

**ANNOTATED
AGENDA
CITY OF ANTIOCH PLANNING COMMISSION
ANTIOCH COUNCIL CHAMBERS
THIRD & "H" STREETS**

WEDNESDAY, APRIL 2, 2014

6:30 P.M.

**NO PUBLIC HEARINGS WILL BEGIN AFTER 10:00 P.M.
UNLESS THERE IS A VOTE OF THE PLANNING COMMISSION
TO HEAR THE MATTER**

APPEAL

All items that can be appealed under 9-5.2509 of the Antioch Municipal Code must be appealed within five (5) working days of the date of the decision. The final appeal date of decisions made at this meeting is 5:00 p.m. on **THURSDAY, APRIL 10, 2014.**

If you wish to speak, either during "public comments" or during an agenda item, fill out a Speaker Request Form and place in the Speaker Card Tray. This will enable us to call upon you to speak. Each speaker is limited to not more than 3 minutes. During public hearings, each side is entitled to one "main presenter" who may have not more than 10 minutes. These time limits may be modified depending on the number of speakers, number of items on the agenda or circumstances. No one may speak more than once on an agenda item or during "public comments". Groups who are here regarding an item may identify themselves by raising their hands at the appropriate time to show support for one of their speakers.

ROLL CALL

6:30 P.M.

Commissioners	Hinojosa, Chair
	Motts, Vice Chair
	Baatrup
	Miller (absent)
	Westerman
	Pinto

PLEDGE OF ALLEGIANCE

PUBLIC COMMENTS

CONSENT CALENDAR

All matters listed under Consent Calendar are considered routine and are recommended for approval by the staff. There will be one motion approving the items listed. There will be no separate discussion of these items unless members of the Commission, staff or the public request specific items to be removed from the Consent Calendar for separate action.

1. APPROVAL OF MINUTES:

A. February 19, 2014

APPROVED

B. March 5, 2014

APPROVED

* * * END OF CONSENT CALENDAR * * *

MINUTES

NEW PUBLIC HEARINGS

MINUTES

- 2. UP-13-11, AR-13-14 – 700 West Eighteenth Street Cell Site** – Streamline Engineering, on behalf of Sprint, requests the approval of a use permit and design review for new and existing telecommunications equipment. The project includes the replacement of three existing antennas with new antennas, the addition of radio remote units on an existing light pole, and an associated equipment shelter. The project site is at Antioch High School, located at 700 West Eighteenth Street (**APN 067-160-005**).

REPORT

RESOLUTION NO. 2014-11

- 3. UP-13-09, AR-13-10 – Sunset Monopole** – Modus Inc., on behalf of AT&T, requests the approval of a use permit and design review to construct a telecommunications facility consisting of 12 antennas on a monopole with an associated equipment shelter. The project site is located at 801 Sunset Drive (**APN 068-100-027**).

REPORT

RESOLUTION NO. 2014-12

- 4. UP-13-10, AR-13-11 – Fairview Tree Monopole** – Modus Inc., on behalf of AT&T, requests the approval of a use permit and design review to construct a 60' tree monopole telecommunications facility with a total of nine antennas as well as an associated equipment shelter and an integrated generator. The project site is located at 3215 Fairview Drive (**APN 074-123-009**).

REPORT

RESOLUTION NO. 2014-13

ORAL COMMUNICATIONS

WRITTEN COMMUNICATIONS

COMMITTEE REPORTS

ADJOURNMENT (8:30 PM)

Notice of Availability of Reports

This agenda is a summary of the discussion items and actions proposed to be taken by the Planning Commission. For almost every agenda item, materials have been prepared by the

City staff for the Planning Commission's consideration. These materials include staff reports which explain in detail the item before the Commission and the reason for the recommendation. The materials may also include resolutions or ordinances which are proposed to be adopted. Other materials, such as maps and diagrams, may also be included.

All of these materials are available at the Community Development Department located on the 2nd floor of City Hall, 3rd and H Streets, Antioch, California, 94509, between the hours of 8:00 a.m. and 11:30 a.m. or by appointment only between 1:00 p.m. and 5:00 p.m. Monday through Thursday for inspection and copying (for a fee). Copies are also made available at the Antioch Public Library for inspection. Questions on these materials may be directed to the staff member who prepared them, or to the Community Development Department, who will refer you to the appropriate person.

Notice of Opportunity to Address the Planning Commission

The public has the opportunity to address the Planning Commission on each agenda item. You may be requested to complete a yellow Speaker Request form. Comments regarding matters not on this Agenda may be addressed during the "Public Comment" section on the agenda.

Accessibility

The meetings are accessible to those with disabilities. Auxiliary aids will be made available for persons with hearing or vision disabilities upon request in advance at (925) 779-7009 or TDD (925) 779-7081.

**CITY OF ANTIOCH
PLANNING COMMISSION MINUTES**

**Regular Meeting
6:30 p.m.**

**February 19, 2014
City Council Chambers**

CALL TO ORDER

Chair Hinojosa called the meeting to order at 6:30 p.m. on Wednesday, February 19, 2014, in the City Council Chambers. She stated that all items that can be appealed under 9-5.2509 of the Antioch Municipal Code must be appealed within five (5) working days of the decision. The final appeal date of decisions made at this meeting is 5:00 p.m. on Thursday, February 27, 2014.

ROLL CALL

Present: Commissioners Pinto, Miller, Baatrup and Westerman
Chair Hinojosa and Vice Chair Motts
Absent: None
Staff: Senior Planner, Mindy Gentry
Contract Planner, Scott Davidson
Public Works Director, Ron Bernal
City Attorney, Lynn Tracy Nerland
Minutes Clerk, Cheryl Hammers

PLEDGE OF ALLEGIANCE

PUBLIC COMMENTS

None.

CONSENT CALENDAR

1. **Approval of Minutes:** None

END OF CONSENT CALENDAR

CONTINUED ITEM

2. **AutoZone** proposes to amend the General Plan from High Density Residential to Neighborhood/Community Commercial and the East Lone Tree Specific Plan from Medium High Density Residential (R_H) to Community Retail (C_N), to rezone the property to Planned Development (PD), and to secure approval of a Final Development Plan, variance, use permit, and design review to develop a 7,766 square-foot AutoZone store. The project is located on the northeast corner Lone Tree Way and Fairside Way (**APN: 056-120-086**).

CP Scott Davidson provided a summary of the staff report dated February 13, 2014. Chair Hinojosa discussed with PWD Bernal the safety concerns, deceleration lane, and the median. PWD Bernal said that the road in front of the project is 4 lanes which will ultimately be 6 lanes, and that he recommends against having right turns into the driveway.

Commissioner Pinto discussed with PWD Bernal that the typical width of lanes are 12 feet, that the City has allowed less than 12 feet but that he does not think a deceleration lane is possible.

OPENED PUBLIC HEARING

Bob Abbott spoke on behalf of Auto Zone and said that he was present to respond to questions or concerns.

Jeff Halbert also spoke for Auto Zone and said that looking at the project as a whole; they submitted the application a year ago, and that in the prior packet there weren't conditions for approval so the matter was continued to tonight. He said that this is a very small property, that residential development on the site would end up with 6 to 8 units, and that in the response to the comment letter received regarding the Mitigated Negative Declaration, staff's response was that the project would not be inconsistent with nearby land uses. He said that concerning the lack of adequate buffering they have increased the setback and there is a 6' high concrete sound wall between the properties. Historically this site was designated as commercial use but is currently designated residential with a public overlay. He said that if the project fails, the school district may use the site per their letter. He said traffic generation is not conflicting with the residential use given the primary hours show most customers coming Saturday afternoons and 6:00 to 8:00 pm. He said that PD zoning allows flexibility to fit a project.

In response to Commissioner Motts concern with people working on cars on site, Mr. Halbert said that there are corporate rules, that businesses don't allow that and they don't feel this will be a problem.

Commissioner Pinto expressed concern with vans or cars pulling up to the wall and people jumping over the fence into the residential area and the possibility of the parking facing Lone Tree Way, Mr. Halbert said that the parking spaces are 10 ½ feet from the wall and that the driveways would have to be shifted to the corners to create circulation if the parking area moved to the corner of Lone Tree Way and Fairside Way.

Commissioner Westerman confirmed with Mr. Halbert that deliveries to the store are once a week and the hours are flexible. The trash pickup is a single truck just the same as residential pickup.

Joel Keller also spoke for Auto Zone and said that this site currently brings in minimal property taxes, that this project will provide construction jobs and 15 to 20 permanent jobs, and will increase property and sales taxes. He said that the site has been undeveloped for a long time, that the deceleration lane is going to be a problem with

whatever goes there and that other Auto Zones have recently been approved with similar square footage and lot size.

Jon Stansbury representing Auto Zone as a broker said that the Auto Zone on Somersville is a smaller site and that he would recommend staff take a look at Auto Zone's Monument Boulevard store which is a very similar site.

Sean Wright spoke for the Antioch Chamber of Commerce in support of the project which would generate revenue and taxes and asked the Planning Commission to consider the opportunity.

Norm Dyer spoke on behalf of the owners of the Bella Rose Apartments and said that he wanted to stress the professional and thorough job that staff has done. He addressed comments with the school district letter, the deceleration lane and reduction in parking. He said that he would ask the applicant or the Commission to study what the expenses will be to the City and if it will benefit the City or be a liability to the City. He said that the Concord Auto Zone is not in a residential zone and is not on a corner lot.

CLOSED PUBLIC HEARING

Commissioner Motts clarified with staff that there would be a public process before the school can use the property.

PWD Bernal said ideally there would be no access off of Lone Tree Way but that he doesn't believe that with deliveries and the way the building is structured that you can do without the two points of access.

Chair Hinojosa asked staff to provide an explanation regarding the City's response to comments that the project would not be inconsistent with land uses to which CP Davidson said that it means that it doesn't rise to the threshold of a significant impact.

In response to Commissioner Motts, SP Gentry stated that there were no last minute letters other than the letter from the school district.

Commissioner Pinto said that the plot is a square; Fairside Way is narrow; and asked what can be done with this property to eliminate driveways on Lone Tree Way and possibly put two driveways on Fairside. He proposed a condition of approval to decrease the size of the building where Fairside can be widened and the median moved to create enough space for circulation out of Auto Zone. Scott Davidson responded that while he doesn't know the distance requirements from the intersection, he believes it would be difficult to have two driveways on Fairside and that the design solution might be to create a turn around but that would take land that doesn't exist.

REOPEN PUBLIC HEARING

Jeff Halbert said that the traffic study did not point out that as an issue, that this is a perceived issue of staff and that applicant would consider a right out only as an exit only and eliminating the need for deceleration.

Commissioner Pinto expressed concern with patrons safely trying to get onto Lone Tree Way and asked what consideration can be made by the developer to reduce the size of the building or something else to help the process.

Mr. Halbert responded that there is a signal there and traffic will stop periodically and create an opportunity for exiting. If the driveway was close off and all traffic goes to Fairside, they will need some type of dead end or turnaround. He said that if the City decides to eliminate the driveway on Lone Tree Way that this is taking this site off the shelf for retail use.

Commissioner Pinto said that if the driveway is necessary for business to function on Lone Tree Way, he would like to see the deceleration lane created and would like to see an eight foot tall wall between the properties.

RECLOSE PUBLIC HEARING

Commissioner Pinto discussed with PWD Bernal the suggestion of pushing the building back and making room for a deceleration lane. They also discussed a similar business on A Street.

Chair Hinojosa asked staff if they had worked with the applicant to work out layouts of the site to which SP Gentry said that potential variables and other ideas were discussed. She said that the building on A Street is probably legal nonconforming.

Commissioner Motts stated that he is struggling with the applicant's comment that any usage is going to have the same problems and that he would like to see the City have revenue.

Chair Hinojosa mentioned that it is not only circulation issues but also General Plan, zoning, rezoning and variance issues which should not be taken lightly.

Commissioner Westerman said that in general he doesn't like the idea of spot zoning, that the most proper way would be to find a location wherein the project conforms to the General Plan and the Specific Plan, and that what we are doing here is coming up with a project and then changing the requirements to fit. He said he is a little concerned about setting precedence and that this opens the door for others to expect the same. He is concerned about the turn from Lone Tree Way and that there is not enough room for a right turn lane.

Commissioner Miller questioned staff about deliveries and the median on Fairside to which PWD Bernal said that his understanding from the drawings is that deliveries would come in off Lone Tree Way, turn right in the parking lot and exit onto Fairside with modifications to the median.

Chair Hinojosa said that she is deeply troubled by this project; this is a good business for the City; that we need growth; the Chamber supports the project; but that the Planning Commission's role is to look at land use. She said that applicant has attempted to integrate, but feels this project falls short on so many levels. She said that she feels like proceeding with this project is setting a precedent and that she can't really support approval of the project with these resolutions. The variance being proposed is asking for major deviations and she concurs about the circulation issues and she doesn't know how she can support it at this time.

Commissioner Baatrup said that he is struggling to find a way to stand behind this project and he doesn't disagree that this corner is a very awkward corner but thinks this project requires too many concessions and compromises. He said that there are multiple areas that would support this project in the City and he doesn't think this corner is one of those and that he can't support it.

Commissioner Baatrup made a motion to adopt the resolutions of denial contained in Attachment A of the staff report. Commissioner Westerman seconded the motion.

Commissioner Pinto suggested making an amendment and asked if this was doable.

CA Nerland said that the maker of the motion can consider an amendment or the Commission can vote on the motion. Commissioner Baatrup said that he was willing to hear the proposal.

Commissioner Pinto stated that the amendment would be to have the developer come back with solutions that meet most of the critical issues that have been raised today, that opportunity should be given to the developer and further suggested that staff also try to work with the developer to see how to mitigate these issues and come back to the Commission at a later date.

Chair Hinojosa clarified with Commissioner Pinto that he is proposing to continue the item.

Commissioner Baatrup said that while he appreciated Commissioner Pinto's desire to work this out and the applicant had the opportunity look at the concerns and to continue the project at the last meeting and he stated he would like to take his motion to vote.

RESOLUTION NO. 2014-**

On motion by Commissioner Baatrup and seconded by Commissioner Westerman, the Planning Commission cannot make findings that the proposed General Plan Amendment is in the public interest of the people and hereby recommends to the City Council denial of the amendment to City of Antioch's General Plan.

AYES: Hinojosa, Motts, Miller, Baatrup, and Westerman
NOES: Pinto
ABSTAIN: None
ABSENT: None

RESOLUTION NO. 2014-**

On motion by Commissioner Baatrup and seconded by Commissioner Westerman, the Planning Commission cannot make findings that the proposed Specific Plan Amendment is in the public interest of the people and hereby recommends to the City Council denial of the amendment to the East Lone Tree Specific Plan.

AYES: Hinojosa, Motts, Miller, Baatrup, and Westerman
NOES: Pinto
ABSTAIN: None
ABSENT: None

RESOLUTION NO. 2014-**

On motion by Commissioner Baatrup and seconded by Commissioner Westerman, the Planning Commission hereby recommends to the City Council denial of the change to the City of Antioch's zoning code found in Title 9 of the Antioch Municipal Code.

AYES: Hinojosa, Motts, Miller, Baatrup, and Westerman
NOES: Pinto
ABSTAIN: None
ABSENT: None

RESOLUTION NO. 2014-**

On motion by Commissioner Baatrup and seconded by Commissioner Westerman, the Planning Commission hereby recommends to the City Council denial of the final development plan, variance, use permit, and design review applications proposed by the Project.

AYES: *Hinojosa, Motts, Miller, Baatrup, and Westerman*
NOES: *Pinto*
ABSTAIN: *None*
ABSENT: *None*

NEW PUBLIC HEARING

- 3. PDP-13-01 – HEIDORN VILLAGE PRELIMINARY DEVELOPMENT PLAN –** Douglas Krah requests the review of a preliminary development plan, which is not an entitlement, for the development of 117 single family homes on approximately 20.3 acres. The project site is located on the west side of Heidorn Ranch Road, at the eastern terminus of Prewett Ranch Drive (**APNs 056-130-013, -015, -017, -018**).

SP Gentry provided a summary of the staff report dated February 13, 2014.

In response to Commissioner Pinto's concern that two story homes are not practical for senior citizens, SP Gentry stated that the applicant has proposed 18 single story homes, that historically before the economic downturn developers were going with the largest house they could build and it has been priority of the City to incorporate single story homes and that 18 is a good variety. She said that the Commission can discuss further in deliberations.

In response to Chair Hinojosa, SP Gentry said that there is some guidance on small projects in the General Plan but that there isn't a lot of guidance and that design guidelines pertain to residential in its entirety and not small lot development.

Chair Hinojosa asked staff about the list of items in the conclusion section. SP Gentry said that this is not a formal action the Planning Commission is taking tonight, that this is an opportunity for the applicant to gather feedback, and for the Commission to provide guidance on the project. Staff has put together the list of 17 items of what staff would like to see incorporated in the project and it is the Commission's prerogative to delete or add to the list.

In response to Commissioner Motts, SP Gentry said that there isn't going to be adequate space to provide RV storage.

Commissioner Pinto asked staff about the trail connection and if this was a City requirement given that trails in some areas have been problematic. SP Gentry said that accessibility is not a requirement but it is a policy to make trail connections more accessible and that maybe a gate or security can be provided by the HOA.

OPENED PUBLIC HEARING

The applicant, Douglas Krah, said that this piece of property has unique constraints: the trail is at the northerly property line; one of the neighbors is the Heritage Baptist Academy; and that retail and commercial are in close proximity. He said that they are targeting single parents with kids, fully retired seniors and first time buyers. The HOA is responsible for all front yard landscaping and that the backyards are not big. He said that while he agrees with everything in the staff report, there are a couple of things they are tussling over such as the trail connection being a bad idea, and item 12 requiring the masonry wall. He proposed the church, himself and the City sit down and come up with a better solution and that while they did submit plans with 18 single story lots, he doesn't want to commit to all 18 but to start with 12. He said that he was ready to answer questions.

Commissioner Westerman clarified with the applicant that the front yard maintenance would be the responsibility of the HOA; there are strict requirements for water usage; landscaping would include turf and plants; irrigation would be monitored by the HOA; and the project would provide a very simple lifestyle.

Commissioner Westerman asked applicant about the HOA dues and said that he did not like the sidewalks on one side of the street. Applicant responded that the HOA dues are approximately \$150.00 a month and that there is less concrete and the sidewalks are a continual loop.

Commissioner Motts clarified that there is only the curb and gutter between the street and the property and said that he is in favor of most suggestions of staff, particularly item 10 given the easy access to join the trail which may be gated. The applicant said that they have been generally divided on that issue from day one, and the site plans reflect that no homes are backing up to the trail or to the church.

Commissioner Pinto expressed concern with street parking on one side, said he was not sure where guest parking would be located and asked if the streets names were placeholders. The applicant said that the street names were placeholders and clarified with SP Gentry that City requirement is two enclosed spaces and one guest space on the street.

Commissioner Pinto asked if solar panels would be incorporated on rooftops to which applicant said that solar panels will definitely be available to all owners and that rebates come and go.

In response to Commissioners Westerman and Motts questions regarding garage and on street parking, the applicant stated that one of the clauses of the HOA is that you must be able to park in the garage which is pretty enforceable, and that there are places where you can't park on the street overnight.

In response to Chair Hinojosa regarding the masonry wall, the applicant said that while they haven't talked to the church, he would want residents to be able to see into the church property at night and that maybe vinyl coat chain link fencing with a gate on the northern edge of the East Bay Trail would be best.

In response to Chair Hinojosa regarding C3 and sidewalks, the applicant said that the park was never planned to be comingled with C3 and pointed out various lots planned without sidewalk access.

Commissioner Westerman asked about garbage cans to which the applicant said that given the concern of garbage trucks backing down driveways on flag lots, there are curbs that will be painted to dedicate a small window for garbage pickup but that cans will have to be wheeled out.

Commissioner Baatrup said that he is not excited about 55% coverage on a lot and that this is not the kind of projects he would like to see a lot of. He would like to manage these types of developments in the City. He said that he would prefer no turf. He said that the 20' driveway length may not work for the average pickup truck and asked about the product size.

Applicant responded that the park will be turf but there will be a good combination that doesn't require a lot of water. He said that the City standard for driveways is 20' but this is a minimum and some may be longer. The single homes are 1600 sf and the two story homes are about 2000 to 2500 sf.

Commissioner Baatrup stated that there are too many two story elevations and he would suggest that where you have lots adjacent to lots with single stories that you put single family behind them. He said that he liked the idea of accessing the trail.

Commissioner Motts said that he would like to see the use of California native plants which are usually drought tolerant.

Commissioner Pinto said that looking at the site plan, the Heritage Baptist Church shows a future driveway that will be coming into Street A and the road that leads to Street A is 4 lanes from Lone Tree Way and then narrows to two lanes and asked at what point they plan on widening the street to four lanes and if the Church's proposed driveway is accommodated. The applicant responded that it would be early on in the process because utilities are will have to be installed and that they will keep the church open for business during construction.

Bryce Ellsworth member of the Heritage Baptist Church said that they have met with the applicant and they appreciate applicant's desire to develop the land, but that he has great concern of the affect of this project on the church. As a non-profit, there is great

concern over the cost of the project and the impact financially on the church and the school. He said that the church and school have been in existence for approximately 30 years and there is a good possibility that this project will bankrupt the Church. It is their hope that the Planning Commission can help them find a solution to the problem. He said that while Ron Bernal has been a big help, if you ask the church to come up with that sum of money, it can be devastating for them. He said that all that should be required is the Antioch's portion of the roadway in front of them, not the Brentwood portion.

Chair Hinojosa asked what exactly it is going to cost them, \$705,000, to which Mr. Ellsworth said that this is an estimate for deferred improvements on Heidorn Ranch Road from the 1995 agreement.

John Williams, in charge of community outreach for the church, said that he is a concerned church member who would like to see the project go forward but is concerned of the affect it will have and the impact of the road. He said that financing is tough, that he is hoping and praying for a miracle but that they are definitely in over their head.

Commissioner Pinto said that if this project were not to move forward at this time, pursuant to the 1995 agreement the money would be needed in the future and perhaps the church can work with Doug and maybe raise the HOA fee to support the cause.

CLOSED PUBLIC HEARING

Commissioner Baatrup said that he has no other comments as he has already provided feedback.

Commissioner Motts reiterated the importance of the trail connection.

Chair Hinojosa said that she very much encourages access to the trail, that she would like to see different variations between the homes proposed along with variations with sod treatments, that she would like to see the homes facing Prewett Ranch Road to have some entry feature associated with the property and prominent doorways and that it would be nice to see a playground in the park.

Commissioner Westerman clarified with staff that design review with specific elevations would be coming back if the applicant moves forward.

Commissioner Baatrup said that perhaps staff could provide feedback to Discovery Builders that this is the fourth or fifth time they have gotten last minute letters and that if they really want us to take them seriously, they get them in time before the staff report.

Commissioner Pinto asked if there was any kind of legal stipulation that if a party submits written requests for the Commission to consider that they have to submit within a certain amount of time prior to the meeting occurring or when a packet is ready and if they don't meet the deadline, it will be seen but not part of the decision.

CA Nerland said that she can look at it. That the packet is public the Thursday night before the meeting, and that they have a representation of this developer in the audience.

REOPEN PUBLIC HEARING

Dick Sestero said that he was not able to get hold of the site plan until yesterday, that he had no way to have comments for the staff report and that it wasn't until today that they could put their thoughts together.

Commissioner Baatrup responded that they have seen these at the eleventh hour, that they do run the risk that the Planning Commission may not give it appropriate time for consideration and if they want the Commission to take comments they need to submit them.

RECLOSE PUBLIC HEARING

NEW ITEM

4. Meeting Procedures, Brown Act and Due Process

Short recess taken at suggestion of CA Nerland.

Roll call taken with all Commissions present except Commissioner Miller who rejoined the Commission at 9:35 p.m.

CA Nerland discussed with the Planning Commission, meeting procedures, the Brown Act and due process.

Commissioner Motts clarified with CA Nerland the issues of recusal.

Commissioner Baatrup discussed with CA Nerland conversations taking place after hearings.

Chair Hinojosa discussed with CA Nerland the reopening of public hearings.

Commissioner Baatrup discussed with CA Nerland a person testifying more than once.

ORAL COMMUNICATIONS

SP Gentry said that there will be two meetings in March, March 5 and 19.

CA Nerland said that the City Council denied the Pointe project on a 3/2 vote.

Chair Hinojosa indicated that she would be traveling in March and Commissioner Westerman indicated that he would be traveling on March 19th.

WRITTEN COMMUNICATIONS

None.

COMMITTEE REPORTS

Commissioner Motts said that the Transplan meeting was continued.

ADJOURNMENT

Chair Hinojosa adjourned the Planning Commission at 10:25 p.m.

Respectfully Submitted,
Cheryl Hammers

**CITY OF ANTIOCH
PLANNING COMMISSION MINUTES**

**Regular Meeting
6:30 p.m.**

**March 5, 2014
City Council Chambers**

CALL TO ORDER

Vice Chair Motts called the meeting to order at 6:30 p.m. on Wednesday, March 5, 2014, in the City Council Chambers. He stated that all items that can be appealed under 9-5.2509 of the Antioch Municipal Code must be appealed within five (5) working days of the decision. The final appeal date of decisions made at this meeting is 5:00 p.m. on Thursday, March 13, 2014.

ROLL CALL

Present: Commissioners Pinto, Miller, Baatrup and Westerman
Vice Chair Motts
Absent: Chair Hinojosa
Staff: Community Development Director, Tina Wehrmeister
City Attorney, Lynn Tracy Nerland
Minutes Clerk, Cheryl Hammers

PLEDGE OF ALLEGIANCE

PUBLIC COMMENTS

None.

CONSENT CALENDAR

1. **Approval of Minutes:** February 5, 2014

On motion by Vice Chair Westerman, and seconded by Commissioner Miller, the Planning Commission approved the Minutes of February 5, 2014.

AYES: ***Motts, Pinto, Miller, Baatrup and Westerman***
NOES: ***None***
ABSTAIN: ***None***
ABSENT: ***Hinojosa***

END OF CONSENT CALENDAR

NEW PUBLIC HEARINGS

2. Steven Geller, on behalf of John Hamm, is appealing the administrative decision to deny the requested home occupation use permit (HOUP) at 5269 Mohican Way (APN: 055-380-002).

CDD Wehrmeister provided a summary of the staff report dated February 27, 2014.

Vice Chair Motts asked staff about the weight of the vehicle, mentioned the picture of another similar truck in the neighborhood and asked if staff was concerned that this will open the door to others having larger trucks asking for a variance.

CDD Wehrmeister said that the intent of the Code was to allow standard sized vehicles associated with a business to be parked at a home, and that Code did not provide a provision to allow staff to administratively approve the request. She said that this issue has not come up previously and that they have not approved a tool truck of this size to her knowledge. She said that while this is uncommon and unusual, anyone can come in and make a request, that staff would have to deny them and that they would have to appeal the decision. She said that staff could also start a Code update process to look at this issue in the future.

Commissioner Pinto asked staff about enforcement, if there was a maximum weight limit and if their decision tonight would impact HOA areas in the City.

CDD Wehrmeister said that all enforcement by Code Enforcement would be complaint driven, that resources don't allow pro-active enforcement currently, that if an Ordinance were drafted a maximum would be proposed and that the City does not enforce HOA requirements. She said that if there is an active HOA, they have their own enforcement abilities.

Commissioner Baatrup confirmed with staff that this is a one time variance that does not change the code and that future applicants would have to go through the procedure to pursue because this is not amending the code.

Commissioner Miller clarified with staff that the code pertains to commercial vehicles, that RVs do not fall under the code as they are not commercial vehicles and that RVs are still required under the code to be on an improved surface and behind a fence but that there is no limitation on the size of an RV.

OPEN PUBLIC HEARING

Applicant, Steve Geller on behalf of John Hamm, said that they are asking for a variance, and provided the Planning Commissioners with a packet of information containing pictures of Mr. Hamm's truck, various trailers and RVs in the neighborhood and a petition signed by many of the neighbors of Mr. Ham in support of his application. He said that the City sent a notice to Mr. Hamm that he needed a business license, that he applied for the HOUP where he fulfilled everything, that the only reason it was denied was that his truck exceeds one ton, and that they are asking for a variance.

That Mr. Hamm has tools in the truck worth a significant amount, that the intent of the Code is to make sure that the neighborhood remains protected in character and that parking the truck will not change the character of the neighborhood. That the truck is not a safety hazard and that if Mr. Hamm has to park in a storage yard, the truck may be burglarized. He said that the truck is hidden away and locked and that it is not much different than pickup trucks out there today.

In response to Vice Chair Motts asking about truck yards where semis are stored being unsafe, applicant said that there have been recent burglaries in yards and that Mr. Hamm will be able to keep an eye on the truck if it is in his yard.

Commission Pinto confirmed with applicant that pending this appeal that the truck is parked in his yard in violation of the City code.

Chris Dutra, neighbor who also wrote a letter to the Planning Commission, spoke to say that on the side street of Chinook, there are no houses that face that direction and that landscaping was put there by the developer but that John redid his side yard and landscaping which are far superior. He said that he has had several independent truck drivers working for him with basic trucks and trailers, that vandalism happened quite frequently and that with John's truck having equipment inside it becomes a target. That when friends stop by to visit they don't know the truck is there, that it is not an eye sore, that John is the most courteous driver in the neighborhood and that he supports John.

Tom Kelleher said that he has lived across the street since 1997 and that he has been pleased watching John prepare his back yard, redoing his curb, sidewalk, and fence. He said that the truck is unobtrusive and that he supports John 100%.

Kevin Franz, neighbor and neighborhood watch captain, said that they have not heard one complaint from the neighborhood about the truck, that variances should be on a case by case basis, on behalf of everyone he knows this is a non issue in their neighborhood and that he hopes they will consider the variance.

CLOSED PUBLIC HEARING

Commissioner Westerman said that he drove by the house on two occasions, that it is unobtrusive, that you don't really notice it driving down the road unless you are looking for it, that he thinks M. Hamm is running a positive business and thinks the Planning Commission should approve the variance.

Commissioner Pinto asked staff to clarify that these residential streets are designed for this kind of weight. CDD Wehrmeister said that although she does not have the expertise to answer that, the expectation is that there will be delivery trucks such as UPS using streets from time to time and sometimes even semi trucks.

In response to Commissioner Pinto asking about how long commercial and RVs can be in neighborhoods, CDD Wehrmeister said that if they are complying with the Code, they can be stored long term. RVs can park temporarily on the street or in the driveway 72 hours.

In response to Commissioner Pinto's concern with safety issues when the truck is backing up and the liability to the City for an accident, CDD Wehrmeister said that she believes the applicant can speak to line of sight and mirrors but that the driveway itself received an encroachment permit from the City and that the engineers would not approve if it were too close to the intersection. She said that she would not be able to speak to sight vision for pedestrians.

REOPEN PUBLIC HEARING

Applicant clarified that the road is weight bearing that will support that, that the roadway has very little traffic to worry about and that Mr. Hamm waits until it is clear for him to back in.

Commissioner Westerman clarified with the applicant that there is a backup camera on the truck.

John Hamm thanked the Commission and said that the truck has a back up camera system and a lane change camera system, that he can back up to a foot of an object based on the vision he has with the camera, that he backs in and out of businesses where there are parked cars and people all day long every day and that he can see and hear with his microphone system.

In response to Commissioner Pinto regarding the camera system and noise Mr. Hamm said that you can hear if someone is behind the truck, that his truck is a diesel which is a state of the art clean vehicle, and that he is not the first to leave in the morning or the last to come home in the evenings.

RECLOSE PUBLIC HEARING

Commissioner Baatrup asked staff about noticing requirement to the neighborhood to which CDD Wehrmeister said that there was noticing sent out for this hearing and that when they are able to approve a HOUP administratively, notice to immediate neighbors are sent. She said that no one has protested this HOUP.

Commissioner Baatrup then asked whether Mr. Hamm could locate a bigger and better truck to replace his current one to which CDD Wehrmeister said that the Code does not have an upward limit, that this may be something for the Planning Commission to consider and that the variance resides with the property.

Vice Chair Motts said that he understands the desire to keep the property safe, that Mr. Hamm has done an exemplary job on the driveway, that there are no issues with sight line or neighbors and that the weight is not a problem for City streets. He said that he could recommend that there be an upper limit and he is prepared to support approval of the variance.

Commissioner Pinto expressed concerns with not having an upper limit and said that for him to support we need to establish a not to exceed limit; otherwise it is hard to vote as presented.

Commissioner Miller said that he is also in support of allowing a variance, that specifics of his truck can be included in the motion and if there is concern with larger trucks, can specify in the motion of that type of vehicle.

In response to Vice Chair Motts, CDD Wehrmeister said that she does not have information on the weight for City streets but that she doesn't think that City streets would be impacted by this vehicle with regular usage. She said that dimensions can be put into the conditions to define how large that is and that there are several different ways to define limitations.

Vice Chair Motts said that he is amenable to setting a standard to approve the variance.

REOPEN PUBLIC HEARING

Commissioner Baatrup asked applicant his thoughts given the variance resides with the property approved for his size and that someone could bring in something grander and more intrusive. Mr. Hamm said that he is on board with what he is saying, that in California the maximum load allowed without a permit is 80,000 pounds including residential City streets, that he is not required a special license and his truck weighs about 20,000 pounds with inventory on board, is 30'2" long and maximum width just over 8'. He said that he certainly has no plans to upgrade to a larger truck and is comfortable with defining the vehicle at 26,000 pounds.

RECLOSE PUBLIC HEARING

Commissioner Pinto made a motion to approve the proposed resolution with some conditions. That the vehicle shall not be longer than 30'5", height not to exceed 12'6", and weight fully loaded not to exceed 22,000 pounds.

CA Nerland clarified with Commissioner Pinto that the motion would be to uphold the appeal and approve the variance.

Commission Westerman seconded the motion to include the three conditions in the document on the dais, plus conditions on length and dimensions.

RESOLUTION NO. 2014-**

On Motion by Commissioner Pinto and seconded by Commissioner Westerman, the Planning Commission approves the appeal of the home occupation use permit.

AYES:	<i>Motts, Pinto, Miller, Baatrup and Westerman</i>
NOES:	<i>None</i>
ABSTAIN:	<i>None</i>
ABSENT:	<i>Hinojosa</i>

RESOLUTION NO. 2014-**

On Motion by Commissioner Pinto and seconded by Commissioner Westerman, the Planning Commission approves a variance to park a commercial vehicle over one ton at 5269 Mohican Way, subject to the three conditions contained in the Resolution, and adding:

- 4. That the vehicle shall not be longer than 30'5", height not to exceed 12'6", and weight fully loaded not to exceed 22,000 pounds.***

AYES: *Motts, Pinto, Miller, Baatrup and Westerman*
NOES: *None*
ABSTAIN: *None*
ABSENT: *Hinojosa*

- 3. PD-13-03 – A.I. Holdings, LLC is proposing to add Retail to the permitted use of an area designated medical/professional office within the Williamson Ranch Plaza. The applicant owns and represents 4851 Lone Tree Way. City staff is recommending that the Planning Commission consider amending the permitted uses for similarly situated properties at 4849, 4847, and 4839 Lone Tree Way. (APN: 055-011-048, -055, -056, -057).**

CDD, Wehrmeister, provided a summary of the staff report dated February 26, 2014.

Commissioner Baatrup asked staff how this proposal addresses proximity concerns with liquor and tobacco to which CDD Wehrmeister said that the buildings in question would be subject to the allowed use list already adopted for the center, that these buildings are too close to Prewett Park to allow alcohol sales, to establish the permitted uses that we are recommending states that 24 convenience market is a use that requires a Use Permit if they meet criteria and while there are tobacco sales established there in error, they would not be able to relocate there after their lease expires. She said that there is currently an urgency ordinance by City council on smoke shops, that City Council will consider a regular ordinance and that they will look at distance from sensitive areas.

Commissioner Pinto asked staff if we go ahead with this, are we setting ourselves up for future requests and how do we defend if we choose one area and not another to which CDD Wehrmeister said that this is a very unique situation, that she doesn't see that it is going to have a precedence issue in other areas of town and she pointed out that the zone change would not preclude medical office use.

OPENED PUBLIC HEARING

Applicant, Jamie Abhari, owner of the property of almost 5 years, said that they have really tried to lease and that they currently have one tenant. They said that their agent is here, that they are trying to promote business and trying to clean it up; that a zoning change is the last resort and that they are happy to answer questions.

Linda Martin, owner of commercial brokerage in Brentwood, said that she has been under contract to find tenants for a year and a half and that it has been a real struggle with very little demand for office space. She said that she was marketing for retail and office and then discovered it was not an approved use and has not had one inquiry for medical use. That she believes that if zoning could be more flexible that she could possibly find tenants.

In response to Commissioner Pinto, Ms. Martin said that the rate they are offering is below market, that the property owners are very motivated and that there is flexibility.

CLOSED PUBLIC HEARING

Commissioner Baatrup said that he thinks this is a good step forward, that limiting these buildings to just office or medical is not really warranted, and that he is willing to make a motion.

Vice Chair Motts said that he feels like this is the way to go and can support this change.

RESOLUTION NO. 2014-**

On motion by Commissioner Westerman and seconded by Commissioner Baatrup, the Planning Commission recommends to City Council adoption of the ordinance to amend the Williamson Ranch PD standards by eliminating the medical/professional office restriction at 4851, 4849, 4847, and 4839 Lone Tree Way (APNs: 055-011-048, -055, -056, -057).

AYES:	<i>Motts, Pinto, Miller, Baatrup, and Westerman</i>
NOES:	<i>None</i>
ABSTAIN:	<i>None</i>
ABSENT:	<i>Hinojosa</i>

ORAL COMMUNICATIONS

CDD Wehrmeister said that no items are scheduled for March 19th and that the meeting will be cancelled. She said that annexation of Areas 1 and 2b are complete and that they are working through annexation of 2a with LAFCO. She said that coming up for City Council on March 11, will be reviewing and adopting the Dev. Impact Fee and recommendation on the RDA ordinance.

Vice Chair Motts asked staff about the vacant Planning Commission member coming from that area to which CDD Wehrmeister said that the Mayor wanted residents from that area to be able to apply so we can now move forward in filling the vacancy.

Vice Chair Motts said that he attended a meeting today and brought some paperwork to pass on to staff.

WRITTEN COMMUNICATIONS

None.

COMMITTEE REPORTS

None.

ADJOURNMENT

Vice Chair adjourned the Planning Commission at 8:00 p.m.

Respectfully Submitted,
Cheryl Hammers

**STAFF REPORT TO THE PLANNING COMMISSION
FOR CONSIDERATION AT THE MEETING OF APRIL 2, 2014**

Prepared by: Mindy Gentry, Senior Planner *MA*
Date: March 27, 2014
Subject: **UP-13-11, AR-13-14 – Use Permit and Design Review for a
Telecommunications Site at 700 West Eighteenth Street**

RECOMMENDATION

It is recommended that the Planning Commission approve a use permit and design review for a telecommunications facility to retroactively approve 3 existing cell antennas on a stadium light standard and an associated equipment shelter as well as to approve 3 new antennas to replace the existing 3 and the addition of 6 new remote radio units, subject to the conditions contained in the attached resolution.

REQUEST

Streamline Engineering, the applicant, on behalf of Sprint, requests the retroactive approval of a use permit and design review for a telecommunications facility consisting of 3 antennas and an associated equipment shelter. The new request under this use permit would be the replacement of 3 existing antennas and the addition of 6 new remote radio units. The project site is located at 700 West Eighteenth Street (Attachment "A") (APN: 067-160-005).

BACKGROUND

The proposed site is a light standard on the track and field area at Antioch High School.

The property has a General Plan designation of Public/Institutional and has a zoning designation of Medium Low Density Residential (R-6).

Surrounding land uses and zoning designations are as noted below:

North: Single family homes (R-6)
South: Parking lot for Antioch High School and railroad tracks
East: Single family homes (R-6)
West: Contra Costa County Fairgrounds

ENVIRONMENTAL

The project is Categorically Exempt from the provisions of CEQA, pursuant to section 15303 – New Construction or Conversion of Small Structures. This section of CEQA exempts projects that involve construction of limited numbers of new, small facilities or

structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made to the exterior of the structure.

ANALYSIS

Issue #1: Project Overview

The applicant is seeking to have a use permit retroactively approved for 3 existing cell antennas on a stadium light standard as well as an existing equipment shelter at Antioch High School. The use permit would also include replacing the 3 existing antennas, for which an approval from the City was never granted, with 3 new antennas that are 6 feet in length by 12 inches in width by 6 inches in depth. The center of the antennas would be mounted at a height of 78 feet, approximately three-fourths of the height of the overall light standard. Six new remote radio units (RRUs) would also be installed on the light standard and fiber optic cable would be run from the light standard underground to an existing utility pole and run above ground for approximately 135 feet where it will be undergrounded again and connected to an existing vault. The antennas and the RRUs will be finished in a matte light gray (Attachment "B").

The applicant's request is to increase the speed and capacity of their network in this area of the City, not to increase coverage (Attachment "C").

The existing equipment shelter is located under the bleachers facing L Street and is 23.5 feet by 11 feet. The shelter is finished with lap siding and painted off-white (Attachment "D").

ATTACHMENTS

- A: Aerial Photo
- B: Applicant's Summary
- C: Coverage Maps
- D: Equipment Shelter Photographs

**CITY OF ANTIOCH PLANNING COMMISSION
RESOLUTION NO. 2014-****

**RESOLUTION OF THE CITY OF ANTIOCH PLANNING COMMISSION
APPROVING A USE PERMIT AND DESIGN REVIEW FOR A
TELECOMMUNICATIONS SITE AT 700 WEST EIGHTEENTH STREET**

WHEREAS, the City of Antioch received a request from Streamline Engineering, on behalf of Sprint, for a use permit and design review for a telecommunications facility consisting of 3 antennas and 6 remote radio units, on an existing stadium light standard with an associated equipment shelter. The project site is located at 700 West Eighteenth Street (**APN: 067-160-005**); and,

WHEREAS, this project is exempt from the provisions of CEQA pursuant to CEQA Guideline section 15303 – New Construction or Conversion of Small Structures; and

WHEREAS, the Planning Commission duly gave notice of public hearing as required by law; and,

WHEREAS, the Planning Commission on April 2, 2014, duly held a public hearing, received, and considered evidence, both oral and documentary, and

WHEREAS, the Planning Commission does determine:

1. The granting of such use permit will not be detrimental to the public health or welfare or injurious to the property or improvements in such zone or vicinity.

The telecommunications site will not be detrimental to the public health or welfare or injurious to the property or improvements because the use will be mounted on an already existing stadium light standard. The subject site will provide improved wireless services to the area, such as mobile telephone services, emergency 911 services, data transfer, electronic mail, internet and web browsing, as well as video streaming for Sprint customers.

2. The use applied at the location indicated is properly one for which a use permit is authorized.

The site is zoned Medium Low Density Residential and per the Municipal Code, telecommunications sites are allowed with a use permit.

3. That the site for the proposed use is adequate in size and shape to accommodate such use, and all yards, fences, parking, loading, landscaping, and other features required, to other uses in the neighborhood.

The site is adequate in size and shape to accommodate a telecommunications site as it is currently being used as a high school with adequate space to accommodate the equipment. All buildings and site features are adequate for this use.

4. That the site abuts streets and highways adequate in width and pavement type to carry the kind of traffic generated by the proposed use.

The site is located at the corner of L Street and West Eighteenth Street which are both adequate in width and pavement type to carry the traffic generated by the use. It is anticipated that the use will generate very little traffic and would only result in the maintenance of the equipment and the shelter.

5. That the granting of such use permit will not adversely affect the comprehensive General Plan.

The use is considered a telecommunications site and will not adversely affect the comprehensive General Plan.

NOW THEREFORE BE IT RESOLVED the Planning Commission of the City of Antioch, after reviewing the staff report and considering testimony does hereby **APPROVE** the use permit and design review (UP-13-11, AR-13-14), to construct a telecommunications site subject to the following conditions and the findings for the conditions, which are attached as Exhibit A:

A. GENERAL CONDITIONS

1. The project shall comply with the Antioch Municipal Code. All construction shall conform to the requirements of the California Building Code and City of Antioch standards.
2. Conditions required by the Planning Commission, which call for a modification or any change to the site plan submitted, be corrected to show those conditions and all standards and requirements of the City of Antioch prior to any submittal for a building permit. No building permit will be issued unless the site plan meets the requirements stipulated by the Planning Commission and the standards of the City.
3. City staff shall inspect the site for compliance with the conditions of approval prior to final building inspection.

4. This approval expires two years from the date of approval (Expires April 2, 2016), unless a building permit has been issued and construction has diligently commenced thereon and has not expired, or an extension has been approved by the Zoning Administrator. Requests for extensions must be received in writing with the appropriate fees prior to the expiration of this approval. No more than one, one year extension shall be granted.
5. The applicant shall defend, indemnify, and hold harmless the City in any action brought by a third party to challenge the land use entitlement or environmental review. In addition, if there is any referendum or other election action to contest or overturn these approvals, the applicant shall either withdraw the application or pay all City costs for such an election.
6. No permits or approvals, whether discretionary or mandatory, shall be considered if the applicant is not current on fees, reimbursement payments and any other payments that are due.
7. An encroachment permit shall be required for all work in the public right of way.
8. This approval supersedes previous approvals that have been granted for this site.
9. All required easements or rights-of-way for offsite improvements shall be obtained by the applicant at no cost to the City of Antioch. Advance permission shall be obtained from any property or easement holders for any work done within such property or easements.

B. CONSTRUCTION CONDITIONS

1. The use of construction equipment shall be restricted to weekdays between the hours 8:00 A.M. and 5:00 P.M., or as approved in writing by the City Manager.
2. The project shall be in compliance with and supply all the necessary documentation for AMC6-3.2: Construction and Demolition Debris Recycling.
3. Standard dust control methods and designs shall be used to stabilize the dust generated by construction activities. The applicant shall post dust control signage with a contact number of the applicant, City staff, and the air quality control board.

C. FEES

1. The applicant shall pay all fees as required by the City Council.

2. The developer shall pay all required fees at the time of building permit issuance, which includes any double permit fees, as outlined in the State of California Building Code, for the existing antennas and equipment shelter if a building permit cannot be found.
3. The applicant shall pay the Contra Costa County Fire Protection District Fire Development Fee in place at the time of building permit issuance.

D. PROPERTY MAINTENANCE

1. No illegal signs, pennants, banners, balloons, flags, or streamers shall be used on this site at any time.
2. No signs shall be installed on this site without prior City approval.
3. The site shall be kept clean of all debris (boxes, junk, garbage, etc.) at all times.

E. UTILITIES

1. All existing and proposed utilities shall be undergrounded (e.g. transformers and PMH boxes) and subsurface in accordance with the Antioch Municipal Code, except existing P.G. & E. towers, if any or as approved by the City Engineer.

F. SITE AND PROJECT DESIGN

1. Prior to issuance of a building and/or grading permits, the applicant shall submit revised site plans for review and approval by the Planning Department that incorporate the following:
 - a. All panel antennas, support arms, ancillary equipment installed adjacent to the antennas shall be treated with a permanent non-reflective finish and match the existing light standard.
 - b. All cables and wiring mounted to the light standard shall be painted to match the light standard.
 - c. Additional equipment or antennas, or a change in antennas shall be subject to City staff approval.
 - d. The improvements shall be completed as shown on the plans dated September 9, 2013, photo simulations and other material samples provided. Any deviations from these approved plans, photos, or material samples shall be approved by City staff prior to construction.

- e. The applicant shall maintain all of applicant's facilities free from all graffiti and damage caused by vandalism, accidents, etc. Said graffiti abatement and/or maintenance shall be performed within two (2) business days of first being reported, where reasonably possible.
 - f. No external light fixtures shall be permitted except a switch-operated light at the equipment cabinet. The light shall be in the "off" position except when Sprint personnel and/or their contractor are present at the site.
2. Sprint shall install and at all times maintain in good condition an RF Notice sign on the entry gate of the fenced enclosure at least five feet (5') above the ground. The signage shall comply with FCC OET Bulletin 65 or ANSI C95.2 for color, symbol, and content conventions. The signage shall at all times provide a working local or toll-free telephone number to its network operations center, and such telephone number shall be able to reach a live person who can exert transmitter power-down control over this site as required by the FCC.

* * * * *

I HEREBY CERTIFY that the foregoing resolution was passed and adopted by the Planning Commission of the City of Antioch at a regular meeting thereof held on the 2nd day of April 2014.

AYES:

NOES:

ABSTAIN:

ABSENT:

TINA WEHRMEISTER, SECRETARY TO THE
PLANNING COMMISSION

EXHIBIT A

Telecommunications Monopole (UP-13-11, AR-13-14) at 700 West Eighteenth Street

FINDINGS IN SUPPORT OF CONDITIONS OF APPROVAL

A. GENERAL CONDITIONS

1. The City of Antioch has established a Municipal Code and City standards and the State of California has established a Building Code to protect the public health, safety, and welfare of the citizens within the City and the State respectively. This condition of approval is necessary for the developer to mitigate any project impacts that may threaten the health, safety, or welfare of its citizens.
- 2-3. In order for the project to be constructed to the City's approved standards, the plans need to adequately reflect the changes made by the Planning and City staff needs to inspect the site for compliance with the conditions of approval prior to final inspection approval. These conditions protects the public safety, health, and general welfare of the surrounding uses by providing an adequate reflection of the approved project prior to the issuance of building permits and a follow up site inspection to ensure the project was built as conditioned.
4. The regulatory environment of land development and base line conditions change frequently as well as thresholds established by the California Environmental Quality Act; therefore this condition is necessary to ensure any project going forward is subject to the most current regulations in order to promote the public health, safety, and welfare in the City of Antioch.
5. The project is being pursued by a developer and the City's responsibility is to promote orderly development within the City. This condition is necessary to protect the City from the financial and time expenses for defending challenges to land use entitlements or environmental reviews that are financially benefitting the applicant, particularly given the City's own financial challenges.
- 6-7. The project takes City time and staff to process development applications through the land use entitlement process. The development of property is at the benefit of the applicant; therefore, the conditions are necessary to ensure the applicant pays the expenses to process the application rather than having that burden placed on the taxpayers for another's benefit and satisfies all necessary requirements to make use of public lands that serve the project site.

8. It is necessary to ensure administrative consistency and avoid confusion between plan versions by identifying the most recent entitlements that govern site development and use.
9. The project requires the use of public lands in order to provide access and extend infrastructure to the project site. These conditions are necessary to allow the project sponsors to make use of public lands to benefit the project.

B. CONSTRUCTION CONDITIONS

- 1-3. The construction of the project will include site preparation and general construction, which includes the development of buildings, structures, and facilities. Construction activities will produce impacts related to noise, dust, vibrations, and traffic that must be addressed and mitigated. In addition, the City is under a State-wide mandate to divert its waste by 50% and thus the City has adopted an ordinance to reduce construction and demolition debris from going to the landfill. These conditions of approval are necessary to address these impacts from the project to ensure the public health, safety, and welfare of the Antioch community are protected and that development in the City occurs in an orderly fashion consistent with the City's General Plan and Municipal Code and to not create temporary or permanent nuisances.

C. FEES

- 1-3. The City of Antioch and the Contra Costa Fire Protection District provide existing infrastructure such as streets, utilities, traffic signals, public right-of-way, parks, flood mitigation improvements, parks, and police and fire services. The fees required by the conditions of approval serve two functions: 1) the funds will provide mitigation for the project's fair share impact and the project's responsibility of costs for the existing infrastructure due to the increase in population and 2) to mitigate the costs of additional infrastructure and maintenance necessary due to the impact of the project. The conditions of approval are necessary to mitigate impacts to public infrastructure from deterioration as well as provide additional infrastructure to serve the additional population.

D. PROPERTY MAINTENANCE

- 1-3. These conditions are necessary to ensure that the project site is kept in good working order to ensure adequate trash collection, to avoid localized flooding, reduce fire risks, and ensure the continued health, safety and welfare of the project environs.

E. UTILITIES

1. The project will require electrical facilities. The Antioch Municipal Code requires all utility facilities (including, but not limited to, electric, communication, and cable television lines) which are located on-site or adjacent to the subdivision shall be placed underground. In order to minimize visual clutter utilities should be placed underground or subsurface. This condition is necessary to promote the desirability of the City through the minimization of visual clutter and to maintain the aesthetics of the City as well as adherence to the Antioch Municipal Code.

F. SITE AND PROJECT DESIGN

1. This condition is necessary to ensure harmonious development and appropriate building design as established by the City's Design Guidelines.
2. This condition is necessary to notify the public of radio frequency (RF) emissions that emanate from cell tower equipment.

ATTACHMENT "A"

AERIAL PHOTOGRAPH



Streamline Engineering

and Design, Inc.

December 18, 2013

City of Antioch
Po Box 5007
Antioch, CA 94531

RECEIVED

DEC 19 2013

CITY OF ANTIOCH
COMMUNITY DEVELOPMENT

RE: Sprint modification at Antioch High

Subject: Scope of Work

Community Development Department,

Below is a description of the proposed scope of work at the above referenced site:

- Remove and replace existing antennas (3) with new antennas (3) on an existing monopole/light standard (no height increase to pole or antenna mounts). Antennas are manufactured in a matte light gray finish and will blend with the existing light standard.
- Add Remote Radio Units (RRU's) mounted directly under the proposed antennas. Radio units allow the incoming and outgoing radio signal to be converted to a fiber optic signal for increased speed of data transfer. RRU's come from the factory a matte light gray finish and will blend with the existing light standard.
- Removing and replacing 2 existing radio cabinets inside an existing Sprint equipment shelter. Shelter is located completely under the existing sports facility bleachers. Shelter is faced with outdoor ship-lap style siding and painted and trimmed in an off-white color.
- Adding a fiber optic connection to lease area. Lines will run on existing JPA poles and will terminate underground via a new pole mounted riser. Underground conduits will finish the route to the existing Sprint equipment shelter.
- Coverage area will not increase with the installation of the new equipment (see existing and proposed coverage maps provided). Modification will only increase the speed and capacity data transfer for the Sprint network.

Thank you in advance for your time,

Sam Savig

Sam Savig, Streamline Engineering and Design - an authorized representative of Sprint Nextel
8445 Sierra College Ste E
Granite Bay, CA 95746
sam@streamlineeng.com

ATTACHMENT "C"

05 16

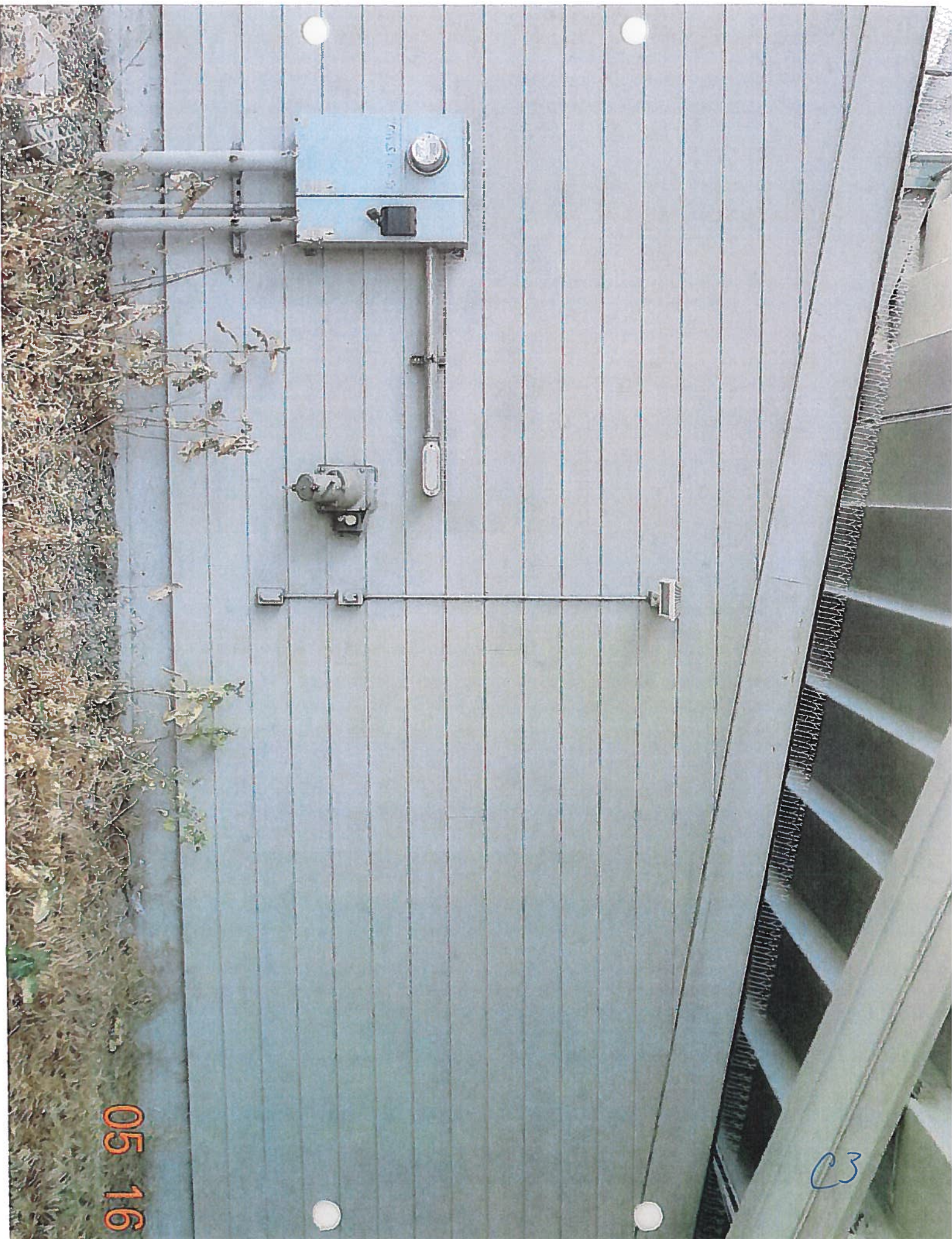
C1

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C3

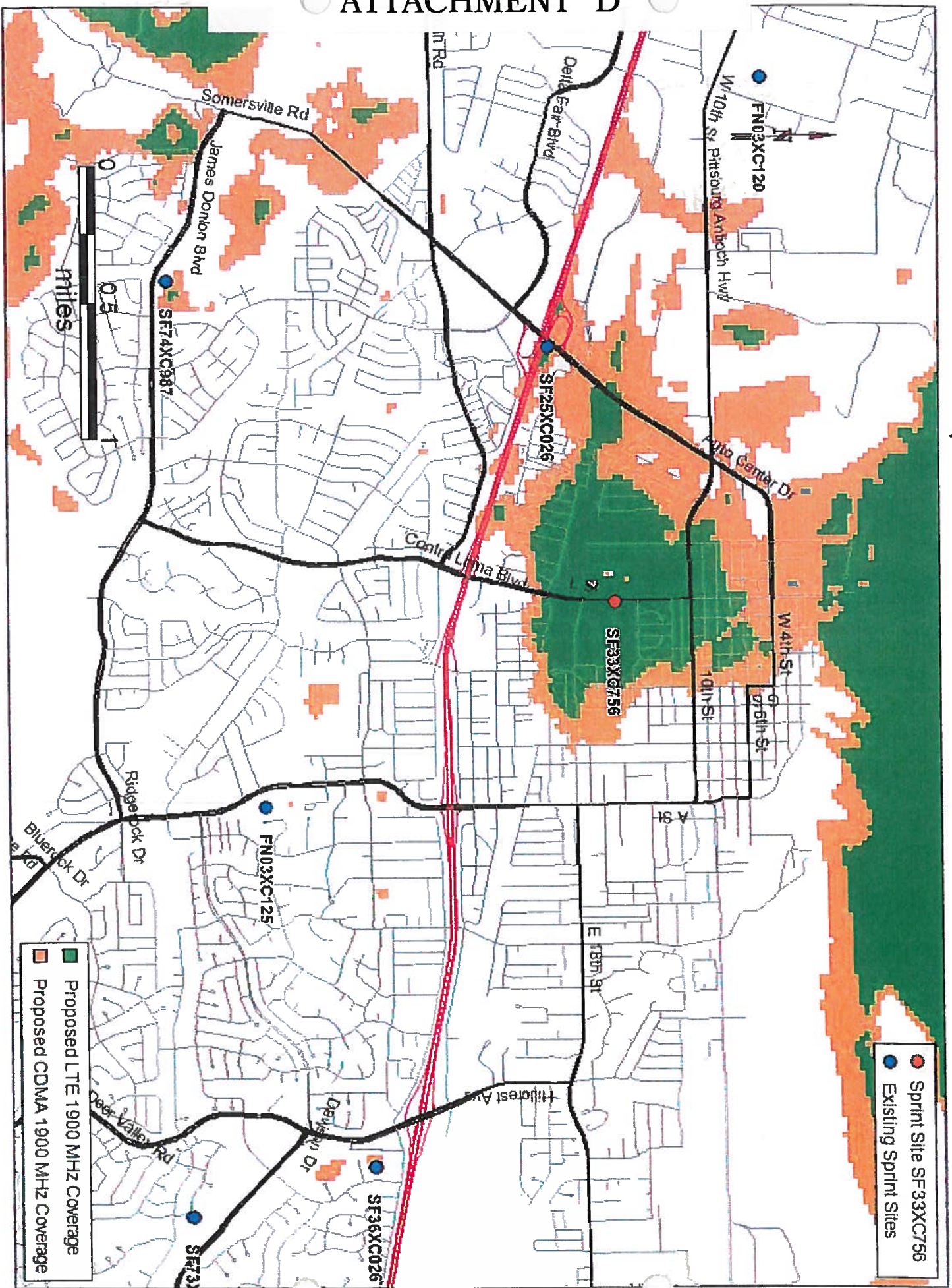


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C4

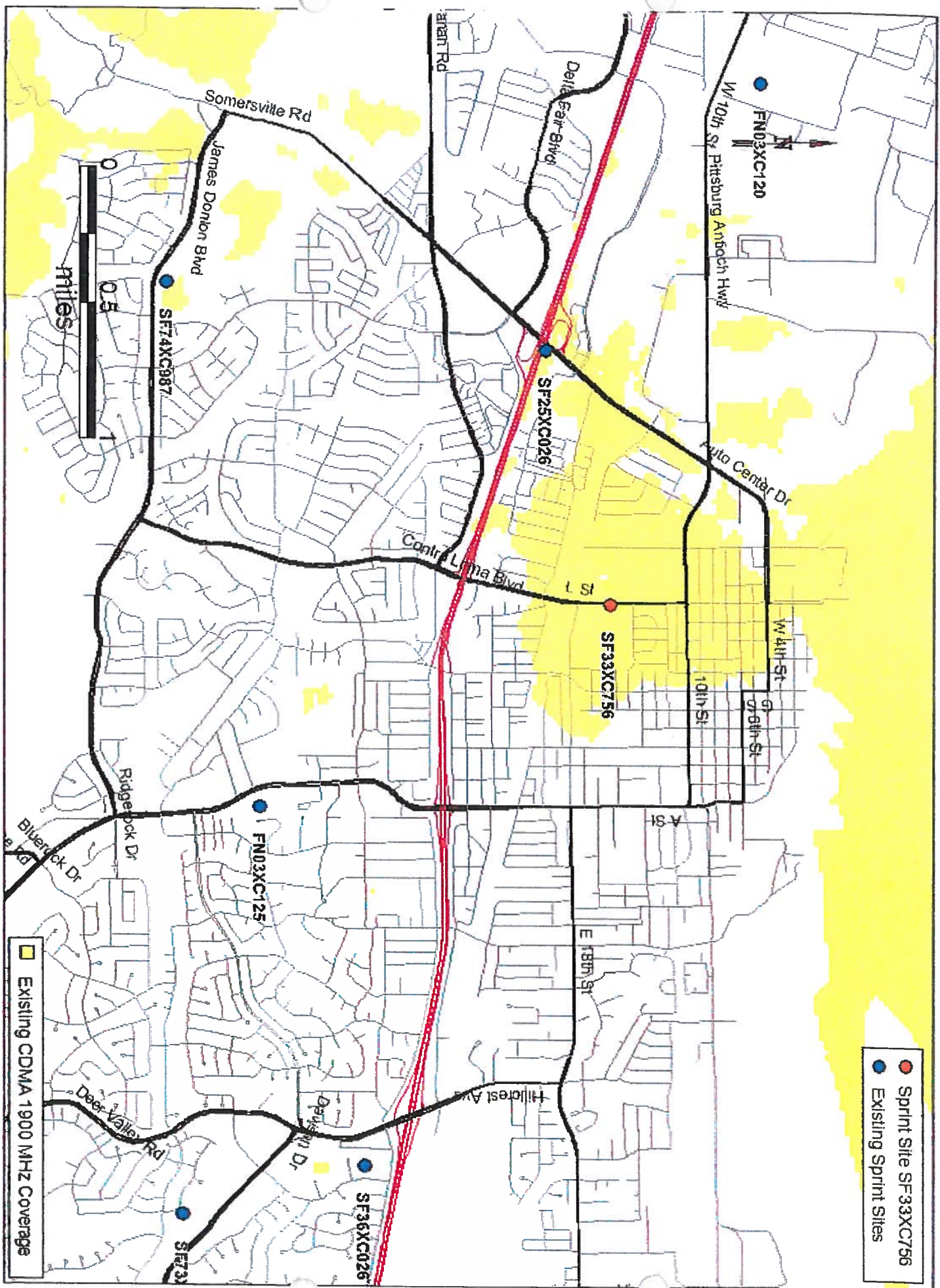


Proposed SF33XC756 coverage



Existing SF33XC756 coverage

D2



**STAFF REPORT TO THE PLANNING COMMISSION
FOR CONSIDERATION AT THE MEETING OF APRIL 2, 2014**

Prepared by: Mindy Gentry, Senior Planner *MG*
Date: March 27, 2014
Subject: **UP-13-09, AR-13-10 – Use Permit and Design Review for a
Telecommunications Site**

RECOMMENDATION

It is recommended that the Planning Commission approve a use permit and design review for a telecommunications facility consisting of 12 antennas, 15 remote radio units, and three surge suppression units on a 60' tall monopole with an associated equipment shelter, subject to the conditions contained in the attached resolution.

REQUEST

Modus Inc., the applicant, on behalf of AT&T Mobility, requests the approval of a use permit and design review for a telecommunications facility consisting of 12 antennas, 15 remote radio units, and three surge suppression units on a 60' tall monopole with an associated equipment shelter. The project site is located at 801 Sunset Drive (Attachment "A") (APN: 068-100-027).

BACKGROUND

The approximately one acre site contains a 10,800 s.f. building containing a retail automotive parts business and other miscellaneous automotive uses.

The property has a General Plan designation of Neighborhood/Community Commercial and has a zoning designation of Neighborhood/Community Commercial (C-2).

Surrounding land uses and zoning designations are as noted below:

North: Railroad tracks, single family homes, and Bidwell Elementary School (R-6)
South: State Route 4
East: Mini storage (C-2)
West: Mini storage (C-2)

ENVIRONMENTAL

The project is Categorically Exempt from the provisions of CEQA, pursuant to section 15303 – New Construction or Conversion of Small Structures. This section of CEQA exempts projects that involve construction of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the

conversion of existing small structures from one use to another where only minor modifications are made to the exterior of the structure.

ANALYSIS

Issue #1: Project Overview

The applicant proposes to construct a 56 foot 1 inch tall pole to support 12 antennas, 15 remote radio units (RRUs), and an associated equipment shelter (Attachment "B"). The antennas are approximately 8 feet tall by 11 inches wide and would be mounted for an overall height of 60 feet. Staff informed the applicant that the antennas would need to be stealth and the applicant returned with the two options contained in the photo sims; one option is an antenna shroud and the other option is a Monopine. Staff is recommending the Planning Commission opt with the Monopine with additional conditions to better hide the antennas.

The equipment shelter is proposed as a pre-fabricated building, which is 11'5" X 12' and 10'4" in height. The equipment shelter would contain equipment racks and cabinets, a 50kw emergency standby generator with a 190 gallon diesel tank, and the installation of two GPS antennas mounted on the shelter roof. The applicant is proposing a six foot tall wooden fence around the equipment shelter. Staff is recommending that the fence have an additional two feet of open lattice, bringing the overall height to eight feet. A condition has been added to reflect his recommendation. The shelter is to be finished in a reddish aggregate with beige trim (Attachment "B").

The Alternatives Analysis Report (Attachment "C") submitted by the applicant, indicates there is a significant gap in its service coverage and indicates the facility is necessary to benefit the public with improved communications in the area (Attachment "D"). However, contrary to the Alternatives Analysis Report, it is the opinion of the City's third party reviewer, Telecom Law Firm, that there is not an existing signal coverage gap in AT&T's network and the request is to "off-load" signal call/data traffic from the surrounding sites and to provide an increase in signal strength (Attachment "E").

ATTACHMENTS

- A: Aerial Photo
- B: Applicant's Summary
- C: Alternatives Analysis Report
- D: Zoning Propagation Maps
- E: Telecom Law Firm Report

**CITY OF ANTIOCH PLANNING COMMISSION
RESOLUTION NO. 2014-****

**RESOLUTION OF THE CITY OF ANTIOCH PLANNING COMMISSION
APPROVING A USE PERMIT AND DESIGN REVIEW FOR A
TELECOMMUNICATIONS SITE AT 801 SUNSET DRIVE**

WHEREAS, the City of Antioch received a request from Modus Inc., on behalf of AT&T Mobility, for a use permit and design review for a telecommunications facility consisting of 12 antennas, 15 remote radio units, and three surge suppression units on a 60 foot monopole with an associated equipment shelter. The project site is located at 801 Sunset Drive (**APN: 068-100-027**); and,

WHEREAS, this project is exempt from the provisions of CEQA pursuant to CEQA Guideline section 15303 – New Construction or Conversion of Small Structures; and

WHEREAS, the Planning Commission duly gave notice of public hearing as required by law; and,

WHEREAS, the Planning Commission on April 2, 2014, duly held a public hearing, received, and considered evidence, both oral and documentary, and

WHEREAS, the Planning Commission does determine:

1. The granting of such use permit will not be detrimental to the public health or welfare or injurious to the property or improvements in such zone or vicinity.

The telecommunications site will not be detrimental to the public health or welfare or injurious to the property or improvements because the use will be considered stealth by utilizing a Monopine that will hide the antennas. The subject site will provide improved wireless services to the area, such as mobile telephone services, emergency 911 services, data transfer, electronic mail, internet and web browsing, as well as video streaming for AT&T customers.

2. The use applied at the location indicated is properly one for which a use permit is authorized.

The site is zoned Neighborhood/Community Commercial (C-2) and per the Municipal Code, telecommunications sites are allowed with a use permit.

3. That the site for the proposed use is adequate in size and shape to accommodate such use, and all yards, fences, parking, loading,

landscaping, and other features required, to other uses in the neighborhood.

The site is adequate in size and shape to accommodate a telecommunications site as it is currently a commercial use with an unimproved vacant area at the northern end of the site. All buildings and site features are adequate for this use.

4. That the site abuts streets and highways adequate in width and pavement type to carry the kind of traffic generated by the proposed use.

The site is located on Sunset Drive which is both adequate in width and pavement type to carry the traffic generated by the use. It is anticipated that the use will generate very little traffic and would only result in the maintenance of the equipment and the shelter.

5. That the granting of such use permit will not adversely affect the comprehensive General Plan.

The use is considered a telecommunications site and will not adversely affect the comprehensive General Plan.

NOW THEREFORE BE IT RESOLVED the Planning Commission of the City of Antioch, after reviewing the staff report and considering testimony does hereby **APPROVE** the use permit and design review (UP-13-09, AR-13-10), to construct a telecommunications site subject to the following conditions and the findings for the conditions, which are attached as Exhibit A:

A. GENERAL CONDITIONS

1. The project shall comply with the Antioch Municipal Code. All construction shall conform to the requirements of the California Building Code and City of Antioch standards.
2. Conditions required by the Planning Commission, which call for a modification or any change to the site plan submitted, be corrected to show those conditions and all standards and requirements of the City of Antioch prior to any submittal for a building permit. No building permit will be issued unless the site plan meets the requirements stipulated by the Planning Commission and the standards of the City.
3. City staff shall inspect the site for compliance with the conditions of approval prior to final building inspection.

4. This approval expires two years from the date of approval (Expires April 2, 2016), unless a building permit has been issued and construction has diligently commenced thereon and has not expired, or an extension has been approved by the Zoning Administrator. Requests for extensions must be received in writing with the appropriate fees prior to the expiration of this approval. No more than one, one year extension shall be granted.
5. The applicant shall defend, indemnify, and hold harmless the City in any action brought by a third party to challenge the land use entitlement or environmental review. In addition, if there is any referendum or other election action to contest or overturn these approvals, the applicant shall either withdraw the application or pay all City costs for such an election.
6. No permits or approvals, whether discretionary or mandatory, shall be considered if the applicant is not current on fees, reimbursement payments and any other payments that are due.
7. An encroachment permit shall be required for all work in the public right of way.
8. This approval supersedes previous approvals that have been granted for this site.
9. All required easements or rights-of-way for offsite improvements shall be obtained by the applicant at no cost to the City of Antioch. Advance permission shall be obtained from any property or easement holders for any work done within such property or easements.

B. CONSTRUCTION CONDITIONS

1. The use of construction equipment shall be restricted to weekdays between the hours 8:00 A.M. and 5:00 P.M., or as approved in writing by the City Manager.
2. The project shall be in compliance with and supply all the necessary documentation for AMC6-3.2: Construction and Demolition Debris Recycling.
3. Standard dust control methods and designs shall be used to stabilize the dust generated by construction activities. The applicant shall post dust control signage with a contact number of the applicant, City staff, and the air quality control board.

C. FEES

1. The applicant shall pay all fees as required by the City Council.

2. The developer shall pay all required fees at the time of building permit issuance.
3. The applicant shall pay the Contra Costa County Fire Protection District Fire Development Fee in place at the time of building permit issuance.

D. FIRE REQUIREMENTS

1. The applicant shall comply with the following conditions provided by the Contra Costa County Fire Protection District:
 - a. Flammable or combustible liquid storage tanks shall not be located on the site without obtaining approval and necessary permits from the Fire District. (3401.4) CFC
 - b. The applicant/contractor shall submit three (3) complete sets of building plans and specifications of the subject project, including plans for the following required deferred submittal, to the Fire District for review and approval prior to construction to ensure compliance with minimum requirements related to fire and life safety. Plan review and inspection fees shall be submitted at the time of plan review submittal. (105.4.1) CFC (901.2) CFC, (107) CBC

E. PROPERTY MAINTENANCE

1. No illegal signs, pennants, banners, balloons, flags, or streamers shall be used on this site at any time.
2. No signs shall be installed on this site without prior City approval.
3. The site shall be kept clean of all debris (boxes, junk, garbage, etc.) at all times.

F. UTILITIES

1. All existing and proposed utilities shall be undergrounded (e.g. transformers and PMH boxes) and subsurface in accordance with the Antioch Municipal Code, except existing P.G.& E. towers, if any or as approved by the City Engineer.

G. SITE AND PROJECT DESIGN

1. Prior to issuance of a building and/or grading permits, the applicant shall submit revised site plans for review and approval by the Planning Department that incorporate the following:
 - a. All panel antennas, support arms, ancillary equipment installed adjacent to the antennas shall be colored in browns and greens to mimic the natural colors of a pine tree.

- b. No external cables shall be permitted on the outside face of the Monopine trunk. All cables shall be within the trunk of the Monopine from the point where they enter at the level of the antennas to the point where they exit to transit to the base station building.
 - c. Three-dimensional bark cladding shall be installed on all portions of the trunk and branches of the Monopine.
 - d. The Monopine shall be constructed with a natural tapering canopy, and employ a minimum of 3.5 branches per foot.
 - e. The lowest branches shall be installed no higher than twelve feet above the ground level.
 - f. All cables connecting the Monopine to the base station building shall run at a height lower than the solid fence enclosing the project area.
 - g. The six foot wooden fence shall have two feet of open lattice installed for an overall height of eight feet.
 - h. Additional equipment or antennas, or a change in antennas shall be subject to City staff approval.
 - i. The applicant shall maintain all of applicant's facilities free from all graffiti and damage caused by vandalism, accidents, etc. Said graffiti abatement and/or maintenance shall be performed within two (2) business days of first being reported, where reasonably possible.
 - j. No external light fixtures shall be permitted except a switch-operated light at the equipment cabinet. The light shall be in the "off" position except when AT&T personnel and/or their contractor are present at the site.
2. AT&T shall install and at all times maintain in good condition an RF Notice sign on the entry gate of the fenced enclosure at least five feet (5') above the ground. The signage shall comply with FCC OET Bulletin 65 or ANSI C95.2 for color, symbol, and content conventions. The signage shall at all times provide a working local or toll-free telephone number to its network operations center, and such telephone number shall be able to reach a live person who can exert transmitter power-down control over this site as required by the FCC.

* * * * *

I HEREBY CERTIFY that the foregoing resolution was passed and adopted by the Planning Commission of the City of Antioch at a regular meeting thereof held on the 2nd day of April 2014.

AYES:

NOES:

ABSTAIN:

ABSENT:

TINA WEHRMEISTER, SECRETARY TO THE
PLANNING COMMISSION

EXHIBIT A

Telecommunications Monopole (UP-13-09, AR-13-09) at 801 Sunset Drive

FINDINGS IN SUPPORT OF CONDITIONS OF APPROVAL

A. GENERAL CONDITIONS

1. The City of Antioch has established a Municipal Code and City standards and the State of California has established a Building Code to protect the public health, safety, and welfare of the citizens within the City and the State respectively. This condition of approval is necessary for the developer to mitigate any project impacts that may threaten the health, safety, or welfare of its citizens.
- 2-3. In order for the project to be constructed to the City's approved standards, the plans need to adequately reflect the changes made by the Planning and City staff needs to inspect the site for compliance with the conditions of approval prior to final inspection approval. These conditions protects the public safety, health, and general welfare of the surrounding uses by providing an adequate reflection of the approved project prior to the issuance of building permits and a follow up site inspection to ensure the project was built as conditioned.
4. The regulatory environment of land development and base line conditions change frequently as well as thresholds established by the California Environmental Quality Act; therefore this condition is necessary to ensure any project going forward is subject to the most current regulations in order to promote the public health, safety, and welfare in the City of Antioch.
5. The project is being pursued by a developer and the City's responsibility is to promote orderly development within the City. This condition is necessary to protect the City from the financial and time expenses for defending challenges to land use entitlements or environmental reviews that are financially benefitting the applicant, particularly given the City's own financial challenges.
- 6-7. The project takes City time and staff to process development applications through the land use entitlement process. The development of property is at the benefit of the applicant; therefore, the conditions are necessary to ensure the applicant pays the expenses to process the application rather than having that burden placed on the taxpayers for another's benefit and satisfies all necessary requirements to make use of public lands that serve the project site.
8. It is necessary to ensure administrative consistency and avoid confusion between plan versions by identifying the most recent entitlements that govern site development and use.

9. The project requires the use of public lands in order to provide access and extend infrastructure to the project site. These conditions are necessary to allow the project sponsors to make use of public lands to benefit the project.

B. CONSTRUCTION CONDITIONS

- 1-3. The construction of the project will include site preparation and general construction, which includes the development of buildings, structures, and facilities. Construction activities will produce impacts related to noise, dust, vibrations, and traffic that must be addressed and mitigated. In addition, the City is under a State-wide mandate to divert its waste by 50% and thus the City has adopted an ordinance to reduce construction and demolition debris from going to the landfill. These conditions of approval are necessary to address these impacts from the project to ensure the public health, safety, and welfare of the Antioch community are protected and that development in the City occurs in an orderly fashion consistent with the City's General Plan and Municipal Code and to not create temporary or permanent nuisances.

C. FEES

- 1-3. The City of Antioch and the Contra Costa Fire Protection District provide existing infrastructure such as streets, utilities, traffic signals, public right-of-way, parks, flood mitigation improvements, parks, and police and fire services. The fees required by the conditions of approval serve two functions: 1) the funds will provide mitigation for the project's fair share impact and the project's responsibility of costs for the existing infrastructure due to the increase in population and 2) to mitigate the costs of additional infrastructure and maintenance necessary due to the impact of the project. The conditions of approval are necessary to mitigate impacts to public infrastructure from deterioration as well as provide additional infrastructure to serve the additional population.

D. FIRE REQUIREMENTS

1. The Contra Costa Fire Protection District provides fire services for the City of Antioch and follows the California Fire Code. The conditions of approval are necessary on the project to protect the public health and provide for the safety and welfare of life and property from fire and explosion hazards or dangerous conditions in new buildings and existing buildings; structures and premises; and to provide safety and assistance to fire fighters and emergency responders during emergency operations.

E. PROPERTY MAINTENANCE

- 1-3. These conditions are necessary to ensure that the project site is kept in good working order to ensure adequate trash collection, to avoid localized flooding, reduce fire risks, and ensure the continued health, safety and welfare of the project environs.

F. UTILITIES

1. The project will require electrical facilities. The Antioch Municipal Code requires all utility facilities (including, but not limited to, electric, communication, and cable television lines) which are located on-site or adjacent to the subdivision shall be placed underground. In order to minimize visual clutter utilities should be placed underground or subsurface. This condition is necessary to promote the desirability of the City through the minimization of visual clutter and to maintain the aesthetics of the City as well as adherence to the Antioch Municipal Code.

G. SITE AND PROJECT DESIGN

1. This condition is necessary to ensure harmonious development and appropriate building design as established by the City's Design Guidelines.
2. This condition is necessary to notify the public of radio frequency (RF) emissions that emanate from cell tower equipment.

ATTACHMENT "A"

Aerial Photograph



ATTACHMENT "B"

RECEIVED

DEC 10 2013

City of Antioch
Planning Division
P.O. Box 5007
Antioch, CA 94531

November 26, 2013

CITY OF ANTIOCH
COMMUNITY DEVELOPMENT

Modus Inc.
149 Natoma Street 3rd Floor
San Francisco, CA 94105
Fax: 415-944-3805
Site Acquisition Specialist for
AT&T Mobility



Proposed New AT&T Wireless Telecommunications Facility at 801 Sunset Drive, Antioch, CA (APN 560-034-014-4)

Project Description

AT&T Mobility is proposing a new wireless telecommunications facility to provide better service and data capacity to businesses and residents in the City of Antioch. The proposed project involves the installation of new antennas and equipment as follows:

Support Structure / Antenna Location

- The installation of a **60' monopole**:
 - o The installation of **(12) panel antennas** (8' tall) mounted to monopole by T-arms in 3 sectors. Top of antenna to meet monopole height.
 - o The installation of **(15) RRUS-11 (radio remote unit) units**, 5 per sector, mounted behind antennas.
 - o The installation of **(3) surge suppression units**, 1 per sector
- Cabling routed internally of pole.

Base Equipment:

- The installation of **pre-fabricated equipment shelter** (11'-5" x 12', 10'-4" feet tall):
 - o The installation of typical AT&T interior equipment racks and cabinets
 - o The installation of **(1) Generac 50kw emergency standby generator** with 190 gallon diesel tank, located inside shelter.
 - o The installation of (2) GPS antennas mounted to shelter top (~1 foot tall)
- All structures to be located within 20'x30' leasing area fenced by a 6-foot tall wood fence.
- Power and telco routing through underground conduits, trenched or bored to property line and nearby sources.

Colors and Finishes:

- Monopole, securing brackets, T-arms made of gray-blue steel
- Panel antennas, RRUS-11 and surge units are covered by white FRP (high quality plastic)
- Typical wood private fence construction with cedar or available hardwood
- Shelter with reddish aggregate finish and beige trim
- Shelter vent hoods made of aluminum.

Site Location / Access:

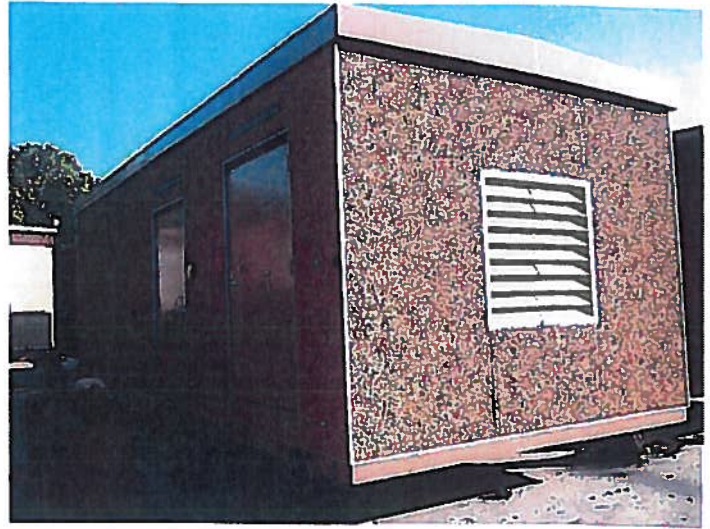
- Sited in rear of property near rail way.
- Access made directly from Sunset Drive through parcel driveway to rear.

This represents a preliminary overall project description. Prepared by Eric James, Land Use Planner for Modus Inc on behalf of AT&T Mobility.

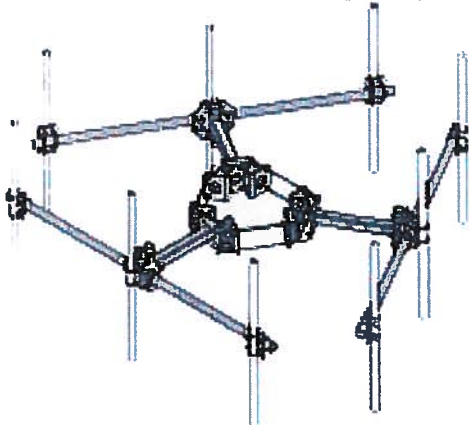
Steel monopole



Pre-fabricated equipment shelter with aggregate finish



Antenna Array with T-arms diagram (showing 3 antennas per sector here)



Redwood privacy fence



RRUS 11

Frequency (AT&T)

- ✓ Band 12 (Lower 700 MHz)
- ✓ Band 4 (AWS, 17/2100 MHz) — 2Q2011

MIMO Capable

- ✓ 2x30W MIMO
- ✓ IBW of 20 MHz

Size & Weight

- ✓ Band 4: 44 lbs
- ✓ Band 12: 50 lbs
- ✓ 17.8 x 17.3 x 7.2 in. incl. sun shield

Power

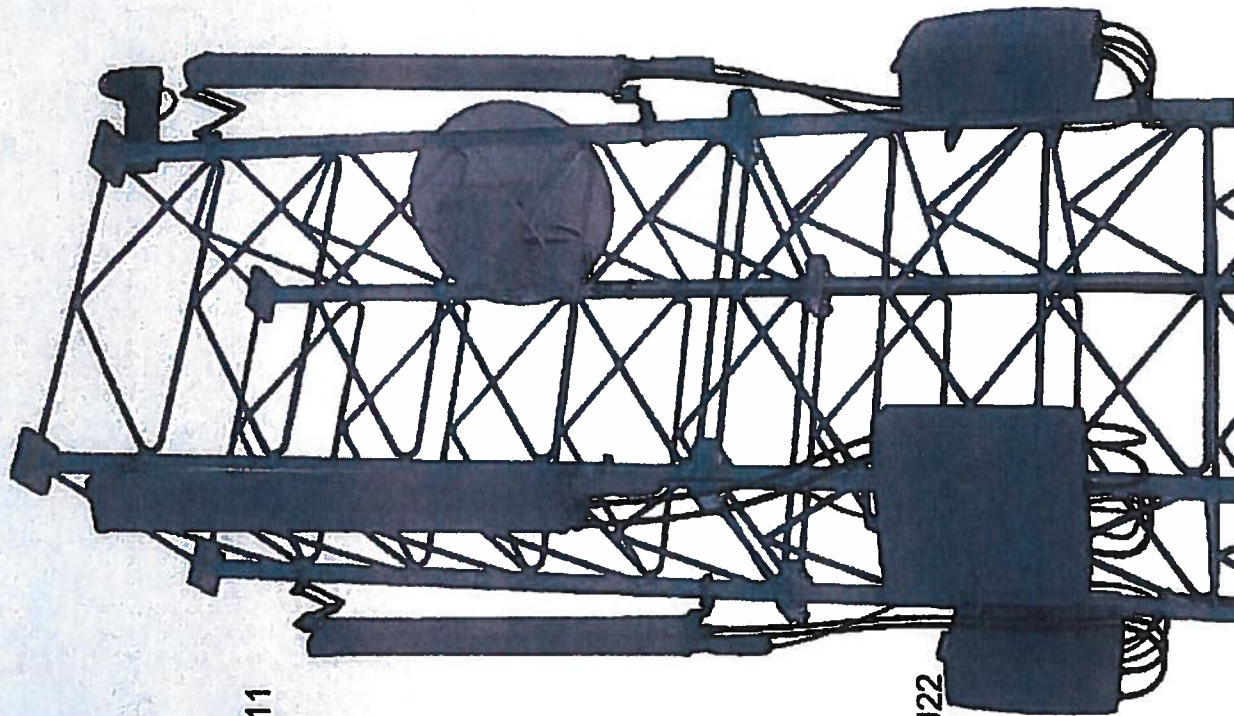
- ✓ Input voltage: -48 VDC or AC (option)
- ✓ Fuse size: 13 – 32 A
- Recommended: 25 A

Wall and pole mounting

- ✓ Brackets reused from RRUW and RRU22

Minimum Clearances

- ✓ Above \geq 16 in.
- ✓ Below \geq 8 in.
- ✓ Side \geq 0 in.



ATTACHMENT "C"

City of Antioch
Planning Division
P.O. Box 5007
Antioch, CA 94531

September 30, 2013

Modus Inc.
149 Natoma Street 3rd Floor
San Francisco, CA 94105
Fax: 415-944-3805
Site Acquisition Specialist for
AT&T Mobility



Proposed New AT&T Wireless Telecommunications Facility at 801 Sunset Drive, Antioch, CA (APN 560-034-014-4)

Alternatives Analysis Report

AT&T Mobility identified a significant gap in its service coverage in the City of Antioch. AT&T Radio Frequency (RF) design engineers outlined a search ring area to locate a wireless antenna facility to meet surrounding gap coverage objectives. The facility is necessary to benefit the public with crucial improved communications in the gap area.

Search Ring and Identified Antenna Location

The search ring delineates the geographic boundary of the significant gap. The gap area identified by AT&T Radio Frequency is approximately 0.8 square miles centered on the intersection of Sunset Dr and Cavallo Dr. The area covers residential neighborhoods to the north and south as well as coverage to CA-4. The primary role of the site will offload capacity (number of cell users in the area) from a nearby AT&T site and secondary role will be to improve coverage to higher levels in nearby homes.

Figure 1. Search Ring map issued by AT&T RF. The blue line represents the coverage gap area. The red line represents a preferred area to place the antennas. The requested RAD center of antennas is 60 feet to achieve coverage.



Defining a Significant Gap

The definition of a significant gap may vary among other service providers but generally delineates a geographic area in which antenna signal is below user expectations. Whether a device may be phone, tablet, or computer, the user may experience weak reception, inability to make calls and slow or intermittent data.

AT&T has a technological necessity to provide improved wireless cell and data service. The gap can be measured by either the service levels in the area, or by the number of users (capacity) needing to access service. AT&T RF engineers calculate signal strengths and capacity based on nearby AT&T wireless sites. RF issued the attached propagation maps for the jurisdiction, which detail the coverage objectives and nearby cell sites.

Service levels are categorized in the following manner:

- In-Building Service: Indicates good cell signal that can be received well within buildings and indicates proximity to the cell tower.
- In-Transit Service: Indicates moderate cell signal that can be received while moving within vehicles or signals through open thoroughfares not impeded by structures.
- Outdoor Service: Indicates lowest cell signal strength that can only be received while outdoors or that reception has degraded given the distance to the nearest antenna. Service at this level can be easily impeded by objects, structures, weather or by the user moving around.

Before and After Coverage

The attached **Propagation Maps** reveals service levels are good toward the east of the site along Hillcrest Ave, but fair north, west and southwest – toward A Street. With the proposed site (CCU4511) installed at a RAD center of 56 feet, the AT&T RF engineer is able to achieve full in-building service to the identified gap area. Service is improved north through E 18th Street and west to A Street.

The attached **Existing Surrounding Sites** reveals four nearby AT&T sites within 2 miles of the site, ranging from 0.92 mi to 1.45 mi away. The arrangement of these sites correlate with the propagation maps and produce the coverage gap.

Least Intrusive Means

AT&T proposes the standard monopole design as it correlates with the surrounding industrial uses, industrial-commercial structures, and the railway bed. Placing it in the rear of a building allows the height impact setback to be lessened from Sunset Dr. In addition the site is setback from other uses by the railway.

Alternative Analysis

AT&T Mobility seeks to fill a significant gap using the least intrusive means. The identification of a proper antenna site to meet a significant gap in service coverage is constrained by a matrix of stringent conditions:

- | | |
|---------------------------------------|--|
| - Topography | - Approval of RF engineer |
| - Existing blocking structures | - Willingness of underlying property owner |
| - Zoning, City Ordinance | - Willingness of collocation leaseholders |
| - Available utilities to service site | - Leasing and contractual negotiations |
| - General access | - 24 hour emergency access |
| - Space for equipment shelter | - Construction feasibility, cost to build |

Wireless communication is line-of-sight technology that requires antennas to be in relatively close proximity to the wireless handsets to be served. All factors are weighed between the service carrier, property owner, and jurisdiction.

AT&T Mobility's agents performed an exhaustive look at suitable sites to fulfill the significant coverage gap. The search ring was initially exhausted in the following manner:

1. All residential areas were eliminated as candidates due to general height restrictions and that no tall multi-story residential towers were identified for roof collocation. This eliminated the north and south quadrants of the ring.
2. In terms of design, there were no multi-story commercial buildings by which to collocate upon roofs.
3. AT&T's requested build size of 9 antennas discounts any wood poles or thin poles for structural reasons. PG&E towers were examined and forwarded to PG&E for review. Some towers along Caltrans right-of-way were automatically eliminated due to no physical space for an at-grade equipment shelter and CMU wall.

Review of Final Candidates

After geographically exhausting the search ring, AT&T Mobility agents examined the following PG&E Towers for collocation:

1. **PG&E Tower – Renwick Lane and Hillcrest Ave - 37.999648,-121.787857**
Zoned R-6 - Tower-mounted collocation
PG&E reviewed and denied this tower as Verizon currently occupies the top hat of the tower.
2. **PG&E Tower – Sunset Drive and Deypar Court - 37.99752,-121.79041**
Zoned R-6 – Tower-mounted collocation
PG&E reviewed and denied this tower due to a high-pressure gas line underneath. In addition it was determined all towers near CA-4 were near this gas line and that none were beyond the safe distance of 20' from it.
3. **PG&E Tower – Former U-Haul at 1600 Sunset Dr**
PG&E did not review this tower specifically however the landlord did not respond to any requests. In addition zoning felt the site may be hazardous or clean-up site given the on-site gas station, and may not pass AT&T environmental review.
Frank Inzerillo 925-757-7709

PG&E Contact

Ash Rageh, Wireless Installation Manager, PG&E Business Development
245 Market Street, Mail Code N10D, San Francisco, CA 94105
Mobile: 510-504-6879 Email: anrl@pge.com

AT&T agents explored the following buildings and properties:

1. 401 Sunset Dr Commercial Center 37.999496 -121.795565

Zoned C-2 - At-grade monopole or slimline

The site was approved as a primary candidate for 60' monopole by AT&T RF and leasing negotiations had been entered. Shortly the landlord indicate the building had gone into escrow and were no longer willing to move forward with AT&T.

New owner contact not available.

2. King's Chapel 320 Worrell Road 37.993207 -121.799723

Roof-top steeple - Zoned R-6

AT&T investigated collocating within an existing steeple of the church. The church declined. (925) 756-7315

3. Caltrans -Antioch Maintenance Station - 2771 Windsor Drive 37.995953 -121.792604

At-grade monopole - The Caltrans wireless division declined to locate on this property. Mahnaz Rastakhiz (510) 286-5418

4. Public Storage 601 Sunset Dr - 37.998341 -121.794251

Zoned C-2

RF also approved this as a secondary candidate for 60' monopole. The proposed build, typical of other self-storage agreements, is to locate within existing storage bay and penetrate the roof with monopole. It was determined the preferred area for the cell build in the rear of the property was not buildable due to an existing rear stormwater easement. In addition, the storage bays appeared "raw" and required reinforcement. In addition, servicing them with power would require lengthy trenching.

Lori Kind - Public Storage - Wireless Department

701 Western Ave. 1st Floor Glendale, CA 91201

(818) 244-8080 Ext. 1350 (O) (805) 300-2240 - Cell

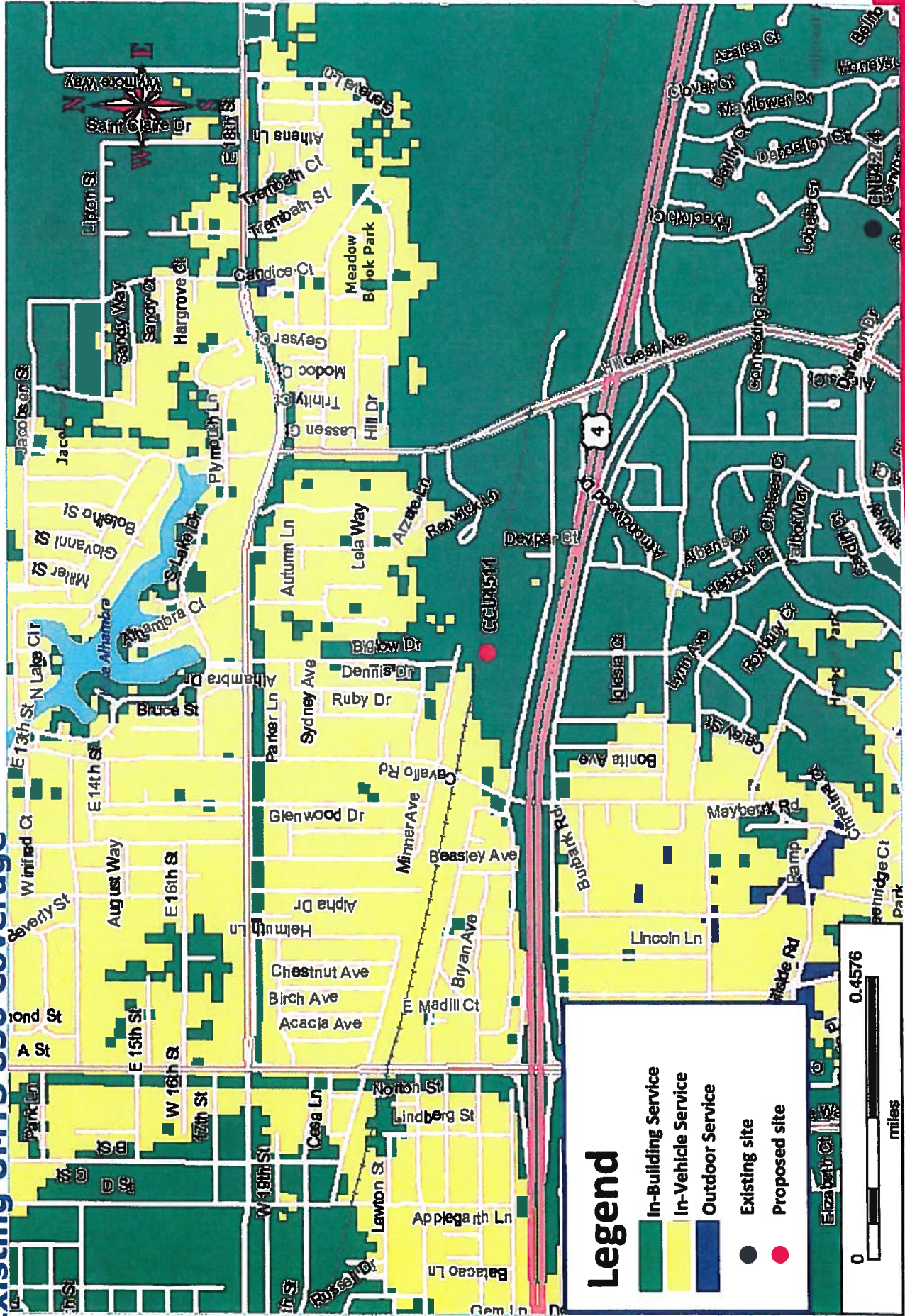
Selected candidate: 801 Sunset Dr - Napa Auto Parts

The ring was due to be exhausted due to nearly all appropriate candidates being exhausted. AT&T agents went on site to properties which did not respond to contacts and reached out to a Napa Auto Parts store at 801 Sunset Drive. The property owner indicated interest in pursuing a build and approved the 60' monopole installation in the rear of the lot.

CCU4511 Zoning Propagation Map

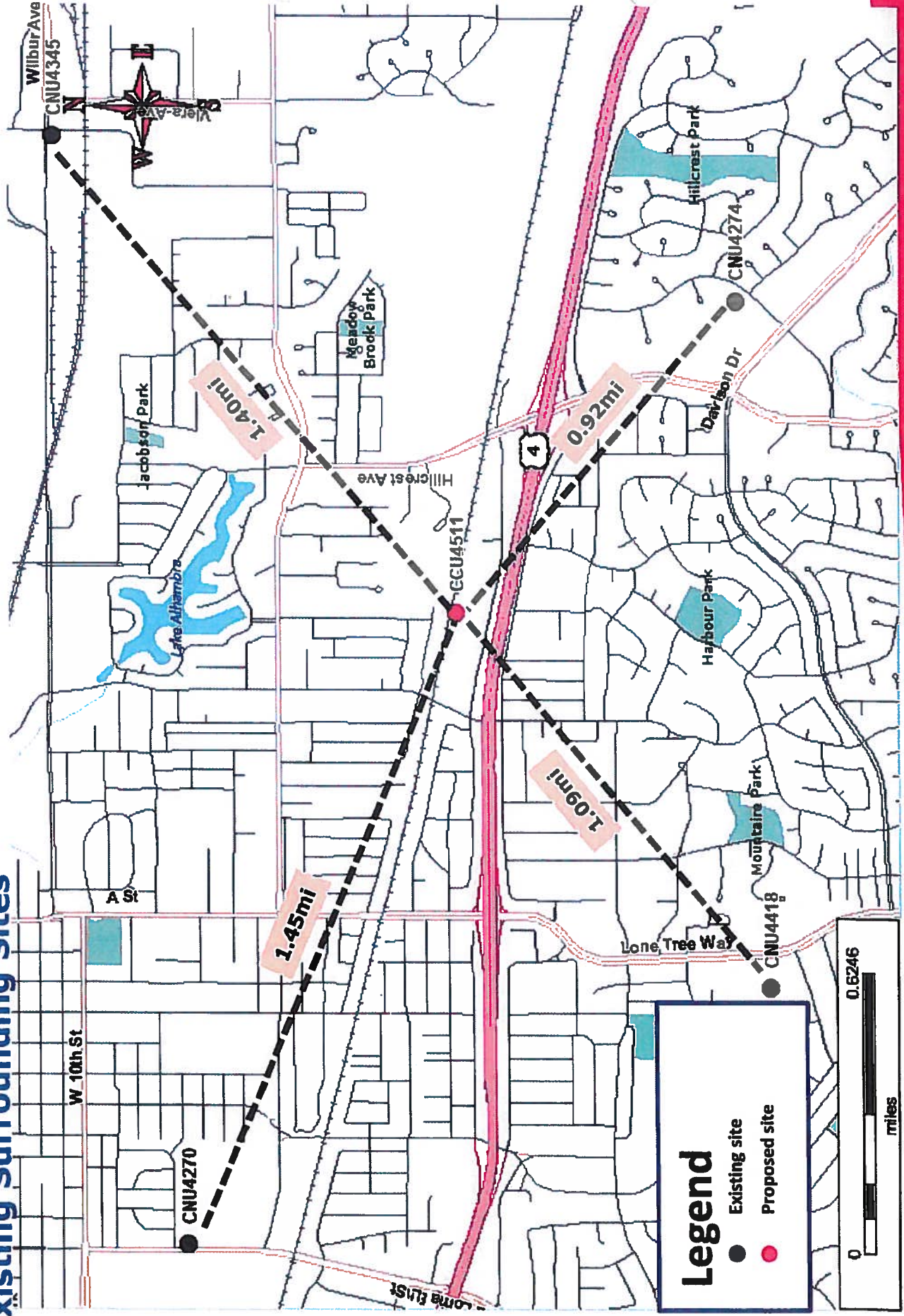
August 23, 2013

Existing UMTS 850 Coverage





Existing Surrounding Sites



Legend

- Existing site
- Proposed site



August 23, 2013

D4

ATTACHMENT "E"

TELECOM LAW FIRM

A Professional Corporation

Telecommunications
Technology Counsel
for Government Agencies
and Private Institutions

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Kramer@TelecomLawFirm.com

Our File Reference:
A9311.1

March 17, 2014

Ms. Mindy Gentry
Senior Planner
City of Antioch, California
200 H Street
Antioch, CA 94509

Reference: AT&T Mobility Site Proposed at 801 Sunset Drive
Subject: Project Review and Recommendations

Dear Ms. Gentry:

The City of Antioch ("City") requested a review of the AT&T Mobility ("AT&T") permit application to construct a new wireless communication facility located at 801 Sunset Drive.

Project Description

The proposed project essentially consists of a new 60-foot-tall faux-tree ("Monopine") to support antennas and associated non-antenna equipment. The base station equipment is to be housed within a new standalone structure to be placed immediately adjacent to the base of the Monopine. The base station shelter and the Monopine are to be enclosed by fencing at the northern end of the subject property, just south of the railroad tracks.

Section 6409(a) Evaluation

As a threshold matter, the City must determine whether the proposed application falls under the ambit of Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012. This section discusses Section 6409(a) and determines whether it should apply to this application.

Generally, Section 6409(a) requires local governments to approve certain requests to collocate with or modify an existing wireless tower or base station. Thus, Section 6409(a) may be outcome-determinative. Section 6409(a), codified at 47 U.S.C. § 1455(a) (2013), states in full:

E1

(a) FACILITY MODIFICATIONS.—

(1) IN GENERAL.—Notwithstanding Section 704 of the Telecommunications Act of 1996 (Public Law 104–104) or any other provision of law, a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.

(2) ELIGIBLE FACILITIES REQUEST.—For purposes of this subsection, the term “eligible facilities request” means any request for modification of an existing wireless tower or base station that involves—

- (A) collocation of new transmission equipment;
- (B) removal of transmission equipment; or
- (C) replacement of transmission equipment.

(3) APPLICABILITY OF ENVIRONMENTAL LAWS.—

Nothing in paragraph (1) shall be construed to relieve the Commission from the requirements of the National Historic Preservation Act or the National Environmental Policy Act of 1969.

To determine whether Section 6409(a) applies, the City must apply the two-prong test described below. The statute applies only when:

- (1) the applicant requests to collocate, remove, or replace transmission equipment from an existing tower or base station; and
- (2) the proposed project will not “substantially change the physical dimensions” of that tower or base station.

Section 6409(a) only applies to a proposed wireless site project only when both of the prongs are true. The statute does not apply when the applicant desires to construct an entirely new wireless communication facility or when the applicant desires to modify an existing site that substantially changes the physical dimensions of the existing tower or base station.

Here, we conclude that Section 6409(a) does not apply to this application because AT&T proposes to construct an entirely new site rather than collocate, remove, or replace existing transmission equipment. The proposed site cannot qualify as a “collocation” because the current pole does not support any wireless transmission equipment. Therefore, the proposed site does not satisfy the first prong of the analysis and the City need not consider the second prong.

In sum, the City should (1) find that Section 6409(a) does not apply to this application and (2) process this application under its established standards and procedures.

Significant Gap & Alternative Site Analysis

Under federal law, a State or local government (1) must allow a wireless service provider to close a “significant gap” in the provider’s own service, but (2) may require the provider to adopt the “least intrusive means” to close the gap. The provider bears the burden to show that a significant gap exists and, regardless of whether a significant gap exists, that its proposal represents the least intrusive means to achieve its service goals. This section discusses both issues.

Significant Gap in AT&T’s Service?

To determine whether a significant gap in service exists, the applicant must show that a permit denial would actually or effectively prohibit that particular applicant from providing its own service.¹ This fact-specific analysis depends on the particular circumstances of each individual case.

In this case, AT&T provided existing and predicted signal coverage maps for this project. Figure 1 shows the existing coverage claimed by AT&T; Figure 2 shows the predicted coverage post-installation.

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¹ See *MetroPCS, Inc. v. City and Cnty. of San Francisco*, 400 F.3d 715, 733–35 (9th Cir. 2005).

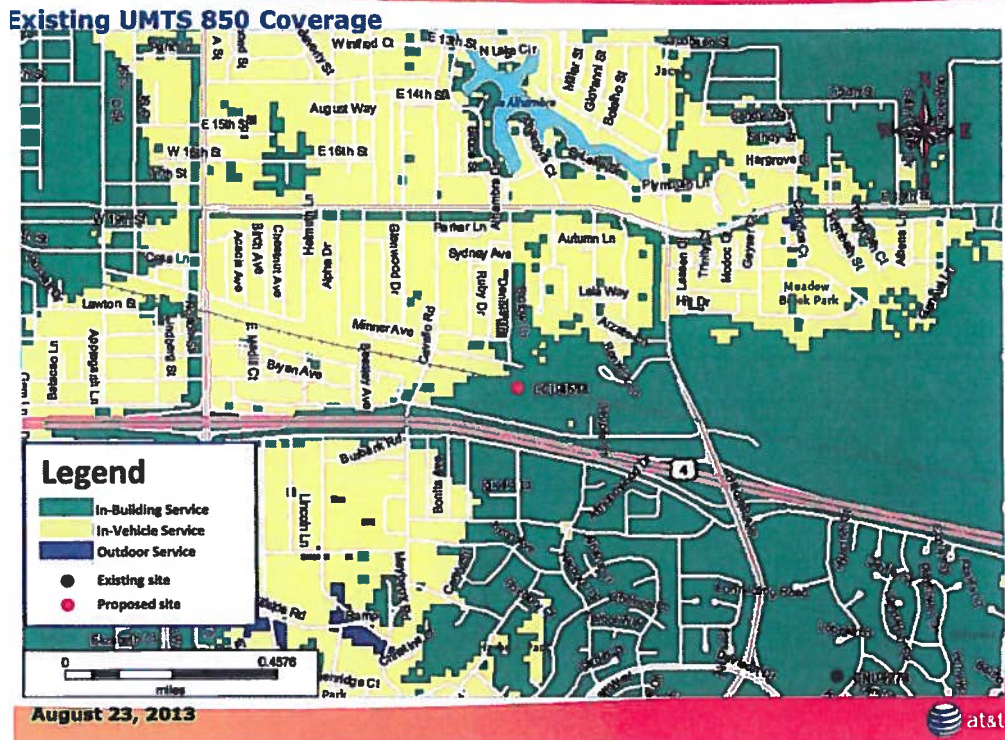


Figure 1: Existing coverage (Source: AT&T)

Given the lack of objective signal levels for each type of wireless service (“In-Building”; “In-Vehicle”; and “Outdoor” services), the existing coverage depicted by AT&T subjective shows no coverage breaks or gaps anywhere on the map.

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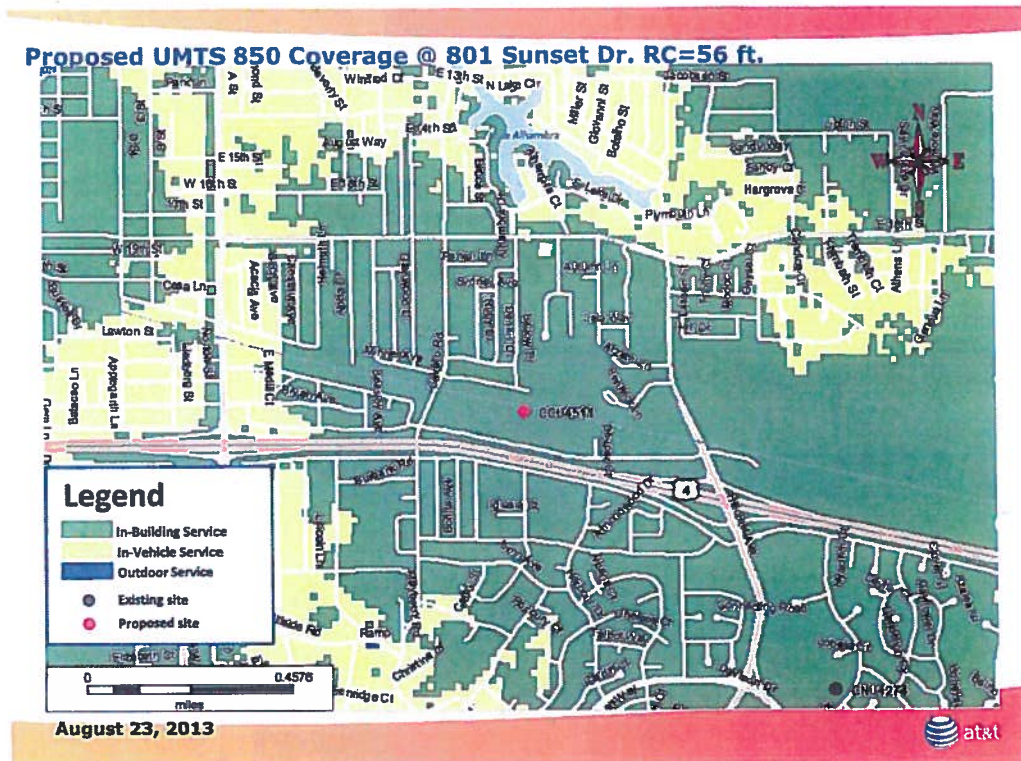


Figure 2: Post-installation coverage (Source: AT&T)

The post-installation coverage map shows an increase in signal strength in a portion of the overall area depicted on the map. The specific areas that will experience increase signal coverage are shown in Figure 3, which is an exhibit I produced by electronically showing the differences between Figures 1 and 2.

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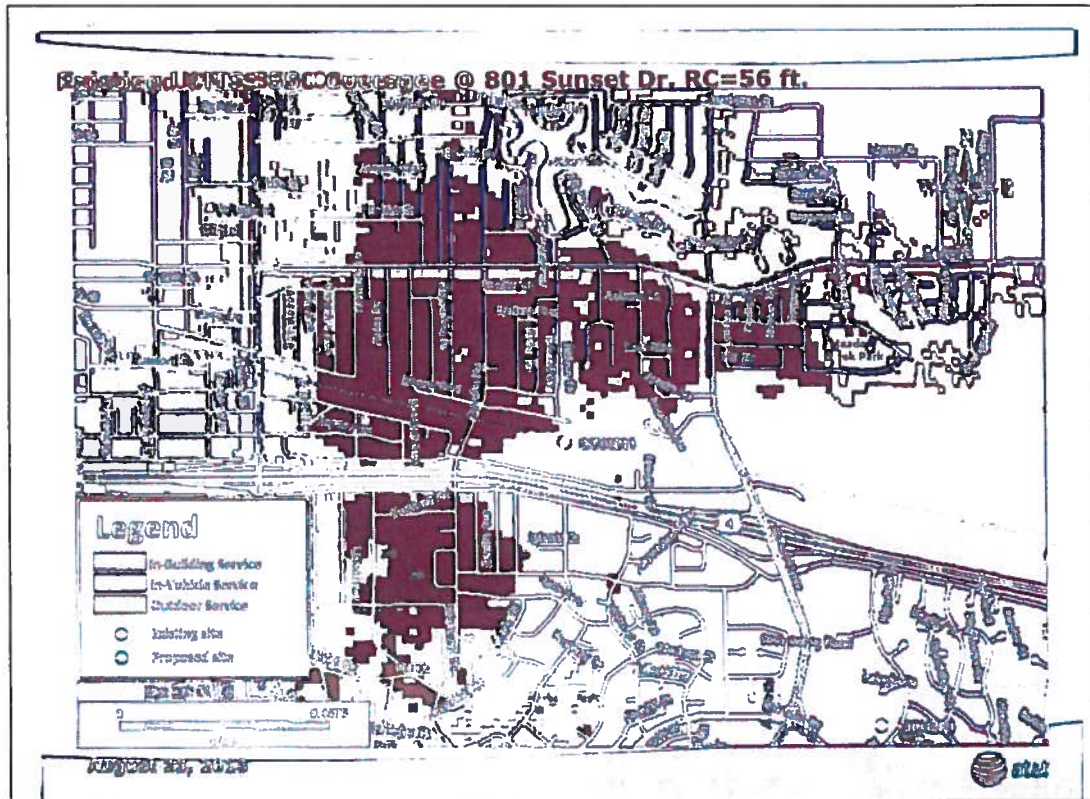


Figure 3: Areas of increased signal strength shown in dark brown. (Maps source: AT&T; difference map produced by J. Kramer)

In sum, it is my opinion that AT&T's maps in Figures 1 and 2 do not show any existing signal coverage gap in AT&T's network, much less a significant gap in AT&T coverage.

AT&T has also provided a map that shows the proposed site in relation with the four nearest sites. That map is shown in Figure 4, below.

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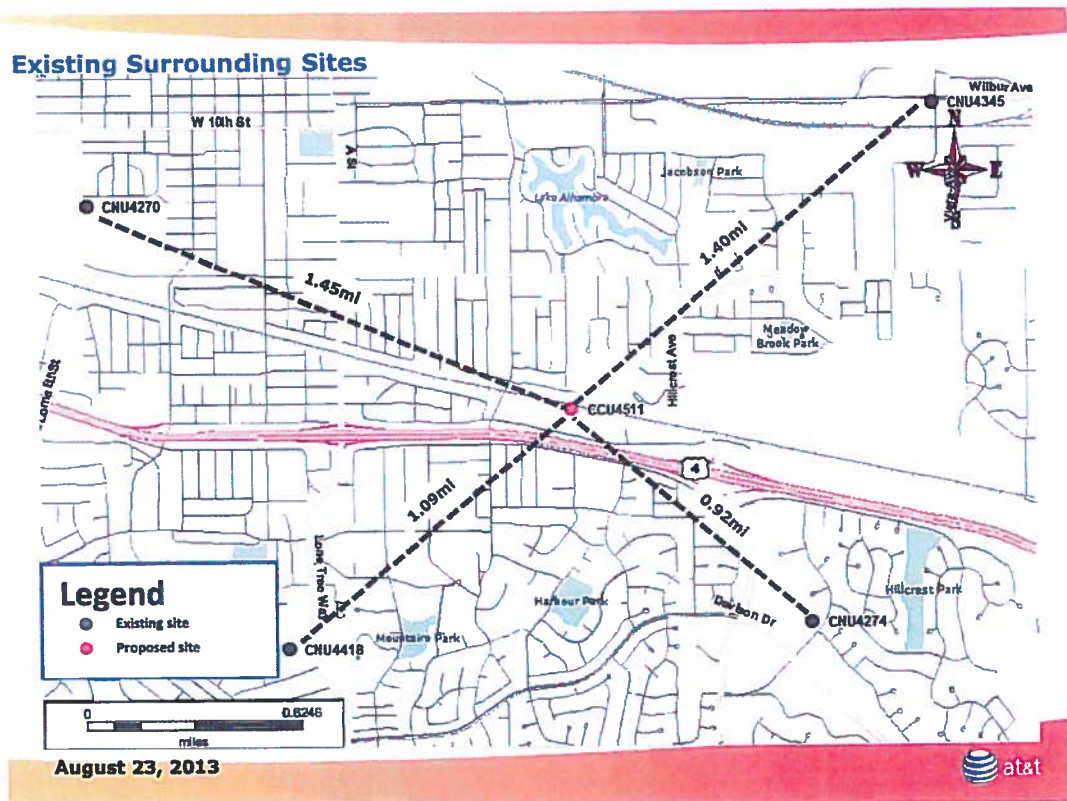


Figure 4: Surrounding Sites Map (Source: AT&T)

It is my opinion that the purposes of the proposed site are (a) to 'off-load' signal call/data traffic from the surrounding sites, and (b) to provide increased signal strength in the areas depicted in Figure 3.

Design

AT&T proposes to install a Monopine antenna support with its antennas and non-antenna equipment to be visibly located outside of the branch canopy. AT&T's photo simulation of the site is shown in Figure 5 below.

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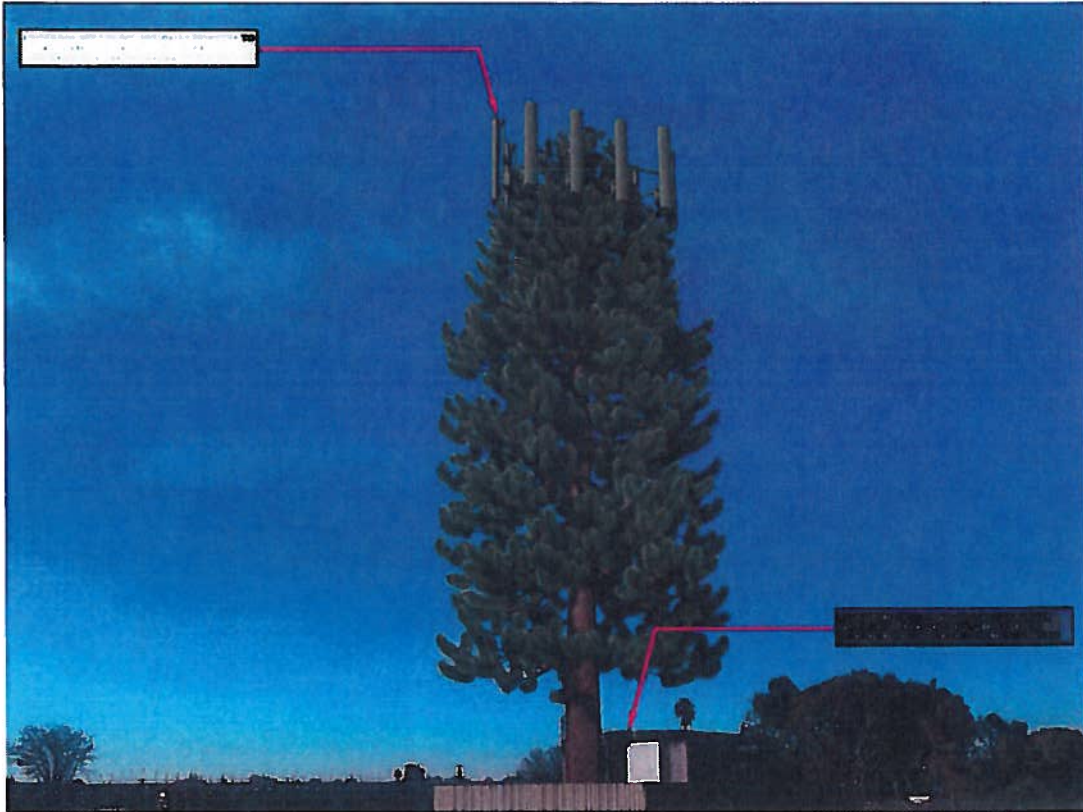


Figure 5. Photo-simulation of Monopine and base station enclosure. (Source AT&T)

AT&T's proposed Monopine proposal is not the best design available. This design places the antennas and additional equipment visibly beyond the faux tree branch canopy. A preferred design would have the antennas, support arms, other equipment contained within the canopy, and other design elements to better mimic a real pine tree.

I recommend as conditions of approval the following design elements:

1. The applicant shall construct and at all times thereafter maintain the Monopine tree so that all antennas, mounting brackets, electronic equipment located adjacent to the antennas, and cables are fully contained within the faux branch canopy; and
2. All panel antennas shall at all times be covered by "pine needle socks" encasing the panel antennas; and

3. All panel antennas, support arms, ancillary equipment installed adjacent to the antennas shall be colored in browns and greens to mimic the natural colors of a pine tree; and
4. No external cables shall be permitted on the outside face of the Monopine trunk. All cables shall be within the trunk of the Monopine from point where they enter at the level of the antennas to the point where they exit to transit to the base station building; and
5. Three-dimensional bark cladding shall be installed on all portions of the trunk and branches of the Monopine; and
6. The Monopine shall be constructed with a natural tapering canopy, and employ a minimum of 3.5 branches per foot; and
7. The lowest branches shall be installed no higher than twelve feet above the ground level; and
8. All cables connecting the Monopine to the base station building shall be run at a height lower than the fence enclosing the project area.

The design elements I have described above will result in a finished project that is similar to that shown in Figure 6, below, which I have created from AT&T's photo-simulation in Figure 5, above.

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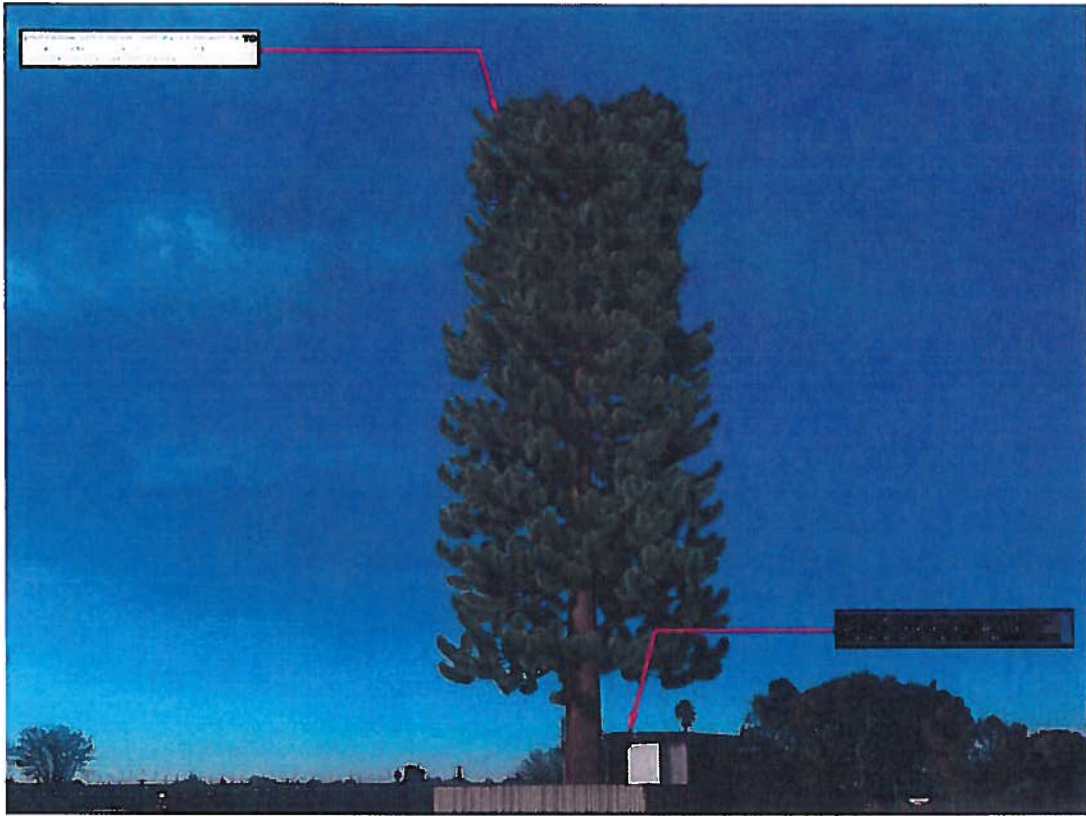


Figure 6: Photo-simulation of a preferred design for the Monopine. (Original photo-simulation source: AT&T. Modifications: J. Kramer)

RF Emissions Evaluation

The Federal Communications Commission (“FCC”) completely occupies the field of RF safety standards in the United States. The City legally cannot establish or require RF safety standards, whether more strict, more lenient, or the same as the FCC standards. The FCC does, however, permit the City to determine whether a proposed wireless project meets the federal safety standards found at 47 C.F.R. §§ 1.1307 *et seq.* (“FCC Rules”) and FCC Office of Engineering and Technology Bulletin 65 (“OET 65”) RF safety requirements.

Under the FCC Rules, certain types of wireless projects are deemed “categorically excluded” and not subject to further RF evaluation. A wireless project is categorically excluded when the antenna supporting structure is not a building or shared to perform some other function, and the lowest portion of the transmitting antenna is at least ten (10) meters AGL.

Here, the proposed project does qualify for a categorical exclusion because the antennas are mounted above ten (10) meters AGL. Therefore, an analysis of the RF emissions is not necessary to determine whether the antennas will comply with the FCC Rules. The project RF emissions will comply with the FCC rules based on the minimum height of the proposed antennas.

To comply with FCC Rules and OET 65, I recommend that the City require, as a condition of approval, the following:

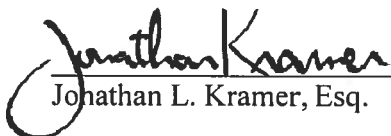
AT&T shall install and at all times maintain in good condition an RF Notice sign on the entry gate of the fenced enclosure at least five feet (5') above the ground. The signage shall comply with FCC OET Bulletin 65 or ANSI C95.2 for color, symbol, and content conventions. The signage shall at all times provide a working local or toll-free telephone number to its network operations center, and such telephone number shall be able to reach a live person who can exert transmitter power-down control over this site as required by the FCC.

If AT&T complies with the condition just described in this memorandum, then the City will have no basis to deny or further condition the project on the basis of RF emissions.

Conclusion

Subject to the proposed conditions in this memorandum, I recommend that the City advance this project to the next stage in the planning process.

Respectfully submitted,


Jonathan L. Kramer, Esq.

JK/A9311.1

**STAFF REPORT TO THE PLANNING COMMISSION
FOR CONSIDERATION AT THE MEETING OF APRIL 2, 2014**

Prepared by: Mindy Gentry, Senior Planner ~~MA~~
Date: March 27, 2014
Subject: **UP-13-10, AR-13-11 – Use Permit and Design Review for a
Telecommunications Site at 3215 Fairview Drive**

RECOMMENDATION

It is recommended that the Planning Commission approve a use permit and design review for a telecommunications facility consisting of 9 panel antennas, 21 remote radio units, and 4 surge suppression units on a 65 foot tall Monopine with an associated prefabricated equipment shelter, subject to the conditions contained in the attached resolution.

REQUEST

Modus Inc., the applicant, on behalf of AT&T Mobility, requests the approval of a use permit and design review for a telecommunications facility consisting of 9 panel antennas, 21 remote radio units, and 4 surge suppression units on a 65 foot tall Monopine with an associated prefabricated equipment shelter. The project site is located at 3215 Fairview Drive (Attachment "A") (APN: 074-123-009).

BACKGROUND

The approximately 2.4 acre site contains a 41,700 s.f. building containing a retail furniture store.

The property has a General Plan designation of Regional Commercial and has a zoning designation of Regional Commercial (C-3).

Surrounding land uses and zoning designations are as noted below:

North: Somersville Towne Center (C-3)
South: EBMUD Trail and a vacant commercial property (C-3)
East: Somersville Road and various Commercial Uses (C-3)
West: Vacant property and multifamily housing (C-3)

ENVIRONMENTAL

The project is Categorically Exempt from the provisions of CEQA, pursuant to section 15303 – New Construction or Conversion of Small Structures. This section of CEQA exempts projects that involve construction of limited numbers of new, small facilities or

structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.

ANALYSIS

Issue #1: Project Overview

The applicant proposes to construct a 65 foot tall Monopine to support 9 antennas, 21 remote radio units (RRUs), 4 power surge suppressors, and an associated prefabricated equipment shelter (Attachment "B"). The equipment shelter and the Monopine would be enclosed by an 8 foot tall vinyl slatted chain link fence. The antennas are approximately 6 feet tall by 12 inches wide and would be mounted for an overall height of 60 feet.

The equipment shelter is proposed as a pre-fabricated building, which is 11'5" X 20 and 10'4" in height. The equipment shelter would contain equipment racks and cabinets, a 50kw emergency standby generator with a 115 gallon diesel tank, and the installation of 2 GPS antennas mounted on the shelter roof. The equipment shelter and the Monopine would be enclosed by an 8 foot tall vinyl slatted chain link fence. The site is adjacent to the EBMUD trail and the Municipal Code requires any fence that is adjacent to the public right-of-way, park, or open space, the fence fabric, posts, top rails, and hardware, shall be vinyl clad. A condition has been added to reflect this requirement. The shelter is to be finished in a reddish aggregate with beige trim (Attachment "B").

The Alternatives Analysis Report (Attachment "C") submitted by the applicant, indicates there is a significant gap in its service coverage and indicates the facility is necessary to benefit the public with improved communications in the area (Attachment "D"). However, contrary to the Alternatives Analysis Report, it is the opinion of the City's third party reviewer, Telecom Law Firm, that there is not an existing signal coverage gap in AT&T's network and the request is provide an increase in current service levels (Attachment "E"). Whether the applicant demonstrates a significant gap or not, it must demonstrate that it proposes the least intrusive means to reasonably achieve its service goals. In this case, a faux pine tree has been proposed. Staff has conditioned the project for the best possible design.

ATTACHMENTS

- A: Aerial Photo
- B: Applicant's Summary
- C: Alternatives Analysis Report
- D: Zoning Propagation Maps
- E: Telecom Law Firm Report

**CITY OF ANTIOCH PLANNING COMMISSION
RESOLUTION NO. 2014-****

**RESOLUTION OF THE CITY OF ANTIOCH PLANNING COMMISSION
APPROVING A USE PERMIT AND DESIGN REVIEW FOR A
TELECOMMUNICATIONS SITE AT 3215 FAIRVIEW DRIVE**

WHEREAS, the City of Antioch received a request from Modus Inc., on behalf of AT&T Mobility, for a use permit and design review for a telecommunications facility consisting of 9 panel antennas, 21 remote radio units, and 4 surge suppression units on a 65 foot Monopine with an associated equipment shelter. The project site is located at 3215 Fairview Drive (**APN: 074-123-009**); and,

WHEREAS, this project is exempt from the provisions of CEQA pursuant to CEQA Guideline section 15303 – New Construction or Conversion of Small Structures; and

WHEREAS, the Planning Commission duly gave notice of public hearing as required by law; and,

WHEREAS, the Planning Commission on April 2, 2014, duly held a public hearing, received, and considered evidence, both oral and documentary, and

WHEREAS, the Planning Commission does determine:

1. The granting of such use permit will not be detrimental to the public health or welfare or injurious to the property or improvements in such zone or vicinity.

The telecommunications site will not be detrimental to the public health or welfare or injurious to the property or improvements because the use will be stealth by utilizing a Monopine that will hide the antennas. The subject site will provide improved wireless services to the area, such as mobile telephone services, emergency 911 services, data transfer, electronic mail, internet and web browsing, as well as video streaming for AT&T customers.

2. The use applied at the location indicated is properly one for which a use permit is authorized.

The site is zoned Regional Commercial (C-3) and per the Municipal Code, telecommunications sites are allowed with a use permit.

3. That the site for the proposed use is adequate in size and shape to accommodate such use, and all yards, fences, parking, loading, landscaping, and other features required, to other uses in the neighborhood.

The site is adequate in size and shape to accommodate a telecommunications site as it is currently a commercial use with an unimproved vacant area at the northern end of the site. All buildings and site features are adequate for this use.

4. That the site abuts streets and highways adequate in width and pavement type to carry the kind of traffic generated by the proposed use.

The site is located on Fairview Drive which is both adequate in width and pavement type to carry the traffic generated by the use. It is anticipated that the use will generate very little traffic and would only result in the maintenance of the equipment and the shelter.

5. That the granting of such use permit will not adversely affect the comprehensive General Plan.

The use is considered a telecommunications site and will not adversely affect the comprehensive General Plan.

NOW THEREFORE BE IT RESOLVED the Planning Commission of the City of Antioch, after reviewing the staff report and considering testimony does hereby **APPROVE** the use permit and design review (UP-13-10, AR-13-11), to construct a telecommunications site subject to the following conditions and the findings for the conditions, which are attached as Exhibit A:

A. General Conditions

1. The project shall comply with the Antioch Municipal Code. All construction shall conform to the requirements of the California Building Code and City of Antioch standards.
2. Conditions required by the Planning Commission, which call for a modification or any change to the site plan submitted, be corrected to show those conditions and all standards and requirements of the City of Antioch prior to any submittal for a building permit. No building permit will be issued unless the site plan meets the requirements stipulated by the Planning Commission and the standards of the City.
3. City staff shall inspect the site for compliance with the conditions of approval prior to final building inspection.

4. This approval expires two years from the date of approval (Expires April 2, 2016), unless a building permit has been issued and construction has diligently commenced thereon and has not expired, or an extension has been approved by the Zoning Administrator. Requests for extensions must be received in writing with the appropriate fees prior to the expiration of this approval. No more than one, one year extension shall be granted.
5. The applicant shall defend, indemnify, and hold harmless the City in any action brought by a third party to challenge the land use entitlement or environmental review. In addition, if there is any referendum or other election action to contest or overturn these approvals, the applicant shall either withdraw the application or pay all City costs for such an election.
6. No permits or approvals, whether discretionary or mandatory, shall be considered if the applicant is not current on fees, reimbursement payments and any other payments that are due.
7. An encroachment permit shall be required for all work in the public right of way.
8. This approval supersedes previous approvals that have been granted for this site.
9. All required easements or rights-of-way for offsite improvements shall be obtained by the applicant at no cost to the City of Antioch. Advance permission shall be obtained from any property or easement holders for any work done within such property or easements.

B. CONSTRUCTION CONDITIONS

1. The use of construction equipment shall be restricted to weekdays between the hours 8:00 A.M. and 5:00 P.M., or as approved in writing by the City Manager.
2. The Project shall be in compliance with and supply all the necessary documentation for AMC6-3.2: Construction and Demolition Debris Recycling.
3. Standard dust control methods and designs shall be used to stabilize the dust generated by construction activities. The applicant shall post dust control signage with a contact number of the applicant, City staff, and the air quality control board.

C. FEES

1. The applicant shall pay all fees as required by the City Council.
2. The developer shall pay all required fees at the time of building permit issuance.

3. The applicant shall pay the Contra Costa County Fire Protection District Fire Development Fee in place at the time of building permit issuance.

D. FIRE REQUIREMENTS

1. The applicant shall comply with the following conditions provided by the Contra Costa County Fire Protection District:
 - a. Flammable or combustible liquid storage tanks shall not be located on the site without obtaining approval and necessary permits from the Fire District. (3401.4) CFC
 - b. The applicant/contractor shall submit three (3) complete sets of building plans and specifications of the subject project, including plans for the following required deferred submittal, to the Fire District for review and approval prior to construction to ensure compliance with minimum requirements related to fire and life safety. Plan review and inspection fees shall be submitted at the time of plan review submittal. (105.4.1) CFC (901.2) CFC, (107) CBC

E. PROPERTY MAINTENANCE

1. No illegal signs, pennants, banners, balloons, flags, or streamers shall be used on this site at any time.
2. No signs shall be installed on this site without prior City approval.
3. The site shall be kept clean of all debris (boxes, junk, garbage, etc.) at all times.

F. UTILITIES

1. All existing and proposed utilities shall be undergrounded (e.g. transformers and PMH boxes) and subsurface in accordance with the Antioch Municipal Code, except existing P.G. & E. towers, if any or as approved by the City Engineer.

G. SITE AND PROJECT DESIGN

1. Prior to issuance of a building and/or grading permits, the applicant shall submit revised site plans for review and approval by the Planning Department that incorporate the following:
 - a. The faux branches shall be constructed and at all times maintained on the Monopine so that the faux branches completely envelop all tower mounted equipment.

- b. Faux pine "Antenna socks" shall be installed and maintained at all times on all panel antennas.
 - c. All panel antennas, support arms, ancillary equipment installed adjacent to the antennas shall be colored in browns and greens to mimic the natural colors of a pine tree.
 - d. No external cables shall be permitted on the outside face of the Monopine trunk. All cables shall be within the trunk of the Monopine from the point where they enter at the level of the antennas to the point where they exit to transit to the base station building.
 - e. Three-dimensional bark cladding shall be installed on all portions of the trunk and branches of the Monopine.
 - f. The Monopine shall be constructed with a natural tapering canopy, and employ a minimum of 3.5 branches per foot.
 - g. The lowest branches shall be installed no higher than twelve feet above the ground level.
 - h. All cables connecting the Monopine to the base station building shall run at a height lower than the perimeter fence enclosing the project area so that no one can see the cables from outside the fence.
 - i. The vinyl slatted chain link fence shall be eight feet in height and the fence fabric, posts, top rails, and hardware shall be vinyl clad
 - j. Additional equipment or antennas, or a change in antennas shall be subject to City staff approval.
 - k. The applicant shall maintain all of applicant's facilities free from all graffiti and damage caused by vandalism, accidents, etc. Said graffiti abatement and/or maintenance shall be performed within two (2) business days of first being reported, where reasonably possible.
 - l. No external light fixtures shall be permitted except a switch-operated light at the equipment cabinet. The light shall be in the "off" position except when AT&T personnel and/or their contractor are present at the site.
2. AT&T shall install and at all times maintain in good condition an RF Notice sign on the entry gate of the fenced enclosure at least five feet (5') above the ground. The signage shall comply with FCC OET Bulletin 65 or ANSI C95.2 for color, symbol, and content conventions. The signage shall at all times provide a working local or toll-free telephone number to its network operations center, and

such telephone number shall be able to reach a live person who can exert transmitter power-down control over this site as required by the FCC.

* * * * *

I HEREBY CERTIFY that the foregoing resolution was passed and adopted by the Planning Commission of the City of Antioch at a regular meeting thereof held on the 2nd day of April 2014.

AYES:

NOES:

ABSTAIN:

ABSENT:

TINA WEHRMEISTER, SECRETARY TO THE
PLANNING COMMISSION

EXHIBIT A

Telecommunications Monopole (UP-13-10, AR-13-11) at 3215 Fairview Drive

FINDINGS IN SUPPORT OF CONDITIONS OF APPROVAL

A. GENERAL CONDITIONS

1. The City of Antioch has established a Municipal Code and City standards and the State of California has established a Building Code to protect the public health, safety, and welfare of the citizens within the City and the State respectively. This condition of approval is necessary for the developer to mitigate any project impacts that may threaten the health, safety, or welfare of its citizens.
- 2-3. In order for the project to be constructed to the City's approved standards, the plans need to adequately reflect the changes made by the City Council and City staff needs to inspect the site for compliance with the conditions of approval prior to final inspection approval. These conditions protects the public safety, health, and general welfare of the residents of the Project and surrounding residential and other uses by providing an adequate reflection of the approved project prior to the issuance of building permits and a follow up site inspection to ensure the Project was built as conditioned.
4. The regulatory environment of land development and base line conditions change frequently as well as thresholds established by the California Environmental Quality Act; therefore this condition is necessary to ensure any project going forward is subject to the most current regulations in order to promote the public health, safety, and welfare in the City of Antioch.
5. The Project is being pursued by a developer and the City's responsibility is to promote orderly development within the City. This condition is necessary to protect the City from the financial and time expenses for defending challenges to land use entitlements or environmental reviews that are financially benefitting the applicant, particularly given the City's own financial challenges.
- 6-7. The Project takes City time and staff to process development applications through the land use entitlement process. The development of property is at the benefit of the applicant; therefore the conditions are necessary to ensure the applicant pays the expenses to process the application rather than having that burden placed on the taxpayers for another's benefit and satisfies all necessary requirements to make use of public lands that serve the project site.

8. It is necessary to ensure administrative consistency and avoid confusion between plan versions by identifying the most recent entitlements that govern site development and use.
9. The project requires the use of public lands in order to provide access and extend infrastructure to the project site. These conditions are necessary to allow the project sponsors to make use of public lands to benefit the project.

B. CONSTRUCTION CONDITIONS

- 1-3. The construction of the Project will span approximately one year and will include site preparation, earthmoving, and general construction, which includes the development of buildings, structures, and facilities. Construction activities will produce impacts related to noise, dust, vibrations, and traffic that must be addressed and mitigated. In addition, the City is under a State-wide mandate to divert its waste by 50% and thus the City has adopted an ordinance to reduce construction and demolition debris from going to the landfill. These conditions of approval are necessary to address these impacts from the Project to ensure the public health, safety, and welfare of the Antioch community are protected and that development in the City occurs in an orderly fashion consistent with the City's General Plan and Municipal Code and to not create temporary or permanent nuisances.

C. FEES

- 1-3. The City of Antioch and the Contra Costa Fire Protection District provide existing infrastructure such as streets, utilities, traffic signals, public right-of-way, parks, flood mitigation improvements, parks, and police and fire services. The fees required by the conditions of approval serve two functions: 1) the funds will provide mitigation for the project's fair share impact and the Project's responsibility of costs for the existing infrastructure due to the increase in population and 2) to mitigate the costs of additional infrastructure and maintenance necessary due to the impact of the Project. The conditions of approval are necessary to mitigate impacts to public infrastructure from deterioration as well as provide additional infrastructure to serve the additional population.

D. FIRE REQUIREMENTS

1. The Contra Costa Fire Protection District provides fire services for the City of Antioch and follows the California Fire Code. The conditions of approval are necessary on the Project to protect the public health and provide for the safety and welfare of life and property from fire and explosion hazards or dangerous conditions in new buildings and existing buildings; structures and premises; and

to provide safety and assistance to fire fighters and emergency responders during emergency operations.

E. PROPERTY MAINTENANCE

- 1-3. These conditions are necessary to ensure that the project site is kept in good working order to ensure adequate trash collection, to avoid localized flooding, reduce fire risks, and ensure the continued health, safety and welfare of the project environs.

F. UTILITIES

1. The Project will require electrical facilities. The Antioch Municipal Code requires all utility facilities (including, but not limited to, electric, communication, and cable television lines) which are located on-site or adjacent to the subdivision shall be placed underground. In order to minimize visual clutter utilities should be placed underground or subsurface. This condition is necessary to promote the desirability of the City through the minimization of visual clutter and to maintain the aesthetics of the City as well as adherence to the Antioch Municipal Code.

G. SITE AND PROJECT DESIGN

1. This condition is necessary to ensure harmonious development and appropriate building design as established by the City's Design Guidelines.
2. This condition is necessary to notify the public of radio frequency (RF) emissions that emanate from cell tower equipment.

ATTACHMENT "A"

AERIAL PHOTO



ATTACHMENT "B"

City of Antioch
Planning Division
P.O. Box 5007
Antioch, CA 94531

OCT 08 2013

CITY OF ANTIOCH
COMMUNITY DEVELOPMENT

October 7, 2013

MODUS Inc.
149 Natoma Street 3rd Floor
San Francisco, CA 94105
Fax: 415-944-3805
Site Acquisition Specialist for
AT&T Mobility



Proposed New AT&T Wireless Telecommunications Facility at 3215 Fairview Dr, Antioch, CA 94509 (APN 074-123-009)

Project Description

AT&T Mobility is proposing a new wireless telecommunications facility to provide better service and data capacity to businesses and residents in the City of Antioch. The proposed project involves the installation of new antennas and equipment as follows:

Support Structure / Antenna Location

- The installation of a 64' monopole stealth pine tree made by to be determined stealth concealment company.
 - The installation of (9) 6-foot panel antennas mounted at top, antenna top height to reach 60' feet.
 - The installation of (21) RRUS-11 (radio remote unit) units, (7) per sector, mounted behind antennas.
 - The installation of (4) surge suppression units.
- Cabling routed internal to tree pole.

Base Equipment:

- The installation of standard pre-fabricated equipment shelter (11'-5"x20', 10'-4" feet tall)
 - Shelter exterior with beige aggregate finish.
 - Standard interior AT&T rack-mounted equipment and cabinets
 - (2) GPS antennas mounted to shelter top
 - The installation of (1) Kohler 50kw emergency standby generator with 115 gallon diesel tank, to be integrated inside shelter.
- Antenna structure and shelter to be located within an 18'x35' leasing area fenced by a 8-foot tall chain-link fence with plastic slats. Type of fence selected for weatherability and longevity.
- Power and telco routing through standard underground conduits, trenched to property line and nearby sources.

Site Location / Access:

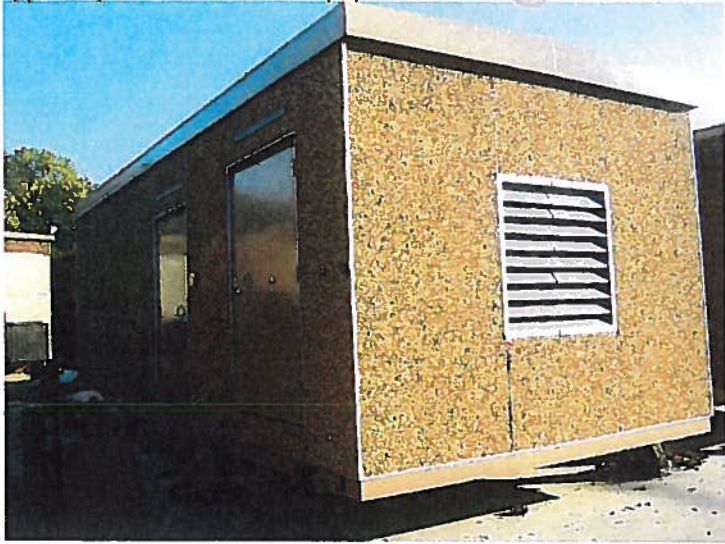
- Sited among three Eucalyptus trees in rear of property. Further tree landscaping to be proposed in revision.
- Access made directly from Fairview Drive to paved driveway to rear of property.

This represents a preliminary overall project description and is subject to change by purview of jurisdictions, property owner, and applicant.

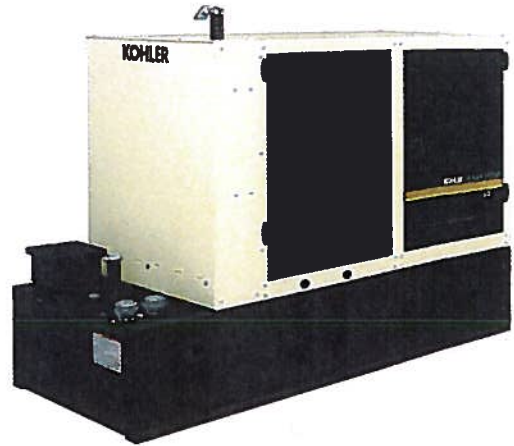
Prepared by Eric James, Land Use Planner for Modus Inc on behalf of AT&T Mobility.

B1

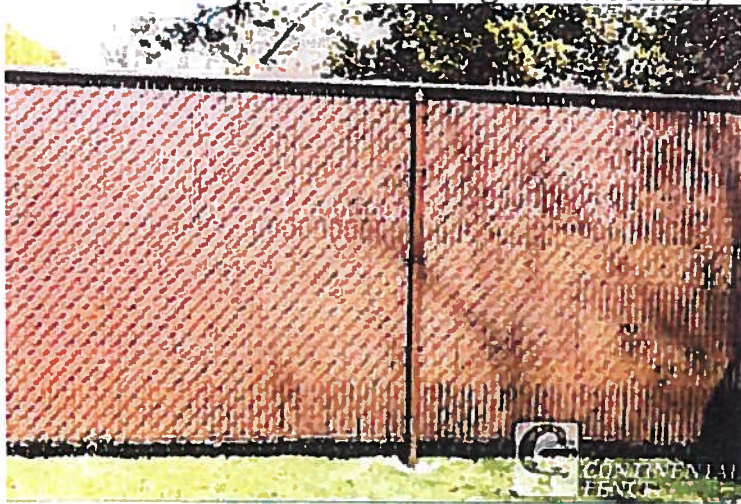
Typical pre-fabricated equipment shelter with access doors and vents



Kohler generator



Chain-link with vinyl privacy slats (winged and colored)

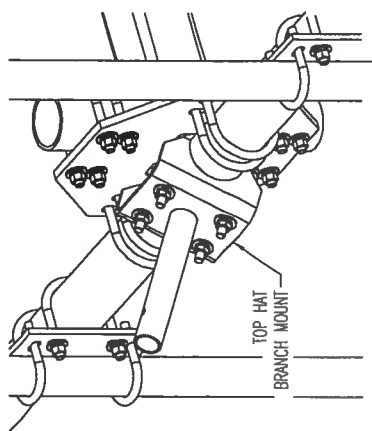


Mono tree by Larson Concealment

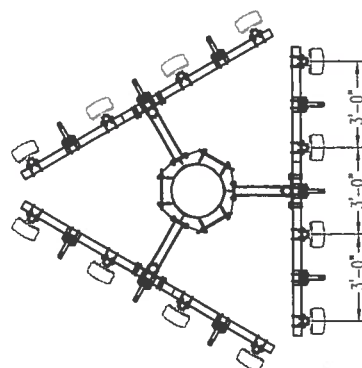


Bark detail by Environmental Integration

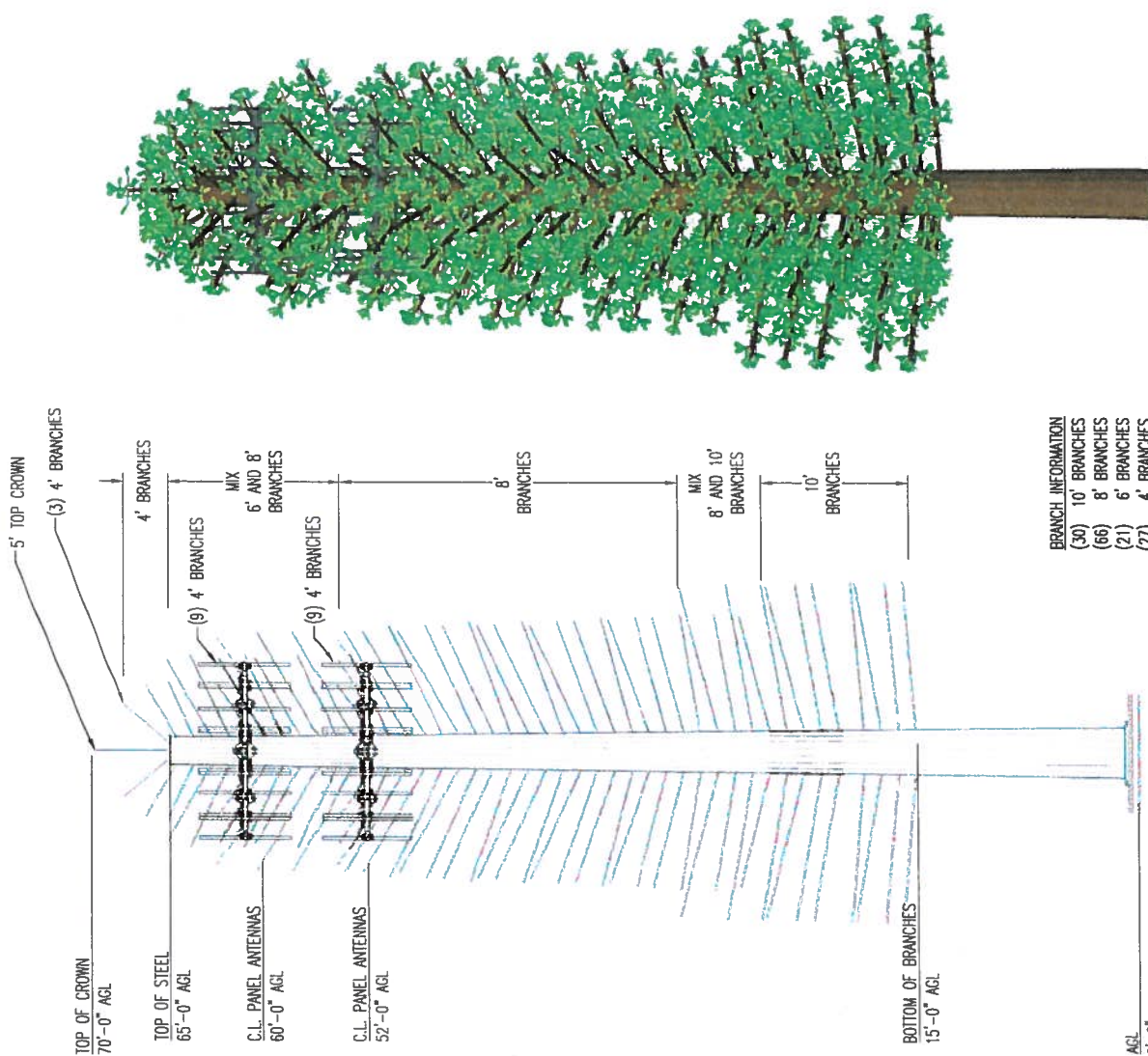




DETAIL: TOP HAT BRANCH MOUNT
SCALE: NONE



DETAIL: ANTENNA MOUNT 52'-0" & 60'-0" AGL
SCALE: NONE

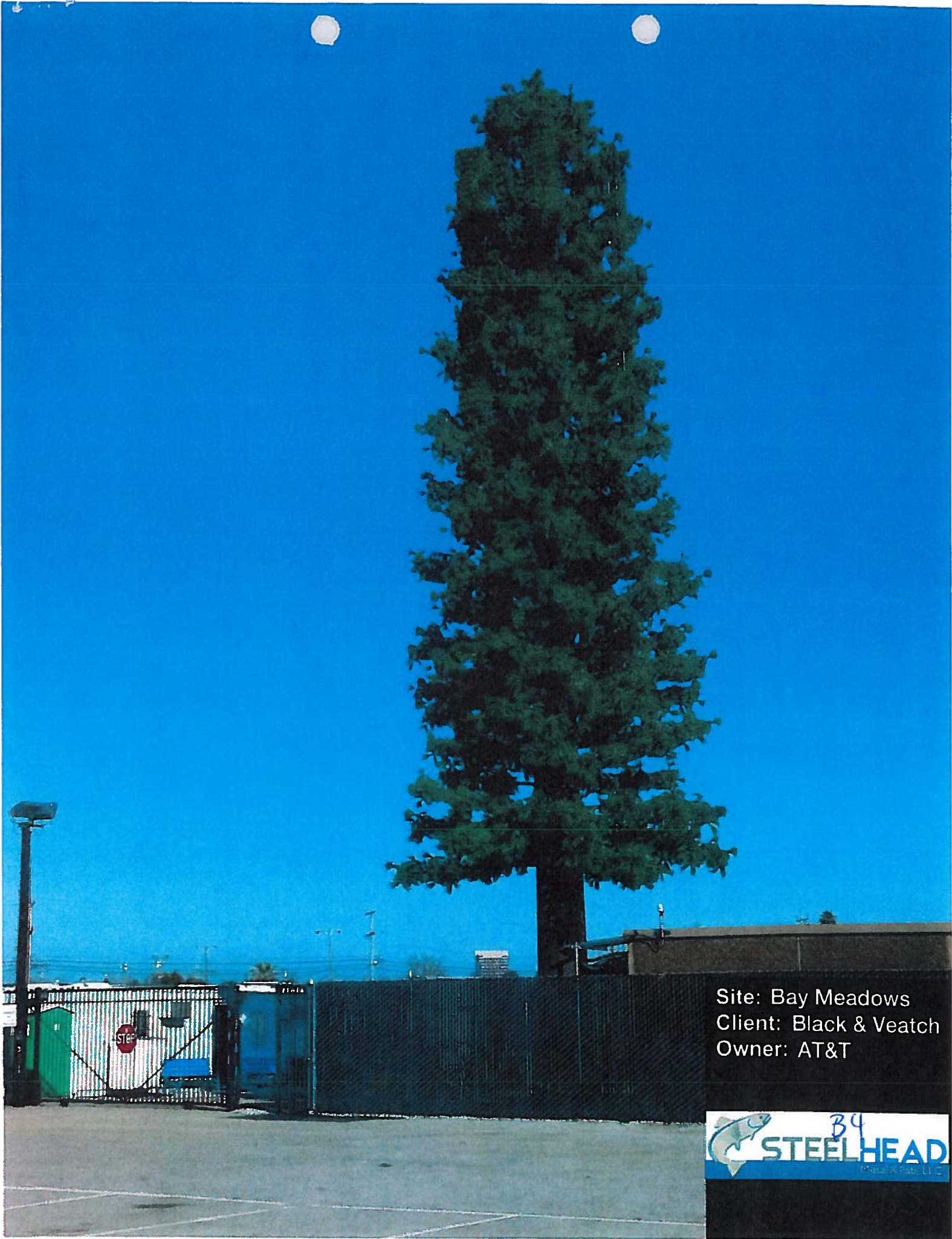


VIEW: FLAT

VIEW: FLAT-STYLE BRANCHES

EXAMPLE

B3



Site: Bay Meadows
Client: Black & Veatch
Owner: AT&T



City of Antioch
Planning Division
P.O. Box 5007
Antioch, CA 94531

OCT 08 2013

CITY OF ANTIOCH
COMMUNITY DEVELOPMENT

Modus Inc.
149 Natoma Street 3rd Floor
San Francisco, CA 94105

Fax: 415-944-3805

Site Acquisition Specialist for
AT&T Mobility



October 7, 2013

Proposed New AT&T Wireless Telecommunications Facility at 3215 Fairview Dr, Antioch, CA 94509 (APN 074-123-009)

Alternatives Analysis Report

AT&T Mobility identified a significant gap in its service coverage in the City of Antioch. AT&T Radio Frequency (RF) design engineers outlined a search ring area to locate a wireless antenna facility to meet surrounding gap coverage objectives. The facility is necessary to benefit the public with crucial improved communications in the gap area.

Search Ring and Identified Antenna Location

AT&T Radio Frequency engineers issued a search ring approximately 1 square mile centered on the intersection of Buchanan Dr and Lucena Way. The area covers commercial and residential uses. Major roads include CA-4, Buchanan Dr, Sommersville Rd, and Contra Loma Blvd.

The role of the site will be 1) to off-load capacity (number of cell users in the area) from a nearby AT&T site (CNU4270) and 2) to improve coverage to commercial nodes and nearby residential neighborhoods.

Figure 1. Search Ring map issued by AT&T RF. The blue line represents the approximate coverage gap area. The red line represents a preferred area to place the antennas. The requested RAD center of antennas is 60 feet to achieve coverage.



Defining a Significant Gap

The definition of a significant gap may vary among other service providers but generally is a geographic area in which antenna signal is below user expectations. Whether the device is phone, tablet, or computer, the user may experience weak reception, inability to make calls and slow or intermittent data.

AT&T has a technological necessity to provide improved wireless cell and data service. The gap can be measured by either the service levels in the area, or by the number of users (capacity) needing to access service. AT&T RF engineers calculate signal strengths and capacity based on nearby AT&T wireless sites. RF issued coverage propagation maps for the jurisdiction, which detail the coverage objectives and nearby cell sites.

Service levels are categorized in the following manner:

- In-Building Service: Indicates good cell signal that can be received well within buildings and indicates proximity to the cell tower.
- In-Transit Service: Indicates moderate cell signal that can be received while moving within vehicles or signals through open thoroughfares not impeded by structures.
- Outdoor Service: Indicates lowest cell signal strength that can only be received while outdoors or that reception has degraded given the distance to the nearest antenna. Service at this level can be easily impeded by objects, structures, weather or by the user moving around.

Before and After Coverage

The attached **Propagation Maps** reveals service is poor west of Sommersville Road and moderate south and east. The proposed site at 3215 Fairview Dr installed at a RAD center of 57 feet reveals the AT&T RF engineer is able to achieve full in-building service to the gap area extending north to south. Remaining service levels are improved to in-transit service toward the west and east. Overall, 1.5 square miles will receive improved coverage.

The attached **Existing Surrounding Sites** reveals three nearby AT&T sites within or about 2 miles of the site, ranging from 1.27 to 2.08 miles away. There are no sites in the western part of the ring toward Loveridge Rd. The distant arrangement of these sites correlate with the coverage propagation maps and produce the gap in service.

AT&T prefers to operate the minimum amount of cell sites while still providing enhanced coverage and therefore tends to maintain a 1 mile separation in urban areas.

Site Design

The proposal for a stealth monopole tree allows the telecom facility to blend among four mature trees in the rear of the property. In addition the site does not remove parking or interfere with existing access.

C2

Alternative Analysis

AT&T Mobility seeks to fill a significant gap using the least intrusive means. However wireless communication is line-of-sight technology that requires antennas to be in relatively close proximity to the wireless handsets to be served. AT&T Mobility's agents performed an exhaustive look at suitable sites to fulfill the significant coverage gap. Multiple factors in the identification of a site are weighed between the service carrier, property owner, and jurisdiction. The search ring was evaluated in the following manner:

- **Topography:** Generally flat north and east. Terrain rises southward toward the ridges. Westward, topography is rolling with some hilly mounds, creating some signal barriers. A site toward the center of the ring at the maximum requested height of 60 feet is preferred to adequately disperse coverage.
- **Existing Structures, Impediments:** The commercial node of Sommersville Road contains 1-2 story structures with surface parking. Mature trees are sporadic reaching 60-70 feet. There were no multi-story buildings to collocate upon.
- **Existing Collocations:** PG&E towers outside the search ring were offered to the RF engineer. Wood poles are thin utility poles are eliminated for AT&T's requested build size of 9 antennas.
- **Zoning, City Ordinance:** In general practice, residential uses are avoided and commercial uses preferred. No city lands or parks were identified. The City of Antioch does not have a codified wireless telecommunications ordinance. The Senior Planner has indicated the City's Planning Commission prefers full stealth options. Given no buildings are near the 60 or even 40 foot height minimums for a roof-top build, traditional or alternative options are presented.
- **Available Utilities:** The area is mostly developed and urbanized.
- **Access/24 Hour Emergency Access:** No landlords expressed concern over access. Access is generally good in the area.
- **Space for Equipment:** There is adequate space for any build type in this ring.
- **Leasing:** Properties were evaluated for willingness of the property owner to engage AT&T Mobility, not all representatives were amicable.
- **Approval of RF Engineer:** The RF engineer for this ring evaluated all candidates for coverage objectives and did not allow for height reductions. In addition the engineer was adamant in the search ring remaining south of CA-4 for the reasoning that the proposed site would off-load current and future users south of CA-4 (whereas the existing site is serving users north of CA-4 in this area).

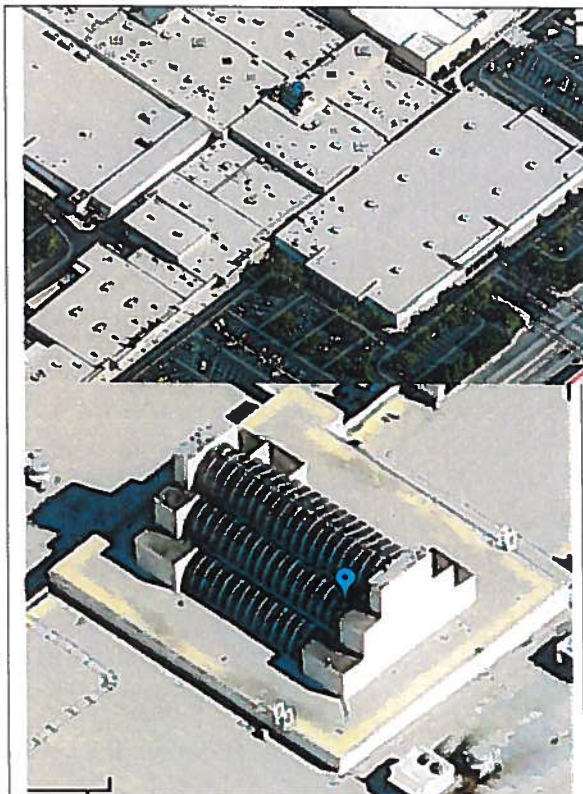
C3

Map of Final Candidates



Review of Final Candidates

AT&T agents explored the following buildings and properties:



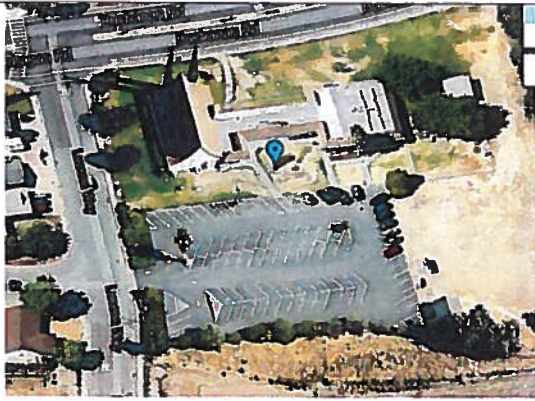
1. Somerville Towne Center, 2556 Somersville Rd

The former County East Mall was zoning approved for AT&T antennas on an architectural window feature on the mall roof. The feature offered about 45' RAD centers for the antennas. The new RF engineer assigned indicated since the approval that AT&T internally rejected the site as not providing sufficient coverage objectives. The antenna signal degraded as it passed over the roof surface to reach handsets. In addition there were concerns over access and equipment storage within the mall complex. The building later fell into escrow and landlord negotiations terminated. Candidate was rejected.

Loretta Tanner 925-754-5230

loretta.tanner@macerich.com

C4



2. Antioch Covenant Church – 1919 Buchanan Rd
Institutional, Zoned PD.

Modus explored constructing a new steeple on the existing church roof (roof is 30', steeple rise 10') or constructing a bell tower on the property (60 feet). RF rejected the steeple height as not achieving the coverage areas. In addition, the low profile of the church and surrounding residential homes would render the build height inappropriate in context. Church declined the bell tower proposal as too massive for their property.

Pastor Ron (925) 754-3626

info@antiochcovenant.org



3. PG&E Tower, 1308 Putnam St

Zoned PD.

This lattice tower is wedged on a residential flag lot. There were numerous design concerns including the current use of the lot, the gated easement road which contained trash and miscellaneous storage, and that it was embedded among residential homes. The property is privately owned. PG&E indicated antennas would need to go below the electrical conductors and therefore residents would likely have concerns. RF engineer rejected the site as too far from the ring.
Not pursued.



4. PG&E Tower, 3015 Rio Grande Dr

Zoned PD.

Lattice tower in rear of LDS church parking lot. Leasing indicated in their experience, LDS churches have never agreed to a carrier installation and therefore there is no possibility of a leasing contract. RF engineer also indicated the site is too far from the ring.

(925) 754-3232

C5



5. Delta Fair Shopping Center, 3300 Delta Fair Blvd

Zoned C-3 – 70' feet maximum.

1-story shopping center with large parking frontage. Existing height about 15'. Options proposed included a new 60' sign structure or roof-top cupolas that would need to reach about 40'.

Landlord tentatively agreed to proceed and suggested the sign option. Later landlord was not amicable to a new structure on site due to ongoing marketing of building for large tenants. Declined.

Colliers International

Hilary Parker 925-227-6233 hilary.parker@colliers.com

Henry E. Englehardt 925-279-4602

henry.englehardt@colliers.com

6. Orchard Square Shopping Center, 2334 Buchanan Rd

Zoned C-3 – 70' feet maximum.

1-story center with parking frontage

The building had some existing "architectural" features that reached 30 feet, as such would be compatible to have more features added. Landlord did not respond to outreach at the time.

Colliers International

Deborah Perry 925-279-4650 deb.perry@colliers.com



C6



7. Former OSH in the Orchard Square Shopping Center – 2388 Buchanan Road

Similar proposal was sent to the separate contact for the former OSH store. The landlord representative rejected a roof-top build as it was also marketing the building for leasing and didn't want to effect a major change before a tenant came in. Landlord agreed to move forward but directed AT&T to explore an at-grade installation in rear walled storage yard near trail.

The RF engineer approved a 60' slimline monopole at this location.

Gallagher & Miersch

Scott Gallagher 925-671-7000 sgallagher@gmre.net

Selected candidate: "Furniture 2000" 3215 Fairview Dr



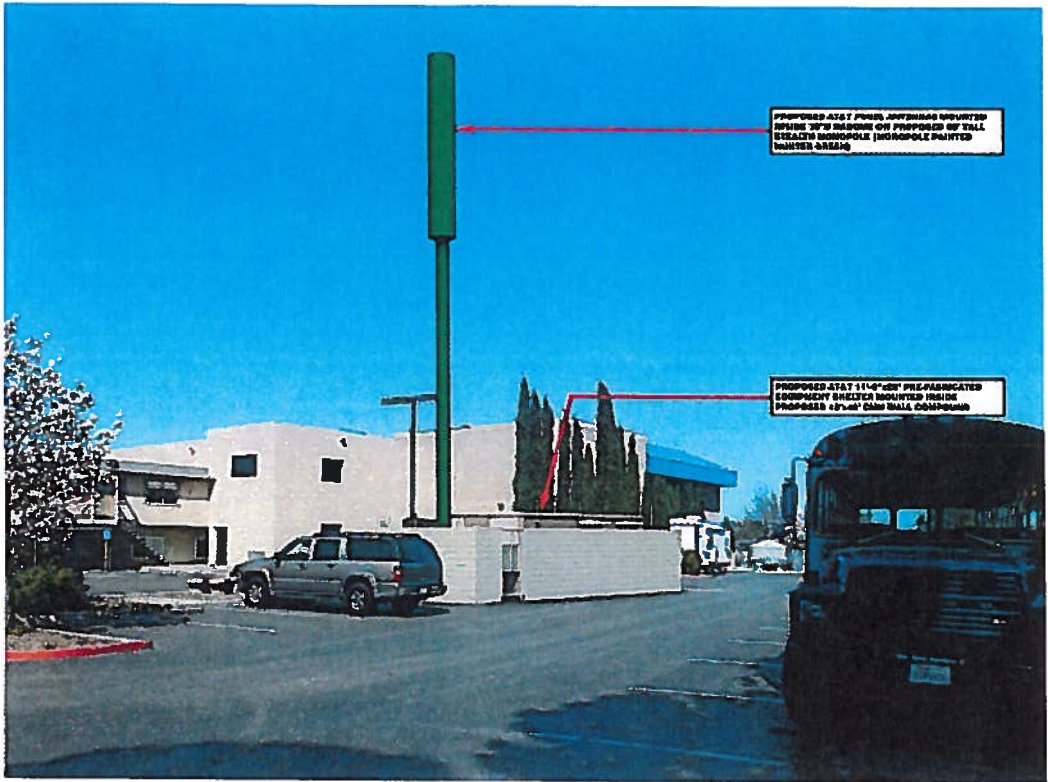
In addition to the OSH building, a candidate was approved by the RF engineer at a furniture store at 3215 Fairview Drive. The landlord agreed with move forward with AT&T on an installation in the rear of the property. AT&T agents performed a site design meeting to determine the feasibility of a build. The roof-top was too low to satisfy the RF engineer needs, therefore an at-grade installation was proposed.

Originally the installation was to be a 60' slimline monopole, however the team identified existing mature 40 feet Eucalyptus trees and decided a stealth tree pole located among the trees would be more suitable for the jurisdiction along the public trail. In addition the grassy strip just off the parking lot would avoid removing any parking area (original intent). Site drawings of a 64' mono-pine were presented and approved by the landlord.

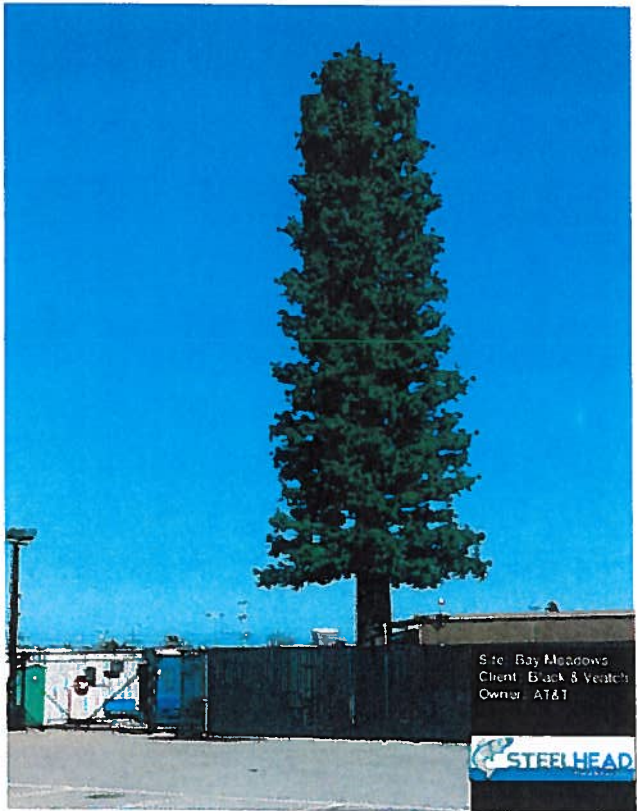
AT&T agents recommended this to be the selected candidate over the OSH candidate, as the requested monopole height would be mitigated by setbacks from major roads, and partially obscured by the existing building. RF approved the top antenna height of 60' feet and the design at this location.

C7

Approved 60' slimline in San Jose

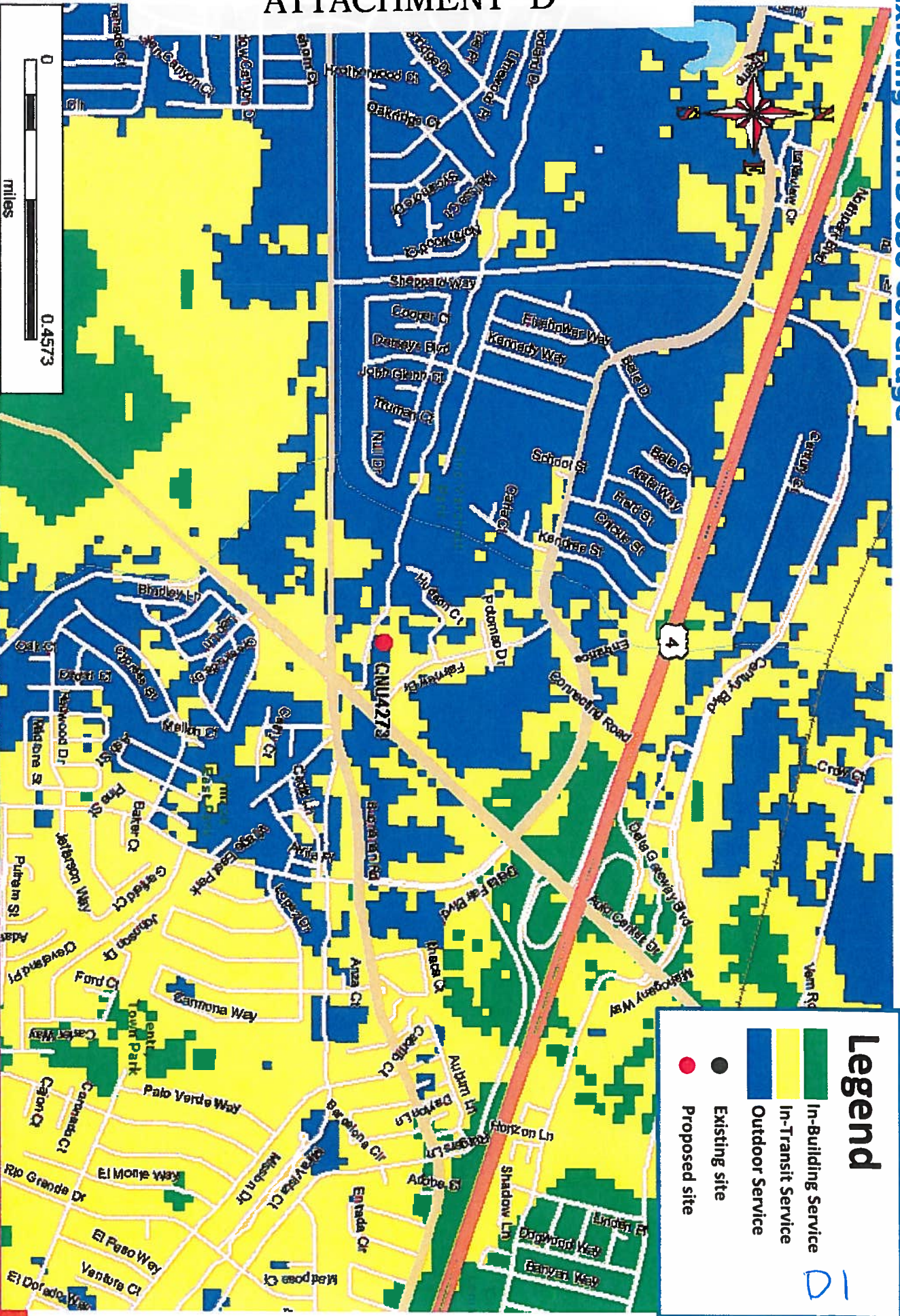


Approved 60' monopole pine tree in San Mateo.



C8

Existing UMTS 850 Coverage



Legend

- In-Building Service
- In-Transit Service
- Outdoor Service
- Proposed site
- Existing site

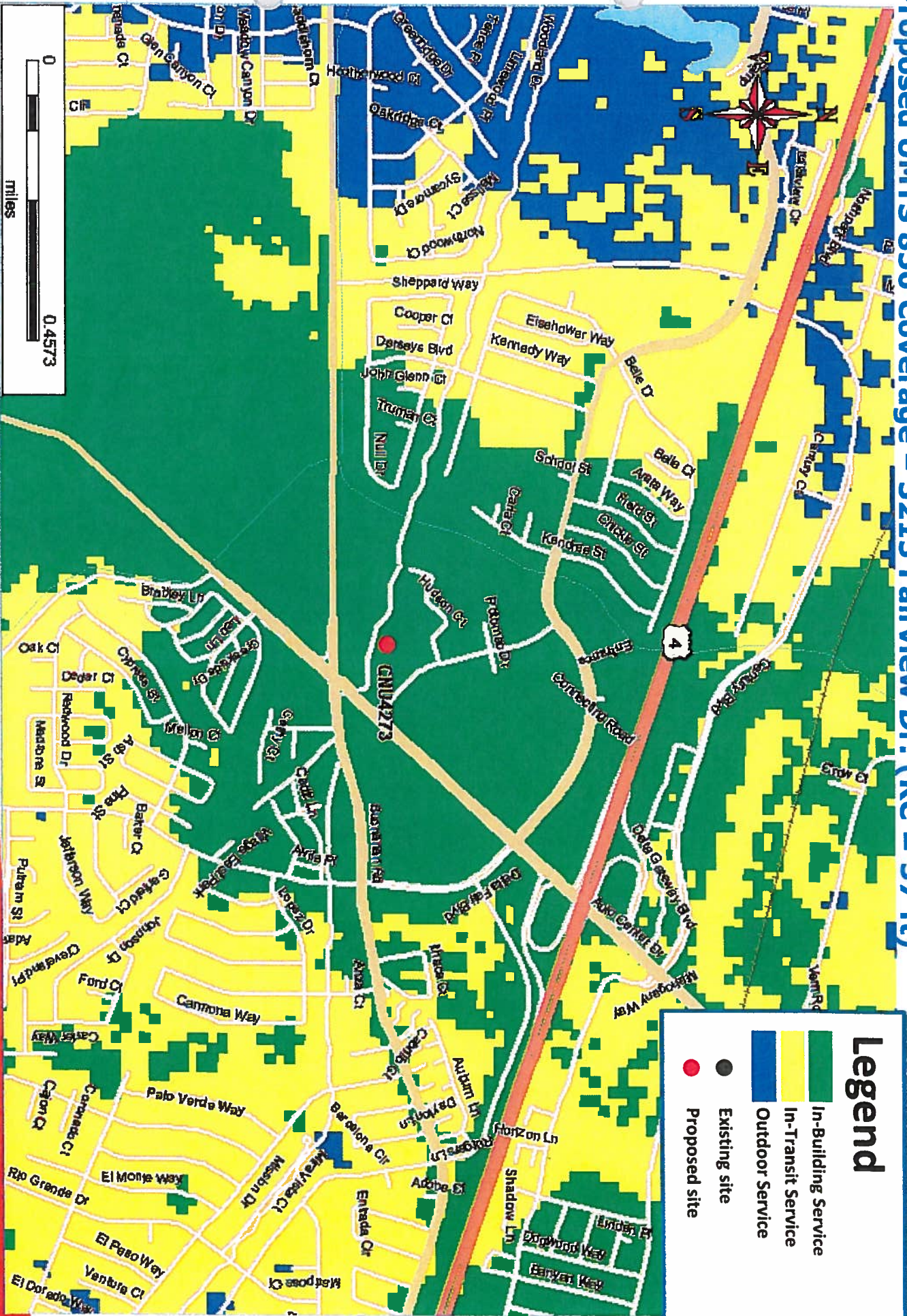
D1

ATTACHMENT "D"

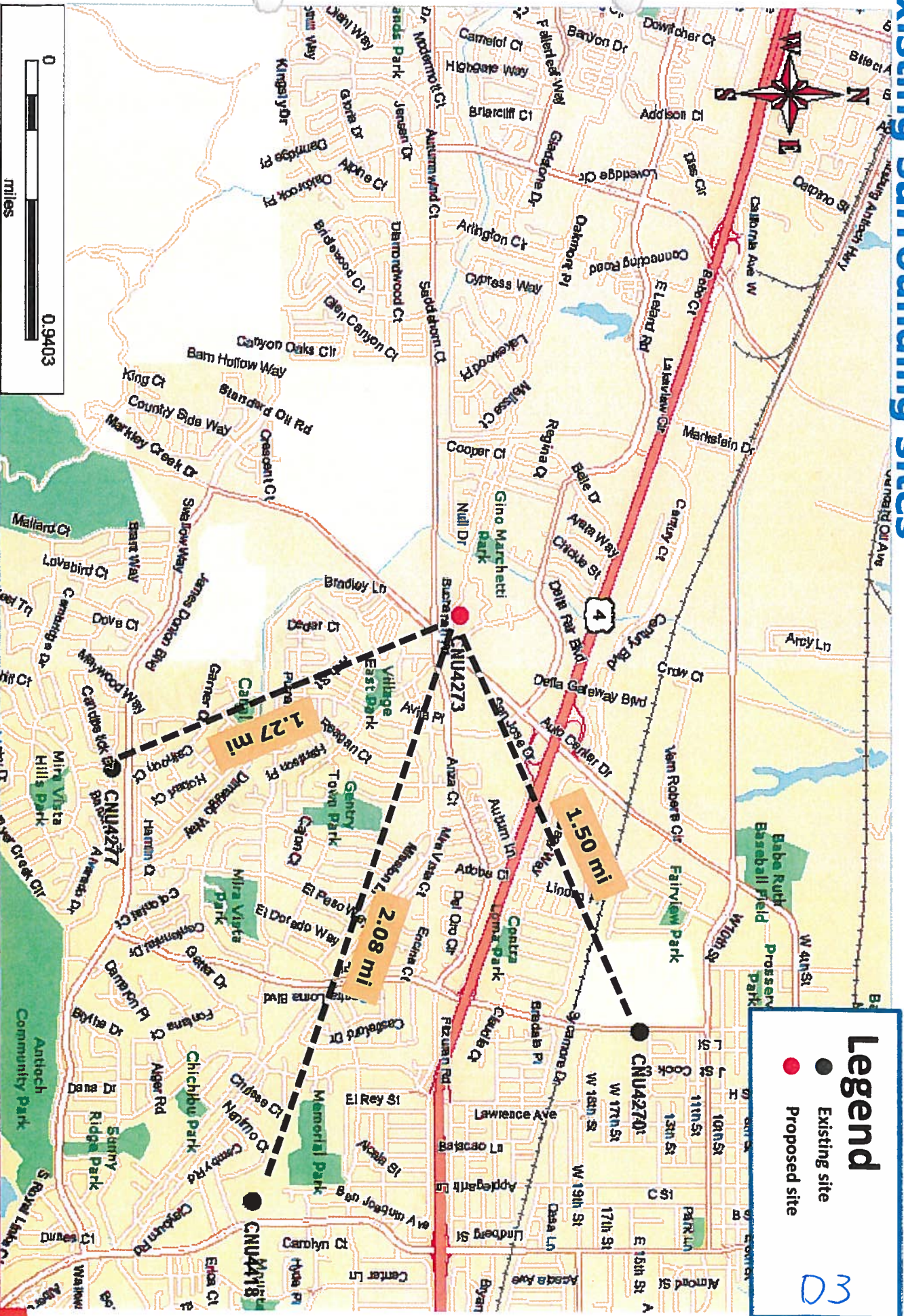
October 2, 2013



Proposed UMTS 850 Coverage - 3215 Fairview Dr. (RC = 57 ft)



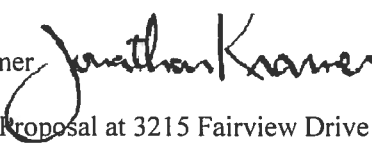
Existing surrounding sites



D3

ATTACHMENT "E"

Planning Memorandum

To: Mindy Gentry
From: Tripp May
Reviewed by: Jonathan L. Kramer 
Date: March 24, 2014
RE: AT&T Mobility Proposal at 3215 Fairview Drive

The City of Antioch ("City") requested a review of the AT&T Mobility ("AT&T") permit application to install and operate a new wireless site designed to resemble a pine tree ("Monopine") located at 3215 Fairview Drive.

Current Project

The proposed project involves a sixty-five foot (65') above ground level ("AGL") Monopine, and a prefabricated equipment shelter, surrounded with a slatted chain-link fence.

On the Monopine, AT&T proposes to mount nine panel antennas centered on fifty-seven feet (57') AGL and evenly distributed among three sectors. Additionally, AT&T proposes to install twenty-one remote radio units ("RRUs") and four DC power surge suppressors.

At ground level adjacent to the Monopine, AT&T proposes to install a prefabricated equipment shelter. Inside that equipment shelter, AT&T proposes to install an undisclosed number of radio equipment cabinets and a backup power generator with diesel fuel tank. Outside the equipment shelter, AT&T proposes to mount two GPS antennas above the roofline.

Section 6409(a) Evaluation

As a threshold matter, the City must determine whether the proposed application falls under the ambit of Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012. This section discusses Section 6409(a) and determines whether it should apply to this application.

Generally, Section 6409(a) requires local governments to approve certain requests to collocate with or modify an existing wireless tower or base station. Thus, Section 6409(a) may be outcome-determinative. Section 6409(a), codified at 47 U.S.C. § 1455(a) (2013), states in full:

(a) FACILITY MODIFICATIONS.—

(1) IN GENERAL.—Notwithstanding Section 704 of the Telecommunications Act of 1996 (Public Law 104–104) or any other provision of law, a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.

(2) ELIGIBLE FACILITIES REQUEST.—For purposes of this subsection, the term "eligible facilities request" means any request for modification of an existing wireless tower or base station that involves—

- (A) collocation of new transmission equipment;
- (B) removal of transmission equipment; or

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90025-5379

E1

(C) replacement of transmission equipment.
(3) APPLICABILITY OF ENVIRONMENTAL LAWS.—Nothing in paragraph (1) shall be construed to relieve the Commission from the requirements of the National Historic Preservation Act or the National Environmental Policy Act of 1969.

To determine whether Section 6409(a) applies, the City must apply the two-prong test described below. The statute applies only when:

- (1) the applicant requests to collocate, remove, or replace transmission equipment from an existing tower or base station; and
- (2) the proposed project will not “substantially change the physical dimensions” of that tower or base station.

Critically, Section 6409(a) applies only when both of the prongs are true. The statute does not apply when the applicant desires to construct an entirely new wireless communication facility or when the applicant desires to modify an existing site that substantially changes the physical dimensions of the existing tower or base station. The applicant bears the burden to prove both prongs to the City.

In this case, Section 6409(a) does not apply because AT&T proposes to construct an entirely new site rather than collocate, remove, or replace transmission equipment from an existing tower or base station. Indeed, no tower or base station exists. AT&T therefore could not submit an eligible facilities request, and Section 6409(a) cannot apply.

Significant Gap & Least Intrusive Means Analysis

Under federal law, a State or local government (1) must allow a wireless service provider to close a “significant gap” in the provider’s own service, but (2) may require the provider to adopt the “least intrusive means” to reasonably mitigate the gap. The provider bears the burden to show that a significant gap exists and, regardless of whether a significant gap exists, that its proposal represents the least intrusive means to achieve its service goals. This section discusses both issues.

Significant Gap

To determine whether a significant gap in service exists, the applicant must show that a permit denial would actually or effectively prohibit that particular applicant from providing its own service.¹ This fact-specific analysis depends on the particular circumstances of each individual case.

To demonstrate its signal coverage, AT&T submitted coverage maps that purport to show the current and projected signal coverage from this site. The map entitled *Existing UMTS 850 Coverage* (reproduced in Figure 1 below) shows the current signal coverage and the map entitled *Proposed UMTS 850 Coverage—3215 Fairview Dr. (RC=57 ft.)* (reproduced in Figure 2 below) shows projected signal coverage with the proposed antennas.

¹ See *MetroPCS, Inc. v. City and Cnty. of San Francisco*, 400 F.3d 715, 733–35 (9th Cir. 2005).

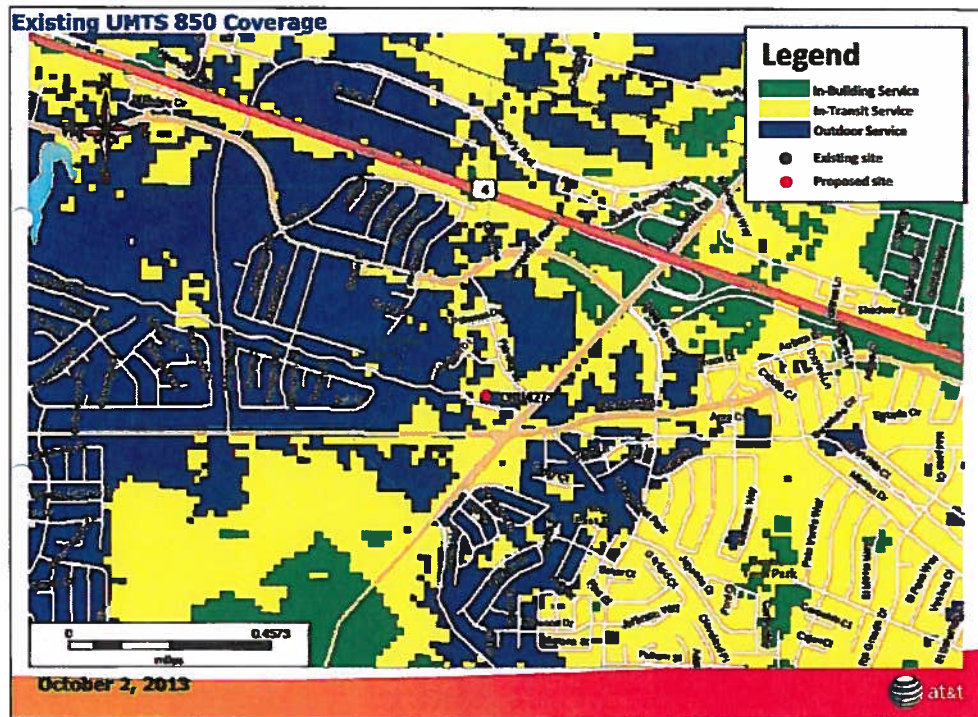


Figure 1: Current AT&T Service Coverage (Source: AT&T)

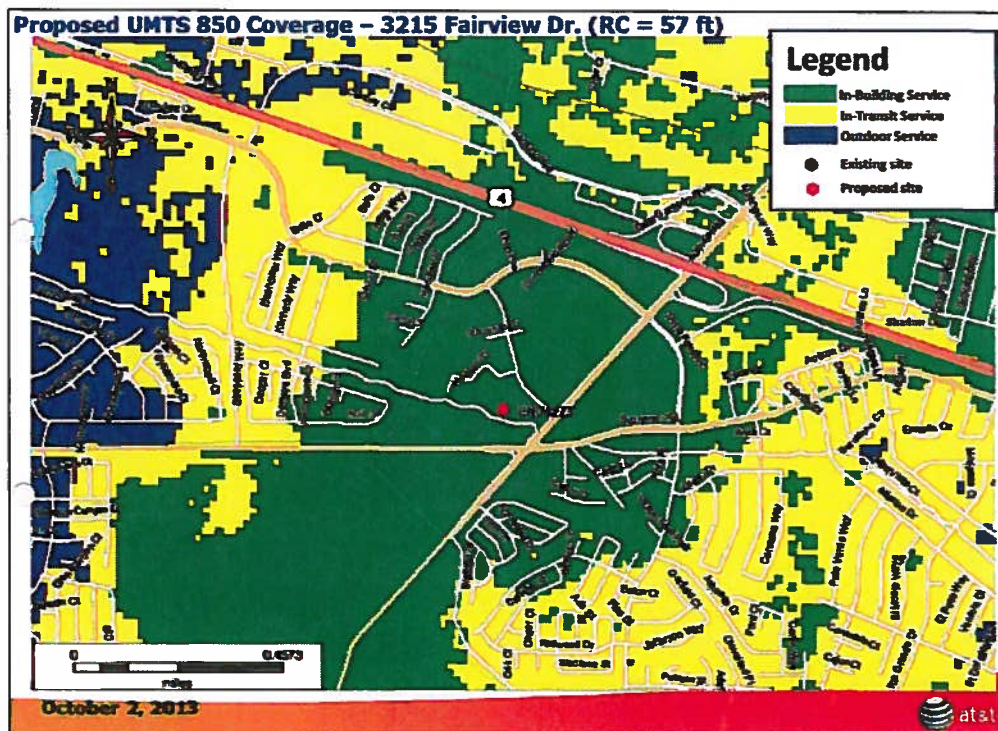


Figure 2: Predicted AT&T Service Coverage (Source: AT&T)

Together, these maps show that AT&T primarily intends this site to increase current service levels rather than close any gap—much less any significant gap—in its own service. Based on the map in Figure 1, we conclude that AT&T currently provides at least “outdoor service” coverage in all benefitted areas, and either “in-building service” coverage or “in-transit service” coverage along most roads. The map in Figure 2 shows that the current service will generally increase to “in-building service” coverage in all benefitted areas. Thus, this site will increase current service levels rather than mitigate any gap in service.

Least Intrusive Means

Whether the applicant demonstrates a significant gap or not, it must demonstrate that it proposes the least intrusive means to reasonably achieve its service goals. In this context, the “least intrusive means” standard means the design that allows the applicant reasonable service levels with the lowest impact on the local values that a denial would otherwise serve.

In this case, AT&T proposes to conceal its site within a faux pine tree with approximately 3.6 branches per vertical foot. As proposed, the finished Monopine will resemble the photo simulation reproduced in Figure 3, below.



Figure 3: Proposed Monopine (Source: AT&T)

To ensure the best possible design for the Monopine, we recommend that the City include, as conditions of approval, the following:

1. AT&T shall construct, and at all times maintain, the Monopine so that the faux branches completely envelop all tower-mounted equipment; and
2. AT&T shall install, and at all times maintain, faux pine "antenna socks" on all panel antennas; and
3. AT&T shall paint all mounts, brackets, and equipment on the Monopine flat browns and greens to mimic natural pine colors; and
4. AT&T shall not mount any external cables on the Monopine trunk; and
5. AT&T shall install, and at all times maintain, three-dimensional bark cladding on all portions of the trunk and branches of the Monopine; and
6. AT&T shall construct the Monopine with a naturally tapered branch structure, and with no less than three and one-half (3.5) faux branches per vertical foot; and
7. AT&T shall install the lowest branches no less than twelve feet (12') AGL; and
8. AT&T shall install all cables between the Monopine and equipment shelter below the perimeter fence that encloses the site so that no one can see the cables from outside the fence.

RF Emissions Evaluation

The Federal Communications Commission ("FCC") completely occupies the field of RF safety standards in the United States. The City legally cannot establish or require RF safety standards, whether more strict, more lenient, or the same as the FCC standards. The FCC does, however, permit the City to determine whether a proposed wireless project meets the federal safety standards found at 47 C.F.R. §§ 1.1307 *et seq.* ("FCC Rules") and FCC Office of Engineering and Technology Bulletin 65 ("OET 65") RF safety requirements.

Under the FCC Rules, certain types of wireless projects are deemed "categorically excluded" and not subject to further RF evaluation. A wireless project is categorically excluded when the antenna supporting structure is not a building or shared to perform some other function, and the lowest portion of the transmitting antenna is at least ten (10) meters AGL.

In this case, the proposed antennas are categorically excluded because AT&T will build the Monopine solely to support antennas and will install the lowest antennas well above the minimum height at fifty-four feet (54') AGL. Therefore we can conclude that the proposed antennas will comply with FCC Rules without further analysis.

Nevertheless, AT&T submitted an RF compliance report conducted by Hammett & Edison, Inc. and dated September 27, 2013 ("Hammett Report"). Based on the frequency and trans-

mitter power described in the Hammett Report, a controlled access zone will extend approximately fifty-one feet (51') from the face of the antennas at roughly the height of the antennas.

The fact that a site creates a controlled access zone does not necessarily mean that it violates the FCC Rules. Rather, a controlled access zone means that the carrier must affirmatively restrict public access to that area so that members of the general population (including trespassers) cannot unknowingly enter and be exposed to radio emissions in excess of those allowed by the FCC. In this case, those emissions will be entirely contained within the inaccessible airspace in front of the antennas.

To comply with the FCC Rules, I recommend that the City require, as a condition of approval, the following:

1. AT&T shall install and at all times maintain in good condition an RF Notice sign at all site access points. AT&T shall install the RF Notice sign(s) in a location where anyone can clearly see the sign before they enter the site; and
2. AT&T shall install and at all times maintain in good condition an RF Notice sign between three feet (3') and five feet (5') below the lowest antenna. AT&T shall install the RF Notice signs in a location where anyone can clearly see the sign before climbing in front of the antennas; and
3. AT&T shall ensure that all signage complies with FCC OET Bulletin 65 or ANSI C95.2 for color, symbol, and content conventions. All signage shall, at all times, provide a working local or toll-free telephone number to its network operations center, and such telephone number shall be able to reach a live person who can exert transmitter power-down control over this site as required by the FCC.

If AT&T complies with the above conditions described in this memorandum for this proposed design, then the City will have no basis to deny or further condition the project on the basis of RF emissions.

Conclusion

Given that Section 6409(a) does not apply and AT&T does not demonstrate a significant gap, we recommend that the City exercise its discretion to minimize the visual intrusiveness of the proposed design consistent with the design comments above.

TM/jlk