



City of Escondido Zoning Administrator

MEETING AGENDA

201 North Broadway
City Hall – Parkview Conference Room
February 13, 2020
3:00 p.m.

A. Call to Order:

B. Agenda items:

1. MINOR CONDITIONAL USE PERMIT – PHG 19-0056 (Continued from December 4, 2019 ZA Hearing):

A Minor Conditional Use Permit to install and operate an AT&T small wireless communication facility (node) in the public right-of-way. The proposed node involves the removal and replacement of an existing concrete street light pole. The node installation is designed to accommodate one canister-type antenna mounted on top of the replacement pole, and four (4) radio units mounted vertically onto the side of the pole. Additional associated equipment is proposed to be placed in new underground concrete vaults (handhole). The light fixture would be upgraded to an LED fixture. Trenching or boring is required to extend power and telecommunication lines to the new facility. The proposal also includes the adoption of the environmental determination prepared for the project.

Location: The subject site is located in the public right-of-way on the western side of Finely Place, north of Wolford Drive, near 3019 Finley Place.

Applicant: Black & Veatch for AT&T

Planner: Darren Parker

DECISION OF THE ZONING ADMINISTRATOR:

____ Approved, as set to form
____ Conditionally approved with the attached modifications
____ Denied
____ Continued to: ____ Date Certain (____) ____ Date Unknown
____ Referred to Planning Commission

C. Adjournment:

I certify that these actions were taken at the Zoning Administrator meeting on

Zoning Administrator

Witness

*Decisions of the Zoning Administrator may be appealed to the Planning Commission pursuant to
Zoning Code Section 33-1303*

Rev. 03/06/18

ZONING ADMINISTRATOR

CASE NUMBER: PHG 19-0056 (Continued from December 4, 2019 ZA Hearing)

APPLICANT: Timothy J. Groves, Black and Veatch (AT&T carrier)

PROJECT LOCATION: The subject site is located in the public right-of-way on the western side of Finley Place, north of Wolford Drive, near 3019 Finley Place.

REQUEST: A Minor Conditional Use Permit to install and operate an AT&T small wireless communication facility (node) in the public right-of-way. The proposed node involves the removal and replacement of an existing concrete street light pole. The node installation is designed to accommodate one canister-type antenna mounted on top of the replacement pole, and four (4) radio units mounted vertically onto the side of the pole. Additional associated equipment is proposed to be placed in new underground concrete vaults (handhole). The light fixture would be upgraded to an LED fixture. Trenching or boring is required to extend power and telecommunication lines to the new facility. The proposal also includes the adoption of the environmental determination prepared for the project.

STAFF RECOMMENDATION: Denial

GENERAL PLAN DESIGNATION: SPA 5, Public Right-of Way

ZONING: SP (Specific Plan)

BACKGROUND/PROJECT DESCRIPTION: On October 22, 2019, AT&T submitted a Minor Conditional Use Permit ("Minor CUP") application for a small wireless facility (referred to as a node) mounted onto a city street light located in the public right-a-way on Finley Place. The proposed node would be located adjacent to a small community park and approximately seventy-feet (70') to the nearest residence. The proposed node would consist of replacing an existing City light pole with a new 27-feet tall street light pole and mounting one (1) canister type antenna (24-inches tall x 10-inches in diameter) on top of the light pole with four (4), 7.8-inch wide x 4.13" deep x 7.8-inch long radio units mounted vertically onto the side of the proposed street light pole. The new street light pole would still function and operate as a standard City street light, with a

new LED fixture. The new street light would be in conformance with the City's Design Standards for ornamental street lighting and visual impacts of the proposed facility would be minimized by incorporating a stealth type design into the street light. Additional associated equipment would be placed in small new underground concrete vault(s) (handhole). SDG&E would bring power to a handhole near the pole and conduit from the handhole to the pole.

A Minor Conditional Use Permit ("CUP") is required to construct the proposed small wireless facility in the City's right-of-way, in accordance with Zoning Code Article 34, "Communication Antennas", Section 33-704(k), because the proposed node is either located along a non-circulation element street and/or along the front yard of a single-family residence. The size of the AT&T's pole-mounted equipment (canister antenna and radios) would be in conformance with the City's general design requirements that limit the dimension of attached equipment to maximum of twelve (12) inches in width and twelve (12) in depth and overall height to 35 feet. The side mounted radio units are approximately 7.87" in width x 4.13" in depth x 7.8" in length. The radio units are mounted in a dual configuration (approx. 17.1" in length) with a total of four (4) radio unit or two (2) dual-mounts configured vertically onto each pole. The overall height of the replacement pole and top-mount canister antenna would be approximately 30'-4" in height, as shown in the attached exhibits.

The proposed small cell wireless antenna would provide AT&T wireless voice and data coverage (4G) to the surrounding area where there is currently a need for additional service coverage. The proposed wireless node also would provide coverage to areas of Escondido that are otherwise difficult or impractical to cover using traditional larger macro wireless telecommunications facilities. The Zoning Administrator is the authorized decision-maker for reviewing and granting discretionary approval related to Minor Conditional Use Permit. The basis of the Zoning Administrator's review is under the City Wireless Communication Ordinance (Article 34) and the administration of findings for CUPs in Article 61. Exhibits attached hereto are to be incorporated by reference to the case file and appended to record of action to document the requested site improvement specifications for the new small wireless communication facility.

The Minor CUP request was considered by the Zoning Administrator at a noticed public hearing on December 4, 2019. During the Zoning Administrator hearing on the matter, concerned residents recommended that alternative locations be considered that are in close proximity to the proposed node location adjacent to the open space/park. Staff recommend that alternative locations needed to be fully analyzed in accordance with the City's Wireless Communication Ordinance Article 34, Section 33-704 (C). AT&T, agreed to further study several alternative locations and the item was continued to a future hearing date. AT&T indicated that three (3) potential alternative locations (as shown in the attached exhibits) would be technically feasible, but that larger side-mounted radio equipment would be required in order to compensate for the new locations and still meet AT&T's the coverage objectives. Although the applicant indicated the three alternative locations are technically feasible and would achieve the same coverage objectives as the previous location, AT&T prefers the original location due to potential timing

issues with obtaining new permits with SDG&E. Therefore, AT&T is requesting approval of the original location of the small cell wireless facility on Finley Place.

The Zoning Administrator ascertained all pertinent facts in order to reach a decision; and the Zoning Administrator, by resolution of record, set forth its findings. In consideration of the full record to date, it is recommended that the Zoning Administrator deny AT&T preferred location of the small wireless facility associated with Planning Case No. PHG 19-0056. The staff report highlights the Zoning Administrators actions, the points of the denial, and staff's analysis of the denial.

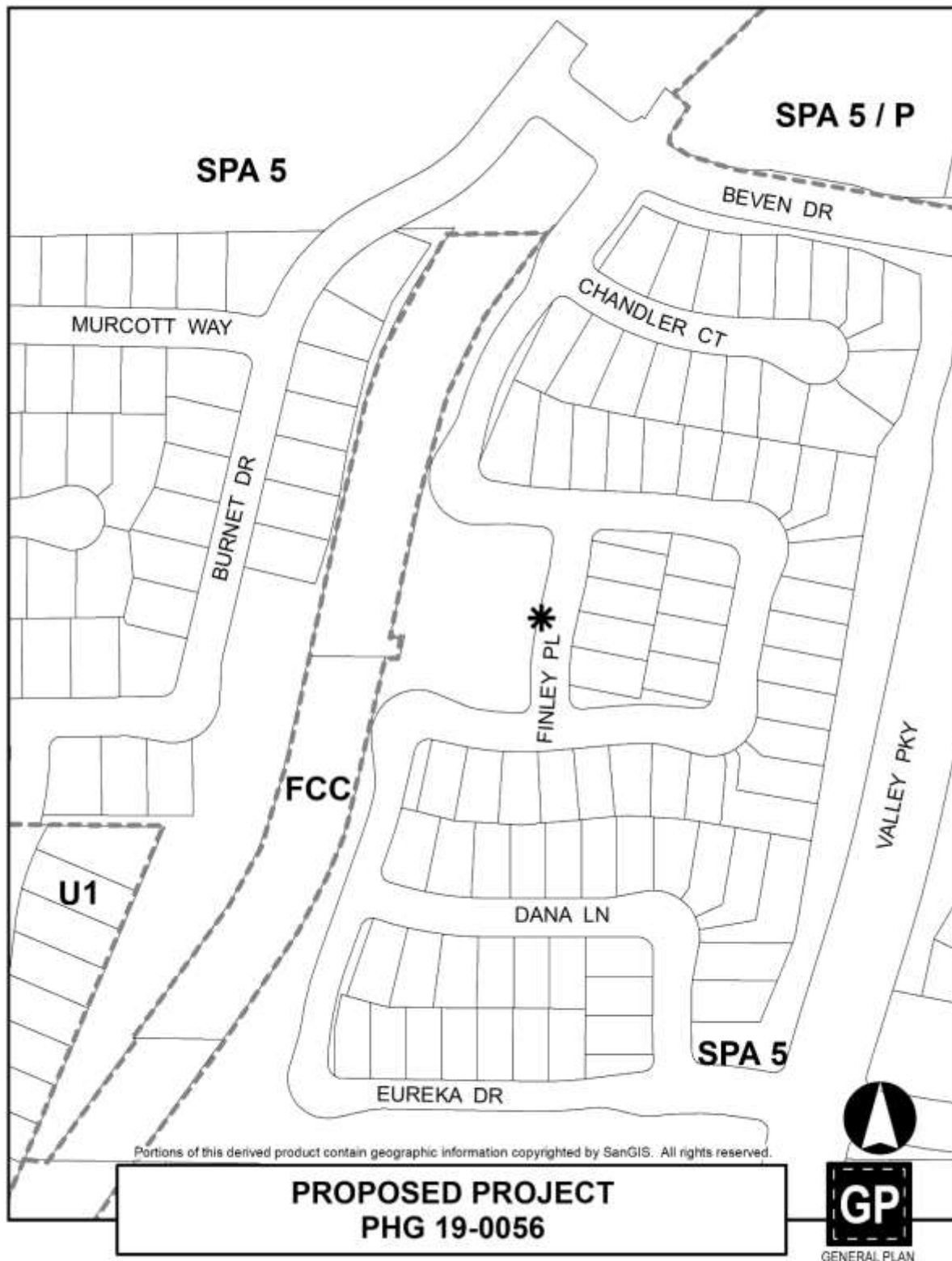
REASON FOR STAFF RECOMMENDATION:

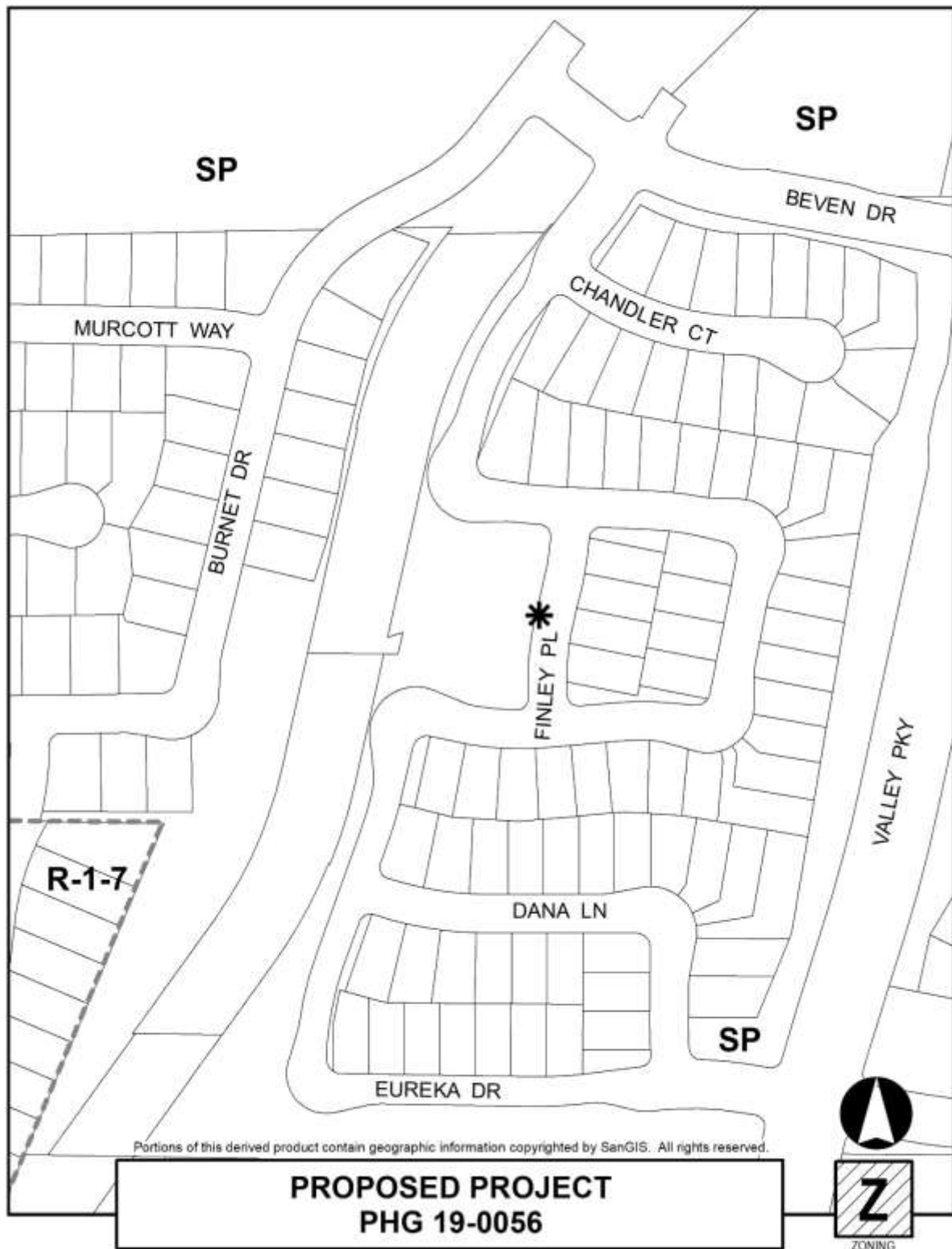
1. In accordance with Article 34, Section 33-704 (C)(iv), requires that an applicant has demonstrated a good-faith effort to identify and evaluate more preferred locations and that alternative locations are not feasible or potentially available. In this case, AT&T has demonstrated there are other preferred locations that are available to AT&T that would meet their coverage objectives with the appropriate modifications to the equipment.

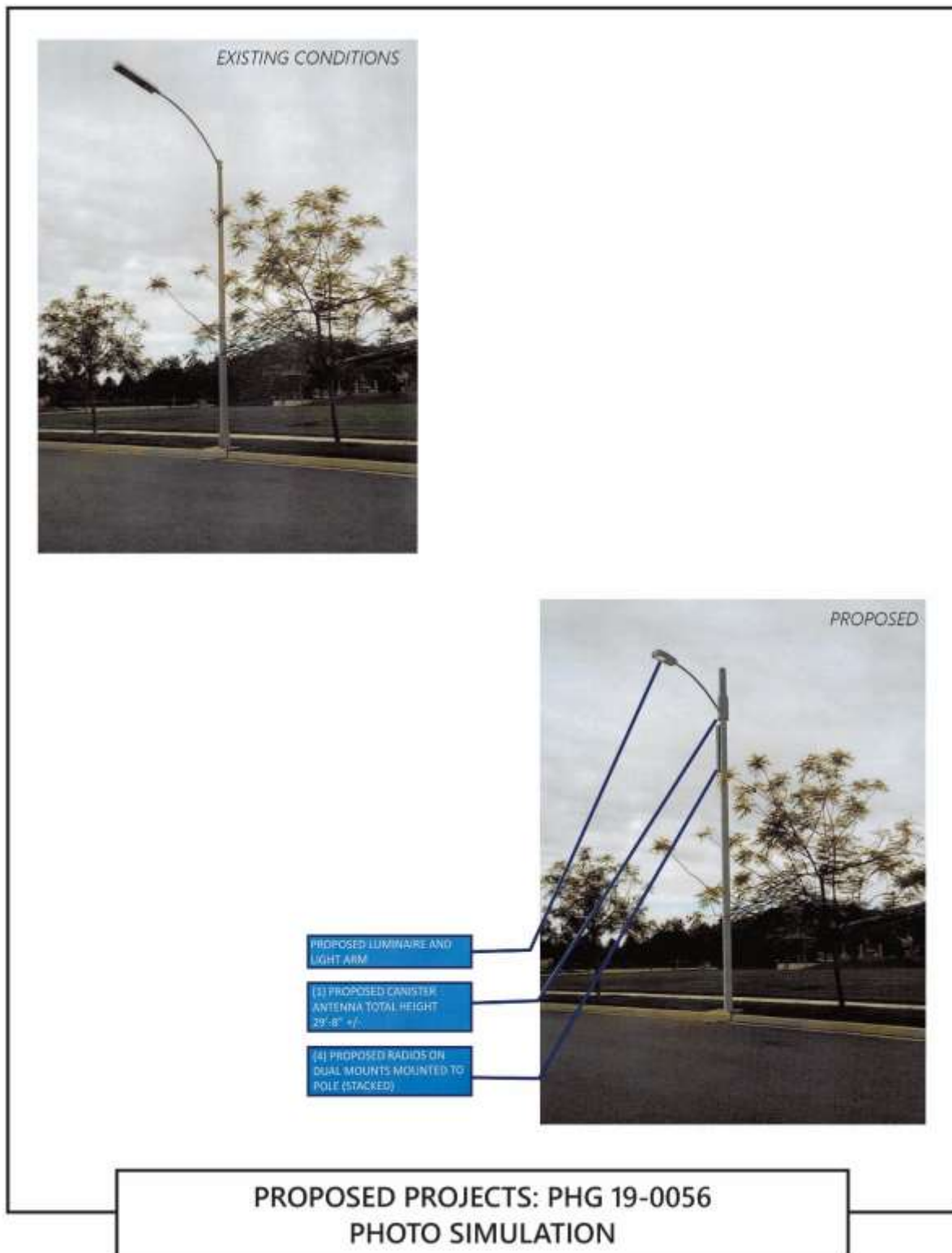
Respectfully submitted,

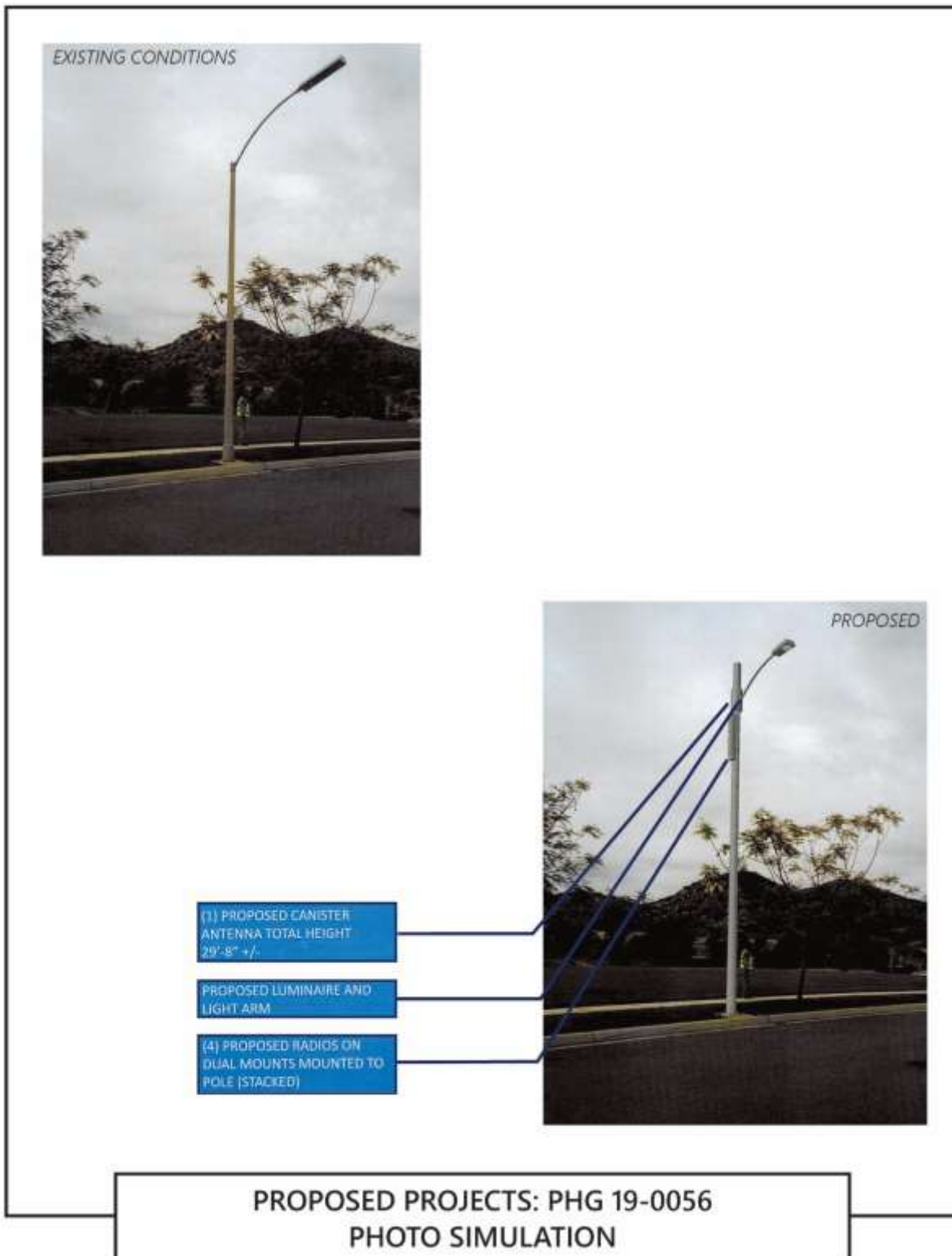
Darren Parker

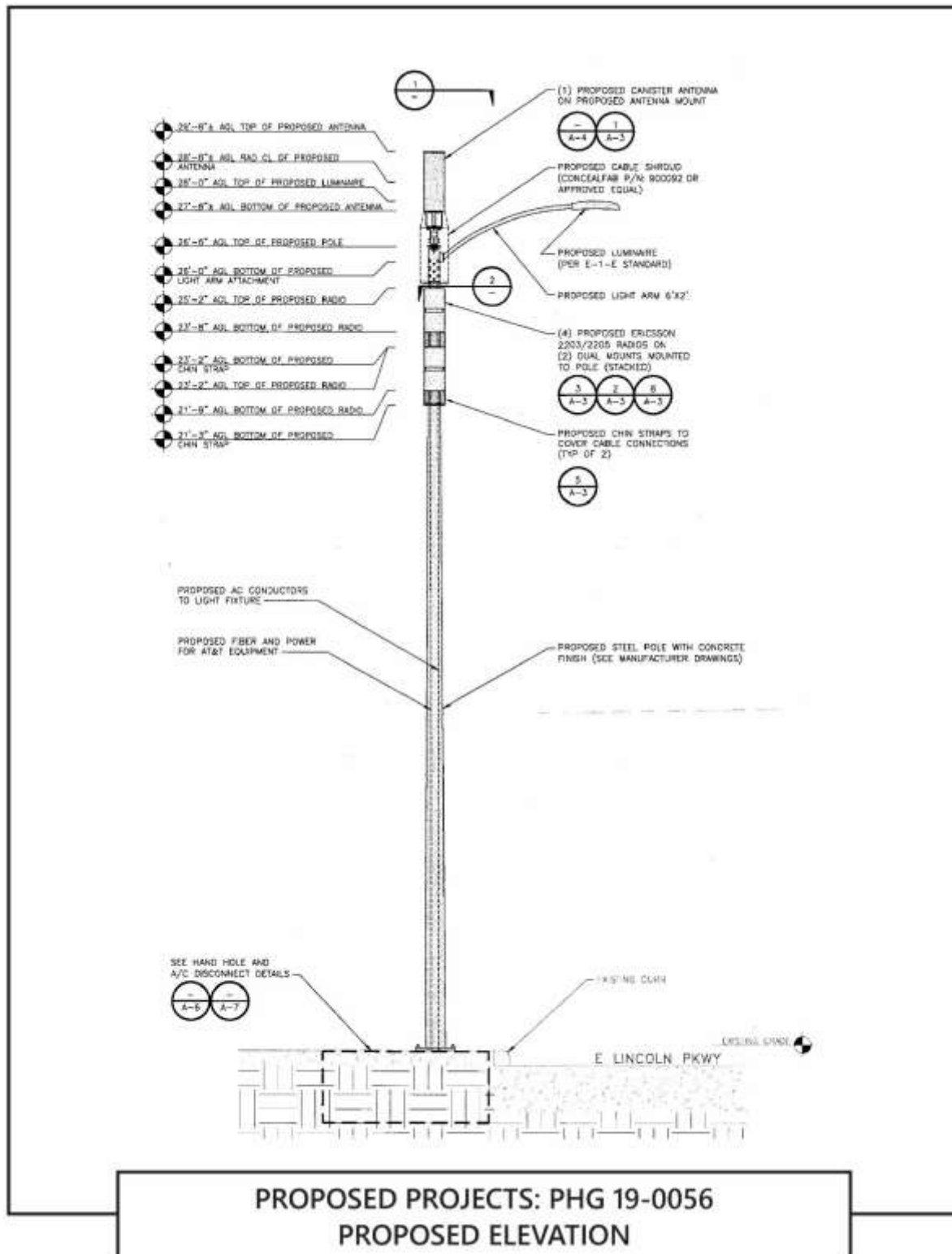
Darren Parker
Associate Planner

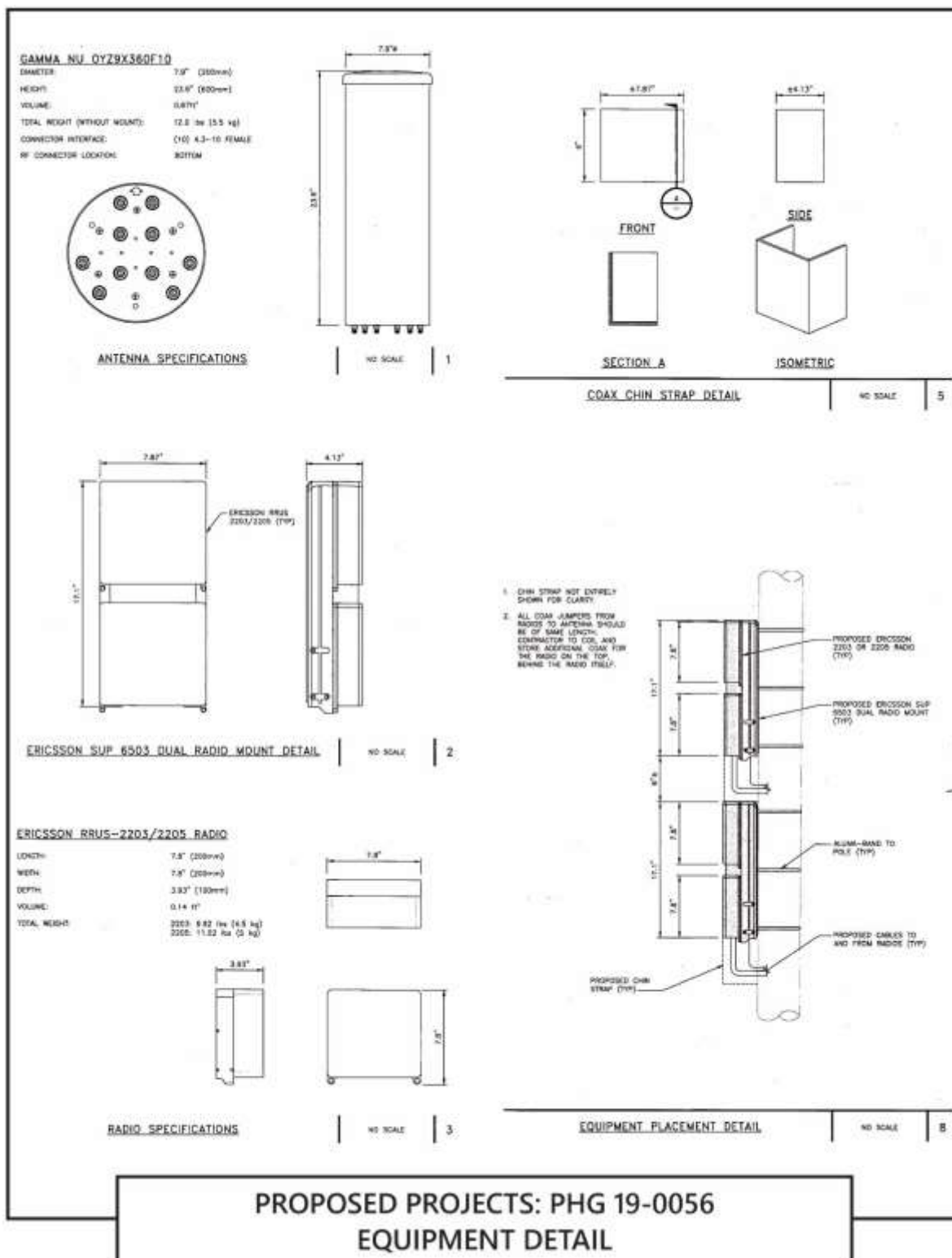


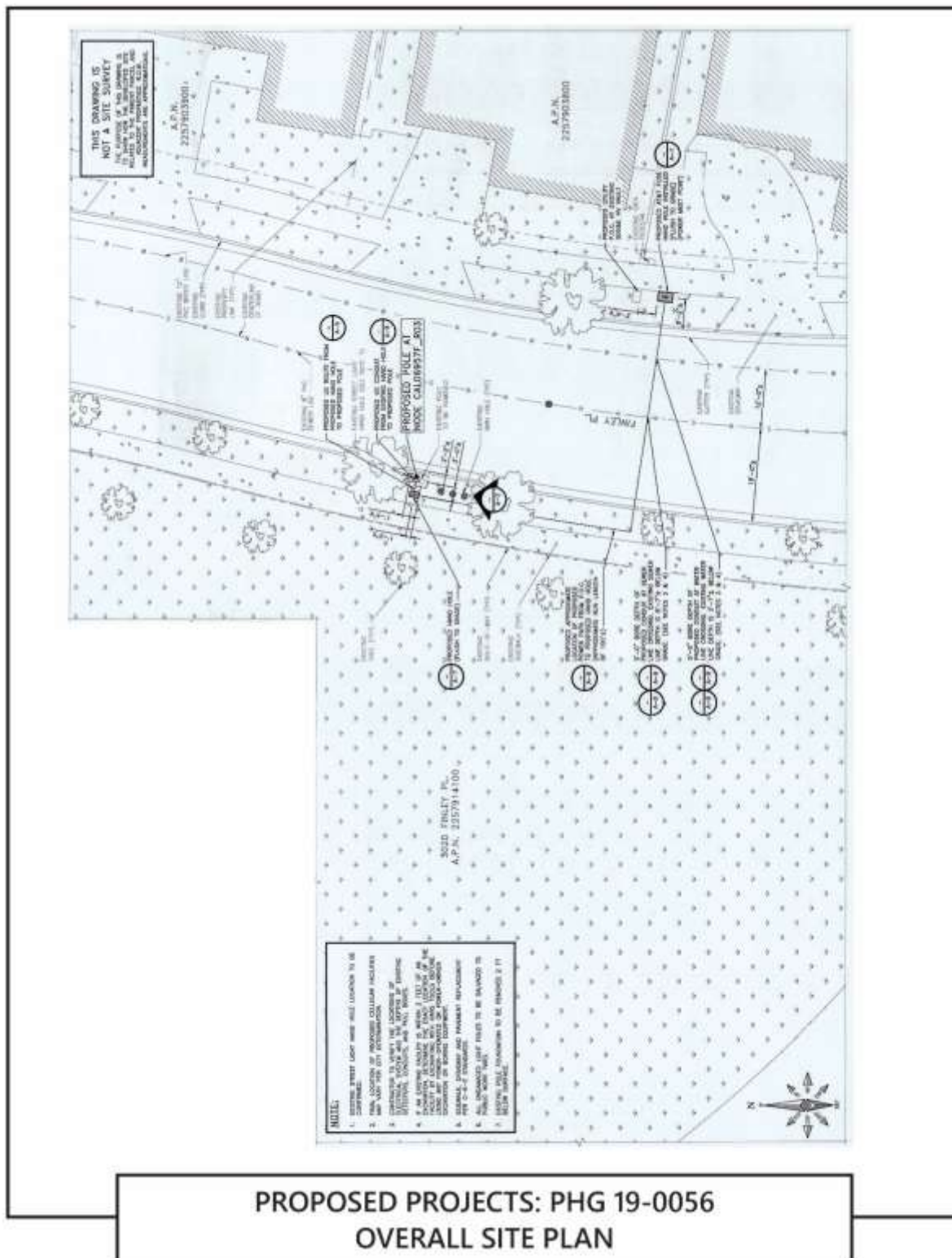












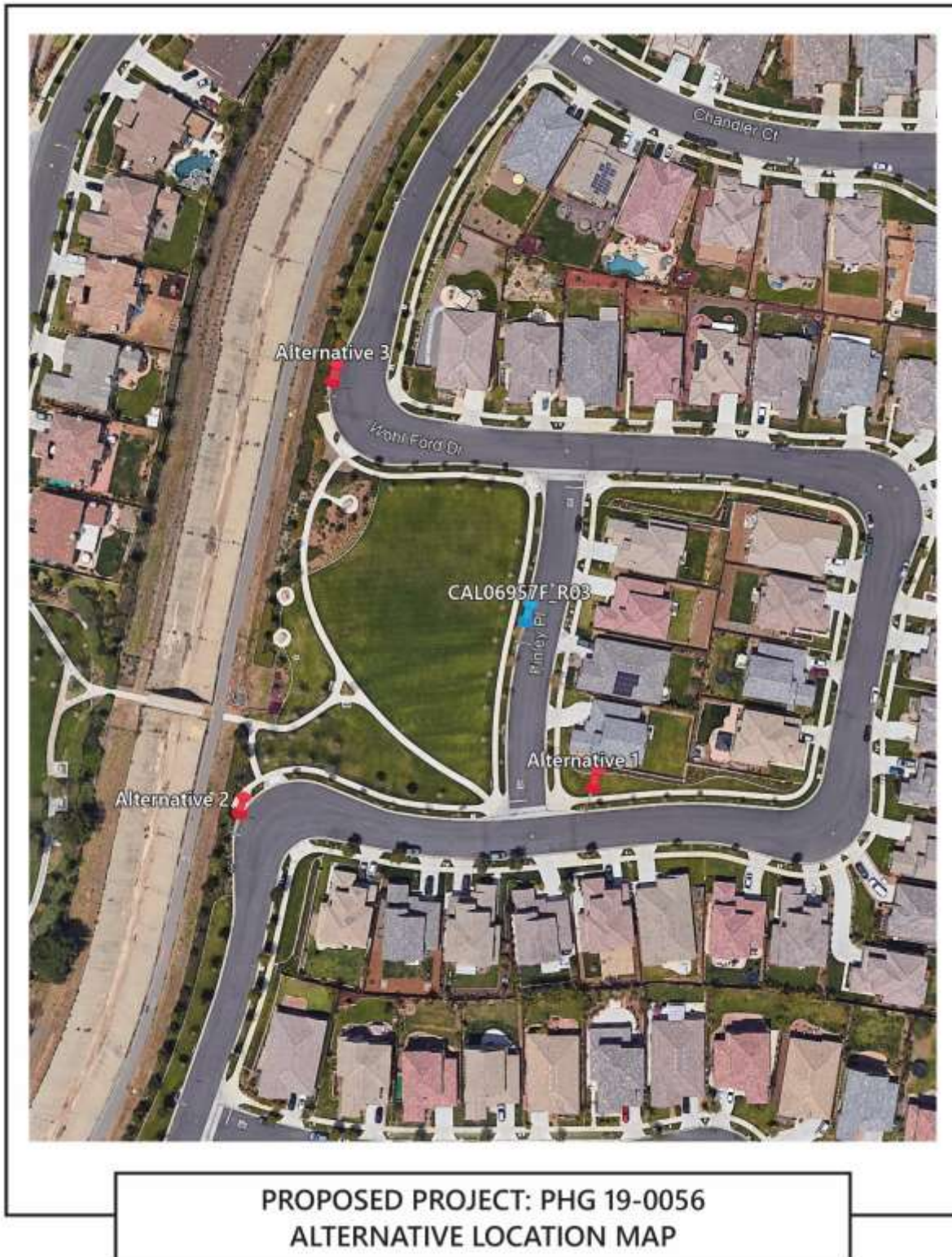


EXHIBIT “A”
FINDINGS OF FACT
PHG 19-0056

Environmental Determination:

In accordance with the Article 18, Statutory Exemptions of the California Environmental Quality Act (CEQA) Section 15270 (a) (Projects which are Disapproved) CEQA does not apply to projects which a public agency rejects or disapproves.

Conditional Use Permit:

1. All decisions granting or denying a Minor Conditional Use Permits shall be made in accordance with Section 33-1203 of the Escondido Zoning Code (Findings for Conditional Use Permits) and with Section Article 34, Section 33-704(c) (Zoning Administrator Findings). The new construction of a small wireless communication facilities has been reviewed and the Zoning Administrator concludes and finds, based on the analysis of the project described therein the February 13, 2020, Zoning Administrator Staff Report, that:
 - a. The applicant, AT&T has analyzed and demonstrated there are other preferred alternative sites in close proximity to the project site that are technically feasible and that would meet AT&T's coverage objectives with the appropriate modifications to the equipment. The site proposed by AT&T (along Finley Place, adjacent to the open space/park) is not the preferred location of the City nor the surrounding neighbors and Alternative 2 and Alternative 3 (identified in the exhibits) are preferred and technically feasible locations based on fact, reasonable assumptions based on fact, and/or expert opinion supported by fact. Substantial evidence has been incorporated fully into the administrative record, with enough relevant information and reasonable inferences from this information to support a conclusion.
 - b. The application request violates a faithful attempt to achieve compliance with Section 33-704(k)(3) of the Escondido Zoning Code, to which the administrative record has demonstrated alternative sites that are more preferred and have been documented similarity to be technically feasible. The applicant has failed to demonstrate reasoning for rejecting alternative sites as unconvincing.
 - c. In addition to the findings in Section 33-1203 of the Escondido Zoning Code, the Zoning Administrator shall also make findings to approve a small cell facility request as stipulated in Section 33-704(k)(8)(C). The application request has been unable to meet these requirements because the location does not conform to the requirements of Article 34 and

a preferred location has been identified by the applicant that meets the same stated objectives of deployment for this specific area.

- d. Approval or rejection of cell towers is addressed in the Federal Telecommunications Act of 1996. In that Act, Congress delegated to the local governments the power to consider cell towers, including small cell facilities, and required that a denial of an application “be in writing and supported by substantial evidence.” The Zoning Administrator invoked proper “time, place, and manner” criteria to justify its denial. Article 34 (Section 33-704 (k)) is a valid enactment regulating time, place and manner upon which facilities are installed within the City’s public right-of-way, which was relied upon and made applicable in this denial. The findings stated herein shall be deemed compliant and satisfactory for decisions denying a Minor Conditional Use Permit pursuant to Section 33-1203, to which the request evaluated principles of land use, bordering land uses, and its effect on the community.
- e. Denial of this application shall not be construed as a prohibition of service consistent with the Federal Telecommunications Act, carriers and other proprietors do not have unlimited rights to install their equipment within the public right-of-way. Thus the grounds for denial are compliant with relevant preemptive laws, as the aforementioned findings support.