



City of San Diego
 Development Services
 1222 First Ave. • 3rd Floor
 San Diego, CA 92101-4154
 (619) 446-5210
 www.sandiego.gov/development-services

Development Permit ND Appeal Application

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 Three Decision - Appeal to Board of Zoning Appeals
 - Appeal of a Hearing Officer Decision to revoke a permit
 - Process Four Decision - Appeal to City Council

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

CHRISTOPHER P. GRAMLICH
 Address 5011 JULY ST SAN DIEGO CA 92110 619 276 6044
City State Zip Code Telephone

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

WILLIAM LYNCH - WFI CINGULAR WIRELESS
 4. Project Information
 Permit/Approval Being Appealed & Permit/Approval No.: 19148 City Planning Nov 18, 04
NEIGHBORHOOD USE PERMIT/CINGULAR-ST DAVIDS staff JULY 9 2004 City Project Manager: KAREN LYNN ASHCRAFT

Decision (describe the permit/approval decision):
Development services staff approved an application for a wireless communication facility of 3 panel antennas housed within a proposed 30 ft. tall steeple on west side of blk at 5050 Milton St, City Planning (library)
Commission voted to approve project on Nov 18, 2004 despite appeal of community to deny project

5. Reason for Appeal
- Factual Error
 - Conflict with other matters
 - Findings Not Supported
 - New Information
 - City-wide Significance (Process Four decisions only)

Description of Reasons for Appeal (Please relate your description to the allowable reasons for appeal noted above. Attach additional sheets if necessary.)

(1) Factual error concerning impact on humans & environment:
FIGURE 3, PAGE 57 OF FC-04-173 IS INACCURATE AND MISLEADING. IT SHOULD NOT HAVE BEEN USED IN THE REPORT.

THE USE OF THE WORD "EXPOSURE" IS INCORRECT.
THE VALUES PROVIDED FOR EACH EXAMPLE ARE FOR ELECTROMAGNETIC FIELD STRENGTHS ONLY.

THE VALUES PROVIDED ARE FOR EMF STRENGTHS AT DIFFERENT DISTANCES FROM THE SOURCE AND ARE NOT COMPARABLE.

EXAMPLE: THE VALUE FOR THE BABY MONITOR IS FOR THREE METERS FROM THE SOURCE AND THE VALUE FOR THE PLS TRANSMISSION IS PROBABLY THIRTY METERS FROM ITS SOURCE.

THIS IS AN IMPORTANT CONSIDERATION SINCE THE ELECTROMAGNETIC FIELD STRENGTH VARIES WITH SQUARE OF THE DISTANCE FROM THE

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

Signature [Handwritten Signature] Date 12-1-04

Note: Faxed appeals are not accepted.



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CHRISTOPHER P. GRAMLICH

Address 5011 JULY ST City SAN DIEGO State CA Zip Code 92110 Telephone 619 276 6044

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

WILLIAM LYNCH - WFI CINGULAR WIRELESS

4. Project Information Permit/Approval Being Appealed & Permit/Approval No.: <u>19148</u>	Date of Decision: <u>JULY 9 2004</u>	City Project Manager: <u>KAREN LYNCH-ASHCRAFT</u>
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Decision (describe the permit/approval decision):

5. Reason for Appeal
- Factual Error
 - Conflict with other matters
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(CONTINUED FROM PAGE 1.)

SOURCE AND INCREASES EXPONENTIALLY AS YOU APPROACH THE SOURCE.

NO VALUES, REPRESENTING FIELD STRENGTH WITHIN 30 METERS OF THE PCS TRANSMISSION SOURCE, ARE PROVIDED.

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

Signature *Christopher P. Gramlich*

Date 12-1-04

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

Linda Botert-Garduño
 Address 2667 Tokalon St. City San Diego State Ca Zip Code 92110 Telephone 619 275-6194

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

William Lynch - WFI for Cingular Wireless

4. Project Information Permit/Approval Being Appealed & Permit/Approval No.:	#19148	Date of Decision:	City Project Manager:
Neighborhood use permit/Cingular St. Davids		Nov. 18, 2004	Karen Lynch Ashkraft

Decision (describe the permit/approval decision): (July 9, 2004)
 Development services staff approved an application for a wireless communication facility of 3 panel antennas housed within a proposed 30 ft. tall steeple on west side of bldg at 5050 Milton St. City Planning Commission voted to approve the project on Nov. 18, 2004 despite appeal of community members (400) to deny the project.

5. Reason for Appeal
- Factual Error
 - Conflict with other matters
 - Findings Not Supported
 - New Information
 - City-wide Significance (Process Four decisions only)

Description of Reasons for Appeal (Please relate your description to the allowable reasons for appeal noted above. Attach additional sheets if necessary.)

Noise: The cooling system for the antennas will generate noise (47.5) decibels, which creates a potential for public nuisance. It will introduce noise into a quiet residential area where currently no such noise exists. This noise will occur 24 hours a day, 7 days a week. This will negatively impact residents ability to sleep and quality of life. See attached SDME - Chapter 6, Art 9, Div 1, pg 2

Decay of Environmental quality: According to SD Municipal code, Chapter 6, Article 9, Div 1, pg. # 69103 (b) see attached. The placement of an antenna in a residential neighborhood, on top of a preschool and across the street from an elementary school impacts all that is "pleasing and healthful to the senses and intellect of humans" in our community.

Environmental impact of antennas and colocation of antennas are not current: and according to Chap 12, Art 8, Div 1, pg 2, #7 (attached) "all environmental documents need to incorporate the latest pertinent

6. Appellant's Signature: I certify under penalty of perjury that the foregoing, including all names and addresses, is true and correct.
 Signature Linda Botert-Garduño Date 12-1-04

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(D)

Development Permit Appeal Application



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 - Process Three Decision - Appeal to Board of Zoning Appeals
 - Appeal of a Hearing Officer Decision to revoke a permit
 - Process Four Decision - Appeal to City Council

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

Linda Botert - Garduño City State Zip Code Telephone

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

4. Project Information Permit/Approval Being Appealed & Permit/Approval No.:	Date of Decision:	City Project Manager:
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Decision (describe the permit/approval decision):

5. Reason for Appeal
- Factual Error
 - Conflict with other matters
 - Findings Not Supported
 - New Information
 - City-wide Significance (Process Four decisions only)

Description of Reasons for Appeal (Please relate your description to the allowable reasons for appeal noted above. Attach additional sheets if necessary.)

technical or scientific information and are factually accurate and consistent." The community received no ^{"factual"} information about the antenna and at meetings with Cingular present the representatives stated they weren't allowed to discuss environmental issues (Cingular rep Tim Kolset, Clairemont Mesa Planning Committee, Oct 2003)

* Future impact of multiple placement of this antennas & competitors antennas in the same area or on the same property need to be evaluated as a whole. This will not be the only cell co. going in at this area - all others will attempt placement in or around and this changes the RF exposures and environmental issues on many levels.

6. Appellant's Signature: I certify under penalty of perjury that the foregoing, including all names and addresses, is true and correct.
Signature Linda Botert Garduño Date 12-1-09

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(E)



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 - Process Four Decision - Appeal to City Council

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

Ike Fitfield
Address 5035 Milton St. San Diego City San Diego State CA Zip Code 92110 Telephone 619 277-2670

3. Applicant Name (As shown on the Permit/Approval being appealed). Complete if different from appellant.
William Lynch - WFI for Cingular Wireless

4. Project Information
Permit/Approval Being Appealed & Permit/Approval No.: Neighborhood use Permit/Cingular St. David's # 19148
Date of Decision: Nov. 18, 2009 City Project Manager: Karen Lynch Ashkraft
orig. July 9, 2009
CPC

Decision (describe the permit/approval decision):
Development services staff approved an application for a wireless communication facility of 3 panel antennas housed within a proposed 30ft tall steeple on west side of bldg at 5050 Milton St. City Planning (Library)
(Comm voted to approve project on Nov 18, 2009 despite appeal of community to deny project.

5. Reason for Appeal
- Factual Error
 - Conflict with other matters
 - Findings Not Supported
 - New Information
 - City-wide Significance (Process Four decisions only)

Description of Reasons for Appeal (Please relate your description to the allowable reasons for appeal noted above. Attach additional sheets if necessary.)
Noise; Decay of Environmental quality, environmental impact of antennas not current, factual error concerning cellular company's impact from antennas on humans and the environment. (See neighbors attached forms that state my concerns 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 Ike H. Fitfield Date 12.02.09

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Article 9: Environmental Quality Ordinance
("Environmental Impact Report Procedural Ordinance"
added 11-14-1972 by O-10952 N.S.)
(Repealed 11-9-1987 by O-12203 N.S.)
("Environmental Quality Ordinance"
added 11-9-1977 by O-12203 N.S.)

Division 1: Purpose, Intent and Policy
("General" added 11-14-1972 by O-10952 N.S.)
(Repealed 11-9-1977 by O-12203 N.S.)
("Purpose, Intent and Policy"
added 11-9-1977 by O-12203 N.S.)

§69.0101 Purpose

Pursuant to the California Environmental Quality Act (Public Resources Code, Section 21000, et seq., herein "the Act" or "CEQA") and State CEQA Guidelines Title 14, California Code of Regulations, Section 15000, et seq., herein "the Guidelines" or "State CEQA Guidelines"), it is incumbent upon the City of San Diego as a public agency to protect the interest of the public in securing, maintaining, preserving, protecting, rehabilitating and enhancing the environment within the City of San Diego. This Article has been enacted by the Council to attain that purpose, and to give effect to the Act and the Guidelines within the City of San Diego.
(Amended 4-6-1992 by O-17753 N.S.)

§69.0102 Citation of Article

This article shall be known and may be cited as the "Environmental Quality Ordinance of the City of San Diego."
("Citation of Article" added 11-9-1977 by O-12203 N.S.)

§69.0103 Declaration of Council Findings and Intent

The Council, concurring with the State Legislature, finds and declares as follows:

- (a) The maintenance of a quality environment for the people of this City now and in the future is a matter of city-wide concern.
- (b) It is necessary to provide a high-quality environment that at all times is healthful and pleasing to the senses and intellect of humans.

Ch.	Art.	Div.
6	9	1

(6-2000)

- (c) There is a need to understand the relationship between the maintenance of high quality ecological systems and the general welfare of the people of the City, including their enjoyment of the natural resources of the City.
- (d) The capacity of the environment is limited, and it is the intent of the Council that City agencies take immediate steps to identify any critical thresholds for the health and safety of the people of the City and take all coordinated actions necessary to prevent such thresholds being reached.
- (e) Every citizen has a responsibility to contribute to the preservation and enhancement of the environment.
- (f) The interrelationship of policies and practices in the management of natural resources and waste disposal requires systematic and concerted efforts by public and private interests to enhance environmental quality and to control environmental pollution.
- (g) It is the intent of the Council that all City agencies which regulate activities of private individuals, corporations, and public agencies which are found to affect the quality of the environment, shall regulate such activities so that major consideration is given to preventing environmental damage.

*(Amended 4-6-1992 by O-17753 N.S.)***§69.0104 Declaration of City Policy: Protection of Environmental Quality**

The Council, concurring with the State Legislature, further finds and declares that it is the policy of the City to:

- (a) Develop and maintain a high-quality environment now and in the future, and take all actions necessary to protect, rehabilitate, and enhance the environmental quality of the City.
- (b) Take all actions necessary to provide the people of this City with clean air and water, enjoyment of aesthetic, natural, scenic and historic environmental qualities, and freedom from excessive noise.
- (c) Prevent the elimination of fish or wildlife species due to human activity, insure that fish and wildlife populations do not drop below self-perpetuating levels, and preserve for future generations representations of all plant and animal communities and examples of the major periods of California and San Diego history.

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6	9	1 2

(6-2000)

- (d) Ensure that the long-term protection of the environment shall be the guiding criterion in public decisions.
- (e) Create and maintain conditions under which humans and nature can exist in productive harmony to fulfill the social and economic requirements of present and future generations.
- (f) Require City agencies at all levels to develop standards and procedures necessary to protect environmental quality.
- (g) Require City agencies at all levels to consider qualitative factors as well as economic and technical factors, and long-term benefits and costs in addition to short-term benefits and costs, and to consider alternatives to proposed actions affecting the environment.

*(Amended 4-6-1992 by O-17753 N.S.)***§69.0105 Declaration of City Policy: Approval of Projects**

The Council, concurring with the State Legislature, further finds and declares that it is the policy of the City that:

- (a) City agencies shall not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects.
- (b) The procedures required by this article are intended to assist City and other public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects.
- (c) In the event specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved notwithstanding one or more significant effects thereof.

*("Declaration of City Policy: Approval of Projects" added 11-9-1977 by O-12203 N.S.)***§69.0106 Declaration of City Policy: Use of Environmental Impact Reports**

In order to achieve the objectives set forth in Section 69.0105 the Council, concurring with the State Legislature, finds and declares that the following policy shall apply to the use of environmental impact reports:

Ch.	Art.	Div.	
6	9	1	3

(6-2000)

- (a) The purpose of an environmental impact report is to identify the significant effects of a project on the environment, to identify alternatives to the project, and to indicate the manner in which such significant effects can be mitigated or avoided.
- (b) Each City agency shall mitigate or avoid the significant effects on the environment of projects it approves or carries out whenever it is feasible to do so.
- (c) In the event that specific economic, social, or other conditions make it infeasible to mitigate one or more significant effects of a project on the environment, such project may nonetheless be approved or carried out at the discretion of the City agency, provided that the project is otherwise permissible under applicable laws and regulations.
- (d) In applying the policies of subsections B and C to individual projects, the responsibility of a City agency which is functioning as a lead agency shall differ from that of a City agency which is functioning as a responsible agency. A City agency functioning as a lead agency shall have responsibility for considering the effects, both individual and collective, of all activities involved in a project. A City agency functioning as a responsible agency shall have responsibility for considering only the effects of those activities involved in a project, which it is required by law to carry out or approve.

("Declaration of City Policy: Use of Environmental Impact Reports" added 11-9-1977 by O-12203 N.S.)

§69.0107**Declaration of City Policy: Environmental Review Process**

The Council, concurring with the State Legislature, further finds and declares that it is the policy of the City that:

- (a) City agencies integrate the requirements of this article with planning and environmental review procedures otherwise required by law or by local practice so that all such procedures, to the maximum feasible extent, run concurrently, rather than consecutively.
- (b) Documents prepared pursuant to this article be organized and written in such a manner that they will be meaningful and useful to decision-makers and to the public.

Ch.	Art.	Div.	
6	9	1	4

- (2) To issue administrative guidelines consistent with CEQA, the State CEQA Guidelines, current case law, and City Council policy;
 - (3) To determine environmental significance based on applicable administrative guidelines;
 - (4) To determine the type of environmental document required;
 - (5) To prepare environmental documents as required by this article, CEQA, and the State CEQA Guidelines;
 - (6) To implement any three-party agreement or memorandum of understanding used for preparation of an environmental document and to set standards to help ensure that only qualified environmental consultants prepare these documents;
 - (7) To ensure to the maximum extent possible, that before public review, all environmental documents incorporate the latest pertinent technical or scientific information and are factually accurate and consistent; and
 - (8) To help ensure that *applicants* incorporate all required environmental mitigation measures or project alternatives as adopted by the decision makers to minimize, if not preclude, adverse impacts to the environment from the project, consistent with CEQA.
- (b) The Planning and Development Review Director shall establish and maintain that degree of independence in the performance of these functions and duties as will assure the City Council, the City Manager, the Planning Commission, and the people of the City of San Diego that the review and analysis of the environmental consequences of projects, are in accordance with CEQA, are independent and wholly objective, and are not prepared for the purpose of either supporting or detracting from any project, plan, or position, whether advanced by the City, any other governmental agency, or private interest.
(Added 12-9-1997 by O-18451 N.S.; amended 12-6-1999 by O-18728 N.S.; effective 1-1-2000.)

§128.0104 Authority to Require Mitigation and Monitoring Programs

When the conditions of a project approval require mitigation and monitoring, the City Manager and the Planning and Development Review Director are responsible for promulgating mitigation and monitoring standards and guidelines for public and

Ch.	Art.	Div.
12	8	1 2

Typical Exposure from Various Radio Frequency / Microwave Sources

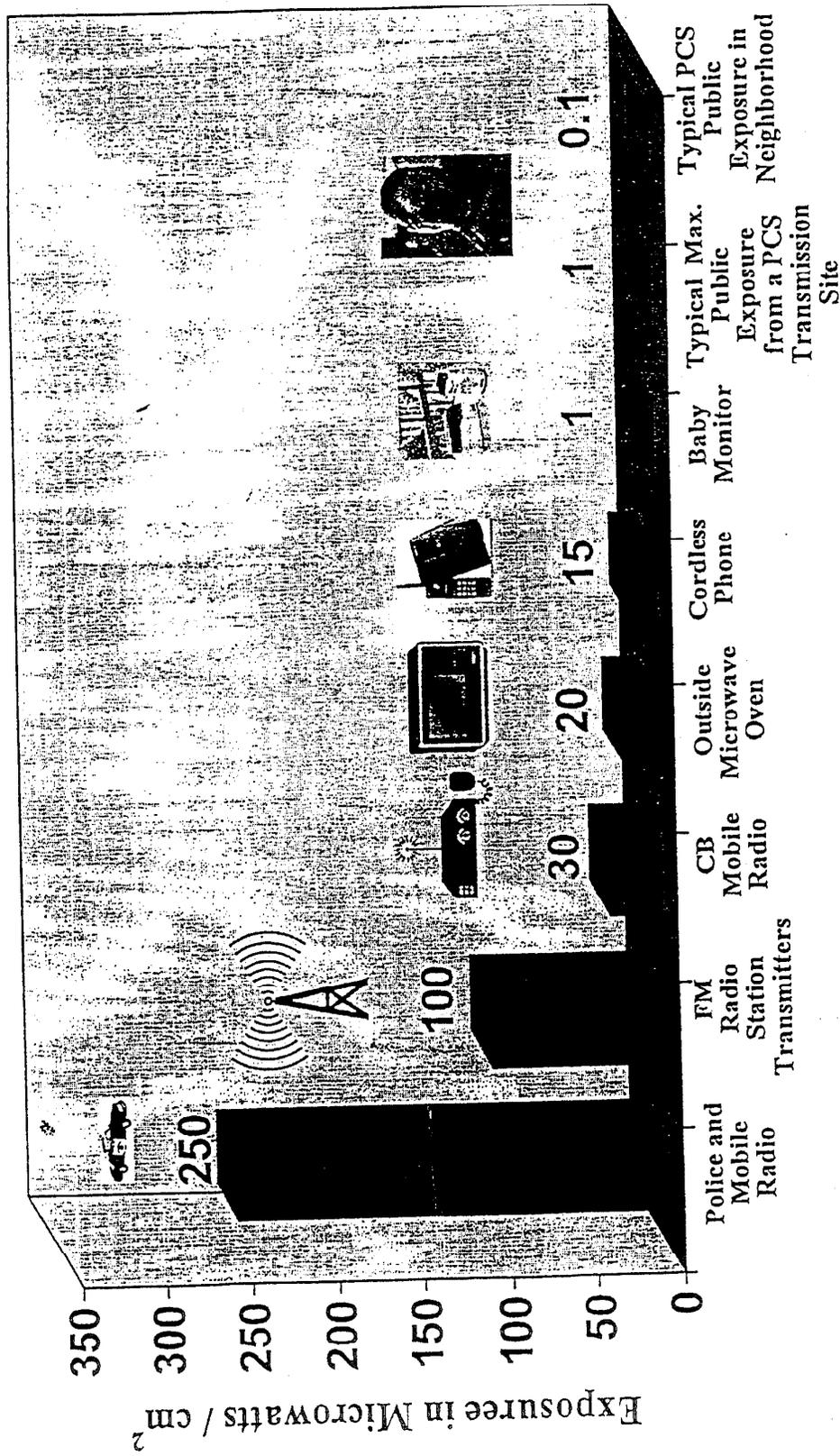


Figure 3