



CITY OF CARSON

PLANNING COMMISSION STAFF REPORT

PUBLIC HEARING: January 26, 2010

SUBJECT: Design Overlay Review No. 1347-09; Conditional Use Permit No. 734-09; Conditional Use Permit No. 781-10

APPLICANT: Lynn Van Aken (Blackdot Wireless) for Clearwire Communications
27271 Las Ramblas, Suite 200
Mission Viejo, California 92691

REQUEST: To permit an existing legal non-conforming 90-foot-high wireless telecommunications facility (mono-pole), including a new co-location of additional telecommunication panel antennae, on a property located in the ML (Manufacturing, Light) zone and within the Redevelopment Project Area No. 1.

PROPERTY INVOLVED: 1139 E. Dominguez Street

COMMISSION ACTION

____ Concur with staff

____ Did not concur with staff

____ Other

COMMISSIONERS' VOTE

AYE	NO		AYE	NO	
		Chairman Faletogo			Graber
		Vice-Chair Saenz			Park
		Brimmer			Schaefer
		Gordon			Verrett

Item No. 11B

I. Introduction

The applicant, Lynn Van Aken of Blackdot Wireless, is requesting approval of Conditional Use Permit (CUP) No. 734-09, CUP No. 781-10 and Design Overlay Review (DOR) No. 1347-10 on behalf of Clearwire Communications to permit the existing 90-foot-high monopole located at 1139 E. Dominguez Street and to co-locate additional panel antennae between existing panels above and below their proposed location on the pole at approximately 80-feet on center above grade-level.

The addition of the antennae will intensify the existing use but will also improve the quality of service to wireless customers in the general vicinity. The subject property is zoned ML (Manufacturing, Light) and has a consistent General Plan land use designation of Light Industrial. The monopole and supporting equipment is located in between existing one-story warehouse buildings on the 2.65 acre parcel. The subject property is within Redevelopment Project Area No. 1.

Wireless Telecommunication Facilities Requirements

In 2003, the City Council adopted Ordinance No. 03-1284, establishing Section 9138.16 of the Carson Municipal Code (CMC) regarding requirements for wireless telecommunication facilities. The existing facility was approved in 1993 by the Planning Division without a public hearing, prior to the new ordinance. Section 9138.16 D(2) requires that all major wireless telecommunication facilities be subject to the approval of a Site Plan and Design Review and CUP procedures. Section 9138.16 F(2) also states that the Planning Commission may consider approval of existing facilities that exceed maximum height limits with the approval of an additional conditional use permit.

Section 9182.21 (Nonconforming Use Eligible for Conditional Use Permit Approval) of the CMC identifies that a lawfully established use shall be considered to be a nonconforming use until such time as a CUP is granted. Legal nonconforming telecommunication facilities were given 5 years from the adoption of Ordinance 03-1284 (Telecommunications) to obtain a CUP. The amortization period for the existing facility on the subject property expired in 2008 and is subject to CMC Section 9138.16.

Therefore, a DOR and two CUPs are required in order for the existing facility to be brought into conformance with current zoning code requirements. CUP No. 734-09 is required to meet current code requirements and CUP No. 781-10 is required to allow the current height of 90 feet, which exceeds the maximum height permitted in the ML zone by 40 feet.

The Planning Commission has the authority to determine if the legal nonconforming wireless telecommunication facility should be abated, modified to meet the current zoning requirements, or approved as is. Because this mono-pole is currently non-conforming, a Planning Commission denial of the application would require a removal of the facility.

II. Background

The subject property is bound by additional warehouses and light manufacturing uses on all sides. East of the site across Annalee Avenue is the Shell tank farm. The



South Bay Pavilion is located approximately one-half mile west of the subject site and the nearest residential use is the Leapwood Apartments complex approximately three-quarters of a mile northwest from the subject property.

III. Analysis

The existing arrays of antennae on the monopole are operated by Nextel and Sprint. Nextel's array of antennae consists of three sectors of five, two-foot high panels each located at the 88-foot level of the pole, extending six feet out from the pole and separated by approximately five feet between sectors. Sprint is located at the 63-foot mark on the pole and has an array consisting of three sectors of four, two-foot high panels, extending four feet out from the pole with approximately 6 feet between sectors.

The applicant is proposing to co-locate a new array of antennae consisting of three sectors each located one-and-a-half feet from the pole at the 80-foot mark and comprised of the following components: one panel antenna, a DAP unit and a microwave dish.

Typically, staff would require that the applicant remove and replace the existing antennae with more contemporary technology utilizing a smaller number of panels set closer to the pole, similar to the proposed co-location panel array. However, the applicant has stated that Nextel uses lower-frequency technology which requires a greater quantity of larger panels, and greater distancing between sectors. Sprint uses less panels which are able to be placed closer to the pole, but not as close as what the applicant is proposing for the co-location. Thus, according to the applicant it would not be possible to move the existing panels closer to the pole without a major disruption, or possible denial of service in the vicinity for the current providers on the pole. It is possible however, that technological advances in the industry may require fewer panel sectors or enable them to be placed closer to the pole.

Conditional Use Permits

According to CMC Section 9172.21 – Conditional Use Permit, the Planning Commission shall recommend approval of the proposal if it is able to make affirmative findings based on the following criteria:

a. The proposed use and development will be consistent with the General Plan.

The proposed project is consistent with the General Plan of the city of Carson in that the subject property is designated for Light Manufacturing and zoned ML (Manufacturing, Light). The site currently operates as a small multi-unit warehouse complex with no sensitive receptors in the immediate vicinity, therefore the existing wireless facility is consistent with the surrounding development.

b. The site is adequate in size, shape, topography, location, utilities, and other factors to accommodate the proposed use and development.

The existing height of the free-standing structure exceeds the maximum height allowed within the ML zone. According to CMC Section 9138.16 F(2) the Planning Commission may consider approval of existing facilities whose heights exceed the maximum height limit for the zone with the approval of an additional conditional use

permit. The applicant has submitted an additional CUP for Planning Commission consideration. The 2.6 acre project site is rectangular and flat with adequate utilities to accommodate the existing use and development.

c. There will be adequate street access and traffic capacity.

Adequate driveway widths are provided on the site. Appropriate easements are available for circulation and to ensure safety for pedestrians and motorists. Generally, the project will not affect or impact the safe circulation of either pedestrians or vehicular traffic as the facility is unmanned with only occasional maintenance visits.

d. There will be adequate water supply for fire protection.

Prior to the issuance of building permits, the Los Angeles County Fire Department will ensure adequate water supply for fire protection is provided.

e. The proposed use and development will be compatible with the intended character of the area.

The subject property is located within Redevelopment Project Area No. 1. The proposed project meets all applicable design standards and guidelines of the Municipal Code.

f. Such other criteria as are specified for the particular use in other sections of this chapter (Zoning Ordinance).

Pursuant to Section 9138.16(H), Wireless Telecommunications Facilities, the Planning Commission may approve the development plan and conditional use permit for the proposal only if the following findings can be made in the affirmative:

1. The proposed site is the best alternative after considering co-location with another facility and location at another site.
2. The proposed wireless telecommunication facility will be located and designed to minimize the visual impact on surrounding properties and from public streets, including adequate screening through the use of landscaping that harmonize with the elements and characteristics of the property and/or stealthing which incorporates the facility with the structure in which it will be mounted through use of material, color, and architectural design.
3. The proposed wireless telecommunication facility is not located on any residential dwelling or on any property which contains a residential dwelling, except as may be associated with a church, temple, or place of religious worship.

The wireless facility is an existing monopole which is not located on any residential dwelling and more than 100 feet from a residential use. There are adequate mature, tall trees in the immediate vicinity to effectively minimize negative aesthetic impacts from the existing tower. The panel antennae that the applicant proposes are to be more compact and located closer to the pole than the existing antennae, they will also be colored to match the existing pole. The project is not located on any residential dwelling or church.



Therefore, the project meets the goals and objectives of the General Plan and is consistent with applicable zoning and design regulations subject to compliance with the conditions of approval. Therefore all of the required findings pursuant to Section 9172.21(D), "Conditional Use Permit, Commission Findings and Decision" and Section 9138.16(H), "Wireless Telecommunications Facilities, Required Findings" can be made in the affirmative.

Issues of Concern

Issue: Aesthetic impacts of existing monopole: There is some concern that the existing monopole is considered too high and a visual blight to the community. Staff has conducted field surveys to observe the visibility of the monopole from various vantage points along the streets surrounding the subject property. The property is bounded by Belshaw Avenue to the west, Annalee Avenue to the east, Dominguez Street on the south, and Burgrove Street on the north. Belshaw, Annalee, and Burgrove are streets mainly traveled by employees and those having business to do with the properties within these boundaries. Dominguez Street is a more heavily travelled street which feeds into these lesser used streets. Similarly, Leapwood Avenue, just west of Belshaw Avenue is a fairly busy street which connects commuters and the general public from Del Amo Boulevard to Dominguez Street along the east side (back side) of the South Bay Pavilion Mall. There is a large tank farm fronting the east side of Annalee Avenue, so staff is not considering the visibility of the monopole from that vantage point.

Therefore, staff is more concerned with the visibility from Dominguez Street heading east toward the project site, and Leapwood Avenue west of the project site. From the eastbound Dominguez Street vantage point there are mature, large eucalyptus and various tall trees obstructing visibility of the monopole. Along Leapwood Avenue there are many warehouse and various light manufacturing use buildings located along the eastern (western facing) frontage, enough to obscure the visibility of the existing monopole.

The Planning Commission is empowered to impose conditions that they deem appropriate. Some examples of conditions used for similar, although less in height, existing monopoles is a "cap" or "sheathing" that covers the top of the monopole and the antennae panels, or additional landscaping either off-site in the vicinity, or elsewhere on the subject site to help mitigate potential visual impacts resulting from the cellular facility. Staff feels that in this case a cap or sheath might actually bring more attention to the pole, however and that there seems to be adequate screening with the existing trees in the vicinity.

- Mitigation: None.

IV. Environmental Review

Pursuant to Section 15301 – Existing Facilities (Class 1) of the California Environmental Quality Act (CEQA), the existing 90-foot high wireless telecommunications facility is exempt. The project does not have the potential to cause a significant effect on the environment.

V. Recommendation

That the Planning Commission:

- APPROVE the proposed project; and
- WAIVE further reading and ADOPT Resolution No. 10-____, entitled "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CARSON APPROVING CONDITIONAL USE PERMIT NO. 734-09 AND CONDITIONAL USE PERMIT NO. 781-10, AND RECOMMENDING APPROVAL OF DESIGN OVERLAY REVIEW NO. 1347-10 TO THE CARSON REDEVELOPMENT AGENCY FOR AN EXISTING WIRELESS TELECOMMUNICATIONS FACILITY AND NEW CO-LOCATION PANEL ANTENNAE LOCATED AT 1139 E. DOMINGUEZ STREET."

VI. Exhibits

1. Draft Resolution
2. Site Map
3. Development Plans

Prepared by: _____

Steven Newberg, AICP, Associate Planner

Reviewed by: _____

John F. Signo, AICP, Senior Planner

Approved by: _____

Sheri Repp, Planning Officer



CITY OF CARSON
PLANNING COMMISSION
RESOLUTION NO. 10-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CARSON APPROVING CONDITIONAL USE PERMIT NO. 734-09 AND CONDITIONAL USE PERMIT NO. 781-10, AND RECOMMENDING APPROVAL OF DESIGN OVERLAY REVIEW NO. 1347-10 TO THE CARSON REDEVELOPMENT AGENCY FOR AN EXISTING WIRELESS TELECOMMUNICATIONS FACILITY AND NEW CO-LOCATION PANEL ANTENNAE LOCATED AT 1139 E. DOMINGUEZ STREET

THE PLANNING COMMISSION OF THE CITY OF CARSON, CALIFORNIA, HEREBY FINDS, RESOLVES AND ORDERS AS FOLLOWS:

Section 1. An application was duly filed by the applicant, Lynn Van Aken (Blackdot Wireless), on behalf of Clearwire Communications, with respect to real property located at 1139 E. Dominguez Street, and described in Exhibit "A" attached hereto, approving Design Overlay Review No. 1347-10, Conditional Use Permit No. 734-09, and Conditional Use Permit No. 781-10 for an existing wireless telecommunications facility on a developed property in the ML (Manufacturing, Light) zone, within Redevelopment Project Area No. 1.

A public hearing was duly held on January 26, 2010, at 6:30 P.M. at City Hall, Council Chambers, 701 East Carson Street, Carson, California. A notice of time, place and purpose of the aforesaid meeting was duly given.

Section 2. Evidence, both written and oral, was duly presented to and considered by the Planning Commission at the aforesaid meeting.

Section 3. The Planning Commission finds that:

- a) The General Plan designates the property as Light Manufacturing which is consistent with the subject property zoning designation of ML (Manufacturing, Light). The continued use and development of a wireless telecommunication facility is consistent with the surrounding light industrial uses and is appropriate for the subject property as proposed;
- b) The project is compatible in design with existing and anticipated development in the vicinity, including the aspects of site planning, land coverage, landscaping, appearance and scale of structures and open spaces and other features relative to a harmonious and attractive development of the area;
- c) The site is adequate in size, shape, topography, location, utilities, and other factors to accommodate the proposed use and development. The surrounding land uses are primarily light industrial and the proposed project is compatible with those uses;
- d) The proposed telecommunication facility will only require monthly maintenance visits and is otherwise not occupied, therefore the off-street parking requirements are not applicable and circulation on the adjacent public streets



will not be adversely impacted. Safety and convenience of vehicular and pedestrian access is provided with the on-site private driveway;

- e) The proposed wireless telecommunication facility is located in such a way to minimize the visual impact on surrounding properties and from public streets by way of existing mature growth, high trees located on adjacent properties which help to block visibility from key vantage points along the more heavily travelled streets in the vicinity; and
- f) The proposed wireless telecommunication facility meets the goals and objectives of the General Plan and is consistent with applicable zoning and design regulations. Therefore all of the required findings pursuant to Carson Municipal Code (CMC) Section 9172.21(D), "Conditional Use Permit", and CMC Section 9138.16(H), "Wireless Telecommunication Facilities" are made in the affirmative.

Section 4. The Planning Commission further finds that the existing use will not have a significant effect on the environment. The use will not adversely augment the character of the surrounding area and will meet or exceed all City standards for protection of the environment. Therefore, the proposed project is found to be exempt pursuant to the California Environmental Quality Act (CEQA), Section 15301, Existing Facilities.

Section 5. Based on the aforementioned findings, the Commission hereby approves Conditional Use Permit No. 734-09 and Conditional Use Permit No. 781-10, and recommends approval of Design Overlay Review No. 1347-10 to the Carson Redevelopment Agency with respect to the properties described in Section 1 hereof, subject to the conditions set forth in Exhibit "B" attached hereto.

Section 6. The Secretary shall certify to the adoption of the Resolution and shall transmit copies of the same to the applicant.

Section 7. This action shall become final and effective fifteen days after the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED THIS 26th DAY OF JANUARY, 2010

CHAIRMAN

ATTEST:

SECRETARY



**CITY OF CARSON
DEVELOPMENT SERVICES
PLANNING DIVISION
EXHIBIT "A"**

**LEGAL DESCRIPTION
DESIGN OVERLAY REVIEW NO. 1347-10
CONDITIONAL USE PERMIT NO. 734-09
CONDITIONAL USE PERMIT NO. 781-10**

Property Address: 1139 E. Dominguez Street

Parcel Identification Number: 7381-025-043

Lot 6 of Parcel Map 85-2, in the City of Carson, County of Los Angeles, State of California as per Map recorded in Book 43, Pages 28 of Maps, in the Office of the County Recorder of Said County.



CITY OF CARSON
ECONOMIC DEVELOPMENT
PLANNING DIVISION
EXHIBIT "B"
CONDITIONS OF APPROVAL
DESIGN OVERLAY REVIEW NO. 1347-10
CONDITIONAL USE PERMIT NO. 734-09
CONDITIONAL USE PERMIT NO. 781-10

GENERAL CONDITIONS

1. If a building permit plan check submittal proposing the implementation of Design Overlay Review No. 1347-09, Conditional Use Permit No. 734-09, and Conditional Use Permit No. 781-10 and is not submitted to the City of Carson within one year of their effective dates, said permits shall be declared null and void unless an extension of time is previously approved by the Planning Commission.
2. The approved Resolution, including the Conditions of Approval contained herein, and signed Affidavit of Acceptance, shall be copied in their entirety and placed directly onto a separate plan sheet behind the cover sheet of the development plans prior to Building and Safety plan check submittal. Said copies shall be included in all development plan submittals, including any revisions and the final working drawings.
3. The applicant shall comply with all city, county, state and federal regulations applicable to this project.
4. The applicant shall make any necessary site plan and design revisions to the site plan and elevations approved by the Planning Commission in order to comply with all the conditions of approval and applicable Zoning Ordinance provisions. Substantial revisions will require review by the Planning Commission.
5. The applicant and property owner shall sign an Affidavit of Acceptance form and submit the document to the Planning Division within 30 days of receipt of the Planning Commission Resolution.
6. It is further made a condition of this approval that if any condition is violated or if any law, statute or ordinance is violated, this permit may be revoked by the Planning Commission or City Council, as may be applicable; provided the applicant has been given written notice to cease such violation and has failed to do so for a period of thirty days.



7. The applicant shall submit two complete sets of plans that conform to all the Conditions of Approval to be reviewed and approved by the Planning Division prior to the issuance of a building permit.
8. The operator of a lawfully erected facility, and the owner of the premises upon which it is located, shall promptly notify the Planning Division in writing in the event that the use of the facility is discontinued for any reason. In the event the facility is discontinued or abandoned for a period of more than 180 days, then the owner(s) and/or operator(s) shall promptly remove the facility, repair any damage to the premises caused by such removal, and restore the premises as appropriate so as to be in conformance with applicable zoning codes at the owner's and/or operator's expense. All such removal, repair and restoration shall be completed within 90 days after the use is discontinued or abandoned, and shall be performed in accordance with all applicable health and safety requirements.
9. Applicant shall defend, indemnify and hold harmless the City of Carson, its agents, officers, or employees from any claims, damages, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void or annul, and approval of the City, its advisory agencies, appeal boards, or legislative body concerning Design Overlay Review No. 1347-10, Conditional Use Permit No. 734-09, and Conditional Use Permit No. 781-10. The City will promptly notify the Applicant of any such claim, action, or proceeding against the City and the Applicant will either undertake defense of the matter and pay the City's associated legal costs or will advance funds to pay for defense of the matter by the City Attorney. The City will cooperate fully in the defense. Notwithstanding the foregoing, the City retains the right to settle or abandon the matter without the Applicant's consent but should it do so, the City shall waive the indemnification herein, except, the City's decision to settle or abandon a matter following an adverse judgment or failure to appeal, shall not cause a waiver of the indemnification rights herein.

PLANNING

10. All parking areas and driveways shall remain clear and maintained. No encroachment into parking areas and/or driveways shall be permitted.
11. The proposed panels and related equipment located on the existing wireless facility shall be flush mounted and flat-shaped, and shall match the existing color of the monopole.
12. The wireless telecommunication facility shall not exceed the existing height of 90 feet.
13. The display of any sign or any other graphic on a wireless telecommunications facility or on its screening is prohibited, except for signs for health, safety, and welfare purposes, which is required to be posted in case of an emergency. Emergency signs shall be visibly posted at the facility and shall include contact



information including the phone number of the utility provider.

14. All wireless telecommunication facilities shall be constructed and operated in such a manner as to meet the requirements of the Noise Ordinance.
15. Backup generators shall only be operated during power outages and for testing and maintenance purposes.
16. Future modifications to the approved development plans, including the installation of additional panels and equipment cabinetry, shall be subject to Planning Division review and approval. If deemed to be a major modification, the Planning Commission shall be the approval authority.

BUILDING AND SAFETY

17. Submit for plan check, obtain all building permits and have a final inspection conducted for proposed project.

FIRE DEPARTMENT - COUNTY OF LOS ANGELES

18. Battery backup and storage areas shall be constructed and maintained in compliance with Article 64 of the uniform Fire Code (UFC).

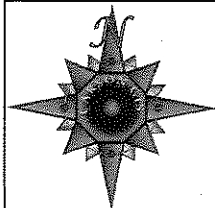
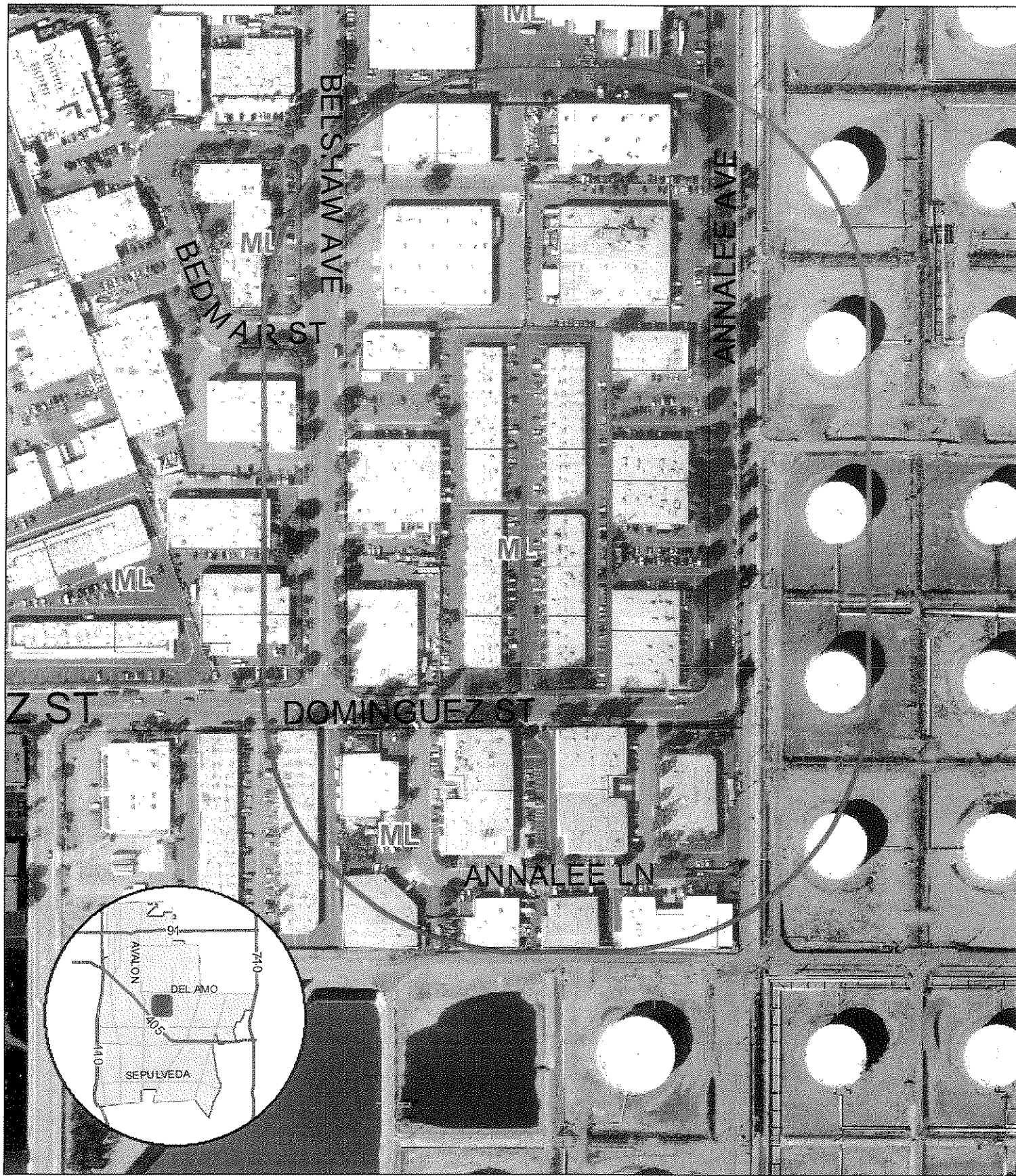
ENGINEERING SERVICES

19. Any city-owned improvement damaged during the construction of the proposed project shall be removed and reconstructed per City Standard Plan and to the satisfaction of the City Engineer prior to the issuance of a building permit.
20. Prior to the issuance of a Building Permit, Proof of Worker's Compensation and Liability Insurance must be on file with the Los Angeles County Building and Safety Department.

BUSINESS LICENSE DEPARTMENT - CITY OF CARSON

21. Per section 6310 of the Carson Municipal Code, all parties involved in the installation of the telecommunication facility to be located at 1139 E. Dominguez Street, including but not limited to contractors and subcontractors, will need to obtain a City Business License.





City of Carson
500 Foot Radius Map
1145 E Dominguez St

Exhibit 2