation has no objection to granting the adjustment due to the infrequency of service visits and low traffic volumes. No impact on pedestrian or vehicle safety is foreseen.

Criteria C, D and F are not applicable as the site is not in a residential zone, only one adjustment is requested and the lease area is not within an environmental zone.

DEVELOPMENT STANDARDS

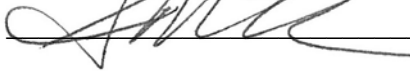
Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

ADMINISTRATIVE DECISION

Approval of an Adjustment to Section 33.266.130.F.1.b to allow vehicles to exit the site without exiting in a forward motion, per the approved site plans, Exhibits C-1 through C-3, signed and dated March 7, 2012, subject to the following conditions:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.3. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 12-109463 AD.

Staff Planner: Mark Bello

Decision rendered by:  **on**
March 6, 2012

By authority of the Director of the Bureau of Development
Services

Decision mailed: March 8, 2012

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 February 1, 2012, and was determined to be complete on February 3, 2012.

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 February 1, 2012.

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: August 1, 2012.**

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

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

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

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

Appealing this decision. This decision may be appealed to the Adjustment Committee, which will hold a public hearing. Appeals must be filed **by 4:30 PM on March 22, 2012** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. 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.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, or phone 1-503-373-1265 for further information.

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

Recording the final decision.

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

- *Unless appealed*, The final decision may be recorded on or after **March 23, 2012**.
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- **By Mail:** Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- **In Person:** Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501

SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034

For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

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

EXHIBITS
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Overall Site Plan (attached)
 - 2. Site Plan (attached)
 - 2. Enlarged Site Plan (attached)
 - 4. Vicinity Map
 - 5. Existing Site Survey
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety Plans Examiner, BDS
- F. Correspondence: (none)
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research

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



 Site
 Also Owned



File No.	LU 12-109463 AD
1/4 Section	1931
Scale	1 inch = 300 feet
State_Id	1N1E02B 1100
Exhibit	B (Feb 02,2012)



 AMERICAN TOWER CORPORATION		 cricket communications inc.	NTS	PACIFIC TELCOM SERVICES, LLC <small>111 South Main Street, Suite 200 Portland, OR 97204 Phone: (503) 248-2000 Fax: (503) 248-4013</small>
TOM ISLAND MARINA PDX-024 / ATC-274898 300 NE TOMAHAWK ISLAND DRIVE PORTLAND, OR 97217		<div style="display: flex; justify-content: space-between;"> <div> REGISTERED ARCHITECT RICHARD B. HALL SEATTLE WA 98108 STATE OF OREGON </div> <div style="text-align: right;"> EXPIRATION DATE OF THE LICENSE: 06/30/12 </div> </div>		
REVISIONS				
NO	DATE	DESCRIPTION	INITIALS	DATE
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3	05-21-11	CONSTRUCTION DRAWINGS	PHS	
4	05-21-11	CONSTRUCTION DRAWINGS	PHS	
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CASE NO. 12 1004
EXHIBIT C1

- [illegible]



CASE NO. 12107463
EXHIBIT C3

TOM ISLAND MARINA
PDX-024 / ATC-274898
300 NE TOMAHAWK ISLAND DRIVE
PORTLAND, OR 97217

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

EXPIRATION DATE OF THE
LICENSE: 06/30/12

AMERICAN TOWER CORPORATION



cricket
communications, inc.

PTTS

PACIFIC TELCOM SERVICES, LLC

311 3rdway, oakdale, ny 11764-2500
Phone (208) 242-7000 Fax (208) 242-8513