



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

FROM CONCEPT TO CONSTRUCTION

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Date: August 3, 2016
To: Interested Person
From: Mark Walhood, City Planner
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**NOTICE OF A TYPE II DECISION ON A REVISED
PROPOSAL IN YOUR NEIGHBORHOOD**

The Bureau of Development Services has approved a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

**CASE FILE NUMBER: LU 16-107889 CU – ROOFTOP WIRELESS @
3880 SE 8TH AVE.**

GENERAL INFORMATION

Applicant: Amanda Hoffman
Verizon Wireless C/O Smartlink LLC
621 SW Alder St #660
Portland, OR 97205

Property Owner: Weston Investment LLC
Attn.: Kimberly Fletcher
2154 NE Broadway, #200
Portland, OR 97232-1561

Site Address: 3880 SE 8TH AVE

Legal Description: BLOCK 2 LOT 1 EXC PT IN ST LOT 2-5 LAND & IMPS,
STROWBRIDGE ADD

Tax Account No.: R802800050
State ID No.: 1S1E11CB 07700
Quarter Section: 3431

Neighborhood: Brooklyn Action Corps, Hotline at 503-241-4540.
Business District: Greater Brooklyn, contact David Weislogel at 503-872-9320.
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010.

Zoning: **CG** (General Commercial base zone)

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

REVISED Proposal: The applicant has proposed to install a new wireless telecommunications facility atop an existing office building at 3880 SE 8th Avenue. The building appears to directly abut SE McLoughlin Boulevard/Oregon 99E between SE Bush and Center Streets, but actually

has the main frontage on a dead-end stub of SE 8th Avenue just south of Bush Street. The office building itself has two stories over a basement with partial tuck-under parking on the downhill or east side.

The proposal involves a new fiberglass shroud or enclosure around 12 new antennas mounted on the building rooftop, approximately in the western central portion of the roof. The footprint of the ORIGINAL rooftop facility was 10'-0" by 10'-0" in plan, and it rose 15'-0" above the top of the existing building parapet. **In the REVISED proposal, the footprint of the facility is larger at 16'-0" by 20'-0" in plan, but it rises only 10'-0" above the top of the existing building parapet versus 15'-0" above the parapet.** Accessory equipment associated with the facility would be located inside an existing basement room of the building, and not visible on the exterior.

Regulations for such facilities are contained in Chapter 33.274 (Radio Frequency Transmission Facilities) of the Portland Zoning Code. In this case, because parts of the facility come within 50'-0" of the residential zoning on the east half of the same block, the proposal triggers a Type II Conditional Use Review.

RELEVANT APPROVAL CRITERIA: In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found at **33.815.225.A.1-3, Conditional Use Approval Criteria for Radio Frequency Transmission Facilities** (Existing Building Mounts within 50 feet of an R zone).

ANALYSIS

Site and Vicinity: The site is a full half-block parcel in the Brooklyn Neighborhood, and is developed with an existing two-story office building over parking which was originally constructed in 1969. With a distinctive exterior of wood shingles and projecting dark wood engaged columns and parapet, the building sits on the northerly portion of the site with a surface parking lot on the southern half of the lot, and a partially-covered parking level below the office floors in a separate lot accessed from SE Bush Street. Landscaping surrounds the building, and the parking lots also have some limited plantings.

The east half of the same block, with an identical pattern to most of the nearby Brooklyn neighborhood in other nearby blocks, is developed with a street of charming vintage detached homes, most built in the late nineteenth or early twentieth century. The topography of the site and surrounding area is a gentle slope heading downhill to the east: homes on the east half of the block and others nearby on SE 9th Avenue have a clear view to the upper floor and existing rooftop of the office building on the site in question.

The abutting streets are all improved with paved roadways, curbing, and concrete public sidewalks. The westerly site frontage on SE 8th Avenue is a dead-end street that terminates near the main entry of the office building, as SE 8th Avenue angles into SE McLoughlin Boulevard/Oregon Highway 99E. A raised separate sidewalk and landscaped berm/barrier separates SE 8th Avenue near the office building entry from vehicle and pedestrian traffic on McLoughlin.

Zoning: The CG zone is intended to allow auto-accommodating commercial development in areas already predominantly built in this manner, as well as in most newer commercial areas. The zone allows office buildings and rooftop wireless telecommunications facilities by-right, provided applicable development standards are met and the wireless facility is contained at least 50'-0" away from the nearest residential zone. In this case, although the rooftop shroud and antennas themselves are over 50'-0" away from the abutting residential zone to the east, the underground conduit and fiber cabling connecting the antennas and basement equipment room to the street are within 50'-0" of the residential zone, triggering the Conditional Use Review.

Land Use History: There are three prior land use cases on the site:

- *ZC 5041*: Large area-wide zone change extending from near OMSI south along the McLoughlin/Highway 99E corridor to the city limits at SE Sheridan Street. No further information on this case beyond the geographic boundaries are found in city records;
- *PC 5354*: Approved 1968 Variance to increase the floor area of a proposed office building to 12,800 square feet; and
- *PC 6755C*: Approved 1968 Variance and Zone Change Ordinance Amendment to allow an increase in floor area for the proposed office building to 20,100 square feet, granting a front yard variance along SE McLoughlin, and including conditions of approval that allow no noise-generating equipment or building expansions to the east of the current structure, and requiring minimum on-site parking and loading.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **March 31, 2016**. The following Bureaus have responded with comments:

The *Water Bureau* has reviewed the proposal and provided comments regarding available water services, but no objections or concerns regarding the requested land use review (Exhibit E.1).

The *Fire Bureau* has reviewed the proposal and noted that all Fire Code regulations must be met or successfully appealed during the building permit process. No concerns or objections related to the requested Adjustment were raised (Exhibit E.2).

The *Life Safety Section of the Bureau of Development Services* has reviewed the proposal and provided informational comments regarding building permits and Building Codes, but no objections or concerns regarding the requested land use review. The Code Guide for Fiber-Reinforced Rooftop Screening mentioned in this 4/22/16 response from Life Safety was previously forwarded to the applicant by land use staff on 4/13/16 (Exhibit G.4). Exhibit E.3 contains staff contact and additional information.

The following bureaus or agencies have reviewed the proposal without comment or concern:

- The *Site Development Section of the Bureau of Development Services* (Exhibit E.4);
- The *Bureau of Environmental Services* (Exhibit E.5);
- The *Development Review Division of Portland Transportation* (Exhibit E.6); and
- The *Urban Forestry Division of Portland Parks and Recreation* (Exhibit E.7).

Neighborhood Review: A total of 21 written responses have been received in response to the “Notice of Proposal”, including one from the Brooklyn Action Corps and twenty from nearby neighbors. The letters are largely similar in nature and raise the following concerns regarding the proposal:

- Allegations of potential health-related concerns related to the radiofrequency emissions associated with the antennas and overall facility;
- Legitimate scientific doubts and studies call into question the emission levels and associated health impacts allowed by this facility through US federal regulations, including the Telecommunications Act of 1996;
- Concern about an “exemption” or “waiver” or “variance” of the “50-foot buffer” or “50-foot separation rule” for wireless facilities from residential zones;
- Proper notice protocols were not followed, and the 150-foot notification ring is inadequate given potential visual and health impacts of the facility. Without additional notice and opportunity for a neighborhood meeting including in-person discussion with staff, the impression being created in the neighborhood is that the city staff are unconcerned what residents feel;
- Especially given the recent Bullseye Glass “fiasco”, the neighborhood should not be forced to receive any additional unwanted facilities or impacts;
- The proposal will cause significant negative impacts to residential property values in the vicinity, and make it harder for nearby residents within view of the facility to sell their homes at a normal market price;
- This is an inappropriate location for a cell phone “tower”, and should go elsewhere. The building is already taller than others nearby, and the visual impacts of the facility as

- proposed are unacceptably detracting from the neighborhood appearance and character, including visual and privacy impacts to the nearest homes along SE 9th Avenue; and
- The facility should be changed from a rooftop building mount to a regular tower in the existing parking lot, because a tower on that portion of this site would have fewer visual impacts upon the surrounding neighborhood.

The Brooklyn Action Corps (BAC) wrote a letter (Exhibit F.2) saying that the applicant “has no concern for the neighborhood or the impact this might have on the surrounding properties”. The BAC objects to not having been contacted by the applicant prior to seeing the notice in the mail, as well as to a process that would “grant a variance for the Proposer to install a cell phone tower in the Brooklyn neighborhood”. The letter goes on to object to the visual impact of the facility, as it will “totally dominate the skyline for the surrounding neighbors”. Finally, the letter claims potential health and property value impacts like those found in other neighbor letters.

Staff Note: There are no approval criteria or development standards that apply to this proposal that address potential impacts to property values. In general, as one of the letters notes, property values in the neighborhood have been on a dramatic upswing in recent years. Nevertheless, impacts to either the upside or downside with regards to alleged or potential impacts on property values are not relevant to the Zoning Code review procedures for this application.

The Federal Telecommunications Act of 1996 prohibits local jurisdictions from regulating wireless telecommunications facilities based on alleged or potential health impacts (“federal pre-emption”). The Portland Zoning Code requires that the applicant provide a statement from a licensed Engineer documenting that the facility will comply with all relevant emissions standards for this type of facility that can be found in Federal Communications Commission (FCC) rules, as was done in this case with the original application package (Exhibit A.1).

There is no exemption or waiver of a 50-foot separation requirement from residential zones in this application. The 50-foot separation is only relevant in the Zoning Code as a trigger for when a rooftop-mounted facility such as that proposed occurs within 50'-0" of an abutting residential zone (33.274.035.A-B). If within 50'-0" of the residential zone, the facility triggers a Conditional Use Review and must then be found to meet the relevant approval criteria and development standards.

There is no “tower” proposed, but only a “co-location” or roof-mounted facility per the code structure and definitions of the Zoning Code. A “tower” is defined as a structure intended to support wireless facilities that stands over 20' tall, but in this case the structure is only 11'-6" tall above the roof, and 10'-0" above the building parapet. In the structure of the Conditional Use approval criteria for wireless facilities, a new “tower” requires consideration of alternatives to the tower itself, such as mounting on buildings or utility poles: roof-mounts such as that proposed require no such consideration. The only relevant approval criteria in this application consider the visual impacts of the facility, which was modified by the applicant to address neighborhood concerns by bringing the facility 5'-0" lower than originally proposed. Detailed considerations of visual impacts are considered further in the findings below.

Proper notification protocols were followed for this application. The applicant placed the case on hold and signed timeline extensions to redesign the facility and lower the height by 5'-0", but the 150-foot notification ring is a standard code requirement and is not modified on a case-by-case basis with individual applications. There is no requirement for a mandatory neighborhood meeting for this facility or land use review, but a public hearing is held in the event of appeal.

ZONING CODE APPROVAL CRITERIA

33.815.010 Purpose of Conditional Use Reviews

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 personal wireless service facilities 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 façade 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 applicant has shown a new rooftop shroud enclosure on the existing building rooftop, behind which all of the proposed antennas and related equipment will be concealed. After concerns were raised by staff and the neighbors, the applicant revised the original proposal to lower the height of the rooftop shroud and all elements behind the shroud by 5'-0". The Fiberglass shroud structure has been designed to integrate well with the distinctive 1960's architecture of the building, with a darker-colored surrounding and projecting "frame" piece appearing like vertical posts supporting the shroud and a lintel across the top of the shroud, with an inset lighter-colored "shingle" panel. This design approach will fully mask the facility as proposed.

In order to ensure that the visual impacts are as intended and shown on the applicant's photo simulations, however, a condition of approval are necessary. Because no paint or color treatment is indicated on the submitted plans, a condition of approval will require the new rooftop shroud be provided with a two-tone paint coloration matching the comparable colors and design (projecting outer frame versus inset shingle panel) found on the building below. This condition will also note that if the color of the building should change in the future, the paint color of the shroud must be changed as well. Secondly, in order to ensure that the antennas remain fully concealed behind the shroud as shown on the revised drawings, a condition of approval will ensure that no part of the antennas or mounting device for the antennas be allowed to project above the top of the proposed shroud, at a height no greater than 10'-0" above the existing building parapet.

With the conditions of approval as noted regarding a compatible paint color treatment and no antenna projections above the shroud, 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: Most accessory equipment associated with the facility is located inside the existing building basement, and connected to the rooftop facility via conduit and cabling connections. Being located in the basement effectively screens the basement elements of the facility.

The revised drawings show the remaining accessory equipment within the rooftop shroud, including GPS antennas, RRU units and other technical features, all of which will not project above the proposed shroud. The precise location of the cabling conduit connections are not shown on the drawings, but appear to travel from the rooftop down to the basement level and grade on the east exterior of the building. There is also a rooftop “cable entry hood (dog house)” shown on the roof plan for which no details are provided. With an unknown appearance and location for these elements, and to ensure that all other equipment remains fully concealed behind the proposed rooftop shroud, conditions of approval are necessary.

A condition of approval will require that all visible cabling or conduit runs on the exterior of the building be painted to match the adjacent building surface, unless they are fully below and concealed by the existing building parapet. With this condition, the rooftop “dog house” or cable entry hood and any exterior cabling or conduit connections snaking up the outside of the building will be visually integrated to the greatest extent possible. Secondly, a condition of approval will verify that no accessory equipment on the rooftop within the shroud enclosure be allowed to project above the top of the shroud itself, as was required for the antennas. This condition is necessary to ensure adequate screening of the facility consistent with the proposal drawings and stated intent of the applicant to integrate with the building architecture.

With the conditions of approval as noted above requiring no projection of elements above the rooftop shroud or parapet, and requiring a paint treatment for any visible conduit, this criterion can be met

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

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

33.274.040 Development Standards

A. Purpose. The development standards:

- Ensure that Radio Frequency Transmission Facilities will be compatible with adjacent uses;
- Reduce the visual impact of towers and accessory equipment in residential and open space zones whenever possible; and
- Protect adjacent property from tower failure, falling ice, and other safety hazards.

B. When the standards apply.

1. Unless exempted by 33.274.030, above, the development standards of this section apply to all Radio Frequency Transmission Facilities.
2. Applications to modify existing facilities regulated by this chapter are required to meet the development standards and conditions of approval only for elements of the facility that are being modified. In addition, any elements of the original approval that have moved out of compliance with development standards that applied when the facility was approved, such as landscape materials, or applicable conditions of approval, must be brought back into compliance.

C. General requirements

1. Tower sharing. New facilities must co-locate on existing towers or other structures to avoid construction of new towers, unless precluded by structural limitations, inability to obtain authorization by the owner of an alternative location, or where an alternative location will not meet the service coverage objectives of the applicant. Requests for a new tower must be accompanied by evidence that application was made to locate on existing towers or other structures, with no success; or that location on an existing tower or other structure is infeasible.
2. Grouping of towers. The grouping of towers that support radio or television broadcast facilities on a site is encouraged where technically feasible. Tower grouping may not result in radio frequency emission levels exceeding the standards stated in C.5, below.
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 proposed new facility is not a modification of an existing installation and will be mounted on a building, not a tower. *These above development standards are not applicable.*

5. Radio frequency emission levels and exposure limits. All Radio Frequency Transmission Facilities must operate within the radio frequency emissions levels and comply with the exposure limits established by the Federal Communications Commission (FCC). Applicants must certify that the proposed facility will be in compliance with FCC emissions standards with the permit application.

Findings: The applicant has submitted an engineering report documenting that the facility will comply with all applicable FCC requirements (Exhibit A.1). *This development standard is met.*

6. Antenna requirements. Antennas must be secured from public access, either by vertical or horizontal separation, fencing, locked access, or other measures as appropriate.

Findings: The antennas are located on a building rooftop, with no public access. *This development standard is met.*

7. Setbacks.
 - a. 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.
 - b. Accessory equipment or structures must meet the base zone setback standards that apply to accessory structures.
 - c. Tower guy anchors must meet the base zone setback standards that apply to buildings.

Findings: No towers are proposed in this installation, so both a and c do not apply. The equipment enclosure is within an existing basement room, so the setback requirements for accessory structures do not apply. *These development standards are not applicable.*

8. 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: *[truncated as this proposal is located in an R zone]*

Findings: The installation is on a building. *This development standard 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.
 - (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 installation is on a building, with accessory equipment located inside the building basement. *This development standard is not applicable.*

- c. In all zones, equipment cabinets or shelters located on private property that are associated with Radio Transmission Facilities mounted in a right-of-way must be screened from the street and any adjacent properties by walls, fences or vegetation. Screening must comply with at least the L3 or F2 standards of Chapter 33.248, Landscaping and Screening, and be tall enough to screen the equipment.

Findings: The radio transmission facilities in this case are located on private property. *This development standard is not applicable.*

9. Tower design.
- a. For a tower accommodating a radio or television broadcast facility, the tower must be designed to support at least two additional radio or television broadcast transmitter/antenna systems 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: These standards do not apply as the facility will be mounted on an existing building, not a tower. *This development standard is not applicable.*

10. Mounting device. The mounting device or mounting structure used to mount facilities to an existing building or other non-broadcast structure may exceed the height limit of the base zone but may not project more than 10 feet above the roof or parapet of the building or other non-broadcast structure.

Findings: In the revised proposal drawings the perimeter rooftop shroud, as well as all related antennas, accessory equipment and mounting devices, all are vertically contained within the first 10 feet above the parapet of the building. *This development standard is met.*

11. Abandoned facilities. A tower or mounting device on a non-broadcast structure 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 or mounting device has been in use for more than six months.

Findings: There are no abandoned facilities at this site. *This development standard is not applicable.*

D. Additional requirements.

1. Personal wireless service facilities located in OS, R, C, or EX zones, and personal wireless service facilities located in 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 unicast style top cylinder, or other similar mounting technique that minimizes visual impact.
 - b. Lattice. Lattice towers are not allowed.

Findings: These standards do not apply as the facility will be mounted on an existing building, and not a tower. *This development standard is not applicable.*

2. The minimum site area required for a tower in an R zone is 40,000 square feet.

Findings: These standards do not apply as the facility will be mounted on an existing building, and not a tower. *This development standard is not applicable.*

3. Applications to locate or replace accessory equipment in or within 50 feet of an R zone must be accompanied by a signed and stamped acoustical engineer’s report demonstrating that noise levels from the equipment is in full compliance with Title 18 (Noise) regulations, or demonstrating that with appropriate sound proofing mitigation, that the equipment will comply with Title 18.

Findings: The closest point of the proposed rooftop antennas and shroud to the abutting residential zoning on sites to the east is 53’-2”. The basement accessory equipment is slightly further away from the abutting residential zone, in a basement room. The only portion of the facility that occurs within 50’-0” of the abutting residential zone are the underground fiber and electrical connections that connect the facility to adjacent services and utilities in the right-of-way. There is not accessory equipment within 50’-0” of the abutting residential zoning to the east. *This development standard 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 applicant has proposed the installation of a new rooftop wireless facility, which is not considered a cell phone “tower” under Zoning regulations in this instance given the maximum 11’-6” height of the facility above the rooftop. The only portions of the facility which are within 50’-0” of the abutting residential zone are underground utility connections, as the building and accessory equipment are all just over 50’-0” away. Visual impacts of the facility can be mitigated for by the custom-designed rooftop shroud, as well as conditions of approval to ensure the appearance of the facility matches the stated intent of the applicant. After revising the proposal to lower the shroud/antenna height by 5’-0” below the prior proposal, and with conditions of approval as noted, the request is able to meet the relevant approval criteria and standards and should be approved.

ADMINISTRATIVE DECISION

Approval of a Conditional Use Review for a new rooftop-mounted wireless telecommunications facility, including a shrouded 16’-0” by 20’-0” rooftop enclosure enclosing twelve antennas, accessory equipment and cabling/conduit connections, and a basement equipment room as shown on the approved plans and drawings, Exhibits C.1 through C.11, all signed and dated July 28, 2016, and subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B through D) 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 16-107889 CU ." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. The new rooftop shroud structure must be provided with a two-tone paint coloration treatment matching the comparable colors and design (projecting outer frame versus inset shingle panel) found on the building below. If the building colors change in the future, the rooftop shroud will be painted to match at the same time.
- C. No part of the antennas, antenna mounting devices, GPS antenna or other accessory components on the building rooftop may project above the top of the shroud at 10’-0” above the building parapet if inside the shroud, nor may they project above the building parapet if outside the shroud (cable entry hood/dog house shown on roof plan, etc.).
- D. All visible cabling or conduit runs on the exterior of the building must be painted to match the adjacent building surface, unless they are fully below and concealed by the existing building parapet on the rooftop, or contained inside the exterior walls of the building.

Staff Planner: Mark Walhood

Decision rendered by: MARK WALHOOD **on July 28, 2016.**
By authority of the Director of the Bureau of Development Services

Decision mailed: August 3, 2016

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 20, 2016, and was determined to be complete on March 24, 2016.

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 20, 2016.

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 requested that the 120-day review period be extended on three different occasions, in order to provide more time to develop revised drawings in response to staff and neighborhood concerns (Exhibits A.3, A.5 & A.7). Unless further extended by the applicant, **the 120 days will expire on September 30, 2016.**

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 August 17, 2016** at 1900 SW Fourth Ave. Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 12:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 12:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5th floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the 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 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, 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 **August 18, 2016 – (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

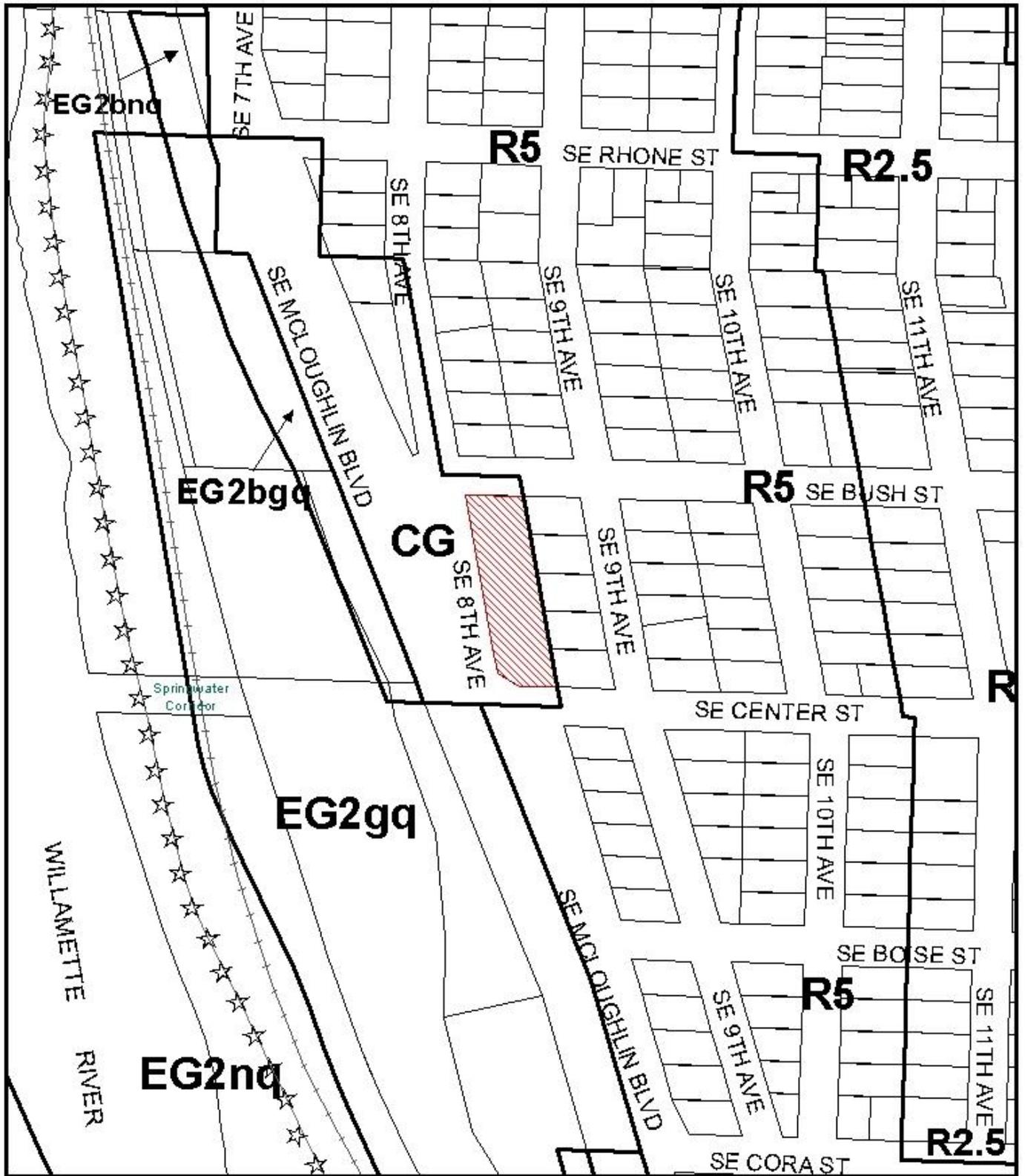
A. Applicant's Statements

1. Original narrative, drawing set, photo simulations and RF Engineering Report

2. Cover memo and revised plan set as used in public notice, rec'd. 3/24/16
 3. Initial 120-day and FCC timeline extensions, rec'd. 5/18/16
 4. Cover memo with revised plan set and photo simulations, rec'd. 5/24/16
 5. Second 120-day extension, rec'd. 6/1/16
 6. Contact person change request from applicant, rec'd. 6/6/16
 7. Third 120-day and second FCC timeline extensions, rec'd. 7/19/16
 8. Cover letter and unused plan sheets from final revised drawing submittal, rec'd. 7/13/16
- B. Zoning Map (attached)
- C. Plans/Drawings:
1. Overall Site Plan (attached)
 2. Enlarged Basement Equipment Plan
 3. Antenna Configuration Plan (attached)
 4. Existing and Proposed Southwest Elevations (attached)
 5. Enlarged Shroud and Existing/Proposed Northwest Elevations (attached)
 6. Existing and Proposed Northeast Elevations
 7. Construction Details: Mounting Anchors and Equipment Cabinets
 8. Construction Details: Cabling, Wall Penetration and Utility Rack Details
 9. Construction Details: Shroud Elevation and Plan View
 10. RF Details: Antennas and accessory equipment
 11. RF Details: GPS antenna and antenna mounting pipes
- D. Notification information:
1. Mailing list
 2. Mailed notice
- E. Agency Responses:
1. Water Bureau
 2. Fire Bureau
 3. Life Safety Section of the Bureau of Development Services
 4. Site Development Section of the Bureau of Development Services
 5. Bureau of Environmental Services
 6. Development Review Section of Portland Transportation
 7. Urban Forestry Division of Portland Parks and Recreation
- F. Correspondence:
1. Letter with concerns from Katherine Buono, rec'd. 5/5/16
 2. Letter with concerns from Brooklyn Action Corps, dated 4/18/16
 3. E-mail with concerns from Louise Palmer, rec'd. 4/19/16
 4. E-mail with concerns from William Ryan, rec'd. 4/20/16
 5. E-mail with concerns from Katie Schutz, rec'd. 4/21/16
 6. E-mail with concerns from Sandy Wu & Marcus Cooksey, rec'd. 4/21/16
 7. Card with concerns from Jeanne Schulze, rec'd. 4/19/16
 8. Letter with concerns from Marie Phillippi, rec'd. 4/19/16
 9. Letter with concerns from Shirley Scarino, rec'd. 4/19/16
 10. E-mail with concerns from Carol Dennis, rec'd. 4/19/16
 11. E-mail with concerns from Isaac Hart, rec'd. 4/18/16
 12. E-mail with concerns from Joanne Shelby, rec'd. 4/18/16
 13. E-mail with concerns from Hope Hardaker (including staff reply thread), rec'd. 4/18/16
 14. E-mail with concerns from Mark Zimmerman, rec'd. 4/18/16
 15. E-mail with concerns from Natalie Hval, rec'd. 4/18/16
 16. E-mail with concerns from Linda Ferguson, rec'd. 4/18/16
 17. E-mail with concerns from Susan Read, rec'd. 4/17/16
 18. E-mail with concerns from Rachel and Eric Murfitt, rec'd. 4/17/16
 19. E-mail with concerns from Troy and Hope Hardaker, rec'd. 4/18/16
 20. E-mail with concerns from Jan Lisonbee, rec'd. 4/7/16
 21. E-mail with concerns from Ronald Jensen, rec'd. 4/4/16
- G. Other:
1. Original LU Application Form and Receipt
 2. Incomplete Letter from staff to applicant, sent 2/11/16
 3. E-mail from staff to applicant at completeness, noting need for shroud mount height and additional design details for shroud, sent 3/29/16

4. E-mail from staff to applicant regarding Adjustment for shroud height if more than 10'-0" above building parapet, reminder on shroud design details, and forwarding the attached BDS Code Guide "Use of Fiber Reinforced Plastic material for Rooftop Screening Applications", sent 4/13/16
5. Status update e-mail from staff to applicant regarding review of updated drawings and outstanding/potential issues, sent 6/1/16
6. E-mail from staff to applicant regarding submittal of tentative shroud detail, ongoing need for missing mounting structure detail vis-à-vis the pertinent development standard, and including a final request for updated plans and drawings, sent 6/22/16
7. PC 6755C Land Use History Case (Decision)

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

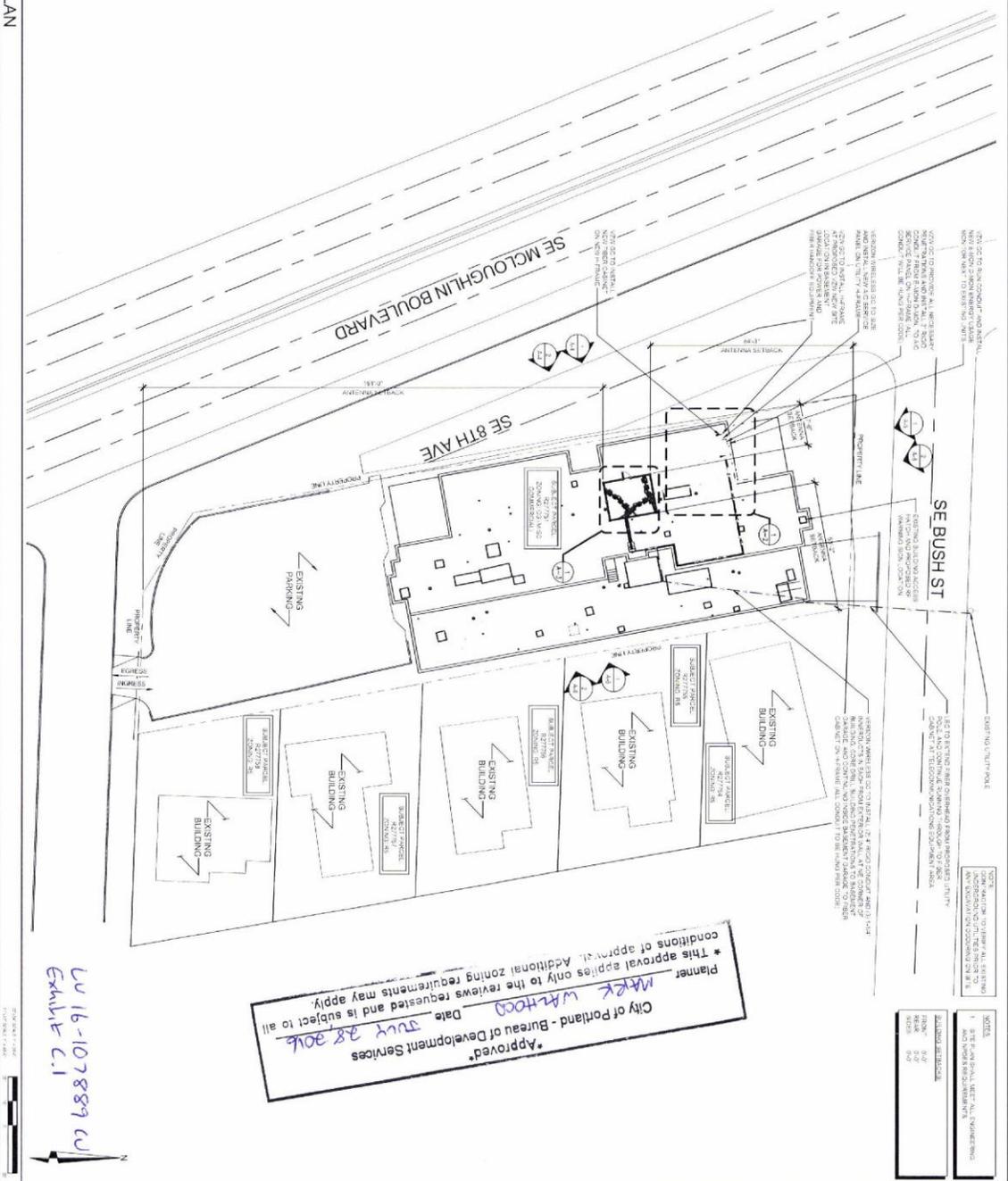
-  Site
-  Recreational Trails



File No. LU 16-107889 CU
 1/4 Section 3431
 Scale 1 inch = 200 feet
 State_Id 1S1E11CB 7700
 Exhibit B (Jan 25, 2016)

1 OVERALL SITE PLAN

Exhibit C.1
LU 16-107889 CU



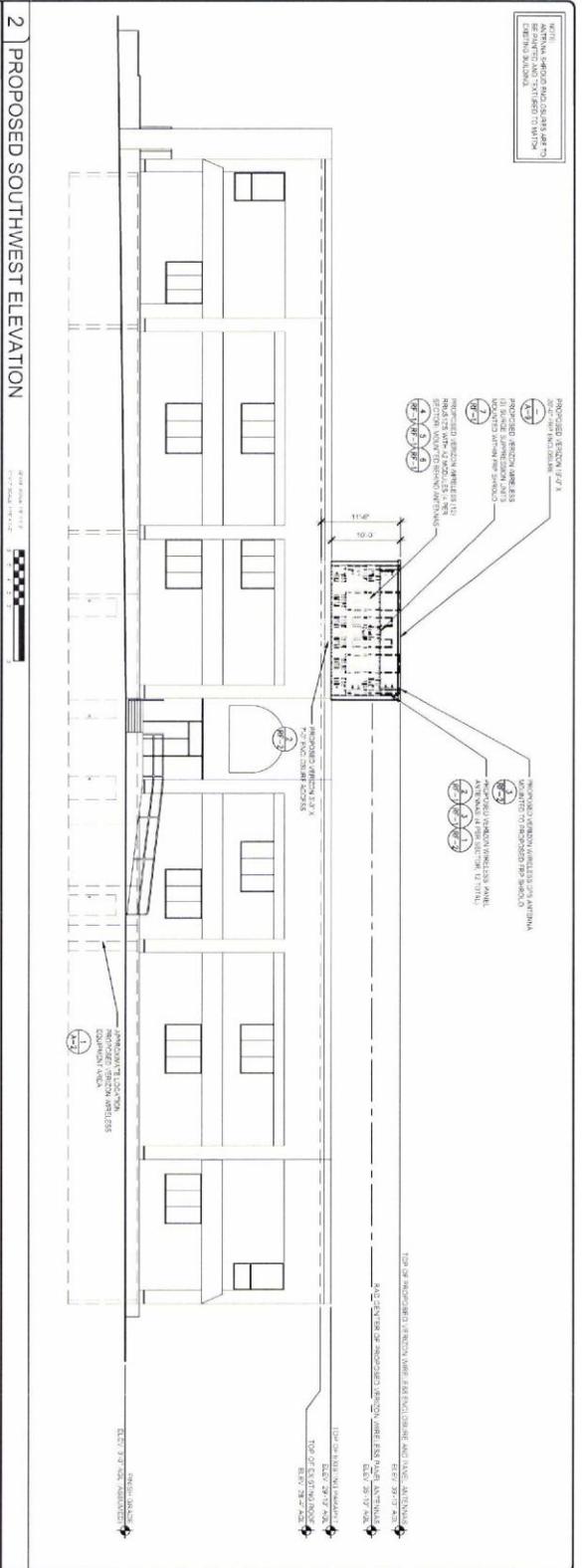
Approved
City of Portland - Bureau of Development Services
Date: July 28, 2016
Planner: Mark Whitford
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

LU 16-107889 CU
Exhibit C.1

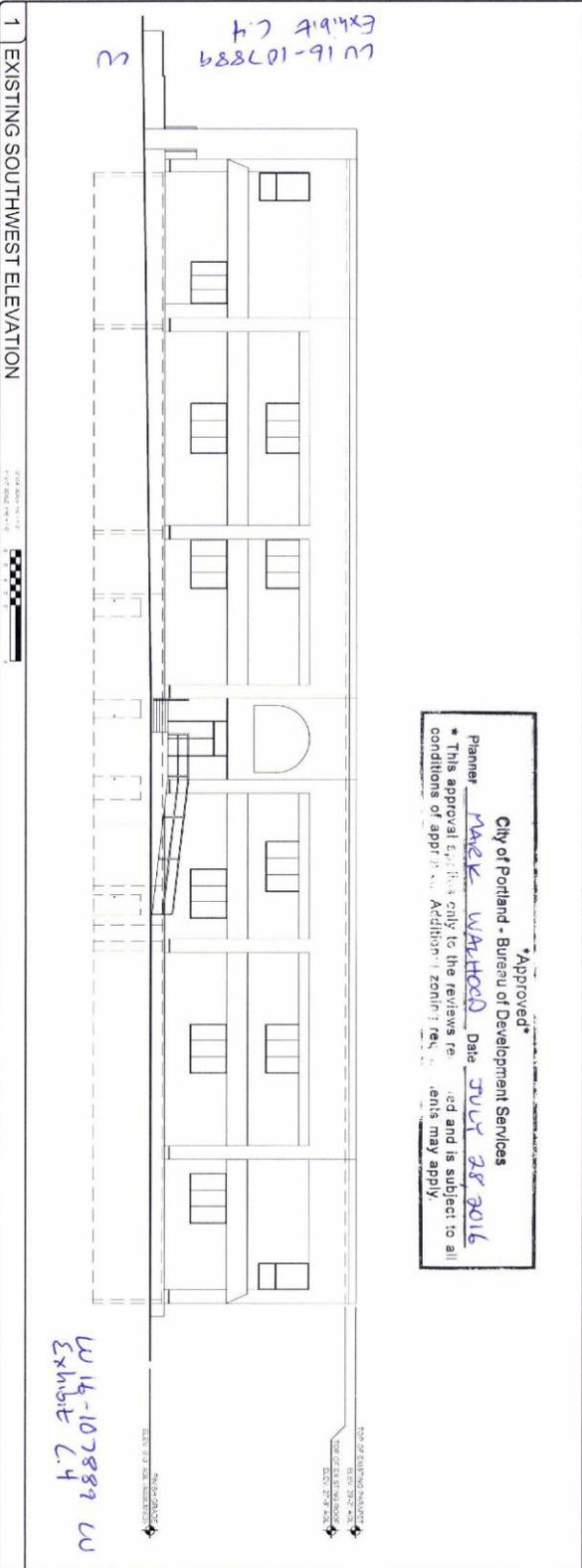
1 OVERALL SITE PLAN

<p>50 116TH AVENUE SE SUITE 210 BELLEVUE WA 98004 TEL: (425) 274-4489 FAX: (425) 274-4489</p>		<p>PROJECT INFORMATION: PROJECT NAME: POR HARDTACK 3880 SE 8TH AVE PORTLAND, OR 97202 MULTNOMAH COUNTY</p>	
<p>SHEET NUMBER: A-1</p>		<p>REC: 2</p>	

NOTE: THIS ELEVATION IS FOR INFORMATION ONLY AND IS NOT TO BE USED FOR CONSTRUCTION. THE ARCHITECT'S OFFICE SHALL BE RESPONSIBLE FOR THE DESIGN AND CONSTRUCTION OF THE BUILDING.



Approved
 City of Portland - Bureau of Development Services
 Planner: Mark Watwood Date: JULY 28 2016
 * This approval applies only to the reviews recorded and is subject to all conditions of approval. Additional zoning requirements may apply.



50118TH AVENUE SE
 BELLEVUE WA 98004
 TEL: (425) 202-4215
 FAX: (425) 274-4449

PROJECT INFORMATION:
 POR HARDTACK
 3880 SE 8TH AVE
 PORTLAND OR 97202
 MULTNOMAH COUNTY

PROJECT TITLE:
 EXISTING & PROPOSED
 SOUTHWEST ELEVATION

SHEET NUMBER: A-4
 REV: 2

