

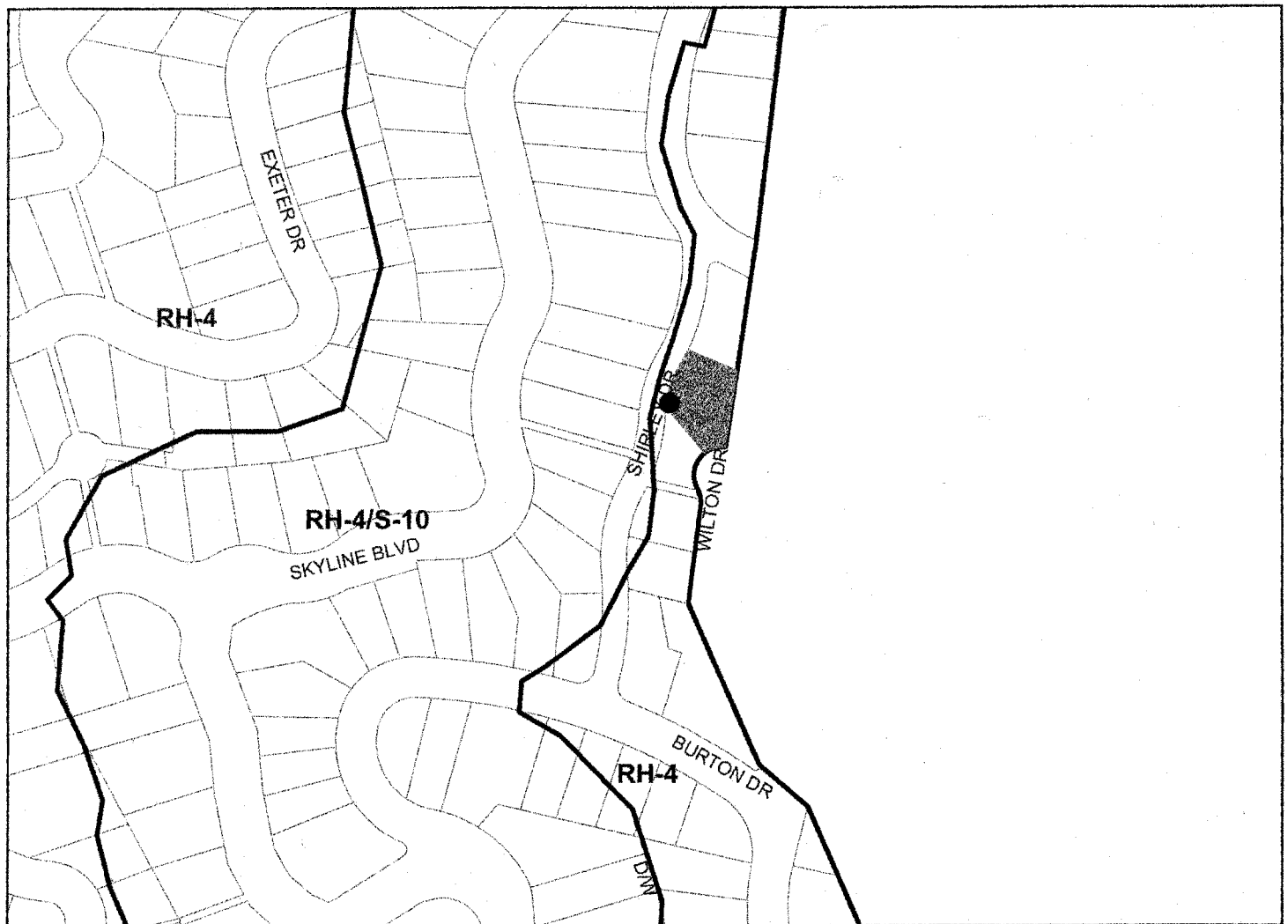
Location:	Existing wooden utility pole in public right-of-way adjacent to: 6045 Shirley Drive
Assessor's Parcel Numbers:	Adjacent: 048D-7296-027-00
Proposal:	To attach a concealed antenna on an extension (8'-4" total) to the top of a 38'-6" tall wooden utility JPA pole and related equipment in a singular sheathing at 7-ft. to 14'-9.5".
Applicant /	Rick Hirsch (for: Extenet)
Phone Number:	(415) 377-7826
Owners:	City of Oakland (public right-of-way); PG&E (utility pole)
Planning Permits Required:	Regular Design Review to attach a wireless telecommunications facilities to a JPA pole located in a residential zone
General Plan:	Hillside Residential
Zoning:	RH-4 Hillside Residential Zone – 4 (R-30 One-Family Residential Zone at time application submitted and deemed complete) / S-10 Scenic Route Combining Zone
Environmental	Statutorily exempt, Section 15270(a)(b)(c) of the State CEQA
Determination:	Guidelines: Project Which Are Disapproved
Historic Status:	None
Service Delivery District:	II
City Council District:	4
Date Filed:	December 14, 2010
Staff Recommendation:	Decision based on staff report
Finality of Decision:	<i>Appealable to City Council within 10 days</i>
For Further Information:	Contact case planner Aubrey Rose, Planner II at (510) 238-2071 or arose@oaklandnet.com

SUMMARY

The applicant Mr. Rick Hirsch (for Extenet) requests Planning Commission approval to attach one antenna and various related equipment to an existing wooden utility pole for wireless telecommunications purposes. The project is subject to Regular Design Review as an attachment to a utility pole located in a residential zone. As is the practice with all telecommunications installations located within 100-feet of residential zoning, this application is forwarded to the Planning Commission for review.

In this application, because of view impacts, staff recommends denial of the requested permit subject to the attached Findings for Denial.

CITY OF OAKLAND PLANNING COMMISSION



0 125 250 500 750 1,000 Feet



Case File: DR10-331
Applicant: Rick Hirsch (for: Extenet)
Address: Public right-of-way opposite 6045 Shirley Dr
Zone: RH-4/S-10

BACKGROUND

Recent State case law (Sprint v. Palos Verdes Estates) has enabled the City to require Design Review for telecommunications facilities attached to existing Joint Pole Authority (JPA) utility poles located within the right-of-way. The Planning & Zoning Department has determined that such Design Reviews be decided at the equivalent level as telecommunications projects located on private property located in the same zone.

Under the Telecommunications Act of 1996, the Federal Communications Commission (FCC) preempted cities' zoning jurisdiction over wireless telecommunications facilities, limiting their authority to aesthetic review and confirmation of satisfactory radio frequency (RF) emissions reports. For further information the FCC can be contacted at 1-888-225-5322 or www.fcc.gov

SITE DESCRIPTION

The site is a section of public right-of-way along the west side of Shirley Drive containing a 38'-6" wooden utility pole. This section of road contains no sidewalk. There are homes on down slope lots along the west side of the street and the rear yards of through lots with home fronting Wilton Drive along the east side of the street. The area consists of a low density neighborhood of single-family homes on wooded hillsides.

PROJECT DESCRIPTION

The proposal is to attach one (1) two foot (2') tall telecommunications antenna ("Kathrein omni") and a six feet tall extension ("bayonet") on top of a twenty-nine foot tall wooden utility pole and equipment at seven feet to approximately thirteen feet in height for wireless telecommunications purposes. **PG&E has already applied the bayonet in anticipation of an approval; this work does not require a Building Permit and the City was not informed.** The antenna would be nearly cylindrical in shape, slightly flared out towards the bottom. The pole mounted equipment cabinets would be contained in a singular shroud painted matte (non-reflective) brown to match the color and finish of the wooden pole.

GENERAL PLAN ANALYSIS

The site is located in a Hillside Residential area under the General Plan. The intent of the Hillside Residential area is: *"to create, maintain, and enhance residential areas characterized by detached, single unit structures."* The General Plan is silent on telecommunications activities (which are now classified as Essential Service Civic Activity under the Planning Code). The project would encroach into a private view as described in the KEY ISSUES AND IMPACTS section of this report. Staff finds the proposal to not conform to the General Plan.

ZONING ANALYSIS

The site is located within the RH-4 Hillside Residential Zone - 4. The intent of the RH-4 zone is: *"to create, maintain, and enhance areas for single-family dwellings on lots of 6,500 to 8,000 square feet and is typically appropriate in already developed areas of the Oakland Hills."* At the time the project was submitted and deemed complete, the property was located within the R-30 One-Family Residential and S-

10 Scenic Route Combining Zones. The intent of the R-30 Zone is: *"to create, preserve, and enhance areas for single-family dwellings in desirable settings for urban living, and is typically appropriate to already developed lower density dwelling areas of the city."* The intent of the S-10 Scenic Route Combining Zone is: *"to create, preserve, and enhance areas where hillside terrain, wooded canyons and ridges, and fine vistas or panoramas of Oakland, neighboring areas, or the Bay can be seen from the road, and is typically appropriate to roads along or near ridges, or through canyons, of the Oakland Hills which roads have good continuity and relatively infrequent vehicular access from abutting properties."* The change in Zoning does not affect the project.

As described in the Background section of this report, telecommunications facilities located on JPA poles are now subject to Design Review. Additional findings for Macro facilities apply to all JPA cases. Additional findings for the S-10 Scenic Route Combining Zone apply to this case. Findings required to approve the project ensure the location and design are inconspicuous and concealed to the extent practicable. Authority for review and approval is to be equivalent to Zoning for private property. Therefore, the subject proposal requires Planning Commission review. The Planning Commission has approved a JPA case that was located in front of trees and not residences and has continued another case for relocation and/or redesign that was located fronting a residence. The project would encroach into a private view as described in the KEY ISSUES AND IMPACTS section of this report. Staff finds the proposal inconsistent with the Planning Code.

ENVIRONMENTAL DETERMINATION

The California Environmental Quality Act (CEQA) Guidelines statutorily exempt projects which are disapproved (Section 15270) and the proposal is therefore not subject to further Environmental Review.

KEY ISSUES AND IMPACTS

In consideration of the proposal, site surroundings, and discussions regarding recent cases under this relatively new type of review, staff recommends Planning Commission denial of this application for the following reasons:

The site is located:

- in a private view corridor involving significant views from primary living spaces

The project involves an extension atop a utility pole that would encroach into a protected private view at 6933 Wilton Drive. Wilton Drive essentially runs along a ridge and the home was likely designed to take advantage of the natural view of the San Francisco Bay, bridges (Bay, Golden Gate, Richmond-San Rafael), Oakland, and San Francisco. The existing "bayonet" extension is visible from the property's living room and rear view-oriented deck while standing or seated albeit its height is somewhat obscured by vegetation. Attachment of the antenna would, however, further encroach into the view. The project's encroachment into the view would likely have the effect of reducing the enjoyment and value of the property and would set an undesirable precedent, especially as other poles exist in the area. It has been staff's practice in reliance upon the Municipal Code, Planning Code, and Design Review Guidelines to consider major view impacts in analyzing development applications. When the project was publicly noticed, the affected neighbor contacted staff who visited the property. Staff informed the applicant the proposal could not be supported and offered them on option to redesign or withdraw and relocate. The applicant chose to sustain the request as submitted.

In conclusion, staff recommends denial of the request. The neighbor who would have a view obstructed has submitted correspondence expressing opposition to the project (Attachment D).

- RECOMMENDATIONS:**
1. Affirm staff's environmental determination.
 2. Deny the Regular Design Review subject to the attached Findings for Denial.

Prepared by:



AUBREY ROSE
Planner II

Approved by:



SCOTT MILLER
Zoning Manager
Community and Economic Development Agency

Approved for forwarding to the
City Planning Commission:



ERIC ANGSTADT
Deputy Director
Community and Economic Development Agency

ATTACHMENTS:

- A. Findings for Denial
- B. Plans
- C. Applicant's Photo-Simulations
- D. Correspondence: Mark Horner (6933 Wilton Drive)
- E. Photos from 6933 Wilton Drive provided by property owner

Attachment A: Findings for Denial

This proposal does *not* meet the following required findings under Regular Design Review Criteria (OMC Sec. 17.136.040(B)) as set forth below. Required findings *that cannot be made* are shown in bold type; explanations as to why these findings *cannot* be made are in normal type.

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

1. That the proposal will help achieve or maintain a group of facilities which are well related to one another and which, when taken together, will result in a well-composed design, with consideration given to site, landscape, bulk, height, arrangement, texture, materials, colors, and appurtenances; the relation of these factors to other facilities in the vicinity; and the relation of the proposal to the total setting as seen from key points in the surrounding area. Only elements of design which have some significant relationship to outside appearance shall be considered, except as otherwise provided in Section 17.136.060;

The proposal for a telecommunications facility atop a utility pole where the extension would encroach into a private view does not constitute a design preserving and enhancing the total setting as seen from key points in the area. It has been staff's practice in reliance upon the Municipal Code, Planning Code, and Design Review Guidelines (Criterion 1: View) to consider view impacts in analyzing development applications.

2. That the proposed design will be of a quality and character which harmonizes with, and serves to protect the value of, private and public investments in the area;

In consideration of the proposal, site surroundings, and discussions regarding recent cases under this relatively new type of review, staff recommends Planning Commission denial of this application for the following reasons:

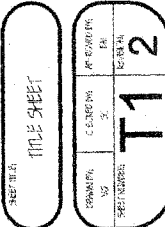
The site is located:

- in a private view corridor involving significant views from primary living spaces

The project involves an extension atop a utility pole that would encroach into a private view at 6933 Wilton Drive. Wilton Drive which essentially runs along a ridge and the home was likely designed to take advantage of the natural view of the San Francisco Bay, bridges (Bay, Golden Gate, Richmond-San Rafael), Oakland, and San Francisco. The existing "bayonet" extension is visible from the property's living room and rear view-oriented deck while standing or seated. Attachment of the antenna would further encroach into the view. The bayonet is among trees; should these trees be removed or reduced in the future, the negative effect of the telecommunications facility on the view would be worsened. The project's encroachment into the view would likely have the effect of reducing the enjoyment and value of the property and would set an undesirable precedent, especially as other poles exist in the area.

ATTACHMENT A

Findings for Denial



ATTACHMENT B

[illegible]



3030 WARRENVILLE RD.
SUITE 340
LEWIS, IL 60932
www.extenel.com

REV.	DATE	DESCRIPTION
1	2/18/11	CONSTRUCTION DRAWING
2	4/11/11	REVISION PER CLIENT

CURRENT ISSUE DATE:
4/11/11

PLANS PREPARED BY:



Maximize Comm. Group, Inc.
1351 POMONA ROAD
SUITE 100
CORONA, CA 92882
OFFICE: (909) 796-2170
FAX: (909) 992-3113
Copyright 2007 by Maximize Communications Group, Inc.

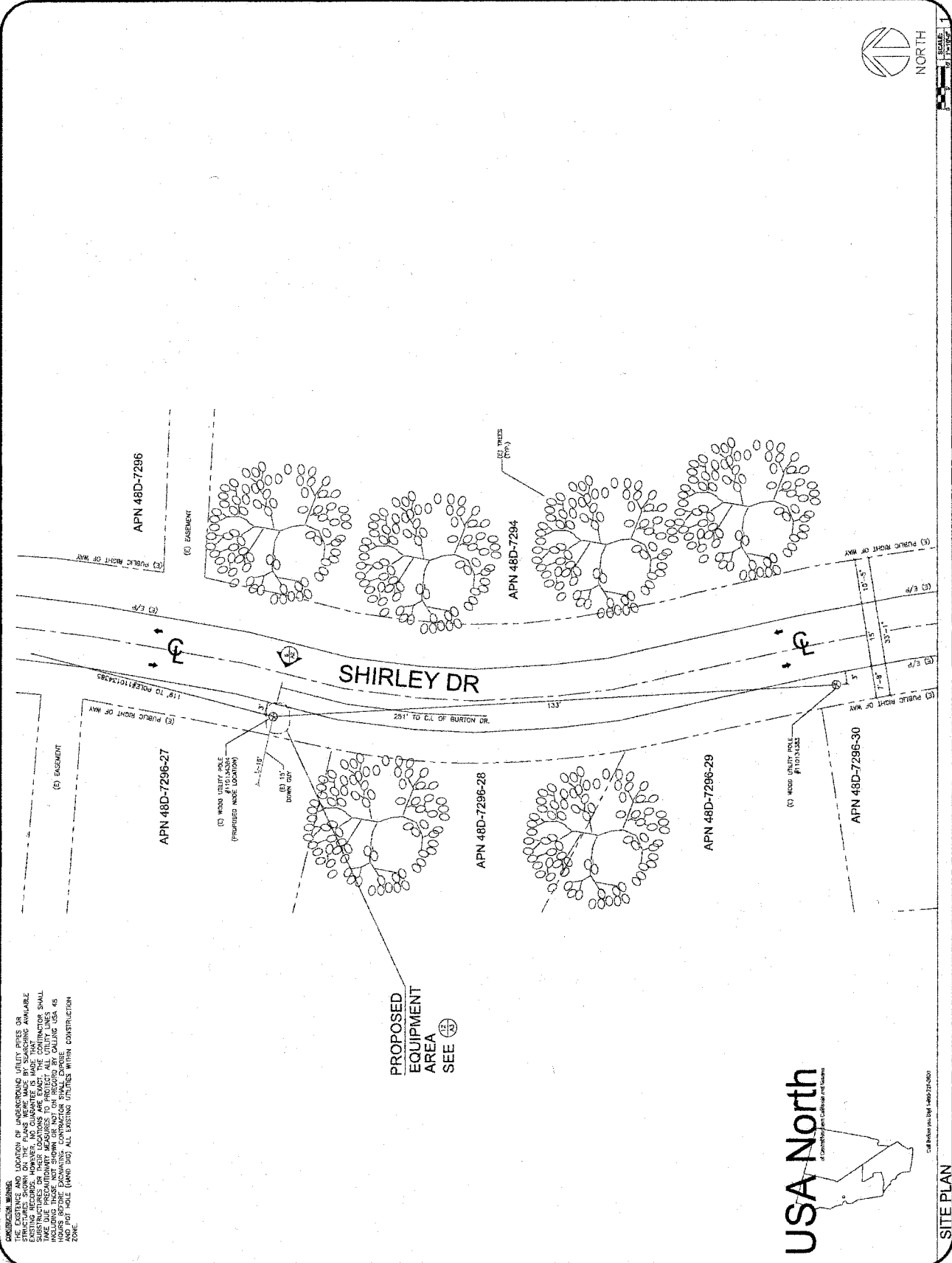
LICENSE:

SITE NO.: MCR-00510
SITE NAME & ADDRESS:
MONICLAR NETWORK-00510
6735 SHELBY DRIVE
CALHOUN, GA 30904

SITE PLAN

PROJECT NO.	4/11/11
DATE	4/11/11
BY	SM
CHECKED BY	SM
APPROVED BY	SM
SCALE	AS SHOWN

A12



NORTH

SITE PLAN



REV.	DATE	DESCRIPTION
1	2/18/11	CONSTRUCTION DRAINAGE
2	4/1/11	REVISION PER CLIENT REQUEST

CURRENT ISSUE DATE:

4

PLANS PREPARED BY:



**Maximize Comm.
Group, Inc.**

1351 POMONA ROAD
SUITE 100
CORONA, CA 92882
OFFICE: (909) 786-2170
FAX: (909) 992-3113

ANSWER:

— (1974) 305

ASCO-200

SITE NAME & ADDRESS:

MONTCLAIR NETWORK-005D
 2025 RELEASE

5000

ELEVATIONS & RISER DETAILS

DATE	20	CLASS	5C	ATTENDANCE	EM
A2 2					

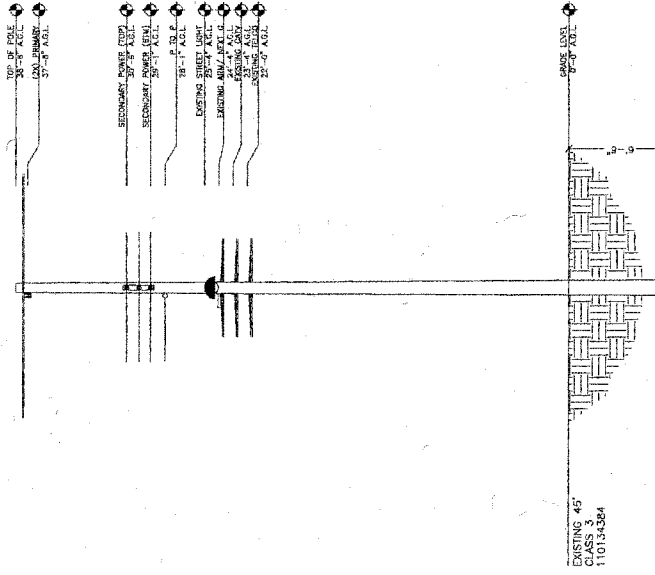
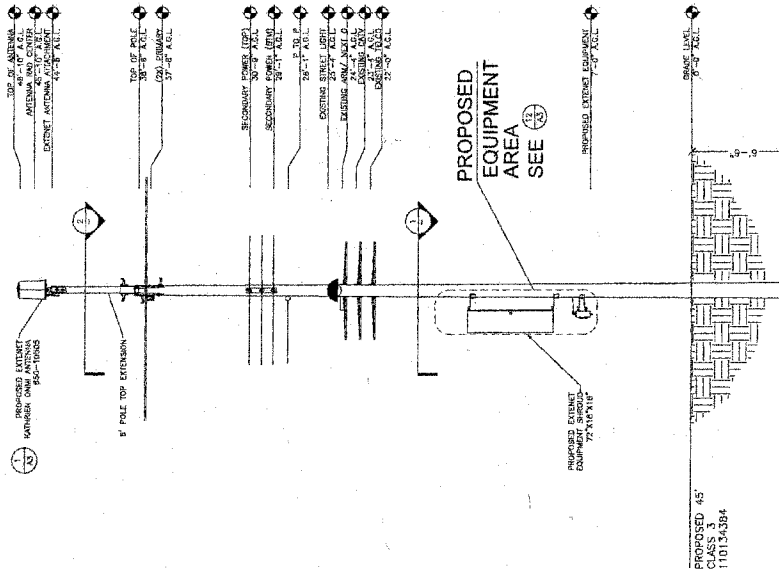
POWER-UP-READY

1. INSTALL 6" POLE TOP EXTENSION ABOVE PDMA'S PRIMARY FACILITIES.
(PER POWER DESIGN)
2. INSTALL 1" CONDUIT 30' TO 11:30 POSITION.
3. PROVIDE 120/240 3-WIRE SINGLE PHASE, 100 AMP SERVICE TO 1" PDMA CONDUIT AT 11:00 POSITION TO EXTENT METER/BLOCKER CABINET FROM SECONDARY 30'-9" BRACK.

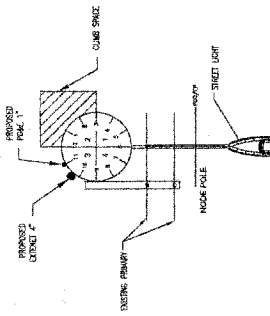
EXTEND MAKE-READY

1. INSTALL (1) OMNI ANTENNA ON TOP OF POLE TOP EXTENSION AT 44'-6"GRADE. (ANTENNA RAO-100005)
2. INSTALL EXTENDED RADIO'S, BRU 4" OFF OF POLE (USING UNKSTRUTS) AT 9:00 POSITION.
3. INSTALL EXTENDED 4" CONDUIT SCH. 40 AT 10:50 POSITION.
4. INSTALL EXTENDED 1" CONDUIT SCH. 40 AT 11:50 POSITION.

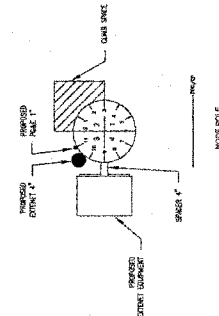
MAKE-READY NOTES



NOT USED



COMMUNICATION BY AN ORALCEVIEW

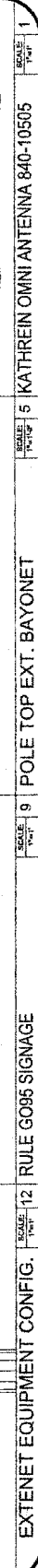
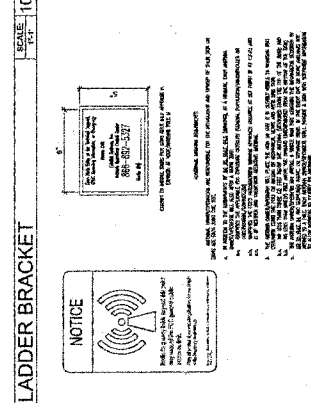
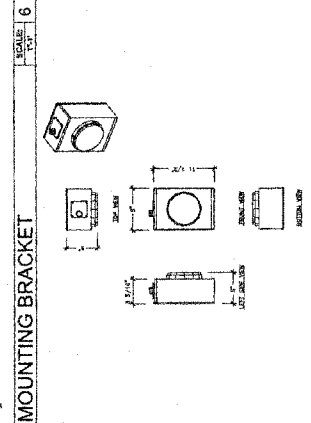
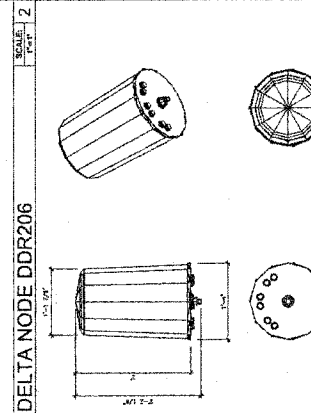
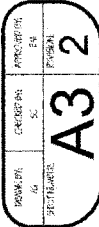


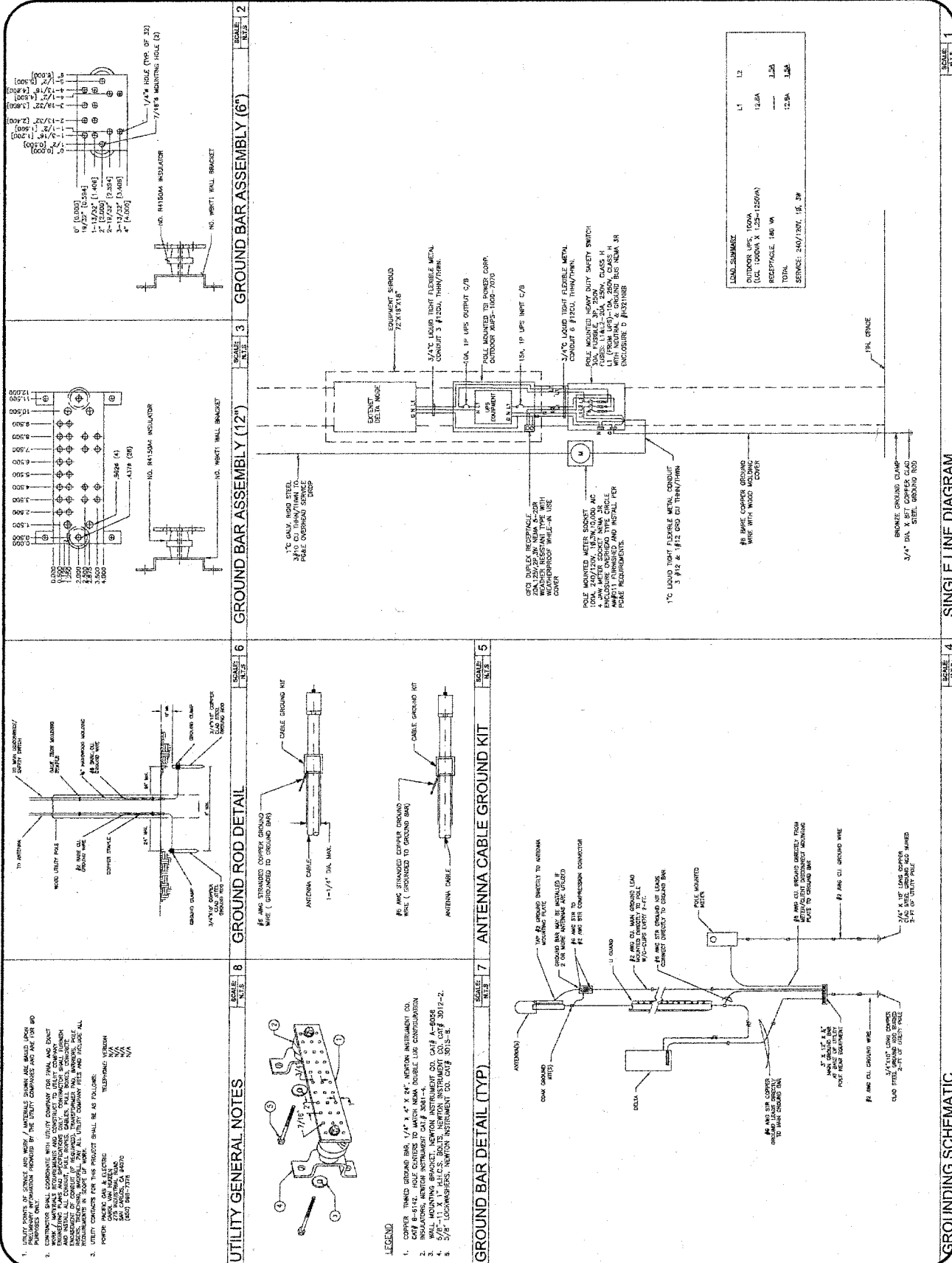
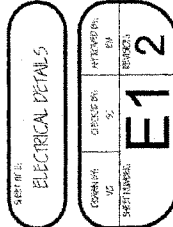
PROPOSED ELEVATION EAST

EXISTING EVALUATION EAST

SCALE:	5	EQUIP. SPACE PLAN VIEW
CLASS:	45.00	

1	1
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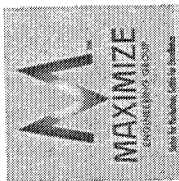
MCR-005D

View One

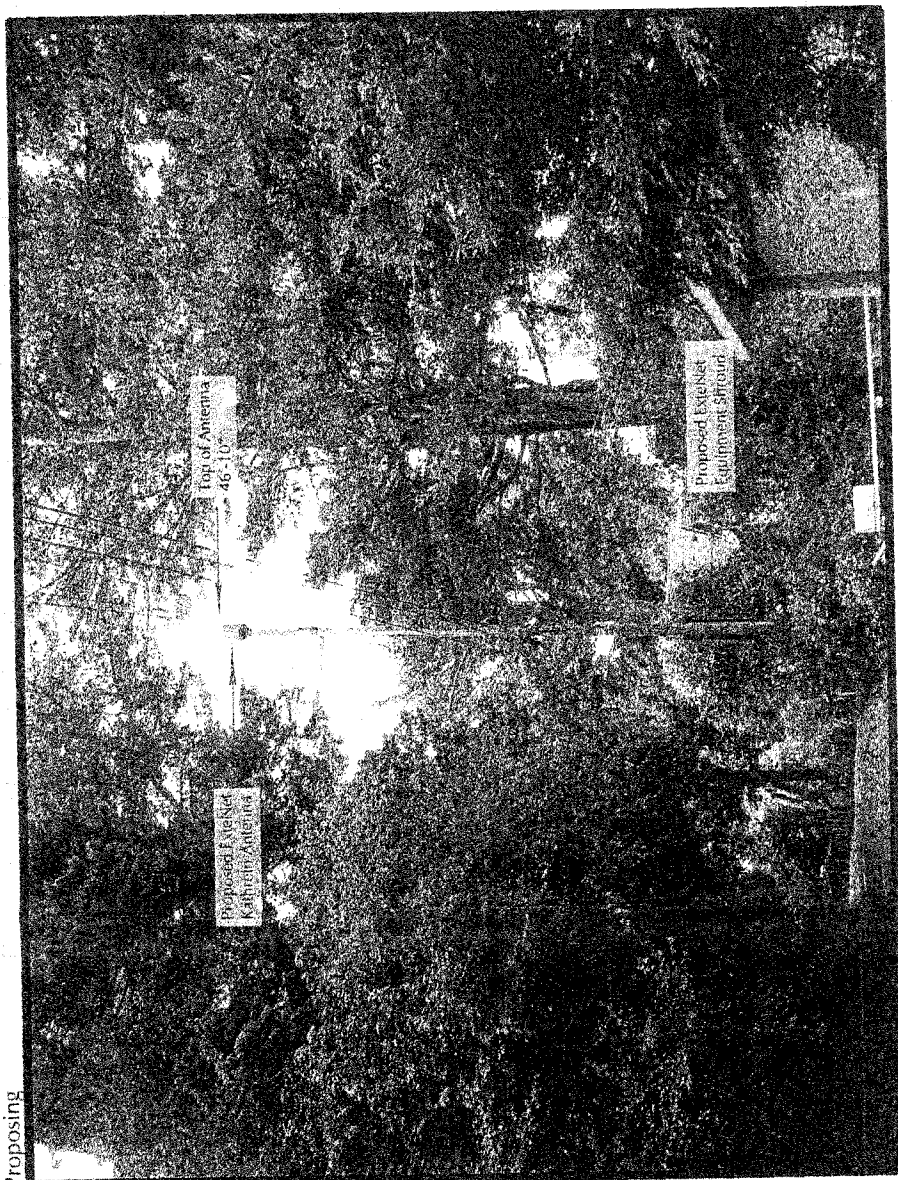
6045 Shirley Dr. Oakland, Ca 94611

Date of Final : 04/01/2011

exenetSM
SYSTEMS



Proposing



Site Map



Existing



ATTACHMENT C

**MARK HORNER
JUDY YU**

6933 Wilton Dr
Oakland, CA 94611

510-479-1649

May 10, 2011

Aubrey Rose Planner II
City of Oakland Community & Economic Development Agency
Planning & Zoning Division Zoning Section
250 Frank H. Ogawa Plaza Suite 2114

RE: Case File #DR10-331

Dear Mr. Rose and Planning Commission,

The proposed installation by Extenet of a communications antenna atop a utility pole extension on Shirley Drive (Case File #DR10-331) will have a significant negative impact upon our view, and we are adamantly opposed.

When we purchased the property at 6933 Wilton Dr in July 2010, the view from the deck, living room, dining room, family room, and master bedroom were unobstructed. No power lines, antenna, or pole extensions were visible. This was an important criteria in our decision to buy, as was the fact that the utilities in Piedmont Pines neighborhood are to be under grounded beginning in July 2011. The assessment for the under grounding for our parcel was paid in full by the prior owners, Mr. Richard and Jean Spees.

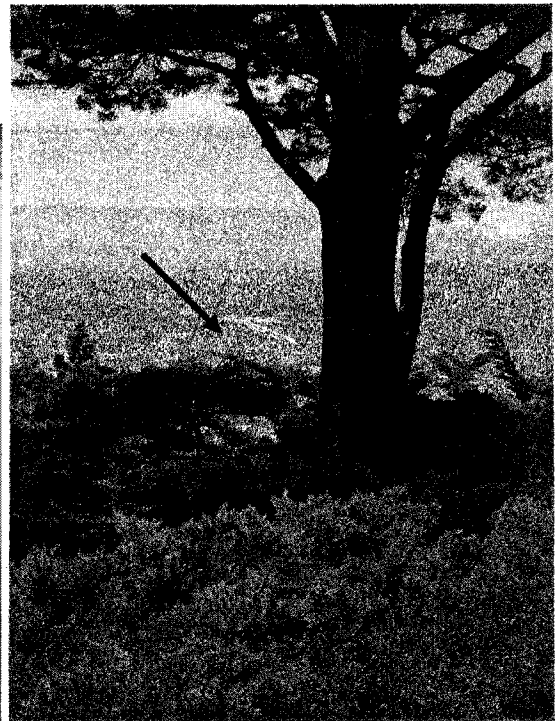
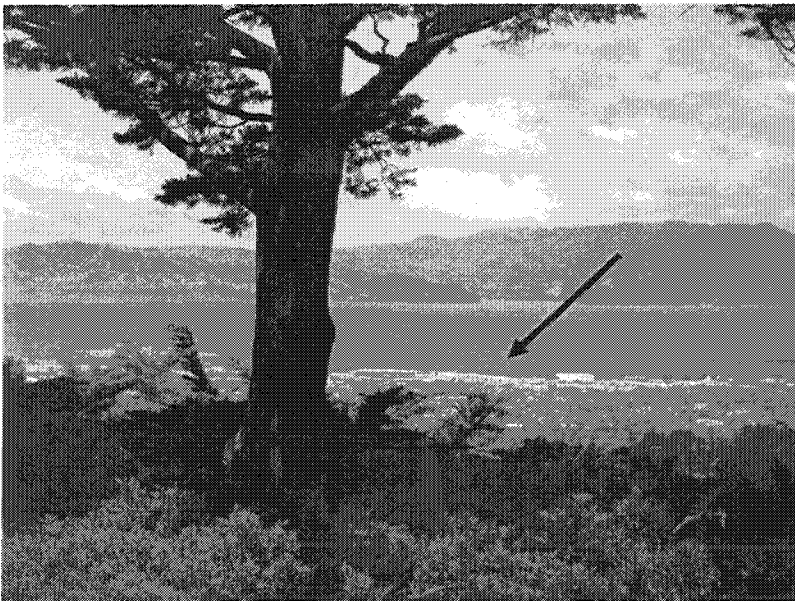
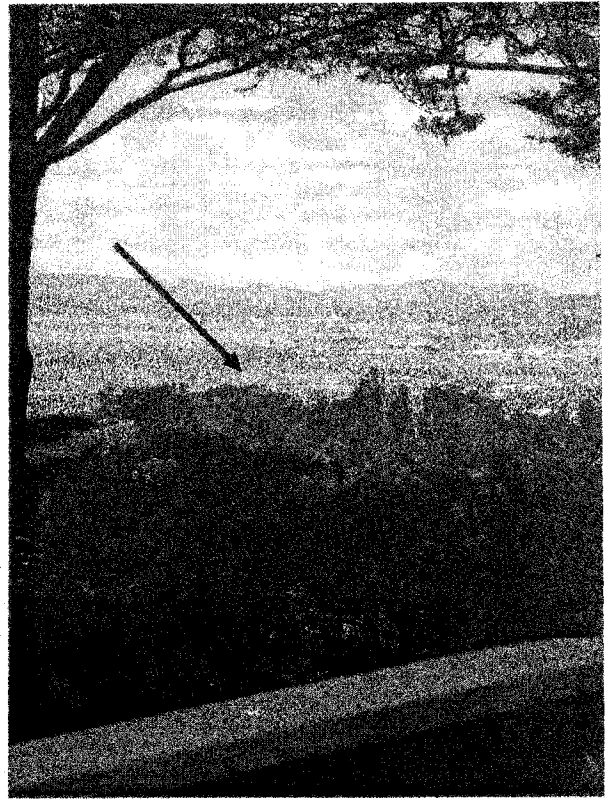
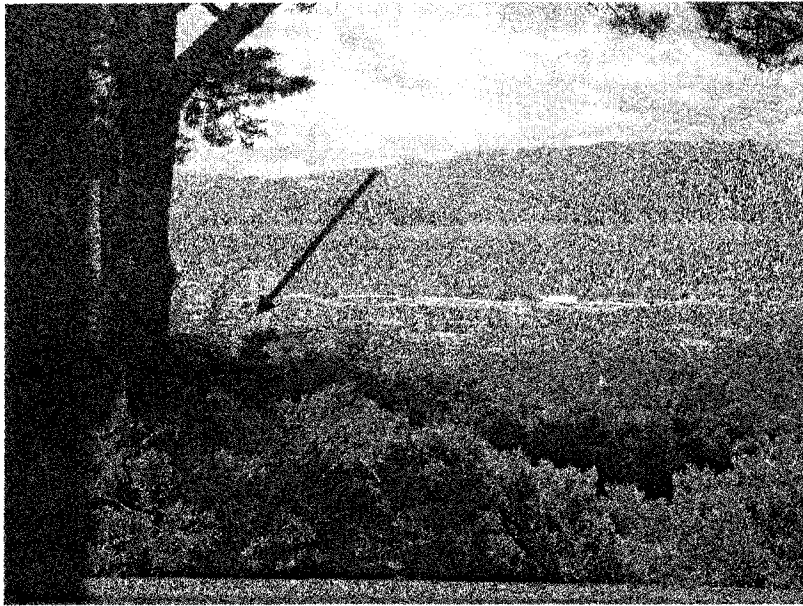
The pole extension is clearly visible from the deck, dining room, living room, and master bedroom. Anything placed atop this pole will clearly obstruct views of the Golden Gate Bridge (from deck and living room), the Richmond San Rafeal bridge (from deck and dining room), and the Bay Bridge (from deck and living room). In addition, obstruction of the view of Oakland, Berkeley, San Francisco, Mt. Tamalpais, and the bay will occur similarly. The view obstruction will be amplified from a seated position in any of the above locations.

This proposal is in clear violation of the city of Oakland's view ordinance and as such, it should be immediately dismissed.

Sincerely yours,

Mark Horner and Judy Yu

ATTACHMENT D



ATTACHMENT E

