public limit. It should be noted that these results include several "worst-case" assumptions and therefore are expected to overstate actual power density levels from the proposed operation.

Recommended Mitigation Measures

Due to their mounting locations on utility poles, the New Cingular Wireless antennas would not be accessible to the general public, and so no mitigation measures are necessary to comply with the FCC public exposure guidelines. To prevent occupational exposures in excess of the FCC guidelines, no access within 3 feet directly in front of the antennas themselves, such as might occur during maintenance work on the poles, should be allowed while the pertinent node is in operation, unless other measures can be demonstrated to ensure that occupational protection requirements are met. Posting explanatory warning signs† at the antennas and/or on the poles below the antennas, such that the signs would be readily visible from any angle of approach to persons who might need to work within that distance, would be sufficient to meet FCC-adopted guidelines.

Conclusion

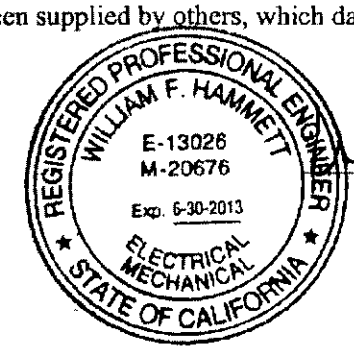
Based on the information and analysis above, it is the undersigned's professional opinion that the proposed operation of these New Cingular Wireless nodes located in Oakland, California, will comply with the prevailing standards for limiting public exposure to radio frequency energy and, therefore, will not for this reason cause a significant impact on the environment. The highest calculated level in publicly accessible areas is much less than the prevailing standards allow for exposures of unlimited duration. This finding is consistent with measurements of actual exposure conditions taken at other operating base stations. Posting explanatory signs is recommended to establish compliance with occupational exposure limitations.

† Warning signs should comply with OET-65 color, symbol, and content recommendations. Signage may also need to comply with the requirements of California Public Utilities Commission General Order No. 95.

New Cingular Wireless, LLC • 32 Proposed Distributed Antenna System Nodes
Oakland Hills • Oakland, California

Authorship

The undersigned author of this statement is a qualified Professional Engineer, holding California Registration Nos. E-13026 and M-20676, which expire on June 30, 2013. This work has been carried out under his direction, and all statements are true and correct of his own knowledge except, where noted, when data has been supplied by others, which data he believes to be correct.



William F. Hammett, P.E.
707/996-5200

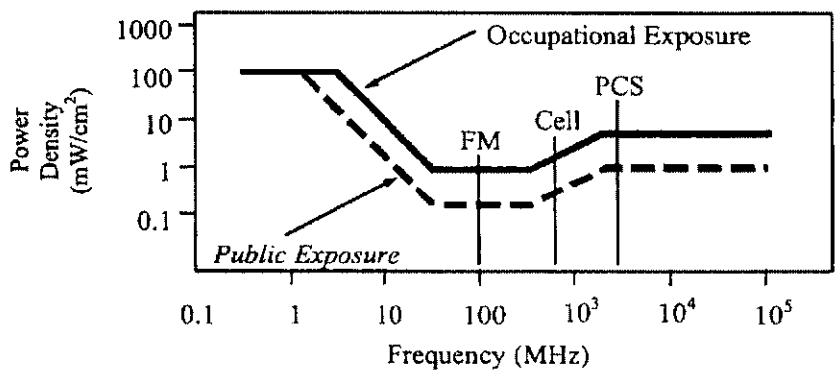
December 13, 2012

FCC Radio Frequency Protection Guide

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

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

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



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

RFR.CALC™ Calculation Methodology

Assessment by Calculation of Compliance with FCC Exposure Guidelines

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

Near Field.

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

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

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

where θ_{BW} = half-power beamwidth of the antenna, in degrees, and
P_{net} = net power input to the antenna, in watts,
D = distance from antenna, in meters,
h = aperture height of the antenna, in meters, and
η = aperture efficiency (unitless, typically 0.5-0.8).

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

Far Field.

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

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

where ERP = total ERP (all polarizations), in kilowatts,
RFF = relative field factor at the direction to the actual point of calculation, and
D = distance from the center of radiation to the point of calculation, in meters.

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

ATTACHMENT C

April 23, 2013

Planning Department
City of Oakland
250 Frank Ogawa Plaza, 2nd Floor
Oakland, CA 94612

Re: Proposed AT&T Mobility DAS Node Installation

Applicant:	**New Cingular Wireless PCS, LLC (d/b/a AT&T Mobility)**
Site Address:	**Public Right of Way across from 6659 Girvin Dr.**
Site ID:	**OAKS-77A**
Oakland Case File #:	**DR13-055**
Latitude/Longitude:	**37.829987, -122.190905**
Joint Utility Pole #:	**110111699**

Dear Planning Department,

This letter is to explain why a distributed antenna system ("DAS") node is being proposed at the above-referenced utility pole and to explain the alternative sites that were evaluated in making this determination. The site is located in a difficult coverage area because of its winding roads, hilly terrain and plentiful trees The coverage area is east of Shepherd Canyon Road, centering at Girvin Drive and Elderberry Drive.

This DAS node is the least intrusive means to provide coverage because it uses existing utility infrastructure, the smallest equipment and the lowest emissions possible The DAS node emissions are also much lower than the typical macro-site and thus appropriate for the area. Deploying a DAS node onto this pole utilizes an inconspicuous location amidst the trees and out of the way from any residences or views. By co-locating antennas and equipment onto this existing pole, AT&T does not need to propose any new infrastructure in the area. Furthermore, this two-antenna installation onto existing infrastructure is miniature in size compared to the typical 12-antenna macro site and therefore more appropriate for the surrounding rural residential area The site should be barely noticeable as a co-located utility, very well concealed by nearby trees.

Alternative sites were considered at other utility poles in the area along Girvin and Elderberry The proposed location was chosen instead of any others because the proposed pole is located at the intersection of Girvin and Elderberry, not immediately near any houses, and very well concealed by nearby trees The intersection location allows for propagation up and down the intersecting streets without much obstruction The pole just north across the street at about 6254 Elderberry would also be a well-concealed host for our proposed facility but it is a bit closer to a house than the proposed location Poles further east up Elderberry are similarly closer to houses and too far away to effectively achieve the intended coverage Poles south along Girvin have a reduced elevation insufficient for signal propagation as do poles north toward Aitken. For all of these reasons, the proposed location is the best out of all the alternatives.

Feel free to contact me if you have any questions Thank you

Best Regards,

Matthew S. Yergovich
ExteNet Real Estate Contractor
For AT&T Mobility

AT&T Mobility
C/O Yergovich and Associates LLC
ExteNet Systems Real Estate Contractor
1826 Webster Street • San Francisco, CA 94115
(415) 596-3474 • myergo@gmail.com

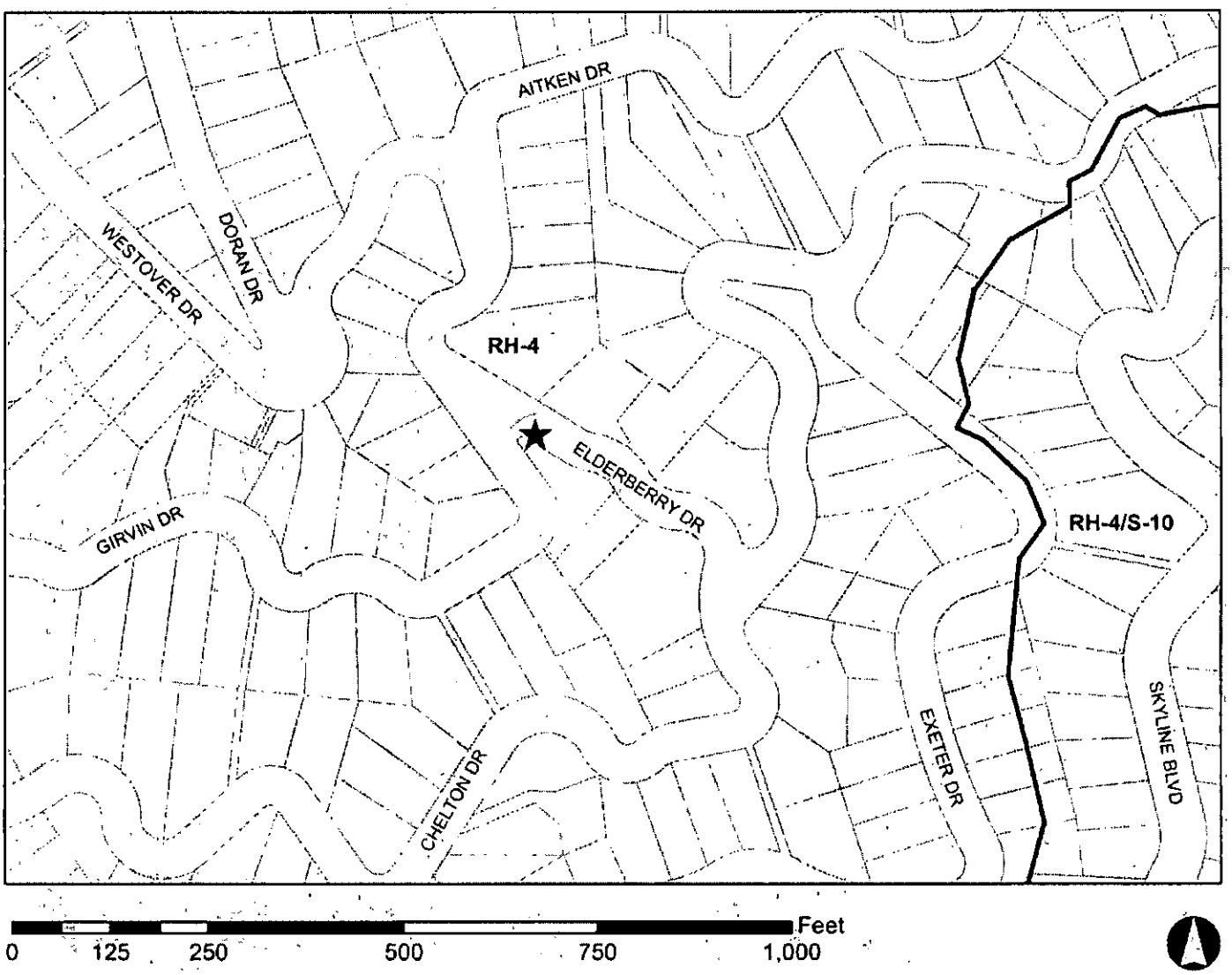
Case File Number: DR13-055 **July 31, 2013**

Location:	**The public Right of Way at the intersection of Elderberry Dr. and Girvin Dr. (adjacent to 6239 Elderberry Dr.) (See map on reverse)**
Assessors Parcel Numbers:	**(048D-7302-001-00) nearest lot adjacent to the project site.**
Proposal:	To install a wireless telecommunication facility (AT&T wireless) on a new 47'-6" high PG&E utility pole located in the public right-of-way: Install two panel antennas (approximately two-feet long and ten-inches wide mounted onto arms at 37'high on the pole, an associated equipment box, one battery backup and meter boxes within a 6' tall by 18" wide singular equipment box attached to the pole at 8' height above ground.
Applicant:	New Cingular Wireless PCS, LLC. For AT&T Mobility
Contact Person/ Phone Number:	Matthew Yergovich (415)596-3474
Owner:	Pacific Gas & Electric. (PG&E)
Case File Number:	**DR13-055**
Planning Permits Required:	Major Design Review to install a wireless Macro Telecommunications Facility to on existing PG&E pole located in the public right -of- way in a residential zone.
General Plan:	Hillside Residential
Zoning:	RH-4 Hillside Residential-4 Zone.
Environmental Determimation:	Exempt, Section 15301 of the State CEQA Guidelines; minor additions and alterations to an existing facility 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:	February 6th, 2013
Finality of Decision:	Appealable to City Council within 10 Days
For Further Information:	Contact case planner Michael Bradley at **(510) 238-6935** or mbradley@oaklandnet.com

SUMMARY

The proposal is to install a wireless Telecommunications Macro Facility on a new 47'-6" high PG&E utility pole located in the public right -of- way. The new pole would replace an existing 43' high PG&E utility pole in the same location. New Cingular Wireless PCS for (AT&T Mobility) is proposing to install two panel antennas (two-feet long and ten inches wide) mounted onto arms at 37' high on the pole; an associated equipment box, one battery backup and meter boxes within a 6' tall by 18" wide singular equipment box attached to the pole at 8' above the ground. This new proposal is a revision of the previous proposal that was presented to the Planning Commission on May 1, 2013. Staff believes, given the topography, mature vegetation, and limited number of near by homes, it will be camouflaged and blend in with the existing heavily wooded area. The proposed project as conditioned, will be designed to meet the

CITY OF OAKLAND PLANNING COMMISSION



Case File: DR13055
Applicant: New Cingular Wireless PCS, LLC / AT&T Mobility
Address: The public Right of Way at the intersection of Elderberry Drive and Girvin Drive
Zone: RH-4

established zoning and telecommunication regulations and staff recommends to support the Major Design Review application.

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".

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 47'-6" high PG&E utility pole located in the public right –of– way. The project consists of two panel antennas (two-feet long and 10-

inches wide) mounted onto arms at 37' high on the 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 8'above the ground located in public right -of-way. No portion of the telecommunication facilities will be located on the ground within City of Oakland public right-of-way. The proposed antennas and associated equipment will not be accessible to the public. (See Attachment A).

PROPERTY DESCRIPTION

The existing 43'-0" high PG&E utility pole is located in the City of Oakland public right -of-way adjacent to a steep up sloped parcel at the intersection of Elderberry Drive and Girvin Drive (adjacent to 6239 Elderberry Dr.)

GENERAL PLAN ANALYSIS

The subject property is located within the Hillside Residential General Plan designation. The Hillside Residential Land Use Classification is intended "to identify, 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 an existing PG&E utility pole within the City of Oakland public right-of-way. Its visual impacts will be mitigated since the antennas "climb through" installation while typically not considered aesthetically pleasing, given the topography, mature vegetation, and limited homes nearby, it will be camouflaged and blend in with the existing heavily-wooded area and the equipment cabinet box 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 residential characteristics of the neighborhood.

ZONING ANALYSIS

The project site is located in RH-4 Residential Zone. The intent of the RH-4 Zone is: "to create, preserve, and enhance areas for single-family estate living at very low densities in spacious environments and is typically appropriate to portions of the Oakland hill area. The proposed telecommunication facility is located at the intersection of Elderberry Drive and Girvin Drive (adjacent to 6239 Elderberry Dr.) in a heavily wooded area with very little residence in close proximity. The project requires Regular Design Review, with special findings, to allow the installation of new telecommunication facilities on an existing PG&E pole located In the public right-of-way in a Residential Zone. Special findings required for Design Review approval to ensure that the facility is concealed to the extent possible. These findings are met by this proposal; while the antennas "climb through" installation are typically not considered aesthetically pleasing, given the topography mature vegetation, and limited close homes. The equipment cabinets will be enclosed within a single equipment box painted to match the utility pole. Staff finds that the proposed application meets the applicable RH-4 Hillside Residential zoning regulations for telecommunication facilities.

ENVIRONMENTAL DETERMINATION

The California Environmental Quality Act (CEQA) Guidelines lists the projects that qualify as categorical exemptions from environmental review. The proposed project is categorically exempt from the environmental review requirements pursuant to Section 15301, additions and alterations to existing facilities, and Section 15183, projects consistent with a General Plan or Zoning.

KEY ISSUES AND IMPACTS

1. Regular Design Review

Section 17.136.040 and 17.128.070 of the City of Oakland Planning Code requires a Major Design Review for Macro Telecommunication facilities that are attached to utility poles in the RH-4 zone or that are located within one hundred (100) feet of the boundary of any residential zone. The required findings for Major Design Review 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.
D. Existing commercial or industrial structures in residential zones.
E. Other non-residential uses in residential zones.
F. Residential uses in non-residential zones.
G. Residential uses in residential zones.

*Facilities locating on an A, B or C ranked preference 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 an existing PG&E utility pole within public right- of - way.

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 can not 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 have reviewed (see attachment A alternative site analysis letter) and determined that the site selected is conforming to all other telecommunication regulation requirements. The project has met design criteria (C) since the antennas will be mounted on existing PG&E pole expansion and will be camouflage partially with the existing mature trees and equipment cabinet box and battery backup box will be within singular equipment box attached to the utility pole painted to match color of an existing PG&E utility pole to minimize potential visual impacts from public view.

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. The telecommunications regulations require that the applicant submit written documentation demonstrating that the emission from the proposed project are within the limits set by the Federal Communications Commission. In the document (attachment B) prepared by Hammett & Edison RF Compliance Experts, Inc. Inc. Registered Professional Engineer, the proposed project was evaluated for compliance with appropriate guidelines limiting human exposure to radio frequency electromagnetic fields. According to the report on the proposal, the project will comply with the prevailing standards for limiting public exposure to radio frequency energy and, therefore, the proposed site will operate within the current acceptable thresholds as established by the Federal government or any such agency that may be subsequently authorized to establish such standards.
b. 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 emissions report, states that the proposed project will not cause a significant impact on the environment. Additionally, staff recommends that prior to the final building permit sign off; the applicant submit a certified RF emissions report stating that the facility is operating within acceptable thresholds established by the regulatory federal agency.

CONCLUSION

Staff believes that the proposed project "climb through" installation are typically not considered aesthetically pleasing, given the topography mature vegetation, and limited near by homes, can be designed to meet the established zoning and telecommunication regulations and recommend to support the Major Design Review application.

RECOMMENDATIONS:

1. Affirm staff's environmental determination
2. Approve Design Review application DR13-055 subject to the attached findings and conditions of approval

Prepared by:

Michael Bradley
Planner I

Approved by:

Scott Miller
Zoning Manager

Approved for forwarding to the
City Planning Commission

Rachel Flynn, Director
Department of Planning and Building

ATTACHMENTS:

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

FINDINGS FOR APPROVAL

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 two panel antennas (two-feet long and 10-inches wide) mounted onto arms at 37' high on the pole; an associated equipment box, one battery backup and meter boxes within a 6' tall by 18" wide singular equipment box attached to the pole 8' above the ground, located in the public right -of- way. The proposed antennas and equipment cabinet attached to the utility pole are partially camouflaged to blend in with the existing surrounding heavily wooded area and limited nearby homes. 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 wooded hillside residential area. The installation will be camouflaged to blend in with the existing surrounding wooded area to have minimal visual impacts on public views. It will protect 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 site is located within the Hillside Residential General Plan designation classification which is intended to create, maintain, and enhance neighborhood residential areas that are characterized by detached, single unit structures on hillside lots. The proposed unmanned wireless telecommunication facility will be located on a new PG &E utility pole and will not have significant adversely affect or detract from the residential characteristics of the

neighborhood. Visual impacts will be minimized since the area is heavily wooded with trees partially obscuring views of the pole. Therefore, the Project conforms to the General Plan and applicable 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 new PG&E 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 building or architecturally significant structure, but rather on a PG&E 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 directly above on a new PG&E utility pole and painted to match the utility pole which will be camouflaged to blend-in with existing surrounding wooded area.

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 within a single equipment box attached to the existing utility pole and painted to match pole blend with 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 PG &E 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 mounted onto arms at 37' high on a new 47'-6" high PG&E pole, and will not be accessible to the public due to its location. The equipment accommodation and battery backup boxes will also be inside a single equipment box and attached to the pole at a height of 8' above grade.

STANDARD CONDITIONS:

1. Approved Use

Ongoing

a) The project shall be constructed and operated in accordance with the authorized use as described in the application materials for case number **DR13-055**, and the plans dated **May 7, 2013** and submitted on **June 12th, 2013** and as amended by the following conditions. Any additional uses or facilities other than those approved with this permit, as described in the project description and the approved 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) on a new 47'-6" high PG&E utility pole located in public right -of- way; install two panel antennas (two-feet long and 10- inches wide) mounted onto arms at 37' high on the 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 8' above the ground at the public Right of Way at the intersection of Elderberry Drive and Girvin Drive (adjacent to 6239 Elderberry Dr.), 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 CONDTIONS:

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

16. 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.

ATTACHMENT A

PROPRIETARY INFORMATION

THE INFORMATION CONTAINED IN THIS SET OF CONSTRUCTION DOCUMENTS IS PROPRIETARY BY NATURE. ANY USE OR DISCLOSURE OTHER THAN THAT WHICH RELATES TO CARRIER SERVICES IS STRICTLY PROHIBITED.

at&t

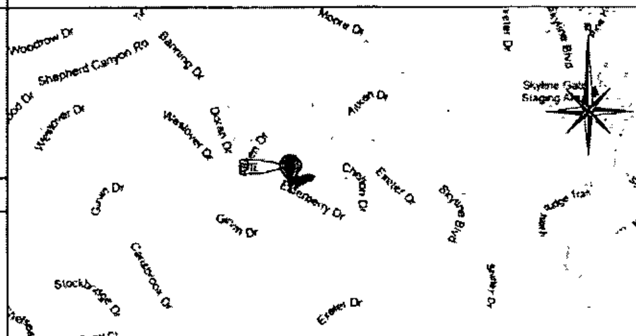
OAKHILLS AT&T SOUTH NETWORK
OAKS-077A
(PROW) ACROSS FROM 6659 GIRVIN DR, OAKLAND, CA 94611

LEGEND & SYMBOLS

ABBREVIATIONS

CODE COMPLIANCE

VICINITY MAP



DRIVING DIRECTIONS

FROM: 2570 BISHOP RANCH DR, SAN RAMON, CA

TO: ACROSS FROM 6659 GIRVIN DR, OAKLAND, CA 94611

SIGNATURE BLOCK

APPROVED BY	INITIALS	DATE
MUNICIPAL AFFAIRS		
RF MANAGER		
CONSTRUCTION MANAGER		
PROJECT MANAGER		
APPLICANT AGENT		
APPLICANT		

PROJECT DESCRIPTION

THESE DRAWINGS DEPICT A PORTION OF A DISTRIBUTED ANTENNA SYSTEM (DAS) TELECOMMUNICATIONS NETWORK, TO BE CONSTRUCTED BY EXTENET SYSTEMS AND OWNED AND OPERATED BY NEW CINGULAR WIRELESS PCS, LLC, IN THE PUBLIC RIGHT OF WAY PURSUANT TO AUTHORITY GRANTED BY THE CALIFORNIA PUBLIC UTILITIES COMMISSION.

THE MAIN COMPONENTS OF THIS INSTALLATION ARE:
THE ADDITION OF TWO (2) 27.75"X10.625"X6.25" PANEL ANTENNAS, ONE (1) BBU CABINET, ONE (1) RADIO UNIT, ASSOCIATED ELECTRICAL COMPONENTS, AND MOUNTING BRACKETS AS REQUIRED, LOCATED ON AN EXISTING PG&E UTILITY POLE

DRAWING INDEX

T1	TITLE SHEET & PROJECT INFORMATION
T2	GENERAL NOTES AND SCHEDULES
A1	SITE PLAN
A2	UTILITY POLE ELEVATIONS / RISER DETAILS
D1	EQUIPMENT DETAILS

BUILDING / SITE DATA

LATITUDE	37.829957	TYPE OF CONSTRUCTION	ATTACHMENTS TO EXISTING WOOD POLE
LONGITUDE	-122.190905	AREA OF CONST	
ELEVATION	N/A	HANDICAP REQUIREMENTS	FACILITY IS UNMANNED AND NOT FOR HUMAN HABITATION. HANDICAPPED ACCESS NOT REQUIRED.
JURISDICTION	CITY OF OAKLAND		
A.P.N.	[illegible]	TITLE 24 REQUIREMENTS	FACILITY IS UNMANNED AND NOT FOR HUMAN HABITATION. THIS PROJECT IS EXEMPT
ZONING	PUBLIC RIGHT OF WAY		
OCCUPANCY	U UNMANNED		

PROJECT TEAM

PROPERTY OWNER: NAME: PUBLIC RIGHT OF WAY; ADDRESS: ACROSS FROM 6659 GIRVIN DR, OAKLAND, CA 94611

APPLICANT: NEW CINGULAR WIRELESS PCS, LLC, 4430 ROSEWOOD DR, BLDG 3, PLEASANTON, CA 94588-3050

NEW CINGULAR WIRELESS PCS, LLC
4430 ROSEWOOD DR, BLDG 3
PLEASANTON, CA 94588-3050

PROJECT INFORMATION:

OAKHILLS AT&T SOUTH NETWORK NODE 077A
ACROSS FROM 6659 GIRVIN DR, OAKLAND, CA 94611

CURRENT ISSUE DATE: 05/31/13

ISSUED FOR: ZONING

BY	DATE	DESCRIPTION	REV
ACI	05/31/13	SHROUD AND SIDEARM	1
ACI	12/14/12	ZD	0

PLANS PREPARED BY: ACI
5711 Research Drive, Canton, MI 48188

CONSTRUCTED BY: ExteNet Systems

SEAL OF APPROVAL:

SHEET TITLE: TITLE SHEET AND PROJECT INFORMATION

SHEET NUMBER: T1 — REVISION: 1

[illegible] NOTES

[illegible]

SPECIAL NOTES

[illegible]

EROSION AND SEDIMENT CONTROL NOTES

[illegible]

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

GENERAL NOTES

SCALE NTS 2

ROW GROUND CONSTRUCTION NOTES

[illegible]

STANDARD GROUNDING NOTES

[illegible]

STANDARD CONDUIT NOTES

[illegible]

STANDARD TRENCHING NOTES

[illegible]

ROW UTILITY POLE CONSTRUCTION NOTES

[illegible]

ROW CONSTRUCTION GENERAL NOTES

SCALE NTS 3

WIND LOADING INFORMATION	
[illegible]	17.57 SQ. FT.
[illegible]	37'-3"
[illegible]	34'-3"
[illegible]	11.82 SQ. FT.
[illegible]	6'-11"
[illegible]	3'-8"
[illegible]	40.5 SQ. FT.
[illegible]	18'-9"
[illegible]	16'-6"
[illegible]	30.71 SQ. FT.
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	
[illegible]	-
[illegible]	-
[illegible]	[illegible]
[illegible]	50'-0"
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	37'-3"
[illegible]	[illegible]

ANTENNA & CABLE SCHEDULE					
ANTENNA SECTOR	AZIMUTH	ANTENNA MAKE / MODEL	[illegible] CABLE LENGTH	CABLES PER SECTOR	CABLE SIZE
SECTOR [illegible]	100	KATHREIN 840-10525	[illegible]	2/4	1/2"
SECTOR [illegible]	80	KATHREIN 840-10525	[illegible]	2/4	1/2"
SECTOR [illegible]					

NOTE: [illegible]

LOADING AND ANTENNA CABLE SCHEDULES

SCALE NTS 1

at&t

NEW CINGULAR WIRELESS PCS, LLC
4430 ROSEWOOD DR. BLDG. 3
PLEASANTON, CA 94588-3050

PROJECT INFORMATION:

OAKHILLS AT&T SOUTH NETWORK NODE 077A

ACROSS FROM 6609 GIRVIN DR
OAKLAND, CA 94611

CURRENT ISSUE DATE:

05/31/13

ISSUED FOR:

ZONING

REV	DATE	DESCRIPTION	BY
	05/31/13	SHROUD AND SIDEARM	1
	12/14/12	ZD	0
BY	DATE	DESCRIPTION	REV

PLANS PREPARED BY:

ACI
1-800-875-4ACI
5711 Research Drive
Canton, MI 48188

CONSTRUCTED BY:

net SYSTEMS
3030 Warrenville Rd. Suite 340
Lisle, IL 60532
www.extenet.com

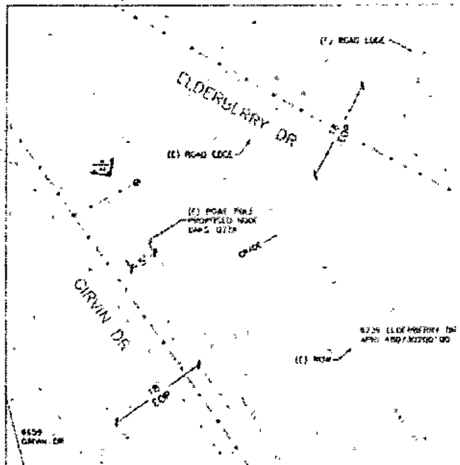
SEAL OF APPROVAL:

SHEET TITLE:

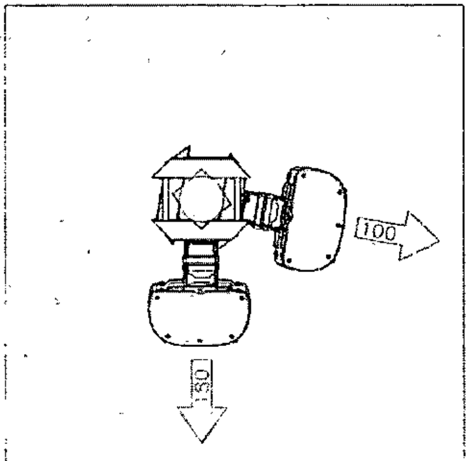
GENERAL NOTES AND SCHEDULES

SHEET NUMBER: T2

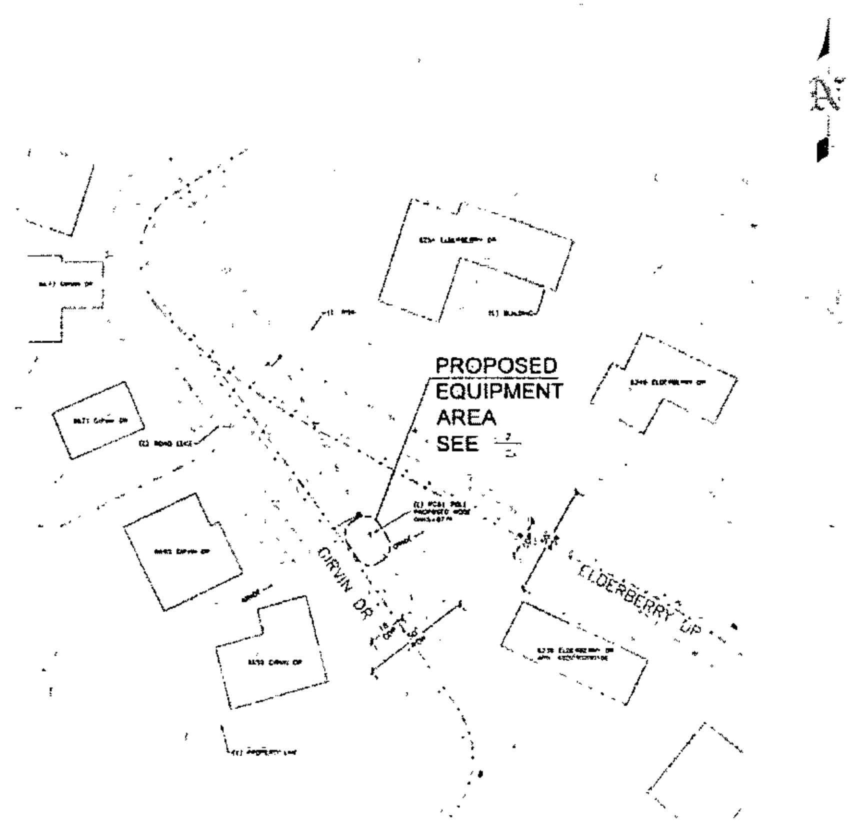
REVISION: 1



SITE PLAN CLOSEUP — 2



ANTENNA AZIMUTHS — SCALE: NTS — 3



SITE PLAN — 1

at&t

NEW CINGULAR WIRELESS PCS LLC
4430 ROSEWOOD DR, BLDG. 3
PLEASANTON, CA 94588-3050

PROJECT INFORMATION

OAKHILLS AT&T SOUTH NETWORK NODE 077A

ACROSS FROM 6659 GIRVIN DR
OAKLAND, CA 94611

CURRENT ISSUE DATE: 05/31/13

ISSUED FOR: ZONING

BY	DATE	DESCRIPTION	REV
ACI	05/31/13	SHROUD AND SIDEARM	1
ACI	12/14/12	ZDs	0

PLANS PREPARED BY:

ACI
1-800-825-4ACI
5711 Research Drive
Canton, MI 48188

ACI NUMBER: OAKS-077A

CONSTRUCTED BY:

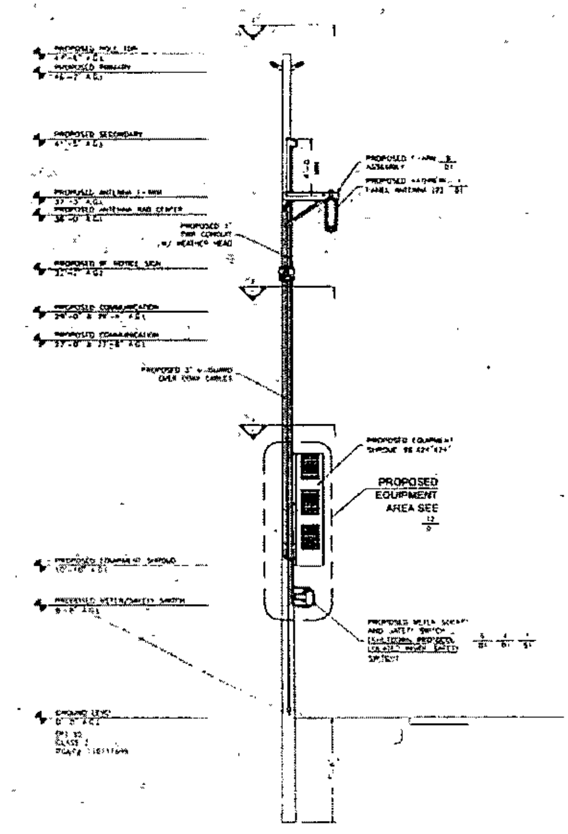
net SYSTEMS
3030 Warrenville Rd, Suite 340
Lisle, IL 60532

SEAL OF APPROVAL:

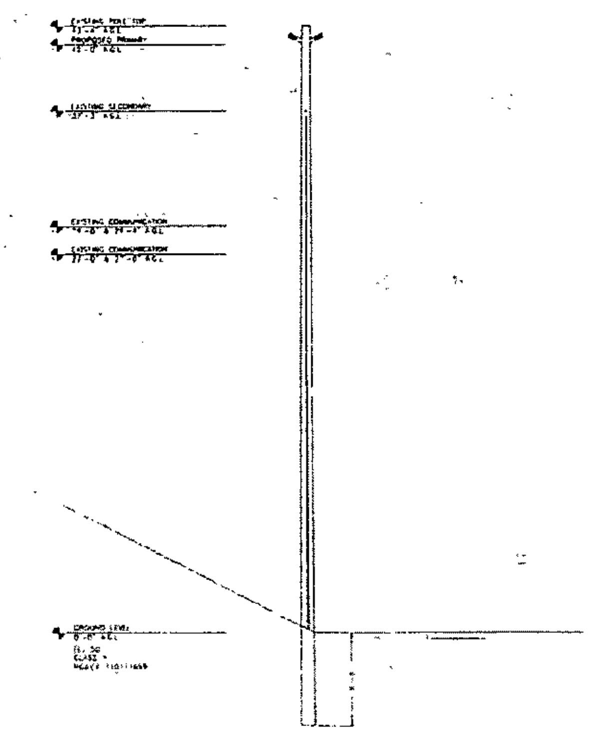
SHEET TITLE: SITE PLAN

SHEET NUMBER: A1

REVISION: 1



PROPOSED ELEVATION NORTHWEST | 6



EXISTING ELEVATION NORTHWEST | 5

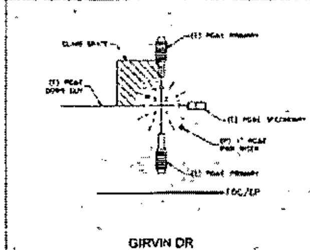
COMMUNICATIONS MAKE-READY

1. INSTALL WOOD T-ARM ASSEMBLY AT 6:00 POSITION AND 37'-3" AGL.
2. INSTALL (2) PANEL ANTENNAS ON INSTALLED T-ARM
3. INSTALL PCAT 1" SCH 80 CONDUIT AT 4:30 POSITION FOR POWER SERVICE
4. INSTALL 3" SCH 80 U-GUARD AT 1:30 POSITION OVER COAX
5. INSTALL SHROUD (RADIO & BBU), METER SOCKET, & SAFETY SWITCH 4" OFF OF POLE (USING UNISTRUTS) AT 6:00 POSITION
6. RELOCATE CLIMBING PEGS AT 3:00 POSITION, 8'-6" AGL TO COMM ZONE, TO 12:00 POSITION.

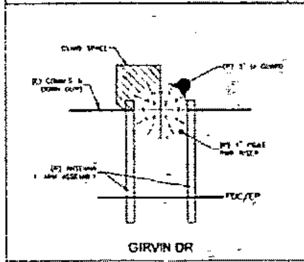
POWER MAKE-READY

1. REPLACE EXISTING CL4 50' POLE WITH CL3 55' POLE.
2. INSTALL PCAT WEATHER HEAD AND 1" SCH 80 CONDUIT AT 4:30 POSITION FOR POWER SERVICE.
3. PROVIDE 120/240 3-WIRE SINGLE PHASE, 100 AMP SERVICE TO 1" PCAT CONDUIT AT 4:30 POSITION TO METER SOCKET FROM SERVICE DROP 41'-5" AGL

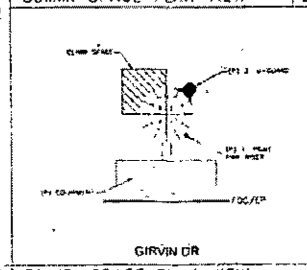
MAKE-READY NOTES | 4



POWER SPACE PLAN VIEW | 3



COMM. SPACE PLAN VIEW | 2



EQUIP. SPACE PLAN VIEW | 1

at&t

NEW CINGULAR WIRELESS PCS, LLC
4430 ROSEWOOD DR., BLDG. 1
PLEASANTON, CA 94588-3050

PROJECT INFORMATION:

OAKHILLS AT&T SOUTH NETWORK NODE 077A

ACROSS FROM 6809 GIRVIN DR
OAKLAND CA 94611

CURRENT ISSUE DATE:

05/31/13

ISSUED FOR:

ZONING

BY	DATE	DESCRIPTION	REV
ACI	05/31/13	SHROUD AND SAFETY	1
ACI	12/14/12	ZDs	0

PLANS PREPARED BY:

ACI
1-800-375-4ACI
5717 Research Drive
Canton, MI 48188

CONSTRUCTED BY:

net SYSTEMS
3030 Warrenville Rd. Suite 340
Lisle, IL 60532

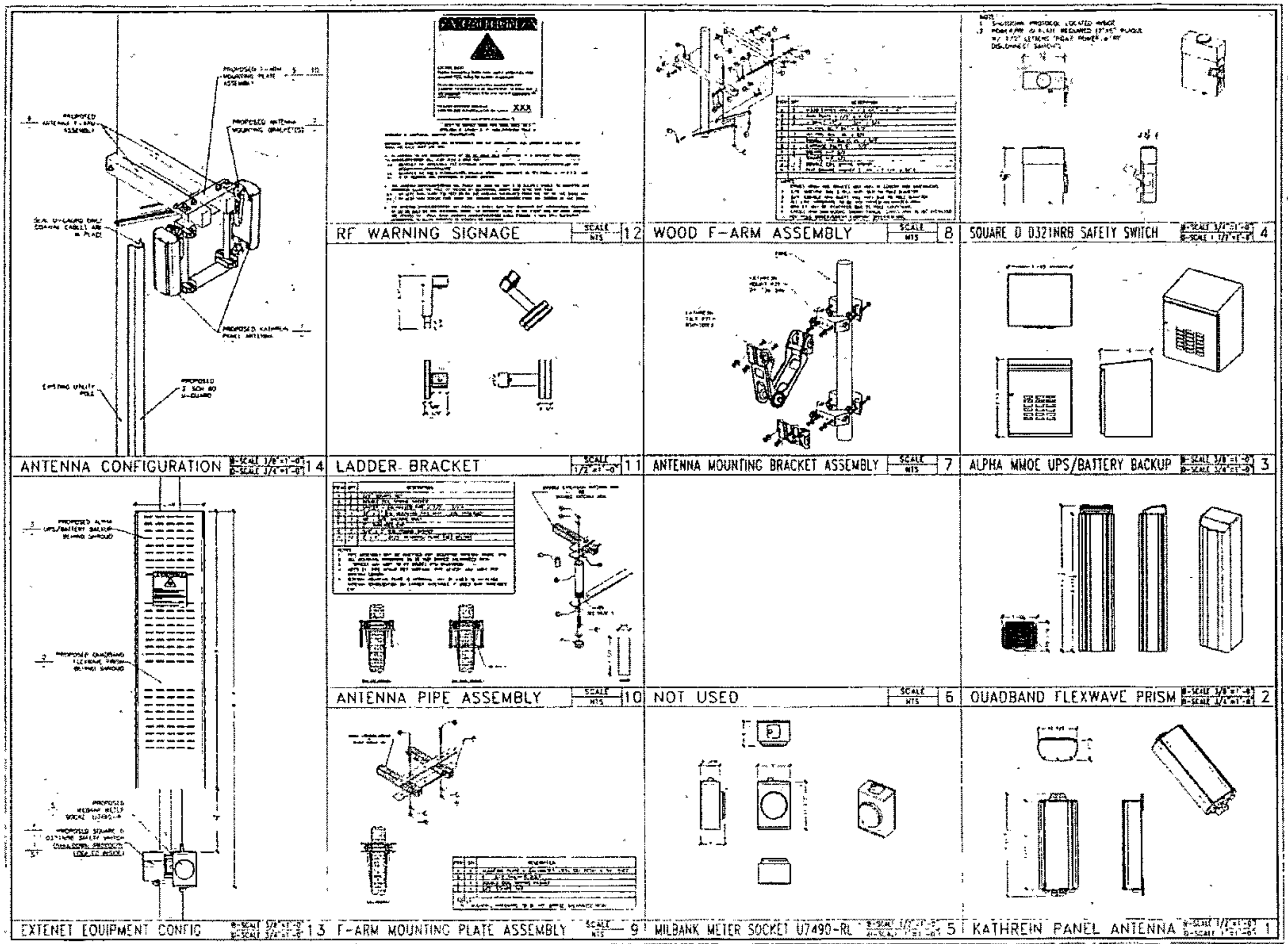
SEAL OF APPROVAL:

SHEET TITLE:

ELEVATIONS & RISER DETAILS

SHEET NUMBER: A2

REVISION: 1



at&t

NEW CINGULAR WIRELESS PCS, LLC
4430 ROSEWOOD DR, BLDG 3
PLEASANTON, CA 94588-3050

PROJECT INFORMATION:

OAKHILLS AT&T SOUTH NETWORK NODE 077A

ACROSS FROM 6859 GIRVIN DR
OAKLAND, CA 94611

CURRENT ISSUE DATE:

05/31/13

ISSUED FOR:

ZONING

BY	DATE	DESCRIPTION	REV
ACI	05/31/13	SHROUD AND SCREAM	1
ACI	12/14/12	ZDs	0

PLANS PREPARED BY:

ACI

1-800-835-4AC
5711 Research Drive
Canton MI 48188

CONSTRUCTED BY:

net

3030 Warrenville Rd Suite 340
Lisle IL 60532
www.extenet.com

SEAL OF APPROVAL:

SHEET TITLE:

EQUIPMENT DETAILS

SHEET NUMBER: D1

REVISION: 1

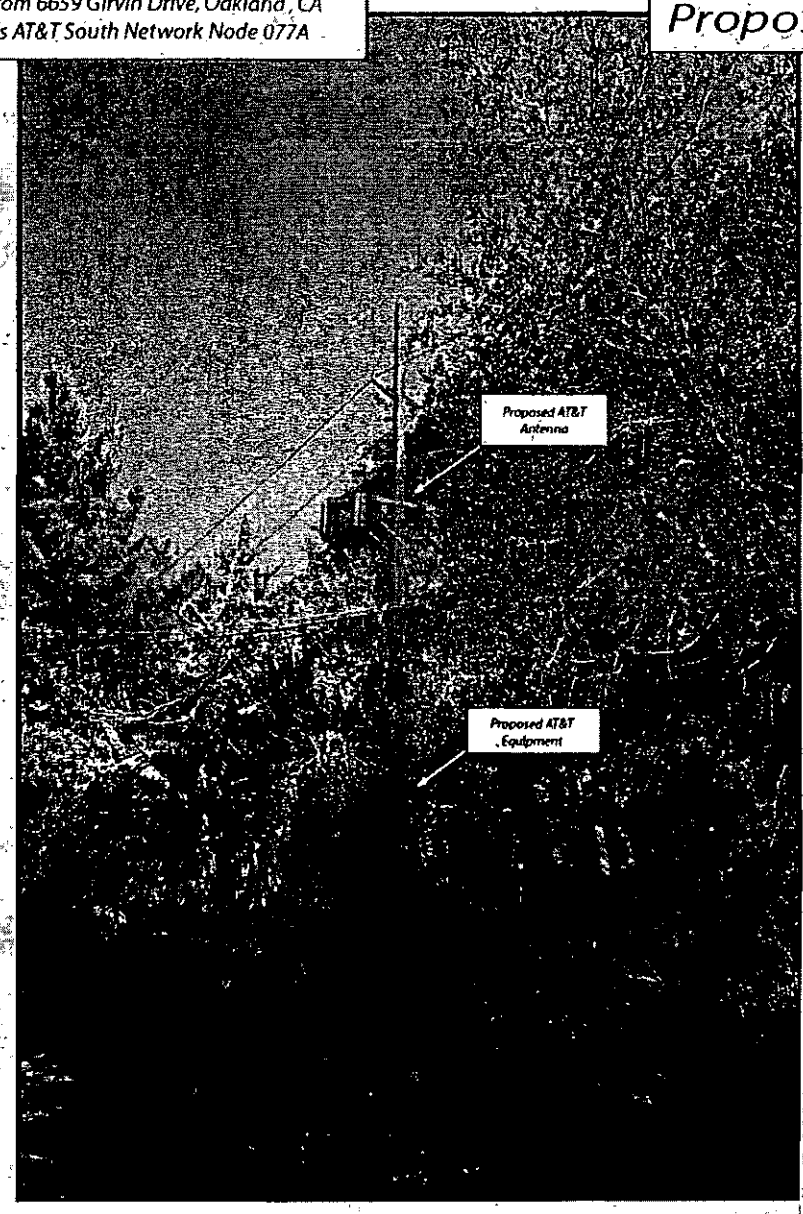
view from Girvin Drive looking north at site

AT&T Wireless

Across From 6659 Girvin Drive, Oakland, CA
Oakhills AT&T South Network Node 077A

Existing

Proposed



AdvanceSim
Photo Simulation Solutions
Contact (925) 202-8507

ATTACHMENT A

ATTACHMENT B

New Cingular Wireless, LLC • 32 Proposed Distributed Antenna System Nodes Oakland Hills • Oakland, California

Statement of Hammett & Edison, Inc., Consulting Engineers

The firm of Hammett & Edison, Inc., Consulting Engineers, has been retained on behalf of New Cingular Wireless, LLC, a wireless telecommunications service provider, to evaluate 32 distributed antenna system (DAS) nodes proposed to be located in the Oakland Hills area of Oakland, California, for compliance with appropriate guidelines limiting human exposure to radio frequency ("RF") electromagnetic fields.

Executive Summary

New Cingular Wireless proposes to install two directional panel antennas on 32 existing or proposed utility poles sited in the Oakland Hills area of Oakland. The proposed operation will comply with the FCC guidelines limiting public exposure to RF energy.

Prevailing Exposure Standards

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

Wireless Service	Frequency Band	Occupational Limit	Public Limit
Microwave (Point-to-Point)	5,000–80,000 MHz	5.00 mW/cm^2	1.00 mW/cm^2
BRS (Broadband Radio)	2,600	5.00	1.00
AWS (Advanced Wireless)	2,100	5.00	1.00
PCS (Personal Communication)	1,950	5.00	1.00
Cellular	870	2.90	0.58
SMR (Specialized Mobile Radio)	855	2.85	0.57
700 MHz	700	2.35	0.47
[most restrictive frequency range]	30–300	1.00	0.20

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

General Facility Requirements

Base stations typically consist of two distinct parts: the electronic transceivers (also called "radios" or "channels") that are connected to the traditional wired telephone lines, and the passive antennas that send the wireless signals created by the radios out to be received by individual subscriber units.

The transceivers are often located at ground level and are connected to the antennas by coaxial cables. A small antenna for reception of GPS signals is also required, mounted with a clear view of the sky. Because of the short wavelength of the frequencies assigned by the FCC for wireless services, the antennas require line-of-sight paths for their signals to propagate well and so are installed at some height above ground. The antennas are designed to concentrate their energy toward the horizon, with very little energy wasted toward the sky or the ground. Along with the low power of such facilities, this means that it is generally not possible for exposure conditions to approach the maximum permissible exposure limits without being physically very near the antennas.

Computer Modeling Method

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

Site and Facility Description

Based upon information provided by New Cingular Wireless, that carrier proposes to install 32 new nodes, listed in Table 1 below, in the Oakland Hills area of Oakland. Each node would consist of two Kathrein Model 840-10525 directional panel antennas installed on a new or existing utility pole to be sited in a public right-of-way. The antennas would be mounted with no downtilt at an effective height of about 35 feet above ground and would be oriented in different directions, as shown in Table 1. The maximum effective radiated power in any direction would be 219 watts, representing simultaneous operation by New Cingular Wireless at 104 watts for PCS, 61 watts for cellular, and 54 watts for 700 MHz service. There are reported no other wireless telecommunications base stations at the site or nearby.

Node #	Approximate Address	Antenna Orientations	
Node 35	Grizzly Peak Boulevard and Golf Course Drive	116°T	321°T
Node 36	2501 Grizzly Peak Boulevard	65°T	248°T
Node 37	7541 Claremont Avenue	54°T	240°T
Node 39	8071 Claremont Avenue	36°T	215°T
Node 41	Grizzly Peak Boulevard and Skyline Boulevard	149°T	283°T
Node 42	6616 Pine Needle Drive	73°T	344°T
Node 46	1265 Mountain Boulevard	30°T	105°T
Node 47	5925 Sherwood Drive	13°T	285°T
Node 48	Skyline Boulevard and Elverton Drive	153°T	325°T
Node 49	1732 Indian Way	24°T	306°T
Node 50	5612 Merriewood Drive	46°T	110°T
Node 51	5658 Grisborne Avenue	87°T	355°T
Node 52	5826 Mendoza Drive	61°T	121°T
Node 53	6133 Snake Road	43°T	119°T
Node 54	2052 Tampa Avenue	0°T	100°T
Node 55	8211 Skyline Boulevard	98°T	158°T
Node 56	6837 Aitken Drive	65°T	316°T
Node 57	6415 Westover Drive	137°T	302°T
Node 58	6828 Saroni Drive	20°T	100°T
Node 59	2189 Andrews Street	37°T	88°T
Node 60	5879 Scarborough Drive	33°T	81°T
Node 62	2997 Holyrood Drive	21°T	88°T
Node 63	2679 Mountain Gate Way	0°T	80°T
Node 64	Mountain Boulevard and Ascot Drive	29°T	110°T
Node 70	75 Castle Park Way	0°T	70°T
Node 71	3343 Crane Way	72°T	355°T
Node 74	6925 Pinehaven Road	0°T	70°T
Node 75	6776 Thornhill Drive	66°T	127°T
Node 77	6659 Girvin Drive	100°T	180°T
Node 78	7380 Claremont Avenue	55°T	200°T
Node 79	6757 Sobrante Road	70°T	159°T
Node 81	Shepherd Canyon Road and Escher Drive	56°T	209°T

Table 1. New Cingular Wireless Nodes Evaluated

Study Results

For a person anywhere at ground, the maximum RF exposure level due to the proposed operation through is calculated to be 0.0026 mW/cm^2, which is 0.50% of the applicable public exposure limit. The maximum calculated level at the second-floor elevation of any nearby building* is 1.2% of the

* Including nearby residences located at least 9 feet from any pole, based on photographs from Google Maps

public limit. It should be noted that these results include several "worst-case" assumptions and therefore are expected to overstate actual power density levels from the proposed operation.

Recommended Mitigation Measures

Due to their mounting locations on utility poles, the New Cingular Wireless antennas would not be accessible to the general public, and so no mitigation measures are necessary to comply with the FCC public exposure guidelines. To prevent occupational exposures in excess of the FCC guidelines, no access within 3 feet directly in front of the antennas themselves, such as might occur during maintenance work on the poles, should be allowed while the pertinent node is in operation, unless other measures can be demonstrated to ensure that occupational protection requirements are met. Posting explanatory warning signs† at the antennas and/or on the poles below the antennas, such that the signs would be readily visible from any angle of approach to persons who might need to work within that distance, would be sufficient to meet FCC-adopted guidelines.

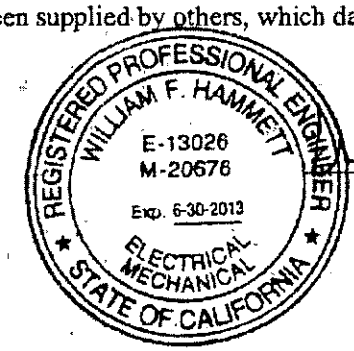
Conclusion

Based on the information and analysis above, it is the undersigned's professional opinion that the proposed operation of these New Cingular Wireless nodes located in Oakland, California, will comply with the prevailing standards for limiting public exposure to radio frequency energy and, therefore, will not for this reason cause a significant impact on the environment. The highest calculated level in publicly accessible areas is much less than the prevailing standards allow for exposures of unlimited duration. This finding is consistent with measurements of actual exposure conditions taken at other operating base stations. Posting explanatory signs is recommended to establish compliance with occupational exposure limitations.

† Warning signs should comply with OET-65 color, symbol, and content recommendations. Signage may also need to comply with the requirements of California Public Utilities Commission General Order No 95.

Authorship

The undersigned author of this statement is a qualified Professional Engineer, holding California Registration Nos. E-13026 and M-20676, which expire on June 30, 2013. This work has been carried out under his direction, and all statements are true and correct of his own knowledge except, where noted, when data has been supplied by others, which data he believes to be correct.



William F. Hammett, P.E.
707/996-5200

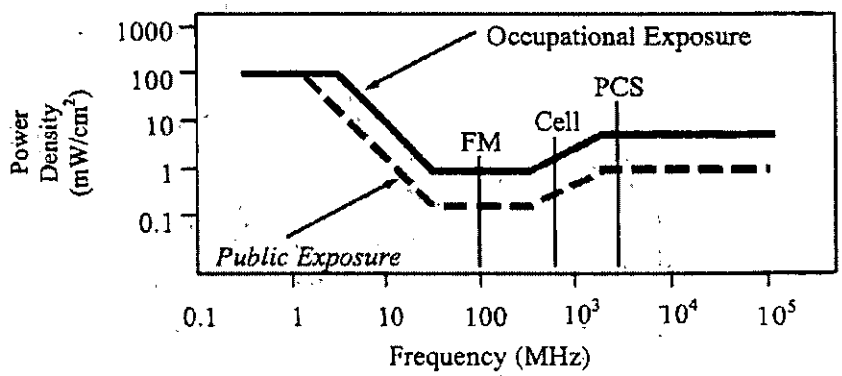
December 13, 2012

FCC Radio Frequency Protection Guide

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

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

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



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

RFR.CALC™ Calculation Methodology

Assessment by Calculation of Compliance with FCC Exposure Guidelines

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

Near Field.

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

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

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

where θ_{BW} = half-power beamwidth of the antenna, in degrees, and
P_{net} = net power input to the antenna, in watts,
D = distance from antenna, in meters,
h = aperture height of the antenna, in meters, and
η = aperture efficiency (unitless, typically 0.5-0.8).

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

Far Field.

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

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

where ERP = total ERP (all polarizations), in kilowatts,
RFF = relative field factor at the direction to the actual point of calculation, and
D = distance from the center of radiation to the point of calculation, in meters.

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

ATTACHMENT C

at&t

April 23, 2013

Planning Department
City of Oakland
250 Frank Ogawa Plaza, 2nd Floor
Oakland, CA 94612

Re: Proposed AT&T Mobility DAS Node Installation

Applicant:	**New Cingular Wireless PCS, LLC (d/b/a AT&T Mobility)**
Site Address:	**Public Right of Way across from 6659 Girvin Dr.**
Site ID:	**OAKS-77A**
Oakland Case File #:	**DR13-055**
Latitude/Longitude:	**37.829987, -122.190905**
Joint Utility Pole #:	**110111699**

Dear Planning Department,

This letter is to explain why a distributed antenna system ("DAS") node is being proposed at the above-referenced utility pole and to explain the alternative sites that were evaluated in making this determination The site is located in a difficult coverage area because of its winding roads, hilly terrain and plentiful trees. The coverage area is east of Shepherd Canyon Road, centering at Girvin Drive and Elderberry Drive.

This DAS node is the least intrusive means to provide coverage because it uses existing utility infrastructure, the smallest equipment and the lowest emissions possible. The DAS node emissions are also much lower than the typical macro-site and thus appropriate for the area. Deploying a DAS node onto this pole utilizes an inconspicuous location amidst the trees and out of the way from any residences or views. By co-locating antennas and equipment onto this existing pole, AT&T does not need to propose any new infrastructure in the area. Furthermore, this two-antenna installation onto existing infrastructure is miniature in size compared to the typical 12-antenna macro site and therefore more appropriate for the surrounding rural residential area. The site should be barely noticeable as a co-located utility, very well concealed by nearby trees.

Alternative sites were considered at other utility poles in the area along Girvin and Elderberry. The proposed location was chosen instead of any others because the proposed pole is located at the intersection of Girvin and Elderberry, not immediately near any houses, and very well concealed by nearby trees. The intersection location allows for propagation up and down the intersecting streets without much obstruction. The pole just north across the street at about 6254 Elderberry would also be a well-concealed host for our proposed facility but it is a bit closer to a house than the proposed location. Poles further east up Elderberry are similarly closer to houses and too far away to effectively achieve the intended coverage Poles south along Girvin have a reduced elevation insufficient for signal propagation as do poles north toward Aitken. For all of these reasons, the proposed location is the best out of all the alternatives.

Feel free to contact me if you have any questions. Thank you.

Best Regards,

Matthew S. Yergovich
ExteNet Real Estate Contractor
For AT&T Mobility

AT&T Mobility
C/O Yergovich and Associates, LLC
ExteNet Systems Real Estate Contractor
1826 Webster Street • San Francisco CA 94115
(415) 596-3474 • myergo@gmail.com

Community and Economic Development Agency

CITY OF OAKLAND

PLANNING & ZONING DIVISION

250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA 94612-2031
Phone: 510-238-3911 Fax: 510-238-4730

ATTACHMENT D

PLANNING COMMISSION PUBLIC NOTICE

5.	**Location:**	**The public Right of Way at the intersection of Elderberry Drive and Girvin Drive (adjacent to 6239 Elderberry Dr.) APN: (048D-7302-001-00)**
	Proposal:	To install a wireless telecommunication facility (AT&T wireless) on an existing 43' high PG&E utility pole located in public right-of-way: Install two panel antennas (approximately two-feet long and ten-inches wide mounted onto a seven-foot tall extension affixed on top of the pole; an associated equipment box, one battery backup and meter boxes within a 6' tall by 18" wide singular equipment box attached to the pole at 8' height above ground.
	Applicant:	New Cingular Wireless PCS, LLC./AT&T Mobility
	Contact Person/Phone Number:	Matthew Yergovich (415)596-3474
	Owner:	Pacific Gas & Electric PG&E
	Case File Number:	**DR13055**
	Planning Permits Required:	Major Design Review to install a wireless Telecommunication Macro Facility to on existing PG&E pole located in the public right of way in a residential zone.
	General Plan:	Hillside Residential
	Zoning:	RH-4 Hillside Residential Zone
	Environmental Determination:	Exempt, Section 15301 of the State CEQA Guidelines; minor additions and alterations to an existing facility. 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
	Status:	Pending
	Action to be Taken:	Decision of Application
	Finality of Decision:	Appealable to City Council within 10 days
	For Further Information:	Contact case planner Michael Bradley at **(510) 238-6935** or by email: **mbradley@oaklandnet.com**

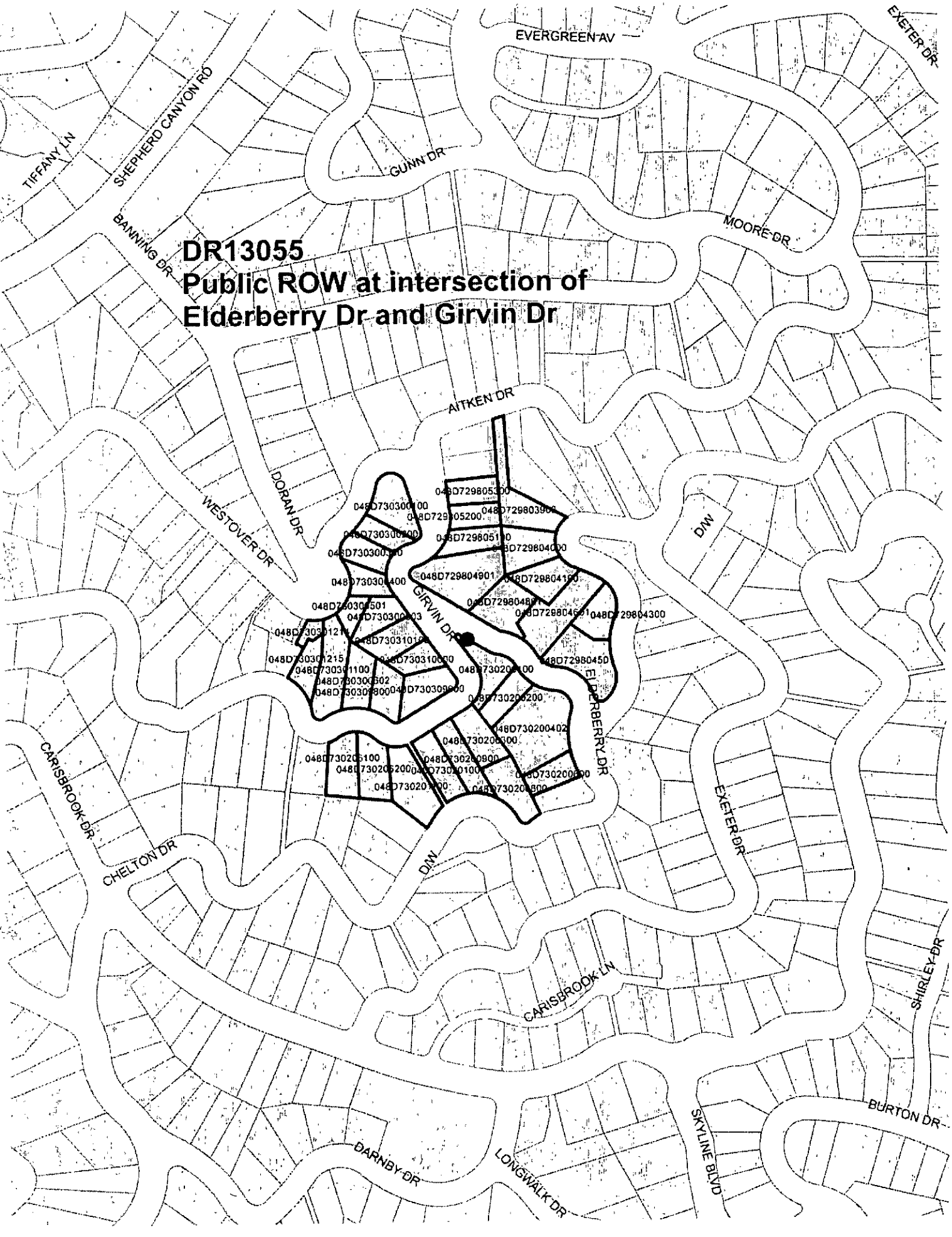
Your comments and questions, if any, should be directed to the Zoning Division of the Department of Planning, Building and Neighborhood Preservation, 250 Frank H. Ogawa Plaza, 2nd Floor, Oakland, California 94612-2031 at or prior to the public hearing to be held on Wednesday, May 1, 2013, at Oakland City Hall, Sgt. Mark Dunakin Hearing Room One, 1 Frank H. Ogawa Plaza, Oakland, California 94612. The public hearing will start at 6:00 p.m.

If you challenge the Planning Commission decision on appeal and/or in court, you will be limited to issues raised at the public hearing or in correspondence delivered to the Zoning Division, the Department of Planning, Building and Neighborhood Preservation, at, or prior to, the public hearing on this case. If you wish to be notified of the decision on this case, please indicate the case number and submit a self-addressed stamped envelope for each to the Department of Planning, Building and Neighborhood Preservation/Zoning Division, 250 Frank H. Ogawa Plaza, 2nd Floor, Oakland, California 94612-2031.

Please note that the description of the application found above is preliminary in nature and that the project and/or such description may change prior to a decision being made. Except where noted, once a decision is reached by the Planning Commission on these cases, they are appealable to the City Council. **Such appeals must be filed within ten (10) calendar days of the date of decision by the Planning Commission and by 4:00p.m.** An appeal shall be on a form provided by the Planning and Zoning Division of the Department of Planning, Building and Neighborhood Preservation, and submitted to the same at 250 Frank H. Ogawa Plaza, Suite 2114, to the attention of the Case Planner. The appeal shall state specifically wherein it is claimed there was error or abuse of discretion by the City of Oakland or wherein the decision is not supported by substantial evidence and must include payment in accordance with the City of Oakland Master Fee Schedule. Failure to file a timely appeal will preclude you from challenging the City's decision in court. The appeal itself must raise every issue that is contested along with all the arguments and evidence previously entered into the record prior to or at the public hearing mentioned above. Failure to do so will preclude you from raising such issues during the appeal hearing and/or in court.

POSTING DATE: April 12, 2013

IT IS UNLAWFUL TO ALTER OR REMOVE THIS NOTICE WHEN POSTED ON SITE


DR13055
Public ROW at intersection of
Elderberry Dr and Girvin Dr
EVERGREEN AV
EXETER DR
TIFFANY LN
SHEPHERD CANYON RD
GUNN DR
BANNING DR
MOORE DR
AITKEN DR
DORAN DR
WESTOVER DR
GIRVIN DR
ELDERBERRY DR
D/W
D/N
CARISBROOK DR
CHELTON DR
EXETER DR
CARISBROOK LN
SHIRLEY DR
BURTON DR
SKYLINE BLVD
DARNBY DR
LONGWALK DR

BATTILANA DIANE
6575 GIRVIN DR
OAKLAND CA 94611
DR13055

BAY WIN WIN SOLUTIONS LLC
PO BOX 727
CUPERTINO CA 95015
DR13055

BERSAGLIERI RONALD & DONNA
6793 CHELTON DR
OAKLAND CA 94611
DR13055

BEVERLY JOHN S IV & CLAUDETTE S
PO BOX 13164
OAKLAND CA 94661
DR13055

BUDAY JOHN G & LINDA A
6585 GIRVIN DR
OAKLAND CA 94611
DR13055

BURTS TIM P & SHEAD STEVE L
6629 CHELTON DR
OAKLAND CA 94611
DR13055

COLLINS BRIAN T & SHARON A
6565 GIRVIN DR
OAKLAND CA 94611
DR13055

CROSBY TROY D & LESLIE T
6779 CHELTON DR
OAKLAND CA 94611
DR13055

EDGAR DOROTHY J TR
6228 ELDERBERRY DR
OAKLAND CA 94611
DR13055

FANG NEIL T & HUNSBERGER DAVID
6671 GIRVIN DR
OAKLAND CA 94611
DR13055

FULLER CHRISTOPHER &
COUNTERFULLER CARA
6240 ELDERBERRY DR
OAKLAND CA 94611
DR13055

GARANTKAIL TRUST
ROBERT & PAMALA GARA
PO BOX 1432
SONOMA CA 95476
DR13055

GARLAND GLORIA J & BYERS BRUCE
40 NEWHALL DR
SAN RAFAEL CA 94901
DR13055

GUINN ANEDRA
6755 CHELTON DR
OAKLAND CA 94611
DR13055

HAUBOLD JILL E
6254 ELDERBERRY DR
OAKLAND CA 94611
DR13055

HEICK ALBERT J & DENISE
6637 CHELTON DR
OAKLAND CA 94611
DR13055

HIEBERT CHRISTINA J
6239 ELDERBERRY
OAKLAND CA 94611
DR13055

HIRATA RHONDA G
6225 ELDERBERRY DR
OAKLAND CA 94611
DR13055

KILGORE CHARLES & PORTUGAL
SUSAN
6691 GIRVIN DR
OAKLAND CA 94611
DR13055

KONISHI YOSUKE
6690 GIRVIN DR
OAKLAND CA 94611
DR13055

LAWRENCEMATHIS MICHAEL H
6695 GIRVIN DR
OAKLAND CA 94611
DR13055

LEE GEORGE & SPAGNOLETTA
LILIANA
6719 CHELTON DR
OAKLAND CA 94611
DR13055

LEW BARNEY
6625 GIRVIN DR
OAKLAND CA 94611
DR13055

LISHINSKY RHONA & DUKE CARLA
6685 GIRVIN DR
OAKLAND CA 94611
DR13055

MORISSETTE MARILYN TR
6630 GIRVIN DR
OAKLAND CA 94611
DR13055

ROWELL STEPHEN Q SR &
HAMILTON PHYLLIS J
6645 CHELTON DR
OAKLAND CA 94611
DR13055

SCHLOTTER WILLIAM O JR TR
6203 ELDERBERRY DR
OAKLAND CA 94611
DR13055

SILVEIRA J W & BARBARA O TRS
499 EMBARCADERO
OAKLAND CA 94606
DR13055

SPENCER DEIRDRE A & GUY L
6659 GIRVIN DR
OAKLAND CA 94611
DR13055

STUMPF FRANK H & OWEN
DEBORAH J
6210 ELDERBERRY DR
OAKLAND CA 94611
DR13055

TONSKY ALEXANDER & VIVIAN J
6665 GIRVIN DR
OAKLAND CA 94611
DR13055

TRINH NAM
7249 FAWN WAY
SACRAMENTO CA 95823
DR13055

WON DAVID & LAM HIEN M
6657 CHELTON DR
OAKLAND CA 94611
DR13055

YASSER ALAN R & BUTTERWORTH
NAN L TRS
6787 CHELTON DR
OAKLAND CA 94611
DR13055

POSTING LOCATIONS

Community & Economic Development Agency

New Cingular Wireless PCS LLC / AT+T Mobility — APPLICANT

Public ROW at intersection of Elderberry Dr + Girvin Dr — ADDRESS

DR13055 — CASE #

DATE _____ TIME _____

Posting for the above case was made in the following locations:

1. 6203 Elderberry
2. 6239 "
3. 6438 Girvin
4. 6441 "
5. 6421 "
6. 6475 "
7. 6505 "
8. _____
9. _____
10. _____
11. _____
12. _____
13. _____
14. _____
15. _____

Posted by: _____

Oakland City Planning Commission AGENDA

May 1, 2013
Regular Meeting

MEAL GATHERING *5:15 P.M.*

Saigon Restaurant, 326 Frank Ogawa Plaza, Oakland
Open to the public (Members of the public may purchase their own meals if desired. Consumption of food is not required to attend.)

BUSINESS MEETING *6:00 P.M.*

Sgnt. Mark Dunakin Hearing Room 1, City Hall, One Frank H. Ogawa Plaza

Persons wishing to address the Commission on any item on the agenda, including Open Forum and Director's Report, should fill out a speaker card and give it to the Secretary ***"Agenda items will be called at the discretion of the Chair not necessarily in the order they are listed on the Agenda"***. Speakers are generally limited to two minutes at the discretion of the Chair. Applicants and appellants are generally limited to five minutes.

The order of items will be determined under "Agenda Discussion" at the beginning of the meeting. With the exception of Open Forum, a new item will not be called after **10:15 p.m.**, and the meeting will adjourn no later than **10:30 p.m.** unless the meeting is extended by the Chair with the consent of a majority of Commissioners present.

Please check with the Department prior to the meeting regarding items that may be continued. Any agenda item may be continued, without the hearing on the matter being opened or public testimony taken, at the discretion of the Chair. Persons wishing to address the continued item may do so under Open Forum.

Staff reports for items listed on this agenda will be available by 3:00 p.m. the Friday before the meeting, to any interested party, at the Planning and Zoning Division, 250 Frank H. Ogawa Plaza, Oakland, California 94612.

For further information on any case listed on this agenda, please contact the case planner indicated for that item. For further information on Historic Status, please contact the Oakland Cultural Heritage Survey at 510-238-6879. For other questions or general information on the Oakland City Planning Commission, please contact the Community and Economic Development Agency, Planning and Zoning Division, at 510-238-3941.

♿ This meeting is wheelchair accessible. To request materials in alternative formats, or to request an ASL interpreter, or assistive listening devise, please call the *Planning Department at 510-238-3941* or TDD 510-238-3254 at least three working days before the meeting. Please refrain from wearing scented products to this meeting so attendees who may experience chemical sensitivities may attend. Thank you.

Reports are also available at the Strategic Planning Division on the 3rd floor (Suite 3315), which closes at 5:00 p.m.

New web-site staff report download instructions

Staff reports are also available on-line, by 3:00 p.m. the Friday before the meeting, at www.oaklandnet.com. Select the "Government" tab, scroll down and click on "Planning & Zoning" click on "visit the Boards and Commissions page" under "Planning Commission". You will need to ensure that your computer will accept pop-ups from the host site (oaklandnet.com) and that your computer has a later version of Adobe Acrobat Reader installed. For further information, please call 510-238-3941.

If you challenge a Commission decision in court, you will be limited to issues raised at the hearing or in correspondence delivered to the Zoning Division, at, or prior to, the hearing. Any party seeking to challenge in court those decisions that are final and not administratively appealable to the City Council must do so within ninety (90) days of the date of the announcement of the final decision, pursuant to Code of Civil Procedure Section 1094.6, unless a shorter period applies.

Please note that the descriptions of the applications found below are preliminary in nature and that the projects and/or descriptions may change prior to a decision being made.

While attending Planning Commission Meetings, parking in the Clay Street Garage is free. Attendees should see staff at the meeting for validation of parking tokens.

Applicants or members of the public that plan power point presentations: Please contact Cheryl Dunaway at cdunaway@oaklandnet.com or 510-238-2912 or Gwen Brown at gbrown@oaklandnet.com or 510-238-6194 at least 48 hours prior to the meeting.

Interested parties are encouraged to submit written material on agenda items in advance of the meeting and prior to the close of the public hearing on the item. To allow for distribution to the Commission, staff, and the public, 25 copies of all material should be submitted. Material submitted at least ten days prior to the meeting may be included as part of the agenda packet; material submitted later will be distributed at or prior to the meeting. To ensure that material is distributed to Commissioners, a minimum of twenty-five (25) copies should be submitted to Planning staff no later than the time is scheduled to be considered by the Commission.

ROLL CALL

WELCOME BY THE CHAIR

COMMISSION BUSINESS

Agenda Discussion

Director's Report

Committee Reports

Commission Matters

City Attorney's Report

OPEN FORUM

At this time members of the public may speak on any item of interest within the Commission's jurisdiction. Speakers are generally limited to two minutes or less if there are six or less speakers on an item, and one minute or less if there are more than six speakers.

CONSENT CALENDAR

The Commission will take a single roll call vote on all of the items listed below in this section. The vote will be on approval of the staff report in each case. Members of the Commission may request that any item on the Consent Calendar be singled out for separate discussion and vote.

1. **Location:**	**The public Right of Way across from 6776 Thornhill Drive. Nearest lot adjacent to the project site. APN: (048F-7380-021-00).**
Proposal:	To install a Wireless Telecommunication Facility (AT&T Wireless) on an existing 47'-6" high PG&E utility pole located in the public right-of-way: Install two panel antennas (2' long and 10" wide) mounted onto a seven-foot tall extension affixed on top of the pole; an associated equipment box, one battery backup and meter boxes within a 6' tall by 20" wide single equipment box attached to the pole at 8' above ground.
Applicant:	New Cingular Wireless PCS, LLC./AT&T Mobility
Contact Person/Phone Number:	Matthew Yergovich (415)596-3474
Owner:	Pacific Gas & Electric (PG&E)
Case File Number:	**DR13046**
Planning Permits Required:	Major Design Review to install a wireless Telecommunication Macro Facility to on existing PG&E pole located in the public right of way in a residential zone.
General Plan:	Hillside Residential
Zoning:	RH-4 Hillside Residential Zone S-11 Site Development and Design Review Combining Zone.
Environmental Determination:	Exempt, Section 15301 of the State CEQA Guidelines; minor additions and alterations to an existing facility. 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
Status:	Pending
Action to be Taken:	Decision of Application
Finality of Decision:	Appealable to City Council within 10 days
For Further Information:	Contact case planner Jason Madani at (510) 238-4790 or by email: jsmadani@oaklandnet.com

2. **Location:**	**The public Right of Way of Shepherd Canyon Road, 400 feet southwest of the intersection of Escher Drive APN: (048D-7249-014-01)**
Proposal:	To install a wireless telecommunication facility (AT&T wireless) on an existing 43' high PG&E utility pole located in public right-of-way: Install two panel antennas (approximately two-feet long and ten-inches wide mounted onto a seven-foot tall extension affixed on top of the pole; an associated equipment box, one battery backup and meter boxes within a 6' tall by 18" wide singular equipment box attached to the pole at 8' height above ground.
Applicant:	New Cingular Wireless PCS, LLC./AT&T Mobility
Contact Person/Phone Number:	Matthew Yergovich (415)596-3474
Owner:	Pacific Gas & Electric.PG&E
Case File Number:	**DR13053**
Planning Permits Required:	Major Design Review to install a wireless Telecommunication Macro Facility to on existing PG&E pole located in the public right of way in a residential zone.
General Plan:	Hillside Residential
Zoning:	RH-3 Hillside Residential Zone/ S-10 Scenic Route Combining Zone
Environmental Determination:	Exempt, Section 15301 of the State CEQA Guidelines; minor additions and alterations to an existing facility. 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
Status:	Pending
Action to be Taken:	Decision of Application
Finality of Decision:	Appealable to City Council within 10 days
For Further Information:	Contact case planner Michael Bradley at **(510) 238-6935** or by email: **mbradley@oaklandnet.com**

3. **Location:**	**The public Right of Way at the intersection of Elderberry Drive and Girvin Drive (adjacent to 6239 Elderberry Dr.) APN: (048D-7302-001-00)**
Proposal:	To install a wireless telecommunication facility (AT&T wireless) on an existing 43' high PG&E utility pole located in public right-of-way: Install two panel antennas (approximately two-feet long and ten-inches wide mounted onto a seven-foot tall extension affixed on top of the pole; an associated equipment box, one battery backup and meter boxes within a 6' tall by 18" wide singular equipment box attached to the pole at 8' height above ground.
Applicant:	New Cingular Wireless PCS, LLC./AT&T Mobility
Contact Person/Phone Number:	Matthew Yergovich (415)596-3474
Owner:	Pacific Gas & Electric PG&E
Case File Number:	**DR13055**
Planning Permits Required:	Major Design Review to install a wireless Telecommunication Macro Facility to on existing PG&E pole located in the public right of way in a residential zone.

(continued on page 5)

(continued from page 4)

General Plan:	Hillside Residential
Zoning:	RH-4 Hillside Residential Zone
Environmental Determination:	Exempt, Section 15301 of the State CEQA Guidelines; minor additions and alterations to an existing facility. 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
Status:	Pending
Action to be Taken:	Decision of Application
Finality of Decision:	Appealable to City Council within 10 days
For Further Information:	Contact case planner Michael Bradley at **(510) 238-6935** or by email: **mbradley@oaklandnet.com**

PUBLIC HEARINGS

The hearing provides opportunity for all concerned persons to speak; the hearing will normally be closed after all testimony has been heard. If you challenge a Commission decision in court, you will be limited to issues raised at the public hearing or in correspondence delivered to the Zoning Division at, or prior to, the public hearing.

The Commission will then vote on the matter based on the staff report and recommendation. If the Commission does not follow the staff recommendation and no alternate findings have been prepared, then the vote on the matter will be considered a "straw" vote, which essentially is a non-binding vote directing staff to return to the Commission at a later date with appropriate findings and, as applicable, conditions of approval that the Commission will consider in making a final decision.

If you wish to be notified on the decision of an agenda item, please indicate the case number and submit a self-addressed stamped envelope, for each case.

Planning Commission decisions that involve "major" cases (i.e., major variances, major conditional use permits) are usually appealable to the City Council. If any interested party seeks to challenge such decision in court, an appeal must be filed within ten (10) calendar days of the date of the announcement of the Planning Commission decision and by 4:00 p.m. An appeal shall be on a form provided by the Planning and Zoning Division, and submitted to the same at 250 Frank H. Ogawa Plaza, Suite 2114, to the attention of the Case Planner. 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 in accordance with the City of Oakland Master Fee Schedule Failure to timely appeal will preclude you 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 will 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 City Planning Commission prior to the close of the City Planning Commission's public hearing on the matter.

Any party seeking to challenge a final decision in court must do so within ninety (90) days of the date of the announcement of a final decision, pursuant to Code of Civil Procedure section 1094.6, unless a shorter period applies.

4.		
	Project Name:	**Oakland Army Base – Rezoning**
	Location:	**A portion of the former Oakland Army Base (in the general vicinity of the intersection of Maritime Street and West Grand Avenue).**
	Proposal:	Rezone approximately 160 acres of City-owned land known as the "Gateway Development Area" to the new Gateway Industrial District (D-GI) Zone; adopt design standards for new development in the D-GI Zone; and approve a Development Agreement for the Army Base development project.
	Applicant:	City of Oakland; Oakland Redevelopment Successor Agency; Prologis CCIG Oakland Global, LLC; California Waste Solutions, Inc.; CASS, Inc.
	Owner:	City of Oakland
	Case File Numbers:	**RZ13014; RZ13084; RZ13085**
	Planning Permits Required:	Rezoning; Development Agreement
	General Plan:	General Industrial/Transportation (portion of the site); Business Mix (portion of the site)
	Zoning:	Existing: General Industrial (IG) Zone (portion of the site); Community Industrial Mix 1 (CIX-1) Zone (portion of the site) Proposed: Gateway Industrial District (D-GI) Zone
	Environmental Determination:	The Oakland Army Base Area Redevelopment Plan Environmental Impact Report (EIR) was certified in 2002. An Addendum to the 2002 EIR was adopted in June 2012 and covers these implementing actions. No further environmental review is required.
	Historic Status:	The site includes the Oakland Army Base Historic District which is determined eligible for the National Register of Historic Places and listed as an Area of Primary Importance (API) by the Oakland Cultural Heritage Survey.
	Service Delivery District:	1
	City Council District:	3
	Status:	Pending
	Action to be Taken:	Take public testimony and issue a recommendation to the City Council.
	Finality of Decision:	Recommendation will be forwarded to the City Council.
	For Further Information:	Contact case planner **Darin Ranelletti** at **(510) 238-3663** or by email at **dranelletti@oaklandnet.com.**

5. **Project Name:**	**Coliseum Area Specific Plan and EIR Scoping Session**
Location:	The Planning Area for the Coliseum Area Specific Plan is bound by 66th Avenue to the north, San Leandro Street to the east, Hegenberger Road to the south, and San Leandro Bay and the Oakland International Airport to the west. The Planning Area consists of approximately 800 acres, and includes the Oakland-Alameda County Coliseum complex, the Oakland Airport Business Park, and surrounding environs.
Proposal:	Conduct a public scoping session, as required by the California Environmental Quality Act (CEQA), to receive comments on the scope of a Draft Environmental Impact Report (DEIR) on the Coliseum Area Specific Plan.
Contact Person/Phone Number:	Devan Reiff, 510-238-3550 or Ed Manasse, 510-238-7733
Applicant:	City of Oakland
Case File Number:	**ZS13-103 and ER13-0004**
Planning Permits Required:	TBD
General Plan:	Regional Commercial, Business Mix
Zoning:	CR-1; IO; M-40
Environmental Determination:	An Environmental Impact Report will be prepared for the Coliseum Area Specific Plan
Historic Status:	In the Oakland Cultural Heritage Survey, the O.co Coliseum stadium is rated "*a1+"; and the Oracle arena is rated "*b1+". The Coliseum site is a potential Area of Primary Importance, given that the stadium and arena were not yet 50 years old at the time the survey was conducted.
Service Delivery Districts:	5, 6
City Council Districts:	7 (with CCD 6 representing 66th Avenue frontage of Plan Area)
Status	A Notice of Preparation (NOP) of DEIR will be published on April 19, 2013, and the public comment period on the NOP will close on May 20, 2013.
Commission Action to Be Taken:	Receive comments from the public and Planning Commission on the scope of the Draft Environmental Impact Report (DEIR) for the Coliseum Area Specific Plan. No decisions will be made on the project at this hearing.
Finality of Decision:	n/a
For Further Information:	Contact project planner, Devan Reiff at 510-238-3550 (dreiff@oaklandnet.com); or Ed Manasse, Strategic Planning Manager, at 510-238-7733, emanasse@oaklandnet.com

APPEALS

The Commission will take testimony on each appeal. If you challenge a Commission decision in court, you will be limited to issues raised at the public hearing or in correspondence delivered to the Zoning Division, Community and Economic Development Agency, at, or prior to, to the public hearing; provided, however, such issues were previously raised in the appeal itself.

Following testimony, the Commission will vote on the report prepared by staff. If the Commission reverses/overturns the staff decision and no alternate findings have been prepared, then the vote on the matter will be considered a "straw" vote, which essentially is a non-binding vote directing staff to return to the Commission at a later date with appropriate findings and, as applicable, conditions of approval that the Commission will consider in making a final decision

Unless otherwise noted, the decisions in the following matters are final and not administratively appealable. Any party seeking to challenge these decisions in court must do so within ninety (90) days of the date of the announcement of the final decision, pursuant to Code of Civil Procedure section 1094.6, unless a shorter period applies.

(There are no appeals on this agenda)

COMMISSION BUSINESS

Approval of Minutes January 30, March 6, March 20, April 3

Correspondence

City Council Actions

ADJOURNMENT By 10:30 P.M. unless a later time is agreed upon by a majority of Commissioners present.

Scott Miller

SCOTT MILLER
Zoning Manager
Planning and Zoning Division

NEXT REGULAR MEETING: May 15, 2013

Community and Economic Development Agency

CITY OF OAKLAND

PLANNING & ZONING DIVISION

250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA 94612-2031
Phone: 510-238-3911 Fax: 510-238-4730

PLANNING COMMISSION PUBLIC NOTICE

3. **Location:**	**The public Right of Way at the intersection of Elderberry Drive and Girvin Drive (adjacent to 6239 Elderberry Drive) APN: (048D-7302-001-00)**
Proposal:	To install a wireless telecommunication facility (AT&T wireless) on an existing 43' high PG&E utility pole located in the public right-of-way: Install two panel antennas (approximately two-feet long and ten-inches wide mounted onto arms at 37'high on the pole; an associated equipment box; one battery backup and meter boxes within a 6' tall by 18" wide singular equipment box attached to the pole at 8' height above ground.
Applicant:	New Cingular Wireless PCS, LLC./AT&T Mobility
Contact Person/Phone Number:	Matthew Yergovich (415)596-3474
Owner:	Pacific Gas & Electric PG&E
Case File Number:	**DR13-055**
Planning Permits Required:	Major Design Review to install a wireless Telecommunication Macro Facility to on existing PG&E pole located in the public right of way in a residential zone.
General Plan:	Hillside Residential
Zoning:	RH-4 Hillside Residential Zone
Environmental Determination:	Exempt, Section 15301 of the State CEQA Guidelines; minor additions and alterations to an existing facility. 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
Status:	Pending
Action to be Taken:	Decision of Application
Finality of Decision:	Appealable to City Council within 10 days
For Further Information:	Contact case planner Michael Bradley at **(510) 238-6935** or by email: **mbradley@oaklandnet.com**

Your comments and questions, if any, should be directed to the Zoning Division of the Department of Planning, Building and Neighborhood Preservation, 250 Frank H. Ogawa Plaza, 2nd Floor, Oakland, California 94612-2031 at or prior to the public hearing to be held on Wednesday, July 31, 2013, at Oakland City Hall, Sgt. Mark Dunakin Hearing Room One, 1 Frank H. Ogawa Plaza, Oakland, California 94612. The public hearing will start at 6:00 p.m.

If you challenge the Planning Commission decision on appeal and/or in court, you will be limited to issues raised at the public hearing or in correspondence delivered to the Zoning Division, the Department of Planning, Building and Neighborhood Preservation, at, or prior to, the public hearing on this case. If you wish to be notified of the decision on this case, please indicate the case number and submit a self-addressed stamped envelope for each to the Department of Planning, Building and Neighborhood Preservation/Zoning Division, 250 Frank H. Ogawa Plaza, 2nd Floor, Oakland, California 94612-2031.
lease note that the description of the application found above is preliminary in nature and that the project and/or such description may change prior to a decision being made. Except where noted, once a decision is reached by the Planning Commission on these cases, they are appealable to the City Council. **Such appeals must be filed within ten (10) calendar days of the date of decision by the Planning Commission and by 4:00p.m.** An appeal shall be on a form provided by the Planning and Zoning Division of the Department of Planning, Building and Neighborhood Preservation, and submitted to the same at 250 Frank H. Ogawa Plaza, Suite 2114, to the attention of the Case Planner. The appeal shall state specifically wherein it is claimed there was error or abuse of discretion by the City of Oakland or wherein the decision is not supported by substantial evidence and must include payment in accordance with the City of Oakland Master Fee Schedule. Failure to file a timely appeal will preclude you from challenging the City's decision in court. The appeal itself must raise every issue that is contested along with all the arguments and evidence previously entered into the record prior to or at the public hearing mentioned above. Failure to do so will preclude you from raising such issues during the appeal hearing and/or in court.

POSTING DATE: July 12, 2013

IT IS UNLAWFUL TO ALTER OR REMOVE THIS NOTICE WHEN POSTED ON SITE

POSTING LOCATIONS

Community & Economic Development Agency

NEW CINGULAR — APPLICANT

ROW ADJ. 6239 ELDERBERRY DR — ADDRESS

DR 13-055 — CASE #

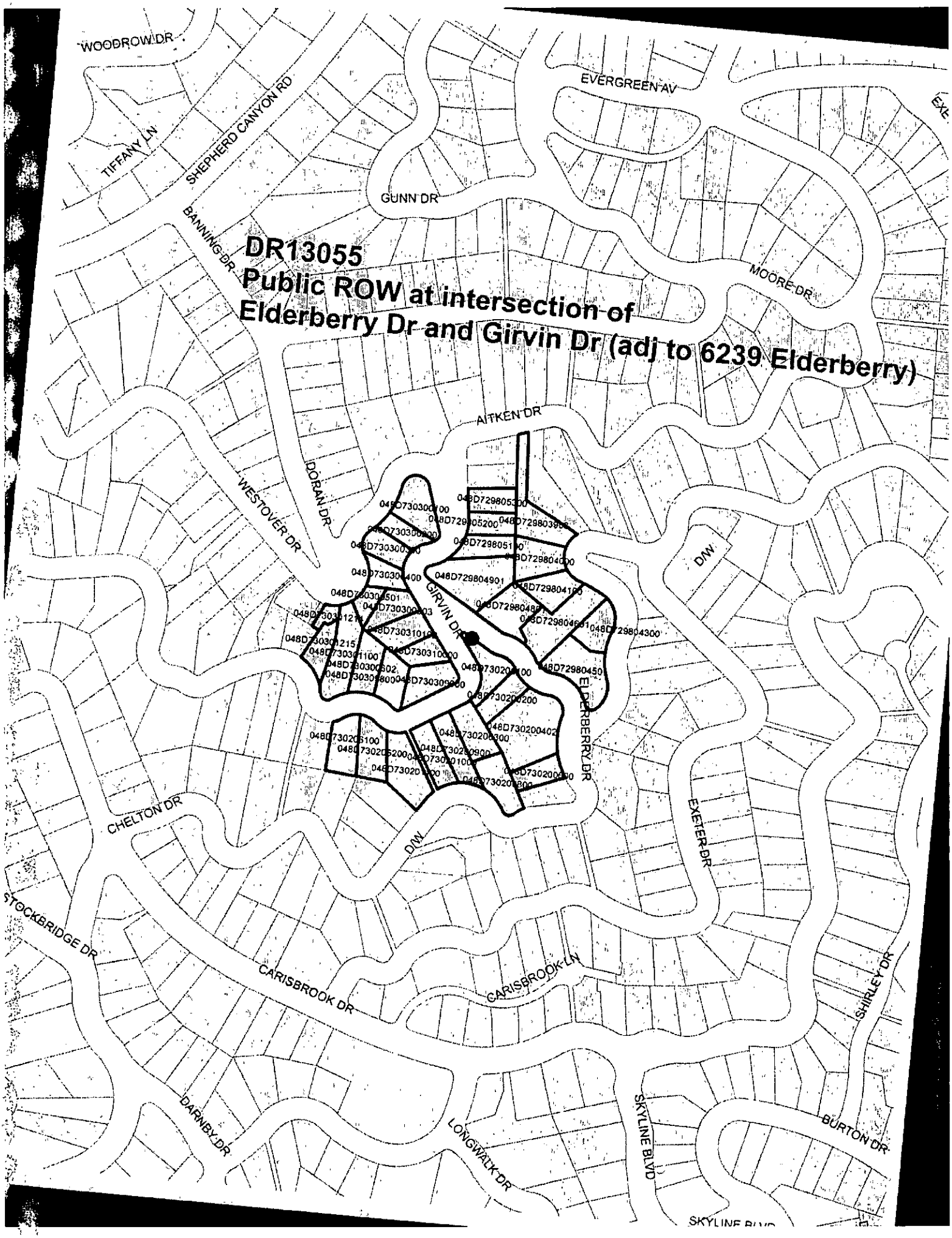
07/12/13 — DATE

_____ — TIME

Posting for the above case was made in the following locations:

1. Aitken / Westover Dr
2. 6459 Westover
3. 6691 Girvin
4. 6625 Girvin
5. 6225 Elderberry
6. Chelton / Elderberry
7. Elderberry / Girvin
8. _____
9. _____
10. _____
11. _____
12. _____
13. _____
14. _____
15. _____

Posted by: _____


DR13055
Public ROW at intersection of
Elderberry Dr and Girvin Dr (adj to 6239 Elderberry)
WOODROW DR
TIFFANY LN
SHEPHERD CANYON RD
EVERGREEN AV
GUNN DR
BANNING DR
MOORE DR
AITKEN DR
WESTOVER DR
DORAN DR
GIRVIN DR
ELDERBERRY DR
EXETER DR
CHELTON DR
D/W
STOCKBRIDGE DR
CARISBROOK DR
CARISBROOK LN
SHIRLEY DR
DARNBY DR
LONGWALK DR
SKYLINE BLVD
BURTON DR
SKYLINE BLVD

BATTILANA DIANE
6575 GIRVIN DR
OAKLAND CA 94611
DR13055

BAY WIN WIN SOLUTIONS LLC
PO BOX 727
CUPERTINO CA 95015
DR13055

BERSAGLIERI RONALD & DONNA
6793 CHELTON DR
OAKLAND CA 94611
DR13055

BEVERLY JOHN S IV & CLAUDETTE S
PO BOX 13164
OAKLAND CA 94661
DR13055

BUDAY JOHN G & LINDA A
6585 GIRVIN DR
OAKLAND CA 94611
DR13055

BURTS TIM P & SHEAD STEVE L
6629 CHELTON DR
OAKLAND CA 94611
DR13055

COLLINS BRIAN T & SHARON A
6565 GIRVIN DR
OAKLAND CA 94611
DR13055

CROSBY TROY D & LESLIE T
6779 CHELTON DR
OAKLAND CA 94611
DR13055

EDGAR DOROTHY J TR
6228 ELDERBERRY DR
OAKLAND CA 94611
DR13055

FANG NEIL T & HUNSBERGER DAVID
6671 GIRVIN DR
OAKLAND CA 94611
DR13055

FULLER CHRISTOPHER &
COUNTERFULLER CARA
6240 ELDERBERRY DR
OAKLAND CA 94611
DR13055

GARANTKAIL TRUST
ROBERT & PAMALA GARA
PO BOX 1432
SONOMA CA 95476
DR13055

GARLAND GLORIA J & BYERS BRUCE
40 NEWHALL DR
SAN RAFAEL CA 94901
DR13055

GUINN ANEDRA
6755 CHELTON DR
OAKLAND CA 94611
DR13055

HAUBOLD JILL E
6254 ELDERBERRY DR
OAKLAND CA 94611
DR13055

HEICK ALBERT J & DENISE
6637 CHELTON DR
OAKLAND CA 94611
DR13055

HIEBERT CHRISTINA J
6239 ELDERBERRY
OAKLAND CA 94611
DR13055

HIRATA RHONDA G
6225 ELDERBERRY DR
OAKLAND CA 94611
DR13055

KILGORE CHARLES & PORTUGAL
SUSAN
6691 GIRVIN DR
OAKLAND CA 94611
DR13055

KONISHI YOSUKE
6690 GIRVIN DR
OAKLAND CA 94611
DR13055

LAWRENCEMATHIS MICHAEL H
6695 GIRVIN DR
OAKLAND CA 94611
DR13055

LEE GEORGE & SPAGNOLETTA
LILIANA
6719 CHELTON DR
OAKLAND CA 94611
DR13055

LEW BARNEY
6625 GIRVIN DR
OAKLAND CA 94611
DR13055

LISHINSKY RHONA & DUKE CARLA
6685 GIRVIN DR
OAKLAND CA 94611
DR13055

MORISSETTE MARILYN TR
6630 GIRVIN DR
OAKLAND CA 94611
DR13055

ROWELL STEPHEN Q SR &
HAMILTON PHYLLIS J
6645 CHELTON DR
OAKLAND CA 94611
DR13055

SCHLOTTER WILLIAM O JR TR
6203 ELDERBERRY DR
OAKLAND CA 94611
DR13055

SILVEIRA J W & BARBARA O TRS
499 EMBARCADERO
OAKLAND CA 94606
DR13055

SPENCER DEIRDRE A & GUY L
6659 GIRVIN DR
OAKLAND CA 94611
DR13055

STUMPF FRANK H & OWEN
DEBORAH J
6210 ELDERBERRY DR
OAKLAND CA 94611
DR13055

TONSKY ALEXANDER & VIVIAN J
6665 GIRVIN DR
OAKLAND CA 94611
DR13055

TRINH NAM
7249 FAWN WAY
SACRAMENTO CA 95823
DR13055

WON DAVID & LAM HIEN M
6657 CHELTON DR
OAKLAND CA 94611
DR13055

YASSER ALAN R & BUTTERWORTH
NAN L TRS
6787 CHELTON DR
OAKLAND CA 94611
DR13055

Oakland City Planning Commission AGENDA

July 31, 2013
Regular Meeting

MEAL GATHERING *5:15 P.M.*

Saigon Restaurant, 326 Frank Ogawa Plaza, Oakland
Open to the public (Members of the public may purchase their own meals if desired. Consumption of food is not required to attend.)

BUSINESS MEETING *6:00 P.M.*

Sgnt. Mark Dunakin Hearing Room 1, City Hall, One Frank H. Ogawa Plaza

Persons wishing to address the Commission on any item on the agenda, including Open Forum and Director's Report, should fill out a speaker card and give it to the Secretary ***"Agenda items will be called at the discretion of the Chair not necessarily in the order they are listed on the Agenda".*** Speakers are generally limited to two minutes at the discretion of the Chair. Applicants and appellants are generally limited to five minutes.

The order of items will be determined under "Agenda Discussion" at the beginning of the meeting. With the exception of Open Forum, a new item will not be called after **10:15 p.m.**, and the meeting will adjourn no later than **10:30 p.m.** unless the meeting is extended by the Chair with the consent of a majority of Commissioners present.

Please check with the Department prior to the meeting regarding items that may be continued. Any agenda item may be continued, without the hearing on the matter being opened or public testimony taken, at the discretion of the Chair. Persons wishing to address the continued item may do so under Open Forum.

Staff reports for items listed on this agenda will be available by 3:00 p.m. the Friday before the meeting, to any interested party, at the Planning and Zoning Division, 250 Frank H. Ogawa Plaza, Oakland, California 94612.

For further information on any case listed on this agenda, please contact the case planner indicated for that item. For further information on Historic Status, please contact the Oakland Cultural Heritage Survey at 510-238-6879. For other questions or general information on the Oakland City Planning Commission, please contact the Community and Economic Development Agency, Planning and Zoning Division, at 510-238-3941.

♿ This meeting is wheelchair accessible. To request materials in alternative formats, or to request an ASL interpreter, or assistive listening devise, please call the *Planning Department at 510-238-3941* or TDD 510-238-3254 at least three working days before the meeting. Please refrain from wearing scented products to this meeting so attendees who may experience chemical sensitivities may attend. Thank you

New web-site staff report download instructions

Reports are also available at the Strategic Planning Division on the 3rd floor (Suite 3315), which closes at 5:00 p.m.

Staff reports are also available on-line, by 3:00 p.m. the Friday before the meeting, at www.oaklandnet.com. Select the "Government" tab, scroll down and click on "Planning & Zoning" click on "visit the Boards and Commissions page" under "Planning Commission". You will need to ensure that your computer will accept pop-ups from the host site (oaklandnet.com) and that your computer has a later version of Adobe Acrobat Reader installed. For further information, please call 510-238-3941.

If you challenge a Commission decision in court, you will be limited to issues raised at the hearing or in correspondence delivered to the Zoning Division, at, or prior to, the hearing. Any party seeking to challenge in court those decisions that are final and not administratively appealable to the City Council must do so within ninety (90) days of the date of the announcement of the final decision, pursuant to Code of Civil Procedure Section 1094.6, unless a shorter period applies.

Please note that the descriptions of the applications found below are preliminary in nature and that the projects and/or descriptions may change prior to a decision being made.

While attending Planning Commission Meetings, parking in the Clay Street Garage is free. Attendees should see staff at the meeting for validation of parking tokens.

Applicants or members of the public that plan power point presentations: Please contact Cheryl Dunaway at cdunaway@oaklandnet.com or 510-238-2912 or Gwen Brown at gbrown@oaklandnet.com or 510-238-6194 at least 48 hours prior to the meeting.

Interested parties are encouraged to submit written material on agenda items in advance of the meeting and prior to the close of the public hearing on the item. To allow for distribution to the Commission, staff, and the public, 25 copies of all material should be submitted. Material submitted at least ten days prior to the meeting may be included as part of the agenda packet; material submitted later will be distributed at or prior to the meeting. To ensure that material is distributed to Commissioners, a minimum of twenty-five (25) copies should be submitted to Planning staff no later than the time is scheduled to be considered by the Commission.

ROLL CALL

WELCOME BY THE CHAIR

COMMISSION BUSINESS

Agenda Discussion

Director's Report

Committee Reports

Commission Matters

City Attorney's Report

OPEN FORUM

At this time members of the public may speak on any item of interest within the Commission's jurisdiction. Speakers are generally limited to two minutes or less if there are six or less speakers on an item, and one minute or less if there are more than six speakers.

CONSENT CALENDAR

The Commission will take a single roll call vote on all of the items listed below in this section. The vote will be on approval of the staff report in each case. Members of the Commission may request that any item on the Consent Calendar be singled out for separate discussion and vote.

1.	
Location:	**The public Right of Way on Claremont Avenue (adjacent to 7541 Claremont Avenue) APN: (048H-7690-002-00)**
Proposal:	To install a wireless telecommunication facility (AT&T wireless) on an existing 37'-8" high PG&E utility pole located in the public right-of-way: Install two panel antennas (approximately two-feet long and ten-inches wide mounted onto arms at 47'-7" high on the pole; an associated equipment box, one battery backup and meter boxes within a 6' tall by 18" wide singular equipment box attached to the pole at 8' height above ground.
Applicant:	New Cingular Wireless PCS, LLC./AT&T Mobility
Contact Person/Phone Number:	Matthew Yergovich (415)596-3474
Owner:	City of Oakland
Case File Number:	**DR13-200**
Planning Permits Required:	Major Conditional Use Permit to install a Macro wireless telecommunications facility located within 100-feet of a residential zone (OMC Sec. 17.33.040(A), 17.134.020(A)(3)(i); Additional findings for a Macro facility (OMC Sec. 17.128.070 (B), (C).
General Plan:	Resource Conservation
Zoning:	OS Open Space Zone
Environmental Determination:	Exempt, Section 15301 of the State CEQA Guidelines; minor additions and alterations to an existing facility. 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:	1
Status:	Pending
Action to be Taken:	Decision of Application
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 by email: **jherrera@oaklandnet.com**

2. **Location:**	**The public Right of Way at the intersection of Fulton Way and Claremont Avenue (adjacent to 8071 Claremont Avenue) APN: (048H-7693-046-01)**
Proposal:	To install a wireless telecommunication facility (AT&T wireless) on an existing 38' high PG&E utility pole located in the public right-of-way: Install two panel antennas (approximately two-feet long and ten-inches wide mounted onto arms at 50'-5" high on the pole; an associated equipment box, one battery backup and meter boxes within a 6' tall by 18" wide singular equipment box attached to the pole at 8' height above ground.
Applicant:	New Cingular Wireless PCS, LLC./AT&T Mobility
Contact Person/Phone Number:	Matthew Yergovich (415)596-3474
Owner:	East Bay Regional Park District
Case File Number:	**DR13-201**
Planning Permits Required:	Regular Design Review (non-residential) to expand a Macro facility also requiring a conditional use permit (OMC Sec. 17.33.040(A), 17.136.050(B)(2); Additional findings for a Macro facility (OMC Sec. 17.128.070 (B), (C).
General Plan:	Resource Conservation
Zoning:	OS Open Space Zone
Environmental Determination:	Exempt, Section 15301 of the State CEQA Guidelines; minor additions and alterations to an existing facility. 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:	1
Status:	Pending
Action to be Taken:	Decision of Application
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 by email: **jherrera@oaklandnet.com**

3. **Location:**	**The public Right of Way at the intersection of Elderberry Drive and Girvin Drive (adjacent to 6239 Elderberry Drive) APN: (048D-7302-001-00)**
Proposal:	To install a wireless telecommunication facility (AT&T wireless) on an existing 43' high PG&E utility pole located in the public right-of-way: Install two panel antennas (approximately two-feet long and ten-inches wide mounted onto arms at 37'high on the pole; an associated equipment box, one battery backup and meter boxes within a 6' tall by 18" wide singular equipment box attached to the pole at 8' height above ground.
Applicant:	New Cingular Wireless PCS, LLC./AT&T Mobility
Contact Person/Phone Number:	Matthew Yergovich (415)596-3474
Owner:	Pacific Gas & Electric PG&E
Case File Number:	**DR13-055**
Planning Permits Required:	Major Design Review to install a wireless Telecommunication Macro Facility to on existing PG&E pole located in the public right of way in a residential zone.

(continue on page 5)

(continued from page 4)

General Plan:	Hillside Residential
Zoning:	RH-4 Hillside Residential Zone
Environmental Determination:	Exempt, Section 15301 of the State CEQA Guidelines; minor additions and alterations to an existing facility. Section 15183 of the State CEQA Guidelines; projects consistent with a community plan, general plan or zoning.
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City Council District:	4
Status:	Pending
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Finality of Decision:	Appealable to City Council within 10 days
For Further Information:	Contact case planner Michael Bradley at **(510) 238-6935** or by email: **mbradley@oaklandnet.com**

PUBLIC HEARINGS

The hearing provides opportunity for all concerned persons to speak; the hearing will normally be closed after all testimony has been heard. If you challenge a Commission decision in court, you will be limited to issues raised at the public hearing or in correspondence delivered to the Zoning Division at, or prior to, the public hearing.

The Commission will then vote on the matter based on the staff report and recommendation. If the Commission does not follow the staff recommendation and no alternate findings have been prepared, then the vote on the matter will be considered a "straw" vote, which essentially is a non-binding vote directing staff to return to the Commission at a later date with appropriate findings and, as applicable, conditions of approval that the Commission will consider in making a final decision.

If you wish to be notified on the decision of an agenda item, please indicate the case number and submit a self-addressed stamped envelope, for each case.

Planning Commission decisions that involve "major" cases (i.e., major variances, major conditional use permits) are usually appealable to the City Council. If any interested party seeks to challenge such decision in court, an appeal must be filed within ten (10) calendar days of the date of the announcement of the Planning Commission decision and by 4:00 p.m. An appeal shall be on a form provided by the Planning and Zoning Division, and submitted to the same at 250 Frank H. Ogawa Plaza, Suite 2114, to the attention of the Case Planner. 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 in accordance with the City of Oakland Master Fee Schedule. Failure to timely appeal will preclude you 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 will 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 City Planning Commission prior to the close of the City Planning Commission's public hearing on the matter.

Any party seeking to challenge a final decision in court must do so within ninety (90) days of the date of the announcement of a final decision, pursuant to Code of Civil Procedure section 1094 6, unless a shorter period applies.

4.	
Location:	**77 Pearl Street (APN: 010-0805-006-01) (4/4/12)**
Proposal:	To legalize and existing second dwelling unit and create a third new dwelling unit within an existing structure or a site with two existing structures, establishing a total of thirteen (13) dwelling units on the lot. **Re-Notification**
Applicant:	Kent Lau & Tran Vu
Contact Person/Phone Number:	Same (408)425-4523
Owner:	Albert Tung
Case File Number:	**CMD12-039**
Planning Permits Required:	Major Conditional Use Permit to allow for 5 or more units on a RM-4 lot and Design review for the creation of, and legalization of a total of two new dwelling units.
General Plan:	Mixed Housing Type Residential
Zoning:	Mixed Housing Type Residential Zone -4 Regulations
Environmental Determination:	15332, In-fill Development Projects
Historic Status:	PDHP, secondary importance or superior example; rating C3
Service Delivery District:	2
City Council District:	3
Status:	Pending
Action to be Taken:	Decision based of staff recommendation
Finality of Decision:	Appealable to City Council within 10 days
For Further Information:	Contact case planner Moe Hackett at **(510) 238-3973** or by email: **mhackett@oaklandnet.com**

5.	
Project Name:	**Oakland Ice Rink/Sharks Ice**
Location:	**519 18th Street (APN008-0641-008-05)**
Proposal:	Allow Alcoholic Beverage Sales Activity
Contact Person/Phone Number:	Melissa Fitzgerald (408)406-3791
Owner:	City of Oakland Successor to Redevelopment Agency
Case File Number:	**CM13-149**
Planning Permits Required:	Major Conditional Use Permit to allow an Alcoholic Beverage Sales Activity, in approximately 1,000 square feet of existing Ice Rink building area
General Plan:	Central Business District
Zoning:	CBD-C Central Business District-Retail Commercial Zoning District
Environmental Determination:	Categorically Exempt under California Environmental Quality Act (CEQA) Guidelines Section 15301
Historic Status:	Not a Potential Designated Historic Property
Service Delivery District:	Metro
City Council District:	3
Commission Action to Be Taken:	Approve Staff Recommendation
Appeal:	Appealable to City Council within 10 days
For Further Information:	Contact **David Valeska** at **(510) 238-2075** or dvaleska@oaklandnet.com

APPEALS

The Commission will take testimony on each appeal. If you challenge a Commission decision in court, you will be limited to issues raised at the public hearing or in correspondence delivered to the Zoning Division, Community and Economic Development Agency, at, or prior to, to the public hearing; provided, however, such issues were previously raised in the appeal itself.

Following testimony, the Commission will vote on the report prepared by staff. If the Commission reverses/overturns the staff decision and no alternate findings have been prepared, then the vote on the matter will be considered a "straw" vote, which essentially is a non-binding vote directing staff to return to the Commission at a later date with appropriate findings and, as applicable, conditions of approval that the Commission will consider in making a final decision.

Unless otherwise noted, the decisions in the following matters are final and not administratively appealable. Any party seeking to challenge these decisions in court must do so within ninety (90) days of the date of the announcement of the final decision, pursuant to Code of Civil Procedure section 1094.6, unless a shorter period applies.

(There are no appeals on this agenda)

COMMISSION BUSINESS

Approval of Minutes July 17, 2013

Correspondence

City Council Actions

ADJOURNMENT By 10:30 P.M. unless a later time is agreed upon by a majority of Commissioners present.

Scott Miller

SCOTT MILLER
Zoning Manager
Planning and Zoning Division

NEXT MEETING: August 7, 2013

ATTACHMENT E

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General Attorney
525 Market Street
Suite 2025
San Francisco, CA 94105

T: 415.778.1488
F: 415.974.1999
nelsonya.causby@att.com

May 30, 2014

Via Email (arose@oaklandnet.com)

Oakland City Council
Oakland City Hall
1 Frank H. Ogawa Plaza
Oakland, CA 94612

Re. New Cingular Wireless PCS, LLC d/b/a AT&T Mobility
Conditional Use Permit Application No. DR13055
Distributed Antenna System Node 77, near 6659 Girvin Drive

Dear Council President Kernighan, President Pro Tem Kaplan, Vice Mayor Reid, and Councilmembers Kalb, McElhaney, Schaaf, Gallo, and Brooks:

I write on behalf of New Cingular Wireless PCS, LLC d/b/a AT&T Mobility (AT&T) to respond to the appeal of the Planning Commission's unanimous (6-0) approval of AT&T's Conditional Use Permit Application No. DR13055 ("Application"), seeking to install a distributed antenna system node on an existing utility pole in the public right-of-way near 6659 Girvin Drive ("Proposed DAS Node 77"). This site is necessary to close a significant service coverage gap in this portion of Oakland. The purpose of this letter is to provide the Oakland City Council ("Council") with an overview of the Proposed Facility, to apply key requirements of state and federal law, and to address specific issues raised in the appeal.

AT&T's Proposed Facility

AT&T's Application complies with the Oakland Municipal Code ("Code"), and it is consistent with federal law. AT&T has identified a significant service coverage gap in the city in the vicinity of Proposed DAS Node 77. AT&T's gap is depicted in Exhibit 2 (3G UMTS coverage) and Exhibit 4 (4G LTE coverage) to the attached Radio Frequency Statement.[1] This residential Oakland Hills neighborhood consists of dozens of single-family homes in an area off of Girvin Drive, Elderberry Drive, and Aitken Drive. To close this gap, AT&T proposes to install a relatively small distributed antenna system (DAS) node consisting of two short panel antennas and associated equipment on a utility pole (JPA Pole No. 110111699) in the public right-of-way near 6659 Girvin Drive. Based on feedback from the city, AT&T modified its initial design for a seven-foot tall extension to the existing pole in favor of side-mounting its antennas at 37 feet high on a 47-foot, 6-inch replacement pole. This site will be well concealed by numerous tall trees lining Girvin Drive and Elderberry Drive and because of the sloping terrain.[2] The proposed coverage from Proposed

[1] *See* Radio Frequency Statement (Attachment A).

[2] *See* Simulated photograph (Attachment B).

DAS Node 77 is depicted in Exhibit 3 (3G UMTS coverage) and Exhibit 5 (4G LTE coverage) to the attached Radio Frequency Statement.[3]

AT&T investigated alternative sites on which to install the Proposed Facility in the area of its service coverage gap. As described in the attached Alternative Sites Analysis, AT&T identified the Proposed Facility as the best available and least intrusive means to close its significant service coverage gap.[4] Each of the alternatives is either not feasible from a radio frequency perspective to close AT&T's service coverage gap, not feasible due to construction obstacles (such as climbing obstructions on the existing pole), or more intrusive in terms of greater visual impact. Proposed DAS Node 77 will benefit from existing natural screening and offers the least visual impact. As the Planning Commission explained, Proposed DAS Node 77 will have minimal visual impacts from public view because the utility pole is partially camouflaged and blends in with the existing heavily wooded area with few nearby homes.

Applicable State Law – California Public Utilities Code

The construction of telecommunications infrastructure is a matter of statewide concern that municipalities generally may not regulate.[5] AT&T has a state law franchise right to modify its facilities in the public rights-of-way. Section 7901 of the California Public Utilities Code provides:

> Telegraph or telephone corporations may construct lines of telegraph or telephone lines along and upon any public road or highway, along or across any of the waters or lands within this State, and may erect poles, posts, piers, or abutments for supporting the insulators, wires, and other necessary fixtures of their lines, in such manner and at such points as not to incommode the public use of the road or highway or interrupt the navigation of the waters.

Plainly, Section 7901 grants telephone companies the right to construct telephone lines and equipment in the public rights-of-way—subject only to the restriction that it be done "in such manner and at such points as not to incommode the public use of the road or highway." First applied to telephone companies in 1905 in what was then Civil Code § 536, and reenacted as § 7901 without amendment in 1951, this language has remained unchanged for over 100 years. Section 7901 applies to wireless telephone companies and the provision of wireless telecommunications services.[6]

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[3] *Id.*

[4] *See* Alternative Site Analysis (Attachment C).

[5] *See, e.g., Pac. Tel. & Tel. Co. v. City of Los Angeles*, 44 Cal. 2d 272, 280 (1955) (stating the "business of supplying the people with telephone service is not a municipal affair; it is a matter of statewide concern"); *Pac. Tel & Tel. Co. v City & County of San Francisco*, 51 Cal. 2d 766, 768 (1959) (holding "the construction and maintenance of telephone lines in the streets and other public places within the city is today a matter of state concern and not a municipal affair"); *see also*, Cal. Const., Art. XII, § 8 ("[a] city, county, or other public body may not regulate matters over which the Legislature grants regulatory power to the [Public Utilities] Commission").

[6] In Decision 11-01-027, the California Public Utilities Commission ("CPUC") rejected the argument that "only wireline telephone corporations may rely upon section 7901 to access the public rights-of-way[,]" stating that the "plain language of section 7901 contains no language limiting this statute to only wireline telephone corporations. In interpreting

In 1995, the Legislature enacted Section 7901.1(a) of the Public Utilities Code, which declares:

> It is the intent of the Legislature, consistent with Section 7901, 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.

This declaration of intent by the Legislature confirms that municipalities may control the "time, place and manner" of a telephone company's access to public rights-of-way for construction of telephone lines and equipment. In essence, Section 7901.1 clarifies that municipalities may regulate construction to minimize public inconvenience in using the right-of-way.

On many occasions over the course of the last century, California courts have construed Section 7901 and confirmed that telephone companies are granted broad rights to construct and maintain facilities in the public rights-of-way. In 1906, the California Supreme Court addressed the statutory rights granted by then Section 536 in *Western Union Telegraph Co. v. City of Visalia*, 149 Cal. 744, 750-51 (1906), including the line between proper and improper local regulation:

> While the [company] had the right, of which the city could not deprive it, to construct and operate its lines along the streets of the city, nevertheless it could not maintain its poles and wires in such a manner as to unreasonably obstruct and interfere with ordinary travel; and the city had authority, under its police power, to so regulate the manner of [the company's] placing and maintaining its poles and wires as to prevent unreasonable obstruction of travel.

Accord Postal Telegraph-Cable Co. v. City and County of San Francisco, 53 Cal. App. 188, 192 (1921) (holding that company had the right to lay its conduit along and beneath the street so long as doing so would not "interfere with the normal and ordinary use of the street for purposes of travel and traffic"); *Pacific Tel. & Tel. Co. v. City and County of San Francisco*, 197 Cal. App. 2d 133, 146 (1961) (stating permissible restriction by a city "necessarily is limited to an unreasonable obstruction of the public use"). Thus, the City may not burden AT&T's use of the public rights-of-way unless the use poses an unreasonable obstruction of public use.

Proposed DAS Node 77 will not obstruct the public rights-of-way. Accordingly, the city may not burden AT&T's use of the public right-of-way, and the city must permit AT&T to construct Proposed DAS Node 77.

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statutes, the principles of statutory construction prohibit reading language into a statute that was not intended by the Legislature." *Application of NextG Networks of California, Inc. for Authority to Engage in Ground-Disturbing Outside Plant Construction and Related Matter*, Case 08-04-037, Decision 11-01-027, 2011 Cal. PUC LEXIS 25 (Jan. 13, 2011), at *13; *see also id.* at *10, n.8; *City of Huntington Beach v. Public Utilities Com.*, 214 Cal. App. 4th 566, 584-587 (2013) (NextG was properly classified as a "telephone corporation" by the CPUC and telephone corporations are "public utilities"); *GTE Mobilnet of Cal. L.L.P. v. City & County of San Francisco*, 440 F. Supp. 2d 1097, 1103 (N.D. Cal. 2006) (wireless carriers are included in the definition of "telephone corporation" in Section 7901 of the California Public Utilities Code).

Applicable Federal Law – Telecommunications Act of 1996

The federal Telecommunications Act of 1996, 47 U.S.C. § 332 ("Act") provides rights to wireless service providers and establishes limitations upon state and local zoning authorities with respect to applications for permits to construct personal wireless service facilities. This important law was enacted in part to prioritize and streamline proliferation of wireless technologies on a national basis. The United States Supreme Court has explained:

> Congress enacted the Telecommunications Act of 1996 (TCA), 110 Stat. 56, to promote competition and higher quality in American telecommunications services and to "encourage the rapid deployment of new telecommunications technologies." *Ibid.* One of the means by which it sought to accomplish these goals was reduction of the impediments imposed by local governments upon the installation of facilities for wireless communications, such as antenna towers. To this end, the TCA amended the Communications Act of 1934, 48 Stat. 1064, to include § 332(c)(7), which imposes specific limitations on the traditional authority of state and local governments to regulate the location, construction, and modification of such facilities, 110 Stat. 151, codified at 47 U. S. C. § 332(c)(7).[7]

Thus, the Act limits local regulation of wireless telecommunications facilities in pursuit of increasing deployment of the necessary wireless infrastructure.

Rapid deployment of wireless telecommunications facilities, like the Proposed Facility, is an important national issue, especially given the trend of Americans eliminating traditional landline telephone service in favor of wireless communications. The Center for Disease Control and Prevention ("CDC") tracks "wireless substitution" rates as part of its National Health Interview Survey, and the CDC publishes the statistics every six months in its Wireless Substitution reports. The most recent report, issued on December 20, 2013, which covers the period from January to June 2013, finds that 39.4% of American homes have only wireless telephones, and another 15.7% receive all or almost all calls on wireless telephones despite also having a landline.[8] Likewise, the city Planning Code characterizes telecommunications activities as essential service civic activities.

The Act defines the scope and parameters of the city's overall review of AT&T's Application. Importantly, the Act prohibits a local government from denying an application for a wireless telecommunications facility where doing so would "prohibit or have the effect of prohibiting the provision of personal wireless services."[9] Courts have found an "effective prohibition" exists where a wireless carrier demonstrates (1) a "significant gap" in wireless service coverage; and (2) that the proposed facility would provide the "least intrusive means," in relation to the land use values embodied in local regulations, to provide the service coverage necessary to fill that gap.[10]

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[7] *City of Rancho Palos Verdes v. Abrams*, 544 U.S. 113, 115-16 (2005).

[8] The CDC's December 2013 *Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, January-June, 2013* is available at http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201312.pdf.

[9] 47 U.S.C. §332(c)(7)(B)(i)(II).

[10] *See e.g., Metro PCS, Inc. v. City and County of San Francisco*, 400 F3d 715, 734-35 (9th Cir. 2005); *Sprint PCS Assets, LLC v. City of Palos Verdes Estates*, 583 F.3d 716, 726 (9th Cir. 2009).

If a wireless carrier satisfies both of these requirements, state and local standards that would otherwise be sufficient to permit denial of the facility are preempted and the municipality must approve the wireless facility.[11] When a wireless provider presents evidence of a significant gap and the absence of a less intrusive alternative, the burden shifts to the local government to prove that a less intrusive alternative exists. In order to meet this burden (and overcome the presumption in favor of federal preemption), the local government must show that another alternative is available that fills the significant gap in coverage, that it is technologically feasible, and that it is "less intrusive" than the proposed facility.[12]

Here, AT&T has met both prongs of the test. AT&T demonstrated that it has a significant service coverage gap[13] and that Proposed DAS Node 77 is the least intrusive means to close the gap.[14] Indeed, in approving AT&T's applications, the Planning Commission concluded that AT&T's Proposed DAS Node 77 "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," and conforms to the General Plan. Thus, federal law requires the city to approve AT&T's Application.

Issues Raised By Appeal

The appellant raises some specific issues in support of his appeal. But, as described above, whether or not the Council finds a code-based reason to disfavor AT&T's Proposed DAS Node 77, the Council is preempted by the Act from taking action that would prohibit or have the effect of prohibiting AT&T from providing personal wireless services, and the city cannot burden AT&T's right to use the public right-of-way. Nevertheless, AT&T offers the following responses to the issues raised in the appeal.

Protected Trees

The appellant is concerned about impact of AT&T's Proposed DAS Node 77 on protected trees. AT&T's Application states that the project will not affect any protected trees because there are none adjacent to the site and none will be impacted by construction activities. In addition, the Planning Commission's approval is subject to a condition of approval that AT&T shall provide adequate protection to protected trees during construction. Condition of approval no. 17 is quite specific as to the required protective measures, and AT&T intends to comply with this condition of approval.

Environmental Effects

The appellant also voices concerns about environmental and health consequences of radio frequency emissions. Local governments are specifically precluded from considering any alleged health or environmental effects of RF emissions in making decisions as to the siting of wireless telecommunications facilities "to the extent such facilities comply with the FCC's regulations

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[11] *See T-Mobile USA, Inc. v. City of Anacortes*, 572 F.3d 987, 999 (9th Cir. 2009).

[12] *Id.*, 572 F.3d at 998-999.

[13] *See* Radio Frequency Statement (Attachment A).

[14] *See* Alternative Sites Analysis (Attachment C).

concerning such emissions."[15] Here, it is beyond dispute that the proposed equipment will operate well below applicable FCC limits. An RF engineering analysis for Proposed DAS Node 77 was provided by Hammett & Edison, Inc., Consulting Engineers.[16] This report confirms that the Proposed Facility will operate well within (and actually far below) all applicable FCC public and occupational exposure limits. Given the compliance with the FCC standards, the Application cannot be rejected based on health concerns of RF emissions.

The Application cannot be rejected whether health concerns are raised explicitly or indirectly through some proxy such as "property values" or even, in some instances, aesthetics. A federal district court in California has held that in light of the federal preemption of RF emissions; "concern over the decrease in property values may not be considered as substantial evidence if the fear of property value depreciation is based on concern over the health effects caused by RF emissions."[17] Thus, these complaints cannot be a proxy for preempted concerns about RF emissions. To the extent that the appeal is based on concerns over RF frequency radiation, the Council cannot consider them.

In addition to the RF engineering analysis on file, the Planning Commission imposed as a condition of approval that AT&T obtain an emissions report to test actual operating levels after the site is constructed and on air. AT&T intends to comply with this condition of approval.

Traffic Control

The appellant explains that the intersection of Girvin Drive and Elderberry Drive is dangerous due to a blind curve. The simulated photograph of AT&T's proposed facility shows that it will not change the character of the intersection and should not impede the views of drivers passing through the intersection.[18] Additionally, AT&T understands that construction of the proposed node will be subject to traffic control as imposed by the city. As per the city's process, AT&T will seek all appropriate permits once approval of its CUP Application is final.

Aesthetics

The appellant voices concern that Proposed DAS Node 77 may affect views from his home. In evaluating potential candidates for this DAS node, AT&T carefully analyzed potential sites in order to identify the most appropriate and least intrusive means to meet its coverage objective in this portion of the city. After examining the various opportunities in the vicinity to mount its antennas on utility infrastructure, including utility poles along Girvin Drive, Elderberry Drive, and Aitken Drive, AT&T identified six candidate poles. The Alternative Sites Analysis explains that Proposed DAS Node 77 is well screened by numerous nearby mature trees and the side-mounted antennas will not impede any views.[19] As demonstrated by the Alternative Sites Analysis, AT&T considered view

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[15] *See* 47 U.S.C. §332(c)(7)(B)(iv).

[16] *See* Statement of Hammett & Edison, Inc., Consulting Engineers (December 13, 2012) (Attachment D).

[17] *AT&T Wireless Services of California LLC v. City of Carlsbad*, 308 F.Supp.2d 1148, 1159 (S.D. Cal. 2003) (quoting H R. Conference Report No. 104-458, 201 (1996)).

[18] *See* Simulated photograph (Attachment B).

[19] *See* Alternative Sites Analysis (Attachment C).

impacts from several alternative sites and alterative designs, and then selected the least intrusive means to close its significant service coverage gap.

As the Planning Commission found, AT&T's Proposed DAS Node 77 conforms to the General Plan and design review criteria and "[v]isual impacts will be minimized since the area is heavily wooded with trees partially obscuring views of the pole." The Planning Commission also found that Proposed DAS Node 77 "harmonizes with, and serves to protect the value of, private and public investments in the area." Proposed DAS Node 77 is a stealthy installation that should not be noticeable as a wireless telecommunications facility. Unlike traditional cell towers that may rise many feet above nearby buildings and treetops, Proposed DAS Node 77 is designed so that the antennas are side-mounted to a typical utility pole. Any visual impact should be minimal, and Proposed DAS Node 77 fully complies with the city's General Plan and Code.

CEQA

Proposed DAS Node 77 is categorically exempt from CEQA review. The appellant disputes this fact by pointing out that AT&T is now proposing to swap out the existing utility pole. The pole swap is being performed at the city's request in order to minimize the impact of the project. In any event, as the city Zoning Manager found, Proposed DAS Node 77 is exempt from CEQA because the project "will not have a significant impact on the environment."

Boundary Dispute

Appellant asserts that the utility pole is not in the public right-of-way. However, AT&T obtained a professional survey of the properties in the immediate vicinity of proposed DAS Node 77, and that survey shows beyond doubt that the utility pole is in the public right of way.[20]

Noise

Finally, the appellant raises a concern about noise from the cooling equipment related to Proposed Node 77. However, in connection with this Application, Hammett & Edison, Inc. performed an acoustic analysis demonstrating that Proposed DAS Node 77 will comply with Oakland's noise standards, including the very restrictive 45 dBA nighttime, residential limit.[21] In addition, the Planning Commission's approval is subject to a condition of approval that Proposed DAS Node 77 shall comply with the city's noise ordinance. In this regard, condition of approval no. 14 specifically requires compliance with Oakland Planning Code Section 17.120 and Oakland Municipal Code Section 8.18, and AT&T intends to comply with this condition of approval.

[20] *See* Quiet River Survey (Attachment E).

[21] *See* Report of Hammett & Edison, Inc., Consulting Engineers (July 9, 2013) (Attachment F).

Conclusion

AT&T is diligently trying to upgrade its network to meet the growing wireless telecommunications demand within Oakland. It is doing so in a manner that takes prudent and careful consideration of the aesthetic impacts of its facilities and the values the city seeks to promote. AT&T's Application was filed nearly fifteen months ago, and this appeal has been pending for over nine months. At this point, the city is at risk of violating the Act's mandate that the city act within a reasonable period of time. AT&T's proposed design is fully consistent with city's land use regulations and its General Plan, and Proposed DAS Node 77 is the least intrusive means by which AT&T can fill the significant service coverage gap in the area. I urge the Council to deny the appeal and uphold the Planning Commission's approval of AT&T's Application.

Very truly yours,

Nelsonya Causby

cc: Celena Chen, Deputy City Attorney

Attachment A:	Radio Frequency Statement
Attachment B:	Simulated Photograph
Attachment C:	Alternative Site Analysis
Attachment D:	Statement of Hammett & Edison, Inc., Consulting Engineers (Dec. 13, 2012)
Attachment E:	Quiet River Survey
Attachment F:	Report of Hammett & Edison, Inc., Consulting Engineers (July 9, 2013)

ATTACHMENT A

AT&T Mobility Radio Frequency Statement
DAS Node 77: Public Right-of-Way JPA Pole # 110111699
across from 6659 Girvin Dr., Oakland, CA

I am the AT&T radio frequency engineer assigned to the proposed wireless communications facility located on an existing utility pole in public right-of-way next to JPA Pole 110111699 across from 6659 Girvin Dr., Oakland (the "Property"). Based on my personal knowledge of the Property and with AT&T's wireless network, as well as my review of AT&T's records with respect to the Property and its wireless telecommunications facilities in the surrounding area, I have concluded that the work associated with this permit request is needed to close a service coverage gap in the area immediately surrounding the Property.

The service coverage gap is caused by inadequate (or, in the case of 4G LTE, non-existent) infrastructure in the area. As explained further in Exhibit 1, AT&T's existing facilities cannot adequately serve its customers in the desired area of coverage, let alone address rapidly increasing data usage. Moreover, 4G LTE service coverage has not yet been fully deployed in this area. To remedy this service coverage gap, AT&T needs to construct a new wireless communications facility.

AT&T uses industry standard propagation tools to identify the areas in its network where signal strength is too weak to provide reliable in-building service quality. This information is developed from many sources including terrain and clutter databases, which simulate the environment, and propagation models that simulate signal propagation in the presence of terrain and clutter variation. AT&T designs and builds its network to ensure customers receive reliable in-building service quality.

Exhibit 2 to this Statement is a map of existing service coverage (without the proposed installation at the Property) in the area where AT&T is planning to install several distributed antenna system (DAS) nodes to close a larger service coverage gap in the County. It includes service coverage provided by existing on-air AT&T sites. The green shaded areas depict areas within a signal strength range that provide acceptable in-building service coverage. In-building coverage means customers are able to place or receive a call on the ground floor of a building. The yellow shaded areas depict areas within a signal strength range that provide acceptable in-transit coverage. In this area, an AT&T customer should be able to successfully place or receive a call within a vehicle. The red shading depicts areas within a signal strength range in which a customer might have difficulty receiving a consistently acceptable level of service. The quality of service experienced by any individual can differ greatly depending on whether that customer is indoors, outdoors, stationary, or in transit. Any area in the red or yellow category is considered inadequate service coverage and constitutes a service coverage gap.

Exhibit 3 predicts service coverage based on signal strength in the vicinity of the Property if the node 3 antennas are placed as proposed in the application. As shown by these maps, and, in particular, the "After" map in Exhibit 3 shows that node 3 closes the significant 3G service coverage gap in the area immediately surrounding the Property.

In addition to these 3G wireless service gap issues, AT&T is in the process of deploying its 4G LTE service in Oakland with the goal of providing the most advanced personal wireless experience available to AT&T customers. 4G LTE is capable of delivering speeds up to 10 times faster than industry-average 3G speeds. LTE technology also offers lower latency, or the processing time it takes to move data through a network, such as how long it takes to start downloading a webpage or file once a customer has sent the request. Lower latency helps to improve the quality of personal wireless services. What's more, LTE uses spectrum more efficiently than other technologies, creating more space to carry data traffic and services and to deliver a better overall network experience. Exhibit 4 is a map that depicts 4G LTE service in the area surrounding the Property, and it shows a significant 4G LTE service coverage gap in the area. After the upgrades, Exhibit 5 shows that 4G LTE service is available both indoors and outdoors in the targeted service area. This is important not only to bring 4G LTE to residents of Oakland but also because as existing customers migrate to 4G LTE, the LTE technology will provide the added benefit of reducing 3G data traffic, which can cause capacity issues on the UMTS (3G) network during peak usage periods, especially in light of the forecasted increase in usage noted in Exhibit 1.

I have a Bachelor's Degree in Electrical Engineering from Concordia University, and I have worked as a radio frequency design engineer in the wireless communications industry for over 7 years.

Dimitri Gogas

September 11, 2013

EXHIBIT 1
Prepared by AT&T Mobility

AT&T's digital wireless technology converts voice or data signals into a stream of digits to allow a single radio channel to carry multiple simultaneous signal transmissions. This technology allows AT&T to offer services such as secured transmissions and enhanced voice, high-speed data, texting, video conferencing, paging and imaging capabilities, as well as voicemail, visual voicemail, call forwarding and call waiting that are unavailable in analog-based systems. With consumers' strong adoption of smartphones, customers now have access to wireless broadband applications, which consumer utilize at a growing number.

AT&T customers are using these applications in a manner that has caused a ***30,000% increase in mobile data usage on AT&T's network since 2007.*** AT&T expects total mobile data volume to ***grow 8x-10x over the next five years***. To put this estimate in perspective, all of AT&T Mobility's mobile traffic during 2010 would be equal to only six or seven weeks of mobile traffic volume in 2015. The FCC noted that U.S. mobile data traffic grew almost 300% in 2011, and driven by 4G LTE smartphones and tablets, traffic is projected to grow an additional 16-fold by 2016.

Mobile devices using AT&T's technology transmit a radio signal to antennas mounted on a tower, pole, building, or other structure. The antenna feeds the signal to electronic devices housed in a small equipment cabinet, or base station. The base station is connected by microwave, fiber optic cable, or ordinary copper telephone wire to the Radio Network Controller, subsequently routing the calls and data throughout the world.

The operation of AT&T's wireless network depends upon a network of wireless communications facilities. The range between wireless facilities varies based on a number of factors. The range between AT&T mobile telephones and the antennas in and nearby Oakland, for example, is particularly limited as a result of topographical challenges, blockage from buildings, trees, and other obstructions as well as the limited capacity of existing facilities.

To provide effective, reliable, and uninterrupted service to AT&T customers in their cars, public transportation, home, and office, without interruption or lack of access, coverage must overlap in a grid pattern resembling a honeycomb.

In the event that AT&T is unable to construct or upgrade a wireless communications facility within a specific geographic area, so that each site's coverage reliably overlaps with at least one adjacent facility, AT&T will not be able to provide adequate personal wireless service to its customers within that area. Some consumers will experience an abrupt loss of service. Others will be unable to obtain reliable service, particularly if they are placing a call inside a building.

Service problems occur for customers even in locations where the coverage maps on AT&T's "Coverage Viewer" website appear to indicate that coverage is available. As the legend to the Coverage Viewer maps indicates, these maps depict a high-level *approximation* of coverage, which may not show gaps in coverage; *actual* coverage in an area may differ substantially from map graphics, and may be affected by such things as terrain, foliage, buildings and other construction, motion, customer equipment, and network traffic. The legend states that AT&T does not guarantee coverage and its coverage maps are not intended to show actual customer performance on the network, nor are they intended to show future network needs or build requirements inside or outside of AT&T's existing coverage areas.

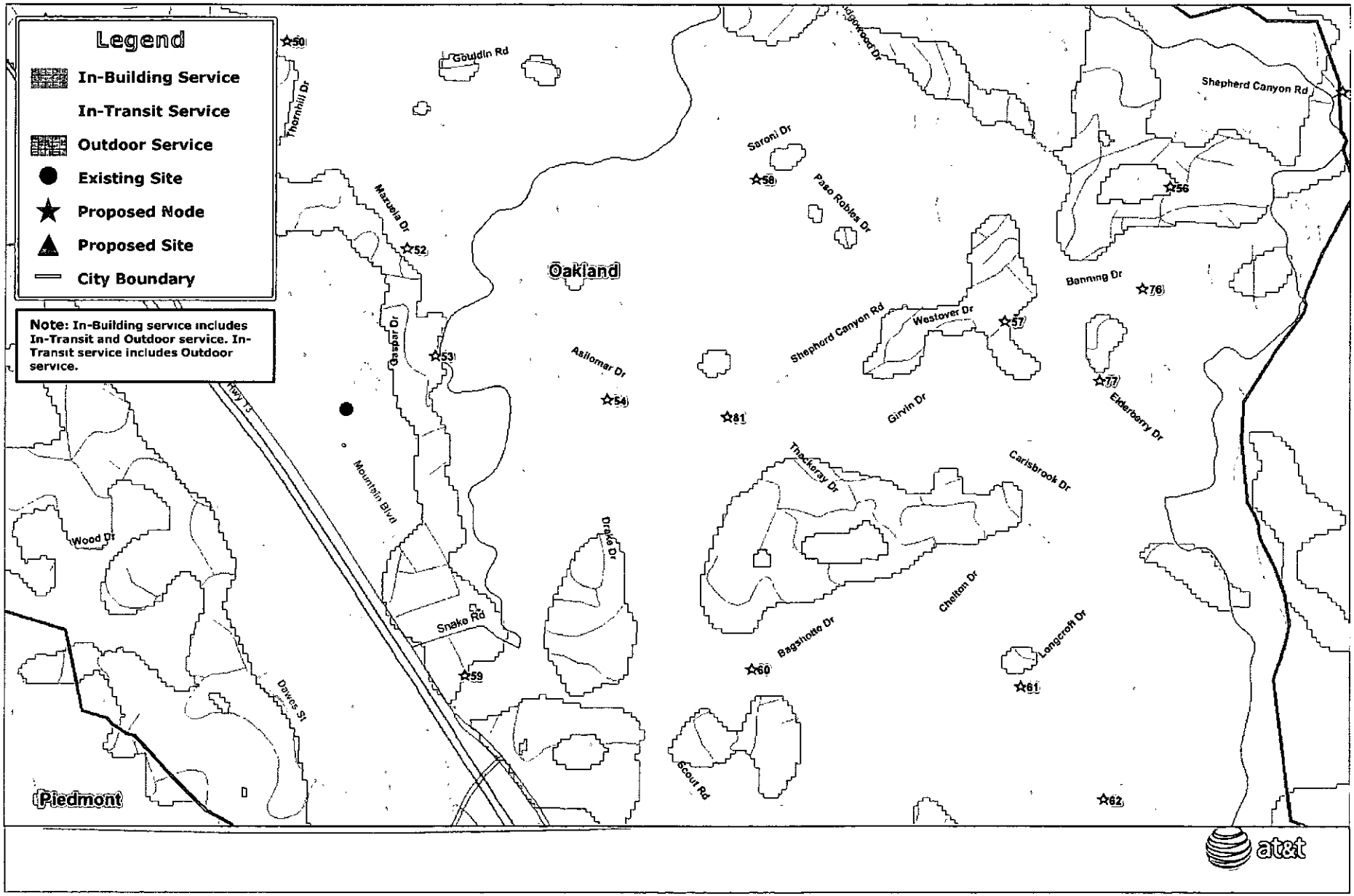
It is also important to note that the signal losses and service problems described above can and do occur for customers even at times when certain other customers in the same vicinity may be able to initiate and complete calls on AT&T's network (or other networks) on their wireless phones. These problems also can and do occur even when certain customers' wireless phones indicate "all bars" of signal strength on the handset.

The bars of signal strength that individual customers can see on their wireless phones are an imprecise and slow-to-update estimate of service quality. In other words, a customer's wireless phone can show "four bars" of signal strength, but that customer can still, at times, be unable to initiate voice calls, complete calls, or download data reliably and without service interruptions.

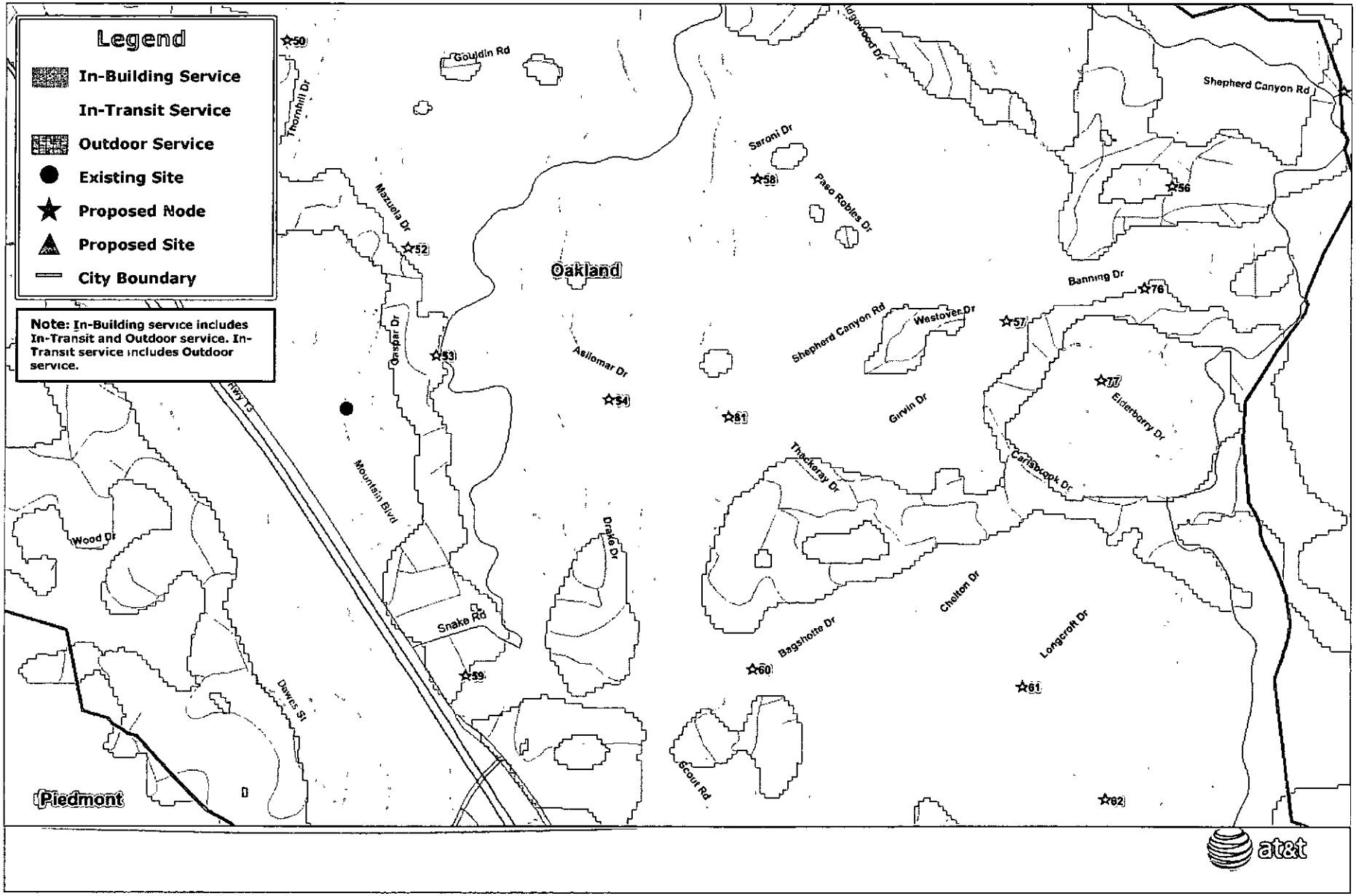
To determine where new or upgraded telecommunications facilities need to be located for the provision of reliable service in any area, AT&T's radio frequency engineers rely on far more complete tools and data sources than just signal strength from individual phones. AT&T creates maps incorporating signal strength that depict existing service coverage and service coverage gaps in a given area.

To rectify this significant gap in its service coverage, AT&T needs to locate a wireless facility in the immediate vicinity of the Property.

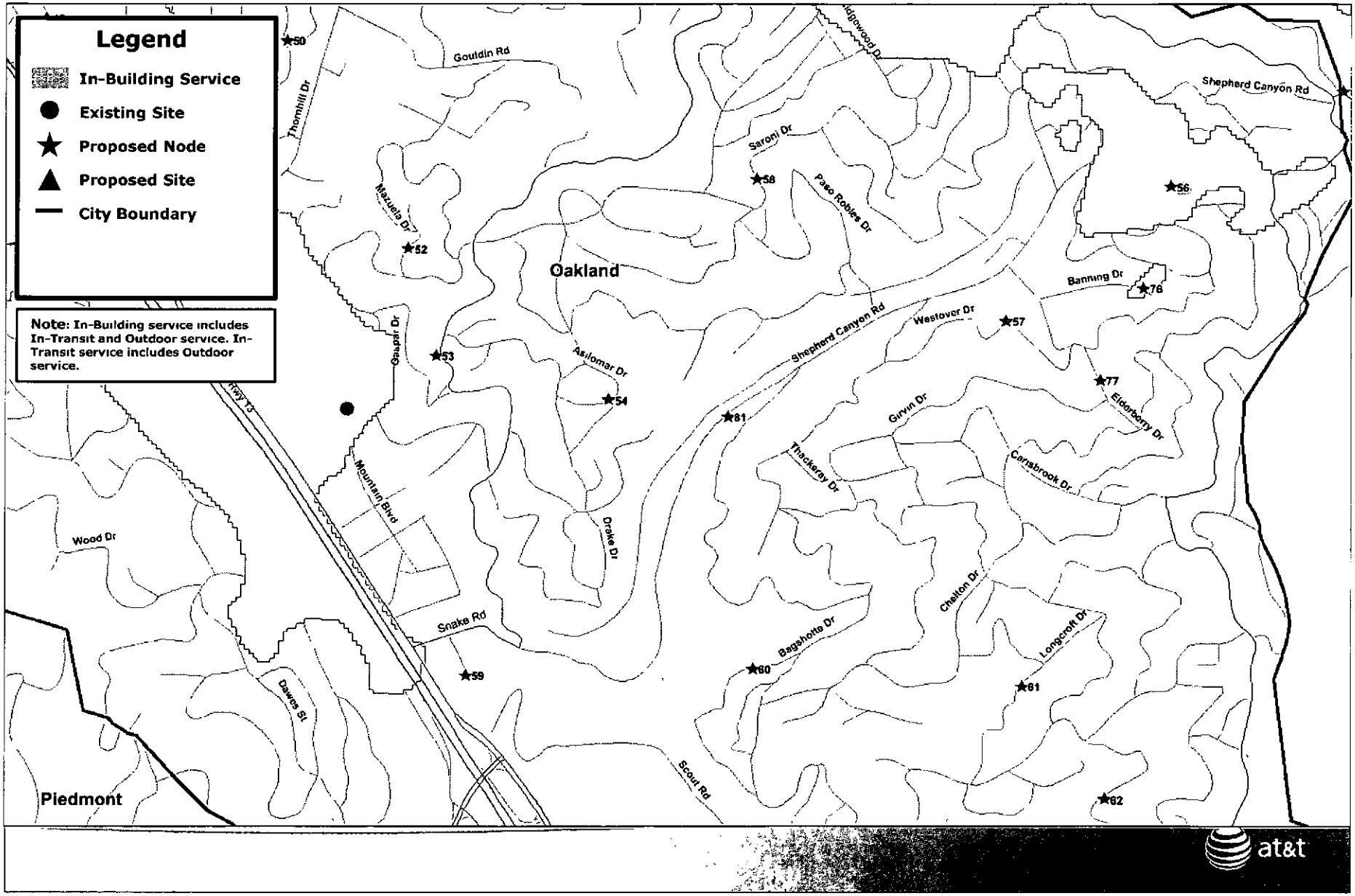
Oakland oDAS – Existing UMTS Coverage



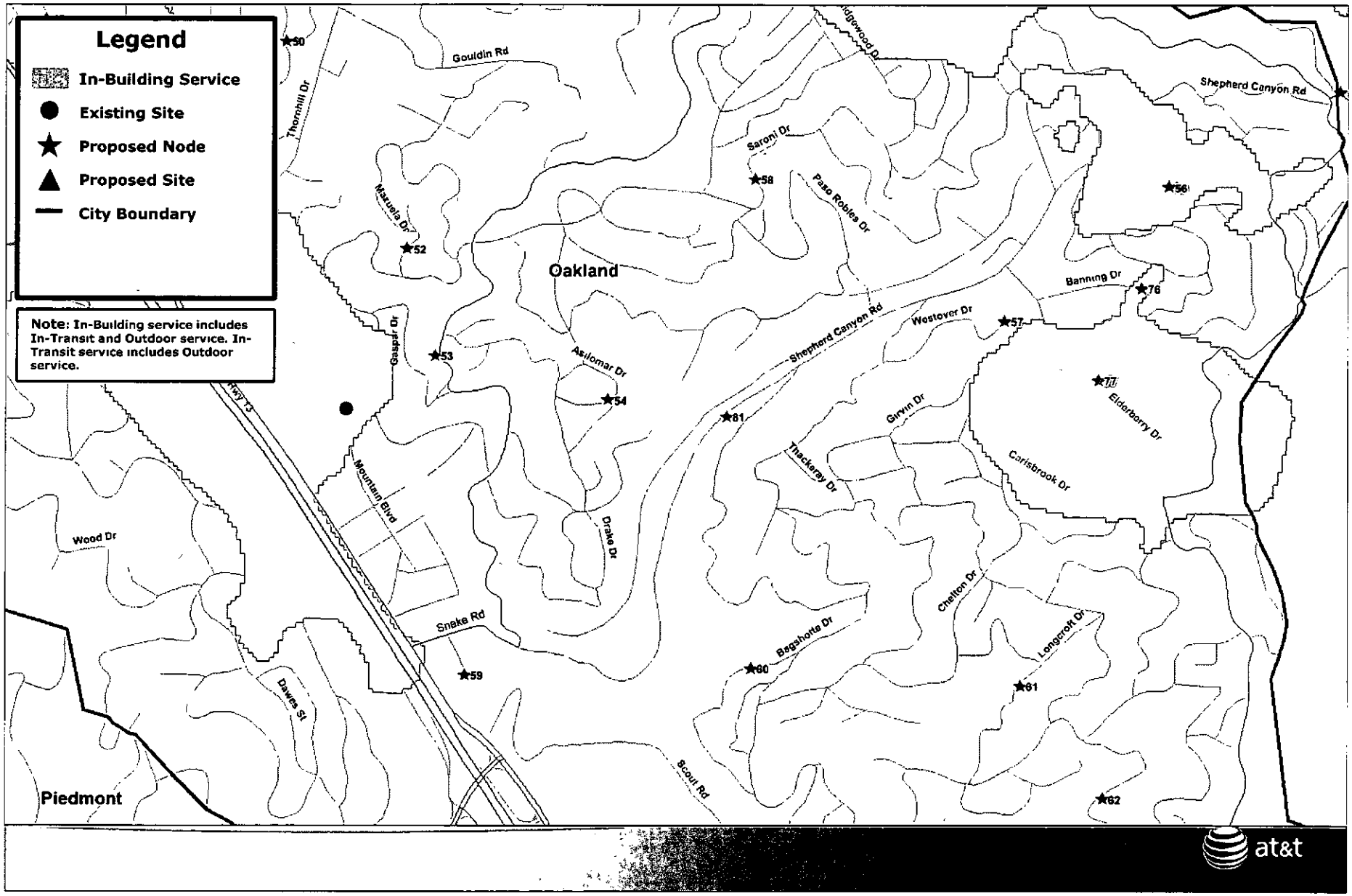
Oakland oDAS – Existing with Node 77 UMTS Coverage



Oakland oDAS – Existing LTE Coverage



Oakland oDAS – Existing with Node 77 LTE Coverage



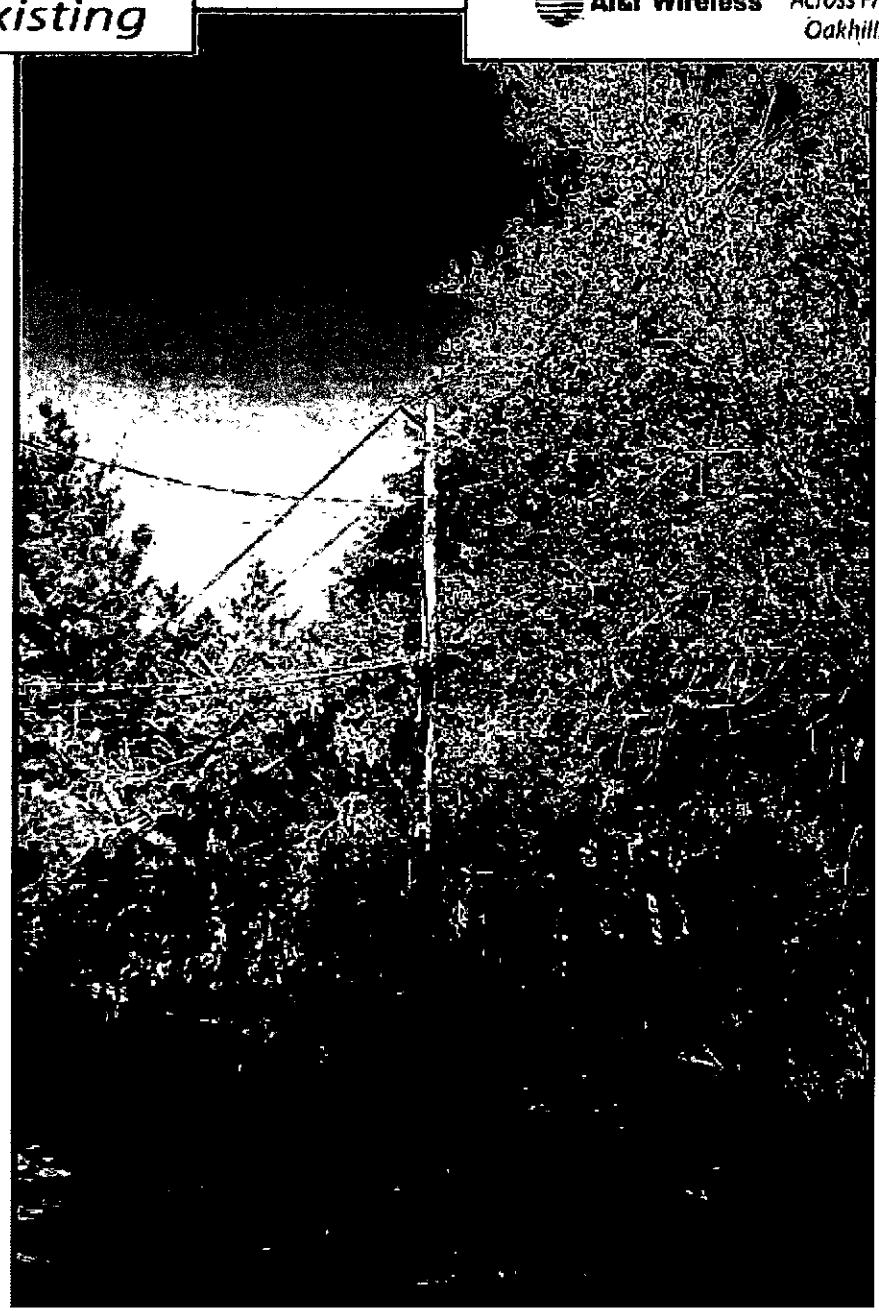
ATTACHMENT B

view from Girvin Drive looking north at site

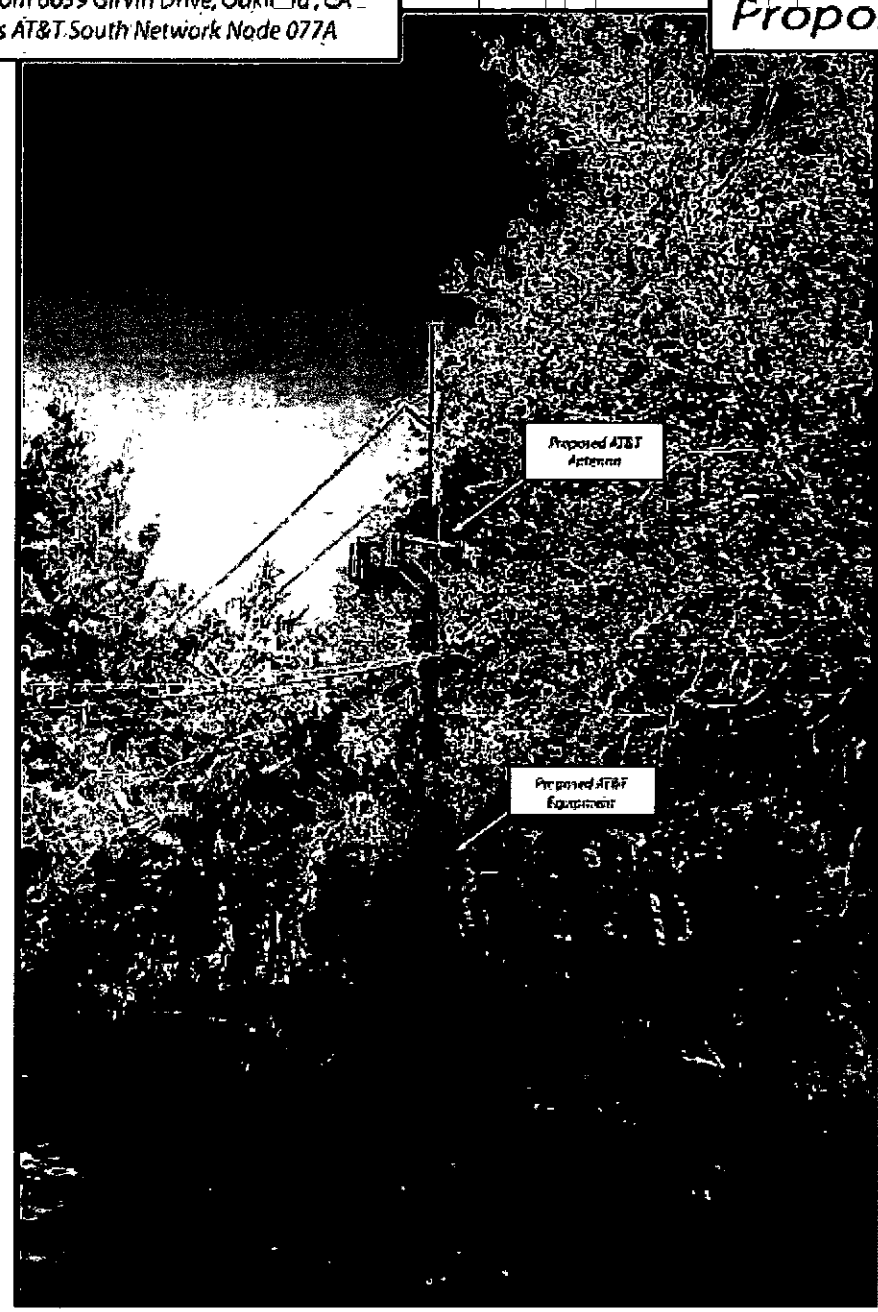
AT&T Wireless

Across From 6659 Girvin Drive, Oakland, CA
Oakhills AT&T South Network Node 077A

Existing



Proposed



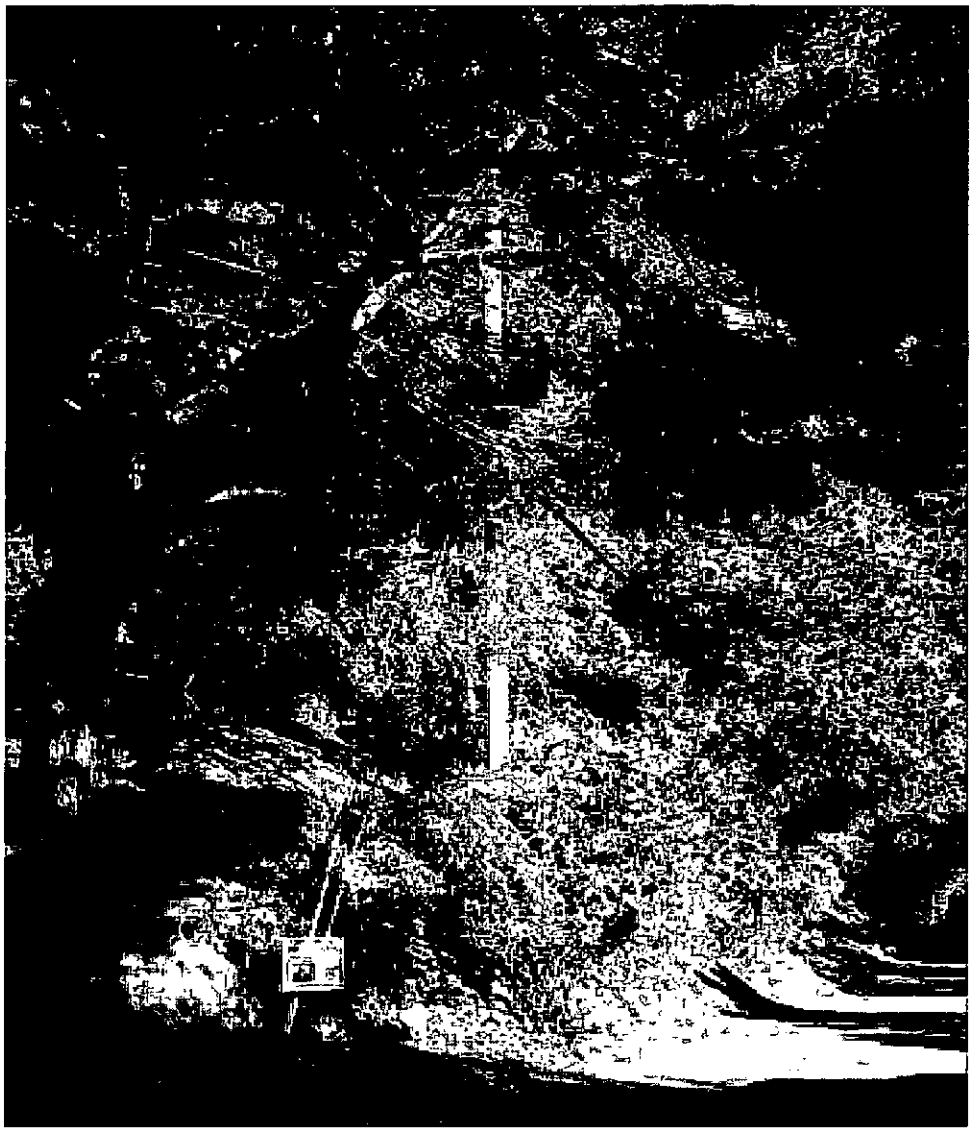
AdvanceSim
Photo Simulation Solutions
Contact (925) 202-0507

ATTACHMENT C

Alternative Site Analysis
Node 77

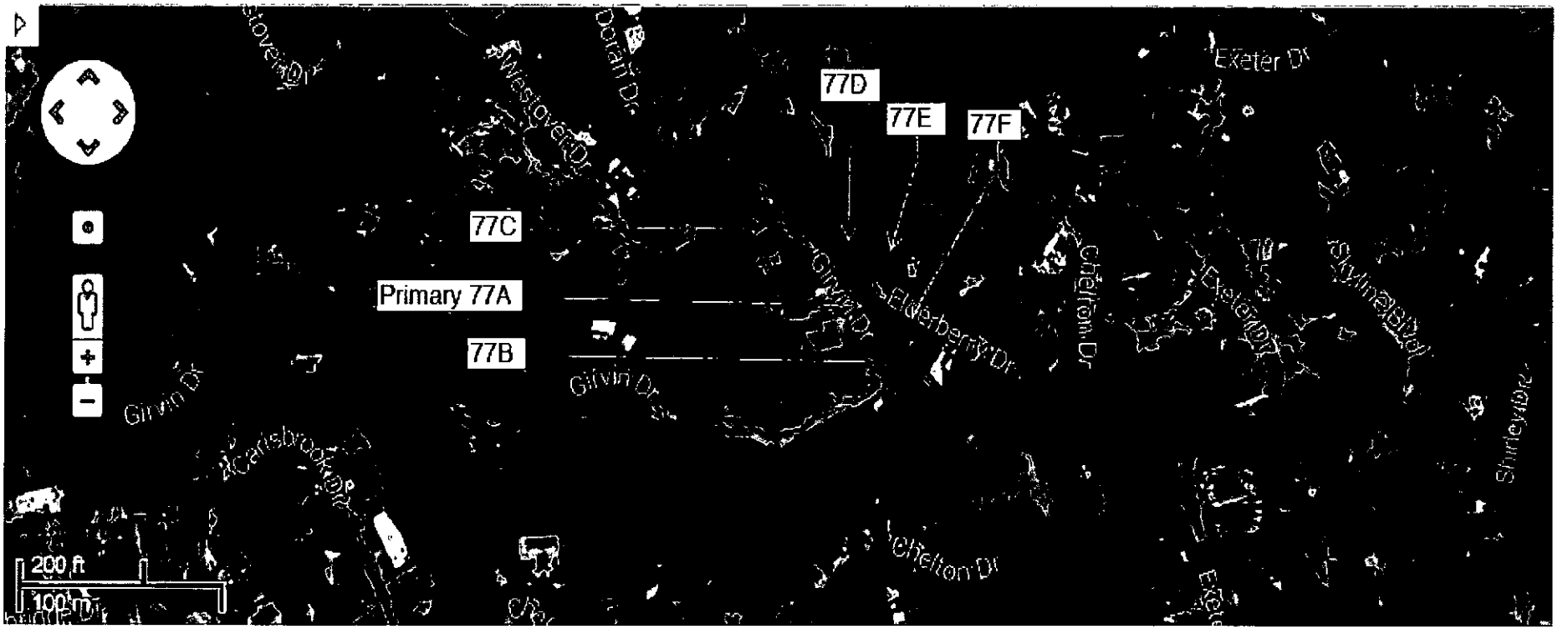
6659 Girvin Drive
Latitude: 37.829987
Longitude: -122.190905
Submitted by Extenet Systems on behalf of AT&T

Primary Site



- The Primary site is Node 77A at 6659 Girvin Drive, southwest of the Elderberry Dr. intersection.
- As you can see from the photo above, the site is well screened by numerous trees and side-mounted antennas would not impede any views because they would not pop up above the tree canopy.
- This report is to show the alternative sites evaluated from three perspectives: aesthetics, radio-frequency propagation, and implementation/construction.

Primary & Alternative Site Map



- On the map above, the Primary site (Node 77A) is shown in relation to the alternatives sites evaluated.

Alternative Node 77B

- Alternative 77B is located at about 6630 Girvin Drive (37.829608,-122.190702), just southeast of the primary candidate, down hill about 12 feet in elevation, on the north side of Girvin Drive.
- The loss in elevation would require a pole swap or pole extension to make up for the difference, imposing more of a visual impact than the proposed side-mounted antennas. All other poles south along Girvin Drive are too far away and too low in elevation to adequately fill the significant gap in coverage. Trees, hills and houses would block the signal to the intended coverage area.
- This candidate is much more visible to nearby residents north, likely impeding their views.
- The pole has constructability problems because of climbing access limitations caused by existing utilities.

Alternative Node 77C

- Alternative 77C is located at about 6691 Girvin Drive (37.830516,-122.191), north of the intersection of Girvin and Elderberry, south of the intersection with Aitken Drive.
- The existing utilities and transformer on this pole render it unavailable for side-mounted antennas. Even if the antennas were top-mounted, a site here would not adequately propagate a signal because of terrain blockage to the east. Furthermore such a site would impose much more of a visual impact especially for residents to the north. This pole is much more exposed, located at the entrance to a house, and is less concealed by trees than the proposed pole.
- The pole has constructability problems because of climbing access limitations caused by existing utilities and an existing transformer.
- All other poles north along Aitken Drive are too far away to adequately fill the significant gap in coverage. Trees, hills and houses to the east would block the signal to the intended coverage area.

Alternative Node 77D

- Alternative 77D is located at about 6692 Girvin Drive (37.8303,-122.191044), north of the intersection of Girvin and Elderberry.
- The existing utilities and cobra-head light fixture on this pole render it unavailable for side-mounted antennas. Therefore the antennas would need to be top-mounted, imposing much more of a visual impact especially for residents to the north. Furthermore, this pole is more exposed and is less concealed by trees than the primary site.
- The pole has constructability problems because of climbing access limitations caused by existing utilities and the existing cobra-head light fixture.

Alternative Node 77E

- Alternative 77E is located at about 6254 Elderberry Drive (37.830207,-122.190844), northeast of the intersection of Girvin and Elderberry, east of Alternative 77D.

- The existing utilities on this pole and surrounding trees make side-mounting impossible so a pole extension or pole swap is needed to facilitate top-mounted antennas, imposing much more of a visual impact especially for residents to the north.

Alternative Node 77F

- Alternative 77F is located at about 6239 Elderberry Drive (37.829845,-122.190364) on the south side of the road, east of the intersection of Girvin and Elderberry, east of Alternative 77E.
- This candidate is much more visible to than the primary candidate without many nearby trees to conceal it from view, and is prominently located at the entrances to several residences.
- The existing utilities, cross-arms and cobra-head light fixture on this pole make side-mounting impossible so a pole extension or pole swap is needed to facilitate top-mounted antennas, imposing much more of a visual impact especially for residents to the north.

CONCLUSION

- All alternative sites were examined for visual impact, radio frequency engineering, and implementation/constructability.
- All other poles south along Girvin Drive are too far away and too low in elevation to adequately fill the significant gap in coverage. Trees, hills and houses would block the signal to the intended coverage area.
- All other poles north along Aitken Drive are too far away to adequately fill the significant gap in coverage. Trees, hills and houses would block the signal to the intended coverage area.
- The Primary Candidate 77A remains the best location for the proposed miniature wireless facility as demonstrated because it offers the best RF propagation, the least visual impact and the best implementation/constructability solution.

ATTACHMENT D

New Cingular Wireless, LLC • 32 Proposed Distributed Antenna System Nodes
Oakland Hills • Oakland, California

Statement of Hammett & Edison, Inc., Consulting Engineers

The firm of Hammett & Edison, Inc., Consulting Engineers, has been retained on behalf of New Cingular Wireless, LLC, a wireless telecommunications service provider, to evaluate 32 distributed antenna system (DAS) nodes proposed to be located in the Oakland Hills area of Oakland, California, for compliance with appropriate guidelines limiting human exposure to radio frequency ("RF") electromagnetic fields.

Executive Summary

New Cingular Wireless proposes to install two directional panel antennas on 32 existing or proposed utility poles sited in the Oakland Hills area of Oakland. The proposed operation will comply with the FCC guidelines limiting public exposure to RF energy.

Prevailing Exposure Standards

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

Wireless Service	Frequency Band	Occupational Limit	Public Limit
Microwave (Point-to-Point)	5,000–80,000 MHz	5.00 mW/cm^2	1.00 mW/cm^2
BRS (Broadband Radio)	2,600	5.00	1.00
AWS (Advanced Wireless)	2,100	5.00	1.00
PCS (Personal Communication)	1,950	5.00	1.00
Cellular	870	2.90	0.58
SMR (Specialized Mobile Radio)	855	2.85	0.57
700 MHz	700	2.35	0.47
[most restrictive frequency range]	30–300	1.00	0.20

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

General Facility Requirements

Base stations typically consist of two distinct parts: the electronic transceivers (also called "radios" or "channels") that are connected to the traditional wired telephone lines, and the passive antennas that send the wireless signals created by the radios out to be received by individual subscriber units.

The transceivers are often located at ground level and are connected to the antennas by coaxial cables. A small antenna for reception of GPS signals is also required, mounted with a clear view of the sky. Because of the short wavelength of the frequencies assigned by the FCC for wireless services, the antennas require line-of-sight paths for their signals to propagate well and so are installed at some height above ground. The antennas are designed to concentrate their energy toward the horizon, with very little energy wasted toward the sky or the ground. Along with the low power of such facilities, this means that it is generally not possible for exposure conditions to approach the maximum permissible exposure limits without being physically very near the antennas.

Computer Modeling Method

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

Site and Facility Description

Based upon information provided by New Cingular Wireless, that carrier proposes to install 32 new nodes, listed in Table 1 below, in the Oakland Hills area of Oakland. Each node would consist of two Kathrein Model 840-10525 directional panel antennas installed on a new or existing utility pole to be sited in a public right-of-way. The antennas would be mounted with no downtilt at an effective height of about 35 feet above ground and would be oriented in different directions, as shown in Table 1. The maximum effective radiated power in any direction would be 219 watts, representing simultaneous operation by New Cingular Wireless at 104 watts for PCS, 61 watts for cellular, and 54 watts for 700 MHz service. There are reported no other wireless telecommunications base stations at the site or nearby.

Node #	Approximate Address	Antenna Orientations	
Node 35	Grizzly Peak Boulevard and Golf Course Drive	116°T	321°T
Node 36	2501 Grizzly Peak Boulevard	65°T	248°T
Node 37	7541 Claremont Avenue	54°T	240°T
Node 39	8071 Claremont Avenue	36°T	215°T
Node 41	Grizzly Peak Boulevard and Skyline Boulevard	149°T	283°T
Node 42	6616 Pine Needle Drive	73°T	344°T
Node 46	1265 Mountain Boulevard	30°T	105°T
Node 47	5925 Sherwood Drive	13°T	285°T
Node 48	Skyline Boulevard and Elverton Drive	153°T	325°T
Node 49	1732 Indian Way	24°T	306°T
Node 50	5612 Merriewood Drive	46°T	110°T
Node 51	5658 Grisborne Avenue	87°T	355°T
Node 52	5826 Mendoza Drive	61°T	121°T
Node 53	6133 Snake Road	43°T	119°T
Node 54	2052 Tampa Avenue	0°T	100°T
Node 55	8211 Skyline Boulevard	98°T	158°T
Node 56	6837 Aitken Drive	65°T	316°T
Node 57	6415 Westover Drive	137°T	302°T
Node 58	6828 Saroni Drive	20°T	100°T
Node 59	2189 Andrews Street	37°T	88°T
Node 60	5879 Scarborough Drive	33°T	81°T
Node 62	2997 Holyrood Drive	21°T	88°T
Node 63	2679 Mountain Gate Way	0°T	80°T
Node 64	Mountain Boulevard and Ascot Drive	29°T	110°T
Node 70	75 Castle Park Way	0°T	70°T
Node 71	3343 Crane Way	72°T	355°T
Node 74	6925 Pinehaven Road	0°T	70°T
Node 75	6776 Thornhill Drive	66°T	127°T
Node 77	6659 Girvin Drive	100°T	180°T
Node 78	7380 Claremont Avenue	55°T	200°T
Node 79	6757 Sobrante Road	70°T	159°T
Node 81	Shepherd Canyon Road and Escher Drive	56°T	209°T

Table 1 New Cingular Wireless Nodes Evaluated

Study Results

For a person anywhere at ground, the maximum RF exposure level due to the proposed operation through is calculated to be 0.0026 mW/cm^2, which is 0.50% of the applicable public exposure limit. The maximum calculated level at the second-floor elevation of any nearby building* is 1.2% of the

* Including nearby residences located at least 9 feet from any pole, based on photographs from Google Maps.

public limit. It should be noted that these results include several "worst-case" assumptions and therefore are expected to overstate actual power density levels from the proposed operation.

Recommended Mitigation Measures

Due to their mounting locations on utility poles, the New Cingular Wireless antennas would not be accessible to the general public, and so no mitigation measures are necessary to comply with the FCC public exposure guidelines. To prevent occupational exposures in excess of the FCC guidelines, no access within 3 feet directly in front of the antennas themselves, such as might occur during maintenance work on the poles, should be allowed while the pertinent node is in operation, unless other measures can be demonstrated to ensure that occupational protection requirements are met. Posting explanatory warning signs† at the antennas and/or on the poles below the antennas, such that the signs would be readily visible from any angle of approach to persons who might need to work within that distance, would be sufficient to meet FCC-adopted guidelines.

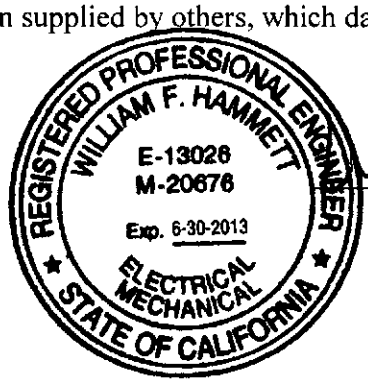
Conclusion

Based on the information and analysis above, it is the undersigned's professional opinion that the proposed operation of these New Cingular Wireless nodes located in Oakland, California, will comply with the prevailing standards for limiting public exposure to radio frequency energy and, therefore, will not for this reason cause a significant impact on the environment. The highest calculated level in publicly accessible areas is much less than the prevailing standards allow for exposures of unlimited duration. This finding is consistent with measurements of actual exposure conditions taken at other operating base stations. Posting explanatory signs is recommended to establish compliance with occupational exposure limitations.

† Warning signs should comply with OET-65 color, symbol, and content recommendations. Signage may also need to comply with the requirements of California Public Utilities Commission General Order No. 95.

Authorship

The undersigned author of this statement is a qualified Professional Engineer, holding California Registration Nos. E-13026 and M-20676, which expire on June 30, 2013. This work has been carried out under his direction, and all statements are true and correct of his own knowledge except, where noted, when data has been supplied by others, which data he believes to be correct.



William F. Hammett, P.E.
707/996-5200

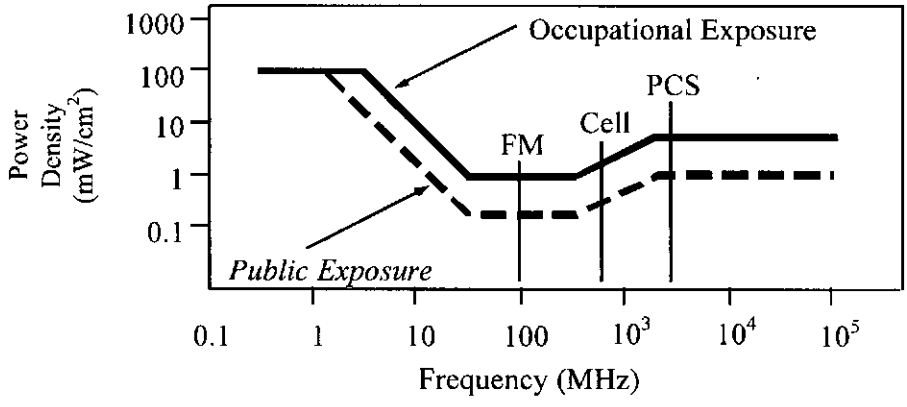
December 13, 2012

FCC Radio Frequency Protection Guide

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

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

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



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

RFR.CALC™ Calculation Methodology

Assessment by Calculation of Compliance with FCC Exposure Guidelines

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

Near Field.

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

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

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

where θ_{BW} = half-power beamwidth of the antenna, in degrees, and
P_{net} = net power input to the antenna, in watts,
D = distance from antenna, in meters,
h = aperture height of the antenna, in meters, and
η = aperture efficiency (unitless, typically 0.5-0.8).

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

Far Field.

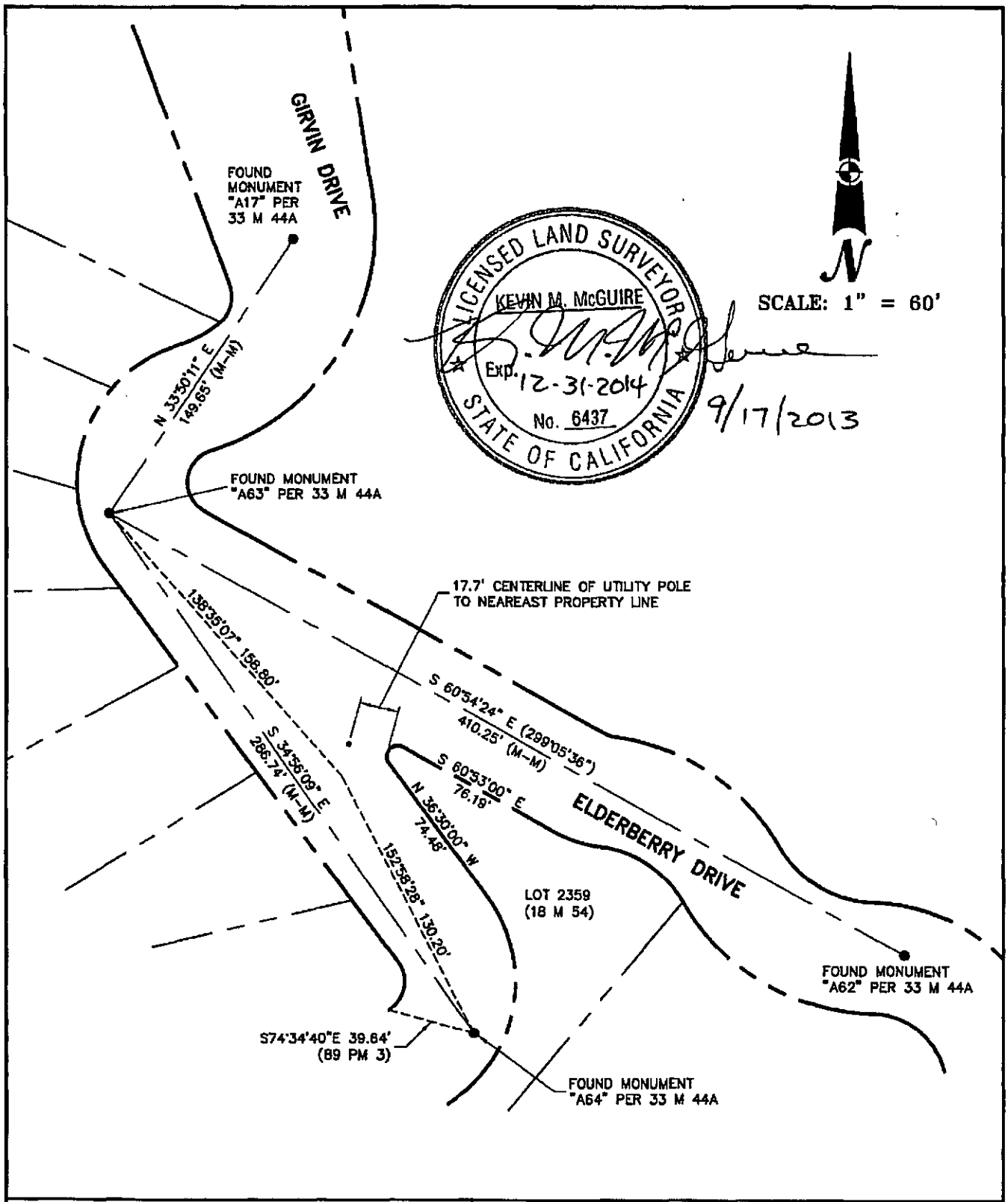
OET-65 gives this formula for calculating power density in the far field of an individual RF source:

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

where ERP = total ERP (all polarizations), in kilowatts,
RFF = relative field factor at the direction to the actual point of calculation, and
D = distance from the center of radiation to the point of calculation, in meters.

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

ATTACHMENT E



QUIET RIVER
Land Services Inc.
11501 Dublin Boulevard, Suite 200
Dublin, CA 94568
(925) 734-6788 Phone

POLE LOCATION EXHIBIT

OAK HILLS SOUTH – NODE 77
ACROSS FROM 6659 GIRVIN DRIVE
OAKLAND | ALAMEDA COUNTY | CALIFORNIA

EXNT1303	DRN. BY: MAS	CHK. BY: KMM	DATE: 9/17/13

AT&T Mobility • Proposed Distributed Antenna System
Oakland, California

Statement of Hammett & Edison, Inc., Consulting Engineers

The firm of Hammett & Edison, Inc., Consulting Engineers, has been retained on behalf of AT&T Mobility, a personal telecommunications carrier, to evaluate the distributed antenna system proposed to be developed in Oakland, California, for compliance with appropriate guidelines limiting sound levels from the installation.

Executive Summary

AT&T proposes to install a Distributed Antenna System (DAS) in Oakland, consisting of nodes at light poles and utility poles within the city. Noise from the proposed operations will comply with the pertinent municipal noise limits.

Prevailing Standard

The City of Oakland sets forth limits on sound levels in Section 17.120.050 "Noise" of its Municipal Code, applying in certain land use zones, as follows:

Zone	Day Limit (7 am to 10 pm)	Night Limit (10 pm to 7 am)	Table Reference
Residential	60 dBA	45 dBA	17.120.01
Commercial	65 dBA	65 dBA	17.120.02
Industrial	70 dBA	70 dBA	17.120.03

Higher sound levels are allowed when the duration of that sound is less than 20 minutes cumulatively within any hour, as follows: +5 dBA for durations between 10 and 20 minutes in any hour, +10 dBA for durations between 5 and 10 minutes, +15 dBA for durations between 1 and 5 minutes, and +20 dBA for durations less than 1 minute.

Figure 1 attached describes the calculation methodology used to determine applicable noise levels for evaluation against the prevailing standard.

General Facility Requirements

Wireless telecommunications facillties ("cell sites") typically consist of two distinct parts: the electronic base transceiver stations ("BTS" or "cabinets") that are connected to traditional wired telephone lines, and the antennas that send wireless signals created by the BTS out to be received by individual subscriber units. The BTS are often located outdoors at ground level and are connected to the antennas by coaxial cables. The BTS typically require environmental utits to cool the electronics inside. Such cooling is often integrated into the BTS, although external air conditioning may be installed, especially when the BTS are housed within a larger enclosure.

AT&T Mobility • Proposed Distributed Antenna System
Oakland, California

Site & Facility Description

According to information provided by AT&T, it is proposed to install two equipment cabinets at ground near light poles and utility poles at various locations in public rights of way within the City of Oakland. To support operation of the DAS antennas mounted on the nearby poles, one cabinet will house a FlexWave Prism Model FP4-10000E2111RU transmitter, and the other will house an Alpha Technologies, Ltd. Model FXM-2000 power supply.

Study Results

The DAS antennas on the poles are passive devices and do not emit acoustic noise. Tyco Electronics Corporation, an international equipment manufacturer, has provided in its report dated May 20, 2013, results of measurements conducted in an anechoic chamber* that establish a maximum noise level from the transmitter cabinet of 48 dBA, at a reference distance of 5 feet; this applies for ambient temperatures as high as 114°F. Similarly, Alpha's specification sheet dated October 2011 reports maximum noise from its cabinet of 45 dBA, at a reference distance of 1 meter.

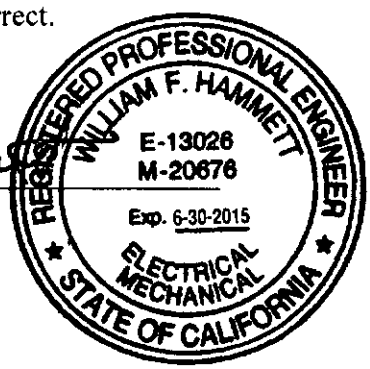
Considering the simultaneous of operation of both cabinets, at a distance of 8 feet the combined noise level drops below 45 dBA, meeting even Oakland's most restrictive, nighttime limit, regardless of the cabinet orientations.

Conclusion

Based on the information and analysis above, it is the undersigned's professional opinion that the AT&T Mobility distributed antenna system nodes proposed to be located at various public locations in Oakland, California, will not have an adverse impact on adjacent land uses.

Authorship

The undersigned author of this statement is a qualified Professional Engineer, holding California Registration Nos. E-13026 and M-20676, which expire on June 30, 2015. This work has been carried out under his direction, and all statements are true and correct of his own knowledge except, where noted, when data has been supplied by others, which data he believes to be correct.



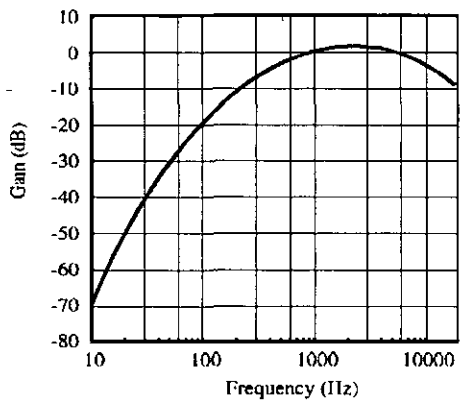
William F. Hammett, P.E.
707/996-5200

July 9, 2013

* A special enclosure designed to minimize sound reflections in order to provide a controlled environment for precise measurements of equipment noise.

Noise Level Calculation Methodology

Most municipalities and other agencies specify noise limits in units of dBA, which is intended to mimic the reduced receptivity of the human ear to Sound Pressure ("L_P") at particularly low or high frequencies. This frequency-sensitive filter shape, shown in the graph to the right as defined in the International Electrotechnical Commission Standard No. 179, the American National Standards Institute Standard No. 5.1, and various olher standards, is also incorporated into most calibrated field test equipment for measuring noise levels.



30 dBA	library
40 dBA	rural background
50 dBA	offlce space
60 dBA	conversation
70 dBA	car radio
80 dBA	traffic corner
90 dBA	lawnmower

The dBA units of measure are referenced to a pressure of 20 µPa (micropascals), which is the threshold of normal hearing. Although noise levels vary greatly by location and noise source, representative levels are shown in the box to the left.

Manufacturers of many types of equipment, such as air conditioners, generators, and telecommunications devices, often test their products in various configurations to determine the acoustical emissions at eertain distances. This data, normally expressed in dBA at a known reference distance, can be used to determine the corresponding sound pressure level at any particular distance, such as at a nearby building or property line. The sound pressure drops as the square of the increase in distance, according to the formula:

$$L_P = L_K + 20 \log(D_K/D_P),$$

where L_P is the sound pressure level at distance D_p and L_K is the known sound pressure level at distance D_K.

Individual sound pressure levels at a particular point from several different noise sources cannot be combined directly in units of dBA. Rather, the units need to be converted to scalar sound intensity units in order to be added together, then eonverted back to decibel units, aecording to the formula:

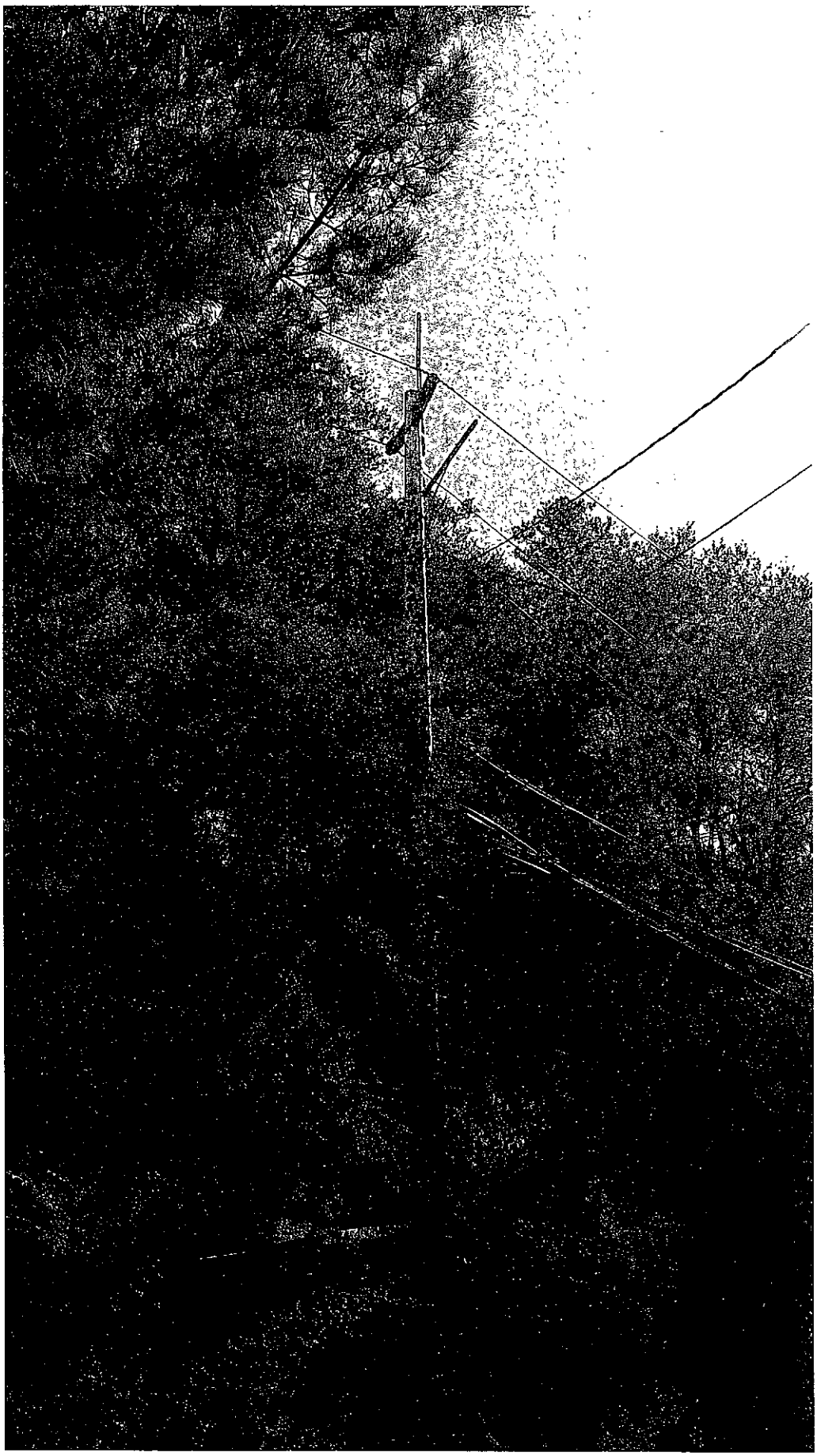
where L_T is the total sound pressure level and L_1, L_2, etc are individual sound pressure levels.

$$L_T = 10 \log \left(10^{L_1/10} + 10^{L_2/10} + \ldots\right),$$

Certain equipment installations may include the placement of barriers and/or absorptive materials to reduce transmission of noise beyond the site. Noise Reduction Coefficients ("NRC") are published for many different materials, expressed as unitless power factors, with 0 being perfect reflection and 1 being perfect absorption. Unpainted concrete block, for instance, can have an NRC as high as 0.35. However, a barrier's effectiveness depends on its specific configuration, as well as the materials used and their surface treatment.

ATTACHMENT F

ATTACHMENT F



Introduced by Councilmember _____

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2015 MAR 19 PM 1:

Approved as to Form and Legality
Office of the City Attorney

OAKLAND CITY COUNCIL

RESOLUTION NO._____C.M.S.

A RESOLUTION DENYING APPEAL #A13-233 AND UPHOLDING THE DECISION OF THE CITY PLANNING COMMISSION TO APPROVE REGULAR DESIGN REVIEW TO ATTACH A TELECOMMUNICATIONS FACILITY TO A NEW REPLACEMENT UTILITY POLE LOCATED IN THE PUBLIC RIGHT-OF-WAY AT THE INTERSECTION OF ELDERBERRY DRIVE AND GIRVIN DRIVE

WHEREAS, on February 6, 2013, Mr. Matthew Yergovich for AT&T (Applicant) submitted an application for Regular Design Review with additional findings to install a telecommunications facility (consisting of a 7'-0" extension with two panel antennae) to an existing 43'-4" wooden Joint Pole Authority (JPA) utility pole located in the public right-of-way at the intersection of Elderberry Drive and Girvin Drive, and to mount an associated equipment box, one battery backup box, and meter boxes within a 6' tall by 18" wide singular equipment box attached to the pole at 8' above ground; and

WHEREAS, on May 1, 2013, the Planning Commission considered the proposal at a duly noticed Planning Commission meeting and continued the item so revisions could be made by the Applicant; and

WHEREAS, the Applicant subsequently modified the proposal to install two panel antennae to a new 47'-6" replacement wooden JPA utility pole, and to mount an associated equipment box, one battery backup box, and meter boxes within a 6' tall by 18" wide singular equipment box attached to the pole between 8'-0" and 18'-10" in height (Case File # DR13-056) (Project); and

WHEREAS, based on a site visit and review of internet aerial images of the site, staff did not discern a view issue, given the elevation of homes uphill from the utility pole; and

WHEREAS, the application was agendized for the Planning Commission hearing of July 31, 2013, and public notices were duly distributed; and

WHEREAS, on July 31, 2013, 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) and 15183 (projects consistent with a community plan, general plan or zoning); and

WHEREAS, on July 31, 2013, the Planning Commission approved the Regular Design Review application for case #DR13055, subject to findings, additional findings, and conditions of approval; and

WHEREAS, on August 12, 2013, the appellants Manuel Perez and Dr. Christy Hiebert (Appellants) filed a timely Appeal (#A13233) of the Planning Commission's decision to approve the Project; and

WHEREAS, on or about August 23, 2014, and with the City's permission, the Applicant installed a story pole on the subject utility pole to demonstrate the proposed height of the Project;

WHEREAS, after giving due notice to the Appellants, the Applicant, all interested parties, and the public, the Appeal came before the City Council in a duly noticed public hearing on March 31, 2015; and

WHEREAS, the Appellants, 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 March 31, 2015; 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), 15302 (replacement or reconstruction of existing facilities), 15303 (new construction of small structures), 15183 (projects consistent with a community plan, general plan or zoning), and 15061(b)(3) (general rule), 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 Appellants have **not** shown, by reliance on appropriate/proper evidence in the record, that the Planning Commission's decision was made in error, that there was an abuse of discretion by the Planning Commission, or that the Planning Commisalon's decision was not supported by substantial evidence in the record. This decision is based, in part, on the March 31, 2015 City Council Agenda Report, the July 31, 2013 Planning Commission staff report, and the May 1, 2013 Planning Cornmission staff report, all 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 installation of two panel antennae to a new 47'-6" replacement wooden JPA utility pole located in the City public right-of-way at the intersection of Elderberry Drive and Girvin Drive, and to mount equipment to the side of the pole between 8'-0" and 18'-10" in height, is upheld, subject to the findings for approval, additional findings, and conditions of approval adopted by the Planning Commission, each of which is hereby separately and independently adopted by this Council in full; and be it

FURTHER RESOLVED: That, in support of the City Council's decision to deny the Appeal and approve the Project, the City Council affirms and adopts as its own independent findings and determinations: (i) the March 31, 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), (ii) the July 31, 2013 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 the May 1, 2013 Planning Commission staff report; and be it

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

1. the Application, including all accompanying maps and papers;
2. all plans submitted by the Applicant and his 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 properly received by the Planning Commission and City Council 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;
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, Bureau of Planning, 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: 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: 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.

Introduced by Councilmember _____

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2015 MAR 19 PM 1

Approved as to Form and Legality
Office of the City Attorney

OAKLAND CITY COUNCIL

RESOLUTION NO._____C.M.S.

A RESOLUTION UPHOLDING THE APPEAL OF MANUEL PEREZ AND DR. CHRISTY HIEBERT (APPEAL #A13-233), THEREBY REVERSING THE DECISION OF THE CITY PLANNING COMMISSION AND DENYING REGULAR DESIGN REVIEW TO ATTACH A TELECOMMUNICATIONS FACILITY TO A NEW REPLACEMENT UTILITY POLE LOCATED IN THE PUBLIC RIGHT-OF-WAY AT THE INTERSECTION OF ELDERBERRY DRIVE AND GIRVIN DRIVE

WHEREAS, on February 6, 2013, Mr. Matthew Yergovich for AT&T (Applicant) submitted an application for Regular Design Review with additional findings to install a telecommunications facility (consisting of a 7'-0" extension with two panel antennae) to an existing 43'-4" wooden Joint Pole Authority (JPA) utility pole located in the public right-of-way at the intersection of Elderberry Drive and Girvin Drive, and to mount an associated equipment box, one battery backup box, and meter boxes within a 6' tall by 18" wide singular equipment box attached to the pole at 8' above ground; and

WHEREAS, on May 1, 2013, the Planning Commission considered the proposal at a duly noticed Planning Commission meeting and continued the item so revisions could be made by the Applicant; and

WHEREAS, the Applicant subsequently modified the proposal to install two panel antennae to a new 47'-6" replacement wooden JPA utility pole, and to mount an associated equipment box, one battery backup box, and meter boxes within a 6' tall by 18" wide singular equipment box attached to the pole between 8'-0" and 18'-10" in height (Case File # DR13-055) (Project); and

WHEREAS, the application was agendized for the Planning Commission hearing of July 31, 2013, and public notices were duly distributed; and

WHEREAS, on July 31, 2013, the Planning Commission conducted a duly noticed public hearing on the matter, closed the hearing and then voted to approve the Regular Design Review application for case #DR13055, subject to findings, additional findings, and conditions of approval; and

WHEREAS, on July 31, 2013, the Planning Commission also independently reviewed, considered, and determined the Project to be exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15301 (existing facilities) and 15183 (projects consistent with a community plan, general plan or zoning); and

WHEREAS, on August 12, 2013, Manuel Perez and Dr. Christy Hiebert (Appellants) filed an Appeal (#A13-233) of the Planning Commission's decision to approve the Project; and

WHEREAS, on or about August 23, 2014, and with the City's permission, the Applicant installed story poles on the subject utility pole to demonstrate the proposed height of the Project; and

WHEREAS, after giving due notice to the Appellants, the Applicant, all interested parties, and the public, the Appeal came before the City Council for a public hearing on March 31, 2015; and

WHEREAS, the Appellants, 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 March 31, 2015; now, therefore, be it

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, finds that the Appellants **have** shown, by reliance on appropriate/proper evidence in the record, that the Planning Commission's decision was made in error, that there was an abuse of discretion by the Planning Commission, and/or that the Planning Commission's decision was not supported by substantial evidence in the record. This decision is based, in part, on the March 31, 2015 City Council Agenda Report, which is hereby incorporated by reference as if fully set forth herein; and be it

FURTHER RESOLVED: That the Appeal is upheld, the Planning Commission's decision approving Regular Design Review is reversed, and the Application is denied; and be it

FURTHER RESOLVED: That, in support of the City Council's decision to reverse the Planning Commission's approval of the Application, the City Council rejects the July 31, 2013 Planning Commission staff report and the May 1, 2013 Planning Commission staff report, and instead, hereby adopts and incorporates by reference, as if fully set forth herein, the Findings for Denial contained in Exhibit A. Each of the reasons for denial listed therein provides a separate and independent basis to uphold the Appeal and deny the Application, and when viewed collectively, provides an overall basis to deny the Application; and be it

FURTHER RESOLVED: That the City Council finds and determines that this Resolution complies with CEQA pursuant to State CEQA Guidelines section 15270, which states that CEQA does not apply to projects which are disapproved; and be it

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

1. the Application, including all accompanying maps and papers;
2. all plans submitted by the Applicant and his 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 properly received the Planning Commission and City Council 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;
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, Bureau of Planning, 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 the recitals contained in the Resolution are true and correct and are an integral part of the City Council's decision; and be it

FURTHER RESOLVED: That the Applicant may submit a new application that identifies alternative less intrusive sites and facilities with payment of all the appropriate fees, and City staff shall process the application and it shall be eonsidered without prejudice.

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.

Findings for Denial

The City Council finds that this proposal does not meet all the required findings under Regular Design Review Criteria (OMC Sec. 17.136.040(B)) as set forth below. A legislative body shall deny a recommendation of Planning Approval of Design Review for a proposed telecommunications facility and related equipment on an existing utility pole if it cannot make all of the required findings. The required findings that cannot be made are shown in **bold** type; the explanation as to why the City Council finds that these finding cannot be made is shown in normal type.

GENERAL FINDINGS

The City Council finds that the Planning Commission's decision to approve the Regular Design Review application was in error, constituted an abuse of discretion, and/or not supported by substantial evidence in the record because the following two findings were **not** met:

Finding No. 1: There is a significant gap in coverage.

In submitting its application for the project, AT&T asserted that a "significant gap" in coverage exists, but did not provide a survey or other documentation as a basis for this assertion. Presentation of a radio frequency statement and propagation maps does not establish a "significant gap."

Finding No. 2: If there is a significant gap in coverage, the proposed location is the "least intrusive way" to address this gap.

Even if AT&T did demonstrate that a significant gap in service coverage existed, AT&T did not demonstrate that the proposal at 6239 Elderberry Drive is the least intrusive way to provide wireless services in this area. City Planning staff is willing to work with AT&T to identify alternative sites that may be less intrusive.

REGULAR DESIGN REVIEW CRITERIA FOR NONRESIDENTIAL FACILITIES (OMC SEC. 17.136.040(B))

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 City Council finds that this finding is **not** met, and that the Planning Commission's decision to approve the Regular Design Review application despite the proposal's view obstruction was made in error, constituted an abuse of discretion, and/or was not supported by substantial evidence in the record, for the following reasons:

The proposal would not harmonize with the surrounding area. The utility pole, that would grow in height with climb-through telecommunications antennas attached, is located in a wooded hillside residential area. Some residences have viewing areas that may contain vantage points of the utility pole. Given the adjacency of the proposal to residential properties with views and a hillside sylvan setting, the proposal does not harmonize with private property in the area.