

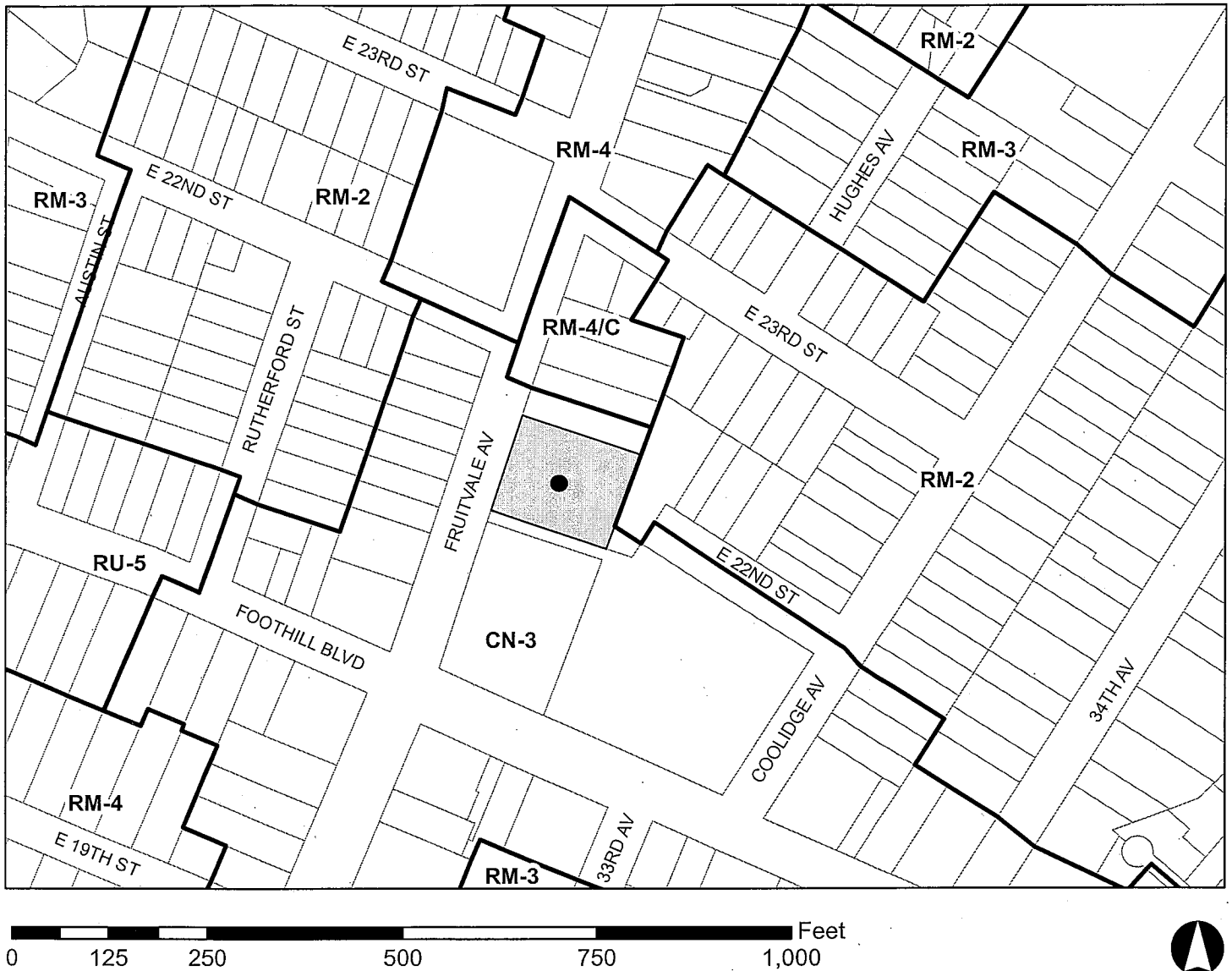
<b>Location:</b>	2112 Fruitvale Avenue
<b>Assessor's Parcel Number:</b>	027 -0837-009-01
<b>Proposal:</b>	Request for a Major Conditional Use Permit and Design Review for the modification of an existing unmanned macro telecommunications facility. Project will relocate three antennas from the building façade and into new RF screen enclosures on the penthouse and add four new microwave antennas. All proposed antennas and equipment will be fully screened from public view and painted to match the building.
<b>Contact Person/</b>	Maryann Miller-Novak for Metro PCS
<b>Phone Number:</b>	(510) 919-3224
<b>Owner:</b>	SBC P T & T Co.
<b>Planning Permits Required:</b>	Major Conditional Use Permit to modify a Macro wireless telecommunications facility located within 100-feet of a residential zone (OMC Sec. 17.33.040(A), 17.134.020(A)(3)(i); Regular Design Review (non-residential) to expand a Macro facility also requiring a conditional use permit (OMC Sec. 17.33.040(A), 17.136.050(B)(2); Additional findings for a Macro facility (OMC Sec. 17.128.070 (B), (C).
<b>General Plan:</b>	Mixed Housing Type Residential
<b>Zoning:</b>	CN-3 Neighborhood Center 3 Zone
<b>Environmental</b>	Exempt, Section 15303 of the State CEQA Guidelines:
<b>Determination:</b>	Small Structures, Section 15301 existing facilities' Section 15183 of the State CEQA Guidelines: Projects consistent with a community plan, general plan or zoning
<b>Historic Status:</b>	Potentially Designated Historic Property. OCHS Survey Rating: C3
<b>Service Delivery District:</b>	4
<b>City Council District:</b>	V
<b>Date Filed:</b>	10/17/12
<b>Staff Recommendation:</b>	Approve with the attached conditions
<b>Finality of Decision:</b>	Appealable to City Council within 10 days
<b>For Further Information:</b>	Contact case planner Jose M. Herrera-Preza, Planner I at (510) 238-3808 or jherrera@oaklandnet.com

## SUMMARY

This project would provide for the modifications of an existing unmanned Telecommunications Facility and relocate three (3) unscreened panel antennas from the exterior building façade into RF screen enclosures on the roof of the building, adding four microwave dishes onto the penthouse, and upgrading equipment to a previously approved telecommunications "Macro" facility located along the rooftop of a commercial warehouse building serving as a SBC global sub station. The relocated antennas will be sited inside RF screens located on the rooftop of the building to visually screen the antennas from neighboring properties and reduce the number of façade mounted antennas on the building. The subject property is entirely located within a residential zone. The scope of work entails the relocation of three existing antennas and installation of four wall mounted microwave dishes, resulting in a total of 20 on-site.

A Major Conditional Use Permit and Design Review are required for modifications to a Macro Telecommunications Facilities located in residential zones. As detailed below, the project meets all of the required findings for approval. Therefore, staff recommends approval of the project subject to the attached conditions of approval.

# CITY OF OAKLAND PLANNING COMMISSION



Case File: CMD13-011  
Applicant: Maryann Miller-Novak for Metro PCS  
Address: 2112 Fruitvale Avenue  
Zone: CN-3

**PROJECT DESCRIPTION**

The proposal would involve modifications to an existing unmanned telecommunications facility consisting of re-locating three existing panel antennas and adding four microwave dishes. The proposed antennas will be mounted inside new RF screen enclosure along the rooftop penthouse and microwave dishes will be wall mounted on the existing rooftop penthouse and dishes will be painted and textured to match the building to further mitigate any visual impacts from neighboring properties and the public right of way. (See Attachment A)

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

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

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

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

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

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

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

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

## PROPERTY DESCRIPTION

The subject property is approximately 20,219 square feet, located on the 2100 block of Fruitvale Avenue in between Foothill Boulevard and E 23<sup>rd</sup> Street. The subject property is located on a large lot that is consistent with neighboring commercial lots in shape and size. The property is adjacent to similarly sized commercial parcels, consisting of mostly smaller scale commercial uses. The subject property has a fully functioning commercial tenant (S.B.C.) on the site. The property was first developed post 1940 (based on Alameda County Assessors Data) with a 4.0 story commercial building. The S.B.C. site currently hosts four telecommunication facilities on this property (Metro PCS, Clearwire, Sprint & AT&T).

## GENERAL PLAN ANALYSIS

The property is located in a Mixed Housing Type Residential area under the General Plan's Land use & Transportation Element (LUTE). The intent of the area is: *"To create, maintain and enhance residential areas typically located near the city's major arterials and characterized by a mix of single family homes, townhouses, small multi-unit buildings and neighborhood business."* The proposed modification to an unmanned wireless telecommunications facility will not adversely affect and detract from the residential and commercial characteristics of the neighborhood. The proposal to modify a telecommunications facility through the relocation and co-location of antennas and equipment to an existing building would enhance an essential service in a residential district adjacent to the Fruitvale Avenue corridor, while ensuring the facility is reasonably concealed from both. The project therefore conforms to the area's intent and the following objective of the LUTE.

### Sense of Community

#### Objective N9.9

City encourages that new development respects the architectural integrity of a building's original style. The proposed development will have no effect on the existing buildings on site.

### Civic and Institutional uses

#### Objective N2

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

Staff finds the proposal to be in conformance with the objectives of the General Plan.

## ZONING ANALYSIS

The project requires a Major Conditional Use Permit and Regular Design Review (non-residential) each with additional telecommunications findings because it features the modifications of an unmanned wireless telecommunications facility located within 100-feet of a residential zone. The review ensures the modified facility will not generate negative aesthetic impacts to the adjacent neighborhoods and improve current site conditions.

The property is located in the CN-3 Neighborhood Commercial 3 Zone. The intent of the CN-3 Zone is: *"The intent is to create, preserve, and enhance mixed use neighborhood commercial centers. The centers are typically characterized by smaller scale pedestrian oriented, continuous and active store fronts with opportunities for comparison shopping".*

The proposal meets the telecommunications Regulations regarding Site Location and Design Preferences and co-locating on a building with an existing wireless telecommunications facility; therefore site alternatives and design analyses are not required. The project requires a 1:1 height to setback ratio for rooftop facilities and the applicant has redesigned the project to meet this requirement but still provides all the necessary concealment. The existing antennas were approved in 2003 when the screening and 1:1 requirement was not in effect. The proposal should act to reduce the view of the antennas in the surrounding residential district and the new RFP screen will further conceal the antennas.

Staff finds the proposal to be consistent with the Planning Code.

## **ENVIRONMENTAL DETERMINATION**

The California Environmental Quality Act (CEQA) Guidelines categorically exempts specific types of projects from environmental review. Section 15301(e) of the State CEQA Guidelines exempts project involving additions to existing facilities or structures. The proposal to relocate three antennas and install four new microwave dishes on a rooftop at an existing wireless telecommunications facility meets this description: the project would constitute a minor modification only as microwave dishes are currently exempt. The project is therefore exempt from further environmental review.

## **KEY ISSUES AND IMPACTS**

In addition to ensuring this type of request meets required legal findings, proposed wireless telecommunications facilities must meet specific development standards, and site location and design preferences, and possesses a satisfactory radio frequency emissions report.

### **1. Conditional Use Permit**

Section 17.33.040 of the City of Oakland Planning Code requires a conditional use permit to modify a Macro Telecommunication facility in the CN-3 Zone and requires a Major Conditional use permit if located within 100 feet of a residential zone. The RM-2 Mixed Housing Type Residential 2 Zone abuts the rear of the property. The required findings for a major conditional use permit are attached and included in staff's evaluation as part of this report.

### **2. Project Site**

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

- A. Co-located on an existing structure or facility with existing wireless antennas.
- B. City owned properties or other public or quasi-public facilities.
- C. Existing commercial or industrial structures in non-residential zones.
- D. Existing commercial or industrial structures in residential zones.
- E. Other non-residential uses in residential zones.
- F. Residential uses in non-residential zones.
- G. Residential uses in residential zones.

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

Since the proposed project involves the relocation and co-location of new antennas on an existing structure with an existing wireless facility, the proposed development meets the (A) co-located on an existing structure or facility with existing wireless antennas, therefore a site alternatives analysis is not required.

### **3. Project Design**

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

- A. Building or structure mounted antennas completely concealed from view.
- B. Building or structure mounted antennas set back from roof edge, not visible from public right-of way.
- C. Building or structure mounted antennas below roof line (facade mount, pole mount) visible from public right-of-way, painted to match existing structure.
- D. Building or structure mounted antennas above roof line visible from public right of-way.
- E. Monopoles.
- F. Towers.

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

The project meets design criteria (A) & (B) since all the existing and proposed antennas and microwave dishes will be mounted behind inside new rooftop RF screen intended to look like an architectural element along the roof of the building that will be textured and finished to match the building and wall mounted on the penthouse. Furthermore, to mitigate visual impacts the antennas will be mounted at least 85' above the public right of way. The associated equipment will be located inside the building and will have no visual impact. In its entirety, the project will be reasonably concealing these carriers' antennas from the right of way and neighbors and bring the site closer conformity with current telecommunications regulations.

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

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

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

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

## CONCLUSION

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

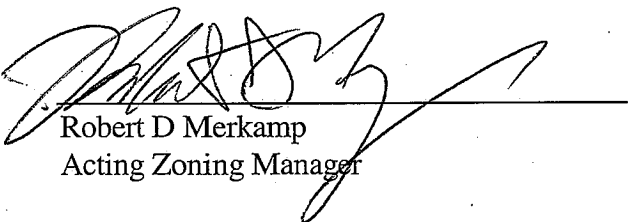
- RECOMMENDATIONS:**
1. Affirm staff's environmental determination.
  2. Approve the Major Conditional Use Permit and Regular Design Review subject to the attached Findings and Conditions.

Prepared by:




Jose M. Herrera-Preza  
Planner I

Approved by:



Robert D Merkamp  
Acting Zoning Manager

Approved for forwarding to the  
City Planning Commission:



Scott Miller  
Acting Deputy Director  
Planning, Building and Neighborhood Preservation

## ATTACHMENTS:

- A. Project Plans & Photo Simulations
- B. RF-EME Electromagnetic Energy Compliance Report

## Findings for Approval

This proposal meets the required findings under Section 17.134.050, General Use Permit Criteria; Section 17.128.070(C), Conditional Use Permit Criteria for Macro Facilities; Section 17.136.050(B), Regular Design Review; and Section 17.128.070(B), Design Review Criteria for Mini Facilities, as set forth below. Required findings are shown in bold type; explanations as to why these findings can be made are in normal type.

### **SECTION 17.134.050 – GENERAL USE PERMIT CRITERIA:**

**A. That the location, size, design, and operating characteristics of the proposed development will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities; to harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets; and to any other relevant impact of the development.**

The proposal is to modify an existing Macro wireless telecommunications facility consisting of relocating three existing non-conforming antennas from the exterior building façade and adding four new microwave dishes. The project will relocate three existing antennas to allow for the inclusion of three new antennas while being completely screened inside RF screen enclosure on the rooftop of the four-story commercial building. The new microwave dishes will be wall mounted along the rooftop penthouse and painted to match the building. The facility is located within 100 feet of a residential zone. The purpose of the project is to enhance wireless telecommunications in the area while improving the current site conditions and bring the site as a whole closer to conformity with current regulations. New antennas will be completely concealed behind an existing RF screen intended to appear like an architectural elements, so antennas will not be visible from the public right of way within the residential district. The antennas and related equipment including attachment posts and coaxials (cables) will be painted to match the color of the building along the roofline.

**B. That the location, design, and site planning of the proposed development will provide a convenient and functional living, working, shopping, or civic environment, and will be as attractive as the nature of the use and its location and setting warrant.**

The proposed modifications to the unmanned telecommunications facility will result in an improvement to the exterior appearance of the building by removing existing non-conforming panel antennas from the exterior building façade. The modification will maintain existing functional working and living environment by improving telecommunications in the area and would maintain the attractive nature of the existing building therefore it would not affect the general quality and character of the neighborhood.

**C. That the proposed development will enhance the successful operation of the surrounding area in its basic community functions, or will provide an essential service to the community or region.**

The proposed development will enhance the successful operation of the surrounding area in its basic community function and will provide an essential service to the community or region. This will be achieved by improving the functional use of the site by providing a regional telecommunication facility for the community and will be available to police, fire, public safety organizations and the general public.

***FINDINGS FOR APPROVAL***

**D. That the proposal conforms to all applicable design review criteria set forth in the design review procedure at Section 17.136.070.**

The proposal conforms with all significant aspects of the design review criteria set forth in Chapter 17.136 of the Oakland Planning Code, as outlined below.

**E. That the proposal conforms in all significant respects with the Oakland Comprehensive Plan and with any other applicable plan or development control map which has been adopted by the City Council.**

The project is consistent with the following Policy of the Oakland General Plan's Land Use & Transportation Element (adopted 1998):

***Policy N9.9 Respecting Architectural Integrity***

*City encourages that new development respects the architectural integrity of a building's original style. The proposed development will have no effect on the existing buildings on site.*

**17.128.070(C), Conditional Use Permit Criteria for Macro Facilities**

**1. The project must meet the special design review criteria listed in subsection B of this section.**

The project meets the required design review criteria for this application.

**2. The proposed project must not disrupt the overall community character.**

The proposal will relocate three existing antennas from the building façade and onto the roof top of an existing building and will have no affect on the overall community character of Fruitvale Avenue.

**SECTION 17.136.050.A - REGULAR DESIGN REVIEW CRITERIA:**

**1. That the proposed design will create a building or set of buildings that are well related to the surrounding area in their setting, scale, bulk, height, materials, and textures:**

The proposal would modify an existing unmanned telecommunications facility through the removal and relocation of three panel antennas, addition of three new antennas and create a new 5'-4" extension of the RF screen above the penthouse rooftop of the existing building. The screen will extend 5' above the roofline at its highest point. The relocation and addition of antennas will not create an increase in height or size of the facilities. The FR screen will match the existing building in their color, texture and finish materials. The new antennas will be fully concealed behind an RF friendly screen and maintains the allowed projection above the height limit. The project will not change the scale or location of the facility and therefore is consistent and well related to the surrounding area.

**2. That the proposed design will protect, preserve, or enhance desirable neighborhood characteristics;**

The proposed design meets the intent of the current zoning and general plan land use designations. The

***FINDINGS FOR APPROVAL***

proposal protects and preserves the surrounding neighborhood context by removing non-conforming antennas located along the exterior of the building façade and reasonably concealing the new antennas while co-locating additional wireless telecommunications microwave dishes to an existing facility. The antennas will be fully concealed behind an FR screen that is painted and textured to match the building. The antennas will be mounted 85' above the public right of way thus visually mitigating any impact to the surrounding neighborhood. The equipment cabinet will be located inside the building in a dedicated equipment room.

**3. That the proposed design will be sensitive to the topography and landscape.**

The proposed project involves modification to an existing telecommunications facility. This finding is not applicable.

**4. That, if situated on a hill, the design and massing of the proposed building relates to the grade of the hill.**

This criterion is not applicable to this proposal.

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

The proposal conforms with the city of Oakland Comprehensive General Plan meeting specific General Plan policies and the Supplemental Report and Recommendations on Revision to the Citywide Telecommunications Regulations. The proposal will conform to performance standards for noise set forth in Section 17.143.020(j) and (k) for decibel levels in residential areas for both day and nighttime use. The project conforms to all mini-facility definitions set forth in Section 17.128.050 and meets all design review criteria to minimize impacts throughout the neighborhood.

**Design Review Criteria for Macro Facilities.**

Chapter 17.136, the following specific additional criteria must be met when design review is required Before an application can be granted:

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

The proposed antennas will be located within new rooftop screens which will be painted and textured to match the building.

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

The antennas will be rooftop mounted and project 5' above the roofline behind an existing FR screen made to look an architectural element.

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

***FINDINGS FOR APPROVAL***

The project features an existing rooftop penthouse screen that incorporates the vertical design elements of the building intended to screen antennas from public view and utilizes the penthouse as a new staging area replacement antennas to further relocate the non-conforming antennas from other carriers.

**4. Equipment shelters or cabinets shall be screened from the public view by using landscaping, or materials and colors consistent with surrounding backdrop or placed underground or inside existing facilities or behind screening fences.**

The equipment cabinets are located inside a the building in a dedicated equipment room thus will be concealed from public view.

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

The equipment shelters will remain consistent with the general character of the area since all cabinets and equipments are inside the building in a dedicated equipment room.

**6. For antennas attached to the roof, maintain a 1:1 ratio (example: ten feet high antenna requires ten feet setback from facade) for equipment setback unless an alternative placement would reduce visual impact; treat or screen the antennas to match existing air conditioning units, stairs, elevator towers, or other background; avoid placing roof mounted antennas in direct line with significant view corridors.**

The proposed rooftop antennas will project 15' above the roof line and will meet the establish 1:1 setback ratio for new screen enclosure along the rooftop but due to the existing screen along the edge of the roofline any antenna mounted behind the screen will adequately reduce any visual impact. The associated equipment will be located inside a secured room inside the building.

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

Antennas will be located on a rooftop not accessible to the public and equipment cabinets will be located in a secured room inside the building.

***FINDINGS FOR APPROVAL***

**CONDITIONS OF APPROVAL**  
**CMDV13-011**

**STANDARD CONDITIONS:**

**1. Approved Use**

***Ongoing***

- a) The project shall be constructed and operated in accordance with the authorized use as described in the application materials, **CMD13-011**, and the plans dated **November 17<sup>th</sup>, 2012** and submitted on **November 17<sup>th</sup>, 2012** and as amended by the following conditions. Any additional uses or facilities other than those approved with this permit, as described in the project description and the approved plans, will require a separate application and approval. Any deviation from the approved drawings, Conditions of Approval or use shall required prior written approval from the Director of City Planning or designee.
- b) This action by the City Planning Commission ("this Approval") includes the approvals set forth below. This Approval includes: **The modification of an existing unmanned macro telecommunications facility located along the rooftop of an existing building, under Oakland Planning Code 17.128**

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

***Ongoing***

Unless a different termination date is prescribed, this Approval shall expire **two calendar years** from the approval date, unless within such period all necessary permits for construction or alteration have been issued, or the authorized activities have commenced in the case of a permit not involving construction or alteration. Upon written request and payment of appropriate fees submitted no later than the expiration date of this permit, the Director of City Planning or designee may grant a one-year extension of this date, with additional extensions subject to approval by the approving body. Expiration of any necessary building permit for this project may invalidate this Approval if the said extension period has also expired.

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

***Ongoing***

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

**4. Conformance with other Requirements**

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

- a) The project applicant shall comply with all other applicable federal, state, regional and/or local codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City's Building Services Division, the City's Fire Marshal, and the City's Public Works Agency.

**CONDITIONS OF APPROVAL**

- b) The applicant shall submit approved building plans for project-specific needs related to fire protection to the Fire Services Division for review and approval, including, but not limited to automatic extinguishing systems, water supply improvements and hydrants, fire department access, and vegetation management for preventing fires and soil erosion.

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

- a) Site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within 60-90 days of approval, unless an earlier date is specified elsewhere.
- b) The City of Oakland reserves the right at any time during construction to require certification by a licensed professional that the as-built project conforms to all applicable zoning requirements, including but not limited to approved maximum heights and minimum setbacks. Failure to construct the project in accordance with approved plans may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension or other corrective action.
- c) Violation of any term, conditions or project description relating to the Approvals is unlawful, prohibited, and a violation of the Oakland Municipal Code. The City of Oakland reserves the right to initiate civil and/or criminal enforcement and/or abatement proceedings, or after notice and public hearing, to revoke the Approvals or alter these conditions if it is found that there is violation of any of the conditions or the provisions of the Planning Code or Municipal Code, or the project operates as or causes a public nuisance. This provision is not intended to, nor does it, limit in any manner whatsoever the ability of the City to take appropriate enforcement actions.

**6. Signed Copy of the Conditions*****With submittal of a demolition, grading, and building permit***

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

**7. Indemnification*****Ongoing***

- a) To the maximum extent permitted by law, the applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the City of Oakland Redevelopment Agency, the Oakland City Planning Commission and its respective agents, officers, and employees (hereafter collectively called City) from any liability, damages, claim, judgment, loss (direct or indirect) action, causes of action, or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City to attack, set aside, void or annul, (1) an approval by the City relating to a development-related application or subdivision or (2) implementation of an approved development-related project. The City may elect, in its sole discretion, to participate in the defense of said Action and the applicant shall reimburse the City for its reasonable legal costs and attorneys' fees.
- b) Within ten (10) calendar days of the filing of any Action as specified in subsection A above, the applicant shall execute a Letter Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Letter of Agreement shall survive termination, extinguishment or invalidation of the approval. Failure to

***CONDITIONS OF APPROVAL***

timely execute the Letter Agreement does not relieve the applicant of any of the obligations contained in this condition or other requirements or conditions of approval that may be imposed by the City.

**8. Compliance with Conditions of Approval**

***Ongoing***

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

**9. Severability**

***Ongoing***

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

**10. Job Site Plans**

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

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

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

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

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

**PROJECT SPECIFIC CONDITIONS:**

**12. Radio Frequency Emissions**

***Prior to issuance of building permit***

The applicant shall submit a certified RF emissions report to the City of Oakland stating that the proposed facility will operate within the established RF standards set by the Federal Communications Commission.

***Prior to the issuance of a final building permit sign off.***

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

***CONDITIONS OF APPROVAL***

**13. Operational  
Ongoing.**

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

**14. Compliance with Title 24*****Prior to issuance of certificate of occupancy.***

The applicant shall implement acoustical techniques in compliance with Title 24 to ensure that noise levels in interior spaces remain at or below 45 CNEL with all doors and windows closed.

**APPROVED BY:**

City Planning Commission: \_\_\_\_\_ (February 6, 2013) \_\_\_\_\_ (vote)

***CONDITIONS OF APPROVAL***

**COUNTY OF ALAMEDA**

4

TITLE	SIGNATURE	DATE
PROJECT MANAGER		
LEASING		
ZONING		
CONSTRUCTION		
UTILITIES		
NET OPS		
LANDLORD		
RF ENGINEER		
SIGNATURE BLOCK		

**ARCHITECT**  
GREG SMITH  
2124 LINCOLN AVENUE, STE. A  
ALAMEDA, CA 94501  
CONTACT: GREG SMITH  
CONTACT NUMBER: (415) 595-3732

AT: 37° 47' 04.80" N  
 LONG: 122° 13' 19.559" W (NMD 93)  
 A.P.N.: 027-0837-009-01

HANDICAP REQUIREMENTS: METRO PCS FACILITY IS UN-MANNED AND NOT FOR HUMAN HABITATION. DISABLED ACCESS NOT REQUIRED.

PROJECT DATA

**DIRECTIONS FROM METRO PCS OFFICE AT 1080 MARINA VILLAGE PARKWAY, ALAMEDA, CA**

- SOUTH EAST ON MARINA VILLAGE PARKWAY
- TURN LEFT ON TOWNSEND STREET 0.1 MI.
- TURN RIGHT ON TROPHIC DRIVE 0.1 MI.
- TURN LEFT AT ATLANTIC AVE. 0.2 MI.
- CONTINUE ON BURNHAM STREET
- TURN LEFT ON TILLY STREET 1.6 MI.
- TURN LEFT AT TILLEN AVE 0.5 MI.
- TILLEN WAY BECOMES FRUITVALE AVE. OVER BRIDGE
- TURN RIGHT ON FRUITVALE. DESTINATION WILL BE ON THE RIGHT 1.1 MI.

**DO NOT SCALE DRAWINGS**

THESE DRAWINGS ARE FORMATTED TO BE FULL-SIZE AT 24" X 36". CONTRACTOR SHALL VERIFY ALL PLANS AND EXISTING DIMENSIONS AND CONDITIONS ON THE JOB SITE AND SHALL NOTIFY THE DESIGNER/ENGINEER IN WRITING OF ANY DISCREPANCIES PRIOR TO ANY MATERIAL ORDERS OR BE RESPONSIBLE FOR THE SAME. CONTRACTOR SHALL USE BEST MANAGEMENT PRACTICES TO PREVENT STORM WATER POLLUTION DURING CONSTRUCTION.

**GENERAL CONTRACTOR NOTES**

2124 LINCOLN AVENUE, STE. A  
ALAMEDA, CA 94501  
415.595.3732 PHONE

[illegible]





2124 LINCOLN AVENUE, STE. A  
ALAMEDA, CA 94501  
415.595.3732 PHONE

**metroPCS**  
Wireless for All.

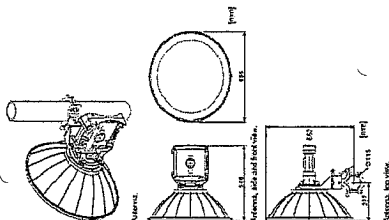
SF04110A  
SBC FRUITVALE  
2112 FRUITVALE AVENUE  
OKALAND, CA 94601

MARK	DATE	DESCRIPTION
1	07/13/12	SITE SKETCH
2	09/5/12	90% ZONING DWG.
3	08/13/13	100% ZONING DWG.

DRAWN BY: CS  
 CHECKED BY: CS  
 DATE: 2012 GREG SMITH, ARCHITECT  
 SHEET TITLE

## MW DISH SPECIFICATIONS

51

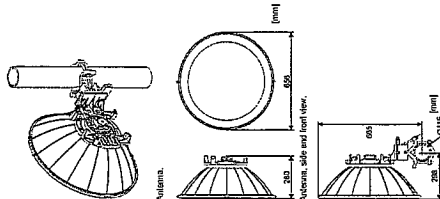
[illegible]

4.2 Weight

[illegible]

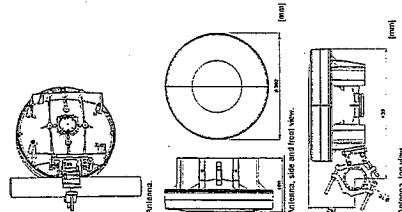
Antenna weight (in kg). Including mounting kit.

ERICSSON		Commercial in confidence		33 (78)	
PRODUCT SPEC.		PRODUCT SPEC.			
1501-JUNE 210 4th. Uten		1501-JUNE 210 4th. Uten			
2011-03-21		CV			
EADIS/CAUX (3) Vildgras-Malmberg		EADIS/CAUX (3) Vildgras-Malmberg			



Information for users

ERICSSON		Confidential in confidence		51 (18)
Product name		PRODUCT SURFC		
Part number		1301-LUXY 210 40i-Ubn		
Part description		CV		
Part date		2011-06-21		
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Part date		2011-06		



Antennae 100 vent.

## ANTENNA CONFIGURATION SCHEDULE

ANTENNA SECTOR	# OF ANTENNAS	AZIMUTH	RAD CENTER	ANTENNA MAKE/ MODEL	NOMINAL ANTENNA SIZE	MECHANICAL TILT	ELECTRICAL TILT	MAIN CABLE LENGTH	CABLE SIZE	CABLE # AND PORT #	COLOR CODE	COMMENTS
MICROWAVE 1	1	48°	102'-8"	ANT2 6.3 28HP	12"x9	0°	0°	100'-6"	1/2" Ø	T.B.D.	T.B.D.	END SITE SF0212
MICROWAVE 2	1	168°	95'-0"	ANT2 6.3 258HP	12"x9	0°	0°	75'-4"	1/2" Ø	T.B.D.	T.B.D.	END SITE SF1981
MICROWAVE 3	1	238°	93'-0"	ANT 6.6 28HP	24"x9	0°	0°	75'-6"	1/2" Ø	T.B.D.	T.B.D.	END SITE SF0016
MICROWAVE 4	1	288°	101'-10"	ANT 6.6 28HP	24"x9	0°	0°	160'-0"	1/2" Ø	T.B.D.	T.B.D.	END SITE SF1958

ANTENNA CONFIGURATION SCHEDULE NOTE: THE INFORMATION PROVIDED ABOVE MUST BE VERIFIED BY THE CONTRACTOR PRIOR TO ORDERING ANY EQUIPMENT.



GREG SMITH,  
ARCHITECT

2124 LINCOLN AVENUE, STE. A  
ALAMEDA, CA 94601  
415.555.3332 PHONE

**metropcs**  
Wireless for All.

1680 MARINA VILLAGE PARKWAY  
4TH FLOOR  
ALAMEDA, CA 94601

SF04110A  
SBC FRUITVALE  
2112 FRUITVALE AVENUE  
OKALAND, CA 94601

MARK	DATE	DESCRIPTION
1	07/27/12	SITE SELECT
2	08/27/12	100% DESIGN
3	09/27/12	100% DESIGN

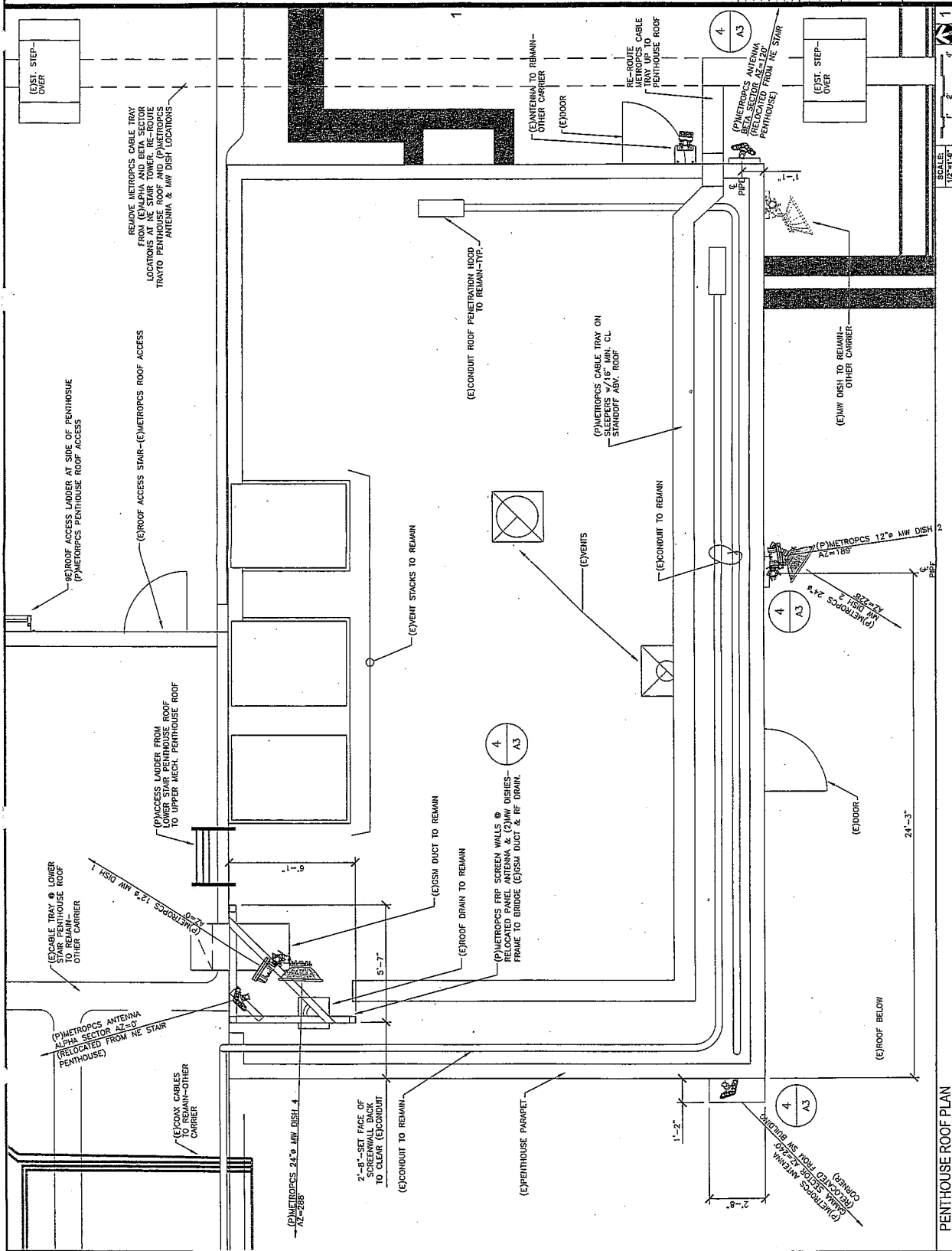
CHECKED BY: GS  
COPYRIGHT: 2012 GREG SMITH, ARCHITECT  
SHEET TITLE:

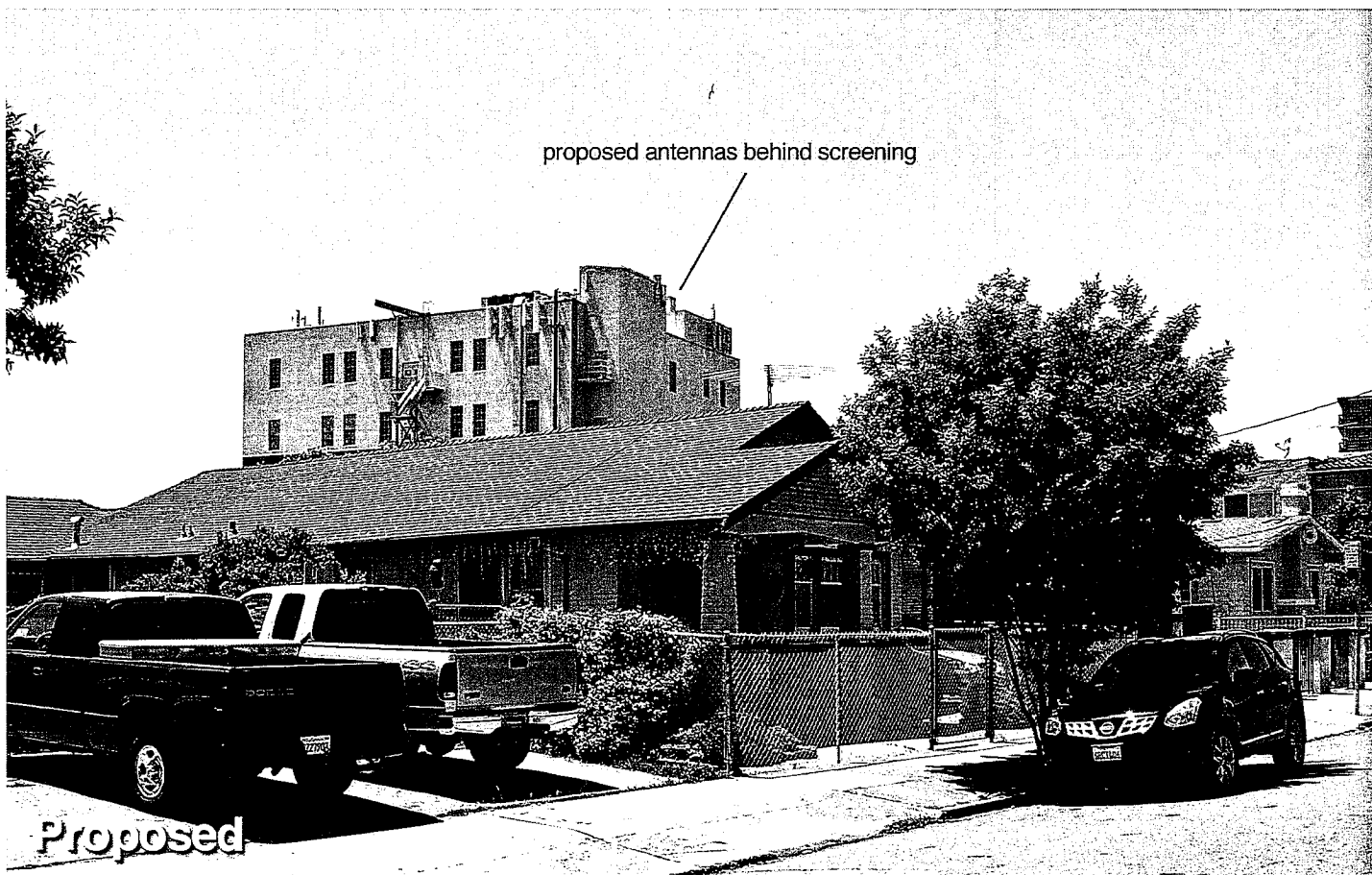
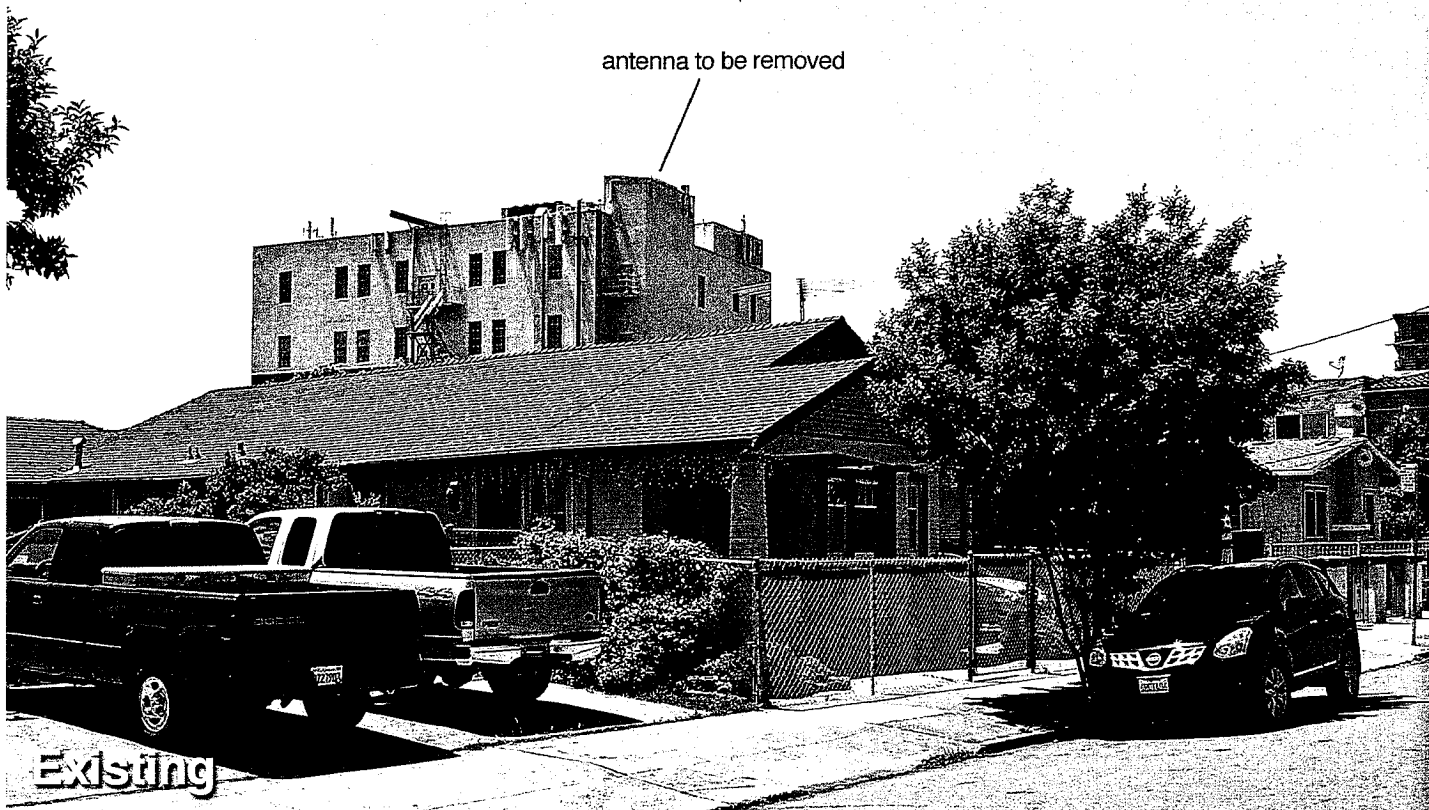
ENLARGED  
PROJECT  
AREA PLAN

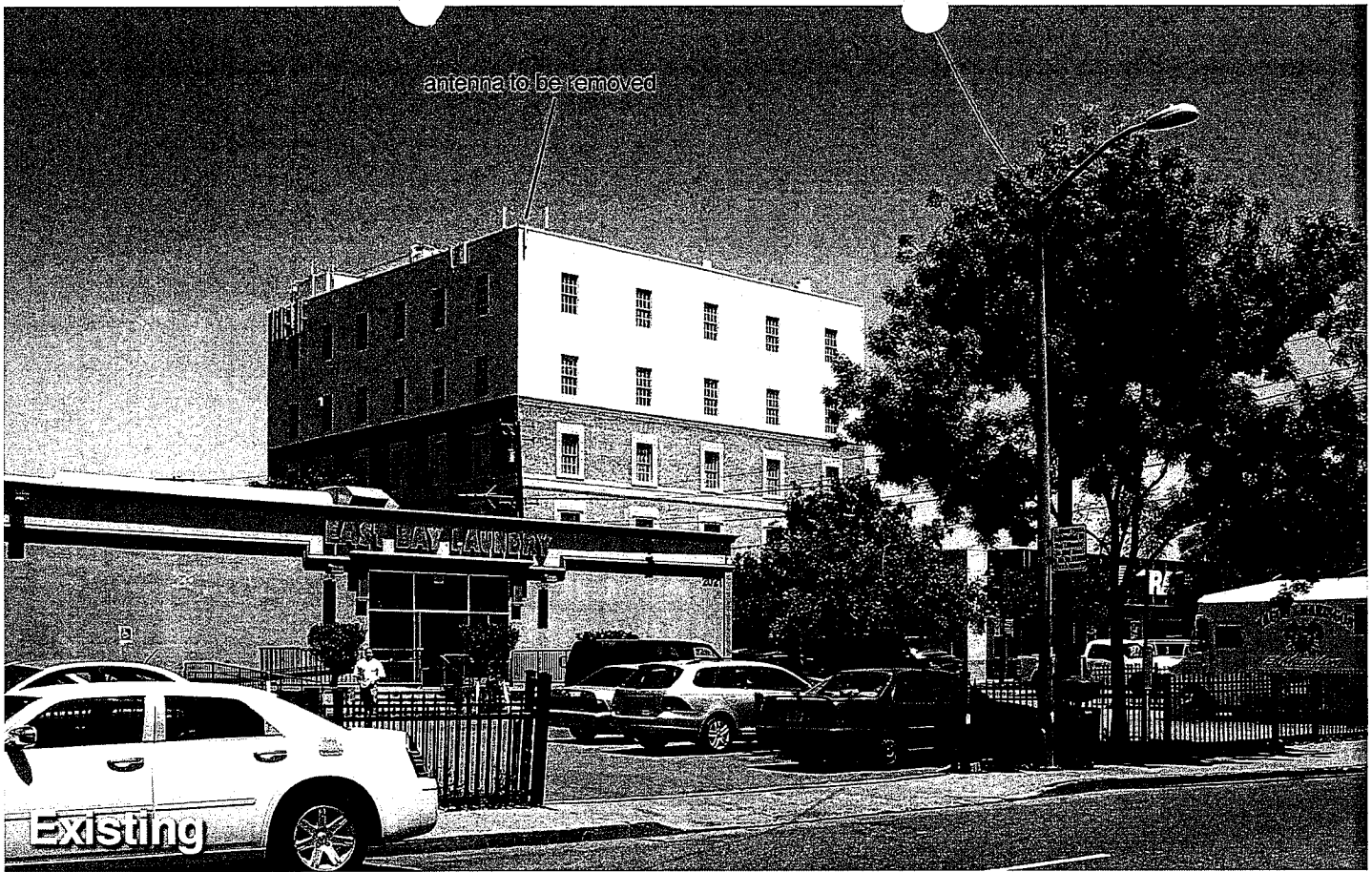
**A-2**

PENTHOUSE ROOF PLAN

SCALE:  
1/2"=1'-0"







**metroPCS.** SBC Fruitvale

Site # SF0411

Looking Northeast from Foothill Blvd.

9/24/12

2112 Fruitvale Avenue  
Oakland, CA

View #1

Applied Imagination 510 914-0500

**Metro PCS Inc.  
Site ID - SF0411A  
Site Name – SBC Fruitvale  
Site Compliance Report**

**2112 Fruitvale Avenue  
Oakland, CA 94601**

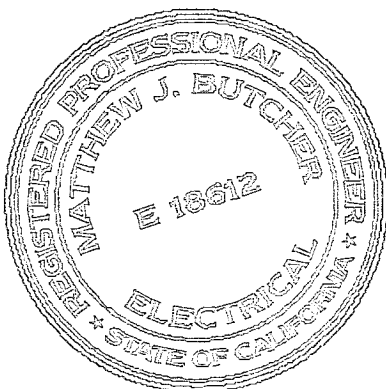
Latitude: N37-47-4.80  
Longitude: W122-13-19.56  
Structure Type: Rooftop

Report generated date: September 18, 2012  
Report by: John Lee  
Customer Contact: Maryann Miller-Novak

---

**Metro PCS Inc. Will Be Compliant based on FCC  
Rules and Regulations.**

© 2012 Sitesafe, Inc. Arlington, VA



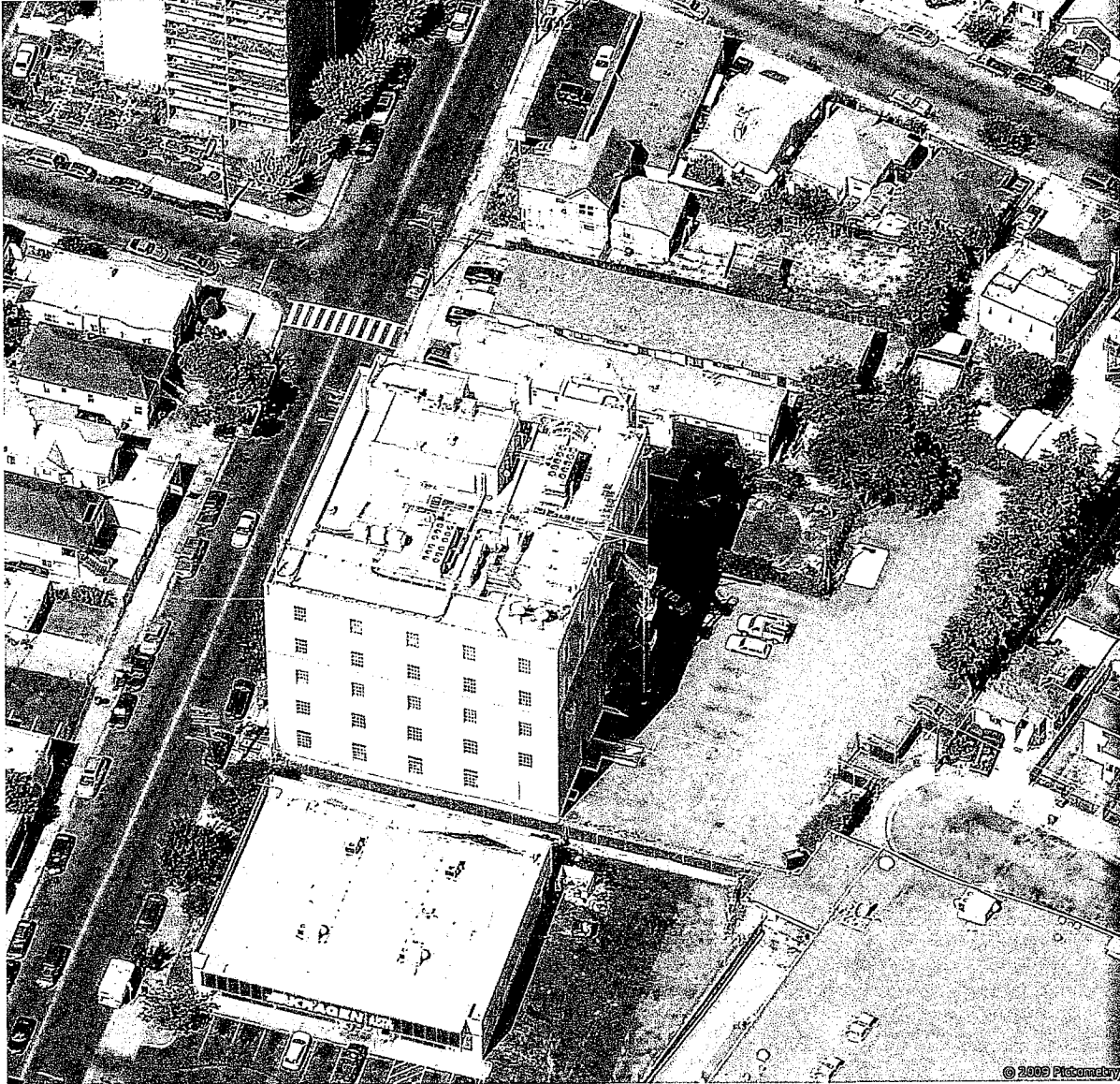
Registration Expires December 31, 2012



---

Matthew J Butcher  
Registered Professional Engineer  
State of California License E 18612

**Metro PCS Inc.  
SBC Fruitvale - SF0411A  
Radio Frequency (RF) Site Compliance Report**



**2112 Fruitvale Avenue Oakland, CA 94601**

## 1 Executive Summary

Metro PCS Inc. has contracted with Sitesafe, Inc. (Sitesafe), an independent Radio Frequency (RF) regulatory and engineering consulting firm, to determine whether the proposed microwave antennas at the wireless site, SF0411A- SBC Fruitvale, located at 2112 Fruitvale Avenue, Oakland, CA, are in compliance with safety regulations for RF emissions analysis.

The proposed microwave antenna additions to this site will not affect site compliance with the FCC rules and regulations.

If you have any questions regarding RF safety and regulatory compliance, please do not hesitate to contact Sitesafe's Customer Support Department at (703) 276-1100.

## 2 Analysis

The proposed Metro PCS Inc. microwave antennas on this site have low power transmitters, less than 1 watt. The RF power density at the surface of the dish is less than the General Public (GP) exposure limit and decreases rapidly in areas outside of the main beam of the antenna. This means that there are no areas that exceed exposure limits from the Metro PCS Inc. microwave antennas. Table 1 shows the percent of the GP limit at the surface of the antenna. At an angle of 5 degrees from the direction the antenna is pointed the power density is 10 times lower; at 10 degrees it is 1,000 times lower. In the exact direction the antenna is pointing the exposure level will be at least 10 times lower within 100 feet.

Ground level exposure from these microwave antennas will not be measureable.

Proposed Locations:

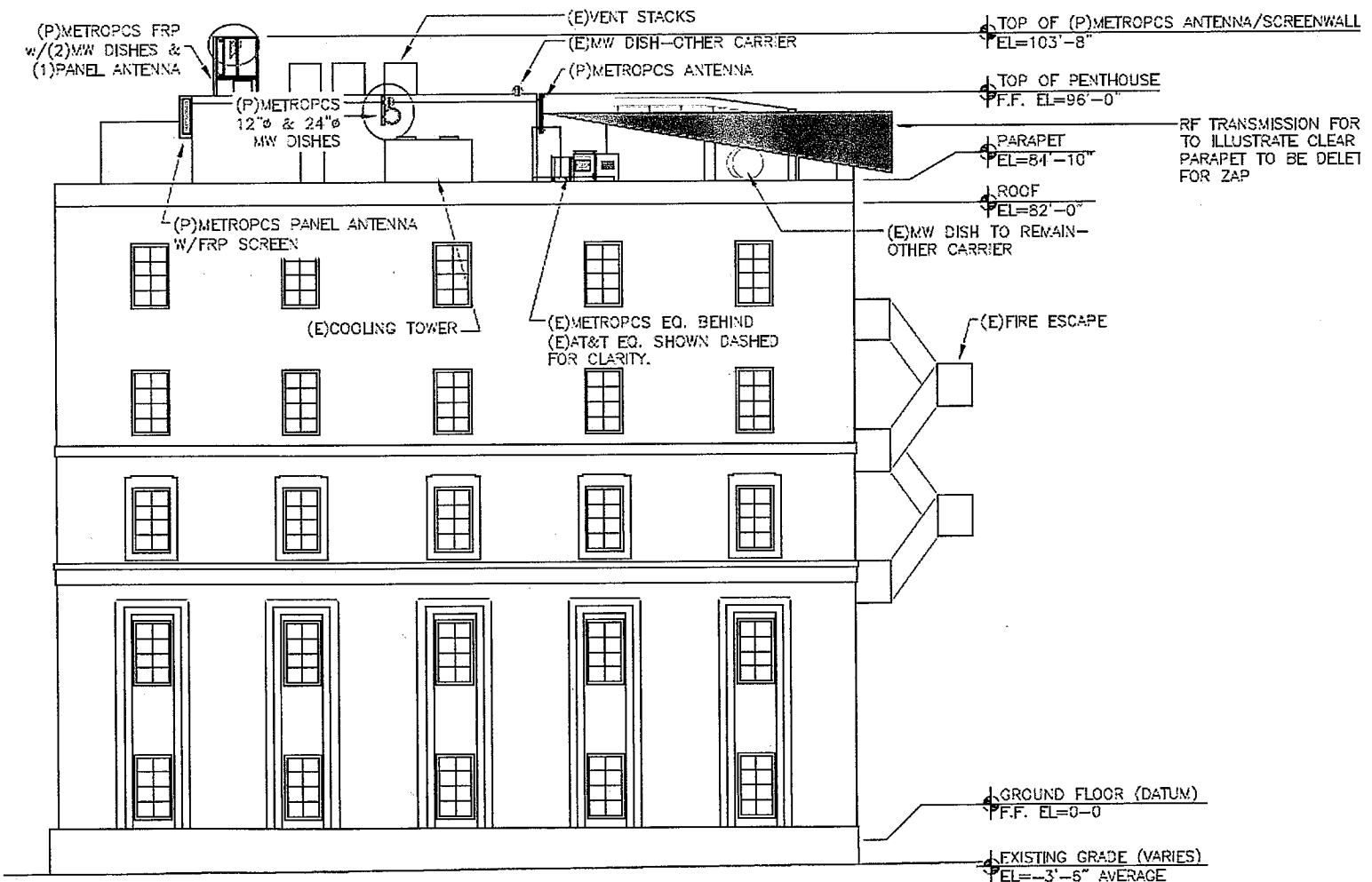




Table 1 below lists the microwave antennas proposed at this site. Transmitter (Tx) power and the Effective Radiated Power is shown in watts. The power density and percent of the General Public (GP) exposure limit at the surface of the antenna is also shown.

Site name	Frequency (MHz)	Radio Count	Antenna height (ft)	True azimuth (°)	Antenna model	Antenna diameter	Tx power (watts)	EIRP (watts)	Surface (mW/cm <sup>2</sup> )	Surface (%GP)
SF0411A	27922	1	102.67	48.5	ANT2 0.3 28 HP (TR)	1'	0.079	501	0.435	44%
SF0411A	27922	1	95	188.39	ANT2 0.3 28 HP (TR)	1'	0.079	501	0.435	44%
SF0411A	18700	1	93	288.57	ANT2 0.6 18 HP (TR)	2'	0.200	1549	0.273	27%
SF0411A	39300	2	101.83	228.81	ANT2 0.6 38 HP (TR)	2'	0.100	3319	0.137	14%

Table 1 Antenna Table

### 3 Engineer Certification

The professional engineer whose seal appears on the cover of this document hereby certifies and affirms that:

I am registered as a Professional Engineer in the jurisdiction indicated in the professional engineering stamp on the cover of this document; and

That I am an employee of Sitesafe, Inc., in Arlington, Virginia, at which place the staff and I provide RF compliance services to clients in the wireless communications industry; and

That I am thoroughly familiar with the Rules and Regulations of the Federal Communications Commission (FCC) as well as the regulations of the Occupational Safety and Health Administration (OSHA), both in general and specifically as they apply to the FCC Guidelines for Human Exposure to Radio-frequency Radiation; and

That I have thoroughly reviewed this Site Compliance Report and believe it to be true and accurate to the best of my knowledge as assembled by and attested to by John Lee.

September 12, 2012





Federal Communications Commission  
Wireless Telecommunications Bureau  
Radio Station Authorization

Page 1 of 2  
5

**LICENSEE NAME:** MetroPCS California, LLC

MARK A. STACHIW  
METROPCS CALIFORNIA, LLC  
8144 WALNUT HILL LANE, SUITE 800  
DALLAS TX 75231

<b>FCC Registration Number (FRN)</b> 0014512891	
<b>Call Sign</b> KNLF566	<b>File Number</b> 0002822039
<b>Radio Service</b> CW - PCS Broadband	

Grant Date	Effective Date	Expiration Date	Print Date
02-14-2007	02-14-2007	01-27-2017	02-15-2007

Market Number	Channel Block	Sub-Market Designator
BTA404	C	21

**Market Name:** San Francisco-Oakland-San Jose

1st Build-out Date	2nd Build-out Date	3rd Build-out Date	4th Build-out Date
01-27-2002	01-27-2007		

**SPECIAL CONDITIONS OR WAIVERS/CONDITIONS**

This authorization is subject to the condition that, in the event that systems using the same frequencies as granted herein are authorized in an adjacent foreign territory (Canada/United States), future coordination of any base station transmitters within 72 km (45 miles) of the United States/Canada border shall be required to eliminate any harmful interference to operations in the adjacent foreign territory and to ensure continuance of equal access to the frequencies by both countries.

("Special Conditions or Waivers/Conditions" continued on next page ...)

**Conditions:**

Pursuant to Section 309(h) of the Communications Act of 1934, as amended, 47 U.S.C. Section 309(h), this license is subject to the following conditions: This license shall not vest in the licensee any right to operate the station nor any right in the use of the frequencies designated in the license beyond the term thereof nor in any other manner than authorized herein. Neither the license nor the right granted thereunder shall be assigned or otherwise transferred in violation of the Communications Act of 1934, as amended. See 47 U.S.C. Section 310(d). This license is subject in terms to the right of use or control conferred by Section 706 of the Communications Act of 1934, as amended. See 47 U.S.C. Section 606.

To view the geographic areas associated with the license, go to the Universal Licensing System (ULS) homepage at <http://wireless.fcc.gov/uls> and select "License Search". Follow the instructions on how to search for license information.