Planning Commission Transmittal Checklist

Hearing Date
4/21/2010
Agenda Item Number

Project Number: R2008-01980
Case(s): RCUP200800165
Contact Person: Daniel Fierros

Included	NA/None	Document
☒	☐	Factual
☒	☐	Property Location Map
☒	☐	Staff Report
☒	☐	Draft Findings
☒	☐	Draft Conditions
☐	☒	DPW Letter
☐	☒	FD Letter
☐	☒	Other Department's Letter(s)
☒	☐	Burden Of Proof Statement(s)
☐	☒	Environmental Documentation (IS, MMP, EIR)
☒	☐	Opponent And Proponent Letters
☒	☐	Photographs
☐	☒	Resolution (ZC Or PA)
☐	☒	Ordinance with 8.5 X 11 Map (ZC Or PA)
☒	☐	Aerial (Ortho/Oblique) Image(s)
☒	☐	Land Use Radius Map
☒	☐	Site Plan And Elevations
☒	☐	Hearing Officer' Findings and Conditions

Reviewed By: Mark Child

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

PROJECT NUMBER R2008-01980 (3)
CONDITIONAL USE PERMIT RCUP200800165 (3)

PUBLIC HEARING DATE	AGENDA ITEM
4/21/2010	
RPC CONSENT DATE	CONTINUE TO

APPLICANT	OWNER	REPRESENTATIVE
Omnipoint Communications, inc. (T-Mobile)	None	Sarah Ryzner-Svililo

PROJECT DESCRIPTION

T-Mobile proposes the installation of a wireless telecommunications facility in the public right-of-way (ROW) consisting of three (3) panel antennas, to be mounted on a 22'-6" concrete textured octagonal pole. The antennas will be enclosed by 30" x 66" "Antenna Radome" placed on the top of the pole. The overall height of the pole is 28'. The associated equipment will be placed in an underground vault on the other side of the street. Two (2) 20" x 36" vent stacks will be placed adjacent to the vault as well as the Meyers electrical meter pedestal.

REQUIRED ENTITLEMENTS

An appeal by the neighbors to the Regional Planning Commission of the Hearing Officer's determination. On February 16, 2010 a Conditional Use Permit (CUP) was granted to authorize the applicant Omnipoint Communications the installation of a new wireless telecommunications facility in the public right-of-way (ROW). The CUP authorizes the construction, maintenance and installation of a new wireless telecommunications facility consisting of three (3) panel antennas, to be mounted on a 22'6" concrete textured octagonal pole within the public road right-of-way (ROW). The antennas will be enclosed by a 30" x 66" radome placed on the top of the pole. The overall height of the pole is 28' and the associated equipment will be placed in a vault across the street.

LOCATION/ADDRESS

3418 Shoreheights Dr.

SITE DESCRIPTION

The site is on the public right-of-way. The proposed monopole is located at the end of a cud sac and at the end of the paved sidewalk.

ACCESS	ZONED DISTRICT
Shoreheights Dr.	The Malibu
ASSESSORS PARCEL NUMBER	**COMMUNITY**
Across the Street from 4443-017-001	Malibu
SIZE	**COMMUNITY STANDARDS DISTRICT**
0 Acres (Public Right-of-way)	N/A

	EXISTING LAND USE	EXISTING ZONING
Project Site	Public right-of-way	R-1-6,000
North	Vacant	R-1-8,000
East	Single Family Residential	R-1-6,000
South	Single Family Residential	R-1-6,000
West	Vacant	R-1-8,000

GENERAL PLAN/COMMUNITY PLAN	LAND USE DESIGNATION	MAXIMUM DENSITY
Malibu Coastal Zone	8B-Residential III(B) (4 to 6 du/ac)	N/A

ENVIRONMENTAL DETERMINATION

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

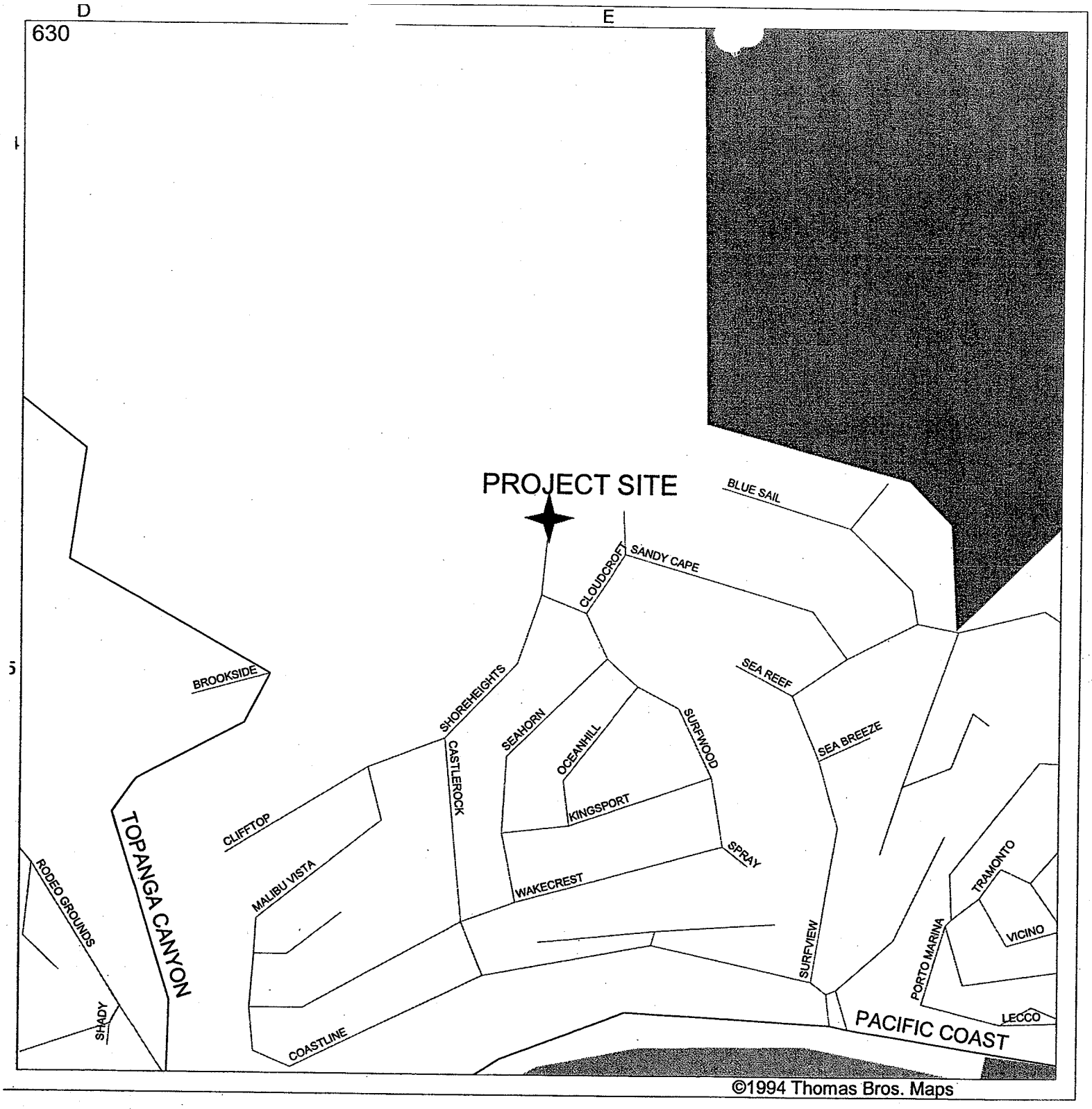
RPC LAST MEETING ACTION SUMMARY

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: Daniel Fierros		
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



VICINITY MAP

SITE : 3418 ½ SHOREHEIGHTS DRIVE - SV11110

Proposed Monopole Location

PUBLIC RIGHT-OF-WAY
ACROSS THE STREET OF PARCEL 4443-017-001

STAFF ANALYSIS
PROJECT NUMBER R2008-01980 (3)
CONDITIONAL USE PERMIT RCUP200800165 (3)

REQUIRED ENTITLEMENTS

A Conditional Use Permit (CUP) for a wireless telecommunication facility as required per section 22.20.100 of the Zoning Code. The Hearing Officer's determination was appealed to the Regional Planning Commission by the neighbors. On February 16, 2010 a conditional use permit was granted to authorize the applicant Omnipoint Communications the installation of a new wireless telecommunications facility in the public right-of-way (ROW). The CUP authorizes the construction, maintenance and installation of a new wireless telecommunications facility consisting of three (3) panel antennas, to be mounted on a 22'6" concrete textured octagonal pole within the public road right-of-way (ROW). The antennas will be enclosed by a 30" x 66" radom placed on the top of the pole. The overall height of the pole is 28' and the associated equipment will be placed in a vault across the street.

PROJECT DESCRIPTION

T-Mobile proposes the installation of a wireless telecommunications facility in the public right-of-way (ROW) consisting of three (3) panel antennas, to be mounted on a 22'-6" concrete textured octagonal pole. The antennas will be enclosed by 30" x 66" "Antenna Radome" placed on the top of the pole. The overall height of the pole is 28'. The associated equipment will be placed in an underground vault on the other side of the street. Two (2) 20" x 36" vent stacks will be placed adjacent to the vault as well as the Meyers electrical meter pedestal.

LOCATION

The subject property is located at 3418 Shoreheights Dr. Malibu, CA 90265 (across from APN 4443-017-001) in the unincorporated community of Malibu within the Malibu Zone District.

SITE PLAN DESCRIPTION

The monopole wireless facility is being located on the public ROW in a residential neighborhood at the end of a cul-de-sac at the end of the paved sidewalk.

Surrounding Properties Zoning

The surrounding properties are zoned as follows:
North: R-1-8,000 (Single Family Residential)
South: R-1-6,000 (Single Family Residential)
East: R-1-6,000 (Single Family Residential)
West: R-1-8,000 (Single Family Residential)

EXISTING LAND USES

Subject Property

The subject site is on the Public ROW.

Surrounding Properties Land Uses
The surrounding land uses are as follows:
North: Vacant
South: Single Family Residential
East: Single Family Residential
West: Vacant

ENVIRONMENTAL DETERMINATION
The subject project qualifies for Class 3 Exemption (New Construction or Conversion of Small Structures), as it includes construction of a small structure of a wireless facility. Staff has determined that the project is Categorically Exempt from the provisions of the 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 ENFORCEMENT HISTORY
There are no previous zoning cases on the proposed project site.

STAFF EVALUATION
General Plan Consistency
The subject property is located within the Malibu Coastal Zone Plan with the Land Use Designation of 8B-Residential III(B) (4 to 6 du/ac). The Malibu Coastal zone Plan visual compatibility section requires that all structures be designed and located so as to create an attractive appearance and harmonious with the surrounding environment. The proposed concrete monopole is designed to match the surrounding street lights poles; therefore the project is consistent with the Malibu Coastal plan.

Zoning Ordinance and Development Standards Compliance
The proposed project substantially meets the Los Angeles County Code requirements and the subject property's Community Plan designation. 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, not including studios" as a comparable use. Radio transmitter stations or towers are uses subject to conditional use permits in the R-1 zone (LACC 22.20.100).

Neighborhood Impact/Land Use Compatibility
The proposed project is located at the end of a residential cul-de-sac on the public ROW adjacent to a vacant parcel and across the street from a single family home.

The proposed monopole design is similar to neighborhood light poles. The proposed structure is visually compatible with the character of development in the surrounding area because the proposed monopole is octagonal in shape, concrete textured designed to match existing street light poles and is not detrimental to the use, enjoyment, or valuation of properties in the vicinity. Conditions of approval will ensure that the project will be compatible with surrounding development.

The project is consistent with policies of the Malibu Coastal Zone and the provisions of the Zoning Ordinance.

If approved, staff recommends a ten (10) year term for the requested conditional use permit. This is based on the need to re-evaluate the project's compatibility with the surrounding community. Staff also recommends that the project be inspected biennially (every other year) for compliance with the conditions of approval.

Burden of Proof
As required by Section 22.56.040 of the Los Angeles County Code, in addition to the information required in the permit application, the applicant shall substantiate to the satisfaction of the Hearing Officer and/or the Commission, the following:

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.

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.

Staff finds that the proposed project substantially meets the above burden of proof.

COUNTY DEPARTMENT COMMENTS AND RECOMMENDATIONS
As of the time of this report, staff has not received any public agency comments

PUBLIC COMMENTS
The Department of Regional Planning and the Board of Supervisors Office has received a total of 42 letters from the neighbors opposing the project, one e-mail and a petition with 136 signatures opposing the project.

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 the Commission deny the appeal and uphold the Hearing Officer's decision for project number R2008-01980 (3) with associated Conditional Use Permit 200800165 (3) subject to the attached conditions because:

- Visually the facility will be well camouflaged
- The site is located at the end of a cul-de-sac uphill from view from the residents.
- There are other similar poles along the street that serve as light standards.
- And geological concerns can be mitigated with project conditions.

Prepared by Daniel Fierros, Senior Regional Planner
Reviewed by Mark Child, Supervising Regional Planner, Zoning Permits Section I

Attachments:
Draft Conditions of Approval
Applicant's Burden of Proof statement
Environmental Document
Site Photographs
Site Plan
Land Use Map

This grant approves, a Conditional Use Permit (CUP) to install a new wireless telecommunications facility subject to the following conditions:

1. The wireless telecommunications facility consisting of three (3) panel antennas, to be mounted on a 22'-6" concrete textured octagonal pole within the public road right-of-way (ROW). The antennas will be enclosed by a 30" x 66" radome placed on the top of the pole. The overall height of the pole is 28'. The associated equipment will be placed in a vault across the street. Two (2) 20" x 36" vent stacks will be placed adjacent to the vault as well as the Meyers electrical meter pedestal.

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. Prior to the use of this grant, the property owner or permittee shall record the terms and conditions of the grant in the office of the County Recorder. In addition, upon any transfer or lease of the property during the term of this grant, the property owner or permittee shall promptly provide a copy of the grant and its conditions to the transferee or lessee of the subject property.

   This grant shall not be effective for any purpose until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the Department of Regional Planning their affidavit stating that they are aware of, and agree to accept, all of the conditions of this grant and that the conditions of the grant have been recorded as required by this condition and until all required monies have been paid (if applicable). Further, this grant shall not be effective until the permittee has obtained the insurance coverage required by these conditions (if Applicable).

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. The County shall promptly notify the permittee of any claim, action, or proceeding and the County shall cooperate fully in the defense. If the County fails to promptly notify the permittee of any claim action or proceeding, or if the County fails to cooperate fully in the defense, the permittee shall not thereafter be responsible to defend, indemnify, or hold harmless the County.

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. If any material provision of this grant is held or declared to be invalid, the permit shall be void and the privileges granted hereunder shall lapse.

7. 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's health or safety or so as to be a nuisance.

8. Within ninety (90) days of the approval date of this grant, the permittee shall submit to the Director for review and approval, three (3) copies of site plans, similar to Exhibit "A" as presented at the public hearing. The property shall be developed and maintained in substantial compliance with the plans marked Exhibit "A. In the event that subsequent revised plans are submitted, the permittee shall submit three (3) copies of the proposed plans to the Director for review and approval. All revised plans must be accompanied by the written authorization of the property owner. If changes to the site plan are required as a result of instruction given at the public hearing, a Revised Exhibit "A" shall be submitted to the Department of Regional Planning within sixty (60) days of the date of approval for the Conditional Use Permit.

9. All structures shall comply with the requirements of the Division of Building and Safety of the Los Angeles County Department of Public Works.

   In the event that the county deems it necessary to initiate such proceedings pursuant to Part 13 of Chapter 22.56 of the County Code, the applicant shall compensate the county for all costs incurred in such proceedings.

10. 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.

11. The permittee shall maintain the subject property (telecommunications facility and equipment) in a neat and orderly fashion.

12. 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.

13. **This grant will terminate on April 21, 2020**. Entitlement to use of the property thereafter shall be subject to the regulations then in effect. At least six (6) months prior to the expiration of this permit and in the event that the permittee intends to continue operations after such date, a new Conditional Use Permit application shall be filed with the Department of Regional Planning. The application shall be a request for continuance of the use permitted under this grant, whether including or not including modification to the use at that time.

14. 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 five (5) bi-annual (every two years) inspections**. Inspections shall be unannounced. The inspection fee shall be **paid within 30 days** of approval. 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 condition of this grant, the permittee shall be financially responsible for 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. The amount charged for additional inspections shall be the amount equal to the recovery cost at the time of payment (currently $200.00 per inspection).

15. All structures, pole, vault, vents open to public view shall remain free of extraneous markings, drawings, or signage.

16. In the event of graffiti or other extraneous markings occurring, the permittee shall remove or cover said markings, drawings, or signage 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. The only exceptions shall be seasonal decorations or signage provided under the auspices of a civic or non-profit organization.

17. The permittee shall maintain a current contact name, address, and phone number with the Department of Regional Planning at all times

18. Upon receipt of this letter, the permittee shall contact the Fire Prevention Bureau of the Los Angeles County Fire Department to determine what facilities may be necessary to protect the property from fire hazard. Any necessary facilities shall be provided as may be required by said Department.

19. The facility shall be operated in accordance with regulations of the state Public Commission;

20. Said facility shall be removed if in disuse for more than six months;

21. All structures shall conform with the requirements of the Division of Building and Safety of the Department of public Works or other appropriate agency and obtain an encroachment permit if deemed necessary;

22. No construction shall be permitted during the Wet Weather Season which is from October 1st through April 15th.

23. All buildings or structures shall be a neutral color, excluding black, to blend with its surroundings and shall be maintained in good condition at all times;

24. Construction and maintenance of the facility shall take place between the hours of 9:00 AM to 5:00 PM, Monday through Friday only;

25. The permittee shall provide written verification that the proposed facility's radio-frequency radiation and electromagnetic field emissions will fall within the adopted 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 Federal Communications Commission requirements, to the Department of Regional Planning;

26. The operator shall submit an annual maintenance report to the Department of Regional Planning by January 1, verifying the continued operation and maintenance of the said facility;

27. The project shall be developed and maintained in substantial compliance with the plans and photo simulations marked as Exhibit "A". Placement and height of all pole mounted equipment to be in substantial conformance with that shown on said Exhibit "A". All revised plot plans must be accompanied by the written authorization of the property owner;

28. The operator shall ensure that maintenance vehicles shall not block access to driveways or garages and shall obey all applicable on-street parking regulations;

29. The maximum height of the proposed monopole is 28'-3" in height from above ground level or existing sidewalk with a maximum 12" diameter octagonal pole that is textured to match existing light poles.

30. The maximum height of the proposed equipment cabinet is 36" tall vents and 20" in diameter. Electrical Meter Pedestal shall have a maximum height of 48" and 17" x 20" widths.

MC:df
April 21, 2010

Public right-of-way 3418 Shoreheights Dr. Malibu

REGIONAL PLANNING COMMISION APPEAL HEARING DATE: APRIL 21, 2010

REQUEST: On February 16, 2010 the Hearing Officer granted a Conditional Use Permit (CUP) to authorize the applicant, Omnipoint Communications the installation of a new wireless telecommunications facility in the public right-of-way (ROW). The Hearing Officer's determination was appealed to the Regional Planning Commission by the neighbors. The CUP authorizes the construction, maintenance and installation of a new wireless telecommunications facility consisting of three (3) panel antennas, to be mounted on a 22'6" concrete textured octagonal pole within the public road ROW. The antennas will be enclosed by a 30" x 66" radome placed on the top of the pole. The overall height of the pole is 28' pole. The associated equipment will be placed in an underground vault on the other side of the street which consist of two (2) 20" x 36" vent stacks will be placed adjacent to the vault as well as the Meyers electrical meter pedestal.

SYNOPSIS:

Project was first heard by the Hearing Officer on the following date: 9/15/2009, 11/17/2009, 1/5/2010, 2/16/2010 and 2/16/2010.

A duly noticed public hearing was held on September 15, 2009 before Hearing Officer Paul McCarthy. After hearing testimony from an opponent and taking into consideration various letters of opposition from the neighborhood residents, the Hearing Officer requested that the applicant meet with the neighbors to determine if they can resolve all the concerns raised by the neighbors. The main concern was geological issues related to constructing the wireless facility.

On November 17, 2009 a public hearing was conducted and the applicant indicated that the community meeting scheduled for November 14, 2009 was canceled and was to be moved to December, but that did not occur due to scheduling conflicts. The hearing was continued to January 5, 2010.

At the January 5, 2010 hearing, the applicant indicated that he was unsuccessful in conducting a meeting with the neighbors and requested that the hearing to be continued. The Hearing Officer continued the hearing to February 16, 2010 to give the applicant the opportunity to meet with the neighbors.

At the February 16, 2010 hearing, the applicant discussed the outcome of a January 25, 2010 neighborhood meeting. A total of six residents testified in opposition of the project stating that the project will affect aesthetics, property value, health and safety of the community.

After hearing all testimony, the hearing officer took into consideration the comments received and concluded that the proposed project meets the County's Code requirements and could be approved. The Hearing officer added a condition to prevent any construction to be conducted during the "wet weather season" which is from October 1st through April 15th. This condition would prevent the possibility of any open trenches that could fill with water, which address neighbors concern of possible soil erosion through the construction of the facility.

DRAFT

The Hearing Officer closed the public hearing and approved the permit changes to the conditions as discussed above.

On February 23, 2010 the Hearing Officer's determination was appealed to the Regional Planning Commission by "The Sunset Neighborhood, Representative Audrey Sarn et al" (neighbors).

PROCEEDINGS BEFORE THE PLANNING COMMISIONN

Findings

1. The subject property is located at 3418 Shoreheights Dr. Malibu CA 90265 (across the street from APN 4443-017-001) in the unincorporated community of Malibu within the Malibu Zone District.

2. Wireless telecommunication facilities require a conditional use permit in the R-1 Zone. There are no specific policies related to the proposed use, a wireless telecommunication facilities, in the Malibu Coastal Zone.

3. The applicant, Omnipoint Communications (T-Mobile), is requesting a conditional use permit to authorize the installation of a monopole wireless facility in the public ROW in a residential neighborhood at the end of a cul-de-sac and at the end of the paved sidewalk.

4. The site plan depicts a 28' monopole wireless facility to be located on the public ROW, at the end of a cul-de-sac in a residential neighborhood.

5. The project is located in the Malibu Local Coastal Plan, which designates the land use as 8B-Residential III (B) four to six dwelling units per acre.

6. The surrounding properties are zoned as follows:
   North: R-1-8,000 (Single Family Residential)
   South: R-1-6,000 (Single Family Residential)
   East: R-1-6,000 (Single Family Residential)
   West: R-1-8,000 (Single Family Residential)

7. The subject property is currently used as a public ROW. Surrounding land uses include paved roadway, concrete curbs, paved sidewalks and utility infrastructures situated at end of a cul-de-sac, a vacant parcel adjacent to the proposed monopole, and a single family residence across the street adjacent to the proposed equipment vault.
   Land uses within 500 feet include:
   North: Vacant
   South: Single Family Residential
   East: Single Family Residential
   West: Vacant

8. There are no specific policies related to wireless telecommunications facilities in the General Plan.

9. A wireless telecommunications facility is not a defined use in the Zoning Ordinance;

however similar use defined as "radio and television stations and towers, not including studios" is a similar comparable use. Radio and television stations and towers are uses subject to conditional use permits in the R-1 (Single-Family Residence) zone (Zoning Ordinance Section 22.20.100).

10. The property on which the proposed facility is to be located is public ROW and development standards do not apply in the ROW.

11. The Department of Regional Planning has determined that the project qualifies for Class 3 Exemption (New Construction or Conversion of Small Structures), as it includes construction of a small structure like this wireless facility. Staff has determined that the project is Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA).

12. Pursuant to the provisions of Section 22.60.174 and 22.60.175 of the Zoning Ordinance, the community was appropriately notified of the public hearing by mail, newspaper and property posting.

13. To satisfy the burden of proof, the architectural and general appearance of all such wireless facilities needs to be in keeping with the character of the neighborhood and so as not to be detrimental to the public health, safety and general welfare of the community in which such use or uses are located.

14. The placement of this unmanned wireless facility will not visually impact the surrounding community. The proposed equipment is similar to residential street light located in the public ROW.

15. To assure continued compatibility between the use of the subject property allowed by this grant and surrounding land uses, it is necessary to limit the term of the grant to 10 years

16. The location of the documents and other materials constituting the record of proceedings upon which the Planning Commission decision is based in this matter is at the Los Angeles County Department of Regional Planning, 13th Floor, Hall of Records, 320 West Temple Street, Los Angeles, CA 90012. The custodian of such documents and materials shall be the Section Head of the Zoning Permits I Section, Los Angeles County Department of Regional Planning.

17. The Department of Regional Planning and the Board of Supervisors Office has received a total of 41 letters from the neighbors opposing the project, one e-mail and a petition with 136 signatures opposing the project.

18. The neighbors appealed the Hearing Officers, decision on February 23, 2010 based on safety, project doesn't fit with the character of the community and detrimental to property values.
19. The Planning Commission found this project to be unobtrusive and consistent with the neighborhood pattern; which includes concrete lights standards approximately the same height.

20. Proposed telecommunication pole is composed of the same concrete material, same height and is the same design as the existing adjacent street lights.

21. A concrete pole would not pose any fire hazards.

22. The proposed telecommunication pole was relocated to the east side of the street from the original proposed design at the request of the adjacent property owner.

23. Co-locating in this telecommunication facility will not be permitted as there is no room to place additional equipment that would not visually affect the design.

BASED ON THE FOREGOING, THE REGIONAL PLANNING COMMISION CONCLUDES:

A. That the proposed use is consistent with the adopted general plan for the area; and

B. That the requested use at the proposed location will not adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding area, will 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 or general welfare; and

C. That the proposed site is adequate in size and shape to accommodate the development features prescribed in Title 22 of the County Code, or as is otherwise required in order to integrate said use with the uses in the surrounding area; and

D. That the proposed site 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 as are required.

AND, THEREFORE, the information submitted by the applicant and presented at the public hearing substantiates the required findings and burden of proof for a Conditional Use Permit as set forth in Section 22.56.040 of the Los Angeles County Code.

REGIONAL PLANNING COMMISION ACTION:

The Commission has considered the Categorical Exemption for this project and certifies that it is consistent with the finding by the State Secretary for Resources or by local guidelines that this class of projects does not have a significant effect on the environment.

In view of the findings of fact and conclusions presented above,

1. PROJECT NUMBER R2008-01980 (3) / RCUP200800165 DEINIED the appeal and upheld the Hearing Officer's decision subject to the attached conditions.

c: Each Commissioner, Zoning Enforcement, Building and Safety

VOTE: Concurring:
Dissenting:
Abstaining:
Absent:

Action Date: April 21, 2010

Conditional Use Permit Case – Burden of Proof Sec. 22.56.040

In addition to the information required in the application, the applicant shall substantiate to the satisfaction of the Zoning Board and/or Commission, the following facts:

A. That the requested used 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.**

1. The proposed facility will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare of the community, but is necessary to provide wireless communications to this particular area of Los Angeles County, and other surrounding communities. Wireless communications are also used to promote efficient and effective non-emergency personal, business and governmental communications. These services have been established and accepted as an integral part of the nation's telecommunications infrastructure and promote the public health, safety, morals, comfort and general welfare. The proposed telecommunication facility will provide a reliable and convenient means of communication for everyday personal and business use.

2. The proposed facility does not have growth-inducing implications, or promote additional development or a change in the density of surrounding residential and commercial areas. Substantially no additional noise, smoke or odor or parking will be required for the proposed facility. Further, the proposed collocation facility will not interfere with the quiet enjoyment of neighboring land uses.

3. This proposed telecommunication facility will not endanger the public health, safety or general welfare. In fact, this site, as part of a larger network, will provide improved access to wireless telecommunications in the event of an emergency. Wireless communication technology provides vital communications in "911" and other emergency situations.

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 facility will not impair the use or enjoyment of, or be otherwise injurious to property in the immediate vicinity. To the contrary, enhanced wireless communications will have a positive influence on personal, business, governmental, and other existing uses in this area. Substantially similar wireless telecommunication installations exist within this immediate area.

The proposed stealth design is consistent with the use of massing and materials to minimize visual intrusions. The proposed design is consistent with the use of massing and materials to minimize visual intrusions. The proposed antennas will be camouflaged by the proposed radome.

C. That the proposed site is adequately served:

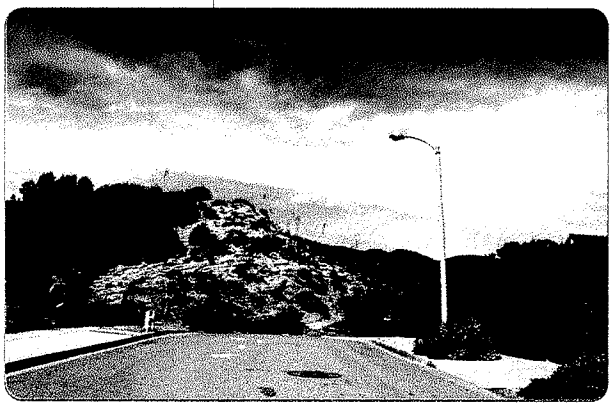
1. **By highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate, and**
2. **By other public or private service facilities as are required.**

1. The proposed facility will not be staffed and, upon construction completion, will require only infrequent maintenance visits (approximately one time a month). Further, no public access is required. There will be no impact to the existing traffic patterns nor will there be any traffic hazards or nuisances generated.
2. The proposed facility only utilizes minimal electrical service, which is available on the property. No water, sewer, or refuse or other additional services shall be required.

LOCATION

Microsoft® Virtual Earth™

EXISTING



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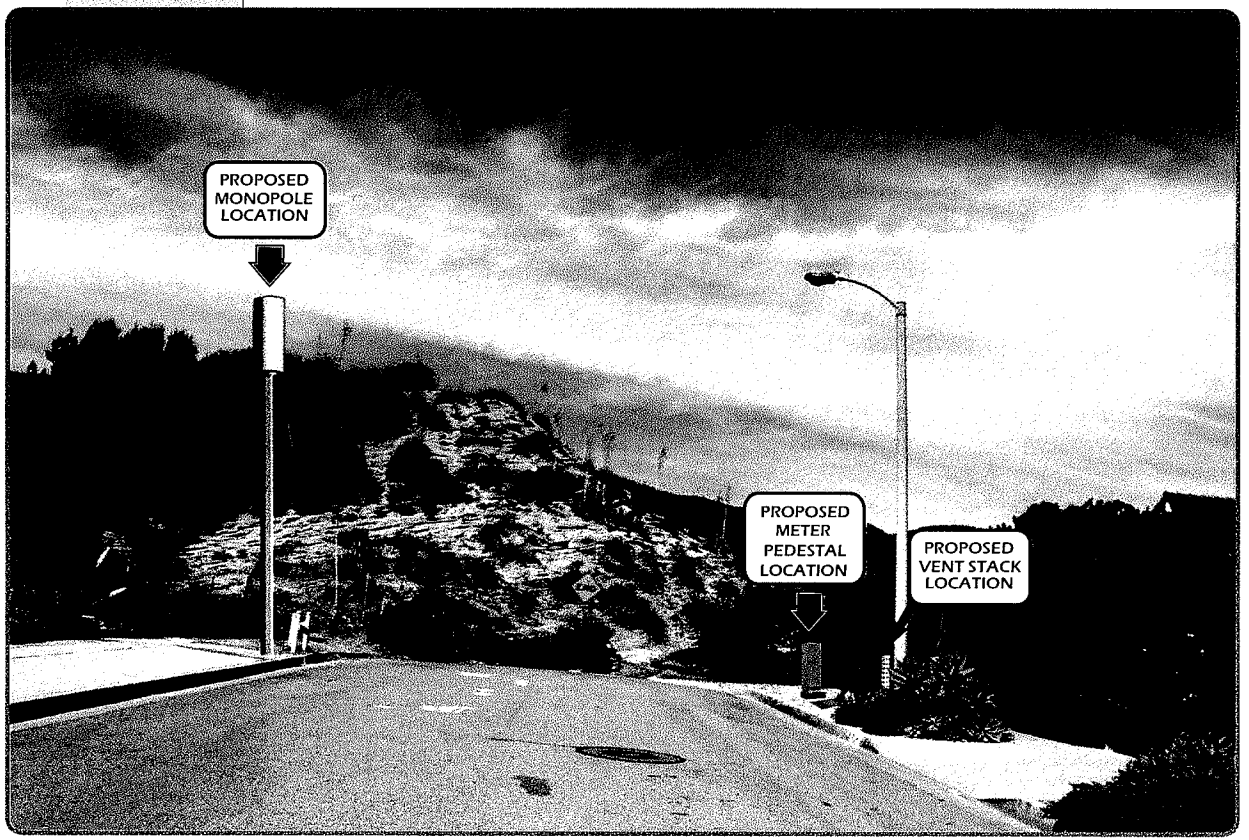


Completed October 16, 2008

SV11110D

Pole #10146PBM

3418 1/2 Shoreheights Drive
Malibu, CA 90265

VIEW 1

APPLICANT

T-Mobile
Barbara Saito
4100 Guardian Street Suite 101
Simi Valley, CA 93063

CONTACT

SureSite Consulting Group, LLC
Courtney Schmidt
3659 Green Road, Suite 317
Cleveland, OH 44122
p 310.645.5687

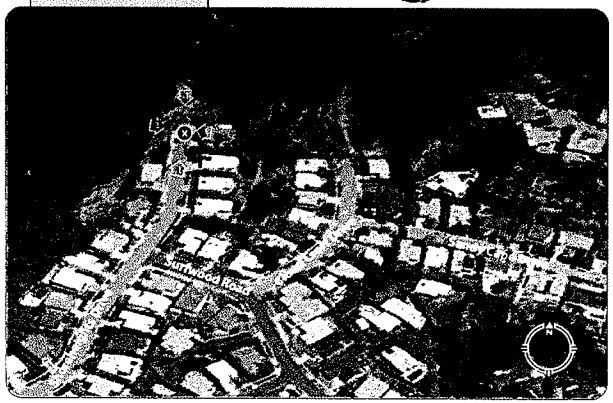
Blue Water DESIGN

BLUE WATER DESIGN
1741 Tustin Ave. 19A
Costa Mesa, CA 92627
bluewater-design.net
michelle@bluewater-design.net
p 714.473.2942
f 949.631.2316

Photo simulation accuracy is based on information provided to Blue Water Design by the applicant.

LOCATION

Microsoft® Virtual Earth™



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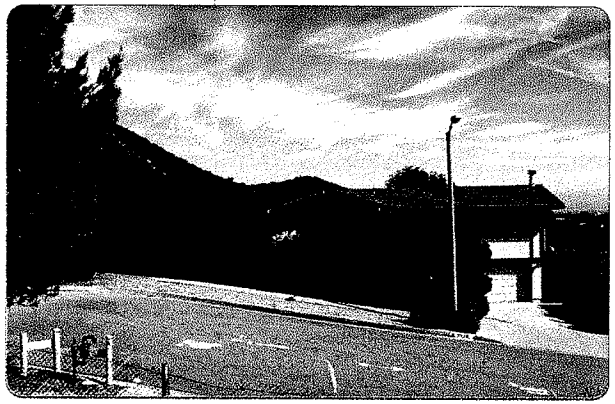
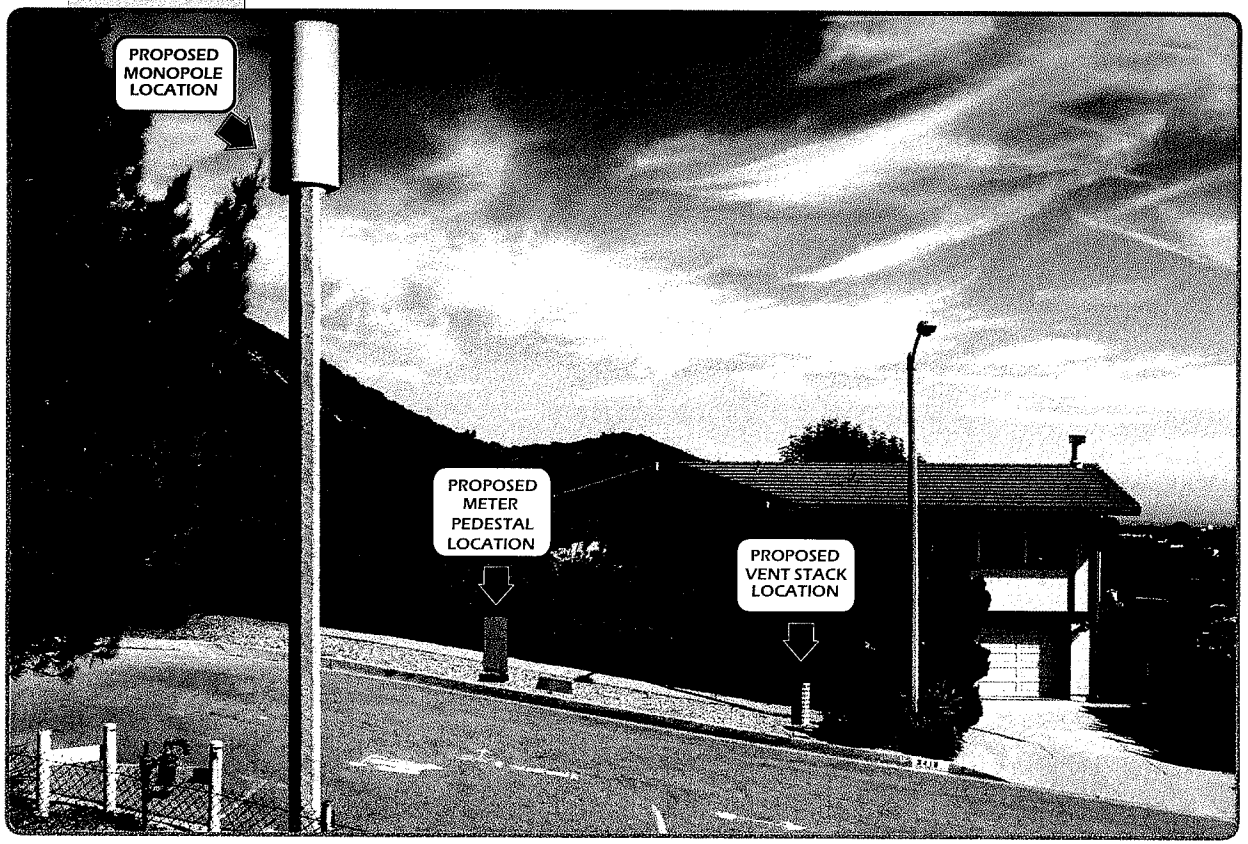


PROPOSED



Completed October 16, 2008

SV11110D

Pole #10146PBM

3418 1/2 Shoreheights Drive
Malibu, CA 90265

VIEW 2

APPLICANT

T-Mobile
Barbara Saito
4100 Guardian Street Suite 101
Simi Valley, CA 93063

CONTACT

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Courtney Schmidt
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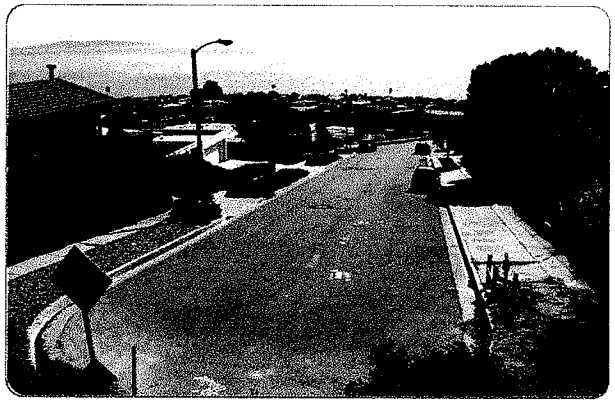
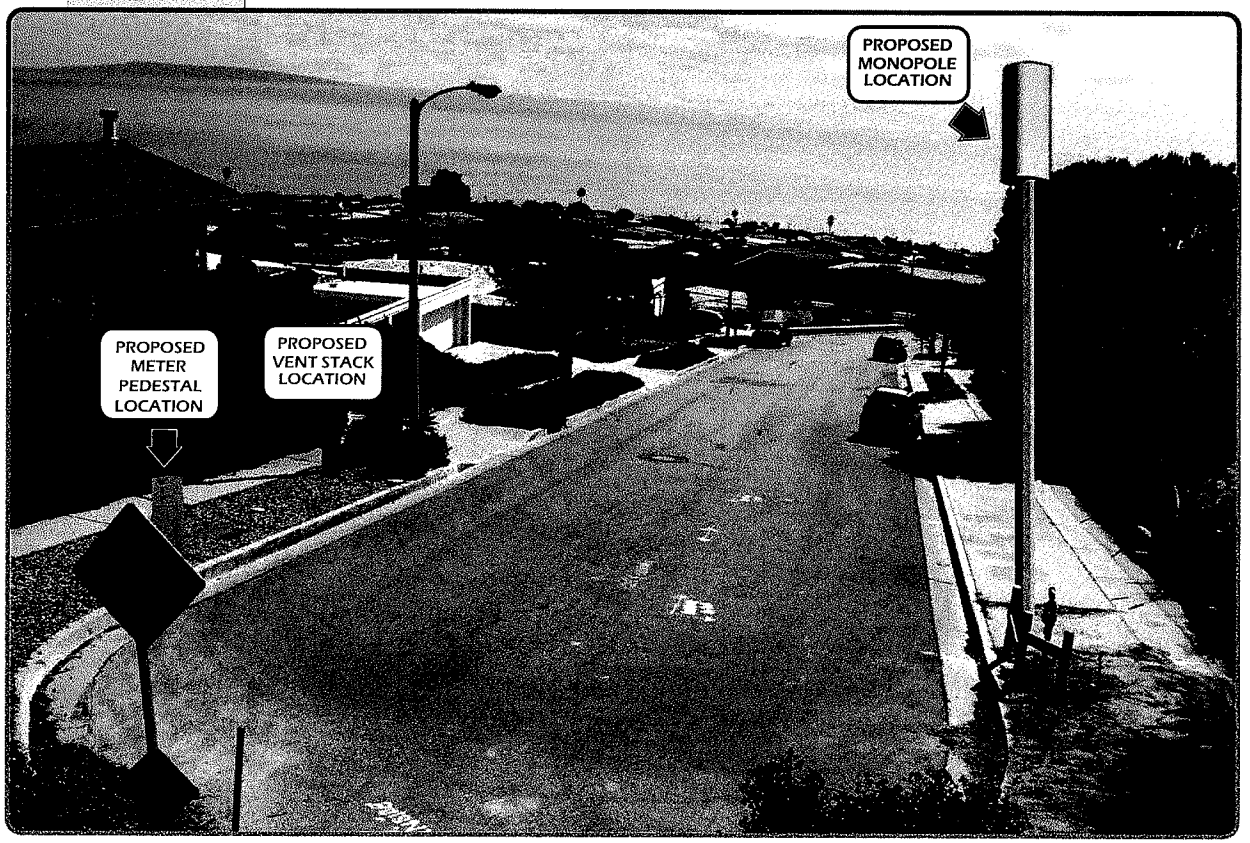
LOCATION

EXISTING



PROPOSED



Completed October 16, 2008

SV11110D

Pole #10146PBM

3418 1/2 Shoreheights Drive
Malibu, CA 90265

VIEW 3

APPLICANT

T-Mobile
Barbara Saito
4100 Guardian Street Suite 101
Simi Valley, CA 93063

CONTACT

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Courtney Schmidt
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bluewater-design.net
michelle@bluewater-design.net
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f 949.631.2316

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LOCATION

EXISTING

PROPOSED

T-Mobile

SV11110D

Pole #10146PBM

3418 1/2 Shoreheights Drive
Malibu, CA 90265

VIEW 4

Completed October 16, 2008

APPLICANT

T-Mobile
Barbara Saito
4100 Guardian Street Suite 101
Simi Valley, CA 93063

CONTACT

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f 949.631.2316

Photo simulation accuracy is based on information provided to Blue Water Design by the applicant.

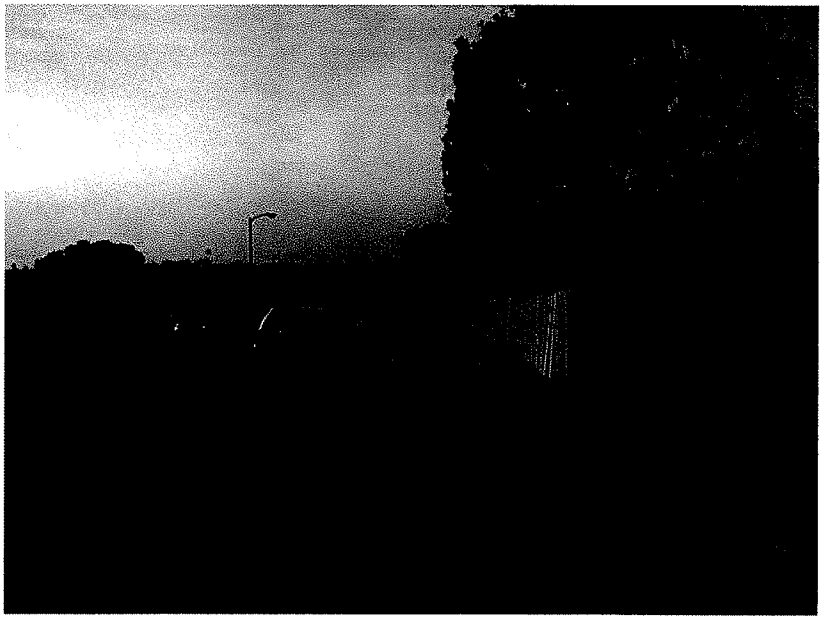
T··Mobile·

View from Site looking West

View of Site looking North

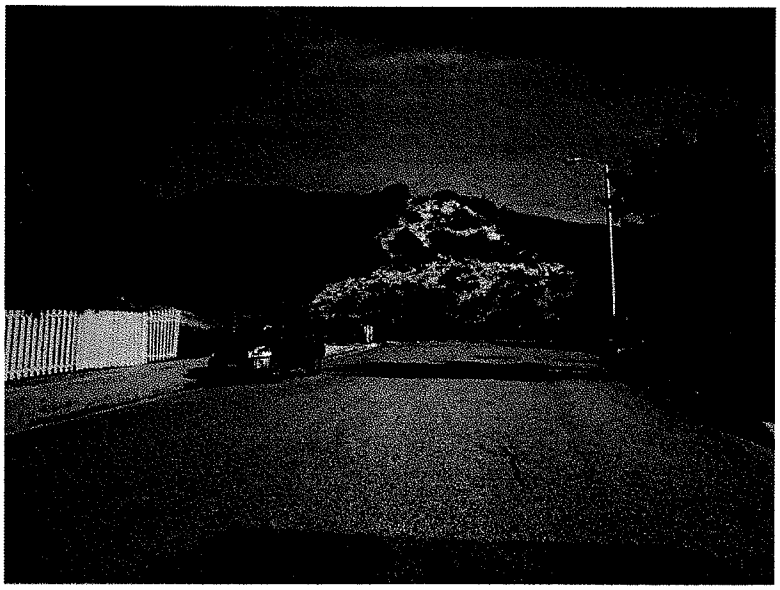
T··Mobile··

View from site looking East

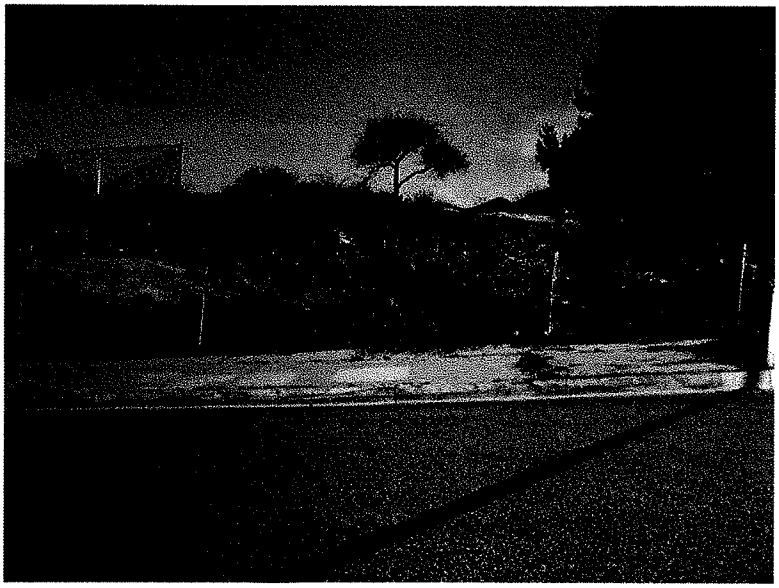


View from site looking South

T··Mobile·



View of Site from South



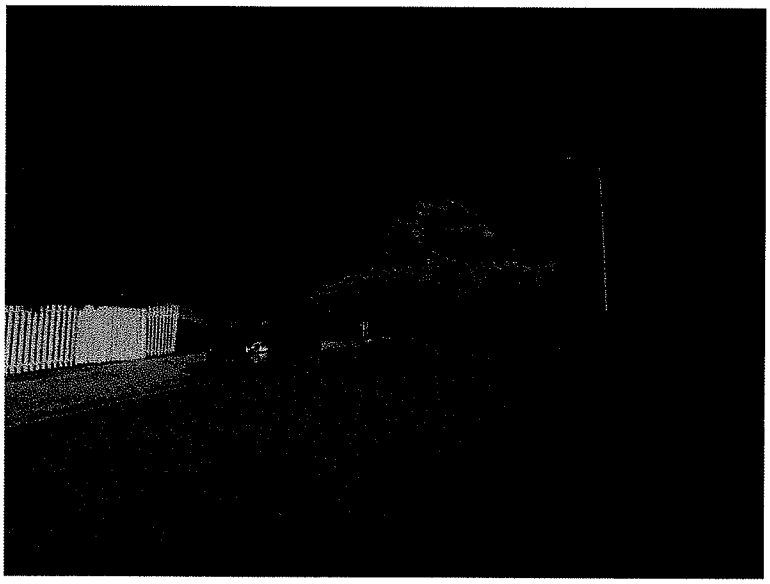
View of Site from East

T··Mobile·

View of Site from North

View of Vault Location

T··Mobile·



View of access

CALOSA056025NeighObliq3018N_080306.psi

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Creation Date: Mar 06, 2008 13:47
Modification Date: May 08, 2008 06:22

Distance between tick marks: 0.010307 miles

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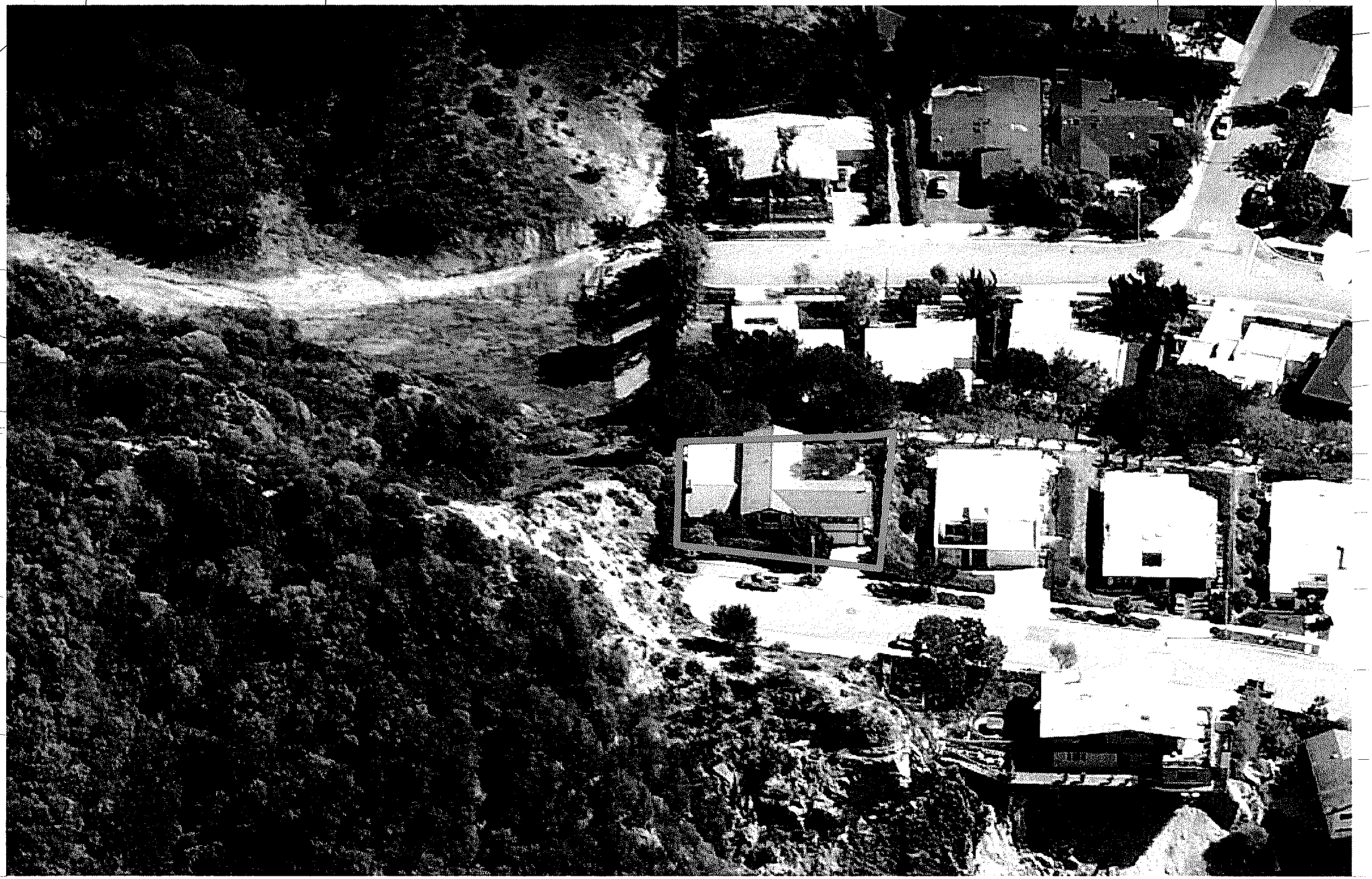

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Creation Date: Feb 11, 2008 11:38
Modification Date: May 29, 2008 11:52

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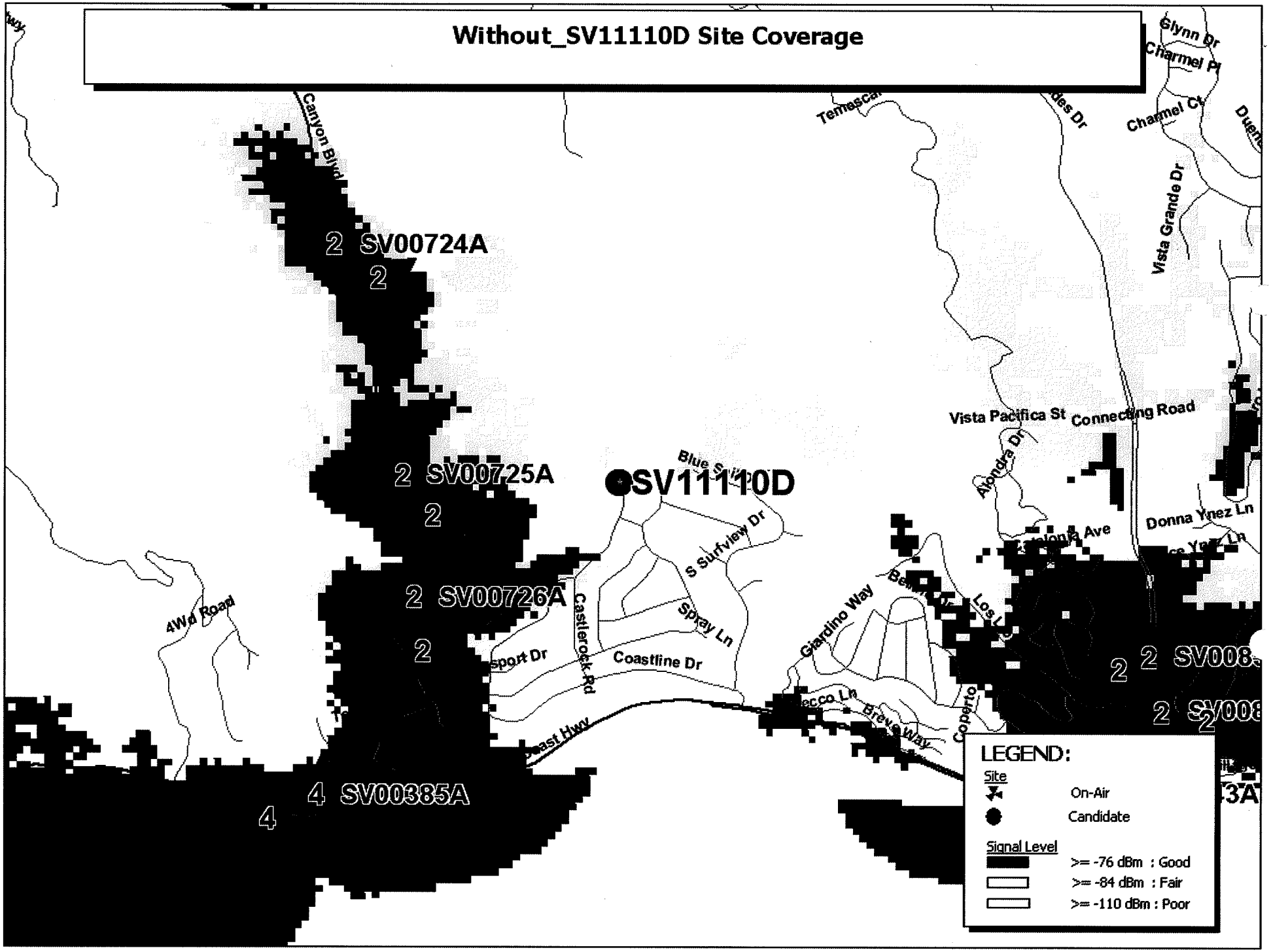
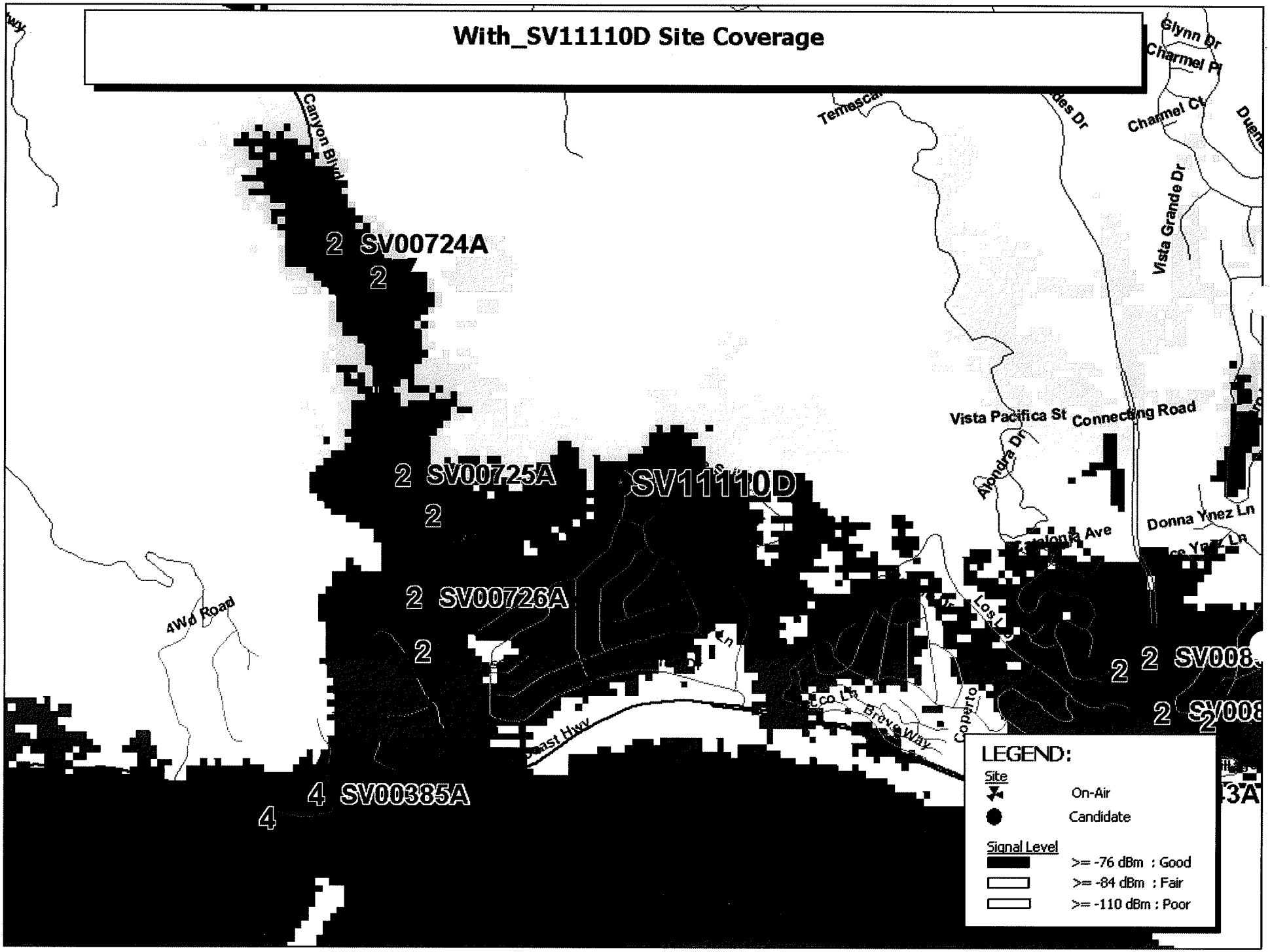
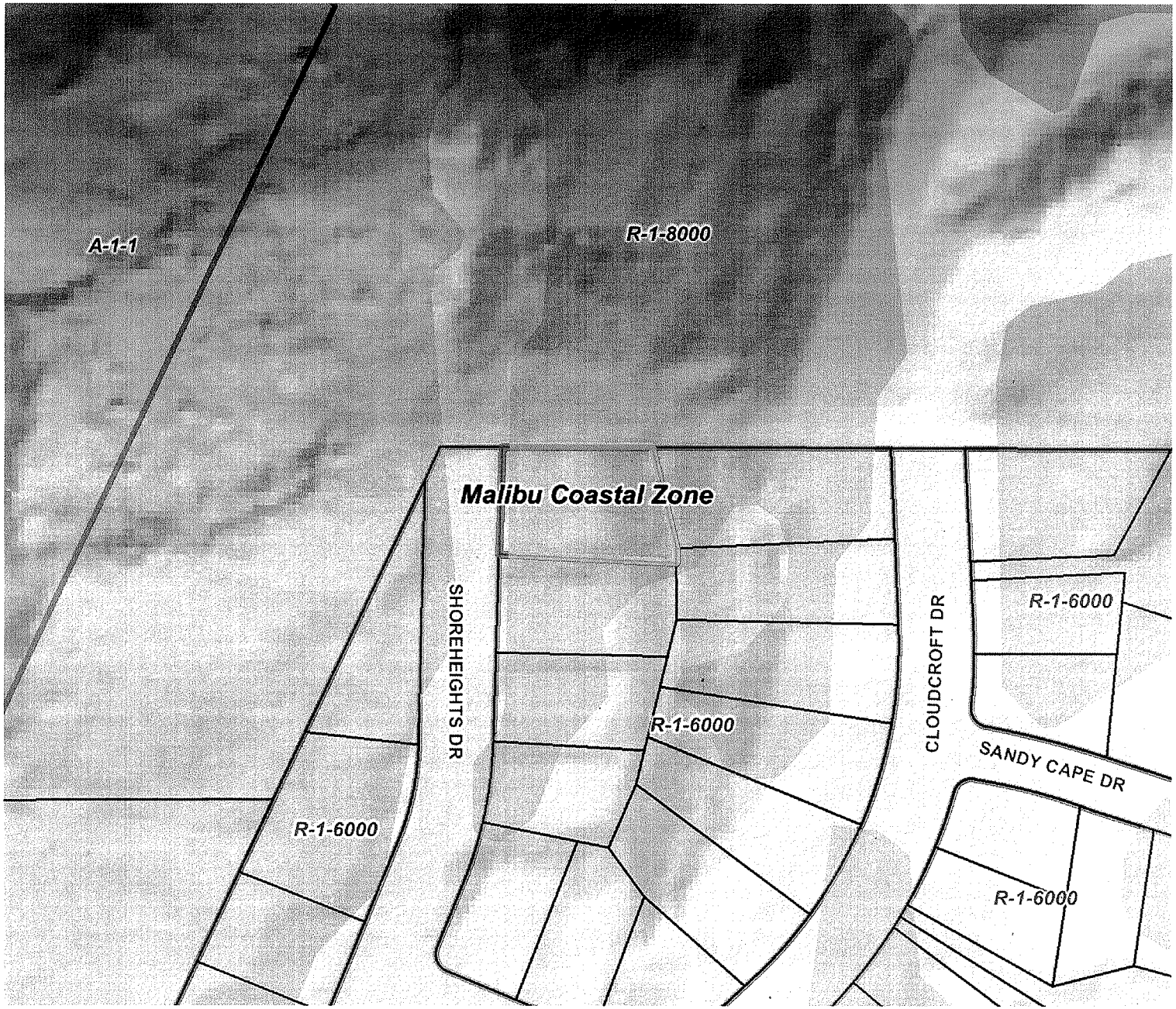

Without_SV11110D Site Coverage
SV00724A
SV00725A
SV00726A
SV00385A
SV11110D
Canyon Blvd
4Wd Road
Blue Sail
S Surfview Dr
Spray Ln
Coastline Dr
Castlerock Rd
Giardino Way
Breve Way
Coperto
Vista Pacifica St
Connecting Road
Alondra Dr
Donna Ynez Ln
Vista Grande Dr
Charmel Ct
Glynn Dr
Charmel Pl
LEGEND:
Site
On-Air
Candidate
Signal Level
>= -76 dBm : Good
>= -84 dBm : Fair
>= -110 dBm : Poor


With_SV11110D Site Coverage
Canyon Blvd
Glynn Dr
Charmel Pl
Charmel Ct
Vista Grande Dr
Vista Pacifica St
Connecting Road
Alondra Dr
Donna Ynez Ln
4Wd Road
Coast Hwy
Brewer Way
Copetto
2 SV00724A
2
2 SV00725A
SV11110D
2
2 SV00726A
2
2 2 SV008
2 SV008
4 SV00385A
4
LEGEND:
Site
On-Air
Candidate
Signal Level
>= -76 dBm : Good
>= -84 dBm : Fair
>= -110 dBm : Poor

e-NET department of regional planning

Land Slides

Printed On: Sep 14, 2009



Legend

Parcel Boundary
Scenic Highways
Freeway

Trails
Existing
Proposed

Bikeway Plan
Class 1
Class 2

Railroad or Rapid Transit
Railroad
Rapid Transit
Underground Rapid Transit

Significant Ridgelines
Castaic CSD Primary
Castaic CSD Secondary
SMMNA Significant

Significant Ecological Area (SEA)
ESHA (Coast Only)
National Forest
USGS Quad Sheet Grid
Very High Fire Hazard Severity Zone

Natural Diversity Database
Plant (80m)
Plant (specific)
Plant (non-specific)
Plant (circular)
Animal (80m)
Animal (specific)
Animal (non-specific)
Animal (circular)
Terr. Comm (80)
Terr. Comm (specific)
Terr. Comm (non-specific)
Terr. Comm (circular)
Aqu. Comm (80m)
Aqu. Comm (specific)
Aqu. Comm (non-specific)
Aqu. Comm (circular)

Natural Diversity Database - Multiple Occurences
2
3
>4

Inland Waterbody
Perennial
Intermittent
Dry

Farmland
Prime Farmland
Farmland of Statewide Importance
Unique Farmland
Farmland of Local Importance
Grazing Land
Urban and Built-Up Land
Other Land
Water
Farmland of Locall Potential
Irrigated Farmland
Nonirrigated Farmland
Not Surveyed

Brauton's Milk-Vetch Habitats

Zoning
Zone A-1
Zone A-2
Zone B-1
Zone B-2
Zone C-1
Zone C-2
Zone C-3
Zone C-H
Zone C-M
Zone CPD
Zone C-R
Zone D-2
Zone IT
Zone M-1
Zone M-1.5
Zone M-2
Zone M-3
Zone MPD
Zone MXD
Zone O-S
Zone P-R
Zone R-1
Zone R-2
Zone R-3-( )U
Zone R-4-( )U
Zone R-A
Zone RPD
Zone R-R
Zone SP
Zone SR-D
Zone W

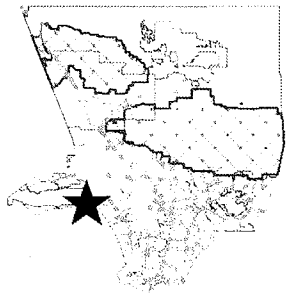
Fault Trace
Landslide Zone
Liquefaction Zone
Seismic Zone

FEMA Q3 Flood
100-Year Flood Plain
100-Year Flood Plain (Flood Depths determined)
500-Year Flood Plain

Safety Related Stations (From TB)
Fire Station
Highway Patrol
Police Station
Ranger Station
Sheriff Station

DEM
High: 3067.443848
Low: -5.019270

Note: This is a static legend, which includes only a portion of layers. To get full legend, please use "Display Map Legend tab" on the top left side of screen.



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N

0 58 116 ft.

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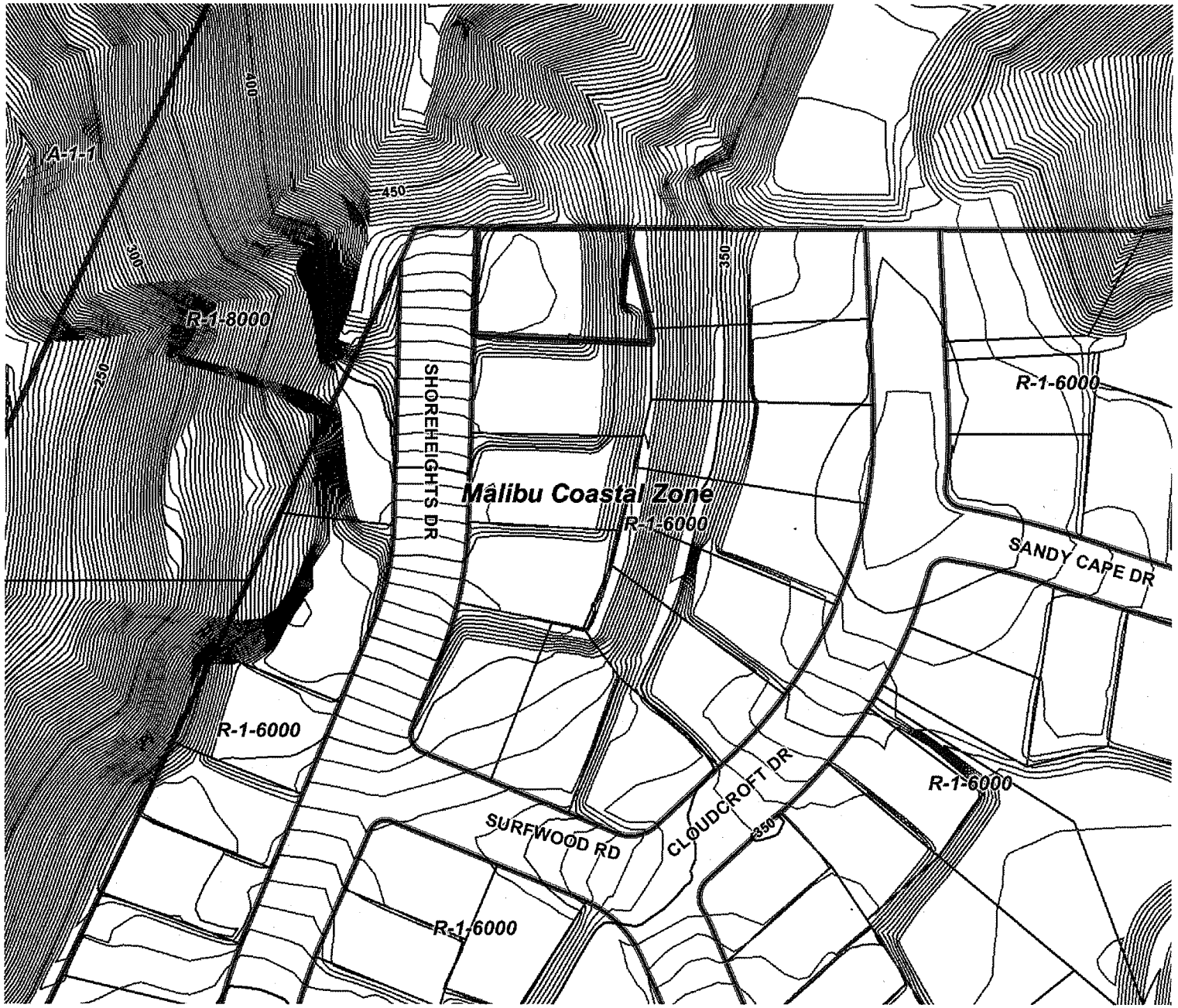
Topography

Printed On: Apr 6, 2010



Legend

- Parcel Boundary
- Arterial Street
- Highway
- Freeway

Master Plan of Highways
- Expressway - (e)
- Expressway - (p)
- Ltd. Secondary Highway - (e)
- Ltd. Secondary Highway - (p)
- Parkway - (e)
- Parkway - (p)
- Major Highway - (e)
- Major Highway - (p)
- Secondary Highway - (e)
- Secondary Highway - (p)

(e)-Existing (p)-Proposed

Railroad or Rapid Transit
- Railroad
- Rapid Transit
- Underground Rapid Transit

Significant Ridgelines
- Castaic CSD Primary
- Castaic CSD Secondary
- SMMNA Significant

- Census Tract (2000)
- Assessor Map Book (AMB) Bdy
- Zoning Index Map Grid
- Zoning Map Grid
- USGS Quad Sheet Grid
- The Thomas Guide Grid
- TB Internal Page Grid
- Very High Fire Hazard Severity Zone
- Community Standards District (CSD)
- CSD Area Specific Boundary
- ESHA (Coast Only)
- Significant Ecological Area (SEA)
- Section Line
- Township and Range
- National Forest
- Equestrian District (EQD)
- Transit Oriented District (TOD)
- Setback District
- Zoned District (ZD)
- Supervisorial District Boundary

Safety Related Stations (From TB)
- Fire Station
- Highway Patrol
- Police Station
- Ranger Station
- Sheriff Station

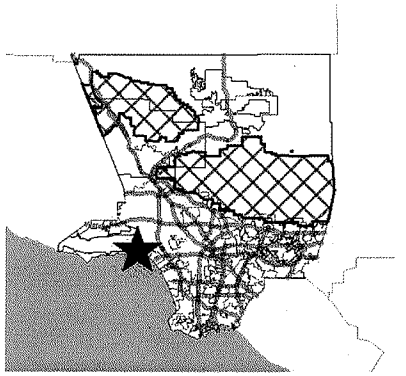
- Zoning (Boundary)

Zoning
- Zone A-1
- Zone A-2
- Zone B-1
- Zone B-2
- Zone C-1
- Zone C-2
- Zone C-3
- Zone C-H
- Zone C-M
- Zone CPD
- Zone C-R
- Zone D-2
- Zone IT
- Zone M-1
- Zone M-1.5
- Zone M-2
- Zone M-3
- Zone MPD
- Zone MXD
- Zone O-S
- Zone P-R
- Zone R-1
- Zone R-2
- Zone R-3-( )U
- Zone R-4-( )U
- Zone R-A
- Zone RPD
- Zone R-R
- Zone SP
- Zone SR-D
- Zone W

Landuse Policy (Not In Comm / Area Plan)
- 1 - Low Density Residential (1 to 6 du/ac)
- 2 - Low/Medium Density Residential (6 to 12 du/ac)
- 3 - Medium Density Residential (12 to 22 du/ac)
- 4 - High Density Residential (22 or more du/ac)
- C - Major Commercial
- I - Major Industrial
- O - Open Space
- P - Public and Semi-Public Facilities
- RC - Rural Communities
- R - Non-Urban
- TC - Transportation Corridor

Inland Waterbody
- Perennial
- Intermittent
- Dry

Note: This is a static legend, which includes only a portion of layers. To get full legend, please use "Display Map Legend tab" on the top left side of screen.



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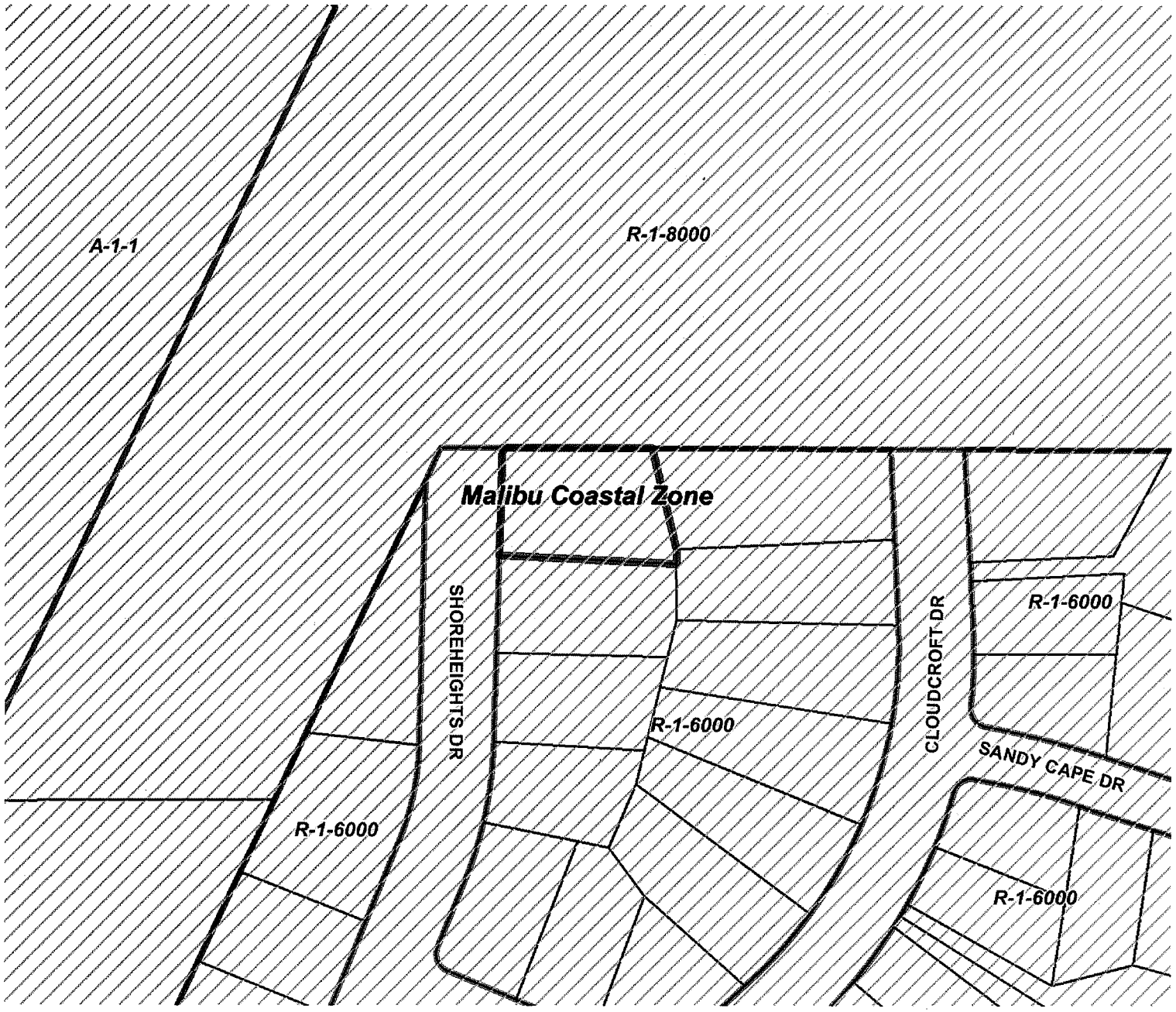
High Fire area

Printed On: Sep 14, 2009



Legend

- Parcel Boundary
- Arterial Street
- Highway
- Freeway

Master Plan of Highways
- Expressway - (e)
- Expressway - (p)
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- Ltd. Secondary Highway - (p)
- Parkway - (e)
- Parkway - (p)
- Major Highway - (e)
- Major Highway - (p)
- Secondary Highway - (e)
- Secondary Highway - (p)

(e)-Existing (p)-Proposed

Railroad or Rapid Transit
- Railroad
- Rapid Transit
- Underground Rapid Transit

Significant Ridgelines
- Castaic CSD Primary
- Castaic CSD Secondary
- SMMNA Significant

- Census Tract (2000)
- Assessor Map Book (AMB) Bdy
- Zoning Index Map Grid
- Zoning Map Grid
- USGS Quad Sheet Grid
- The Thomas Guide Grid
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- Very High Fire Hazard Severity Zone
- Community Standards District (CSD)
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- Setback District
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- Supervisorial District Boundary

Safety Related Stations (From TB)
- Fire Station
- Highway Patrol
- Police Station
- Ranger Station
- Sheriff Station

- Zoning (Boundary)

Zoning
- Zone A-1
- Zone A-2
- Zone B-1
- Zone B-2
- Zone C-1
- Zone C-2
- Zone C-3
- Zone C-H
- Zone C-M
- Zone CPD
- Zone C-R
- Zone D-2
- Zone IT
- Zone M-1
- Zone M-1.5
- Zone M-2
- Zone M-3
- Zone MPD
- Zone MXD
- Zone O-S
- Zone P-R
- Zone R-1
- Zone R-2
- Zone R-3-( )U
- Zone R-4-( )U
- Zone R-A
- Zone RPD
- Zone R-R
- Zone SP
- Zone SR-D
- Zone W

Landuse Policy (Not in Comm / Area Plan)
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- 2 - Low/Medium Density Residential (6 to 12 du/ac)
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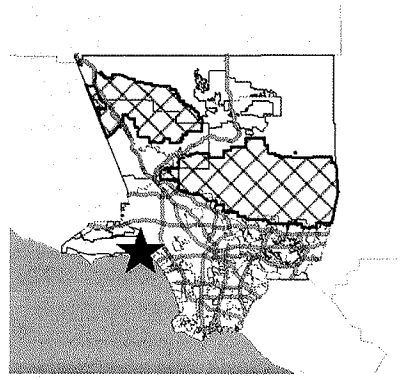

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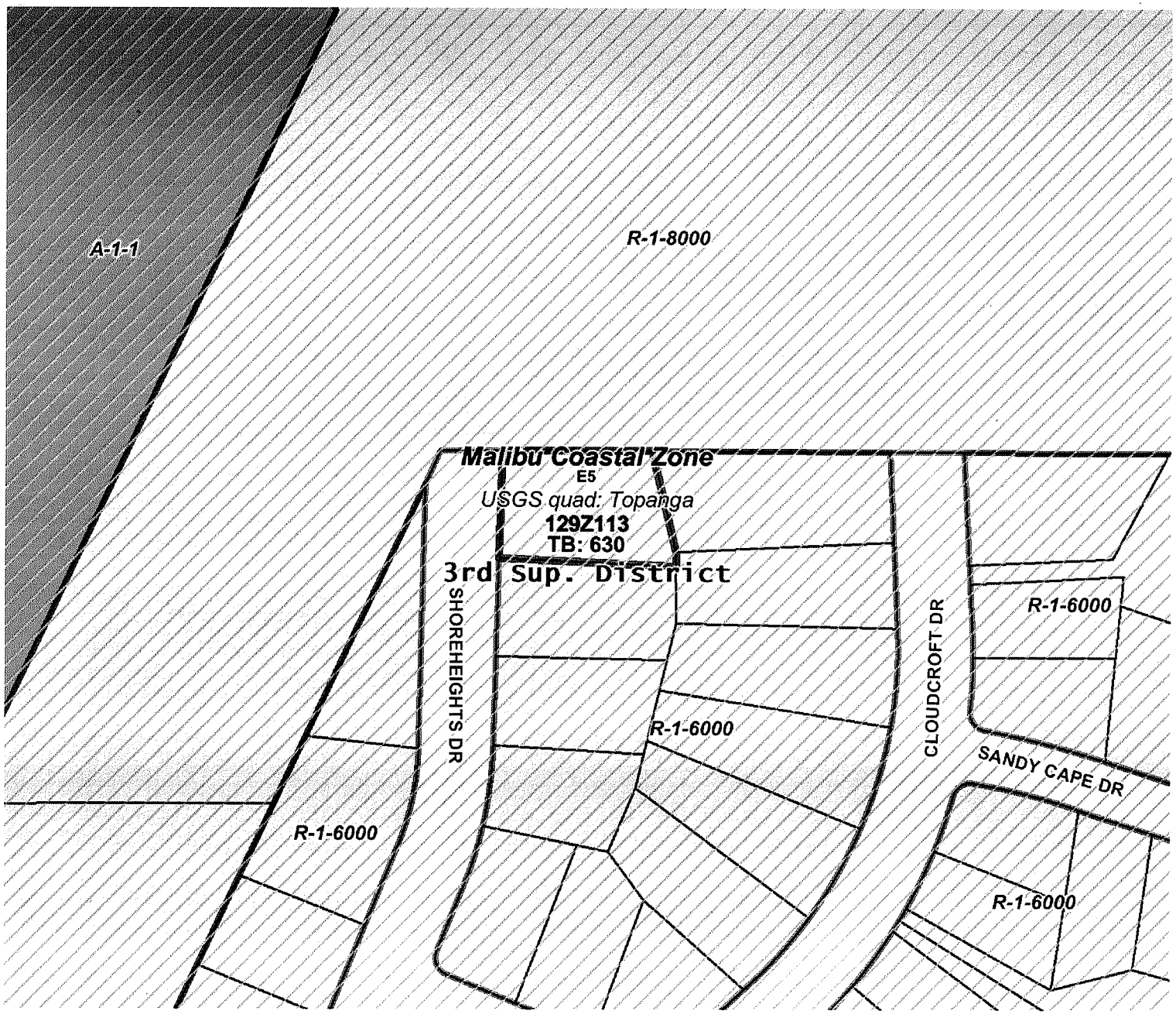
Output from GIS-NET

Printed On: Jun 9, 2009



Legend

- Parcel Boundary
- Arterial Street
- Highway
- Freeway

Master Plan of Highways
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- Expressway - (p)
- Ltd. Secondary Highway - (e)
- Ltd. Secondary Highway - (p)
- Parkway - (e)
- Parkway - (p)
- Major Highway - (e)
- Major Highway - (p)
- Secondary Highway - (e)
- Secondary Highway - (p)

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- Sheriff Station

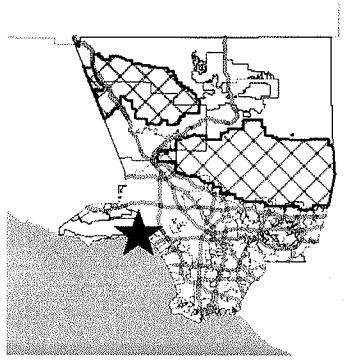
- Zoning (Boundary)

Zoning
- Zone A-1
- Zone A-2
- Zone B-1
- Zone B-2
- Zone C-1
- Zone C-2
- Zone C-3
- Zone C-H
- Zone C-M
- Zone CPD
- Zone C-R
- Zone D-2
- Zone IT
- Zone M-1
- Zone M-1.5
- Zone M-2
- Zone M-3
- Zone MPD
- Zone MXD
- Zone O-S
- Zone P-R
- Zone R-1
- Zone R-2
- Zone R-3-( )U
- Zone R-4-( )U
- Zone R-A
- Zone RPD
- Zone R-R
- Zone SP
- Zone SR-D
- Zone W

Landuse Policy (Not in Comm / Area Plan)
- 1 - Low Density Residential (1 to 6 du/ac)
- 2 - Low/Medium Density Residential (6 to 12 du/ac)
- 3 - Medium Density Residential (12 to 22 du/ac)
- 4 - High Density Residential (22 or more du/ac)
- C - Major Commercial
- I - Major Industrial
- O - Open Space
- P - Public and Semi-Public Facilities
- RC - Rural Communities
- R - Non-Urban
- TC - Transportation Corridor

Inland Waterbody
- Perennial
- Intermittent
- Dry

Note: This is a static legend, which includes only a portion of layers. To get full legend, please use "Display Map Legend tab" on the top left side of screen.



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Note: This map represents a quick representation of spatial imagery or vector layers using GIS-NET. The map should be interpreted in accordance with the disclaimer statement of GIS-NET.

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Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead

Richard J. Bruckner
Director

February 16, 2010

Sarah Ryzner-Svililo
3659 Green Road, Suite 317
Cleveland Ohio 44122

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

REGARDING: PROJECT NUMBER R2008-01980 (3)
CONDITIONAL USE PERMIT RCUP200800165 (3)
3418 Shoreheights Dr

Dear Applicant:

Hearing Officer, Paul McCarthy by his/her action of Tuesday, February 16, 2010, **APPROVED** the above described application ***(Wireless Telecommunications Facility Conditional Use Permit).*** The applicant or and other interested person may appeal the Hearing Officer's decision to the Regional Planning Commission at the office of the Commission secretary, Room 1350, Hall of Records, 320 West Temple Street, Los Angeles, California 90012. Please contact the Commission secretary for the appeal procedures and fee at (213) 974-6409. **The appeal period for this project will end at the 5:00 p.m. on** Tuesday, March 2, 2010. Any appeal must be delivered in person to the commission secretary by this time. If no appeal is filed during the specified period, the Hearing Officer's action is final.

The attached documents contain the Hearing Officer's findings and conditions relating to the approval. Please carefully review each condition. A Condition requires that the permittee records an affidavit accepting the conditions before the grants becomes effective.

Upon completion of the appeal period, please notarize the attached acceptance forms and **hand deliver** this form and any other required fees or materials to the planner assigned to your case. Please **make an appointment** with the case planner to assure that processing will be completed expeditiously.

For further information on appeal procedures or any other matter pertaining to these approvals, please contact Daniel Fierros of the Zoning Permits Section I at (213) 974-6443 or e-mail at DFierros@planning.lacounty.gov. Our office hours are Monday through Thursday, 7:30 a.m. to 5:30 p.m. We are closed on Fridays.

Sincerely,

DEPARTMENT OF REGIONAL PLANNING
Richard J. Bruckner
Director of Planning

Mark Child, Supervising Regional Planner
Zoning Permits Section I Section

Enclosures: Findings and Conditions, Affidavit (Permittee's Completion)

c: DPW (Building and Safety); Zoning Enforcement
Rob Searcy: Suresite Consulting 6303 Owensmouth Avenue, 10th Floor Woodland Hills, CA 91367

MC:df

Public right-of-way 3418 Shoreheights Dr. Malibu

HEARING DATE: 9/15/2009, 11/17/2009, 1/5/2010 and 2/16/2010

HEARING OFFICER'S FINDINGS AND ORDER:

REQUEST: The applicant, Omnipoint Communications (T-Mobile), is requesting a Conditional Use Permit (CUP) to authorize the construction, maintenance and operation of a new wireless telecommunications facility consisting of three (3) panel antennas, to be mounted on a 22'-6" concrete textured octagonal pole within the public road right-of-way (ROW). The antennas will be enclosed by 30" x 66" "Antenna Radome" placed on the top of the pole. The overall height of the pole is 28'. The associated equipment will be placed in an underground vault on the other side of the street. Two (2) 20" x 36" vent stacks will be placed adjacent to the vault as well as the Meyers electrical meter pedestal.

PROCEEDINGS BEFORE THE HEARING OFFICER:

A duly noticed public hearing was held on September 15, 2009 before the Hearing Officer Paul McCarthy. After hearing testimony from an opponent and taking into consideration various letters of opposition from the neighborhood residents, the Hearing Officer requested that the applicant meet with the neighbors to determine if they can resolve all the concerns raised by the neighbors. The main concern was geological issues related to constructing the wireless facility.

On November 17, 2009 a public hearing was conducted and the applicant indicated that the community meeting scheduled for November 14, 2009 was canceled and was to be moved to December, but that did not occur due to scheduling conflicts. The hearing was continued to January 5, 2010.

At the January 5, 2010 hearing the applicant indicated that he was unsuccessful in conducting a meeting with the neighbors and requested that the hearing to be continued. The Hearing Officer continued the hearing to February 16, 2010 to give the applicant the opportunity to meet with the neighbors.

At the February 16, 2010 hearing, the applicant discussed the outcome of a January 25, 2010 neighborhood meeting. A total of six residents testified in opposition of the project stating that the project will affect aesthetics, property value, health and safety of the community.

After hearing all testimony, the hearing officer took into consideration the comments received and concluded that the proposed project meets the County's Code requirements and could be approved. The Hearing officer added a condition to prevent any construction to be conducted during the "wet weather season" which is from October 1st through April 15th. This condition would prevent the possibility of any open trenches that could fill with water, which address neighbors concern of possible soil erosion through the construction of the facility.

The Hearing Officer closed the public hearing and approved the permit changes to the conditions as discussed above.

Findings

1. The subject property is located at 3418 Shoreheights Dr. Malibu CA 90265 (across the street from APN 4443-017-001) in the unincorporated community of Malibu within the Malibu Zone District.

2. Wireless telecommunication facilities require a conditional use permit in the R-1 Zone. There are no specific policies related to the proposed use, a wireless telecommunication facilities, in the Malibu Coastal Zone.

3. The applicant, Omnipoint Communications (T-Mobile), is requesting a conditional use permit to authorize the installation of a monopole wireless facility in the public ROW in a residential neighborhood at the end of a cul-de-sac and at the end of the paved sidewalk.

4. The site plan depicts a 28' monopole wireless facility to be located on the public ROW, at the end of a cul-de-sac in a residential neighborhood.

5. The project is located in the Malibu Local Coastal Plan, which designates the land use as 8B-Residential III(B) four to six dwelling units per acre.

6. The surrounding properties are zoned as follows:
   North: R-1-8,000 (Single Family Residential)
   South: R-1-6,000 (Single Family Residential)
   East: R-1-6,000 (Single Family Residential)
   West: R-1-8,000 (Single Family Residential)

7. The subject property is currently used as a public right-of-way (ROW). Surrounding land uses include paved roadway, concrete curbs, paved sidewalks and utility infrastructures situated at end of a cul-de-sac, a vacant parcel adjacent to the proposed monopole, and a single family residence across the street adjacent to the proposed equipment vault. Land uses within 500 feet include:
   North: Vacant
   South: Single Family Residential
   East: Single Family Residential
   West: Vacant

8. There are no specific policies related to wireless telecommunications facilities in the General Plan.

9. A wireless telecommunications facility is not a defined use in the Zoning Ordinance; however similar use defined as "radio and television stations and towers, not including studios" is a similar comparable use. Radio and television stations and towers are uses subject to conditional use permits in the R-1 (Single-Family Residence) zone (Zoning Ordinance Section 22.20.100).

10. The property on which the proposed facility is to be located is public ROW and the development standards do not apply to developments in the ROW.

11. The Department of Regional Planning has determined that the project qualifies for Class 3 Exemption (New Construction or Conversion of Small Structures), as it includes construction of a small structure like this wireless facility. Staff has determined that the project is Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA).

12. Pursuant to the provisions of Section 22.60.174 and 22.60.175 of the Zoning Ordinance, the community was appropriately notified of the public hearing by mail, newspaper and property posting.

13. To satisfy the burden of proof, the architectural and general appearance of all such wireless facilities needs to be in keeping with the character of the neighborhood and so as not to be detrimental to the public health, safety and general welfare of the community in which such use or uses are located.

14. The placement of this unmanned wireless facility will in no way have a measurable impact on the surrounding community. The proposed equipment is similar to residential street light located in the public ROW.

15. To assure continued compatibility between the use of the subject property allowed by this grant and surrounding land uses, it is necessary to limit the term of the grant to 10 years

16. The location of the documents and other materials constituting the record of proceedings upon which the Hearing Officer's decision is based in this matter is at the Los Angeles County Department of Regional Planning, 13th Floor, Hall of Records, 320 West Temple Street, Los Angeles, CA 90012. The custodian of such documents and materials shall be the Section Head of the Zoning Permits I Section, Los Angeles County Department of Regional Planning.

17. The Department of Regional Planning and the Board of Supervisors Office has received a total of 41 letters from the neighbors opposing the project, one e-mail and a petition with 136 signatures opposing the project.

18. The Hearing Officer found this project to be unobtrusive and consistent with the neighborhood pattern; which includes concrete lights standards approximately the same height.

19. Proposed telecommunication pole is composed of the same concrete material, same height and is the same design as the existing adjacent street lights.

20. A concrete pole would not pose any fire hazards.

21. The proposed telecommunication pole was relocated to the east side of the street from the original proposed design at the request of the adjacent property owner.

BASED ON THE FOREGOING, THE HEARING OFFICER CONCLUDES:

A. That the proposed use is consistent with the adopted general plan for the area; and

B. That the requested use at the proposed location will not adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding area, will 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 or general welfare; and

C. That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking, loading facilities, landscaping and other development features prescribed in this Title 22.

D. That the proposed site 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 as are required; and

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

HEARING OFFICER ACTION:

1. I the Hearing Officer have considered the Categorical Exemption for this project and certify that it is consistent with the finding by the State Secretary for Resources or by local guidelines that this class of projects does not have a significant effect on the environment.

2. In view of the findings of fact and conclusions presented above, project No. **R2008-01980(3)/ RCUP200800165(3)** is **APPROVED**, Subject to the attached conditions and restrictions.

c: Hearing Officer, Each Commissioner, Zoning Enforcement, Building and Safety

This grant approves, a Conditional Use Permit (CUP) to install a new wireless telecommunications facility subject to the following conditions:

1. The wireless telecommunications facility consisting of three (3) panel antennas, to be mounted on a 22'-6" concrete textured octagonal pole within the public road right-of-way (ROW). The antennas will be enclosed by a 30" x 66" random placed on the top of the pole. The overall height of the pole is 28'. The associated equipment will be placed in a vault across the street. Two (2) 20" x 36" vent stacks will be placed adjacent to the vault as well as the Meyers electrical meter pedestal.

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. Prior to the use of this grant, the property owner or permittee shall record the terms and conditions of the grant in the office of the County Recorder. In addition, upon any transfer or lease of the property during the term of this grant, the property owner or permittee shall promptly provide a copy of the grant and its conditions to the transferee or lessee of the subject property.

   This grant shall not be effective for any purpose until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the Department of Regional Planning their affidavit stating that they are aware of, and agree to accept, all of the conditions of this grant and that the conditions of the grant have been recorded as required by this condition and until all required monies have been paid (if applicable). Further, this grant shall not be effective until the permittee has obtained the insurance coverage required by these conditions (if Applicable).

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. The County shall promptly notify the permittee of any claim, action, or proceeding and the County shall cooperate fully in the defense. If the County fails to promptly notify the permittee of any claim action or proceeding, or if the County fails to cooperate fully in the defense, the permittee shall not thereafter be responsible to defend, indemnify, or hold harmless the County.

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. If any material provision of this grant is held or declared to be invalid, the permit shall be void and the privileges granted hereunder shall lapse.

7. 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's health or safety or so as to be a nuisance.

8. Within ninety (90) days of the approval date of this grant, the permittee shall submit to the Director for review and approval, three (3) copies of site plans, similar to Exhibit "A" as presented at the public hearing. The property shall be developed and maintained in substantial compliance with the plans marked Exhibit "A. In the event that subsequent revised plans are submitted, the permittee shall submit three (3) copies of the proposed plans to the Director for review and approval. All revised plans must be accompanied by the written authorization of the property owner. If changes to the site plan are required as a result of instruction given at the public hearing, a Revised Exhibit "A" shall be submitted to the Department of Regional Planning within sixty (60) days of the date of approval for the Conditional Use Permit.

9. All structures shall comply with the requirements of the Division of Building and Safety of the Los Angeles County Department of Public Works.

   In the event that the county deems it necessary to initiate such proceedings pursuant to Part 13 of Chapter 22.56 of the County Code, the applicant shall compensate the county for all costs incurred in such proceedings.

10. 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.

11. The permittee shall maintain the subject property (telecommunications facility and

equipment) in a neat and orderly fashion.

12. 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.

13. **This grant will terminate on February 16, 2020**. Entitlement to use of the property thereafter shall be subject to the regulations then in effect. At least six (6) months prior to the expiration of this permit and in the event that the permittee intends to continue operations after such date, a new Conditional Use Permit application shall be filed with the Department of Regional Planning. The application shall be a request for continuance of the use permitted under this grant, whether including or not including modification to the use at that time.

14. 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 five (5) bi-annual (every two years) inspections.** Inspections shall be unannounced. The inspection fee shall be **paid within 30 days** of approval. 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 condition of this grant, the permittee shall be financially responsible for 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. The amount charged for additional inspections shall be the amount equal to the recovery cost at the time of payment (currently $200.00 per inspection).

15. All structures, pole, vault, vents open to public view shall remain free of extraneous markings, drawings, or signage.

16. In the event of graffiti or other extraneous markings occurring, the permittee shall remove or cover said markings, drawings, or signage 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. The only exceptions shall be seasonal decorations or signage provided under the auspices of a civic or non-profit organization.

17. The permittee shall maintain a current contact name, address, and phone number

with the Department of Regional Planning at all times

18. Upon receipt of this letter, the permittee shall contact the Fire Prevention Bureau of the Los Angeles County Fire Department to determine what facilities may be necessary to protect the property from fire hazard. Any necessary facilities shall be provided as may be required by said Department.

19. The facility shall be operated in accordance with regulations of the state Public Commission;

20. Said facility shall be removed if in disuse for more than six months;

21. 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;

22. All structures shall conform with the requirements of the Division of Building and Safety of the Department of public Works or other appropriate agency and obtain an encroachment permit if deemed necessary;

23. No construction shall be permitted during the Wet Weather Season which is from October 1st through April 15th.

24. All buildings or structures shall be a neutral color, excluding black, to blend with its surroundings and shall be maintained in good condition at all times;

25. Construction and maintenance of the facility shall take place between the hours of 9:00 AM to 5:00 PM, Monday through Friday only;

26. The permittee shall provide written verification that the proposed facility's radio-frequency radiation and electromagnetic field emissions will fall within the adopted 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 Federal Communications Commission requirements, to the Department of Regional Planning;

27. 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;

28. The operator shall submit an annual maintenance report to the Department of Regional Planning by January 1, verifying the continued operation and maintenance of the said facility;

29. The project shall be developed and maintained in substantial compliance with the plans and photo simulations marked as Exhibit "A". Placement and height of all pole mounted equipment to be in substantial conformance with that shown on said Exhibit "A". All revised plot plans must be accompanied by the written authorization of the property owner;

30. The operator shall ensure that maintenance vehicles shall not block access to driveways or garages and shall obey all applicable on-street parking regulations;

31. The maximum height of the proposed monopole is 28'-3" in height from above ground level or existing sidewalk with a maximum 12" diameter octagonal pole that is textured to match existing light poles.

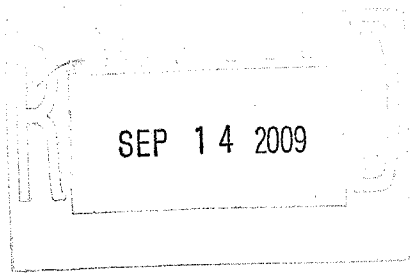
32. The maximum height of the proposed equipment cabinet is 36" tall vents and 20" in diameter. Electrical Meter Pedestal shall have a maximum height of 48" and 17" x 20" widths.

MC:df
February 16, 2010

Arthur Barlow & Judith Jonas
3418 Shoreheights Drive
Malibu, CA 90265

September 11, 2009

The Planning Commission
Los Angeles County
Department of Regional Planning
320 W. Temple Street
Los Angeles, CA 90012



To The Planning Commission:
Re: Project No. R2008-01980-(3)
Conditional Use Permit RCUP 200800165-(3)

Dear Commissioners,

We are the homeowners at 3418 Shoreheights Drive, Malibu, and are writing to protest the above referenced permit that proposes that a pole with antenna and vent stacks and electrical meter pedestal be placed in front and across from the residence at 3418 Shoreheights Drive.

There are several grounds for our concerns.

1. It is very disturbing that Daniel Fierros of he Planning Commission was not aware of the previous application for a cell phone tower in 2007. The previous proposal in 2007 for Conditional Use Permit 200600146 (3) **required a complete environmental review** from a number of departments. Nothing has substantially changed with regard to the location of the proposal or the proposed equipment, and a full environmental review should be required again. Additionally,

   It is imperative that the proposal be reviewed in light of any comments, letters or petitions submitted to the committee regarding the previous proposal.

2. The zoning permit application that Mr. Fierros sent me clearly states that there has not been a previous application for a tower in this sight. The location at the end of our cul-de-sac is the same as the previous application.

3. The zoning permit application states that the location is not in a high fire zone. This is incorrect since the homeowners in this area all are required to have California Fair Plan insurance due to the fire hazard.

4. The cul-de-sac abuts open brush that is the property of Topanga State Park and the proposal severely understates (1) the extent of the fire hazard, (2) its proximity relative to landscaped areas and (3) relative location, as the chaparral growth is on two sides on the site, not merely one (denoted as north in the application).

5. The zoning application appears to allow for other cell phone providers to use the proposed tower for additional cell transmitters. This open ended proposal is unacceptable The Sunset Mesa community needs to have input into any potential alterations to the cell phone tower. It should be a requirement that a full review and hearing is undertaken before any additional cell phone transmitters are allowed on this or any alternative site.

We look forward to your sympathetic consideration of these concerns at the meeting and are hopeful that the Commission will agree that a full environmental review is undertaken and a serious effort is made to find an alternative site for this tower.

Sincerely,

G. Barlow Judith Jonas

February 17, 2010

Walter A. Baroch
P.O. Box 1012
Pacific Palisades, CA 90272

Paul McCarthy
LA County Department of Regional Planning
320 West Temple Street, Room 1348
Los Angeles, CA 90012

RE: Hearing on Proposed Cell Site - Project No. R2008-01980- (3)

Dear Mr. McCarthy:

It is apparent that your decision to approve the applicants permit was based on ulterior motives. Rather than being concerned about the issues of the citizens in LA County effected by your decision, you appear to be motivated only by generating county revenues through corporate permits. The opposition put forward compelling arguments against your quick unthoughtful biased decision. The County is well aware of the mudslide and fault area (documented in your department records) and the County has a responsibility to the protection and safety of their citizens. There is no need to have another geological evaluation.

I am certain you do not have a cell tower in your backyard or you would scream in opposition to it. You conveniently blame the federal government and US Congress, yet you have no interest or solution to our opposition.

The facts are, I have had T-Mobile and other carriers. Currently on AT&T and have had **no problems with coverage or reception from T-Mobile**. The applicant once again lied to you. Another cell site is unnecessary and redundant. There are hundreds of better location in unpopulated residential areas for a cell site within the Malibu/ Pacific Palisades area.

We intent to appeal your wrongful decision, while exposing your agenda.

Sincerely,

Walter A. Baroch
Shoreheights Homeowner.

cc: US Congressman Henry Waxman
LA County Supervisor Zev Yaroslavsky
LA County Director of Planning Bruce McClendon

February 17, 2010

Walter A. Baroch
P.O. Box 1012
Pacific Palisades, CA 90272

FEB 18 2010

Paul McCarthy
LA County Department of Regional Planning
320 West Temple Street, Room 1348
Los Angeles, CA 90012

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Sincerely,

Walter A. Baroch
Shoreheights Homeowner.

cc: US Congressman Henry Waxman
LA County Supervisor Zev Yaroslavsky
LA County Director of Planning Bruce McClendon

Fierros, Daniel

From: KimForster@aol.com
Sent: Thursday, September 03, 2009 2:41 PM
To: Fierros, Daniel
Cc: zev@bos.lacounty.gov
Subject: Project Number R2008-01980 / Permit RCUP 200800165

Forster Residence
3434 Shoreheights Drive
Malibu, CA 90265

Subject: Zoning Permit Application R2008-01980

Mr. Daniel Fierros:

I called your office on August 27th to discuss my concerns regarding the subject zoning permit for a 27' pole and 30"x66" radome on top. I was informed by your colleague Anita that you were on vacation and she recommended that I write to you regarding my concerns over the use of this site and what I consider to be material factual errors in the application.

In section "10 Environmental Information", the applicant's responses to several questions significantly mischaracterize the site, in particular:

- 2 - Environmental Settings – Surrounding Area: b &c
- 5 - Are there any identifiable landslides or other major geographical hazards on the property
- 6 – Is the property located within a high fire hazard area (i.e. hillsides with moderately dense vegetation)

With respect to 2b and 5, the applicant has completely failed to reference that the site is approximately 10 feet from a sheer cliff edge that runs the entire side of the street on which the tower is proposed. The two residences immediately next to the site were both built on "hazard" lots and they have both experienced slope failures. In the seventies, the slope failed at 3417 Shoreheights, causing loss of a portion of their yard and requiring major remedial structural work on the house. More importantly, the slope failed again in 2005, which resulting in both 3417 and 3447 Shoreheights being temporarily red tagged as uninhabitable. The lot at 3417, the closest to the site, experienced the greatest damage, with the entire yard that had been at the back of the house slipping away, and leaving the underside of half the house exposed. The lot at 3447 suffered lesser damage, but I believe part of the house still carries a yellow tag. The full extent of the slide and large chunks of rock that fell are clearly visible from Topanga Canyon Blvd.

Given the long history of geological failure immediately adjacent to the site, it's inconceivable to me that any digging or drilling be allowed near this area, particularly since the prior slope failures occurred after rains, without any man-made disturbance to the site.

With respect to 2c and 6, the applicant identifies the vegetation as "home lawns and natural landscape to the north". The "natural landscape" is highly flammable chaparral and manzanita and other wild foliage that is very dense and stands 4 to 5 feet high and blankets the hillside literally miles deep. This dense, high fire risk plant material is roughly 10 feet from the site of the proposed tower. The site was burned in a fire in the late '70's that also caused fire damage to the residence at 3417 Shoreheights. While the adjacent homes do have lawns, they are 2-3 times as far away as the high fire hazard chaparral. The applicant's description of the vegetation as firstly "home lawns" is misleading because that is not the primary or even a major feature adjacent to the site. The additional noted vegetation of "natural landscape to the north" severely understates (1) the extent of the fire hazard, (2) its proximity relative to landscaped areas and (3) relative location, as the chaparral growth is on two sides on the site, not merely one (denoted as north in the application).

I am providing a copy of this letter to Supervisor Yaroslavsky's office. The Supervisor regularly speaks at our annual homeowners association meetings and is aware of the both the landslide and fire dangers at this particular site.

I can be reached during business hours at 310-556-4089 if you have any questions regarding the concerns I've outlined. I will be unable to attend the public hearing on this application as I am unable to take the time away from work, but it is my understanding that this letter will be included in the formal evaluation of the zoning review. In light of the geological problems at the site, I request that you deny application in question.

Regards,

Kim Forster

Cc: Supervisor Yaroslavsky (via e-mail)

Fierros, Daniel

From: Norman A. Dupont [NDupont@rwglaw.com]
Sent: Monday, September 14, 2009 12:39 PM
To: Fierros, Daniel
Cc: Ben Saltsman (E-mail); Barbara Hattem; Bill Davis; Bill Sanders (E-mail); Craig Mohr (E-mail); Gregg Brock; Matthew S. Warren (E-mail); Paul Leoni (E-mail); Paul Rudzinski; Peter Heiman (E-mail); Shyam Amladi; Tom Sadowski
Subject: Application for Conditional Use Permit/Project No. R2008-01980 (3)//RCUP 200800165(3)
Attachments: Cell Tower Site pictures.doc

Dear Mr. Feirros:

Please allow this e-mail to serve as the comment of the Sunset Mesa Property Owners Association, Inc. to the proposal for a CUP that would allow the construction, maintenance of a new monopole and related features to expand the cellular phone service for T-Mobile.

Sunset Mesa Property Owners Association, Inc. is a non-profit corporation that serves the homeowners in the community generally known as Sunset Mesa and includes the streets of Shoreheights, Surfwood, and Clifftop that are the three streets closest in proximity to the new proposed cell phone tower. We oppose the application because it appears that: (1) the applicant has misled the Department of Regional Planning in at least three respects in its application; and (2) the applicant has failed to demonstrate that it is appropriate to locate a cellular phone tower immediately adjacent to a major landslide area and a major fire hazard area. Therefore, the "time, place, and manner" of this proposed location should be rejected by the Regional Planning Commission.

With respect to factual errors in the Zoning Permit Application ("Application"), we note three significant errors. First, the applicant indicated that there are "no" identifiable landslides on the property. Yet, even a causal view of the back of the immediately closest house to this proposed construction, 3418 Shoreheights Drive, will show that that house, and the home immediately next door to 3418 Shoreheights Drive suffered a major landslide within the past five years. The home at 3418 Shoreheights Drive currently appears to be adequately supported by a series of massive caissons put in the by owner. But, there should be no mistake that the area immediately (and I do mean immediately) adjacent to the proposed monopole has a clearly demonstrated history of recent landslide activity.

Second, the applicant indicated that the property is not located within a "high fire hazard area." I am attaching a photograph recently taken that illustrates exactly how close the proposed pole location is to a hillside filled with brush. This area is known as a high fire hazard area within the County, and the applicant's failure to note this is a very disturbing failure.

Third, the applicant indicated that "delivery or shipment trucks" will not travel through residential areas to reach the nearest highway. This is demonstrably untrue. The ONLY way to access the upper portion of Shoreheights Drive is to travel through the Sunset Mesa community which is 100% residential.

On the basis of demonstrably incorrect information alone, Sunset Mesa Property Owners Association, Inc. requests that this application be delayed for 30 days or denied outright.

Finally, Sunset Mesa Property Owners Association, Inc. questions why it is that the only proposed location for this particular cell phone tower is within 5-10 feet of open brush from the Santa Monica mountains. Certainly, the County's recent experience with the relay systems at the top of Mt. Wilson in the Station fire demonstrates that great pause must be given before locating sensitive cell phone towers or other communications systems within easy

range of a fire area. Absent evidence that the applicant considered other locations and was unable to find any other location that can accommodate its telecommunications needs and yet is better situated to avoid a clear and present fire danger, Sunset Mesa must object.

Please notify me if you have any questions about these objections. If you need a formal letter from the Association for your files, please advise me and I will arrange for delivery of such a letter to your offices this afternoon.

Sincerely,
Norman Dupont
President,
Sunset Mesa Property Owners Association, Inc.

<<Cell Tower Site pictures.doc>>

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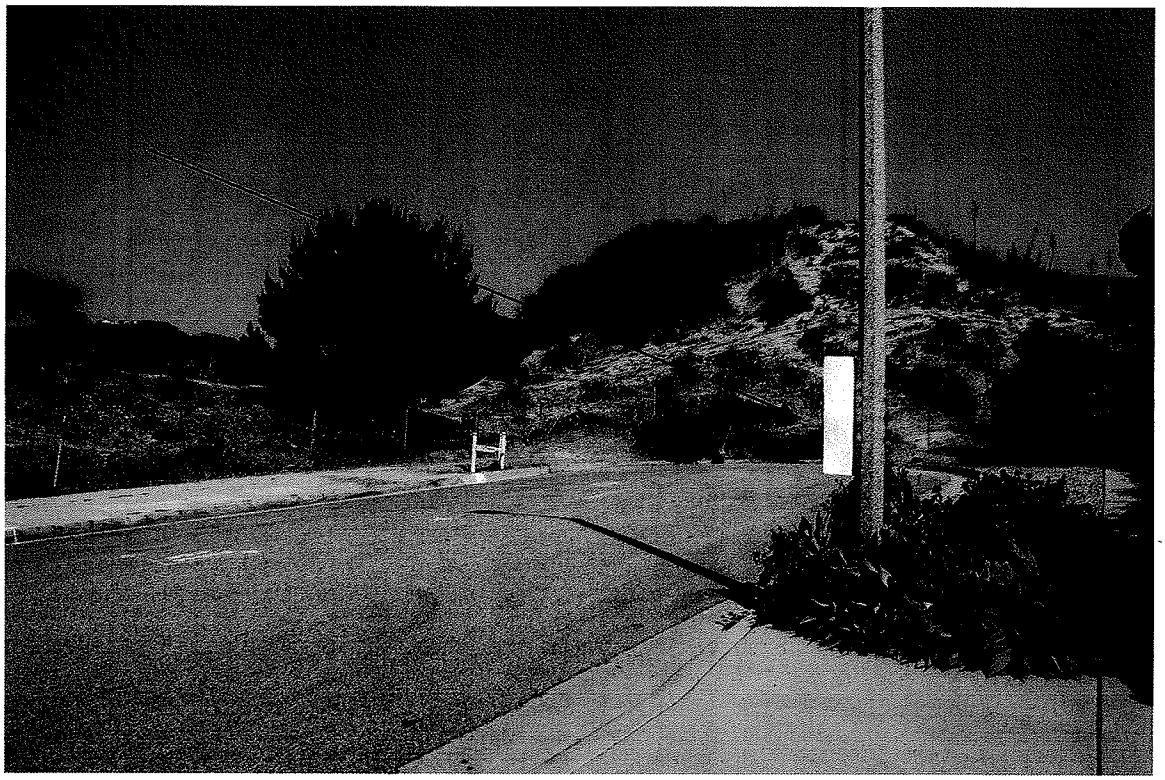

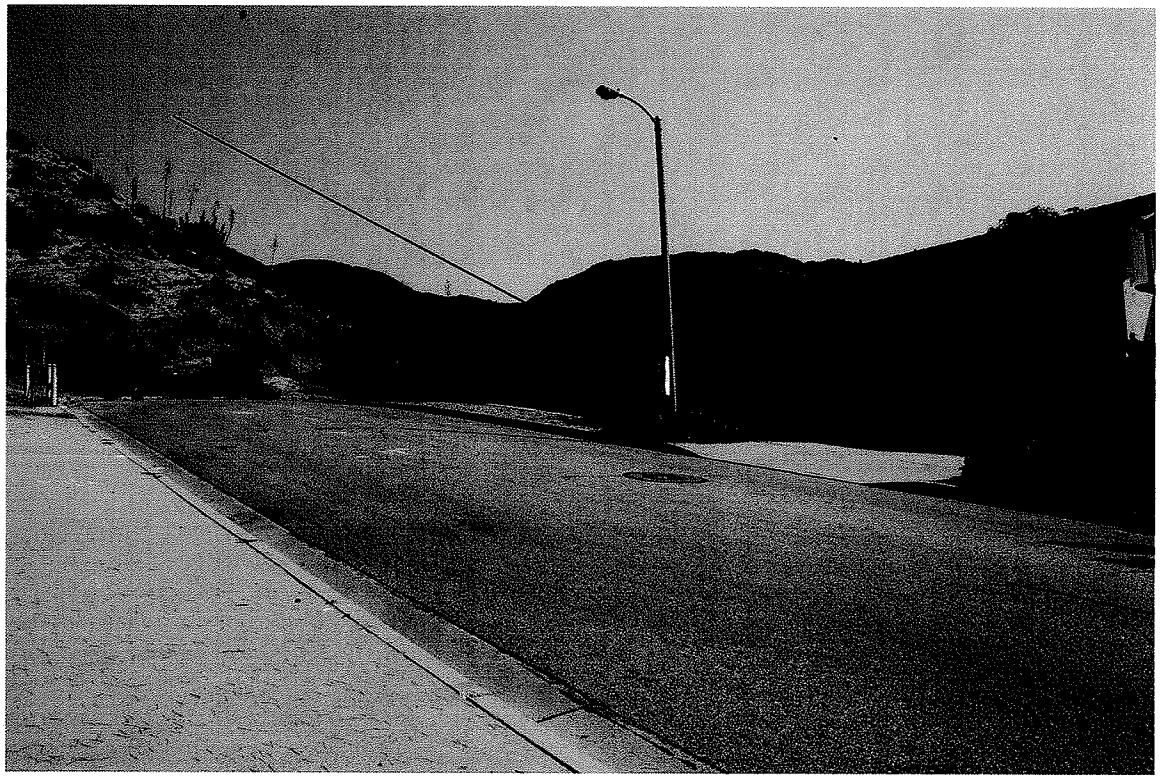

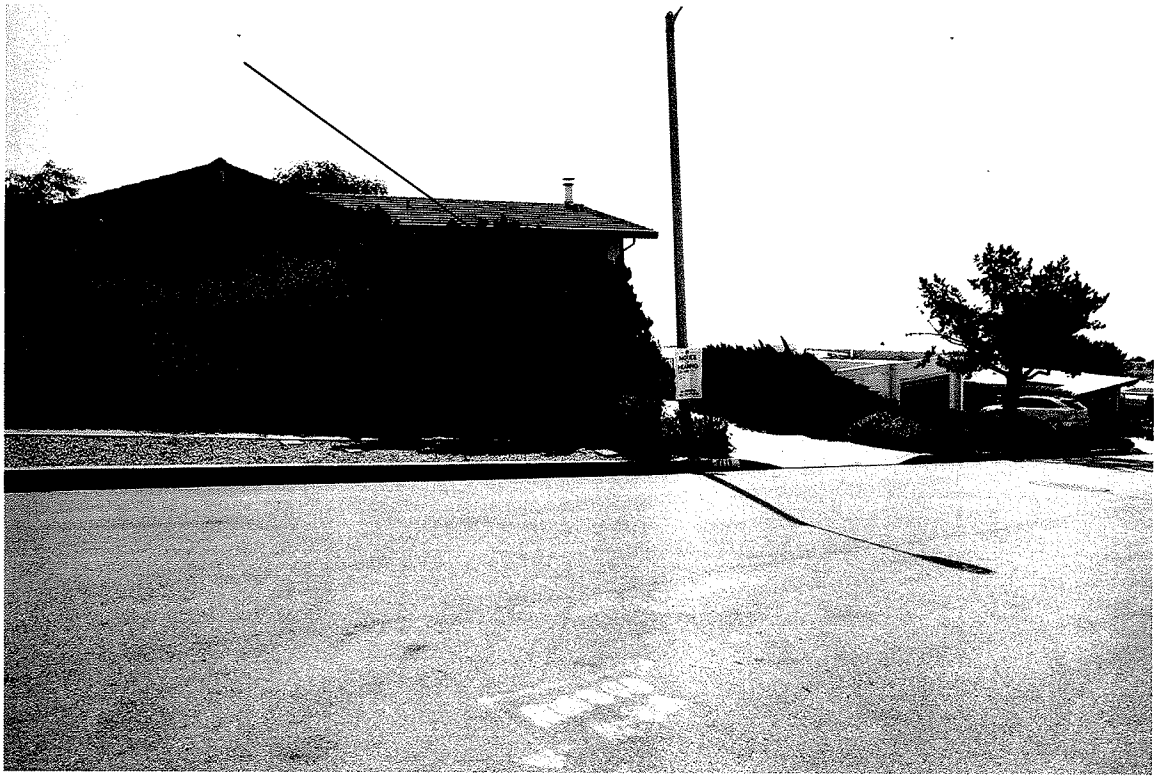

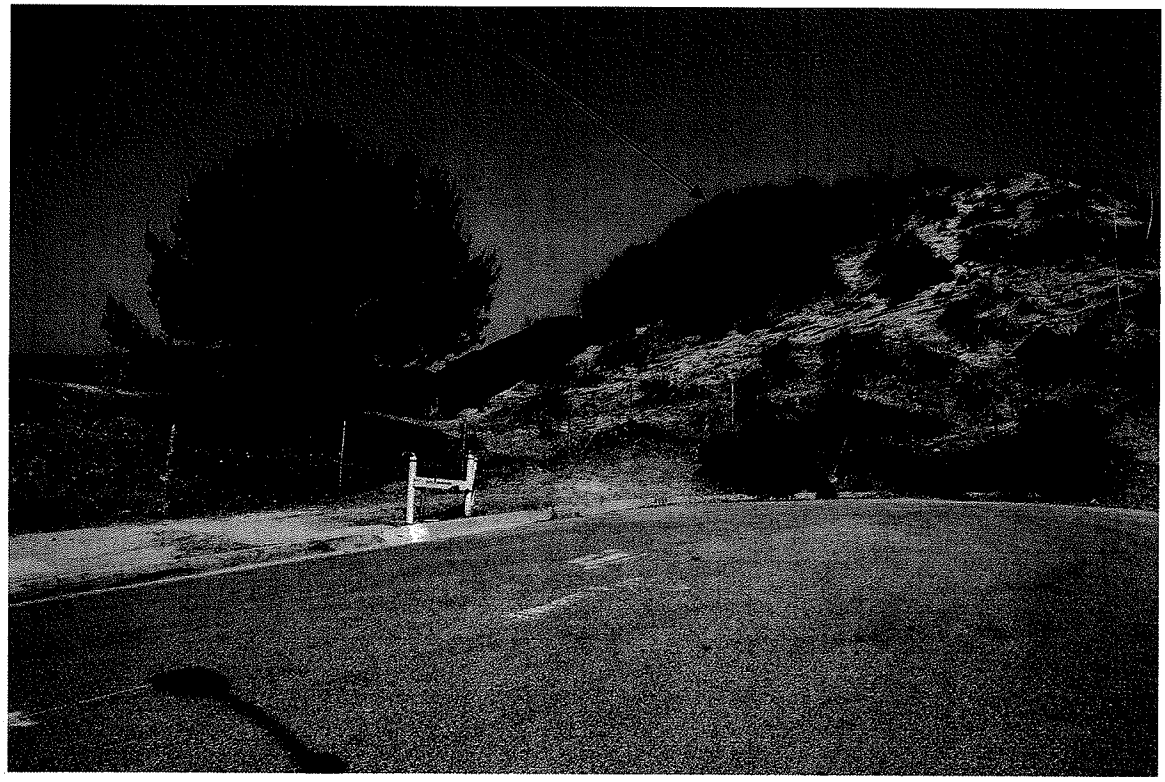

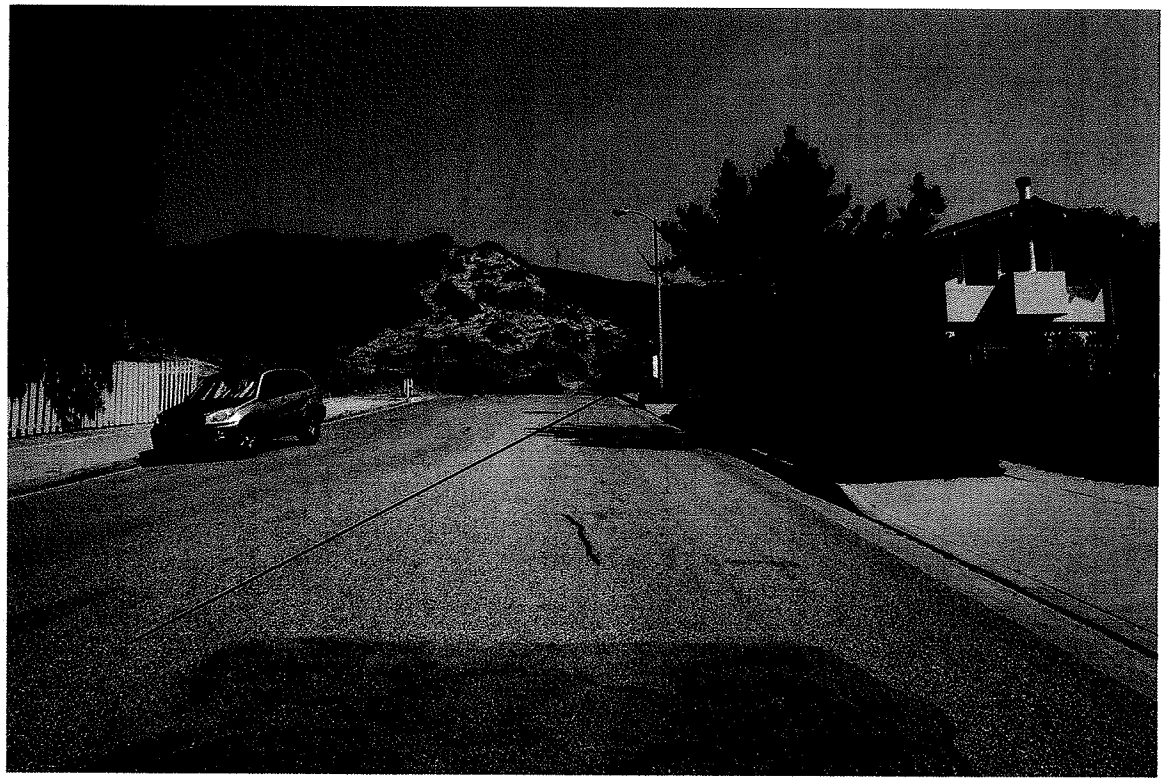

McCarthy, Paul

#4

From: Fierros, Daniel
Sent: Monday, September 14, 2009 12:45 PM
To: McCarthy, Paul
Cc: Child, Mark
Subject: FW: Application for Conditional Use Permit/Project No. R2008-01980 (3)//RCUP 200800165(3)

MAL 1BU

Cell Tower Site pictures.doc (...

-----Original Message-----
From: Norman A. Dupont [mailto:NDupont@rwglaw.com]
Sent: Monday, September 14, 2009 12:39 PM
To: Fierros, Daniel
Cc: Ben Saltsman (E-mail); Barbara Hattem; Bill Davis; Bill Sanders (E-mail); Craig Mohr (E-mail); Gregg Brock; Matthew S. Warren (E-mail); Paul Leoni (E-mail); Paul Rudzinski; Peter Heiman (E-mail); Shyam Amladi; Tom Sadowski
Subject: Application for Conditional Use Permit/Project No. R2008-01980 (3)//RCUP 200800165(3)

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Sincerely,
Norman Dupont
President,
Sunset Mesa Property Owners Association, Inc.

<<Cell Tower Site pictures.doc>>
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McCarthy, Paul

From: Fierros, Daniel
Sent: Thursday, September 03, 2009 3:50 PM
To: McCarthy, Paul
Cc: Kim, Mi
Subject: FW: Project Number R2008-01980 / Permit RCUP 200800165

Paul

I just received this e-mail regarding a wireless case that you will be the hearing officer. The residents are opposing the installation of a wireless pole in the Public right of way.

Daniel

From: KimForster@aol.com [mailto:KimForster@aol.com]
Sent: Thursday, September 03, 2009 2:41 PM
To: Fierros, Daniel
Cc: zev@bos.lacounty.gov
Subject: Project Number R2008-01980 / Permit RCUP 200800165

Forster Residence
3434 Shoreheights Drive
Malibu, CA 90265

Subject: Zoning Permit Application R2008-01980

Mr. Daniel Fierros:

I called your office on August 27th to discuss my concerns regarding the subject zoning permit for a 27' pole and 30"x66" radome on top. I was informed by your colleague Anita that you were on vacation and she recommended that I write to you regarding my concerns over the use of this site and what I consider to be material factual errors in the application.

In section "10 Environmental Information", the applicant's responses to several questions significantly mischaracterize the site, in particular:

- 2 - Environmental Settings – Surrounding Area: b &c
- 5 - Are there any identifiable landslides or other major geographical hazards on the property
- 6 – Is the property located within a high fire hazard area (i.e. hillsides with moderately dense vegetation)

With respect to 2b and 5, the applicant has completely failed to reference that the site is approximately 10 feet from a sheer cliff edge that runs the entire side of the street on which the tower is proposed. The two residences immediately next to the site were both built on "hazard" lots and they have both experienced slope failures. In the seventies, the slope failed at 3417 Shoreheights, causing loss of a portion of their yard and requiring major remedial structural work on the house. More importantly, the slope failed again in 2005, which resulting in both 3417 and 3447 Shoreheights being temporarily red tagged as uninhabitable. The lot at 3417, the closest to the site, experienced the greatest damage, with the entire yard that had been at the back of the house slipping away, and leaving the underside of half the house exposed. The lot at 3447 suffered lesser damage, but I believe part of the house still carries a yellow tag. The full extent of the slide and large chunks of rock that fell are clearly visible from Topanga Canyon Blvd.

Given the long history of geological failure immediately adjacent to the site, it's inconceivable to me that any digging or drilling be allowed near this area, particularly since the prior slope failures occurred after rains, without any man-made disturbance to the site.

With respect to 2c and 6, the applicant identifies the vegetation as "home lawns and natural landscape to the north". The "natural landscape" is highly flammable chaparral and manzanita and other wild foliage that is very dense and stands 4 to 5 feet high and blankets the hillside literally miles deep. This dense, high fire risk plant material is roughly 10 feet from the site of the proposed tower. The site was burned in a fire in the late '70's that also caused fire damage to the residence at 3417 Shoreheights. While the adjacent homes do have lawns, they are 2-3 times as far away as the high fire hazard chaparral. The applicant's description of the vegetation as firstly "home lawns" is misleading because that is not the primary or even a major feature adjacent to the site. The additional noted vegetation of "natural landscape to the north" severely understates (1) the extent of the fire hazard, (2) its proximity relative to landscaped areas and (3) relative location, as the chaparral growth is on two sides on the site, not merely one (denoted as north in the application).

I am providing a copy of this letter to Supervisor Yaroslavsky's office. The Supervisor regularly speaks at our annual homeowners association meetings and is aware of the both the landslide and fire dangers at this particular site.

I can be reached during business hours at 310-556-4089 if you have any questions regarding the concerns I've outlined. I will be unable to attend the public hearing on this application as I am unable to take the time away from work, but it is my understanding that this letter will be included in the formal evaluation of the zoning review. In light of the geological problems at the site, I request that you deny application in question.

Regards,

Kim Forster

Cc: Supervisor Yaroslavsky (via e-mail)

DRP RECEIVED 44 OF THESE LETTERS

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

821 KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET / LOS ANGELES, CALIFORNIA 90012
PHONE (213) 974-3333 / FAX (213) 625-7360
zev@bos.lacounty.gov / http://zev.lacounty.gov

ZEV YAROSLAVSKY
SUPERVISOR, THIRD DISTRICT

February 11, 2010

Mr. Daniel Delaney
3802 Castlerock Road
Malibu, California 90265

Dear Mr. Delaney:

Thank you for your letter regarding the proposed T-Mobile cell phone tower on Shoreheights Dr. I understand your concerns about this facility and am closely monitoring the issue.

While the county is mandated to consider all applications, and the State legislature and Congress have unfortunately placed special restrictions on what issues local governments can legally consider when evaluating a cell tower, please be assured that this T-Mobile application is only at the initial stages of the County's public hearing process. During that review process, I strongly believe that it is vital that the County departments carefully review all aspects of a proposal such as this one to make sure that demonstrated problems, such as impaired views of scenic areas, can be avoided. To that end, I am pleased that the Department of Regional Planning's Hearing Officer has deferred this item on several occasions to ensure that residents in Sunset Mesa have an opportunity to learn about the proposal and provide their comments.

As you may know, the next hearing before the Hearing Officer is scheduled on February 16, 2010. If neighbors of the project (or the applicant) are not satisfied with the Hearing Officer's decision, the case can be appealed to the Regional Planning Commission. From there, the case can be further appealed by any interested party to the Board of Supervisors. The law requires me to independently evaluate all the evidence presented during a public hearing before deciding how to vote on a proposed development, so I am personally prevented from taking a position on the proposed cell tower at this time. However, please know that I will critically evaluate this project if it reaches the Board of Supervisors and will keep the views of the Sunset Mesa community closely in mind.

In addition, to ensure that your views are made known to the Hearing Officer, by copy of this letter, I am requesting that the planner from the Department of Regional Planning, Daniel Fierros, include your comments as part of the record on February 16th. I am also

requesting that Mr. Fierros add your name to the interest list and notify you of all future public hearings that are scheduled on this matter.

Thanks again for sharing your views on the proposed cell tower. If you have any additional questions, or I can be of further assistance in the future, please do not hesitate to contact me.

Sincerely,

ZEV YAROSLAVSKY
Supervisor, Third District

c: Mr. Daniel Fierros, Department of Regional Planning

DRP RECEIVED 58 OF THESE LETTERS

February 2, 2010

FEB - 3 2010

Attention: Paul McCarthy
Los Angeles County Department of Regional Planning
320 West Temple Street, Room 1348
Los Angeles, CA 90012
(213) 974-6461

RE: Project No. R2008-01980- Conditional Use Permit Case No. 200800165
3418 Shoreheights Drive - The Malibu Zoned District

Dear Mr. McCarthy,

I am contacting you regarding a proposed cell tower at the top of Shoreheights Drive in the Sunset Mesa neighborhood.

I oppose this tower due to the following reasons.

- We are a unique community that does not have above ground utilities.
- Our community only has one access point in and out of the neighborhood, with no through traffic. Per T-Mobile's representative, this tower would require regular maintenance every one to three months, plus additional maintenance at their discretion.
- If a cell tower were approved, it would set a precedent and open our area up to other companies. Our neighborhood could potentially become a collection of several towers, impacting its natural beauty and potentially its property values.
- T-Mobile currently has towers at Sunset and Topanga. T-Mobile customers driving along PCH experience no interruption in their service between these two points. So an additional tower in our neighborhood, which falls between Sunset and Topanga, appears to be a move to gain access specifically to our neighborhood. Considering that there is a much larger contingency against the tower than for it, this does not make sense. (Also, we have been able to locate only 5 T-Mobile customers in our neighborhood and not even all of those customers want the tower.)

To summarize, this tower is not wanted by many residents. It is not needed to maintain existing service for motorists through this region and it will create a precedent that may adversely affect property values and quality of community life. Please do not approve this tower. Thank you for your time.

Sincerely,

Also, The area experienced a significant landslide a few years ago. Please oppose This!

Sunset Mesa Resident

Name: Audrey Sarn

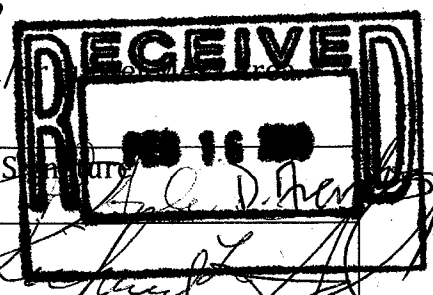
Address: 18328 Coastline Drive Malibu CA 90265

136 PEOPLE SIGNED THE PETITION AND 7 PEOPLE ASKED TO HAVE THEIR NAME ADDED TO THE PETITION

R 2008-01980-3

RECEIVED

Opposition to the proposed cell tower on Shoreheights Drive and/or [illegible]



	Address	Name	Signature
1	18361 Clifftop Way 90265 Malibu CA	Paulette Silva	[illegible]
2	18361 Clifftop Way Malibu, CA 90265	Richard Silva	[illegible]
3	18407 Clifftop Way Malibu, CA	Teri Carcano	[illegible]
4	3709 CASTLEROCK RD MALIBU CA	JANNA FRAGEN	[illegible]
5	3616 Shoreheights Dr. Malibu, CA 90265	Anne Andrus	[illegible]
6	18454 Clifftop Way Malibu, CA 90265	Liz Davidson	[illegible]
7	" " "	Miles Mogulescu	[illegible]
8	18407 Clifftop Way Malibu, CA 90265	Steve Carcano	[illegible]
9	18425 Clifftop Way Malibu CA 90265	Mark Stoetzger	[illegible]
10	18443 Clifftop Way Malibu, CA 90265	Susan Landesman	[illegible]
11	18449 Clifftop Way	Hope Stevenson	Hope Stevenson
12	" "	Gary Stevenson	[illegible]
13	18453 Clifftop Way	Sarah Doering	Sarah Doering
14	18490 Clifftop Way	Lisa Sewell	Lisa Sewell
15	" " " "	Bill Sewell	[illegible]
16	18402 Clifftop Way	Karen Clark	[illegible]
17	18402 Clifftop Way	Fred Clark	[illegible]
18	18408 Clifftop Way	Estelle Grundstein	Estelle Grundstein
19	18408 Clifftop Way	Amram Grundstein	[illegible]
20	18366 Clifftop Way	Sandy Thacker	Sandy Thacker
21	" "	[illegible]	John Thacker
22	18349 Clifftop Way	Norm Dupont	[illegible]
23	18349 Clifftop Way	John Natafella	[illegible]

Opposition to the proposed cell tower on Shoreheights Drive

	Address	Name	Signature
24	18328 Coastline	Audrey Sarn	
25	18428 Coastline Dr.	Bettyanne W. Rockwell	
26	18428 Coastline Dr	Alison Rockwell	
27	3825 Malibu Vista Drive	Julie Crew	
28	3801 Malibu Vista	Bob Dwyer	
29	18459 Coastline Dr	Constance Dealy	
30	18344 Wakecrest dr.	Russell Shubin	
31	18344 Wakecrest dr	Erica Shubin	
32	18325 Clifftop Way	Debbie Markles	
33	18405 KINGSPORT DR	WENDI WILMOUTH	
34	18301 Wakecrest Dr.	Marilyn Leoni	
35	18301 WAKECREST DR	MARILYN LEONI	
36	36341 MALIBU VISTA DR	JOHN LEHNE	
37	3634 MALIBU VISTA DR	Katherine Lehne	
38	3709 Malibu Vista Dr	Annabelle Heiman	
39	3417 Shoreheights Dr.	Barbara Ingram	
40	3622 Malibu Vista	Zdenek Vorp	
41	3510 Shore Hts Dr	Jim Silverman	
42	3534 SHOREIGHTS DR	KEN SCHLEICHKORN	
43	3722 CASTLEROCK RD	AMEDEO FERRARO	
44	3802 Castlerock Rd	Kathleen Daly	
45	18334 Coastline	John Reed	
	18348 COASTLINE DR.	Ruth Fogelman RUTH FOGELMAN	

Opposition to the proposed cell tower on Shoreheights Drive

	Address	Name	Signature
46	3826 CASTLEROCK Rd	KIT PLUMRIDLE	[signature]
47	3826 Castlerock Rd	Megan Plumridge	[signature]
48	3826 Castlerock Rd.	Carrie Plumridge	[signature]
49	1600 Petersen ave.	Maribeth Erwood	[signature]
50	20 Colby Lane	Mallory Barash	[signature]
51	3651 Malibu Vista Drive	Gerry Greengard	[signature]
52	3651 MALIBU VISTA DRIVE	LIDDY MORRIN	L Morrin
53	3652 Surfwood Rd	MIKE AMOR	[signature]
54	3639 OCEANHILL WAY	M. EMANUEL	[signature]
55	3546 SURFWOOD RD	R Bloch	[signature]
56	18332 Wakecrest Drive	Harold + Madonna Matheson	(see email)
57	3632 Shoreheights Drive	Rob + Theresa Robin	(see email)
58	3530 Surfwood Rd	James Harding	[signature]
59	3719 SEAHORN Drive	Emmanuel MARQUES	[signature]
60	3649 SEAHORN	DAVID TAUB	[signature]
61	3719 Seahorn drive	Myriam MARQUES	[signature]
62	3625 SURFWOOD RD	BOB BORNSTEIN	[signature]
63	3632 Oceanhill Way	P. DVORSKY	[signature]
64	18169 Kingsport	Anne Salenger	[signature]
65	18129 Kingsport	Glenn Tunn	[signature]
66	18131 KINGSPORT	[signature]	[signature]
67	18131 Kingsport Dr.	Nellie Lakamp	Nellie Lakamp

Opposition to the proposed cell tower on Shoreheights Drive and/or Sunset Mesa Area.

	Address	Name	Signature
68	3815 CASTLEROCK ROAD	LORI BENEDETTI	
69	18424 Coastline Dr	K. Wessen	
70	18447 Coastline Dr	Peter Sennott	
71	18444 Cliff Top Way	Zina Wood	
72	3735 Castlerock	Cindy Block	
73	3827 Castlerock Rd	Alessandra Arreola ~~Francis Riegler~~	
74	3827 Castlerock Rd	Francis Riegler	AA for F. Riegler
75	4941 COASTLINE DR.	LARRY McNAMEE	
76	18135 Kingsport Dr.	Ahmad Maghboul	
77	3815 Seahorse Dr.	Hamid R. Assadi	
78	3819 SEAHORSE DR 458-6071	JODI FREEMAN	
79	8123 SANDY CAPE DR	Helen Miller	
80	3837 CASTLEROCK RD	Lida Rawson	
81	18163 Kingsport Drive	Richard + Harriet Simon	See email attached
82		Claude Erb	See email attached
83		Shawn Scott	See email attached
84	3703 Surfwood	Loretta Roberts	

Opposition to the proposed cell tower on Shoreheights Drive and/or Sunset Mesa Area.

	Address	Name	Signature
85	3630 Surfwood	Janie Harding	Janie Harding
86	3912 Spray Cane	James Peter	[illegible]
87	3615 Surfwood Rd	Makimi Dudzinsky	M Dudzinsky
88	18331 Coastline Dr	Kim Cooper	[illegible]
89	3615 Surfwood Road	S. John Dudzinsky Jr.	[illegible]
90	3633 Shoreheights DR	Hock Yeoh	[illegible]
91	18337 Coastline Dr. Malibu	Susan Kamins	Susan Kamins
92	18211 Kinusport Dr.	MARTA SAMULON	Marta K Samulon
93	18331 Coastline Dr MALIBU	TENNYSON SEBASTIAN	[illegible]
94	18300 Wakecrest Dr.	Wedge Gale Gallowing	Wedge Gale Gallowing
95	18301 Clifftop Way	David Gold	David E Gold
96	18406 Coastline Drive	Theresa Gormly	Theresa Gormly
97	18351 Coastline Drive Michael Rosenblum	Michael Rosenblum	(see email)
98	18307 WAKecrest DR Malibu CA 90265	Linda Ovitz	Linda Ovitz
99	18341 Coastline Malibu CA 90265	Cynthia Stern	
100	18309 Coastline Drive MALIBU CA 90265-5729	Maureen de Koff	Maureen de Koff
101	Elinor A. Schultze	18315 Coastline Dr.	ELINOR SCHULTZE
102	[illegible]	1834 Coastline	
103	18321 COASTLINE Dr	Richard Rector	[illegible]
104	18068 Coastline Dr	Regina Yarmak	R. Yarmak
105	3703 Surfwood Rd.	Loretta Roberts	Loretta Roberts
106	3703 Surfwood Rd.	Paul Roberts	Paul Roberts

	Address	Name	Signature
107	3434 Shoreheights Dr	Jessie Forster	
108	(email - KimForster@aol.com	& miscmailforkim@gmail.com	

Opposition to the proposed cell tower on Shoreheights Drive and/or Sunset Mesa Area.

	Address	Name	Signature
109	3418 Shoreheights DR, Malibu	JON 13 JUDITH	
110	3418 Shoreheights Dr, Malibu	ART Barlow	

Opposition to the proposed cell tower on Shoreheights Drive and/or Sunset Mesa Area.

	Address	Name	Signature
111	18247 WAKEFOREST DR. MALIBU 90265	CORINNE KARR	

Opposition to the proposed cell tower on Shoreheights Drive and/or Sunset Mesa Area.

	Address	Name	Signature
112	3702 Oceanhill Way	Ben Wang	

Opposition to the proposed cell tower on Shoreheights Drive and/or Sunset Mesa Area.

	Address	Name	Signature
113	3653 Seahorn Dr.	Marie Wexler	

Opposition to the proposed cell tower on Shoreheights Drive and/or Sunset Mesa Area.

	Address	Name	Signature
114	3459 Shoreheights Dr.	Walter Baroch	Walter A Baroch
115	3459 Shoreheights Dr	Shirley Talosig	Shirley E Talosig
116	18408 Wakecrest Dr	Brenda Williams	B Williams
117	3403 Cloudcroft Dr.	Karla Wells	[illegible]
118	3502 3502 SHOREHGTS	Bill Brenone	[illegible]
119	3847 Malibu Vista Dr	Don Gordon	[illegible]
120	18354 Wakecrest	Wm J. Davis	Wm J. Davis
121	18354 Cranthi Dr.	Brenda [illegible]	[illegible]

Opposition to the proposed cell tower on Shoreheights Drive and/or Sunset Mesa Area.

	Address	Name	Signature
122	18335 Clifftop Way, Malibu, CA 90265	Nikolaus Vezagiadis	[illegible]
123	3429 Cloudcroft Drive Malibu CA 90265	Jan Brice	J Brice
124	18329 Clifftop Way Malibu CA 90265	Austine Guttler	Austine Guttler
125	" " "	Richard Guttler	[illegible]
126	" " "	Delaney Guttler	Delaney Guttler
127	3640 Malibu Vista Dr Malibu	Inge Jones	[illegible]
128	18350 Clifftop Way Malibu CA. 90265	Yasuko Shohara	Yasuko Shohara
129	18434 Clifftop Way Malibu, CA. 90265	Ralph Erickson	Ralph Erickson
130	18307 Clifftop Way Malibu CA 90265	Katharina Klotz	Kath Klotz
131	18102 Sandy Cape Dr Malibu CA 90265	Gayle C. Marsh	Gayle C Marsh
132	18361 Clifftop Way Malibu	Matthew Silver	[illegible]
133	18330 Clifftop Way Malibu 90265	John R Ronge	John R Ronge
134	18326 Clifftop Way	Karen Harding	[illegible]
135	18326 Clifftop Way	Gloria Borders	[illegible]
136	3826 Castlecock Rd.	Timmy A. Plumridge	[illegible]

From: "Michael Rosenblum " <msr61@msn.com>
Subject: **Re: Cell Tower**
Date: February 1, 2010 11:18:12 PM PST
To: "Audrey Sarn " <audrey@audreysarn.com>

Please sign my name. Thx for the reminder.
Sent from my Verizon Wireless BlackBerry

-----Original Message-----
From: Audrey Sarn <audrey@audreysarn.com>
Date: Tue, 2 Feb 2010 05:06:14
To: <msr61@msn.com>
Subject: Cell Tower

Hi Mike,

Did you sign the petition? I didn't' see your signature. If not, let me know so I can swing by and get your signature or just email me letting me know you want me to add your name and I will.

Thanks,
Audrey

From: P L Roberts <plmeuam@yahoo.com>
Subject: **Petition**
Date: February 11, 2010 10:27:39 AM PST
To: Audrey@audreysarn.com

I would like to sign the petition to oppose the cell tower.

Thanks.

Loretta Roberts
3703 Surfwood

From: claude erb <claudeerb@gmail.com>
Subject: **cell phone tower**
Date: January 24, 2010 9:08:36 AM PST
To: audrey@audreysarn.com

Audrey-

I received a note indicating that you are collecting signatures for a petition to oppose construction of a T-Mobile cell phone tower

How can I sign the petition?

-Claude Erb

From: Richard Simon <d202rsimon@gmail.com>
Subject: **petition**
Date: January 27, 2010 11:06:40 AM PST
To: Audrey@audreysarn.com

Regarding the petition opposing the T-Mobile cell tower, where do we sign? Is it online? We are:

Harriet Simon
Richard Simon

18163 Kingsport Dr.

From: Shawn Scott <shawn@anthonyhitt.com>
Subject: **Fwd: Live in sunset mesa Where do we sign the pettition for cell tower?**
Date: January 24, 2010 5:43:16 PM PST
To: audrey@audreysarn.com

Thank you for hand out today.
Where can we sign the petition for no cell tower?
thank you

--
Shawn Scott, Assistant to Anthony Hitt I Sotheby's International Realty I 310.264.1600

PS. I'm never too busy for your referrals. If you know someone who would appreciate the level of service we provide, please call me with their name and business number or email. We'll do the rest.

DRE # 01320024

--
Shawn Scott, Assistant to Anthony Hitt I Sotheby's International Realty I 310.264.1600

PS. I'm never too busy for your referrals. If you know someone who would appreciate the level of service we provide, please call me with their name and business number or email. We'll do the rest.

DRE # 01320024

From: "Robert Rubin" <rmalibu@charter.net>
Subject: **cell phone tower**
Date: January 24, 2010 9:38:55 AM PST
To: <Audrey@audreysarn.com>

Hi Audrey
Thanks for dropping the info sheet off at our house
We also Oppose the Tower and as we cannot attend the meeting on the 25th
Please add our names to any petition that opposes placement of said Cell Tower by Omnipoint.
Signed

Rob and Theresa Rubin
3632 Shoreheights Dr
Malibu, CA

mailto:@charter.net
Need a Vacation? See www.vrbo.com/188128

From: mathesonh@cs.com
Subject: **Cell Tower**
Date: January 23, 2010 8:57:52 PM PST
To: audrey@audreysarn.com

Ms Sarn:
You may put Harold & Madonna Matheson, 18332 Wakecrest Dr. down as opposed to the T-Mobile tower intrusion in Sunset Mesa. A multiple use tower serving a number of cell carriers *might* be acceptable at some time in the future. I would be far more interested in DSL service in the mesa, but that is for another discussion.
Hal Matheson

PHOTOGRAPHS SUBMITTED BY OPPOSITION AT HEARING OFFICER'S HEARING

Item # 4 R 2008-0980-5

Streetlights
(Photo taken 02-13-2010)

Unit # 4 R2008-0980-3

...de at the top of Shoreheights Drive
...15, 2010)

Item #4 R-2008-01980 (+3)