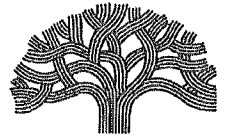


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CITY OF OAKLAND



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94612

Planning and Building Department  
Bureau of Planning

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Memo of Clarification

To: City Council

**RE: 1989 & 2047 Asilomar Drive Telecommunication Installation Appeals.**

On July 18, 2017, the City Council will be considering two related appeals for the installation of a telecommunication facility near 1989 and 2047 Asilomar Drive. The Appeal regarding 1989 Asilomar Drive, by a group of neighbors, of the Planning Commission's decision to approve an AT&T telecommunications installation in the public right-of-way near 1989 Asilomar Drive. The second is AT&T's appeal of the Planning Commission's decision to deny their telecommunications installation proposal in the public right-of-way adjacent to 2047 Asilomar Drive.

The proposal at 2047 Asilomar Drive was first brought to the Planning Commission at the September 2, 2015 Planning Commission meeting. Staff recommended approval of the project but the Planning Commission raised concerns regarding obstructions along a narrow stretch of public right-of-way and the lack of trees or vegetation to screen the facility from nearby residents. After the public hearing, the Planning Commission continued the item to a future date and directed the applicant to meet with interested parties and nearby residents to collaboratively identify an alternative location for the proposed facility. The application was eventually denied by the Planning Commission after the 1989 Asilomar Drive application was approved.


The public outreach from the Applicant and nearby residents resulted in the proposal near 1989 Asilomar, which was approved by the Planning Commission on April 20, 2016. This decision was subsequently appealed by a group of residents near 1989 Asilomar Drive.

Staff has consistently supported both Planning Commission applications that are now under appeal to the City Council and believes both are consistent with the requirements of the Planning Code. However, only one of the two applications needs to be constructed to close the gap in service coverage. The Applicant has exhausted all other potential site alternatives in the area. Staff recommends that the City Council make a decision as to which application (1989 Asilomar or 2047 Asilomar) is the better alternative.

In the event that both applications are approved by the City Council, that is the City Council rejects the appeal of the 1989 Asilomar Drive approval by the Planning Commission and upholds the appeal of the 2047 Asilomar Drive denial by the Planning Commission, the Applicant has voluntarily agreed to only file building permits for one of the two sites.

In the event that both applications are approved by the City Council, that is the City Council rejects the appeal of the 1989 Asilomar Drive approval by the Planning Commission and upholds the appeal of the 2047 Asilomar Drive denial by the Planning Commission, the Applicant has voluntarily agreed to only file building permits for one of the two sites.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Darin Ranelletti', written over a horizontal line.

Darin Ranelletti, Interim Director  
Planning and Building Department



FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

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# AGENDA REPORT

**TO:** Sabrina B. Landreth  
City Administrator

**FROM:** Darin Ranelletti, Interim  
Director, Department of  
Planning & Building

**SUBJECT:** Appeal of Telecommunications  
Facility Near 1989 Asilomar Drive

**DATE:** July 18, 2017

City Administrator Approval

Date: 7/5/17

## RECOMMENDATION

**Staff Recommends That The City Council Conduct A Public Hearing And Upon Conclusion Adopt A Resolution Denying Appeal #PLN16041-A01 and Upholding the Decision of the City Planning Commission to Approve Regular Design Review to Install A Telecommunications Facility Onto a Replacement Utility Pole Located in the Public Right-of-Way Near 1989 Asilomar Drive.**

## EXECUTIVE SUMMARY

On April 20, 2016, the Planning Commission conducted a duly noticed public hearing and approved an application submitted by New Cingular Wireless PCS, LLC d/b/a AT&T Mobility (the "Applicant") for Regular Design Review to replace an existing public utility pole with a new utility pole containing two antennas and associated equipment (PLN16041, the "Application" or "Project"). On May 2, 2016, Robert H. Appeldorn and Mariam Dianne Noroian, representing certain residents of the Montclair Neighborhood (collectively, the "Appellants"), filed a timely appeal (#PLN16041-A01, the "Appeal") of the Planning Commission's decision on the basis of:

1. Visual impacts on public views and view planes of nearby residences;
2. Issues related with site selection as related to another application that was rejected by the Planning Commission;
3. The appropriateness of a telecommunications installation in such close proximity to a hillside residential area;
4. The proposed tower exposing nearby residents to significantly higher doses of radiation;
5. Noise from cooling fans and potential fire danger negatively impacting home values; and
6. Faulty safety criteria used by the Federal Communications Commission (FCC) to establish safe exposure limits.

As discussed below, the Appeal fails to demonstrate an error or abuse of discretion by the Planning Commission, or wherein its decision was not supported by evidence in the record. As a result, Staff recommends the City Council deny the Appeal and uphold the Planning Commission's decision to approve the Application.

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## **BACKGROUND / LEGISLATIVE HISTORY**

### *Local Government Zoning Authority*

In 2009, the U.S. Ninth Circuit Court of Appeals issued a decision that authorized local agencies to consider aesthetics with respect to the siting of telecommunications projects located in the public right-of-way. Based on this decision, the City began requiring design review for the co-location of telecommunications facilities on existing utility infrastructure located within the right-of-way, whereas previously, these co-location projects had undergone only a non-discretionary ministerial review process. Telecommunication projects located in the public right-of-way are also distinct from those located on private property, which have always been subject to design review as well as a conditional use permit and possible variances in certain situations.

In addition, the Telecommunications Act of 1996 prohibits any local zoning regulations purporting to regulate the placement, construction, and modification of personal wireless service facilities on the basis, either directly or indirectly, of the environmental effects of radio frequency emissions (RF) of such facilities, which otherwise comply with Federal Communications Commission (FCC) standards in this regard. This means that local authorities may not regulate the siting or construction of personal wireless facilities based on RF standards that are more stringent than those promulgated by the FCC.

### *Application*

On February 16, 2016, a representative for the Applicant submitted a Regular Design Review application to the Bureau of Planning to install a telecommunications facility by replacing an existing 38'-9" utility pole located in the public right-of-way adjacent to 1989 Asilomar Drive. The site, which is adjacent to a peninsula shaped parcel at the intersection of Asilomar Drive and Balboa Drive, is in a section of right of way that does not contain a sidewalk. The surrounding area consists of a hillside residential neighborhood with single-family homes.

The proposal would install a new 48-foot JPA utility pole, to be owned by PG&E, and attach two panel antennas (each two feet long and ten inches wide) to the top of the new pole, extending to 51'-4" above ground. The proposed equipment would be mounted within a single equipment box onto the new pole.

### *Planning Commission Decision*

As detailed in the April 20, 2016 Staff Report, staff recommended that the Planning Commission approve the Application for several reasons. Staff visited the site and studied internet aerial images, and did not discern a protected view impact issue due to the elevation of surrounding homes and the location of view corridors (staff did not have access to certain vantage points because they were on private property). Further, based on staff's observations, existing trees would partially conceal the facility. Staff determined that the proposal met each of the required findings for Regular Design Review approval and the additional findings required for approval of telecommunications facilities. Staff also based its recommendation on both a site design alternatives analysis and a satisfactory emissions report.

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The Planning Commission held a duly noticed public hearing on April 20, 2016, to consider the Application. Prior to the hearing, staff did not receive evidence of potential view corridor obstructions, but did receive a large number of public comments. During the public hearing, all interested parties were provided an ample opportunity to participate in the hearing and express their views. Upon the conclusion of the public hearing, the Planning Commission unanimously approved the Project in accordance with staff's recommendation, taking into consideration all of the testimony and evidence received before and during the public hearing.

### *Appeal*

On May 2, 2016, the Appellants filed an Appeal on behalf of certain residents of the Montclair Neighborhood (**Attachment A**). The bases of the appeal were: (1) visual impacts from public views and view planes of nearby residences; (2) site selection in relation to another proposal at a nearby site that was rejected by the Planning Commission; (3) the appropriateness of a telecommunications installation within a hillside residential area; (4) the proposed tower will expose nearby residents to significantly higher doses of radiation; (5) noise from cooling fans and potential fire danger will negatively impact home values; and (6) faulty safety criteria used by the FCC to establish safe exposure limits. On the same day, the Appellants submitted additional materials, including photographs, to the City that are attached to the Appeal (see **Attachment A**).

### *Procedural Background*

On July 18, 2017, the City Council will be considering two related appeals: the Appeal described in this staff report (1989 Asilomar Drive) and AT&T's appeal of the Planning Commission's decision related to 2047 Asilomar Drive. Staff has consistently supported both Planning Commission applications under appeal to the City Council. However, only one of the two applications needs to be approved to close a significant gap in service coverage in the area. The Applicant has exhausted all other potential site alternatives in the area; 2052 Tampa Ave. (Case #DR13035) and the subsequent alternative location near 2040 Tampa Ave. (Case #PLN14038) became infeasible when an existing tree, to be used as a screening element, was removed, and the remaining alternative sites in the area were undesirable from construction, coverage or aesthetics perspectives. The Applicant requests that the City Council make the decision as to which application (1989 Asilomar or 2047 Asilomar) is the least intrusive alternative, in part because planning staff originally recommended approval of both applications. However, in the event both applications are approved, the Applicant has voluntarily agreed to only file building permits for one of the two sites. The Applicant has made extensive efforts in an attempt to close a significant gap in coverage in this area of the City, and has exhausted all other site alternatives in the area.

### **ANALYSIS AND POLICY ALTERNATIVES**

The Oakland Planning Code indicates the following standard of review for an appeal of a Planning Commission decision on a Regular Design Review application:

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The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by the evidence in the record....

In considering the appeal, the Council shall determine whether the proposal conforms to the applicable design review criteria, and may approve or disapprove the proposal or require such changes therein or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to said criteria. (OMC Sec. 17.136.090.)

As discussed in more detail below, the Planning Commission's decision to approve the Project near 1989 Asilomar was not made in error and did not constitute an abuse of discretion. The Commission's decision to approve the Application was based on evidence in the record that the project met each of the required findings, as further detailed in the April 20, 2016 Staff Report.

Below are the primary issues presented by the Appellants in their appeal and staff's response to each issue.

**Appellants' Issue #1:**

The proposal will create visual impacts from public view and view planes of nearby residences. Specifically, Planning Commission Finding #1 is unsupported by substantial evidence and is derived from two paragraphs provided in the staff report and in no way represent the final condition of the site or the view of the telecom pole.

**Staff Response:**

As required by the Planning Code and as part of AT&T's application material, an "Engineer Statement" indicating what current coverage conditions exists in the area and how the proposed facility will improve and enhance coverage was submitted with "supporting documents" that include coverage maps and location of existing AT&T facilities (Exhibit A of the Application). This documentation states that the proposed facility will close a significant gap in coverage. In addition, an extensive site alternative analysis was submitted that evaluated over 30 locations throughout the neighborhood. The Applicant considered alternative sites on other utility poles nearby but none of the sites were desirable from construction, coverage, or aesthetic perspectives. The Project was selected because the proposed facility was not in the path of any protected view sheds, and due to the number of trees near the proposed site that enable the Project to blend in with the backdrop of foliage.

The Planning Commission correctly found that the Project conforms to the General Plan and Design Review criteria and "Visual impacts will be minimized since the site is relatively wooded, with trees partially obscuring views of the pole." The Commission similarly found that the Project would have "minimal visual impacts on public views, thereby protecting the value of private and public investments in the area." The proposed facility will not be taller than the existing trees surrounding the replacement JPA pole along Asilomar Drive or Balboa Drive. Further, the replacement pole will not obstruct or block any significant view, as defined in the City of Oakland Interim Design Review Manual for One- and Two-Unit Residences ("Design Review Manual") that is not already obstructed by existing trees. In the Design Review Manual, a significant view is defined as follows and this proposal does not involve a protected view:

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1. Golden Gate Bridge, Bay Bridge, other Bridges, downtown Oakland or San Francisco skyline;
2. A large portion of San Francisco Bay and/or San Pablo Bay;
3. A panoramic view of major natural features such as the Oakland/Piedmont/Berkeley hills, a large open hillside, Mount Tamalpais, Mount Diablo, Lake Merritt, etc.; or
4. A prominent structural landmark such as UC Berkeley Campanile, Mormon Temple, etc.

The location of the proposed project does not obstruct or interfere with any of the protected view planes referenced above. The view impacts referenced by the Appellants refer to the proposed installation projecting above the existing tree line and the required trimming of branches and limbs from the trees, which staff acknowledges will result in a significant change to certain vantage points of nearby residences to an unobstructed view of the sky, but will in no way block a protected view. The City has incorporated a specific Condition of Approval that will limit the amount of tree trimming required for new utilities and require the Applicant to incorporate a finish to installation that will, to the greatest extent possible, blend in with the surrounding.

**Appellants' Issue #2:**

The site selected should be treated in a similar fashion as a site 1.5 blocks away at 2047 Asilomar Drive that was rejected by the Planning Commission.

**Staff Response:**

The Appellants are correct in stating that the application for the site near 1989 Asilomar Drive is AT&T's second attempt to close a significant gap in coverage. The first application was located adjacent to 2047 Asilomar Drive, which was denied by the Planning Commission and appealed to the City Council by the Applicant. However, the proposals are on different sites and, therefore, required different decisions from the Planning Commission. The 1989 Asilomar proposal is located on a section of roadway that intersects two streets and is surrounded by tall trees in an area of right-of-way that is in between street signs and other city appurtenances.

The 2047 Asilomar Drive proposal had a different setting and different proposal and both applications were heard independently of one another. As stated in AT&T's site alternatives analysis, the 2047 Asilomar Drive location is the most effective location to close the gap in coverage, and was the first application to be submitted for review.

The Planning Commission properly applied the Regular Design Review Criteria and additional design review criteria for Macro Facilities to this Project. As stated above, state and federal law define the scope and parameters of the City's ability to regulate telecommunications facilities. The California Public Utilities Code provides certain telecommunications companies the right to construct telecommunications facilities "in such manner and at such points as not to incommode the public use of the road or highway", and states that "municipalities shall have the right to exercise reasonable control as to the time, place, and manner in which roads, highways, and waterways are accessed." (Cal. Pub. Util. Code, §§ 7901, 7901.1.) In 2009, the Ninth Circuit Court of Appeal held that the City may consider aesthetics with respect to the siting of telecommunications facilities within its rights-of-way (see Sprint PCS Assets, LLC v. City of

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Palos Verdes Estates (9<sup>th</sup> Cir. 2009) 583 F.3d 716, 725). Based on this decision, the City began requiring Design Review for the co-location of telecommunications facilities on existing utility infrastructure located within the rights-of-way, whereas previously these co-location projects had undergone only a ministerial review process (see Planning Commission director's report and zoning code bulletin dated August 5, 2015, **Attachment C**).

Thus, applications for the co-location of telecommunications facilities on joint utility poles located in the public right of way are subject only to Regular Design Review with additional Design Review findings for Macro Telecommunications Facilities (and any other additional Design Review findings required by the Zoning District), and are decided by the Planning Commission as a Major Permit. In addition to regular and additional design review criteria, these facilities are also subject to the Site Design and Location Preference requirements contained in Chapter 17.128 of the Oakland Planning Code. The Planning Commission's decision to approve the Project near 1989 Asilomar was not made in error and did not constitute an abuse of discretion. The Commission's decision to approve the Application was based on evidence in the record that the Application met each of the required findings, as further detailed in the April 20, 2016 Staff Report (**Attachment B**).

**Appellants' Issue #3:**

It is inappropriate to establish this telecommunication installation in a residential area, where shorter utility poles exist than that proposed. Specifically, Planning Commission Finding #2 is unsupported by substantial evidence that the proposed pole is not "similar in height" when the pole is more than 30% taller.

**Staff Response:**

The Planning Commission's decision to approve the Project near 1989 Asilomar, including Finding #2 ("The installation will be sited near other utility poles of similar height in the surrounding area to have minimal visual impacts on public views, thereby protecting the value of private and public investments in the area."), is supported by evidence in the record and was not made in error and did not constitute an abuse of discretion.

The project requires an increase in the height of the JPA utility pole from 38'-9" to 51'-4" due to California Public Utility Commission (CPUC) Code Section 7901 which requires a new pole to have a height of 45' and General Order 95, which requires a minimum of six feet of separation between power lines and the bottom of the antenna installation. The existing JPA utility pole contains primary power lines at the very top of the pole (38'-9"). For the installation to comply with CPUC guidelines, the minimum height of any new pole is 51'-4", which is the height of the proposed replacement pole. The new pole height will remain surrounded by a shroud of existing trees and will be treated to minimize its visual disturbance to the hillside residential context.

**Appellants' Issue #4:**

The proposed tower will expose nearby residents to significantly higher doses of radiation.

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**Staff Response:**

The Appellants also raise concerns about environmental and health consequences of radio frequency emissions. Local governments are specifically precluded from considering any alleged health or environmental effects of RF emissions in making decisions as to the siting of wireless telecommunications facilities "to the extent such facilities comply with the FCC's regulations concerning such emissions." U.S.C. § 332(c)(7)(B)(iv). The Applicant provided an RF engineering analysis for the Project, prepared by Hammett & Edison, Inc., which confirms that the proposed operation will comply with the FCC guidelines limiting public exposure to RF energy. Because the Project complies with the FCC standards, the City cannot reject the Application based on health concerns of RF emissions.

**Appellants' Issue #5:**

Noise from cooling fans and potential fire danger will negatively impact home values.

**Staff Response:**

The ambient noise from the cooling fans will operate below the maximum allowed decibel levels established in performance standard requirements. In addition, the Planning Commission's approval is subject to Condition of Approval #14 (see **Attachment A**), which requires that the noise levels from the proposed equipment comply with the performance standards of Section 17.120 of the Oakland Planning Code and Section 8.18 of the Oakland Municipal Code. The typical noise that emanates from these types of facilities is generated from the cooling equipment inside the cabinets from an internal fan, which creates a "humming" noise when the equipment needs ventilation to reduce temperature. When the fan is operational, the noise level is less than 45 decibels, which is well below the applicable noise performance standards. By comparison, according to the City of Oakland General Plan Noise Element, 45 decibels is the equivalent of background music in a typical living room and is considered "quiet".

The proposed telecommunications installation will be reviewed by the Fire Prevention Bureau before any permit is issued to ensure appropriate fire safety measures are incorporated into the design. Furthermore, the existing utility pole will carry no additional electrical load than its current capacity and, therefore, poses no greater risk of fire than what currently exists.

**Appellants' Issue #6:**

Faulty safety criteria used by the FCC to establish safe exposure limits that the US Department of the Interior called: "30 years out of date and inapplicable today."

**Staff Response:**

As discussed in Staff Response to Issue #4, above, applicable state and federal laws limit local regulation of wireless telecommunication facilities, as described in more detail in the Planning Commission staff report dated June 17, 2015 (**Attachment C**). FCC regulations require the submission of an RF (Radio Frequency) emissions report, prepared by a licensed professional engineer or other expert, indicating that the proposed site will operate within the current

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acceptable thresholds as established by the Federal government or any such agency that may be subsequently authorized to establish such standards. The Applicant submitted an RF report that states the proposed facilities would be well under the maximum exposure limits, and pursuant to Condition of Approval #10 and #13, must also obtain an RF emissions report to test actual operating levels after the site is constructed.

### **FISCAL IMPACT**

This Appeal action would have no fiscal impact.

### **PUBLIC OUTREACH / INTEREST**

The Appeal was publicly noticed to the Applicant and the Appellants pursuant to applicable state and local requirements. Notices were posted on the City website and the Public Notice Kiosk at City Hall. Staff has received numerous comments regarding this application.

### **COORDINATION**

This agenda report and legislation have been reviewed by the Office of the City Attorney and by the Controller's Bureau.

### **SUSTAINABLE OPPORTUNITIES**

***Economic:*** The Project would allow for better cellular phone reception, which would allow home businesses to successfully operate in the Oakland Hills.

***Environmental:*** The Project would not have an adverse effect on the environment.

***Social Equity:*** The Project would not affect social equity.

### **CEQA**

As stated in the Planning Commission staff report, the Project is exempt from environmental review under the California Environmental Quality Act ("CEQA") under CEQA Guidelines sections 15301 (existing facilities), 15183 (projects consistent with a community plan, general plan, or zoning), and 15303 (small facilities or structures, installation of small new equipment and facilities in small structures), each as a separate and independent basis, and when viewed collectively, as an overall basis for CEQA clearance. None of the exceptions to the exemptions in CEQA Guidelines Section 15300.2 are triggered by the proposed telecommunication facilities. Specifically, a) the location is not designated hazardous or critical; b) the telecommunications facilities do not have a cumulative impact because other telecommunications facilities are dispersed from each other and not in the same places such that any visual or noise impacts do not cumulate; c) utility facilities are common in the public right-of-way and are not an unusual circumstance; d) the area is not a scenic highway; e) the area is not a hazardous waste site; and f) there is no change to a historical resource.

**ACTION REQUESTED OF THE CITY COUNCIL**

In conclusion, staff recommends that the City Council Deny the Appeal. The Appellant has not demonstrated that the Planning Commission's decision was made in error, that there was an abuse of discretion by the Planning Commission, and/or that the Planning Commission's decision was not supported by evidence in the record.

For questions regarding this report, please contact Jose M. Herrera-Preza, Planner II, at (510) 238-3808 or [jherrera@oaklandnet.com](mailto:jherrera@oaklandnet.com).

Respectfully submitted,



Darin Ranelletti, Interim Director  
Planning and Building Department

Reviewed by:  
Scott Miller, Zoning Manager

Prepared by:  
Jose M. Herrera-Preza, Planner II

Attachments (3):

- A: Appeal #PLN16041-A01, filed May 2, 2016
- B: Planning Commission Staff Report with Attachments (dated April 20, 2016)
- C: Planning Commission Director's Report with attached Zoning Code Bulletin dated April 8, 2015

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OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

**RESOLUTION DENYING APPEAL #PLN16041-A01 AND UPHOLDING THE DECISION OF THE CITY PLANNING COMMISSION TO APPROVE REGULAR DESIGN REVIEW TO INSTALL A TELECOMMUNICATIONS FACILITY ONTO A REPLACEMENT UTILITY POLE LOCATED IN THE PUBLIC RIGHT-OF-WAY FRONTING THE LOT LINE NEAR 1989 ASILOMAR DRIVE**

**WHEREAS**, on February 16, 2016, the Applicant New Cingular Wireless PCS, LLC d/b/a AT&T Mobility submitted an application for Regular Design Review to replace an existing Joint Pole Authority ("JPA") utility pole in the City public right-of-way adjacent to 1989 Asilomar Drive with a new JPA utility pole and attach two panel antennae on the pole and to mount a singular equipment box to the side of the pole, as case #PLN16041 ("Project"); and

**WHEREAS**, no protected views or view sheds will be impacted by the Project because of the elevation of homes uphill from the utility pole and the presence of a ridge to the southwest of the site; and

**WHEREAS**, the application was placed on the Planning Commission agenda for a public hearing on April 20, 2016, and public notices were duly and legally distributed; and

**WHEREAS**, on April 20, 2016, the Planning Commission approved the Regular Design Review application for case #PLN16041, subject to findings, additional findings, and conditions of approval; and

**WHEREAS**, on April 20, 2016, the Planning Commission independently reviewed, considered, and determined that the project is exempt from the environmental review requirements of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines sections 15301 (existing facilities), 15303 (small facilities or structures; installation of small new equipment and facilities in small structures), and 15183 (projects consistent with a community plan, general plan or zoning), each as a separate and independent basis and when viewed collectively as an overall basis for CEQA clearance; and

**WHEREAS**, on May 2, 2016, the Appellants, Robert H. Appeldorn & Mariam Dianne Noroian, representing certain residents of the Montclair community, filed a timely appeal (#PLN16041-A01) of the Planning Commission's decision to approve the project; and

**WHEREAS**, Oakland Planning Code section 17.36.090 requires that the City Council hold a duly noticed public hearing on an appeal of the Planning Commission's decision on Regular Design Review; and

**WHEREAS**, after giving due notice to the Appellants, the Applicant, supporters of the application, those opposed to the application and interested neutral parties, the Appeal came before the City Council during a duly noticed public hearing on July 18, 2017, during which all interested parties were provided ample opportunity to participate in said hearing and express their views; and

**WHEREAS**, the public hearing on the Appeal was closed by the City Council on July 18, 2017; and

**WHEREAS**, at this time, the Applicant only requires one telecommunications facility to close a significant gap in service coverage for this area of Asilomar Drive; now, therefore, be it

**RESOLVED**: That the City Council independently finds and determines that this Resolution complies with CEQA, as the Project is exempt from CEQA pursuant to CEQA Guidelines sections 15301 (existing facilities), 15303 (small facilities or structures, installation of small new equipment and facilities in small structures), and 15183 (projects consistent with a community plan, general plan or zoning), each as a separate and independent basis and when viewed collectively as an overall basis for CEQA clearance. The Environmental Review Officer is directed to cause to be filed a Notice of Determination/Exemption with the appropriate agencies; and be it

**FURTHER RESOLVED**: That in the event that both the appeal of the Planning Commission decision for PLN16041 (1989 Asilomar Drive) is denied and the appeal of the Planning Commission decision for PLN15180 (2047 Asilomar Drive) is upheld (i.e., both applications are approved), the Applicant shall only file building permits to develop a telecommunications facility for one of the two sites; and be it

**FURTHER RESOLVED**: That the City Council, having independently heard, considered and weighed all the evidence in the record presented on behalf of all parties and being fully informed of the application, the Planning Commission's decision, and the Appeal, hereby finds and determines that the Appellants have **not** shown, by reliance on appropriate/proper evidence in the record, that the Planning Commission's decision was made in error, that there was an abuse of discretion by the Planning Commission, and/or that the Planning Commission's decision was not supported by substantial evidence in the record. This decision is based, in part, on the July 18, 2017, City Council Agenda Report and the April 20, 2016 Planning Commission staff report, both of which are hereby incorporated by reference as if fully set forth herein, on the reports and testimony provided at the hearing, and on the City's General Plan, Planning Code, and other planning regulations as set forth below; and be it

**FURTHER RESOLVED:** That the Appeal is hereby denied, and the Planning Commission's decision to approve the replacement of the JPA utility pole with a new JPA pole with two panel antennae attached to the top and a singular equipment box mounted eight feet above ground, located in the City public right-of-way adjacent to 1989 Asilomar Drive, is upheld, subject to the findings for approval, additional findings, and conditions of approval adopted by the Planning Commission, each of which is hereby separately and independently adopted by this Council in full; and be it

**FURTHER RESOLVED:** That, in support of the City Council's decision to deny the appeal and approve the project, the City Council affirms and adopts as its own independent findings and determinations: (i) the July 18, 2017 City Council Agenda Report, including without limitation the discussion, findings and conclusions (each of which is hereby separately and independently adopted by this Council in full), and (ii) the April 20, 2016 Planning Commission staff report approving the project, including without limitation the discussion, findings, additional findings, conclusions, and conditions of approval (each of which is hereby separately and independently adopted by this Council in full); and be it

**FURTHER RESOLVED:** That the record before this Council relating to this Project and Appeal includes, without limitation, the following:

1. the application, including all accompanying maps and papers;
2. all plans submitted by the Applicant and its representatives;
3. the notice of appeal and all accompanying statements and materials;
4. all final staff reports, final decision letters, and other final documentation and information produced by or on behalf of the City, including without limitation all related/supporting final materials, and all final notices relating to the application and attendant hearings;
5. all oral and written evidence received by the Planning Commission and City Council before and during the public hearings on the application and appeal; and all written evidence received by relevant City Staff before and during the public hearings on the application and appeal; and
6. all matters of common knowledge and all official enactments and acts of the City, such as (a) the General Plan; (b) the Oakland Municipal Code; (c) the Oakland Planning Code; (d) other applicable City policies and regulations; and (e) all applicable State and federal laws, rules and regulations; and be it

**FURTHER RESOLVED:** That the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City Council's decision is based are located at (a) the Planning and Building Department, Planning and Zoning Division, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, California, and (b) the Office of the City Clerk, 1 Frank H. Ogawa Plaza, First Floor, Oakland, California; and be it

**FURTHER RESOLVED:** That per standard City practice, if litigation is filed challenging this decision, or any subsequent implementing actions, then the time period for obtaining necessary permits for construction or alteration and/or commencement of authorized construction-related activities stated in Condition of Approval #2 is automatically extended for the duration of the litigation; and be it

**FURTHER RESOLVED:** That the recitals contained in this Resolution are true and correct and are an integral part of the City Council's decision.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES – BROOKS, CAMPBELL - WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID AND  
PRESIDENT GIBSON MCELHANEY

NOES -

ABSENT -

ABSTENTION –

ATTEST: \_\_\_\_\_  
LaTonda Simmons  
City Clerk and Clerk of the Council of the  
City of Oakland, California

**LEGAL NOTICE:**

PURSUANT TO OAKLAND MUNICIPAL CODE SECTION 17.136.090, THIS DECISION OF THE CITY COUNCIL IS FINAL IMMEDIATELY AND IS NOT ADMINISTRATIVELY APPEALABLE. ANY PARTY SEEKING TO CHALLENGE SUCH DECISION IN COURT MUST DO SO WITHIN NINETY (90) DAYS OF THE DATE OF THIS DECISION, UNLESS A DIFFERENT DATE APPLIES.



**CITY OF OAKLAND  
APPEAL FORM  
FOR DECISION TO PLANNING COMMISSION, CITY  
COUNCIL OR HEARING OFFICER**

**PROJECT INFORMATION**

Case No. of Appealed Project: PLN16041  
Project Address of Appealed Project: Adjacent to 1989 Asilomar (048E-7337-017-00)  
Assigned Case Planner/City Staff: Jose M. Herrera-Preza, Planner II

**APPELLANT INFORMATION:**

Printed Name: Robert H. Appeldorn & Mariam Dianne Noroian Phone Number: 510-339-3220  
Mailing Address: 5700 Balboa Drive Alternate Contact Number: 510-418-1072  
City/Zip Code Oakland, CA 94611 Representing: Selves, Jerry & Lynne Ostrander, John & Betsy Robinson, Barbara Rosenfeld, Julie Enriquez, Roswitha & Dale Robinson  
Email: mdna22@aol.com & boardworks@aol.com

**An appeal is hereby submitted on:**

- AN ADMINISTRATIVE DECISION (APPEALABLE TO THE CITY PLANNING COMMISSION OR HEARING OFFICER)**

**YOU MUST INDICATE ALL THAT APPLY:**

- Approving an application on an Administrative Decision
- Denying an application for an Administrative Decision
- Administrative Determination or Interpretation by the Zoning Administrator
- Other (please specify) \_\_\_\_\_

**Please identify the specific Administrative Decision/Determination Upon Which Your Appeal is Based Pursuant to the Oakland Municipal and Planning Codes listed below:**

- Administrative Determination or Interpretation (OPC Sec. 17.132.020)
- Determination of General Plan Conformity (OPC Sec. 17.01.080)
- Design Review (OPC Sec. 17.136.080)
- Small Project Design Review (OPC Sec. 17.136.130)
- Minor Conditional Use Permit (OPC Sec. 17.134.060)
- Minor Variance (OPC Sec. 17.148.060)
- Tentative Parcel Map (OMC Section 16.304.100)
- Certain Environmental Determinations (OPC Sec. 17.158.220)
- Creek Protection Permit (OMC Sec. 13.16.450)
- Creek Determination (OMC Sec. 13.16.460)
- City Planner's determination regarding a revocation hearing (OPC Sec. 17.152.080)
- Hearing Officer's revocation/impose or amend conditions (OPC Secs. 17.152.150 &/or 17.156.160)
- Other (please specify) \_\_\_\_\_

*(continued on reverse)*



(Continued)

A DECISION OF THE CITY PLANNING COMMISSION (APPEALABLE TO THE CITY COUNCIL)     Granting an application to:    OR     Denying an application to:

**YOU MUST INDICATE ALL THAT APPLY:**

**Pursuant to the Oakland Municipal and Planning Codes listed below:**

- Major Conditional Use Permit (OPC Sec. 17.134.070)
- Major Variance (OPC Sec. 17.148.070)
- Design Review (OPC Sec. 17.136.090)
- Tentative Map (OMC Sec. 16.32.090)
- Planned Unit Development (OPC Sec. 17.140.070)
- Environmental Impact Report Certification (OPC Sec. 17.158.220F)
- Rezoning, Landmark Designation, Development Control Map, Law Change (OPC Sec. 17.144.070)
- Revocation/impose or amend conditions (OPC Sec. 17.152.160)
- Revocation of Deemed Approved Status (OPC Sec. 17.156.170)
- Other (please specify) \_\_\_\_\_

**FOR ANY APPEAL:** An appeal in accordance with the sections of the Oakland Municipal and Planning Codes listed above shall state specifically wherein it is claimed there was an error or abuse of discretion by the Zoning Administrator, other administrative decisionmaker or Commission (Advisory Agency) or wherein their/its decision is not supported by substantial evidence in the record, or in the case of Rezoning, Landmark Designation, Development Control Map, or Law Change by the Commission, shall state specifically wherein it is claimed the Commission erred in its decision.

**You must raise each and every issue you wish to appeal on this Appeal Form (or attached additional sheets). Failure to raise each and every issue you wish to challenge/appeal on this Appeal Form (or attached additional sheets), and provide supporting documentation along with this Appeal Form, may preclude you from raising such issues during your appeal and/or in court. However, the appeal will be limited to issues and/or evidence presented to the decision-maker prior to the close of the public hearing/comment period on the matter.**

**The appeal is based on the following:** *(Attach additional sheets as needed.)*

See attached arguments and supporting documentation.

**Supporting Evidence or Documents Attached.** *(The appellant must submit all supporting evidence along with this Appeal Form; however, the appeal will be limited evidence presented to the decision-maker prior to the close of the public hearing/comment period on the matter.*

*(Continued on reverse)*

(Continued)

*Robert H. Clippard*  
*Manana Business Process*

May 2, 2016

Signature of Appellant or Representative of  
Appealing Organization

Date

Below For Staff Use Only

Date/Time Received Stamp Below:

Cashier's Receipt Stamp Below:

This appeal is being submitted by residents of the Montclair Community in the City of Oakland to appeal the Planning Commission's approval of Case File PLN#16041, and the installation of a Telecom Pole adjacent to 1989 Asilomar Drive.

This appeal is supported by signatures of 75 residents (see attachment #1) of this area, and the signatures and addresses of those community members are attached.

*Planning Commission Finding #1 - "Therefore the proposal will have minimal visual impact from public view."*

This finding is unsupported by substantial evidence and is derived from two paragraphs provided in the Staff Report (see attachment #2, Page 8, Para 1) and in no way represents the final condition of the site or the view of the telecom pole.

- Substantial tree trimming must be done in order to remove, straighten and re-install the new pole, and when completed, it will be extremely visible from many directions.
- A large electronics enclosure will have to be hung on the pole, 8' above the ground, approximately 2' x 2' x 8' in size plus an additional battery box approx. 2' x 2' x 2' in size.
- These will in no way be hidden from public view, but will have a significant impact on public view, as well as from neighboring homes
- The photo provided in the Planning Commission packet is deceiving and must be augmented with photos from neighboring homes as well as substantial tree trimming to accurately assess the real visual impact. (See photos in attachment #3)
- This street is unique in the hills because it is relatively flat, promoting a great number of walkers and creating wider and maximum public exposure to the pole installation.

*Planning Commission Finding #2 - "The proposal improves wireless telecommunications service in the hillside residential area. The installation will be sited near other utility poles of similar height in the*

*surrounding area to have minimal visual impacts on public views, thereby protecting the value of private and public investments in the area."*

This finding is unsupported by substantial evidence.

- As presented at the Planning Commission, by a resident's comments, an engineering study of 16 possible pole locations, for this particular node, by ExTenent of SF (June 2015), found that this site (Node 54J) (see attachment #4) was an unacceptable location because: *"This location does not close AT&T's significant service coverage gap due to blockage of AT&T's signal by nearby trees, houses and terrain"* (See AT&T Report, Node 54J) Not only is there no support for this location choice, but actually there is contradiction about using this site, to improve cell service, raised by the applicant's own engineering consultant. The apparent singular purpose of these antenna installations is to improve cell phone signals in the hills.
- Evidence shows that the new pole is more than 30% higher than the existing pole. That is not "similar in height". (See attachment #2, Page 8, Para 2)

*Planning Commission Finding #3 - The Hillside Residential Classification is intended "to create, maintain and enhance neighborhood residential areas that are characterized by detached, single unit structures on hillside lots." And further: the new telecom pole "will be located on a new replacement utility pole and will not detract from the hillside residential value of the neighborhood."*

- No evidence was introduced to support this claim. The assertion that by hiding or trying to hide these installations, that somehow property values are protected is unsupported by substantial evidence.
- In fact there is a growing body of evidence that shows the opposite - that in fact these telecom antenna installations have a detrimental effect on property values.
- Real Estate agents in Oakland, are required by law to disclose any environmental hazards in the neighborhood, including high voltage power lines and telecom nodes. See attached statement from Realtor Kathleen Callahan (see attachment #5).

Objections to Telecommunications Pole Installation at Asilomar and Balboa in  
 The Public Right of Way adjacent to 1989 Asilomar Drive  
 Parcel Number - 048E-7337-017-00  
 Case File Number PLN16041

The undersigned residents of the Asilomar/Balboa Residential Area object to this  
 Telecommunications Tower installation for the following reasons:

1. This proposed location is merely 1 ½ blocks away from an earlier location that was rejected by the Planning Commission, with signatures from the exact, same residents (2047 Asilomar Drive, Case #PLN15180).
2. Several of the existing homes are well within a 300 foot radius of the proposed tower and are therefore exposed to significantly higher doses of radiation.
3. Noise from cooling fans, potential fire danger in the Oakland Hills and the negative impact on home values near this site.
4. Faulty safety criteria used by the FCC to establish safe exposure limits that the US Department of the Interior calls: "30 years out of date and inapplicable today."

SIGNATURE:	PRINTED NAME:	STREET ADDRESS:	DATE:
	MONICA MEJIA	5525 BALBOA A.	4/17/16
	Richard Buijs	5600 Balboa Dr	4/17/16
	Avelina S. Buijs	5600 Balboa Dr.	4/17/16
	ROB APPELDOORN	5700 BALBOA DR.	4-17-16
	ADAM MOYLAN	5638 BALBOA DR.	4/17/16
	Sandra Levensaler	2001 Asilomar	4/17/16
	Joe Fineman	2001 Asilomar	4/17/16
	Theresa M. L. S.	2001 Asilomar Dr	4/17/16
	Robert W. W.	2039 Asilomar Dr	4/17/16



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SIGNATURE:	PRINTED NAME:	STREET ADDRESS:	DATE:
<u>D/Kinsell</u>	<u>Dale Kinsell</u>	<u>1957 Asilomar Dr.</u>	<u>4/17/16</u>
<u>M. Provencal</u>	<u>Mary Beth Provencal</u>	<u>Oak Knoll 1957 Asilomar Dr</u>	<u>4/17/16</u>
<u>B Rosenfeld</u>	<u>Barbara Rosenfeld</u>	<u>1965 Asilomar Dr</u>	<u>4/17/16</u>
<u>D Robinson</u>	<u>Dale Robinson</u>	<u>1962 Asilomar Dr.</u>	<u>4/17/16</u>
<u>Roswitha Robinson</u>	<u>Roswitha Robinson</u>	<u>1962 Asilomar Dr.</u>	<u>4/17/16</u>
<u>T Schaffler</u>	<u>Todd Schaffler</u>	<u>6606 Colton Blvd</u>	<u>4/17/16</u>
<u>Tristy Schaffler</u>	<u>Tristy Schaffler</u>	<u>6606 COLTON BLVD</u>	<u>4/17/16</u>
<u>K Pinkyree</u>	<u>Kirk Pinkyree</u>	<u>1933 Drake Dr.</u>	<u>4/17/16</u>
<u>Elizabeth Matera</u>	<u>ELIZABETH MATERA</u>	<u>1941 Asilomar Dr.</u>	<u>4/17/16</u>

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SIGNATURE:	PRINTED NAME:	STREET ADDRESS:	DATE:
	Zied Souissi	1942 Asilomar Dr. <del>94611</del>	4/17/16
	Amy Souissi	1942 Asilomar Dr. <del>94611</del>	4/17/16
	Wendy Laidley	1933 Asilomar Dr.	4-17-16
	CINDY STEFFY	1916 Asilomar Dr. 94611	4-17-16
	Emily Blombar	1916 Asilomar Dr. 94611	4-17-16
	Anne Marie Allen	1908 Asilomar Dr. 94611	4/17/16
	CARRIE PEACOCK	1901 Asilomar Dr. 94611	4/17/16
	Richard H. Concannon	1903 Asilomar Dr. 94611	4/17/16
	Kathleen W. Concannon	1903 Asilomar Dr.	4/17/16
	Ron M. Camell	6475 Colton Blvd	4/17/16
	Marty Kaplan	6450 Colton Blvd	4/17/16
	BARBARA KAPLAN	6450 COLTON BLVD	4/17/16
	Peter Maruzzo	6417 Colton Blvd	4/17/16
	Jean Maruzzo	6417 Colton Blvd.	4/17/16
	Paul Silberstein	5500 Balboa Dr.	4/17/16
	ANAND MEHTA	5525 BALBOA DR.	4/17/16



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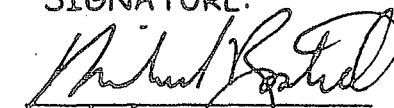

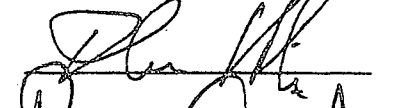
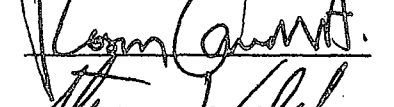
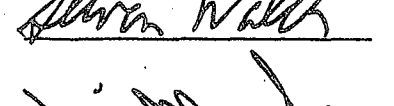

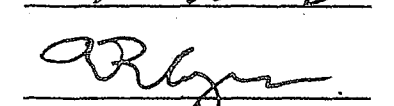
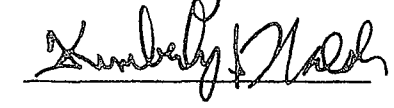

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STREET ADDRESS:

DATE:

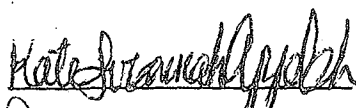
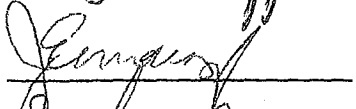
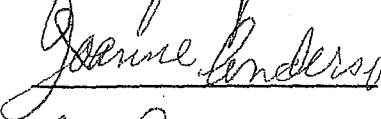
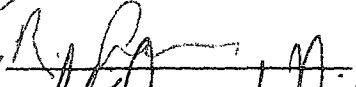




	Michael Bostick	5762 Balboa Dr, Oak	4/18/16
	Liat Bostick	5762 Balboa Dr. oak	4/18/16
	Thomas Hawk	5851 Balboa Dr.	Oakland 4/18/16
	Rosemary Cowan Knight	11 Cortez Ct.	Oakland 4/18/16
	STEVEN WALCH	5614 Balboa Dr	Oak 4/18/16
	Jenni MERSETH	5614 BALBOA DR	Oak 4/18/16
	Meg-Maryue Roe	5545 Balboa Dr	4/18/16
	TOM GREGORY	5545 BALBOA DR	4/18/16
	Kimberly S. Walsh	5552 Balboa Dr	4-18-16



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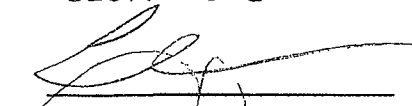
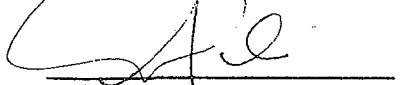
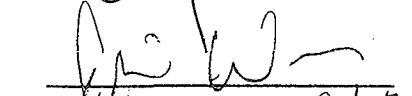
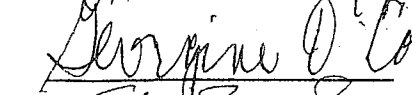
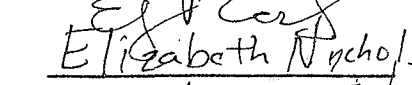

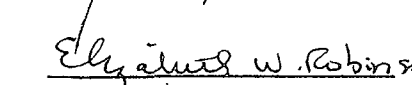
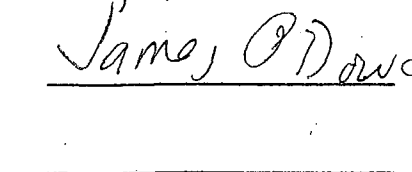
SIGNATURE:	PRINTED NAME:	STREET ADDRESS:	DATE:
	Kate Appeldorn	5700 BALBOA DRIVE	4/18/16
	Julieta ENRIONUEVO	5701 BALBOA DR.	4/19/16
	Joanne Anderson	1932 Asilomar	4/19/16
	Ralph Anderson	" " "	4/19/16
	Neetha Corrales Whiddle	2008 Asilomar	4/19/16
	Diana Cenko	6405 Colton Blvd.	4-19-16
	VICTOR NAVONE	6411 COLTON BLVD.	4/19/16
	Eric Noren	5529 BALBOA DR	4/19/16
_____	_____	_____	_____



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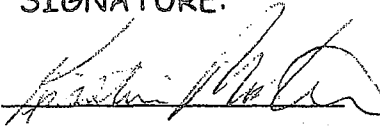

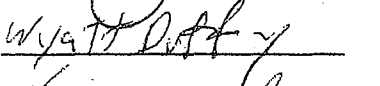
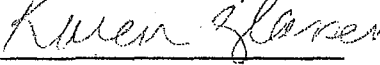
SIGNATURE:	PRINTED NAME:	STREET ADDRESS:	DATE:
	Laura Conger	6616 Saroni Dr	4/18/16
	Rafael G.	6631 Saroni Pt	4/18/16
	Chris Warner	7092 Seyre Dr	4/18/16
	GEORGINE O'CONNOR	6637 HERRWOOD DR	4/18/16
	Elizabeth Nichols	2066 Asilomar Dr	94611
	John Robinson	1989 Asilomar	94611
	Elizabeth W. Robinson	1989 Asilomar	94611
	James O'Dowd	5720 Balboa Pt Cabalud	94611



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SIGNATURE:	PRINTED NAME:	STREET ADDRESS:	DATE:
	Kristin Mortimora	5630 Balboa Dr.	4/18/16
	Ian Duffy	5630 Balboa Dr.	4/19/16
	Wyatt Duffy	5630 Balboa Dr.	4/19/16
	KAREN GLASER	5500 Balboa Dr.	4/18/16
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____





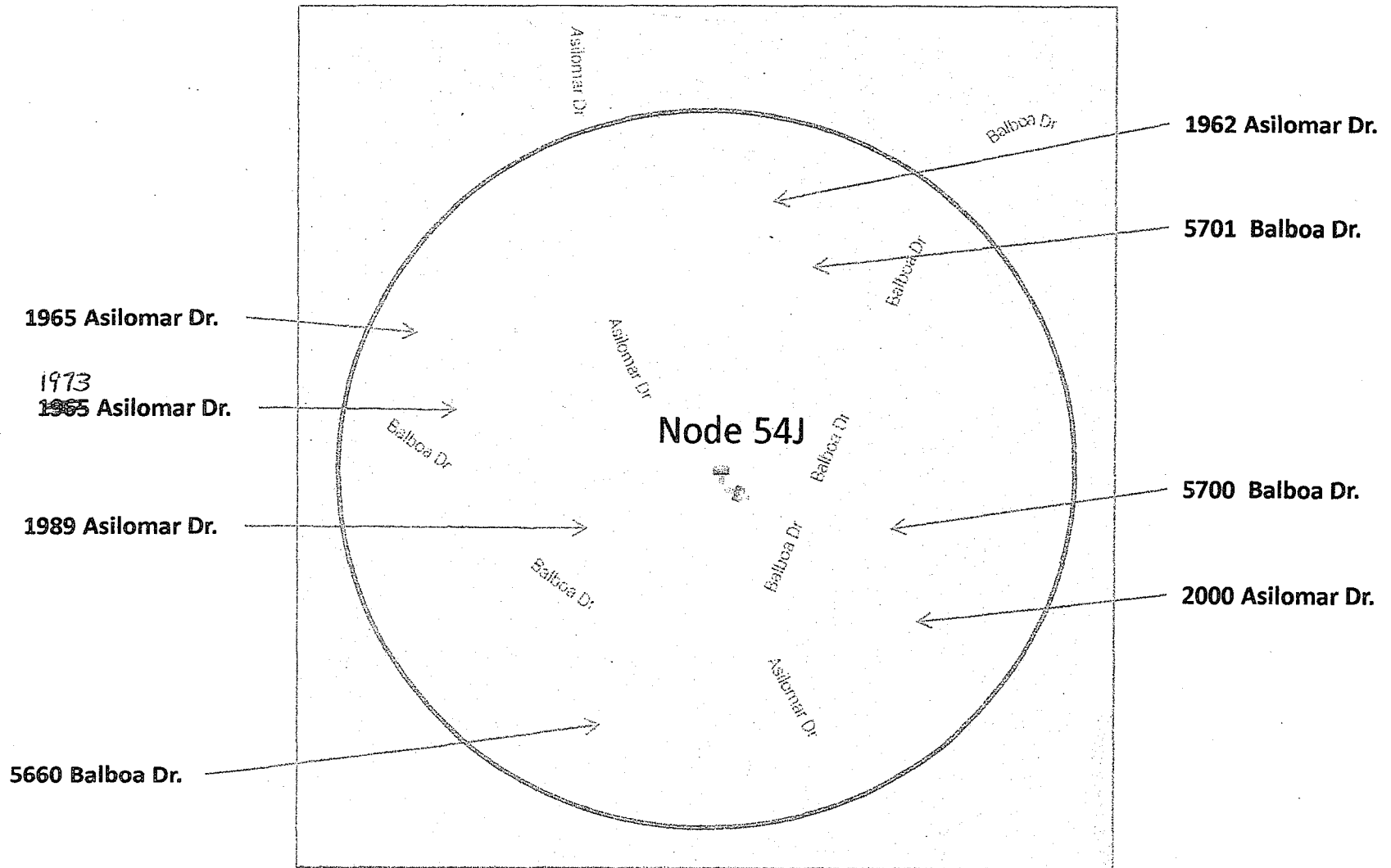




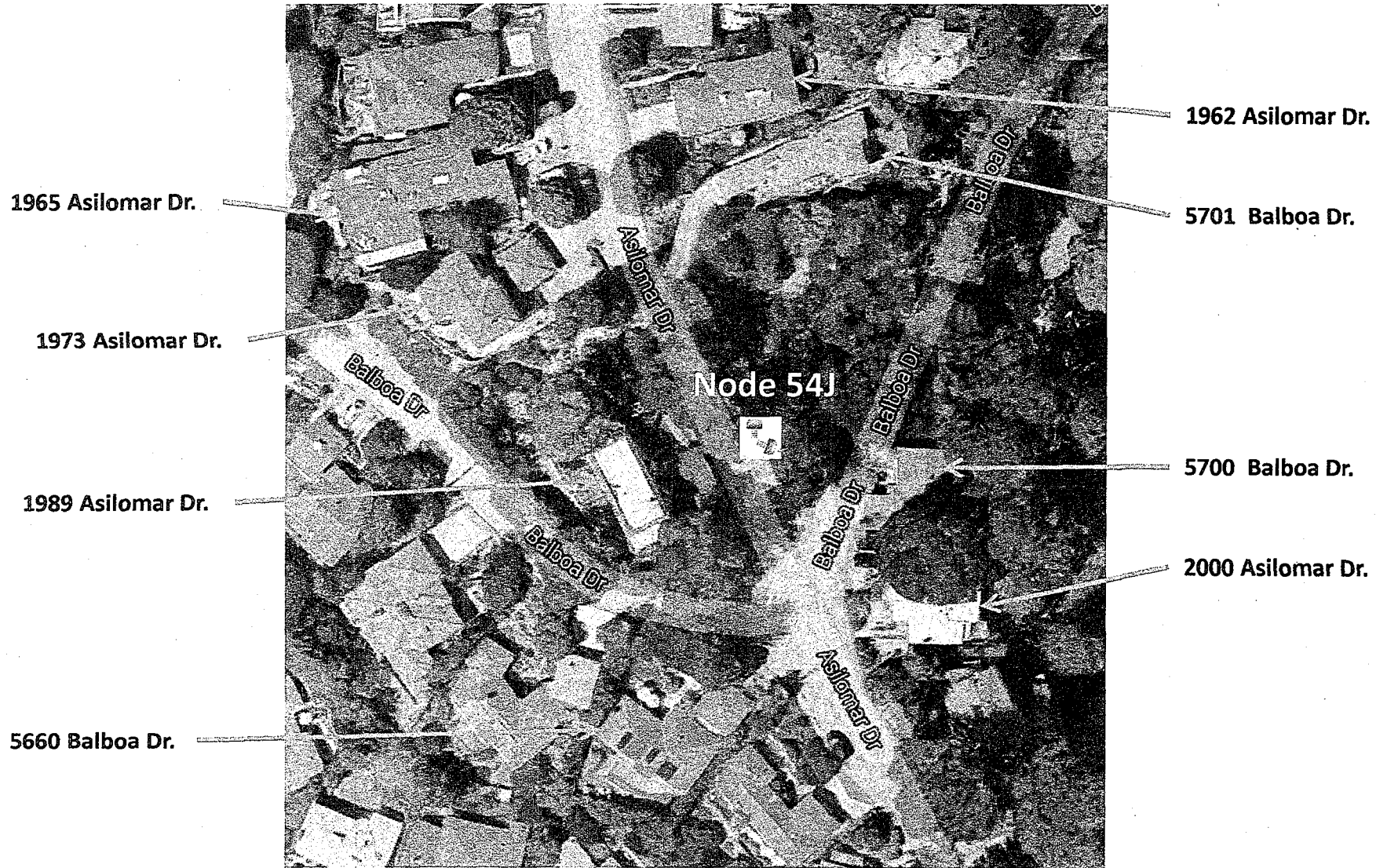




# Properties in proximity to Node 54J



# Properties in proximity to Node 54J



**View from Kitchen and Outdoor Dining Area (Deck) -1962 Asilomar Dr.  
& from deck – 5701 Balboa with extensive foliage cut**

**For visual  
purpose only –  
not to scale**

**Branches  
cut back  
around  
the pole**

**Branches  
cut back  
around  
the pole**



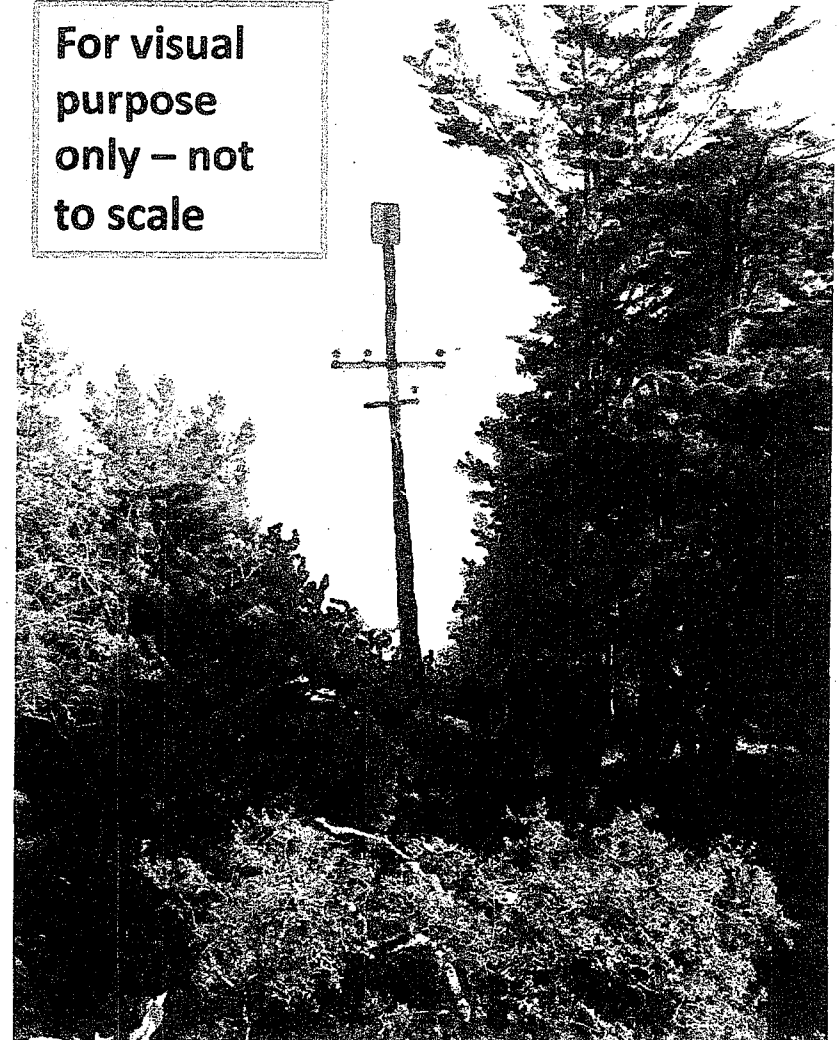
**View from Kitchen and Outdoor Dining Area (Deck) -1962 Asilomar  
with extensive foliage cut & new pole**

Current view



Before (with existing pole)

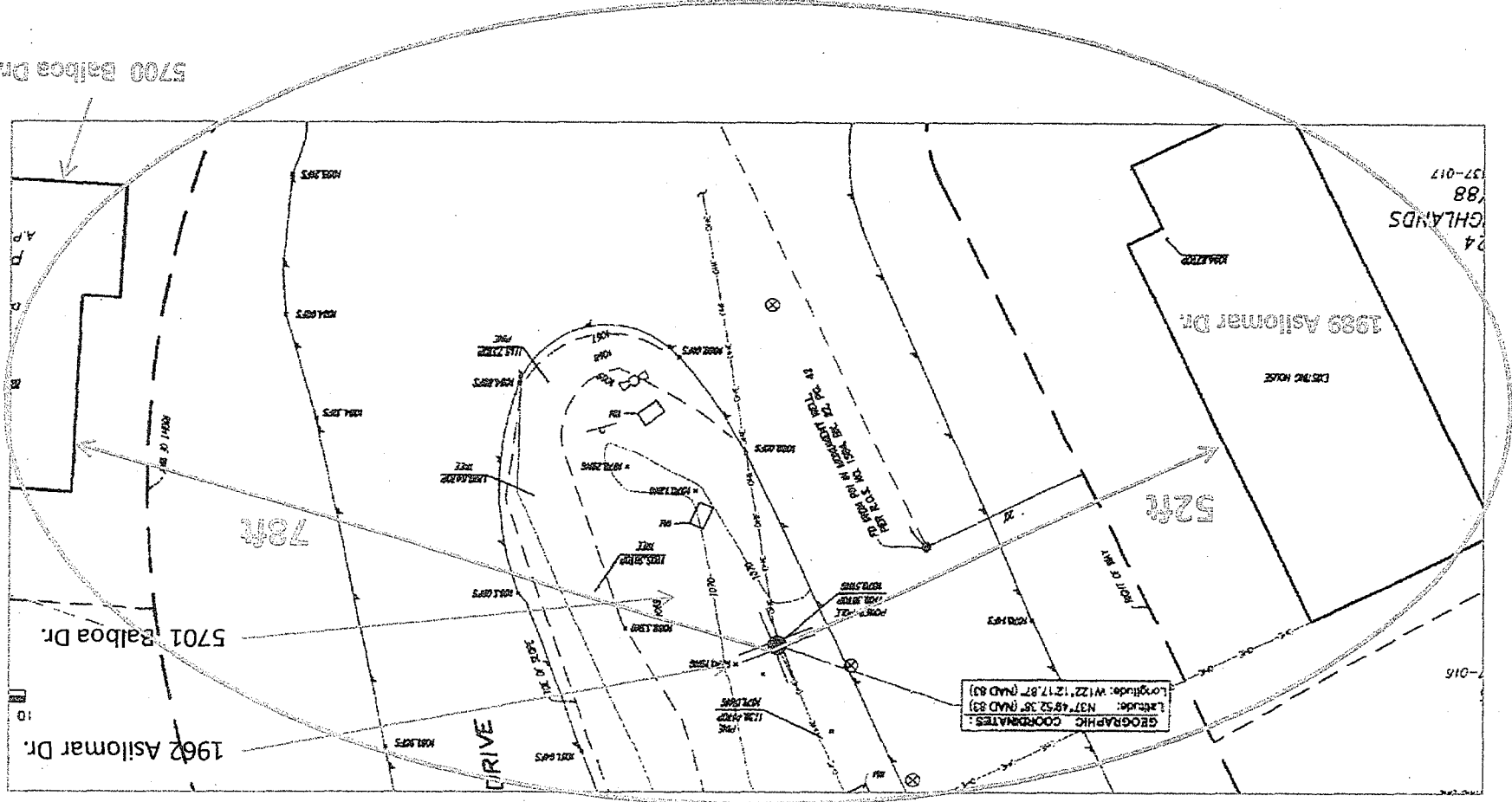
For visual  
purpose  
only – not  
to scale



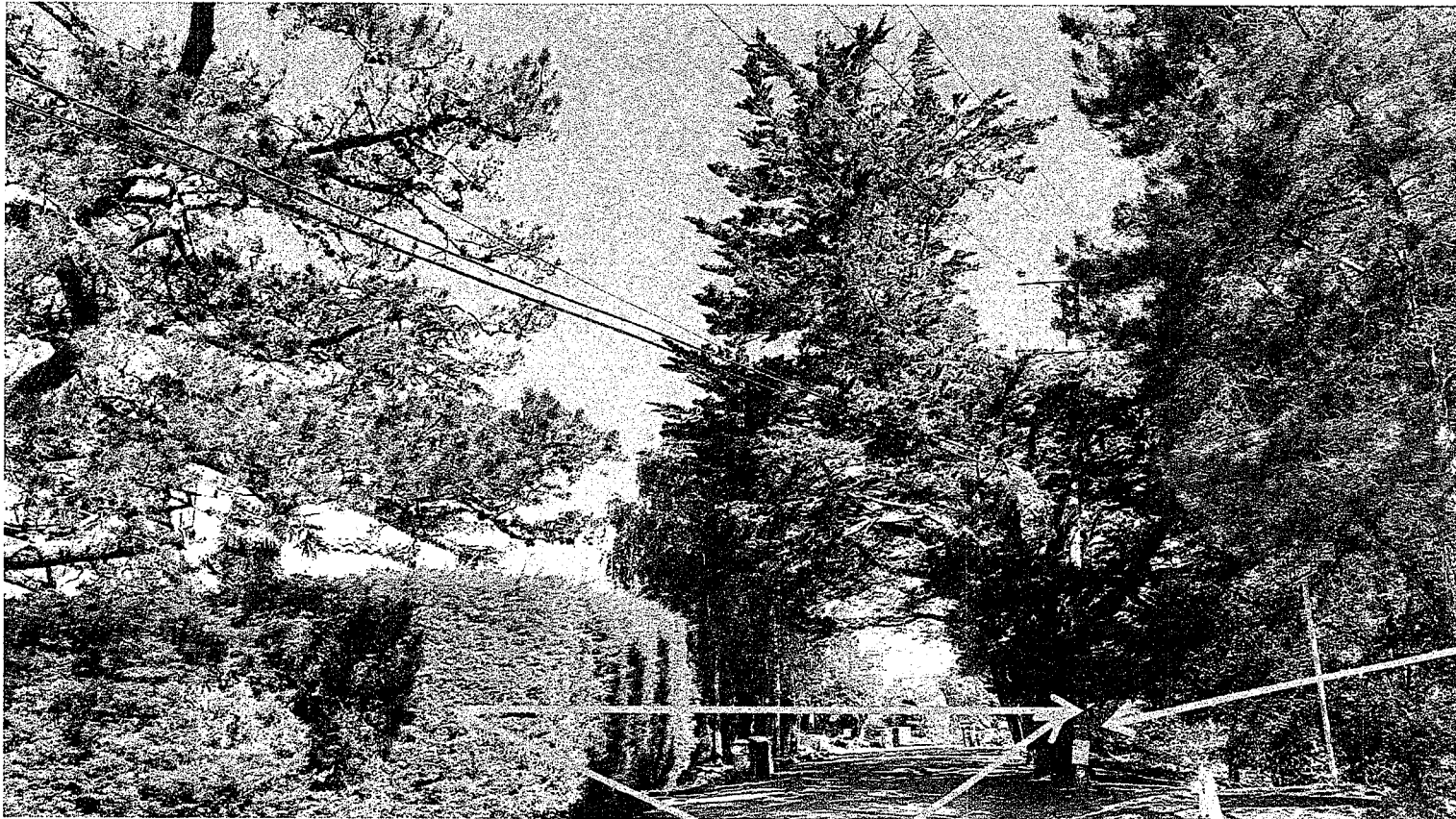
After (simulated new 51ft pole)



# Measured distances from node 54j



**View from intersection of Asilomar Dr. & Balboa Dr. -  
True Distance between node 54J and 1989 Asilomar is 52ft**



**node 54J**

**Distance measured at 52ft from node 54J to 1989 Asilomar Structure**

## View from Driveway - 1989 Asilomar Dr.



node 54J

## View from Kitchen - 1989 Asilomar Dr.

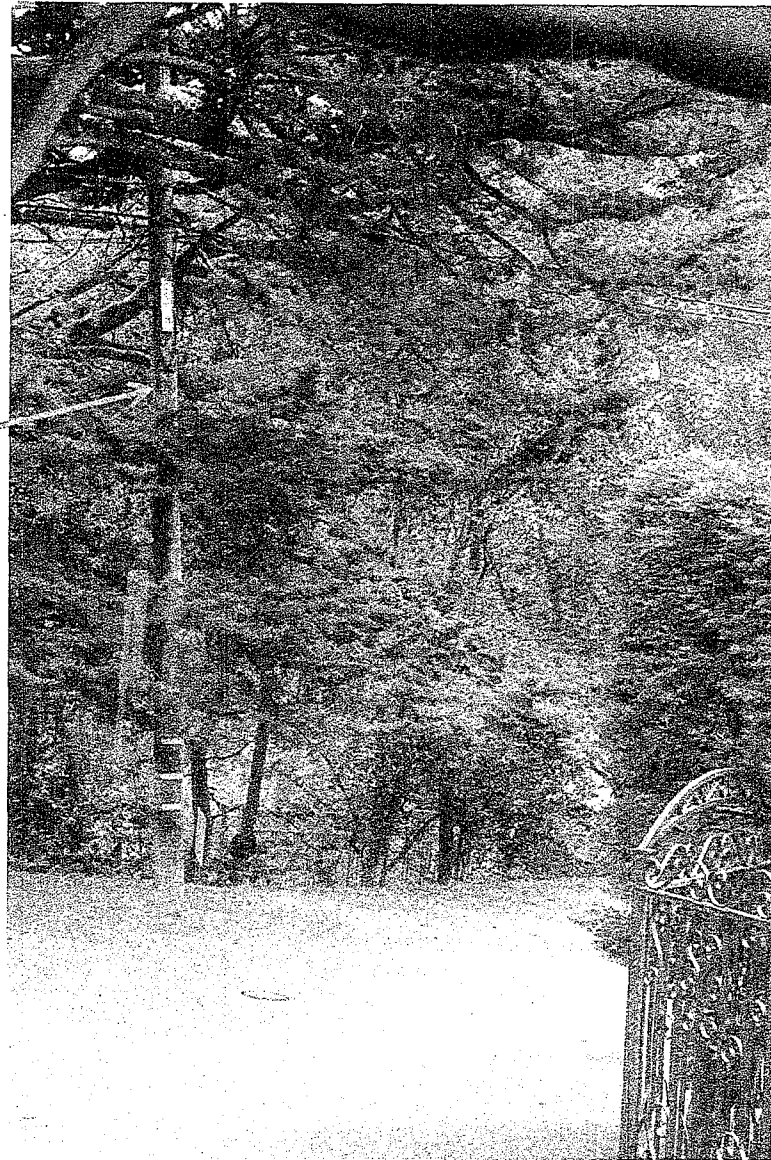


node 54J

Kitchen window frame

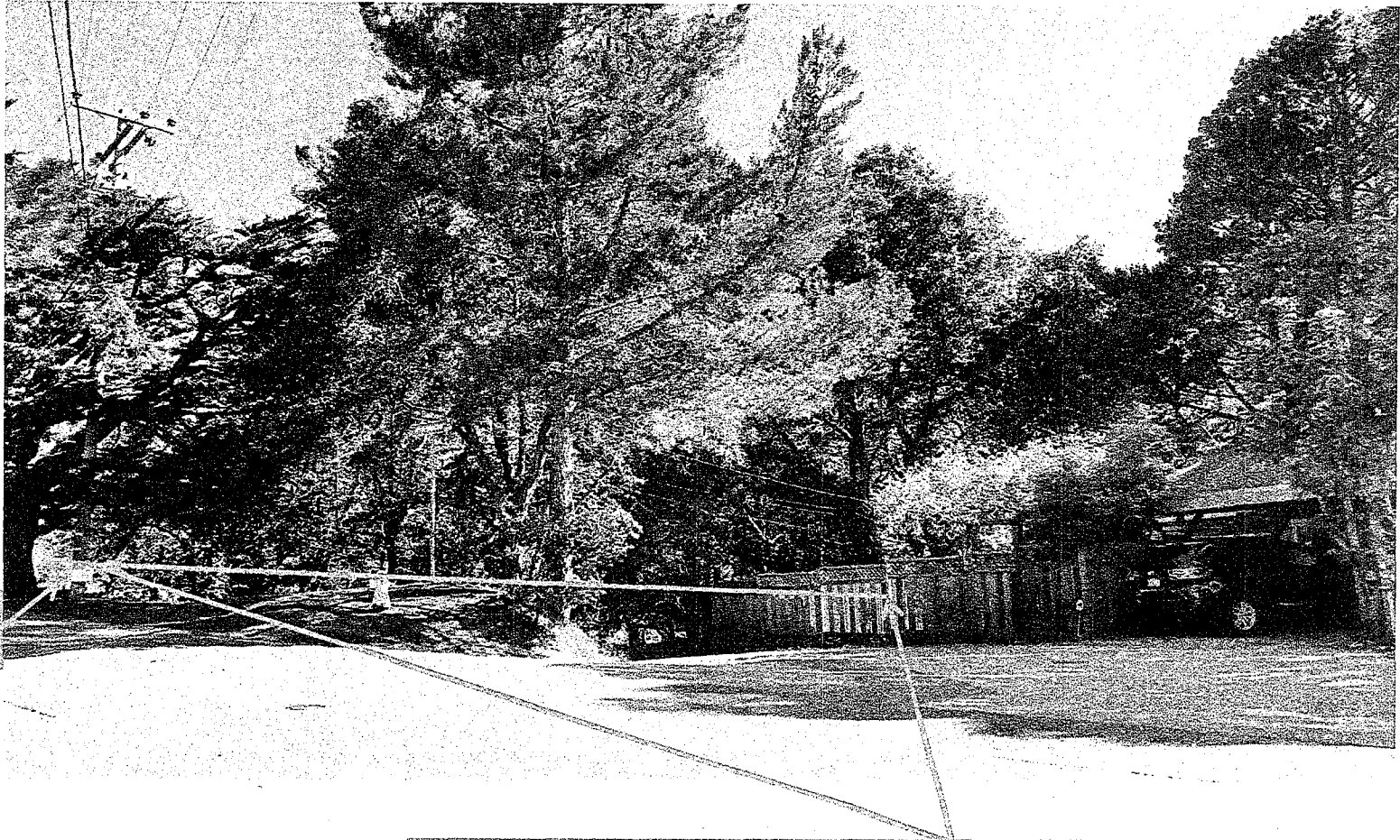
# View from Kitchen - 1989 Asilomar Dr.

node 54J



**View from intersection of Asilomar Dr. & Balboa Dr. -  
True Distance between node 54J and 5700 Balboa  
bedroom window is 78ft. (52' + 26' fence to bedroom)**

**node 54J**



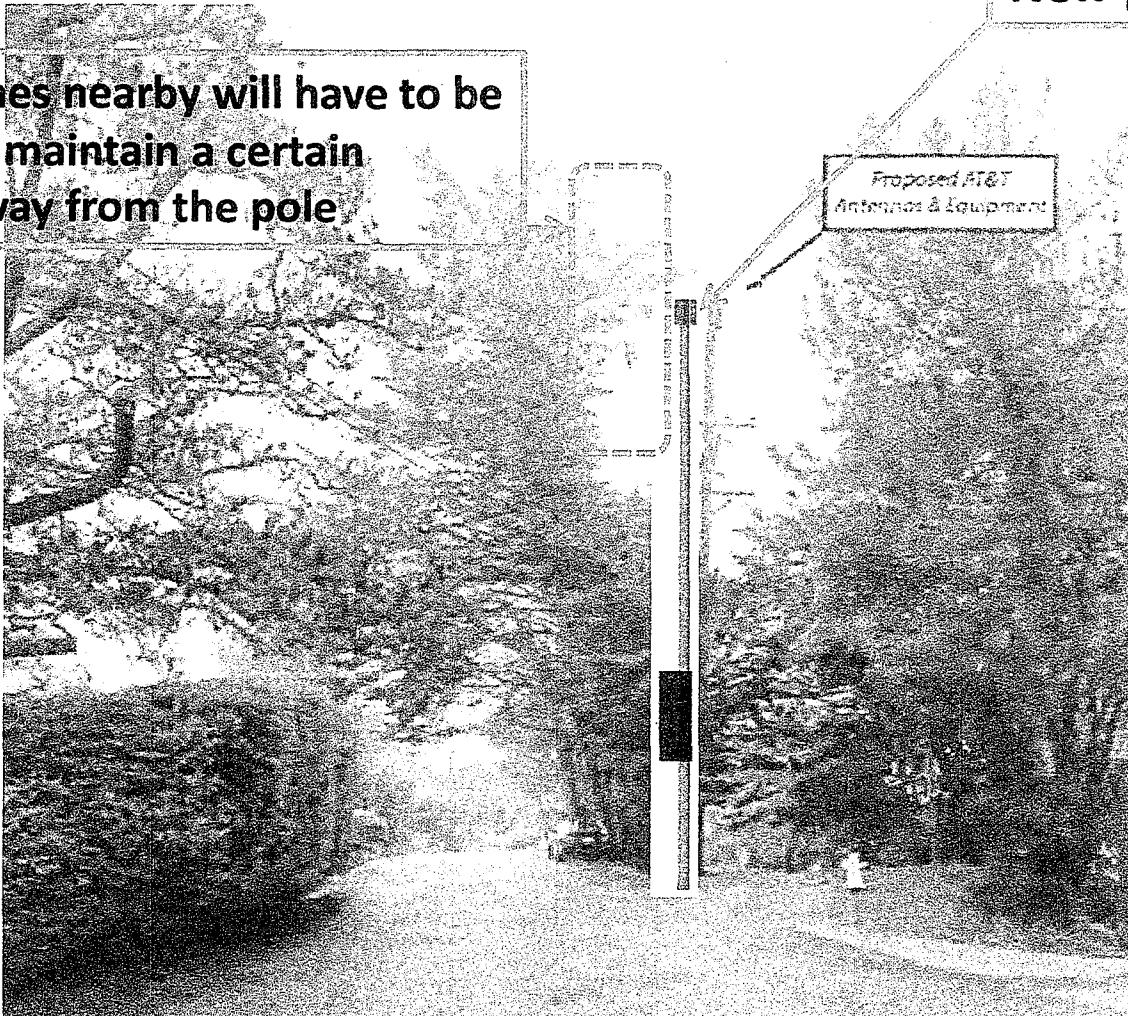
**Measured distance of 52ft from node 54J to 5700 Balboa  
Property Fence + 26ft to the Bedroom = 78ft**

# View from Asilomar & Balboa intersection

Tree branches nearby will have to be cut back to maintain a certain distance away from the pole

New pole at 90°

Proposed AT&T  
Antennas & Equipment



Note: for visual purpose only – not to scale

**View from Kitchen and Outdoor Dining Area (Deck) -1962 Asilomar Dr.**



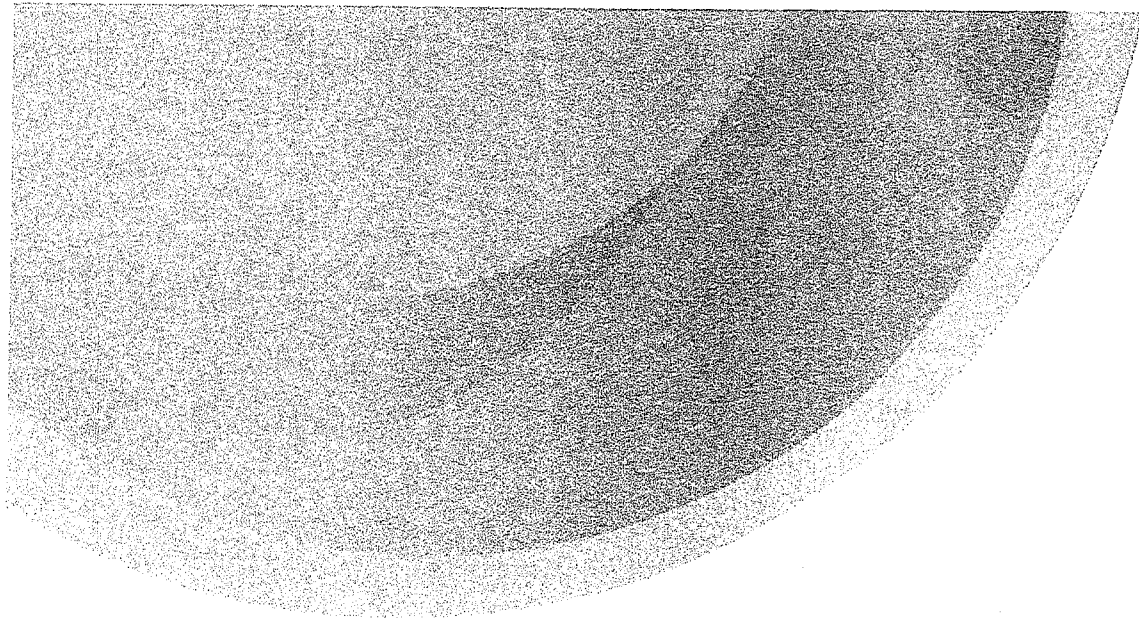


## View from Study Room - 1989 Asilomar Dr.

node 54J



5700  
Balboa  
fence



**Node 54J – 1989 Asilomar Dr.  
Oakland, California  
Alternative Site Analysis**

# View from Dining Room – 5701 Balboa Dr.

node 54J



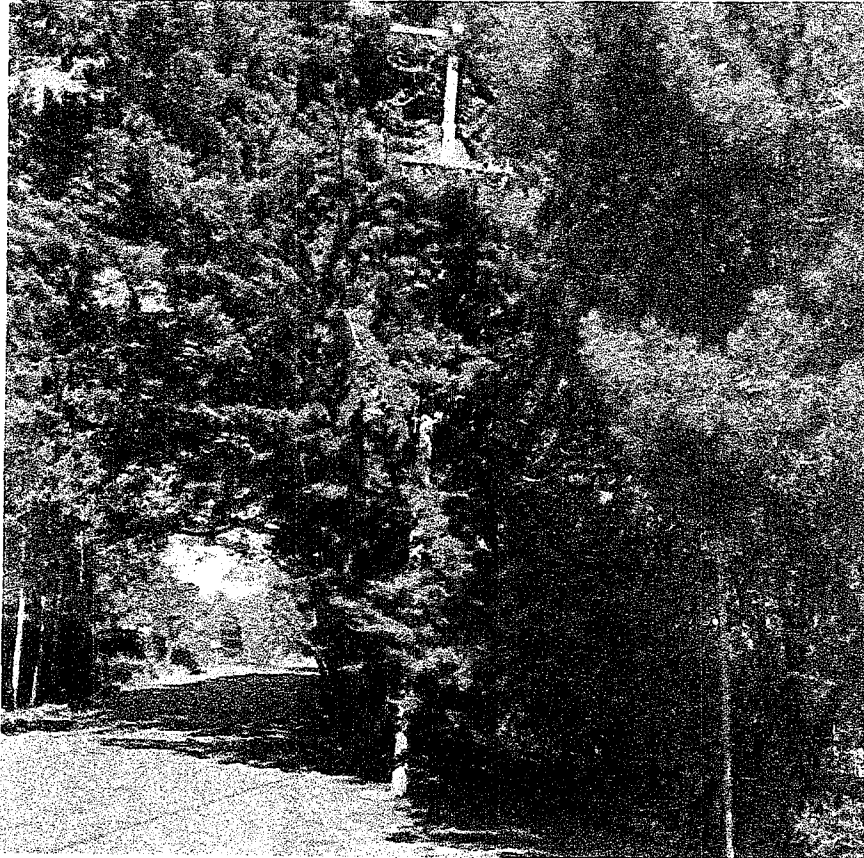
04/28/2016

# View from Deck – 5701 Balboa Dr.

node 54J



# Alternative Node 54J



- Node 54J is in the public right-of-way at a joint utility pole identified by number 110011990 located across from 1989 Asilomar Avenue (37.831206, -122.204986).
- This location does not close AT&T's significant service coverage gap due to blockage of AT&T's signal by nearby trees, houses and terrain.

**Statement of Kathleen Callahan, RE Broker**

My name is Kathleen Callahan. I am an Associate Broker at Highland Partners Real Estate, licensed in California as an agent since 1980, and as a broker since 1984.

I have specialized for over 35 years in Montclair and Piedmont properties. As a result, I am very familiar with the current market for sales, and the impact of visible cell towers on the value of homes in this area.

In my opinion, the presence of cell towers in view of the homes and public access, where many people walk regularly, is a huge aesthetic detriment to most buyers. If a house is otherwise exactly what the buyer wants, he or she will expect a reduction in price for the "eyesore."

I have looked at the homes that would be affected visually by the presence of the proposed cell tower and can state unequivocally that most buyers will notice it and object to its appearance. I would expect the installation of this cell tower in this location to adversely affect the sales value of all homes in its line of sight.

If I am called and sworn as a witness, I can competently testify to the foregoing.

By: Kathleen Callahan

Date: 4/28/2016

BRE # 00792768

Case File Number: PLN16041

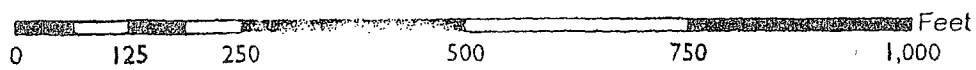
April 20, 2016

<b>Location:</b>	The Public Right-of-Way at Asilomar Dr. (Adjacent to 1989 Asilomar Dr.) (See map on reverse)
<b>Assessors Parcel Numbers:</b>	048E-7337-017-00 (nearest lot adjacent to the project site.)
<b>Proposal:</b>	The installation of a distributed antenna system (DAS) wireless telecommunication facility on a new public utility pole in the right-of-way on Asilomar Dr.; facility includes two panel Kathrein antennas mounted at approximately 51'-4" pole height; an associated equipment box (6' tall by 24" wide); including one battery backup and meter boxes attached to the pole at 8' above the ground.
<b>Applicant:</b>	New Cingular Wireless PCS, LLC. For AT&T Mobility
<b>Contact Person/ Phone Number:</b>	Matthew Yergovich (415)596-3474
<b>Owner:</b>	City of Oakland
<b>Case File Number:</b>	PLN16041
<b>Planning Permits Required:</b>	Regular Design Review (non-residential) to install a wireless Macro Telecommunications Facility (17.136.050 (B)(2); Additional Findings for a Macro Facility (OMC Sec. 17.128.070(B)(C).
<b>General Plan:</b>	Hillside Residential
<b>Zoning:</b>	RH-4 Hillside Residential 4 Zone
<b>Environmental Determination:</b>	Exempt, Section 15303 of the State CEQA Guidelines (small facilities or structures; installation of small new equipment and facilities in small structures), and none of the exceptions to the exemption in CEQA Guidelines Section 15300.2 apply to the proposal. Exempt, Section 15183 of the State CEQA Guidelines; projects consistent with a community plan, general plan or zoning.
<b>Historic Status:</b>	Not a Potential Designated Historic Property; Survey rating: N/A
<b>Service Delivery District:</b>	2
<b>City Council District:</b>	4
<b>Date Filed:</b>	February 16, 2016
<b>Finality of Decision:</b>	Appealable to City Council within 10 Days
<b>For Further Information:</b>	Contact case planner Jose M. Herrera-Preza at (510) 238-3808 or <a href="mailto:jherrera@oaklandnet.com">jherrera@oaklandnet.com</a>

**SUMMARY**

The proposal is to install a distributed antenna system ("DAS") wireless Telecommunications Macro Facility on a replacement Joint Pole Authority (JPA) utility pole located in the public right-of-way along Asilomar Drive near the intersection with Balboa Drive. New Cingular Wireless PCS for AT&T Mobility is proposing to install two panel antennas mounted on top of a new JPA replacement pole, resulting in a new height of 51'-4" (to top of antennas); an associated equipment box, one battery backup and meter boxes within a 6' tall by 18" wide singular equipment box attached to the pole at 8' above the ground.

# CITY OF OAKLAND PLANNING COMMISSION



Case File: PLN16041

Applicant: New Cingular Wireless PCS, LLC (d/b/a AT&T Mobility)

Address: Public Right-of-Way adjacent to 1989 Asilomar Drive

Zone: RH-4



A Major Design Review permit is required to install a new Telecommunications Facility located within 100' of a residential zone. As detailed below, the project meets all of the required findings for approval. Therefore, staff recommends approval of the project subject to the attached conditions of approval.

## PROJECT DESCRIPTION

The applicant (New Cingular Wireless PCS, LLC. for AT&T Mobility) is proposing to install a distributed antenna system ("DAS") wireless Telecommunications Macro Facility on a new replacement JPA utility pole located in the public right-of-way along Asilomar Dr. near 1989 Asilomar Dr. in a hillside area surrounded by single-family homes. The project consists of swapping an existing 38'-9" foot JPA pole with a new 48' JPA pole in the same location, with two panel antennas (each is two feet long and 10 inches wide) mounted onto the new JPA pole resulting in a 51'-4" tall pole; an associated equipment box, one battery backup and meter boxes within a 6' tall by 18" wide singular equipment box attached to the pole at 8' above the ground. The proposed facility is an alternative location chosen by the applicant as a response to neighbor opposition to a facility near 2047 Asilomar Drive. (Case #PLN15180). The proposed antennas and associated equipment will be secured from the public. (See Attachment A).

## TELECOMMUNICATIONS BACKGROUND

### Limitations on Local Government Zoning Authority under the Telecommunications Act of 1996

Section 704 of the Telecommunications Act of 1996 (TCA) provides federal standards for the siting of "Personal Wireless Services Facilities." "Personal Wireless Services" include all commercial mobile services (including personal communications services (PCS), cellular radio mobile services, and paging); unlicensed wireless services; and common carrier wireless exchange access services. Under Section 704, local zoning authority over personal wireless services is preserved such that the FCC is prevented from preempting local land use decisions; however, local government zoning decisions are still restricted by several provisions of federal law.

Under Section 253 of the TCA, no state or local regulation or other legal requirement can prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

Further, Section 704 of the TCA imposes limitations on what local and state governments can do. Section 704 prohibits any state and local government action which unreasonably discriminates among personal wireless providers. Local governments must ensure that its wireless ordinance does not contain requirements in the form of regulatory terms or fees which may have the "effect" of prohibiting the placement, construction, or modification of personal wireless services.

Section 704 also preempts any local zoning regulation purporting to regulate the placement, construction and modification of personal wireless service facilities on the basis, either directly or indirectly, on the environmental effects of radio frequency emissions (RF) of such facilities, which otherwise comply with FCC standards in this regard. See, 47 U.S.C. 332(c)(7)(B)(iv) (1996). This means that local authorities may not regulate the siting or construction of personal wireless facilities based on RF standards that are more stringent than those promulgated by the FCC.

Section 704 mandates that local governments act upon personal wireless service facility siting applications to place, construct, or modify a facility within a reasonable time. 47 U.S.C.332(c)(7)(B)(ii). See FCC Shot Clock ruling setting forth "reasonable time" standards for applications deemed complete.

Section 704 also mandates that the FCC provide technical support to local governments in order to encourage them to make property, rights-of-way, and easements under their jurisdiction available for the placement of new spectrum-based telecommunications services. This proceeding is currently at the comment stage.

For more information on the FCC's jurisdiction in this area, contact Steve Markendorff, Chief of the Broadband Branch, Commercial Wireless Division, Wireless Telecommunications Bureau, at (202) 418-0640 or e-mail "smarkend@fcc.gov".

## PROPERTY DESCRIPTION

The existing 38'-9" tall JPA utility pole is located in the City of Oakland public right-of-way adjacent to 1989 Asilomar Dr. to the south, which contains a single-family residence on a hillside parcel, and another residence on the parcel to the north, in a relatively wooded hillside residential neighborhood.

## GENERAL PLAN ANALYSIS

The subject property is located within the Hillside Residential Area of the General Plan Land Use & Transportation Element (LUTE). The Hillside Residential Classification is intended "to create, maintain, and enhance neighborhood residential areas that are characterized by detached, single unit structures on hillside lots". The proposed "DAS" telecommunication facilities will be mounted on a new wood JPA pole intended to resemble existing PG&E utility poles within the City of Oakland public right-of-way. Visual impacts will be mitigated since the antennas would be mounted 50'+ plus feet above the right-of-way. The equipment cabinets will be housed within a single box and painted to match the existing utility pole and sited in a nondescript area of the public right-of way in between two city streets. Therefore, the proposed unmanned wireless telecommunication facility will not adversely affect or detract from the resource conservation characteristics of the neighborhood.

Civic and Institutional uses

Objective N2

Encourage adequate civic, institutional and educational facilities located within Oakland, appropriately designed and sited to serve the community.

Staff finds the proposal to be in conformance with the objectives of the General Plan by servicing the community with enhanced telecommunications capability.

## ZONING ANALYSIS

The proposed project is located in the RH-4 Hillside Residential 4 Zone. The intent of the RH-4 Zone is: "to create, maintain, and enhance areas for single-family dwellings on lots of six thousand five hundred (6,500) to eight thousand (8,000) square feet and is typically appropriate in already developed areas of the Oakland Hills". The proposed telecommunication facility is located adjacent to 1989 Asilomar Dr. in a hillside residential area of the Oakland Hills. The project requires Regular Design Review per 17.136.050, which states that Macro Telecommunications Facilities proposed in residential areas with special findings, to allow the installation of new telecommunication facilities on a replacement JPA pole located in the public right-of-way in a Residential Zone. Special findings are required for Design Review approval to ensure that the facility is concealed to the extent possible.

## ENVIRONMENTAL DETERMINATION

The California Environmental Quality Act (CEQA) Guidelines lists the projects that qualify as categorical exemptions from environmental review. Staff finds that the proposed project is categorically exempt from the environmental review requirements pursuant to Section 15301, (additions and alterations to existing facilities), and Section 15303 (small facilities or structures; installation of small new equipment and facilities in small structures), and that none of the exceptions to the exemption in CEQA Guidelines Section 15300.2 are not triggered by the proposal, and 15183 (projects consistent with a General Plan or Zoning) further applies.

## KEY ISSUES AND IMPACTS

### 1. Regular Design Review

Section, 17.136.050 and 17.128.070 of the City of Oakland Planning Code requires Regular Design Review for Macro Telecommunication Facilities in the Hillside Residential zone or that are located within one hundred (100) feet of the boundary of any residential zone. The required findings for Regular Design Review, and the reasons this project meets them, are listed and included in staff's evaluation as part of this report.

### 2. Project Site

Section 17.128.110 of the City of Oakland Telecommunication Regulations indicate that new wireless facilities shall generally be located on designated properties or facilities in the following order of preference:

- A. Co-located on an existing structure or facility with existing wireless antennas.
- B. City-owned properties or other public or quasi-public facilities.
- C. Existing commercial or industrial structures in non-residential zones (excluding all HBX Zones and the D-CE-3 and D-CE-4 Zones).
- D. Existing commercial or industrial structures in residential zones, HBX Zones, or the D-CE-3 or D-CE-4 Zones.
- E. Other non-residential uses in residential zones, HBX Zones, or the D-CE-3 or D-CE-4 Zones.
- F. Residential uses in non-residential zones (excluding all HBX Zones and the D-CE-3 and D-CE-4 Zones).
- G. Residential uses in residential zones, HBX Zones, or the D-CE-3 or D-CE-4 Zones.

\*Facilities located on an A, B or C ranked preferences do not require a site alternatives analysis.

Since the proposed project involves locating the installation of new antennas and associated equipment cabinets on an existing utility pole, the proposed project meets: (B) quasi-public facilities on for a new wood JPA pole in the public right-of-way. The applicant has also provided a statement on site alternative analysis to indicate a public necessity for telecommunication services in the area.

### 3. Project Design

Section 17.128.120 of the City of Oakland Telecommunications Regulations indicates that new wireless facilities shall generally be designed in the following order of preference:

- A. Building or structure mounted antennas completely concealed from view.
- B. Building or structure mounted antennas set back from roof edge, not visible from public right-of way.

- C. Building or structure mounted antennas below roof line (facade mount, pole mount) visible from public right-of-way, painted to match existing structure.
- D. Building or structure mounted antennas above roof line visible from public right of-way.
- E. Monopoles.
- F. Towers.

\* Facilities designed to meet an A & B ranked preference does not require a site design alternatives analysis. Facilities designed to meet a C through F ranked preference, inclusive, must submit a site design alternatives analysis as part of the required application materials. (c) site design alternatives analysis shall, at a minimum, consist of:

- a. Written evidence indicating why each higher preference design alternative cannot be used. Such evidence shall be in sufficient detail that independent verification could be obtained if required by the City of Oakland Zoning Manager. Evidence should indicate if the reason an alternative was rejected was technical (e.g. incorrect height, interference from existing RF sources, inability to cover required area) or for other concerns (e.g. inability to provide utilities, construction or structural impediments).

City of Oakland Planning staff, along with the applicant, completed an on-site site design analysis and determined that the site selected conforms to all other telecommunication regulation requirements. The project meets design criteria (C) since the antennas will be mounted on a new wood JPA pole resembling existing PG&E wood poles in the area, in addition to locating the new pole in an area where the new facility is surrounded by utility poles and the equipment cabinet box and battery backup box will be housed within a single equipment box attached to the utility pole and painted to match the color of an existing PG&E utility pole to minimize potential visual impacts from public view. In addition, the applicant conducted an extensive site design alternative analysis of 1 alternative sites (See attachment C) where significant gaps in coverage exist and was visually the least obtrusive. L ?

#### 4. Project Radio Frequency Emissions Standards

Section 17.128.130 of the City of Oakland Telecommunication Regulations require that the applicant submit the following verifications including requests for modifications to existing facilities:

- a. With the initial application, a RF emissions report, prepared by a licensed professional engineer or other expert, indicating that the proposed site will operate within the current acceptable thresholds as established by the Federal government or any such agency who may be subsequently authorized to establish such standards.
- b. Prior to commencement of construction, a RF emissions report indicating the baseline RF emissions condition at the proposed site.
- c. Prior to final building permit sign off, an RF emissions report indicating that the site is actually operating within the acceptable thresholds as established by the Federal government or any such agency who may be subsequently authorized to establish such standards.

The RF-EME Electromagnetic Energy Compliance Report, prepared by William F. Hammett, P.E. for Hammett & Edison Inc. Consulting Engineers, indicates that the proposed project meets the radio frequency (RF) emissions standards as required by the regulatory agency. The report states that the proposed project will comply with the prevailing standards for limiting public exposure to radio frequency energy and, therefore, will not cause a significant impact on the environment. Additionally, staff recommends as a condition of approval that, prior to the issuance of a final building permit, the applicant submits a certified RF emissions report stating that the facility is operating within acceptable thresholds established by the regulatory federal agency.

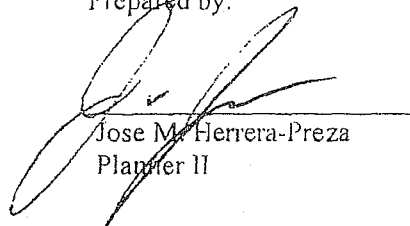
**CONCLUSION**

The proposed project meets all of the required findings for approval. Therefore, staff recommends approval of the project subject to the attached conditions.

**RECOMMENDATIONS:**

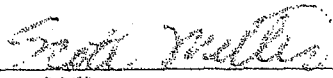
1. Affirm staff's environmental determination
2. Approve Design Review application PLN15180 subject to the attached findings and conditions of approval

Prepared by:




Jose M. Herrera-Preza  
Planner II

Reviewed by:



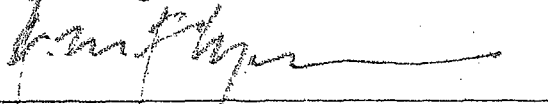
Scott Miller  
Zoning Manager

Reviewed by:



Darin Ranelletti, Deputy Director  
Bureau of Planning

Approved for forwarding to the  
City Planning Commission



RACHEL FLYNN, Director  
Department of Planning and Building

**ATTACHMENTS:**

- A. Project Plans & Photo simulations & Alternative Site Analysis
- B. Hammett & Edison, Inc., Consulting Engineering RF Emissions Report
- C. Site Alternative Analysis

## FINDINGS FOR APPROVAL

This proposal meets all the required findings under Section 17.136.050.(B), of the Non-Residential Design Review criteria and all the required findings under Section 17.128.070(B), of the telecommunication facilities (Macro) Design Review criteria and as set forth below: Required findings are shown in bold type; reasons your proposal satisfies them are shown in normal type.

### 17.136.050(B) – NONRESIDENTIAL DESIGN REVIEW CRITERIA:

**1. That the proposal will help achieve or maintain a group of facilities which are well related to one another and which, when taken together, will result in a well-composed design, with consideration given to site, landscape, bulk, height, arrangement, texture, materials, colors, and appurtenances; the relation of these factors to other facilities in the vicinity; and the relation of the proposal to the total setting as seen from key points in the surrounding area. Only elements of design which have some significant relationship to outside appearance shall be considered, except as otherwise provided in Section 17.136.060;**

The project consists of replacing a 38'-9" Joint Pole Authority (JPA) utility pole with a new 51'-4" JPA utility pole in the same location and adding two telecommunications panel antennas (two feet long and 10-inches wide), affixed on top of the utility pole; an associated equipment box, one battery backup and meter boxes within a 6' tall by 18" wide singular equipment box attached to the pole at 8' above the ground, in the public right-of-way along Asilomar Dr. near Balboa Drive. The proposed antennas will be located 48' above the right-of-way near other utility poles, in a nondescript area of right-of-way, which will help the facility to blend in with the existing surrounding hillside residential area. The equipment cabinet, serving the utility pole, will be mounted onto the pole, reducing visual clutter from the neighboring properties. Therefore, the proposal will have minimal visual impacts from public view.

**2. That the proposed design will be of a quality and character which harmonizes with, and serves to protect the value of, private and public investments in the area;**

The proposal improves wireless telecommunication service in the hillside residential area. The installation will be sited near other utility poles of similar height in the surrounding area to have minimal visual impacts on public views, thereby protecting the value of private and public investments in the area.

**3. That the proposed design conforms in all significant respects with the Oakland General Plan and with any applicable design review guidelines or criteria, district plan, or development control map which have been adopted by the Planning Commission or City Council.**

The subject property is located within the Hillside Residential Area of the General Plan's Land Use & Transportation Element (LUTE). The Hillside Residential Classification is intended "to create, maintain, and enhance neighborhood residential areas that are characterized by detached, single unit structures on hillside lots". The proposed telecommunication facilities will be mounted onto a new wood JPA pole, replacing an existing pole and intended to resemble existing utility poles within the City of Oakland public right-of-way. The proposed unmanned wireless telecommunication facility will be located on a new replacement utility pole and will not detract from the hillside residential value of the neighborhood. Visual impacts will be minimized since the site is relatively wooded, with trees partially obscuring views of the pole. Furthermore the equipment serving the facility will be mounted onto the pole in a singular shroud to reduce visual clutter on the pole and antennas, equipment painted to match. Therefore, the Project conforms to the applicable General Plan and Design Review criteria.

17.128.070(B) DESIGN REVIEW CRITERIA FOR MACRO FACILITIES

**1. Antennas should be painted and/or textured to match the existing structure:**

The proposed antennas will be painted to match the utility pole and blend with the surroundings.

**2. Antennas mounted on architecturally significant structures or significant architectural details of the building should be covered by appropriate casings which are manufactured to match existing architectural features found on the building:**

The proposed antennas will not be mounted on any building or architecturally significant structure, but rather on a utility pole.

**3. Where feasible, antennas can be placed directly above, below or incorporated with vertical design elements of a building to help in camouflaging:**

The proposed antennas will be mounted on a new JPA utility pole (to replace an existing JPA pole in the same location) and will be painted to match the pole, and will be further camouflaged by surrounding mature trees.

**4. Equipment shelters or cabinets shall be screened from the public view by using landscaping, or materials and colors consistent with surrounding backdrop:**

The associated equipment will be located within a single equipment box attached to the utility pole and painted to match the pole and blend with the surroundings.

**5. Equipment shelters or cabinets shall be consistent with the general character of the area.**

The proposed equipment cabinets will be compatible with the existing utility related equipment.

**6. For antennas attached to the roof, maintain a 1:1 ratio for equipment setback; screen the antennas to match existing air conditioning units, stairs, or elevator towers; avoid placing roof mounted antennas in direct line with significant view corridors.**

N/A.

**7. That all reasonable means of reducing public access to the antennas and equipment has been made, including, but not limited to, placement in or on buildings or structures, fencing, anti-climbing measures and anti-tampering devices.**

The antennas will be mounted onto a new JPA utility pole. They will not be accessible to the public due to their location. The equipment accommodation and battery backup boxes will also be located inside a single equipment box mounted onto the pole 8' above the right-of-way and will be secured to the greatest extent possible from the public and vehicles.

CONDITIONS OF APPROVAL  
PLN16041

STANDARD CONDITIONS:

1. Approved Use

The project shall be constructed and operated in accordance with the authorized use as described in the approved application materials, PLN16041 and the approved plans dated February 16<sup>th</sup>, 2016, as amended by the following conditions of approval and mitigation measures, if applicable ("Conditions of Approval" or "Conditions").

2. Effective Date, Expiration, Extensions and Extinguishment

This Approval shall become effective immediately, unless the Approval is appealable, in which case the Approval shall become effective in ten calendar days unless an appeal is filed. Unless a different termination date is prescribed, this Approval shall expire two years from the Approval date, or from the date of the final decision in the event of an appeal, unless within such period all necessary permits for construction or alteration have been issued, or the authorized activities have commenced in the case of a permit not involving construction or alteration. Upon written request and payment of appropriate fees submitted no later than the expiration date of this Approval, the Director of City Planning or designee may grant a one-year extension of this date, with additional extensions subject to approval by the approving body. Expiration of any necessary building permit or other construction-related permit for this project may invalidate this Approval if said Approval has also expired. If litigation is filed challenging this Approval, or its implementation, then the time period stated above for obtaining necessary permits for construction or alteration and/or commencement of authorized activities is automatically extended for the duration of the litigation.

3. Compliance with Other Requirements

The project applicant shall comply with all other applicable federal, state, regional, and local laws/codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City's Bureau of Building, Fire Marshal, and Public Works Department. Compliance with other applicable requirements may require changes to the approved use and/or plans. These changes shall be processed in accordance with the procedures contained in Condition #4.

4. Minor and Major Changes

- a. Minor changes to the approved project, plans, Conditions, facilities, or use may be approved administratively by the Director of City Planning
- b. Major changes to the approved project, plans, Conditions, facilities, or use shall be reviewed by the Director of City Planning to determine whether such changes require submittal and approval of a revision to the Approval by the original approving body or a new independent permit/approval. Major revisions shall be reviewed in accordance with the procedures required for the original permit/approval. A new independent permit/approval shall be reviewed in accordance with the procedures required for the new permit/approval.



**5. Compliance with Conditions of Approval**

- a. The project applicant and property owner, including successors, (collectively referred to hereafter as the "project applicant" or "applicant") shall be responsible for compliance with all the Conditions of Approval and any recommendations contained in any submitted and approved technical report at his/her sole cost and expense, subject to review and approval by the City of Oakland.
- b. The City of Oakland reserves the right at any time during construction to require certification by a licensed professional at the project applicant's expense that the as-built project conforms to all applicable requirements, including but not limited to, approved maximum heights and minimum setbacks. Failure to construct the project in accordance with the Approval may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension, or other corrective action.
- c. Violation of any term, Condition, or project description relating to the Approval is unlawful, prohibited, and a violation of the Oakland Municipal Code. The City of Oakland reserves the right to initiate civil and/or criminal enforcement and/or abatement proceedings, or after notice and public hearing, to revoke the Approval or alter these Conditions if it is found that there is violation of any of the Conditions or the provisions of the Planning Code or Municipal Code, or the project operates as or causes a public nuisance. This provision is not intended to, nor does it, limit in any manner whatsoever the ability of the City to take appropriate enforcement actions. The project applicant shall be responsible for paying fees in accordance with the City's Master Fee Schedule for inspections conducted by the City or a City-designated third-party to investigate alleged violations of the Approval or Conditions.

**6. Signed Copy of the Approval/Conditions**

A copy of the Approval letter and Conditions shall be signed by the project applicant, attached to each set of permit plans submitted to the appropriate City agency for the project, and made available for review at the project job site at all times.

**7. Blight/Nuisances**

The project site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within 60 days of approval, unless an earlier date is specified elsewhere.

**8. Indemnification**

- a. To the maximum extent permitted by law, the project applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the Oakland Redevelopment Successor Agency, the Oakland City Planning Commission, and their respective agents, officers, employees, and volunteers (hereafter collectively called "City") from any liability, damages, claim, judgment, loss (direct or indirect), action, causes of action, or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City to attack, set aside, void or annul this Approval or implementation of this Approval. The City may elect, in its sole discretion, to participate in the defense of said Action and the project applicant shall reimburse the City for its reasonable legal costs and attorneys' fees.
- b. Within ten (10) calendar days of the filing of any Action as specified in subsection (a) above,

the project applicant shall execute a Joint Defense Letter of Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Joint Defense Letter of Agreement shall survive termination, extinguishment, or invalidation of the Approval. Failure to timely execute the Letter of Agreement does not relieve the project applicant of any of the obligations contained in this Condition or other requirements or Conditions of Approval that may be imposed by the City.

9. Severability

The Approval would not have been granted but for the applicability and validity of each and every one of the specified Conditions, and if one or more of such Conditions is found to be invalid by a court of competent jurisdiction this Approval would not have been granted without requiring other valid Conditions consistent with achieving the same purpose and intent of such Approval.

PROJECT SPECIFIC CONDITONS:

10. Radio Frequency Emissions

*Prior to the final building permit sign off.*

The applicant shall submit a certified RF emissions report stating the facility is operating within the acceptable standards established by the regulatory Federal Communications Commission.

11. Operational

*Ongoing.*

Noise levels from the activity, property, or any mechanical equipment on site shall comply with the performance standards of Section 17.120 of the Oakland Planning Code and Section 8.18 of the Oakland Municipal Code. If noise levels exceed these standards, the activity causing the noise shall be abated until appropriate noise reduction measures have been installed and compliance verified by the Planning and Zoning Division and Building Services.

12. Equipment cabinets

*Prior to building permit Issuances.*

The applicant shall submit revised elevations showing associated equipment cabinets are concealed within a single equipment box that is painted to match the utility pole, to the Oakland Planning Department for review and approval.

13. Radio Frequency Emissions

*Prior to the final building permit sign off*

The applicant shall submit a certified RF emissions report stating the facility is operating within the acceptable standards established by the regulatory Federal Communications Commission.

14. Operational

*Ongoing*

Noise levels from the activity, property, or any mechanical equipment on site shall comply with the performance standards of Section 17.120 of the Oakland Planning Code and Section 8.18 of the Oakland Municipal Code. If noise levels exceed these standards, the activity causing the noise shall be

abated until appropriate noise reduction measures have been installed and compliance verified by the Planning and Zoning Division and Building Services.

**15. Possible District Undergrounding PG&E Pole**

*Ongoing*

Should the PG &E utility pole be voluntarily removed for purposes of district undergrounding or otherwise, the telecommunications facility can only be re-established by applying for and receiving approval of a new application to the Oakland Planning Department as required by the regulations.

**16. TREE TRIMMING CONDITION OF APPROVAL:**

Existing vegetation within the right-of-way immediately surrounding the replacement utility pole shall be preserved and only minimal pruning (if any) shall be allowed if absolutely necessary to facilitate the actual installation of the replacement pole, antennas, and/or equipment. Furthermore, any vegetation proposed for trimming and/or removal shall be 1<sup>st</sup> marked with colored tape or ribbon (visible from ground level) at least 14 calendar days in advance of proposed removal, with review and approval to trim and/or remove vegetation granted by the Zoning Division Manager, and if applicable, by the Department of Public Works Tree Services Division. The only exception to this protocol would be trimming necessary for immediate life safety considerations for public safety.

**17. TREE PERMIT CONDITON OF APPROVAL**

*Tree Permit Required*

Requirement: Pursuant to the City's Tree Protection Ordinance (OMC chapter 12.36), the project applicant shall obtain a tree permit and abide by the conditions of that permit.

When Required: Prior to approval of construction-related permit

Initial Approval: Permit approval by Public Works Department, Tree Division; evidence of approval submitted to Bureau of Building

Monitoring/Inspection: Bureau of Building

*Tree Protection During Construction*

Requirement: Adequate protection shall be provided during the construction period for any trees which are to remain standing, including the following, plus any recommendations of an arborist:

- i. Before the start of any clearing, excavation, construction, or other work on the site, every protected tree deemed to be potentially endangered by said site work shall be securely fenced off at a distance from the base of the tree to be determined by the project's consulting arborist. Such fences shall remain in place for duration of all such work. All trees to be removed shall be clearly marked. A scheme shall be established for the removal and disposal of logs, brush, earth and other debris which will avoid injury to any protected tree.
- ii. Where proposed development or other site work is to encroach upon the protected perimeter of any protected tree, special measures shall be incorporated to allow the roots to breathe and obtain water and nutrients. Any excavation, cutting, filing, or compaction of the existing ground surface within the protected perimeter shall be minimized. No change in existing ground level shall occur within a distance to be determined by the project's consulting arborist from the base of any protected tree at any time. No burning or use of equipment with an open flame shall occur near or within the protected perimeter of any protected tree.
- iii. No storage or dumping of oil, gas, chemicals, or other substances that may be harmful to trees shall occur within the distance to be determined by the project's consulting arborist from the base of any protected trees, or any other location on the site from which such substances might enter the protected perimeter. No heavy construction equipment or construction materials shall be operated or stored within a distance from the base of any protected trees to be determined by the project's consulting arborist. Wires, ropes, or other devices shall not be attached to any protected tree, except as

- needed for support of the tree. No sign, other than a tag showing the botanical classification, shall be attached to any protected tree.
- iv. Periodically during construction, the leaves of protected trees shall be thoroughly sprayed with water to prevent buildup of dust and other pollution that would inhibit leaf transpiration.
  - v. If any damage to a protected tree should occur during or as a result of work on the site, the project applicant shall immediately notify the Public Works Department and the project's consulting arborist shall make a recommendation to the City Tree Reviewer as to whether the damaged tree can be preserved. If, in the professional opinion of the Tree Reviewer, such tree cannot be preserved in a healthy state, the Tree Reviewer shall require replacement of any tree removed with another tree or trees on the same site deemed adequate by the Tree Reviewer to compensate for the loss of the tree that is removed.
  - vi. All debris created as a result of any tree removal work shall be removed by the project applicant from the property within two weeks of debris creation, and such debris shall be properly disposed of by the project applicant in accordance with all applicable laws, ordinances, and regulations.

When Required: During construction

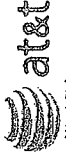
Initial Approval: Public Works Department, Tree Division

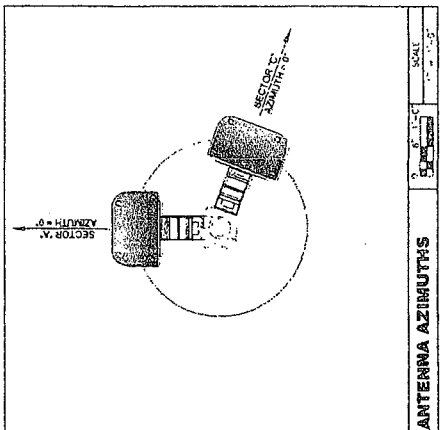
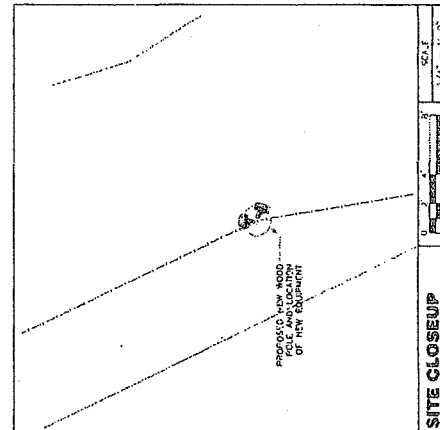
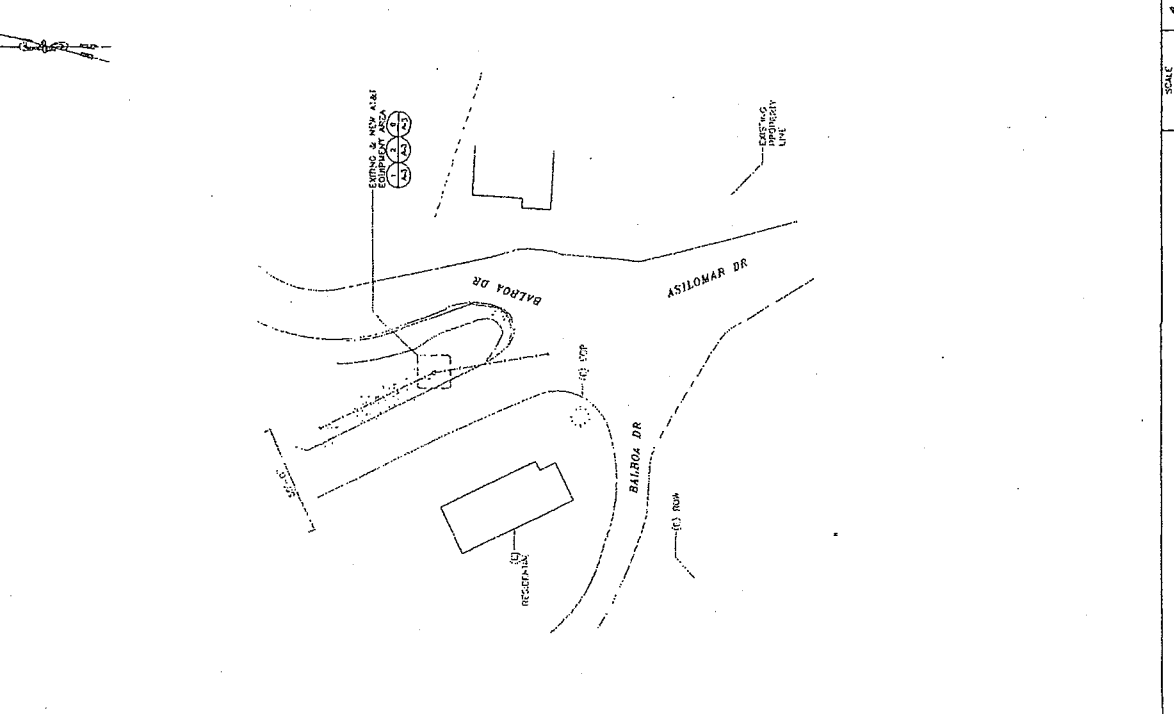
Monitoring/Inspection: Bureau of Building







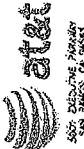

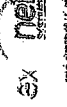
 <p>at&amp;t SOUTH BAY AREA 3000 BAYVIEW PARKWAY SAN RAMON, CA 94583</p>	<p>PROJECT INFORMATION: <b>OAKHILLS AT&amp;T SOUTH NETWORK NODE 054J</b> FRONT OF 1989 ASILOMAR DR. OAKLAND, CA 94611</p>	<p>CURRENT ISSUE DATE: 01/14/2016</p>	<p>ISSUED FOR: <b>100% ZONING DRAWINGS</b></p>	<p>REV. DATE: DESCRIPTION: BY:</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:10%;">A</td> <td style="width:40%;">12/21/15</td> <td style="width:40%;">100% ZONING</td> <td style="width:10%;">JMC</td> </tr> <tr> <td>B</td> <td>01/14/16</td> <td>100% ZONING</td> <td>JMC</td> </tr> </table>	A	12/21/15	100% ZONING	JMC	B	01/14/16	100% ZONING	JMC	<p>PLANS PREPARED BY: <b>cd</b> 3102 HUMBOLDT BLVD OAKLAND, CA 94612 415.763.8800 WWW.CDENGINEERING.COM</p>	<p>CONSULTANT: <b>nel</b> NATIONAL ENGINEERING 2200 WASHINGTON ST. SUITE 100 OAKLAND, CA 94612</p>	<p>DRAWN BY: JMC CHECKED BY: JMC DATE: 01/14/2016</p>	<p>LICENSER: JMC PP SAS</p>	<p><b>OVERALL SITE PLAN</b></p>	<p>SHEET NUMBER: <b>A-1</b></p>
A	12/21/15	100% ZONING	JMC															
B	01/14/16	100% ZONING	JMC															

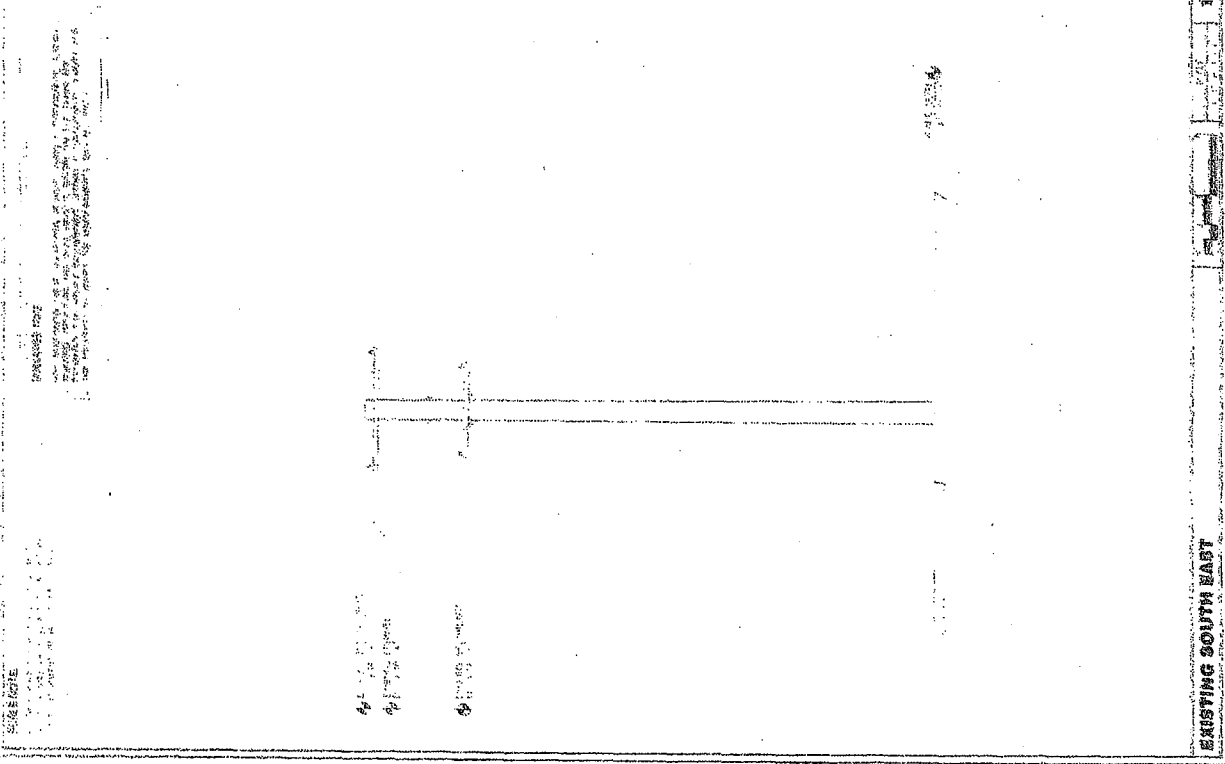
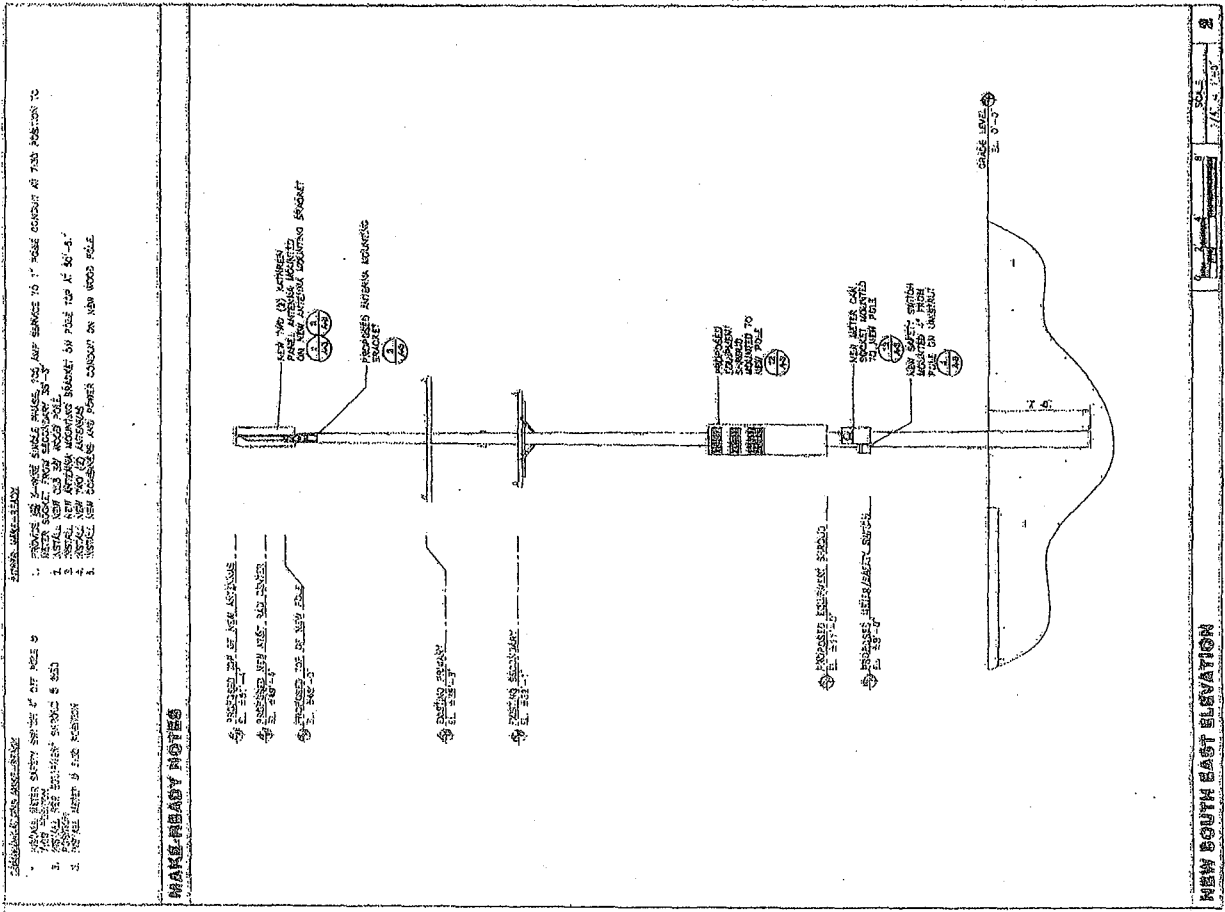


- SCALE NOTE:**  
1. DIMENSIONS SHOWN IN THIS PLAN SHALL BE TAKEN FROM THE CENTERLINE OF THE ROAD UNLESS OTHERWISE NOTED.  
2. DIMENSIONS SHOWN IN THIS PLAN SHALL BE TAKEN FROM THE CENTERLINE OF THE ROAD UNLESS OTHERWISE NOTED.
- GENERAL NOTES:**
1. THE PROPOSER IS FOR THE MODIFICATION OF AN EXISTING UNARMED TELECOMMUNICATIONS FACILITY. CONSTRUCTION OF THIS FACILITY SHALL BE IN ACCORDANCE WITH THE CITY OF OAKLAND ZONING ORDINANCES AND THE CITY OF OAKLAND COMMUNITY DEVELOPMENT DEPARTMENT'S REGULATIONS.
  2. THE EXISTING FACILITY IS UNARMED AND IS NOT FOR DEFENSE PURPOSES.
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  15. THE EXISTING FACILITY IS UNARMED AND IS NOT FOR DEFENSE PURPOSES.
  16. THE EXISTING FACILITY IS UNARMED AND IS NOT FOR DEFENSE PURPOSES.
- SITE WORK GENERAL NOTES:**
1. ALL EXISTING ACTIVE SEWER MAINS, GAS LINES, AND OTHER UTILITIES SHALL BE MAINTAINED AND PROTECTED THROUGHOUT THE PROJECT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION AND REPAIR OF ALL UTILITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION AND REPAIR OF ALL UTILITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION AND REPAIR OF ALL UTILITIES.
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**OVERALL SITE PLAN**

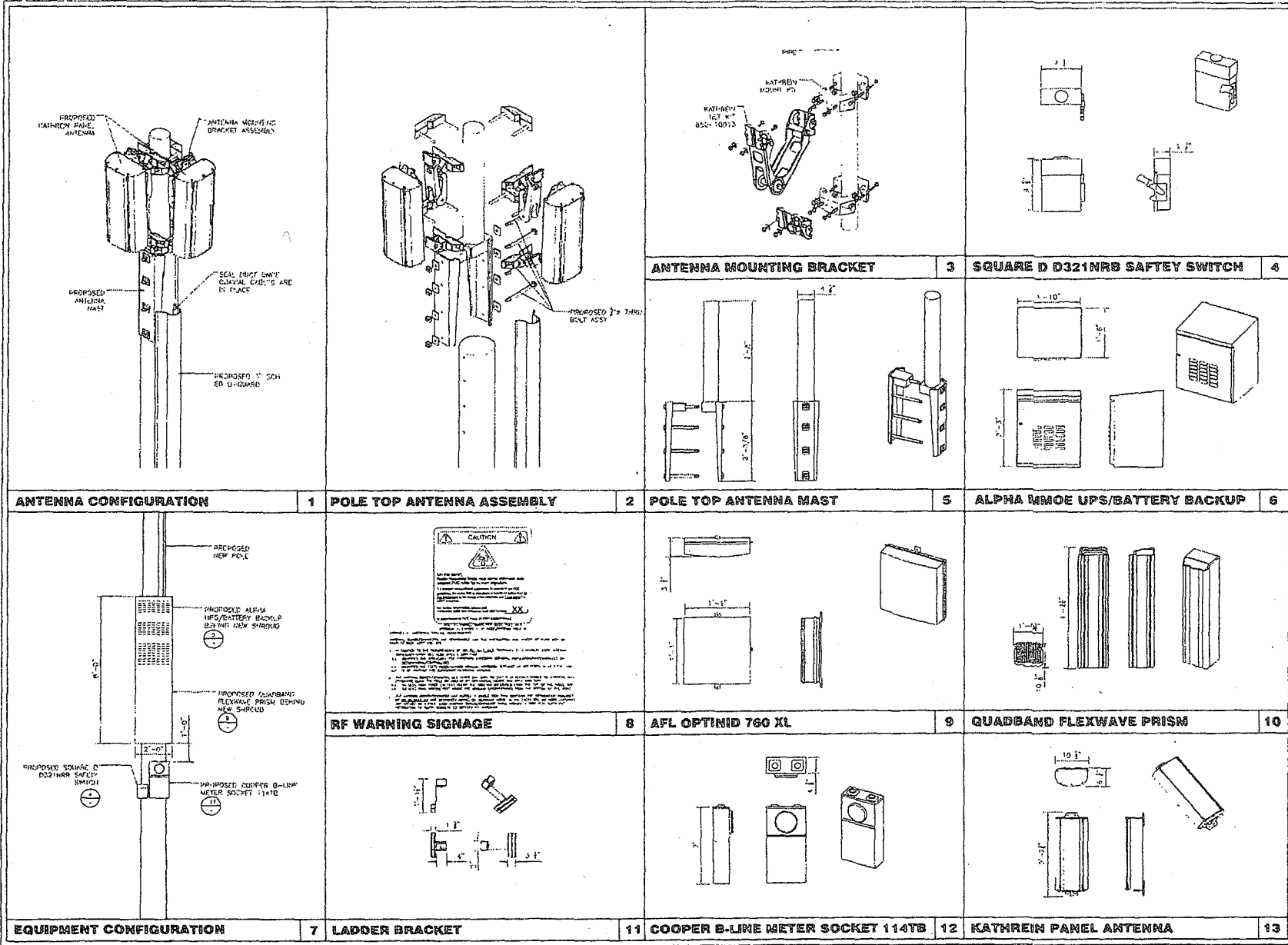



		<b>CAKILLS AT&amp;T</b> <b>SOUTH NETWORK</b> RISE 084J PROJECT OF THE CAKILLS LOCAL OFFICE		PROJECT INFORMATION 01/14/2018 ISSUED FOR:		<b>100% ZONING DRAWINGS</b> REV. DATE DESCRIPTION BY 4 10/27/18 RISE 289 JAC 6 01/14/18 RISE 377 JAC		PLANS PREPARED BY:  NOT INFORMATION 485 4th Street, Suite 400, JAC 8 San Diego, CA 92101 CONSULTANT		 DATE: NOVEMBER 15, 2018 DRAWN BY: JAC CHECKED BY: JAC LICENSE:		SHEET TITLE: <b>EXISTING &amp; NEW SOUTH ELEVATIONS</b>		SHEET NUMBER: <b>A-2</b>	
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**MAKE-READY NOTES**

- REMOVE ONE 2" WIRE SINGLE PHASE, 120 VOLT BRACKET TO 1" WIRE CONDUIT AT THIS POSITION TO NEW CONDUIT ON NEW WOOD POLE.
- REMOVE ONE 2" WIRE SINGLE PHASE, 120 VOLT BRACKET TO 1" WIRE CONDUIT AT THIS POSITION TO NEW CONDUIT ON NEW WOOD POLE.
- REMOVE ONE 2" WIRE SINGLE PHASE, 120 VOLT BRACKET TO 1" WIRE CONDUIT AT THIS POSITION TO NEW CONDUIT ON NEW WOOD POLE.
- REMOVE ONE 2" WIRE SINGLE PHASE, 120 VOLT BRACKET TO 1" WIRE CONDUIT AT THIS POSITION TO NEW CONDUIT ON NEW WOOD POLE.





500 EXECUTIVE PARKWAY  
SAN RAMON, CA 94583

**PROJECT INFORMATION:**


**OAKHILLS AT&T  
SOUTH NETWORK  
NODE 054J**  
FRONT OF 1888 ASILOMAR DR.  
OAKLAND, CA 94611

**CURRENT ISSUE DATE:** 01/14/2016

**ISSUED FOR:** 100% ZONING DRAWINGS


REV.	DATE	DESCRIPTION	BY
A	12/21/15	90% ZD's	JMC
B	01/14/16	100% ZD's	JMC

**PLANS PREPARED BY:**  
PDS CORPORATION



4301 LAS VEGAS RD. SUITE A, STE 11  
EMERYVILLE, CA 94521  
TEL: 925.531.3660

**CONSULTANT:**



3033 WARDENVILLE RD. SUITE 240  
DUBLIN, CA 94568

**DRAWN BY:** JMC    **CHK:** PP    **APV:** SAS

**LICENSER:**

---

**SHEET TITLE:** EQUIPMENT AND CONSTRUCTION DETAILS

**SHEET NUMBER:** A-3

at&t

**AT&T oDAS Shutdown Procedure**

**PROCEDURE TO DE-ENERGIZE RADIO FREQUENCY (RF) SIGNAL  
EMERGENCY and NON-EMERGENCY WORK REQUIRING RF SIGNAL  
SHUTDOWN**

I. PURPOSE

II. SCOPE

III. IDENTIFY THE OFFICE AND THE LOCATION OF THE SWITCH

IV. IDENTIFY THE OFFICE AND THE LOCATION OF THE SWITCH

V. IDENTIFY THE OFFICE AND THE LOCATION OF THE SWITCH

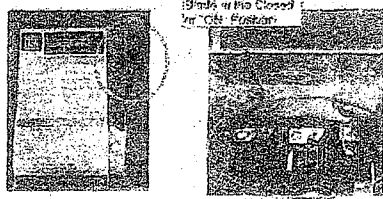
VI. IDENTIFY THE OFFICE AND THE LOCATION OF THE SWITCH

See reverse side to view photo of the "on" and "off" position.

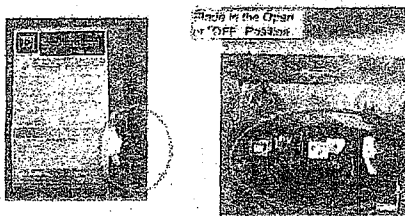
FRONT

at&t

**Switch in the Closed Position ("ON")**



**Switch in the Open Position ("Off")**



BACK

at&t

PROJECT INFORMATION:

**OAKHILLS AT&T  
SOUTH NETWORK  
NODE 054J**

FRONT OF 1889 ASILOMAR DR.  
OAKLAND, CA 94611

CURRENT ISSUE DATE:

01/14/2016

ISSUED FOR:

100% ZONING DRAWINGS

REV.	DATE	DESCRIPTION	BY
A	12/21/15	DATE 2015	JMC
B	01/14/16	ISSUE 2016	JMC

PLANS PREPARED BY:

GDD

CONSULTANT:

net  
SYSTEMS

DRAWN BY: JMC    CHK: PP    APV: SAS

LICENSER:

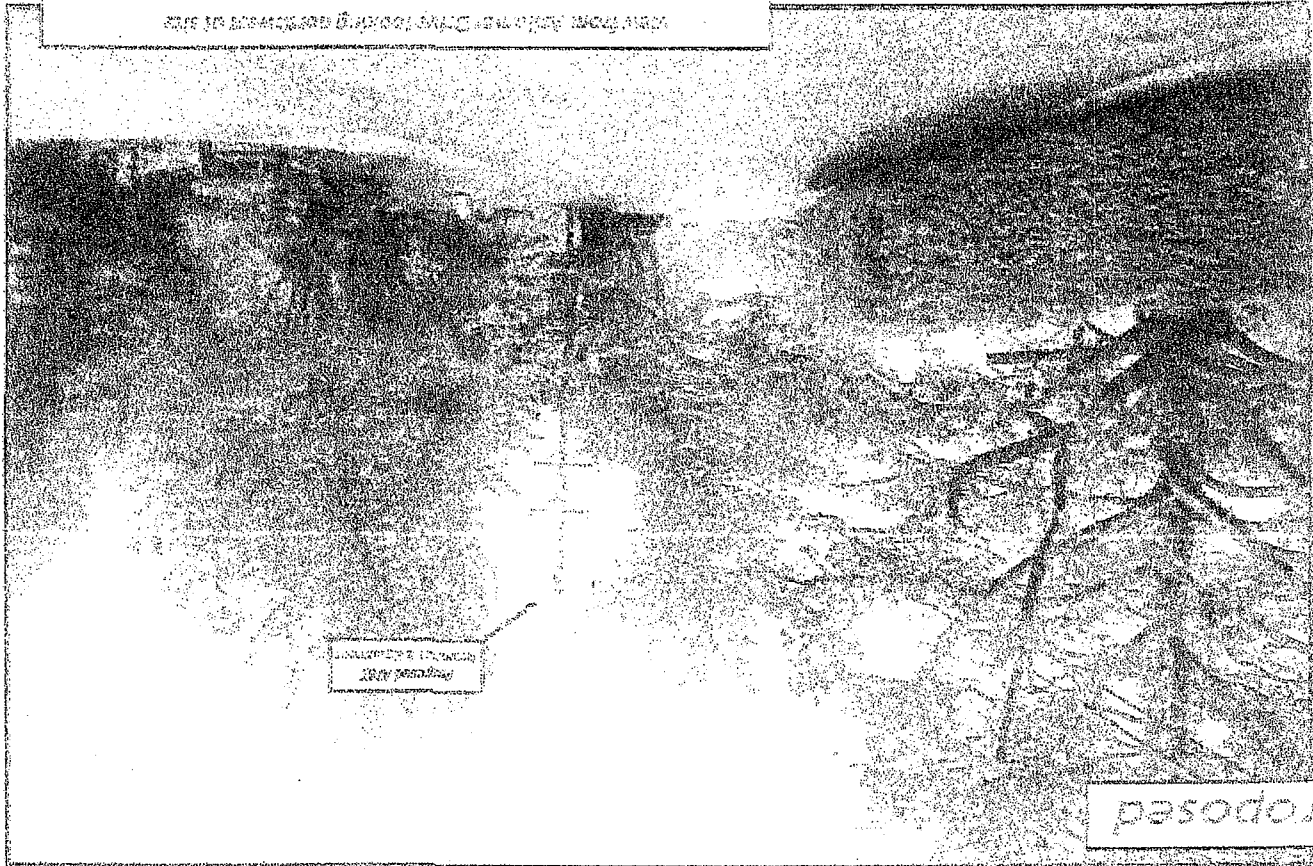
SHEET TITLE:

**POWER & RF SAFETY  
PROTOCOLS**

SHEET NUMBER:

**S1**

STATE OF NEW YORK  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
DIVISION OF WATER  
WATER RESOURCES DIVISION  
WATER RESOURCES DIVISION  
WATER RESOURCES DIVISION



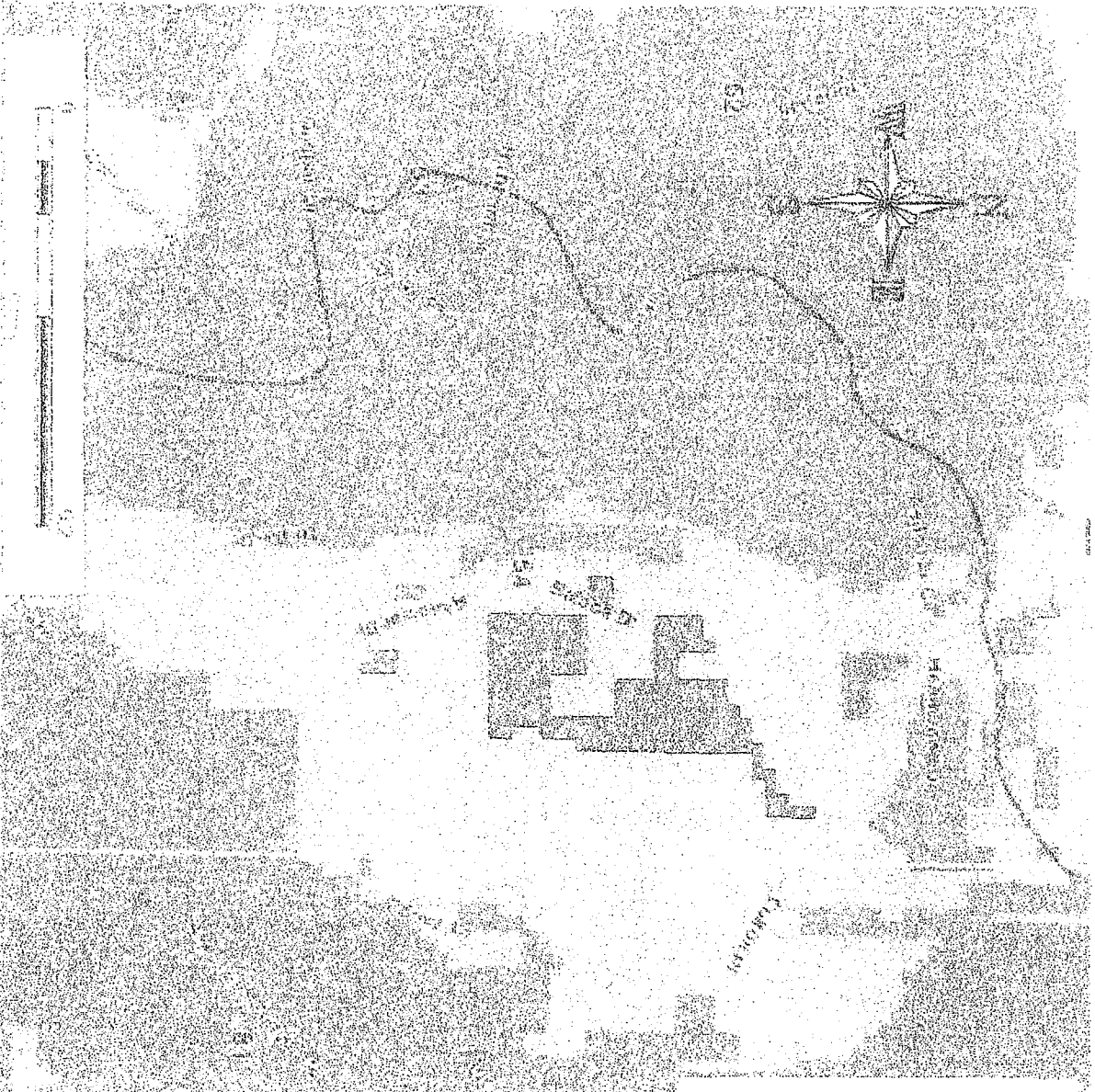
Proposed









Existing



# Exhibit 2



## Legend

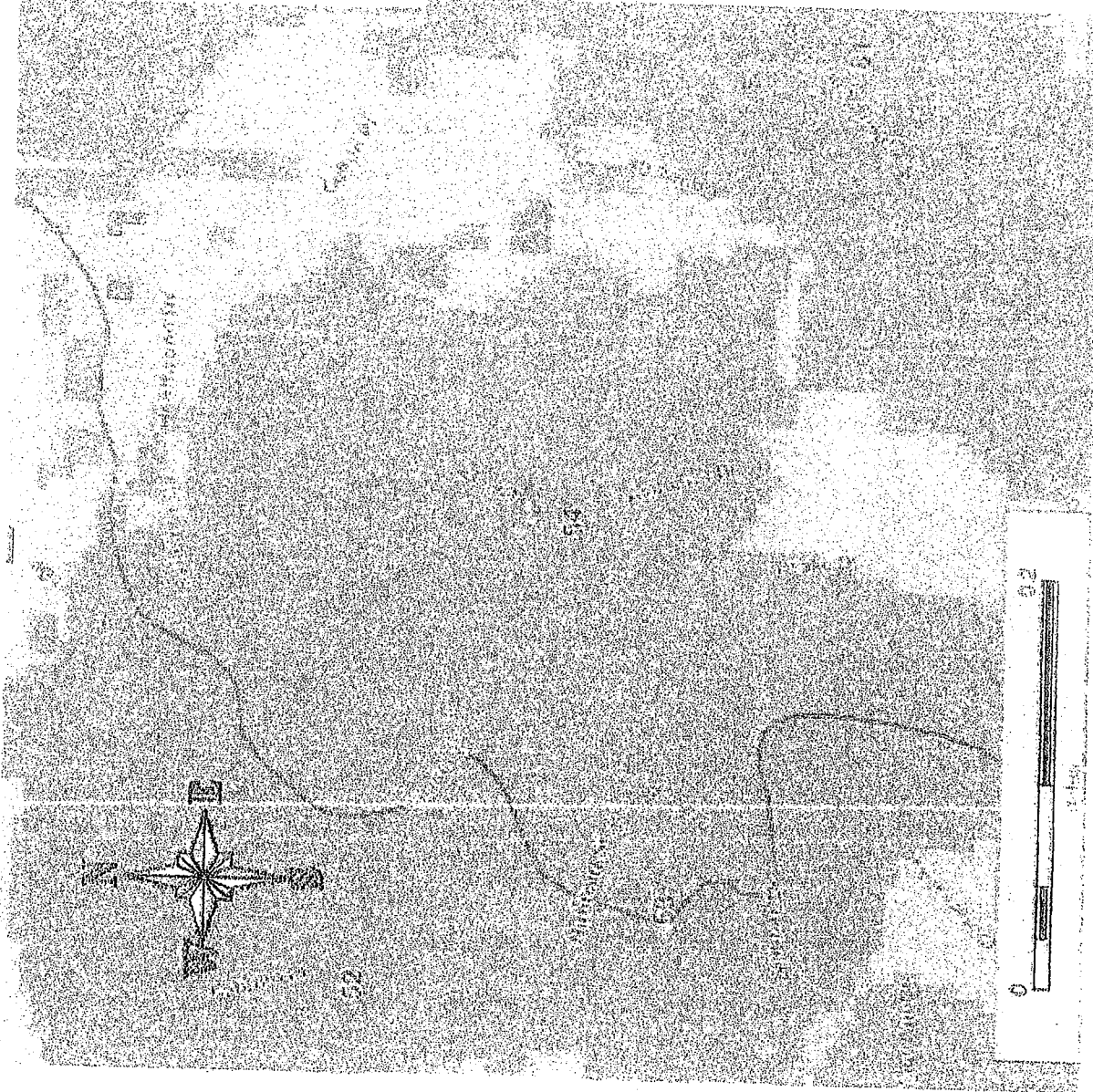
-  In-Building Service
-  In-Vehicle Service
-  Outdoor Service
-  Proposed Node
-  Existing Macro
-  City Boundary

# Proposed UMTS 850 Coverage (with Node 5A)

## Exhibit 3

### Legend

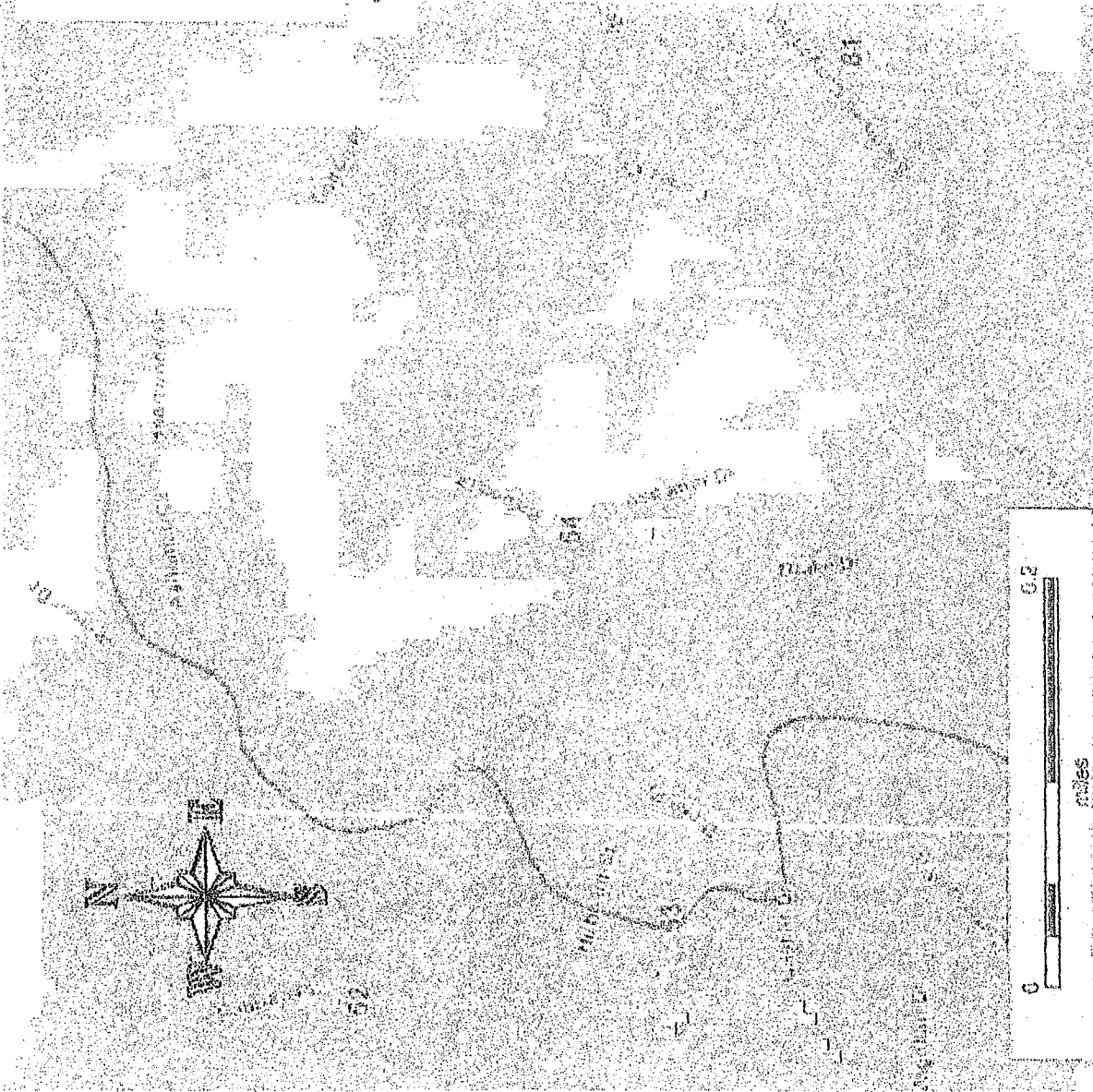
- In-Building Service
- In-Vehicle Service
- Outdoor Service
- Proposed Node
- Existing Macro
- City Boundary



January 14th, 2016

# Existing LTE 700 Coverage

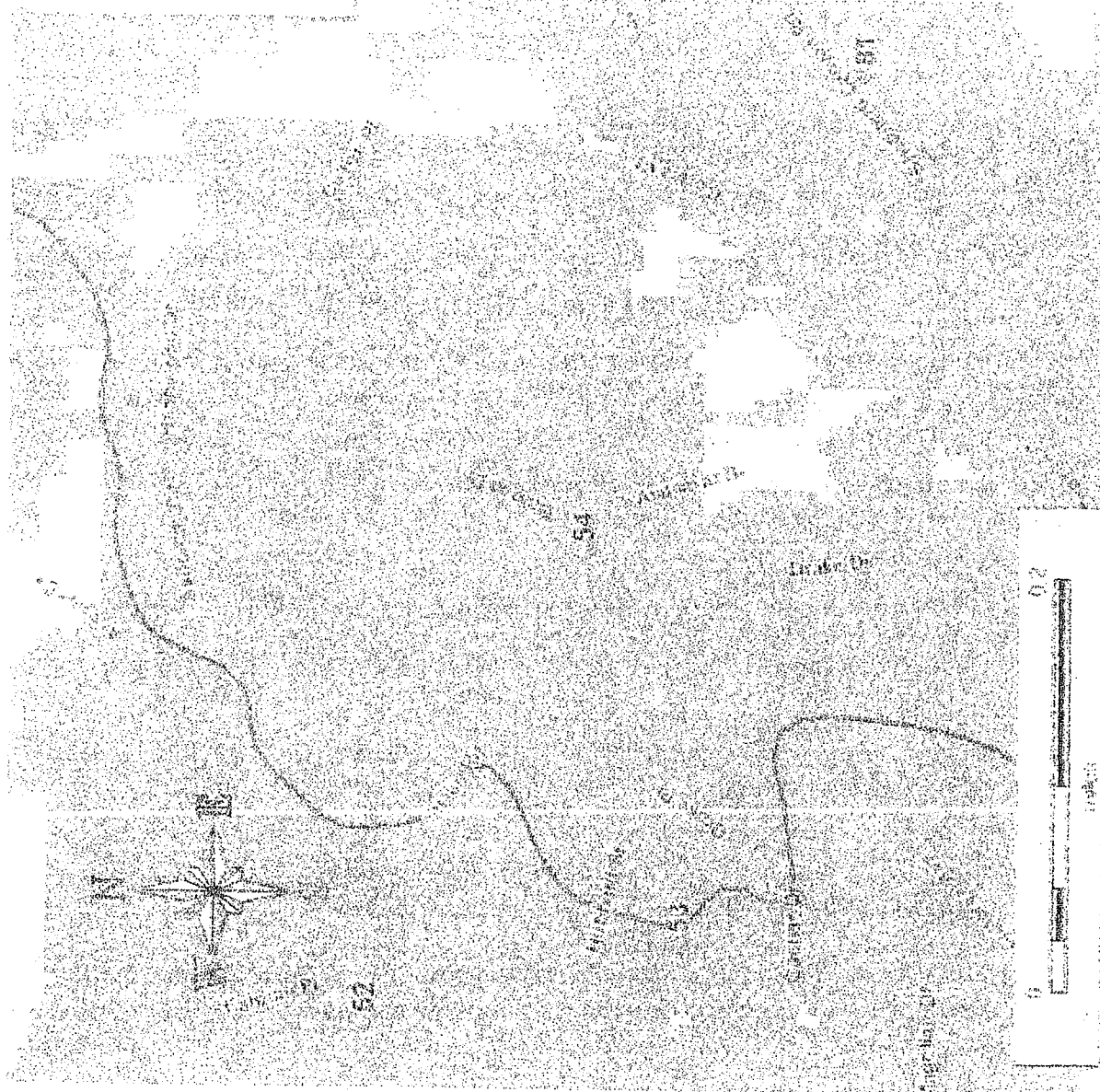
# Exhibit 4



January 14th, 2016



# Exhibit 5



January 14<sup>th</sup>, 2016

Statement of Hammett & Edison, Inc., Consulting Engineers

The firm of Hammett & Edison, Inc., Consulting Engineers, has been retained on behalf of AT&T Mobility, a personal wireless telecommunications carrier, to evaluate a distributed antenna system ("DAS") node proposed to be located near 1989 Asilomar Drive in Oakland, California, for compliance with appropriate guidelines limiting human exposure to radio frequency ("RF") electromagnetic fields.

Executive Summary

AT&T proposes to install two directional panel antennas on the utility pole sited near 1989 Asilomar Drive in Oakland. The proposed operation will comply with the FCC guidelines limiting public exposure to RF energy.

Prevailing Exposure Standards

The U.S. Congress requires that the Federal Communications Commission ("FCC") evaluate its actions for possible significant impact on the environment. A summary of the FCC's exposure limits is shown in Figure 1. These limits apply for continuous exposures and are intended to provide a prudent margin of safety for all persons, regardless of age, gender, size, or health. The most restrictive FCC limit for exposures of unlimited duration to radio frequency energy for several personal wireless services are as follows:

Wireless Service	Frequency Band	Occupational Limit	Public Limit
Microwave (Point-to-Point)	5-80 GHz	5.00 mW/cm <sup>2</sup>	1.00 mW/cm <sup>2</sup>
WiFi (and unlicensed uses)	2-6	5.00	1.00
BRS (Broadband Radio)	2,600 MHz	5.00	1.00
WCS (Wireless Communication)	2,300	5.00	1.00
AWS (Advanced Wireless)	2,100	5.00	1.00
PCS (Personal Communication)	1,950	5.00	1.00
Cellular	870	2.90	0.58
SMR (Specialized Mobile Radio)	855	2.85	0.57
700 MHz	700	2.40	0.48
[most restrictive frequency range]	30-300	1.00	0.20

Power line frequencies (60 Hz) are well below the applicable range of these standards, and there is considered to be no compounding effect from simultaneous exposure to power line and radio frequency fields.

### General Facility Requirements

Base stations typically consist of two distinct parts: the electronic transceivers (also called "radios" or "channels") that are connected to the traditional wired telephone lines, and the passive antennas that send the wireless signals created by the radios out to be received by individual subscriber units. The transceivers are often located at ground level and are connected to the antennas by coaxial cables. A small antenna for reception of GPS signals is also required, mounted with a clear view of the sky. Because of the short wavelength of the frequencies assigned by the FCC for wireless services, the antennas require line-of-sight paths for their signals to propagate well and so are installed at some height above ground. The antennas are designed to concentrate their energy toward the horizon, with very little energy wasted toward the sky or the ground. This means that it is generally not possible for exposure conditions to approach the maximum permissible exposure limits without being physically very near the antennas.

### Computer Modeling Method

The FCC provides direction for determining compliance in its Office of Engineering and Technology Bulletin No. 65, "Evaluating Compliance with FCC-Specified Guidelines for Human Exposure to Radio Frequency Radiation," dated August 1997. Figure 2 describes the calculation methodologies, reflecting the facts that a directional antenna's radiation pattern is not fully formed at locations very close by (the "near-field" effect) and that at greater distances the power level from an energy source decreases with the square of the distance from it (the "inverse square law"). The conservative nature of this method for evaluating exposure conditions has been verified by numerous field tests.

### Site and Facility Description

Based upon information provided by AT&T, including zoning drawings by PDC Corporation, dated January 4, 2016, it is proposed to install two Kathrein Model 840-10525 directional panel antennas on top of the existing 39-foot utility pole sited in the public right-of-way across the street from the residence located at 1989 Asilomar Drive in Oakland. The antennas would employ 2° downtilt,\* would be mounted at an effective height of about 49½ feet above ground, and would be oriented toward 0°T and 110°T. The maximum effective radiated power in any direction would be 185 watts, representing simultaneous operation at 80 watts for PCS, 55 watts for cellular, and 50 watts for 700 MHz service. There are reported no other wireless telecommunications base stations at the site or nearby.

\* Assumed for the purpose of the study.

### Study Results

For a person anywhere at ground, the maximum RF exposure level due to the proposed AT&T operation is calculated to be 0.0011 mW/cm<sup>2</sup>, which is 0.22% of the applicable public exposure limit. The maximum calculated level at the second-floor elevation of any nearby residence is 0.24% of the public exposure limit. It should be noted that these results include several "worst-case" assumptions and therefore are expected to overstate actual power density levels from the proposed operation.

### Recommended Mitigation Measures

Due to their mounting locations and height, the AT&T antennas would not be accessible to unauthorized persons, and so no mitigation measures are necessary to comply with the FCC public exposure guidelines. To prevent occupational exposures in excess of the FCC guidelines, it is recommended that appropriate RF safety training, to include review of personal monitor use and lockout/tagout procedures, be provided to all authorized personnel who have access to the roof, including employees and contractors of AT&T and of the City. No access within 3 feet directly in front of the antennas themselves, such as might occur during certain maintenance activities high on the pole, should be allowed while the base station is in operation, unless other measures can be demonstrated to ensure that occupational protection requirements are met. It is recommended that explanatory signs<sup>†</sup> be posted at the antennas and/or on the pole below the antennas, readily visible from any angle of approach to persons who might need to work within that distance.

### Conclusion

Based on the information and analysis above, it is the undersigned's professional opinion that operation of this AT&T node near 1989 Asilomar Drive in Oakland, California, will comply with the prevailing standards for limiting public exposure to radio frequency energy and, therefore, will not for this reason cause a significant impact on the environment. The highest calculated level in publicly accessible areas is much less than the prevailing standards allow for exposures of unlimited duration. This finding is consistent with measurements of actual exposure conditions taken at other operating base stations. Training authorized personnel and posting explanatory signs are recommended to establish compliance with occupational exposure limits.

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<sup>†</sup> Signs should comply with OET-65 color, symbol, and content recommendations. Contact information should be provided (e.g., a telephone number) to arrange for access to restricted areas. The selection of language(s) is not an engineering matter, and guidance from the landlord, local zoning or health authority, or appropriate professionals may be required. Signage may also need to comply with the requirements of California Public Utilities Commission General Order No. 95.

AT&T Mobility • DAS Node No. OAKS-054J  
1989 Asilomar Drive • Oakland, California

Authorship

The undersigned author of this statement is a qualified Professional Engineer, holding California Registration Nos. E-13026 and M-20676, which expire on June 30, 2017. This work has been carried out under his direction, and all statements are true and correct of his own knowledge except, where noted, when data has been supplied by others, which data he believes to be correct.



*William F. Hammett*  
William F. Hammett, P.E.

707/996-5200

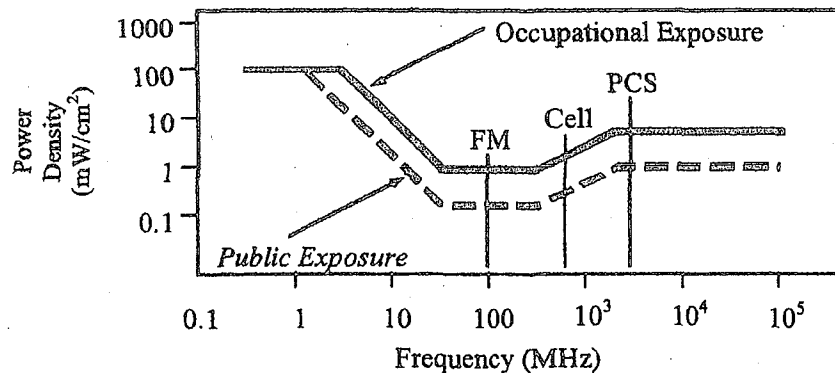
January 14, 2016

## FCC Radio Frequency Protection Guide

The U.S. Congress required (1996 Telecom Act) the Federal Communications Commission ("FCC") to adopt a nationwide human exposure standard to ensure that its licensees do not, cumulatively, have a significant impact on the environment. The FCC adopted the limits from Report No. 86, "Biological Effects and Exposure Criteria for Radiofrequency Electromagnetic Fields," published in 1986 by the Congressionally chartered National Council on Radiation Protection and Measurements ("NCRP"). Separate limits apply for occupational and public exposure conditions, with the latter limits generally five times more restrictive. The more recent standard, developed by the Institute of Electrical and Electronics Engineers and approved as American National Standard ANSI/IEEE C95.1-2006, "Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 kHz to 300 GHz," includes similar limits. These limits apply for continuous exposures from all sources and are intended to provide a prudent margin of safety for all persons, regardless of age, gender, size, or health.

As shown in the table and chart below, separate limits apply for occupational and public exposure conditions, with the latter limits (in *italics* and/or dashed) up to five times more restrictive:

Frequency Applicable Range (MHz)	Electromagnetic Fields ( <i>f</i> is frequency of emission in MHz)					
	Electric Field Strength (V/m)		Magnetic Field Strength (A/m)		Equivalent Far-Field Power Density (mW/cm <sup>2</sup> )	
0.3 - 1.34	614	<i>614</i>	1.63	<i>1.63</i>	100	<i>100</i>
1.34 - 3.0	614	<i>823.8/f</i>	1.63	<i>2.19/f</i>	100	<i>180/f<sup>2</sup></i>
3.0 - 30	1842/f	<i>823.8/f</i>	4.89/f	<i>2.19/f</i>	900/f <sup>2</sup>	<i>180/f<sup>2</sup></i>
30 - 300	61.4	<i>27.5</i>	0.163	<i>0.0729</i>	1.0	<i>0.2</i>
300 - 1,500	3.54√ <i>f</i>	<i>1.59√f</i>	√ <i>f</i> /106	<i>√f/238</i>	<i>f</i> /300	<i>f/1500</i>
1,500 - 100,000	137	<i>61.4</i>	0.364	<i>0.163</i>	5.0	<i>1.0</i>



Higher levels are allowed for short periods of time, such that total exposure levels averaged over six or thirty minutes, for occupational or public settings, respectively, do not exceed the limits, and higher levels also are allowed for exposures to small areas, such that the spatially averaged levels do not exceed the limits. However, neither of these allowances is incorporated in the conservative calculation formulas in the FCC Office of Engineering and Technology Bulletin No. 65 (August 1997) for projecting field levels. Hammett & Edison has built those formulas into a proprietary program that calculates, at each location on an arbitrary rectangular grid, the total expected power density from any number of individual radio sources. The program allows for the description of buildings and uneven terrain, if required to obtain more accurate projections.

## RFR.CALC™ Calculation Methodology

### Assessment by Calculation of Compliance with FCC Exposure Guidelines

The U.S. Congress required (1996 Telecom Act) the Federal Communications Commission ("FCC") to adopt a nationwide human exposure standard to ensure that its licensees do not, cumulatively, have a significant impact on the environment. The maximum permissible exposure limits adopted by the FCC (see Figure 1) apply for continuous exposures from all sources and are intended to provide a prudent margin of safety for all persons, regardless of age, gender, size, or health. Higher levels are allowed for short periods of time, such that total exposure levels averaged over six or thirty minutes, for occupational or public settings, respectively, do not exceed the limits.

#### Near Field.

Prediction methods have been developed for the near field zone of panel (directional) and whip (omnidirectional) antennas, typical at wireless telecommunications base stations, as well as dish (aperture) antennas, typically used for microwave links. The antenna patterns are not fully formed in the near field at these antennas, and the FCC Office of Engineering and Technology Bulletin No. 65 (August 1997) gives suitable formulas for calculating power density within such zones.

For a panel or whip antenna, power density  $S = \frac{180}{\theta_{BW}} \times \frac{0.1 \times P_{net}}{\pi \times D \times h}$ , in mW/cm<sup>2</sup>,

and for an aperture antenna, maximum power density  $S_{max} = \frac{0.1 \times 16 \times \eta \times P_{net}}{\pi \times h^2}$ , in mW/cm<sup>2</sup>,

where  $\theta_{BW}$  = half-power beamwidth of the antenna, in degrees, and

$P_{net}$  = net power input to the antenna, in watts,

$D$  = distance from antenna, in meters,

$h$  = aperture height of the antenna, in meters, and

$\eta$  = aperture efficiency (unitless, typically 0.5-0.8).

The factor of 0.1 in the numerators converts to the desired units of power density.

#### Far Field.

OET-65 gives this formula for calculating power density in the far field of an individual RF source:

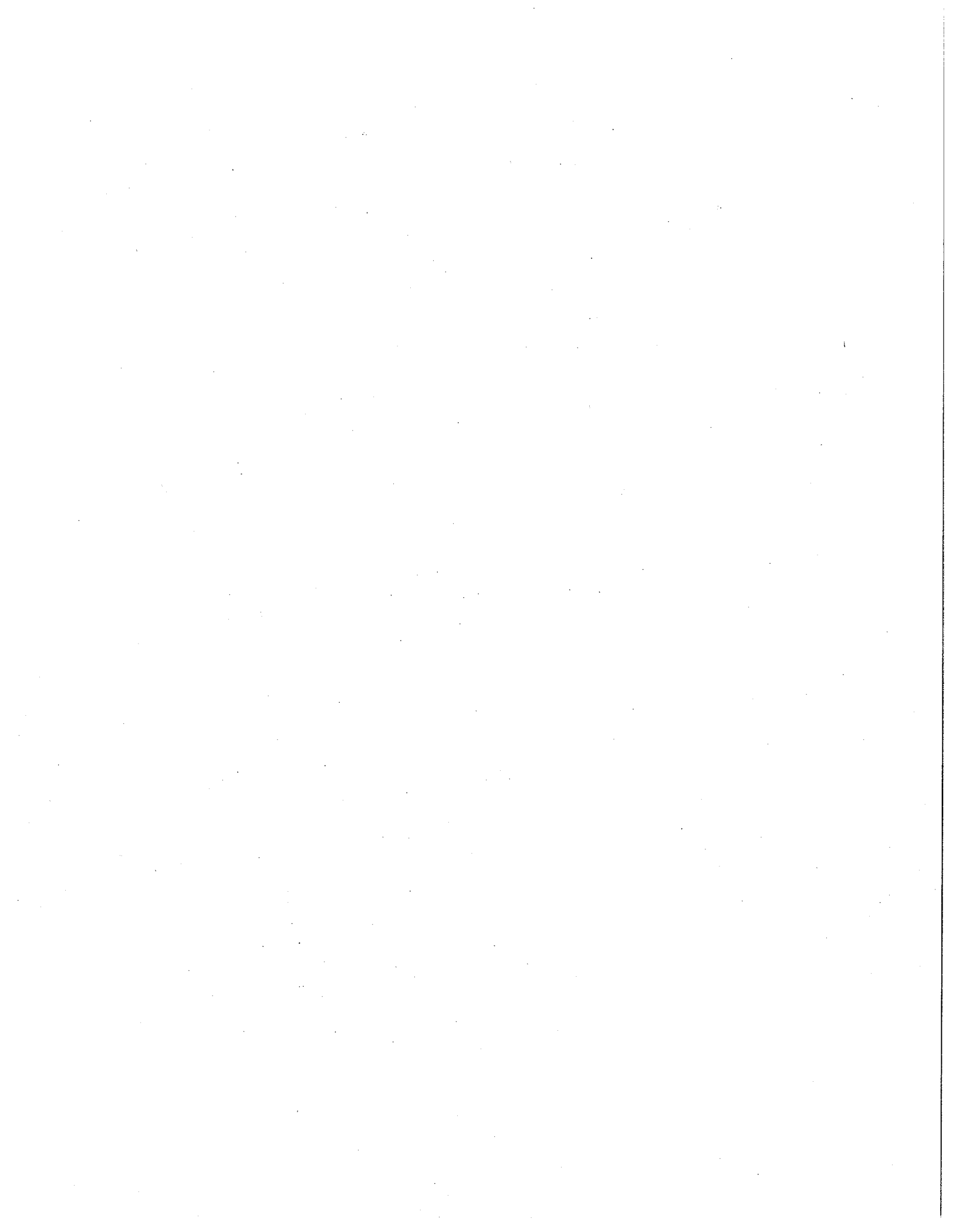
power density  $S = \frac{2.56 \times 1.64 \times 100 \times RFF^2 \times ERP}{4 \times \pi \times D^2}$ , in mW/cm<sup>2</sup>,

where ERP = total ERP (all polarizations), in kilowatts,

RFF = relative field factor at the direction to the actual point of calculation, and

$D$  = distance from the center of radiation to the point of calculation, in meters.

The factor of 2.56 accounts for the increase in power density due to ground reflection, assuming a reflection coefficient of 1.6 ( $1.6 \times 1.6 = 2.56$ ). The factor of 1.64 is the gain of a half-wave dipole relative to an isotropic radiator. The factor of 100 in the numerator converts to the desired units of power density. This formula has been built into a proprietary program that calculates, at each location on an arbitrary rectangular grid, the total expected power density from any number of individual radiation sources. The program also allows for the description of uneven terrain in the vicinity, to obtain more accurate projections.







CITY OF OAKLAND  
BUREAU OF PLANNING - ZONING DIVISION  
250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA 94612-2031  
Phone: 510-238-3911 Fax: 510-238-4730

Sent via U.S. Mail and Electronic Mail

April 23 2016

New Cingular Wireless PCS, LLC  
c/o Matt Yergovich  
1826 Webster St.  
San Francisco, CA 94115

RE: Case File No. PLN16041 / The Public Right-of-Way at Asilomar Dr. (adjacent to 1989 Asilomar Dr.) (048E-7337-017-00)

Dear Mr. Yergovich:

The above application was **APPROVED** at the City Planning Commission meeting (by a +4-0 vote) on **April 20<sup>th</sup>, 2016**. The Commission's action is indicated below. This action becomes final ten (10) days after the date of the announcement of the decision unless an appeal to the City Council is filed by **4:00 pm on May 2<sup>nd</sup>, 2016**.

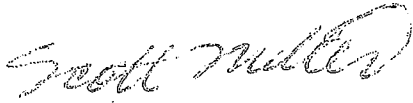
1. **Adoption/approval of the CEQA Findings.**
2. **Approval of the Major Design Review subject to the attached findings and conditions of approval, including the Standard Conditions of Approval.**

If you, or any interested party, seeks to challenge this decision, an appeal **must** be filed by no later than ten calendar (10) days from the announcement of the decision by **4:00 pm on May 2<sup>nd</sup>, 2016**. An appeal shall be on a form provided by the Planning and Zoning Division of the Department of Planning and Building, and submitted to the same at 250 Frank H. Ogawa Plaza, Suite 2114, to the attention of **Jose M. Herrera-Preza, Planner II**. The appeal shall state specifically wherein it is claimed there was error or abuse of discretion by the Planning Commission or wherein their decision is not supported by substantial evidence and must include payment of \$1,891.08 in accordance with the City of Oakland Master Fee Schedule. Failure to timely appeal will preclude you, or any interested party, from challenging the City's decision in court. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record which supports the basis of the appeal; failure to do so may preclude you, or any interested party, from raising such issues during the appeal and/or in court. However, the appeal will be limited to issues and/or evidence presented to the City Planning Commission prior to the close of the City Planning Commission's public hearing on the matter.

A signed Notice of Exemption (NOE) is enclosed certifying that the project has been found to be exempt from CEQA review. It is your responsibility to record the NOE and the Environmental Declaration at the Alameda County Clerk's office at 1106 Madison Street, Oakland, CA 94612, at a cost of \$50.00 made payable to the Alameda County Clerk. Please bring the original NOE related documents and five copies to the Alameda County Clerk, and return one date stamped copy to the Zoning Division, to the attention of **Jose M. Herrera-Preza, Planner II**. Pursuant to Section 15062(d) of the California Environmental Quality Act (CEQA) Guidelines, recordation of the NOE starts a 35-day statute of limitations on court challenges to the approval under CEQA.

If you have any questions, please contact the case planner, José M. Herrera-Preza, Planner II at (510) 238-3808 or [jherrera@oaklandnet.com](mailto:jherrera@oaklandnet.com), however, this does not substitute for filing of an appeal as described above.

Very truly yours,



SCOTT MILLER  
Zoning Manager

Attachments: A. Findings  
B. Conditions of Approval, including Standard Conditions of Approvals

CC: Rosalie Masuda; 2000 Asilomar Dr. Oakland, Ca. 94611  
Kate & Rob Appeldorn; 5700 Balboa Dr. Oakland, Ca. 94611  
Jerry Ostrander; 5660 Balboa Dr. Oakland, Ca. 94611  
Mariam Dianne Noroian; 5700 Balboa Dr. Oakland, Ca 94611  
Dale & Roswitha Robinson; 1962 Asilomar Dr. Oakland, Ca 94611  
Renee Cameto; 5538 Balboa Dr. Oakland, Ca. 94611  
Diane Cenko; 6405 Colton Blvd. Ca, 94611  
Keveh Mehrjoo & Simone Ehrlich; 2047 Asilomar Dr. Oakland, Ca. 94611  
James A. Haverkamp; 2057 Asilomar Dr. Oakland, Ca. 94611  
Barbara L. Rosenfeld; 1965 Asilomar Dr. Oakland, Ca 94611  
Aarty Joshi; 5638 Balboa Dr. Oakland, Ca. 94611  
MC Taylor; 2057 Asilomar Dr. Oakland, Ca. 94611

## FINDINGS FOR APPROVAL

This proposal meets all the required findings under Section 17.136.050.(B), of the Non-Residential Design Review criteria and all the required findings under Section 17.128.070(B), of the telecommunication facilities (Macro) Design Review criteria and as set forth below: Required findings are shown in **bold type**; reasons your proposal satisfies them are shown in normal type.

### 17.136.050(B) – NONRESIDENTIAL DESIGN REVIEW CRITERIA:

**1. That the proposal will help achieve or maintain a group of facilities which are well related to one another and which, when taken together, will result in a well-composed design, with consideration given to site, landscape, bulk, height, arrangement, texture, materials, colors, and appurtenances; the relation of these factors to other facilities in the vicinity; and the relation of the proposal to the total setting as seen from key points in the surrounding area. Only elements of design which have some significant relationship to outside appearance shall be considered, except as otherwise provided in Section 17.136.060;**

The project consists of replacing a 38'-9" Joint Pole Authority (JPA) utility pole with a new 51'-4" JPA utility pole in the same location and adding two telecommunications panel antennas (two feet long and 10-inches wide), affixed on top of the utility pole; an associated equipment box, one battery backup and meter boxes within a 6' tall by 18" wide singular equipment box attached to the pole at 8' above the ground, in the public right-of-way along Asilomar Dr. near Balboa Drive. The proposed antennas will be located 48' above the right-of-way near other utility poles, in a nondescript area of right-of-way, which will help the facility to blend in with the existing surrounding hillside residential area. The equipment cabinet, serving the utility pole, will be mounted onto the pole, reducing visual clutter from the neighboring properties. Therefore, the proposal will have minimal visual impacts from public view.

**2. That the proposed design will be of a quality and character which harmonizes with, and serves to protect the value of, private and public investments in the area;**

The proposal improves wireless telecommunication service in the hillside residential area. The installation will be sited near other utility poles of similar height in the surrounding area to have minimal visual impacts on public views, thereby protecting the value of private and public investments in the area.

**3. That the proposed design conforms in all significant respects with the Oakland General Plan and with any applicable design review guidelines or criteria, district plan, or development control map which have been adopted by the Planning Commission or City Council.**

The subject property is located within the Hillside Residential Area of the General Plan's Land Use & Transportation Element (LUTE). The Hillside Residential Classification is intended "*to create, maintain, and enhance neighborhood residential areas that are characterized by detached, single unit structures on hillside lots*". The proposed telecommunication facilities will be mounted onto a new wood JPA pole, replacing an existing pole and intended to resemble existing utility poles within the City of Oakland public right-of-way. The proposed unmanned wireless telecommunication facility will be located on a new replacement utility pole and will not detract from the hillside residential value of the neighborhood. Visual impacts will be minimized since the site is relatively wooded, with trees partially obscuring views of the pole. Furthermore the equipment serving the facility will be mounted onto the pole in a singular shroud to reduce visual clutter on the pole and antennas, equipment painted to match. Therefore, the Project conforms to the applicable General Plan and Design Review criteria.

## 17.128.070(B) DESIGN REVIEW CRITERIA FOR MACRO FACILITIES

### **1. Antennas should be painted and/or textured to match the existing structure:**

The proposed antennas will be painted to match the utility pole and blend with the surroundings.

### **2. Antennas mounted on architecturally significant structures or significant architectural details of the building should be covered by appropriate casings which are manufactured to match existing architectural features found on the building:**

The proposed antennas will not be mounted on any building or architecturally significant structure, but rather on a utility pole.

### **3. Where feasible, antennas can be placed directly above, below or incorporated with vertical design elements of a building to help in camouflaging:**

The proposed antennas will be mounted on a new JPA utility pole (to replace an existing JPA pole in the same location) and will be painted to match the pole, and will be further camouflaged by surrounding mature trees.

### **4. Equipment shelters or cabinets shall be screened from the public view by using landscaping, or materials and colors consistent with surrounding backdrop:**

The associated equipment will be located within a single equipment box attached to the utility pole and painted to match the pole and blend with the surroundings.

### **5. Equipment shelters or cabinets shall be consistent with the general character of the area.**

The proposed equipment cabinets will be compatible with the existing utility related equipment.

### **6. For antennas attached to the roof, maintain a 1:1 ratio for equipment setback; screen the antennas to match existing air conditioning units, stairs, or elevator towers; avoid placing roof mounted antennas in direct line with significant view corridors.**

N/A.

### **7. That all reasonable means of reducing public access to the antennas and equipment has been made, including, but not limited to, placement in or on buildings or structures, fencing, anti-climbing measures and anti-tampering devices.**

The antennas will be mounted onto a new JPA utility pole. They will not be accessible to the public due to their location. The equipment accommodation and battery backup boxes will also be located inside a single equipment box mounted onto the pole 8' above the right-of-way and will be secured to the greatest extent possible from the public and vehicles.

**CONDITIONS OF APPROVAL**  
**PLN16041**

**STANDARD CONDITIONS:**

**1. Approved Use**

The project shall be constructed and operated in accordance with the authorized use as described in the approved application materials, PLN16041 and the approved plans dated February 16<sup>th</sup>, 2016, as amended by the following conditions of approval and mitigation measures, if applicable (“Conditions of Approval” or “Conditions”).

**2. Effective Date, Expiration, Extensions and Extinguishment**

This Approval shall become effective immediately, unless the Approval is appealable, in which case the Approval shall become effective in ten calendar days unless an appeal is filed. Unless a different termination date is prescribed, this Approval shall expire **two years** from the Approval date, or from the date of the final decision in the event of an appeal, unless within such period all necessary permits for construction or alteration have been issued, or the authorized activities have commenced in the case of a permit not involving construction or alteration. Upon written request and payment of appropriate fees submitted no later than the expiration date of this Approval, the Director of City Planning or designee may grant a one-year extension of this date, with additional extensions subject to approval by the approving body. Expiration of any necessary building permit or other construction-related permit for this project may invalidate this Approval if said Approval has also expired. If litigation is filed challenging this Approval, or its implementation, then the time period stated above for obtaining necessary permits for construction or alteration and/or commencement of authorized activities is automatically extended for the duration of the litigation.

**3. Compliance with Other Requirements**

The project applicant shall comply with all other applicable federal, state, regional, and local laws/codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City’s Bureau of Building, Fire Marshal, and Public Works Department. Compliance with other applicable requirements may require changes to the approved use and/or plans. These changes shall be processed in accordance with the procedures contained in Condition #4.

**4. Minor and Major Changes**

- a. Minor changes to the approved project, plans, Conditions, facilities, or use may be approved administratively by the Director of City Planning
- b. Major changes to the approved project, plans, Conditions, facilities, or use shall be reviewed by the Director of City Planning to determine whether such changes require submittal and approval of a revision to the Approval by the original approving body or a new independent permit/approval. Major revisions shall be reviewed in accordance with the procedures required for the original permit/approval. A new independent permit/approval shall be reviewed in accordance with the procedures required for the new permit/approval.

**5. Compliance with Conditions of Approval**

- a. The project applicant and property owner, including successors, (collectively referred to hereafter as the “project applicant” or “applicant”) shall be responsible for compliance with all the Conditions of Approval and any recommendations contained in any submitted and approved technical report at his/her sole cost and expense, subject to review and approval by the City of Oakland.

- b. The City of Oakland reserves the right at any time during construction to require certification by a licensed professional at the project applicant's expense that the as-built project conforms to all applicable requirements, including but not limited to, approved maximum heights and minimum setbacks. Failure to construct the project in accordance with the Approval may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension, or other corrective action.
- c. Violation of any term, Condition, or project description relating to the Approval is unlawful, prohibited, and a violation of the Oakland Municipal Code. The City of Oakland reserves the right to initiate civil and/or criminal enforcement and/or abatement proceedings, or after notice and public hearing, to revoke the Approval or alter these Conditions if it is found that there is violation of any of the Conditions or the provisions of the Planning Code or Municipal Code, or the project operates as or causes a public nuisance. This provision is not intended to, nor does it, limit in any manner whatsoever the ability of the City to take appropriate enforcement actions. The project applicant shall be responsible for paying fees in accordance with the City's Master Fee Schedule for inspections conducted by the City or a City-designated third-party to investigate alleged violations of the Approval or Conditions.

#### 6. Signed Copy of the Approval/Conditions

A copy of the Approval letter and Conditions shall be signed by the project applicant, attached to each set of permit plans submitted to the appropriate City agency for the project, and made available for review at the project job site at all times.

#### 7. Blight/Nuisances

The project site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within 60 days of approval, unless an earlier date is specified elsewhere.

#### 8. Indemnification

- a. To the maximum extent permitted by law, the project applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the Oakland Redevelopment Successor Agency, the Oakland City Planning Commission, and their respective agents, officers, employees, and volunteers (hereafter collectively called "City") from any liability, damages, claim, judgment, loss (direct or indirect), action, causes of action, or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City to attack, set aside, void or annul this Approval or implementation of this Approval. The City may elect, in its sole discretion, to participate in the defense of said Action and the project applicant shall reimburse the City for its reasonable legal costs and attorneys' fees.
- b. Within ten (10) calendar days of the filing of any Action as specified in subsection (a) above, the project applicant shall execute a Joint Defense Letter of Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Joint Defense Letter of Agreement shall survive termination, extinguishment, or invalidation of the Approval. Failure to timely execute the Letter of Agreement does not relieve the project applicant of any of the obligations contained in this Condition or other requirements or Conditions of Approval that may be imposed by the City.

#### 9. Severability

The Approval would not have been granted but for the applicability and validity of each and every one of the specified Conditions, and if one or more of such Conditions is found to be invalid by a court of competent jurisdiction this Approval would not have been granted without requiring other valid Conditions consistent with achieving the same purpose and intent of such Approval.

**PROJECT SPECIFIC CONDITIONS:**

**10. Radio Frequency Emissions**

*Prior to the final building permit sign off.*

The applicant shall submit a certified RF emissions report stating the facility is operating within the acceptable standards established by the regulatory Federal Communications Commission.

**11. Operational**

*Ongoing.*

Noise levels from the activity, property, or any mechanical equipment on site shall comply with the performance standards of Section 17.120 of the Oakland Planning Code and Section 8.18 of the Oakland Municipal Code. If noise levels exceed these standards, the activity causing the noise shall be abated until appropriate noise reduction measures have been installed and compliance verified by the Planning and Zoning Division and Building Services.

**12. Equipment cabinets**

*Prior to building permit Issuances.*

The applicant shall submit revised elevations showing associated equipment cabinets are concealed within a single equipment box that is painted to match the utility pole, to the Oakland Planning Department for review and approval.

**13. Radio Frequency Emissions**

*Prior to the final building permit sign off*

The applicant shall submit a certified RF emissions report stating the facility is operating within the acceptable standards established by the regulatory Federal Communications Commission.

**14. Operational**

*Ongoing*

Noise levels from the activity, property, or any mechanical equipment on site shall comply with the performance standards of Section 17.120 of the Oakland Planning Code and Section 8.18 of the Oakland Municipal Code. If noise levels exceed these standards, the activity causing the noise shall be abated until appropriate noise reduction measures have been installed and compliance verified by the Planning and Zoning Division and Building Services.

**15. Possible District Undergrounding PG&E Pole**

*Ongoing*

Should the PG &E utility pole be voluntarily removed for purposes of district undergrounding or otherwise, the telecommunications facility can only be re-established by applying for and receiving approval of a new application to the Oakland Planning Department as required by the regulations.

**16. TREE TRIMMING CONDITION OF APPROVAL:**

Existing vegetation within the right-of-way immediately surrounding the replacement utility pole shall be preserved and only minimal pruning (if any) shall be allowed if absolutely necessary to facilitate the actual installation of the replacement pole, antennas, and/or equipment. Furthermore, any vegetation proposed for trimming and/or removal shall be 1<sup>st</sup> marked with colored tape or ribbon (visible from ground level) at least 14 calendar days in advance of proposed removal, with review and approval to trim and/or remove vegetation granted by the Zoning Division Manager, and if applicable, by the Department of Public Works Tree Services Division. The only exception to this protocol would be trimming necessary for immediate life safety considerations for public safety.

## 17. TREE PERMIT CONDIITON OF APPROVAL

### Tree Permit Required

Requirement: Pursuant to the City's Tree Protection Ordinance (OMC chapter 12.36), the project applicant shall obtain a tree permit and abide by the conditions of that permit.

When Required: Prior to approval of construction-related permit

Initial Approval: Permit approval by Public Works Department, Tree Division; evidence of approval submitted to Bureau of Building

Monitoring/Inspection: Bureau of Building

### Tree Protection During Construction

Requirement: Adequate protection shall be provided during the construction period for any trees which are to remain standing, including the following, plus any recommendations of an arborist:

- i. Before the start of any clearing, excavation, construction, or other work on the site, every protected tree deemed to be potentially endangered by said site work shall be securely fenced off at a distance from the base of the tree to be determined by the project's consulting arborist. Such fences shall remain in place for duration of all such work. All trees to be removed shall be clearly marked. A scheme shall be established for the removal and disposal of logs, brush, earth and other debris which will avoid injury to any protected tree.
- ii. Where proposed development or other site work is to encroach upon the protected perimeter of any protected tree, special measures shall be incorporated to allow the roots to breathe and obtain water and nutrients. Any excavation, cutting, filing, or compaction of the existing ground surface within the protected perimeter shall be minimized. No change in existing ground level shall occur within a distance to be determined by the project's consulting arborist from the base of any protected tree at any time. No burning or use of equipment with an open flame shall occur near or within the protected perimeter of any protected tree.
- iii. No storage or dumping of oil, gas, chemicals, or other substances that may be harmful to trees shall occur within the distance to be determined by the project's consulting arborist from the base of any protected trees, or any other location on the site from which such substances might enter the protected perimeter. No heavy construction equipment or construction materials shall be operated or stored within a distance from the base of any protected trees to be determined by the project's consulting arborist. Wires, ropes, or other devices shall not be attached to any protected tree, except as needed for support of the tree. No sign, other than a tag showing the botanical classification, shall be attached to any protected tree.
- iv. Periodically during construction, the leaves of protected trees shall be thoroughly sprayed with water to prevent buildup of dust and other pollution that would inhibit leaf transpiration.
- v. If any damage to a protected tree should occur during or as a result of work on the site, the project applicant shall immediately notify the Public Works Department and the project's consulting arborist shall make a recommendation to the City Tree Reviewer as to whether the damaged tree can be preserved. If, in the professional opinion of the Tree Reviewer, such tree cannot be preserved in a healthy state, the Tree Reviewer shall require replacement of any tree removed with another tree or trees on the same site deemed adequate by the Tree Reviewer to compensate for the loss of the tree that is removed.
- vi. All debris created as a result of any tree removal work shall be removed by the project applicant from the property within two weeks of debris creation, and such debris shall be properly disposed of by the project applicant in accordance with all applicable laws, ordinances, and regulations.

When Required: During construction

Initial Approval: Public Works Department, Tree Division

Monitoring/Inspection: Bureau of Building

### **APPROVED BY:**

City Planning Commission: +4-0\_\_\_\_\_ (April 20<sup>th</sup>, 2016)\_\_\_\_ (vote)



City of Oakland  
Bureau of Planning and Building  
Bureau of Planning / Zoning  
250 Frank H. Ogawa Plaza, Suite 2114  
Oakland, CA 94612

**NOTICE OF EXEMPTION**

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TO: Alameda County Clerk  
1106 Madison Street  
Oakland, CA 94612

Project Title: Case No. PLN16041  
Project Applicant: New Cingular Wireless PCS, LLC / Matt Yergovich  
Project Location: Adjacent to 1989 Asilomar Dr. (APN: 048E-7337-017-00)  
Project Description: Telecom Site installation  
Exempt Status:

**Statutory Exemptions**

**Categorical Exemptions**

- |   |   |
|---|---|
| <input type="checkbox"/> Ministerial {Sec.15268}                | <input checked="" type="checkbox"/> Existing Facilities {Sec.15301} |
| <input type="checkbox"/> Feasibility/Planning Study {Sec.15262} | <input type="checkbox"/> Replacement or Reconstruction {Sec.15302}  |
| <input type="checkbox"/> Emergency Project {Sec.15269}          | <input checked="" type="checkbox"/> Small Structures {Sec.15303}    |
| <input type="checkbox"/> Other: {Sec._____}                     | <input type="checkbox"/> Minor Alterations {Sec.15304}              |
|   | <input type="checkbox"/> In-fill Development {Sec. 15332}           |
|   | <input type="checkbox"/> General Rule {Sec.15061(b)(3)}             |

**Other**

- Projects consistent with a community plan, general plan or zoning {Sec. 15183(f)}
- \_\_\_\_\_ (Sec. \_\_\_\_\_)

Reason why project is exempt:

JPA Pole replacement to add telecom equipment.

Lead Agency: City of Oakland, Department of Planning and Building, 250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA 94612

Division/Contact Person: Bureau of Planning / Zoning / Jose M. Herrera-Preza, Planner II **Phone: 510-238-3808**

\_\_\_\_\_  
Signature (Scott Miller, Environmental Review Officer) Date: 4-22-16

Pursuant to Section 711.4(d)(1) of the Fish and Game Code, statutory and categorical exemptions are also exempt from Department of Fish and Game filing fees.

**\*ENVIRONMENTAL DECLARATION  
(CALIF. FISH AND GAME CODE SEC. 711.4)**

: FOR COURT USE ONLY

NAME AND ADDRESS OF APPLICANT OR LEAD AGENCY

LEAD AGENCY: CITY OF OAKLAND  
 Department of Planning and Building  
 Bureau of Planning / Zoning  
 250 Frank H. Ogawa Plaza, Suite 2114  
 Oakland, CA 94612

APPLICANT: New Cingular Wireless PCS, LLC  
 c/o Matt Yergovich  
 1826 Webster St.  
 San Francisco, CA 94115

: FILING NO.  
 : PLN16041

CLASSIFICATION OF ENVIRONMENTAL DOCUMENT: Check the box(es) that applies. CLERKS  
USE ONLY

- |                                     |  |         |
|-------------------------------------|--|---------|
| 1.                                  | <b>NOTICE OF EXEMPTION</b>   | PLU 117 |
| <input checked="" type="checkbox"/> | A – STATUTORILY OR CATEGORICALLY EXEMPT<br>\$50.00 (Fifty Dollars) – CLERK’S FEE   |         |
| <input type="checkbox"/>            | B – FEE EXEMPTION –NO IMPACT DETERMINATION ISSUED BY F&G<br>\$50.00 (Fifty Dollars) – CLERK’S FEE  | PLU 117 |
| 2.                                  | <b>NOTICE OF DETERMINATION</b>   |         |
| <input type="checkbox"/>            | A – NEGATIVE DECLARATION<br>\$2,044.00 (Two Thousand Forty Four Dollars)-STATE FILING FEE<br><br>\$50.00 (Fifty Dollars) – CLERK’S FEE   | PLU 116 |
| <input type="checkbox"/>            | B – MITIGATED NEGATIVE DECLARATION<br>\$2,044.00 (Two Thousand Forty Four Dollars)-STATE FILING FEE<br><br>\$50.00 (Fifty Dollars) – CLERK’S FEE                                     | PLU 116 |
| <input type="checkbox"/>            | C – ENVIRONMENTAL IMPACT REPORT<br>\$2,839.25 (Two Thousand Eight Hundred Thirty Nine Dollars and Twenty Five Cents) – STATE FILING FEE<br><br>\$50.00 (Fifty Dollars) – CLERK’S FEE | PLU 115 |
| 3. <input type="checkbox"/>         | <b>OTHER</b> (Specify) Notice of Finding of No Significant Impact<br>\$50.00 (Fifty Dollars) – CLERK’S FEE   | PLU 117 |

**\*THIS FORM MUST BE COMPLETED AND SUBMITTED WITH ALL ENVIRONMENTAL DOCUMENTS FILED WITH THE ALAMEDA COUNTY CLERK’S OFFICE.**

**FOUR COPIES OF ALL NECESSARY DOCUMENTATION ARE REQUIRED FOR FILING PURPOSES.**

**APPLICABLE FEES MUST BE PAID AT THE TIME OF FILING AN ENVIRONMENTAL DOCUMENT WITH THE ALAMEDA COUNTY CLERK’S OFFICE.**

**MAKE CHECK PAYABLE TO: ALAMEDA COUNTY CLERK**


CERTIFICATION OF MAILING

I certify that on April 22 2016 this decision letter, relating to Approval of a Major Design Review for the Public Right-of-way adjacent to 1989 Asilomar Dr. was placed in the U.S. mail system, postage prepaid for first class mail, and sent to

New Cingular Wireless PCS, LLC  
 c/o Matt Yergovich  
 1826 Webster St.  
 San Francisco, CA 94115

Rosalie Masuda; 2000 Asilomar Dr. Oakland, Ca. 94611  
 Kate & Rob Appeldorn; 5700 Balboa Dr. Oakland, Ca. 94611  
 Jerry Ostrander; 5660 Balboa Dr. Oakland, Ca. 94611  
 Mariam Dianne Noroian; 5700 Balboa Dr. Oakland, Ca 94611  
 Dale & Roswitha Robinson; 1962 Asilomar Dr. Oakland, Ca 94611  
 Renee Cameto; 5538 Balboa Dr. Oakland, Ca. 94611  
 Diane Cenko; 6405 Colton Blvd. Ca, 94611  
 Keveh Mehrjoo & Simone Ehrlich; 2047 Asilomar Dr. Oakland, Ca. 94611  
 James A. Haverkamp; 2057 Asilomar Dr. Oakland, Ca. 94611  
 Barbara L. Rosenfeld; 1965 Asilomar Dr. Oakland, Ca 94611  
 Aarty Joshi; 5638 Balboa Dr. Oakland, Ca. 94611  
 MC Taylor; 2057 Asilomar Dr. Oakland, Ca. 94611

  
 \_\_\_\_\_  
 (NAME & SIGNATURE OF PERSON PLACING IN MAIL)

  
 \_\_\_\_\_  
 (DATE)

Case File Number: PLN16041

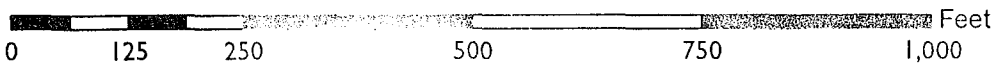
April 20, 2016

<b>Location:</b>	<b>The Public Right-of-Way at Asilomar Dr. (Adjacent to 1989 Asilomar Dr.)</b> (See map on reverse)
<b>Assessors Parcel Numbers:</b>	<b>048E-7337-017-00 (nearest lot adjacent to the project site.)</b>
<b>Proposal:</b>	The installation of a distributed antenna system (DAS) wireless telecommunication facility on a new public utility pole in the right-of-way on Asilomar Dr.; facility includes two panel Kathrein antennas mounted at approximately 51'-4" pole height; an associated equipment box (6' tall by 24" wide); including one battery backup and meter boxes attached to the pole at 8' above the ground.
<b>Applicant:</b>	New Cingular Wireless PCS, LLC. For AT&T Mobility
<b>Contact Person/ Phone Number:</b>	Matthew Yergovich (415)596-3474
<b>Owner:</b>	City of Oakland
<b>Case File Number:</b>	<b>PLN16041</b>
<b>Planning Permits Required:</b>	Regular Design Review (non-residential) to install a wireless Macro Telecommunications Facility (17.136.050 (B)(2); Additional Findings for a Macro Facility (OMC Sec. 17.128.070(B)(C).
<b>General Plan:</b>	Hillside Residential
<b>Zoning:</b>	RH-4 Hillside Residential 4 Zone
<b>Environmental Determination:</b>	Exempt, Section 15303 of the State CEQA Guidelines (small facilities or structures; installation of small new equipment and facilities in small structures), and none of the exceptions to the exemption in CEQA Guidelines Section 15300.2 apply to the proposal. Exempt, Section 15183 of the State CEQA Guidelines; projects consistent with a community plan, general plan or zoning.
<b>Historic Status:</b>	Not a Potential Designated Historic Property; Survey rating: N/A
<b>Service Delivery District:</b>	2
<b>City Council District:</b>	4
<b>Date Filed:</b>	February 16, 2016
<b>Finality of Decision:</b>	Appealable to City Council within 10 Days
<b>For Further Information:</b>	Contact case planner Jose M. Herrera-Preza at (510) 238-3808 or <a href="mailto:jherrera@oaklandnet.com">jherrera@oaklandnet.com</a>

## SUMMARY

The proposal is to install a distributed antenna system ("DAS") wireless Telecommunications Macro Facility on a replacement Joint Pole Authority (JPA) utility pole located in the public right-of-way along Asilomar Drive near the intersection with Balboa Drive. New Cingular Wireless PCS for AT&T Mobility is proposing to install two panel antennas mounted on top of a new JPA replacement pole, resulting in a new height of 51'-4" (to top of antennas); an associated equipment box, one battery backup and meter boxes within a 6' tall by 18" wide singular equipment box attached to the pole at 8' above the ground.

# CITY OF OAKLAND PLANNING COMMISSION



Case File: PLN16041

Applicant: New Cellular Wireless PCS, LLC (d/b/a AT&T Mobility)

Address: Public Right-of-Way adjacent to 1982 Asilomar Drive

Zone: RH-4

A Major Design Review permit is required to install a new Telecommunications Facility located within 100' of a residential zone. As detailed below, the project meets all of the required findings for approval. Therefore, staff recommends approval of the project subject to the attached conditions of approval.

## **PROJECT DESCRIPTION**

The applicant (New Cingular Wireless PCS, LLC. for AT&T Mobility) is proposing to install a distributed antenna system ("DAS") wireless Telecommunications Macro Facility on a new replacement JPA utility pole located in the public right-of-way along Asilomar Dr. near 1989 Asilomar Dr. in a hillside area surrounded by single-family homes. The project consists of swapping an existing 38'-9" foot JPA pole with a new 48' JPA pole in the same location, with two panel antennas (each is two feet long and 10 inches wide) mounted onto the new JPA pole resulting in a 51'-4" tall pole; an associated equipment box, one battery backup and meter boxes within a 6' tall by 18" wide singular equipment box attached to the pole at 8' above the ground. The proposed facility is an alternative location chosen by the applicant as a response to neighbor opposition to a facility near 2047 Asilomar Drive. (Case #PLN15180). The proposed antennas and associated equipment will be secured from the public. (See Attachment A).

## **TELECOMMUNICATIONS BACKGROUND**

### **Limitations on Local Government Zoning Authority under the Telecommunications Act of 1996**

Section 704 of the Telecommunications Act of 1996 (TCA) provides federal standards for the siting of "Personal Wireless Services Facilities." "Personal Wireless Services" include all commercial mobile services (including personal communications services (PCS), cellular radio mobile services, and paging); unlicensed wireless services; and common carrier wireless exchange access services. Under Section 704, local zoning authority over personal wireless services is preserved such that the FCC is prevented from preempting local land use decisions; however, local government zoning decisions are still restricted by several provisions of federal law.

Under Section 253 of the TCA, no state or local regulation or other legal requirement can prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

Further, Section 704 of the TCA imposes limitations on what local and state governments can do. Section 704 prohibits any state and local government action which unreasonably discriminates among personal wireless providers. Local governments must ensure that its wireless ordinance does not contain requirements in the form of regulatory terms or fees which may have the "effect" of prohibiting the placement, construction, or modification of personal wireless services.

Section 704 also preempts any local zoning regulation purporting to regulate the placement, construction and modification of personal wireless service facilities on the basis, either directly or indirectly, on the environmental effects of radio frequency emissions (RF) of such facilities, which otherwise comply with FCC standards in this regard. See, 47 U.S.C. 332(c)(7)(B)(iv) (1996). This means that local authorities may not regulate the siting or construction of personal wireless facilities based on RF standards that are more stringent than those promulgated by the FCC.

Section 704 mandates that local governments act upon personal wireless service facility siting applications to place, construct, or modify a facility within a reasonable time. 47 U.S.C.332(c)(7)(B)(ii). See FCC Shot Clock ruling setting forth "reasonable time" standards for applications deemed complete.

Section 704 also mandates that the FCC provide technical support to local governments in order to encourage them to make property, rights-of-way, and easements under their jurisdiction available for the placement of new spectrum-based telecommunications services. This proceeding is currently at the comment stage.

For more information on the FCC's jurisdiction in this area, contact Steve Markendorff, Chief of the Broadband Branch, Commercial Wireless Division, Wireless Telecommunications Bureau, at (202) 418-0640 or e-mail "smarkend@fcc.gov".

### **PROPERTY DESCRIPTION**

The existing 38'-9" tall JPA utility pole is located in the City of Oakland public right-of-way adjacent to 1989 Asilomar Dr. to the south, which contains a single-family residence on a hillside parcel, and another residence on the parcel to the north, in a relatively wooded hillside residential neighborhood.

### **GENERAL PLAN ANALYSIS**

The subject property is located within the Hillside Residential Area of the General Plan Land Use & Transportation Element (LUTE). The Hillside Residential Classification is intended *"to create, maintain, and enhance neighborhood residential areas that are characterized by detached, single unit structures on hillside lots"*. The proposed "DAS" telecommunication facilities will be mounted on a new wood JPA pole intended to resemble existing PG&E utility poles within the City of Oakland public right-of-way. Visual impacts will be mitigated since the antennas would be mounted 50'+ plus feet above the right-of-way. The equipment cabinets will be housed within a single box and painted to match the existing utility pole and sited in a nondescript area of the public right-of way in between two city streets. Therefore, the proposed unmanned wireless telecommunication facility will not adversely affect or detract from the resource conservation characteristics of the neighborhood.

Civic and Institutional uses

Objective N2

Encourage adequate civic, institutional and educational facilities located within Oakland, appropriately designed and sited to serve the community.

Staff finds the proposal to be in conformance with the objectives of the General Plan by servicing the community with enhanced telecommunications capability.

### **ZONING ANALYSIS**

The proposed project is located in the RH-4 Hillside Residential 4 Zone. The intent of the RH-4 Zone is: *"to create, maintain, and enhance areas for single-family dwellings on lots of six thousand five hundred (6,500) to eight thousand (8,000) square feet and is typically appropriate in already developed areas of the Oakland Hills"*. The proposed telecommunication facility is located adjacent to 1989 Asilomar Dr. in a hillside residential area of the Oakland Hills. The project requires Regular Design Review per 17.136.050, which states that Macro Telecommunications Facilities proposed in residential areas with special findings, to allow the installation of new telecommunication facilities on a replacement JPA pole located in the public right-of-way in a Residential Zone. Special findings are required for Design Review approval to ensure that the facility is concealed to the extent possible.

## ENVIRONMENTAL DETERMINATION

The California Environmental Quality Act (CEQA) Guidelines lists the projects that qualify as categorical exemptions from environmental review. Staff finds that the proposed project is categorically exempt from the environmental review requirements pursuant to Section 15301, (additions and alterations to existing facilities), and Section 15303 (small facilities or structures; installation of small new equipment and facilities in small structures), and that none of the exceptions to the exemption in CEQA Guidelines Section 15300.2 are not triggered by the proposal, and 15183 (projects consistent with a General Plan or Zoning) further applies.

## KEY ISSUES AND IMPACTS

### 1. Regular Design Review

Section, 17.136.050 and 17.128.070 of the City of Oakland Planning Code requires Regular Design Review for Macro Telecommunication Facilities in the Hillside Residential zone or that are located within one hundred (100) feet of the boundary of any residential zone. The required findings for Regular Design Review, and the reasons this project meets them, are listed and included in staff's evaluation as part of this report.

### 2. Project Site

Section 17.128.110 of the City of Oakland Telecommunication Regulations indicate that new wireless facilities shall generally be located on designated properties or facilities in the following order of preference:

- A. Co-located on an existing structure or facility with existing wireless antennas.
- B. City-owned properties or other public or quasi-public facilities.
- C. Existing commercial or industrial structures in non-residential zones (excluding all HBX Zones and the D-CE-3 and D-CE-4 Zones).
- D. Existing commercial or industrial structures in residential zones, HBX Zones, or the D-CE-3 or D-CE-4 Zones.
- E. Other non-residential uses in residential zones, HBX Zones, or the D-CE-3 or D-CE-4 Zones.
- F. Residential uses in non-residential zones (excluding all HBX Zones and the D-CE-3 and D-CE-4 Zones).
- G. Residential uses in residential zones, HBX Zones, or the D-CE-3 or D-CE-4 Zones.

\*Facilities located on an A, B or C ranked preferences do not require a site alternatives analysis.

Since the proposed project involves locating the installation of new antennas and associated equipment cabinets on an existing utility pole, the proposed project meets: (B) quasi-public facilities on for a new wood JPA pole in the public right-of-way. The applicant has also provided a statement on site alternative analysis to indicate a public necessity for telecommunication services in the area.

### 3. Project Design

Section 17.128.120 of the City of Oakland Telecommunications Regulations indicates that new wireless facilities shall generally be designed in the following order of preference:

- A. Building or structure mounted antennas completely concealed from view.
- B. Building or structure mounted antennas set back from roof edge, not visible from public right-of way.



- C. Building or structure mounted antennas below roof line (facade mount, pole mount) visible from public right-of-way, painted to match existing structure.
- D. Building or structure mounted antennas above roof line visible from public right of-way.
- E. Monopoles.
- F. Towers.

\* Facilities designed to meet an A & B ranked preference does not require a site design alternatives analysis. Facilities designed to meet a C through F ranked preference, inclusive, must submit a site design alternatives analysis as part of the required application materials. (c) site design alternatives analysis shall, at a minimum, consist of:

- a. Written evidence indicating why each higher preference design alternative cannot be used. Such evidence shall be in sufficient detail that independent verification could be obtained if required by the City of Oakland Zoning Manager. Evidence should indicate if the reason an alternative was rejected was technical (e.g. incorrect height, interference from existing RF sources, inability to cover required area) or for other concerns (e.g. inability to provide utilities, construction or structural impediments).

City of Oakland Planning staff, along with the applicant, completed an on-site site design analysis and determined that the site selected conforms to all other telecommunication regulation requirements. The project meets design criteria (C) since the antennas will be mounted on a new wood JPA pole resembling existing PG&E wood poles in the area, in addition to locating the new pole in an area where the new facility is surrounded by utility poles and the equipment cabinet box and battery backup box will be housed within a single equipment box attached to the utility pole and painted to match the color of an existing PG&E utility pole to minimize potential visual impacts from public view. In addition, the applicant conducted an extensive site design alternative analysis of 1 alternative sites (See attachment C) where significant gaps in coverage exist and was visually the least obtrusive.

#### **4. Project Radio Frequency Emissions Standards**

Section 17.128.130 of the City of Oakland Telecommunication Regulations require that the applicant submit the following verifications including requests for modifications to existing facilities:

- a. With the initial application, a RF emissions report, prepared by a licensed professional engineer or other expert, indicating that the proposed site will operate within the current acceptable thresholds as established by the Federal government or any such agency who may be subsequently authorized to establish such standards.
- b. Prior to commencement of construction, a RF emissions report indicating the baseline RF emissions condition at the proposed site.
- c. Prior to final building permit sign off, an RF emissions report indicating that the site is actually operating within the acceptable thresholds as established by the Federal government or any such agency who may be subsequently authorized to establish such standards.

The RF-EME Electromagnetic Energy Compliance Report, prepared by William F. Hammett, P.E. for Hammett & Edison Inc. Consulting Engineers, indicates that the proposed project meets the radio frequency (RF) emissions standards as required by the regulatory agency. The report states that the proposed project will comply with the prevailing standards for limiting public exposure to radio frequency energy and, therefore, will not cause a significant impact on the environment. Additionally, staff recommends as a condition of approval that, prior to the issuance of a final building permit, the applicant submits a certified RF emissions report stating that the facility is operating within acceptable thresholds established by the regulatory federal agency.

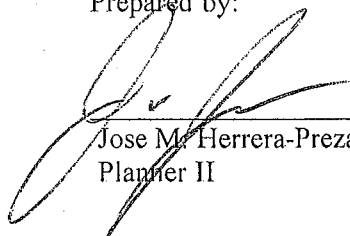
**CONCLUSION**

The proposed project meets all of the required findings for approval. Therefore, staff recommends approval of the project subject to the attached conditions.

**RECOMMENDATIONS:**

1. Affirm staff's environmental determination
2. Approve Design Review application PLN15180 subject to the attached findings and conditions of approval

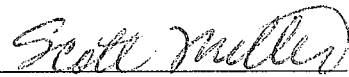
Prepared by:



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Jose M. Herrera-Preza  
Planner II

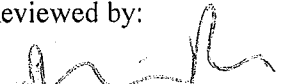
Reviewed by:



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Scott Miller  
Zoning Manager


Reviewed by:



---

Darin Ranelletti, Deputy Director  
Bureau of Planning

Approved for forwarding to the  
City Planning Commission



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RACHEL FLYNN, Director  
Department of Planning and Building

**ATTACHMENTS:**

- A. Project Plans & Photo simulations & Alternative Site Analysis
- B. Hammett & Edison, Inc., Consulting Engineering RF Emissions Report
- C. Site Alternative Analysis

## FINDINGS FOR APPROVAL

This proposal meets all the required findings under Section 17.136.050.(B), of the Non-Residential Design Review criteria and all the required findings under Section 17.128.070(B), of the telecommunication facilities (Macro) Design Review criteria and as set forth below: Required findings are shown in **bold** type; reasons your proposal satisfies them are shown in normal type.

### 17.136.050(B) – NONRESIDENTIAL DESIGN REVIEW CRITERIA:

**1. That the proposal will help achieve or maintain a group of facilities which are well related to one another and which, when taken together, will result in a well-composed design, with consideration given to site, landscape, bulk, height, arrangement, texture, materials, colors, and appurtenances; the relation of these factors to other facilities in the vicinity; and the relation of the proposal to the total setting as seen from key points in the surrounding area. Only elements of design which have some significant relationship to outside appearance shall be considered, except as otherwise provided in Section 17.136.060;**

The project consists of replacing a 38'-9" Joint Pole Authority (JPA) utility pole with a new 51'-4" JPA utility pole in the same location and adding two telecommunications panel antennas (two feet long and 10-inches wide), affixed on top of the utility pole; an associated equipment box, one battery backup and meter boxes within a 6' tall by 18" wide singular equipment box attached to the pole at 8' above the ground, in the public right-of-way along Asilomar Dr. near Balboa Drive. The proposed antennas will be located 48' above the right-of-way near other utility poles, in a nondescript area of right-of-way, which will help the facility to blend in with the existing surrounding hillside residential area. The equipment cabinet, serving the utility pole, will be mounted onto the pole, reducing visual clutter from the neighboring properties. Therefore, the proposal will have minimal visual impacts from public view.

**2. That the proposed design will be of a quality and character which harmonizes with, and serves to protect the value of, private and public investments in the area;**

The proposal improves wireless telecommunication service in the hillside residential area. The installation will be sited near other utility poles of similar height in the surrounding area to have minimal visual impacts on public views, thereby protecting the value of private and public investments in the area.

**3. That the proposed design conforms in all significant respects with the Oakland General Plan and with any applicable design review guidelines or criteria, district plan, or development control map which have been adopted by the Planning Commission or City Council.**

The subject property is located within the Hillside Residential Area of the General Plan's Land Use & Transportation Element (LUTE). The Hillside Residential Classification is intended "to create, maintain, and enhance neighborhood residential areas that are characterized by detached, single unit structures on hillside lots". The proposed telecommunication facilities will be mounted onto a new wood JPA pole, replacing an existing pole and intended to resemble existing utility poles within the City of Oakland public right-of-way. The proposed unmanned wireless telecommunication facility will be located on a new replacement utility pole and will not detract from the hillside residential value of the neighborhood. Visual impacts will be minimized since the site is relatively wooded, with trees partially obscuring views of the pole. Furthermore the equipment serving the facility will be mounted onto the pole in a singular shroud to reduce visual clutter on the pole and antennas, equipment painted to match. Therefore, the Project conforms to the applicable General Plan and Design Review criteria.

**17.128.070(B) DESIGN REVIEW CRITERIA FOR MACRO FACILITIES**

**1. Antennas should be painted and/or textured to match the existing structure:**

The proposed antennas will be painted to match the utility pole and blend with the surroundings.

**2. Antennas mounted on architecturally significant structures or significant architectural details of the building should be covered by appropriate casings which are manufactured to match existing architectural features found on the building:**

The proposed antennas will not be mounted on any building or architecturally significant structure, but rather on a utility pole.

**3. Where feasible, antennas can be placed directly above, below or incorporated with vertical design elements of a building to help in camouflaging:**

The proposed antennas will be mounted on a new JPA utility pole (to replace an existing JPA pole in the same location) and will be painted to match the pole, and will be further camouflaged by surrounding mature trees.

**4. Equipment shelters or cabinets shall be screened from the public view by using landscaping, or materials and colors consistent with surrounding backdrop:**

The associated equipment will be located within a single equipment box attached to the utility pole and painted to match the pole and blend with the surroundings.

**5. Equipment shelters or cabinets shall be consistent with the general character of the area.**

The proposed equipment cabinets will be compatible with the existing utility related equipment.

**6. For antennas attached to the roof, maintain a 1:1 ratio for equipment setback; screen the antennas to match existing air conditioning units, stairs, or elevator towers; avoid placing roof mounted antennas in direct line with significant view corridors.**

N/A.

**7. That all reasonable means of reducing public access to the antennas and equipment has been made, including, but not limited to, placement in or on buildings or structures, fencing, anti-climbing measures and anti-tampering devices.**

The antennas will be mounted onto a new JPA utility pole. They will not be accessible to the public due to their location. The equipment accommodation and battery backup boxes will also be located inside a single equipment box mounted onto the pole 8' above the right-of-way and will be secured to the greatest extent possible from the public and vehicles.

**CONDITIONS OF APPROVAL**  
**PLN16041**

**STANDARD CONDITIONS:**

**1. Approved Use**

The project shall be constructed and operated in accordance with the authorized use as described in the approved application materials, **PLN16041** and the approved plans **dated February 16<sup>th</sup>, 2016**, as amended by the following conditions of approval and mitigation measures, if applicable (“Conditions of Approval” or “Conditions”).

**2. Effective Date, Expiration, Extensions and Extinguishment**

This Approval shall become effective immediately, unless the Approval is appealable, in which case the Approval shall become effective in ten calendar days unless an appeal is filed. Unless a different termination date is prescribed, this Approval shall expire **two years** from the Approval date, or from the date of the final decision in the event of an appeal, unless within such period all necessary permits for construction or alteration have been issued, or the authorized activities have commenced in the case of a permit not involving construction or alteration. Upon written request and payment of appropriate fees submitted no later than the expiration date of this Approval, the Director of City Planning or designee may grant a one-year extension of this date, with additional extensions subject to approval by the approving body. Expiration of any necessary building permit or other construction-related permit for this project may invalidate this Approval if said Approval has also expired. If litigation is filed challenging this Approval, or its implementation, then the time period stated above for obtaining necessary permits for construction or alteration and/or commencement of authorized activities is automatically extended for the duration of the litigation.

**3. Compliance with Other Requirements**

The project applicant shall comply with all other applicable federal, state, regional, and local laws/codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City’s Bureau of Building, Fire Marshal, and Public Works Department. Compliance with other applicable requirements may require changes to the approved use and/or plans. These changes shall be processed in accordance with the procedures contained in Condition #4.

**4. Minor and Major Changes**

- a. Minor changes to the approved project, plans, Conditions, facilities, or use may be approved administratively by the Director of City Planning
- b. Major changes to the approved project, plans, Conditions, facilities, or use shall be reviewed by the Director of City Planning to determine whether such changes require submittal and approval of a revision to the Approval by the original approving body or a new independent permit/approval. Major revisions shall be reviewed in accordance with the procedures required for the original permit/approval. A new independent permit/approval shall be reviewed in accordance with the procedures required for the new permit/approval.

**5. Compliance with Conditions of Approval**

- a. The project applicant and property owner, including successors, (collectively referred to hereafter as the “project applicant” or “applicant”) shall be responsible for compliance with all the Conditions of Approval and any recommendations contained in any submitted and approved technical report at his/her sole cost and expense, subject to review and approval by the City of Oakland.
- b. The City of Oakland reserves the right at any time during construction to require certification by a licensed professional at the project applicant’s expense that the as-built project conforms to all applicable requirements, including but not limited to, approved maximum heights and minimum setbacks. Failure to construct the project in accordance with the Approval may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension, or other corrective action.
- c. Violation of any term, Condition, or project description relating to the Approval is unlawful, prohibited, and a violation of the Oakland Municipal Code. The City of Oakland reserves the right to initiate civil and/or criminal enforcement and/or abatement proceedings, or after notice and public hearing, to revoke the Approval or alter these Conditions if it is found that there is violation of any of the Conditions or the provisions of the Planning Code or Municipal Code, or the project operates as or causes a public nuisance. This provision is not intended to, nor does it, limit in any manner whatsoever the ability of the City to take appropriate enforcement actions. The project applicant shall be responsible for paying fees in accordance with the City’s Master Fee Schedule for inspections conducted by the City or a City-designated third-party to investigate alleged violations of the Approval or Conditions.

**6. Signed Copy of the Approval/Conditions**

A copy of the Approval letter and Conditions shall be signed by the project applicant, attached to each set of permit plans submitted to the appropriate City agency for the project, and made available for review at the project job site at all times.

**7. Blight/Nuisances**

The project site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within 60 days of approval, unless an earlier date is specified elsewhere.

**8. Indemnification**

- a. To the maximum extent permitted by law, the project applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the Oakland Redevelopment Successor Agency, the Oakland City Planning Commission, and their respective agents, officers, employees, and volunteers (hereafter collectively called “City”) from any liability, damages, claim, judgment, loss (direct or indirect), action, causes of action, or proceeding (including legal costs, attorneys’ fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called “Action”) against the City to attack, set aside, void or annul this Approval or implementation of this Approval. The City may elect, in its sole discretion, to participate in the defense of said Action and the project applicant shall reimburse the City for its reasonable legal costs and attorneys’ fees.
- b. Within ten (10) calendar days of the filing of any Action as specified in subsection (a) above,

the project applicant shall execute a Joint Defense Letter of Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Joint Defense Letter of Agreement shall survive termination, extinguishment, or invalidation of the Approval. Failure to timely execute the Letter of Agreement does not relieve the project applicant of any of the obligations contained in this Condition or other requirements or Conditions of Approval that may be imposed by the City.

#### **9. Severability**

The Approval would not have been granted but for the applicability and validity of each and every one of the specified Conditions, and if one or more of such Conditions is found to be invalid by a court of competent jurisdiction this Approval would not have been granted without requiring other valid Conditions consistent with achieving the same purpose and intent of such Approval.

### **PROJECT SPECIFIC CONDTIONS:**

#### **10. Radio Frequency Emissions**

##### ***Prior to the final building permit sign off.***

The applicant shall submit a certified RF emissions report stating the facility is operating within the acceptable standards established by the regulatory Federal Communications Commission.

#### **11. Operational**

##### ***Ongoing.***

Noise levels from the activity, property, or any mechanical equipment on site shall comply with the performance standards of Section 17.120 of the Oakland Planning Code and Section 8.18 of the Oakland Municipal Code. If noise levels exceed these standards, the activity causing the noise shall be abated until appropriate noise reduction measures have been installed and compliance verified by the Planning and Zoning Division and Building Services.

#### **12. Equipment cabinets**

##### ***Prior to building permit Issuances.***

The applicant shall submit revised elevations showing associated equipment cabinets are concealed within a single equipment box that is painted to match the utility pole, to the Oakland Planning Department for review and approval.

#### **13. Radio Frequency Emissions**

##### ***Prior to the final building permit sign off***

The applicant shall submit a certified RF emissions report stating the facility is operating within the acceptable standards established by the regulatory Federal Communications Commission.

#### **14. Operational**

##### ***Ongoing***

Noise levels from the activity, property, or any mechanical equipment on site shall comply with the performance standards of Section 17.120 of the Oakland Planning Code and Section 8.18 of the Oakland Municipal Code. If noise levels exceed these standards, the activity causing the noise shall be

abated until appropriate noise reduction measures have been installed and compliance verified by the Planning and Zoning Division and Building Services.

**15. Possible District Undergrounding PG&E Pole**

***Ongoing***

Should the PG &E utility pole be voluntarily removed for purposes of district undergrounding or otherwise, the telecommunications facility can only be re-established by applying for and receiving approval of a new application to the Oakland Planning Department as required by the regulations.

**16. TREE TRIMMING CONDITION OF APPROVAL:**

Existing vegetation within the right-of-way immediately surrounding the replacement utility pole shall be preserved and only minimal pruning (if any) shall be allowed if absolutely necessary to facilitate the actual installation of the replacement pole, antennas, and/or equipment. Furthermore, any vegetation proposed for trimming and/or removal shall be 1<sup>st</sup> marked with colored tape or ribbon (visible from ground level) at least 14 calendar days in advance of proposed removal, with review and approval to trim and/or remove vegetation granted by the Zoning Division Manager, and if applicable, by the Department of Public Works Tree Services Division. The only exception to this protocol would be trimming necessary for immediate life safety considerations for public safety.

**17. TREE PERMIT CONDITON OF APPROVAL**

***Tree Permit Required***

**Requirement:** Pursuant to the City's Tree Protection Ordinance (OMC chapter 12.36), the project applicant shall obtain a tree permit and abide by the conditions of that permit.

**When Required:** Prior to approval of construction-related permit

**Initial Approval:** Permit approval by Public Works Department, Tree Division; evidence of approval submitted to Bureau of Building

**Monitoring/Inspection:** Bureau of Building

***Tree Protection During Construction***

**Requirement:** Adequate protection shall be provided during the construction period for any trees which are to remain standing, including the following, plus any recommendations of an arborist:

- i. Before the start of any clearing, excavation, construction, or other work on the site, every protected tree deemed to be potentially endangered by said site work shall be securely fenced off at a distance from the base of the tree to be determined by the project's consulting arborist. Such fences shall remain in place for duration of all such work. All trees to be removed shall be clearly marked. A scheme shall be established for the removal and disposal of logs, brush, earth and other debris which will avoid injury to any protected tree.
- ii. Where proposed development or other site work is to encroach upon the protected perimeter of any protected tree, special measures shall be incorporated to allow the roots to breathe and obtain water and nutrients. Any excavation, cutting, filing, or compaction of the existing ground surface within the protected perimeter shall be minimized. No change in existing ground level shall occur within a distance to be determined by the project's consulting arborist from the base of any protected tree at any time. No burning or use of equipment with an open flame shall occur near or within the protected perimeter of any protected tree.
- iii. No storage or dumping of oil, gas, chemicals, or other substances that may be harmful to trees shall occur within the distance to be determined by the project's consulting arborist from the base of any protected trees, or any other location on the site from which such substances might enter the protected perimeter. No heavy construction equipment or construction materials shall be operated or stored within a distance from the base of any protected trees to be determined by the project's consulting arborist. Wires, ropes, or other devices shall not be attached to any protected tree, except as

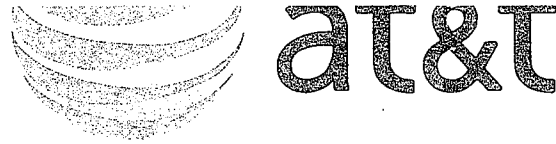


- needed for support of the tree. No sign, other than a tag showing the botanical classification, shall be attached to any protected tree.
- iv. Periodically during construction, the leaves of protected trees shall be thoroughly sprayed with water to prevent buildup of dust and other pollution that would inhibit leaf transpiration.
  - v. If any damage to a protected tree should occur during or as a result of work on the site, the project applicant shall immediately notify the Public Works Department and the project's consulting arborist shall make a recommendation to the City Tree Reviewer as to whether the damaged tree can be preserved. If, in the professional opinion of the Tree Reviewer, such tree cannot be preserved in a healthy state, the Tree Reviewer shall require replacement of any tree removed with another tree or trees on the same site deemed adequate by the Tree Reviewer to compensate for the loss of the tree that is removed.
  - vi. All debris created as a result of any tree removal work shall be removed by the project applicant from the property within two weeks of debris creation, and such debris shall be properly disposed of by the project applicant in accordance with all applicable laws, ordinances, and regulations.

When Required: During construction

Initial Approval: Public Works Department, Tree Division

Monitoring/Inspection: Bureau of Building

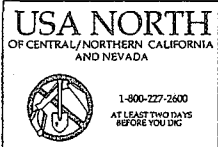


# OAKHILLS AT&T SOUTH NETWORK

## OAKS-054J

FRONT OF 1989 ASILOMAR DR  
OAKLAND, CA 94611

**RECEIVED**  
FEB 16 2016  
City of Oakland  
Planning & Zoning Division



CODE COMPLIANCE	
ALL WORK AND MATERIALS SHALL BE PERFORMED AND INSTALLED IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE FOLLOWING CODES AS ADOPTED BY THE LOCAL GOVERNING AUTHORITIES. NOTHING IN THESE PLANS IS TO BE CONSTRUCTED TO PERMIT WORK NOT CONFORMING TO THESE CODES.	
<ol style="list-style-type: none"> <li>2013 CALIFORNIA ADMINISTRATIVE CODE</li> <li>2013 CALIFORNIA BUILDING CODE</li> <li>2013 CALIFORNIA ELECTRIC CODE</li> <li>2013 CALIFORNIA MECHANICAL CODE</li> <li>2013 CALIFORNIA PLUMBING CODE</li> <li>2013 CALIFORNIA FIRE CODE</li> <li>ANY LOCAL BUILDING CODE AMENDMENTS TO THE ABOVE</li> <li>CITY/COUNTY ORDINANCES</li> </ol>	
HANDICAP REQUIREMENTS:	FACILITY IS UNMANNED AND NOT FOR HUMAN HABITATION. HANDICAPPED ACCESS NOT REQUIRED IN ACCORDANCE WITH CALIFORNIA ADMINISTRATIVE STATE CODE PART 2, TITLE 24, CHAPTER 119, SECTION 1103B.

PROJECT DESCRIPTION
THIS IS AN UNMANNED TELECOMMUNICATIONS FACILITY FOR AT&T WIRELESS CONSISTING OF THE INSTALLATION OF THE FOLLOWING:
<ol style="list-style-type: none"> <li>NEW TWO (2) PANEL ANTENNAS MOUNTED ON NEW UTILITY POLE.</li> <li>NEW ONE (1) EQUIPMENT SHROUD WITH RADIO AND BBU.</li> <li>NEW ONE (1) SAFETY SWITCH MOUNTED 4" FROM POLE.</li> <li>NEW ONE (1) METER SOCKET MOUNTED TO POLE.</li> <li>NEW CLASS 3 55' WOOD POLE TO REPLACE EXISTING POLE.</li> </ol>

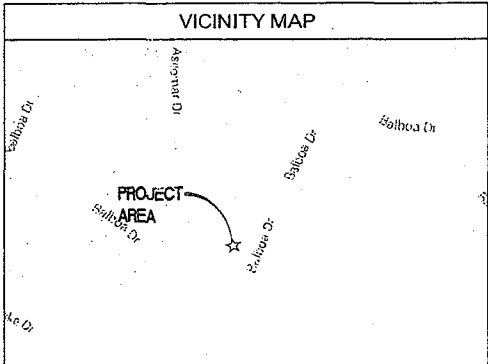
DRIVING DIRECTIONS
FROM AT&T OFFICE - SAN RAMON, CA
<ol style="list-style-type: none"> <li>HEAD EAST ON ROSEWOOD DR</li> <li>MAKE A U-TURN</li> <li>TURN RIGHT ONTO OWENS DR</li> <li>TURN RIGHT ONTO HACIENDA DR</li> <li>SLIGHT RIGHT TO MERGE ONTO I-580 W TOWARD OAKLAND</li> <li>MERGE ONTO I-580 W</li> <li>KEEP RIGHT AT THE FORK TO STAY ON I-580 W. FOLLOW SIGNS FOR OAKLAND/ SAN FRANCISCO</li> <li>KEEP RIGHT AT THE FORK TO CONTINUE ON CA-13</li> <li>TAKE THE PARK BLVD EXIT</li> <li>TURN LEFT ONTO MOUNTAIN BLVD</li> <li>TURN RIGHT ONTO SNAKE RD</li> <li>CONTINUE STRAIGHT ONTO SHEPHERD CANYON RD</li> <li>TURN RIGHT TO STAY ON SHEPHERD CANYON RD</li> <li>TURN LEFT ONTO SKYLINE BLVD</li> <li>DESTINATION WILL BE ON THE LEFT</li> </ol>

GENERAL CONTRACTOR NOTES
DO NOT SCALE DRAWING.
CONTRACTOR SHALL VERIFY ALL PLANS AND EXISTING DIMENSIONS AND CONDITIONS ON THE JOB SITE AND SHALL IMMEDIATELY NOTIFY THE ENGINEER WRITING OF ANY DISCREPANCIES BEFORE PROCEEDING WITH THE WORK OR RESPONSIBLE FOR SAME.

SHEET INDEX	
SHEET	DESCRIPTION
T-1	TITLE SHEET, SITE INFORMATION AND VICINITY MAP
T-2	GENERAL NOTES, LEGEND AND ABBREVIATIONS
C-1	SITE SURVEY
A-1	OVERALL SITE PLAN
A-2	EXISTING AND NEW ELEVATIONS
A-3	EQUIPMENT AND CONSTRUCTION DETAILS
S-1	POWER & RF SAFETY PROTOCOLS

PROJECT TEAM	
<b>ENGINEER:</b> PDC CORPORATION 4555 LAS POSITAS RD, BLDG. A, STE. 6 LIVERMORE, CA 94551 ENGR. OF RECORD: SOHAIL A. SHAH, P.E. CONTACT: PAULO PUELIU OFFICE: (925) 606-5868 MOBILE: (510) 385-5541 EMAIL: paulo@pdccorp.net	<b>APPLICANT/LESSEE:</b> 2600 CAMINO RAMON SAN RAMON, CA 94518 CONTACT: VANI MULLER PHONE: (510) 258-1703
<b>APPLICANT AGENT:</b> MATTHEW YERGOVICH EXTENET SYSTEMS REAL ESTATE CONTRACTOR FOR AT&T MOBILITY 1826 WEBSTER ST SAN FRANCISCO, CA 94115 PHONE: (415) 596-3474 EMAIL: myergo@gmail.com	<b>MUNICIPAL AFFAIRS:</b> EXTENET SYSTEMS CA, LLC. CONTACT: BILL STEPHENS PHONE: (510) 612-2511

PROJECT INFORMATION	
SITE ADDRESS:	FRONT OF 1989 ASILOMAR DR OAKLAND, CA 94611
APN:	-
PROPERTY OWNER:	PUBLIC RIGHT OF WAY
LATITUDE:	37° 49' 52.38" (NAD 83)
LONGITUDE:	122° 12' 17.87" (NAD 83)
GROUND ELEVATION:	N/A
HEIGHT OF STRUCTURE:	±38'9"
TYPE OF CONSTRUCTION:	ATTACHMENTS TO NEW WOOD POLE
JURISDICTION:	ALAMEDA COUNTY
TELEPHONE:	AT&T
POWER:	PC&E



APPROVALS	
LANDLORD:	_____
CONSTRUCTION MANAGER:	_____
RF ENGINEER:	_____
SITE ACQUISITION MANAGER:	_____

	GROUND BUS BAR
	MECHANICAL GRND. CONN.
	CADWELD
	GROUND ACCESS WELL
	ELECTRIC BOX
	TELEPHONE BOX
	LIGHT POLE
	FND. MONUMENT
	SPOT ELEVATION
	SET POINT
	REVISION
	GRID REFERENCE
	DETAIL REFERENCE
	ELEVATION REFERENCE
	SECTION REFERENCE
	GROUT OR PLASTER
	(E) BRICK
	(E) MASONRY
	CONCRETE
	EARTH
	GRAVEL
	PLYWOOD
	SAND
	WOOD CONT.
	WOOD BLOCKING
	STEEL
	CENTERLINE
	PROPERTY/LEASE LINE
	MATCH LINE
	WORK POINT
	GROUND CONDUCTOR
	TELEPHONE CONDUIT
	ELECTRICAL CONDUIT
	COAXIAL CABLE
	OVERHEAD SERVICE CONDUCTOR
	CHAIN LINK FENCING

APPRX.	APPROXIMATE(LY)
ARCH.	ARCHITECT(URAL)
AWG.	AMERICAN WIRE GAUGE
BLDG.	BUILDING
BLK.	BLOCK
BLKC.	BLOCKING
BM.	BEAM
B.N.	BOUNDARY NAILING
BTWC.	BARE TINNED COPPER WIRE
B.O.F.	BOTTOM OF FOOTING
B/U	BACK-UP CABINET
CAB.	CABINET
CANT.	CANTILEVER(ED)
C.I.P.	CAST IN PLACE
C.L.G.	CEILING
CLR.	CLEAR
COL.	COLUMN
CONC.	CONCRETE
CONN.	CONNECTION(OR)
CONST.	CONSTRUCTION
CONT.	CONTINUOUS
¢	PENNY (NAILS)
DBL.	DOUBLE
DEPT.	DEPARTMENT
D.F.	DOUGLAS FIR
DIA.	DIAMETER
DIAG.	DIAGONAL
DM.	DIMENSION
DWG.	DRAWING(S)
DWL.	DOWEL(S)
EA.	EACH
ELEV.	ELEVATION
ELEC.	ELECTRICAL
ELEVTR.	ELEVATOR
EMT.	ELECTRICAL METALLIC TUBING
E.N.	EDGE NAIL
ENG.	ENGINEER
EQ.	EQUAL
EXP.	EXPANSION
EXST.(E)	EXISTING
EXT.	EXTERIOR
FAB.	FABRICATION(OR)
F.F.	FINISH FLOOR
F.G.	FINISH GRADE
FIN.	FINISH(ED)
FLR.	FLOOR
FN.	FOUNDATION
F.O.C.	FACE OF CONCRETE
F.O.M.	FACE OF MASONRY
F.O.S.	FACE OF STUD
F.O.W.	FACE OF WALL
F.S.	FINISH SURFACE
FT.(')	FOOT (FEET)
FTG.	FOOTING
G.	GROWTH (CABINET)
GA.	GAUGE
GI.	GALVANIZE(D)
G.F.I.	GROUND FAULT CIRCUIT INTERRUPTER
GLB. (GLU-LAM)	GLUE LAMINATED BEAM
GPS	GLOBAL POSITIONING SYSTEM

L.F.	LINEAR FEET (FOOT)
L	LONG(ITUDINAL)
MAS.	MASONRY
MAX.	MAXIMUM
M.B.	MACHINE BOLT
MECH.	MECHANICAL
MFR.	MANUFACTURER
MIN.	MINIMUM
MISC.	MISCELLANEOUS
MTL.	METAL
(N)	NEW
NO.(#)	NUMBER
N.T.S.	NOT TO SCALE
O.C.	ON CENTER
OPNG.	OPENING
P/C	PRECAST CONCRETE
P.CS	PERSONAL COMMUNICATION SERVICES
P.LY.	PLYWOOD
PPC	POWER PROTECTION CABINET
PRC	PRIMARY RADIO CABINET
P.S.F.	POUNDS PER SQUARE FOOT
P.S.I.	POUNDS PER SQUARE INCH
P.T.	PRESSURE TREATED
PWR.	POWER (CABINET)
QTY.	QUANTITY
RAD.(R)	RADIUS
REF.	REFERENCE
REINF.	REINFORCEMENT(ING)
REQ'D.	REQUIRED
RGS.	RIGID GALVANIZED STEEL
SCH.	SCHEDULE
SH.	SHEET
SIM.	SIMILAR
SPEC.	SPECIFICATION(S)
SO.	SQUARE
S.S.	STAINLESS STEEL
STD.	STANDARD
STL.	STEEL
STRUC.	STRUCTURAL
TEMP.	TEMPORARY
THK.	THICK(NESS)
T.N.	TOE NAIL
T.O.A.	TOP OF ANTENNA
T.O.C.	TOP OF CURB
T.O.F.	TOP OF FOUNDATION
T.O.P.	TOP OF PLATE (PARAPET)
T.O.S.	TOP OF STEEL
T.O.W.	TOP OF WALL
TYP.	TYPICAL
U.G.	UNDER GROUND
U.LL.	UNDERWRITERS LABORATORY
U.N.O.	UNLESS NOTED OTHERWISE
V.I.F.	VERIFY IN FIELD
W.	WIDTH(WIDTH)
W/	WITH
WD.	WOOD
WP.	WEATHERPROOF
WT.	WEIGHT
C	CENTERLINE
E	PLATF., PROPERTY LINE

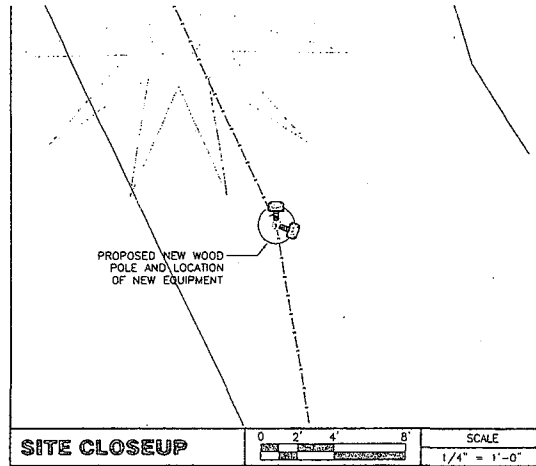
**ABBREVIATIONS**

- PRIOR TO THE SUBMISSION OF BIDS, THE CONTRACTORS SHALL VISIT THE JOB SITE AND BE RESPONSIBLE FOR ALL CONTRACT DOCUMENTS, FIELD CONDITIONS AND DIMENSIONS, AND CONFIRMING THAT THE WORK MAY BE ACCOMPLISHED AS SHOWN PRIOR TO PROCEEDING WITH CONSTRUCTION. ANY DISCREPANCIES ARE TO BE BROUGHT TO THE ATTENTION OF THE IMPLEMENTATION ENGINEER AND ENGINEER PRIOR TO PROCEEDING WITH WORK.
- THE CONTRACTOR SHALL OBTAIN, IN WRITING, AUTHORIZATION TO PROCEED BEFORE STARTING WORK ON ANY IT NOT CLEARLY DEFINED OR IDENTIFIED BY THE CONTRACT DOCUMENTS.
- THE CONTRACTOR SHALL INSTALL ALL EQUIPMENT AND MATERIALS IN ACCORDANCE WITH MANUFACTURER'S RECOMMENDATIONS UNLESS SPECIFICALLY INDICATED OTHERWISE OR WHERE LOCAL CODES OR REGULATIONS TAKE PRECEDENCE.
- ALL WORK PERFORMED AND MATERIALS INSTALLED SHALL BE IN STRICT ACCORDANCE WITH ALL APPLICABLE CODES, REGULATIONS AND ORDINANCES. CONTRACTOR SHALL GIVE ALL NOTICES AND COMPLY WITH ALL LAWS, ORDINANCES, RULES, REGULATIONS AND LAWFUL ORDERS OF ANY PUBLIC AUTHORITY REGARDING THE PERFORMANCE OF THE WORK. MECHANICAL AND ELECTRICAL SYSTEMS SHALL BE INSTALLED IN ACCORDANCE WITH ALL APPLICABLE MUNICIPAL AND UTILITY COMPANY SPECIFICATIONS, AND LOCAL AND STATE JURISDICTIONAL CODES, ORDINANCES AND APPLICABLE REGULATIONS.
- THE GENERAL CONTRACTOR SHALL SUPERVISE AND DIRECT THE WORK, USING THE BEST SKILLS AND ATTENTION. THE CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR ALL CONSTRUCTION MEANS, METHODS, TECHNIQUES, SEQUENCES AND PROCEDURES AND FOR COORDINATING ALL PORTIONS OF THE WORK UNDER THE CONTRACT INCLUDING CONTACT AND COORDINATION WITH THE IMPLEMENTATION ENGINEER AND WITH THE LANDLORD'S AUTHORIZED REPRESENTATIVE.
- SEAL PENETRATIONS THROUGH FIRE RATED AREAS WITH U.L. LISTED AND FIRE CODE APPROVED MATERIALS.
- PROVIDE A PORTABLE FIRE EXTINGUISHER WITH A RATING OF NOT LESS THAN 2-A OR 2-A10BC WITHIN 75 FT TRAVEL DISTANCE TO ALL PORTIONS OF THE PROJECT AREA DURING CONSTRUCTION.
- NOT USED.
- DETAILS ARE INTENDED TO SHOW END RESULT OF DESIGN. MINOR MODIFICATIONS MAY BE REQUIRED TO SUIT JOB DIMENSIONS OR CONDITIONS, AND SUCH MODIFICATIONS SHALL BE INCLUDED AS PART OF THE WORK.
- REPRESENTATIONS OF TRUE NORTH, OTHER THAN THOSE FOUND ON THE PLOT OF SURVEY DRAWING (SHEET LS1), SHALL NOT BE USED TO IDENTIFY OR ESTABLISH THE BEARING OF TRUE NORTH AT THE SITE. THE CONTRACTOR SHALL RELY SOLELY ON THE PLOT OF SURVEY DRAWING AND ANY SURVEYOR'S MARKINGS AT THE SITE FOR THE ESTABLISHMENT OF TRUE NORTH, AND SHALL NOTIFY THE ENGINEER PRIOR TO PROCEEDING WITH THE WORK IF ANY DISCREPANCY IS FOUND BETWEEN THE VARIOUS ELEMENTS OF THE WORKING DRAWINGS AND THE TRUE NORTH ORIENTATION AS DEPICTED ON THE CIVIL SURVEY. THE CONTRACTOR SHALL ASSUME SOLE LIABILITY FOR ANY FAILURE TO NOTIFY THE ENGINEER.
- THE CONTRACTOR SHALL MAKE NECESSARY PROVISIONS TO PROTECT EXISTING IMPROVEMENTS, PAVING, CURBS VEGETATION, GALVANIZED SURFACES, ETC., AND UPON COMPLETION OF WORK REPAIR ANY DAMAGE THAT OCCURRED DURING CONSTRUCTION TO THE SATISFACTION OF AT&T.
- KEEP GENERAL AREA CLEAN, HAZARD FREE, AND DISPOSE OF ALL DIRT, DEBRIS, RUBBISH AND REMOVE EQUIPMENT NOT SPECIFIED AS REMAINING ON THE PROPERTY. LEAVE PREMISES IN CLEAN CONDITION AND FREE FROM PAINT SPOTS, DUST OR SMUDGES OF ANY NATURE.
- PENETRATIONS OF ROOF MEMBRANES SHALL BE PATCHED/FLASHED AND MADE WATERTIGHT USING LIKE MATERIAL IN ACCORDANCE WITH NRCA ROOFING STANDARDS AND DETAILS. CONTRACTOR SHALL OBTAIN DETAILING CLARIFICATION FOR SITE-SPECIFIC CONDITIONS FROM ENGINEER, IF NECESSARY, BEFORE PROCEEDING.
- BEFORE ORDERING AND/OR BEFORE FABRICATING/CONSTRUCTING/INSTALLING ANY ITEMS, VERIFY THE TYPES AND QUANTITIES.
- CONTRACTOR SHALL PROVIDE SITE FOREMAN WITH A CELLULAR PHONE AND PAGER, AND KEEP SAME ON SITE WHENEVER PERSONNEL ARE ON SITE.
- THE CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND CONDITIONS ON THE SITE AND NOTIFY THE PROJECT MANAGER OF ANY DISCREPANCIES BEFORE STARTING ANY WORK.
- KEEP GENERAL AREA CLEAN, HAZARD FREE, AND DISPOSE OF ALL DIRT, DEBRIS, RUBBISH AND REMOVE EQUIPMENT NOT SPECIFIED AS REMAINING ON THE PROPERTY. LEAVE PREMISES IN CLEAN CONDITION AND FREE FROM PAINT SPOTS, DUST, OR SMUDGES OF ANY NATURE.
- CONTRACTOR TO PROVIDE COMPLETE SET OF AS BUILT DRAWINGS WITHIN 10 WORKING DAYS OF PROJECT COMPLETION.
- CONTRACTOR IS TO EXCAVATE 6" BELOW EXISTING GRADE AND SPRAY WITH WEED CONTROL. REPLACE WITH CLASS II AGGREGATE BASE AND CRUSHED WASHED ROCK, AS SPECIFIED ON SITE PLAN.
- CONTRACTOR SHALL PROVIDE TOILET FACILITY DURING ALL PHASES OF CONSTRUCTION.
- PRIOR TO THE COMMENCEMENT OF CONSTRUCTION OR THE FABRICATION OF MATERIALS TO BE INSTALLED AT SITE, THE CONTRACTOR SHALL FIELD VERIFY ALL DIMENSIONS INCLUDING AS-BUILT DIMENSIONS OF EXISTING STRUCTURES OR STRUCTURAL ELEMENTS HAVING A BEARING ON THE SCOPE OF THE WORK TO BE PERFORMED. IF ANY DISCREPANCY IS FOUND BETWEEN THE VARIOUS ELEMENTS OF THE WORKING DRAWINGS AND THE DIMENSIONS OR CONDITIONS FOUND TO BE EXISTING IN THE FIELD, THE CONTRACTOR SHALL NOTIFY THE ENGINEER AND OBTAIN DESIGN RESOLUTION PRIOR TO PROCEEDING WITH THE PORTION(S) OF THE WORK AFFECTED. THE CONTRACTOR SHALL ASSUME SOLE LIABILITY FOR ANY FAILURE TO SO NOTIFY THE ENGINEER OBTAIN RESOLUTION BEFORE PROCEEDING.



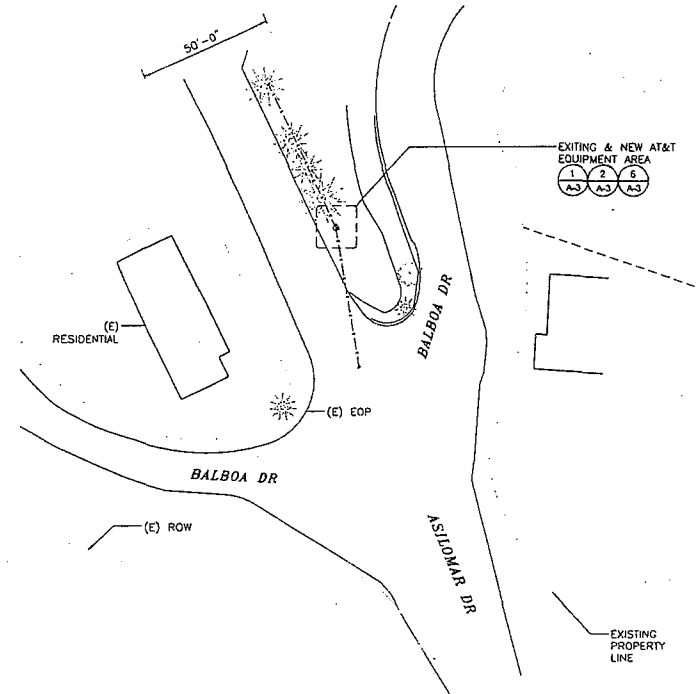
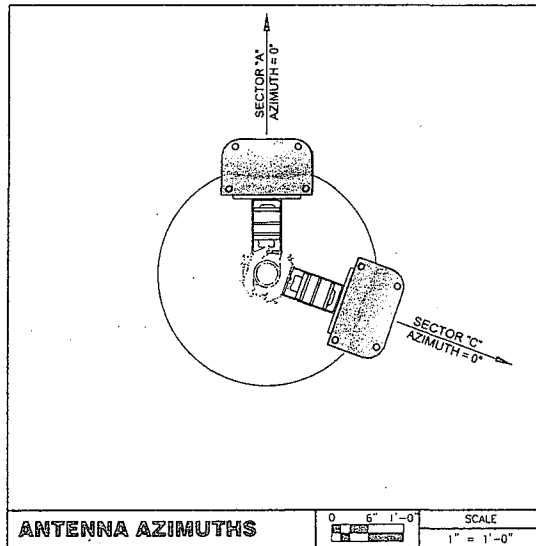
FOLLOWING:

2. THE EXISTING FACILITY WILL BE UNMANNED AND DOES NOT REQUIRE POTABLE WATER OR SEWER SERVICE.
3. THE EXISTING FACILITY IS UNMANNED AND IS NOT FOR HUMAN HABITAT. (NO HANDICAP ACCESS IS REQUIRED).
4. OCCUPANCY IS LIMITED TO PERIODIC MAINTENANCE AND INSPECTION, APPROXIMATELY 2 TIMES PER MONTH, BY AT&T TECHNICIANS.
5. NO NOISE, SMOKE, DUST OR ODOR WILL RESULT FROM THIS PROPOSAL.
6. OUTDOOR STORAGE AND SOLID WASTE CONTAINERS ARE NOT NEW.
7. ALL MATERIAL SHALL BE FURNISHED AND WORK SHALL BE PERFORMED IN ACCORDANCE WITH THE PROJECT SPECIFICATIONS.
8. SUBCONTRACTOR SHALL BE RESPONSIBLE FOR REPAIRING ANY DAMAGE CAUSED BY THE CONSTRUCTION OPERATION.
9. SUBCONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL PERMITS AND INSPECTION REQUIRED FOR CONSTRUCTION.
10. SUBCONTRACTOR SHALL REMOVE ALL TRASH AND DEBRIS FROM THE SITE ON A DAILY BASIS.
11. INFORMATION SHOWN ON THESE DRAWINGS WAS OBTAINED FROM SITE VISITS AND DRAWINGS PROVIDED BY THE SITE OWNER. SUBCONTRACTOR SHALL NOTIFY AT&T OF ANY DISCREPANCIES PRIOR TO ORDERING MATERIAL OR PROCEEDING WITH CONSTRUCTION.

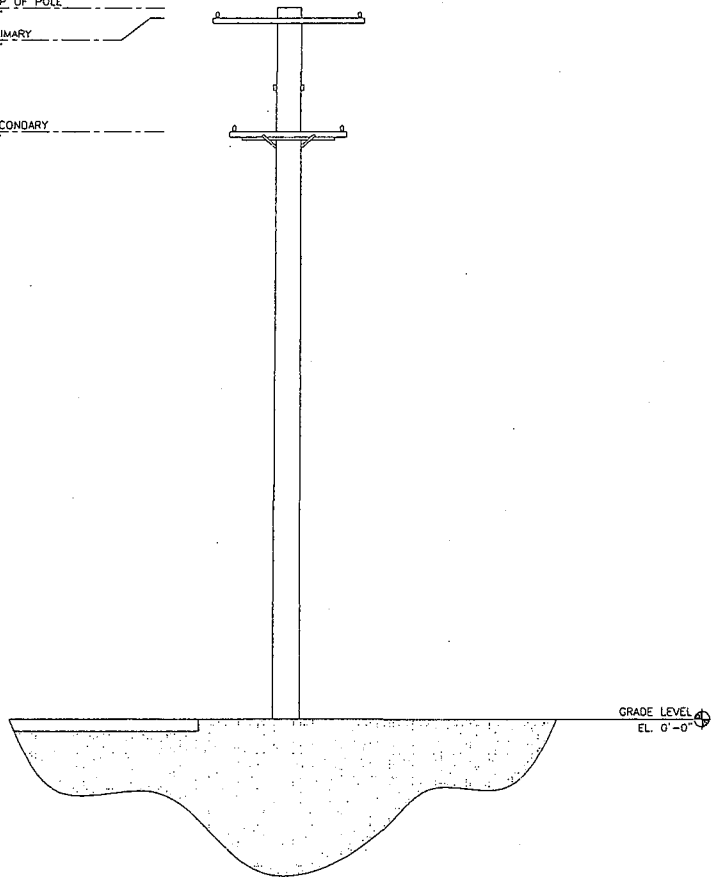


**SITE WORK GENERAL NOTES:**

1. ALL EXISTING ACTIVE SEWER, WATER, GAS, ELECTRIC, AND OTHER UTILITIES WHERE ENCOUNTERED IN THE WORK, SHALL BE PROTECTED AT ALL TIMES, AND WHERE REQUIRED FOR THE PROPER EXECUTION OF THE WORK, SHALL BE RELOCATED AS DIRECTED BY ENGINEERS. EXTREME CAUTION SHOULD BE USED BY THE SUBCONTRACTOR WHEN EXCAVATING OR DRILLING PERS AROUND OR NEAR UTILITIES. SUBCONTRACTOR SHALL PROVIDE SAFETY TRAINING FOR THE WORKING CREW. THIS WILL INCLUDE BUT NOT BE LIMITED TO A) FALL PROTECTION B) CONFINED SPACE C) ELECTRICAL SAFETY D) TRENCHING & EXCAVATION.
2. ALL SITE WORK SHALL BE AS INDICATED ON THE DRAWINGS AND PROJECT SPECIFICATIONS.
3. IF NECESSARY, RUBBISH, STUMPS, DEBRIS, STICKS, STONES AND OTHER REFUSE SHALL BE REMOVED FROM THE SITE AND DISPOSED OF LEGALLY.
4. THE SITE SHALL BE GRADED TO CAUSE SURFACE WATER TO FLOW AWAY FROM THE BTS EQUIPMENT AND TOWER AREAS.
5. NO FILL OR EMBANKMENT MATERIAL SHALL BE PLACED ON FROZEN GROUND. FROZEN MATERIALS, SNOW OR ICE SHALL NOT BE PLACED IN ANY FILL OR EMBANKMENT.
6. THE SUB GRADE SHALL BE COMPACTED AND BROUGHT TO A SMOOTH UNIFORM GRADE PRIOR TO FINISHED SURFACE APPLICATION.
7. ALL EXISTING INACTIVE SEWER, WATER, GAS, ELECTRIC AND OTHER UTILITIES, WHICH INTERFERE WITH THE EXECUTION OF THE WORK, SHALL BE REMOVED AND/OR CAPPED, PLUGGED OR OTHERWISE DISCONTINUED AT POINTS WHICH WILL NOT INTERFERE WITH THE EXECUTION OF THE WORK, SUBJECT TO THE APPROVAL OF ENGINEERING, OWNER AND/OR LOCAL UTILITIES.
8. THE AREAS OF THE OWNERS PROPERTY DISTURBED BY THE WORK AND NOT COVERED BY THE TOWER, EQUIPMENT OR DRIVEWAY, SHALL BE GRADED TO A UNIFORM SLOPE AND STABILIZED TO PREVENT EROSION AS SPECIFIED IN THE PROJECT SPECIFICATIONS.
9. SUBCONTRACTOR SHALL MINIMIZE DISTURBANCE TO EXISTING SITE DURING CONSTRUCTION. EROSION CONTROL MEASURES, IF REQUIRED DURING CONSTRUCTION, SHALL BE IN CONFORMANCE WITH THE LOCAL GUIDELINES FOR EROSION AND SEDIMENT CONTROL.
10. ADD ELECTRICAL CONNECTIONS IN THE PUBLIC RIGHT OF WAY SHALL BE INSTALLED UNDERGROUND TO THE NEAREST UTILITY POLE.
11. NO WORK SHALL BE DONE WITHIN THE PUBLIC RIGHT-OF-WAY WITHOUT THE PRIOR APPROVAL AND PERMIT FROM THE ENVIRONMENTAL AND PUBLIC WORKS MANAGEMENT DEPARTMENT - ADMINISTRATIVE SERVICES.
12. CONTRACTOR IS RESPONSIBLE FOR REPAIR OF ALL DAMAGED OFFSITE IMPROVEMENTS CAUSED BY CONSTRUCTION. CALL PUBLIC WORKS INSPECTOR FOR INSPECTION OF OFFSITE IMPROVEMENTS AT SUBSTANTIAL COMPLETION OF ONSITE WORK.
13. NO CONSTRUCTION DEBRIS SHALL BE SPILLED OR STORED ONTO PUBLIC RIGHT-OF-WAY.
14. NO DRAINAGE SEDIMENT OR WASTE IS ALLOWED IN WATER LEAVING THE SITE



- ⊕ EXISTING TOP OF POLE  
EL. ±38'-9"
- ⊕ EXISTING PRIMARY  
EL. ±36'-3"
- ⊕ EXISTING SECONDARY  
EL. ±32'-1"



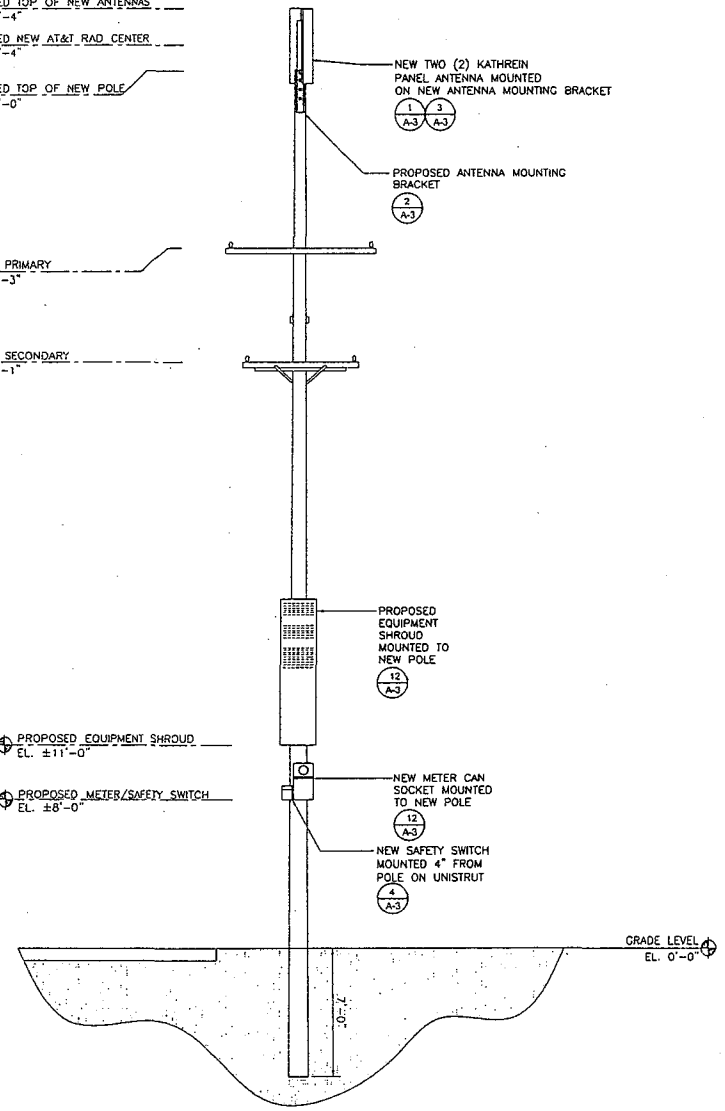
**MAKE-READY NOTES**

- ⊕ PROPOSED TOP OF NEW ANTENNAS  
EL. ±51'-4"
- ⊕ PROPOSED NEW AT&T RAD CENTER  
EL. ±49'-4"
- ⊕ PROPOSED TOP OF NEW POLE  
EL. ±48'-0"

- ⊕ EXISTING PRIMARY  
EL. ±38'-3"

- ⊕ EXISTING SECONDARY  
EL. ±32'-1"

- ⊕ PROPOSED EQUIPMENT SHROUD  
EL. ±11'-0"
- ⊕ PROPOSED METER/SAFETY SWITCH  
EL. ±8'-0"



NEW TWO (2) KATHREIN  
PANEL ANTENNA MOUNTED  
ON NEW ANTENNA MOUNTING BRACKET

1 3  
A-3 A-3

PROPOSED ANTENNA MOUNTING  
BRACKET

2  
A-3

PROPOSED EQUIPMENT SHROUD  
MOUNTED TO  
NEW POLE

12  
A-3

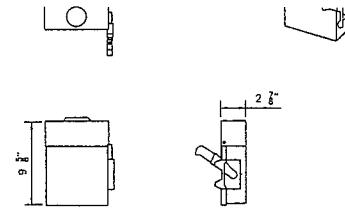
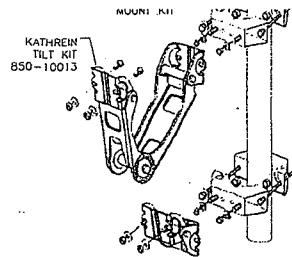
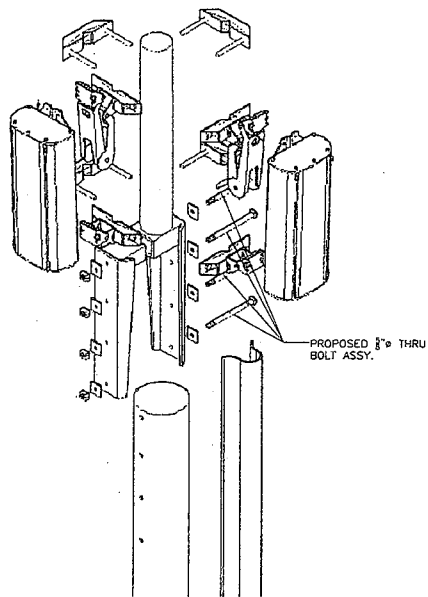
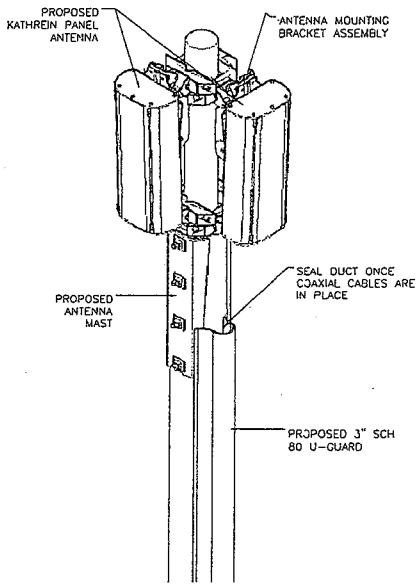
NEW METER CAN  
SOCKET MOUNTED  
TO NEW POLE

11  
A-3

NEW SAFETY SWITCH  
MOUNTED 4" FROM  
POLE ON UNISTRUT

4  
A-3

GRADE LEVEL  
EL. 0'-0"

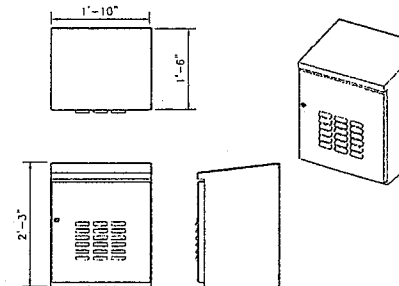
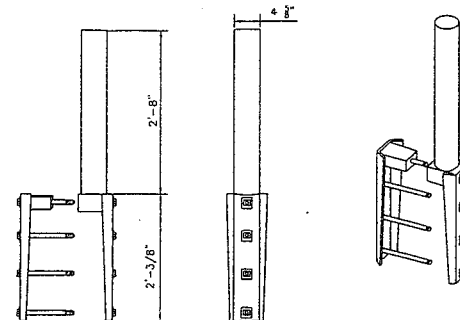


ANTENNA CONFIGURATION

1 POLE TOP ANTENNA ASSEMBLY

ANTENNA MOUNTING BRACKET

3 SQUARE D D321NRB SAFTEY SWITCH

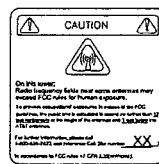
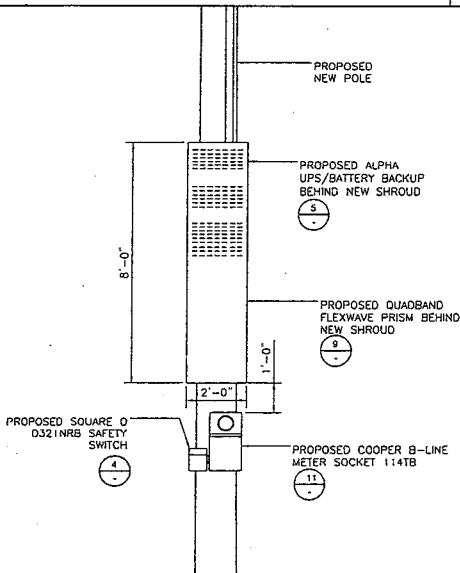


ANTENNA CONFIGURATION

1 POLE TOP ANTENNA ASSEMBLY

2 POLE TOP ANTENNA MAST

5 ALPHA MMOE UPS/BATTERY BACKUP



OFFICIAL OF THE FEDERAL COMMUNICATIONS COMMISSION IS RESPONSIBLE FOR THE INSTALLATION AND USE OF THIS SIGN ON THE MAST. MANUFACTURERS ARE RESPONSIBLE FOR THE INSTALLATION AND USE OF THIS SIGN ON THE MAST AT THE TIME OF THE SIGN'S INSTALLATION.

DO NOT TOUCH. Radio frequency fields from some antennas may exceed FCC limits for human exposure. It is a general precautionary measure to advise the public that the use of radio frequency fields is intended for the purpose of the antenna and is not intended for human exposure. For further information, contact the manufacturer and request the name, XX, as referenced in FCC rules 47 CFR 1.1310(b)(1).

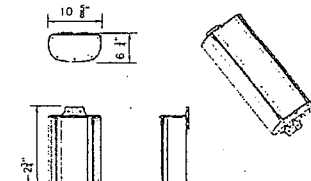
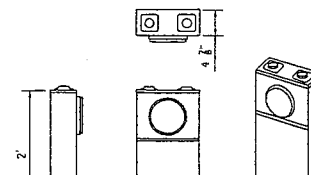
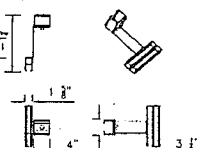
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RF WARNING SIGNAGE

8 AFL OPTINID 760 XL

9 QUADBAND FLEXWAVE PRISM





### AT&T oDAS Shutdown Procedure

#### PROCEDURE TO DE-ENERGIZE RADIO FREQUENCY (RF) SIGNAL EMERGENCY and NON-EMERGENCY WORK REQUIRING RF SIGNAL SHUTDOWN

(A) PS&E personnel SHALL contact AT&T Reliability Switch Center to notify them of an emergency shutdown 800-535-2322. Dial option 9 for cell site "Related" emergency's then option 1. Provide the following information when calling or leave a voicemail:

- (1) Identify yourself and give callback phone number.
- (2) Site number and if applicable site name (located on the shutdown box)
- (3) Site address and location
- (4) Nature of emergency and site condition

(B) Pull Disconnect Handle down to the Open or "OFF" Position. The RF signal will shut down within a few seconds. A visual inspection of the interior blade will confirm that both incoming AC lead and Battery Backup are disconnected.

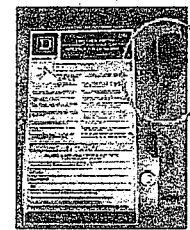
(C) Notify AT&T (New Singular) Switch Center when the emergency work is completed.

See reverse side to view photo of the "on" and "off" position.

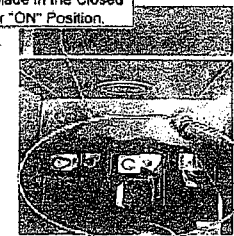
FRONT



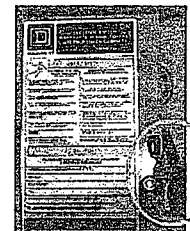
### Switch in the Closed Position ("ON")



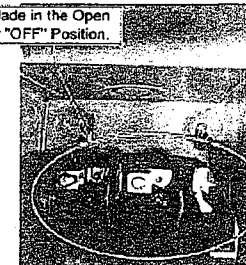
Blade in the Closed  
or "ON" Position.



### Switch in the Open Position ("OFF")



Blade in the Open  
or "OFF" Position.



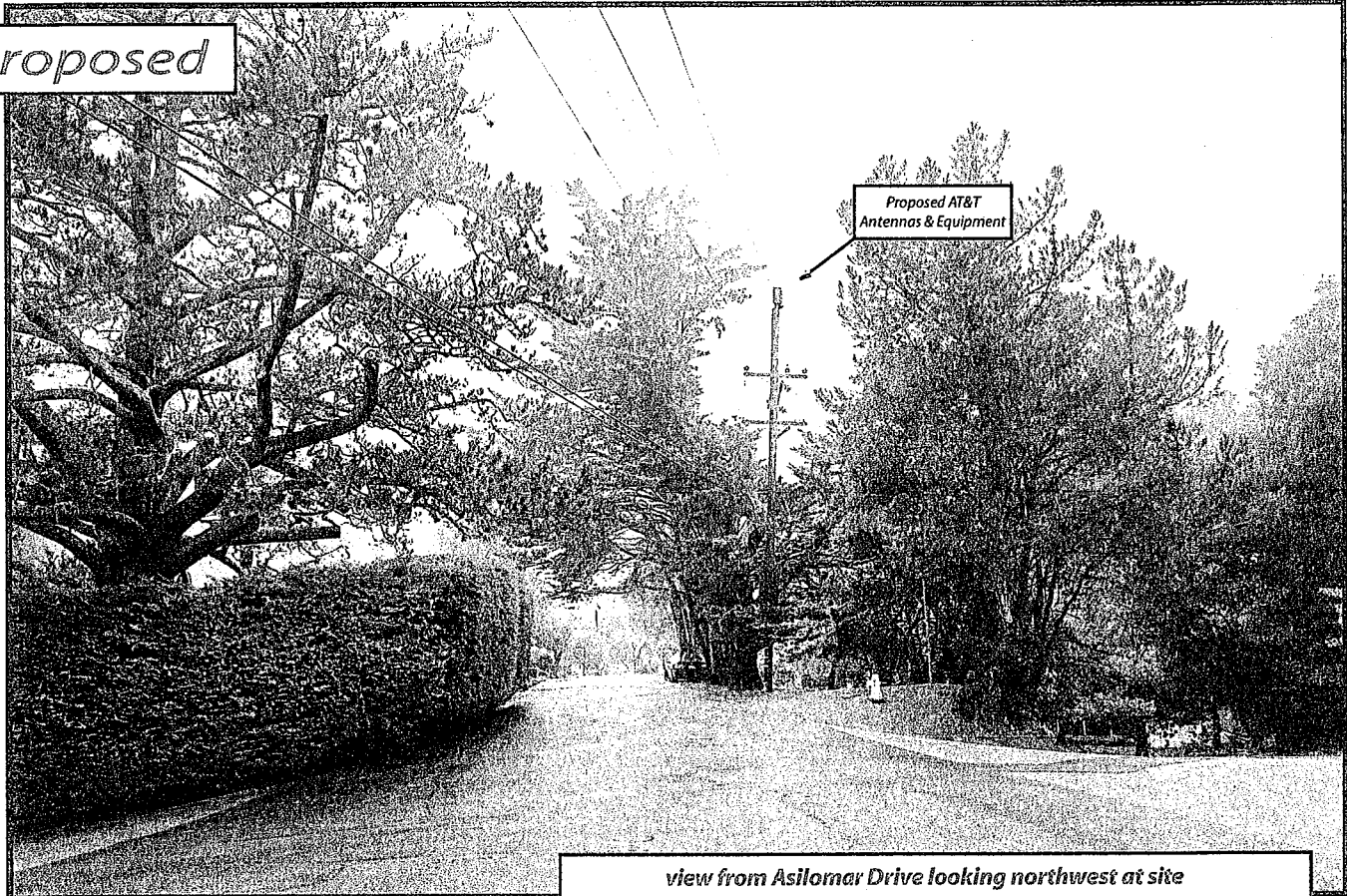
BACK



*Existing*

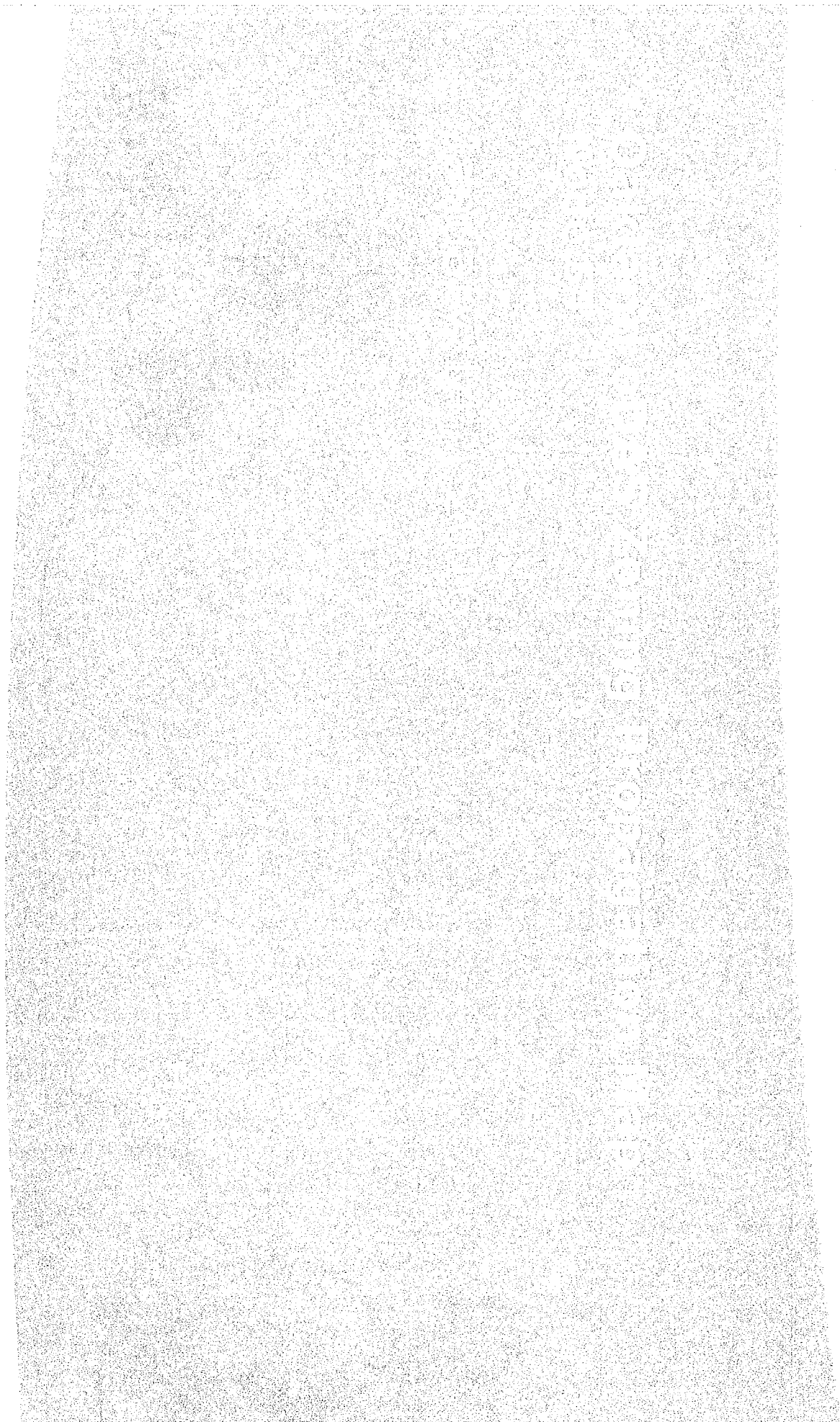


*Proposed*



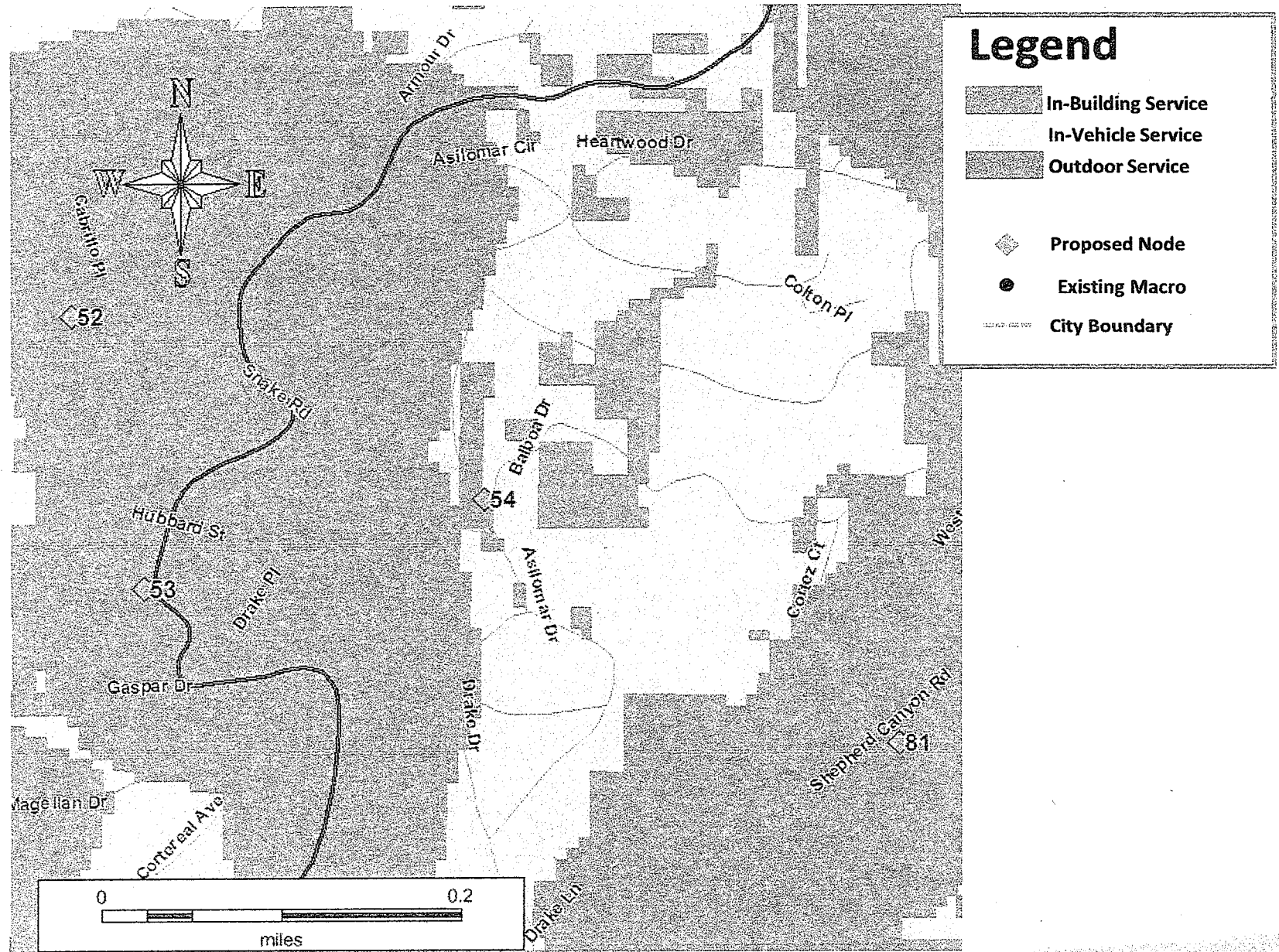
Proposed AT&T  
Antennas & Equipment

*view from Asilomar Drive looking northwest at site*



# Existing UMTS 850 Coverage

# Exhibit 2

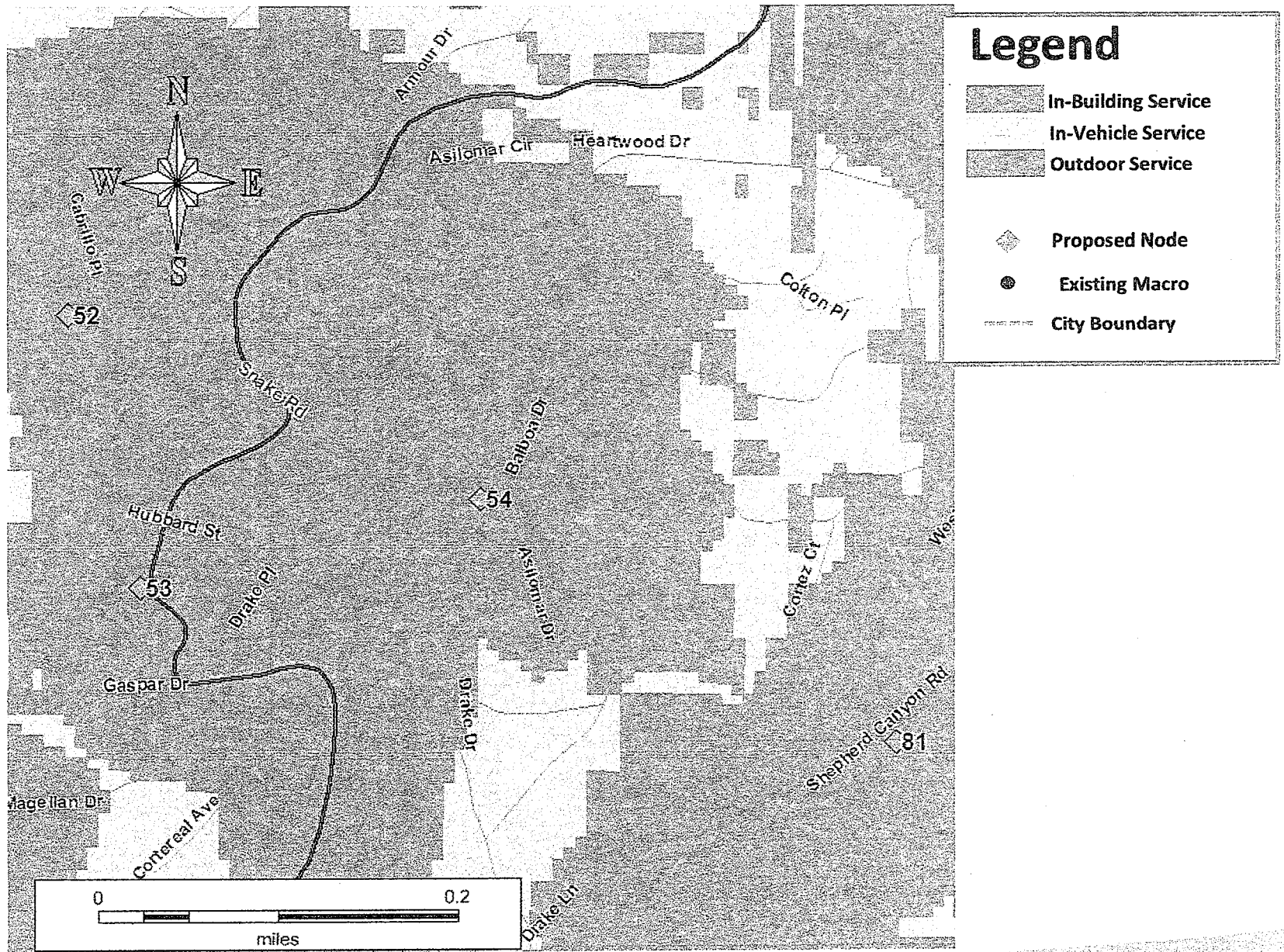


January 14<sup>th</sup>, 2016



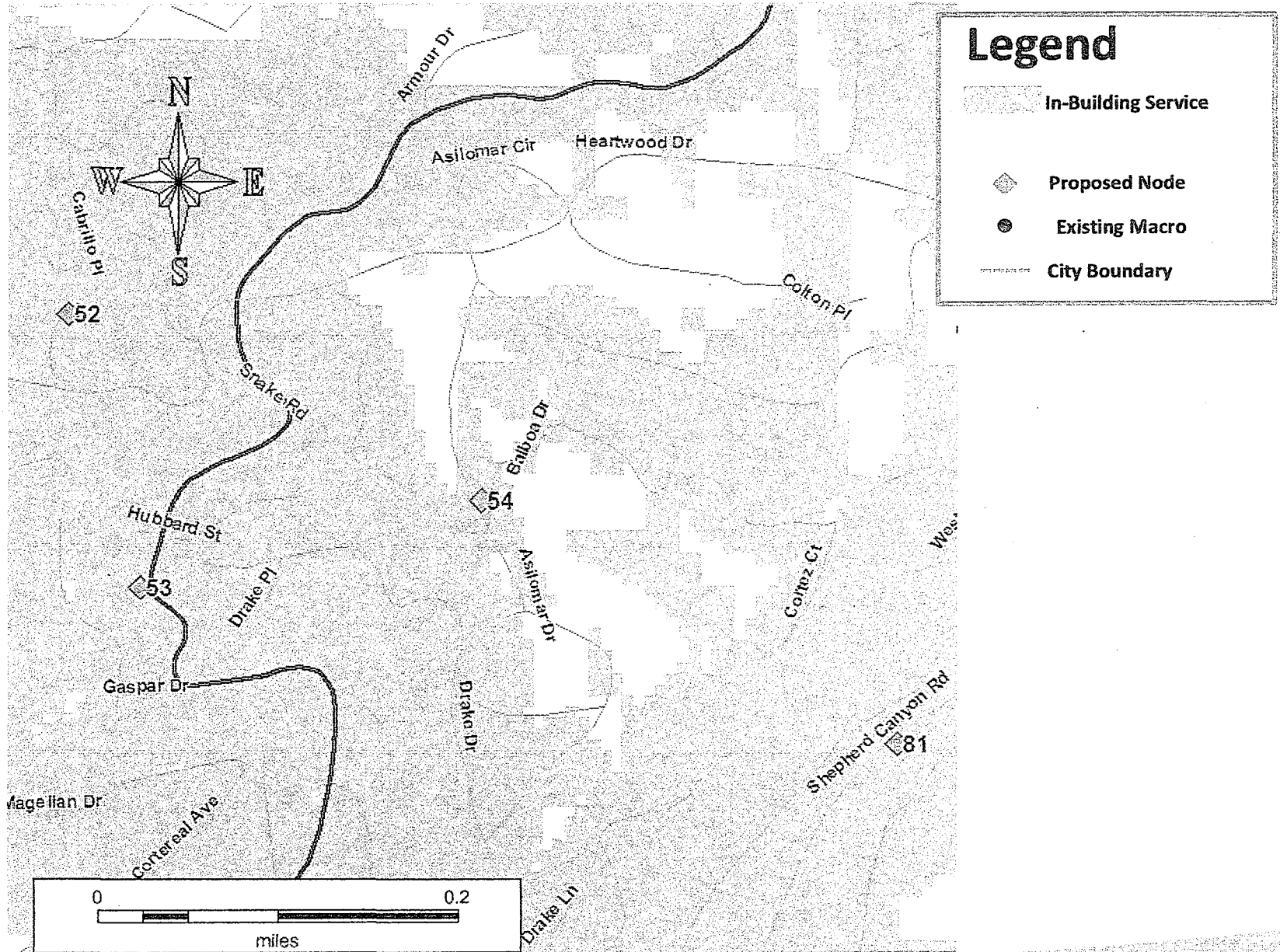
# Proposed UMTS 850 Coverage (With Node 54)

# Exhibit 3



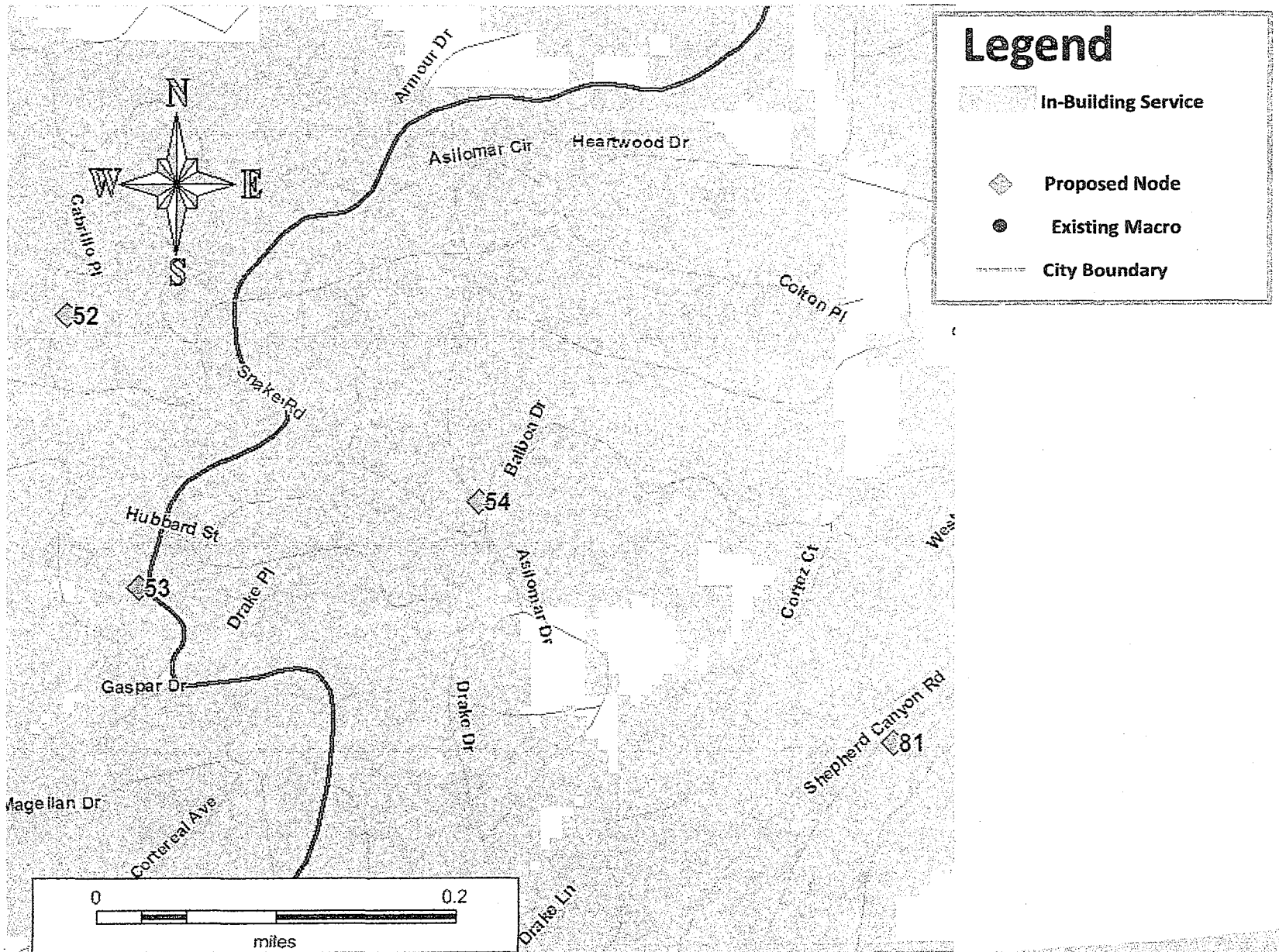
January 14<sup>th</sup>, 2016





January 14<sup>th</sup>, 2016





January 14<sup>th</sup>, 2016



AT&T Mobility • DAS Node No. OAKS-054J  
1989 Asilomar Drive • Oakland, California

Statement of Hammett & Edison, Inc., Consulting Engineers

The firm of Hammett & Edison, Inc., Consulting Engineers, has been retained on behalf of AT&T Mobility, a personal wireless telecommunications carrier, to evaluate a distributed antenna system ("DAS") node proposed to be located near 1989 Asilomar Drive in Oakland, California, for compliance with appropriate guidelines limiting human exposure to radio frequency ("RF") electromagnetic fields.

**Executive Summary**

AT&T proposes to install two directional panel antennas on the utility pole sited near 1989 Asilomar Drive in Oakland. The proposed operation will comply with the FCC guidelines limiting public exposure to RF energy.

**Prevailing Exposure Standards**

The U.S. Congress requires that the Federal Communications Commission ("FCC") evaluate its actions for possible significant impact on the environment. A summary of the FCC's exposure limits is shown in Figure 1. These limits apply for continuous exposures and are intended to provide a prudent margin of safety for all persons, regardless of age, gender, size, or health. The most restrictive FCC limit for exposures of unlimited duration to radio frequency energy for several personal wireless services are as follows:

Wireless Service	Frequency Band	Occupational Limit	Public Limit
Microwave (Point-to-Point)	5-80 GHz	5.00 mW/cm <sup>2</sup>	1.00 mW/cm <sup>2</sup>
WiFi (and unlicensed uses)	2-6	5.00	1.00
BRS (Broadband Radio)	2,600 MHz	5.00	1.00
WCS (Wireless Communication)	2,300	5.00	1.00
AWS (Advanced Wireless)	2,100	5.00	1.00
PCS (Personal Communication)	1,950	5.00	1.00
Cellular	870	2.90	0.58
SMR (Specialized Mobile Radio)	855	2.85	0.57
700 MHz	700	2.40	0.48
[most restrictive frequency range]	30-300	1.00	0.20

Power line frequencies (60 Hz) are well below the applicable range of these standards, and there is considered to be no compounding effect from simultaneous exposure to power line and radio frequency fields.

**AT&T Mobility • DAS Node No. OAKS-054J  
1989 Asilomar Drive • Oakland, California**

**General Facility Requirements**

Base stations typically consist of two distinct parts: the electronic transceivers (also called “radios” or “channels”) that are connected to the traditional wired telephone lines, and the passive antennas that send the wireless signals created by the radios out to be received by individual subscriber units. The transceivers are often located at ground level and are connected to the antennas by coaxial cables. A small antenna for reception of GPS signals is also required, mounted with a clear view of the sky. Because of the short wavelength of the frequencies assigned by the FCC for wireless services, the antennas require line-of-sight paths for their signals to propagate well and so are installed at some height above ground. The antennas are designed to concentrate their energy toward the horizon, with very little energy wasted toward the sky or the ground. This means that it is generally not possible for exposure conditions to approach the maximum permissible exposure limits without being physically very near the antennas.

**Computer Modeling Method**

The FCC provides direction for determining compliance in its Office of Engineering and Technology Bulletin No. 65, “Evaluating Compliance with FCC-Specified Guidelines for Human Exposure to Radio Frequency Radiation,” dated August 1997. Figure 2 describes the calculation methodologies, reflecting the facts that a directional antenna’s radiation pattern is not fully formed at locations very close by (the “near-field” effect) and that at greater distances the power level from an energy source decreases with the square of the distance from it (the “inverse square law”). The conservative nature of this method for evaluating exposure conditions has been verified by numerous field tests.

**Site and Facility Description**

Based upon information provided by AT&T, including zoning drawings by PDC Corporation, dated January 4, 2016, it is proposed to install two Kathrein Model 840-10525 directional panel antennas on top of the existing 39-foot utility pole sited in the public right-of-way across the street from the residence located at 1989 Asilomar Drive in Oakland. The antennas would employ 2° downtilt,\* would be mounted at an effective height of about 49½ feet above ground, and would be oriented toward 0°T and 110°T. The maximum effective radiated power in any direction would be 185 watts, representing simultaneous operation at 80 watts for PCS, 55 watts for cellular, and 50 watts for 700 MHz service. There are reported no other wireless telecommunications base stations at the site or nearby.

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\* Assumed for the purpose of the study.



**AT&T Mobility • DAS Node No. OAKS-054J  
1989 Asilomar Drive • Oakland, California**

**Study Results**

For a person anywhere at ground, the maximum RF exposure level due to the proposed AT&T operation is calculated to be 0.0011 mW/cm<sup>2</sup>, which is 0.22% of the applicable public exposure limit. The maximum calculated level at the second-floor elevation of any nearby residence is 0.24% of the public exposure limit. It should be noted that these results include several "worst-case" assumptions and therefore are expected to overstate actual power density levels from the proposed operation.

**Recommended Mitigation Measures**

Due to their mounting locations and height, the AT&T antennas would not be accessible to unauthorized persons, and so no mitigation measures are necessary to comply with the FCC public exposure guidelines. To prevent occupational exposures in excess of the FCC guidelines, it is recommended that appropriate RF safety training, to include review of personal monitor use and lockout/tagout procedures, be provided to all authorized personnel who have access to the roof, including employees and contractors of AT&T and of the City. No access within 3 feet directly in front of the antennas themselves, such as might occur during certain maintenance activities high on the pole, should be allowed while the base station is in operation, unless other measures can be demonstrated to ensure that occupational protection requirements are met. It is recommended that explanatory signs<sup>†</sup> be posted at the antennas and/or on the pole below the antennas, readily visible from any angle of approach to persons who might need to work within that distance.

**Conclusion**

Based on the information and analysis above, it is the undersigned's professional opinion that operation of this AT&T node near 1989 Asilomar Drive in Oakland, California, will comply with the prevailing standards for limiting public exposure to radio frequency energy and, therefore, will not for this reason cause a significant impact on the environment. The highest calculated level in publicly accessible areas is much less than the prevailing standards allow for exposures of unlimited duration. This finding is consistent with measurements of actual exposure conditions taken at other operating base stations. Training authorized personnel and posting explanatory signs are recommended to establish compliance with occupational exposure limits.

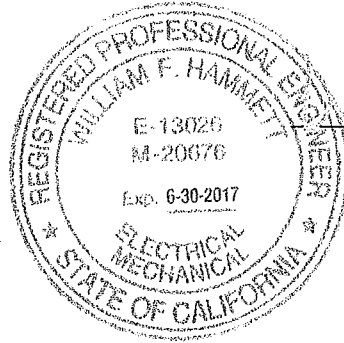
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<sup>†</sup> Signs should comply with OET-65 color, symbol, and content recommendations. Contact information should be provided (e.g., a telephone number) to arrange for access to restricted areas. The selection of language(s) is not an engineering matter, and guidance from the landlord, local zoning or health authority, or appropriate professionals may be required. Signage may also need to comply with the requirements of California Public Utilities Commission General Order No. 95.

AT&T Mobility • DAS Node No. OAKS-054J  
1989 Asilomar Drive • Oakland, California

**Authorship**

The undersigned author of this statement is a qualified Professional Engineer, holding California Registration Nos. E-13026 and M-20676, which expire on June 30, 2017. This work has been carried out under his direction, and all statements are true and correct of his own knowledge except, where noted, when data has been supplied by others, which data he believes to be correct.



*William F. Hammett*

**William F. Hammett, P.E.**

707/996-5200

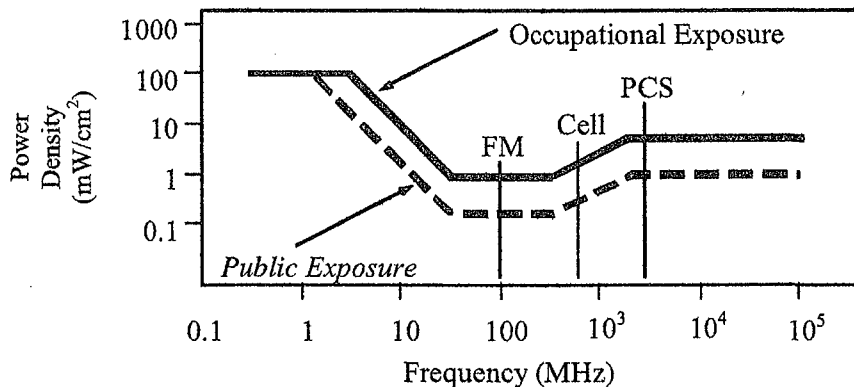
January 14, 2016

## FCC Radio Frequency Protection Guide

The U.S. Congress required (1996 Telecom Act) the Federal Communications Commission (“FCC”) to adopt a nationwide human exposure standard to ensure that its licensees do not, cumulatively, have a significant impact on the environment. The FCC adopted the limits from Report No. 86, “Biological Effects and Exposure Criteria for Radiofrequency Electromagnetic Fields,” published in 1986 by the Congressionally chartered National Council on Radiation Protection and Measurements (“NCRP”). Separate limits apply for occupational and public exposure conditions, with the latter limits generally five times more restrictive. The more recent standard, developed by the Institute of Electrical and Electronics Engineers and approved as American National Standard ANSI/IEEE C95.1-2006, “Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 kHz to 300 GHz,” includes similar limits. These limits apply for continuous exposures from all sources and are intended to provide a prudent margin of safety for all persons, regardless of age, gender, size, or health.

As shown in the table and chart below, separate limits apply for occupational and public exposure conditions, with the latter limits (in *italics* and/or dashed) up to five times more restrictive:

Frequency Applicable Range (MHz)	Electromagnetic Fields ( <i>f</i> is frequency of emission in MHz)					
	Electric Field Strength (V/m)		Magnetic Field Strength (A/m)		Equivalent Far-Field Power Density (mW/cm <sup>2</sup> )	
0.3 – 1.34	614	<i>614</i>	1.63	<i>1.63</i>	100	<i>100</i>
1.34 – 3.0	614	<i>823.8/f</i>	1.63	<i>2.19/f</i>	100	<i>180/f<sup>2</sup></i>
3.0 – 30	1842/f	<i>823.8/f</i>	4.89/f	<i>2.19/f</i>	900/f <sup>2</sup>	<i>180/f<sup>2</sup></i>
30 – 300	61.4	<i>27.5</i>	0.163	<i>0.0729</i>	1.0	<i>0.2</i>
300 – 1,500	3.54√ <i>f</i>	<i>1.59√f</i>	√ <i>f</i> /106	<i>√f/238</i>	<i>f/300</i>	<i>f/1500</i>
1,500 – 100,000	137	<i>61.4</i>	0.364	<i>0.163</i>	5.0	<i>1.0</i>



Higher levels are allowed for short periods of time, such that total exposure levels averaged over six or thirty minutes, for occupational or public settings, respectively, do not exceed the limits, and higher levels also are allowed for exposures to small areas, such that the spatially averaged levels do not exceed the limits. However, neither of these allowances is incorporated in the conservative calculation formulas in the FCC Office of Engineering and Technology Bulletin No. 65 (August 1997) for projecting field levels. Hammett & Edison has built those formulas into a proprietary program that calculates, at each location on an arbitrary rectangular grid, the total expected power density from any number of individual radio sources. The program allows for the description of buildings and uneven terrain, if required to obtain more accurate projections.

## RFR.CALC™ Calculation Methodology

### Assessment by Calculation of Compliance with FCC Exposure Guidelines

The U.S. Congress required (1996 Telecom Act) the Federal Communications Commission ("FCC") to adopt a nationwide human exposure standard to ensure that its licensees do not, cumulatively, have a significant impact on the environment. The maximum permissible exposure limits adopted by the FCC (see Figure 1) apply for continuous exposures from all sources and are intended to provide a prudent margin of safety for all persons, regardless of age, gender, size, or health. Higher levels are allowed for short periods of time, such that total exposure levels averaged over six or thirty minutes, for occupational or public settings, respectively, do not exceed the limits.

#### Near Field.

Prediction methods have been developed for the near field zone of panel (directional) and whip (omnidirectional) antennas, typical at wireless telecommunications base stations, as well as dish (aperture) antennas, typically used for microwave links. The antenna patterns are not fully formed in the near field at these antennas, and the FCC Office of Engineering and Technology Bulletin No. 65 (August 1997) gives suitable formulas for calculating power density within such zones.

For a panel or whip antenna, power density  $S = \frac{180}{\theta_{BW}} \times \frac{0.1 \times P_{net}}{\pi \times D \times h}$ , in mW/cm<sup>2</sup>,

and for an aperture antenna, maximum power density  $S_{max} = \frac{0.1 \times 16 \times \eta \times P_{net}}{\pi \times h^2}$ , in mW/cm<sup>2</sup>,

where  $\theta_{BW}$  = half-power beamwidth of the antenna, in degrees, and

$P_{net}$  = net power input to the antenna, in watts,

$D$  = distance from antenna, in meters,

$h$  = aperture height of the antenna, in meters, and

$\eta$  = aperture efficiency (unitless, typically 0.5-0.8).

The factor of 0.1 in the numerators converts to the desired units of power density.

#### Far Field.

OET-65 gives this formula for calculating power density in the far field of an individual RF source:

power density  $S = \frac{2.56 \times 1.64 \times 100 \times RFF^2 \times ERP}{4 \times \pi \times D^2}$ , in mW/cm<sup>2</sup>,

where ERP = total ERP (all polarizations), in kilowatts,

RFF = relative field factor at the direction to the actual point of calculation, and

$D$  = distance from the center of radiation to the point of calculation, in meters.

The factor of 2.56 accounts for the increase in power density due to ground reflection, assuming a reflection coefficient of 1.6 (1.6 x 1.6 = 2.56). The factor of 1.64 is the gain of a half-wave dipole relative to an isotropic radiator. The factor of 100 in the numerator converts to the desired units of power density. This formula has been built into a proprietary program that calculates, at each location on an arbitrary rectangular grid, the total expected power density from any number of individual radiation sources. The program also allows for the description of uneven terrain in the vicinity, to obtain more accurate projections.



Planning and Building  
Department

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# ZONING CODE BULLETIN

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**DATE EFFECTIVE:** April 8, 2015 (original issue date: April 23, 2013)

**ZONING TOPICS:** Exclusions from the Telecommunications Regulations (Chapter 17.128) for minor modifications to existing telecommunications facilities and Applications for Joint Utility Pole Mounted Telecommunications Facilities

**PERTINENT CODE SECTION:** 17.128.020 Telecommunications Regulations/Exclusions, 17.128.025 Restrictions on telecommunications facilities; 17.136 Design Review Procedure

**QUESTIONS:**

- (1) How does the Planning and Zoning Division interpret and process applications for proposed modifications subject to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (codified at 47 U.S.C. 1455) ("Section 6409(a)") as implemented by 47 C.F.R. 1.40001 ("FCC Regulations"); this relates to what constitutes a "minor modification" to an existing telecommunications facility for purposes of exclusion from zoning approvals under Section 17.128.020 of the Planning Code; and
- (2) How does the Planning and Zoning Division interpret Section 17.128.025 of the Planning Code and process applications for proposed joint (utility) pole mounted telecommunications facilities subject to California Public Utilities Code section 7901?

**QUESTION 1) Section 6409(a)**

Section 6409(a) and recently adopted FCC Regulations that implement Section 6409(a) mandate approval of requests for specified modifications to existing telecommunications facilities that do not "substantially change" the physical dimensions of the telecommunication facilities. Requests for such modifications are quite routine, and typically involve replacements of antennas, equipment cabinets, and other related equipment. Section 17.128.020 of the Planning Code exempts "minor modifications of existing wireless communications facilities" from the City's Telecommunications Regulations. The purpose of this Zoning Code Bulletin is to clarify that "minor modifications" to existing telecommunications facilities shall be those modifications that fall within the scope of Section 6409(a) and the FCC Regulations, to describe the City's interpretation of Section 6409(a) and the FCC Regulations, and to update applicable timelines for processing of such applications. *Projects subject to Section 6409 have been subject to a Small Project Design Review ("DS-1"), generally decided by staff at the Zoning Counter; under updated regulations mandated by the FCC, a wider range of projects will now be subject to a DS-1 Zoning Permit procedure (See Sections C1-3 & D1-4, below).*

A. Overview. To the extent expressly required by Section 6409(a) and the FCC Regulations, previously approved telecommunications facilities may be modified in a manner that does not substantially change the physical dimensions of the telecommunications facility's Tower or Base Station as set forth in sections (C) and (D) below.

B. Definitions. Terms used in this Zoning Code Bulletin have the following meanings:

1. "Base Station" means a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network, including (a) equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul and (b) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small-cell networks). Base Station does not include Tower.

2. "Collocation" means the mounting or installation of transmission equipment on the Base Station or Tower of an existing telecommunication facility for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

3. "Site" means (a) for Towers other than Towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the Site, and, (b) for all other Towers or Base Stations, further restricted to that area in proximity to the Tower or Base Station and to other Transmission Equipment already deployed on the ground.

4. "Transmission Equipment" means equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

5. "Tower" means any structure built for the sole or primary purpose of supporting any Commission-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

C. Towers Outside of the ROW. Any request to modify a Tower located outside of the public right of way for the Collocation, removal or replacement of Transmission Equipment shall be approved pursuant to section (E) unless it meets any of the following criteria:

1. It increases the height of the Tower by more than ten percent (10%) or by the height of one (1) additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater;

2. It involves adding an appurtenance to the body of the Tower that would protrude from the edge of the Tower more than twenty (20) feet, or more than the width of the Tower structure at the level of the appurtenance, whichever is greater;

3. It involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four (4) cabinets;
4. It entails any excavation or deployment outside the Site;
5. It would defeat the concealment elements of the Tower;
6. It does not comply with existing conditions of approval for the Tower provided that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in this subsection; or
7. It does not comply with applicable building codes or other applicable health and safety standards.

D. Other Telecommunications Facilities. Any request to modify a Base Station or a Tower located within the public right of way for the Collocation, removal or replacement of Transmission Equipment shall be approved pursuant to section (E) unless it meets any of the following criteria:

1. It increases the height of the structure by more than ten percent (10%) or more than ten (10) feet, whichever is greater;
2. It involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet;
3. It involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four (4) cabinets;
4. It involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten percent (10%) larger in height or overall volume than any other ground cabinets associated with the structure;
5. It entails any excavation or deployment outside the Site;
6. It would defeat the concealment elements of the Tower or Base Station;
7. It does not comply with existing conditions of approval for the Tower or Base Station provided that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in this subsection; or
8. It does not comply with applicable building codes or other applicable health and safety standards.

E. Zoning Manager Review and Approval.

1. Any applicant requesting review pursuant to Section 6409(a) and/or the FCC Regulations shall do so at the time the initial application is filed with the City and shall submit a photo-simulation of the proposed modification and a RF (Radio Frequency) emissions report, prepared by a licensed professional engineer or other expert, indicating that the proposed site will operate within the current acceptable thresholds as established by the Federal government or any such agency who may be subsequently authorized to establish such standards. However, projects involving accessory equipment only and not antennas and/or equipment cabinets need not submit photo-simulations and RF Reports, unless specifically requested for due cause on a case-by-case basis. Moreover, the Zoning Manager shall accept such application upon payment of the applicable fee. Except as otherwise provided, the application shall be considered a "minor modification" under Section 17.128.020 of the Planning Code and shall be processed as a Small Project Design Review under Section 17.136.030 of the Planning Code.

2. Upon application submittal, the Zoning Manager shall review the application to determine if it meets the requirements of section (C) or (D). The Zoning Manager may require additional information from the applicant as necessary to make this determination. Subject to section (F), the Zoning Manager shall approve a request that meets the criteria of section (C) or (D). However, the Zoning Manager may condition the approval on compliance with applicable building codes or reasonable health and safety standards.

3. The timeline ("shot clock") for the Zoning Manager to review applications for compliance with Section 6409(a) is 60 days from the date the application is filed and accepted by the City, and the shot clock is tolled or paused if an application is deemed incomplete. The City must send written notice of incompleteness specifically identifying all missing documents and information within 30 days of receipt, and must send written notice of incompleteness no later than 10 days following a supplemental submission to notify the applicant if the supplemental submission did not provide information identified in the prior notice. Alternatively, the applicant and the Zoning Manager may agree to extend or toll the shot clock.

F. Effect of Changes to Federal Law. This section does not and shall not be construed to grant any rights beyond those granted by Section 6409(a) as implemented by the FCC Regulations. In the event Section 6409(a) or the FCC Regulations are stayed, amended, revised or otherwise not in effect, no modifications to a telecommunications facility shall be approved under section (E).




**QUESTION 2) California Public Utilities Code section 7901**

Section 17.128.025 of the Planning Code, which provides, “[a]ny Telecommunications Facility shall not be permitted in, or within one hundred (100) feet of the boundary of, any residential zone, HBX Zone, or D-CE-3 or D-CE-4 Zone, except upon the granting of a major conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134”, does not apply to telecommunications facilities located on joint utility poles located in the public right of way.

The California Public Utilities Code provides certain telecommunications companies with a right to construct telecommunications facilities “in such manner and at such points as not to incommode the public use of the road or highway”, and states that “municipalities shall have the right to exercise reasonable control as to the time, place, and manner in which roads, highways, and waterways are accessed.” (Cal. Pub. Util. Code, §§ 7901, 7901.1.) In 2009, the Ninth Circuit Court of Appeal held that the City may consider aesthetics with respect to the siting of telecommunications facilities within its rights-of-way (see Sprint PCS Assets, LLC v. City of Palos Verdes Estates (9<sup>th</sup> Cir. 2009) 583 F.3d 716, 725). Based on this decision, the City began requiring Design Review for the co-location of telecommunications facilities on existing utility infrastructure located within the rights-of-way, whereas previously these co-location projects had undergone only a ministerial review process (see Planning Commission director’s report dated November 17, 2010).

Thus, applications for the co-location of telecommunications facilities on joint utility poles located in the public right of way are subject only to Regular Design Review with additional Design Review findings for Macro Telecommunications Facilities (and any other additional Design Review findings required by the Zoning District), and are decided by the Planning Commission as a Major Permit. In addition to regular and additional design review criteria, these facilities are also subject to the Site Design and Location Preference requirements contained in Chapter 17.128.

**REVIEWED AND APPROVED BY:**



**Scott Miller**  
**ZONING MANAGER**

**Date Issued: July 15, 2015**

**REFERENCES**

- Planning Code Chapters 17.128, 136