



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

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**Date:** January 26, 2009  
**To:** Interested Person  
**From:** Sylvia Cate, Land Use Services  
503-823-7771 / [scate@ci.portland.or.us](mailto:scate@ci.portland.or.us)

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

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

**CASE FILE NUMBER: LU 08-182809 CU**

### **GENERAL INFORMATION**

**Applicant:** Kevin Maki, site manager  
Clearwire US LLC  
4400 Carillon Point  
Kirkland, Wa 98033  
  
Housing Authority of Portland Oregon, property owner  
135 SW Ash St  
Portland, OR 97204-3540

**Representative:** Zach Phillips, Main Contact  
Pacific Telecom Services  
1001 SE Water Ave, Ste 180  
Portland, OR 97214

**Site Address:** 915 NE SCHUYLER ST

**Legal Description:** LOT 1-8 BLOCK 254, HOLLADAYS ADD  
**Tax Account No.:** R396218540  
**State ID No.:** 1N1E26CD 06400  
**Quarter Section:** 2831

**Neighborhood:** Irvington, contact Dean Gisvold at 503-284-3885.  
**Business District:** None  
**District Coalition:** Northeast Coalition of Neighborhoods, contact Lauren McCartney at 503-823-4135.  
**Plan District:** None  
**Other Designations:** None

**Zoning:** RHd, High Density Multi-Dwelling with Design Overlay

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

FROM CONCEPT TO CONSTRUCTION

**Proposal:**

The applicant, Clearwire, requests conditional use approval to install a wireless telecommunications facility on the rooftop of the existing building. The facility will consist of six panel antennas and up to 3 small microwave dish antennas flush mounted onto existing penthouses on the roof. This equipment will be painted to match the building to further reduce their visibility. A small equipment cabinet is also proposed to be mounted inside the parapet wall of one of the penthouse structures, thus making it invisible from passers-by at street level. Because the proposed configuration of the facility meets all of the exemption requirements, no design review is required.

The proposed wireless telecommunications facility will operate at less than 1,000 watts effective radiated power (ERP). Wireless telecommunications facility operating at 1,000 watts ERP or less that are locating on an existing building in a residential zone require approval through a Type II Conditional Use.

**Relevant Approval Criteria:**

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

- 33.815.225 A 1 through 3
- 33.274.040 C, Development Standards

**ANALYSIS**

**Site and Vicinity:** The site is an entire city block bounded on the south by NE Schuyler and on the north by NE Hancock, and NE 9<sup>th</sup> and 10<sup>th</sup> Avenues west and east, respectively. The site is developed with a high rise apartment building built in 1971. The immediately surrounding area is characterized by lands in the RH zone east, southeast, and west of the site, R1a zoning to the north, and CXd zoning to the southwest. Development nearby is characterized by multi dwelling buildings consistent with the higher density residential zoning in the area. Development immediately to the south is characterized by buildings and uses that are allowed outright in the CXd zone. The site lies within the Irvington Conservation District.

**Zoning:** The site is zoned RHd, High Density Residential with a Design overlay. The RH zone is a high density multi-dwelling 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 will range from 80 to 125 units per acre. Allowed housing is characterized by medium to high height and a relatively high percentage of building coverage. The major types of new housing development will be low, medium, and high-rise apartments and condominiums. Generally, RH zones will be well served by transit facilities or be near areas with supportive commercial services.

The Design overlay zone promotes the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. The Design Overlay Zone also promotes quality high-density development adjacent to transit facilities. This is achieved through the creation of design districts and applying the Design Overlay Zone as part of community planning projects, development of design guidelines for each district, and by requiring design review or compliance with the Community Design Standards. In addition, design review or compliance with the Community Design Standards ensures that certain types of infill development will be compatible with the neighborhood and enhance the area. As discussed below, in this decision, this proposal is exempt from Design review.

**Land Use History:** City records indicate there are four prior land use reviews for this site, case file numbers PC 4909; PC 5681; CU 076-61, and VZ 238-70. None have any impact or conditions of approval that are relevant to the current application.

**Agency Review:** A “Notice of Proposal in Your Neighborhood” was mailed **December 29, 2008**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Bureau of Transportation Engineering
- Water Bureau
- Fire Bureau
- Site Development Section of BDS
- Bureau of Parks-Forestry Division

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on December 29, 2008. Two written responses have been received from the Neighborhood Association and a notified property owner in response to the proposal.

The first written comments came from a notified neighbor, who objects to the potentially harmful health effects of radio frequency emissions from the proposed facility.

The second written response came from the chair of the Irvington Neighborhood Land Use Committee and noted that because the response deadline occurs before their next scheduled meeting, a summary of comments from neighbors are submitted, but the Committee has not met or take a vote on the proposal. The letter includes six statements from neighbors concerned about the health effects and safety of the proposed facility. Additional comments include support for the proposal if the antennas are painted to match the building to camouflage them, another spoke to the type of mounting and spacing that should be required for the antennas to help reduce visual clutter. The Neighborhood Association suggests that the City should include a condition of approval that ‘gives the City the unconditional right to require the applicant to remove the facility from the building, at applicant’s expense, if subsequent studies show that emissions of the type emitted by this facility constitute or are likely to constitute a public health or safety concern for building and nearby residents.

*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. Federal law authorizes the FCC to be the sole enforcer of emission levels and standards. A discussion of the emission levels are found below in the findings of this decision. The visual impacts are relevant issues that are addressed below in the findings of this decision. The request for clarification of the type of ‘flush mounting’ proposed is as follows: ‘flush mounted’ antennas in the wireless industry context means that the brackets holding the antennas [which are often tilted and oriented to a specific azimuth due to the line of sight technology involved] are mounted directly to an exterior surface of a building, utility pole, or broadcast tower instead of being mounted on davit arms.

## **ZONING CODE APPROVAL CRITERIA**

### **Conditional Use**

#### **33.815.010 Purpose**

Certain uses are conditional uses instead of being allowed outright, although they may have beneficial effects and serve important public interests. They are subject to the conditional use regulations because they may, but do not necessarily, have significant adverse effects on the environment, overburden public services, change the desired character of an area, or create major nuisances. A review of these uses is necessary due to the potential individual or cumulative impacts they may have on the surrounding area or neighborhood. The conditional use review provides an opportunity to allow the use when there are minimal impacts, to allow the use but impose mitigation measures to address identified concerns, or to deny the use if the concerns cannot be resolved.

#### **33.815.225 Radio Frequency Transmission Facilities**

These approval criteria allow Radio Frequency Transmission Facilities in locations where there are few impacts on nearby properties. The approval criteria are:

- A.** Approval criteria for facilities operating at 1,000 watts ERP or less, proposing to locate on an existing building or other non-broadcast structure in an OS or R zone or in a C, E, or I zone within 50 feet of an R zone:

1. The visual impact of an antenna must be minimized. For instance, it can be hidden behind a compatible building feature such as a dormer, mounted flush to the facade of the building and painted to match, mounted on a structure designed with minimal bulk and painted to fade into the background, or mounted by other technique that equally minimizes the visual impact of the antenna;

**Findings:** The site is within the RHd zone, which includes the Design overlay. Roof mounted wireless facilities trigger a design review unless they meet the exemption found at 33.420.045. N 1 & 2, which states:

*Radio frequency transmission facilities operating at 1,000 watts ERP or less that meet the following:*

1. *The antennas are added to the facade of an existing penthouse that contains mechanical equipment provided the antennas are no higher than the top of the penthouse, are flush mounted, and are painted to match the façade of the penthouse; and*
2. *Accessory equipment is within 2 feet of the existing penthouse, is no higher than the top of the penthouse, and is painted to match the façade of the penthouse.*

Based on the plans submitted, this facility will be installed such that it meets the design review exemption. Because the exemption requirements include proscriptive techniques for installing facilities such that the visual impacts are minimized to as great an extent as is feasible, 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; and

**Findings:** Based on the plans submitted, this facility will be installed such that it meets the design review exemption required for accessory equipment. Because the exemption requirements include proscriptive techniques for installing facilities such that the visual impacts are minimized to as great an extent as is feasible, and because the accessory equipment will be painted to match the façade of the penthouse, it will be adequately screened, and therefore this criterion is met.

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

**Findings:** The relevant regulations and standards for this proposal as discussed below, are the development standards of Chapter 33.274 - Radio Frequency Transmission Facilities. As discussed in detail under 33.274.040, 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**

Amended by Ord. No. 165376, effective 5/29/92.)

#### **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.

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

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.

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

3. Tower finish. For towers not regulated by the Oregon Aeronautics Division or Federal Aviation Administration, a finish (paint/surface) must be provided that reduces the visibility of the structure.
4. Tower illumination. Towers must not be illuminated except as required for the Oregon State Aeronautics Division or the Federal Aviation Administration.

**Findings:** The proposal is to mount the facility on an existing building. No new tower 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 the frequency range of 2500 MHz to 2690 MHz, thereby falling within the 1500 MHz to 300 GHz range in the above Table. 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 greatest levels of power density, based on a ‘worst case’ scenario, will be 0.004278  $mW/cm^2$ . This is significantly below the maximum allowed. In addition, the applicant has included documentation and calculations by a licensed engineer demonstrating that the combination of the emissions from the proposed facility and the existing AT&T facility comply with the emission standards set by the FCC and reflected in the table above. As shown in Exhibit A-2, the combined emission levels of both facilities are 16.66 % of the maximum allowed. 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 tower) 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 antennas will operate below 100 watts ERP, and thus are required to be 10 feet for Point A and 3 feet for Point B, per Table 274-2. Per the submitted site plans, the proposed antennas meet and or exceed the required 10 and 3 feet of separation. This criterion is met.

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 standards.

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

8. Guy anchor setback. Tower guy anchors must meet the main building setback requirements of the base zone.

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

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:

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

- 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.

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

- (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.

**Findings:** The accessory equipment will be mounted on the rooftop, not at grade. Therefore, this landscaping criterion is not applicable.

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.

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

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 proposed antenna will be flush mounted onto an existing penthouse of a building. It will not project above the top of the penthouse. This criterion is met.

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

**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 flush mount the antenna 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 antennas have been minimized by meeting the exemption requirements for design review found at 33.420.045 N 1 & 2,, and thus the visual impact has been significantly reduced. This criterion is 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 site is within an R zone, and comprises 40,000 square feet. However, there is no proposed tower. This criterion is not applicable.

## DEVELOPMENT STANDARDS

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

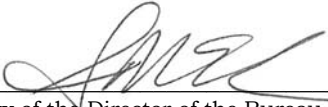
## CONCLUSIONS

The applicant, Clearwire, requests conditional use approval to install a wireless telecommunications facility on the rooftop of the existing building. The facility will consist of six panel antennas and up to 3 small microwave dish antennas flush mounted onto existing penthouses on the roof. These antennas and related equipment will be painted to match the building to further reduce the visibility. A small equipment cabinet is also proposed to be mounted inside the parapet wall of one of the penthouse structures, thus making it invisible from passers-by at street level. It must also be painted to match in order to comply with the design review exemptions and reduce the visual clutter of all of the equipment located on the roof top. Because the proposed configuration of the facility meets all of the exemption requirements, no design review is required. Because the proposed facility meets all of the applicable conditional use approval criteria, it should be approved.

## ADMINISTRATIVE DECISION

Approval of:

- A conditional use for a wireless facility consisting of 6 panel antennas and 3 small microwave dishes and associated equipment cabinet, per the approved site plans, Exhibits C-1 through C-2, signed and dated January 22, 2009, subject to the following conditions:
  - A. As part of the building permit application submittal, the following development-related conditions (B) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 08-182809 CU." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
  - B. All antennas, including microwave dishes, mounting brackets, cabling and associated transmitter cabinets must be painted a color that matches the façade upon which they are mounted. If the building is repainted a different color in the future, the equipment must be repainted to match the new color.

Decision rendered by:  on January 22, 2009  
By authority of the Director of the Bureau of Development Services

**Decision mailed: January 26, 2009**

**Staff Planner: Sylvia Cate**

**About this Decision.** This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

**Procedural Information.** The application for this land use review was submitted on December 10, 2008, and was determined to be complete on December 23, 2008.

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. This application was submitted on December 10, 2008 and determined to be complete on December 23, 2008.

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 Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on February 9, 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 Hearings Officer is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 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 Hearings Officer an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

**Recording the final decision.**

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

- *Unless appealed*, The final decision may be recorded on or after **February 10, 2009 – (the day following the last day to appeal)**.
- A building or zoning permit will be issued only after the final decision is recorded.

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

- By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034  
For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

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

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

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

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

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

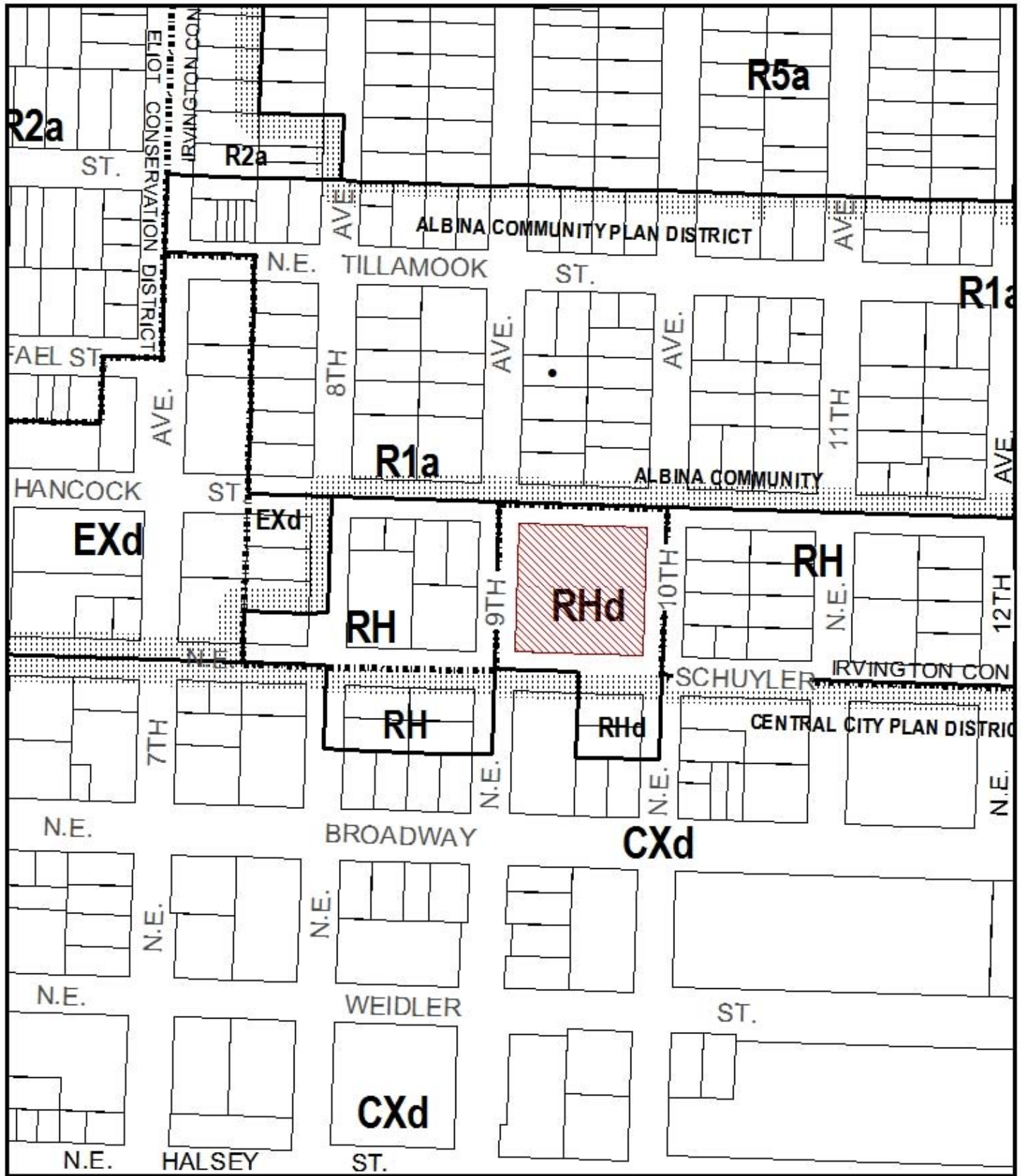
**EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  1. Project narrative
  2. Engineer's compliance statement
  3. Photographs of site

- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Elevations (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Site Development Review Section of BDS
  - 6. Bureau of Parks, Forestry Division
- F. Correspondence:
  - 1. Diane Drum, email January 12, 2009, in opposition due to health concerns
  - 2. Dean Gisvold, chair, Irvington NA Land Use Committee, January 14, 2009, in opposition  
due to health concerns
- 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. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).**



# ZONING



Site



Historic Landmark



NORTH

File No. LU 08-182809 CU

1/4 Section 2831

Scale 1 inch = 200 feet

State\_Id 1N1E26CD 6400

Exhibit B (Dec 12, 2008)

**LEGAL DESCRIPTION**  
NOT AVAILABLE AT THIS TIME

**LEGEND**

- SUBJECT BOUNDARY LINE
- RIGHT-OF-WAY CENTERLINE
- RIGHT-OF-WAY LINE
- ADJACENT BOUNDARY LINE
- SECTIONAL BREAKDOWN LINE
- OVERHEAD POWER LINE
- BURNED POWER LINE
- BURNED GAS LINE
- OVERHEAD TELEPHONE LINE
- BURNED TELEPHONE LINE
- BURNED WATER LINE
- BURNED SANITARY SEWER
- BURNED STORM DRAIN
- DITCH LINE/FLOW LINE
- ROCK RETAINING WALL
- VEGETATION LINE
- CHAIN LINK FENCE
- WOOD FENCE
- BARNED WIRE/WIRE FENCE
- TRANSFORMER
- LIGHT STAND
- POWER MOUNT
- UTILITY BOX
- UTILITY POLE
- POLE GUY WIRE
- GAS VALVE
- GAS METER
- CATCH BASIN, TYPE I
- CATCH BASIN, TYPE II
- SOLAR
- TELEPHONE MOUNT
- MAIL BOX

NOTE:  
ALL ANTENNAS & MICROWAVES  
TO BE PAINTED TO MATCH  
EXISTING HARDWARE

GRAPHIC SCALE

OVERALL SITE PLAN  
SCALE 24x36" 1" = 20'-0"  
SCALE 11x17" 1" = 40'-0"



CSK PHO RSH  
CSK PHO RSH  
CSK PHO RSH  
BY CHK APP'D  
DRAWN BY: CSK

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LU 08-182809 CU

C-1 SITE PLAN

**PTS**  
PACIFIC TELECOM SERVICES, LLC  
1000 NE 10th Ave, Suite 100  
Portland, OR 97232  
Phone: (503) 241-2000 Fax: (503) 241-0113

**POWDER RIVER**  
Development Services, LLC  
4400 CARLTON POINT  
KIRKLAND, WA 98033

**clear wire**  
© Bureau of Development Services  
4400 CARLTON POINT  
KIRKLAND, WA 98033

**City of Portland**  
Bureau of Development Services  
913 NE SCHUYLER ST  
PORTLAND, OR 97232

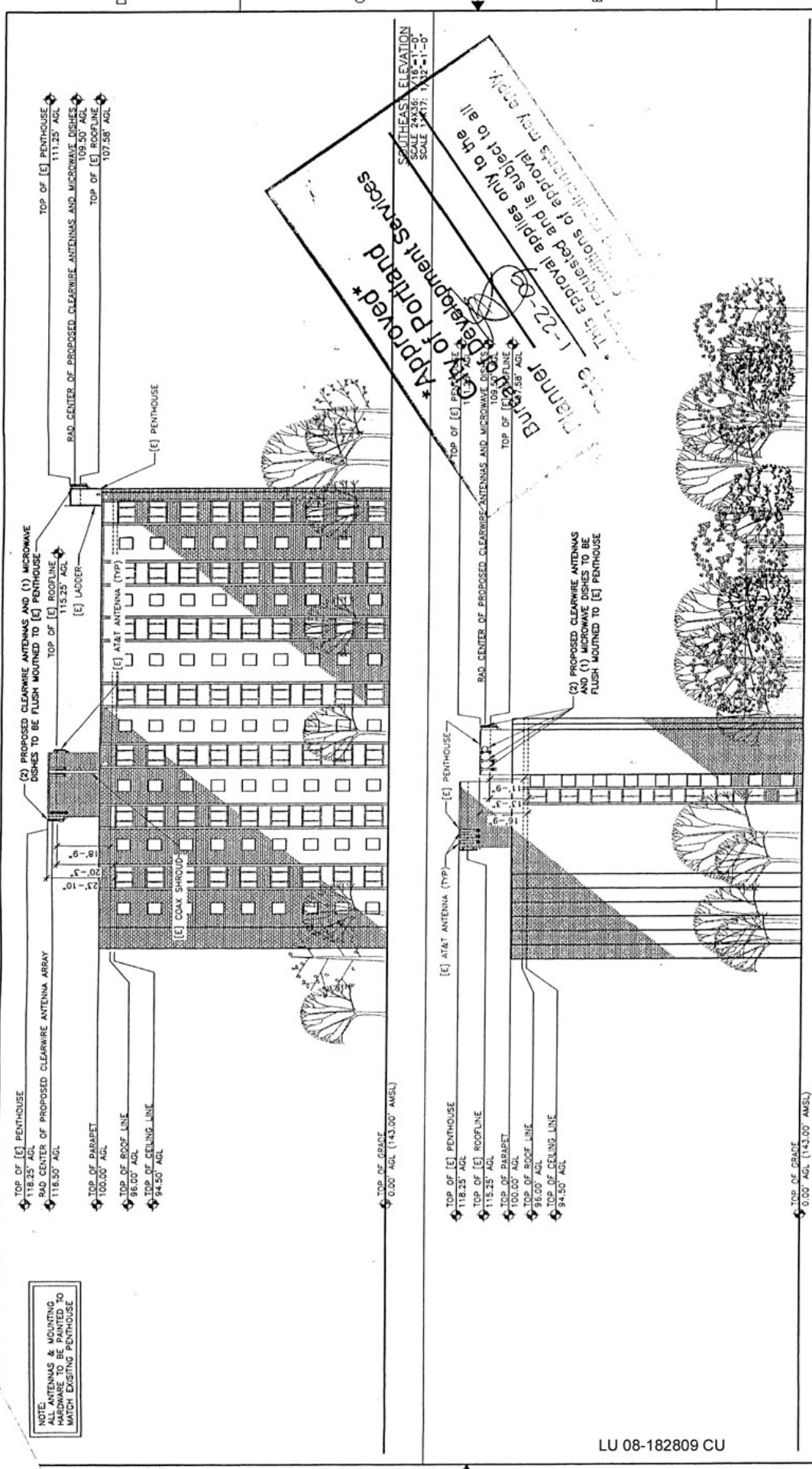
**City of Portland**  
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NOTE:  
ALL ANTENNAS & MOUNTING  
HARDWARE TO BE PAINTED TO  
MATCH EXISTING PENTHOUSE

Approved by  
City of Portland  
Bureau of Development Services  
1-22-09  
This approval applies only to the  
proposed antenna array and is subject to all  
other applicable codes and regulations.

LU 08-182809 CU

			SCHUYLER & 9TH AVE OR-POR284-C 915 NE SCHUYLER ST PORTLAND, OR 97212	NORTHWEST ELEVATION SCALE 24X36: 1/16"=1'-0" SCALE 11X17: 1/32"=1'-0"	
				ELEVATION(S) DRAWING NUMBER OR-POR284-C-C02.1 0	
REVISIONS NO. DATE BY CHK APP'D 3 12-05-08 REVISED PRELIMINARY CONSTRUCTION DOCUMENTS CBK PHD RBH 2 09-02-08 REVISED PRELIMINARY CONSTRUCTION DOCUMENTS CBK PHD RBH 1 08-25-08 PRELIMINARY CONSTRUCTION DOCUMENTS CBK PHD RBH			SCALE: AS SHOWN   DESIGNED BY: CBK DRAWN BY: CBK		

C-2 ELEVATIONS