

PLANNING COMMISSION

CASE NUMBER: PHG 09-0042

APPLICANT: Mark Phillips, M&M Telecom, Inc, representing Clearwire/Sprint

LOCATION: On the eastern side of North Broadway, north of Lincoln Avenue, addressed as 1040 North Broadway

TYPE OF PROJECT: Conditional Use Permit

PROJECT DESCRIPTION: A Conditional Use Permit for the installation of a wireless communications facility consisting of three (3) round directional and three (3) rectangle panel antennas on a triangular array and co-located with eight other antenna mounting brackets with three existing antennas on an existing 65' high faux pine tree located on the site. New associated equipment would be located within the existing fenced equipment area.

STAFF RECOMMENDATION: Approval

GENERAL PLAN DESIGNATION/TIER: General Commercial
Tier 1, Central Subarea

ZONING: CG (General Commercial)

BACKGROUND/SUMMARY OF ISSUES:

A Conditional Use Permit (2001-01-CUP) was approved by the Planning Commission on February 13, 2001, for a wireless facility for AT&T and T-mobile at the YMCA. The facility consisted of four sectors (although only three antennas currently remain), with one antenna per sector flush mounted on a 65'-high pole, designed to resemble a pine tree (monopine) and associated equipment. It was located in the southeastern portion of the property, adjacent to the parking area. The existing site consisted of four sectors, with one antenna per sector. The associated equipment is located within a 120 SF block structure, located adjacent to the monopine along the southern property line.

Clearwire is a subscription based internet service provider, which is 51% owned by Sprint/Nextel. They currently have sites in many states and are proposing a new network in Escondido with approximately 23 sites. Many, but not all of the proposed facilities in Escondido would be co-located or associated with existing Sprint/Nextel sites.

Clearwire/Sprint is requesting to co-locate a new wireless communication facility on the existing 65' high monopine tree. The existing T-Mobile and AT & T facilities consist of a 65' high faux pine tree which was approved to accommodate four sectors, with one antenna per sector, per provider (total of 8 antennas). Clearwire Communication proposes to add six antennas on a triangular array 10' below the existing antennas, three (3) round directional and three (3) rectangle panel antennas for a total of 14 antennas. All associated equipment would be placed within the existing wrought iron fenced area of the existing T-Mobile and AT&T equipment area.

LEGAL REQUIREMENTS: In 1996, the U.S. Congress added a section to the Communications Act of 1934 to promote the expansion of personal wireless communications service, adding section 332(c) (7). This section preserves local zoning authority over the "placement, construction, and modification" of wireless facilities, while imposing certain federal requirements. Specifically, Section 332(c) (7) requires that state or local government decisions regarding wireless service facilities must not: 1) unreasonably discriminate between one cellular provider and another; or 2) prohibit or have the effect of prohibiting the provision of personal wireless services; or 3) be founded on "the environmental effects of radio frequency (RF) emissions *to the extent that such facilities comply* with the FCC's regulations" (emphasis added).

In summary, if the Commission is satisfied that the RF emissions from a proposed project will be within the federal thresholds, then only local zoning conditions may be used to approve or deny an application. A denial of a proposed facility must not run afoul of the federal restrictions set forth as 1) and 2), above

Staff feels that the issue is as follows:

1. Whether the design and location of the proposed wireless communication facility is appropriate for the site and consistent with the Communication Antennas Ordinance.

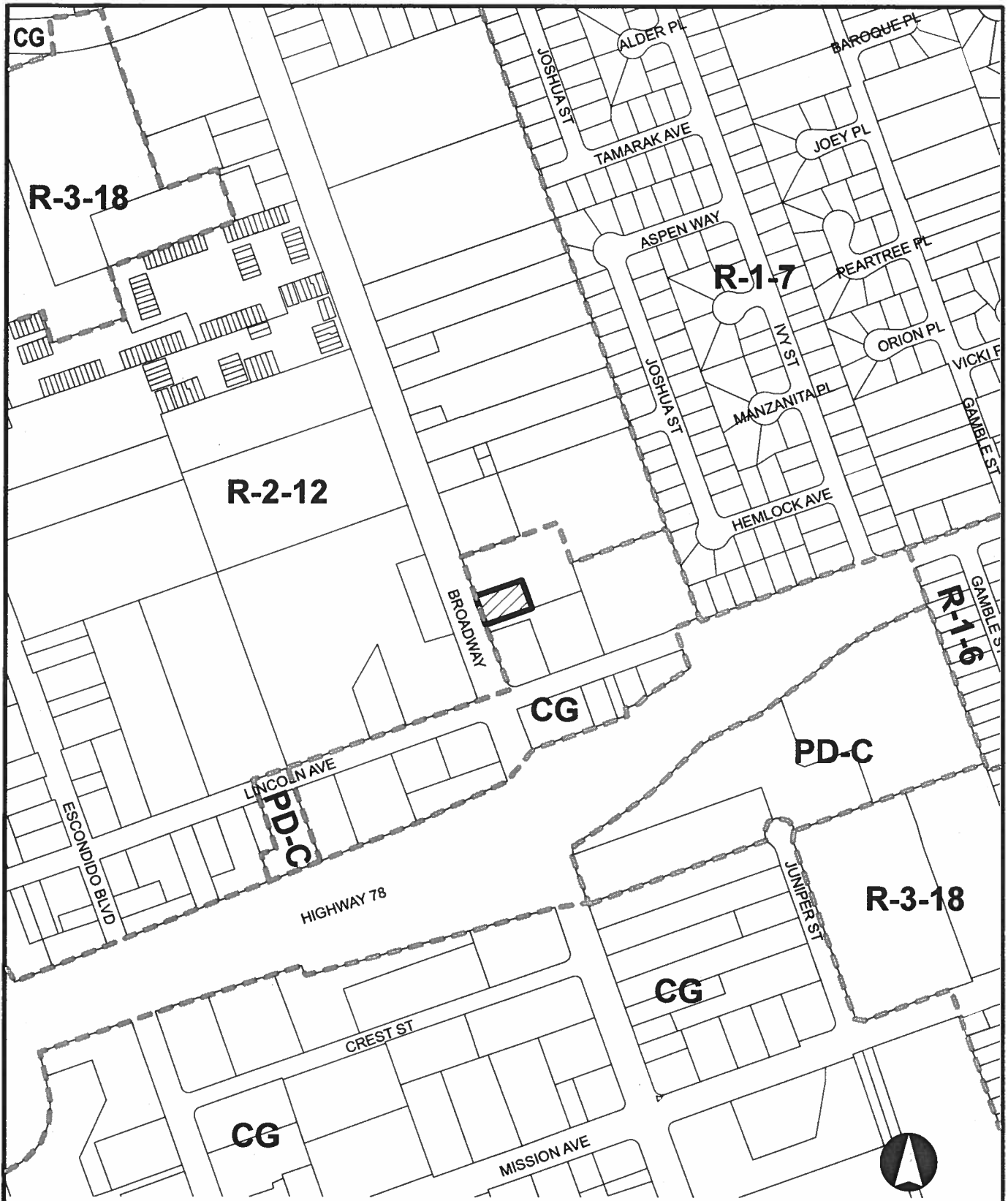
REASONS FOR STAFF RECOMMENDATION:

1. The proposed wireless facility is consistent with the Communication Antennas Ordinance since it would be co-located onto an existing facility, would meet the height requirement of the Commercial Zone, and would be entirely integrated into the existing site. The facility would not create adverse visual impacts to surrounding properties due to its placement onto an existing structure (Monopine).
2. Staff feels that the proposed facility is consistent with the City's Wireless Facility Guidelines, since it would utilize the latest technology and meets all FCC radiation standards. In addition, the design utilizes stealth technology in that the antennas are screened by a natural-looking feature, minimizing potential visual impacts.
3. Staff feels that the proposed facility would not result in a potential health hazard on-site or to nearby residents since the Radio Frequency (RF) study prepared for the proposed project indicates the facility would be within the maximum permissible exposure (MPE) limits and Federal Communication Commission (FCC) standards.

Respectfully Submitted,



Darren Parker
Assistant Planner II

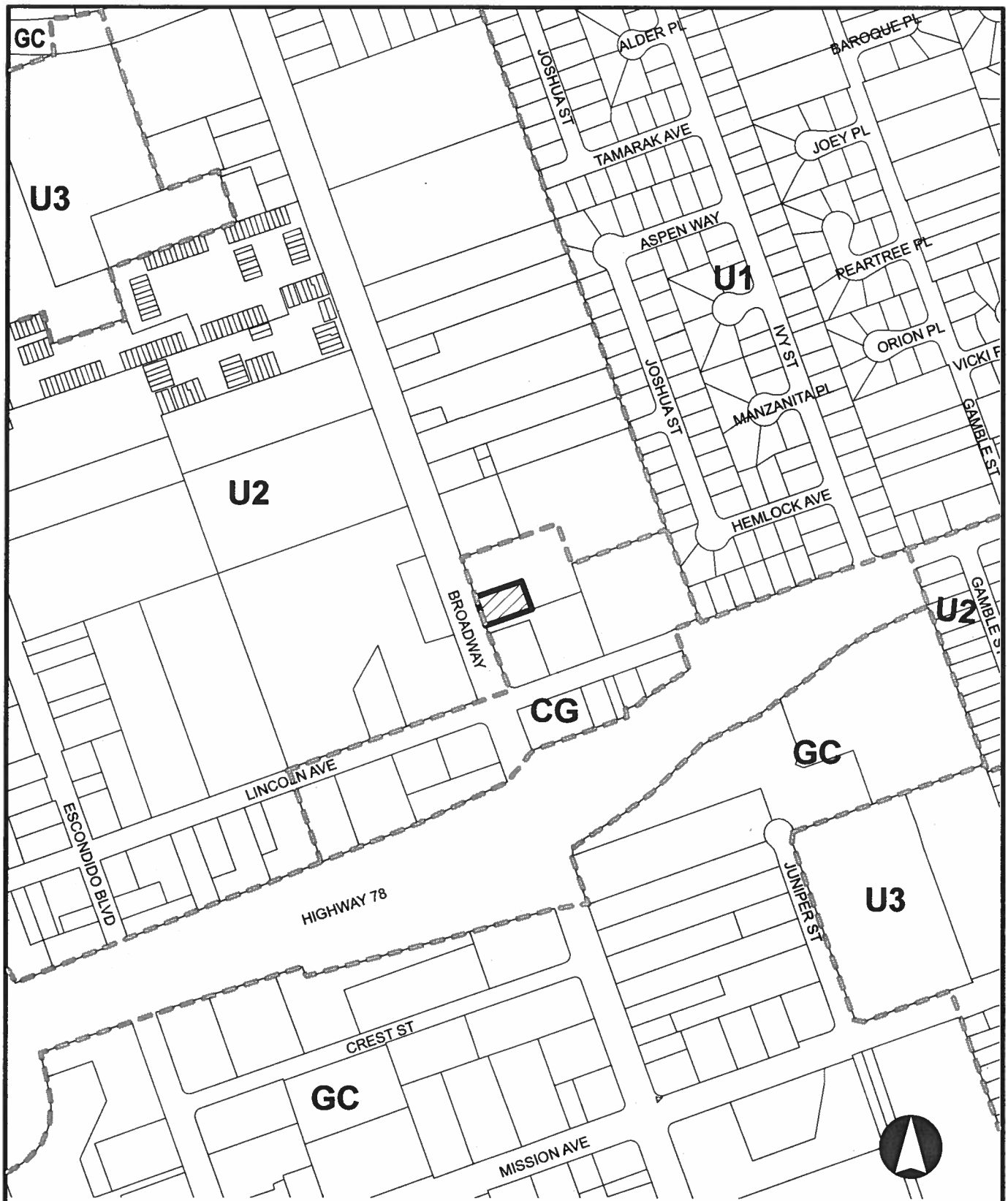


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**PROPOSED PROJECT
PHG 09-0042**



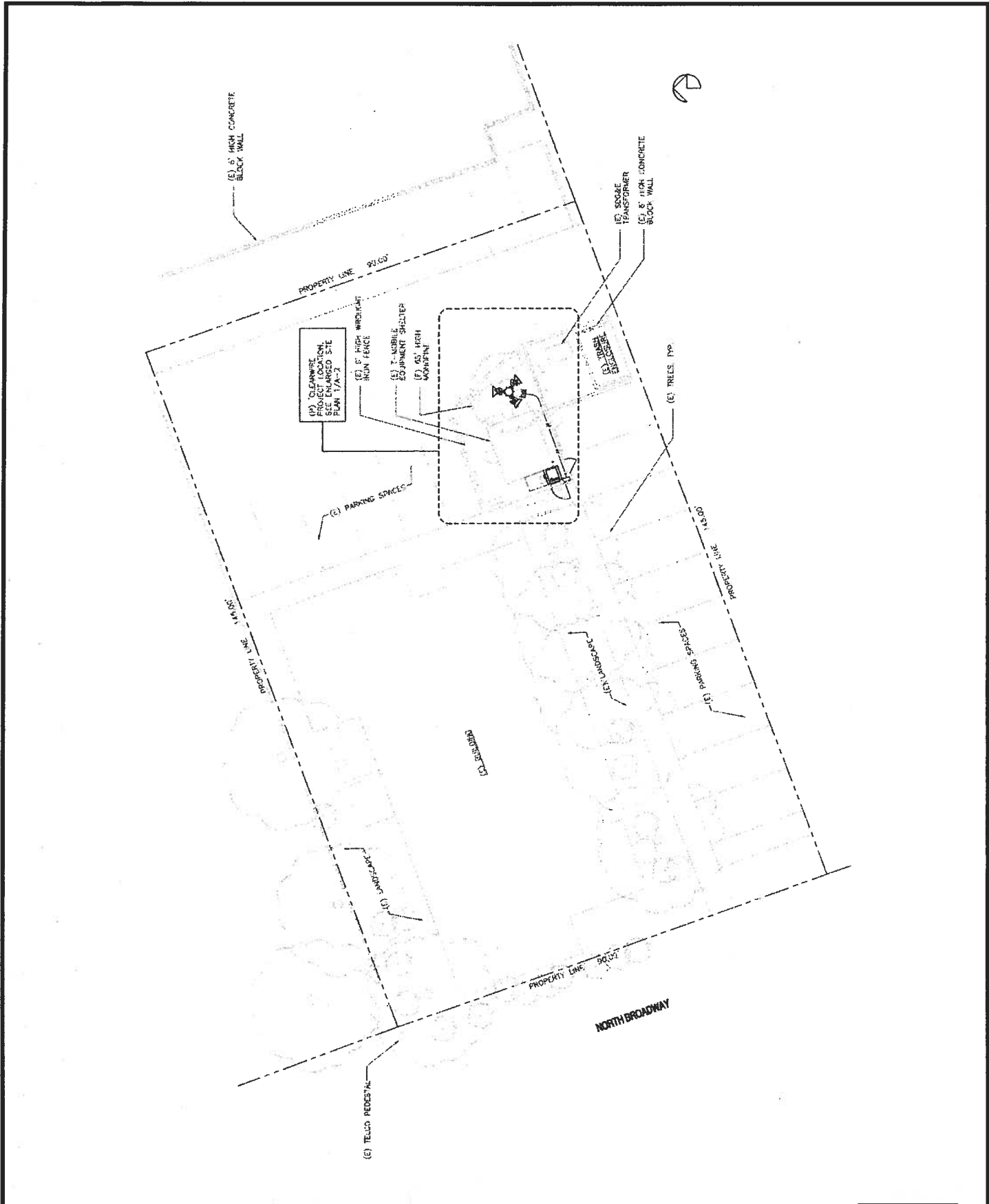
LOCATION/ZONING



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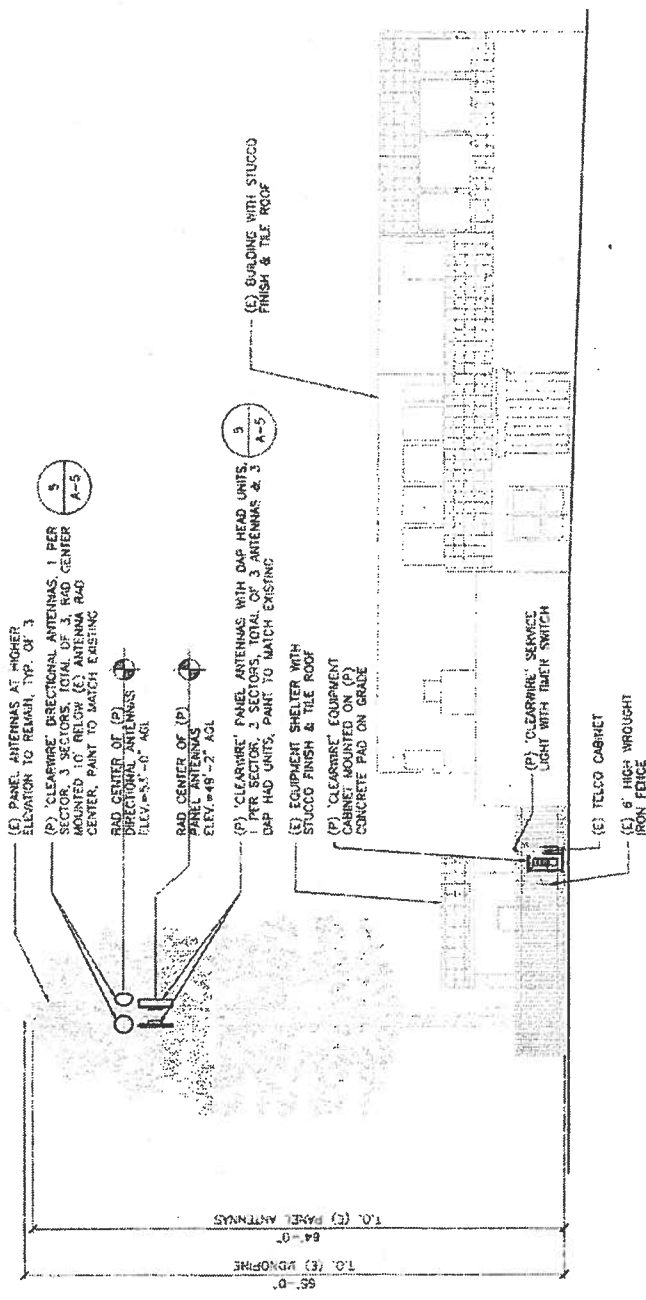




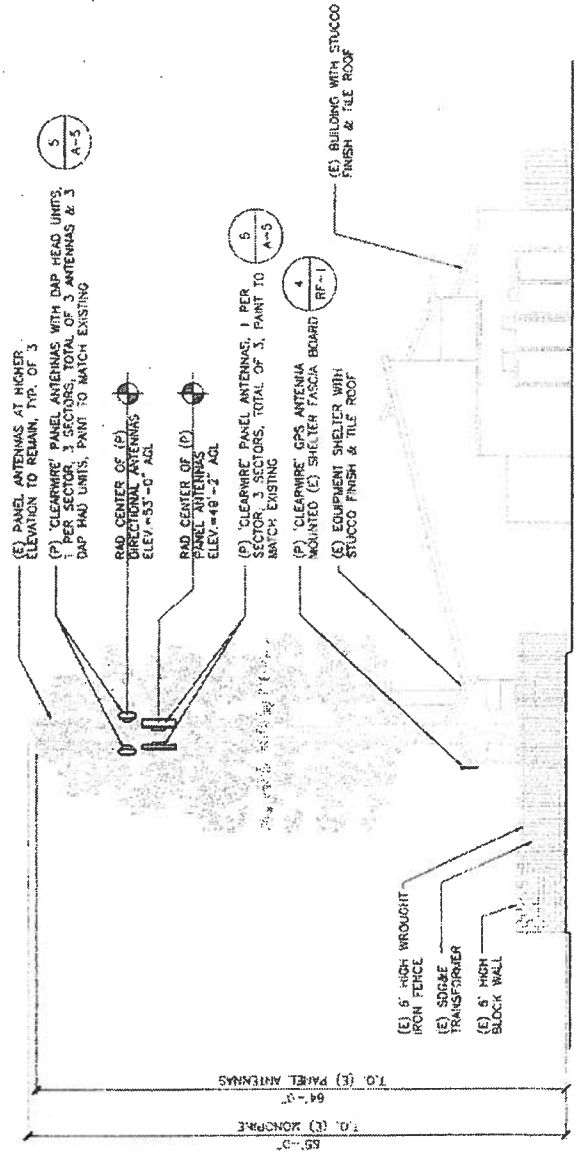
**PROPOSED PROJECT
PHG 09-0042**



SITE PLAN



NORTH ELEVATION

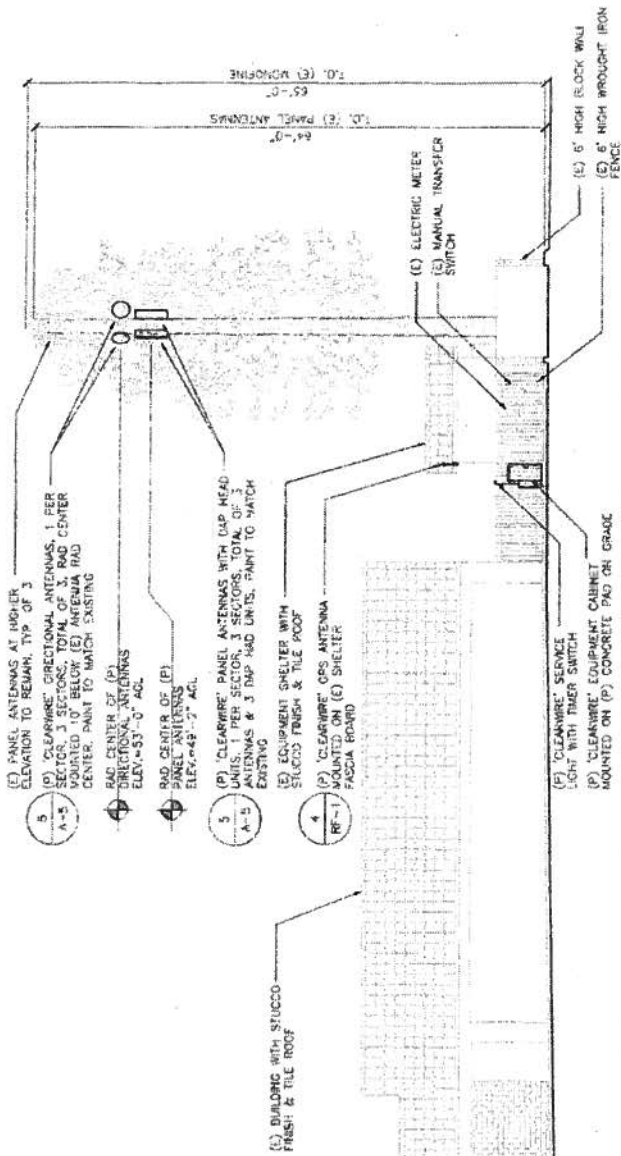


EAST ELEVATION

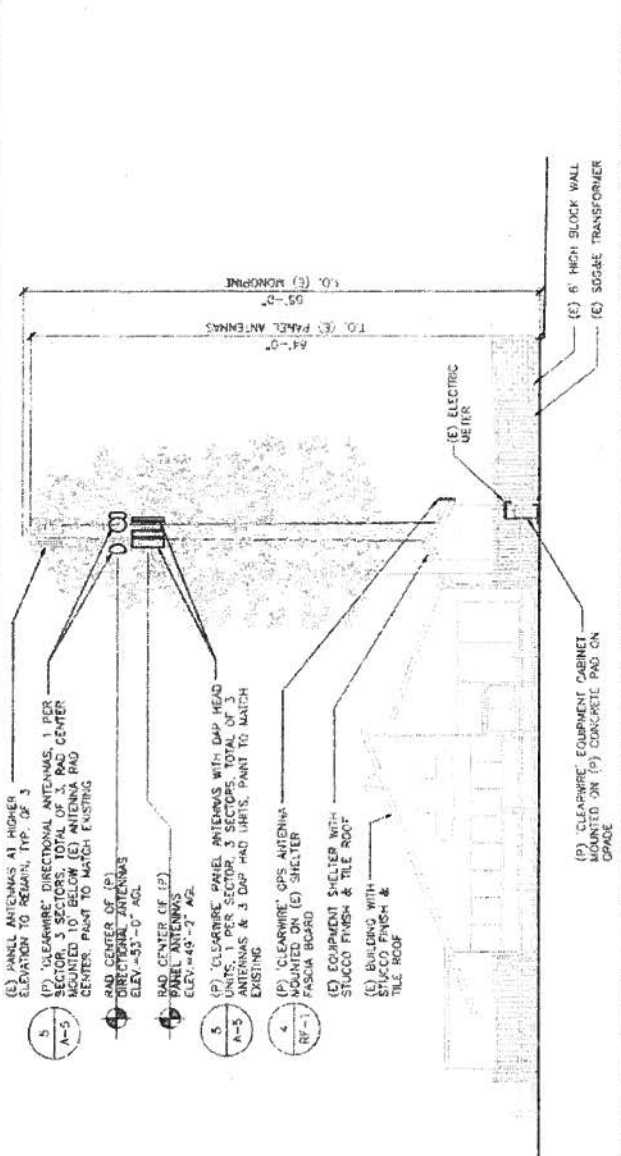
**PROPOSED PROJECT
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ELEVATIONS



SOUTH ELEVATION

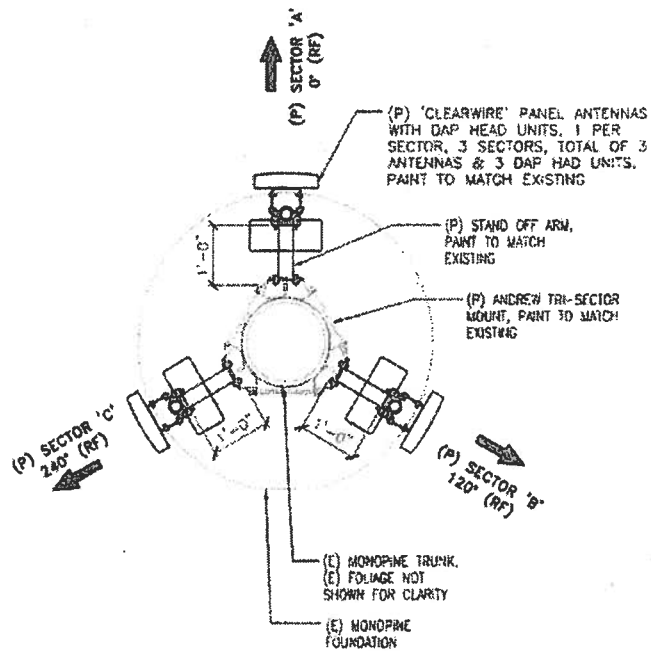


WEST ELEVATION

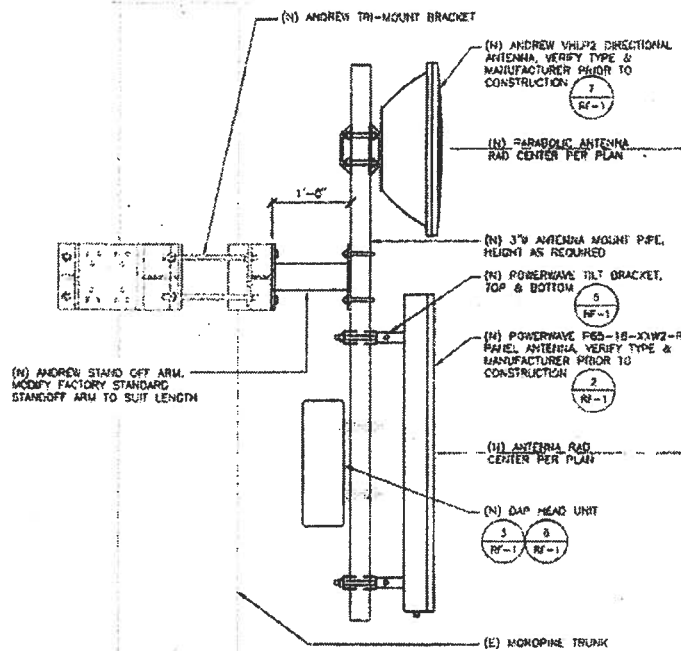
**PROPOSED PROJECT
PHG 09-0042**



ELEVATIONS

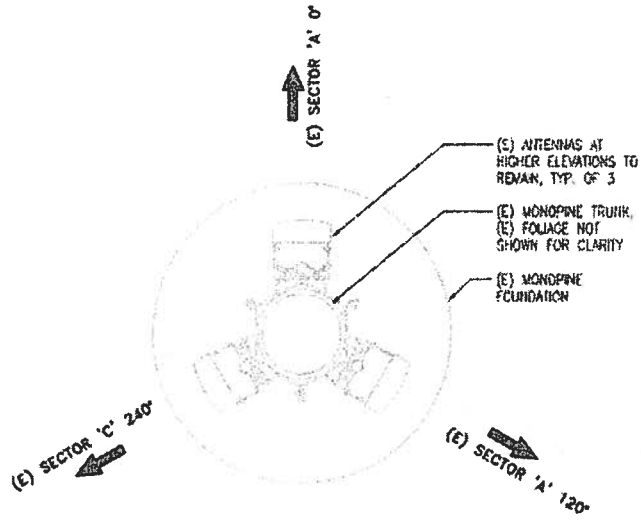


PROPOSED PANEL ANTENNA LAYOUT

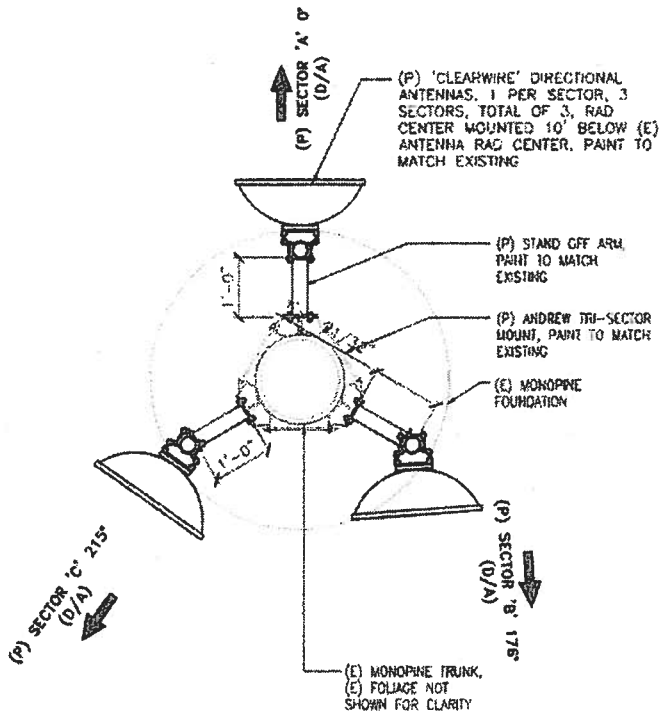


ANTENNA MOUNT DETAIL

**PROPOSED PROJECT
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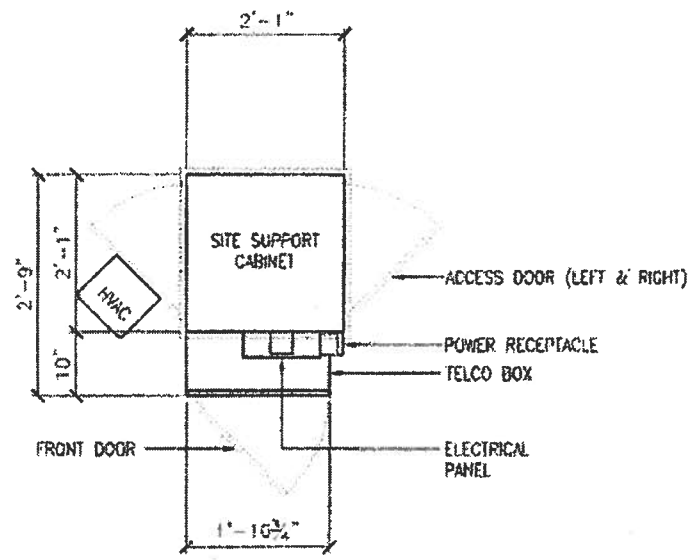
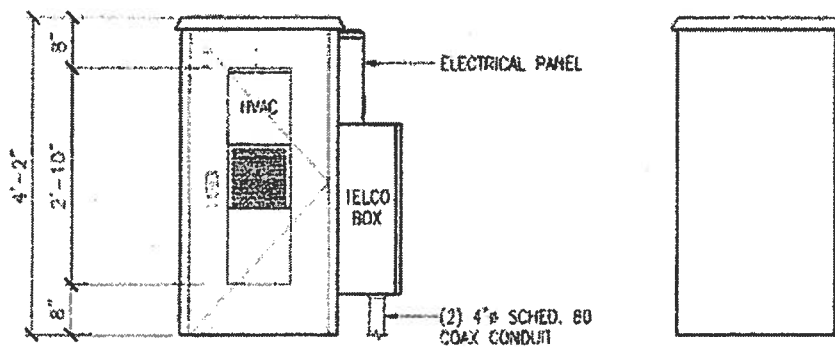
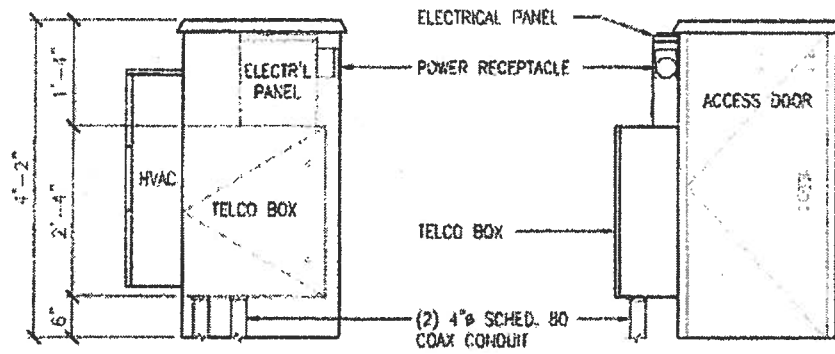
EXISTING ANTENNA LAYOUT



PROPOSED DIRECTIONAL ANTENNA LAYOUT

**PROPOSED PROJECT
PHG 09-0042**

DETAILS



CABINET DESCRIPTION:
 DDE R7-54DXCW-ACD

CABINET DETAILS

**PROPOSED PROJECT
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ANALYSIS

A. LAND USE COMPATIBILITY/SURROUNDING ZONING

NORTH - CG zoning (General Commercial) The YMCA facility parking lot and a residential apartment complex are located further to the north of the subject site.

SOUTH - CG zoning (General Commercial). A 7-11 convenience store and a restaurant are located to the south of the subject site.

EAST - CG zoning (Commercial General) The YMCA facility with the Escondido Athletic Club are located to the east of the subject site.

WEST - R-2-12 zoning (Light Multiple Residential, 12 du/acre) directly to the west of the subject site across North Broadway is Lincoln Elementary School.

B. AVAILABILITY OF PUBLIC SERVICES

1. Effect on Police Service – The Police Department has expressed no concern regarding their ability to provide service to the site.
2. Effect on Fire Service – The Fire Department has expressed no concerns relative to its ability to provide service to the site. The site will be served by Fire Station No. 1 at 310 North Quince Street, which is within the five minute response time mandated by the General Plan.
3. Traffic – The project takes access from North Broadway, which is classified as a Major Road (102' r.o.w). The facility would generate approximately one routine maintenance trip per month. This is an incremental increase, which will have no overall effect on the traffic volumes generated from the property.
4. Utilities – Sewer and water mains with sufficient capacity to serve the site are available and existing within the adjoining street or easement. Sewer and water services are provided by the City of Escondido. The proposed project would not materially degrade the levels of service of the public sewer or water systems, as neither system would be impacted.
5. Drainage – The proposed project does not materially degrade the levels of service of the existing drainage facilities.

C. ENVIRONMENTAL STATUS

1. A Notice of Exemption for the proposed facility was issued pursuant to CEQA section 15301, Class 1, "Existing Facilities."
2. In staff's opinion, no significant issues remain unresolved through compliance with code requirements and the recommended conditions of approval.
3. The project will have no impact on fish and wildlife resources as no sensitive or protected habitat are located on site or will be impacted by the proposed facility.

D. CONFORMANCE WITH CITY POLICY

General Plan -

The General Plan land-use designation on the site is General Commercial (GC), which allows a wide variety of retail, office and service uses. This Conditional Use Permit request is consistent with the General Commercial designation since wireless communication facilities, greater than 25 feet in height, are customarily permitted by a Conditional Use Permit in commercial areas, when conditioned to observe the underlying zoning and related ordinance requirements, and when compatible with surrounding properties.

Whether the Proposed Wireless Communications Facility Creates Adverse Visual Impacts -

Clearwire/Sprint/Nextel Wireless proposes to co-locate on an existing communications facility, a 65-foot-high "monopine". The existing faux pine tree is located approximately 40 feet from the rear property line and 17 feet from the southern property line, approximately 200 feet from the nearest residences to the north and the elementary school to the west. The trunk of the tree is a galvanized steel pole, 16" in diameter and covered with a simulated bark cladding made of 100% urethane material. Three "clearwire" panel antennas and three "clearwire" directional antennas; one each per sector, three sectors would be in a triangular array formation near the top of the pole. There are three existing antennas currently on the existing 65' high monopine. The branches, constructed of urethane and PVC, are attached to the trunk of the tree by bolts from within the pole, with variable lengths to achieve a natural appearance. To the south of the pole, one foot from the side property line, is the existing ten-foot-high, 12'-wide by 10'-deep, block equipment building. The associated equipment for the proposed project will be in a cabinet abutting the existing equipment building. The equipment cabinet is proposed to be within the existing fenced area, and painted off-white to match the existing block structure. Staff feels that the anticipated visual impacts would be minimal due to the distance to nearby residences and the stealth design of the facility.

The proposed wireless facility would be integrated into the site and not highly visible to surrounding properties. The antennas would be mounted to an existing 65' high faux pine tree with other antennas, with views not substantially different than the existing condition. The three panel antennas and three directional antennas would be installed below the existing antennas on the tree. The equipment would be entirely located within an existing fenced area that currently also surrounds another wireless communication facility equipment. On November 5, 2009 the Design Review Board reviewed the proposed plans and recommended approval by a 6-0-0 vote. They expressed no concern with the project except to screen the equipment with new and existing landscaping. However after further review Clearwire was able to agree with the other carrier to place the equipment within the existing fenced area and provide additional landscaping within the fenced area (consisting of vines). Staff feels that the proposed wireless facility would be in conformance with the Communication Antennas Ordinance.

Whether the Proposed Wireless Communications Facility is Consistent with the Communication Antennas Ordinance-

The Wireless Facility Guidelines address five general principles for the siting and design of wireless facilities and have been approved by the Planning Commission and City Council. Staff feels that the proposed facility is consistent with the Wireless Facility Guidelines, since it meets all applicable principles. The facility would meet the height guideline in that it is not located on a prominent site and it meets the height standards of the CG zone. It would meet the location principle since the facility would be located on a single site utilizing a stealth design, use the latest technology, and be fully integrated into the site. In addition, the pine tree design mimics a natural element found nearby, would be natural in appearance, and would minimize potential visual impacts of the facility. Lastly, the proposed facility would meet all FCC standards to ensure public health.

Conformance with FCC Emission Requirements.

Operation of wireless communication facilities generates radio frequency electromagnetic emissions (RF radiation). An RF study was prepared for the project by AIM Wireless Solutions on September 29, 2009, to determine whether the proposed communication facility would comply with the FCC Rules and Regulations for RF emissions for "Occupational" and "General Public" classifications. The maximum RF level at any point was reviewed cumulatively with the existing on-site facility. The analysis indicates that the anticipated cumulative level on the ground is less than 10% of the FCC's General Population Maximum Permissible Exposure (MPE) limit. The study concluded that the facility would be in compliance with the current FCC requirements and that no mitigation would be required or recommended. A copy of the study has been attached to this report.

SUPPLEMENT TO STAFF REPORT/DETAILS OF REQUEST

A. PHYSICAL CHARACTERISTICS

The subject property is relatively level and currently developed with a YMCA and associated parking.

B. SUPPLEMENTAL DETAILS OF REQUEST

1. Property Size: 13,050 SF (0.3 acres)
2. Equipment Building Size: New, 2'-1" wide x 4'-2' high equipment cabinet painted off-white to match existing structure.
Located on the ground to the west of the existing structure behind a black wrought iron fence.
3. Antenna "Tree" Structure: Existing 65' high monopine
16" trunk diameter
4. Antennas:
Proposed
Clearwire three (3) rectangular antennas (48' H x 13' W x 3' – 6" D)
Clearwire three (3) round directional antennas (26" diameter)
Existing
Three (3) panel antennas
5. Hours of Operation: 24 hours, unmanned
6. Landscaping: New landscaping will be provided within the existing fenced area and the existing landscaping will be refurbished to soften the appearance of the new equipment.

C. GENERAL PLAN COMPLIANCE

1. General Plan:
 - a. Land Use Element Designation: The site is in the General Commercial designation of the General Plan, which permits a broad range of retail and service uses.
 - b. Circulation Element: This project takes access from North Broadway, which is classified as a Major Road (102' r.o.w),
 - c. Noise Element: The site is located within a projected 1990 noise contour with an anticipated CNEL of 60 or greater.
 - d. Ridgeline: The site is not located on or near any intermediate or skyline ridgelines.
 - e. Trails: There are no trail dedications required at this site.

FINDINGS OF FACT/FACTORS TO BE CONSIDERED
PHG09-0042
EXHIBIT "A"

1. Granting the proposed Conditional Use Permit modification would be based upon sound principles of land use and in response to services required by the community since the facility would further enhance wireless internet communication services in the city without posing a health threat or having a negative visual impact on the surrounding area. The proposed facility would be consistent with the Communication Antennas Ordinance, since it would meet the height limitations of the Commercial zone, it would be integrated into the site, and it would be designed so that the antennas and equipment are screened from view from adjacent properties and streets. Additionally, the facility would meet FCC requirements for RF emissions.
2. The proposed wireless facility would not cause a deterioration of bordering land uses or create special problems in the area in which it is located, since the antennas and equipment would not create an adverse visual impact on surrounding properties and streets. The existing equipment enclosure would provide screening of the proposed equipment cabinet, and the existing branches on the monopine would provide screening and softening of the antennas, creating minimal visual impacts. In addition, the RF emissions generated by the facility would be below the ANSI/IEEE and FCC standards, as demonstrated by the RF study completed for the applicant.
3. The proposed Conditional Use Permit has been considered in relationship to its effect on the neighborhood and it has been determined to be compatible with the surrounding properties, since the wireless facility would be in context with and integrated into the site and consistent with the Communication Antennas Ordinance. The facility would be co-located onto an existing monopine tree. In addition, traffic generated by the project would be limited to approximately one routine maintenance trip per month, there is no sensitive habitat on the site that would be impacted, and the antennas would meet FCC requirements for RF emissions.

**CONDITIONS OF APPROVAL
PHG09-0042
EXHIBIT "B"**

Planning Division Conditions

1. The developer shall be required to pay all development fees of the City then in effect at the time and in such amounts as may prevail when building permits are issued, including any applicable City Wide Facilities fees.
2. All construction and grading shall comply with all applicable requirements of the Escondido Zoning Code, the Planning Division, Engineering Division, Building Division, and Fire Department.
3. The legal description attached to the application has been provided by the applicant and neither the City of Escondido nor any of its employees assume responsibility for the accuracy of said legal description.
4. All exterior lighting, including on equipment enclosures, shall conform to the requirements of Article 55, Outdoor Lighting (Ordinance No. 86-75).
5. All project-generated noise shall comply with the City's Noise Ordinance (Ord. 90-08) to the satisfaction of the Planning Division.
6. An inspection by the Planning Division will be required prior to operation of the project. Everything should be installed prior to calling for an inspection, although preliminary inspections may be requested. Contact the project planner at (760) 839-4671 to arrange a final inspection.
7. This CUP shall become null and void unless utilized within twelve months of the effective date of this approval.
8. The uses, colors, materials and design of the project shall conform to the exhibits and references in the staff report, the Details of Request, and the Conditions of Approval, to the satisfaction of the Planning Division. All details of the proposed facility shall be clearly shown on the building plans. All antennas and associated mounting hardware shall be painted to match the existing pole.
9. All communication facilities on the site shall be removed upon non-use of the facilities, to the satisfaction of the Planning Division.
10. No additional antennas or expansion of this facility shall be permitted without a modification of the Conditional Use Permit and a public hearing before the Planning Commission. Minor changes within the approved size and design parameters may be permitted by the Director of Community Development after review by the Design Review Board.
11. Clearwire/Sprint, or any subsequent operator/leaseholder, hereby agrees to investigate complaints related to possible interference with electronic equipment in the surrounding area, to determine the cause of the interference. If the Clearwire/Sprint facility is determined to be the cause of the electronic interference, Clearwire/Sprint shall solve the problem in a timely manner to the satisfaction of the complainant and the Director of Community Development. Any interference with Fire Department or public safety communications shall be corrected immediately by Clearwire/Sprint to the satisfaction of the City of Escondido.
12. Clearwire/Sprint shall coordinate with the City of Escondido to select a qualified, independent, third party to conduct actual power density measurements of the facility within ninety (90) days of installation and full operation. The results of the study shall be submitted to the Director of Community Development so that the theoretical power density study can be compared to the actual output and ensure compliance with FCC requirements.
13. Clearwire/Sprint, or a future leaseholder, shall be responsible for all ongoing maintenance of the facility, including the antennas and associated equipment, to ensure that the condition of the facility does not appear weathered.

14. Clearwire/Sprint, or any subsequent operator/lease holder of the facilities shall not oppose co-location of the facility by other wireless carriers (subject to City of Escondido approval) if it can be proven that the additional carrier would not adversely affect the operation and function of Clearwire/Sprint antennas.
15. Pursuant to Zoning Code Section 33-1207, this item may be referred back to the Planning Commission upon recommendation of the Director of Community Development for review and possible revocation or modification of the Conditional Use Permit upon receipt of nuisance complaints regarding the facility or non-compliance with the Conditions of Approval. Abatement shall follow all necessary procedures set forth in Section 33-1207.
16. This Conditional Use Permit is only for the installation of a Clearwire/Sprint facility on the site. The number of antennas (6) allowed shall be used for Clearwire/Sprint and not sub-leased to any other carriers unless approved by the City. No other carriers shall be allowed to be placed on the facility, unless a new Conditional Use Permit is approved by the City. For the purposes of this condition of approval, Clearwire/Sprint refers to Clearwire, Sprint or any principal, affiliate, subsidiary of its principal, or any entity which acquires all or substantially all of Clearwire and/or Sprint assets in the market defined by the Federal Communications Commission in which the subject property is located, by reason of merger, acquisition or other business reorganization.
17. All equipment shall be entirely enclosed within, and beneath the height of, the existing equipment enclosure, to the satisfaction of the Planning Division.
18. A generator has not been proposed or approved. Any permanent, temporary, or standby emergency generators shall be in conformance with the City's Zoning Code requirements for electric generating facilities (Section 33-1122). Any generator is to be used for emergencies only. Any testing or maintenance of the generator is to be periodic only and may occur only between the hours of 7:00 a.m. and 5:00 p.m.
19. Any damaged branches, leaves or needles on the existing monopine shall be repaired and noted on the building plans to the satisfaction of the Planning Division. Photographs after installation shall be submitted to the Planning Division for review.
20. All new utilities and cable runs shall be located underground, to the satisfaction of the Planning and Engineering Divisions.
21. All proposed signage associated with the project shall comply with the City of Escondido Sign Ordinance (Ord 92-47) and the exhibits included in the staff report, to the satisfaction of the Planning Division. Appropriate signs providing notice, caution or warning, and other necessary markings shall be placed at the main access point(s) and other locations, as may be required, in order to alert the general public, maintenance or other workers approaching the antennas to the presence of RF transmissions and to take precautions to avoid exposures in excess of FCC limits. The requirement for the appropriate signage/notice shall be indicated on the building plans.
22. The City of Escondido hereby notifies the applicant that the County Clerk's office requires a documentary handling fee of \$50.00 in order to file a Notice of Exemption for the project (environmental determination for the project). In order to file the Notice of Exemption with the County Clerk, in conformance with the California Environmental Quality Act (CEQA) Section 15062, the applicant should remit to the City of Escondido Planning Division, within two working days of the final approval of the project (the final approval being the hearing date of the Planning Commission or City Council, if applicable), a certified check payable to the "County Clerk" in the amount of \$50.00. The filing of a Notice of Exemption and the posting with the County Clerk starts a 35 day statute of limitations period on legal challenges to the agency's decision that the project is exempt from CEQA. Failure to submit the required fee within the specific time noted above will result in the Notice of Exemption not being filed with the County Clerk, and a 180 day statute of limitations will apply.

Landscape Conditions

1. All existing and previously approved vegetation shall be maintained in a flourishing manner and kept free of all foreign matter, weeds, and plant materials not approved as part of the landscape plan. All existing irrigation shall be maintained in fully operational condition.

2. Additional landscaping consisting of vines within the existing fenced area shall be provided to soften the appearance of the equipment and shall be shown and noted on the building plans to the satisfaction of the Planning Division.

Building Division Conditions

1. All building plans shall be in conformance with the California Building Code, to the satisfaction of the Building Official.



CITY OF ESCONDIDO
PLANNING DIVISION
201 NORTH BROADWAY
ESCONDIDO, CA 92025-2798
(760) 839-4671

Notice of Exemption

To: San Diego County Recorder's Office
Attn: Linda Kesian
P.O. Box 121750
San Diego, CA 92112-1750

From: City of Escondido
201 North Broadway
Escondido, CA 92025

Project Title/Case No.: PHG09-0042

Project Location - Specific: approximately 13,050 SF (0.3 acres) located on the eastern side of North Broadway, north of Lincoln Avenue, addressed as 1040 North Broadway

Project Location - City: Escondido, Project

Location - County: San Diego

Description of Project: A request for a Conditional Use Permit for the installation of a wireless communications facility consisting of three (3) round directional and three (3) rectangle panel antennas on a triangular and co-located with eight existing antennas (although only three currently exist) on an existing 65' high faux pine tree located on the site. New associated equipment would be located within the existing fenced equipment area in the CG (Commercial General) zone, GC (General Commercial) General Plan designation, and Tier 1 / Central designation.

Name of Public Agency Approving Project City of Escondido

Name of Person or Agency Carrying Out Project

Name: Mark Phillips, M&M Telecom for Clearwire

Telephone (619) 379-3473

Address: 2014 Granada Ave, San Diego, CA 92104

Private entity School district Local public agency State agency Other special district

Exempt Status: Categorical Exemption. Type and section number: 15301, Class 1, "Existing Facilities".

Reasons why project is exempt:

- 1. The CUP is consistent with the General Plan, Zoning Code, and Communication Antennas Ordinance and no variances are required.
2. All services, access and utilities to the facility to local standards are existing and are not impacted by the proposed Conditional Use Permit.
3. The application consists of the addition of a wireless communication facility to an existing facility. The facility would include six antennas mounted onto an existing, 65' high monopine. All associated new equipment would be located within an existing equipment enclosure. The facility would have no adverse visual impacts since it would utilize an integrated design, as required in the Communication Antennas Ordinance.
4. The proposed facility would not result in the removal of any sensitive habitat. The site is not located in an environmentally sensitive area, since the site has been developed with a YMCA and is surrounded by developed properties. The facility would not affect any cultural or historic resources, would not be hazardous to any nearby residents or the general public and would meet the standards of the FCC and ANSI/IEEE. There would be no impact to environmental resources.

Lead Agency Contact Person: Darren Parker

Area Code/Telephone/Extension (760) 839-4553

Signature: Darren Parker, Assistant Planner II

6/16/10 Date

X Signed by Lead Agency

Date received for filing at OPR:

Signed by Applicant