

Hearing Officer Transmittal Checklist

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|--------------------------|
| Hearing Date 9/1/2009 |
| Agenda Item Number 1 |

Project Number: R2004-00936-(1)
Case(s): CUP200900015
Contact Person: Andrew Svitek

| Included | NA/None | Document |
|-------------------------------------|-------------------------------------|--|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Factual |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Property Location Map |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Staff Report |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Draft Findings |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Draft Conditions |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | DPW Letter |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | FD Letter |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Other Department's Letter(s) |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Burden Of Proof Statement(s) |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Environmental Documentation (IS, MMP, EIR) |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Opponent And Proponent Letters |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Photographs |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution (ZC Or PA) |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Ordinance with 8.5 X 11 Map (ZC Or PA) |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Aerial (Ortho/Oblique) Image(s) |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Land Use Radius Map |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Site Plan And Elevations |
| <input type="checkbox"/> | <input type="checkbox"/> | |

Reviewed By: 



Los Angeles County Department of Regional Planning
 320 West Temple Street
 Los Angeles, California 90012
 Telephone (213) 974-6443

PROJECT NUMBER R2004-00936-(1)
CONDITIONAL USE PERMIT NO. 200900015

PUBLIC HEARING DATE
 9/1/2009

AGENDA ITEM

RPC CONSENT DATE

CONTINUE TO

| | | |
|---|-----------------------------------|-----------------------------------|
| APPLICANT T-Mobile West Corporation | OWNER Y&P Whittier, LLC | REPRESENTATIVE Trillium |
|---|-----------------------------------|-----------------------------------|

PROJECT DESCRIPTION
 The applicant is requesting a Conditional Use Permit to authorize the installation, operation and maintenance of an unmanned wireless telecommunications facility located on the roof of an existing commercial building. The wireless facility consists of 12 panel antennas (4 antennas per sector, 3 sectors) and one (1) GPS antenna to be screened by new RF transparent enclosures to match the existing building. In addition to the antennas, T-Mobile proposes to place 6 equipment cabinets inside the existing building at the basement level.

REQUIRED ENTITLEMENTS
 Conditional Use Permit to allow a wireless telecommunications facility (WTF) in the C-3 (Unlimited Commercial) Zone. WTF is not a use recognized by Title 22 but a similar use of radio/television tower is a use subject to permit in the C-3 (Unlimited Commercial) Zone.

LOCATION/ADDRESS
 4709 Whittier Blvd., East Los Angeles, CA

SITE DESCRIPTION
 The site plan depicts an existing 2-story commercial building measuring 15,000 square feet. The building adjoins commercial buildings on the west and east, and has street frontage on Whittier Blvd to the south and alley to the north.

| | |
|---|--|
| ACCESS Whittier Blvd (between Arizona and Kern); alley (north of Whittier Blvd) | ZONED DISTRICT Eastside Unit No. 1 |
|---|--|

| | |
|--|--------------------------------------|
| ASSESSORS PARCEL NUMBER 5240-002-027 | COMMUNITY East Los Angeles |
|--|--------------------------------------|

| | |
|--------------------------|---|
| SIZE 0.3 Acres | COMMUNITY STANDARDS DISTRICT East Los Angeles |
|--------------------------|---|

| | EXISTING LAND USE | EXISTING ZONING |
|--------------|---|--|
| Project Site | Mixed Retail (clothes, photo, children's store) | C-3 (Unlimited Commercial) |
| North | Multi-Family Residential | R-3-(P) (Limited Multiple Residence and Parking Overlay) |
| East | Mixed Retail (clothes) | C-3 (Unlimited Commercial) |
| South | Mixed Retail (clothes) | C-3 (Unlimited Commercial) |
| West | Mixed Retail (clothes and shoes) | C-3 (Unlimited Commercial) |

| | | |
|--|--|-------------------------------|
| GENERAL PLAN/COMMUNITY PLAN East Los Angeles | LAND USE DESIGNATION MC - Major Commercial | MAXIMUM DENSITY n/a |
|--|--|-------------------------------|

ENVIRONMENTAL DETERMINATION
 Class 3 Categorical Exemption- New Construction or Conversion of Small Structures

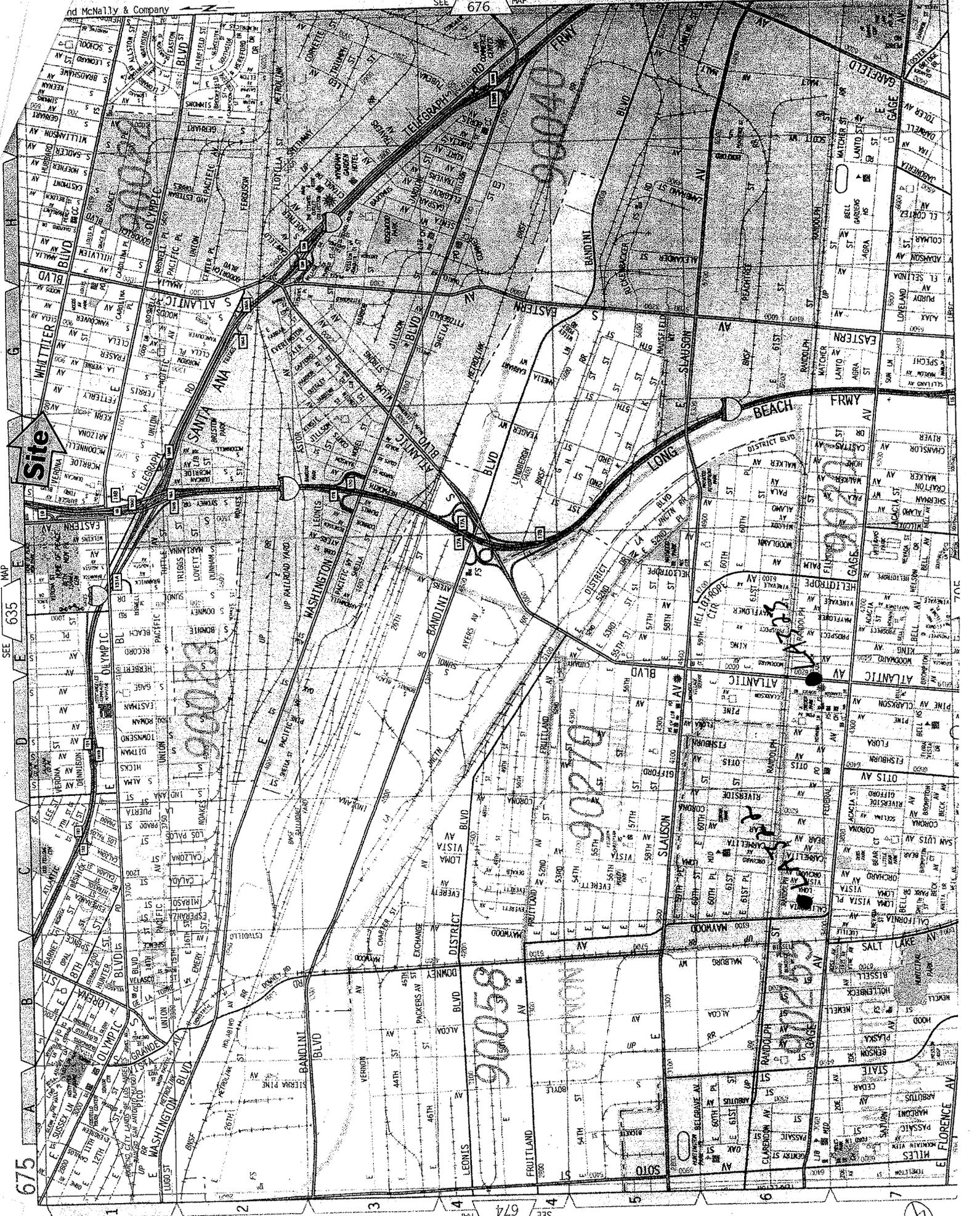
RPC LAST MEETING ACTION SUMMARY

| | | |
|------------------------------|--------------------------|----------------------------------|
| LAST RPC MEETING DATE | RPC ACTION | NEEDED FOR NEXT MEETING |
| MEMBERS VOTING AYE | MEMBERS VOTING NO | MEMBERS ABSTAINING/ABSENT |

TO BE COMPLETED ONLY ON CASES TO BE HEARD BY THE BOARD OF SUPERVISORS

| | | |
|---|---------------------------------|-------------------------------|
| STAFF CONTACT PERSON: Andrew Svitek | | |
| RPC HEARING DATE(S) | RPC ACTION DATE | RPC RECOMMENDATION |
| MEMBERS VOTING AYE | MEMBERS VOTING NO | MEMBERS ABSTAINING |
| STAFF RECOMMENDATION (PRIOR TO HEARING): | | |
| SPEAKERS* (O) 0 (F) 0 | PETITIONS (O) 0 (F) 0 | LETTERS (O) 0 (F) 0 |

*(O) = Opponents (F) = In Favor



SEE 635 MAP

675

674

Site

SCOOPS

90270

90058

90253

E

STAFF ANALYSIS
PROJECT NUMBER R2004-00936-(1)
CONDITIONAL USE PERMIT NO. 200900015

PROJECT DESCRIPTION

The applicant, T-Mobile West Corporation, is requesting a Conditional Use Permit to authorize the installation, operation and maintenance of an unmanned wireless telecommunications facility located on the roof of an existing building in the C-3 (Unlimited Commercial) Zone. The wireless facility consist of 12 panel antennas (4 antennas per sector, 3 sectors) and one 1 GPS antenna. The antennas will be screened behind a transparent enclosures painted to match the color of the existing building. The applicant proposes to place 6 equipment cabinets inside the existing building at the basement level.

REQUIRED ENTITLEMENTS

A wireless telecommunications facility is not a defined use in the Zoning Ordinance; however, staff has traditionally utilized the defined use of "radio and television stations and towers" as a comparable use. Radio and television stations and towers are uses subject to Conditional Use Permits.

LOCATION

The subject property is located at 4709 Whittier Boulevard in the Eastside Unit Number One Zoned District.

Site Plan Description

The site plan depicts an existing two-story commercial building measuring 15,000 square feet. The site adjoins buildings to the west and east, and has street frontage on Whittier Blvd to the south and an alley to the north. The building has a height of 41 feet. The building does not have any parking spaces and has no setbacks from the sidewalks and the alley.

SURROUNDING ZONING

North: R-3-(P) (Limited Multiple Residence and Parking Overlay)

South: C-3 (Unlimited Commercial)

East: C-3 (Unlimited Commercial)

West: C-3 (Unlimited Commercial)

SURROUNDING LAND USE

North: Multi-Family Residential

East: Mixed Retail (clothes)

West: Mixed Retail (clothes)

South: Mixed Retail (clothes and shoes)

ENVIRONMENTAL DETERMINATION

The Department of Regional Planning has determined that a Class 3 Categorical Exemption for New Construction or Conversion of Small Structures is the appropriate environmental documentation under California Environmental Quality Act (CEQA).

LEGAL NOTIFICATION AND PUBLIC OUTREACH

Pursuant to the provisions of Sections 22.60.174 and 22.60.175 of the County Code, the community was appropriately notified of the public hearing by mail, newspaper, property posting, library posting and DRP website posting.

PREVIOUS CASES/ZONING HISTORY

Plot Plan No. 48161 (remodel of an existing market: approval of first floor area, location and area of signage). Approved 7/3/2002.

Zoning Conformance Review No. 200400164 (demolishing of 3 walls to create 4 storefronts). Approved 12/15/2004.

STAFF EVALUATION

General Plan Consistency

The proposed project can be found consistent with the Los Angeles County General Plan. The project applicant is proposing to construct an unmanned wireless telecommunications facility on the roof of an existing two-story commercial building in order to improve wireless telecommunications service provisions in the local area. The proposed facility is small in nature and visually unobtrusive.

East Los Angeles Community Plan

The East Los Angeles Community Plan (adopted June 23, 1988) designates the location of the proposed project as Major Commercial ("MC"), which is defined as "areas containing mixtures of small and large businesses in major areas. These areas are oriented toward the greater East Los Angeles area." The existing mixed-use commercial building is compatible with this designation. The Community Plan states that buildings in the "MC" Designation should have no more than 90% lot coverage and not be more than 40 feet high. The existing mixed-use building was built in 1927 and is nonconforming due to standards.

The Community Plan states that a "physical environmental" goal is to "to encourage high standards of development and improve the aesthetic qualities of the community." The screening of the antennas on the rooftop of an existing building implements that goal.

The Community Plan states that one of the land use policies is to "encourage rehabilitation of existing commercial uses and development of new commercial infill along the major corridors (Whittier, Olympic and Atlantic Boulevards) where commercial uses are designated on the Land Use Plan map and where transportation and other municipal services can support development." The proposed project improves the value

of the existing historical buildings of the Whittier Boulevard and provides cell phone and data coverage to the business district.

Zoning Ordinance and Development Standards Compliance

The subject area is covered by the East Los Angeles Community Standards District (CSD).

A. Purpose – Section 22.44.118(A)

The East Los Angeles Community Standards District is established to provide a means of implementing special development standards for the unincorporated community of East Los Angeles. The East Los Angeles Community Standards District is necessary to ensure that the goals and policies of the adopted East Los Angeles Community Plan are accomplished in a manner which protects the health, safety and general welfare of the community.

There are four levels of standards:

- Communitywide Development Standards - Section 22.44.118(C)
- Communitywide Zone-specific standards - Section 22.44.118(D)(6)
- Area-Specific Standards – Section 22.44.118(E)(1)
- Whittier Boulevard Area Zone Specific Development Standards – Section 22.44.118(E)(1)(d)

B. Communitywide Development Standards – Section 22.44.118(C)

The subject property is subject to communitywide development standards.

1. Fences – Section 22.44.118(C)(1)

There are no fences on the property. This standard is satisfied.

2. Height Limit – Section 22.44.118(C)(2)

The maximum height of any structure shall be 40 feet except that devices or apparatus essential to industrial processes or communications related to public health and safety may be 50 feet in height or as otherwise specified in this section; said heights may be modified subject to a conditional use permit.

The proposed antenna is at 47 feet height. This standard is satisfied.

3. Signage – Section 22.44.118(C)(3)(b)

Sign areas shall comply with the following requirements:

- i. The total permitted sign area of all signs on a building or site is 10 percent of the building face (not to exceed 240 square feet).*
- ii. Building face area is the height of the building (not including the parapet) multiplied by its frontage.*

The existing signage on the building is less than 240 square feet. This standard is satisfied.

4. Outdoor Advertising Signs - Section 22.44.118(C)(3)(b)

No outdoor advertising signs are existing or proposed. This standard is satisfied.

C. Zone Specific Development Standards for the C-3 Zone – Section 22.44.118(D)(6)

1. Height Limit - Section 22.44.118(D)(6)(a)

The maximum height permitted in Zone C-3 shall be 40 feet.

The proposed tower has a height of 47 feet. This standard is exceeded, however, antennas may exceed the maximum height limits.

2. Multi-tenant Provisions – Section 22.44.118(D)(6)(b)

Refer to C-1 for multiple-tenant commercial landscaping and buffering and loading requirements:

When more than five tenants conduct business in a building which does not separate the businesses by permanent floor-to-ceiling walls as defined in the Building Code, the following shall apply:

- i. A conditional use permit shall first be obtained as provided in Part 1 of Chapter 22.56.*
- ii. Customer and tenant parking shall be supplied at a ratio of one space per 200 square feet of gross floor area.*
- iii. Each leasable space in the building shall consist of at least 500 square feet of gross floor area.*

The proposed project is for a rooftop wireless telecommunications facility and no modifications are being proposed for the commercial or office areas of the building.

3. Landscaping & Buffering - Section 22.44.118(D)(4)(c)

Refer to C-1 for multiple-tenant commercial landscaping and buffering and loading requirements:

- i. Whenever adjacent to a property line, parking areas shall provide a landscaped buffer strip of at least five feet in width.*
- ii. Where a commercial zone abuts a residence or residential zone, a landscaped buffer strip at least five feet wide shall be provided.*
- iii. Landscaping shall be provided and maintained in a neat and orderly manner. A 15-gallon tree shall be provided for every 50 square feet of landscaped area, to be equally spaced along the buffer strip. The landscaping materials shall be approved by the director.*
- iv. Permanent irrigation systems shall be required and maintained in good working order.*
- v. A solid masonry wall not less than five feet high nor more than six feet in height shall be provided along the side and rear property lines.*
- vi. A site plan shall be submitted to and approved by the director to ensure that the use will comply with the provisions of this section as provided in Part 12 of Chapter 22.56.*
- vii. The director of planning may modify the foregoing requirements for landscaping and buffering where their strict application is deemed impractical because of physical, topographical, title or other limitations. Any such*

modification may include substitution of landscaping or fencing materials. In granting any such modification, the director shall find that the intent and spirit of this section is being carried out.

The existing multi-use building was constructed in the 1920s with zero setbacks. There is no area for landscaping. This requirement does not apply.

4. Loading - Section 22.44.118(D)(4)(d)

Where practical loading doors and activity shall be located away from adjacent residences.

There are no loading doors and no loading "activity" that occurs on the north end of this building. The residences are screened by a fence north of the alley. This requirement has been met.

D. Area Specific Development Standards – Whittier Boulevard Area – Section 22.44.118(E)(1)

The subject property is located in the Whittier Boulevard Area.

1. Purpose - Section 22.44.118(E)(1)(a)

The Whittier Boulevard area specific development standards are established to provide a means of implementing the East Los Angeles Community Plan ("community plan"). The community plan's land use map and policies encourage a specific plan for the Whittier Boulevard area in order to address land use, parking, design and development issues. The development standards are necessary to ensure that the goals and policies of the community plan are accomplished in a manner which protects the welfare of the community, thereby strengthening the physical and economic character of Whittier Boulevard as a community business district. Furthermore, the provisions of this section will enhance the pedestrian environment and visual appearance of existing and proposed structures and signage, encourage new businesses which are complimentary to the character of Whittier Boulevard, and provide buffering and protection of the adjacent residential neighborhood.

2. Parking – Section 22.44.118(E)(1)(c)(i)

Automobile parking shall be provided in accordance with Part 11 of Chapter 22.52, except that:

(1) Parking shall not be required for new developments or expansions proposed within the first 50-foot depth of any commercial lot fronting Whittier Boulevard.

Parking shall be required for new developments and expansions proposed beyond the 50-foot depth of any commercial lots fronting Whittier Boulevard.

(2) Parking for retail and office uses shall be calculated at one space for every 400 square feet of gross floor area.

(3) For restaurants having a total gross floor area of less than 1,000 square feet, the required parking shall be based on one space for each 400 square feet of gross floor

area.

(4) There shall be one parking space for each six fixed seats in a theater or cinema (single screen or multi-screen). Where there are no fixed seats, there shall be one parking space for each 35 square feet of floor area (exclusive of stage) contained therein.

The proposed project is a wireless telecommunications facility with a suggested parking requirement of one space, which may be waived by the Planning Director. The space is used approximately one day per month for maintenance of the antennas. Because the site has no area available for parking spaces, it is recommended that the parking requirement of one space be waived. The maintenance technician may use one of the on-street parking spaces.

3. Setbacks – Section 22.44.118(E)(1)(c)(ii)

New developments and expansions of existing structures shall maintain a maximum 10-foot setback along Whittier Boulevard. Within the 10-foot setback, permitted uses shall include outdoor dining, outside display pursuant to the requirements of subsection E1dvii of this section, landscaping, street furniture and newsstands.

This is not a new development or an expansion of an existing structure. The subject property has no setback, therefore this requirement is met.

4. Signs – Section 22.44.118(E)(1)(c)(iii)

(1) Except as herein specifically provided, all signs shall be subject to the provisions of Part 10 of Chapter 22.52.

(2) The sign regulations prescribed herein shall not affect existing signs which were established in accordance with this title prior to the effective date of the ordinance codified in this section. Changes to existing signs, including size, shape, colors, lettering and location, shall conform to the requirements of this section.*

(3) All signs in disrepair shall be repaired so as to be consistent with the requirements of this section or shall be removed within 30 days from receipt of notification by the director that a state of disrepair exists.

(4) Wall Signs.

(a) Wall signs shall be mounted flush and affixed securely to a building wall and may only extend from the wall a maximum of 12 inches.

(b) Wall signs may not extend above the roofline and may only extend sideways to the extent of the building face.

(c) Each business in a building shall be permitted a maximum of two wall-mounted business signs facing the street and alley frontage or a maximum of three signs if the business is on a corner or has a street frontage of more than 75 feet.

(5) Roof Signs.

(a) Roof signs shall only be permitted on buildings having 150 feet of street frontage along Whittier Boulevard.

(b) Roof signs shall be designed and incorporated as an architectural feature of the building.

(6) Prohibited Signs. The following signs are prohibited:

- (a) Outdoor advertising, including billboards;
- (b) Freestanding pole signs;
- (c) Freestanding roof signs not in conformance with subsection E1ciii(5) of this section.
- (7) Sign Size. Maximum height of letters shall be restricted to 18 inches. Greater letter sizes, to a maximum of 24 inches, shall require approval of a minor variation by the director as provided in this section.

The existing signage meets these requirements.

5. Design Standards 22.44.118(E)(1)(c)(iv)

Proposed improvements, renovations, and changes pertaining to the following design standards shall comply with the provisions of the applicable design standard:

(1) Materials.

(a) Any exposed building elevation shall be architecturally treated in a consistent manner, including the incorporation within the side and rear building elevations of some or all of the design elements used for the primary facades, to the satisfaction of the director.

(b) Consideration shall be given to the adjacent structures so that the use of colors and materials are complimentary, to the satisfaction of the director.

(2) Awnings.

(a) Awnings shall be the same color and style for each opening on a single storefront or business.

(b) Awnings shall be complimentary in color and style for each storefront in a building.

(c) Awnings in disrepair shall be repaired or removed within 30 days after receipt of notification by the director that a state of disrepair exists.

(3) Mechanical Equipment.

(a) Individual air-conditioning units for a building or storefront shall be located to avoid interference with architectural detail and the overall building design.

(b) If air-conditioning units must be located in the storefront, window units shall be neutral in appearance and shall not project outward from the facade. The housing color shall be compatible with the colors of the storefront. If possible, air-conditioning units shall be screened or enclosed by using an awning or landscaping.

(c) Mechanical equipment located on roofs shall be screened by parapet walls or other material so that the equipment will not be visible by pedestrians at street level or by adjacent residential properties.

(4) Security.

(a) Chain link, barbed and concertina wire fences are prohibited. In place of such fencing, tubular steel or wrought iron fences are permitted.

(b) All security bars and grilles shall be installed on the inside of the building.

(c) Folding accordion grilles installed in front of a storefront are prohibited.

(d) Roll-up shutters should be open, decorative grilles and concealed within the architectural elements of the building. Solid shutters are prohibited.

(e) Fences on rooftops visible from normal public view within 300 feet are prohibited.

These requirements are met.

6. Graffiti – Section 22.44.118(E)(1)(c)(v)

To encourage the maintenance of exterior walls free from graffiti, the following shall apply to all properties within the Whittier Boulevard area:

- (1) All structures, walls and fences open to public view shall remain free of graffiti.*
- (2) In the event such graffiti occurs, the property owner, lessee or agent thereof shall remove such graffiti within 72 hours, weather permitting. Paint utilized in covering such graffiti shall be of a color that matches, as closely as possible, the color of the adjacent surfaces.*

The Conditions of Approval will contain a condition to require the owner to paint over graffiti within 24 hours.

E. Whittier Boulevard Area Zone Specific Development Standards - Section 22.44.118(E)(1)(d)

Proposed improvements, renovations and changes pertaining to the following development standards shall comply with the provisions of the applicable development standard.

The existing structure and proposed rooftop wireless telecommunications facility meets these standards.

Site Visit

Staff conducted a site visit in early July. The property appeared well maintained.

Neighborhood Impact/Land Use Compatibility

A rooftop telecom is compatible with the surrounding area. The area to the north is multi-family residential. The uses to the west and east are commercial uses.

Burden of Proof

The applicant is required to substantiate all facts identified by Section 22.56.040 of the Los Angeles County Code. The Burden of Proof with applicant's responses is attached. Staff has reviewed the applicant's responses to the Burden of Proof, and staff finds that the Burden of Proof has been substantiated.

The Burden of Proof has been met because the proposed use (the wireless telecommunications facility): (1) does not adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area; (2) is not materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site; and (3) will not jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare. The proposed site (an existing commercial building) is (4) adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features; (5) is adequately served by highways or streets of sufficient width, and improved as necessary to carry the kind and quantity of traffic such use would generate, and by other public or private service facilities.

COUNTY DEPARTMENT COMMENTS AND RECOMMENDATIONS

No consultations were requested due to the minor nature of the use.

PUBLIC COMMENTS

No comments have been received at the time of the writing of the staff report.

FEES/DEPOSITS

If approved, fees identified in the attached project conditions will apply unless modified by the Hearing Officer.

STAFF RECOMMENDATION

The following recommendation is made prior to the public hearing and is subject to change based upon testimony and/or documentary evidence presented at the public hearing:

Staff recommends **APPROVAL** of Project Number R200400936-(1) and Conditional Use Permit No. 200900015 subject to the attached conditions.

Prepared by Andrew Svitek, Regional Planning Assistant II

Reviewed by Maria Masis, Supervising Regional Planner, Zoning Permits Section II

Attachments:

Draft Conditions of Approval

Draft Findings

Applicant's Burden of Proof Statement

Site Photographs

Site Plan

Land Use Map

HEARING OFFICER'S FINDINGS AND ORDER:

REQUEST: Pursuant to the provisions of Section 22.56, Part 1 of the Los Angeles County Code, a Conditional Use Permit to authorize the construction, operation, and maintenance of an unmanned wireless telecommunications facility, consisting of 12 panel antennas (4 antennas per sector, 3 sectors) mounted on an existing two-story mixed-use commercial building and appurtenant facilities, located within the Eastside Unit Number One Zoned District of Los Angeles County.

PROCEEDINGS BEFORE THE HEARING OFFICER:

[To be completed subsequent to the public hearing]

Findings

1. The applicant, T-Mobile West Corporation, proposes to construct, operate, and maintain a wireless telecommunication facility consisting of 12 panel antennas in three (3) sectors located on the rooftop of an existing commercial mixed-use building. The lease area consists of the entire rooftop of the building. The antennas would be screened by an enclosure painted and textured to match the existing building, extending 7 feet above the existing rooftop for a maximum height of 47 feet. Six (6) equipment cabinets and appurtenant facilities (2 indoor BBUs and a proposed A/C fan unit) would be located within a 135 square-foot lease area in the basement of the building.
2. The existing building was constructed in 1927 and is nonconforming due to standards.
3. The project site is an existing two-story commercial mixed-use building, located at 4709 Whittier Boulevard. The project site is located in the community of East Los Angeles within the Eastside Unit Number One Zoned District of unincorporated Los Angeles County.
4. The project site is zoned C-3 (Unlimited Commercial) and is located within the East Los Angeles Community Standards District (CSD).
5. The project is designated Major Commercial ("MC") in the East Los Angeles Community Plan. The wireless telecommunications facility is consistent with this community plan category.
6. Surrounding properties are zoned as follows:
 - North: R-3-(P) (Limited Multiple Residential and Parking Overlay)
 - South: C-3 (Unlimited Commercial)
 - East: C-3 (Unlimited Commercial)
 - West: C-3 (Unlimited Commercial)
7. The surrounding land uses consists of the following:

- North: Multi-family residential
South: Mixed retail (clothes)
East: Mixed retail (clothes)
West: Mixed retail (clothes and shoes)
8. There are two previous zoning cases approved on the subject property: Plot Plan No. 48161 (remodel of an existing market: approval of first floor area, location and area of signage) and Zoning Conformance Review No. 200400164 (demolishing of 3 walls to create 4 storefronts).
 9. The plans and photograph simulation submitted with the application illustrate that the sizes, heights, shapes, colors, and materials of the proposed structures integrate fairly well into the surrounding landscape. Panel antennas will be disguised with screen boxes painted to match the building, and the separate lease area for storage of equipment will be in the basement, where it will not be visible to the public.
 10. The Department of Regional Planning has determined that the project qualifies for a Class 3 Categorical Exemption (New construction or conversion of small structures) under the California Environmental Quality Act (CEQA) reporting requirements.
 11. Public hearing notices were mailed out to property owners located within the 500-foot radius of the subject property regarding the subject proposal, notices were published, and case-related materials were sent to the East Los Angeles Public Library. The property was posted with a public hearing notice.
 12. Staff did not receive any comments regarding the subject request from public agencies.
 13. Staff did not receive any comments from the public regarding this project.
 14. The development standards listed in the County Code for C-3 zoning indicate radio and television towers (and wireless facilities) are permitted upon issuance of a Conditional Use Permit. The CUP process also allows for variation in height on a case-by-case basis.

BASED ON THE FOREGOING, THE HEARING OFFICER CONCLUDES:

- A. The proposed use is consistent with the adopted general plan for the area;
- B. The requested use at the proposed locations will not adversely affect the health, peace, comfort, or welfare of persons residing and working in the surrounding areas, not be materially detrimental to the use, enjoyment, or valuation of

property of other persons located in the vicinity of the site, and will not jeopardize, endanger, or otherwise constitute a menace to the public health, safety and general welfare;

- C. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking, landscaping and other development features;
- D. The proposed site is adequately served by highways of sufficient width, and improved as necessary to carry the kind of traffic such use would generate and by other public or private facilities as are required.

THEREFORE, the information submitted by the applicant and presented at the public hearing substantiates the required findings for conditional use permits as set forth in Sections 22.56.090, Title 22, of the Los Angeles County Code (Zoning Ordinance).

HEARING OFFICER ACTION:

1. The Hearing Officer finds that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA). The project is within a class of projects, which have been determined not to have a significant effect on the environment in that it meets the criteria set forth in section 15301 of the State CEQA Guidelines and Class 3 of the County Environmental Document Reporting Procedures and Guidelines, Appendix G
2. In view of the findings of facts presented above, Conditional Use Permit Case No. 20090015 is **APPROVED**, subject to the attached conditions.

Attachments: Conditions
Affidavit of Acceptance

c: Zoning Enforcement, Building and Safety

1. This grant authorizes the use of the subject property for the construction, operation, and maintenance of a wireless telecommunication facility consisting of 12 panel antennas in three (3) sectors located on a lease area that includes the entire rooftop on the rooftop of a mixed use building. The antennas would be screened by an enclosure painted and textured to match the existing building, extending 7 feet above the existing rooftop for a maximum height of 47 feet. Six (6) equipment cabinets and appurtenant facilities would be located within a 135 square-foot lease area in the basement of the building. All facilities shall be as depicted on the approved Exhibit "A" and subject to all of the following conditions of approval.
2. Unless otherwise apparent from the context, the term "permittee" shall include the applicant and any other person, corporation, or other entity making use of this grant.
3. This grant shall not be effective for any purpose and cannot be used until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the Los Angeles County Department of Regional Planning their affidavit stating that they are aware of, and agree to accept, all conditions of this grant and that the conditions have been recorded as required by Condition No. 8, and until all required fees have been paid pursuant to Condition No. 10. Notwithstanding the foregoing, this condition (No. 3), and Condition Nos. 4 [indemnification], 5 [litigation deposit], and 6 [expiration date] shall be effective immediately upon final approval of this grant by the County.
4. The permittee shall defend, indemnify and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void or annul this permit approval, which action is brought within the applicable time period of Government Code Section 65009 or any other applicable limitation period. The County shall notify the permittee of any claim, action, or proceeding and the County shall reasonably cooperate in the defense.
5. In the event that any claim, action, or proceeding as described above is filed against the County, the permittee shall within ten days of the filing pay the Department of Regional Planning an initial deposit of \$5,000, from which actual costs shall be billed and deducted for the purpose of defraying the expenses involved in the department's cooperation in the defense, including but not limited to, depositions, testimony, and other assistance to permittee or permittee's counsel. The permittee shall also pay the following supplemental deposits, from which actual costs shall be billed and deducted:
 - a. If during the litigation process, actual costs incurred reach 80 percent of the amount on deposit, the permittee shall deposit additional funds sufficient to bring the balance up to the amount of the initial deposit. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation.

- b. At the sole discretion of the permittee, the amount of an initial or supplemental deposit may exceed the minimum amounts defined herein.

The cost for collection and duplication of records and other related documents will be paid by the permittee in accordance with Los Angeles County Code Section 2.170.010.

6. This grant shall expire unless used within 2 years from the date of final approval by the County. A single one-year time extension may be requested in writing and with the payment of the applicable fee prior to such expiration date.
7. If any provision of this grant is held or declared to be invalid, the permit shall be void and the privileges granted hereunder shall lapse.
8. Prior to the use of this grant, the terms and conditions of the grant shall be recorded in the office of the County Recorder. In addition, upon any transfer or lease of the property during the term of this grant, the permittee shall promptly provide a copy of the grant and its conditions to the transferee or lessee, as applicable, of the subject property.
9. **This grant will terminate on September 1, 2019.** Entitlement to use of the property thereafter shall be subject to the regulations then in effect. If the permittee intends to continue operations after such date, a new Conditional Use Permit application shall be filed with the Department of Regional Planning at least six months prior to the termination date of this permit, whether or not any modification of the use is requested at that time.
10. The subject property shall be maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance, or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions. Prior to the use of this grant, the permittee shall deposit with the County of Los Angeles the sum of \$750.00. These monies shall be placed in a performance fund which shall be used exclusively to compensate the Department of Regional Planning for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval, including adherence to development in accordance with the approved site plan on file. The fund provides for 5 biennial inspections. Inspections shall be unannounced.

If additional inspections are required to ensure compliance with the conditions of this grant, or if any inspection discloses that the subject property is being used in violation of any one of the conditions of this grant, the permittee shall be financially responsible and shall reimburse the Department of Regional Planning for all additional inspections and for any enforcement efforts necessary to bring the subject property into compliance. Inspections shall be made to ensure compliance with the conditions of this grant as well as adherence to development in accordance

with the approved site plan on file. The amount charged for additional inspections shall be the amount equal to the recovery cost at the time of payment (currently \$150 per inspection).

11. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the Regional Planning Commission or a hearing officer may, after conducting a public hearing, revoke or modify this grant, if the Commission or hearing officer finds that these conditions have been violated or that this grant has been exercised so as to be detrimental to the public health and safety or so as to be a nuisance.
12. All requirements of the Zoning Ordinance and of the specific zoning of the subject property must be complied with unless specifically modified by this grant, as set forth in these conditions or shown on the approved plans.
13. All structures shall comply with the requirements of the Division of Building and Safety of the Los Angeles County Department of Public Works.
14. All structures, walls, and fences open to public view shall remain free of extraneous markings, drawings, or signage. These shall include any of the above that do not directly relate to the facility being operated on the premises or that do not provide pertinent information about said premises. The only exceptions shall be seasonal decorations or signage provided under the auspices of a civic or non-profit organization.
15. In the event of an occurrence of such extraneous markings, drawings, or signage, the permittee shall remove or cover them within 24 hours of such occurrence, weather permitting. Paint utilized in covering such markings shall be of a color that matches, as closely as possible, the color of the adjacent surfaces.
16. The facility shall be operated in accordance with regulations of the State Public Utilities Commission.
17. Said facility shall be removed if in disuse for more than six months.
18. Insofar as is feasible, the operator shall cooperate with any subsequent applicants for wireless communications facilities in the vicinity with regard to possible co-location. Such subsequent applicants will be subject to the regulations in effect at that time.
19. Upon request, the permittee shall provide written verification that the proposed facility's radio-frequency radiation and electromagnetic field emissions will fall within the adopted Federal Communications Commission (FCC) standards for safe human exposure to such forms of non-ionizing electromagnetic radiation when operating at full strength and capacity for the lifetime of this conditional use permit. The permittee/operator shall submit a copy of the initial report on the said facility's radio

frequency emissions level, as required by the FCC requirements, to the Department of Regional Planning.

20. Any proposed wireless telecommunications facility that will be co-locating on the proposed facility will be required to submit the same written verification and include the cumulative radiation and emissions of all such facilities.
21. The surface colors and materials of all facilities shall not be glossy or reflective in nature and shall be maintained in good condition at all times. The screen boxes attached to the roof parapets shall be painted or otherwise colored to match the color of the existing building.
22. Said facility, including any lighting, fences, shields, cabinets, and poles shall be maintained by the operator in good repair, free from trash, debris, litter and graffiti and other forms of vandalism. Any damage from any cause shall be repaired as soon as reasonably possible to prevent occurrences of dangerous conditions or visual blight.
23. The subject property shall be developed and maintained in substantial compliance with the plans marked Exhibit "A."

MM:AS
8/20/09



CONDITIONAL USE PERMIT BURDEN OF PROOF

Pursuant to Zoning Code Section 22.56.040, the applicant shall substantiate the following:

(Do not repeat the statement or provide Yes/No responses. If necessary, attach additional pages.)

A. That the requested use at the location will not:

1. Adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area, or
2. Be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site, or
3. Jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare.

Please see attached "Burden of Proof"

B. That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this Title 22, or as is otherwise required in order to integrate said use with the uses in the surrounding area.

C. That the proposed site is adequately served:

1. By highways or streets of sufficient width, and improved as necessary to carry the kind and quantity of traffic such use would generate, and
2. By other public or private service facilities as are required.

Conditional Use Permit Case - Burden of Proof per Section 22.56.040

- A. That the requested use at the location proposed will not: 1) adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area, or 2) be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site, or 3) jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare.**

The proposed wireless telecommunications facility is unmanned and will be located on property zoned for commercial uses. The proposed wireless facility will not adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area insofar as the proposed use will not add to the ambient noise level, it will not generate any obnoxious odors or solid waste and will not generate a notable level of additional traffic. The proposed use will also not be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site insofar as the proposed use will be unmanned and will require only periodic maintenance visits following construction of the facility. Furthermore, the proposed facility will not jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare insofar as the proposed facility is unmanned and is part of a regional network of antennas providing ubiquitous wireless telecommunications service.

The proposed facility is designed to provide T-Mobile customers that reside, work and travel through the immediate area with improved wireless telecommunication services. Currently, T-Mobile coverage in the area is substandard resulting in dropped and/or blocked calls. The proposed facility will provide improved coverage and capacity to T-Mobile's wireless network ensuring fewer blocked and dropped calls as well as providing customers with the latest in wireless services.

It should also be noted that wireless communications technology has proven to be convenient for personal use, necessary for business and essential during emergency situations where traditional telephone service is not available or becomes disrupted or overloaded in the event of a natural disaster. To that end, the proposed wireless telecommunications facility will contribute to the public health, safety and general welfare.

- B. That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this Title 22, or as is otherwise required in order to integrate said use with the uses in the surrounding area.**

The proposed wireless telecommunication consists of a roof mounted Wireless Facility consisting of 12 antennas divided into 3 sectors of 4 antennas. The current height of the

South side of the building is 41'-4" and the current height of the North side of the building is 34'-11". The new faux parapet element screening of the two sectors on the South side of the building will increase the height to 47 feet. The new faux parapet element screening for Sector A on the North side of the building will increase the height to 41'-11". The subject site is of adequate size to accommodate the proposed use while not impacting the current use of the property. The proposed facility will not introduce any new vertical elements into the community. The installation of the proposed facility will not preclude other wireless facilities from being established at this same location.

Section 22.52.1220 of the Los Angeles County Zoning Ordinance requires that one parking space be provided for the monthly maintenance site visits. The subject site has more than adequate space to allow for the parking of one or more vehicles.

When determining an appropriate site for the facility, T-Mobile first searched for the opportunity to co-locate with in the area which needed the increased wireless coverage and capacity. There are other buildings of sufficient height to satisfy RF coverage objectives, however until now those landlords have expressed no interest. Therefore, T-Mobile has proposed the site at the subject property due to its close proximity to the search ring and its ability to mitigate the aesthetic impacts normally created by a WTF.

- C. That the proposed site is adequately served: 1) by highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate, and 2) by other public or private service facilities as are required**

The proposed wireless telecommunications facility will be unmanned, will not create an increase in traffic and will not require any public or private services beyond single-phase 110V electrical and telephone service.

SITE PHOTOS:



FROM SITE TO NORTH



FROM SITE TO EAST



3 MacArthur Place, Ste. 11, Santa Ana, CA 92707



FROM SITE TO SOUTH



FROM SITE TO WEST



3 MacArthur Place, Ste. 11, Santa Ana, CA 92707

A photo from this angle cannot be obtained.

TO SITE FROM NORTH

A photo from this angle cannot be obtained.

TO SITE FROM EAST

T-Mobile

3 MacArthur Place, Ste. 11, Santa Ana, CA 92707



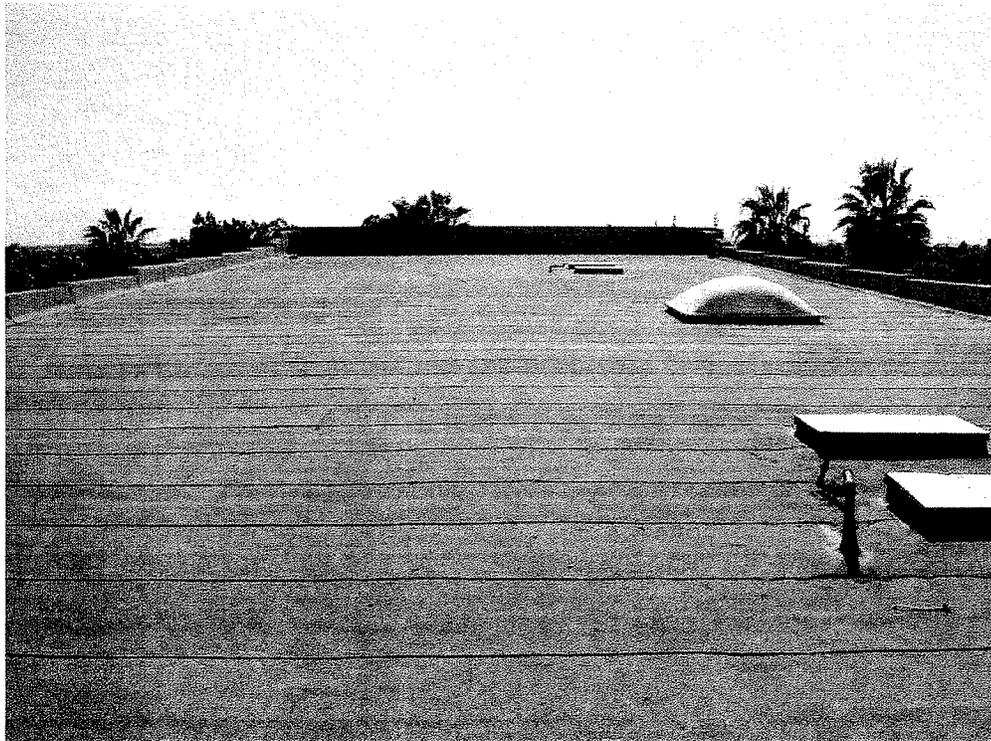
TO SITE FROM SOUTH

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TO SITE FROM WEST



ANTENNA LOCATION



ANTENNA LOCATION



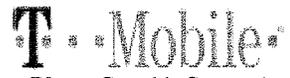
3 MacArthur Place, Ste. 11, Santa Ana, CA 92707



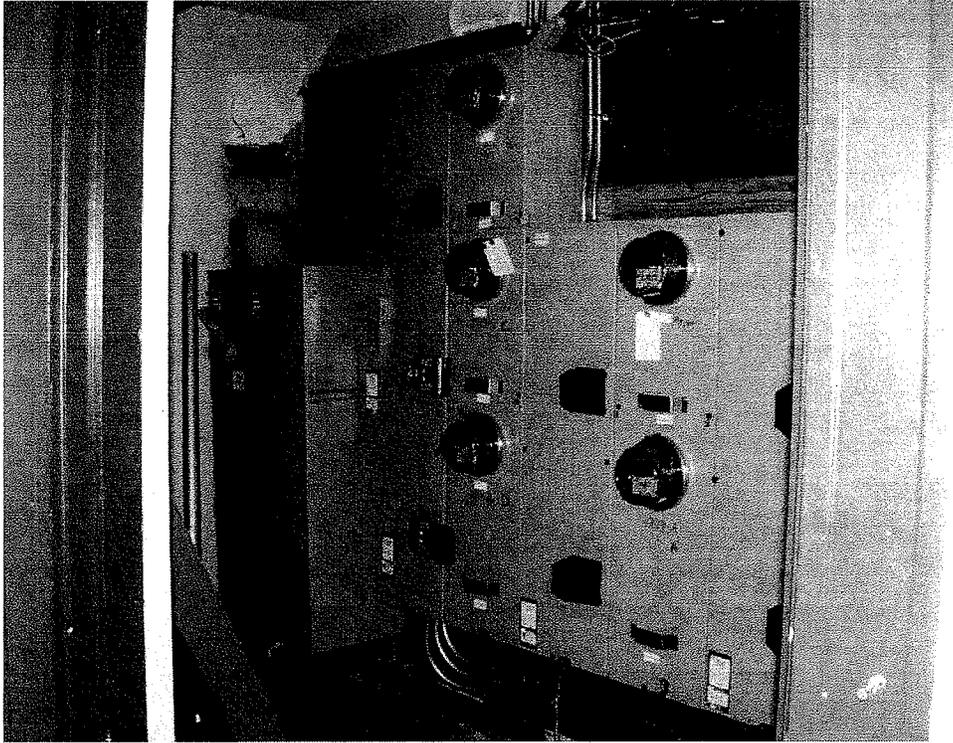
EQUIPMENT AREA



SITE ACCESS



3 MacArthur Place, Ste. 11, Santa Ana, CA 92707



POWER



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