

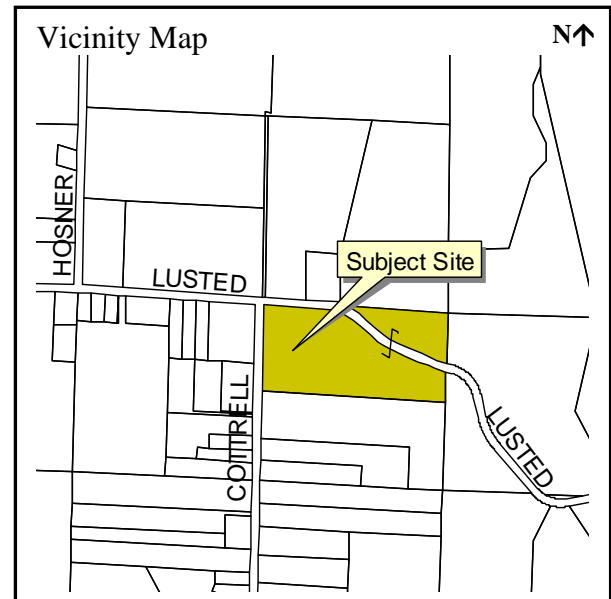


MULTNOMAH COUNTY
LAND USE AND TRANSPORTATION PROGRAM
1600 SE 190TH Avenue Portland, OR 97233
PH: 503-988-3043 FAX: 503-988-3389
<http://www.co.multnomah.or.us/landuse>

NOTICE OF DECISION

This notice concerns a Planning Director Decision on the land use case(s) cited and described below.

Case File: T2-07-057
Permit: Design Review and Exception to the Secondary Fire Safety Zone
Location: 6704 SE Cottrell Road
TL 100 & 200, Sec 22BA, T 1S, R 4E, W.M.
Tax Account #R99422-0300 & R99422-1120
Applicant: Kevin Freeto
Owner: City of Portland Water Bureau
Base Zone: Commercial Forest Use Zone
Overlays: Significant Environmental Concern for Wildlife Habitat & Hillside Development



Summary: Applicant is requesting approval of a Design Review Application & Exception to the Secondary Fire Safety Zone for a Radio & Telecommunication Tower in the CFU zoning district. The tower was previously approved under application T3-06-003.

Decision: Approved with Conditions.

Unless appealed, this decision is effective Thursday, February 7, 2008, at 4:30 PM.

Issued by:

By: _____
Lisa Estrin, Planner

For: Karen Schilling- Planning Director

Date: Thursday, January 24, 2008

Opportunity to Review the Record: A copy of the Planning Director's Decision, and all evidence submitted associated with this application, is available for inspection, at no cost, at the Land Use Planning office during normal business hours. Copies of all documents may be purchased at the rate of 30-cents per page. The Planning Director's Decision contains the findings and conclusions upon which the decision is based, along with any conditions of approval. For further information on this case, contact Lisa Estrin, Staff Planner at 503-988-3043, ext. 22597.

Opportunity to Appeal: This decision may be appealed within 14 days of the date it was rendered, pursuant to the provisions of MCC 37.0640. An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning offices at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision cannot be appealed to the Land Use Board of Appeals until all local appeals are exhausted.

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Thursday, February 7, 2008 at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): *Commercial Forest Use* – MCC 36.2110 Exceptions to Secondary Fire Safety Zones

Design Review – MCC 36.7010 Design Review Plan Approval Required. MCC 36.7030 Design Review Plan Contents, MCC 36.7050 Design Review Criteria, MCC 36.7055 Required Minimum Standards.

Copies of the referenced Multnomah County Code sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at <http://www.co.multnomah.or.us/landuse>.

Scope of Approval

1. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein.
2. **This land use permit expires two years from the date the decision is final if; (a) development action has not been initiated; (b) building permits have not been issued; or (c) final survey, plat, or other documents have not been recorded, as required. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0690 or 37.0700, as applicable. The request for a permit extension must be submitted prior to the expiration of the approval period.**

Conditions of Approval

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parenthesis.

1. Within 30 days of completion of the tower, three arborvitae or other evergreen trees with a columnar shape shall be planted in the landscape planter as shown on Exhibit B.2 and in compliance with the primary fire safety zone crown spacing. [MCC 36.7050(A)(7)]

2. Within 30 days of completion of the tower, the area (450 sq. ft) shown on Exhibit B.2 shall be landscaped with native plants to replace the landscaping lost by the construction of the tower in the previously approved landscape planter. [MCC 36.7055(C)]
3. Within 30 days of use of the tower, the coax bridge shall be painted to match the existing building colors or Cedar Green to match the lower portion of the tower below the tree tops. [MCC 36.7050(A)(1)]
4. Prior to operation of the tower, it shall be painted Cedar Green for the first 85 ft and then the color shall be changed to silver or galvanized metal to blend with the sky. [MCC 36.7050(A)(1)]
5. All existing and new required landscaping shall be continuously maintained. Vegetation that becomes diseased or dies shall be promptly replanted during the next planting season. [MCC 36.7055(C)(5)]

Note: Once this decision is final, application for building permits may be made with the City of Gresham. When ready to have building permits signed off, the applicant shall call the Staff Planner, Lisa Estrin, at (503) 988-3043 ext. 22597, for an appointment for review and approval of the conditions and to sign the building permit plans. Please note, Multnomah County must review and sign off the building permits before the applicant submits building plans to the City of Gresham. Three (3) sets each of the site plan and building plans are needed for building permit sign off. At the time of building permit review, a fee of \$53.00 will be collected. In addition, an erosion control inspection fee of \$77.00 may be required.

Findings of Fact

FINDINGS: Written findings are contained herein. The Multnomah County Code criteria and Comprehensive Plan Policies are in **bold** font. The applicants statements are identified below as ‘**Applicant:**’. Staff comments and analysis are identified as ‘**Staff:**’ and address the applicable criteria. Staff comments may include a conclusionary statement in *italic*.

Project Description:

Applicant: The Portland Water Bureau operates a Water Treatment Facility at 6704 SE Cottrell Road in Multnomah County. With the increasing threat of terrorism and the need to monitor the Lusted Hill Treatment Facility on a continuous 24x7 basis, the Water Bureau contacted ComNet to design a solution. The recommendation from ComNet was to build a communications site to the connect with the existing Microwave System to transport video and data from the Lusted Hill Treatment Facility to the Water Control Center so the site could be monitored remotely. The communications site will consist of a 120 foot Radian SSV tower and a waveguide bridge between the tower and the existing building.

1.00 Administration and Procedures

1.01 Type II Case Procedures

MCC 37.0530(B): ...Upon receipt of a complete application, notice of application and an invitation to comment is mailed to the applicant, recognized neighborhood associations and property owners within 750 feet of the subject tract. The Planning Director accepts comments for 14 days after the notice of application is mailed and renders a decision...

Staff: The application was submitted June 15, 2007 and was deemed complete as of October 24, 2007. An “Opportunity to Comment” notice was mailed on December 10, 2007 to all properties within 750 feet of the subject properties in compliance with MCC 37.0530. No written comments were received.

1.02 Proof of Ownership

MCC 37.0550 Initiation of Action

Except as provided in MCC 37.0760, Type I – IV applications may only be initiated by written consent of the owner of record or contract purchaser. PC (legislative) actions may only be initiated by the Board of Commissioners, Planning Commission, or Planning Director.

Staff: The proposed project is located on Tax Lot 200, Section 22BA, Township: 1 South, Range: 4 East. Assessment & Taxation records show that the land is owned by the City of Portland. Keven Freeto, Project Manager for New Horizon Communications has been designated the applicant by the property owner. An authorized agent for the City of Portland Water Bureau has signed the General Application Form (Exhibit A.1). *This criterion has been met.*

1.03 MCC 37.0560 Code Compliance And Applications.

Except as provided in subsection (A), the County shall not make a land use decision, or issue a building permit approving development, including land divisions and property line adjustments, for any property that is not in full compliance with all applicable provisions of the Multnomah County Land Use Code and/or any permit approvals previously issued by the County.

(A) A permit or other approval, including building permit applications, may be

authorized if:

(1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or

(2) It is necessary to protect public safety; or

(3) It is for work related to and within a valid easement over, on or under an affected property.

(B) For the purposes of this section, Public Safety means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger the life, health, personal property, or safety of the residents or public. Examples of that situation include but are not limited to issuance of permits to replace faulty electrical wiring; repair or install furnace equipment; roof repairs; replace or repair compromised utility infrastructure for water, sewer, fuel, or power; and actions necessary to stop earth slope failures.

Staff: At this time, there are no known violations on the subject property.

2.00 *Design Review*

2.01 **MCC 36.7050 Design Review Criteria.**

(A) Approval of a final design review plan shall be based on the following criteria:

(I) Relation of Design Review Plan Elements to Environment.

(a) The elements of the design review plan shall relate harmoniously to the natural environment and existing buildings and structures having a visual relationship with the site.

Staff: The proposed lattice tower and coax cable bridge is located immediately adjacent to the existing single story metal frame building on the site. The tower will be linked to the existing building by the coax cable bridge. The coax bridge is approximately 9.5 ft tall and approximately 2.5 ft wide structure which will be used to run the telecommunication lines between the tower and the mechanical room within the building. The coax bridge will be composed of 2-7/8 galvanized pipe columns which are used to support coax hangers of stainless steel. Both of these structures are located within an existing landscape area. The steel tower is a 120 ft tall self-supporting lattice structure built on a 20 ft by 20 ft concrete base. The lattice tower will be painted a dark green for the first 85 ft and then the remainder will be painted silver or have a galvanized finish to blend into the skyline. The tower will have mounted on it various antennas, microwave dishes and surveillance cameras. The existing and proposed improvements are within an existing security compound which contains the site's parking and the ammoniation treatment facility. The area is surrounded by the existing forest on the site. A condition of approval has been included that the coax cable bridge be painted to either match the building or utilize the dark green color of the tower to help it relate to the structures on the site. *This criterion has been met.*

2.02 (b) The elements of the design review plan should promote energy conservation and provide protection from adverse climatic conditions, noise, and air pollution.

Staff: The installation of the tower will allow the Portland Water Bureau to monitor the Ammoniation Treatment Facility 24/7 remotely. This will help to promote energy savings by reducing the amount of vehicle miles traveled to inspect the site when warranted. No additional

adverse climatic conditions, noise or air pollution will be generated by the tower or coax bridge. *This criterion has been met.*

- 2.03 **(c) Each element of the design review plan shall effectively, efficiently, and attractively serve its function. The elements shall be on a human scale, inter-related, and shall provide spatial variety and order.**

Staff: The lower portion of the lattice tower will be painted to blend with the forested environment and will be visually subordinate from other properties in the area. The tower size is the minimum necessary to serve its purpose. The coax bridge will be less than ten feet tall and is shorter than both the tower and the existing building. The bridge connects the tower to the building creates spatial variety between the two taller structures. *This criterion has been met.*

- 2.04 **(2) Safety and Privacy - The design review plan shall be designed to provide a safe environment, while offering appropriate opportunities for privacy and transitions from public to private spaces.**

Staff: The existing compound where the tower and coax bridge will be constructed is fenced for security purposes. Outside of the compound, the property is in forest use to screen the buildings from surrounding residential uses. *This criterion has been met.*

- 2.05 **(3) Special Needs of Handicapped - Where appropriate, the design review plan shall provide for the special needs of handicapped persons, such as ramps for wheel-chairs and Braille signs.**

Staff: The proposed tower and bridge will not create any additional need for handicap facilities on the site. At present, the site provides the appropriate site improvements for access. *This criterion has been met.*

- 2.06 **(4) Preservation of Natural Landscape - The landscape and existing grade shall be preserved to the maximum practical degree, considering development constraints and suitability of the landscape or grade to serve their functions. Preserved trees and shrubs shall be protected during construction.**

Staff: The proposed tower and bridge will be placed within a man-made landscape planter leaving the area outside of the compound available for the existing forest use occurring on the remainder of the site. No large trees or shrubs will be removed. The landscaped area is currently flat and will remain so. *This criterion has been met.*

- 2.07 **(5) Pedestrian and Vehicular circulation and Parking - The location and number of points of access to the site, the interior circulation patterns, the separations between pedestrians and moving and parked vehicles, and the arrangement of parking areas in relation to buildings and structures, shall be designed to maximize safety and convenience and shall be harmonious with proposed and neighboring buildings and structures.**

Staff: The existing parking lot layout and building were previously reviewed by the County for this criterion and found to be in compliance with MCC 36.4100 through 36.4205. Two parking spaces need to be added to the parking area to service the telecommunication tower. The applicant has proposed to add two parallel parking spaces (9 ft wide by 23 ft long) adjacent to the northern edge of the existing parking lot area. The drive aisle will remain at 25 ft in width with the interior circulation patterns remain the same. These parking spaces are near the tower area and will be available to serve the use. No additional driveway access points will be generated. *This criterion has been met.*

- 2.08 **(6) Drainage - Surface drainage and storm-water systems shall be designed so as not to adversely affect neighboring properties or streets. Systems that insure that surface run-off volume after development is no greater than before development shall be provided on the lot.**

Staff: The previously approved stormwater system will not be affected by the tower and coax bridge. Any additional water generated by these improvements will be absorbed via the large landscape planter in which they are located. *This criterion has been met.*

- 2.09 **(7) Buffering and Screening - Areas, structures and facilities for storage, machinery and equipment, services (mail, refuse, utility wires, and the like), loading and parking, and similar accessory areas and structures shall be designed, located, buffered or screened to minimize adverse impacts on the site and neighboring properties.**

Staff: The applicant indicated in the Community Service application that he would be planting a row of arborvitae around the base of the tower and bridge for screening. The primary fire safety zone limits the height and spacing of vegetation within the first 30 ft of the tower and existing building. The hearings officer in her decision, T3-06-003 indicated that vegetation shall be no taller than 2 ft within the primary fire safety zone. The primary fire safety zone does allow trees taller than 2 ft to exist within its boundaries provided there is 15 ft between the crowns. Because of the layout of the tower within a landscape planter surrounded by the parking & drive aisles, the ability to screen the coax bridge & tower from the interior of the site is extremely limited. It is possible to plant 3 arborvitae or other evergreen trees with a narrow spread within the primary safety zone to break up the visibility of the tower base and coax bridge. A condition of approval has been included requiring additional plantings pursuant to Exhibit B.2 and the primary fire safety zone standards. The vegetation outside of the security fence will screen the tower and coax bridge from adjacent properties. *As conditioned, this criterion has been met.*

- 2.10 **(8) Utilities - All utility installations above ground shall be located so as to minimize adverse impacts on the site and neighboring properties.**

Staff: The coax bridge will be the path for the utilities from the building to the tower and will be painted to match the dark green on the lower portion of the tower below the tree tops. In addition, the existing vegetation and additional arborvitae as shown in Exhibit B.2 will help to soften the impacts the new structures will have on the site. The tower and compound is screened from adjacent properties by an existing forest on four sides. *This criterion has been met.*

- 2.11 **(9) Signs and Graphics - The location, texture, lighting, movement, and materials of all exterior signs, graphics or other informational or directional features shall be compatible with the other elements of the design review plan and surrounding properties.**

Staff: No signage is proposed. *This criterion is not applicable to this project.*

- 2.12 **(C) Required Landscape Areas**

The following landscape requirements are established for developments subject to design review plan approval:

(1) A minimum of 15% of the lot area shall be landscaped; provided, however, that computation of this minimum may include areas landscaped under subpart 3 of this subsection.

Staff: The subject site has met the above requirement in a previously approved Design Review application. Approximately 400 square feet of a previously approved landscape planter will be converted to non-landscape use for the installation of the tower. An area exists to the northwest of the drive aisle where 400 square feet of native plants may be added to off-set this loss. This area is immediately adjacent to the drive aisle and has been shown on Exhibit B.2. A condition of approval has been included that 400 square feet of native plants be installed for landscaping and wildlife habitat within this area. *As conditioned, this criterion has been met.*

- 2.13 **(2) All areas subject to the final design review plan and not otherwise improved shall be landscaped.**

Staff: All areas not used for the ammoniation plant are vegetated. *This criterion has been met.*

- 2.14 **(3) The following landscape requirements shall apply to parking and loading areas:**
- (a) A parking or loading area providing ten or more spaces shall be improved with defined landscaped areas totaling no less than 25 square feet per parking space.**
 - (b) A parking or loading area shall be separated from any lot line adjacent to a street by a landscaped strip at least 10 feet in width, and any other lot line by a landscaped strip at least 5 feet in width.**
 - (c) A landscaped strip separating a parking or loading area from a street shall contain:**
 - 1. Street trees spaces as appropriate to the species, not to exceed 50 feet apart, on the average;**
 - 2. Low shrubs, not to reach a height greater than 3'0", spaced no more than 5 feet apart, on the average; and**
 - 3. Vegetative ground cover.**

Staff: The landscaping design and planters have been approved through previous Design Review applications. As outlined in (1) above, the proposed project modifies one of these approved landscape planters by removing 400 square feet out of the planter for the placement of the tower base. In addition, two new parking spaces will be added to the parking lot requiring the addition of 50 sq ft of landscaped area. The area immediately adjacent to the northwestern drive aisle is large enough to accommodate 450 sq. ft. of new native landscape (Exhibit B.2). A condition of approval has been included requiring native plants be installed within this designated area for landscaping and wildlife habitat. *As conditioned, this criterion has been met.*

- 2.15 **(d) Landscaping in a parking or loading area shall be located in defined landscaped areas which are uniformly distributed throughout the parking or loading area.**

Staff: The landscaping has been distributed thorough out the parking and drive aisle area. The new landscape area is adjacent to an area without any previously approved landscape planters. *This criterion has been met.*

- 2.16 **(e) A parking landscape area shall have a width of not less than 5 feet.**

Staff: The new area will be 20 ft by 20 ft in width as shown on Exhibit B.2. *This criterion has been met.*

2.17 (4) Provision shall be made for watering planting areas where such care is required.

(5) Required landscaping shall be continuously maintained.

Staff: A condition of approval has been included requiring the maintenance and survival of the plantings.

2.18 (6) Maximum height of tree species shall be considered when planting under overhead utility lines.

Staff: No overhead lines exist within the new landscape area.

3.00 *Exception to the Secondary Fire Safety Zone Criteria*

3.01 MCC 36.2110 Exceptions to Secondary Fire Safety Zones.

(A) The secondary fire safety zone for dwellings and structures may be reduced pursuant to the provisions of 36.2110 (B) when:

(1) The tract on which the dwelling or structure is proposed has an average lot width or depth of 330 feet or less, or

(2) The dwelling or structure is proposed to be located within 130 feet of the centerline of a public or private road serving two or more properties; or

(3) The proposed dwelling or structure is proposed to be clustered with a legally existing dwelling or structure.

Staff: The Primary Fire Safety Zone for this property is 30 ft around all structures. The Secondary Fire Safety Zone is 100 ft in width and circles the Primary Fire Safety Zone. Both Zones equal 130 ft buffer area around the proposed structure. The proposed tower will be connected to the existing, lawfully established building by a coax bridge and is only 30 ft to the north of the building. The tower and building are clustered. *This criterion has been met.*

3.02 (B) Exceptions to secondary fire safety zones shall only be granted upon satisfaction of the following standards:

(1) If the proposed secondary fire safety zone is between 50 and 100 feet, the dwelling or structure shall be constructed in accordance with the International Fire Code Institute Urban-Wildland Interface Code Section 505 Class 2 Ignition Resistant Construction as adopted August, 1996, or as later amended, or

(2) If the proposed secondary fire safety zone is less than fifty feet, the dwelling or structure shall be constructed in accordance with the International Fire Code Institute Urban-Wildland Interface Code Section 504 Class 1 Ignition Resistant Construction as adopted August, 1996, or as later amended, and

Staff: The application requests elimination of the secondary fire safety zone for the tower. Only the 30 ft Primary Fire Safety Zone will be provided. The tower meets the Class 1 Ignition Resistant Construction standards below as described.

Building Components	Standard	Proposal
Roof Covering	Class A Covering/Assembly	No roof proposed.
Eave Protection	1 hr rated fire-resistive materials on underside of eaves & soffits.	No eaves or soffits proposed.

Gutters & Downspouts	Constructed of noncombustible material.	No gutters or downspouts.
Exterior Walls	1 hr rated fire-resistive materials	Tower constructed of metal.
Underfloor Protection	Underfloor areas shall be enclosed to the ground or 1 hr rated fire-resistive construction	No exposed underfloor.
Appendages & Projections	1 hr rated fire-resistive materials or noncombustible materials	Coax Bridge will be constructed of galvanized pipe, stainless steel and concrete.
Windows	Tempered glass or multilayered glazed panels.	No windows proposed.
Exterior Doors	Noncombustible or 1-3/4 in. thick. Glass in doors shall be the same as above.	No doors proposed.
Vents	Max. Size of 144 sq. in. Covered with ¼ in. wire mesh	No vents proposed.

This criterion has been met.

- 3.03 **(3) There shall be no combustible fences within 12 feet of the exterior surface of the dwelling or structure; and**

Staff: As shown on the site plan (Exhibit A.3, sheet 02), there are no fences within 50 feet of the tower base. *This criterion has been met.*

- 3.04 **(4) A dwelling shall have a central station monitored alarm system if the secondary fire safety zone equivalents of MCC 36.2110 (B) (1) are utilized, or**
(5) A dwelling shall have a central station monitored 13D sprinkler system if the secondary fire safety zone equivalents of MCC 36.2110 (B) (2) are utilized.
Exception: Expansions of existing single family dwellings as allowed by MCC 36.2025 (A) shall not be required to meet this standard, but shall satisfy the standard of MCC 36.2061(C)(3).

Staff: No dwellings are proposed. *This criterion is not applicable to this project.*

- 3.05 **(6) All accessory structures within the fire safety zone setbacks required by MCC 36.2056, and all accessory structures within 50 feet of a dwelling, shall have a central monitored alarm system.**

Staff: The tower and site will be monitored 24/7 by people during the day and cameras at night. There are no dwellings on the subject site. *This criterion has been met.*

- 3.06 **(7) All accessory structures within 50 feet of a building shall have exterior walls constructed with materials approved for a minimum of one-hour-rated fire-resistive construction, heavy timber, log wall construction or constructed with noncombustible materials on the exterior side.**

Staff: The tower is within 50 feet of the primary building on the site. The tower will be constructed of metal which is a noncombustible material. The coax cable bridge will be

constructed of galvanized pipe which is also a noncombustible material. *This criterion has been met.*

- 3.07 **(8) When a detached accessory structure is proposed to be located so that the structure or any portion thereof projects over a descending slope surface greater than 10 percent, the area below the structure shall have all underfloor areas enclosed to within 6 inches of the ground, with exterior wall construction in accordance with Section 504.5 of the International Fire Code Institute Urban-Wildland Interface Code Class 1 Ignition Resistant Construction as adopted August, 1996, or as later amended, or underfloor protection in accordance with Section 504.6 of that same publication.**

Exception: The enclosure may be omitted where the underside of all exposed floors and all exposed structural columns, beams and supporting walls are protected as required for exterior one-hour-rated fire-resistive construction or heavy-timber construction.

Staff: The tower will be constructed within a landscape planter which is within a flat parking lot. The base to the tower is concrete and will have no exposed beams, columns or other materials that can burn. *This criterion has been met.*

4.00 ***Conclusion***

Based on the findings and other information provided above, the applicant has carried the burden necessary for the approval of the Design Review application and the granting of the Exception to the Secondary Fire Safety zone in the CFU zone. This approval is subject to the conditions of approval established in this report.

5.00 ***Exhibits***

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Procedural Exhibits

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	2	General Application Form	6/15/07
A.2	2	Narrative for Design Review	6/15/07
A.3	4	Plans	6/15/07
A.4	1	Color Chip	6/15/07
A.5	1	Requested Tasks for Issuance of Design Plan Review	6/15/07
A.6	6	Narrative for Exception to the Secondary Fire Safety Zone	9/21/07
A.7	3	Special Building Construction Regulations	9/21/07
A.8	1	Cover Letter for Fee on the Exemption to the Secondary Fire Safety Zone	10/24/07
‘B’		Staff Exhibits	Date
B.1	2	A&T Property Information for 1S4E22BA – 00200	6/15/07
B.2	1	Modified Landscape Plan	1/18/08
‘C’		Administration & Procedures	Date
C.1	1	Incomplete Letter	7/13/07
C.2	1	Acceptance of 180 Day Time Period	8/8/07
C.3	1	2 nd Incomplete Letter	10/8/07
C.4	1	Completeness Letter – Day 1 (10/24/07)	10/25/07
C.5	4	Opportunity to Comment	12/10/07
C.6	11	Administrative Decision	1/23/08