

**ANNOTATED
AGENDA
CITY OF ANTIOCH PLANNING COMMISSION
ANTIOCH COUNCIL CHAMBERS
200 "H" STREET**

WEDNESDAY, APRIL 5, 2017

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 **WEDNESDAY, APRIL 12, 2017**.

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

Motts, Chair (**absent**)
Zacharatos, Vice Chair
Parsons
Mason
Turnage
Husary (**absent**)
Conley

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: None

* * * END OF CONSENT CALENDAR * * *

CONTINUED PUBLIC HEARINGS

2. **Z-17-01 – Tobacco Ordinance Amendment** – The City of Antioch is proposing text amendments to Chapter 16: Drug Paraphernalia, Section 6-8.14-Tobacco Retailer License, Section 9-5.203-Definitions and Section 9-5.3843 Tobacco and Paraphernalia Retailers of the Antioch Municipal Code. The amendments include, but are not limited to, changes to definitions related to tobacco and paraphernalia retailers, the display of tobacco paraphernalia, licenses required for retail tobacco sales, and the prohibition of tobacco and paraphernalia retailers. The proposed ordinance would be applicable city-wide. This project is exempt from the California Environmental Quality Act.

STAFF REPORT

Staff recommends that this item be continued to May 17, 2017.

STAFF REPORT

CONTINUED TO MAY 17, 2017.

3. **UP-16-15, AR-16-09 Verizon Wireless Telecommunications Facility** – Verizon Wireless requests approval of a Use Permit to construct a new unmanned telecommunications facility consisting of a 62-foot tall “monopine” containing nine panel antennas and a fenced equipment enclosure at the base of the structure. The project site is located at the corner of Contra Loma Boulevard and Putnam Street (APN 076-550-002).

CONTINUED FOR SIX MONTHS.

NEW PUBLIC HEARINGS

4. **PD-06-04, UP-06-21, AR-06-17** – Ted Liu of Bedrock Ventures, Inc. requests an amendment to condition of approval number 3 from Resolution 2008/29. The amendment would extend the expiration date of the approvals for the Final Planned Development, Use Permit, and design review to March 11, 2019. The project consists of retail and offices, located at Hillcrest Avenue and East Tregallas Road (APN: 052-100-069 and -068)

STAFF REPORT

RESOLUTION NO. 2017-06

5. **UP-16-09, AR-16-05, V-16-02 – 4 Star Auto Repair** – Kalsoom Bibi Ghafoor is requesting approval of a use permit, design review, and variance application to

construct an Auto Repair Shop consisting of four service bays for minor auto repair. The project site is located at 3420 E. 18th Street (APN 051-200-060).

RESOLUTION NO. 2017-07

STAFF REPORT

ORAL COMMUNICATIONS

WRITTEN COMMUNICATIONS

COMMITTEE REPORTS

ADJOURNMENT (8:37 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, 200 "H" Street, 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 Friday 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.

**STAFF REPORT TO THE PLANNING COMMISSION
FOR CONSIDERATION AT THE MEETING OF APRIL 5, 2017**

Prepared by: Alexis Morris, Planning Manager

Date: March 30, 2017

Subject: **Z-17-01 – Tobacco Ordinance Amendment**

DISCUSSION

It is recommended that the Planning Commission continue this item to May 17, 2017.

**STAFF REPORT TO THE PLANNING COMMISSION
FOR CONSIDERATION AT THE MEETING OF APRIL 5, 2017**

Prepared by: Kevin Scudero, Associate Planner 
Reviewed by: Alexis Morris, Planning Manager 
Date: March 31, 2017
Subject: **UP-16-15, AR-16-09 – Use Permit and Design Review for a Wireless Telecommunications Facility at the Southwest Corner of Putnam Street and Contra Loma Boulevard**

RECOMMENDATION

Staff recommends that the Planning Commission deny the application for a use permit and design review for a wireless telecommunications facility in accordance with the findings for denial contained in the attached resolution. In the event that the Planning Commission rejects staff's recommendation and approves or conditionally approves the application, staff recommends that the Planning Commission seek a tolling agreement with Verizon to allow sufficient time to prepare a new resolution consistent with the Planning Commission's findings at this hearing.

REQUEST

The applicant, GTE Mobilnet of California LP d/b/a Verizon Wireless ("Verizon"), requests that the Planning Commission approve its application for a use permit and design review for a new wireless telecommunications facility consisting of a 62-foot high monopine and associated transmission equipment on a vacant commercial parcel in a Neighborhood Commercial (C-2) zoning district. The project site would be located at the western portion of the vacant lot located at the southwest corner of the intersection of Putnam Street and Contra Loma Boulevard (APN: 076-550-002).

Verizon proposes to install nine panel antennas evenly distributed in three sectors and center-mounted at 50 feet from ground level. Verizon proposes to install two equipment cabinets, a diesel backup power generator and fuel tank, two standing LED work lights, three GPS antennas, an ice bridge¹ and telephone and electric utilities behind a six-foot high vinyl clad mini-mesh fenced enclosure.

ENVIRONMENTAL REVIEW

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

¹ An ice bridge is a structure that protects the cables that connect ground-mounted equipment with tower-mounted equipment from potential damage from ice buildup during colder days or months.

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: General Plan, Zoning, and Land Use

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:	Single Family Homes/Single Family Residential (R-6)
South:	Contra Loma Plaza/Neighborhood Commercial (C-2)
East:	Senior Apartments/High Density Residential (R-20)
West:	Single Family Homes/Planned Development (P-D)

The project site is currently undeveloped land within the Contra Loma Plaza shopping center and contains approximately .70 acres. The proposed telecommunications facility would occupy approximately 2,600 square feet of the parcel at the western portion of the site adjacent to Putnam Street.

Issue #2: Project Overview

On October 19, 2016, Verizon submitted a Development Application for a use permit and design review for a proposed wireless facility at the corner of Putnam Street and Contra Loma Boulevard (the “Proposed Location”).

Verizon’s project plans dated November 27, 2015, submitted with this application, show that Verizon proposes to install nine panel antennas distributed in three equal sectors and center-mounted at 50 feet. Behind the antennas, Verizon proposes to install 15 remote radio heads (“RRHs”) and three DC power surge protectors. To visually blend with the monopine all the tower-mounted equipment would be concealed within the faux-tree canopy, painted flat green, and all the antennas and RRHs would be covered with “pine needle socks.” The applicant has provided a sample of the “pine needle socks” and they will be available at the Planning Commission meeting.

At ground level, behind a six-foot high vinyl clad mini-mesh fenced enclosure, Verizon proposes to install two equipment cabinets, a diesel backup power generator, a diesel fuel tank, two standing LED work lights, three GPS antennas, an ice bridge (i.e., an elevated cable tray between the ground equipment and the monopine), and an H-frame-mounted telephone and electric utility panels all on a concrete slab foundation. The equipment cabinets, generator, ice bridge, work lights, and GPS antennas would all protrude above the proposed fencing. No landscaping or other concealment is proposed.

Issue #3: Staff's Requests to Investigate Alternatives

Verizon identified 13 different sites that it considered prior to settling on the Proposed Location. Verizon asserted that among those 13 alternatives, only one—the Somerset Apartments at 3185 Contra Loma Boulevard (the “Somerset Alternative”)—was deemed by Verizon to be a viable alternative to the Proposed Location. The Alternative Site Analysis concluded that the 12 other locations either did not meet its technical objectives or were unavailable because the owners were unwilling or unresponsive.

On December 22, 2016, staff sent a written notice (the “December Notice”) to Verizon that expressed concerns that, among other things, the Proposed Location did not comply with the City’s development regulations and may not be the most appropriate given the availability of the Somerset Alternative. In addition, staff expressed concerns that the Alternative Sites Analysis did not provide a meaningful explanation that would allow staff to understand why Verizon concluded the other alternative sites were either technically infeasible or not potentially available. Staff requested that Verizon provide additional coverage maps or other technical justification that would support the need for the 62-foot monopine with the antennas mounted at 50 foot centerlines. The December Notice also requested that Verizon provide additional evidence to support its claims that the remaining 12 alternatives were not viable. The December Notice is included in this staff report as **Attachment C**.

On February 27, 2017, staff received Verizon’s response to the December Notice. Although Verizon provided some information that staff requested, Verizon did not provide certain coverage maps that staff intended to use to evaluate coverage differences that Verizon described in its Alternative Site Analysis between the Proposed Location and alternatives. Verizon also did not provide contact information that staff intended to use to verify Verizon’s claims that it could not secure a lease at other properties. Verizon refused to provide any information on the basis that its correspondence with potential landlords is proprietary information. Verizon did not respond to staff’s requests for certain coverage maps in the December Notice, nor did it provide any reason for the non-responsiveness. Verizon’s response to the December Notice is included in this staff report as **Attachment D**.

On March 2, 2017, staff sent a second written notice (the “March Notice”) to Verizon that requested responses to the outstanding issues discussed above from the December Notice. With respect to Verizon’s refusal to provide any information about sites ruled out due to leasing issues, staff also clarified to Verizon that the City did not want to know the content of Verizon’s discussion, only the identity of the persons that Verizon contacted. The March Notice is included in this staff report as **Attachment E**.

On March 3, 2017, staff received Verizon’s response to the March Notice that contained contact addresses for the property owners that Verizon asserted would not enter into a lease and some of the additional coverage maps that staff requested. With respect to staff’s request for coverage maps that show predicted coverage with the antennas

mounted 10 feet and 20 feet lower, Verizon indicated that coverage maps do not fully capture the true conditions that affect coverage and offered to send the project RF engineer to the Planning Commission meeting to address further questions and concerns about coverage. Verizon's response to the March notice is included in this staff report as **Attachment F** and **Attachment G**.

In a letter dated March 2, 2017, the City and Verizon entered into a "shot clock" tolling agreement which is an agreement that extends the applicable time period for review under the Telecommunications Act to April 17, 2017. Under federal law, the City must act on this application within 150 days after it was duly filed; and under California state law, the application may be deemed approved if the City fails to act within that timeframe. Moreover, federal law requires the applicant to file a lawsuit within 30 days after a final denial or else the applicant loses its right to sue. The purpose of the tolling agreement was to allow Verizon additional time to investigate alternatives and staff to prepare this staff report and calendar the application for the April 5, 2017 Planning Commission meeting.² The tolling agreement is included in this staff report as **Attachment H**.

Issue #4: Legal Background – Telecommunications Act

Under federal law, localities may not (1) explicitly or effectively prohibit personal wireless services; (2) unreasonably discriminate among functionally equivalent personal wireless service providers; or (3) regulate environmental effects from radio frequency (RF) emissions to the extent that such emissions conform to all applicable FCC regulations.³ In addition, localities must act on permit applications within a reasonable time, issue written denials, include reasons for any denial contemporaneously with any written denial and base all denials on substantial evidence in the written record.⁴

Effective Prohibition Framework

A single permit denial can effectively prohibit personal wireless services when the applicant shows that (1) a "significant gap" exists in the applicant's own services and (2) the applicant proposed the "least intrusive means" to mitigate that gap.⁵ No "bright line" test exists to define a "significant" gap in services, and although not all gaps amount to a significant one, district courts in the Ninth Circuit and others from outside this Circuit indicate that the standard may be relatively low.⁶ In contrast, the "least intrusive means"

² Although staff initially requested that the tolling agreement be long enough to allow the parties to prepare a recommendation that the Planning Commission approve a superior design at the more appropriate Somerset Alternative, Verizon's representative from Complete Wireless refused and demanded a decision on this inferior site. Staff endeavors to avoid recommending denial when changes or improvements could make the project approvable.

³ See 47 U.S.C. §§ 332(c)(7)(B)(i), (iv).

⁴ See 47 U.S.C. §§ 332(c)(7)(B)(ii), (iii); see also *T-Mobile South LLC v. City of Roswell*, 135 S.Ct. 808, 816 (2015).

⁵ See *American Tower Corp. v. City of San Diego*, 763 F.3d 1035, 1056 (9th Cir. 2014) (citing *Metro PCS, Inc. v. City and County of San Francisco*, 400 F.3d 715, 733 (9th Cir. 2005)).

⁶ See e.g., *MetroPCS, Inc.*, 400 F.3d at 733; *Orange Ctny.-Poughkeepsie Ltd. P'ship v. Town of E. Fishkill*, 84 F. Supp. 3d 274, 297 (S.D.N.Y. 2015); *T-Mobile West Corp. v. City of Agoura Hills*, No. CV 09-9077 DSF (PJWx), 2010 WL 5313398, *8–*9 (C.D. Cal. Dec. 20, 2010); *MetroPCS New York, LLC v.*

has a more concrete definition. The least intrusive means refers to a site location and design that most closely conforms to the local values expressed in the local law that would otherwise support a denial.⁷

Effective prohibition analysis applies only when substantial evidence exists to support a denial.⁸ For example, in a situation where an applicant requires a 35-foot antenna in a 30-foot zone to close a significant gap, the least intrusive means would be a 35-foot-high antenna and federal law would require approval even though the local code would authorize a denial for a project over 30 feet high. The least intrusive means might also be multiple lower sites rather than fewer taller sites.⁹

Unreasonable Discrimination Among Functionally Equivalent Service Providers

Federal law prohibits “unreasonable” discrimination among providers with “functionally equivalent services.”¹⁰ This standard permits reasonable discrimination and localities retain “flexibility to treat facilities that create different visual, aesthetic, or safety concerns differently to the extent permitted under generally applicable zoning requirements, even if those facilities provide functionally equivalent services.”¹¹ To prevail on this claim, carriers must show that the local government discriminated between two similar service providers who submitted two similar proposals in two similar contexts.¹²

RF Emissions Compliance Regulations

Village of East Hills, 764 F. Supp. 2d 441, 454–55 (E.D.N.Y. 2011); *T-Mobile Northeast LLC v. City of Lowell*, No. 11-11551-NMG, 2012 U.S. Dist. LEXIS 180210, *10 (D. Mass. Nov. 27, 2012); *USCOC of New Hampshire RSA No. 2 v. Town of Dunbarton*, No. Civ.04–CV–304–JD, 2005 WL 906354, *2 (D.N.H. Apr. 20, 2005). Many courts also appear to simply bypass the issue altogether and dive straight into the least intrusive means issues. See, e.g., *American Tower Corp.*, 763 F.3d at 1056; *T-Mobile West Corp. v. City of Huntington Beach*, No. CV 10–2835 CAS (Ex), 2012 WL 4867775, *6 (C.D. Cal. Oct. 10, 2012).

⁷ See *American Tower Corp.*, 763 F.3d at 1056–1057.

⁸ See *id.*

⁹ See, e.g., *id.*; *T-Mobile USA, Inc. v. City of Anacortes*, 572 F.3d 987, 998 (9th Cir. 2009).

¹⁰ See 47 U.S.C. § 332(c)(7)(B)(i)(I).

¹¹ See *MetroPCS, Inc. v. City and Cnty. of San Francisco*, 259 F. Supp. 2d 1004, 1011 (N.D. Cal. 2003) (quoting H.R. Conf. Rep. No. 104–458, 208).

¹² See *In re Cell Tower Litigation*, 807 F. Supp. 2d 928, 936 (S.D. Cal. 2011) (finding no unreasonable discrimination in different regulations applied to municipal towers primarily for emergency radio services than to privately held towers primarily for commercial radio services); *Cingular Wireless, LLC v. Thurston Cnty.*, 425 F. Supp. 2d 1193, 1194 (W.D. Wash. 2006) (finding unreasonable discrimination because the County denied Cingular’s permit but approved ten others for its competitors which were all taller, with less concealment and in less favored locations); *Voice Stream PCS I, LLC v. City of Hillsboro*, 301 F. Supp. 2d 1251, 1262 (D.Or. 2004) (finding no unreasonable discrimination where the only similarity between two proposals was a common zoning designation); *MetroPCS*, 259 F. Supp. 2d at 1012 (holding that discrimination based on traditional zoning regulations is not unreasonable, even when the record contains evidence of discriminatory intent); *AT&T Wireless Servs. of Cal. LLC v. City of Carlsbad*, 308 F. Supp. 2d 1148, 1166–1167 (S.D. Cal. 2003) (finding unreasonable discrimination where City approved a “stealth site” in a residential area for one carrier but denied a similar proposal for another).

The FCC regulates RF emissions, and establishes comprehensive rules for maximum permissible exposure levels (the “*FCC Guidelines*”).¹³ State and local governments cannot (1) regulate wireless facilities based on environmental effects from RF emissions when the emissions conform to the applicable *FCC Guidelines* or (2) establish their own RF exposure standards—whether more strict, more lenient or even the same.¹⁴

However, the FCC permits localities to require an applicant to demonstrate planned compliance with the *FCC Guidelines* as a prerequisite for permit approval.¹⁵ Federal guidance encourages localities and applicants to cooperatively develop a means for planned compliance demonstrations that balances the legitimate local interest in compliance with the national standards and the applicant’s interest in an efficient and predictable process.¹⁶ In addition, the FCC recommends that localities use the *Local Government Official’s Guide to Transmitting Antenna RF Emission Safety: Rules, Procedures, and Practical Guidance* (the “*Local Official’s Guide*”) as an appropriate tool for compliance demonstrations.¹⁷

In this case, the project has been evaluated by both Verizon’s and the City’s consultants who each independently concluded that the proposed project would be compliant with the *FCC Guidelines*. Accordingly, staff recommends that the Planning Commission conclude that it has no authority to regulate, condition or deny this application on the basis of environmental effects of RF emissions.

The “Shot Clock” Rules

Localities must act within a “reasonable time” after it receives a duly filed application for a wireless project.¹⁸ The FCC interprets a reasonable time to mean 90 days for co-locations and 150 days for all other applications, after which time the applicant may seek expedited judicial review within the first 30 days after a final denial or failure to act. In addition, localities must act on projects covered under 47 U.S.C. § 1455(a) within 60 days or else the application is automatically approved.¹⁹

In California, failure to act within the presumptively reasonable time can result in a deemed-approval for new and substantially changed wireless facilities not covered under § 1455(a). California Government Code § 65964.1 automatically deems an application for a new wireless site or substantial modification to an existing wireless site

¹³ See 47 U.S.C. § 332(c)(7)(B)(iv); see also 47 C.F.R. § 1.1307 *et seq.*; FCC Office of Engineering and Technology, *Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields*, OET Bulletin 65, ed. 97-01 (1997).

¹⁴ See 47 U.S.C. § 332(c)(7)(B)(iv).

¹⁵ See *In re Procedures for Reviewing Requests for Relief from State and Local Regulations Pursuant to Section 332(c)(7)(B)(iv) of the Communications Act of 1934*, *Report and Order*, 15 FCC Rcd. 22821, 22828–22829 (Nov. 13, 2000) (declining to adopt rules that limit demonstrations of compliance).

¹⁶ See *id.*

¹⁷ See *id.*

¹⁸ See 47 U.S.C. 332(c)(7)(B)(ii).

¹⁹ See *In the Matter of Petition for Declaratory Ruling to Clarify Provisions of Section 332(C)(7)(B) to Ensure Timely Siting Review and to Preempt under Section 253 State and Local Ordinances that Classify All Wireless Siting Proposals as Requiring a Variance*, *Declaratory Ruling*, 24 FCC Rcd. 13994, 14012 (Nov. 18, 2009).

when (1) the city or county fails to approve or disapprove the application within the applicable shot clock period, (2) the applicant has provided all public notices required for the application and (3) the applicant provides written notice to the city or county that it considers the application deemed approved.

These timeframes may be “tolled” (i.e., paused) under certain circumstances. However, after an application has been deemed complete, the shot clock can be tolled only by mutual agreement between the local government and the applicant. These federal regulations are in addition to the ordinary Permit Streamlining Act requirements under state law.

Issue #5: Analysis and Findings

The City requires a use permit for wireless facilities and applies the generally applicable development standards in the Antioch Municipal Code (“AMC”) to wireless facilities.²⁰ To approve a use permit, the Planning Commission must find that (1) the use is not detrimental to public health or welfare or nearby improvements; (2) the use is authorized at the proposed location; (3) the site is adequate to accommodate the use; (4) the site can accommodate potential additional traffic caused by the use; and (5) the use will not adversely affect the General Plan.²¹

No specific findings are required for design review. However, the AMC explains that:

The purpose of design review is to promote the orderly and harmonious development of the city, the stability of land values and investments, and the general welfare and to encourage and promote the highest quality of design and site planning to delight the user and others who come in contact with uses and structures in the city.²²

AMC § 9-5.2609(B) further provides that the Planning Commission “shall adhere to the adopted guidelines, as amended, in site plan and design review as required in § 9-5.2607, and no such application shall be approved unless it complies with the adopted guidelines.” unless an exception can be made pursuant to AMC § 9-5.2609(C). An exception cannot be granted unless the Planning Commission finds:

(1) That because of special circumstances applicable to the subject property, including, but not limited to, size, shape, topography, location or surroundings, the strict application of the design guidelines is not feasible; or

(2) That the overall project has a quality design, the majority of the project is consistent with the design guidelines and minor discrepancies with the

²⁰ See *generally* ANTIOCH MUN. CODE Title 9, Chapter 5.

²¹ See ANTIOCH MUN. CODE § 9-5.2703(B)(1).

²² See ANTIOCH MUN. CODE § 9-5.2701(B).

design guidelines will not create a development that is undesirable or unsightly; or

(3) That the project features a unique theme or style that is not addressed in the design guidelines, but the overall project is of such extraordinary design quality that the project will not create a development that is undesirable or unsightly.

The following subsections in this report evaluate the proposed wireless facility against these standards.

Overall Project Height

The City limits structures in the C-2 zone to 35 feet from the average lot elevation to the highest point on the structure.²³ AMC § 9-5.601 contains a potential exception to the 35-foot height limit for “radio towers,” but does not expressly limit the additional height permitted under the exception. This does not mean that an applicant may construct a radio tower at any height it chooses. Rather, the City may simply approve an overall height above the generally applicable 35-foot limit if the approval authority can still make the findings required for a use permit.

Here, substantial evidence in the record exists to support a denial because Verizon’s proposed 62-foot monopine exceeds the 35-foot height limit in the C-2 zone by 27 feet, and the availability of a more appropriate alternative site precludes staff from recommending that the Planning Commission apply the height exception at this location. The Proposed Location is an undeveloped lot without any trees of the same species and similar height to provide natural concealment to the proposed monopine. Although there are some shorter trees on the adjacent parcel, the City cannot require the neighboring property owner to maintain those trees and Verizon has not proposed to plant any trees or other landscape features on the vacant lot. Staff concludes that the additional 27 feet in height, on a vacant corner lot without any mitigation, would be detrimental to public welfare and nearby improvements, and would adversely affect the General Plan.

Verizon has also not submitted evidence that would allow staff to form an adequate basis for staff to recommend that the Planning Commission issue a specific exception to the height limit for the proposed facility. Verizon submitted coverage maps with antennas mounted at two centerline heights—50 feet and 40 feet (see **Attachment D**). For the 50-foot centerline, the monopine would be 62 feet tall because of the additional height required for the faux-pine tree “topper” to mimic the canopy of a natural pine tree.²⁴ For the 40-foot antenna centerline, the monopine would be 52 feet tall. Although Verizon asserts otherwise, there does not appear to be a substantial diminution in predicted coverage between the 50-foot and 40-foot centerlines. In other words, to

²³ See ANTIOCH MUN. CODE § 9-5.601.

²⁴ The Planning Commission should note that Staff does not object to the additional height created by the “topper” because this design element generally improves the overall appearance. However, Staff does insist on the lowest overall antenna height necessary to achieve Verizon’s reasonable service objectives.

lower the overall height by 10 feet would be closer to actual compliance with the AMC and would appear to be a workable-but-not-optimal solution for Verizon.

Despite staff's requests in the December Notice and March Notice that Verizon provide coverage maps for a 30-foot centerline for additional comparison, Verizon asserted that a substantial loss in coverage at the 40-foot centerline and the insufficient accuracy of the maps obviated the need to provide maps at 30 feet. Based on the technically feasible lower centerline height, Verizon's refusal to provide a meaningful comparative analysis in response to the December Notice and the availability of a technically feasible and potentially available alternative at the Somerset Alternative, staff cannot recommend a specific height exception at the Proposed Location.

Ground-Mounted Equipment

Staff also finds that the proposal to install a chain link fence around the ground-mounted equipment would be inconsistent with the design objectives for commercial projects stated in the City-Wide Design Guidelines. In particular, the proposal would conflict with the City's goals to:

1. "[u]tilize landscaping to . . . screen parking and equipment areas" under Design Guidelines § 3.1.2.C; and
2. "[d]esign spaces for outside equipment, trash receptacles, storage, and loading areas in the least conspicuous part of the site" under Design Guidelines § 3.1.2.E.

Design Guidelines § 3.1.2.B.3 also requires masonry walls with a landscape buffer. The proposed chain link fence would not create any sound buffer between the adjacent properties and the proposed diesel generator, which conflicts with the noise limitations on mechanical and utility equipment in Design Guidelines § 3.1.3.E.3. The proposal also lacks any landscaping to accompany the fence, as required in Design Guidelines § 3.1.4.C.4.

Issue #6: Potential Alternatives

As discussed above, Verizon's proposal does not comply with the standards in the AMC or the Design Guidelines and staff finds that there are more preferred alternatives that would either comply with the AMC or at least be "less non-compliant" than the proposed monopine. As discussed below, Verizon identified one site that is available and technically feasible, and staff requested additional investigation into six PG&E transmission tower alternatives that may be potentially available and technically feasible based on the evidence in the record prior to the hearing.

PG&E Towers

Verizon identified six PG&E transmission towers in its initial analysis of potential alternatives. Two of the towers are located along Contra Loma Boulevard adjacent to Contra Loma Plaza shopping center (PG&E Towers #046/353 and #007/047).

However, Verizon asserted that it could not obtain a ground lease from the underlying property owner, Phillips Edison and Company. Accordingly, staff cannot recommend these two alternatives because they are likely not available. Verizon's Alternative Site Analysis is included as **Attachment H** to this staff report.

With respect to the remaining four PG&E towers—two at First Family Church and two at Calvary Bible Church—Verizon deemed each alternative not technically feasible based on elevation and/or proximity to Verizon's nearby cell sites. To support its position, Verizon submitted coverage maps at each of these alternatives (see **Attachment D**).

Based on the coverage maps, the differences in service levels do not appear to be significantly different. Each coverage map shows that "in-building" service would be provided in the immediate surrounding area reaching as far north as California State Route 4, and pockets of "in-vehicle" and "outdoor" service would be dispersed further from the potential sites in all directions. Although the Calvary Open Bible alternative appears to provide slightly greater coverage than the Proposed Location, and the First Family Church alternatives slightly less, Verizon's response does not contain a meaningful comparative analysis of how each map or other factors show that each alternative would be technically infeasible rather than simply less preferred to the Proposed Location.

Rather than require a zone height exception for a new wireless tower like the Proposed Location or Somerset Alternative, the PG&E towers identified in this staff report would comply with the AMC and make use of existing vertical infrastructure. Accordingly, staff recommends that the Planning Commission deny Verizon's application at the Proposed Location.

Somerset Alternative

Verizon's preferred alternative to the Proposed Location is the Somerset Alternative because Verizon claims that it can both obtain a ground lease and the facility will meet the intended service objectives. The Somerset Alternative is located at a senior residential apartment complex across the street from the Proposed Location and contains a grove of mature pine trees as natural concealment to the single-family residential area to the north and east (see photo simulations in **Attachment D**).

Based on the existing trees and development at the property, a monopine at the Somerset Alternative would be more concealed than a monopine on undeveloped property with fewer existing trees for natural concealment at the Proposed Location. Even if a facility at the Somerset Alternative was the same height as currently proposed, the monopine's height above the applicable height limit would be mitigated by the presence of mature trees and a tall developed structure on the same parcel. Accordingly, staff recommends that the Planning Commission deny Verizon's application at the Proposed Location.

Issue #7: Public Comments

Staff has received a written public comment in opposition to this project. The public comment is included as **Attachment J** to this staff report.

Issue #8: Summary

Staff recommends that the Planning Commission deny Verizon's application for a use permit and design review to construct a new wireless telecommunications facility at the Proposed Location because (1) the proposed facility is not compliant with the AMC or the City-Wide Design Guidelines; (2) at least four PG&E transmission tower alternatives that would be code-compliant have not been conclusively ruled-out; and (3), a similar site, which would be both technically feasible and potentially available, at the Somerset Alternative would be less non-compliant with the AMC.

In the event that the Planning Commission declines to accept staff's recommendation and approves the application for a use permit and design review, staff recommends that the Planning Commission seek a tolling agreement from Verizon to allow adequate time for staff to prepare a resolution based on that direction. The Planning Commission should **not** continue the hearing without a tolling agreement because, under state law, the application may be automatically deemed approved if no decision is made before April 7, 2017.

ATTACHMENTS

- A:** Telecom Law Firm Memorandum (December 19, 2016)
- B:** Verizon's Project Plans (November 17, 2015)
- C:** Staff's First Request for Additional Analysis (December 22, 2016)
- D:** Verizon's Response to Staff's First Request (February 27, 2017)
- E:** Staff's Second Request for Additional Analysis (March 2, 2017)
- F:** Verizon's Response to Staff's Second Request (March 2, 2017)
- G:** Verizon's Coverage Maps at the Somerset Alternative (March 3, 2017)
- H:** Shot Clock Tolling Agreement (March 2, 2017)
- I:** Verizon's Alternative Site Analysis (October 19, 2016)
- J:** Public Comments (March 29, 2017)
- K:** Verizon's Photosimulations (April 2016)

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

**RESOLUTION OF THE CITY OF ANTIOCH PLANNING COMMISSION
DENYING A USE PERMIT AND DESIGN REVIEW APPLICATION FOR A WIRELESS
TELECOMMUNICATIONS FACILITY AT THE SOUTHWEST CORNER OF PUTNAM
STREET AND CONTRA LOMA BOULEVARD (APN 076-550-002)**

WHEREAS, the City of Antioch received a request from GTE Mobilnet of California LP d/b/a Verizon Wireless, for a use permit and design review (UP-16-15, AR-16-09) for a new wireless telecommunications facility on a vacant commercial parcel in a neighborhood commercial (C-2) zoning district consisting of a 62-foot above ground level monopine with nine panel antennas evenly distributed in three sectors and center-mounted at 50 feet above ground level, and at ground level behind a six-foot vinyl clad mini-mesh fenced enclosure, two equipment cabinets, a diesel backup power generator and fuel tank, two standing LED work lights, three GPS antennas, an ice bridge and telephone and electric utilities. The project site is located at the western portion of a vacant lot located at the southwest corner of the intersection of Putnam Street and Contra Loma Boulevard (**APN: 076-550-002**); and

WHEREAS, Verizon deemed viable only one alternative at 3185 Contra Loma Boulevard out of 13 different sites that Verizon considered prior to settling on the proposed location at the southwest corner of the intersection of Putnam Street and Contra Loma Boulevard; and

WHEREAS, on December 22, 2016, the City sent a written notice to Verizon that expressed concerns that Verizon's proposal did not comply with the City's development regulations and may not be the most appropriate given the availability of the alternative at 3185 Contra Loma Boulevard, and the City requested that Verizon provide additional technical justification that would support the need for a 62-foot monopine with antennas mounted at 50 feet above ground level and also requested that Verizon provide additional evidence to support its claims that the remaining 12 alternatives were not viable; and

WHEREAS, on February 27, 2017, the City received Verizon's response to the December 22, 2016 notice which provided some of the information that staff requested, but did not contain certain coverage maps that the City intended to use to evaluate coverage differences between Verizon's proposal and potential alternatives; and

WHEREAS, on March 2, 2017, the City issued a second written notice to Verizon that requested responses to the outstanding requests for additional information from the original December 22, 2016 notice that Verizon failed to address; and

WHEREAS, on March 3, 2017, the City received Verizon's response to the March 2, 2017 notice that contained some, but not all, of the coverage maps that the City originally requested; and

WHEREAS, in a letter dated March 2, 2017, the City and Verizon entered into a “shot clock” tolling agreement to extend the applicable time period for review under the Telecommunications Act to April 17, 2017 in order to allow Verizon additional time to investigate alternatives and for the City to prepare its report and calendar the application for the April 5, 2017 Planning Commission meeting; 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 5, 2017, 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 be detrimental to the public health or welfare or injurious to the property or improvements in such zone or vicinity. Antioch Municipal Code § 9-5.2703(B)(1)(a).

The proposed monopine will be detrimental to the public welfare or injurious to the property or improvements because it would be constructed 27 feet above the height limit for the C-2 zone without adjacent trees of a similar size and species, or any other nearby structure to mitigate the obviousness of the faux tree or blend the monopine with the surrounding foliage. The proposed monopine does not qualify for any height exception for radio towers because less intrusive alternatives exist and other project elements unrelated to the overall height are also non-compliant with the City-Wide Design Guidelines. Unlike the potential alternatives on existing PG&E towers, which would not require any height exception, the proposed site would not be even potentially compliant with the Municipal Code. Further, unlike the alternative at the Somerset Apartments, which Verizon has indicated would be both technically feasible and potentially available, the proposed site location is a vacant and undeveloped lot that does not contain any existing natural or manmade concealment that would appropriately blend the facility with the surrounding area. In addition, the project involves ground-mounted equipment that would be inadequately screened with a mini-mesh fence not tall enough to conceal the generator, ice bridge or GPS antennas. The proposal to screen the ground-mounted equipment, including a diesel generator, with a vinyl-clad “mini mesh” chain link fence would conflict with City-Wide Design Guidelines that require masonry walls with a landscaped buffer and noise attenuation for

mechanical equipment. The applicant does not propose any landscaping or other mitigation that would alleviate these visual impacts, nor any noise mitigation measures to that would alleviate the noise from periodic testing and/or operation of the diesel-powered generator. Accordingly, the proposed monopine would be detrimental to the public welfare and injurious to the property and improvements in the vicinity.

The Planning Commission separately finds that the proposed wireless facility would have been compliant with applicable Federal Communication Commission regulations for exposure to radio frequency emissions, and therefore has no authority to regulate or deny this application on that basis.

2. That the use applied at the location indicated is properly one for which a use permit is authorized. Antioch Municipal Code § 9-5.2703(B)(1)(b).

The site is zoned Neighborhood Commercial (C-2) and wireless telecommunications facilities are allowed with a use permit and design review approval.

3. That the site for the proposed use is not 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. Antioch Municipal Code § 9-5.2703(B)(1)(c).

The site is inadequate in size and shape to accommodate the proposed monopine because it is located on a parcel elevated above the intersection at Putnam Street and Contra Loma Boulevard that would accentuate the uncharacteristically tall height of the monopine to the surrounding natural and manmade features. In contrast, the known technically feasible and potentially available alternative location at the Somerset Apartments would be located on the northwest corner of a parcel surrounded by mature foliage with a less pronounced elevation rise from Contra Loma Boulevard to the west. Further, the elevation rise looking south from Putnam Street toward the existing pine tree grove at the Somerset Apartments would effectively conceal a monopine from this public viewpoint. The proposed location would require new development for access, parking and landscaping, whereas the potential alternatives have existing access, parking and landscaping available. To the extent that existing PG&E electric transmission towers are technically feasible and potentially available, locating the facility on a transmission tower would blend with existing utility infrastructure and would be the most preferred alternative. Accordingly, not only is this proposed site for the proposed use not 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, but other viable alternatives would be compliant or at least less non-compliant than the proposed site.

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. Antioch Municipal Code § 9-5.2703(B)(1)(d).

The proposed use would be an unattended wireless telecommunications facility with regular, but infrequent visitation by maintenance personnel. The site is located at the intersection of Putnam Street and Contra Loma Boulevard which is both adequate in width and pavement type to carry the traffic generated by the proposed 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, with the occasionally intense access necessitated by upgrades, modifications and collocations to the proposed wireless telecommunications facility.

5. That the granting of such use permit would adversely affect the comprehensive General Plan. Antioch Municipal Code § 9-5.2703(B)(1)(e).

The Planning Commission incorporates all the findings above as if set forth in their entirety here. The Antioch Municipal Code implements the General Plan's policy goals through its zoning classification and use tables. The City-Wide Design Guidelines supplement the zoning provisions in the Antioch Municipal Code. Pursuant to Antioch Municipal Code § 9-5.601, a new structure may be eligible for an exception to the zone height if the new structure is a radio tower or electric transmission tower. The proposed monopine at Putnam Street and Contra Loma Boulevard would require such an exception but potentially viable alternatives on existing PG&E towers would not and, even if such alternatives on PG&E towers were not viable, the facility at the proposed location would not be as screened and concealed by existing natural foliage as the known viable alternative at the Somerset Apartments. In addition, the General Plan § 11.6 requires the implementation of noise-attenuating barriers whenever feasible to mitigate significant noise impacts. The proposed project involves a diesel generator placed near the property line that could result in significant noise impacts to the adjacent properties and the public, but the applicant has not proposed any noise-attenuating barriers to mitigate such impacts. General Plan § 5.4.8 also encourages the integration of vegetation or landscaping into walls or fences in commercial zones to avoid blank walls, but the applicant has not proposed any such features. Accordingly, granting a use permit for the proposed monopine would adversely affect the 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 **DENY**

GTE Mobilnet of California LP's application for a use permit and design review (UP-16-15, AR-16-09) to construct a wireless telecommunications facility.

* * * * *

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 5th day of April 2017.

AYES:

NOES:

ABSTAIN:

ABSENT:

FORREST EBBS,
SECRETARY TO THE
PLANNING COMMISSION

ATTACHMENT “A”

WIRELESS PLANNING MEMORANDUM

TO: Kevin Scudero
FROM: Michael D. Johnston
REVIEWERS: Dr. Jonathan L. Kramer, Robert C. May
DATE: December 19, 2016

RE: **UP-16-15 / ATL-16-09: Technical Review for New Monopine Wireless Facility**

Applicant: Verizon Wireless
Site Address: Corner of Putnam Street and Contra Loma Boulevard
Site ID: Contra Loma Longview

The City of Antioch (the "**City**") requested a review of the Verizon Wireless ("**Verizon**") proposal to construct and operate a new wireless site at the corner of Putnam Street and Contra Loma Boulevard. This memorandum addresses the following questions: (1) whether Section 6409(a) applies to Verizon's proposal; (2) whether Verizon's proposal complies with the Antioch Municipal Code; (3) whether potential alternatives exist that deserve additional consideration; and (4) whether Verizon's proposal demonstrates planned compliance with the federal radio frequency exposure guidelines.

This memorandum reviews the application and related materials for technical and regulatory issues specific to wireless infrastructure. Although many technical issues implicate legal issues, the analysis and recommendations contained in this memorandum do not constitute legal advice.

1. Project Description

Verizon proposes to construct a new wireless facility that consists of a 62-foot above ground level ("**AGL**") monopine and associated transmission equipment on a vacant commercial parcel in commercial (C-2) zoning district. Verizon's project plans dated November 27, 2015 and submitted with this application show that Verizon would install nine panel antennas evenly distributed in three sectors and center-mounted at 50 feet AGL. Behind the antennas, Verizon proposes to install 15 remote radio heads ("**RRHs**") and three DC power surge protectors. To visually blend with the monopine all the tower-mounted equipment would be concealed within the faux-tree canopy and painted flat green, and all the antennas and RRHs would be covered with "pine needle socks."

At ground level behind a six-foot AGL vinyl clad mini-mesh fenced enclosure, Verizon proposes to install two equipment cabinets, a diesel backup power generator and fuel tank, two standing LED work lights, three GPS antennas, an ice bridge and H-frame-mounted telephone and electric utility panels all on a concrete slab foundation. The equipment cabinets, generator, ice bridge, work lights and GPS antennas would all protrude above the fencing. The City should also note that the project plans do not include model numbers, equipment details or dimensions for the equipment cabinets, generator, H-frame, ice bridge and GPS antennas.

2. Section 6409(a) Analysis

As a threshold matter, the City must determine whether federal law mandates approval for this permit application. Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 requires that State and local governments “may not deny, and shall approve” any “eligible facilities request” for a wireless site collocation or modification so long as it does not cause a “substant[ial] change in [that site’s] physical dimensions.”¹ FCC regulations interpret key terms in this statute and impose certain substantive and procedural limitations on local review.² Localities must review applications submitted for approval pursuant to Section 6409(a), but the applicant bears the burden to show it qualifies for mandatory approval.

Section 6409(a)(2) defines an “eligible facilities request” as a request to collocate, remove or replace transmission equipment on an existing wireless tower or base station.³ This definition necessarily excludes permit requests for new facilities. Thus, no matter how large or small, Section 6409(a) does not mandate approval for a permit to construct an entirely new wireless facility.

Here, Verizon did not submit an eligible facilities request because rather than collocate on an existing facility, Verizon proposes to construct a new wireless facility where none currently exists. Accordingly, Section 6409(a) does not require that the City approve Verizon’s application. Rather, the City should review Verizon’s proposal for compliance with the local values expressed in the Antioch Municipal Code (“**AMC**”) subject to certain federal limitations in Section 704 of the Telecommunications Act of 1996 (the “**Telecom Act**”).

3. Compliance with AMC Zoning Ordinance

The City requires a use permit for wireless facilities and applies the generally applicable development standards in the AMC to such uses.⁴ To approve a use permit, the City must

¹ See Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156. (Feb. 22, 2012) (codified as 47 U.S.C. § 1455(a)).

² See *In the Matter of Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies, Report and Order*, 29 FCC Rcd. 12864 (Oct. 17, 2014) (codified as 47 C.F.R. §§ 1.40001, *et seq.*).

³ See 47 U.S.C. § 1455(a)(2).

⁴ See generally ANTIOCH MUN. CODE Title 9, Chapter 5.



find that (1) the use is not detrimental to public health or welfare or nearby improvements; (2) the use is authorized at the proposed location; (3) the site is adequate to accommodate the use; (4) the site can accommodate potential additional traffic caused by the use; and (5) the use will not adversely affect the General Plan.⁵

3.1.AMC § 9-5.601 Height and Area Regulations

The City limits structures in the C-2 zone to 35 feet from the average lot elevation to the highest point on the structure.⁶ However, the AMC carves out an exception for radio towers, but does not expressly limit the additional height permitted under the exception.⁷ This does not mean that the applicant could construct a radio tower at any height it chooses. Rather, the City may use its discretion to determine the appropriate height for the tower.

Here, Verizon's proposed monopine would exceed the default zone height limit in this zoning district by 27 feet, and to the extent the monopine would be disproportionately tall compared to the surrounding tree line and improvements, the additional height could potentially cause aesthetic discontinuity that could harm nearby residences or the commercial shopping center.

However, the City's legislative judgment that radio towers should be permitted to exceed the zone height limit under certain circumstances recognizes that radio towers require additional height to transmit signals. Since the AMC does not expressly restrict the additional height permitted under the exception, a height exception would be justified to the extent Verizon reasonably requires one to provide its services. In this case, Verizon merely concludes that the proposed facility was designed at its minimum functional height and did not provide any technical or factual support for its conclusion. Rather than accept Verizon's claims at face value, the City should consider requiring that Verizon demonstrate whether its "minimum functional height" claim is indeed accurate.

Accordingly, the City may wish to request that Verizon submit additional propagation maps and/or any other credible and reliable technical justification that show predicted service levels in the intended service area with antennas center-mounted at lower elevations. For comparative purposes, such lower antenna centerline elevations could be 40 feet and 30 feet AGL with all supplemental propagation maps presented in the same format and scale as the maps provided in the initial application.

3.2.AMC § 9-5.1602 Fence Height Restrictions

The City generally restricts fence heights to six feet, but would allow eight-foot fences in commercial districts subject to Zoning Administrator approval.⁸ Here, Verizon would

⁵ See ANTIOCH MUN. CODE § 9-5.2703(B)(1).

⁶ See ANTIOCH MUN. CODE § 9-5.601.

⁷ See ANTIOCH MUN. CODE § 9-5.601, footnote (b).

⁸ See ANTIOCH MUN. CODE § 9-5.1602(E).



install a six-foot fence that would not fully conceal the ground-mounted equipment. Given that there is limited natural screening adjacent to the equipment enclosure, the City may wish to require additional landscaping for such screening purposes and/or consider an exception to the fence height limitation for greater concealment.

In the event that the City finds that Verizon's proposed facility in its current location mostly closely conforms with the City's development standards and preferences, the City should consider adopting the following conditions of approval to ensure that the facility is installed and maintained as desired. The City should not interpret these conditions as a judgment on whether the proposed facility in the current location should be approved. Rather, these conditions are recommended in the event that the City prefers the proposed location and design after considering the potential alternatives discussed below in Section 4.3.

1. Permittee shall install, and at all times maintain in good condition, three-dimensional pine bark cladding on the entire vertical support structure.
2. Permittee shall paint all mounts, arms, brackets and other support equipment with flat natural colors that resemble pine tree branches and/or needles. Permittee shall maintain all such paint in good condition at all times.
3. Permittee shall install, and at all times maintain in good condition, at least 3.5 faux-pine branches per vertical foot. Such branches must commence at approximately 12 feet above ground level and naturally taper towards the top. The faux-pine branches must extend at least 24 inches from the edge of the tower-mounted equipment, including without limitation the antennas.
4. Permittee shall paint all tower-mounted equipment, including without limitation all antennas, remote radio units/heads, DC power equipment, cables, wires and other connections, with flat natural colors that resemble pine tree branches and/or needles. Permittee shall maintain all such paint in good condition at all times.
5. Permittee shall install, and at all times maintain in good condition, faux-pine needle socks over all antennas, remote radio units/heads and other similar tower-mounted equipment.
6. Permittee shall not install any barbed wire, razor wire or other similar wires on the fence.
7. Permittee shall paint the equipment shelter and ice bridge with flat colors that blend with the surrounding environment. Permittee shall maintain all such paint in good condition at all times.
8. Permittee shall develop a landscape plan with native pine trees that will effectively screen the facility when viewed from the public rights-of-way. Permittee shall consult with a licensed landscape architect to determine the appropriate tree size



and species to ensure that the trees will mature such that the monopine blends effectively with the natural foliage. Permittee shall implement such landscape plan and at all times maintain the landscaping in good condition.

9. Permittee shall develop a landscape plan with native, drought-resistant plants that that will effectively screen the fence when viewed from the public rights-of-way. The plants required under this condition must screen at least four vertical feet at the time Permittee installs them, and must screen the entire fence height and all ground-mounted equipment (except the monopine) when fully matured. Permittee shall implement such landscape plan and at all times maintain the landscaping in good condition.
10. Permittee acknowledges that the City specifically includes these conditions of approval as concealment elements of the support structure designed to mimic the natural trees in surrounding environment. Permittee further acknowledges that the City finds the approved location, design and structure height contribute to the concealment and are themselves concealment elements of the support structure. Any future modifications to the site must maintain or improve all concealment elements.

Although Verizon already proposes to incorporate some of the recommended concealment techniques, the City should explicitly include all concealment techniques in any potential permit approval as conditions of approval to preserve the aesthetic benefit throughout future modifications. The FCC generally exempts Section 6409(a) modifications from compliance with subjective aesthetic code requirements, but requires compliance with conditions of approval related to concealment elements.⁹ Thus, the conservative approach would be to condition approval on adoption and maintenance of specific concealment techniques to enforce these conditions in any subsequent modification.

The following discussion addresses certain federal limitations imposed on the City's regulatory authority with respect to Verizon's proposal as well as potential alternative designs and locations that the City might prefer.

4. Significant Gap and Least Intrusive Means Analysis

Under the Telecom Act, State and local governments cannot prohibit or effectively prohibit personal wireless communication services.¹⁰ The United States Court of Appeals for the Ninth Circuit holds that a single permit denial can violate the Telecom Act when the applicant demonstrates that (1) a "significant gap" in its own service coverage exists and

⁹ See 47 C.F.R. § 1.40001(b)(7).

¹⁰ See Section 704 of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (codified as 47 U.S.C. § 332(c)(7)(B)(i)(II)).



(2) its proposed site constitutes the “least intrusive means” to mitigate that significant gap.¹¹ This section discusses both issues as related to the present application.

4.1. Significant Gap

The Ninth Circuit does not precisely define what a “significant gap” in service coverage means because this “extremely fact-specific [question] def[ies] any bright-line legal rule.”¹² Although sometimes courts find that weak service coverage constitutes a significant gap, the Ninth Circuit also holds that “the [Telecom Act] does not guarantee wireless service providers coverage free of small ‘dead spots’”¹³ Accordingly, whether a gap rises to a legally significant gap depends on the contextual factors in each individual application.¹⁴

To guide the analysis, the Ninth Circuit suggests that applicants and localities should focus on “context-specific factors” such as: (1) whether the gap affects a significant commuter thoroughfare; (2) how many users the alleged gap affects; (3) whether the proposed site will fill a complete void or merely improve weak signal; (4) whether the alleged gap affects a commercial area; (5) whether the alleged gap threatens public safety; and (6) whether the applicant presented empirical or merely predictive evidence.¹⁵ The Ninth Circuit identifies these factors as relevant but does not explicitly limit the analysis to these factors or consider any particular factor more important than the others.

Here, Verizon alleges that this site is intended to close a significant gap in its LTE coverage and capacity in the surrounding residential areas and along California State Highway 4. The application also contains signal propagation maps (reproduced below) that purport to show the gap and its significance.

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¹¹ See *MetroPCS, Inc. v. City and County of San Francisco*, 400 F.3d 715, 733 (9th Cir. 2005).

¹² See *id.*

¹³ See *id.*

¹⁴ See *Sprint PCS Assets, LLC v. City of Palos Verdes Estates*, 583 F.3d 716, 727 (9th Cir. 2009) (citing *San Francisco*, 400 F.3d at 733).

¹⁵ See *id.* (collecting cases that examine each enumerated factor).



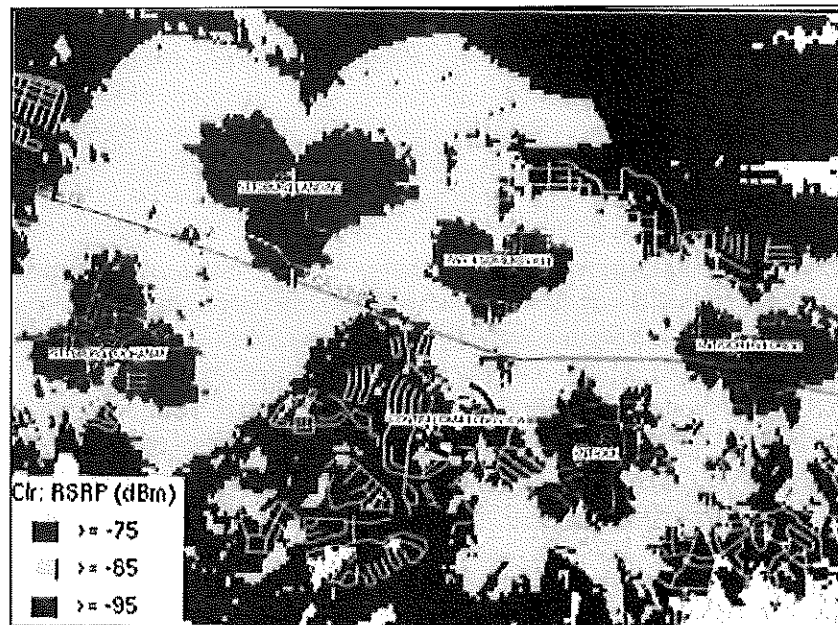


Figure 1: Existing LTE signal quality measured in RSRP (source: Verizon)

The propagation map reproduced in Figure 1 models Verizon's existing LTE signal strength without the proposed site. The search area around the proposed site consists primarily of residential neighborhoods and some commercial shopping centers. Verizon models its existing signal strength according to a basic color-coding. Signal strength greater than -75 dBm is represented in green; between -75 dBm and -85 dBm is represented in yellow; and between -85 dBm and -95 dBm is represented in red.

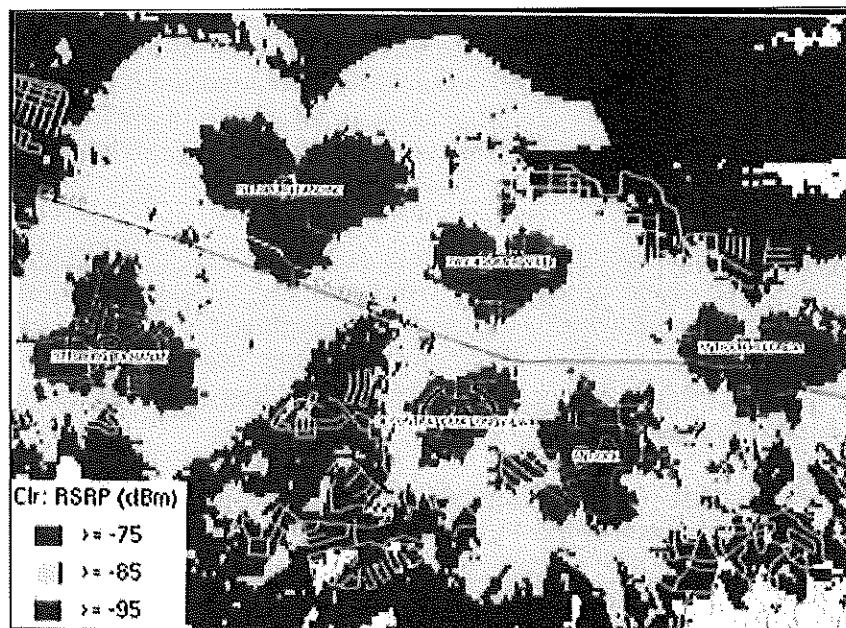


Figure 2: Proposed LTE signal quality measured in RSRP (source: Verizon)



The propagation map submitted with the application and reproduced in Figure 2 models Verizon's service coverage with the combined LTE signals from the proposed and surrounding sites. With the proposed site turned on, Verizon predicts that its signal strength would improve to greater than -85 dBm in all directions immediately around the proposed site. As depicted, Verizon's network signal strength would increase by approximately 20 dBm within the search area.

Although Verizon's propagation maps show that a "gap" exists in its LTE service, they do not necessarily show that the gap is "significant." Verizon provided signal measurements in reference signal received power ("**RSRP**"), which is just one input that cell sites within a network use to determine which cell will provide the dominant signal to the user, and typically shows approximately 20 dBm weaker signals than if Verizon analyzed the same signals with received signal strength indicator ("**RSSI**"). Verizon did not provide any empirical data to suggest that users experience dropped calls or provide the context for assessing how the signal measurements and the color-coding relate to an inability to provide wireless services.

Even if the current application materials do not necessarily show that significant gap exists, this does not mean that the City should deny Verizon's application because Verizon could still supplement its application with empirical data to show that its gap is indeed significant. Rather, the City simply possesses its traditional land use discretion authorized under the AMC and preserved in the Telecom Act. Accordingly, the City should evaluate whether Verizon's proposal is the least intrusive in light of the values embodied in the AMC.

4.2. Least Intrusive Means

Even when an applicant demonstrates a significant gap, the Telecom Act does not grant the applicant the right to build whatever site in whatever location it chooses. State and local jurisdictions may require wireless applicants to adopt the "least intrusive means" to achieve their technical objectives.¹⁶ This balances the national interest in wireless services with the local interest in planned development.

In the Ninth Circuit, the least intrusive means refers to the technically feasible and potentially available alternative design and location that most closely conforms to the local values a permit denial would otherwise serve.¹⁷ A "technically feasible and potentially available alternative" means that the applicant can reasonably (1) meet their demonstrated service needs and (2) obtain a lease or other legal right to construct the proposed site at the proposed location.¹⁸

The process to determine whether a proposal constitutes the least intrusive means involves "burden-shifting" framework. First, the applicant establishes a presumption that

¹⁶ See, e.g., *American Tower Corp. v. City of San Diego*, 763 F.3d 1035, 1056 (9th Cir. 2014).

¹⁷ See *id.*; see also *Verizon USA, Inc. v. City of Anacortes*, 572 F.3d 987, 995 (9th Cir. 2009).

¹⁸ See *Anacortes*, 572 F.3d at 996–999.



it proposes the least intrusive means when it submits an alternative sites analysis. Localities can rebut the presumption when it proposes other alternatives. Applicants may then rule-out proposed alternatives when it provides a “meaningful comparative analysis” for why such alternative is not technically feasible or potentially available.¹⁹ This back-and-forth continues until either the jurisdiction fails to propose a technically feasible or potentially available alternative, or the applicant fails to rule-out a proposed alternative.²⁰

Applicants cannot rule-out potential alternatives on the ground that it believes its preferred site is subjectively “better” than the jurisdiction’s preferred alternative.²¹ Only the local government can decide which among several feasible and available alternatives constitutes the best option. Similarly, an applicant cannot rule-out a proposed alternative based on a bare conclusion that it is not technically feasible or potentially available—it must provide a meaningful comparative analysis that allows the jurisdiction to reach its own conclusions.²²

4.3. Alternative Sites Analysis

Here, Verizon presented a *prima facie* case that its proposed site constitutes the least intrusive means because Verizon submitted an alternative sites analysis. Accordingly, the City bears the burden to raise questions or request additional investigation into the potential alternative locations and/or designs.

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¹⁹ See *American Tower Corp.*, 763 F.3d at 1056.

²⁰ Compare *id.* (upholding a permit denial because the applicant failed to rule-out the technical feasibility or potential availability of proposed alternatives), with *Anacortes*, 572 F.3d at 999 (invalidating a permit denial because the city insisted on an unavailable location). These cases provide a guide for planners on how to evaluate alternative sites analyses. Planners should also note that a strong administrative record is essential to this analysis.

²¹ See *American Tower Corp.*, 763 F.3d at 1057 (finding that the applicant “did not adduce evidence allowing for a meaningful comparison of alternative designs or sites, and the [c]ity was not required to take [the applicant]’s word that these were the best options”).

²² See *id.*



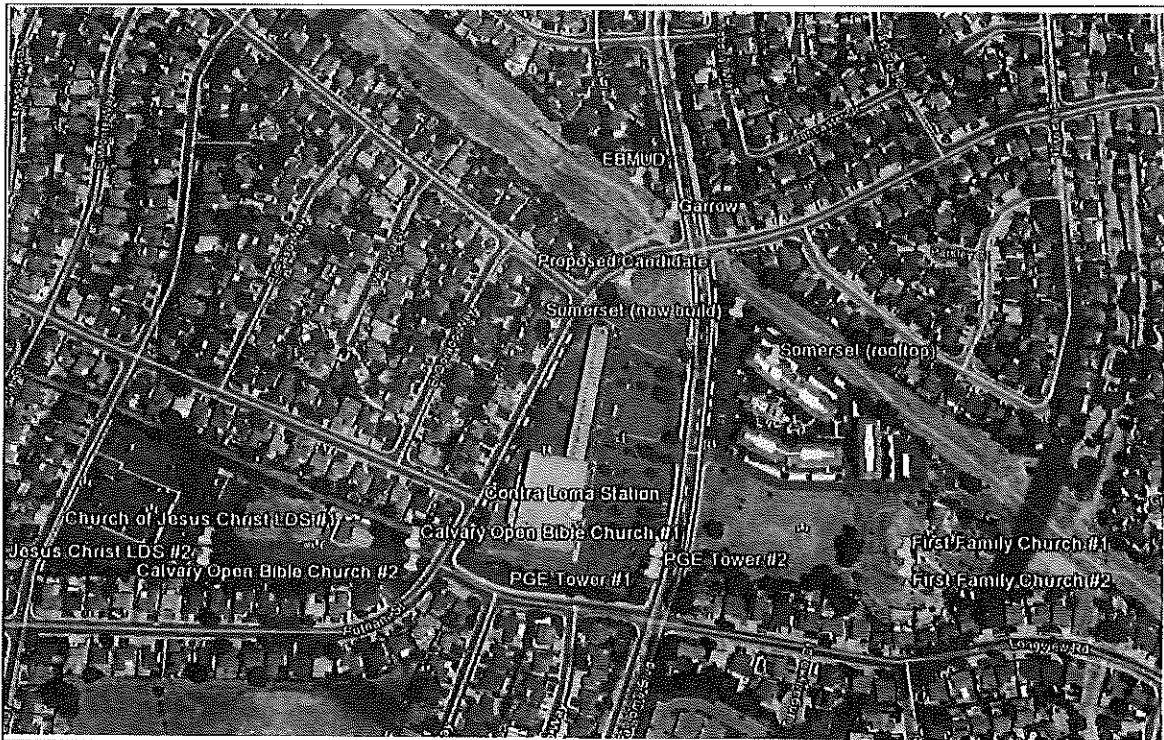


Figure 3: Alternative sites considered by Verizon (source: Complete Wireless Consulting)

- **Alternative No. 1: PG&E Tower #046-353 (3190 Contra Loma Boulevard):** Although PG&E would have permitted Verizon's facility on this PG&E tower, Verizon rejected this alternative because the underlying property owner would not enter into a ground lease with Verizon for the base station equipment.
- **Alternative No. 2: PG&E Tower #007/047 (3130 Contra Loma Boulevard):** Although PG&E would have permitted Verizon facility on this PG&E tower and the tower currently supports Sprint antennas, Verizon rejected this alternative because the underlying property owner would not enter into a ground lease with Verizon for the base station equipment.
- **Alternative No. 3: First Family Church #1 (3195 Contra Loma Boulevard):** Verizon rejected this alternative because the elevation at this location would be 60 feet higher than the proposed site and would not meet Verizon's coverage objectives.
- **Alternative No. 4: First Family Church #2 (3195 Contra Loma Boulevard):** Verizon rejected this alternative because the elevation at this location would be (1) significantly higher than the proposed site and (2) too close to Verizon's existing water tank facility at Lone Tree Way and Terranova Drive to meet Verizon's coverage objectives.



- **Alternative Nos. 5 and 6: Calvary Open Bible Church #1 and #2 (1200 Putnam Street):** Verizon rejected these alternatives because they would not meet Verizon's coverage objectives based on the alternative's proximity to an existing Verizon facility to the south.
- **Alternative Nos. 7 and 8: Church of Jesus Christ Latter Day Saints #1 and #2 (3015 Rio Grande Drive):** Verizon rejected these two PG&E tower attachment alternatives because they would not meet Verizon's coverage objectives and the property owner was unresponsive to both PG&E's and Verizon's contact attempts.
- **Alternative No. 9: Somerset Rooftop (3185 Contra Loma Boulevard):** Verizon rejected this alternative because the property owner would not allow Verizon to physically inspect the rooftop to evaluate technical feasibility.
- **Alternative No. 10: Somerset New Build (3185 Contra Loma Boulevard):** Verizon asserts that the current proposed design at this alternative location, which is surrounded by trees and adjacent to an apartment complex, would be viable but was not selected because the proposed location would most optimally meet Verizon's coverage objectives.
- **Alternative No. 11: Contra Loma Station (3190 Contra Loma Boulevard):** Verizon rejected this new site build alternative at a shopping center because the property owner was unwilling to lease space on the property.
- **Alternative No. 12: East Bay Municipal Utility District:** Verizon rejected this alternative because the property owner informed Verizon that a wireless facility would be incompatible with the District's existing equipment at the property and the District would not enter into a lease.
- **Alternative No. 13: Garrow (Putnam Street):** Verizon rejected this alternative because, although the property owner expressed initial interest, Verizon's subsequent contact attempts went unreturned.

Although Verizon submitted this list of potential alternatives, the City cannot reach an informed decision about their viability because Verizon merely concluded that almost all the alternatives were infeasible or unavailable without providing the factual basis for reaching such conclusions. Accordingly, the City may wish to request additional information from Verizon to determine for itself whether each alternative can be ruled-out.

- **Alternative Nos. 1, 2, 7, 8, 9, 11, 12 and 13:** For confirmation purposes, the City should consider requesting that Verizon provide the names and contact information of all the property owners that Verizon asserts were unwilling to enter into a lease, as well as the dates and times Verizon attempted to contact each potential landlord.



- **Alternative Nos. 3, 4, 5, 6, 7 and 8:** For a comparative evaluation of the alternatives that Verizon asserts would not meet the coverage objectives, the City should consider requesting that Verizon provide propagation maps that measure LTE signal strength in RSRP showing the existing and proposed coverage for each alternative. For these alternatives, Verizon should use the same scale and format as used in the maps provided in the current application for the proposed location.

Given that Verizon asserts Alternative No. 10 would be a viable alternative to the proposed location, the City should also consider requesting additional investigation at this location. Verizon's search ring (reproduced above in Figure 3) shows Alternative No. 10 (Somerset New Build) surrounded by existing mature pine trees that may adequately screen a monopine from adjacent uses. The City should note, however, that this site is located in a high density residential zoning district, and whether natural screening elements and additional landscaping would be enough to outweigh the potential impacts on the adjacent residential use is a question for the City to answer.

Accordingly, the City may wish to request that Verizon submit project plans and photo simulations of a monopine design that would provide sufficient context for the City to determine whether Alternative No. 10 would be a more preferred location for a new wireless facility.

Lastly, the alternative sites framework delineated by the Ninth Circuit allows the City to offer alternatives that were not considered by the applicant. Since Verizon seeks to provide coverage in a largely residential area where a tower-mounted facility may not be the least intrusive means, the City may wish to consider requesting that Verizon explore deploying small cell facilities in the public right-of-way on existing infrastructure like streetlights and utility poles. Although this type of deployment would require more than one new facility, the size and distribution of each cell could cumulatively be less intrusive than a traditional tower-mounted facility.

5. Planned Compliance with RF Exposure Regulations

Under the Telecom Act, the FCC completely occupies the field with respect to RF emissions regulation. The FCC established comprehensive rules for human exposure to RF emissions (the "**FCC Guidelines**").²³ State and local governments cannot regulate wireless facilities based on environmental effects from RF emissions to the extent that the emissions comply with the FCC Guidelines.²⁴

²³ See 47 U.S.C. § 332(c)(7)(B)(iv); see also 47 C.F.R. § 1.1307 *et seq.*; FCC Office of Engineering and Technology, *Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields*, OET Bulletin 65, ed. 97-01 (1997).

²⁴ See 47 U.S.C. § 332(c)(7)(B)(iv).



Although localities cannot establish their own standards for RF exposure, local officials may require wireless applicants to demonstrate compliance with the FCC Guidelines.²⁵ Such demonstrations usually involve a predictive calculation because the site has not yet been built.

5.1. FCC Guidelines, Categorical Exclusions and Exposure Mitigation Measures

FCC Guidelines regulate *exposure* rather than *emissions*.²⁶ Although the FCC establishes a maximum permissible exposure (“MPE”) limit, it does not mandate any specific limitations on power levels applicable to all antennas and requires the antenna operator to adopt exposure-mitigation measures only to the extent that certain persons might become exposed to the emissions. Thus, a relatively low-powered site in proximity to the general population might require more comprehensive mitigation measures than a relatively high-powered site in a remote location accessible only to trained personnel.

The MPE limit also differentiates between “general population” and “occupational” people. Most people fall into the general population class, which includes anyone who either does not know about potential exposure or knows about the exposure but cannot exert control over the transmitters.²⁷ The narrower occupational class includes persons exposed through their employment and able to exert control over their exposure.²⁸ The MPE limit for the general population is five times lower than the MPE limit for the occupational class.

Lastly, the FCC “categorically excludes” certain antennas from routine environmental review when either (1) the antennas create exposures in areas virtually inaccessible to humans or (2) the antennas operate at extreme low power. As a general rule, a wireless site qualified for a categorical exclusion when mounted on a structure built solely or primarily to support FCC-licensed or authorized equipment (*i.e.*, a tower) and such that the lowest point on the lowest transmitter is more than 10 meters (32.8 feet) above ground.²⁹

Categorical exclusions establish a presumption that the emissions from the antennas will not significantly impact humans or the human environment. Such antennas are exempt from routine compliance evaluations but not exempt from actual compliance. Under some circumstances, such as a heavily collocated tower or when in close proximity to general population members, even a categorically excluded site will require additional analysis.

²⁵ See *In re Procedures for Reviewing Requests for Relief from State and Local Regulations Pursuant to Section 332(c)(7)(B)(iv) of the Communications Act of 1934*, *Report and Order*, 15 FCC Rcd. 22821, 22828–22829 (Nov. 13, 2000) (declining to adopt rules that limit local authority to require compliance demonstrations).

²⁶ See *generally* Human Exposure to Radio Frequency Fields: Guidelines for Cellular and PCS Sites, *Consumer Guide*, FCC (Oct. 22, 2014), available at <https://www.fcc.gov/guides/human-exposure-rf-fields-guidelines-cellular-and-pcs-sites> (discussing in general terms how wireless sites transmit and how the FCC regulates the emissions).

²⁷ See 47 C.F.R. § 1.1310, Note 2.

²⁸ See *id.*

²⁹ See *id.* § 1.1307(b)(1).



5.2. Planned Compliance Evaluation and Recommendations

The FCC Guidelines categorically exclude Verizon's proposal based on design because the monopine would be primarily constructed to support Verizon's FCC-licensed transmitters and the lowest transmitter would be approximately 47 feet (or 14.32 meters) AGL. However, although Verizon's facility is presumed to have no significant impact on humans or the human environment, it would be prudent to evaluate potential site conditions that might rebut this presumption.

Here, Verizon submitted an RF compliance report prepared by Hammett & Edison, Inc. dated August 1, 2016 (the "**H&E Report**") and concludes that no mitigation measures are necessary to comply with FCC Guidelines. Although we disagree with this conclusion, as discussed below, the H&E Report contains the RF emissions data to independently evaluate planned compliance. Based on the power output levels and operating frequencies, Verizon's transmitters would create a controlled access zone that extends approximately 43 feet AGL horizontally from the face of the antennas with little emissions in any other direction.

A controlled access zone does not mean that the facility will not comply with the FCC Guidelines. In this case, the controlled access zones would extend into inaccessible airspace because the facility would sit on a slight rise in elevation and the transmitters would be installed at a centerline above the height of nearby structures. Moreover, these "nearby" structures are over 100 feet away from the proposed facility and would be well outside the controlled access zones.

However, in the event that the City approves Verizon's application in its current form and to promote compliance with the FCC Guidelines, the City may wish to consider the following conditions of approval related to routine access restrictions and signage protocols as potential mitigation measures:

1. Permittee shall keep all access points to the equipment enclosure locked at all times, except when active maintenance is performed on the equipment.
2. Permittee shall install and at all times maintain in good condition an "RF Notice" sign and "Network Operations Center" sign adjacent to the access gate. The signs required in this condition must be placed in a location where they are clearly visible to a person approaching the access gate in the open and closed positions.
3. Permittee shall install and at all times maintain in good condition an "RF Notice" sign and "10-Step Guidelines" sign at the base of the tower. The signs required in this condition must be placed in a location where they are clearly visible to a person climbing the tower.



4. Permittee shall ensure that all signage complies with FCC OET Bulletin 65 or ANSI C95.2 for color, symbol and content conventions. All such signage shall provide a working local or toll-free telephone number to its network operations center that reaches a live person who can exert transmitter power-down control over this site as required by the FCC.

6. Conclusion

Although federal law does not require that the City approve Verizon's proposal in its current form, the AMC contemplates that radio towers like the one Verizon proposes qualify for approval in some form subject to the City's development standards and preferences.

To assist the City in making this decision, the City should consider requesting that Verizon provide the following supplemental information for the current proposal and potential alternatives: (1) propagation maps that demonstrate proposed coverage at the current location with antennas mounted at the lower elevations described in Section 3.1; (2) contact information from the potential landlords that Verizon asserts were unwilling to enter into a lease; (3) propagation maps and/or another credible technical justification for concluding certain alternatives did not meet the technical coverage objectives; (4) project plans and photo simulations for Alternative No. 10 (Somerset New Site Build); and (5) a proposal for a small cell deployment in the public right-of-way.

In the event that the City approves the application in its current form, the FCC Guidelines would categorically exclude Verizon's facility from routine compliance demonstrations.

MJ/jlk/rm



ATTACHMENT “B”

Z D D R A W I N G S I G N - O F F			
DATE:	TIME:	%	CWC-PLEASE RETURN BY:
<div><div></div><div>SIGNATURE</div></div> <div>DATE</div>			
SITE ACQUISITION: _____			
PLANNING: _____			
CONSTRUCTION: _____			
MANAGEMENT: _____			
<div><div></div><div>SIGNATURE</div></div> <div>DATE</div>			
CONSTRUCTION: _____			
REAL ESTATE: _____			
RF ENGINEER: _____			
EQUIPMENT ENGINEER: _____			
MW ENG./TRANSPORT: _____			
<div><div>OTHER (IF APPLICABLE)</div><div>SIGNATURE</div></div> <div>DATE</div>			



2785 Mitchell Drive, Walnut Creek, CA 94598

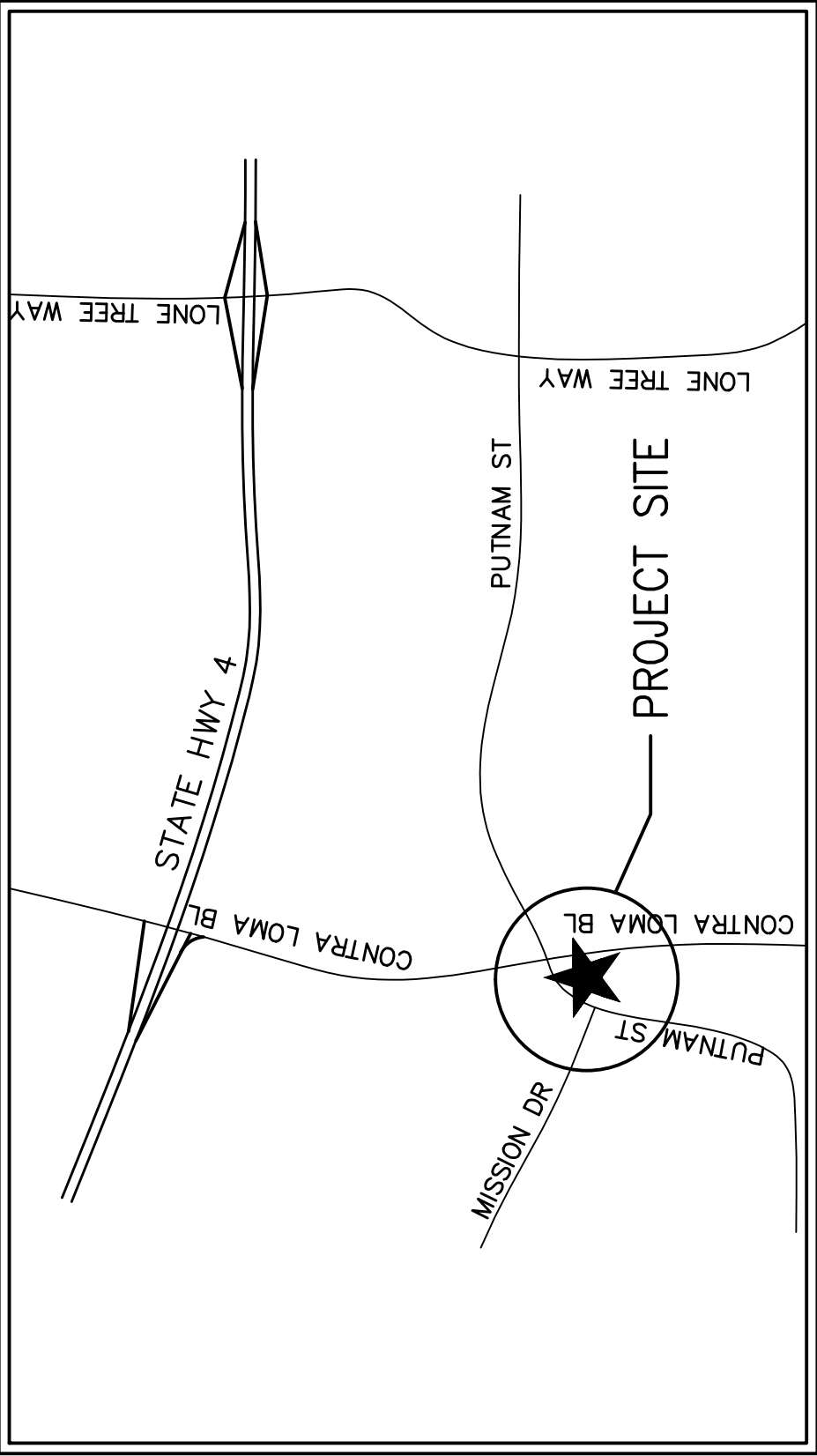
CONTRA LOMA LONGVIEW

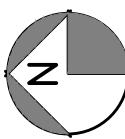
PUTNAM ST. & CONTRA LOMA BLVD.

ANTIOCH, CA 94509

APN: 076-550-002

LOCATION #: 299354



LOCATION PLAN

--

DIRECTIONS
FROM VERIZON OFFICE @ 2785 MITCHELL DRIVE, WALNUT CREEK, CA 94598: HEAD NORTHEAST ON MITCHELL DR TOWARD OAK GROVE RD TURN RIGHT ONTO OAK GROVE RD TURN LEFT ONTO YGNACIO VALLEY RD CONTINUE ONTO KIRKER PASS RD TURN RIGHT ONTO BUCHANAN RD TURN RIGHT ONTO MISSION DR TURN LEFT ONTO PUTNAM ST THE SITE WILL BE ON YOUR RIGHT

INDEX OF DRAWINGS
1. T1.1 TITLE SHEET, LOCATION PLAN, PROJECT DATA 2. C1.1 CIVIL SURVEY SHEET 3. A1.1 OVERALL SITE PLAN 4. A2.1 EQUIPMENT LAYOUT PLAN 5. A2.2 ANTENNA LAYOUT PLAN 6. A3.1 PROJECT ELEVATIONS


PROJECT DIRECTORY
<div><div>APPLICANT: VERIZON WIRELESS 2785 MITCHELL DRIVE WALNUT CREEK, CA 94598</div><div>PROPERTY OWNER: CONTRA LOMA STATION, LLC 11501 NORTHLAKE DRIVE CINCINNATI OH 45249 CONTACT: RENE FEDER 513-824-7110/916-521-5380</div></div> <div><div>ARCHITECT: MANUEL S. TSHLAS MST ARCHITECTS, INC. 1520 RIVER PARK DRIVE SACRAMENTO, CA 95815 916-567-9630 manuel@mstarchitects.com</div><div>CONSTRUCTION MANAGER: RICH JOHNSON COMPLETE WIRELESS CONSULTING, INC. 2009 Y STREET SACRAMENTO, CA 95818 916-216-0894 rjohnson@completewireless.net</div></div>

PROJECT SUMMARY
ASSESSOR'S PARCEL NUMBER: 076-550-002
JURISDICTION: CITY OF ANTIOCH
OCCUPANCY: S-2 (UNMANNED TELECOMMUNICATIONS FACILITY) U (TOWER)
TYPE OF CONSTRUCTION: V-B
ZONING: C-2 (NEIGHBORHOOD/COMMUNITY COMMERCIAL)

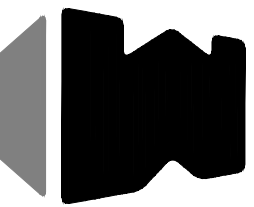
CODE COMPLIANCE
ALL WORK AND MATERIALS SHALL BE PERFORMED AND INSTALLED IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE FOLLOWING CODES AS ADOPTED BY THE LOCAL GOVERNING AUTHORITIES. NOTHING IN THESE PLANS IS TO BE CONSTRUED TO PERMIT WORK NOT CONFORMING TO THESE CODES: 2013 CALIFORNIA BUILDING STANDARDS CODE TITLE 24, CALIFORNIA CODE OF REGULATIONS INCLUDING SUPPLEMENTS EFFECTIVE JULY 1, 2015 PART 1 CALIFORNIA BUILDING STANDARDS ADMINISTRATIVE CODE PART 2 CALIFORNIA BUILDING CODE PART 2.5 CALIFORNIA RESIDENTIAL BUILDING CODE PART 3 CALIFORNIA ELECTRICAL CODE PART 4 CALIFORNIA MECHANICAL CODE PART 5 CALIFORNIA PLUMBING CODE PART 6 CALIFORNIA ENERGY CODE PART 8 CALIFORNIA HISTORICAL BUILDING CODE PART 9 CALIFORNIA FIRE CODE PART 10 CALIFORNIA EXISTING BUILDING CODE PART 11 CALIFORNIA GREEN BUILDING STANDARDS CODE PART 12 CALIFORNIA REFERENCE STANDARDS CODE LOCAL COUNTY OR CITY ORDINANCES ACCESSIBILITY REQUIREMENTS: THIS FACILITY IS UNMANNED AND NOT FOR HUMAN HABITATION. ACCESSIBILITY NOT REQUIRED IN ACCORDANCE WITH THE 2013 CBC 11B-203.5, AND 11B-202.4 EXCEPTION 7.

PROJECT DESCRIPTION
PROPOSED VERIZON WIRELESS UNMANNED TELECOMMUNICATIONS FACILITY INCLUDING: - A 40'-0"x65'-0" LEASE AREA. - A FENCE WITHIN LEASE AREA PERIMETER. - OUTDOOR EQUIPMENT CABINETS. - POWER & TELCO UTILITIES BROUGHT TO FACILITY. - A STANDBY GENERATOR. - A CABLE ICE BRIDGE. - ANTENNAS W/ ASSOCIATED TOWER MOUNTED EQUIPMENT MOUNTED ON A PROPOSED MONOPINE.
PROJECT MILESTONES


10/13/2015	90% ZONING DOCUMENTS
11/17/2015	100% ZONING DOCUMENTS
XX/XX/XXXX	90% CONSTRUCTION DOCUMENTS
XX/XX/XXXX	100% CONSTRUCTION DOCUMENTS



COMPLETE
Wireless Consulting, Inc.



MST ARCHITECTS
WIRELESS DIVISION
1520 RIVER PARK DRIVE, SACRAMENTO, CA 95815
916-567-9630
www.MSTarchitects.com



CONTRA LOMA LONGVIEW
PUTNAM ST. AND CONTRA LOMA BLVD.
ANTIOCH, CA 94509

SHEET TITLE: TITLE SHEET, LOCATION PLAN, PROJECT DATA

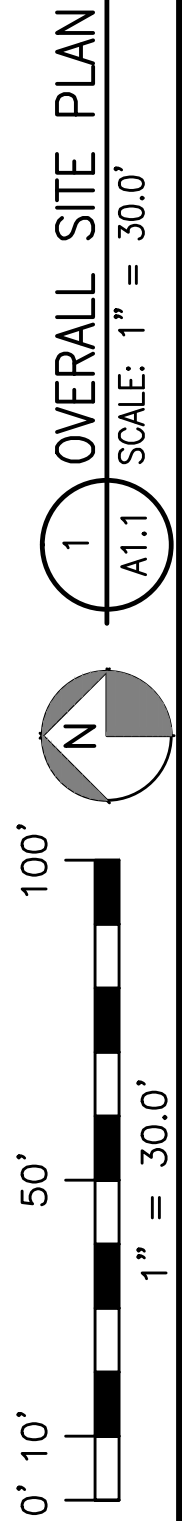
Not valid unless signed in ink by licensee.

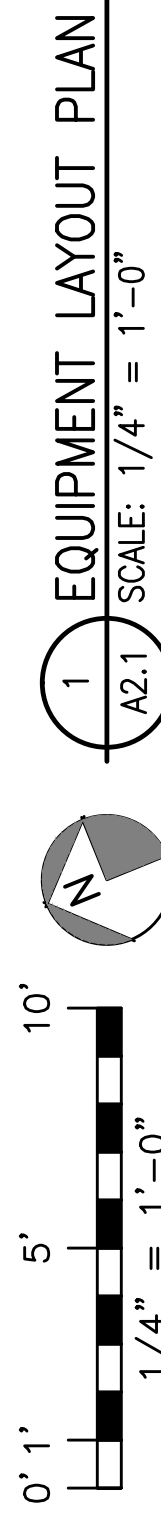
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Checked By: tst
Scale: AS NOTED
Date: 11/17/2015

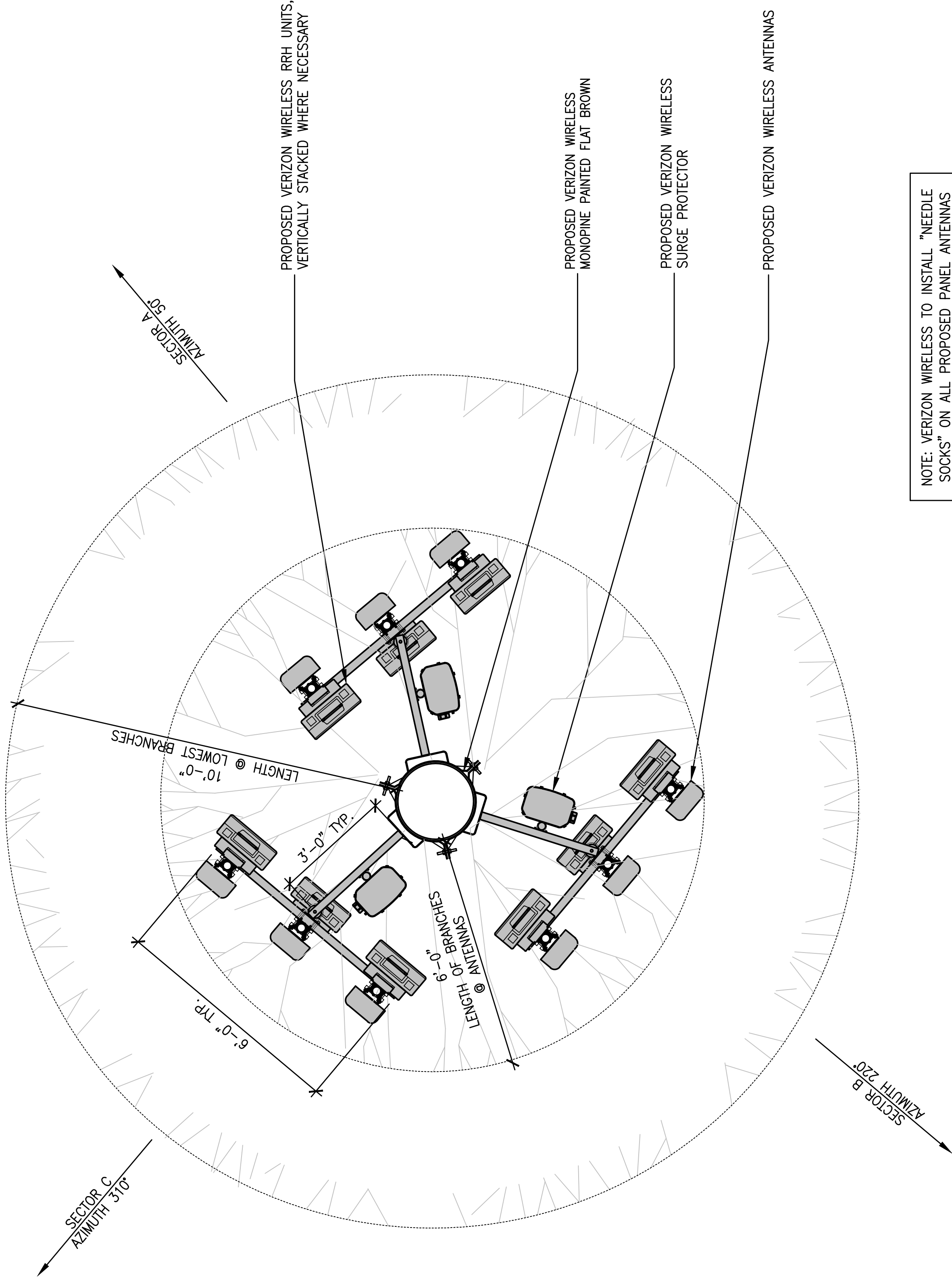
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T1.1

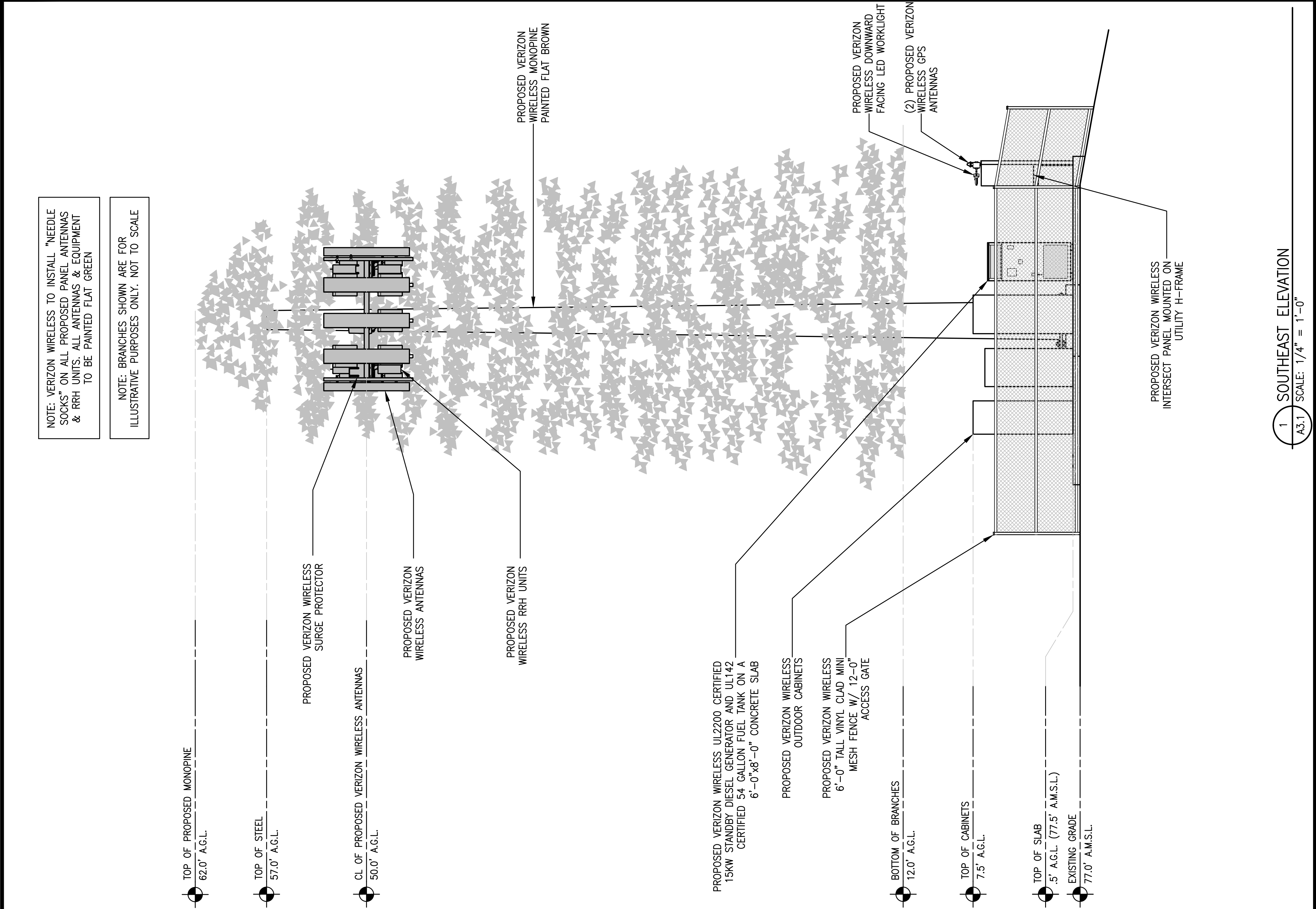
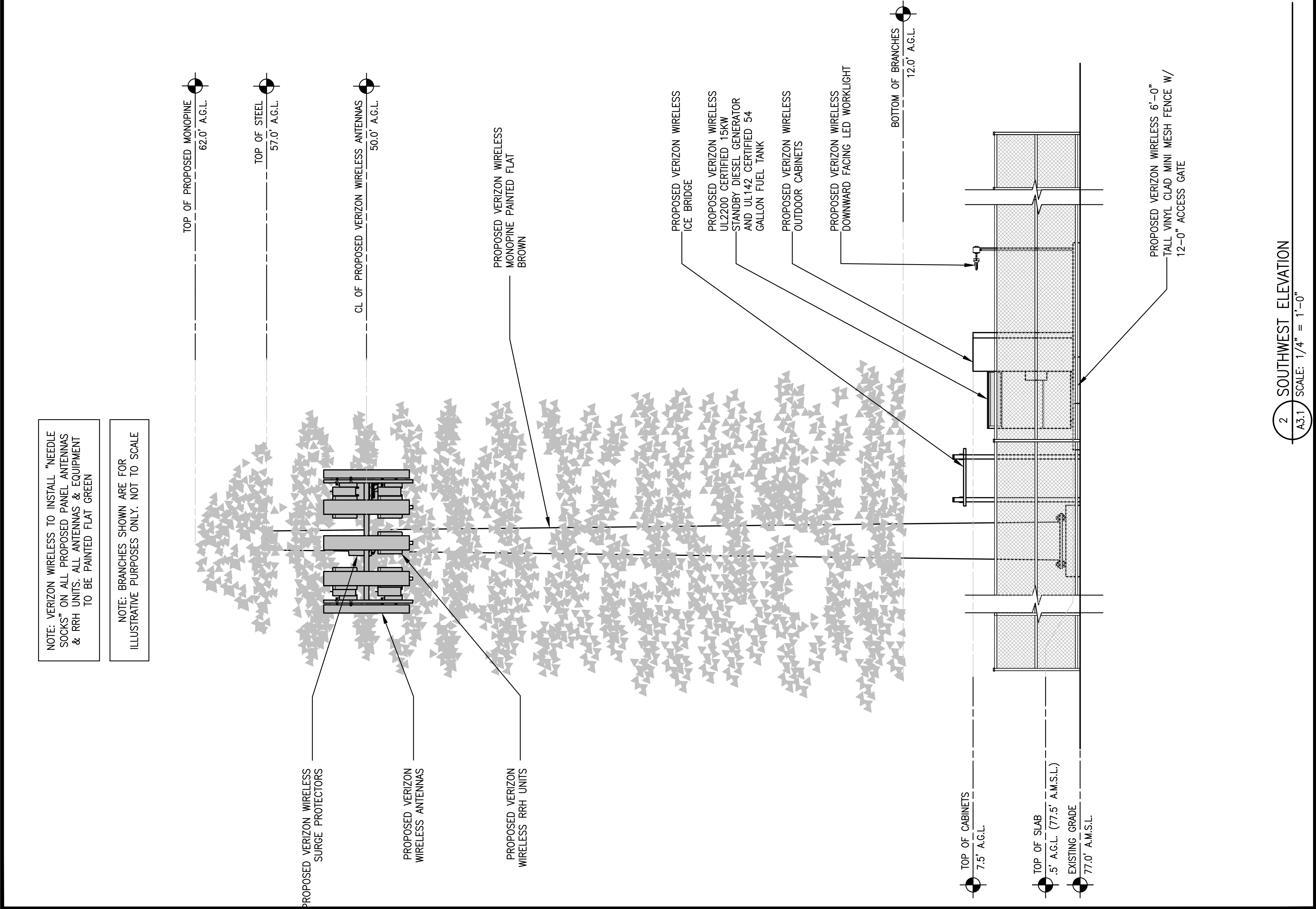




EQUIPMENT SCHEDULE					
EQUIPMENT	DESCRIPTION	QUANTITY			TOTAL
		SECTOR A	SECTOR B	SECTOR C	
ANTENNA	COMMSCOPE_SBNHH-1D65B	3	3	3	9
RRH	RRUS12 W/A2 OR EQUIVALENT	5	5	5	15
TMA OR DIPLEXER	N/A	0	0	0	0
SURGE PROTECTOR/HYBRID	RAYCAP DC3315 / HYBRID TRUNK CABLE	3/3			3/3
COAXIAL CABLE	N/A	0	0	0	0
RET CABLE	N/A	0			0



NOTE: VERIZON WIRELESS TO INSTALL "NEEDLE SOCKS" ON ALL PROPOSED PANEL ANTENNAS & RRH UNITS. ALL ANTENNAS & EQUIPMENT TO BE PAINTED FLAT GREEN



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COMPLETE

Wireless Consulting, Inc.

MST ARCHITECTS

WIRELESS DIVISION

1520 River Park Drive, Sacramento, CA 95815

916-457-9630

www.MSTarchitects.com

Verizon

CONTRA LOMA LONGVIEW
PUTNAM ST. AND CONTRA LOMA BLVD.
ANTIOCH, CA 94509

PROJECT ELEVATIONS

SHEET TITLE:

Not valid unless signed in ink by licensee.

Revisions:

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Checked By: tst

Scale: AS NOTED

Date: 11/17/2015

Job No. 162.1684

A3.1

ATTACHMENT “C”



December 22, 2016

Michelle Ellis
Complete Wireless Consulting
2009 V Street
Sacramento, California 95818

RE: Application for Use Permit (UP-16-15, AR-16-09) to Construct a New Wireless Communications Facility near the Corner of Contra Loma Boulevard and Putnam Street (APN: 076-550-002)

Dear Ms. Ellis:

On October 19, 2016 the City received the Verizon Wireless' ("Verizon") above referenced application for a new wireless facility near the corner of Contra Loma Boulevard and Putnam Street (APN: 076-550-002). The application contained technically complete information required for the City's initial review; however, the City has concerns that the proposed location may not be the most appropriate based on the information provided in the application submittal.

This letter identifies several alternative sites that appear technically feasible and potentially available, and formally requests that Verizon conduct additional investigation and provide the City with additional information about the current proposal and potential alternatives to assist the City's review.

Additional Information for the Proposed Facility (Contra Loma Boulevard and Putnam Street)

- **Propagation Maps:** The application states that the facility was designed at the minimum functional height with antennas mounted 50 feet above ground level ("AGL"). As a technical justification and for comparative purposes, please provide additional propagation maps that show the proposed coverage with the antennas mounted at 40-foot and 30-foot centerlines. These maps should be presented in the same format and scale as the maps provided in the application.
- **Other Technical Justification:** In addition to the propagation maps, Verizon may submit any other credible technical justifications for concluding that the minimum functional height would require the antennas to be mounted 50 feet AGL.

Additional Information for Sites Identified as Not Potentially Available

The application states that the underlying property owner(s) of six potential alternatives would not enter into a lease with Verizon. Based on information received from the City's

expert consultant, the City understands the Church of Jesus Christ of Latter Day Saints does not allow wireless facilities on its properties as matter of policy. However, for all other sites in this group, the information in the application does not provide the City with sufficient information to verify that Verizon attempted to contact the property owner or that the owner in fact declined to consider a site at these locations.

For confirmation purposes, please provide the name and contact information for the person Verizon attempted to contact in connection with a proposed lease at each of the following locations:

- PG&E Tower #046-353 (3190 Contra Loma Boulevard)
- PG&E Tower #007/047 (3130 Contra Loma Boulevard)
- Somerset Rooftop (3185 Contra Loma Boulevard)
- Contra Loma Station (3190 Contra Loma Boulevard)
- East Bay Municipal Utility District (Utility ROW)
- Garrow (Putnam Street).

Additional Information for Sites Identified as Not Technically Feasible

The application states that three potential alternatives would not achieve Verizon's technical coverage objectives. As mentioned above, the City considers the LDS church ruled out. However, for the remaining locations at First Family Church #1 and #2 (3195 Contra Loma Boulevard) and Calvary Open Bible Church #1 and #2 (1200 Putnam Street), the application does not provide information that would allow for a meaningful comparison between the service achievable from the proposed facility and the service achievable from the sites ruled out by Verizon on a technical basis.

For confirmation purposes, please provide the following information for First Family Church #1 and #2 (3195 Contra Loma Boulevard) and Calvary Open Bible Church #1 and #2 (1200 Putnam Street):

- **Propagation Maps:** Please provide a propagation map for each alternative that demonstrates what the proposed coverage would be with a facility at each location. These maps should be presented in the same format and scale as the maps provided in the application.
- **Other Technical Justification:** In addition to the propagation maps, Verizon may submit any other credible technical justifications for concluding that these locations would not achieve Verizon's coverage objectives.

Additional Information for Potentially Viable Alternative

The application states that a new monopine at 3185 Contra Loma Boulevard would be a potentially viable option. To allow for a meaningful comparison between the proposed facility and one at 3185 Contra Loma Boulevard, please provide the following information:

- **Photo Simulations:** Please submit photo simulations or another comparable representation of a potential monopine design at the minimum functional height for this location.
- **Propagation Maps/Other Technical Justification:** Please provide any propagation maps or credible technical justification that supports Verizon's conclusion that this proposal would be designed at the minimum functional height.

Potential Alternative Identified by the City

During the City's review, the City identified the following potential alternatives located in the search ring that Verizon did not evaluate in the application and should investigate for technical feasibility and potential availability:

- St. Ignatius of Antioch Catholic Church (3351 Contra Loma Boulevard)
- Non-PG&E tower-mounted designs at Calvary Open Bible Church (1200 Putnam Street)
- Non-PG&E tower-mounted designs at First Family Church (3195 Contra Loma Boulevard)

Timing Concerns

The City recognizes that the applicable shot clock for the application may expire on or about March 18, 2017 and would desire to calendar a public hearing in front of the Planning Commission on the application no later than February 15, 2017 in order to issue a timely decision. However, given the various office closures, limited personnel availability during the holiday season and in the spirit of cooperation, a tolling agreement may be appropriate to provide Verizon sufficient time to prepare all the necessary materials for the Planning Commission's consideration.

Conclusion

The City would be pleased to discuss a potential tolling agreement with Verizon at its convenience. The City also appreciates Verizon's efforts to this point and looks forward to a response so that the City may issue a timely decision on the application. If you have any questions, or would like to discuss a potential tolling agreement, please contact me at KScudero@ci.antioch.ca.us or (925) 779-6133.

Sincerely,



Kevin Scudero
Associate Planner

cc. Michael Johnston

ATTACHMENT “D”



February 27, 2017
Via Overnight Mail

City of Antioch
Community Development Department
P.O. Box 5007
Antioch, CA 94531
Attn: Kevin Scudero

APPLICATION FOR USE PERMIT + DESIGN REVIEW

RE: *Contra Loma Longview* (Putnam St. & Contra Loma Blvd., Antioch, CA 94509 / APN: 076-550-002)

Dear Mr. Scudero,

This package is intended to supplement Verizon Wireless's application for Combined Use Permit and Design Review for a new telecommunications facility at the above referenced location. All materials are included as requested in your letter dated December 22, 2016.

1. *Proposed Facility:* A coverage justification statement from Pablo Sanchez, Verizon's radio frequency engineer, is included with this submittal. The statement addresses the need for a 50' centerline at the proposed facility on page 3.
2. *Sites Identified as Not Potentially Available:* Verizon's correspondence with potential landlords during the site selection process is proprietary information and is not provided to the public. The alternatives analysis submitted with the application contains publicly available information on each site, including the mailing address and APN of each parcel reviewed.
3. *Sites Identified as Not Technically Feasible:* Please see the coverage justification statement included in this submittal for coverage maps relating to the requested alternatives.
4. *Potentially Viable Alternative:* Photosimulations showing a monopine at 3185 Contra Loma Boulevard are included with this submittal. The property is at a similar elevation to the proposed candidate, and is therefore depicted with the same 50' centerline.
5. *Alternatives Identified by the City:*
 - a. Please see the coverage justification statement included in this submittal for an assessment of the property at 3351 Contra Loma Boulevard.
 - b. Calvary Open Bible Church was not considered for a new build, as the property is too close to a Verizon facility to the south to achieve coverage objectives. If eligible, a PG&E

- colocation would have been pursued at this property due to the City's preference for colocations.
- c. First Family Church was not considered for a new build, as the property is too close to an existing Verizon facility, and is at too great an elevation to achieve coverage objectives. If eligible, a PG&E colocation would have been pursued at this property due to the City's preference for colocations. Additionally, the landlord stopped responding to inquiries from Verizon during the site selection process and did not confirm interest in entering a lease.

I am the planning manager and the main point of contact for this application. Should you have any questions regarding the submittal or need additional materials, I can be reached at 916-764-2454.

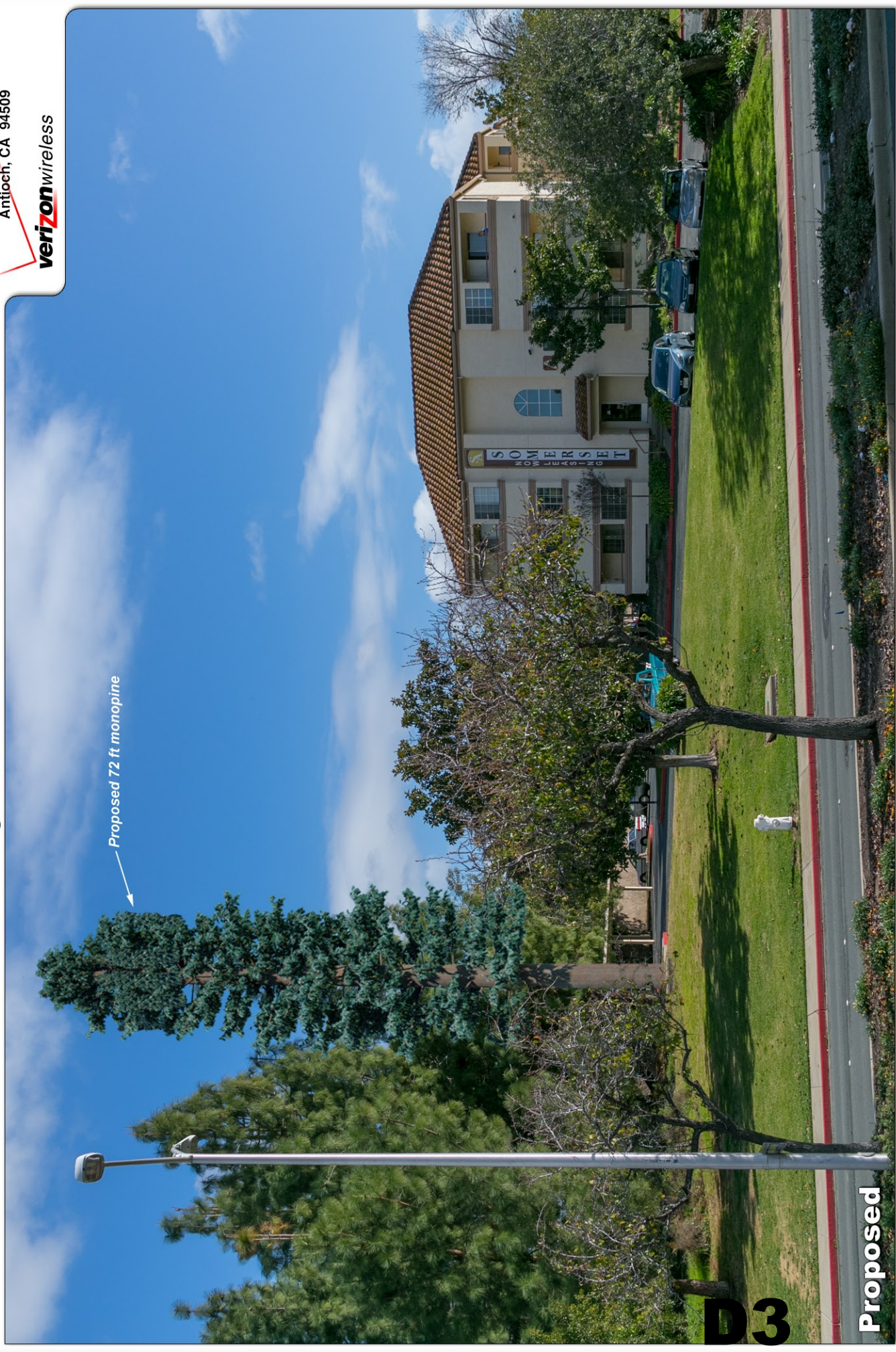
Respectfully,

Michelle Ellis
Land Use Planning Manager
MEllis@completewireless.net

Enclosures

Photosimulation of the view looking east from across Contra Loma Blvd.

Contra Loma Longview
Alternative Location Consideration
Antioch, CA 94509



D3

Proposed

Contra Loma Longview

Alternative Location Consideration
Antioch, CA 94509

verizon
wireless

Photosimulation of the view looking north from the driveway in front of the office.



Proposed



CONTRA LOMA LONGVIEW

Address: Corner of Putnam St and Contra Loma Blvd, Antioch, CA

STATEMENT OF VERIZON RADIO ENGINEER

Executive Summary:

The driver that prompts the needed creation of a wireless communications facility is coverage. The proposed site will provide for the network in terms of coverage needs described as Significant Service Gap.

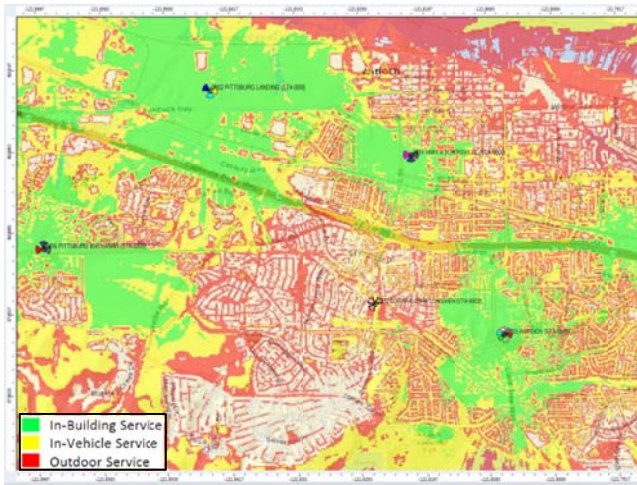
Coverage is the need for expanded service often requested by our customers or emergency services personnel. While this initially meant providing coverage in vehicles along transportation arteries, as usage patterns have shifted this now includes improving coverage inside of buildings and in residential areas.

Coverage Justification:

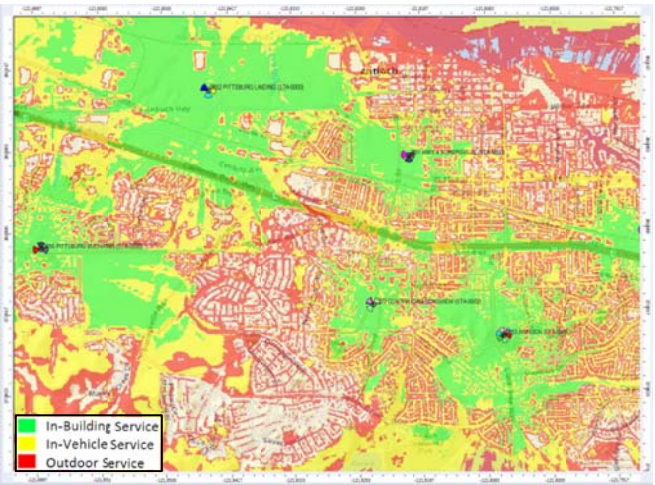
Verizon Wireless has identified a Significant Service Gap in its Long Term Evolution (LTE) wireless services in the area. Poor coverage exists in large sections of area on Mission Drive between Palo Verde way and El Paso way, Contra Loma Blvd and some parts of Hwy CA-4 close to the proposed location. The closest existing site is "Hwy 4 Somersville" which is to the North, "Antioch" which is to the East and "Pittsburg Buchanan" which is to the West.

The existing and proposed propagations maps shown on next page demonstrate that the proposed wireless communications facility allows Verizon to cover a significant portion of identified areas with coverage deficiencies, thereby filling the Significant Service Gap.

Existing LTE Coverage

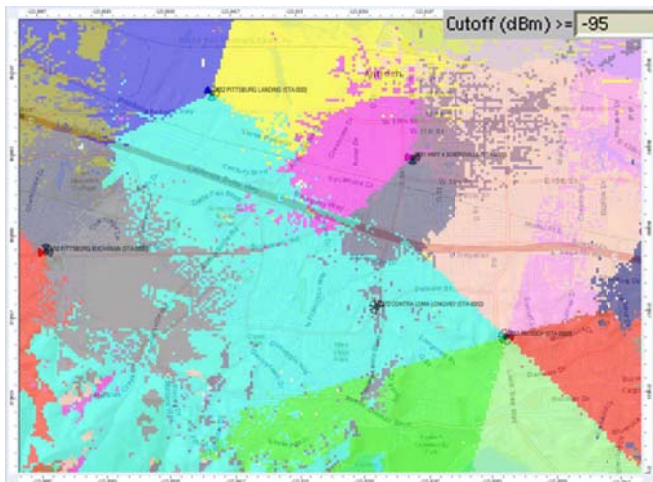


Proposed LTE Coverage at 50 ft.

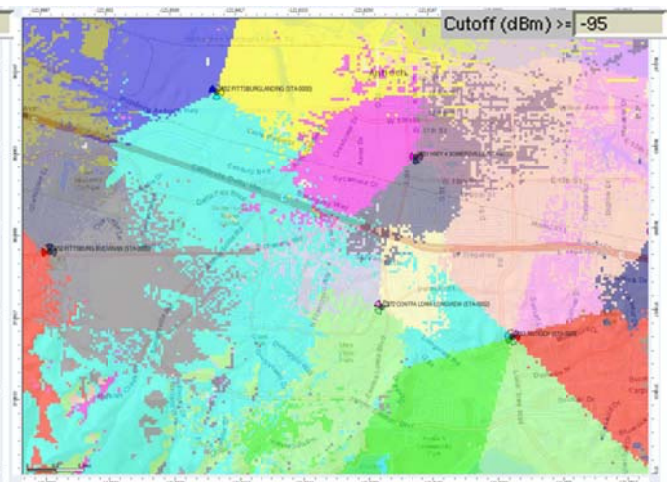


Serving Sector Maps:

Best Server Plots without Subject Site (Before)



Best Server Plots with Subject Site at 50ft. (After)

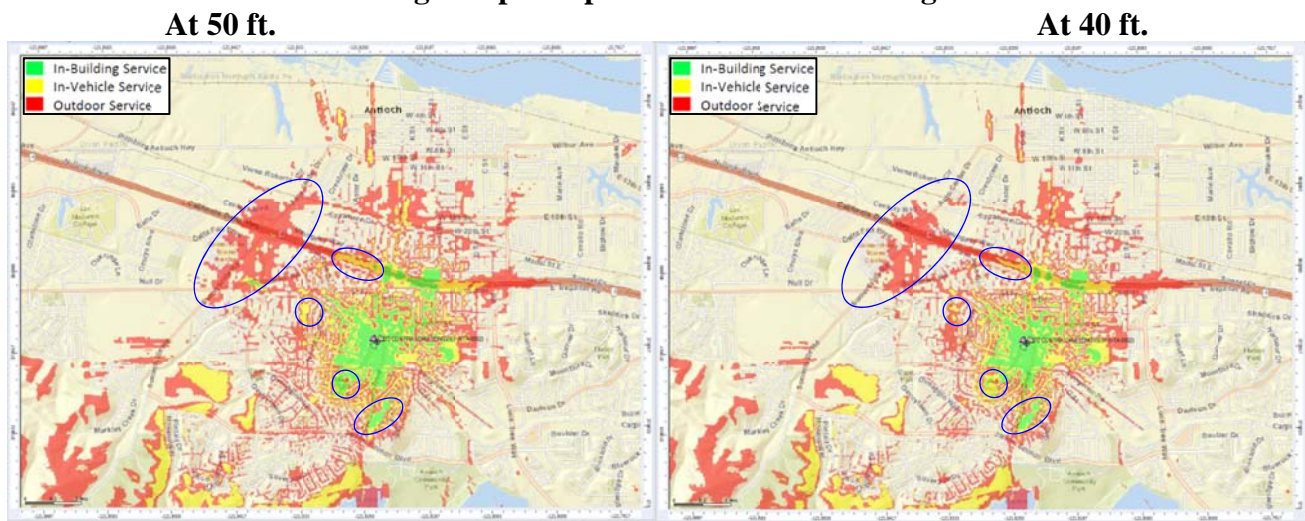


The coverage maps below depict the coverage with antennas at 50ft as proposed by Verizon RF on left side and antennas at 40ft as requested by city of Antioch on right side.

Concerns with antennas at rad center lower than 50 ft.

It is important to discuss the effect of reducing the centerline to 40 ft. This will reduce the coverage in the junction of Auto Center Dr near Lowe's Home Improvement., parts of hwy 4 and junction of Contra Loma Blvd/James Donlon Blvd. Using the centerline at 50 ft. the proposed site meets the objective of covering the Significant Service Gap.

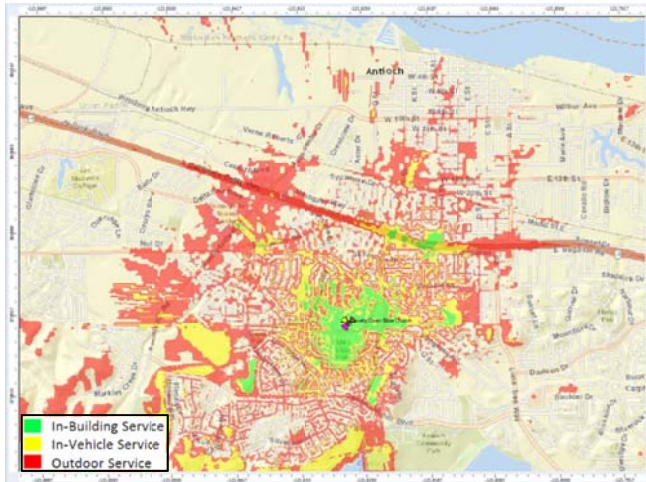
Coverage Map: Proposed Contra Loma Longview



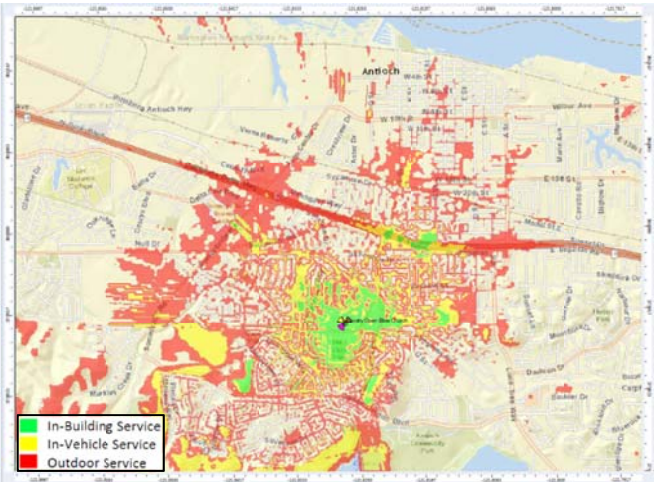
The map above shows the standalone coverage of Contra Loma Longview (proposed site) illustrating network coverage for antennas installed at 50 ft. center and 40 ft. centerlines. It shows the coverage difference in circled areas with color green for good indoor/outdoor, yellow for in vehicle and red for outdoor coverage. The map on left shows the improved network coverage compared to one on right where antennas are placed at 40ft. centerline.

CONTRA LOMA LONGVIEW Alternative candidates

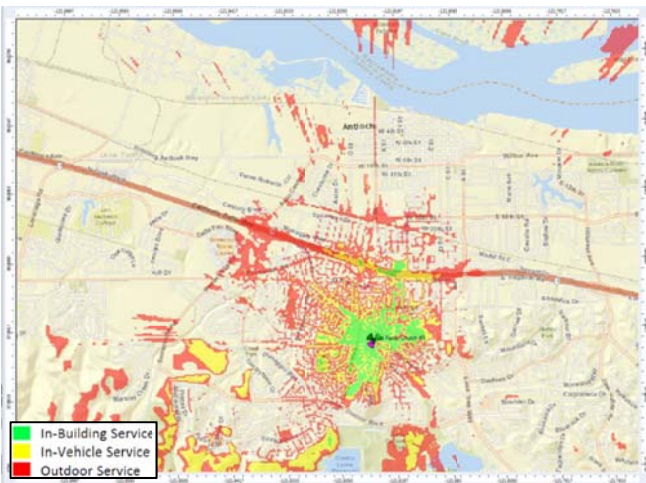
Cavalry Open Bible Church



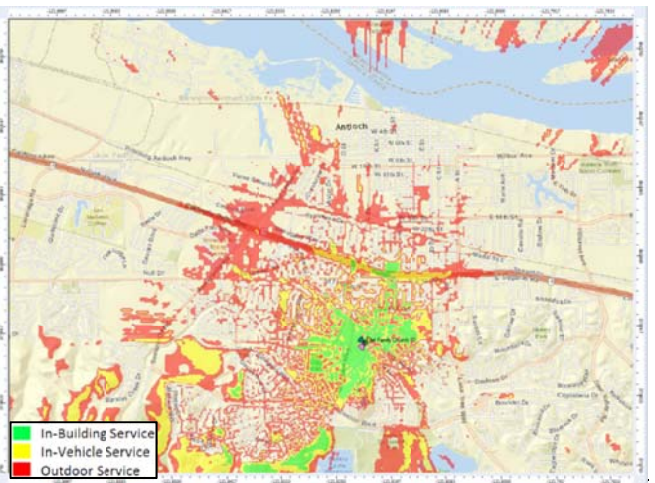
St. Ignatius of Antioch Catholic Church



First Family Church #1



First Family Church #2



Other alternative candidates shown above were submitted to VZW RF for further analysis. All candidates do not meet the coverage objectives provided by propose facility at the corner of Putnam St. & Contra Loma Blvd.

Conclusion:

The lack of Verizon Wireless in-building and in-vehicle LTE service in Contra Loma Plaza in Antioch constitutes a Significant Service Gap in Verizon Wireless network. Verizon Wireless must deploy the Proposed Facility to provide needed LTE service for local residents, commuters and emergency service personnel.

Please feel free to contact me with any questions or comments regarding Verizon Wireless's proposed facility.



2/17/17

Signature

Date

Name: Pablo Sanchez

Title: RF Design Engineer, Verizon Wireless

Address: 2785 Mitchell Drive, Walnut Creek, CA 94598

ATTACHMENT “E”



March 2, 2017

Michelle Ellis
Complete Wireless Consulting
2009 V Street
Sacramento, California 95818

RE: **Application for Use Permit UP-16-15 (ATL-16-09) to Construct a New Wireless Communications Facility near the Corner of Contra Loma Boulevard and Putnam Street (APN: 076-550-002)**

Subject: **Additional Alternative Sites Analysis**

Dear Ms. Ellis:

On December 22, 2016 the City issued a written notice (the "**Supplemental Notice**") to Verizon Wireless ("**Verizon**") requesting that Verizon supplement the original alternative sites analysis that it submitted to the City in the original application for the above-referenced facility. On February 27, 2017, the City received Verizon's additional analysis of potential alternatives for the proposed facility ("**Verizon's Response**"). Although the additional analysis responded to some of the information that the City requested, it did not fully address all of the City's requests from the Supplemental Notice.

Accordingly, this letter identifies the outstanding requests for additional information and formally requests that Verizon conduct additional investigation into the following potential alternatives to assist the City's review.

Additional Information for the Proposed Facility (Contra Loma Boulevard and Putnam Street)

In the Supplemental Notice, the City requested that Verizon provide additional propagation maps that show the proposed coverage with the antennas mounted at 40-foot and 30-foot centerlines. However, Verizon did not provide propagation maps that show the proposed coverage at a 30-foot centerline. Accordingly, the City again requests that Verizon provide the following:

Community Development Department
Planning Division

P.O. Box 5007 • 200 H Street • Antioch, CA 94531-5007 • Tel: 925-779-7035 • Fax: 925-779-7034 • www.ci.antioch.ca.us

E1

- **Propagation Maps:** As a technical justification and for comparative purposes, please provide additional propagation maps that measure the proposed coverage with the antennas mounted at a 30-foot centerline.

Additional Information for Sites Identified as Not Potentially Available

In the Supplemental Notice, the City requested that Verizon provide contact information for the potential landlords at certain locations that, although technically feasible, Verizon asserted would not be willing to enter into a lease. Verizon asserted in its response that it would not provide this information because its correspondence with potential landlords is proprietary information.

Whether the content in Verizon's communications with those individual is actually "proprietary" or not, Verizon's response seems to misunderstand the City's request. The City merely requested **contact information** for the persons Verizon communicated with for these sites.

Assuming that Verizon communicated with the property owner, the contact information itself is publicly available – not proprietary – information, and the City requested this information as a courtesy to expedite its own due diligence. Accordingly, the City again requests that Verizon provide the contact information for the property owners that it asserted would not enter into a ground lease at the following locations:

- PG&E Tower #046/353 (3190 Contra Loma Boulevard);
- PG&E Tower #007/047 (3130 Contra Loma Boulevard);
- Somerset Rooftop (3185 Contra Loma Boulevard);
- Contra Loma Station (3190 Contra Loma Boulevard);
- East Bay Municipal Utility District (Utility ROW); and
- Garrow (Putnam Street).

If Verizon does not cooperate with this request, please note that the City intends to contact the property owners of record for each alternative site listed above.

Additional Information for Potentially Viable Alternative

In the original application, Verizon claimed that a potentially viable alternative exists at 3185 Contra Loma Boulevard. Based on Verizon's claim, the City requested that Verizon provide photo simulations of a potential facility at this location along with propagation maps or other technical justification that would support the proposed height of the facility.

Verizon submitted photo simulations for a 72-foot monopine at an alternative location, but did not submit the propagation maps and/or other technical justification that supports the need for the proposed height.

In addition, after reviewing the photo simulations, the City believes that a potential building-mounted design at this location that is architecturally integrated with the underlying structure on the property could be a superior alternative to the 72-foot monopine. A building-mounted site may be more aesthetically consistent with the setting and potentially better concealed than the monopine.

Accordingly, the City requests that Verizon provide the following:

- **Propagation Maps/Other Technical Justification:** Please provide any propagation maps or credible technical justification that supports Verizon's conclusion that the proposed monopine and potential building-mounted design would be designed at the minimum functional height.
- **Photo Simulations:** Please submit photo simulations or another comparable representation of a potential building-mounted design that architecturally integrates with the underlying structure (for example, a Spanish-tile pitched faux-roof design).

Conclusion

Currently, Verizon's application for the original proposed design and location is scheduled to be heard at the March 15, 2017 Planning Commission hearing. However, the City remains concerned that the proposed location and design may not be the most appropriate given the potential alternatives that exist. Given the time constraints, a tolling agreement may be necessary.

The City appreciates Verizon's efforts to this point and looks forward to a response. If you have any questions, or would like to discuss a potential tolling agreement, please contact me at KScudero@ci.antioch.ca.us or (925) 779-6133.

Sincerely,



Kevin Scudero
Associate Planner

cc. Michael Johnston

ATTACHMENT “F”

Scudero, Kevin

From: Michelle Ellis [MEllis@completewireless.net]
Sent: Thursday, March 02, 2017 5:19 PM
To: Scudero, Kevin
Cc: 'Michael Johnston'
Subject: RE: City of Antioch Verizon Wireless Facility - Contra Loma Longview

Hi Kevin,

Responses to your letter below. I will get you a coverage map for Somerset asap.

30' coverage map: I asked the RF engineer for a 30' map, but I believe he omitted it because of the impact shown at 40', and due to the nature of wireless technology. The antennas operate on a line-of-sight technology; the loss of coverage at 40' would be even more significant at 30'. I will certainly invite the RF engineer to attend the hearing and explain these issues to the Planning Commission in detail if they are interested.

Regarding the contact info for alternate candidates, I can include the addresses of the parcel owners from the assessors roll for each landlord. We sent contact letters to those addresses. However, if the landlord responded to us and provided their personal contact information, I do not have permission to share that with the public.

- Contra Loma Station + PG&E towers: Contra Loma Station LLC, 11501 Northlake Dr, Cincinnati, OH 45249-1669, c/o Phillips Edison & Co
- Somerset: FRE Thirty Two LLC, 60 E Sir Francis Drake Blvd #206, Larkspur, CA 94939-1713, c/o Caisson Investments Inc
- EBMUD: PO Box 24055, Oakland, CA 94623-1055, c/o Real Estate Services
- Garrow: Garrow & Vetrano Inc, PO Box 367, Antioch, CA 94509-0036

Regarding Somerset, I explained in the response letter that a similar facility height was used for the photosimulations because the property is at a similar elevation to the proposed site. I will ask RF for a coverage map of the new build site and make sure you have it by the end of next week. The rooftop of the facility was not pursued because the landlord did not give Verizon that option. The facility is a retirement home, and was only considered for a new build (monopine). I agree with you that a rooftop design on the property would be a well-stealthed candidate, but we cannot force the landlord to lease it to us. I don't know their reasons for not permitting us onto the roof, but I imagine retirees are somewhat sensitive tenants.

Let me know if you need anything else!

Thanks,
Michelle

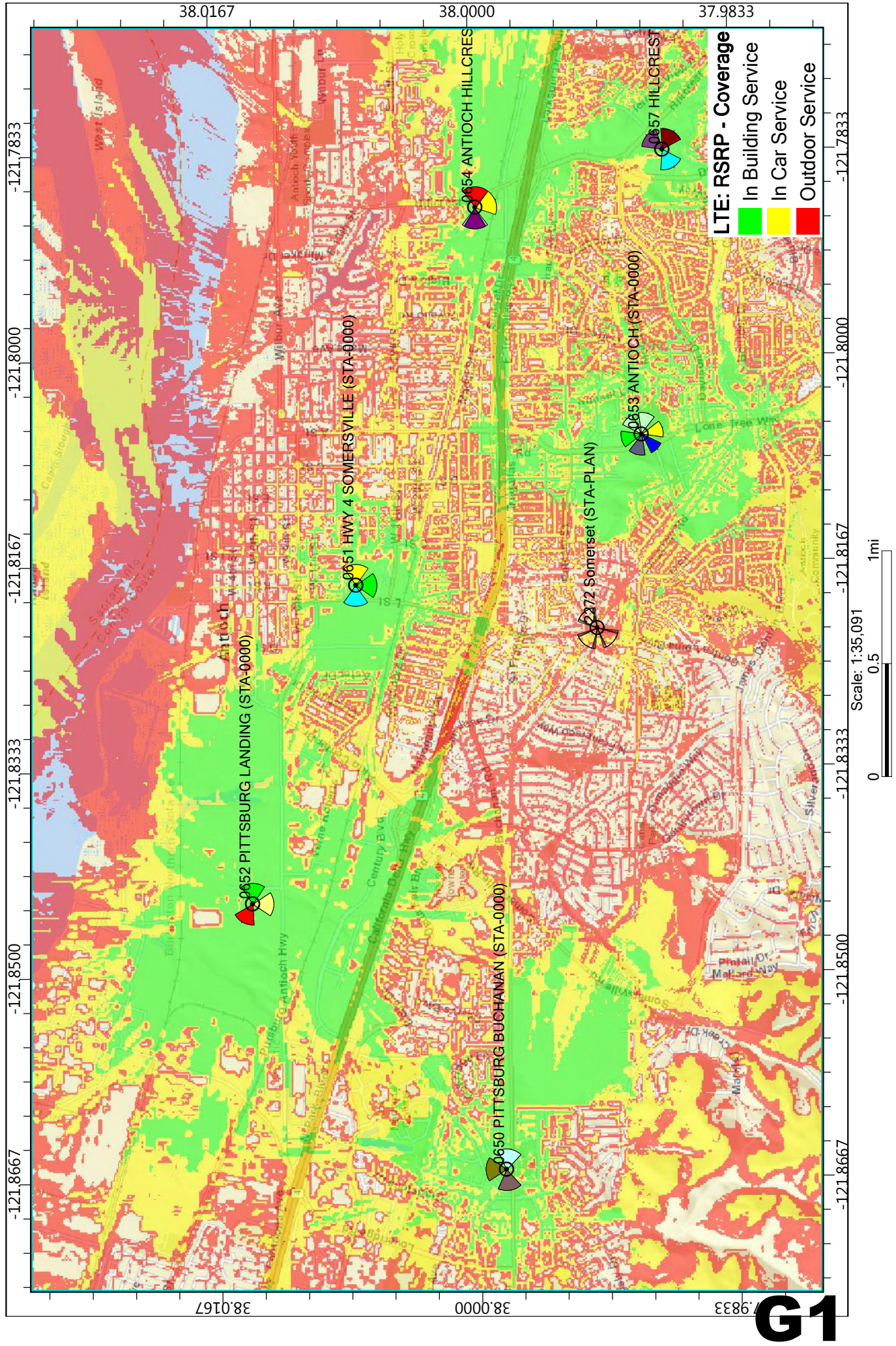
Michelle Ellis, Land Use Planning Manager
Complete Wireless Consulting

(916) 764-2454
(916) 313-3730 fax
MEllis@completewireless.net
2009 V Street
Sacramento, CA 95818

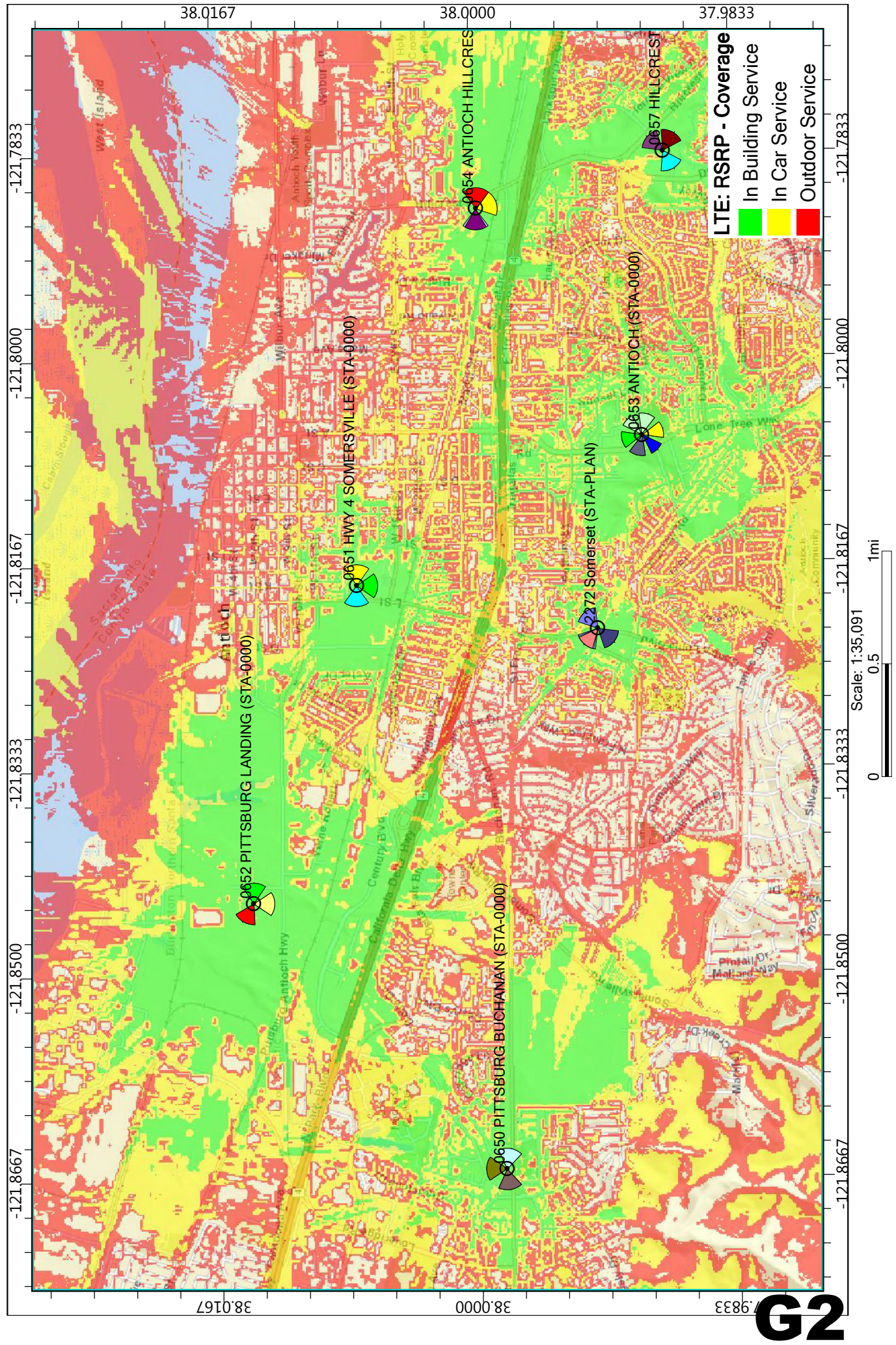
From: Scudero, Kevin [mailto:KScudero@ci.antioch.ca.us]
Sent: Thursday, March 2, 2017 2:46 PM
To: Michelle Ellis <MEllis@completewireless.net>

ATTACHMENT “G”

Verizon Wireless Coverage - Existing



Verizon Wireless Coverage - with Somerset



ATTACHMENT “H”

MACKENZIE & ALBRITTON LLP

155 SANSOME STREET, SUITE 800
SAN FRANCISCO, CALIFORNIA 94104

TELEPHONE 415/ 288-4000
FACSIMILE 415/ 288-4010

March 2, 2017

VIA EMAIL

Michael G. Vigilia, Esq.
City Attorney
City of Antioch
Third Street and H Street
PO Box 5007
Antioch, California 94509

Re: Verizon Wireless Application UP-16-15, AR-16-09
Communications Facility, Putnam Street and Contra Loma Boulevard
Shot Clock Tolling Agreement: April 17, 2017

Dear Michael:

We write to you on behalf of our client GTE Mobilnet of California LP d/b/a Verizon Wireless (“Verizon Wireless”) with respect to the above-referenced application (the “Application”) for a proposed wireless facility filed October 19, 2016. Federal law requirements obligate the City of Antioch (the “City”) to act on Verizon Wireless’s application within specified time periods unless the time period is extended by mutual consent. Verizon Wireless believes that the time period for the City to act on the Application will expire prior to the conclusion of an appeal period following a Planning Commission hearing anticipated to occur on April 5, 2017. When countersigned, this letter will confirm an agreement between Verizon Wireless and the City to extend the applicable time period for review of the Application under the federal Telecommunications Act to April 17, 2017.

The federal Telecommunications Act requires that local governments act on wireless siting applications “within a reasonable period of time.” *See 47 USC § 332(c)(7)(B)(ii)*. In a 2009 declaratory ruling, the Federal Communications Commission established a legal presumption that a local government has violated this requirement if it takes longer than 90 days to act on an application to collocate a wireless facility or 150 days to act on any other type of wireless facility application. *See In Re: Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review, Etc.*, FCC 09-99 (FCC November 18, 2009) (the “Ruling”).¹ The Ruling further permits the period for review of an application to be extended by mutual consent. Ruling, ¶ 49.

¹ The Ruling was upheld by the United States Supreme Court on May 20, 2013. *See City of Arlington v. Federal Communications Commission*, 133 S. Ct. 1863 (U.S. 2013).

Michael G. Vigilia, Esq.
City of Antioch
March 2, 2017
Page 2 of 2

In order to allow the City to act on the application in an orderly manner, without either party risking the loss of important rights, the parties agree that the time period within which the City may act on the Application shall be extended through April 17, 2017 (the "Extension Date"), and that no limitations period for any claim of unreasonable or unlawful delay in processing the Application shall commence to run before said date.

If you agree, this letter agreement may be executed in counterparts, and scanned or facsimile signatures shall be deemed equivalent to original signatures. I will appreciate your returning a countersigned copy to me.

Sincerely,



Paul B. Albritton

cc: Tripp May, Esq.
Kevin Scudero

ACCEPTED AND AGREED TO:

City of Antioch

By: _____

Printed name: MICHAEL VIGILIA

Title: CITY ATTORNEY

ATTACHMENT “I”

ALTERNATIVE SITE ANALYSIS
VERIZON WIRELESS

RECEIVED

OCT 19 2016

CITY OF ANTIOCH
COMMUNITY DEVELOPMENT

SITE NAME: CONTRA LOMA LONGVIEW

LOCATION: Putnam St. & Contra Loma Blvd., Antioch, CA 94509

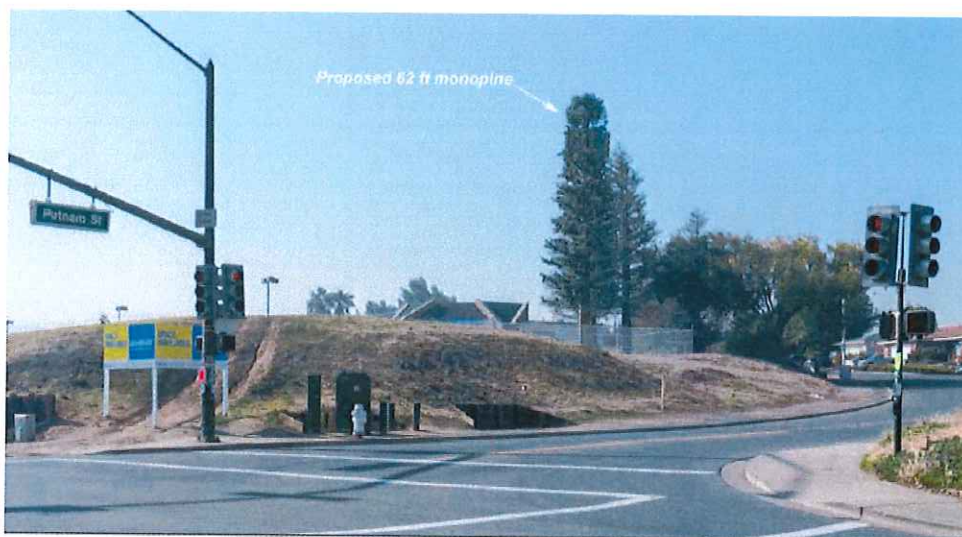
APN: 076-550-002

The selection of a location for a wireless telecommunications facility that is needed to improve service and provide reliable coverage is dependent upon many factors, such as: topography, zoning regulations, existing structures, co-location opportunities, available utilities, access, and the existence of a willing landlord. Wireless communication utilizes line-of-sight technology that requires facilities to be in relative close proximity to the wireless handsets to be served. Each proposed site is unique and must be investigated and evaluated on its own terms.

The proposed coverage area consists of commercial and residential uses in Antioch. Verizon strives to minimize visual and acoustic impacts for each facility and seeks to incorporate ways to preserve the local community character to the greatest extent feasible at all stages of site selection and design process.

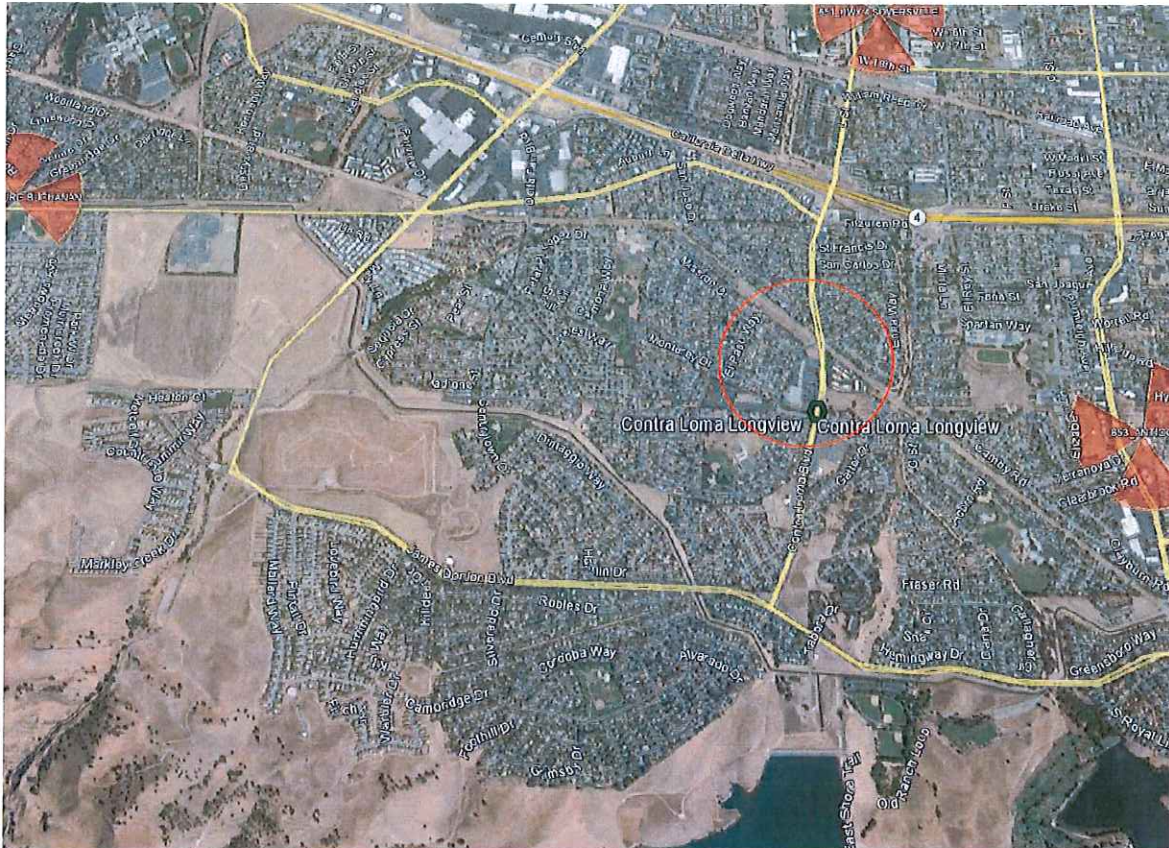
The proposed facility will consist of Verizon panel antennas mounted on a 62' stealthed monopine. Equipment cables will be run underground in order to minimize visual impact and equipment will be screened within outdoor equipment cabinets, and surrounded by a vinyl clad mini-mesh fence. Of fourteen candidates considered, the proposed site was selected by Verizon Wireless as the best option to minimize visual impacts while achieving its wireless service objectives.

The facility is needed to offload capacity from Verizon facilities nearby and to improve coverage in western Antioch, along Contra Loma Boulevard. The proposed location best serves the interest of Antioch and the local community because it is the least intrusive means available to improve service to the area. The process that Verizon implements to identify the least intrusive location is outlined below.



Selection Process and Candidates Considered

In May 2014, Verizon Wireless determined that the service objectives discussed above must be met. After establishing the need for the proposed facility, Verizon set out to identify the least intrusive means of achieving the necessary service objective. A total of fourteen candidates were considered prior to selecting the proposed location. Verizon begins its process by identifying a search area called a "search ring" (see image below) and a required centerline height.



The search ring represents the area within which a facility can be located to produce the desired coverage objective. The centerline height of 50' represents the required height of the antennas to produce the desired coverage. After evaluating the City's zoning regulations, the next step is to identify any existing towers within the search ring that could allow for colocation. Verizon always investigates colocation opportunities first as they minimize infrastructure needs. In this case, Verizon investigated a few potential colocations but was unable to find a willing landlord at a site that met coverage objectives:

1. PG&E Tower #046/353 – 3190 Contra Loma Blvd, APN: 076-550-004-6

This candidate offered a colocation on an existing PG&E tower, with antennas mounted at either a 34' or an 83' centerline. This PG&E tower is located on the parcel adjacent to the proposed site, and is south of the proposed new build facility. PG&E was interested

Alternative Site Analysis – Verizon Wireless ‘Contra Loma Longview’

in leasing space on the tower itself to Verizon, but the ground landlord was unwilling to lease Verizon space anywhere on this parcel to install ground equipment. This candidate was not selected by Verizon because the underlying property owner declined to enter a lease agreement with Verizon.

2. PG&E Tower #007/047 – 3130 Contra Loma Blvd, APN: 076-550-004-6

This candidate offered a colocation on an existing PG&E tower. This PG&E tower is also located on the parcel adjacent to the proposed site, and is south of the proposed new build facility. The property owner was unwilling to lease Verizon space on their property to install ground equipment. Sprint has collocated antennas on this tower, and occupies the ground space beneath the tower. This candidate was not selected by Verizon because the underlying property owner declined to enter a lease agreement for ground space.

3. First Family Church #1 – 37°59'24.44"N 121°49'13.56"W

This candidate offered a colocation on an existing PG&E tower, on a hillside north of Longview Road. This candidate was presented to Verizon’s radio frequency engineer, who deemed the tower incompatible with Verizon’s coverage objectives for the search ring due to a significant elevation above candidates along Contra Loma Boulevard. This candidate is approximately 60’ higher than the elevation at the proposed site, which would make any available antenna centerline too high for Verizon’s coverage objectives. This candidate was not selected by Verizon because it would not achieve coverage objectives.

4. First Family Church #2 – 37°59'23.88"N 121°49'13.54"W

This candidate offered a colocation on an existing PG&E tower, on a hillside north of Longview Road. This candidate was presented to Verizon’s radio frequency engineer, who deemed the tower incompatible with Verizon’s coverage objectives for the search ring due to a significant elevation above candidates along Contra Loma Boulevard. Also, this candidate is too close to Verizon’s existing facility ‘Antioch,’ which is located at the water tank east of Lone Tree Way, at the intersection with Terranova Drive. This candidate was not selected by Verizon because it would not achieve coverage objectives.

5. Calvary Open Bible Church #1 – 37°59'24.60"N, 121°49'31.28"W

This candidate offered a colocation on an existing PG&E tower, at a church on Putnam Street. This candidate was presented to Verizon’s radio frequency engineer, who deemed the tower incompatible with Verizon’s coverage objectives for the search ring due to its proximity to a Verizon facility to the south.

6. Calvary Open Bible Church #2 – 37°59'24.01"N, 121°49'31.30"W

This candidate offered a colocation on an existing PG&E tower, at a church on Putnam Street. This candidate was presented to Verizon’s radio frequency engineer, who deemed the tower incompatible with Verizon’s coverage objectives for the search ring due to its proximity to a Verizon facility to the south.

7. **Church of Jesus Christ Latter Day Saints #1 – 37°59'24.72"N, 121°49'38.74"W**
This candidate offered a colocation on an existing PG&E tower, located behind a church on Rio Grande Drive. This candidate was presented to Verizon’s radio frequency engineer, who deemed the tower incompatible with Verizon’s coverage objectives for the search ring. Verizon reached out to the property owner, who was unresponsive. PG&E also attempted to contact the landlord to obtain ground rights for Verizon’s equipment, but was unable to obtain a response from the landlord.
8. **Church of Jesus Christ Latter Day Saints #2 – 37°59'24.13"N, 121°49'38.77"W**
This candidate offered a colocation on an existing PG&E tower, located behind a church on Rio Grande Drive. This candidate was presented to Verizon’s radio frequency engineer, who deemed the tower incompatible with Verizon’s coverage objectives for the search ring. Verizon reached out to the property owner, who was unresponsive. PG&E also attempted to contact the landlord to obtain ground rights for Verizon’s equipment, but was unable to obtain a response from the landlord.
9. **Somerset (rooftop) – 3185 Contra Loma Blvd, APN 071-130-022-8**
Verizon attempted to investigate this site for a potential rooftop facility. However, the landlord did not grant Verizon’s leasing team permission to access the roof during site selection.

Verizon identified several potential alternative sites prior to selecting the presently proposed location. Below is a list of the candidate properties that were considered for the proposed facility, as well as an explanation as to why each site was not selected:

10. **Somerset (new build) – 3185 Contra Loma Blvd, APN 071-130-022-8**
Verizon considered a 62’ tree pole for this parcel, located across Contra Loma Blvd from the proposed site. This candidate offered a grassy lease area surrounded by trees, outside Somerset Apartments, a senior residential community. This candidate was presented to Verizon but not selected due to superior coverage available at the proposed site. This candidate remains in a back-up position.
11. **Contra Loma Station – 3190 Contra Loma Blvd, APN: 076-550-004-6**
Verizon investigated a new build at this site, to be located either at the shopping center or in the parking lot on the property. However, the landlord was unwilling to lease any space on this parcel to Verizon. This property also contains two PG&E towers (see candidates 1 and 2, above) which Verizon investigated for a potential colocation.
12. **EBMUD – APN: 076-031-013-6**
Verizon investigated this candidate in the northern area of the search ring for a potential new build. However, East Bay Municipal Utility District declined to enter a lease agreement, commenting that a cell site is not compatible with EBMUD’s existing equipment at this property. This candidate was not selected because the landlord declined to enter a lease agreement with Verizon.

13. Garrow - Putnam Street APN: 076-411-007-8

While the landlord initially expressed interest, he was consistently unresponsive to inquiries from Verizon and attempted lease negotiations.

The map below shows the locations of each of the properties listed above.

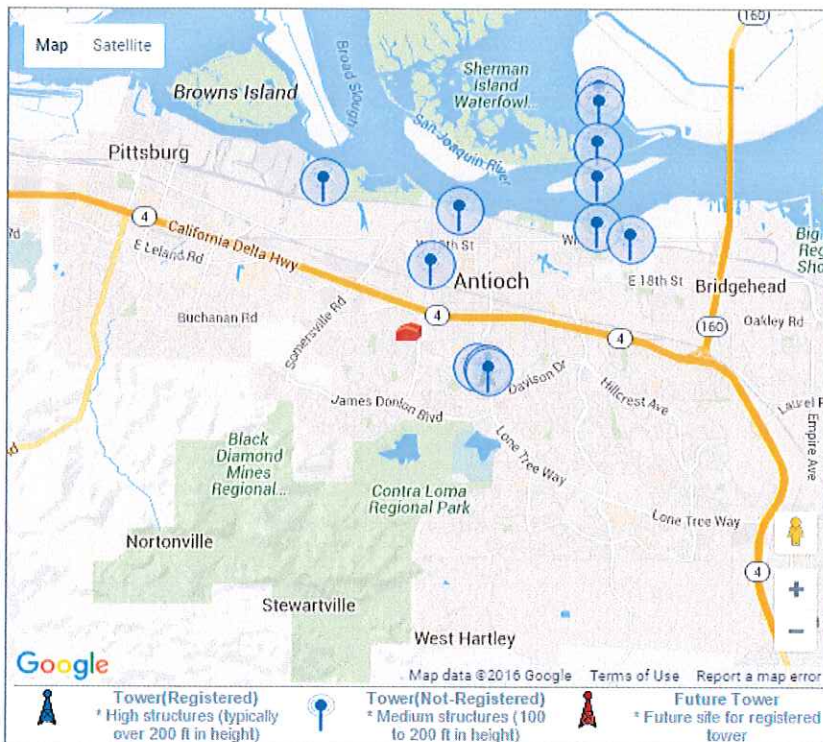


The proposed candidate, labeled on the map above as "Proposed Candidate," offered the best available lease area, a willing landlord, and was preferred by Verizon's radio frequency engineer. A monopine design was chosen based on prior dealings with the City of Antioch; the faux pine tree is similar in height and character to existing trees in the area and blends in with existing trees along the western property line. A vinyl clad mini-mesh fence was also added around the lease area based on past recommendations of the City of Antioch Planning Commission for another Verizon site.

Alternative Site Analysis – Verizon Wireless ‘Contra Loma Longview’

The image below provides a visual representation of the closest existing towers, and all towers in a four mile radius of the proposed site.

Tower Structures - (3100 Contra Loma Blvd, Antioch, CA 94509)



Tower Search Results

Alert! 12 Towers (1 Registered, 11 Not Registered) found within 4.00 miles of 3100 Contra Loma Blvd, Antioch, CA 94509.

Info! The NEAREST Tower is .87 miles away and is owned by Cellular One.

Ok! No Applications for Future Towers detected as of 05/06/16.

Tower Type	ID Num	Site Owner	Height	Dist
Registered	(1)	American Towers, Llc	142 feet	1.01 miles
Not Registered	(1)	Cellular One	41 feet	.87 miles
	(2)	American Tower-schaumburg, ll	100 feet	.94 miles
	(3)	American Tower	140 feet	1.05 miles
	(4)	Nextel Communications	78 feet	1.64 miles
	(5)	Nextel Communications	153 feet	2.30 miles
	(6)	Pacific Gas & Elec. Co.	330 feet	2.89 miles
	(7)	Pacific Gas & Elec. Co.	392 feet	3.17 miles
	(8)	Cellular One	160 feet	3.26 miles
	(9)	Pacific Gas & Elec. Co.	278 feet	3.42 miles
	(10)	Pacific Gas & Elec. Co.	225 feet	3.74 miles
	(11)	Pacific Gas & Elec. Co.	235 feet	3.87 miles

Future (No Towers Detected)

ATTACHMENT “J”

RECEIVED

MAR 29 2017

To: The Planning Commission of Antioch
Re: Verizon Wireless Telecommunications Facility

CITY OF ANTIOCH
COMMUNITY DEVELOPMENT

These are the reasons why the taxpayers of Putnam Street, Mission Drive, and Contra Loma Boulevard **DO NOT WANT Verizon to put a sixty-two (62) foot tower with nine panel antennas.**

1. There will be a standby **DEISEL GENERATOR** with a **fifty-four (54) gallon fuel tank.**
2. There are a total of **24.96 gallons** of electrolytes to power the batteries,
3. A **120 Volt** heater and charger for the batteries.
4. There is no security on site to prevent vandalism.
5. There are health hazards from the radiation that is present. School children walking to Park Junior High School and Antioch High School walk right by the location to and from school.
6. .
7. There is a PG&E major gas pipeline near the site.
8. Verizon already has on the opposite end of the property a four (4) panel antennas on a PG&E tower which has six (6) redwood trees that were topped and now are dying.
9. The property owner: **CONTRA LOMA STATION, LLC**
11501 NORTH LAKE DRIVE
CINCINNATI, OHIO 45249
 - a. They would be leasing this site for fifteen thousand (\$15,000.00) dollars a month do not have the interest of the residents that surround the site where the sixty-two (62) foot tower is going to be built.
10. The homeowners that are at ground zero get absolutely nothing!
11. There is no plan for fire or fuel spills.
12. Verizon is installing a six (6 foot fence with a twenty (20) foot gravel road.
13. There are other locations that should be looked at that are not in the middle of a residential neighborhood. There are hills, freeways, and open space that with the amount of money Verizon is spending, they can put that tower anywhere else but here,
14. There is no plan for containment if there were a spill of diesel or battery fluid.

J1



J2



J3



J4

ATTACHMENT “K”

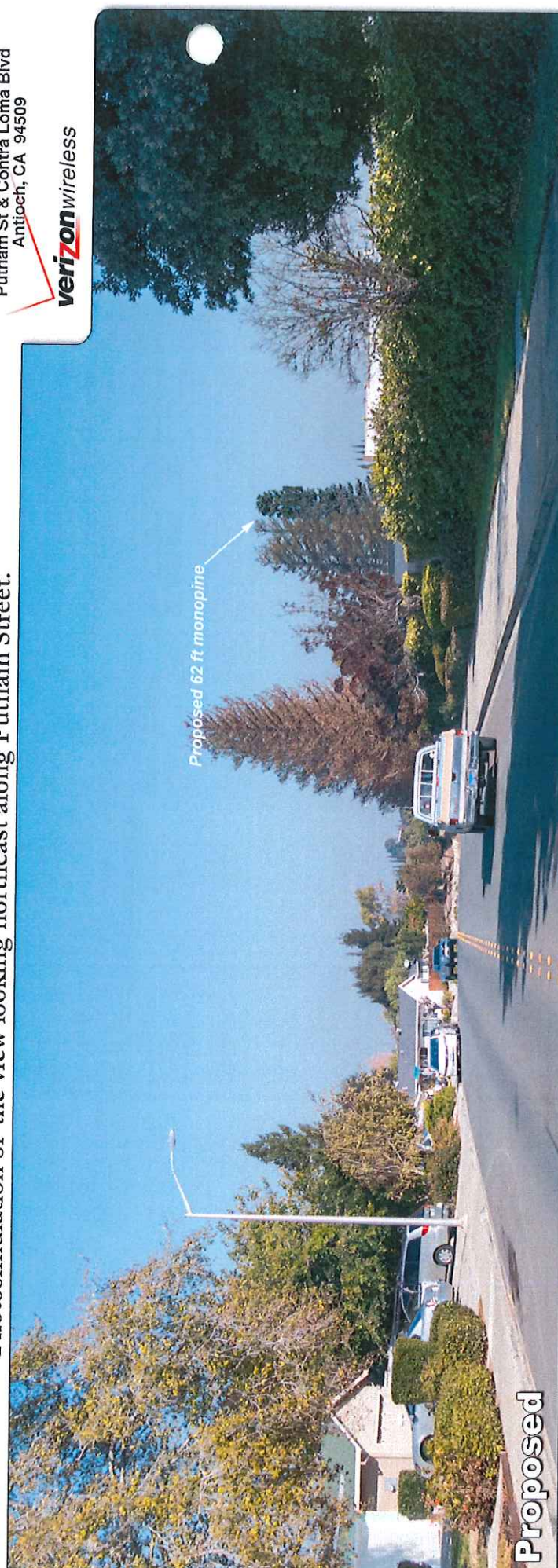


Existing

Photosimulation of the view looking northeast along Putnam Street.

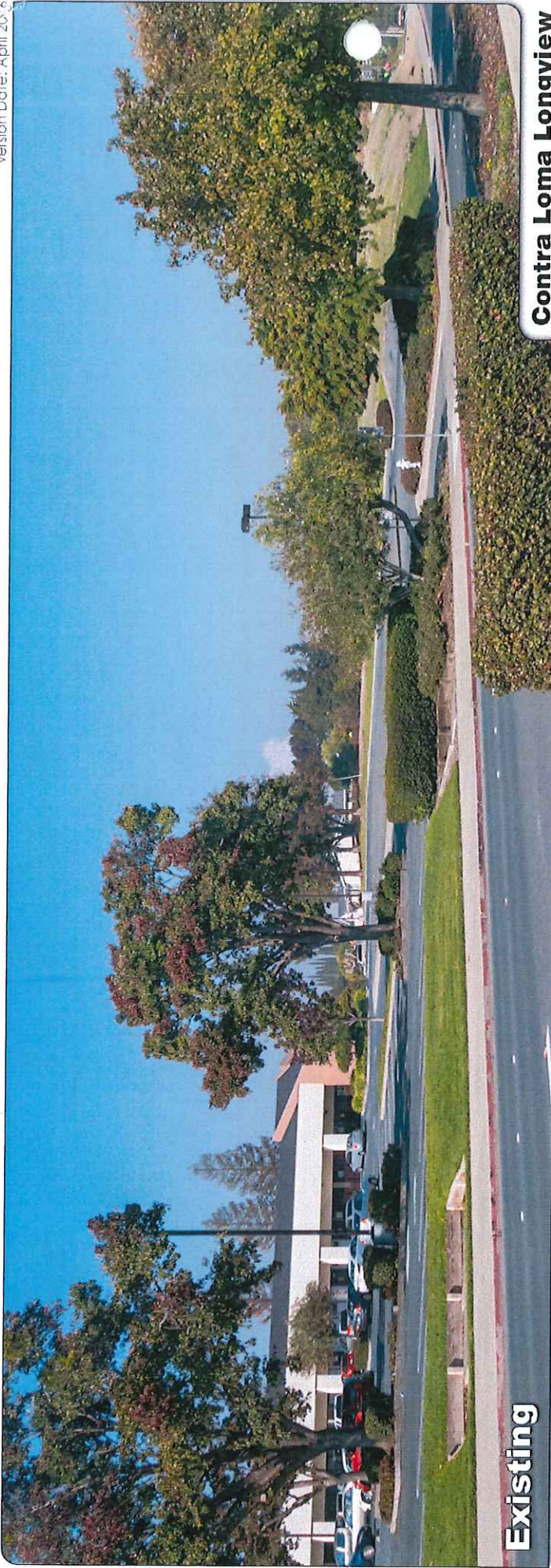
Contra Loma Longview
Putnam St & Contra Loma Blvd
Antioch, CA 94509

verizonwireless



Proposed 62 ft monopine

Proposed



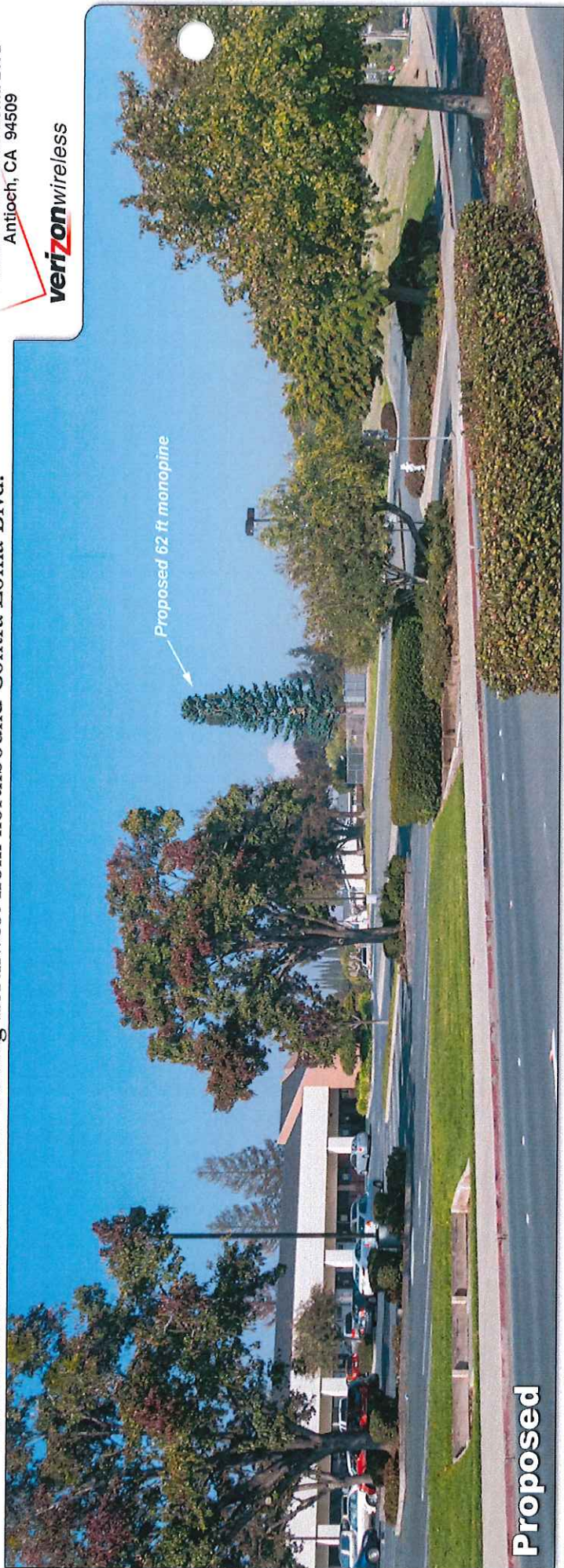
Existing

Contra Loma Longview

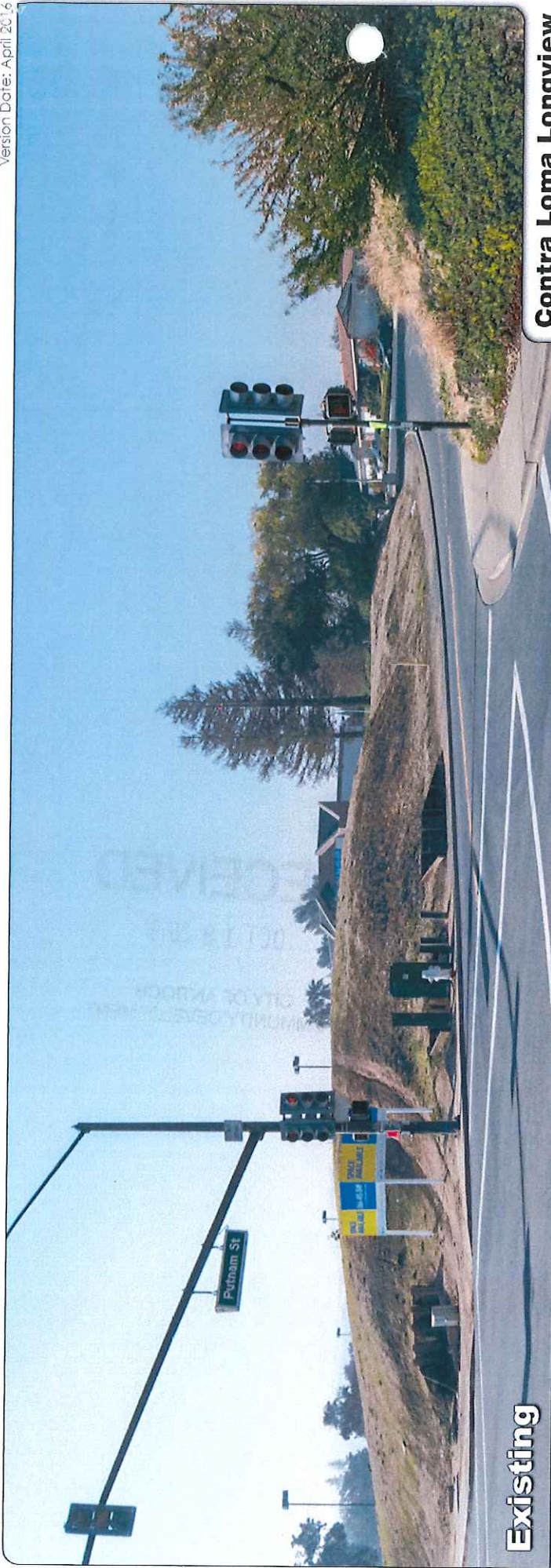
Putnam St & Contra Loma Blvd
Antioch, CA 94509



Photosimulation of the view looking northwest from northbound Contra Loma Blvd.



Proposed

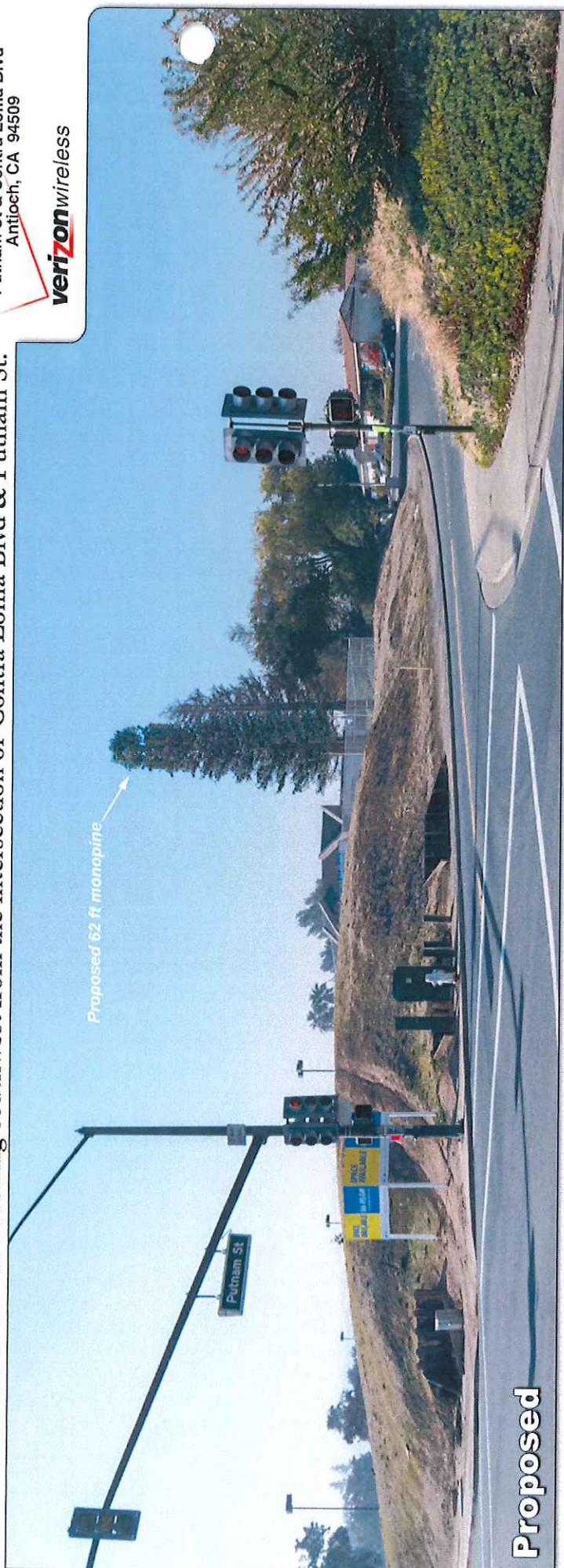


Existing

Contra Loma Longview
Putnam St & Contra Loma Blvd
Antioch, CA 94509



Photosimulation of the view looking southwest from the intersection of Contra Loma Blvd & Putnam St.



Proposed

**STAFF REPORT TO THE PLANNING COMMISSION
FOR CONSIDERATION AT THE MEETING OF APRIL 5, 2017**

Prepared by: Kevin Scudero, Associate Planner
Reviewed by: Alexis Morris, Planning Manager
Date: March 29, 2017
Subject: PD-06-04, UP-06-21, AR-06-17 – Hillcrest Summit Amendment

RECOMMENDATION

It is recommended that the Planning Commission approve an amendment to City Council Resolution 2008/29 to extend the approvals of the Final Development Plan, Use Permit, and Design Review for the Hillcrest Summit project.

REQUEST

Ted Liu of Bedrock Ventures, Inc. requests an amendment to condition of approval number 3 from City Council Resolution 2008/29. The amendment would extend the expiration date of the approvals for the Final Planned Development, Use Permit, and design review to March 11, 2019. The project consists of retail and offices, located at Hillcrest Avenue and East Tregallas Road (APN: 052-100-069 and -068) (Attachment A).

BACKGROUND

On January 16, 2008, the Planning Commission recommended that the City Council approve the Hillcrest Summit project and adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program. On January 23, 2008, the Design Review Board reviewed and approved the subject project. On March 11, 2008, the City Council approved a rezone to Planned Development, a Final Development Plan, a Use Permit, and design review to construct a mixed use development consisting of offices and retail on approximately 4.94 acres. The proposed development includes 15,000 s.f. of retail and 35,000 s.f. of office (Attachment B).

The applicant has previously requested three extensions of the project approvals. On April 6, 2011, the Planning Commission approved an amendment to the conditions of approval extending the project approvals until March 11, 2013. On May 15, 2013 the Planning Commission again approved an amendment to the conditions of approval extending the project approvals until March 11, 2015. On March 18, 2015 the Planning Commission approved an amendment to the conditions of approval extending the project approvals until March 11, 2017.

ENVIRONMENTAL

On March 11, 2008, the City Council adopted a Mitigated Negative Declaration (MND) with a Mitigation Monitoring and Reporting Program for this project in conformance with the California Environmental Quality Act. Mitigation measures are proposed for impacts relating to air quality, historical and archeological resources, biological resources, soil erosion, noise, and traffic. All potential impacts are mitigated to a less than significant level. A subsequent environmental document does not need to be prepared because 1) no changes to the project are proposed requiring revisions to the previous MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects, 2) no substantial changes have occurred with respect to the circumstances under which the project is undertaken which will require major revisions of the previous MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects, and 3) no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence or at the time the previous MND was adopted.

ANALYSIS

Issue #1: Project Overview

The project consists of three buildings, one containing multi-tenant retail, which is 15,000 s.f., and two buildings containing offices totaling 35,000 s.f. The total square footage is proposed at 50,000 s.f. The proposed retail building is closest to Hillcrest Avenue providing tenant desired visibility, while the two office buildings sit back from Hillcrest Avenue. One is located in the eastern corner of the site while the other is located closer to Shaddick Drive.

The subject property is zoned Planned Development (PD). The surrounding land uses and zoning designations are as noted below:

North:	A gas station and State Route 4 (C-1)
South:	Single family residential (R-6)
West:	Single family residential (R-6)
East:	Commercial shopping center with various inline retail and a gas station (C-2)

Issue #2: Approval Expiration

On March 18, 2015, the Planning Commission approved a two year extension of the subject project approvals by modifying the City Council Resolution, which extended the project approvals until March 11, 2017 (Attachment C). The applicant is now returning

to the Planning Commission to request an additional two year extension of the project approvals, which would extend them until March 11, 2019.

The applicant is requesting additional time to act on the project approvals due to unfavorable economic conditions since the project was initially approved. The applicant is hopeful that with the expected completion of the eBART station in late 2017-early 2018, they will be able to finally break ground on the project next year.

The Antioch Municipal Code allows the final development plan approval to be extended by the Planning Commission for up to two years or an alternate time specified as a condition of approval. A use permit and design review expires after one year from the date of approval or at an alternative time specified as a condition of approval.

Issue #3: Future Extensions

Given that this is the fourth extension for this project over the course of 10 years, staff is recommending that no future extensions should be considered and the entitlements should expire if the project is not constructed by 2019. The baseline conditions of the original environmental analysis, particularly related to traffic, are likely to change with the opening of the eBart station to the north in 2018 and the potential development of a Hillcrest Wildflower mixed use project to the south. A new entitlement application and environmental analysis will be required for any future development on the site if the project entitlements expire in 2019.

ATTACHMENTS

A: Vicinity Map

B: Staff Report and Minutes from the March 11, 2008 City Council Meeting

C: Planning Commission Resolution No. 2015-05

**CITY OF ANTIOCH PLANNING COMMISSION
RESOLUTION NO. 2017-****

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ANTIOCH
APPROVING AN AMENDMENT OF CONDITION OF APPROVAL NUMBER 3 OF
CITY COUNCIL RESOLUTION 2008/29**

WHEREAS, the City of Antioch did receive a request from Ted Liu of Bedrock Ventures, Inc. for an amendment to condition of approval number 3 from City Council Resolution 2008/29. The amendment would extend the expiration date of the approvals for the Final Planned Development, Use Permit, and design review to March 11, 2019. The project consists of retail and offices, located at Hillcrest Avenue and East Tregallas Road. (APN: 052-100-069 and -068) and,

WHEREAS, a Mitigated Negative Declaration and a Mitigation Monitoring and Reporting Program was prepared and adopted by the City Council on March 11, 2008 in conformance with CEQA; and

WHEREAS, a subsequent environmental document does not need to be prepared because 1) no changes to the project are proposed requiring revisions to the previous MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects, 2) no substantial changes have occurred with respect to the circumstances under which the project is undertaken which will require major revisions of the previous MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects, and 3) no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence or at the time the previous MND was adopted.

WHEREAS, on March 11, 2008 the City Council duly held a public hearing, received and considered evidence, both oral and documentary and was able to make all of required findings for approval of a Final Planned Development and Use Permit; and

WHEREAS, on April 6, 2011, the Planning Commission duly held a public hearing, received and considered evidence, both oral and documentary and approved a two-year extension of the project approvals to March 11, 2013 by modifying City Council Resolution 2008/29; and

WHEREAS, on May 15, 2013, the Planning Commission duly held a public hearing, received and considered evidence, both oral and documentary and approved a two-year extension of the project approvals to March 11, 2015 by modifying City Council Resolution 2008/29; and

WHEREAS, on March 18, 2015, the Planning Commission duly held a public hearing, received and considered evidence, both oral and documentary and approved a

two-year extension of the project approvals to March 11, 2017 by modifying City Council Resolution 2008/29; and

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

WHEREAS, on April 5, 2017, the Planning Commission duly held a public hearing on the matter, and received and considered evidence, both oral and documentary; and

NOW THEREFORE BE IT RESOLVED, that the Planning Commission of the City of Antioch can still make the following required findings for approval of a Final Planned Development:

1. Each individual unit of the Hillcrest Summit development can exist as an independent unit capable of creating an environment of sustained desirability and stability because each building has independent access and parking. The uses proposed in the Master Use List will not be detrimental to present and potential surrounding uses but instead will have a beneficial effect which could not be achieved under another zoning district due to allowing the encumbered site flexibility in setbacks while providing uses that are compatible with the surrounding commercial area and the General Plan. In addition, the project will have the convenience of having established uses allowing for tenants with approved uses not to spend the time going through a public hearing; and
2. The project site is served by streets and thoroughfares that meet the standards of the City's Growth Management Program and adequate utility service can be supplied to all phases of the development because the project is an infill development with access to existing utilities; and
3. The commercial components of the Hillcrest Summit project are justified economically at the location proposed because they are consistent with the General Plan; and
4. Any industrial component conforms to applicable desirable standards and will constitute an efficient, well-organized development with adequate provisions for railroad and/or truck access and necessary storage and will not adversely affect adjacent or surrounding development; and
5. Any deviation from the standard zoning requirements is warranted by the compatible design of the encumbered site and additional amenities such as a pedestrian walkway and seating areas have been incorporated in the final development plan which offer certain unusual redeeming features to compensate for any deviations that may be permitted; and

6. The area surrounding the Hillcrest Summit project can be planned and zoned in coordination and substantial compatibility with the proposed development because the development is in line with the surrounding neighborhood and has a Master Use List compatible with the General Plan; and
7. The Project conforms to the General Plan of the City because the proposed use is commercial and the General Plan designation is Neighborhood Commercial.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Antioch can still make the following required findings for approval of a Use Permit:

1. That 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 because the project has been designed to be sensitive to the surrounding community by having a large setback between the commercial buildings and the adjacent residential uses and the project complies with the City of Antioch requirements;
2. That the commercial use applied for at the location indicated is properly one for which a use permit is authorized because the General Plan designation is Neighborhood Commercial;
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 plan complies with the City standards and where they have deviated has been compensated by the design and additional amenities;
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 abuts to both a local street and an arterial street, which meet the City standard for width and are paved with an all weather surface; and
5. That the granting of use permit will not adversely affect the comprehensive General Plan because the proposed uses and design are compatible with the General Plan.

NOW THEREFORE BE IT RESOLVED that the Planning Commission of the City of Antioch does hereby **APPROVE** an amendment to condition of approval number 3 of City Council Resolution 2008/29 for the Hillcrest Summit project, extending the Final Planned Development, Use Permit, and design review until March 11, 2019.

* * * * *

I HEREBY CERTIFY the foregoing resolution was duly adopted by the Planning Commission of the City of Antioch, County of Contra Costa, State of California, at a regular meeting of said Planning Commission held on the 5th day of April, 2017.

AYES:

NOES:

ABSTAIN:

ABSENT:

Forrest Ebbs
Secretary to the Planning Commission

ATTACHMENT “A”

ATTACHMENT "A"

ATTACHMENT A

VICINITY MAP



ATTACHMENT “B”

ATTACHMENT "B"

STAFF REPORT TO THE CITY COUNCIL FOR CONSIDERATION AT THE MEETING OF MARCH 11, 2008

Prepared by: Mindy Gentry, Associate Planner
Reviewed by: Tina Wehrmeister, Deputy Director of Community Development
Approved by: Joseph G. Brandt, Director of Community Development
Date: March 7, 2008
Subject: PD-06-04, UP-05-31 – Final Development Plan, and Use Permit for Retail and Offices

RECOMMENDATION

It is recommended that the City Council take the following actions:

1. Motion to approve the resolution adopting the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program; and,
2. Motion to read the ordinance by title only; and,
3. Motion to introduce the ordinance rezoning 4.94 acres making up the project site to the Planned Development District (PD); and,
4. Motion to adopt the resolution approving the Final Development Plan and Use Permit.

REQUEST

Bedrock Ventures, Inc. requests approval of a rezone to Planned Development and approval of a Final Development Plan and Use Permit to construct a mixed use development consisting of offices and retail on approximately 4.94 acres. The proposed development includes 15,000 s.f. of retail and 35,000 s.f. of office. The project site is located approximately 250 feet south of the intersection of Hillcrest Avenue and East Tregallas Road (APN: 052-100-055 and -056).

Each requested entitlement is discussed below:

Rezone to Planned Development district (PD): The project site is within an existing Planned Development District. It is therefore required that the project site be rezoned as its own PD according to the Planned Development review process established by the Municipal Code.

3-11-08

B1

Approval of a Final Development Plan: Approval of a Final Development Plan goes hand in hand with the rezoning described above. The Final Development Plan and the PD district effectively become the zoning code for the project area. In this case, the Final Development Plan would allow for the construction of one 15,000 s.f. retail building and two office buildings, one 25,000 s.f. and the other 10,000 s.f.

Use Permit: The applicant is requesting approval of a Use Permit. The requested uses are attached (Attachment "C").

BACKGROUND INFORMATION

On January 16, 2008, the Planning Commission recommended (7-0 vote) the City Council approve the subject project and adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program. The only concern raised by the Planning Commission was the circular drive aisle between Buildings 'A' and 'B' being a one way (Attachment "D"). The applicant has modified the plan so the circular drive aisle can now accommodate a two way traffic flow.

On January 23, 2008, the Design Review Board reviewed and approved (3 ayes, 1 no, and 1 absent) the subject project (Attachment "E"). The majority of the Board members lauded the architecture and design of the project.

ENVIRONMENTAL

A Mitigated Negative Declaration (MND) with a Mitigation Monitoring and Reporting Program has been prepared for this project in conformance with the California Environmental Quality Act (Attachment "B"). The public review period was from January 11, 2008 to January 30, 2008. The Community Development Department did not receive any comments on the MND. Mitigation measures are proposed for impacts relating to air quality, historical and archeological resources, biological resources, soil erosion, noise, and traffic. All potential impacts are mitigated to a less than significant level.

ANALYSIS

Issue #1: Project Overview

The applicant is proposing to construct three buildings, one containing multi-tenant retail which is 15,000 s.f. and two containing offices totaling 35,000 s.f. The total square footage is proposed at 50,000 s.f. The proposed retail building is closest to Hillcrest Avenue providing tenant desired visibility, while the two office buildings sit back from Hillcrest Avenue. One is located in the eastern corner of the site while the other is located closer to Shaddick Drive.

The front setback at the smallest distance is approximately 19 feet from the Hillcrest Avenue property line. Due to the configuration of the site, the 19 foot setback is only at one point and the setback increases in size to the south and the north, with an average

setback of 33 feet. The roof of Building 'A' is setback 20 feet from the Hillcrest Avenue property line and again because of the site configuration the setback increases to the north and the south. Typically, the required setback for an arterial street such as Hillcrest Avenue is 30 feet. The setback on Shaddick Drive is approximately 15 feet from the property line. The typical setback on Shaddick Drive would be 20 feet. Since the project is a Planned Development, it allows for more flexibility in the setback requirements. Staff feels the proposed setbacks on the site are appropriate because of the site's unusual shape and the steep hillside along the rear of the property. The applicant has taken into consideration the building layout, site circulation, and parking which has produced a design that Staff believes works well for the encumbered site.

The applicant is proposing to construct the project in three phases, which are as follows:

Phase 1: Q4 2008 – Q1 2009

- Project site work, parking lot, landscaping
- Building A

Phase 2: Q4 2009 – Q1 2010

- Building B

Phase 3: Q4 2010 – Q1 2011

- Building C

The subject property is zoned Planned Development (PD). The surrounding land uses and zoning designations are as noted below:

North:	A gas station and State Route 4 (C-1)
South:	Single family residential (R-6)
West:	Single family residential (R-6)
East:	Commercial shopping center with various inline retail and a gas station (C-2)

Issue #2: General Plan, Zoning Consistency, and Land Use

The General Plan designation is Neighborhood Commercial and the zoning designation is Planned Development (PD). Neighborhood Commercial allows for office and retail uses; therefore, the project is consistent with the General Plan. Since the project is Planned Development, the applicant has provided a proposed list of uses for both the office and retail components. The proposed uses are included as Attachment "C".

Staff has a few concerns regarding the proposed uses for the office component and one concern on the retail component of the Master Use List. Staff concerns are with the animal hospitals/veterinary clinics and any type of assembly use which could potentially include clubs, lodges, churches, and cultural institutions. Animal hospitals and veterinary clinics typically board animals overnight and tend to be louder than a typical office use. Assembly uses have different requirements in the building code than office

uses and many have unique operating characteristics such as late hours and music. Therefore, staff is recommending that animal hospitals/veterinary clinics and assembly uses or uses with assembly as part of the use be subject to a supplemental use permit with approval from the Planning Commission. The supplemental use permit will allow for further review of these particular uses and provide the opportunity to add conditions of approval if necessary. The last concern of staff relating to office uses is day-care centers. Day-care centers require outdoor space and Staff feels it is not appropriate at this location; however Staff would be supportive of adding a tutoring center to replace day-care. A condition of approval has been added reflecting this. See condition numbers 75 and 76 regarding the discussion above.

The concern that Staff has regarding the retail uses is the Food Stores which encompass both convenience stores and grocery stores. The Zoning Ordinance defines a convenience store as an establishment with a sales area of 5,000 s.f. or less which sells primarily food, household items, and personal convenience items. Since the applicant is only providing 15,000 s.f. of retail, a convenience store will be more likely than a grocery store to locate in this project.

The City Council amended the Zoning Ordinance in April of 2005 as it pertains to Convenience Stores and required a Use Permit for such uses. Staff feels that Council's intent is to review each convenience store independently. Therefore staff recommends that Convenience Stores wishing to locate in this development require a supplemental use permit. If Council feels it is appropriate, they may also strike Food Stores from the Master Use List. Staff has placed a condition of approval (condition number 75) stating that convenience stores will require a supplemental use permit with review and approval by the Planning Commission.

Issue #3: Parking and Circulation

Per the Zoning Ordinance, the parking requirement for retail is 5 spaces per 1,000 s.f. of gross floor area, which equates to 75 parking spaces for the retail portion (15,000 s.f.) of the project. For business and professional office, the requirement is 250 s.f. of gross floor area which equates to 140 parking spaces; however, the applicant has identified medical and dental office as a potential use. The parking requirement for medical office is 1 space per 225 s.f. of gross floor area. During the Planning Commission hearing the applicant agreed to add additional parking to accommodate medical office uses. The original parking count only allowed for professional offices. The applicant added a total of 5 parking spaces after the Planning Commission hearing, which allows for 12,465 s.f. of medical office space. A condition of approval has been placed on the project restricting the amount of medical office space to 12,465 s.f. due to the limited number of parking spaces (condition number 74).

There are two driveways proposed to serve the subject site. One driveway is on Hillcrest Avenue. The driveway will be a right in and right out. The second ingress and egress is located on Shaddick Drive, which allows vehicles to enter from either direction on Shaddick Drive and depart the site in either direction.

Delivery trucks serving the site are not expected to be larger than a 30' box truck; therefore, the driveways and turns must have adequate radii to accommodate the trucks. The applicant has provided a truck turning template showing that a 30' box truck can successfully navigate the site.

The traffic study has also indicated the applicant will be responsible for the following mitigation measures:

- Payment of the proportionate fair share for the improvements to the intersections of Hillcrest Avenue and State Route 4 westbound ramps and Hillcrest Avenue, Davison Drive, and Deer Valley Road, which will be satisfied through the traffic fees paid at the time of building permit issuance.
- Payment of the proportionate fair share for the lengthening of the Hillcrest Avenue northbound left-turn pocket. Based on an estimated construction cost of \$100,000, the project's 18.9% share is \$18,900.
- Payment of the proportionate fair share to widen East Tregallas Road to accommodate a left-turn lane to total 275 feet. The signal timing shall also be modified for protected left-turn phasing for the East Tregallas Road/Larkspur Drive approaches. Based on an estimated construction cost of \$150,000 the project's 28.6% share is \$42,900.

In a letter provided by Tri Delta Transit (Attachment "F"), they have recommended adding a bus turnout or adding a wide right turn lane into the development on Hillcrest Avenue; either option will provide the opportunity for buses to pull out of flow of traffic to load and unload passengers. Tri Delta Transit is requesting either of these options due to the increase of traffic on Hillcrest Avenue. Staff has not added the bus turnout as a condition of approval because the traffic in lane three on Hillcrest Avenue is lighter than the other two lanes as most vehicles are making their way over to either make a left and continue on Hillcrest Avenue or to continue straight on Deer Valley Road. To verify the numbers, the City of Antioch Traffic Division conducted a study to get accurate counts during the AM and PM peak. This study was done before the Bypass was opened which is important to note since the traffic on Hillcrest further to the south has been measured as reduced by almost 50%. During the AM peak, which was from 7:30 AM to 9:19 AM, 173 vehicles were in lane three as opposed to 601 in lane two and 733 in lane one. During this time, no buses made a stop at the bus stop in front of the subject property. During the PM peak, 4:30 PM to 6:00 PM, 377 cars utilized lane three while 1,058 vehicles were in lane two and 1,137 vehicles in lane one. Five buses made stops in front of the subject property during the PM peak. Furthermore, approximately 14 feet behind the property is a retaining wall 6' in height. If a bus stop was added to the project, the retaining wall would significantly increase in height by cutting into the slope for the bus stop. The heightened wall would be adjacent to Hillcrest Avenue, an arterial street, and would decrease the landscaped area. If the City Council feels it is appropriate, they may add a condition of approval to have the applicant construct the bus turnout as well as dedicate the land required for the bus turnout to the City of Antioch.

Issue #4: Grading and Retaining Walls

There are five proposed retaining walls on site. There are three on the backside of the project due the steep slope between the residential properties and the proposed development. The retaining wall that is closest to the residential properties ranges in height from approximately 0.5 feet on the eastern end to a maximum of 6.75 feet and then declines again to 0.5 feet in height. The wall runs a total of 565 lineal feet. The middle retaining wall ranges from 0.5 feet to a maximum height of 6.7 and then descends to 1 foot in height. The third retaining wall or the one closest to the proposed development ranges in height from approximately 0.5 feet to a maximum of 6.7 feet in height and then descends to a height of 3 feet. The middle retaining wall runs a total of 620 lineal feet and the third retaining wall runs a total of 640 lineal feet. The retaining walls located on the backside will mainly be hidden by the buildings and are not expected to be very visible from the street. The three retaining walls provide for a terraced hillside and prevent higher walls from being constructed.

The fourth retaining wall on site, which runs for 250 lineal feet, faces Hillcrest Avenue and then wraps around to face the ingress and egress as well as part of the parking area. The retaining wall ranges in height from less than a foot to 6 feet in height. The fifth retaining wall runs a total of 418 lineal feet and starts adjacent to the northeastern side of the ingress and egress on Shaddick Drive. The wall continues northeast along Shaddick Drive and then wraps around the perimeter of the property parallel with the property line for the Valero gas station. The wall ranges in height from approximately one foot to 4.5 feet. The project has been conditioned to locate all retaining walls outside of the street right-of-way and to minimize the height of the walls to the maximum extent practicable.

The design of the retaining walls consists of a keystone wall. The color of the wall is a gray stone motif. There are four different stone sizes the wall is comprised of, a large, medium, and small unit as well as a cap.

Issue #5: Architecture and Landscaping

The architecture of the buildings is in the Craftsman style with materials consisting of composition roof shingles, cement board siding, and stucco. The retail building uses an 8' wide arcade along the façade of the building to create a comfortable pedestrian walkway. The office buildings have a 5' wide arcade on the front and side of the buildings (Attachment "G").

The applicant is proposing a combination of small decorative trees and large street trees. The interior of the site contains the small decorative trees and in the parking lot, away from the buildings larger trees such as Sequoia Sempervirens (Coast Redwood) are used.

The hillside between Buildings 'A' and 'B' and the residential homes contains a variety of trees and shrubs. As the vegetation gets closer to the fence line of the homes, the

tree type is smaller and more shrubs and groundcover are used so as not to obstruct the view of the residences. The tree that is utilized is a Rhus Lancea (African Sumac), which reaches a maximum height of 30' and due to the grade change, will not impact the view.

Tree Removal

According to the biological assessment, there are five small coast live oaks and one big leaf maple present on the site. The biological assessment does not say how large the trees are; however, the assessment recommends the trees be retained as part of the site's landscape. According to the applicant, there is only one tree to be removed from the site because it is located where the driveway is proposed. Prior to the issuance of building permits the applicant shall provide documentation identifying the tree type and size. The tree that is to be removed, or if any others will be removed during construction, shall be replaced with two 24" box trees. The remainder of the trees shall be protected through the setup of an exclusion zone or orange barrier fencing around the tree at a distance greater than the drip line of the tree. No heavy machinery should pass through or park within this zone and debris or materials should not be placed within the exclusion zone around the drip line or leaning against the trunk.

Issue #6: Other Issues

Lot Line Adjustment or Lot Merger

Currently the proposed project spans over two separate properties which are owned by the same entity. Because one of the parcels could theoretically be sold to another owner, the development would not be sustainable the way the current property lines fall. The applicant will be required to process a lot line adjustment to the satisfaction of the City Engineer prior to the issuance of building permits.

Another option would be to merge the two lots, which is currently not proposed and would need the Planning Commission's approval. Since this option has not been brought forward by the applicant, the project has been conditioned to process a lot line adjustment. If the applicant decides a lot merger is appropriate it will be required to be heard before the Planning Commission.

Refuse Enclosure

There are three refuse enclosures, one for each proposed building. The trash enclosures have been architecturally incorporated into the buildings. The roofline has been extended from the buildings to appear the enclosure is part of the building architecturally.

Community Meeting

On January 3, 2008, the applicant held a community meeting for the adjacent residential property owners in order to address any concerns or to hear feedback from the neighbors. Two residents were in attendance and had questions regarding the potential impacts to their homes. The homeowners were satisfied with the applicant's response regarding their concerns. The homeowners were concerned with the obstruction of the

views by the proposed buildings, the architecture of the buildings, and the proposed uses.

FINANCIAL IMPACT

The project will result in additional sales tax revenue for the City of Antioch.

OPTIONS

1. Continue the project with direction to staff regarding additional information.
2. Deny the project.

ATTACHMENTS

- A: Vicinity Map
- B: Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan
(This attachment was distributed only to the City Council members due to size.
A copy is available for public review at the Community Development Department.)
- C: Applicant's List of Proposed Uses
- D: Staff Report and Minutes from the January 16, 2008 Planning Commission Hearing
- E: Staff Report and Minutes from the January 23, 2008 Design Review Board Hearing
- F: Letter from Tri Delta Transit dated August 3, 2006
- G: Applicant's Project Description

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL REZONING 4.94 ACRES, MAKING UP THE HILLCREST SUMMIT PROJECT SITE, TO THE PLANNED DEVELOPMENT DISTRICT (PD)

The City Council of the City of Antioch does ordain as follows:

SECTION 1:

The City Council determined on March 11, 2008 that, pursuant to Section 15074 of the Guidelines of the California Environmental Quality Act, and after full consideration of the Initial Study prepared for the project, and on the basis of the whole record before it, the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the Hillcrest Summit project should be adopted.

SECTION 2:

At its regular meeting of January 16, 2008, the Planning Commission recommended that the City Council adopt the Ordinance to rezone the subject property to the Planned Development District (PD).

SECTION 3:

The real property described in Exhibit A, attached hereto, is hereby rezoned to, and the zoning map is hereby amended accordingly, Planned Development District (PD). The Final Development Plan, with attachments consisting of various maps, written documents, and renderings of the proposed development along with all conditions imposed by the City of Antioch are hereby incorporated by reference and made a part of this zoning change. These documents are on file at the City of Antioch Community Development Department.

SECTION 4:

This ordinance shall take effect and be enforced thirty (30) days from and after the date of its adoption and shall be published once within fifteen (15) days upon passage and adoption in a newspaper of general circulation printed and published in the City of Antioch.

* * * * *

I HEREBY CERTIFY that the foregoing ordinance was introduced at a regular meeting of the City Council of the City of Antioch, held on the 11th day of March and passed and adopted at a regular meeting thereof, held on the ___ day of ___, 2008 by the following vote:

AYES:

NOES:

ABSENT:

Mayor of the City of Antioch

ATTEST:

City Clerk of the City of Antioch

Exhibit A

RESOLUTION NO. 2008/29

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANTIOCH ADOPTING THE
MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING AND REPORTING
PROGRAM AND APPROVING A FINAL PLANNED DEVELOPMENT AND USE PERMIT FOR
THE HILLCREST SUMMIT PROJECT**

WHEREAS, the City Council of the City of Antioch received a request from Bedrock Ventures, Inc. for approval of a planned development rezone, a final planned development and use permit to construct one 15,000 s.f. retail building and two office buildings totaling 35,000 s.f. on a vacant 4.94 acre parcel. The project site is located approximately 250 feet south of the intersection of Hillcrest Avenue and East Tregallas Road (Z-08-01, PD-06-04, UP-06-21) (APN: 052-100-055 and -056); and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA) a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan has been prepared and duly circulated for a period of 20 days from January 11 to January 30, 2008. All potential impacts were identified and mitigated to a less-than-significant level; and

WHEREAS, the Planning Commission on January 16, 2008, duly held a noticed public hearing, received and considered evidence, both oral and documentary, and recommended approval of the project to the City Council; and

WHEREAS, the Design Review Board on January 23, 2008 duly held a public hearing, received and considered evidence, both oral and documentary, and recommended approval of the project to the City Council; and

WHEREAS, the City Council duly gave notice of public hearing as required by law; and,

WHEREAS, on March 11, 2008 the City Council duly held a public meeting, received and considered evidence, both oral and documentary; and,

WHEREAS, the City Council did consider the request to rezone the project site to Planned Development (PD).

NOW THEREFORE BE IT RESOLVED, that the City Council of the City of Antioch makes the following required findings for approval of a Final Development Plan:

1. Each individual unit of the Hillcrest Summit development can exist as an independent unit capable of creating an environment of sustained desirability and stability because each building has independent access and parking. The uses proposed in the Master Use List will not be detrimental to present and potential surrounding uses but instead will have a beneficial effect which could not be achieved under another zoning district due to allowing the encumbered site flexibility in setbacks while providing uses that are compatible with the surrounding commercial area and the General Plan. In addition, the project will have the convenience of having established uses allowing for tenants with approved uses not spend the time going through a public hearing; and
2. The project site is served by streets and thoroughfares that meet the standards of the City's Growth Management Program and adequate utility service can be

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supplied to all phases of the development because the project is an infill development with access to existing utilities; and

3. The commercial components of the Hillcrest Summit project are justified economically at the location proposed because they are consistent with the General Plan; and
4. Any industrial component conforms to applicable desirable standards and will constitute an efficient, well-organized development with adequate provisions for railroad and/or truck access and necessary storage and will not adversely affect adjacent or surrounding development; and
5. Any deviation from the standard zoning requirements is warranted by the compatible design of the encumbered site and additional amenities such as a pedestrian walkway and seating areas have been incorporated in the final development plan which offer certain unusual redeeming features to compensate for any deviations that may be permitted; and
6. The area surrounding the Hillcrest Summit project can be planned and zoned in coordination and substantial compatibility with the proposed development because the development is in line with the surrounding neighborhood and has a Master Use List compatible with the General Plan; and
7. The Project conforms with the General Plan of the City because the proposed use is commercial and the General Plan designation is Neighborhood Commercial.

BE IT FURTHER RESOLVED that the City Council does hereby make the following findings for approval of a Use Permit:

1. That 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 because the project has been designed to be sensitive to the surrounding community by having a large setback between the commercial buildings and the adjacent residential uses and the project complies with the City of Antioch requirements;
2. That the commercial use applied for at the location indicated is properly one for which a use permit is authorized because the General Plan designation is Neighborhood Commercial;
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 plan complies with the City standards and where they have deviated has been compensated by the design and additional amenities;
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 abuts to both a

local street and an arterial street, which meet the City standard for width and are paved with an all weather surface; and

5. That the granting of use permit will not adversely affect the comprehensive General Plan because the proposed uses and design are compatible with the General Plan.

BE IT FURTHER RESOLVED that the City Council, after reviewing the staff report and considering testimony offered, does hereby adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and APPROVE the request for a Final Development Plan and Use Permit to allow the construction of three buildings, 15,000 square feet of retail and 35,000 square feet of office, totaling 50,000 square feet, located approximately 250 feet south of the intersection of Hillcrest Avenue and East Tregallas Road, subject to the following conditions:

STANDARD CONDITIONS

1. That the project shall comply with the Antioch Municipal Code.
2. That conditions required by the Planning Commission or City Council, 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. That this approval expires two years from the date of approval (Expires: March 11, 2010), 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.
4. That City staff inspect the site for compliance with conditions of approval prior to final building inspection.
5. That the applicant obtains an encroachment permit for all work to be done within the public right-of-way.
6. That any required easements or rights-of-way for off-site improvements are to be obtained by the developer, at no cost to the City of Antioch.
7. That advance permission be obtained from any property or easement holders for any work done within such property or easements.
8. That the developer pay all fees required by the City Council.
9. That the building be clearly identified and an exterior lighting plan be submitted for Police Department review and approval.

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10. That this approval supersedes previous approvals that have been granted for this site.
11. That building permits shall be secured for all proposed construction associated with this facility, including any interior improvements not expressly evident on the plans submitted.
12. That all construction conform to the requirements of the Uniform Building Code and City of Antioch standards.
13. That the Regional Traffic Impact Fee be paid, as well as all other applicable fees.
14. That the developer pay all required City fees at the time of building permit issuance.
15. That the use of construction equipment be restricted to weekdays between the hours of 8:00 am to 5:00 pm or as approved by the City Engineer.
16. That traffic signal fees be paid.
17. That the project be in compliance with and supply all the necessary documentation for AMC6-3.2: Construction and demolition debris recycling.
18. That the applicant shall defend, indemnify and hold harmless the City in any action brought by a third party to challenge the land use entitlement.
19. No buildings or refuse enclosures shall be built on any easements.
20. That any work that would obstruct a City street not be conducted during peak commute hours, as approved by the City Engineer.
21. That landscaping and signing not create a sight distance problem.
22. That there be a minimum of five (5) feet clear between any proposed trees and any concrete or asphalt paving belonging to the City of Antioch. Trees closer than ten (10) feet to such concrete or asphalt paving shall use approved root guards.
23. That detailed landscaping and irrigation plans for the entire site shall be submitted to the City for review and approval. All landscaping and irrigation shall be installed in accordance with approved plans prior to the issuance of certificates of occupancy for this building.
24. That asphalt paving shall have a minimum slope of 2%, and concrete paving have a minimum slope of 0.75%.
25. That all on site curbs, gutters, and sidewalks shall be constructed of Portland cement concrete.
26. That all mechanical and roof equipment be screened from public view.

27. That all parking lot dimensions and striping shall meet City standards.
28. That all parking and access meet the ADA/Title 24 requirements as determined by the Chief Building Official using Checklist #1, Parking, CA Title 24, Sections 1129B.1 and 1130B. The location of such spaces shall provide safe and convenient access to the building as determined by the Chief Building Official.
29. That any cracked or broken sidewalks be replaced as required by the City Engineer.
30. That the City Engineer shall determine if it is necessary to engage soils and structural engineers as well as any other professionals deemed necessary to review and verify the adequacy of the building plans submitted for this project. If deemed necessary by the City, this may be extended to include field inspections by such professional to verify implementation of the plans. Cost of these services shall be born by the developer.
31. That a lighting plan be submitted to staff for review and approval prior to the issuance of building permits. All lighting shall be installed on site in accordance with approved plans, and prior to the issuance of certificates of occupancy for this building.
32. All existing and proposed public utilities (e.g. transformers, PMH boxes) shall be placed underground and subsurface or screened from public view 30' from the property line, in accordance with the Antioch Municipal Code or as approved by the City Engineer.
33. That all storm water flows be collected on site and discharged into an approved public storm drain system.
34. That a reduced backflow prevention device be installed on all City water meter services.
35. That the applicant shall comply with all requirements and conditions, and pay all fees set forth by the Delta Diablo Sanitation District.
36. That street lighting shall be provided in accordance with the Antioch Municipal Code.
37. That improvements and fees that are required by the Contra Costa County Flood Control District be implemented, as approved by the City Engineer.
38. That the developer shall provide adequate water pressure and volume to serve this development, as approved by the City Engineer.
39. That the sewer collection system be constructed to function as a gravity system.
40. That a parking lot sweeping program be implemented which provides for sweeping, at minimum immediately prior to and once during, storm season.
41. That standard dust control methods be used to stabilize the dust generated by construction activities.
42. That no illegal signs, pennants, banners, balloons, flags, or streamers are to be used on this site at any time.

43. That no signs be installed on this site without prior City approval.
44. That the site be kept clean of all debris (boxes, junk, garbage, etc.) at all times.
45. The project shall conform to Antioch Municipal Code Section 9-5.1001.1 concerning the landscape maintenance of non-residential projects. In addition, all landscape areas shall be maintained at Level A.
46. That water conservation measures; including low volume toilets and the use of drought tolerant landscaping be used.
47. That a trash enclosure is required. The trash enclosure shall be covered by a roof structure to prevent runoff and that the interior be plumbed to the sanitary sewer.
48. That the project shall comply with all Federal, State and City regulations for the National Pollution Discharge Elimination System (NPDES) (AMC§6-9). Under those NPDES regulations, this project is subject to provision C.3: New development and redevelopment regulations for storm water treatment. As such, a Storm Water Control Plan is required to be submitted simultaneously with project plans.
49. That the following requirements of the Federally mandated NPDES program be complied with, or as required by the City Engineer:
 - a) That an application for a State of California "General Construction Activity Storm Water Permit" be submitted to the Regional Resources Control Board, and a copy of the Notice of Intent be submitted to the City, prior to any construction activity on this site;
 - b) Limiting construction access routes and stabilizing access points;
 - c) Stabilizing areas denuded due to construction (prior to wet season, October 1 through May 1) by using suitable practices including, but not limited to, temporary or permanent seeding, mulching, sod stabilization, vegetative buffer strips, protection of trees, plastic covering, application of ground base on areas to be paved;
 - d) Protecting adjacent properties by appropriate use of vegetative buffer strips, sediment barriers or filters, dikes or mulching, or by a combination of these measures or other appropriate measures;
 - e) Delineating clearing limits, easements, setbacks, sensitive or critical areas and their buffers, trees and drainage courses by marking them in the field;
 - f) Stabilizing and preventing erosion from temporary conveyance channels and outlets;
 - g) Using sediment controls and filtration to remove sediment from water generated by dewatering;

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- h) Using proper construction materials and construction waste storage, handling and disposal practices;
 - i) Using proper vehicle and equipment cleaning, fueling and maintenance practices;
 - j) Controlling and preventing discharge of all potential pollutants, including but not limited to, pesticides, petroleum products, nutrients, solid wastes, and construction chemicals, that occur on site during construction;
 - k) Preparing a contingency plan in the event of unexpected rain or BMP failure including but not limited to, an immediate response plan, storing extra or alternative control materials on-site (stakes, fences, hay bales), notifying the local agency, etc.;
 - l) Education and Training – For developments with no property owner association or community association, practical information materials on good housekeeping of hazardous products, proper use and disposal for hazardous products, and prohibited discharge practices and materials must be provided, initially by the developer, to the first occupant/tenants, and thereafter by the City public education program.
 - m) Labeling Storm Drain Facilities – The phrase “No Dumping – Drains to River” must be embossed/stamped on all new storm drain inlets to alert the public to the destination of storm water and to prevent direct discharge of pollutants into the storm drain. Water courses should be similarly labeled by posting signs.
 - n) Runoff Control – To the extent practicable, maintain post-development peak runoff rate and average volume of runoff at levels that are similar to pre-development levels. The developer must design the proposed project accordingly.
50. All requirements of the Contra Costa County Health Department shall be met.
51. That all requirements of the Contra Costa County Fire Protection District be met.
52. That the applicant shall pay the Contra Costa Fire Protection District Fire Development fee in place at the time of permit issuance.
53. The applicant shall comply with the following conditions provided by the Contra Costa County Fire District:
- a) Provide emergency apparatus access roadways with all-weather driving surfaces of not less than 20-feet unobstructed width, and not less than 13 feet 6 inches of vertical clearance, to within 150 feet of travel distance to all portions of the exterior walls of every building. Access roadways shall not exceed 16% grade, shall have a minimum outside turning radius of 45 feet, and an inside turning radius of 25 feet, and must be capable of supporting the imposed loads of fire apparatus, i.e., 37 tons. (902.2) CFC, 22500.1 CVC

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- i) Access roadways of less than 28 feet unobstructed width shall have NO PARKING – FIRE LANE signs posted and curbs painted red with the words NO PARKING – FIRE LANE clearly marking.
 - ii) Access roadways of 28 feet or greater, but less than 36 feet unobstructed width shall have NO PARKING – FIRE LANE signs posted, allowing for parking on one side only and curbs painted red with the words NO PARKING – FIRE LANE clearly marked.
 - iii) Access roadways 36 feet or greater of unobstructed width allowing for parking on both sides.
- b) Emergency apparatus access roadways and hydrants shall be installed, in service, and inspected by the Fire District prior to construction or combustible storage on site. (8704.1) CFC. Gravel roads are not considered all-weather roadways for emergency apparatus access. A minimum of the first lift of asphalt concrete paving (with curb and gutter if proposed) shall be installed as the minimum subbase material and capable of supporting the designated gross vehicle weight specified above.
 - c) Premises identification shall be provided. Such numbers shall contrast with their background and be a minimum of four inches high with ½ -inch stroke or larger as required to be readily visible from the street. (901.4.4) CFC.
 - d) The developer shall provide traffic signal pre-emption systems (Opticom) on any new or modified traffic signals installed with the development. (21351) CVC.
 - e) The developer shall provide fire hydrants of the East Bay type. Hydrant locations will be determined by this office upon submittal of three copies of complete site improvement plans or utility plans. (903.3) CFC. Hydrants shall be spaced a maximum of 300 feet on center.
 - f) The developer shall provide an adequate and reliable water supply for fire protection with a minimum flow of 4,000 GPM. Required flow shall be delivered from not more than four hydrants flowing simultaneously for duration of 240 minutes while maintaining 20-pounds of residual pressure in the main. (903.3) CFC. This includes the reduction for the installation of automatic fire sprinklers.
 - g) The developer shall submit three copies of site improvement plans indicating all existing or proposed utilities, turnaround and turnout areas, and fire apparatus access roadways for review and approval prior to construction. Indicate any water mains to be installed in any of the newly aligned roadways. (902.2.2.1) CFC. This submittal shall be used to locate the above required hydrants.
 - h) The buildings shall be protected with an approved automatic sprinkler system if require by the California Building Code. Submit three sets of plans to this office for review and approval prior to installation. (1003.1) CFC.

- i) The developer shall provide an adequate and reliable water supply for fire protection with a minimum fire flow of 2,750 GPM. Required flow shall be delivered from not more than three (3) hydrants flowing simultaneously for a duration of 240 minutes while maintaining 20-pounds residual pressure in the main. This includes the reduction for the installation of automatic fire sprinklers. (903.3) CFC
- j) The developer shall submit three complete sets of plans and specifications of the subject project, including any of the following required built-in fire protection systems, 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 fees will be assessed at that time. (103.3.2.4) CFC, (106.3.2) CBC
 - i. Private underground fire service water mains
 - ii. Building construction plans
 - iii. Fire sprinklers
 - iv. Fire alarm
 - v. Commercial kitchen hood extinguishing systems
- k) Plan review and inspection fees shall be submitted at the time of plan review submittal. Checks may be made payable to Contra Costa County Fire Protection District (CCCFPD).
- l) Submit plans to:
Contra Costa County Fire Protection District
2010 Geary Road
Pleasant Hill, CA 94523
- m) To schedule field inspections and tests call (925) 941-3323 prior to 3 p.m. a minimum of two working days in advance.

PROJECT SPECIFIC CONDITIONS

- 54. A lot line adjustment shall be processed to the satisfaction of the City Engineer prior to the issuance of building permits.
- 55. The applicant shall submit a final plan showing the delivery truck route and turning radii on the site plan demonstrating that the trucks can successfully enter, exit, and maneuver on the site, as approved by the City Engineer.
- 56. Bicycle racks shall be installed per the City of Antioch Municipal Code.
- 57. Retaining walls shall be prohibited within the street right-of-way and shall be reduced in height to the maximum extent practical on-site as required by the City Engineer.
- 58. Truck deliveries shall be limited to 7:00 AM to 7:00 PM.
- 59. No overnight parking of vehicles shall be allowed on site.

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60. That no outdoor storage shall be allowed.
61. No outdoor sales or display of merchandise shall occur on the site without a supplemental administrative use permit, in accordance with the City of Antioch Municipal Code.
62. The light standards shall be limited to a maximum height of 25 feet and light shall not spill from the subject site onto adjacent roadways and properties.
63. A photometric plan shall be submitted for Staff review and approval.
64. That the project C-3 drainage collection system be connected to the City storm drain system at a new or existing catch basin.
65. That the project shall comply with all mitigation measures identified in the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program.
66. Existing trees that are to be removed shall be replaced at a ratio of 2:1 with the replacement trees being 24" box in size. Prior to the issuance of building permits, the trees to be removed shall be identified with an indication of the species and size. The trees that are to remain onsite shall be protected as recommended in the biological assessment or as approved by the City Engineer.
67. The existing fire hydrant on Hillcrest Avenue shall be relocated outside the new driveway to the satisfaction of the City Engineer.
68. Public sewer and water easements shall be provided for each parcel or provision of separate laterals with meters and cleanouts to each building.
69. Compact parking spaces shall not be clustered or as approved by the City Engineer.
70. The applicant shall prepare and record Conditions, Covenants, & Restrictions (CC&R's) that provide among other City requirements: common access and parking easements, compliance with Antioch Municipal Code Section 5-1.204, "Commercial Property Maintenance," a joint landscape contractor, and compliance with the operating and maintenance requirements of the Stormwater Pollution Prevention Program/NPDES. The CC&R's shall be subject to review and approval of the City Attorney and Community Development Director and shall be recorded prior to the issuance of the certificate of occupancy.
71. The driveway on Hillcrest Avenue shall be a right in/right out with the appropriate directional signage placed in the median as required by the City Engineer.
72. Grading contours shall transition smoothly into existing slopes.
73. The project shall connect to the drain inlet on Hillcrest Avenue southeast of the property line, as approved by the City Engineer.

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74. Medical offices uses shall be limited to 12,465 s.f.
75. Animal hospitals/veterinary clinics, food stores (including convenience stores), assembly uses, and uses with assembly components such as clubs/lodges, churches, and cultural institutions shall require a supplemental use permit from the Planning Commission.
76. Tutoring centers shall replace day-care centers on the office portion of the Master Use List.
77. The applicant shall submit a revised Master Use List as directed by the City Council which shall be reviewed and approved by staff prior to the issuance of the certificate of occupancy, with such list attached and incorporated as exhibit "A" Permitted Uses in the conditions of approval.
 - Prohibit retail establishments that primarily sells tobacco, tobacco related products and paraphernalia
 - Prohibit check cash store
 - Eliminate Variety Store
 - Prohibit Adult Boutiques
78. The applicant shall pay their proportionate fair share of the mitigation measures for the transportation issues as outlined in the CEQA document, including:
 - a. Payment of the proportionate fair share for the improvements to the intersections of Hillcrest Avenue and State Route 4 westbound ramps and Hillcrest Avenue, Davison Drive, and Deer Valley Road, which will be satisfied through the traffic fees paid at the time of building permit issuance;
 - b. Payment of the proportionate fair share for the lengthening of the Hillcrest Avenue northbound left-turn pocket. Based on an estimated construction cost of \$100,000, the project's 18.9% share is \$18,900, which shall be paid prior to the issuance of building permits; and
 - c. Payment of the proportionate fair share to widen East Tregallas Road to accommodate a left-turn lane to total 275 feet. The signal timing shall also be modified for protected left-turn phasing for the East Tregallas Road/Larkspur Drive approaches. Based on an estimated construction cost of \$150,000, the project's 28.6% share is \$42,900, which shall be paid prior to the issuance of building permits.
79. The applicant shall enter into an agreement with the City for the operation and maintenance of the stormwater treatment facilities which are required under the C.3 provision

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* * * * *

I HEREBY CERTIFY that the foregoing resolution was duly passed and adopted by the City Council of the City of Antioch, California, at a regular meeting thereof held on the 11th day of March 2008, by the following vote:

AYES: Council Member Davis, Simonsen and Mayor Freitas

NOES: None

ABSENT: Council Member Moore

RECUSED: Council Member Kalinowski

L. JOLENE MARTIN, City Clerk

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RESOLUTION NO. 2008/29

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANTIOCH ADOPTING THE
MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING AND REPORTING
PROGRAM AND APPROVING A FINAL PLANNED DEVELOPMENT AND USE PERMIT FOR
THE HILLCREST SUMMIT PROJECT**

WHEREAS, the City Council of the City of Antioch received a request from Bedrock Ventures, Inc. for approval of a planned development rezone, a final planned development and use permit to construct one 15,000 s.f. retail building and two office buildings totaling 35,000 s.f. on a vacant 4.94 acre parcel. The project site is located approximately 250 feet south of the intersection of Hillcrest Avenue and East Tregallas Road (Z-08-01, PD-06-04, UP-06-21) (APN: 052-100-055 and -056); and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA) a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan has been prepared and duly circulated for a period of 20 days from January 11 to January 30, 2008. All potential impacts were identified and mitigated to a less-than-significant level; and

WHEREAS, the Planning Commission on January 16, 2008, duly held a noticed public hearing, received and considered evidence, both oral and documentary, and recommended approval of the project to the City Council; and

WHEREAS, the Design Review Board on January 23, 2008 duly held a public hearing, received and considered evidence, both oral and documentary, and recommended approval of the project to the City Council; and

WHEREAS, the City Council duly gave notice of public hearing as required by law; and,

WHEREAS, on March 11, 2008 the City Council duly held a public meeting, received and considered evidence, both oral and documentary; and,

WHEREAS, the City Council did consider the request to rezone the project site to Planned Development (PD).

NOW THEREFORE BE IT RESOLVED, that the City Council of the City of Antioch makes the following required findings for approval of a Final Development Plan:

1. Each individual unit of the Hillcrest Summit development can exist as an independent unit capable of creating an environment of sustained desirability and stability because each building has independent access and parking. The uses proposed in the Master Use List will not be detrimental to present and potential surrounding uses but instead will have a beneficial effect which could not be achieved under another zoning district due to allowing the encumbered site flexibility in setbacks while providing uses that are compatible with the surrounding commercial area and the General Plan. In addition, the project will have the convenience of having established uses allowing for tenants with approved uses not spend the time going through a public hearing; and
2. The project site is served by streets and thoroughfares that meet the standards of the City's Growth Management Program and adequate utility service can be

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supplied to all phases of the development because the project is an infill development with access to existing utilities; and

3. The commercial components of the Hillcrest Summit project are justified economically at the location proposed because they are consistent with the General Plan; and
4. Any industrial component conforms to applicable desirable standards and will constitute an efficient, well-organized development with adequate provisions for railroad and/or truck access and necessary storage and will not adversely affect adjacent or surrounding development; and
5. Any deviation from the standard zoning requirements is warranted by the compatible design of the encumbered site and additional amenities such as a pedestrian walkway and seating areas have been incorporated in the final development plan which offer certain unusual redeeming features to compensate for any deviations that may be permitted; and
6. The area surrounding the Hillcrest Summit project can be planned and zoned in coordination and substantial compatibility with the proposed development because the development is in line with the surrounding neighborhood and has a Master Use List compatible with the General Plan; and
7. The Project conforms with the General Plan of the City because the proposed use is commercial and the General Plan designation is Neighborhood Commercial.

BE IT FURTHER RESOLVED that the City Council does hereby make the following findings for approval of a Use Permit:

1. That 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 because the project has been designed to be sensitive to the surrounding community by having a large setback between the commercial buildings and the adjacent residential uses and the project complies with the City of Antioch requirements;
2. That the commercial use applied for at the location indicated is properly one for which a use permit is authorized because the General Plan designation is Neighborhood Commercial;
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 plan complies with the City standards and where they have deviated has been compensated by the design and additional amenities;
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 abuts to both a

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local street and an arterial street, which meet the City standard for width and are paved with an all weather surface; and

5. That the granting of use permit will not adversely affect the comprehensive General Plan because the proposed uses and design are compatible with the General Plan.

BE IT FURTHER RESOLVED that the City Council, after reviewing the staff report and considering testimony offered, does hereby adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and APPROVE the request for a Final Development Plan and Use Permit to allow the construction of three buildings, 15,000 square feet of retail and 35,000 square feet of office, totaling 50,000 square feet, located approximately 250 feet south of the intersection of Hillcrest Avenue and East Tregallas Road, subject to the following conditions:

STANDARD CONDITIONS

1. That the project shall comply with the Antioch Municipal Code.
2. That conditions required by the Planning Commission or City Council, 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. That this approval expires two years from the date of approval (Expires: March 11, 2010), 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.
4. That City staff inspect the site for compliance with conditions of approval prior to final building inspection.
5. That the applicant obtains an encroachment permit for all work to be done within the public right-of-way.
6. That any required easements or rights-of-way for off-site improvements are to be obtained by the developer, at no cost to the City of Antioch.
7. That advance permission be obtained from any property or easement holders for any work done within such property or easements.
8. That the developer pay all fees required by the City Council.
9. That the building be clearly identified and an exterior lighting plan be submitted for Police Department review and approval.

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10. That this approval supersedes previous approvals that have been granted for this site.
11. That building permits shall be secured for all proposed construction associated with this facility, including any interior improvements not expressly evident on the plans submitted.
12. That all construction conform to the requirements of the Uniform Building Code and City of Antioch standards.
13. That the Regional Traffic Impact Fee be paid, as well as all other applicable fees.
14. That the developer pay all required City fees at the time of building permit issuance.
15. That the use of construction equipment be restricted to weekdays between the hours of 8:00 am to 5:00 pm or as approved by the City Engineer.
16. That traffic signal fees be paid.
17. That the project be in compliance with and supply all the necessary documentation for AMC6-3.2: Construction and demolition debris recycling.
18. That the applicant shall defend, indemnify and hold harmless the City in any action brought by a third party to challenge the land use entitlement.
19. No buildings or refuse enclosures shall be built on any easements.
20. That any work that would obstruct a City street not be conducted during peak commute hours, as approved by the City Engineer.
21. That landscaping and signing not create a sight distance problem.
22. That there be a minimum of five (5) feet clear between any proposed trees and any concrete or asphalt paving belonging to the City of Antioch. Trees closer than ten (10) feet to such concrete or asphalt paving shall use approved root guards.
23. That detailed landscaping and irrigation plans for the entire site shall be submitted to the City for review and approval. All landscaping and irrigation shall be installed in accordance with approved plans prior to the issuance of certificates of occupancy for this building.
24. That asphalt paving shall have a minimum slope of 2%, and concrete paving have a minimum slope of 0.75%.
25. That all on site curbs, gutters, and sidewalks shall be constructed of Portland cement concrete.
26. That all mechanical and roof equipment be screened from public view.

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27. That all parking lot dimensions and striping shall meet City standards.
28. That all parking and access meet the ADA/Title 24 requirements as determined by the Chief Building Official using Checklist #1, Parking, CA Title 24, Sections 1129B.1 and 1130B. The location of such spaces shall provide safe and convenient access to the building as determined by the Chief Building Official.
29. That any cracked or broken sidewalks be replaced as required by the City Engineer.
30. That the City Engineer shall determine if it is necessary to engage soils and structural engineers as well as any other professionals deemed necessary to review and verify the adequacy of the building plans submitted for this project. If deemed necessary by the City, this may be extended to include field inspections by such professional to verify implementation of the plans. Cost of these services shall be born by the developer.
31. That a lighting plan be submitted to staff for review and approval prior to the issuance of building permits. All lighting shall be installed on site in accordance with approved plans, and prior to the issuance of certificates of occupancy for this building.
32. All existing and proposed public utilities (e.g. transformers, PMH boxes) shall be placed underground and subsurface or screened from public view 30' from the property line, in accordance with the Antioch Municipal Code or as approved by the City Engineer.
33. That all storm water flows be collected on site and discharged into an approved public storm drain system.
34. That a reduced backflow prevention device be installed on all City water meter services.
35. That the applicant shall comply with all requirements and conditions, and pay all fees set forth by the Delta Diablo Sanitation District.
36. That street lighting shall be provided in accordance with the Antioch Municipal Code.
37. That improvements and fees that are required by the Contra Costa County Flood Control District be implemented, as approved by the City Engineer.
38. That the developer shall provide adequate water pressure and volume to serve this development, as approved by the City Engineer.
39. That the sewer collection system be constructed to function as a gravity system.
40. That a parking lot sweeping program be implemented which provides for sweeping, at minimum immediately prior to and once during, storm season.
41. That standard dust control methods be used to stabilize the dust generated by construction activities.
42. That no illegal signs, pennants, banners, balloons, flags, or streamers are to be used on this site at any time.

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43. That no signs be installed on this site without prior City approval.
44. That the site be kept clean of all debris (boxes, junk, garbage, etc.) at all times.
45. The project shall conform to Antioch Municipal Code Section 9-5.1001.1 concerning the landscape maintenance of non-residential projects. In addition, all landscape areas shall be maintained at Level A.
46. That water conservation measures, including low volume toilets and the use of drought tolerant landscaping be used.
47. That a trash enclosure is required. The trash enclosure shall be covered by a roof structure to prevent runoff and that the interior be plumbed to the sanitary sewer.
48. That the project shall comply with all Federal, State and City regulations for the National Pollution Discharge Elimination System (NPDES) (AMC§6-9). Under those NPDES regulations, this project is subject to provision C.3: New development and redevelopment regulations for storm water treatment. As such, a Storm Water Control Plan is required to be submitted simultaneously with project plans.
49. That the following requirements of the Federally mandated NPDES program be complied with, or as required by the City Engineer:
 - a) That an application for a State of California "General Construction Activity Storm Water Permit" be submitted to the Regional Resources Control Board, and a copy of the Notice of Intent be submitted to the City, prior to any construction activity on this site;
 - b) Limiting construction access routes and stabilizing access points;
 - c) Stabilizing areas denuded due to construction (prior to wet season, October 1 through May 1) by using suitable practices including, but not limited to, temporary or permanent seeding, mulching, sod stabilization, vegetative buffer strips, protection of trees, plastic covering, application of ground base on areas to be paved;
 - d) Protecting adjacent properties by appropriate use of vegetative buffer strips, sediment barriers or filters, dikes or mulching, or by a combination of these measures or other appropriate measures;
 - e) Delineating clearing limits, easements, setbacks, sensitive or critical areas and their buffers, trees and drainage courses by marking them in the field;
 - f) Stabilizing and preventing erosion from temporary conveyance channels and outlets;
 - g) Using sediment controls and filtration to remove sediment from water generated by dewatering;

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- h) Using proper construction materials and construction waste storage, handling and disposal practices;
 - i) Using proper vehicle and equipment cleaning, fueling and maintenance practices;
 - j) Controlling and preventing discharge of all potential pollutants, including but not limited to, pesticides, petroleum products, nutrients, solid wastes, and construction chemicals, that occur on site during construction;
 - k) Preparing a contingency plan in the event of unexpected rain or BMP failure including but not limited to, an immediate response plan, storing extra or alternative control materials on-site (stakes, fences, hay bales), notifying the local agency, etc.;
 - l) Education and Training – For developments with no property owner association or community association, practical information materials on good housekeeping of hazardous products, proper use and disposal for hazardous products, and prohibited discharge practices and materials must be provided, initially by the developer, to the first occupant/tenants, and thereafter by the City public education program.
 - m) Labeling Storm Drain Facilities – The phrase “No Dumping – Drains to River” must be embossed/stamped on all new storm drain inlets to alert the public to the destination of storm water and to prevent direct discharge of pollutants into the storm drain. Water courses should be similarly labeled by posting signs.
 - n) Runoff Control – To the extent practicable, maintain post-development peak runoff rate and average volume of runoff at levels that are similar to pre-development levels. The developer must design the proposed project accordingly.
50. All requirements of the Contra Costa County Health Department shall be met.
51. That all requirements of the Contra Costa County Fire Protection District be met.
52. That the applicant shall pay the Contra Costa Fire Protection District Fire Development fee in place at the time of permit issuance.
53. The applicant shall comply with the following conditions provided by the Contra Costa County Fire District:
- a) Provide emergency apparatus access roadways with all-weather driving surfaces of not less than 20-feet unobstructed width, and not less than 13 feet 6 inches of vertical clearance, to within 150 feet of travel distance to all portions of the exterior walls of every building. Access roadways shall not exceed 16% grade, shall have a minimum outside turning radius of 45 feet, and an inside turning radius of 25 feet, and must be capable of supporting the imposed loads of fire apparatus, i.e., 37 tons. (902.2) CFC, 22500.1 CVC

- i) Access roadways of less than 28 feet unobstructed width shall have NO PARKING – FIRE LANE signs posted and curbs painted red with the words NO PARKING – FIRE LANE clearly marking.
- ii) Access roadways of 28 feet or greater, but less than 36 feet unobstructed width shall have NO PARKING – FIRE LANE signs posted, allowing for parking on one side only and curbs painted red with the words NO PARKING – FIRE LANE clearly marked.
- iii) Access roadways 36 feet or greater of unobstructed width allowing for parking on both sides.
- b) Emergency apparatus access roadways and hydrants shall be installed, in service, and inspected by the Fire District prior to construction or combustible storage on site. (8704.1) CFC. Gravel roads are not considered all-weather roadways for emergency apparatus access. A minimum of the first lift of asphalt concrete paving (with curb and gutter if proposed) shall be installed as the minimum subbase material and capable of supporting the designated gross vehicle weight specified above.
- c) Premises identification shall be provided. Such numbers shall contrast with their background and be a minimum of four inches high with ½ -inch stroke or larger as required to be readily visible from the street. (901.4.4) CFC.
- d) The developer shall provide traffic signal pre-emption systems (Opticom) on any new or modified traffic signals installed with the development. (21351) CVC.
- e) The developer shall provide fire hydrants of the East Bay type. Hydrant locations will be determined by this office upon submittal of three copies of complete site improvement plans or utility plans. (903.3) CFC. Hydrants shall be spaced a maximum of 300 feet on center.
- f) The developer shall provide an adequate and reliable water supply for fire protection with a minimum flow of 4,000 GPM. Required flow shall be delivered from not more than four hydrants flowing simultaneously for duration of 240 minutes while maintaining 20-pounds of residual pressure in the main. (903.3) CFC. This includes the reduction for the installation of automatic fire sprinklers.
- g) The developer shall submit three copies of site improvement plans indicating all existing or proposed utilities, turnaround and turnout areas, and fire apparatus access roadways for review and approval prior to construction. Indicate any water mains to be installed in any of the newly aligned roadways. (902.2.2.1) CFC. This submittal shall be used to locate the above required hydrants.
- h) The buildings shall be protected with an approved automatic sprinkler system if require by the California Building Code. Submit three sets of plans to this office for review and approval prior to installation. (1003.1) CFC.

- i) The developer shall provide an adequate and reliable water supply for fire protection with a minimum fire flow of 2,750 GPM. Required flow shall be delivered from not more than three (3) hydrants flowing simultaneously for a duration of 240 minutes while maintaining 20-pounds residual pressure in the main. This includes the reduction for the installation of automatic fire sprinklers. (903.3) CFC
- j) The developer shall submit three complete sets of plans and specifications of the subject project, including any of the following required built-in fire protection systems, 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 fees will be assessed at that time. (103.3.2.4) CFC, (106.3.2) CBC
 - i. Private underground fire service water mains
 - ii. Building construction plans
 - iii. Fire sprinklers
 - iv. Fire alarm
 - v. Commercial kitchen hood extinguishing systems
- k) Plan review and inspection fees shall be submitted at the time of plan review submittal. Checks may be made payable to Contra Costa County Fire Protection District (CCCFPD).
- l) Submit plans to: Contra Costa County Fire Protection District
2010 Geary Road
Pleasant Hill, CA 94523
- m) To schedule field inspections and tests call (925) 941-3323 prior to 3 p.m. a minimum of two working days in advance.

PROJECT SPECIFIC CONDITIONS

- 54. A lot line adjustment shall be processed to the satisfaction of the City Engineer prior to the issuance of building permits.
- 55. The applicant shall submit a final plan showing the delivery truck route and turning radii on the site plan demonstrating that the trucks can successfully enter, exit, and maneuver on the site, as approved by the City Engineer.
- 56. Bicycle racks shall be installed per the City of Antioch Municipal Code.
- 57. Retaining walls shall be prohibited within the street right-of-way and shall be reduced in height to the maximum extent practical on-site as required by the City Engineer.
- 58. Truck deliveries shall be limited to 7:00 AM to 7:00 PM.
- 59. No overnight parking of vehicles shall be allowed on site.

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60. That no outdoor storage shall be allowed.
61. No outdoor sales or display of merchandise shall occur on the site without a supplemental administrative use permit, in accordance with the City of Antioch Municipal Code.
62. The light standards shall be limited to a maximum height of 25 feet and light shall not spill from the subject site onto adjacent roadways and properties.
63. A photometric plan shall be submitted for Staff review and approval.
64. That the project C-3 drainage collection system be connected to the City storm drain system at a new or existing catch basin.
65. That the project shall comply with all mitigation measures identified in the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program.
66. Existing trees that are to be removed shall be replaced at a ratio of 2:1 with the replacement trees being 24" box in size. Prior to the issuance of building permits, the trees to be removed shall be identified with an indication of the species and size. The trees that are to remain onsite shall be protected as recommended in the biological assessment or as approved by the City Engineer.
67. The existing fire hydrant on Hillcrest Avenue shall be relocated outside the new driveway to the satisfaction of the City Engineer.
68. Public sewer and water easements shall be provided for each parcel or provision of separate laterals with meters and cleanouts to each building.
69. Compact parking spaces shall not be clustered or as approved by the City Engineer.
70. The applicant shall prepare and record Conditions, Covenants, & Restrictions (CC&R's) that provide among other City requirements: common access and parking easements, compliance with Antioch Municipal Code Section 5-1.204, "Commercial Property Maintenance," a joint landscape contractor, and compliance with the operating and maintenance requirements of the Stormwater Pollution Prevention Program/NPDES. The CC&R's shall be subject to review and approval of the City Attorney and Community Development Director and shall be recorded prior to the issuance of the certificate of occupancy.
71. The driveway on Hillcrest Avenue shall be a right in/right out with the appropriate directional signage placed in the median as required by the City Engineer.
72. Grading contours shall transition smoothly into existing slopes.
73. The project shall connect to the drain inlet on Hillcrest Avenue southeast of the property line, as approved by the City Engineer.

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74. Medical offices uses shall be limited to 12,465 s.f.
75. Animal hospitals/veterinary clinics, food stores (including convenience stores), assembly uses, and uses with assembly components such as clubs/lodges, churches, and cultural institutions shall require a supplemental use permit from the Planning Commission.
76. Tutoring centers shall replace day-care centers on the office portion of the Master Use List.
77. The applicant shall submit a revised Master Use List as directed by the City Council which shall be reviewed and approved by staff prior to the issuance of the certificate of occupancy, with such list attached and incorporated as exhibit "A" Permitted Uses in the conditions of approval.
 - Prohibit retail establishments that primarily sells tobacco, tobacco related products and paraphernalia
 - Prohibit check cash store
 - Eliminate Variety Store
 - Prohibit Adult Boutiques
78. The applicant shall pay their proportionate fair share of the mitigation measures for the transportation issues as outlined in the CEQA document, including:
 - a. Payment of the proportionate fair share for the improvements to the intersections of Hillcrest Avenue and State Route 4 westbound ramps and Hillcrest Avenue, Davison Drive, and Deer Valley Road, which will be satisfied through the traffic fees paid at the time of building permit issuance;
 - b. Payment of the proportionate fair share for the lengthening of the Hillcrest Avenue northbound left-turn pocket. Based on an estimated construction cost of \$100,000, the project's 18.9% share is \$18,900, which shall be paid prior to the issuance of building permits; and
 - c. Payment of the proportionate fair share to widen East Tregallas Road to accommodate a left-turn lane to total 275 feet. The signal timing shall also be modified for protected left-turn phasing for the East Tregallas Road/Larkspur Drive approaches. Based on an estimated construction cost of \$150,000, the project's 28.6% share is \$42,900, which shall be paid prior to the issuance of building permits.
79. The applicant shall enter into an agreement with the City for the operation and maintenance of the stormwater treatment facilities which are required under the C.3 provision

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* * * * *

I HEREBY CERTIFY that the foregoing resolution was duly passed and adopted by the City Council of the City of Antioch, California, at a regular meeting thereof held on the 11th day of March 2008, by the following vote:

AYES: Council Member Davis, Simonsen and Mayor Freitas

NOES: None

ABSENT: Council Member Moore

RECUSED: Council Member Kalinowski

L. JOLENE MARTIN, City Clerk

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Mayor Freitas declared a recess at 7:24 P.M. The meeting reconvened at 7:31 P.M. with all Councilmembers present with the exception of Councilmember Moore who was excused.

2. **HILLCREST SUMMIT / BEDROCK VENTURES, INC. REQUESTS APPROVAL OF A PLANNED DEVELOPMENT REZONE AND USE PERMIT FOR A MIXED USE DEVELOPMENT CONSISTING OF RETAIL AND OFFICES 15,000 S.F. OF RETAIL AND 35,000 S.F. OF OFFICES ON FIVE (5) ACRES LOCATED APPROXIMATELY 250 FEET SOUTH OF THE INTERSECTION OF HILLCREST AVENUE AND EAST TREGALLAS ROAD. (APN'S: 052-100-055 AND -056). ADOPTION OF A MITIGATED NEGATIVE DECLARATION WILL ALSO BE CONSIDERED. ON JANUARY 16, 2008 THE PLANNING COMMISSION VOTED 7-0 TO RECOMMEND ADOPTION OF THE MITIGATED NEGATIVE DECLARATION, MITIGATION MONITORING AND REPORTING PLAN, APPROVAL OF THE PLANNED DEVELOPMENT REZONE AND USE PERMIT. FILE: PD-06-04, UP-06-21, AR-06-17, S-08-01 (#202-03)**

Mayor Freitas announced Councilmember Kalinowski had indicated he had a conflict of interest with the item and would recuse himself from the item. Councilmember Kalinowski left the dais.

Associate Planner Gentry presented the staff report dated March 7, 2008 recommending the City Council: 1) adopt the Mitigated Negative Declaration, Mitigation Monitoring and Reporting Program; 2) introduce the ordinance by title only; 3) introduce the ordinance rezoning 4.94 acres making up the project site to the Planned Development District (PD); and, 4) adopt the resolution approving the Final Development Plan and Use Permit.

Mayor Freitas opened the Public Hearing.

Ted Lui, applicant, introduced himself and his associates.

William Wood, Project Architect, gave a brief history of the project and explained the architectural design of the building plan.

Jim Diggins, Civil Engineer, reported they had prepared the preliminary grading and drainage plan as well as the C3 drawing in compliance with standard codes.

Mr. Lui stated he was in agreement with all project specific conditions except #74, which limits the office use to medical.

Mayor Freitas closed the public hearing.

In response to Mayor Freitas, Associate Planner Gentry stated in terms of the retail building the applicant had indicated he was going to attempt to do his best to bring in "high-end" tenants. Furthermore, in terms of restricting Check Cashing establishments, the Council could put a restriction on that specific use.

Mayor Freitas stated he was willing to put a moratorium on all PD development until the City Council resolved the issue.

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Associate Planner Gentry clarified the applicant could provide enough parking for 12,465 s.f. of medical offices and if the applicant wanted more medical office space, he could request a variance.

Mayor Freitas stated as a policy issue, he was opposed to compact parking spaces.

Councilmember Simonsen requested the wording in Project Specific Condition #62 indicating the light standards shall be limited to less than 25 feet.

City Attorney Nerland, addressing *Attachment "C" Antioch Commons - Proposed Uses*, indicated should Council object to a specific use, they could call the use out and subject it to a use permit.

Mr. Lui stated he would not object to specifically prohibiting tobacco stores, check cashing and adult boutiques noting it was his intent to bring in higher classed tenants.

Councilmember Simonsen stated he would support granting a variance for parking to allow for more medical office uses.

Mayor Freitas stated he would oppose granting of a variance as he felt the City codes should be adhered to as adopted:

- Prohibit retail establishments that primarily sells tobacco, tobacco related products and paraphernalia
- Prohibit check cash store
- Eliminate Variety Store
- Prohibit Adult Boutiques

Mayor Freitas declared a recess at 8:17 P.M. The meeting reconvened at 8:21 P.M. with all Councilmembers present, with the exception of Councilmember Moore who was excused, and Councilmember Kalinowski who had recused himself from the item.

Mr. Lui acknowledged the changes to conditions # 70, 78(b), 78(c), and 79 as indicated on the memorandum dated March 11, 2008 as being acceptable.

RESOLUTION NO. 2008/29

On motion by Councilmember Simonsen, seconded by Councilmember Davis the City Council 1) adopt the Mitigated Negative Declaration, Mitigation Monitoring and Reporting Program; 2) introduce the ordinance by title only; and, 3) introduce the ordinance rezoning 4.94 acres making up the project site to the Planned Development District (PD); and, 4) adopt the resolution approving the Final Development Plan and Use Permit. With the amendments submitted by staff dated March 11, 2008 to project specific conditions #70, 78(b), 78(c), and 79 and project specific condition #77 revised to read:

#77 The applicant shall submit a revised Master Use List as directed by the City Council which shall be reviewed and approved by staff prior to the issuance of the certificate of occupancy, with such list attached and incorporated as exhibit "A" Permitted Uses in the conditions of approval.

- Prohibit retail establishments that primarily sells tobacco, tobacco related products and paraphernalia
- Prohibit check cash store
- Eliminate Variety Store
- Prohibit Adult Boutiques

The motion carried by the following vote:

Ayes: Freitas, Simonsen, Davis

Absent: Moore

Recused: Kalinowski

COUNCIL REGULAR AGENDA

4. INFORMATIONAL PRESENTATION ON YOUTH INTERVENTION NETWORK #1301-01

Chief Hyde presented the staff report dated March 4, 2008 recommending the City Council receive and file the report.

Iris Archeletta reported Dr. Simms, Superintendent of Antioch Schools, was unable to attend the meeting, due to a conflicting obligation. She gave a brief overhead presentation of the Youth Intervention Network – A Comprehensive Strategy for Antioch and East County updating the following items:

- Network growth
- Funding and partnerships
- Philosophical approach
- Community and Agency Facilitation
- Data collection and case management methodology
- Data collection progress and commitments

Councilmember Kalinowski stated he was impressed, adding the information presented had provided some optimism there would be progress in the community. He voiced his appreciation to Iris and Keith Archeletta for their dedication to the program and offered his support.

Councilmember Davis thanked Ms. Archeletta for the presentation and stated he had faith the program would succeed.

Councilmember Simonsen suggested the program consider youth attending Antioch schools but live in other cities as well as youth living in Antioch who had issues in other jurisdictions. He spoke in support of the YIN and strategies set forth.

ATTACHMENT “C”

**CITY OF ANTIOCH PLANNING COMMISSION
RESOLUTION NO. 2015-05**

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ANTIOCH
APPROVING AN AMENDMENT OF CONDITION OF APPROVAL NUMBER 3 OF
CITY COUNCIL RESOLUTION 2008/29**

WHEREAS, the City of Antioch did receive a request from Ted Liu of Bedrock Ventures, Inc. for an amendment to condition of approval number 3 from City Council Resolution 2008/29. The amendment would extend the expiration date of the approvals for the Final Planned Development, Use Permit, and design review to March 11, 2017. The project consists of retail and offices, located at Hillcrest Avenue and East Tregallas Road. (APN: 052-100-069 and -068) and,

WHEREAS, a Mitigated Negative Declaration and a Mitigation Monitoring and Reporting Program was prepared and adopted by the City Council on March 11, 2008 in conformance with CEQA; and

WHEREAS, a subsequent environmental document does not need to be prepared because 1) no changes to the project are proposed requiring revisions to the previous MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects, 2) no substantial changes have occurred with respect to the circumstances under which the project is undertaken which will require major revisions of the previous MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects, and 3) no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence or at the time the previous MND was adopted.

WHEREAS, on March 11, 2008 the City Council duly held a public hearing, received and considered evidence, both oral and documentary and was able to make all of required findings for approval of a Final Planned Development and Use Permit; and

WHEREAS, on April 6, 2011, the Planning Commission duly held a public hearing, received and considered evidence, both oral and documentary; and

WHEREAS, the Planning Commission approved a two-year extension of the project approvals to March 11, 2013 by modifying City Council Resolution 2008/29; and

WHEREAS, on May 15, 2013, the Planning Commission duly held a public hearing, received and considered evidence, both oral and documentary; and

WHEREAS, the Planning Commission approved a two-year extension of the project approvals to March 11, 2015 by modifying City Council Resolution 2008/29; and

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

WHEREAS, on March 18, 2015, the Planning Commission duly held a public hearing on the matter, and received and considered evidence, both oral and documentary; and

NOW THEREFORE BE IT RESOLVED, that the Planning Commission of the City of Antioch can still make the following required findings for approval of a Final Planned Development:

1. Each individual unit of the Hillcrest Summit development can exist as an independent unit capable of creating an environment of sustained desirability and stability because each building has independent access and parking. The uses proposed in the Master Use List will not be detrimental to present and potential surrounding uses but instead will have a beneficial effect which could not be achieved under another zoning district due to allowing the encumbered site flexibility in setbacks while providing uses that are compatible with the surrounding commercial area and the General Plan. In addition, the project will have the convenience of having established uses allowing for tenants with approved uses not to spend the time going through a public hearing; and
2. The project site is served by streets and thoroughfares that meet the standards of the City's Growth Management Program and adequate utility service can be supplied to all phases of the development because the project is an infill development with access to existing utilities; and
3. The commercial components of the Hillcrest Summit project are justified economically at the location proposed because they are consistent with the General Plan; and
4. Any industrial component conforms to applicable desirable standards and will constitute an efficient, well-organized development with adequate provisions for railroad and/or truck access and necessary storage and will not adversely affect adjacent or surrounding development; and
5. Any deviation from the standard zoning requirements is warranted by the compatible design of the encumbered site and additional amenities such as a pedestrian walkway and seating areas have been incorporated in the final development plan which offer certain unusual redeeming features to compensate for any deviations that may be permitted; and
6. The area surrounding the Hillcrest Summit project can be planned and zoned in coordination and substantial compatibility with the proposed

development because the development is in line with the surrounding neighborhood and has a Master Use List compatible with the General Plan; and

7. The Project conforms to the General Plan of the City because the proposed use is commercial and the General Plan designation is Neighborhood Commercial.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Antioch can still make the following required findings for approval of a Use Permit:

1. That 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 because the project has been designed to be sensitive to the surrounding community by having a large setback between the commercial buildings and the adjacent residential uses and the project complies with the City of Antioch requirements;
2. That the commercial use applied for at the location indicated is properly one for which a use permit is authorized because the General Plan designation is Neighborhood Commercial;
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 plan complies with the City standards and where they have deviated has been compensated by the design and additional amenities;
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 abuts to both a local street and an arterial street, which meet the City standard for width and are paved with an all weather surface; and
5. That the granting of use permit will not adversely affect the comprehensive General Plan because the proposed uses and design are compatible with the General Plan.

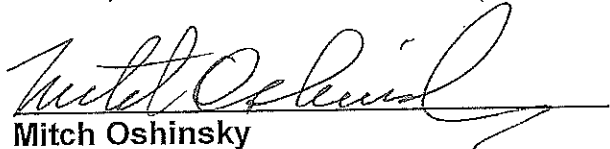
NOW THEREFORE BE IT RESOLVED that the Planning Commission of the City of Antioch does hereby **APPROVE** an amendment to condition of approval number 3 of City Council Resolution 2008/29 for the Hillcrest Summit project, extending the Final Planned Development, Use Permit, and design review until March 11, 2017.

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RESOLUTION NO. 2015-05
MARCH 18, 2015
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I HEREBY CERTIFY the foregoing resolution was duly adopted by the Planning Commission of the City of Antioch, County of Contra Costa, State of California, at a regular meeting of said Planning Commission held on the 18th day of March, 2015.

AYES:	Hinojosa, Motts, Parsons, Zacharatos and Westerman
NOES:	None
ABSTAIN:	None
ABSENT:	Miller


Mitch Oshinsky
Secretary to the Planning Commission

**STAFF REPORT TO THE PLANNING COMMISSION
FOR CONSIDERATION AT THE MEETING OF APRIL 5, 2017**

Prepared by: Kevin Scudero, Associate Planner 

Reviewed by: Alexis Morris, Planning Manager 

Date: March 29, 2017

Subject: 4 Star Auto (UP-16-09, AR-16-05, V-16-02)

RECOMMENDATION

It is recommended that the Planning Commission approve the use permit, design review and variance application, subject to the conditions contained in the attached resolution.

REQUEST

The applicant, 4 Star Auto, requests approval of a use permit, design review, and variance application to install a 1,680 square foot pre-fabricated metal building with four service bays to be used for minor automotive repair at a site currently developed with an existing automotive repair business occupying an approximately 2,400 square foot building with two service bays. The project site is located at 3420 East Eighteenth Street (APN 051-200-060).

ENVIRONMENTAL REVIEW

The proposed project is an infill project, and is considered exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines section 15332 – Infill Development Projects: 1) The project is consistent with the General Plan as well as the applicable zoning designation and regulations; 2) The proposed development occurs within the city limits on a project site no more than five acres; 3) The project site is already developed with an automotive repair building; therefore has no value as habitat for endangered, rare, or threatened species; 4) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality as the site is currently developed with a commercial use; 5) The site is adequately served by all required utilities and public services.

ANALYSIS

Issue #1: Project Overview

The proposed project consists of the expansion of an existing auto repair site at 3420 East Eighteenth Street. The applicant is proposing to add a 1,680 square foot pre-fabricated metal building with four service bays to be used for minor automotive repair

to the site which currently contains an approximately 2,400 square foot wood building with two service bays that performs both major and minor automotive repairs. A use permit (UP-95-2) was issued in 1995 permitting minor automotive repairs in the existing building on site and the applicant is seeking to expand this use; therefore, a new use permit is required. The new use permit will replace the existing use permit and contain conditions of approval for both the new building and existing building on the site. The owner of the property currently leases the existing building to an automotive repair business. The owner intends to operate a minor auto repair business himself out of the new building and to continue leasing the existing building on site to another automotive repair business.

Issue #2: General Plan, Zoning, and Land Use

The General Plan designation for the project site is Business Park and the Zoning designation is Planned Business Center (PBC). Both minor and major automotive repair uses are permitted in the Planned Business Center (PBC) zoning district with approval of a use permit.

The Antioch Municipal Code defines major automotive repair as “the general repair, rebuilding, or reconditioning of engines, motor vehicles or trailers, including collision service, body, frame, or fender straightening or repair; and auto body.”

Minor automotive repair is defined as “the replacement of automobile parts and the provision of motor service to passenger cars, trucks, and other motor vehicles and trailers not exceeding one and one-half tons capacity, including upholstering but not including any operation named under ‘major automotive repair’.

The new building being proposed is for minor auto repair only. The existing building on site currently has an automotive business that conducts both major and minor auto repair. Staff has conditioned the use permit to allow major auto repair to continue in the existing building until the current tenant vacates. Once the current tenant vacates then only minor auto repair uses will be permitted in the existing building on site.

Surrounding land uses and zoning designations are:

North:	Vacant / Regional Commercial (C-3)
South:	Single Family Residential / Planned Development (PD)
East:	Gotcha Bait and Tackle/ Planned Business Center (PBC)
West:	Residential Home / Planned Business Center (PBC)

Issue #3: Site Plan and Parking

The site is accessed via an existing driveway on East Eighteenth Street. The parcel is long and narrow (60 ft. x 292 ft.) with a narrow frontage along East Eighteenth Street. The proposed building is located roughly in the center of the parcel along the eastern border with the parking located on the north, south and west of the new building, as well as to the south of the existing building on site.

The project is requesting a variance from the 24 parking spaces required (4 spaces per service bay) per the Antioch Municipal Code and is proposing 18 parking spaces. The narrow shape of the site prevents the applicant from developing the lot while providing the required number of spaces. Staff researched parking requirements of other nearby jurisdictions for automotive repair uses and has determined that the 18 proposed spaces (1 space per 230 square feet or 3 spaces per service bay) are sufficient to serve both buildings and will not negatively impact the performance of the site.

In the past the site has had issues with cars in disrepair being stored on site, as well as cars being repaired outside of the building. The applicant has made an effort to clean the site and comply with the existing use permit requirements. To ensure the site continues to be maintained in a clean and attractive manner, staff has conditioned the use permit to require all automobile repairs to be done inside the building and prohibited the outdoor storage of inoperable vehicles or vehicles in disrepair, as well as the overnight storage of any vehicles outside.

Issue #4: Variance Findings

To approve a variance, four findings must be made (Antioch Municipal Code Section 9-5.2703). If an application can meet all four of the findings, then the variance can be granted. Conversely, if any one of the findings cannot be made, the variance should be denied.

- 1. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved, or to the intended use of the property, that do not apply generally to the property or class of use in the same zone or vicinity.**

The subject property is a long and narrow lot that does not meet the minimum lot width or minimum square footage requirements for the Planned Business Center (PBC) zoning district. The size and width of the lot prevent the project from being developed while also meeting the minimum parking requirements for automotive repair uses.

- 2. That the granting of such variance will not be materially detrimental to the public health or welfare or injurious to the property or improvements in such zone or vicinity.**

The reduction in parking requirements will not be materially detrimental to the public health or welfare in the vicinity. Neighboring jurisdictions have parking requirements that are consistent with what the project is proposing and staff has determined that the provided number of parking spaces proposed will sufficiently serve the site and will not negatively impact surrounding properties.

3. **That because of special circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, the strict application of the zoning provisions is found to deprive the subject property of privileges enjoyed by other properties in the vicinity under the identical zone classifications.**

There are special circumstances that are applicable to the subject property that make application of the zoning provisions for parking difficult to adhere to. Specifically, the width and size of the property make it difficult to meet the required number of parking spaces prescribed by the Antioch Municipal Code.

4. **That the granting of such variance will not adversely affect the comprehensive General Plan.**

The applicant's request would not adversely affect the comprehensive General Plan because the existing use of the property, automotive repair, is consistent with the General Plan and this proposal will not change that.

Issue #5: Site Improvements

The applicant has proposed to pave and re-stripe the parking lot to provide better site circulation and maximize the number of parking spaces on site. They are also proposing to install a new chain link fence with a sliding gate at the entrance to the site. Staff has conditioned the fence to be green vinyl clad with matching privacy slats installed. Staff has also conditioned that the fence on the western property line be removed and replaced with a six foot high green vinyl clad fence with matching privacy slats to match those on the proposed sliding gate. Lastly, staff has conditioned that the existing building on-site be painted to match the new building being installed.

Issue #6: Utilities

The site is currently served by a septic tank and well. No new facilities are being installed on the site that would require additional well or septic tank connections. Staff has conditioned the use permit to require a connection to city utilities should any new facilities be installed on site that require sewer or water connections.

Contra Costa County Environmental Health has indicated to staff that it is possible that the placement of the new building on site could interfere with leech lines for the septic tank. However, due to the age of the property, the County does not have good records of where the leech lines are located. Contra Costa County Environmental Health will

review and approve the location of the building during the building permit review process. A revised use permit application will be required if a change in the building location is required by the County.

ATTACHMENTS

- A. Aerial Photograph
- B. Site Plan
- C. Project Description

**PLANNING COMMISSION
RESOLUTION NO. 2017-****

**RESOLUTION OF THE CITY OF ANTIOCH PLANNING COMMISSION
APPROVING A USE PERMIT, DESIGN REVIEW AND VARIANCE FOR THE 4 STAR
AUTO PROJECT**

WHEREAS, the City of Antioch did receive a request from 4 Star Auto, for approval of a use permit, design review and variance application to install an approximately 1,680 square foot pre-fabricated metal building with four service bays to be used for minor automotive repair and operate an existing automotive repair business in an approximately 2,400 square foot building with two service bays. The project site is located at 3420 East Eighteenth Street (APN 051-200-060).

WHEREAS, this project is categorically exempt from the provisions of CEQA pursuant to CEQA Guideline section 15332 – Infill Development Projects; and,

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

WHEREAS, on April 5, 2017, the Planning Commission duly held a public hearing on the matter, and received and considered evidence, both oral and documentary.

NOW THEREFORE BE IT RESOLVED that the Planning Commission makes the following required findings for approval of a Use Permit:

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 proposed automotive repair building and existing automotive repair building are located in an existing developed commercial area. Adequate parking for the proposed use would be provided on-site as conditioned. The proposed project will not be detrimental to the public health or welfare or injurious to the property or improvements.

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

The General Plan designation of the site is Business Park and the zoning designation is Planned Business Center (PBC). Automotive repair uses require a use permit in the Planned Business Center (PBC) zoning district.

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 currently occupied by an auto repair business that had previously obtained a use permit. The site as conditioned would be adequate in size and shape to accommodate the proposed use, as well as all aspects associated with the 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 project site is bounded by East Eighteenth Street to the north. East Eighteenth Street is an arterial street, which is adequate in width and pavement type to carry the kind of traffic generated by the proposed use.

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

The General Plan designation for the project site is Business Park within the Eastern Waterfront Employment Focus Area. The proposed automotive repair use is consistent with the designation and with the surrounding uses and will not adversely affect the comprehensive General Plan.

NOW THEREFORE BE IT RESOLVED that the Planning Commission makes the following required findings for approval of a Variance:

1. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved, or to the intended use of the property, that do not apply generally to the property or class of use in the same zone or vicinity.

The subject property is a long and narrow lot that does not meet the minimum lot width or minimum square footage requirements for the Planned Business Center (PBC) zoning district. The size and width of the lot prevent the project from being developed while also meeting the minimum parking requirements for automotive uses.

2. That the granting of such variance will not be materially detrimental to the public health or welfare or injurious to the property or improvements in such zone or vicinity.

The reduction in parking requirements will not be materially detrimental to the public health or welfare. Neighboring jurisdictions have parking requirements that are consistent with what the project is proposing and staff has determined that the provided number of parking spaces proposed will sufficiently serve the site and will not negatively impact surrounding properties.

3. That because of special circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, the strict application of the zoning provisions is found to deprive the subject property of privileges enjoyed by other properties in the vicinity under the identical zone classifications.

There are special circumstances that are applicable to the subject property that make application of the zoning provisions for parking difficult to adhere to. Specifically, the width and size of the property make it difficult to meet the required number of parking spaces prescribed by the Antioch Municipal Code.

4. That the granting of such variance will not adversely affect the comprehensive General Plan.

The applicant's request would not adversely affect the comprehensive General Plan because the existing use of the property, automatic repair, is consistent with the General Plan and this proposal will not change that.

NOW THEREFORE BE IT RESOLVED the Planning Commission of the City of Antioch does hereby **APPROVE** a use permit, design review and variance application to install an approximately 1,680 square foot pre-fabricated metal building with four service bays to be used for minor automotive repair and operate an existing automotive repair business in an approximately 2,400 square foot building with two service bays at 3420 East Eighteenth Street (APN 051-200-060), subject to the following conditions:

A. GENERAL CONDITIONS

1. The project shall be constructed and operated in compliance with City of Antioch Municipal Code requirements and standards.
2. The site plan shall be corrected to include any conditions required by the Planning Commission which call for a modification or change to the site plan 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 conditions of approval prior to final inspection approval.

4. That this approval expires two years from the date of approval (Expires April 5, 2019), 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 other fees that are due.
7. The applicant shall obtain an encroachment permit for all work to be done within 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 off-site 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 of 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 AMC 6-3.2: Construction and Demolition Debris Recycling.
3. Building permits shall be secured for all proposed construction associated with this facility, including any interior improvements not expressly evident on the plans submitted.

C. AGENCY REQUIREMENTS

1. All requirements of the Contra Costa County Fire Protection District shall be met:
 - a. Emergency apparatus access of not less than 20-feet unobstructed width shall be provided and maintained from East Eighteenth Street to the south wall of the new building. Roadway striping for designated parking stalls shall be provided and a 20 foot wide path shall be demarcated as a fire lane with the word **NO PARKING – FIRE LANE** clearly marked. Existing cars on site shall be relocated or removed to meet this requirement. (503) CFC
 - b. Emergency apparatus access as required above shall be provided, and inspected by the Fire District prior to construction. (501.4) CFC
 - c. Access gates for Fire District apparatus shall be a minimum of 20-feet wide. Access gates shall slide horizontally or swing inward. Electrically operated gates shall be equipped with a Knox Company key-operated switch. Manually operated gates shall be equipped with a non-casehardened lock or approved fire district lock. Contact the Fire District for information on ordering the key-operated switch. (D103.5) CFC
 - d. The developer shall provide an adequate and reliable water supply for fire protection with a minimum fire flow of 1500 GPM. Required flow must be delivered from not more than 1 hydrant flowing for a duration of 120 minutes while maintaining 20-pounds residual pressure in the main. (507.1), (B105) CFC
 - e. 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
 - f. The developer shall submit a minimum of two (2) copies of site improvement plans indicating all existing or proposed hydrant locations and fire apparatus access for review and approval prior to obtaining a building permit.
 - g. The developer shall submit a minimum of two (2) complete sets of plans and specifications of the subject project, including plans for any of the following required deferred submittals, 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
 - Above ground/underground flammable/combustible liquid storage tanks
 - Spray booths
2. All requirements of the Contra Costa County Environmental Health Department shall be met:

- a. A permit from CCEHD is required for any well or soil boring prior to commencing drilling activities, including those associated with environmental investigation and cleanup, and geotechnical investigation.
- b. Any abandoned wells (water, environmental, or geotechnical) and septic tanks must be destroyed under permit from CCEHD. If the existence of such wells or septic tanks are known in advance or discovered during construction or other activities, these should be clearly marked, kept secure, and destroyed pursuant to CCEHD requirements.
- c. The property is currently served by an onsite septic system. CCEHD must review and approve the plans prior to the issuance of building permits to review aspects related to sewage disposal and water supply.
- d. Debris from construction or demolition activity must go to a solid waste or recycling facility that complies with the applicable requirements.
- e. If the business generates waste tires, it must obtain a Tire Program Identification (TPID) number from CalRecycle and comply with the California Tire Recycling Act.

D. FEES

1. The applicant shall pay all fees as required by the City Council.
2. The applicant shall pay the Contra Costa County Fire Protection District Fire Development Fee in place at the time of building permit issuance.
3. The applicant shall pay any required Drainage Area fees prior to the issuance of any building permits for this project.
4. The applicant shall pay all applicable Delta Diablo Sanitation District fees prior to the issuance of any building permits for this project.
5. The applicant shall pay the \$4,730.52 fee prescribed in City Council Resolution No. 2001/155 for the construction of a public sewer main to serve their property prior to the issuance of a building permit.

E. PROPERTY MAINTENANCE

1. A parking lot sweeping program shall be implemented that, at a minimum, provides for sweeping immediately prior to, and once during, the storm season.
2. The site shall be kept clean of all debris (boxes, junk, garbage, etc.) at all times.
3. Standard dust control methods shall be used to stabilize the dust generated by construction activities.

4. No signs shall be installed on this site without prior City approval.
5. Any cracked or broken sidewalks shall be replaced as required by the City Engineer.

F. PROJECT SPECIFIC CONDITIONS

1. This use permit, design review, and variance approval applies to the addition of an approximately 1,680 square foot pre-fabricated metal building for minor automotive repair and the operation of an existing automotive repair business in an approximately 2,400 square foot building at 3420 East Eighteenth Street as depicted on the project plans submitted to the City of Antioch on November 28, 2016. The new building being installed on site shall be permitted for minor auto repair only. The existing building at the rear of the site shall be permitted to continue major auto repair as long as the existing tenant, Magno Auto and Truck Repair, occupies the building. Once that tenant has vacated the building then only minor auto repair, as defined in section 9-5.203 Antioch Municipal Code, shall be permitted in the existing building on site. No automobile painting shall be allowed on site.
2. The existing building on site shall be painted to match the new building prior to issuance of certificates of occupancy for the new building.
3. The parking lot shall be slurry sealed, paved where necessary, and re-stripped to the satisfaction of the City Engineer.
4. The proposed chain link fence rolling gate shall be green vinyl clad with green privacy slats installed.
5. The overhangs on both sides of the existing building shall be removed.
6. The chain link fence on the western property line shall be removed and replaced with a six foot high green vinyl clad fence with green privacy slats to match those installed on the front gate. The small section of black wrought iron fencing at the northwest corner of the site shall be removed.
7. No barbed wire or razor wire shall be allowed on site.
8. The hours of operation for both buildings shall be as stated in the project description: Monday – Friday 9:00 AM to 5:00 PM and Saturday from 10:00 AM to 2:00 PM. Both buildings will be closed on Sunday. Any changes to hours of operation shall be subject to City of Antioch planning staff approval.

9. All automotive repair shall be confined to the interior of the buildings on site. The outdoor storage of vehicles in disrepair shall be prohibited. Outdoor storage of any vehicles overnight shall be prohibited.
10. No vehicles shall encroach on or block access to neighboring properties.
11. All oils, fuels, solvents, coolants and other chemicals shall be secured in special containers inside the shop and disposed of by a registered waste hauler.
12. All trash bins shall be stored indoors and only placed outside on pickup day. Should an outdoor dumpster be necessary, a trash enclosure will be required subject to building permit approval. The design of the trash enclosure shall comply with AMC 9.5.1401 Refuse Storage Area Design Guidelines.
13. All permanent and temporary signage shall be subject to planning staff approval prior to installation.
14. No additional connections to the septic tank on site shall be made. Should any additional facilities be installed on-site that require a sewer connection, then a connection to the public sewer shall be made and the use of the septic tank shall be discontinued. Should the septic tank on-site fail, a connection to the public sewer shall be required at the property owner's expense.
15. No additional connections shall be made to the well servicing the property. Should any additional facilities be installed on site that require a water connection, then a connection to the public water system shall be made at the property owner's expense and the use of the well shall be discontinued.
16. The applicant may be subject to a Planning Commission hearing, per Section 9-5.2707.1 of the City of Antioch Municipal Code, if the Antioch Police Department or Code Enforcement Division must respond to this property as a result of complaints received due to incidents related to the operation of the auto repair facility at 3420 East Eighteenth Street. If the Planning Commission determines that the conditions of approval are not met or the use has become a public nuisance or otherwise a threat to public health, safety, or welfare, it can result in revocation of the use permit or imposition of a fine.
17. All Federal, State, and Local regulations relating to the operation of an automotive repair business shall be complied with.

* * * * *

I HEREBY CERTIFY the foregoing resolution was duly adopted by the Planning Commission of the City of Antioch, County of Contra Costa, State of California, at a regular meeting of said Planning Commission held on the 5th day of April, 2017.

AYES:

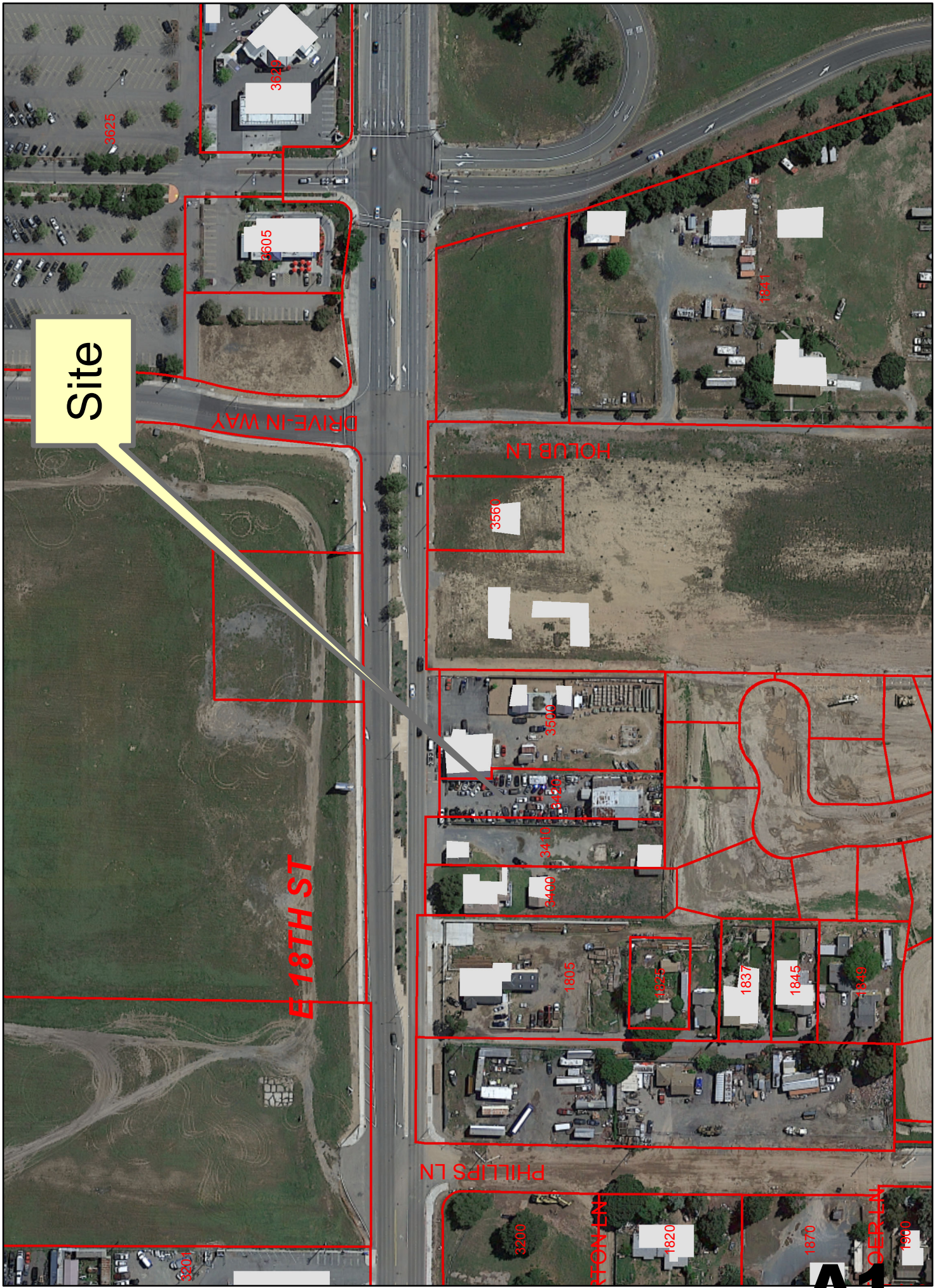
NOES:

ABSTAIN:

ABSENT:

Forrest Ebbs
Secretary to the Planning Commission

ATTACHMENT “A”



Site

DRIVE-IN WAY

HOLUB LN

E 18TH ST

PHILLIPS LN

ATON LN

GERB LN



City of Antioch GIS

4 Star Auto

A1

ATTACHMENT “B”

ATTACHMENT “C”

Application for Use Permit and Design Review

11/22/16

RECEIVED

NOV 28 2016

To City of Antioch – Department of Community Development

Owner: Kalsoom Ghafour Bibi

CITY OF ANTIOCH
COMMUNITY DEVELOPMENT

**Site Address: 3420 E 18th Street, Antioch CA 94509 – “4 Star Auto Repair Shop”
APN: 051 - 200 - 060**

A. 4 Star Auto Repair

1. The owner of the above mentioned site plans to operate a new repair shop, “4 Star Auto Repair”.
The new repair shop will be a pre-fabricated metal building, with four car bays, totaling 1680 Square feet.
2. The shop will be designated for minor auto repairs, oil change and brakes.
No automobile body work or automobile painting shall be allowed on this site without a supplemental use permit.
No major automobile parts dismantling and parts storage will be permitted on the site.
3. All automotive repairs will be confined to the interior of the building.
4. The proposed site improvement will provide 17 parking stalls and one van accessible ADA parking stall. The entire site will be striped and painted as shown on sheet P-1.
5. On the main access route, from 18th Street will be installed a new sliding gate, maximum 28 feet wide.
6. The shop will have two full time employees.
7. The hours of operation will be: Monday through Friday from 9:00 AM to 5:00 PM and Saturday from 10:00 AM to 2:00 PM. The shop will be closed on Sunday.
8. The shop will be a metal building delivered by the manufacturer and installed on the Site, on the concrete pad provided by the owner.
9. The building color, as delivered by the manufacturer, will be beige color.
10. No fire sprinkler system is required, as per Fire Department.
11. Water and electrical power will be supplied from the existing sources on the premises.
12. All oils, solvents and coolants will be secured in special containers inside the shop and will be disposed by a registered waste hauler.
13. The new shop will share some of the facilities of the existing building such as: the existing restroom, main electrical panel which will be upgraded considering the added need for power, and other utilities. The existing building belongs to the same owner.

B. El Pato Auto Repair & Body Shop

1. The existent above mentioned shop is an older wood structure with 2 bays for auto repairs, totaling 2412.5 sf .
2. The shop has two full time employees.
3. This shop is specialized in auto repairs and light body work. No auto painting is done in this shop.
No major automobile parts dismantling and parts storage will be permitted on the site.
4. Most of the repair work is confined inside the shop.
5. The hours of operation are: Monday through Friday from 9:00 AM to 5:00 PM and Saturday from 10:00 AM to 2:00 PM. The shop is closed on Sunday.
6. Water and electrical power are supplied from the existing sources on the premises:
 - electrical power from the main panel located on the east side of the building
 - water is supplied by a well located on the adjacent property – (west side of this property) At 3410 E 18th St.
7. All oils, solvents and coolants are secured in special containers inside the shop and are disposed by a registered waste hauler.
8. This repair shop will share the waste management containers with 4 Star Shop.

Owner signature.....

Date.....