



Council Date: March 9, 2010

SUBJECT: **2009-0510 - Clearwire** [Applicant] **Pacific Gas and Electric Co.** [Owner]: Application for a project located at **602 Weddell Drive** in an R-0 (Low Density Residential) Zoning District.

Motion Appeal by the applicant of a decision of the Planning Commission denying a Use Permit to allow the installation of three panel antennas and three microwave dishes on existing lattice tower and cabinets.

REPORT IN BRIEF

Existing Site Conditions Pacific Gas and Electric right-of-way with high-tension power lines.

Surrounding Land Uses

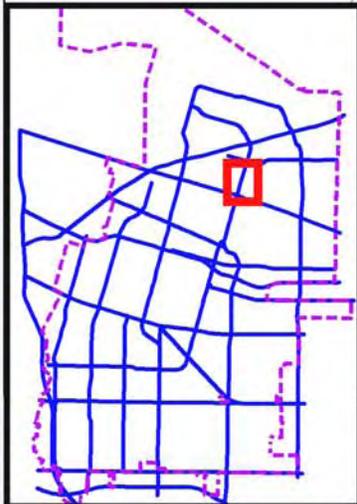
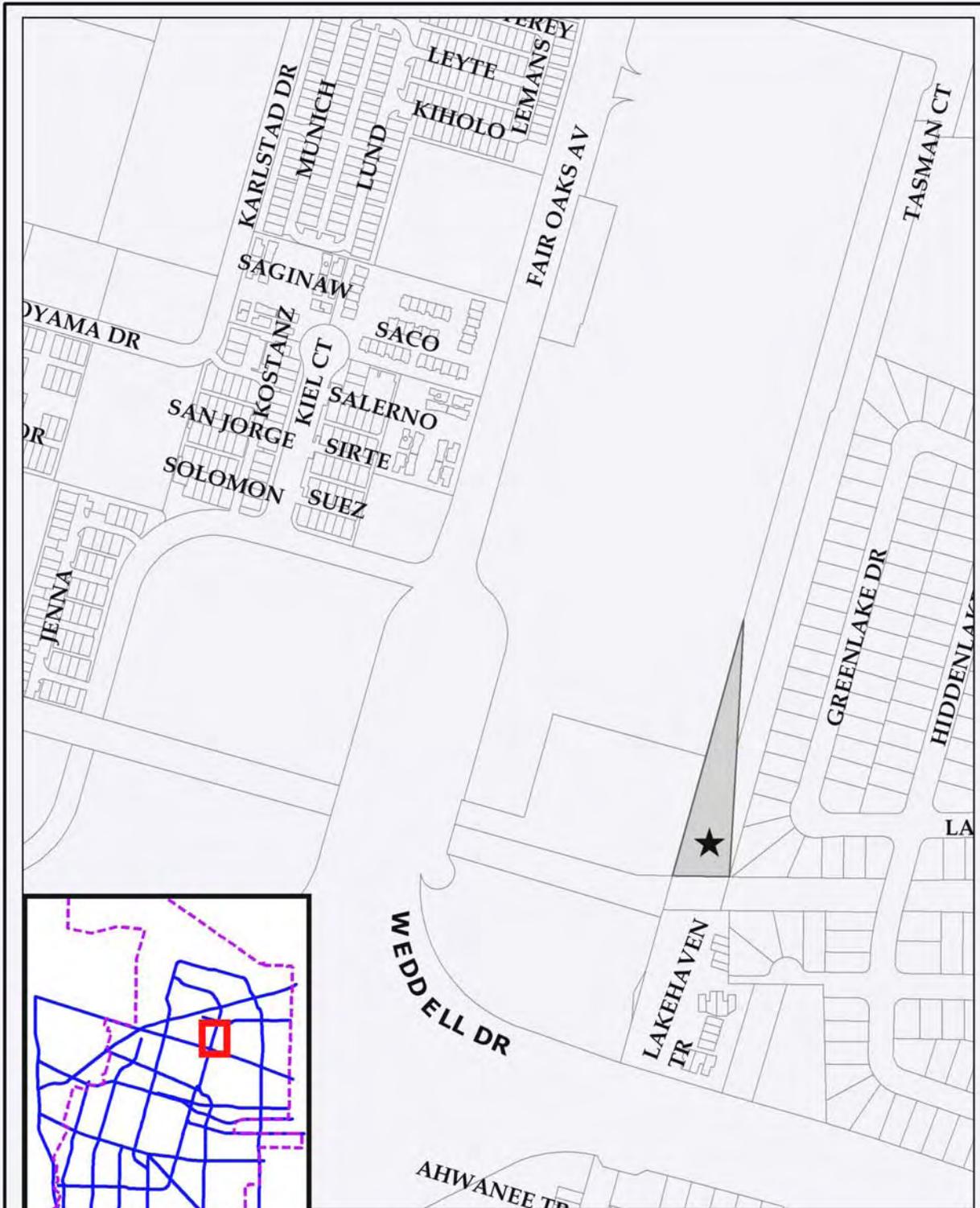
- North Pacific Gas and Electric right-of-way
- South Hetch-Hetchy right-of-way / John W. Christian Greenbelt
- East Single-family residential homes
- West Residential mobile homes

Issues Aesthetics

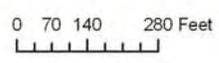
Environmental Status A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

Planning Commission Action Denied the Use Permit and denied the Variance (Variance was withdrawn and has not been appealed).

Staff Recommendation Grant the appeal and approve the Use Permit with conditions.



**602 E Weddell Dr.
Use Permit**



PROJECT DATA TABLE

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
General Plan	Low Density Residential	Same	Low Density Residential
Zoning District	R-0	Same	R-0
Lot Size (s.f.)	35,100	Same	6,000 min.
Height of Tower	98'	Same	65' max. w/out a Variance
Setbacks to Equipment Enclosure			
From North	400'	Same	N/A
From West	30'	Same	N/A
From East	80'	Same	N/A
From South	320'	Same	N/A

ANALYSIS**Description of Proposed Project**

The proposed project is to allow the co-location of three panel antennas and three microwave dishes on an existing 98-foot tall PG&E lattice tower. The applicant's initial application heard by the Planning Commission included a Variance to raise the tower six feet to accommodate the new panels and dishes. The applicant has since revised the project to eliminate the need for the additional tower height and withdrawn the request for a Variance. The three panel antennas and three microwave dishes will now be mounted near the top of the existing PG&E tower.

Additional ground equipment will be added near the base of the tower within an existing ten foot high fenced enclosure. No generators are proposed as part of this application.

According to Sunnyvale Municipal Code (SMC) Section 19.54.080, telecommunications projects in residential zoning districts involving three or more facilities or carriers on a single site require a major Use Permit. The proposed project would result in the third telecommunication facility on this existing tower; therefore Planning Commission review is required for this project.

The proposed project initially required a Variance to exceed maximum height requirements. (Telecommunications towers can be allowed up to a height of 65 feet in an R-0 Zoning District without a Variance.) The existing PG&E lattice tower is 98 feet tall and the initial application included a six foot extension to the top of the tower to accommodate the proposed antennas and microwave

dishes. Since the applicant is no longer proposing to extend the tower, the Variance application is no longer needed.

Background

Previous Actions on the Site: The following table summarizes previous planning applications related to the subject site.

File Number	Brief Description	Hearing/Decision	Date
2003-0753	Sprint six antennas	Administrative Hearing/ Approved	6/30/04
2000-0036	Nextel six antennas	Planning Commission/ Approved	3/27/00

Environmental Review

A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 1 Categorical Exemptions include minor additions to existing facilities.

Use Permit

Site Layout: The existing tower is located on PG&E land which is located adjacent to the John W. Christian Greenbelt and Santa Clara Valley Water District land. The existing 98-foot tower would continue to exist at the location, with the new antenna being added to the existing tower. This facility is leased to two other existing wireless carriers (Attachment C, Site and Architectural Plans).

Design: The existing tower is a steel lattice, high-tension tower 98 feet tall. Attachment C shows all carriers located on the tower, with the height of each antenna array. All carrier equipment is located inside the leased compound below the tower.

Landscaping: Existing landscaping provides partial screening. No changes are proposed to the existing landscaping.

Radio Frequency (RF) Emissions Exposure: The Federal Communications Commission (FCC) is the final authority on safety of telecommunications facilities. If the facility meets FCC standards, the City is not permitted to make additional judgments on health and safety issues. An RF report was prepared by Hammett & Edison, Inc., which concludes that the individual and cumulative exposure levels for all new Clearwire and existing equipment will be under the maximum limit for general public exposure. The study also states that the microwave dishes make no significant contribution to the RF exposure (Attachment E, RF Study). The project complies with Federal requirements;

therefore the proposed application can be considered on design and location criteria only.

Visual Impacts and Project Alternatives: Although the existing tower is partially screened by existing landscaping in the right-of-way area, the proposed project would be visible from the street frontage and adjacent residential properties. The proposal, as amended, will not increase the visibility of the existing PG&E tower or existing antennas.

Compliance with Development Standards/Guidelines: As previously discussed, the project complies with Federal requirements for RF exposure. The project is also subject to the Sunnyvale wireless telecommunications regulations contained in SMC Section 19.54.

In addition, the Code requires that the facility be designed with sensitivity to the surrounding area. The following design standards apply to this project:

19.54.040 (b) - All facilities shall be designed to minimize the visual impact to the greatest extent feasible, considering technological requirements, by means of placement, screening, and camouflage, to be compatible with existing architectural elements and building materials, and other site characteristics. The applicant shall use the smallest and least visible antennas possible to accomplish the owner/operator's coverage objectives.

- The three proposed panel antennas and microwave dishes will be co-located on an existing PG&E tower. The visual impact of the added equipment would be minimal.

19.54.040 (c) - SMC 19.54.040 - Colors and materials for facilities shall be chosen to minimize visibility. Facilities shall be painted or textured using colors to match or blend with the primary background

- The applicant proposes to paint all new tower equipment to match the existing tower.

19.54.040 (j) - All towers and lattice towers shall be designed to be the minimum functional height and width required to support the proposed antenna installation.

- The proposed project will not modify the height of the existing tower.

19.54.040 (l) - In order of preference, ancillary support equipment for facilities shall be located either within a building, in a rear yard or on a screened roof top area. Support equipment pads, cabinets, shelters and buildings require architectural, landscape, color, or other camouflage treatment for minimal visual impact.

- All proposed ground equipment would be placed within the existing enclosure (ten-foot high chain link fence), which is located near the center of the property. The ground equipment will not be visible from the street frontage or from adjacent properties.

Planning Commission Hearing

The project was reviewed at the Planning Commission meeting of November 23, 2009 (see Attachment G for meeting minutes). At the hearing the Commission denied the Use Permit and Variance on a 7-0 vote. The Commission stated that the additional height on the existing tower would create a negative visual impact for the surrounding properties, including residents in the immediate vicinity. The Commission also stated that there are alternative locations and designs for the proposal and that the required Findings could not be made.

Applicant's Appeal

The applicant has submitted a letter of appeal, which is included as Attachment F. The applicant has appealed the decision on the Use Permit for co-location of the antennas on the existing tower, but is not appealing the Variance application for additional height. The project has been redesigned to eliminate the need for a Variance application. The applicant has provided revised photosimulations showing the current proposal for co-location of the antennas within the existing height of the tower (Attachment D).

Staff Discussion and Comment on Appeal

The revised proposal requires only a Use Permit for co-location of the antennas. Staff is supporting the revised Use Permit based on the elimination of the additional height and, therefore, elimination of the additional visual impact. Planning Commission's discussion focused on this issue of additional visual impact and the option of co-locating the antennas in a less intrusive location.

Fiscal Impact

No fiscal impacts other than normal fees and taxes are expected.

Public Contact

Notice of Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none"> • Planning Commission Hearing Published in the <i>Sun</i> newspaper • Posted on the site • 274 notices mailed to the property owners and tenants adjacent to the project site 	<ul style="list-style-type: none"> • Posted on the City of Sunnyvale's web site • Provided at the Reference Section of the City of Sunnyvale's Public Library 	<ul style="list-style-type: none"> • Posted on the City's official notice bulletin board • Posted on the City of Sunnyvale's web site

Conclusion

Findings and General Plan Goals: As conditioned, staff was able to make the required Findings based on the justifications for the Use Permit. Recommended Findings and General Plan Goals are located in Attachment A.

Conditions of Approval: Recommended Conditions of Approval are located in Attachment B.

Alternatives

1. Grant the appeal and approve the Use Permit with the conditions in Attachment B.
2. Grant the appeal and approve the Use Permit with modified conditions.
3. Deny the appeal and uphold the decision of the Planning Commission to deny the Use Permit.

Recommendation

Alternative 1: Grant the appeal and approve the Use Permit with the conditions in Attachment B.

Reviewed by:

Hanson Hom
Director of Community Development

Reviewed by: Trudi Ryan, Planning Officer
Prepared by: Steve Lynch, Project Planner

Approved by:

Gary Luebbbers
City Manager

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Site and Architectural Plans for Current Proposal
- D. Photosimulations of Current Proposal
- E. RF Study
- F. Applicant's Letter of Appeal
- G. Minutes of Planning Commission Hearing of November 23, 2009

Recommended Findings - Use Permit

Goals and Policies that relate to this project are:

Telecommunications Policy Goal B: *Promote universal access to telecommunications services for all Sunnyvale citizens.*

Land Use and Transportation Element Action Statement N1.1 – *Limit the intrusion of incompatible uses and inappropriate development into city neighborhoods.*

Land Use and Transportation Element Policy N1.3 – *Support a full spectrum of conveniently located commercial public and quasi-public uses that add to the positive image of the city.*

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale. *[Finding met]*

The proposed project will increase telecommunications coverage, while meeting federal emissions requirements for human exposure. In addition, the project would utilize an existing tower and would eliminate the need to build a new telecommunications facility elsewhere in the City.

2. The proposed use ensures that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair either the orderly development of, or the existing uses being made of, adjacent properties. *[Finding met]*

The proposed antennas would be visible from the street frontage but the new ground equipment would be located inside the existing ten feet high enclosure and would not be visible from the street or neighboring properties.

Standard Requirements

The following is a list of standard requirements. This list is intended to assist the applicant and public in understanding basic related requirements, and is not intended as an exhaustive list. These requirements cannot be waived or modified.

- A. **Testing Within 15 Days:** The applicant shall test any wireless telecommunications site installed in the City of Sunnyvale within 15 days of operating the tower. The test shall confirm that any Emergency 911 wireless call made through the wireless telecommunications site shall provide Enhanced 911 capability (including phase 2 information when available from the caller's device) and direct the call to the City of Sunnyvale Department of Public Safety dispatcher, ensuring phase 2 information is transferred. If the call is to be directed elsewhere pursuant to State and Federal law the applicant shall ensure that the Enhanced 911 information transfers to that dispatch center. This capability shall be routinely tested to ensure compliance as long as the approved wireless telecommunications site is in service.
- B. **Permit Expiration:** The Use Permit for the use shall expire if the use is discontinued for a period of one year or more.
- C. **Permit Lapse if not Exercised (Ordinance 2895-09):** The Use Permit shall be valid for three (3) years from the date of approval by the final review authority (as adopted by City Council on April 21, 2009, RTC 09-094). Extensions of time may be considered, for a maximum of two one year extensions, if applied for and approved prior to the expiration of the permit approval. If the approval is not exercised within this time frame, the permit is null and void.
- D. **Building Permits:** Obtain Building Permits.
- E. **Certification:** Before January 31 of each even numbered year following the issuance of any authorizing establishment of a wireless telecommunication facility, an authorized representative for each wireless carrier providing service in the City of Sunnyvale shall provide written certification to the City executed under penalty of perjury that (i) each facility is being operated in accordance with the approved local and federal permits and includes test results that confirm the facility meets city noise requirements and federal RF emissions standards; (ii) each facility complies with the then-current general and design standards and is in compliance with the approved plans; (iii) whether the facility is currently being used by the owner or operator; and (iv) the basic contact and site information supplied by the owner or operator is current.
- F. **Renewal:** Every owner or operator of a wireless telecommunication facility shall renew the facility permit at least every ten (10) years from the date of initial approval. If a permit or other entitlement for use is not renewed, it shall automatically become null and void without notice or hearing ten (10) years after it is issued, or upon cessation of use for more than a year and a day, whichever comes first. Unless a new use permit

- or entitlement of use is issued, within one hundred twenty (120) days after a permit becomes null and void all improvements, including foundations and appurtenant ground wires, shall be removed from the property and the site restored to its original pre-installation condition within one hundred eighty (180) days of non-renewal or abandonment.
- G. **Comply with Applicable Regulations:** The facility must comply with any and all applicable regulations and standards promulgated or imposed by any state or federal agency, including but not limited to the Federal Communications Commission and Federal Aviation Agency.
- H. **RF Emissions:** Certification must be provided that the proposed facility will at all times comply with all applicable health requirements and standards pertaining to RF emissions.
- I. **Noise Studies:** The applicant shall submit to the Director of Community Development Noise Analysis at least two reports of field measurements showing: 1.) The noise measurement before construction of the facility and 2.) The actual noise measurement after the facility is in place and operating at or near full capacity.
- J. **Business License:** The owner or operator of the facility shall obtain and maintain current at all times a business license as issued by the city.
- K. **Maintain Current Information:** The owner or operator shall maintain, at all times, a sign mounted on the outside fence showing the operator name, site number and emergency contact telephone number. The owner or operator of the facility shall also submit and maintain current at all times basic contact and site information on a form to be supplied by the city. The applicant shall notify city of any changes to the information submitted within thirty (30) days of any change, including change of the name or legal status of the owner or operator. This information shall include, but is not limited to the following:
- i. Identity, including name, address and telephone number, and legal status of the owner of the facility including official identification numbers and FCC certification, and if different from the owner, the identity and legal status of the person or entity responsible for operating the facility.
 - ii. Name, address and telephone number of a local contact person for emergencies.
 - iii. Type of service provided.
- L. **Good Repair:** All facilities and related equipment, including lighting, fences, shields, cabinets, and towers, shall be maintained in good repair, free from trash, debris, litter and graffiti and other forms of vandalism, and any damage from any cause shall be repaired as soon as reasonably possible so as to minimize occurrences of dangerous conditions or visual blight. Graffiti shall be removed from any facility or equipment as soon as practicable, and in no instance more than forty-eight (48) hours from the time of notification by the city.

- M. **Minimize Noise:** The facility shall be operated in such a manner so as to minimize any possible disruption caused by noise. Backup generators are not approved for this use.
- N. **Responsibility to Maintain:** The owner or operator of the facility shall routinely and regularly inspect each site to ensure compliance with the standards set forth in the Telecommunications Ordinance.
- O. **Hold Harmless:** The wireless telecommunication facility provider shall defend, indemnify, and hold harmless the city or any of its boards, commissions, agents, officers, and employees from any claim, action or proceeding against the city, its boards, commission, agents, officers, or employees to attack, set aside, void, or annul, the approval of the project when such claim or action is brought within the time period provided for in applicable state and/or local statutes. The city shall promptly notify the provider(s) of any such claim, action or proceeding. The city shall have the option of coordinating in the defense. Nothing contained in this stipulation shall prohibit the city from participating in a defense of any claim, action, or proceeding if the city bears its own attorney's fees and costs, and the city defends the action in good faith.
- P. **Liability:** Facility lessors shall be strictly liable for any and all sudden and accidental pollution and gradual pollution resulting from their use within the city. This liability shall include cleanup, intentional injury or damage to persons or property. Additionally, lessors shall be responsible for any sanctions, fines, or other monetary costs imposed as a result of the release of pollutants from their operations. Pollutants include any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
- Q. **No Interference with City Communication Systems:** The facility operator shall be strictly liable for interference caused by the facility with city communication systems. The operator shall be responsible for all labor and equipment costs for determining the source of the interference, all costs associated with eliminating the interference, (including but not limited to filtering, installing cavities, installing directional antennas, powering down systems, and engineering analysis), and all costs arising from third party claims against the city attributable to the interference.
- R. **No Threat to Public Health:** The facility shall not be sited or operated in such a manner that it poses, either by itself or in combination with other such facilities, a potential threat to public health. To that end, the subject facility and the combination of on-site facilities shall not produce at any time power densities in any inhabited area that exceed the FCC's Maximum Permissible Exposure (MPE) limits for electric and magnetic field strength and power density for transmitters or any more restrictive standard subsequently adopted or promulgated by the federal government.

Recommended Conditions of Approval

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

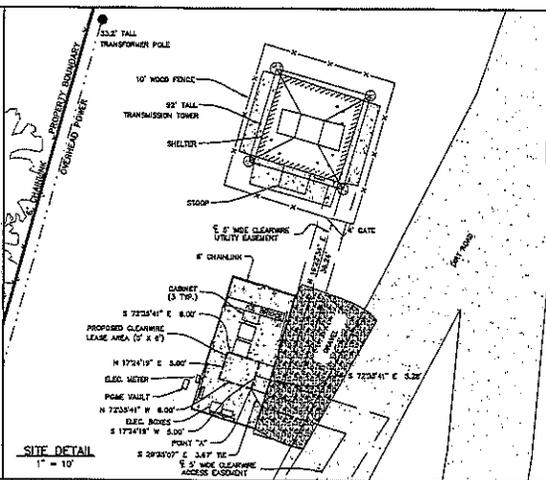
1. **Project Conformance:** Project shall be in conformance with the plans approved at the public hearing(s). Minor changes may be approved by the Director of Community Development; major changes require approval at a public hearing.
2. **Execute Permit Document:** Execute a Use Permit document prior to issuance of the Building permit.
3. **Conditions of Approval on Plans:** The Conditions of Approval shall be reproduced on a page of the plans submitted for a Building permit for this project.
4. **Tower Design:** All new antennas and microwave dishes shall be painted to match the existing tower.
5. **Microwave Dishes:** All new microwave dishes shall be snug against the tower as much as physically feasible, as shown in the approved plans.
6. **Ground Equipment:** All new equipment inside the ground enclosure shall not exceed the height of existing equipment.
7. **Tree Removal:** No trees shall be removed as part of this application.

EXCEPTIONS, PER TITLE RECORD

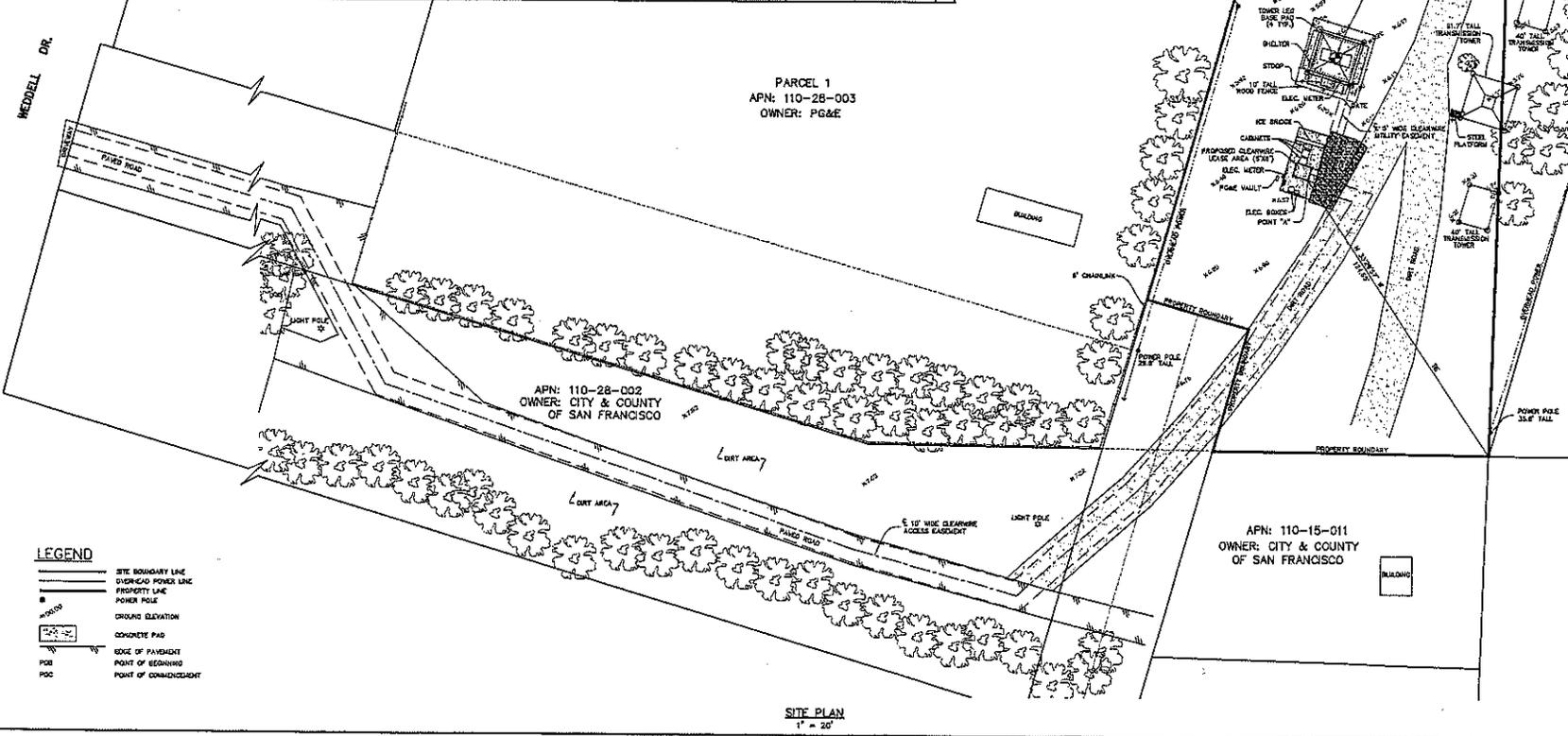
TITLE REPORT CONTAINS NO EASEMENTS.

EXPANDED CLEARWIRE LEASE AREA DESCRIPTION (CONTINUED):

THENCE S 32°05'32" W, A DISTANCE OF 65.24 FEET;
 THENCE S 38°45'17" W, A DISTANCE OF 70.97 FEET;
 THENCE S 48°35'05" W, A DISTANCE OF 80.34 FEET;
 THENCE N 74°40'44" W, A DISTANCE OF 64.84 FEET;
 THENCE N 70°57'13" W, A DISTANCE OF 187.16 FEET;
 THENCE N 28°15'42" W, A DISTANCE OF 74.89 FEET;
 THENCE N 73°52'32" W, A DISTANCE OF 230.20 FEET TO THE EASTERLY RIGHT OF WAY OF WEDDELL DRIVE AND THE TERMINUS OF THIS DESCRIPTION.



SITE DETAIL
1" = 10'



SITE PLAN
1" = 20'

clearw're, LLC.
 4400 CARILLON POINT
 KIRKLAND, WA 98033

PROJECT INFORMATION:
 PG&E WEDDELL DRIVE
 CA SJ00103A
 605 WEDDELL DRIVE
 SUNNYVALE, CA 94089
 SANTA CLARA COUNTY

CURRENT ISSUE DATE:
 08/13/09

ISSUED FOR:
 FINAL

REV. DATE ISSUED FOR BY:

REV.	DATE	ISSUED FOR	BY
0	07/08/09	PRELIMINARY	DL
1	08/13/09	FINAL	HJ

PLANS PREPARED BY:
 DELTA GROUPS
 ENGINEERING, INC.
 CONSULTANTS

5555 WEST LAS POSITAS
 PLEASANTON, CA 94566
 TEL 925-468-0115

CONSULTANT:

SMT
 SURVEYING
 P.O. BOX 826 IN
 FRESNO, (CA) 93731
 DRAWN BY: CHC
 DL/HJ GJS
 LICENSURE:

SHEET TITLE:
 SITE S

SHEET NUMBER:

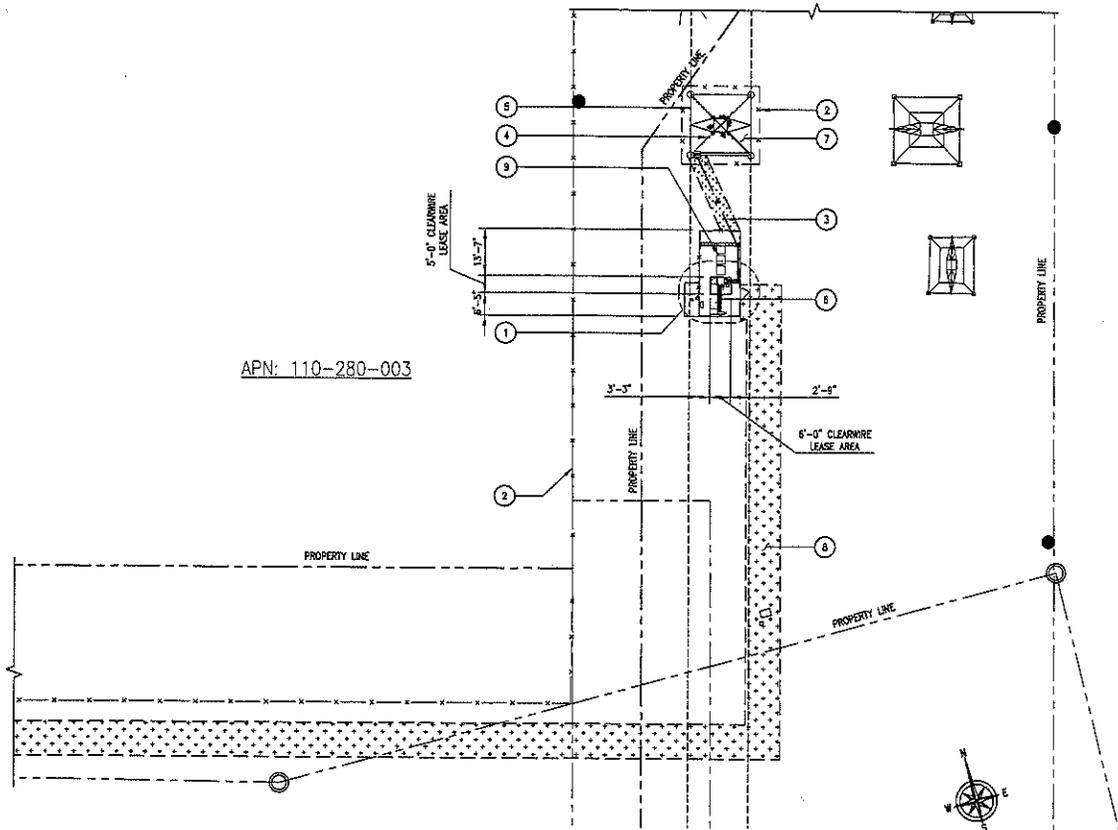
LS-2 1
 53-199

ATTACHMENT C
 Page 3 of 8

KEY NOTES:

- 1 PROPOSED LOCATION OF 6'-0"x6'-0" CLEARWIRE LEASE AREA (30 SQ. FT. TOTAL)
- 2 EXISTING 10'-0" HIGH WOOD FENCE
- 3 PROPOSED CLEARWIRE UNDERGROUND ANTENNA COAX CABLE WITHIN PROPOSED 5'-0" WIDE UTILITY EASEMENT
- 4 EXISTING ANTENNA SLEIGH MOUNT BY OTHER CARRIER (TYP.)
- 5 EXISTING PG&E LATTICE TOWER
- 6 EXISTING SPRINT/NEXTEL LEASE AREA
- 7 EXISTING EQUIPMENT AREA BY OTHER CARRIER
- 8 PROPOSED 10'-0" WIDE ACCESS ROUTE
- 9 EXISTING SPRINT/NEXTEL EQUIPMENT CABINET (TYP.)
- 10 EXISTING 6'-0" HIGH CHAIN LINK FENCE WITH 3 STRANDS BARBWIRE ON TOP

APN: 110-280-003



NOTES:
 1. DO NOT SCALE DRAWINGS. ALL DIMENSIONS OF AND BETWEEN EXISTING BUILDINGS/STRUCTURES, OR RELATIVE DISTANCES AS SHOWN BETWEEN EXISTING BUILDINGS/STRUCTURES PROPERTY LINES, AND EASEMENTS, AND THE TRUE NORTH ARE TO BE CONFIRMED BY A SURVEYOR.
 2. POWER/TELCO ROUTING AND DESIGN ARE PRELIMINARY AND MUST BE VERIFIED WITH LOCAL UTILITY COMPANIES.

OVERALL SITE PLAN

1. SURVEY INFORMATION SHOWN IS OBTAINED FROM A SURVEY PREPARED BY JRM CIVIL ENGINEERS TITLED CALL SITE SURVEY CA-SJ00057A DATED JULY 8, 2009.
2. THE APPLICANT, ARCHITECT/ENGINEER, AND REPRESENTATIVES OF THE OWNER, MUST BE NOTIFIED AT LEAST TWO FULL DAYS PRIOR TO COMMENCEMENT OF CONSTRUCTION.
3. DO NOT EXCAVATE OR DISTURB BEYOND THE PROPERTY LINES OR LEASE LINES, UNLESS OTHERWISE NOTED.
4. DO NOT SCALE BUILDING DIMENSIONS FROM DRAWINGS.
5. ANY DRAM AND/OR FELD TILE ENCOUNTERED DURING CONSTRUCTION SHALL BE RETURNED TO ITS ORIGINAL CONDITION PRIOR TO COMPLETION OF WORK. SIZE, LOCATION AND TYPE OF ANY UNDERGROUND UTILITIES OR IMPROVEMENTS SHALL BE ACCURATELY NOTED AND PLACED ON AS-CONSTRUCTED DRAWINGS BY GENERAL CONTRACTOR AND ISSUED TO ARCHITECT/ENGINEER AT COMPLETION OF PROJECT.

6. ALL EXISTING UTILITIES, FACILITIES, CONDITIONS, AND THEIR DIMENSIONS SHOWN ON PLANS HAVE BEEN PLOTTED FROM AVAILABLE RECORDS. THE ARCHITECT/ENGINEER AND OWNER ASSUME NO RESPONSIBILITY WHATSOEVER AS TO THE SUFFICIENCY OR ACCURACY OF THE INFORMATION SHOWN ON THE PLANS OR THE MANNER OF THEIR REMOVAL OR ADJUSTMENT. CONTRACTOR SHALL BE RESPONSIBLE FOR DETERMINING EXACT LOCATION OF ALL EXISTING UTILITIES AND FACILITIES PRIOR TO START OF CONSTRUCTION. CONTRACTOR SHALL ALSO OBTAIN FROM EACH UTILITY COMPANY DETAILED INFORMATION RELATIVE TO WORKING SCHEDULES AND METHODS OF REMOVING OR ADJUSTING EXISTING UTILITIES.
7. CONTRACTOR SHALL VERIFY ALL EXISTING UTILITIES BOTH HORIZONTALLY AND VERTICALLY PRIOR TO START OF CONSTRUCTION. ANY DISCREPANCIES OR DOUBTS AS TO THE INTERPRETATION OF PLANS SHOULD BE IMMEDIATELY REPORTED TO THE ARCHITECT/ENGINEER FOR RESOLUTION AND INSTRUCTION, AND NO FURTHER WORK SHALL BE PERFORMED UNTIL THE DISCREPANCY IS CHECKED AND CORRECTED BY THE ARCHITECT/ENGINEER. FAILURE TO SECURE SUCH INSTRUCTION MEANS CONTRACTOR WILL HAVE WORKED AT HIS/HER OWN RISK AND EXPENSE. CONTRACT SHALL CALL LOCAL BIDDER HOT LINE FOR UTILITY LOCATIONS 48 HOURS PRIOR TO START OF CONSTRUCTION.

8. ALL PROPOSED AND EXISTING UTILITY STRUCTURES ON SITE AND IN AREAS TO BE DISTRIBUTED BY CONSTRUCTION SHALL BE ADJUSTED TO FINISH ELEVATIONS PRIOR TO FINAL INSPECTION OF WORK.
9. THE BUILDING DEPARTMENT ISSUING THE BUILDING PERMIT SHALL BE NOTIFIED AT LEAST TWO WORKING DAYS PRIOR TO THE COMMENCEMENT OF WORK OR AS STIPULATED BY THE CODE ENFORCEMENT OFFICIAL HAVING JURISDICTION.
10. ALL TEMPORARY EXCAVATIONS FOR THE INSTALLATION OF FOUNDATIONS, UTILITIES, ETC., SHALL BE PROPERLY LAD BACK OR BRACED IN ACCORDANCE WITH CORRECT OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA) REQUIREMENTS.
11. CONTRACTOR SHALL CLEAN ENTIRE SITE AFTER CONSTRUCTION SUCH THAT NO PAPERS, TRASH, WEEDS, BRUSH OR ANY OTHER DEPOSITS WILL REMAIN. ALL MATERIALS COLLECTED DURING CLEANING OPERATIONS SHALL BE DISPOSED OF OFF-SITE BY THE GENERAL CONTRACTOR.
12. ALL TREES AND SHRUBS WHICH ARE NOT IN DIRECT CONFLICT WITH THE IMPROVEMENTS SHALL BE PROTECTED BY THE GENERAL CONTRACTOR.
13. ALL SITE WORK SHALL BE CAREFULLY COORDINATED BY GENERAL CONTRACTOR WITH LOCAL UTILITY COMPANY, TELEPHONE COMPANY, AND ANY OTHER UTILITY COMPANIES HAVING JURISDICTION OVER THIS LOCATION.

SCALE: 1/16 inch = 1 ft

CONSTRUCTION NOTES

2

clearw're

4400 CARILLON POINT
KIRKLAND, WA 98033

PROJECT INFORMATION:
**PG&E WEDDELL DRIVE
 CA-SJC0103A**
 605 WEDDELL DRIVE
 SUNNYVALE, CA, 94089
 SANTA CLARA COUNTY

CURRENT ISSUE DATE: **11/17/09**

ISSUED FOR: **CD (95%)**

REV. DATE DESCRIPTION BY:

REV.	DATE	DESCRIPTION	BY
1	11/17/09	CD (95%)	CL
1	11/3/09	CD (90%)	CL

PLANS PREPARED BY:
**DELTA GROUPS
 ENGINEERING, INC.**
 CON'G

5635 WEST LAS POSITAS
 FIDELMARTIN, CA 94504
 TEL: (925) 485-0115

CONSULTANT:

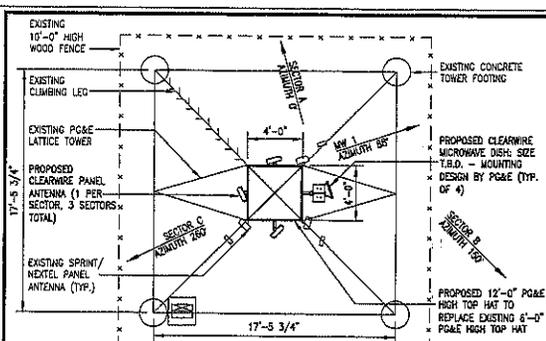
SEAL OF APPROVAL

SHEET TITLE: **OVERALL SITE CONSTRUCTION**

SHEET NUMBER: **A1 2**

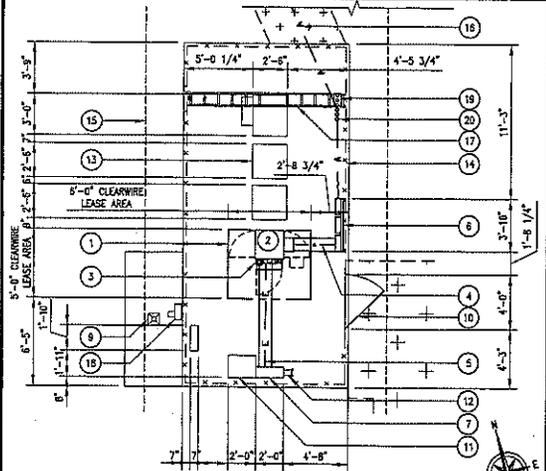
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ATTACHMENT
 Page 4 of 8



ANTENNA LAYOUT

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

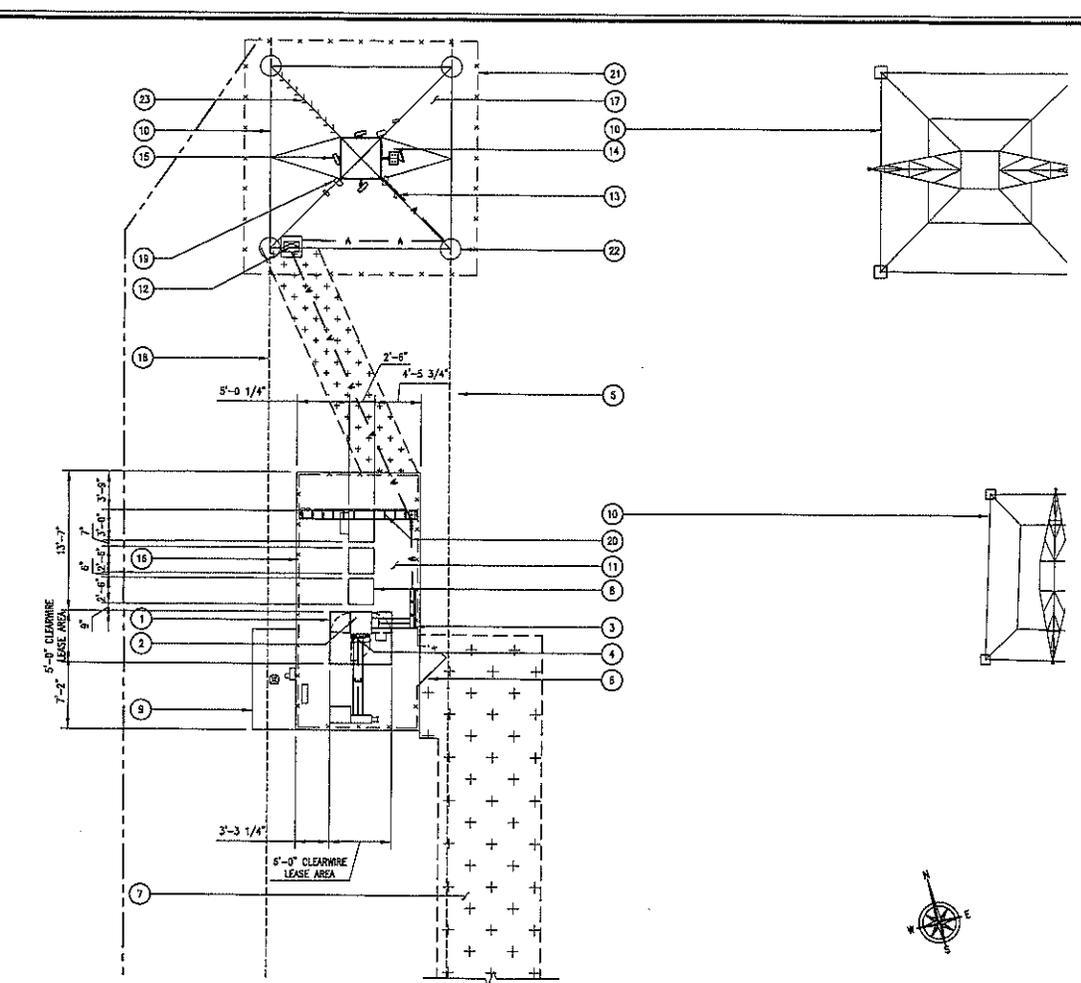


KEY NOTES:

- 1 PROPOSED 6'-0"x5'-0" CLEARWIRE LEASE AREA (30.0 SQ. FT. TOTAL)
- 2 PROPOSED CLEARWIRE EQUIPMENT CABINET (2/ST)
- 3 PROPOSED CLEARWIRE GPS MOUNTED TO EQUIPMENT CABINET (1/RS)
- 4 PROPOSED CLEARWIRE ANTENNA COAX AND FIBER CABLE ROUTING WITHIN PROPOSED PEDESTRIAN CROSSOVER
- 5 PROPOSED CLEARWIRE ELECTRICAL ROUTING WITHIN PROPOSED PEDESTRIAN CROSSOVER (3/AS)
- 6 PROPOSED RF HEAD (TYP. OF 6) - STACKED
- 7 EXISTING SPRINT ELECTRICAL CABINET-POWER P.O.C
- 8 EXISTING SPRINT/NEXTEL ELECTRICAL METER
- 9 EXISTING DRAINAGE WITHIN CONCRETE SLAB
- 10 EXISTING 6'-0" HIGH CHAIN LINK GATE WITH 3 STRANDS OF BARBED WIRE
- 11 EXISTING SPRINT/NEXTEL TELCO DEMARCATION BOX
- 12 EXISTING SPRINT/NEXTEL GENERATOR RECEPTACLE AREA (30.0 SQ. FT. TOTAL)
- 13 EXISTING SPRINT/NEXTEL EQUIPMENT CABINET (TYP. OF 3)
- 14 EXISTING SPRINT/NEXTEL 6'-0" HIGH CHAIN LINK FENCE
- 15 EXISTING OVERHEAD PG&E CONDUIT
- 16 PROPOSED CLEARWIRE ANTENNA COAX AND FIBER CABLE ROUTING WITHIN EXISTING UNDERGROUND UTILITY EASEMENT
- 17 EXISTING SPRINT/NEXTEL CABLE BRIDGE
- 18 EXISTING ELECTRICAL METER
- 19 EXISTING SPRINT/NEXTEL CONDUIT STUB-UPS
- 20 PROPOSED CLEARWIRE CONDUIT STUB-UPS

EQUIPMENT LAYOUT

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



KEY NOTES:

- 1 PROPOSED 6'-0"x5'-0" CLEARWIRE LEASE AREA (30 SQ. FT. TOTAL)
- 2 PROPOSED CLEARWIRE EQUIPMENT CABINET (2/ST)
- 3 PROPOSED RF HEAD (TYP. OF 6) - STACKED
- 4 PROPOSED CLEARWIRE GPS MOUNTED TO EQUIPMENT CABINET (1/RS)
- 5 PROPOSED CLEARWIRE UNDERGROUND ANTENNA COAX CABLE WITHIN PROPOSED 5'-0" WIDE UTILITY EASEMENT
- 6 EXISTING 6'-0" HIGH CHAIN LINK GATE WITH 3 STRANDS OF BARBED WIRE
- 7 PROPOSED 10'-0" WIDE ACCESS ROUTE
- 8 EXISTING SPRINT/NEXTEL EQUIPMENT CABINET (TYP. OF 3)
- 9 EXISTING CONCRETE SLAB
- 10 EXISTING PG&E LATTICE TOWER
- 11 EXISTING SPRINT/NEXTEL LEASE AREA
- 12 EXISTING CABLE TRAY RISER TO 10' A.F.G.
- 13 EXISTING ANTENNA SLEIGH MOUNT BY OTHER CARRIER (TYP.)
- 14 PROPOSED CLEARWIRE MICROWAVE DISH SIZE T.B.D. - MOUNTING DESIGN BY PG&E (TYP. OF 4)
- 15 PROPOSED CLEARWIRE PANEL ANTENNA (1 PER SECTOR, TYP. 3 SECTORS TOTAL)
- 16 EXISTING SPRINT/NEXTEL 6'-0" HIGH CHAIN LINK FENCE WITH 3 STRANDS OF BARBED WIRE
- 17 EXISTING METRO PCS LEASE AREA
- 18 EXISTING OVERHEAD PG&E CONDUIT
- 19 EXISTING SPRINT/NEXTEL PANEL ANTENNA (TYP.)
- 20 EXISTING SPRINT/NEXTEL CABLE BRIDGE
- 21 EXISTING 10'-0" HIGH WOOD FENCE
- 22 EXISTING CONCRETE TOWER FOOTING
- 23 EXISTING PG&E TOWER CLIMBING LEG

EQUIPMENT AREA PLAN

SCALE: 3/16" = 1' - 0"

clearw're

4400 CARILLON POINT
KIRKLAND, WA 98033

PROJECT INFORMATION:

PG&E WEDDELL DRIVE
CA-SJC0103A
605 WEDDELL DRIVE
SUNNYVALE, CA, 94089
SANTA CLARA COUNTY

CURRENT ISSUE DATE:

12/02/09

ISSUED FOR:

ZD (100%)

REV. DATE: DESCRIPTION: BY:

DATE	DESCRIPTION	BY
12/02/09	ZD (100%)	CL
08/18/09	ZD (100%)	JK
08/17/09	ZD (100%)	CC
07/13/09	ZD (100%)	CC
07/02/09	ZD (95%)	JK
07/01/09	ZD (95%)	JK
06/16/09	ZD (90%)	JK

PLANS PREPARED BY:

DELTA GROUPS
ENGINEERING, INC.
CORP

3036 WEST LAG POSITA
PLACERATE, CA 94568
TEL: (925) 488-9115

CONSULTANT:

SEAL OF APPROVA

SHEET TITLE:

EQUIPMENT
ANTENNA
EQUIPME

SHEET NUMBER:

A2

7

FD9CL037

ATTACHMENT

Page 5 of 8

clearw're

4400 CARILLON POINT
KIRKLAND, WA 98033

PROJECT INFORMATION:

PG&E WEDDELL DRIVE
CA-SJC0103A
605 WEDDELL DRIVE
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△	06/16/09	ZD (90%)	JK

PLANS PREPARED BY:

DELTA GROUPS
ENGINEERING, INC.
COI

8530 WEST LAS POSAS
PULSANTON, CA 94546
TEL: (925) 486-0115

CONSULTANT:

SEAL OF APPROVAL

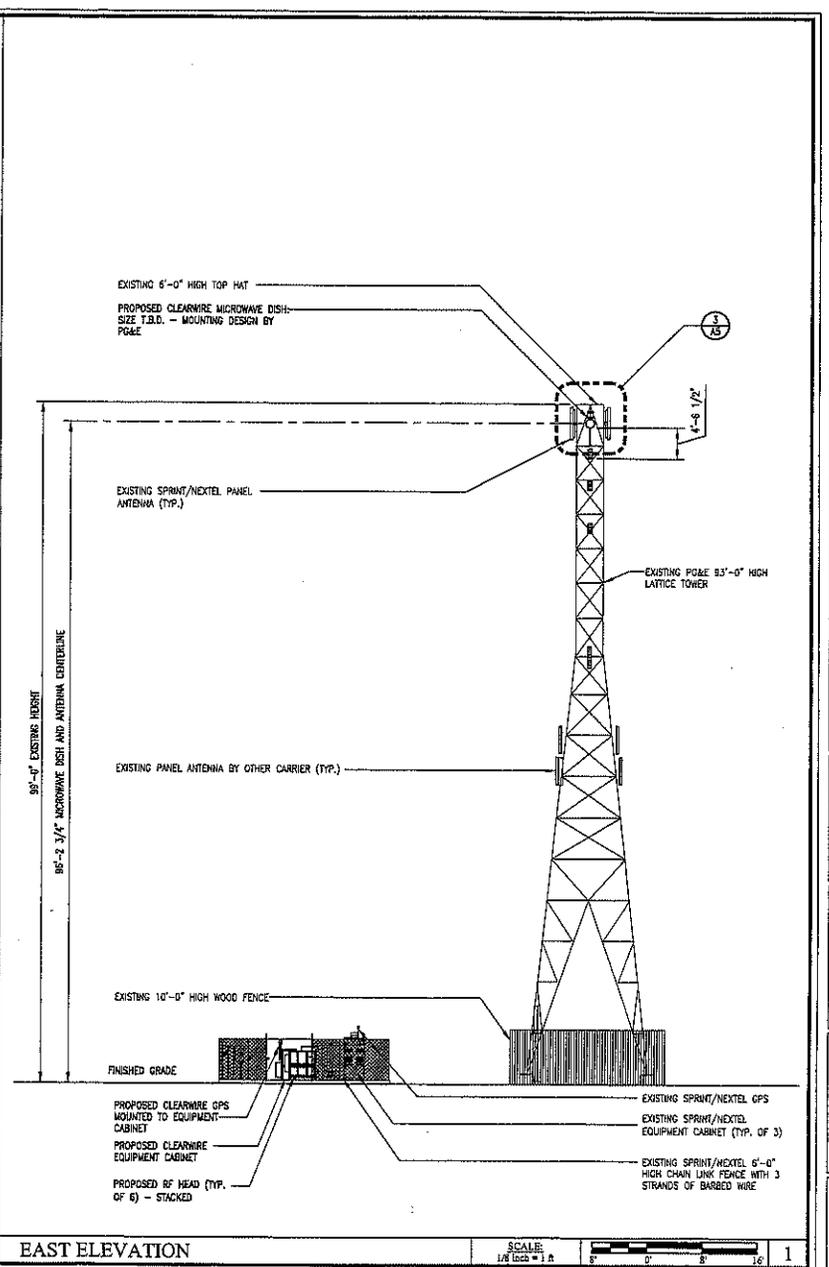
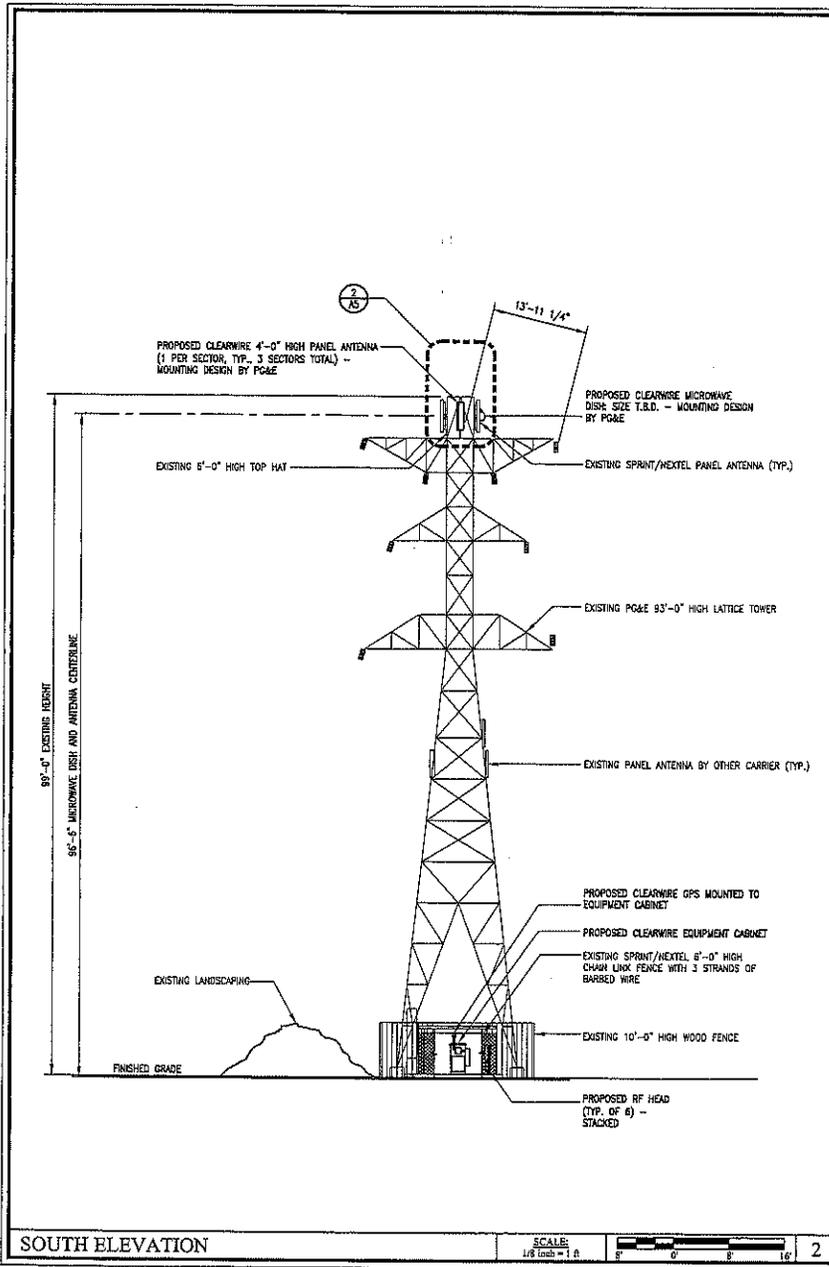
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NORTH
ELEV

SHEET NUMBER:

A3 **7**
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Page 6 of 8



PROJECT INFORMATION:
PG&E WEDDELL DRIVE
CA-SJC0103A
 605 WEDDELL DRIVE
 SUNNYVALE, CA, 94089
 SANTA CLARA COUNTY

CURRENT ISSUE DATE:
 12/02/09

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 ZD (100%)

REV. DATE DESCRIPTION BY:

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△	08/17/09	ZD (100%)	CC
△	07/13/09	ZD (100%)	CC
△	07/02/09	ZD (95%)	JK
△	07/01/09	ZD (95%)	JK
△	06/16/09	ZD (90%)	JK

PLANS PREPARED BY:
 **DELTA GROUPS ENGINEERING INC.**
 CO

SEAL MUST HAS POST
 PLEASANTON, CA 94588
 TEL: (925) 466-0115

CONSULTANT:

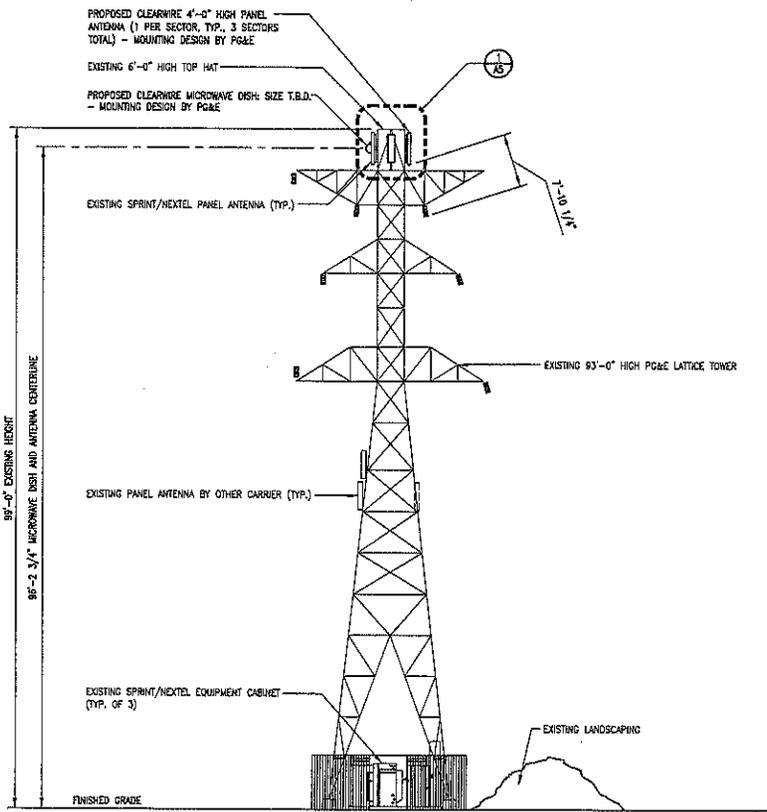
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 SOUTH ELE

SHEET NUMBER: REVISION:

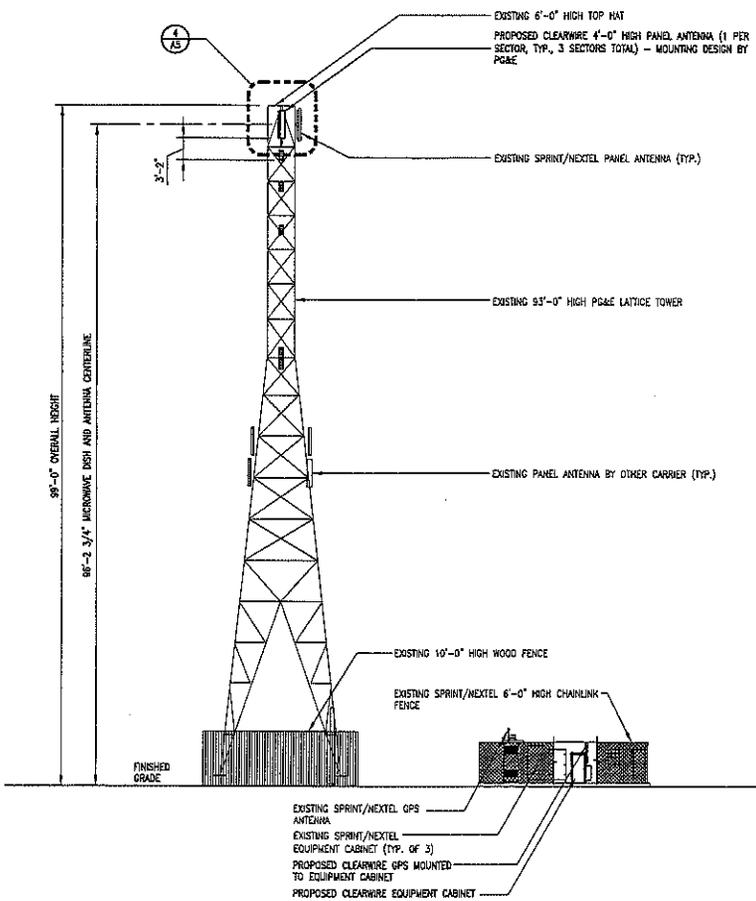
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 P09CL037

ATTACHMENT
 Page 7 of 8



NORTH ELEVATION

SCALE:
 1/8" (200) = 1 ft



WEST ELEVATION

SCALE:
 1/8" (200) = 1 ft

PROJECT INFORMATION:
PG&E WEDDELL DRIVE
CA-SJC0103A
 605 WEDDELL DRIVE
 SUNNYVALE, CA, 94089
 SANTA CLARA COUNTY

CURRENT ISSUE DATE:
 12/02/09

ISSUED FOR:
 ZD (100%)

REV.	DATE	DESCRIPTION	BY
△	12/02/09	ZD (100%)	CL
△	08/18/09	ZD (100%)	JK
△	08/17/09	ZD (100%)	CC
△	07/13/09	ZD (100%)	CC
△	07/02/09	ZD (95%)	JK
△	07/01/09	ZD (95%)	JK
△	06/16/09	ZD (90%)	JK

PLANS PREPARED BY:

DELTA GROUPS
ENGINEERING, INC.
 CONSULTING ENGINEERS
 2425 WEST LAS POSITAS
 PLEASANTON, CA 94588
 TEL: (925) 468-0115

CONSULTANT:

SEAL OF APPROVAL

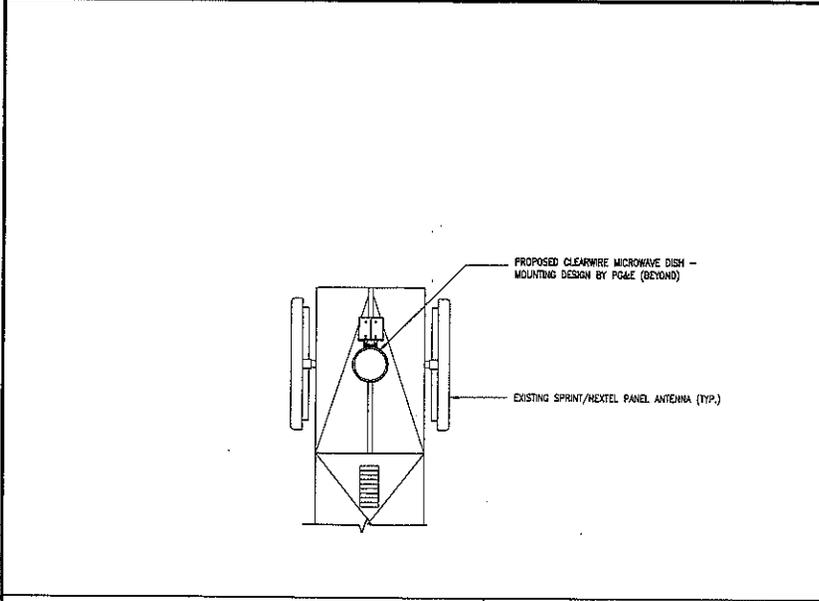
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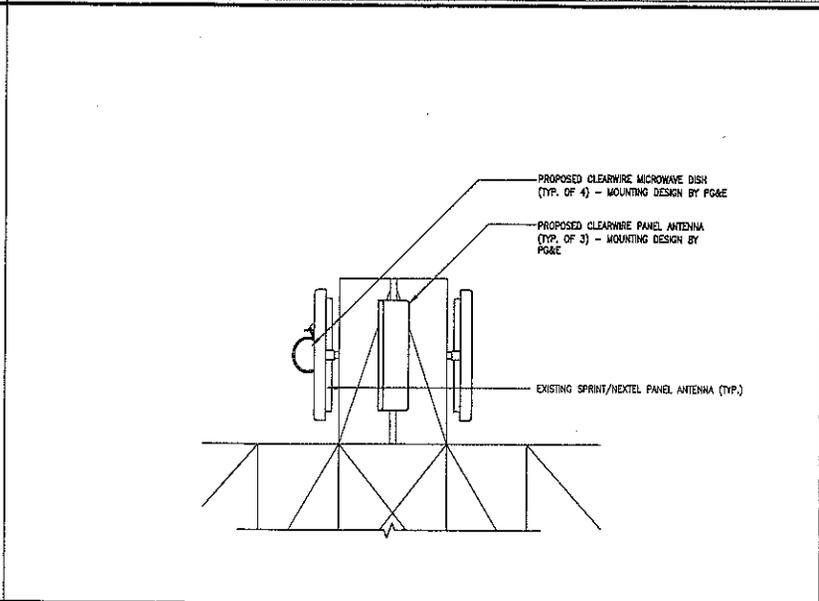
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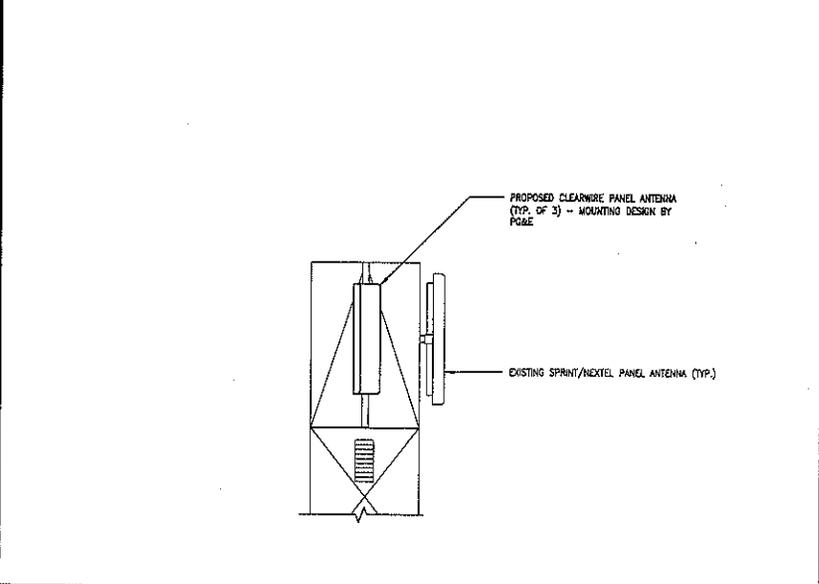
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 Page 8 of 8
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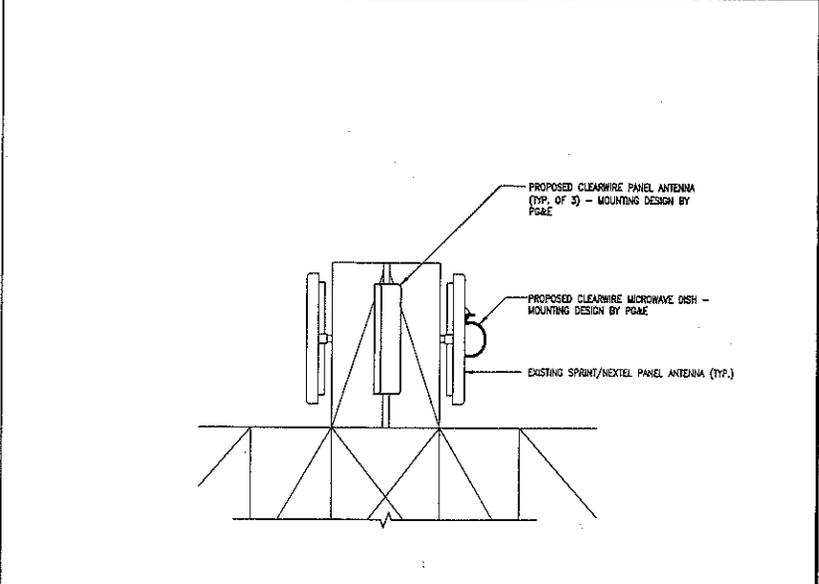
EAST ELEVATION SCALE: 1/2 inch = 1 ft 3



NORTH ELEVATION SCALE: 1/2 inch = 1 ft 1



WEST ELEVATION SCALE: 1/2 inch = 1 ft 4



SOUTH ELEVATION SCALE: 1/2 inch = 1 ft 2

Existing



clearwire
wireless broadband

CA-SJC0103

PG&E Weddell Drive

605 Weddell Drive
Sunnyvale, CA 94089

Proposed



proposed Clearwire
antennas

Photosimulation of the proposed telecommunication facility as seen looking southeast from Weddell & Fair Oaks

Existing



clearwire
wireless broadband

CA-SJC0103

PG&E Weddell Drive

605 Weddell Drive
Sunnyvale, CA 94089

Proposed



proposed Clearwire
antennas

Statement of Hammett & Edison, Inc., Consulting Engineers

The firm of Hammett & Edison, Inc., Consulting Engineers, has been retained on behalf of Clearwire, LLC, a personal wireless service provider, to evaluate the base station (Site No. CA-SJC0103) proposed to be located at 605 East Weddell Drive in Sunnyvale, California, for compliance with appropriate guidelines limiting human exposure to radio frequency ("RF") electromagnetic fields.

Prevailing Exposure Standards

The U.S. Congress requires that the Federal Communications Commission ("FCC") evaluate its actions for possible significant impact on the environment. In Docket 93-62, effective October 15, 1997, the FCC adopted the human exposure limits for field strength and power density recommended in Report No. 86, "Biological Effects and Exposure Criteria for Radiofrequency Electromagnetic Fields," published in 1986 by the Congressionally chartered National Council on Radiation Protection and Measurements ("NCRP"). Separate limits apply for occupational and public exposure conditions, with the latter limits generally five times more restrictive. The more recent standard, developed by the Institute of Electrical and Electronics Engineers and approved as American National Standard ANSI/IEEE C95.1-2006, "Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 kHz to 300 GHz," includes similar exposure limits. A summary of the FCC's exposure limits is shown in Figure 1. These limits apply for continuous exposures and are intended to provide a prudent margin of safety for all persons, regardless of age, gender, size, or health.

The most restrictive FCC limit for exposures of unlimited duration to radio frequency energy for several personal wireless services are as follows: Prevailing Exposure Standards: Power line frequencies (60 Hz) are well below the applicable range of these standards, and there is considered to be no compounding effect from simultaneous exposure to power line and radio frequency fields.

Personal Wireless Service	Approx. Frequency	Occupational Limit	Public Limit
Broadband Radio ("BRS")	2,600 MHz	5.00 mW/cm ²	1.00 mW/cm ²
Advanced Wireless ("AWS")	2,100	5.00	1.00
Personal Communication ("PCS")	1,950	5.00	1.00
Cellular Telephone	870	2.90	0.58
Specialized Mobile Radio ("SMR")	855	2.85	0.57
Long Term Evolution ("LTE")	700	2.33	0.47
[most restrictive frequency range]	30-300	1.00	0.20

Power line frequencies (60 Hz) are well below the applicable range of these standards, and there is considered to be no compounding effect from simultaneous exposure to power line and radio frequency fields.

General Facility Requirements

Base stations typically consist of two distinct parts: the electronic transceivers (also called “radios” or “channels”) that are connected to the traditional wired telephone lines, and the passive antennas that send the wireless signals created by the radios out to be received by individual subscriber units. The transceivers are often located at ground level and are connected to the antennas by coaxial cables about 1 inch thick. Because of the short wavelength of the frequencies assigned by the FCC for wireless services, the antennas require line-of-sight paths for their signals to propagate well and so are installed at some height above ground. The antennas are designed to concentrate their energy toward the horizon, with very little energy wasted toward the sky or the ground. Along with the low power of such facilities, this means that it is generally not possible for exposure conditions to approach the maximum permissible exposure limits without being physically very near the antennas.

Computer Modeling Method

The FCC provides direction for determining compliance in its Office of Engineering and Technology Bulletin No. 65, “Evaluating Compliance with FCC-Specified Guidelines for Human Exposure to Radio Frequency Radiation,” dated August 1997. Figure 2 attached describes the calculation methodologies, reflecting the facts that a directional antenna’s radiation pattern is not fully formed at locations very close by (the “near-field” effect) and that at greater distances the power level from an energy source decreases with the square of the distance from it (the “inverse square law”). The conservative nature of this method for evaluating exposure conditions has been verified by numerous field tests.

Site and Facility Description

Based upon information provided by Clearwire, including drawings by Delta Groups Engineering, Inc., dated June 22, 2009, it is proposed to mount three Argus Model LLPX310R directional panel antennas on a 6-foot extension above the existing 99-foot PG&E lattice tower sited near 605 East Weddell Drive in Sunnyvale. The antennas would be mounted with 2° downtilt at an effective height of about 102½ feet above ground and would be oriented at about 120° spacing, to provide service in all directions. The maximum effective radiated power in any direction would be 970 watts. Also proposed to be mounted on the same pole are three microwave “dish” antennas, for interconnection of this site with others in the Clearwire network.

Presently located on the same tower are similar antennas for use by Sprint Nextel and MetroPCS, other wireless telecommunications carriers. For the limited purposes of this study, the transmitting facilities of those carriers are assumed to be as follows:

Carrier	Service	Maximum ERP	Antenna Model	Height
Sprint Nextel	PCS	1,000 watts	Andrew UMWD-06516	97 ft
	SMR	1,500	Andrew D844G65	35
Metro	PCS	1,890	Andrew RR65-18	31 1/2

Study Results

For a person anywhere at ground, the maximum ambient level of RF exposure due to the proposed Clearwire operation by itself would be 0.00020 mW/cm², which is 0.020% of the applicable public limit. The maximum calculated cumulative level at ground, for the simultaneous operation of all three carriers, is 1.7% of the applicable public limit; the maximum calculated cumulative level at the second-floor elevation of any nearby building* is 3.9% of the applicable public limit. It should be noted that these results include several “worst-case” assumptions and therefore are expected to overstate actual power density levels. The microwave antennas would be in point-to-point service and are so directional that they make no significant contribution to RF exposure conditions at ground.

No Recommended Mitigation Measures

Due to their mounting locations, the Clearwire antennas would not be accessible to the general public, and so no mitigation measures are necessary to comply with the FCC public exposure guidelines. It is presumed that PG&E already takes adequate precautions to ensure that there is no unauthorized access to its tower. To prevent exposures in excess of the occupational limit by authorized PG&E workers, it is expected that they will adhere to appropriate safety protocols adopted by that company.

Conclusion

Based on the information and analysis above, it is the undersigned’s professional opinion that the base station proposed by Clearwire, LLC at 605 East Weddell Drive in Sunnyvale, California, will comply with the prevailing standards for limiting public exposure to radio frequency energy and, therefore, will not for this reason cause a significant impact on the environment. The highest calculated level in publicly accessible areas is much less than the prevailing standards allow for exposures of unlimited duration. This finding is consistent with measurements of actual exposure conditions taken at other operating base stations.

* Located at least 100 feet away, based on aerial photographs from Google Maps.



Authorship

The undersigned author of this statement is a qualified Professional Engineer, holding California Registration Nos. E-13026 and M-20676, which expire on June 30, 2011. This work has been carried out under his direction, and all statements are true and correct of his own knowledge except, where noted, when data has been supplied by others, which data he believes to be correct.

July 28, 2009



William F. Hammett

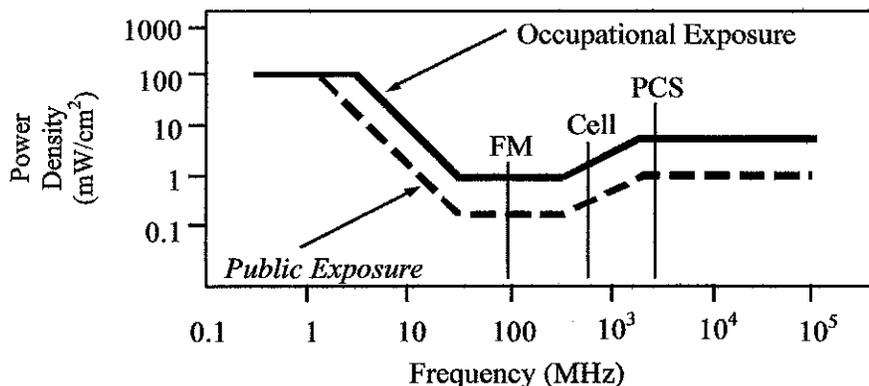
William F. Hammett, P.E.



The U.S. Congress required (1996 Telecom Act) the Federal Communications Commission (“FCC”) to adopt a nationwide human exposure standard to ensure that its licensees do not, cumulatively, have a significant impact on the environment. The FCC adopted the limits from Report No. 86, “Biological Effects and Exposure Criteria for Radiofrequency Electromagnetic Fields,” published in 1986 by the Congressionally chartered National Council on Radiation Protection and Measurements (“NCRP”). Separate limits apply for occupational and public exposure conditions, with the latter limits generally five times more restrictive. The more recent standard, developed by the Institute of Electrical and Electronics Engineers and approved as American National Standard ANSI/IEEE C95.1-2006, “Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 kHz to 300 GHz,” includes similar limits. These limits apply for continuous exposures from all sources and are intended to provide a prudent margin of safety for all persons, regardless of age, gender, size, or health.

As shown in the table and chart below, separate limits apply for occupational and public exposure conditions, with the latter limits (in *italics* and/or dashed) up to five times more restrictive:

Frequency Applicable Range (MHz)	Electromagnetic Fields (f is frequency of emission in MHz)					
	Electric Field Strength (V/m)		Magnetic Field Strength (A/m)		Equivalent Far-Field Power Density (mW/cm ²)	
0.3 – 1.34	614	<i>614</i>	1.63	<i>1.63</i>	100	<i>100</i>
1.34 – 3.0	614	<i>823.8/f</i>	1.63	<i>2.19/f</i>	100	<i>180/f²</i>
3.0 – 30	1842/f	<i>823.8/f</i>	4.89/f	<i>2.19/f</i>	900/f ²	<i>180/f²</i>
30 – 300	61.4	<i>27.5</i>	0.163	<i>0.0729</i>	1.0	<i>0.2</i>
300 – 1,500	3.54√f	<i>1.59√f</i>	√f/106	<i>√f/238</i>	f/300	<i>f/1500</i>
1,500 – 100,000	137	<i>61.4</i>	0.364	<i>0.163</i>	5.0	<i>1.0</i>



Higher levels are allowed for short periods of time, such that total exposure levels averaged over six or thirty minutes, for occupational or public settings, respectively, do not exceed the limits, and higher levels also are allowed for exposures to small areas, such that the spatially averaged levels do not exceed the limits. However, neither of these allowances is incorporated in the conservative calculation formulas in the FCC Office of Engineering and Technology Bulletin No. 65 (August 1997) for projecting field levels. Hammett & Edison has built those formulas into a proprietary program that calculates, at each location on an arbitrary rectangular grid, the total expected power density from any number of individual radio sources. The program allows for the description of buildings and uneven terrain, if required to obtain more accurate projections.



Assessment by Calculation of Compliance with FCC Exposure Guidelines

The U.S. Congress required (1996 Telecom Act) the Federal Communications Commission ("FCC") to adopt a nationwide human exposure standard to ensure that its licensees do not, cumulatively, have a significant impact on the environment. The maximum permissible exposure limits adopted by the FCC (see Figure 1) apply for continuous exposures from all sources and are intended to provide a prudent margin of safety for all persons, regardless of age, gender, size, or health. Higher levels are allowed for short periods of time, such that total exposure levels averaged over six or thirty minutes, for occupational or public settings, respectively, do not exceed the limits.

Near Field.

Prediction methods have been developed for the near field zone of panel (directional) and whip (omnidirectional) antennas, typical at wireless telecommunications base stations, as well as dish (aperture) antennas, typically used for microwave links. The antenna patterns are not fully formed in the near field at these antennas, and the FCC Office of Engineering and Technology Bulletin No. 65 (August 1997) gives suitable formulas for calculating power density within such zones.

For a panel or whip antenna, power density $S = \frac{180}{\theta_{BW}} \times \frac{0.1 \times P_{net}}{\pi \times D \times h}$, in mW/cm²,

and for an aperture antenna, maximum power density $S_{max} = \frac{0.1 \times 16 \times \eta \times P_{net}}{\pi \times h^2}$, in mW/cm²,

where θ_{BW} = half-power beamwidth of the antenna, in degrees, and

P_{net} = net power input to the antenna, in watts,

D = distance from antenna, in meters,

h = aperture height of the antenna, in meters, and

η = aperture efficiency (unitless, typically 0.5-0.8).

The factor of 0.1 in the numerators converts to the desired units of power density.

Far Field.

OET-65 gives this formula for calculating power density in the far field of an individual RF source:

power density $S = \frac{2.56 \times 1.64 \times 100 \times RFF^2 \times ERP}{4 \times \pi \times D^2}$, in mW/cm²,

where ERP = total ERP (all polarizations), in kilowatts,

RFF = relative field factor at the direction to the actual point of calculation, and

D = distance from the center of radiation to the point of calculation, in meters.

The factor of 2.56 accounts for the increase in power density due to ground reflection, assuming a reflection coefficient of 1.6 (1.6 x 1.6 = 2.56). The factor of 1.64 is the gain of a half-wave dipole relative to an isotropic radiator. The factor of 100 in the numerator converts to the desired units of power density. This formula has been built into a proprietary program that calculates, at each location on an arbitrary rectangular grid, the total expected power density from any number of individual radiation sources. The program also allows for the description of uneven terrain in the vicinity, to obtain more accurate projections.





December 8, 2009

City of Sunnyvale
Planning Division
456 W. Olive Avenue
Sunnyvale, CA 94088

RE: **ClearWire Site CA-SJC0103: Appeal of Planning Commission Denial of Use Permit 2009-0510**

Clearwire would like to formally appeal the Planning Commission's denial of Use Permit 2009-0510. On November 23, 2009 the City of Sunnyvale Planning Commission denied the above referenced project on a unanimous vote with the understanding that they could not make the variance finding for the increased height. Clearwire understands the City's concerns, and while we don't agree that variance findings can't be made given that the City has previously made such findings on 7 other PG&E lattice towers over 100 feet in the City of Sunnyvale, we would respectfully like to have the City Council hear our project based on a revised project description that eliminates the need for such a variance. The revised project is described below:

I. Project Description

Project Components

The proposed project would consist of the installation of antennas and radio equipment on and adjacent to an existing PG&E lattice tower as shown on the attached plans. The proposed project components would consist of the following elements to be contained within a 30.0 (6' x 5') square foot lease area:

- Radio equipment cabinet (approx. 2' x 2') to be installed on a concrete slab within the Sprint/Nextel equipment enclosure (10'-high wood fence surrounding 12'x25'lease area)
- Three (3) panel antennas (4'-long) and three (1) microwave dishes (max. diameter 26.1", min. diameter 15.3") to be mounted on the existing PG&E lattice tower on the existing 6-foot tall top hat extension. Antennas would co-plane with Sprint's existing antennas.
- One GPS antenna to be mounted on the proposed radio cabinet
- Associated fiber/coax cable to be run from the radio cabinets on the ground to the antennas on a cable run up the tower leg. Power would be pulled from existing electrical service supplied to Sprint/Nextel.

Access is provided by existing driveways on access easements from East Weddell Drive.

II. Conclusion

In conclusion, with the proposed project modification the City Council should be able to make findings for approval of the revised project given that no variance is required and said findings do not have to be made. Should you have any questions regarding this appeal, please feel free to call me at (530) 647-1932.

Sincerely,

Bell + Associates

Gordon J. Bell

Gordon J. Bell

Principal

Encl.

PLANNING COMMISSION MINUTES OF NOVEMBER 23, 2009

2009-0510 - BCI Sites for Clearwire [Applicant] Pacific Gas And Electric Co [Owner]: Application for a Use Permit to allow the installation of three panel antennas and three microwave dishes on existing lattice tower and cabinets, and a Variance application to allow an extension to the top of the existing lattice tower (approximately 6' extension) for a site located at **602 Weddell Drive** (APN: 110-15-019) SL

Andrew Miner, Principal Planner, presented the staff report. He said this application requires a Variance for the height. He said staff was able to make the findings and recommends approval with conditions.

Comm. Klein discussed with staff the number of PG&E (Pacific Gas and Electric Company) towers that are taller than 100 feet in the City with staff saying that there are not many towers that are taller than 100 feet. Comm. Klein confirmed with staff that there are two towers on the site, one with an existing extension and one without. Comm. Klein said the proposed extension causes the tower to exceed the height allowed and requires a Variance. Comm. Klein commented that the proposed extension affects the aesthetics and draws attention to the pole. Mr. Miner said that staff felt that the extension was a relatively insignificant change to the tower. **Trudi Ryan**, Planning Officer, commented regarding the findings, and agreed that a Variance should not be approved without meeting the findings.

Comm. Rowe asked staff why some of the PG&E towers exceed the City height limits. Ms. Ryan said that PG&E probably installed many of the towers before local regulations were established, that the towers are regulated by the Public Utilities Commission, and that PG&E tower heights are not subject to our local zoning standards. Comm. Rowe discussed with staff the proposed increase in height of the tower as the staff recommendation is to approve the Variance. Staff said that approving or not approving the Variance is a judgment and the Commission can deny the Variance if they cannot make the findings.

Comm. McKenna said she had the same question about the height as Comm. Rowe commenting that she would have a tough time granting the Variance considering the City regulation 100-foot height limit.

Chair Chang opened the public hearing.

Gordon Bell, representative for Clearwire, discussed the reasoning for selecting the proposed tower for the site rather than the tower next to it. He said the proposed tower is further away from residential areas, and Clearwire can share

G

the existing ground shelter with Sprint Nextel rather than adding to the compound. He said PG&E constructs any extensions on their towers. He said the applicant's primary goal in a community is to co-locate on existing structures. He discussed the reasoning for requesting the Variance to add height to the tower and said he does not think special privileges would be granted if the Variance were approved as he thinks the majority of PG&E towers in the community are probably between 90 and 120 feet tall. Mr. Bell explained the disadvantages of using the pole next to the proposed site including the need for trenching, and the need for distance between towers.

Comm. Klein discussed with Mr. Bell the need for distance between the poles, trenching, and that Clearwire would be pulling the power from Sprint Nextel.

Chair Chang discussed with Mr. Bell if Clearwire could place the microwaves on the pole next to the proposed site, with Mr. Bell saying that the other pole would probably be tall enough.

Mr. Miner commented that the tower for the proposed site is a 92 foot tower and the pole next to the proposed site is a 91.7 foot tower.

Chair Chang closed the public hearing.

Comm. Rowe discussed with staff previous actions for this site with staff saying that Sprint came later and added six feet to the tower.

Comm. Klein moved for Alternative 3, to deny the Use Permit and Variance. Comm. Sulser seconded the motion.

Comm. Klein said that the requirements for granting a Variance are restrictive. He said adding height to this tower would draw attention to the tower, that cost to the applicant is not adequate reason for approving this Variance, and that there are alternatives. He said from a City standpoint co-location is encouraged and he hopes an alternative can be found that will work for Clearwire.

Comm. Sulser said he agrees with Comm. Klein, and said he cannot make the findings to approve the Variance.

ACTION: Comm. Klein made a motion on 2009-0510 to deny the Use Permit and Variance. Comm. Sulser seconded. Motion carried unanimously, 7-0.

APPEAL OPTIONS: This action is final unless appealed to City Council no later than December 8, 2009.