



Doug Boxer, Chair
Vien Truong, Vice Chair
Michael Colbruno
Sandra E. Gálvez
Vince Gibbs
C. Blake Huntsman
Madeleine Zayas-Mart

October 20, 2010
Regular Meeting

Revised 10-14-10* (See end of agenda)

MEAL GATHERING 5:15 P.M.

Saigon Restaurant, 326 Frank Ogawa Plaza, Oakland

Open to the public (Members of the public may purchase their own meals if desired. Consumption of food is not required to attend.)

BUSINESS MEETING 6:00 P.M.

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

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

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

Please check with the Planning Department prior to the meeting regarding items that may be continued. Any agenda item may be continued, without the hearing on the matter being opened or public testimony taken, at the discretion

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

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



**New web-site staff report
download instructions**

of the Chair. Persons wishing to address the continued item may do so under Open Forum.

Staff reports for items listed on this agenda will be available by 3:00 p.m. the Friday before the meeting, to any interested party, at the Community and Economic Development Agency, Planning and Zoning Division, 250 Frank

H. Ogawa Plaza, Oakland, California 94612. **Reports are also available at the Strategic Planning Division on the 3rd floor (Suite 3315), which closes at 5:00 p.m.**

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

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

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

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

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

ROLL CALL

WELCOME BY THE CHAIR

COMMISSION BUSINESS

Agenda Discussion

Director's Report



Committee Reports

Commission Matters

City Attorney's Report

OPEN FORUM

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

CONSENT CALENDAR

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

1.	Location:	1001 Warfield Avenue (APN 011 -0856-015-00)
	Proposal:	Request for a Major Conditional Use Permit for a co-location of a new unmanned wireless telecommunication facility (macro) and Regular Design Review to install (3) panel antennas and (3) microwave antennas mounted inside a new fully enclosed FRP antenna screen located along the rooftop and 1 equipment cabinet located inside an existing equipment shelter.
	Applicant:	Clearwire / Michelle Weller
Contact Person/ Phone Number:		Michelle Weller (925) 997-1312
	Owner:	Estobinal Family Partnership
	Case File Number:	CMD10-166
	Planning Permits Required:	Major Conditional Use Permit to install a new wireless telecommunication macro facility within a residential zone and Regular Design Review to install (6) antennas inside a new FRP screen enclosure at the rooftop and (1) equipment cabinet inside an existing ground floor equipment shelter.
	General Plan:	Mixed Housing Type
	Zoning:	R-40 Garden Apartment Residential Zone
	Environmental Determination:	Exempt, Section 15303 of the State CEQA Guidelines; new construction of small structures, 15301 existing facilities; 15183 Projects consistent with the General Plan or Zoning.
	Historic Status:	Not Potential Designated Historic Property (PDHP); Survey rating: X
	Service Delivery District:	3
	City Council District:	II
	Date Filed:	6/22/10
	Finality of Decision:	Appealable to the City Council within 10 days
	For Further Information:	Contact case planner Jose M. Herrera-Preza at (510) 238-3808 or jherrera@oaklandnet.com



2. **Location:** **8411 MacArthur Boulevard (APN 043-4622-001-02) (8-11-10)**
 Proposal: To install three (3) new dish antenna and three (3) new panel antennas on the roof top of an existing building (church). The macro-telecommunication facility will include eight (8) previously existing building mounted antennas and a new ground level equipment cabinet.
 Applicant: Jacqueline Smart / Clearwire
Contact Person/Phone Number: (510)435-9849
 Owner: Center of Hope Community Church
 Case File Number: **CMD10-217**
 Planning Permits Required: Major Conditional Use Permit and Regular Design Review for macro-telecommunication facilities in a residential zone.
 General Plan: Urban Residential
 Zoning: R-50
Environmental Determination: Exempt, Section 15301 of the State of CEQA Guidelines; existing facilities.
 Historic Status: PDHP, post-1945 or modernized, potential secondary importance; rating, *c3
 Service Delivery District: 6
 City Council District: 7
 Status: pending
 Action to be Taken: Based on staff report
 Finality of Decision: Appealable to the City Council within 10 days
 For Further Information: Contact case planner **Moe Hackett** at **(510) 238-3973** or by email: **mhackett@oaklandnet.com**

3. **Location:** **1715 High Street (APN 035-2352-013-00) (8/12/10)**
 Proposal: To establish new Macro-telecom facilities (6 dish and panel antenna) on the roof top of an existing building, and associated equipment.
 Applicant: Michelle Weller /Clearwire
Contact Person/Phone Number: (925)997-1312
 Owner: Paul W. Wang
 Case File Number: **CMDV10-221**
 Planning Permits Required: Major Conditional Use Permit and Regular Design Review for Macro-telecommunication facility in a residential zone and Minor Variance for location (at height) of facilities on the roof top.
 General Plan: Urban Residential
 Zoning: R-40, Garden Apartment Zone Regulations
Environmental Determination: 15301, Existing Facilities
 Historic Status: Not a Historic property; rating, X
 Service Delivery District: 5
 City Council District: 5
 Status: Pending
 Action to be Taken: Decision based of staff recommendation
 Finality of Decision: Appealable to the City Council within 10 days
 For Further Information: Contact case planner **Moe Hackett** at **(510) 238-3973** or by email: **mhackett@oaklandnet.com**

PLEASE NOTE: ITEM #4, BELOW, HAS BEEN REMOVED FROM THIS AGENDA.



4. **Location:** ~~Public right-of-way (existing utility pole in sidewalk) adjacent to 3100 Coolidge Avenue along Nicol Avenue Adjacent to (APN 027-0861-038-00)~~

Proposal: To attach 2 panel antennas and various related equipment to an existing wooden utility pole for wireless telecommunications purposes. The pole measures 38'-8" in height and contains electrical wires at 32' and 1 street light at 26'-10". The antennas would top out at 48'-10" and related equipment would be attached at a minimum of 8'-6" in height.

Applicant/ Dayna Aguirre (for: T-Mobile)
Phone Number: (925) 784-7888
Owner: City of Oakland
 (Owner of 3100 Coolidge Ave.: Randy and Janet Lam)

Case File Number: DR10-240

Planning Permits Required: "Major" Design Review for Wireless Telecommunications Facility in a Residential Zone referred to the Planning Commission by the Zoning Manager (OMC Sec. 17.24.040, 17.136.040(C)(1))

General Plan: Mixed Housing Type Residential
Zoning: R-50 Medium Density Residential Zone

Environmental Determination: Exempt, Section 15301(b) of the State CEQA Guidelines: Existing Facilities (Existing facilities of investor-owned utilities used to provide public utility services);
 Section 15138 of the State CEQA Guidelines: Project consistent with a Community Plan, General Plan or Zoning

Historic Status: No historic rating
 (3100 Coolidge Ave.: not a Potential Designated Historic Property; Survey rating: X)

Service Delivery District: IV—San Antonio/Fruitvale
City Council District: 5—De La Fuente

Date Filed: August 30, 2010
Action to be Taken: Decision based on staff report
Finality of Decision: Appealable to the City Council within 10 days
For Further Information: Contact case planner **Aubrey Rose, Planner II** at (510) 238-2071 or arose@oaklandnet.com

5. **Location:** 10850 MacArthur Boulevard (APN 047-5584-009-03)

Proposal: To install three (3) telecommunication antennas, three (3) internet services exchange point dishes, and one enclosed equipment cabinet at a site with 15 existing antennas for a total of 18 telecommunication antennas.

Applicant: Clearwire, Misako Hill of Cortel, LLC
Contact Person/Phone Number: Misako Hill / (415) 533-2540
Owner: Humanistic Alt. to Addition Res. & Treatment Inc.

Case File Number: CMD10-180

Planning Permits Required: Regular Design Review to install three (3) telecommunication antennas, three (3) internet services exchange point dishes, and one enclosed equipment cabinet.
 Major Conditional Use Permit for the installation of a Macro telecommunication facility within 100 feet of a residential zone.

(continued on page 6)



(continued from page 5)

General Plan:	Community Commercial
Zoning:	C-20 Shopping Center Commercial Zone
Environmental Determination:	Exempt, Section 15301 of the State CEQA Guidelines; minor additions and alterations to existing structures. Section 15183 of the State CEQA Guidelines; projects consistent with a community plan, general plan or zoning.
Historic Status:	Not a Potential Designated Historic Property; Survey Rating: X
Service Delivery District:	6
City Council District:	7
Status:	Pending
Action to be Taken:	Decision of Application
Finality of Decision:	Appealable to City Council within 10 days
For Further Information:	Contact case planner Michael Bradley at (510) 238-6935 or by email: mbradley@oaklandnet.com

PUBLIC HEARINGS

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

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

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

Planning Commission decisions that involve "major" cases (i.e., major variances, major conditional use permits) are usually appealable to the City Council. Such appeals must be filed within ten (10) calendar days of the date of the announcement of the Planning Commission decision and by 4:00 p.m. An appeal shall be on a form provided by the Planning and Zoning Division of the Community and Economic Development Agency, and submitted to the same at 250 Frank H. Ogawa Plaza, Suite 2114, to the attention of the Case Planner. The appeal shall state specifically wherein it is claimed there was error or abuse of discretion by the Planning Commission or wherein their decision is not supported by substantial evidence and must include payment in accordance with the City of Oakland Master Fee Schedule. Failure to timely appeal will preclude you from challenging the City's decision in court. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record which supports the basis of the appeal; failure to do so will preclude you from raising such issues during your appeal and/or in court.

Any party seeking to challenge a final decision in court must do so within ninety (90) days of the date of the announcement of a final decision, pursuant to Code of Civil Procedure section 1094.6, unless a shorter period applies. Interested parties are encouraged to submit written material on agenda items in advance of the meeting and prior to the close of the public hearing on the item. To allow for distribution to the Commission, staff, and the public, 25 copies of all material should be submitted. Material submitted at least ten days prior to the meeting may be included as part of the agenda packet; material submitted later will be distributed at or prior to the meeting. To ensure that material is distributed to Commissioners, it should be received by the Commission.



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| Location: | Citywide |
| Proposal: | Planning Code Amendment to include Temporary Conditional Use Permit regulations |
| Project Sponsor: | Planning Commission |
| Owner(s): | NA |
| Case File Number(s): | ZT100007 |
| Planning Permits Required: | Planning Code Amendment |
| General Plan: | All |
| Zoning: | All |
| Environmental Determination: | The proposal relies on the previously certified Final Environmental Impact Report (EIR) for the Land Use and Transportation Element of the General Plan (1998); the FEIR for the 1998 Amendment to the Historic Preservation Element of the General Plan; the Housing Element Update Initial Study/Mitigated Negative Declaration (2004); and CEQA Guidelines Section 15183, "Projects Consistent with a Community Plan, General Plan or Zoning" |
| Historic Status: | All, including Areas of Primary Importance (APIs), Areas of Secondary Importance (ASIs), landmark properties, and other historically rated properties. |
| Service Delivery District: | All |
| City Council District: | All |
| Status: | Proposal forwarded to Planning Commission without ZUC recommendation; Item continued by the Planning Commission from September 1, 2010 to October 2010 Planning Commission agenda. |
| Action to be Taken: | Consider recommendation to City Council. |
| Finality of Decision: | Decision by City Council. |
| For further information: | Contact Catherine Payne at 510-238-6168 or by e-mail at cpayne@oaklandnet.com |

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|-------------------------------------|---|
| Location: | 685 32nd Street (APN 009-0714-038-00) |
| Proposal: | Service Enriched Permanent Housing, for up to 18 residents, including 6 adults and up to 12 children |
| Contact Person/Phone Number: | Tracy Creer (415-203-8493) |
| Owner: | Ola M. VanZant |
| Case File Number: | CM10-145 |
| Planning Permits Required: | Major Conditional Use Permit for Service Enriched Permanent Housing, in an existing 3-dwelling building on a 4,900 square foot lot |
| General Plan: | Mixed Housing Type Residential |
| Zoning: | R-36 Small Lot Residential Zone |
| Environmental Determination: | Exempt, Section 15301 of the State CEQA Guidelines: Modification of small structures Additional citation: Section 15183 of the State CEQA Guidelines: Projects consistent with a community plan, general plan or zoning |
| Historic Status: | Not Designated Historic Property/City Landmark (No substantial exterior alterations proposed). |
| Service Delivery District: | 1 |
| City Council District: | 3 |
| Status: | This item was continued from the September 15, 2010 Planning Commission Meeting |
| Finality of Decision: | Appealable to the City Council within 10 days |
| For Further Information: | Contact David Valeska at (510) 238-2075 or dvalueska@oaklandnet.com |



PLEASE NOTE: ITEM #8 BELOW, HAS BEEN REMOVED FROM THIS AGENDA.

8:	Location:	4514 Telegraph Avenue (APN 013-1150-014-00)
	Proposal:	Expand and revise location of existing fast-food restaurant including drive-through lane and parking on Telegraph Avenue at 45 th Street
	Contact Person/Phone Number:	Gary Semling—(707)765-1660
	Owner:	Franchise Realty Interstate Co.
	Case File Number:	REV10-018
	Planning Permits Required:	Revision to approved Major Conditional Use Permits CM77-175 and CM90-483 and Regular Design Review for existing one-story 3,028 square foot McDonalds fast-food restaurant including drive-through lane and 44 parking spaces (where 6 spaces were required), for 3,920 square foot 74-seat 19-foot tall brick and stucco building (792 added square feet of building), 21 parking spaces, on a 31,416 square foot (0.7 acre) site; and a request for 24-hour operation where presently permitted hours are 5 am to 11 pm; and reconfiguration of signs
	General Plan:	Neighborhood Center Mixed Use
	Zoning:	C-28 Commercial Shopping District Zoning District
	Environmental Determination:	Categorically Exempt under California Environmental Quality Act (CEQA) Guidelines Section 15302 (Replacement or Reconstruction)
	Historic Status:	Not Potential Designated Historic Property
	Service Delivery District:	2
	City Council District:	1
	For Further Information:	Contact David Valeska at (510) 238-2075 or dvalueska@oaklandnet.com

APPEALS

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

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

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

(There are no appeals on this agenda)



COMMISSION BUSINESS

Approval of Minutes: September 15, 2010

Correspondence

City Council Actions

OPEN FORUM

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

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

SCOTT MILLER
Zoning Manager
Planning and Zoning Division

NEXT REGULAR MEETING: November 3, 2010

*Revised 10-14-10 to indicate Items #4 (3100 Coolidge/Nichol) and #8 (4514 Telegraph Ave.) as being removed from this agenda. Additional notice will be provided when they are placed on an agenda for an upcoming meeting.

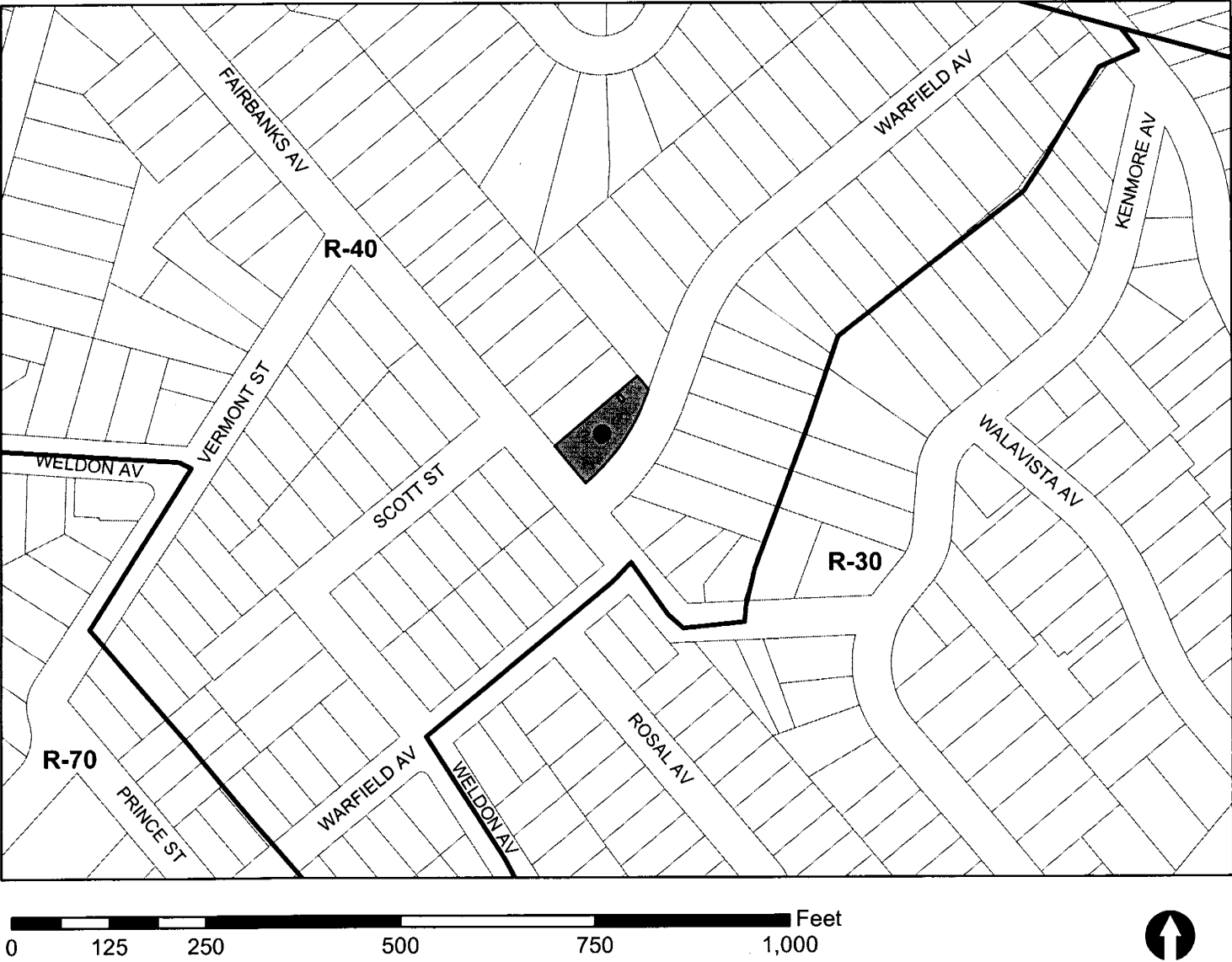
Location:	1001 Warfield Avenue (See map on reverse)
Assessors Parcel Numbers:	(011 -0856-015-00)
Proposal:	Request for a Major Conditional Use Permit for a co-location of a new unmanned wireless telecommunication facility (macro) and Regular Design Review to install (3) panel antennas and (3) microwave antennas mounted inside a new fully enclosed FRP antenna screen located along the rooftop and 1 equipment cabinet located inside an existing equipment shelter.
Applicant:	Clearwire / Michelle Weller
Contact Person/ Phone Number:	Michelle Weller (925) 997-1312
Owner:	Estinobal Family Partnership
Case File Number:	CMD10166
Planning Permits Required:	Major Conditional Use Permit to install a new wireless telecommunication macro facility within a residential zone and Regular Design Review to install (6) antennas inside a new FRP screen enclosure at the rooftop and (1) equipment cabinet inside an existing ground floor equipment shelter.
General Plan:	Mixed Housing Type
Zoning:	R-40 Garden Apartment Residential Zone
Environmental Determination:	Exempt, Section 15303 of the State CEQA Guidelines; new construction of small structures, 15301 existing facilities; 15183 Projects consistent with the General Plan or Zoning.
Historic Status:	Not Potential Designated Historic Property (PDHP); Survey rating: X
Service Delivery District:	3
City Council District:	II
Date Filed:	6/22/10
Finality of Decision:	Appealable to City Council within 10 days
For Further Information:	Contact case planner Jose M. Herrera-Preza at (510) 238-3808 or jherrera@oaklandnet.com

SUMMARY

This project would provide for a modification to an existing Macro Telecommunications Facility including (3) new panel antennas and (3) new microwave antennas located along the rooftop within a new fully enclosed FRP screen and the installation of one equipment cabinet located within an existing enclosed equipment shelter at the rear of the subject property.

A Major Conditional Use Permit and Design Review is 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: CMD10-166
Applicant: Clearwire/Michelle Weller
Address: 1001 Warfield Avenue
Zone: R-40

PROJECT DESCRIPTION

The applicant (Clearwire) is proposing to install a total of six (6) wireless telecommunication antennas mounted along the interior of an existing open frame rooftop element. The existing open roof top element would become fully enclosed with new FRP screen panels to stealth the new antennas and paint the existing antennas to match the new screen enclosure. One additional equipment cabinet will be located inside an existing "Sprint" equipment shelter located at the rear of the property. The proposed screen enclosure and existing antennas will be painted and textured to match the existing paint color scheme of the existing building (See Attachment A).

PROPERTY DESCRIPTION

The subject property is approximately 6,574 square feet, located on the 1000 block of Warfield Avenue. The subject property is located on a corner lot within a residential zone surrounded by a mixture of residential properties. The subject property contains a three story multi-family residential building. The existing multi-family building currently hosts three telecommunications providers (ATT&T, Sprint PCS and T-Mobile).

GENERAL PLAN ANALYSIS

The subject property is located within the Mixed Housing Type Residential General Plan designation. The Mixed Housing Type land use classification is intended 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 where appropriate. The proposed unmanned wireless telecommunication facility will not adversely affect or detract from the mixed housing type residential characteristics of the neighborhood. The antennas will be mounted along existing rooftop structures which will be fully enclosed, textured and painted to match the existing building thus visual impacts will be mitigated since the antennas and associated equipment cabinets will not detract any character from the existing structure. General Plan Policy N9.9 states that the City encourages that new development respects the architectural integrity of a building's original style.

ZONING ANALYSIS

The subject property is located within the R-40 Garden Apartment Residential Zone. The R-40 zone is intended to create, preserve, and enhance areas containing a mixture of single- or two-family dwellings and garden apartments in spacious settings for urban living, and is typically appropriate to attractive areas of existing lower medium density residential development. The proposal is for a new unmanned wireless telecommunication facility to be mounted along existing rooftop structures of an existing multi-unit residential building. A major conditional use permit is required since the project is within the boundary of a residential zone. The proposed application meets the City of Oakland Telecommunication regulations (see Findings for Approval).

ENVIRONMENTAL DETERMINATION

The California Environmental Quality Act (CEQA) Guidelines lists the projects that qualify as categorical exemptions from environmental review. The proposed project is categorically exempt from the environmental review requirements pursuant to Sec. 15303, new construction of small structures, 15301, alterations to existing facilities, and 15183, projects consistent with the general plan or zoning.

KEY ISSUES AND IMPACTS**1. Conditional Use Permit**

Section 17.16.070 of the City of Oakland Planning Code requires a conditional use permit to install a Macro Telecommunication facility in the R-40 Zone. The required findings for a major conditional use permit are listed and included in staff's evaluation as part of this report.

2. Project Site

Section 17.128.110 of the City of Oakland Telecommunication Regulations 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 co-location of a new unmanned wireless facility 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) since all new antennas will be completely concealed from view inside a new FRP screen enclosure along the rooftop of the building; furthermore the new enclosure is setback a minimum of 20' from any building edge or parapet wall of the existing building. All proposed new antennas are to be fully concealed inside a new enclosure while existing antennas will be painted and finished to

match the building and minimizing their impacts from the public view. Furthermore, to mitigate visual impacts the antennas will be mounted at least 48' above the public right of way. The associated equipment cabinets will have no visual impact since the equipment cabinets will be fully enclosed and located inside an existing "Sprint PCS" equipment shelter located at the rear of the property and will be adequately concealed from the public right of way or immediate neighbors.

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.

ARF emissions report, prepared by TRK Engineering (**Attachment B**) indicated 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 that prior to the issuance of a final building permit, that the applicant submits certified RF emissions report stating that the facility is operating within acceptable thresholds established by the regulatory federal agency.

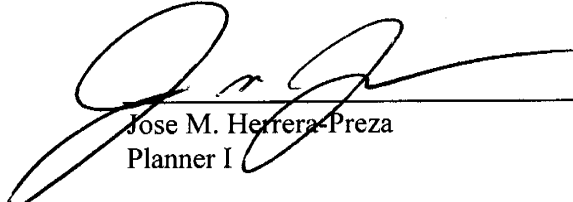
CONCLUSION

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 Conditional Use Permit and Design Review application CMD10-166 subject to the attached findings and conditions of approval.

Prepared by:



Jose M. Herrera-Preza
Planner I

Approved by:



Scott Miller
Zoning Manager

Approved for forwarding to the
City Planning Commission



Eric Angstadt
Deputy Director of Development

ATTACHMENTS:

- A. Project Plans & Photo simulation
- B. TRK Engineering RF Emissions Report

FINDINGS FOR APPROVAL

This proposal meets all the required findings under Section 17.134.050, Conditional Use Permit Findings and Residential Design Review Criteria as set forth below and which are required to approve your application. Required findings are shown in bold type; reasons your proposal satisfies them are shown in normal type.

SECTION 17.134.050 – MINOR CONDITIONAL USE PERMIT FINDINGS:

- 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 would provide for the co-location of six telecommunication antennas and one equipment cabinet to an existing unmanned macro telecommunications facility located within the boundary of a residential zone. The proposed antennas will be flush mounted along an open frame rooftop structure, containing four existing antennas. The existing open frame structure will be provided with an FRP screen panel enclosure concealing the new antennas from public view. The FRP screen enclosure will be painted and finished to match the existing residential building. The existing antennas will also be painted and textured to match the building. The project would not adversely affect the operating characteristic or livability of the surrounding area. The facility will be unmanned and will not create additional vehicular or pedestrian traffic in the area.

- 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 co-location and design of the unmanned telecommunications facility will provide a convenient and functional working and living environment and maintain the attractive nature of the existing residential building and the surrounding area. Therefore, it would not affect the general quality and character of the neighborhood. The macro telecommunications facility will not detract from visual or functional operations of the existing building.

- 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.

D. That the proposal conforms to all applicable design review criteria set forth in the DESIGN REVIEW PROCEDURE of Chapter 17.136 of the Oakland Planning Code.

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 General Plan and with any other applicable plan or development control map which has been adopted by the City Council.

The proposal conforms in all significant aspects with the Oakland General Plan and with any other applicable plan or zoning maps adopted by the City of Oakland. The proposed macro-telecommunication facility in the Mixed Housing Type General Plan designation will enhance and improve communication service for a mixture of civic, commercial and residential uses in the area.

17.136.070A – DESIGN REVIEW CRITERIA :

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

The proposal would modify an existing “macro” telecommunications facility through the addition of (3) panel antennas and (3) microwave antennas flush mounted inside an existing open frame rooftop structures and (1) equipments cabinet, located inside an existing equipment shelter along the side and rear of the subject property. The addition of the antennas to the existing building will not create an increase in height and all new antennas will be fully screened inside a new FRP screen panel enclosure which will be painted and textured to match the existing building in their color, texture and finish materials. The proposal would improve the existing projections located above the roof line of the existing building by concealing the new antennas and stealthing the existing antennas. The resulting enclosure will match the exterior of the building and the location and scale of the addition will be compatible with the existing facilities. Therefore, the proposal is consistent and well related to the surrounding area in scale, bulk, height, materials, and textures.

B. The proposed design will protect, preserve, or enhance desirable neighborhood characteristics.

The proposal protects and preserves the surrounding neighborhood context by co-locating additional wireless telecommunication antennas to an existing facility. The antennas will be fully screened inside a new FRP screen enclosure, which will be painted and textured to match the building and be located 48’ above the pedestrian right of way thus mitigating the impact on the public view and will improve the existing rooftop condition. The equipment cabinet would be located inside an existing equipment shelter, thus will not visually affect adjoining properties.

C. The proposed design will be sensitive to the topography and landscape.

The subject property is on a lot in which topography is not an issue of concern. The location and scale of the proposal will maintain existing landscaping.

D. If situated on a hill, the design and massing of the proposed building relates to the grade of the hill.

This criteria is not applicable to this proposal.

- E. The proposed design conforms in all significant respects with the Oakland Comprehensive Plan and with any applicable district plan or development control map which has been adopted by the 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 Revisions 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 decibels levels in residential areas for both day and nighttime use. The Project conforms to all macro-facility definitions set forth in Section 17.128.050 and meets all design review criteria to minimize all impacts throughout the neighborhood

17.128.070(B) CITY OF OAKLAND TELECOMMUNICATIONS FACILITIES (MACRO)
DESIGN REVIEW CRITERIA

- 1. Antennas should be painted and/or textured to match the existing structure:**
The proposed antennas will be fully enclosed inside a new FRP panel enclosure which will be painted, textured and finished to match the existing building; furthermore the existing antennas will be painted and textured to match the new enclosure thus minimizing the impacts from public view.
- 2. Antennas mounted on architecturally significant structures or significant architectural details of the building should be covered by appropriate casings which are manufactured to match existing architectural features found on the building:**
The proposed antennas will be mounted inside an existing open frame rooftop structure which will be full screened and improve the existing conditions on the roof and thus have no affect on any existing architectural details. The antennas will be mounted approximately 48' above grade to the centerline of the antennas. The antennas will not be mounted on any structure that will affect architectural features of existing buildings on the subject property.
- 3. Where feasible, antennas can be placed directly above, below or incorporated with vertical design elements of a building to help in camouflaging:**
The proposal will utilize existing rooftop structures setback 20' from the façade of the building. The existing and new antennas will be either fully enclosed or painted and textured to camouflage antennas from public view thus creating minimal visual impact from street view.
- 4. Equipment shelters or cabinets shall be screened from the public view by using landscaping, or materials and colors consistent with surrounding backdrop:**
The associated equipment cabinet will be located inside an existing detached "Sprint PCS" equipment shelter located at the side and rear of the property and therefore the exterior of the structure will not be adversely affected when viewed from the street.

5. Equipment shelters shall be consistent with the general character of the area:

The associated equipment cabinet will be located inside an existing equipment shelter, which is detached from the building located at the side and rear of the subject property and therefore the exterior of the structure will not be significantly affected when viewed from the surrounding area.

6. For antennas attached to the roof, maintain a 1:1 ratio for equipment setback; screen the antennas to match existing air conditioning units, stairs, or elevator towers; avoid placing roof mounted antennas in direct line with significant view corridors.

The proposal will utilize an existing open frame rooftop structure setback 20' from the façade of the building. The new antennas will be setback 20' from the nearest building façade meeting the 1:1 ration. The new antenna enclosure screen walls will be painted and textured to camouflage the enclosure from public view thus creating minimal visual impact from street view.

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

The antennas will be mounted above the rooftop on the exterior of building and will not be accessible to the public due to its location. The equipment cabinets will be inside an existing equipment shelter, in a secured and separated room from other residential activities and will not be accessible to the public.

17.128.070 (C) Conditional Use Permit Criteria for Macro Facilities.

In addition to the conditional use criteria listed in Chapter 17.134, the following specific additional criteria must be met before a conditional use permit can be granted:

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

The project meets all special design review criteria, please see findings above.

2. The proposed project must not disrupt the overall community character. (Ord. 11904 § 5.01 (part), 1996: prior planning code § 8507)

The project when viewed in its entirety will benefit the overall community character by co-locating antennas on a residential building and screening them from public view.

CONDITIONS OF APPROVAL
CMD10-166

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 and the plans submitted to the City on **June 21, 2010**, 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 require prior written approval from the Director of City Planning or designee.
- b) This action by the **Planning Commission** ("this Approval") includes the approvals set forth below. This Approval includes **co-location of a new unmanned wireless telecommunication facility (macro) and install (3) panel antennas and (3) microwave antennas mounted inside a new fully enclosed FRP antenna screen located along the rooftop and 1 equipment cabinet located inside an existing equipment shelter.**

2. Effective Date, Expiration, Extensions and Extinguishment

Ongoing

Unless a different termination date is prescribed, this Approval shall expire **two (2) 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 **Planning Code** only. Minor changes to approved plans may be approved administratively by the Director of City Planning or designee. Major changes to the approved plans shall be reviewed by the Director of City Planning or designee to determine whether such changes require submittal and approval of a revision to the approved project by the approving body or a new, completely independent permit.

4. Conformance with other Requirements

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

- a) The project applicant shall comply with all other applicable federal, state, regional and/or local laws/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. Compliance with other applicable requirements may require changes to the approved use and/or plans. These changes shall be processed in accordance with the procedures contained in Condition of Approval #3.
- 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

CONDITIONS OF APPROVAL

automatic extinguishing systems, water supply improvements and hydrants, fire department access, elevated walking pathways, safety railings, emergency access and lighting.

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) Violation of any term, **Conditions of Approval** or **project description** relating to the **Conditions of Approval** 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 of approval** if it is found that there is violation of any of the **Conditions of Approval** 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. The project applicant shall be responsible for paying fees in accordance with the City's Master Fee Schedule for inspections conducted by the City or a City-designated third-party to investigate alleged violations of the Conditions of Approval.

6. Signed Copy of the Conditions of Approval

A copy of the approval letter and **Conditions of Approval** 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 of Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Letter of Agreement shall survive termination, extinguishment or invalidation of the approval. Failure to timely execute the Letter of 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 of Approval**, and if one or more of such **Conditions of Approval** is found to be invalid by a court of competent jurisdiction, this Approval would not have been granted without requiring other valid **Conditions of Approval** consistent with achieving the same purpose and intent of such Approval.

10. Landscape Maintenance.***Ongoing***

All new landscaping shall be permanently maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with applicable landscaping requirements.

11. Operational Noise-General***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 .

PROJECT SPECIFIC CONDITIONS FOR TELECOMMUNICATIONS FACILITIES**12. Sinking Fund for Facility Removal or Abandonment.*****Prior to the issuance of building permit.***

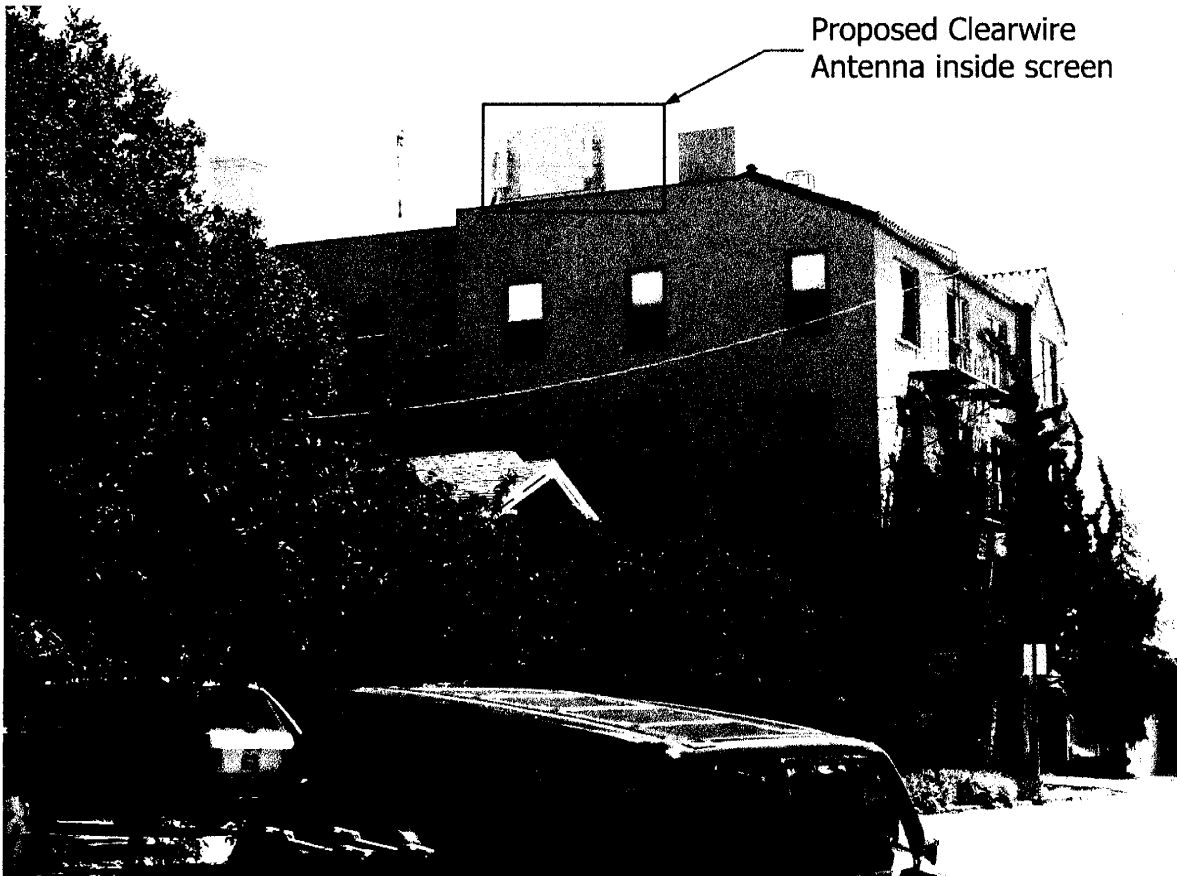
The applicant shall provide proof of the establishment of a sinking fund to cover the cost of removing the facility if it is abandoned within a prescribed period. The word "abandoned" shall mean a facility that has not been operational for a six (6) month period, except where non-operation is the result of maintenance or renovation activity pursuant to valid City permits. The sinking fund shall be established to cover a two-year period, at a financial institution approved by the City's Office of Budget and Finance. The sinking fund payment shall be determined by the Office of Budget and Finance and shall be adequate to defray expenses associated with the removal of the telecommunication facility.

13. Emissions Report***Prior to a final inspection***

The applicant shall provide an RF emissions report to the City of Oakland Zoning Division indicating that the site is actually operating within the acceptable thresholds as established by the Federal government or any such agency that may be subsequently authorized to establish such standards.

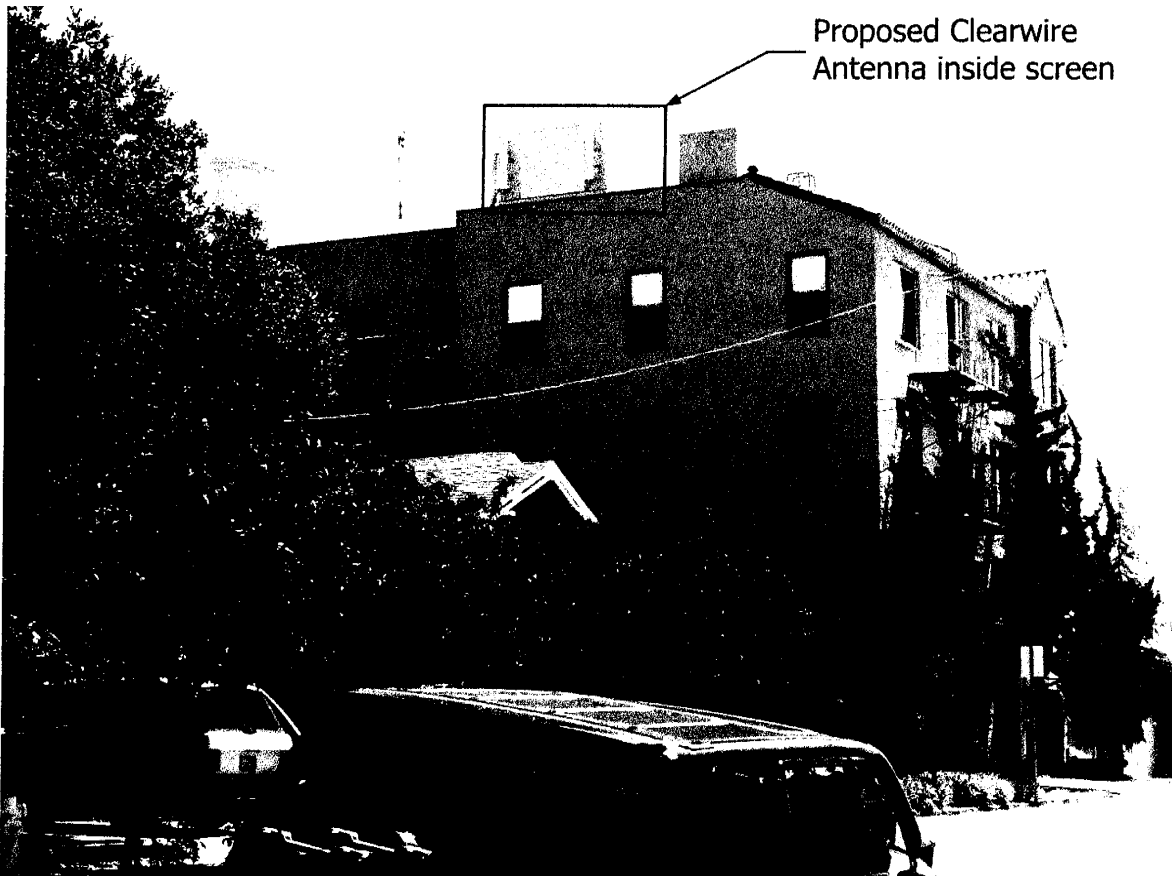


Proposed





Proposed



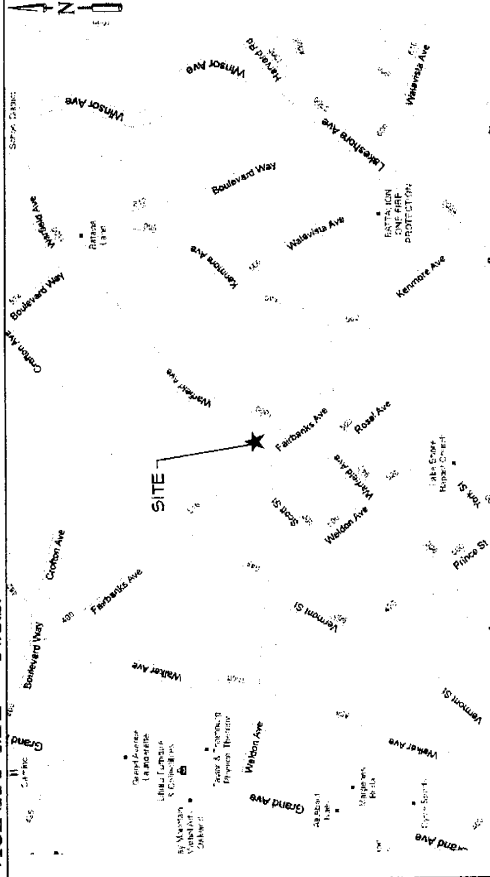


WARFIELD BUILDING

CA-SFO0795A

1001 WARFIELD AVE, OAKLAND, CA

VICINITY MAP - N.T.S.



DRIVING DIRECTIONS

FROM: CLEARWIRE REGIONAL OFFICE
1850 NORTH CALIFORNIA BLVD, SUITE 20
MAYNUT CREEK, CA 94596

TO: WARFIELD BUILDING
1001 WARFIELD AVE
OAKLAND, CA

DISTANCE: 16.4 MILES

DEPART 1850 N CALIFORNIA BLVD, MAYNUT CREEK, CA
HEAD NORTH ON N CALIFORNIA BLVD TOWARD FRINGLE AVE
TAKE THE 1ST LEFT ONTO PRINGLE AVE
TAKE THE 1ST RIGHT TO STAY ON PRINGLE AVE
TURN LEFT AT RIVIERA AVE
SLIGHT RIGHT AT HILLSIDE AVE
MERGE ONTO CA-24 N VIA THE RAMP TO OAKLAND FOR 13.6 MI
TAKE THE EXIT ONTO I-580 E TOWARD HAYWARD FOR 1.1 MI
TAKE THE OAKLAND AVE EXIT
TURN LEFT TO STAY ON OAKLAND AVE
TURN RIGHT AT GRAND AVE
SLIGHT RIGHT AT FAIRBANKS AVE
SLIGHT LEFT ONTO WARFIELD AVE
ARRIVE AT 1001 WARFIELD AVE, OAKLAND, CA

SIGNATURE BLOCK

ZONING MANAGER	DATE
SITE ACQ MANAGER	DATE
RF MANAGER	DATE
MICROWAVE MANAGER	DATE
CONSTRUCTION MANAGER	DATE
CLEARWIRE CONSTRUCTION MANAGER	DATE

PROJECT SUMMARY

PROPERTY OWNER:
LOIS ESTORTIAL
915 TAPPAN TERRACE
GRINDA, CA 94565
PHONE: (425) 254-2166

CONSULTANT:
TRK ENGINEERING LTD.
#201 - 11669 66TH AVE
SURREY, BC V3S 7X1, CANADA
PHONE: (604) 574-6432

CONSTRUCTION MANAGER:
CORTEL LLC
CONTACT: KEN UPTON
PHONE: (415) 860-8595

APPLICANT:
CLEARWIRE CORP
4400 CARILLON FT
KIRKLAND, WA

LEASING MANAGER:
CORTEL LLC
CONTACT: LEESSA GENSEL
PHONE: (415) 246-0555

ZONING MANAGER:
CORTEL LLC
CONTACT: MICHELLE NELLER
PHONE: (425) 987-1512

BUILDING/SITE DATA LEGEND

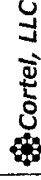
LATITUDE: 37° 48' 59.2" N (NAD 83)
LONGITUDE: 122° 14' 28.2" W (NAD 83)
ELEVATION: TBD / A.M.S.L. (NSVD 24)
A.F.N.: 011-0656-015-05
ZONING: RESIDENTIAL
OCCUPANCY: U, UNMANNED
CONSTRUCTION TYPE: V-B
CONSTRUCTION AREA: 114,550 FT.
ADA REG.: FACILITY IS UNMANNED AND NOT FOR HUMAN HABITATION. ADA ACCESS NOT REQUIRED.

TITLE 24 REG.: FACILITY IS UNMANNED AND NOT FOR HUMAN HABITATION. TITLE 24 IS EXEMPT.

PROJECT DESCRIPTION

INSTALLATION OF A WIRELESS COMMUNICATIONS FACILITY, INCLUDING THE INSTALLATION OF (1) EQUIPMENT TRAILER, (2) EQUIPMENT DETAIL, (3) EXCHANGE POINTS, PLUS (1) FUTURE AND (3) PANEL ANTENNAS

clearw're
4400 CARILLON, KIRKLAND, WA



TRK
ENGINEERING

9201 - 11669 66TH AVE
SURREY, BC V3S 7X1, CANADA
PHONE: (604) 574-6432
FAX: (604) 574-6431
TOLL FREE: 1-877-346-1045
E-MAIL: info@trkeng.com
WEB: www.trkeng.com

PROJECT NO. 1040-004

DRAWN BY: SA

CHECKED BY: P.M.

CAD FILE: 1040-0041

SUBMITTALS

DATE: 10/1/03

DATE: 10/1/03

DATE: 10/1/03

DATE: 10/1/03

DATE: 10/1/03

DATE: 10/1/03

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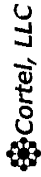
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DATE: 10/1/03

DATE: 10/1/03

clearw're
4800 CARLETON, N. IRVING, WA



TRK
ENGINEERING

2001-1949 4TH AVE
SUITE 200, VANCOUVER, BC V6J 1K1, CANADA
TEL: (604) 274-8432
FAX: (604) 274-8433
TOLL FREE: 1-877-545-4045
WWW.TRK-ENGINEERING.COM
P.O. BOX 1040-004

PROJECT NO: 1040-004

DRAWN BY: S.A.

CHECKED BY: F.H.

CAD FILE: 1040-004.dwg

SUBMITTALS

DATE: 2004-01-20
BY: S.A.
CHECKED: F.H.

THE INFORMATION CONTAINED IN THIS SET OF
DRAWINGS IS THE PROPERTY OF TRK ENGINEERING
AND IS TO BE USED ONLY FOR THE PROJECT AND
SITE SPECIFICALLY IDENTIFIED IN THE
DRAWINGS. NO PART OF THIS SET OF
DRAWINGS IS TO BE REPRODUCED OR
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INCLUDING PHOTOCOPYING, RECORDING,
OR BY ANY INFORMATION STORAGE AND
RETRIEVAL SYSTEM, WITHOUT THE
WRITTEN PERMISSION OF TRK ENGINEERING.

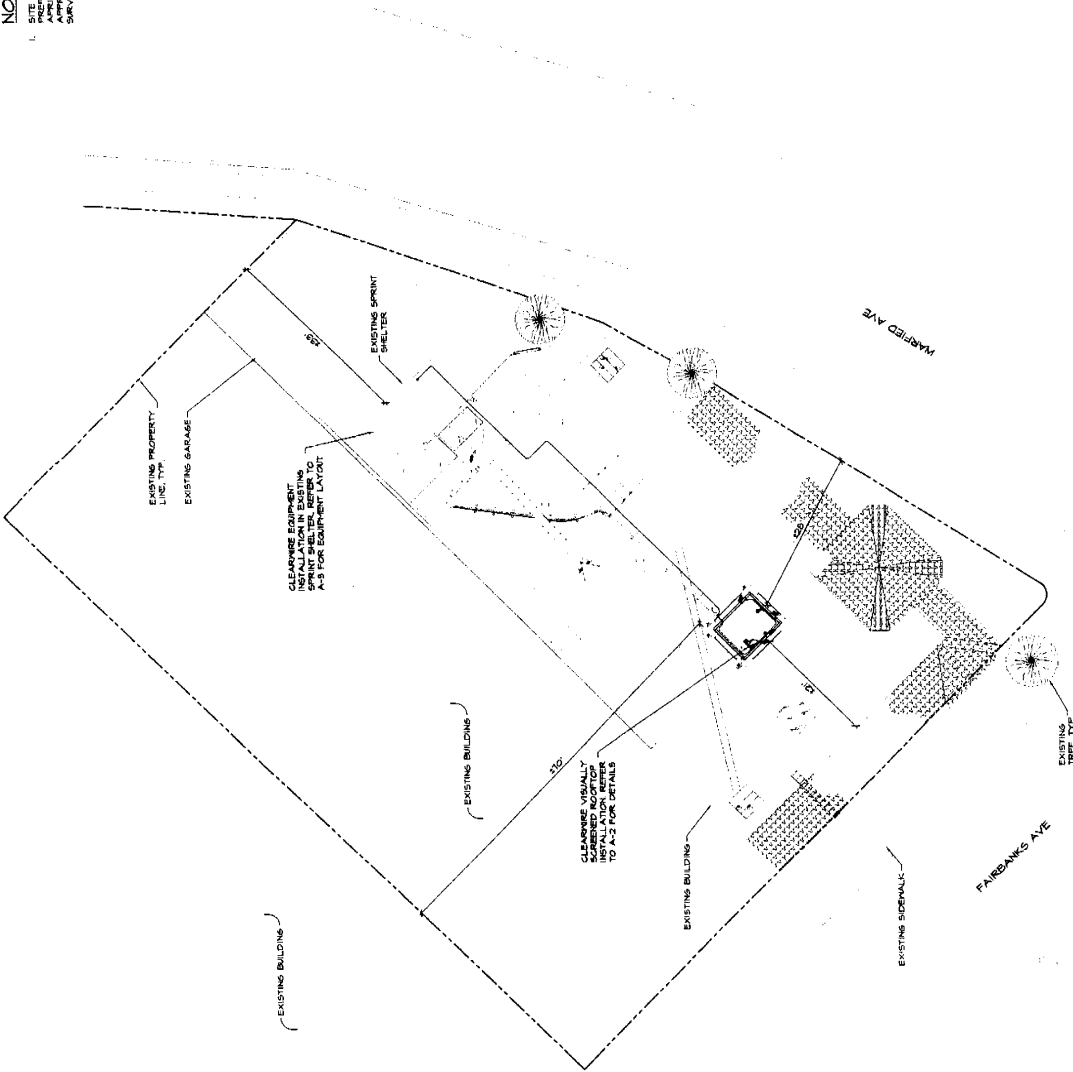
AS PER

DATE
WARFIELD BUILDING
1001 WARFIELD AVE
OAKLAND, CA

SHEET TITLE
SITE PLAN

SHEET NUMBER
A-1

NOTES:
1. SITE INFORMATION HAS BEEN OBTAINED FROM A PLANS
PREPARED BY WESTERN PLANNING & ENGINEERING, DATED
APRIL 22, 2004. ALL DIMENSIONS & LOCATIONS ARE
BASED ON THE SURVEY ONLY. THE DRAWING DOES NOT REPRESENT A
SURVEY.



SITE PLAN
SHEET A-1
0 10 20

TRUE NORTH ARROW SHOWN ON THIS
DRAWING IS FOR INFORMATION ONLY AND
MAY NOT BE VERIFIED BY CONTRACTOR

4300 CARILLON PT. KIRKLAND, WA

ENGINEERING

#201 - 17800 66TH AVE
SURREY, BC V3S 7X1, CANADA
TEL: (604) 574-6432
FAX: (604) 574-6431
TOLL FREE: 1-877-945-4045
EMAIL: info@king.com
WEB: www.king.com

PROJECT NO: 1042-0024

DRAWN BY: S.A.

CHECKED BY: F.M.

CAD FILE: 1040-0064A9

SUBMITTALS

2D% REV Q	Q1/01/01
2D% REV A	A MAY 2002

THE INFORMATION CONTAINED IN THIS SET OF DOCUMENTS IS PROPRIETARY BY NATURE. ANY USE OR DISCLOSURE OTHER THAN THAT WHICH RELATES TO THE CLIENT NAMED IN SUBJECT'S ACCOUNT#72.

77203

25

WARFIELD BUILDING
CA-SF00795A
1001 WARFIELD AVE
OAKLAND, CA

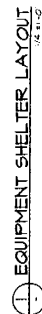
SECRET 7475 K

EQUIPMENT SHELTER
LAYOUT

1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 26

A-3

CONTRACTOR TO PROVIDE ALL REQUIRED HARDWARE NECESSARY TO FACILITATE ANTENNA CABLE ROUTING FROM EQUIPMENT TO ANTENNAS.



TRUE NORTH ARROW SHOWN ON THIS
DRAWING IS APPROXIMATE ONLY AND
MUST BE VERIFIED BY CONTRACTOR

clearwre[®]
408 CABLEVIEW PT. MERLAND WA

Cortel, LLC

TRK
ENGINEERING

1220 - 17000 40TH AVE
SUITE 100
SURREY, BC V3S 7J1 CANADA
TEL: 604-581-8888
FAX: 604-581-8889
TOLL FREE: 1-877-548-4248
E-MAIL: info@trkeng.com
WEB: www.trkeng.com

PROJECT NO: 1040-004

DRAWN BY: SA

CHECKED BY: PM

CAD FILE: 1040-004AS

SUBMITTALS

DATE: 10/20/2010

DATE: 10/20/2010

DATE: 10/20/2010

DATE: 10/20/2010

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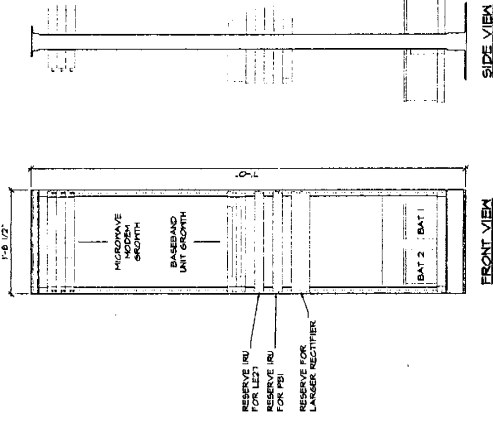
DATE: 10/20/2010

DATE: 10/20/2010

WAREFIELD BUILDING
CAUSEWAY
1001 WAREFIELD AVE
OAKLAND, CA

EQUIPMENT DETAILS

SHEET NUMBER
A-5



FRONT VIEW

SIDE VIEW

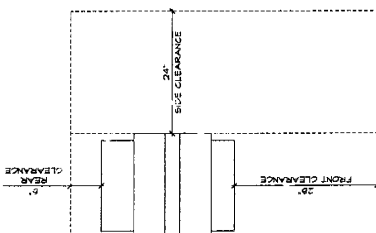
2. EQUIPMENT RACK ELEVATIONS
1/2\"/>

MIN. CLEARANCES NO 24\"/>



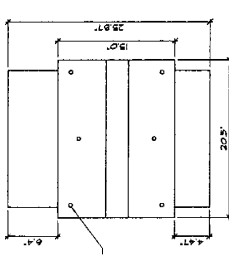
MIN. CLEARANCES	
CABINET REAR AND MALL	24"
CABINET RIGHT SIDE AND MALL	0"
CABINET LEFT SIDE AND MALL	0"
ABOVE CABINET	TBD
IN FRONT OF CABINET	28"

3. CLEARANCE REQUIREMENTS
1/2\"/>



MIN. CLEARANCES NO 24\"/>

INDOOR	
INDOOR SITE SUPPORT CABINET HEIGHT = 476lbs	
BACK DIMENSIONS	21"(W) x 15"(D) x 66"(H)
BACK W/ EQUIPMENT DIMENSIONS	21"(W) x 27"(D) x 66"(H)



4. EQUIPMENT RACK LAYOUT
1/2\"/>

FASTEN EQUIPMENT TO THE SHELTER
RECOMMENDATIONS

Case File Number: CMD10-217

October 20 2010

Location:	8411 MacArthur Boulevard. (See map on reverse)
Assessors Parcel Numbers:	(043-4622-001-02)
Proposal:	To install three (3) telecommunication antennas, three (3) internet services dishes, and one enclosed equipment cabinet at a site with 8 existing antennas for a total of 14 telecommunication antennas.
Applicant:	Clearwire, Jacqueline Smart
Contact Person/ Phone Number:	Jacqueline Smart (510)435-9849
Owner:	Center of Hope Community Church
Case File Number:	CMD10-217
Planning Permits Required:	Regular Design Review to install three (3) telecommunication antennas, three (3) internet services dishes, and enclosed equipment cabinet. Major Conditional Use Permit for the installation of a Macro telecommunication facility within 100 feet of a residential zone.
General Plan:	Urban Residential and Detached Unit Residential
Zoning:	R-50 Medium Density Residential Zone
Environmental Determination:	Exempt, Section 15301 of the State CEQA Guidelines; minor additions and alterations to an existing facility Exempt, Section 15183 of the State CEQA Guidelines; projects consistent with a community plan, general Plan or zoning.
Historic Status:	Potential Designated Historic Property; Post 1945 or Modernized, potential secondary importance; Survey rating:*c3
Service Delivery District:	6
City Council District:	7
Date Filed:	8/11/10
Finality of Decision:	Appealable to City Council within 10 days
For Further Information:	Contact case planner Moe Hackett at (510) 238-3973 or mhackett@oaklandnet.com

SUMMARY

The following staff report addresses the proposal for a new unmanned wireless telecommunication facility located on the roof of an existing church building with an associated equipment cabinet located in the basement of the building. The project site already contains 8 telecommunication antennas and associated basement located equipment cabinets and this project would add a further three (3) antennas and three (3) internet services dishes to the site for a total of 14 antennas. Given the number of antennas, this would be considered a "Macro" Telecommunications Facility. The site is an L-shaped corner lot with its legal street frontage facing on the 84th Avenue side (a residential street and neighborhood). The site is in the R-50 Medium Density Residential Zone. The General Plan designation for the site is Urban Residential with a portion of Detached Unit Residential towards the interior side yard and rear property lines. The scope of work entails the installation of three (3) antennas and three (3)

CITY OF OAKLAND PLANNING COMMISSION



0 125 250 500 750 1,000 Feet



Case File: CMD10-217
Applicant: Jacqueline Smart/Clearwire
Address: 8411 MacArthur Boulevard
Zone: R-50

internet services exchange point dishes and the installation of one equipment cabinet (located within the basement) the antennas will be concealed within a newly created stealth roof-top penthouse structure. This penthouse will be painted and textured to match the existing building

PROJECT DESCRIPTION

The applicant (Clearwire) is proposing a co-location for the installation of three (3) wireless telecommunication panel antennas and three (3) internet services exchange point dishes within a newly created stealth roof-top penthouse structure that will be painted and textured to match the existing building. This penthouse will be located on roof top of an existing church. Through conditions of approval the antennas shall be enclosed and/or painted and textured to match the existing building. The proposal for the equipment cabinet is to locate in the basement of the building. All proposed antennas and associated equipment will not be accessible to the public. (See Attachment A).

PROPERTY DESCRIPTION

The subject property is a through lot of approximately 24,860 square feet, with frontage on 84th Macarthur Boulevard and 84th Avenue. The subject property has a fully functioning church and Charter School on the site. Currently there is a macro telecommunication facility with a separate telecommunication provider on the property including 8 antennas and (Sprint) equipment cabinets in a portion of the buildings basement.

GENERAL PLAN ANALYSIS

The subject property is located within the Urban Residential and Detached Unit Residential General Plan designations. The Urban Residential and Detached Unit Residential land use classifications are intended to identify, create, maintain and enhance an area appropriate for multi-unit, mid-rise, or high-rise residential structures in locations with good access to public transit. The proposed unmanned wireless telecommunication facility will not adversely affect and detract from the residential characteristics of the neighborhood. The antennas will be mounted on the existing church and visual impacts will be mitigated since the antennas will be enclosed and/or painted and textured to match the existing building. General Plan Policy N9.9 states that the City encourages rehabilitation efforts which respect the architectural integrity of a building's original style. The proposed project will have very minimal effect on the existing building.

ZONING ANALYSIS

The subject property is located within the R-50 Medium Density Residential Zone. The R-50 zone is intended to create, preserve, and enhance areas for apartment living at high densities in desirable settings, and is typically appropriate to areas having good accessibility to transportation routes. The proposal is for a new unmanned wireless telecommunication facility on an existing church and requires a Major Conditional Use Permit since the project is within a residential zone. Staff finds that the proposed application meets applicable R-50 zoning and City of Oakland Telecommunication regulations.

ENVIRONMENTAL DETERMINATION

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

KEY ISSUES AND IMPACTS

1. Conditional Use Permit

Section 17.46.080 of the City of Oakland Planning Code requires a conditional use permit to install a Macro Telecommunication facility in the R-50 zone. Furthermore, Section 17.134.020 defines a major and minor conditional use permits. Subsections (A)(3)(i) lists a major conditional use permit: "Any telecommunication facility in or within one hundred (100) feet of the boundary of any residential zone. The required findings for a major conditional use permit are listed and included in staff's evaluation as part of this report.

2. Project Site

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

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

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

Since the proposed project involves co-locating the installation of new antennas and associated equipment cabinets on an existing facility, the proposed project meets (A) co-locating on an existing structure or facility with existing wireless antennas.

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 a site design alternatives analysis. Facilities designed to meet a C through F ranked preference, inclusive, must submit a site design alternatives analysis as part of the required application materials. A site design alternatives analysis shall, at a minimum, consist of:

- a. Written evidence indicating why each higher preference design alternative can not be used. Such evidence shall be in sufficient detail that independent verification could be obtained if required by the City of Oakland Zoning Manager. Evidence should indicate if the reason an alternative was rejected was technical (e.g. incorrect height, interference from existing RF sources, inability to cover required area) or for other concerns (e.g. inability to provide utilities, construction or structural impediments).

City of Oakland Planning staff have reviewed and determined that the site selected is conforming to all other telecommunication regulation requirements. The project has met design criteria (A) since the antennas and/or dishes shall be mounted completely concealed behind an enclosure with paint and texture to match the existing building. Furthermore, to mitigate visual impacts the antennas will be mounted approximately 44 – 47 feet above the public right of way. The associated equipment cabinet will have no visual impact since the equipment will be placed in the basement of the building.

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.

The applicant states that the proposed project meets the radio frequency (RF) emissions standards as required by the regulatory agency. Submitted with the initial application was a RF emissions report, prepared by TRK Engineering (**attachment B**). 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 that prior to the final building permit sign off, the applicant

submits certified RF emissions report stating that the facility is operating within acceptable thresholds established by the regulatory federal agency.

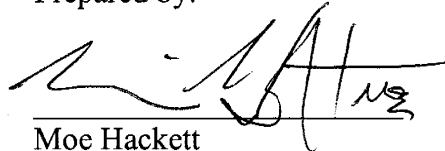
CONCLUSION

City of Oakland planning staff believes that the proposed project and subject property can be developed to meet the established zoning and telecommunication regulations that were created and adopted to set certain criteria minimums and maximums for similar types of developments. Staff believes that the findings for approval can be made to support the Conditional Use Permit and Design Review.

RECOMMENDATIONS:

1. Affirm staff's environmental determination
2. Approve Conditional Use Permit and Design Review application CMD10-217 subject to the attached findings and conditions of approval

Prepared by:



Moe Hackett
Planner II

Approved by:



Scott Miller
Zoning Manager

Approved for forwarding to the
City Planning Commission



Eric Angstadt, Deputy Director
Community & Economic Development Agency

ATTACHMENTS:

- A. Project Plans & Photo simulations
- B. TRK Engineering RF Emissions Report

FINDINGS FOR APPROVAL**FINDINGS FOR APPROVAL:**

This proposal meets all the required findings under Section 17.134.050, of the General Use Permit criteria; all the required findings under Section 17.136.050.(B), of the Non-Residential Design Review criteria; all the required findings under Section 17.128.070(B), of the telecommunication facilities (Macro) Design Review criteria; and all the required findings under Section 17.128.070.(C), of the telecommunication facilities (Macro) Conditional Use Permit criteria; and as set forth below and which are required to approve your application. Required findings are shown in **bold type**; reasons your proposal satisfies them are shown in normal type.

SECTION 17.134.050 – GENERAL USE PERMIT FINDINGS:

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 location, size, design and operational characteristics of the proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood. Consideration was given to the harmony in scale, bulk, and coverage; 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 proposed telecommunications antennas will be co-located within a new penthouse on the roof top of an existing building and will not adversely affect the operating characteristic or livability of the existing area. The facility will be unmanned and will not create additional vehicular traffic in the area.

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 location, design and site planning of the proposed development will provide a convenient and functional residential environment, and will attempt to preserve the attractive nature of the use and its location and setting warrant. The proposal will preserve a convenient and functional working and living environment; 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.

D. That the proposal conforms to all applicable design review criteria set forth in the DESIGN REVIEW PROCEDURE of Chapter 17.136 of the Oakland Planning Code.

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 General Plan and with any other applicable plan or development control map which has been adopted by the City Council.

The proposal conforms in all significant aspects with the Oakland General Plan and with any other applicable plan or zoning maps adopted by the City of Oakland. The proposed macro-telecommunication facility in the Urban Residential Use General Plan designation will enhance and improve communication service for a mixture of residential, civic, commercial and institutional uses in the area.

17.136.050(B) – NONRESIDENTIAL DESIGN REVIEW CRITERIA:

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

The proposal is the addition to a macro telecommunications facility which includes the addition of three (3) panel antennas and three (3) internet services exchange point dishes mounted within a new penthouse at the roof of the existing building and one equipment cabinet, located in the basement. The six (6) proposed antennas and dishes are consistent and well related to the surrounding area in scale, bulk, height, materials, and textures. The antennas will also be located approximately 45 feet above, and 50 feet (approximate) away from the public right of way.

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

The design will be appropriate and compatible with current zoning and general plan land use designations. The proposal protects and preserves the surrounding neighborhood context by adding additional wireless telecommunication antennas to a civic and residential area. The antennas will be concealed from public view and will not have any visual impact on the neighborhood.

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

The proposal conforms with the City of Oakland Comprehensive General Plan meeting specific General Plan policies and the Supplemental Report and Recommendations on Revisions to the Citywide Telecommunications Regulations. The proposal will conform to performance standards for noise set forth in Section 17.120.050 for decibels levels in residential areas for both day and nighttime use. The Project conforms to all macro-facility definitions set forth in Section 17.128.070 and meets all design review criteria to minimize all impacts throughout the neighborhood

17.128.070(B) DESIGN REVIEW CRITERIA FOR MACRO FACILITIES

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

The proposed antennas will be completely concealed from public view behind a screening enclosure and/or painted and textured to match the existing structure and located at the roof top of an existing 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 addition of the antennas and dishes to the existing building will be mounted behind screening enclosure on the roof with the size, placement, configuration, materials, texture, and color to be submitted to the Planning and Zoning division for review and approval prior to the issuance of a building permit.

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

The proposed antennas shall be mounted behind enclosures with the size, placement, configuration, materials, texture, and color to be submitted to the Planning and Zoning division for review and approval prior to the issuance of a building permit. The cable trays shall be painted to match the color of the building.

4. Equipment shelters or cabinets shall be screened from the public view by using landscaping, or materials and colors consistent with surrounding backdrop:

The equipment will be in the basement of the building and will not be visible from the street.

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

The equipment will be located in the basement and will not be visible from the street.

- 6. For antennas attached to the roof, maintain a 1:1 ratio for equipment setback; screen the antennas to match existing air conditioning units, stairs, or elevator towers; avoid placing roof mounted antennas in direct line with significant view corridors.**

The proposed antennas and dishes will be co-located on the roof top in a new penthouse designed to screen the facilities. The penthouse will be located in the center of the existing buildings roof and shall be textured and painted to match the existing 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.**

The antennas will be mounted to the roof and will not be accessible to the public due to its location. The equipment will be located in the basement of the building and will not be visible or accessible to the public.

Section 17.128.070(C) CONDITIONAL USE PERMIT (CUP) FINDINGS FOR MACRO FACILITIES

- 1. The project must meet the special design review criteria listed in subsection B of this section (17.128.070B):**

The proposed project meets the special design review criteria listed in section 17.128.070B.

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

Due to the proposed project co-locating with other existing telecommunication antennas and equipment, it will not disrupt the overall community character of the site.

CONDITIONS OF APPROVAL
CMD10-217

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, **CMD10-217**, and the plans dated and submitted on **August 11, 2010** 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 installation of a macro telecommunications facility located on the roof of an existing building at 8411 MacArthur Boulevard (APN: 043-4622-001-02), under Oakland Municipal Code 17.128, 17.136 and 17.134.**

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

4. Conformance with other Requirements

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

a) The project applicant shall comply with all other applicable federal, state, regional and/or local laws/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. Compliance with other applicable requirements may require changes to the approved use and/or plans. These changes shall be processed in accordance with the procedures contained in Condition of Approval #3.

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, elevated walking pathways, safety railings, emergency access and lighting.

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) Violation of any term, **Conditions of Approval** or **project description** relating to the **Conditions of Approval** 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 of approval** if it is found that there is violation of any of the **Conditions of Approval** 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. The project applicant shall be responsible for paying fees in accordance with the City's Master Fee Schedule for inspections conducted by the City or a City-designated third-party to investigate alleged violations of the Conditions of Approval.

6. Signed Copy of the Conditions of Approval

Ongoing

A copy of the approval letter and **Conditions of Approval** 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 of Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Letter of Agreement shall survive termination, extinguishment or invalidation of the approval. Failure to timely execute the Letter of 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 of Approval**, and if one or more of such **Conditions of Approval** is found to be invalid by a court of competent jurisdiction, this Approval would not have been granted without requiring other valid **Conditions of Approval** consistent with achieving the same purpose and intent of such Approval.

10. Landscape Maintenance.

Ongoing

All new landscaping shall be permanently maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with applicable landscaping requirements.

11. Operational Noise-General

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.

PROJECT SPECIFIC CONDITIONS FOR TELECOMMUNICATIONS FACILITIES

12. Sinking Fund for Facility Removal or Abandonment.

Prior to the issuance of building permit.

The applicant shall provide proof of the establishment of a sinking fund to cover the cost of removing the facility if it is abandoned within a prescribed period. The word "abandoned" shall mean a facility that has not been operational for a six (6) month period, except where non-operation is the result of maintenance or renovation activity pursuant to valid City permits. The sinking fund shall be established to cover a two-year period, at a financial institution approved by the City's Office of Budget and Finance. The sinking fund payment shall be determined by the Office of Budget and Finance and shall be adequate to defray expenses associated with the removal of the telecommunication facility.

13. Emissions Report

Prior to a final inspection

The applicant shall provide an RF emissions report to the City of Oakland Zoning Division indicating that the site is actually operating within the acceptable thresholds as established by the Federal government or any such agency that may be subsequently authorized to establish such standards.

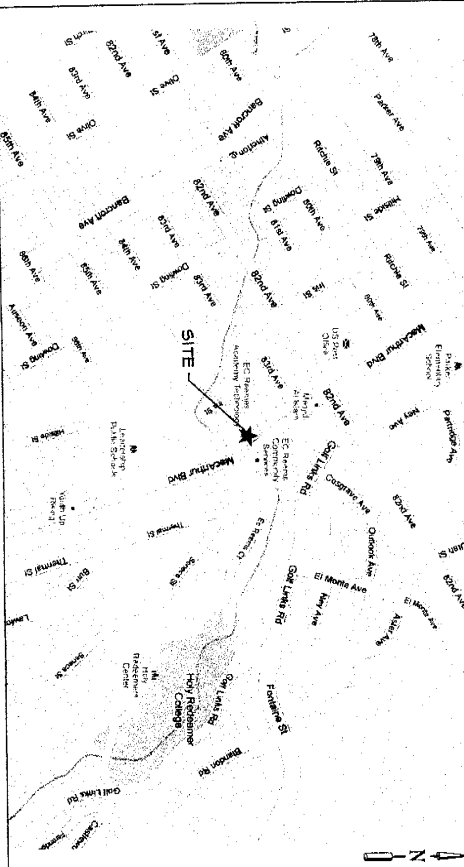


CENTER OF HOPE COMMUNITY CHURCH

CA-SFO0812A

8411 MACARTHUR BLVD, OAKLAND, CA

VICINITY MAP - N.T.S.



DRIVING DIRECTIONS

FROM: CLEARWIRE REGIONAL OFFICE
1400 N CALIFORNIA BLVD SUITE 20
MAYNUT CREEK, CA 94646

TO: CENTER OF HOPE COMMUNITY CHURCH
8411 MACARTHUR BLVD
OAKLAND, CA

DISTANCE: 20.6 MILES

DEPART FROM 1400 N CALIFORNIA BLVD MAYNUT CREEK, CA
HEAD NORTH ON N CALIFORNIA BLVD TOWARD PRINGLE AVE
TURN RIGHT AT N MAN ST
TAKE THE 2ND RIGHT ONTO YEMASO VALLEY RD
CONTINUE ON YEMASO VALLEY RD
TAKE THE 2ND RIGHT ONTO THE RAMP TO OAKLAND FOR I-580
TAKE THE EXIT ONTO CA-18 S TOWARD HAYWARD FOR I-580
TAKE THE 2ND RIGHT ONTO MOUNTAIN BLVD
TAKE THE 1ST LEFT ONTO MACARTHUR BLVD
ARRIVE AT 8411 MACARTHUR BLVD OAKLAND, CA

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, NOTING IN THESE PLANS IS TO BE
CONSIDERED TO PERMIT WORK NOT CONFORMING TO THESE
CODES:

- CALIFORNIA ADMINISTRATIVE CODE (INCL. TITLE 24 & 25)
- 2007 CALIFORNIA BUILDING CODE
- 2007 CALIFORNIA ELECTRICAL CODE
- 2007 CALIFORNIA MECHANICAL CODE
- 2007 CALIFORNIA PLUMBING CODE
- 2007 CALIFORNIA FIRE SAFETY CODE (IFPA-10)
- 2007 CALIFORNIA ELECTRICAL CODE
- LOCAL BUILDING CODE

BUILDING/SITE DATA LEGEND

LATITUDE: 37° 45' 40.4" N (NAD 83)

LONGITUDE: 122° 01' 50.05" W (NAD 83)

ELEVATION: 106 M.A.S.L. (NAVD 29)

A.P.N.: 048-4622-001-02

ZONING: RESIDENTIAL

OCCUPANCY: U, UNMANNED

CONSTRUCTION TYPE: V-B

CONSTRUCTION AREA: 44 SQ. FT.

ADA REG.: FACILITY IS UNMANNED AND NOT
FOR PUBLIC USE. NO
ACCESS NOT REQUIRED.

TITLE 24 REG.: FACILITY IS UNMANNED AND NOT
FOR PUBLIC USE. NO
ACCESS NOT REQUIRED.

PROJECT DESCRIPTION

INSTALLATION OF A WIRELESS COMMUNICATIONS FACILITY,
INCLUDING THE INSTALLATION OF (1) EQUIPMENT CABINET,
(2) INTERNET SERVICES EXCHANGE POINTS, AND (3) PANEL
ANTENNA

SIGNATURE BLOCK

ZONING MANAGER	DATE
SITE ACQ. MANAGER	DATE
RF MANAGER	DATE
MICROWAVE MANAGER	DATE
CONSTRUCTION MANAGER	DATE
CLEARWIRE CONSTRUCTION MANAGER	DATE

PROJECT SUMMARY

PROPERTY OWNER: MARIA REENS
1000 CALIFORNIA BLVD SUITE 200
MAYNUT CREEK, CA 94646
PHONE: (925) 933-9185

APPLICANT: CLEARWIRE CORP.
4400 CARILLON PT
KIRKLAND, WA
LEASING MANAGER: CORTEL, LLC
1000 CALIFORNIA BLVD SUITE 200
MAYNUT CREEK, CA 94646
PHONE: (415) 246-0955

CONSULTANT: TRK ENGINEERING, LTD.
9201 E. 176th AVE
SUITE 100, BAYVIEW, BC V8S 1X1, CANADA
CONTACT: DENNIS AVANTIA
PHONE: (604) 574-6452

CONSTRUCTION MANAGER: CORTEL, LLC
1000 CALIFORNIA BLVD SUITE 200
MAYNUT CREEK, CA 94646
PHONE: (415) 960-8583

SHEET INDEX

REV	DATE	NAME
0	T-1	TITLE SHEET
0	A-1	SITE PLAN
0	A-2	ROOF PLAN
0	A-3	EQUIPMENT LAYOUT
0	A-4	NORTHWEST AND NORTHEAST ELEVATIONS
0	A-5	EQUIPMENT DETAILS
0	A-6	ANTENNA DETAILS

clearw're
2228 TRAILVIEW DR. BERKELEY, CA 94705
TEL: (925) 835-4400
FAX: (925) 835-4401
WWW.CLEARWIRE.COM

CorTel, LLC
1000 CALIFORNIA BLVD SUITE 200
MAYNUT CREEK, CA 94646
TEL: (415) 246-0955
FAX: (415) 960-8583
WWW.CORTEL.COM

TRK
ENGINEERING
9201 E. 176th AVE
SUITE 100, BAYVIEW, BC V8S 1X1, CANADA
TEL: (604) 574-6452
FAX: (604) 574-6453
WWW.TRK-ENGINEERING.COM

PROJECT NO. 1040-021

DRAWN BY: S.A.

CHECKED BY: P.H.

CAD FILE: 1040-021

SUBMITTALS

DATE: 10/10/02

BY: S.A.

DATE: 10/10/02

BY: S.A.

DATE: 10/10/02

BY: S.A.

DATE: 10/10/02

BY: S.A.

DATE: 10/10/02

BY: S.A.

DATE: 10/10/02

BY: S.A.

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DATE: 10/10/02

BY: S.A.

DATE: 10/10/02

BY: S.A.

DATE: 10/10/02

BY: S.A.

DATE: 10/10/02

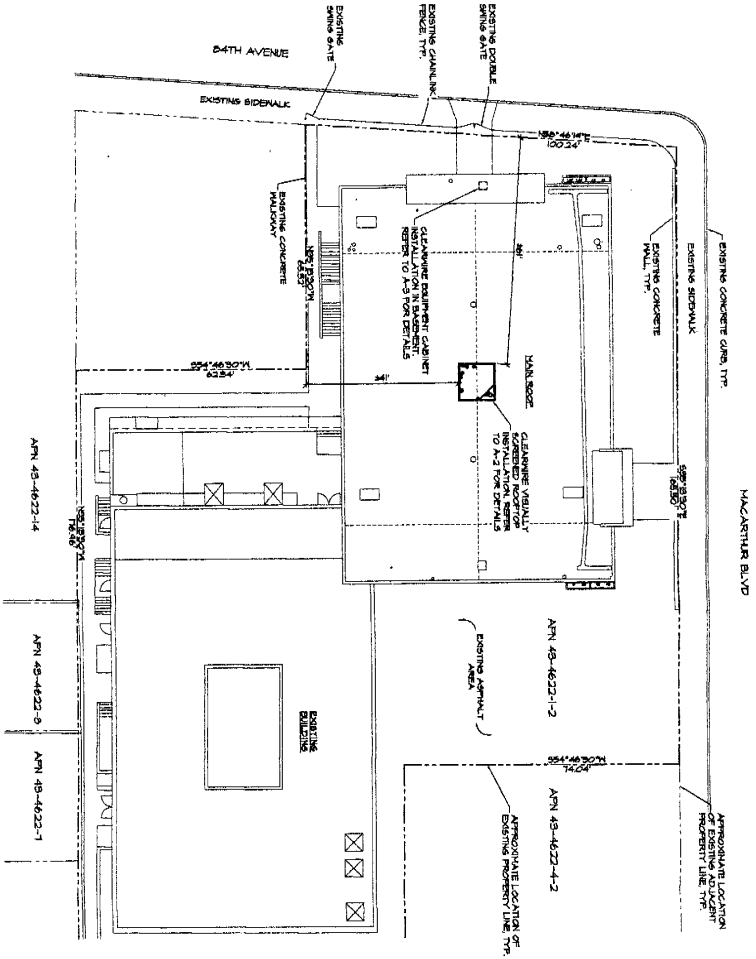
BY: S.A.

DATE: 10/10/02

T-1



THE NORTH ARROW SHOWN ON THIS
DRAWING IS FOR INFORMATION ONLY AND
MAY NOT BE VERIFIED BY CONTRACTOR



SITE PLAN
1/2" = 1'-0"

NOTES:

1. SITE PLAN INFORMATION WAS OBTAINED FROM A DRAWING
SUBMITTED TO THE CITY OF OAKLAND FOR REVIEW AND
APPROVAL. THIS DRAWING DOES NOT REPRESENT A SURVEY. ALL
DIMENSIONS TO PROPERTY LINES ARE APPROXIMATE ONLY.

LEGAL DESCRIPTION:

ALL THAT CERTAIN REAL PROPERTY SITUED IN THE CITY
OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA,
BEING THE SAME AS SHOWN ON THE MAP OF THE CITY OF
OAKLAND, CALIFORNIA, AS THE SAME IS NOW BEING
RECORDED IN THE OFFICE OF THE CLERK OF THE COUNTY OF
ALAMEDA, CALIFORNIA, UNDER THE NAME OF THE
CITY OF OAKLAND, CALIFORNIA.

clearw're
2400 CALLENTT, ALBANY, NY

Cortel, LLC

TRK
ENGINEERING

3001 - 1760 84TH AVE
SUITE 100, OAKLAND, CA 94612
TEL: (510) 574-4481
FAX: (510) 574-4481
WWW.TRKENGINEERING.COM

PROJECT NO. 104-001

DRAWN BY: SA

CHECKED BY: PM

CAD FILE: 104-001

SUBMITTALS

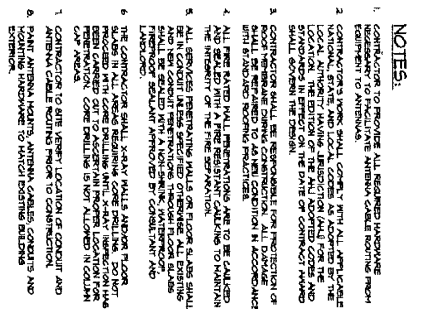
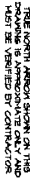
DATE	2/28/2010
BY	SA
DATE	2/28/2010
BY	SA

ALL INFORMATION CONTAINED HEREIN IS THE PROPERTY OF
TRK ENGINEERING, INC. AND IS NOT TO BE REPRODUCED OR
TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC
OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR
BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT
THE WRITTEN PERMISSION OF TRK ENGINEERING, INC.

**CENTER OF HOPE
COMMUNITY CHURCH
CA-SF00012A
8411 MACARTHUR BLVD
OAKLAND, CA**

SITE PLAN

A-1

 $\frac{1}{\sqrt{1-\beta^2}}$

ARE YOU

THE INFORMATION CONTAINED IN THIS SET OF DOCUMENTS IS PROPRIETARY TO WATSON. ANY USE OR DISCLOSURE OTHER THAN THAT WHICH RELATES TO THE CLIENT NAMED IS STRICTLY PROHIBITED.

CENTER OF HOPE
COMMUNITY CHURCH
CA-SFO0812A
8411 MACARTHUR BLVD
OAKLAND, CA

EQUIPMENT LAYOUT

A-3

clearwire

ACCORDANT LOW ET KEYLAND W

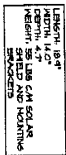


Cortel, LLC

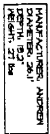
PRK
ENGINEERING

4201 - 17600 66TH AVE
SURREY, BC V5B 1X4, CANADA
TEL: (604) 574-6432
FAX: (604) 574-6431
TOLL FREE: 1-877-845-4045
EMAIL: info@hikang.com
WEB: www.hikang.com

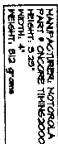
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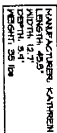
RR
NTS.



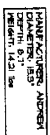
④ 4 1.5
NTS



2 GF
NTA



①



③ 5 NT3



6 GENERIC ANTENNA MOUNTING DETAIL
- N.T.S.



Proposed



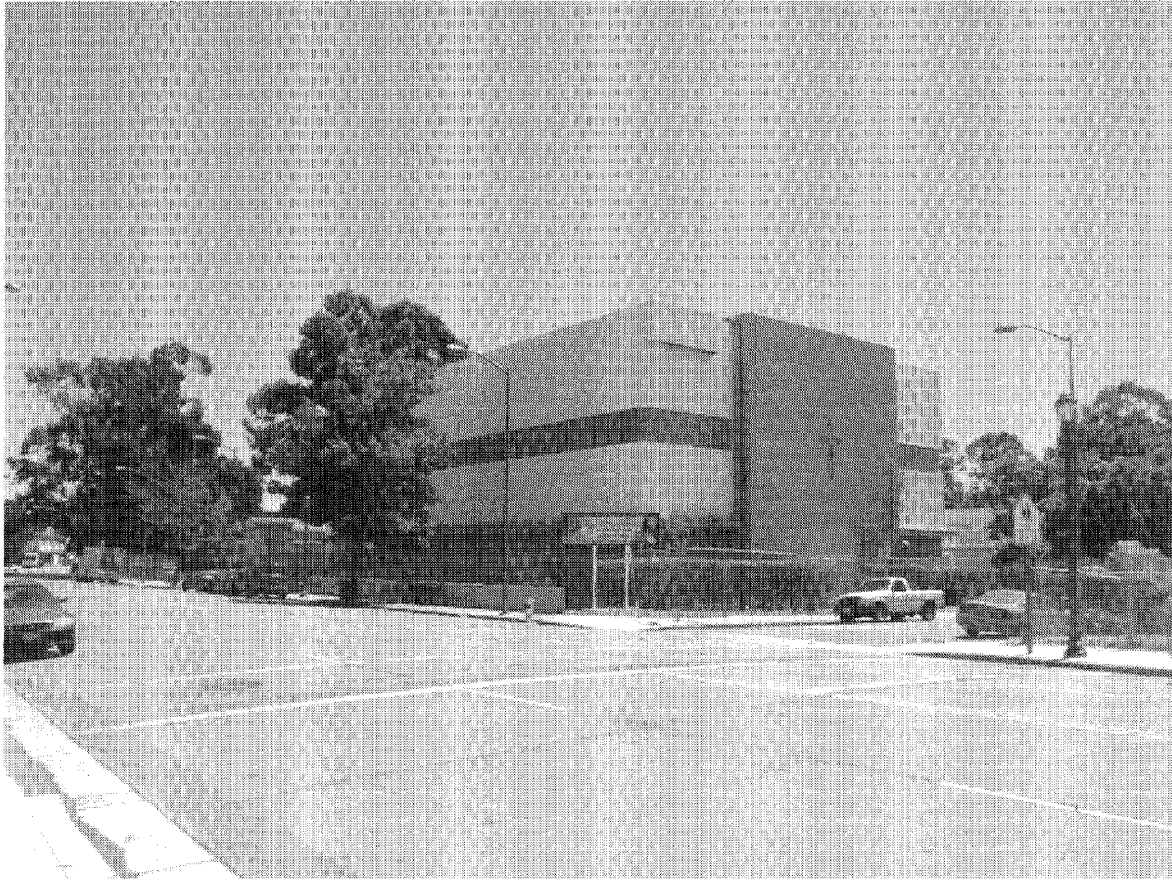
(Nothing Visible)
East Elevation

CA-SFO0812A
Center Of Hope Community Church

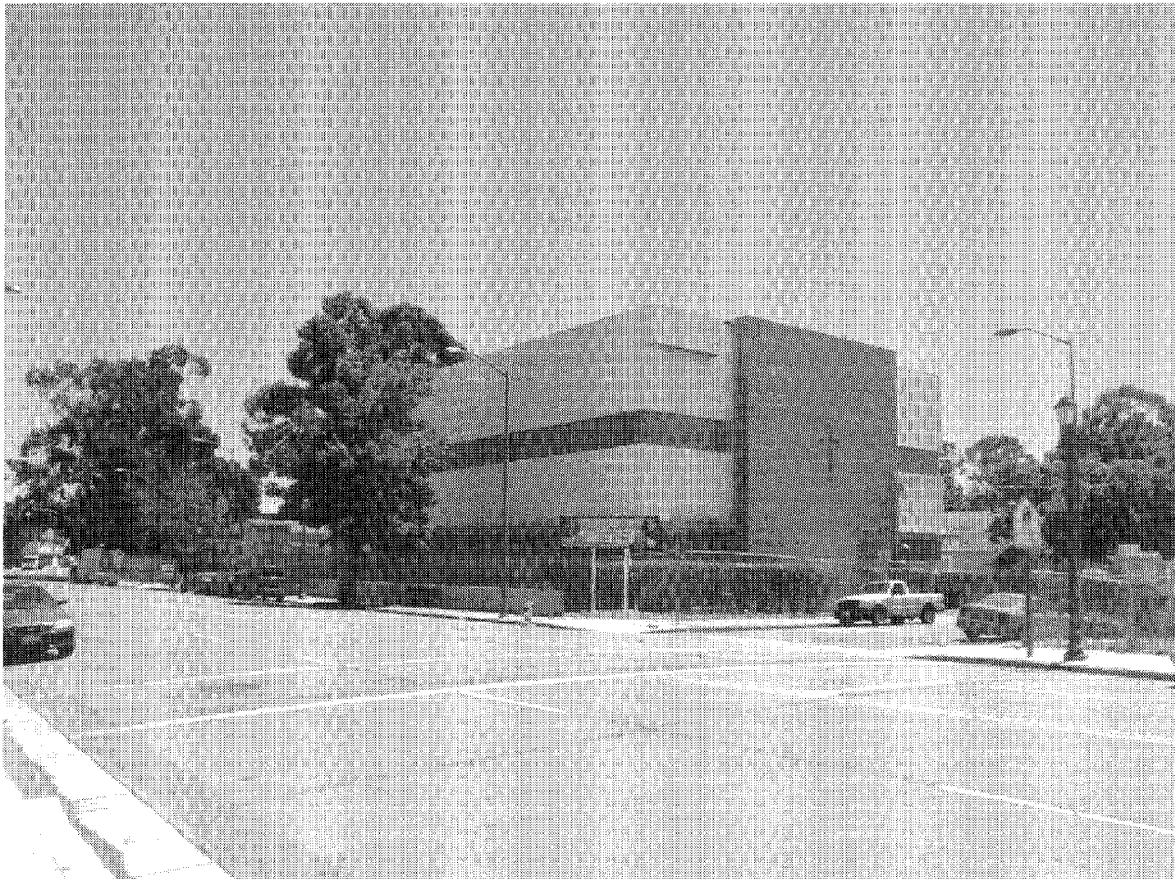


Existing

August 05, 2010



Proposed



(Nothing Visible)
North Elevation

CA-SFO0812A
Center Of Hope Community Church





**FEDERAL COMMUNICATIONS COMMISSION (FCC)
COMPLIANCE STUDY ON
RADIO FREQUENCY
ELECTROMAGNETIC FIELDS EXPOSURE**

Prepared for:

clearw're
wireless broadband

**CA-SFO0812A
CENTER OF HOPE COMMUNITY CHURCH
8411 MACARTHUR BLVD
OAKLAND, CA**

AUGUST 05/10, REV. 0

SITE DESCRIPTION:

Carrier:	Clearwire wireless broadband
Site Address:	8411 MacArthur Blvd., Oakland, CA
Type of Service:	MMDS (Multichannel Multipoint Distribution Service)
Sectors:	0°, 120°, 220°
Antenna Type:	Kathrein 840 10054
Number of Antennas:	3
Frequencies (GHz):	2.5 – 2.7
Maximum Power:	969 W ERP (per sector)
Antenna Height:	47'-10"± (radiation center AGL)

Table 1. Clearwire RF summary

Clearwire is proposing to construct a wireless broadband facility on the rooftop of a church building at the above address (Figure 1). Three panel antennas with horizontal beam width of 87° will be mounted behind RF-transparent screening on the main roof. An equipment cabinet will be installed inside the basement. Access to the facility is restricted to authorized personnel only.

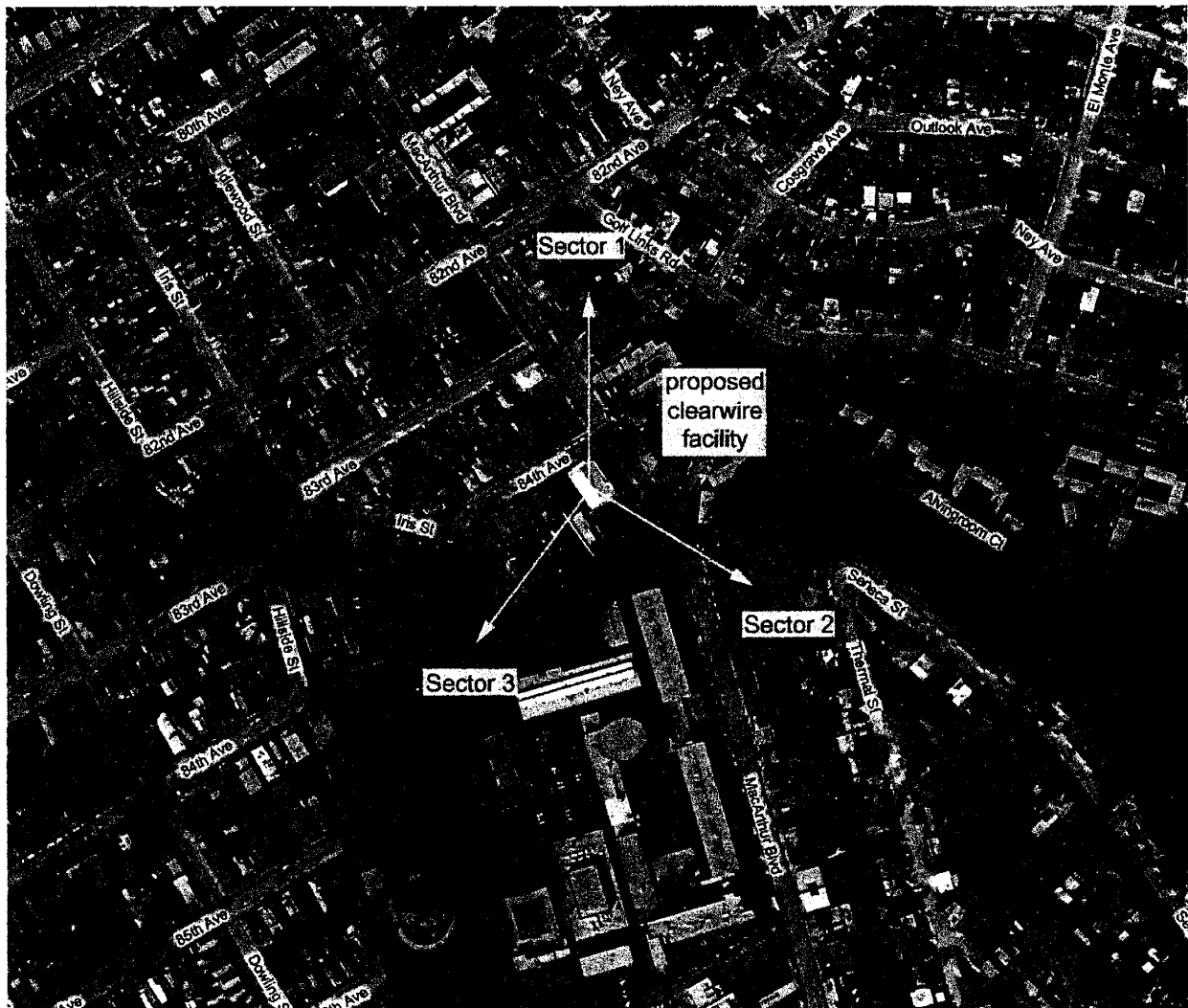


Figure 1. Facility and surrounding area

Clearwire also proposes to install dish antennas or Internet Service Exchange Points (ISEP) behind the RF-transparent screenings at the same level as the panel antennas. The RF power outside the main beam of these ISEP antennas is insignificant compared to the panel antennas (see calculations in Appendix A).

There are two other existing wireless communication facilities with panel antennas mounted to the side of the building. The RF summaries for the facilities are shown in the following Tables.

Carrier:	Sprint PCS
Type of Service:	1900 MHz CDMA
Antenna Quantity:	3 (1 per sector)
Antenna Type:	Decibel 932LG65VTE-B
Maximum Power:	1000 W (<i>Maximum ERP per sector</i>)
Antenna Height:	39'± (<i>Radiation center AGL</i>)

Table 2. Sprint PCS RF summary

Carrier:	Nextel Communications
Type of Service:	ESMR
Antenna Type:	Decibel DB844H65E-XY, DB844G65ZAXY
Number of Antennas:	5 (2 + 2 + 1 per sector)
Maximum Power:	500 W (<i>Maximum ERP per sector</i>)
Antenna Height:	39'± (<i>Radiation center AGL</i>)

Table 3. Nextel RF summary

PROTOCOL:

This study, and the calculations performed therein, is based on OET Bulletin 65¹ which adopts ANSI C95.1-1992 and NCRP standards. In particular, equation 10 from section 2 of the guideline is used as a model (in conjunction with known antenna radiation patterns) for calculating the power density at different points of interest. This information will be used to judge the RF exposure level incident upon the general population, and any employee present in the area. It should be noted that ground reflection of RF waves has been taken into account.

FCC'S MAXIMUM PERMISSIBLE EXPOSURE (MPE) LIMIT:

In order to evaluate the RF exposure level, the power densities at different locations of interest have been examined. Equation 10 from Bulletin 65 is reproduced here as equation 1:

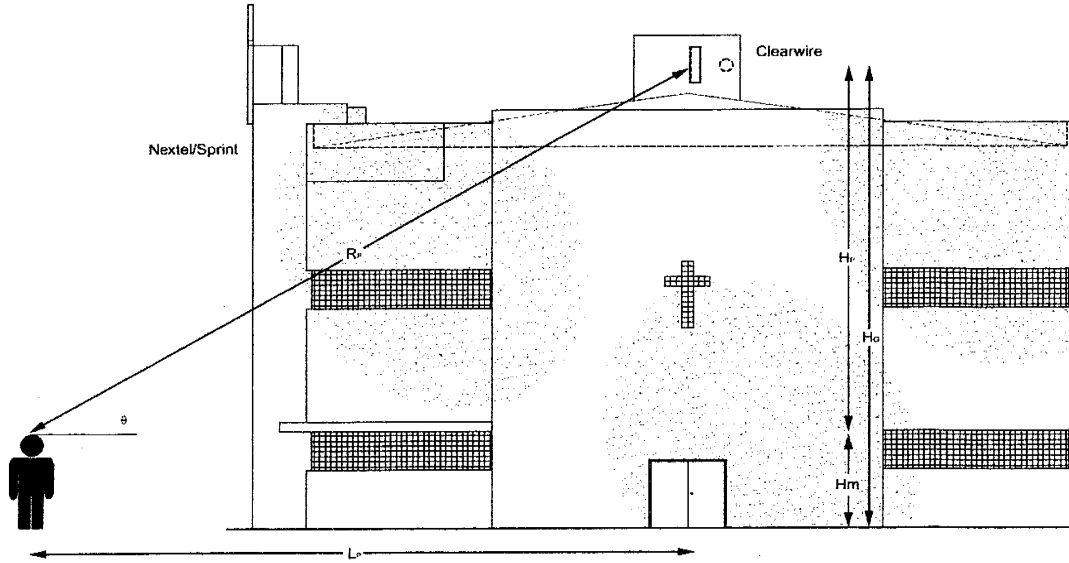
$$S = \frac{33.4F^2ERP}{R^2} \quad (1)$$

Where: S = Power density [$\mu W/cm^2$]
 ERP = Effective radiated power [W]
 R = Distance [m]
 F = Relative field factor (relative numeric gain)

¹ Cleveland, Robert F, et al. Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields. OET Bulletin 65, Edition 97-01, August 1997.

APPENDIX A

Scenario 1: Surrounding Area of the Facility



person's height (H_m) = 6 ft

building elevation = 79 ft

Horizontal distance from building L_p is

		7 ft at $\Theta = 80^\circ$		Elevation above sea level: 79 feet				
Service Provider	Height H_b , ft	Height H_p , ft	Max. ERP	Angle Θ	F^2	$R_p(m)$	$S (\mu W/cm^2)$	MPE%
clearwire panel	47.80	41.80	969.0	$\Theta = 80^\circ$	-30 dB (0.0010)	12.9	0.1945	0.0195
clearwire ISEP	47.80	41.80	100.0	$\Theta = 80^\circ$	-57 dB (0.0000)	12.9	0.0000	0.0000
Sprint PCS	39.00	33.00	1000.0	$\Theta = 77^\circ$	-30 dB (0.0010)	10.3	0.3148	0.0315
Nextel	39.00	33.00	500.0	$\Theta = 77^\circ$	-30 dB (0.0010)	10.3	0.1574	0.0271
Total								0.0781

Horizontal distance from building L_p is

		24 ft at $\Theta = 60^\circ$		Elevation above sea level: 79 feet				
Service Provider	Height H_b , ft	Height H_p , ft	Max. ERP	Angle Θ	F^2	$R_p(m)$	$S (\mu W/cm^2)$	MPE%
clearwire panel	47.80	41.80	969.0	$\Theta = 60^\circ$	-30 dB (0.0010)	14.7	0.1498	0.0150
clearwire ISEP	47.80	41.80	100.0	$\Theta = 60^\circ$	-46 dB (0.0000)	14.7	0.0000	0.0000
Sprint PCS	39.00	33.00	1000.0	$\Theta = 54^\circ$	-25 dB (0.0032)	12.5	0.6840	0.0684
Nextel	39.00	33.00	500.0	$\Theta = 54^\circ$	-30 dB (0.0010)	12.5	0.1069	0.0184
Total								0.1018

Horizontal distance from building L_p is

		42 ft at $\Theta = 45^\circ$		Elevation above sea level: 79 feet				
Service Provider	Height H_b , ft	Height H_p , ft	Max. ERP	Angle Θ	F^2	$R_p(m)$	$S (\mu W/cm^2)$	MPE%
clearwire panel	47.80	41.80	969.0	$\Theta = 45^\circ$	-30 dB (0.0010)	18.0	0.0999	0.0100
clearwire ISEP	47.80	41.80	100.0	$\Theta = 45^\circ$	-42 dB (0.0001)	18.0	0.0010	0.0001
Sprint PCS	39.00	33.00	1000.0	$\Theta = 38^\circ$	-16 dB (0.0251)	16.2	3.1944	0.3194
Nextel	39.00	33.00	500.0	$\Theta = 38^\circ$	-10 dB (0.1000)	16.2	6.3634	1.0971
Total								1.4266

Horizontal distance from building L_p is

		72 ft at $\Theta = 30^\circ$		Elevation above sea level: 79 feet				
Service Provider	Height H_b , ft	Height H_p , ft	Max. ERP	Angle Θ	F^2	$R_p(m)$	$S (\mu W/cm^2)$	MPE%
clearwire panel	47.80	41.80	969.0	$\Theta = 30^\circ$	-15 dB (0.0316)	25.5	1.5728	0.1573
clearwire ISEP	47.80	41.80	100.0	$\Theta = 30^\circ$	-42 dB (0.0001)	25.5	0.0005	0.0001
Sprint PCS	39.00	33.00	1000.0	$\Theta = 25^\circ$	-20 dB (0.0100)	24.3	0.5656	0.0566
Nextel	39.00	33.00	500.0	$\Theta = 25^\circ$	-7 dB (0.1995)	24.3	5.6422	0.9728
Total								1.1868

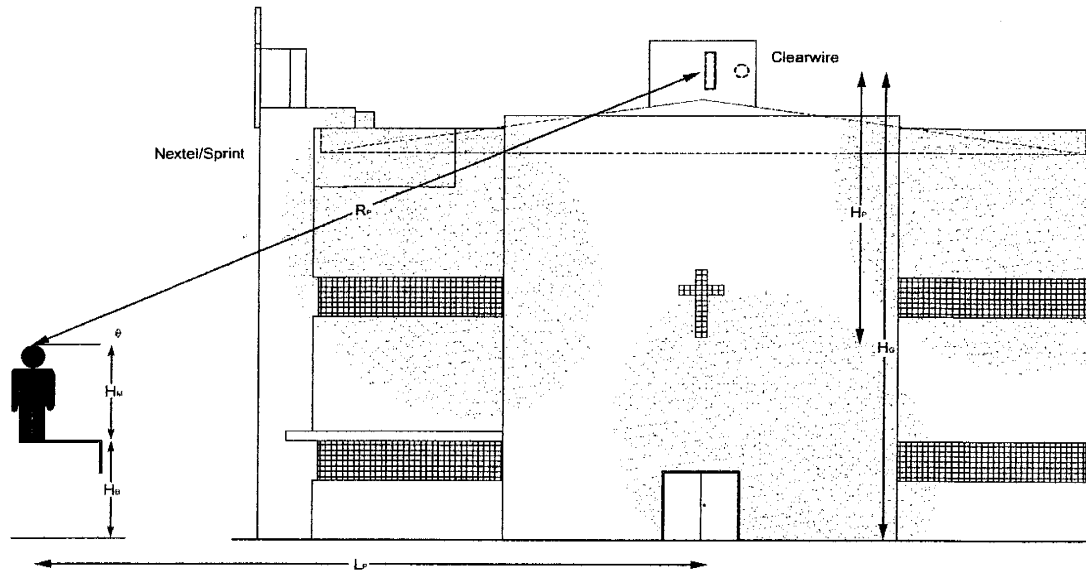
Horizontal distance from building L_p is

		156 ft at $\Theta = 15^\circ$		Elevation above sea level: 79 feet				
Service Provider	Height H_b , ft	Height H_p , ft	Max. ERP	Angle Θ	F^2	$R_p(m)$	$S (\mu W/cm^2)$	MPE%
clearwire panel	47.80	41.80	969.0	$\Theta = 15^\circ$	-13 dB (0.0501)	49.2	0.6699	0.0670
clearwire ISEP	47.80	41.80	100.0	$\Theta = 15^\circ$	-37 dB (0.0002)	49.2	0.0003	0.0000
Sprint PCS	39.00	33.00	1000.0	$\Theta = 12^\circ$	-15 dB (0.0316)	48.6	0.4468	0.0447
Nextel	39.00	33.00	500.0	$\Theta = 12^\circ$	-5 dB (0.3162)	48.6	2.2357	0.3855
Total								0.4972

Horizontal distance from building L_p is

		231 ft at $\Theta = 10^\circ$		Elevation above sea level: 80 feet				
Service Provider	Height H_b , ft	Height H_p , ft	Max. ERP	Angle Θ	F^2	$R_p(m)$	$S (\mu W/cm^2)$	MPE%
clearwire panel	47.80	40.80	969.0	$\Theta = 10^\circ$	-14 dB (0.0398)	71.6	0.2513	0.0251
clearwire ISEP	47.80	40.80	100.0	$\Theta = 10^\circ$	-30 dB (0.0010)	71.6	0.0007	0.0001
Sprint PCS	39.00	32.00	1000.0	$\Theta = 8^\circ$	-3 dB (0.5012)	71.2	3.3022	0.3302
Nextel	39.00	32.00	500.0	$\Theta = 8^\circ$	-2 dB (0.6310)	71.2	2.0787	0.3584
Total								0.7138

Scenario 2: Nearby Buildings/Rooftop



person's height (H_p) = 6 ft

Location 1: Nearest building within Sector 1

$H_b = 24.0$ ft, L_p is 222 ft				Elevation above sea level: 80 feet				
Service Provider	Height H_a , ft	Height H_p , ft	Max. ERP	Angle θ	F^2	R_p (m)	S ($\mu W/cm^2$)	MPE%
clearwire panel	47.80	16.80	969.0	$\theta = 4^\circ$	-2 dB (0.6310)	67.9	4.4296	0.4430
clearwire ISEP	47.80	16.80	100.0	$\theta = 4^\circ$	-24 dB (0.0040)	67.9	0.0029	0.0003
Sprint PCS	39.00	8.00	1000.0	$\theta = 2^\circ$	0 dB (1.0000)	67.7	7.2873	0.7287
Nextel	39.00	8.00	500.0	$\theta = 2^\circ$	0 dB (1.0000)	67.7	3.6437	0.6282
Total								1.8002

Location 2: Nearest building surface within Sector 2

$H_b = 25.0$ ft, L_p is 263 ft				Elevation above sea level: 85 feet				
Service Provider	Height H_a , ft	Height H_p , ft	Max. ERP	Angle θ	F^2	R_p (m)	S ($\mu W/cm^2$)	MPE%
clearwire panel	47.80	10.80	969.0	$\theta = 2^\circ$	-2 dB (0.6310)	80.3	3.1671	0.3167
clearwire ISEP	47.80	10.80	100.0	$\theta = 2^\circ$	-16 dB (0.0251)	80.3	0.0130	0.0013
Sprint PCS	39.00	2.00	1000.0	$\theta = 0^\circ$	0 dB (1.0000)	80.2	5.1928	0.5193
Nextel	39.00	2.00	500.0	$\theta = 0^\circ$	0 dB (1.0000)	80.2	2.5964	0.4477
Total								1.2850

Location 3: building surface within Sector 3

$H_b = 25.0$ ft, L_p is 60 ft				Elevation above sea level: 77 feet				
Service Provider	Height H_a , ft	Height H_p , ft	Max. ERP	Angle θ	F^2	R_p (m)	S ($\mu W/cm^2$)	MPE%
clearwire panel	47.80	18.80	969.0	$\theta = 17^\circ$	-14 dB (0.0398)	19.2	3.4942	0.3494
clearwire ISEP	47.80	18.80	100.0	$\theta = 17^\circ$	-38 dB (0.0002)	19.2	0.0018	0.0002
Total								0.3496

Scenario 3: Facility Rooftop

The MPE limit for 2500 MHz MDS facility for occupational/controlled exposure is 5 mW/cm².

$$R^2 = 33.4 \cdot F^2 \cdot ERP / S$$

$$R^2 = 33.4 \cdot (1) \cdot [(969/5000) \cdot (100/5000)]$$

$$R^2 = 7.14$$

$$R = 2.7 \text{ m}$$

$$R = 8.765 \text{ ft}$$

Kathrein Scala's XX-polarized adjustable electrical downtilt antennas offer the carrier the ability to tailor sites for optimum performance. Using variable downtilt, only a few models need be procured to accommodate the needs of widely varying conditions. Remotely controlled downtilt is available as a retrofitable option.

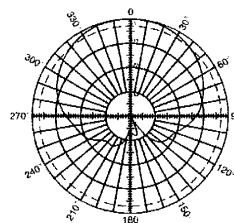
- 0–10° electrical downtilt range.
- DC Grounded metallic parts for impulse suppression.
- No moving electrical connections.
- Optional remote downtilt control.

Specifications:

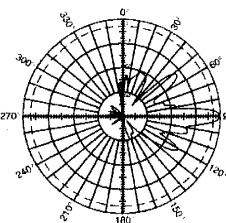
Frequency range	2496–2690 MHz
Gain	2 x 16 dBi
Impedance	50 ohms
VSWR	< 1.5:1
Intermodulation (2x20w)	IM3:< -150 dBc
Polarization	+45° and -45°
Front-to-back ratio	>23 dB typical
Maximum input power	300 watts (at 50°C)
+45° and -45° polarization horizontal beamwidth	87 degrees at midband (half power)
+45° and -45° polarization vertical beamwidth	7 degrees at midband (half power)
Electrical downtilt continuously adjustable	0–10 degrees
Connector	4 x 7-16 DIN female
Sidelobe suppression for first sidelobe above horizon	0° 4° 8° 10° 15 15 15 15 dB (typical)
Null fill	> -1 dBi to 12° below horizon (typical) (17 dB below 16 dBi main beam)
Isolation	>30 dB
Weight	30 lb (13.6 kg)
Dimensions	42 x 12.7 x 2.8 inches (1067 x 323 x 71 mm)
Equivalent flat plate area	4.8 ft² (0.45 m²)
Wind survival rating*	120 mph (200 kph)
Shipping dimensions	48 x 13.3 x 5.1 inches (1220 x 337 x 130 mm)
Shipping weight	34 lb (15.4 kg)
Mounting	Fixed and tilt-mount options are available for 2 to 5.7 inch (50 to 145 mm) OD masts.

See reverse for order information.

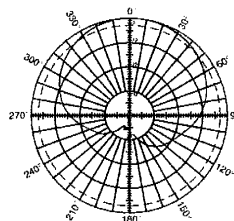
* Mechanical design is based on environmental conditions as stipulated in EIA-222-F (June 1996) and/or ETS 300 019-1-4 which include the static mechanical load imposed on an antenna by wind at maximum velocity. See the Engineering Section of the catalog for further details.



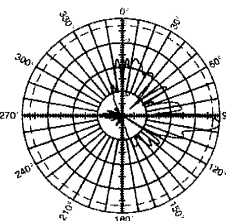
Horizontal pattern
±45°- polarization
0° electrical downtilt



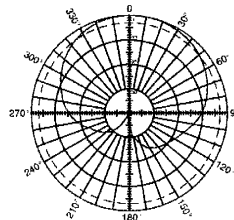
Vertical pattern
±45°- polarization
0° electrical downtilt



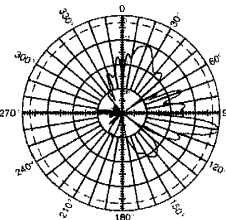
Horizontal pattern
±45°- polarization
5° electrical downtilt



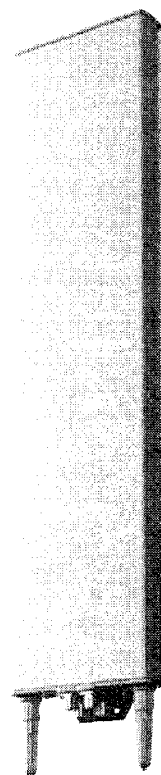
Vertical pattern
±45°- polarization
5° electrical downtilt



Horizontal pattern
±45°- polarization
10° electrical downtilt



Vertical pattern
±45°- polarization
10° electrical downtilt

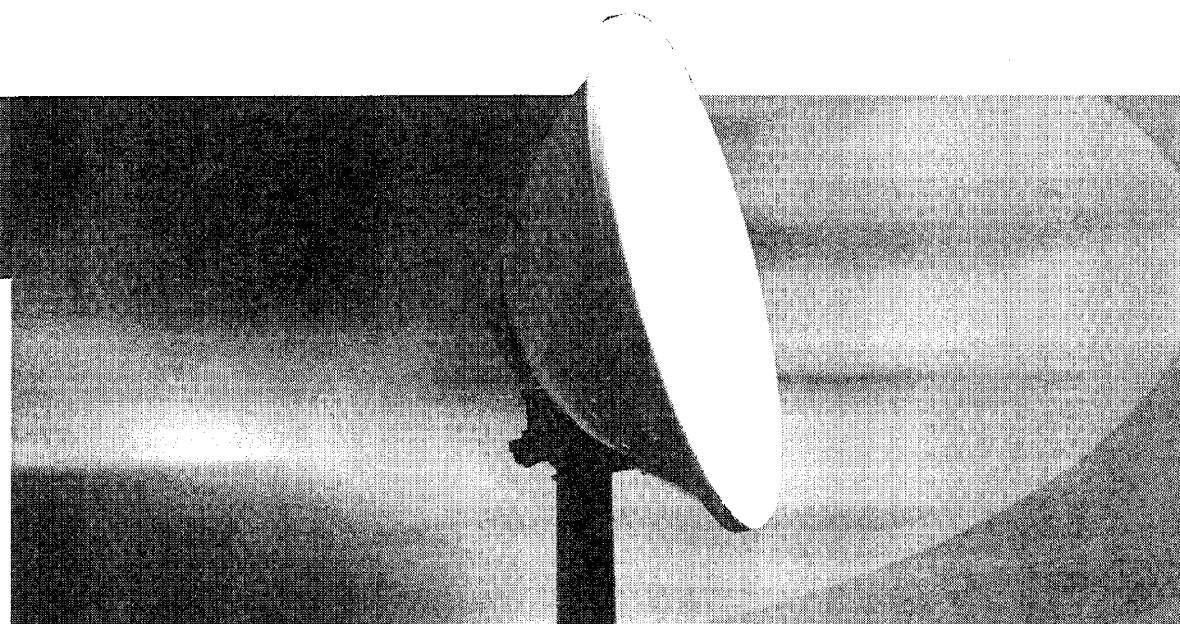


11098-A





**PRODUCT
SPECIFICATION**



ValuLine® III Next Generation Antennas VHLP2

SPECIFICATIONS

	VHLP2-7W	VHLP2-10W	VHLP2-11	VHLP2-13	VHLP2-15	VHLP2-18	VHLP2-23	VHLP2-26	VHLP2-28	VHLP2-32	VHLP2-38
Frequency Band, GHz	7.125–8.5	10.55–10.68	10.7–11.7	12.70–13.25	14.25–15.35	17.7–19.7	21.2–23.6	24.25–26.5	27.5–29.5	31.8–33.4	37.0–40.0
Bottom Band Gain, dBi	29.5	33.7	34.0	35.6	36.5	38.3	39.8	40.8	41.8	43.4	44.6
Mid Band Gain, dBi	30.7	33.8	34.4	35.8	36.8	38.7	40.4	41.2	42.2	43.7	45.2
Top Band Gain, dBi	31.9	34.3	35.0	36.0	37.2	39.1	41.0	41.8	42.7	44.0	45.8
Beamwidth, degrees	4.7	3.7	3.3	2.7	2.5	2.1	1.7	1.5	1.3	1.0	0.9
Front/Back, dB	57	56	60	62	65	67	66	68	68	61	66
XPD, dB	32	30	30	30	30	30	30	30	30	30	30
Return Loss, dB	17.7	17.7	17.7	17.7	17.7	17.7	17.7	17.7	17.7	17.7	17.7
Regulatory Compliance											
ETSI Class	R1 C3	R1 C2	R1 C3	R1 C3	R2 C3	R2 C3	R3 C3	R4 C3	R4 C3	R5 C3B	R5 C3B
FCC Part 101	N/A	CAT A*	CAT B	N/A	N/A	CAT A	CAT A	CAT A	N/A	N/A	CAT A
Brazil Anatel	N/A	C2	C2	C2	C2	C2	C2	C2	C2	C2	C2
Canada SRSP	N/A	310.5	N/A	312.7B	314.5A	Note 1	Note 2	N/A	N/A	N/A	338.6A
Andrew RPE Number	7075A	7085B, 7086B*	7083A	7004	7008	7012A	7016A	7020A	7024A	7028	7032A

Note 1: Meets Canada SRSP 317.8A, 318.5, 318.8

Note 2: Meets Canada SRSP 312.2A, 321.8B

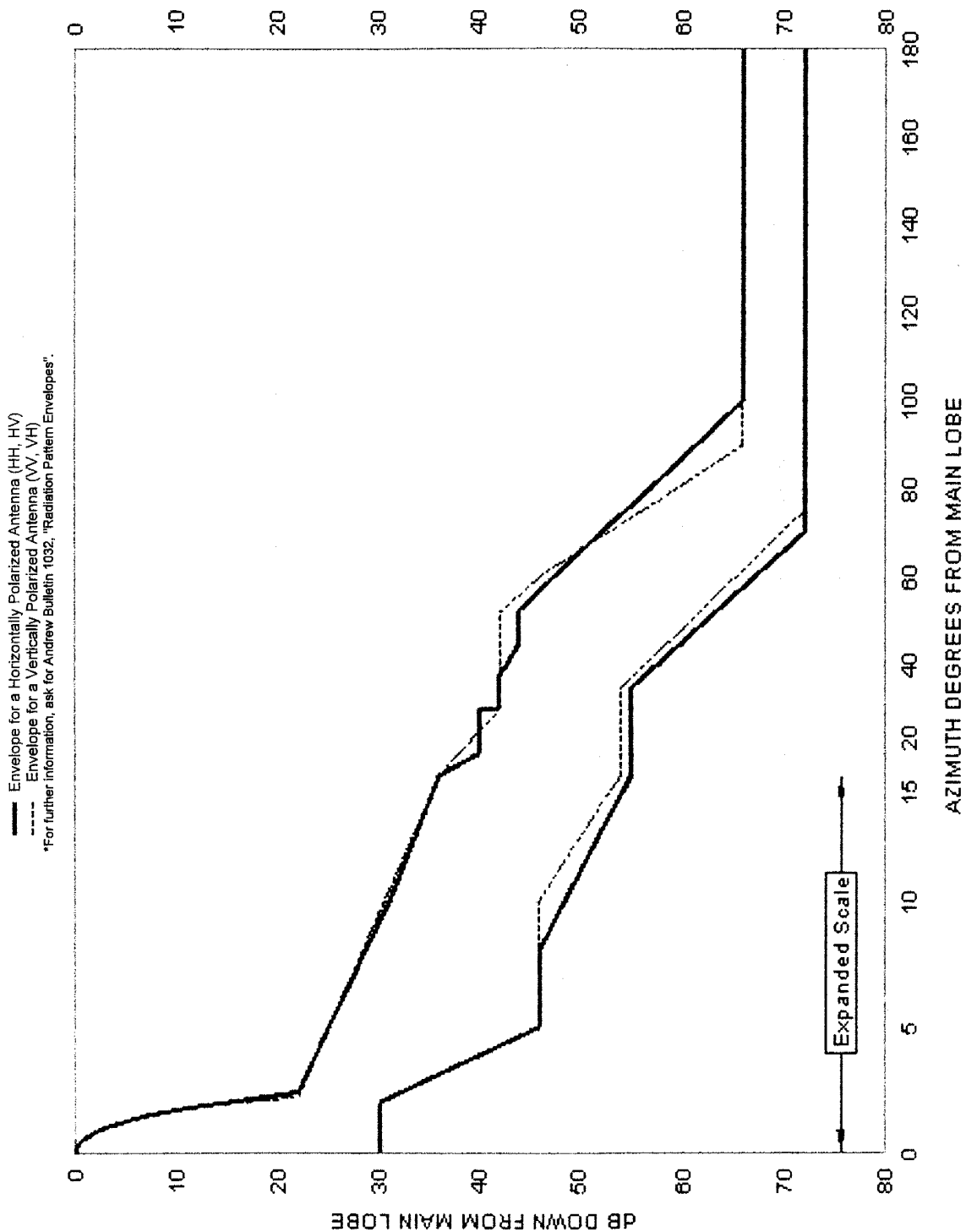
* Use for FCC band (10.5–10.7 GHz)

One Company. A World of Solutions.



RPE: 7016

Engineering Approved:
25 October 2004



Product Specifications



932LG65VTE-B

Directed Dipole™ Antenna, 1710–2170 MHz, 65° horizontal beamwidth, RET compatible variable electrical tilt



- Unique Directed Dipole™ design provides exceptional azimuth pattern roll-off and strong front-to-back ratio
- Enhanced control of out-of-sector power improves co-channel interference, reduces softer hand-offs, improves capacity
- Field adjustable electrical tilt
- Fully compatible with Andrew Teletilt® remote control system

CHARACTERISTICS

General Specifications

Antenna Type Directed Dipole™
Brand Directed Dipole™ | DualPol® | Teletilt®
Operating Frequency Band 1710 – 2170 MHz

Electrical Specifications

Frequency Band, MHz	1710–1880	1850–1990	1920–2170
Beamwidth, Horizontal, degrees	65	65	68
Gain, dBd	15.0	15.4	14.9
Gain, dBi	17.1	17.5	17.0
Beamwidth, Vertical, degrees	7.3	6.8	6.3
Beam Tilt, degrees	0–8	0–8	0–8
Upper Sidelobe Suppression (USLS), typical, dB	17	18	18
Front-to-Back Ratio at 180°, dB	35	35	35
Isolation, dB	30	30	30
VSWR Return Loss, db	1.5:1 14.0	1.5:1 14.0	1.5:1 14.0
Intermodulation Products, 3rd Order, 2 x 20 W, dBc	-150	-150	-150
Input Power, maximum, watts	250	250	250
Polarization	±45°	±45°	±45°
Impedance, ohms	50	50	50
Lightning Protection	dc Ground	dc Ground	dc Ground

Product Specifications

932LG65VTE-B



Mechanical Specifications

Color	Light gray
Connector Interface	7-16 DIN Female
Connector Location	Bottom
Connector Quantity	2
Wind Loading, maximum	244.7 N @ 100 mph 55.0 lbf @ 100 mph
Wind Speed, maximum	241.4 km/h 150.0 mph

Dimensions

Depth	172.0 mm 6.8 in
Length	1312.0 mm 51.7 in
Width	209.0 mm 8.2 in
Net Weight	9.1 kg 20.1 lb

Remote Electrical Tilt (RET) Information

Model with Factory Installed AISG 1.1 Actuator 932LG65R2E-B

Model with Factory Installed AISG 2.0 Actuator 932LG65A1E-B

RET System Teletilt®

Regulatory Compliance/Certifications

Agency

RoHS 2002/95/EC

China RoHS SJ/T 11364-2006

Classification

Compliant by Exemption

Above Maximum Concentration Value (MCV)



INCLUDED PRODUCTS



DB5098

Downtilt Mounting Kit for 4.5 in (114.3 mm) OD round members



DB390

Pipe Mounting Kit for 4.5 in (114.3 mm) OD round members

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Join the Evolution

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See www.commscope.com/andrew for the most current information.

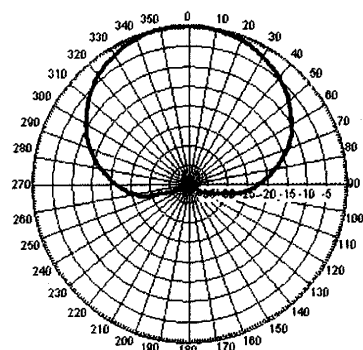
Page 2 of 7
10/27/2009

Product Specifications

932LG65VTE-B

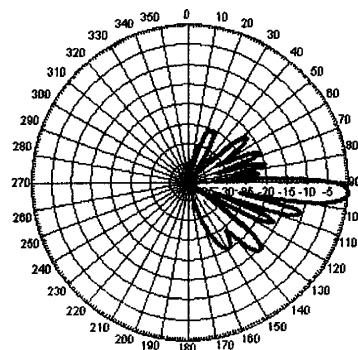


Horizontal Pattern

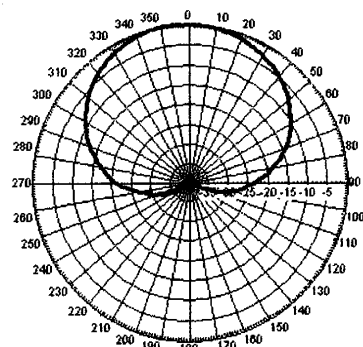


Freq: 1785 MHz, Tilt: 4

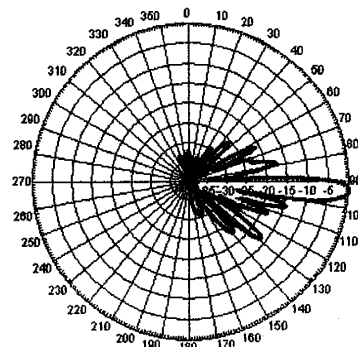
Vertical Pattern



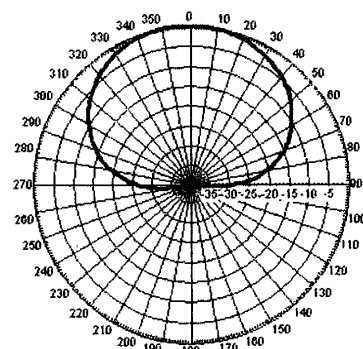
Freq: 1785 MHz, Tilt: 4



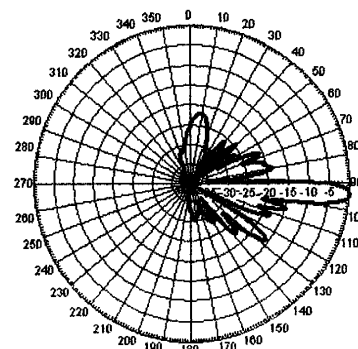
Freq: 1920 MHz, Tilt: 4



Freq: 1920 MHz, Tilt: 4



Freq: 2110 MHz, Tilt: 4



Freq: 2110 MHz, Tilt: 4

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10/27/2009



DB844H65E-XY

Directed Dipole Antenna

Decibel®
Base Station Antennas

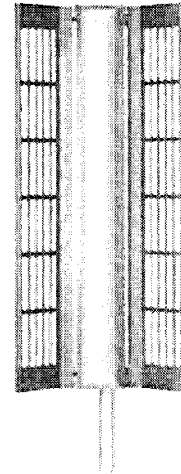
- Excellent azimuth roll-off, 15-20% reduction in cell to cell overlap
- Superior front to back ratio
- Low profile, low wind load for easy zoning
- Outstanding field record, with thousands of units deployed, world wide

ELECTRICAL

Frequency (MHz) :	806 - 896	870 - 960
Polarization :	Vertical	Vertical
Gain (dBd/dBi) :	13.1/15.2	13.3/15.4
Azimuth BW (Deg.):	65	65
Elevation BW (Deg.):	15	15
Beam Tilt (Deg.):	0	0
USLS* (dB) :	15	15
Front-To-Back Ratio* (dB) :	40	40
VSWR :	<1.5:1	<1.5:1
Max. Input Power (Watts) :	500	500
Impedance (Ohms) :	50	50
Lightning Protection :	DC Ground	DC Ground

MECHANICAL

Weight :	9.0 kg (20 lb)
Dimensions (LxWxD) :	1,219 x 521 x 229 mm (48 x 20.5 x 9 in)
Max. Wind Area :	0.40 m ² (4.3 ft ²)
Max. Wind Load (@ 100 mph) :	1,071.9 N (241 lbf)
Max. Wind Speed :	201 km/h (125 mph)
Hardware Material :	Galvanized Steel
Connector Type :	7-16 DIN - Female (1, Back)
Color :	Light Gray
Standard Mounting Hardware :	DB380
Standard Downtilt Mounting Hardware :	DB5083



Andrew Corporation
2601 Telecom Parkway
Richardson, Texas U.S.A 75082-3521
Tel: 214.631.0310

Fax: 214.631.4706
Toll Free Tel: 1.800.676.5342
Fax: 1.800.229.4706
www.andrew.com

* - Indicates Typical
6/21/2006
dbtech@andrew.com

Information correct at date of issue but may be subject to change without notice.

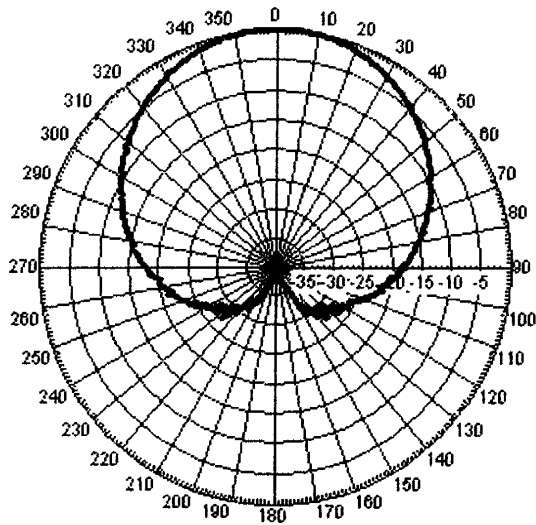


DB844H65E-XY

Directed Dipole Antenna

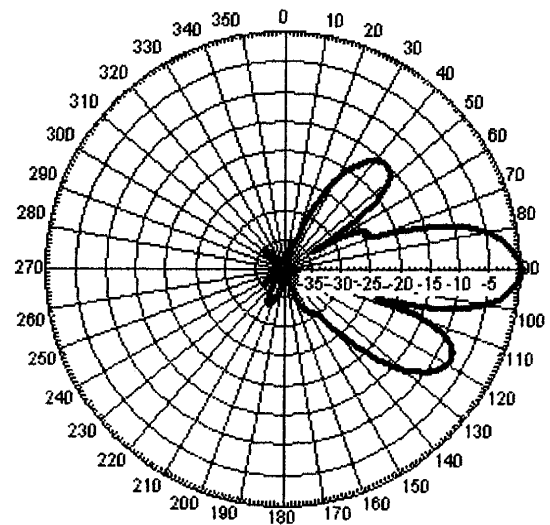
Decibel®
Base Station Antennas

AZIMUTH PATTERN



Freq: 835 MHz, Tilt: 0

ELEVATION PATTERN



Freq: 835 MHz, Tilt: 0



DB844G65ZAXY

Directed Dipole™ Antenna

Base Station Antenna
Directed Dipole™

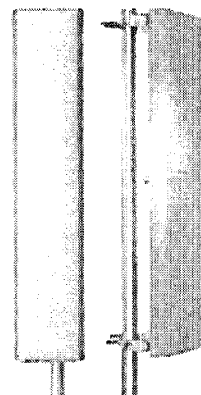
- Exceptional azimuth roll-off, reducing sector-to-sector interference and softer hand-offs
- Air dielectric feed system, no screws, rivets, welds or solder in RF element feed path
- Strong upper side lobe suppression
- Low profile appearance and low wind loading for easier zoning approvals

ELECTRICAL

Frequency (MHz) :	806 - 896	870 - 960
Polarization :	Vertical	Vertical
Gain (dBd/dBi) :	13.5/15.6	13.8/15.9
Azimuth BW (Deg.):	65	65
Elevation BW (Deg.):	15	15
Beam Tilt (Deg.):	0	0
USLS* (dB) :	15	15
Null Fill (dB) :	<20-25	<20-25
Front-To-Back Ratio* (dB) :	40	40
VSWR :	<1.33:1	<1.33:1
PIM3 @ 2 x 20w (dBc) :	-150	-150
Max. Input Power (Watts) :	500	500
Impedance (Ohms) :	50	50
Lightning Protection :	dc Ground	dc Ground

MECHANICAL

Weight :	5.4 kg (12 lb)
Dimensions (LxWxD) :	1,219 x 254 x 203 mm (48 x 10 x 8 in)
Max. Wind Area :	0.09 m ² (1 ft ²)
Max. Wind Load (@ 100 mph) :	235.7 N (53 lbf)
Max. Wind Speed :	241 km/h (150 mph)
Hardware Material :	Galvanized steel
Connector Type :	7-16 DIN Female (1, Back)
Color :	Light gray
Standard Mounting Hardware :	DB380
Standard Downtilt Mounting Hardware :	DB5083



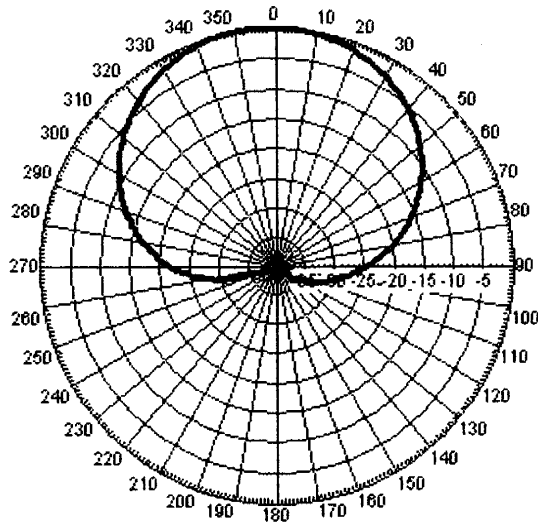


DB844G65ZAXY

Directed Dipole™ Antenna

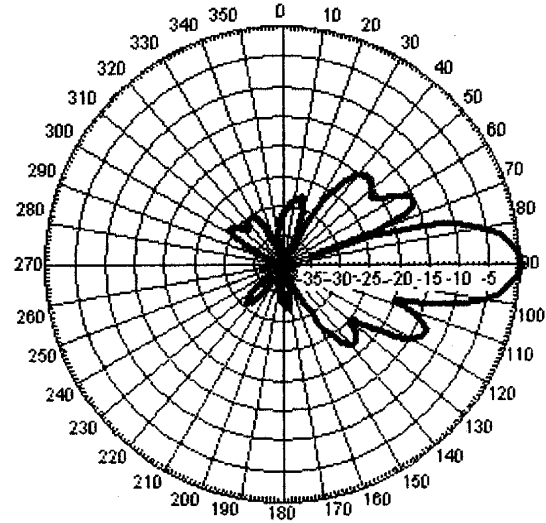
Base Station Antenna
Directed Dipole™

AZIMUTH PATTERN



Freq: 880 MHz, Tilt: 0

ELEVATION PATTERN



Freq: 880 MHz, Tilt: 0

Case File Number: CMDV10-221

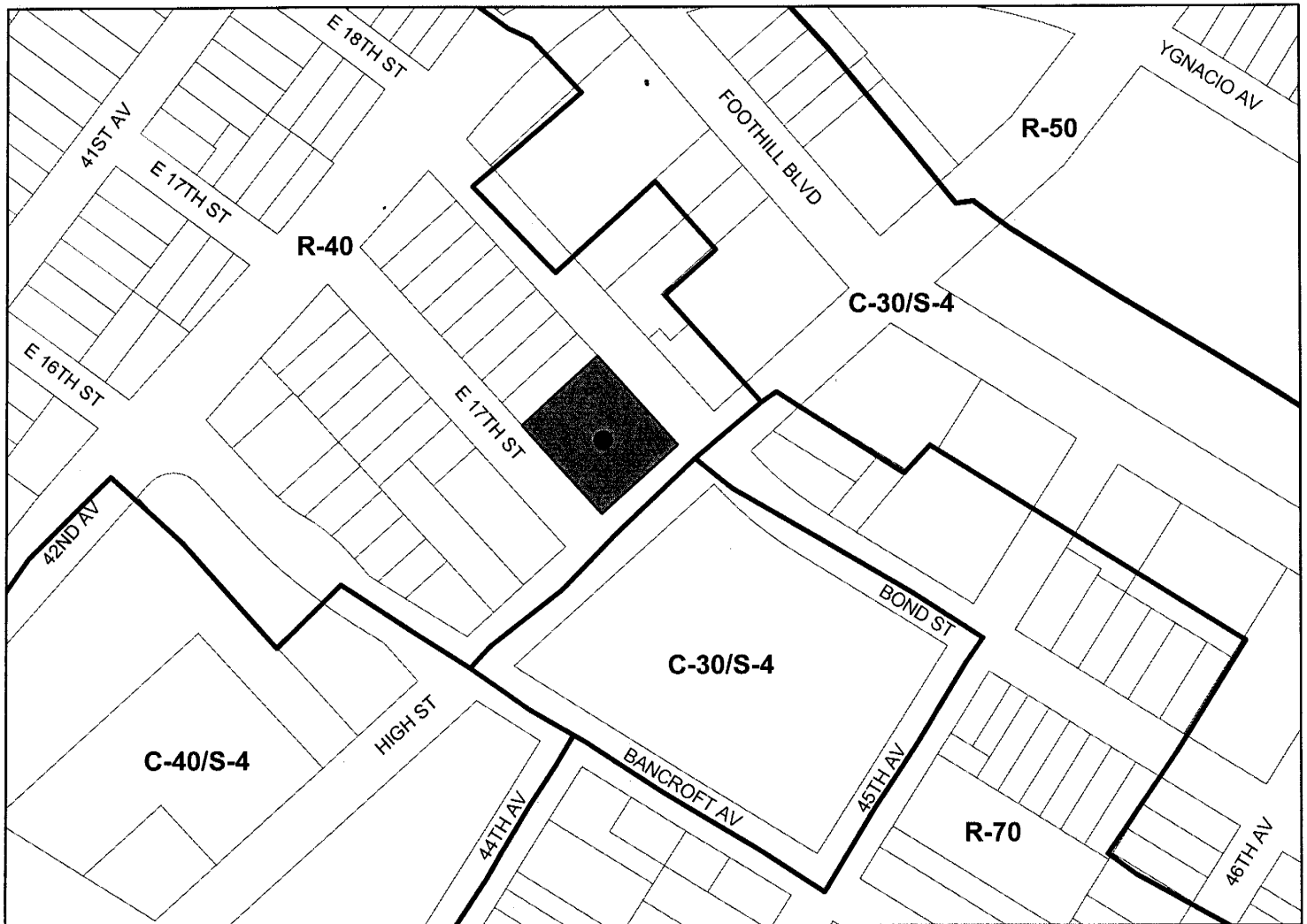
October 20, 2010

Location:	1715 High Street (See map on reverse)
Assessors Parcel Numbers:	(035-2352-013-00)
Proposal:	To install three (3) telecommunication antennas, three (3) internet services exchange point dishes, and one enclosed equipment cabinet at a site with 8 existing antennas for a total of 14 telecommunication antennas.
Applicant:	Clearwire, Michelle Weller
Contact Person/ Phone Number:	Michelle Weller (925)997-1312
Owner:	Paul W. Wang
Case File Number:	CMD10-221
Planning Permits Required:	Regular Design Review to install three (3) telecommunication antennas, four (4) internet services exchange point dishes, and enclosed equipment cabinet. Major Conditional Use Permit for the installation of a Macro telecommunication facility within 100 feet of a residential zone. Minor Variance for location (at height) of facility on the roof top.
General Plan:	Urban Residential and Detached Unit Residential
Zoning:	R-40 Garden Apartment Zone Regulations
Environmental Determination:	Exempt, Section 15301 of the State CEQA Guidelines; minor additions and alterations to an existing facility Exempt, Section 15183 of the State CEQA Guidelines; projects consistent with a community plan, general Plan or zoning.
Historic Status:	Not a Potential Designated Historic Property; Survey rating: X
Service Delivery District:	5
City Council District:	5
Date Filed:	8/11/10
Finality of Decision:	Appealable to City Council within 10 days
For Further Information:	Contact case planner Moe Hackett at (510) 238-3973 or mhackett@oaklandnet.com

SUMMARY

The following staff report addresses the proposal for a new unmanned wireless telecommunication facility located on the roof of an existing multi-family residential building with an associated equipment cabinet located in the basement of the building. The project site already contains 11 telecommunication antennas and associated basement located equipment cabinets and this project would add a further three (3) antennas and four (4) internet services exchange point dishes to the site for a total of 18 antennas. Given the number of antennas, this would be considered a "Macro" Telecommunications Facility. The site is a rectangular-shaped with street frontage facing on the three sides (High Street., Bond Street., and East 17th Street.). The site is in the R-40 Garden Apartment Zone Regulations. The General Plan designation for the site is Urban Residential, with a portion of Mixed Housing Type Residential towards the

CITY OF OAKLAND PLANNING COMMISSION



0 125 250 500 750 1,000 Feet



Case File: CMDV10-221
Applicant: Michelle Weller/Clearwire
Address: 1715 High Street
Zone: R-40

interior rear yard and rear property line (the area used as the facilities parking lot). The scope of work entails the installation of three (3) antennas and four (4) internet services exchange point dishes and the installation of one equipment cabinet (located within the basement) the antennas will be concealed within a newly created stealth roof-top penthouse structure. The new penthouse structure will be located near the buildings centerline (as seen from High St.) at the furthest distance from High Street (approximately 26 feet). The building is "U shaped" and this location is a further 49 feet from the rear wall of the building over all and 48 feet from the closest outer wall (facing Bond Street). This penthouse will be painted and textured to match the existing building

PROJECT DESCRIPTION

The applicant (Clearwire) is proposing a co-location for the installation of three (3) wireless telecommunication panel antennas and four (4) internet services exchange point dishes within a newly created stealth roof-top penthouse structure that will be painted and textured to match the existing building. This penthouse will be located on roof top of an existing multi-unit residential structure. Through conditions of approval the antennas shall be enclosed and/or painted and textured to match the existing building. The proposal for the equipment cabinet is to locate in the basement of the building. All proposed antennas and associated equipment will not be accessible to the public. (See Attachment A).

PROPERTY DESCRIPTION

The subject property is a through lot of approximately 23,543 square feet, with frontage on High Street., Bond Street., and East 17th Street. The subject property contains a multi-family unit residential facility (apartment building) with a rear parking lot. The parking is accessed from East 17th Street. Currently there is a Macro Telecommunication facility with separate telecommunication providers (AT & T and T-Mobile) on the property including 11 antennas and equipment cabinets in a portion of the buildings basement.

GENERAL PLAN ANALYSIS

The subject property is located within the Urban Residential and Mixed Housing Type Residential General Plan designations. The Urban Residential and Mixed Housing Type Residential land use classifications are intended to identify, create, maintain and enhance an area appropriate for multi-unit, mid-rise, or high-rise residential structures in locations with good access to public transit. The proposed unmanned wireless telecommunication facility will not adversely affect and detract from the residential or commercial characteristics of the neighborhood. The antennas will be mounted on the existing apartment building and visual impacts will be mitigated since the antennas will be enclosed and/or painted and textured to match the existing building. General Plan Policy N9.9 states that the City encourages rehabilitation efforts which respect the architectural integrity of a building's original style. The proposed project will have very minimal effect on the existing building.

ZONING ANALYSIS

The subject property is located within the R-40 Garden Apartment Zone Regulations. The R-40 zone is intended to create, preserve, and enhance areas for single or two-family dwellings and

garden apartments in spacious settings usually associated or low to medium residential density. The existing apartment building at 33 units exceeds prescribed zoning density by approximately three times what would normally be allowed (by conditional use permit), however this use was established in approximately 1929 and is legal non-conforming. The proposal is for a new unmanned wireless telecommunication facility on an existing Multi-Family Residential Facility and requires a Major Conditional Use Permit since the project is within a residential zone.

This proposal also requires a Minor Variance due to the location and height of the new penthouse. The penthouse screening structure would consist of a 6-foot structure that would be placed on top of an existing 7-foot tall stair tower. This projection would require a corresponding 6-foot setback from the edge of the roof parapet wall (Per Section 17.128.070(b), 6) where a 1:1 ratio of height to setback distance is required). This proposal would create a zero-foot set back from the parapet wall. The new penthouse projection would be 50 feet above ground level. The existing structure is 37 feet high at the parapet wall and as much as 46 feet at the tops of existing roof top projection where the other cellular equipment is located. The height allowed under Section 17.108.030(B) would be 42 feet upon the granting of a Conditional Use Permit therefore a minor variance is required to allow for the proposed 50-foot height. Staff finds that the proposed application meets applicable R-40 zoning and City of Oakland Telecommunication regulations.

ENVIRONMENTAL DETERMINATION

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

KEY ISSUES AND IMPACTS

1. Conditional Use Permit

Section 17.46.080 of the City of Oakland Planning Code requires a conditional use permit to install or modify an existing Macro Telecommunication facility in the R-40 zone. Furthermore, Section 17.134.020 of the Planning Code defines such facilities that are in or within 100' of a residential zone as Major Conditional Use Permits and subject to Planning Commission approval.

2. Minor Variance

Section 17.148.010 of the City of Oakland Planning Code requires a variance to allow for the relaxation of any substantive provision of the zoning regulations. This proposal will require the relaxation of Section 17.128.070(b), 6 (for the location on the roof top less than a 1:1 ratio set back from the parapet, and Section 17.17.22.130(A) (for the maximum height of a building without a pitched roof in the R-40 Zone of 25 feet). Furthermore, the setback in question is actually in the center of the buildings' mass but due to the "U" shape it actually sits adjacent to one of the walls. However from most angles the antenna structure will meet the regulations and it is really only due to the design of the structure that a Variance is triggered. Given the site

condition of the existing building and the fact that the antennas appear to conform staff believes the findings can be met.

3. Project Site

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

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

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

Since the proposed project involves co-locating the installation of new antennas and associated equipment cabinets on an existing facility, the proposed project meets (A) co-locating on an existing structure or facility with existing wireless antennas.

4. 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 a site design alternatives analysis. Facilities designed to meet a C through F ranked preference, inclusive, must submit a site design alternatives analysis as part of the required application materials. A site design alternatives analysis shall, at a minimum, consist of:

- a. Written evidence indicating why each higher preference design alternative can not be used. Such evidence shall be in sufficient detail that independent verification could be obtained if required by the City of Oakland Zoning Manager. Evidence should indicate if the reason an alternative was rejected was technical (e.g. incorrect height, interference from existing RF sources, inability to cover required area) or for other concerns (e.g. inability to provide utilities, construction or structural impediments).

City of Oakland Planning staff have reviewed and determined that the site selected is conforming to all other telecommunication regulation requirements. The project has met design criteria (A) since the antennas and/or dishes shall be mounted completely concealed behind an enclosure with paint and texture to match the existing building. Furthermore, to mitigate visual impacts the antennas will be mounted approximately 44 – 47 feet above the public right of way. The associated equipment cabinet will have no visual impact since the equipment will be placed in the basement of the building.

5. 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.

The applicant states that the proposed project meets the radio frequency (RF) emissions standards as required by the regulatory agency. Submitted with the initial application was a RF emissions report, prepared by TRK Engineering (**attachment B**). 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 that prior to the final building permit sign off, the applicant submits certified RF emissions report stating that the facility is operating within acceptable thresholds established by the regulatory federal agency.


CONCLUSION

The addition of new antennas to existing Telecommunications facilities is common and such co-location is often encouraged. Staff believes that the findings for approval can be made to support the Conditional Use Permit, Minor Variance, and Design Review. City of Oakland planning staff recommends the Planning Commission approve the project.

RECOMMENDATIONS:

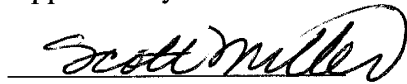
1. Affirm staff's environmental determination and
2. Approve Conditional Use Permit, Minor Variance, and Design Review application CMD10-221 subject to the attached findings and conditions of approval.

Prepared by:



Moe Hackett
Planner II

Approved by:



Scott Miller
Zoning Manager

Approved for forwarding to the
City Planning Commission



Eric Angstadt, Deputy Director
Community & Economic Development Agency

ATTACHMENTS:

- A. Project Plans & Photo simulations
- B. TRK Engineering RF Emissions Report

FINDINGS FOR APPROVAL**FINDINGS FOR APPROVAL:**

This proposal meets all the required findings under Section 17.134.050, of the General Use Permit criteria; all of the finding under Section 17.148.050, of the Variance Procedures, all the required findings under Section 17.136.050.(B), of the Non-Residential Design Review criteria; all the required findings under Section 17.128.070(B), of the telecommunication facilities (Macro) Design Review criteria; and all the required findings under Section 17.128.070.(C), of the telecommunication facilities (Macro) Conditional Use Permit criteria; and as set forth below and which are required to approve your application. Required findings are shown in **bold** type; reasons your proposal satisfies them are shown in normal type.

SECTION 17.134.050 – GENERAL USE PERMIT FINDINGS:

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 proposed telecommunications antennas will be co-located within a new penthouse on the roof top of an existing building and will not adversely affect the operating characteristic or livability of the existing area. The facility will be unmanned and will not create additional vehicular traffic in the area.

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 proposal is a Telecommunications Facility on the roof of a residential building. It meets this finding by co-locating with existing carriers, reducing the need for more telecommunications facilities on other nearby properties. The equipment and antennas have been screened to match the building and such stealthing will help this facility blend in with the building and surroundings and make this facility more attractive than just normal antennas.

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.

D. That the proposal conforms to all applicable design review criteria set forth in the DESIGN REVIEW PROCEDURE of Chapter 17.136 of the Oakland Planning Code.

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 General Plan and with any other applicable plan or development control map which has been adopted by the City Council.

The proposal conforms in all significant aspects with the Oakland General Plan and with any other applicable plan or zoning maps adopted by the City of Oakland. The proposed macro-telecommunication facility in the Urban Residential Use General Plan designation will enhance and improve communication service for a mixture of residential, civic, commercial and institutional uses in the area.

17.148.050 - VARIANCE CRITERIA:

- A) Strict compliance with the specified regulations would result in practical difficulty or unnecessary hardship inconsistent with the purpose of the Zoning Regulations, due to unique physical or topographic circumstances or conditions of design; or, as an alternative in the case of a minor variance, that such strict compliance would preclude an effective design solution improving livability, operational efficiency, or appearance:**

The proposed design will co-locate 7 new telecommunication antennas (3 panels and 4 dishes) in a new penthouse on the roof top of an existing multi-unit residential structure. The setback in question is actually in the center of the buildings' mass but due to the "U" shape it actually sits adjacent to one of the walls. However from most angles the antenna structure will meet the regulations and it is really only due to the design of the structure that a Variance is triggered. Given the site condition of the existing building and the fact that the antennas appear to conform staff believes the findings can be met.

- B) Strict compliance with the regulations would deprive the applicant of privileges enjoyed by owners of similarly zoned property; or as an alternative in the case of a minor variance, that such strict compliance would preclude an effective design solution fulfilling the basic intent of the applicable regulation:**

The setback in question is actually in the center of the buildings' mass but due to the "U" shape it actually sits adjacent to one of the walls. However from most angles the antenna structure will meet the regulations and it is really only due to the design of the structure that a Variance is triggered. Given the site condition of the existing building and the fact that the antennas appear to conform staff believes the findings can be met.

- C) The variance, if granted, will not adversely affect the character, livability, or appropriate development of abutting properties or the surrounding area, and will**

not be detrimental to the public welfare or contrary to adopted plans or development policy:

The setback in question is actually in the center of the buildings' mass but due to the "U" shape it actually sits adjacent to one of the walls. However from most angles the antenna structure will meet the regulations and it is really only due to the design of the structure that a Variance is triggered. Given the site condition of the existing building and the fact that the antennas appear to conform staff believes the findings can be met.

D) The variance will not constitute a grant of special privilege inconsistent with limitations imposed on similarly zoned properties or inconsistent with the purposes of the Zoning Regulations:

The proposed stealth collocation of new antennas on a 37 to 46-foot tall existing building is in character with the residential and commercial nature of the area. It offers a minimal noticeable change to the existing facility. The expansion of a single exiting rooftop projection is preferable to multiple new rooftop projections or bulky wall mounted antenna boxes. In this case a height variance and an allowance to locate directly at the edge of the rear facing parapet is a suitable solution due to the unusual building configuration which will ensure the project conforms to the regulation from most angles. As such, this proposal is consistent with the R-40 Garden Apartment Zone Regulations and does not constitute any special privilege.

E) That the elements of the proposal requiring the variance (e.g. elements such as buildings, walls, fences, driveways, garages and carports, etc.) conform with Regular Design review Criteria set forth in the design review procedures at section 17.136.050:

This proposal meets Design Review criteria due to the use of materials to stealth the antennas and make them appear as something other than a Telecommunications facility. This site (and structure) also has existing design features that lend to the proposed stealth penthouse. The deep rear setback of over 100 feet (from neighboring residential properties) and "u" shaped building floor plate allows for the penthouse to be screened from view as seen from High Street, Bond Street, and Eats 17th Street, and to be removed visually removed from view by existing houses to the rear. The penthouse will be painted and textured to match the existing structure. The proposed penthouse height and location offers the best design option for this project.

F) For proposals involving one or two residential dwelling units on a lot: That, if the variance would relax a regulation governing maximum height, minimum yards, maximum lot coverage or building length along side lot lines, the proposal also conforms with at least one of the following criteria:

The proposal when viewed in its entirety will not adversely impact abutting residences to the side, rear, or directly across the street with respect to solar access, view blockage and privacy to a degree greater than that which would be possible if the residence were built according to the applicable regulation and, for height variances, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height:

-OR-

Over 60 percent of the lots in the immediate vicinity are already developed and the proposal does not exceed the corresponding as-built condition on these lots and, for height variances, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by additional height. The immediate context shall consist of the five closest lots on each side of the project site, plus ten closest lots on the opposite side of the street (see illustration I-4b); however, the Director of City Planning may make an alternative determination of immediate context based on specific site conditions. Such determination shall be in writing and included as part of any decision on any variance.

The proposed is not for one or two residential structure. This finding does not apply.

17.136.050(B) – NONRESIDENTIAL DESIGN REVIEW CRITERIA:

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

The proposal is the addition to a macro telecommunications facility which includes the addition of three (3) panel antennas and four (4) internet services exchange point dishes mounted within a new penthouse at the roof of the existing building and one equipment cabinet, located in the basement. The six (7) proposed antennas and dishes are consistent and well related to the surrounding area in scale, bulk, height, materials, and textures. The antennas will also be located approximately 47 feet above, and 27 feet (approximate) away from the public right of way.

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

The design will be appropriate and compatible with current zoning and general plan land use designations. The proposal protects and preserves the surrounding neighborhood context by adding additional wireless telecommunication antennas to a commercial and residential area. The antennas will be concealed from public view and will not have any visual impact on the neighborhood.

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

The proposal conforms with the City of Oakland Comprehensive General Plan meeting specific General Plan policies and the Supplemental Report and Recommendations on Revisions to the

Citywide Telecommunications Regulations. The proposal will conform to performance standards for noise set forth in Section 17.120.050 for decibels levels in residential areas for both day and nighttime use. The Project conforms to all macro-facility definitions set forth in Section 17.128.070 and meets all design review criteria to minimize all impacts throughout the neighborhood

17.128.070(B) DESIGN REVIEW CRITERIA FOR MACRO FACILITIES

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

The proposed antennas will be completely concealed from public view behind a screening enclosure and/or painted and textured to match the existing structure and located at the roof top of an existing 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 addition of the antennas and dishes to the existing building will be mounted behind screening enclosure on the roof with the size, placement, configuration, materials, texture, and color to be submitted to the Planning and Zoning division for review and approval prior to the issuance of a building permit.

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

The proposed antennas shall be mounted behind enclosures with the size, placement, configuration, materials, texture, and color to be submitted to the Planning and Zoning division for review and approval prior to the issuance of a building permit. The cable trays shall be painted to match the color of the building.

4. Equipment shelters or cabinets shall be screened from the public view by using landscaping, or materials and colors consistent with surrounding backdrop:

The equipment will be in the basement of the building and will not be visible from the street.

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

The equipment will be located in the basement and will not be visible from the street.

6. For antennas attached to the roof, maintain a 1:1 ratio for equipment setback; screen the antennas to match existing air conditioning units, stairs, or elevator towers; avoid placing roof mounted antennas in direct line with significant view corridors.

The proposed antennas and dishes will be co-located on the roof top in a new penthouse designed to screen the facilities. The penthouse will be located in the center of the existing buildings roof and shall be textured and painted to match the existing building. Due to the depth of the lot, the shape of the building, and the stealth design characteristics the less than 1:1 ratio dose not hinder the proposal (as described in the Variance Finding above).

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

The antennas will be mounted to the roof and will not be accessible to the public due to its location. The equipment will be located in the basement of the building and will not be visible or accessible to the public.

Section 17.128.070(C) CONDITIONAL USE PERMIT (CUP) FINDINGS FOR MACRO FACILITIES

1. The project must meet the special design review criteria listed in subsection B of this section (17.128.070B):

The proposed project meets the special design review criteria listed in section 17.128.070B, and the required Variance finding.

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

Due to the proposed project co-locating with other existing telecommunication antennas and equipment, it will not disrupt the overall community character of the site.

CONDITIONS OF APPROVAL
CMD10-221

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, **CMD10-221**, and the revised plans submitted on **October 12, 2010** 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 installation of a macro telecommunications facility located on the roof of an existing building at 1715 High Street (APN: 035-2352-013-00), under Oakland Municipal Code 17.128, 17.136 and 17.134.**

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

4. Conformance with other Requirements

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

a) The project applicant shall comply with all other applicable federal, state, regional and/or local laws/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. Compliance with other applicable requirements may require changes to the

approved use and/or plans. These changes shall be processed in accordance with the procedures contained in Condition of Approval #3.

- 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, elevated walking pathways, safety railings, emergency access and lighting.

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) Violation of any term, **Conditions of Approval** or **project description** relating to the **Conditions of Approval** 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 of approval** if it is found that there is violation of any of the **Conditions of Approval** 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. The project applicant shall be responsible for paying fees in accordance with the City's Master Fee Schedule for inspections conducted by the City or a City-designated third-party to investigate alleged violations of the Conditions of Approval.

6. Signed Copy of the Conditions of Approval

Ongoing

A copy of the approval letter and **Conditions of Approval** 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 of Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and

the Letter of Agreement shall survive termination, extinguishment or invalidation of the approval. Failure to timely execute the Letter of 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 of Approval**, and if one or more of such **Conditions of Approval** is found to be invalid by a court of competent jurisdiction, this Approval would not have been granted without requiring other valid **Conditions of Approval** consistent with achieving the same purpose and intent of such Approval.

10. Landscape Maintenance.

Ongoing

All new landscaping shall be permanently maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with applicable landscaping requirements.

11. Operational Noise-General

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.

PROJECT SPECIFIC CONDITIONS FOR TELECOMMUNICATIONS FACILITIES

12. Sinking Fund for Facility Removal or Abandonment.

Prior to the issuance of building permit.

The applicant shall provide proof of the establishment of a sinking fund to cover the cost of removing the facility if it is abandoned within a prescribed period. The word “abandoned” shall mean a facility that has not been operational for a six (6) month period, except where non-operation is the result of maintenance or renovation activity pursuant to valid City permits. The sinking fund shall be established to cover a two-year period, at a financial institution approved by the City’s Office of Budget and Finance. The sinking fund payment shall be determined by the Office of Budget and Finance and shall be adequate to defray expenses associated with the removal of the telecommunication facility.

13. Emissions Report

Prior to a final inspection

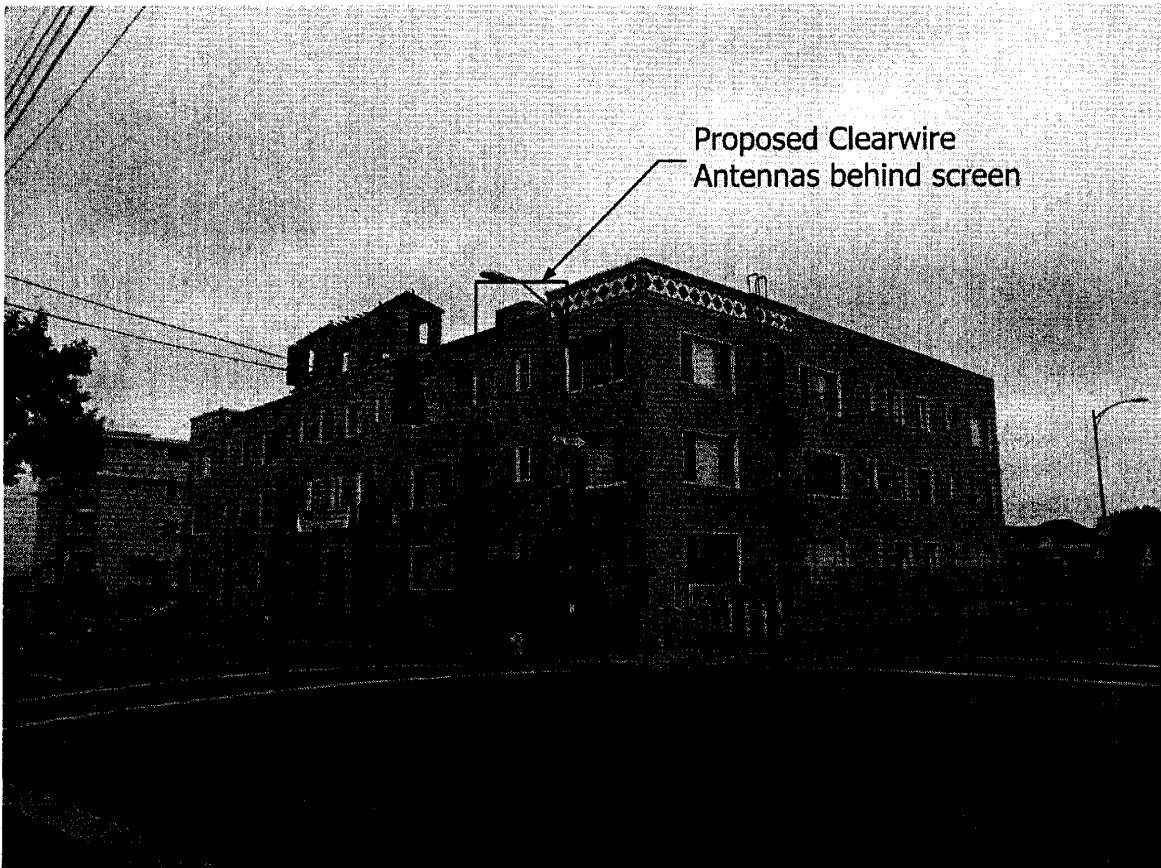
The applicant shall provide an RF emissions report to the City of Oakland Zoning Division indicating that the site is actually operating within the acceptable thresholds as established by the Federal government or any such agency that may be subsequently authorized to establish such standards.

Existing

October 12, 2010



Proposed



East Elevation

CA-SFO0857A
High Street Apartment Building

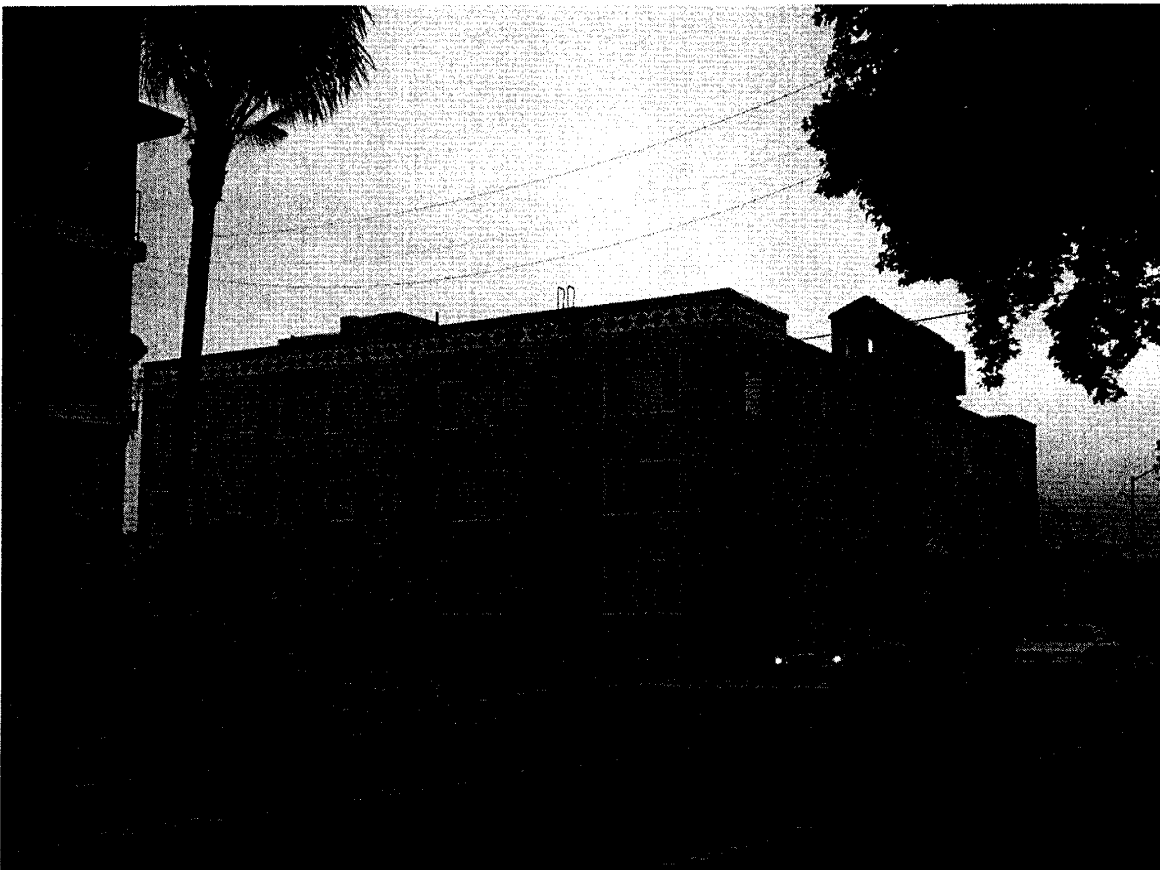


Existing

October 12, 2010



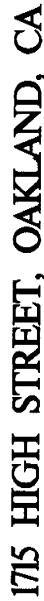
Proposed



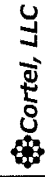
(Antennas Not Visible)
South Elevation

CA-SFO0857A
High Street Apartment Building





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PROJECT NO. 1040-0046

DRAWN BY: K.B.

CHECKED BY: P.H.

CAD FILE: 1040-0046.dwg

SUBMITTALS

1	REV	DATE	REVISION
1	REV	01/11/2010	REVISED PER CITY
2	REV	01/11/2010	REVISED PER CITY
3	REV	01/11/2010	REVISED PER CITY

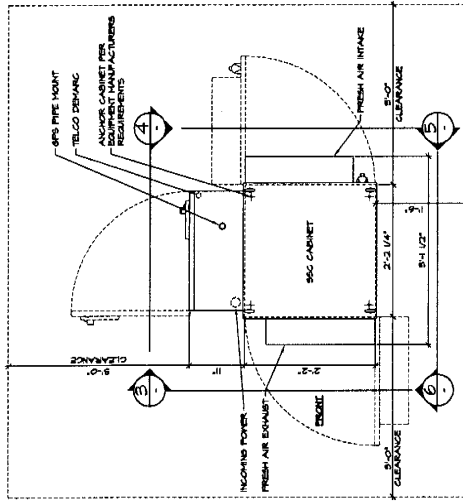
THE INFORMATION CONTAINED IN THIS SET OF DRAWINGS IS THE PROPERTY OF TRK ENGINEERING. IT IS TO BE USED FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED. NO PART OF THIS DRAWING IS TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT PERMISSION IN WRITING FROM TRK ENGINEERING.

A/E SEAL

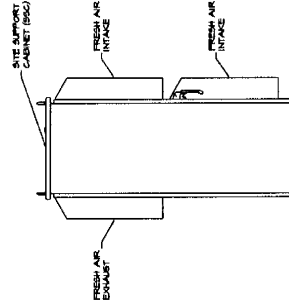
WTE
HIGH STREET ART.
BUILDING
CA-SF000357A
1715 HIGH STREET
OAKLAND, CA

EQUIPMENT DETAILS

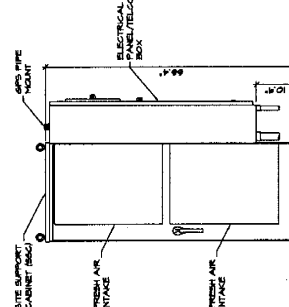
SHEET NUMBER
A-4



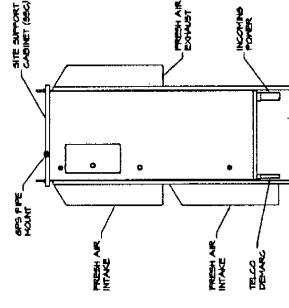
2 SSC EQUIPMENT LAYOUT
1/2" = 1'-0"



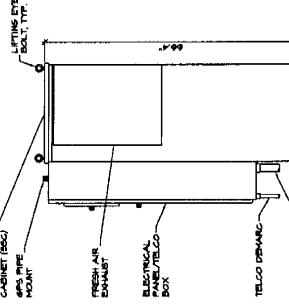
6 SSC EQUIPMENT ELEVATION
3/8" = 1'-0"



5 SSC EQUIPMENT ELEVATION
3/8" = 1'-0"

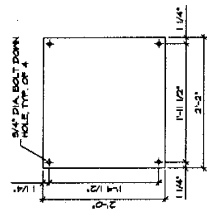


4 SSC EQUIPMENT ELEVATION
3/8" = 1'-0"



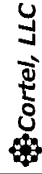
3 SSC EQUIPMENT ELEVATION
3/8" = 1'-0"

OUTDOOR CABINET	
OUTDOOR SITE SUPPORT CABINET	
WEIGHT = 180 LBS	
CABINET DIMENSIONS 50.25" x 27.5" x 47.5"	
MIN. CLEARANCES	
CABINET REAR	36"
CABINET FRONT	36"
CABINET RIGHT SIDE	18"
CABINET LEFT SIDE	36"
CABINET TOP	36"
CABINET BOTTOM	36"



1 CABINET BASE
1/2" = 1'-0"

clearw're
400 CABELL CT., RIVERLAND, WA



TRK
ENGINEERING

3021 E. 7TH AVE
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TULSA, OK 74106
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PROJECT NO: 1040-0048

DRAWN BY: K.B.

CHECKED BY: P.H.

CAD FILE: 1040-0048.dwg

SUBMITTALS

1. DTD 10/10/10
2. REV 10/10/10
3. REV 10/10/10
4. REV 10/10/10

NO INFORMATION CONTAINED IN THIS SET OF DRAWINGS IS TO BE USED FOR ANY OTHER PROJECT WITHOUT THE WRITTEN PERMISSION OF TRK ENGINEERING.

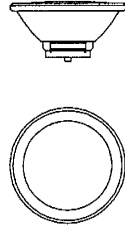
AS BUILT

WTE
HIGH STREET APT.
BUILDING
CA-SFO085TA
1715 HIGH STREET
OAKLAND, CA

ASSET FILE
ANTENNA DETAILS

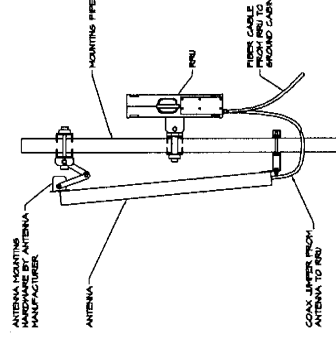
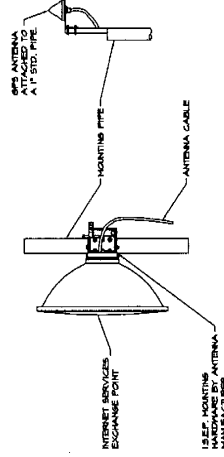
SHEET NUMBER

A-5

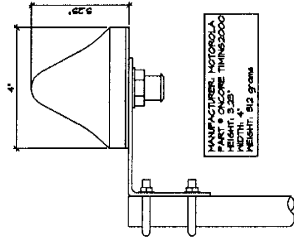


MANUFACTURER: AMERON
DIAMETER: 8.5"
DEPTH: 1.5"
WEIGHT: 1.5 LB

3. ISEP. SPECIFICATION
N.T.S.

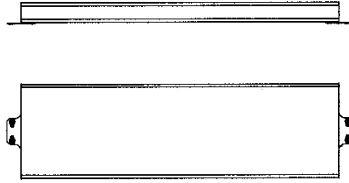


6. GENERIC ANTENNA MOUNTING DETAIL
N.T.S.



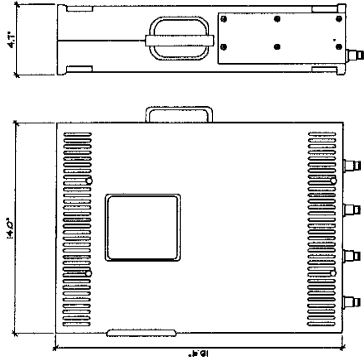
MANUFACTURER: MOTOROLA
DIAMETER: 8.5"
DEPTH: 1.5"
WEIGHT: 1.5 LB

2. GPS SPECIFICATION
N.T.S.



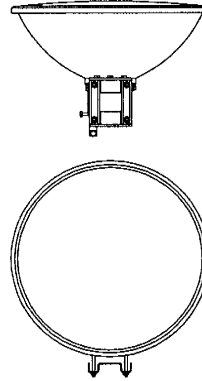
MANUFACTURER: KATHREIN
DIAMETER: 8.5"
DEPTH: 1.5"
WEIGHT: 1.5 LB

5. ANTENNA SPECIFICATION
N.T.S.



LENGTH: 18.4"
WIDTH: 14.0"
DEPTH: 4.0"
WEIGHT: 18.0 LB
SUNSHINE MOUNTING BRACKET

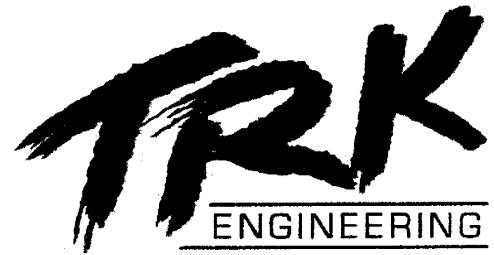
4. ISEP. SPECIFICATION
N.T.S.



MANUFACTURER: AMERON
DIAMETER: 8.5"
DEPTH: 1.5"
WEIGHT: 1.5 LB

4. ISEP. SPECIFICATION
N.T.S.

Legend	
	POWER POLE
	RETAINING WALL
	CONCRETE FOUNDATION
	PROPERTY LINE
	DRAINAGE
	GATE
	VENT
	BUMP ANTENNA
	POWER ANTENNA
	CHAIN LINK FENCE
	WOOD FENCE
	METAL FENCE
	ASPHALT/PAVED
	GRASS
	COLUMN
	PORCH STAIRCASE
	NATURAL GRADING
	TOP OF CURB
	TOP OF STRUCTURE
	TOP OF PADMOUNT



**FEDERAL COMMUNICATIONS COMMISSION (FCC)
COMPLIANCE STUDY ON
RADIO FREQUENCY
ELECTROMAGNETIC FIELDS EXPOSURE**

Prepared for:

clearw're
wireless broadband

**CA-SFO0857A
HIGH STREET APT. BUILDING
1715 HIGH STREET
OAKLAND, CA**

AUGUST 06/10, REV. 0

SITE DESCRIPTION:

Carrier:	Clearwire wireless broadband
Site Address:	1715 High Street, Oakland, CA
Type of Service:	MMDS (Multichannel Multipoint Distribution Service)
Sectors:	0°, 120°, 240°
Antenna Type:	Kathrein 840 10054
Number of Antennas:	3
Frequencies (GHz):	2.5 – 2.7
Maximum Power:	969 W ERP (per sector)
Antenna Height:	47'-10"± and 40'± (radiation center AGL)

Table 1. Clearwire RF summary

Clearwire is proposing to construct a wireless broadband facility on an existing 3-story apartment building at the above address (Figure 1). Three panel antennas with horizontal beam width of 87° will be mounted behind screens at two locations on the rooftop. A site support cabinet will be installed in the basement. Access to the facility is restricted to authorized personnel only.

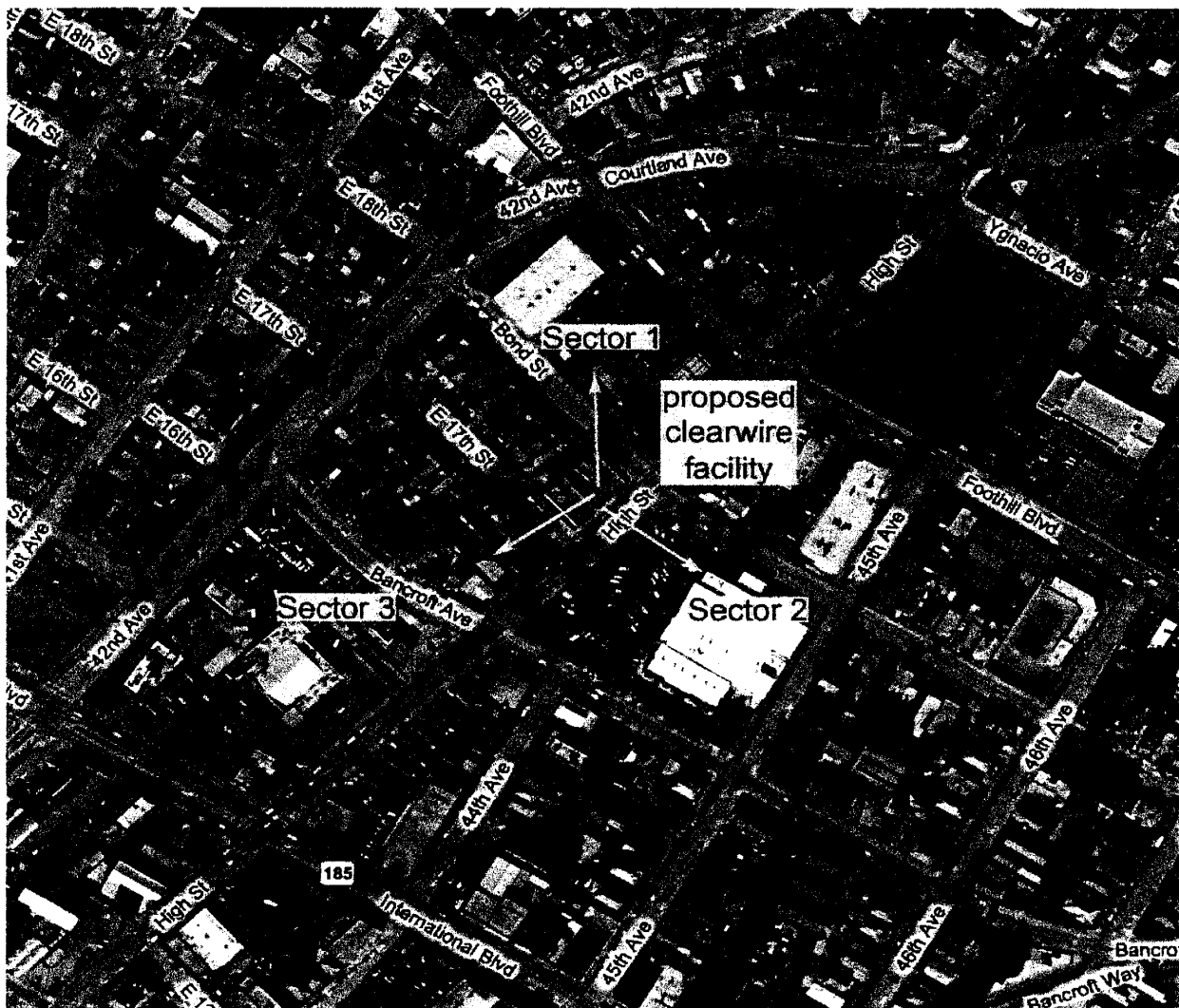


Figure 1. Facility and surrounding area

Clearwire also proposes to install dish antennas or Internet Service Exchange Points (ISEP) behind screens on the rooftop. The RF power outside the main beam of these ISEP antennas is insignificant compared to the panel antennas (see calculations in Appendix A).

There are two other existing wireless communication facilities with separately screened panel antennas installed on the rooftop. The RF summaries for the facilities are shown in the following Tables.

Carrier:	AT&T
Type of Service:	1900 MHz & 850 MHz GSM/UMTS
Antenna Quantity:	i) 3 (1 per sector) ii) 3 (1 per sector)
Antenna Type:	i) Katherine 742 264 ii) Andrew TBXLHB-6565A-VTM
Maximum Power:	500 W (<i>Maximum ERP per technology, per sector</i>)
Antenna Height:	40'± (<i>Radiation center AGL</i>)

Table 2. AT&T RF summary

Carrier:	T-Mobile
Type of Service:	1900 MHz GSM/UMTS
Antenna Quantity:	5 (2 + 2 + 1)
Antenna Type:	RFS APXV16DWV-16DWVS-E-A20
Maximum Power:	1000 W (<i>Maximum ERP per technology, per sector</i>)
Antenna Height:	40'± (<i>Radiation center AGL</i>)

Table 3. T-Mobile summary

PROTOCOL:

This study, and the calculations performed therein, is based on OET Bulletin 65¹ which adopts ANSI C95.1-1992 and NCRP standards. In particular, equation 10 from section 2 of the guideline is used as a model (in conjunction with known antenna radiation patterns) for calculating the power density at different points of interest. This information will be used to judge the RF exposure level incident upon the general population, and any employee present in the area. It should be noted that ground reflection of RF waves has been taken into account.

FCC'S MAXIMUM PERMISSIBLE EXPOSURE (MPE) LIMIT:

In order to evaluate the RF exposure level, the power densities at different locations of interest have been examined. Equation 10 from Bulletin 65 is reproduced here as equation 1:

$$S = \frac{33.4F^2ERP}{R^2} \quad (1)$$

Where: S = Power density [$\mu\text{W}/\text{cm}^2$]
 ERP = Effective radiated power [W]
 R = Distance [m]
 F = Relative field factor (relative numeric gain)

¹ Cleveland, Robert F, et al. Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields. OET Bulletin 65, Edition 97-01, August 1997.

Scenario 1: Standing near the facility on street level

The RF exposure level of a six-foot tall person standing on street level close to the building is evaluated. For the worst-case scenario, we assume that all the antennas are transmitting the maximum number of channels at the same time, with each channel at its maximum power level. In addition, the azimuths of the antennas of all carriers are assumed to be in the direction of the studied location. Please refer to scenario 1 in appendix A for the complete geometry and analysis. The highest exposure location is found to be approximately 34' from the building. The calculations of maximum cumulative power density are summarized in Table 4.

Service	Max. ERP	F ²	R (m)	S (μW/cm ²) (from eq. 1)	MPE %
clearwire (panel)	969 W	-30 dB (0.0010)	14.7	0.1498	0.0150
clearwire ISEP	100 W	-42 dB (0.0001)	16.6	0.0012	0.0001
AT&T 1900 MHz	1000 W	-16 dB (0.0251)	14.7	3.8796	0.3880
AT&T 800 MHz	1000 W	-15 dB (0.0316)	14.7	4.8843	0.8421
T-Mobile	1000 W	-22 dB (0.0063)	14.7	0.9738	0.0974
Total					1.3426

Table 4. Worst-case predicted power density values for scenario 1.

The Maximum Permissible Exposure (MPE) limit for 1900 MHz and 2500 MHz facilities² for general population/uncontrolled exposure is 1000 μW/cm², and 580 μW/cm² for 850 MHz facilities³. The maximum cumulative power density for the proposed and existing antennas is calculated to be 1.3% of the MPE limit.

Scenario 2: Nearby building rooftops

There are various types of buildings in the surrounding area. The RF exposure levels on nearby rooftops are evaluated. We assume again, all antennas within a sector are transmitting with maximum power level. Please refer to scenario 2 in appendix A for the analysis. The highest exposure location is on the nearest building southwest of the subject building. The calculations for the maximum possible power density are summarized in Table 5.

Service	Max. ERP	F ²	R (m)	S (μW/cm ²) (from eq. 1)	MPE %
clearwire (panel)	969 W	-2 dB (0.6310)	39.7	12.9574	1.2957
clearwire ISEP	100 W	-23 dB (0.0050)	39.7	0.0106	0.0011
AT&T 1900 MHz	1000 W	0 dB (1.0000)	39.6	21.2988	2.1299
AT&T 800 MHz	1000 W	0 dB (1.0000)	39.6	21.2988	3.6722
T-Mobile	1000 W	0 dB (1.0000)	39.6	21.2988	2.1299
Total					9.2288

Table 5. Worst-case predicted power density values for scenario 2.

The maximum cumulative power density for the Clearwire antennas and the existing antennas is calculated to be 9.2% of the MPE limit. There is a relatively low level of RF energy directed either above or below the horizontal plane of the antennas, and there are no locations in the surrounding areas near the facilities that will have RF exposure levels close to the MPE limit.

² Ibid., page 67. are shown

³ Ibid., page 67.

Scenario 3: Facility rooftop

Only authorized or trained persons will be permitted to access the rooftop and the antennas. The radiation center of the proposed Clearwire's sector 1 antenna is approximately 10'-8" from the roof deck. There are locations where a six-foot tall person may be exposed partially within the main beam path of this antenna. In this situation, the occupational/controlled exposure limits will apply, as long as the exposed person has been made fully aware of the potential for the exposure.

The RF exposure level of different locations on the rooftop is evaluated. Please refer to scenario 3 in appendix A for the analysis. The highest exposure location on the facility rooftop is approximately 8' in front of the sector 1 antenna. The calculations for the maximum possible power density are shown in Table 6.

Service	Max. ERP	F ²	R (m)	S (μW/cm ²) (from eq. 1)	MPE %
clearwire (panel)	969 W	-15 dB (0.0316)	2.9	121.6078	2.4322
Clearwire ISEP	100 W	-42 dB (0.0001)	3.0	0.0371	0.0007
Total					2.4329

Table 6. Worst-case predicted power density values for scenario 3.

The MPE limit for 2500 MHz facility⁴ for occupational/controlled exposure is 5 mW/cm². The maximum power density for the Clearwire antennas is calculated to be 2.4% of the occupational MPE limit.

Scenario 4: Facility rooftop (areas in front of the Sector 3 Antenna)

There is a small area on the penthouse rooftop in front of the proposed Clearwire's sector 3 antenna. Under worst-case conditions, this area will have the power density exceeding the occupational/controlled MPE limit. Please refer to scenario 4 in appendix A for the calculations.

⁴ Ibid., page 67.

Conclusion:

Under "worst-case" conditions, the calculations shown above predict that the maximum possible RF exposure is 9.2% of the MPE limit for general population/uncontrolled exposure. There will be less RF exposure on the ground level or nearby buildings as a person moves away from the site. Therefore, the proposed Clearwire facility and the existing facilities will comply with the general population/uncontrolled limit.

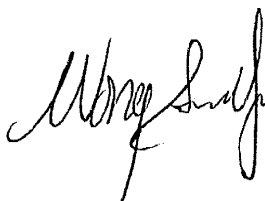
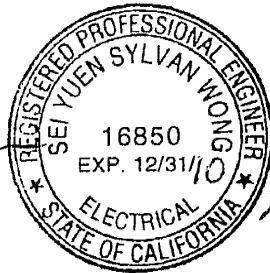
For occupational/controlled exposure to trained persons or transient workers working on the rooftop in front of Clearwire's sector 1 antenna, the maximum possible RF exposure is 2.4% of the MPE limit. Also, an RF exclusion zone should be maintained on the penthouse roof. RF exposure warning signage should be posted within the compound and near the antennas. This will make trained persons or transient workers fully aware of the potential for RF exposure when there is a necessity to work near the antennas, and allow them to exercise control over their exposure that is within the occupational/controlled limit.

FCC COMPLIANCE:

The general population/uncontrolled exposure near the antennas, including persons on the street level, in nearby open areas, and inside or on existing nearby buildings will have RF exposure much lower than the "worst-case" scenario, which is only a small percentage of the MPE limit.

As for trained persons or transient workers, they will be made fully aware of the potential for RF exposure and can choose to exercise control over their exposure that is within the occupational/controlled limits.

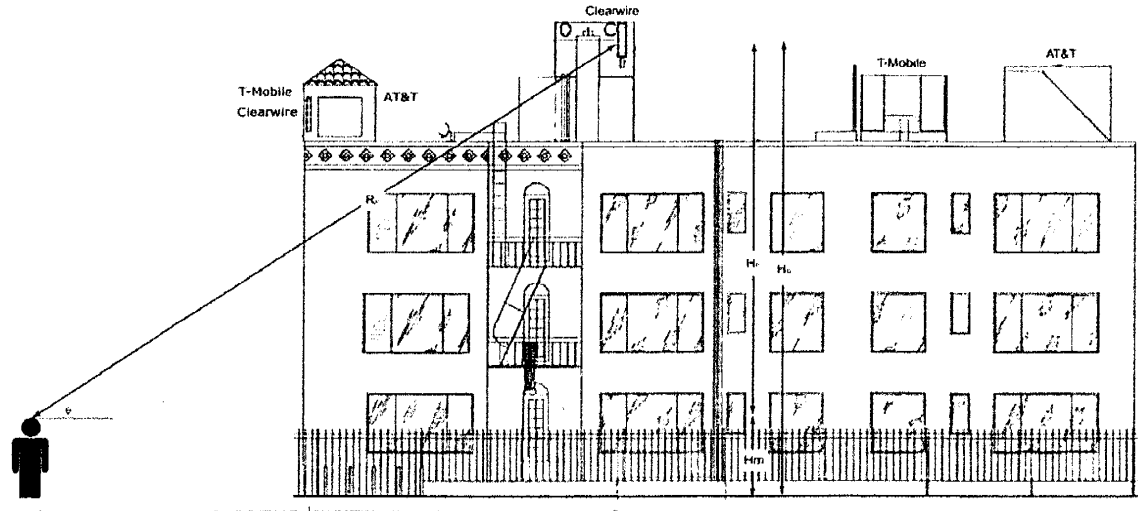
The proposed site will operate within the current acceptable thresholds as established by FCC.

  August 6, 2010

Sei Yuen Sylvan Wong, PE
California PE Reg. No. E 16850

APPENDIX A

Scenario 1: Surrounding Area of the Facility



person's height (H_m) = 6 ft

building elevation = 38 ft

Horizontal distance from building L_p is

6 ft at $\Theta = 80^\circ$

Elevation above sea level: 38 feet

Service Provider	Height H_G , ft	Height H_p , ft	Max. ERP	Angle Θ	F^2	$R_p(m)$	S ($\mu W/cm^2$)	MPE%
clearwire panel	40.00	34.00	969.0	$\Theta = 80^\circ$	-30 dB (0.0010)	10.5	0.2936	0.0294
clearwire ISEP	48.50	42.50	100.0	$\Theta = 82^\circ$	-57 dB (0.0000)	13.1	0.0000	0.0000
AT&T 1900 MHz	40.00	34.00	1000.0	$\Theta = 80^\circ$	-17 dB (0.0200)	10.5	6.0590	0.6059
AT&T 850 MHz	40.00	34.00	1000.0	$\Theta = 80^\circ$	-23 dB (0.0050)	10.5	1.5147	0.2612
T-Mobile	40.00	34.00	1000.0	$\Theta = 80^\circ$	-34 dB (0.0004)	10.5	0.1212	0.0121
Total								0.9086

Horizontal distance from building L_p is

20 ft at $\Theta = 60^\circ$

Elevation above sea level: 38 feet

Service Provider	Height H_G , ft	Height H_p , ft	Max. ERP	Angle Θ	F^2	$R_p(m)$	S ($\mu W/cm^2$)	MPE%
clearwire panel	40.00	34.00	969.0	$\Theta = 60^\circ$	-30 dB (0.0010)	12.0	0.2248	0.0225
clearwire ISEP	48.50	42.50	100.0	$\Theta = 65^\circ$	-49 dB (0.0000)	14.3	0.0000	0.0000
AT&T 1900 MHz	40.00	34.00	1000.0	$\Theta = 60^\circ$	-29 dB (0.0013)	12.0	0.3015	0.0302
AT&T 850 MHz	40.00	34.00	1000.0	$\Theta = 60^\circ$	-28 dB (0.0016)	12.0	0.3711	0.0640
T-Mobile	40.00	34.00	1000.0	$\Theta = 60^\circ$	-33 dB (0.0005)	12.0	0.1160	0.0116
Total								0.1283

Horizontal distance from building L_p is

34 ft at $\Theta = 45^\circ$

Elevation above sea level: 38 feet

Service Provider	Height H_G , ft	Height H_p , ft	Max. ERP	Angle Θ	F^2	$R_p(m)$	S ($\mu W/cm^2$)	MPE%
clearwire panel	40.00	34.00	969.0	$\Theta = 45^\circ$	-30 dB (0.0010)	14.7	0.1498	0.0150
clearwire ISEP	48.50	42.50	100.0	$\Theta = 51^\circ$	-42 dB (0.0001)	16.6	0.0012	0.0001
AT&T 1900 MHz	40.00	34.00	1000.0	$\Theta = 45^\circ$	-16 dB (0.0251)	14.7	3.8796	0.3880
AT&T 850 MHz	40.00	34.00	1000.0	$\Theta = 45^\circ$	-15 dB (0.0316)	14.7	4.8843	0.8421
T-Mobile	40.00	34.00	1000.0	$\Theta = 45^\circ$	-22 dB (0.0063)	14.7	0.9738	0.0974
Total								1.3426

Horizontal distance from building L_p is

59 ft at $\Theta = 30^\circ$

Elevation above sea level: 38 feet

Service Provider	Height H_G , ft	Height H_p , ft	Max. ERP	Angle Θ	F^2	$R_p(m)$	S ($\mu W/cm^2$)	MPE%
clearwire panel	40.00	34.00	969.0	$\Theta = 30^\circ$	-15 dB (0.0316)	20.7	2.3868	0.2387
clearwire ISEP	48.50	42.50	100.0	$\Theta = 36^\circ$	-42 dB (0.0001)	22.1	0.0007	0.0001
AT&T 1900 MHz	40.00	34.00	1000.0	$\Theta = 30^\circ$	-22 dB (0.0063)	20.7	0.4911	0.0491
AT&T 850 MHz	40.00	34.00	1000.0	$\Theta = 30^\circ$	-16 dB (0.0251)	20.7	1.9565	0.3373
T-Mobile	40.00	34.00	1000.0	$\Theta = 30^\circ$	-24 dB (0.0040)	20.7	0.3118	0.0312
Total								0.6564

Horizontal distance from building L_p is

127 ft at $\Theta = 15^\circ$

Elevation above sea level: 38 feet

Service Provider	Height H_G , ft	Height H_p , ft	Max. ERP	Angle Θ	F^2	$R_p(m)$	S ($\mu W/cm^2$)	MPE%
clearwire panel	40.00	34.00	969.0	$\Theta = 15^\circ$	-13 dB (0.0501)	40.1	1.0084	0.1008
clearwire ISEP	48.50	42.50	100.0	$\Theta = 19^\circ$	-37 dB (0.0002)	40.8	0.0004	0.0000
AT&T 1900 MHz	40.00	34.00	1000.0	$\Theta = 15^\circ$	-14 dB (0.0398)	40.1	0.8267	0.0827
AT&T 850 MHz	40.00	34.00	1000.0	$\Theta = 15^\circ$	-17 dB (0.0200)	40.1	0.4154	0.0716
T-Mobile	40.00	34.00	1000.0	$\Theta = 15^\circ$	-14 dB (0.0398)	40.1	0.8267	0.0827
Total								0.2551

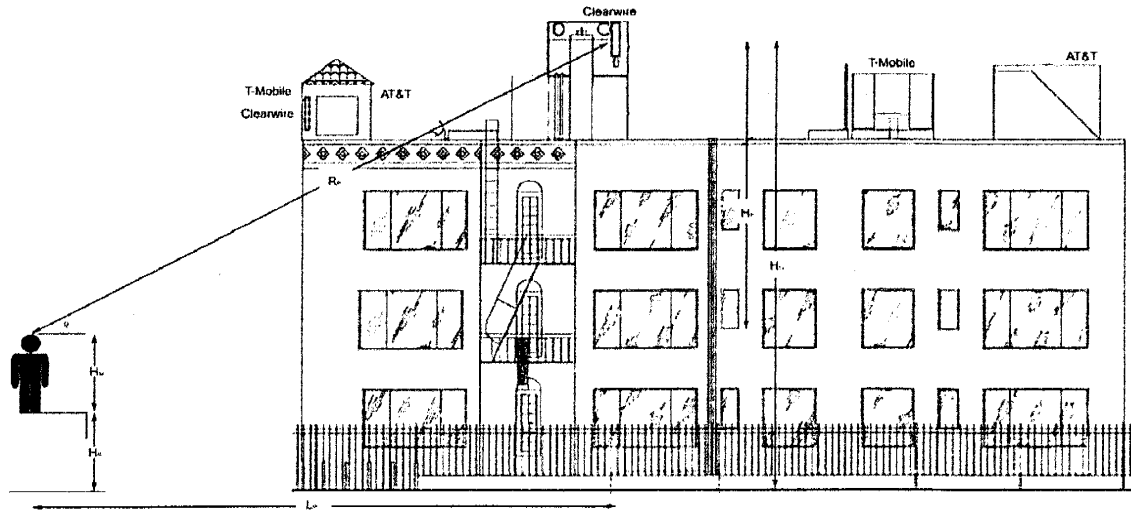
Horizontal distance from building L_p is 187 ft at $\Theta = 10^\circ$ Elevation above sea level: 39 feet

Service Provider	Height H_G , ft	Height H_P , ft	Max. ERP	Angle Θ	F^2	$R_p(m)$	$S (\mu W/cm^2)$	MPE%
clearwire panel	40.00	33.00	969.0	$\Theta = 10^\circ$	-14 dB (0.0398)	57.9	0.3842	0.0384
clearwire ISEP	48.50	41.50	100.0	$\Theta = 13^\circ$	-37 dB (0.0002)	58.4	0.0002	0.0000
AT&T 1900 MHz	40.00	33.00	1000.0	$\Theta = 10^\circ$	-15 dB (0.0316)	57.9	0.3148	0.0315
AT&T 850 MHz	40.00	33.00	1000.0	$\Theta = 10^\circ$	-5 dB (0.3162)	57.9	3.1503	0.5432
T-Mobile	40.00	33.00	1000.0	$\Theta = 10^\circ$	-5 dB (0.3162)	57.9	3.1503	0.3150
Total								0.6131

Horizontal distance from building L_p is 366 ft at $\Theta = 5^\circ$ Elevation above sea level: 40 feet

Service Provider	Height H_G , ft	Height H_P , ft	Max. ERP	Angle Θ	F^2	$R_p(m)$	$S (\mu W/cm^2)$	MPE%
clearwire panel	40.00	32.00	969.0	$\Theta = 5^\circ$	-5 dB (0.3162)	111.9	0.8173	0.0817
clearwire ISEP	48.50	40.50	100.0	$\Theta = 6^\circ$	-28 dB (0.0016)	112.2	0.0004	0.0000
AT&T 1900 MHz	40.00	32.00	1000.0	$\Theta = 5^\circ$	-3 dB (0.5012)	111.9	1.3369	0.1337
AT&T 850 MHz	40.00	32.00	1000.0	$\Theta = 5^\circ$	-1 dB (0.7943)	111.9	2.1187	0.3653
T-Mobile	40.00	32.00	1000.0	$\Theta = 5^\circ$	0 dB (1.0000)	111.9	2.6674	0.2667
Total								0.5807

Scenario 2: Nearby Buildings/Rooftop



person's height (H_p) = 6 ft

Location 1: Nearest building surface within Sector 1

H_b = 12.0 ft, L_p is 166 ft

Elevation above sea level: 39 feet

Service Provider	Height H_a , ft	Height H_p , ft	Max. ERP	Angle θ	F^2	R_p (m)	S (μ W/cm ²)	MPE%
clearwire panel	47.80	28.80	969.0	$\theta = 10^\circ$	-14 dB (0.0398)	51.4	0.4876	0.0488
clearwire ISEP	48.90	29.90	100.0	$\theta = 10^\circ$	-31 dB (0.0008)	51.4	0.0010	0.0001
AT&T 1900 MHz	40.00	21.00	1000.0	$\theta = 7^\circ$	-6 dB (0.2512)	51.0	3.2257	0.3226
AT&T 850 MHz	40.00	21.00	1000.0	$\theta = 7^\circ$	-2 dB (0.6310)	51.0	8.1028	1.3970
T-Mobile	40.00	21.00	1000.0	$\theta = 7^\circ$	-3 dB (0.5012)	51.0	6.4360	0.6436
Total								2.4121

Location 2: Nearest building surface within Sector 2

H_b = 24.0 ft, L_p is 268 ft

Elevation above sea level: 38 feet

Service Provider	Height H_a , ft	Height H_p , ft	Max. ERP	Angle θ	F^2	R_p (m)	S (μ W/cm ²)	MPE%
clearwire panel	40.00	10.00	969.0	$\theta = 2^\circ$	-1 dB (0.7943)	81.8	3.8419	0.3842
clearwire ISEP	48.50	18.50	100.0	$\theta = 4^\circ$	-25 dB (0.0032)	81.9	0.0016	0.0002
AT&T 1900 MHz	40.00	10.00	1000.0	$\theta = 2^\circ$	-1 dB (0.7943)	81.8	3.9648	0.3965
AT&T 850 MHz	40.00	10.00	1000.0	$\theta = 2^\circ$	0 dB (1.0000)	81.8	4.9916	0.8606
T-Mobile	40.00	10.00	1000.0	$\theta = 2^\circ$	0 dB (1.0000)	81.8	4.9916	0.4992
Total								2.1407

Location 3: Nearest building surface within Sector 3

H_b = 36.0 ft, L_p is 130 ft

Elevation above sea level: 38 feet

Service Provider	Height H_a , ft	Height H_p , ft	Max. ERP	Angle θ	F^2	R_p (m)	S (μ W/cm ²)	MPE%
clearwire panel	47.80	5.80	969.0	$\theta = 3^\circ$	-2 dB (0.6310)	39.7	12.9574	1.2957
clearwire ISEP	48.90	6.90	100.0	$\theta = 3^\circ$	-23 dB (0.0050)	39.7	0.0106	0.0011
AT&T 1900 MHz	40.00	-2.00	1000.0	$\theta = -1^\circ$	0 dB (1.0000)	39.6	21.2988	2.1299
AT&T 850 MHz	40.00	-2.00	1000.0	$\theta = -1^\circ$	0 dB (1.0000)	39.6	21.2988	3.6722
T-Mobile	40.00	-2.00	1000.0	$\theta = -1^\circ$	0 dB (1.0000)	39.6	21.2988	2.1299
Total								9.2288

Scenario 3: Facility Rooftop

Sector 1:

Horizontal distance from antenna L_p is 8 ft at $\Theta = 30^\circ$

Service Provider	Height H_G , ft	Height H_P , ft	Max. ERP	Angle Θ	F^2	R_p (m)	S (μ W/cm ²)	MPE%
clearwire panel	10.70	4.70	969.0	$\Theta = 30^\circ$	-15 dB (0.0316)	2.9	121.6078	2.4322
clearwire ISEP	11.33	5.33	100.0	$\Theta = 33^\circ$	-42 dB (0.0001)	3.0	0.0371	0.0007
Total								2.4329

Horizontal distance from antenna L_p is 18 ft at $\Theta = 15^\circ$

Service Provider	Height H_G , ft	Height H_P , ft	Max. ERP	Angle Θ	F^2	R_p (m)	S (μ W/cm ²)	MPE%
clearwire panel	10.70	4.70	969.0	$\Theta = 15^\circ$	-13 dB (0.0501)	5.5	53.6022	1.0720
clearwire ISEP	11.33	5.33	100.0	$\Theta = 17^\circ$	-37 dB (0.0002)	5.6	0.0213	0.0004
Total								1.0724

Horizontal distance from antenna L_p is 27 ft at $\Theta = 10^\circ$

Service Provider	Height H_G , ft	Height H_P , ft	Max. ERP	Angle Θ	F^2	R_p (m)	S (μ W/cm ²)	MPE%
clearwire panel	10.70	4.70	969.0	$\Theta = 10^\circ$	-14 dB (0.0398)	8.3	18.6981	0.3740
clearwire ISEP	11.33	5.33	100.0	$\Theta = 11^\circ$	-31 dB (0.0008)	8.3	0.0388	0.0008
Total								0.3748

Horizontal distance from antenna L_p is 54 ft at $\Theta = 5^\circ$

Service Provider	Height H_G , ft	Height H_P , ft	Max. ERP	Angle Θ	F^2	R_p (m)	S (μ W/cm ²)	MPE%
clearwire panel	10.70	4.70	969.0	$\Theta = 5^\circ$	-5 dB (0.3162)	16.4	38.0491	0.7610
clearwire ISEP	11.33	5.33	100.0	$\Theta = 6^\circ$	-25 dB (0.0032)	16.5	0.0393	0.0008
Total								0.7618

Scenario 4: Penthouse Rooftop

Location: In front of Sector 3 panel antennas.

The MPE limit for 2500 MHz MDS facility for occupational/controlled exposure is 5 mW/cm².

$$R^2 = 33.4 \cdot F^2 \cdot \text{ERP} / S$$

$$R^2 = 33.4 \cdot (1) \cdot [(969/5000) + (100/5000)]$$

$$R^2 = 7.14$$

$$R = 2.7 \text{ m}$$

$$R = 8.765 \text{ ft}$$

Kathrein Scala's XX-polarized adjustable electrical downtilt antennas offer the carrier the ability to tailor sites for optimum performance. Using variable downtilt, only a few models need be procured to accommodate the needs of widely varying conditions. Remotely controlled downtilt is available as a retrofitable option.

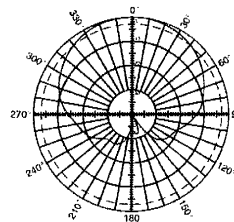
- 0–10° electrical downtilt range.
- DC Grounded metallic parts for impulse suppression.
- No moving electrical connections.
- Optional remote downtilt control.

Specifications:

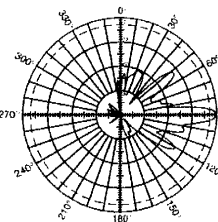
Frequency range	2496–2690 MHz
Gain	2 x 16 dBi
Impedance	50 ohms
VSWR	< 1.5:1
Intermodulation (2x20w)	IM3: < -150 dBc
Polarization	+45° and -45°
Front-to-back ratio	>23 dB typical
Maximum input power	300 watts (at 50°C)
+45° and -45° polarization horizontal beamwidth	87 degrees at midband (half power)
+45° and -45° polarization vertical beamwidth	7 degrees at midband (half power)
Electrical downtilt continuously adjustable	0–10 degrees
Connector	4 x 7-16 DIN female
Sidelobe suppression for first sidelobe above horizon	0° 4° 8° 10° 15 15 15 15 dB (typical)
Null fill	> -1 dBi to 12° below horizon (typical) (17 dB below 16 dBi main beam)
Isolation	>30 dB
Weight	30 lb (13.6 kg)
Dimensions	42 x 12.7 x 2.8 inches (1067 x 323 x 71 mm)
Equivalent flat plate area	4.8 ft² (0.45 m²)
Wind survival rating*	120 mph (200 kph)
Shipping dimensions	48 x 13.3 x 5.1 inches (1220 x 337 x 130 mm)
Shipping weight	34 lb (15.4 kg)
Mounting	Fixed and tilt-mount options are available for 2 to 5.7 inch (50 to 145 mm) OD masts.

See reverse for order information.

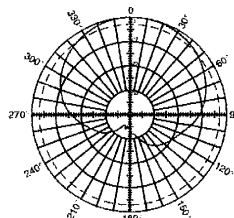
* Mechanical design is based on environmental conditions as stipulated in EIA-222-F (June 1996) and/or ETS 300 019-1-4 which include the static mechanical load imposed on an antenna by wind at maximum velocity. See the Engineering Section of the catalog for further details.



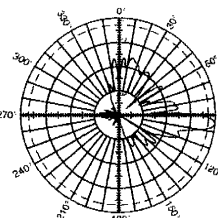
Horizontal pattern
±45°- polarization
0° electrical downtilt



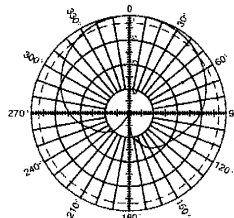
Vertical pattern
±45°- polarization
0° electrical downtilt



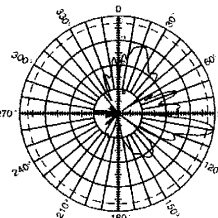
Horizontal pattern
±45°- polarization
5° electrical downtilt



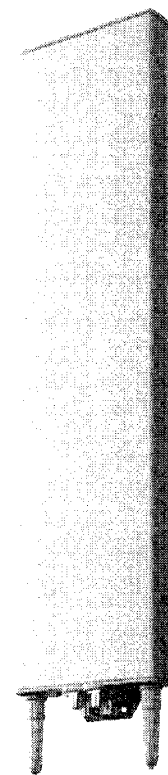
Vertical pattern
±45°- polarization
5° electrical downtilt



Horizontal pattern
±45°- polarization
10° electrical downtilt



Vertical pattern
±45°- polarization
10° electrical downtilt

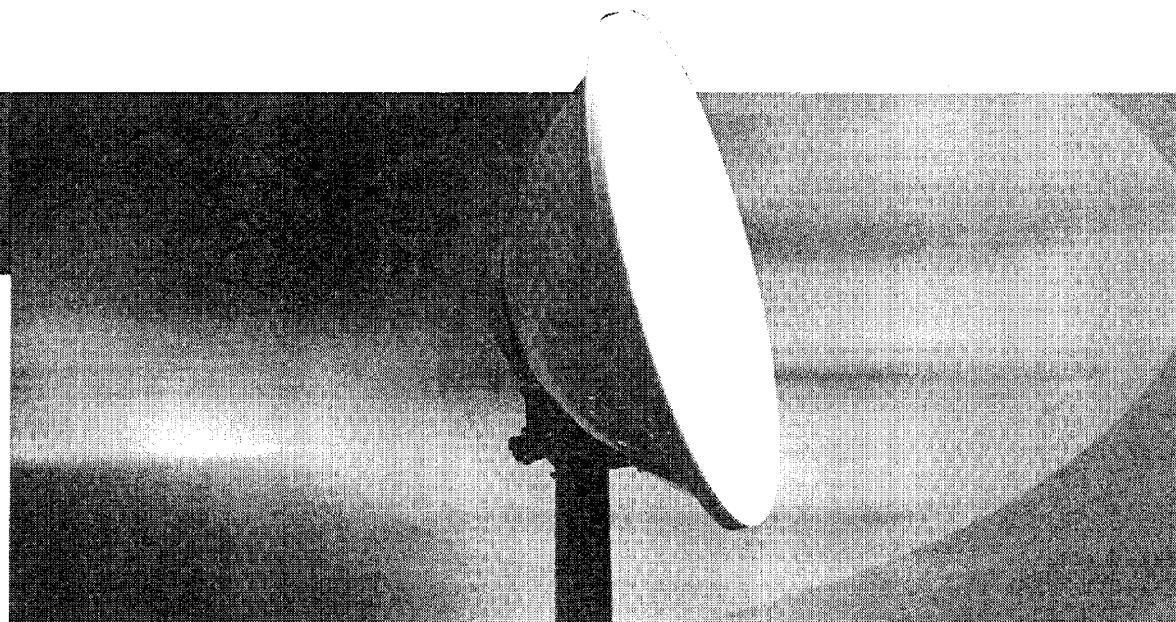


11098-A





**PRODUCT
SPECIFICATION**



ValuLine® III Next Generation Antennas VHLP2

SPECIFICATIONS

	VHLP2-7W	VHLP2-10W	VHLP2-11	VHLP2-13	VHLP2-15	VHLP2-18	VHLP2-23	VHLP2-26	VHLP2-28	VHLP2-32	VHLP2-38
Frequency Band, GHz	7.125–8.5	10.55–10.68	10.7–11.7	12.70–13.25	14.25–15.35	17.7–19.7	21.2–23.6	24.25–26.5	27.5–29.5	31.8–33.4	37.0–40.0
Bottom Band Gain, dBi	29.5	33.7	34.0	35.6	36.5	38.3	39.8	40.8	41.8	43.4	44.6
Mid Band Gain, dBi	30.7	33.8	34.4	35.8	36.8	38.7	40.4	41.2	42.2	43.7	45.2
Top Band Gain, dBi	31.9	34.3	35.0	36.0	37.2	39.1	41.0	41.8	42.7	44.0	45.8
Beamwidth, degrees	4.7	3.7	3.3	2.7	2.5	2.1	1.7	1.5	1.3	1.0	0.9
Front/Back, dB	57	56	60	62	65	67	66	68	68	61	66
XPD, dB	32	30	30	30	30	30	30	30	30	30	30
Return Loss, dB	17.7	17.7	17.7	17.7	17.7	17.7	17.7	17.7	17.7	17.7	17.7
Regulatory Compliance											
ETSI Class	R1 C3	R1 C2	R1 C3	R1 C3	R2 C3	R2 C3	R3 C3	R4 C3	R4 C3	R5 C3B	R5 C3B
FCC Part 101	N/A	CAT A*	CAT B	N/A	N/A	CAT A	CAT A	CAT A	N/A	N/A	CAT A
Brazil Anatel	N/A	C2	C2	C2	C2	C2	C2	C2	C2	C2	C2
Canada SRSP	N/A	310.5	N/A	312.7B	314.5A	Note 1	Note 2	N/A	N/A	N/A	338.6A
Andrew RPE Number	7075A	7085B, 7086B*	7083A	7004	7008	7012A	7016A	7020A	7024A	7028	7032A

Note 1: Meets Canada SRSP 317.8A, 318.5, 318.8

Note 2: Meets Canada SRSP 312.2A, 321.8B

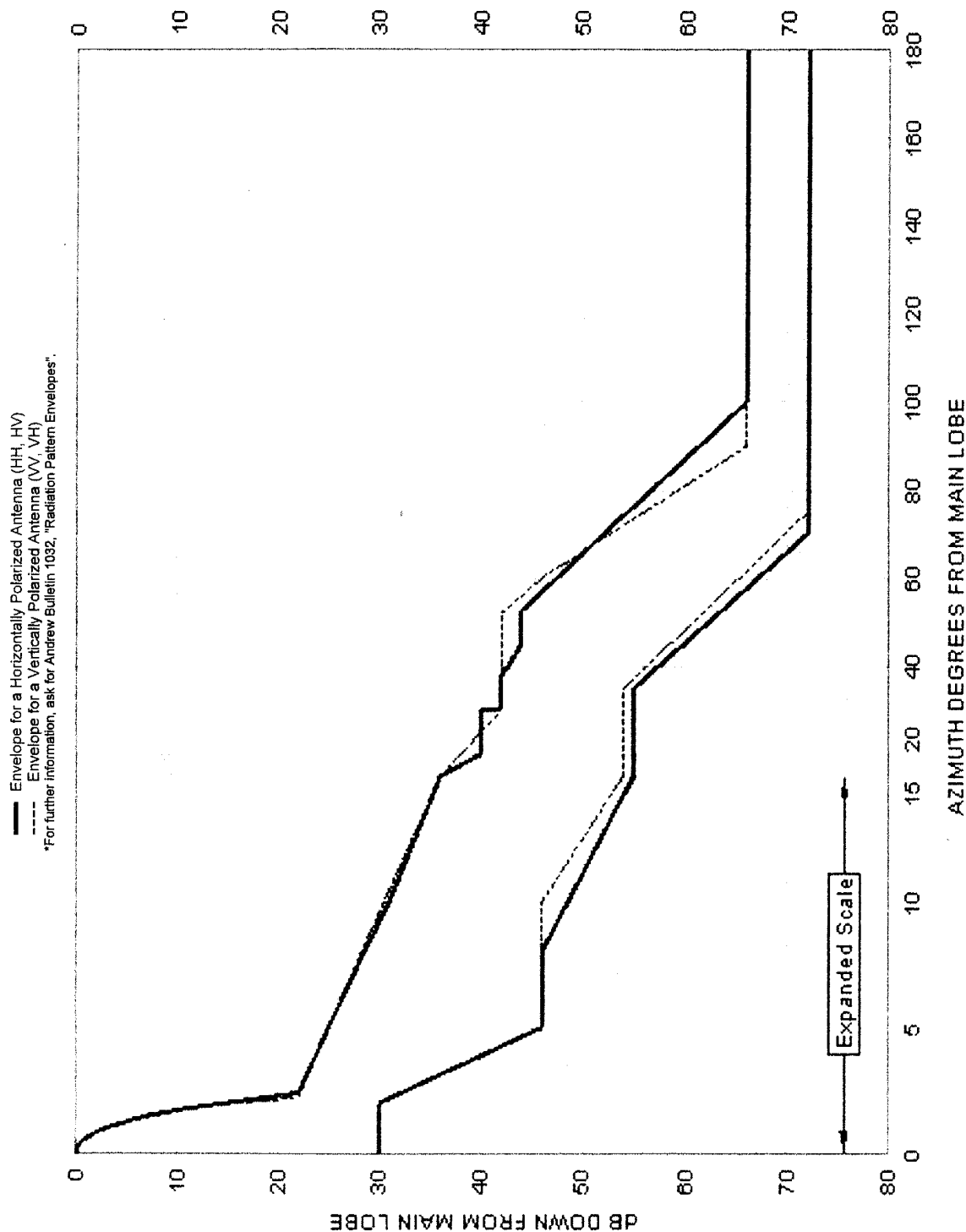
* Use for FCC band (10.5–10.7 GHz)

One Company. A World of Solutions.





RPE: 7016
Engineering Approved:
25 October 2004



65° Multiband Directional Antenna

Kathrein's dual band antennas are ready for 3G applications, covering all existing wireless bands as well as all spectrum under consideration for future systems, AMPS, PCS and 3G/UMTS. These cross-polarized antennas offer diversity operation in the same space as a conventional 800 MHz antenna, and are mountable on our compact sector brackets.

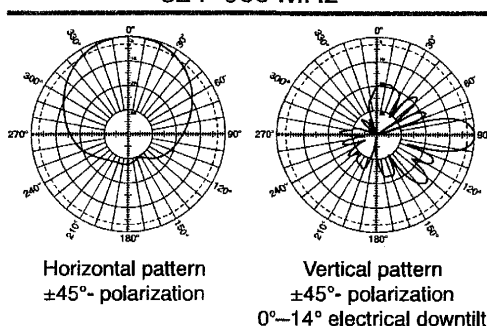
- Wide band operation.
- Exceptional intermodulation characteristics.
- Remote control ready.
- Various gain, beamwidth and downtilt ranges.
- AISG compatible.
- High strength pultruded fiberglass radome.

General specifications:

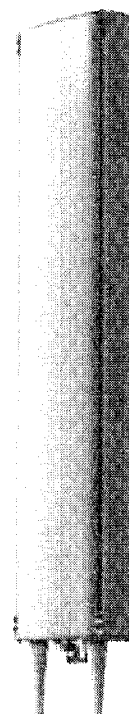
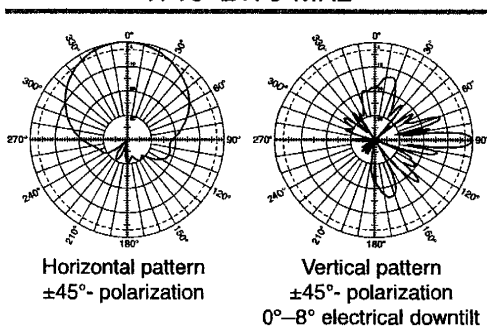
Frequency range	824–960 MHz 1710–2170 MHz
Impedance	50 ohms
VSWR	<1.5:1
Intermodulation (2x20w)	IM3: -150 dBc
Polarization	+45° and -45°
Connector	4 x 7/16 DIN female
Isolation	intrasystem >30 dB intersystem >50 dB (824–960 // 1710–2170 MHz)
Weight	36.4 lb (16.5 kg)
Dimensions	51.8 x 10.3 x 5.5 inches (1316 x 262 x 139 mm)
Equivalent flat plate area	4.13 ft ² (0.384 m ²)
Wind survival rating*	120 mph (200 kph)
Shipping dimensions	64 x 12 x 8 inches (1626 x 305 x 203 mm)
Shipping weight	45 lb (20.4 kg)
Mounting	Fixed mount options are available for 2 to 4.6 inch (50 to 115 mm) OD masts.

See reverse for order information.

824–960 MHz



1710–2170 MHz



Specifications:	824–894 MHz	870–960 MHz	1710–1880 MHz	1850–1990 MHz	1920–2170 MHz	
Gain	12 dBd/14 dBi	12 dBd/14 dBi	14.5 dBd/16.5 dBi	14.8 dBd/16.8 dBi	15 dBd/17 dBi	
Front-to-back ratio	>26 dB (co-polar)	>26 dB (co-polar)	>25 dB (co-polar)	>25 dB (co-polar)	>25 dB (co-polar)	
Maximum input power	250 watts (at 50°C)	250 watts (at 50°C)	200 watts (at 50°C)	200 watts (at 50°C)	200 watts (at 50°C)	
+45° and -45° polarization horizontal beamwidth	68° (half-power)	65° (half-power)	65° (half-power)	65° (half-power)	63° (half-power)	
+45° and -45° polarization vertical beamwidth	16° (half-power)	14.5° (half-power)	7.8° (half-power)	7.3° (half-power)	6.8° (half-power)	
Electrical downtilt continuously adjustable	0°–14°	0°–14°	0°–8°	0°–8°	0°–8°	
Sidelobe suppression for first sidelobe above horizon	0° 14	7° 14	14° T 13 dB	0° 16	4° 16	8° T 15 dB
Cross polar ratio						
Main direction	0°	20 dB (typical)	20 dB (typical)	16 dB (typical)	18 dB (typical)	20 dB (typical)
Sector	±60°	>10 dB	>10 dB	>10 dB	>10 dB	>10 dB



10633-F
936.209/1

* Mechanical design is based on environmental conditions as stipulated in EIA-222-F (June 1996) and/or ETS 300 019-1-4 which include the static mechanical load imposed on an antenna by wind at maximum velocity. See the Engineering Section of the catalog for further details.

Product Specifications



TBXLHB-6565A-VTM

DualPol® Tri-band Antenna, 824–960 MHz and 1710–2180 MHz, 65° horizontal beamwidth, RET compatible variable electrical tilt



- Three DualPol® antennas under one radome
- Interleaved dipole technology providing for attractive, low wind load mechanical package
- Each antenna is independently capable of field adjustable electrical tilt
- Fully compatible with Andrew Teletilt® remote control system
- Tri-band with one band at 824–960 MHz and two bands at 1710–2180 MHz; three independent DualPol® antennas under one radome

CHARACTERISTICS

General Specifications

Antenna Type DualPol® tri-band
Brand DualPol® | Teletilt®
Operating Frequency Band 1710 – 2180 MHz | 824 – 960 MHz

Electrical Specifications

Frequency Band, MHz	824–896	870–960	1710–1880	1850–1990	1920–2180
Beamwidth, Horizontal, degrees	72	68	66	65	63
Gain, dBd	12.5	12.6	14.7	14.7	14.9
Gain, dBi	14.6	14.7	16.8	16.8	17.0
Beamwidth, Vertical, degrees	15.3	14.4	7.5	6.8	6.4
Beam Tilt, degrees	0–15	0–15	0–8	0–8	0–8
Upper Sidelobe Suppression (USLS), typical, dB	15	15	15	15	15
Front-to-Back Ratio at 180°, dB	26	26	32	36	36
Isolation, dB	25	30	30	30	30
VSWR Return Loss, db	1.5:1 14.0	1.5:1 14.0	1.5:1 14.0	1.5:1 14.0	1.5:1 14.0
Intermodulation Products, 3rd Order, 2 x 20 W, dBc	-150	-150	-150	-150	-150
Input Power, maximum, watts	300	300	250	250	250
Polarization	±45°	±45°	±45°	±45°	±45°
Impedance, ohms	50	50	50	50	50
Lightning Protection	dc Ground	dc Ground	dc Ground	dc Ground	dc Ground



Product Specifications

TBXLHB-6565A-VTM



Mechanical Specifications

Color	Light gray
Connector Interface	7-16 DIN Female
Connector Location	Bottom
Connector Quantity	6
Wind Loading, maximum	724.0 N @ 150 km/h 162.8 lbf @ 150 km/h
Wind Speed, maximum	241.4 km/h 150.0 mph

Dimensions

Depth	158.0 mm 6.2 in
Length	1323.0 mm 52.1 in
Width	466.0 mm 18.3 in
Net Weight	18.6 kg 40.9 lb

Remote Electrical Tilt (RET) Information

Model with Factory Installed AISG 1.1 Actuator TBXLHB-6565A-R2M

Model with Factory Installed AISG 2.0 Actuator TBXLHB-6565A-A3M

RET System Teletilt®

Regulatory Compliance/Certifications

Agency

RoHS 2002/95/EC

China RoHS SJ/T 11364-2006

Classification

Compliant by Exemption

Above Maximum Concentration Value (MCV)



INCLUDED PRODUCTS



DB5083

Downtilt Mounting Kit for 2.4 - 4.5 in (60 - 115 mm) OD round members



DB380

Pipe Mounting Kit for 2.4 - 4.5 in (60 - 115 mm) OD round members

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6/9/2010

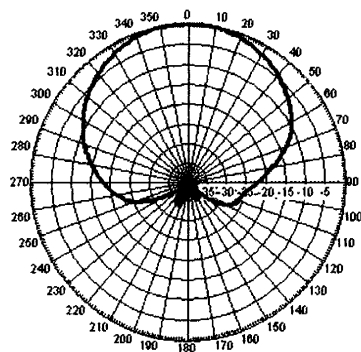
Product Specifications

TBXLHB-6565A-VTM

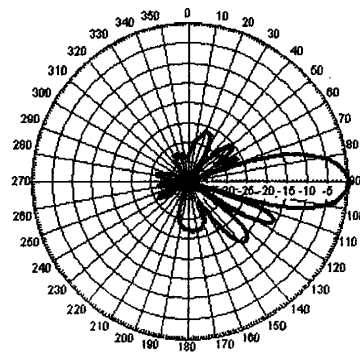


Horizontal Pattern

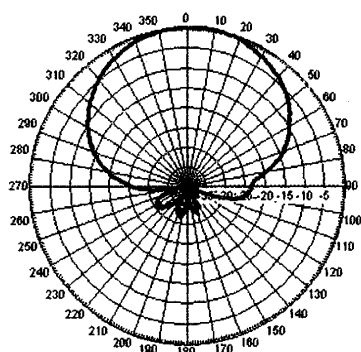
Vertical Pattern



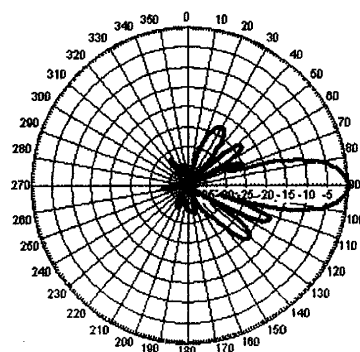
Freq: 850 MHz, Tilt: 0



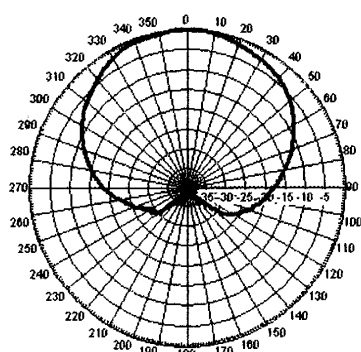
Freq: 850 MHz, Tilt: 0



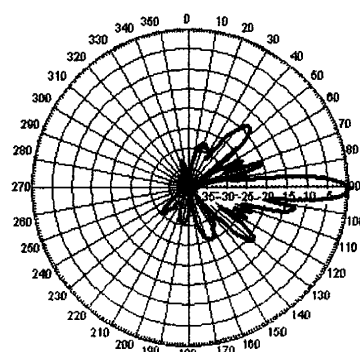
Freq: 940 MHz, Tilt: 0



Freq: 940 MHz, Tilt: 0



Freq: 1785 MHz, Tilt: 0



Freq: 1785 MHz, Tilt: 0

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6/9/2010

Product Data Sheet APX16DWV-16DWV-S-E-A20

RFS

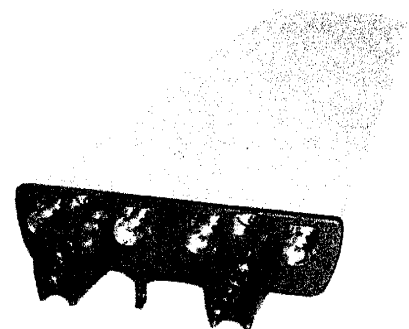
Optimizer® Panel Dual Polarized Antenna equipped with (2) AISG 2.0 ACU motors

Product Description

A combination of two X-Polarized antennas in a single radome, this pair of variable tilt antennas provides exceptional suppression of all upper sidelobes at all downtilt angles. It also features a wide downtilt range. This antenna is optimized for performance across the entire AWS frequency band (1710-2155 MHz). The antenna comes pre-connected with two antenna control units (ACU).

Features/Benefits

- **Variable electrical downtilt** - provides enhanced precision in controlling intercell interference. The tilt is infield adjustable 0-10 deg.
- **High Suppression of all Upper Sidelobes** (Typically <-20dB).
- **Gain tracking** – difference between AWS UL (1710-1755 MHz) and DL (2110-2155 MHz) <1dB.
- **Two X-Polarised panels in a single radome.**
- **Azimuth horizontal beamwidth difference** <4deg between AWS UL (1710-1755 MHz) and DL (2110-2155 MHz)
- **Low profile for low visual impact.**
- **Dual polarization; Broadband design.**
- **Includes (2) AISG 2.0 Compatible ACU-A20-N antenna control units**



Technical Specifications

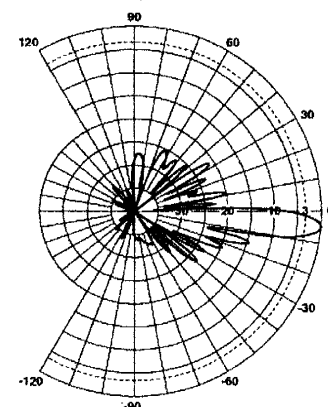
Electrical Specifications

Frequency Range, MHz	1710-2170
Antenna Type	Panel Dual Polarized
Electrical Down Tilt Option	Variable
Gain, dBi (dBd)	18.4 (16.3)
Electrical Downtilt, deg	0-10, 0-10
Horizontal Beamwidth, deg	65
VSWR	< 1.5:1
Vertical Beamwidth, deg	5.9 to 7.7
1st Upper Sidelobe Suppression, dB	> 18 (typically > 20)
Upper Sidelobe Suppression, dB	> 18 all (typically > 20)
Polarization	Dual pol +/-45°
Front-To-Back Ratio, dB	>26 (typically 28)
Maximum Power Input, W	300
Isolation between Ports, dB	> 30
Lightning Protection	Direct Ground
3rd Order IMP @ 2 x 43 dBm, dBc	> 150 (155 Typical)

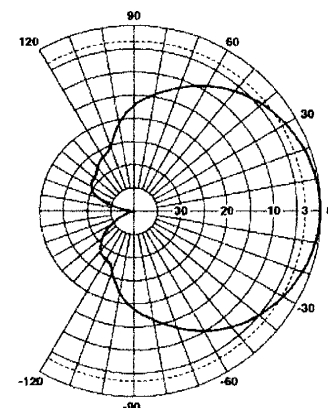
Mechanical Specifications

Rated Wind Speed, km/h (mph)	160 (100)
Survival Wind Speed, km/h (mph)	200 (125)
Max Wind Loading Area, m² (ft²)	0.64 (6.6)
Maximum Thrust @ Rated Wind, N (lbf)	787 (177)
Front Thrust @ Rated Wind, N (lbf)	787 (177)
Reflector Material	Aluminum
Radiating Element Material	Brass
Radome Material	Fiberglass
Connector Type	(4) 7-16 DIN Female
Connector Location	Bottom
Mount Type	Downtilt Kit w/Scissor Kit
Mounting Hardware	APM40-2 + APM40-E2
Weight w/o Mtg Hardware, kg (lb)	18.5 (40.7)
Packing Dimensions, HxWxD, mm (in)	1550 x 420 x 260 (61 x 16.5 x 10.3)
Overall Length, m (ft)	1.42 (4.6)
Dimensions - HxWxD, mm (in)	1420 x 337 x 80 (55.9 x 13.3 x 3.15)
Shipping Weight, kg (lb)	25 (55)

* This data is provisional and subject to change.



Vertical Pattern



Horizontal Pattern

RFS The Clear Choice™

APX16DWV-16DWV-S-E-A20

Print Date: 21.2.2007

Case File Number: CMD10-180

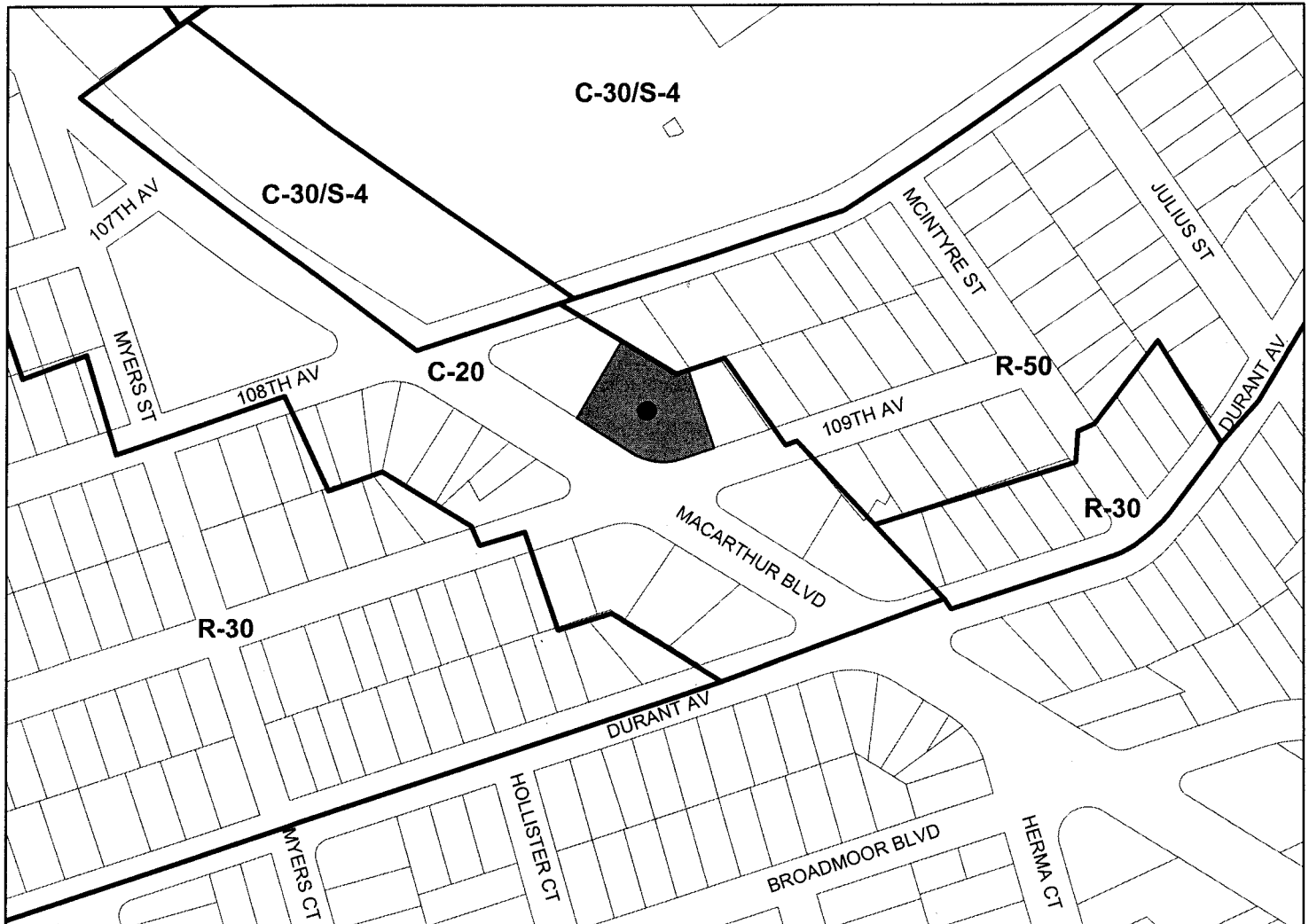
October 20, 2010

Location:	10850 MacArthur Boulevard. (See map on reverse)
Assessors Parcel Numbers:	(047-5584-009-03)
Proposal:	To install three (3) concealed telecommunication antennas, three (3) internet services exchange point dishes, and one enclosed equipment cabinet at a site with 15 existing antennas.
Applicant:	Clearwire, Misako Hill of Cortel, LLC
Contact Person/ Phone Number:	Misako Hill (415)533-2540
Owner:	Humanistic Alt. to Addiction Res. & Treatment Inc.
Case File Number:	CMD10-180
Planning Permits Required:	Regular Design Review to install three (3) concealed telecommunication antennas, three (3) internet services exchange point dishes, and one enclosed equipment cabinet. Major Conditional Use Permit for the installation of a Macro telecommunication facility within 100 feet of a residential zone.
General Plan:	Community Commercial
Zoning:	C-20 Shopping Center Commercial Zone
Environmental Determination:	Exempt, Section 15301 of the State CEQA Guidelines; minor additions and alterations to an existing facility Section 15183 of the State CEQA Guidelines; projects consistent with a community plan, general Plan or zoning.
Historic Status:	Not A Potential Designated Historic Property; Survey rating: X
Service Delivery District:	6
City Council District:	7
Date Filed:	6/30/10
Finality of Decision:	Appealable to City Council within 10 days
For Further Information:	Contact case planner Michael Bradley at (510) 238-6935 or mbradley@oaklandnet.com

SUMMARY

The following staff report addresses the proposal for a new unmanned wireless telecommunication facility located on the roof of an existing Administrative office building with three (3) concealed telecommunication antennas, three (3) internet services exchange point dishes, and one enclosed equipment cabinet. The project site already contains 15 telecommunication antennas and associated equipment shelters. Given the number of antennas, this would be considered a "macro" telecommunications facility. The site is located within a commercial district along MacArthur Boulevard with the rear of the parcel located adjacent to a residential neighborhood. The site is in the C-20 Shopping Center Commercial Zone. The General Plan designation for the site is Community Commercial. The scope of work entails the

CITY OF OAKLAND PLANNING COMMISSION



0 125 250 500 750 1,000 Feet



Case File: CMD10-180
Applicant: Clearwire, Misako Hill of Cortel, LLC
Address: 10850 MacArthur Boulevard
Zone: C-20

installation of three (3) concealed telecommunication antennas, three (3) internet services exchange point dishes, and one enclosed equipment cabinet behind two sets of screening walls and one smoke stack painted and textured to match elements of the existing building.

PROJECT DESCRIPTION

The applicant (Clearwire) is proposing a co-location for the install of three (3) concealed telecommunication antennas, three (3) internet services exchange point dishes, and one enclosed equipment cabinet mounted on the roof behind screening walls of an existing administrative office building. The proposal for the equipment cabinets is to locate one on the roof behind the proposed screening walls. All proposed antennas and associated equipment will not be accessible to the public. (See Attachment A).

PROPERTY DESCRIPTION

The subject property is a corner parcel of approximately 15,135 square feet, with frontage on MacArthur Boulevard and 109th Avenue. The subject property has a fully functioning administrative office building on the site. The property was first developed in 1975 (based on Alameda County Assessors Data). Currently there is a macro telecommunication facility with two telecommunication providers on the property including 15 antennas and 12 equipment shelters on the roof of the building.

GENERAL PLAN ANALYSIS

The subject property is located within the Community Commercial General Plan designation. The Community Commercial land use classification is intended to identify, create, maintain and enhance areas suitable for a wide variety of commercial and institutional operations along the City's major corridors and in shopping districts or centers. The proposed unmanned wireless telecommunication facility will not adversely affect and detract from the commercial or residential characteristics of the neighborhood. The antennas will be mounted on the existing building and visual impacts will be mitigated since the antennas will be behind a screening wall and painted and textured to match elements of the existing building. General Plan Policy N9.9 states that the City encourages rehabilitation efforts which respect the architectural integrity of a building's original style. The proposed project will have very minimal effect on the existing building.

ZONING ANALYSIS

The subject property is located within the C-20 Shopping Center Commercial Zone. The C-20 zone is intended to create, preserve, and enhance integrated centers devoted primarily to retail shopping within attractive surroundings, and is typically appropriate to locations near major thoroughfares within or near residential communities, especially in newly developed portions of the City. The proposal is for a new unmanned wireless telecommunication facility on an existing building and requires a Major Conditional Use permit since the project is within one hundred feet of the boundary of a residential zone. Staff finds that the proposed application meets applicable C-20 zoning and City of Oakland Telecommunication regulations.

ENVIRONMENTAL DETERMINATION

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

KEY ISSUES AND IMPACTS

1. Conditional Use Permit

Section 17.46.080 of the City of Oakland Planning Code requires a conditional use permit to install a Macro Telecommunication facility in the C-20 zone. Furthermore, Section 17.134.020 defines a major and minor conditional use permits. Subsections (A)(3)(i) lists a major conditional use permit: "Any telecommunication facility in or within one hundred (100) feet of the boundary of any residential zone. The required findings for a major conditional use permit are listed and included in staff's evaluation as part of this report.

2. Project Site

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

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

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

Since the proposed project involves co-locating the installation of new antennas and associated equipment cabinets on an existing facility, the proposed project meets (A) co-locating on an existing structure or facility with existing wireless antennas.

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 a site design alternatives analysis. Facilities designed to meet a C through F ranked preference, inclusive, must submit a site design alternatives analysis as part of the required application materials. A site design alternatives analysis shall, at a minimum, consist of:

- a. Written evidence indicating why each higher preference design alternative can not be used. Such evidence shall be in sufficient detail that independent verification could be obtained if required by the City of Oakland Zoning Manager. Evidence should indicate if the reason an alternative was rejected was technical (e.g. incorrect height, interference from existing RF sources, inability to cover required area) or for other concerns (e.g. inability to provide utilities, construction or structural impediments).

City of Oakland Planning staff have reviewed and determined that the site selected is conforming to all other telecommunication regulation requirements. The project has met design criteria (A) since the antennas shall be mounted completely concealed behind screening walls with paint and texture to match the existing building elements. Furthermore, to mitigate visual impacts the antennas will be mounted approximately 39 feet above the public right of way. The associated equipment cabinets will have no visual impact since the equipment will be placed behind the proposed screening walls.

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.

The applicant states that the proposed project meets the radio frequency (RF) emissions standards as required by the regulatory agency. Submitted with the initial application was a RF emissions report, prepared by TRK Engineering, (**attachment B**). 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 that prior to the final building permit sign off, the applicant

submits certified RF emissions report stating that the facility is operating within acceptable thresholds established by the regulatory federal agency.

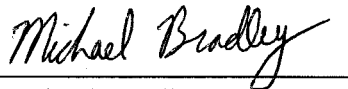
CONCLUSION

City of Oakland planning staff believes that the proposed project and subject property can be developed to meet the established zoning and telecommunication regulations that were created and adopted to set certain criteria minimums and maximums for similar types of developments. Staff believes that the findings for approval can be made to support the Conditional Use Permit and Design Review.

RECOMMENDATIONS:

1. Affirm staff's environmental determination
2. Approve Conditional Use Permit and Design Review application CMD10-180 subject to the attached findings and conditions of approval

Prepared by:



Michael Bradley
Planner I

Approved by:



Scott Miller
Zoning Manager

Approved for forwarding to the
City Planning Commission



Eric Angstadt, Deputy Director
Community & Economic Development Agency

ATTACHMENTS:

- A. Project Plans & Photo simulations
- B. TRK Engineering RF Emissions Report

FINDINGS FOR APPROVAL**FINDINGS FOR APPROVAL:**

This proposal meets all the required findings under Section 17.134.050, of the General Use Permit criteria; all the required findings under Section 17.136.050.(B), of the Non-Residential Design Review criteria; all the required findings under Section 17.128.070(B), of the telecommunication facilities (Macro) Design Review criteria; and all the required findings under Section 17.128.070.(C), of the telecommunication facilities (Macro) Conditional Use Permit criteria; and as set forth below and which are required to approve your application. Required findings are shown in **bold** type; reasons your proposal satisfies them are shown in normal type.

SECTION 17.134.050 – GENERAL USE PERMIT FINDINGS:

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 location, size, design and operational characteristics of the proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood. Consideration was given to the harmony in scale, bulk, and coverage; 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 proposed telecommunications antennas will be co-located with 15 existing antennas on the roof top of an existing building and will not adversely affect the operating characteristic or livability of the existing area. The antennas will be behind screening walls at the roof top of the building. The facility will be unmanned and will not create additional vehicular traffic in the area.

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 location, design and site planning of the proposed development will provide a convenient and functional working and shopping environment, and will attempt to preserve the attractive nature of the use and its location and setting warrant. The proposal will preserve a convenient and functional working and living environment; 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.

D. That the proposal conforms to all applicable design review criteria set forth in the DESIGN REVIEW PROCEDURE of Chapter 17.136 of the Oakland Planning Code.

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 General Plan and with any other applicable plan or development control map which has been adopted by the City Council.

The proposal conforms in all significant aspects with the Oakland General Plan and with any other applicable plan or zoning maps adopted by the City of Oakland. The proposed macro-telecommunication facility in the Community Commercial General Plan designation will enhance and improve communication service for a mixture of civic, commercial and institutional uses in the area.

17.136.050(B) – NONRESIDENTIAL DESIGN REVIEW CRITERIA:

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

The proposal is to co-locate the installation of three (3) concealed telecommunication antennas, and three (3) internet services exchange point dishes mounted on the roof behind screening walls and within a smoke stack structure of an existing administrative office building. The proposal for the equipment cabinets is to locate one on the roof behind the proposed screening walls. The three (3) concealed telecommunication antennas, and three (3) internet services exchange point dishes shall be placed behind screening walls and therefore are consistent and well related to the surrounding area in scale, bulk, height, materials, and textures. The antennas will also be located approximately 39 feet above the public right of way.

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

The design will be appropriate and compatible with current zoning and general plan land use designations. The proposal protects and preserves the surrounding neighborhood context by adding additional wireless telecommunication antennas to a commercial and residential area. The

antennas will be concealed from public view and will not have any visual impact on the neighborhood.

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

The proposal conforms with the City of Oakland Comprehensive General Plan meeting specific General Plan policies and the Supplemental Report and Recommendations on Revisions to the Citywide Telecommunications Regulations. The proposal will conform to performance standards for noise set forth in Section 17.120.050 for decibels levels in residential areas for both day and nighttime use. The Project conforms to all macro-facility definitions set forth in Section 17.128.070 and meets all design review criteria to minimize all impacts throughout the neighborhood

17.128.070(B) DESIGN REVIEW CRITERIA FOR MACRO FACILITIES

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

The proposed antennas shall be mounted completely concealed behind screening walls and within a smoke stack structure with paint and texture to match the existing building elements. Furthermore, to mitigate visual impacts the antennas will be mounted approximately 39 feet above the public right of way.

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 addition of the antennas to the roof top of the existing building will be mounted behind screening walls and within a smoke stack structure and set back from the edge of the roof.

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

The proposed antennas shall be mounted behind screening walls and within a smoke stack structure and set back from the edge of the roof. The walls shall be textured and painted to match existing design elements of the existing building.

4. Equipment shelters or cabinets shall be screened from the public view by using landscaping, or materials and colors consistent with surrounding backdrop:

The associated equipment will be co-located with the existing equipment and set back from the edge of the roof.

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

The proposed equipment will be co-located with the existing equipment and set back from the edge of the roof.

6. For antennas attached to the roof, maintain a 1:1 ratio for equipment setback; screen the antennas to match existing air conditioning units, stairs, or elevator towers; avoid placing roof mounted antennas in direct line with significant view corridors.

The proposed antennas shall be mounted behind screening walls and within a smoke stack structure and set back from the edge of the roof. The screening walls will match existing roof top equipment.

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

The antennas will be mounted to the roof and will not be accessible to the public due to its location.

Section 17.128.070(C) CONDITIONAL USE PERMIT (CUP) FINDINGS FOR MACRO FACILITIES

1. The project must meet the special design review criteria listed in subsection B of this section (17.128.070B):

The proposed project meets the special design review criteria listed in section 17.128.070B.

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

Due to the proposed project co-locating with other existing telecommunication antennas and equipment and being concealed, it will not disrupt the overall community character of the site.

CONDITIONS OF APPROVAL
CMD10-180

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, **CMD10-180**, and the plans dated **September 30, 2010** and submitted on **October 1, 2010** 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 installation of a macro telecommunications facility located on the roof of an existing building at 10850 MacArthur Boulevard (APN: 047-5584-009-03), under Oakland Municipal Code 17.128, 17.136 and 17.134.**

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

4. Conformance with other Requirements

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

a) The project applicant shall comply with all other applicable federal, state, regional and/or local laws/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. Compliance with other applicable requirements may require changes to the approved use and/or plans. These changes shall be processed in accordance with the procedures contained in Condition of Approval #3.

- 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, elevated walking pathways, safety railings, emergency access and lighting.

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) Violation of any term, **Conditions of Approval** or **project description** relating to the **Conditions of Approval** 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 of approval** if it is found that there is violation of any of the **Conditions of Approval** 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. The project applicant shall be responsible for paying fees in accordance with the City's Master Fee Schedule for inspections conducted by the City or a City-designated third-party to investigate alleged violations of the Conditions of Approval.

6. Signed Copy of the Conditions of Approval

Ongoing

A copy of the approval letter and **Conditions of Approval** 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 of Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Letter of Agreement shall survive termination, extinguishment or invalidation of the approval. Failure to timely execute the Letter of 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 of Approval**, and if one or more of such **Conditions of Approval** is found to be invalid by a court of competent jurisdiction, this Approval would not have been granted without requiring other valid **Conditions of Approval** consistent with achieving the same purpose and intent of such Approval.

10. Landscape Maintenance.

Ongoing

All new landscaping shall be permanently maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with applicable landscaping requirements.

11. Operational Noise-General

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.

PROJECT SPECIFIC CONDITIONS FOR TELECOMMUNICATIONS FACILITIES

12. Sinking Fund for Facility Removal or Abandonment.

Prior to the issuance of building permit.

The applicant shall provide proof of the establishment of a sinking fund to cover the cost of removing the facility if it is abandoned within a prescribed period. The word "abandoned" shall mean a facility that has not been operational for a six (6) month period, except where non-operation is the result of maintenance or renovation activity pursuant to valid City permits. The sinking fund shall be established to cover a two-year period, at a financial institution approved by the City's Office of Budget and Finance. The sinking fund payment shall be determined by the Office of Budget and Finance and shall be adequate to defray expenses associated with the removal of the telecommunication facility.

13. Emissions Report

Prior to a final inspection

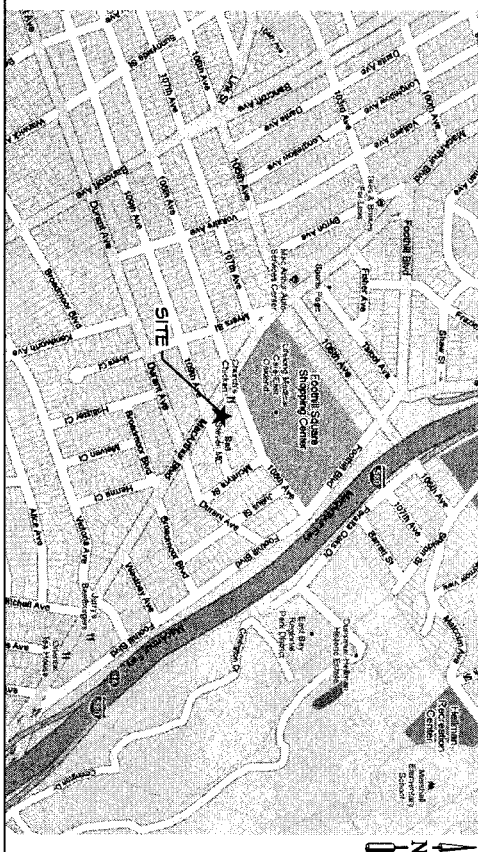
The applicant shall provide an RF emissions report to the City of Oakland Zoning Division indicating that the site is actually operating within the acceptable thresholds as established by the Federal government or any such agency that may be subsequently authorized to establish such standards.

clearw're®

10850 MACARTHUR BLVD
CA-SFO0814C

10850 MACARTHUR BLVD, OAKLAND, CA

VICINITY MAP - NTS



DRIVING DIRECTIONS

FROM: CLEVELAND REGIONAL OFFICE
11100 NORTH CALIFORNIA BLVD, SUITE 20
MILPITAS, CA 95036

TO: 10850 MACARTHUR BLVD
OAKLAND, CA

DISTANCE: 21.2 MILES

DEPART FROM 11100 N CALIFORNIA BLVD, MILPITAS CREEK
HEAD NORTH ON N CALIFORNIA BLVD TOWARD PRINGLE AVE
TURN RIGHT AT PRINGLE AVE
TURN LEFT AT RIVERA AVE
SLIGHT RIGHT AT HILLSIDE AVE
SLIGHT LEFT AT OAKLAND BLVD / RIVERA AVE
TAKE THE EXIT ONTO CA-15 TOWARD OAKLAND FOR 10.9 MI
TAKE THE EXIT ONTO CA-15 TOWARD HAYWARD FOR 6.0 MI
TAKE THE POOTHILL BLVD EXIT TOWARD 108TH AVE
TURN LEFT AT STANLEY AVE
CONTINUE ON STANLEY AVE
TURN LEFT AT MACARTHUR BLVD
ARRIVE AT 10850 MACARTHUR BLVD, OAKLAND, CA

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 JURISDICTION. THESE CODES SHALL BE SUBJECT TO BE CONSTRUCTED TO PERMIT WORK NOT CONFORMING TO THESE CODES.

- CALIFORNIA ADMINISTRATIVE CODE (INCL. TITLE 24 & 25)
- 2007 CALIFORNIA BUILDING CODE
- CITY/COUNTY ORDINANCES
- BUILDING OFFICIALS AND CODE ADMINISTRATORS (BOCA)
- 2007 CALIFORNIA MECHANICAL CODE
- 2007 CALIFORNIA ELECTRICAL CODE (NEMA-10)
- 2007 CALIFORNIA ELECTRICAL CODE
- LOCAL BUILDING CODE

BUILDING/SITE DATA LEGEND

LATITUDE: 37° 44' 34.5" N (NAD 83)

LONGITUDE: 122° 8' 54.5" W (NAD 83)

ELEVATION: 135.0' AMSL (NVD 29)

APN: 047-5584-004-05

ZONING: COMMERCIAL

OCCUPANCY: UNINHABITED

CONSTRUCTION TYPE: V-B

CONSTRUCTION AREA: 44 SQ. FT.

ADA REQ.: FACILITY IS UNINHABITED AND NOT FOR HUMAN HABITATION. ADA ACCESS NOT REQUIRED.

TITLE 24 REQ.: FACILITY IS UNINHABITED AND NOT FOR HUMAN HABITATION. TITLE 24 IS EXEMPT.

PROJECT DESCRIPTION

INSTALLATION OF A WIRELESS COMMUNICATIONS FACILITY, INCLUDING THE INSTALLATION OF (1) EQUIPMENT CABINET, (2) INTERNET SERVICES EXCHANGE POINT, PLUS (3) FUTURE AND (4) PANEL ANTENNAS

SIGNATURE BLOCK

ZONING MANAGER	DATE
SITE ACQ. MANAGER	DATE
RF MANAGER	DATE
MICROWAVE MANAGER	DATE
CONSTRUCTION MANAGER	DATE
CLEVELAND CONSTRUCTION MANAGER	DATE

PROJECT SUMMARY

PROPERTY OWNER: HANANISTIC ALTER TO ADDITION

CONTACT: MICHELLE BIRCH
PHONE: (510) 675-2800

APPLICANT: CLEVELAND CORP.
4400 CARLTON PT
KIRKLAND, WA

LEASING MANAGER: CORTEL, LLC
CONTACT: DENIS STANBETT
PHONE: (415) 250-0242

ZONING MANAGER: CORTEL, LLC
CONTACT: MISAQO HILL
PHONE: (415) 555-2540

CONSULTANT: TRK ENGINEERING LTD.
10850 MACARTHUR BLVD
SUITE 200
OAKLAND, CA 94612
PHONE: (510) 574-4452

CONSTRUCTION MANAGER: CORTEL, LLC
CONTACT: KEN UFTON
PHONE: (415) 555-2555

SHEET INDEX

REV. DMS NAME

T-1 TITLE SHEET

A-1 SITE PLAN

A-2 ROOF PLAN

A-3 SOUTHEAST AND SOUTHWEST ELEVATIONS

A-4 EQUIPMENT DETAILS

A-5 ANTENNA DETAILS

clearw're®
4400 CARLTON PT, KIRKLAND, WA
206-835-1111

Cortel, LLC

TRK ENGINEERING

501 - 1788 68TH AVE
SUITE 200
KIRKLAND, WA 98033
PHONE: (206) 835-1111
FAX: (206) 835-1112
EMAIL: info@trkeng.com
WEB: www.trkeng.com

PROJECT NO: 1040-028

DESIGN BY: SD

CHECKED BY: PM

CAD FILE: 1040-0281

SUBMITTALS

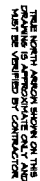
1. SET	REVISION NO. 017
2. SET	200 REV. 0
3. SET	200 REV. 1

AT 04

10850 MACARTHUR BLVD
CA-SFO0814C
10850 MACARTHUR BLVD
OAKLAND, CA

TITLE SHEET

T-1



A.P.N. 047-5584-015-0

NOTES:

THE ABOVE INFORMATION WAS OBTAINED FROM A PUBLIC RECORDING MADE BY THE COUNTY LAND SERVICE RECORDS SECTION DATED MAY 11, 2006. THIS SOURCE DOES NOT GUARANTEE THE ACCURACY OR COMPLETENESS OF INFORMATION LISTED HERE. APPROXIMATE ONLY.

LEGAL DESCRIPTION:

LEGAL DESCRIPTION IS FOUND IN NORTH AMERICAN TITLE COMPANY TITLE REPORT THE NORTON SUNDOWN-DEWEY, DATED MAY 11, 2006.

LESSOR'S LEGAL DESCRIPTION:

LEGAL DESCRIPTION IS FOUND IN NORTH AMERICAN TITLE COMPANY TITLE REPORT THE NORTON SUNDOWN-DEWEY, DATED MAY 11, 2006.

NO EASEMENTS OR INTERESTS IN SAID TITLE REPORT CONFLICT WITH THE FORECLOSED PROPERTY ADDRESS.

LEGAL DESCRIPTION:
LEGAL DESCRIPTION IS FOUND IN NORTH AMERICAN TITLE COMPANY TITLE REPORT FILE NUMBER 84-01-50402804, DATED MAY 12, 2006

LESSORS LEGAL DESCRIPTION

clearwre
4400 CARLETON PT., CERRITOS, CA 94530
Cortel, LLC

LEGAL DESCRIPTION IS FOUND IN NORTH AMERICAN TITLE COMPANY TITLE REPORT FILE NUMBER SA001-BE440284, DATED MAY 12, 2006

NO EASEMENTS DISCLOSED IN SAID TITLE REPORT CONFLICT WITH THE PROPOSED PROJECT AREA.

THE LARD REFERENCED TO IN SAID REPORT IS SITUATED IN THE CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA.

4001 - 17600 60TH AVE
SURREY, BC V3S 7X, CANADA
TEL: (604) 574-6482
FAX: (604) 574-6481
TOLL FREE: 1-877-845-4045
EMAIL: marketing.com
www.newshang.com

PROJECT NO: 1040-02

DRUMMOND, B.T. S.D.

CHECKED BY: PM

CAD FILE:	1046
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100

11	step 110	no
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Q141 NT	✓
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DOCUMENTS IS PREPARED
USE OR DISCLOSURE OF

CA-SFC

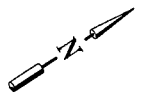
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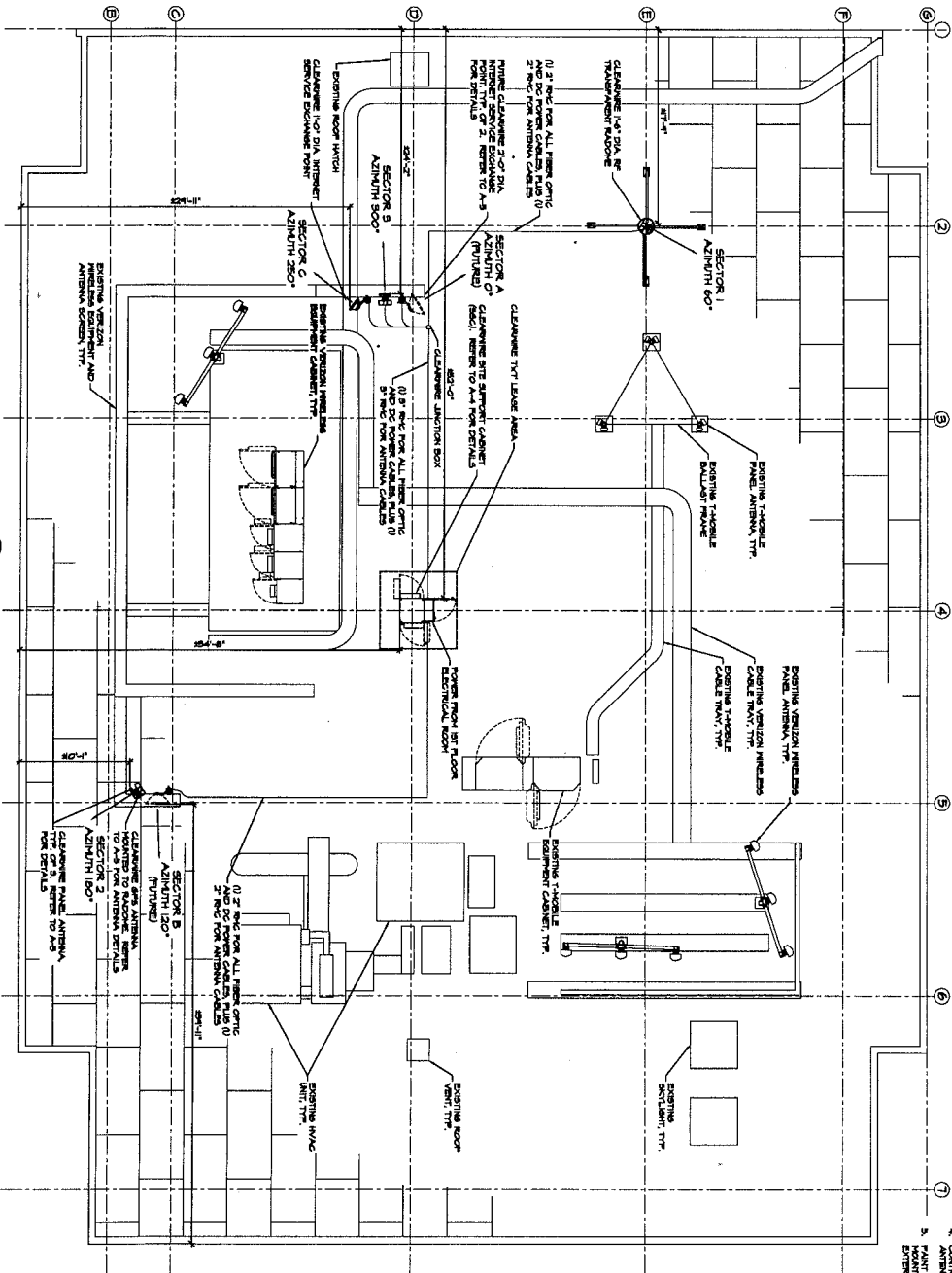


THE NORTH ARROW SHOWN ON THIS DRAWING IS APPROXIMATE ONLY AND MUST BE VERIFIED BY CONSTRUCTION.

PANEL ANTENNA INFORMATION				INTERNET SERVICES EXCHANGE POINT INFORMATION			
SECTION	ANTENNA	QUANTITY	PIES OFFICE FOR POWER	WAO CENTER	SECTION	ANTENNA	QUANTITY
1	60°	KATHEEN	1	60°-01	A (PENDING)	0°	2-01
2	180°	KATHEEN	1	180°-01	B (PENDING)	180°	2-01
3	300°	KATHEEN	1	300°-01	C	360°	1-01

1. ANTENNA LOCATION OPTIONS: (1) ROOF-MOUNT CABLE, (2) ANTENNA MOUNT, (3) SUPPORT POST, FIELD VENTILATION.
A. WITHIN 12" OF CABLE AT BOTH ENDS.
B. WITHIN 12" OF CABLE AT BOTH ENDS.
C. EITHER PRIOR TO ENTRY AND CABLE OR AT CABLE SUPPORT BRIDGE.

REMARKS: ARE FROM ZONING ACT & STRUCTURAL ANALYSIS OF BUILDING HAD NOT BEEN COMPLETED



ROOF PLAN
5/27/10

- NOTES:
- CONTRACTOR TO PROVIDE ALL REQUIRED HARDWARE EQUIPMENT TO FACILITATE ANTENNA CABLE ROUTING FROM BUILDING TO ANTENNA.
 - CONTRACTOR'S WORK SHALL COMPLY WITH ALL APPLICABLE LOCAL, STATE, AND FEDERAL REQUIREMENTS AND THE LOCATION, THE BOTTOM OF THE ANTENNA CABLE AND THE ANTENNA CABLE SHALL BE PROTECTED BY A MINIMUM OF 18" OF CONCRETE OR SHALL COVER THE DESIGN.
 - CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTION OF EXISTING STRUCTURE AND UTILITIES. ALL DAMAGE TO EXISTING STRUCTURE AND UTILITIES SHALL BE REPAIRED PRIOR TO CONSTRUCTION.
 - CONTRACTOR TO SITE VISIT LOCATION OF CONDUIT AND ANTENNA CABLE ROUTING PRIOR TO CONSTRUCTION.
 - PAINT ANTENNA MOUNTING ANTENNA CABLES, CONDUITS AND HARDWARE TO MATCH EXISTING BUILDING AND EXTERIOR.

4800 GARDEN ST. WILMINGTON, VA

501 - 11600 48TH AVE
SUITE 100
FARMINGTON, CT 06031
TEL: (860) 774-4400
FAX: (860) 774-4400
WWW.TRK-ENGINEERING.COM

PROJECT NO. 1040-020

DESIGN BY: S.D.

CHECKED BY: P.K.

CAD FILE: 1040-020.dwg

SUBMITTALS

DATE: 5/27/10

REVISION: 1

1. 5/27/10

2. 5/27/10

3. 5/27/10

10550 MACARTHUR BLVD
CA 95008-4400
10550 MACARTHUR BLVD
OAKLAND, CA

ROOF PLAN

A-2



- NOTES:

4400 CABELLO PT, KIRKLAND, WA/



8201 - 7800 66TH AVE
SURREY, BC V2S 7Y0, CANADA
TEL: (604) 574-6482
FAX: (604) 574-6481
TOLL FREE: 1-877-645-1045
EMAIL: molib@king.com
WEB: molibking.com

PROJECT NO: K040-021

DRAWN BY:
S.D.

CHECKED BY: P.M.

CAD FILE: 1040

QUEST

1	REF 00	PROVIDED PER CLT
0	JAN 2000	2006 REV 0
A	JAN 1400	2006 REV A

THE INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 08-21-2001 BY 60322

113

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1000

CA-57C

CASTLE

1131

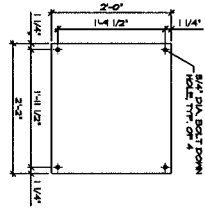
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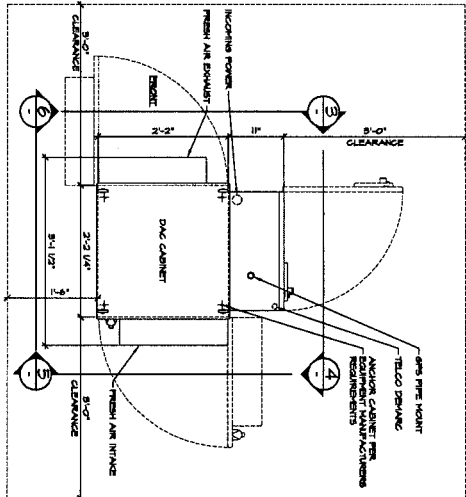
QUESTIONS

IV

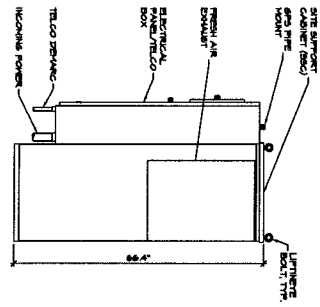
OUTDOOR DAC CABINET	
OUTDOOR SITE SUPPORT CABINET	
WEIGHT = 180 LBS	
CABINET DIMENSIONS	58.5" W x 57.5" D x 68" H
MIN. CLEARANCES	
CABINET REAR AND WALL	54"
CABINET FRONT AND WALL	18"
CABINET LEFT SIDE AND WALL	54"
CABINET RIGHT SIDE AND WALL	54"
ABOVE CABINET	34"
IN FRONT OF CABINET	54"



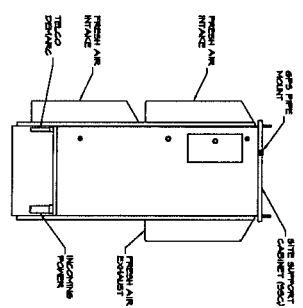
① CABINET BASE
12" H x 57" W



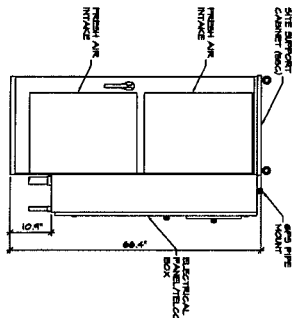
② SSC EQUIPMENT LAYOUT
12" H x 57" W



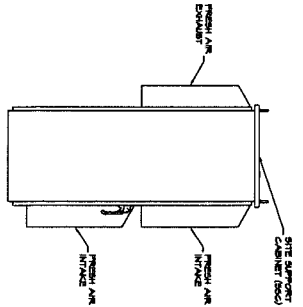
③ SSC EQUIPMENT ELEVATION
58" H x 57" W



④ SSC EQUIPMENT ELEVATION
58" H x 57" W



⑤ SSC EQUIPMENT ELEVATION
58" H x 57" W



⑥ SSC EQUIPMENT ELEVATION
58" H x 57" W

clearw're
4800 CALLETON PI., BERKELEY, CA 94704

Cortel, LLC

500 - 1700 48TH AVE
SUITE 100
TOLSON, CA 94515
TEL: (925) 754-4400
FAX: (925) 754-4400
WWW.CLEARWIRE.COM
REB: reeb@clearwire.com

PROJECT NO. 104-020

DESIGN BY: S.D.

CHECKED BY: P.H.

CAD FILE: 104-020.dwg

SUBMITTALS

1	REV. 1.0	REVISED PER CITY
2	REV. 2.0	REV. 2.0
3	REV. 3.0	REV. 3.0

ALL INFORMATION CONTAINED HEREIN IS THE PROPERTY OF CLEARWIRE. IT IS TO BE USED ONLY FOR THE PROJECT SPECIFICALLY IDENTIFIED HEREIN. ANY REUSE OR MODIFICATION OF THIS INFORMATION WITHOUT THE WRITTEN PERMISSION OF CLEARWIRE IS PROHIBITED.

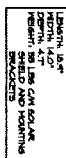
AIR BOX

1050 MACARTHUR BLVD
CA-94608
1050 MACARTHUR BLVD
OAKLAND, CA

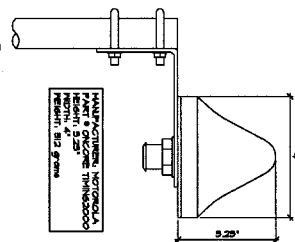
EQUIPMENT DETAILS

Sheet Title

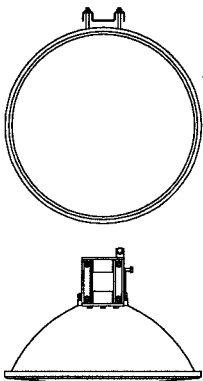
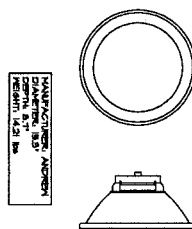
A-4



② GPS SPECIFICATION
NT9.

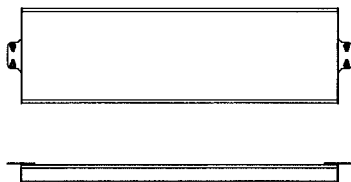


③ 1.5.E.P. SPECIFICATION
N.T.S.



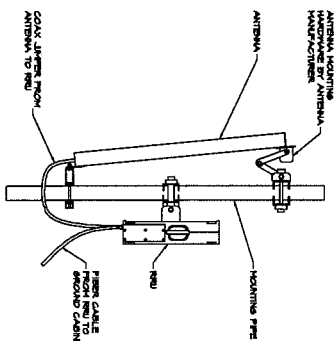
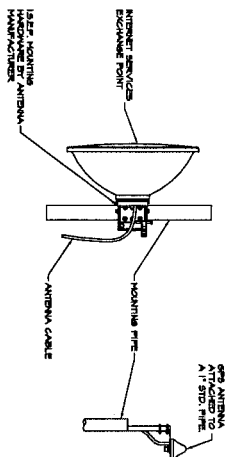
MANUFACTURED BY ANDREW
DIAMETER: 26.1"
DEPTH: 15.2"
WEIGHT: 27 lbs

④ 1.5.E.P. SPECIFICATION
NTS.



MALE, ACQUIRED, KATHLEEN
LENGTH 40.5"
WIDTH 12.7"
DEPTH 5.9"
WEIGHT 25 lbs

⑤ ANTENNA SPECIFICATION
- N.T.S.



6 GENERIC ANTENNA MOUNTING DETAIL
- N/A.

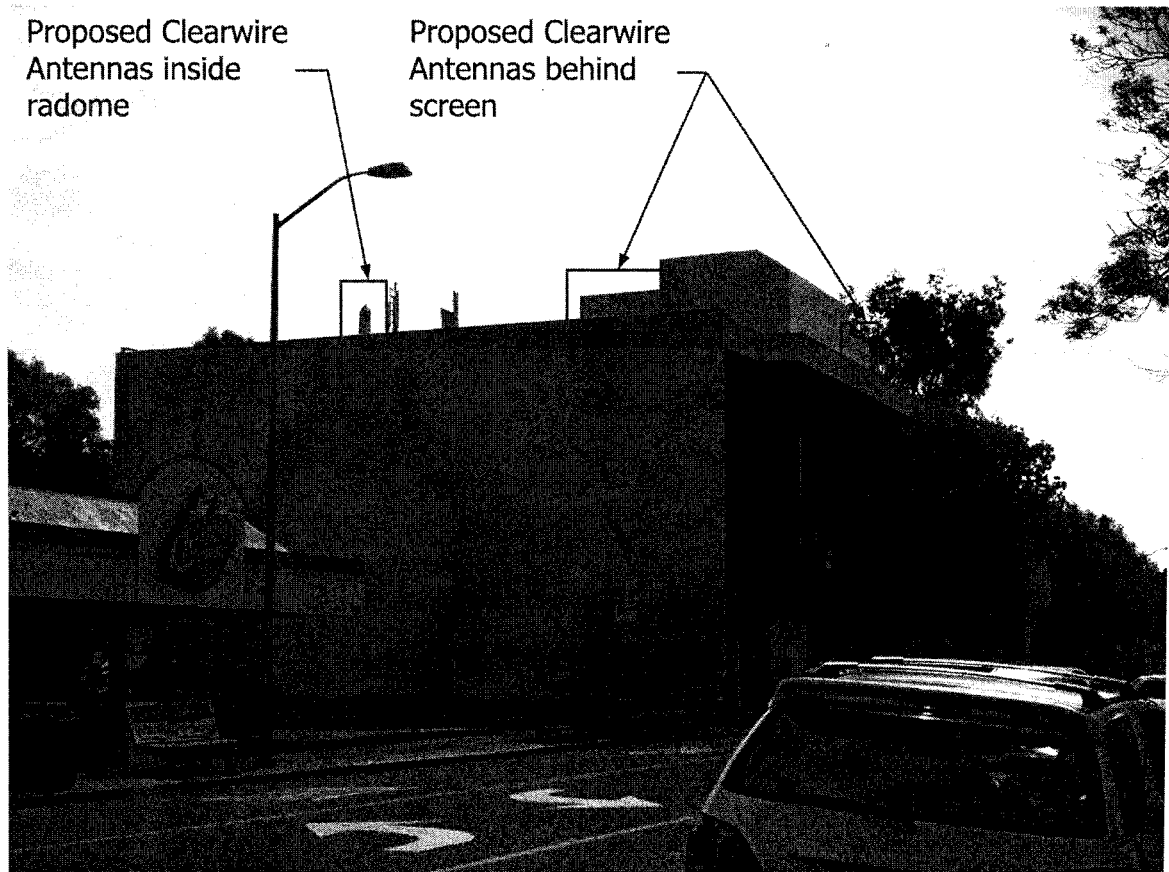
ATTACHMENT A



Proposed

Proposed Clearwire
Antennas inside
radome

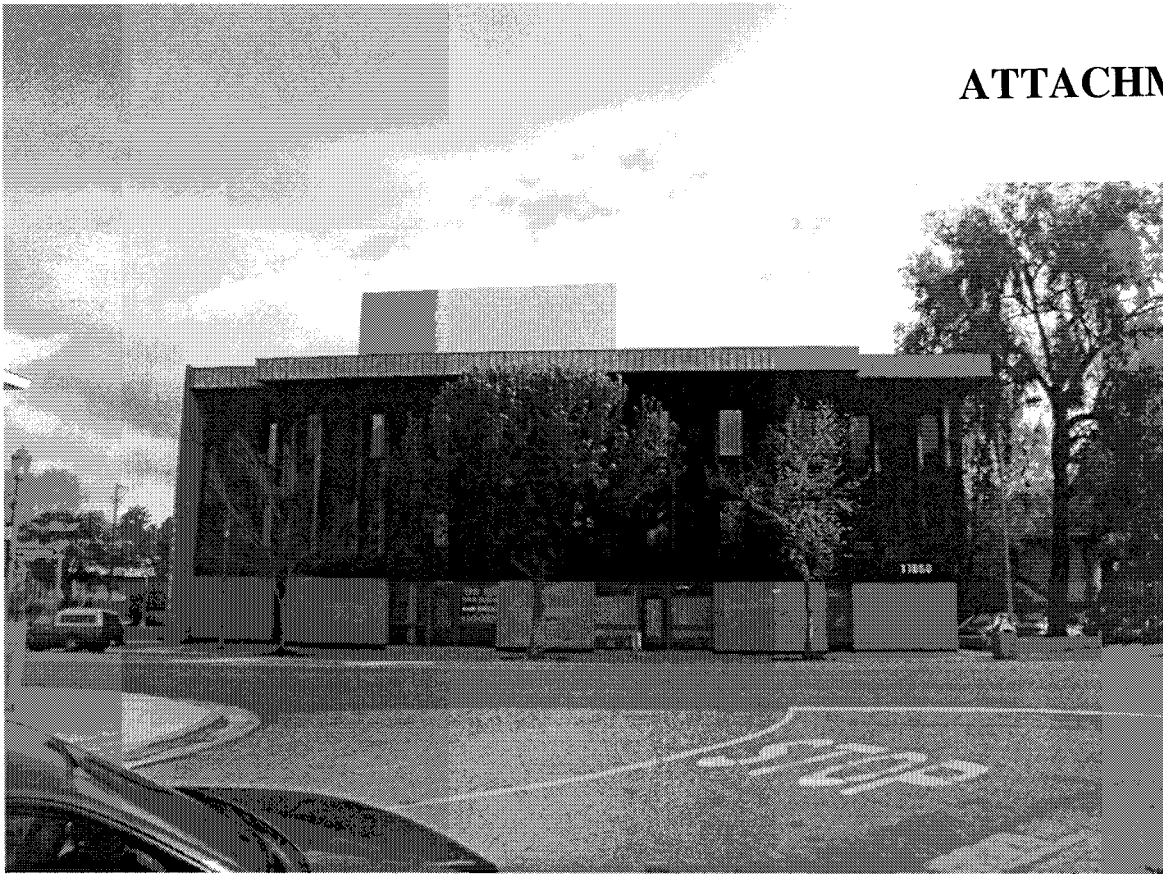
Proposed Clearwire
Antennas behind
screen



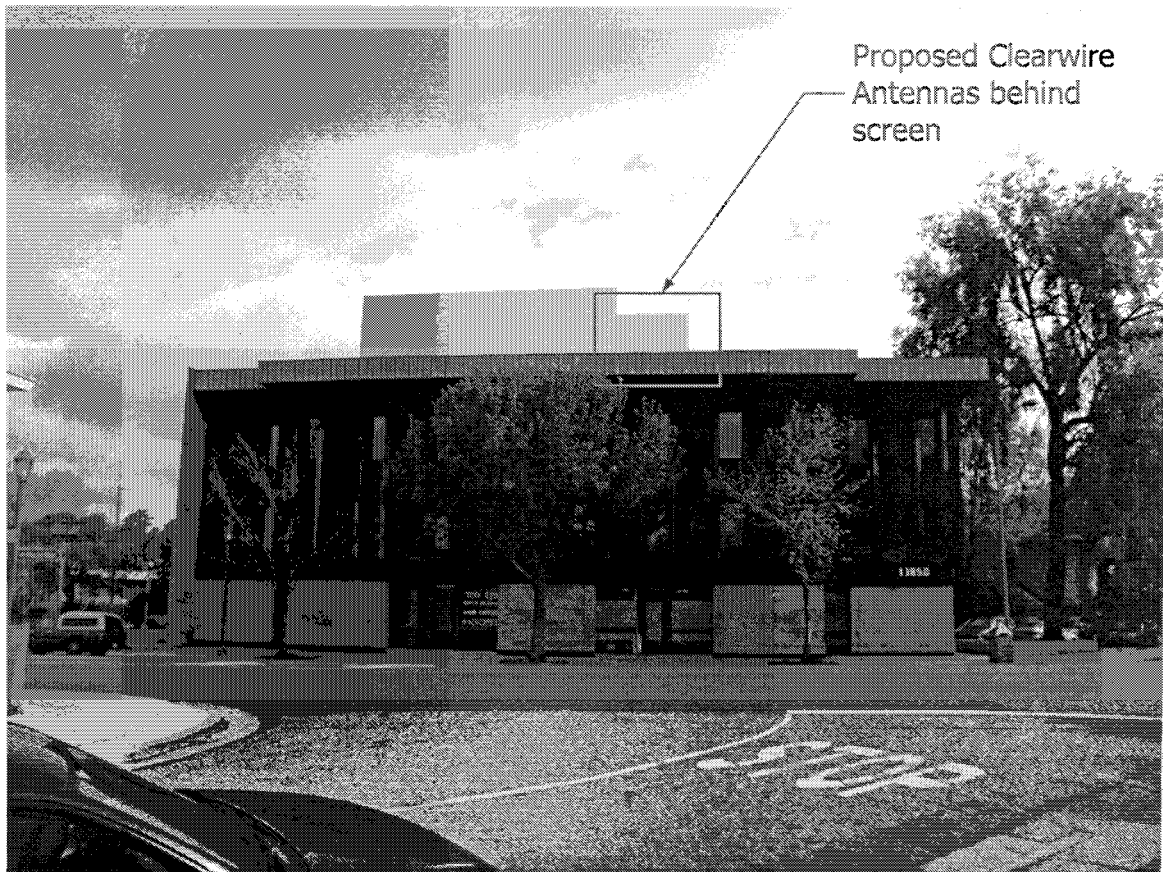
Existing

September 17, 2010

ATTACHMENT A



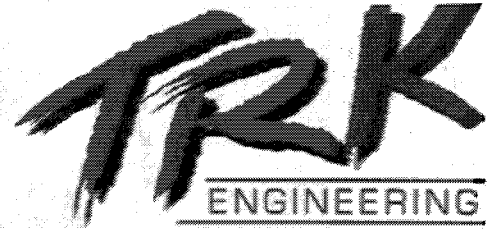
Proposed



Southwest Elevation

CA-SFO0814C
10850 MacArthur Blvd





**FEDERAL COMMUNICATIONS COMMISSION (FCC)
COMPLIANCE STUDY ON
RADIO FREQUENCY
ELECTROMAGNETIC FIELDS EXPOSURE**

Prepared for:

clearwire
wireless broadband

**CA-SFO0814C
10850 MACARTHUR BLVD
10850 MACARTHUR BLVD
OAKLAND, CA**

SEPTEMBER 27/10, REV. 1

SITE DESCRIPTION:

Carrier:	Clearwire wireless broadband
Site Address:	10850 MacArthur Blvd., Oakland, CA
Type of Service:	MMDS (Multichannel Multipoint Distribution Service)
Sectors:	1) 60° 2) 180° 3) 300°
Antenna Type:	Kathrein 840 10054
Number of Antennas:	3
Frequencies (GHz):	2.5 – 2.7
Maximum Power:	969 W ERP (per sector)
Antenna Height:	1) 43'-6"± 2 & 3) 45'± (radiation center AGL)

Table 1. Clearwire RF summary

Clearwire is proposing to construct a wireless broadband facility on a 3 story building at the above address (Figure 1). Three panel antennas with horizontal beam width of 87° will be mounted inside RF-transparent shroud and behind screen wall at various locations on the rooftop. An outdoor site support cabinet will be installed on the rooftop near the existing Verizon Wireless equipment cabinets. Access to the facility is restricted to authorized personnel only.

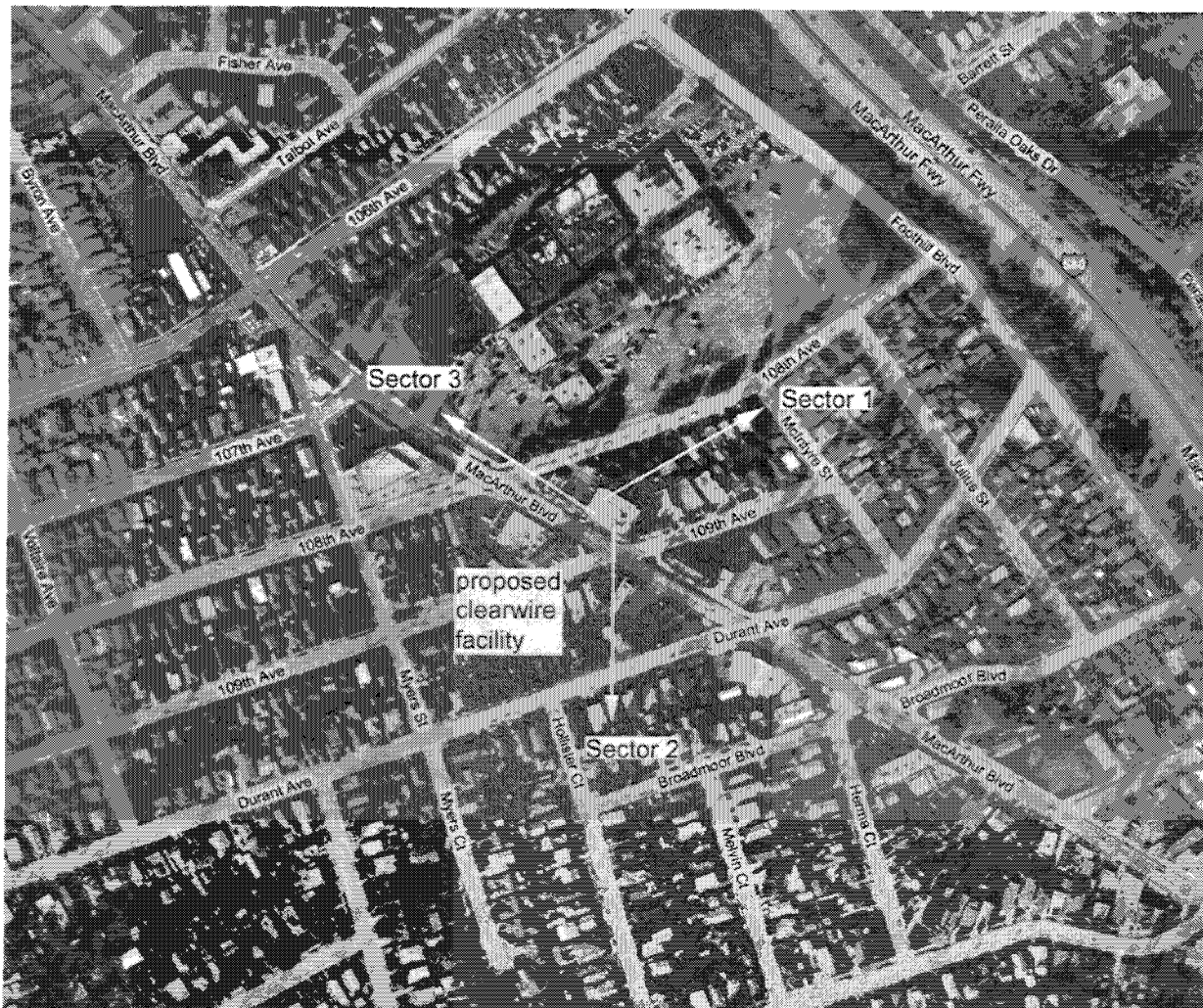


Figure 1. Facility and surrounding area

Clearwire also proposes to install dish antennas or Internet Service Exchange Points (ISEP) near the panel antennas. The RF power outside the main beam of these ISEP antennas is insignificant compared to the panel antennas (see calculations in Appendix A).

There are two other existing wireless communication facilities with panel antennas installed on the rooftop. The RF summaries for the facilities are shown in the following Tables.

Carrier:	Verizon Wireless		
Type of Service:	i) LTE	ii) CDMA	iii) EVDO
Antenna Quantity:	i) 3 (1 per sector)	ii) 3 (1 per sector)	iii) 3 (1 per sector)
Antenna Type:	i&ii) Andrew LNX-6514DS-T4M		iii) HBX-6517DS-VTM
Maximum Power:	500 W (<i>Maximum ERP per technology, per sector</i>)		
Antenna Height:	45'-3"± (<i>Radiation center AGL</i>)		

Table 2. Verizon Wireless RF summary

Carrier:	T-Mobile		
Type of Service:	1900 MHz GSM/UMTS(<i>Broadband PCS</i>)		
Antenna Quantity:	6 (2 per sector)		
Antenna Type:	RFS APXV18-206516S-C-A20 (<i>typical</i>)		
Maximum Power:	1000 W (<i>Maximum ER per sector</i>)		
Antenna Height:	48'± (<i>Radiation center AGL</i>)		

Table 3. T-Mobile RF summary

Sprint has an existing wireless communication facility on the Foot Hill Square sign 320' north of the subject building. The RF summary for the facility is shown in the following Table.

Carrier:	Sprint PCS		
Type of Service:	1900 MHz CDMA(<i>Broadband PCS</i>)		
Antenna Type:	EMS RR65-18-XXDPL2 (<i>typical</i>)		
Maximum Power:	1000 W (<i>Maximum per sector</i>)		
Antenna Height:	60'± (<i>Radiation center AGL</i>)		

Table 4. Sprint PCS RF summary

Metro PCS also has an existing wireless communication facility on the Foot Hill Square Shopping Mall rooftop 705' north of the subject building. The RF summary for the facility is shown in the following Table.

Carrier:	Metro PCS		
Type of Service:	1900 MHz CDMA(<i>Broadband PCS</i>)		
Antenna Type:	EMS RR65-18-XXDPL2 (<i>typical</i>)		
Maximum Power:	500 W (<i>Maximum ERP per sector</i>)		
Antenna Height:	35'± (<i>Radiation center AGL</i>)		

Table 5. Metro PCS RF summary

PROTOCOL:

This study, and the calculations performed therein, is based on OET Bulletin 65¹ which adopts ANSI C95.1-1992 and NCRP standards. In particular, equation 10 from section 2 of the guideline is used as a model (in conjunction with known antenna radiation patterns) for calculating the power density at different points of interest. This information will be used to judge the RF exposure level incident upon the general population, and any employee present in the area. It should be noted that ground reflection of RF waves has been taken into account.

FCC'S MAXIMUM PERMISSIBLE EXPOSURE (MPE) LIMIT:

In order to evaluate the RF exposure level, the power densities at different locations of interest have been examined. Equation 10 from Bulletin 65 is reproduced here as equation 1:

$$S = \frac{33.4F^2ERP}{R^2} \quad (1)$$

Where: S = Power density [$\mu W/cm^2$]
 ERP = Effective radiated power [W]
 R = Distance [m]
 F = Relative field factor (relative numeric gain)

Scenario 1: Standing near the facility on street level

The RF exposure level of a six-foot tall person standing on street level close to the building is evaluated. For the worst-case scenario, we assume that all the antennas are transmitting the maximum number of channels at the same time, with each channel at its maximum power level. In addition, the azimuths of the antennas of all carriers are assumed to be in the direction of the studied location. Please refer to scenario 1 in appendix A for the complete geometry and analysis. The highest exposure location is found to be approximately 201' from a proposed Clearwire antenna. The calculations of maximum cumulative power density are summarized in Table 6.

Service	Max. ERP	F ²	R (m)	S ($\mu W/cm^2$) (from eq. 1)	MPE %
clearwire (panel)	969 W	-14 dB (0.0398)	62.3	0.3319	0.0332
clearwire ISEP	100 W	-30 dB (0.0010)	62.6	0.0009	0.0001
T-Mobile	1000 W	-15 dB (0.0316)	62.6	0.2693	0.0269
Verizon LTE	500 W	-5 dB (0.3162)	62.4	1.3562	0.2608
Verizon CDMA	500 W	-5 dB (0.3162)	62.4	1.3562	0.2338
Verizon EVDO	500 W	-15 dB (0.0316)	62.4	0.1355	0.0136
Sprint PCS	1000 W	-14 dB (0.0398)	79.3	0.2114	0.0211
Metro PCS	500 W	-2 dB (0.6310)	196.3	0.2735	0.0274
Total					0.6169

Table 6. Worst-case predicted power density values for scenario 1.

¹ Cleveland, Robert F, et al. Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields. OET Bulletin 65, Edition 97-01, August 1997.

The Maximum Permissible Exposure (MPE) limit for 1900 MHz and 2500 MHz facilities² for general population/uncontrolled exposure is 1000 $\mu\text{W}/\text{cm}^2$, 580 $\mu\text{W}/\text{cm}^2$ for 850 MHz facilities³, and 520 $\mu\text{W}/\text{cm}^2$ for 700 MHz facilities⁴. The maximum cumulative power density for the proposed and existing antennas is calculated to be 0.62% of the MPE limit.

Scenario 2: Nearby building rooftops

There are various types of buildings in the surrounding area. The RF exposure levels on nearby rooftops are evaluated. We assume again, all antennas within a sector are transmitting with maximum power level. Please refer to scenario 2 in appendix A for the analysis. The highest exposure location is on the rooftop of the nearest building northeast of the subject building. The calculations for the maximum possible power density are summarized in Table 7.

Service	Max. ERP	F ²	R (m)	S ($\mu\text{W}/\text{cm}^2$) (from eq. 1)	MPE %
clearwire (panel)	969 W	-5 dB (0.3162)	42.5	5.6657	0.5666
clearwire ISEP	100 W	-28 dB (0.0016)	42.7	0.0029	0.0003
T-Mobile	1000 W	-15 dB (0.0316)	42.7	0.5789	0.0579
Verizon LTE	500 W	-2 dB (0.6310)	42.6	5.8067	1.1167
Verizon CDMA	500 W	-2 dB (0.6310)	42.6	5.8067	1.0012
Verizon EVDO	500 W	-5 dB (0.3162)	42.6	2.9098	0.2910
Sprint PCS	1000 W	-6 dB (0.2512)	80.2	1.3044	0.1304
Metro PCS	500 W	0 dB (1.0000)	198.2	0.4251	0.0425
Total					3.2066

Table 7. Worst-case predicted power density values for scenario 2.

The maximum cumulative power density for the Clearwire antennas and the existing antennas is calculated to be 3.2% of the MPE limit. There is a relatively low level of RF energy directed either above or below the horizontal plane of the antennas, and there are no locations in the surrounding areas near the facilities that will have RF exposure levels close to the MPE limit.

Scenario 3: Facility rooftop

Only authorized or trained persons will be permitted to access the rooftop and the antennas. The radiation center of proposed Clearwire panel antennas will be approximately between 5'-3" to 7'-5" from the roof deck. There are locations where a six-foot tall person may be partially exposed within the main beam path of an antenna. In this situation, the occupational/controlled exposure limits will apply, as long as the exposed person has been made fully aware of the potential for the exposure.

The MPE limit for 2500 MHz MDS facility⁵ for occupational/controlled exposure is 5 mW/cm^2 . Under worst-case conditions, a distance of less than 9' in front of the panel antennas will have the power density exceeding the occupational/controlled MPE limit. The RF power of the ISEP antennas is insignificant compared to the panel antennas. Please refer to scenario 3 in appendix A for the analysis.

² Ibid., page 67. are shown

³ Ibid., page 67. are shown

⁴ Ibid., page 67. are shown

⁵ Ibid., page 67.

Conclusion:

Under "worst-case" conditions, the calculations shown above predict that the maximum possible RF exposure is 3.2% of the MPE limit for general population/uncontrolled exposure. There will be less RF exposure on the ground level or nearby buildings as a person moves away from the site. Therefore, the proposed Clearwire facility in co-location with existing facilities will comply with the general population/uncontrolled limit.

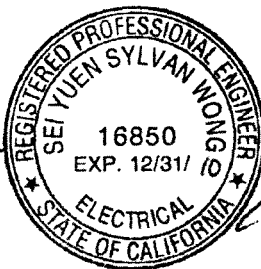
For occupational/controlled exposure to trained persons or transient workers working on the rooftop an RF exclusion zone of 9' in front of the antennas should be maintained. RF exposure warning signage should be posted on the rooftop and near the antennas. This will make trained persons or transient workers fully aware of the potential for RF exposure when there is a necessity to work near the antennas, and allow them to exercise control over their exposure that is within the occupational/controlled limit.

FCC COMPLIANCE:

The general population/uncontrolled exposure near the antennas, including persons on the street level, in nearby open areas, and inside or on existing nearby buildings will have RF exposure much lower than the "worst-case" scenario, which is only a small percentage of the MPE limit.

As for trained persons or transient workers, they will be made fully aware of the potential for RF exposure and can choose to exercise control over their exposure that is within the occupational/controlled limits.

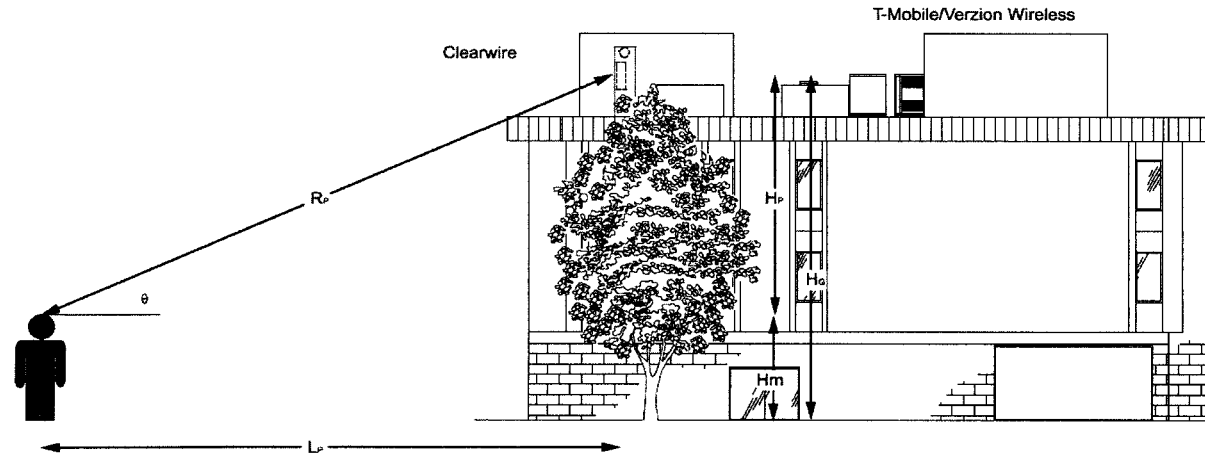
The proposed site will operate within the current acceptable thresholds as established by FCC.

Wong L. Yuen  *September 27, 2010*

Sei Yuen Sylvan Wong, PE
California PE Reg. No. E 16850

APPENDIX A

CA-SFO0814C 10850 MacArthur Blvd
Scenario 1: Surrounding Area of the Facility



person's height (H_M) = 6 ft

building elevation = 65 ft

Horizontal distance from building L_P is

38 ft at $\theta = 45^\circ$

Elevation above sea level: 65 feet

Service Provider	Height H_G , ft	Height H_P , ft	Max. ERP	Angle θ	F^2	R_P (m)	S ($\mu W/cm^2$)	MPE%
clearwire panel	43.50	37.50	969.0	$\theta = 45^\circ$	-30 dB (0.0010)	16.2	0.1233	0.0123
clearwire ISEP	48.75	42.75	100.0	$\theta = 49^\circ$	-44 dB (0.0000)	17.3	0.0000	0.0000
T-Mobile	48.00	42.00	1000.0	$\theta = 48^\circ$	-28 dB (0.0016)	17.2	0.1806	0.0181
Verizon LTE	45.25	39.25	500.0	$\theta = 46^\circ$	-25 dB (0.0032)	16.6	0.1939	0.0373
Verizon CDMA	45.25	39.25	500.0	$\theta = 46^\circ$	-25 dB (0.0032)	16.6	0.1939	0.0334
Verizon EVDO	45.25	39.25	500.0	$\theta = 46^\circ$	-30 dB (0.0010)	16.6	0.0606	0.0061
L_P is 295 ft								
Sprint PCS	60.00	58.00	1000.0	$\theta = 11^\circ$	-14 dB (0.0398)	91.7	0.1581	0.0158
L_P is 681 ft								
Metro PCS	35.00	36.00	500.0	$\theta = 3^\circ$	-2 dB (0.6310)	207.9	0.2438	0.0244
Total								0.1474

Horizontal distance from building L_P is

65 ft at $\theta = 30^\circ$

Elevation above sea level: 65 feet

Service Provider	Height H_G , ft	Height H_P , ft	Max. ERP	Angle θ	F^2	R_P (m)	S ($\mu W/cm^2$)	MPE%
clearwire panel	43.50	37.50	969.0	$\theta = 30^\circ$	-15 dB (0.0316)	22.9	1.9502	0.1950
clearwire ISEP	48.75	42.75	100.0	$\theta = 33^\circ$	-42 dB (0.0001)	23.7	0.0006	0.0001
T-Mobile	48.00	42.00	1000.0	$\theta = 33^\circ$	-25 dB (0.0032)	23.6	0.1919	0.0192
Verizon LTE	45.25	39.25	500.0	$\theta = 31^\circ$	-25 dB (0.0032)	23.1	0.1001	0.0193
Verizon CDMA	45.25	39.25	500.0	$\theta = 31^\circ$	-25 dB (0.0032)	23.1	0.1001	0.0173
Verizon EVDO	45.25	39.25	500.0	$\theta = 31^\circ$	-25 dB (0.0032)	23.1	0.1001	0.0100
L_P is 280 ft								
Sprint PCS	60.00	58.00	1000.0	$\theta = 12^\circ$	-14 dB (0.0398)	87.2	0.1748	0.0175
L_P is 666 ft								
Metro PCS	35.00	36.00	500.0	$\theta = 3^\circ$	-2 dB (0.6310)	203.3	0.2550	0.0255
Total								0.3039

Horizontal distance from building L_P is

136 ft at $\theta = 15^\circ$

Elevation above sea level: 66 feet

Service Provider	Height H_G , ft	Height H_P , ft	Max. ERP	Angle θ	F^2	R_P (m)	S ($\mu W/cm^2$)	MPE%
clearwire panel	43.50	36.50	969.0	$\theta = 15^\circ$	-13 dB (0.0501)	43.0	0.8769	0.0877
clearwire ISEP	48.75	41.75	100.0	$\theta = 17^\circ$	-40 dB (0.0001)	43.4	0.0002	0.0000
T-Mobile	48.00	41.00	1000.0	$\theta = 17^\circ$	-20 dB (0.0100)	43.4	0.1773	0.0177
Verizon LTE	45.25	38.25	500.0	$\theta = 16^\circ$	-12 dB (0.0631)	43.1	0.5673	0.1091
Verizon CDMA	45.25	38.25	500.0	$\theta = 16^\circ$	-12 dB (0.0631)	43.1	0.5673	0.0978
Verizon EVDO	45.25	38.25	500.0	$\theta = 16^\circ$	-20 dB (0.0100)	43.1	0.0899	0.0090
L_P is 269 ft								
Sprint PCS	60.00	57.00	1000.0	$\theta = 12^\circ$	-14 dB (0.0398)	83.8	0.1893	0.0189
L_P is 659 ft								
Metro PCS	35.00	35.00	500.0	$\theta = 3^\circ$	-2 dB (0.6310)	201.2	0.2603	0.0260
Total								0.3662

Horizontal distance from building L_p is201 ft at $\Theta = 10^\circ$

Elevation above sea level: 67 feet

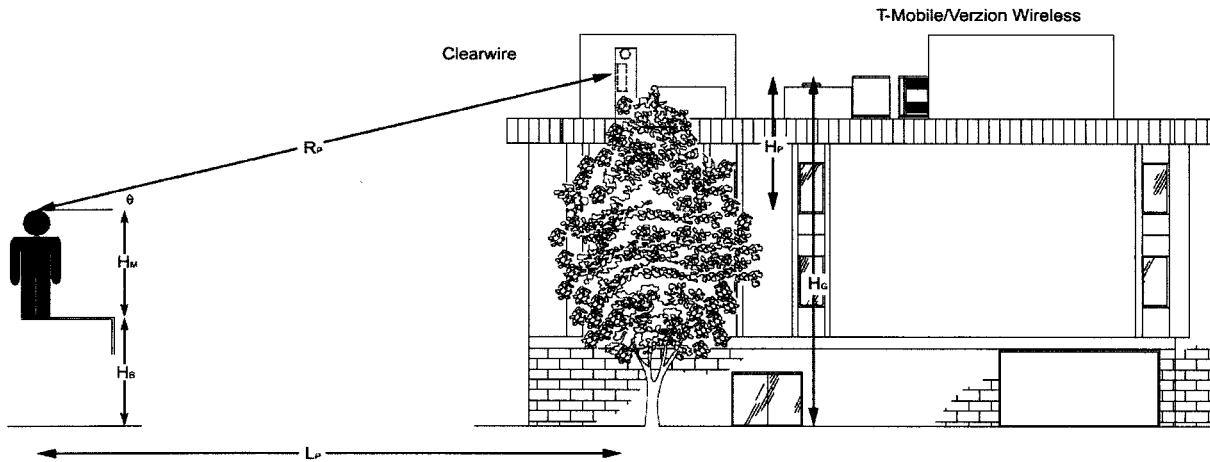
Service Provider	Height H_G , ft	Height H_P , ft	Max. ERP	Angle Θ	F^2	R_P (m)	S ($\mu W/cm^2$)	MPE%
clearwire panel	43.50	35.50	969.0	$\Theta = 10^\circ$	-14 dB (0.0398)	62.3	0.3319	0.0332
clearwire ISEP	48.75	40.75	100.0	$\Theta = 11^\circ$	-30 dB (0.0010)	62.6	0.0009	0.0001
T-Mobile	48.00	40.00	1000.0	$\Theta = 11^\circ$	-15 dB (0.0316)	62.6	0.2693	0.0269
Verizon LTE	45.25	37.25	500.0	$\Theta = 10^\circ$	-5 dB (0.3162)	62.4	1.3562	0.2608
Verizon CDMA	45.25	37.25	500.0	$\Theta = 10^\circ$	-5 dB (0.3162)	62.4	1.3562	0.2338
Verizon EVDO	45.25	37.25	500.0	$\Theta = 10^\circ$	-15 dB (0.0316)	62.4	0.1355	0.0136
L_p is 254 ft								
Sprint PCS	60.00	56.00	1000.0	$\Theta = 12^\circ$	-14 dB (0.0398)	79.3	0.2114	0.0211
L_p is 643 ft								
Metro PCS	35.00	34.00	500.0	$\Theta = 3^\circ$	-2 dB (0.6310)	196.3	0.2735	0.0274
Total								0.6169

Horizontal distance from building L_p is371 ft at $\Theta = 5^\circ$

Elevation above sea level: 70 feet

Service Provider	Height H_G , ft	Height H_P , ft	Max. ERP	Angle Θ	F^2	R_P (m)	S ($\mu W/cm^2$)	MPE%
clearwire panel	43.50	32.50	969.0	$\Theta = 5^\circ$	-5 dB (0.3162)	113.7	0.7916	0.0792
clearwire ISEP	48.75	37.75	100.0	$\Theta = 6^\circ$	-26 dB (0.0025)	113.8	0.0006	0.0001
T-Mobile	48.00	37.00	1000.0	$\Theta = 6^\circ$	-10 dB (0.1000)	113.8	0.2579	0.0258
Verizon LTE	45.25	34.25	500.0	$\Theta = 5^\circ$	-2 dB (0.6310)	113.7	0.8151	0.1568
Verizon CDMA	45.25	34.25	500.0	$\Theta = 5^\circ$	-2 dB (0.6310)	113.7	0.8151	0.1405
Verizon EVDO	45.25	34.25	500.0	$\Theta = 5^\circ$	-5 dB (0.3162)	113.7	0.4085	0.0409
L_p is 291 ft								
Sprint PCS	60.00	53.00	1000.0	$\Theta = 10^\circ$	-13 dB (0.0501)	90.2	0.2057	0.0206
L_p is 617 ft								
Metro PCS	35.00	31.00	500.0	$\Theta = 3^\circ$	-2 dB (0.6310)	188.3	0.2972	0.0297
Total								0.4936

Scenario 2: Nearby Buildings/Rooftop



person's height (H_M) = 6 ft

Location 1: Nearest building within Sector 1

$H_B = 12.0$ ft, L_P is 67 ft		Elevation above sea level: 66 feet						
Service Provider	Height H_G , ft	Height H_P , ft	Max. ERP	Angle θ	F^2	R_P (m)	S ($\mu W/cm^2$)	MPE%
clearwire panel	43.50	24.50	969.0	$\theta = 20^\circ$	-20 dB (0.0100)	21.7	0.6873	0.0687
clearwire ISEP	48.75	29.75	100.0	$\theta = 24^\circ$	-40 dB (0.0001)	22.3	0.0007	0.0001
T-Mobile	48.00	29.00	1000.0	$\theta = 23^\circ$	-25 dB (0.0032)	22.3	0.2149	0.0215
Verizon LTE	45.25	26.25	500.0	$\theta = 21^\circ$	-20 dB (0.0100)	21.9	0.3482	0.0670
Verizon CDMA	45.25	26.25	500.0	$\theta = 21^\circ$	-20 dB (0.0100)	21.9	0.3482	0.0600
Verizon EVDO	45.25	26.25	500.0	$\theta = 21^\circ$	-18 dB (0.0158)	21.9	0.5502	0.0550
L_P is 261 ft								
Sprint PCS	60.00	45.00	1000.0	$\theta = 10^\circ$	-13 dB (0.0501)	80.7	0.2569	0.0257
L_P is 650 ft								
Metro PCS	35.00	23.00	500.0	$\theta = 2^\circ$	-2 dB (0.6310)	198.3	0.2680	0.0268
Total								0.3248

Location 2: 2nd nearest building within Sector 1

$H_B = 24.0$ ft, L_P is 139 ft		Elevation above sea level: 67 feet						
Service Provider	Height H_G , ft	Height H_P , ft	Max. ERP	Angle θ	F^2	R_P (m)	S ($\mu W/cm^2$)	MPE%
clearwire panel	43.50	11.50	969.0	$\theta = 5^\circ$	-5 dB (0.3162)	42.5	5.6657	0.5666
clearwire ISEP	48.75	16.75	100.0	$\theta = 7^\circ$	-28 dB (0.0016)	42.7	0.0029	0.0003
T-Mobile	48.00	16.00	1000.0	$\theta = 7^\circ$	-15 dB (0.0316)	42.7	0.5789	0.0579
Verizon LTE	45.25	13.25	500.0	$\theta = 5^\circ$	-2 dB (0.6310)	42.6	5.8067	1.1167
Verizon CDMA	45.25	13.25	500.0	$\theta = 5^\circ$	-2 dB (0.6310)	42.6	5.8067	1.0012
Verizon EVDO	45.25	13.25	500.0	$\theta = 5^\circ$	-5 dB (0.3162)	42.6	2.9098	0.2910
L_P is 261 ft								
Sprint PCS	60.00	32.00	1000.0	$\theta = 7^\circ$	-6 dB (0.2512)	80.2	1.3044	0.1304
L_P is 650 ft								
Metro PCS	35.00	10.00	500.0	$\theta = 1^\circ$	0 dB (1.0000)	198.2	0.4251	0.0425
Total								3.2066

Location 3: Nearest building surface within Sector 2

$H_B = 24.0$ ft, L_P is 143 ft		Elevation above sea level: 67 feet						
Service Provider	Height H_G , ft	Height H_P , ft	Max. ERP	Angle θ	F^2	R_P (m)	S ($\mu W/cm^2$)	MPE%
clearwire panel	45.00	13.00	969.0	$\theta = 5^\circ$	-5 dB (0.3162)	43.8	5.3344	0.5334
clearwire ISEP	48.75	16.75	100.0	$\theta = 7^\circ$	-28 dB (0.0016)	43.9	0.0028	0.0003
T-Mobile	48.00	16.00	1000.0	$\theta = 6^\circ$	-10 dB (0.1000)	43.9	1.7331	0.1733
Verizon LTE	45.25	13.25	500.0	$\theta = 5^\circ$	-2 dB (0.6310)	43.8	5.4928	1.0563
Verizon CDMA	45.25	13.25	500.0	$\theta = 5^\circ$	-2 dB (0.6310)	43.8	5.4928	0.9470
Verizon EVDO	45.25	13.25	500.0	$\theta = 5^\circ$	-5 dB (0.3162)	43.8	2.7525	0.2753
L_P is 530 ft								
Sprint PCS	60.00	32.00	1000.0	$\theta = 3^\circ$	-2 dB (0.6310)	161.9	0.8040	0.0804
L_P is 917 ft								
Metro PCS	35.00	10.00	500.0	$\theta = 1^\circ$	0 dB (1.0000)	279.6	0.2136	0.0214
Total								3.0874

Location 4: Nearest building surface within Sector 3

H_B= 12.0 ft, L_P is

97 ft

Elevation above sea level:

65 feet

Service Provider	Height H _G , ft	Height H _P , ft	Max. ERP	Angle Θ	F ²	R _P (m)	S (μW/cm ²)	MPE%
clearwire panel	45.00	27.00	969.0	Θ = 16 °	-13 dB (0.0501)	30.7	1.7204	0.1720
clearwire ISEP	48.75	30.75	100.0	Θ = 18 °	-40 dB (0.0001)	31.0	0.0003	0.0000
T-Mobile	48.00	30.00	1000.0	Θ = 17 °	-20 dB (0.0100)	31.0	0.3476	0.0348
Verizon LTE	45.25	27.25	500.0	Θ = 16 °	-12 dB (0.0631)	30.7	1.1181	0.2150
Verizon CDMA	45.25	27.25	500.0	Θ = 16 °	-12 dB (0.0631)	30.7	1.1181	0.1928
Verizon EVDO	45.25	27.25	500.0	Θ = 16 °	-20 dB (0.0100)	30.7	0.1772	0.0177
L _P is 114 ft								
Sprint PCS	60.00	46.00	1000.0	Θ = 22 °	-14 dB (0.0398)	37.5	0.9453	0.0945
L _P is 232 ft								
Metro PCS	35.00	24.00	500.0	Θ = 6 °	-4 dB (0.3981)	71.1	1.3151	0.1315
Total								0.8583

Scenario 3: Facility Rooftop

Location 1: In front of panel antennas.

The MPE limit for 2500 MHz MDS facility for occupational/controlled exposure is 5 mW/cm².

$$R^2 = 33.4 \cdot F^2 \cdot \text{ERP} / S$$

$$R^2 = 33.4 \cdot (1) \cdot [(969/5000)]$$

$$R^2 = 6.47$$

$$R = 2.5 \text{ m}$$

$$R = 8.345 \text{ ft}$$

Location 2: In front of ISEP antenna.

Horizontal distance from antennas L_p is 0 ft at $\Theta = 80^\circ$

Service Provider	Height H_G , ft	Height H_P , ft	Max. ERP	Angle Θ	F^2	R_P (m)	S ($\mu\text{W}/\text{cm}^2$)	MPE%
clearwire ISEP	7.42	1.42	100.0	$\Theta = 80^\circ$	-59 dB (0.0000)	0.4	0.0000	0.0000
Total								0.0000

Horizontal distance from antennas L_p is 1 ft at $\Theta = 60^\circ$

Service Provider	Height H_G , ft	Height H_P , ft	Max. ERP	Angle Θ	F^2	R_P (m)	S ($\mu\text{W}/\text{cm}^2$)	MPE%
clearwire ISEP	7.42	1.42	100.0	$\Theta = 60^\circ$	-54 dB (0.0000)	0.5	0.0000	0.0000
Total								0.0000

Horizontal distance from antennas L_p is 1 ft at $\Theta = 45^\circ$

Service Provider	Height H_G , ft	Height H_P , ft	Max. ERP	Angle Θ	F^2	R_P (m)	S ($\mu\text{W}/\text{cm}^2$)	MPE%
clearwire ISEP	7.42	1.42	100.0	$\Theta = 45^\circ$	-48 dB (0.0000)	0.6	0.0000	0.0000
Total								0.0000

Horizontal distance from antennas L_p is 2 ft at $\Theta = 30^\circ$

Service Provider	Height H_G , ft	Height H_P , ft	Max. ERP	Angle Θ	F^2	R_P (m)	S ($\mu\text{W}/\text{cm}^2$)	MPE%
clearwire ISEP	7.42	1.42	100.0	$\Theta = 30^\circ$	-44 dB (0.0000)	0.9	0.0000	0.0000
Total								0.0000

Horizontal distance from antennas L_p is 5 ft at $\Theta = 15^\circ$

Service Provider	Height H_G , ft	Height H_P , ft	Max. ERP	Angle Θ	F^2	R_P (m)	S ($\mu\text{W}/\text{cm}^2$)	MPE%
clearwire ISEP	7.42	1.42	100.0	$\Theta = 15^\circ$	-40 dB (0.0001)	1.7	0.1156	0.0023
Total								0.0023

Horizontal distance from antennas L_p is 8 ft at $\Theta = 10^\circ$

Service Provider	Height H_G , ft	Height H_P , ft	Max. ERP	Angle Θ	F^2	R_P (m)	S ($\mu\text{W}/\text{cm}^2$)	MPE%
clearwire ISEP	7.42	1.42	100.0	$\Theta = 10^\circ$	-40 dB (0.0001)	2.5	0.0534	0.0011
Total								0.0011

Horizontal distance from antennas L_p is 16 ft at $\Theta = 5^\circ$

Service Provider	Height H_G , ft	Height H_P , ft	Max. ERP	Angle Θ	F^2	R_P (m)	S ($\mu\text{W}/\text{cm}^2$)	MPE%
clearwire ISEP	7.42	1.42	100.0	$\Theta = 5^\circ$	-30 dB (0.0010)	5.0	0.1336	0.0027
Total								0.0027

Kathrein Scala's XX-polarized adjustable electrical downtilt antennas offer the carrier the ability to tailor sites for optimum performance. Using variable downtilt, only a few models need be procured to accommodate the needs of widely varying conditions. Remotely controlled downtilt is available as a retrofitable option.

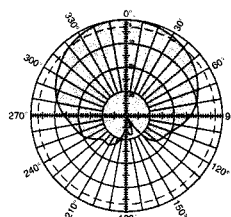
- 0–10° electrical downtilt range.
- DC Grounded metallic parts for impulse suppression.
- No moving electrical connections.
- Optional remote downtilt control.

Specifications:

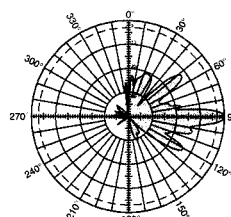
Frequency range	2496–2690 MHz
Gain	2 x 16 dBi
Impedance	50 ohms
VSWR	< 1.5:1
Intermodulation (2x20w)	IM3:< -150 dBc
Polarization	+45° and -45°
Front-to-back ratio	>23 dB typical
Maximum input power	300 watts (at 50°C)
+45° and -45° polarization horizontal beamwidth	87 degrees at midband (half power)
+45° and -45° polarization vertical beamwidth	7 degrees at midband (half power)
Electrical downtilt continuously adjustable	0–10 degrees
Connector	4 x 7-16 DIN female
Sidelobe suppression for first sidelobe above horizon	0° 4° 8° 10° 15 15 15 15 dB (typical)
Null fill	> -1 dBi to 12° below horizon (typical) (17 dB below 16 dBi main beam)
Isolation	>30 dB
Weight	30 lb (13.6 kg)
Dimensions	42 x 12.7 x 2.8 inches (1067 x 323 x 71 mm)
Equivalent flat plate area	4.8 ft² (0.45 m²)
Wind survival rating*	120 mph (200 kph)
Shipping dimensions	48 x 13.3 x 5.1 inches (1220 x 337 x 130 mm)
Shipping weight	34 lb (15.4 kg)
Mounting	Fixed and tilt-mount options are available for 2 to 5.7 inch (50 to 145 mm) OD masts.

See reverse for order information.

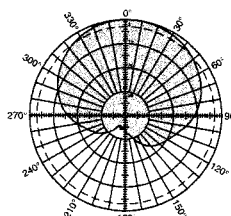
* Mechanical design is based on environmental conditions as stipulated in EIA-222-F (June 1996) and/or ETS 300 019-1-4 which include the static mechanical load imposed on an antenna by wind at maximum velocity. See the Engineering Section of the catalog for further details.



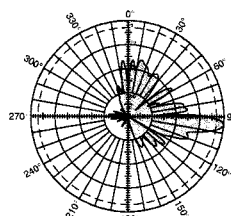
Horizontal pattern
±45°- polarization
0° electrical downtilt



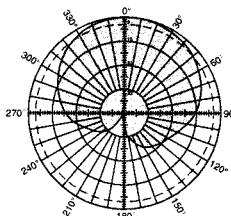
Vertical pattern
±45°- polarization
0° electrical downtilt



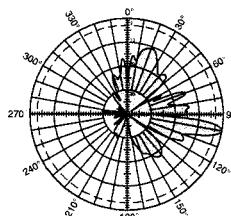
Horizontal pattern
±45°- polarization
5° electrical downtilt



Vertical pattern
±45°- polarization
5° electrical downtilt



Horizontal pattern
±45°- polarization
10° electrical downtilt



Vertical pattern
±45°- polarization
10° electrical downtilt

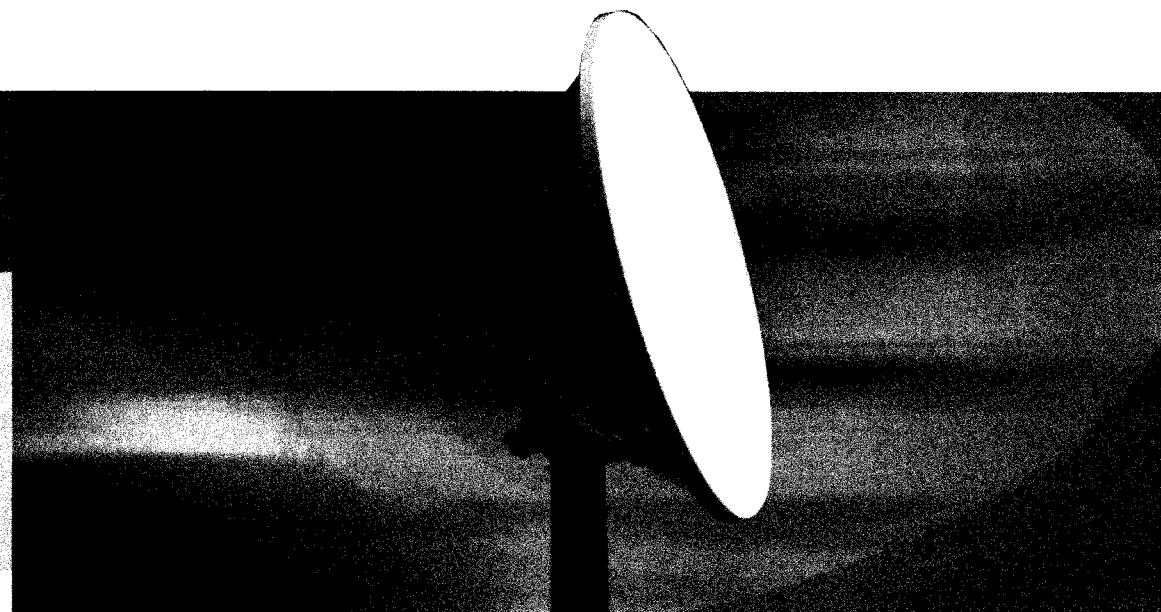


11098-A





**PRODUCT
SPECIFICATION**



ValuLine® III Next Generation Antennas

VHLP2

SPECIFICATIONS

	VHLP2-7W	VHLP2-10W	VHLP2-11	VHLP2-13	VHLP2-15	VHLP2-18	VHLP2-23	VHLP2-26	VHLP2-28	VHLP2-32	VHLP2-38
Frequency Band, GHz	7.125–8.5	10.55–10.68	10.7–11.7	12.70–13.25	14.25–15.35	17.7–19.7	21.2–23.6	24.25–26.5	27.5–29.5	31.8–33.4	37.0–40.0
Bottom Band Gain, dBi	29.5	33.7	34.0	35.6	36.5	38.3	39.8	40.8	41.8	43.4	44.6
Mid Band Gain, dBi	30.7	33.8	34.4	35.8	36.8	38.7	40.4	41.2	42.2	43.7	45.2
Top Band Gain, dBi	31.9	34.3	35.0	36.0	37.2	39.1	41.0	41.8	42.7	44.0	45.8
Beamwidth, degrees	4.7	3.7	3.3	2.7	2.5	2.1	1.7	1.5	1.3	1.0	0.9
Front/Back, dB	57	56	60	62	65	67	66	68	68	61	66
XPD, dB	32	30	30	30	30	30	30	30	30	30	30
Return Loss, dB	17.7	17.7	17.7	17.7	17.7	17.7	17.7	17.7	17.7	17.7	17.7
Regulatory Compliance											
ETSI Class	R1 C3	R1 C2	R1 C3	R1 C3	R2 C3	R2 C3	R3 C3	R4 C3	R4 C3	R5 C3B	R5 C3B
FCC Part 101	N/A	CAT A*	CAT B	N/A	N/A	CAT A	CAT A	CAT A	N/A	N/A	CAT A
Brazil Anatel	N/A	C2	C2	C2	C2	C2	C2	C2	C2	C2	C2
Canada SRSP	N/A	310.5	N/A	312.7B	314.5A	Note 1	Note 2	N/A	N/A	N/A	338.6A
Andrew RPE Number	7075A	7085B, 7086B*	7083A	7004	7008	7012A	7016A	7020A	7024A	7028	7032A

Note 1: Meets Canada SRSP 317.8A, 318.5, 318.8

Note 2: Meets Canada SRSP 312.2A, 321.8B

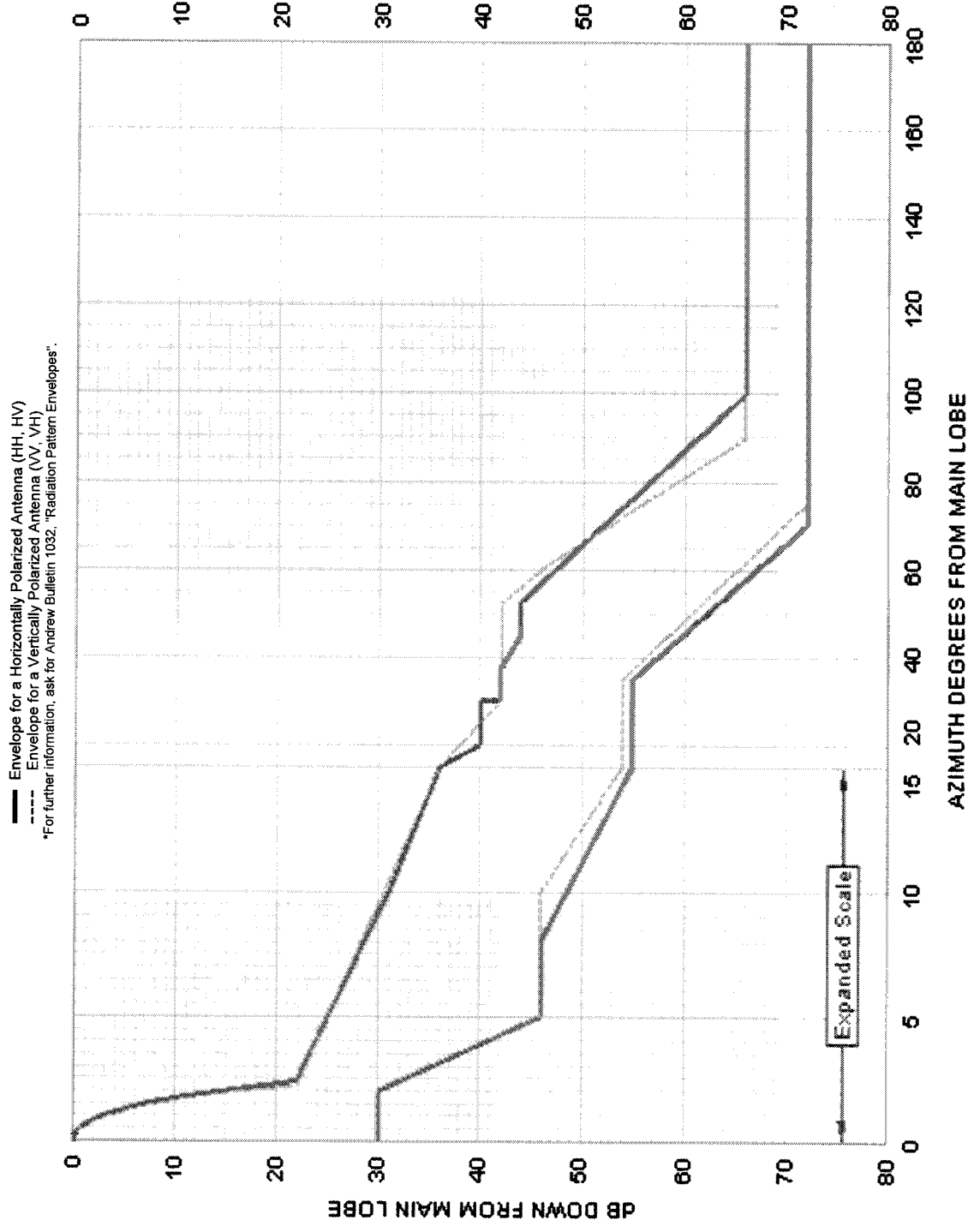
* Use for FCC band (10.5–10.7 GHz)

One Company. A World of Solutions.



RPE: 7016

Engineering Approved:
25 October 2004



Product Data Sheet APXV18-206516S-C-A20

RFS

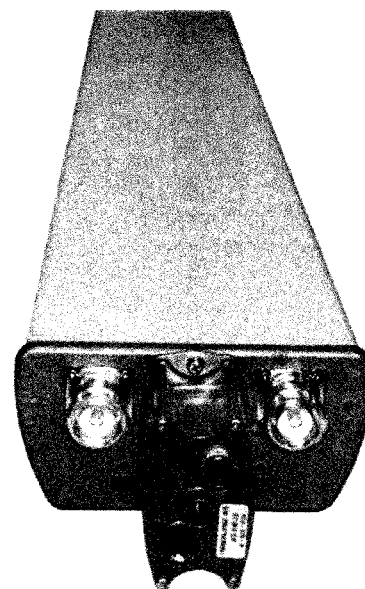
Optimizer® Panel Dual Polarized Antenna equipped with AISG 2.0 ACU motor

Product Description

This X-Polarized variable tilt antenna provides exceptional suppression of all upper sidelobes at all downtilt angles. It also features a wide downtilt range. This antenna is optimized for performance across the entire AWS frequency band (1710-2155 MHz). The antenna comes pre-connected with one antenna control unit (ACU).

Features/Benefits

- **Variable electrical downtilt** - provides enhanced precision in controlling intercell interference. The tilt is infield adjustable 0-10 deg.
- **High Suppression of all Upper Sidelobes** (Typically <-18dB).
- **Gain tracking** – difference between AWS UL (1710-1755 MHz) and DL (2110-2155 MHz) <1dB.
- **Azimuth horizontal beamwidth difference** <6deg between AWS UL (1710-1755 MHz) and DL (2110-2155 MHz)
- **Low profile for low visual impact.**
- **Dual polarization; Broadband design.**
- **Includes AISG 2.0 Compatible ACU-A20-N antenna control unit**



Technical Specifications

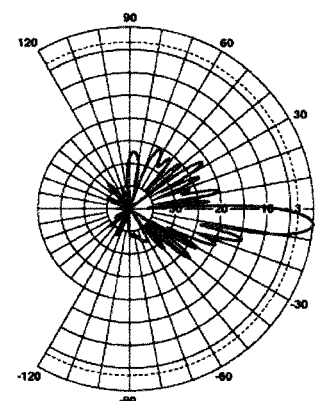
Electrical Specifications

Frequency Range, MHz	1710-2170
Antenna Type	Panel Dual Polarized
Electrical Down Tilt Option	Variable
Gain, dBi (dBd)	18.4 (16.3)
Electrical Downtilt, deg	0-10 , 0-10
Horizontal Beamwidth, deg	65
VSWR	< 1.5:1
Vertical Beamwidth, deg	5.9 to 7.7
1st Upper Sidelobe Suppression, dB	> 18
Upper Sidelobe Suppression, dB	> 18 all
Polarization	Dual pol +/-45°
Front-To-Back Ratio, dB	>26 (typically 28)
Maximum Power Input, W	300
Isolation between Ports, dB	> 30
Lightning Protection	Direct Ground
3rd Order IMP @ 2 x 43 dBm, dBc	> 150 (155 Typical)

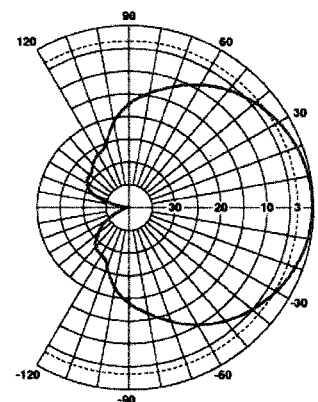
Mechanical Specifications

Rated Wind Speed, km/h (mph)	160 (100)
Survival Wind Speed, km/h (mph)	200 (125)
Max Wind Loading Area, m² (ft²)	0.29 (2.9)
Maximum Thrust @ Rated Wind, N (lbf)	380 (185)
Front Thrust @ Rated Wind, N (lbf)	380 (185)
Reflector Material	Aluminum
Radiating Element Material	Brass
Radome Material	Fiberglass
Connector Type	(2) 7-16 DIN Female
Connector Location	Bottom
Mount Type	Downtilt
Mounting Hardware	APM40-2
Weight w/o Mtg Hardware, kg (lb)	8.5 (18.7)
Packing Dimensions, HxWxD, mm (in)	1439 x 237 x 260 (56.6 x 9.3 x 10.3)
Dimensions - HxWxD, mm (in)	1349 x 175 x 80 (53.1 x 6.9 x 3.15)
Shipping Weight, kg (lb)	14.5 (31.9)

* This data is provisional and subject to change.



Vertical Pattern



Horizontal Pattern

RFS The Clear Choice™

APXV18-206516S-C-A20

Print Date: 21.2.2007

Please visit us on the internet at <http://www.rfsworld.com>

Radio Frequency Systems

Product Specifications



HBX-6517DS-VTM

DualPol® Antenna, 1710–2180 MHz, 65° horizontal beamwidth, RET compatible variable electrical tilt



- Superior azimuth tracking and pattern symmetry to minimize any sector overlap
- Field adjustable electrical tilt
- Rugged, reliable design with excellent passive intermodulation suppression
- Fully compatible with Andrew Teletilt® remote control system

CHARACTERISTICS

General Specifications

Antenna Type DualPol®
Brand DualPol® | Teletilt®
Operating Frequency Band 1710 – 2180 MHz

Electrical Specifications

Frequency Band, MHz	1710–1880	1850–1990	1920–2180
Beamwidth, Horizontal, degrees	65	65	65
Gain, dBd	16.9	17.0	17.1
Gain, dBi	19.0	19.1	19.2
Beamwidth, Vertical, degrees	5.0	4.7	4.4
Beam Tilt, degrees	0–6	0–6	0–6
Upper Sidelobe Suppression (USLS), typical, dB	18	18	18
Front-to-Back Ratio at 180°, dB	30	30	30
Isolation, dB	30	30	30
VSWR Return Loss, db	1.4:1 15.6	1.4:1 15.6	1.4:1 15.6
Intermodulation Products, 3rd Order, 2 x 20 W, dBc	-153	-153	-153
Input Power, maximum, watts	250	250	250
Polarization	±45°	±45°	±45°
Impedance, ohms	50	50	50
Lightning Protection	dc Ground	dc Ground	dc Ground

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Product Specifications

HBX-6517DS-VTM



Mechanical Specifications

Color	Light gray
Connector Interface	7-16 DIN Female
Connector Location	Bottom
Connector Quantity	2
Wind Loading, maximum	453.7 N @ 100 mph 102.0 lbf @ 100 mph
Wind Speed, maximum	241.4 km/h 150.0 mph

Dimensions

Depth	83.0 mm 3.3 in
Length	1902.0 mm 74.9 in
Width	166.0 mm 6.5 in
Net Weight	8.5 kg 18.7 lb

Remote Electrical Tilt (RET) Information

Model with Factory Installed AISG 1.1 Actuator HBX-6517DS-R2M

Model with Factory Installed AISG 2.0 Actuator HBX-6517DS-A1M

RET System Teletilt®

Regulatory Compliance/Certifications

Agency

RoHS 2002/95/EC

China RoHS SJ/T 11364-2006

Classification

Compliant by Exemption

Above Maximum Concentration Value (MCV)



Included Products



Downtilt Mounting Kit for 4.5 in (114.3 mm) OD round members

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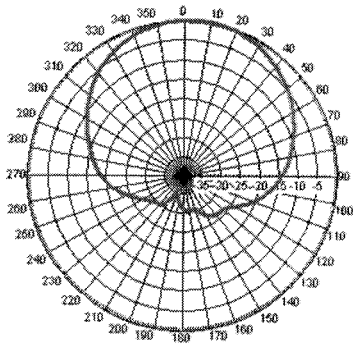
Product Specifications

HBX-6517DS-VTM

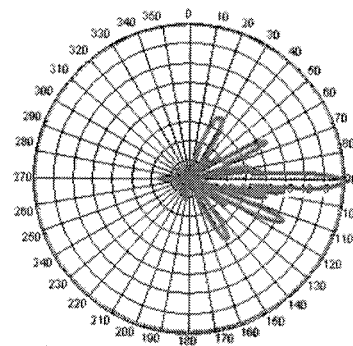


Horizontal Pattern

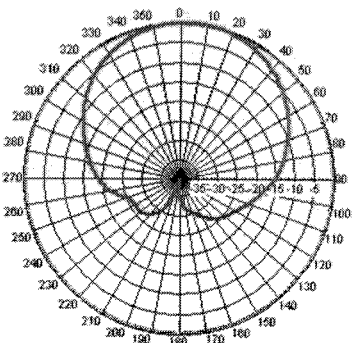
Vertical Pattern



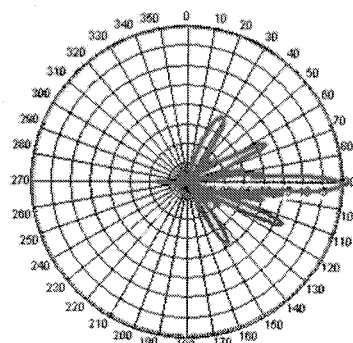
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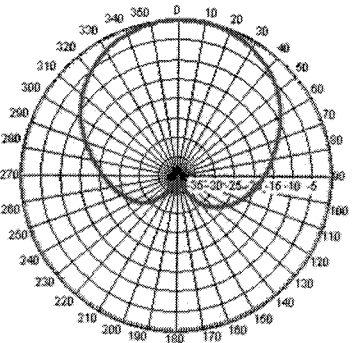
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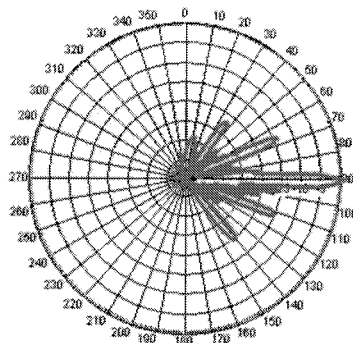
Freq: 1910 MHz, Tilt: 0



Freq: 1910 MHz, Tilt: 0



Freq: 2110 MHz, Tilt: 0



Freq: 2110 MHz, Tilt: 0

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Product Specifications



LNx-6514DS-T6M

DualPol® Antenna, 698–896 MHz, 65° horizontal beamwidth, fixed electrical tilt



- Broadband, providing future-ready single antenna for application in 700 MHz and existing 850 MHz cellular operation
- Air dielectric design provides superior PIM performance with repeatable antenna-to-antenna gain and pattern consistency
- Single piece radome provides long term mechanical stability
- Proven core design technology, with over 1,000,000 similar antennas deployed
- Exceptional USLS pattern shaping for optimizing coverage and interference mitigation for LTE applications
- Specifically designed to have physical dimensions similar to most existing cellular antennas

CHARACTERISTICS

General Specifications

Antenna Type DualPol®
Brand DualPol®
Operating Frequency Band 698 – 896 MHz

Electrical Specifications

Frequency Band, MHz	698–806	806–896
Beamwidth, Horizontal, degrees	65	65
Gain, dBd	13.7	14.5
Gain, dBi	15.8	16.6
Beamwidth, Vertical, degrees	12.6	11.0
Beam Tilt, degrees	6	6
Upper Sidelobe Suppression (USLS), typical, dB	18	18
Front-to-Back Ratio at 180°, dB	34	34
Isolation, dB	30	30
VSWR Return Loss, db	1.35:1 16.5	1.35:1 16.5
Intermodulation Products, 3rd Order, 2 x 20 W, dBc	-150	-150
Input Power, maximum, watts	500	500
Polarization	±45°	±45°
Impedance, ohms	50	50
Lightning Protection	dc Ground	dc Ground

Product Specifications

LNK-6514DS-T6M



Mechanical Specifications

Color	Light gray
Connector Interface	7-16 DIN Female
Connector Location	Bottom
Connector Quantity	2
Wind Loading, maximum	617.7 N @ 150 km/h 138.9 lbf @ 150 km/h
Wind Speed, maximum	241.4 km/h 150.0 mph

Dimensions

Depth	181.0 mm 7.1 in
Length	1847.0 mm 72.7 in
Width	301.0 mm 11.9 in
Net Weight	17.0 kg 37.5 lb

Regulatory Compliance/Certifications

Agency

RoHS 2002/95/EC
China RoHS SJ/T 11364-2006

Classification

Compliant by Exemption
Above Maximum Concentration Value (MCV)



Included Products



MTG-L-STD

Downtilt Mounting Kit for panel Antennas

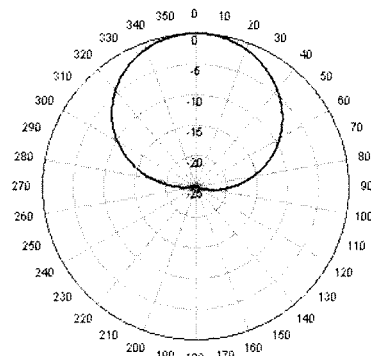
Product Specifications

LNx-6514DS-T6M

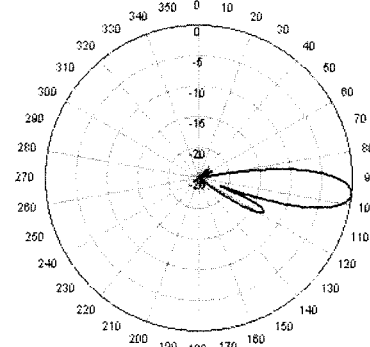


Horizontal Pattern

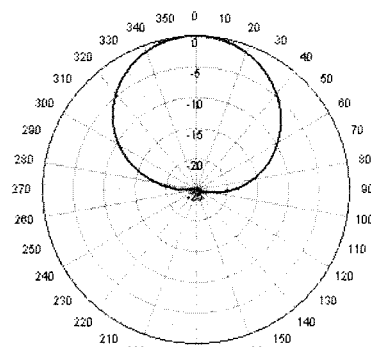
Vertical Pattern



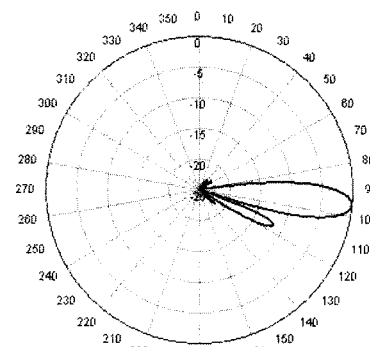
Freq: 750, Tilt 6



Freq: 750, Tilt 6



Freq: 850, Tilt 6



Freq: 850, Tilt 6

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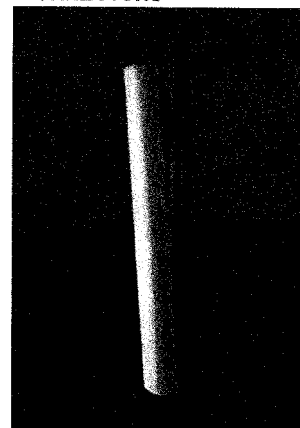
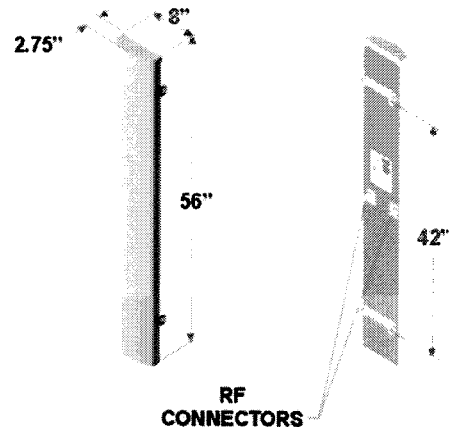
RR65-18-XXDPL2

DualPol® Polarization
1850 MHz - 1990 MHz

OptiRange™
Suppressor™

Electrical Specifications

Azimuth Beamwidth (-3 dB)	65°
Elevation Beamwidth (-3 dB)	6°
Elevation Sidelobes (Upper)	≥ 18 dB
Gain	17.5 dBi (15.4 dBd)
Polarization	Dual Linear Slant (± 45°)
Port-to-Port Isolation	≥ 30 dB
Front-to-Back Ratio	≥ 30 dB
Electrical Downtilt Options	0°, 2°, 4°, 6°
VSWR	1.35:1 Max
Connectors	2; 7-16 DIN (female)
Power Handling	250 Watts CW
Passive Intermodulation	≤ -150 dBc [2 x 20 W (+ 43 dBm)]
Lightning Protection	Chassis Ground



Mechanical Specifications

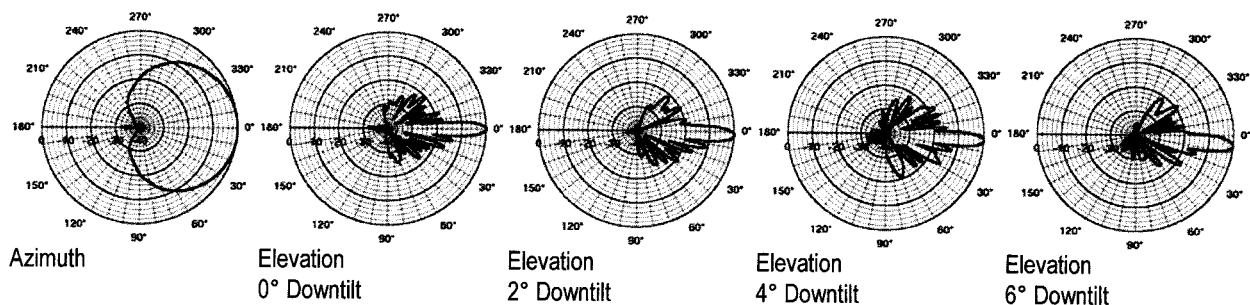
Dimensions (L x W x D)	56 in x 8 in x 2.75 in (142 cm x 20.3 cm x 7.0 cm)
Rated Wind Velocity	150 mph (241 km/hr)
Equivalent Flat Plate Area	3.1ft ² (.29 m ²)
Front Wind Load @ 100 mph (161 kph)	90 lbs (400 N)
Side Wind Load @ 100 mph (161 kph)	31 lbs (139 N)
Weight	18 lbs (8.2 kg)

Mounting Options

MTG-P00-10, MTG-S02-10, MTG-DXX-20*, MTG-CXX-10*, MTG-C02-10, MTG-TXX-10*

Note: *Model number shown represents a series of products. See Mounting Options section for specific model number.

Patterns



Revised 04/05/02

Location:	Citywide
Proposal:	Planning Code Amendment to include Temporary Conditional Use Permit regulations
Project sponsor(s):	Planning Commission
Owner(s):	NA
Case File Number(s):	ZT100007
Planning Permits Required:	Planning Code Amendment
General Plan:	All
Zoning:	All
Environmental Determination:	The proposal relies on the previously certified Environmental Impact Report (EIR) for the Land Use and Transportation Element of the General Plan (1998); the EIR for the 1998 Amendment to the Historic Preservation Element of the General Plan; the Housing Element Update Initial Study/Mitigated Negative Declaration (2004); and CEQA Guidelines Section 15183, "Projects Consistent with a Community Plan, General Plan or Zoning"
Historic Status:	All, including Areas of Primary Importance (APIs), Areas of Secondary Importance (ASIs), landmark properties, and other historically rated properties.
Service Delivery District:	All
City Council District:	All
Status:	Proposal forwarded to the Planning Commission without ZUC recommendation
Action to be Taken:	Consider recommendation to City Council
Finality of Decision:	Decision by City Council
For further information:	Contact case planner Catherine Payne at (510) 238-6168 or by email at cpayne@oaklandnet.com

SUMMARY

The proposed Planning Code amendment addressed in this report would provide a coordinated framework for the City of Oakland to consider conditional use permits for temporary land uses throughout the city. The proposal would provide standards and procedures for temporary uses and responds to an economic climate that has hindered permanent and highest-use development of sites in Oakland. The proposed text amendment is summarized in this report. Please see Attachment A for the proposed zoning text amendments. The Planning Commission is asked to make a recommendation to the City Council regarding the proposed Temporary Conditional Use Permit regulations (TCUP). The Planning Commission voted to continue this item from the September 1, 2010 Planning Commission agenda to the October 20, 2010 Planning Commission agenda.

PROJECT SITE AND SURROUNDING AREA

The proposed TCUP regulations would apply citywide. However, staff has outlined variants of the proposal for Planning Commission consideration that apply only to the Central Business District and/or exclude the Central Business District (see “Project Description” section, below, for discussion of variants).

BACKGROUND

During this current economic downturn, Oakland land owners with vacant or underutilized parcels are interested in maintaining the economic viability of the land and yet are not able to finance permanent development of the highest and best use. In particular, Oakland hosts a large inventory of vacant or underutilized lots with no current entitlements as well as vacant lots that are entitled for permanent development yet are not able to secure financing for said development. In order to reduce the blight of vacant lots and promote economic development in this challenging economic climate, staff proposes consideration of regulations that would allow short-term uses of vacant and underutilized properties with relaxed standards to reduce blight and promote economic development in a realistic manner.

Zoning Update Committee

The Zoning Update Committee of the Planning Commission (ZUC) reviewed the TCUP proposal twice, on February 17 and April 21, 2010. Although the ZUC forwarded the proposal to the Planning Commission for consideration, the ZUC did not, as a body, support the proposal. In summary, the ZUC expressed concerns about diluting recently adopted zoning regulations, hindering development of higher and better uses of affected parcels, and the ability to enforce the regulations. A complete list and analysis of ZUC concerns is provided in the “Key Issues and Impacts” section of this report.

Community Input

Community members voiced their opinions regarding the proposed TCUP regulations at both the February 17 and April 21, 2010 ZUC hearings. In summary, community members expressed opinions both for and against the proposed regulations. A complete list and analysis of community opinions expressed to date is provided in the “Key Issues and Impacts” section of this report.

PROJECT DESCRIPTION

The proposed project is a Planning Code amendment (amendment) defining and regulating the application of temporary conditional use permits in Oakland. The amendment would allow currently permitted and conditionally permitted activities on a site, with relaxed limitations and

standards and without affecting underlying entitlements. One example of this would be allowing surface auto-fee parking lots in the Central Business District for a three-year period; the existing CBD Planning Code regulations allow auto-fee parking, but limitations require the parking to be enclosed and above the ground floor. Under the proposed amendment, the CBD limitations could be relaxed and surface parking would be allowed only on a short-term temporary basis. This would allow an economically viable, though not necessarily the highest and best, use of a site that might otherwise be undeveloped in this economy. The short timeframe would not hinder development of a permanent and better use for the site should the economy improve in the near future.

The amendment includes the following key components:

1. *Limited duration:* The amendment includes a permit life of three years. The regulations allow a one-time, one year extension with no other options for extending the life of the original permit. In summary, a permit could have a maximum active life of up to four years, including the one-time extension.
2. *Relaxation of Planning Code "Limitations" and "Additional Criteria":* The amendment would generally require that the proposed land use be permitted or conditionally permitted in the underlying zoning district (with a few exceptions, as noted below); however, the amendment would authorize a temporary CUP to relax limitations and criteria that apply to the proposed land use in the underlying zoning district. This would protect the compatibility of land uses in the underlying zoning district while allowing flexibility to allow use locations and design that are viable in an economically challenging climate on a temporary basis. In some cases, where a permitted use would otherwise require a minor variance to waive "limitations" and "additional criteria", the use could be processed through the TCUP process as a temporary use, and would thereby allow a use that otherwise would not be contemplated by the Planning Code.
3. *Provisions for removal of use upon permit expiration:* The proposed amendment includes requirements for a site restoration plan, financial security, and a recorded agreement to ensure termination of any permitted use or improvement upon permit expiration. The proposed amendment also would require that any improvements be of a temporary nature, as determined by the City. The proposed regulations additionally cite the City's existing ability to penalize any violations of the terms of a temporary conditional use permit.
4. *No effect on existing land use entitlements:* Any permit granted under the amendment would not terminate or otherwise affect any existing land use entitlements. In this way, a site can host a temporary use while maintaining any existing entitlement for a higher and better use in the future.
5. *Included Activities and Facilities:* The following uses could be considered under the proposed regulations, regardless of whether or not they are currently permitted or conditionally permitted in the underlying zoning district: Active Mini-Park; Passive Mini-Park; Special Use Park; Nonassembly Cultural Civic; Recreational Assembly

Civic; Crop and Animal Raising; and Plant Nursery Agricultural. These uses are generally beneficial and community-serving uses that do not necessarily require extensive improvements or result in substantial impacts to the community.

6. *Excluded Activities or Facilities:* Alcoholic Beverage Sales Commercial, Tobacco-oriented Uses, Adult Entertainment, and Check Cashier and Check Cashing Activity are excluded under the proposed regulations. These activities typically involve substantial impacts to the communities in which they are located and are not consistent with the nature of the TCUP proposal.

Project Variants

Staff has included various options of the draft amendment for consideration by the Planning Commission. The following discussion and matrix outline the options and their benefits and disadvantages:

No Action

Taking no action on a temporary use permit proposal would retain the status quo. Currently, there are a small number of active (and unabated) temporary permits on file in Oakland (generally, these are conditional use permits issued with a condition for termination of the use by a date certain). Should the City receive future applications for temporary uses (CUP, variance or DA applications), there are a few existing options for considering such proposals: the City could deny the application or approve the application with conditions of approval to limit the duration of the use and impose conditions such as those specified in this proposal to avoid future claim that the use has become vested.

This approach does not contradict the existing Planning Code. However, this approach provides less land use flexibility, on a comprehensive basis, to address a fluctuating economy than would the proposed amendment, and it provides no systematic formula for considering or terminating temporary uses.

Citywide TCUP

A Citywide TCUP, which embodies staff's requirements, as fully described above and in Attachment A to this report, would establish a standardized regulatory process for considering temporary use applications. The proposed regulations allow for a wide variety of uses currently permitted or conditionally permitted in the underlying zoning district. Relaxation of development standards, however, would allow site design that would otherwise not be permitted (surface parking would be allowed in districts where auto fee parking is permitted but development standards restrict surface parking).

Relaxation of standards, in some cases, would potentially contradict the intent of the Planning Code. However, the intent of the Planning Code is to establish standards and requirements for

permanent uses. With respect to the proposed amendment, the temporary nature of the uses may lessen the concern about allowing uses that might be considered undesirable on a permanent basis. Temporary use permits, in general, would potentially discourage development of higher and better permanent land uses, extending blighted conditions into the future. Nonetheless, a consistent permitting process ensures consistent application of regulations and conditions of approval, and better controls the termination of the temporary uses.

Trial Citywide TCUP

A trial Citywide TCUP program would include the regulations proposed in Attachment A (and described above); however, the trial program would sunset on a date certain. This would allow the City to test the benefits and disadvantages of the TCUP concept during the current economic downturn. By extinguishing the trial on a date certain, the City can control termination of any uses permitted during the trial period. In addition, a trial program would allow the City to consider whether to cease, continue and/or alter the regulations on an extended or permanent basis.

Trial TCUP-CBD

A trial TCUP program in the Central Business District (CBD) would generally include the regulations proposed in Attachment A; however, application would be limited to the CBD. In this way, the trial TCUP-CBD program would specifically address the current, active interest in temporary uses, as the current applications are for surface parking in the downtown area. The trial program would allow the City to consider the advantages and disadvantages of such regulations on a limited basis with the most controversial uses.

Trial TCUP-no surface parking

A trial TCUP that does not allow surface parking would generally include the regulations proposed in Attachment A and would apply Citywide; however, surface parking would not be allowed as a temporary use. A trial Citywide TCUP that does not allow any surface parking may be desirable in terms of the allowable land uses. It should be noted, however, that this proposal would not address actual demand for temporary permits, all of which are for surface parking.

Development Agreement

Whether or not the City of Oakland adopts any specific policy, the City has the ability, on a case-by-case basis, to adopt DAs to extend the life of existing land use entitlements in exchange for the placement of desirable temporary land uses on entitled sites during the interim period. This approach would be specific to currently entitled properties and would require City Council consideration on a case-by-case basis. The City can dictate the appropriate interim uses and the

extent and quality of improvements, accessibility and other design features, as the approach would be incentive-based.

Minor and Major Permit Procedures

The current proposal includes a two-tiered procedure to process both major and minor temporary conditional use permit applications (based on the major and minor conditional use permit definitions included in Planning Code Section 17.134.020). In the proposed regulations, uses that are outright permitted or are subject to a minor conditional use permit procedure would be subject to the minor procedure (staff-level approval, with no required public hearing, appealable to the Planning Commission); uses that are subject to a major conditional use permit procedure would continue to be subject to a major permit procedure (subject to a public hearing before the Planning Commission, appealable to the City Council). This approach would ensure broader public participation and scrutiny in the review of more extensive temporary use proposals, but would also potentially take a longer time to complete review than would specifying that all temporary CUPs are processed as minor CUPs.

Design standards that would potentially trigger a minor or major variance (such as “limitations” or “additional criteria” that require a use to be enclosed, located above the ground floor or located below grade) would not affect whether a TCUP application is considered major or minor.

The Planning Commission has the option of alternatively considering a minor permit process for all temporary conditional use permit applications to simplify and streamline the process for temporary uses.

TEMPORARY CUP OPTIONS MATRIX			
Option	Benefits	Disadvantages	Additional Notes
No Action	<ul style="list-style-type: none"> Does not contradict Planning Code; Allows uses for a limited timeframe 	<ul style="list-style-type: none"> No land use flexibility to address fluctuating economy No systematic formula for considering temporary use proposals; No systematic approach to terminating approved temporary uses; Difficult to ensure removal of uses (politically and in terms of City ability to monitor); Temporary uses can become vested, permanent; 	<ul style="list-style-type: none"> Could amend SCOA to allow temporary uses on case-by-case basis with consistent conditions Temporary use proposals would be considered under existing CUP, variance or DA procedures
Citywide TCUP	<ul style="list-style-type: none"> Allows uses for a limited timeframe Provides consistent formula for processing temporary use proposals; Responds to economic reality by allowing more land use flexibility Provides similar permitting opportunity throughout Oakland Ensures uses do not become vested 	<ul style="list-style-type: none"> Difficult to remove from Planning Code if regulations prove to be problematic In some cases, allows uses that contradict permanent controls in Planning Code; May discourage development of permanent higher and better use; 	<ul style="list-style-type: none"> To adopt permanently, would need to go to Council for approval
Trial Citywide	<ul style="list-style-type: none"> Same advantages as “Citywide TCUP” 	<ul style="list-style-type: none"> May discourage development of permanent higher and better use; 	<ul style="list-style-type: none"> To adopt would need to go to ZUC, Planning Commission

TCUP	<ul style="list-style-type: none"> • Sunset controls termination of permits • Sunset allows evaluation of effectiveness of regulations 	<ul style="list-style-type: none"> • In some cases, allows uses that contradict permanent controls in Planning Code; 	and Council for recommendation and approval
Trial TCUP-CBD	<ul style="list-style-type: none"> • Addresses actual demand at this time for temporary permits • Limits area to where greatest demand exists • Sunset controls termination of permits • Sunset allows evaluation of effectiveness of regulations • Allows uses for a limited timeframe • Provides consistent formula for processing temporary use proposals; • Responds to economic reality by allowing more land use flexibility • Ensures uses do not become vested 	<ul style="list-style-type: none"> • Does not cover the current demand located outside of downtown (e.g., near West Oakland BART) • May discourage development of permanent higher and better use; • In some cases, allows uses that contradict permanent controls in Planning Code; 	<ul style="list-style-type: none"> • To adopt would need to go to ZUC, Planning Commission and Council for recommendation and approval
Trial TCUP-no surface parking	<ul style="list-style-type: none"> • Addresses community concerns regarding surface parking • Sunset controls termination of permits • Sunset allows evaluation of effectiveness of regulations • Allows uses for a limited timeframe • Allows uses for a limited timeframe • Provides consistent formula for processing temporary use proposals; • Responds to economic reality by allowing more land use flexibility • Ensures uses do not become vested 	<ul style="list-style-type: none"> • Does not address actual demand at this time for temporary permits • Limits financial benefit for City • Does not consider that use could be acceptable on temporary basis • May discourage development of permanent higher and better use; • In some cases, allows uses that contradict permanent controls in Planning Code; 	<ul style="list-style-type: none"> • To adopt would need to go to ZUC, Planning Commission and Council for recommendation and approval
Development Agreement	<ul style="list-style-type: none"> • Incentive-based • Limited to entitled properties • City can require extensive improvements, maintenance, insurance • Allows uses for a limited timeframe 	<ul style="list-style-type: none"> • Limited to entitled properties • Does not address actual demand at this time for temporary permits • May discourage development of permanent higher and better use; • No systematic formula for considering other types of temporary use proposals; 	<ul style="list-style-type: none"> • Could negotiate specific terms and conditions for temporary use proposals • DA requires no new policy adoption
Minor and Major Permit Procedures	<ul style="list-style-type: none"> • Consistent with Planning Code procedures for consideration; • Allows uses for a limited timeframe • Allows public input and scrutiny of extensive uses 	<ul style="list-style-type: none"> • Potential longer timeframe for consideration of extensive uses 	

GENERAL PLAN ANALYSIS

The proposed Planning Code amendment would be consistent with the General Plan in that it would only allow uses currently permitted or conditionally permitted in the underlying zoning districts. This amendment would not conflict with any goals or objectives of the General Plan. It might be argued that allowing temporary uses that are not the highest and best use of a site would potentially hamper or slow achievement of General Plan goals and objectives. On the other hand, the proposal would allow productive use of vacant or underutilized sites during

times of economic hardship, and the proposal would allow development with the highest and best land use following the termination of any temporary use permit.

ZONING ANALYSIS

The proposed Planning Code amendment would be consistent with the Planning Code in that it would only allow those uses currently permitted or conditionally permitted in the underlying zoning districts. However, the amendment would also allow the relaxation of development standards that might otherwise apply to a proposed use. An example of this is surface parking lots in the Central Business District (CBD). Although “auto-fee parking” is a conditionally permitted use in the CBD, “limitations” and “additional criteria” require the use to be enclosed in a three-story (minimum) structure or located below-grade, thereby requiring a variance from said “limitations”. Under the proposed amendment, surface auto-fee parking, otherwise prohibited in the CBD by the Planning Code, would be permitted on a temporary basis. Although the design of the proposed land use, even on a temporary basis, conflicts with the Planning Code, the site would continue to be subject to the base (existing) Planning Code regulations upon termination of any temporary permit.

ENVIRONMENTAL REVIEW

The proposal relies on the previously certified Environmental Impact Report (EIR) for the Land Use and Transportation Element of the General Plan (1998); the EIR for the 1998 Amendment to the Historic Preservation Element of the General Plan; the Housing Element Update Initial Study/Mitigated Negative Declaration (2004); and CEQA Guidelines Section 15183, “Projects Consistent with a Community Plan, General Plan or Zoning”. No further environmental review is required.

KEY ISSUES AND IMPACTS

Community Comments

The ZUC considered the proposed regulations and received public testimony at their regularly scheduled meetings on February 17 and April 21, 2010. The ZUC and community members made comments regarding the proposal at both meetings. The following is a summary of the comments and staff response and/or analysis (in indented italics below each comment):

ZUC Comments

- The ZUC forwards this proposal to the Planning Commission without a recommendation.

- *The ZUC met twice to consider the TCUP regulation proposal and did not come to consensus regarding a recommendation. ZUC opinions range from support for establishing a procedure to consider temporary uses to concerns about temporary uses either becoming permanent or hindering permanent development of higher and better uses.*
- Include penalties to provide applicant incentive to remove use upon termination of permit.
 - *The Oakland Municipal Code (OMC Chapter 1.12) authorizes assessment and penalties for violations of the Planning Code (OMC Title 17), including fines and liens. In addition to the proposed deed restrictions, improvement security and signed and notarized acknowledgement of temporary permit, existing penalties should ensure a high degree of self-enforcement of the proposed regulations. In addition, the proposal includes a requirement for project signage indicating the temporary nature of the permit and expiration date, informing neighbors and visitors of the terms of the permit and supporting the identification of any violations.*
- Do we want surface auto-fee parking in downtown when it is currently not permitted? Even on temporary basis?
 - *The only active interest in the proposed regulations thus far has been from applicants interested in conducting surface parking. Accordingly, staff recommends including this use. The Planning Commission has the option of recommending a trial period for the regulations to determine the benefits and disadvantages based on actual experience.*
- The proposal goes against current regulations (specifically, the newly adopted Central Business District regulations do not allow surface parking, and the proposed regulations would allow surface parking on a temporary basis).
 - *This is the intent of the regulations: only allow land uses that are currently outright or conditionally permitted, but relax development standards to allow for the use to exist on a temporary basis. The Planning Code currently has no option for considering temporary permits; therefore, by definition, the proposal will contradict existing standards that require permanent improvements.*
- This proposal allows land owners to continue to own land purchased at too high a value; this land will be difficult to develop at the inflated value. If the land remains vacant, then the owners may be forced to sell at a lower (current) value; at a lower value, new owners may be able to develop the highest and best use.
 - *This viewpoint supports the option to recommend no action regarding temporary conditional use permits. With this option, the City would have no legally defensible method or established standards for addressing desirable temporary uses.*
- Alcoholic beverage sales should be included in the proposal.
 - *It is recommended that the following activities be excluded from the TCUP provisions: alcoholic beverage sales, tobacco-oriented uses, adult entertainment, check cashier and check cashing. These uses have*

characteristics that would generally make them unsuitable for temporary periods, or otherwise would have adverse impacts.

- The security amount should be determined by cost-benefit analysis to ensure that it is fair and achieves the goal of limiting use to approved timeframe.
 - *The purpose of the security is to enable the City to ensure (or, if the permittee fails to perform, to undertake) removal of the use/improvements upon permit expiration; that is the nexus that needs to be made. The City's financial benefit from the use comes from business, property and other taxes and not from fee or the security amount required to ensure removal of the temporary improvements. In addition, the required deed restriction, agreement to the terms of the permit, and established violation process are designed to ensure the removal of the use upon permit termination.*
- It will be difficult to remove community-serving uses (such as community gardens and public art installations) upon permit expiration. People will fight to keep these uses.
 - *Although people may argue to keep temporary uses beyond the life of the permit, the regulations are drafted to both ensure compliance with the established time limits and alert the public to the temporary nature of the use (the proposed regulations include a requirement for site signage indicating that the use is temporary and that the use shall be removed by a date certain). There should be no misunderstanding about the temporary life of the use under the proposed regulations; however, the regulations cannot control any desire there may be to extend the use.*
- Would this proposal comply with Senate Bill (SB) 375? (Greenhouse Gas Reduction)
 - *This proposal does not directly relate to SB375. However, it could be argued that increasing parking possibilities in downtown Oakland and thereby temporarily limiting housing and office development opportunities directly encourages driving, and indirectly supports sprawl. At the same time, it should be noted that where the proposed regulations would allow surface parking, auto fee parking is already permitted on a permanent basis.*
- Tier application fees so that more lucrative uses pay higher fees than more financially modest and/or community-serving uses.
 - *The City can set different fees by permit type but cannot charge different fees based on proposed land use or potential value of use. The City establishes fees based on the reasonable cost of providing the permitting services and cannot charge based on the profitability of the use that is the subject of the permit.*
- Consider allowing a one-time, one-year extension with no option to renew the permit.
 - *Staff agrees that this would be an effective way to help ensure that temporary uses remain temporary. The proposed regulations reflect this comment.*
- Consider limiting the number of cars allowed for surface parking and/or portable lifts.
 - *There are currently no restrictions on portable car lifts in the City of Oakland. The Planning Commission could consider limiting parking to 49 or fewer parking spaces, consistent with the threshold for minor conditional use permits.*
- Consider a trial period to test regulations.

- *This staff report includes an optional proposal for a trial period in order to determine the benefits and disadvantages of temporary permits based on actual experience.*

Public Testimony (At ZUC public hearings on February 17 and April 21, 2010, respectively)

- The Temporary Conditional Use Permit concept is acceptable for community-serving uses; however, some seasonal sales currently operate without any permit--this permit process, including the security requirement, would be prohibitive for these short-term uses (3-4 months per year);
 - *The permit process could be used to provide approval of seasonal temporary uses throughout the life of the permit. For example, a land owner could submit an application for seasonal sales from September through December every year for three years.*
- Temporary Conditional Use Permits should be minor and not major permits.
 - *The current proposal is for applications to be processed with a two-track approach, similar to how conditional use permits are currently processed. Applications for projects that fit the minor or administrative definition would be subject to a minor permit process. Applications for projects that fit the major definition would be subject to a major permit process.*
- Allow temporary uses that would otherwise require a variance.
 - *This is an option that would facilitate increased use of currently vacant properties in the near term; the proposal would allow only permitted and conditionally permitted uses, and would relax the zoning "limitations" and "additional criteria" that require permanent or unrealistic design and improvements for a temporary use. Staff recommends keeping the current proposal narrow to monitor the success of the regulations. In the future, should there continue to be interest in allowing uses that would otherwise require a variance, the City could consider expanding the regulations.*
- How would vehicular food vendors be addressed by this proposal?
 - *The activity is currently considered within the "fast food" classification and, as such, would be permitted under the proposed regulations wherever "fast food" is currently permitted or conditionally permitted.*
- The lack of current investment in Oakland necessitates permitting land uses that are not ideal.
 - *This viewpoint supports an option to adopt the proposed regulations or a trial, and to include both permitted and conditionally permitted uses (without limitation).*
- Vacant lots can be a nuisance; there is current parking demand in CBD, and such activity would generate revenue for the City.

- *This viewpoint supports an option to adopt the proposed regulations or a trial, and to include both the permitted and conditionally permitted uses (without limitation).*
- The proposal weakens the Planning Code by allowing uses that were never intended to be permitted (surface parking in CBD).
 - *The proposal would only allow land uses that are currently permitted or conditionally permitted in the underlying zoning district. However, the proposal would relax development standards to allow for the use to exist on a temporary basis. The Planning Code currently has no option for temporary permits; therefore, by definition, the proposal will contradict existing standards that require permanent improvements.*
- Surface parking is ugly, and causes hazards for pedestrians and bicyclists.
 - *This is an argument to exclude surface parking from any recommendation to move the proposed regulations forward. However, it should be noted wherever surface parking would be permitted as part of this proposal, auto fee parking is already permitted or conditionally permitted. Surface and above-grade auto-fee parking generally have the same access and egress conditions in terms of number of driveways.*

Testimony Submitted in Writing

- The life of the permit should be four years (rather than three).
 - *The current life of a land use entitlement in Oakland is two years and an additional one year extension. The proposed three-year timeline for the Temporary Conditional Use Permit is consistent with current practice.*
- There should be no limit on the number of permit renewals.
 - *The proposed three-year time period is consistent with the current life of a land use entitlement in Oakland. This approach ensures that temporary uses are, in fact, temporary and do not become long-term or permanent.*
- The security should be reduced to \$20,000.
 - *The purpose of the security is for removal of any improvements upon permit expiration should the property owner not comply with the terms of the permit. The proposed regulations generally require up to \$40,000 for the security (more or less at the discretion of the Planning Department); however, some proposed uses with minimal improvements may have a much lower security requirement. It should be noted that that the proposed \$40,000 security would include any required demolition permit fee and the actual costs of removing improvements (such as temporary fencing, planters, and other temporary structures).*
- Surface parking should include a landscaping or public art buffer, or combination thereof.
 - *Staff supports this recommendation, and the proposed regulations are revised accordingly.*

- Surface parking should incorporate storm water runoff diversion to protect Lake Merritt and the San Francisco Bay.
 - *The proposed regulations require all improvements to be temporary. For those projects that would be required to meet existing storm water runoff requirements, they would need to demonstrate that they could do so with only temporary improvements; otherwise, such proposals would be denied.*

San Francisco's Approach

The City of San Francisco is currently working with owners of entitled properties to allow temporary uses. The approach in San Francisco is to use the Development Agreement (DA) process to extend the life of existing land use entitlements in exchange for the placement of community benefit uses on entitled sites during the interim period. Through the DA process, San Francisco will allow community benefit uses such as gardens, parks and public art displays on a temporary basis. In addition, San Francisco will require extensive (although temporary) improvements, maintenance, insurance and other features designed to allow public access and ensure high quality projects. Again, the incentive to land owners is extending valuable land use entitlements. This approach is specific to currently entitled properties and would not allow surface parking.

The City of San Francisco currently permits temporary uses on non-entitled properties through the Conditional Use Permit process, with specific conditions of approval controlling the temporary timeline and features of the proposal. In addition, the City of San Francisco generally restricts new proposals for surface parking.

Although San Francisco has a very different economic and development climate than Oakland (fewer vacant lots and parcels with more valuable and complex entitlements, for example), the DA approach provides advantages for Oakland, as well. This approach applies to limited properties (those with land use entitlements) and ensures a beneficial use until such time as development is feasible. In addition, the DA can control the quality of improvements and removal of the use based on the incentive of extended entitlements. This is an option for Oakland to consider in developing an approach to permitting temporary uses.

Surface Parking

The only active interest in temporary permits is for surface parking. Surface parking may be considered an undesirable land use, even on a temporary basis. However, the demand for the use should trigger a meaningful discussion about the appropriateness of the use in certain cases: Is surface parking acceptable on a short-term, and not long-term, basis? Is the use acceptable near the West Oakland BART station but in the Central Business District? The Planning Commission could consider taking a position on surface parking in Oakland. Any temporary use regulation proposal would be informed by such direction.

At this time, actual interest in temporary permits for surface parking includes four permit applications for a total of over 200 spaces, including sites in West Oakland, the Central Business District, and near the Oakland International Airport. In addition, one potential applicant has contacted staff regarding the possibility of temporary surface parking in the Fruitvale District of Oakland. It should be noted that the Oakland Redevelopment Agency (ORA) owns 2159 auto-fee parking spaces (surface and structured) throughout Oakland.

Prohibition on Temporary Conditional Use Permit Activities

It is recommended that the following activities be excluded from the TCUP provisions: alcoholic beverage sales, tobacco-oriented uses, adult entertainment, and check cashier and check cashing. These uses have characteristics that would generally make them unsuitable for temporary periods, or otherwise would have adverse impacts.

Community Benefit Uses

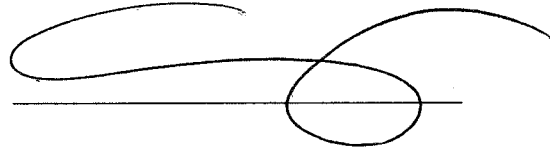
At the previous ZUC meetings where temporary permits were considered, the ZUC expressed concern about temporary community benefit uses becoming permanent due to community and possible political will. This same question might apply to any use for which there is support. The revised proposal includes measures designed to ensure that uses remain temporary and do not become permanent. Revisions include limitations on permit extension and the required site signage to inform the public about the temporary nature of the use. In addition, this staff report outlines options that would allow for a trial of any adopted regulations to determine the outcome of the program and ensure removal of all uses at the end of the trial program.

RECOMMENDATION

Staff believes that the proposed regulations are appropriate and responsive to the issues that have been raised throughout the review process. The proposed regulations would provide a process for regulating temporary uses where none exists. The proposed regulations are not in conflict with the General Plan. Thus, staff recommends that the Planning Commission:

- 1) Hold a public hearing and receive public testimony regarding the proposed project;
- 2) Affirm staff's environmental determination; and
- 3) Recommend adoption of a Planning Code Amendment to the City Council based on the attached findings.

Prepared by:

A handwritten signature in black ink, appearing to read 'Catherine Payne', written over a horizontal line.

Catherine Payne, Planner III

Approved for forwarding to the
City Planning Commission by:

A handwritten signature in black ink, appearing to read 'Scott Miller', written over a horizontal line.

SCOTT MILLER
ZONING MANAGER

A handwritten signature in black ink, appearing to read 'Scott Miller, for', written over a horizontal line.

ERIC ANGSTADT
DEPUTY DIRECTOR, CEDA

ATTACHMENTS:

- A. Proposed Planning Code Amendment
- B. Draft City Council Ordinance
- C. ZUC Staff Report dated February 17, 2010
- D. ZUC Staff Report dated April 21, 2010

Planning Commission Action on Commission or Landmarks Board Proposal (Planning Code Section 17.144.080)

The existing zone or regulations are inadequate or otherwise contrary to the public interest. The existing Conditional Use Permit regulations do not currently contain procedures for considering temporary uses, for which there is currently increased interest due to the weak economy. The proposed Temporary Conditional Use Permit regulations would allow approved and conditionally approvable land uses on vacant and underutilized properties subject to a procedure that would guarantee that said uses remain temporary and would provide the City of Oakland with procedures for controlling temporary uses. This would be consistent with the regulations contained in the Planning Code and would reduce the quantity of vacant and blighted properties in Oakland.

Planning Code Amendment (Rezone) Findings (Planning Code Section 17.07.030):

- A. To promote the achievement of the proposals of the Oakland Comprehensive Plan.** The proposed TCUP regulations would allow approved and conditionally approved land uses on vacant properties on a temporary basis. This would be consistent with the regulations contained in the Planning Code and would reduce the quantity of vacant and blighted properties in Oakland.
- To advance Oakland's position as a regional center of commerce, industry, recreation and culture.** NA.
- B. To protect residential, commercial, industrial, and civic areas from the intrusion of incompatible uses, and to provide opportunities for establishments to concentrate for efficient operation in mutually beneficial relationship to each other and to shared services.** The proposed TCUP regulations would only allow approved and conditionally approved land uses. In addition, approvals would be temporary and allow an affected property to be developed permanently with a higher and better use following the temporary use.
- C. To provide for desirable, appropriately located living areas in a variety of dwelling types and at a wide range of population densities, with adequate provision for sunlight, fresh air, and usable open space.** NA.
- D. To ensure preservation of adequate space for commercial, industrial, and other activities necessary for a healthy economy.** The proposed TCUP regulations would only allow approved and conditionally approved land uses and would not impact development of economically viable land uses.
- E. To promote safe, fast, and efficient movement of people and goods, and the provision of adequate off-street parking and loading.** NA.

- F. To achieve excellence and originality of design in all future developments and to preserve the natural beauty of Oakland's setting.** The proposed TCUP regulations would only allow approved and conditionally approved land uses and would not impact permanent design and aesthetics in Oakland.
- G. To promote the growth of productivity of the Oakland economy.** The proposed TCUP regulations would affect vacant and underutilized properties, allowing those sites to contribute to growth and productivity during times when permanent, higher and better development is not viable.
- H. To stabilize expectations regarding future development of Oakland, thereby providing a basis for wise decisions with respect to such development.** The proposed TCUP regulations would affect vacant and underutilized properties on a temporary basis. The regulations would allow present-time use of a site (generally consistent with Planning Code allowances) until such time as permanent development fully meeting the expectations laid out in the General Plan and Planning Code could occur. The proposed regulations would not conflict with current expectations for land use development as prescribed by the General Plan and Planning Code.
- I. To secure equity among individuals in the utilization of their property.** One of the objectives of the proposed TCUP regulations is to allow use of private property during economic hardship.
- J. To promote an attractive urban environment which will enhance the city's economic potential and encourage decisions to make investments, do business, shop, and live in Oakland.** The proposed TCUP regulations would affect vacant and underutilized properties on a temporary basis. The regulations would allow present-time use of a site (generally consistent with Planning Code allowances) until such time as permanent development fully meeting the expectations laid out in the General Plan and Planning Code could occur. The proposed regulations would not conflict with current expectations for land use development as prescribed by the General Plan and Planning Code. Temporary uses would be subject to review to ensure that they do not further any blighted appearance and contribute to the aesthetic quality of the surrounding area, to the degree feasible.
- K. To especially protect and improve the appearance and orderliness of major trafficways and transit lines and views there from, thereby increasing the enjoyment of travel, reducing traffic hazards, and enhancing the image of Oakland derived by residents, businesspeople, commuters, visitors, and potential investors.** Temporary uses would be subject to review to ensure that they do not further any blighted appearance and contribute to the aesthetic quality of the surrounding area, to the degree feasible.

- L. To protect the very substantial public investment in, and the character and dignity of, public buildings, open spaces, thoroughfares, and rapid transit lines.** The proposed TCUP regulations would affect vacant and underutilized properties on a temporary basis. The regulations would allow present-time use of a site (generally consistent with Planning Code allowances) until such time as permanent development fully meeting the expectations laid out in the General Plan and Planning Code could occur. The proposed regulations would not conflict with current expectations for land use development as prescribed by the General Plan and Planning Code. Temporary uses would be subject to review to ensure that they do not further any blighted appearance and contribute to the aesthetic quality of the surrounding area, to the degree feasible.
- M. To encourage a maximum of planting and other amenities, and a minimum of excessively intrusive signs, overhead utility lines, and other environmental clutter.** Temporary uses would be subject to review to ensure that they do not further any blighted appearance and contribute to the aesthetic quality of the surrounding area, to the degree feasible.
- N. To encourage Signs which are in scale and harmony with surrounding uses, which are visually subordinate to the on-site and nearby buildings, which are themselves well designed, and which have good spacing and design relationships to other Signs.** Temporary uses would be subject to review to ensure that they do not further any blighted appearance and contribute to the aesthetic quality of the surrounding area, to the degree feasible.
- O. To prevent the unnecessary destruction or impairment of structures, other physical features, sites, and areas of special character or special historical, cultural, educational, architectural, aesthetic, or environmental interest or value and to achieve the following purposes:**
1. The protection, enhancement, perpetuation, and use of structures and other physical features, sites, and areas that are reminders of past eras, events, and persons important in local, state, or national history, or which provide significant examples of architectural styles of the past or are landmarks in the history of architecture, or which are unique and irreplaceable assets to the city and its neighborhoods, or which provide for this and future generations examples of the physical surroundings in which past generations lived;
 2. The development and maintenance of appropriate settings and environment for such structures, and other physical features, on such sites, and in such areas.
 3. The enhancement of property values, the stabilization of neighborhoods and area of the city, the increase of economic

- and financial benefits to the city and its inhabitants, and the promotion of tourist trade and interest.
4. The preservation and encouragement of a city of varied architectural styles, reflecting the distinct phases of its cultural, social, economic, political, and architectural history.
 5. The enrichment of human life in its educational and cultural dimensions in order to serve spiritual as well as material needs, by fostering knowledge of the living heritage of the past.

The proposed TCUP regulations would affect vacant and underutilized properties on a temporary basis and, in-as-much, would generally not physically affect properties of major cultural or other importance to Oakland. In order to ensure the uses remain temporary, major property investment, including development and demolition, would be strictly limited. Demolition of structures that are Potentially Designated Historic Properties or contribute to an Area of Primary or Secondary Importance would not be authorized. The regulations would allow present-time use of a site (generally consistent with Planning Code allowances) until such time as permanent development fully meeting the expectations laid out in the General Plan and Planning Code could occur. The proposed regulations would not conflict with current expectations for land use development as prescribed by the General Plan and Planning Code. Temporary uses would be subject to review to ensure that they do not further any blighted appearance and contribute to the aesthetic quality of the surrounding area, to the degree feasible.

Attachment A: Proposed Planning Code Amendment

Chapter 17.133

TEMPORARY CONDITIONAL USE PERMIT PROCEDURE

Sections:

- 17.133.010 Title, purpose, and applicability.**
- 17.133.020 Definition of temporary conditional use permits.**
- 17.133.030 Application.**
- 17.133.040 Procedures for consideration.**
- 17.133.050 General temporary conditional use permit criteria.**
- 17.133.060 Appeal to Planning Commission.**
- 17.133.070 Expiration of temporary conditional use permits.**
- 17.133.080 Security for Improvements.**
- 17.133.090 Extension of temporary conditional use permits.**
- 17.133.100 Reinstatement of temporary conditional use permits.**
- 17.133.110 Adherence to approved plans.**
- 17.133.120 Limitation on resubmission.**

17.133.010 Title, purpose, and applicability.

The provisions of this chapter shall be known as the temporary conditional use permit procedure. The purpose of these provisions is to prescribe the procedure for the accommodation of temporary uses with special considerations, such as site or design requirements, operating characteristics, or potential adverse effects on surroundings, through review and, where necessary or appropriate, the imposition of special conditions of approval. This procedure shall apply to proposals for limited duration activities or facilities as specified in this chapter; or limited duration activities or facilities that are otherwise permitted or conditionally permitted as permanent land uses in the applicable zoning district. This procedure shall not apply to limited duration uses addressed elsewhere in the Oakland Municipal Code.

17.133.020 Definition of temporary conditional use permits.

A temporary conditional use permit allows for the operation of specified activities or facilities on private property for limited time duration.

A. Temporary Conditional Use Classifications.

1. A temporary conditional use permit may be issued for any conditionally permitted activity or facility in the applicable zoning district, with the following exceptions (for which a temporary conditional use permit may not be issued):

- a. Alcoholic Beverage Sales Commercial;
- b. Tobacco-oriented Uses;
- c. Adult Entertainment;
- d. Check Cashier and Check Cashing.

2. A temporary conditional use permit may also be issued for the following additional activities or facilities, whether or not permitted or conditionally permitted in the applicable zoning district: Active Mini-Park; Passive Mini-Park; Special Use Park; Nonassembly Cultural Civic; Recreational Assembly Civic; Crop and Animal Raising; and Plant Nursery Agricultural.

B. Definition of major and minor temporary conditional use permits. Whether an application is for a major or minor temporary conditional use permit shall be determined according to the definitions provided in Planning Code Section 17.134.020 Definition of Major and Minor Conditional Use Permits.

C. Limited Duration. A temporary conditional use permit generally has a limited duration of a maximum of three (3) years from the effective date of final decision to the date of permit expiration unless otherwise specified.

D. Relief of Zoning Limitations and Application of Additional Criteria. A temporary conditional use permit may relieve limitations and additional criteria relating to the activity or facility otherwise required in the applicable zoning district. Such relief may only be afforded for permitted or conditionally permitted uses in such zoning district, except as specified in 17.133.020A(1) or for uses specified in 17.133.020A(2). Consistent with all other requirements in this Chapter, a temporary conditional use permit may relieve limitations and additional criteria only upon making the following additional finding: Activity and facility limitations and additional criteria otherwise required in the Planning Code or applicable zoning district would prohibit the proposed temporary land use, and relief from such limitations or additional criteria would not undermine or compromise health or safety.

E. Temporary Improvements. All proposed site improvements shall be temporary in nature and design, as required by Section 17.133.050.E. Any proposed demolition would be subject to the regulations contained in OMC Section 15.36, Chapter 17.136, and any other applicable regulations.

F. Demolition of Existing Structures. A temporary conditional use permit generally shall not be issued for a use that would require demolition or removal of any existing, on-site facilities. The City Planning Department, at its discretion, may allow demolition of accessory structures that are neither Potentially Designated Historic Properties nor contribute to an Area of Primary or Secondary Importance (as defined in the Oakland General Plan Historic Preservation Element Appendix A: Definitions).

G. Issuance of a temporary conditional use permit shall not restrict or otherwise invalidate, extend, or alter any land use entitlements for the subject property valid at the time of permit issuance.

17.133.030 Application.

An application for a temporary conditional use permit shall be made by the owner of the affected property, or his or her authorized agent, on a form prescribed by the City Planning Department and shall be filed with such Department.

A. The application shall be accompanied by such information including, but not limited to, site and improvement plans, drawings and elevations, and operational data, as may be required to enable the pertinent criteria to be applied to the proposal, and the fee prescribed in the fee schedule in Chapter 17.150 for a minor permit. In the OS zone, the application shall also include the most recent open space balance calculated pursuant to the no net loss provisions in Section 17.135.060, and any additional information deemed necessary by the City Planning Department.

1. Plans shall indicate all existing site features proposed to remain, existing features proposed to be demolished, and all proposed improvements. Plans shall demonstrate that all improvements are temporary in nature and design.

2. Plans shall include design and accommodation of a sign to be posted on the front property line throughout the life of the permit, with a minimum size of 3 feet wide by 3 feet tall, indicating the permit case file number and termination date of the permit.

3. Plans for any surface parking proposal shall indicate a three-foot wide landscape or public art buffer along the public frontage of the site. Plans shall include the design of the landscape or public art feature and demonstrate that the features can be installed on a temporary basis (e.g., raised planter boxes).

B. The application shall be accompanied by plans for restoration of the affected site to its original condition. The restoration plan shall include a schedule for restoration that demonstrates the applicant will be able to completely restore the original condition of site (including a schedule for obtaining any necessary permits necessary to restore the site) no later than the date of the expiration of the permit. Such plans shall be submitted prior to permit issuance and are subject to review and consideration by the Planning Director or Planning Commission, as applicable.

C. The application shall be accompanied by an agreement, on a form prescribed by the City of Oakland and signed by the land owner, and to be recorded against the property upon permit issuance, acknowledging the temporary nature of the permit, agreeing to only improve the site with temporary furnishings and to limit investment into the property, agreeing to removal of the approved land use(s) and related improvements upon permit expiration, and agreeing that the permit, and the right to continue the uses authorized by the permit shall be

extinguished immediately and automatically upon expiration of the permit and shall not be subject to any requirement for further notice, public hearing or appeal. The agreement shall further specify that the applicant (including any heirs, successors or assigns) waives any right to such notice or hearing.

D. Permit issuance shall generally be subject to a bond or other financial security, as required under Section 17.133.080, to ensure removal of the permitted use(s) and improvements upon permit termination.

17.133.040 Procedures for consideration.

Procedures for considering minor and major temporary conditional use permit applications shall rely upon the procedures for minor and major Conditional Use Permits contained in Planning Code Section 17.134.

17.133.050 Temporary conditional use permit criteria.

In addition to any criteria prescribed elsewhere in the zoning regulations, a temporary conditional use permit shall be granted only if the proposal conforms to all of the following temporary conditional use permit criteria, as well as to any and all other applicable additional use permit criteria:

A. That the location, size, design, and operating characteristics of the proposed temporary use 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;

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

C. That the proposed temporary use 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;

D. That the proposal conforms to all applicable regular design review criteria set forth in the regular design review procedure at Section 17.136.050 with consideration given to the temporary nature of the proposal;

E. That all proposed improvements are temporary and/or removable, with no permanent alterations to the existing site;

F. That the benefits of temporarily allowing the proposal outweigh the benefits of allowing the parcel to remain vacant or underutilized awaiting a potential permanent use that conforms to the limitations set forth in the applicable zone;

G. That the economic climate, either in general or pertaining to the affected site specifically, is adverse and the proposed temporary use and/or relaxation of Planning Code standards would contribute to economic and land use vitality in Oakland; and

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

I. That the proposed use and site improvements generally do not require or result in substantial impairment or demolition of any Potentially Designated Historic Properties or otherwise negatively affect an Area of Primary or Secondary Importance, consistent with Section 17.133.030.E.

17.133.060 Appeal to Planning Commission—Temporary conditional use permits.

Appeals for minor and major applications shall be considered and processed according to the procedures for minor and major Conditional Use Permits contained in Planning Code Section 17.134.

17.133.070 Expiration of Temporary conditional use permits

A temporary conditional use permit shall generally expire three (3) years from the effective date of approval of such permit. The use activity permitted by such Temporary conditional use permit shall terminate on or prior to this date.

1. An application for a new temporary conditional use permit for essentially the same use that was authorized under an expired temporary conditional permit on the same property shall not be approved.
2. Any violation of the terms of a temporary conditional use permit shall be subject to all rights and remedies provided in the Oakland Municipal Code, including without limitation, assessment and penalties, as specified in OMC Chapter 1.12 and/or permit revocation as specified in OMC 17.152. The failure of an owner to comply fully with a provision of this Chapter shall be a separate violation which shall be immediately subject to enforcement, penalty, and collection actions provided in the Oakland Municipal Code, including, without limitation, OMC Chapter 1.12.

17.133.080 Security for Improvements

A. Issuance of a temporary conditional use permit shall generally be accompanied by the approved and signed agreement required under Section 17.133.030.C, and a bond (or other financial security acceptable to the City of Oakland) for the value of any proposed improvements, as determined by the City, or for \$40,000 (whichever is greater) to ensure removal of the permitted use(s) and improvements upon permit termination. This requirement may be waived if the applicant can demonstrate that the proposed use will not generate any financial profit and will provide a benefit communitywide. In addition, the City of Oakland can decrease or increase the amount of security required if the City ermines that the actual cost to remove all improvements and fully restore the site would be less than or would exceed \$40,000.

B. Only upon expiration of the permit and timely termination of the approved use activity in accordance with all the terms and conditions specified in the permit and the requirements of this Chapter, shall any amount of security that is unused shall be returned to the applicant.

C. Should the approved use activity not be terminated in accordance with all the terms and conditions specified in the permit and the requirements of this Chapter, the City of Oakland may, in its discretion, use said security for the purpose of terminating the uses authorized by the temporary conditional use permit, restoring the site or pursuing other such remedies as may be necessary or appropriate.

17.133.090 Extension of Temporary conditional use permits

A temporary conditional use permit can generally be extended one time, only, for one year from the termination date of the initial permit.

17.133.100 Reinstatement of Temporary conditional use permits

A temporary conditional use permit generally cannot be reinstated. However, the City Planning Department may, at its' discretion, reinstate a temporary conditional use permit upon demonstration of full compliance with the Oakland Planning Code and with the conditions of approval for said permit.

17.133.110. Adherence to approved plans.

A temporary conditional use permit shall be subject to the plans and other conditions upon the basis of which it was granted. Unless a different termination date is prescribed, the permit shall terminate three (3) years from the effective date of its granting.

17.133.120 Limitation on resubmission.

Whenever an application for a temporary conditional use permit has been denied by the Director of City Planning or Planning Commission, and the applicant fails to file a timely appeal, no such application for essentially the same proposal affecting the same property, or any portion thereof, shall be filed within one (1) year after the date of denial. This section shall not apply in instances where the applicant can show, on the face of any subsequent application, changed circumstances sufficient to justify a rehearing. Applications for hearing pursuant to this section shall be considered by the Director of City Planning. A determination by the Director shall become final ten (10) calendar days after the date of decision unless appealed to the City Planning Commission. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. Any such decision by the City Planning Commission shall be final.

ATTACHMENT B: DRAFT CITY COUNCIL ORDINANCE

APPROVED AS TO FORM AND
LEGALITY

INTRODUCED BY COUNCILMEMBER

City Attorney

OAKLAND CITY COUNCIL

ORDINANCE No. _____ C.M.S.

**AN ORDINANCE ADOPTING A PLANNING CODE TEXT
AMENDMENT TO REGULATE TEMPORARY LAND USES TO BE
CALLED: CHAPTER 17.133 TEMPORARY CONDITIONAL USE
PERMIT PROCEDURE.**

WHEREAS, during this current economic downturn, Oakland land owners with vacant or underutilized parcels are interested in maintaining economic viability of the land and yet are not able to finance permanent development of the highest and best use; and

WHEREAS, regulations that would allow short-term uses of vacant and underutilized properties with relaxed standards would reduce blight and promote economic development in a realistic manner; and

WHEREAS, allowing short-term uses of vacant and underutilized properties would not hinder future development of higher and better uses on said properties; and

WHEREAS, adopting regulations to control short-term uses provides a systematic means of monitoring and enforcing said uses; and

WHEREAS, the proposed regulations includes a three-year permit life with an allowance for a one-time, one-year extension with no other options for extending the life of the original permit; and

WHEREAS, the proposed regulations would generally require that the proposed land use be permitted in the underlying zoning district (with a few exceptions); however, the proposed

regulations would not require compliance with the "Limitations" and "Additional Criteria" that apply to the proposed land use in the underlying zoning district; and

WHEREAS, the proposed regulations include requirements for a site restoration plan, site signage regarding the terms of the permit, financial security, and a recorded agreement to ensure termination of any permitted use or improvement upon permit expiration; and

WHEREAS, the City can rely on existing regulations contained in Oakland Municipal Code Section 1.12 to enforce the terms of the temporary conditional use permit; and

WHEREAS, any permit granted under the proposed regulations, would not terminate or otherwise affect any existing land use entitlements for an affected parcel; and

WHEREAS, the proposed Temporary Conditional Use Permit Procedure (TCUP) meets the Planning Code Amendment (Rezone) Findings (Planning Code Section 17.144 as follows: The existing Conditional Use Permit regulations do not currently contain procedures for considering temporary uses, for which there is currently increased interest due to the weak economy. The proposed Temporary Conditional Use Permit regulations would allow approved and conditionally approvable land uses on vacant and underutilized properties subject to a procedure that would guarantee that said uses remain temporary and would provide the City of Oakland with procedures for controlling temporary uses. This would be consistent with the regulations contained in the Planning Code and would reduce the quantity of vacant and blighted properties in Oakland; and

WHEREAS, this Ordinance complies the California Environmental Quality Act (CEQA) for the reasons stated in the September 1, 2010 Planning Commission report and summarized below; and

WHEREAS, on April 21, 2010, at a duly noticed public meeting, the Zoning Update Committee of the Planning Commission recommended that the Planning Code Amendments be heard by the Planning Commission; and

WHEREAS, on September 1, 2010, at a regularly scheduled Planning Commission meeting, the Planning Commission heard public comment on the proposed Planning Code amendments; and

WHEREAS, on September 1, 2010, at a duly noticed public hearing, the Planning Commission voted to forward a recommendation to the City Council on the adoption of the proposed findings and approval of the proposed Planning Code amendments; and

WHEREAS, after a duly noticed public meeting on October 14, 2010, the Community and Economic Development Committee voted to recommend the proposal to the City Council; and

WHEREAS, the City Council held a duly noticed public hearing on October 21, 2010 and October 28, 2010 to consider the proposal; now therefore

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

Section 1. The City Council finds and determines that the foregoing recitals to be true and correct and hereby makes them a part of this ordinance.

Section 2. Prior to adopting this Ordinance, the City Council independently finds and determines that this action complies with the California Environmental Quality Act (CEQA) because the City is relying on the previously certified Final Environmental Impact Report (EIR) for the Land Use and Transportation Element of the General Plan (1998); the Oakland Estuary Policy Plan EIR (1998); the EIRS for the West Oakland Central City East, Coliseum and Oakland Army Base Redevelopment Areas and no further environmental review is required under CEQA Guidelines sections 15162 and 15163. On a separate and independent basis, this proposal is also exempt under Sections 15061(b)(3), 15183, and/or Section 15273 of the State CEQA Guidelines. The Environmental Review Officer is directed to cause to be filed a Notice of Exemption/Determination with the appropriate agencies.

Section 3. This Ordinance shall be effective 30 days from the date of final passage by the City Council, but shall not apply to (a) building/construction related permits already issued and not yet expired, or (b) to zoning applications approved by the City and not yet expired, or to (c) zoning applications deemed complete by the City as of the date of final passage. However, zoning applications deemed complete by the City prior to the date of final passage of this Ordinance may be processed under provisions of these Planning Code amendments if the applicant chooses to do so.

Section 4. The Oakland Planning Code is hereby amended to include the zoning text amendments contained in *Exhibit A*, attached hereto and hereby incorporated by reference.

Section 5. Nothing in this Ordinance shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law.

Section 6. If any section, subsection, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional, the offending portion shall be severed and shall not affect the validity of the remaining portions which shall remain in full effect.

Section 7. That the record before this Council relating to this Ordinance includes, without limitation, the following:

1. the application, including all accompanying maps and papers;
2. all relevant plans and maps;
3. all final staff reports, decision letters and other documentation and information produced by or on behalf of the City;

4. all oral and written evidence received by the City staff, Planning Commission and City Council before and during the public hearings on the application;

5. all matters of common knowledge and all official enactments and acts of the City, such as (a) the General Plan and the General Plan Conformity Guidelines; (b) Oakland Municipal Code, including, without limitation, the Oakland real estate regulations, Oakland Fire Code; (c) Oakland Planning Code; (d) other applicable City policies and regulations; and, (e) all applicable state and federal laws, rules and regulations.

Section 8. That the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City Council's decision is based are respectively: (a) Community & Economic Development Agency, Planning & Zoning Division, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, CA.; and (b) Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st floor, Oakland, CA.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and
PRESIDENT BRUNNER

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the
Council
of the City of Oakland,
California

DATE OF ATTESTATION: _____

Attachment B: ZUC Staff Report dated February 17, 2010

ATTACHMENT B: DRAFT CITY COUNCIL ORDINANCE

APPROVED AS TO FORM AND
LEGALITY

INTRODUCED BY COUNCILMEMBER

City Attorney

OAKLAND CITY COUNCIL

ORDINANCE No. _____ C.M.S.

**AN ORDINANCE ADOPTING A PLANNING CODE TEXT
AMENDMENT TO REGULATE TEMPORARY LAND USES TO BE
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PERMIT PROCEDURE.**

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WHEREAS, allowing short-term uses of vacant and underutilized properties would not hinder future development of higher and better uses on said properties; and

WHEREAS, adopting regulations to control short-term uses provides a systematic means of monitoring and enforcing said uses; and

WHEREAS, the proposed regulations includes a three-year permit life with an allowance for a one-time, one-year extension with no other options for extending the life of the original permit; and

WHEREAS, the proposed regulations would generally require that the proposed land use be permitted in the underlying zoning district (with a few exceptions); however, the proposed

regulations would not require compliance with the "Limitations" and "Additional Criteria" that apply to the proposed land use in the underlying zoning district; and

WHEREAS, the proposed regulations include requirements for a site restoration plan, site signage regarding the terms of the permit, financial security, and a recorded agreement to ensure termination of any permitted use or improvement upon permit expiration; and

WHEREAS, the City can rely on existing regulations contained in Oakland Municipal Code Section 1.12 to enforce the terms of the temporary conditional use permit; and

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WHEREAS, on September 1, 2010, at a regularly scheduled Planning Commission meeting, the Planning Commission heard public comment on the proposed Planning Code amendments; and

WHEREAS, on September 1, 2010, at a duly noticed public hearing, the Planning Commission voted to forward a recommendation to the City Council on the adoption of the proposed findings and approval of the proposed Planning Code amendments; and

WHEREAS, after a duly noticed public meeting on October 1, 2010, the Community and Economic Development Committee voted to recommend the proposal to the City Council; and

WHEREAS, the City Council held a duly noticed public hearing on October 1, 2010 and October 1, 2010 to consider the proposal; now therefore

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

Section 1. The City Council finds and determines that the foregoing recitals to be true and correct and hereby makes them a part of this ordinance.

Section 2. Prior to adopting this Ordinance, the City Council independently finds and determines that this action complies with the California Environmental Quality Act (CEQA) because the City is relying on the previously certified Final Environmental Impact Report (EIR) for the Land Use and Transportation Element of the General Plan (1998); the Oakland Estuary Policy Plan EIR (1998); the EIRS for the West Oakland Central City East, Coliseum and Oakland Army Base Redevelopment Areas and no further environmental review is required under CEQA Guidelines sections 15162 and 15163. On a separate and independent basis, this proposal is also exempt under Sections 15061(b)(3), 15183, and/or Section 15273 of the State CEQA Guidelines. The Environmental Review Officer is directed to cause to be filed a Notice of Exemption/Determination with the appropriate agencies.

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Section 4. The Oakland Planning Code is hereby amended to include the zoning text amendments contained in *Exhibit A*, attached hereto and hereby incorporated by reference.

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Section 6. If any section, subsection, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional, the offending portion shall be severed and shall not affect the validity of the remaining portions which shall remain in full effect.

Section 7. That the record before this Council relating to this Ordinance includes, without limitation, the following:

1. the application, including all accompanying maps and papers;
2. all relevant plans and maps;
3. all final staff reports, decision letters and other documentation and information produced by or on behalf of the City;

4. all oral and written evidence received by the City staff, Planning Commission and City Council before and during the public hearings on the application;

5. all matters of common knowledge and all official enactments and acts of the City, such as (a) the General Plan and the General Plan Conformity Guidelines; (b) Oakland Municipal Code, including, without limitation, the Oakland real estate regulations, Oakland Fire Code; (c) Oakland Planning Code; (d) other applicable City policies and regulations; and, (e) all applicable state and federal laws, rules and regulations.

Section 8. That the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City Council's decision is based are respectively: (a) Community & Economic Development Agency, Planning & Zoning Division, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, CA.; and (b) Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st floor, Oakland, CA.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and
PRESIDENT BRUNNER

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the
Council
of the City of Oakland,
California

DATE OF ATTESTATION: _____

Attachment B: ZUC Staff Report dated February 17, 2010

Location: Citywide – unless otherwise stated
Item: Discussion of a proposed text amendment to the Planning Code to allow consideration of temporary conditional use permits in Oakland.
Applicant: City Planning Commission
Case File Number: ZT10-0007
Staff recommendation: Review and discuss
For further information: Contact: Catherine Payne at (510) 238-6168 or cpayne@oaklandnet.com

PROPOSED ZONING TEXT AMENDMENT

The proposed Planning Code text amendment addressed in this report would allow the City of Oakland to consider conditional use permits for temporary land uses throughout the city. The proposal would provide standards and procedures for temporary uses and responds to an economic climate that has hindered permanent and highest-use development of sites in Oakland. The proposed text amendment is summarized in this report. Please see Attachment A for the proposed zoning text amendments.

BACKGROUND

During this current economic downturn, Oakland land owners with vacant or underutilized parcels are interested in maintaining the economic viability of the land and yet are not able to finance permanent development of the highest and best use. In particular, Oakland hosts a large inventory of vacant lots with no current entitlements as well as vacant lots that are entitled for permanent development yet are not able to secure funding for said development. In order to reduce the blight of vacant lots and promote economic development in this challenging economic climate, staff proposes consideration of regulations that would allow short-term uses of vacant and underutilized properties with relaxed standards to reduce blight and promote economic development in a realistic manner.

PROJECT DESCRIPTION

The proposed project is a Planning Code text amendment (amendment) defining and regulating the application of temporary conditional use permits in Oakland. The amendment would allow currently permitted and conditionally permitted activities on a site, with relaxed limitations and standards and without affecting underlying entitlements. An example of this would be allowing surface auto-fee parking lots in the Central Business District for a three-year period. The existing CBD Planning Code regulations allow auto-fee parking, but limitations require the parking to be enclosed and above the ground floor. Under the proposed amendment, the CBD limitations could be relaxed and surface parking would be allowed only on a temporary basis. This would allow an economically viable, though not the highest and best, use of a site that might otherwise be undeveloped in this economy. The short timeframe would not hinder development of a permanent and better use for the site should the economy improve in the near future.

The amendment includes the following key components:

1. *Limited duration and no extensions*: The amendment includes a permit life of three years. An applicant can apply for a new permit relying on public review and discretionary consideration two years after permit issuance. This would allow for public scrutiny and renewed consideration that can be responsive to a changing economic climate as well as other factors. Extensions would not be allowed.
2. *Relaxation of Planning Code Limitations" and "Additional Criteria"*: The amendment would generally require that the proposed land use be permitted in the underlying zoning district (with a few exceptions, as noted below); however, the amendment would not require compliance with the "Limitations" and "Additional Criteria" that apply to the proposed land use in the underlying zoning district. This would protect the compatibility of land uses in the underlying zoning district while allowing flexibility to allow use locations and design that are viable in an economically challenging climate on a temporary basis.
3. *Guarantee of removal of use upon permit expiration*: The amendment includes requirements for a site restoration plan, financial security, and a recorded agreement to ensure termination of any permitted use or improvement upon permit expiration.
4. *No effect on existing land use entitlements*: Any permit granted under the amendment would not terminate or otherwise affect any existing land use entitlements. In this way, a site can host a temporary use while maintaining any existing entitlement for a higher and better use in the future.

STAFF ANALYSIS

The proposed amendment includes features that have both advantages and disadvantages. The following discussion identifies key issues related to temporary conditional use permits:

1. *Should the amendment include variances (uses not otherwise permitted in the underlying zoning district)?* The amendment would allow outright and conditionally permitted uses on a short-term basis, and would relax the limitations and additional criteria established in the underlying zoning district. A variance is a permit for uses and/or facilities that are otherwise restricted in the underlying zoning district. To ensure that applications are limited to proposed uses that are likely to be generally compatible with the surrounding area and are generally consistent with the underlying zoning district, staff supports limiting the scope of the amendment to permitted and conditionally permitted uses. Under the existing Planning Code regulations, a property owner can apply for a variance for a use not otherwise permitted.

It should be noted that the proposed amendment allows certain uses that may or may not be permitted in the underlying zoning district. Specifically, the amendment would allow the following use classifications: Active Mini-Park; Passive Mini-Park; Special Use Park; Nonassembly Cultural Civic; Recreational Assembly Civic; Crop and Animal Raising; and Plant Nursery Agricultural. In combination with the Essential Service Civic land use classification, currently permitted in every zoning district in Oakland, these land use classifications would allow desirable short-term uses such as outdoor recreation, cultural and community gathering areas, retail vending and gardens. These uses contribute to the vibrancy of neighborhoods and can be easily established (relying on pushcarts or trailers, awnings, planter boxes, moveable site furnishings and similar features).

2. *Should the temporary conditional use permit be a major or a minor permit?* There are three options to consider for processing temporary conditional use permits; they can be considered major or minor permits, or they can be considered based on the criteria of Oakland Municipal Code (OMC) Chapter 17.134.020 Definition of Major and Minor Conditional Use Permits. The amendment treats the temporary conditional use permit as a minor permit requiring administrative review and approval and public noticing (and no public hearing or consideration by the Planning Commission unless decided by the Planning Director). A major permit process would take more time, include a public hearing and consideration by the Planning Commission. Relying on OMC 17.134.020 would require applications to go through a lengthier or more streamlined process generally based on size, use, zoning district and other defining criteria. The more streamlined minor permit process allows permit applications to be considered more quickly, consistent with the intent of the amendment to address every-changing economic conditions on a short-term basis. However, the major permit process allows for more public review and scrutiny of proposals that might otherwise be limited in the underlying zoning district. Staff believes that all three approaches have merits (and disadvantages); however, the more streamlined minor-permit process is consistent with the short-term timeframe of the proposed permit.

3. *What is the appropriate timeframe for the temporary conditional use permit?* The proposed amendment includes a three-year timeframe with the possibility of applying for a new permit within the last year of the life of any existing permit. Staff believes that three years is long enough for an applicant to make a meaningful investment and receive a meaningful return for a temporary use while ensuring that the City has the opportunity to reevaluate the use as the economic cycles shift (on a global or even site-specific basis).
4. *Should extensions be allowed?* The proposed amendment would not allow permit extensions, but rather would allow a permit-holder to apply for a new permit. The existing Planning Code allows extensions without public review or input prior to expiration of the original permit. Staff's objective is to ensure that there is public review and discretionary decision-making regarding continuing a use that is intended and designed to be short-term and to respond to a current economic situation.

Another option that would achieve the same objective would be to allow extensions but require Planning Commission consideration. In this alternative, an applicant would not need to apply for a new permit but, rather, would request an extension. The process would be more streamlined in terms of applicant submittal requirements, but consideration would involve a public hearing and decision by the Planning Commission.

5. *How can the City ensure removal of the use upon permit expiration?* As discussed earlier in this report, the proposed amendment includes three mechanisms for ensuring removal of the use and improvements upon permit expiration: a site restoration plan (to be considered and approved by staff), a financial security, and a recorded agreement to ensure termination of any permitted use or improvement upon permit expiration. Based on legal opinion, staff finds that these features would both ensure the temporary nature of the permit and protect the City against legal action for terminating any use permitted under the proposed amendment.

It should be noted, however, that the City of Oakland does not have the tools in place to ensure staff monitoring of issued permits over a three-year period. There is no existing method to flag a permit case file or otherwise trigger review of permit compliance after the permit has been issued. At this time, if staff issues a permit, there is no guarantee that any staff will follow up on the permit in the future. The financial security discussed above would provide some incentive for the applicant to contact the City to verify compliance and return the security. In addition, the deed restriction would serve to notify staff of the permit status should a new application be submitted for the same site. These approaches are not necessarily timely and rely on the applicant taking responsibility.

6. *Is a \$40,000 security reasonable?* The proposed amendment includes a minimum \$40,000 security to ensure removal of any permitted use and/or facility upon permit termination. The annual premium for a security of \$40,000 is typically less than \$600. Staff believes that this is a reasonable fee expectation for the allowances provided by issuance of a temporary conditional use permit. In addition, \$40,000 would be adequate for City staff to remove many temporary uses and, where temporary uses include improvements valued at greater than \$40,000, the City would rely on a higher security per the proposed regulations. Finally, a significant security ensures that the permit holder would comply with the terms of the permit and contact the City to confirm compliance upon permit expiration in order to remove the security.

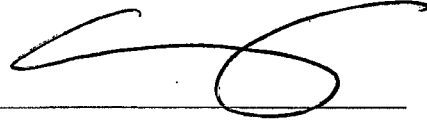
It should be noted that the requirement for a \$40,000 security is “general”; that is, the decision-making body could use discretion to reduce or waive the security. This would be an option for public benefit projects such as community gardens or passive parks, and would allow community groups to install a land use for the public good that would involve no profit without incurring unreasonable costs.

7. *Is the proposed amendment consistent with the City of Oakland General Plan?* The proposed amendment would not allow any uses that are not otherwise permitted or conditionally permitted in the underlying zoning district and would therefore not conflict with the General Plan. In addition, the proposed amendment would support the General Plan general policies of economic development and minimizing nuisances (Policy 1/C4.2) during a challenging economic climate.
8. *How would these regulations affect other temporary uses permitted in Oakland?* The City of Oakland currently allows some uses on a temporary basis, such as “vehicular food vending” and “pushcart food vending” via OMC Titles 8 and 5, respectively. These permits are for uses and do not run with the land. The currently proposed amendment would apply to OMC Title 17, run with the land, and would therefore not affect current temporary use permits in Oakland.

ACTION REQUESTED OF THE ZONING UPDATE COMMITTEE

Staff recommends that the Zoning Update Committee provide comments regarding the proposed Planning Code text amendment and address the questions and issues outlined in this report.

Prepared by:



Catherine Payne, Planner IV

Approved for forwarding to the
Zoning Update Committee of the
City Planning Commission by:



ERIC ANGSTADT, DEPUTY DIRECTOR, CEDA

ATTACHMENT:

A. Proposed Planning Code Amendment

**ATTACHMENT A:
PROPOSED PLANNING CODE AMENDMENT**

**Zoning Update Committee of the Oakland Planning Commission
February 17, 2010**

Chapter 17.133

TEMPORARY CONDITIONAL USE PERMIT PROCEDURE

Sections:

17.133.010	Title, purpose, and applicability.
17.133.020	Definition of temporary conditional use permits.
17.133.030	Application.
17.133.040	Procedures for consideration.
17.133.050	General temporary conditional use permit criteria.
17.133.060	Appeal to Planning Commission.
17.133.070	Expiration of temporary conditional use permits.
17.133.080	Security for Improvements.
17.133.090	Extension of temporary conditional use permits .
17.133.100	Reinstatement of temporary conditional use permits.
17.133.110	Adherence to approved plans.
17.133.120	Limitation on resubmission.

17.133.010 Title, purpose, and applicability.

The provisions of this chapter shall be known as the temporary conditional use permit procedure. The purpose of these provisions is to prescribe the procedure for the accommodation of temporary uses with special considerations, such as site or design requirements, operating characteristics, or potential adverse effects on surroundings, through review and, where necessary or appropriate, the imposition of special conditions of approval. This procedure shall apply to proposals for limited duration activities or facilities as specified in this chapter; or limited duration activities or facilities that are otherwise permitted or conditionally permitted as permanent land uses in the applicable zoning district. This procedure shall not apply to limited duration uses addressed elsewhere in the Oakland Municipal Code.

17.133.020 Definition of temporary conditional use permits.

A temporary conditional use permit allows for the operation of specified activities or facilities on private property for a limited time duration.

A. Temporary Conditional Use Classifications.

1. A temporary conditional use permit may be issued for any permitted or conditionally permitted activity or facility in the applicable zoning district.

2. A temporary conditional use permit may also be issued for the following additional activities or facilities, whether or not permitted or conditionally permitted in the

applicable zoning district: Active Mini-Park; Passive Mini-Park; Special Use Park; Nonassembly Cultural Civic; Recreational Assembly Civic; Crop and Animal Raising; and Plant Nursery Agricultural.

B. Limited Duration. A temporary conditional use permit generally has a limited duration of three (3) years from the effective date of final decision to the date of permit expiration.

C. Relief of Zoning Limitations and Application of Additional Criteria. A temporary conditional use permit may relieve limitations and additional criteria relating to the activity or facility otherwise required in the applicable zoning district, subject to the following findings:

1. Activity and facility limitations and additional criteria otherwise required in the Planning Code or applicable zoning district would prohibit the temporary land use.
2. Activity and facility limitations and additional criteria otherwise required in the Planning Code or applicable zoning district would require permanent improvements inconsistent with the temporary land use.

D. Temporary Improvements. All proposed site improvements shall be temporary in nature and design, as required by Section 17.133.050.E. Any proposed demolition would be subject to the regulations contained in OMC Section 15.36, Chapter 17.136, and any other applicable regulations.

E. Issuance of a temporary conditional use permit shall not restrict or otherwise invalidate, extend, or alter any land use entitlements for the subject property valid at the time of permit issuance.

F. No permit extension. A temporary conditional use permit shall not be extended. However, where a temporary conditional use permit has been approved, an application for essentially the same proposal affecting the same property, or any portion thereof, may be filed two (2) years or later after permit issuance. Such application shall be subject to the regulations contained in Planning Code Chapter 17.133.

17.133.030 Application.

An application for a temporary conditional use permit shall be made by the owner of the affected property, or his or her authorized agent, on a form prescribed by the City Planning Department and shall be filed with such Department.

A. The application shall be accompanied by such information including, but not limited to, site and improvement plans, drawings and elevations, and operational data, as may be required to enable the pertinent criteria to be applied to the proposal, and the fee prescribed in the fee schedule in Chapter 17.150 for a minor permit. In the OS zone, the application shall also include the most recent open space balance calculated pursuant to the no net loss provisions in Section 17.135.060, and any additional information deemed necessary by the City Planning Department.

B. The application shall be accompanied by plans for restoration of the affected site to its original condition. Such plans shall be submitted prior to permit issuance and are subject to review and consideration by the Planning Director or Planning Commission, as applicable.

C. The application shall be accompanied by an agreement, on a form prescribed by the City of Oakland and signed by the land owner, and to be recorded against the property upon permit issuance, acknowledging the temporary nature of the permit and agreeing to removal of the approved land use(s) and related improvements upon permit expiration.

D. Permit issuance shall generally be subject to a bond or other financial security, as required under Section 17.133.080, to ensure removal of the permitted use(s) and improvements upon permit termination.

17.133.040 Procedures for consideration.

A. In All Zones. An application for a temporary conditional use permit shall be considered by the Director of City Planning. However, the Director may, at his or her discretion, refer the application to the City Planning Commission for decision rather than acting on it himself or herself. In this case, the application shall be processed as a major permit pursuant to Chapter 17.134.040.A of the Planning Code. At his or her discretion, an administrative hearing may be held. Notice shall be given by posting an enlarged notice on premises of the subject property involved in the application; notice shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within three hundred (300) feet of the property involved; provided, however, that failure to send notice to any such owner where his or her address is not shown in said records shall not invalidate the affected proceedings. All such notices shall be given not less than seventeen (17) days prior to the date set for the hearing, if such is to be held, or, if not, for decision on the application by the Director. The Director shall determine whether the proposal conforms to the temporary conditional use permit criteria set forth in Section 17.133.050 and to other applicable use permit criteria, and may grant or deny the application for the proposed temporary conditional use permit or require such changes in the proposed use or impose such reasonable conditions of approval as are in his or her judgment necessary to ensure conformity to said criteria. The determination of the Director of City Planning shall become final ten (10) calendar days after the date of decision unless appealed to the City Planning Commission in accordance with Section 17.133.060. In those cases which are referred to the Commission by the Planning Director, the decision of the Commission shall become final ten (10) days after the date of decision. In any event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal.

B. In the OS Zone. Applications for temporary conditional use permits in the OS zone shall be subject to the special use permit review procedure for the OS zone established in Chapter 17.135.

C. Alternative Notification Procedures. If the conditions as set forth in Section 17.130.020 apply, alternative notification procedures discussed therein may replace or supplement the procedures set forth in subsections A and B of this section.

17.133.050 Temporary conditional use permit criteria.

Except as different criteria are prescribed elsewhere in the zoning regulations, a temporary conditional use permit shall be granted only if the proposal conforms to all of the following temporary conditional use permit criteria, as well as to any and all other applicable additional use permit criteria:

A. That the location, size, design, and operating characteristics of the proposed temporary use 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;

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

C. That the proposed temporary use 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;

D. That the proposal conforms to all applicable regular design review criteria set forth in the regular design review procedure at Section 17.136.050 with consideration given to the temporary nature of the proposal;

E. That all proposed improvements are temporary and/or removable, with no permanent alterations to the existing site;

F. That the benefits of temporarily allowing the proposal outweigh the benefits of allowing the parcel to remain vacant or underutilized awaiting a potential permanent use that conforms to the limitations set forth in the applicable zone;

G. That the economic climate, either in general or pertaining to the affected site specifically, is adverse and the proposed temporary use and/or relaxation of Planning Code standards would contribute to economic and land use vitality in Oakland; and

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

17.133.060 Appeal to Planning Commission—Temporary conditional use permits.

Within ten (10) calendar days after the date of a decision by the Director of City Planning on an application for a temporary conditional use permit, an appeal from said decision may be taken to the City Planning Commission by the applicant or any other interested party. In the case of appeals involving one- or two-unit Residential Facilities, the appeal shall be considered by the Commission's Residential Appeals Committee. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the City Planning Department and shall be filed with such Department. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Director or wherein his or her decision is not supported by the evidence in the record. Upon receipt of the appeal, the Secretary of the City Planning Commission shall set the date for consideration thereof; which in the case of applications limited to one- or two-unit Residential Facilities, shall be the date of the Committee's next regularly scheduled meeting following the thirtieth day after the appeal is filed. Not less than seventeen (17) days prior to the date of the Commission's or Committee's consideration of the appeal, the Secretary shall give written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the date and place of the hearing on the appeal. In considering the appeal, the Commission or, if applicable, the Committee shall determine whether the proposal conforms to the temporary use permit criteria set forth in Section 17.133.050 and to any other applicable additional use permit criteria, and may grant or deny a permit or require such changes in the proposed use or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to said criteria. The decision of the Commission or, if applicable, the Committee shall be final.

17.133.070 Expiration of Temporary conditional use permits

A Temporary conditional use permit shall generally expire three (3) years from the effective date of approval of such permit. The use activity permitted by such Temporary conditional use permit shall terminate on or prior to this date.

17.133.080 Security for Improvements

A. Issuance of a temporary conditional use permit shall generally be accompanied by a bond (or other financial security acceptable to the City of Oakland) for the value of any proposed improvements or for \$40,000 (whichever is greater) to ensure removal of the permitted

use(s) and improvements upon permit termination. This requirement may be waived if the applicant can demonstrate that the proposed use will not generate any financial profit and will provide a benefit communitywide.

B. Upon expiration of the permit and timely termination of the approved use activity, said bond shall be returned to the applicant.

C. Should the approved use activity not be terminated upon expiration of the permit, the City of Oakland shall use said bond for the purpose of terminating the activity and/or facility.

17.133.090 Extension of Temporary conditional use permits

A temporary conditional use permit generally cannot be extended.

17.133.100 Reinstatement of Temporary conditional use permits

A temporary conditional use permit generally cannot be reinstated.

17.133.110. Adherence to approved plans.

A temporary conditional use permit shall be subject to the plans and other conditions upon the basis of which it was granted. Unless a different termination date is prescribed, the permit shall terminate three (3) years from the effective date of its granting.

17.133.120 Limitation on resubmission.

Whenever an application for a temporary conditional use permit has been denied by the Director of City Planning or Planning Commission, and the applicant fails to file a timely appeal, no such application for essentially the same proposal affecting the same property, or any portion thereof, shall be filed within one (1) year after the date of denial. This section shall not apply in instances where the applicant can show, on the face of any subsequent application, changed circumstances sufficient to justify a rehearing. Applications for hearing pursuant to this section shall be considered by the Director of City Planning. A determination by the Director shall become final ten (10) calendar days after the date of decision unless appealed to the City Planning Commission. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. Any such decision by the City Planning Commission shall be final.

Attachment C: ZUC Staff Report dated April 21, 2010

Location: Citywide – unless otherwise stated
Item: Discussion of a proposed text amendment to the Planning Code to allow consideration of temporary conditional use permits in Oakland.
Applicant: City Planning Commission
Case File Number: ZT10-0007
Staff recommendation: Review and discuss
For further information: Contact: Catherine Payne at (510) 238-6168 or cpayne@oaklandnet.com

PROPOSED ZONING TEXT AMENDMENT

The Zoning Updates Committee of the Planning Commission (ZUC) previously reviewed this proposal at their regularly scheduled meeting on February 17, 2010. The proposed revised Planning Code text amendment addressed in this report would allow the City of Oakland to consider conditional use permits for temporary land uses throughout the city. The proposal would provide standards and procedures for temporary uses and responds to an economic climate that has hindered permanent and highest-use development of sites in Oakland. The proposed text amendment is summarized in this report. Please see Attachment A for the proposed zoning text amendment. This staff report addresses ZUC and community comments and provides policy options for ZUC consideration.

BACKGROUND

During this current economic downturn, Oakland land owners with vacant or underutilized parcels are interested in maintaining the economic viability of the land and yet are not able to finance permanent development of the highest and best use. In particular, Oakland hosts a large inventory of vacant lots with no current entitlements as well as vacant lots that are entitled for permanent development yet are not able to secure financing for said development. In order to reduce the blight of vacant lots and promote economic development in this challenging economic climate, staff proposes consideration of regulations that would allow short-term uses of vacant and underutilized properties with relaxed standards to reduce blight and promote economic development in a realistic manner.

PROJECT DESCRIPTION

The proposed project is a Planning Code text amendment (amendment) defining and regulating the application of temporary conditional use permits in Oakland. The amendment would allow currently permitted and conditionally permitted activities on a site, with relaxed limitations and standards and without affecting underlying entitlements. One example of this would be allowing surface auto-fee parking lots in the Central Business District for a three-year period; the existing CBD Planning Code regulations allow auto-fee parking, but limitations require the parking to be enclosed and above the ground floor. Under the proposed amendment, the CBD limitations could be relaxed and surface parking would be allowed only on a temporary basis. This would allow an economically viable, though not necessarily the highest and best, use of a site that might otherwise be undeveloped in this economy. The short timeframe would not hinder development of a permanent and better use for the site should the economy improve in the near future.

The amendment includes the following key components:

1. *Limited duration:* The amendment includes a permit life of three years. The currently proposed regulations are revised to allow a one-time, one year extension with no other options for extending the life of the original permit. In summary, a permit could have a maximum active life of up to four years, including the one-time extension.
2. *Relaxation of Planning Code Limitations" and "Additional Criteria":* The amendment would generally require that the proposed land use be permitted in the underlying zoning district (with a few exceptions, as noted below); however, the amendment would not require compliance with the "Limitations" and "Additional Criteria" that apply to the proposed land use in the underlying zoning district. This would protect the compatibility of land uses in the underlying zoning district while allowing flexibility to allow use locations and design that are viable in an economically challenging climate on a temporary basis.
3. *Guarantee of removal of use upon permit expiration:* The proposed amendment includes requirements for a site restoration plan, financial security, and a recorded agreement to ensure termination of any permitted use or improvement upon permit expiration. The currently proposed regulations additionally cite the City's existing ability to penalize any violations of the terms of a temporary conditional use permit.
4. *No effect on existing land use entitlements:* Any permit granted under the amendment would not terminate or otherwise affect any existing land use entitlements. In this way, a site can host a temporary use while maintaining any existing entitlement for a higher and better use in the future.

ZUC AND COMMUNITY COMMENTS

The ZUC considered the proposed regulations and received public testimony at their regularly scheduled meeting on February 17, 2010. At that time, the ZUC and community members made comments regarding the proposal. The following is a summary of the comments and staff response and/or analysis (in indented italics below each comment):

ZUC Comments

- Include penalties to provide applicant incentive to remove use upon termination of permit.
 - *The Oakland Municipal Code (OMC Chapter 1.12) authorizes assessment and penalties for violations of the Planning Code (OMC Title 17), including fines and liens. In addition to the proposed deed restrictions, improvement security and signed and notarized acknowledgement of temporary permit, existing penalties should ensure a high degree of self-enforcement of the proposed regulations. In addition, the revised proposal includes a requirement for project signage indicating the temporary nature of the permit and expiration date, informing neighbors and visitors of the terms of the permit and supporting the identification of any violations.*
- Do we want surface auto-fee parking in downtown when it is currently not permitted? Even on temporary basis?
 - *The only active interest in the proposed regulations thus far has been from applicants interested in conducting surface parking. If the ZUC is considering supporting an option for allowing temporary uses, staff recommends including this use. The ZUC has the option of recommending a trial period for the regulations to determine the benefits and disadvantages based on actual experience.*
- The proposal goes against current regulations (specifically, the newly adopted Central Business District regulations do not allow surface parking, and the proposed regulations would allow surface parking on a temporary basis).
 - *This is the intent of the regulations: only allow land uses that are currently outright or conditionally permitted, but relax development standards to allow for the use to exist on a temporary basis. The Planning Code currently has no option for temporary permits; therefore, by definition, the proposal will contradict existing standards that require permanent improvements.*
- This proposal allows land owners to continue to own land purchased at too high a value; this land will be difficult to develop at the inflated value. If the land remains vacant, then the owners may be forced to sell at a lower (current) value; at a lower value, new owners may be able to develop the highest and best use.
 - *This viewpoint supports the option to recommend no action regarding temporary conditional use permits. With this option, the City would have no legally defensible method or established standards for addressing desirable temporary uses.*

- Alcoholic beverage sales should be included in the proposal.
 - *Alcoholic beverage and tobacco sale permits are regulated by the State of California, and the City of Oakland cannot supercede state regulations.*
- The security amount should be determined by cost-benefit analysis to ensure that it is fair and achieves the goal of limiting use to approved timeframe.
 - *The purpose of the security is to facilitate removal of the use/improvements upon permit expiration; that is the nexus that needs to be made. The City's financial benefit from the use comes from business taxes and not from fees. In addition, the required deed restriction, agreement to the terms of the permit, and established violation process are designed to ensure the removal of the use upon permit termination.*
- It will be difficult to remove community-serving uses (such as community gardens and public art installations) upon permit expiration. People will fight to keep these uses.
 - *Although people may argue to keep temporary uses beyond the life of the permit, the regulations are drafted to both ensure compliance with the established time limits and alert the public to the temporary nature of the use (the revised regulations include a requirement for site signage indicating that the use is temporary and that the use shall be removed by a date certain). There should be no misunderstanding about the temporary life of the use under the proposed regulations; however, the regulations cannot control any desire there may be to extend the use.*
- Would this proposal comply with Senate Bill (SB) 375? (Greenhouse Gas Reduction)
 - *This proposal does not directly relate to SB375. However, it could be argued that increasing parking possibilities in downtown Oakland and thereby pushing housing and office development off directly encourages driving, and indirectly supports sprawl. At the same time, it should be noted that where the proposed regulations would allow surface parking, auto fee parking is already permitted on a permanent basis.*
- Tier fees so that more lucrative uses pay higher fees than more financially modest and/or community-serving uses.
 - *The City can set different fees by permit type but cannot charge different fees based on proposed land use or potential value of use. This would be discriminatory.*
- Consider allowing a one-time, one-year extension with no option to renew the permit.
 - *Staff agrees that this would be an effective way to ensure that temporary uses remain temporary. The proposed regulations are revised to reflect this comment.*
- Consider limiting the number of cars allowed for surface parking and/or portable lifts.
 - *There are currently no restrictions on portable car lifts in the City of Oakland. The ZUC could consider limiting parking to 49 or fewer parking spaces, consistent with the threshold for minor conditional use permits.*
- Consider a trial period to test regulations.
 - *This staff report includes a proposal for a trial period in order to determine the benefits and disadvantages of temporary permits based on actual experience.*

Public Hearing Comments

- The Temporary Conditional Use Permit concept is acceptable for community-serving uses; However, some seasonal sales currently operate without any permit--this permit process, including the security requirement, would be prohibitive for these short-term uses (3-4 months per year);
 - *The permit process could be used to provide approval of seasonal temporary uses throughout the life of the permit. For example, a land owner could submit an application for seasonal sales from September through December every year for three years.*
- Temporary Conditional Use Permits should be minor and not major permits.
 - *The current proposal is for applications to be processed as minor permits.*
- Allow temporary uses that would otherwise require a variance.
 - *This is an option that would facilitate increased use of currently vacant properties in the near term. Staff recommends keeping the current proposal narrow to monitor the success of the regulations. In the future, should there continue to be interest in allowing uses that would otherwise require a variance, the City could consider expanding the regulations.*
- How would vehicular food vendors be addressed by this proposal?
 - *The activity is currently considered within the "fast food" classification and, as such, would be permitted wherever "fast food" is currently permitted or conditionally permitted.*
- The lack of current investment in Oakland necessitates permitting land uses that are not ideal.
 - *This viewpoint supports an option to adopt the proposed regulations or a trial, and to include both permitted and conditionally permitted uses (without limitation).*
- Vacant lots can be a nuisance; there is current parking demand in CBD, and such activity would generate revenue for the City.
 - *This viewpoint supports an option to adopt the proposed regulations or a trial, and to include both the permitted and conditionally permitted uses (without limitation).*
- The proposal weakens the Planning Code by allowing uses that were never intended to be permitted (surface parking in CBD).
 - *The proposal would only allow land uses that are currently permitted or conditionally permitted in the underlying zoning district. However, the proposal would relax development standards to allow for the use to exist on a temporary basis. The Planning Code currently has no option for temporary permits; therefore, by definition, the proposal will contradict existing standards that require permanent improvements.*
- Surface parking is ugly, and causes hazards for pedestrians and bicyclists.
 - *This is an argument to exclude surface parking from any recommendation to move the proposed regulations forward. However, it should be noted wherever surface parking would be permitted as part of this proposal, auto fee parking is already permitted or conditionally permitted. Surface and above-grade auto-fee*

parking generally have the same access and egress conditions in terms of number of driveways.

Testimony Submitted in Writing

- The life of the permit should be four years (rather than three).
 - *The current life of a land use entitlement in Oakland is two years and an additional one year extension. The proposed three-year timeline for the Temporary Conditional Use Permit is consistent with this.*
- There should be no limit on the number of permit renewals.
 - *This proposal includes a narrower time period for land use activity. This approach ensures that temporary uses are, in fact, temporary and do not become long-term or permanent.*
- The security should be reduced to \$20,000.
 - *The purpose of the security is for removal of any improvements upon permit expiration should the property owner not comply with the terms of the permit. The proposed regulations require up to \$40,000 for the security; however, some proposed uses with minimal improvements may have a much lower security requirement.*
- Surface parking should include a landscaping or public art buffer.
 - *Staff supports this recommendation, and the proposed regulations are revised accordingly.*
- Surface parking should incorporate storm water runoff diversion to protect Lake Merritt and the San Francisco Bay.
 - *The proposed regulations require all improvements to be temporary. For those projects that would be required to meet existing storm water runoff requirements, they would need to demonstrate that they could do so with only temporary improvements; otherwise, such proposals would be denied.*

ISSUES AND DISCUSSION

San Francisco's Approach

The City of San Francisco is currently working with owners of entitled properties to allow temporary uses. The approach in San Francisco is to use the Development Agreement (DA) process to extend the life of existing land use entitlements in exchange for the placement of community benefit uses on entitled sites during the interim period. Through the DA process, San Francisco will allow community benefit uses such as gardens, parks and public art displays on a temporary basis. In addition, San Francisco will require extensive (although temporary) improvements, maintenance, insurance and other features designed to allow public access and ensure high quality projects. Again, the incentive to land owners is extending valuable land use entitlements. This approach is specific to currently entitled properties and would not allow surface parking.

The City of San Francisco currently permits temporary uses on non-entitled properties through the Conditional Use Permit process, with specific conditions of approval controlling the temporary timeline and features of the proposal. In addition, the City of San Francisco generally restricts new proposals for surface parking.

Although San Francisco has a very different economic and development climate than Oakland (fewer vacant lots and parcels with more valuable and complex entitlements, for example), the DA approach provides advantages for Oakland, as well. This approach applies to limited properties (those with land use entitlements) and ensures a beneficial use until such time as development is feasible. In addition, the DA can control the quality of improvements and removal of the use based on the incentive of extended entitlements. This is an option for Oakland to consider in developing an approach to permitting temporary uses.

Surface Parking

The only active interest in temporary permits is for surface parking. Surface parking may be considered an undesirable land use, even on a temporary basis. However, the demand for the use should trigger a meaningful discussion about the appropriateness of the use in certain cases. Is surface parking acceptable on a short-term, and not long-term, basis? Is the use acceptable near the West Oakland BART station but in the Central Business District? The ZUC could consider taking a position on surface parking in Oakland and could recommend that the Planning Commission do the same. Any temporary use regulation proposal would be informed by such direction.

Community Benefit Uses

At the previous ZUC meeting where temporary permits were considered, the ZUC expressed concern about temporary community benefit uses becoming permanent due to community and possible political will. This same question might apply to any use for which there is support. The revised proposal includes measures designed to ensure that uses remain temporary and do not become permanent. Revisions include limitations on permit extension and the required site signage to inform the public about the temporary nature of the use. In addition, this staff report outlines options that would allow for a trial of any adopted regulations to determine the outcome of the program and ensure removal of all uses at the end of the trial program.

OPTIONS FOR CONSIDERATION

Staff has revised the proposed draft Temporary Conditional Use Permit regulations and has included various options for ZUC considerations. The following discussion and matrix outline the options and their benefits and disadvantages:

No Action

Taking no action on a temporary use permit proposal would retain the status quo. Currently, there are a small number of active (and unabated) temporary permits on file in Oakland (generally, these are conditional use permits issued with a condition for termination of the use by a date certain). Should the City receive future applications for temporary uses (CUP, variance or DA applications), there are a few existing options for considering such proposals: the City could deny the application or approve the application with conditions of approval to limit the duration of the use and ensure the use does not become vested.

This approach does not contradict the existing Planning Code. However, this approach provides no land use flexibility to address a fluctuating economy, and provides no systematic formula for considering or terminating temporary uses.

Citywide TCUP

A Citywide TCUP, fully described above and in Attachment A to this report, would commit the City to a standardized regulatory process for considering temporary use applications. The proposed regulations allow for a wide variety of uses currently permitted or conditionally permitted in the underlying zoning district. Relaxation of development standards, however, would allow site design that would otherwise not be permitted (surface parking would be allowed in districts where auto fee parking is permitted but development standards restrict surface parking).

Relaxation of standards, in some cases, would potentially contradict the intent of the Planning Code. However, the proposed uses are temporary which may lessen the opposition to an otherwise controversial use. Temporary use permits, in general, would potentially discourage development of higher and better permanent land uses, extending blighted conditions into the future. Nonetheless, a consistent permitting process ensures consistent application of regulations and conditions of approval, and better controls the termination of the temporary uses.

Trial Citywide TCUP

A trial Citywide TCUP program would include the regulations proposed in Attachment A (and described above); however, the trial program would sunset on a date certain. This would allow the City to test the benefits and disadvantages of the TCUP concept during the current economic downturn. By extinguishing the trial on a date certain, the City can control termination of any uses permitted during the trial period. In addition, a trial program would allow the City to consider whether to cease, continue and/or alter the regulations on an extended or permanent basis.

Trial TCUP-CBD

A trial TCUP program in the Central Business District (CBD) would generally include the regulations proposed in Attachment A; however, application would be limited to the CBD. In this way, the trial TCUP-CBD program would specifically address the current, active interest in temporary uses, as the current applications are for surface parking in the downtown area. The trial program would allow the City to consider the advantages and disadvantages of such regulations on a limited basis with the most controversial uses.

Trial TCUP-no surface parking

A trial TCUP that does not allow surface parking would generally include the regulations proposed in Attachment A and would apply Citywide; however, surface parking would not be allowed as a temporary use. A trial Citywide TCUP that does not allow any surface parking may be desirable in terms of the allowable land uses. It should be noted, however, that this proposal would not address actual demand for temporary permits, all of which are for surface parking.

Development Agreement

Whether or not the City of Oakland adopts any specific policy, the City has the ability, on a case-by-case basis, to adopt DAs to extend the life of existing land use entitlements in exchange for the placement of desirable temporary land uses on entitled sites during the interim period. This approach would be specific to currently entitled properties and would require City Council consideration on a case-by-case basis. The City can dictate the appropriate interim uses and the extent and quality of improvements, accessibility and other design features, as the approach would be incentive-based.

TEMPORARY CUP OPTIONS MATRIX

Option	Benefits	Disadvantages	Additional Notes
No Action	<ul style="list-style-type: none"> No risk of temporary uses becoming permanent; Does not contradict Planning Code; 	<ul style="list-style-type: none"> No land use flexibility to address fluctuating economy No systematic formula for considering temporary use proposals; No systematic approach to terminating approved temporary uses; 	<ul style="list-style-type: none"> Could amend SCOA to allow temporary uses on case-by-case basis with consistent conditions Temporary use proposals would be considered under existing CUP, variance or DA procedures
Citywide TCUP	<ul style="list-style-type: none"> Allows uses for a limited timeframe Provides consistent formula for processing temporary use proposals; Responds to economic reality by allowing more land use flexibility Provides similar permitting opportunity throughout Oakland Ensures uses do not become vested 	<ul style="list-style-type: none"> Difficult to remove from Planning Code if regulations prove to be problematic In some cases, allows uses that contradict Planning Code; Difficult to ensure removal of uses (politically and in terms of City ability to monitor); May discourage development of permanent higher and better use; 	
Trial Citywide TCUP	<ul style="list-style-type: none"> Same advantages as "Citywide TCUP" Sunset controls termination of permits Sunset allows evaluation of effectiveness of regulations 	<ul style="list-style-type: none"> May discourage development of permanent higher and better use; 	<ul style="list-style-type: none"> To adopt permanently, would need to go to ZUC, Planning Commission and Council for recommendation and approval
Trial TCUP-CBD	<ul style="list-style-type: none"> Addresses actual demand at this time for temporary permits Limits area to where greatest demand exists 	<ul style="list-style-type: none"> Does not cover the current demand located outside of downtown (e.g., near West Oakland BART) 	<ul style="list-style-type: none"> To adopt permanently, would need to go to ZUC, Planning Commission and Council for recommendation and approval
Trial TCUP-no surface parking	<ul style="list-style-type: none"> Addresses community concerns regarding surface parking 	<ul style="list-style-type: none"> Does not address actual demand at this time for temporary permits Limits financial benefit for City Does not consider that use could be acceptable on temporary basis 	<ul style="list-style-type: none"> To adopt permanently, would need to go to ZUC, Planning Commission and Council for recommendation and approval
Development Agreement	<ul style="list-style-type: none"> Incentive-based Limited to entitled properties City can require extensive improvements, maintenance, insurance 	<ul style="list-style-type: none"> Limited to entitled properties Does not address actual demand at this time for temporary permits May discourage development of permanent higher and better use; No systematic formula for considering other types of temporary use proposals; 	<ul style="list-style-type: none"> Could amend SCOA to address other types of temporary use proposals DA requires no new policy adoption

ACTION REQUESTED OF THE ZONING UPDATE COMMITTEE

Staff recommends that the Zoning Update Committee provide comments regarding the proposed Planning Code text amendment and address the options, questions and issues outlined in this report.

Prepared by:

A handwritten signature in black ink, appearing to be 'Catherine Payne', written over a horizontal line.

Catherine Payne, Planner III

Approved for forwarding to the
Zoning Update Committee of the
City Planning Commission by:

A handwritten signature in black ink, appearing to be 'Scott Miller', written over a horizontal line.

SCOTT MILLER, ZONING MANAGER, PLANNING AND ZONING DIVISION

A handwritten signature in black ink, appearing to be 'Eric Angstadt', written over a horizontal line.

ERIC ANGSTADT, DEPUTY DIRECTOR, CEDA

ATTACHMENTS:

- A. Proposed Planning Code Amendment (revised)
- B. ZUC Staff Report dated February 17, 2010

ZUC APRIL 21, 2010

**ATTACHMENT A:
PROPOSED PLANNING CODE AMENDMENT (REVISED)**

**ATTACHMENT A:
PROPOSED PLANNING CODE AMENDMENT**

**Zoning Update Committee of the Oakland Planning Commission
April 21, 2010**

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Chapter 17.133

TEMPORARY CONDITIONAL USE PERMIT PROCEDURE

Sections:

17.133.010	Title, purpose, and applicability.
17.133.020	Definition of temporary conditional use permits.
17.133.030	Application.
17.133.040	Procedures for consideration.
17.133.050	General temporary conditional use permit criteria.
17.133.060	Appeal to Planning Commission.
17.133.070	Expiration of temporary conditional use permits.
17.133.080	Security for Improvements.
17.133.090	Extension of temporary conditional use permits .
17.133.100	Reinstatement of temporary conditional use permits.
17.133.110	Adherence to approved plans.
17.133.120	Limitation on resubmission.

17.133.010 Title, purpose, and applicability.

The provisions of this chapter shall be known as the temporary conditional use permit procedure. The purpose of these provisions is to prescribe the procedure for the accommodation of temporary uses with special considerations, such as site or design requirements, operating characteristics, or potential adverse effects on surroundings, through review and, where necessary or appropriate, the imposition of special conditions of approval. This procedure shall apply to proposals for limited duration activities or facilities as specified in this chapter; or limited duration activities or facilities that are otherwise permitted or conditionally permitted as permanent land uses in the applicable zoning district. This procedure shall not apply to limited duration uses addressed elsewhere in the Oakland Municipal Code.

Deleted:

17.133.020 Definition of temporary conditional use permits.

A temporary conditional use permit allows for the operation of specified activities or facilities on private property for a limited time duration.

A. Temporary Conditional Use Classifications.

1. A temporary conditional use permit may be issued for any conditionally permitted activity or facility in the applicable zoning district.

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2. A temporary conditional use permit may also be issued for the following additional activities or facilities, whether or not permitted or conditionally permitted in the applicable zoning district: Active Mini-Park; Passive Mini-Park; Special Use Park; Nonassembly Cultural Civic; Recreational Assembly Civic; Crop and Animal Raising; and Plant Nursery Agricultural.

B. Limited Duration. A temporary conditional use permit generally has a limited duration of three (3) years from the effective date of final decision to the date of permit expiration.

C. Relief of Zoning Limitations and Application of Additional Criteria. A temporary conditional use permit may relieve limitations and additional criteria relating to the activity or facility otherwise required in the applicable zoning district, subject to the following findings:

1. Activity and facility limitations and additional criteria otherwise required in the Planning Code or applicable zoning district would prohibit the temporary land use.

2. Activity and facility limitations and additional criteria otherwise required in the Planning Code or applicable zoning district would require permanent improvements inconsistent with the temporary land use.

D. Temporary Improvements. All proposed site improvements shall be temporary in nature and design, as required by Section 17.133.050.E. Any proposed demolition would be subject to the regulations contained in OMC Section 15.36, Chapter 17.136, and any other applicable regulations.

E. Issuance of a temporary conditional use permit shall not restrict or otherwise invalidate, extend, or alter any land use entitlements for the subject property valid at the time of permit issuance.

17.133.030 Application.

An application for a temporary conditional use permit shall be made by the owner of the affected property, or his or her authorized agent, on a form prescribed by the City Planning Department and shall be filed with such Department.

A. The application shall be accompanied by such information including, but not limited to, site and improvement plans, drawings and elevations, and operational data, as may be required to enable the pertinent criteria to be applied to the proposal, and the fee prescribed in the fee schedule in Chapter 17.150 for a minor permit. In the OS zone, the application shall also include the most recent open space balance calculated pursuant to the no net loss provisions in Section 17.135.060, and any additional information deemed necessary by the City Planning Department.

1. Plans shall include design and accommodation of a sign to be posted on the front property line throughout the life of the permit, with a minimum size of 3 feet wide by 3 feet tall, indicating the permit case file number and termination date of the permit.

2. Plans for any surface parking proposal shall indicate a three-foot wide landscape or public art buffer along the public frontage of the site. Plans shall include the design of the landscape or public art feature and demonstrate that the features can be installed on a temporary basis (e.g., raised planter boxes).

B. The application shall be accompanied by plans for restoration of the affected site to its original condition. Such plans shall be submitted prior to permit issuance and are subject to review and consideration by the Planning Director or Planning Commission, as applicable.

C. The application shall be accompanied by an agreement, on a form prescribed by the City of Oakland and signed by the land owner, and to be recorded against the property upon permit issuance, acknowledging the temporary nature of the permit, agreeing to only improve the

Deleted: F. No permit extension. A temporary conditional use permit shall not be extended. However, where a temporary conditional use permit has been approved, an application for essentially the same proposal affecting the same property, or any portion thereof, may be filed two (2) years or later after permit issuance. Such application shall be subject to the regulations contained in Planning Code Chapter 17.133. ¶

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Comment: This will inform the public of the temporary nature of the permit; important especially for "feel good" uses such as community gardens.

site with temporary furnishings and to limit investment into the property, agreeing to removal of the approved land use(s) and related improvements upon permit expiration, and agreeing that the permit, and the right to continue the uses authorized by the permit shall be extinguished immediately and automatically upon expiration of the permit and shall not be subject to any requirement for further notice, public hearing or appeal. The agreement shall further specify that the applicant (including any heirs, successors or assigns) waives any right to such notice or hearing.

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D. Permit issuance shall generally be subject to a bond or other financial security, as required under Section 17.133.080, to ensure removal of the permitted use(s) and improvements upon permit termination.

17.133.040 Procedures for consideration.

A. In All Zones. An application for a temporary conditional use permit shall be considered by the Director of City Planning. However, the Director may, at his or her discretion, refer the application to the City Planning Commission for decision rather than acting on it himself or herself. In this case, the application shall be processed as a major permit pursuant to Chapter 17.134.040.A of the Planning Code. At his or her discretion, an administrative hearing may be held. Notice shall be given by posting an enlarged notice on premises of the subject property involved in the application; notice shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within three hundred (300) feet of the property involved; provided, however, that failure to send notice to any such owner where his or her address is not shown in said records shall not invalidate the affected proceedings. All such notices shall be given not less than seventeen (17) days prior to the date set for the hearing, if such is to be held, or, if not, for decision on the application by the Director. The Director shall determine whether the proposal conforms to the temporary conditional use permit criteria set forth in Section 17.133.050 and to other applicable use permit criteria, and may grant or deny the application for the proposed temporary conditional use permit or require such changes in the proposed use or impose such reasonable conditions of approval as are in his or her judgment necessary to ensure conformity to said criteria. The determination of the Director of City Planning shall become final ten (10) calendar days after the date of decision unless appealed to the City Planning Commission in accordance with Section 17.133.060. In those cases which are referred to the Commission by the Planning Director, the decision of the Commission shall become final ten (10) days after the date of decision. In any event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal.

B. In the OS Zone. Applications for temporary conditional use permits in the OS zone shall be subject to the special use permit review procedure for the OS zone established in Chapter 17.135.

C. Alternative Notification Procedures. If the conditions as set forth in Section 17.130.020 apply, alternative notification procedures discussed therein may replace or supplement the procedures set forth in subsections A and B of this section.

17.133.050 Temporary conditional use permit criteria.

Except as different criteria are prescribed elsewhere in the zoning regulations, a temporary conditional use permit shall be granted only if the proposal conforms to all of the following temporary conditional use permit criteria, as well as to any and all other applicable additional use permit criteria:

A. That the location, size, design, and operating characteristics of the proposed temporary use 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;

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

C. That the proposed temporary use 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;

D. That the proposal conforms to all applicable regular design review criteria set forth in the regular design review procedure at Section 17.136.050 with consideration given to the temporary nature of the proposal;

E. That all proposed improvements are temporary and/or removable, with no permanent alterations to the existing site;

F. That the benefits of temporarily allowing the proposal outweigh the benefits of allowing the parcel to remain vacant or underutilized awaiting a potential permanent use that conforms to the limitations set forth in the applicable zone;

G. That the economic climate, either in general or pertaining to the affected site specifically, is adverse and the proposed temporary use and/or relaxation of Planning Code standards would contribute to economic and land use vitality in Oakland; and

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

17.133.060 Appeal to Planning Commission—Temporary conditional use permits.

Within ten (10) calendar days after the date of a decision by the Director of City Planning on an application for a temporary conditional use permit, an appeal from said decision may be taken to the City Planning Commission by the applicant or any other interested party. In the case of appeals involving one- or two-unit Residential Facilities, the appeal shall be considered by the Commission's Residential Appeals Committee. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the City Planning Department and shall be filed with such Department. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Director or wherein his or her decision is not supported by the evidence in the record. Upon receipt of the appeal, the Secretary of the City Planning Commission shall set the date for consideration thereof; which in the case of applications limited to one- or two-unit Residential Facilities, shall be the date of the Committee's next regularly scheduled meeting following the thirtieth day after the appeal is filed. Not less than seventeen (17) days prior to the date of the Commission's or Committee's consideration of the appeal, the Secretary shall give written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the date and place of the hearing on the appeal. In considering the appeal, the Commission or, if applicable, the Committee shall determine whether the proposal conforms to the temporary use permit criteria set forth in Section 17.133.050 and to any other applicable additional use permit criteria, and may grant or deny a permit or require such changes in the proposed use or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to said criteria. The decision of the Commission or, if applicable, the Committee shall be final.

17.133.070 Expiration of Temporary conditional use permits

A Temporary conditional use permit shall generally expire three (3) years from the effective date of approval of such permit. The use activity permitted by such Temporary conditional use permit shall terminate on or prior to this date.

1. An application for a new temporary conditional use permit for essentially the same use on the same property shall not be approved.

2. Any violation of the terms of a temporary conditional use permit shall be subject to all rights and remedies provided in the Oakland Municipal Code, including without limitation, assessment and penalties, as specified in OMC Chapter 1.12 and/or permit revocation as specified in OMC 17.152. The failure of an owner to comply fully with a provision of this Chapter shall be a separate violation which shall be immediately subject to enforcement, penalty, and collection actions provided in the Oakland Municipal Code, including, without limitation, OMC Chapter 1.12.

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17.133.080 Security for Improvements

A. Issuance of a temporary conditional use permit shall generally be accompanied by a bond (or other financial security acceptable to the City of Oakland) for the value of any proposed improvements or for \$40,000 (whichever is greater) to ensure removal of the permitted use(s) and improvements upon permit termination. This requirement may be waived if the applicant can demonstrate that the proposed use will not generate any financial profit and will provide a benefit communitywide.

B. Upon expiration of the permit and timely termination of the approved use activity, said security shall be returned to the applicant.

C. Should the approved use activity not be terminated upon expiration of the permit, the City of Oakland shall use said security for the purpose of terminating the activity and/or facility.

Comment: Purpose of the security is for City removal of the use, and should be valued accordingly.

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17.133.090 Extension of Temporary conditional use permits

A temporary conditional use permit can generally be extended one time, only, for one year.

Deleted: generally cannot be extended

Comment: This revision responds to ZUC comments and limits the length of time for the temporary use so that it cannot become permanent.

17.133.100 Reinstatement of Temporary conditional use permits

A temporary conditional use permit generally cannot be reinstated.

17.133.110 Adherence to approved plans.

A temporary conditional use permit shall be subject to the plans and other conditions upon the basis of which it was granted. Unless a different termination date is prescribed, the permit shall terminate three (3) years from the effective date of its granting.

17.133.120 Limitation on resubmission.

Whenever an application for a temporary conditional use permit has been denied by the Director of City Planning or Planning Commission, and the applicant fails to file a timely appeal, no such application for essentially the same proposal affecting the same property, or any portion thereof, shall be filed within one (1) year after the date of denial. This section shall not apply in instances where the applicant can show, on the face of any subsequent application, changed circumstances sufficient to justify a rehearing. Applications for hearing pursuant to this section shall be considered by the Director of City Planning. A determination by the Director shall become final ten (10) calendar days after the date of decision unless appealed to the City Planning Commission. In event the last date of appeal falls on a weekend or holiday when city offices are

closed, the next date such offices are open for business shall be the last date of appeal. Any such decision by the City Planning Commission shall be final.

ZUC APRIL 21, 2010

**ATTACHMENT B:
ZUC STAFF REPORT DATED FEBRUARY 17, 2010**

Location: Citywide – unless otherwise stated
Item: Discussion of a proposed text amendment to the Planning Code to allow consideration of temporary conditional use permits in Oakland.
Applicant: City Planning Commission
Case File Number: ZT10-0007
Staff recommendation: Review and discuss
For further information: Contact: Catherine Payne at (510) 238-6168 or cpayne@oaklandnet.com

PROPOSED ZONING TEXT AMENDMENT

The proposed Planning Code text amendment addressed in this report would allow the City of Oakland to consider conditional use permits for temporary land uses throughout the city. The proposal would provide standards and procedures for temporary uses and responds to an economic climate that has hindered permanent and highest-use development of sites in Oakland. The proposed text amendment is summarized in this report. Please see Attachment A for the proposed zoning text amendments.

BACKGROUND

During this current economic downturn, Oakland land owners with vacant or underutilized parcels are interested in maintaining the economic viability of the land and yet are not able to finance permanent development of the highest and best use. In particular, Oakland hosts a large inventory of vacant lots with no current entitlements as well as vacant lots that are entitled for permanent development yet are not able to secure funding for said development. In order to reduce the blight of vacant lots and promote economic development in this challenging economic climate, staff proposes consideration of regulations that would allow short-term uses of vacant and underutilized properties with relaxed standards to reduce blight and promote economic development in a realistic manner.

PROJECT DESCRIPTION

The proposed project is a Planning Code text amendment (amendment) defining and regulating the application of temporary conditional use permits in Oakland. The amendment would allow currently permitted and conditionally permitted activities on a site, with relaxed limitations and standards and without affecting underlying entitlements. An example of this would be allowing surface auto-fee parking lots in the Central Business District for a three-year period. The existing CBD Planning Code regulations allow auto-fee parking, but limitations require the parking to be enclosed and above the ground floor. Under the proposed amendment, the CBD limitations could be relaxed and surface parking would be allowed only on a temporary basis. This would allow an economically viable, though not the highest and best, use of a site that might otherwise be undeveloped in this economy. The short timeframe would not hinder development of a permanent and better use for the site should the economy improve in the near future.

The amendment includes the following key components:

1. *Limited duration and no extensions:* The amendment includes a permit life of three years. An applicant can apply for a new permit relying on public review and discretionary consideration two years after permit issuance. This would allow for public scrutiny and renewed consideration that can be responsive to a changing economic climate as well as other factors. Extensions would not be allowed.
2. *Relaxation of Planning Code Limitations" and "Additional Criteria":* The amendment would generally require that the proposed land use be permitted in the underlying zoning district (with a few exceptions, as noted below); however, the amendment would not require compliance with the "Limitations" and "Additional Criteria" that apply to the proposed land use in the underlying zoning district. This would protect the compatibility of land uses in the underlying zoning district while allowing flexibility to allow use locations and design that are viable in an economically challenging climate on a temporary basis.
3. *Guarantee of removal of use upon permit expiration:* The amendment includes requirements for a site restoration plan, financial security, and a recorded agreement to ensure termination of any permitted use or improvement upon permit expiration.
4. *No effect on existing land use entitlements:* Any permit granted under the amendment would not terminate or otherwise affect any existing land use entitlements. In this way, a site can host a temporary use while maintaining any existing entitlement for a higher and better use in the future.

STAFF ANALYSIS

The proposed amendment includes features that have both advantages and disadvantages. The following discussion identifies key issues related to temporary conditional use permits:

1. *Should the amendment include variances (uses not otherwise permitted in the underlying zoning district)?* The amendment would allow outright and conditionally permitted uses on a short-term basis, and would relax the limitations and additional criteria established in the underlying zoning district. A variance is a permit for uses and/or facilities that are otherwise restricted in the underlying zoning district. To ensure that applications are limited to proposed uses that are likely to be generally compatible with the surrounding area and are generally consistent with the underlying zoning district, staff supports limiting the scope of the amendment to permitted and conditionally permitted uses. Under the existing Planning Code regulations, a property owner can apply for a variance for a use not otherwise permitted.

It should be noted that the proposed amendment allows certain uses that may or may not be permitted in the underlying zoning district. Specifically, the amendment would allow the following use classifications: Active Mini-Park; Passive Mini-Park; Special Use Park; Nonassembly Cultural Civic; Recreational Assembly Civic; Crop and Animal Raising; and Plant Nursery Agricultural. In combination with the Essential Service Civic land use classification, currently permitted in every zoning district in Oakland, these land use classifications would allow desirable short-term uses such as outdoor recreation, cultural and community gathering areas, retail vending and gardens. These uses contribute to the vibrancy of neighborhoods and can be easily established (relying on pushcarts or trailers, awnings, planter boxes, moveable site furnishings and similar features).

2. *Should the temporary conditional use permit be a major or a minor permit?* There are three options to consider for processing temporary conditional use permits; they can be considered major or minor permits, or they can be considered based on the criteria of Oakland Municipal Code (OMC) Chapter 17.134.020 Definition of Major and Minor Conditional Use Permits. The amendment treats the temporary conditional use permit as a minor permit requiring administrative review and approval and public noticing (and no public hearing or consideration by the Planning Commission unless decided by the Planning Director). A major permit process would take more time, include a public hearing and consideration by the Planning Commission. Relying on OMC 17.134.020 would require applications to go through a lengthier or more streamlined process generally based on size, use, zoning district and other defining criteria. The more streamlined minor permit process allows permit applications to be considered more quickly, consistent with the intent of the amendment to address every-changing economic conditions on a short-term basis. However, the major permit process allows for more public review and scrutiny of proposals that might otherwise be limited in the underlying zoning district. Staff believes that all three approaches have merits (and disadvantages); however, the more streamlined minor-permit process is consistent with the short-term timeframe of the proposed permit.

3. *What is the appropriate timeframe for the temporary conditional use permit?* The proposed amendment includes a three-year timeframe with the possibility of applying for a new permit within the last year of the life of any existing permit. Staff believes that three years is long enough for an applicant to make a meaningful investment and receive a meaningful return for a temporary use while ensuring that the City has the opportunity to reevaluate the use as the economic cycles shift (on a global or even site-specific basis).
4. *Should extensions be allowed?* The proposed amendment would not allow permit extensions, but rather would allow a permit-holder to apply for a new permit. The existing Planning Code allows extensions without public review or input prior to expiration of the original permit. Staff's objective is to ensure that there is public review and discretionary decision-making regarding continuing a use that is intended and designed to be short-term and to respond to a current economic situation.

Another option that would achieve the same objective would be to allow extensions but require Planning Commission consideration. In this alternative, an applicant would not need to apply for a new permit but, rather, would request an extension. The process would be more streamlined in terms of applicant submittal requirements, but consideration would involve a public hearing and decision by the Planning Commission.

5. *How can the City ensure removal of the use upon permit expiration?* As discussed earlier in this report, the proposed amendment includes three mechanisms for ensuring removal of the use and improvements upon permit expiration: a site restoration plan (to be considered and approved by staff), a financial security, and a recorded agreement to ensure termination of any permitted use or improvement upon permit expiration. Based on legal opinion, staff finds that these features would both ensure the temporary nature of the permit and protect the City against legal action for terminating any use permitted under the proposed amendment.

It should be noted, however, that the City of Oakland does not have the tools in place to ensure staff monitoring of issued permits over a three-year period. There is no existing method to flag a permit case file or otherwise trigger review of permit compliance after the permit has been issued. At this time, if staff issues a permit, there is no guarantee that any staff will follow up on the permit in the future. The financial security discussed above would provide some incentive for the applicant to contact the City to verify compliance and return the security. In addition, the deed restriction would serve to notify staff of the permit status should a new application be submitted for the same site. These approaches are not necessarily timely and rely on the applicant taking responsibility.

6. *Is a \$40,000 security reasonable?* The proposed amendment includes a minimum \$40,000 security to ensure removal of any permitted use and/or facility upon permit termination. The annual premium for a security of \$40,000 is typically less than \$600. Staff believes that this is a reasonable fee expectation for the allowances provided by issuance of a temporary conditional use permit. In addition, \$40,000 would be adequate for City staff to remove many temporary uses and, where temporary uses include improvements valued at greater than \$40,000, the City would rely on a higher security per the proposed regulations. Finally, a significant security ensures that the permit holder would comply with the terms of the permit and contact the City to confirm compliance upon permit expiration in order to remove the security.

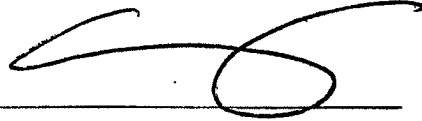
It should be noted that the requirement for a \$40,000 security is “general”; that is, the decision-making body could use discretion to reduce or waive the security. This would be an option for public benefit projects such as community gardens or passive parks, and would allow community groups to install a land use for the public good that would involve no profit without incurring unreasonable costs.

7. *Is the proposed amendment consistent with the City of Oakland General Plan?* The proposed amendment would not allow any uses that are not otherwise permitted or conditionally permitted in the underlying zoning district and would therefore not conflict with the General Plan. In addition, the proposed amendment would support the General Plan general policies of economic development and minimizing nuisances (Policy 1/C4.2) during a challenging economic climate.
8. *How would these regulations affect other temporary uses permitted in Oakland?* The City of Oakland currently allows some uses on a temporary basis, such as “vehicular food vending” and “pushcart food vending” via OMC Titles 8 and 5, respectively. These permits are for uses and do not run with the land. The currently proposed amendment would apply to OMC Title 17, run with the land, and would therefore not affect current temporary use permits in Oakland.

ACTION REQUESTED OF THE ZONING UPDATE COMMITTEE

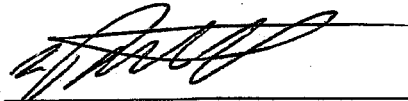
Staff recommends that the Zoning Update Committee provide comments regarding the proposed Planning Code text amendment and address the questions and issues outlined in this report.

Prepared by:



Catherine Payne, Planner IV

Approved for forwarding to the
Zoning Update Committee of the
City Planning Commission by:



ERIC ANGSTADT, DEPUTY DIRECTOR, CEDA

ATTACHMENT:

A. Proposed Planning Code Amendment

**ATTACHMENT A:
PROPOSED PLANNING CODE AMENDMENT**

**Zoning Update Committee of the Oakland Planning Commission
February 17, 2010**

Chapter 17.133

TEMPORARY CONDITIONAL USE PERMIT PROCEDURE

Sections:

17.133.010	Title, purpose, and applicability.
17.133.020	Definition of temporary conditional use permits.
17.133.030	Application.
17.133.040	Procedures for consideration.
17.133.050	General temporary conditional use permit criteria.
17.133.060	Appeal to Planning Commission.
17.133.070	Expiration of temporary conditional use permits.
17.133.080	Security for Improvements.
17.133.090	Extension of temporary conditional use permits .
17.133.100	Reinstatement of temporary conditional use permits.
17.133.110	Adherence to approved plans.
17.133.120	Limitation on resubmission.

17.133.010 Title, purpose, and applicability.

The provisions of this chapter shall be known as the temporary conditional use permit procedure. The purpose of these provisions is to prescribe the procedure for the accommodation of temporary uses with special considerations, such as site or design requirements, operating characteristics, or potential adverse effects on surroundings, through review and, where necessary or appropriate, the imposition of special conditions of approval. This procedure shall apply to proposals for limited duration activities or facilities as specified in this chapter; or limited duration activities or facilities that are otherwise permitted or conditionally permitted as permanent land uses in the applicable zoning district. This procedure shall not apply to limited duration uses addressed elsewhere in the Oakland Municipal Code.

17.133.020 Definition of temporary conditional use permits.

A temporary conditional use permit allows for the operation of specified activities or facilities on private property for a limited time duration.

A. Temporary Conditional Use Classifications.

1. A temporary conditional use permit may be issued for any permitted or conditionally permitted activity or facility in the applicable zoning district.

2. A temporary conditional use permit may also be issued for the following additional activities or facilities, whether or not permitted or conditionally permitted in the

applicable zoning district: Active Mini-Park; Passive Mini-Park; Special Use Park; Nonassembly Cultural Civic; Recreational Assembly Civic; Crop and Animal Raising; and Plant Nursery Agricultural.

B. Limited Duration. A temporary conditional use permit generally has a limited duration of three (3) years from the effective date of final decision to the date of permit expiration.

C. Relief of Zoning Limitations and Application of Additional Criteria. A temporary conditional use permit may relieve limitations and additional criteria relating to the activity or facility otherwise required in the applicable zoning district, subject to the following findings:

1. Activity and facility limitations and additional criteria otherwise required in the Planning Code or applicable zoning district would prohibit the temporary land use.
2. Activity and facility limitations and additional criteria otherwise required in the Planning Code or applicable zoning district would require permanent improvements inconsistent with the temporary land use.

D. Temporary Improvements. All proposed site improvements shall be temporary in nature and design, as required by Section 17.133.050.E. Any proposed demolition would be subject to the regulations contained in OMC Section 15.36, Chapter 17.136, and any other applicable regulations.

E. Issuance of a temporary conditional use permit shall not restrict or otherwise invalidate, extend, or alter any land use entitlements for the subject property valid at the time of permit issuance.

F. No permit extension. A temporary conditional use permit shall not be extended. However, where a temporary conditional use permit has been approved, an application for essentially the same proposal affecting the same property, or any portion thereof, may be filed two (2) years or later after permit issuance. Such application shall be subject to the regulations contained in Planning Code Chapter 17.133.

17.133.030 Application.

An application for a temporary conditional use permit shall be made by the owner of the affected property, or his or her authorized agent, on a form prescribed by the City Planning Department and shall be filed with such Department.

A. The application shall be accompanied by such information including, but not limited to, site and improvement plans, drawings and elevations, and operational data, as may be required to enable the pertinent criteria to be applied to the proposal, and the fee prescribed in the fee schedule in Chapter 17.150 for a minor permit. In the OS zone, the application shall also include the most recent open space balance calculated pursuant to the no net loss provisions in Section 17.135.060, and any additional information deemed necessary by the City Planning Department.

B. The application shall be accompanied by plans for restoration of the affected site to its original condition. Such plans shall be submitted prior to permit issuance and are subject to review and consideration by the Planning Director or Planning Commission, as applicable.

C. The application shall be accompanied by an agreement, on a form prescribed by the City of Oakland and signed by the land owner, and to be recorded against the property upon permit issuance, acknowledging the temporary nature of the permit and agreeing to removal of the approved land use(s) and related improvements upon permit expiration.

D. Permit issuance shall generally be subject to a bond or other financial security, as required under Section 17.133.080, to ensure removal of the permitted use(s) and improvements upon permit termination.

17.133.040 Procedures for consideration.

A. In All Zones. An application for a temporary conditional use permit shall be considered by the Director of City Planning. However, the Director may, at his or her discretion, refer the application to the City Planning Commission for decision rather than acting on it himself or herself. In this case, the application shall be processed as a major permit pursuant to Chapter 17.134.040.A of the Planning Code. At his or her discretion, an administrative hearing may be held. Notice shall be given by posting an enlarged notice on premises of the subject property involved in the application; notice shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within three hundred (300) feet of the property involved; provided, however, that failure to send notice to any such owner where his or her address is not shown in said records shall not invalidate the affected proceedings. All such notices shall be given not less than seventeen (17) days prior to the date set for the hearing, if such is to be held, or, if not, for decision on the application by the Director. The Director shall determine whether the proposal conforms to the temporary conditional use permit criteria set forth in Section 17.133.050 and to other applicable use permit criteria, and may grant or deny the application for the proposed temporary conditional use permit or require such changes in the proposed use or impose such reasonable conditions of approval as are in his or her judgment necessary to ensure conformity to said criteria. The determination of the Director of City Planning shall become final ten (10) calendar days after the date of decision unless appealed to the City Planning Commission in accordance with Section 17.133.060. In those cases which are referred to the Commission by the Planning Director, the decision of the Commission shall become final ten (10) days after the date of decision. In any event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal.

B. In the OS Zone. Applications for temporary conditional use permits in the OS zone shall be subject to the special use permit review procedure for the OS zone established in Chapter 17.135.

C. Alternative Notification Procedures. If the conditions as set forth in Section 17.130.020 apply, alternative notification procedures discussed therein may replace or supplement the procedures set forth in subsections A and B of this section.

17.133.050 Temporary conditional use permit criteria.

Except as different criteria are prescribed elsewhere in the zoning regulations, a temporary conditional use permit shall be granted only if the proposal conforms to all of the following temporary conditional use permit criteria, as well as to any and all other applicable additional use permit criteria:

A. That the location, size, design, and operating characteristics of the proposed temporary use 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;

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

C. That the proposed temporary use 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;

D. That the proposal conforms to all applicable regular design review criteria set forth in the regular design review procedure at Section 17.136.050 with consideration given to the temporary nature of the proposal;

E. That all proposed improvements are temporary and/or removable, with no permanent alterations to the existing site;

F. That the benefits of temporarily allowing the proposal outweigh the benefits of allowing the parcel to remain vacant or underutilized awaiting a potential permanent use that conforms to the limitations set forth in the applicable zone;

G. That the economic climate, either in general or pertaining to the affected site specifically, is adverse and the proposed temporary use and/or relaxation of Planning Code standards would contribute to economic and land use vitality in Oakland; and

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

17.133.060 Appeal to Planning Commission—Temporary conditional use permits.

Within ten (10) calendar days after the date of a decision by the Director of City Planning on an application for a temporary conditional use permit, an appeal from said decision may be taken to the City Planning Commission by the applicant or any other interested party. In the case of appeals involving one- or two-unit Residential Facilities, the appeal shall be considered by the Commission's Residential Appeals Committee. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the City Planning Department and shall be filed with such Department. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Director or wherein his or her decision is not supported by the evidence in the record. Upon receipt of the appeal, the Secretary of the City Planning Commission shall set the date for consideration thereof; which in the case of applications limited to one- or two-unit Residential Facilities, shall be the date of the Committee's next regularly scheduled meeting following the thirtieth day after the appeal is filed. Not less than seventeen (17) days prior to the date of the Commission's or Committee's consideration of the appeal, the Secretary shall give written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the date and place of the hearing on the appeal. In considering the appeal, the Commission or, if applicable, the Committee shall determine whether the proposal conforms to the temporary use permit criteria set forth in Section 17.133.050 and to any other applicable additional use permit criteria, and may grant or deny a permit or require such changes in the proposed use or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to said criteria. The decision of the Commission or, if applicable, the Committee shall be final.

17.133.070 Expiration of Temporary conditional use permits

A Temporary conditional use permit shall generally expire three (3) years from the effective date of approval of such permit. The use activity permitted by such Temporary conditional use permit shall terminate on or prior to this date.

17.133.080 Security for Improvements

A. Issuance of a temporary conditional use permit shall generally be accompanied by a bond (or other financial security acceptable to the City of Oakland) for the value of any proposed improvements or for \$40,000 (whichever is greater) to ensure removal of the permitted

use(s) and improvements upon permit termination. This requirement may be waived if the applicant can demonstrate that the proposed use will not generate any financial profit and will provide a benefit communitywide.

B. Upon expiration of the permit and timely termination of the approved use activity, said bond shall be returned to the applicant.

C. Should the approved use activity not be terminated upon expiration of the permit, the City of Oakland shall use said bond for the purpose of terminating the activity and/or facility.

17.133.090 Extension of Temporary conditional use permits

A temporary conditional use permit generally cannot be extended.

17.133.100 Reinstatement of Temporary conditional use permits

A temporary conditional use permit generally cannot be reinstated.

17.133.110 Adherence to approved plans.

A temporary conditional use permit shall be subject to the plans and other conditions upon the basis of which it was granted. Unless a different termination date is prescribed, the permit shall terminate three (3) years from the effective date of its granting.

17.133.120 Limitation on resubmission.

Whenever an application for a temporary conditional use permit has been denied by the Director of City Planning or Planning Commission, and the applicant fails to file a timely appeal, no such application for essentially the same proposal affecting the same property, or any portion thereof, shall be filed within one (1) year after the date of denial. This section shall not apply in instances where the applicant can show, on the face of any subsequent application, changed circumstances sufficient to justify a rehearing. Applications for hearing pursuant to this section shall be considered by the Director of City Planning. A determination by the Director shall become final ten (10) calendar days after the date of decision unless appealed to the City Planning Commission. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. Any such decision by the City Planning Commission shall be final.

Case File Number CM10-145

October 20, 2010

Location:	685 32nd Street (APN 009-0714-038-00)
Proposal:	Service Enriched Permanent Housing, 3 units
Contact Person/Phone Number:	Tracy Creer (415-203-8493)
Owner:	Ola M. VanZant
Case File Number:	CM10-145
Planning Permits Required:	Major Conditional Use Permit for Service Enriched Permanent Housing, in an existing 3-dwelling building on a 4,900 square foot lot
General Plan:	Mixed Housing Type Residential
Zoning:	R-36 Small Lot Residential Zone
Environmental Determination:	Exempt, Section 15301 of the State CEQA Guidelines: Modification of small structures; Additional citation: Section 15183 of the State CEQA Guidelines: Projects consistent with a community plan, general plan or zoning
Historic Status:	Not a Potentially Designated Historic Property
Service Delivery District:	1
City Council District:	3
Staff Recommendation:	Approve subject to conditions of approval
Finality of Decision:	Appealable to the City Council within 10 days
For Further Information:	Contact David Valeska at (510) 238-2075 or dvaleska@oaklandnet.com

SUMMARY

This is a public hearing continued from September 15, 2010 to allow the applicant time to revise the request and provide additional information to the Commission. The applicant requests a Major Conditional Use Permit for Service Enriched Housing in an existing triplex in West Oakland. The attached September 15, 2010 staff report contains more details.

PROJECT DESCRIPTION

The applicant, a small volunteer group known as ChangeToCome (501-c-3 nonprofit), has modified the proposal pursuant to Planning Commission and neighbor comments as follows:

- Reduced the number of persons on-site by half, for a total of 9 plus 1 live-in staff
- Provided separate sleeping quarters for project staff.
- Identified licenses to be obtained, not including State child care (children will be school-age only)
- Provided additional details of the business plan, assisted by the Oakland Business Assistance Office at the City Hall complex.

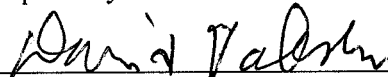
The applicant requests the Planning Commission to find that these updates to the project sufficiently address Commission and neighbor comments from the September 15, 2010 public hearing. The applicant maintains that a facility of this type in this area will provide life enhancement for at least a few of the single-parent lower income families in need, who otherwise would have to reintegrate with the community without the services of a group like ChangeToCome.

Staff continues to find that project impacts are minimal and the public benefits of improved transitional housing facilities immediate and substantial. Public necessity supports the approval of the project, subject to conditions of approval.


RECOMMENDATIONS:

1. Affirm staff's environmental determination.
2. Approve the Major Conditional Use Permit subject to the findings and conditions provided September 15, 2010 and to the additional conditions commencing with condition 27 attached herewith.

Prepared by:


David Valeska, Planner II

Approved by:


SCOTT MILLER
Zoning Manager

Approved for forwarding to the
City Planning Commission:


ERIC ANGSTADT
Deputy Director of CEDA

ATTACHMENTS:

- A. Additional Conditions 27 through 29
- B. Applicant Business Plan Update, October 7, 2010
- C. Other Applicant Correspondence Since September 15, 2010
- D. Neighbor Correspondence Since September 15, 2010
- E. September 15, 2010 Staff Report with Findings and Conditions

ADDITIONAL CONDITIONS PROPOSED AFTER SEPTEMBER 15, 2010
CMD10-145: 685 32ND STREET

27. **Maximum Project Size**

Prior to Occupancy and Ongoing

The applicant shall provide housing for a maximum of three (3) adults and six (6) children in the existing 3 unit facility.

28. **Lodging for Project Staff**

Prior to Occupancy and Ongoing

The applicant shall provide sleeping quarters for project staff who stay overnight, with wall separation for privacy. Toilet and kitchen facilities may be shared with the client families.

29. **Licensing**

Ongoing

The applicant shall provide licensed child day care on-site or at a licensed off-site premises for children who are under school age.

Business Plan

RECEIVED

OCT 07 2010

CITY PLANNING COMMISSION
ZONING DIVISION

Owners: Tracy Creer
Business name: Change To Come Supportive Housing for Single Parents in Recovery
Address: 655 Lewelling Blvd., Ste#341
San Leandro, CA 94579

Phone: 510 969-8266 – message only
Email: Change@changetocome.org
Website: www.changetocome.org

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Exective Summary

Change To Come is a nonprofit agency in California, providing supportive housing and supportive services for single parents and their children. In addition to safe and affordable housing, the program will provide counseling, parenting, nutrition, and childcare. Change To Come is a self-supporting housing for single parents who have recovered from abuse, whether the abuse is in the form of drugs, or alcohol. Change To Come focus on change, a change from the past to new possibilities. The program offers a safe place for families to reunite and create a new way of life. It allows parents to focus on recovery. It offers parents a new way of living, an opportunity to start over, a safe place to practice healthy living, and hope.

Change To Come is created for people who are ready to venture into life but need a safe place to live. There will be staff available 24 hours a day for support. All available staff will be knowledgeable or have some resource of recovery. In addition, this place will have other parents who are going through the same recovery process, which will cause each of them to draw strength from the other in order to maintain a strong recovery. This non-profit will give the support that is needed in order to prevent relapse.

By providing this type of program we will provide a safe place to raise children and a healthy environment in which to live. It will allow parents to be in an environment that is different from that which they are familiar. This type of environment will be safe and will not be tempted by outside influences. Parents will have time to bond with their children, and they will learn to practice healthy morals. The goal is to provide affordable housing for single parents, and a safe place for recovery.

Once the building is established, parents will move in from treatment centers. Parents will be required to show proof that proper training and counseling have been provided in order to maintain a healthy recovery. This can be done by providing a certificate of completion from the presiding organization. After the parents are accepted, the children will move in soon after.

Once parents and children are together, parents are expected to focus on their children and to use all resources to help them be confident individuals. The parents are expected to work hard for the success of their children. This will give single parents and their children a chance at another life where there is hope for success.

Those who want to recover find it very challenging without the proper tools and living conditions. Those without such necessities almost never recover, leaving their children to follow the same path. According to the California Department of Alcohol & Drug Program, parents who go into a treatment center have a greater chance of relapsing because they do not have housing. Our non-profit, Change to Come, offers a housing program that will help with housing for single parents with children. It will give parents a way to continue their recovery while living independently, it will give parents the self-esteem needed in order to raise their children. It will also create hope of a better life for parents and their children. We know that when a person decides to change their life, the old ways of doing things will not work. Changing where a person lives will change how they feel about them self. This important change will be a positive step in the right direction and help to maintain a strong recovery.

Corporation Description

Mission statement: Our mission is aimed to enrich a healthy lifestyle in our communities, to encourage a better perspective of self, and to change what was, to what is!

- To provide a way out of poverty
- To educate communities of better opportunities
- To create an outcome that will lead to success
- To unite with one another to gain strength, to learn from each other in order to grow, and to educate each other in order to live with each other.

Company history: The company has been incorporated since 2008.

Biography: Tracy Creer grew up in San Francisco Oakland, Bay Area. She was raised by a single parent in The Sunnydale Housing Projects. Tracy graduated from Balboa High School in 1982. She worked for Comcast Cable for 17yrs, as a finance analyst. While working and raising a family Tracy was able to obtain a degree in Business Accounting at University Of Phoenix. Tracy is now married and has three children. Although Tracy enjoyed working as an analyst, she feels her focus should be "giving back". Tracy's experience and qualifications with non-profits is a personal advantage. She is a recovering addict of 18 yrs., and was a single parent. When Tracy completed a treatment program she got a place to stay with her child. Because of the lack of support with her child she repeated the same behaviors that she experienced, which was neglect, mental and physical abuse. Tracy also had a very close friend who completed treatment. She got a job and a place to stay. She was excited to finally get the chance to get her kids back from Child Protective Services. After Child Protective Services examined her friends place they told her that she could not get her kids back, because she had a one bedroom and needed a two bedroom for her three children. Tracy's friend stayed clean for two years before giving up and went back to using. The story of women unable to get their children back or the lack of support once they have their children touched Tracy to the point that something had to be done. Tracy feels that while there is a compelling desire to help, there is a civic duty to give back.

Values: Change To Come operates with compassion and comprehension about the complexity of reintegration for women with substance abuse issues. There are core values that govern the operations and decision making for the organization. We believe the following: 1) every child deserves to be raised by their mother; 2) society is responsible for ensuring that parents, and their children have a safe place to live; 3) sobriety, information, education and support promotes empowerment; 4) every person deserves an opportunity to receive preventative healthcare services; 5) every woman should have an opportunity to learn how to be a loving and valuable parent.

Purpose: The overall goal of Change To Come is to provide safe and supportive housing and to collaborate with existing, evidence based programs to provide comprehensive linkages and access to women and their children transitioning from treatment centers.

Target Market: Change To Come is committed to serving parents and their children that have a history of substance dependence or abuse.

Description Services and Operations

Direct Services: The company will provide safe, clean and sober housing to single parents and their children. Participants will be permanently housed. Parents are expected to stay no longer than one year.

Eligibility and Enrollment: Women must meet the following eligibility requirements to participate in Change To Come Supportive Housing: 1) proof/documentation of substance abuse program completions; 2) enrollment in school, gainful employment or be actively seeking a job; 3) proof of sustainable income; and 4) willingness to abide by policies and house rules. Change To Come will service single parents and their children (one woman and up to two children, five to ten years of age).

Pricing and Product: Change To Come will acquire a six-bedroom house; and designate three bedrooms for women with children and one bedroom for live-in staff. Each participant will have a bed and mattress, storage space, access to common-space such as the family room- with cable television, restroom, kitchen. Residents are responsible for contributing both time and resources to the meal schedule and will be responsible for their own laundry. Tracy Creer will be the program director to oversee programming and provide conflict resolution. The organization will charge the following rates for room, board. Single parents will pay \$550 per month. Resident fees are due on the first of each month.

Building Description: We have located a building on 685 32nd Street. The landlord is willing to let us use her building for our non profit purpose. This is a triplex building that has two bedrooms to each unit. We will have one parent occupying one room with their children, no more than two children per parent. We will have a total of three parents and six children. The top unit will have two parents and four children, the bottom unit will have one parent, two children and one staff with no children. The back unit will be used for a place to have parenting classes, nutrition classes and counseling. We will use one of the rooms as an office space and the other room will be used as a place for parents to gather thoughts. The upper unit have a back door that leads to a stairwell outside, and a door that leads to the back unit. The stairwell will be a place where the women can have an additional place to gather thoughts. This type of set up is needed so that the women will have support from each other at all times. If a parent needs time to herself there will be a staff member or a parent that can attend to the children while the parent is taking a time out. This set up will also help with making changes to life style like disciplining children, practicing behavior change, learning about self confidence and needs for their children. Supportive living is necessary for change to occur.

The six-bedroom triplex building does not require a special license, only a zoning permit. Change To Come will adhere to all health, workplace, or environmental regulations mandated by the federal, state and local municipalities. The company will procure one million dollars in liability insurance coverage. Trademark or copyright law will be applied, if necessary.

Personnel:

1. Twenty-four hours support
 - a. one live in staff – 10pm to 7am – Monday thru Monday
 - b. three staff during the day – from 7am to 10pm –Monday thru Friday(5hr. shift)
 - c. two staff during the weekends –1pm to 10pm –Saturday and Sunday(5hr. shift)
2. Program Director
 - a. will be available 24 hours a day
 - b. will oversee the house
 - c. will create actives
 - d. will maintain program mission statement
3. Volunteer employee
 - a. Robin Wright – 7am to 12noon, Monday thru Friday
Single parent who is knowledgeable with recovery. Also a board member of Change To Come.
 - b. Gonti Newman – 12noon to 5pm, Monday thru Friday
Recovering addict, 20yrs clean and sober, formally worked as a director of a treatment facility
 - c. Tracy Creer – 5pm to 10pm, Monday thru Monday
Recovering addict, 18yrs clean and sober, also knowledgeable as a single parent.
 - d. Troyreac Henery – 1pm to 5pm, Saturday and Sunday
Recovering addict, 5yrs clean and sober, currently working as a program counselor.

Each volunteer will fill out an application to apply for a position. There will be a background check and an interview with the Board Members before hiring volunteers. We will get our volunteers from organizations that provide volunteer help, treatment centers and in the community. The qualification of each position will be more than one year clean and sober, knowledgeable with sobriety, and/or someone interning from college. The Board of Directors will evaluate, create detail job descriptions and scope of work for all volunteers. All the volunteers are giving back to the community for free. What a service!

We are currently seeking volunteers for all positions. The names above are people who will help start this program and continue helping until all positions are filled.

Additional Support: Three landlines phones will be used as additional support. The phones will have a direct line to contact a staff member. Along with personal usage the residents are to use the phone to directly contact a staff member who will then determine the urgency and direct the call if needed.

Organization Structure: Staff members will be available as residents come and go into their unit. Staff members will monitor the behaviors, daily activities, and attitudes of parents and children. They will record all unusual behaviors in a log and report incidences when they occur. Six staff members will be needed in order to make this housing work:

- 1.) A live-in staff member will monitor residents during late hours and cover day shifts as needed. This staff member will live on the premises as a nighttime support, in case a parent

need to talk. The staff member will be a single person who has recovery time of one year or more. This person will cover the hours of 10pm to 7am everyday, Monday to Monday

- 2.) Three people are needed during the day; 1) a staff person needed from 7am to 12noon Monday thru Friday, to help parents with children and to help program director with creating activities; 2) a staff person needed from 12noon to 5pm Monday thru Friday, to help with maintaining the house and assist with children after school and to interact with parents as they come home; 3) a staff person is needed from 5pm to 10pm to assist women with children and to guide them with a structured living.
- 3.) There will be two staff members Saturday and Sunday, 1pm to 5pm and 5pm to 10pm. These staff will be interacting with parents and creating bonding activities with children.

The program director will be an overseer of the program. This person will be responsible for staff and parents. This person will be responsible for raising money to support the program and helping with maintaining a healthy environment. This person will be the main contact for Change To Come. The director will also support the parents daily. The parents will provide a daily activity schedule to the program director. This daily schedule is a form that lets staff know where the parents are at all times. All daily activity schedule will be submitted (every night before 10pm) to the director to be approved.

Operational Plan

Daily Activity: Each parent is to provide a daily activity schedule for the next day, to the program director. This list is to be completed every night before 10pm. This list will provide a clear schedule of what the parents will be doing the next day. The daily activity must include a time line of their day. In this schedule there need to be a time of bonding with children. This could be in the form of helping with homework, doing choirs together or playing a game.

Classes: We will offer parenting classes, nutrition classes and counseling to the woman and children while at the building. Each week someone will come to the building to offer one of the classes. Week one will be counseling for parents, as a group session. Week two will be counseling for children, as a group. Week three will be parenting classes and week four will be nutrition classes. The County of Alameda will help provide services to our clients.

Curfews: Parents are to be out of the house by 8am, Monday thru Friday. If parents need assistance with getting children to and from school we will provide before and aftercare services, after all required licenses are obtained. Sunday thru Thursday parents are expected to be in no later than 8pm, and at 9pm on Friday and Saturday, unless their daily activity schedule states another time. Also on Sunday thru Thursday lights are out at 10pm and lights are out at 11pm Friday and Saturday.

Guest: Guest are welcome to visit during the hours of 1pm to 5pm, Saturday and Sunday only. Guest must maintain curtesy and respect during their visit and are not allowed to visit in parents room.

Overnight: Parents, with children, are allow to spend the night at relatives place, with prior approval. Parents must maintain a healthy environment for children at all times.

Required Licenses: We will obtain a childcare license through the Child Development Center for the before and after care of children. We will also obtain a license to have a day care center at the facility. To facilitate classes, (parenting, nutrient, and counseling) the license will be provided by the agency, The County of Alameda.

Relapse Prevention: Parents will be subject to periodic drug testing. We will test the women no less then twice a month. If we suspect a parent is using or under the influence of drugs or alcohol we will test everyone in all units. We will also monitor behaviors and record anything usual. The behaviors will be discussed with the counselor and will be addressed. We will have a zero tolerance for drug usage.

Rental Agreement: Once parents enter the program they will sign a rental agreement agreeing to all of Change To Come rules. Also on the agreement we will request information of the nearest relative in case a parent is asked to leave. If a parent is asked to leave we will call the relative to pick up children. If children are coming from Child Protective Services, they go back to Child Protective Services. We will have a zero tolerance for breaking any of Change To Come rules. Once a parent is asked to leave, a relative will be called for the children, or Child Protective Services will be called.

House Rules: There will be house rules posted in every unit to encourage parents of their responsibilities:

1. Parents must work on creating change
2. No abusive language to children, parents or staff
3. No physical abuse to children, parents or staff
4. No overnights guess
5. Parents must attend all classes
6. Parents must respect each other
7. House need to be clean at all times
8. During weekdays parents need to be in by 8pm, unless prior approved, and lights out at 10pm
9. During weekends parents need to be in by 9pm, unless prior approved, and lights out at 11pm
10. Daily activity need to be submitted for approval before 10pm, each day
11. Parents must be active during the day by working, looking for a job, going to school or volunteering. (Monday through Friday)
12. No guest are allowed in rooms

Marketing Analysis and Plan

Our primary research showed that the treatment market is currently saturated with treatment centers and transitional housing facilities. There are approximately 47 in Oakland, 10 near 32nd Street and two that provide services to women and children. However, to our knowledge there is no continuation program or services for our audience, allowing us to clearly distinguish the company.

Economics: According to the California Department of Alcohol & Drug Programs, 214,614 people were treated in a public treatment center and 40%--or 86,201--were parents. After half of the parents--or 44,581--completed treatment, 13.7% were homeless and 43.6% went back to living with an abuser. The total possibilities of parents relapsing were 57.3%--or 25,411. This study shows that more than half of parents who seek help for themselves find out that without proper housing, recovery is difficult.

Change To Come's long-term goal is to build a relationship with agencies and other non profits to build communities and to include a clinical component to remain competitive and fundable. Moreover, eighty to ninety percent of operational expenses will be covered by resident-fees revenue. The new health model will also require sound technology infrastructure. We also plan to benefit from 'free labor' offered through practicum students and internships.

Marketing Strategy

Change To Come will present information about services offered on brochures, flyers, presentations and business cards. We will use existing media to distribute information about the program including the development of a website with content about our services, electronic mail distribution list, and postings.

We will outreach to health clinics, treatment centers and child welfare. Community-based, word-of-mouth marketing to churches and other social service networks will also be utilized.

Financial Plan

Change To Come have a financial professional to assist with the development of a financial plan. Since we are at the beginning stages of our company we have put together a forecast income statement for the year ended December 2011.

This spreadsheet constitute a reasonable estimate of our company's financial future.

CHANGE TO COME

Forecasted Income Statement for the Year Ended December 31, 2011 **Values in \$ thousands**

	<i>2011</i>
Startup Funding	\$15,000.0
Fundraising Events	\$5,000.0
Grant Funding	\$10,000.0
Rental Income	\$25,200.0
Childcare Income	\$7,200.0
Total Income	\$62,400.0
Less: Operating Expenses	
Utilities Expenses	\$6,456.0
Landscaping	\$720.0
Food Expense	\$2,400.0
Rent Expense	\$21,600.0
Insurance Expense	\$2,400.0
Total Operating Expenses	\$33,576.0
Net Operating Income	\$28,824.0

Assumptions for 1-Year Projections on Income Statement

	<i>2011</i>
Projected Monthly Income & Expense for Year 2011	
Rental Income- 4 Tenants @ \$550 per month	\$2,100.00
Childcare Income - 6 Children @ \$100.00 per month	\$600.00
Utilities Expense (Water, Garbage, Phone, Electricity)	\$738.00
Landscaping	\$60.00
Food Expense	\$200.00
Rent Expense	\$1,800.00
Insurance Expense	\$200.00
Projected Monthly Income & Expense	\$5,698.00

Addendum:

We have support from the following:

- We will have furniture donated to us from the Boys and Girls Club
- The landlord will provide three months of free rent to get us started
- Additional company who have provided support, Kane & Associates Realtors, Tomorres Cotton
- We have consulted with Boss, non-profit organization, Daniel Barth
- We are a member of the Oakland Chamber of Commerce
- We bank with Wells Fargo

Advisory Board

Tonya Baker – President
Tracy Creer – Vic President
Gonti Newman – Secretary
Robin Wright – Treasure
Jada Roseman – Marketing Coordinator
Wallace Williams – Capital Projector

Executive Board Members

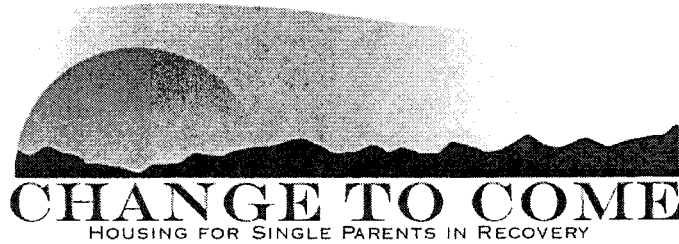
Tracy Creer – Executive Director
Gonti Newman – Executive Director

Appendices

Supporting Documents:

- Rental Agreement
- House Rules
- Change To Come flyer
- Internal Revenue Service 501(c)(3)
- Articles of Incorporation
- Daily Activity Schedule
- Volunteer application
- Volunteer Qualification

Flyer



Hello,

My name is Tracy Creer, founder of **Change to Come**, a nonprofit organization created to provide safe and affordable housing for single mothers, recovering from drugs, alcohol and/or spousal abuse. Our program allows mothers into the program after they have completed treatment from a licensed drug, alcohol and/or spousal abuse rehabilitation center. We will provide a two to three unit bedroom for mothers and their children.

During the past 15 years, I've observed many addicted single mothers admit themselves for treatment, successfully complete the program, only to find themselves back in the same toxic environment in which their troubles began. No safe and drug-free place to live and raise their children; no child-care assistance; in some cases, no means to regain custody of their children. This demeaning cycle which lacks elements to develop and support ones self-esteem and self-confidence, and devoid of positive role models, severely hamstrung these mothers. Some of them were my friends; some were family. Seeing this hopeless cycle repeat itself, over and over again, has been very painful. The natural question was "What can I do to make a positive impact in the lives of families caught up in this type of environment".

Our umbrella mission is to provide a "second chance" at life to single mothers through the provision of safe and affordable housing.

To fully make this organization work we need help! Volunteers are needed to help raise funds for a building.

If you are interested or would like additional information please give us a call to leave your message 510 969-8266, or check out our web site www.changetocome.org.

Yours Truly,

Tracy Creer

Founder/President

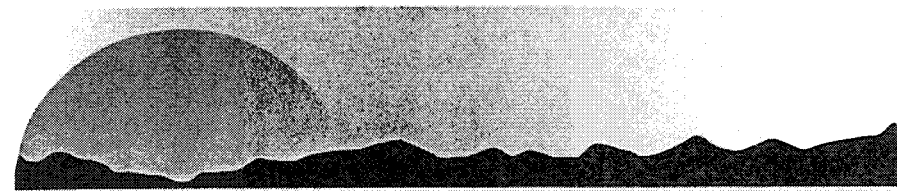
Change to Come

655 Lewelling Blvd. Ste. #341

San Leandro, CA 94579

(510) 969-8266- message only

email change@changetocome.org



CHANGE TO COME

HOUSING FOR SINGLE PARENTS IN RECOVERY

Volunteer Application

All fields are required to be filled out accurately prior to becoming a volunteer.

Incomplete applications will not be processed.

Please Print Name, Address and Telephone Numbers:

Last Name: _____

First Name: _____

Middle Name: _____

Mailing Address: _____

Apt or Suite Number: _____

City: _____ State: _____ Zip Code: _____

Home Telephone Number: _____ Cell Telephone: _____

Business Telephone: _____

E-mail Address: _____

Spouse Name: _____

Spouse's Home Phone: _____ Spouse's Business Phone: _____

Demographic Information:

Date of Birth: _____

Social Security Number: _____ - _____ - _____

Name of person to contact in case of an emergency:

Last Name: _____

First Name: _____

Relationship: _____

Telephone Numbers to call: Day: _____ Evening: _____

Information about your education: (Please fill in based on your current level of education.)

I have completed: _____ High School _____ Some College _____ College

*If applicable, please list the college that you are attending now: _____

If applicable, please denote what academic year you are in currently:

_____ Freshman _____ Sophomore _____ Junior _____ Senior

I have completed or am finishing Graduate School: _____

I need volunteer hours for school/college credit: _____ If yes, how many? _____

Please list the name of the college/university you graduated from: _____

Information about your employment:

Employer: _____

Position: _____

How did you hear about volunteering at Change To Come? Please check which one applies:

_____ Newspaper _____ TV _____ Work _____ School/College

_____ Other...please explain: _____

Information about your volunteer interests:

Please describe in detail why are you interested in volunteering here at Change To Come?

Information about your interests/skills/experience and availability:

Please list your current volunteer roles with location (if any) and list your previous volunteer roles:

Please circle the most appropriate day and shift that you would be available to volunteer:

Mornings: Monday Tuesday Wednesday Thursday Friday Saturday Sunday

Afternoons: Monday Tuesday Wednesday Thursday Friday Saturday Sunday

Evenings: Monday Tuesday Wednesday Thursday Friday Saturday Sunday

Are you available/interested in supporting Change To Come at Special Events?

___ No ___ Yes ___ Morning ___ Afternoon ___ Evening ___ Weekend

Are you available/interested in assisting with special projects such as mailings or office work?

___ No ___ Yes ___ Morning ___ Afternoon ___ Evening ___ Weekend

References:

Please print the **COMPLETE** mailing addresses of three people we may contact (**excluding relatives and roommates**) who have known you for more than two years. Local references preferred.

Name: _____ Relationship: _____

Address: _____ City: _____ Zip: _____

Telephone: (____) _____

Name: _____ Relationship: _____

Address: _____ City: _____ Zip: _____

Telephone: (____) _____

Name: _____ Relationship: _____

Address: _____ City: _____ Zip: _____

Telephone: (____) _____

Change To Come reserves the right to conduct state and federal background checks.

Have you ever been arrested for conducting or attempting to conduct a sexual offense?

_____ Yes _____ No

If yes, please list the date(s) of the arrest(s) and any facts and circumstances surrounding the arrest(s). Being arrested does not automatically exclude you from consideration. If you meet the requirements, you will be able to explain the circumstances of your arrest. If you are subsequently arrested for conducting or attempting to conduct a sexual offense during the course of your volunteer services at Change To Come, you agree to notify Volunteer Services. Failure to do so may result in termination.

Have you ever been convicted, plead no contest, or plead guilty to a felony or misdemeanor?

_____ Yes _____ No

Volunteer Privacy Information and Release Authorization

Please read the following carefully

Application information

I certify that all information in this application is true and complete.

I understand that any false information or omission may disqualify me from further consideration for volunteer service and may result in my dismissal, if discovered, at a

later date.

References

I understand that Change To Come requires information from me to evaluate my qualifications for volunteer service.

I authorize and release personal references, employers (past and present), and, if necessary, other applicable entities to answer questions in regards to volunteer work, employment, ability, character, medical and emotional background and, if applicable, driving history.

Background investigation

I understand, in consideration of my application, a background investigation will be conducted.

I understand this investigation may include, but is not limited to, a criminal background check in the files of any Federal, state or local justice agency, driving history, drug screening or reference verification.

I authorize Change To Come and associated entities to conduct the background investigation and release CTC from responsibility for this investigation.

I understand the requested information is for the sole purpose of gathering accurate information for volunteer services at Change To Come.

I have read and understand the above and by my signature consent to these statements.

Applicant Signature Date

House Rules

1. Parents must work on creating change
2. No abusive language to children, parents or staff
3. No physical abuse to children, parents or staff
4. No overnights guess
5. Parents must attend all classes
6. Parents must respect each other
7. House need to be clean at all times
8. Durning weekdays parents need to be in by 8pm, unless prior approved, and lights out at 10pm
9. During weekends parents need to be in by 9pm, unless prior approved, and lights out at 11pm
10. Daily activity need to be submitted for approval before 9pm, each day
11. Parents must be active during the day by working, looking for a job, going to school or voluntering. (Monday through Friday)
12. Guess are not allowed in rooms.

Volunteers

Robin Wright

Accounting Manager, Ask.Com
Oakland, CA- 8yrs.

Bachelor of Science Degree in Business Accounting
Currently working on Masters Degree in Finance

Single Parent, 10yrs
Knowledgeable with recovery

Gonti Newman

Program Director, Baker Place (treatment center)
San Francisco, CA- 10yrs.

Currently working on Bachelor of Science Degree in Social Worker

Clean and Sober 19yrs

Tracy Creer

Finance Analyst, Comcast Cable
Oakland, CA- 17yrs.

Bachelor of Science Degree in Business Accounting
Currently seeking classes in grammar writing and health

Clean and Sober 18yrs

knowledgeable with single parenting

Troyreac Henery

Program Counselor, Walden House
San Francisco, CA- 3yrs

Currently seeking classes in Social Worker

Clean and Sober 5yrs.

RECEIVED

OCT 07 2010

CITY PLANNING COMMISSION
ZONING DIVISION

2929579

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

SEP 13 2006

ARTICLES OF INCORPORATION

I

The name of this corporation is *Change To Come*.

II

- A. This corporation is a nonprofit **PUBLIC BENEFIT CORPORATION** and is not organized for the private gain of any person. It is organized under the Nonprofit Public Benefit

Corporation Law for:

- ☐ **public** purposes. or
☐ **charitable** purposes. or
☒ **public and charitable** purposes.

- B. The specific purpose of this corporation is to

Provide recovering parents with safe, stable housing facility along with the necessary tools to maintain sobriety.

III

The name and address in the State of California of this corporation's initial agent for service of process is:

Name: Tracy Creer

Address: 520 Monogram Rd.

City : San Leandro State: **CALIFORNIA** Zip: 94577

IV

- A. This corporation is organized and operated exclusively for **charitable** purposes within the meaning of Section 501(c)(3), Internal Revenue Code.
- B. No substantial part of the activities of this corporation shall consist of carrying on propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate or intervene in any political campaign (including the publishing or distribution of statements) on behalf of any candidate for public office.

V

The property of this corporation is irrevocably dedicated to **charitable** purposes and no part of the net income or assets of this corporation shall ever inure to the benefit of any director, officer or member thereof or to the benefit of any private person. Upon the dissolution or winding up of the corporation, its assets remaining after payment, or provision for payment, of all debts and liabilities of this corporation shall be distributed to a nonprofit fund, foundation or corporation which is organized and operated exclusively for **charitable** purposes and which has established its tax exempt status under Section 501(c)(3), Internal Revenue Code.




Tracy Creer, Incorporator

CHANGE TO COME

RENTAL AGREEMENT

1. Parties

The parties to this agreement are CHANGE TO COME, hereinafter called "Landlord," and

_____, hereinafter called "Tenant."

2. Property

Landlord hereby will rent the following property to Tenant located at:

___ 685 32nd St, Oakland, CA _____

3. Term

This agreement shall run from month-to-month, beginning on:

4. Rent

The monthly rent for said property shall be \$ 550.00, due and payable by check on the ___ 1st ___ day of each month.

5. Utilities

Landlord agrees to furnish the following services and/or utilities: Parenting Classes, Nutrients Classes, Counseling, Gas & Electric, Garbage, and Water bills.

RENTAL AGREEMENT

In addition it is agreed:

6. Tenant shall submit to random drug testing.
7. Tenant shall not lease, sublease or assign the premises to anyone.
8. Landlord will have full access to building / units at all times. Landlord shall give Tenant reasonable notice (at least one day) before conducting a random room inspection.
9. Tenant agrees to occupy the premises and shall keep the same in good condition, reasonable wear and tear expected, and shall not make any alterations thereon without the written consent of the Landlord.
10. Landlord agrees to maintain regularly the building and grounds in a clean, orderly and neat manner. Landlord further agrees upon notice by Tenant to complete within a reasonable time all necessary repairs, including those of appliances and utilities, which are furnished with the premises.
11. Tenant agrees not to use the premises in such a manner as to disturb the peace and quiet of other tenants in the building or surrounding neighbors. Tenant further agrees not to maintain a public nuisance and not conduct business or commercial activities on the premises.

House Rules

1. Parents must work on creating change
2. No abusive language to children, parents or staff
3. No physical abuse to children, parents or staff
4. No overnights guess
5. Parents must attend all classes
6. Parents must respect each other
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9. During weekends parents need to be in by 9pm, unless prior approved, and lights out at 11pm
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11. Parents must be active during the day by working, looking for a job, going to school or voluntering. (Monday through Friday)
12. Guess are not allowed in rooms.

RECEIVED

OCT 07 2010

CITY PLANNING COMMISSION
ZONING DIVISION

INTERNAL REVENUE SERVICE
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date:

NOV 24 2008

CHANGE TO COME
C/O TRACY CREER
520 MONOGRAM RD
SAN LEANDRO, CA 94577

Employer Identification Number:
51-0667384

DLN:
17053105310048

Contact Person:
JOANNA YAWNEY

Contact Telephone Number:
(877) 829-5500

Accounting Period Ending:
December 31

Public Charity Status:
170(b)(1)(A)(vi)

Form 990 Required:
Yes

Effective Date of Exemption:
September 13, 2006

Contribution Deductibility:
Yes

Addendum Applies:
No

RECEIVED
ID# 95078
OCT 07 2010

CITY PLANNING COMMISSION
ZONING DIVISION

Dear Applicant:

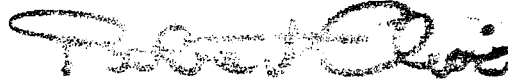
We are pleased to inform you that upon review of your application for tax exempt status we have determined that you are exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code. Contributions to you are deductible under section 170 of the Code. You are also qualified to receive tax deductible bequests, devises, transfers or gifts under section 2055, 2106 or 2522 of the Code. Because this letter could help resolve any questions regarding your exempt status, you should keep it in your permanent records.

Organizations exempt under section 501(c)(3) of the Code are further classified as either public charities or private foundations. We determined that you are a public charity under the Code section(s) listed in the heading of this letter.

Please see enclosed Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities, for some helpful information about your responsibilities as an exempt organization.

CHANGE TO COME

Sincerely,

A handwritten signature in dark ink, appearing to read "Robert Choi", with a stylized flourish at the end.

Robert Choi
Director, Exempt Organizations
Rulings and Agreements

Enclosures: Publication 4221-PC

Valeska, David

From: Linda Lonay [lonayl@me.com]
Sent: Wednesday, September 15, 2010 1:43 AM
To: dboxer@gmail.com; vienv.truong@gmail.com; blake.huntsman@seiu1021.org;
sgalvez@phi.org
Cc: michael.colbruno@gmail.com; mzmdesignworks@gmail.com; vincegibbs.opc@gmail.com;
Valeska, David; kmiller@oaklandnet.com; kmiller@oaklandnet.com; Angstadt, Eric
Subject: Case#: CM10-45 on Agenda 9/15 meeting

Dear Oakland City Planning Commission Members:

Dear City staff whose names are on the documentation of this Project CMD10-145, aka CM10-145:

I am a property owner in the neighborhood where this project is being proposed and I must urge you to please, please NOT approve this project.

I will not be able to attend the Wed evening meeting, but I would appreciate it very much if you could please read my brief accounting of why this project is so objectionable.

There are many false/fraudulent statements which appear by the staff in the Staff Report, along with the fact that this project would further contribute to the increased police needs in this neighborhood.

I will briefly review each of the items I strongly objected to in the Staff Report, then end with my comments which I feel shed more light on why this is a very undesirable project in this neighborhood.

1) On the 1st page of the Staff Report, with the large #4 on the bottom r.h corner, in the paragraph entitled "PROPERTY DESCRIPTION", about the 4th sentence in: "Decorative see-through wrought iron fencing 6' tall surrounds the property." That gives you a tip off about what kind of neighborhood this is. I have a property nearby. Nearly every property has a 6' high wrought iron fence around it. Does YOUR home have a 6' high wrought iron fence around it? It's 6' high because it's against City code to have it higher. I know, because I tried to construct a 16' high fence along my property line to keep out the next-door drug traffickers and gang members, and the City Inspector came and instructed me to reduce the height to 6'. The climb over the 6' fence with no problem and steal property from mine all the time. They even break into the building when no one's there. Believe me, the 6' fences would be a lot higher if they could. And they'd be electrified if it wasn't illegal. This is not a "nice" neighborhood and a large reason why it's so horrible is because of these type of projects you keep putting into this neighborhood. I believe this neighborhood has a much higher concentration of Section 8 Housing projects, along with their attendant criminal residents, than nearly any other neighborhood in Oakland. That and possibly the largest concentration of liquor stores than any I've seen in this town. The people in this neighborhood are very very angry with City agents who permit excessive amounts of public housing projects, parolee agencies, liquor stores, etc than Census guidelines. The property owners in this neighborhood are sick and tired of how this neighborhood has become the dumping ground for everyone's project that no other neighborhood would tolerate. You are writing the death certificate on this neighborhood by continuing to dump these undesirable projects into this neighborhood.

2) Staff Report, page 3, paragraph entitled: "REVIEW BY OTHER AGENCIES": 3rd sentence: "...West Oakland already had a lot of social service facilities and one more could be an issue." Understatement of the year. "COULD" BE? As I stated above, it's at saturation level now. I'm wondering who in the neighborhood ISN'T on public assistance. Even the drug traffickers, prostitutes and gang members live in the homes of their Section 8 grandmothers or aunts. Please do not dump yet another social service housing project into this neighborhood.

3) Staff Report, page 4, paragraph entitled (the title is underscored): "Effects on the Neighborhood": "In staff research, no other sensitive uses were discovered within (sic) 300 ft radius." Your staff researcher must've been blind. There were plenty of "sensitive uses", it's just that your staff doesn't know how to phrase "open dope smoking

on the sidewalk" or "drug runner on every corner" or "drunks sitting on their front porch drinking all day" or "unemployed grade school dropouts stoned walking all up and down the sidewalk all day" into their report. These are "sensitive uses" aren't they? How come these staff researchers that my taxpayer money is providing compensation and benefits for didn't include any crime statistics for this neighborhood that they supposedly care enough about to address "sensitive issues"? If your staff truly cared about the welfare of these traumatized children, they would recommend this project be as far away from this neighborhood as your budget affords. How hypocritical to speak of caring about traumatized children being exposed to "sensitive issues" and then slamming the project down in the middle of a drive-by shooting street? Puh-leeez.

4) Staff Report, page 4, paragraph entitled (title is underscored): "Security": the first sentence: "The nonprofit group supplies...volunteer monitoring and would call for police security if there was a problem..." Are you aware that OPD is understaffed? Do you know that I have had to wait SEVEN HOURS on a "high priority" call to OPD for an officer to arrive at a location 1 block away from this proposed project? ! Twice! Your Staff researchers really don't possess much analytical skill, to think beneath the banal statements this "report" contains. If the volunteers call OPD, they will have to wait 7 hours for an officer. Of course, that's only if there's not a gun involved. It'll prob'ly be faster if there's a gun involved. Maybe 2 hours. Did your researchers do any investigation about how many police calls OPD gets from this neighborhood per hour, each day? A LOT. There are simply too many Section 8, drug-infested, foreclosed and drug-user-squatted, etc., type places in this neighborhood. It is out of control in this bad economy. There are so many properties where drug addicts are living inside them, and others where drug dealers have set up operation in these abandoned or blighted properties. Please do not permit one more social service project in this neighborhood. Again, how can you possibly assert this neighborhood can meet any basic standard of eligibility for traumatized families? This neighborhood traumatizes people. I think everyone in the neighborhood would approve of this project if the Owner put it in writing that they would pay compensation and benefits for 120 new OPD officers. That would need to be the condition for this to be approved.

5) Page 6, titled "ATTACHMENT A", 1st paragraph of "Section 17.134.050 General Use Permit Criteria", paragraph A: "...the operating characteristics of the proposed development....will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration....given...to harmful effect, if any, upon desirable neighborhood character....and to any other relevant impact of the development." If I had a property next door to this project, it would definitely negatively impact the "appropriate development" of my property. How can you determine that this project won't negatively affect the development of any other properties abutting this one, or negatively affect the neighborhood? Your staff member asserts that "volunteer staff would limit any potential conflicts"...what does that mean? It means nothing.

6) Page 6, titled "ATTACHMENT A", 1st paragraph of "Section 17.134.050 General Use Permit Criteria", paragraph C: "That the proposed development will enhance the successful operation of the surrounding area in its basic community functions, or will provide essential service to the community or region." This project definitely does not do this, despite the staff statement which actually doesn't address this criteria. The staff described what the project is, but not how it would enhance the successful operation of the area. The only thing to truly enhance the operation of this neighborhood is to stop dumping these social service projects into this neighborhood. Again, no crime statistics were included your less-than-sterling staff report. Interestingly, the Owner must not care, because if they did, they would've researched the crime statistics themselves and concluded this neighborhood isn't suitable for their stated purposes.

7) Page 7, titled "Section 17.102.212.Special Regulations Applying to Service-Enriched Permanent Housing", Section A., paragraph 3.: "...on-street parking demand", and staff wrote: "tenants are in the process of overcoming stressed social lives and seek to establish new social patterns." So you put them on that neighborhood? With drive-by shootings where tenants have to jump down the floor and lay flat until it's safe to get up? Where you discover crack dealers hiding from the police in your garbage can area when you take your trash out? Where every other house has multiple pit bulls? Where brazen criminals stand out on the sidewalk all day long, intimidating everyone who comes within 30 feet of them? Where most of the residents of the nearby Section 8 housing use the sidewalk as their personal garbage can and litter, trespass, and loiter at will, since it takes 6 hours for an OPD officer to arrive? It's fairly lawless in this neighborhood,

so claiming that this location is desirable to overcome stress is absolute hoey.

8) Page 7, titled "Section 17.102.212.Special Regulations Applying to Service-Enriched Permanent Housing", Section A., paragraph 5.: "The facility's program does not generate noise....adversely affect surrounding properties." What does this mean? Programs don't make offending noises, PEOPLE do. This neighborhood is full of offending noises and it's most likely that any children raised or living in this location will be encouraged by the surrounding peers to become involved in criminal activity. If they don't, their lives will become much more stressful, as they won't feel safe walking alone down the street. The stated purposes of this project are at strong odds with the reality of the location. Thus the stated purposes of this project are not sincere.

9) Page 13, paragraph 26. "Loitering": Staff recommends installing anti-loitering signs. Well, it's always good to end with humor. I have No Loitering signs up but I still have to ask the drugged alcoholic homeless bums who sit on my front steps to move, and I still have to call OPD about the drug dealers who stand outside my property for hours and hours in front of the No Loitering sign, but it takes SIX HOURS for OPD to arrive. The criminals control the streets of MLK, 30th St., 31st Str. 32nd St., and maybe even 33rd St. But 32nd, 31st and 30th are the absolute worst, from MLK down to Market on all of those streets.

That's it. I appreciate it if you read all this. This project will truly have an adverse impact on the neighborhood. According to the EIR paperwork attached, they choose these sites based on low land costs. But by putting these type of projects in this neighborhood, you are making sure this neighborhood will forever continue to have blight and crime. Please tell the Owner they must find a 3 unit place in Fruitvale or some other neighborhood. This neighborhood is dying from these projects.

Thank you very much for your time. I urge you to reject this proposal.

Linda Lonay

]

Valeska, David

From: Linda Lonay [lonayl@me.com]
Sent: Wednesday, October 13, 2010 12:51 PM
To: Valeska, David
Subject: Re: Case#: CM10-45 on Agenda 9/15 meeting

Mr Valeska

I'm helping some villagers in a remote village in China til Oct 25th, so if u could arrange for my original complaint letter as well as the contents if this email (could u just Forward this tithe Commish members?) to be considered at the Oct 20th hearing I would really appreciate it - despite the reduction in "residents" proposed for this project, my points still stand: the targeted project neighborhood is beyond saturation w/ "projects" of this type - these type of projects give nothing to the community, but they suck any potential life blood out of it. Please target these type projects for the Grand Lake area, Montclair, Skyline or Rockridge - they don't have 14 Section 8 Housing developments in each of their respective neighborhoods, nor drug dealers on every block, nor prostitutes walking home in hardly any clothes @ 7am on their streets. It's not even logical to state as a project Prospectus that u are trying to help stressed family people , then select the most violent, aberrant, unpleasant neighborhood in Oakland to locate it! I have piles of Illegal Dumping in front of my place nearly every week. Please STOP putting these social service projects in this neighborhood. Thank you very much for your time in consideration of my "letter."

Linda Lonay
lonayl@mac.com

Sent from my iPhone

On Oct 14, 2010, at 1:58 AM, "Valeska, David" <DValeska@oaklandnet.com> wrote:

> Linda, This message is being given to Planning Commission for Oct. 20
> 6 pm continued hearing re: CMD10-145, 685 32nd Street. The applicant
> Has a revised business plan showing 9 rather than 18 people living in
> The 3 units. To speak at the PC hearing, fill out a yellow speaker
> card Before the meeting and bring it up to the secretary.
>
> -----Original Message-----
> From: Linda Lonay [mailto:lonayl@me.com]
> Sent: Wednesday, September 15, 2010 1:43 AM
> To: dboxer@gmail.com; vienv.truong@gmail.com;
> blake.huntsman@seiul021.org; sgalvez@phi.org
> Cc: michael.colbruno@gmail.com; mzmdesignworks@gmail.com;
> vincegibbs.opc@gmail.com; Valeska, David; kmilller@oaklandnet.com;
> kmilller@oaklandnet.com; Angstadt, Eric
> Subject: Case#: CM10-45 on Agenda 9/15 meeting
>
> Dear Oakland City Planning Commission Members:
>
> Dear City staff whose names are on the documentation of this Project
> CMD10-145, aka CM10-145:
>
> I am a property owner in the neighborhood where this project is being
> proposed and I must urge you to please, please NOT approve this project.
>
> I will not be able to attend the Wed evening meeting, but I would
> appreciate it very much if you could please read my brief accounting
> of why this project is so objectionable.
>
> There are many false/fraudulent statements which appear by the staff
> in the Staff Report, along with the fact that this project would
> further contribute to the increased police needs in this neighborhood.
>
> I will briefly review each of the items I strongly objected to in the
> Staff Report, then end with my comments which I feel shed more light

ATTACHMENT A

FINDINGS FOR APPROVAL:

This proposal meets all the required findings as set forth below and which are required to approve your application. Required findings are shown in **bold type**; reasons your proposal satisfies them are shown 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 proposed activity would have few physical effects, and the land-use would be comparable to the past residential use of 3 units. On-site volunteer staff would limit any potential conflicts and work to achieve neighborhood harmony.

- 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 facility has been used as 3-family housing for decades and has provided convenient and functional living with connections to working, shopping and civic environments. The proposed activity makes minimal changes to location, design and site planning.

- 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 facility would provide a venue for single parents and their children, from this neighborhood and others, to transition into full community life and functions.

- D. That the proposal conforms to all applicable design review criteria set forth in the design review procedure at Section 17.136.070(B) for non-residential facilities.**

The activity will make only minimal changes to the existing facility which has been functional and a good neighbor for decades, therefore it fulfills design review criteria by preserving the status quo.

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

The General Plan and other applicable plans and maps promote residential uses on this property and its neighbors; the application changes the occupancy but not the facility or density and would retain conformity to the General Plan.

Section 17.102.212, Special Regulations Applying to Service-Enriched Permanent Housing

A. A conditional use permit for any conditionally permitted Residential Care, Service-Enriched Permanent Housing, Transitional Housing or Emergency Shelter Residential Activity may only be granted upon determination that the proposal conforms to the general use permit criteria set forth in the CUP procedure in Chapter 17.134, to any and all applicable use permit criteria set forth in the particular individual zone regulations, and to all of the following additional use permit criteria:

- 1. Staffing of the facility is in compliance with any State Licensing Agency requirements.**

The applicant has agreed to obtain any State Licensing Agency required staff certifications.

- 2. If located in a residential zone, the operation of buses and vans to transport residents to and from off-site activities does not generate vehicular traffic substantially greater than normally generated by Residential Activities in the surrounding area.**

Currently no van is proposed for the facility. If van transportation is needed, only one small automobile-sized van is proposed, with minimal number of trips generating traffic.

- 3. If located in a residential zone, the on-street parking demand generated by the facility due to visitors is not substantially greater than that normally generated by the surrounding Residential Activities.**

This is a small, 3-unit residential facility. Visitors are discouraged, since tenants are in the process of overcoming stressed social lives and seek to establish new social patterns.

- 4. If located in a residential zone, arrangements for delivery of goods are made within the hours that are compatible with and will not adversely affect the livability of the surrounding properties.**

The applicant advises that delivery of goods will be similar to FedEx or other delivery of goods to neighboring non-program residential facilities, generally during daylight business hours.

- 5. The facility's program does not generate noise at levels that will adversely affect the livability of the surrounding properties.**

The facility will be the same trio of dwelling units which has existed for decades. Tenants move into the facility expecting a residential environment quieter and less stressful than their past housing.

- B. No Residential Care, Service-Enriched Permanent Housing, Transitional Housing and Emergency Shelter Residential Activity shall be closer than three hundred (300) feet from any other such Activity or Facility.**

The City's Permit Tracking System and other data do not disclose any such Activity or Facility within 300 feet of the applicant's 685 32nd Street site, nor does field inspection disclose such Activity or Facility.

ATTACHMENT B

The proposal is hereby approved subject to the following Conditions of Approval:

STANDARD CONDITIONS:

1. Approved Use.

Ongoing.

a. The project shall be constructed and operated in accordance with the authorized use as described in this letter and the plans date **June, 2010** and submitted **June 7, 2010**, 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 Director of City Planning ("this Approval") includes the approvals set forth below. This approval includes: CMD10-145 for a Major Conditional Use Permit for Service Enriched Housing at this 3-unit existing residential site.

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 have been issued, or 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 valid 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 Planning Code only. Minor changes to approved plans may be approved administratively by the Director of City Planning or designee. Major changes to the approved plans shall be reviewed by the Director of City Planning or designee to determine whether such changes require submittal and approval of a revision to the approved project by the approving body or a new, completely independent permit.

4. Conformance with Other Requirements.

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

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

b. The applicant shall submit approved plans for project-specific needs related to fire protection 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. The City Planning Department 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 or other corrective action.

b. 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 and submitted with each set of permit plans submitted for this project.

7. Indemnification

Ongoing

a. The project applicant shall defend (with counsel reasonably 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 their respective agents, officers, and employees (hereafter collectively called the City) from any claim, action, or proceeding (including legal costs and attorney's fees) against the City to attack, set aside, void or annul, this approval or any related approval by the City. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate fully in such defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding. The project applicant shall reimburse the City for its reasonable legal costs and attorneys fees.

b. Within ten (10) calendar days of the filing of a claim, action or proceeding to attack, set aside, void or annul this Approval or any related approval by the City, the project applicant shall execute a Letter Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations and this condition of approval. This condition/obligation shall survive termination, extinguishment or invalidation of this or any related approval. Failure to timely execute the Letter Agreement does not relieve the project applicant of any of the obligations contained in 7a above, or other conditions of approval.

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 and all applicable adopted mitigation measures 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 approved plans, along with the Approval Letter and Conditions of Approval shall be available for review at the job site at all times.

11. Recycling Space Allocation Requirements***Prior to issuance of a building permit***

The design, location and maintenance of recycling collection and storage areas must substantially comply with the provision of the Oakland City Planning Commission "Guidelines for the Development and Evaluation of Recycling Collection and Storage Areas", Policy 100-28. Pursuant to Section 17.118.020 of the Oakland Planning Code, this condition shall apply to new commercial and industrial development that requires a building permit. A minimum of two cubic feet of storage and collection area shall be provided for each dwelling unit and for each 1,000 square feet of commercial space.

Ongoing.

No deviation shall be made from the approved drawings or conditions of approval that alters the project's siting, height, exterior appearance, and/or required new landscaping without prior written approval from the Oakland Planning & Zoning Department.

12. Construction Practices.***During construction.***

All work shall apply the "Best Management Practices" (BMPs) for the construction industry, including BMPs for dust, erosion and sedimentation abatement per Section 15.04 of the Oakland Municipal Code, as well as all specific construction-related conditions of approval attached to this project.

13. Days/Hours of Construction Operation***Ongoing throughout demolition, grading and/or construction.***

The project applicant shall require construction contractors to limit standard construction activities as follows:

- a) Construction activities are limited to between 7:00 AM and 7:00 PM Monday through Friday, except that pile driving and/or other extreme noise generating activities greater than 90 dBA shall be limited to between 8:00 AM and 4:00 PM Monday through Friday.
- b) Any construction activity proposed to occur outside of the standard hours of 7:00 AM to 7:00 PM Monday through Friday for special activities (such as concrete pouring which may require more continuous amounts of time) shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a consideration of residents' preferences for whether the activity is acceptable if the overall duration of construction is shortened and such construction activities shall only be allowed with the prior written authorization of the Building Services Division.
- c) Construction activity shall not occur on Saturdays, with the following possible exceptions:

- i) Prior to the building being enclosed, requests for Saturday construction for special activities (such as concrete pouring which may require more continuous amounts of time), shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a consideration of residents' preferences for whether the activity is acceptable if the overall duration of construction is shortened. Such construction activities shall only be allowed on Saturdays with the prior written authorization of the Building Services Division.
- ii) After the building is enclosed, requests for Saturday construction activities shall only be allowed on Saturdays with the prior written authorization of the Building Services Division, and only then within the interior of the building with the doors and windows closed.
- d) No extreme noise generating activities (greater than 90 dBA) shall be allowed on Saturdays, with no exceptions.
- e) No construction shall take place on Sundays or Federal holidays.
- f) Construction activities include but are not limited to: truck idling, moving equipment (including trucks, elevators, etc.) or materials, deliveries and construction meetings held on-site in a non-enclosed area.

14. Noise Control

a. Ongoing throughout demolition, grading and/or construction

To reduce noise impacts due to construction, the project applicant shall require construction contractors to implement a site-specific noise reduction program, subject to City review and approval, which includes:

- a) Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g. improved mufflers, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds, wherever feasible.
- b) Impact tools (e.g. jack hammers, pavement breakers and rock drills) used for project construction shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used where feasible, and this should achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever feasible.
- c) Stationary noise sources shall be located as far from adjacent receptors as possible and they shall be muffled and enclosed with temporary sheds, incorporate insulation barriers or other measures to the extent feasible.
- d) If feasible, the noisiest phases of construction shall be limited to less than 10 days at a time.

15. Noise Complaint Procedures

a. Ongoing throughout demolition, grading and/or construction

Prior to the issuance of each building permit, along with submission of construction documents, the project applicant shall submit to the City Building Services Division a list of measures to respond to and track complaints pertaining to construction noise. These measures shall include:

- a) A procedure and phone numbers for notifying the City Building Services Division staff and Oakland Police Department, during regular construction and off-hours;

- b) A sign posted on-site pertaining with permitted construction days and hours and complaint procedures and whom to notify in the event of a problem. The sign shall also include a listing of both the City and construction contractor's telephone numbers, during regular construction and off-hours;
- c) The designation of an on-site construction complaint and enforcement manager for the project;
- d) Notification of neighbors and occupants within 300 feet of the project construction area at least 30 days in advance of extreme noise generating activities about the estimated duration of the activity; and
- e) A preconstruction meeting shall be held with the job inspectors and the general contractor/on-site project manager to confirm that noise measures & practices (including construction hours, neighborhood notification, posted signs, etc.) are completed.

16. Landscape Plan

Prior to issuance of a building permit or commencement of activity

A final landscape plan shall be submitted for review by the Planning and Zoning Division, which shall include additional street trees and other landscaping as directed. The plan shall include irrigation methods, and drought and fire-tolerant species.

17. Licensing

Ongoing

The facility shall comply with the requirements of applicable State of California, Health and Human Services Agency and other agency requirements for such facility.

18. Approved Activity

Ongoing

This approval for Service Enriched Housing shall be for facilities only at 685 32nd Street. Any changes in the program, in particular the regular provision of medical treatment, shall qualify the program as any other Activity shall require approval of all necessary zoning permits for the specific activity to occur at the site. Only three (3) dwelling units, for a total of up to six (6) adults, none of whom may be parolees, and twelve (12) children are approved.

19. Program Staffing

Ongoing

All program staff shall comply with any State Licensing Agency requirements with regard to number and qualification of volunteers and/or staff, training and any other State Licensing Agency requirements.

20. Contact Information

Prior to commencement of activity

The owner and operator shall post on the property signs that shall be clearly visible from the street facing property lines, indicating the name and 24 hour contact telephone number of the staff responsible for receiving and responding to all written and verbal complaints received by the facility.

21. Program Requirements

Ongoing

All program requirements including, but not limited to, the "tenant rules" shall be incorporated into these conditions of approval and recorded along with these conditions with the Alameda County Recorder. The "tenant rules" shall be posted in exterior common areas and other strategic locations around the site not visible from the public right of way.

22. Outdoor Smoking Areas

Ongoing

All outdoor smoking areas shall be located such that they are not visible to or situated to allow smoke to drift toward or be detectable by persons on the adjacent properties. A portable ashtray, if used, shall remain outside in a location near the entrance and common areas during all times. The ashtray and litter receptacle shall be emptied as often as needed to prevent overflowing. Any designated smoking area shall be located at least fifteen (15) feet away from a property line.

23. Residential Facility Noise

Ongoing

The times between 10PM and 7AM shall be designated as "quiet hours." During these hours, noise generated by the proposed project shall not exceed the Maximum Allowable Receiving Noise Level Standards, as specified in Section 17.120.050A of the Oakland Planning Code and Section 8318 of the Oakland Municipal Code. These regulations shall be included in any resident orientation programs or regulations for the residents of the proposed facility, and shall be posted prominently within the facility.

24. Compliance Review

Six months after the commencement of activity

The Planning and Zoning Division shall review the activity for compliance with these conditions of approval. If it is determined that evidence exists indicating that the activity is not in compliance with these conditions of approval or is causing significant adverse offsite impacts, the Planning and Zoning official, pursuant to Section 17.152 of the Oakland Planning Code, may recommend modification of the conditions or pursue revocation of the Use Permit.

25. Security

Prior to issuance of a certificate of occupancy

The applicant shall submit a comprehensive security plan for the property for review and approval by the Planning and Zoning Division.

26. Loitering

Ongoing

The applicant shall install anti-loitering signs at conspicuous locations around the property to discourage loitering at all times.

City of Oakland
Community and Economic Development Agency
Zoning Division
250 Frank H. Ogawa Plaza, Suite 2114
Oakland, CA 94612

NOTICE OF EXEMPTION

TO: Alameda County Clerk
1106 Madison Street
Oakland, CA 94612

Project Title: CMD10-145

Project Applicant: Tracy Creer, ChangeToCome (415 203 8493)

Project Location: 685 32nd Street, APN 009-0714-038-00

Project Description: Major Conditional Use Permit for Service Enriched Housing, 3 Units for Single Parents and Children Undergoing Recovery

Exempt Status: CHECK ALL THAT APPLY

Statutory Exemptions**{Article 18:Section 21080;15260}**

- ☐ Ministerial {Sec.15268}
☐ Feasibility/Planning Study {Sec.15262}
☐ Emergency Project {Sec.15269}
☐ General Rule {Sec.15061(b)(3)}
☐ Other: {Sec. _____}

☐ In-fill Development {Sec. 15332}

Categorical Exemptions**{Article 19:Section 21084;15300}**

- ☒ Existing Facilities {Sec.15301}
☐ Replacement or Reconstruction {Sec.15302}
☐ Small Structures {Sec.15303}
☐ Minor Alterations {Sec.15304}
☒ Other {Sec.15183}

Reasons why project is exempt: Facility as proposed maintains residential use while preserving most of the existing amenities and has minimal changes to site and streetscape. Nearby residences will receive only manageable impacts from the facility due to sensitivity of design and siting on the parcel.

Lead Agency: City of Oakland, Community and Economic Development Agency, Zoning Division, 250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA 94612

Department/Contact Person: David Valeska, Planner II

Phone: (415) 238-2075

Signature (Scott Miller, Zoning Manager)

Date:

Pursuant to Section 711.4(d)(1) of the Fish and Game Code, statutory and categorical exemptions are also exempt from Department of Fish and Game filing fees

*ENVIRONMENTAL DECLARATION
(CALIF. FISH AND GAME CODE SEC. 711.4)

NAME AND ADDRESS OF APPLICANT OR LEAD AGENCY : FOR COURT USE ONLY
:
:
LEAD AGENCY: :
COMMUNITY & ECONOMIC :
DEVELOPMENT AGENCY/PLANNING :
250 Frank H. Ogawa Plaza :
Room 2114 :
Oakland, CA 94612 :
:
APPLICANT: Tracy Creer, ChangeToCome: :
Contact: Tracy Creer, 415 203 8493 : FILING NO.
: _____

CLASSIFICATION OF ENVIRONMENTAL DOCUMENT: CLERK'S
USE ONLY

1. NOTICE OF EXEMPTION/STATEMENT OF EXEMPTION PLU 117
[X] A – STATUTORILY OR CATEGORICALLY EXEMPT
\$50.00 (Fifty Dollars) – CLERK'S FEE
- [] B – DE MINIMUS IMPACT – CERTIFICATE OF FEE EXEMPTION PLU 117
\$50.00 (Fifty Dollars) – CLERK'S FEE REQUIRED
2. NOTICE OF DETERMINATION – FEE REQUIRED
- [] A – NEGATIVE DECLARATION PLU 116
\$1,800.00 (Eighteen Hundred Dollars)-
STATE FILING FEE
\$50.00 (Fifty Dollars) – CLERK'S FEE
- [] B – ENVIRONMENTAL IMPACT REPORT PLU 115
\$2,500.00 —(Twenty Five Hundred Dollars) – STATE
FILING FEE
\$50.00 (Fifty Dollars) – CLERK'S FEE
- [] C -- Certificate of Fee Exemption PLU 117
& De Minimis Impact Fee
\$50.00 (Fifty Dollars) – CLERK'S FEE

*THIS FORM MUST BE COMPLETED AND SUBMITTED WITH ALL ENVIRONMENTAL DOCUMENTS FILED WITH THE ALAMEDA COUNTY CLERK'S OFFICE.

FIVE COPIES OF ALL NECESSARY DOCUMENTATION ARE REQUIRED FOR FILING PURPOSES.

APPLICABLE FEES MUST BE PAID AT THE TIME OF FILING AN ENVIRONMENTAL DOCUMENT WITH THE ALAMEDA COUNTY CLERK'S OFFICE.

MAKE CHECK PAYABLE TO: **ALAMEDA COUNTY CLERK**

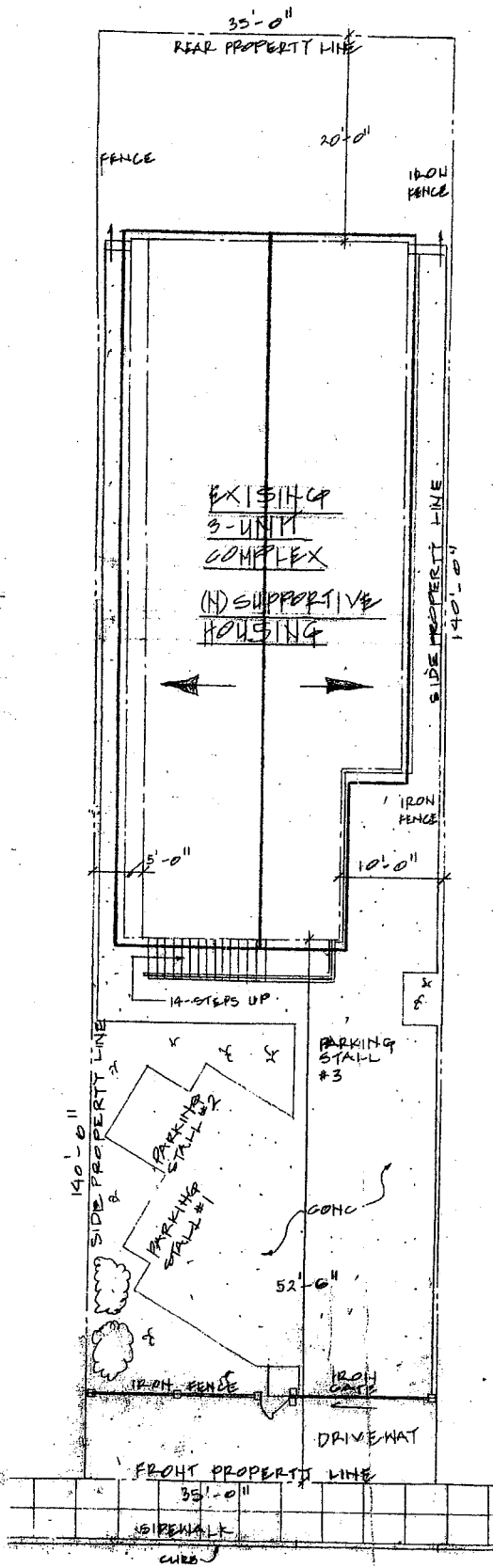
APPROVED BY: City Planning Commission: _____ (date) _____ (vote)

CHANGE TO COME

TRACY CREEK - C.E.O.
685 32ND STREET
OAKLAND, CALIF. 94609
NEW SUPPORTIVE HOUSING
(415) 203-2923

BUILDING-DESIGNER

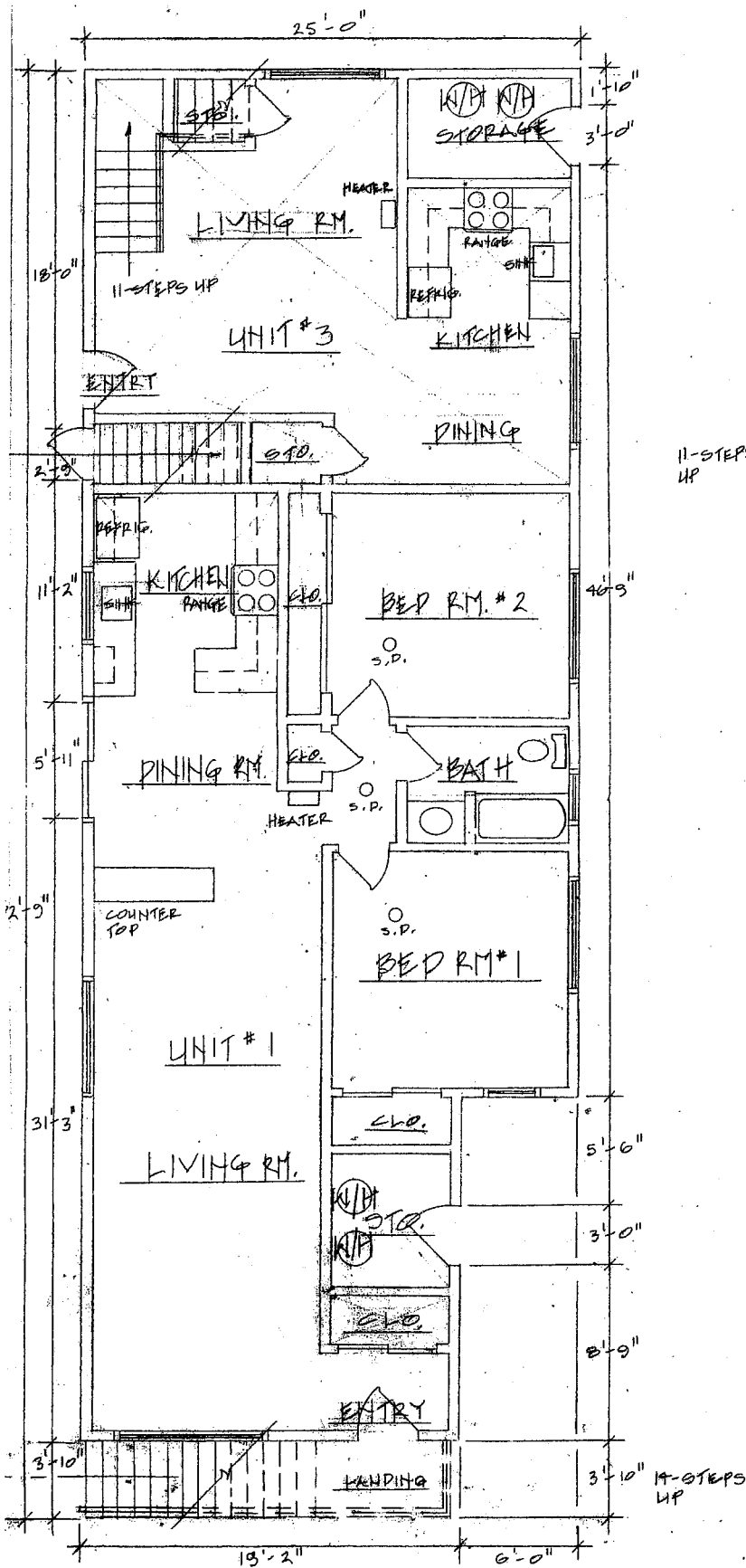
RANDALL B. RAVIS - DRAWN BY
312 HUNTER AVENUE
OAKLAND, CALIF. 94603
(510) 938-7785



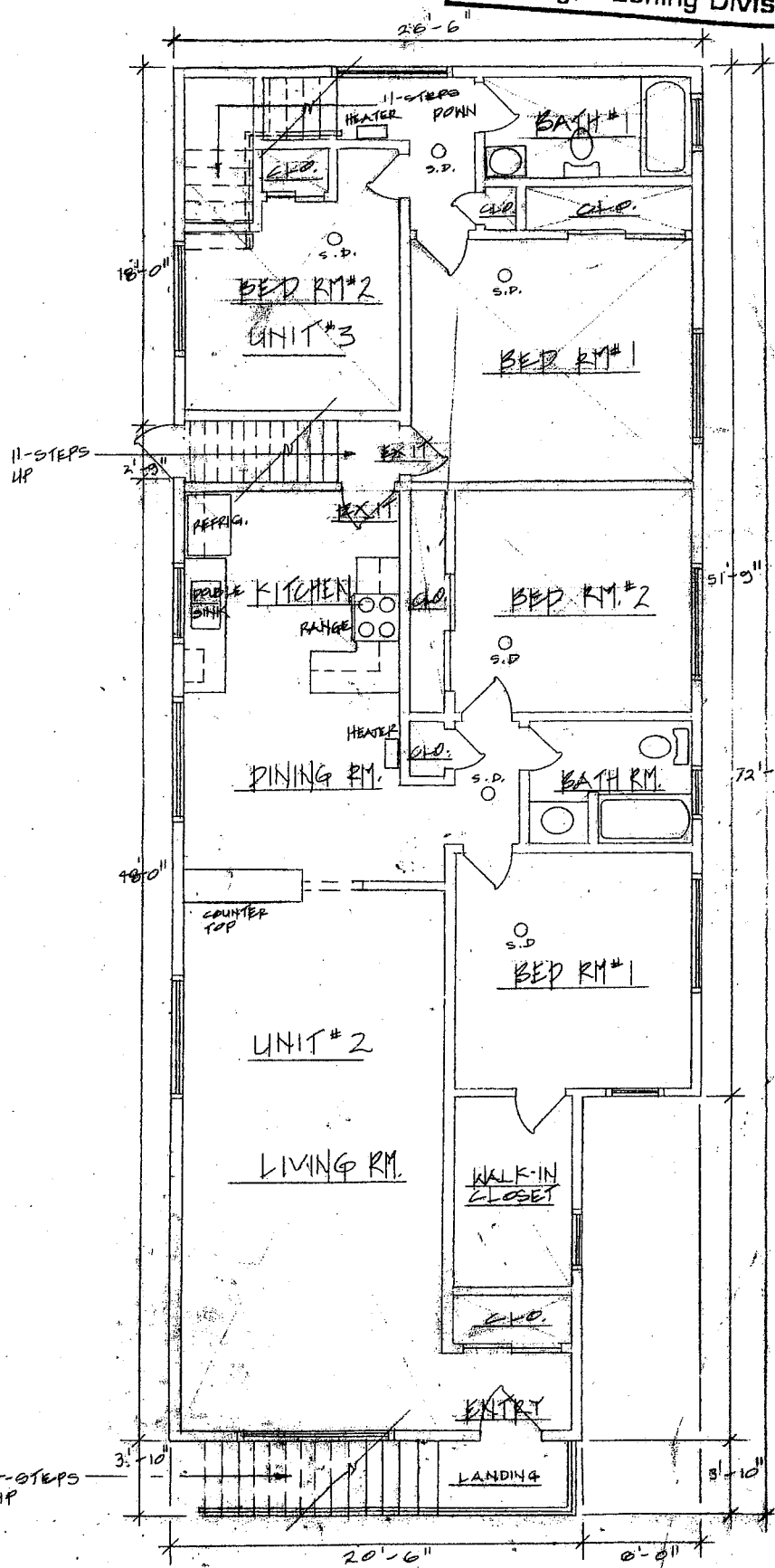
Attachment C. Plans and Elevations-CMD10-145

SITE PLAN
SCALE: 1" = 10'-0"



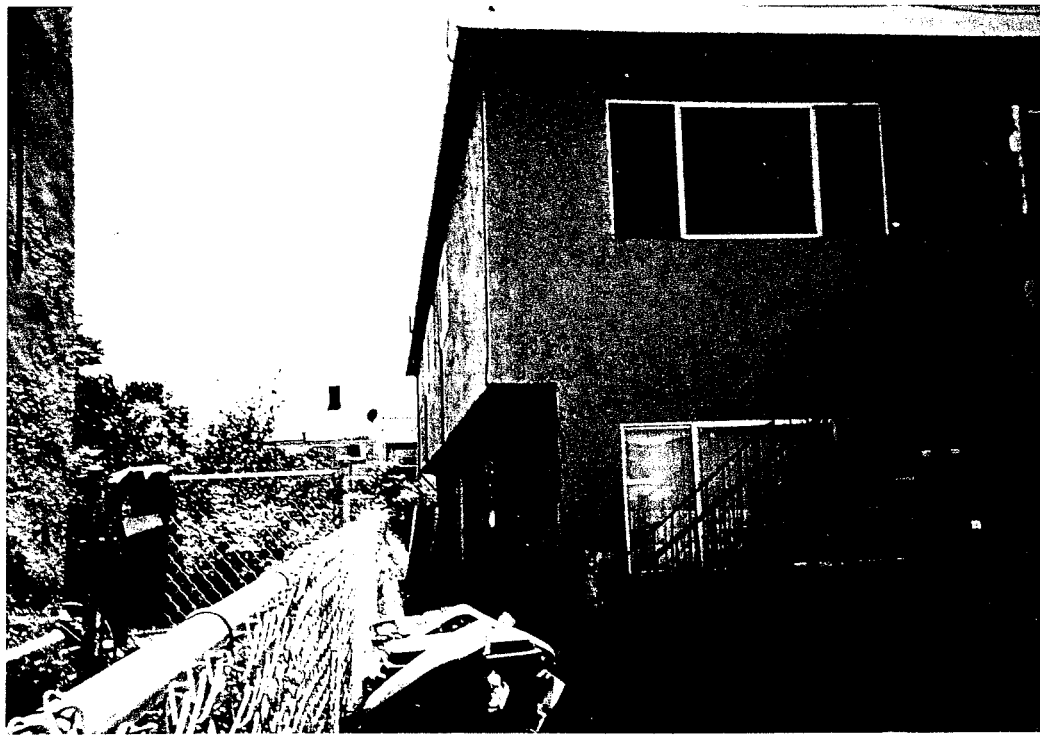


2 FIRST FLOOR PLAN
SCALE: 1/4" = 1'-0"



3 SECOND FLOOR PLAN
SCALE: 1/4" = 1'-0"





Location:	685 32nd Street (APN 009-0714-038-00)
Proposal:	Service Enriched Permanent Housing, 3 units
Contact Person/Phone Number:	Tracy Creer (415-203-8493)
Owner:	Ola M. VanZant
Case File Number:	CM10-145
Planning Permits Required:	Major Conditional Use Permit for Service Enriched Permanent Housing, in an existing 3-dwelling building on a 4,900 square foot lot
General Plan:	Mixed Housing Type Residential
Zoning:	R-36 Small Lot Residential Zone
Environmental Determination:	Exempt, Section 15301 of the State CEQA Guidelines: Modification of small structures; Additional citation: Section 15183 of the State CEQA Guidelines: Projects consistent with a community plan, general plan or zoning
Historic Status:	Not a Potentially Designated Historic Property
Service Delivery District:	1
City Council District:	3
Staff Recommendation:	Approve subject to conditions of approval
Finality of Decision:	Appealable to the City Council within 10 days
For Further Information:	Contact David Valeska at (510) 238-2075 or dvaleska@oaklandnet.com

SUMMARY

The applicant requests a Major Conditional Use Permit for 3 units of Service Enriched Housing in an existing triplex in West Oakland.

PROJECT DESCRIPTION

The applicant, a small volunteer group known as ChangeToCome (501-c-3 nonprofit), proposes to occupy and manage a triplex at 685 32nd Street, for transitioning up to six (6) single parents (primarily women) and twelve (12) children from homes of abuse and/or drugs to a stable sober lifestyle. No parolees would be served. There would be two volunteers on-site during the day and one at night, for 24 hour coverage. Movements and activities of tenants would be monitored by volunteers and those tenants unable to live under the rules would be replaced. Initially there would be no group van but ultimately group transportation may be arranged. Services include lifestyle counseling, education, family counseling and similar support. No medicines would be available, since this is not a drug substitution-treatment facility.

PROPERTY DESCRIPTION

The property is on 32nd Street, mid-block between M L King Jr. Way and West Street. On a 4,900 square foot lot, the 1,700 square foot, 19-foot-tall building was built in the 1970's. A plain 2 story 3-unit stucco structure is set back from the front property line to leave room for 3 parking spaces. (A Variance V67-03 was approved for these parking spaces in 1967). Rear play space of 700 square feet is provided. Decorative see-through wrought iron fencing 6 feet tall surrounds the property. The building is not historic. The building is in an area of Victorian and newer primarily 2-story residential buildings.

CITY OF OAKLAND PLANNING COMMISSION



0 125 250 500 750 1,000 Feet



Case File: CM10-145
Applicant: Tracy Creer
Address: 685 32nd Street
Zone: R-36

GENERAL PLAN ANALYSIS

The property is in the Mixed Housing Type Residential General Plan area. The Mixed Housing Type Residential classification is intended 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 building, and neighborhood businesses where appropriate. Staff finds that this small multi-unit building is compatible with this LUTE statement.

The Land Use and Transportation Element (LUTE) policy which is most relevant is:

Policy N3.9.—Residential developments should be encouraged to face the street and to orient their units to desirable sunlight and views, while avoiding unreasonably blocking sunlight and views for neighboring buildings, respecting the privacy needs of residents of the development and surrounding properties, providing for sufficient conveniently located on-site open space, and avoiding undue noise exposure.

Staff finds that the project faces the street behind a front yard parking area previously approved by Variance. The project orients units to sunlight, while preserving neighbor sunlight on 3 sides, respecting privacy by building and window positions and placing open space in the rear yard where it minimizes undue noise exposure.

While LUTE is generally silent about Service Enriched Housing uses such as the applicant's proposal, as a small residential use the facility and activity are compatible.

ZONING ANALYSIS

The property is in the R-36 Small Lot Residential Zoning District. In the R-36 zone, Service Enriched Housing requires a Major Conditional Use Permit. There are 3 permitted dwellings on the property according to City records.

The existing 3 unit facility complies with front, rear and one side yard setbacks of Section 17.20 and with the height, lot coverage and minimum usable open space requirements. The facility meets parking standards due to Variance approval V67-03.

REVIEW BY OTHER AGENCIES

Beat 6 NCPC reviewed the proposed project at a community meeting held at Willie Keys Center in West Oakland on July 14, 2010. Planning staff attended and spoke about the project. Of the two dozen citizens present, few had specific comments but several made the general comment that West Oakland already had a lot of social service facilities and one more could be an issue. Three police officers and 3 NCPC officials were present and did not comment. On July 26, 2010 Annie Sloan, a representative of Beat 6 NCPC, sent an e-mail to staff that the group was opposed to the request. On August 20, 2010, Madeline Wells, Chairperson of Beat Six N.C.P.C. sent a letter of opposition. Copies are attached.

ENVIRONMENTAL DETERMINATION

The request is Categorically Exempt under Section 15301 of the California Environmental Quality Act Guidelines for small structures, and Section 15183, projects consistent with a community plan, general plan or zoning.

KEY ISSUES AND IMPACTS

Issues include potential visual effects, neighborhood effects, security and parking/traffic.

Potential Visual Effects. The visual impacts of the change would be minimal, since the facility would not change. On-site 24-hour management would be provided and there would likely be equal or better maintenance and control over debris, vehicles etc. than in the past.

Effects on Neighborhood. In staff research, no other sensitive uses were discovered within 300 feet radius. The nearest was a child care business license was found for property at approximately 370 feet from the subject site. The facility is not likely to have a major effect on the neighborhood.

Security. The nonprofit group supplies 24 hour volunteer monitoring and would call for police security if there was a problem that they could not handle. Most of the tenants will be mothers and children and any security issues are more likely to come from outside (off-site parents or partners) than from inside. Due to the management and small size of the facility, regular police problems are unlikely.

Parking/Traffic. Currently three parking spaces are provided on the site, with a backout driveway. Variance 67-3 was approved for this parking and driveway pattern. Since there were 3 units before the request and will be 3 units if approved, the parking demand should not increase. Actually, it is possible that tenants may have fewer cars due to income; ultimately a van may be provided.

Staff finds that impacts are minimal and the public benefits of improved transitional housing facilities immediate and substantial. Public necessity supports the approval of the project, subject to conditions of approval.

RECOMMENDATIONS:

1. Affirm staff's environmental determination.
2. Approve the Major Conditional Use Permit subject to the attached findings and conditions.

Prepared by:

David Valeska, Planner II

Approved by:

SCOTT MILLER
Zoning Manager

Approved for forwarding to the
City Planning Commission:

ERIC ANGSTADT
Deputy Director of CEDA

ATTACHMENTS:

- A. Findings
- B. Conditions
- C. Plans and Elevations
- D. Applicant Correspondence
- E. Neighbor Correspondence