



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

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**Date:** October 30, 2009  
**To:** Interested Person  
**From:** Kara Fioravanti, Land Use Services  
503-823-5892 / [kfioravanti@ci.portland.or.us](mailto:kfioravanti@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 08-192373 DZM** **ROOFTOP WIRELESS FACILITY**

#### **GENERAL INFORMATION**

**Applicants:** Dan Dutton (Consultant) 503.756.3888  
Powder River Development Services LLC  
13220 SE Multnomah Ct/ Happy Valley, OR 97086

Kevin Maki (Applicant)  
Clearwire US LLC  
4400 Carillon Point/ Kirkland, WA 98033

Steven O. Lane (Owner)  
AJL Enterprises LLC  
PO Box 1147/ Eugene, OR 97440

**Site Address:** 1919 NW QUIMBY STREET  
**Legal Description:** BLOCK 263 LOT 4, COUCHS ADD  
**Tax Account No.:** R180223550  
**State ID No.:** 1N1E28DC 05800  
**Quarter Section:** 2928  
**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  
**Zoning:** Central Employment with design overlay (EXd)  
**Case Type:** Design Review (DZ)  
**Procedure:** Type II, an administrative decision with appeal to the Design Commission.

#### **Proposal:**

The applicant requests design review approval to install a wireless facility on the roof of an existing building. The proposal consists of the following elements:

- One 4'x4' RF-transparent shroud that would extend 4'-6" above the building's parapet. The proposed shroud would be located in the northwest corner of the roof area and would enclose radio frequency equipment. The shroud would be painted and textured to match the building's façade.
- One 34'-11 ½" x 12' RF-transparent shroud in the form of a rooftop penthouse. The shroud would extend 7'-2" above the parapet of the roof. The shroud would house the radio frequency equipment. The shroud would be painted and textured to match the building's façade.

Exterior alterations to a structure within a design overlay zone require design review.

Modification request [PZC 33.825.040]:

1. Increase the allowable height for the penthouse shroud structure from 75'-0" to 79'-2" (33.562.210);

**Relevant Approval Criteria:**

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

- 33.825 Design Review
- Community Design Guidelines
- 33.825.040 Modifications That Will Better Meet Design Review Requirements

## ANALYSIS

**Site and Vicinity:** The 5,000 SF site is located on NW 19<sup>th</sup> Avenue and NW Quimby Street. The site contains a 6-story residential condo building. The site is located in the Northwest Pedestrian District. Section 33.274.035 A. of the Zoning Code allows RF Facilities in an E zone operating at 1,000 watts ERP or less and mounted on an existing building more than 50' from an R zone without a Conditional Use Review

**Zoning:** The Central Employment Zone (EX) allows mixed-uses and is intended for areas in the center of the City that have predominantly industrial type development. The intent of the zone is to allow industrial and commercial uses which need a central location. Residential uses are allowed, but are not intended to predominate or set development standards for other uses in the area. The development standards are intended to allow new development, which is similar in character to existing development. The Design Overlay Zone [d] promotes the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. 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. In addition, design review ensures that certain types of infill development will be compatible with the neighborhood and enhance the area.

**Land Use History:** City records indicate that prior land use reviews include the following: LU 06-102032 DZ – design review approval for 6-story residential condo building.

**Agency Review:** A "Notice of Proposal in Your Neighborhood" was mailed **January 14, 2009**. The following Bureau has responded with comments:

- Life Safety Section of BDS: A separate Building Permit is required for the work proposed and the proposal must be designed to meet all applicable building codes and ordinances. More information regarding building code requirements can be obtained by visiting the Bureau of Development Services Development Services Center -1900 SW 4th Ave, 1st floor, between the hours of 8 AM and 3:00 PM Tuesday through Friday (no appointment necessary.) Building Code information is also available online at: <http://www.portlandonline.com/bds/>, or by calling (503) 823-1456.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on January 14, 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**

### **Chapter 33.825 Design Review**

#### **Section 33.825.010 Purpose of Design Review**

Design review ensures that development conserves and enhances the recognized special design values of a site or area. Design review is used to ensure the conservation, enhancement, and continued vitality of the identified scenic, architectural, and cultural values of each design district or area. Design review ensures that certain types of infill development will be compatible with the neighborhood and enhance the area. Design review is also used in certain cases to review public and private projects to ensure that they are of a high design quality.

#### **Section 33.825.055 Design Review Approval Criteria**

A design review application will be approved if the review body finds the applicant to have shown that the proposal complies with the design guidelines for the area.

**Findings:** The site is designated with design overlay zoning (d), therefore the proposal requires Design Review approval. Because of the site's location, the applicable design guidelines are the Community Design Guidelines.

#### **Community Design Guidelines**

The Community Design Guidelines consist of a set of guidelines for design and historic design cases in community planning areas outside of the Central City. These guidelines address the unique and special characteristics of the community plan area and the historic and conservation districts. 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 movement 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 addressed only those guidelines considered applicable to this project.***

#### **D6. Architectural Integrity.**

#### **D7. Blending into the Neighborhood.**

#### **D8. Interest, Quality, and Composition.**

**Findings:** The addition of the small 4' x 4' structure at the rear/side of the building is located in an area that would be expected to have service-type elements. The scale of this enclosure is modest and will not be readily visible from the abutting streets. The penthouse-like enclosure is located farther into the roof area where a mechanical equipment penthouse might otherwise be. The location on the roof, along with its horizontal proportion and logical terminus locations, allows the enclosure to work with the architecture of the building and not against it. Similarly, the panelization of the enclosure relates to the building's simple geometries and design. The materials proposed include RF-transparent panels and non-RF-transparent panels that will be painted and textured to match the building façade. A condition of approval will require the texturing and painting of the panels to ensure the additions are, "compatible in color, details, and materials." Allowing for both materials provides easy substitution in the future of non-RF-transparent for RF-transparent panels for additional antennas in the enclosure.

*These guidelines are therefore met.*

#### **33.825.040 Modifications That Will Better Meet Design Review Requirements:**

The review body may consider modification of site-related development standards, including the sign standards of Chapters 32.32 and 32.34 of the Sign Code, as part of the design review process. These modifications are done as part of design review and are not required to go through the adjustment process. Adjustments to use-related development standards (such as floor area ratios, intensity of use, size of the use, number of units, or concentration of uses) are required to go through the adjustment process. Modifications that are denied through design review may be requested as an adjustment through the adjustment process. The review body will approve requested modifications if it finds that the applicant has shown that the following approval criteria are met:

- A. **Better meets design guidelines.** The resulting development will better meet the applicable design guidelines; and
- B. **Purpose of the standard.** On balance, the proposal will be consistent with the purpose of the standard for which a modification is requested.

**Modification: Maximum Height, PZC 33.562.210. -increase the allowable height of building to provide for screening of radio frequency equipment. Current height allowance is 75 feet. Requested modification is for an additional 4'-2" for a total height of 79'-2".**

*Purpose Statement:* These development standards foster a transit-supportive, mixed-use urban character with a high quality pedestrian environment, and an emphasis on good building design.

*Standard:* 33.562.210 Maximum Height. Per 33.562.230, Bonus Options, the residential building qualifies for a 75-foot height limit.

- A. **Better meets design guidelines.** *The resulting development will better meet the applicable design guidelines; and*

**Findings:** The modification to increase the height of screening allows for a longer enclosure that more closely replicates a rooftop penthouse that is typically found on buildings such as this. A smaller enclosure (less than 5' in width) is allowed by right, however its proximity to the street-edges of the building would provide a false building element that would not typically be found in this location. A smaller 4 foot enclosure is proposed in the northwest corner of the building where service type equipment might be located. The modification to allow a larger structure in the southeast corner of the building to exceed the height limit better meets Guideline D.6 Architectural Integrity since the penthouse-like enclosure aligns with existing vertical elements on the building and further emphasizes the horizontal nature of the original building. This is met.

- B. **Purpose of the standard.** *On balance, the proposal will be consistent with the purpose of the standard for which a modification is requested.*

**Findings:** The proposed screening enclosure closely mimics a rooftop penthouse that is typically found on urban buildings such as this. The pedestrian environment will be minimally impacted since the enclosure works with the architecture of the building and proposed setbacks will reduce the enclosure's visibility from the sidewalk. This 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 or Modification via a land use review prior to the approval of a building or zoning permit.

## CONCLUSIONS

The design review process promotes the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. The proposed rooftop RF facilities respect the character of the 6-story building. The design proposed meets the applicable guidelines, and therefore warrants an approval.

## ADMINISTRATIVE DECISION

Approval of two rooftop RF-transparent shrouds, per the approved plans, Exhibits C.1 through C.11, signed and dated October 28, 2009, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related condition (B) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 08-192373 DZM." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. The panels proposed for both rooftop enclosures will be textured and painted to match the building's exterior wall surface.

**Staff Planner: Kara Fioravanti**



**Decision rendered by:** \_\_\_\_\_ **on October 28, 2009**

By authority of the Director of the Bureau of Development Services

**Decision mailed: October 30, 2009**

**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 31, 2008, and was determined to be complete on **January 8, 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 December 31, 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 waived the 120-day review period, as stated with Exhibit #A.6. The applicant waived the timeline to allow for revisions to the design. The revisions were submitted to the City on October 27, 2009.

**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 Design Commission, which will hold a public hearing. Appeals must be filed **by 4:30 PM on November 13, 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 Design 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 Design 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 **November 16, 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.

**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.

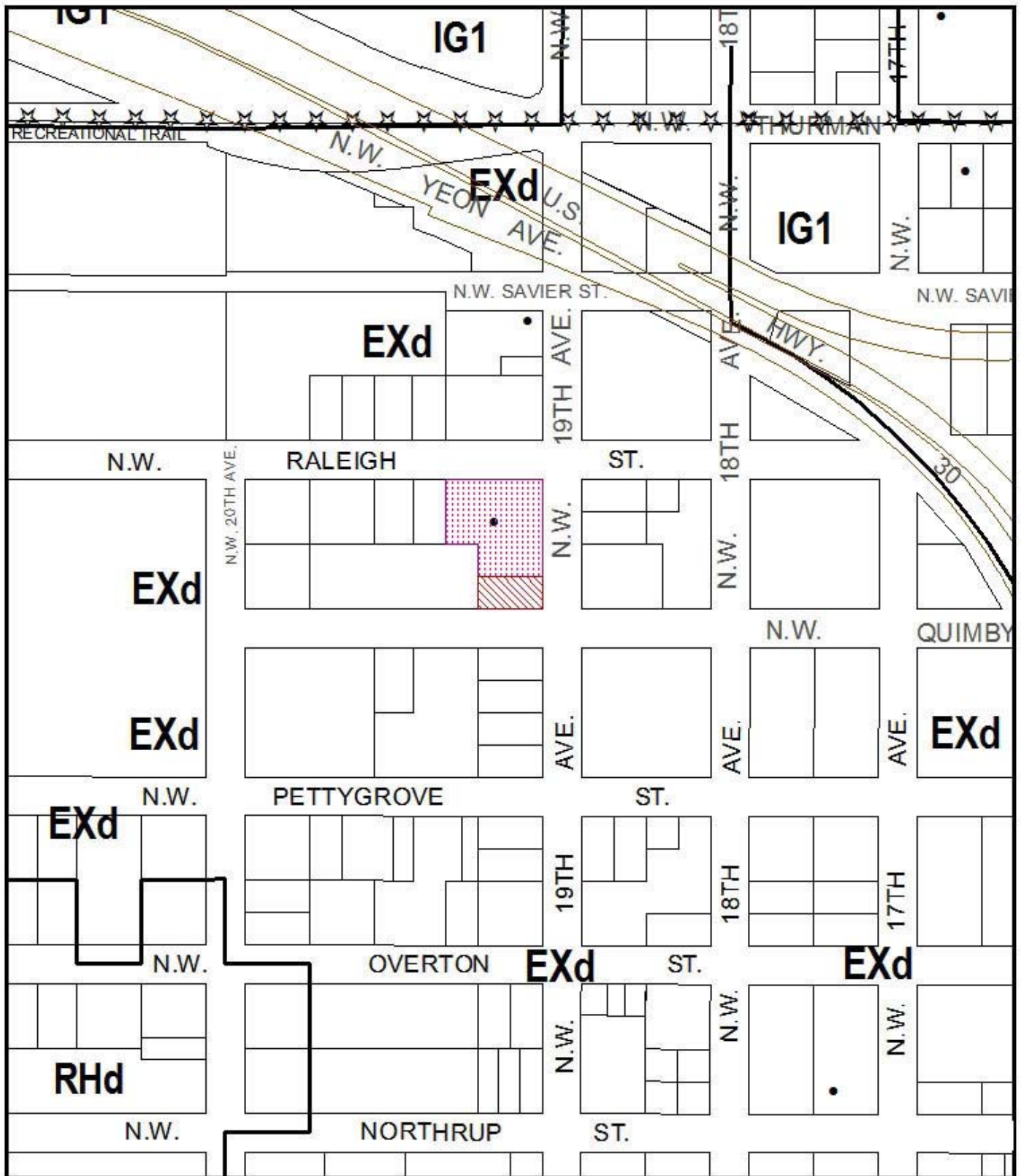
**EXHIBITS - NOT ATTACHED UNLESS INDICATED**

- A. Applicant's Submittals
  - 1. 12-31-08 letter
  - 2. 12-30-08 letter
  - 3. RF Transmission Facility Form
  - 4. Original Narrative
  - 5. Site Photos
  - 6. 120-day waiver
  - 7. 10-27-09 letter with revised proposal
  - 8. Narrative for Modification
  - 9. Original drawings – not approved
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Roof Plan
  - 3. Enclosure Plans
  - 4. S Elevation [attached]
  - 5. E Elevation
  - 6. N Elevation
  - 7. W Elevation
  - 8. Enlarged elevations
  - 9. Enlarged elevations
  - 10. Mechanical elevations
  - 11. Details
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:  
*None Received*
- F. Correspondence:  
*None Received*
- 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 503-823-7300 (TTY 503-823-6868).**





# ZONING

-  Site
-  Also Owned
-  Historic Landmark



This site lies within the:  
NORTHWEST PLAN DISTRICT

File No. LU 08-192373 DZM  
 1/4 Section 2928  
 Scale 1 inch = 200 feet  
 State\_Id 1N1E28DC 5800  
 Exhibit B (Oct 28, 2009)

SHEET NUMBER  
A-1

PROPOSED 12'-0" X 34'-11 1/2" X 10'-0" SHOULD ASSEMBLY WITH REMOVABLE PANELS (SEE STRUCTURAL FOR NUMBER) (SHOULD BY OTHERS)

PROPOSED REMOVABLE (IF SHOULD PANEL (IF OTHERS)

PROPOSED CLEANWIRE PANEL ANTENNAS PIPE MOUNTED WITHIN A 12'-0" X 34'-11 1/2" X 10'-0" SHOULD ASSEMBLY

10'-0" OF PROPOSED CLEANWIRE FIB SHROUD 8'-10"-2' AGL

BAD CENTER OF PROPOSED CLEANWIRE MO 8'-10"-2' AGL & 7'-10" AGL

BAD CENTER OF PROPOSED CLEANWIRE PAN 8'-10"-2' AGL

**clear wire®**  
4400 CARILLON POINT  
KIRKLAND, WA 98033

**P-T-S**  
PACIFIC TELECOM SERVICES,  
LLC

Seattle, WA 98104  
Phone: (206) 342-9000 Fax: (206) 903-8513

REGISTERED ARCHITECT  
RICHARD B. HALL  
SEATTLE, WA  
5008  
STATE OF OREGON  
EXPIRATION DATE OF THE  
LICENSE: 06/30/10

QUIMBY  
OR-POR288-B  
1919 NW QUIMBY ST  
PORTLAND, OR 97209

C.4  
08-192373

REVIEWS				
	NO.	DATE	DESCRIPTION	INITIAL
	1	10-24-92	PRELIM ZD'S COM	COM
	2	10-24-92	FINAL ZD'S COM	COM
	3	11-10-92	REV FINAL ZD'S P&I	P&I
	4	11-10-92	SUBMITTAL SET P&I	P&I
	5	11-27-92	REVISED SUBMITTAL SET	BAH
	6	12-04-92	REVISED SUBMITTAL SET	BAH
	7	12-04-92	DESIGN REVISIONS P&I	P&I
	8	01-21-93	FINAL CONSTRUCTION PERMITS	LIB
	9	01-21-93	REV CONSTRUCTION PERMITS	LIB
	10	01-21-93	REV CONSTRUCTION PERMITS	COM

NOT FOR CONSTRUCTION UNLESS LABELLED AS CONSTRUCTION SET

SHEET TITLE  
SOUTH ELEVATION

SHEET NUMBER  
A-4

SOUTH ELEVATION	1
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24" x 36" SCALE: 3/16" = 1'-0"  
11" x 17" SCALE: 3/32" = 1'-0"

