

CITY OF OAKLAND

# AGENDA REPORT

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

**FROM:** Rachel Flynn, Director  
Planning & Building  
Department

**SUBJECT:** 6846 Saroni Drive Utility Pole  
Telecommunications Project Appeal

**DATE:** December 8, 2015

City Administrator Approval

Date:

11/23/15

## RECOMMENDATION

**Planning Staff Recommends That The City Council Conduct A Public Hearing And Upon Conclusion Adopt A Resolution Denying Appeal #PLN15149-A01 and Upholding the Decision of the City Planning Commission to Approve Regular Design Review to Install Telecommunications Facility Onto a Replacement Utility Pole Located in the Public Right-of-Way Fronting the Lot Line At 6846 Saroni Drive**

## EXECUTIVE SUMMARY

On July 15, 2015, the Planning Commission held a public hearing and approved an application submitted by New Cingular Wireless PCS, LLC d/b/a AT&T Mobility ("the Applicant") for a Regular Design Review with additional telecommunications findings to replace an existing utility pole with a new utility pole and add two antennas to the new utility pole, and mount associated equipment in a singular cabinet on the utility pole. On July 24, 2015, the appellant, Mr. David Benedetti ("the Appellant"), a neighbor who lives directly across the street on 6822 Chambers Drive, filed a timely Appeal of the Planning Commission's decision (#PLN15149-A01). Staff recommends the City Council deny the Appeal and uphold the Planning Commission's decision to approve the application.

## BACKGROUND / LEGISLATIVE HISTORY

### *Local Government Zoning Authority*

In 2009, a State Supreme Court decision provided Oakland with design review discretion over telecommunications projects when located in the public right-of-way. Prior to this decision, these types of projects were not subject to Zoning permits. Telecommunications 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.

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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 May 11, 2015, a representative for AT&T submitted a Regular Design Review application to the Bureau of Planning to install a telecommunications facility by replacing an existing utility pole located in the public right-of-way. The proposal was to replace an existing 39'-9" Joint Pole Authority ("JPA") utility pole with a new JPA utility pole owned by PG&E and attach two panel antennas (each is two feet long, 10 inches wide) to the top, extending to a height of 48'-3" above ground, located in the City public right-of-way adjacent to 6846 Saroni Drive, and to mount a singular equipment box, as case #PLN15149 ("Project" or "Application").

#### *Application Review and Decision*

The site is in a section of the public right-of-way along Saroni Drive containing a 39'-9" wooden utility pole. This section of road contains no sidewalk. The surrounding area consists of a hillside residential neighborhood with single-family homes. To the rear of the site are single family homes on upslope lots.

The proposal is to replace an existing JPA utility pole, in the same location, with a new wooden pole at a taller height and attach telecommunications antennas on top of the utility pole and install associated equipment to enhance wireless telecommunications services (i.e., cellular telephone and wireless data). The new utility pole, which is required for antenna clearance above overhead utility lines, would result in a top height of 48'-3". The antennas would generally maintain the shape of the pole, and the pole mounted equipment cabinet would be contained in a singular shroud. Both the equipment cabinet and antennas would be painted matte (non-reflective) brown to match the color and finish of the wooden pole.

For the subject application adjacent to 6846 Saroni Drive, staff visited the site and utilized internet aerial images. Staff did not discern a view issue, given the elevation of homes uphill from the utility pole and the presence of a ridge to the southwest of the site. In consideration of the proposal, but without having access to certain vantage points on private property during a site visit, staff recommended Planning Commission approval of this application with consideration given to the surrounding context of large trees providing further concealment of the facility in a location that does not generate a large volume of pedestrian foot traffic. In addition, the Application met Regular Design Review findings required for approval and additional findings for telecommunications facilities. A site design alternatives analysis and a satisfactory emissions report were also submitted.

The City publicly noticed the project for seventeen (17) days for the Planning Commission hearing of July 15, 2015. Staff did not receive evidence of potential view obstructions during this period. At the hearing on July 15, 2015, evidence was presented to indicate a potential

view obstruction, and the Planning Commission approved (by a vote of 3-0, with 1 abstention) the requested planning permit for the Project. On July 24, 2015, the Appellant filed an Appeal on behalf of himself (**Attachment A**). The bases of the appeal were: (1) staff's misapplication of Design Review Criteria findings (2) Appellant claims the facility is a monopole and requires a major Conditional Use Permit (3) Appellant claims the height of the pole exceeds the allowable height limit of a monopole facility (4) Appellant claims the facility is a macro telecommunications facility and requires a Conditional Use Permit (5) Appellant claims the new pole will block a protected view. On July 24, 2015, the Appellant submitted additional materials, including photographs, to the City that are attached to this Appeal as **Attachment A**.

### **ANALYSIS AND POLICY ALTERNATIVES**

The Planning Code indicates that for an appeal of a Planning Commission decision on a Regular Design Review:

*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. (OMC Sec. 17.132.070(A).)*

*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.)*

Below are the primary issues presented by the Appellant in his Appeal and staff's response to each issue.

#### **Appellant's Issue #1:**

The Planning Commission misapplied Design Review Criteria.

#### **Staff Response:**

The Planning Commission properly applied the Regular Design Review Criteria and additional design review criteria for Macro Facilities to this Project, which is 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 and zoning code bulletin dated August 5, 2015) (**Attachment C**). Thus, applications for the co-

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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.

**Appellant's Issue #2:**

The facility is a monopole and requires a major Conditional Use Permit.

**Staff's Response**

The existing JPA pole is connected to communication lines, primary power lines, and secondary power lines, and the replacement JPA pole will also be connected to these same lines. This pole is not a monopole, which is defined as a wireless communication facility that only supports wireless communications antennas. (Planning Code, sec. 17.10.900.)

As stated above (Staff's Response to Appellant's Issue #1), the City has issued a Zoning Code Bulletin specifically stating that Section 17.128.025 (which requires a major conditional use permit for certain telecommunications facilities in or near the boundary of certain zones) does not apply to telecommunications facilities on joint utility poles located in the public right of way. It was only after the Palos Verdes Estates decision in 2009 that the City began requiring Design Review for these facilities. Before that decision these types of facilities were only subject to ministerial review process.

**Appellant's Issue #3**

Appellant claims the height of the pole exceeds the allowable height limit of a monopole facility.

**Staff's Response:**

As stated above, since the replacement JPA pole will continue to support telephone and power lines, the facility is not a "Monopole", which is defined as a facility that only supports wireless communications antennas with a monopolar structure erected on the ground, terminating in one or more connecting appurtenances (Planning Code, Sec. 17.10.900). As a result, the height limits that apply to monopole facilities do not apply here. The appellant states that pole is in excess of the maximum height for a monopole of 45', as stated above the facility is not a monopole.

The project requires an increase in the height of the JPA utility pole from 39'-9" to 48'-3" due to California Public Utility Commission (CPUC) General Order 95, concerning overhead line design, construction and maintenance, which requires a minimum of 6' separation from power lines to the bottom of the antenna installation. The existing JPA utility pole contains primary power lines at the very top of the pole (39'-9") and in order for the installation to comply with CPUC guidelines, the new pole must increase its height and results in the proposed 48'-3" JPA pole. The new pole height will remain surrounded by a shroud of existing trees and will be finished in a manner that will minimize visual disturbance to the hillside residential context.

#### **Appellant's Issue #4**

Appellant claims the facility is a macro telecommunications facility and requires a Conditional Use Permit.

#### **Staff's Response:**

The Bureau of Planning and Zoning's longstanding practice and policy has been to process JPA replacement pole applications with non-residential Design Review findings and an additional set macro facilities findings per the definition of the macro facility type (Planning Code, Sec. 17.10.890) capturing any facility not meeting the definition of a micro, mini, monopole, or lattice tower. Since the replacement JPA pole will remain serving other public utilities it is not defined as a mini, micro, monopole, or lattice tower then it does not require a Conditional Use Permit.

#### **Appellant's Issue #5**

Appellant claims the new pole will block a protected view.

#### **Staff's Response:**

The proposed facility will not be taller than the existing tress surrounding the replacement JPA pole along Saroni or Chambers Drive. The pole will not further obstruct or block any significant view that any of the existing trees near the facility. The proposed replacement JPA pole will not obstruct a "significant view" as defined in the Oakland Design Review Manual for One and Two unit residences. A significant view is defined as follows:

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.
4. A prominent structural landmark such as University of California Berkeley Campanile, Mormon Temple, etc.

#### **FISCAL IMPACT**

This appeal action would have no fiscal impact.

#### **PUBLIC OUTREACH / INTEREST**

The appeal was publicly noticed to "the applicant" and "the appellant" pursuant to Oakland Planning Code on the City website and City Hall Public Notice Kiosk.

## **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 have no economic impact

**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). 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, 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,



Rachel Flynn, Director  
Planning and Building Department

Reviewed by:  
Scott Miller, Zoning Manager

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

Attachments (#):

- A. **Appeal #PLN15149-A01, filed July 24, 2015**
- B. **July 15, 2015 Planning Commission Staff Report with Attachments**
- C. **Planning Commission Director's Report with attached Zoning Code Bulletin from August 5, 2015**

# ATTACHMENT A



## CITY OF OAKLAND

### APPEAL FORM

## FOR DECISION TO PLANNING COMMISSION, CITY COUNCIL OR HEARING OFFICER

#### PROJECT INFORMATION

Case No. of Appealed Project: PLN15149  
Project Address of Appealed Project: 6846 Saroni Drive Oak 94611  
Assigned Case Planner/City Staff: Jose M. Herrera-Preza

#### APPELLANT INFORMATION:

Printed Name: David Benedetti Phone Number: 510-339-6376  
Mailing Address: 6322 Chambers Drive Alternate Contact Number: 510-363-1246  
City/Zip Code Oakland 94611 Representing: David Benedetti  
Email: forestwinsun@yahoo.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)



**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) OPC Sec 17.128.070 Macro Facilities

**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.

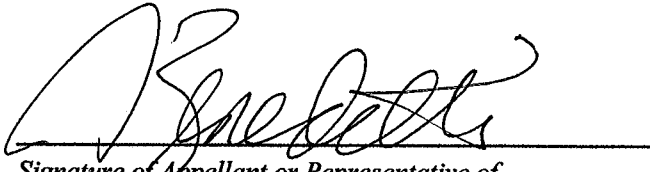
You must raise each and every issue you wish to appeal on this Appeal Form (or attached additional sheets). Failure to raise each and every issue you wish to challenge/appeal on this Appeal Form (or attached additional sheets), and provide supporting documentation along with this Appeal Form, may preclude 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.)*

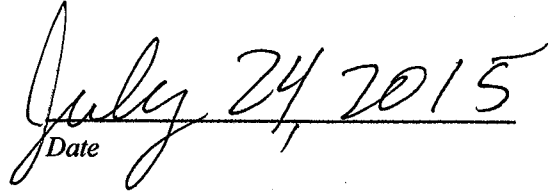
Refer to Attachments.

**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)

A handwritten signature in cursive script, appearing to read "B. Smith", written over a horizontal line.

Signature of Appellant or Representative of  
Appealing Organization

A handwritten date "July 24, 2015" written in cursive script over a horizontal line.

Date

Date/Time Received Stamp Below:

Below For Staff Use Only

Cashier's Receipt Stamp Below:

Appeal to Oakland City Council  
Major Use Permit  
Planning Commission  
Case File Number PLN 15149

This appeal to the Oakland City Council is that the Planning Commission's decision is based on an error in evidence that the proposed project does not comply with the criteria the code 17.128.070 but more closely conforms with criteria in the code 17.128.080 as provided by the Oakland Planning Commission's Staff Report Case File Number: PLN15149 dated July 15, 2015.

The Staff Report's on page 1 Planning Permits Required: Regular Design Review (non-residential) to install a wireless Macro Telecommunications Facility (17.136.050 (B)(2); additional finding for a Macro Facility OMC Sec. 17.128.070 (B)(C).

The Staff Report's page 10 Conditions of Approval PLN15149 Standard Conditions 1. Approval Use b) This action by the City Planning Commission ("the Approval") includes the approvals set forth below. This Approval includes: To install a wireless Telecommunication Facility (AT&T wireless) through the replacement of an existing 39' foot tall JPA utility pole located in the public right-of-way onto a new JPA pole at 48'-3" high on the pole in the same location; includes two panel antennas, an associated equipment box, one battery backup and meter boxes within a 6' tall by 18" wide equipment box attached to the pole at 10'-10" above the ground, under Oakland Municipal Code 17.128 and 17.136. (Please note that JPA is Joint Pole Authority. This is not included within the above Conditions of Approval.)

In clarification 17.01.010 Title Planning Code. This title shall be known as the Oakland Planning Code, may cited as such, and be referred to herein by such title or as "the code."

In clarification the title Macro Telecommunications Facility is a Use Classification in the code Chapter 17.10 Use Classifications.

In clarification OMC Sec. 17.128.070 (B)(C) is an error and is in the code 17.128.070 Macro Facilities A, B, and C.

In clarification Oakland Municipal Code 17.128 and 17.136 are errors and are in the code Chapter 17.128 Telecommunications Regulations and the code Chapter 17.136 Design Review Procedure.

The General Development Standards criteria determine if a project is a Macro Facilities and may be granted a Conditional Use Permit.

The Staff Report's Elevations and Riser Architectural Drawing A2 with Existing Elevation North East and Proposed Elevation North East shows the height for the existing JPA utility pole at 39'-0" and for the new replacement JPA utility pole to Proposed Antennas Top at 48'-3".

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The Residential Roof line at 6846 Saroni is below street level and only visible from downside slope edge of Saroni street.

The Residential Roof line at 6852 to the right of the parked car is about 9 feet 5 inches above street level with about a 3 foot drop from the existing utility pole as shown in Staff Report Advance Sim Photo Solutions View from Saroni Dive looking east at site. The top of Residential Roof 6852 Saroni is shown in the Living Room Windows Photo presented as evidence to the Planning Commission at meeting July 15, 2015 by speaker David Benedetti (attachment is a copy of this evidence). In the Photo's left window to right and below the existing utility pole is the whitish colored roof top to 6852 Saroni. The Staff Report's Site Plan Architectural Drawing A1 shows the Residential locations by street address, although, the Residential street address for 6852 Saroni is not shown because it is partially covered by PROPOSED EQUIPMENT AREA.

The Residential Roof line for 6852 Saroni is approximately 41 feet below the proposed antennas installation ( $48+3-10=41$ ).

The proposed antennas top installation exceed the maximum height limit for a ground post by 31 feet ( $48-17=31$ ).

The General Development Standards criteria for Macro Facilities has existing pole, existing Roof line and parapet, and height limits to antennas mounted tops. The removal an existing 39 foot pole utility pole and replacing it with a new a new 48 foot 3 inch utility pole does not comply to the criteria of existing pole. The installation of antennas 41 foot above existing roof line does not comply to the criteria the height limitation specified for all zones but may not exceed fifteen (15) feet above the roof line or parapet. The installation of antennas top at 48'-3" does not comply to the height limit and exceeds by 31 feet the Ground post mounted Macro Facilities height limit of seventeen (17) feet to the top of the antenna.

The proposed project fails to comply with the criteria of the code 17.128.070 Macro Facilities A. General Development Standards: 1. The Macro Facilities shall be located on existing buildings, poles or other existing support structures, or shall be post mounted. 3. Macro Facilities may exceed the height limitation specified for all zones but may not exceed fifteen (15) feet above the roof line or parapet. Placement of an antenna on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure. 4. Ground post mounted Macro Facilities must not exceed seventeen (17) feet to the top of the antenna.

This proposed project is misclassified and fails to meet the criteria for General Development Standards Macro Facilities and should not be titled Macro

Appeal to Oakland City Council  
Major Use Permit  
Planning Commission  
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Telecommunications Facility for Use Classification. Further, this proposed project as Macro Telecommunications Facility should not be granted a Conditional Use Permit Criteria for Macro Facilities.

The General Development Standards criteria determines if a project is a Macro Facilities and may be granted a Conditional Use Permit.

The Staff Report's Elevations and Riser Architectural Drawing A2 with Existing Elevation North East and Proposed Elevation North East shows the height for the existing JPA utility pole at 39'-0" and for the new replacement JPA utility pole to Proposed Antennas Top at 48'-3".

The General Development Standards criteria for the Monopole has a maximum height of 45 feet and may be increased above the maximum of 45 feet upon the granting of a Conditional Use Permit. The proposed project shows the Proposed Antennas Top at 48'-3" and shows the new replacement utility pole at 48 feet 3 inches exceeding the maximum height of General Development Standards criteria for the Monopole at 45 feet by 3 feet 3 inches. The proposed project height of 48 feet 3 inches specifically includes and designates that this proposed project is in Monopole and that the title in the Use Classification is Monopole Telecommunications Facilities.

This proposed project complies more closely to the criteria for General Development Standards Monopole and appropriately should be titled Monopole Telecommunications Facility for Use Classification. Further, this proposed project ought to be resubmitted as Monopole Telecommunications Facility in order to be granted a Conditional Use Permit and the applicant resubmitted proposal project ought to adhere to Monopole Facilities criteria as required.

In this instant the Code 17.128.070 Macro Facilities has been misapplied and the pending Conditional Use Permit does not qualify under the terms of the code 17.128.070 Macro Facilities. The parameters of new replacement JPA utility pole to Proposed Antennas Top at 48'-3" of this proposed project more fully fit the criteria of the code 17.128.080 Monopoles A. General Development Standards for Monopoles 4. In all zones other than the D-CE-5, D-CE-6, IG, CIX-2, and IO Zones, the maximum height of Monopole Telecommunications Facilities and connecting appurtenances may be increased from the otherwise required maximum height to forty-five (45) feet upon the granting of a Conditional Use Permit (see Chapter 17.134 for the Conditional Use Permit Procedure).

Case File Number: PLN15149

July 15, 2015

**Location:** The Public Right-of-Way at Saroni Dr. (Adjacent to 6846 Saroni Dr.)  
(See map on reverse)

**Assessor's Parcel Numbers:** (048E-7329-038-00) nearest lot adjacent to the project site.

**Proposal:** Alternative site location in response to PLN14040 & PLN14040-A01 for the installation of a wireless telecommunication facility on a new public utility pole in the right-of-way on Saroni Dr.; two panel Kathrein antennas mounted at approximately at 48'-3" pole height; and associated equipment box (6' tall by 18" wide); one battery backup, and one meter box attached to the new pole, at a height of between 10'-10" above ground in public right of way.

**Applicant:** New Cingular Wireless PCS, LLC. For AT&T Mobility

**Contact Person/ Phone Number:** Matthew Yergovich  
(415)596-3474

**Owner:** City of Oakland

**Case File Number:** PLN15149

**Planning Permits Required:** 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).

**General Plan:** Hillside Residential

**Zoning:** RH-4 Hillside Residential 4 Zone

**Environmental Determination:** 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.

**Historic Status:** Not a Potential Designated Historic Property; Survey rating: N/A

**Service Delivery District:** 2

**City Council District:** 4

**Date Filed:** May 11<sup>th</sup>, 2015

**Finality of Decision:** Appealable to City Council within 10 Days

**For Further Information:** Contact case planner Jose M. Herrera-Preza at (510) 238-3808 or [jherrera@oaklandnet.com](mailto:jherrera@oaklandnet.com)

**SUMMARY**

The proposal is to install a wireless Telecommunications Macro Facility on a replacement Joint Pole Authority (JPA) utility pole located in the public right-of-way along Saroni Drive between Heartwood Dr. and Sayre Dr. 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 48'-3" (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 10'-10" above the ground.

#1

**CONDITIONS OF APPROVAL**

**PLN15149**

**STANDARD CONDITIONS:**

**1. Approved Use**

*Ongoing*

a) The project shall be constructed and operated in accordance with the authorized use as plans, will require a separate application and approval. Any deviation from the approved drawings, Conditions of Approval or use shall required prior written approval from the Director of City Planning or designee.

b) This action by the City Planning Commission ("this Approval") includes the approvals set forth below. This Approval includes: **To install a wireless Telecommunications Facility (AT&T wireless) through the replacement of an existing 39' foot tall JPA utility pole located in the public right-of-way onto a new JPA pole at 48'-3" high on the pole in the same location; includes two panel antennas, an associated equipment box, one battery backup and meter boxes within a 6' tall by 18" wide equipment box attached to the pole at 10'-10" above the ground, under Oakland Municipal Code 17.128 and 17.136.**

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

*Ongoing*

Unless a different termination date is prescribed, this Approval shall expire **two calendar years** from the approval date, 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 permit, 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 for this project may invalidate this Approval if the said extension period has also expired.

**3. Scope of This Approval; Major and Minor Changes**

*Ongoing*

The project is approved pursuant to the **Oakland Planning Code** only. Minor changes to approved plans may be approved administratively by the Director of City Planning or designee. Major changes to the approved plans shall be reviewed by the Director of City Planning or designee to determine whether such changes require submittal and approval of a revision to the approved project by the approving body or a new, completely independent permit.

**4. Conformance with other Requirements**

*Prior to issuance of a demolition, grading, P-job, or other construction related permit*

- a) The project applicant shall comply with all other applicable federal, state, regional and/or local codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City's Building Services Division, the City's Fire Marshal, and the City's Public Works Agency.
- b) The applicant shall submit approved building plans for project-specific needs related to fire protection to the Fire Services Division for review and approval, including, but not
- c) limited to automatic extinguishing systems, water supply improvements and hydrants, fire department access, and vegetation management for preventing fires and soil erosion.

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PLANNING

CODE

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**A Codification of the General Planning Ordinances  
of the City of Oakland, California**

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**Beginning with Supplement No. 31,  
Supplemented by Municipal Code Corporation**



**This Supplement brings the Code up to date through Ordinances  
passed up to April 21, 2015 (effective May 21, 2015).**



**Chapter 17.01 GENERAL PROVISIONS OF PLANNING CODE AND GENERAL PLAN CONFORMITY**

**Sections:**

17.01.010 Title of Planning Code

17.01.020 Title of general provisions.

17.01.030 Conformity with General Plan required.

17.01.040 Exceptions to requirement for General Plan conformity.

17.01.050 General Plan prevails over Planning Code and Subdivision Regulations.

17.01.060 Guidelines for determining General Plan conformity.

17.01.070 Determination of General Plan conformity by Director of City Planning.

17.01.080 Appeal of Director's determination.

17.01.100 Proposals clearly in conformance with General Plan.

17.01.110 Proposals for which General Plan is silent or not clear on conformance.

17.01.120 Proposals clearly not in conformance with the General Plan or the Land Use Diagram.



**17.01.010 Title of Planning Code.**

This title shall be known as the Oakland Planning Code, may be cited as such, and will be referred to herein by such title or as "this Code."

(Ord. 12054 § 2 (part), 1998)

**17.01.020 Title of general provisions.**

The provisions of Chapters 17.01 through 17.05 shall be known as the General Provisions of the Planning Code.

(Ord. 12054 § 2 (part), 1998)

**17.01.030 Conformity with General Plan required.**

Except as otherwise provided by Section 17.01.040, no activities or facilities shall be established, substituted, expanded, constructed, altered, moved, painted, maintained, or otherwise changed, and no lot lines shall be created or changed, except in conformity with the Oakland General Plan. To the extent that there is an express conflict between the Oakland General Plan and the Zoning Regulations, this requirement shall supersede the requirement for conformity with the Zoning Regulations stipulated in Section 17.07.060 (formerly Section 17.02.060).

(Ord. 12054 § 2 (part), 1998)

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3. "Either...or" indicates that the connected items or provisions shall apply singly but not in combination.

I. All public officials, bodies, and agencies to which reference is made are those of the city of Oakland unless otherwise indicated.

J. The word "city" means the city of Oakland.

(Ord. 12054 § 1(c), 1998; prior planning code § 2101)

 **17.09.030 Use classifications.**

Activity types and facility types, the names of which always start with capital letters, are described in the use classifications in Chapter 17.10.

(Ord. 12054 § 1(c), 1998; prior planning code § 2102)

**17.09.040 Definitions.**

**"A' weighted sound level"** means the total sound level in decibels of all sound as measured with a sound level meter with a reference pressure of twenty (20) micropascals using the 'A' weighted network (scale) at slow response. The unit of measurement shall be defined as dBA or dB(a).

**"Access facility width"** means the width of the paved roadway surface curb-to-curb or edge-to-edge, exclusive of shoulders.

**"Accessory activity"** means an activity which is incidental to, and customarily associated with, a specified principal activity, and which meets the applicable conditions set forth in Section 17.10.040.

**"Accessory facility"** means a facility, other than a Sign, which is incidental to, and customarily associated with, a specified principal facility, and which meets the applicable conditions set forth in Section 17.10.070.

**"Accessory structure"** means a building or facility, other than a Sign, which is incidental to, and customarily associated with, a specified principal facility, and which meets the applicable regulations set forth in Title 17 of the Oakland Planning Code.

**"Activity"** means the performance of a function or operation.

**"Activity type"** means a type of activity which is specially described as such by the use classifications in Chapter 17.10 on the basis of common functional characteristics and similar effects on other uses, and which is designated throughout the zoning regulations by a special name each word of which starts with a capital letter.

**"Adult entertainment activity"** means any commercial activity, whether conducted intermittently or full-time, which primarily involves the sale, display, exhibition, or viewing of books, magazines, films, photographs, or other materials, distinguished or characterized by an emphasis on matter depicting, describing, or relating to human sex acts, or by emphasis on male or female genitals, buttocks, or female breasts.

**"Alcoholic beverage"** means alcohol, spirits, liquor, wine, beer, or any liquid or solid containing alcohol, spirits, wine, or beer, which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.



**Chapter 17.128 TELECOMMUNICATIONS REGULATIONS**

**Sections:**

- 17.128.010 Title, purpose, and applicability.
- 17.128.020 Exclusions.
- 17.128.025 Restrictions on telecommunications facilities.
- 17.128.030 Removal of telecommunications facilities.
- 17.128.040 Supplemental definitions.
- 17.128.050 Micro Facilities.
- 17.128.060 Mini Facilities.
- 17.128.070 Macro Facilities.
- 17.128.080 Monopoles.
- 17.128.090 Towers.
- 17.128.100 Regulations apply to parks and other similar open spaces.
- 17.128.110 Site location preferences.
- 17.128.120 Site design preferences.
- 17.128.130 Radio frequency emissions standards.

**17.128.010 Title, purpose, and applicability.**

The provisions of this chapter shall be known as the telecommunications regulations. The purpose and intent of these regulations are to provide a uniform and comprehensive set of standards for the development, location, siting and installation of wireless facilities. These regulations are intended to balance the needs of wireless communications providers, the regulatory functions of the City of Oakland, the mandates of State and Federal law and the potential impacts on the community and neighboring property owners in the design and siting of wireless facilities. The regulations are designed to promote and protect the public health, safety and welfare and the visual quality of the City of Oakland while encouraging the appropriate development of telecommunications activities throughout the city. These regulations shall apply to telecommunications projects.

(Ord. 12768 § 3 (part), 2006; Ord. 11904 § 5.01 (part), 1996: prior planning code § 8500)

**17.128.020 Exclusions.**

The following activities shall be exempt from these regulations:

- A. Ham radio operators;
- B. Microwave dishes;



**Chapter 17.136 DESIGN REVIEW PROCEDURE**

**Sections:**

- 17.136.010 Title, purpose, and applicability.
- 17.136.020 Application.
- 17.136.025 Exemptions from design review.
- 17.136.030 Small project design review.
- 17.136.035 Small project design review criteria.
- 17.136.038 Special project design review.
- 17.136.040 Regular design review.
- 17.136.050 Regular design review criteria.
- 17.136.055 Special regulations for historic properties in the central business district zones.
- 17.136.060 Review by Landmarks Board in certain cases.
- 17.136.070 Special regulations for designated landmarks.
- 17.136.075 Regulations for demolition or removal of CIX-1A zoned properties, designated historic properties, and potentially designated historic properties.
- 17.136.080 Appeal to Planning Commission—Regular design review.
- 17.136.090 Appeal to City Council—Regular design review.
- 17.136.100 Adherence to approved plans.
- 17.136.120 Design review related to conditional use permit, planned unit development, variance, or subdivision.
- 17.136.130 Limitation on resubmission—Small project design review and Special project design review.

**17.136.010 Title, purpose, and applicability.**

The provisions of this chapter shall be known as the design review procedure. The purpose of these provisions is to prescribe the procedure for the review of proposals located in areas or on sites, or involving uses, which require special design treatment and consideration of relationships to the physical surroundings. This procedure shall apply to all proposals for which design review is required by the zoning regulations.

(Prior planning code § 9300)

**17.136.020 Application.**

- A. **Application for Design Review.** Application for design review shall be made by the owner of the affected property, or his or her authorized agent, on a form prescribed by the City

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B. Design Review Criteria for Mini Facilities. In addition to the design review criteria listed in Chapter 17.136, the following specific additional criteria must be met when design review is required before an application can be granted:

1. Antennas should be painted and/or textured to match the existing structure.
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.
3. Where feasible, antennas can be placed directly above, below or incorporated with vertical design elements of a building to help in camouflaging.
4. Equipment cabinets shall be concealed from view or placed underground.
5. 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.
6. For antennas attached to the roof, maintain a 1:1 ratio (example: ten (10) feet high antenna requires ten (10) feet setback from facade) for equipment setback unless an alternative placement would reduce visual impact; treat or screen the antennas to match existing air conditioning units, stairs, elevator towers, or other background; avoid placing roof mounted antennas in direct line with significant view corridors.

C. Conditional Use Permit Criteria for Mini Facilities. In addition to the conditional use criteria listed in Chapter 17.134, the following specific additional criteria must be met before a conditional use permit can be granted:

1. The project must meet the special design review criteria listed in Subsection B of this section.
2. The proposed project must not disrupt the overall community character.
3. In the Residential RH, RD, RM, RU-1, or RU-2 Zones, HBX Zones, and in the D-CE-3 and D-CE-4 Zones, the project must not have any visual impact.

(Ord. No. 13168, § 5(Exh. A-2), 6-18-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 13060, § 2(Exh. A), 3-1-2011; Ord. 12768 § 3 (part), 2006; Ord. 12272 § 4 (part), 2000; Ord. 11904 § 5.01 (part), 1996: prior planning code § 8506)



**17.128.070 Macro Facilities.**

A. General Development Standards for Macro Facilities.

1. The Macro Facilities shall be located on existing buildings, poles or other existing support structures, or shall be post mounted.
2. The equipment shelter or cabinet must be concealed from public view or made compatible with the architecture of the surrounding structures or placed underground. The shelter or cabinet must be regularly maintained.
3. Macro Facilities may exceed the height limitation specified for all zones but may not exceed fifteen (15) feet above the roof line or parapet. Placement of an antenna on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure.

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4. Ground post mounted Macro Facilities must not exceed seventeen (17) feet to the top of the antenna.
  5. The applicant shall submit written documentation demonstrating that the emissions from the proposed project are within the limits set by the Federal Communications Commission.
- B. Design Review Criteria for Macro Facilities. In addition to the design review criteria listed in Chapter 17.136, the following specific additional criteria must be met when design review is required before an application can be granted:
1. Antennas should be painted and/or textured to match the existing structure.
  2. Antennas mounted on architecturally significant structures or significant architectural detail of the building should be covered by appropriate casings which are manufactured to match existing architectural features found on the building.
  3. Where feasible, antennas can be placed directly above, below or incorporated with vertical design elements of a building to help in camouflaging.
  4. Equipment shelters or cabinets shall be screened from the public view by using landscaping, or materials and colors consistent with surrounding backdrop or placed underground or inside existing facilities or behind screening fences.
  5. Equipment shelters or cabinets shall be consistent with the general character of the area.
  6. For antennas attached to the roof, maintain a 1:1 ratio (example: ten (10) feet high antenna requires ten (10) feet setback from facade) 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.
  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.
- C. Conditional Use Permit Criteria for Macro Facilities. In addition to the conditional use criteria listed in Chapter 17.134, the following specific additional criteria must be met before a conditional use permit can be granted:
1. The project must meet the special design review criteria listed in Subsection B of this section.
  2. The proposed project must not disrupt the overall community character.
- (Ord. 12768 § 3 (part), 2006; Ord. 11904 § 5.01 (part), 1996; prior planning code § 8507)



**17.128.080 Monopoles.**

- A. General Development Standards for Monopoles.
1. Applicant and owner shall allow other future wireless communications companies including public and quasi-public agencies using similar technology to collocate antenna equipment and facilities on the monopole unless specific technical or other constraints, subject to independent verification, at the applicant's expense, at the discretion of the City of Oakland Zoning Manager, prohibit said collocation. Applicant and other wireless carriers shall provide a mechanism for the construction and maintenance of shared facilities and infrastructure and shall provide for equitable

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sharing of cost in accordance with industry standards. Construction of future facilities shall not interrupt or interfere with the continuous operation of applicant's facilities.

2. The equipment shelter or cabinet must be concealed from public view or made compatible with the architecture of the surrounding structures or placed underground. The shelter or cabinet must be regularly maintained.
  3. When a monopole is in a Residential zone or adjacent to a residential use, it must be set back from the nearest residential lot line a distance at least equal to its total height.
  4. In all zones other than the D-CE-5, D-CE-6, IG, CIX-2, and IO Zones, the maximum height of Monopole Telecommunications Facilities and connecting appurtenances may be increased from the otherwise required maximum height to forty-five (45) feet upon the granting of a Conditional Use Permit (see Chapter 17.134 for the Conditional Use Permit Procedure).
  5. In the D-CE-5, D-CE-6, CIX-2, and IO Zones, the maximum height of Monopole Telecommunications Facilities and connecting appurtenances may be increased from the otherwise required maximum height to eighty (80) feet upon the granting of a Conditional Use Permit (see Chapter 17.134 for the Conditional Use Permit Procedure).
  6. In the IG Zone, the maximum height of Monopole Telecommunications Facilities and connecting appurtenances may reach a height of forty-five (45) feet. These facilities may reach a height of eighty (80) feet upon the granting of Regular Design Review approval (see Chapter 17.136 for the Design Review Procedure).
  7. The applicant shall submit written documentation demonstrating that the emissions from the proposed project are within the limits set by the Federal Communications Commission.
  8. Antennas may not extend more than fifteen (15) feet above their supporting structure.
- B. Design Review Criteria for Monopoles. In addition to the design review criteria listed in Chapter 17.136, the following specific additional criteria must be met when design review is required before an application can be granted:
1. Collocation is to be encouraged when it will decrease visual impact and collocation is to be discouraged when it will increase negative visual impact.
  2. Monopoles should not be sited to create visual clutter or negatively affect specific views.
  3. Monopoles shall be screened from the public view wherever possible.
  4. The equipment shelter or cabinet must be concealed from public view or made compatible with the architecture of the surrounding structures or placed underground. The shelter or cabinet must be regularly maintained.
  5. Site location and development shall preserve the preexisting character of the surrounding buildings and land uses and the zone district as much as possible. Wireless communication towers shall be integrated through location and design to blend in with the existing characteristics of the site to the extent practical. Existing on-site vegetation shall be preserved or improved, and disturbance of the existing topography shall be minimized, unless such disturbance would result in less visual impact of the site to the surrounding area.

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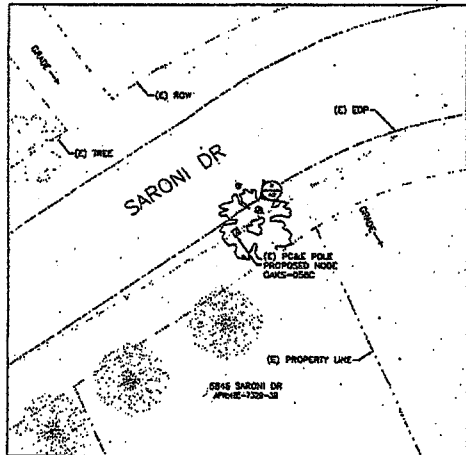
6. That all reasonable means of reducing public access to the antennas and equipment has been made, including, but not limited to, placement in or on buildings or structures, fencing, anti-climbing measures and anti-tampering devices.
- C. **Conditional Use Permit Criteria for Monopoles.** In addition to the conditional use criteria listed in Chapter 17.134, the following specific additional criteria must be met before a conditional use permit can be granted:
1. The project must meet the special design review criteria listed in Subsection B of this section.
  2. Monopoles should not be located any closer than one thousand five hundred (1,500) feet from existing monopoles unless technologically required or visually preferable.
  3. The proposed project must not disrupt the overall community character.
  4. If a major conditional use permit is required, the Planning Director or the Planning Commission may request independent expert review regarding site location, collocation and facility configuration. Any party may request that the Planning Commission consider making such request for independent expert review.
    - a. If there is any objection to the appointment of an independent expert engineer, the applicant must notify the Planning Director within ten (10) days of the Commission request. The Commission will hear arguments regarding the need for the independent expert and the applicant's objection to having one appointed. The Commission will rule as to whether an independent expert should be appointed.
    - b. Should the Commission appoint an independent expert, the Commission will direct the Planning Director to pick an expert from a panel of licensed engineers, a list of which will be compiled, updated and maintained by the Planning Department.
    - c. No expert on the panel will be allowed to review any materials or investigate any application without first signing an agreement under penalty of perjury that the expert will keep confidential any and all information learned during the investigation of the application. No personnel currently employed by a telecommunication company are eligible for inclusion on the list.
    - d. An applicant may elect to keep confidential any proprietary information during the expert's investigation. However, if an applicant does so elect to keep confidential various items of proprietary information, that applicant may not introduce the confidential proprietary information for the first time before the Commission in support of the application.
    - e. The Commission shall require that the independent expert prepare the report in a timely fashion so that it will be available to the public prior to any public hearing on the application.
    - f. Should the Commission appoint an independent expert, the expert's fees will be paid by the applicant through the application fee, imposed by the City.

(Ord. No. 13168, § 5(Exh. A-2), 6-18-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12872 § 4 (part), 2008; Ord. 12768 § 3 (part), 2006; Ord. 12272 § 4 (part), 2000; Ord. 12237 § 4 (part), 2000; Ord. 11904 § 5.01 (part), 1996; prior planning code § 8508)

### **17.128.090 Towers.**

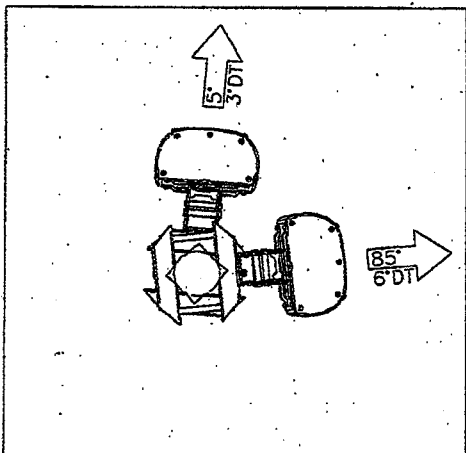
#### **A. General Development Standards for Towers.**





SITE PLAN CLOSEUP

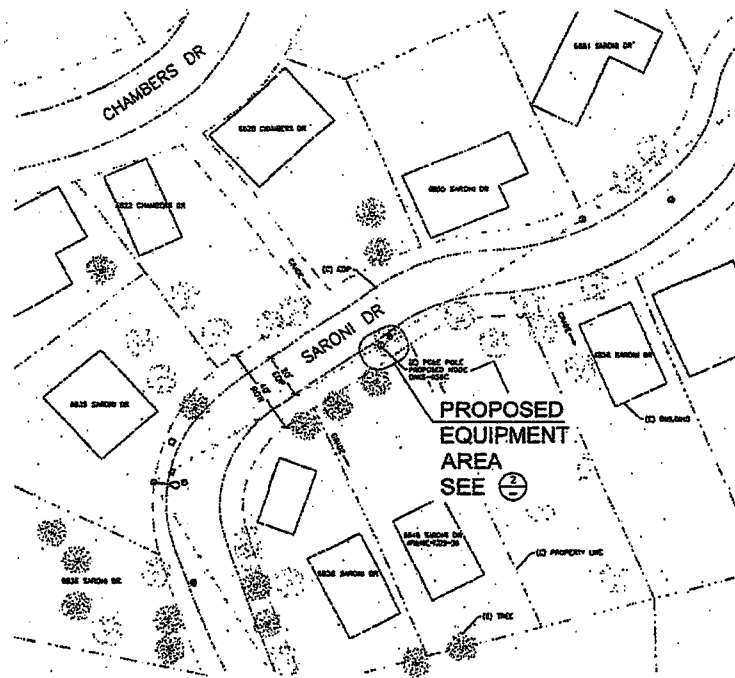
B-SCALE 1"=50'-0"  
D-SCALE 1"=25'-0" 2



ANTENNA AZIMUTHS

SCALE NTS 3

SITE PLAN



0" 15' 30' 45' 60' 75' 90'  
B-SCALE 1"=50'-0"  
D-SCALE 1"=25'-0" 1



NEW CIRCULAR WIRELESS PCS, LLC  
4430 BOSWOOD DR, SUITE 3  
PLEASANTON, CA 94588-3000

PROJECT INFORMATION:

**OAKHILLS AT&T  
SOUTH NETWORK  
NODE 058C**  
8846 SARONI DR.  
OAKLAND, CA 94631

CURRENT ISSUE DATE:

03/10/15

ISSUED FOR:

ZONING

BY: DATE: DESCRIPTION: REV:

BY	DATE	DESCRIPTION	REV
ACI	03/10/15	2th	0

PLANS PREPARED BY:



1-800-825-4ACI  
5711 Research Drive  
Canton, MI 48106

ACI NUMBER: OAKS-058C

CONSTRUCTED BY:



3030 Wrenville Rd, Suite 340  
Lisle, IL 60532  
www.net.com

SEAL OF APPROVAL:

SHEET TITLE:

SITE PLAN

SHEET NUMBER: REVISION:

A1

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03/10/15



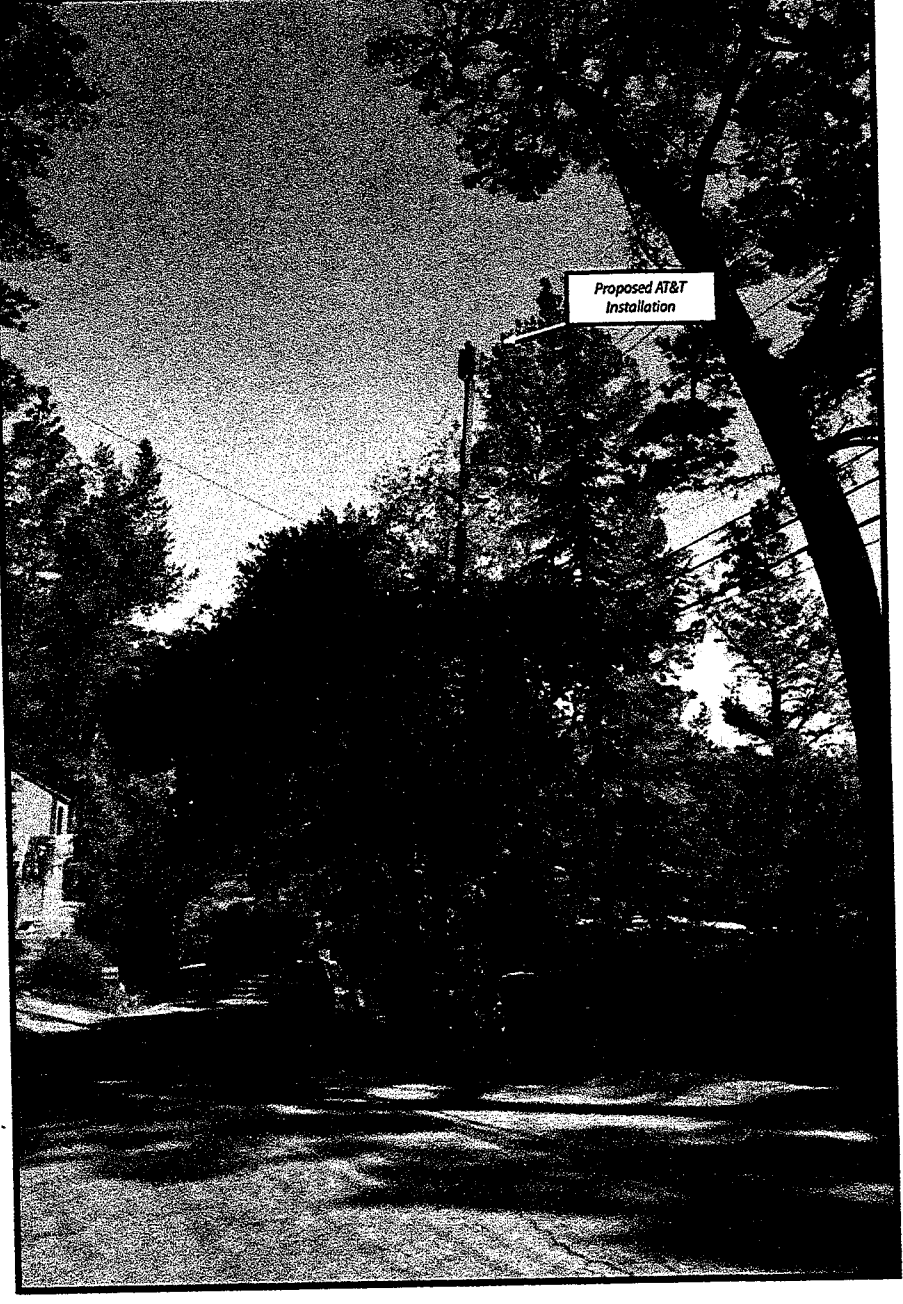
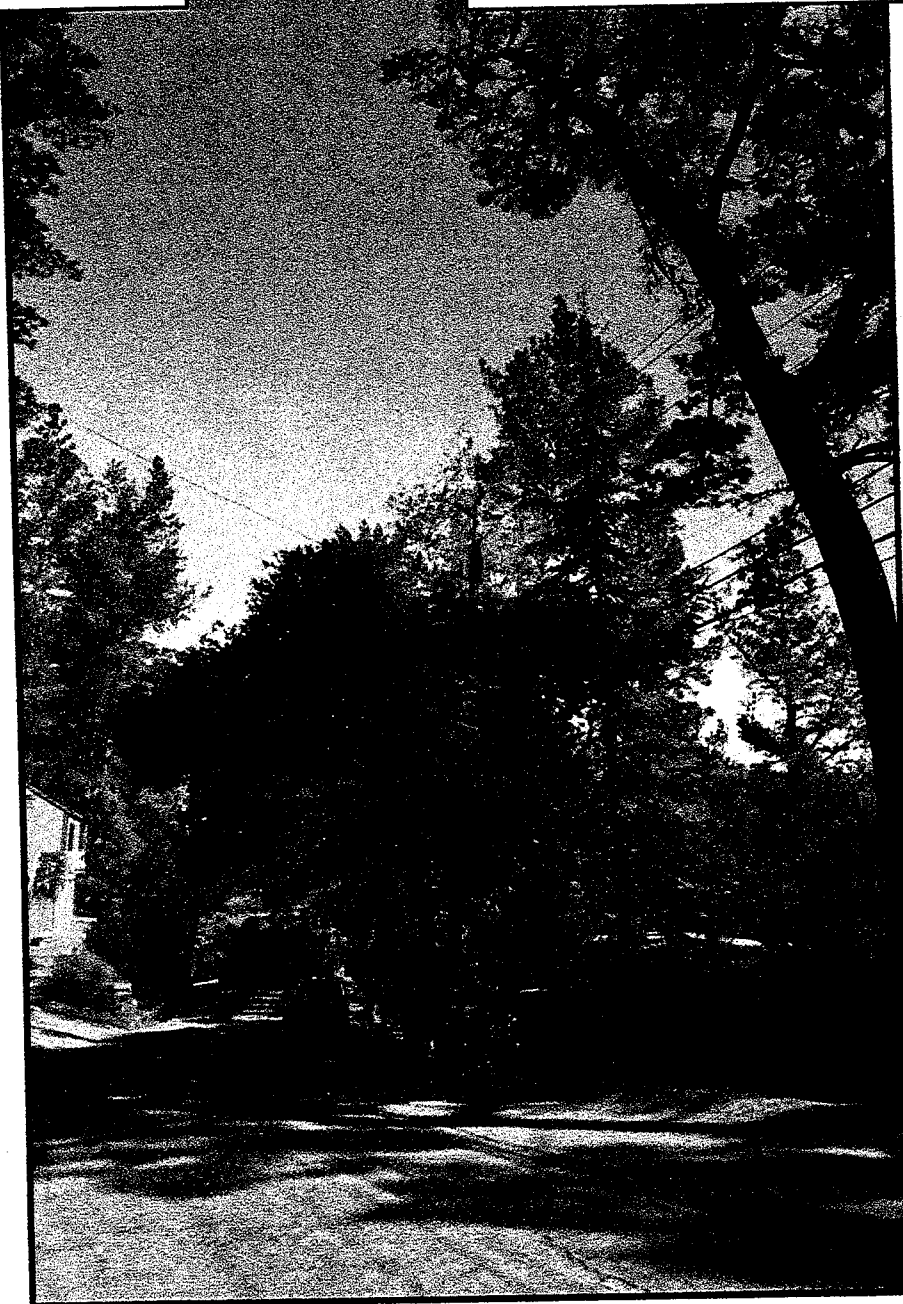
view from Saroni Drive looking east at site



6846 Saroni Drive, Oakland, CA  
Oakhills AT&T South Network Node 058C

**Proposed**

**Existing**

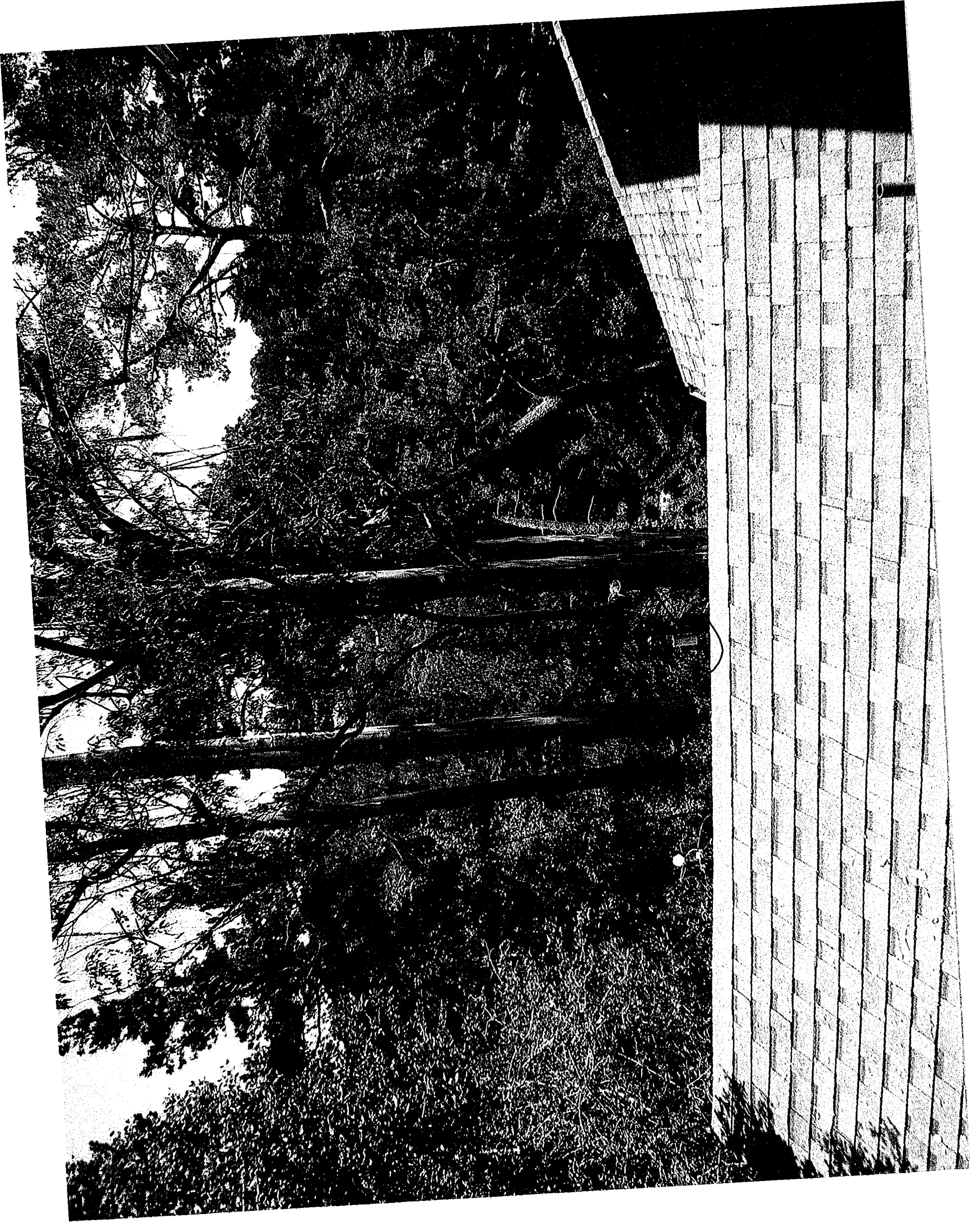




July 15, 2015

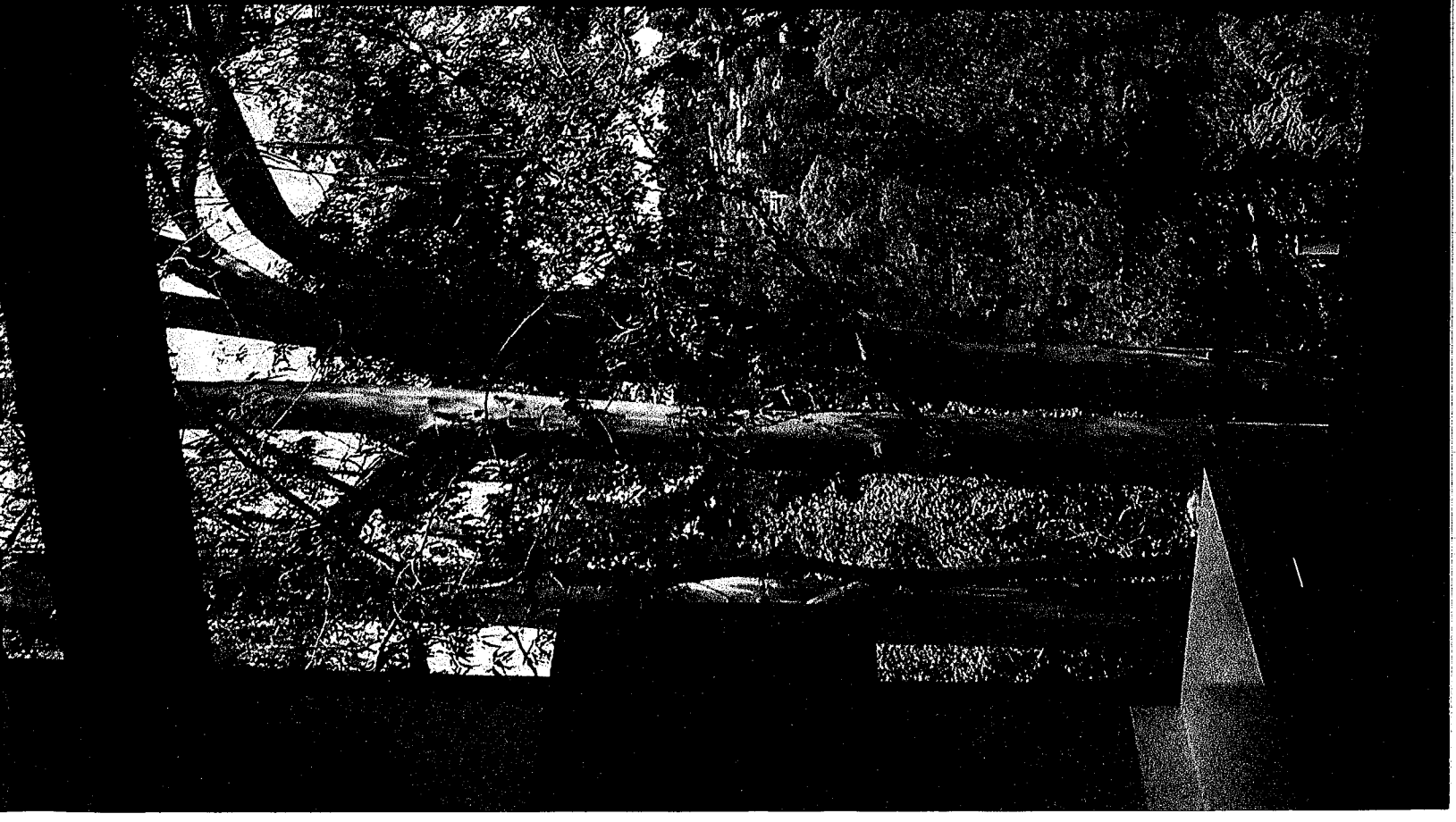


Wooded Road

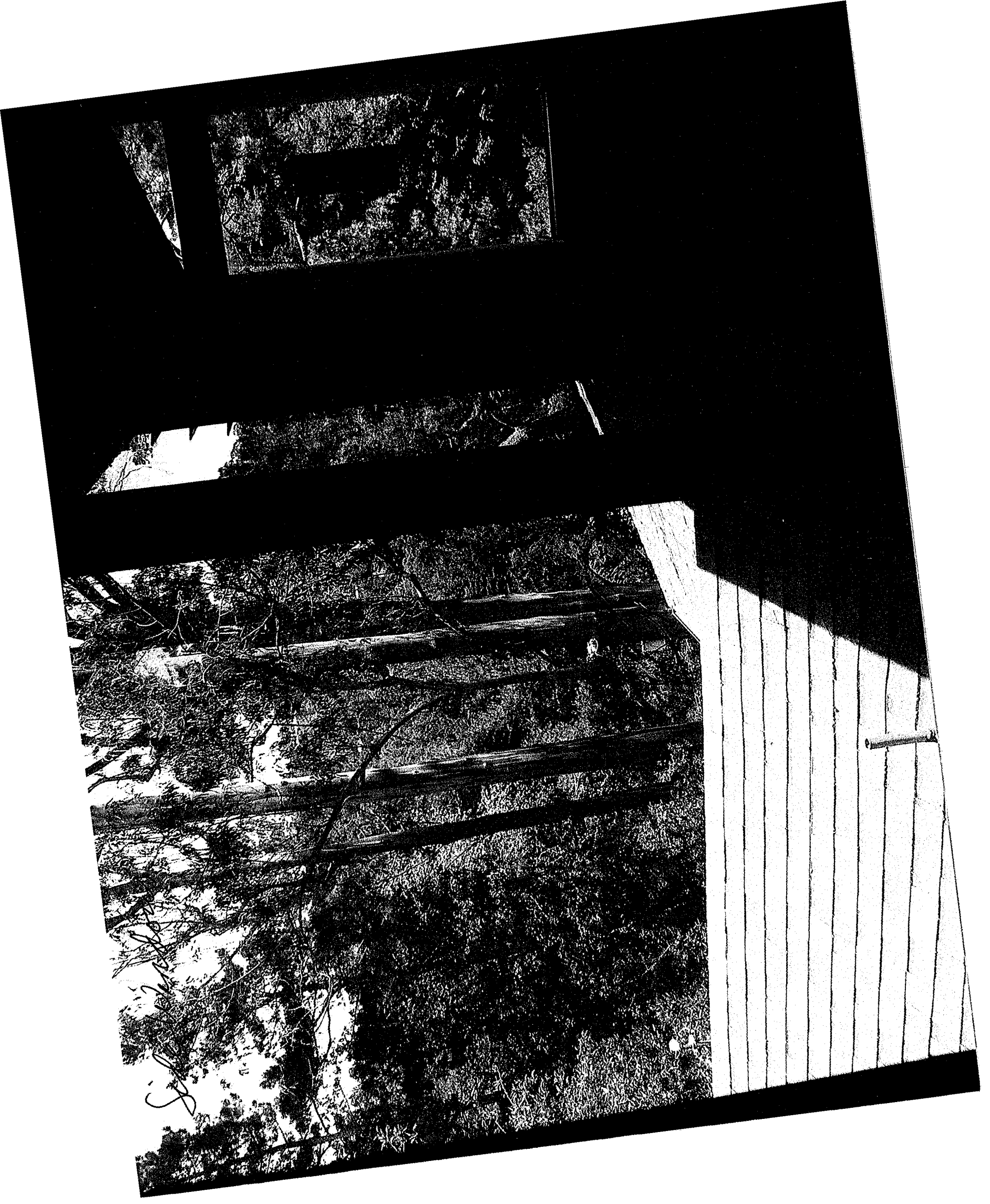


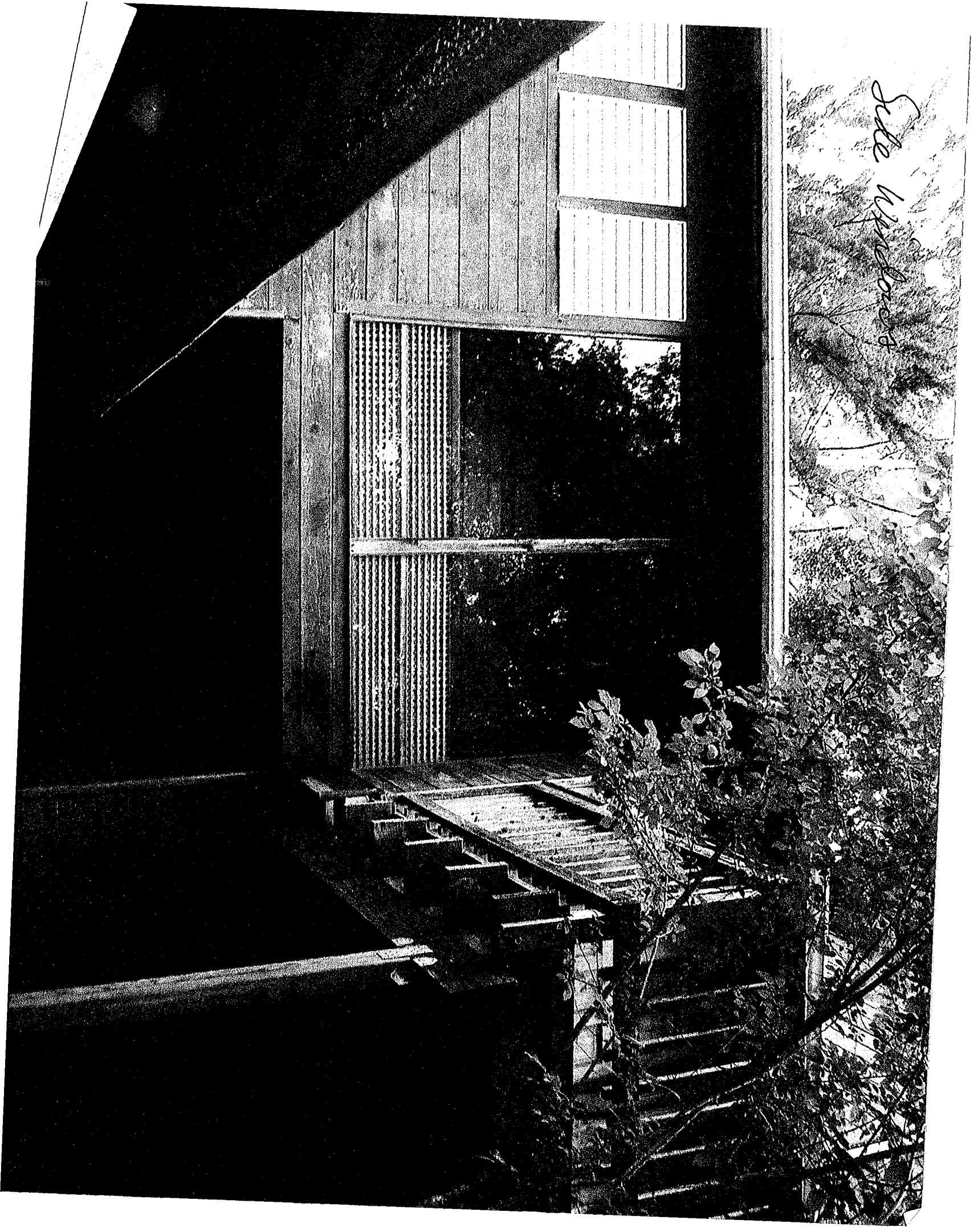










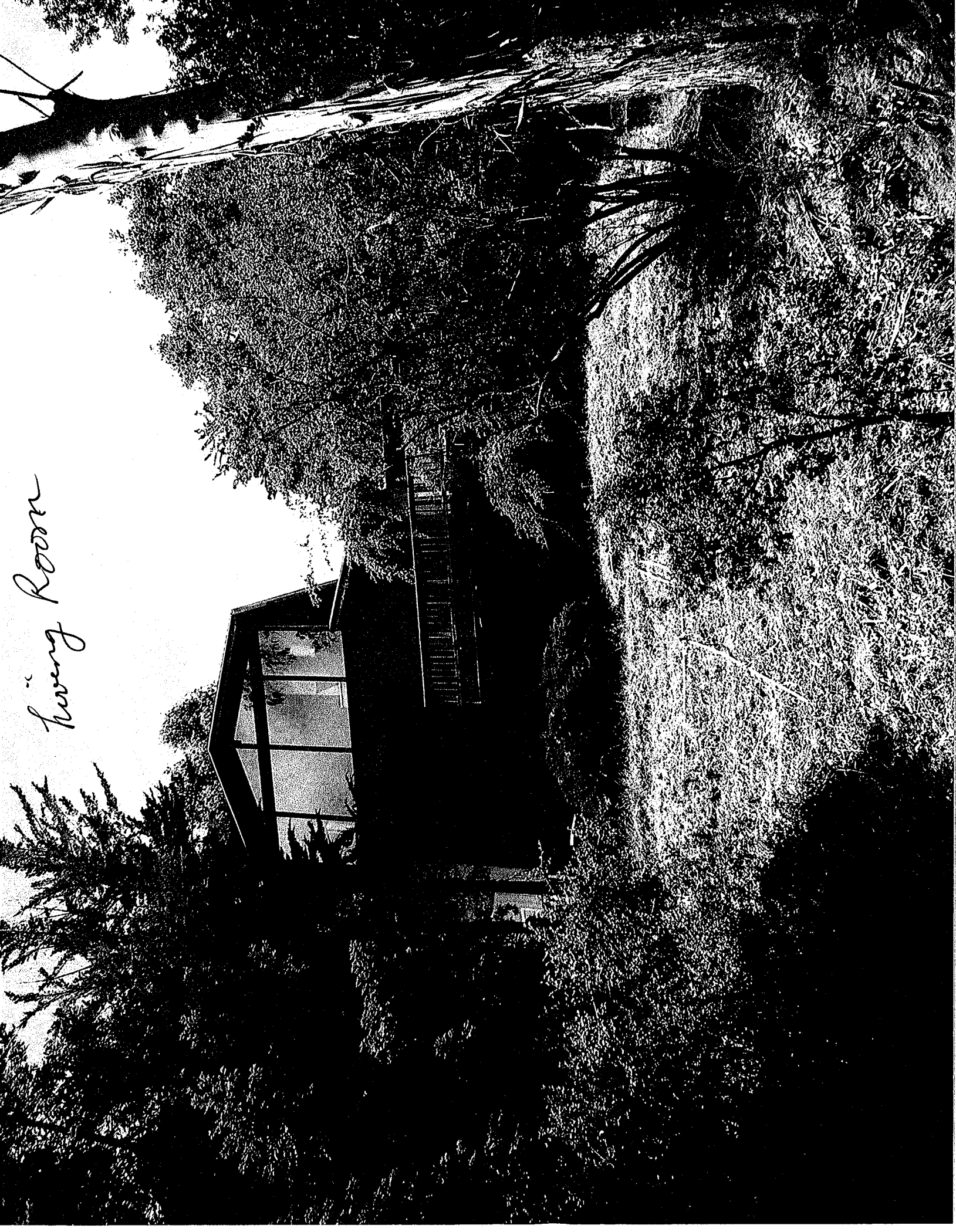


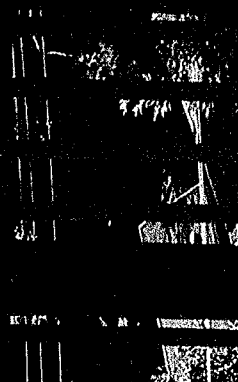
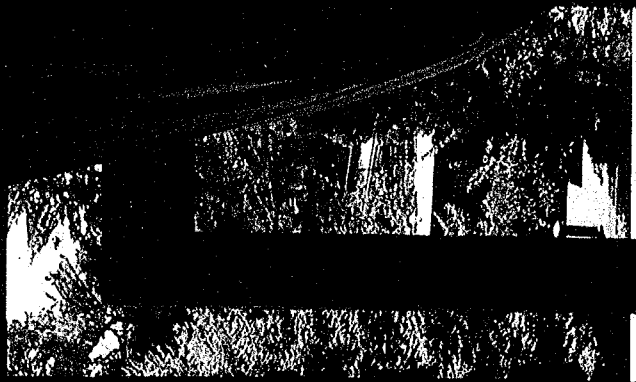
See Windows



Family Book

Living Room







**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

July 20 2015

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

**RE: Case File No. PLN15149 / The Public Right-of-Way at Saroni Dr. (adjacent to 6846 Saroni Dr.) (048E-7329-038-00)**

Dear Mr. Yergovich:

The above application was **APPROVED** at the City Planning Commission meeting (by a 3-0-1 vote) on **July 15<sup>th</sup>, 2015**. 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 July 27<sup>th</sup>, 2015**.

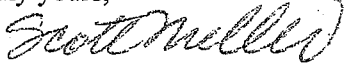
1. **Adoption/approval of the CEQA Findings.**
2. **Approval of the Major Design Review subject to the attached findings and conditions of approval, including the Standard Conditions of Approval.**

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 July 27<sup>th</sup>, 2015**. 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 \$4,088.55 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, **Jose 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: David Benedetti: 6822 Chambers 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 39' Joint Pole Authority (JPA) utility pole with a new 48'-3" JPA utility 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 equipment box attached to the pole 10'-10" above the ground, located in the public right-of-way along Saroni Dr. between Heartwood Dr. and Sayre Dr. The proposed antennas and equipment cabinet attached to the utility pole will be located 48' above the right-of-way above the existing trees and vegetation which will serve as camouflage to help the facility to blend in with the existing surrounding hillside residential area. 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 camouflaged to blend in with the existing mature trees surrounding the 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 wood JPA pole 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 an existing 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. 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 existing 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 (at the same location to replace an existing JPA pole) and painted to match the pole, which 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 existing 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 and attached to the pole at a height of 10'-10" above ground.

**CONDITIONS OF APPROVAL**  
**PLN15149**

**STANDARD CONDITIONS:**

**1. Approved Use**

*Ongoing*

a) The project shall be constructed and operated in accordance with the authorized use as plans, will require a separate application and approval. Any deviation from the approved drawings, Conditions of Approval or use shall required prior written approval from the Director of City Planning or designee.

b) This action by the City Planning Commission ("this Approval") includes the approvals set forth below. This Approval includes: **To install a wireless Telecommunications Facility (AT&T wireless) through the replacement of an existing 39' foot tall JPA utility pole located in the public right -of- way onto a new JPA pole at 48'-3" high on the pole in the same location; includes two panel antennas, an associated equipment box, one battery backup and meter boxes within a 8' tall by 24" wide equipment box attached to the pole at 10'-10" above the ground, under Oakland Municipal Code 17.128 and 17.136.**

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

*Ongoing*

Unless a different termination date is prescribed, this Approval shall expire **two calendar years** from the approval date, 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 permit, 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 for this project may invalidate this Approval if the said extension period has also expired.

**3. Scope of This Approval; Major and Minor Changes**

*Ongoing*

The project is approved pursuant to the **Oakland Planning Code** only. Minor changes to approved plans may be approved administratively by the Director of City Planning or designee. Major changes to the approved plans shall be reviewed by the Director of City Planning or designee to determine whether such changes require submittal and approval of a revision to the approved project by the approving body or a new, completely independent permit.

**4. Conformance with other Requirements**

*Prior to issuance of a demolition, grading, P-job, or other construction related permit*

- a) The project applicant shall comply with all other applicable federal, state, regional and/or local codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City's Building Services Division, the City's Fire Marshal, and the City's Public Works Agency.
- b) The applicant shall submit approved building plans for project-specific needs related to fire protection to the Fire Services Division for review and approval, including, but not
- c) limited to automatic extinguishing systems, water supply improvements and hydrants, fire department access, and vegetation management for preventing fires and soil erosion.

**5. Conformance to Approved Plans; Modification of Conditions or Revocation**

*Ongoing*

- a) Site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within 60-90 days of approval, unless an earlier date is specified elsewhere.

- b) The City of Oakland reserves the right at any time during construction to require certification by a licensed professional that the as-built project conforms to all applicable zoning requirements, including but not limited to approved maximum heights and minimum setbacks. Failure to construct the project in accordance with approved plans may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension or other corrective action.
- c) Violation of any term, conditions or project description relating to the Approvals 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 Approvals 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.

**6. Signed Copy of the Conditions**

*With submittal of a demolition, grading, and building permit*

A copy of the approval letter and conditions shall be signed by the property owner, notarized, and submitted with each set of permit plans to the appropriate City agency for this project.

**7. Indemnification**

*Ongoing*

- a) To the maximum extent permitted by law, the applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the City of Oakland Redevelopment Agency, the Oakland City Planning Commission and its respective agents, officers, and employees (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, (1) an approval by the City relating to a development-related application or subdivision or (2) implementation of an approved development-related project. The City may elect, in its sole discretion, to participate in the defense of said Action and the 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 applicant shall execute a Letter Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Letter of Agreement shall survive termination, extinguishment or invalidation of the approval. Failure to timely execute the Letter Agreement does not relieve the applicant of any of the obligations contained in this condition or other requirements or conditions of approval that may be imposed by the City.

**8. Compliance with Conditions of Approval**

*Ongoing*

The project applicant shall be responsible for compliance with the recommendations in any submitted and approved technical report and all the Conditions of Approval set forth below at its sole cost and expense, and subject to review and approval of the City of Oakland.

**9. Severability**

*Ongoing*

Approval of the project would not have been granted but for the applicability and validity of each and every one of the specified conditions, and if any 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.

## 10. Job Site Plans

### *Ongoing throughout demolition, grading, and/or construction*

At least one (1) copy of the stamped approved plans, along with the Approval Letter and Conditions of Approval, shall be available for review at the job site at all times.

## 11. Special Inspector/Inspections, Independent Technical Review, Project Coordination and Management

### *Prior to issuance of a demolition, grading, and/or construction permit*

The project applicant may be required to pay for on-call special inspector(s)/inspections as needed during the times of extensive or specialized plan check review, or construction. The project applicant may also be required to cover the full costs of independent technical and other types of peer review, monitoring and inspection, including without limitation, third party plan check fees, including inspections of violations of Conditions of Approval. The project applicant shall establish a deposit with the Building Services Division, as directed by the Building Official, Director of City Planning or designee.

## 12. Days/Hours of Construction Operation

### *Ongoing throughout demolition, grading, and/or construction*

The project applicant shall require construction contractors to limit standard construction activities as follows:

- a) Construction activities are limited to between 7:00 AM and 7:00 PM Monday through Friday, except that pile driving and/or other extreme noise generating activities greater than 90 dBA shall be limited to between 8:00 a.m. and 4:00 p.m. Monday through Friday.
- b) Any construction activity proposed to occur outside of the standard hours of 7:00 am to 7:00 pm Monday through Friday for special activities (such as concrete pouring which may require more continuous amounts of time) shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a consideration of resident's preferences for whether the activity is acceptable if the overall duration of construction is shortened and such construction activities shall only be allowed with the prior written authorization of the Building Services Division.
- c) Construction activity shall not occur on Saturdays, with the following possible exceptions:
  - i. Prior to the building being enclosed, requests for Saturday construction for special activities (such as concrete pouring which may require more continuous amounts of time), shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a consideration of resident's preferences for whether the activity is acceptable if the overall duration of construction is shortened. Such construction activities shall only be allowed on Saturdays with the prior written authorization of the Building Services Division.
  - ii. After the building is enclosed, requests for Saturday construction activities shall only be allowed on Saturdays with the prior written authorization of the Building Services Division, and only then within the interior of the building with the doors and windows closed.
- d) No extreme noise generating activities (greater than 90 dBA) shall be allowed on Saturdays, with no exceptions.
- e) No construction activity shall take place on Sundays or Federal holidays.
- f) Construction activities include but are not limited to: truck idling, moving equipment (including trucks, elevators, etc) or materials, deliveries, and construction meetings held on-site in a non-enclosed area.

**PROJECT SPECIFIC CONDITIONS:****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.

**APPROVED BY:**

City Planning Commission: 3-0-1 \_\_\_\_\_ (July 15<sup>th</sup>, 2015) \_\_\_\_\_ (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**

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

**Project Title:** Case No. PLN15149  
**Project Applicant:** New Cingular Wireless PCS, LLC / Matt Yergovich  
**Project Location:** 6846 Saroni Dr. (APN: 048E-7329-038-00)  
**Project Description:** Telecom Site installation

**Exempt Status:****Statutory Exemptions**

- Ministerial {Sec.15268}  
 Feasibility/Planning Study {Sec.15262}  
 Emergency Project {Sec.15269}  
 Other: {Sec. \_\_\_\_\_}

**Categorical Exemptions**

- Existing Facilities {Sec.15301}**  
 Replacement or Reconstruction {Sec.15302}  
 Small Structures {Sec.15303}  
 Minor Alterations {Sec.15304}  
 In-fill Development {Sec. 15332}  
 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:

*Scott Miller*

7-23-15

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.  
: PLN15149

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.**

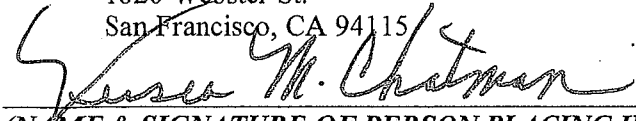
**APPLICABLE FEES MUST BE PAID AT THE TIME OF FILING AN ENVIRONMENTAL DOCUMENT WITH THE ALAMEDA COUNTY CLERK’S OFFICE.**

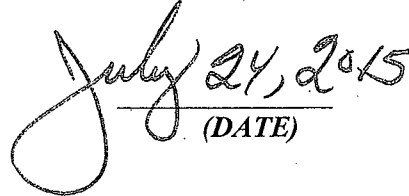
**MAKE CHECK PAYABLE TO: ALAMEDA COUNTY CLERK**

**CERTIFICATION OF MAILING**

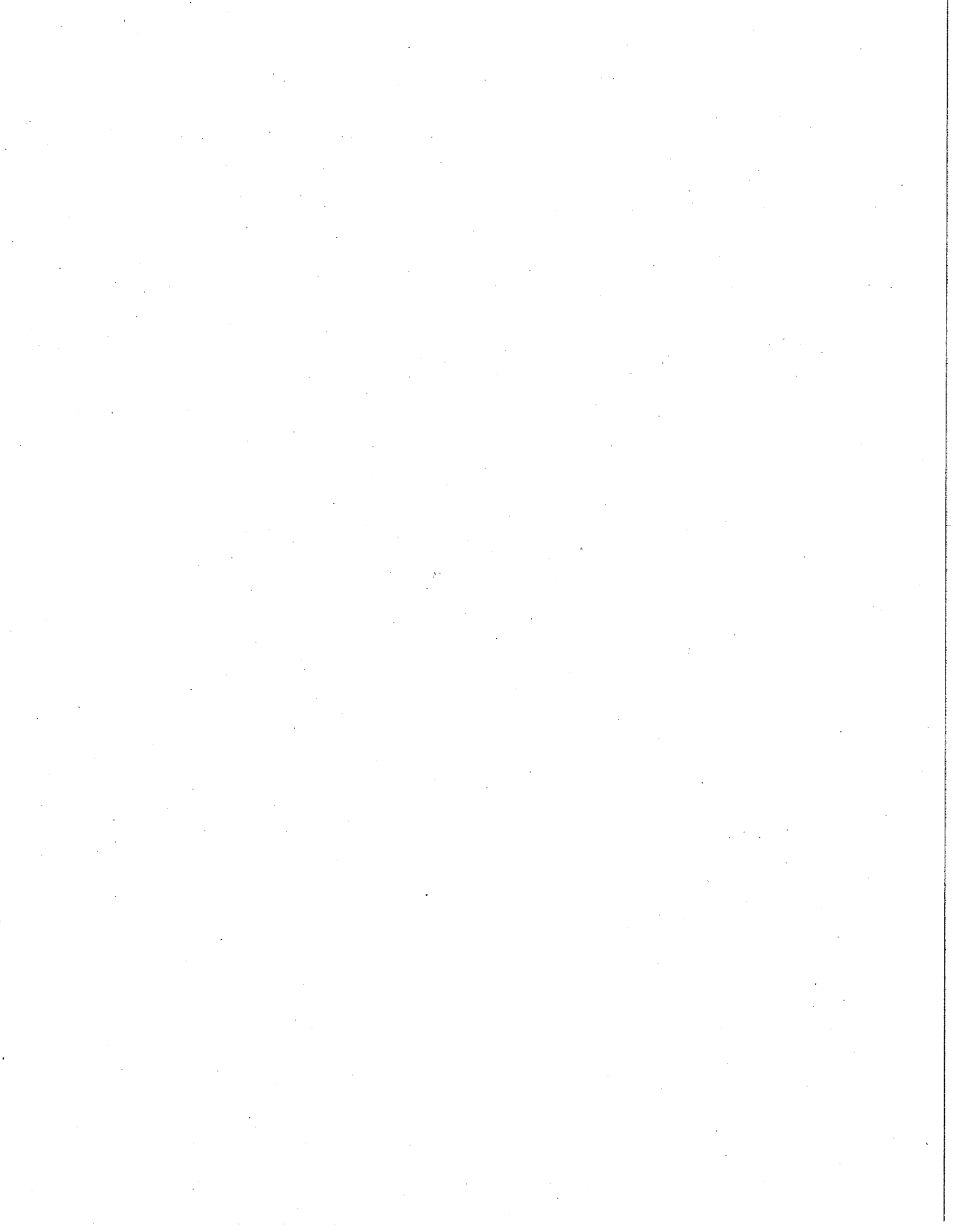
I certify that on July 24/2015 this decision letter, relating to Approval of a Major Design Review for 6846 Saroni Dr. was placed in the U.S. mail system, postage prepaid for first class mail, and sent to

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

  
(NAME & SIGNATURE OF PERSON PLACING IN MAIL)

  
(DATE)





Case File Number: PLN15149

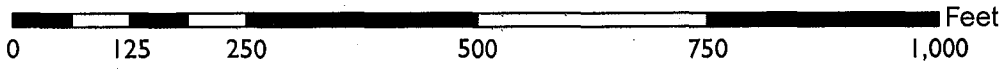
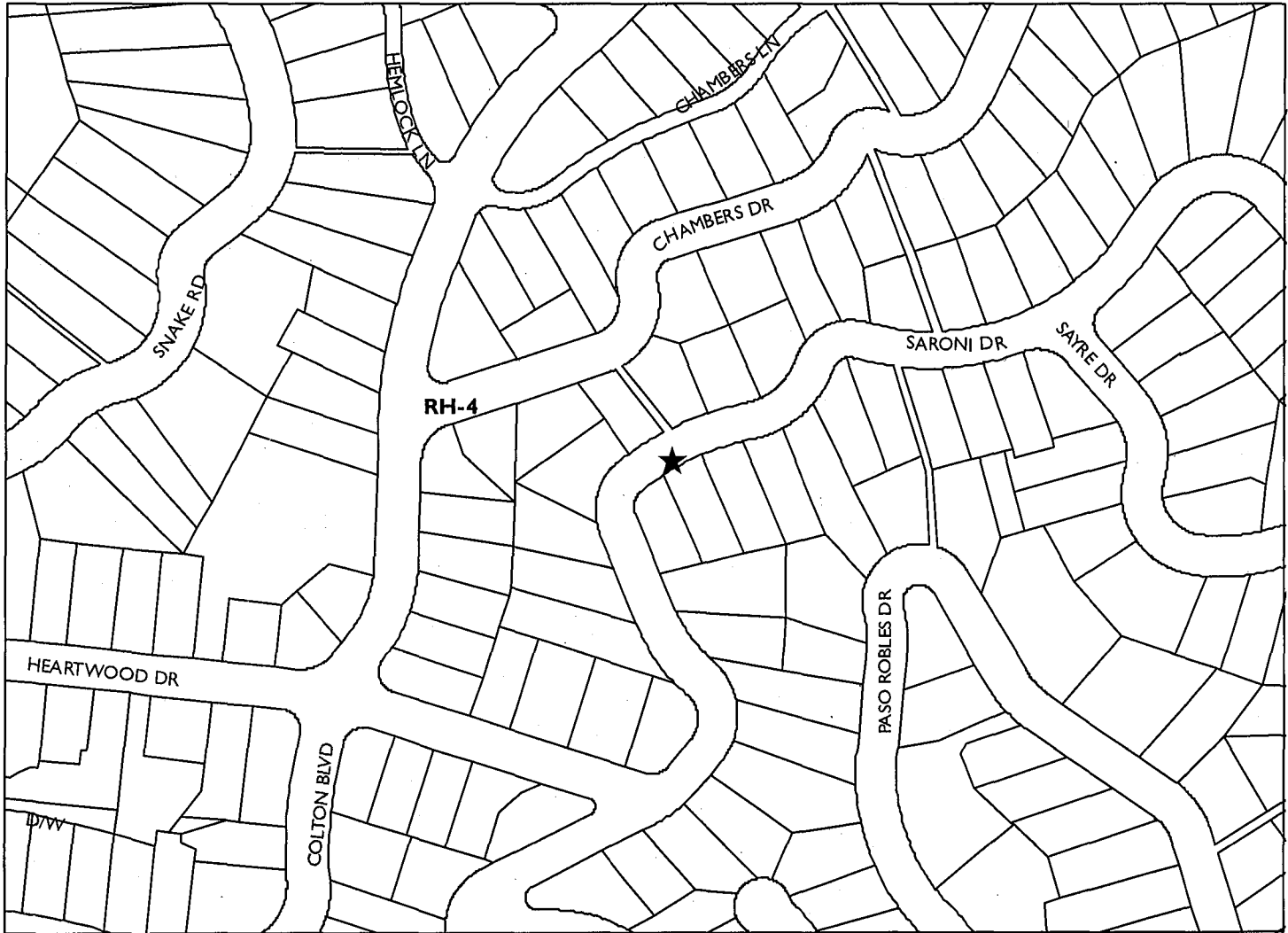
July 15, 2015

<b>Location:</b>	<b>The Public Right-of-Way at Saroni Dr. (Adjacent to 6846 Saroni Dr.)</b> (See map on reverse)
<b>Assessors Parcel Numbers:</b>	<b>(048E-7329-038-00) nearest lot adjacent to the project site.</b>
<b>Proposal:</b>	Alternative site location in response to PLN14040 & PLN14040-A01 for the installation of a wireless telecommunication facility on a new public utility pole in the right-of-way on Saroni Dr.; two panel Kathrein antennas mounted at approximately at 48'-3" pole height; and associated equipment box (6' tall by 18" wide); one battery backup, and one meter box attached to the new pole, at a height of between 10'-10" above ground in public right of way.
<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>PLN15149</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>	May 11 <sup>th</sup> , 2015
<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 wireless Telecommunications Macro Facility on a replacement Joint Pole Authority (JPA) utility pole located in the public right-of-way along Saroni Drive between Heartwood Dr. and Sayre Dr. 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 48'-3" (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 10'-10" above the ground.

# CITY OF OAKLAND PLANNING COMMISSION



Case File: PLN15149  
Applicant: Yergovich & Associates, LLC / Matthew Yergovich  
Address: New Utility Pole in Public Right-of-Way  
adjacent to 6846 Saroni 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 wireless Telecommunications Macro Facility on a new replacement JPA utility pole located in the public right-of-way along Saroni Dr. near 6846 Saroni Dr. in a hillside area surrounded by single-family homes. The project consists of swapping an existing 39' foot JPA pole with a new 48'-3" 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 48'-3" tall pole; an associated equipment box, one battery backup and meter boxes within a 6' tall by 18" wide single equipment box attached to the pole at the height of 10'-10" above the ground, located in public right-of-way. The proposed facility is an alternative location chosen by the applicant as a response to an appeal for a previously-approved facility (PLN14040-A01) near 6766 Saroni Drive. No portion of the telecommunication facilities will be located on the ground within the public right-of-way. The proposed antennas and associated equipment will not be accessible to 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 39' tall JPA utility pole is located in the City of Oakland public right-of-way adjacent to 6846 Saroni Dr. to the South, which contains a single-family residence on a steep downslope parcel, and another residence on an upslope parcel to the north, in a relatively wooded hillside residential area.

## **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 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 are mounted 48'+ plus feet above the right-of-way and "climb through" existing trees and vegetation lining the street. The existing wooded area will provide camouflage and blend in the equipment cabinet box which will be within a single box and painted to match the existing utility pole. 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 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 6846 Saroni Dr. in a hillside residential area of the Oakland Hills. The project requires Regular Design Review per 17.136.050, which states that Telecommunications Facilities proposed in residential areas with special findings, to allow the installation of new telecommunication facilities on an existing 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 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 will be camouflaged partially by the existing mature trees and the equipment cabinet box and battery backup box will be 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 15 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.

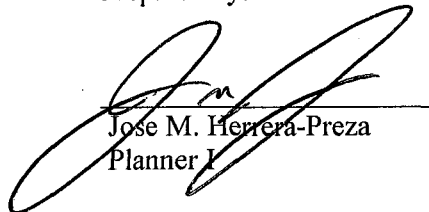
**CONCLUSION**

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

**RECOMMENDATIONS:**

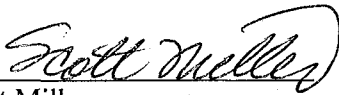
1. Affirm staff's environmental determination
2. Approve Design Review application PLN15149 subject to the attached findings and conditions of approval

Prepared by:



Jose M. Herrera-Preza  
Planner I

Approved by:



Scott Miller  
Zoning Manager

Approved for forwarding to the  
City Planning Commission



Darin Ranelletti, Deputy Director  
Bureau of Planning

**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 39' Joint Pole Authority (JPA) utility pole with a new 48'-3" JPA utility 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 equipment box attached to the pole 10'-10" above the ground, located in the public right-of-way along Saroni Dr. between Heartwood Dr. and Sayre Dr. The proposed antennas and equipment cabinet attached to the utility pole will be located 48' above the right-of-way above the existing trees and vegetation which will serve as camouflage to help the facility to blend in with the existing surrounding hillside residential area. 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 camouflaged to blend in with the existing mature trees surrounding the 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 wood JPA pole 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 an existing 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. 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 existing 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 (at the same location to replace an existing JPA pole) and painted to match the pole, which 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 existing 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 and attached to the pole at a height of 10'-10" above ground.

**CONDITIONS OF APPROVAL**  
**PLN15149**

**STANDARD CONDITIONS:**

**1. Approved Use**

*Ongoing*

a) The project shall be constructed and operated in accordance with the authorized use as plans, will require a separate application and approval. Any deviation from the approved drawings, Conditions of Approval or use shall required prior written approval from the Director of City Planning or designee.

b) This action by the City Planning Commission ("this Approval") includes the approvals set forth below. This Approval includes: **To install a wireless Telecommunications Facility (AT&T wireless) through the replacement of an existing 39' foot tall JPA utility pole located in the public right -of- way onto a new JPA pole at 48'-3" high on the pole in the same location; includes two panel antennas, an associated equipment box, one battery backup and meter boxes within a 6' tall by 18" wide equipment box attached to the pole at 10'-10" above the ground, under Oakland Municipal Code 17.128 and 17.136.**

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

*Ongoing*

Unless a different termination date is prescribed, this Approval shall expire **two calendar years** from the approval date, 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 permit, 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 for this project may invalidate this Approval if the said extension period has also expired.

**3. Scope of This Approval; Major and Minor Changes**

*Ongoing*

The project is approved pursuant to the **Oakland Planning Code** only. Minor changes to approved plans may be approved administratively by the Director of City Planning or designee. Major changes to the approved plans shall be reviewed by the Director of City Planning or designee to determine whether such changes require submittal and approval of a revision to the approved project by the approving body or a new, completely independent permit.

**4. Conformance with other Requirements**

*Prior to issuance of a demolition, grading, P-job, or other construction related permit*

- a) The project applicant shall comply with all other applicable federal, state, regional and/or local codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City's Building Services Division, the City's Fire Marshal, and the City's Public Works Agency.
- b) The applicant shall submit approved building plans for project-specific needs related to fire protection to the Fire Services Division for review and approval, including, but not
- c) limited to automatic extinguishing systems, water supply improvements and hydrants, fire department access, and vegetation management for preventing fires and soil erosion.

**5. Conformance to Approved Plans; Modification of Conditions or Revocation**

*Ongoing*

- a) Site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within 60-90 days of approval, unless an earlier date is specified elsewhere.
- b) The City of Oakland reserves the right at any time during construction to require certification by a licensed professional that the as-built project conforms to all applicable zoning requirements, including but not limited to approved maximum heights and minimum setbacks. Failure to construct the project in accordance with approved plans may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension or other corrective action.
- c) Violation of any term, conditions or project description relating to the Approvals 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 Approvals 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.

**6. Signed Copy of the Conditions**

*With submittal of a demolition, grading, and building permit*

A copy of the approval letter and conditions shall be signed by the property owner, notarized, and submitted with each set of permit plans to the appropriate City agency for this project.

**7. Indemnification**

*Ongoing*

- a) To the maximum extent permitted by law, the applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the City of Oakland Redevelopment Agency, the Oakland City Planning Commission and its respective agents, officers, and employees (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, (1) an approval by the City relating to a development-related application or subdivision or (2) implementation of an approved development-related project. The City may elect, in its sole discretion, to participate in the defense of said Action and the 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 applicant shall execute a Letter Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Letter of Agreement shall survive termination, extinguishment or invalidation of the approval. Failure to timely execute the Letter Agreement does not relieve the applicant of any of the obligations contained in this condition or other requirements or conditions of approval that may be imposed by the City.

**8. Compliance with Conditions of Approval**

*Ongoing*

The project applicant shall be responsible for compliance with the recommendations in any submitted and approved technical report and all the Conditions of Approval set forth below at its sole cost and expense, and subject to review and approval of the City of Oakland.

9. **Severability**

*Ongoing*

Approval of the project would not have been granted but for the applicability and validity of each and every one of the specified conditions, and if any 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.

10. **Job Site Plans**

*Ongoing throughout demolition, grading, and/or construction*

At least one (1) copy of the stamped approved plans, along with the Approval Letter and Conditions of Approval, shall be available for review at the job site at all times.

11. **Special Inspector/Inspections, Independent Technical Review, Project Coordination and Management**

*Prior to issuance of a demolition, grading, and/or construction permit*

The project applicant may be required to pay for on-call special inspector(s)/inspections as needed during the times of extensive or specialized plan check review, or construction. The project applicant may also be required to cover the full costs of independent technical and other types of peer review, monitoring and inspection, including without limitation, third party plan check fees, including inspections of violations of Conditions of Approval. The project applicant shall establish a deposit with the Building Services Division, as directed by the Building Official, Director of City Planning or designee.

12. **Days/Hours of Construction Operation**

*Ongoing throughout demolition, grading, and/or construction*

The project applicant shall require construction contractors to limit standard construction activities as follows:

- a) Construction activities are limited to between 7:00 AM and 7:00 PM Monday through Friday, except that pile driving and/or other extreme noise generating activities greater than 90 dBA shall be limited to between 8:00 a.m. and 4:00 p.m. Monday through Friday.
- b) Any construction activity proposed to occur outside of the standard hours of 7:00 am to 7:00 pm Monday through Friday for special activities (such as concrete pouring which may require more continuous amounts of time) shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a consideration of resident's preferences for whether the activity is acceptable if the overall duration of construction is shortened and such construction activities shall only be allowed with the prior written authorization of the Building Services Division.
- c) Construction activity shall not occur on Saturdays, with the following possible exceptions:
  - i. Prior to the building being enclosed, requests for Saturday construction for special activities (such as concrete pouring which may require more continuous amounts of time), shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a consideration of resident's preferences for whether the activity is acceptable if the overall duration of construction is shortened. Such construction activities shall only be allowed on Saturdays with the prior written authorization of the Building Services Division.

- ii. After the building is enclosed, requests for Saturday construction activities shall only be allowed on Saturdays with the prior written authorization of the Building Services Division, and only then within the interior of the building with the doors and windows closed.
- d) No extreme noise generating activities (greater than 90 dBA) shall be allowed on Saturdays, with no exceptions.
- e) No construction activity shall take place on Sundays or Federal holidays.
- f) Construction activities include but are not limited to: truck idling, moving equipment (including trucks, elevators, etc) or materials, deliveries, and construction meetings held on-site in a non-enclosed area.

**PROJECT SPECIFIC CONDITIONS:**

**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.

view from Saroni Drive looking east at site



6846 Saroni Drive, Oakland, CA  
Oakhills AT&T South Network Node 058C

*Existing*



*Proposed*





April 20, 2015

City Planner  
Planning Department  
City of Oakland  
250 Frank Ogawa Plaza, 2<sup>nd</sup> Floor  
Oakland, CA 94612

**Re: Proposed AT&T Mobility DAS Node Installation**  
**Applicant: New Cingular Wireless PCS, LLC (d/b/a AT&T Mobility)**  
**Nearest Site Address: Public Right of Way near 6846 Saroni Dr.**  
**Site ID: SW-CA-OAKHILLS-ATT Node 58C**  
**Latitude/Longitude: 37.834746, -122.199959**

Dear City Planner,

On behalf of New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility (“AT&T”), this letter and attached materials are to apply for a design review permit to install a distributed antenna system (“DAS”) node in the public right-of-way near 6846 Saroni Drive (“Node 58C”).<sup>1</sup> This is the same DAS node that AT&T pursued by its previous application filed on January 30, 2013 at 6828 Saroni Drive (Node 58A / PLN13-027). After receiving resident opposition to that proposal, we worked with Planning Staff to relocate the facility. Then on March 6, 2014, we withdrew that application and filed a new application for an AT&T facility on a utility pole at 6758 Saroni Drive (Node 58B / PLN14-040). This application was approved by the Planning Commission on May 21, 2014 and was subsequently appealed. Hearing of that appeal is pending consideration of this present proposal for a facility on a utility pole near 6846 Saroni Drive (Node 58C). The following is an explanation of the existing site, a project description of the redesigned facility, the project purpose and justifications in support of this proposal.

**A. Project Description.**

The proposed location for our facility currently consists of an approximate 39 feet nine inch tall wooden utility pole in the public right-of-way on the south side of Saroni Drive between Heartwood Drive and Sayre Drive, at about 6846 Saroni Drive. Communication lines are attached to the pole at 24 feet three inches, 23 feet nine inches, and 21 feet 10 inches above ground. Primary power lines are on the pole at about 39 feet and 36 feet 11 inches above ground; a secondary power line is on the pole at about 30 feet two inches above ground. A transformer is located on the pole at about 34 feet nine inches above ground.

AT&T proposes to add two panel antennas to the top that are approximately two feet long, 10 inches wide and six inches deep, extending to a height of 48 feet three inches above ground by a seven feet long wooden pole-top extension and antenna mounting bracket. We also propose a singular equipment box approximately 96 inches long by 24 inches wide and deep on this pole. A miniature emergency shut-off safety switch and electricity meter will be placed on the pole at about eight feet above ground. The equipment will be connected to telecommunications and lines already on the pole. The primary power lines at 36 feet 11 inches will be placed on a new cross arm. All

<sup>1</sup> AT&T expressly reserves all rights concerning the city’s jurisdiction to assert zoning regulation over the placement of wireless facilities in the public rights-of-way.

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equipment will be painted brown to match the utility pole. Our proposal is depicted in the attached design drawings and photographic simulations.

This is an unmanned facility that will operate at all times (24 hours per day, seven days per week) and will be serviced about once per year by an AT&T technician. Our proposal will greatly benefit the area by improving wireless telecommunications service as detailed below.

### **B. Project Purpose.**

The purpose of this project is to provide AT&T third and fourth generation (3G and 4G) wireless voice and data coverage to the surrounding area where there is currently a significant gap in service coverage. These wireless services include mobile telephone, wireless broadband, emergency 911, data transfers, electronic mail, Internet, web browsing, wireless applications, wireless mapping and video streaming. The proposed node is part of a larger DAS providing coverage to areas of the Oakland, Berkeley, Kensington and El Cerrito that are otherwise very difficult or impossible to cover using traditional macro wireless telecommunications facilities due to the local topography and mature vegetation. The attached radio frequency propagation maps depict AT&T's larger DAS project. Further radio frequency details are set forth in the attached Radio Frequency Statement, including propagation maps depicting existing and proposed coverage in the vicinity of Node 58C.

A DAS network consists of a series of radio access nodes connected to small telecommunications antennas, typically mounted on existing wooden utility poles within the public rights-of-way, to distribute wireless telecommunications signals. DAS networks provide telecommunications transmission infrastructure for use by wireless services providers. These facilities allow service providers such as AT&T to establish or expand their network coverage and capacity. The nodes are linked by fiber optic cable that carry the signal stemming from a central equipment hub to a node antenna. Although the signal propagated from a node antenna spans over a shorter range than a conventional tower system, DAS can be an effective tool to close service coverage gaps.

### **C. Project Justification, Design and Placement.**

Node 58C is an integral part of the overall DAS project, and it is located in a difficult coverage area because of its winding roads, hilly terrain and plentiful trees. The coverage area consists of a hilly Oakland Hills neighborhood around Saroni Drive, Heartwood Drive, Colton Boulevard and surrounding areas. Node 58C will cover transient traffic along the roadways and provide in-building service to the surrounding residences as depicted in the propagation maps, which are exhibits to the attached Radio Frequency Statement.

Based on AT&T's analysis of alternative sites, if the originally chosen candidate 58B at 6758 Saroni Drive (also referred to as "Alternative 1") is not preferred by the City then the currently proposed Node 58C at 6846 Saroni Drive is the least intrusive means to close AT&T's significant service coverage gap in the area because it best uses existing utility infrastructure adding small equipment without disturbing the character of the neighborhoods served. Deploying a DAS node at an existing pole location minimizes any visual impact by utilizing an inconspicuous spot. By installing antennas and equipment at this existing pole location, AT&T does not need to propose any new infrastructure in this coverage area. Node 58C should be barely noticeable amidst the backdrop of trees and terrain.

The DAS node RF emissions are also much lower than the typical macro site and appropriate for the area, and they are fully compliant with the FCC's requirements for limiting human exposure to radio frequency energy. The attached radio frequency engineering analysis provided by Hammett & Edison, Inc., Consulting Engineers, confirms that the proposed equipment will operate well within (and actually far below) all applicable FCC public exposure limits. The facility will also comply with California Public Utility Commission (CPUC) General Orders 95 (concerning overhead line design, construction and maintenance) and 170 (CEQA review) that govern utility use in the public right-of-way.

This proposed redesign is a viable alternative design developed according to our discussions with the Planning Department in the context of Applications PLN13-027 and PLN14-040. As discussed with City Planning, Node 58C is the least intrusive option because antennas can be nestled amidst large trees without imposing any view impact.

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For AT&T Mobility  
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Also the proposed location is a good coverage option because it sits at a spot from which point AT&T can adequately propagate its wireless signal.

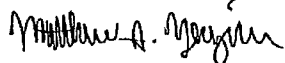
AT&T considered alternative sites on other utility poles in this area but none of these sites is as desirable from construction, coverage or aesthetics perspectives. The proposed location is approximately equidistant from other DAS nodes that AT&T plans to place in surrounding hard-to-reach areas, so that service coverage can be evenly distributed. There are a number of trees near the proposed site that will allow the installation to blend in with the backdrop of foliage. The other utility poles in the area are more conspicuous than the proposed pole. In addition to the utility poles proposed to host Node 58C, AT&T considered alternative sites set forth in the attached Alternative Site Analysis.

Revised drawings, an AT&T Radio Frequency Statement, propagation maps, photographic simulations, and a radio-frequency engineering analysis are included with this packet.

As this application seeks authority to install a wireless telecommunication facility, the FCC's Shot Clock Order<sup>2</sup> requires the city to issue its final decision on AT&T's application within 150 days. We respectfully request expedited review and approval of this application. Feel free to contact me if you have any questions. Thank you.

Thank you.

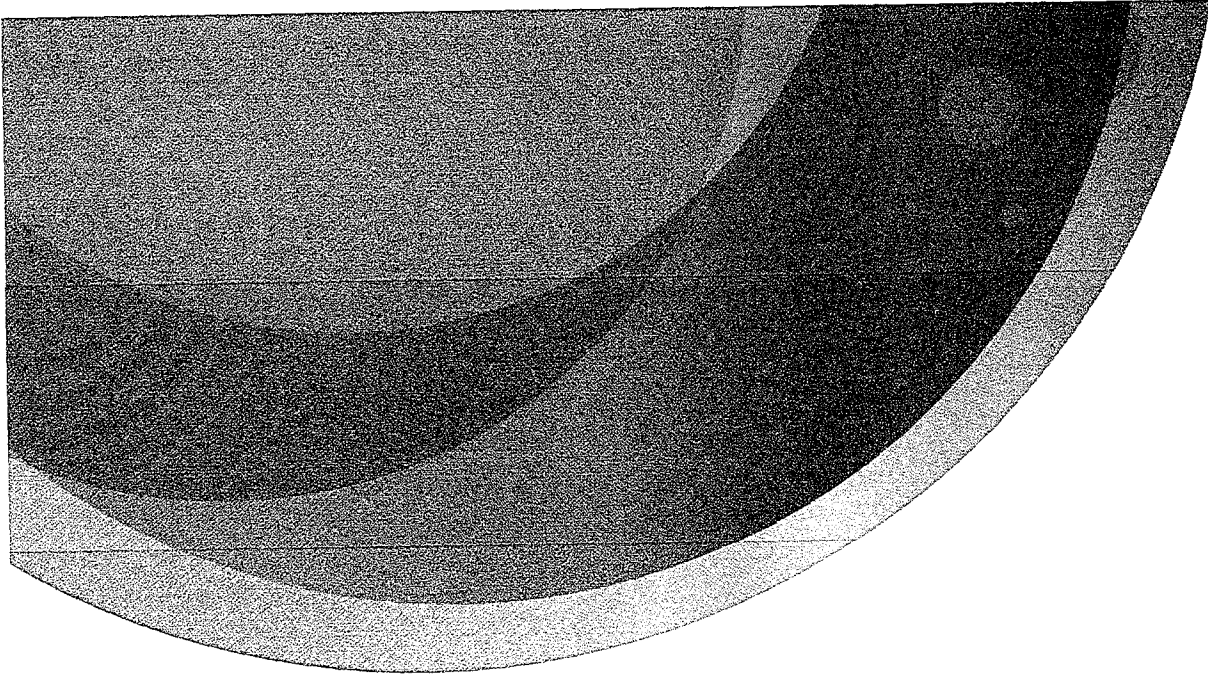
Best Regards,  
EXTENET SYSTEMS



*Matthew S. Yergovich*  
For AT&T Mobility

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<sup>2</sup> See Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B), WT Docket No. 08-165, Declaratory Ruling, 24 F.C.C.R. 13994 (2009).



Rethink Possible®



# Node 58 – 6846 Saroni Drive Viable Alternates

# Node 58 – Overview Map



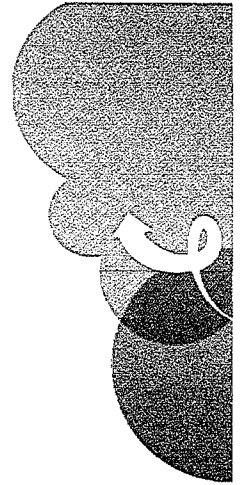
On the map above, the Primary site location in the public right-of-way near 6846 Saroni Dr. (37.834694, -122.199978) is marked with a blue pin. The 15 alternative sites that AT&T analyzed are marked by 11 yellow and 4 green pins. The 4 green pins represent the alternate sites that are constructible and work from a radio frequency perspective to fill the significant service gap but are more intrusive than the primary location.

# Node 58 – Primary Site Location

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- The Primary site is located in the public right-of-way near 6846 Saroni Dr. (37.834694, -122.199978).
- This photo shows screening provided by surrounding foliage and the backdrop of trees minimizing any view impact of our proposed wireless facility.
- AT&T re-evaluated this site and nearby alternatives in order to evaluate whether it is the least intrusive means to close AT&T's significant service coverage gap in the area. AT&T's analysis considered the city's code, input of city staff, and concerns of the residents who live nearby. We were advised by City staff that this would be a preferred site location.

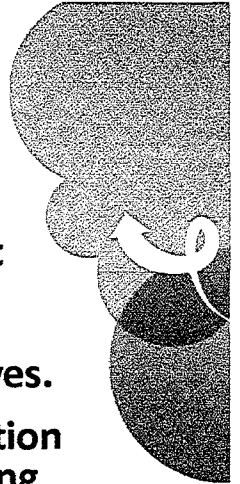


# Node 58 – Alternate 1

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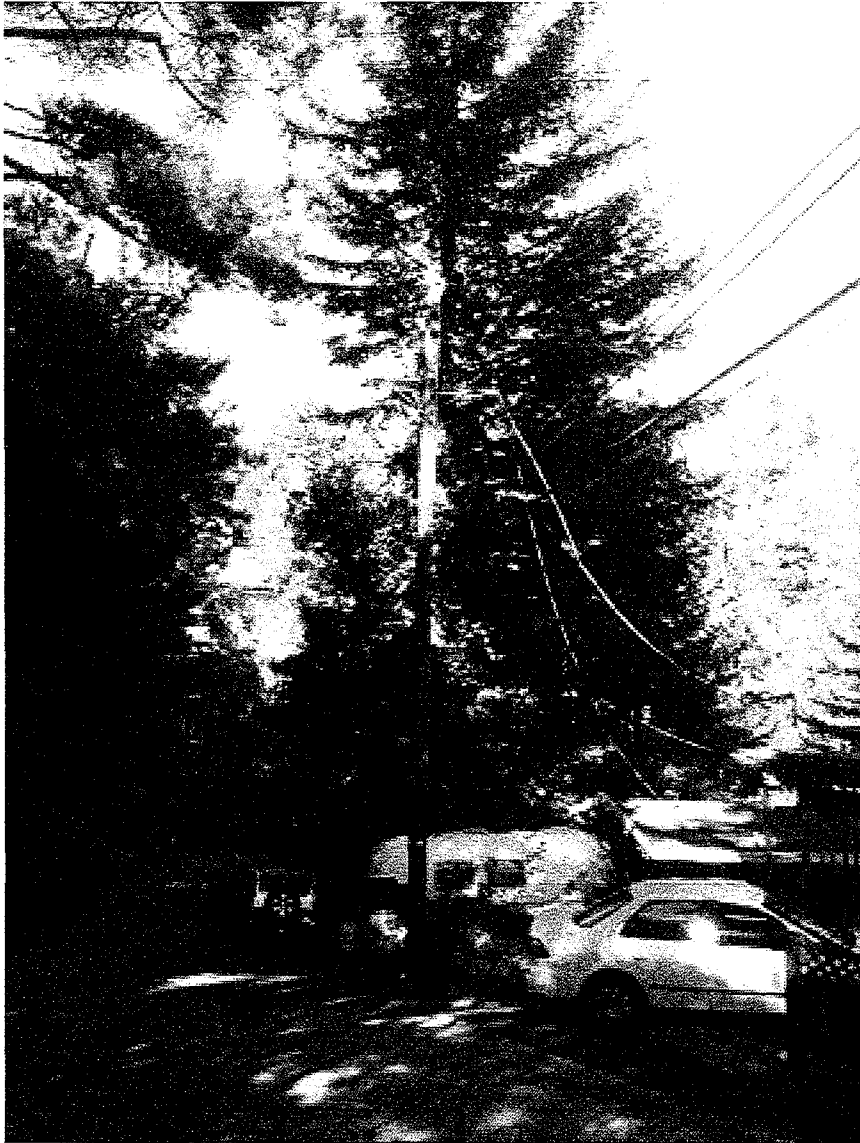


- **Alternative 1 is identified as JPA located at about 6758 Saroni Drive (37.833421, -122.200305) to the southwest of the intersection of Saroni and Heartwood Drives.**
- **This location is currently an active application with the City that was approved by Planning Commission and is pending an appeal hearing before City Council under Case File No. PLN14040.**
- **AT&T re-evaluated this site and nearby alternatives in order to determine whether it is the least intrusive means to close AT&T's significant service coverage gap in the area. AT&T's analysis considered the city's code, input of city staff, and concerns of the residents who live nearby. The currently proposed location is an alternative to this current active location for Node 58. A site here at 6758 Saroni Drive is still viable to close AT&T's significant service coverage gap in the area, but is not preferred by City staff.**

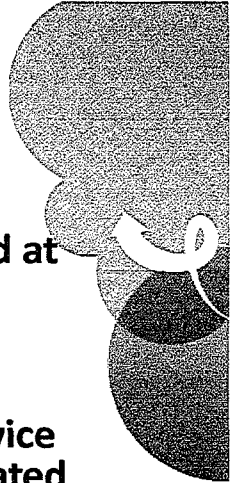


# Node 58 – Alternate 2

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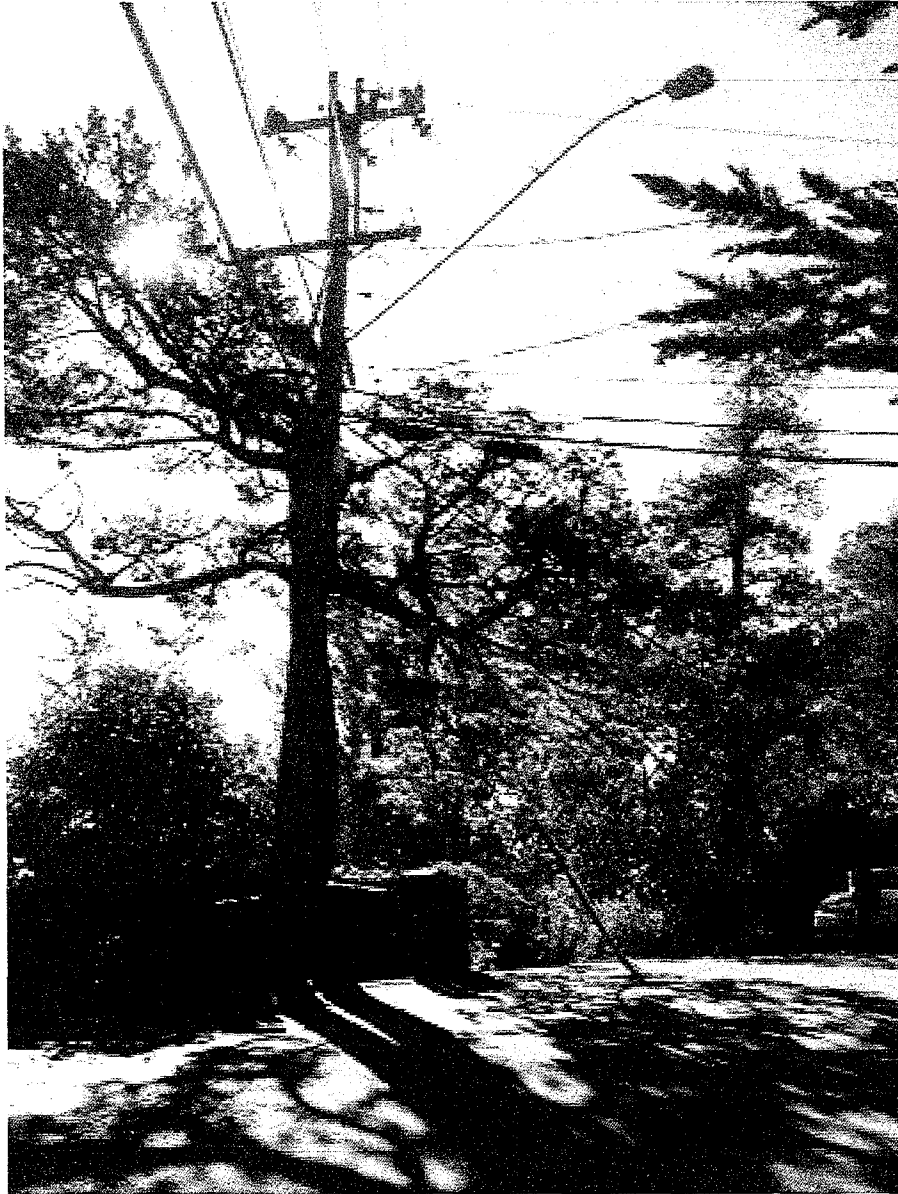


- **Alternative 2 is identified as JPA located at about 6828 Saroni Drive (37.834189, -122.199995)**
- **This location was filed as our original location to close AT&T's significant service coverage gap in the area but was relocated to the Alternate 1 location at the request of the Oakland Planning Department.**
- **A site here at 6828 Saroni Drive is still viable to close AT&T's significant service coverage gap in the area, but is not preferred by Planning Staff.**

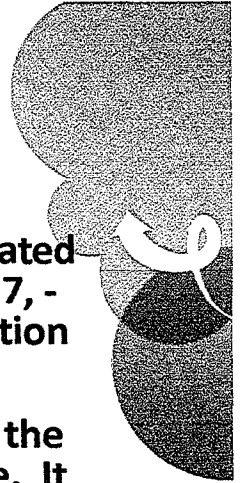


# Node 58 - Alternate 3

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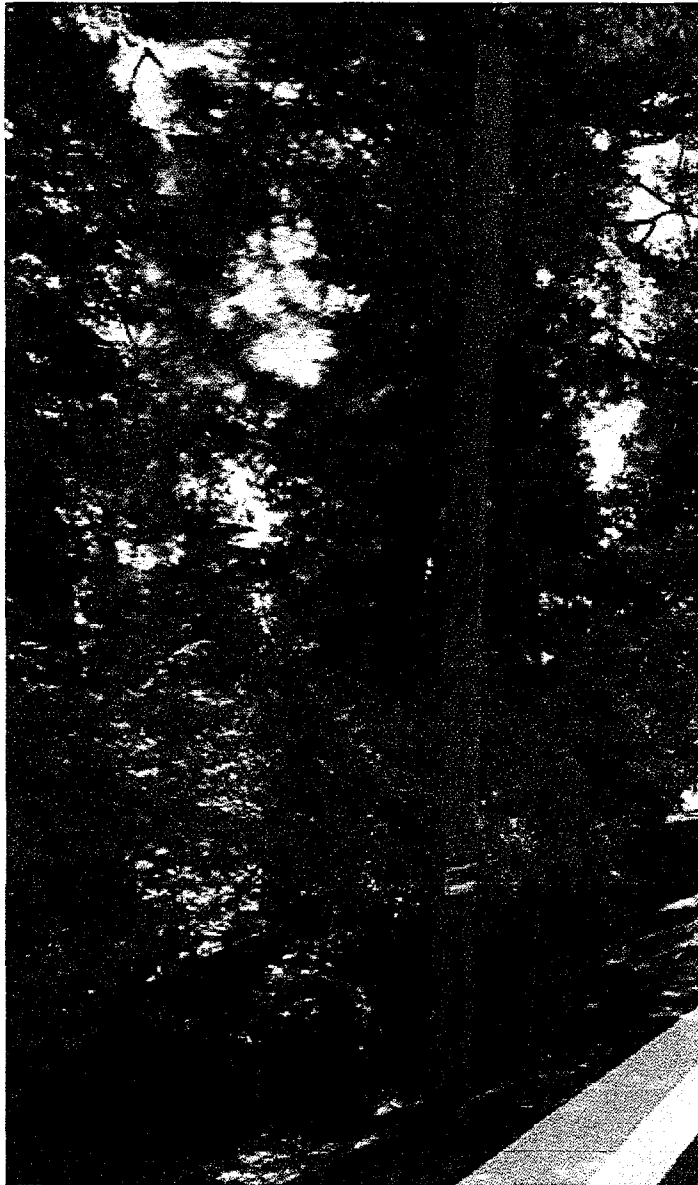
- **Alternative 3 is identified as a JPA located at about 6808 Saroni Drive (37.833597, -122.199958) across from the intersection of Saroni and Heartwood Drives.**
- **This is not a viable alternative due to the configuration and loading on the pole. It cannot support our equipment due to lack of climbing space required per CPUC General Order 95.**



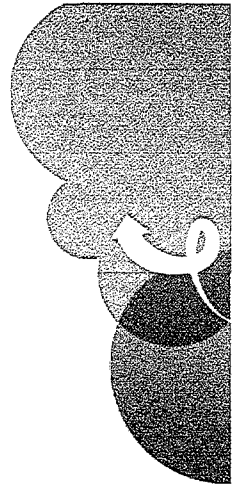


# Node 58 - Alternate 4

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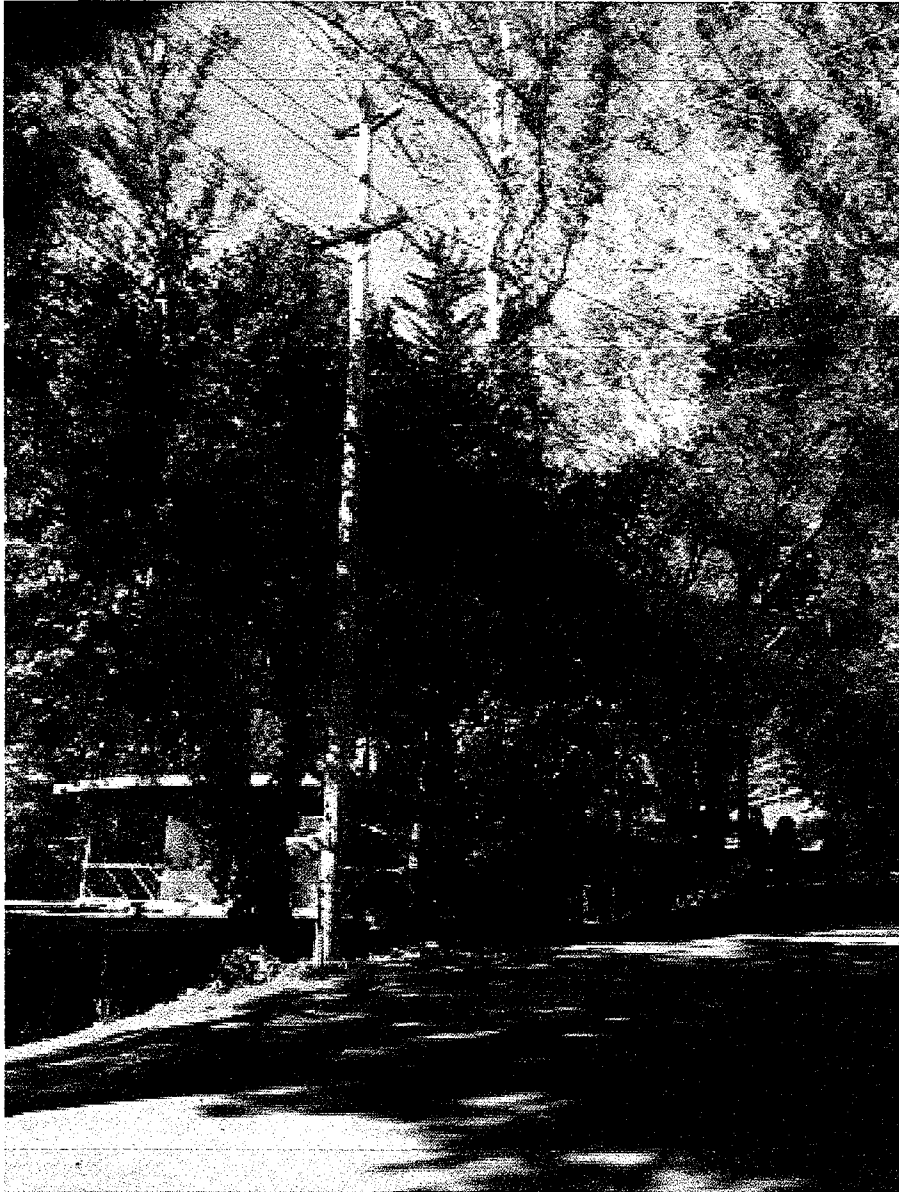


- **Alternative 4 is identified as a JPA located at the southwest corner of Heartwood and Colton Drives (37.833853, -122.201365).**
- **This is not a viable alternative to fill AT&T's significant service gap due to the distance from the gap area as well as terrain and surrounding foliage obstructions.**

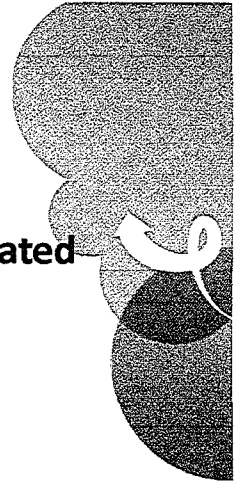


# Node 58 - Alternate 5

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- **Alternative 5 is identified as a JPA located at about 6766/6772 Saroni Drive (37.832887, -122.199922).**
- **This is not a viable alternative to fill AT&T's significant service gap due to surrounding residential and terrain obstructions. Additionally the more exposed nature of this pole would make this a more intrusive alternative.**

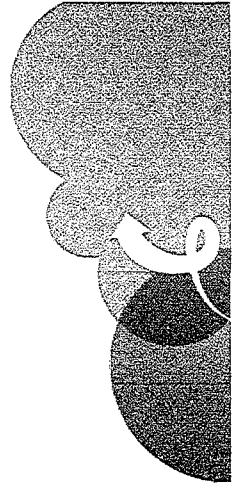


# Node 58 - Alternate 6

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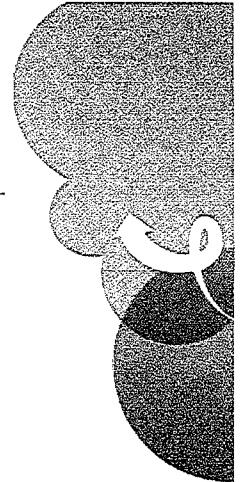


- **Alternative 6 is identified as a JPA located at about 6726 Saroni Drive (37.83281, -122.200595).**
- **This is not a viable alternative to fill AT&T's significant service gap due to the distance from the gap area as well as surrounding terrain and foliage obstructions.**



# Node 58 - Alternate 7

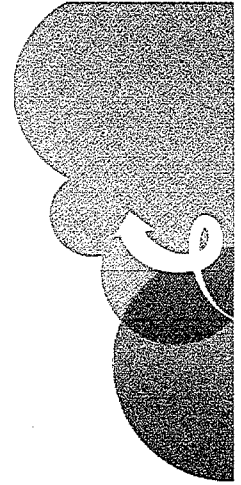
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- **Alternative 7 is identified as a JPA located at between 8 and 10 Southwood Court (37.832914, -122.199307).**
- **This location is a viable alternative to fill AT&T's significant service gap but would require an extension of 30 feet to provide the necessary coverage. In addition to the required extension, the more exposed nature of this pole would make this a more intrusive alternative.**

# **Node 58 - Alternate 8**

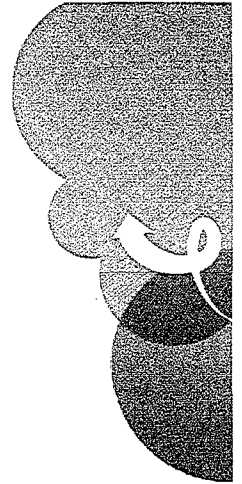
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- **Alternative 8 is identified as a JPA located at about 6726 Saroni Drive (37.83281, - 122.200595).**
- **This is not a viable alternative to fill AT&T's significant service gap due to the distance from the gap area as well as terrain obstruction. Additionally the more exposed nature of this pole would make this a more intrusive alternative.**

# Node 58 - Alternate 9

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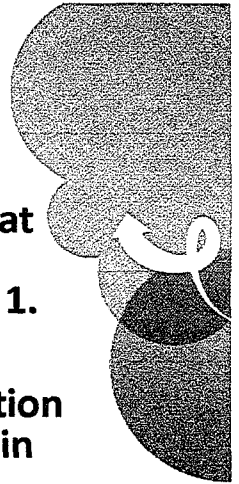
- **Alternative 9 is identified as a JPA located at about 30 Southwood Court (37.833286, -122.199563).**
- **This is not a viable alternative to fill AT&T's significant service gap due to obstruction from surrounding trees and structures. Additionally the more exposed nature of this pole would make this a more intrusive alternative.**

# Node 58 - Alternate 10

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- **Alternative 10 is identified as a JPA located at about 6758 Saroni Drive (37.833287, -122.200591), to the southwest of Alternate 1.**
- **This is not a viable alternative to fill AT&T's significant service gap due to the low elevation and obstruction from the surrounding terrain and structures.**

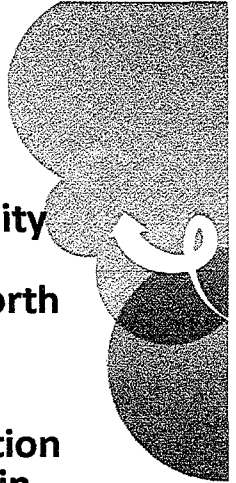


# Node 58 - Alternate 11

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- **Alternative 11 is identified as a standoff utility pole located at about 6758 Saroni Drive (37.833332, -122.200627), directly to the north of Alternate 10.**
- **This is not a viable alternative to fill AT&T's significant service gap due to the low elevation and obstruction from the surrounding terrain and structures.**





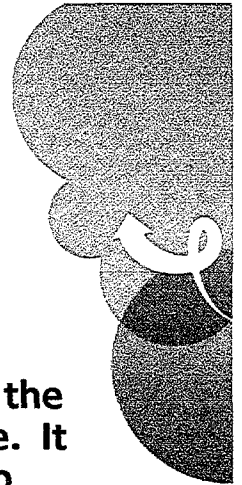
# Node 58 - Alternate 12

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Alternative 12 is identified as a JPA located at about 6839 Saroni Drive (37.834573, -122.200315).

This is not a viable alternative due to the configuration and loading on the pole. It cannot support our equipment due to lack of climbing space required per CPUC General Order 95.

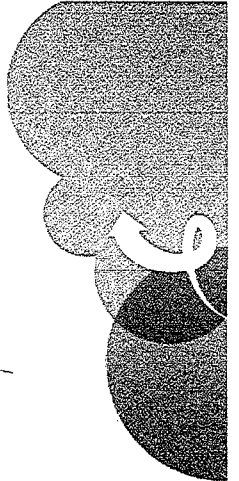


# Node 58 Alternative 13

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- **Alternative 13 is identified as a JPA located across from 6707 Heartwood Drive (37.83388, -122.201848).**
- **This location is a viable alternative to fill AT&T's significant service gap but would require trimming of the existing tree surrounding the pole to place our equipment. In addition to the required trimming, the more exposed nature of this pole would make this a more intrusive alternative.**

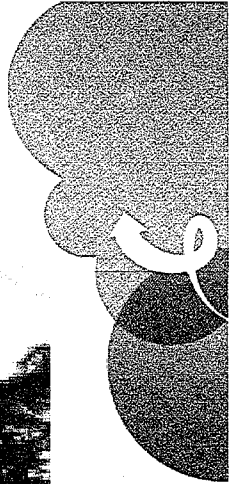


# **Node 58 - Alternate 14**

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- **Alternative 14 is identified as a JPA located at about 6690 Heartwood Drive (37.83388, - 122.201848).**
- **This is not a viable alternative to fill AT&T's significant service gap due to the distance from the gap area and surrounding terrain obstruction.**

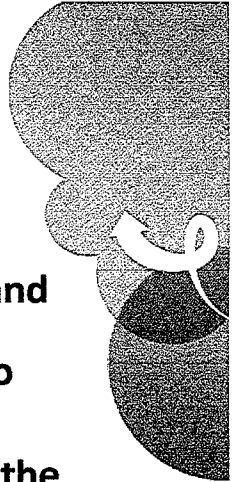


# Node 58 - Alternate 15

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- **Alternative 15 is identified as a JPA located at the intersection of Saroni and Paso Robles Drives (37.833211, -122.200595) on the north side of Paso Robles.**
- **This is not a viable alternative due to the configuration and loading on the pole. It cannot support our equipment due to lack of climbing space required per CPUC General Order 95. Additionally, this is not a viable alternative to fill AT&T's significant service gap due to the low elevation and obstruction from the surrounding terrain and structures.**

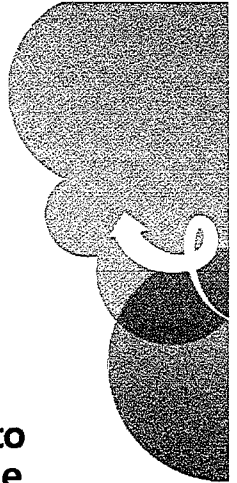


# Node 58 - Alternate 16

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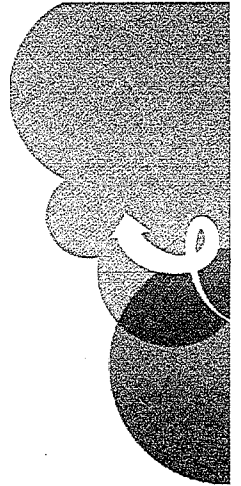


- **Alternative 16 is identified as a JPA located at the southwest corner of Heartwood and Colton Drives (37.833902, -122.20127).**
- **This is not a viable alternative due to the configuration and loading on the pole. It cannot support our equipment due to lack of climbing space required per CPUC General Order 95.**



# **Node 58 – Alternate Site Analysis Conclusion**

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**Based on AT&T's analysis of alternative sites, if the originally chosen candidate for Node 58 identified here as Alternative 1 at 6758 Saroni Drive is not preferred by the City then the currently proposed location at 6846 Saroni Drive is the least intrusive means to close AT&T's significant service coverage gap in the area.**



CONING RECORD OR RECORD OF SURVEY, AS APPROPRIATE, SHALL BE FILED AS REQUIRED BY THE PROFESSIONAL LAND SURVEYORS ACT.

2. SUPPORTIVE NOTICE: SECTION 4215 OF THE GOVERNMENT CODE REQUIRES A DIG ALERT IDENTIFICATION NUMBER BE ISSUED BEFORE A "PERMIT TO EXCAVATE" WILL BE VALID. FOR YOUR DIG ALERT I.D. NUMBER, CALL UNDERGROUND SERVICE ALERT, TOLL FREE 1-800-227-2600, TWO DAYS BEFORE YOU DIG.
3. CONTRACTOR SHALL BE RESPONSIBLE FOR THE POT HOLE AND LOCATING OF ALL EXISTING UTILITIES THAT CROSS THE PROPOSED TRENCH LINE AND MUST MAINTAIN A 1" MINIMUM VERTICAL CLEARANCE.
4. IF ANY EXISTING HARDSCAPE OR LANDSCAPE INDICATED ON THE APPROVE PLANS IS DAMAGED OR REMOVED DURING DEMOLITION OR CONSTRUCTION, IT SHALL BE REPAIRED AND/OR REPLACED IN KIND PER THE APPROVED PLANS.
5. CONTRACTOR SHALL REPLACE OR REPAIR ALL TRAFFIC SIGNAL LOOPS, CONDUIT, AND LANE STRIPING DAMAGED DURING CONSTRUCTION.
6. THIS PROJECT WILL BE INSPECTED BY ENGINEERING AND FIELD ENGINEERING DIVISION.
7. MANHOLES OR COVERS SHALL BE LABELED EXTENT.
8. CONTRACTOR SHALL IMPLEMENT AN EROSION CONTROL PROGRAM DURING THE PROJECT CONSTRUCTION ACTIVITIES. THE PROGRAM SHALL MEET THE APPLICABLE REQUIREMENTS OF THE STATE WATER RESOURCE CONTROL BOARD.
9. THE CONTRACTOR SHALL HAVE EMERGENCY MATERIALS AND EQUIPMENT ON HAND FOR UNFORESEEN SITUATIONS, SUCH AS DAMAGE TO UNDERGROUND WATER, SEWER, AND STORM DRAIN FACILITIES WHEREBY FLOWS MAY GENERATE EROSION AND SEDIMENT POLLUTION.

**CALTRANS NOTES**

1. ANY REMOVED OR DAMAGED STRIPING AND MARKINGS SHALL BE REPLACED IN KIND AS PER CALTRANS STANDARDS AND AT PERMITTEE'S EXPENSE.



Call before you dig  
811 / 1-800-227-2600  
www.usanorth.org

THE CONTRACTOR FURTHER AGREES TO DEFEND INDEMNITY AND HOLD EXTERNET, REPRESENTATIVES, AND ENGINEERS HARMLESS FROM ANY AND ALL LIABILITY, REAL OR ALLEGED IN CONNECTION WITH THE PERFORMANCE OF THE WORK ON THIS PROJECT.

2. PRIOR TO THE BEGINNING OF ANY CONSTRUCTION AND THROUGHOUT THE COURSE OF CONSTRUCTION WORK, THE CONTRACTOR SHALL FULLY COMPLY WITH "CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH" ACT OF 1973 INCLUDING ALL REVISIONS AND AMENDMENTS THEREOF.
3. ALL WORK SHALL CONFORM TO THE LATEST EDITIONS OF GO95.128 AND THE STANDARD "SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION" AS ADOPTED BY THE CITY, COUNTY OR STATE AS MODIFIED BY STANDARD PLANS AND ADDENDUMS.
4. THE EXISTENCE AND LOCATION OF UTILITIES AND OTHER AGENCY'S FACILITIES AS SHOWN HEREON ARE OBTAINED BY A SEARCH OF AVAILABLE RECORDS. OTHER FACILITIES MAY EXIST. THE CONTRACTOR SHALL VERIFY PRIOR TO THE START OF CONSTRUCTION AND SHALL USE EXTREME CARE AND PROTECTIVE MEASURES TO PREVENT DAMAGE TO THESE FACILITIES. THE CONTRACTOR IS RESPONSIBLE FOR THE PROTECTION OF ALL UTILITY OR AGENCY FACILITIES WITHIN THE LIMITS OF WORK, WHETHER THEY ARE SHOWN ON THIS PLAN OR NOT.
5. THE CONTRACTOR SHALL NOTIFY THE CITY, COUNTY OR STATE ENGINEER INSPECTION DEPARTMENT, AT LEAST TWO DAYS BEFORE START OF ANY WORK REQUIRING THEIR INVOLVEMENT.
6. THE CITY, COUNTY OR STATE SHALL SPECIFY THE EXPIRATION PERIOD OF THE PERMIT FOR THIS CONSTRUCTION PROJECT.
7. THE MINIMUM COVER FOR ALL CONDUITS PLACED UNDERGROUND SHALL BE 30 INCHES TO THE FINISHED GRADE AT ALL TIMES.
8. THE CONTRACTOR SHALL TUNNEL ALL CURB AND GUTTERS AND BORE ALL CONCRETE DRIVEWAYS AND WALKWAYS AT THE DIRECTION OF THE CITY, COUNTY OR STATE ENGINEER.
9. ALL A.C. AND/OR CONCRETE PAVEMENT SHALL BE REPLACED AT THE DIRECTION OF THE CITY, COUNTY OR STATE ENGINEERS.
10. ALL SHRUBS, PLANTS OR TREES THAT HAVE BEEN DAMAGED OR DISTURBED DURING THE COURSE OF THE WORK, SHALL BE REPLANTED AND/OR REPLACED SO AS TO RESTORE THE WORK SITE TO ITS ORIGINAL CONDITION.
11. THE CONTRACTOR WILL BE RESPONSIBLE FOR THE PROCESSING OF ALL APPLICANT PERMIT FORMS ALONG WITH THE REQUIRED LIABILITY INSURANCE FORMS, CLEARLY DEMONSTRATING THAT EXTERNET, THE CITY, COUNTY OR STATE IS ALSO INSURED WITH THE REQUIRED LIABILITY INSURANCE IN THE AMOUNT OF \$1,000,000.00 FOR THIS CONSTRUCTION PROJECT.
12. VAULTS, PEDIESTALS, CONDUITS AND OTHER TYPES OF SUBSTRUCTURE ARE EITHER SPECIFIED ON THIS PLAN OR WILL BE SPECIFIED BY THE CONSTRUCTION ENGINEER. ANY AND ALL DEVIATIONS FROM THE SPECIFIED TYPES OF MATERIAL MUST BE APPROVED BY THE SYSTEM ENGINEER, IN WRITING BEFORE INSTALLATION THEREOF.
13. THE CONTRACTOR SHALL VERIFY THE LOCATION OF ALL EXISTING UTILITIES IN INCLUDING SEWER LATERALS & WATER SERVICES TO INDIVIDUAL LOTS BOTH VERTICAL AND HORIZONTAL PRIOR TO COMMENCING IMPROVEMENT OPERATIONS.
14. CONTRACTOR SHALL MAKE EXPLORATION EXCAVATIONS AND LOCATE EXISTING FACILITIES SUFFICIENTLY AHEAD OF CONSTRUCTION TO PERMIT REVISIONS TO PLANS IF REVISION IS NECESSARY BECAUSE OF LOCATION OF EXISTING UTILITIES.
15. THE LOCATIONS OF ALL EXISTING UTILITIES SHOWN ON THESE PLANS ARE FROM EXISTING RECORDS AND CORROBORATED WHERE POSSIBLE, WITH FIELD TIES. THE CONTRACTOR IS RESPONSIBLE FOR CONFIRMING THE LOCATIONS SHOWN, BOTH HORIZONTAL AND VERTICALLY. PRIOR TO CONSTRUCTION, IF EXISTING LOCATIONS VARY SUBSTANTIALLY FROM THE PLANS, THE ENGINEER SHOULD BE NOTIFIED TO MAKE ANY CONSTRUCTION CHANGES REQUIRED.

INTO THE DESIGN AND CONSTRUCTION OF THE PROPOSED GRADING/IMPROVEMENTS CONSISTENT WITH THE APPROVED STORM WATER POLLUTION PREVENTION PLAN (SWPPP), WATER QUALITY TECHNICAL REPORT (WQTR), AND/OR WATER POLLUTION CONTROL PLAN (WPCP).

7. FOR STORM DRAIN INLETS, PROVIDE A GRAVEL BAG SILT BASIN IMMEDIATELY UPSTREAM OF INLET AS INDICATED ON DETAILS.
8. FOR INLETS LOCATED AT SLOUPS ADJACENT TO TOP OF SLOPES, THE CONTRACTOR SHALL ENSURE THAT WATER DRAINING TO THE SLOUP IS DIRECTED INTO THE INLET AND THAT A MINIMUM OF 1.00' FREEBOARD EXISTS AND IS MAINTAINED ABOVE THE TOP OF THE INLET. IF FREEBOARD IS NOT PROVIDED BY GRADING SHOWN ON THESE PLANS THE CONTRACTOR SHALL PROVIDE IT VIA TEMPORARY MEASURES, I.E. GRAVEL BAGS OR DIKES.
9. THE CONTRACTOR OR QUALIFIED PERSON SHALL BE RESPONSIBLE FOR CLEANUP OF SILT AND MUD ON ADJACENT STREET(S) AND STORM DRAIN SYSTEM DUE TO CONSTRUCTION ACTIVITY.
10. THE CONTRACTOR OR QUALIFIED PERSON SHALL CHECK AND MAINTAIN ALL LINED AND UNLINED DITCHES AFTER EACH RAINFALL.
11. THE CONTRACTOR SHALL REMOVE SILT AND DEBRIS AFTER EACH MAJOR RAINFALL.
12. EQUIPMENT AND TOGGERS FOR EMERGENCY WORK SHALL BE MADE AVAILABLE AT ALL TIMES DURING THE RAINY SEASON. ALL NECESSARY MATERIALS SHALL BE STOCKPILED ON SITE AT CONVENIENT LOCATIONS TO FACILITATE RAPID CONSTRUCTION OF TEMPORARY DEVICES WHEN RAIN IS IMMINENT.
13. THE CONTRACTOR SHALL RESTORE ALL EROSION/SEDIMENT CONTROL DEVICES TO WORKING ORDER TO THE SATISFACTION OF THE CITY ENGINEER OR RESIDENT ENGINEER AFTER EACH RUN-OFF PRODUCING RAINFALL.
14. THE CONTRACTOR SHALL INSTALL ADDITIONAL EROSION/SEDIMENT CONTROL MEASURES AS MAY BE REQUIRED BY THE RESIDENT ENGINEER DUE TO UNCOMPLETED GRADING OPERATIONS OR UNFORESEEN CIRCUMSTANCES, WHICH MAY ARISE.
15. THE CONTRACTOR SHALL BE RESPONSIBLE AND SHALL TAKE NECESSARY PRECAUTIONS TO PREVENT PUBLIC TRESPASS ONTO AREAS WHERE UNPOUNDED WATERS CREATE A HAZARDOUS CONDITION.
16. ALL EROSION/SEDIMENT CONTROL MEASURES PROVIDED PER THE APPROVED GRADING PLAN SHALL BE INCORPORATED HEREON. ALL EROSION/SEDIMENT CONTROL FOR INTERIM CONDITIONS SHALL BE DONE TO THE SATISFACTION OF THE RESIDENT ENGINEER.
17. GRADED AREAS AROUND THE PROJECT PERIMETER MUST DRAIN AWAY FROM THE FACE OF THE SLOPE AT THE CONCLUSION OF EACH WORKING DAY.
18. ALL REMOVABLE PROTECTIVE DEVICES SHOWN SHALL BE IN PLACE AT THE END OF EACH WORKING DAY WHEN RAIN IS IMMINENT.
19. THE CONTRACTOR SHALL ONLY GRADE, INCLUDING CLEARING AND GRUBBING FOR THE AREAS FOR WHICH THE CONTRACTOR OR QUALIFIED PERSON CAN PROVIDE EROSION/SEDIMENT CONTROL MEASURES.
20. THE CONTRACTOR SHALL ARRANGE FOR WEEKLY MEETINGS DURING OCTOBER 1ST TO APRIL 30TH FOR PROJECT TEAM (GENERAL CONTRACTOR, QUALIFIED PERSON, EROSION CONTROL, SUBCONTRACTOR IF AN, ENGINEER OF WORK, OWNER/DEVELOPER AND THE RESIDENT ENGINEER) TO EVALUATE THE ADEQUACY OF THE EROSION/SEDIMENT CONTROL MEASURE AND OTHER RELATED CONSTRUCTION ACTIVITIES.

**GENERAL NOTES**

**ROW GROUND CONSTRUCTION NOTES:**

1. 120/240 POWER REQUIRED FOR J-WIRE SERVICE.
2. GC TO REMOVE/CLEAN ALL DEBRIS, NAILS, STAPLES, OR NON-WELD VERTICALS OFF THE POLE.
3. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH MUNICIPAL, COUNTY, STATE, FEDERAL, GO95 AND GO128 STANDARDS AND REGULATIONS.
4. CALL USA 48 HOURS PRIOR TO EXCAVATING AT (800) 227-2600.
5. ALL LANDSCAPING TO BE RESTORED TO ORIGINAL CONDITION OR BETTER.
6. ALL EQUIPMENT TO BE BONDED.
7. METERING CABINET REQUIRES 3" CLEARANCE AT DOOR OPENING.
8. CAULK CABINET BASE AT PAD.

**STANDARD GROUNDING NOTES:**

1. GROUND TESTED AT 5 OHMS OR LESS.
2. 5/8" x 8" ROD, CAD WELD BELOW GRADE.
3. #6 GROUND AND BOND WIRE.
4. WOOD MOLDING, STAPLED EVERY 3' AND AT EACH END.
5. GROUNDS 3' FROM POLE.
6. PLACE 3 #10GA WIRES FROM BREAKER TO METER BOX.

**STANDARD CONDUIT NOTES:**

1. FOR UNDERGROUND USE SCHEDULE 40.
2. FOR RISERS USE SCHEDULE 80.
3. PLACE 2" GALVANIZED STEEL CONDUIT FOR ANY CONDUIT UNDER 3", STUB UP 10" THEN CONVERT TO SCHEDULE 80.
4. CONVERT 4" CARRIER CONDUIT TO 3" AT BASE OF POLE.
5. GC TO STUB UP POLE 10" w/3" POWER CONDUIT, POWER GC TO CONVERT FROM 3" SCH. 80 TO 2" SCH. 80 FROM TOP OF STUB UP.
6. ALL CONDUIT WILL BE MAN DRILLED AND EQUIPPED WITH 3/8" PULL ROPE.

**STANDARD TRENCHING NOTES:**

1. MAINTAIN 40" MINIMUM COVER FOR ELECTRICAL CONDUIT.
2. MAINTAIN 30" MINIMUM COVER FOR COMMUNICATIONS CONDUIT.
3. SAND SHADING MINIMUM 1" UNDER CONDUITS, AND 6" COVERING ON TOP REQUIRED.
4. ALL ELECTRICAL SERVICE CONDUITS FROM POWER COMPANY, WHETHER FROM POLES, TRANSFORMERS, OR OTHER LOCATIONS, WILL BE SLURRY BARRIERS.

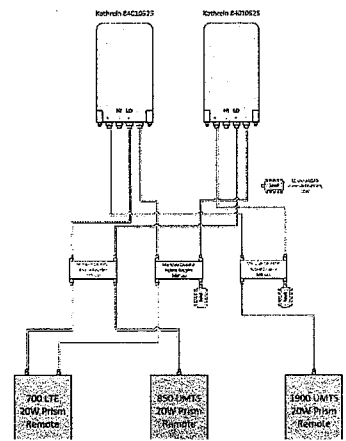
**ROW UTILITY POLE CONSTRUCTION NOTES:**

1. NO BOLT THREADS TO PROTRUDE MORE THAN 1-1/2".
2. FILL ALL HOLES LEFT IN POLE FROM REARRANGEMENT OF CLIMBERS.
3. ALL CLIMB STEPS NEXT TO CONDUIT SHALL HAVE EXTENDED STEPS.
4. CABLE NOT TO IMPEDE 15" CLEAR SPACE OFF POLE FACE (12000).
5. 90" SHORT SWEEPS UNDER ANTENNA ARM, ALL CABLES MUST ONLY TRANSITION ON THE INSIDE OR BOTTOM OF ARMS (NO CABLE ON TOP OF ARMS).
6. USE CABLE CLAMPS TO SECURE CABLE TO ARMS; PLACE 2" CARRIER CABLE ID TAGS ON BOTH SIDES OF ARMS.
7. USE 90° CONNECTOR AT CABLE CONNECTION TO ANTENNAS.
8. PLACE OPS ON ARM WITH SOUTHERN SKY EXPOSURE AT MINIMUM 6" FROM TRANSMIT ANTENNA, WHICH IS 24" AWAY FROM CENTER OF POLE.
9. USE 1/2" CABLE ON ANTENNAS UNLESS OTHERWISE SPECIFIED.
10. FILL VOID AROUND CABLES AT CONDUIT OPENING WITH FOAM SEALANT TO PREVENT WATER INTRUSION.

WIND LOADING INFORMATION	
ANTENNA/WOOD ARM AREA TOTAL	82.52 SQ. FT.
TOP GRADE	48'-3"
BOTTOM GRADE	44'-6"
METER/BREAKER AREA TOTAL	14.62 SQ. FT.
TOP GRADE	9'-0"
BOTTOM GRADE	7'-0"
BATTERY BACK-UP AREA TOTAL	IN SHROUD
TOP GRADE	-
BOTTOM GRADE	-
PRISM DECK AREA TOTAL	IN SHROUD
TOP GRADE	-
BOTTOM GRADE	-
EQUIPMENT SHROUD AREA TOTAL	192 SQ. FT.
TOP GRADE	18'-10"
BOTTOM GRADE	10'-10"
COAX RISER SIZE	3"U
COAX RISER TOP GRADE	44'-0"
COAX RISER Btm GRADE	11'-7"
PWR RISER SIZE	1"e
PWR RISER TOP GRADE	30'-0"

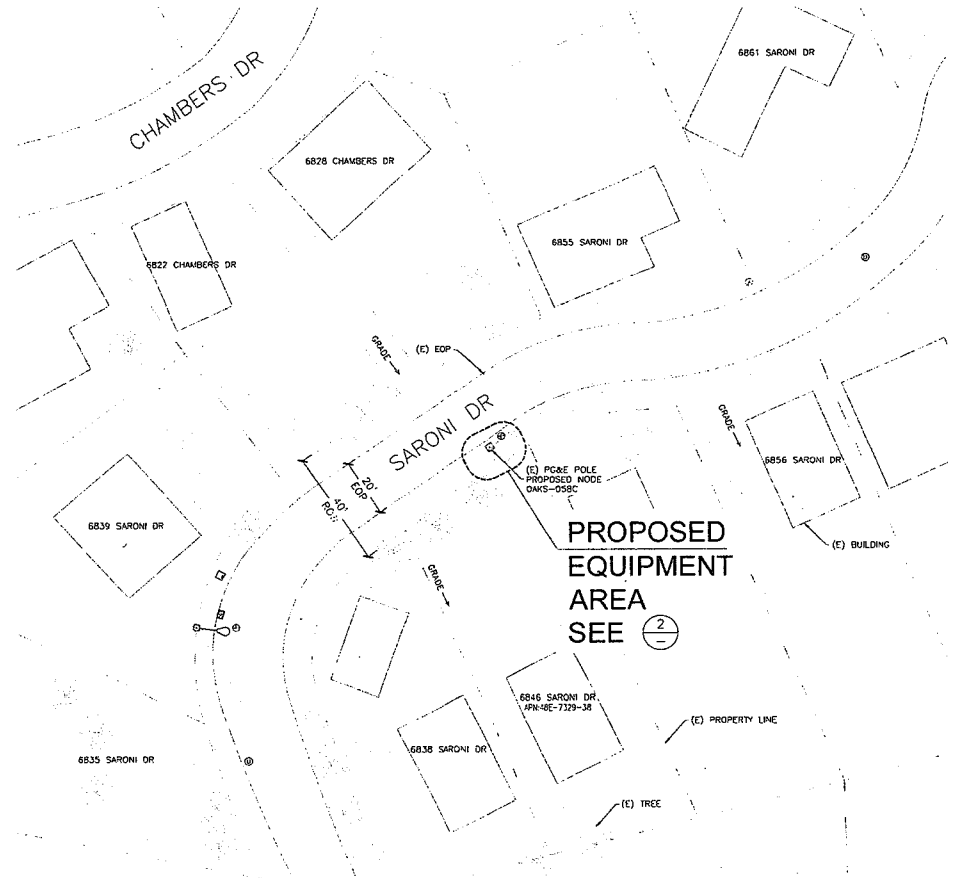
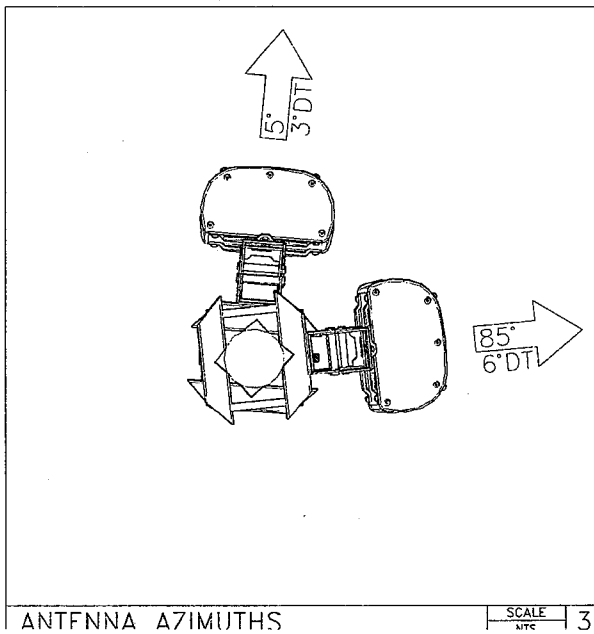
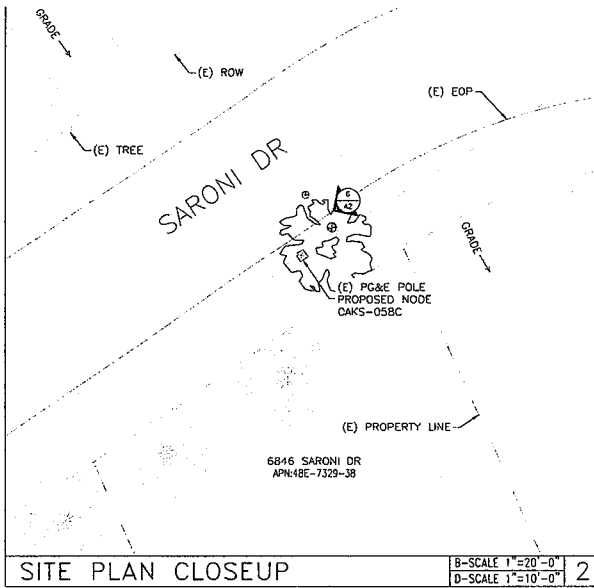
ANTENNA & CABLE SCHEDULE					
ANTENNA SECTOR	AZIMUTH	ANTENNA MAKE / MODEL	COAXIAL CABLE LENGTH	CABLES PER SECTOR	CABLE SIZE
SECTOR ALPHA	5°/3°DT	KATHREIN 840-10525	38'/3'	4/6	1/2"
SECTOR BETA	85°/6°DT	KATHREIN 840-10525	38'/3'	4/6	1/2"
SECTOR GAMMA					

NOTE: CONTRACTOR TO FIELD VERIFY CABLE LENGTHS PRIOR TO ORDERING, PURCHASING, OR INSTALLATION OF CABLES.



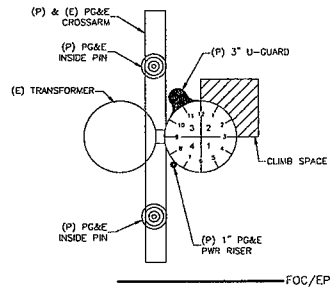
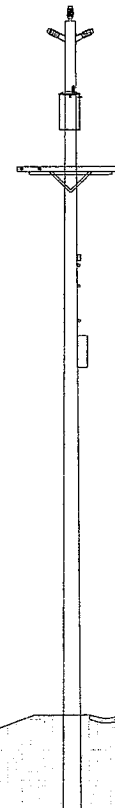
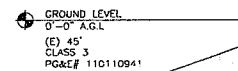
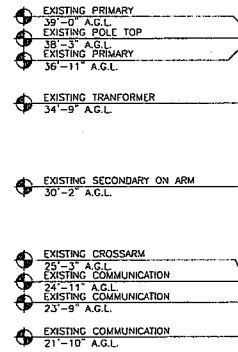
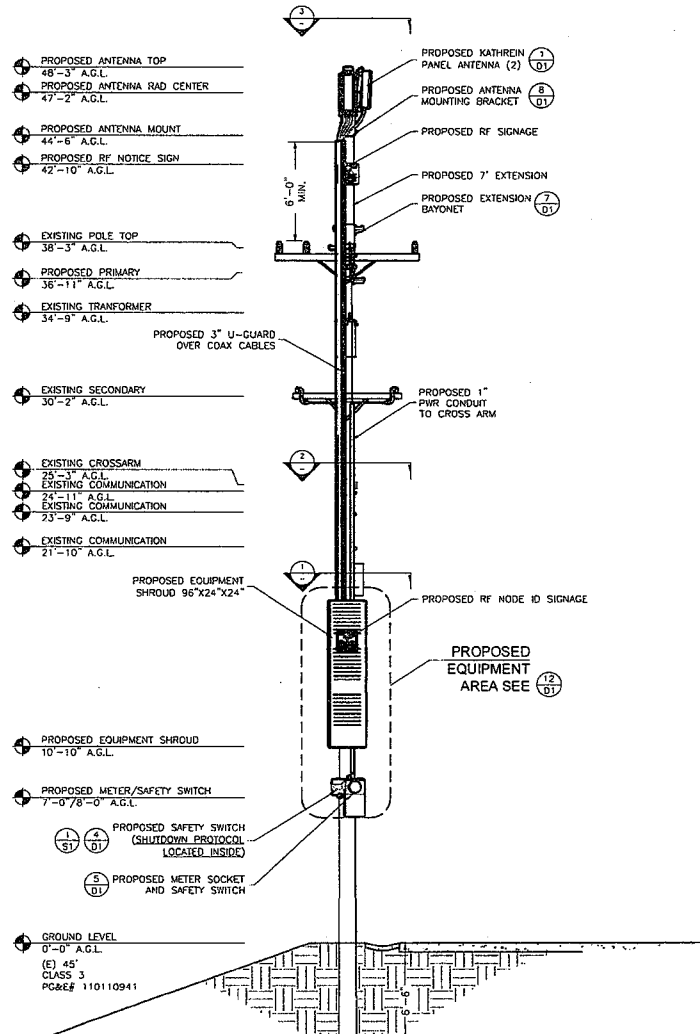
SCALE  
NTS





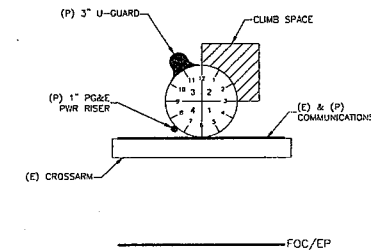
- INSTALL 3" SCH 80 U-GUARD AT 11:00 POSITION OVER COAX.
- INSTALL SHROUD (RADIO & BBU), METER SOCKET, & SAFETY SWITCH 4" OFF OF POLE (USING UNISTRUTS) AT 9:00 POSITION.
- RELOCATE CLIMBING PEGS AT 9:00 POSITION, 6'-6" AGL TO COMM ZONE, TO 3:00 POSITION.
- INSTALL (2) PANEL ANTENNAS W/ MOUNTING BRACKET ON POLE TOP EXTENSION AT 44'-6" AGL.
- INSTALL COMBINERS AND (4/6) 1/2" COAX.
- INSTALL PG&E 1" SCH 80 CONDUIT TO SECONDARY CROSSARM, AT 7:30 POSITION FOR POWER SERVICE.
- INSTALL 3" SCH 80 U-GUARD AT 11:00 POSITION OVER COAX.
- PROVIDE 120/240 3-WIRE SINGLE PHASE, 100 AMP SERVICE TO 1" PG&E CONDUIT AT 10:30 POSITION TO METER SOCKET FROM SECONDARY 31'-6" AGL.

### MAKE-READY NOTES



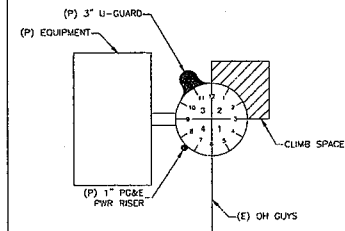
SARONI DR

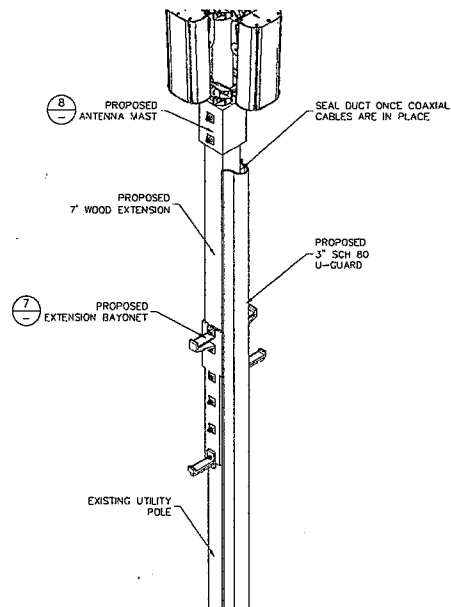
### POWER SPACE PLAN VIEW



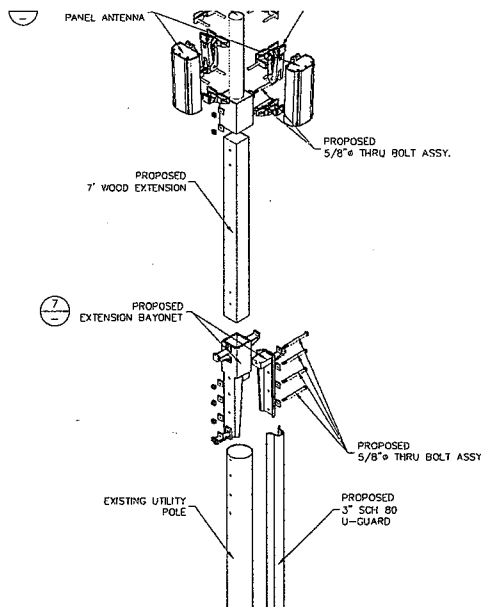
SARONI DR

### COMM. SPACE PLAN VIEW

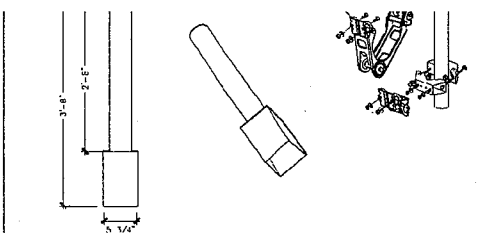




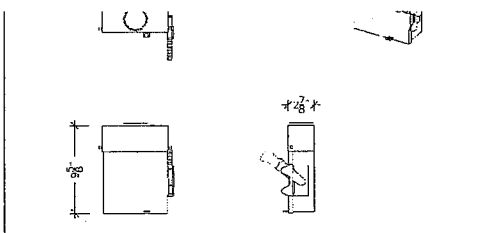
ANTENNA CONFIGURATION B-SCALE 3/8"=1'-0" D-SCALE 3/4"=1'-0" 13



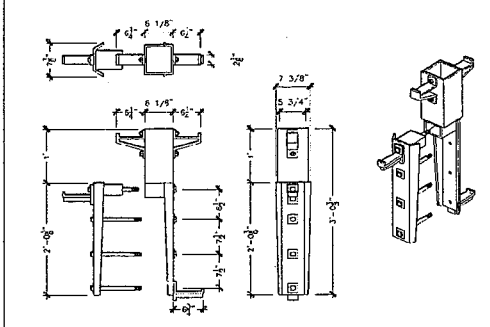
POLE TOP ANTENNA ASSEMBLY B-SCALE 1/4"=1'-0" D-SCALE 1/2"=1'-0" 11



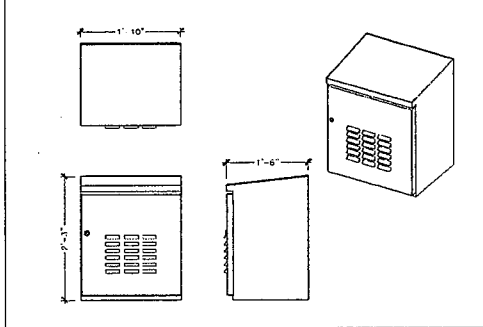
POLE TOP EXTENSION ANTENNA MAST W/ BRKTS B-SCALE 3/8"=1'-0" D-SCALE 3/4"=1'-0" 8



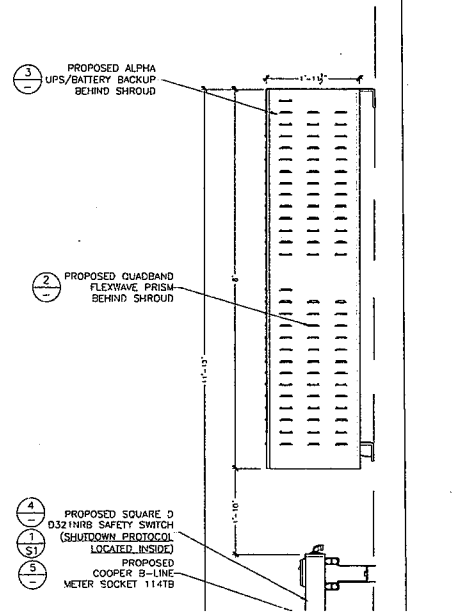
SQUARE D D321NRB SAFETY SWITCH B-SCALE 3/4"=1'-0" D-SCALE 1 1/2"=1'-0" 4



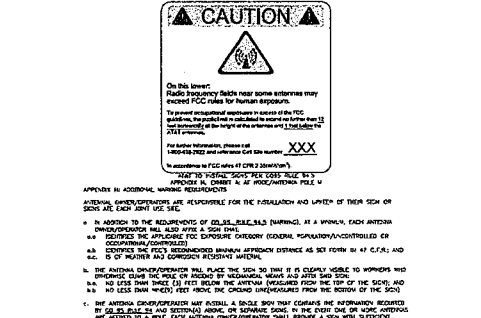
POLE TOP EXTENSION BAYONET B-SCALE 3/8"=1'-0" D-SCALE 3/4"=1'-0" 7



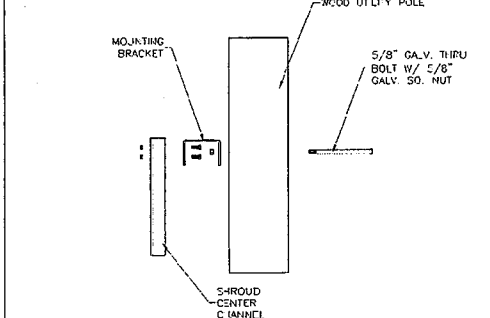
ALPHA MMOE UPS/BATTERY BACKUP B-SCALE 3/8"=1'-0" D-SCALE 3/4"=1'-0" 3



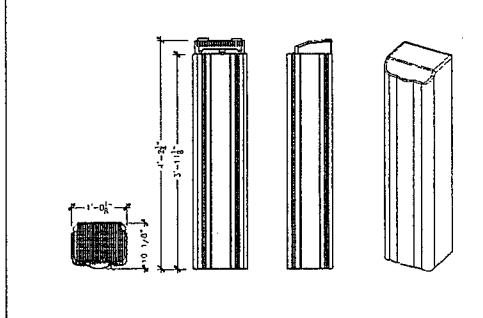
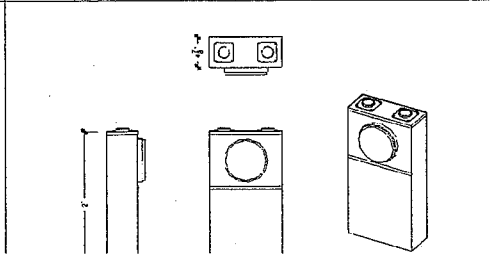
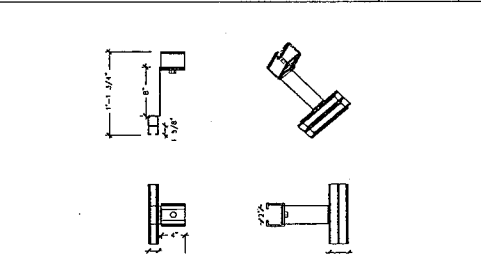
RF WARNING SIGNAGE SCALE NTS 10



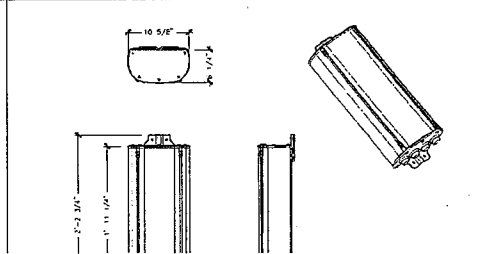
SHROUD MOUNTING ASSY. SCALE NTS 6



QUADBAND FLEXWAVE PRISM B-SCALE 3/8"=1'-0" D-SCALE 3/4"=1'-0" 2



PROPOSED SQUARE D D321NRB SAFETY SWITCH (SHUTDOWN PROTOCOL LOCATED INSIDE)



PROPOSED COOPER B-LINE METER SOCKET 114TB



### AT&T oDAS Shutdown Procedure

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

(A) PG&E personnel SHALL contact AT&T Mobility Switch Center to notify them of an emergency shutdown 800-638-2822. 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

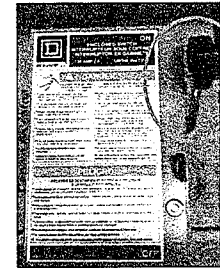
(B) Pull Disconnect Handle down to the Open or "OFF" Position. The RF signal will shut down within a few seconds. A visual inspection of the interior blade will confirm that both incoming AC Lead and Battery Backup are disconnected.

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

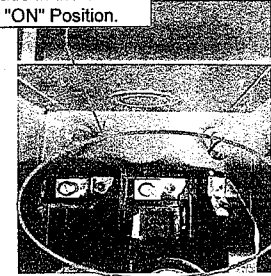
See reverse side to view photo of the "on" and "off" position.



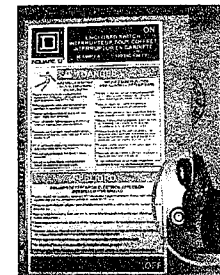
#### Switch in the Closed Position ("ON")



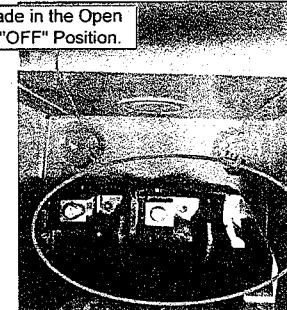
Blade in the Closed or "ON" Position.



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



Blade in the Open or "OFF" Position.



### Director's Report

August 5, 2015

As the popularity of wireless devices (including tablets and smartphones) continues to increase, wireless providers continue to upgrade their networks. Local governments play an important role in the deployment of wireless communications facilities with land use regulations which seek to balance the need for faster, better service and the aesthetic and other impacts these facilities have on communities.

The Federal Communications Commission (FCC) recently issued new regulations that *require* local governments to approve some co-locations at previously approved and built facilities. These co-locations are not limited to traditional telecommunications towers (the large industrial monopoles) but apply to essentially any telecommunications facility.

The attached Zoning Code Bulletin provides a summary of the new FCC regulations and the limitations it imposes on certain co-location proposals (see Attachment A, Question 1).

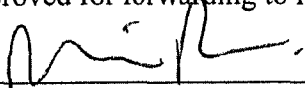
The Zoning Code Bulletin also summarizes the now long-standing policy of the City of Oakland to require formal Design Review Approval of telecommunications facilities within the rights-of-way, such as panel antennae and related equipment on joint-use telephone poles. This policy was implemented after, and as a result of, the court case Sprint PCS Assets, LLC vs. the City of Palos Verdes Estates which occurred late in 2009. In November, 2010, staff provided a Director's Report regarding this policy. Prior to this policy implementation, such right-of-way installations were handled ministerially by the Public Works staff (see Attachment A, Question 2).

Prepared by:



Scott Miller, Zoning Manager

Approved for forwarding to Planning Commission by:



Darin Ranelletti, Deputy Director  
Bureau of Planning

Attachment: A. Zoning Code Bulletin, Telecommunications Facilities, Issued July 15, 2015



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 CI-3 & DI-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).

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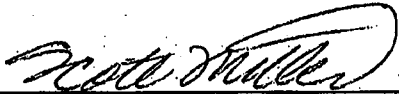
**QUESTION 2) California Public Utilities Code section 7901**

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

Introduced by Councilmember \_\_\_\_\_

**FILED**  
OFFICE OF THE CITY CLERK  
OAKLAND

2015 NOV 24 PM 1:07

# OAKLAND CITY COUNCIL

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

**A RESOLUTION DENYING APPEAL #PLN15149-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 AT 6846 SARONI DRIVE**

**WHEREAS**, on May 11, 2015, the applicant, New Cingular Wireless PCS, LLC d/b/a AT&T Mobility ("Applicant"), submitted an application for Regular Design Review, with additional findings, to replace an existing 39'-9" Joint Pole Authority (JPA) utility pole with a new JPA utility pole owned by PG&E and attach two panel antennae (each is two feet long, 10 inches wide) to the top, extending to a height of 48'-3" above ground, located in the City public right-of-way adjacent to 6846 Saroni Drive, and to mount a singular equipment box to the side of the pole 10'-10" above ground, as case # PLN15149 ("Project" or "Application"); and

**WHEREAS**, based on a site visit and review of internet aerial images of the site, staff did not discern a design issue or a view issue, given 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 agendaized for the Planning Commission hearing of July 15, 2015, and public notices were duly distributed; and

**WHEREAS**, on July 15, 2015, 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); and

**WHEREAS**, on July 15, 2015, the Planning Commission approved the Regular Design Review application, subject to the Regular Design Review findings, additional findings, and conditions of approval; and

**WHEREAS**, on July 24, 2015, the appellant, Mr. David Benedetti ("Appellant"), a neighbor at 6822 Chambers Drive, filed a timely Appeal (#PLN15149-A01) of the Planning Commission's decision to approve the Project; and

**WHEREAS**, after giving due notice to the Appellant, the Applicant, supporters of the application, those opposed to the application and interested neutral parties, the Appeal came before the City Council in a duly noticed public hearing on December 8, 2015; and

**WHEREAS**, the Appellant, the Applicant, supporters of the application, those opposed to the application and interested neutral parties were given ample opportunity to participate in the public hearing by submittal of oral and/or written comments; and

**WHEREAS**, the public hearing on the Appeal was closed by the City Council on December 8, 2014; now, therefore, be it

**RESOLVED:** 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), and 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 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 Appellant has 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, or that the Planning Commission's decision was not supported by substantial evidence in the record. This decision is based, in part, on the December 8, 2015, City Council Agenda Report and the July 15, 2015 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 a 39'-9" JPA utility pole with a new JPA utility pole owned by PG&E with two panel antennae (each is two feet long, 10 inches wide) attached to the top, extending to a height of 48'-3" above ground, and a singular equipment box mounted 10'-10" above ground, located in the City public right-of-way adjacent to 6846 Saroni 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;

**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 December 8, 2015 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 July 15, 2015 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.