



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

1900 SW 4th Avenue, Suite 5000 Portland, Oregon 97201 503-823-7300 Fax 503-823-5630 TTY 503-823-6868 www.portlandonline.com/bds

Date: February 25, 2010 **To:** Interested Person

From: Noelle Elliott, Land Use Services

503-823-0624 / Noelle.Elliott@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 10-105477 DZ – CELLULAR ANTENNA REPLACEMENT AT 9700 E. BURNSIDE STREET

GENERAL INFORMATION

Applicant: Mickey Scheetz

10917 SE Valley Way Portland, OR 97236-7027

Verizon Wireless C/O Realcom Assocs

621 SW Alder St Ste 300 Portland OR 97205

Representative: Paul Slotemaker, Realcom Associates, 503-241-0279 x 23

621 SW Alder St Ste 300 Portland, OR 97205

Site Address: 9700 E. Burnside Street

Legal Description: BLOCK 1&11 TL 11300, PRUNEDALE ADD

 Tax Account No.:
 R680302500

 State ID No.:
 1N2E33DD 11300

Quarter Section: 3040

Neighborhood: Hazelwood, contact Arlene Kimura at 503-252-9429.

Business District: Gateway Area Business Association, contact Fred Sanchez at 503-256-

3910

District Coalition: East Portland Neighborhood Office, contact Richard Bixby at 503-823-

4550.

Plan District: Gateway

Zoning: EXd: Central Employment zone with a design overlay

Case Type: DZ: Design Review

Procedure: Type II, an administrative decision with appeal to the Design

Commission.

Proposal:

The applicant seeks design review approval to replace six (6) existing panel antennas with six (6) new panel antennas on an existing 100'-0" tall cell tower within the Gateway Plan District. A total of twelve (12) panel antennas currently exist on the tower and the number will remain constant with the proposed changes.

- The existing antennas to be replaced include four (4) antennas that measure approximately 4'-0" tall, 0'-6" wide and 0'-6" deep, and two (2) antennas that measure 6'-0" tall, 0'-5" wide and 0'-4" deep.
- Replacement antennas include:
 - o Two (2) antennas that measure approximately 4'-6' tall, 0'-6" wide and 0'-3" deep;
 - o Two (2) antennas that measure 8'-0" tall, 1'-1" wide and 0'-7" deep;
 - One (1) antenna that measures approximately 6'-0' tall, 0'-5" wide and 0'-3" deep; and
 - o One (1) antenna that measures approximately 8'-0" tall, 0'-11" wide and 0'-5" deep.

The six (6) replacement antennas are to be located on the central portion of the triangular shaped platform.

Because the proposal is for a site with a design overlay zone and exterior alterations are proposed, design review is required.

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:

■ Chapter 33.825 Design Review ■ Gateway Regional Center Design Guidelines

ANALYSIS

Site and Vicinity: The relevant location is a 6,803square feet lot developed with an existing commercial building. The building is directly adjacent to two other buildings to the east and west. The only street facing elevation is to the north, facing E Burnside Street, which is classified as Neighborhood Collector Street, a Regional Transitway and Major Transit Priority Street, a City Bike and Walkway, and within the Gateway Pedestrian District. E Burnside Street has a right-of-way of 100 feet. The street is fully developed with two, one-way travel lanes with light rail tracks between them, curbs, three-foot-wide parkways and four-foot-wide sidewalks. Adjacent to the site on the west, SE 97th Avenue is a Local Service Street with a right-of-way of 50 feet. This street is improved with 22-24 feet of paving only. Adjacent to the northern portion of the site, there is 10-12 feet of gravel between the street paving and the landscaping on the site. The area between the landscaping southward between the street paving and the building is also paved and used by vehicles.

The immediate vicinity includes commercial buildings and associated professional offices. There are several apartment complexes to the southwest of the site, with a more residentially zoned area beginning further to the north. The I-205 freeway is 150-feet to the west. Most development in the area is served by surface parking and buildings vary from older one to two story commercial structures.

To the north of the site across E Burnside, there is a one-story industrial building with associated parking behind a six-foot-high chain-link fence with slats. To the east of the site there is an L-shaped, one- and two-story shopping center with associated parking. On the south side of the site, there are two lots with industrial/office type buildings. The property located at the corner of SE 97th Avenue and SE Ankeny Street appears to be part of the plastic manufacturing business on the site. Across SE 97th Avenue to the west, there are four partial

lots that are very shallow in depth due to the adjacent freeway. These lots are developed with a mix of office, warehouse and fenced storage yards.

The site is within the Gateway Plan District, which encourages attractive and convenient facilities for pedestrians and transit patrons to visit, live, work, and shop. Design and layout standards special to the Plan District are intended to provide safe, pleasant, and convenient access for pedestrians to transit and to the light rail transit station.

Zoning: The Central Employment Zone (EX) implements the Central Employment map designation of the Comprehensive Plan. The zone 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 <u>Design Overlay Zone [d]</u> 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:

- <u>CU 115-90:</u> Conditional Use approval for the now existing tower including antennas.
- <u>LU 02-105242</u>: Unnecessary review (withdrawn) for three adjustments with PLA.
- PR 02-161653: Approval of a property line adjustment.
- <u>LU 04-066247 DZ:</u> Type II Design Review approval for the removal of two antennas and the installation of three new antennas on an existing cell tower; and approval of a new generator within an existing fenced area.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed on February 1, 2010. The following Bureaus have responded with no issues or concerns:

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

The <u>Life-Safety Plans Examiner of BDS</u> responded with the following comment: "A separate Building Permit is required for the work proposed and the proposal must be designed to meet all applicable building codes and ordinances." Please see Exhibit E-1 for additional details.

The <u>Water Bureau</u> responded with the following comment: "The Water Bureau has no objection to the panel antenna replacements." Please see Exhibit E-2 for additional details.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on February 1, 2010. 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 Gateway Regional Center Design Guidelines.

Gateway Regional Center Design Guidelines

The Gateway Regional Center is the City of Portland's only designated regional center. The area is envisioned to redevelop into a highly urbanized, pedestrian-oriented center, with an overall built size and scale second only to Portland's Central City.

The purpose of design review is to carry out the urban design vision for the District by emphasizing unique district assets in a manner that is respectful, creative, supportive, and compatible with all its areas. Although the District is a complex urban environment, it can become a cohesive whole with the use of these design principles.

Gateway Regional Center Design Goals

Ten goals for design review in the Gateway Regional Center have been established to enhance the area's design quality, support its livability, and guide its transition to a pedestrian-oriented, active, urban regional center. They are:

- 1. Encourage urban design excellence.
- 2. Ensure that new development is at a human scale and that it relates to the scale and desired character of its setting and the Gateway Regional Center as a whole.
- 3. Provide for a pleasant, rich, and diverse experience for pedestrians.
- 4. Assist in creating a regional center that emphasizes a mix of active uses and experiences and is safe, lively, and prosperous.
- 5. Provide for the humanization of the Gateway Regional Center through the promotion of parks, plazas, open spaces, public art, and trees.
- 6. Integrate and honor the diversity and history of Gateway.
- 7. Integrate sustainable principles into the development process.
- 8. Encourage the development of a distinctive character for subdistricts within the regional center, and link them.
- 9. Encourage and incorporate transit orientation and usage.
- 10. Enhance the physical and visual linkages between the Gateway Regional Center and adjacent neighborhoods.

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

- **A3.** Integrate Building Mechanical Equipment and Service Areas. Incorporate building mechanical equipment and/or service areas in a manner that does not detract from the pedestrian environment.
- **B5.** Integrate Roofs, Rooftop Lighting, and Signs. Integrate rooftop components, functions and related screening elements with the building's architecture. Integrate exterior lighting, signs and any related structural equipment at or near the roof with the building's architecture. Orient lighting to highlight the building's architecture.
- **C3. Design for Coherency.** Integrate the different parts of a building to achieve a coherent design.

Findings for A3, B5 and C3: The proposal is limited to the replacement of six existing antennas with six new antennas on an existing radio frequency transmission facility. The antennas are installed in the center portion of the tower's existing platform, and replace six existing antennas of a somewhat smaller size. Since the tower already exists, the installation of new antennas on the existing platform will have minimal effect on the visibility and overall character of the facility and the Plan District. The existing compound is surrounded by buildings on three sides and setback from the street approximately 100-feet. In summary, the replacement of six existing antennas with six new antennas of a slightly larger size (an increase in antenna length between 2'-0" and 4'-0", and an increase in width of up to 0'-8"), and maintaining the existing height cap of approximately 104'-0" above grade, should be undeterminable, and therefore, no qualitative negative impacts on the existing sense of place and identity in the Gateway area is perceived.

These guidelines are 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 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 exists to promote the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. The replacement of six existing antennas with six new antennas on an existing wireless tower has no net increase of negative visual impacts to the Gateway Regional Plan District. The colocation of antennas on an existing tower reduces the potential visual impact that additional mono-poles and generator areas within the Gateway Regional Plan District would otherwise contribute. The proposal meets the applicable design guidelines and therefore warrants approval.

ADMINISTRATIVE DECISION

Approval of the replacement of six (6) existing panel antennas with six (6) new panel antennas located on the existing platform of an existing radio frequency transmission facility within the Gateway Plan District.

A total of twelve (12) panel antennas currently exist on the tower and the number will remain constant with the proposed changes.

- The existing antennas to be replaced include four (4) antennas that measure approximately 4'-0" tall, 0'-6" wide and 0'-6" deep, and two (2) antennas that measure 6'-0" tall, 0'-5" wide and 0'-4" deep.
- Replacement antennas include:
 - o Two (2) antennas that measure approximately 4'-6' tall, 0'-6" wide and 0'-3" deep;
 - o Two (2) antennas that measure 8'-0" tall, 1'-1" wide and 0'-7" deep;
 - One (1) antenna that measures approximately 6'-0' tall, 0'-5" wide and 0'-3" deep;
 and
 - o One (1) antenna that measures approximately 8'-0" tall, 0'-11" wide and 0'-5" deep.

The six (6) replacement antennas are to be located on the central portion of the triangular shaped platform.

Approval per the approved plans, Exhibits C-1 through C-7, signed and dated February 23, 2010, 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.7. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 10-105477 DZ. No field changes allowed."

Staff Planner: Noelle Elliott

Decision rendered by: ______ on February 23, 2010

By authority of the Director of the Bureau of Development Services

Decision mailed: February 25, 2010

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 22, 2010, and was determined to be complete on **January 27, 2010.**

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 22, 2010.

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 Design Commission, which will hold a public hearing. Appeals must be filed by 4:30 PM on March 11, 2010 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. 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 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 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 March 12, 2010 (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:

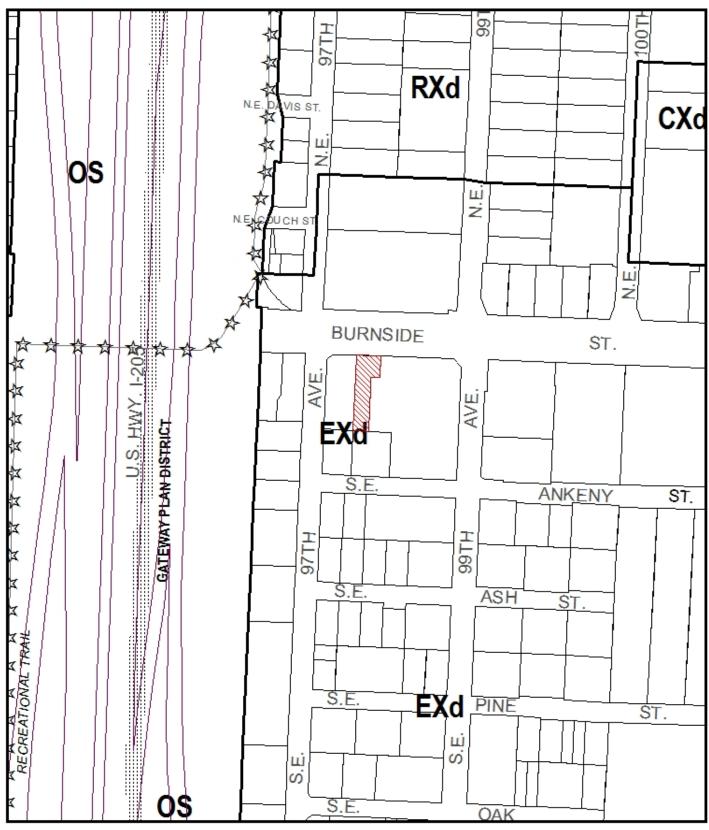
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Statement and Drawings
 - 2. Additional Information
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Vicinity Map
 - 2. Site Plan (attached)
 - 3. Enlarged Site Plan & Antenna Layout (attached)
 - 4. Existing West Elevation & Enlarged Existing West Elevation of Platform
 - 5. Proposed West Elevation (facing SE 97th Avenue) and Enlarged Proposed West Elevation of Platform (attached)
 - 6. Enlarged Elevations of Antennas
 - 7. Antenna Grounding Plan
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Life-Safety Plans Review Section of BDS
 - 2. Water Bureau
- 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).



ZONING



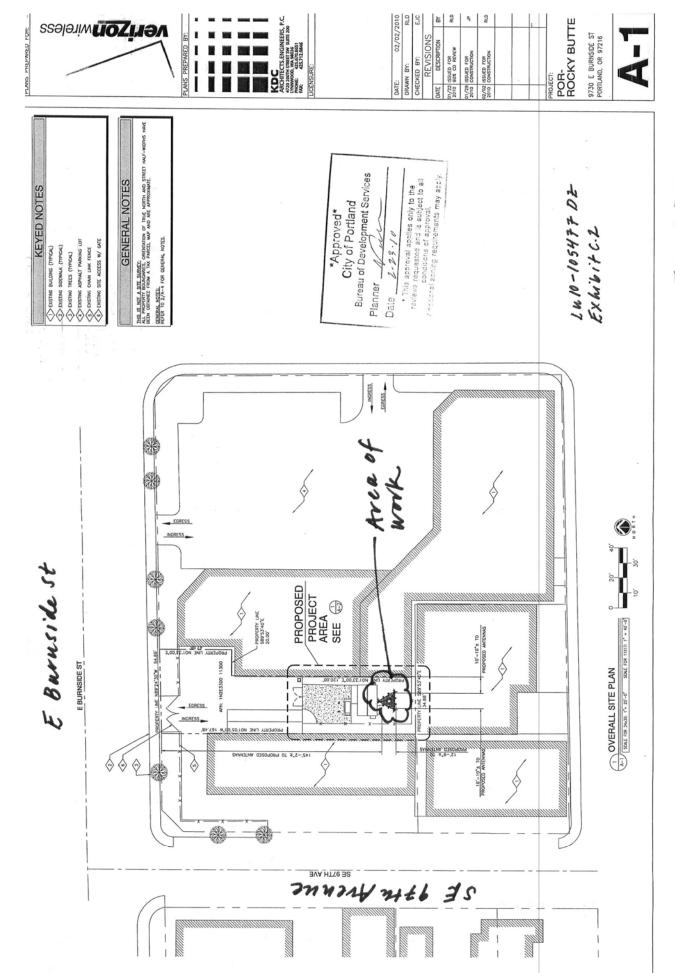
File No. LU 10-105477 DZ

1/4 Section 3040

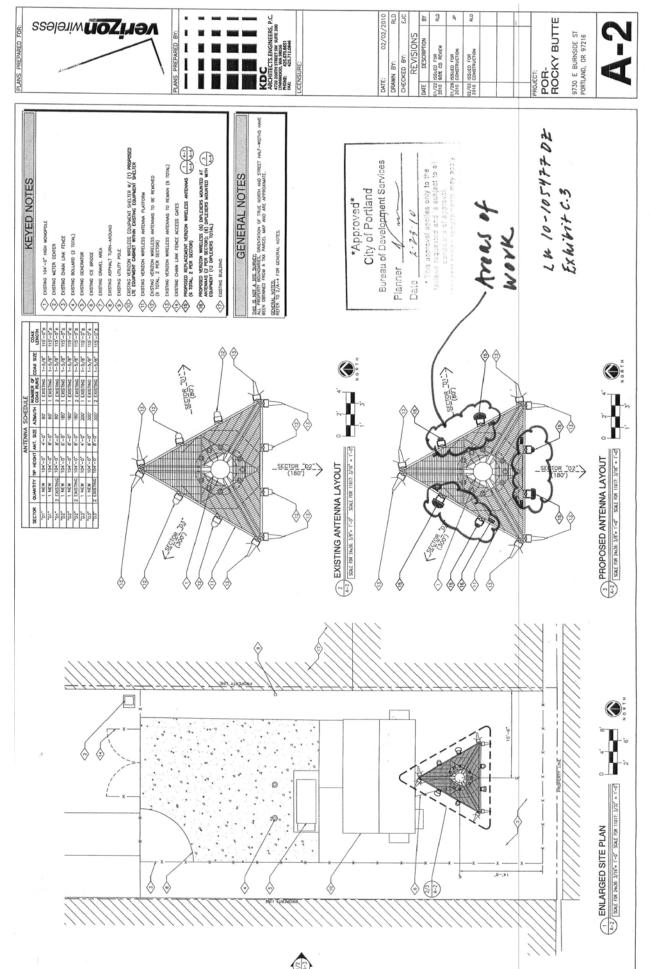
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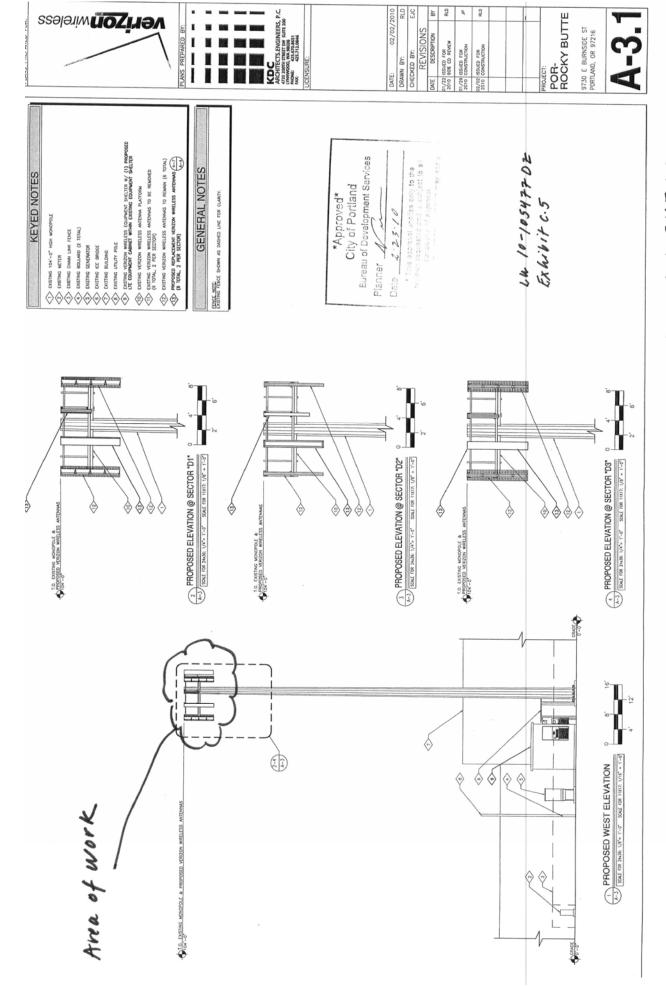
Exhibit B (Jan 25,2010)



Lu 10-10547702 Exwibit 6.2



Lu 10-10547707 Exmibit C.3



Lu 10-10547702 Exmibit 6.5