



## CITY OF CARSON

### PLANNING COMMISSION STAFF REPORT

NEW BUSINESS DISCUSSION: March 25, 2014

SUBJECT: Modification No. 1 Conditional Use Permit No. 370-90 and Modification No 1 Design Overlay Review 529-90

APPLICANT: Christine Song, Zoning Manager  
CORE Development Services  
2749 Saturn Street  
Brea, CA 92821

REQUEST: Removal and replacement one antenna per sector for a total of three (3) antennas, relocating and re-using three (3) existing antennas per sector for a total of nine (9) antennas, and adding twelve (12) new RRUs on an existing legal non-conforming 60-foot-high monopole on a property located in the CG (Commercial, General) zone

PROPERTY INVOLVED: 22025 South Figueroa Street

---

#### COMMISSION ACTION

☐ Concurred with staff

☐ Did not concur with staff

☐ Other

#### COMMISSIONERS' VOTE

AYE	NO		AYE	NO	
		Chairman Faletogo			Gordon
		Vice-Chair Verrett			Piñon
		Brimmer			Saenz
		Diaz			Schaefer
		Goolsby			

***Item No. 12A***

## **I. Introduction**

### **History**

On November 27, 1990, the Planning Commission adopted Resolution No. 90-1363 approving Conditional Use Permit (CUP) No. 370-90 and Design Overlay Review (DOR) No. 529-90 authorizing the construction of a 60-foot-high monopole. Subsequently, the City adopted Ordinance No. 03-1284, establishing Section 9138.16 of the Carson Municipal Code (CMC), the Telecommunications Ordinance in 2003, which was amended in 2010 (refer to Exhibit 5 for a complete copy of Section 9138.16). The 2003 Ordinance required stealthing of existing facilities by 2008.

The applicant has requested approval of the proposed project citing the Middle Class Tax Relief and Job Creation Act of 2012 (Tax Act) which is further explained in the Background section of the staff report. Staff could not support this design since the proposal is not a stealth facility as required by the Development Code. After several months of negotiations, staff and the applicant have not reached an agreement on a compromised design that both meets the applicant's objectives and has staff's support.

### **Project Description**

The subject property is zoned CG (Commercial, General) and has a General Plan land use designation of General Commercial. The property to the south is zoned RM-25 (Residential, Multifamily – 25 units per acre) and is developed with multifamily homes; a freeway off-ramp and the I-110 Freeway are to the north and west of the property; and Stephen White Middle School is located to the east across Figueroa Street (Exhibit 2).

The monopole and supporting equipment is located within a retail center with two buildings. In addition to the subject monopole, there are two other telecommunication facilities on the retail center site. A second monopole is located approximately 28 feet to the southwest of the subject site approved on August 13, 2013 (Modification No. 1 to DOR No. 637-96 and CUP No. 444-96) and constructed earlier this year by Sprint. One additional roof-mounted cellular telecommunications facility is located behind the parapet of the 2-story A-1 All American Roofing Co. building to match the existing building façade. This stealth design was approved by DOR No. 904-05 and constructed in 2006.

The applicant, as an agent for Verizon and property owner, Craig Ekberg and Hanne Ekberg, 22029 S. Figueroa Street., Carson, CA 90745, is requesting approval of Modification No.1 to CUP No. 370-90 and Modification No. 1 to DOR No. 529-90 to remove and replace one antenna per sector for a total of three (3) antennas, relocating and re-using three (3) existing antennas per sector for a total of nine (9) antennas, and adding twelve (12) new RRUs on an existing legal non-conforming 60-foot-high mono-pole (Exhibit 3).

The three existing 24" microwave dishes will remain on the pole. Currently, the antennas are mounted at different heights at either 61' or 65' to the top of the antennas resulting in an aesthetically unpleasant view from the I-110 Freeway and Figueroa Street (Exhibit 3). The following table provides a summary of the specifications for the existing facility:

	Existing Decible	Existing Antel A	Existing Antel B	Existing Tenxc	Existing Total
Number	9	3	6	0	18
Total Weight (pounds)	90	15	29	0	134
Total Size (cubic inches)	20,736	1,350	7,920	0	30,006
	Existing RRUs				
Number	0				0
Total Weight (pounds)	0				0
Total Size (cubic inches)	0				0

The following table provides a summary of the specifications for the proposed facility:

	Proposed Decible	Proposed Antel A	Proposed Antel B	Proposed Tenxc	Proposed Total
Number	6	3	0	3	12
Total Weight (pounds)	60	15	0	115	190
Total Size (cubic inches)	13,824	1,350	0	57,866	73,040
	Proposed RRU				
Number	12				12
Total Weight (pounds)	57				57
Total Size (cubic inches)	29,608				29,608

## II. Background

### **Middle Class Tax Relief and Job Creation Act of 2012**

Ordinarily, telecommunication facilities submitted to the City are only reviewed for compliance with the CMC. However, on February 22, 2012, the Middle Class Tax Relief and Job Creation Act of 2012 (Tax Act) became law. Portions of this law apply to telecommunication facilities. Specifically, Section 6409(a) of the Tax Act provides that a state or local government “may not deny, and shall approve” any request for collocation, removal, or replacement of transmission equipment on an existing wireless tower or base station, provided the proposed modifications do not substantially change the physical dimensions of the tower or base station. The full text of Section 6409(a) is included as Exhibit 6. Since the language included in this law is somewhat vague, on January 25, 2013, the Federal Communication

Planning Commission Staff Report

March 25, 2014

Page 3 of 7

Commission issued a Public Notice to interpret Section 6409(A) of the Middle Class Tax Relief and Job Creation Act of 2012, refer to Exhibit 7 for this Public Notice. The Tax Act includes some provisions that may be interpreted to preempt the requirements of the CMC. Therefore, the staff report will analyze the compliance of the proposed project with both the CMC and the Tax Act. The recommendation in the staff report has taken into account the inherent conflict between the CMC and the Tax Act and litigation risks associated with denial of the project based on inconsistency with the CMC (Exhibit 5).

### III. Analysis

#### **Compliance with Carson Municipal Code Requirements**

While the applicant has proposed to arrange the antennas to have a consistent height to help minimize aesthetic impacts of the project; the stealthing is not consistent with CMC Section 9138.16.B.18 which states:

“Stealth” means camouflaged or designed to blend with the surrounding environment and land uses, minimize aesthetic impact on adjacent uses, and conceal the intended use and appearance of the structures.

#### **Requirement for Stealth Design**

CMC Section 9138.16.H requires the Planning Commission to make 3 findings, including the following finding when approving telecommunication facilities:

***“The proposed communications facility will be aesthetically compatible, 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 stealth which incorporates the facility with the structure in which it will be mounted through use of material, color, and architectural design.” (9138.16.H.2)***

The proposed facility is not aesthetically compatible, nor located or designed to minimize the visual impact on surrounding properties and from public streets and is not screened by landscaping making it visible from I-110 and Figueroa Street. The applicant has proposed to align the top of the antennas in an attempt to improve the aesthetics of the site and stealthing the facility. While this modification will somewhat reduce the aesthetic impacts, however, the modifications do not rise to level of City standards for stealthing as defined above.

#### **Non-Conforming Facilities**

CMC Section 9138.16.K. states that non-conforming facilities have to comply with certain requirements:

***“.... Any major communications facility that is lawfully constructed prior to the effective date of the ordinance codified in this Section shall be deemed a nonconforming use and will be subject to the provision of CMC 9182.21 and***

***9182.22. Additionally, CMC 9172.25 and 9182.05 shall govern any request for an extension to the nonconforming privilege."***

According to the section cited above, the proposed project is considered a nonconforming use and subject to CMC Section 9182.22 and 9182.22.A, Termination of Existing Nonconforming Use. These sections state that nonconforming telecommunication facilities shall be terminated and made conforming in all aspects within 5 years from the date of the adoption of Ordinance No. 03-1284:

The facility was constructed in 1991 and 5 years have passed since the adoption of Ordinance 03-1284 in 2003; therefore, the facility is required to be made conforming in all aspects immediately. The proposed design does not meet the City's standards with regards to height and stealthing.

*Design and Development Standards*

*Height*

CMC Section 9138.16.F.2.a, Design and Development Standards, requires all telecommunication facilities to comply with the height requirements for the applicable zoning district. The subject property is located in the CG zone.

Section 9136.12 of CMC, Height of Buildings and Structures, limits the height of structures within the CG zone to 30 feet. The height of the existing pole is 60'. Therefore, the proposed project exceeds height requirement for the CG zone by 100% and does not meet this requirement.

CMC Section 9138.16.F.2.d. states that the Planning Commission may consider approval of facilities to exceed the maximum height limit subject to approval of a minor or major exception as described in CMC Section 9138.16.G (Exceptions). However, this exception is only limited to 30% and since the proposed project exceeds the permitted height by 100%, this exception is not applicable. Furthermore, the Planning Commission may approve greater height limits for existing lawfully erected facilities provided there is no expansion or intensification to the facility. As demonstrated in the above tables, the facility is being expanded and intensified since the weight of the proposed antennas are increasing by 84% and the size of the antennas are increasing by 234%. The existing facility was erected legally; however, the legal non-conforming status has expired and is subject to abatement.

*Painting*

CMC Section 9138.16.F.5, Design and Development Standards, requires communications facilities and supporting structures to be painted a neutral, non-glossy color that matches the color of the structure to be mounted on or to the color of the surrounding environment. The proposed project is painted a light color which does not blend into the surrounding environment.

**Compliance with Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012**

The new federal law relates to upgrades, removals and collocations of telecommunication facilities. The relevant code reads as follows:

**“(a) Facility modifications**

**(1) In general**

Notwithstanding section 704 of the Telecommunications Act of 1996 (Public Law 104–104) or any other provision of law, a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.

**(2) Eligible facilities request**

For purposes of this subsection, the term “eligible facilities request” means any request for modification of an existing wireless tower or base station that involves—

- (A) Collocation of new transmission equipment;
- (B) Removal of transmission equipment; or
- (C) Replacement of transmission equipment.

**(3) Applicability of environmental laws**

Nothing in paragraph (1) shall be construed to relieve the Commission from the requirements of the National Historic Preservation Act or the National Environmental Policy Act of 1969.”

(47 USC 1455(a).)

The following table provides a summary of the substantial change in the size of the proposed antennas compared to the existing antennas:

	Existing	Proposed	Increase	Percentage Increased
Project Total Weight (pounds)	134	247	113	84%
Project Total Size (cubic inches)	30,006	102,648	72,642	242%

As the above table demonstrates, the weight and size of the proposed antennas have increased by 84% and 242%, respectively. The City has determined this increase to be a substantial change in size of the proposed antennas.

#### IV. Environmental Review

No environmental analysis is required by California Environmental Quality Act (CEQA) for projects recommended for denial.

#### V. Recommendation

That the Planning Commission:

- DENY the proposed project; and
- WAIVE further reading and ADOPT Resolution No. 14-\_\_\_\_, entitled "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CARSON DENYING MODIFICATION NO. 1 TO DESIGN OVERLAY REVIEW NO. 529-90 AND CONDITIONAL USE PERMIT NO. 370-90 TO REMOVE AND REPLACE ONE ANTENNA PER SECTOR FOR A TOTAL OF THREE (3) ANTENNAS, RELOCATE AND RE-USE THREE (3) EXISTING ANTENNAS PER SECTOR FOR A TOTAL OF NINE (9) ANTENNAS, AND ADD TWELVE (12) NEW RRUS ON AN EXISTING LEGAL NON-CONFORMING 60'-HIGH MONO-POLE ON A PROPERTY LOCATED AT 22025 SOUTH FIGUEROA STREET."

#### VI. Exhibits

1. Draft Resolution
2. Site Map
3. Development Plans
4. Photo Simulations
5. CMC Section 9138.16
6. Section 6409(a) of Middle Class Tax Relief and Job Creation Act of 2012
7. Federal Communication Commission Public Notice

Prepared by: \_\_\_\_\_

Saled Naaseh, Associate Planner

Approved by: \_\_\_\_\_

John F. Signo, AICP, Senior Planner

CITY OF CARSON  
PLANNING COMMISSION  
RESOLUTION NO. 14-\_\_\_\_\_

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CARSON DENYING MODIFICATION NO. 1 TO DESIGN OVERLAY REVIEW NO. 529-90 AND CONDITIONAL USE PERMIT NO. 370-90 TO REMOVE AND REPLACE ONE ANTENNA PER SECTOR FOR A TOTAL OF THREE (3) ANTENNAS, RELOCATE AND RE-USE THREE (3) EXISTING ANTENNAS PER SECTOR FOR A TOTAL OF NINE (9) ANTENNAS, AND ADD TWELVE (12) NEW RRUS ON AN EXISTING LEGAL NON-CONFORMING 60'-HIGH MONO-POLE ON A PROPERTY LOCATED AT 22025 SOUTH FIGUEROA 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, Christine Song, CORE Development Services, with respect to Modification No. 1 to Design Overlay Review No. 529-90 and Modification No. 1 to Conditional Use Permit No. 370-90 to remove and replace one antenna per sector for a total of three (3) antennas, relocating and re-using three (3) existing antennas per sector for a total of nine (9) antennas, and adding twelve (12) new RRUs on an existing legal non-conforming 60'-high mono-pole on a property located at 22025 South Figueroa Street, and described in Exhibit "A" attached hereto.

A public hearing was duly held on March 25, 2014, 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:

CMC Section 9172.21, Conditional Use Permit Findings

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 certain criteria. The Planning Commission finds that it cannot make affirmative findings as follows:

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

The proposed project is not consistent with the General Plan of the City of Carson in that it requires removal of incompatible and non-conforming uses which detract from the aesthetics and safety of the community. (Goal LU3).

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

The proposed project will not be compatible with the intended character of the area as it is more aesthetically offensive than the recently approved Sprint antenna. It





does not provide an aesthetically pleasing view from the I-110 freeway and Figueroa Street. The proposed project does not blend in with the surrounding commercial and residential development. The proposed project is governed by the design requirement for telecommunication facilities as stated in CMC Section 9138.16.H; and it is not a stealth design as required by City standards.

**Such other criteria as are specified for the particular use in other Sections of this Chapter.**

The Planning Commission shall make the findings for telecommunication facilities pursuant to Section 9138.16(H), Wireless Telecommunications Facilities. As stated below in section "CMC Section 9138.16H, Telecommunication Facilities Findings" of the staff report, the planning commission cannot make all the findings required for telecommunication facilities; therefore, the proposed project does not meet this finding.

CMC Section 9172.21 further states that:

**"If the Commission finds that any adverse effects will occur as a result of the proposed use and development, such effects must be found to be justified by the benefits to the public interest which will occur as a result of such use and development."**

With the proposed design, which is not stealthed to meet City standards, the Commission cannot find that the benefit of providing upgraded antennas and better wireless service would outweigh the adverse effects of the proposed facility.

**"If the Commission does not make affirmative findings with respect to the above criteria and is unable to impose conditions to mitigate any adverse finding, the Commission shall disapprove a Conditional Use Permit."**

The Commission cannot make affirmative findings with respect to the above criteria and is not able to impose conditions to mitigate any adverse finding; further the applicant has refused to make changes to the design of the proposed project to make it a stealth facility in compliance City codes and requirements. Therefore, staff recommends that the Commission deny the requested Conditional Use Permit.

In making its decision, the Commission shall adopt written findings with respect to the above criteria.

The Commission has made written findings.

**CMC Section 9172.23.D, Development Plan Findings**

According to CMC Section 9172.23.D.1, Site Plan and Design Review Findings and Decisions, the Commission shall approve a Development Plan if it is able to make affirmative findings based on the following criteria:

**Compatibility with the General Plan, any specific plans for the area, and surrounding uses.**

The proposed project is not consistent with the General Plan of the City of Carson in that it requires removal of incompatible and non-conforming uses which detract from the aesthetics and safety of the community. (Goal LU3).

**Compatibility of architecture and 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.**

The proposed project is not compatible with the intended character of the area as it does not blend in with appearance and scale of the structures surrounding commercial and residential development. The site is not considered stealth as required by City standards.

**Conformance to any applicable design standards and guidelines which have been adopted pursuant to CMC 9172.15. Such design standards and guidelines may be generally applicable or may specify different requirements for different areas.**

The proposed facility, as proposed conforms to all applicable design standards applicable to this project with the exception of height and stealthing as discussed in the staff report. Since the project is proposing a substantial increase in the size of the proposed antennas, the City can deny the project.

The section continues that if a proposed development complies with all applicable requirements and standards of this Chapter and other laws and regulations, and the approving authority finds that the criteria of Section 9172.23.D.1 are adequately met, or can be met if specified conditions are observed, the Development Plan shall be approved, subject to such specified conditions. If the approving authority finds that the proposal cannot meet and cannot be modified to meet the requirements of this Chapter and the above criteria, the Development Plan shall be disapproved. In all cases, findings shall be made concerning the grounds for approval or disapproval.

The proposed facility complies with some of the requirements of Chapter 1 of the municipal code; however, it is not considered a stealth facility and does not meet the height requirements. Since the project is proposing a substantial increase in the size of the proposed antennas, the City can deny the project.

After a decision is made, a notice of the Commission's decision will be mailed to the applicant as provided in CMC 9173.32.

*CMC Section 9138.16H, Telecommunication Facilities Findings*

CMC Section 9138.16.H requires that in addition to findings in CMC Sections 9172.21 and 9172.23 for approval of a DOR and CUP, the following additional findings would have to be made:

**1. The proposed site is the least intrusive after considering co-location with another facility, other networks available such as distributed antenna systems, and location at another site. If located in the public right-of-way or on City-owned or leased property, the facility must meet the requirements of the Engineering Division.**

The proposed project is not the least intrusive since it is not a stealth facility, the proposed design is not less intrusive than the existing antennas as it does not better blend in with the appearance and scale of the structures surrounding commercial and residential development and other wireless facilities approved for this site.

2. The proposed communications facility will be aesthetically compatible, 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 stealth which incorporates the facility with the structure in which it will be mounted through use of material, color, and architectural design.

The proposed facility will not increase the aesthetic compatibility and will not minimize the visual impact on surrounding properties and public streets since it is not screened by landscaping and is visible from I-110 and Figueroa Street and therefore does not meet City standards.

3. The proposed communications facility is not located on any residential dwelling or on any property which contains a residential dwelling, or any property wherein a person resides, except as may be associated with a church, temple, or place of religious worship.

The proposed project is not located within a residential zone or dwelling.

Since all the above findings cannot be made and the project is proposing a substantial increase in the size of the proposed antennas, the City can deny the project.

**Section 4.** The Planning Commission further finds that the proposed project is not subject to California Environmental Quality Act (CEQA) since the recommendation is for denial.

**Section 5.** Based on the aforementioned findings, the Commission hereby approves Modification No. 1 to Design Overlay Review No. 529-90 and Modification No. 1 to Conditional Use Permit No. 370-90 to remove and replace one antenna per sector for a total of three (3) antennas, relocating and re-using three (3) existing antennas per sector for a total of nine (9) antennas, and adding twelve (12) new RRUs on an existing legal non-conforming 60'-high mono-pole with respect to the properties described in Section 1 hereof.

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

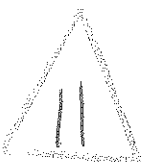
**Section 7.** This action shall become final and effective fifteen days after the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED THIS 25<sup>th</sup> DAY OF March, 2014

\_\_\_\_\_  
CHAIRMAN

ATTEST:

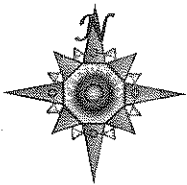
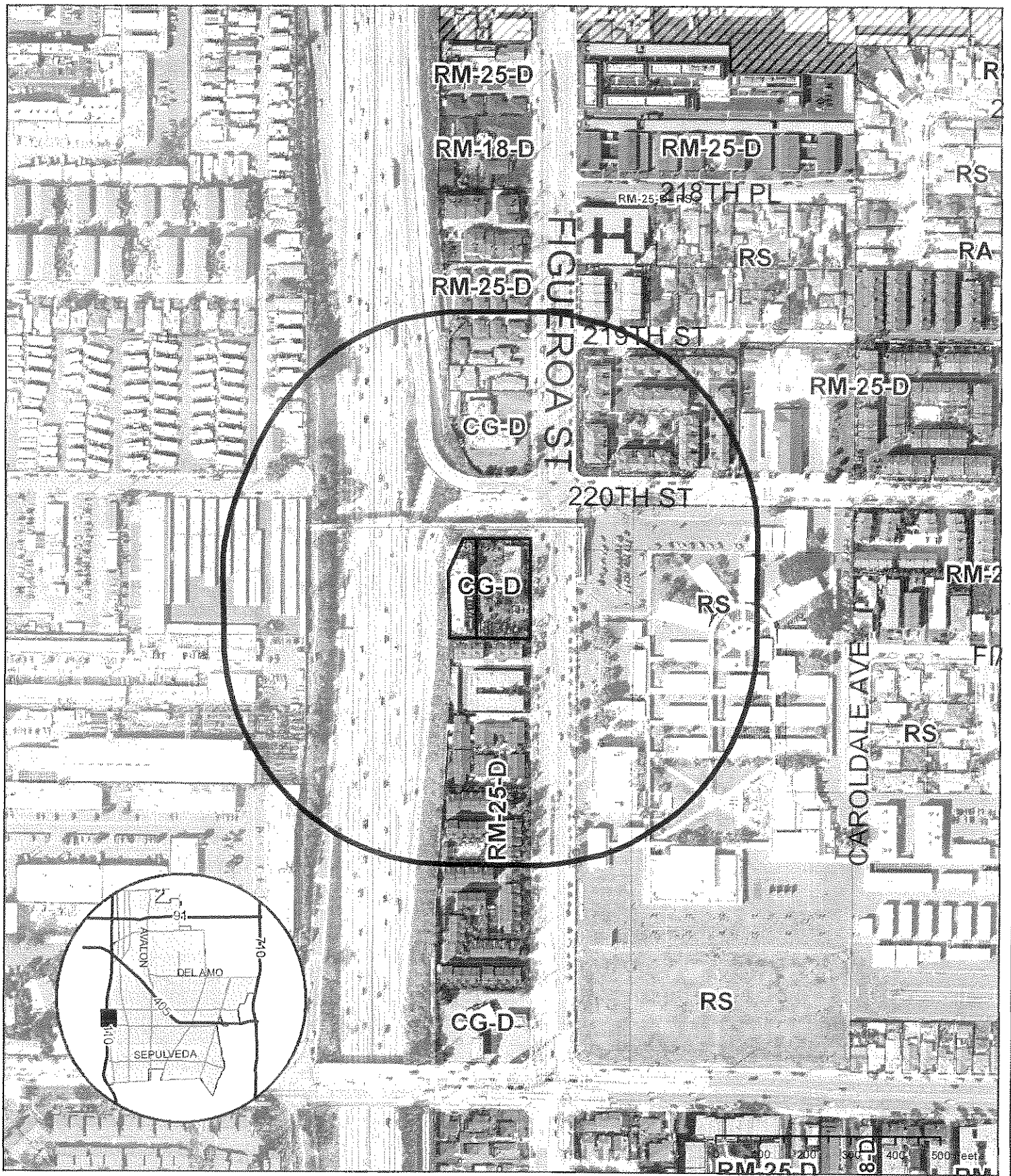
\_\_\_\_\_  
SECRETARY



**Exhibit "A"**  
**Legal Description**

Legal Description: Lot: 57 Tract No: 3612 Abbreviated Description: LOT: 57  
CITY:REGION/CLUSTER: 26/26882 TR#:3612 TR=3612 FOR DESC SEE ASSESSOR'S  
MAPS POR OF LOT 57 City/Muni/Twp: REGION/CLUSTER: 26/26882





City of Carson  
 500 Foot Radius Map  
 22023, 22027 and 22029 Figueroa St

Exhibit 2

14

REV	DATE/REV	DESCRIPTION
0	12/27/13	ISSUED FOR PERMITS
1	1/24/14	PLANNING COMMENTS
2	1/27/14	REVISED PER PLANNING COMMENTS
3	1/27/14	REVISED PER PERMITS

ENGINEER / CONSULTANT



**verizon wireless**  
 1500 EAST CHANDLER AVENUE  
 SUITE 200, TOMBALL, TX 77375  
 281.296.2000

**core**  
 CENTRAL BUSINESS SERVICES  
 2714 BROADWAY  
 SUITE 100, HOUSTON, TX 77002  
 713.594.1111

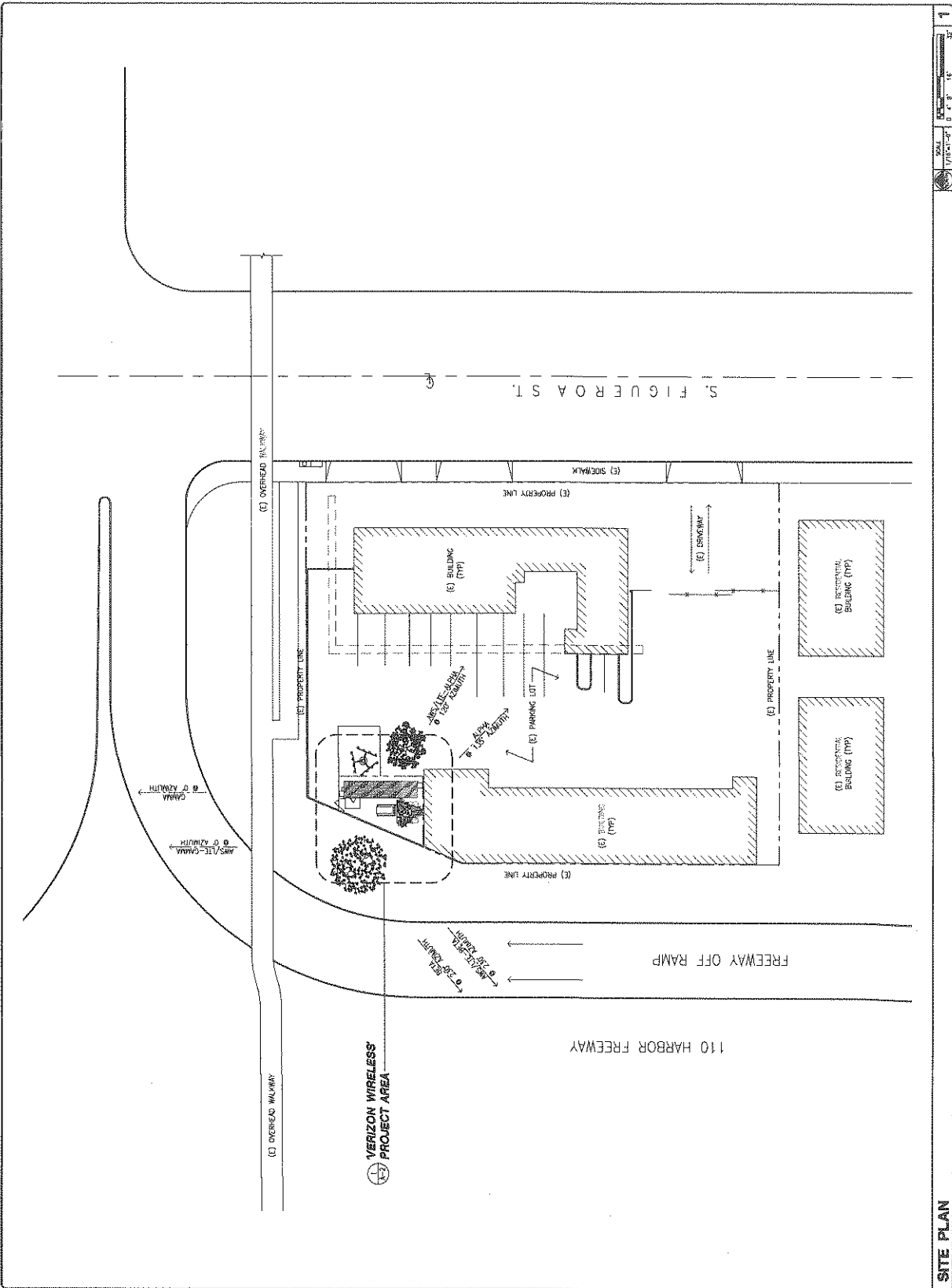
APPROVED BY	INITIALS	DATE
FOR SET OUT		
FOR PERMITS		
FOR CONSTRUCTION		
FOR RECORDS		
FOR FINAL		

**223RD ST.**  
 22025 S. FIGUEROA ST.  
 CARSON, CA 90745  
 LOS ANGELES COUNTY  
 SHEET TITLE

**SITE PLAN**

DESIGNED BY	CHECKED BY	ISSUE DATE
SK	APP	02.07.2013

**A-1**



**SITE PLAN**

15







REV	DATE/REV	DESCRIPTION
0	07/20/13	ISSUED FOR BIDDING
1	07/20/13	PLANNING COMMENTS
2	07/20/13	REVISED FOR PLANNING COMMENTS
3	07/20/13	REVISED FOR BIDDING
4	07/20/13	REVISED FOR BIDDING

ENGINEER / CONSULTANT



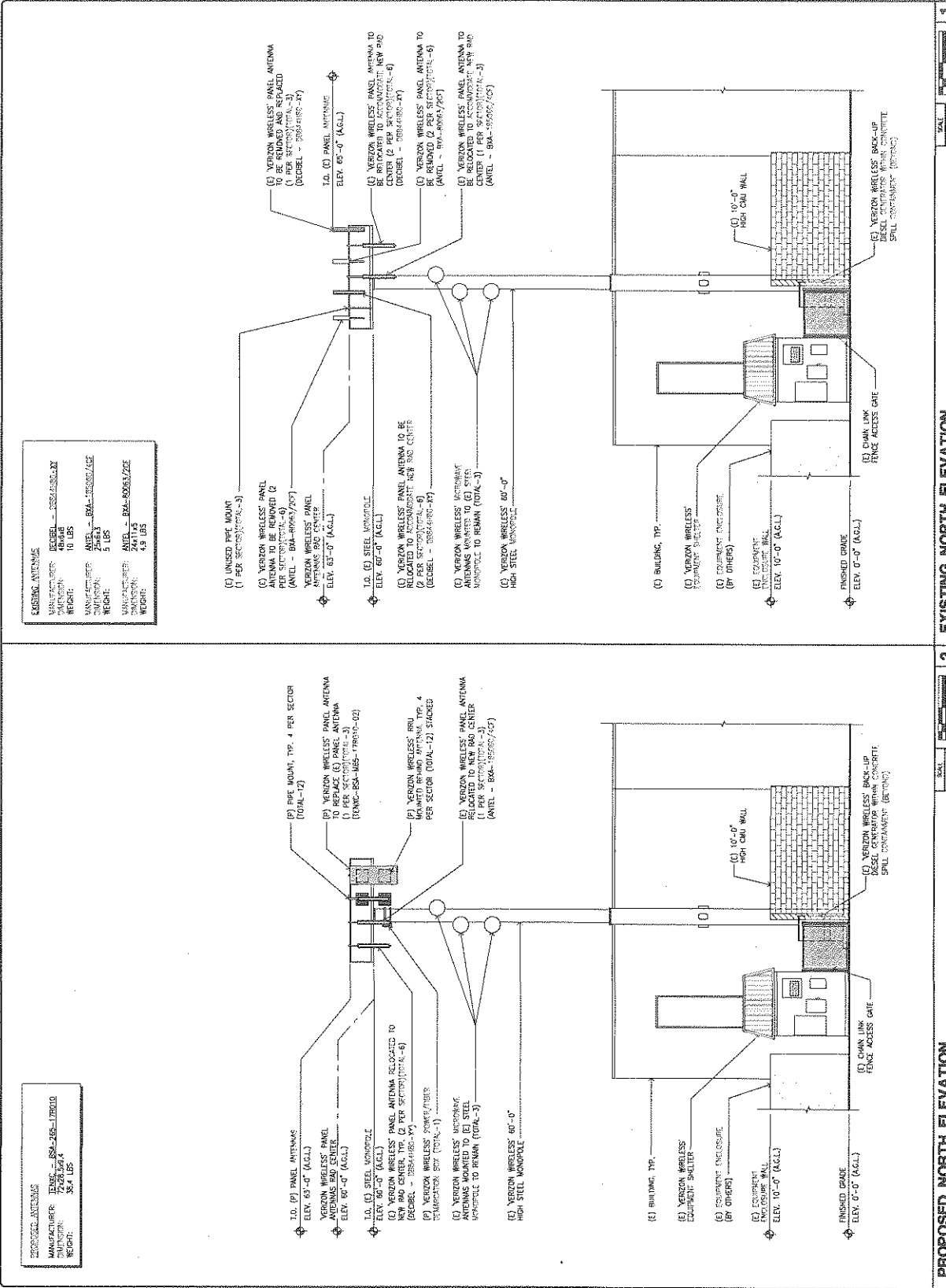
REVISIONS	DATE
1. VISION WIRELESS	
2. VISION WIRELESS	
3. VISION WIRELESS	
4. VISION WIRELESS	
5. VISION WIRELESS	
6. VISION WIRELESS	
7. VISION WIRELESS	
8. VISION WIRELESS	
9. VISION WIRELESS	
10. VISION WIRELESS	

223RD ST.

27026 S. FLORENCE ST.  
CARSON, CA 90745  
LOS ANGELES COUNTY

DATE: 02.07.2013  
APP: 02.07.2013  
SHEET NUMBER

A-3



17

REV	DATE/REV	DESCRIPTION
1	07/27/11	ISSUED FOR PERMITS
2	07/27/11	ISSUED FOR PERMITS
3	07/27/11	ISSUED FOR PERMITS
4	07/27/11	ISSUED FOR PERMITS
5	07/27/11	ISSUED FOR PERMITS

ENGINEER / CONSULTANT

SITE BUILDER

core

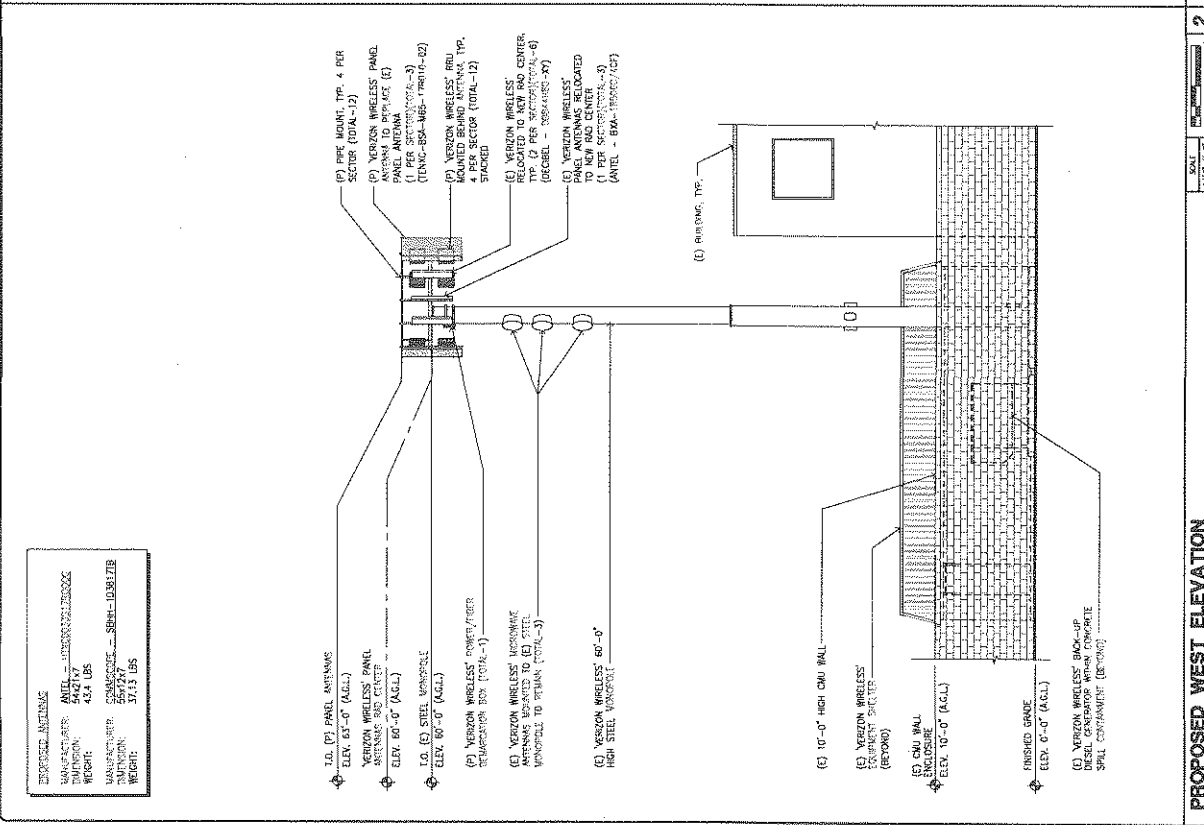
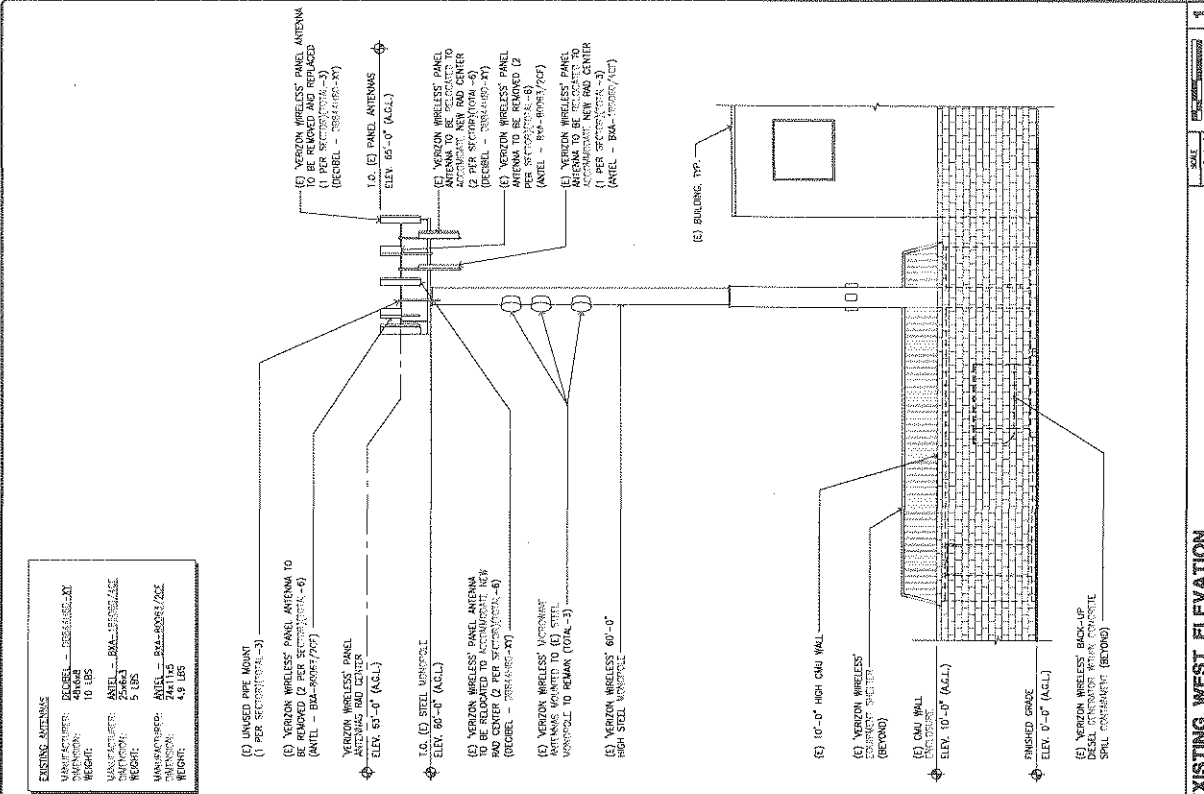
APPROVED BY: INITIALS DATE

223RD ST.

WEST ELEVATIONS

DATE: 02/07/2013

A-4



18

REV	DATE/REV	DESCRIPTION
0	02/07/13	ISSUED FOR PERMITS
1	02/07/13	ISSUED FOR PERMITS
2	02/07/13	ISSUED FOR PERMITS
3	02/07/13	ISSUED FOR PERMITS

ENGINEER / CONSULTANT
SITE BUILDER



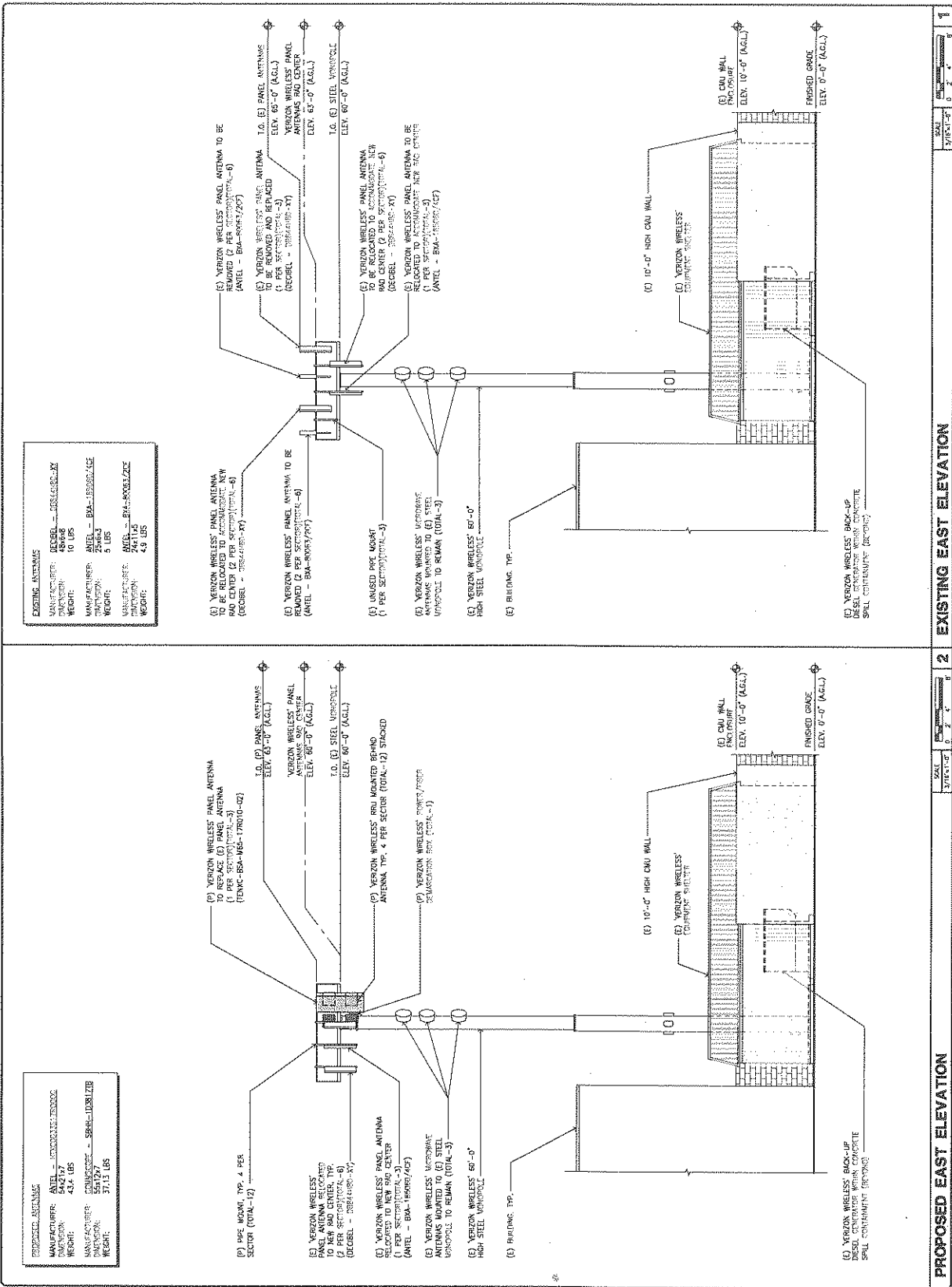
APPROVED BY	DATE
FOR THE CLIENT	
FOR THE ENGINEER	
FOR THE PERMITTING AGENCY	
FOR THE LOCAL AGENCY	

SITE INFORMATION
223RD ST.
22025 S. FIGUEROA ST. CAGION, CA 90745 LOS ANGELES COUNTY

SHEET TITLE
EAST ELEVATIONS

DRAWING INFORMATION
DRAWN BY: [blank]
CHECKED BY: [blank]
ISSUE DATE: 02/07/2013
APP: [blank]
SHEET NUMBER: [blank]

A-5
-----



19

REV	DATE	DESCRIPTION
1	02/07/13	ISSUED FOR PERMITS
2	02/07/13	PERMITS
3	02/07/13	ISSUED FOR PERMITS
4	02/07/13	ISSUED FOR PERMITS
5	02/07/13	ISSUED FOR PERMITS
6	02/07/13	ISSUED FOR PERMITS
7	02/07/13	ISSUED FOR PERMITS
8	02/07/13	ISSUED FOR PERMITS
9	02/07/13	ISSUED FOR PERMITS
10	02/07/13	ISSUED FOR PERMITS



DATE	INITIALS
DATE	INITIALS
DATE	INITIALS
DATE	INITIALS
DATE	INITIALS
DATE	INITIALS
DATE	INITIALS
DATE	INITIALS
DATE	INITIALS
DATE	INITIALS
DATE	INITIALS

223RD ST.
2200 S. FLORENCE ST.
CARSON, CA 90745
LOS ANGELES COUNTY
SHEET TITLE
DETAILS

223RD ST.
2200 S. FLORENCE ST.
CARSON, CA 90745
LOS ANGELES COUNTY
SHEET TITLE
DETAILS

223RD ST.
2200 S. FLORENCE ST.
CARSON, CA 90745
LOS ANGELES COUNTY
SHEET TITLE
DETAILS

223RD ST.
2200 S. FLORENCE ST.
CARSON, CA 90745
LOS ANGELES COUNTY
SHEET TITLE
DETAILS

STATIONING: 0+00 TO 0+100, THE PERMITS/STATIONING ANTENNA SHALL BE AT THE END OF THE PERMITS/STATIONING.

HEIGHT: 12.1' (3.68 M)

PRODUCT DIAGRAM

FRONT

SIDE

REAR

Raycap

POWER/FIBER DEMARCATION

SCALE: 1" = 1' N.T.S.

1

ANTENNA SPECIFICATIONS

MANUFACTURER: TENC

MODEL: BDA-MB-T1010

HEIGHT: 12.1' (3.68 M)

WIDTH: 10.15' (3.09 M)

DEPTH: 8.15' (2.48 M)

WEIGHT: 38.4 LBS

FRONT

SIDE

REAR

SCALE: 1" = 1' N.T.S.

2

ANTENNA SPECIFICATIONS

MANUFACTURER: TENC

MODEL: BDA-MB-T1010

HEIGHT: 12.1' (3.68 M)

WIDTH: 10.15' (3.09 M)

DEPTH: 8.15' (2.48 M)

WEIGHT: 38.4 LBS

FRONT

SIDE

REAR

SCALE: 1" = 1' N.T.S.

3

RRUS-12 SPECIFICATIONS

MANUFACTURER: FRONSON

MODEL: RRUS-12

HEIGHT: 18.22' (5.55 M)

WIDTH: 18.50' (5.64 M)

DEPTH: 7.32' (2.23 M)

WEIGHT: 97.32 LBS

FRONT

SIDE

REAR

SCALE: 1" = 1' N.T.S.

4

RRUS-12 SPECIFICATIONS

MANUFACTURER: FRONSON

MODEL: RRUS-12

HEIGHT: 18.22' (5.55 M)

WIDTH: 18.50' (5.64 M)

DEPTH: 7.32' (2.23 M)

WEIGHT: 97.32 LBS

FRONT

SIDE

REAR

SCALE: 1" = 1' N.T.S.

5

RRUS-12 SPECIFICATIONS

MANUFACTURER: FRONSON

MODEL: RRUS-12

HEIGHT: 18.22' (5.55 M)

WIDTH: 18.50' (5.64 M)

DEPTH: 7.32' (2.23 M)

WEIGHT: 97.32 LBS

FRONT

SIDE

REAR

SCALE: 1" = 1' N.T.S.

6

RRUS-12 SPECIFICATIONS

MANUFACTURER: FRONSON

MODEL: RRUS-12

HEIGHT: 18.22' (5.55 M)

WIDTH: 18.50' (5.64 M)

DEPTH: 7.32' (2.23 M)

WEIGHT: 97.32 LBS

FRONT

SIDE

REAR

SCALE: 1" = 1' N.T.S.

7

RRUS-12 SPECIFICATIONS

MANUFACTURER: FRONSON

MODEL: RRUS-12

HEIGHT: 18.22' (5.55 M)

WIDTH: 18.50' (5.64 M)

DEPTH: 7.32' (2.23 M)

WEIGHT: 97.32 LBS

FRONT

SIDE

REAR

SCALE: 1" = 1' N.T.S.

8

RRUS-12 SPECIFICATIONS

MANUFACTURER: FRONSON

MODEL: RRUS-12

HEIGHT: 18.22' (5.55 M)

WIDTH: 18.50' (5.64 M)

DEPTH: 7.32' (2.23 M)

WEIGHT: 97.32 LBS

FRONT

SIDE

REAR

SCALE: 1" = 1' N.T.S.

9

RRUS-12 SPECIFICATIONS

MANUFACTURER: FRONSON

MODEL: RRUS-12

HEIGHT: 18.22' (5.55 M)

WIDTH: 18.50' (5.64 M)

DEPTH: 7.32' (2.23 M)

WEIGHT: 97.32 LBS

FRONT

SIDE

REAR

SCALE: 1" = 1' N.T.S.

10

RRUS-12 SPECIFICATIONS

MANUFACTURER: FRONSON

MODEL: RRUS-12

HEIGHT: 18.22' (5.55 M)

WIDTH: 18.50' (5.64 M)

DEPTH: 7.32' (2.23 M)

WEIGHT: 97.32 LBS

FRONT

SIDE

REAR

SCALE: 1" = 1' N.T.S.

11

RRUS-12 SPECIFICATIONS

MANUFACTURER: FRONSON

MODEL: RRUS-12

HEIGHT: 18.22' (5.55 M)

WIDTH: 18.50' (5.64 M)

DEPTH: 7.32' (2.23 M)

WEIGHT: 97.32 LBS

FRONT

SIDE

REAR

SCALE: 1" = 1' N.T.S.

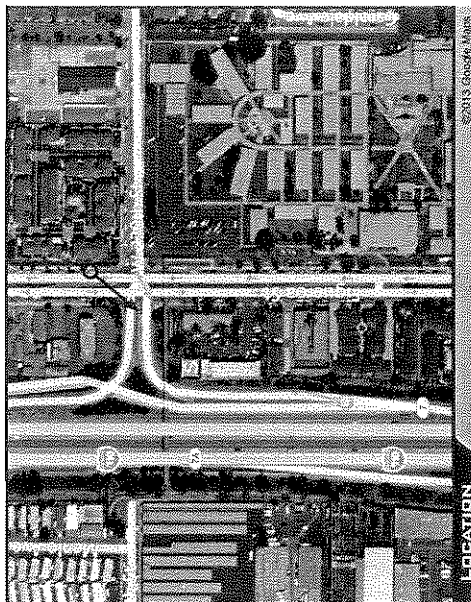
12

# 223RD STREET

22025 SOUTH FIGUEROA STREET CARSON CA 90745

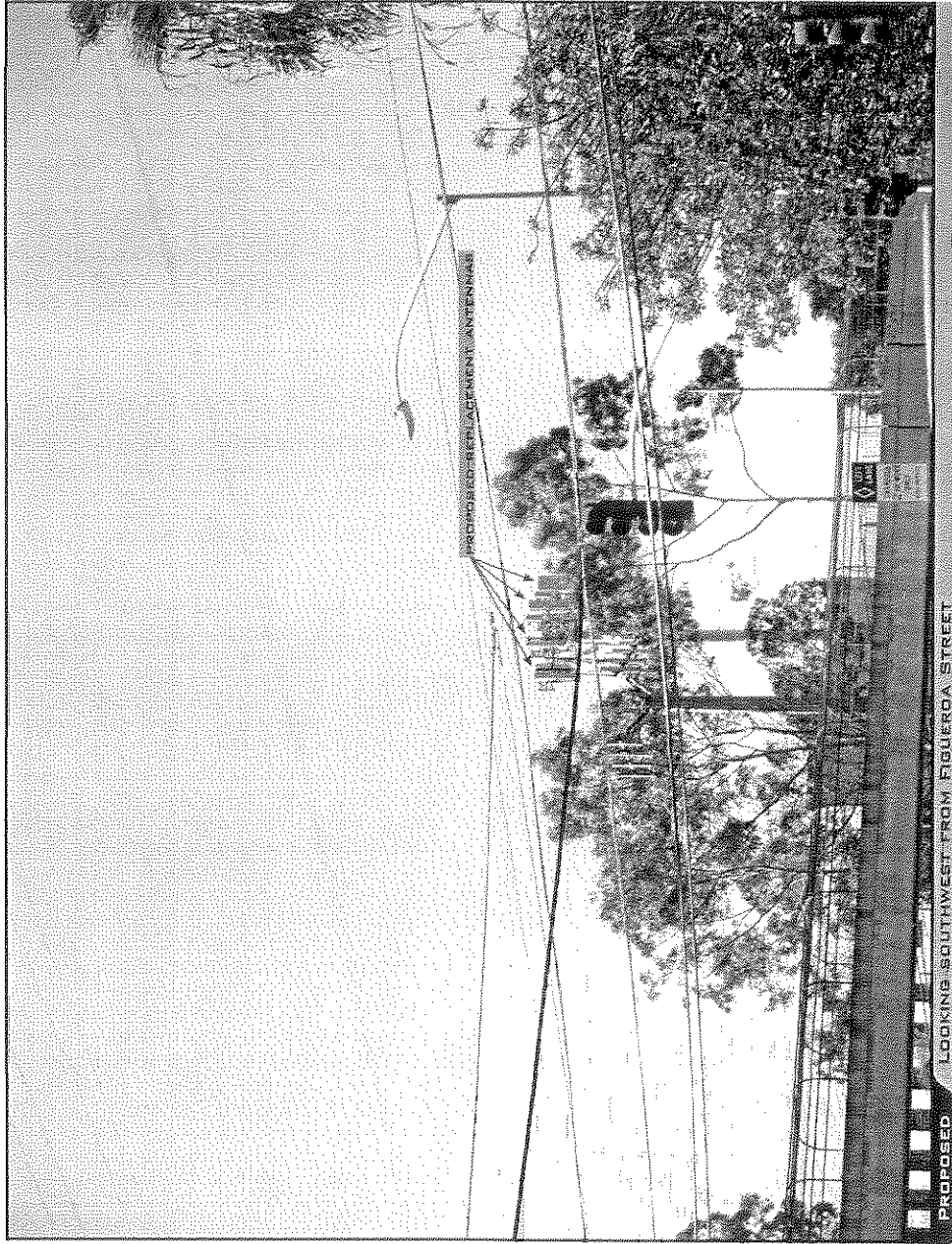


VIEW 1

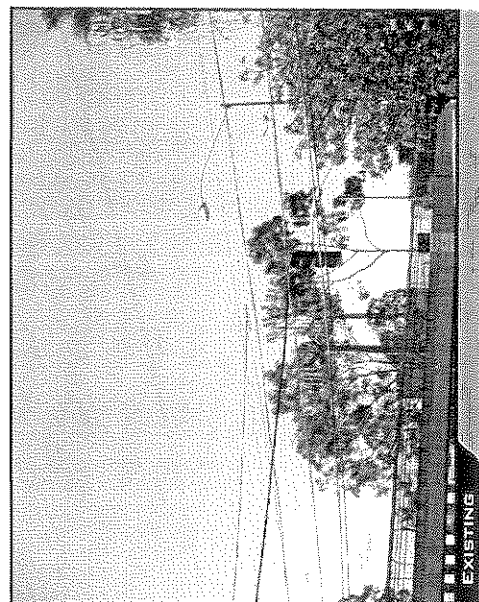


© 2013 Google Maps

LOCATION



PROPOSED LOOKING SOUTHWEST FROM FIGUEROA STREET



EXISTING

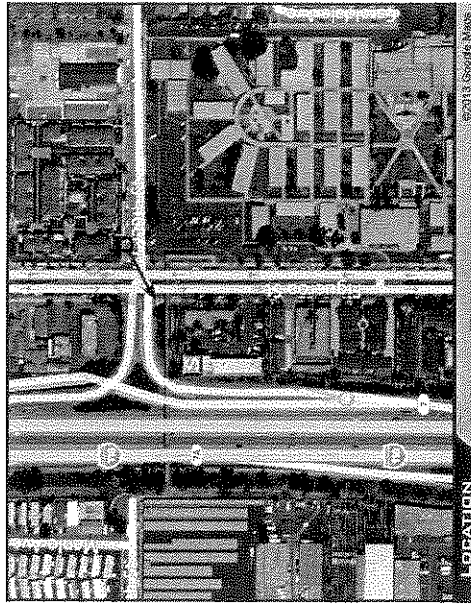
ACCURACY OF PHOTO SIMULATION BASED UPON INFORMATION PROVIDED BY PROJECT APPLICANT.

# 223RD STREET

22025 SOUTH FIGUEROA STREET CARSON CA 90745

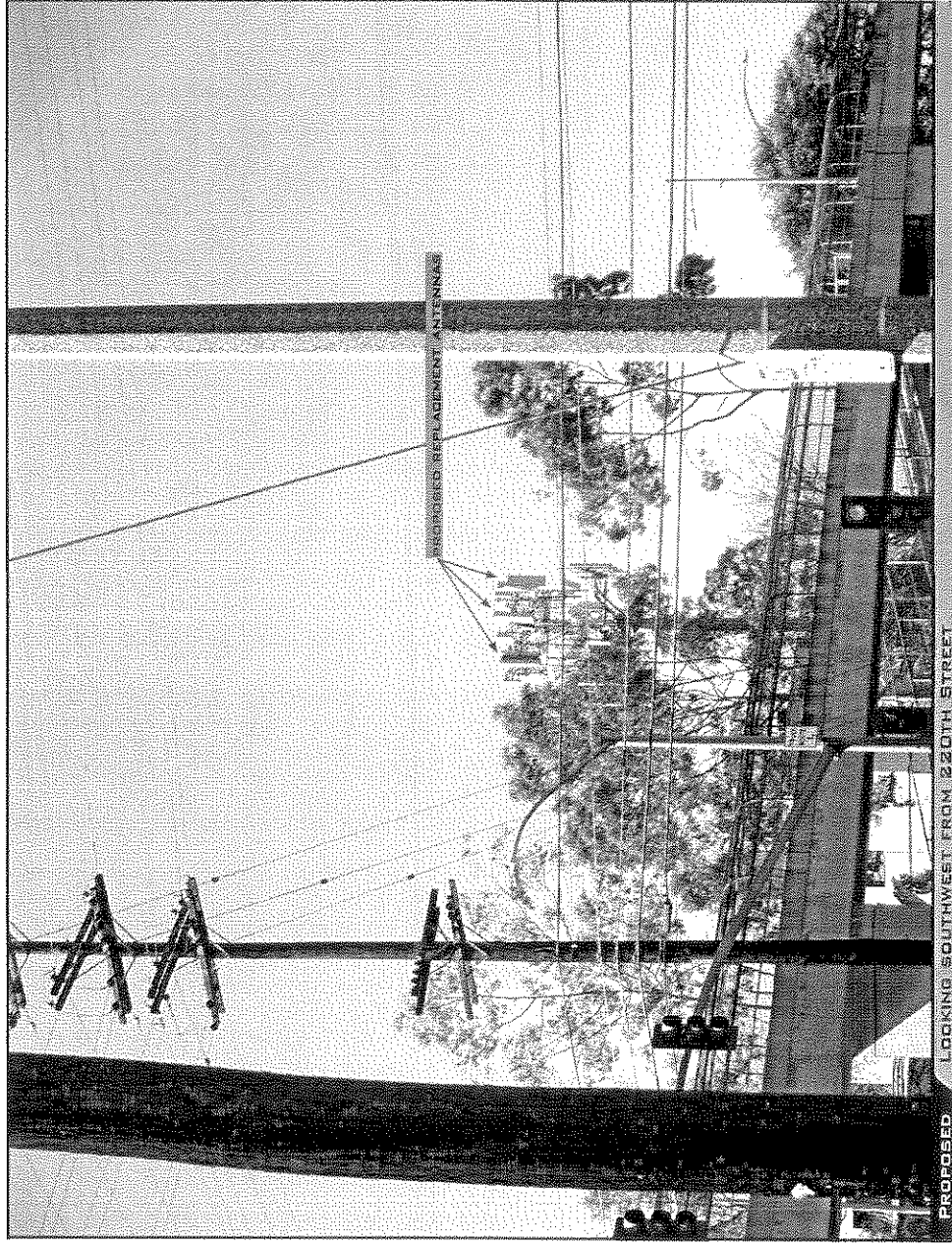


VIEW 2

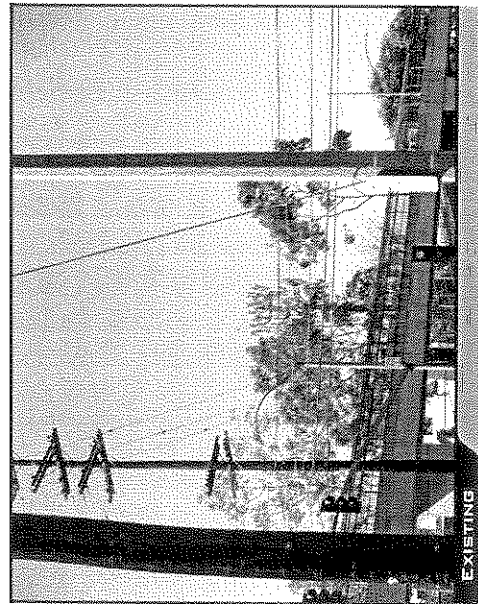


©2013 Google Maps

LOCATION



LOOKING SOUTHWEST FROM 220TH STREET



EXISTING

ACCURACY OF PHOTO CIVIL ACTION BASED UPON INFORMATION PROVIDED BY PROJECT APPLICANT.

22

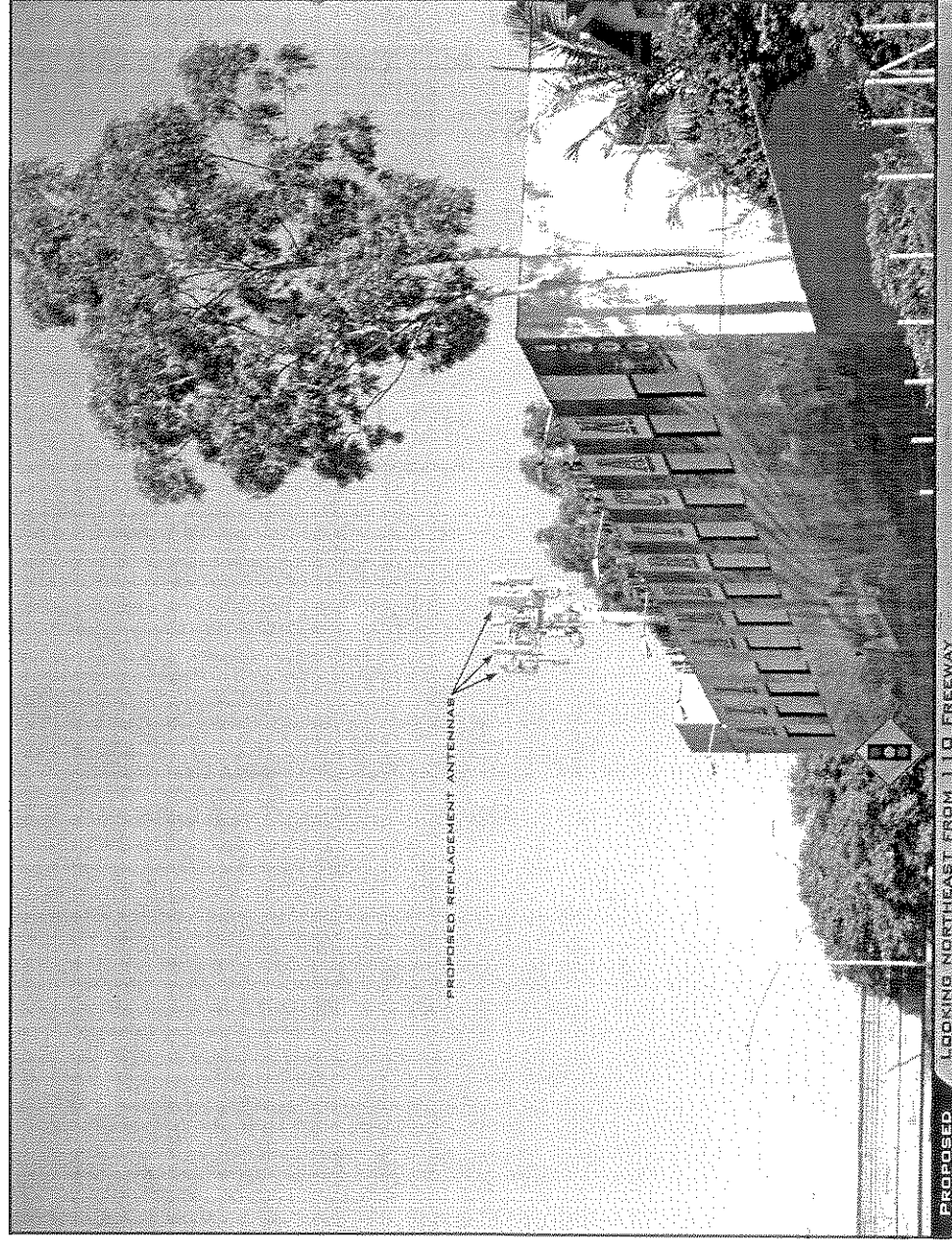
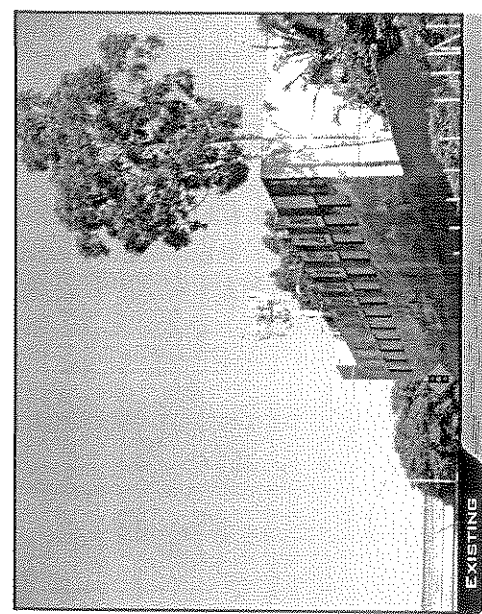
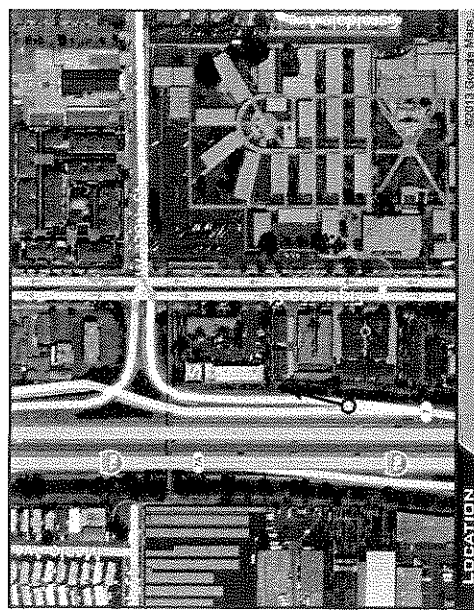


# 223RD STREET

22025 SOUTH FIGUEROA STREET CARSON CA 90745



VIEW 3



ACCURACY OF PHOTO SIMULATION BASED UPON INFORMATION PROVIDED BY PROJECT APPLICANT.

Wheeler's Dwarf	<i>Pittosporum tobira</i> 'Variegata'
India Hawthorn	<i>Ralphiolepis indica</i> 'Jack Evans'
Compact Natal Plum	<i>Carissa</i>
Lily of Nile	<i>Agapanthus africanus</i>
Privet	<i>Ligustrum</i> 'Texanum'
Compact Shiny Xylosma	<i>Xylosma congestum</i> 'Compactum'
Pink Escallonia	<i>Escallonia fradesii</i>
Ternstroemia	<i>Ternstroemia gymnanthera</i>
Fraser's Photinia	<i>Photinia fraseri</i>
Viburnum	<i>Viburnum davidii</i>

b. Ground Covers.

Star Jasmine	<i>Trachelospermum</i> <i>jasminoides</i>
Prostrate Natal Plum	<i>Carissa grandiflora</i> 'Green Carpet'
Blue Rug Juniper	<i>Junipers horizaontalis</i>
Turfgrass	'Marathon' fescue
Trailing Lantana Gazanias	<i>Lantana montividenis</i>

(Ord. 03-1279, § 23; Ord. 08-1404, § 3; Ord. 11-1473, § 3; Ord. 11-1480, § 3)

**§ 9138.16 Communications Facilities.\***

A. Purpose. The purpose and intent of this Section is to provide uniform and comprehensive standards for the development of all communications facilities, including antennas and associated facilities for wireless telecommunication, data, radio, television and microwave, in accordance with existing Federal law while minimizing the aesthetic impacts through the use of carefully chosen siting and design criteria. The regulations contained herein are designed to protect and promote public health, safety and welfare, and aesthetic qualities within the community. At the same time, the intent is to comply with the Telecommunications Act of 1996, to not unduly restrict the development of necessary communications facilities and encourage managed development of communications infrastructure while providing a public forum to ensure a balance between public concerns and private interest in establishing such facilities.

B. Definitions.

1. "Amateur radio service" means a non-commercial, two (2) way radio communications service operated by licensed amateurs using shared frequencies.

2. "Antenna height" means the vertical distance from the existing or proposed grade, whichever is lower, to the highest part of the antenna.

3. "Building-mounted facilities" means all facilities mounted or attached in any way to an existing building. The building must serve a primary use other than as a site for a communications facility.

4. "Cell on wheels" or "COW" means a facility which is temporarily rolled in or temporarily installed.

5. "Co-location" means the placement of more than one (1) facility on an existing building or freestanding structure.

6. "Enhanced 911 emergency calling systems (911/ECS)" means a service which allows public safety personnel, including police and fire departments, to automatically identify the phone number and location of a person making an emergency call from a mobile source.

7. "Facade-mounted" means the mounting of antennas directly to the fascia or sidewall of a building and stealth into the architectural design of the wall.

8. "Facility" means a communications facility that repeats, transmits and/or receives electromagnetic signals which includes, but is not limited to: the combination of antennas, transmitters, masts, cabinets, and equipment rooms; towers, monopoles, or similar structures supporting said equipment; screening devices including walls and landscaping; and parking areas and other accessory development.

9. "Ground-mounted" means a facility in which the antennas are located on a freestanding pole or structure, other than a building, attached to the ground. These antennas do not use a building or ancillary structure(s) for mounting purposes.

10. "Height" means the distance measured from the average finished grade surrounding the facility to the highest point on the facility. In the case of a building tower, the height includes the portion of the building on which it is mounted. Towers that are adjustable in height shall use the



maximum height which the structure is capable of reaching.

11. "Major communications facility" means a facility other than a minor communications facility, which includes ground-mounted or freestanding facilities and facilities that are not stealth. A facility located within a residential zone, regardless of stealth design, is considered a major communications facility.

12. "Minor communications facility" means a facility that includes distributed antenna systems (DAS), microcells and building-mounted facilities that are stealth, including facade-mounted (wall-mounted) and roof-mounted stealth facilities. A collocation onto an existing, approved major communications facility that is in full compliance with this Section, shall be processed as a minor communications facility. Enhanced 911/ECS required by the Federal Communications Commission (FCC) are considered minor communications facilities if they are stealth into the design of an existing building-mounted or freestanding facility.

13. "Multiple user" means a communications facility comprised of multiple towers or buildings supporting one (1) or more antennas owned or used by more than one (1) public and/or private entity, excluding research and development industries with antennas to serve internal uses only.

14. "Freestanding" means a facility or structure which is not mounted on or attached in any way to an existing building, or that is attached to a structure whose primary purpose is to support, house or serve as a mounting location for communications equipment.

15. "Not stealth" means any facility not camouflaged in a readily apparent manner to blend with surrounding land uses and features. The design does not conceal the intended use of the facility and incorporates no readily apparent elements of stealth technology or design. A standard monopole with equipment cabinets aboveground and unscreened would be considered not stealth.

16. "Personal communications services (PCS)" is a term coined by the Federal Communications Commission; it describes a two (2) way voice and digital, wireless telecommunications system. PCS encompasses cordless phones, cellular mobile phone paging systems, personal communications networks, wireless office phone systems, and any other wireless telecommunications systems that allow people to place and

receive voice/data calls while away from home and office.

17. "Site justification study" means a study performed pursuant to certain requirements which explains the demands and rationale that led to the selection of a particular location and design for a communications facility. The study may include information pertaining to the interrelationship between a specific site and other sites in the local network area.

18. "Stealth" means camouflaged or designed to blend with the surrounding environment and land uses, minimize aesthetic impact on adjacent uses, and conceal the intended use and appearance of the structures.

19. "Tower" means any structure, or support thereto, that is designed and constructed primarily for the purpose of supporting one (1) or more antennas for telephone, radio and similar communications purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like.

C. Applicability. The procedures and rules set forth in this Section are applicable to all communications facilities and all modifications or additions to existing communications facilities. This Section does not apply to the use or location of private, residential citizen band radio towers, amateur radio service, television antennas, or private residential dish antennas less than one (1) meter in diameter, used for receiving radio frequency or television signals, or public safety communications facilities owned or operated by the City of Carson or any emergency agencies such as the Fire Department or Sheriff's Department.

#### D. Procedural Standards.

1. Minor communications facilities shall be subject to the approval of a development plan in accordance with the site plan and design review procedures as provided in CMC 9172.23. The Planning Division shall be the approval authority except if the property is located within one hundred (100) feet of a residential zone. In considering applications for minor communications facilities, the Planning Division shall be guided by the provisions of subsections F (Design and Development

25

Standards) and H (Required Findings) of this Section.

The Planning Division shall render a decision in writing, with findings, and conditions, subsequent to receipt of a complete application. The Planning Division's decision shall be final unless a written appeal is filed pursuant to CMC 9173.4.

2. Major Communications Facilities. Major communications facilities shall be subject to the approval of a development plan in accordance with the site plan and design review procedures as provided in CMC 9172.23 and conditional use permit procedures as provided in CMC 9172.21. A co-location onto an existing, approved major communications facility shall be processed as a minor communications facility, unless as otherwise mentioned in this Section or if the co-location is a substantial addition that would intensify the existing facility as determined by the Planning Officer. In considering applications for major communications facilities, the Planning Commission shall be guided by the provisions of subsections F (Design and Development Standards) and H (Required Findings) of this Section. The decision of the Planning Commission shall be final unless a written appeal is filed pursuant to CMC 9173.4.

E. Application Requirements. The following information shall be provided concurrently with any application submitted pursuant to CMC 9173.1:

1. Co-Location Statement (if necessary). This statement must be signed by all co-locating providers agreeing to the co-location.

2. Utility Easement Encroachment Agreement (if necessary). A letter of consent must be provided by the utility purveyor(s) if their easement will be encroached upon.

3. Local Facilities Map. Show existing facilities and coverage areas in the City. (At the applicant's request, the City of Carson will make every effort to ensure the confidentiality of information which is considered to be of a proprietary nature. Said information will be used for municipal planning purposes only.)

4. Site Justification Study. A study which explains the demands and rationale for selecting a particular location and design for a communications facility. The study may include information pertaining to the interrelationship between a specific site and other sites in the local network area.

For all major communications facilities, this study shall identify all reasonable, technically feasible, alternative locations, including facilities which could be used for co-location or other networks available such as distributed antenna systems. The study shall also explain the rationale for selecting the proposed site. For all feasible co-location sites, the study shall include evidence of written contact with all wireless service providers or tower owners within a quarter mile of the proposed communications facility, unless a smaller radius is technologically justified by the applicant. The contacted tower owner or service provider shall be requested to respond in writing to the inquiry within thirty (30) days. The applicant's letter(s) as well as response(s), or a statement from the applicant detailing all responses received, shall be included with the study as a means of demonstrating the need for a new major communications facility.

5. RF Emissions Report. The City of Carson acknowledges that it is preempted from regulating the placement, construction or modification of facilities based on environmental effects of radio frequency emissions to the extent that such facilities comply with the Federal Communications Commission's (FCC) regulations. As such, a report shall be submitted which is signed by a radio frequency engineer and prepared pursuant to FCC, Office of Engineering and Technology, Bulletin 65 or any other applicable guidelines or regulations, stating the maximum (EMF/RF) radiation to be emitted by the proposed facility and whether those emissions conform to safety standards adopted by the Federal Communications Commission. The report shall take into account all other facilities within five hundred (500) feet, both existing and known future facilities, the cumulative effects of co-located facilities and existing nearby buildings and structures and shall be written so as to be understandable to the layman. This report shall be available for review by the public.

6. Site Plan. A site plan shall be submitted and consist of elevation drawings indicating the height, diameter, color, setbacks, landscaping, method of screening, and color photo simulations showing the before and after impacts of the proposed facility on the subject site. Existing communications facilities, poles, towers, and/or antennas shall also be shown. No plans shall include depictions of future antennas or devices, nor shall future

antennas or devices be approved, unless specifically identified by applicant in a separate written statement to the Planning Division or Planning Commission as applicable.

7. Costs and Refundable Deposits. Applicant shall bear the reasonable costs associated with the review of the application including the costs incurred as a result of the need to hire an expert or consultant to review the data or information provided by the applicant or any related application, and for the expert or consultant to attend City meetings as determined by the City. At the time the applicant submits its application, it shall also submit an initial refundable deposit of \$2,500. The deposit shall be used by the City to pay the reasonable costs associated with the expert or consultant review of the application. In the event that the deposit is or will be fully expended by the City, at the direction of the City, the applicant shall within five (5) business days deposit additional funds with the City in an amount reasonably estimated by the Director of Community Development. Upon final City action on or withdrawal or termination of the application, any unexpended funds on deposit shall promptly be returned to the applicant by the City. No City construction permit or utility connection authorizations shall be issued by the City for any approved project if the applicant has not fully reimbursed the City for its consultant or expert costs as required herein.

#### F. Design and Development Standards.

1. Setbacks. No communications facility shall be located within or extend into the required setbacks established in the applicable zone.

#### 2. Height.

a. Communications facilities utilizing a freestanding support structure shall be limited to the maximum building height for the applicable zoning district.

b. In zoning districts with no maximum height limit, a communications facility which utilizes a freestanding support structure shall not exceed fifty (50) feet in height above the ground. The zoning of all locations shall be interpreted in accordance with CMC 9114.2.

c. New communications facilities constructed on existing conforming structures shall not exceed the height of the existing structure, except for fully stealth roof-mounted facilities on existing buildings which may project up to the maximum

height limit described in this Section or eight (8) feet above the roof from where it is attached, whichever is higher.

d. The Planning Commission or Planning Division may consider approval of facilities to exceed the maximum height limit described in this Section subject to approval of a minor or major exception as described in subsection G (Exceptions) of this Section. Existing facilities lawfully erected prior to July 17, 2003, may have a height limit greater than subsection G (Exceptions) of this Section provided there is no expansion or intensification to the facility.

3. Undergrounding. Electrical wiring associated with a facility shall be buried underground or hidden in a manner acceptable to the Planning Division and Engineering Division or Planning Commission if applicable. To the extent technologically feasible, all vaults, equipment, shelters, structures, or any other device related to or required for use of a facility, shall be underground in the open space zone, in the right-of-way, and where all other utilities are required to be underground. In all other areas in the City, all vaults, equipment, shelters, structures, and other devices shall be permitted aboveground only when said devices are not visible from adjacent property or the right-of-way.

4. Microwave Dishes. Where economically feasible the use of microwave dishes shall be prohibited and underground lines utilized. Upon a showing of economic infeasibility, microwave dishes up to twenty-six (26) inches shall be permitted.

5. Painting. The communications facility and supporting structure(s) shall be painted a neutral, non-glossy color that matches the color of the structure to be mounted on or to the color of the surrounding environment subject to the satisfaction of the Planning Manager.

6. Lighting. All communications facilities, except exempt facilities, shall be unlit, except for a manually operated or motion-detector controlled light above the equipment door which shall be used only for personnel maintenance purposes. This requirement is not intended to address interior structure lighting.

#### 7. Noise.

a. All communications facilities, except exempt facilities, shall be constructed and operated

in such a manner as to meet the requirements of the noise ordinance.

b. Backup generators shall only be operated during power outages and for testing and maintenance purposes. No backup generator shall be utilized for longer than seventy-two (72) hours without prior approval of the Engineering Division or Planning Division.

c. If the facility is located within one hundred (100) feet of a residential dwelling unit, noise attenuation measures, including redesign or screening, shall be included to reduce exterior noise levels to meet the requirements of the noise ordinance.

8. Signs. The display of any sign or any other graphic on a communications facility or on its screening is prohibited, except for signs for health, safety, and welfare purposes which are 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.

9. Performance Bond. A faithful performance bond shall be required to ensure compliance with City codes and standards, and the removal of abandoned antennas or facilities, before the issuance of any building or public works permits.

#### G. Exceptions.

1. Exceptions for minor communications facilities may be approved by the Planning Division. For all other facilities including those within one hundred (100) feet of a residential zone, the Planning Commission shall render the decision after notice and hearing. In approving an exception, the Planning Commission or Planning Division shall render a decision in writing, with findings and conditions, subject to the requirements of CMC 9172.23.

a. Minor Exceptions. The design standards for setbacks and height listed in subsection F of this Section may be modified by not more than fifteen (15) percent.

The Planning Commission or Planning Division must make all of the following findings based on evidence submitted by the applicant:

(1) If seeking a minor exception from height standards set forth herein, the applicant shall demonstrate that the proposed height is designed at the minimum height necessary for operation and/or

for stealth purposes including design elements or architectural details.

(2) The minor exception would not create a significant visual impact.

(3) Granting the minor exception shall conform to the spirit and intent of this zoning code.

(4) Granting the minor exception will not be materially detrimental to the public welfare or injurious to properties or improvements in the vicinity.

b. Major Exceptions. The design standards for setbacks and height listed in subsection F of this Section may be modified by not more than thirty (30) percent.

The Planning Commission or Planning Division must make all of the following findings based on evidence submitted by the applicant:

(1) If the applicant seeks the major exception in order to service the applicant's gap in service, the applicant shall submit an explanation and supporting engineering data establishing that a tower or antenna as proposed is technologically necessary.

(2) If the applicant seeks the major exception in order to accommodate the establishment of a co-located facility, the applicant shall demonstrate that conformance with the code would require the installation of new freestanding communications facility or other less desirable facility.

(3) If seeking a major exception from height standards set forth herein, the applicant shall demonstrate that the proposed height is designed at the minimum height necessary. The applicant shall specifically include an analysis comparing the operation of the facility at its proposed height with its operation at the maximum height permitted herein. The purpose of this analysis is to ensure that additional height is permitted only when technologically necessary for the provision of services. Further, the applicant shall certify that the facility shall not cause a hazard to aircraft.

(4) Locating the antenna in conformance with the specifications of this Section would obstruct the antenna's reception window or otherwise excessively interfere with reception, and the obstruction or interference involves factors beyond the applicant's control and relocation is not an option.

(5) The visual impacts are negligible because the facility is designed to architecturally integrate with the surrounding environment.

(6) Granting the major exception shall conform to the spirit and intent of this zoning code.

(7) Granting the major exception will not be materially detrimental to the public welfare or injurious to properties or improvements in the vicinity.

H. Required Findings. In addition to the provisions of CMC 9172.21 and 9172.23, the Planning Division or Planning Commission shall approve a development plan and conditional use permit for a communications facility if affirmative findings can be made based upon the following criteria:

1. The proposed site is the least intrusive after considering co-location with another facility, other networks available such as distributed antenna systems, and location at another site. If located in the public right-of-way or on City-owned or leased property, the facility must meet the requirements of the Engineering Division.

2. The proposed communications facility will be aesthetically compatible, 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 stealth which incorporates the facility with the structure in which it will be mounted through use of material, color, and architectural design.

3. The proposed communications facility is not located on any residential dwelling or on any property which contains a residential dwelling, or any property wherein a person resides, except as may be associated with a church, temple, or place of religious worship.

I. Maintenance. The site shall be maintained in a condition free of trash, debris, and refuse and all antennas and related structures shall not be permitted to fall into disrepair. All graffiti must be removed immediately or within seventy-two (72) hours of notice from the City.

#### J. Temporary Facilities.

1. The Planning Division may approve, for a period of up to ninety (90) days, a temporary communications facility, including but not limited to a COW, to provide service while an approved communications facility is being fabricated or when an

existing antenna has been damaged or destroyed. The Planning Division may extend the ninety (90) day period at the request of the applicant for thirty (30) day intervals if the applicant can prove that there is a hardship that is delaying the issuance of permits for the permanent facility.

2. The temporary facility may only be approved after the approval authority has approved or conditionally approved an application for a communications facility and the project proponent has signed and returned a copy of the affidavit of acceptance of conditions of approval to the Planning Division.

3. The Planning Division shall approve the actual location and design of the temporary facility consistent with the requirements of subsection F (Design and Development Standards) of this Section.

4. The Planning Division or Public Safety Division shall have the authority to approve a temporary use permit for communications facilities needed during a declared emergency. Temporary facilities shall be removed not later than ten (10) days after the conclusion of the declared emergency.

K. Nonconforming Facilities. Any facility constructed in violation of this Section, or in violation of any part of this code, is subject to immediate abatement. Any major communications facility that is lawfully constructed prior to the effective date of the ordinance codified in this Section shall be deemed a nonconforming use and will be subject to the provision of CMC 9182.21 and 9182.22. Additionally, CMC 9172.25 and 9182.05 shall govern any request for an extension to the nonconforming privilege.

#### L. Facility Removal.

1. Discontinued Use/Abandonment. 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 one hundred eighty (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 ninety (90) days after the use is discontinued or abandoned, and shall be performed in accordance with all applicable health and safety requirements. In the event that an owner or operator fails to remove any abandoned facilities or antennas within the time periods stated, the City may remove the facility after providing thirty (30) days' notice, and shall bill the owner and/or operator for all costs including any administrative or legal costs incurred in connection with said removal. Once all costs have been paid by the antenna owner, any bond posted for removal shall be released. The City does not waive any legal rights to seek repayment for removal costs pursuant to a bond posted, or bring an action for repayment of costs.

2. **Utility-Mounted Facility Removal or Relocation.** All utility-mounted facilities shall be removed or relocated at the facility owner's expense when a City-approved project requires relocation or undergrounding of the utility structure on which the facility is mounted. (Ord. 03-1284, § 5; Ord. 10-1460, § 1)

#### § 9138.17 Mixed-Use – Carson Street (MU-CS).

A. **Description of Boundaries.** The City of Carson Mixed-Use – Carson Street Corridor (MU-CS) is a 1.75-mile section located on the north and south sides of Carson Street between the San Diego (I-405) Freeway and the Harbor (I-110) Freeway. There are five (5) districts within the Carson Street Corridor MU-CS which are: West Gateway District, Community Shopping District, Boulevard Residential District, Civic Center District and East Gateway District. The West Gateway District includes the north and south side of Carson Street between the I-110 Freeway and Moneta Street. The Community Shopping District includes the north and south side of Carson Street from Moneta Street to Dolores Street. The Boulevard Residential District extends from Dolores Street to Grace Avenue, the Civic Center District extends from Grace Avenue to Bonita Street and East Gateway District extends from Bonita Avenue to the I-405 Freeway.

B. **Purpose and Intent.** The purpose of the MU-CS Zone is to create a downtown retail and residential district which will provide the City of Carson with a distinctive core area which includes its Civic Center. The use of the regulations and develop-

ment standards contained herein is intended to fulfill the following objectives:

1. Create a livable, pedestrian-friendly downtown retail district surrounding the civic core.
2. Create a distinctive mixed-use character throughout the Carson Street Corridor by establishing standards and guidelines.

C. **Permitted Land Uses.** All uses within the Mixed-Use – Carson Street Corridor are subject to site plan and design review per CMC 9172.23.

1. **Permitted and Conditional Uses.** Automatically permitted uses, uses requiring special limitations and requirements, conditionally permitted uses, and all other uses permitted in the MU-CS zoning district are described in CMC 9131.1. Existing nonconforming uses shall comply with the requirements of Division 2 of Part 8 of this Chapter.

2. **Prohibited Uses.** All uses are prohibited except as expressly permitted by the provisions of this Chapter.

3. **Interpretation of Uses Permitted.** Further definition and enumeration of uses permitted in the Mixed-Use – Carson Street District shall be determined by means of interpretation in accordance with CMC 9172.24.

D. **Site Requirements.** The site requirements listed under this Section are mandatory.

##### 1. Minimum Lot Area.

a. The minimum lot size for a commercial-use-only building or buildings is twenty thousand (20,000) square feet.

b. The minimum lot size for a mixed-use building or buildings is twenty thousand (20,000) square feet.

c. The minimum lot size for development with a residential-only building or buildings is thirty thousand (30,000) square feet.

d. Any lawfully established lot (including a leased area of land during the term of the lease) is deemed to have the required lot size.

e. A lot may be reduced to less than the required lot area if such a reduction is the result of an acquisition for public purposes.

##### 2. Street Frontage and Access.

a. The minimum building frontage shall be seventy (70) percent of the lot width unless modified by the Planning Commission pursuant to CMC 9172.23 (Site Plan and Design Review).

## APPENDIX

### SEC. 6409. WIRELESS FACILITIES DEPLOYMENT.

#### (a) FACILITY MODIFICATIONS.

(1) IN GENERAL. Notwithstanding section 704 of the Telecommunications Act of 1996 (Public Law 104–104) or any other provision of law, a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.

(2) ELIGIBLE FACILITIES REQUEST. For purposes of this subsection, the term “eligible facilities request” means any request for modification of an existing wireless tower or base station that involves —

- (A) collocation of new transmission equipment;
- (B) removal of transmission equipment; or
- (C) replacement of transmission equipment.

(3) APPLICABILITY OF ENVIRONMENTAL LAWS. Nothing in paragraph (1) shall be construed to relieve the Commission from the requirements of the National Historic Preservation Act or the National Environmental Policy Act of 1969.





# PUBLIC NOTICE

Federal Communications Commission  
445 12<sup>th</sup> St., S.W.  
Washington, D.C. 20554

News Media Information 202 / 418-0500  
Internet: <http://www.fcc.gov>  
TTY: 1-888-835-5322

---

## WIRELESS TELECOMMUNICATIONS BUREAU OFFERS GUIDANCE ON INTERPRETATION OF SECTION 6409(a) OF THE MIDDLE CLASS TAX RELIEF AND JOB CREATION ACT OF 2012

DA 12-2047  
January 25, 2013

On February 22, 2012, the Middle Class Tax Relief and Job Creation Act of 2012 (Tax Act)<sup>1</sup> became law. Section 6409(a) of the Tax Act provides that a state or local government “may not deny, and shall approve” any request for collocation, removal, or replacement of transmission equipment on an existing wireless tower or base station, provided this action does not substantially change the physical dimensions of the tower or base station.<sup>2</sup> The full text of Section 6409(a) is reproduced in the Appendix to this Public Notice.

To date, the Commission has not received any formal petition to interpret or apply the provisions of Section 6409(a). We also are unaware of any judicial precedent interpreting or applying its terms. The Wireless Telecommunications Bureau has, however, received informal inquiries from service providers, facilities owners, and state and local governments seeking guidance as to how Section 6409(a) should be applied. In order to assist interested parties, this Public Notice summarizes the Bureau’s understanding of Section 6409(a) in response to several of the most frequently asked questions.<sup>3</sup>

### What does it mean to “substantially change the physical dimensions” of a tower or base station?

Section 6409(a) does not define what constitutes a “substantial[] change” in the dimensions of a tower or base station. In a similar context, under the *Nationwide Collocation Agreement* with the Advisory Council on Historic Preservation and the National Conference of State Historic Preservation Officers, the Commission has applied a four-prong test to determine whether a collocation will effect a “substantial increase in the size of [a] tower.”<sup>4</sup> A proposed collocation that does not involve a substantial increase in

---

<sup>1</sup> Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112-96, H.R. 3630, 126 Stat. 156 (enacted Feb. 22, 2012) (Tax Act).

<sup>2</sup> *Id.*, § 6409(a).

<sup>3</sup> Although we offer this interpretive guidance to assist parties in understanding their obligations under Section 6409(a), see, e.g., *Truckers United for Safety v. Federal Highway Administration*, 139 F.3d 934 (D.C. Cir. 1998), the Commission remains free to exercise its discretion to interpret Section 6409(a) either by exercising its rulemaking authority or through adjudication. With two exceptions not relevant here, the Tax Act expressly grants the Commission authority to “implement and enforce” this and other provisions of Title VI of that Act “as if this title is a part of the Communications Act of 1934 (47 U.S.C. 151 et seq.).” Tax Act § 6003.

<sup>4</sup> 47 C.F.R. Part 1, App. B, *Nationwide Programmatic Agreement for the Collocation of Wireless Antennas*, § I.C (*Nationwide Collocation Agreement*).

32



size is ordinarily excluded from the Commission's required historic preservation review under Section 106 of the National Historic Preservation Act (NHPA).<sup>5</sup> The Commission later adopted the same definition in the *2009 Declaratory Ruling* to determine whether an application will be treated as a collocation when applying Section 332(c)(7) of the Communications Act of 1934.<sup>6</sup> The Commission has also applied a similar definition to determine whether a modification of an existing registered tower requires public notice for purposes of environmental review.<sup>7</sup>

Under Section I.C of the *Nationwide Collocation Agreement*, a "substantial increase in the size of the tower" occurs if:

- 1) [t]he mounting of the proposed antenna on the tower would increase the existing height of the tower by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to avoid interference with existing antennas; or
- 2) [t]he mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter; or
- 3) [t]he mounting of the proposed antenna would involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable; or
- 4) [t]he mounting of the proposed antenna would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site.

Although Congress did not adopt the Commission's terminology of "substantial increase in size" in Section 6409(a), we believe that the policy reasons for excluding from Section 6409(a) collocations that substantially change the physical dimensions of a structure are closely analogous to those that animated the Commission in the *Nationwide Collocation Agreement* and subsequent proceedings. In light of the Commission's prior findings, the Bureau believes it is appropriate to look to the existing definition of "substantial increase in size" to determine whether the collocation, removal, or replacement of equipment

---

<sup>5</sup> See 16 U.S.C. § 470f, *see also* 47 C.F.R. § 1.1307(a)(4) (requiring applicants to determine whether proposed facilities may affect properties that are listed, or are eligible for listing, in the National Register of Historic Places).

<sup>6</sup> See Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review and to Preempt Under Section 253 State and Local Ordinances that Classify All Wireless Siting Proposals as Requiring a Variance, WT Docket No. 08-165, *Declaratory Ruling*, 24 FCC Rcd. 13994, 14012, para. 46 & n.146 (2009) (*2009 Declaratory Ruling*), *recon. denied*, 25 FCC Rcd. 11157 (2010), *pet. for review denied sub nom. City of Arlington, Texas v. FCC*, 668 F.3d 229 (5<sup>th</sup> Cir.), *cert. granted*, 113 S.Ct. 524 (2012); 47 U.S.C. § 332(c)(7).

<sup>7</sup> See 47 C.F.R. § 17.4(c)(1)(B); National Environmental Policy Act Compliance for Proposed Tower Registrations, WT Docket No. 08-61, *Order on Remand*, 26 FCC Rcd. 16700, 16720-21, para. 53 (2011).

on a wireless tower or base station substantially changes the physical dimensions of the underlying structure within the meaning of Section 6409(a).

**What is a “wireless tower or base station”?**

A “tower” is defined in the *Nationwide Collocation Agreement* as “any structure built for the sole or primary purpose of supporting FCC-licensed antennas and their associated facilities.”<sup>8</sup> The Commission has described a “base station” as consisting of “radio transceivers, antennas, coaxial cable, a regular and backup power supply, and other associated electronics.”<sup>9</sup> Section 6409(a) applies to the collocation, removal, or replacement of equipment on a wireless tower or base station. In this context, we believe it is reasonable to interpret a “base station” to include a structure that currently supports or houses an antenna, transceiver, or other associated equipment that constitutes part of a base station.<sup>10</sup> Moreover, given the absence of any limiting statutory language, we believe a “base station” encompasses such equipment in any technological configuration, including distributed antenna systems and small cells.

Section 6409(a) by its terms applies to any “wireless” tower or base station. By contrast, the scope of Section 332(c)(7) extends only to facilities used for “personal wireless services” as defined in that section.<sup>11</sup> Given Congress’s decision not to use the pre-existing definition from another statutory provision relating to wireless siting, we believe the scope of a “wireless” tower or base station under Section 6409(a) is not intended to be limited to facilities that support “personal wireless services” under Section 332(c)(7).

**May a state or local government require an application for an action covered under Section 6409(a)?**

Section 6409(a) states that a state or local government “may not deny, and shall approve, any eligible facilities request....” It does not say that a state or local government may not require an application to be filed. The provision that a state or local government must approve and may not deny a request to take a covered action, in the Bureau’s view, implies that the relevant government entity may require the filing of an application for administrative approval.

---

<sup>8</sup> See *Nationwide Collocation Agreement*, § I.B.

<sup>9</sup> See Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, WT Docket No. 10-133, *Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services, Fifteenth Report*, 26 FCC Rcd. 9664, 9481, para. 308 (2011).

<sup>10</sup> See also 47 C.F.R. Part 1, App. C, *Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process*, § II.A.14 (defining “tower” to include “the on-site fencing, equipment, switches, wiring, cabling, power sources, shelters, or cabinets associated with that Tower but not installed as part of an Antenna as defined herein”).

<sup>11</sup> 47 U.S.C. § 332(c)(7)(A). “Personal wireless services” is in turn defined to mean “commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services.” *Id.* § 332(c)(7)(C)(1).

**Is there a time limit within which an application must be approved?**

Section 6409(a) does not specify any period of time for approving an application. However, the statute clearly contemplates an administrative process that invariably ends in approval of a covered application. We believe the time period for processing these applications should be commensurate with the nature of the review.

In the *2009 Declaratory Ruling*, the Commission found that 90 days is a presumptively reasonable period of time to process collocation applications.<sup>12</sup> In light of the requirement of Section 6409(a) that the reviewing authority “may not deny, and shall approve” a covered request, we believe that 90 days should be the maximum presumptively reasonable period of time for reviewing such applications, whether for “personal wireless services” or other wireless facilities.

Wireless Telecommunications Bureau contact: Maria Kirby at (202) 418-1476 or by email: [Maria.Kirby@fcc.gov](mailto:Maria.Kirby@fcc.gov).

-FCC-

For more news and information about the Federal Communications Commission please visit: [www.fcc.gov](http://www.fcc.gov)

---

<sup>12</sup> See *2009 Declaratory Ruling*, 24 FCC Rcd. at 14012-13, paras. 46-47.