

Staff Summary Report



Hearing Officer Hearing Date: August 17, 2010

Agenda Item Number: 4

SUBJECT: This is a public hearing for a request by **COMTECH EF DATA** located at 2114 West 7th Street for one (1) use permit and one (1) variance.

DOCUMENT NAME: 20100817dsdk01 **PLANNED DEVELOPMENT (0406)**

COMMENTS: Request by **COMTECH EF DATA (PL100225)** (Mike Hall/Michael Hall Architects, applicant; Phoenix Investors #7 LP, property owner) located at 2114 West 7th Street in the GID, General Industrial District for:

ZUP10076 Use Permit for wireless telecommunication equipment in the GID District, to allow a 16 ft tall roof mounted satellite dish.

VAR10009 Variance to waive required screening of roof-mounted equipment.

PREPARED BY: Diana Kaminski, Senior Planner (480-858-2391)

REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) *SEA*

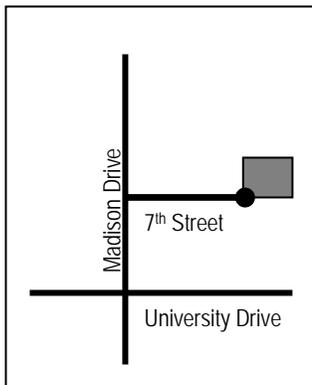
LEGAL REVIEW BY: N/A

DEPARTMENT REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval, subject to conditions

ADDITIONAL INFO:



The property is located in the General Industrial Zoning District north of University Drive, west of 52nd Street, east of the I-10 freeway. The existing building has one approved satellite dish which received a variance in order to allow the structure to function as an architectural element on the front elevation of the building. Two smaller satellite dishes were added without entitlement processes. These were added to meet business needs. One of these is proposed to be removed and replaced with this new satellite dish. This request is for the use permit to allow wireless telecommunication equipment in the GID district and a variance to waive required screening that would interfere with function of the technology necessary for their business operations.

PAGES:

1. List of Attachments
- 2-3. Comments
3. Reasons for Approval
4. Conditions of Approval; History & Facts/Description/Zoning & Development Code Reference

ATTACHMENTS:

1. Location Map(s)
2. Aerial Photo(s)
- 3-4. Letter of Intent
5. Site plan
6. Roof Plan
7. Elevations
8. Staff Report Photo
- 9-10. Additional Photos

COMMENTS:

The property, 2114 W. 7th Street, is located in an industrial park west of downtown Tempe, north of University Drive. The building was originally built in 1995 and received an "Honorable Mention" award at the 1997 Beautification Awards. The building design included a variance for building height exceeding 35', to allow a rotating satellite dish to a maximum height of 60' depending on angle of rotation. A second variance was previously granted to eliminate required roof-top screening for the satellite dish. The conditions of approval indicated that at such time that "the satellite dish" was no longer in use, it would be removed. Subsequent to the large dish being installed, two smaller dishes were constructed, which are slightly visible above the parapet from street view. One of these two would be removed and replaced with this request. Based on the wording of the previous variance approval, it was deemed not applicable to this new dish. The applicant is requesting approval of a requested use permit to allow the new satellite dish and a variance to waive the required screening for the dish.

Use Permit

The Zoning and Development Code requires a use permit for satellite dish uses in industrial districts. This is a continuation or expansion of a use that was formerly allowed by right, without a use permit.

Section 6-308 E Approval criteria for Use Permit:

1. The manner of conduct and the building for the proposed use will not be detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public welfare in general, and that the use will be in full conformity to any conditions, requirement or standards prescribed therefore by this code. The industrial use located in an industrial park is an existing use with a proven track record of business operations and property management. The use is compatible with other similar uses and structures and is not detrimental.
2. Any significant increase in vehicular or pedestrian traffic. Provision of a satellite dish on the roof will not impact traffic or circulation.
3. Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions. RF emissions are not detectible by sight, sound, taste, smell or touch. There are no known nuisances arising from the use of satellite dishes, nor would the use exceed that of ambient aforementioned conditions.
4. Contribution to the deterioration of the neighborhood or to the downgrading of property values, the proposed use is not in conflict with the goals objectives or policies for rehabilitation, redevelopment or conservation as set forth in the city's adopted plans or General Plan. The existing use and proposed addition of a satellite dish for continuation of this use is appropriate for this area and would not contribute to the deterioration of the surrounding properties.
5. Compatibility with existing surrounding structures and uses. The existing building and use is and will remain compatible with surrounding structures and uses. The proposed addition of a satellite dish exceeding the height of the building parapet wall by 10' 8" would be 4'4" lower than the existing elevator penthouse. The top 4-5' elevator penthouse is visible from street views, the street view of the proposed satellite dish might be 1' above the parapet wall from ground view. Visual observation of surrounding properties revealed many mechanical structures well above the parapet walls, in full view from the street. The proposed use is less visually intrusive than surrounding aesthetic conditions.
6. Adequate control of disruptive behavior both inside and outside the premises which may create a nuisance to the surrounding area or general public. There are no known or anticipated disruptive behavior caused by a rooftop mounted satellite dish. Having a viable business on site with security provides a greater control of activity in the area than a vacant building or a building with all uses internal to the site. Technicians on the roof potentially provide additional surveillance of the area.

Variance

A variance is intended to provide relief from the standards of the code where deemed necessary for preservation of property use

equitable to that of others in the same zoning district. Each request is heard on the merits of its presented facts, in the case of a long-standing business operating with specific technological requirements, having current satellite technology is necessary for the business to function. The proposed satellite dish is 16' in diameter, 10'8" of which would be above the parapet wall. This is 4'4" less than the existing elevator penthouse and significantly lower than the existing satellite dish at the front of the building (permitted by prior variance to rotate to a maximum elevation of 60'). The existing satellite dish to be removed is very close to the corner of the building, and is very visible from the street. The replacement dish would be constructed 32'8" north of the parapet wall, about twice as far north as the existing dish. Although the satellite dish does appear above the parapet wall when looking at an elevation from a horizontal plane in space, the angle of vision from the ground will significantly reduce the impacts of the new dish. From the street view, it is anticipated that approximately 1' of the top of the dish would be visible. The existing landscape will not screen the street front view, but would screen it from properties to the south.

Section 6-309 D Approval criteria for Variance: A *variance* from the terms of the Zoning and Development Code shall not be authorized unless the decision-making body finds upon sufficient evidence of the following:

1. That special circumstances are applicable to the property, including its size, shape, topography, location, or surroundings; The property is located at the end of a cul de sac with the building oriented to the street front, on the south side of the property, limiting site opportunities for clear transmission from the satellite technology. The satellites must face south, are limited in distance from the edge of the building by cable lengths, and are designed to minimize staff exposure to the transmission path by keeping roof-top technicians behind the dish for maintenance and testing.
and
2. The strict application of this Code will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district; The surrounding industrial district was established under older codes, some were built when roof-top screening was not required. Visual surveillance of the surrounding area indicated the majority of properties with the same zoning classification, enjoy a less stringent design standard, and have roof-top mounted equipment as visible as or more visible than the proposed satellite dish. Without the use of the satellite technology, the business would be unable to function.
and
3. The adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located; the proposed use and design is consistent with the conditions of existing properties within the area. In this case, the business requires technology which limits how they can design and use the property. As with any property in the vicinity and zoning district, modifications require an entitlement process and review, this is not a special privilege granted to this property.
and
4. A variance may not be granted if the special circumstances applicable to the property are self-imposed by the property owner. The existing site configuration and building design are not a self-imposed condition, the ever-changing technological nature of the business is not a self-imposed condition.

Conclusion

Based on the history of this site and the information provided by the applicant for this request, staff recommends approval of the requested use permit and variance.

REASON(S) FOR APPROVAL:

1. The project meets the General Plan Projected Land Use for this site.
2. The project will meet the development standards required under the Zoning and Development Code.
3. The request meets the required criteria for a variance.
4. The proposed project meets the approval criteria for a Use Permit.

SHOULD THE HEARING OFFICER ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE FOLLOWING CONDITIONS OF APPROVAL SHOULD APPLY.

**CONDITION(S)
OF APPROVAL:**

1. Obtain all necessary clearances from the Building Safety Division.
2. This variance is granted for the satellite dishes as presented with this request.
3. The satellite dish shall be no greater than 16' (sixteen feet) in height per plans submitted with this request.
4. Any intensification or expansion of use, including additional dishes, will require a new use permit.
5. All existing mature landscape is to be preserved and protected in place, topping or alteration of living trees for function or service of the satellite is prohibited.
6. The wireless device shall be removed within 30 days of discontinuance of use.

HISTORY & FACTS:

June 6, 1995

Hearing Officer approved a variance to waive required screening of a roof mounted satellite dish in the General Industrial District.

DESCRIPTION:

Owner – Phoenix Investors #7 LP
Applicant – Mike Hall/Michael Hall Architects
Existing Zoning – GID, General Industrial District

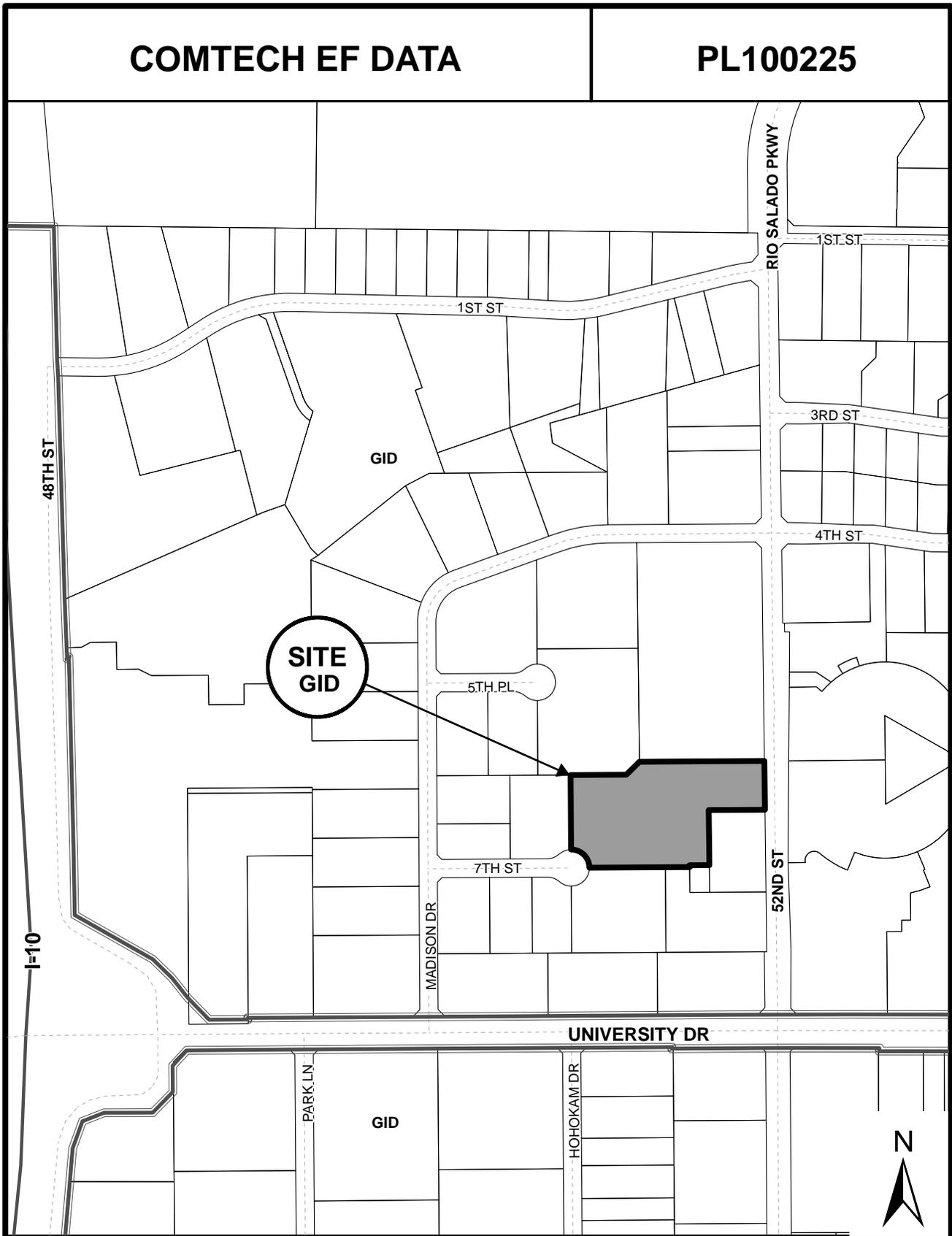
**ZONING AND
DEVELOPMENT**

CODE REFERENCE:

Part 3, Chapter 4, Section 3-421 – Wireless Telecommunication Facilities
Part 6, Chapter 3, Section 6-308 – Use Permit
Part 6, Chapter 3, Section 6-309 - Variances

COMTECH EF DATA

PL100225



Location Map



COMTECH EF DATA (PL100225)

July 28, 2010

LETTER OF EXPLANATION

This Variance is to allow a satellite dish that is 16'-0" tall on the roof of a two story industrial building in an industrial park. This building is 36'-0" tall including parapets that range from 4'-6" tall to 7'-8" tall. This satellite will be located in an area of the roof that is approximately 5'-4" below the parapet.

This dish is required to test there products in a real world application.

The satellite dish will be 10'-8" higher than the parapet, that is 4'-4" lower than the elevator penthouse. The longest view that you have of the building is from 52nd Street. From there you can see about 4'-0" to 5'-0" of the top of the elevator penthouse, so the satellite dish would not be visible except for maybe a tip of the top of it.

The Dish needs to be located in the area shown due to several factors:

1. Control cable length is critical, modern M&C codecs are sensitive and must be kept short, the distance of the cable affects the continuity and signal. The specific location of the dish is important as Comtech is licensed to transmit RF signals to a southern look angle. The proposed location of this dish keeps all human traffic that visits the roof behind any RF transmit path.
2. Screening would affect the ability to adjust and receive the signal due to the horizon or position of the satellite.

Use Permit Criteria.

- a. *Any significant increase vehicular traffic:* **No**
- b. *Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions.* **No**
- c. *Contribution to the deterioration of the neighborhood or to the downgrading of property values which, is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the city's adopted plans or General Plan.* **No**
- d. *Compatibility with existing surrounding structures and uses.* **Yes, this is an industrial area.**
- e. *Adequate control of disruptive behavior both inside and outside the premises.* **No, the equipment is secured on the roof in a safe location and out of sight.**

Variance Criteria.

- a. *Special circumstances are applicable to the property, including its size, shape, topography, location or surroundings: **Per the notes above, if screening is installed the dish would not be usable.***
- b. *The strict application of the code will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district. **This dish is integral to their business and is located out of site on the roof.***
- c. *The adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located. **This dish is no more obtrusive than other mechanical equipment and storage tanks that exist in this same zone.***
- d. *A variance may not be granted if the special circumstances applicable to the property are self imposed by the property owner. **This is a building that this tenant leases, newer technology has come along that requires the use of the dish.***

Thank You,

Mike Hall

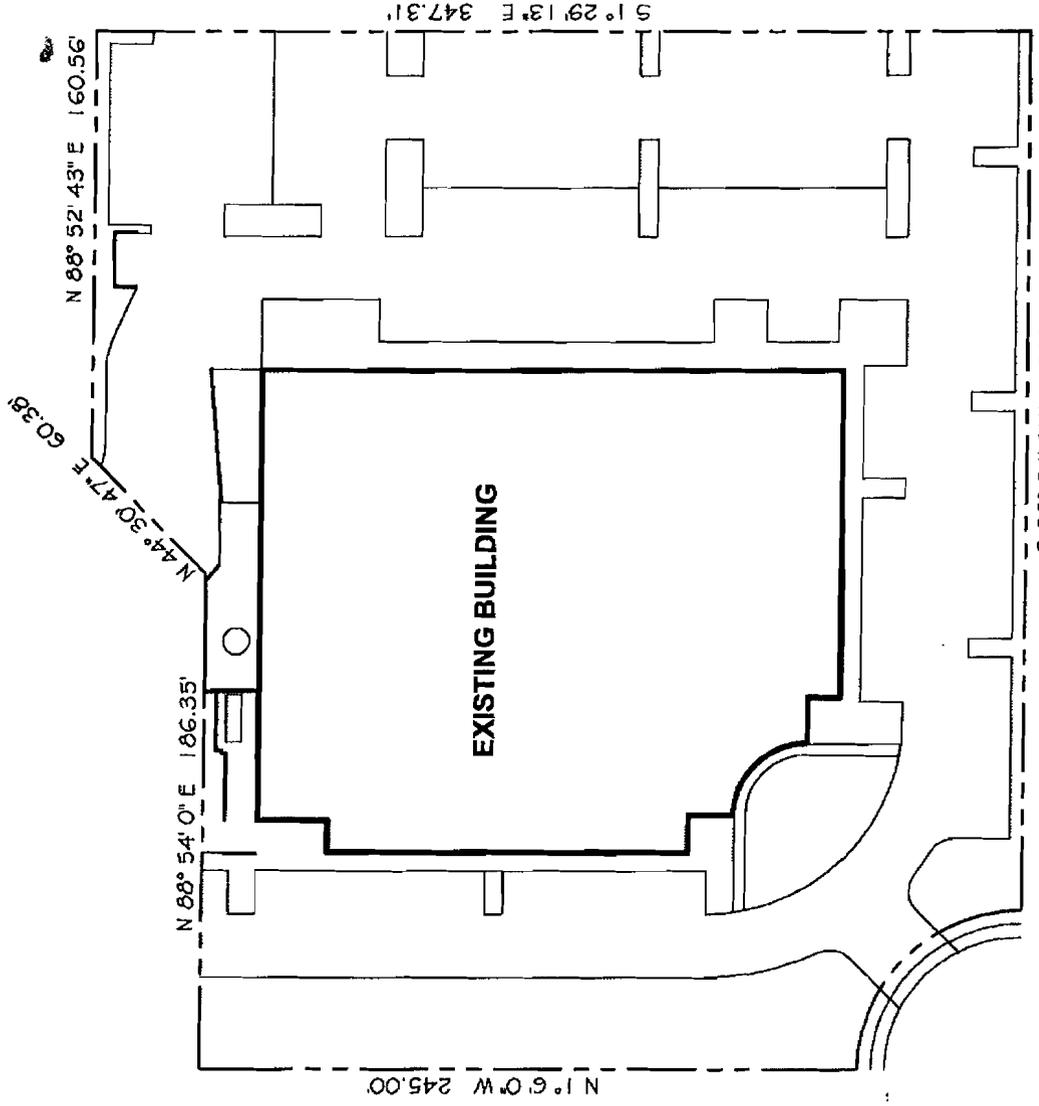


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COMTECH EF DATA
 BUILDING 1 SATELLITE DISH
 2114 W. 7TH STREET
 TEMPE, ARIZONA

PROJECT NO. 100125
 SHEET

A1



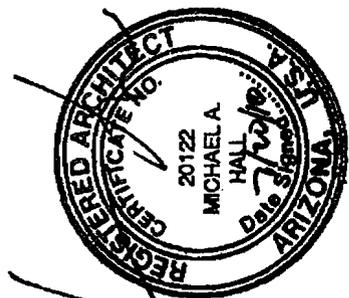
SITE PLAN
 SCALE: 1" = 20' 0"

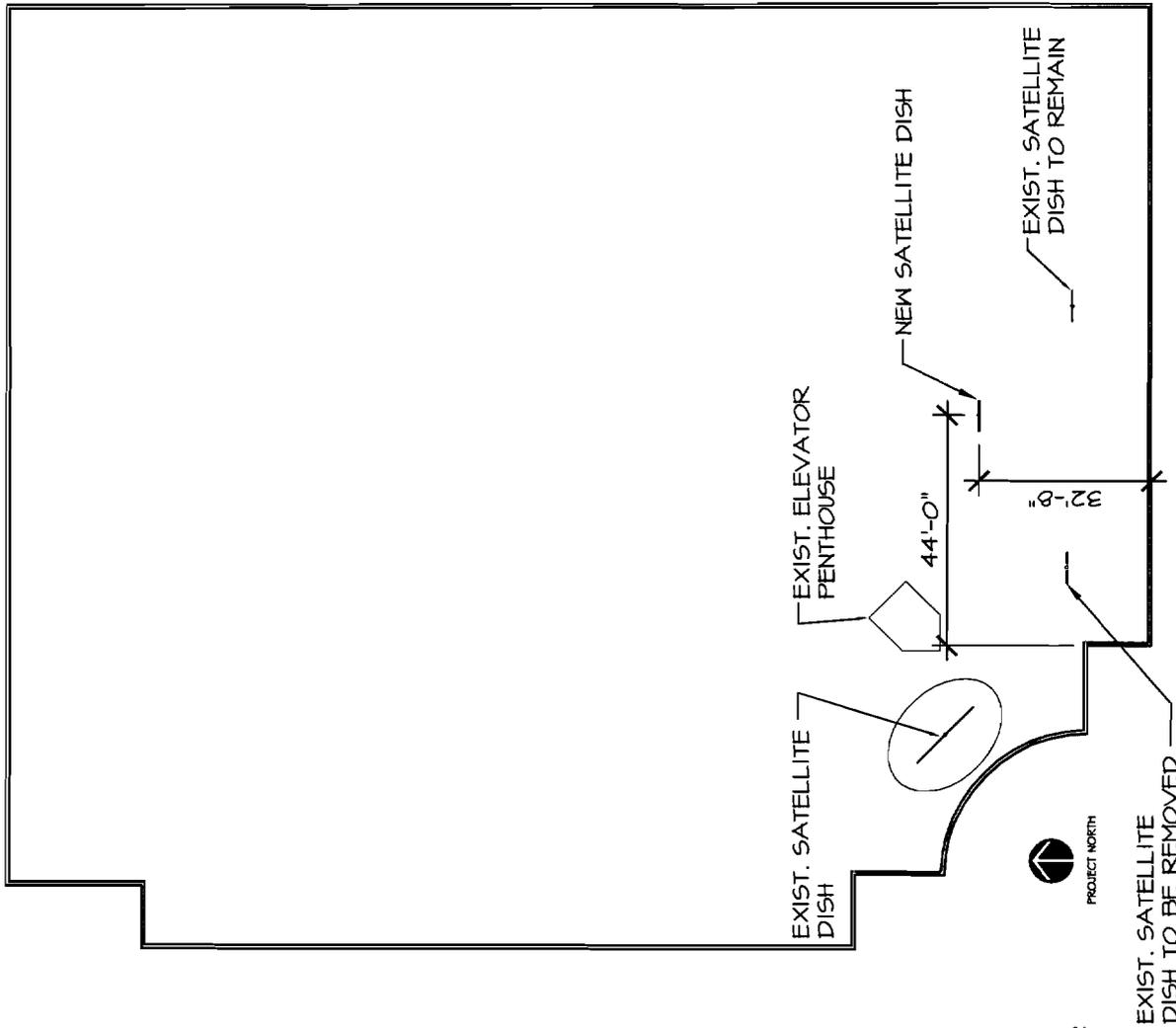
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PROJECT NORTH

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ROOF PLAN

SCALE: 3/32" = 1'-0"

1/00/2007

EXIST. SATELLITE DISH TO BE REMOVED

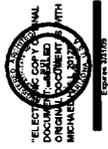
ANY CONTRACTOR, SUB-CONTRACTOR, AND/OR SUPPLIER IS HEREBY NOTICED THAT THIS PROJECT CONTRACT AND CONSTRUCTION MUST COMPLY TO THE ABOVE SCHEDULE. ALL PERMITS AND/OR REGULATIONS AS APPLICABLE TO THE ABOVE SCHEDULED ACTIVITIES.



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COMTECH EF DATA
BUILDING 1 SATELLITE DISH
 2114 W. 7TH STREET
 TEMPE, ARIZONA

DATE: 11/14/07
 DRAWN BY: J. HALL
 CHECKED BY: M. HALL
 PROJECT NO.: 07-0000000000
 SHEET: **A2**

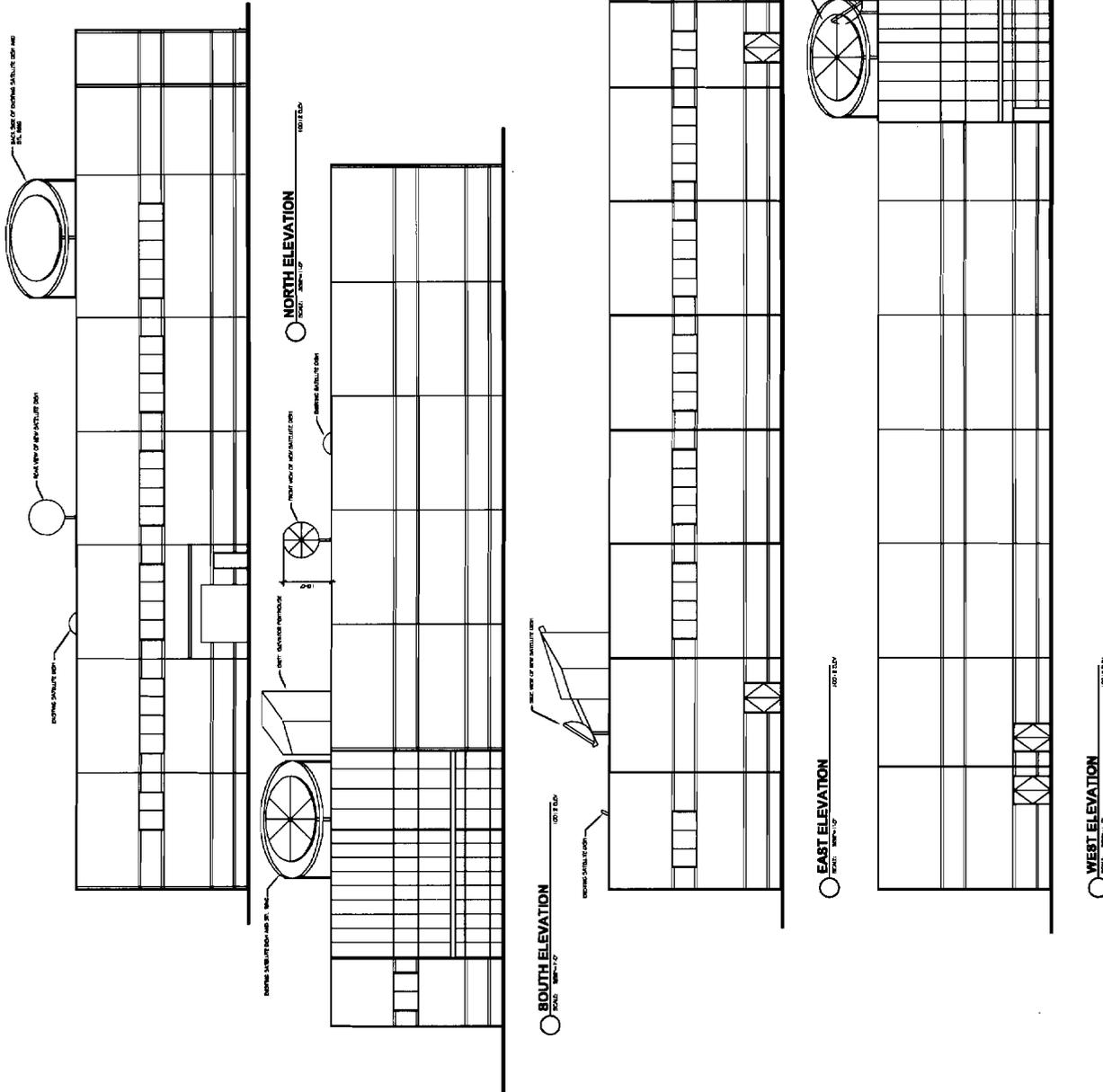


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COMTECH EF DATA
BUILDING 1 SATELLITE DISH
 2114 W. 7TH STREET
 TEMPE, ARIZONA

DATE: 11/17/04
 DRAWN BY: J. HALL
 CHECKED BY: M. HALL

SHEET
A3



ALL CONTRACTORS, SUBCONTRACTORS, AND/OR SUPPLIERS ARE HEREBY NOTIFIED THAT THIS PROJECT CONTRACT FOR CONSTRUCTION WAS COMPLETED BY THE ABOVE. THE ABOVE SHALL BE RESPONSIBLE FOR THE PROTECTION OF THE PROJECT. THE ARCHITECT ASSUMES NO LIABILITY FOR THE PROTECTION OF THE PROJECT.



COMTECH EF DATA

2114 WEST 7TH STREET

PL100225

FRONT OF EXISTING BUILDING





52ND STREET



FRONT - S.W.



52ND STREET



NORTH