



000426

THE CITY OF SAN DIEGO

Date of Notice: June 14, 2007

**NOTICE OF PUBLIC HEARING
APPEAL TO PLANNING COMMISSION**

Job Order Number: 42-6672

As a property owner, tenant, or person who has requested notice, you should know that a public hearing will be held by the Planning Commission to consider an appeal on an application for a wireless communication facility consisting of an existing 60 foot high monopole and a 90 square foot equipment shelter, originally approved by CUP94-0330-12, which expired on February 1, 2006. The facility is located at 1529 38th Street.

DATE OF HEARING:	June 28, 2007
TIME OF HEARING:	9:00 a.m.
LOCATION OF HEARING:	Council Chambers, 12th floor, City Administration Building, 202 C Street, San Diego, CA 92101
PROJECT TYPE/PROJECT NUMBER:	Conditional Use Permit/ PTS No. 107501
PROJECT NAME:	<u>AMERICAN TOWER – MINI STORAGE</u>
APPLICANT NAME:	Jim Kelly, American Tower Corporation
COMMUNITY PLAN AREA:	City Heights/Mid Cities
COUNCIL DISTRICT:	3
CITY PROJECT MANAGER:	Karen Lynch-Ashcraft, Development Project Manager
PHONE NUMBER:	(619) 446-5351

The decision made by the Planning Commission is the final decision by the City.

If you wish to challenge the City's action on the above proceedings in court, you may be limited to addressing only those issues you or someone else have raised at the public hearing described in this notice, or written in correspondence to the City at or before the public hearing.

This project was determined to be categorically exempt from the California Environmental Quality Act on August 15, 2006 and the opportunity to appeal that determination ended August 29, 2006.

If you have any questions about this matter, you can contact the City Project Manager listed above. This information will be made available in alternative formats upon request. To request an agenda in alternative format or to request a sign language or oral interpreter for the meeting, call the Disability Services Program Coordinator at 236-5979, at least five working days prior to the meeting to insure availability. Assistive Listening Devices (ALD's) are available for the meeting upon request.



City of San Diego
Development Services
1222 First Ave. 3rd Floor
San Diego, CA 92101
(619) 446-5210

Development Permit/ Environmental Determination Appeal Application

FORM
DS-3031
MARCH 2007

See Information Bulletin 505, "Development Permits Appeal Procedure," for information on the appeal procedure.

1. Type of Appeal:

- Process Two Decision - Appeal to Planning Commission
 Process Three Decision - Appeal to Planning Commission
 Process Four Decision - Appeal to City Council
 Environmental Determination - Appeal to City Council
 Appeal of a Hearing Officer Decision to revoke a permit

2. Appellant Please check one Applicant Officially recognized Planning Committee "Interested Person" (Per M.C. Sec. 113.0103)

Name
Robert Jystad, Channel Law Group, LLP on behalf of applicant American Tower Corporation

Address City State Zip Code Telephone
100 Oceangate, Suite 1400 Long Beach CA 90802 (310) 209-8515

3. Applicant Name (As shown on the Permit/Approval being appealed). Complete if different from appellant.

Doug Kearney, American Tower Corporation

4. Project Information

Permit/Environmental Determination & Permit/Document No.:	Date of Decision/Determination:	City Project Manager:
CUP No. 94-0330-12	April 4, 2007	Karen Lynch Ashcraft

Decision (describe the permit/approval decision):

Deny Conditional Use Permit No. 357727 (Mini Storage - PTS No. 107501)

5. Grounds for Appeal (Please check all that apply)

- Factual Error (Process Three and Four decisions only)
 Conflict with other matters (Process Three and Four decisions only)
 Findings Not Supported (Process Three and Four decisions only)
 New Information (Process Three and Four decisions only)
 City-wide Significance (Process Four decisions only)

Description of Grounds for Appeal (Please relate your description to the allowable reasons for appeal as more fully described in Chapter 11, Article 2, Division 5 of the San Diego Municipal Code. Attach additional sheets if necessary.)

Hearing Officer made findings 1 and 2 in the affirmative but denied permit on grounds that he could not make findings 3 and

4 because the project does not comply to maximum extent feasible with Land Development Code.

This determination is based on the unsupported assertion that the City imposed 10 year time limits in order to require replacement of existing facilities and that carriers should have designed their networks to accommodate the removal or replacement of these facilities. Evidence in the record contradicts staff's assertion and the hearing officer did not properly take such evidence into account. Applicant had reasonable expectation of renewal of its permits subject to compliance with conditions and applicants' tenant relied on those expectations in the construction of their networks.

Applicant reserves right to supplement these grounds for appeal.

6. Appellant's Signature: I certify under penalty of perjury that the foregoing, including all names and addresses, is true and correct.

Signature:

Date:

April 11, 2007

Note: Faxed appeals are not accepted. Appeal fees are non-refundable.



City of San Diego
Development Services
1222 First Ave., MS-302
San Diego, CA 92101
(619) 446-5000

Ownership Disclosure Statement

Approval Type: Check appropriate box for type of approval (s) requested: Neighborhood Use Permit Coastal Development Permit
 Neighborhood Development Permit Site Development Permit Planned Development Permit Conditional Use Permit
 Variance Tentative Map Vesting Tentative Map Map Waiver Land Use Plan Amendment Other _____

Project Title **Project No. For City Use Only**
American Tower Wireless Telecommunications Facility Site 300611 Midtown Minni Storag (Mini Storage)

Project Address:
1529 38th Street AKA 3808 Cedar Street, San Diego, CA 92105

Part I - To be completed when property is held by Individual(s)

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property, with the intent to record an encumbrance against the property. Please list below the owner(s) and tenant(s) (if applicable) of the above referenced property. The list must include the names and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all individuals who own the property). A signature is required of at least one of the property owners. Attach additional pages if needed. A signature from the Assistant Executive Director of the San Diego Redevelopment Agency shall be required for all project parcels for which a Disposition and Development Agreement (DDA) has been approved / executed by the City Council. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process.

Additional pages attached Yes No

Name of Individual (type or print):
Lance D. Alworth
 Owner Tenant/Lessee Redevelopment Agency
Street Address:
990 Highland Drive, Suite 300
City/State/Zip:
Solana Beach, CA 92075
Phone No: 858-259-9000 Fax No:
Signature: *[Signature]* Date: 7/12/06

Name of Individual (type or print):
 Owner Tenant/Lessee Redevelopment Agency
Street Address:
City/State/Zip:
Phone No: Fax No:
Signature: Date:

Name of Individual (type or print):
 Owner Tenant/Lessee Redevelopment Agency
Street Address:
City/State/Zip:
Phone No: Fax No:
Signature: Date:

Name of Individual (type or print):
 Owner Tenant/Lessee Redevelopment Agency
Street Address:
City/State/Zip:
Phone No: Fax No:
Signature: Date:

Midtown Mini Storage

Project Title: American Tower Wireless Telecommunications Facility Site 300611 Midtown Mini Stor	Project No. (For City Use Only)
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Part II - To be completed when property is held by a corporation or partnership

Legal Status (please check):

Corporation (Limited Liability -or- General) What State? CA Tax Corporate Identification No. 95-3664073
 Partnership

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property with the intent to record an encumbrance against the property. Please list below the names, titles and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all corporate officers, and all partners in a partnership who own the property). A signature is required of at least one of the corporate officers or partners who own the property. Attach additional pages if needed. **Note:** The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process. **Additional pages attached** Yes No

Corporate/Partnership Name (type or print):
Midtown Mini Storage, LTD

Owner Tenant/Lessee

Street Address:
990 Highland Drive, Suite 300

City/State/Zip:
Solana Beach, CA 92075

Phone No: 858-259-9000 Fax No:

Name of Corporate Officer/Partner (type or print):
Lance D Alworth

Title (type or print):
General Partner

Signature:  Date: 4/12/06

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature: Date:

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature: Date:

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature: Date:

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature: Date:

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

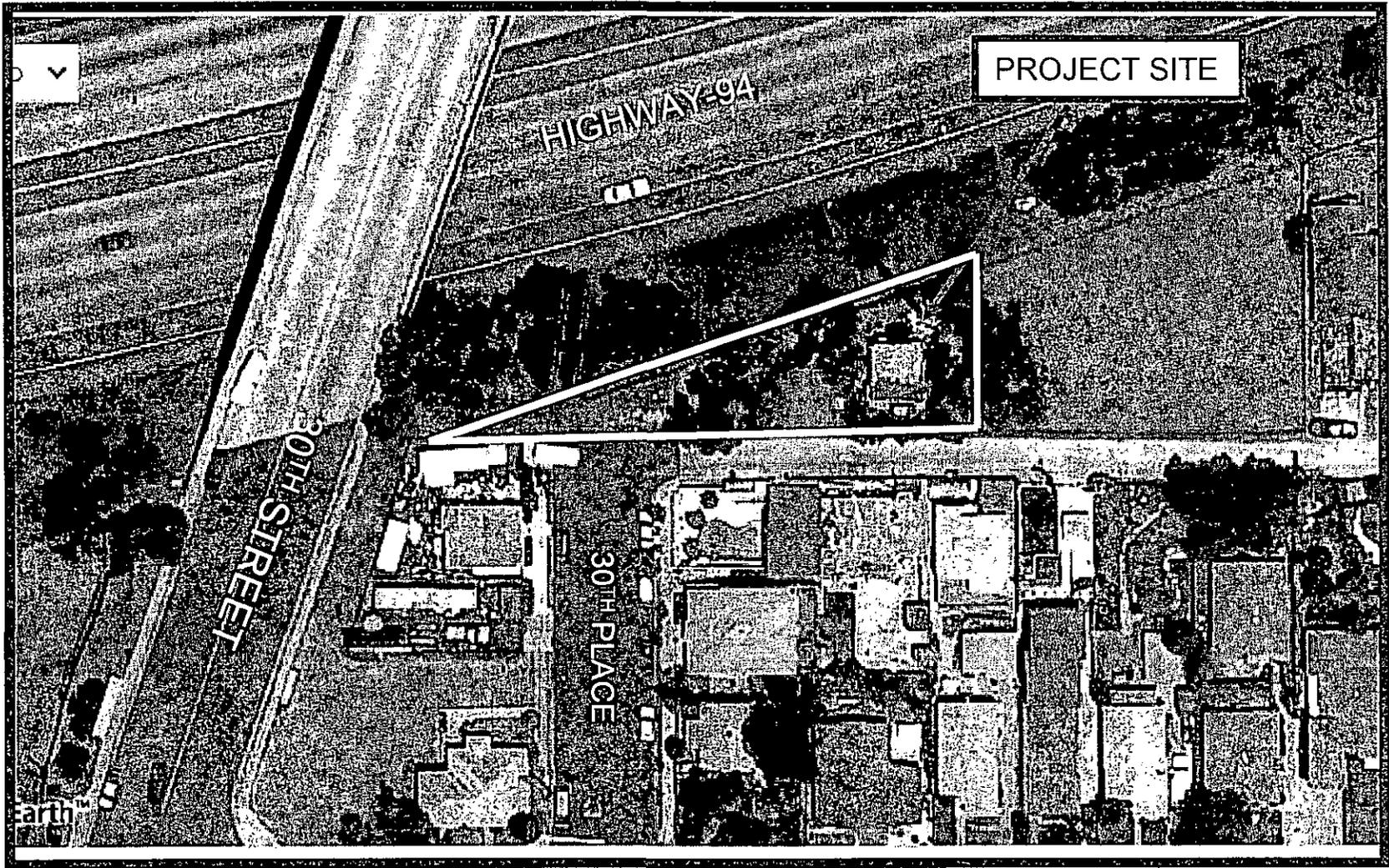
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Signature: Date:

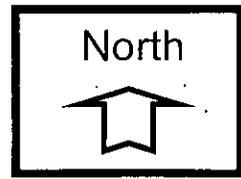
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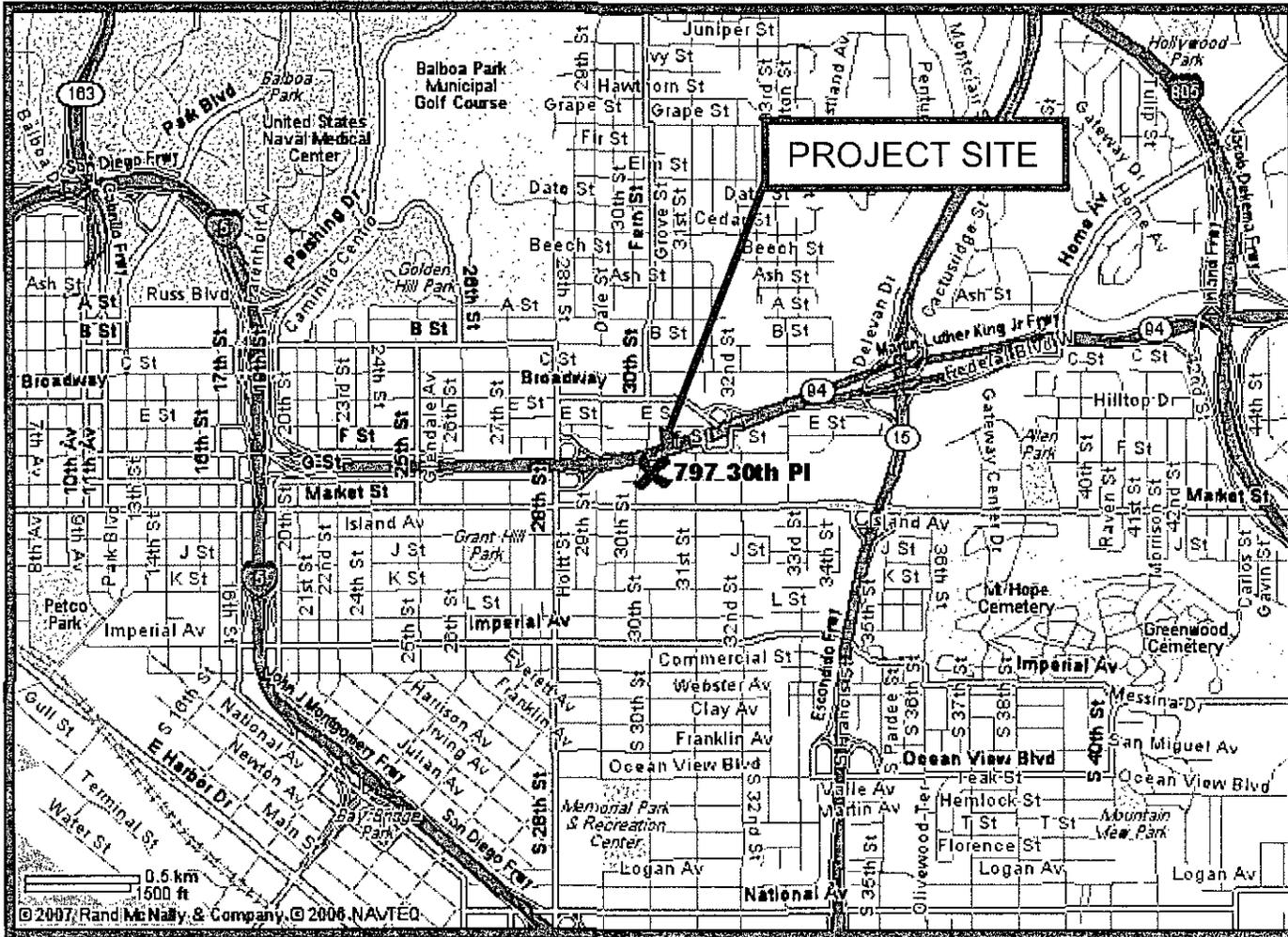
ATTACHMENT F

American Tower
Corporation – 30th Place
(CUP/PDP)
Verizon
Project No. 92067



Aerial Photo
AMERICAN TOWER – 30TH PLACE – PROJECT NUMBER 92067
797 30TH PLACE

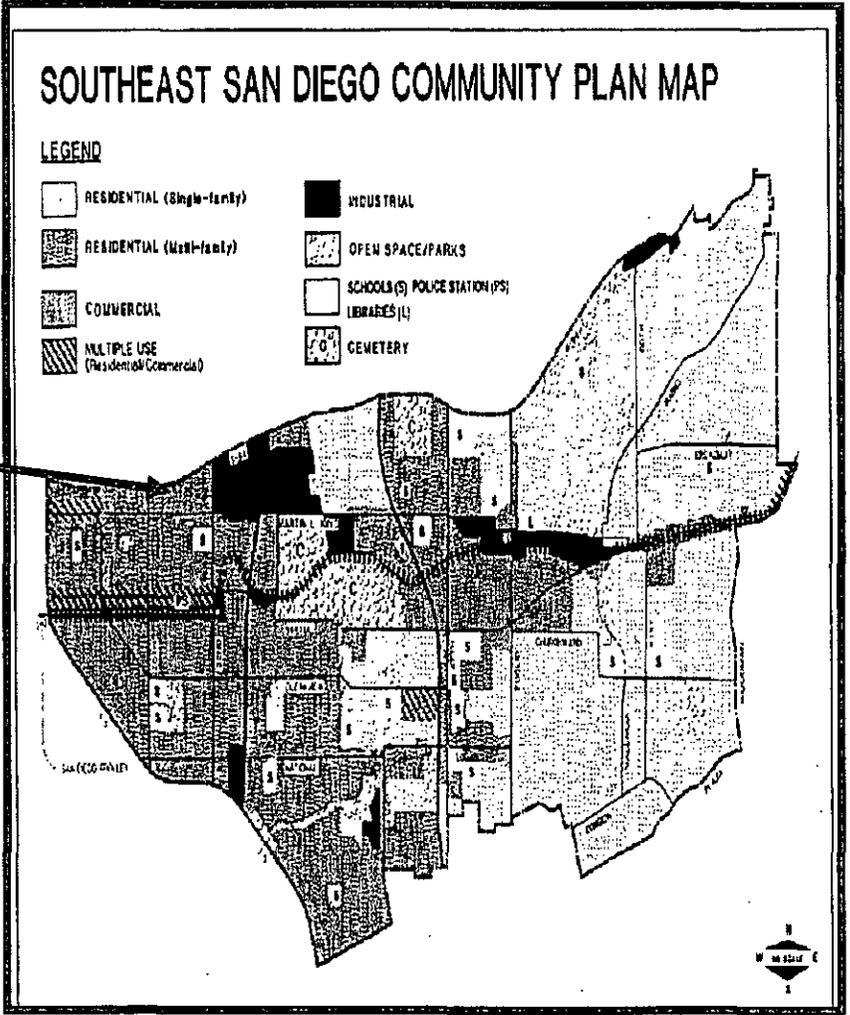




Project Location Map

AMERICAN TOWER – 30TH PLACE – PROJECT NUMBER 92067
797 30TH PLACE



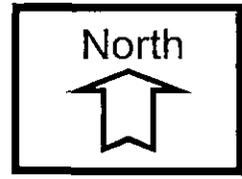


PROJECT SITE

SOUTHEASTERN SAN DIEGO COMMUNITY PLAN MAP

AMERICAN TOWER – 30TH PLACE – PROJECT NUMBER 92067

797 1/3 30TH PLACE

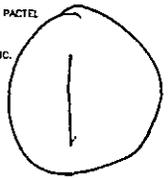


PROJECT DATA SHEET

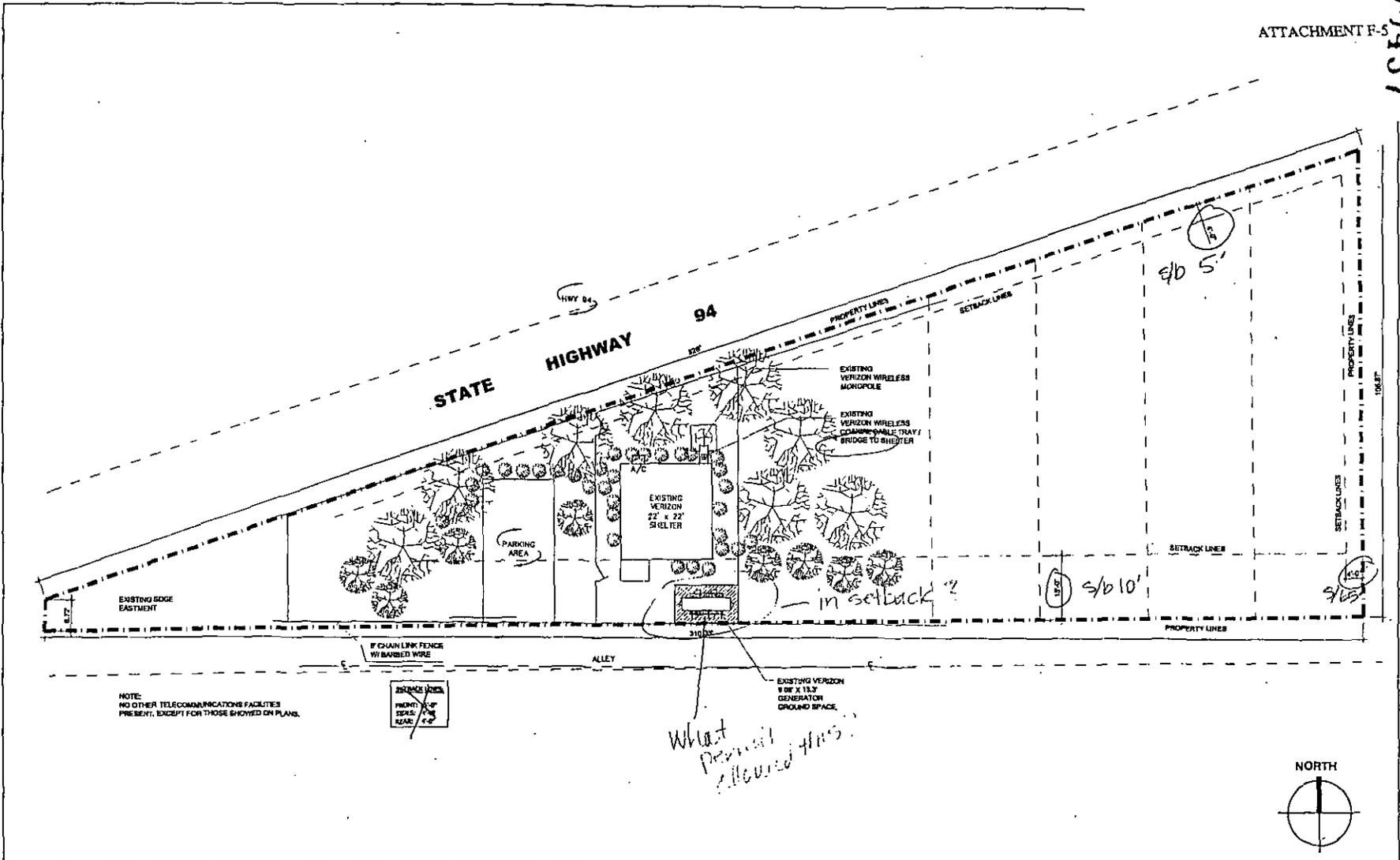
PROJECT NAME:	American Tower – 30 th Place	
PROJECT DESCRIPTION:	A wireless communication facility consisting of an existing 130 foot high monopole and a 500 square foot equipment shelter.	
COMMUNITY PLAN AREA:	Southeast San Diego	
DISCRETIONARY ACTIONS:	Conditional Use Permit, Planned Development Permit	
COMMUNITY PLAN LAND USE DESIGNATION:	Residential (Allows residential development of 10-15 dwelling units per acre).	
<u>ZONING INFORMATION:</u> ZONE: MF-3000: (A multi-unit residential zone that permits 14.52 dwelling unit per acre) HEIGHT LIMIT: 30-Foot maximum height limit. FRONT SETBACK: 10 feet. SIDE SETBACK: 5 feet. REAR SETBACK: 5 feet.		
<u>ADJACENT PROPERTIES:</u>	LAND USE DESIGNATION & ZONE	EXISTING LAND USE
NORTH:	Highway-94	Highway-94
SOUTH:	Residential 10-15 du/ac; MF-3000.	Single Unit Residential
EAST:	Residential 10-15 du/ac; MF-3000.	Vacant
WEST:	Residential 10-15 du/ac; MF-3000.	Single Unit Residential
DEVIATIONS OR VARIANCES REQUESTED:	Deviation to allow a 130 foot high monopole within a 30 foot height limit.	
COMMUNITY PLANNING GROUP RECOMMENDATION:	On March 27, 2006, ATC met with the Technical Subcommittee of the Southeastern San Diego Planning Committee. They requested additional information on landscape and replacement of the chain link fence. ATC has not yet presented the project to the Southeastern San Diego Planning Committee.	



**SITE NAME: CA 0037 30TH PLACE / ATC 300618
CUP AND PDP APPLICATION**

<p>DRAWING INDEX</p> <table border="0"> <tr><td>T-1</td><td>TITLE SHEET</td><td>A</td></tr> <tr><td>A-1</td><td>SITE PLAN</td><td>A</td></tr> <tr><td>A-2</td><td>ENLARGED SITE PLAN</td><td>A</td></tr> <tr><td>A-3</td><td>EXTERIOR ELEVATIONS</td><td>A</td></tr> <tr><td>A-4</td><td>EXTERIOR ELEVATIONS</td><td>A</td></tr> <tr><td>L-1</td><td>LANDSCAPE DRAWING</td><td>A</td></tr> <tr><td>S-1</td><td>SURVEY FOR REFERENCE ONLY</td><td>A</td></tr> </table>	T-1	TITLE SHEET	A	A-1	SITE PLAN	A	A-2	ENLARGED SITE PLAN	A	A-3	EXTERIOR ELEVATIONS	A	A-4	EXTERIOR ELEVATIONS	A	L-1	LANDSCAPE DRAWING	A	S-1	SURVEY FOR REFERENCE ONLY	A	<p>REV.</p>	<p>VICINITY MAP</p>  <p>N.T.S.</p>	<p>PROJECT INFORMATION</p> <p>SITE ADDRESS: 700 30TH PLACE SAN DIEGO, CA 92102</p> <p>PROPERTY OWNER: VERIZON FORMERLY AIR TOUCH CELLULAR / PACTEL</p> <p>APPLICANT: AMERICAN TOWER CORPORATION, INC. 2201 DUPONT DR., F 340 RYNE, CA 92012 Tel: (949) 442-8400</p> <p>APPLICANT CONTACT: DOUGLAS KEARNEY ZONING SPECIALIST PH: (949) 442-8408</p>  <p>JURISDICTION: CITY OF SAN DIEGO</p> <p>OCCUPANCY: U-1</p> <p>APN NUMBER: 545-031-33</p> <p>CURRENT USE: UNMANNED TELECOMMUNICATIONS FACILITY</p> <p>PROPOSED USE: UNMANNED TELECOMMUNICATIONS FACILITY</p> <p>ZONING: CC COMMUNITY COMMERCIAL <i>MF-2000</i></p> <p>SETBACK NOTE: CURRENT ZONING FOR THIS PROPERTY IS AS FOLLOWS: APN 545-031-31 ZONE R-2 SETBACKS: FRONT: 15', SIDE & REAR: 4' APN 545-031-33 ZONE CC SETBACKS: FRON: 0', SIDE: 4' & REAR: 15'</p>
T-1	TITLE SHEET	A																						
A-1	SITE PLAN	A																						
A-2	ENLARGED SITE PLAN	A																						
A-3	EXTERIOR ELEVATIONS	A																						
A-4	EXTERIOR ELEVATIONS	A																						
L-1	LANDSCAPE DRAWING	A																						
S-1	SURVEY FOR REFERENCE ONLY	A																						
<p>LEGAL DESCRIPTION</p> <p>LOT 2, HILL TOP SUBDIVISION, IN THE CITY OF SAN DIEGO, ACCORDING TO MAP THEREOF No. 8857, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, MARCH 8, 1984</p>																								
<p>DEVELOPMENT SUMMARY</p> <p>AMERICAN TOWER CORPORATION IS REQUESTING APPROVAL FOR THE FOLLOWING PROJECT: CONDITIONAL USE PERMIT (CUP) AND PLANNED DEVELOPMENT (PDP) THE PROJECT REQUIRES THE RENEWAL OF EXPIRED CUP NO. 84-0493 ISSUED BY THE CITY OF SAN DIEGO FOR A WIRELESS TELECOMMUNICATIONS FACILITY. THIS APPLICATION REQUESTS THE CONTINUED OPERATION AND MAINTENANCE OF THE VERIZON WIRELESS FACILITY LOCATED AT 700 30TH PLACE. THE FACILITY (AS IT PRESENTLY EXISTS) CONSISTS OF A 500 SQUARE FOOT UNMARKED EQUIPMENT BUILDING WITH FIFTEEN (15) PANEL ANTENNAE, ONE (1) EIGHT FOOT LONG OMNI-DIRECTIONAL WHIP-TYPE ANTENNA, THREE (3) 4-FOOT DIAMETER MICROWAVE DISHES AND FIVE (5) 2-FOOT DIAMETER MICROWAVE DISHES MOUNTED ONTO A 130 FOOT TALL STEEL MONOPOLE STRUCTURE. AMERICAN TOWER IS REQUESTING THE CUP AND PDP IN ORDER TO ALLOW VERIZON WIRELESS AND ITS CUSTOMERS UNINTERRUPTED WIRELESS TELEPHONE SERVICE. ALSO THERE IS ON SITE AN EMERGENCY ELECTRICAL GENERATOR.</p>																								
<p>SITE QUALIFICATION PARTICIPANTS</p> <table border="1"> <thead> <tr> <th></th> <th>NAME</th> <th>COMPANY</th> <th>NUMBER</th> </tr> </thead> <tbody> <tr> <td>ARCHITECT:</td> <td>JORGE BASILIO, AIA</td> <td>BASILIO ASSOCIATES, INC.</td> <td>(949) 727-4200</td> </tr> <tr> <td>ZONING:</td> <td>DOUG KEARNEY</td> <td>AMERICAN TOWER CORPORATION</td> <td>(949) 442-8402</td> </tr> </tbody> </table>					NAME	COMPANY	NUMBER	ARCHITECT:	JORGE BASILIO, AIA	BASILIO ASSOCIATES, INC.	(949) 727-4200	ZONING:	DOUG KEARNEY	AMERICAN TOWER CORPORATION	(949) 442-8402									
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ZONING:	DOUG KEARNEY	AMERICAN TOWER CORPORATION	(949) 442-8402																					

	<p>Basilio Associates, Inc. Architects • Planning • Design 19 BALBOA, SUITE 100, RIVER, CA 92014 PHONE (949) 727-4200 FAX (949) 727-0157</p>	<p>SITE: 300618 ID: CA 0037 700 30TH PLACE SAN DIEGO, CA 92104</p>	<table border="1"> <tr> <td>NO.</td> <td>DATE</td> <td>REVISIONS</td> <td>BY</td> <td>CHK</td> <td>APP'D</td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </table> <p>SCALE: AS SHOWN DESIGNED: DRAWN: JR</p>	NO.	DATE	REVISIONS	BY	CHK	APP'D																			<p>TITLE SHEET</p> <p>PROJECT NUMBER: DRAWING NUMBER: T-1</p>
NO.	DATE	REVISIONS	BY	CHK	APP'D																							



NOTE:
NO OTHER TELECOMMUNICATIONS FACILITIES
PRESENT, EXCEPT FOR THOSE SHOWN ON PLANS.



SITE PLAN



Basilio Associates, Inc.
Architecture + Planning + Design
13 EVANCKO DRIVE, SUITE 100, PUEBLO, CO 81001
PHONE 810-232-5000 FAX 810-232-5000

SITE: 300618
ID: CA 0037
700 30TH PLACE
SAN DIEGO, CA 92104

NO.	DATE	REVISIONS	BY	CHK	APP'D

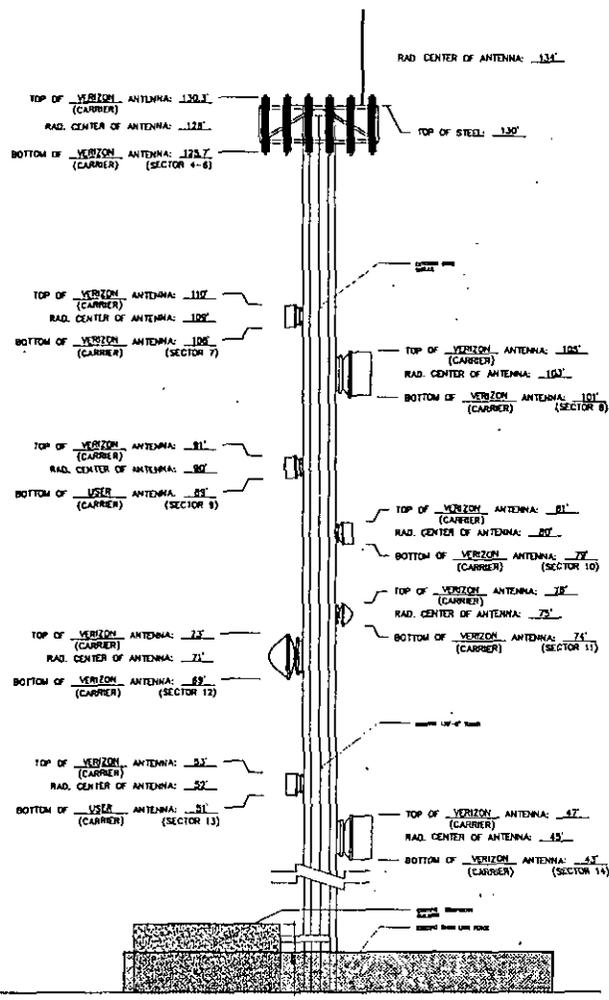
SCALE: AS SHOWN DRAWN: DATE:

SCALE: 1" = 10' - 0"

SITE PLAN

PROJECT NUMBER: SHEET NUMBER: **A-1**

ATTACHMENT F-5



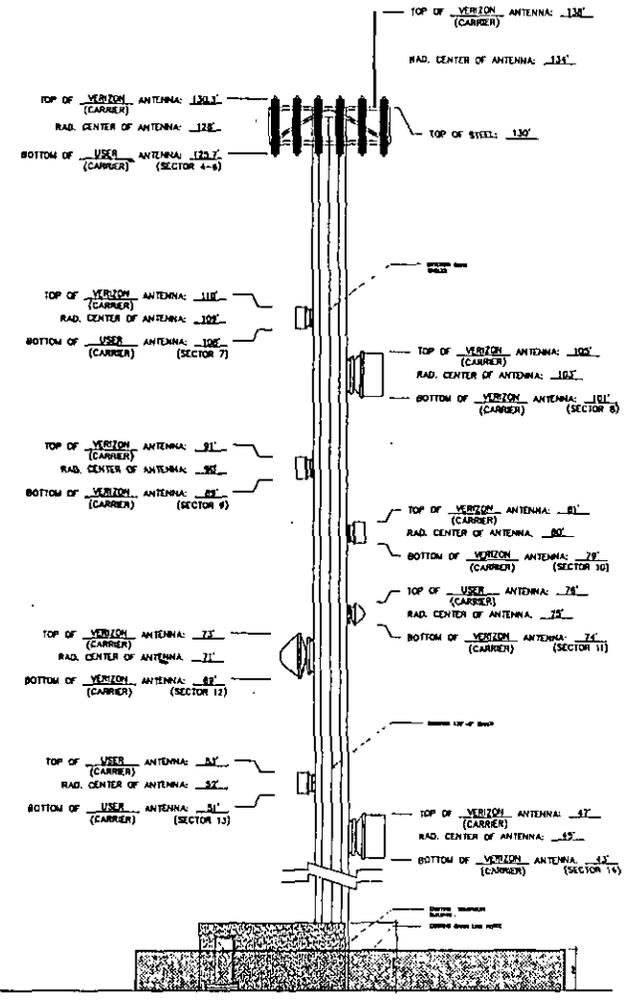
CARRIER		VERIZON	
SECTOR	1	1	1
ANTENNA/MOUNT TYPE/CABLE SCHEDULE			
SECTOR	1	1	1
CABLE SIZE	1/2"	1/2"	1/2"
NUMBER OF CABLES	1	1	1
ANTENNA TYPE	PLATEMOUNT		
ANTENNA MAKE	GENERIC		
ANTENNA MODEL	6' DIA.		
NUMBER OF ANTENNAS	1		

CARRIER		VERIZON	
SECTOR	1	1	1
ANTENNA/MOUNT TYPE/CABLE SCHEDULE			
SECTOR	1	1	1
CABLE SIZE	1/2"	1/2"	1/2"
NUMBER OF CABLES	1	1	1
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CARRIER		VERIZON	
SECTOR	1	1	1
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NUMBER OF ANTENNAS	1		



CARRIER		VERIZON	
SECTOR	1	1	1
ANTENNA/MOUNT TYPE/CABLE SCHEDULE			
SECTOR	1	1	1
CABLE SIZE	1/2"	1/2"	1/2"
NUMBER OF CABLES	1	1	1
ANTENNA TYPE	PLATEMOUNT		
ANTENNA MAKE	GENERIC		
ANTENNA MODEL	6' DIA.		
NUMBER OF ANTENNAS	1		

SOUTH ELEVATION

WEST ELEVATION



Basilla Associates, Inc.
 Architecture + Planning + Design
 100 MARLBOROUGH STREET, SUITE 200
 BOSTON, MA 02114

SITE: 300618
 ID: CA 0037
 700 30TH PLACE
 SAN DIEGO, CA 92114

NO	DATE	REVISIONS	BY	CHK	APP'D

SCALE: AS SHOWN DESIGNED: - DRAWN: JB

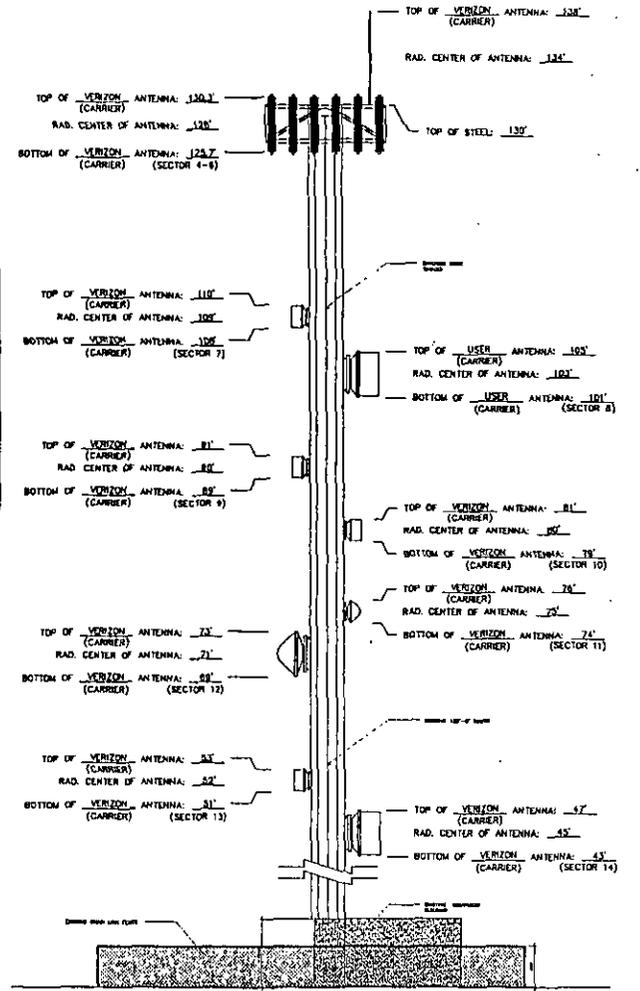
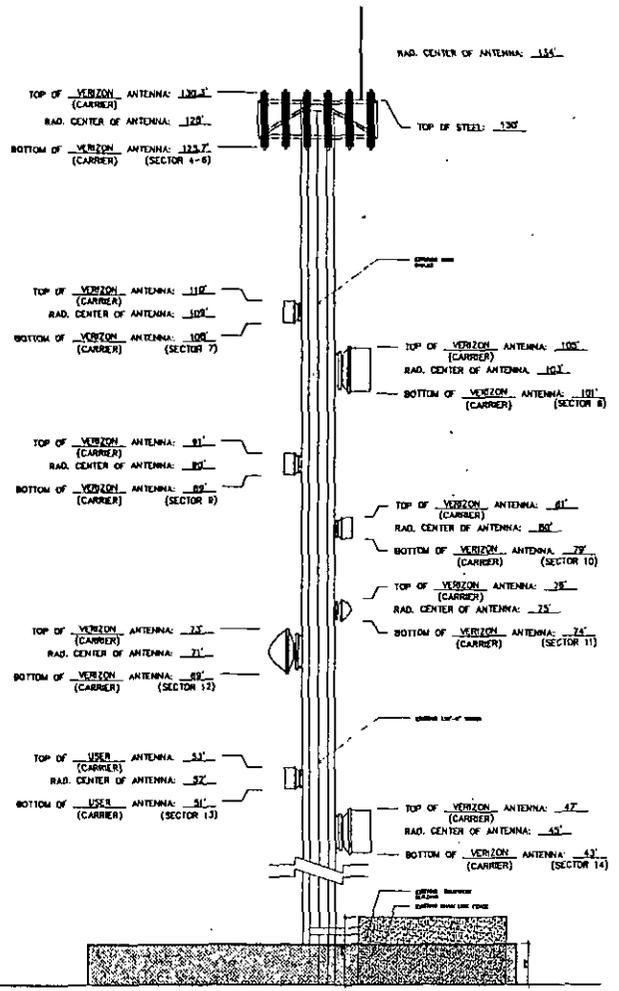
EXTERIOR ELEVATIONS

PROJECT NUMBER: _____ DRAWING NUMBER: _____

A-3

000440

ATTACHMENT F-5



NORTH ELEVATION

EAST ELEVATION



Basilis Associates, Inc.
 Architects + Planning + Design
 11200 LINDSAY BLVD, SUITE 100, SAN DIEGO, CA 92121
 PHONE 619 594 2200 FAX 619 594 2201

SITE: 300618
 ID: CA 0037
 700 30TH PLACE
 SAN DIEGO, CA 92114

NO.	DATE	REVISIONS	BY	CHK	APP'D

SCALE: AS SHOWN DERIVED: - DRAWING: JR

EXTERIOR ELEVATIONS

PROJECT NUMBER: _____ DRAWING NUMBER: **A-4**



000444

ATTACHMENT F-6



PLANNING COMMISSION
RESOLUTION NO.
CONDITIONAL USE PERMIT NO. 296127
PLANNED DEVELOPMENT PERMIT NO. 453612
AMERICAN TOWER – 30TH PLACE
PROJECT NO. 92067

WHEREAS, Verizon Wireless (VAW) LLC dba Verizon Wireless, Owner and American Tower Corporation, Permittee, filed an application with the City of San Diego for a permit for a wireless communication facility (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Conditional Use Permit No.296127 and Planned Development Permit No. 453612, on portions of an .19 acre site;

WHEREAS, the project site is located at 797 1/3 30th Place in the MF-3000 zone of the Southeastern San Diego Community Plan;

WHEREAS, the project site is legally described as Lot 2 of Hilltop Subdivision in the City of San Diego, according to map thereof No. 5357, filed in the Office of the County Recorder of San Diego County, March 6, 1964;

WHEREAS, on June 28, 2007, the Planning Commission of the City of San Diego considered Conditional Use Permit No. 296127 and Planned Development Permit No. 453612, pursuant to the Land Development Code of the City of San Diego; NOW, THEREFORE,

BE IT RESOLVED by the Planning Commission of the City of San Diego as follows:

That the Planning Commission adopts the following written Findings, dated June 28, 2007.

FINDINGS:

Conditional Use Permit - Section 126.0305

1. The proposed development will not adversely affect the applicable land use plan;

This facility was originally approved by the City Council on November 20, 1984. The Conditional Use Permit (CUP) included a 20 year expiration. At the time of approval, the City did not have applicable regulations for these types of facilities so the City Council imposed a twenty year limit in order to re-evaluate the project in light of new regulations and or policies that may be in effect. The project exists as it did after initial construction and American Tower Corporation is now seeking to obtain another CUP to maintain the facility as is.

Neither the City of San Diego General Plan nor the Southeastern San Diego Community Plan addresses wireless communication facilities as a specific land use.

2. The proposed development will not be detrimental to the public health, safety, and welfare;

The Telecommunication Act of 1996 preempts local governments from regulating the "placement, construction and modification of wireless communication facilities on the basis of the environmental effects of Radio Frequency (RF) emission to the extent that such facilities comply with the Federal Communication Commission's (FCC) standards for such emissions." If the decision maker approves the existing facility, a condition will be included within the permit to require American Tower to perform a cumulative model RF test and submit the finding in a report to the City of San Diego within 90 days of approval of the CUP/PDP.

3. The proposed development will comply to the maximum extent feasible with the regulations of the Land Development Code; and

This facility was originally approved by the City Council on November 20, 1984. The Conditional Use Permit (CUP) included a 20 year expiration. At the time of approval, the City did not have applicable regulations for these types of facilities so the City imposed a ten year time limit in order to re-evaluate the project in light of new regulations and or policies that may be in effect. The project exists as it did after initial construction and American Tower Corporation is now seeking to obtain another CUP to maintain the facility as is.

Since 2000, the City has had a Communication Antenna ordinance that requires architectural or environmental integration with the project site. Pursuant to the San Diego Land Development Code, wireless communication facilities are permitted in all zones citywide with the appropriate permits. Wireless communication facilities are separately regulated uses, which have limitations or require compliance with conditions in order to minimize potential impacts. The intent of the regulations is to camouflage facilities from public view. In this case, the monopole is the tallest structure in and around the area in which it is located and as such, it has an incongruous effect on the community's landscape. It is situated prominently along Highway-94, which serves as a major east west transportation corridor and it poses an unsightly visual impact for commuters that utilize this corridor as well as for residents of the surrounding communities.

Section 141.0405 of the Land Development Code differentiates between minor and major telecommunication facilities. Minor telecommunication facilities include those that are concealed from public view or integrated into the architecture or surrounding environment through architectural enhancement (enhancements that complement the scale, texture, color and style) unique design solutions, or accessory use structures. Major telecommunication facilities are antenna facilities that do not meet the criteria for minor telecommunication facilities or they are located in residential zones containing residential uses. Similar to minor facilities, they also need to be designed to be minimally visible through the use of architecture, landscape architecture and siting solutions. The 30th Place project does not conform to this code requirement. As it exists, it is a significant visual impact along Highway-94, which serves as a major transportation corridor through the city. Many commuters pass through this section of the city on a daily basis and are subjected to the unsightliness associated with this project.

Therefore, the project does not comply to the maximum extent feasible with the regulations of the Land Development Code.

4. The proposed use is appropriate at the proposed location.

A wireless communication facility at this location is an appropriate use subject to compliance with the ordinances and policies that regulate these types of facilities. Due to the fact that the existing facility does not comply with current regulations and policies, this finding cannot be affirmed. A facility that better integrates into the property and takes into consideration the surroundings and the proximity to Highway-94 would be more appropriately located on this property.

Planned Development Permit - Section 126.0604

1. The proposed development will not adversely affect the applicable land use plan;

This facility was originally approved by the City Council on November 20, 1984. The Conditional Use Permit (CUP) included a 20 year expiration. At the time of approval, the City did not have applicable regulations for these types of facilities so the City Council imposed a ten year limit in order to re-evaluate the project in light of new regulations and or policies that may be in effect, The project exists as it did after initial construction and the new owner, American Tower Corporation is now seeking to obtain another CUP to maintain the facility as is. Neither the City of San Diego General Plan nor the Southeastern San Diego Community Plan addresses wireless communication facilities as a specific land use.

2. The proposed development will not be detrimental to the public health, safety, and welfare; and

The Telecommunication Act of 1996 preempts local governments from regulating the "placement, construction and modification of wireless communication facilities on the basis of the environmental effects of Radio Frequency (RF) emission to the extent that such facilities comply with the Federal Communication Commission's (FCC) standards for such emissions." If the decision maker approves the existing facility, a condition will be included within the permit to require American Tower to perform a cumulative model RF test and submit the finding in a report to the City of San Diego within 90 days of approval of the CUP.

3. The proposed development will comply with the applicable regulations of the Land Development Code.

The monopole complies with all the development regulations of the MF-3000 zone except for the height limit of 30 feet. The monopole is 130 feet tall and is situated at a high point prominently alongside of Highway-94. Development in the area is low in scale and primarily residential in nature with commercial uses further away from the freeway. The existing tower exceeds the MF-3000 zone height limit by 100 feet. Deviations to the development regulations require a Planned Development Permit, which is a mechanism to encourage imaginative and innovative planning and to assure that the project achieves the purpose and intent of the applicable land use plan and that it would be preferable to what would be achieved by strict conformance with the regulations.

This project was originally constructed in the mid-1980's when Pac Tel Mobile (now Verizon) was only one of two wireless carriers in San Diego. Their network was being established with tower structures and branched out to building collocations later. Typically, carriers initially built tall facilities, later filling in their networks with lower sights. Verizon signed the contract (CUP84-0469) acknowledging the 20 year time limit on the facility. In order to maintain a facility at this site, a new application in compliance with the current regulations and policies would be required.

4. The proposed development, when considered as a whole, will be beneficial to the community; and

The monopole serves Verizon subscribers in the surrounding communities, as well as commuters passing through the area and as such, is a beneficial service. Conversely, the significant visual impacts that the pole creates are detrimental to the surrounding communities as well as to the City of San Diego. The pole sits on a hill at an elevation of 170 feet. The pole is 130 feet tall. Just .24 miles to the west, the elevation drops 30 feet. Approximately .19 miles to the east, the elevation drops 30 feet and .29 miles to the southeast, the elevation drops a dramatic 95 feet. The monopole is a negative visual community landmark that can be seen from miles away. The original design of this tower was developed 20 years ago when the technology was at its infancy. The CUP was conditioned to expire in 20 years and the owner and operator of the facility, Verizon and American Tower Corporation had the responsibility of making preparations within their network to comply with any new regulations or policies in effect, which would have included a required reduction in height as well as adjustments to other existing facilities and development of new facilities.

5. Any proposed deviations pursuant to Section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone.

The applicant, American Tower Corporation, is requesting to deviate from the RS-1-7 height limitation of 30 feet. The existing tower is 130 feet tall and can be viewed from miles away. It sits on an elevated hill within the Southeastern San Diego community, prominently along side of Highway-94 and is a significant visual impact within San Diego. The project, as it exists, does not result in a visually desirable project. If redesigned to comply with the 30 foot height limit, Verizon services to the community and passing commuters would be significantly reduced. However, Verizon has the responsibility of exploring available alternatives that would address legal requirements as well as reduce the negative impact on their existing network. Section 141.0405 of the Land Development Code requires telecommunication facilities to integrate into the landscape in which they are proposed. If this facility were to be redesigned to comply with this section of the Code, a reasonable height deviation may be considered. The existing tower does not result in an acceptable project.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, Conditional Use Permit No. 296127 and Planned Development Permit No. 453612 is hereby DENIED by the Planning Commission.

Karen Lynch-Ashcraft
Development Project Manager
Development Services

Adopted on: June 28, 2007

Job Order No. 42-5781

000450 ORIGINAL

1684

CONDITIONAL USE PERMIT
NO. 84-0469
CITY COUNCIL.

This Conditional Use Permit is granted by the City Council of The City of San Diego to PACTEL MOBILE ACCESS, a Delaware Corporation, Owner/Permittee, under the conditions in Section 101.0507 of the Municipal Code of The City of San Diego.

1. Permission is granted to Owner/Permittee to construct and operate a communication facility consisting of an equipment building and antenna tower located on the south side of State Highway 94 at 30th Place, more particularly described as Lot 2, Hilltop, Map 5357 and Lots 15 to 18, Block 97, E.W. Morse Subdivision, Map 547, in the CC and R-3000 Zones.

2. The facility shall consist of the following:

- a. A 26-foot by 22-foot equipment building and a 145-foot-high antenna tower for frequency reception and transmission. The color of the pole shall be cool medium-light grey;
- b. Off-street parking for service personnel; and
- c. Accessory uses as may be determined incidental and approved by the Planning Director.

3. Not less than two off-street parking spaces shall be maintained on the property in the approximate location shown on Exhibit "A," dated October 25, 1984, on file in the office of the Planning Department. Parking spaces shall be consistent with Division 8 of the Municipal Code and shall be permanently maintained and not converted for any other use. Parking spaces and aisles shall conform to Planning Department standards. Parking areas shall be marked.

4. No permit for construction of the expanded facility shall be granted nor shall any activity authorized by this permit be conducted on the premises until:

- a. The Permittee signs and returns the amended permit to the Planning Department; and
- b. The Conditional Use Permit is recorded in the office of the County Recorder.

RECEIVED
CITY OF SAN DIEGO
PLANNING DEPARTMENT
12/21/05

000451

5. Before issuance of any building permits, complete building plans shall be submitted to the Planning Director for approval. Plans shall be in substantial conformity to Exhibit "A," dated October 25, 1984, on file in the office of the Planning Department. No change, modifications or alterations shall be made unless appropriate applications for amendment of this permit shall have been granted.
6. Before issuance of any building permits, a complete landscape plan, including a permanent irrigation system, shall be submitted to the Planning Director for approval. The plans shall be in substantial conformity to Exhibit "A," dated October 25, 1984, on file in the office of the Planning Department. Approved planting shall be installed before issuance of any occupancy permit on any building. Such planting shall not be modified or altered unless this permit has been amended. Specific plant species shall be identified on final landscaping plans and shall be subject to Planning Director approval.
7. All outdoor lighting shall be so shaded and adjusted that the light is directed to fall only on the same premises as light sources are located and not reflect onto adjacent properties.
8. This Conditional Use Permit must be used within 36 months after the date of City approval or the permit shall be void. An Extension of Time may be granted as set forth in Section 101.0506 and 101.0507 of the Municipal Code. Such extension of time shall be subject to all regulations in force at the time of the extension.
9. After establishment of the amended project, the property shall not be used for any other purposes unless:
- a. Authorized by the City Council; or
 - b. The proposed use meets every requirement of the zone existing for the property at the time of conversion; or
 - c. The permit has been revoked by the City.
10. This Conditional Use Permit may be revoked by the City if there is a material breach or default in any of the conditions of this permit.
11. This Conditional Use Permit is a covenant running with the lands and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out.

000452

12. This permit shall expire 20 years from the date of approval. If an extension is requested, the operation and conditions shall be reviewed at public hearings by the Planning Commission and City Council.

13. In the event that additional cellular mobile phone communication systems are needed in the future that would require a transmitting tower or towers in the vicinity of this approved facility, the permittee shall allow the installation of antennas on the tower authorized by this permit and the installation of necessary support equipment on the premises if the applicant for such additional antennae and support equipment shows that the operation thereof would not interfere with the operation of the permittee's antennae and support equipment and the co-location of such antennae and support equipment are otherwise technically feasible and compatible, and such additional antennae and support equipment are approved by The City of San Diego following a noticed public hearing on the matter.

14. The existing billboards shall be removed no later than October 1986 from the site.

ADOPTED BY THE COUNCIL OF THE CITY OF SAN DIEGO ON NOVEMBER 20, 1984.

000453

AUTHENTICATED BY:

Roger Hedgecock

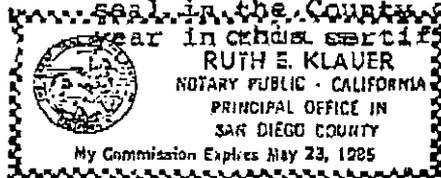
Roger Hedgecock
Mayor of The City of San Diego

Charles G. Abdelnour
City Clerk of The City of San Diego

STATE OF CALIFORNIA)
)
COUNTY OF SAN DIEGO)

On this 13th day of February 1985, before me, the undersigned, a notary public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared ROGER HEDGECOCK, known to me to be the Mayor, and CHARLES G. ABDELNOUR, known to me to be the City Clerk of The City of San Diego, the municipal corporation that executed the within instrument, and known to me to be the persons who executed the within instrument on behalf of the municipal corporation therein named, and acknowledged to me that such municipal corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal in the County of San Diego, State of California, the day and year in which this certificate first above written.



Ruth E. Klauer

Notary Public in and for the County of San Diego, State of California

The undersigned Permittee, by execution hereof, agrees to each and every condition of this Conditional Use Permit and promises to perform each and every obligation of Permittee hereunder.

PACTEL MOBILE ACCESS, INC.
a Delaware corporation

By

[Signature]

NOTE: NOTARY ACKNOWLEDGEMENTS MUST BE ATTACHED PER CIVIL CODE, SEC. 1180 et seq.

000454

CORPORATE ACKNOWLEDGMENT

1683

NO. 20

State of California
County of Orange } ss.

On this the 31st day of January 19 85, before me,

Katherine A. Linn
the undersigned Notary Public, personally appeared

Donn A. Winslow

personally known to me
 ~~proved to me on the basis of satisfactory evidence~~
to be the person(s) who executed the within instrument as
 on behalf of the corporation therein
named, and acknowledged to me that the corporation executed it.
WITNESS my hand and official seal.



Katherine A. Linn
Notary's Signature



000455

THE CITY OF SAN DIEGO

DATE OF NOTICE: June 14, 2007

NOTICE OF PUBLIC HEARING PLANNING COMMISSION

DATE OF HEARING:	June 28, 2007
TIME OF HEARING:	9:00 A.M.
LOCATION OF HEARING:	Council Chambers, 12th Floor, City Administration Building, 202 C Street, San Diego, California 92101
PROJECT TYPE:	<i>Conditional Use Permit/Planned Development Permit</i>
PROJECT NUMBER:	92067
PROJECT NAME:	<u>AMERICAN TOWER – 30TH PLACE</u>
APPLICANT:	Jim Kelly, American Tower Corporation
COMMUNITY PLAN AREA:	Southeastern San Diego
COUNCIL DISTRICT:	District 8
CITY PROJECT MANAGER:	Karen Lynch-Ashcraft, Development Project Manager
PHONE NUMBER:	(619) 446-5351

As a property owner, tenant or person who has requested notice, you should know that the Planning Commission will hold a public hearing to approve, conditionally approve, or deny an application for a wireless communication facility consisting of an existing 130 foot high monopole and a 500 square foot equipment shelter, originally approved by CUP No. 84-0469, which expired on November 20, 2004. The facility is located at 797 1/3 30th Place between Highway-94 and G Street.

The decision of the Planning Commission is final unless the project is appealed to the City Council. In order to appeal the decision of the Planning Commission you must be present at the public hearing and file a speaker slip concerning the application or have expressed interest by writing to the Planning Commission before the close of the public hearing. To file an appeal, contact the City Clerk at 202 "C" Street, Second Floor. The appeal must be made within 10 working days of the Planning Commission decision. If you wish to challenge the City's action on the above proceedings in court, you may be limited to addressing only those issues you or someone else have raised at the public hearing described in this notice, or written in correspondence to the City at or before the public hearing.

This project was determined to be categorically exempt from the California Environmental Quality Act on January 23, 2006 and the opportunity to appeal that determination ended February 7, 2006.

If you have any questions after reviewing this information, you can contact the City Project Manager listed above.

This information will be made available in alternative formats upon request. To request an agenda in alternative format or to request a sign language or oral interpreter for the meeting, call the Disability Services Program Coordinator at 236-5979 at least five working days prior to the meeting to insure availability. Assistive Listening Devices (ALD's) are available for the meeting upon request.

Job Order No. 42-5781

Revised 02/08/07/hmd



City of San Diego
Development Services
1222 First Ave., MS-302
San Diego, CA 92101
(619) 446-5000

Ownership Disclosure Statement

Approval Type: Check appropriate box for type of approval (s) requested: Neighborhood Use Permit Coastal Development Permit
 Neighborhood Development Permit Site Development Permit Planned Development Permit Conditional Use Permit
 Variance Tentative Map Vesting Tentative Map Map Waiver Land Use Plan Amendment Other _____

Project Title _____ Project No. For City Use Only _____

EXISTING WIRELESS TELECOMMUNICATIONS FACILITY - 30TH PL.

Project Address:

700 30TH PL

APN 545-031-83 + 545-031-031

Part I - To be completed when property is held by individual(s)

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property, with the intent to record an encumbrance against the property. Please list below the owner(s) and tenant(s) (if applicable) of the above referenced property. The list must include the names and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all individuals who own the property). A signature is required of at least one of the property owners. Attach additional pages if needed. A signature from the Assistant Executive Director of the San Diego Redevelopment Agency shall be required for all project parcels for which a Disposition and Development Agreement (DDA) has been approved / executed by the City Council. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process.

Additional pages attached Yes No

Name of Individual (type or print): _____

Name of Individual (type or print): _____

Owner Tenant/Lessee Redevelopment Agency

Owner Tenant/Lessee Redevelopment Agency

Street Address: _____

Street Address: _____

City/State/Zip: _____

City/State/Zip: _____

Phone No: _____

Fax No: _____

Phone No: _____

Fax No: _____

Signature : _____

Date: _____

Signature : _____

Date: _____

Name of Individual (type or print): _____

Name of Individual (type or print): _____

Owner Tenant/Lessee Redevelopment Agency

Owner Tenant/Lessee Redevelopment Agency

Street Address: _____

Street Address: _____

City/State/Zip: _____

City/State/Zip: _____

Phone No: _____

Fax No: _____

Phone No: _____

Fax No: _____

Signature : _____

Date: _____

Signature : _____

Date: _____

Project Title: EXISTING WIRELESS TELECOM FACILITY - 30TH PL.	Project No. (For City Use Only)
--	---------------------------------

Part II - To be completed when property is held by a corporation or partnership

Legal Status (please check):

Corporation (Limited Liability -or- General) What State? _____ Corporate Identification No. _____
 Partnership

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property with the intent to record an encumbrance against the property. Please list below the names, titles and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all corporate officers, and all partners in a partnership who own the property). A signature is required of at least one of the corporate officers or partners who own the property. Attach additional pages if needed. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process. Additional pages attached Yes No

Corporate/Partnership Name (type or print):
VERIZON WIRELESS (VAW) LLC
 Owner Tenant/Lessee
15505 Sand Canyon Blvd D / Real Estate
 Street Address:
UNION, CA 92618
 City/State/Zip:
949/286 8716 949 286 8010
 Phone No: _____ Fax No: _____
Keith A. Sumatt
 Name of Corporate Officer/Partner (type or print):
Wireless Area Vice President, Network
 Title (type or print):
Keith A. Sumatt **01/05/06**
 Signature : _____ Date: _____

Corporate/Partnership Name (type or print):
VERIZON WIRELESS
 Owner Tenant/Lessee
 Street Address:
 City/State/Zip:
 Phone No: _____ Fax No: _____
 Name of Corporate Officer/Partner (type or print):
 Title (type or print):
 Signature : _____ Date: _____

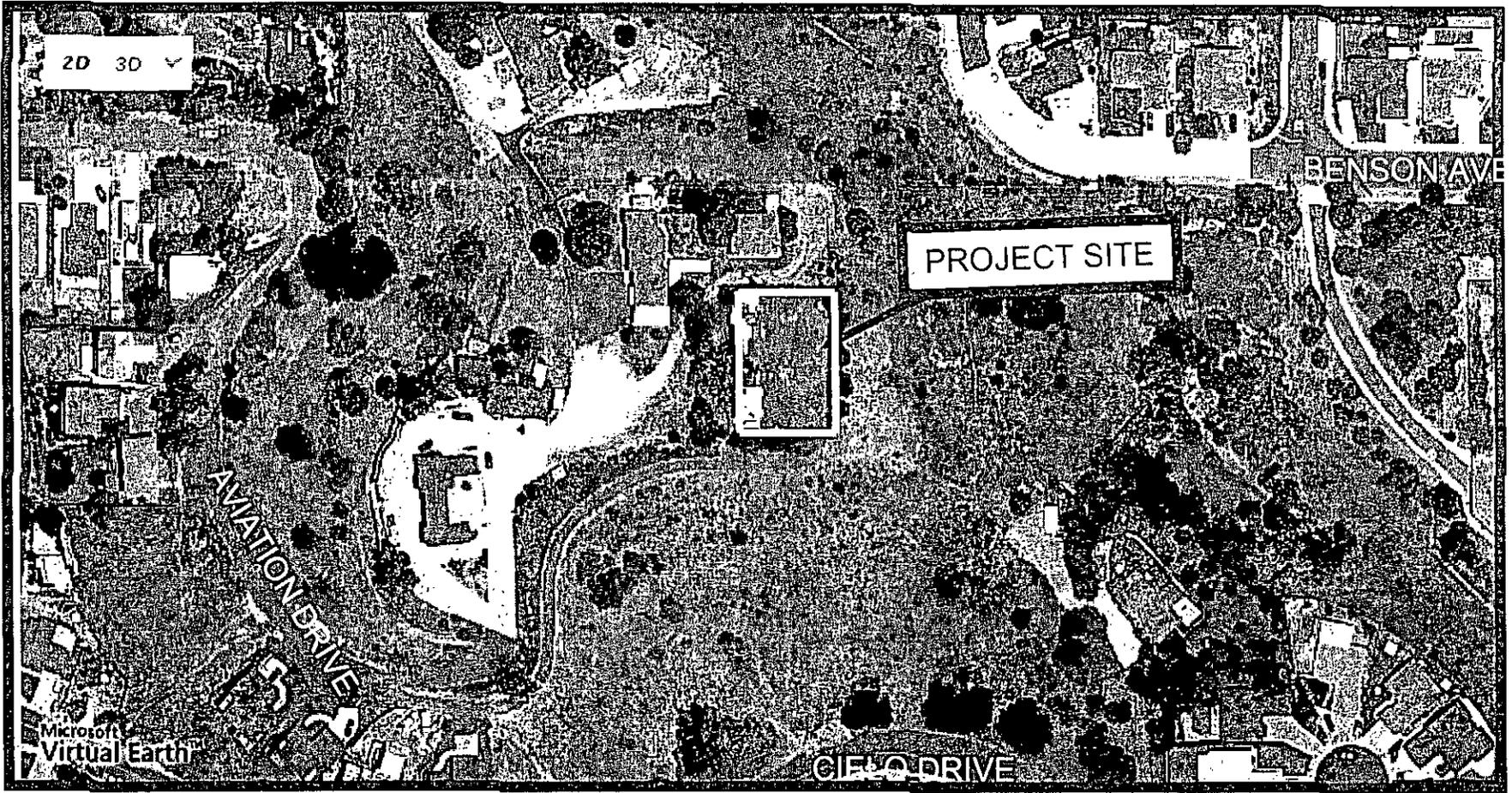
Corporate/Partnership Name (type or print):
 Owner Tenant/Lessee
 Street Address:
 City/State/Zip:
 Phone No: _____ Fax No: _____
 Name of Corporate Officer/Partner (type or print):
 Title (type or print):
 Signature : _____ Date: _____

Corporate/Partnership Name (type or print):
 Owner Tenant/Lessee
 Street Address:
 City/State/Zip:
 Phone No: _____ Fax No: _____
 Name of Corporate Officer/Partner (type or print):
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 Signature : _____ Date: _____

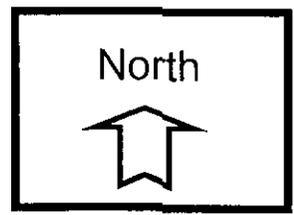
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 Owner Tenant/Lessee
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 Name of Corporate Officer/Partner (type or print):
 Title (type or print):
 Signature : _____ Date: _____

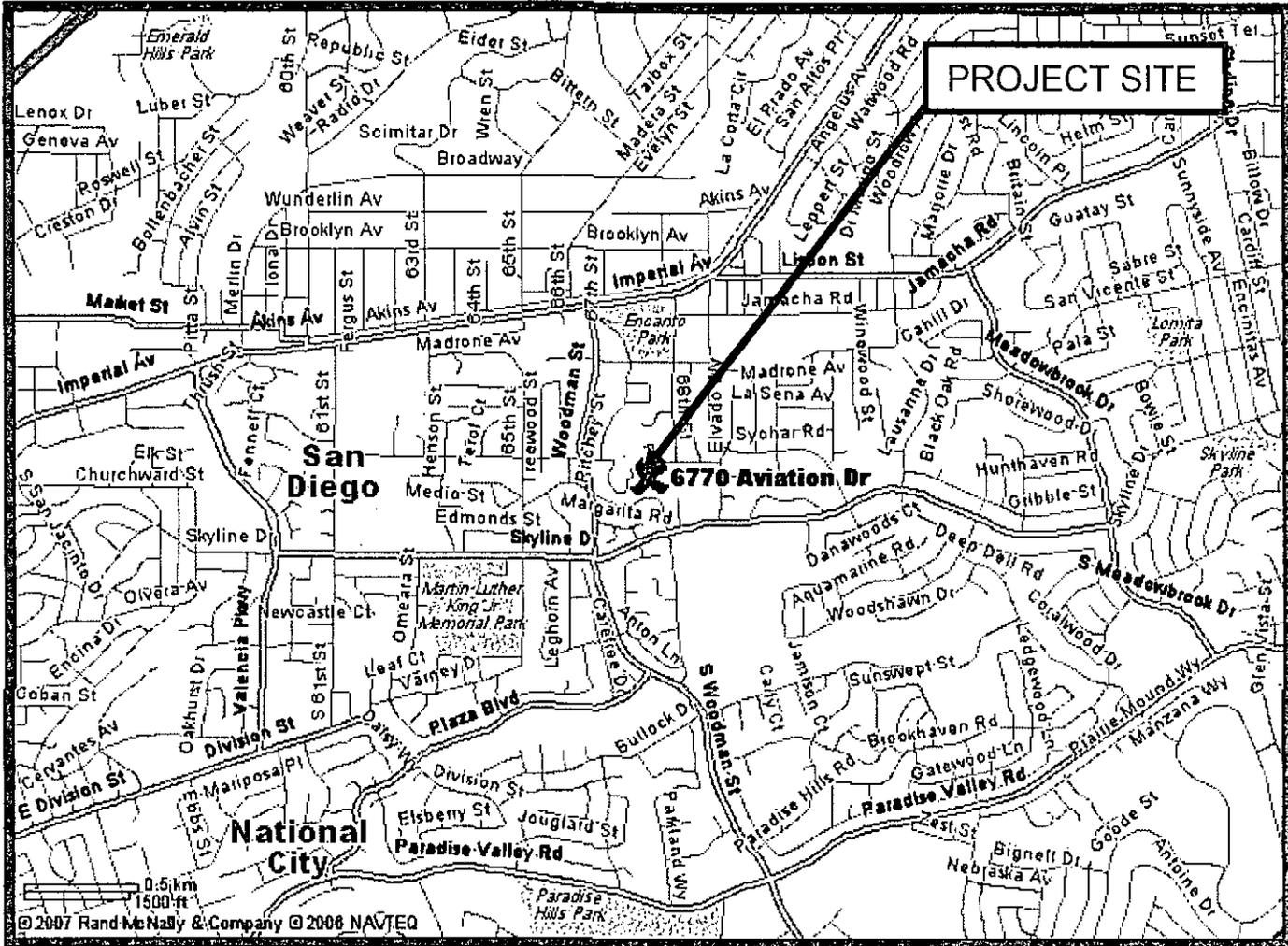
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 Owner Tenant/Lessee
 Street Address:
 City/State/Zip:
 Phone No: _____ Fax No: _____
 Name of Corporate Officer/Partner (type or print):
 Title (type or print):
 Signature : _____ Date: _____

American Tower
Corporation – Aviation
(CUP/PDP)
Verizon
Project No. 92076



Aerial Photo
AMERICAN TOWER – AVIATION – PROJECT NUMBER 92076
6770 AVIATION DRIVE

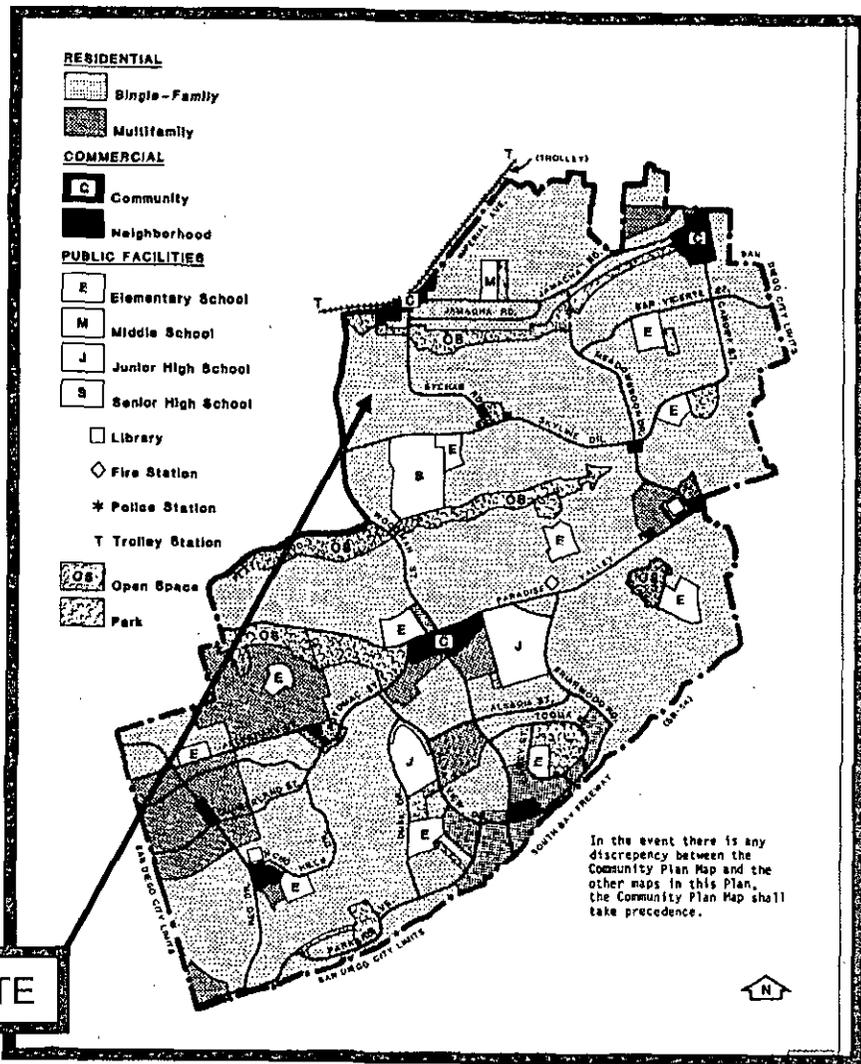




Project Location Map

**AMERICAN TOWER – AVIATION – PROJECT NUMBER 92076
6770 AVIATION DRIVE**





PROJECT SITE

SKYLINE PARADISE HILLS COMMUNITY PLAN MAP

AMERICAN TOWER – AVIATION – PROJECT NUMBER 92076

6770 AVIATION DRIVE



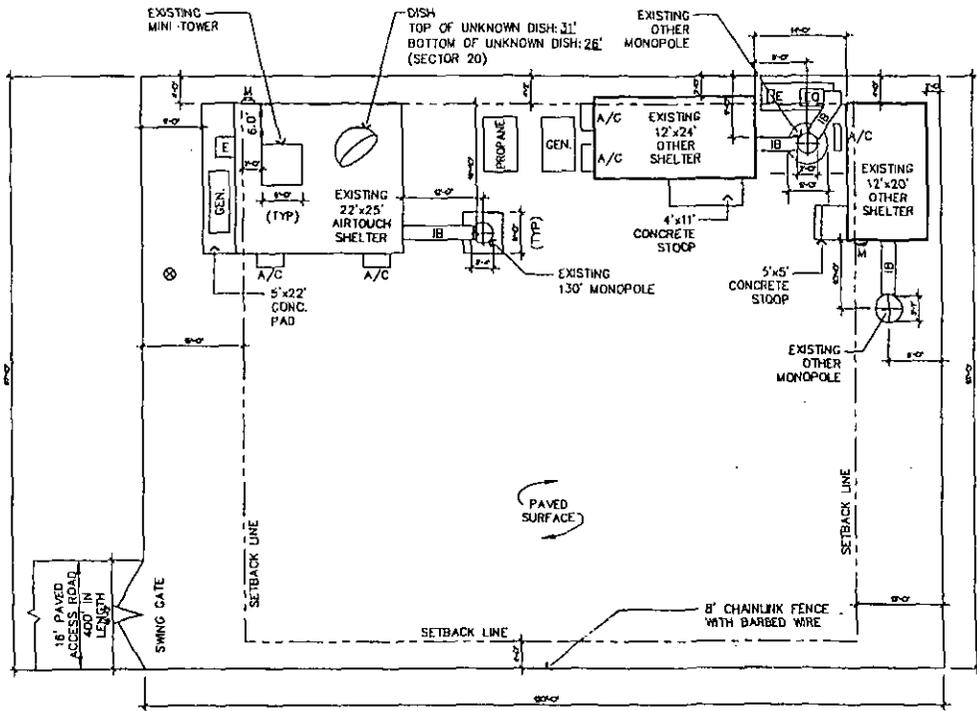
PROJECT DATA SHEET

PROJECT NAME:	American Tower - Aviation	
PROJECT DESCRIPTION:	A wireless communication facility consisting of an existing 130 foot high monopole and a 550 square foot equipment shelter.	
COMMUNITY PLAN AREA:	Skyline Paradise Hills	
DISCRETIONARY ACTIONS:	Conditional Use Permit; Planned Development Permit.	
COMMUNITY PLAN LAND USE DESIGNATION:	Low Density Residential (Allows residential development up to 10 dwelling units per acre).	
<u>ZONING INFORMATION:</u> ZONE: RS-1-7: (A single-unit residential zone that permits 1 dwelling unit for each 5,000 square-foot of lot area) HEIGHT LIMIT: 30-Foot maximum height limit. FRONT SETBACK: 15 feet. SIDE SETBACK: 4 feet. REAR SETBACK: 13 feet.		
<u>ADJACENT PROPERTIES:</u>	LAND USE DESIGNATION & ZONE	EXISTING LAND USE
NORTH:	Low Density Residential; RS-1-7.	Single-Unit Residential
SOUTH:	Low Density Residential; RS-1-7.	Vacant
EAST:	Low Density Residential; RS-1-7.	Vacant, Single-Unit Residential
WEST:	Low Density Residential; RS-1-7.	Single-Unit Residential
DEVIATIONS OR VARIANCES REQUESTED:	Deviation to exceed the maximum height limit of 30 feet.	
COMMUNITY PLANNING GROUP RECOMMENDATION:	This project has not yet been presented to the Skyline Paradise Hills Community Planning Committee.	



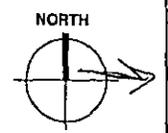
**SITE NAME: CA 0040 AVIATION / ATC 300621
CUP APPLICATION**

DRAWING INDEX	REV.	DIRECTIONS	PROJECT INFORMATION																
T-1 TITLE SHEET A-1 SITE PLAN (PENDING) A-2 ENLARGED SITE PLAN A-3 EXTERIOR ELEVATIONS (PENDING) A-4 EXTERIOR ELEVATIONS (PENDING) L-1 LANDSCAPE PLAN (PENDING) S-1 SURVEY (PENDING)	A A A A A A	1. Starting in IRVINE, CA on I-405 go toward camp - go 0.8 mi 2. Take ramp toward JAMBORCE RD - go 0.4 mi 3. Turn Left on JAMBORCE RD - go 0.1 mi 4. Take ramp onto I-405 - go 0.9 mi 5. Take Left ramp onto I-8 - go 0.7 mi 6. I-5 becomes I-605 - go 16.7 mi 7. Take ramp toward IMPERIAL AVE - go 0.3 mi 8. Turn Left on IMPERIAL AVE - go 2.0 mi 9. Turn Right on WOODMAN ST - go 0.4 mi 10. Turn Left on BENSON AVE - go 0.2 mi 11. BENSON AVE becomes AVIATION DR - go - 0.1 mi 12. Arrive at 6770 AVIATION DR, SAN DIEGO, on the Right	SITE ADDRESS: 6770 AVIATION DRIVE SAN DIEGO, CA 92114 PROPERTY OWNER: CITY OF SAN DIEGO - REAL ESTATE ASSETS 202 G STREET, MS-86 SAN DIEGO, CA 92121 APPLICANT: AMERICAN TOWER CORPORATION, INC. 2201 DUPONT Dr., #340 IRVINE, CA 92612 Tel: (949)442-8400 APPLICANT CONTACT: DOUGLAS KEARNEY ZONING SPECIALIST P/E: (949) 442-8400 ZONING: RS-1.7 (SKYLINE-PARADISE HILLS) JURISDICTION: CITY OF SAN DIEGO OCCUPANCY: U-1 APN NUMBER: 349-320-05 CURRENT USE: UNMANNED TELECOMMUNICATIONS FACILITY PROPOSED USE: UNMANNED TELECOMMUNICATIONS FACILITY																
LEGAL DESCRIPTION PORTION OF LOT 182, ENCINA DE SAN DIEGO MAP, MAP No. 16-48	VICINITY MAP N.T.S.																		
DEVELOPMENT SUMMARY																			
AMERICAN TOWER CORPORATION IS REQUESTING APPROVAL FOR THE FOLLOWING PROJECT: CONDITIONAL USE PERMIT AND PLANNED DEVELOPMENT PERMIT.			SITE QUALIFICATION PARTICIPANTS <table border="1"> <thead> <tr> <th>NAME</th> <th>COMPANY</th> <th>NUMBER</th> </tr> </thead> <tbody> <tr> <td>JORGE BASILIO, AIA</td> <td>BASILIO ASSOCIATES, INC.</td> <td>(949) 727-4200</td> </tr> <tr> <td>DOUG KEARNEY</td> <td>AMERICAN TOWER CORPORATION</td> <td>(949) 442-8400</td> </tr> </tbody> </table>	NAME	COMPANY	NUMBER	JORGE BASILIO, AIA	BASILIO ASSOCIATES, INC.	(949) 727-4200	DOUG KEARNEY	AMERICAN TOWER CORPORATION	(949) 442-8400							
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JORGE BASILIO, AIA	BASILIO ASSOCIATES, INC.	(949) 727-4200																	
DOUG KEARNEY	AMERICAN TOWER CORPORATION	(949) 442-8400																	
	Basilio Associates, Inc. Architecture • Planning • Design 12 JUNCTION, BLUE HILL ROAD, CA 92014 PHONE (949) 727-4200 FAX (949) 727-4200	SITE: ATC 300621 ID: CA 0040 AVIATION 6770 AVIATION DRIVE SAN DIEGO, CA 92114	<table border="1"> <thead> <tr> <th>NO</th> <th>DATE</th> <th>REVISIONS</th> <th>BY</th> <th>CHK</th> <th>APP'D</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>12-18-05</td> <td>ISSUED FOR CUP APPLICATION</td> <td></td> <td></td> <td></td> </tr> </tbody> </table> <p>SCALE: AS SHOWN DESIGNED: — DRAWN: JB</p> <table border="1"> <thead> <tr> <th>PROJECT NUMBER</th> <th>DRAWING NUMBER</th> </tr> </thead> <tbody> <tr> <td></td> <td>T-1</td> </tr> </tbody> </table>	NO	DATE	REVISIONS	BY	CHK	APP'D	A	12-18-05	ISSUED FOR CUP APPLICATION				PROJECT NUMBER	DRAWING NUMBER		T-1
NO	DATE	REVISIONS	BY	CHK	APP'D														
A	12-18-05	ISSUED FOR CUP APPLICATION																	
PROJECT NUMBER	DRAWING NUMBER																		
	T-1																		



(E) ANTENNAS DETAIL

SETBACK LINES:
FRONT: 15'-0"
SIDES: 4'-0"
REAR: 13'-0"



ENLARGED SITE PLAN



Besilo Associates, Inc.
Architecture + Planning + Design
12 Janssen St. Suite 100, San Diego, CA 92108
Phone: 619.594.1111 Fax: 619.594.1112

SITE: ATC 300621
ID: CA 0040 AVIATION
8770 AVIATION DRIVE
SAN DIEGO, CA 91914

NO.	DATE	REVISIONS	BY	CHK	APP'D
1	12-19-08	ISSUED FOR EDP APPLICATION			

SCALE: AS SHOWN DIMENSIONS - DIMENSIONS

TITLE: ENLARGED SITE PLAN 1

ENLARGED SITE PLAN

PROJECT NUMBER:
 SHEET NUMBER: **A-2**

8/14/08

000467

ATTACHMENT G-6



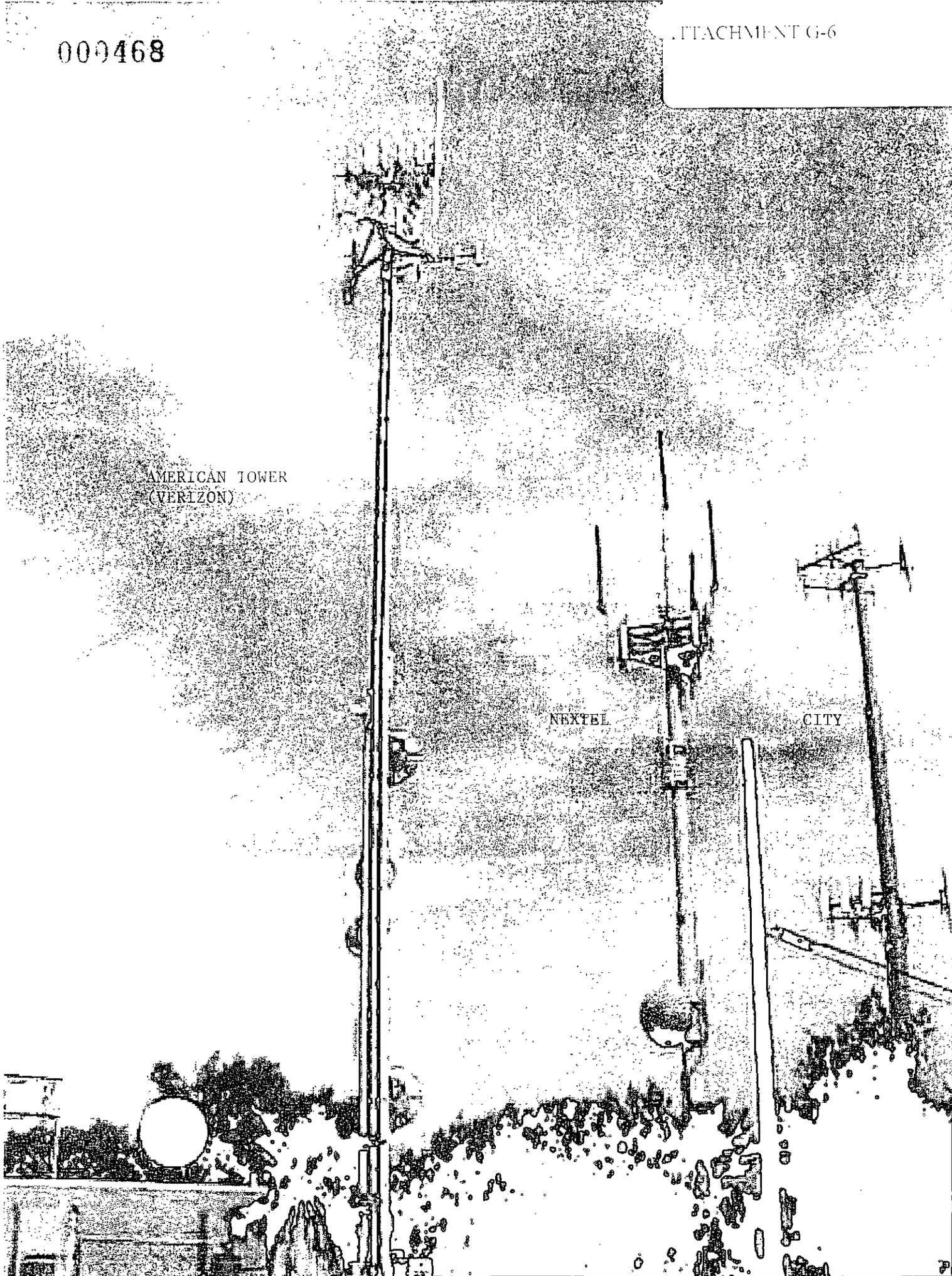
000468

ATTACHMENT G-6

AMERICAN TOWER
(VERIZON)

NEXTEL

CITY



PLANNING COMMISSION
RESOLUTION NO.
CONDITIONAL USE PERMIT NO. 296155
PLANNED DEVELOPMENT PERMIT NO. 296156
AMERICAN TOWER – AVIATION
PROJECT NO. 92076

WHEREAS, City of San Diego, Owner and American Tower Corporation, Permittee, filed an application with the City of San Diego for a permit for a wireless communication facility (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Conditional Use Permit No.296155 and Planned Development Permit No. 296156, on portions of a .51 acre site;

WHEREAS, the project site is located at 6770 Aviation Drive in the RS-1-7 zone of the Skyline Paradise Hills Community Plan;

WHEREAS, the project site is legally described as that portion of Lot 162, Encima De San Diego, in the City of San Diego, County of San Diego, State of California, according to map thereof No. 1546, filed in the Office of the County Recorder of said County of San Diego;

WHEREAS, on June 28, 2007, the Planning Commission of the City of San Diego considered Conditional Use Permit No. 296155 and Planned Development Permit No. 296156, pursuant to the Land Development Code of the City of San Diego; NOW, THEREFORE,

BE IT RESOLVED by the Planning Commission of the City of San Diego as follows:

That the Planning Commission adopts the following written Findings, dated June 28, 2007.

FINDINGS:

Conditional Use Permit - Section 126.0305

1. The proposed development will not adversely affect the applicable land use plan;

This facility was originally approved by the City Council on November 20, 1984. The Conditional Use Permit (CUP) included a 20 year expiration. At the time of approval, the City did not have applicable regulations for these types of facilities so the City Council imposed a twenty year limit in order to re-evaluate the project in light of new regulations and or policies that may be in effect. The project exists as it did after initial construction and American Tower Corporation is now seeking to obtain another CUP to maintain the facility as is.

Neither the City of San Diego General Plan nor the Southeastern San Diego Community Plan addresses wireless communication facilities as a specific land use.

2. The proposed development will not be detrimental to the public health, safety, and welfare;

The Telecommunication Act of 1996 preempts local governments from regulating the "placement, construction and modification of wireless communication facilities on the basis of the environmental effects of Radio Frequency (RF) emission to the extent that such facilities comply with the Federal Communication Commission's (FCC) standards for such emissions." If the decision maker approves the existing facility, a condition will be included within the permit to require American Tower to perform a cumulative model RF test and submit the finding in a report to the City of San Diego within 90 days of approval of the CUP/PDP.

3. The proposed development will comply to the maximum extent feasible with the regulations of the Land Development Code; and

This facility was originally approved by the City Council on November 20, 1984. The Conditional Use Permit (CUP) included a 20 year expiration. At the time of approval, the City did not have applicable regulations for these types of facilities so the City imposed a ten year time limit in order to re-evaluate the project in light of new regulations and or policies that may be in effect. The project exists as it did after initial construction and American Tower Corporation is now seeking to obtain another CUP to maintain the facility as is.

Since 2000, the City has had a Communication Antenna ordinance that requires architectural or environmental integration with the project site. Pursuant to the San Diego Land Development Code, wireless communication facilities are permitted in all zones citywide with the appropriate permits. Wireless communication facilities are separately regulated uses, which have limitations or require compliance with conditions in order to minimize potential impacts. The intent of the regulations is to camouflage facilities from public view. In this case, the monopole is the tallest structure in and around the area in which it is located and as such, it has an incongruous effect on the community's landscape. It is situated prominently on a residential hill top within the community of Skyline. The tower poses an unsightly visual impact that can be seen from the surrounding residential communities and major thoroughfares.

Section 141.0405 of the Land Development Code differentiates between minor and major telecommunication facilities. Minor telecommunication facilities include those that are concealed from public view or integrated into the architecture or surrounding environment through architectural enhancement (enhancements that complement the scale, texture, color and style) unique design solutions, or accessory use structures. Major telecommunication facilities are antenna facilities that do not meet the criteria for minor telecommunication facilities or they are located in residential zones containing residential uses. Similar to minor facilities, they also need to be designed to be minimally visible through the use of architecture, landscape architecture and siting solutions. The Aviation project does not conform to this code requirement. As it exists, the tower is a significant visual impact to the surrounding residential communities.

Therefore, the project does not comply to the maximum extent feasible with the regulations of the Land Development Code.

4. The proposed use is appropriate at the proposed location.

A wireless communication facility at this location is an appropriate use subject to compliance with the ordinances and policies that regulate telecommunication facilities. Due to the fact that the existing facility does not comply with current regulations and policies, this finding cannot be affirmed. A facility that better integrates into the property and takes into consideration the surroundings including the prominent hilltop location and the proximity to the existing residential uses that exist around the facility would be more appropriately located on this property.

Planned Development Permit - Section 126.0604

1. The proposed development will not adversely affect the applicable land use plan;

This facility was originally approved by the City Council on November 20, 1984. The Conditional Use Permit (CUP) included a 20 year expiration. At the time of approval, the City did not have applicable regulations for these types of facilities so the City Council imposed a ten year limit in order to re-evaluate the project in light of new regulations and or policies that may be in effect, The project exists as it did after initial construction and the new owner, American Tower Corporation is now seeking to obtain another CUP to maintain the facility as is.

Neither the City of San Diego General Plan nor the Skyline Paradise Hills Community Plan addresses wireless communication facilities as a specific land use.

2. The proposed development will not be detrimental to the public health, safety, and welfare; and

The Telecommunication Act of 1996 preempts local governments from regulating the "placement, construction and modification of wireless communication facilities on the basis of the environmental effects of Radio Frequency (RF) emission to the extent that such facilities comply with the Federal Communication Commission's (FCC) standards for such emissions." If the decision maker approves the existing facility, a condition will be included within the permit to require American Tower to perform a cumulative model RF test and submit the finding in a report to the City of San Diego within 90 days of approval of the CUP.

3. The proposed development will comply with the applicable regulations of the Land Development Code.

The monopole complies with all the development regulations of the RS-1-7 zone except for the height limit of 30 feet. The monopole is 90 feet tall on a residential hill top in the Skyline community. Development in the area is low in scale and is primarily residential. The existing tower exceeds the RS-1-7 zone height limit by 60 feet. Deviations to the development regulations require a Planned Development Permit, which is a mechanism to encourage imaginative and innovative planning and to assure that the project achieves the purpose and intent of the applicable land use plan and that it would be preferable to what would be achieved by strict conformance with the regulations.

This project was originally constructed in the mid-1980's when Pac Tel Mobile (now Verizon) was only one of two wireless carriers in San Diego. Their network was being established with tower structures and branched out to building collocations later. Typically, carriers initially built tall facilities, later filling in their networks with lower sights. Verizon signed the contract (CUP84-0472) acknowledging the 20 year time limit on the facility. In order to maintain a facility at this site, a new application in compliance with the current regulations and policies would be required.

4. The proposed development, when considered as a whole, will be beneficial to the community; and

The monopole serves Verizon subscribers in the surrounding communities, as well as commuters passing through the area and as such, is a beneficial service. Conversely, the significant visual impacts that the pole creates are detrimental to the surrounding communities as well as to the City of San Diego. The pole sits on a hilltop at an approximate elevation of 480 feet. The pole is 130 feet tall. The surrounding community is developed at lower elevations on and around this hill top. There are three tower structures altogether at this site. Nextel is replacing their 90 foot tall pole with a faux tree and the other monopole belongs to the City. The City's 115 foot tall monopole will remain on this site as it is a part of the backbone of the City's emergency communications. The original design of this tower was developed 20 years ago when the technology was at its infancy. The CUP was conditioned to expire in 20 years and as the owner and operator of the facility, Verizon and American Tower Corporation had the responsibility of making preparations within their network to comply with any new regulations or policies in effect, which may have included a required reduction in height.

5. Any proposed deviations pursuant to Section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone.

The applicant, American Tower Corporation, is requesting to deviate from the RS-1-7 height limitation of 30 feet. The existing tower is 130 feet tall and can be viewed from miles away. It sits on a residential hill top within the Skyline Paradise Hills community and is a significant visual impact within San Diego. The project, as it exists, does not result in a visually desirable project. If redesigned to comply with the 30 foot height limit, Verizon services to the community and passing commuters would be significantly reduced. Section 141.0405 of the Land Development Code requires telecommunication facilities to integrate into the landscape in which they are proposed. If this facility were to be redesigned to comply with this section of the Code, a reasonable height deviation may be considered. The existing tower does not result in an acceptable project.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, Conditional Use Permit No. 296155 and Planned Development Permit No. 296156 is hereby DENIED by the Planning Commission.

Karen Lynch-Ashcraft
Development Project Manager
Development Services

Adopted on: June 28, 2007

Job Order No. 42-5782

000474

CONDITIONAL USE PERMIT
NO. 84-0472
CITY COUNCIL

This Conditional Use Permit is granted by the Planning Commission of The City of San Diego to PAC TEL MOBILE ACCESS, a Delaware Corporation, Owner/Permittee, under the conditions in Section 101.0507 of the Municipal Code of The City of San Diego.

1. Permission is granted to Owner/Permittee to construct and operate a communication facility consisting of an equipment building and antenna tower located on the north side of Aviation Drive, south of Benson Avenue, described as a Portion of Lot 162, Encima de San Diego Addition No. 1, Map 1546, in the R1-5000 Zone.

2. The facility shall consist of the following:

- a. A 26-foot by 22-foot equipment building and a 145-foot high antenna tower for frequency reception and transmission. The color of the pole shall be cool, medium-light grey.;
- b. Accessory uses as may be determined incidental and approved by the Planning Director;
- c. Off-street parking for service personnel.

3. No fewer than two off-street parking spaces shall be maintained on the property in the approximate location shown on Exhibit "A," dated October 25, 1984, on file in the office of the Planning Department. Parking spaces shall be consistent with Division 8 of the Municipal Code and shall be permanently maintained and not converted for any other use. Parking spaces and aisles shall conform to Planning Department standards. Parking areas shall be marked.

4. No permit for construction of any facility shall be granted nor shall any activity authorized by this permit be conducted on the premises until:

- a. The Permittee signs and returns the permit to the Planning Department;
- b. The Conditional Use Permit is recorded in the office of the County Recorder.

000475

5. Before issuance of any building permits, complete plans shall be submitted to the Planning Director for approval. Plans shall be in substantial conformity to Exhibit "A," dated October 25, 1984, on file in the office of the Planning Department. No change, modifications or alterations shall be made unless appropriate applications for amendment of this permit shall have been granted.

6. Before issuance of any building permits, a complete landscape plan, including a permanent irrigation system, shall be submitted to the Planning Director for approval. The plans shall be in substantial conformity to Exhibit "A," dated October 25, 1984, on file in the office of the Planning Department. Approved planting shall be installed before issuance of any occupancy permit on any building. Such planting shall not be modified or altered unless this permit has been amended. Specific plant species shall be identified on final landscaping plans and shall be subject to Planning Director approval.

7. All outdoor lighting shall be so shaded and adjusted that the light is directed to fall only on the same premises as light sources are located and not reflect onto adjacent properties.

8. This Conditional Use Permit must be used within 36 months after the date of City approval or the permit shall be void. An Extension of Time may be granted as set forth in Section 101.0506 and 101.0507 of the Municipal Code. Such extension of time shall be subject to all regulations in force at the time of the extension.

9. After establishment of the project, the property shall not be used for any other purposes unless:

- a. Authorized by the City Council; or
- b. The proposed use meets every requirement of the zone existing for the property at the time of conversion; or
- c. The permit has been revoked by the City.

10. This Conditional Use Permit may be revoked by the City if there is a material breach or default in any of the conditions of this permit.

11. This Conditional Use Permit is a covenant running with the lands and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out.

000476

12. This permit shall expire 20 years from the date of approval. If an extension is requested, the operation and conditions shall be reviewed at public hearings by the Planning Commission and City Council.

13. In the event that additional cellular mobile phone communication systems are needed in the future that would require a transmitting tower or towers in the vicinity of this approved facility, the permittee shall allow the installation of antennas on the tower authorized by this permit and the installation of necessary support equipment on the premises if the applicant for such additional antennae and support equipment shows that the operation thereof would not interfere with the operation of the permittee's antennae and support equipment and the co-location of such antennae and support equipment are otherwise technically feasible and compatible, and such additional antennae and support equipment are approved by The City of San Diego following a noticed public hearing on the matter.

ADOPTED BY THE COUNCIL OF THE CITY OF SAN DIEGO ON NOVEMBER 20, 1984.



000477

THE CITY OF SAN DIEGO

DATE OF NOTICE: June 14, 2007

NOTICE OF PUBLIC HEARING PLANNING COMMISSION

DATE OF HEARING:	June 28, 2007
TIME OF HEARING:	9:00 A.M.
LOCATION OF HEARING:	Council Chambers, 12th Floor, City Administration Building, 202 C Street, San Diego, California 92101
PROJECT TYPE:	Conditional Use Permit/Planned Development Permit
PROJECT NUMBER:	92076
PROJECT NAME:	<u>AMERICAN TOWER - AVIATION</u>
APPLICANT:	Jim Kelly, American Tower Corporation
COMMUNITY PLAN AREA:	Skyline Paradise Hills
COUNCIL DISTRICT:	District 4
CITY PROJECT MANAGER:	Karen Lynch-Ashcraft, Development Project Manager
PHONE NUMBER:	(619) 446-5351

As a property owner, tenant or person who has requested notice, you should know that the Planning Commission will hold a public hearing to approve, conditionally approve, or deny an application for wireless communication facility consisting of an existing 130 foot high monopole and a 550 square foot equipment shelter, originally approved by CUP No. 84-0472, which expired on November 20, 2004. The facility is located at 6770 Aviation Drive between Benson Avenue and Cielo Drive.

The decision of the Planning Commission is final unless the project is appealed to the City Council. In order to appeal the decision of the Planning Commission you must be present at the public hearing and file a speaker slip concerning the application or have expressed interest by writing to the Planning Commission before the close of the public hearing. To file an appeal, contact the City Clerk at 202 "C" Street, Second Floor. The appeal must be made within 10 working days of the Planning Commission decision. If you wish to challenge the City's action on the above proceedings in court, you may be limited to addressing only those issues you or someone else have raised at the public hearing described in this notice, or written in correspondence to the City at or before the public hearing.

000478

ATTACHMENT G-9

This project was determined to be categorically exempt from the California Environmental Quality Act on March 1, 2007 and the opportunity to appeal that determination ended March 15, 2007.

If you have any questions after reviewing this information, you can contact the City Project Manager listed above.

This information will be made available in alternative formats upon request. To request an agenda in alternative format or to request a sign language or oral interpreter for the meeting, call the Disability Services Program Coordinator at 236-5979 at least five working days prior to the meeting to insure availability. Assistive Listening Devices (ALD's) are available for the meeting upon request.

Job Order No. 42-5782

Revised 02/08/07/hmd



City of San Diego
Development Services
1222 First Ave., MS-302
San Diego, CA 92101
(619) 446-5000

Ownership Disclosure Statement

Approval Type: Check appropriate box for type of approval (s) requested: Neighborhood Use Permit Coastal Development Permit
 Neighborhood Development Permit Site Development Permit Planned Development Permit Conditional Use Permit
 Variance Tentative Map Vesting Tentative Map Map Waiver Land Use Plan Amendment Other _____

Project Title Project No. For City Use Only

EXISTING WIRELESS TELECOMMUNICATIONS FACILITY - AVIATION DR.

Project Address:

CITY RESERVOIR - ENCANTO @ AVIATION DRIVE

APN 549-320-05

Part I - To be completed when property is held by Individual(s)

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property, with the intent to record an encumbrance against the property. Please list below the owner(s) and tenant(s) (if applicable) of the above referenced property. The list must include the names and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all individuals who own the property). A signature is required of at least one of the property owners. Attach additional pages if needed. A signature from the Assistant Executive Director of the San Diego Redevelopment Agency shall be required for all project parcels for which a Disposition and Development Agreement (DDA) has been approved / executed by the City Council. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process.

Additional pages attached Yes No

Name of Individual (type or print):
City of San Diego READ
 Owner Tenant/Lessee Redevelopment Agency
1200 Third Ave, Suite 1700
Street Address:
San Diego, CA 92101
City/State/Zip:

Phone No: 619 236-6792 Fax No:
Signature: Beth Mykeld Date: 12/5/05

Name of Individual (type or print):
 Owner Tenant/Lessee Redevelopment Agency

Street Address:

City/State/Zip:

Phone No: Fax No:

Signature: Date:

Name of Individual (type or print):
 Owner Tenant/Lessee Redevelopment Agency

Street Address:

City/State/Zip:

Phone No: Fax No:

Signature: Date:

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 Owner Tenant/Lessee Redevelopment Agency

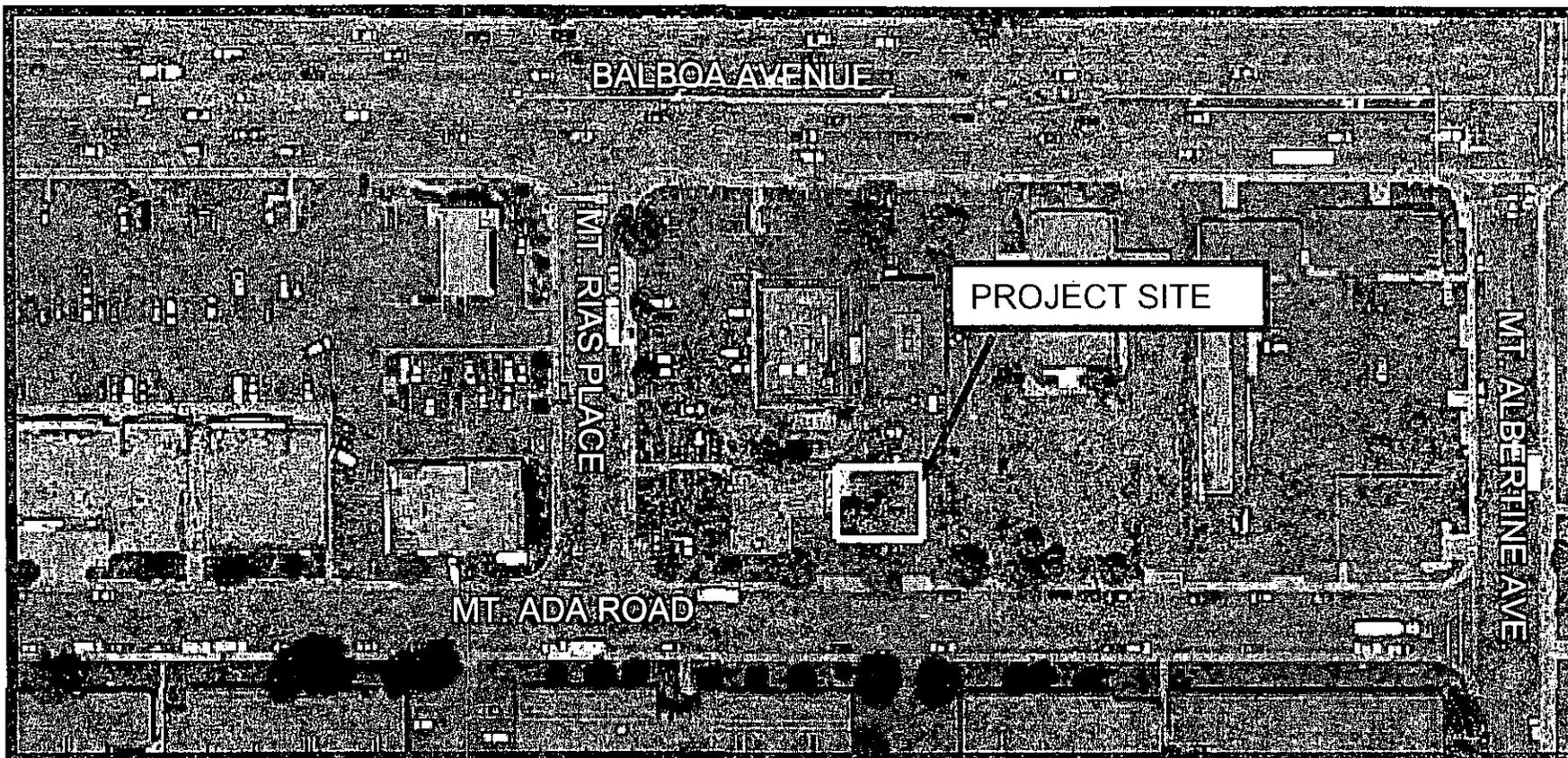
Street Address:

City/State/Zip:

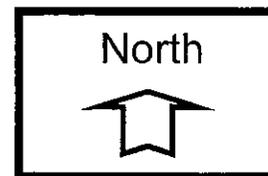
Phone No: Fax No:

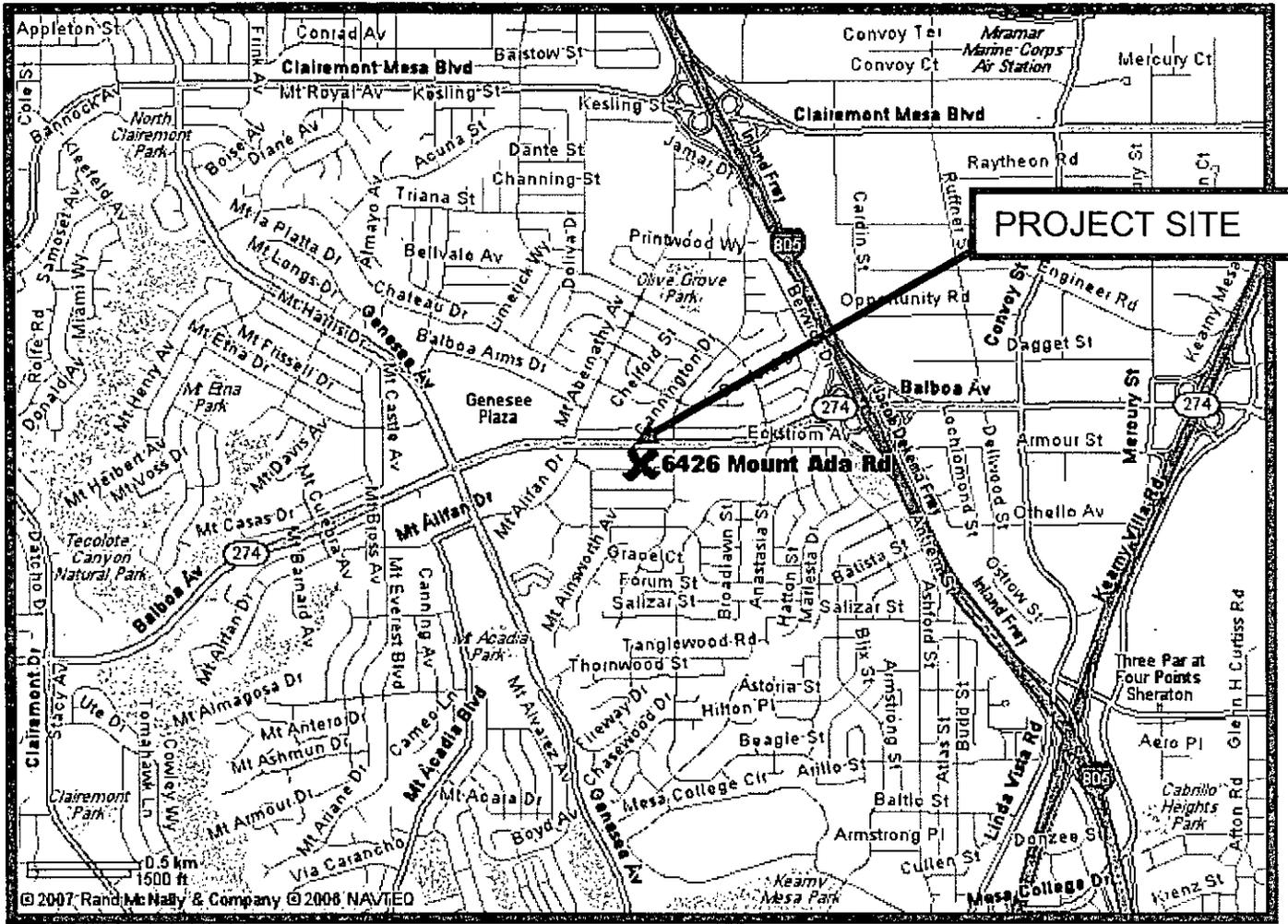
Signature: Date:

American Tower
Corporation – Mt. Ada
(CUP/SDP)
Verizon
Project No. 91178



Aerial Photo
AMERICAN TOWER – MT. ADA – PROJECT NUMBER 91178
6426 MT. ADA ROAD

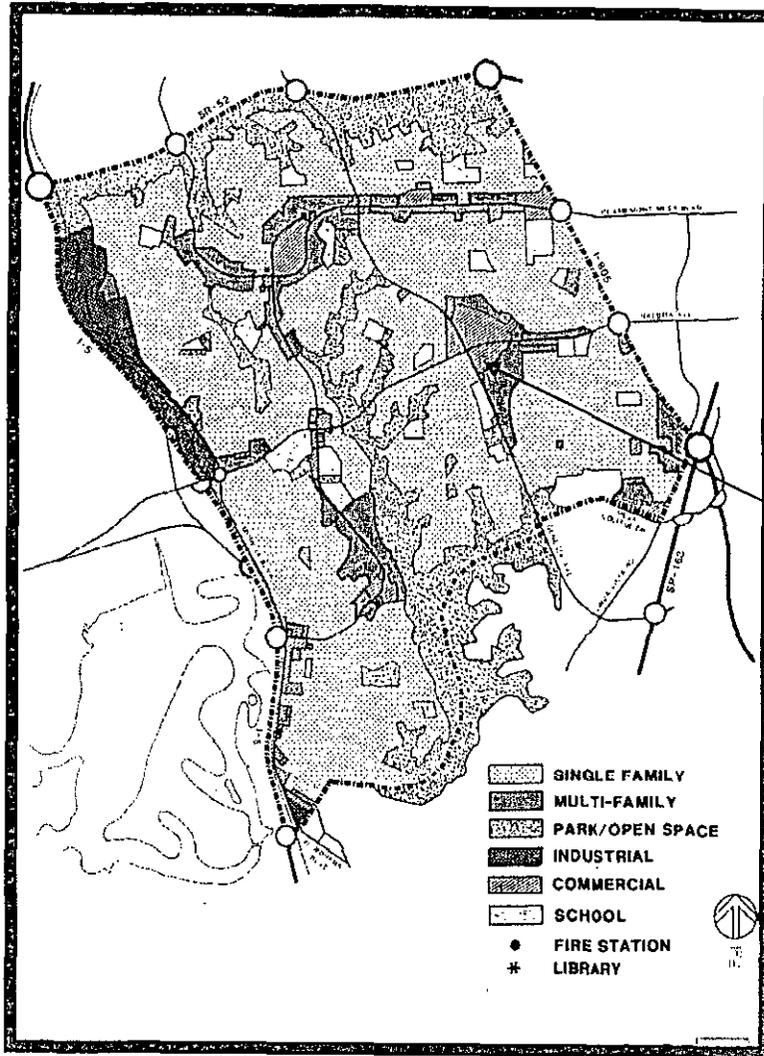




Project Location Map

AMERICAN TOWER – MT. ADA – PROJECT NUMBER 91178
6426 MT. ADA ROAD





PROJECT SITE

CLAIREMONT MESA COMMUNITY PLAN MAP

AMERICAN TOWER – MT. ADA – PROJECT NUMBER 91178

6426 MT. ADA



PROJECT DATA SHEET

PROJECT NAME:	American Tower – Mt. Ada	
PROJECT DESCRIPTION:	A wireless communication facility consisting of an existing 145 foot high monopole and a 572 square foot equipment shelter.	
COMMUNITY PLAN AREA:	Clairemont Mesa	
DISCRETIONARY ACTIONS:	Conditional Use Permit; Site Development Permit	
COMMUNITY PLAN LAND USE DESIGNATION:	Commercial Community Core	
<u>ZONING INFORMATION:</u> ZONE: CC-1-3: (A auto oriented commercial zone) HEIGHT LIMIT: 30-Foot maximum height limit. FRONT SETBACK: - SIDE SETBACK: 10 feet or 0. REAR SETBACK: 10 feet or 0.		
<u>ADJACENT PROPERTIES:</u>	LAND USE DESIGNATION & ZONE	EXISTING LAND USE
NORTH:	Commercial Community Core; CC-1-3.	Commercial
SOUTH:	Multi-Unit Residential; RM-3-7.	Multi-Unit Residential
EAST:	Commercial Community Core; CO-1-2.	Commercial
WEST:	Commercial Community Core; CC-1-3.	Commercial
DEVIATIONS OR VARIANCES REQUESTED:	Request to deviate from the 30 foot Clairemont Mesa Height Limitation Overlay Zone	
COMMUNITY PLANNING GROUP RECOMMENDATION:	On March 21, 2006, the Clairemont Mesa Planning Committee voted 14-0-0 to recommend denial of the Mt. Ada project.	

000487

ATTACHMENT H-5



**SITE NAME: 300647 CA 0066 MT. ADA
CUP AND PDP APPLICATION**

DRAWING INDEX	REV.	DIRECTIONS	PROJECT INFORMATION									
T-1 TITLE SHEET A-1 SITE PLAN A-2 ENLARGED SITE PLAN A-3 EXTERIOR ELEVATIONS A-4 EXTERIOR ELEVATIONS L-1 LANDSCAPE DRAWING S-1 SURVEY FOR REFERENCE ONLY	A A A A A A A A	FROM ATC IRVINE OFFICE, TAKE FWY 5 SOUTH TOWARD SAN DIEGO, Take Left fork onto I-805 SOUTH - go 6.8 mi Take the BALBOA AVE exit - go 0.3 mi Turn Right on BALBOA AVE - go 0.4 mi Turn Left on MT ALBERTINE AVE - go 0.1 mi Turn Right on MT ADA RD - go 0.1 mi Arrive at 6426 MOUNT ADA RD, SAN DIEGO, on the Right	SITE ADDRESS: 6426 MT. ADA RD. SAN DIEGO, CA 92111 PROPERTY OWNER: BUCKEL TRUST 10313 BOULDER CREEK RD. DESCANSO, CA 91918 APPLICANT: AMERICAN TOWER CORPORATION, INC. 2201 DUPONT DR., #340 IRVINE, CA 92612 Tel: (949)442-6408 APPLICANT CONTACT: DOUGLAS KEARNEY ZONING SPECIALIST PH: (949)-442-6408									
LEGAL DESCRIPTION	VICINITY MAP		N.T.S.									
PORTION OF PARCEL 6, PARCEL MAP 227			LATITUDE: 32° 48' 11.17" LONGITUDE: 117° 10' 22.12" ZONING: CC-1-3 JURISDICTION: CITY OF SAN DIEGO OCCUPANCY: U-1 APN NUMBER: 418-120-87-00 CURRENT USE: UNMANNED TELECOMMUNICATIONS FACILITY PROPOSED USE: UNMANNED TELECOMMUNICATIONS FACILITY CUP/PDP									
DEVELOPMENT SUMMARY American Tower Corporation is requesting approval for the following project: Conditional Use Permit application and Planned Development Permit. The Project requires the renewal of CUP No. 83-0628, issued by the City of San Diego for a Wireless Telecommunications Facility. The existing monopole is a 132 feet tall and includes 15 Verizon antennas mounted at 130', and a second set of 15 Verizon antennas mounted at 58 feet. Three microwave dishes are located at 80 feet, 71 feet and 68 feet. One 25'x25' equipment building is located on the north side of the pole, and one generator unit is located on the south side of pole. American Tower is requesting the CUP extension and PD in order to allow wireless providers uninterrupted wireless telephone service.			PROJECT TEAM <table border="1"> <thead> <tr> <th>NAME</th> <th>COMPANY</th> <th>NUMBER</th> </tr> </thead> <tbody> <tr> <td>ARCHITECT: JORGE BASILIO, AIA</td> <td>BASILIO ASSOCIATES, INC.</td> <td>(949) 727-4200</td> </tr> <tr> <td>ZONING: DOUG KEARNEY</td> <td>AMERICAN TOWER CORPORATION</td> <td>(949)-442-6402</td> </tr> </tbody> </table>	NAME	COMPANY	NUMBER	ARCHITECT: JORGE BASILIO, AIA	BASILIO ASSOCIATES, INC.	(949) 727-4200	ZONING: DOUG KEARNEY	AMERICAN TOWER CORPORATION	(949)-442-6402
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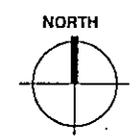
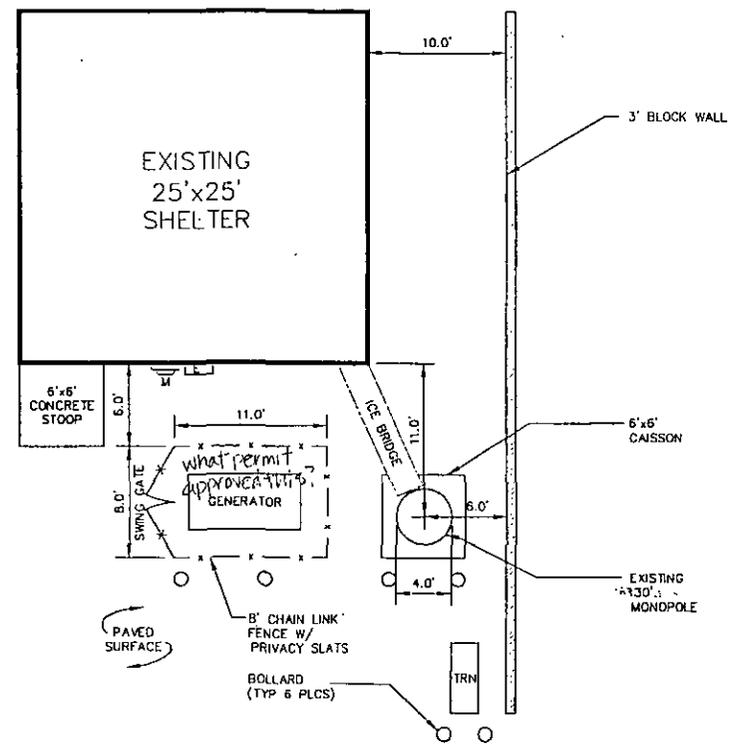
Basilio Associates, Inc.
 Architects + Planning + Design
 12 MARICOPA BLVD STE 100, IRVINE, CA 92614
 Phone: (949) 727-4200 Fax: (949) 727-4200

**SITE No.: 300647
 ID: CA 0066 MOUNT ADA
 6426 MT. ADA RD.
 SAN DIEGO, CA 92111**

NO.	DATE	REVISIONS	BY	CHK	APP'D
1	12-08-05	ISSUED FOR CUP APPLICATION			
SCALE: AS SHOWN DESIGNED: - DRAWN: JR					

TITLE SHEET

PROJECT NUMBER: 300647
 DRAWING NUMBER: T-1



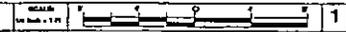
ENLARGED SITE PLAN



XO
 Basilio Associates, Inc.
 Architecture + Planning + Design
 18 JIMCROFT BLVD 905 WILSON, CA 90118
 PHONE 310.737.4200 FAX 310.737.4210

SITE No.: 300647
 ID: CA 0066 MOUNT ADA
 6426 MT. ADA RD.
 SAN DIEGO, CA 92111

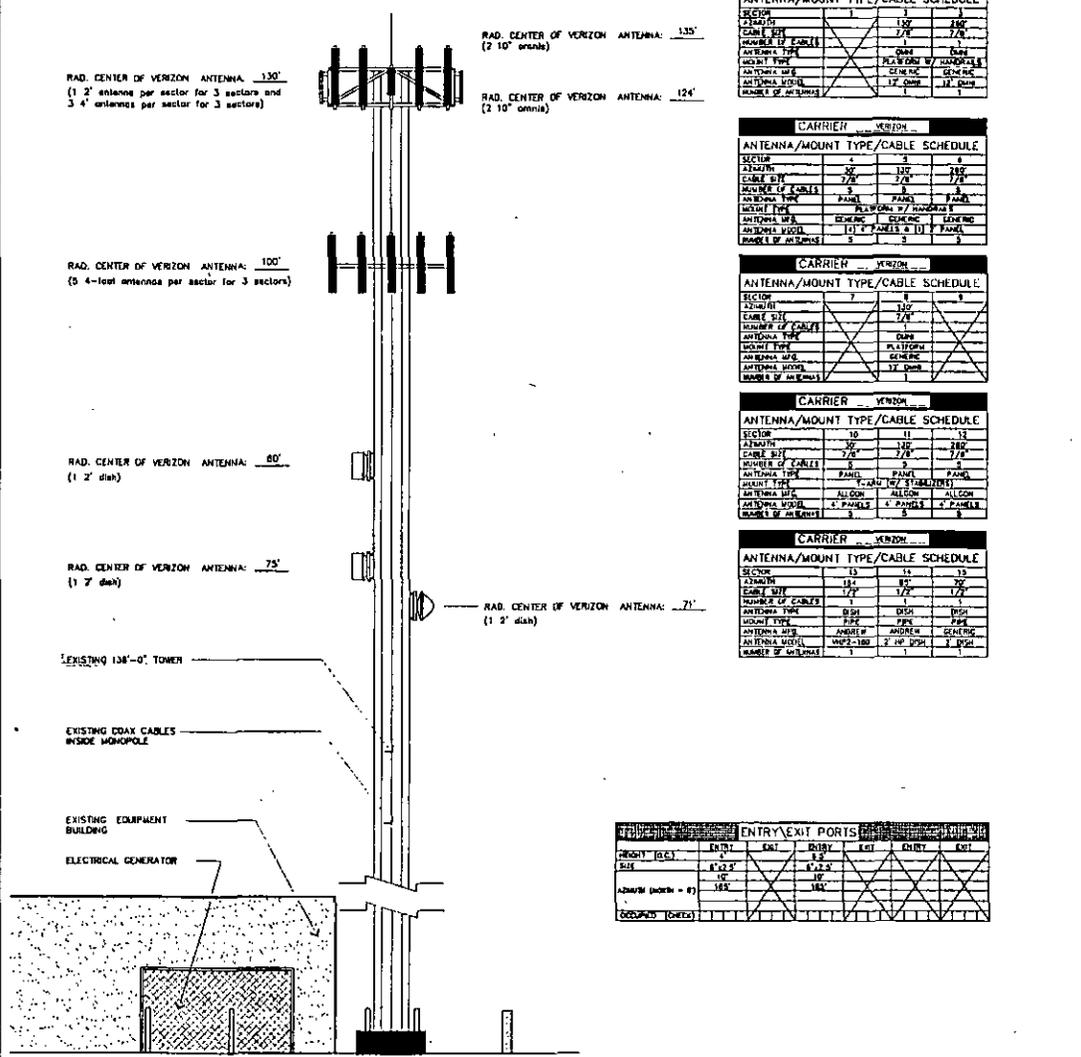
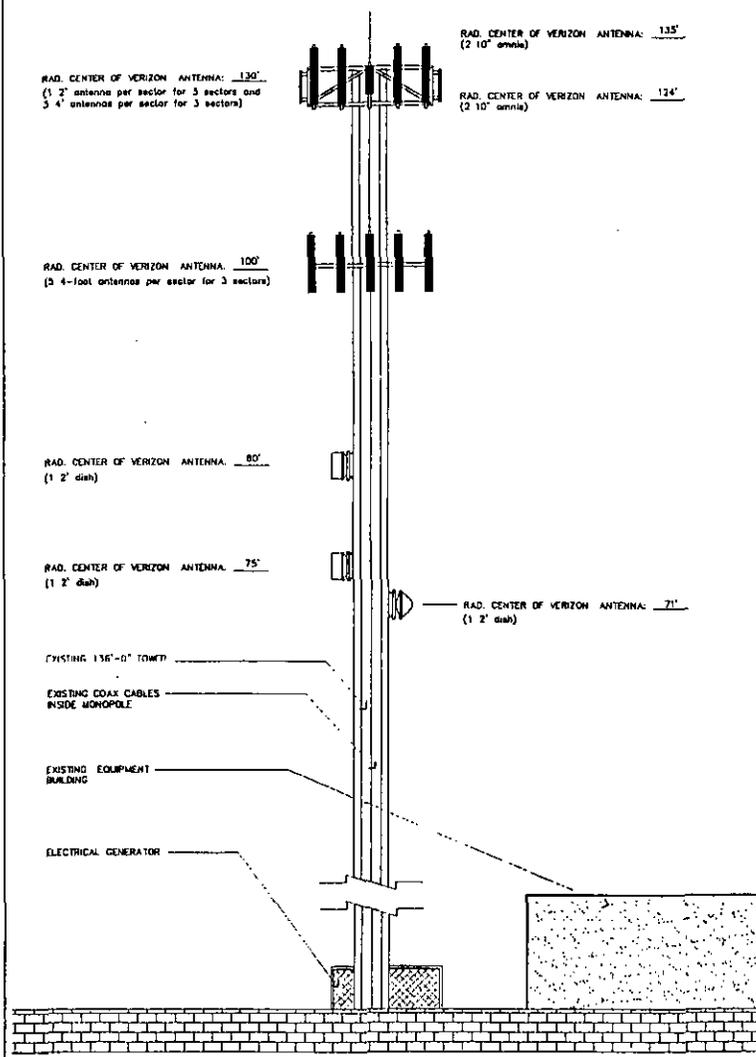
NO.	DATE	REVISIONS	BY	CHK.	APP'D.
A	12-08-09	ISSUED FOR CUP APPLICATION			
SCALE:	AS SHOWN		DESIGNED:	DRAWN:	JOB:



ENLARGED SITE PLAN

PROJECT NUMBER: _____ DRAWING NUMBER: **A-2**

000490



CARRIER - VERIZON	
ANTENNA/MOUNT TYPE/CABLE SCHEDULE	
SECTION	1
HEIGHT	135'
CABLE SIZE	3/8"
NUMBER OF CABLES	3
ANTENNA TYPE	Panel
MOUNT TYPE	Panel
ANTENNA H/S	12' Dish
ANTENNA MODEL	12' Dish
NUMBER OF ANTENNAS	3

CARRIER - VERIZON	
ANTENNA/MOUNT TYPE/CABLE SCHEDULE	
SECTION	2
HEIGHT	124'
CABLE SIZE	3/8"
NUMBER OF CABLES	3
ANTENNA TYPE	Panel
MOUNT TYPE	Panel
ANTENNA H/S	12' Dish
ANTENNA MODEL	12' Dish
NUMBER OF ANTENNAS	3

CARRIER - VERIZON	
ANTENNA/MOUNT TYPE/CABLE SCHEDULE	
SECTION	3
HEIGHT	100'
CABLE SIZE	3/8"
NUMBER OF CABLES	3
ANTENNA TYPE	Panel
MOUNT TYPE	Panel
ANTENNA H/S	12' Dish
ANTENNA MODEL	12' Dish
NUMBER OF ANTENNAS	3

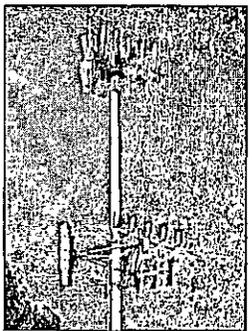
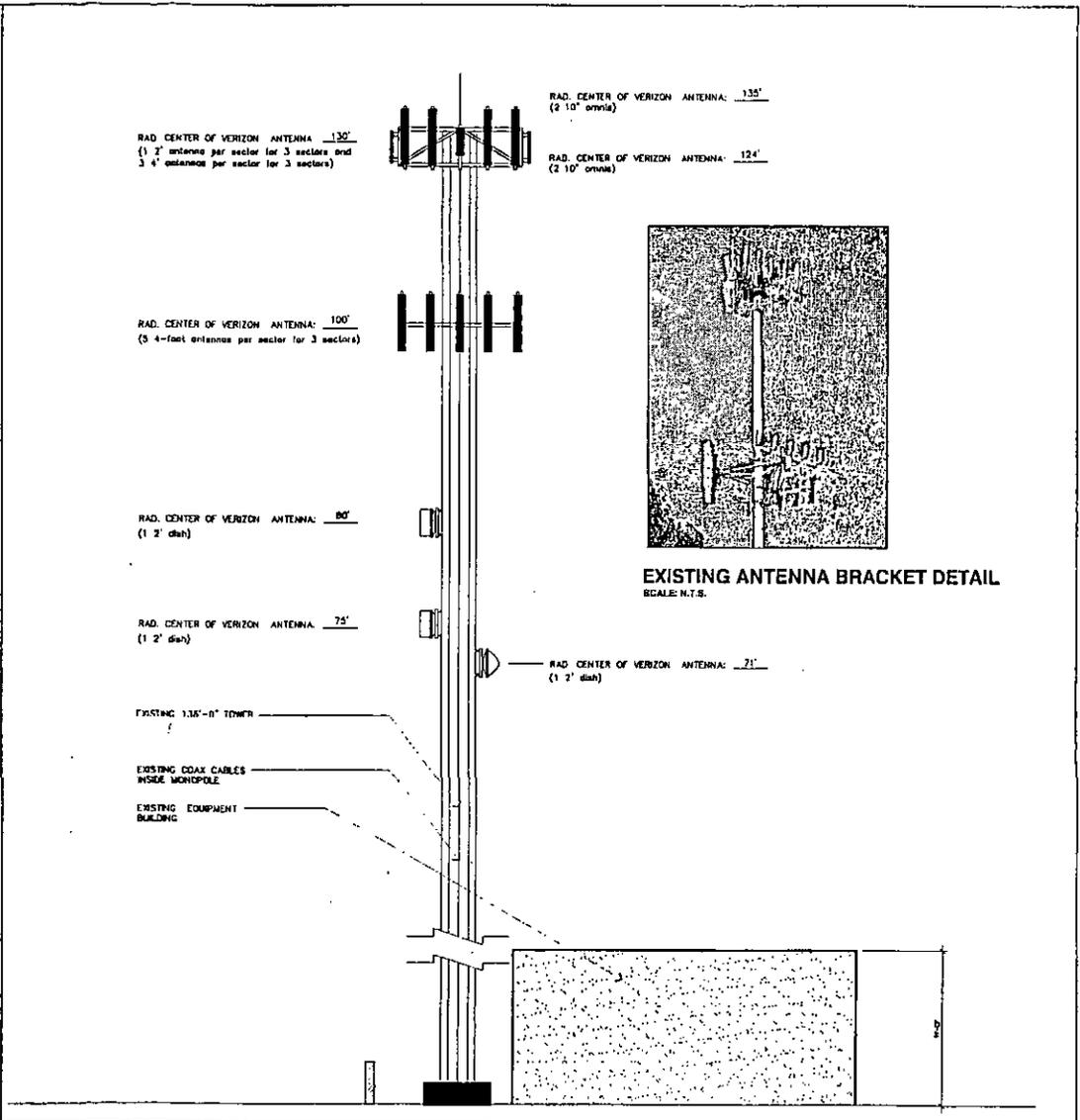
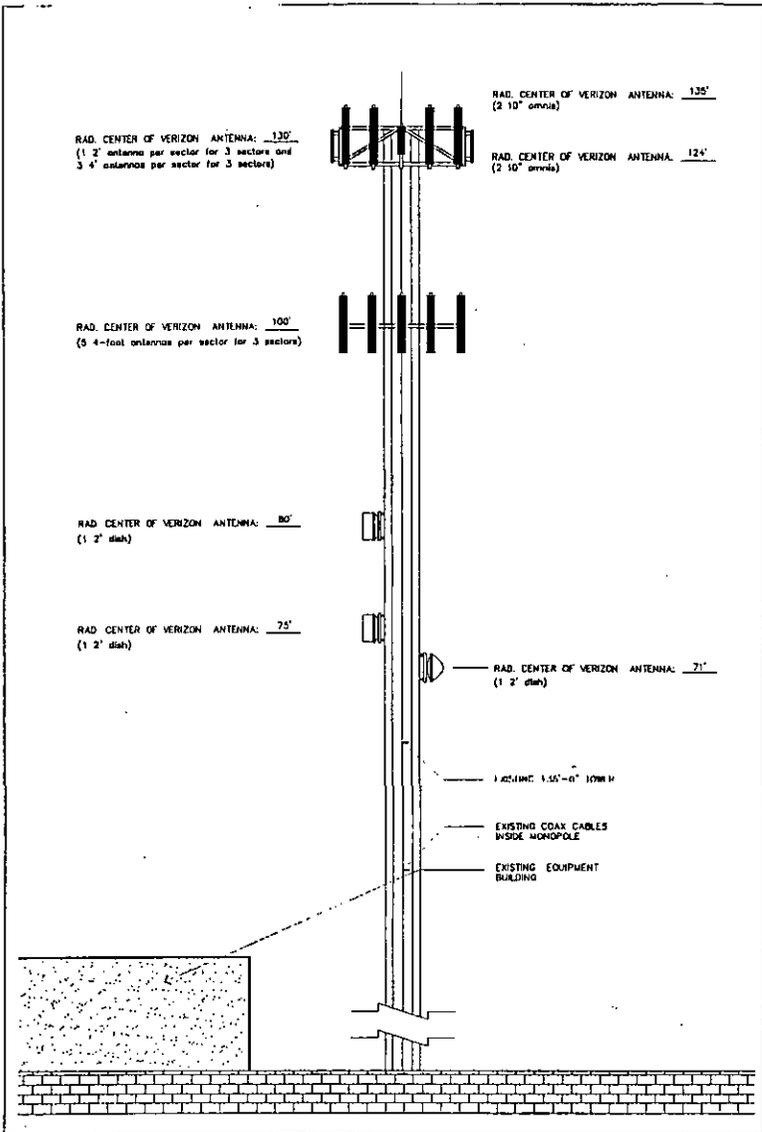
CARRIER - VERIZON	
ANTENNA/MOUNT TYPE/CABLE SCHEDULE	
SECTION	4
HEIGHT	80'
CABLE SIZE	3/8"
NUMBER OF CABLES	3
ANTENNA TYPE	Panel
MOUNT TYPE	Panel
ANTENNA H/S	12' Dish
ANTENNA MODEL	12' Dish
NUMBER OF ANTENNAS	3

CARRIER - VERIZON	
ANTENNA/MOUNT TYPE/CABLE SCHEDULE	
SECTION	5
HEIGHT	75'
CABLE SIZE	3/8"
NUMBER OF CABLES	3
ANTENNA TYPE	Panel
MOUNT TYPE	Panel
ANTENNA H/S	12' Dish
ANTENNA MODEL	12' Dish
NUMBER OF ANTENNAS	3

ENTRY/EXIT PORTS						
COUNT (REQ)	ENTRY	EXIT	ENTRY	EXIT	ENTRY	EXIT
SIZE	8'-0" x 8'-0"	10'	10'	10'	10'	10'
DOORS (DOOR = 0)	10'	10'	10'	10'	10'	10'
OCCUPIED (CHECK)						

EAST ELEVATION	SCALE 1/8" = 1'-0"	2	SOUTH ELEVATION	SCALE 1/8" = 1'-0"	1
				SITE No.: 300647 ID: CA 0066 MOUNT ADA 6426 MT. ADA RD. SAN DIEGO, CA 92111	
Architecture + Planning + Design 132 BARKLEY, SUITE 100, PUEBLO, CO 81001 PHONE 970.767.4200 FAX 970.767.4270		A-12-08-01 ISSUED FOR CUP APPLICATION		NO. DATE REVISIONS BY CHK APP'D	
PROJECT NUMBER		DRAWING NUMBER		SCALE: AS SHOWN DESIGNED: DRAWN:	
				A-3	

000491



EXISTING ANTENNA BRACKET DETAIL
SCALE: N.T.S.

WEST ELEVATION SCALE: 1/8" = 1'-0" 2

NORTH ELEVATION SCALE: 1/8" = 1'-0" 1



Basilio Associates, Inc.
Architecture + Planning + Design
12144 LAUREL ST., SUITE 100, WOODLAND, CA 95776
PHONE: (925) 762-1000 • FAX: (925) 762-1002

SITE No.: 300647
ID: CA 0066 MOUNT ADA
6426 MT. ADA RD.
SAN DIEGO, CA 92111

NO.	DATE	ISSUED FOR CDP APPLICATION	BY	CHK	APP'D

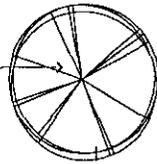
SCALE: AS SHOWN DESIGNED: DRWING: JH

EXTERIOR ELEVATIONS

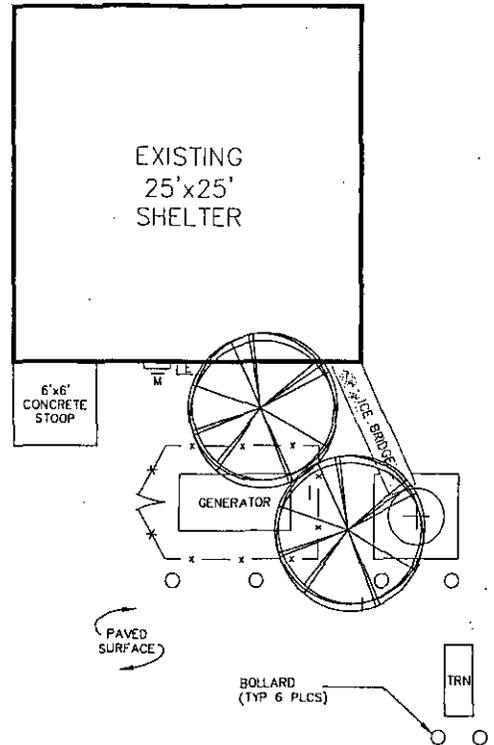
PROJECT NUMBER: DRAWING NUMBER: **A-4**

LEGEND:

2 PINE TREES EXISTING



NOTE:
THE TWO PINE TREES ARE EXISTING ON THE SITE AS PER CUP No. 83-0629. THERE IS NO PHYSICAL ROOM FOR ADDITIONAL LANDSCAPE PLANTS IN THE COMPOUND.



EXISTING LANDSCAPE PLAN

SCALE: 1/4" = 1'-0" 1



Basilio Associates, Inc.
Architecture + Planning + Design
17 BRADLEY STREET, SUITE 200, SAN DIEGO, CA 92101
PHONE (619) 521-4200 • FAX (619) 521-4210

SITE No.:300647
ID: CA 0066 MOUNT ADA
6426 MT. ADA RD.
SAN DIEGO, CA 92111

NO.	DATE	REVISIONS	BY	CHK	APP'D
A	12-08-08	ISSUED FOR CUP APPLICATION			
SCALE:	AS SHOWN	DESIGNED:	-	DRAWN:	JB

LANDSCAPE PLAN

PROJECT NUMBER: DRAWING NUMBER: L-1







City of San Diego
Development Services
1222 First Ave., MS-302
San Diego, CA 92101
(619) 446-5210

Community Planning Committee Distribution Form Part 2

Project Name : Verizon Mount Ada		Project Number 91178	Distribution Date 12/14/05	
Project Scope : CLAIREMONT MESA.. JO # 42-5718 CUP/PDP for a telecommunication facility consisting of a new CUP to allow an existing 136' tall monopole supporting 30 antennas and an adjacent equipment shelter located at 6426 Mt. Ada Road. Old CUP 83-0629. CC-1-3 Height deviation. CD:6 Post 2 notice cards. Old CUP # 83-0629				
Project Location 6426 Mt Ada Rd				
Related Projects				
Project Manager Karen Lynch-Ashcraft		Phone Number 446-5351	Fax Number (619) 446-5245	E-mail Address KLynchAshcraft@sandiego.gov
Community Plan: Clairemont Mesa		Council District		
Existing Zone	Proposed Zone	Building Height	Number of Stories	FAR
Committee Recommendations (To be completed for Initial Review):				
<input type="checkbox"/> Vote to Approve	Members Yes	Members No	Members Abstain	
<input type="checkbox"/> Vote to Approve With Conditions Listed Below	Members Yes	Members No	Members Abstain	
<input type="checkbox"/> Vote to Approve With Non-Binding Recommendations Listed Below	Members Yes	Members No	Members Abstain	
<input checked="" type="checkbox"/> Vote to Deny	Members Yes 14	Members No 0	Members Abstain 0	
<input type="checkbox"/> No Action (Please specify, e.g., Need further information, Split vote, Lack of quorum, etc.)				<input type="checkbox"/> Continued
CONDITIONS:				
NAME <i>Eleanor A. Mang</i>		TITLE <i>Chair, CMPC</i>		
SIGNATURE <i>Eleanor A. Mang</i>		DATE <i>3/21/06</i>		
Attach Additional Pages If Necessary.		Please Return Within 30 Days of Distribution of Project Plans To:		
Project Management Division		City Of San Diego Development Services Department 1222 First Avenue, MS 302 San Diego, CA 92101		

Printed on recycled paper. This information is available in alternative formats for persons with disabilities.

To request this document in alternative format, call (619) 446-5446 or (800) 735-2929 (TT).

Be sure to see us on the WorldWide Web at www.sandiego.gov/development-services

PLANNING COMMISSION
RESOLUTION NO.
CONDITIONAL USE PERMIT NO. 292627
SITE DEVELOPMENT PERMIT NO. 450714
AMERICAN TOWER – MT. ADA
PROJECT NO. 91178

WHEREAS, Buckel Trust, Owner and American Tower Corporation, Permittee, filed an application with the City of San Diego for a permit for a wireless communication facility (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Conditional Use Permit No.292627 and Site Development Permit No. 450714, on portions of a .19 acre site;

WHEREAS, the project site is located at 6426 Mt. Ada Road in the CC-1-3 zone of the Clairemont Mesa Community Plan;

WHEREAS, the project site is legally described as a portion of Parcel "B" of Parcel Map No. 227, in the City of San Diego, County of San Diego, State of California, filed April 7, 1970 in the Office of the County Recorder of San Diego, California;

WHEREAS, on June 28, 2007, the Planning Commission of the City of San Diego considered Conditional Use Permit No. 292627 and Site Development Permit No. 450714, pursuant to the Land Development Code of the City of San Diego; NOW, THEREFORE,

BE IT RESOLVED by the Planning Commission of the City of San Diego as follows:

That the Planning Commission adopts the following written Findings, dated June 28, 2007.

FINDINGS:

Conditional Use Permit - Section 126.0305

1. The proposed development will not adversely affect the applicable land use plan;

This facility was originally approved by the City Council on November 20, 1984. The Conditional Use Permit (CUP) included a 20 year expiration. At the time of approval, the City did not have applicable regulations for these types of facilities so the City Council imposed a twenty year limit in order to re-evaluate the project in light of new regulations and or policies that may be in effect. The project exists as it did after initial construction and American Tower Corporation is now seeking to obtain another CUP to maintain the facility as is.

Neither the City of San Diego General Plan nor the Clairemont Mesa Community Plan addresses wireless communication facilities as a specific land use.

2. The proposed development will not be detrimental to the public health, safety, and welfare;

The Telecommunication Act of 1996 preempts local governments from regulating the “placement, construction and modification of wireless communication facilities on the basis of the environmental effects of Radio Frequency (RF) emission to the extent that such facilities comply with the Federal Communication Commission’s (FCC) standards for such emissions.” If the decision maker approves the existing facility, a condition will be included within the permit to require American Tower to perform a cumulative model RF test and submit the finding in a report to the City of San Diego within 90 days of approval of the CUP/SDP.

3. The proposed development will comply to the maximum extent feasible with the regulations of the Land Development Code; and

This facility was originally approved by the City Council on November 20, 1984. The Conditional Use Permit (CUP) included a 20 year expiration. At the time of approval, the City did not have applicable regulations for these types of facilities so the City imposed a ten year time limit in order to re-evaluate the project in light of new regulations and or policies that may be in effect. The project exists as it did after initial construction and American Tower Corporation is now seeking to obtain another CUP to maintain the facility as is.

Since 2000, the City has had a Communication Antenna ordinance that requires architectural or environmental integration with the project site. Pursuant to the San Diego Land Development Code, wireless communication facilities are permitted in all zones citywide with the appropriate permits. Wireless communication facilities are separately regulated uses, which have limitations or require compliance with conditions in order to minimize potential impacts. The intent of the regulations is to camouflage facilities from public view. In this case, the monopole is the tallest structure in and around the area in which it is located and as such, it has an incongruous effect on the community’s landscape. It is situated on the edge of a commercial area directly across the street from multi-unit residential with a large single unit residential subdivision beyond. Additionally, the tower is located in a commercial core area of the community, adjacent to a major east west thoroughfare. The tower poses an unsightly visual impact that can be seen from the surrounding residential communities and major thoroughfares.

Section 141.0405 of the Land Development Code differentiates between minor and major telecommunication facilities. Minor telecommunication facilities include those that are concealed from public view or integrated into the architecture or surrounding environment through architectural enhancement (enhancements that complement the scale, texture, color and style) unique design solutions, or accessory use structures. Major telecommunication facilities are antenna facilities that do not meet the criteria for minor telecommunication facilities or they are located in residential zones containing residential uses. Similar to minor facilities, they also need to be designed to be minimally visible through the use of architecture, landscape architecture and siting solutions. The Mt. Ada project does not conform to this code requirement. As it exists, the tower is a significant visual impact to the community of Clairemont.

Therefore, the project does not comply to the maximum extent feasible with the regulations of the Land Development Code.

4. The proposed use is appropriate at the proposed location.

A wireless communication facility at this location is an appropriate use subject to compliance with the ordinances and policies that regulate telecommunication facilities. Due to the fact that the existing facility does not comply with current regulations and policies, this finding cannot be affirmed. A facility that better integrates into the property and takes into consideration the surroundings including the proximity to the large nearby residential community as well as the commuters driving through this part of Clairemont would be more appropriately located on this property.

Site Development Permit - Section 126.0504

1. The proposed development will not adversely affect the applicable land use plan;

This facility was originally approved by the City Council on November 20, 1984. The Conditional Use Permit (CUP) included a 20 year expiration. At the time of approval, the City did not have applicable regulations for these types of facilities so the City Council imposed a ten year limit in order to re-evaluate the project in light of new regulations and or policies that may be in effect, The project exists as it did after initial construction and the new owner, American Tower Corporation is now seeking to obtain another CUP to maintain the facility as is.

Neither the City of San Diego General Plan nor the Clairemont Mesa Community Plan addresses wireless communication facilities as a specific land use.

2. The proposed development will not be detrimental to the public health, safety, and welfare; and

The Telecommunication Act of 1996 preempts local governments from regulating the "placement, construction and modification of wireless communication facilities on the basis of the environmental effects of Radio Frequency (RF) emission to the extent that such facilities comply with the Federal Communication Commission's (FCC) standards for such emissions." If the decision maker approves the existing facility, a condition will be included within the permit to require American Tower to perform a cumulative model RF test and submit the finding in a report to the City of San Diego within 90 days of approval of the CUP/SDP.

3. The proposed development will comply with the applicable regulations of the Land Development Code.

The monopole complies with all the development regulations of the CC-1-3 zone, but does not comply with the Clairemont Mesa Height Limitation Overlay Zone of 30 feet. The monopole is 145 feet tall and is extremely visible to the Balboa Avenue corridor and the surrounding residential community. Development in the area is low in scale. The tower is located in a commercial zone that is immediately adjacent to a multi-unit residential complex.. The existing tower exceeds the height limit by 115 feet. Deviations to the Clairemont Mesa Height Limitation Overlay Zone require a Site Development Permit.

This project was originally constructed in the mid-1980's when Pac Tel Mobile (now Verizon) was only one of two wireless carriers in San Diego. Their network was being established with tower structures and later branched out to building collocations. Initially, carriers built tall facilities, later filling in their networks with lower sights. Verizon signed the contract (CUP 83-0629) acknowledging the 20 year time limit on the facility. In order to maintain a facility at this site, a new application in compliance with the current regulations and policies would be required.

Supplemental Site Development Findings – Section 126.0504(i)

- 1. The granting of an exception will not significantly interfere with public views from western Clairemont Mesa to Mission Bay and the Pacific Ocean within the surrounding area; and**

The Mt. Ada project is not located near Mission Bay or the surrounding areas and as a result, it will not interfere with public views to these areas. It is located east of Mission Bay in the Balboa Genesee commercial corridor and it creates a significant visual impact to the community surrounding this area.

- 2. The granting of an exception is appropriate because there are existing structures over 30 feet in height and the proposed development will be compatible with surrounding one, two, or three-story structures; or the granting of an exception is appropriate because there are topographic constraints peculiar to the land; or the granting of the exception is needed to permit roofline and facade variations, accents, tower elements, and other similar elements and the elements will not increase the floor area of the structure.**

The topography is flat along the Balboa Genesee commercial corridor and the majority of structures in the area are low scale and do not exceed the 30 foot height limit. This tower is 115 feet above the 30 foot height limit and as such, poses a significant visual impact to the surrounding community. It stands out against the existing landscape and is therefore incompatible with the surrounding development. The only other structure of this stature is a 10 story building approximately .62 miles to the west of this site with a roof top full of antennas managed by American Tower Corporation. Therefore, granting an exception to the Clairemont Mesa Height Limitation Overlay Zone is inappropriate.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, Conditional Use Permit No. 292627 and Site Development Permit No. 450714 is hereby DENIED by the Planning Commission.

Karen Lynch-Ashcraft
Development Project Manager
Development Services

Adopted on: June 28, 2007
Job Order No. 42-5718

000501

SDI - A.C
CONDITIONAL USE PERMIT
NO. 83-0629
CITY COUNCIL

This Conditional Use Permit is granted by the City Council of The City of San Diego to PACTEL MOBILE ACCESS, a Delaware Corporation, Owner/Permittee, under the conditions in Section 101.0507 of the Municipal Code of The City of San Diego.

1. Permission is granted to Owner/Permittee to construct and operate a communication facility consisting of an equipment building and antenna tower located on the north side of Mt. Ada Road between Mt. Rias Place and Mt. Albertine Avenue, more particularly described a Portion of Parcel B, Parcel Map 227, in the CA Zone.

2. The facility shall consist of the following:

- a. A 26-foot by 22-foot equipment building and a 145-foot-high antenna tower for frequency reception and transmission. The color of the pole shall be cool medium-light gray;
- b. Off-street parking for service personnel; and
- c. Accessory uses as may be determined incidental and approved by the Planning Director.

3. Not less than two off-street parking spaces shall be maintained on the property in the approximate location shown on Exhibit "A," dated October 25, 1984, on file in the office of the Planning Department. Parking spaces shall be consistent with Division 8 of the Municipal Code and shall be permanently maintained and not converted for any other use. Parking spaces and aisles shall conform to Planning Department standards. Parking areas shall be marked:

4. No permit for construction of the expanded facility shall be granted nor shall any activity authorized by this permit be conducted on the premises until:

- a. The Permittee signs and returns the amended permit to the Planning Department; and
- b. The Conditional Use Permit is recorded in the office of the County Recorder.

009502

5. Before issuance of any building permits, complete building plans shall be submitted to the Planning Director for approval. Plans shall be in substantial conformity to Exhibit "A," dated October 25, 1984, on file in the office of the Planning Department. No change, modifications or alterations shall be made unless appropriate applications for amendment of this permit shall have been granted.

6. Before issuance of any building permits, a complete landscape plan, including a permanent irrigation system, shall be submitted to the Planning Director for approval. The plans shall be in substantial conformity to Exhibit "A," dated October 25, 1984, on file in the office of the Planning Department. Approved planting shall be installed before issuance of any occupancy permit on any building. Such planting shall not be modified or altered unless this permit has been amended. Specific plant species shall be identified on final landscaping plans and shall be subject to Planning Director approval.

LANDSCAPE
PLAN HAS BEEN
IMPLEMENTED
if THERE IS
NO ROOM
FOR NEW
LANDSCAPING

7. All outdoor lighting shall be so shaded and adjusted that the light is directed to fall only on the same premises as light sources are located and not reflect onto adjacent properties.

8. This Conditional Use Permit must be used within 36 months after the date of City approval or the permit shall be void. An Extension of Time may be granted as set forth in Section 101.0506 and 101.0507 of the Municipal Code. Such extension of time shall be subject to all regulations in force at the time of the extension.

9. After establishment of the amended project, the property shall not be used for any other purposes unless:

- a. Authorized by the City Council; or
- b. The proposed use meets every requirement of the zone existing for the property at the time of conversion; or
- c. The permit has been revoked by the City.

10 This Conditional Use Permit may be revoked by the City if there is a material breach or default in any of the conditions of this permit.

11 This Conditional Use Permit is a covenant running with the lands and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out.

000503

12. This permit shall expire 20 years from the date of approval. If an extension is requested, the operation and conditions shall be reviewed at public hearings by the Planning Commission and City Council. 11/20/09

13. In the event that additional cellular mobile phone communication systems are needed in the future that would require a transmitting tower or towers in the vicinity of this approved facility, the permittee shall allow the installation of antennas on the tower authorized by this permit and the installation of necessary support equipment on the premises if the applicant for such additional antennae and support equipment shows that the operation thereof would not interfere with the operation of the permittee's antennae and support equipment and the co-location of such antennae and support equipment are otherwise technically feasible and compatible, and such additional antennae and support equipment are approved by The City of San Diego following a noticed public hearing on the matter.

ADOPTED BY THE COUNCIL OF THE CITY OF SAN DIEGO THIS 20TH DAY OF NOVEMBER, 1984.

000504

Passed and adopted by the Council of The City of San Diego on

November 20, 1984 by the following votes:

YEAS: Mitchell, McCoil, Jones, Struiksma, Gotch, Hedgecock.

NAYS: None.

NOT PRESENT: Cleator, Murphy, Martinez.

AUTHENTICATED BY:

ROGER HEDGECOCK

Mayor of The City of San Diego, California

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California

By BARBARA BAXTER

Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of RESOLUTION NO. R- 262003 passed and adopted by the Council of The City of San Diego, California, on November 20, 1984.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California

(SEAL)

By *Barbara Baxter*
Deputy

000506

CORPORATE ACKNOWLEDGMENT

NO. 202

State of California
County of Orange } ss.

On this the 31st day of January 19 85, before me,

Katherine A. Linn

the undersigned Notary Public, personally appeared

Donn A. Winslow



personally known to me
 ~~proved to me on the basis of satisfactory evidence~~
to be the person(s) who executed the within instrument ~~as~~
for on behalf of the corporation therein
named, and acknowledged to me that the corporation executed it.
WITNESS my hand and official seal.

[Signature]
Notary's Signature

7120 122

Conditional Use Permit - 83-0629

NATIONAL NOTARY ASSOCIATION - 22012 Ventura Blvd. - P.O. Box 4825 - Woodland Hills, CA 91364



000507

THE CITY OF SAN DIEGO

Date of Notice: June 14, 2007

NOTICE OF PUBLIC HEARING

PLANNING COMMISSION RECOMMENDATION

DATE OF HEARING: June 28, 2007
TIME OF HEARING: 9:00 A.M.
LOCATION OF HEARING: Council Chambers, 12th Floor, City Administration Building,
202 C Street, San Diego, California

PROJECT TYPE: Conditional Use Permit/Site Development Permit
PROJECT NUMBER: 91178
PROJECT NAME: AMERICAN TOWER – MT. ADA
APPLICANT: *Jim Kelly, American Tower Corporation*

COMMUNITY PLAN AREA: Clairemont Mesa

COUNCIL DISTRICT: District 6

CITY PROJECT MANAGER: Karen Lynch-Ashcraft, Development Project Manager
PHONE NUMBER: (619) 446-5351

As a property owner, tenant or person who has requested notice, you should know that the Planning Commission will hold a public hearing to **recommend** approval, conditional approval; or denial to the City Council for a wireless communication facility consisting of an existing, expired 145 foot high monopole and a 625 square foot equipment shelter, originally approved by CUP No. 83-0629, which expired on November 20, 2004 . The facility is located at 6426 Mt. Ada Road between Mt. Rias Place and Mt. Albertine Avenue.

The decision to approve, conditionally approve, modify or deny the wireless communication facility will be made by the City Council at a future public hearing. You will also receive a notice of the City Council public hearing.

If you have any questions after reviewing this information, you can contact the City Project Manager listed above.

This information will be made available in alternative formats upon request. To request an agenda in alternative format or to request a sign language or oral interpreter for the meeting, call the Disability Services

009508

ATTACHMENT H-10

Program Coordinator at (619) 236-5979 at least five working days prior to the meeting to insure availability.
Assistive Listening Devices (ALD's) are available for the meeting upon request.

Job Order No. 42-5718

Revised 11/02/04 dcj
document1



City of San Diego
Development Services
1222 First Ave., MS-302
San Diego, CA 92101
(619) 446-5000

Ownership Disclosure Statement

Approval Type: Check appropriate box for type of approval (s) requested: Neighborhood Use Permit Coastal Development Permit
 Neighborhood Development Permit Site Development Permit Planned Development Permit Conditional Use Permit
 Variance Tentative Map Vesting Tentative Map Map Waiver Land Use Plan Amendment Other _____

Project Title _____ Project No. For City Use Only _____

EXISTING WIRELESS TELECOMMUNICATIONS FACILITY

Project Address:

6426 MT ADA RD / APN 419-120-67-00

Part I - To be completed when property is held by individual(s)

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property, with the intent to record an encumbrance against the property. Please list below the owner(s) and tenant(s) (if applicable) of the above referenced property. The list must include the names and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all individuals who own the property). A signature is required of at least one of the property owners. Attach additional pages if needed. A signature from the Assistant Executive Director of the San Diego Redevelopment Agency shall be required for all project parcels for which a Disposition and Development Agreement (DDA) has been approved / executed by the City Council. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process.

Additional pages attached Yes No

Name of Individual (type or print):
HARRY R. BUCKEL TRUSTEE
 Owner Tenant/Lessee Redevelopment Agency
10313 Boulder Creek Rd
Street Address:
DESCANSO Calif. 91916
City/State/Zip:
619-445 2238
Phone No: _____ Fax No: _____
Signature: Harry R. Buckel Trustee 11/25/05
Date: _____
for The Buckel Trust

Name of Individual (type or print):
JOAN D BUCKEL, TRUSTEE
 Owner Tenant/Lessee Redevelopment Agency
10313 Boulder Creek Rd
Street Address:
DESCANSO Calif 91916
City/State/Zip:
619-445 2238
Phone No: _____ Fax No: _____
Signature: Joan D. Buckel Trustee 11/25/05
Date: _____
for The Buckel Trust

Name of Individual (type or print):
 Owner Tenant/Lessee Redevelopment Agency
Street Address:
City/State/Zip:
Phone No: _____ Fax No: _____
Signature : _____ Date: _____

Name of Individual (type or print):
 Owner Tenant/Lessee Redevelopment Agency
Street Address:
City/State/Zip:
Phone No: _____ Fax No: _____
Signature : _____ Date: _____

San Diego Municipal Code Chapter 14: General Regulations
(12-2001)

§141.0405 Communication Antennas

- (a) Section 141.0405 regulates the following communication antennas. Amateur (HAM) radio facilities or temporary telecommunication facilities necessitated by natural or man-made disasters are not regulated as communication antennas. Section 141.0405 does not apply to single dish antennas smaller than 24 inches in diameter or to remote panel antennas less than 24 inches in length and in width, except when associated with another telecommunication facility.
- (1) Minor telecommunication facilities: Antenna facilities used in wireless telephone services, paging systems, or similar services that comply with all development regulations of the underlying zone and overlay(s) and that meet the criteria in Section 141.0405(e)(1) or (2).
 - (2) Major telecommunication facilities: Antenna facilities that do not meet the criteria for minor telecommunication facilities in Section 141.0405(e)(1) or (2).
 - (3) Satellite antennas: Antennas capable of transmitting or receiving signals to or from a transmitter or a transmitter relay located in a planetary orbit. Satellite antennas include satellite earth stations, television-reception-only satellite antennas, and satellite microwave antennas.
- (b) **General Rules for Telecommunication Facilities**
All telecommunication facilities must comply with the following requirements:
- (1) All approved telecommunication facilities must comply with the Federal standards for RF radiation in accordance with the Telecommunication Act of 1996 or any subsequent amendment to the Act pertaining to RF radiation. Documentation shall be submitted to the City providing evidence that the cumulative field measurements of radiofrequency power densities for all antennas installed on the *premises* are below the Federal standards.
 - (2) Except in the event of an emergency, routine maintenance and inspection of telecommunication facilities located on residentially zoned *premises*, including all of the system components, shall occur during normal business hours between 8:00 a.m. and 5:00 p.m. Monday through Friday.

- (3) Antenna facilities or associated equipment proposed for installation in the *public right-of-way* are subject to the following regulations:
- (A) Antennas or associated equipment located in *public right-of-way* which is adjacent to a residentially zoned *premises* may be permitted with a Neighborhood Use Permit.
 - (B) Antennas and associated equipment located in the *public right of-way* adjacent to non-residentially zoned *premises* are subject to review and approval by the City Manager.
 - (C) All equipment associated with antenna facilities shall be undergrounded, except for small services connection boxes or as permitted in Section 141.0405(b)(4).
 - (D) A construction plan must be submitted to and is subject to review and approval by the City Engineer in accordance with Chapter 6, Article 2.
- (4) Antennas and associated equipment located in the *public right-of-way* may be placed above ground only if the equipment is integrated into the architecture or surrounding environment through architectural enhancement (enhancements that complement the scale, texture, color, and style), unique design solutions, enhanced landscape architecture, or complementary siting solutions to minimize visual or pedestrian impacts. These facilities may be permitted with a Conditional Use Permit decided in accordance with Process Three.
- (c) Temporary facilities that provide services to public events and are limited to a one-time maximum duration of 90 calendar days are subject to the temporary use permit procedures in Chapter 12, Article 3, Division 4.
- (d) All telecommunication facilities that are required to obtain encroachment authorization to locate on city-owned dedicated or designated parkland or open space areas shall comply with the following:
- (1) The City Manager shall determine that the proposed facility would not be detrimental to the City's property interest; would not preclude other appropriate uses; would not change or interfere with the use or purpose of the parkland or open space; and would not violate any deed restrictions related to City property, map requirements or other land use regulations.
 - (2) The proposed facility shall be integrated with existing park facilities or open space; shall not disturb the environmental integrity of the parkland or open space; and shall be disguised such that it does not

detract from the recreational or natural character of the parkland or open space.

- (3) The proposed facility shall be consistent with The City of San Diego Progress Guide and General Plan.

(e) Minor Telecommunication Facilities

Minor telecommunication facilities are permitted as a limited use or may be permitted with a Neighborhood Use Permit in the zones indicated with an "L" or an "N", respectively, in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (1) An antenna facility will be considered a minor telecommunication facility if the facility, including equipment and *structures*, is concealed from public view or integrated into the architecture or surrounding environment through architectural enhancement (enhancements that complement the scale, texture, color, and style), unique design solutions, or *accessory use structures*.
- (2) In an effort to encourage collocation and to recognize that some telecommunication facilities are minimally visible, the following shall be considered minor telecommunication facilities:
 - (A) Additions or modifications to telecommunication facilities that do not increase the area occupied by the antennas or the existing antenna enclosure by more than 100 percent of the originally approved facility and do not increase the area occupied by an outdoor equipment unit more than 150 feet beyond the originally approved facility, if the additions and modifications are designed to minimize visibility.
 - (B) Panel-shaped antennas that are flush-mounted to an existing *building facade* on at least one edge, extend a maximum of 18 inches from the *building facade* at any edge, do not exceed the height of the building, and are designed to blend with the color and texture of the existing building.
 - (C) Whip antennas if the number of antennas that are visible from the *public right-of-way* does not exceed six, if the antennas measure 4 inches or less in diameter, and if they have a mounting apparatus that is concealed from public view.
- (3) Minor telecommunication facilities are not permitted in the following locations:

- (A) On *premises* that are developed with residential uses in residential zones;
 - (B) On vacant *premises* zoned for residential development;
 - (C) On *premises* that have been designated as *historical resources*;
 - (D) On *premises* that have been designated or mapped as containing sensitive resources;
 - (E) On *premises* within the *MHPA*; or
 - (F) On *premises* that are leased for billboard use.
- (4) The installation of a minor telecommunication facility shall not result in the elimination of required parking spaces.
 - (5) Minor telecommunication facilities that terminate operation shall be removed by the operator within 90 calendar days of termination.

(f) *Major Telecommunication Facilities*

Major telecommunication facilities may be permitted with a Conditional Use Permit decided in accordance with Process Three, except that major telecommunication facilities on dedicated or designated parkland and open space may be permitted with a Conditional Use Permit decided in accordance with Process Five, in the zones indicated with a "C" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (1) Major telecommunication facilities are not permitted in the following locations:
 - (A) On *premises* containing designated *historical resources*;
 - (B) Within viewsheds of designated and recommended State Scenic Highways and City Scenic Routes; or
 - (C) Within ½ mile of another major telecommunication facility, unless the proposed facility will be concealed from public view or integrated into the architecture or surrounding environment through architectural enhancement (enhancements that complement the scale, texture, color, and style), unique design solutions, and *accessory use structures*.
 - (D) Within the Coastal Overlay Zone, on *premises* within the

MHPA and/or containing *steep hillsides* with *sensitive biological resources*, or within public view corridors or view sheds identified in applicable *land use plans*.

- (2) Major telecommunication facilities shall be designed to be minimally visible through the use of architecture, landscape architecture, and siting solutions.
- (3) Major telecommunication facilities shall use the smallest and least visually intrusive antennas and components that meet the requirements of the facility.

(g) Satellite Antennas

Satellite antennas are permitted as a limited use subject to Section 141.0405(g)(2), and may be permitted with a Neighborhood Use Permit subject to Section 141.0405(g)(3), or with a Conditional Use Permit decided in accordance with Process Three subject to Section 141.0405(g)(4).

- (1) Exemption. Satellite antennas that are 5 feet in diameter or smaller are permitted in all zones and are exempt from this section.
- (2) Limited Use Regulations. Satellite antennas that exceed 5 feet in diameter are permitted as a limited use in the zones indicated with an "L" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.
 - (A) Satellite antennas are not permitted within the *MHPA*.
 - (B) Satellite antennas are not permitted on *premises* that have been designated as *historical resources*.
 - (C) Satellite antennas shall not exceed 10 feet in diameter.
 - (D) Ground-mounted satellite antennas shall not exceed 15 feet in *structure height*.
 - (E) Ground-mounted satellite antennas shall not be located in the *street yard*, *front yard*, or *street side yard* of a *premises*.
 - (F) Satellite antennas shall not be light-reflective.
 - (G) Satellite antennas shall not have any *sign copy* on them nor shall they be illuminated.
 - (H) Ground-, roof-, and pole-mounted satellite antennas shall be

screened by fencing, buildings, or parapets that appear to be an integral part of the building, or by landscaping so that not more than 25 percent of the antenna height is visible from the *grade* level of adjacent *premises* and adjacent *public rights-of-way*.

- (3) Neighborhood Use Permit Regulations. Proposed satellite antennas that do not comply with Section 141.0405(b)(2) may be permitted with a Neighborhood Use Permit subject to the following regulations.
- (A) Satellite antennas are not permitted within the *MHPA*.
 - (B) Satellite antennas are not permitted on *premises* that have been designated as *historical resources*.
 - (C) Satellite antennas shall not exceed 10 feet in diameter.
 - (D) Satellite antennas shall not be light-reflective.
 - (E) Satellite antennas shall not have any *sign copy* on them nor shall they be illuminated.
 - (F) The visual impacts of the antenna to adjacent *premises* and adjacent *public rights-of-way* shall be minimized by the positioning of the antenna on the site and the use of landscape or other *screening*.
- (4) Conditional Use Permit Regulations. Except for proposed satellite antennas which are *accessory uses* in industrial zones, proposed satellite antennas that exceed 10 feet in diameter may be permitted only with a Conditional Use Permit decided in accordance with Process Three subject to the following regulations.
- (A) Satellite antennas are not permitted within the *MHPA*.
 - (B) Satellite antennas are not permitted on *premises* or its appurtenances that have been designated as *historical resources*.
 - (C) The visual impacts of the antenna to adjacent *premises* and adjacent *public rights-of-way* shall be minimized by the positioning of the antenna on the site and the use of landscaping or other *screening*.
(Amended 1-9-2001 by O-18910 N.S.; effective 8-8-2001.)

§ 101.0506.1 Requirements for Processing Conditional Use Permits and Reclamation Plans for Natural Resources Development

(Renumbered to Sec. 101.0511 on 6-23-86 by O-16671 N.S.)

§ 101.0506.3 Conditional Use Permits for Companion Units

(Renumbered to Sec. 101.0512 on 6-23-86 by O-16671 N.S.)

§ 101.0506.5 Exclusion of Companion Units

(Repealed (incorporated into Sec. 101.0512) 6-23-86 by O-16671 N.S.)

§ 101.0506.7 Conditional Use Permit for Treatment and Counseling Offices for Sex Offenders

(Renumbered to Sec. 101.0513 on 6-23-86 by O-16671 N.S.)

§ 101.0506.8 Moved Buildings Defined

(Repealed (incorporated into Sec. 101.0514) 6-23-86 by O-16671 N.S.)

§ 101.0506.9 Conditional Use Permit For Moved Buildings

(Renumbered to Sec. 101.0514 on 6-23-86 by O-16671 N.S.)

§ 101.0507 Conditional Use Permit Granted by City Council

(Repealed (incorporated into Sec. 101.0510 with amendments) 6-23-86 by O-16671 N.S.)

§ 101.0507.1 Appeal to the City Council from Decision of the Board of Zoning Appeals

(Added 6-8-65 by O-9236 N.S.; amended 4-25-67 by O-9618 N.S.; repealed (now Sec. 101.0505) 2-4-71 by O-10494 N.S.)

§ 101.0508 Failure to Utilize Zone Variance or Conditional Use Permit or Failure to Conform to or Comply with Conditions

(Repealed (incorporated into Sec. 101.0510 with amendments) 6-23-86 by O-16671 N.S.)

§ 101.0509 Cancellation of a Conditional Use Permit

(Repealed (incorporated into Sec. 101.0510 with amendments) 6-23-86 by O-16671 N.S.)

§ 101.0510 Conditional Use Permit

A. PURPOSE AND INTENT

Certain classes of land use are not permitted by right in some or all zones of the City, but are nevertheless recognized as being desirable to the full function of the City under appropriate circumstances. It is the purpose of the Conditional Use Permit regula-

tions to provide a means whereby proposals for such land uses may be examined on a case by case basis to determine whether, and under what conditions, these uses may be approved at a given site.

It is intended that when these classes of land use are approved, each proposal will be developed so as to fully protect the health, safety, and general welfare of all persons who live or work in the area. It is further intended that proposals developed under a Conditional Use Permit will incorporate the highest standards in site planning, architecture, environmental protection, and sensitivity to the neighborhood character.

It is intended that in exchange for the development and land use privileges extended under a Conditional Use Permit, the permittee will agree to abide by all conditions which the City may require. It is intended that both these privileges and conditions shall constitute a covenant which runs with the lands, and in addition to binding the permittee shall likewise bind each successor in interest.

This section identifies those classes of land use for which a Conditional Use Permit may be granted and establishes the legal framework for the administration of permits.

B. DECISION MAKER

Conditional Use Permits may be granted by the following Decisionmakers: "Hearing Officer", Development Services Director, Planning Commission, and City Council. In addition, Conditional Use Permits may be granted by the following Appeal Bodies, acting as provided herein as appellate Decisionmakers: Board of Zoning Appeals, Planning Commission, and City Council.

C. USES WHICH MAY BE CONSIDERED

1. "Hearing Officer" as Decisionmaker With Appeal to either the "Board of Zoning Appeals" or the "Planning Commission."

Unless otherwise specified in this Municipal Code, an application for a Conditional Use Permit for the uses listed in Section 101.0510(C) (1), in any zone, including interim zones, may be approved, conditionally approved or denied by a "Hearing Officer" in accordance with "Process Three." The "Hearing Officer's" decision may be appealed to either the "Board of Zoning Appeals" or the "Planning Commission" in accordance with Section 111.0506.

a. Churches, temples or buildings of a permanent nature, used primarily for religious purposes, except in A-1 zoned areas of the Coastal Zone subject to the FPF (Floodplain Fringe) Overlay Zone.

b. Commercial uses associated with agriculture in the Future Urbanizing area including, but not limited to: agricultural sales and services, animal sales and service (including hay, feed and tack), equestrian-related sales and services, and nursery sales and services.

c. Community identification signs (the permit may be granted by the Sign Code Administrator).

d. Electric distribution, gas regulating, and communications switching stations not involving aerial transmissions, which serve the immediate area, pro-

vided all equipment is located within a building.

e. Except as provided in paragraph 2.a. hereof, establishments which dispense, for sale or other consideration, alcoholic beverages, including beer, wine, and distilled spirits within the area shown on Map C-721, on file in the office of the City Clerk as Document No. OO-16715, subject to the requirements of SEC. 101.0515.

f. Guest quarters in any single-family residential zone.

g. Impound storage yards, provided they are located in the CA-RR or any less restrictive commercial zone.

h. Lights for illuminating tennis courts and similar lighting, except in the Future Urbanizing area.

i. Mobile homes for use by watchmen in any zone.

j. Moved buildings pursuant to SEC. 101.0514.

k. Elementary schools, and child care facilities serving children, except in the A-1 zoned areas of the Coastal Zone subject to the FPF (Floodplain Fringe) overlay zone or in the Future Urbanizing Area. Child care centers in all residential zones subject to the standards of Section 101.0580 (Child Care Facilities), subsection E. Requests for deviations from the requirements of subsection E.5. of Section 101.0580 shall be evaluated based upon a Health Risk Assessment Study submitted by the applicant.

l. Outdoor storage and display of new, unregistered motor vehicles, except in the A-1 zoned areas of the Coastal Zone or in the Future Urbanizing area.

m. Parking facilities, except in the A-1 zoned areas of the Coastal Zone or in the Future Urbanizing area. (Note: See Subparagraph 3., Planning Commission as Decisionmaker.)

n. Private clubs, lodges and fraternal organizations except fraternities and sororities. Private clubs, lodges, and fraternal organizations shall not be permitted in A-1 zoned areas of the Coastal Zone subject to the FPF (Floodplain Fringe) overlay zone or in the Future Urbanizing area. The prohibition against lodges and lodging facilities within the Future Urbanizing area in Section 101.0510 C.1.n. and Section 101.0510 C.3.o. of the Municipal Code shall not be applicable to any application which was submitted to the City prior to December 10, 1990, for a Conditional Use Permit to implement nonprofit lodges in that portion of the Future Urbanizing area located outside of the City's Local Coastal Program nor to any application for a Conditional Use Permit for nonprofit lodge(s) in connection with proposed development of a golf course in Subarea 1A of North City Future Urbanizing Area Framework Plan.

o. Residential care facilities, as defined in Section 101.0101.96 for not more than twelve persons in any zone which otherwise permits residential use, subject to the development standards and locational criteria of Section 101.0581, except in A-1 zoned areas of the Coastal Zone subject to the FPF (Floodplain Fringe) overlay zone or in the Future Urbanizing area.

p. Rotating and revolving signs pursuant to SEC. 101.1117.1, except in the Future Urbanizing area

(the permit may be granted by the Sign Code Administrator).

q. Solar systems for individual or joint use where otherwise not permitted.

r. Tandem parking for assigned employee parking spaces or valet parking associated with restaurant use, pursuant to SEC. 101.0821.

s. Teaching of the fine arts including, but not limited to music, drawing, painting, sculpture, drama and dancing, except in the A-1 zoned areas of the Coastal Zone subject to the FPF (Floodplain Fringe) overlay zone or in the Future Urbanizing area.

t. Theater marquee signs pursuant to Section 101.1118.1, except in the Future Urbanizing area (the permit may be granted by the Sign Code Administrator).

u. Veterinary clinics and veterinary hospitals in any commercial industrial or agricultural zone, except in the A-1 zoned areas of the Coastal Zone subject to the FPF (Floodplain Fringe) overlay zone or in the Future Urbanizing area.

2. "Hearing Officer" as Decisionmaker with appeal to the Planning Commission.

Unless otherwise specified in this Municipal Code, an application for a Conditional Use Permit for the uses listed in Section 101.0510(C) (2), in any zone, including interim zones, may be approved, conditionally approved, or denied, by a "Hearing Officer" in accordance with "Process Three". The "Hearing Officer's" decision may be appealed to the Planning Commission in accordance with Section 111.0506.

a. Automobile service stations in any zone except the R-1 Zones, the A-1 zoned areas of the Coastal Zone, or in the Future Urbanizing area, subject to the locational criteria and developmental and operational standards contained within the document entitled "Guidelines for Automobile Service Stations", as adopted by resolution of the City Council and, if alcoholic beverages including beer, wine and distilled spirits are offered for sale or other consideration within the area portrayed on Map C-721, Section 101.0515 shall be considered by a "Hearing Officer".

b. Housing for the elderly and/or the handicapped in any residential or commercial zone, subject to the standards contained within the document entitled "Locational Criteria Design and Development Standards and Guidelines for Senior Citizen Housing Projects," as adopted by resolution of the City Council.

c. Living units, subject to the requirements of Section 101.0518.

d. Boarding kennels for dogs or cats in any agricultural, industrial or commercial zone.

e. Buildings, structures, and uses operated by a public utility or by a public body having the power of eminent domain.

f. Companion units in R-1 Zones, subject to the requirements of Section 101.0512 and when not located within the Coastal Zone.

g. Fraternity houses, sorority houses and student dormitories provided that such use is within an area

designated for such use in the applicable community plan or, if no such area is designated, is within one mile of the exterior boundaries of the campus of a major institution of higher learning and is in the R-1000, R-600, R-400 or R-200 Zones.

h. Research, development and testing laboratories and facilities, except in A-1 zoned areas of the Coastal Zone or in the Future Urbanizing area; however, a permit may be granted for the continued operation of existing uses and facilities in the Future urbanizing area.

i. Newspaper publishing plants, except in the A-1 zoned areas of the Coastal Zone or in the Future Urbanizing area.

j. Educational institutions, other than child care facilities and elementary schools, except in the Future Urbanizing Area. Permanent buildings or fill shall not be permitted in A-1 zoned areas of the Coastal Zone subject to the FPF (Floodplain Fringe) overlay zone.

3. Planning Commission as Decisionmaker with appeal to the City Council.

Unless otherwise specified in this Municipal Code, an application for a Conditional Use Permit for the uses listed in Section 101.0510(C) (3), in any zone, including interim zones, may be approved, conditionally approved or denied by the Planning Commission in accordance with "Process Four". The Planning Commission's decision may be appealed to the City Council in accordance with Section 111.0509.

a. Establishments or enterprises involving large assemblages of people or automobiles, including, but not limited to:

- (1) Open air theaters.
- (2) Recreational facilities privately operated.

(3) Theaters, nightclubs or bars, with or without live entertainment, and/or any combination thereof which exceeds five thousand (5,000) square feet in gross floor area. A Conditional Use Permit will be considered only if the zone in which the property is located permits similar uses under five thousand (5,000) square feet and provided that off-street parking is provided as follows: one (1) parking space for each three (3) fixed seats or one (1) parking space for each twenty-one (21) square feet of floor area where there are no fixed seats.

The above uses shall not be permitted in A-1 zoned areas of the Coastal Zone subject to the FPF (Floodplain Fringe) overlay zone or in the Future Urbanizing area. This provision shall not apply to youth sports facilities proposed on an interim basis, which provide recreational facilities open to the public and primarily for youth under 18 years of age at the 27-acre site located at the southeast corner of El Camino Real and Via de la Valle within the Future Urbanizing Area. Nor shall this provision apply to the reconstruction of an existing privately owned recreational facility destroyed by fire, flood or other natural disaster, provided such reconstruction does not require new (i.e., non-replacement) permanent buildings and or fill.

b. Facilities for the wrecking and dismantling of automobiles and other similar vehicles, junk yards, and all establishments engaged in the salvaging or processing of scrap metal, in any agricultural or industrial zone except in the Coastal Zone or in the Future Urbanizing area.

c. Hospital, intermediate care facilities and nursing homes, except in A-1 zoned areas of the Coastal Zone subject to the FPF (Floodplain Fringe) Overlay Zone or in the Future Urbanizing area.

d. Nonprofit institutions whose primary purpose is the promotion of public health and welfare, except in A-1 zoned areas of the Coastal Zone subject to the FPF (Floodplain Fringe) Overlay Zone or in the Future Urbanizing area.

e. Residential care facilities, as defined in Section 101.0101.96 for more than twelve persons in any zone which otherwise permits residential use, subject to the development standards and locational criteria of Section 101.0581, except in the Future Urbanizing area.

f. Treatment and counseling offices for sex offenders in the R-1000 through R-200 Zones, commercial zones, and the M-1B Zone.

g. Within the Coastal Zone only, marine-related uses (including boat building, maintenance, servicing, repair, and storage; diving, salvage, and underwater maintenance; marine carpentry and woodworking; sailmaking and repair) in any commercial zone except the CO and CN Zones.

h. Parking facilities in the A-1 zoned areas of the Coastal Zone, except in the Future Urbanizing area.

i. A Correctional Placement Center in any zone except residential, neighborhood commercial (CN), A-1 areas and Beach Impact Area (BIA) of the Coastal Zone, or in the Future Urbanizing Area, subject to the locational, operational and development requirements contained within the document entitled "Correctional Placement Center" Requirements as adopted by the Council of The City of San Diego, on file in the office of the City Clerk as Document No. RR-279736.

A biannual monitoring fee to administer, audit and enforce the permit conditions and City regulations for correctional placement centers shall be determined in accordance with the fee schedule established by resolution of the City Council and filed in the office of the City Clerk. An annual fee as established by the Chief of Police shall be due and payable to The City of San Diego for background checks on each employee and applicant.

j. Temporary Workers Camps subject to requirements contained within Municipal Code section 101.0582 in the A-1 (agricultural) zones of the Future Urbanizing Area as designated in the City of San Diego Process Guide and General Plan, provided such camps are not located within the Coastal Zone, the adopted Hillside Review, Floodway and Floodplain Fringe Overlay Zones, within Miramar Naval Air Station or land within the San Pasqual Valley and that portion of the San Dieguito River Basin located within the San Pasqual Valley as shown on

the map entitled Phased Development Areas, dated December 1987, located at page 36 of the Progress Guide and General Plan of The City of San Diego.

k. Cemeteries, mausoleums and crematories, except in the A-1 zoned areas of the Coastal Zone subject to the FPF (Floodplain Fringe) Overlay Zone or in the Future Urbanizing area.

l. Major stationary facilities for the aerial transmission or relay of electromagnetic communications signals, including, but not limited to, radio or television transmission stations and broadcasting studios, microwave relay stations, paging broadcast facilities, and cellular mobile telephone transmitting facilities.

m. Camping parks, together with incidental facilities limited to serving the needs and convenience of occupants only, in the following zones:

(1) Any commercial zone;

(2) Any industrial zone, except the SR (Scientific Research) Zone;

(3) Any agricultural zone, provided that permanent buildings or fill shall not be permitted in areas of the Coastal Zone or the Future Urbanizing area subject to the FPF (Floodplain Fringe) Overlay Zone.

n. Any facility, activity, or use of property in any agricultural or manufacturing zone which is required by federal law to obtain a Research, Development and Demonstration Permit for Hazardous Waste Treatment from the Environmental Protection Agency or any other agency of the United States Government pursuant to the Federal Resource Conservation and Recovery Act.

o. Golf courses, golf practice driving tees or ranges, pitch-and-putt golf courses, and miniature golf courses. Within the Future Urbanizing area lodging facilities shall not be permitted as accompanying or accessory uses; clubhouse, food service, and other customary incidental uses shall not constitute an irrevocable use of the land, and shall be limited in use, size, and capacity to serve the needs and convenience of the users of the golf facility only; and reclaimed water shall be required to be used for irrigation of all landscaped areas.

p. Natural resources development and utilization including, but not limited to:

(1) Extracting, processing, storing, selling and distributing of sand, gravel, rock, clay, decomposed granite, and soil; and

(2) Manufacturing, producing, processing, storing, selling and distributing of asphaltic concrete, Portland cement concrete, concrete products, and clay products.

Those activities defined in Section 2735 of the California Surface Mining and Reclamation Act of 1975 as surface mining operations, shall comply with the requirements of Section 101.0511, including a requirement for a reclamation plan for activities conducted subsequent to January 1, 1976 and the phased implementation of an approved restoration and reclamation plan.

4. City Council as Decisionmaker.

Unless otherwise specified in this Municipal Code, an application for a Conditional Use Permit for

the uses listed in Section 101.0510(C) (4), in any zone including interim zones, may be approved, conditionally approved or denied by the City Council in accordance with "Process Five".

a. Airports and permanent helicopter facilities, subject to the standards contained within the document entitled "Locational Criteria and Development Standards for Helicopter Facilities," as adopted by resolution of the City Council, except in the A-1 zoned areas of the Coastal Zone subject to the FPF (Floodplain Fringe) Overlay Zone.

b. Amusement parks, except in the A-1 zoned areas of the Coastal Zone subject to the FPF (Floodplain Fringe) Overlay Zone or in the Future Urbanizing area.

c. Fairgrounds, except in the Future Urbanizing area, provided that permanent buildings and/or fill shall not be permitted in A-1 zoned areas of the Coastal Zone subject to the FPF (Floodplain Fringe) Overlay Zone.

d. Race tracks, except in the A-1 zoned areas of the Coastal Zone or in the Future Urbanizing area.

e. Any hazardous waste facility project, as defined in Section 101.0516, in any manufacturing or agricultural zone; subject to the additional provisions in Section 101.0516.

f. Residential, commercial, industrial, or institutional uses in and on historical sites, except that only residential uses may be permitted in the Future Urbanizing area.

5. In addition to the land uses specified in this paragraph, various other land uses may be authorized within planned districts only under Conditional Use Permit. For a list of such uses refer to the individual planned district regulations, as set forth in Chapter X, Article 3, Division 1, et seq., of this Municipal Code.

6. Conditional uses permitted in the FW Zone shall be limited to those uses identified in Section 101.0403.

D. APPLICATION—FORM AND CONTENTS

Application for any Conditional Use Permit referred to in Section 101.0510 shall be filed with the Development Services Department in accordance with Section 111.0202. The application shall state fully the circumstances and conditions relied upon as grounds for the application and shall be accompanied by adequate plans, a legal description of the property involved, and a detailed description of the proposed use.

E. ACTION OF THE DECISIONMAKER

1. After the public hearing, the decisionmaker may, approve or conditionally approve a Conditional Use Permit, if, after considering the facts presented in the application and at the hearing, it is found that:

a. The proposed use will not adversely affect the neighborhood, the General Plan, or the Community Plan, and, if conducted in conformity with the conditions provided by the permit, will not be detrimental to the health, safety and general welfare of persons residing or working in the area; and

b. The proposed use will comply with all the relevant regulations in this Code.

2. If the decisionmaker, after considering the facts presented on the application and at the hearing, is unable to make the two findings set forth in Section 101.0510(E) (1), it shall, deny the permit.

3. The decision to approve, conditionally approve or deny the Conditional Use Permit shall be in writing and include a finding of facts showing whether the conditional use fulfills or fails to fulfill the requirements set forth in Section 101.0510(E) (1). The written decision shall be filed with the City Clerk, the Development Services Department and the County Recorder of San Diego County. A copy of the decision shall be mailed to the applicant. The written decision shall not be filed with the County Recorder if the Conditional Use Permit is denied.

4. In granting a Conditional Use Permit, the Decisionmaker may impose such conditions as it deems necessary and desirable to protect the public health, safety and general welfare. Any regulations of the zone in which property is situated including, but not limited to, signs, fences, walls, maximum building heights, density, minimum yards, maximum building coverage, floor area ratio and off-street parking may be increased or decreased, except that density may not be increased within the Future Urbanizing area. If deemed appropriate the Decisionmaker may assign an expiration date to the permit.

F. AMENDMENT TO PERMIT

1. An amendment or modification may be made to a valid Conditional Use Permit in accordance with Section 111.1125.

G. TIME LIMIT ON INITIATION OF CONDITIONAL USE

Unless otherwise provided by the terms of an approved Conditional Use Permit, a Conditional Use Permit shall expire and become void thirty-six (36) months after the "Date of Final Action" of the permit, if the Conditional Use Permit is not utilized in one of the following ways:

1. Where no construction is required: occupancy of structures and conduct of activities in conformance with activities authorized by the Conditional Use Permit;

2. Where construction is required without subdivision of land: twenty percent or more completion of the total footings, foundations, or similar supporting structures authorized by the Conditional Use Permit; or

3. Where subdivision of land is required: recordation of the final or parcel map.

4. The Conditional Use Permit may expressly authorize two or more phases of implementation, in which instance the time limits set forth in Section 101.0510(G) may be determined separately for each phase or as determined in the permit.

H. EXTENSION OF TIME

The expiration date of a valid Conditional Use Permit may be extended as provided in Section

111.1122.

I. RESCISSION OF PERMIT BY APPLICANT PRIOR TO INITIATION OF USE

1. A valid Conditional Use Permit granted by the City of San Diego may be rescinded by the owner of the subject property at any time prior to the initiation of usage set forth in Section 101.0510(G).

2. Such rescission shall be initiated upon receipt by the Development Services Department of a written communication from the owner of the subject property to the Development Services Director.

3. Upon receipt of the request the Development Services Director shall cause preparation of a written declaration rescinding the Conditional Use Permit. The declaration shall be filed with the City Clerk, the Development Services Director and the County Recorder of San Diego County. A copy of the declaration shall be mailed to the owner of the subject property. The permit shall become void when the declaration is recorded by the County Recorder or 120 calendar days after the Development Services Department receives the written request, whichever occurs later.

J. OPERATIONAL PARAMETERS

1. Following the initiation of a use authorized by the Conditional Use Permit, the subject property shall not be used for any purpose. Unless expressly authorized by the conditional use permit, preexisting uses and structures shall be terminated or removed, respectively. Any change in use requires a new or amended Conditional Use Permit to be obtained.

2. Neither construction nor any activity authorized by the Conditional Use Permit shall be undertaken on the premises until:

a. The permittee and property owner, if the owner is not the permittee, shall sign and return a copy of the permit to the Development Services Department and

b. The Conditional Use Permit is recorded in the office of the County Recorder of San Diego County.

By signing the permit, the permittee/owner shall acknowledge that he/she has read, understands, and agrees to all provisions and conditions of the permit.

K. REVOCATION OF PERMIT

A Hearing Officer may revoke or modify a Conditional Use Permit in accordance with the provisions of Chapter XI, Article 1, Division 6, if any one or more of the following findings can be made:

1. That the permit approval was obtained by fraud;

2. That the uses and privileges authorized by the permit have not been initiated within the thirty-six (36) months specified in Section 101.0510(G) and no extension of time has been granted;

3. The permit is being or has been exercised contrary to the conditions of said permit, or in violation of any applicable licenses, permits, regulations or laws;

4. The use for which the permit was obtained is being or has been exercised so as to be detrimental to the public health, safety, or general welfare or so as to constitute a public nuisance; or

5. The property or any structure thereon subject to the permit has been abandoned or the use authorized by the permit has ceased for a period exceeding twelve (12) months and no amendment has been granted for a longer time.

L. RESCISSION OF PERMIT BY APPLICANT FOLLOWING ESTABLISHMENT OF USE

1. Following the establishment of uses authorized by a valid Conditional Use Permit, the owner of the subject property may request the rescission of the permit.

2. The rescission shall be initiated upon receipt by the Development Services Department of a *written communication from the owner of the subject property to the Development Services Director.*

3. Upon receipt of the request for rescission the Development Services Director or the administrator of the planned district in which the subject property is located, shall initiate an investigation and determine in what ways, if any, the premises fail to conform to the provisions of the zone or planned district in which the premises are located. If the premises fail in any way to conform with the zone or district, the Development Services Director or district administrator shall prepare a list of particulars. A copy of the list shall be provided to the permittee, together with a statement that after the permit becomes void, nonconformance with the provisions of the zone or district constitutes a public nuisance subject to the provisions of Section 101.0213, Zoning Violation Abatement Program.

4. Once the Development Services Director or planned district administrator has provided the permittee with the list of nonconformities the Development Services Director shall cause the preparation and filing of a declaration rescinding the permit. Upon recordation of the declaration with the County Recorder, the permit shall be void. If appropriate, the City shall actively pursue any zoning or planned district nonconformance.

M. COASTAL ZONE REGULATIONS

Within the Coastal Zone, the following regulations shall be supplementary to, and in the event of conflict shall supersede, the regulations set forth or referenced in preceding paragraphs of the section.

Uses Which May be Considered (see Section 101.0510(C)): Any use included in Section 101.0510(C) provided that where such uses are proposed to be located within the SCR Overlay Zone, the HR Overlay Zone, the FW Zone or the FPF Overlay Zone, such uses shall be consistent with the uses permitted under such zones and shall be subject to all applicable regulations and restrictions.

(Amended 5-28-96 by O-18303 N.S.)

§ 101.0511 Requirements for Processing Conditional Use Permits and Reclamation

Plans for Natural Resources Development

A. PURPOSE AND INTENT

1. These requirements are adopted pursuant to the California Surface Mining and Reclamation Act of 1975, Chapter 9, Public Resources Code ("California Surface Mining and Reclamation Act of 1975").

2. The City hereby finds and declares that the extraction of minerals is essential to the continued economic well-being of the City and to the needs of society, and that the reclamation of mined lands is necessary to prevent or minimize adverse effects on the environment and to protect the public health and safety.

3. The City further finds that the reclamation of mined lands, as provided in this ordinance, will permit the continued mining of minerals and will provide for the protection and subsequent beneficial use of the mined and reclaimed land.

4. The City further finds that surface mining takes place in diverse areas where the geologic, topographic, climatic, biological and social conditions are significantly different and that reclamation operations and the specifications therefor may vary accordingly.

B. DEFINITIONS

1. "Exploration" or "prospecting"— the search for minerals by geological, geophysical, geochemical or other techniques, including, but not limited to, sampling, assaying, drilling or any surface or underground works needed to determine the type, extent or quantity of minerals present.

2. "Mined Lands"— includes the surface, sub-surface and groundwater of an area in which surface mining operations will be, are being or have been conducted, including private ways and roads appurtenant to any such area, land excavations, workings, mining waste and areas in which structures, facilities, equipment, machines, tools or other materials or property which result from, or are used in, surface mining operations.

3. "Minerals"— any naturally occurring chemical element or compound, or groups of elements and compounds, formed from inorganic processes and organic substances, including, but not limited to, coal, peat and bituminous rock, but excluding geothermal resources, natural gas and petroleum.

4. "Mining Waste"— includes the residual of soil, rock, mineral, liquid, vegetation, equipment, machines, tools or other materials or property directly resulting from, or displaced by, surface mining operations.

5. "Operator"— any person who is engaged in surface mining operations, himself, or who contracts with others to conduct operations on his behalf, except a person who is engaged in surface mining operations as an employee with wages as his sole compensation.

6. "Overburden"— soil, rock or other materials that lie above a natural mineral deposit or in between deposits, before or after their removal by

EXPIRATION CONDITIONS**Quick Glance**

This condition applies to **Verus Street** (PTS No. 90455) and **Yolanda** (PTS No. 90475):

"This Conditional Use Permit will expire ten years from the effective date of the approved permit, unless a new application for a Conditional Use Permit is submitted to the Development Services Department, DEP Division, 90 days in advance of the expiration date as stated herein:

- a. Should the new permit application be denied by the Development Services department Director/Planning Commission, this permit will automatically expire 90 days from the date of action by the approving authority; and
- b. The permittee shall cease and desist all activity on the site within 90 days from the date of action by the approving authority;
- c. The permittee shall return the site to its original condition within 90 days from the date of action by the approving authority."

This condition applies to **Kearny Villa** (PTS No. 90486):

"This Conditional Use Permit shall be valid for a period not to exceed 10 years. Prior to the expiration date, the property owner/permittee may:

- a. Submit a complete application for a new Conditional Use Permit to operate on this site, complying with all regulations and guidelines for communication facilities in effect at the time; or
- b. Cease all operations/activities on the site, and remove the monopole, equipment of the facility from the property."

And;

"The 10 (ten) year period shall commence on the date that the CUP is approved by action of the Planning Commission or the City Council, if appealed."

This condition applies to **Federal** (PTS No. 91175):

"This permit shall expire on February 2, 2005, the communication facilities described herein shall be removed from this site and the property shall be restored to its original condition."

And;

“Prior to the expiration date of this permit on February 2, 2005, the applicant may submit to the Development Services Department for an Extension of Time, to be considered by the Planning Commission, to allow the cellular communications facilities described herein to continue on this site. Additional conditions or restrictions relevant to existing and proposed improvements or uses on this site may be recommended by the Development Services Department and/or correspondingly applied by the Planning Commission to any request(s) for an Extension of Time on this permit.”

This condition applies to **Mini Storage** (PTS No. 107501):

“This Conditional Use Permit is granted for a period of ten (10) years from February 1, 1996, at which time it will become null and void unless a new application for a Conditional Use Permit is applied for and approved under the procedures in effect at that time. At such time as the Conditional Use Permit expires or ceases to be utilized, all antennas and equipment will be removed from the site by the last owner/permittee of the use.”

This condition applies to **30th Place** (PTS No. 92067), **Aviation** (PTS No. 92076), and **Mt. Ada** (PTS No. 91178):

“This permit shall expire 20 years from the date of approval. If an extension is requested, the operation and conditions shall be reviewed at public hearings by the Planning Commission and City Council.”

American Tower Corporation
Corporate Officers

James Taiclet
Chief Executive Officer

Brad Singer
Chief Financial Officer and Treasurer

Steven Moskowitz
President, U.S. Tower Division

Hal Hess
Executive Vice President, General Counsel
Chief Financial Officer, International

Jean A. Bua
Executive Vice President, Finance
Corporate Controller

Verizon
Corporate Officers

Lowell C. McAdam
President and CEO

Jack Plating
Executive Vice President & Chief Operating Officer

Mike Lanman
Vice President & Chief Marketing Officer
Affairs

Richard J. Lynch
Executive Vice President & Chief Technical Officer
Communications

John Townsend
Vice President & Chief Financial Officer

John Hinshaw
Vice President & Chief Information Officer

Jim McGean
President – South Area

Martha Delehanty
Vice President – Human Resources

Margaret P. Feldman
Vice President – Business Development

Steven E. Zipperstein
Vice President – Legal & External

Jim Gerace
Vice President – Corporate

Richard Conrad
President – Northeast Area

Marni Walden
President – Midwest Area

Roger Gurnani
President – West Area

Sprint Nextel
Board of Directors

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James H. Hance, Jr.
V. Janet Hill
Irvine O. Hockaday, Jr.
Linda Koch Lorimer
William H. Swanson

QUICK GLANCE PROJECT DESCRIPTION											
PTS NO.	PROJECT NAME	PERMIT TYPE	LOCATION	EXPIRATION	SUBMIT DATE	COMMUNITY PLAN	ENVIRON. DOCUMENT	ORIGINAL PERMITTEE	APPROVAL NO.	ZONE	PROJECT DESCRIPTION
				APPROVAL		COUNCIL DISTRICT	DATE	ORIGINAL PERMIT NO.			
90455 425667	Verus St.	CUP Process 3	2222 Verus St.	7/27/1995 7/27/95 PC	12/1/2005	Otay Mesa Nestor (8)	Exempt 1/13/06	Nextel 94-0471	CUP No. 289921	IL-2-1	90' pole 200 sq. ft. shelter
90475 425668	Yolanda Ave.	CUP Process 3	9606 Yolanda Ave.	7/27/05 7/27/95 PC	12/1/2005	Kearny Mesa (6)	Exempt 1/13/06	Nextel 94-0527	CUP No. 289973	RS-1-1 IL-2-1	200 sq. ft. shelter with antennas on poles above
90486 425671	Kearny Villa	CUP Process 3	5571 Kearny Villa Rd.	1/26/05 1/26/95 PC	12/5/2005	Kearny Mesa (6)	Exempt 3/1/07	Nextel 94-0479	CUP No. 290030	IL-2-1	120' pole 200 sq. ft. shelter
91175 425717	Federal Blvd.	CUP Process 3	4586 Federal Blvd.	2/2/05 2/2/95 PC	12/12/2005	City Heights (4)	Exempt 2/22/07	Verizon 94-0627	CUP No. 292612	IL-3-1	100' pole 450 sq. ft. shelter
107501 426672	Mini Storage	CUP Process 3	1529 38th St.	2/1/06 2/1/96 PC	7/5/2006	City Helghts (7)	Exempt 8/15/06	Nextel 94-0330-12	CUP No. 357727	IL-21-	60' pole 190 sq. ft. shelter
92067 425781	30th Place	CUP/PDP Process 4	797 1/3 30th Place	11/20/04 11/20/84 CC	12/21/2005	Southeast San Diego (8)	Exempt 2/8/06	Pac Tel Mobile 84-0469	CUP No. 296127 PDP No. 453612	MF-3000	130' pole 500 sq. ft. shelter
92076 425782	Aviation	CUP/PDP Process 4	6770 Aviation Dr.	11/20/04 11/20/84 CC	12/23/2005	Skyline Paradise Hills (4)	Exempt 3/1/07	Pac Tel Mobile 84-0472	CUP No. 296155 PDP No. 296156	RS-1-7	130' pole 550 sq. ft. shelter
91178. 425718	Mt. Ada	CUP/SDP Process 5	6426 Mt. Ada	11/20/04 11/20/84 CC	12/9/2005	Clairemont Mesa (6)	Exempt 1/23/06	Pac Tel Mobile 83-0629	CUP No. 292627 SDP No. 450714	CC-1-3	145' pole 572 sq. ft. shelter

REQUEST FOR COUNCIL ACTION CITY OF SAN DIEGO						1. CERTIFICATE NUMBER (FOR AUDITOR'S USE ONLY)	
TO: CITY ATTORNEY		2. FROM (ORIGINATING DEPARTMENT): Development Services			3. DATE: 9/6/2007		
4. SUBJECT: American Tower Corporation - Mt. Ada - CUP/SDP							
5. PRIMARY CONTACT (NAME, PHONE & MAIL STA.): Karen Lynch-Ashcraft (619) 446-5351 MS 501				6. SECONDARY CONTACT (NAME, PHONE & MAIL STA.): Alex Hempton (619) 446-5349		7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED <input type="checkbox"/>	
8. COMPLETE FOR ACCOUNTING PURPOSES							
FUND					9. ADDITIONAL INFORMATION / ESTIMATED COST:		
DEPT.	1300						
ORGANIZATION	1671						
OBJECT ACCOUNT							
JOB ORDER	42-5718						
C.I.P. NUMBER							
AMOUNT							
10. ROUTING AND APPROVALS							
ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIGINATING DEPARTMENT	MIKE WESTLAKE <i>KG-5/for</i>	9/6/07	8	DEPUTY CHIEF	WILLIAM ANDERSON <i>[Signature]</i>	9/7/07
2	EAS	MARTHA BLAKE <i>[Signature]</i>	9/6/07	9	COO	JAY GOLDSTONE <i>[Signature]</i>	9/6/07
3	DSD	<i>[Signature]</i>	9/6/07	10	CITY ATTORNEY	ANDREA DIXON <i>[Signature]</i>	9/7/07
4	LIAISON OFFICE	N/A		11	ORIGINATING DEPARTMENT	KELLY BROUGHTON <i>[Signature]</i>	9/6/07
5					DOCKET COORD: _____ COUNCIL LIAISON: _____		
6				✓	<input type="checkbox"/> COUNCIL PRESIDENT <input type="checkbox"/> SPOB <input type="checkbox"/> CONSENT <input type="checkbox"/> ADOPTION <input type="checkbox"/> REFER TO: _____ COUNCIL DATE: _____		
7							
11. PREPARATION OF: <input checked="" type="checkbox"/> RESOLUTION(S) <input type="checkbox"/> ORDINANCE(S) <input type="checkbox"/> AGREEMENT(S) <input type="checkbox"/> DEED(S)							
Resolution of denial of Conditional Use Permit No. 292627 and Site Development Permit No. 450714.							
11A. STAFF RECOMMENDATIONS: Deny Conditional Use Permit No. 292627 and Site Development Permit No. 450714							
12. SPECIAL CONDITIONS:							
<u>COUNCIL DISTRICT(S):</u>		6					
<u>COMMUNITY AREA(S):</u>		Clairemont Mesa					
<u>ENVIRONMENTAL IMPACT:</u>		This project is categorically exempt from CEQA pursuant to State CEQA Guidelines Section 15301.					
<u>HOUSING IMPACT:</u>		None					
<u>OTHER ISSUES:</u>		None					

000529

EXECUTIVE SUMMARY SHEET
CITY OF SAN DIEGO

DATE ISSUED: REPORT NO: PC-07-079
ATTENTION: Council President and City Council
ORIGINATING DEPARTMENT: Development Services Department
SUBJECT: American Tower Corporation-Mt. Ada - Project No. 91178
Process 5
COUNCIL DISTRICT(S): 6
CONTACT/PHONE NUMBER: Karen Lynch-Ashcraft/(619) 446-5351 or
klynchashcraft@sandiego.gov

REQUESTED ACTION: Conditional Use Permit and Site Development Permit for an existing 145 foot high monopole and a 572 square foot equipment building located at 6426 Mt. Ada in the Clairemont Mesa Community Planning area.

STAFF RECOMMENDATION: **DENY** Conditional Use Permit No. 292627 and Site Development Permit No. 450714.

EXECUTIVE SUMMARY: On November 20, 1984, the City Council approved a Conditional Use Permit (CUP) for a 145 foot high monopole and a 572 square-foot equipment shelter on the south side of Balboa Avenue between Mt. Rias Place and Mt. Albertine Avenue at 6426 Mt. Ada Road. This was one of the first telecommunication facilities within the City. Since wireless communications was in its infancy, the Council imposed a 20 year limit on the life of the CUP in order to allow the facility to be constructed, the technology to be implemented and a review to occur in the future when technology and/or regulations changed. The condition included language regarding an extension to the permit, which would be required to be reviewed at a Planning Commission and City Council public hearing prior to November 20, 2004. The Land Development Code does not have provisions to extend discretionary permits.

The 145 foot tall monopole is situated along the Balboa Avenue corridor in a commercial zone (CC-1-3) that borders multi-unit residential development with a large residential subdivision beyond. The Clairemont Mesa Height Limitation Overlay zone does not permit structures over 30 feet in height without City Council approval of a Site Development Permit (SDP). A SDP is a special permit used when a proposed development would have a significant impact on the surrounding area. Section 141.0405 of the Land Development Code (Communication Antennas) requires wireless facilities to be integrated into the landscape or camouflaged from public view. This monopole is a significant visual impact on the horizon along Balboa Avenue and the surrounding residential community. Neither the findings for the CUP nor the findings for the SDP could be made in the affirmative; therefore staff recommended denial of the permits to the Planning Commission.

On June 28, 2007, the Planning Commission considered the Mt. Ada monopole and voted unanimously (5-0) to recommend denial of the CUP/SDP because the facility is not camouflaged from public view and because it is not integrated into the environmental setting.

000530

FISCAL CONSIDERATIONS: All costs associated with the processing of this appeal are paid by the applicant.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

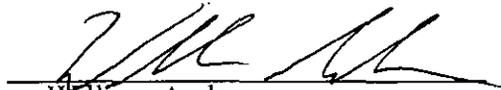
PLANNING COMMISSION RECOMMENDATION: The Planning Commission voted 5-0 to recommend **DENIAL** of Conditional Use Permit No. 292627 and Site Development Permit No. 450714.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: On March 21, 2006, the Clairemont Mesa Planning Committee voted 14-0-0 to recommend denial of Project No. 91178.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: Denial of the project will require American Tower Corporation and their tenant Verizon Wireless to expend funds to upgrade their facility and make modifications to other facilities to accommodate the reduction in height in order to comply with the regulations.



Patti Boekamp
Interim Director
Development Services Department



William Anderson
Interim Deputy Chief of Land Use and
Economic Development

000531

DETERMINATION OF: ENVIRONMENTAL EXEMPTION

Pursuant to the California Environmental Quality Act (CEQA) and State CEQA Guidelines

Agency: CITY OF SAN DIEGO

DATE: January 23, 2006

Action/Permit(s): Site Development Permit / Conditional Use Permit

Permit No. 91178

Description of Activity: Verizon Mount Ada. Site Development Permit and Conditional Use Permit for a telecommunication facility consisting of an existing 136-foot tall monopole supporting 30 antennas and adjacent equipment shelter previously approved by CUP 83-0629 in the CC-1-3 zone of the Clairemont Mesa Plan area.

Location of Activity: 6426 Mount Ada Road in the Clairemont Mesa Community Planning area.

- 1. [] This activity is EXEMPT FROM CEQA pursuant to:
[] Section 15061(b)(1) of the State CEQA Guidelines (the activity is not a project as defined in Section 15378).
[] Section 15061(b)(3) of the State CEQA Guidelines ("General Rule").
2. [x] This project is EXEMPT FROM CEQA pursuant to State CEQA Guidelines Section checked below:

ARTICLE 19 of GUIDELINES
CATEGORICAL EXEMPTIONS
(Incomplete list)

Table with 2 columns: Sec. and Short Name. Rows include 15301 Existing Facilities, 15302 Replacement or Reconstruction, 15303 New Construction or Conversion of Small Structures, 15304 Minor Alterations to Land, 15305 Minor Alterations in Land Use Limitations, 15306 Information Collection, 15311 Accessory Structures, 15312 Surplus Government Property Sales, 15315 Minor Land Divisions, 15317 Open Space Contracts or Easements, 15319 Annexation of Existing Facilities and Lots for Exempt Facilities, 15325 Transfer of ownership of interest in Land to Preserve Open Space, and other.

ARTICLE 18 of GUIDELINES
STATUTORY EXEMPTIONS
(Incomplete list)

Table with 2 columns: Sec. and Short Name. Rows include 15261 Ongoing Project, 15262 Feasibility and Planning Studies, 15265 Adoption of Coastal Plans and Programs, 15268 Ministerial Projects, 15269 Emergency Projects, and Other.

It is hereby certified that the City of San Diego has determined the above activity to be exempt:

Signature of Kenneth Teasley, Senior Planner, Environmental Analysis Section

Distribution: Karen Lynch-Ashcraft, Dev. Project Manager File

000533

RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

WHEREAS, Buckel Trust, Owner/American Tower Corporation, Permittee, filed an application with the City of San Diego for a permit for a wireless communication facility to be known as the American Tower – Mt. Ada project, located at 6426 Mt. Ada Road, and legally described as a portion of Parcel “B” of Parcel Map No. 227, in the City of San Diego, County of San Diego, State of California, filed April 7, 1970 in the Office of the County Recorder of San Diego, California, in the Clairemont Mesa Community Plan area, in the CC-1-3 zone; and

WHEREAS, on June 28, 2007, the Planning Commission of the City of San Diego considered Conditional Use Permit [CUP] No. 292627/Site Development Permit [SDP] No. 450714, and pursuant to Resolution No. 4283-PC voted to recommend City Council disapproval of the Permit; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on _____, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Conditional Use Permit No. 292627/Site Development Permit No. 450714:

A. CONDITIONAL USE PERMIT SAN DIEGO MUNICIPAL CODE [SDMC]
SECTION 126.0305

1. **The proposed development will not adversely affect the applicable land use plan.** This facility was originally approved by the City Council on November 20, 1984. The Conditional Use Permit [CUP] included a 20 year expiration. At the time of approval, the City did not have applicable regulations for these types of facilities so the City Council imposed a 20 year limit in order to re-evaluate the project in light of new regulations and or policies that may be in effect. The project exists as it did after initial construction and American Tower Corporation is now seeking to obtain another CUP to maintain the facility as is.

Neither the City of San Diego General Plan nor the Clairemont Mesa Community Plan addresses wireless communication facilities as a specific land use.

2. **The proposed development will not be detrimental to the public health, safety, and welfare.** The Telecommunication Act of 1996 preempts local governments from regulating the "placement, construction and modification of wireless communication facilities on the basis of the environmental effects of Radio Frequency [RF] emission to the extent that such facilities comply with the Federal Communication Commission's [FCC] standards for such emissions." If the decision maker approves the existing facility, a condition will be included within the permit to require American Tower to perform a cumulative model RF test and submit the finding in a report to the City of San Diego within ninety days of approval of the CUP/SDP.

3. **The proposed development will comply to the maximum extent feasible with the regulations of the Land Development Code.** This facility was originally approved by the City Council on November 20, 1984. The CUP included a 20 year expiration. At the time of approval, the City did not have applicable regulations for these types of facilities so the City imposed a 20 year time limit in order to re-evaluate the project in light of new regulations and or policies that may be in effect. The project exists as it did after initial construction and American Tower Corporation is now seeking to obtain another CUP to maintain the facility as is.

Since 2000, the City has had a Communication Antenna ordinance that requires architectural or environmental integration with the project site. Pursuant to the San Diego Land Development Code, wireless communication facilities are permitted in all zones citywide with the appropriate permits. Wireless communication facilities are separately regulated uses, which have limitations or require compliance with conditions in order to minimize potential impacts. The intent of the regulations is to camouflage facilities from public view. In this case, the monopole is the tallest structure in and around the area in which it is located and as such, it has an incongruous effect on the community's landscape. It is not camouflaged from public view nor is it architecturally integrated into the architectural or environmental setting. It is situated on the edge of a commercial area directly across the street from multi-unit residential with a large

single unit residential subdivision beyond. Additionally, the tower is located in a commercial core area of the community, adjacent to a major east west thoroughfare. The tower poses an unsightly visual impact that can be seen from the surrounding residential communities and major thoroughfares.

Section 141.0405 of the Land Development Code differentiates between minor and major telecommunication facilities. Minor telecommunication facilities include those that are concealed from public view or integrated into the architecture or surrounding environment through architectural enhancement (enhancements that complement the scale, texture, color and style) unique design solutions, or accessory use structures. Major telecommunication facilities are antenna facilities that do not meet the criteria for minor telecommunication facilities or they are located in residential zones containing residential uses. Similar to minor facilities, they also need to be designed to be minimally visible through the use of architecture, landscape architecture and siting solutions. The Mt. Ada project does not conform to this code requirement due to its height, design, color and the visual clutter it creates. As it exists, the tower is a significant visual impact to the community of Clairemont.

Therefore, the project does not comply to the maximum extent feasible with the regulations of the Land Development Code.

4. **The proposed use is appropriate at the proposed location.** A wireless communication facility at this location is an appropriate use subject to compliance with the ordinances and policies that regulate telecommunication facilities.

B. SITE DEVELOPMENT PERMIT SDMC SECTION 126.0504

1. Findings for all Site Development Permits:

a. **The proposed development will not adversely affect the applicable land use plan.** This facility was originally approved by the City Council on November 20, 1984. The CUP included a 20 year expiration. At the time of approval, the City did not have applicable regulations for these types of facilities so the City Council imposed a 20 year limit in order to re-evaluate the project in light of new regulations and or policies that may be in effect, The project exists as it did after initial construction and the new owner, American Tower Corporation is now seeking to obtain another CUP to maintain the facility as is.

Neither the City of San Diego General Plan nor the Clairemont Mesa Community Plan addresses wireless communication facilities as a specific land use.

b. **The proposed development will not be detrimental to the public health, safety, and welfare.** The Telecommunication Act of 1996 preempts local governments from regulating the "placement, construction and modification of wireless communication facilities on the basis of the environmental effects of RF emission to the extent that such facilities comply with the FCC's standards for such emissions." If the decision maker approves the existing facility, a condition will be included within the permit to require American Tower to perform a cumulative model RF test and submit the finding in a report to the City of San Diego within ninety days of approval of the CUP/SDP.

c. **The proposed development will comply with the applicable regulations of the Land Development Code.** The monopole complies with all the development regulations of the CC-1-3 zone, but does not comply with the Clairemont Mesa Height Limitation Overlay Zone of 30 feet. The monopole is 145 feet tall and is extremely visible to the Balboa Avenue corridor and the surrounding residential community. Development in the area is low in scale. The tower is located in a commercial zone that is immediately adjacent to a multi-unit residential complex. The existing tower exceeds the height limit by 115 feet. Deviations to the Clairemont Mesa Height Limitation Overlay Zone require a Site Development Permit.

This project was originally constructed in the mid-1980's when Pac Tel Mobile (now Verizon) was only one of two wireless carriers in San Diego. Their network was being established with tower structures and later branched out to building collocations. Initially, carriers built tall facilities, later filling in their networks with lower sights. Verizon signed the contract (CUP 83-0629) acknowledging the 20 year time limit on the facility. In order to maintain a facility at this site, a new application in compliance with the current regulations and policies would be required.

2. Supplemental Findings – Clairemont Mesa Height Limit – SDMC
Section 126.0504(j)

a. **The granting of an exception will not significantly interfere with public views from western Clairemont Mesa to Mission Bay and the Pacific Ocean within the surrounding area.** The Mt. Ada project is not located near Mission Bay or the surrounding areas and as a result, it will not interfere with public views to these areas. It is located east of Mission Bay in the Balboa Genesee commercial corridor and it creates a significant visual impact to the community surrounding this area.

b. **The granting of an exception is appropriate because there are existing structures over 30 feet in height and the proposed development will be compatible with surrounding one, two, or three-story structures; or the granting of an exception is appropriate because there are topographic constraints peculiar to the land; or the granting of the exception is needed to permit roofline and facade variations, accents, tower elements, and other similar elements and the elements will not increase the floor area of the structure.** The topography is flat along the Balboa Genesee commercial corridor and the majority of structures in the area are low scale and do not exceed the 30 foot height limit. This tower is 115 feet above the 30 foot height limit and as such, poses a significant visual impact to the surrounding community. It stands out against the existing landscape and is therefore incompatible with the surrounding development. The only other structure of this stature is a 10-story building approximately .62 miles to the west of this site with a roof top full of antennas managed by American Tower Corporation. Therefore, granting an exception to the Clairemont Mesa Height Limitation Overlay Zone is inappropriate.

The above findings are supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference.

BE IT FURTHER RESOLVED, that Conditional Use Permit No. 292627/Site

Development Permit No. 450714 is denied.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
Andrea Contreras Dixon
Deputy City Attorney

ACD:pev

09/06/07

Or.Dept:DSD

R-2008-188

MMS #5271

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PLANNING COMMISSION
RESOLUTION NO. 4283-PC
CONDITIONAL USE PERMIT NO. 292627
SITE DEVELOPMENT PERMIT NO. 450714
AMERICAN TOWER – MT. ADA
PROJECT NO. 91178

WHEREAS, Buckel Trust, Owner and American Tower Corporation, Permittee, filed an application with the City of San Diego for a permit for a wireless communication facility (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Conditional Use Permit No.292627 and Site Development Permit No. 450714, on portions of a .19 acre site;

WHEREAS, the project site is located at 6426 Mt. Ada Road in the CC-1-3 zone of the Clairemont Mesa Community Plan;

WHEREAS, the project site is legally described as a portion of Parcel "B" of Parcel Map No. 227, in the City of San Diego, County of San Diego, State of California, filed April 7, 1970 in the Office of the County Recorder of San Diego, California;

WHEREAS, on June 28, 2007, the Planning Commission of the City of San Diego considered Conditional Use Permit No. 292627 and Site Development Permit No. 450714, pursuant to the Land Development Code of the City of San Diego; NOW, THEREFORE,

BE IT RESOLVED by the Planning Commission of the City of San Diego as follows:

That the Planning Commission adopts the following written Findings, dated June 28, 2007.

FINDINGS:

Conditional Use Permit - Section 126.0305

- 1. The proposed development will not adversely affect the applicable land use plan;**

This facility was originally approved by the City Council on November 20, 1984. The Conditional Use Permit (CUP) included a 20 year expiration. At the time of approval, the City did not have applicable regulations for these types of facilities so the City Council imposed a twenty year limit in order to re-evaluate the project in light of new regulations and or policies that may be in effect. The project exists as it did after initial construction and American Tower Corporation is now seeking to obtain another CUP to maintain the facility as is.

Neither the City of San Diego General Plan nor the Clairemont Mesa Community Plan addresses wireless communication facilities as a specific land use.



2. The proposed development will not be detrimental to the public health, safety, and welfare;

The Telecommunication Act of 1996 preempts local governments from regulating the "placement, construction and modification of wireless communication facilities on the basis of the environmental effects of Radio Frequency (RF) emission to the extent that such facilities comply with the Federal Communication Commission's (FCC) standards for such emissions." If the decision maker approves the existing facility, a condition will be included within the permit to require American Tower to perform a cumulative model RF test and submit the finding in a report to the City of San Diego within 90 days of approval of the CUP/SDP.

3. The proposed development will comply to the maximum extent feasible with the regulations of the Land Development Code; and

This facility was originally approved by the City Council on November 20, 1984. The Conditional Use Permit (CUP) included a 20 year expiration. At the time of approval, the City did not have applicable regulations for these types of facilities so the City imposed a ten year time limit in order to re-evaluate the project in light of new regulations and or policies that may be in effect. The project exists as it did after initial construction and American Tower Corporation is now seeking to obtain another CUP to maintain the facility as is.

Since 2000, the City has had a Communication Antenna ordinance that requires architectural or environmental integration with the project site. Pursuant to the San Diego Land Development Code, wireless communication facilities are permitted in all zones citywide with the appropriate permits. Wireless communication facilities are separately regulated uses, which have limitations or require compliance with conditions in order to minimize potential impacts. The intent of the regulations is to camouflage facilities from public view. In this case, the monopole is the tallest structure in and around the area in which it is located and as such, it has an incongruous effect on the community's landscape. It is not camouflaged from public view nor is it architecturally integrated into the architectural or environmental setting. It is situated on the edge of a commercial area directly across the street from multi-unit residential with a large single unit residential subdivision beyond. Additionally, the tower is located in a commercial core area of the community, adjacent to a major east west thoroughfare. The tower poses an unsightly visual impact that can be seen from the surrounding residential communities and major thoroughfares.

Section 141.0405 of the Land Development Code differentiates between minor and major telecommunication facilities. Minor telecommunication facilities include those that are concealed from public view or integrated into the architecture or surrounding environment through architectural enhancement (enhancements that complement the scale, texture, color and style) unique design solutions, or accessory use structures. Major telecommunication facilities are antenna facilities that do not meet the criteria for minor telecommunication facilities or they are located in residential zones containing residential uses. Similar to minor facilities, they also need to be designed to be minimally visible through the use of architecture, landscape architecture and siting solutions. The Mt. Ada project does not conform to this code requirement due to its height, design, color and the visual clutter it creates. As it exists, the tower is a significant visual impact to the community of Clairemont.

Therefore, the project does not comply to the maximum extent feasible with the regulations of the Land Development Code.

4. The proposed use is appropriate at the proposed location.

A wireless communication facility at this location is an appropriate use subject to compliance with the ordinances and policies that regulate telecommunication facilities.

Site Development Permit - Section 126. 0504

1. The proposed development will not adversely affect the applicable land use plan;

This facility was originally approved by the City Council on November 20, 1984. The Conditional Use Permit (CUP) included a 20 year expiration. At the time of approval, the City did not have applicable regulations for these types of facilities so the City Council imposed a ten year limit in order to re-evaluate the project in light of new regulations and or policies that may be in effect, The project exists as it did after initial construction and the new owner, American Tower Corporation is now seeking to obtain another CUP to maintain the facility as is.

Neither the City of San Diego General Plan nor the Clairemont Mesa Community Plan addresses wireless communication facilities as a specific land use.

2. The proposed development will not be detrimental to the public health, safety, and welfare; and

The Telecommunication Act of 1996 preempts local governments from regulating the "placement, construction and modification of wireless communication facilities on the basis of the environmental effects of Radio Frequency (RF) emission to the extent that such facilities comply with the Federal Communication Commission's (FCC) standards for such emissions." If the decision maker approves the existing facility, a condition will be included within the permit to require American Tower to perform a cumulative model RF test and submit the finding in a report to the City of San Diego within 90 days of approval of the CUP/SDP.

3. The proposed development will comply with the applicable regulations of the Land Development Code.

The monopole complies with all the development regulations of the CC-1-3 zone, but does not comply with the Clairemont Mesa Height Limitation Overlay Zone of 30 feet. The monopole is 145-foot tall and is extremely visible to the Balboa Avenue corridor and the surrounding residential community. Development in the area is low in scale. The tower is located in a commercial zone that is immediately adjacent to a multi-unit residential complex. The existing tower exceeds the height limit by 115 feet. Deviations to the Clairemont Mesa Height Limitation Overlay Zone require a Site Development Permit.

This project was originally constructed in the mid-1980's when Pac Tel Mobile (now Verizon) was only one of two wireless carriers in San Diego. Their network was being established with tower structures and later branched out to building collocations. Initially, carriers built

tall facilities, later filling in their networks with lower sights. Verizon signed the contract (CUP 83-0629) acknowledging the 20 year time limit on the facility. In order to maintain a facility at this site, a new application in compliance with the current regulations and policies would be required.

Supplemental Site Development Findings – Section 126.0504(j)

- 1. The granting of an exception will not significantly interfere with public views from western Clairemont Mesa to Mission Bay and the Pacific Ocean within the surrounding area; and**

The Mt. Ada project is not located near Mission Bay or the surrounding areas and as a result, it will not interfere with public views to these areas. It is located east of Mission Bay in the Balboa Genesee commercial corridor and it creates a significant visual impact to the community surrounding this area.

- 2. The granting of an exception is appropriate because there are existing structures over 30 feet in height and the proposed development will be compatible with surrounding one, two, or three-story structures; or the granting of an exception is appropriate because there are topographic constraints peculiar to the land; or the granting of the exception is needed to permit roofline and facade variations, accents, tower elements, and other similar elements and the elements will not increase the floor area of the structure.**

The topography is flat along the Balboa Genesee commercial corridor and the majority of structures in the area are low scale and do not exceed the 30 foot height limit. This tower is 115 feet above the 30 foot height limit and as such, poses a significant visual impact to the surrounding community. It stands out against the existing landscape and is therefore incompatible with the surrounding development. The only other structure of this stature is a 10 story building approximately .62 miles to the west of this site with a roof top full of antennas managed by American Tower Corporation. Therefore, granting an exception to the Clairemont Mesa Height Limitation Overlay Zone is inappropriate.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, Conditional Use Permit No. 292627 and Site Development Permit No. 450714 is hereby DENIED by the Planning Commission.


 Karen Lynch Ashcraft
 Development Project Manager
 Development Services

Adopted on: June 28, 2007
 Job Order No. 42-5718

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NOTE: At the time of assembly of these back-up materials, Planning Commission minutes for 6/28/2007 were not available.

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Channel Law Group, LLP

100 OCEANGATE
SUITE 1400
LONG BEACH, CA 90802-4323

Fax: (562) 216-5090
www.channellawgroup.com

ROBERT JYSTAD
JULIAN K. QUATTLEBAUM, III *
JAMIE T. HALL **
MARTHA HUDAK, Special Counsel***

Writer's Direct Line: (310) 209-8515
rjystad@channellawgroup.com

*ALSO Admitted in Colorado
**ALSO Admitted in Texas
***Admitted only in New York and New Jersey

VIA OVERNITE EXPRESS DELIVERY

November 14, 2007

Council President Scott Peters and
Members of the San Diego City Council
City Administration Building
Council Chambers- 12th Floor
202 "C" Street
San Diego, CA 92101

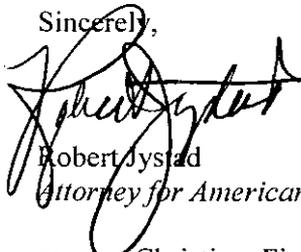
RE: American Tower Corporation Request for CUP No. 296127/PDP No. 452327 (30th Place – PTS No. 90455) and CUP No. 292627/SDP No. 450714 (Mount Ada – PTS No. 91178)

Dear Council President Peters and Council Members:

Attached please find one original plus 14 copies of the Declaration of Jason Allen, Microwave Engineer ("Allen Declaration"). American Tower Corporation ("ATC") and Verizon Wireless request that the City replace the previously submitted Declaration of Marco Murillo with the attached Allen Declaration. ATC's requests originally appeared on the Council's agenda for November 6, 2007 as Items 332 and 333. Those items were continued by Council to January 7, 2008.

Please do not hesitate to contact me at 310-209-8515 should you need further information.

Sincerely,



Robert Jystad
Attorney for American Tower Corporation

cc: Christine, Fitzgerald, Chief Deputy City Attorney, City of San Diego
Karen Lynch Ashcraft, Development Services Department
Elizabeth Hill, Esq., American Tower Corporation
Mr. James Kelly, American Tower Corporation
Suzanne Toller, Esq., Davis Wright Tremaine LLP
Leslie Vartanian, Verizon Wireless

10/25/07 Declaration of Jason Allen (Microwave Engineer)

November 6, 2007 San Diego City Council Meeting

Mt. Ada and 30th Place Cell Sites

I, Jason Allen, hereby declare as follows:

1. I am employed by Verizon Wireless as the Senior Transport Network Engineer for Southern California. In that capacity, I design the interconnect medium for VZW cell sites. My business address is 15505 Sand Canyon Avenue, Bldg. D-1, Irvine, CA 92618.
2. The purpose of my declaration is to explain the impact on Verizon Wireless' microwave network if the height of the Mt. Ada and 30th Place sites were reduced to the level proposed by staff.
3. In addition to the wireless antennas (panel and omni directional antennas) that are used to transmit and receive calls, both Mt. Ada and 30th Place support a number of microwave dishes that are used to connect these and other sites to Verizon Wireless' mobile switching center (MSC).

Background Re Microwave Networks

4. In order for wireless telephone calls to be completed, the individual cell sites in a wireless network (like Mt. Ada and 30th Place) need to be connected to the wireless carrier's MSC. Wireless carriers do not connect their cell sites to their switches using their commercial mobile radio service (CMRS) spectrum as that spectrum is too limited. Instead they use landline facilities or microwave.
5. If Verizon Wireless chooses to use landline facilities to connect its cell sites, it obtains those facilities from a third party provider, usually the incumbent local exchange carrier (ILEC) which in San Diego is AT&T. The landline facilities consist of physical fiber and copper that is either buried underground or strung overhead on poles. The fiber or copper goes from the cell site to the MSC, often through one or more of the ILEC central offices.
6. If Verizon chooses to use microwave to connect its cell sites, it can self-provision those facilities, since the company holds its own Federal Communication Commission (FCC) microwave radio licenses. Microwave is a point to point technology. In order to connect a cell site with an MSC, Verizon Wireless installs one microwave dish on the cell site and a second one on the MSC. In some cases where the cell site does not have line of site to the MSC or is too far away, Verizon sends the microwave signal first to a "hub" cell site that takes the microwave signal and relays it to the MSC.
7. There are a number of advantages to using microwave as opposed to landline facilities to connect cell sites to switches – both from network reliability and a business perspective.
8. First and foremost, microwave networks are inherently more reliable than landline networks. Because landline networks rely on physical lines as their transmission

medium, they are subject to being cut, burned or broken in a way microwaves networks simply are not. In addition since the routing of the landline facilities are controlled by one or more central offices, the landline facilities can also go out of service if the landline carrier's central office is damaged or otherwise inoperable.

9. Second, because the microwave transmission facilities are owned and controlled by Verizon Wireless, any repair or replacement of those facilities is wholly within Verizon Wireless's control. This is in contrast to wireline facilities which must be repaired by the landline carriers. Landline facility outages can be very protracted – particularly in the case of natural disasters or other large scale landline network outages. In many instances VZW has to wait weeks or even months to get its landline facilities repaired.
10. The vulnerability of landline networks is not theoretical. Verizon Wireless' entire wireless system went off air in New Orleans after hurricane Katrina – not because of downed towers – but because the company leased all of its circuits from the telephone company. Because the estimated landline repair times were so lengthy, Verizon Wireless sent its microwave engineers to Louisiana to install a multiple hub microwave site to get a core portion of its system in downtown New Orleans up and operating.
11. In the recent fires in Southern California, Verizon Wireless lost nine (9) of its wireless sites in San Diego alone due to outages of the landline interconnection facilities. AT&T told us it could take days or weeks to get those facilities repaired and as of the date of this declaration two (2) sites have still not had their landlines restored.
12. For these reasons Verizon Wireless tries to connect its strategic sites via microwave when feasible. This allows key portions of the Verizon Wireless network to remain operational, even during outages of the landline network.
13. In San Diego, Verizon Wireless has approximately one-hundred ten (110) of its sites interconnected through microwave; attached as Exhibit A is a diagram showing the southwestern portion of the current microwave paths.

Mt. Ada

14. Verizon Wireless has two (2) active microwave dishes on the Mt Ada site – one pointing towards the San Diego MSC and a second one pointing to another cell site named Padre Gold. Attached as Exhibit B is a diagram showing the microwave paths from the Mt. Ada site.
15. I understand that the Planning staff has recommended that the height of the tower at the Mt. Ada site be reduced to 30 feet. Verizon Wireless does not have line of sight to either the MSC or the Padre Gold site at a 30 foot height. This means that Verizon Wireless would have to remove its microwave dishes from this site and replace the connections to the MSC for both this site and its Padre Gold site with landline facilities. If those landline facilities fail, both sites would be off air until the landline facilities were fixed.

30th Place

16. Verizon Wireless has five (5) active microwave dishes on the 30th Place site that interconnect 30th Place and the following six (6) additional sites: Courthouse, Downtown SD, Harrington Sound, Robledo Ridge, Southport and Coronado. Signals from the 30th Place site are then transmitted to the Aviation site (a hub site) which in turn transmits the signals to the San Diego MSC. Attached as Exhibit C is a diagram showing the microwave paths from the 30th Place site.
17. I understand that the Planning staff has recommended that the height of the tower at the 30th Place site be reduced to 30 feet. Verizon Wireless does not have line of sight to any of the interconnected sites at a 30 foot height. This means that Verizon Wireless would have to remove all of its microwave dishes from this site and replace the connections between 30th Place and the other six (6) sites to its MSC with landline facilities. If those landline facilities fail, 30th Place and the other six (6) sites would be off air until the landline facilities were fixed.

I declare under penalty of perjury and the laws of the State of California that the foregoing is true and correct and that this declaration is executed on 6, November, 2007 at San Diego, California.



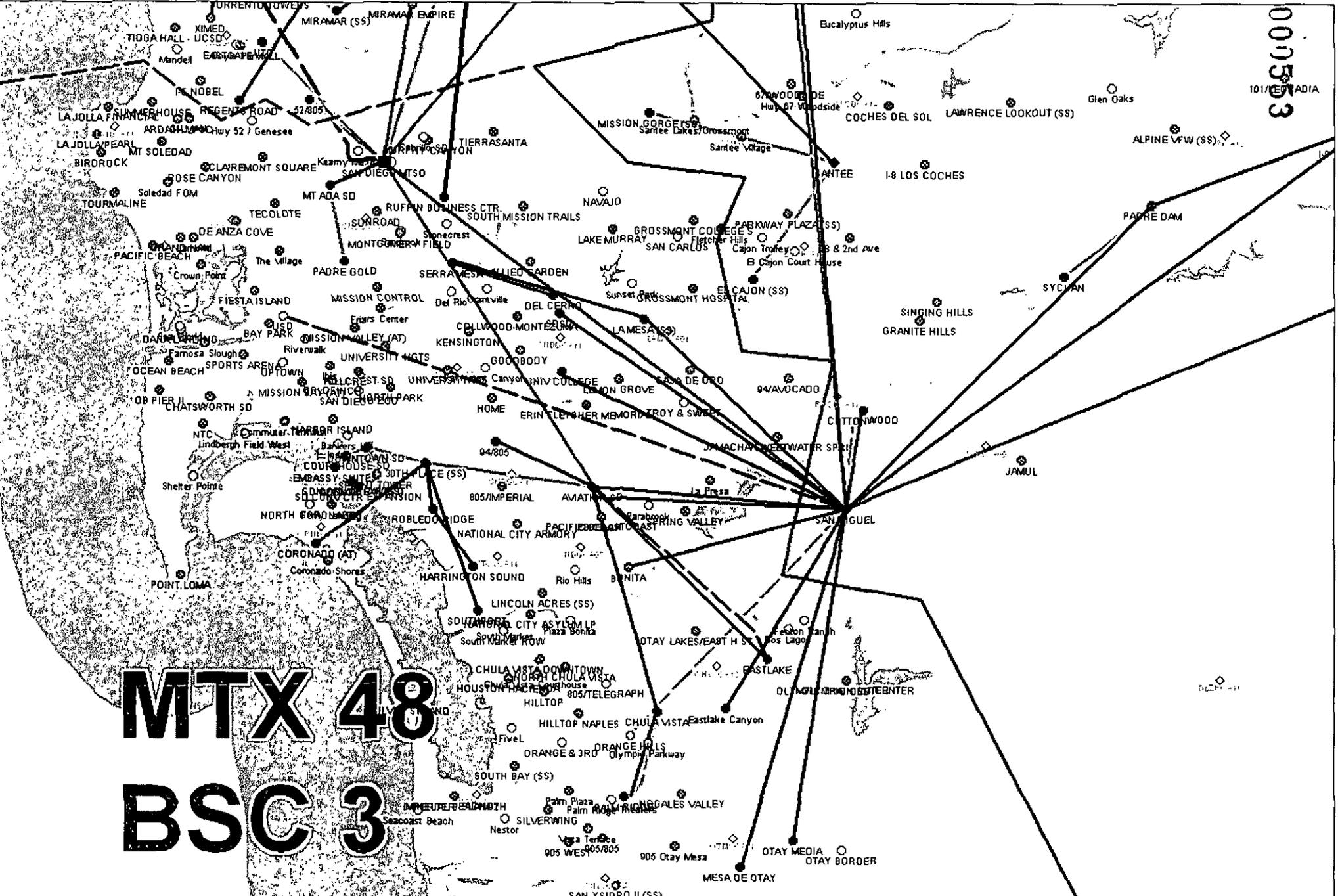
Jason Allen

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Attachment A

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101/ESTADIA



MTX 48

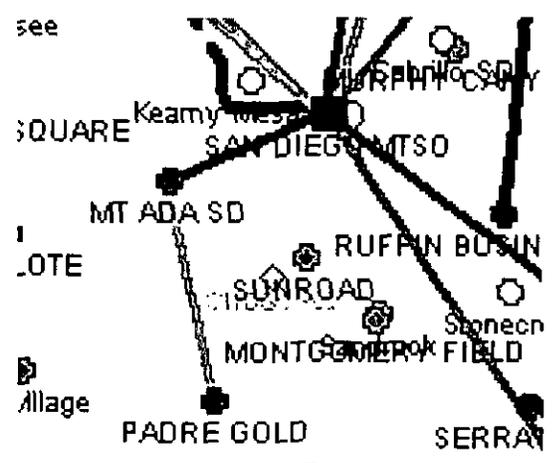
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Attachment B

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Attachment C



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Development Services Department
Project Management Section

American Tower Corporation
Mt. Ada
Project No. 91178
Community : Clairemont Mesa

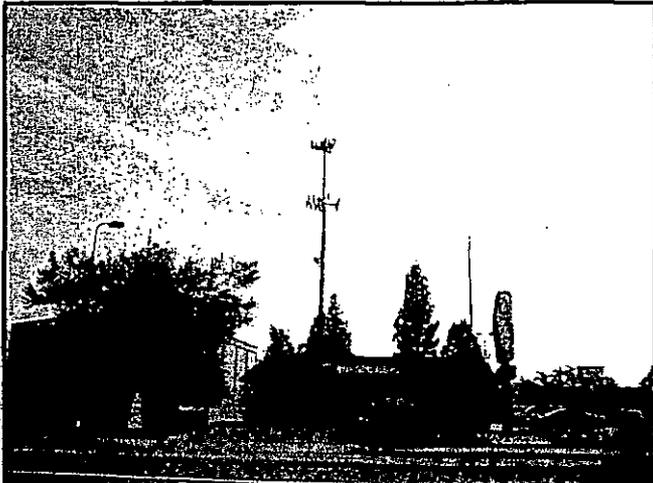
Development Project Manager:
Karen Lynch-Ashcraft

City Council November 6, 2007

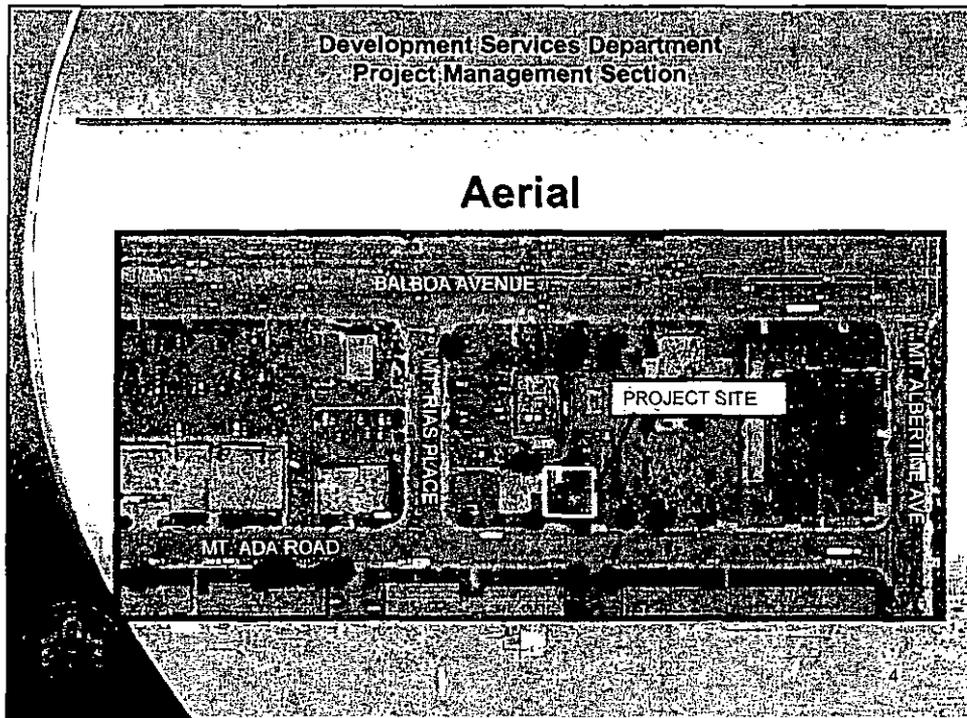
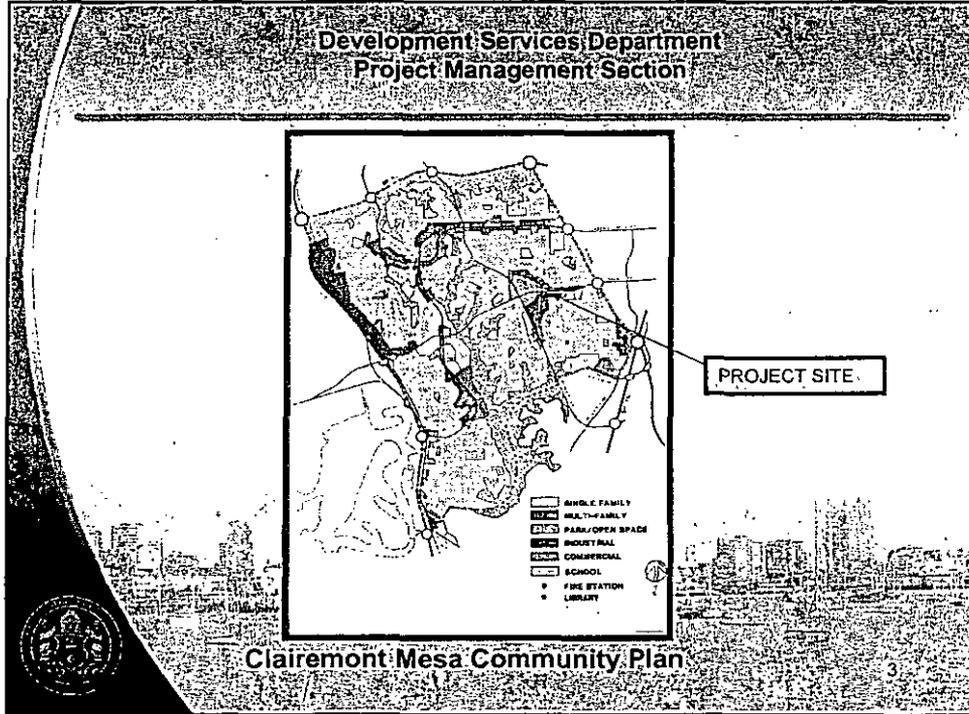


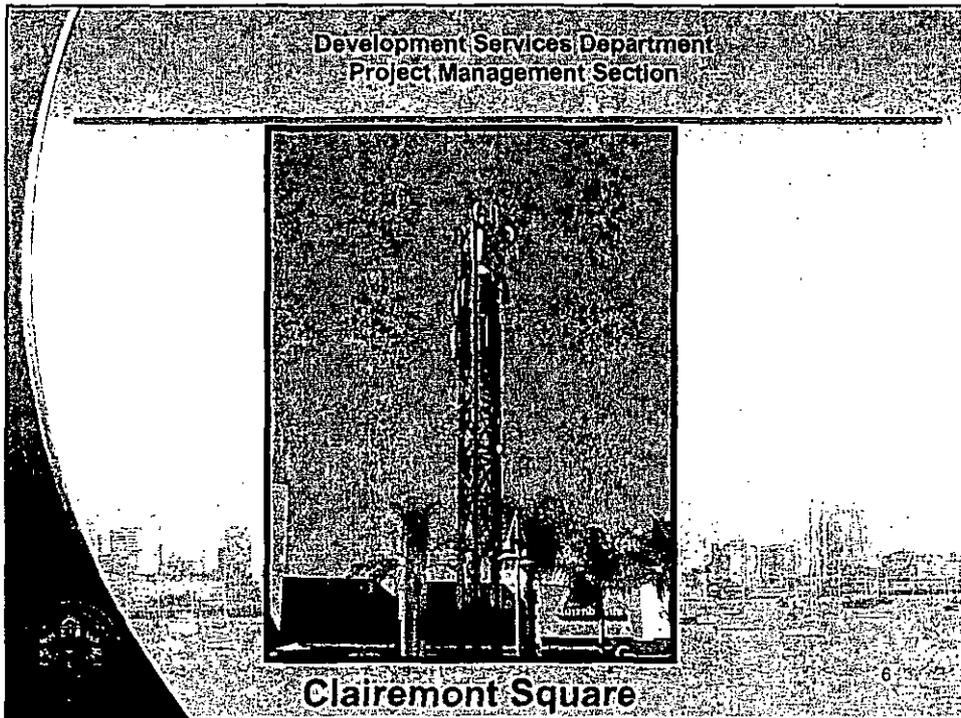
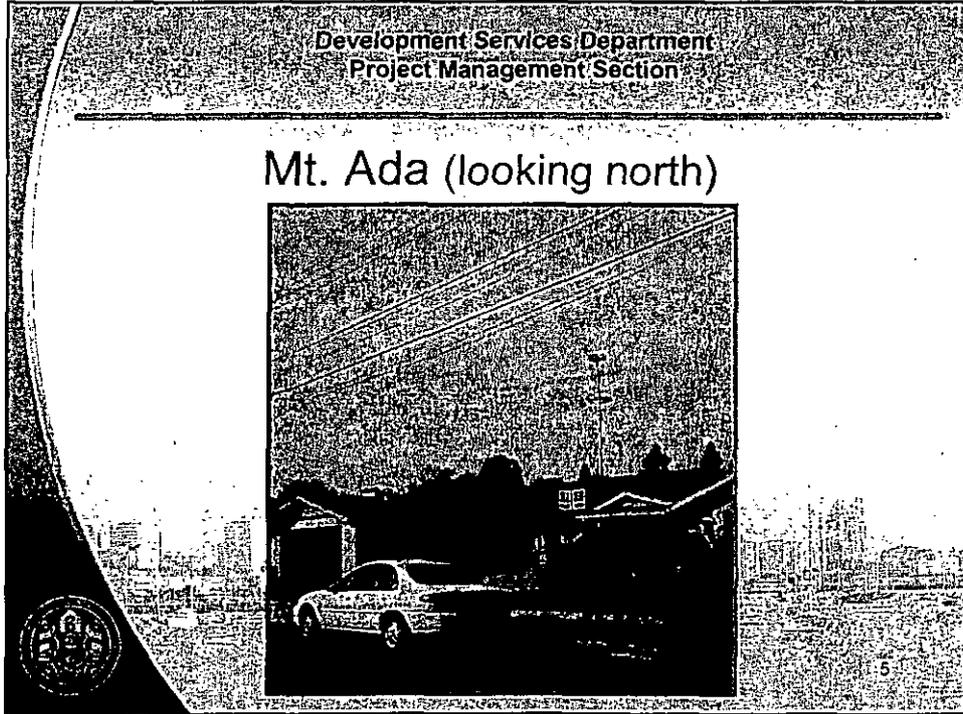
Development Services Department
Project Management Section

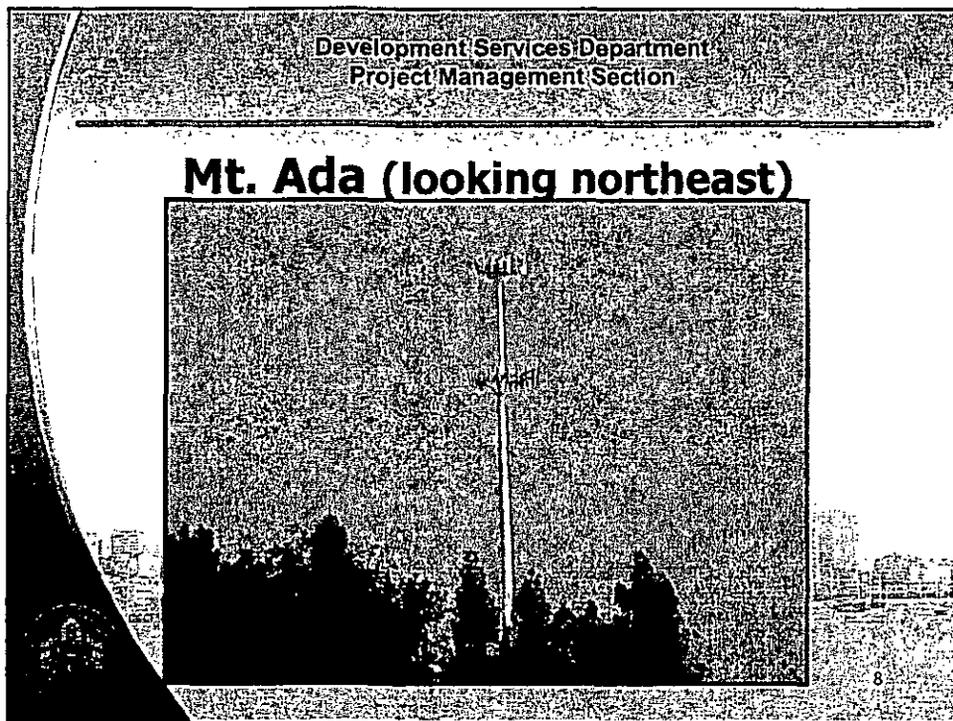
Mt. Ada
Project No. 91178



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Development Services Department
Project Management Section



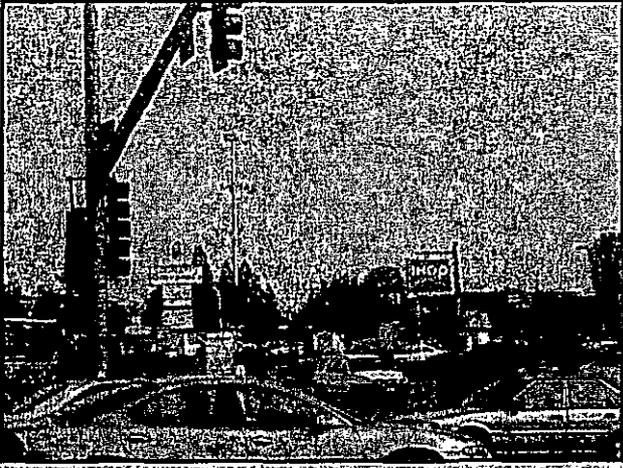
Wireless Communication Facility Guidelines



9

Development Services Department
Project Management Section

Looking east on Balboa Avenue



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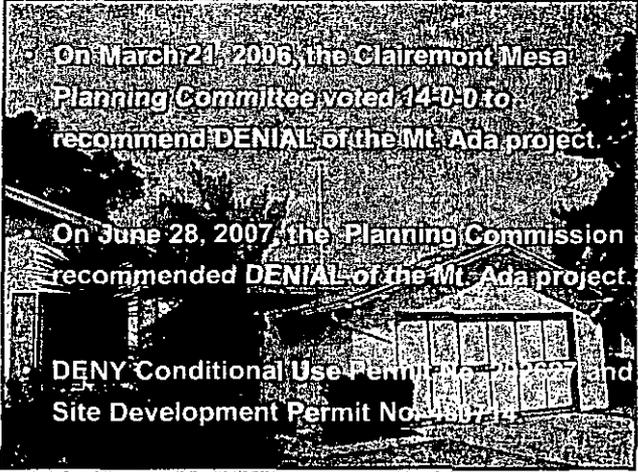
Development Services Department
Project Management Section

Recommendations

On March 21, 2006, the Clairemont Mesa Planning Committee voted 14-0-0 to recommend DENIAL of the Mt. Ada project.

On June 28, 2007, the Planning Commission recommended DENIAL of the Mt. Ada project.

DENY Conditional Use Permit No. 07-14 and Site Development Permit No. 07-14



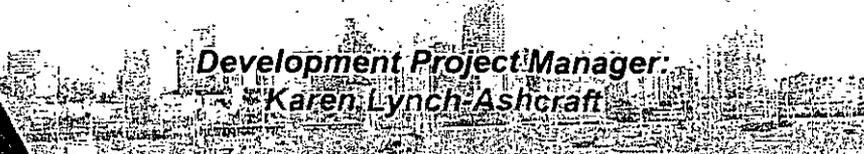
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Development Services Department
Project Management Section

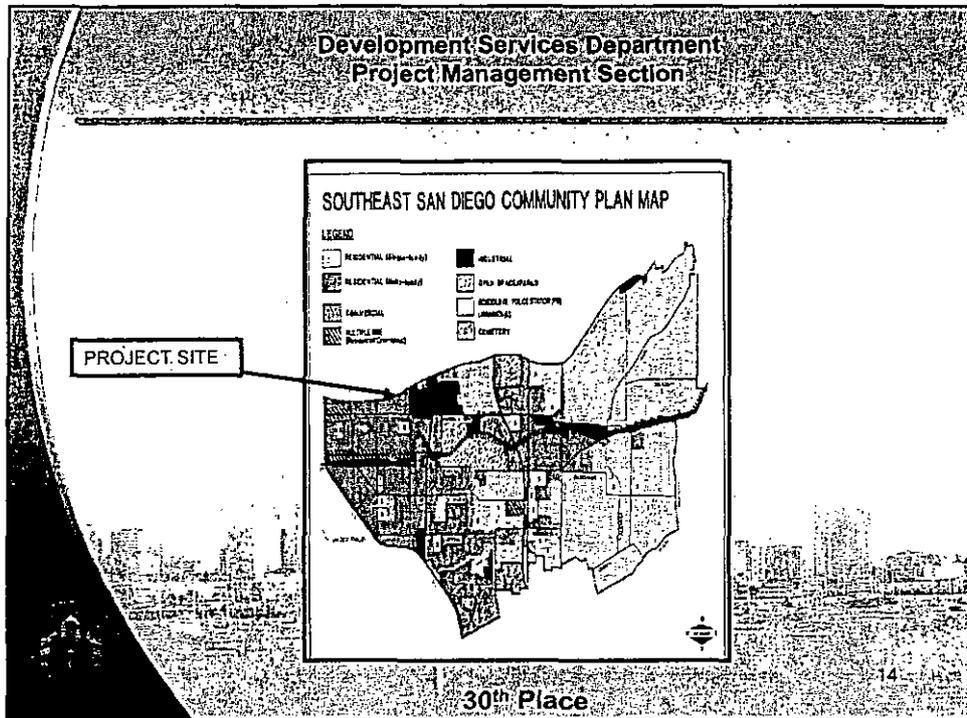
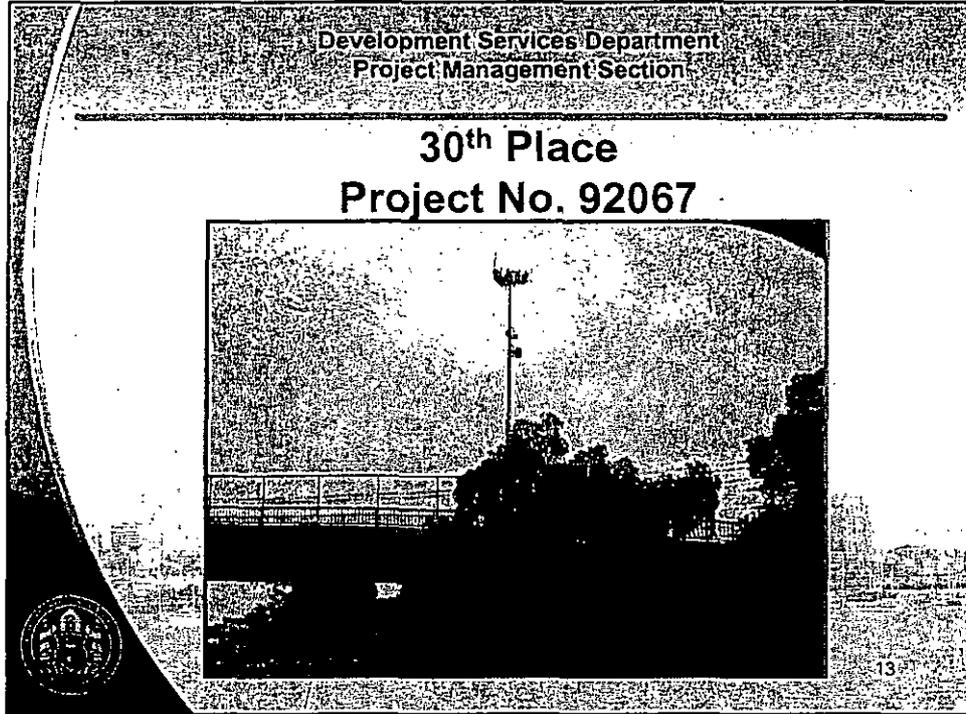
American Tower Corporation
30th Place
Project No. 92067
Community : Southeast San Diego

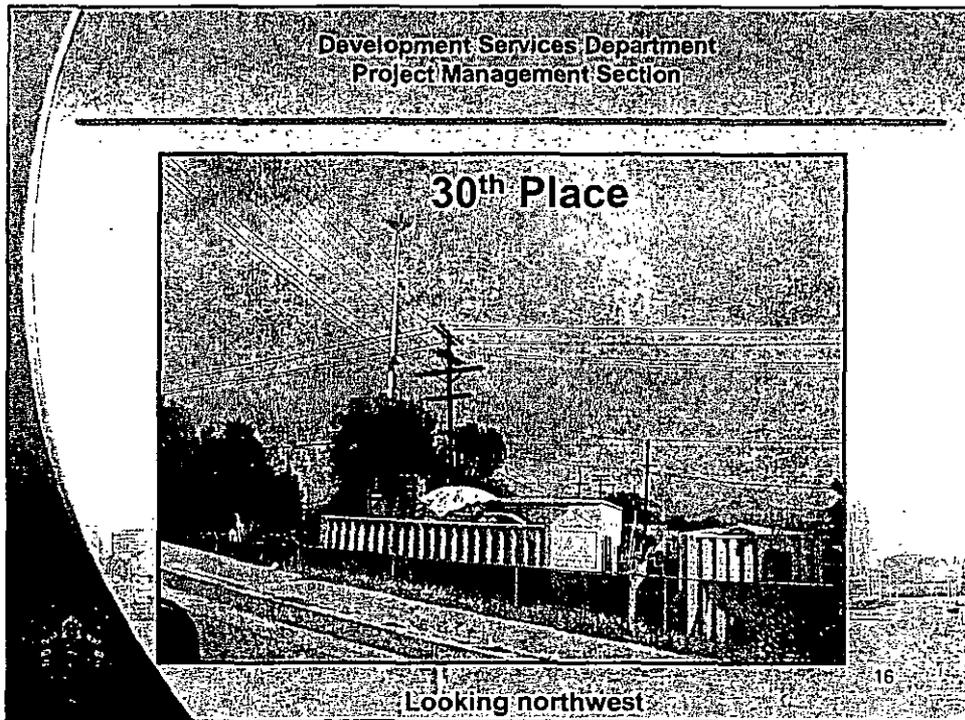
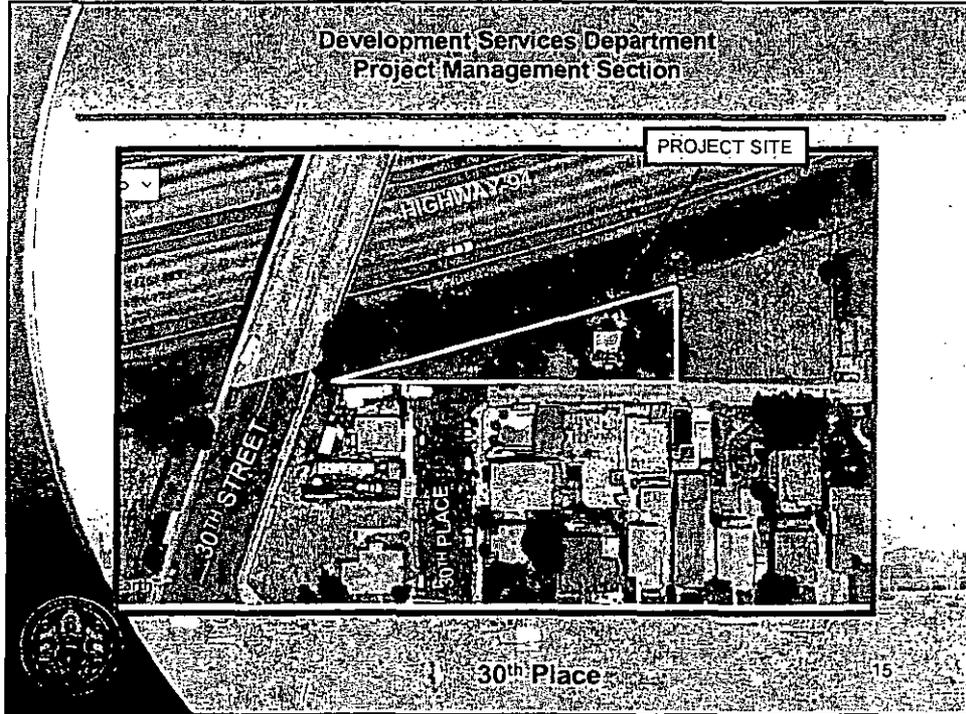
Development Project Manager:
Karen Lynch-Ashcraft

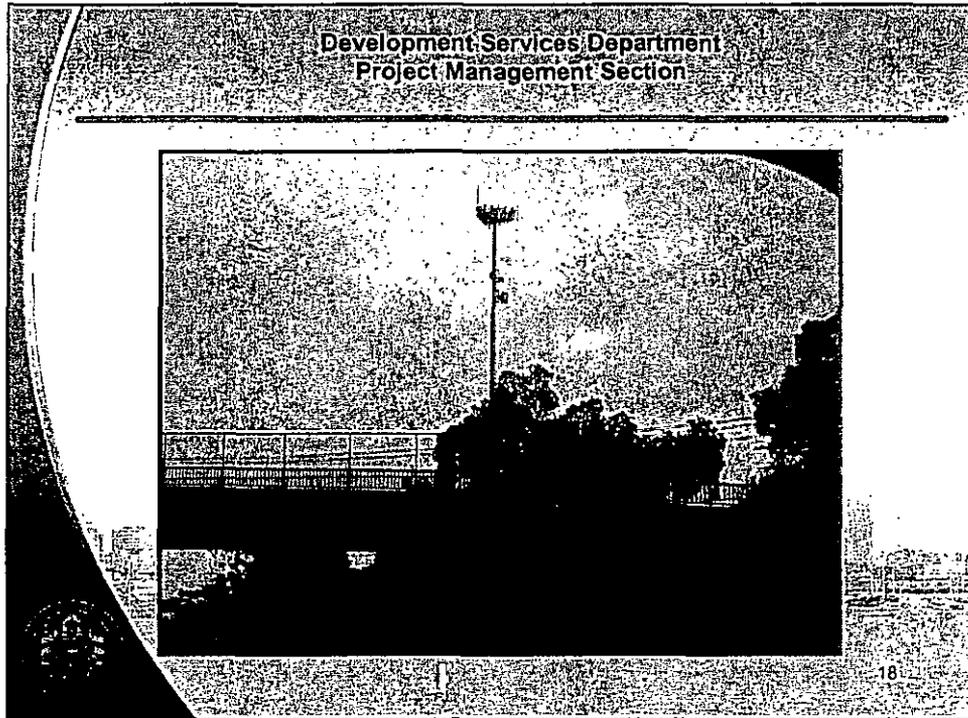
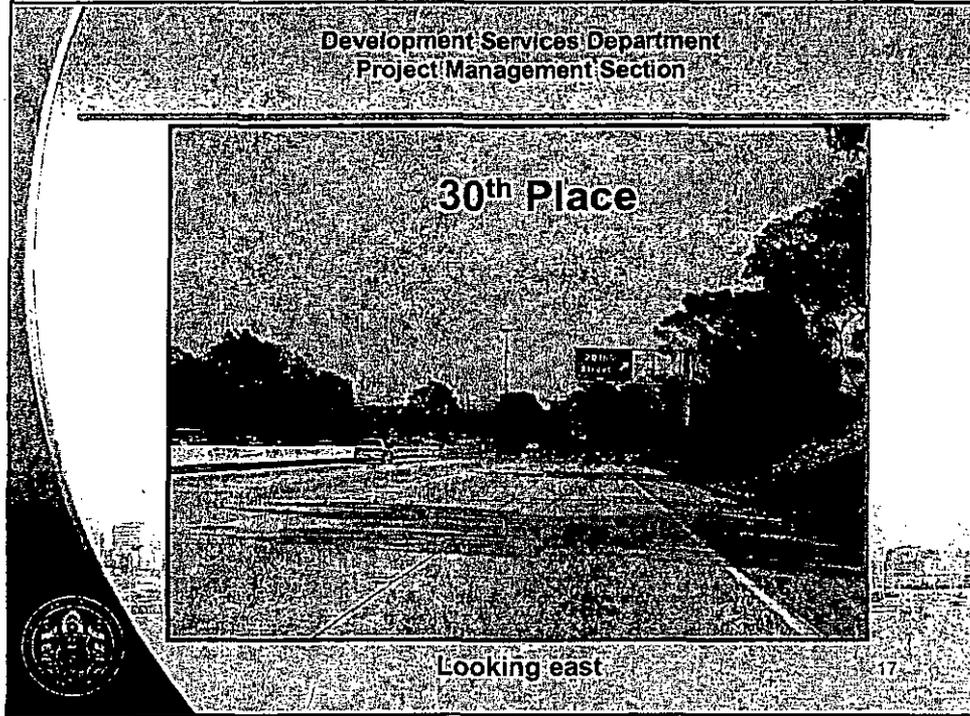
City Council: November 6, 2007



12







Development Services Department
Project Management Section

Recommendations

- The Southeastern San Diego Planning Committee has not reviewed this project to date
- On June 28, 2007, the Planning Commission DENIED the 30th Floor project
- DENY Conditional Use Permit No. 296127 and Site Development Permit No. 453612



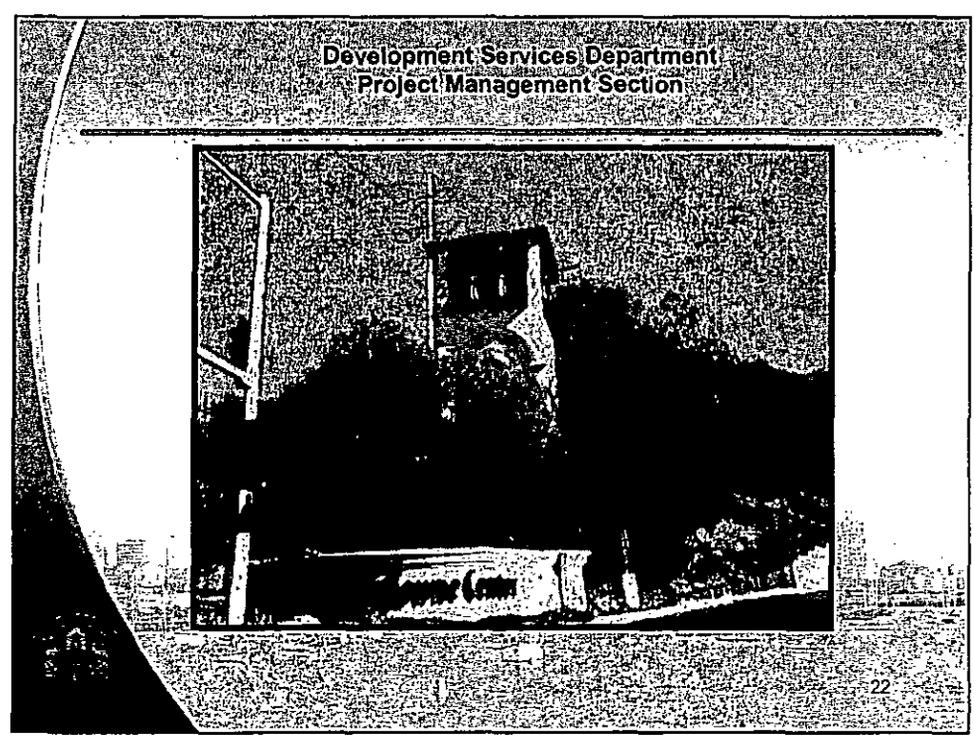
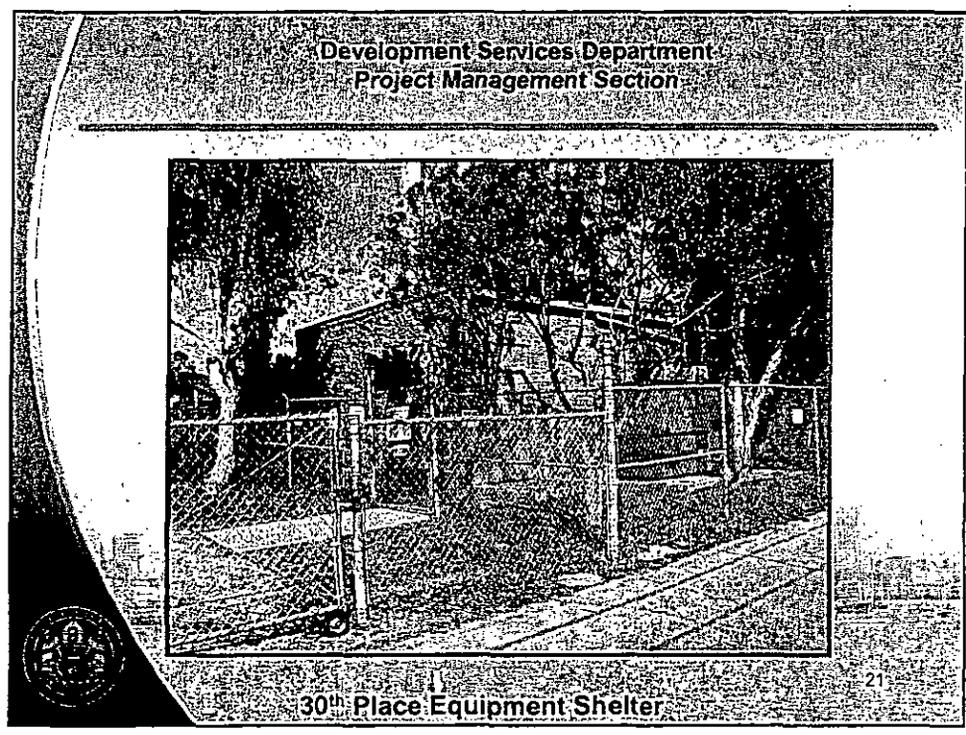
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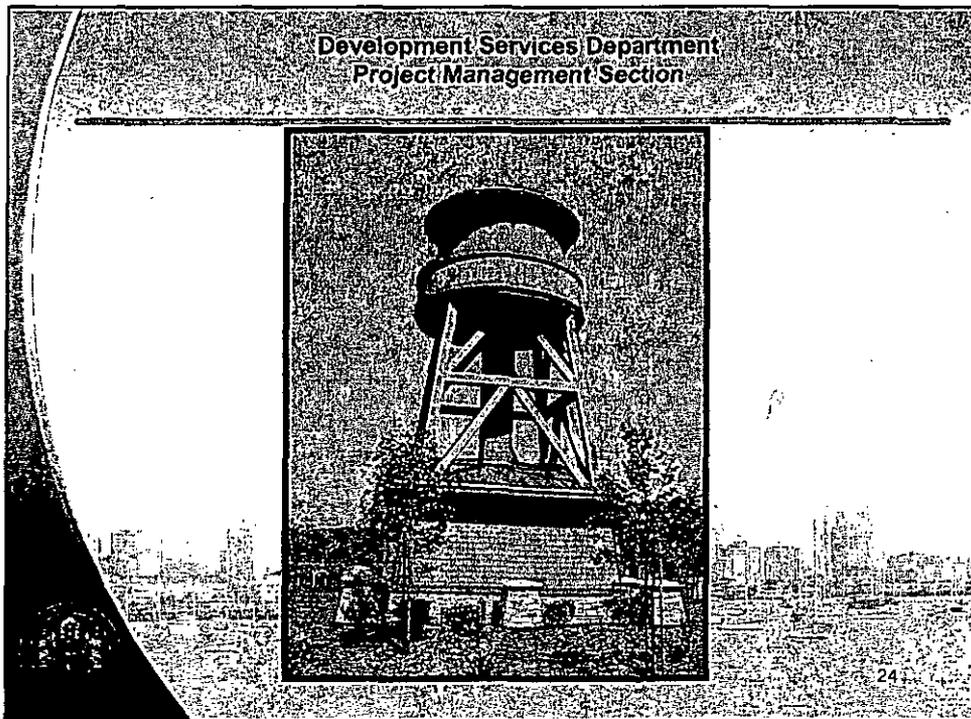
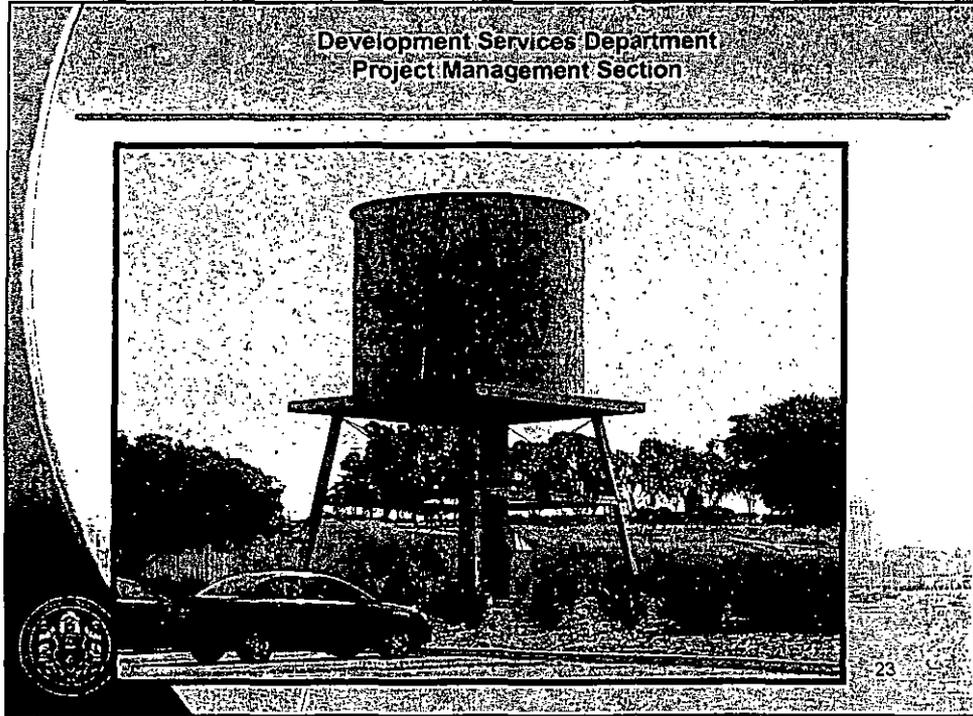
Development Services Department
Project Management Section

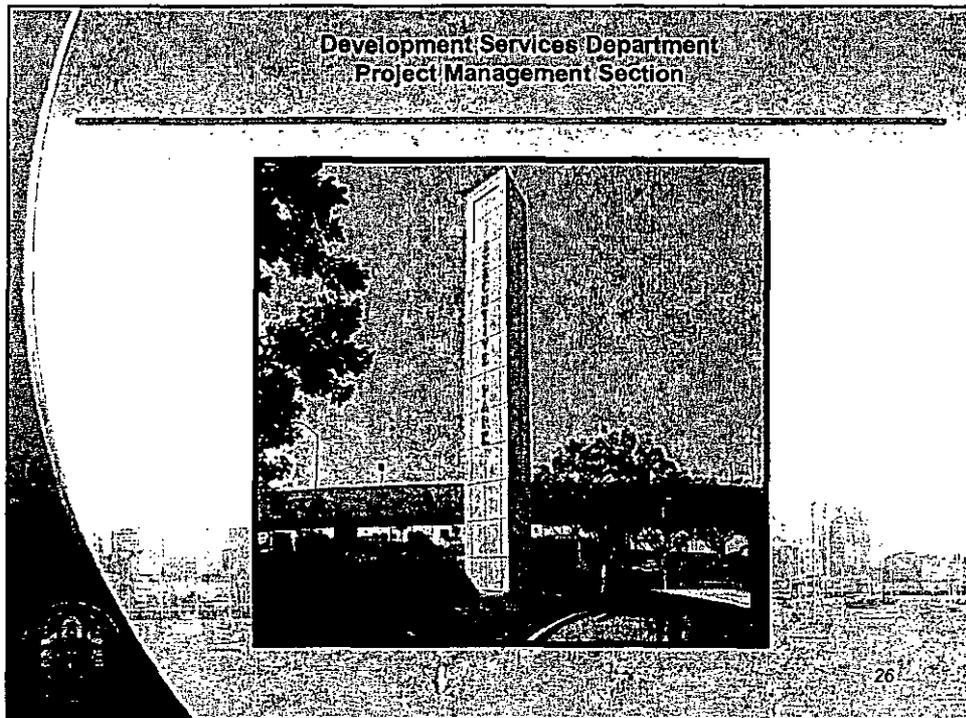
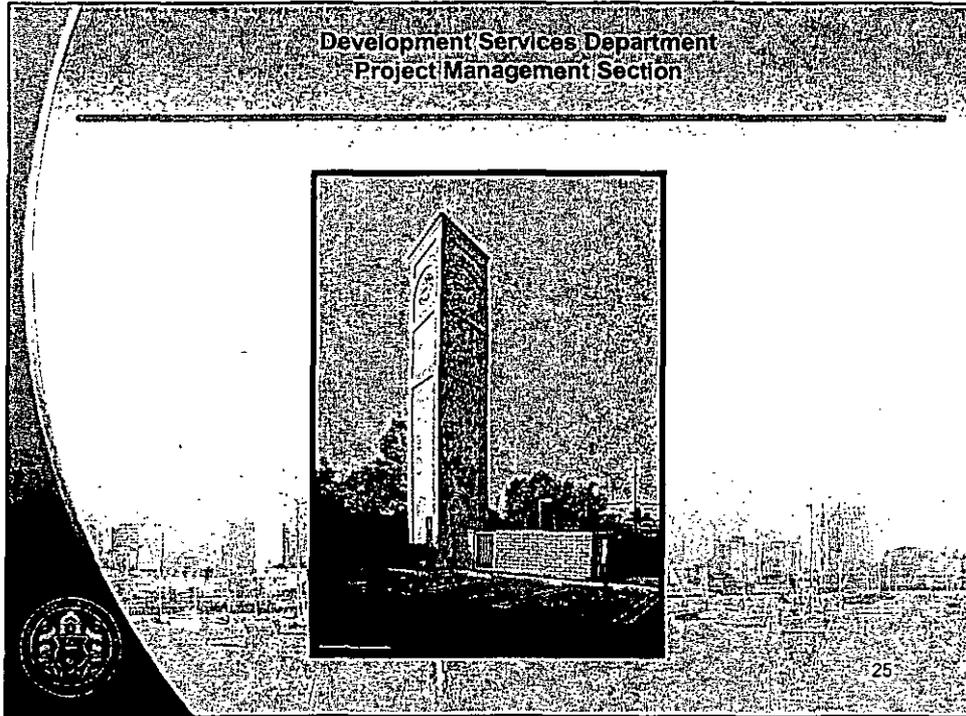
Extra slides illustrating stealth designs

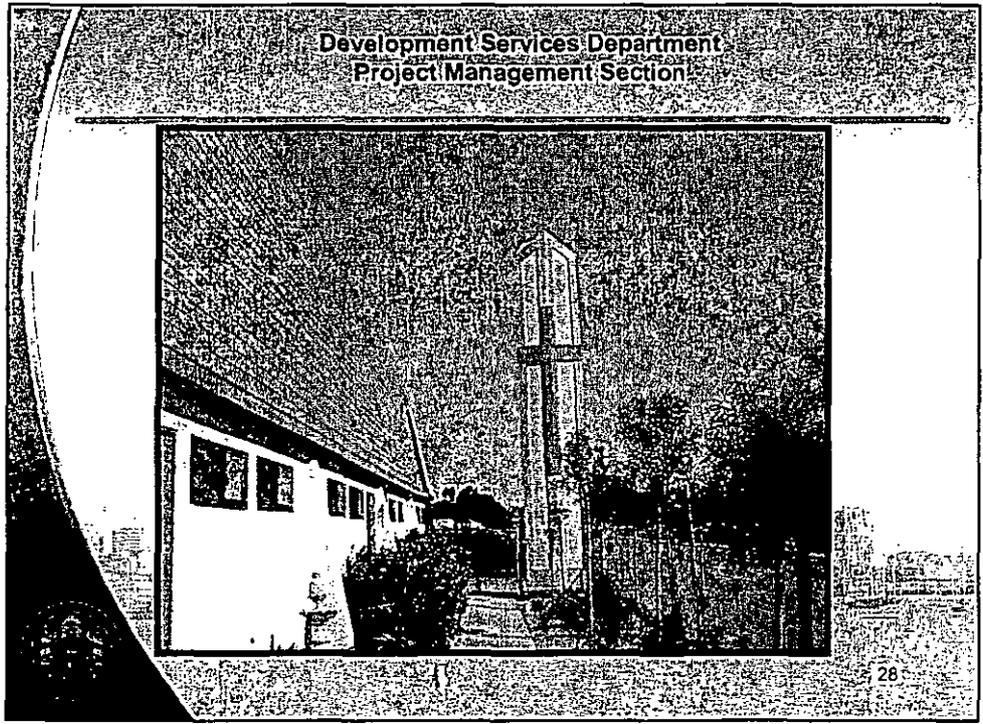
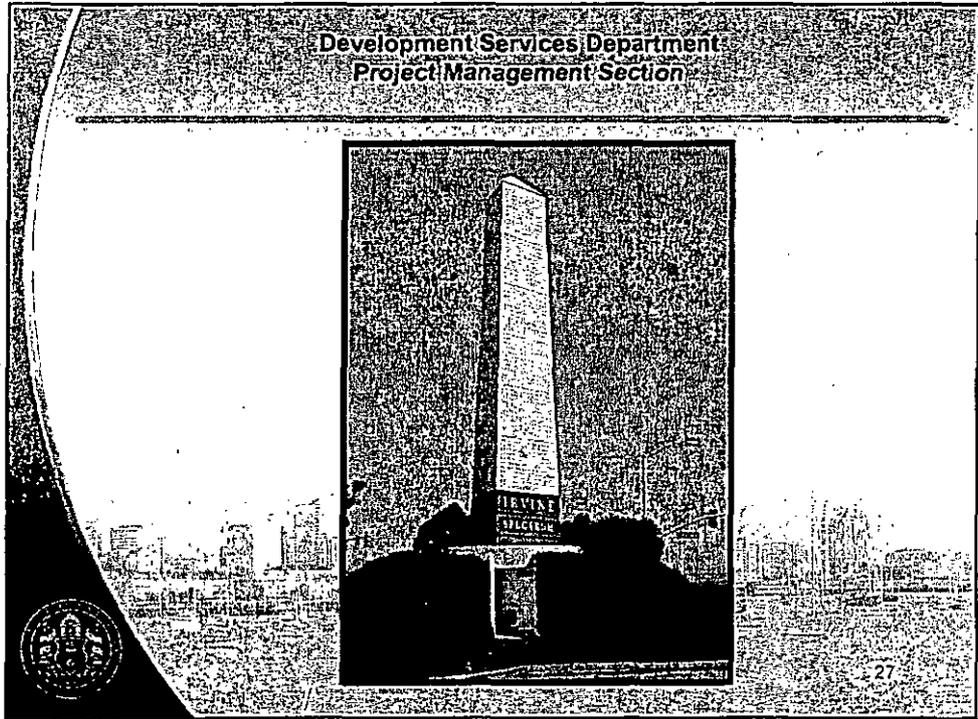


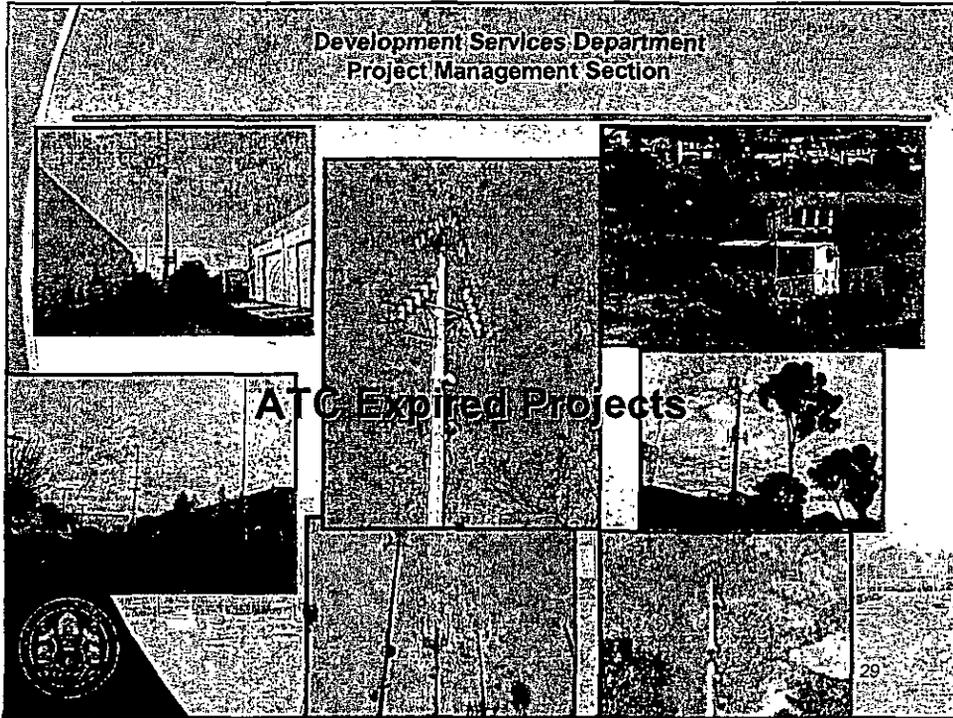
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LAWYERS



Davis Wright Tremaine LLP

ANCHORAGE BELLEVUE LOS ANGELES NEW YORK PORTLAND SAN FRANCISCO SEATTLE SHANGHAI WASHINGTON, D.C.

SUZANNE K. TOLLER
DIRECT (415) 276-6536
suzanne.toller@dwt.comSUITE 400
505 MONTGOMERY STREET
SAN FRANCISCO, CA 94111-6533TEL. (415) 276-6500
FAX (415) 276-6599
www.dwt.com

October 5, 2007

The Honorable Scott Peters
City Council President
City of San Diego
2020 C Street, MS 10A
San Diego, CA 92101**RE: Request for continuance: American Tower Wireless Communication Towers at 30th Place and Mt. Ada Drive**

Dear Councilman Peters:

On behalf of applicant American Tower and Verizon Wireless I am writing to request a continuance for two items currently scheduled for the October 15, 2007 City Council Hearing. Both items relate to renewals of conditional use permits for wireless communications towers that are owned by Verizon Wireless and managed by American Tower. The first site is located at 797 1/3 30th Place (CUP 4523270), and the second is located at 6246 Mt. Ada Drive (CUP 292627)

The parties respectfully request the continuance of the City Council hearing for these sites to allow additional time to adequately prepare for the hearing and to gather further information on the feasibility of certain alternatives suggested by City staff.

Because of certain court imposed deadlines, we respectfully requests that the hearing be continued no later than November 20, 2007. A representative for American Tower will be in attendance at the October 15, 2007 hearing to formally request the continuance of these two items.

Thank you for your consideration. If you should have any questions or need further information, please do not hesitate to contact me at (insert phone number).

Sincerely,

Suzanne K. Toller

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October 5, 2007
Page 2

cc: Mayor Jerry Sanders
Councilmember Kevin Faulconer
Councilmember Toni Atkins
Councilmember Tony Young
Councilmember Brian Maienschein
Councilmember Donna Frye
Councilmember Jim Madaffer
Councilmember Ben Hueso
Karen Lynch-Ashcraft

000581

Channel Law Group, LLP

100 OCEANGATE
SUITE 1400
LONG BEACH, CA 90802-4323

Fax: (562) 216-5090
www.channellawgroup.com

ROBERT JYSTAD
JULIAN K. QUATTLEBAUM, III *
JAMIE T. HALL **
MARTHA HUDAK, Special Counsel***

Writer's Direct Line: (310) 209-8515
rjystad@channellawgroup.com

*ALSO Admitted in Colorado
**ALSO Admitted in Texas
***ALSO admitted in New York and New Jersey

June 25, 2007

VIA OVERNIGHT DELIVERY

Planning Commission
City of San Diego
202 C Street, 12th Floor
San Diego, CA 92101

**Re: American Tower Corporation ("ATC") CUP No. 292627/SDP No. 450714
(Mount Ada – PTS No. 91178)**

Dear Chairman Schultz and Commissioners:

I am writing this letter on behalf of American Tower Corporation ("ATC") which respectfully requests that the City of San Diego's Planning Commission ("Commission") approve the above referenced Conditional Use Permit ("CUP"). In the event that the Planning Commission determines that they only have the authority to recommend a decision to the City Council, ATC requests that the Commission recommend approval of the above referenced CUP and, if necessary, Site Development Permit ("SDP").

The City Attorney's Office undoubtedly has made the Commission aware that ATC filed suit against the City of San Diego ("City") in federal court on grounds, *inter alia*, that the City's permitting process is unlawful. ATC filed this request for a permit under protest and is pursuing this permit concurrently as it seeks the Court's review of the permitting process. ATC's decision to pursue a permit through this process should not be construed as a waiver of ATC's rights under federal and state law, and ATC reserves all rights accordingly.

I. Background

ATC hereby requests that the City of San Diego ("City") permit the continued use of this wireless communications facility ("WCF"), which has been operational for over twenty years without creating any adverse impacts on the surrounding areas and that during this period has been continuously serving the City's vital public and private communications needs.

The existing wireless communications facility located at 6426 Mt. Ada Road consists of a 26' x 22' equipment building and a 145-foot-high antenna tower with 30 panel antennas and three microwave dish antennas for radio frequency reception and transmission. The site also contains a generator. The property is zoned CC-1-3 and is designated for Commercial Community Core in the Clairemont Mesa Community Plan. The Facility is adjacent to a major transportation corridor in the rear of a commercial outlet. The monopole and antennas are painted sky blue and the equipment buildings shrouded in vegetation and blend with the surrounding area. The monopole is partially screened from view by existing mature landscaping. ATC is requesting the extension of Conditional Use Permit Number 83-0629 and /or such other Development Permit (including but not limited to a Site Development Permit ("SDP")) as may be required in order that Lessee, Verizon Wireless, can continue to provide uninterrupted and seamless wireless service to its customers.

As discussed below, ATC contends that neither a Site Development Permit nor a Planned Development Permit is required for this Facility. That said, the findings for both a SDP and a PDP can be made in the affirmative with regard to this Facility.

The original Coastal Development/Conditional Use Permit ("CDP/CUP") was issued on November 20, 1984 and the Facility has continued to exist without controversy since it was first approved. ATC has met with and has maintained contact with the City since May 2005 and expedited its own internal processes in order to be able to file and facilitate the processing of the application in a timely manner consistent with the requests of City Staff.

II. The Commission's Scope of Review is Limited

It should be noted that the Commission's ability to regulate WCFs is restricted by both state and federal law. Specifically, § 253(a) of the Telecommunications Act of 1996 ("Telecom Act") states the following:

"No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service."

47 U.S.C. 253(a) (2007). The federal courts, including the courts of the Ninth Circuit, have interpreted § 253(a) to strictly limit the authority of municipalities over the installation of WCFs. Specifically, federal courts within the Ninth Circuit have held that California municipalities are prohibited by § 253(a) from adopting and implementing wireless communications ordinances that allow for the exercise of unfettered discretion over decisions to approve, deny or condition permits for the placement of WCFs. *City of Auburn v. Qwest Corp.*, 260 F.3d 1160, 1175 (9th Cir. 2001) (holding that § 253 preemption of local authority is "virtually absolute"); *Sprint Telephony PCS, L.P. v. County of San Diego*, 2007 U.S. App. LEXIS 13811, *50-51 (9th Cir., June 13, 2007) (Denying en banc review and holding that County's ordinance was preempted because permitting structure and design requirements presented barriers to wireless telecommunications); *Quest Communications Inc. v. Berkeley*, 433 F.3d 1253, 1257-58 (9th Cir. 2006) (burdensome ordinance that gives municipality significant discretion to deny telecommunication companies the ability to provide services violates § 253).

A. Cities Do Not Have Authority to Regulate Visual Impact of WCFs

The Commission should be aware that the Ninth Circuit – the jurisdiction of which includes California - has stated that regulations requiring a facility to be appropriately “camouflaged” are **unlawful** pursuant to § 253(a) of the Telecom Act. *Sprint Telephony PCS, L.P. v. County of San Diego*, 2007 U.S. App. LEXIS 13811 (9th Cir., June 13, 2007). Significantly, the Ninth Circuit recently **denied** the County of San Diego’s petition for *en banc* review in this case. In *Sprint*, the court critiqued the County of San Diego’s ordinance as follows:

“The WTO itself explicitly allows the decision maker to determine whether a facility is appropriately “camouflaged,” “consistent with community character,” and designed to have minimum “**visual impact**.” ... We conclude that the WTO imposes a permitting structure and design requirements that present barriers to wireless telecommunications within the County, and is therefore preempted by § 253(a).” (emphasis added).

2007 U.S. App. LEXIS 13811, at 43-44. The City may not impose unreasonable permitting burdens on ATC. *Id.* City regulations that purport to regulate the “visual impact” of wireless facilities are unreasonable and run afoul of federal law.

B. Substantial Evidence Exists to Renew the Existing Permit; the Facility is an Appropriate Use and Complies with Regulations to the Maximum Extent Feasible

Even if the City could require ATC to remove and replace the existing Facility, such a decision must be supported by substantial evidence. Section 332(c)(7)(B)(iii) of the Telecom Act states the following: “[A]ny decision by a State or local government or instrumentality thereof to deny a request to place, construct, or modify personal wireless service facilities shall be in writing and supported by **substantial evidence** contained in a written record” 47 U.S.C. § 332(c)(7)(B)(iii). For this reason, zoning boards cannot rely on conclusory or generalized concerns. *Ill. RSA No. 3 v. County of Peoria*, 963 F. Supp. 732, 745 (C.D. Ill. 1997) (“generalized concerns do not constitute substantial evidence [citation omitted]”). Dozens of cases have analyzed this restriction and there is no dispute that generalized concerns, speculation and conjecture do not constitute substantial evidence. *Prime Co Pers. Communs. v. City of Mequon*, 352 F.3d 1147, 1150 (7th Cir. 2003) (“It is not sufficient evidence, as the cases make clear by saying that “**generalized**” aesthetic concerns do not justify the denial of a permit”); *New Par v. City of Saginaw*, 301 F.3d 390, 399 (6th Cir. 2002) (“If, however, the concerns expressed by the community are objectively unreasonable, such as concerns based upon conjecture or speculation, then they lack probative value and will not amount to substantial evidence”). Furthermore, “in applying the substantial evidence standard, the court applies common sense and need not accept as substantial evidence impossible, incredible, unfeasible, or implausible testimony.” *AT&T Wireless Servs. of Cal., LLC, v. City of Carlsbad*, 308 F. Supp. 2d 1148, 1159 (S.D. Cal. 2003) citing *Airtouch Cellular v. City of El Cajon*, 83 F. Supp. 2d 1158, 1164 (S.D. Cal. 2000) (internal quotations omitted).

The record in this case clearly indicates that ATC’s Facility is an appropriate use and consistent with the surrounding environment. See Section III discussion below. This said, ATC has proposed to add landscaping to the Facility as a demonstration of good faith to further

enhance the Facility. Landscape Plans are forthcoming. The evidence strongly supports the conclusion that the Facility meets all the requirements of the City's Land Development Code.

Section 332 of the Telecom Act sets additional limits on local zoning authority over the placement, construction and modification of wireless communications facilities. Those limits are as follows: (1) "The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof shall not unreasonably discriminate among providers of functionally equivalent services and shall not prohibit or have the effect of prohibiting the provision of personal wireless services" § 332(c)(7)(B)(i); (2) "A State or local government or instrumentality thereof shall act on any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time after the request is duly filed with such government or instrumentality, taking into account the nature and scope of such request" § 332(c)(7)(B)(ii); (3) "Any decision by a State or local government or instrumentality thereof to deny a request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record" § 332(c)(7)(B)(iii); and (4) "No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions" § 332(c)(7)(B)(iv).

Thus, the City may not unreasonably discriminate in any decision to deny a permit for a WCF. It also may not deny a permit for a WCF if that denial would constitute actual or effective prohibition of services. Where there is a "significant gap" in a provider's service and "the manner in which it proposes to fill the significant gap in service is the least intrusive on the values that the denial sought to serve, a local jurisdiction's denial would constitute effective prohibition. *MetroPCS, Inc. v. City & County of San Francisco*, 400 F.3d 715, 734 (9th Cir. 2005) (internal citations omitted).

C. California Has Adopted a Clear State Policy Promoting the Deployment of Wireless Technology and Co-Location Facilities

The State of California has adopted a policy promoting the wide and efficient deployment of wireless technology. For example, Public Utilities Code § 709(c), provides:

The Legislature hereby finds and declares that the policies for telecommunications in California are as follows:

(a) To continue our universal service commitment by assuring the continued affordability and widespread availability of high-quality telecommunications services to all Californians.

...

(c) To encourage the development and deployment of new technologies and the equitable provision of services in a way that efficiently meets consumer need and encourages the ubiquitous availability of a wide choice of state-of-the-art services.

(d) To assist in bridging the "digital divide" by encouraging expanded access to state-of-the-art technologies for rural, inner-city, low-income, and disabled Californians.

(e) To promote economic growth, job creation, and the substantial social benefits that will result from the rapid implementation of advanced information and communications technologies by adequate long-term investment in the necessary infrastructure.

(f) To promote lower prices, broader consumer choice, and avoidance of anticompetitive conduct.

(g) To remove the barriers to open and competitive markets and promote fair product and price competition in a way that encourages greater efficiency, lower prices, and more consumer choice.

...

In this case, the forced removal of the Facility would have a severe impact on the ability of customer-carriers to provide affordable and widely available wireless services in the affected areas. Costly visual mitigation measures will be born by the citizens of the City in the form of higher bills and consequently fewer individuals will be able to afford wireless services. This, in turn, will affect the state of emergency communications for the State of California. Both the federal and state governments are in the process of overhauling the broadcast-based Emergency Alert System ("EAS") to incorporate wireless devices. In October 2006, Congress passed the Warning, Alert, and Response Network Act. The Act calls for the development of a nationwide wireless alert platform that can be used to transmit geographically targeted emergency messages to the public. For its part, California has proposed to jump start the federal government's emergency initiative, announcing plans to develop and launch a statewide wireless alert system within 12 to 14 months.¹ For such services to function, the continued operation of wireless infrastructure (such as the Facility) is critical. The forced removal of the Facility will undermine these efforts and subject affected residents to substandard emergency services. Also see discussion below pertaining to finding number four for a PDP and/or SDP.

Further, California's newly adopted state co-location law, referred to as "SB 1627," establishes a clear state policy favoring wireless facilities that are potential co-location candidates. *See* Cal. Gov. Code § 65850.6(a) (stating a "collocation facility shall be a permitted use not subject to a city or county discretionary permit" provided the facility complies with all lawfully required conditions). The approval of the application currently before the Commission will conform to the spirit and purpose of SB 1627. Also see discussion below addressing finding number five for a PDP and/or SDP regarding co-location opportunities for the Facility.

III. The Facility Meets All the Requirements of the San Diego Land Development Code for Issuance of the Requested Permits

As demonstrated below, the Facility meets all of the City's requirements for approval of the requested permit as outlined in the City's Land Development Code and complies with the findings necessary for not only a Conditional Use Permit, but also either a Planned Development Permit or a Site Development Permit.

¹ Kapko, *California plans statewide wireless alert system*, RCRWireless News (May 21, 2007) p. 14.

A. Findings Required for a Conditional Use Permit

The City can make the findings necessary to approve the requested permit for this Facility at its present height, location, and configuration.

Section 126.0305 of the Land Development Code sets forth four findings for issuance of a CUP, all of which can be made with respect to this project:

1. The proposed development will not adversely affect the applicable land use plan.

The Facility would not adversely affect the applicable land use plan. The Facility has existed on this site for over twenty (20) years without controversy and without creating any adverse impacts on the surrounding areas, land uses or residents. The location, size, design, and operating characteristics of this Facility are such that it does not create noise, traffic, emissions, fumes, smoke, odors, dust or other conditions that may be harmful, dangerous, objectionable, detrimental or incompatible with other permitted uses in the vicinity. Indeed, in most respects it is among the least impactful of all land uses, and is certainly at or below the level of impacts created by other public utility facilities. The following supports ATC's position that the Facility does not adversely affect the applicable land use plan.

- The facility is located adjacent to Balboa Boulevard in a site zoned for commercial use.
- The equipment associated with the facility operates virtually noise-free.
- The equipment does not emit fumes, smoke, dust, or odors that could be considered objectionable.
- The communications facility is unmanned and requires only periodic maintenance.
- The facility is located adjacent to Balboa Boulevard in a site zone for commercial use.
- The equipment associated with the facility operates virtually noise-free.

2. The proposed development will not be detrimental to the public health, safety, and welfare.

As acknowledged by staff, the Facility has not created conditions or circumstances contrary to the public health, safety, and general welfare in that:

- The Facility operates in full compliance with the regulations and licensing requirements of the FCC, FAA, CPUC and other applicable federal, state and local regulations designed to address health and safety concerns.
- The Facility was professionally designed, and constructed, and continues to be inspected at regular intervals to insure its continuing safety.
- The Facility has operated for many years without incident, controversy, or complaint.
- Given the benefits provided by the wireless systems served by the Facility as outlined below, the insignificant tradeoffs necessary to ensure the reliable availability of these benefits cannot be said to have created circumstances that are contrary to the public welfare.
- Advanced wireless technologies are a use now required by local businesses, homes, and schools.

- Digital wireless systems are an economical alternative to wired networks.
 - The existing pole provides an opportunity for co-location, reducing the need for other wireless facilities in the area.
 - Wireless communications service a critical need in the event of public emergency, including traffic accidents and other freeway incidents.
3. *The proposed development will comply to the maximum extent feasible with the regulations of the Land Development Code;*

The Facility at issue complies with the applicable regulations of the Land Development Code. It was permitted with a Conditional Use Permit in its current location and at its current height. ATC is proposing no modifications to the Facility that would alter this finding. Moreover, the City cannot lawfully deny a CUP/PDP on the grounds that the City has changed its Land Development Code to require that such facilities be "camouflaged" or have "minimal visual impact." Notwithstanding that legal prohibition, there are appropriate means to camouflage the Facility short of removing and replacing the existing facility. Any refusal to discuss this option is an abuse of discretion. Even if the Facility cannot be brought into "satisfactory" conformity with the current Land Development Code, the Facility is a legal nonconforming use and has a grandfathered and vested right to its continued existence.

That said, the Facility complies with the applicable regulations of the Land Development Code. The staff report prepared in connection with this hearing states that this project requires a CUP due to the fact that it does not comply with the communication antenna regulations (Section 141.0405 of the LDC). However, the Facility does, in fact, comply with § 141.0405. The staff has simply failed to properly apply that section as indicated below.

Subsection (a) of § 141.0405 is merely a definitional provision that delineates the scope of the section's coverage and spells out the difference between minor telecommunication facilities, major telecommunication facilities, and satellite antennas. It contains no requirements.

Subsection (b) contains the "General Rules for Telecommunication Facilities." Subsection (b)(1) requires facilities to comply with Federal standards for radio frequency radiation. ATC has previously submitted evidence establishing that the Facility meets this requirement. Subsection (b)(2) relates to routine maintenance and inspection located on residentially zoned premises and is thus irrelevant to this Facility as it is in a Commercial Zone. Subsections (b)(3) and (4) relate to antennas and associated equipment located in the public right of way and thus are inapplicable to the Facility.

Section 141.0405(c) relates to temporary facilities and is also inapplicable.

Subsection (d) relates to facilities that are required to obtain encroachment authorization to locate on city-owned dedicated or designated parkland or open space areas and is inapplicable to this Facility.

Subsection (e) sets forth the rules for minor telecommunication facilities. It is ATC's position that the Facility falls within the definition of a minor telecommunication facility set

forth in § 141.0405(a)(1) because it is an antenna facility used for wireless telephone services that complies with all development regulations of the underlying zone (as acknowledged by staff) and meets the criteria in § 141.0405(e)(1). The Facility meets the requirements of § 141.0405(e)(1) because it is partly concealed from public view and integrated into the architecture and surrounding environment through enhancements that complement the scale, texture, color, and style of the surrounding architecture and environment. Large industrial warehouses surround the existing facility on the north, south and east. Directly west of the site is the I-5 Freeway. The upper part of the monopole is painted light blue and surrounded by existing mature landscaping that serves to conceal the monopole.

Subsection (e)(2) is an alternative to subsection (e)(1) that is inapplicable.

The Facility does not violate any of the prohibitions in subsection (e)(3) in that it is not (A) on premises that are developed with residential uses in residential zones, (B) on vacant premises zoned for residential development, (C) on premises that have been designated as historical resources, (D) on premises that have been designated or mapped as containing sensitive resources, (E) on premises within the MHPA, or (F) on premises that are leased for billboard use.

Even if the Facility is a major telecommunication facility, the Facility would still be in compliance with the provisions of § 141.0405. It would not violate any of the prohibitions in subsection (f)(1) since it would not be (A) on premises containing designated historical resources, (B) within viewsheds of designated and recommended State Scenic Highways and City Scenic Routes, (C) within ½ mile of another major telecommunication facility (and in any case it is partly concealed from public view and integrated into the architecture and surrounding environment through enhancements that complement the scale, texture, color and style of the surrounding architecture and environment as indicated above), or (D) within the Coastal Overlay Zone, on premises within a MHPA and/or containing steep hillsides with sensitive biological resources, or within public view corridors or view sheds identified in applicable land use plans.

Staff erroneously claims that this Facility "poses a significant visual impact to travelers along Balboa Avenue and to the residential areas surrounding the facility." As discussed above, the City has no authority to base any part of its decision regarding this permit on the visual impact of the Facility. That said, the Facility is in compliance with subsection (f)(2) in that it is designed to be minimally visible through the use of architecture, landscape architecture, and siting solutions. The Facility is adjacent to a major transportation corridor in the rear of a commercial outlet. The monopole and antennas are painted sky blue and the equipment buildings shrouded in vegetation and blend with the surrounding area. The monopole is partially screened from view by existing mature landscaping. The alternative suggested by staff, namely a new structure that would enclose the facility, would, by definition, be larger and thus not "minimally visible."

The only portion of §141.0405 that has not been addressed in the above discussion is subsection (g), which deals in its entirety with satellite antennas and is thus irrelevant.

107589

Program Coordinator at (619) 236-5979 at least five working days prior to the meeting to insure availability. Assistive Listening Devices (ALD's) are available for the meeting upon request.

Job Order No. 42-5718

Revised 11/02/04 dcj
document1

THANK YOU FOR YOUR UNDERSTANDING!

I would like to appose project number #91178. Only if all conditions set by the city are met & most important to disicise or make it a false palm tree, will I recommend approval of a new permit. Thank you for my notification notice. As a resident of this neighborhood I would like to see improvements for the better of all, like the improvements done on Balboa Drive Mt. Clegh. -Doe. Thank you. 6-21-07

P.S. sorry about my handwriting



E-CHART 92111

124 APN: 419-120-71-32
DAVID M HOLLAND
6333 MOUNT ADA RD UNIT 262
SAN DIEGO CA 92111-3134

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Development Services
Karen Lynch-Ashcraft / PTS No. 91178

THE CITY OF SAN DIEGO



000590

INVESTMENT PROPERTIES, LTD.

P.O. Box 85304 San Diego, CA 92186 (858) 627-3610 Facsimile (858) 492-5857

January 10, 2006

Robert Jystad
The City of San Diego
Development Services
1222 First Ave., MS 302
San Diego, CA 92101-3864

Re: Opposition of Verizon – Mount ADA; Project No. 01178

Dear Mr. Jystad,

We oppose the request for the application for a Conditional Use Permit/Planned Development Permit for a telecommunication facility. This is an area that should be beautified by the City. Allowing the installation of an unsightly pole with thirty antennas attached thereto will just add to some of the existing blighted areas in the surrounding community.

Sincerely,

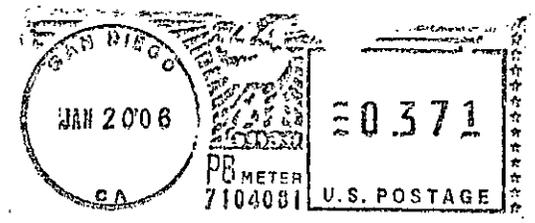


By: Gleich Properties, LLC, general partner
By: Randy K. Lang, Vice President

RKL/jrf

000591

Investment Properties, Ltd.
P.O. Box 85304
San Diego, CA 92186-5304



Robert Jystad
The City of San Diego
Development Services
122 First Ave., MS 302
San Diego, CA 92101-3864

*** PRESORTED FIRST CLASS

92101+2330-22 92101



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1/7/08

Channel Law Group, LLP

100 OCEANGATE
SUITE 1400
LONG BEACH, CA 90802-4323

Fax: (562) 216-5090
www.channellawgroup.com

ROBERT JYSTAD
JULIAN K. QUATTLEBAUM, III *
JAMIE T. HALL **
MARTHA HUDAK, Special Counsel***

Writer's Direct Line: (310) 209-8515
rjystad@channellawgroup.com

*ALSO Admitted in Colorado
**ALSO Admitted in Texas
***ALSO Admitted in New York and New Jersey

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December 21, 2007

VIA OVERNIGHT EXPRESS

Council President Scott Peters and
Members of the City Council
C/o City Clerk
CITY OF SAN DIEGO
City Administration Building
202 "C" Street, 2nd Floor
San Diego, CA 92101

Re: American Tower Corporation Request for CUP No. 296127/PDP No. 452327 (30th Place – PTS No. 90455) and CUP No. 292627/SDP No. 450714 (Mount Ada – PTS No. 91178)

Dear Council President Peters and Council Members:

In light of recent communications with Council offices and requests from Council for additional information, American Tower and Verizon Wireless are submitting the attached updated photographic simulations ("sims") and coverage maps for consideration by Council at the January 7, 2008 hearings on the above identified permits.

Please note that attached sims are subject to final approval by American Tower engineers, who have concluded on a preliminary basis that the designs as presented are technically feasible:

- Exhibit 1: Original banner design – 30th Place
- Exhibit 2: Revised banner design – 30th Place
- Exhibit 3: Original banner design – Mt. Ada
- Exhibit 4: Revised banner design – Mt. Ada

In addition to these sims, American Tower and Verizon Wireless also submit additional coverage maps for the 30th Place and Mt. Ada sites. The coverage maps depict the radio

frequency coverage gaps created by lowering the facilities to 30 feet and demonstrate that the gaps in coverage are not filled by the wireless signals from adjacent existing sites. It should be noted that maps are generated using theoretical computer modeling software. As such, they are not depictions of actual impacts which could be substantially greater in light of existing structures, grading and/or vegetation. In addition, the signal strength depicted is not the full signal strength for the network and shows only the level of coverage suitable for in vehicle coverage, not in-building coverage, and as such understates the negative impact of the reduction of height of these towers.

Exhibit 5: Coverage Map -- Existing -- 30th Place

Exhibit 6: Coverage Map -- Expected -- 30th Place

Exhibit 7: Coverage Map -- Existing -- Mt. Ada

Exhibit 8: Coverage Map -- Expected -- Mt. Ada

As indicated in prior correspondence, ATC reserves the right to continue to supplement the record with additional evidence to be presented at or prior to the hearing in these appeals.

I can be reached at 310-871-8189 should you have any questions.

Sincerely,



Robert Jystad

Attorney for American Tower Corporation

RJ:rj

attachments

c: Christine, Fitzgerald, Chief Deputy City Attorney, City of San Diego
Karen Lynch Ashcraft, Development Services Department
Elizabeth Hill, Esq., American Tower Corporation
James Kelly, American Tower Corporation
Suzanne Toller, Esq., Davis Wright Tremaine LLP
Leslie Vartanian, Verizon Wireless

EXHIBIT 1

Photosimulation of proposed banner concept.



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EXHIBIT 2

Photosimulation of proposed banner sleeve concept.



Existing

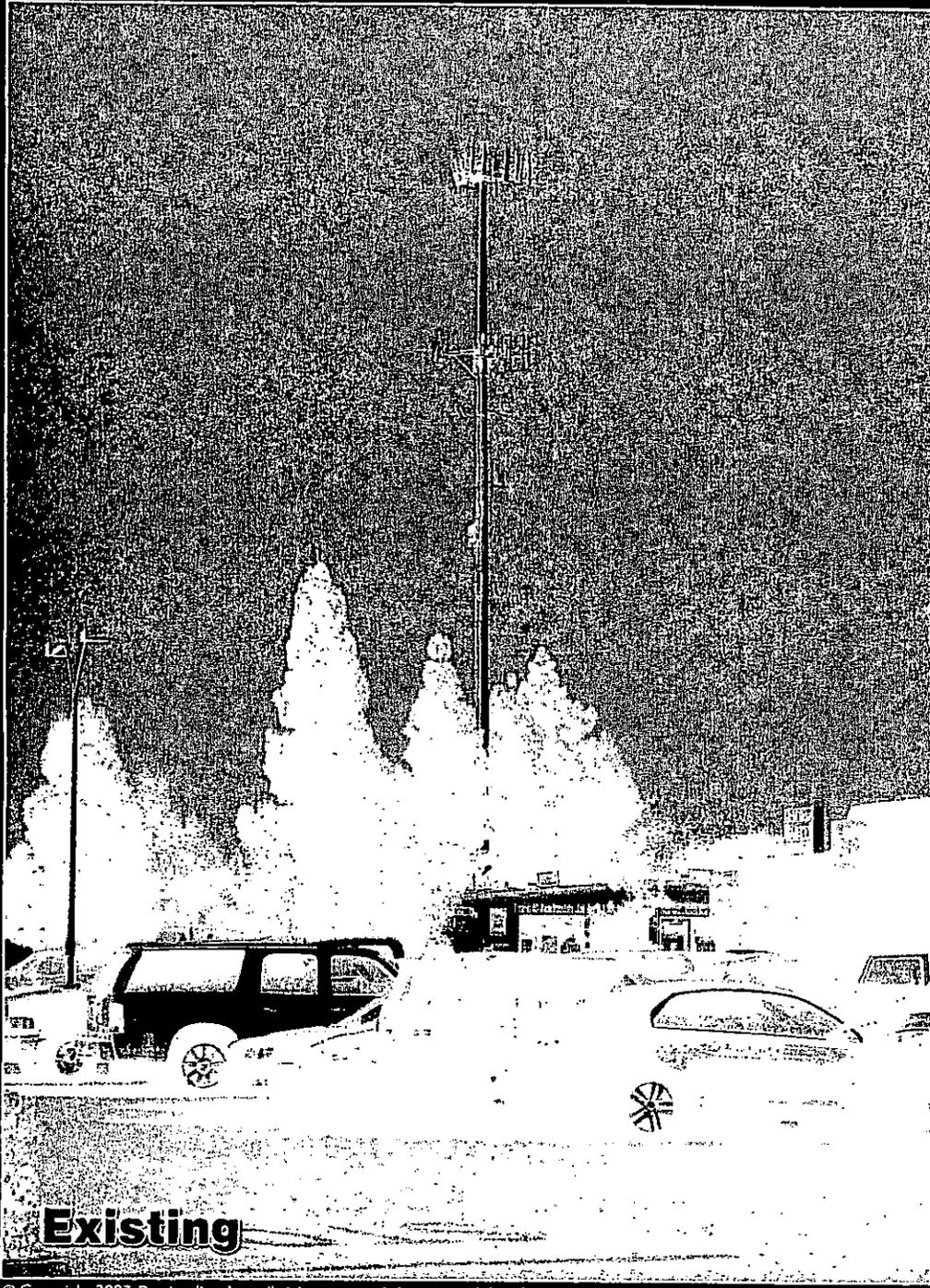


Proposed

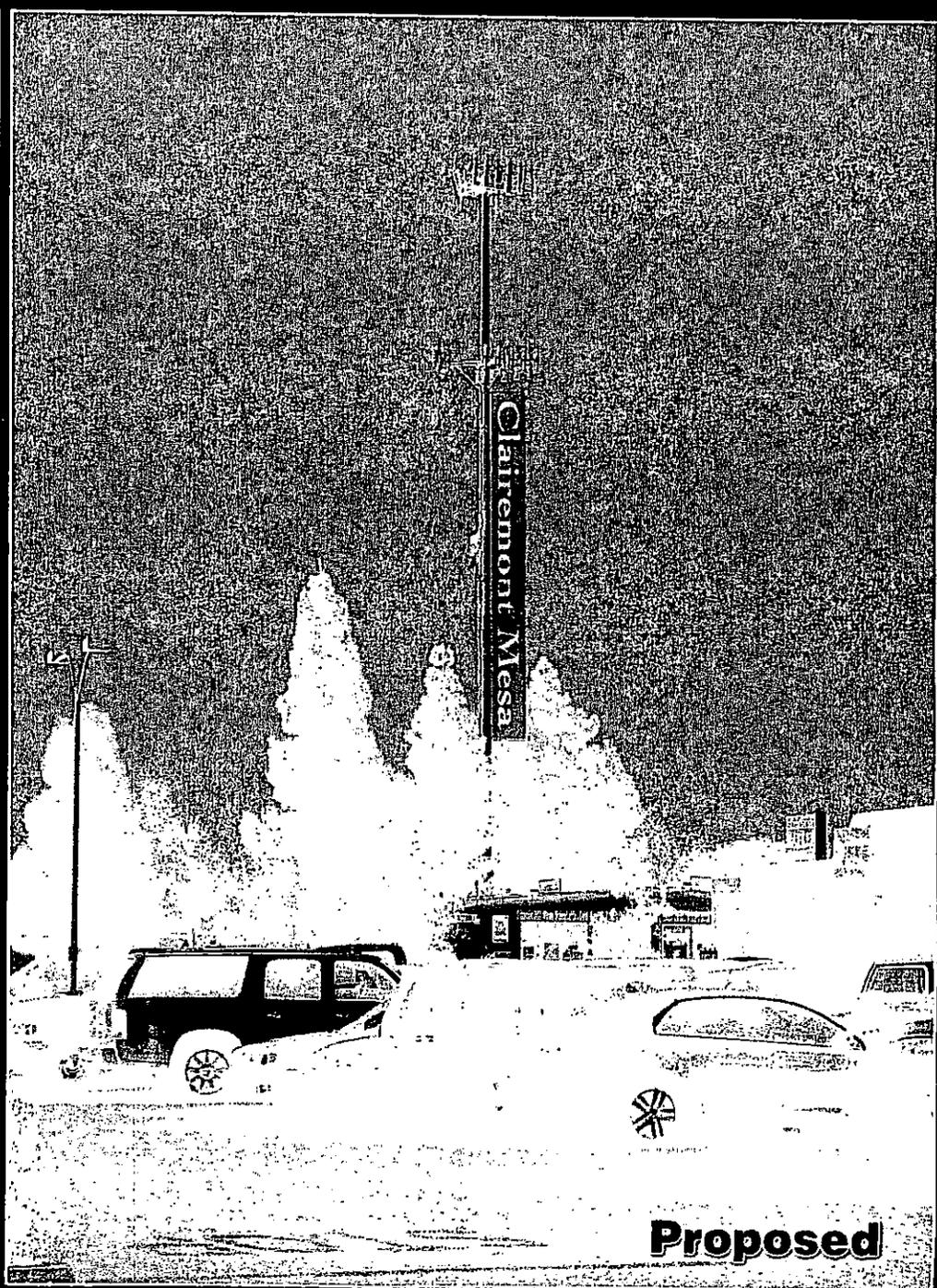
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EXHIBIT 3

Photosimulation of proposed banner concept.



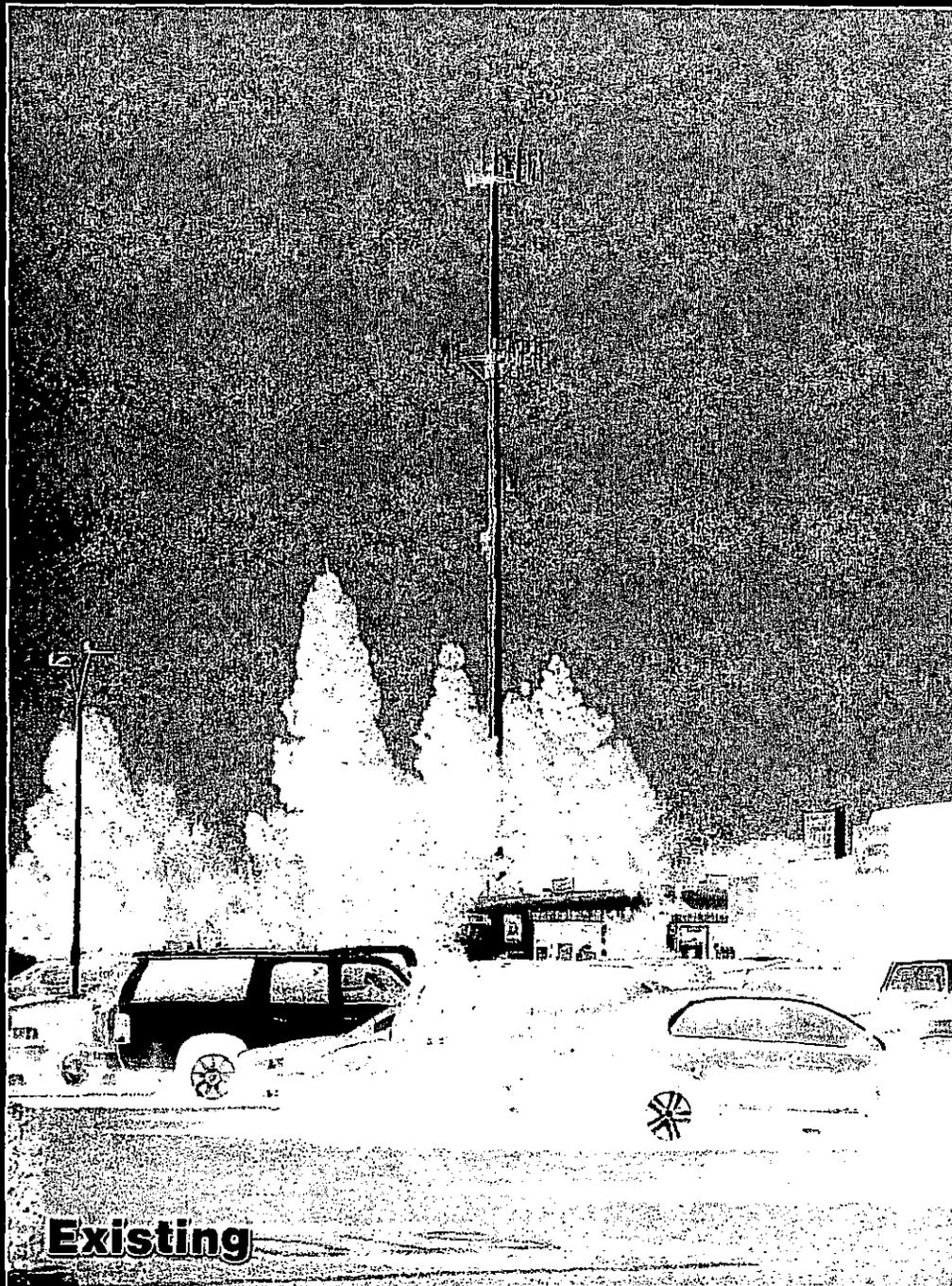
Existing



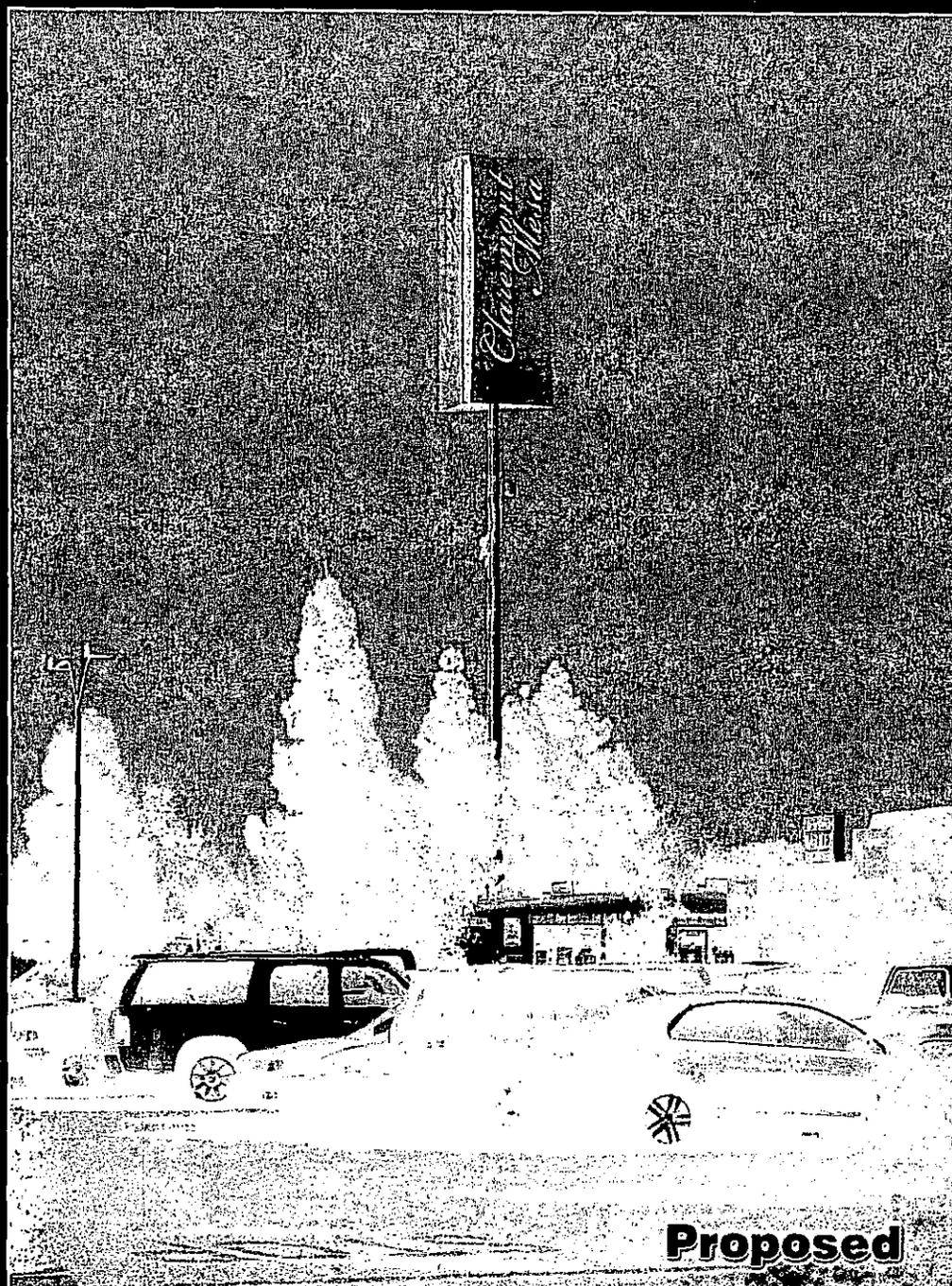
Proposed

EXHIBIT 4

Photosimulation of proposed banner concept.



Existing



Proposed

EXHIBIT 5

30th Place Current Coverage

- 30th Place Current Height Coverage
- Surrounding Sites Coverage
- 30th Place Cell Site
- Surrounding Sites



City of San Diego EUI Issue

EXHIBIT 6

30th Place Lowered Height Coverage

- 30th Place Lowered Height Coverage
- Surrounding Sites Coverage
- 30th Place Cell Site
- Surrounding Sites



EXHIBIT 7

Mt Ada Current Coverage

-  Mt Ada Current Height Coverage
-  Surrounding Sites Coverage
-  Mt Ada Cell Site
-  Surrounding Sites



City of San Diego EIR Issue

EXHIBIT 8

Mt Ada Lowered Height Coverage

-  Mt Ada Lowered Height Coverage
-  Surrounding Sites Coverage
-  Mt Ada Cell Site
-  Surrounding Sites



City of San Diego Issue