



AGENDA

CITY COUNCIL MEETING
Tuesday, April 1, 2014 – 7:00 p.m.
City Council Chambers

Meeting Location
El Cerrito City Hall
10890 San Pablo Avenue, El Cerrito

Janet Abelson – Mayor

Mayor Pro Tem Rebecca Benassini
Councilmember Jan Bridges

Councilmember Mark Friedman
Councilmember Greg Lyman

ROLL CALL

7:00 p.m. CONVENE CITY COUNCIL MEETING

1. PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF MOMENT OF SILENCE – Councilmember Bridges.

2. COUNCIL / STAFF COMMUNICATIONS (*Reports of Closed Session, commission appointments and informational reports on matters of general interest which are announced by the City Council & City Staff.*)

3. ORAL COMMUNICATIONS FROM THE PUBLIC

All persons wishing to speak should sign up with the City Clerk. Remarks are typically limited to 3 minutes per person. The Mayor may reduce the time limit per speaker depending upon the number of speakers. Kindly state your name and city of residence for the record. Comments regarding non-agenda, presentation and consent calendar items will be heard first. Comments related to items appearing on the Public Hearing or Policy Matter portions of the Agenda are taken up at the time the City Council deliberates each action item. Individuals wishing to comment on any closed session scheduled after the regular meeting may do so during this public comment period or after formal announcement of the closed session.

4. PRESENTATION

A. Introduction of Keenan Associates – *Presentation by Steve Gedestad, Municipality Practice Leader and Briana Overgaard, Account Manager*

Keenan, the City's new insurance broker, serves the insurance and benefit consulting needs

of public agencies. Mr. Gedestad and Ms. Overgaard will provide a brief update on the Affordable Care Act and the Covered California program.

5. ADOPTION OF THE CONSENT CALENDAR – Item Nos. 5A through 5I

A. Minutes for Approval

Approve the March 18, 2014 Regular City Council meeting minutes.

B. Reschedule the April 15, 2014 City Council Meeting to April 22, 2014

Cancel and reschedule the April 15, 2014 Regular City Council meeting to Tuesday, April 22, 2014 due to a conflict with the public and staff's observance and celebration of Passover.

C. Authorize Annual Report for Landscape and Lighting Assessment District for Fiscal Year 2014–15

Adopt a resolution directing NBS Local Government Solutions (NBS) to prepare and file the annual Landscape and Lighting Assessment District No. 1988–1 report for Fiscal Year 2014–15.

D. Annual Parcel Assessment for the National Pollutant Discharge Elimination System (NPDES) Program and Drainage Maintenance

Adopt a resolution establishing the annual parcel assessment rate per the Equivalent Runoff Unit at the current rate of \$38.00 for the National Pollutant Discharge Elimination System (NPDES) Program and Drainage Maintenance, and authorizing the Contra Costa County Flood Control & Water Conservation District to adopt Stormwater Utility Area levies based on this amount.

E. STOP Sign on Everett Street at Portola Drive

Adopt a resolution authorizing the Public Works Director/City Engineer to install a STOP sign on Everett Street at Portola Drive. *Exempt from CEQA.*

F. Support for Assembly Bill 1504 – Preventing Toxic Cigarette Waste

Authorize Mayor Abelson to sign and send letters to Assemblymember Stone and other appropriate legislators and legislative bodies in support of Assembly Bill 1504 (AB 1504) preventing toxic cigarette waste to prohibit single-use plastic “filters” in cigarettes sold in California.

G. Support for Senate Bill 1014 – Safe and Convenient Medication Disposal

Authorize Mayor Abelson to sign and send letters to the authors and other appropriate legislators and legislative bodies in support of Senate Bill 1014 (SB 1014) requiring producers of pharmaceuticals to create, finance and manage a collection system for California consumers to safely and conveniently take back unwanted pharmaceuticals.

H. Support for Senate Bill 1086 – The Safe Neighborhood Parks, Rivers and Coastal Protection Bond Act of 2014

Authorize Mayor Abelson to sign and send letters to Senator Pavley and other appropriate legislators and legislative bodies in support of Senate Bill 1086 (SB 1086) – The Safe Neighborhood Parks, Rivers and Coastal Protection Bond Act of 2014 in California. *This document is a reporting document, and does not create or alter policy. The content is provided for informational purposes only, and is exempt from the requirements of the California Environmental Quality Act (CEQA) per Guidelines Section 15306.*

I. Annual Progress Report on the General Plan 2013

Receive and file the General Plan Annual Progress Report. *This document is a reporting document, and does not create or alter policy. The content is provided for informational purposes only, and is exempt from the requirements of the California Environmental Quality Act (CEQA) per Guidelines Section 15306.*

6. PUBLIC HEARINGS

Appeal to the City Council of the Planning Commission's Action Regarding the Design Review of a Wireless Telecommunication Facility on a Utility Pole Near 7800 Eureka Avenue

Conduct a public hearing and upon conclusion adopt a resolution denying an appeal of the Planning Commission's approval of the Design Review for a wireless telecommunications facility on an existing utility pole near 7800 Eureka Avenue. *Exempt from CEQA.*

7. POLICY MATTERS

A. Selection of El Cerrito Wall of Fame Council Subcommittee

Appoint two members of the City Council to a El Cerrito Wall of Fame Subcommittee for the purposes of reviewing a nomination and returning to the City Council with a recommendation to consider at an upcoming City Council meeting.

8. COUNCIL LOCAL AND REGIONAL LIAISON ASSIGNMENT REPORTS

Mayoral and City Council communications regarding local and regional liaison assignments and committee reports.

9. ADJOURN REGULAR CITY COUNCIL MEETING in memory of long-time Crime Prevention Committee member and dedicated community volunteer, John Umemoto.

The next City Council meeting is Tuesday, April 22, 2014 at 7:00 p.m. at City Hall, 10890 San Pablo Avenue, El Cerrito, California.

The City of El Cerrito serves, leads and supports our diverse community by providing exemplary and innovative services, public places and infrastructure, ensuring public safety and creating an economically and environmentally sustainable future.

- Council Meetings can be heard live on FM Radio, KECG – 88.1 and 97.7 FM and viewed live on Cable TV - KCRT-Channel 28 and AT&T Uverse Channel 99. The meetings are rebroadcast on Channel 28 the following Thursday and Monday at 12 noon, except on holidays. Live and On-Demand Webcast of the Council Meetings can be accessed from the City's website <http://www.el-cerrito.org/ind-ex.aspx?NID=114>. Copies of the agenda bills and other written documentation relating to items of business referred to on the agenda are on file and available for public inspection in the Office of the City Clerk, at the El Cerrito Library and posted on the City's website at www.el-cerrito.org prior to the meeting.
- In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk, (510) 215-4305. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 35.102-35.104 ADA Title I).
- ***The Deadline for agenda items and communications*** is eight days prior to the next meeting by 12 noon, City Clerk's Office, 10890 San Pablo Avenue, El Cerrito, CA. Tel: 215-4305 Fax: 215-4379, email cmorse@ci.el-cerrito.ca.us
- IF YOU CHALLENGE A DECISION OF THE CITY COUNCIL IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE COUNCIL MEETING. ACTIONS CHALLENGING CITY COUNCIL DECISIONS SHALL BE SUBJECT TO THE TIME LIMITATIONS CONTAINED IN CODE OF CIVIL PROCEDURE SECTION 1094.6.
- The City Council believes that late night meetings deter public participation, can affect the Council's decision-making ability, and can be a burden to staff. City Council Meetings shall be adjourned by 10:30 p.m., unless extended to a specific time determined by a majority of the Council.

EL CERRITO CITY COUNCIL

MINUTES

CITY COUNCIL MEETING
Tuesday, March 18, 2014 – 7:00 p.m.
City Council Chambers

Meeting Location
El Cerrito City Hall
10890 San Pablo Avenue, El Cerrito

Janet Abelson – Mayor

Mayor Pro Tem Rebecca Benassini
Councilmember Jan Bridges

Councilmember Mark Friedman
Councilmember Greg Lyman

ROLL CALL

Councilmembers Benassini, Bridges, Friedman, Lyman and Mayor Abelson all present.

7:00 p.m. CONVENE CITY COUNCIL MEETING

Mayor Abelson convened the regular City Council meeting at 7:03 p.m.

1. PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF MOMENT OF SILENCE was led by Mayor Abelson.

2. COUNCIL / STAFF COMMUNICATIONS

Mayor Abelson stated that she attended the Chamber of Commerce meeting today and received a presentation from Terry Kotsatos, an investment advisor. Mr. Kotsatos, advised holding onto a solid stock or investment portfolio during a bad time as statistics indicate that portfolios will maintain or increase over an extended period. This is the best way to maintain what you've got if you have a solid investment. Mayor Abelson also reported that she recently participated in a hearing in Sacramento regarding issues related to massage parlors. This is not much of a problem in El Cerrito however there are a number of cities throughout California that are having problems with illicit massage parlors that provide illegal sexual activity and are involved in human trafficking. Mayor Abelson also attended the Mayors Conference and received a presentation from Chuck McFadden, a veteran AP reporter who has written "Trailblazer," an unauthorized biography of Governor Jerry Brown.

Mayor Lyman reported that he represented the City on March 16 at the grand opening for the new Ah-Lan Dance Studio located at 10512 San Pablo Avenue. The studio offers dance lessons for all ages with a focus on Zumba and Asian dance but also offers open studio ballroom dancing on Saturday nights.

3. ORAL COMMUNICATIONS FROM THE PUBLIC - No speakers.

4. PRESENTATION

A. Earth Hour Proclamation

Receive a presentation and upon conclusion of the presentation, approve and present a proclamation declaring March 29, 2014, between the hours of 8:30 p.m. and 9:30 p.m., to be Earth Hour in the City of El Cerrito and calling upon all residents, businesses, and institutions to turn off non-essential lighting for this hour to make a global statement of concern about climate change and demonstrate commitment to finding solutions.

Presenter: Maria Sanders, Environmental Analyst.

Action: Received presentation. Moved, seconded (Friedman/Lyman) and carried unanimously to approve the proclamation.

5. ADOPTION OF THE CONSENT CALENDAR – Item Nos. 5A through 5D

Moved, seconded (Bridges/Benassini) and carried unanimously to approve Consent Calendar Item Nos. 5A through 5D in one motion as indicated below.

A. Minutes for Approval

Approve the March 4, 2014 Special City Council Closed Session and Regular City Council meeting minutes.

Action: Approved minutes.

B. Adopt Amendments to El Cerrito Municipal Code Chapter 11.64 – Bicycles

Adopt Ordinance No. 2014–01 amending specified sections and repealing other sections contained within El Cerrito Municipal Code Chapter 11.64. *Exempt from CEQA.*

Action: Adopted Ordinance No. 2014–01. *Effective April 17, 2014.*

C. Proclaiming the Month of July as Parks and Recreation Month

Approve a proclamation declaring the month of July as Park and Recreation Month in the City of El Cerrito and in doing so, urge all residents to use and enjoy the City's parks, trails, open spaces, facilities, and many recreation opportunities and acknowledge that Parks Make Life Better!

Action: Approved proclamation.

D. Crime Prevention Committee Appointment

Approve a Crime Prevention Committee recommendation to appoint Nicholas Arzio to the Crime Prevention Committee, effective April 9, 2014.

Action: Approved recommendation.

6. PUBLIC HEARINGS – None

7. POLICY MATTERS

A. Provide Update and Execute a Contract with Bay Construction Company for the Ohlone Greenway Natural Area and Rain Garden Project, City Project No. C-3067-1

Adopt a resolution for the following: 1) Approve plans for the Ohlone Greenway Natural Area and Rain Garden Project, City Project No. C-3067-1; 2) Accept all submitted bids; and 3) Authorize the City Manager to execute a contract with Bay Construction Company in an amount not to exceed \$592,918.32 to construct the Ohlone Greenway Natural Area and Rain Garden Project and authorizing contract amendments in an amount not to exceed \$59,292. *Project is consistent with improvements analyzed in the Initial Study and Negative Declaration approved for the Ohlone Greenway Master Plan, which found that no significant environmental impacts would result.*

Presenters: Yvetteh Ortiz, Public Works Director and Maria Sanders, Environmental

Analyst.

Speakers: Al Miller, El Cerrito, stated that the proposed stairs will improve access to the shopping center and will provide safe access to the BART. Mr. Miller expressed concerns about the small street that will serve as primary access into Creekside. There is no pedestrian marking on that street. He also expressed concerns with the ADA ramp near the Recycling Center that goes up the hill and suggested that the turn be widened.

Nicholas Arzio, El Cerrito, said he was pleased to learn that the height of vegetation will be restricted along the Greenway and also requested that supplemental lighting be placed along the Greenway as a crime prevention measure and to decrease graffiti.

Action: Moved, seconded (Lyman/Friedman) and carried unanimously to adopt Resolution No. 2014-04.

B. Mid Year Budget Update

There are two actions associated with this item: 1) Adopt a resolution authorizing adjustments to the Fiscal Year (FY) 2013-14 operating budget related to already approved changes which occurred since the adoption of the FY 2013-14 budget; and 2) Receive an update on the FY 2013-14 budget and an overview of next steps related to development of the FY 2014-15 operating budget.

Presenters: Lisa Malek-Zadeh, Finance Director and Lori Treviño, Finance Manager.

Action: Moved, seconded (Friedman/Benassini) and carried unanimously to adopt Resolution No. 2014-05.

8. COUNCIL LOCAL AND REGIONAL LIAISON ASSIGNMENT REPORTS

Mayoral and City Council communications regarding local and regional liaison assignments and committee reports.

Councilmember Lyman reported that the Integrated Waste Management Authority Board (IWMA) met last week regarding the future of the agency. The City of Richmond is scheduled to vote this evening on their post collection services agreement which makes strides toward the other four member cities getting post collection services. El Cerrito already has green waste services which is not provided to many West County regional residents. The IWMA also agreed to look at staffing levels, staff compensation, retention pay, severance pay and modification of job descriptions. The City Council will need to decide if the City's commitment to stay in the group is something the city needs to reconsider.

9. ADJOURNED REGULAR CITY COUNCIL MEETING at 8:41 p.m.

SUPPLEMENTAL REPORTS AND COMMUNICATIONS

Item No. 4(A) Earth Hour Presentation

1. Revised powerpoint presentation – *Submitted by Maria Sanders, Environmental Analyst.*

Item No. 7(A) Provide Update and Execute a Contract with Bay Construction Company for the Ohlone Greenway Natural Area and Rain Garden Project, City Project No. C-3067-1

2. Powerpoint presentation – *Submitted by Yvetteh Ortiz, Public Works Director.*

Item No. 7(B) Mid Year Budget Update

3. Powerpoint presentation – *Submitted by Lisa Malek-Zadeh, Finance Director.*



AGENDA BILL

Agenda Item No. 5(C)

Date: April 1, 2014

To: El Cerrito City Council

From: Lori Trevino, Senior Financial Analyst
Lisa Malek-Zadeh, Finance Director/City Treasurer

Subject: Authorize Annual Report for Landscape and Lighting Assessment
District for Fiscal Year 2014-15

ACTION REQUESTED

Adopt a resolution directing NBS Local Government Solutions (NBS) to prepare and file the annual Landscape and Lighting Assessment District No. 1988-1 report for fiscal year 2014-15.

BACKGROUND/ANALYSIS

In 1988, the City Council established Assessment District No. 1988-1 pursuant to the Landscape and Lighting Act of 1972. This act requires the preparation and filing of an annual report of the assessment district activities.

In November 1996, the voters of El Cerrito approved by a two-thirds majority the continuation of the Landscape and Lighting Assessment. Since the voters approved the assessment prior to the passage of Proposition 218, this assessment is exempt from Proposition 218's additional voter requirements. Therefore, the City follows the same annual approval process as in previous years.

California Street and Highways Code §22622 requires the City Council to authorize by resolution the filing of the annual report of the Landscaping and Lighting Assessment District. The annual report includes the various components required to develop the tax roll related to the assessment district. The Council must adopt this report prior to the time that a decision is made about whether or not the assessment will continue in the next fiscal year.

It is expected that NBS, the designated Engineer of Work, will submit the annual report at the May 6, 2013 City Council meeting. At that meeting, the time and place of the public hearing regarding continuation of the assessment district will be set.

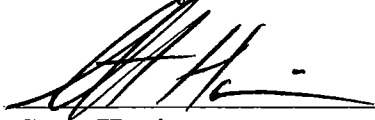
FINANCIAL CONSIDERATIONS

Without the adoption of the annual report and authorization of the assessment, the City would lose approximately \$771,000 in FY 2014-15 that would be used for landscaping and lighting purposes.

Agenda Item No. 5(C)

NBS was selected in February 2009 through a Request for Proposal process and has prepared and filed the report each year. The cost to prepare and file report is \$8,500 and is included in the FY 2013-14 Budget for the Landscape and Lighting Assessment District fund.

Reviewed by:

A handwritten signature in black ink, appearing to read 'S. Hanin', is written over a horizontal line.

Scott Hanin
City Manager

Attachments:

1. Resolution 2014-XX

RESOLUTION 2014-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO DIRECTING NBS LOCAL GOVERNMENT SOLUTIONS AS THE ENGINEER OF WORK FOR THE LANDSCAPING AND LIGHTING ASSESSMENT DISTRICT NO. 1988-1 AND TO PREPARE AND FILE THE ANNUAL REPORT FOR FISCAL YEAR 2014-15

WHEREAS, the City of El Cerrito, by Resolution No. 88-53, dated June 6, 1988 adopted Assessment District No. 1988-1 pursuant to the Landscape and Lighting Act of 1972; and

WHEREAS, said Landscape and Lighting Act requires the preparation and filing of an annual report defining the charges to the assessment district for Fiscal Year 2014-15; and

WHEREAS, California Street and Highways Code §22622 requires that the filing of the annual report be authorized by resolution of the City Council; and

WHEREAS, the cost to prepare and file the report is included in the FY 2013-14 budget for the Lighting and Assessment District fund.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby directs NBS Local Government Solutions, the firm designated by this Council as the Engineer of Work for Assessment District No. 1988-1, to file an annual report in accordance with the provisions of the Landscape and Lighting Act of 1972.

BE IT FURTHER RESOLVED this resolution is adopted pursuant to California Street and Highways Code §22622.

I CERTIFY that at the regular meeting on April 1, 2014, the El Cerrito City Council passed this resolution by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on April XX, 2014.

Cheryl Morse, City Clerk

APPROVED:

Janet Abelson, Mayor



AGENDA BILL

Agenda Item No. 5(D)

Date: April 1, 2014

To: El Cerrito City Council

From: Stephen Prée, Environmental Programs Manager / City Arborist
Garth Schultz, Operations + Environmental Services Manager
Yvetteh Ortiz, Interim Public Works Director / City Engineer

Subject: Annual Parcel Assessment for the National Pollutant Discharge Elimination System (NPDES) Program and Drainage Maintenance

ACTION REQUESTED

Adopt a resolution establishing the annual parcel assessment rate per the Equivalent Runoff Unit at the current rate of \$38.00 for the National Pollutant Discharge Elimination System (NPDES) Program and Drainage Maintenance, and authorizing the Contra Costa County Flood Control & Water Conservation District to adopt Stormwater Utility Area levies based on this amount.

DISCUSSION

The City continues to participate in a countywide effort to comply with its National Pollutant Discharge Elimination System (NPDES) Permit. The activities undertaken through the program contribute to a cleaner El Cerrito and a cleaner San Francisco Bay. The program is mandated under the 1987 amendments to the Federal Water Pollution Control Act (Clean Water Act) and is administered in the Bay Area by the San Francisco Regional Water Quality Control Board (RWQCB). Nineteen cities along with the County Flood Control District have established the Contra Costa County Clean Water Program (Clean Water Program) to coordinate compliance and collaborate on programmatic components of the NPDES Permit and Clean Water Program within Contra Costa County.

Although the NPDES Permit and its programs are federally mandated, funding must be provided by the permittees. In order to comply with the requirements, the County established a countywide assessment district (Stormwater Utility Area or SUA) to fund the costs of the program, which include both group activities and individual city activities. Each year the per parcel rate for the assessment district must be re-established by the Board of Supervisors, which acts as the governing body for the Flood Control District and, thus, the Clean Water Program. Each city must first adopt a resolution designating the appropriate assessment for its jurisdiction and then forward that instructing resolution to the Clean Water Program. The resolution must be adopted by the City no later than April 15 in order for the county to have sufficient time to place the

assessment on the property tax roles for Fiscal Year (FY) 2014-2015. The purpose of this agenda item is to provide an update on the City's program and adopt a resolution establishing the assessment for El Cerrito.

El Cerrito's Clean Water Program

The City's Clean Water Program includes meeting multiple NPDES Permit provisions through activities that can be grouped in five general areas. Below is a brief description of each program area. Specific annual accomplishments are detailed in an Annual Report prepared each summer for submittal to the RWQCB. The activities are coordinated and carried out primarily by the Public Works Department, with assistance from the Building Division, Code Enforcement, and the Fire Department as needed.

- 1) New Development and Construction Control Activities: New development and construction activities have the potential to adversely affect water quality. Therefore, the City of El Cerrito's goal is to prevent pollutants from entering storm drains during new development and construction activities, as well as for the life of the projects. Measures to achieve this include integrating and inspecting permanent stormwater pollution prevention measures during construction of public and private projects. Permanent stormwater pollution prevention measures, such as bioswales, are commonly referred to as "C.3" provisions.
- 2) Public Education and Industrial Outreach Activities (PEIO): The goal of El Cerrito's PEIO program is to educate residents and businesses about the causes and effects of stormwater pollution, the difference between the sanitary sewer and the storm drain system, and our local watersheds. The City also aims to encourage residents and businesses to participate in ongoing creek protection and restoration efforts and to adopt less-polluting practices.
- 3) Municipal Maintenance Activities: The goals of the City of El Cerrito's Municipal Maintenance Performance Standards are to optimize pollutant removal during routine maintenance activities (street sweeping and storm drain facility maintenance) and to prevent or minimize discharges to storm drains and watercourses from road and park maintenance, corporation yards, and other publicly-owned facilities.
- 4) Inspection Activities: The goal of the City of El Cerrito's Industrial and Commercial Inspection program is to reduce or eliminate discharges to the storm drain system from industrial and commercial facilities. On November 19, 2013, the City Council adopted Resolution Number 2013-61 designating and authorizing the West County Wastewater District to perform the City's commercial and industrial inspections, via a contract coordinated by the Clean Water Program.
- 5) Illicit Discharge Control Activities: The goal of the City of El Cerrito's Illicit Discharge Control Activities program is to prevent pollution from entering storm drains and creeks. Public Works maintenance staff conducts regular inspections of all open creek segments, trash racks and headwalls on public property as part of routine procedure. The City also maintains a complete video file of all storm drain

segments that can be easily referenced to investigate any possible illegal connections to the stormdrain system.

Municipal Regional Permit

The cities and municipalities that make up the Contra Costa Clean Water Program are currently permitted under a Municipal Regional Stormwater NPDES Permit (MRP) adopted by the RWQCB on October 14, 2009. One of the goals of the MRP, as stated by the RWQCB, was to consolidate all Bay Area municipal permits into one consistent permit that is regional in scope. This includes more definitive NPDES Permit language and requirements such as: mandating specific stormwater management actions and levels of implementation, requiring certain reporting and effectiveness evaluation processes; implementing and enhancing actions to control 303(d) listed pollutants, pollutants of concern (POCs), Total Maximum Daily Load (TMDL) limits; and requiring more complete and comprehensive stormwater monitoring. The MRP places significant regulatory and reporting emphasis in the areas of New Development/Redevelopment project infrastructure and planning as well as Trash Load reduction and monitoring.

In accordance with the Permit schedule, each of the various requirements has stepped-up annually during the term of the Permit with a new MRP that is anticipated to be implemented by July 1, 2015. Consequently, the increased compliance costs motivated the Contra Costa County Clean Water Program to conduct a property-owner mail ballot election in 2012 on a new property-related fee to fund the expanded mandates of the MRP. The County-wide initiative failed (although support in El Cerrito was 54%).

Stormwater Utility Assessment

The Clean Water Program is funded through the countywide Stormwater Utility Area assessment district. Specific assessments are calculated through determining Equivalent Runoff Units (ERUs). An ERU is a value that reflects the amount of impervious (paved) surface of a given parcel. Impervious surfaces result in storm water runoff to the storm drain system, which potentially carry pollutants to the Bay and into the ground water. Parcels that contain large areas of paved surfaces are assigned a greater number of ERUs. A residential lot in El Cerrito between 5,000-20,000 square feet is assigned one ERU. Industrial or commercial parcels with paved parking or other impervious surfaces may be assigned two or more ERUs depending on their size.

El Cerrito's current rate of \$38.00 per ERU was established by Council in FY 2004-2005 and reflected an increase from the previous rate of \$30.00 established in FY 2003-2004. The current \$38.00 ERU rate generates approximately \$391,000 annually. The City has reached its "cap" of \$38.00, and the ERU cannot be increased without approval from the voters.

STRATEGIC PLAN CONSIDERATIONS

Maintaining funding for El Cerrito's Clean Water Program activities via the proposed ERU rate, enables the continuation of City programs that meet the intent of the City of El Cerrito Strategic Plan's Goal F "to foster environmental sustainability citywide."

ENVIRONMENTAL CONSIDERATIONS

El Cerrito's Clean Water Program activities comprise one of the City's most important and required environmental efforts. Implementation of the program is not only essential to meeting the terms of the MRP and being in compliance with the Clean Water Act, but also to the health and sustainability of the City's waterways and ecology. Continuing to establish the ERU rate at the maximum available level enables the City to maintain existing efforts on these important environmental and compliance matters.

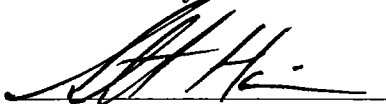
FINANCIAL CONSIDERATIONS

Staff is proposing that the rate for FY 2014-2015 remain at the maximum \$38.00 per ERU. This rate would generate approximately \$391,000 in FY 2014-2015 and will continue to fund current NPDES activities, including municipal maintenance activities, such as storm drain cleaning, as well as Clean Water Program activities, such as water quality monitoring and illicit discharge detection and elimination. Following adoption by the City Council, the County Board of Supervisors, acting as the district's governing body, will adopt the annual property assessments for the FY 2014-2015 tax rolls.

LEGAL CONSIDERATIONS

The proposed actions are consistent with established processes for City adoption of the annual ERU rate; no legal concerns have been identified.

Reviewed by:



Scott Hanin
City Manager

Attachments:

1. Resolution establishing the City's ERU rate for FY 2014-15

RESOLUTION 2014-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO
ESTABLISHING THE RATE AND ADOPTING AN ANNUAL PARCEL ASSESSMENT FOR
THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PROGRAM
AND DRAINAGE MAINTENANCE

WHEREAS, under the Federal Water Pollution Control Act, prescribed discharges of stormwater require a permit from the appropriate California Regional Water Quality Board under the National Pollutant Discharge Elimination System (NPDES) program; and

WHEREAS, the City of El Cerrito did apply for, and did receive, a NPDES permit which requires the implementation of selected Best Management Practices to minimize or eliminate pollutants from entering stormwaters; and

WHEREAS, it is the intent of the City of El Cerrito to utilize funds received from its Stormwater Utility Area (SUA) for implementation of the NPDES program and drainage maintenance activities; and

WHEREAS, at the request of the City of El Cerrito, the Contra Costa County Flood Control & Water Conservation District (DISTRICT) has completed the process for formation of a SUA, including the adoption of the Stormwater Utility Assessment Drainage Ordinance No. 93-47; and

WHEREAS, the SUA and Program Group Costs Payment Agreement between the City of El Cerrito and the DISTRICT require that the City of El Cerrito annually, by April 15, determine the rate to be assessed to a single Equivalent Runoff Unit (ERU) for the forthcoming fiscal year.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby determines that the rate to be assigned to a single ERU for fiscal year 2014-2015 shall be set at \$38.00.

BE IT FURTHER RESOLVED that the City Council of the City of El Cerrito does hereby request the DISTRICT to adopt SUA levies based on said amount.

BE IT FURTHER RESOLVED, that this Resolution shall become effective immediately upon passage and adoption.

I CERTIFY that at a regular meeting on April 1, 2014 the City Council of the City of El Cerrito passed this Resolution by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:

Agenda Item No. 5(D)
Attachment 1

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on _____, 2014.

Cheryl Morse, City Clerk

APPROVED:

Janet Abelson, Mayor



AGENDA BILL

Agenda Item No. 5(E)

Date: April 1, 2014
To: El Cerrito City Council
From: Melissa Tigbao, Engineering Manager / Senior Engineer
Yvetteh Ortiz, Interim Public Works Director / City Engineer
Subject: STOP Sign on Everett Street at Portola Drive

ACTION REQUESTED

Adopt a resolution authorizing the Public Works Director/City Engineer to install a STOP sign on Everett Street at Portola Drive

DISCUSSION

The Public Works Department has received requests from residents concerned about safety at the intersection of Everett Street and Portola Drive. Public Works evaluated the existing conditions, including signs, striping and pavement markings at the T-intersection. The intersection has no traffic control signs on any of its legs. In the past, the City has not typically used stop signs at T-intersections in residential areas. This is because at T-intersections without stop or yield signs, the right-of-way rules are covered under the California Vehicle Code (Section 21800), which requires that drivers on the terminating leg of the intersection yield to vehicles on the continuing street. However, the California Manual on Uniform Traffic Control Devices (MUTCD) indicates that STOP signs should be used if engineering judgment indicates that one or more of several conditions exist:

- Intersection of a less important road with a main road where application of the normal right-of-way rule would not be expected to provide reasonable compliance with the law;
- Street entering a through highway or street;
- Unsignalized intersection in a signalized area; and/or
- High speeds, restricted view, or crash records indicate a need for control by the STOP sign.

Both Portola Drive and Everett Street are local residential streets. Everett Street, the terminating street, is only allowed a left turn onto Portola Drive. Directly across the intersection is the driveway for a multi-family development. Portola Drive, east of Everett Street, is a relatively wide one-way street westbound, and approaches Everett Street at a downgrade. The downgrade can present unexpected speeds of vehicles as they approach Everett Street. Without an existing STOP sign or limit line, motorists on

Everett Street have a tendency to complete left-turn maneuvers without yielding to the one-way traffic on Portola Drive.

Based on the existing roadway configuration and surrounding traffic control devices at the subject intersection, Public Works staff is proposing installation of a STOP sign and associated pavement markings and signs on Everett Street at Portola Drive to improve traffic safety and operations.

ENVIRONMENTAL CONSIDERATIONS

The installation of signs, pavement markings, and curb markings is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

FINANCIAL CONSIDERATIONS

The cost for installation of signs, pavement markings, and curb markings is estimated to be under \$2,000 and are included in the Public Works, Maintenance operating budget.

LEGAL CONSIDERATIONS

El Cerrito Municipal Code Section 11.36.010 requires that the installation of stop signs be approved by a resolution of the City Council.

Reviewed by:



Scott Hanin, City Manager

Attachments:

1. Accompanying Resolution

RESOLUTION 2014-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AUTHORIZING THE
INSTALLATION OF A STOP SIGN ON EVERETT STREET AT PORTOLA DRIVE

WHEREAS, the Public Works Department has received requests from concerned citizens to evaluate the safety and operations of the intersection of Everett Street at Portola Drive; and

WHEREAS, the intersection currently has no STOP-control signs; and

WHEREAS, based on the existing roadway configuration and surrounding traffic control devices at the subject intersection, Public Works staff determined that a STOP sign on the terminating leg of the intersection is an appropriate traffic control device to improve traffic safety and operations; and

WHEREAS, it is the judgment of the City Engineer that this intersection meet the guidelines of the California Manual on Uniform Traffic Control Devices (MUTCD) for installation of a STOP sign; and

WHEREAS, Section 11.36.010 of the El Cerrito Municipal Code requires that the installation of any stop sign be approved by the City Council.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of El Cerrito hereby authorizes the Public Works Director / City Engineer to install a stop sign on Everett Street at Portola Drive.

BE IT FURTHER RESOLVED that the City Council of the City of El Cerrito finds that this action is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines because it has no potential for resulting in physical change to the environment, directly or indirectly.

BE IT FURTHER RESOLVED that this Resolution shall become effective immediately upon passage and adoption.

I CERTIFY that at a regular meeting on April 1, 2014 the City Council of the City of El Cerrito passed this Resolution by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on _____, 2014.

Cheryl Morse, City Clerk

APPROVED:

Janet Abelson, Mayor



AGENDA BILL

Agenda Item No. 5(F)

Date: April 1, 2014

To: El Cerrito City Council

From: Garth Schultz, Operations + Environmental Services Manager
Yvetteh Ortiz, Interim Public Works Director / City Engineer

Subject: Support for Assembly Bill 1504 (AB 1504) (Stone) Preventing Toxic Cigarette Waste

ACTION REQUESTED

Authorize Mayor Abelson to sign and send letters to the author and other appropriate legislators and legislative bodies in support of Assembly Bill 1504 (AB) (Stone) preventing toxic cigarette waste to prohibit single-use plastic ‘filters’ in cigarettes sold in California.

DISCUSSION

The City of El Cerrito's National Pollutant Discharge Elimination System (NPDES) permit – which regulates the City’s municipal separate storm sewer system (MS4) – specifies that the City must reduce the amount of trash and litter that is transported via the City’s MS4 by 100% by 2022. One important strategy to reduce trash loads involves reducing the amount of trash that can make its way to the storm drains.

AB1504, introduced by Assemblyman Mark Stone (D-Monterey Bay), would prevent cigarette butts – which are a prevalent type of trash that often is evident in gutters, storm drains, and creeks – from ending up as litter by taking the cigarette butts out of the equation. The bill would prohibit single-use plastic ‘filters’ in cigarettes from being sold in California. Research shows that filters do nothing to prevent harm to smokers while at the same time become a burden to taxpayers and the environment. The filters are made from a plastic called cellulose acetate that leaches carcinogenic toxins into the water and soil and results in large financial costs to local governments and agencies left with the cleanup and disposal of the litter.

El Cerrito’s Green Teams, a volunteer program of the Council appointed Environmental Quality Committee, regularly observe and collect cigarette butts during litter collection activities throughout the City, and have identified them as one of the most problematic components of litter in El Cerrito. On March 11, 2014, the Environmental Quality Committee voted unanimously to recommend that the Council authorize the Mayor to send letters in support of AB1504.

STRATEGIC PLAN CONSIDERATIONS

If AB1504 were to be passed and implemented in its current form, the resulting policies could help the City meet the intent of the City of El Cerrito’s Strategic Plan’s Goal B: “Achieve long-

term financial sustainability,” and Goal F: “Foster environmental sustainability citywide.” Specifically, the resulting policies could contribute to achieving the following strategies:

- *Goal B Strategy: Track and promote state and federal legislation that would create new funding opportunities:* Though not strictly a funding opportunity, successful implementation of AB1504 would potentially reduce City expenses, freeing up existing funds to be used for other purposes.
- *Goal F Strategy: Be a leader in setting policies and providing innovative programs that promote environmental sustainability:* Successful implementation of AB1504 could potentially enable the City to meet the NPDES trash-load reduction requirements sooner than would otherwise be possible.

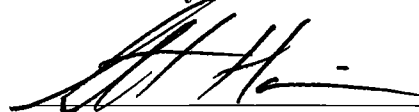
ENVIRONMENTAL CONSIDERATIONS

There is no direct environmental impact associated with supporting AB1504. If AB1504 were to be passed and implemented in its current form, the resulting policies could help El Cerrito achieve required provisions of its NPDES permit, and could help to avoid increasing costs of trash and litter management in streets, gutters, drains, and other public places.

FINANCIAL CONSIDERATIONS

There is no financial obligation associated with the requested action.

Reviewed by:



Scott Hanin, City Manager

Attachments:

1. AB1504 Support Letter
2. Fact Sheet and Legislative Information for AB1504



April 1, 2014

The Honorable Mark Stone
Member of the Assembly
State Capitol
Sacramento, CA 95814

RE: Assembly Bill (AB) 1504 (Stone) Preventing Toxic Cigarette Waste

Dear Assembly Member Stone,

On behalf of the City Council of the City of El Cerrito, I write to offer our strong support for Assembly Bill (AB) 1504, which will ban the sale of cigarettes with 'filters,' commonly referred to as cigarette butts, in California.

Toxic single-use plastic cigarette butts end up in our marine and urban environments where they may be ingested by children or wildlife, contaminate fragile ecosystems, and cost local governments taxpayer dollars. Coupled with reports from the Surgeon General and the U.S. Department of Health and Human Services pointing to the ineffectiveness of the 'filters' at reducing harm to smokers, taking the cigarette butts out of the equation to prevent further litter and harm to California is the right thing to do.

In spite of anti-litter campaigns, strict anti-litter laws, and strong anti-litter enforcement efforts, cigarette butt litter continues to be an expensive problem for taxpayers. In California, a first-time littering infraction is punishable by a fine up to \$1,000 and a mandatory order to clean up litter for no less than eight hours. Citation rates for cigarette litter from vehicles are annually about five times greater than the amount of citations issued for general litter from vehicles. Even so, the California Department of Transportation reports that it spends around \$52 million per year in litter abatement on our highways, of which cigarette butts are the number one littered item.

The El Cerrito Environmental Quality Committee, appointed by the El Cerrito City Council, regularly sends volunteer Green Teams into the community to pick up trash alongside our streets, creeks, neighborhoods, and parks. Cigarette filters make up a significant portion of the trash collected, and are particularly difficult to pick up because of their size, proliferation, and the way they intermingle with twigs and grass and other objects.

AB 1504 is a novel solution to a long-standing problem that shows no signs of going away. For all the reasons stated above, the City Council supports passage of this important measure to keep toxic cigarette waste from littering our state and communities.

Sincerely,

Janet Abelson, Mayor
City of El Cerrito

AB 1504 (Stone)

Preventing Toxic Cigarette Waste

SUMMARY

AB 1504 helps prevent the environmental harm and cost to state and local governments caused by the improper disposal of cigarette butts. The bill prohibits single-use plastic 'filters' in cigarettes sold in California.

PROBLEM

The illegal litter of cigarette 'filters', commonly referred to as cigarette butts, harms and pollutes our environment¹. The vast majority of these cigarette butts are made from a plastic called cellulose acetate. When a person discards a cigarette butt, the plastic cigarette butt leaches carcinogenic toxins into the water and soil², hurts children and wildlife that ingest them³, and results in large financial costs to local governments and agencies left with the cleanup and disposal of the litter⁴.

Reliable estimates state that 845,000 tons of cigarette butts wind up as litter around the globe each year⁵. As a result of the litter, cigarette butts remain as the single most collected item of trash collected by volunteer groups and organizations that conduct parks, rivers and beach cleanup events. In the past 25 years volunteers have picked up 52.9 million plastic cigarette butts during the International Coastal Cleanup event sponsored by Ocean Conservancy⁶.

In California, citation rates for cigarette litter from vehicles are annually about five times the amount of citations issued for general litter from vehicles. Despite strong laws and enforcement against cigarette litter, butts remain the single most littered item on our highways. The California Department of Transportation has estimated the costs to clean up cigarettes on roadways at \$41 million annually. The City and County of San Francisco estimates its costs for cleanup at \$6 million annually.

From 2006 to 2008, the American Association of Poison Control Centers reported approximately 12,600 cases of children ingesting cigarettes or cigarette butts, especially children under six years of age⁷.

According to the National Oceanic Atmospheric Administration's Office of Response and Restoration, it is common for fish, birds and other animals that mistakenly ingest plastic waste like cigarette butts to starve to death as a result of a false feeling of satiation from the plastic in the cigarette butt⁸.

The US Department of Health and Human Services⁹ and the Surgeon General of the United States¹⁰ have judged cigarette filters to be useless in reducing harm to the average smoker.

EXISTING POLICY

Under current law, a conviction for littering from a vehicle, cigarette or otherwise, is punishable by a fine up to \$1,000 and a mandatory order to clean up litter for no less than eight hours.

A 2006 United States Department of Justice RICO decision against tobacco companies forbids terms including "low tar," "light," "ultra light," "mild," and "natural" along with "any other words which reasonably could be expected to result in a consumer believing that smoking the cigarette brand using that descriptor may result in a lower risk of disease or be less hazardous to health than smoking other brands of cigarettes."¹¹ 'Light' varieties include a 'filter' housed in a ventilated wrapper.

SOLUTION

AB 1504 would prohibit the sale, gift, or furnishing of cigarettes that come with single-use 'filters'. Given that anti-litter campaigns and strict laws and penalties have not resulted in the abatement of cigarette butt litter, this bill takes the cigarette butts completely out of the equation. Each violation of this prohibition is subject to a fine of \$500.

FOR MORE INFORMATION

Contact: Alfredo Arredondo
Office of Assemblymember Mark Stone
Phone: (916) 319-2029
Fax: (916)-319-2129
alfredo.arredondo@asm.ca.gov

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- ¹ **Novotny T**, Lum K, Smith E, et al. Cigarette butts and the case for an environmental policy on hazardous cigarette waste. *Int J Environ Res Public Health* 2009; 6:1691-705
Web Link: <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2697937/>
- ² **Slaughter E**, Gersberg R, Watanabe K, et al. Toxicity of cigarette buttes, and their chemical components, to the marine and freshwater fish. *Tob Control* 2011;20(Suppl 1):i23-i27.
Web Link: http://tobaccocontrol.bmj.com/content/20/Suppl_1/i25.full
- ³ **Novotny TE**, Hardin SN, Hovda LR, et al. Tobacco and cigarette butt consumption in humans and animals. *Tob Control* 2011;20(Suppl 1):i17-20.
Web Link: http://tobaccocontrol.bmj.com/content/20/Suppl_1/i17.full
- ⁴ **Schneider, John E.**, et al. Tobacco Litter Costs and Public Policy: A Framework and Methodology for Considering the Use of Fees to Offset Abatement Costs. *Tob Control* 2011;20:i36-i41
Web Link: http://tobaccocontrol.bmj.com/content/20/Suppl_1/i36.full
- ⁵ **Novotny T**, Lum K, Smith E, et al. Cigarette butts and the case for an environmental policy on hazardous cigarette waste. *Int J Environ Res Public Health* 2009; 6:1691-705.
Web Link: <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2697937/>
- ⁶ **Office of Response and Restoration**. Marine Debris Impacts. National Oceanic and Atmospheric Administration (NOAA).
Web Link: <http://response.restoration.noaa.gov/about/media/picking-52-million-plastic-cigarette-butts-beaches.html>
- ⁷ **Novotny TE**, Hardin SN, Hovda LR, et al. Tobacco and cigarette butt consumption in humans and animals. *Tob Control* 2011;20(Suppl 1):i17-20.
Web Link: http://tobaccocontrol.bmj.com/content/20/Suppl_1/i17.full
- ⁸ **Office of Response and Restoration**. Picking up 52.9 Million Plastic Cigarette Butts off Beaches. National Oceanic and Atmospheric Administration (NOAA). APRIL 26, 2012
Web Link: <http://response.restoration.noaa.gov/about/media/picking-52-million-plastic-cigarette-butts-beaches.html>
- ⁹ **National Cancer Institute**. Risks Associated with Smoking Cigarettes with Low Machine-Measured Yields of Tar and Nicotine. Smoking and Tobacco Control Monograph No. 13. Bethesda, MD: U.S. Department of Health and Human Services, National Institutes of Health, NIH Pub.No. 02-5074, October 2001
Web Link: <http://cancercontrol.cancer.gov/brp/tcrb/monographs/13/index.html>
- ¹⁰ **Harris B**. The intractable cigarette 'filter problem'. *Tob Control* 2011;20(Suppl 1): i9-i15.
Web Link: http://tobaccocontrol.bmj.com/content/20/Suppl_1/i10.full
- ¹¹ **U.S. v. Philip Morris, et al**. Civil Action No. 99-2496 (GK). Order #1015
Web Link: www.justice.gov/civil/cases/tobacco2/ORDER_FINAL.pdf

ASSEMBLY BILL

No. 1504

Introduced by Assembly Member Stone

January 14, 2014

An act to add Division 8.55 (commencing with Section 22964) to the Business and Professions Code, relating to single-use filter cigarettes.

LEGISLATIVE COUNSEL'S DIGEST

AB 1504, as introduced, Stone. Single-use filter cigarettes.

Existing law, the Stop Tobacco Access to Kids Enforcement Act, requires all persons engaging in the retail sale of tobacco products to check the identification of tobacco purchasers, to establish the age of the purchaser, if the purchaser reasonably appears to be under 18 years of age. Under existing law, an enforcing agency, as defined, may assess civil penalties against any person, firm, or corporation that sells, gives, or in any way furnishes to another person who is under 18 years of age, any tobacco, cigarette, cigarette papers, any other instrument or paraphernalia that is designed for the smoking or ingestion of tobacco, or products prepared from tobacco. The existing civil penalties range from \$400 to \$600 for a first violation, up to \$5,000 to \$6,000 for a 5th violation within a 5-year period.

Existing law prohibits the sale, distribution, or nonsale distribution of tobacco products directly or indirectly to any person under 18 years of age through the United States Postal Service or through any other public or private postal or package delivery service at locations, including, but not limited to, public mailboxes and mailbox stores. Under existing law, a district attorney, city attorney, or the Attorney General may assess civil penalties against a violator of that provision

of not less than \$1,000 or more than \$2,000 for the first violation and up to \$10,000 for a 5th violation within a 5-year period.

Under existing law, every person, firm, or corporation that knowingly or under circumstances in which it has knowledge, or should otherwise have grounds for knowledge, sells, gives, or in any way furnishes to another person who is under 18 years of age any cigarette, among other specified items, is subject to either a criminal action for a misdemeanor or to a civil action brought by a city attorney, a county counsel, or a district attorney, punishable by a fine of \$200 for the first offense, \$500 for the 2nd offense, and \$1,000 for the 3rd offense.

This bill would state findings and declarations of the Legislature regarding the health and safety hazards to residents of the state related to single-use cigarette filters. The bill would prohibit a person or entity from selling, giving, or in any way furnishing to another person of any age in this state a cigarette utilizing a single-use filter made of any material, including cellulose acetate, or other fibrous plastic material, and any organic or biodegradable material. The bill would prohibit that selling, giving, or furnishing, whether conducted directly or indirectly through an in-person transaction or by means of any public or private method of shipment or delivery to an address in this state.

This bill would provide that each violation of that prohibition is subject to a civil fine of \$500, and would authorize a district attorney or city attorney to assess that civil fine.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Division 8.55 (commencing with Section 22964)
2 is added to the Business and Professions Code, immediately
3 following Section 22963, to read:

4

5 DIVISION 8.55. PROHIBITION ON SINGLE-USE FILTER
6 CIGARETTES

7

8 22964. (a) Studies published in the peer-reviewed journal
9 Tobacco Control estimate the percentage of smokers who litter to
10 range from 75 percent to 92 percent, for smokers between 21 and
11 25 years of age. It is estimated that 845,500 tons of cigarette butts
12 become litter around the globe each year.

1 (b) Cigarette butts have consistently been the single
2 most-recovered item since collections began among volunteer
3 groups, including the Ocean Conservancy and its International
4 Coastal Cleanup event, which cleans litter in waterways, beaches,
5 and parks in this state.

6 (c) Although the citation rate for littering cigarette waste is
7 annually about five times that of general litter from vehicles, as
8 reported in the Department of Motor Vehicles' citation statistics,
9 cigarette butts remain at the top of the list for litter on our
10 highways.

11 (d) The Department of Transportation has estimated the costs
12 to clean up cigarette butts at forty-one million dollars (\$41,000,000)
13 annually.

14 (e) The City and County of San Francisco has estimated costs
15 for city abatement of cigarette butts at over six million dollars
16 (\$6,000,000) annually.

17 (f) From 2006 to 2008, the American Association of Poison
18 Control Centers reported approximately 12,600 cases of children
19 ingesting cigarettes or cigarette butts. Children under six years of
20 age are especially prone to cigarette butt ingestion.

21 (g) The well-documented and common occurrence of cigarette
22 butt ingestion by domestic animals points to the larger impact that
23 improperly discarded cigarette butts have on our environment and
24 wildlife.

25 (h) As early as the mid-1960s, the Surgeon General of the United
26 States judged cigarette filters to be useless in reducing harm to the
27 average smoker.

28 (i) Banning the sale, gift, or other furnishing of cigarettes with
29 single-use filters is necessary to keep toxic litter out of our state's
30 environment and promote the health and safety of our state's
31 residents.

32 22965. (a) No person or entity shall sell, give, or in any way
33 furnish to another person, of any age, in this state, a cigarette
34 utilizing a single-use filter made of any material including, but not
35 limited to, cellulose acetate, or other fibrous plastic material, or
36 any organic or biodegradable material. The prohibition under this
37 subdivision applies to any direct or indirect transaction, whether
38 made in-person in this state or by means of any public or private
39 method of shipment or delivery to an address in this state.

1 (b) The sale, gift, or other furnishing of one to 20 cigarettes
2 constitutes a single violation of this section.
3 22966. Each violation of Section 22965 is subject to a civil
4 fine of five hundred dollars (\$500). Only a district attorney or city
5 attorney may assess the civil fine against each person determined
6 to be in violation of Section 22965. Fine moneys assessed pursuant
7 to this section shall be deposited in the treasury of the city or
8 county, respectively, of the city attorney or district attorney who
9 assessed the fine.

O

AB 1504 Assembly Bill - History
COMPLETE BILL HISTORY

BILL NUMBER : A.B. No. 1504
AUTHOR : Stone
TOPIC : Single-use filter cigarettes.

TYPE OF BILL :

- Active
- Non-Urgency
- Non-Appropriations
- Majority Vote Required
- Non-State-Mandated Local Program
- Non-Fiscal
- Non-Tax Levy

BILL HISTORY

2014

Jan. 15 From printer. May be heard in committee February 14.

Jan. 14 Read first time. To print.

CURRENT BILL STATUS

MEASURE : A.B. No. 1504

AUTHOR(S) : Stone.

TOPIC : Single-use filter cigarettes.

HOUSE LOCATION : ASM

TYPE OF BILL :

Active

Non-Urgency

Non-Appropriations

Majority Vote Required

Non-State-Mandated Local Program

Non-Fiscal

Non-Tax Levy

LAST HIST. ACT. DATE: 01/15/2014

LAST HIST. ACTION : From printer. May be heard in committee February 14.

TITLE : An act to add Division 8.55 (commencing with Section 22964) to the Business and Professions Code, relating to single-use filter cigarettes.



AGENDA BILL

Agenda Item No. 5(G)

Date: April 1, 2014

To: El Cerrito City Council

From: Garth Schultz, Operations + Environmental Services Manager
Yvetteh Ortiz, Interim Public Works Director / City Engineer

Subject: Support for Senate Bill 1014 (Jackson) Safe and Convenient Medication Disposal

ACTION REQUESTED

Authorize Mayor Abelson to sign and send letters to the authors and other appropriate legislators and legislative bodies in support of Senate Bill 1014 (SB1014) requiring producers of pharmaceuticals to create, finance, and manage a collection system for California consumers to safely and conveniently take-back unwanted pharmaceuticals.

DISCUSSION

Research has shown that prescription drug abuse has skyrocketed in recent years, as have hospitalizations for drug overdoses. One of the four top recommendations of the National Strategy on Preventing Prescription Drug Abuse is to have a safe and convenient method of disposal for over the counter drugs, prescriptions, and veterinary medications that we have in our homes. In response to the growing problems of prescription drug abuse, accidental poisonings, and the detection of pharmaceutical products in California waters, local governments throughout the state have struggled to establish safe and convenient medication take-back programs. The public demand and need for such programs has been tremendous - even limited programs have collected hundreds of pounds of drugs. Law enforcement, federal agencies, public health, and environmental professionals agree that take-back programs are the safest way to dispose of unused pharmaceuticals.

Establishing these disposal programs on a city-by-city (or county) basis is haphazard, inefficient, and expensive for local ratepayers. It also means that not all consumers have access to take-back locations, perpetuating a lack of harmonized messaging to the public about safe drug disposal. In addition, the lack of safe and convenient disposal options ensures that consumers choose less than desirable options including home storage of medications, flushing medications down the toilet or throwing them in the garbage.

To address these issues, Alameda County was the first jurisdiction in the country to pass an ordinance requiring drug manufacturers to develop, implement, and finance a convenient drug take-back program for residents. Despite operating similar programs in Canada and other countries, three pharmaceutical associations responded by suing Alameda County. The County prevailed at the trial court level, however the case is now being considered by the Ninth Circuit

Court of Appeals. King County in Washington adopted a similar ordinance in July 2013 and was then sued by the same associations.

Fortunately, El Cerrito residents already have daily access to safe disposal of unwanted medications at the City Recycling + Environmental Resource Center, thanks to a partnership with the East Bay Municipal Utility District. This collection program collects over 300 lbs. of medications each month from thousands of community members every year, with participation continually increasing. SB1014 would ensure the sustainability of El Cerrito's collection program well into the future.

STRATEGIC PLAN CONSIDERATIONS

If SB1014 were to be passed and implemented in its current form, the resulting policies could help the City meet the intent of the City of El Cerrito's Strategic Plan's Goal B: "Achieve long-term financial sustainability." Specifically, the resulting policies could contribute to achieving the following strategies:

- *Track and promote state and federal legislation that would create new funding opportunities:* Though not strictly a funding opportunity, successful implementation of SB1014 would potentially reduce City expenses, freeing up existing funds to be used for other purposes.

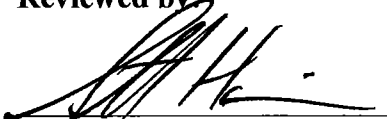
ENVIRONMENTAL CONSIDERATIONS

There is no direct environmental impact associated with supporting SB1014. If SB1014 were to be passed and implemented in its current form, the resulting programs could help El Cerrito keep future costs of pharmaceutical collections negligible, and would improve statewide environmental quality by expanding collection programs throughout the state.

FINANCIAL CONSIDERATIONS

There is no financial obligation associated with the requested action.

Reviewed by:



Scott Hanin, City Manager

Attachments:

1. SB 1014 Support Letter
2. Legislative information for SB 1014



April 1, 2014

Senator Hannah-Beth Jackson
State Capitol, Room 5080
Sacramento, CA 95814

RE: Senate Bill 1014 (Jackson) Safe and Convenient Medication Disposal

Dear Senator Jackson,

The City Council of the City of El Cerrito strongly supports Senate Bill 1014 (SB 1014), which asks producers of pharmaceuticals to create, finance, and manage a collection system for California consumers to safely and conveniently dispose of expired and unwanted pharmaceuticals – a system structured after the existing program in Canada which the industry has efficiently operated for 15 years.

Many communities lack opportunities for safe and convenient disposal of their unwanted pharmaceuticals, which can result in risky home storage, flushing medications down the commode, or depositing them in landfills. Fortunately, El Cerrito residents already have daily access to safe disposal of unwanted medications at our City Recycling + Environmental Resource Center, thanks to a partnership with the East Bay Municipal Utility District. This pharmaceutical program collects over 300 lbs. of medications each month from thousands of community members every year, with participation continually increasing.

El Cerrito's experience demonstrates why SB 1014 is necessary in California. Collection programs of any sort are most successful when there are multiple convenient opportunities for individuals to participate in, and when participation is free. SB 1014 springboards off of the good work already being done by pharmaceutical companies in Canada and Europe. SB 1014 is a free-market approach that allows manufacturers to design the program in whatever way is most cost effective – with minimal oversight from state regulators. We know that this program will work due to public surveys conducted in Canada that have demonstrated public awareness and use of the program, the volume of medications collected, and the fact that 96% of Canadian pharmacies host collection bins.

SB 1014 is the right solution to this pressing problem because it creates a privately managed and financed system to allow consumers to properly and conveniently dispose of their unwanted pharmaceuticals. For these reasons, the El Cerrito City Council supports SB 1014.

Sincerely,

Janet Abelson, Mayor
City of El Cerrito

cc: Senator Kevin de Leon, via fax: (916) 651-4922
Senator Jerry Hill, via fax (916) 651-4913

Senate Bill 1014

Safe and Convenient Medication Disposal Senator Hannah-Beth Jackson

Bill Summary

In an effort to manage the clear societal and environmental end-of-life impacts of medications, SB 1014 would require producers of pharmaceuticals, as defined, to create, finance and manage a collection system for California consumers to safely and conveniently take-back unwanted pharmaceuticals - a system structured after an existing program in Canada which the industry has efficiently operated for 15 years.

Background

In response to the growing problems of prescription drug abuse, accidental poisonings, and the detection of pharmaceutical products in California waters, local governments throughout the state have struggled to establish safe and convenient medication take-back programs. The public demand and need for such programs has been tremendous - even limited programs have collected hundreds of pounds of drugs. Law enforcement, federal agencies, public health and environmental professionals agree that take-back programs are the safest way to dispose of unused medicines.

Establishing these disposal programs on a city by city (or county) basis is haphazard, inefficient and expensive for local ratepayers. It also means that not all consumers have access to take-back locations, perpetuating a lack of harmonized messaging to the public about safe drug disposal.

To address these issues, Alameda County was the first jurisdiction in the country to pass an ordinance requiring drug manufacturers to develop, implement, and finance a convenient drug take-back program for residents. Despite operating similar programs in Canada and other countries, three pharmaceutical associations responded by suing Alameda County. The County prevailed at the trial court level and the case is now being considered by the Ninth Circuit Court of Appeals. King County Washington adopted a similar ordinance in July 2013 and was then sued by the same associations.

The Problem(s)

The simple truth is that drugs – both prescription and over the counter – present significant problems at the end of their useful life. Consumers do indeed have leftover drugs in their homes which tend to be stockpiled, flushed, or thrown in the garbage. Unfortunately, the lack of an end-of-life management plan results in significant problems for California:

Prescription Drug Abuse – Prescription drug abuse has skyrocketed in recent years,¹ as have hospitalizations and deaths from overdoses.² In fact, opioid pain relievers were involved in more drug poisoning deaths than other drugs, including heroin and cocaine³. One of the four top recommendations of the National Strategy on Preventing Prescription Drug Abuse is to have a safe and convenient method of disposal for prescription drugs, over the counter drugs, and veterinary medicines that we have in our homes. The lack of take-back locations forces consumers to choose less than desirable options according to the EPA's letter dated 9/26/2012⁴, including home storage, flushing medications down the toilet or throwing them in the garbage.

Environmental Impacts – Pharmaceutical products enter our waters by excretion, consumer disposal of unused medications down the toilet or drain, or wastewater siphoned by landfills and discharged into the environment. Numerous studies in California have found detectible levels of pharmaceuticals, including

¹ California State Task Force on Prescription Drug Misuse. (2009, March 30). Summary Report and Recommendations on Prescription Drugs: Misuse, Abuse and Dependency. Retrieved from State of California Alcohol and Drug Programs: www.adp.ca.gov/director/pdf/Prescription_Drug_Task_Force.pdf

² O'Callaghan, T. (2010, April 6). More people hospitalized for prescription drug overdose. Retrieved from Time: <http://healthland.time.com/2010/04/06/more-people-hospitalized-for-prescription-drug-overdose/#ixzz2fk1m3CMT>

³ Centers for Disease Control and Prevention Fact Sheet on Drug Poisoning Deaths: http://www.cdc.gov/nchs/data/factsheets/factsheet_drug_poisoning.htm

⁴ EPA Letter dated 9/26/2012 outlining disposal options and best practices: <http://www.epa.gov/osw/hazard/generation/pharmaceuticals/pharms-take-back-disposal.pdf>

synthetic birth control, antibiotics, mood stabilizers, and analgesics in San Francisco Bay, as well as both surface and groundwater drinking water sources.⁵ The environmental impacts on aquatic species are very real even at trace levels, including reproductive failure, behavioral changes that impair their ability to survive, and bioaccumulation and interference with the food chain.⁶ While the potential impacts on humans exposed through drinking water or by eating contaminated fish are not well studied, scientists are concerned with unknowns such as low dose exposures over long periods of time, effects on vulnerable populations such as infants, and cumulative impacts of drug mixtures. Since wastewater treatment cannot remove these chemicals completely and is cost prohibitive, stopping their entry into our water at the source is one important step in protecting our precious water resources.

Cost to Local Governments – For too long, municipal governments have cobbled together local collection options that fail to meet public demand for safe take-back, draw resources from other vital government functions, create a patchwork of regulations, and fail to realize the efficiency that would come from a statewide program. Some counties don't offer drug take-back sites because they lack the budget - and even those that do have programs are limited. Alameda County, for example, has 28 drop-off locations, but estimates it needs at least 60 locations to meet public demand.

Solution

SB 1014 springboards off of the good work already being done by pharmaceutical companies in Canada and Europe. It is a free market approach that allows manufacturers to design the program in whatever way is most cost effective, with minimal oversight from state regulators. The success of this stewardship model is evidenced by public surveys in Canada demonstrating the strong public awareness and participation in the program⁷, the volumes of collected medications, and the fact that 96% of the pharmacies voluntarily host collection bins.

This bill would require pharmaceutical manufacturers to submit a stewardship plan to CalRecycle for approval on how they will design and operate the take-back program to meet the standards in the legislation. Manufacturers would then implement the program and report to CalRecycle annually on progress. The stewardship plan would be updated every three years.

Co-Sponsors

Alameda County
City and County of San Francisco
California Alliance of Retired Americans (CARA)
California Product Stewardship Council (CPSC)
Clean Water Action (CWA)

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⁵ Kolpin, Dana et al. (2002) Pharmaceuticals, hormones and other organic wastewater contaminants in U.S. Streams, 99-2000: A National Reconnaissance, *Environmental Science and Technology* v. 36:1202-1211. Donn, Je, Martha Mendoza/Justin Pritchard, AP Investigation: Pharmaceuticals Found in Drinking Water. http://hosted.ap.org/specials/interactives/pharmawater_site/day1_04.html, Fram, Miranda S. and Kenneth Belitz (2011) Occurrence and concentrations of pharmaceutical compounds in groundwater used for public drinking-water supply in California, *Science of the Total Environment* v. 409: 3409-3417. Guo, Y. Carrie et al. (2010) Source, Fate, and Transport of Endocrine Disruptors, Pharmaceuticals, and Personal Care Products in Drinking Water Sources in California, The National Water Research Institute. Harrold, K.H. et al. (2009). Pharmaceutical Concentrations in Wastewater Treatment Plant Influent and Effluent and Surface Waters of Lower South San Francisco Bay. SFEI Contribution 549. San Francisco Estuary Institute, Oakland, CA.

⁶ Klosterhaus, S.L. et al. (2013) Method validation and reconnaissance of pharmaceuticals, personal care products, and alkylphenols in surface waters, sediments, and mussels in an urban estuary, *Environment International* v. 54: 92-99. Barber, Larry B. et al. (2011) Effects of biologically-active chemical mixtures on fish in a wastewater-impacted urban stream. *Science of the Total Environment* v. 409: 4720-4728. Brodin T. (2013), Dilute Concentrations of a psychiatric drug alter behavior of fish from natural populations. *Science* v. 339: 814-15.

⁷ British Columbia med program public survey results from 2010:
<http://www.healthsteward.ca/sites/default/files/PCPSA%202010%20Annual%20Report.pdf>

Introduced by Senator JacksonFebruary 13, 2014

An act to add Section 4068.1 to the Business and Professions Code, to amend Section 117700 of, and to add Section 117670.1 to, the Health and Safety Code, and to add Article 3.4 (commencing with Section 47120) to Chapter 1 of Part 7 of Division 30 of the Public Resources Code, relating to pharmaceutical waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 1014, as introduced, Jackson. Pharmaceutical waste: home-generated.

(1) The Department of Resources Recycling and Recovery was required, pursuant to provisions repealed on January 1, 2013, to develop, in consultation with appropriate state, local, and federal agencies, model programs for the collection and proper disposal of drug waste.

This bill would enact the Home-Generated Pharmaceutical Waste Collection Disposal Act and would define terms for purposes of the act. The bill would require a producer of covered pharmaceuticals to submit to the Department of Resources Recycling and Recovery, by July 1, 2015, except as specified, a product stewardship plan and would authorize one or more producers to submit a plan or designate a stewardship organization to act as an agent on behalf of the producers to submit a plan. The bill would require the stewardship plan to contain specified elements with regard to the collection and disposal of home-generated pharmaceutical waste, including provisions for the payment of all administrative and operational fees associated with the product stewardship program.

The bill would specify procedures for the approval of the plan by the department and would require a producer, group of producers, or

stewardship organization operating a stewardship program to take specified actions with regard to the disposal of home-generated pharmaceutical waste and promoting product stewardship programs to consumers, pharmacists, retailers of covered pharmaceuticals, and health care practitioners.

The bill would require a producer, group of producers, or stewardship organization operating a product stewardship program to prepare and submit to the department an annual written report describing the program's activities during the previous calendar year by July 1, 2016, or at a later date as approved by the department, and on or before July 1 annually thereafter.

The bill would authorize the department to adopt regulations to implement the act and would require the department to adopt regulations to provide for the appropriate management of consolidated home-generated pharmaceutical waste, to establish a schedule of fees to be charged to cover the department's costs of administering and enforcing the act, and to adopt a schedule setting the amounts of administrative civil penalties that the department would be authorized to impose. The bill would require a producer, group of producers, or a stewardship organization submitting a plan to the department to pay the fees set by the department and would require the department to deposit the fees into the Home-Generated Pharmaceutical Waste Program Account, which the bill would create in the Integrated Waste Management Fund. The department would be authorized to expend the fees, upon appropriation by the Legislature, to administer and enforce the act.

The bill would authorize the department to issue an administrative order to, or impose a civil penalty upon, a producer who is in violation of the act or a regulation adopted pursuant to the act. The bill would require the department to deposit the penalties into the Home-Generated Pharmaceutical Waste Penalty Account, which the bill would create in the Integrated Waste Management Fund, and would authorize the department to expend the moneys in that account, upon appropriation by the Legislature, to enforce the act.

(2) The Medical Waste Management Act, administered by the State Department of Public Health, regulates the management and handling of medical waste, including pharmaceutical waste, as defined. Existing law defines the term medical waste and excludes certain types of waste from that definition.

This bill would define the term “home-generated pharmaceutical waste” for purposes of that act. The bill would exclude, from the definition of medical waste, home-generated pharmaceutical waste that is handled by a collection and disposal program operating in accordance with the act specified above. This exclusion would not become operative until the Secretary of State posts a notice regarding the effective date of the regulations that the department is required to adopt pursuant to that act.

(3) The Pharmacy Law provides for the licensure and regulation of pharmacists and pharmacy establishments by the California State Board of Pharmacy, and makes a knowing violation of that law a misdemeanor.

The bill would also authorize a pharmacy to accept the return of home-generated pharmaceutical waste from a consumer, consistent with specified federal laws. Because a knowing violation of this provision would be a crime, the bill would impose a state-mandated local program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4068.1 is added to the Business and
2 Professions Code, to read:
3 4068.1. A pharmacy may accept the return of home-generated
4 pharmaceutical waste, as defined in Section 117670.1 of the Health
5 and Safety Code, from a consumer, consistent with the Federal
6 Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.) and
7 the Controlled Substances Act (21 U.S.C. Sec. 801 et seq.).
8 SEC. 2. Section 117670.1 is added to the Health and Safety
9 Code, to read:
10 117670.1. “Home-generated pharmaceutical waste” means a
11 prescription or over-the-counter human or veterinary
12 home-generated pharmaceutical, including, but not limited to, a
13 drug, as defined in Section 109925 or in Section 321(g)(1) of Title
14 21 of the United States Code, that is a waste, as defined in Section

1 25124, derived from a household, including, but not limited to, a
2 multifamily residence or household.

3 SEC. 3. Section 117700 of the Health and Safety Code is
4 amended to read:

5 117700. Medical waste does not include any of the following:

6 (a) Waste generated in food processing or biotechnology that
7 does not contain an infectious agent as defined in Section 117675.

8 (b) Waste generated in biotechnology that does not contain
9 human blood or blood products or animal blood or blood products
10 suspected of being contaminated with infectious agents known to
11 be communicable to humans.

12 (c) Urine, feces, saliva, sputum, nasal secretions, sweat, tears,
13 or vomitus, unless it contains fluid blood, as provided in
14 subdivision (d) of Section 117635.

15 (d) Waste which is not biohazardous, such as paper towels,
16 paper products, articles containing nonfluid blood, and other
17 medical solid waste products commonly found in the facilities of
18 medical waste generators.

19 (e) Hazardous waste, radioactive waste, or household waste,
20 including, but not limited to, home-generated sharps waste, as
21 defined in Section 117671.

22 (f) Waste generated from normal and legal veterinarian,
23 agricultural, and animal livestock management practices on a farm
24 or ranch.

25 (g) *(1) Home-generated pharmaceutical waste, including, but*
26 *not limited to, consolidated home-generated pharmaceutical waste,*
27 *that is handled by a collection and disposal program operating in*
28 *accordance with Article 3.4 (commencing with Section 47120) of*
29 *Chapter 1 of Part 7 of Division 30 of the Public Resources Code.*

30 *(2) The Department of Resources Recycling and Recovery shall*
31 *notify the Secretary of State of the effective date of the regulations*
32 *adopted pursuant to subdivision (b) of Section 47129 of the Public*
33 *Resources Code. The Secretary of State shall post this notification*
34 *on its Internet Web site within 15 days after receiving that notice.*

35 *(3) Paragraph (1) shall not become operative until the Secretary*
36 *of State posts the notice described in paragraph (2) on its Internet*
37 *Web site.*

38 SEC. 4. Article 3.4 (commencing with Section 47120) is added
39 to Chapter 1 of Part 7 of Division 30 of the Public Resources Code,
40 to read:

Article 3.4. Home-Generated Pharmaceutical Waste Collection
and Disposal

47120. The Legislature hereby finds and declares all of the following:

(a) Prescription and nonprescription drugs successfully allow us to live longer, healthier, and more productive lives.

(b) The public, particularly children and the elderly, are at significant and unnecessary risk of poisoning due to improper or careless disposal of drugs and the illegal resale of drugs.

(c) Our source water for drinking water is being contaminated by unwanted, leftover, or expired drugs passing through our wastewater and treatment centers.

(d) There is no mandatory statewide drug stewardship program for unwanted drugs in California.

(e) It is the intent of the Legislature that all members of the supply chain work together to implement an effective program to maximize the collection and disposal of unused drugs in California.

47121. This article shall be known, and may be cited, as the “Home-Generated Pharmaceutical Waste Collection and Disposal Act.”

47122. For the purposes of this article, the following terms have the following meanings:

(a) “Consumer” means an individual purchaser or owner of a covered pharmaceutical. “Consumer” does not include a business, corporation, limited partnership, or an entity involved in a wholesale transaction between a distributor and retailer.

(b) “Controlled substance” means a substance listed in Chapter 1 (commencing with Section 11053) of Division 10 of the Health and Safety Code, or in Section 812 of Title 21 of the United States Code or subject to Section 813 of Title 21 of the United States Code.

(c) “Cosmetic” means anything defined as a cosmetic in Section 109900 of the Health and Safety Code.

(d) (1) “Covered pharmaceutical” means a prescription drug or an over-the-counter human or veterinary drug.

(2) “Covered pharmaceutical” does not include any of the following:

(A) A drug that is regulated pursuant to either of the following:

1 (i) The federal Resource Conservation and Recovery Act of
2 1976, as amended (42 U.S.C. Sec. 6901 et seq.).

3 (ii) The Radiation Control Law (Chapter 8 (commencing with
4 Section 114960) of Part 9) of Division 104 of the Health and Safety
5 Code.

6 (B) A Vitamin or supplement.

7 (C) A herbal-based remedy or a homeopathic drug, product, or
8 remedy.

9 (D) Cosmetics, soap, with or without germicidal agents, laundry
10 detergent, bleach, household cleaning products, shampoos,
11 sunscreens, toothpaste, lip balm, antiperspirants, or other personal
12 care products that are regulated cosmetics under the Federal Food,
13 Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq).

14 (E) A drug for which a producer provides a take-back program
15 as part of a Federal Food and Drug Administration managed risk
16 evaluation and mitigation strategy (21 U.S.C. Sec. 355-1).

17 (F) A drug that is a biological product, as defined in subsection
18 (h) of Section 600.3 of Title 21 of the Code of Federal Regulations,
19 as it read on January 1, 2015, if the producer provides a take-back
20 program.

21 (G) A pet pesticide product contained in a pet collar, powder,
22 shampoo, topical application, or other delivery system.

23 (e) “Drug” means anything defined as a drug in Section 109925
24 of the Health and Safety Code or in Section 321 (g)(1) of Title 21
25 of the United States Code.

26 (f) “Home-generated pharmaceutical waste” means a covered
27 pharmaceutical that is a waste, as defined in Section 25124 of the
28 Health and Safety Code, derived from a household, including, but
29 not limited to, a multifamily residence or household.

30 (g) “Mail-back program” means a system whereby a generator
31 of home-generated pharmaceutical waste may obtain a prepaid
32 and preaddressed mailing envelope in which to place
33 home-generated pharmaceutical waste for shipment to an entity
34 that will dispose of it safely and legally.

35 (h) “Over-the-counter drug” means a drug that may be lawfully
36 sold without a prescription.

37 (i) “Pharmaceutical wholesaler” means a person that sells or
38 distributes covered pharmaceuticals for resale to an entity other
39 than a consumer.

1 (j) “Plan” or “product stewardship plan” means a product
2 stewardship plan to implement a program to collect and dispose
3 of home-generated pharmaceutical waste.

4 (k) “Prescription drug” means a drug required by federal or state
5 law to be dispensed lawfully only on prescription.

6 (l) (1) “Producer” shall be determined with regard to a covered
7 pharmaceutical that is sold, offered for sale, or distributed in the
8 state as meaning one of the following:

9 (A) The person that manufactures a covered pharmaceutical
10 and that sells, offers for sale, or distributes that covered
11 pharmaceutical in the state under that person’s own name or brand.

12 (B) If there is no person who meets the condition specified in
13 subparagraph (A), the producer of the covered pharmaceutical is
14 the owner or licensee of a trademark or brand under which the
15 covered pharmaceutical is sold or distributed in California, whether
16 or not the trademark is registered.

17 (C) If there is no person who meets the conditions specified in
18 subparagraph (A) or (B), the producer of that covered
19 pharmaceutical is the person who brings the pharmaceutical into
20 the state for sale or distribution.

21 (2) “Producer” does not include either of the following:

22 (A) A retailer that puts its store label on a covered
23 pharmaceutical.

24 (B) A pharmacist who dispenses prescription drugs to, or
25 compounds a prescribed individual drug product for, a consumer.

26 (m) “Product stewardship program” or “program” means a
27 program financed and operated by one or more producers to collect,
28 transport, and dispose of home-generated pharmaceutical waste.

29 (n) “Stewardship organization” means an organization
30 designated by a group of producers to act as an agent on behalf of
31 each producer to operate a product stewardship program.

32 47124. (a) On or before July 1, 2015, or on a later date that
33 may be specified by the department, a producer shall submit to the
34 department a product stewardship plan that complies with the
35 requirements of subdivision (b). One or more producers may submit
36 a plan or designate a stewardship organization to act as an agent
37 on behalf of the producers to submit a plan. A producer that
38 designates a stewardship organization shall enter into an agreement
39 with that stewardship organization to operate, on the producer’s
40 behalf, a product stewardship program and the stewardship

1 organization shall submit a plan pursuant to this section on or
2 before July 1, 2015, or on a later date that may be specified by the
3 department.

4 (b) A product stewardship plan shall contain all of the following
5 elements:

6 (1) A certification that the product stewardship program will
7 accept all home-generated pharmaceutical waste that results from
8 a covered pharmaceutical sold by the producer, or by the producers
9 that enter into agreement with the stewardship organization, from
10 all households, including multifamily households, unless excused
11 from this requirement by the department as part of the approval
12 of the plan.

13 (2) Contact information for the producer submitting the plan or
14 for each of the producers participating in the product stewardship
15 program submitting the plan.

16 (3) A description of the methods by which home-generated
17 pharmaceutical waste will be collected and an explanation of how
18 the collection system will conveniently and adequately serve the
19 residents of the state.

20 (4) A description of how the product stewardship plan will
21 provide collection services for home-generated pharmaceutical
22 waste in all areas of that state that are convenient to the public and
23 adequate to meet the needs of the population in the area being
24 served.

25 (5) The location of each collection site and locations where
26 envelopes for a mail-back program are available, if applicable.

27 (6) A list containing the name, location, permit status, and record
28 of any penalties, violations, or regulatory orders received in the
29 previous five years by each person that will be involved in
30 transporting home-generated pharmaceutical waste and each
31 medical waste disposal facility proposed to participate in the
32 product stewardship program.

33 (7) A description of how the home-generated pharmaceutical
34 waste will be safely and securely tracked and handled from
35 collection through final disposal and the policies and procedures
36 to be followed to ensure security.

37 (8) A description of how the public education and outreach
38 activities required by subdivision (c) of Section 47126 will be
39 implemented and how the effectiveness of those activities will be
40 evaluated.

1 (9) A description of how the scope and extent of the product
2 stewardship program are reasonably related to the amount of
3 covered pharmaceuticals that are sold in the state by the producer
4 or group of producers.

5 (10) A starting date when the collection of home-generated
6 pharmaceutical waste will begin.

7 (11) A description of how support will be provided to any law
8 enforcement agencies within the state that have, or later agree to
9 have, a collection program for controlled substances, including all
10 of the following:

11 (A) The provision of a collection kiosk with appropriate
12 accessories and signage.

13 (B) An ability to accept controlled substances and other
14 home-generated covered pharmaceutical waste.

15 (C) Technical support, including an appropriate person to
16 provide onsite assistance with the sorting and separation of
17 controlled substances at no cost to a participating law enforcement
18 agency.

19 (12) A description of how collection sites for home-generated
20 pharmaceutical waste may be placed at appropriate retail stores in
21 the state, including a description of the involvement of the retail
22 stores.

23 (13) If more than one producer will be involved in a proposed
24 product stewardship program, the product stewardship plan for
25 that program shall include a fair and reasonable manner for
26 allocating the costs of the program among the participants in that
27 program, so that the portion of costs paid by each producer is
28 reasonably related to the amount of covered pharmaceutical sold
29 by the producer in the state.

30 (14) (A) Provisions for the payment of all administrative and
31 operational fees associated with the product stewardship program,
32 including the cost of collecting, transporting, and disposing of
33 home-generated pharmaceutical waste and the recycling or
34 disposal, or both, of packaging collected with the home-generated
35 pharmaceutical waste.

36 (B) The plan shall not allow a person or producer to charge a
37 specific point-of-sale fee to consumers to recoup the costs of their
38 product stewardship program, or charge a specific
39 point-of-collection fee at the time the home-generated
40 pharmaceutical waste is collected or delivered for disposal.

1 47125. (a) A producer, group of producers, or stewardship
2 organization shall not collect home-generated pharmaceutical
3 waste until it has received written approval of its product
4 stewardship plan from the department.

5 (b) Within 180 days after receipt and review of a product
6 stewardship plan, the department shall conduct a noticed public
7 hearing and determine whether the plan complies with the
8 requirements of this article and any regulations adopted pursuant
9 to this article. As part of its approval, the department may set
10 reasonable performance goals for the program proposed to be
11 implemented by the plan.

12 (c) The department shall notify the applicant in writing of the
13 approval of the plan.

14 (d) If the department rejects a plan, it shall notify the applicant
15 in writing of its reasons for rejecting the plan. The department may
16 reject a plan without conducting a public hearing, other than the
17 hearing required by subdivision (b).

18 (e) An applicant whose plan has been rejected by the department
19 shall submit a revised plan to the department within 60 days after
20 receiving notice of the rejection. The department may require the
21 submission of a further revised plan or may develop, approve, and
22 impose its own product stewardship plan or an approved plan
23 submitted by other producers pursuant to this article. The
24 department shall present the imposed plan at a public hearing. The
25 department is not required, and nothing in this article shall be
26 interpreted as requiring the department, to create or impose a
27 product stewardship plan.

28 (f) If the department rejects a revised product stewardship plan
29 or any other subsequently revised plan, a producer that is subject
30 to the plan shall be considered to be out of compliance with this
31 article and subject to the enforcement provisions contained in this
32 article. If the department imposes its own plan, the producer shall
33 not be considered out of compliance with this article if the producer
34 complies with that plan.

35 (g) At least every three years, a producer, group of producers,
36 or stewardship organization operating a product stewardship
37 program shall update the product stewardship plan and submit the
38 updated plan to the department for review and approval.

1 (h) Any proposed changes to a product stewardship plan shall
2 be submitted in writing to the department and approved by the
3 department in writing prior to implementation of any change.

4 (i) On and after July 1, 2015, a producer who commences to
5 sell a covered pharmaceutical in the state shall submit a product
6 stewardship plan to the department or provide evidence of having
7 joined an existing approved product stewardship program no later
8 than 180 days after the date the producer commences to sell that
9 covered pharmaceutical, following the producer's initial sale of
10 the offer for sale of a covered pharmaceutical.

11 47126. A producer, group of producers, or stewardship
12 organization operating a stewardship program shall comply with
13 all local, state, and federal laws and regulations applicable to its
14 operations, including laws and regulations governing the disposal
15 of medical waste and controlled substances, and shall additionally
16 take all of the following actions when operating the program:

17 (a) (1) Dispose of all home-generated pharmaceutical waste,
18 in accordance with paragraph (1) of subdivision (a) of Section
19 118215 of the Health and Safety Code.

20 (2) A producer or stewardship organization operating a
21 stewardship program may petition the department for approval to
22 use a final disposal technology, if lawful, that provides superior
23 environmental and human health protection than provided by
24 current medical waste disposal technology for covered
25 pharmaceuticals, if and when the technology is proven and
26 available. The department may approve that technology, if it
27 provides equivalent protection in each, and superior protection in
28 one or more, of the following areas:

29 (A) Monitoring of any emissions or waste.

30 (B) Worker health and safety.

31 (C) Air, water, or land emissions contributing to persistent,
32 bioaccumulative, or toxic pollution.

33 (D) Overall impact on the environment and human health.

34 (b) Encourage the separation of home-generated pharmaceutical
35 waste from its original containers, when appropriate, prior to
36 collection or disposal.

37 (c) Promote the product stewardship program to consumers,
38 pharmacists, retailers of covered pharmaceuticals, and health care
39 practitioners as to the proper and safe method to dispose of

1 home-generated pharmaceutical waste, in accordance with the
2 following:

3 (1) Develop and update as necessary, educational and other
4 outreach materials aimed at retailers of covered pharmaceuticals.
5 These materials may include, but are not limited to, one or more
6 of the following:

7 (A) Signage that is prominently displayed and easily visible to
8 the consumer.

9 (B) Written materials and templates of materials for reproduction
10 by retailers to be provided to the consumer at the time of purchase
11 or delivery, or both.

12 (C) Advertising or other promotional materials related to the
13 product stewardship program.

14 (2) Prepare education and outreach materials that publicize the
15 location and operation of collection locations in the state and
16 disseminate the materials to health care facilities, pharmacies, and
17 other interested parties.

18 (3) Establish an Internet Web site publicizing collection
19 locations and program operations and a toll-free telephone number
20 that residential generators can call to find nearby collection
21 locations and understand how the program works.

22 47127. On or before July 1, 2016, or at a later date as approved
23 in writing by the department, and on or before July 1 annually
24 thereafter, a producer, group of producers, or stewardship
25 organization operating a product stewardship program shall prepare
26 and submit to the department an annual written report describing
27 the program's activities during the previous calendar year. The
28 report shall include all of the following information:

29 (a) A list of producers participating in the product stewardship
30 program.

31 (b) The amount, by weight, of home-generated pharmaceutical
32 waste collected at each drop-off site and in the entire state and, if
33 applicable, the total amount by weight collected by a mail-back
34 program.

35 (c) A description of the collection system, including the location
36 of each collection site and if applicable, locations where envelopes
37 for a mail-back program are provided.

38 (d) The name and location of disposal facilities at which
39 home-generated pharmaceutical waste were disposed of and the

1 weight of home-generated pharmaceutical waste collected from
2 residential generators disposed of at each facility.

3 (e) Whether policies and procedures for collecting, transporting,
4 and disposing of home-generated pharmaceutical waste, as
5 established in the plan, were followed during the previous calendar
6 year and a description of any noncompliance.

7 (f) Whether any safety or security problems occurred during
8 collection, transportation, or disposal of home-generated
9 pharmaceutical waste during the previous calendar year and, if so,
10 what changes have been or will be made to policies, procedures,
11 or tracking mechanisms to alleviate the problem and to improve
12 safety and security.

13 (g) A description of public education and outreach activities
14 implemented during the reporting period, including the
15 methodology used to evaluate the outreach and program activities.

16 (h) How the product stewardship program complied with all
17 other elements in the product stewardship plan approved by the
18 department, including its degree of success in meeting any
19 performance goals set by the department as part of the approval
20 of the plan.

21 (i) Any other information that the department may reasonably
22 require.

23 47128. The department shall provide on its Internet Web site
24 a list of all producers participating in product stewardship programs
25 approved by the department and a list of all producers the
26 department has identified as noncompliant with this article or the
27 regulations adopted pursuant to this article.

28 47129. (a) The department may adopt regulations to implement
29 this article.

30 (b) The department shall adopt regulations to do all of the
31 following:

32 (1) Provide for the appropriate management of consolidated
33 home-generated pharmaceutical waste to ensure public and
34 environmental safety, including, but not limited to, handling,
35 storage, containment, tracking, transportation, and disposal.

36 (2) Establish a schedule of fees to be charged to the producers
37 to cover the department's costs of administering and enforcing
38 this article. In setting the fee schedule, the department shall only
39 recover its actual costs of administration and enforcement under

1 this article and shall not charge any amounts under this article in
2 excess of its actual administrative and enforcement costs.

3 (3) Adopt a schedule setting the amounts of administrative civil
4 penalties that the department may impose pursuant to Section
5 47130, based on the nature, extent, and severity of the violation
6 and any other relevant factors.

7 (c) A producer, group of producers, or a stewardship
8 organization submitting a plan to the department shall pay the fees
9 set by the department pursuant to subdivision (b).

10 (d) The department shall deposit all fees collected pursuant to
11 this section into the Home-Generated Pharmaceutical Waste
12 Program Account, which is hereby created in the Integrated Waste
13 Management Fund. Upon appropriation by the Legislature, moneys
14 deposited into the account may be expended by the department to
15 administer and enforce this article.

16 47130. (a) The department may issue an administrative order
17 to, or impose an administrative civil penalty upon, a producer who
18 is in violation of this article or a regulation adopted pursuant to
19 this article, to require compliance with this article or the regulation.

20 (b) The department shall deposit all penalties collected pursuant
21 to this article into the Home-Generated Pharmaceutical Waste
22 Penalty Account, which is hereby created in the Integrated Waste
23 Management Fund. Upon appropriation by the Legislature, moneys
24 deposited into the account may be expended by the department to
25 enforce this article.

26 47134. This article does not require a retailer to host a
27 collection site and nothing in this article shall be interpreted as
28 requiring this participation.

29 47135. A producer or stewardship organization that creates
30 and operates a plan that is approved by the department is not in
31 violation of the Cartwright Act (Chapter 2 (commencing with
32 Section 16700) of Part 2 of Division 7 of the Business and
33 Professions Code), the Unfair Practices Act (Chapter 4
34 (commencing with Section 17000) of Part 2 of Division 7 of the
35 Business and Professions Code), or the Unfair Competition Law
36 (Chapter 5 (commencing with Section 17200) of Part 2 of Division
37 7 of the Business and Professions Code), with regard to actions
38 that are taken in accordance with the plan or this article.

39 SEC. 5. No reimbursement is required by this act pursuant to
40 Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school
2 district will be incurred because this act creates a new crime or
3 infraction, eliminates a crime or infraction, or changes the penalty
4 for a crime or infraction, within the meaning of Section 17556 of
5 the Government Code, or changes the definition of a crime within
6 the meaning of Section 6 of Article XIII B of the California
7 Constitution.

O

SB 1014 Senate Bill - History
COMPLETE BILL HISTORY

BILL NUMBER : S.B. No. 1014

AUTHOR : Jackson

TOPIC : Pharmaceutical waste: home-generated.

TYPE OF BILL :

Active

Non-Urgency

Non-Appropriations

Majority Vote Required

State-Mandated Local Program

Fiscal

Non-Tax Levy

BILL HISTORY

2014

Feb. 27 Referred to Coms. on E.Q. and B., P. & E.D.

Feb. 14 From printer. May be acted upon on or after March 16.

Feb. 13 Introduced. Read first time. To Com. on RLS. for assignment. To print.

SB 1014 Assembly Bill - Status
CURRENT BILL STATUS

MEASURE : S.B. No. 1014

AUTHOR(S) : Jackson.

TOPIC : Pharmaceutical waste: home-generated.

HOUSE LOCATION : SEN

TYPE OF BILL :

Active

Non-Urgency

Non-Appropriations

Majority Vote Required

State-Mandated Local Program

Fiscal

Non-Tax Levy

LAST HIST. ACT. DATE: 02/27/2014

LAST HIST. ACTION : Referred to Coms. on E.Q. and B., P. & E.D.

COMM. LOCATION : SEN ENVIRONMENTAL QUALITY

TITLE : An act to add Section 4068.1 to the Business and Professions Code, to amend Section 117700 of, and to add Section 117670.1 to, the Health and Safety Code, and to add Article 3.4 (commencing with Section 47120) to Chapter 1 of Part 7 of Division 30 of the Public Resources Code, relating to pharmaceutical waste.



AGENDA BILL

Agenda Item No. 5(H)

Date: April 1, 2014

To: El Cerrito City Council

From: Christopher Jones, Recreation Director
Melanie Mintz, Interim Community Development Director
Yvetteh Ortiz, Interim Public Works Director / City Engineer

Subject: Support for Senate Bill 1086 – The Safe Neighborhood Parks, Rivers, and Coastal Protection Bond Act of 2014

ACTION REQUESTED

Authorize Mayor Abelson to sign and send letters to Senator Pavley and other appropriate legislators and legislative bodies in support of Senate Bill 1086 (SB 1086), The Safe Neighborhood Parks, Rivers, and Coastal Protection Bond Act of 2014 in California.

DISCUSSION

It has been at least 10 years since funding from the State has been available to directly fund parks and open space. Utilizing funds from the *Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000*, the City was able to replace the aging and dangerous playgrounds at Cerrito Vista and Castro Parks, renovate the Community Center Kitchen, and replace the playfield at Canyon Trail Park. SB 1086, *The Safe Neighborhood Parks, Rivers, and Coastal Protection Bond Act of 2014* would establish a “Per Capita” grant program that would help address El Cerrito’s needs as well as establish other, competitive funding opportunities.

The City’s parks and recreational facilities are heavily used by its residents. In the 2012 National Citizen Survey, it was determined that close to 90% of El Cerrito residents utilized a park within the past year and that nearly 50% participated in a recreational program. These numbers are well above the averages of cities of similar size. With some exceptions, these well loved facilities suffer from deferred maintenance and insufficient funding to address important needs. Most parks, playfields, and clubhouses have irrigation and other critical infrastructure that are past their useful lifetimes. The El Cerrito Open House Senior Center is housed in an outdated and low functional building with an acute lack of parking. Funding is not available to address the many pathway, creek restoration, natural area, and trail needs throughout El Cerrito’s park and open space system.

El Cerrito also has several needs opportunities should funding become available. The potential of acquiring the large property at the former Portola Middle School site brings with it numerous possibilities, including a potential location for a new library, new playfields, and other amenities desired by the community. The newly united Hillside Natural Area needs a community driven Master Plan to develop multiuse trail and trail maintenance guidelines and fund to implement the Plan. Strong grassroots support also exists to establish a community garden and other urban

greening projects. There is also the rare potential (in a built out city) for a new park located on donated property off of Moeser Lane. Also, while some aspects of the Ohlone Greenway Master Plan have been implemented, there are many more identified projects that can be done to improve this regional trail. Finally the City's Urban Greening Plan will be completed this year which will also point to other opportunities identified through a public process.

STRATEGIC PLAN AND ENVIRONMENTAL CONSIDERATIONS

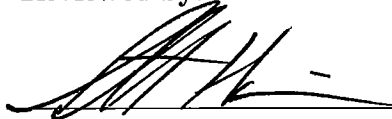
If SB1086 were to be passed and implemented in its current form, the resulting funds could help the City meet the intent of the all of the City of El Cerrito's Strategic Plan's Goals.

1. Exemplary government services would be enhanced in well planned and maintained park and recreational facilities.
2. Long-term financial sustainability would be improved by reducing maintenance costs and potentially increasing property values near improved parks and open space areas as well as potentially allowing an increase in recreational activities.
3. A sense of place and community identity will be deepened by improving and expanding public areas through community led processes.
4. Public health and safety will be better ensured both through the promotion of increased outdoor activity and through implementing the latest safety measures in park facility and open space design.
5. Environmental sustainability will be fostered by increasing green space in El Cerrito and potentially increasing/restoring creek and other plant and animal habitats. Potential funding for projects identified by the City's Urban Greening Plan (in progress) could also be considered.

FINANCIAL CONSIDERATIONS

There is no financial obligation associated with the requested action.

Reviewed by:



Scott Hanin, City Manager

Attachments:

1. SB1086 Letter of Support
2. Legislative Information for SB1086



April 1, 2014

The Honorable Fran Pavley, Chair
Senate Committee on Natural Resources and Water
State Capitol Building
Sacramento, CA 95814

RE: SB 1086 (De León)
The Safe Neighborhood Parks, Rivers, and Coastal Protection Bond Act of 2014

Madame Chair,

On behalf of the City Council of the City of El Cerrito, I am writing to respectfully urge your favorable consideration of the subject legislation.

It has been more than a decade since California last approved a true park/resources funding mechanism (Proposition 40 of 2002). Thanks to the support of the voters during the previous decade, greater than \$5 Billion has been invested to acquire, develop, improve and restore critical local, state, and regional park and natural resource infrastructure throughout the state. However, given the state of the economy over the past 5 years there has been a “drought” in investment in these important areas. Additionally, by virtue of the demise of redevelopment dollars, there have been systemic reductions in park improvements as a means to address blight.

SB 1086 envisions a framework to re-invest in local park infrastructure by establishing a “Per Capita” grant program which permits local entities such as ours to address our park, open space, and recreation facility priority needs. This \$364 Million program approved by the voters in 2006 and authorized by AB 31 of 2007, assisted in the creation and improvement of 112 parks within the state with 4 improvements in El Cerrito. Lastly, the bill calls for the creation of a new program to fund critical regional projects and provide capital support to local agencies. Our community has many needs and opportunities which include:

- Restoration and rehabilitation of aging recreational and park facilities and play fields including critical irrigation and pathway repairs and improvements
- Acquisition and development of school district property for much needed play fields and possible future library site
- Replacement of out dated and sub functional senior center
- Continued implementation of the Ohlone Greenway Master Plan – a regional trail along the BART tracks in El Cerrito, Richmond, Albany, and Berkeley.
- Pathway, creek restoration, natural area, and trail planning and implementation projects

- Development of a new park on donated property (a rare opportunity in a our built out city)
- Strong grassroots support for a community garden and other urban greening efforts

In closing, investing in park and natural resource related infrastructure offers California economic benefits (the outdoor economy in California is \$75 Billion), health and fitness benefits as these investments assist in reducing rates of diabetes, other chronic diseases, childhood obesity and provides educational and societal benefits as well. Simply stated, "Parks Make Life Better!" and this bill will immeasurably enhance the quality of life for countless residents of our community and all of California.

Sincerely,

Janet Abelson, Mayor
City of El Cerrito

cc: Members of and Consultants to the Senate Committee on Natural Resources and Water
Senate President pro Tempore Darrell Steinberg
Senator Loni Hancock

*California*
LEGISLATIVE INFORMATION**SB-1086 The Safe Neighborhood Parks, Rivers, and Coastal Protection Bond Act of 2014.** (2013-2014)

Senate: 1st Cmt

Assembly:

Bill Status	
Measure:	SB-1086
Lead Authors:	De León (S)
Principal Coauthors:	-
Coauthors:	-
Topic:	The Safe Neighborhood Parks, Rivers, and Coastal Protection Bond Act of 2014.
31st Day in Print:	03/22/14
Title:	An act to add Chapter 14 (commencing with Section 5880) to Division 5 of the Public Resources Code, relating to financing a safe neighborhood parks, rivers, and coastal protection program, by providing the funds necessary therefor through an election for the issuance and sale of bonds of the State of California and for the handling and disposition of those funds.
House Location:	Senate
Introduced Date:	02/19/14
Committee Location:	Sen Natural Resources and Water
Committee Hearing Date:	04/08/14

Type of Measure
Active Bill - In Committee Process
Two Thirds Vote Required
Non-Appropriation
Fiscal Committee
Non-State-Mandated Local Program
Non-Urgency
Non-Tax levy

Last 5 History Actions	
Date	Action
03/18/14	Set for hearing April 8.
02/27/14	Referred to Coms. on N.R. & W. and GOV. & F.
02/20/14	From printer. May be acted upon on or after March 22.
02/19/14	Introduced. Read first time. To Com. on RLS. for assignment. To print.



California
LEGISLATIVE INFORMATION

SB-1086 The Safe Neighborhood Parks, Rivers, and Coastal Protection Bond Act of 2014. (2013-2014)

CALIFORNIA LEGISLATURE— 2013–2014 REGULAR SESSION

SENATE BILL

No. 1086

Introduced by Senator De León

February 19, 2014

An act to add Chapter 14 (commencing with Section 5880) to Division 5 of the Public Resources Code, relating to financing a safe neighborhood parks, rivers, and coastal protection program, by providing the funds necessary therefor through an election for the issuance and sale of bonds of the State of California and for the handling and disposition of those funds.

LEGISLATIVE COUNSEL'S DIGEST

SB 1086, as introduced, De León. The Safe Neighborhood Parks, Rivers, and Coastal Protection Bond Act of 2014.

Under existing law, various measures have been approved by the voters to provide funds for park, river, and coastal protections and programs.

This bill would enact the Safe Neighborhood Parks, Rivers, and Coastal Protection Bond Act of 2014, which, if adopted by the voters, would authorize the issuance of bonds in an unspecified amount pursuant to the State General Obligation Bond Law to finance a safe neighborhood parks, rivers, and coastal protection program.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares as follows:

(a) California's residents value state, local, and regional parks and the natural lands of the state as they provide the following:

- (1) Access to the serenity and inspiration of nature, outdoor spaces, and places for play and exercise.
- (2) Facilities for directed and self-directed recreation.
- (3) Activities that facilitate social connections, human development, the arts, and lifelong learning.
- (4) Positive alternatives for youth that help lower crime and delinquency.

(b) California's parks and natural resources infrastructure have social, health, environmental, recreational, and intrinsic value to the citizens of the state and, importantly, outdoor recreation can be a critical economic driver to the state.

(c) Continued investment in the state's parks, natural resources, and in greening urban areas will mitigate the effects of global warming, thus reducing California's carbon footprint.

(d) Demand for local parks has exceeded available funding by a factor of eight to one.

(e) Investments to protect and restore the state's rivers, lakes, streams, and coastal waters and their related watersheds will improve water quality and reliability, enhance fishery and wildlife habitats, and provide recreational, economic, and public health benefits to Californians.

SEC. 2. Chapter 14 (commencing with Section 5880) is added to Division 5 of the Public Resources Code, to read:

CHAPTER 14. The Safe Neighborhood Parks, Rivers, and Coastal Protection Bond Act of 2014

Article 1. Title

5880. This chapter shall be known, and may be cited, as the Safe Neighborhood Parks, Rivers, and Coastal Protection Bond Act of 2014.

Article 2. Definitions

5880.5. As used in this chapter, the following terms have the following meanings:

(a) "Acquisition" means the acquisition of a fee interest or any other interest in real property including easements, leases, and development rights.

(b) "Board" means the Wildlife Conservation Board.

(c) "Department" means the Department of Parks and Recreation.

(d) "Development" includes, but is not limited to, the physical improvement of real property including the construction of facilities or structures.

(e) "Disadvantaged community" means a community with a median household income less than 80 percent of the statewide average.

(f) "Greenprint" means a plan for providing parks, greenspace, and urban forestry within an urbanized area and for the protection of agricultural and open-space lands around a developed area consistent with a sustainable communities strategy or other land use plan.

(g) "Interpretation" includes, but is not limited to, a visitor serving amenity that educates and communicates the significance and value of natural, historical, and cultural resources in a way that increases the understanding and enjoyment of these resources and that may utilize the expertise of a naturalist or other specialist skilled at educational interpretation.

(h) "Local conservation corps" means a program operated by a public agency or nonprofit organization that meets the requirements of Section 14406.

(i) "Nonprofit organization" means any organization qualified to do business in California, and qualified under Section 501(c)(3) of the Internal Revenue Code.

(j) "Preservation" means rehabilitation, stabilization, restoration, development, and reconstruction, or any combination of those activities.

(k) "Protection" means those actions necessary to prevent harm or damage to persons, property, or natural resources or to allow the continued use and enjoyment of property or natural resources, and includes acquisition, development, restoration, preservation, and interpretation.

(l) "Restoration" means the improvement of physical structures or facilities and, in the case of natural systems and landscape features includes, but is not limited to, projects for the control of erosion, the control and elimination of exotic species, prescribed burning, fuel hazard reduction, fencing out threats to existing or restored natural resources, road elimination, and other plant and wildlife habitat improvement to increase the natural system value of the property.

Article 3. General Provisions

5881. The proceeds of bonds issued and sold pursuant to this chapter shall be deposited in the Safe Neighborhood Parks, Rivers, and Coastal Protection Fund of 2014, which is hereby created in the State Treasury. Except as specifically provided in this chapter, moneys in the fund shall be available for appropriation by the Legislature in the manner and for the purposes set forth in this chapter.

5881.5. (a) Projects funded with proceeds of bonds issued and sold pursuant to this chapter shall promote state planning priorities consistent with Section 65041.1 of the Government Code and sustainable communities strategies consistent with subparagraph (B) of paragraph (2) of subdivision (b) of Section 65080 of the Government Code.

(b) To the extent feasible in implementing this chapter, state agencies shall seek to achieve wildlife conservation objectives through projects on public lands or voluntary projects on private lands. Funds may be used, in consultation with the Department of Fish and Wildlife, for payments for the creation of measurable habitat improvements or other improvements to the condition of endangered or threatened species including through the development and implementation of habitat credit exchanges.

(c) In evaluating projects for protection of natural resources and wildlife, priority shall be given to projects that implement adopted Natural Community Conservation Plans or endangered species recovery plans.

(d) The Natural Resources Agency shall develop and adopt a statewide resource protection plan to identify priorities for expending funds provided in this act that reflects statewide and regional resource protection, public access and availability to underserved populations. Conservation plans developed and adopted by departments and conservancies shall be consistent with statewide priorities adopted by the Natural Resources Agency.

(e) Restoration projects shall include the planning, monitoring, and reporting necessary to ensure successful implementation of the project objectives.

Article 4. Parks

5882. The sum of ____ dollars (\$____) from the fund shall be available to the department for the creation and expansion of safe neighborhood parks and for the preservation, protection, and restoration of regional and state parks in accordance with the following schedule:

(a) ____ dollars (\$____) shall be available for grants in accordance with Chapter 3.3 (commencing with Section 5640).

(b) ____ dollars (\$____) shall be available for grants for local park rehabilitation and improvement to local governments on a per capita basis.

(c) ____ dollars (\$____) shall be available for grants for the restoration, preservation, and protection of regional parks and parklands, including state parks whose operation and management have been taken over by local or regional agencies, and other parks operated through cooperative agreements or pursuant to joint power authorities that include state and local agencies.

(d) ____ dollars (\$____) shall be available for restoration and preservation of existing state park facilities and units to preserve public access and to protect natural resources.

Article 5. Rivers, Lakes, and Streams

5883. The sum of ____ dollars (\$____) from the fund shall be available for the protection of rivers, lakes, streams, and their watersheds in accordance with the following schedule:

(a) Not less than ____ dollars (\$____) shall be available to match federal and local funds for the protection and restoration of the Los Angeles River parkway.

(b) Up to ____ dollars (\$____) shall be available to the Natural Resources Agency for the River Parkway Program.

(c) Up to ____ dollars (\$____) shall be available to fund statewide priorities to protect water quality, fish and wildlife, and other resources.

(d) ____ dollars (\$____) shall be available to the Department of Conservation for the protection and restoration of watersheds.

(e) ____ dollars (\$____) shall be available to the Department of Water Resources for establishment or enhancement of flood corridors to provide multiple public benefits.

Article 6. Coast and Ocean Protection

5884. The sum of ____ dollars (\$____) from the fund shall be available for the protection of beaches, bays, coastal, and ocean resources in accordance with the following schedule:

(a) ____ dollars (\$____) shall be available to the State Coastal Conservancy pursuant to Division 21 (commencing with Section 31000).

(b) ____ dollars (\$____) shall be available to the Ocean Protection Council pursuant to Division 26.5 (commencing with Section 35500).

(c) ____ dollars (\$____) shall be available for matching local and federal funds for the restoration of wetlands in the San Francisco Bay.

Article 7. Forests and Working Lands

5885. The sum of ____ dollars (\$____) from the fund shall be available for the protection of forests, working lands, and wildlife in accordance with the following schedule:

(a) ____ dollars (\$____) shall be available to the Sierra Nevada Conservancy for projects pursuant to Division 23.3 (commencing with Section 33300).

(b) ____ dollars (\$____) shall be available to the board for protection of forests, rangelands, and for wildlife protection pursuant to Chapter 4 (commencing with Section 1300) of Division 2 of the Fish and Game Code.

(c) ____ dollars (\$____) shall be available to the Department of Conservation for protection of working lands including for the purposes of the Farmland Conservancy Program.

Article 8. Regional Conservation Priorities

5886. ____ dollars (\$____) from the fund shall be available for protection, preservation, and restoration projects by state conservancies in accordance with their operating statutes to address regional conservation priorities throughout the state.

Article 9. Youth Employment in Conservation

5887. ____ dollars (\$____) from the fund shall be available to the California Conservation Corps, local conservation corps, and for grants to other organizations that provide youth employment opportunities in conservation for projects that protect and restore natural resources, improve access to parks, and provide employment and training opportunities to youth in disadvantaged communities.

Article 10. Urban Forestry and Sustainable Communities

5888. ____ dollars (\$____) from the fund shall be available for urban forestry, urban greening, and greenprint projects to support sustainable communities strategies.

Article 11. Fiscal Provisions

5889. (a) Bonds in the total amount of ____ dollars (\$____), or so much thereof as is necessary, not including the amount of any refunding bonds issued in accordance with Section 5895 may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal of, and interest on, the bonds as the principal and interest become due and payable.

(b) The Treasurer shall sell the bonds authorized by the committee pursuant to this section. The bonds shall be sold upon the terms and conditions specified in a resolution to be adopted by the committee pursuant to Section 16731 of the Government Code.

5889.5. The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), and all of the provisions of that law apply to the bonds and to this chapter and are hereby incorporated in this chapter as though set forth in full in this chapter, except subdivisions (a) and (b) of Section 16727 of the Government Code.

5890. (a) Solely for the purpose of authorizing the issuance and sale pursuant to the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code) of the bonds authorized by this chapter, the Safe Neighborhood Parks, Rivers, and Coastal Protection Finance Committee is hereby created. For purposes of this chapter, the Safe Neighborhood Parks, Rivers, and Coastal Protection Finance Committee is "the committee" as that term is used in the State General Obligation Bond Law.

(b) The committee consists of the _____, _____, _____, _____, and _____. Notwithstanding any other provision of law, any member may designate a representative to act as that member in his or her place for all purposes, as though the member were personally present.

(c) The _____ shall serve as chairperson of the committee.

(d) A majority of the committee may act for the committee.

5890.5. The committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter in order to carry out the actions specified in this chapter and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

5891. For purposes of the State General Obligation Bond Law, "board," as defined in Section 16722 of the Government Code, means the _____.

5891.5. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year. It is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act that is necessary to collect that additional sum.

5892. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

(b) The sum that is necessary to carry out the provisions of Section 5893.5, appropriated without regard to fiscal years.

5892.5. The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account in accordance with Section 16312 of the Government Code for the purpose of carrying out this chapter less any amount withdrawn pursuant to Section 5893.5. The amount of the request shall not exceed the amount of the unsold bonds that the committee has, by resolution, authorized to be sold for the purpose of carrying out this chapter. The board shall execute those documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated in accordance with this chapter.

5893. Notwithstanding any other provision of this chapter, or of the State General Obligation Bond Law, if the Treasurer sells bonds that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions or is otherwise entitled to any federal tax advantage, the Treasurer may maintain separate accounts for the bond proceeds invested and for the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

5893.5. For the purposes of carrying out this chapter, the Director of Finance may authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds that have been authorized by the committee to be sold for the purpose of carrying out this chapter less any amount borrowed pursuant to Section 5892.5. Any amounts withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund, with interest at the rate earned by the money in the Pooled Money Investment Account, from proceeds received from the sale of bonds for the purpose of carrying out this chapter.

5894. All money deposited in the fund that is derived from premium and accrued interest on bonds sold pursuant to this chapter shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest, except that amounts derived from premium may be reserved and used to pay the cost of bond issuance prior to any transfer to the General Fund.

5894.5. Pursuant to Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code, the cost of bond issuance shall be paid out of the bond proceeds, including premium, if any. To the extent the cost of bond issuance is not paid from premiums received from the sale of bonds, these costs shall be shared proportionately by each program funded through this chapter by the applicable bond sale.

5895. The bonds issued and sold pursuant to this chapter may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code, which is a part of the State General Obligation Bond Law. Approval by the voters of the state for the issuance of the bonds under this chapter shall include approval of the issuance of any bonds issued to refund any bonds originally issued under this chapter or any previously issued refunding bonds.

5895.5. The proceeds from the sale of bonds authorized by this chapter are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, and the disbursement of these proceeds is not subject to the limitations imposed by that article.

SEC. 3. Section 2 of this act shall take effect upon the approval by the voters of the Safe Neighborhood Parks, Rivers, and Coastal Protection Bond Act of 2014, as set forth in that section.



AGENDA BILL

Agenda Item No. 5(l)

Date: April 1, 2014
To: El Cerrito City Council
From: Sean Moss, Senior Planner
Margaret Kavanaugh-Lynch, Development Services Manager
Subject: Annual Progress Report on the General Plan 2013

ACTION REQUESTED

Staff is requesting that the City Council receive and file the attached General Plan Annual Progress Report.

BACKGROUND

Government Code Section 65400(b) requires that an annual General Plan progress report be provided to the local legislative body, the Governor's Office of Planning and Research (OPR), and the Department of Housing and Community Development (HCD). The purpose of the report is to discuss the City's progress in implementing the General Plan, meeting its share of regional housing needs, and removing governmental constraints to the maintenance, improvement and development of housing. This year's report covers the period between January 1, 2013 and December 31, 2013. The General Plan Annual Report was forwarded to the Planning Commission on March 19, 2014 and to the Governor's Office of Planning and Research and will be forwarded to the State Department of Housing and Community Development on April 2, 2014.

Reviewed by:

Scott Hanin
City Manager

Attachments:

1. Annual Progress Report on the General Plan 2013



Annual Progress Report on the General Plan 2013

March 2014

City of El Cerrito
Community Development Department
10890 San Pablo Avenue
El Cerrito, CA 94530

INTRODUCTION

As required by Government Code Section 65400 (b), every city must submit an annual progress report to their legislative body, the Governor's Office of Planning and Research (OPR), and the Department of Housing and Community Development (HCD) on the implementation status of their General Plan. The annual report must also include discussion on the City's progress in providing its required share of affordable housing pursuant to Government Code Section 65584 and its efforts to remove governmental constraints for the maintenance, improvement and development of affordable housing per Section 65583.c(3) of the California Government Code.

This General Plan Annual Progress Report covers the period from January 1, 2013 to December 31, 2013.

The purpose for the Annual Progress Report is to assess how the General Plan is being implemented in accordance with adopted goals, policies and implementation measures; identify any necessary adjustments or modifications to the General Plan as a means to improve local implementation; provide a clear correlation between land use decisions that have been made during the 12-month reporting period and the goals, policies and implementation measures contained in the General Plan; and, to provide information regarding local agency progress in meeting its share of regional housing needs.

BACKGROUND

On August 30, 1999, the El Cerrito City Council adopted the City's current General Plan for implementation. The General Plan has nine elements contained within four separate chapters: Community Development and Design, Transportation and Circulation, Public Facilities and Services, Resources and Hazards. The General Plan contains the seven state-required elements which are land use, circulation, housing, conservation, open space, safety and noise. The State allows the combining of elements or the addition of new elements as long as the required seven elements are present in some fashion.

The General Plan is the City's vision for achieving more balanced residential, commercial, and civic uses within the city. The process of preparing the General Plan took place in 1998 and 1999 as the City embarked on a program to bring its 1975 General Plan up to date so that it could better meet future challenges. The process resulted in the following ten key principles designed to improve the quality of development and the long-term fiscal health of the City so that it can remain an attractive place to live and work:

1. No major changes in land-use patterns are expected to occur.
2. Emphasis will be on quality of development.
3. Incentives, if used, will have clear criteria and limits.
4. Emphasis will be on impacts of development, not on the type of development itself.
5. Increased residential development, where allowed, must be done with care in order to enhance neighborhoods.
6. New development in the San Pablo Avenue Corridor will be encouraged to take place in mixed-use activity centers that may extend up selected perpendicular streets in order to allow a more pedestrian friendly environment.

7. The preservation and enhancement of natural features – trees, creeks, natural open space areas – and historical features will be a high priority for the City.
8. The City should have distinct destination areas, including commercial areas, a civic center and community meeting places.
9. Development should contribute to the fiscal health of the City while minimizing adverse impacts.
10. Access should be improved by balancing automobile use with improved transit, bicycle, and pedestrian opportunities.

The General Plan sets forth the City's policies regarding the types and locations of future land uses and activities. It describes the desired character and quality of development as well as the process for how development should proceed.

While this General Plan can address many City issues, factors beyond El Cerrito's control have significant influence over its future land use and development patterns:

- Market forces play an important role in determining what types of uses are economically feasible and, therefore, built.
- Land use and transportation decisions in other cities and counties, and by state and regional agencies, affect El Cerrito.
- Our system of property rights places certain limitations on what cities can do in prescribing future land uses.
- California environmental law requires that we designate land uses in accordance with available infrastructure capacity (streets, sewer, water, natural resources, etc.).

Thus in creating the current General Plan, El Cerrito went through a process that ascertained the community's values for future land uses and activities, and balanced these values with market factors, city revenues, environmental constraints, and private property rights.

The El Cerrito General Plan reflects the aspirations and values of El Cerrito's residents and their elected representatives. The City Council and Planning Commission use the Plan in considering land use and planning-related decisions. City staff use the Plan on a day-to-day basis to administer and regulate land use and development activity. Citizens can use the Plan to understand the City's approach to regulating development, protecting resources, and upholding community values.

GENERAL PLAN ADOPTION AND AMENDMENTS

1. Adoption Dates of Mandatory General Plan Elements

General Plan Element	Latest Adoption
Land Use	1999
Circulation	1999
Housing	2012
Open Space	1999
Conservation	1999
Safety	1999

2. List of General Plan Amendments

No General Plan amendments were made during the 2013 reporting period.

GENERAL PLAN UPDATES

1. General Plan Housing Element Update

On February 6, 2012, the 2007-2014 Draft Housing Element was adopted by City Council. The document was certified by the Department of Housing and Community Development on March 6, 2012.

2. Overall General Plan Update

Staff is generating a scope for a General Plan update to commence as soon as funding can be identified.

GENERAL PLAN IMPLEMENTATION

Chapter 4: Community Development and Design

Land Use

Goal LU1: A high-quality residential character within El Cerrito.

Goal LU2: A land use pattern and mix of uses that contribute to the financial health and stability of the community.

The City continued to implement the 2008 Zoning Ordinance which allows for a mix of commercial and residential uses, generally along the San Pablo Avenue corridor.

Goal LU3: A development pattern that enhances a strong sense of community.

The City continues to implement the Zoning Ordinance, recently updated in 2008. The revised ordinance puts a focus on more intense development in the “nodes” around the BART station and Civic Center areas as designated within the General Plan.

Goal LU4: A safe, attractive, and interesting community

During the 2013 reporting period, the City completed construction of safety improvements on Potrero Avenue at Interstate 80. The City also bid the construction contract for Central Avenue and Liberty Street Streetscape Improvements and Ohlone Greenway Major Street Crossing projects. These projects will enhance pedestrian and bicycle safety on Central Avenue and the Ohlone Greenway.

The City continued implementation of the San Pablo Avenue Streetscape Public Art Project that will move the City's identity forward through a public art project on the light poles that line San Pablo Avenue.

In 2013, BART continued the retrofit of the aerial BART structure through El Cerrito. BART began work on safety improvements to the Ohlone Greenway pursuant to the Ohlone Greenway Master Plan.

Goal LU5: A land use pattern and types of development that support alternatives for the movement of people, goods, and ideas.

In 2009, the city voters approved a bond measure (Measure A) to improve local streets. In 2013 Measure A funds were used to pay for street improvements such as paving, installation of curb ramps, and replacing damaged storm drain pipes throughout the City.

Goal LU6: Development patterns that promote energy efficiency, conservation of natural resources, and use of renewable rather than nonrenewable resources.

The City continues to implement the Zoning Ordinance recently updated in 2008. The revised ordinance puts a focus on more intense development in the “nodes” around the BART station and Civic Center areas as designated within the General Plan.

In May 2013, the City adopted a Climate Action Plan which identifies energy efficiency and efficient development patterns as methods to achieve the City’s greenhouse gas reduction targets.

Community Design

Goal CD1: A city organized and designed with an overall attractive, positive image and “sense of place.”

Goal CD2: A city with attractive, safe, and functional streets, parking areas, and pedestrian walkways.

In 2012, the City received a grant for a complete streets plan which will be part of the San Pablo Avenue Specific Plan. In 2013, the City continued the preparation of this plan.

Goal CD3: A city with attractive landscaping of public and private properties, open space, and public gathering spaces.

In 2013, the City bid the construction of the Ohlone Greenway Natural Area and Raingardens project which will improve landscaping on the Ohlone Greenway. The Design Review Board continues to review new landscaping plans on private properties.

Goal CD4: Well designed buildings that are compatible with their surroundings.

The City continued to implement the Design Review process pursuant to the Zoning Ordinance to ensure that new development is well-designed.

Goal CD5: A design process that achieves design objectives while being efficient and allowing for flexibility.

In 2013, the City continued to utilize the design review process to achieve the General Plan goals above. Design review in the City of El Cerrito is intended to encourage high-quality design, well-crafted and maintained buildings and landscaping, the use of higher-quality building materials, and attention to the design and execution of building details and amenities in both public and private projects.

Goal CD6: An urban form that sustains a vital commercial community to meet the diverse needs of the local and regional population.

Housing – see attachment for Housing Element annual report

Growth Management

Goal GM1: A coordinated regional and sub-regional planning system that provides better service and less congestion for residents of El Cerrito

In 2013, the City participated in the I-80 Integrated Corridor Mobility Project, a multi-agency effort to ease congestion on Interstate 80. This project is an effort of CalTrans in cooperation with ten municipalities, two transit agencies and four regional agencies.

Goal GM2: Compliance with applicable level of service standards.

In 2013, the City, through the CEQA review process, continued to ensure that new development meets the level of service standards in the General Plan.

Goal GM3: Timely review of projects that are heavy traffic generators.

All development projects processed by the City are evaluated against and comply with applicable level of service standards. All applications regardless of traffic generation are processed in a timely fashion.

Goal GM4: Effective community-wide programs to reduce traffic impacts of new projects.

In 2010, the Council directed staff to study ways of reducing traffic impacts from new development, with particular focus on balancing local and commuter traffic in the area around the Del Norte BART Station. As a result, the City initiated the Del Norte Transit Oriented Development Strategy. In 2011, this strategy led the City to crafting the Transit-Oriented Development Feasibility and Parking study, therefore, implementing the directive from Council. As a result, the study will be used as a reference to be incorporated into the San Pablo Avenue Specific Plan. The City continues to prepare the San Pablo Avenue Specific Plan as a means to address traffic impacts in the San Pablo Avenue corridor.

Goal GM5: An effective system of providing urban services.

The City, in partnership with Albany, Piedmont, San Pablo, and Strategic Energy Innovations (SEI), a local non-profit agency, participated in the Small Cities Climate Action Partnership. The central premise of the program is to create a model in which the four small cities will pool staff and consultant resources and aggregate the population base to support the implementation of common municipal and community emissions

reduction activities, while also supporting each jurisdiction to advance individual emissions reduction activities. As a result of the partnership the City was able to:

- Complete the Climate Action Plan, which was adopted in May 2013.
- Continued to implement a utility management protocol and monitoring system that will provide easily assessed information on city facility energy and water use.
- Conduct energy efficiency and/or clean energy retrofits of city facilities.
Completed installation of 324 kw of solar energy.

Chapter 5: Transportation and Circulation

Goal T1: A transportation system that allows safe and efficient travel by a variety of modes and promotes the use of alternatives to the single-occupant vehicle.

In 2010, the Public Works Department developed a Neighborhood Traffic Management Program (NTMP) to address resident concerns regarding speeding, high traffic volumes and pedestrian and bicycle comfort and safety in El Cerrito's neighborhoods. The NTMP was based on previous efforts in the City, guidance provided by the City's General Plan and City Council, policies and lessons learned from other jurisdictions, practices published by the transportation industry, and community input. In 2013 the ongoing NTMP process allowed neighborhoods and applicants to achieve safer streets through adding striping or speed bumps in neighborhoods.

In 2013, the Public Works Department completed engineering and traffic studies for remaining corridors to update enforceable speed limits.

In May 2013, the City sponsored an "Energizer Station" as part of Bike to Work Day, a regional effort to increase bicycling.

In May 2013, the City sponsored a Family Cycling Workshop at Harding School.

Goal T2: A land use pattern that encourages walking, bicycling, and public transit use.

The City continues to implement the Zoning Ordinance with a focus on Transit Oriented Development nodes. The Climate Action plan also envisions land use patterns that encourage alternative modes of transportation as a way of meeting the City's greenhouse gas reduction targets.

Goal T3: A transportation system that maintains and improves the livability of the City.

The Measure A Street Improvement Program, approved by El Cerrito voters on February 5, 2008, was initiated as an accelerated multi-year program to improve pavement conditions in El Cerrito and this effort culminated in 2010. The program was then continued as an annual maintenance and repair program aimed at keeping street conditions in the good category and addressing a handful of streets that still remained in the poor category. In 2013, the City leveraged outside funding for street projects and designed and bid the next round of Capital Improvement projects.

Goal T4: A minimum amount of land used for parking and minimal parking intrusion in neighborhoods.

The San Pablo Avenue Specific Plan is examining different methods of reducing parking in future development projects and minimizing the intrusions into neighborhoods. The Transit Oriented Development Feasibility and Parking study was funded and completed in 2011. The study will be used as a reference in completing the San Pablo Avenue Specific Plan. In 2013, the City continued the drafting of the San Pablo Avenue Specific Plan to incorporate strategies for reducing land used for parking in the Specific Plan Area.

Chapter 6: Public Facilities and Services

Parks, Recreations and Open Space

Goal PR1: Adequate, diverse, and accessible recreational opportunities for all residents – including children, youth, seniors, and others with special needs – in parks, school yards, and open space.

To provide better recreational opportunities for the City's youth, the City has created after-school band programs at all Elementary Schools in the City. These programs replace previous school program which was cut due to funding shortages.

In conjunction with the City of Albany, the City of El Cerrito sponsored a community event called "Alberrito Streets." A section of Ashbury Avenue/Key Route Boulevard that runs through the two cities was closed to automobile traffic. The event featured classes and workshops tailored to various interests and age groups. The also City sponsored an additional "streetplay" event near the intersection of Conlon Avenue and Key Boulevard.

In 2013, the City continued to sponsor the popular worldOne 4th of July Festival at Cerrito Vista Park. The event features programs and activities for diverse audiences. The City also continued to sponsor various community film events at the Rialto Cinemas Cerrito Theatre and City Hall over the course of 2013.

The City offers ESL conversation classes at the El Cerrito Community Center. The City continues to offer a range of programs for seniors at the Senior Center as well as a range of programs for youth at various City facilities.

Goal PR2: High quality open space protected for the benefit of present and future generations, reflecting a variety of important values: ecological, educational, aesthetic, economic and recreational. These values are interwoven throughout the community in numerous ways so that the preservation of open space is very important to the well being of the City.

The City received a grant for improvements to the Ohlone Greenway south of the El Cerrito Plaza BART Station in 2010. The Ohlone Greenway Urban Natural Area and Raingardens project is intended to enhance community, environmental quality and neighborhood livability through integrating additional ecological and community functions along the Greenway. The project completed the design phase and went to bid in 2013. Completion of the project is expected in September 2014. The project's design includes elements to treat urban stormwater runoff; create an informal play and gathering area;

improve walkability; utilize and demonstrate low-maintenance, low water using native landscaping; improve riparian habitat; and foster connection to nature in an urban and accessible location adjacent to neighborhoods, schools, retail, transit and future development.

In 2012, the City was awarded a grant to prepare an Urban Greening plan for El Cerrito. The preparation of the Urban Greening Plan continued in 2013.

Goal PR3: Public access to open space areas while protecting important habitats.

In 2013, the City entered into a Purchase and Sale Agreement with the Trust For Public Land for the acquisition of the 8-acre Madera Hillside Open Space property. This property is adjacent to the City's Hillside Natural Area and provides a unique opportunity to connect Hillside Natural Area North to Hillside Natural Area South.

Non-Recreational Facilities

Goal CF1: Safe and adequate community facilities that allow the City to offer better services and inspire a sense of community pride.

In 2013, the City continued to enhance operations at the new Recycling and Environmental Resources Center which was completed in 2012. This project was funded entirely from the City's Integrated Waste Management Fund. With the 2009 change in the method of collection to a single stream (also known as "fully commingled") method with the larger carts instead of a small sorted bin method that had been in place for years, the amount and variety of recyclables has increased. Also the decision to discontinue sorting recyclables at the Center, and instead taking them directly to the recycling processor, eliminates the need for a sorting area. This reduced the size and cost of the facility, and allows for a greater focus on community education and drop-off for items that are difficult to recycle such as florescent lights, electronics and items that could be reused.

The City continued to serve the community from the City Hall which was completed in 2009 and allows

Public Services and Infrastructure

Goal PS1: An adequate, comprehensive, coordinated law enforcement system consistent with the needs of the community.

In 2013, the City of El Cerrito continued it's participation in National Night Out as a way to promote anti-crime programs in the City. The El Cerrito Police Department conducted a Citizen's Academy in September 2013. The City also participated in Tri-City Safety Day in conjunction with the City of Albany and the Community of Kensington in September 2013.

Goal PS2: A community that has minimized the risks to lives and property due to fire hazards.

El Cerrito's comprehensive fire hazard reduction program focuses upon reducing fire hazards in four areas: (1) on City property, (2) on property owned by other agencies (3) large landowners, and (4) on residential property.

The fire hazard abatement program is designed to reduce fire hazards on a large number of private properties during the spring and early summer months. A process of advance notice and hearings for property owners is coupled with a public education program involving the promulgation of standards for vegetation management in residents' yards and vacant lots.

This program seeks to remove weeds, rubbish, litter or other flammable material from private properties where such flammable material endangers the public safety by creating a public nuisance and a fire hazard. Most property owners voluntarily abate these hazards without Fire Department involvement. Ideally, 100% of the property owners would do so. We anticipate that a small number of owners are content to have the City do the work and place the costs on their tax bill.

Over the past eighteen years, the City's annual fire hazard abatement program has been very successful in reducing fire hazards throughout the hill neighborhoods of El Cerrito.

Goal PS3: Safe and adequate public infrastructure to serve El Cerrito's residents, now and in the future.

As mentioned previously, the City continued implementation of the Street Paving Project funded by Measure A.

Goal PS4: An adequate storm drainage system to serve existing and future planned development

In March 1993, the voters of the City of El Cerrito approved the issuance of \$6.3 million in revenue bonds for the reconstruction of the City's storm drain system. In June 1993, the City Council adopted Ordinance 93-4, providing for the imposition and collection of Storm Drain Fees to pay the debt service on the revenue bonds. Ordinance 93-4 set the Storm Drain Fee and provided that the fees be collected through the property tax based on amounts specified in an annual Engineer's report. This Engineer's report contains the description of each parcel of real property receiving storm drain services and the amount of the annual fee for each parcel. The City held its required annual public hearing to consider the method of collecting the City Storm Drain Fee on May 21, 2013.

Goal PS5: A system that minimizes the City's generation and disposal of solid waste materials by providing an adequate and integrated waste management program and related facilities to serve existing and future planned development.

In 2012, the City completed construction of the Recycling and Environmental Resource Center. The Center allows the City to improve collection for all constituents. In addition to the City's continued curb-side pickup program, the Recycling and Environmental Resource Center provides convenient drop-off facilities. The Center allows the City to expand the range of items accepted for disposal. The Center has expanded the items that the City is able to accept, including compact fluorescent light bulbs and styrofoam. The Center has been designed as a facility that will provide maximum flexibility to meet future, changing waste disposal needs. In addition, in 2013 the City held an e-waste

recycling event and conducted a compost giveaway program at the new Center. In 2013 the City again sponsored citywide garage sale events, which allowed additional goods to be diverted from landfills.

Chapter 7: Resources and Hazards

Natural and Historic Resources

Goal R1: Protected natural resources (important habitat, ecological resources, key visual resources, ridges and ridgelines, creeks and streambanks, steeper slopes, vista points, and major features), and clean air and water.

The Energy and Water Efficiency Program (EWEP) was begun in 2009 in which projects are developed that will save on non-renewable resources. The first few years of cost savings are then reinvested into other projects that will save even more resources.

In 2011 in conjunction with the Cities of Albany, Piedmont, and San Pablo, the City conducted an evaluation of solar energy resources for civic buildings. In 2013, the City completed installation of solar panels at five City facilities.

Goal R2: Protected and rehabilitated architectural, historical, cultural, and archaeological resources that are of local, state, or federal significance.

In 2013, the City prepared an Environmental Impact Report for the Eden Housing San Pablo Mixed Use Senior Apartments project. This EIR identified the former Contra Costa florist shop as a resource eligible for listing on the State Register. The florist shop will be preserved, rehabilitated, and enhanced with interpretive materials as part of the project which was approved by the Planning Commission in December 2013.

Hazards

Goal H1: Minimal potential for loss of life, injury, damage to property, economic and social dislocation and unusual public expense due to natural and man-made hazards, including protection from the risk of flood damage, hazards of soil erosion, fire hazards, weak and expansive soils, potentially hazardous soils materials, other hazardous materials, geologic instability, seismic activity, and release of hazardous materials from refineries and chemical plants in West County.

In 2013, the City continued to oversee the residential rental inspection program.

The City also continued implementation of the Unreinforced Masonry (URM) building hazard mitigation ordinance. The City continues to work with property owners to permit retrofit work for URM buildings.

Goal H2: Government agencies, citizens and businesses are prepared for an effective response and recovery in the event of emergencies or disasters.

In 2013, the Fire Department continued the very popular Community Emergency Response Team (CERT) program. The program teaches neighbors to help themselves

and help each other. Through CERT, citizens receive hands-on training in Disaster First Aid, Disaster Preparedness, Basic Firefighting, Light Search and Rescue, Damage Assessment, and How to Turn Off Utilities.

The Fire Department has also continued internal National Incident Management System (NIMS) and the Incident Command System (ICS) training for City staff. Through the training, staff members directly involved in managing an emergency will understand command reporting structures, common terminology, and roles and responsibilities inherent in a response operation.

Goal H3: New development complies with the noise standards established in the General Plan, all new noise sources are within acceptable standards, and existing objectionable noise sources are reduced or eliminated.

All new development is evaluated under CEQA using the noise standards currently in the General Plan. These noise standards were incorporated into updated Zoning Ordinance in 2008 as performance standards required of all development.

CONCLUSION

To date, staff believes the City has continued to faithfully implement the City's 1999 General Plan as the actions, plans, programs and projects documented in this report represent the City's commitment to achieve the goals and objectives set forth in the elements of the El Cerrito General Plan.

ATTACHMENTS:

1. HCD - Housing Element Annual Report

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
 (CCR Title 25 §6202)

Jurisdiction City of El Cerrito

Reporting Period 1/1/2013 - 12/31/2013

Table A

Annual Building Activity Report Summary - New Construction
Very Low-, Low-, and Mixed-Income Multifamily Projects

Housing Development Information								Housing with Financial Assistance and/or Deed Restrictions		Housing without Financial Assistance or Deed Restrictions	
1	2	3	4				5	5a	6	7	8
Project Identifier (may be APN No., project name or address)	Unit Category	Tenure R=Renter O=Owner	Affordability by Household Incomes				Total Units per Project	Est. # Infill Units*	Assistance Programs for Each Development	Deed Restricted Units	Note below the number of units determined to be affordable without financial or deed restrictions and attach an explanation how the jurisdiction determined the units were affordable. Refer to instructions.
			Very Low- Income	Low- Income	Moderate- Income	Above Moderate- Income			See Instructions	See Instructions	
(9) Total of Moderate and Above Moderate from Table A3 ▶			0	10							
(10) Total by income Table A/A3 ▶ ▶						10					
(11) Total Extremely Low-Income Units*			0								

* Note: These fields are voluntary

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
 (CCR Title 25 §6202)

Jurisdiction City of El Cerrito
Reporting Period 1/1/2013 - 12/31/2013

Table A2

Annual Building Activity Report Summary - Units Rehabilitated, Preserved and Acquired pursuant to GC Section 65583.1(c)(1)

Please note: Units may only be credited to the table below when a jurisdiction has included a program in its housing element to rehabilitate, preserve or acquire units to accommodate a portion of its RHNA which meet the specific criteria as outlined in GC Section 65583.1(c)(1)

Activity Type	Affordability by Household Incomes				(4) The Description should adequately document how each unit complies with subsection (c)(7) of Government Code Section 65583.1
	Extremely Low-Income*	Very Low-Income	Low-Income	TOTAL UNITS	
(1) Rehabilitation Activity	0	0	0	0	
(2) Preservation of Units At-Risk	0	0	0	0	
(3) Acquisition of Units	0	0	0	0	
(5) Total Units by Income	0	0	0	0	

* Note: This field is voluntary

Table A3

**Annual building Activity Report Summary for Above Moderate-Income Units
 (not including those units reported on Table A)**

	1. Single Family	2. 2 - 4 Units	3. 5+ Units	4. Second Unit	5. Mobile Homes	6. Total	7. Number of infill units*
No. of Units Permitted for Moderate						0	
No. of Units Permitted for Above Moderate	1			9		10	10

* Note: This field is voluntary

Enter Calendar Year starting with the first year of the RHNA allocation period. See Example.			2007	2008	2009	2010	2011	2012	2013	2014		Total Units to Date (all years)	Total Remaining RHNA by Income Level
Income Level		RHNA Allocation by Income Level	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8			
Very Low	Deed Restricted	93			28							28	65
	Non-deed restricted												
Low	Deed Restricted	59	9									9	50
	Non-deed restricted												
Moderate	Deed Restricted	80	10		28							38	42
	Non-deed restricted												
Above Moderate		199	147	6	9	7	2	5	10			186	13
Total RHNA by COG. Enter allocation number:		431										261	170
Total Units ▶▶▶			166	6	65	7	2	5	10				
Remaining Need for RHNA Period ▶▶▶▶▶													

ANNUAL ELEMENT PROGRESS REPORT

Attachment 1

Housing Element Implementation

(CCR Title 25 §6202)

Jurisdiction: El Cerrito
Reporting Period: 2013

Table C
Program Implementation Status - Certified HE 2012

Program Description (By Housing Element Program Names)		
Name of Program	Deadline in HE	Status of Implementation
Program 1.1 - Continue to implement the Residential Rental Inspection Program	Ongoing	New cycle started in 2013
Program 1.2 - Continue to investigate complaints and take action about rental housing code violations	Ongoing	Ongoing
Program 1.3 - Continue to encourage the rehabilitation of existing housing units by providing program information	2010	Information available to the public at the front counter
Program 1.4 - Continue to permit new housing units & rehabilitation in mixed use & commercial zoning districts	Ongoing	Allowed for by Zoning Ordinance
Program 1.5 - Continue to regulate condominium conversions	Ongoing	Mandated by Zoning Ordinance
Program 1.6 - Continue to regularly monitor assisted housing units to help preserve existing stock of affordable housing	Annual	Annual monitoring completed in 2013
Program 1.7 - Continue to enforce notification requirements on BMR and Section units	Ongoing	Mandated by Zoning Ordinance
Program 1.8 - Annual review of the City Capital Improvements Program (CIP)	Annual	The Planning Commission reviewed and certified the CIP in 2013.
Program 2.1 - Retain existing residential zoning and discourage non-residential uses	Ongoing	Mandated by Zoning Ordinance
Program 3.1 - Consider enacting additional incentive programs to encourage retrofit of seismically unsafe buildings	Ongoing	Ongoing
Program 3.2 - Explore possible funding sources to minimize financial impact of retrofits on low/mod income residents	Ongoing	Ongoing
Program 4.1 - Conduct an annual evaluation of the City's inventory of available sites	Annual	To be completed by end of 2014
Program 5.1 - Maintain General Plan designations for mixed use and high density housing	Ongoing	Ongoing
Program 6.1 - Continue to fast track processing for second units meeting established City standards	Ongoing	Allowed for by Zoning Ordinance
Program 6.2 - Consider the establishment of a "pre-approved" second unit program.	2012-2013	Evaluating Santa Cruz second unit program
Program 7.1 - Continue to implement City regulations that allow manufactured and prefab housing in residential districts	Ongoing	Allowed for by Zoning Ordinance
Program 8.1 - Continue to identify underutilized properties where transit oriented development can occur.	Ongoing	Ongoing
Program 9.1 - Use existing zoning regulations to allow innovative approaches to increasing affordable housing.	Ongoing	Allowed for by Zoning Ordinance
Program 10.1 - Revise the Zoning Ordinance to include housing size diversity standards	2012	To be analyzed with annual ZO update in 2014
Program 11.1 - Continue to enforce the Zoning Ordinance which provides incentives for affordable housing	Ongoing	Mandated by Zoning Ordinance
Program 11.2 - Continue to inform developers about and allow density bonuses	Ongoing	Ongoing

Table C
Program Implementation Status - Certified HE 2012

Attachment 1

Program Description (By Housing Element Program Names)		
Name of Program	Deadline in HE	Status of Implementation
Program 12.1 - During the annual Master Fee Schedule revision, evaluate development fees.	Annual	Fees were updated with Master Fee Schedule as part of 2013 Budget
Program 13.1 - Streamline the application process by continuing to offer interdepartmental team meetings for applicants	Ongoing	Ongoing
Program 14.1 - Continue to enforce the Zoning Ordinance and encourage Transit Oriented development	Ongoing	Ongoing
Program 15.1 - Assist developers in obtaining state and federal funding available to develop affordable housing	Ongoing	Ongoing
Program 15.2 - Continue to enforce Federal and State Accessibility and Adaptability standards	Ongoing	Required by Building Code
Program 15.3 - Continue to fast track inspection processes for large family and special needs housing.	Ongoing	Ongoing
Program 15.4 - Continue to encourage and support development of senior housing	Ongoing	Ongoing
Program 15.5 - Facilitate the provision of housing that supports 'aging in place' for the City's senior population	Ongoing	The Planning Commission approved 56 units of "age in place" senior housing in December 2013.
Program 15.6 - Update the Zoning Ordinance to include a definition of transitional and support housing	2012	To be completed with annual ZO update in 2014
Program 16.1 - Assist in the development of extremely low-, very low-, low- and moderate income housing	Ongoing	Ongoing
Program 16.2 - Study the feasibility of an inclusionary housing ordinance	2012	Under development
Program 16.3 - Encourage developers to leverage limited Housing Funds with other assistance	Ongoing	Ongoing
Program 17.1 - Continue to allow emergency and transitional housing as a permitted use within the CC zone	Ongoing	Mandated by Zoning Ordinance
Program 17.2 - Consult with other agencies to maintain 2007-2014 demand estimate for emergency housing	Ongoing	Ongoing
Program 17.3- Coordinate with the County and cities to develop the annual 5-year consolidated plan	Ongoing	Ongoing
Program 18.1 - Look for opportunities with non-profits and other cities to expand the City's supply of affordable housing	Ongoing	56 units of affordable housing were approved in 2013
Program 19.1 - Continue to provide non-discrimination clauses in rental agreements and deed restrictions	Ongoing	Ongoing
Program 19.2 - Reasonable Accommodation procedures	Ongoing	Required by Building Code
Program 19.3 - Continue the City's participation in the Contra Costa Urban County CDBG Consortium.	Ongoing	Ongoing
Program 19.4 - Continue to allow emergency, transitional and supportive housing as a permitted use within the CC zone	Ongoing	Mandated by Zoning Ordinance
Program 20.1 - Develop an energy conservation strategy	2011	The City adopted a Climate Action Plan in 2013
Program 21.1 - Continue to enforce the State Energy Conservation Standards	Ongoing	Mandated by Building Code
Program 22.1 - Develop policies consistent with AB32 and SB375 to establish common thresholds for green buildings	2011	The City adopted a Climate Action Plan in 2013 with goals for such projects.
Program 23.1 - Continue to provide for increased density, reduced parking and design and development standards	Ongoing	Allowed for by Zoning Ordinance



AGENDA BILL

Agenda Item No. 6

Date: April 1, 2014

To: El Cerrito City Council

From: Sean Moss, Senior Planner
Margaret Kavanaugh-Lynch, Development Services Manager

Subject: Appeal of the Planning Commission's action regarding the Design Review of a wireless telecommunication facility on a utility pole near 7800 Eureka Avenue.

RECOMMENDATION

Conduct a public hearing and upon conclusion adopt a resolution denying an appeal of the Planning Commission's approval of the Design Review for a wireless telecommunications facility on an existing utility pole near 7800 Eureka Avenue.

BACKGROUND

On January 10, 2013 New Cingular Wireless PCS, LLC, doing business as AT&T Mobility submitted six applications for wireless telecommunications facilities at the locations of existing utility poles in the southern portion of El Cerrito. On May 23, 2013, the applicant withdrew one application near 859 Gelston Place. The remaining five applications are proposed as part of a distributed antenna system (DAS) that will cover a large portion of the East Bay hills. The applicant is currently processing applications in Oakland, Berkeley, and Kensington for other portions of the network.

The Design Review Board conducted Conceptual Review of the project at their May 1 meeting. The DRB comments generally centered around the aesthetics of the existing poles and whether the Board could require the applicant to replace the poles with a certain type of pole (e.g. concrete).

The Planning Commission approved conditional use permits to allow all five wireless telecommunications facilities at their June 19, 2013 meeting. The Planning Commission's approval of the facility near 851 Seaview Drive was appealed to the City Council and the appeal was heard on August 20, 2013. The City Council denied the appeal and upheld the Planning Commission's decision, adding additional conditions of approval. Due to the appeal of this application, it is no longer on a concurrent process with the remaining four applications.

On August 7, 2013, the Design Review Board considered the four remaining applications and denied each application. The resolution of denial for the project near 7800 Eureka Avenue is Attachment 4.

On August 19, 2013 the applicant appealed the DRB's denial of the four applications. The applications appeared on the December 18, 2013 Planning Commission agenda. Just prior to this meeting, the applicant submitted an additional letter related to the appeals of the four applications. Due to the late receipt of this letter, the applicant agreed to continue the appeals to the January meeting to allow staff time to address the additional information in the letter. The appeals appeared on the Planning Commission's January 15, 2014 agenda, however prior to the meeting, the applicant requested that the items be continued to a future meeting.

The Planning Commission formally considered the appeal of the DRB's denial of the four applications on February 19, 2014. Upon reviewing the appeals, the Commission determined that some of the Design Review Criteria were not applicable to wireless telecommunications facilities on utility poles. The Commission determined that the projects met the remaining, applicable Design Review Criteria and granted the appeals of all four applications, thus approving the projects. The Planning Commission's findings of approval can be found in the resolution in Attachment 5.

On March 3, 2014, John Spriggs filed an appeal of the Planning Commission's Design Review decision for the application near 7800 Eureka Avenue. The Planning Commission actions for the remaining applications (near 909 Balra Drive, 762 Colusa Avenue, and 202 Seaview Drive) were not appealed and those actions became in force on March 4 after the appeal period expired.

CONTEXT OF THE APPEAL

Procedure for Appeals

Pursuant to Section 19.39.040.D, appeals of the Planning Commission are considered by the City Council. Pursuant to Section 19.39.040.F, the City Council may: 1) conduct a public hearing; or 2) remand the matter back to the Planning Commission to cure a deficiency in the record or the proceedings. In conducting a public hearing on the appeal, the City Council must use the same standards of review required for the original decision (Section 19.39.050). Therefore, City Council must evaluate the appeal based on the Design Review findings in Section 19.38.060 and contained in the draft resolution in Attachment 1. The subject appeal is an appeal only of the Design Review decision made by the Planning Commission. The Use Permit for this project was approved by the Planning Commission on June 19, 2013. The Use Permit was not appealed and it remains in force.

Appeals are de novo, which means the City Council may consider new evidence not presented during the original public hearing and may make findings different from those made by the Planning Commission. The standard for review of these appeals is whether the City Council can make the findings required for Design Review pursuant to Section 19.38.060. The Council may rely on the Planning Commission's findings, but must decide for itself if those findings are appropriate. If the Council finds that it agrees with the Planning Commission's findings or that it can make alternate findings of approval, then the the Council should deny the appeals and uphold the Planning Commission's decision to deny the appeal and approve Design Review for the project. If the Council determines that the Design Review findings in Section 19.38.060 cannot be made, it

should grant the appeal and overturn the Planning Commission's Design Review approval.

The required Design Review findings in Section 19.38.060 are as follows:

A. Findings for Approval. The Zoning Administrator or Design Review Board may only approve a final design review application if it finds that the application is consistent with the purposes of this Chapter and is consistent with:

1. *The applicable standards and requirements of this Zoning Ordinance;*
2. *The design policies of the General Plan and specific plans adopted by City Council;*
3. *Any applicable design guidelines adopted by the City Council;*
4. *The design review criteria set forth in the following subsection;*
5. *Any planning or zoning approvals by the Planning Commission or Zoning Administrator;*
6. *Any other relevant policies or regulations of the City.*

B. Design Review Criteria. When conducting design review, the Zoning Administrator and the Design Review Board shall be guided by whether the project satisfies all applicable criteria, the policies of the General Plan's Community Design Element, and by any other policies or guidelines that may be adopted by the City Council for this purpose. Criteria listed below are specific criteria that, if applicable, all projects must satisfy for approval.

1. *The aesthetic design, including its exterior design and landscaping, is appropriate to the function of the project and will provide an attractive and comfortable environment for occupants, visitors, and the general community.*
2. *Project details, colors, materials, and landscaping, are fully integrated with one another and used in a manner that is visually consistent with the proposed architectural design.*
3. *The project has been designed with consideration of neighboring development.*
4. *The project contributes to the creation of an attractive and visually interesting built environment that includes well-articulated structures that present varied building facades, rooflines, and building heights and encourages increased pedestrian activity and transit use.*
5. *Street frontages are attractive and interesting for pedestrians, address the street and provide for greater safety by allowing for surveillance of the street by people inside buildings and elsewhere.*

6. *The proposed design is compatible with the historical or visual character of any area recognized by the City as having such character.*
7. *The aesthetic design preserves significant public views and vistas from public streets and open spaces and enhances them by providing areas for pedestrian activity.*
8. *The proposed landscaping plan is suitable for the type of project and will improve the appearance of the community by enhancing the building, minimizing hardscape and softening walls; and the landscape plan incorporates plant materials that are drought-tolerant, will minimize water usage, and are compatible with El Cerrito's climate.*
9. *The project has been designed to be energy efficient including, but not limited to, landscape design and green or eco-friendly design and materials.*
10. *The project design protects and integrates natural features including creeks, open space, significant vegetation, and geologic features. Projects along the Ohlone Greenway shall enhance the usability and aesthetic appeal of the Greenway by integrating it into the fabric of the City through building designs that include entries, yards, patios, and windows that open onto and face the Ohlone Greenway.*

Federal Telecommunications Act

The regulation of wireless telecommunications facilities by local jurisdictions is governed by the Federal Telecommunications Act of 1996 as well as by local ordinance. The Telecommunications Act prevents local jurisdictions from “prohibit[ing] or hav[ing] the effect of prohibiting the provision of personal wireless services.” In addition, the Act states that cities “shall not unreasonably discriminate among providers of functionally equivalent services.” Under the Act, the City must allow all wireless providers a means of providing coverage to El Cerrito. This does not mean that if the City permits AT&T to install DAS nodes on utility poles that the City would be required to waive the public review process for the similar sites of other wireless providers. Any future proposals for wireless telecommunications facilities would be subject to the public process stipulated in Chapter 19.28 of the El Cerrito Municipal Code. The Telecommunications Act also prohibits cities from regulating wireless telecommunications facilities based on health effects or concerns. The Act states, “no State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the [Federal Communications] Commission's regulations concerning such emissions.”

El Cerrito General Plan

All development projects are reviewed in the context of the goals of the El Cerrito General Plan. The Planning Commission found that the proposed project would implement the following policies of the General Plan: LU4.2: Availability of Goods and Services, CD5.1: Design Review Process, CD6: Affordable Commerce, PS3.3:

Upgrading Infrastructure. In addition to upgrading the City's communication infrastructure for residents, the proposed facility will provide infrastructure necessary for many home based businesses and will enhance the opportunity for these businesses to establish near the facility, consistent with the goals of the General Plan.

El Cerrito Zoning Ordinance

Within the regulatory framework of the Telecommunications Act, Chapter 19.34 of the El Cerrito Municipal Code governs wireless telecommunications facilities. However, the Use Permit for this facility has been approved pursuant to this chapter. This appeal is of the Design Review approval for the facility. Therefore, the applicable chapter is 19.38: Design Review. The relevant findings for Design Review were listed above in the section titled "Procedure For Appeal."

Project Description

The DAS node is proposed to be located on top of the existing utility pole near 7800 Eureka Avenue. A 7-foot extension would be added to the top of the pole. The proposed antennas are approximately 2 feet tall would be mounted at the top of the extension or the new pole. The top of the antennas would sit approximately 3 feet above the top of the pole extension, extending the top of the utility pole structure by a total of 10 feet. All equipment for the facility would be mounted on the pole. No equipment would be ground mounted. The applicant has verbally stated that they shall paint the proposed antennas and equipment brown to match the color of the utility poles. Staff is proposing a condition of approval to ensure compliance of this statement. Since the DRB considered the project, the applicant has revised the proposal slightly to reconfigure the locations of the pole-mounted equipment. The top of the equipment is not proposed to be any higher and the bottom of the equipment is not proposed to be any lower than what was originally proposed.



Existing utility pole near 7800 Eureka Avenue.

In order to give the Council an idea of what the facilities would look like, staff visited similar DAS nodes that have been installed in the East Bay by T-Mobile. The site nearest to El Cerrito is near 1215 Santa Fe Avenue in Berkeley at the intersection Key Route Boulevard, on the border with Albany. This site is visible from BART trains. Other nearby sites include Cedar Street at Juanita Way, near Cedar Rose Park and Dwight Way at California Street. Photos of two of these sites are included below. These sites are slightly different from the proposed AT&T nodes in that the T-Mobile sites use omni-directional antennas which are cylindrical in shape. The coverage that AT&T is attempting to provide with the proposed nodes has informed the applicant's decision to propose two directional antennas per node. Coverage in all directions is not required and the applicant wishes to limit the loss of signal toward the bay and other areas where coverage is not needed. The existing examples of DAS nodes mentioned above are good examples of the scale of the proposed facilities. The pole extensions that these nodes are mounted on are approximately the same height as the extensions that AT&T is proposing. The T-Mobile antennas appear to be taller than the proposed AT&T antennas.

Other examples of proposed DAS nodes are presented by recent AT&T applications for DAS nodes in Kensington (unincorporated Contra Costa County). In this example, AT&T revised the initial submittal, for sites where it was feasible (2 of 6 sites), to lower the elevation of the antenna on the pole. The antenna projects off the side of the pole below the existing PG&E lines. This configuration is shown on the photo simulations on the following page. The California Public Utilities Commission (CPUC) requires a minimum separation of 6 feet between the proposed DAS antennas and the existing PG&E lines. As a result, on one of these two sites, the pole would be raised by approximately 2 feet to provide the clearance required for the proposed DAS antennas.



DAS node near 1215 Santa Fe Avenue, Berkeley



DAS node near Dwight Way and California Street, Berkeley



Photo simulations of the proposed DAS node near 4 Stratford Road in Kensington

Design Review Board Denial

In August, the Design Review Board reviewed four applications for DAS nodes, including the 7800 Eureka node. The DRB denied all four applications because the Board felt that the Design Review findings could not be made. In reviewing the projects, the DRB was primarily concerned with the aesthetics of the projects. The Board stated that the poles were already cluttered and that these projects would add clutter to the poles and therefore move the City in the wrong direction with regard to attractiveness. Specifically, the Board could not find that the project satisfied the following Design Review Criteria in Section 19.38.060.B of the Zoning Ordinance:

1. *The aesthetic design, including its exterior design and landscaping, is appropriate to the function of the project and will provide an attractive and comfortable environment for occupants, visitors, and the general community.*
4. *The project contributes to the creation of an attractive and visually interesting built environment that includes well-articulated structures that present varied building facades, rooflines, and building heights and encourages increased pedestrian activity and transit use.*

In denying the project, the DRB determined the following:

1. *The additional clutter created by the proposed project will have a detrimental effect on the attractiveness of the community. The project will create a less attractive environment for the general community.*
2. *The project would be unattractive and inconsistent with the neighborhood and, therefore, would not contribute to the creation of an attractive and visually interesting built environment.*

Planning Commission Approval

The applicant filed an appeal of the Design Review Board denials and the Planning Commission considered the Design Review applications on February 19. The Commission, in reviewing the Design Review Criteria, concluded that some of the Design Review Criteria were not applicable to the projects and thus the findings could be made.

The following are the findings the Planning Commission made related to the Design Review Criteria. The complete findings can be found in the resolution in Attachment 5:

4. *The design is appropriate for a wireless telecommunications facility. The project will increase the height of the existing utility pole. However, the extension and the proposed facility will be consistent with the existing aesthetics of the pole.*
5. *The facility and all associated equipment will be painted to match the existing pole.*
6. *The proposed project minimizes the size of the antennas required to provide wireless service to El Cerrito and minimizes the need for larger facilities with larger antennas.*
7. *The project does not propose any buildings and there for will not have building facades, rooflines, or building heights. This finding is not applicable.*
8. *The project will be located on top of an existing utility pole. The project does not propose any buildings with street frontage. This finding is not applicable.*
9. *The project is not in an area recognized as having historical or visual character. This finding is not applicable.*
10. *The project has been sited to minimize view blockage. Since the facility will be located at the top of the pole, far above street level, it will not impact public vistas from the street on which it is located.*
11. *No new landscaping is proposed as part of this project. This finding is not applicable.*

12. *The proposed project will consume the amount of energy required to operate the site in compliance with FCC standards.*
13. *The project is not adjacent to natural features or the Ohlone Greenway. This finding is not applicable.*

Justification for Appeals

In the appellant's letters of appeal dated March 3, 2014 (Attachment 2), the following reasons were given for filing the appeal. Each of the justifications given for the appeal is addressed below:

1. *The El Cerrito Planning Commission made procedural errors at the February 19, 2014 meeting.*

The appellant contends that the facility at 7800 Eureka Avenue is proposed on a new utility pole, while the Planning Commission's resolution referred to the facility being installed on an existing pole.

This contention is incorrect. The submitted plans (Attachment 6) show that the facility will be installed atop a 7-foot extension of the existing utility pole. The Planning Commission's resolution (Attachment 5) correctly referred to the project as "a wireless telecommunication facility on an existing utility pole."

2. *The proposed DAS is not necessary for El Cerrito resident, but is designed to relay signals to Kensington.*

The City of El Cerrito staff must rely on the applicant to respond to technical discussion points. The applicant has informed staff that although AT&T is seeking to deploy DAS across a large portion of the East Bay Hills, each DAS node would function as an independent site providing wireless coverage to its immediate area. The proposed nodes do allow calls from moving vehicles to transition from one facility to another, just as the macro installations do. The submitted propagation maps show a gap in coverage in the area of the proposed facility near 7800 Eureka Avenue.

3. *There is no independent evidence that the proposed DAS is necessary to fill existing coverage gaps and no independent evidence that the proposed DAS will be beneficial to the City of El Cerrito.*

As part of the application, the applicant submitted materials demonstrating a gap in coverage in the vicinity of the proposed DAS node as required by the Zoning Ordinance. City Staff have verified the information submitted with the application to the extent of the staff's ability. This agenda bill as well as the numerous other staff reports for this project and the other DAS nodes proposed by AT&T contain the staff's analysis of the applications. The Zoning Ordinance does not require the applicant to submit third party verification of the propagation maps that they submit. The Zoning Ordinance does require the applicant to submit engineering calculations that show that the facility will

comply with FCC standards. The calculations for this project was prepared by AT&T's engineer, William Hammett of Hammett and Edison Consulting Engineers.

The project will provide increased wireless coverage in El Cerrito, including 4G LTE coverage. In the Planning Commission's approval of the Use Permit for the project, they relied upon the benefit of increased coverage to make certain findings required for approval of the Use Permit.

This appeal is an appeal only of the Design Review for the project. The required findings for Design Review focus on the design and aesthetic qualities of the project. The Design Review findings do not consider any potential functional or economic benefits or lack thereof. These types of concerns are more appropriately addressed in the consideration of the Use Permit.

4. *The project is not exempt from the California Environmental Quality Act (CEQA).*

In its action on February 19, the Planning Commission determined that the project was exempt from review under the California Environmental Quality Act (CEQA) pursuant to the Class 3 Categorical Exemption in Section 15303 of the CEQA Guidelines. Class 3 is an exemption for *New Construction and Conversion of Small Structures*. The exemption applies to structures such as single family homes and second units in residential zones, small commercial buildings which do not utilize hazardous materials, and accessory structures such as garages, carports, swimming pools and fences. The exemption also specifically applies to, "water main, sewage, electrical, gas and other utility extensions, including street improvements of reasonable length to serve such construction."

The appellant claims that all of the proposed DAS nodes should be analyzed together as part of a larger project.

The California Court of Appeals directly addressed the issue of the applicability of the Class 3 exemption to series of DAS nodes in the decision in *Robinson v. City and County of San Francisco*.

In April 2009, T-Mobile applied to the San Francisco Planning Department for CEQA review of approximately 40 wireless telecommunications facilities proposed to be installed on existing utility poles. In September and November of 2009, the Planning Department issued certificates of determination finding that the facilities were exempt from review under CEQA pursuant to the Class 3 exemption. In February 2010 after a facility had been installed on Randall Street, residents filed suit, claiming, in part, that the Class 3 exemption was not applicable to the project.

The Court of Appeal, in deciding in favor of T-Mobile and San Francisco, noted that courts have approved the application of the Class 3 exemption for projects as

diverse as “the construction of a 2,700 square-foot single-family home in a residential neighborhood (*Association for Protection v. City of Ukiah* (1991) 2 Cal.App.4th 721 (Ukiah)), and a 1,500 square-foot addition to an existing structure that was intended for use as a firearms training facility. (*Simons v. City of Los Angeles* (1977) 72 Cal.App.3d 924.)” The Court further determined that, “the T-Mobile project fits squarely within the ambit of the Class 3 exemptions.”

In its approval of similar DAS nodes in the neighboring community of Kensington, the Contra Costa County Planning Commission also relied upon the Class 3 exemption, specifically citing *Robinson v. City and County of San Francisco*.

5. *The proposed DAS is located on a utility pole in a dangerous zone less than half a mile from the Hayward Fault in a known landslide zone.*

Utility poles are currently necessary to provide utilities to most of El Cerrito. Large portions of El Cerrito lay within the Alquist-Priolo Zone for the Hayward Fault and in the City’s mapped landslide areas. Utility poles are a necessity in these areas.

Utility poles are regulated by the California Public Utilities Commission and specifically, the CPUC’s General Order 95. It will be AT&T’s responsibility to ensure that the CPUC’s safety requirements are met. The City will inspect the pole as necessary to ensure public safety. Staff does not expect that the proposed facility will diminish the safety of the existing pole in the event of an emergency.

6. *The DAS at 7800 Eureka will have a negative impact on property values in the area.*

As stated above, pursuant to the Telecommunications Act, the City Council may not base its decision upon concerns regarding health effects of RF transmission. In *AT&T Wireless vs. City of Carlsbad*, the United States District Court held that concerns about property values also cannot be a proxy for health concerns. If decreased property values would be a result of concerns about health effects of RF transmission, the City Council may not legally consider this information. The Council may, however, consider evidence in support of this assertion, if provided and related to the findings required for Design Review approval.

Pursuant to the Municipal Code, Design Review approvals must be based on the findings in Section 19.38.060. None of the required findings for Design Review or the Design Review Criteria are based on evaluation of property values.

7. *There is precedent for AT&T/ Cingular relocating DAS to more appropriate alternative locations.*

At this point in the process, the Use Permit for a wireless telecommunications facility in this location has been approved by the Planning Commission. The

Commission's approval of the Use Permit was not appealed and Use Permit is in force. This appeal concerns only the Design Review of the facility based upon the Design Review Criteria in Section 19.38.060 of the Municipal Code. The location of the facility is a land use decision that was pertinent to the Use Permit approval.

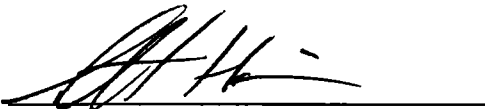
Although location is related to design, at this point, the location has been approved, and the application before the Council is for approval of a design for a DAS facility in the approved location. The Council may deny the proposed design, if it believes that it cannot make the applicable Design Review findings, based upon the evidence in the record. It may also impose conditions if necessary to be able to make the applicable findings. Its analysis should nevertheless take into account that the City has already approved a permit to allow the use at the location and, at some point in this process, denying the Design Review based on concerns over location could be viewed as interference with the applicant's ability to act upon the approved Use Permit currently in place at this location.

Furthermore, the appellant suggests that Sunset View Cemetery would be a more suitable location for the proposed facility. Both City staff and the applicant have contacted the manager of the cemetery who confirmed the cemetery's strong desire not to accommodate a wireless telecommunications facility.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

As discussed above under point #4, pursuant to the California Environmental Quality Act (CEQA), this Conditional Use Permit, involving a wireless telecommunication facility on an existing utility pole, is considered exempt from environmental review under section 15303: Categorical Exemption Class 3: New Construction or Conversion of Small Structures.

Reviewed by:



Scott Hanin, City Manager

Attachments:

1. Proposed Resolution denying the appeal
2. Appeal Letter from the appellant dated March 3, 2014 and addendum dated March 24, 2014
3. Planning Commission Staff Report for the appeal to the Planning Commission of Design Review for application PC13-0009
4. Resolution DRB13-06, denying Design Review of the project near 7800 Eureka Avenue
5. Planning Commission Resolution PC14-03, granting an appeal of the Design Review Board's denial of the project near 7800 Eureka Avenue.
6. Plans, dated December 5, 2013
7. New Cingular Wireless PCS/AT&T Response to Appeal.

RESOLUTION 2014-XX

A RESOLUTION OF THE EL CERRITO CITY COUNCIL DENYING AN APPEAL OF THE PLANNING COMMISSION'S DESIGN REVIEW APPROVAL OF A WIRELESS TELECOMMUNICATIONS FACILITY ON AN EXISTING UTILITY POLE NEAR 7800 EUREKA AVENUE.

WHEREAS, on January 10, 2013, the applicant submitted an application for a Conditional Use Permit and Design Review to allow a wireless telecommunications facility on an existing utility pole near 7800 Eureka Avenue;

WHEREAS, the General Plan land use classification of the site is Low Density Residential;

WHEREAS, the zoning district of the site is RS-5 (Single Family Residential);

WHEREAS, the project is located in the public right-of-way near 7800 Eureka Avenue;

WHEREAS, the project is categorically exempt from the California Environmental Quality Act pursuant to Section 15303: Class 3 - New Construction or Conversion of Small Structures;

WHEREAS, on June 19, 2013, the Planning Commission held a duly noticed public hearing, received public testimony and adopted Resolution PC13-12, approving a Conditional Use Permit to allow a wireless telecommunications facility on an existing utility pole near 7800 Eureka Avenue;

WHEREAS, on August 7, 2013, the Design Review Board held a duly noticed public hearing, received public testimony and adopted Resolution DRB13-06, denying the Design Review of a wireless telecommunications facility on an existing utility pole near 7800 Eureka Avenue;

WHEREAS, on August 19, 2013, the applicant, New Cingular Wireless PCS, LLC, filed an appeal of the Design Review Board's denial of Design Review for a wireless telecommunications facility on an existing utility pole near 7800 Eureka Avenue;

WHEREAS, on February 19, 2014, , the Planning Commission held a duly noticed public hearing to consider the appeal, received public testimony and adopted Resolution PC14-03, granting the appeal and granting Design Review approval for a wireless telecommunications facility on an existing utility pole near 7800 Eureka Avenue;

WHEREAS, on March 3, 2014, John Spriggs filed an appeal of the Design Planning Commission's Design Review approval for a wireless telecommunications facility on an existing utility pole near 7800 Eureka Avenue;

WHEREAS, on April 1, 2014, the City Council held a duly noticed public hearing to consider the appeal; and

WHEREAS, based upon the evidence presented in the record on this matter, including the staff report and oral and written testimony and the proceedings before the Planning Commission, the Council has considered the appeal.

NOW, THEREFORE, BE IT RESOLVED:

The City Council of the City of El Cerrito finds that:

1. The proposed project meets all standards of the El Cerrito Zoning Ordinance including the standards of Chapter 19.28: Wireless Telecommunications Facilities.
2. The proposed project will implement the following policies of the El Cerrito General Plan: LU4.2: Availability of Goods and Services, CD5.1: Design Review Process, CD6: Affordable Commerce, PS3.3: Upgrading Infrastructure.
3. There are no applicable, adopted design guidelines.
4. The design is appropriate for a wireless telecommunications facility. The project will increase the height of the existing utility pole. However, the extension and the proposed facility will be consistent with the existing aesthetics of the pole.
5. The facility and all associated equipment will be painted to match the existing pole.
6. The proposed project minimizes the size of the antennas required to provide wireless service to El Cerrito and minimizes the need for larger facilities with larger antennas.
7. The project does not propose any buildings and there for will not have building facades, rooflines, or building heights. This finding is not applicable.
8. The project will be located on top of an existing utility pole. The project does not propose any buildings with street frontage. This finding is not applicable.
9. The project is not in an area recognized as having historical or visual character. This finding is not applicable.
10. The project has been sited to minimize view blockage. Since the facility will be located at the top of the pole, far above street level, it will not impact public vistas from the street on which it is located.
11. No new landscaping is proposed as part of this project. This finding is not applicable.
12. Operation of the site is the jurisdiction of the Federal Communications Commission. Energy consumption will be appropriate to operate the facility in accordance with FCC standards.
13. The project is not adjacent to natural features or the Ohlone Greenway. This finding is not applicable.
14. The proposed facility is consistent with the Planning Commission's Conditional Use Permit approval in Resolution PC13-12.
15. The project is in compliance with the zoning requirements and the goals and policies outlined in the General Plan.

Agenda Item No. 6
Attachment 1

After careful consideration of facts, correspondence, and testimony, and other evidence submitted in this matter, the El Cerrito City Council hereby denies the subject appeal of the Planning Commission's Design Review approval of a wireless telecommunication facility on an existing utility pole near 7800 Eureka Avenue.

I CERTIFY that at a regular meeting on April 1, 2014, the El Cerrito City Council passed this Resolution by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on April XX, 2014.

Cheryl Morse, City Clerk

APPROVED:

Janet Abelson, Mayor

Letter of Appeal to the El Cerrito City Council of Planning Commission
Decision on ATT/Cingular Distributed Antenna System at 7800 Eureka Ave.
(Application PL13-0009).

CITY OF EL CERRITO
PLANNING DIVISION
RECEIVED

March 2, 2014

MAR 03 2014

Dear El Cerrito City Council Members,

I am a resident of 617 Sea View Drive in El Cerrito. I live about 30 yards from the proposed ATT/Cingular Distributed Antenna System at 7800 Eureka Ave (Application PL13-0009).

I strongly object to the placement of this DAS at this location, or on any utility pole or structure in the nearby vicinity. I ask you to reject the El Cerrito Planning Commission's approval of ATT/Cingular's appeal, uphold the permit denial by the El Cerrito Design Review Board, and further deny ATT/Cingular's application for the reasons below and other issues raised in this appeal proceeding. Based on conversations with neighbors in the immediate area of the proposed DAS location others affected by this placement share my concerns.

In addition to considering the arguments against the placement of the proposed DAS antennae outlined below, I ask The Council to follow up on requests made by multiple El Cerrito residents at Planning and Design Commission meetings to conduct an independent investigation into AT&T/Cingular claims that there is presently a gap in ATT/Cingular wireless data service in the proposed DAS location.

Furthermore I ask the Council to press ATT/Cingular to pursue better antennae alternatives and locations that are beneficial to El Cerrito as a whole, without placing an extra burden on the residents surrounding the proposed location.

The following are my arguments against the DAS at 7800 Eureka in brief. I would like to reserve the right described in El Cerrito Municipal Code appeal procedures 19.39.040 Section F to submit further written correspondence and documentation after this appeal has been filed.

1. **The El Cerrito Planning Commission Made Procedural Errors at the February 19th, 2014 Meeting.** At the time this appeal was written the minutes of the February 19th, 2014 Planning Commission meeting were not available on the City website. However, I believe that, at the meeting, an ATT/Cingular representative stated that the DAS permit proposal for 7800 Eureka (PL13-0009) is based on a newly installed utility pole, rather than an existing pole. The resolution adopted by the Planning Commission was for installation of the DAS on an existing utility pole. Therefore I believe the Planning Commission has not adopted a resolution that applies to application PL13-0009.
2. **The proposed DAS is not necessary for El Cerrito residents, but is designed to relay signals to Kensington.** Signal testing with an ATT/Cingular wireless device in areas near the proposed DAS showed a strong signal in all locations, comparable to signals available to similar devices from competitors. Downloads and uploads of single large files and multiple small files to a wireless device

were comparable to competitors transfer rates.

RECEIVED

FEB 27 2014

CITY OF EL CERRITO
BUILDING DIVISION

The El Cerrito Coverage - Existing" and "El Cerrito Coverage - Expected " maps provided by ATT/Cingular, during the public hearing on June 19, 2013 indicate that after the 5 proposed DAS installations in El Cerrito there is only marginal signal improvement in El Cerrito whereas Kensington shows significant signal improvement.

3. **There is no independent evidence that the proposed DAS is necessary to fill existing coverage gaps and no independent evidence that the proposed DAS will be beneficial to the City of El Cerrito.** In Item 6 of the El Cerrito City Council meeting of August 20, 2013, page 6, City staff states, *"The City of El Cerrito staff must rely on the applicant to respond to technical discussion points. The applicant has informed staff that although AT&T is seeking to deploy DAS across a large portion of the East Bay Hills, each DAS node would function as an independent site providing wireless coverage to its immediate area."*

This indicates that the City is making permit application decisions based solely on information provided by a party with a significant commercial interest in the installation of the DAS. The City should instead commission a public and independent study to determine the necessity and efficacy of the DAS proposed by ATT/Cingular at 700 Eureka.

4. **This project is not exempt from the California Environmental Quality Act (CEQA).** As with items 2 and 3 above the City of El Cerrito is basing it's granting of CEQA Categorically Exempt Status based solely on information provided ATT/Cingular, an interested party who would be subject to greater permitting requirements if not exempted from CEQA.

The ATT/Cingular applications for permits for has been broken into 5 separate applications to make them appear as being minor modifications to small structures. Yet, ATT/Cingular is seeking similar networks approved for neighboring communities in Kensington, Berkeley and Oakland, which would indicate an extended network of DAS, rather than a few single DAS to fill gaps. I ask the City to do a public and independent environmental assessment to determine the impact of the ATT/Cingular DAS installation.

5. **The proposed DAS is located on a utility pole in a dangerous zone less than a half a mile from the Hayward Fault in a known landslide zone.** Adding 10 feet to the utility pole height, with a top-heavy, mechanical assembly on top creates a seismic hazard for properties near the pole.
6. **The DAS at 7800 Eureka will have a negative impact on property values in the area.** At the February 19th, 2014 Planning Commission meeting City staff said that negative effects on property value caused by telecommunications towers could be taken into consideration when considering an application. The proposed DAS is significantly higher and larger than any surrounding objects, and is completely out of scale with other structures in the neighborhood. It

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blocks views and is an eyesore that is visible from many homes on Sea View Drive, Eureka Avenue and Midcrest Court.

California licensed real estate professionals are required to disclose material facts that affect the value or desirability of a property including conditions that are known and surrounding areas outside the property.

In a document filed with the City of Burbank 27 realtors stated that it was *"their professional opinion that cell towers decrease the value of homes in the area tremendously. Peer reviewed research also concurs that cell sites do indeed cause a decrease in home value."* (Document submitted to the City of Burbank Planning Board, June 18th 2010.)

Realtor Alex Safarian in comments to the City of Burbank on cell phone towers in that community noted, *"I've done research on the subject and as well as spoken to many real estate professionals in the area, and they all agree that there's no doubt that cell towers negatively affect real estate values."* (http://burbank.granicus.com/MediaPlayer.php?view_id=6&clip_id=848)

7. **There is precedent for ATT/Cingular relocating DAS to more appropriate alternative locations.** On February 25, 2014 ATT/Cingular and the Contra Costa County Board of Supervisors agreed to relocate a DAS planned for a utility pole at 110 Ardmore Road to a location on a 50 foot PG&E utility pole on Coventry Road that has less visual impact. The City should seek similar, appropriate locations for 7800 Eureka, particularly since there is a large open space at the Sunset View cemetery located right next to the proposed location. The cemetery could provide alternate DAS locations that do not affect residential neighborhoods.

Based on these arguments I ask the City Council to deny ATT/Cingular's application for a DAS antennae at 7800 Eureka and seek an alternative location for this DAS that does not have major quality of life and negative property value impacts on the residents of this neighborhood.

Sincerely,



John Spriggs

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Amendments to March 2nd Letter of Appeal to the El Cerrito City Council of
Planning Commission Decision on ATT/Cingular Distributed Antenna System at 7800
Eureka Ave. (Application PL13-0009).

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March 23, 2014

MAR 24 2014

Dear El Cerrito City Council Members,

Following an opportunity to review of the audio recording of the February 19th, 2014
Planning Commission meeting I would like to make the following changes to my March
2nd appeal letter to the City Council.

The following paragraphs should be included in the March 2nd Appeal Letter.

**The El Cerrito Planning Commission made procedural errors while overturning the
Design Review Board findings at the February 19th, 2014 Meeting.**

1. The planning commission's resolution granting an appeal to the ATT DAS application
for 7800 Eureka (PL13-0009) included an additional amendment that "the approval
have a time limit of 10 year's form the date of approval at which point ATT could
apply for a new design permit" The same amendment was added to the resolutions for
the 3 other poles under appeal. The exact wording of the approved amendment is
stated by City staff at 2:17:00 into the meet recording.

However this amendment conflicts with the use permit granted to ATT for the same
site, which does not have a time limit.

Furthermore, no mechanism was established for determining what exactly expires in
10 years, and what criteria would be used to determine qualification for permit
renewal.

2. The planning commission failed to adequately apply the Design Review Criteria in
section 19.38.060 (B) of the El Cerrito Municipal Code, and made their decision on a
subjective basis. Of the 10 Design Review Criteria, three were excluded by city staff
(criteria 6, 8, 10) in their report prior to the meeting.

While considering the remaining 7 design criteria The Commission spent much of the
discussion period attempting to determine which, if any, of these design criteria
applied to the DAS appeals. A total of 5 of the 10 design criteria were eliminated
(criteria 4, 5, 6, 8 and 10). Presented with a dearth of applicable design criteria the
commission discussion of the remaining 5 points focused largely on anecdotal
information and opinion rather than analysis of real data. Of the 5 criteria eliminated,
criteria #4 ("The project contributes to the creation of an attractive and visually
interesting built environment...") is applicable to this project.

3. The planning commission exceeded the scope of the meeting, which was an appeal
of Design Review Board findings, by allowing ATT representatives to present their
views on wireless gap coverage, the need for expanded telecommunications services,
and G095 compliance.

The following paragraph should be removed from the March 2nd Appeal Letter.

~~At the time this appeal was written the minutes of the February 19th, 2014 Planning Commission meeting were not available on the City website. However, I believe that, at the meeting, an ATT/Cingular representative stated that the DAS permit proposal for 7800 Eureka (PL13-0009) is based on a newly installed utility pole, rather than an existing pole. The resolution adopted by the Planning Commission was for installation of the DAS on an existing utility pole. Therefore I believe the Planning Commission has not adopted a resolution that applies to application PL13-0009.~~

Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Spriggs", with a horizontal line extending to the right.

John Spriggs
617 Sea View Drive
El Cerrito CA, 94530

CITY OF EL CERRITO
PLANNING DIVISION
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MAR 24 2014



Community Development Department - Planning Division

10890 San Pablo Avenue, El Cerrito, CA 94530

(510) 215-4330 - FAX: (510) 233-5401

planning@ci.el-cerrito.ca.us

PLANNING COMMISSION STAFF REPORT

Meeting Date: February 19, 2014

I. SUBJECT

Application: PL13-0007 – PL13-0010

Applicant: New Cingular Wireless PCS, LLC

Location: Public Right of Way near 906 Balra Drive, 762 Colusa Avenue, 7800 Eureka Avenue, and 202 Seaview Drive

APN: Public Right-of-Way

Zoning: RS-5 (Single Family Residential)

General Plan: Low Density Residential

Request: An appeal of the Design Review Board's Denial of four wireless telecommunications facilities on existing utility poles in the public right-of-way.

CEQA: Categorically Exempt, Section 15303 – Class 3, New Construction or Conversion of Small Structures.

II. BACKGROUND

On January 10, 2013 New Cingular Wireless PCS, LLC, doing business as AT&T Mobility submitted six applications for wireless telecommunications facilities at the locations of existing utility poles in the southern portion of El Cerrito. On May 23, 2013, the applicant withdrew one application near 859 Gelston Place. The remaining five applications are proposed as part of a distributed antenna system (DAS) that will cover a large portion of the East Bay hills. The applicant is currently processing applications in Oakland, Berkeley, and Kensington for other portions of the network.

The Design Review Board conducted Conceptual Review of the project at their May 1 meeting. The DRB comments generally centered around the aesthetics of the existing poles and whether the Board could require the applicant to replace the poles with a certain type of pole (e.g. concrete). More information on this issue is presented in the Discussion Section of this report.

The Planning Commission approved conditional use permits to allow all five wireless telecommunications facilities at their June 19, 2013 meeting. The Planning Commission's approval of the facility near 851 Seaview Drive was appealed to the City Council and the appeal was heard on August 20. The City Council denied the appeal and upheld the Planning Commission's decision, adding additional conditions of approval. Due to the appeal of this application, it is not longer on a concurrent process with the remaining four applications.

On August 7, 2013, the Design Review Board considered the four subject applications and denied each application. The resolutions for denial are attached to this report as Attachments 13-16. A discussion of the DRB's findings of denial is contained in the section below.

On August 19, 2013 the applicant appealed the DRB's denial of the applications. The applicant submitted a letter of appeal at this time. The applicant's letter of appeal for each application are included as Attachments F-I of Attachment 17. Because the DRB's denial of the proposed projects was based on the same findings, the resolutions of denial are therefore nearly identical and thus the letters for each appeal are nearly identical.

The applications appeared on the December 18, 2013 Planning Commission agenda. Prior to this meeting on December 12, the applicant submitted an additional letter related to the appeals of the four applications. Due to the late receipt of this letter, the applicant agreed to continue the appeals to the January meeting to allow staff time to address the additional information in the letter. The appeals appeared on the Planning Commission's January 15, 2014 agenda, however prior to the meeting, the applicant requested that the items be continued to a future meeting. Staff has since met with the applicant discuss the appeals and to confirm that the appeals will be considered by the Planning Commission on February 19, 2014.

Pursuant to the Federal Telecommunications Act of 1996, local jurisdictions are not permitted to consider the health effects of wireless telecommunications facilities in their decisions. Pursuant to Federal law, the facilities will be required to meet the operational standards set by the Federal Communications Commission (FCC).

III. DISCUSSION

Project Description

Each of the four proposed DAS nodes are proposed to be located on top of the existing utility poles. For two of the proposed sites, a 7-foot extension would be added to the top of the pole. (906 Blara Drive and 7800 Eureka Avenue) For two sites, the existing pole would be replaced with a new pole that would be approximately 7 feet taller. (762 Colusa Avenue and 202 Seaview Drive) The proposed antennas are approximately 2 feet tall would be mounted at the top of the extension or the new pole. The top of the antennas would sit approximately 3 feet above the top of the pole extension, extending the top of the utility pole structure by a total of 10 feet. All equipment for each facility would be mounted on the pole. No equipment would be ground mounted. The applicant has verbally stated that shall paint the proposed antennas and equipment brown to match the color of the utility poles. Staff is proposing a condition of approval to ensure compliance of this statement. Since the DRB considered the projects, the applicant has revised the proposal slightly to reconfigure the locations of the pole-mounted equipment. The top of the equipment is not proposed to be any higher and the bottom of the equipment is not proposed to be any lower than what was originally proposed.



Existing Pole near 906 Galvin Drive.



Existing Pole near 762 Colusa Avenue



Existing pole near 7800 Eureka Avenue.



Existing pole near 202 Seaview Drive

In order to give the Commission a idea of what the facilities would look like, staff visited similar DAS nodes that have been installed in the East Bay by T-Mobile. The site nearest to El Cerrito is near 1215 Santa Fe Avenue in Berkeley at the intersection Key Route Boulevard, on the border with Albany. This site is visible from BART trains. Other nearby sites include Cedar Street at Juanita Way, near Cedar Rose Park and Dwight Way at California Street. Photos of two of these sites are

included below. These sites are slightly different from the proposed AT&T nodes in that the T-Mobile sites use omni-directional antennas which are cylindrical in shape. The coverage that AT&T is attempting to provide with the proposed nodes has informed the applicant's decision to propose two directional antennas per node. Coverage in all directions is not required and the applicant wished to limit the loss of signal toward the bay and other areas where coverage is not needed. The existing examples of DAS nodes mentioned above are good examples of the scale of the proposed facilities. The pole extensions that these nodes are mounted on are approximately the same height as the extensions that AT&T is proposing. The T-Mobile antennas appear to be taller than the proposed AT&T antennas.

Other examples of proposed DAS nodes are presented by recent AT&T applications for DAS nodes in Kensington (unincorporated Contra Costa County). In this example, AT&T revised the initial submittal, for sites where it was feasible (2 of 6 sites), to lower the elevation of the antenna on the pole. The antenna projects off the side of the pole below the existing PG&E lines. This configuration is shown on the photo simulations on the following page. The California Public Utilities Commission (CPUC) requires a minimum separation of 6 feet between the proposed DAS antennas and the existing PG&E lines. As a result, on one of these two sites, the pole would be raised by approximately 2 feet to provide the clearance required for the proposed DAS antennas.



DAS node near 1215 Santa Fe Avenue, Berkeley



DAS node near Dwight Way and California Street, Berkeley



Photo simulations of the proposed DAS node near 4 Stratford Road in Kensington

Design Review Board Denial

In reviewing the projects, the DRB was primarily concerned with the aesthetics of the projects. The Board stated that the poles were already cluttered and that these projects would add clutter to the poles and therefore move the City in the wrong direction with regard to attractiveness. Specifically, the Board could not find that the project satisfied the following Design Review Criteria in Section 19.38.060.B of the Zoning Ordinance:

1. *The aesthetic design, including its exterior design and landscaping, is appropriate to the function of the project and will provide an attractive and comfortable environment for occupants, visitors, and the general community.*
4. *The project contributes to the creation of an attractive and visually interesting built environment that includes well-articulated structures that present varied building facades, rooflines, and building heights and encourages increased pedestrian activity and transit use.*

In denying the project, the DRB determined the following:

1. *The additional clutter created by the proposed project will have a detrimental effect on the attractiveness of the community. The project will create a less attractive environment for the general community.*

2. *The project would be unattractive and inconsistent with the neighborhood and, therefore, would not contribute to the creation of an attractive and visually interesting built environment.*

Procedure for Appeals

Pursuant to Section 19.39.040.C, appeals of the Design Review Board are considered by the Planning Commission. Pursuant to Section 19.39.050, the Planning Commission may: 1) conduct a public hearing; or 2) remand the matter back to the Design Review Board to cure a deficiency in the record or the proceedings. In conducting a public hearing on the appeal, the Planning Commission must use the same standards of review required for the original decision (Section 19.39.050). Therefore, the Planning Commission must evaluate the appeals based on the Design Review findings in Section 19.38.060 and contained in the draft resolutions in Attachments 1-8. Appeals are de novo, which means the Planning Commission may consider new evidence not presented during the original public hearing and may make findings different from those made by the DRB. As the City Attorney discusses in his memo in Attachment 18, the standard for review of these appeals is whether the Planning Commission can make the findings required for Design Review pursuant to Section 19.38.060. The Commission may rely on the DRB's findings of denial, but must decide for itself if the DRB's findings are appropriate. If the Commission finds that it agrees with the DRB's findings of denial or that it can make alternate findings of denial, then the Commission should deny the appeals and uphold the DRB's denial of the projects. If the Commission determines that the Design Review findings in Section 19.38.060 can be made, it should grant the appeals and overturn the DRB's denial of the projects.

Justification for Appeals

In the following section, staff has provided an overview of the appellant's stated reasons for the appeals. The City Attorney has provided a more detailed response to the legal issues stated by the appellant. The City Attorney's response is included as Attachment 18.

In the appellant's letters of appeal dated August 19, 2013 (Attachments F-I of Attachment 17), the following reasons were given for filing the appeal. No additional supporting information was provided in this initial letter. The appellant provided an additional letter on December 12, 2013 (Attachment 17) which included further justification for the appeal. Each of the justifications given for the appeal are addressed below:

1. ***The DRB exceeded its authority by failing to limit its review of AT&T's Application to the applicable design review criteria specified in Section 19.38.060.B of the code.***

Section 19.38.060.B of the El Cerrito Municipal Code states:

When conducting design review, the Zoning Administrator and the Design Review Board shall be guided by whether the project satisfies all applicable criteria, the policies of the General Plan's Community Design Element, and by any other policies or guidelines that may be adopted by the City Council for this purpose. Criteria listed below are specific criteria that, if applicable, all projects must satisfy for approval.

1. *The aesthetic design, including its exterior design and landscaping, is appropriate to the function of the project and will provide an attractive and comfortable environment for occupants, visitors, and the general community.*
2. *Project details, colors, materials, and landscaping, are fully integrated with one another and used in a manner that is visually consistent with the proposed architectural design.*
3. *The project has been designed with consideration of neighboring development.*
4. *The project contributes to the creation of an attractive and visually interesting built environment that includes well-articulated structures that present varied building facades, rooflines, and building heights and encourages increased pedestrian activity and transit use.*
5. *Street frontages are attractive and interesting for pedestrians, address the street and provide for greater safety by allowing for surveillance of the street by people inside buildings and elsewhere.*
6. *The proposed design is compatible with the historical or visual character of any area recognized by the City as having such character.*
7. *The aesthetic design preserves significant public views and vistas from public streets and open spaces and enhances them by providing areas for pedestrian activity.*
8. *The proposed landscaping plan is suitable for the type of project and will improve the appearance of the community by enhancing the building, minimizing hardscape and softening walls; and the landscape plan incorporates plant materials that are drought-tolerant, will minimize water usage, and are compatible with El Cerrito's climate.*
9. *The project has been designed to be energy efficient including, but not limited to, landscape design and green or eco-friendly design and materials.*
10. *The project design protects and integrates natural features including creeks, open space, significant vegetation, and geologic features. Projects along the Ohlone Greenway shall enhance the usability and aesthetic appeal of the Greenway by integrating it into the fabric of the City through building designs that include entries, yards, patios, and windows that open onto and face the Ohlone Greenway.*

The DRB reviewed the applications based on the Design Review Criteria listed above. In denying the Design Review for the projects, the Board members determined that the projects did not satisfy Criteria 1 & 4 as required by the Design Review findings. The Design Review Board's findings of denial based on the Criteria in Section 19.38.060.B are included in Attachment 13-16. In reviewing the applications, the Board did not take into account the health effects of the facilities as prohibited by the Telecommunications Act of 1996. Members of the public did mention the health effects of the proposed facilities, however, the Board did not take these concerns into consideration in their denial of the projects. The Board did briefly discuss the need for the sites and the appropriateness of the proposed technology. However, in denying the applications the Board based their decision on the required findings and made clear findings of denial as required by the municipal code. As the City Attorney states in his memo to the Commission, this point is not germane because in considering the appeal, the Commission must evaluate the applications and the administrative record and take action based upon the Planning Commission's own findings. The Planning

Commission is not reviewing and acting upon the DRB's decision, but rather reviewing the applications and making an independent decision on the Design Review for the proposed projects.

2. The DRB erred in applying inapplicable design review criteria to the Application and basing its denial of the Application on those inapplicable criteria.

When the DRB reviewed the applications, the Board evaluated the projects based on the Design Review Criteria stated in Section 19.38.060.B. Staff drafted a series of proposed findings that addressed each of the design review criteria. Staff determined that three criteria were not applicable. Since the projects are not in an area recognized as having visual or historic character; since the projects do not include landscaping; and since the projects are not along the Ohlone Greenway, staff determined that Criteria 6, 8 and 10 were not applicable to the projects. Nothing contained in the language of the remaining criteria makes them inherently inapplicable to the projects. Criteria 1 & 4, which the DRB used as justification for the denial, do not refer to particular types or characteristics of projects. Because a project does not meet a finding does not inherently make the finding inapplicable. Nothing contained in the language of the findings render them inapplicable to these projects.

3. The DRB incorrectly concluded that the Proposed Facility does not meet the applicable design review criteria.

The appellant asserts in their December 12, 2013 letter that even if the findings used by the DRB were applicable that the DRB incorrectly made findings of denial. Findings often represent the subjective judgment of the decision-making body. In the case of these projects, the DRB determined that the projects would not provide an attractive environment for the general community (Criterion 1) and that the projects do not contribute to the creation of a an attractive and visually interesting built environment (Criterion 4). Based on this judgment, the DRB denied the projects. In the DRB staff report, staff had drafted proposed findings for approval since staff recommended that the DRB approve the projects. However, the DRB disagreed with two of the staff's recommended findings and thus denied the projects. The DRB, as the decision-making body for design review, is free to act differently from the staff recommendation provided the appropriate findings for denial are made. In this case, the DRB made the appropriate findings and denied the project. The presence of proposed findings for approval in the staff report does not mean the DRB findings of denial were made incorrectly. The DRB's findings of denial were based on the Board's judgment of the project and the facts, evidence and testimony presented to the Board.

4. The DRB's decision denying the Application violated federal law, including the Telecommunications ACT of 1996, 47U.S.C. § 332, which (a) preempts the City from prohibiting or effectively prohibiting AT&T's ability to close the existing significant service coverage gap in its network in the City, (b) preempts the City from discriminating among wireless providers, (c) preempts the City from considering the effects of radio frequency transmissions, and (d) preempts the City from requiring certain technologies or modes of operation.

The City Attorney has addressed these claims related to federal law in his memo included as Attachment 18.

IV. FINDINGS

The Planning Commission is not required to rely upon the DRB's findings of denial. For simplicity, the DRB's findings of denial, supporting the staff recommendation, are listed here. These findings are reiterated in the Draft Resolutions in Attachments 1-4. If the Commission decides to deny the appeal and approve the project, findings for approval are contained in the alternate draft resolutions in Attachments 5-8:

1. The additional clutter created by the proposed project will have a detrimental effect on the attractiveness of the community. The project will create a less attractive environment for the general community.
2. The project would be unattractive and inconsistent with the neighborhood and, therefore, would not contribute to the creation of an attractive and visually interesting built environment.

V. RECOMMENDATION

Staff recommends the Planning Commission deny the appeal and uphold the Design Review Board's denial of design review approval for four wireless telecommunications facilities on existing utility poles in the public right-of-way near 961 Balra Drive, 762 Colusa Avenue, 7800 Eureka Avenue, and 202 Seaview Drive.

Proposed Motions: Move adoption of Planning Commission Resolution PC14-__ denying the appeal of the Design Review Board's denial of design review for a wireless telecommunications facility in the public right-of-way near _____.

Appeal Period: Within ten (10) calendar days after the date of the decision, the Planning Commission action may be appealed to the City Council.

Attachments:

- 1) Draft Resolution denying the appeal of the project near 906 Balra Drive
- 2) Draft Resolution denying the appeal of the project near 762 Colusa Avenue
- 3) Draft Resolution denying the appeal of the project near 7800 Eureka Avenue
- 4) Draft Resolution denying the appeal of the project near 202 Seaview Drive
- 5) Draft Resolution granting the appeal of the project near 906 Balra Drive
- 6) Draft Resolution granting the appeal of the project near 762 Colusa Avenue
- 7) Draft Resolution granting the appeal of the project near 7800 Eureka Avenue
- 8) Draft Resolution granting the appeal of the project near 202 Seaview Drive
- 9) Plans for project near 906 Balra Drive, dated December 5, 2013.
- 10) Plans for project near 906 Balra Drive, dated December 5, 2013.
- 11) Plans for project near 906 Balra Drive, dated December 5, 2013.
- 12) Plans for project near 906 Balra Drive, dated December 5, 2013.
- 13) Resolution DRB13-04, denying Design Review of the project near 906 Balra Drive
- 14) Resolution DRB13-05, denying Design Review of the project near 762 Colusa Avenue
- 15) Resolution DRB13-06, denying Design Review of the project near 7800 Eureka Avenue
- 16) Resolution DRB13-07, denying Design Review of the project near 202 Seaview Drive
- 17) Letter from Appellant, dated December 12, 2013, including Attachments A-K
- 18) Memorandum from City Attorney, dated February 7, 2014
- 19) Letter to the DRB from Mary Crakow, dated July 29, 2013.

- 20) Letter from James-Joseph Diliberto, dated June 18, 2013.
- 21) Email to the DRB from Laura and Charles Neuman, dated July 29, 2013.
- 22) Letter from Phillipe Eberhard, dated January 8, 2014
- 23) Letter from Glory Merrill, dated January 9, 2014
- 24) Letter from Dwight Merrill
- 25) Letter from Crystal Merrill, dated January 19, 2014
- 26) Letter from Family Devine, dated December 12, 2013
- 27) Letter from Richard Johnson, dated August 3, 2013

Design Review Board Resolution DRB13-06

APPLICATION NO. PL13-0009

A RESOLUTION OF THE CITY OF EL CERRITO DESIGN REVIEW BOARD DENYING THE DESIGN OF A WIRELESS TELECOMMUNICATION FACILITY ON AN EXISTING UTILITY POLE NEAR 7800 EUREKA AVENUE.

WHEREAS, the subject site is located in the public right-of-way near 7800 Eureka Avenue;

WHEREAS, the zoning district of the site is RS-5 (Single Family Residential);

WHEREAS, the general plan land use designation of the site is Low Density Residential;

WHEREAS, on January 10, 2013, the applicant submitted an application for a conditional use permit; and

WHEREAS, on June 19, 2013, the El Cerrito Planning Commission approved a conditional use permit to allow a wireless telecommunication facility on an existing utility pole near 7800 Eureka Avenue; and

WHEREAS, on August 7, 2013, the Design Review Board of El Cerrito, after due consideration of all evidence and reports offered for review, does find and determine the following:

1. The additional clutter created by the proposed project will have a detrimental effect on the attractiveness of the community. The project will create a less attractive environment for the general community.
2. The project would be unattractive and inconsistent with the neighborhood and, therefore, would not contribute to the creation of an attractive and visually interesting built environment.

NOW, THEREFORE, BE IT RESOLVED, that after careful consideration of maps, facts, exhibits, correspondence, and testimony, and other evidence submitted in this matter, and, in consideration of the findings, the El Cerrito Design Review Board hereby denies Application No. PL13-0009.

CERTIFICATION

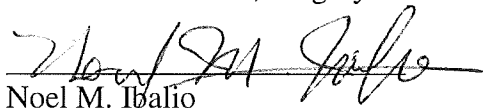
I CERTIFY that this resolution was adopted by the El Cerrito Design Review Board at a regular meeting held on August 7, 2013 upon motion of Boardmember Groch, second by Boardmember Adams:

AYES: Adams, Groch, Wood

NOES: None

ABSTAIN: None

ABSENT: Laverne, Leighly



Noel M. Ibalio
Senior Planner

Planning Commission Resolution PC14-03

APPLICATION NO. PL13-0009

A RESOLUTION OF THE CITY OF EL CERRITO PLANNING COMMISSION GRANTING AN APPEAL OF THE DESIGN REVIEW BOARD'S DENIAL OF THE DESIGN REVIEW OF A WIRELESS TELECOMMUNICATION FACILITY ON AN EXISTING UTILITY POLE NEAR 7800 EUREKA AVENUE.

WHEREAS, the subject site is located in the public right-of-way near 7800 Eureka Avenue;

WHEREAS, the zoning district of the site is RS-5 (Single Family Residential);

WHEREAS, the general plan land use designation of the site is Low Density Residential;

WHEREAS, on January 10, 2013, the applicant submitted an application for a Conditional Use Permit and Design Review;

WHEREAS, the project is Categorically Exempt from the provisions of CEQA – Section 15303: Class 3 – New Construction or Conversion of Small Structures;

WHEREAS, on June 19, 2013, the El Cerrito Planning Commission approved a Conditional Use Permit to allow a wireless telecommunication facility on an existing utility pole near 7800 Eureka Avenue;

WHEREAS, on August 7, 2013, the El Cerrito Design Review Board, denied the Design Review of the project;

WHEREAS, on August 19, 2013, the applicant filed an appeal of the Design Review Board's decision; and

WHEREAS, on February 19, 2014, the Planning Commission of El Cerrito, after due consideration of all evidence and reports offered for review, does find and determine the following:

1. The proposed project meets all standards of the El Cerrito Zoning Ordinance including the standards of Chapter 19.28: Wireless Telecommunications Facilities.
2. The proposed project will implement the following policies of the El Cerrito General Plan: LU4.2: Availability of Goods and Services, CD5.1: Design Review Process, CD6: Affordable Commerce, PS3.3: Upgrading Infrastructure.
3. There are no applicable, adopted design guidelines.
4. The design is appropriate for a wireless telecommunications facility. The project will increase the height of the existing utility pole. However, the extension and the proposed facility will be consistent with the existing aesthetics of the pole.
5. The facility and all associated equipment will be painted to match the existing pole.

6. The proposed project minimizes the size of the antennas required to provide wireless service to El Cerrito and minimizes the need for larger facilities with larger antennas.
7. The project does not propose any buildings and there for will not have building facades, rooflines, or building heights. This finding is not applicable.
8. The project will be located on top of an existing utility pole. The project does not propose any buildings with street frontage. This finding is not applicable.
9. The project is not in an area recognized as having historical or visual character. This finding is not applicable.
10. The project has been sited to minimize view blockage. Since the facility will be located at the top of the pole, far above street level, it will not impact public vistas from the street on which it is located.
11. No new landscaping is proposed as part of this project. This finding is not applicable.
12. Operation of the site is the jurisdiction of the Federal Communications Commission. Energy consumption will be appropriate to operate the facility in accordance with FCC standards.
13. The project is not adjacent to natural features or the Ohlone Greenway. This finding is not applicable.
14. The proposed facility is consistent with the Planning Commission's conditional use permit approval in Resolution PC13-12.
15. The project is in compliance with the zoning requirements and the goals and policies outlined in the General Plan.

NOW, THEREFORE, BE IT RESOLVED, that after careful consideration of maps, facts, exhibits, correspondence, and testimony, and other evidence submitted in this matter, and, in consideration of the findings, the El Cerrito Planning Commission hereby approves Application No. PL13-0009, subject to the following conditions:

Planning Division:

1. The project shall be developed and maintained substantially in compliance with the plans dated December 5, 2013 except as amended by subsequent conditions of this Resolution. Minor changes may be approved by the Zoning Administrator.
2. This approval shall be limited to the design review of a wireless telecommunication facility on an existing utility pole.
3. If not used, this approval shall expire two years from the date of this action.
4. All antennas, cables, equipment and any other visible elements of the facility shall be brown in color to match the color of the utility pole.

Public Works:

5. Prior to installation, the applicant shall secure all necessary Encroachment Permits.
6. The owner and/or operator of the facility shall not take any action to oppose any future undergrounding of utilities in the area of the facility.

Building Division:

7. Prior to installation, the applicant shall secure all necessary Building Permits.

Fire Department:

8. Construction shall meet current all current building codes and the El Cerrito Fire Code.

Planning Commission:

9. This Design Review approval shall expire 10 years from the date of this action. At the time of expiration, renewal of the approval or approval of a new design shall be required to allow the facility to remain.

CERTIFICATION

I CERTIFY that this resolution was adopted by the El Cerrito Planning Commission at a regular meeting held on February 19, 2014 upon motion of Commissioner Kuhlman, second by Commissioner Pine:

AYES: Hansen, Kuhlman, Lucas, Pine

NOES: Hirano

ABSTAIN: None

ABSENT: Coty, Motoyama



Sean Moss, AICP

Senior Planner



OAKHILLS AT&T NORTH NETWORK

OAKN-006A

(PROW) 7800 EUREKA AVE, EL CERRITO, CA 94530

PROPRIETARY INFORMATION

THE INFORMATION CONTAINED IN THIS SET OF CONSTRUCTION DOCUMENTS IS PROPRIETARY BY NATURE. ANY USE OR DISCLOSURE OTHER THAN THAT WHICH RELATES TO CARRIER SERVICES IS STRICTLY PROHIBITED.



NEW CINGULAR WIRELESS PCS, LLC
4430 ROSEWOOD DR, BLDG 3
PLEASANTON, CA 94588-3050

PROJECT INFORMATION:

OAKHILLS AT&T
NORTH NETWORK
NODE 006A

7800 EUREKA AVE
EL CERRITO, CA 94530

CURRENT ISSUE DATE:

12/05/13

ISSUED FOR:

PERMITTING

BY: DATE: DESCRIPTION: REV:

BY	DATE	DESCRIPTION	REV
ACI	12/05/13	CHANGE EQUIP. CONFIG.	3
ACI	01/28/13	PERMITTING	2
ACI	12/15/12	POLE INFO CORRECTED	1
ACI	12/07/12	ZDs	0

PLANS PREPARED BY:



Aero Communications Inc.
1-800-825-4ACI
5711 Research Drive
Canton, MI 48188

ACI NUMBER: OAKN-006A

CONSTRUCTED BY:



3030 Warrenville Rd, Suite 340
Lisle, IL 60532
www.extenet.com

SEAL OF APPROVAL:

SHEET TITLE:

TITLE SHEET
AND
PROJECT INFORMATION

SHEET NUMBER: REVISION:

T1

3

12/05/13

LEGEND & SYMBOLS

— — — — —	CENTERLINE		SPOT ELEVATION (DATUM)
— — — — —	PROPERTY/LEASE LINE		FLAG NOTE
— — — — —	PROPOSED CONDUIT		ITEM BALLOON (DETAIL SHEETS)
— E — E —	POWER CONDUIT		DETAIL REFERENCE
— T — T —	TELEPHONE CONDUIT		SECTION REFERENCE
— PWR — PWR —	AERIAL ELECTRICAL LINE		
— TV — TV —	COAXIAL CABLE/CONDUIT		
— OH — OH —	OVERHEAD CONDUCTORS		
— O —	CHAIN LINK FENCING		

ABBREVIATIONS

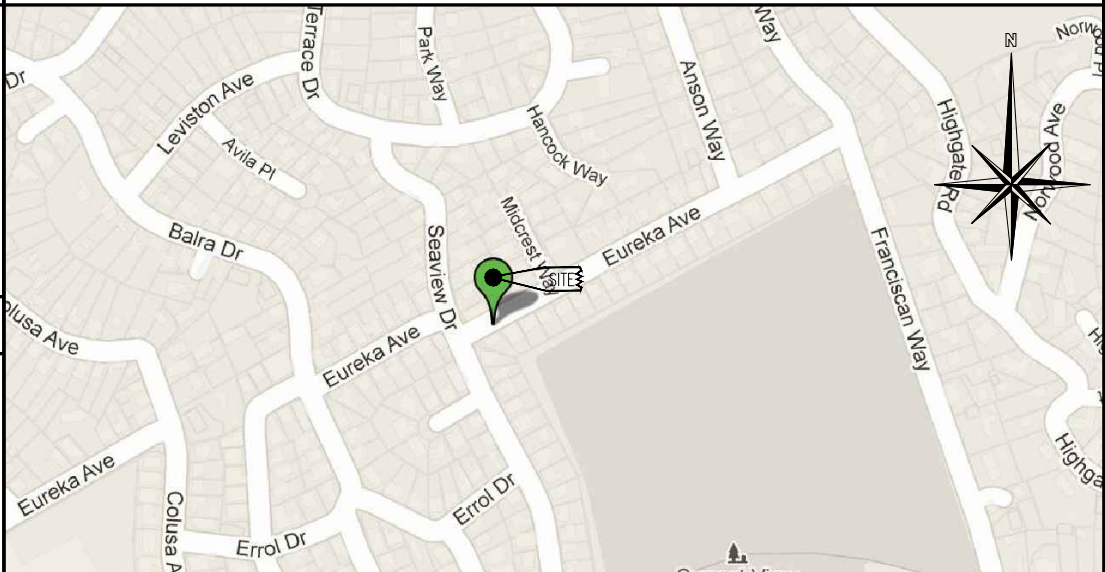
AL	ALUMINUM	FLR	FLOOR	PRELIM	PRELIMINARY
ALY	ALLOY	FT	FOOT	PWR	POWER
ANT	ANTENNA	FS	FARSIDE	QTY	QUANTITY
AGL	ABOVE GROUND	FSTNR	FASTENER	R	RADIUS
	LEVEL	GALV	GALVANIZED	PAD	RADIATION
AMSL	ABOVE MEAN	GA	GAUGE	RC	RAD CENTER
	SEA LEVEL	GEN	GENERATOR	RCVR	RECEIVER
APVD	APPROVED	GND	GROUND/GROUNDING	ALY	ALLOY
APPROX	APPROXIMATE	ID	INSIDE DIAMETER	RELOC	RELOCATED
AR, A/R	AS REQUIRED	MATL	MATERIAL	REQD	REQUIRED
BAT	BATTERY	MAX	MAXIMUM	SH	SHEET
BC	BOLT CIRCLE	MFR	MANUFACTURER	SPLY	SUPPLY
BLDG	BUILDING	MTD	MOUNTED	SS	STAINLESS STL
BRKT	BRACKET	MTG	MOUNTING	STD	STANDARD
CAB	CABINET	MTR	METER	STL	STEEL
CL	CENTERLINE	MAX	MAXIMUM	STRL	STRUCTURAL
CONC	CONCRETE	MIN	MINIMUM	SQ	SQUARE
CND	CONDUIT	(N)	NEW	SW	SWITCH
DN	DOWN	NS	NEARSIDE	THD	THREAD
(E)	EXISTING	NTS	NOT TO SCALE	THK	THICK
EA	EACH	OC	ON CENTER	TNND	TINNED
EL	ELEVATION	OD	OUTSIDE DIAMETER	TYP	TYPICAL
EMBED	EMBEDMENT	(P)	PROPOSED	UBC	UNIFORM
EMER	EMERGENCY	PLYWD	PLYWOOD		BUILDING CODE
ENCL	ENCLOSURE	PL	PLACES	W/	WITH
EQPT	EQUIPMENT	PNL	PANEL	W/O	WITHOUT
EQ SP	EQUAL SPACE	P/O	PART OF	XMFR	TRANSFORMER
HGT	HEIGHT	POSN	POSITION	XMTR	TRANSMITTER
(F)	FUTURE				

CODE COMPLIANCE

ALL WORK AND MATERIALS SHALL BE PERFORMED AND INSTALLED IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE FOLLOWING CODES AS ADOPTED BY THE LOCAL GOVERNING AUTHORITIES. NOTHING IN THESE PLANS IS TO BE CONSTRUCTED TO PERMIT WORK NOT CONFORMING TO THESE CODES.

- CALIFORNIA BUILDING CODE CBC-2010
- CALIFORNIA ADMINISTRATIVE CODE. (INCL. TITLES 24 & 25) 2010.
- ANSI/ EIA-222-F LIFE SAFETY CODE NFPA.
- BUILDING OFFICIALS AND CODE ADMINISTRATORS (BOCA)
- CALIFORNIA ELECTRICAL CODE CEC-2010.
- CALIFORNIA MECHANICAL CODE CMC-2010.
- CALIFORNIA PLUMBING CODE CPC 2010.
- LOCAL BUILDING CODE(S).
- CITY AND/OR COUNTY ORDINANCES.
- MUST COMPLY TO LATEST CALIFORNIA FIRE CODE. (AND LATEST MUNICIPAL FIRE CODE).
- CALIFORNIA GENERAL ORDER 95 AND 128.

VICINITY MAP



DRIVING DIRECTIONS

FROM: 2678 BISHOP RANCH DR, SAN RAMON, CA
DISTANCE: 33.6 MILES (39 MIN)
1. HEAD SOUTHWEST ON BISHOP DR TOWARD SUNSET DR 400 FT
2. TAKE THE 1ST LEFT ONTO SUNSET DR 0.1 MI
3. TURN RIGHT ONTO BOLLINGER CANYON RD 0.2 MI
4. MERGE ONTO I-680 N VIA THE RAMP TO SACRAMENTO 10.9 MI
5. TAKE EXIT 45B TO MERGE ONTO CA-24 W/STATE ROUTE 24 W TOWARD LAFAYETTE/OAKLAND 13.5 MI
6. TAKE EXIT 2B FOR INTERSTATE 580 W 1.0 MI
7. MERGE ONTO I-580 W 1.1 MI
8. MERGE ONTO I-80 E 4.8 MI
9. TAKE EXIT 14A FOR CENTRAL AVE TOWARD EL CERRITO 0.2 MI
10. TURN RIGHT ONTO CENTRAL AVE 0.9 MI
11. TURN RIGHT ONTO ASHBURY AVE 0.1 MI
12. TURN LEFT ONTO FAIRMOUNT AVE 0.2 MI
13. TURN LEFT ONTO COLUSA AVE 157 FT
14. TAKE THE 1ST RIGHT ONTO SEAVIEW DR 0.5 MI
15. TAKE THE 1ST RIGHT ONTO EUREKA AVE 115 FT
16. DESTINATION WILL BE ON THE RIGHT

TO: 7800 EUREKA AVE, EL CERRITO, CA 94530

SIGNATURE BLOCK

APPROVED BY:	INITIALS:	DATE:
MUNICIPAL AFFAIRS:		
RF MANAGER:		
CONSTRUCTION MANAGER:		
PROJECT MANAGER:		
APPLICANT AGENT:		
APPLICANT:		

PROJECT DESCRIPTION

THESE DRAWINGS DEPICT A PORTION OF A DISTRIBUTED ANTENNA SYSTEM (DAS) TELECOMMUNICATIONS NETWORK, TO BE CONSTRUCTED BY EXTENET SYSTEMS AND OWNED AND OPERATED BY NEW CINGULAR WIRELESS PCS, LLC, IN THE PUBLIC RIGHT OF WAY PURSUANT TO AUTHORITY GRANTED BY THE CALIFORNIA PUBLIC UTILITIES COMMISSION.

THE MAIN COMPONENTS OF THIS INSTALLATION ARE:
THE ADDITION OF TWO (2) 27.75"X10.625"X6.25" PANEL ANTENNAS, ONE (1) BBU CABINET, ONE (1) RADIO UNIT, ASSOCIATED ELECTRICAL COMPONENTS, AND MOUNTING BRACKETS AS REQUIRED, LOCATED ON AN EXISTING PG&E UTILITY POLE.

DRAWING INDEX

T1	TITLE SHEET & PROJECT INFORMATION
T2	GENERAL NOTES AND SCHEDULES
A1	SITE PLAN
A2	UTILITY POLE ELEVATIONS / RISER DETAILS
D1	EQUIPMENT DETAILS
S1	POWER & RF SAFETY PROTOCOLS

BUILDING / SITE DATA

LATITUDE:	37.910383	TYPE OF CONSTRUCTION:	ATTACHMENTS TO EXISTING WOOD POLE
LONGITUDE:	-122.289977	AREA OF CONST:	-
ELEVATION:	N / A	HANDICAP REQUIREMENTS:	FACILITY IS UNMANNED AND NOT FOR HUMAN HABITATION. HANDICAPPED ACCESS NOT REQUIRED.
JURISDICTION:	CITY OF EL CERRITO	TITLE 24 REQUIREMENTS:	FACILITY IS UNMANNED AND NOT FOR HUMAN HABITATION. THIS PROJECT IS EXEMPT.
A.P.N.:	5044030053		
ZONING:	PUBLIC RIGHT OF WAY		
OCCUPANCY:	U, UNMANNED		

PROJECT TEAM

PROPERTY OWNER:	CONSTRUCTION MANAGER:	MUNICIPAL AFFAIRS:
NAME: PUBLIC RIGHT OF WAY ADDRESS: 7800 EUREKA AVE, EL CERRITO, CA 94530	EXTENET SYSTEMS CA, LLC. CONTACT: KEN BOOKER PHONE: (510) 406-0829	EXTENET SYSTEMS CA, LLC. CONTACT: BILL STEPHENS PHONE: (510) 612-2511
APPLICANT:	APPLICANT AGENT:	ARCHITECT:
NEW CINGULAR WIRELESS PCS, LLC 4430 ROSEWOOD DR, BLDG 3 PLEASANTON, CA 94588-3050 CONTACT: VANI MULLER PHONE: (510) 258-1703	MATTHEW YERGOVICH EXTENET SYSTEMS REAL ESTATE CONTRACTOR FOR AT&T MOBILITY 1826 WEBSTER ST SAN FRANCISCO, CA 94115 PHONE: (415) 596-3474 EMAIL: myergo@gmail.com	AERO COMMUNICATIONS, INC. 5711 RESEARCH DRIVE CANTON, MI 48188 CONTACT: GARY GETCHELL PHONE: (510) 292-8918

GENERAL NOTES

- THE CONTRACTOR SHALL BE RESPONSIBLE FOR SURVEY MONUMENTS AND/OR VERTICAL CONTROL BENCHMARKS WHICH ARE DISTURBED OR DESTROYED BY CONSTRUCTION. A LAND SURVEYOR MUST FIELD LOCATE, REFERENCE, AND/OR PRESERVE ALL HISTORICAL OR CONTROLLING MONUMENTS PRIOR TO ANY EARTHWORK. IF DESTROYED, SUCH MONUMENTS SHALL BE REPLACED WITH APPROPRIATE MONUMENTS BY A LAND SURVEYOR. A CORNER RECORD OR RECORD OF SURVEY, AS APPROPRIATE, SHALL BE FILED AS REQUIRED BY THE PROFESSIONAL LAND SURVEYORS ACT.
- IMPORTANT NOTICE: SECTION 4215 OF THE GOVERNMENT CODE REQUIRES A DIG ALERT IDENTIFICATION NUMBER BE ISSUED BEFORE A "PERMIT TO EXCAVATE" WILL BE VALID. FOR YOUR DIG ALERT I.D. NUMBER, CALL UNDERGROUND SERVICE ALERT, TOLL FREE 1-800-227-2600, TWO DAYS BEFORE YOU DIG.
- CONTRACTOR SHALL BE RESPONSIBLE FOR THE POT HOLE AND LOCATING OF ALL EXISTING UTILITIES THAT CROSS THE PROPOSED TRENCH LINE AND MUST MAINTAIN A 1' MINIMUM VERTICAL CLEARANCE.
- IF ANY EXISTING HARDSCAPE OR LANDSCAPE INDICATED ON THE APPROVE PLANS IS DAMAGED OR REMOVED DURING DEMOLITION OR CONSTRUCTION, IT SHALL BE REPAIRED AND/OR REPLACED IN KIND PER THE APPROVED PLANS.
- CONTRACTOR SHALL REPLACE OR REPAIR ALL TRAFFIC SIGNAL LOOPS, CONDUIT, AND LANE STRIPING DAMAGED DURING CONSTRUCTION.
- THIS PROJECT WILL BE INSPECTED BY ENGINEERING AND FIELD ENGINEERING DIVISION.

- MANHOLES OR COVERS SHALL BE LABELED EXTENET.
- CONTRACTOR SHALL IMPLEMENT AN EROSION CONTROL PROGRAM DURING THE PROJECT CONSTRUCTION ACTIVITIES. THE PROGRAM SHALL MEET THE APPLICABLE REQUIREMENTS OF THE STATE WATER RESOURCE CONTROL BOARD.
- THE CONTRACTOR SHALL HAVE EMERGENCY MATERIALS AND EQUIPMENT ON HAND FOR UNFORESEEN SITUATIONS, SUCH AS DAMAGE TO UNDERGROUND WATER, SEWER, AND STORM DRAIN FACILITIES WHEREBY FLOWS MAY GENERATE EROSION AND SEDIMENT POLLUTION.

CALTRANS NOTES

- ANY REMOVED OR DAMAGED STRIPING AND MARKINGS SHALL BE REPLACED IN KIND AS PER CALTRANS STANDARDS AND AT PERMITTEE'S EXPENSE.



Call before you dig
811 / 1-800-227-2600
www.usanorth.org

SPECIAL NOTES

- INDEMNIFICATION CLAUSE: THE CONTRACTOR AGREES AND SHALL ASSUME SOLE AND COMPLETE RESPONSIBILITY OF THE JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THIS PROJECT, INCLUDING THE SAFETY OF ALL PERSONS AND PROPERTIES. THAT THESE REQUIREMENTS SHALL APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS AND CONDITIONS. THE CONTRACTOR FURTHER AGREES TO DEFEND INDEMNITY AND HOLD EXTENET, REPRESENTATIVES, AND ENGINEERS HARMLESS FROM ANY AND ALL LIABILITY, REAL OR ALLEGED IN CONNECTION WITH THE PERFORMANCE OF THE WORK ON THIS PROJECT.
- PRIOR TO THE BEGINNING OF ANY CONSTRUCTION AND THROUGHOUT THE COURSE OF CONSTRUCTION WORK, THE CONTRACTOR SHALL FULLY COMPLY WITH "CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH" ACT OF 1973 INCLUDING ALL REVISIONS AND AMENDMENTS THERETO.
- ALL WORK SHALL CONFORM TO THE LATEST EDITIONS OF G095,128 AND THE STANDARD "SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION" AS ADOPTED BY THE CITY, COUNTY OR STATE AS MODIFIED BY STANDARD PLANS AND ADDENDUMS.
- THE EXISTENCE AND LOCATION OF UTILITIES AND OTHER AGENCY'S FACILITIES AS SHOWN HERON ARE OBTAINED BY A SEARCH OF AVAILABLE RECORDS. OTHER FACILITIES MAY EXIST. THE CONTRACTOR SHALL VERIFY PRIOR TO THE START OF CONSTRUCTION AND SHALL USE EXTREME CARE AND PROTECTIVE MEASURES TO PREVENT DAMAGE TO THESE FACILITIES. THE CONTRACTOR IS RESPONSIBLE FOR THE PROTECTION OF ALL UTILITY OR AGENCY FACILITIES WITHIN THE LIMITS OF WORK, WHETHER THEY ARE SHOWN ON THIS PLAN OR NOT.
- THE CONTRACTOR SHALL NOTIFY THE CITY, COUNTY OR STATE ENGINEER INSPECTION DEPARTMENT, AT LEAST TWO DAYS BEFORE START OF ANY WORK REQUIRING THEIR INVOLVEMENT.
- THE CITY, COUNTY OR STATE SHALL SPECIFY THE EXPIRATION PERIOD OF THE PERMIT FOR THIS CONSTRUCTION PROJECT.
- THE MINIMUM COVER FOR ALL CONDUITS PLACED UNDERGROUND SHALL BE 30 INCHES TO THE FINISHED GRADE AT ALL TIMES.
- THE CONTRACTOR SHALL TUNNEL ALL CURB AND GUTTERS AND BORE ALL CONCRETE DRIVEWAYS AND WALKWAYS AT THE DIRECTION OF THE CITY, COUNTY OR STATE ENGINEER.
- ALL A.C. AND/OR CONCRETE PAVEMENT SHALL BE REPLACED AT THE DIRECTION OF THE CITY, COUNTY OR STATE ENGINEERS.
- ALL SHRUBS, PLANTS OR TREES THAT HAVE BEEN DAMAGED OR DISTURBED DURING THE COURSE OF THE WORK, SHALL BE REPLANTED AND/OR REPLACED SO AS TO RESTORE THE WORK SITE TO ITS ORIGINAL CONDITION.
- THE CONTRACTOR WILL BE RESPONSIBLE FOR THE PROCESSING OF ALL APPLICANT PERMIT FORMS ALONG WITH THE REQUIRED LIABILITY INSURANCE FORMS. CLEARLY DEMONSTRATING THAT EXTENET, THE CITY, COUNTY OR STATE IS ALSO INSURED WITH THE REQUIRED LIABILITY INSURANCE IN THE AMOUNT OF \$1,000,000.00 FOR THIS CONSTRUCTION PROJECT.
- VAULTS, PEDESTALS, CONDUITS AND OTHER TYPES OF SUBSTRUCTURE ARE EITHER SPECIFIED ON THIS PLAN OR WILL BE SPECIFIED BY THE CONSTRUCTION ENGINEER. ANY AND ALL DEVIATIONS FROM THE SPECIFIED TYPES OF MATERIAL MUST BE APPROVED BY THE SYSTEM ENGINEER, IN WRITING BEFORE INSTALLATION THEREOF.
- THE CONTRACTOR SHALL VERIFY THE LOCATION OF ALL EXISTING UTILITIES IN INCLUDING SEWER LATERALS & WATER SERVICES TO INDIVIDUAL LOTS BOTH VERTICAL AND HORIZONTAL PRIOR TO COMMENCING IMPROVEMENT OPERATIONS.
- CONTRACTOR SHALL MAKE EXPLORATION EXCAVATIONS AND LOCATE EXISTING FACILITIES SUFFICIENTLY AHEAD OF CONSTRUCTION TO PERMIT REVISIONS TO PLANS IF REVISION IS NECESSARY BECAUSE OF LOCATION OF EXISTING UTILITIES.
- THE LOCATIONS OF ALL EXISTING UTILITIES SHOWN ON THESE PLANS ARE FROM EXISTING RECORDS AND CORROBORATED, WHERE POSSIBLE, WITH FIELD TIES. THE CONTRACTOR IS RESPONSIBLE FOR CONFIRMING THE LOCATIONS SHOWN, BOTH HORIZONTAL AND VERTICALLY. PRIOR TO CONSTRUCTION, IF EXISTING LOCATIONS VARY SUBSTANTIALLY FROM THE PLANS, THE ENGINEER SHOULD BE NOTIFIED TO MAKE ANY CONSTRUCTION CHANGES REQUIRED.

EROSION AND SEDIMENT CONTROL NOTES

- TEMPORARY EROSION/SEDIMENT CONTROL PRIOR TO COMPLETION OF FINAL IMPROVEMENTS, SHALL BE PERFORMED BY THE CONTRACTOR OR QUALIFIED PERSON AS INDICATED BELOW:
- ALL REQUIREMENTS OF THE CITY, COUNTY AND STATE "STORM WATER STANDARDS" MUST BE INCORPORATED INTO THE DESIGN AND CONSTRUCTION OF THE PROPOSED GRADING/IMPROVMENTS CONSISTENT WITH THE APPROVED STORM WATER POLLUTION PREVENTION PLAN (SWPPP), WATER QUALITY TECHNICAL REPORT (WQTR), AND/OR WATER POLLUTION CONTROL PLAN (WPCP).
 - FOR STORM DRAIN INLETS, PROVIDE A GRAVEL BAG SILT BASIN IMMEDIATELY UPSTREAM OF INLET AS INDICATED ON DETAILS.
 - FOR INLETS LOCATED AT SUMPS ADJACENT TO TOP OF SLOPES. THE CONTRACTOR SHALL ENSURE THAT WATER DRAINING TO THE SUMP IS DIRECTED INTO THE INLET AND THAT A MINIMUM OF 1.00' FREEBOARD EXISTS AND IS MAINTAINED ABOVE THE TOP OF THE INLET. IF FREEBOARD IS NOT PROVIDED BY GRADING SHOWN ON THESE PLANS THE CONTRACTOR SHALL PROVIDE IT VIA TEMPORARY MEASURES, I.E. GRAVEL BAGS OR DIKES.
 - THE CONTRACTOR OR QUALIFIED PERSON SHALL BE RESPONSIBLE FOR CLEANUP OF SILT AND MUD ON ADJACENT STREET(S) AND STORM DRAIN SYSTEM DUE TO CONSTRUCTION ACTIVITY.
 - THE CONTRACTOR OR QUALIFIED PERSON SHALL CHECK AND MAINTAIN ALL LINED AND UNLINED DITCHES AFTER EACH RAINFALL.
 - THE CONTRACTOR SHALL REMOVE SILT AND DEBRIS AFTER EACH MAJOR RAINFALL.
 - EQUIPMENT AND WORKERS FOR EMERGENCY WORK SHALL BE MADE AVAILABLE AT ALL TIMES DURING THE RAINY SEASON. ALL NECESSARY MATERIALS SHALL BE STOCKPILED ON SITE AT CONVENIENT LOCATIONS TO FACILITATE RAPID CONSTRUCTION OF TEMPORARY DEVICES WHEN RAIN IS IMMINENT.
 - THE CONTRACTOR SHALL RESTORE ALL EROSION/SEDIMENT CONTROL DEVICES TO WORKING ORDER TO THE SATISFACTION OF THE CITY ENGINEER OF RESIDENT ENGINEER AFTER EACH RUN-OFF PRODUCING RAINFALL.
 - THE CONTRACTOR SHALL INSTALL ADDITIONAL EROSION/SEDIMENT CONTROL MEASURES AS MAY BE REQUIRED BY THE RESIDENT ENGINEER DUE TO UNCOMPLETED GRADING OPERATIONS OR UNFORESEEN CIRCUMSTANCES, WHICH MAY ARISE.
 - THE CONTRACTOR SHALL BE RESPONSIBLE AND SHALL TAKE NECESSARY PRECAUTIONS TO PREVENT PUBLIC TRESPASS ONTO AREAS WHERE IMPOUNDED WATERS CREATE A HAZARDOUS CONDITION.
 - ALL EROSION/SEDIMENT CONTROL MEASURES PROVIDED PER THE APPROVED GRADING PLAN SHALL BE INCORPORATED HERON. ALL EROSION/SEDIMENT CONTROL FOR INTERIM CONDITIONS SHALL BE DONE TO THE SATISFACTION OF THE RESIDENT ENGINEER.
 - GRADED AREAS AROUND THE PROJECT PERIMETER MUST DRAIN AWAY FROM THE FACE OF THE SLOPE AT THE CONCLUSION OF EACH WORKING DAY.
 - ALL REMOVABLE PROTECTIVE DEVICES SHOWN SHALL BE IN PLACE AT THE END OF EACH WORKING DAY WHEN RAIN IS IMMINENT.
 - THE CONTRACTOR SHALL ONLY GRADE, INCLUDING CLEARING AND GRUBBING FOR THE AREAS FOR WHICH THE CONTRACTOR OR QUALIFIED PERSON CAN PROVIDE EROSION/SEDIMENT CONTROL MEASURES.
 - THE CONTRACTOR SHALL ARRANGE FOR WEEKLY MEETINGS DURING OCTOBER 1ST TO APRIL 30TH FOR PROJECT TEAM (GENERAL CONTRACTOR, QUALIFIED PERSON, EROSION CONTROL SUBCONTRACTOR IF AN, ENGINEER OF WORK, OWNER/DEVELOPER AND THE RESIDENT ENGINEER) TO EVALUATE THE ADEQUACY OF THE EROSION/SEDIMENT CONTROL MEASURE AND OTHER RELATED CONSTRUCTION ACTIVITIES.

GENERAL NOTES

ROW GROUND CONSTRUCTION NOTES:

- 120/240 POWER REQUIRED FOR 3-WIRE SERVICE.
- GC TO REMOVE/CLEAN ALL DEBRIS, NAILS, STAPLES, OR NON-USED VERTICALS OFF THE POLE.
- ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH MUNICIPAL, COUNTY, STATE, FEDERAL, G095 AND G0128 STANDARDS AND REGULATIONS.
- CALL USA 48 HOURS PRIOR TO EXCAVATING AT (800) 227-2600.
- ALL LANDSCAPING TO BE RESTORED TO ORIGINAL CONDITION OR BETTER.
- ALL EQUIPMENT TO BE BONDED.
- METERING CABINET REQUIRES 3" CLEARANCE AT DOOR OPENING.
- CAULK CABINET BASE AT PAD.

STANDARD GROUNDING NOTES:

- GROUND TESTED AT 5 OHMS OR LESS.
- 5/8"x8" ROD, CAD WELD BELOW GRADE
- #6 GROUND AND BOND WIRE.
- WOOD MOLDING, STAPLED EVERY 3' AND AT EACH END
- GROUNDS 3' FROM POLE.
- PLACE 3 #10GA WIRES FROM BREAKER TO METER BOX.

STANDARD CONDUIT NOTES:

- FOR UNDERGROUND USE SCHEDULE 40.
- FOR RISERS USE SCHEDULE 80.
- PLACE 2" GALVANIZED STEEL CONDUIT FOR ANY CONDUIT UNDER 3", STUB UP 10' THEN CONVERT TO SCHEDULE 80.
- CONVERT 4" CARRIER CONDUIT TO 3" AT BASE OF POLE.
- GC TO STUB UP POLE 10' w/3" POWER CONDUIT, POWER CO. TO CONVERT FROM 3" SCH. 80 TO 2" SCH. 80 FROM TOP OF STUB UP.
- ALL CONDUIT WILL BE MAN DRILLED AND EQUIPPED WITH 3/8" PULL ROPE.

STANDARD TRENCHING NOTES:

- MAINTAIN 40" MINIMUM COVER FOR ELECTRICAL CONDUIT.
- MAINTAIN 30" MINIMUM COVER FOR COMMUNICATIONS CONDUIT.
- SAND SHADING MINIMUM 1" UNDER CONDUITS, AND 6" COVERING ON TOP REQUIRED.
- ALL ELECTRICAL SERVICE CONDUITS FROM POWER COMPANY, WHETHER FROM POLES, TRANSFORMERS, OR OTHER LOCATIONS; WILL BE SLURRY BACKFILLED.
- IN STREET SLURRY TO GRADE AND MILL DOWN 1-1/2" FOR AC CAP.
- IN DIRT SLURRY 18" FROM GRADE, AND FILL WITH 95% COMPACTION NATIVE SOIL FOR BALANCE.
- PLACE WARNING TAPE IN TRENCH 12" ABOVE ALL CONDUITS AND #18 WARNING TAPE ABOVE GROUND RING.

ROW UTILITY POLE CONSTRUCTION NOTES:

- NO BOLT THREADS TO PROTRUDE MORE THAN 1-1/2".
- FILL ALL HOLES LEFT IN POLE FROM REARRANGEMENT OF CLIMBERS.
- ALL CLIMB STEPS NEXT TO CONDUIT SHALL HAVE EXTENDED STEPS.
- CABLE NOT TO IMPEDE 15" CLEAR SPACE OFF POLE FACE (12:00).
- 90" SHORT SWEEPS UNDER ANTENNA ARM. ALL CABLES MUST ONLY TRANSITION ON THE INSIDE OR BOTTOM OF ARMS (NO CABLE ON TOP OF ARMS).
- USE CABLE CLAMPS TO SECURE CABLE TO ARMS; PLACE 2" CARRIER CABLE ID TAGS ON BOTH SIDES OF ARMS.
- USE 90° CONNECTOR AT CABLE CONNECTION TO ANTENNAS.
- PLACE GPS ON ARM WITH SOUTHERN SKY EXPOSURE AT MINIMUM 6' FROM TRANSMIT ANTENNA, WHICH IS 24" AWAY FROM CENTER OF POLE.
- USE 1/2" CABLE ON ANTENNAS UNLESS OTHERWISE SPECIFIED.
- FILL VOID AROUND CABLES AT CONDUIT OPENING WITH FOAM SEALANT TO PREVENT WATER INTRUSION.

WIND LOADING INFORMATION

ANTENNA/WOOD ARM AREA TOTAL	82.52 SQ. FT.
TOP GRADE	48'-5"
BOTTOM GRADE	38'-6"
METER/BREAKER AREA TOTAL	14.62 SQ. FT.
TOP GRADE	8'-11"
BOTTOM GRADE	8'-0"
BATTERY BACK-UP AREA TOTAL	40.5 SQ. FT.
TOP GRADE	16'-3"
BOTTOM GRADE	14'-0"
PRISM DECK AREA TOTAL	50.77 SQ. FT.
TOP GRADE	21'-2"
BOTTOM GRADE	17'-0"
PRISM DECK (FUT.) AREA TOTAL	-
TOP GRADE	-
BOTTOM GRADE	-
COAX RISER SIZE	3"U
COAX RISER TOP GRADE	45'-0"
COAX RISER BTM GRADE	11'-7"
PWR RISER SIZE	1"Ø
PWR RISER TOP GRADE	31'-7"
PWR RISER BTM GRADE	8'-0"

ANTENNA & CABLE SCHEDULE

ANTENNA SECTOR	AZIMUTH	ANTENNA MAKE / MODEL	COAXIAL CABLE LENGTH	CABLES PER SECTOR	CABLE SIZE
SECTOR ALPHA	20°	KATHREIN 840-10525	34'/3'	2/4	1/2"
SECTOR BETA	106°	KATHREIN 840-10525	34'/3'	2/4	1/2"
SECTOR GAMMA					
NOTE: CONTRACTOR TO FIELD VERIFY CABLE LENGTHS PRIOR TO ORDERING, FABRICATION, OR INSTALLATION OF CABLES.					

ROW CONSTRUCTION GENERAL NOTES

LOADING AND ANTENNA CABLE SCHEDULES



NEW CINGULAR WIRELESS PCS, LLC
4430 ROSEWOOD DR, BLDG 3
PLEASANTON, CA 94588-3050

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www.extenet.com

SEAL OF APPROVAL:

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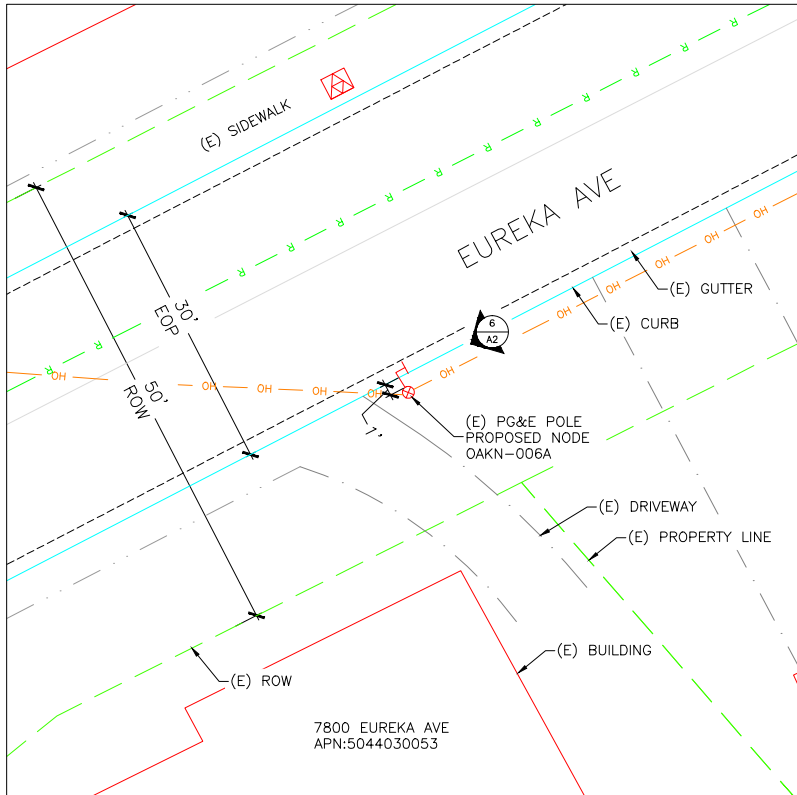
GENERAL NOTES
AND
SCHEDULES

SHEET NUMBER: REVISION:

T2

3

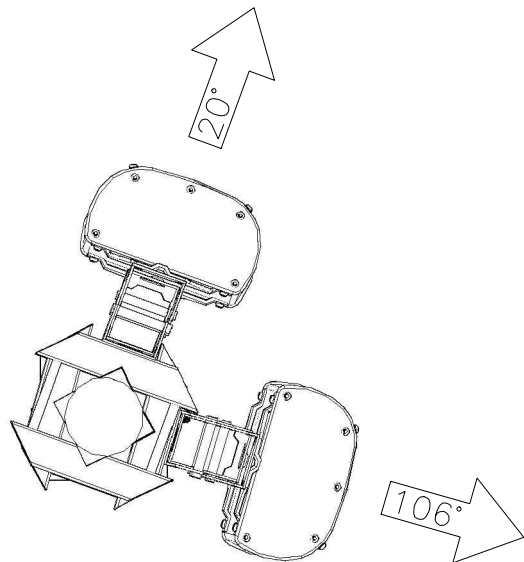
12/05/13



SITE PLAN CLOSEUP

B-SCALE 1"=20'-0"
D-SCALE 1"=10'-0"

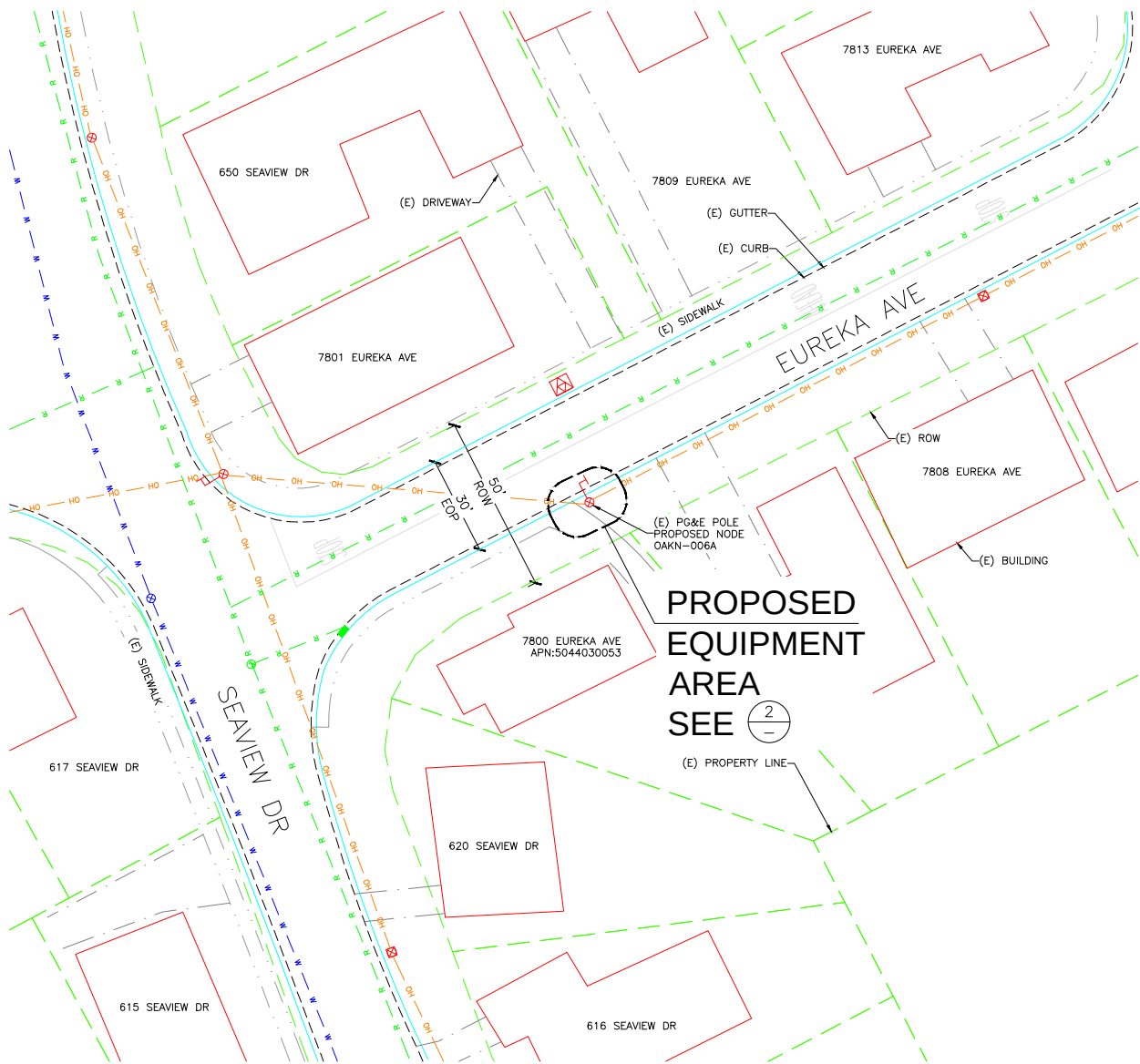
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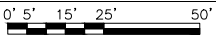
ANTENNA AZIMUTHS

SCALE
NTS

3



PROPOSED
EQUIPMENT
AREA
SEE 2-1



B-SCALE 1"=50'-0"
D-SCALE 1"=25'-0"

1



NEW CINGULAR WIRELESS PCS, LLC
4430 ROSEWOOD DR, BLDG 3
PLEASANTON, CA 94588-3050

PROJECT INFORMATION:

OAKHILLS AT&T
NORTH NETWORK
NODE 006A

7800 EUREKA AVE
EL CERRITO, CA 94530

CURRENT ISSUE DATE:

12/05/13

ISSUED FOR:

PERMITTING

BY: DATE: DESCRIPTION: REV:

BY	DATE	DESCRIPTION	REV
ACI	12/05/13	CHANGE EQUIP. CONFIG.	3
ACI	01/28/13	PERMITTING	2
ACI	12/15/12	POLE INFO CORRECTED	1
ACI	12/07/12	ZDs	0

PLANS PREPARED BY:



Aero Communications Inc.
1-800-825-4ACI
5711 Research Drive
Canton, MI 48188

ACI NUMBER: OAKN-006A

CONSTRUCTED BY:



3030 Warrenville Rd, Suite 340
Lisle, IL 60532
www.extenet.com

SEAL OF APPROVAL:

SHEET TITLE:

SITE PLAN

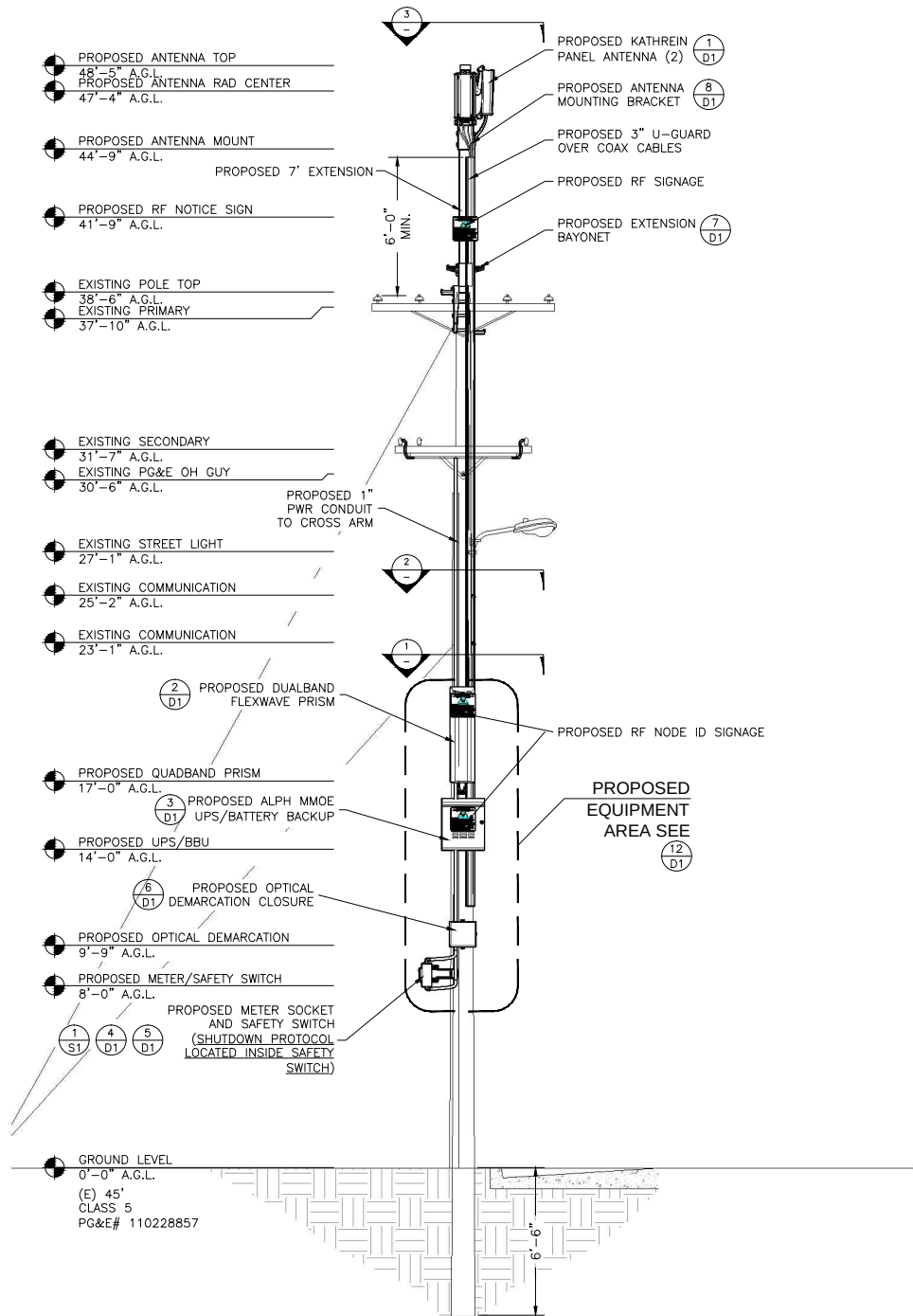
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A1

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12/05/13

SITE PLAN



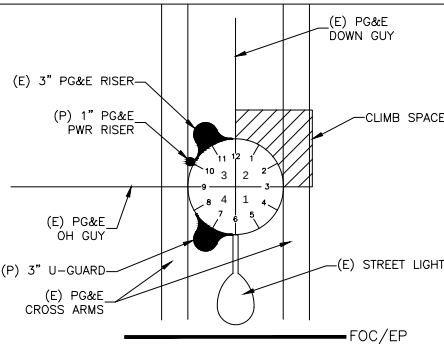
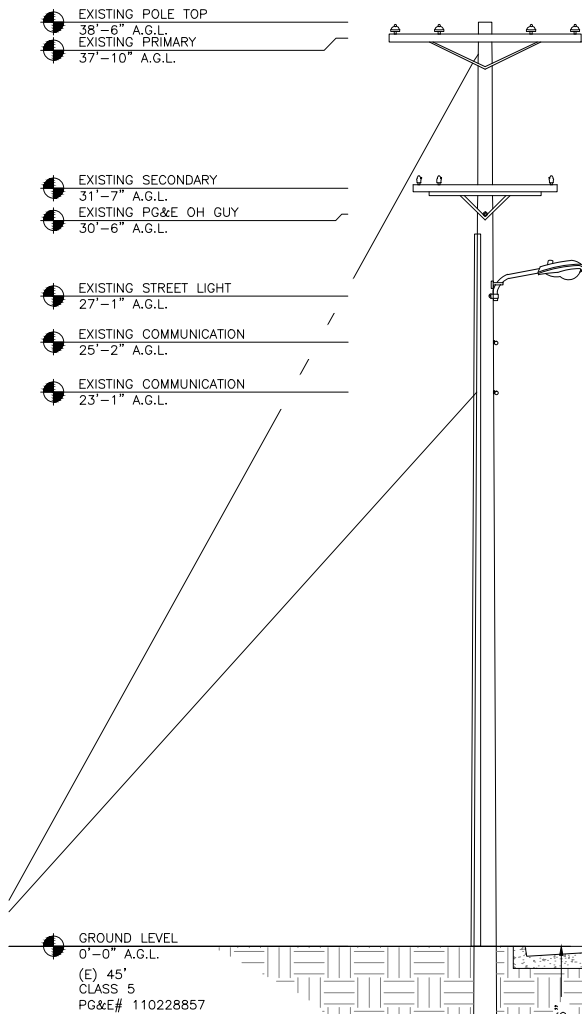
COMMUNICATIONS MAKE-READY

1. INSTALL PG&E 1" SCH 80 CONDUIT AT 10:00 POSITION FOR POWER SERVICE.
2. INSTALL 3" SCH 80 U-GUARD AT 8:00 POSITION OVER COAX.
3. INSTALL RADIO, BBU, & OPTINIB 4" OFF OF POLE (USING UNISTRUTS) AT 9:00 POSITION.
3. INSTALL METER SOCKET, & SAFETY SWITCH 4" OFF OF POLE (USING UNISTRUTS) AT 12:00 POSITION.
4. RELOCATE CLIMBING PEGS AT 9:00 POSITION, 8'-6" AGL TO COMM ZONE, TO 6:00 POSTION.

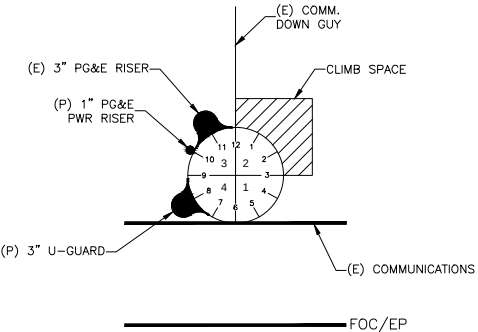
POWER MAKE-READY

1. INSTALL 7' POLE TOP EXTENSION.
2. INSTALL (2) PANEL ANTENNAS W/ MOUNTING BRACKET ON POLE TOP EXTENSION AT 45'-9" AGL.
3. INSTALL COMBINERS AND (4/8) 1/2" COAX.
4. INSTALL PG&E 1" SCH 80 CONDUIT TO SECONDARY CROSS ARM, AT 10:00 POSITION FOR POWER SERVICE.
5. INSTALL 3" SCH 80 U-GUARD AT 7:00 POSITION OVER COAX.
6. PROVIDE 120/240 3-WIRE SINGLE PHASE, 100 AMP SERVICE TO 1" PG&E CONDUIT AT 10:00 POSITION TO METER SOCKET FROM SERVICE DROP 31'-7" AGL.

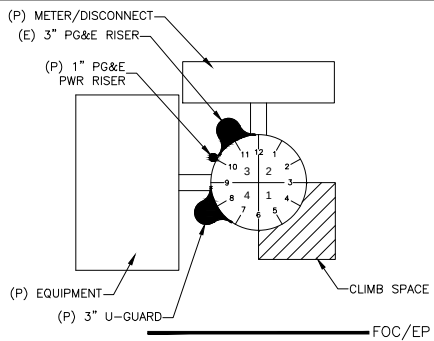
MAKE-READY NOTES



EUREKA AVE
POWER SPACE PLAN VIEW



EUREKA AVE
COMM. SPACE PLAN VIEW



EUREKA AVE
EQUIP. SPACE PLAN VIEW



NEW CINGULAR WIRELESS PCS, LLC
4430 ROSEWOOD DR, BLDG 3
PLEASANTON, CA 94588-3050

PROJECT INFORMATION:

**OAKHILLS AT&T
NORTH NETWORK
NODE 006A**
7800 EUREKA AVE
EL CERRITO, CA 94530

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SEAL OF APPROVAL:

SHEET TITLE:

**ELEVATIONS
&
RISER DETAILS**

SHEET NUMBER: REVISION:

A2

3

12/05/13

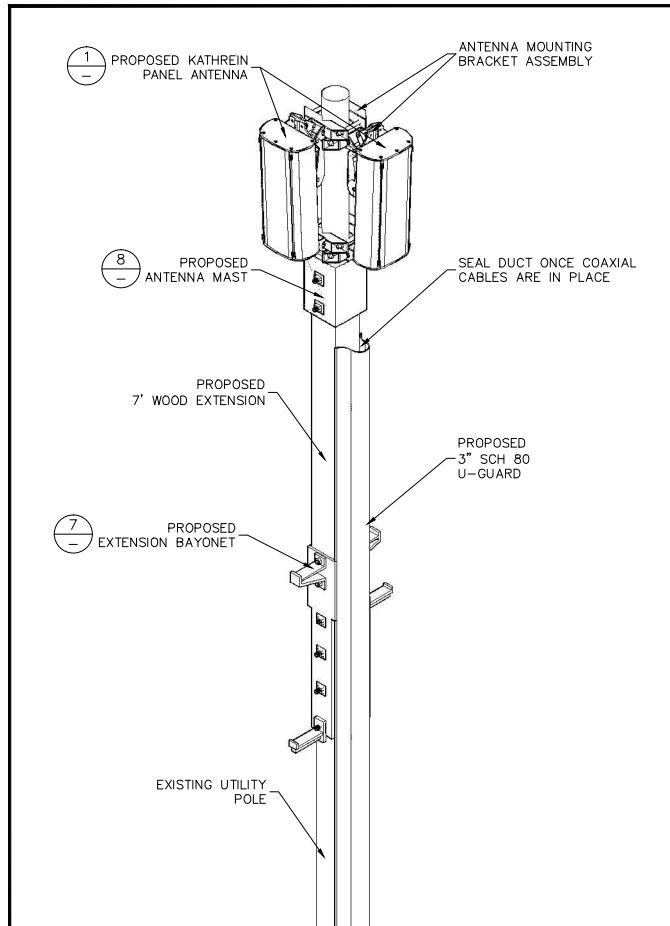
PROPOSED ELEVATION NORTHEAST

B-SCALE 1/8"=1'-0"
D-SCALE 1/4"=1'-0"

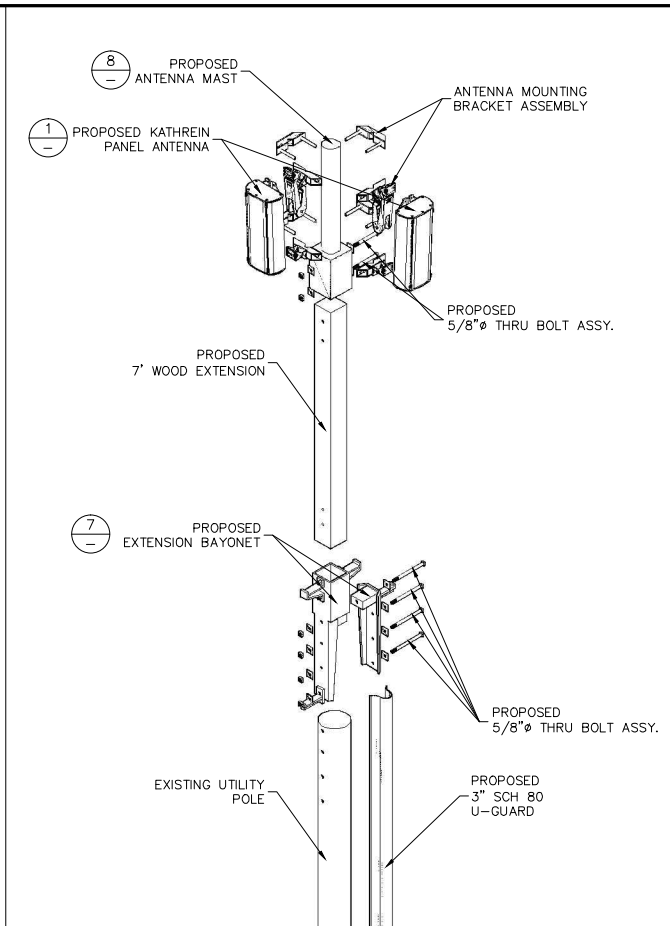
EXISTING ELEVATION NORTHEAST

B-SCALE 1/8"=1'-0"
D-SCALE 1/4"=1'-0"

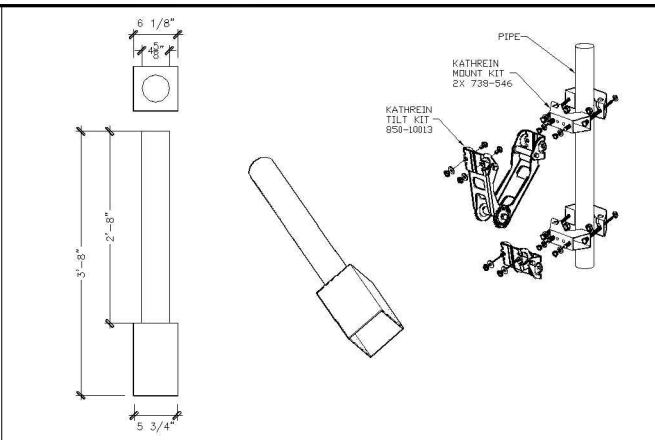
EQUIP. SPACE PLAN VIEW



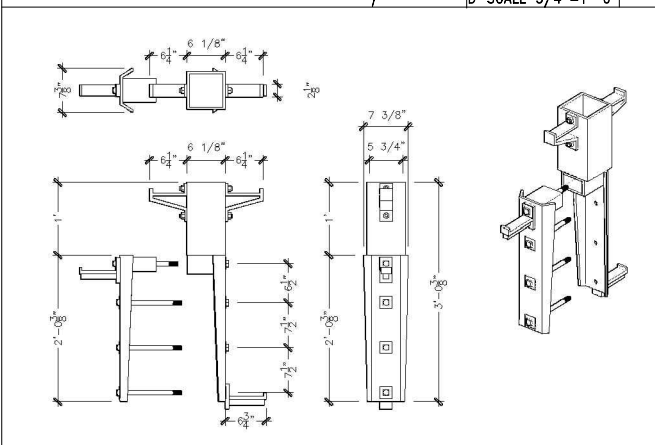
ANTENNA CONFIGURATION B-SCALE 3/8"=1'-0" D-SCALE 3/4"=1'-0" 13



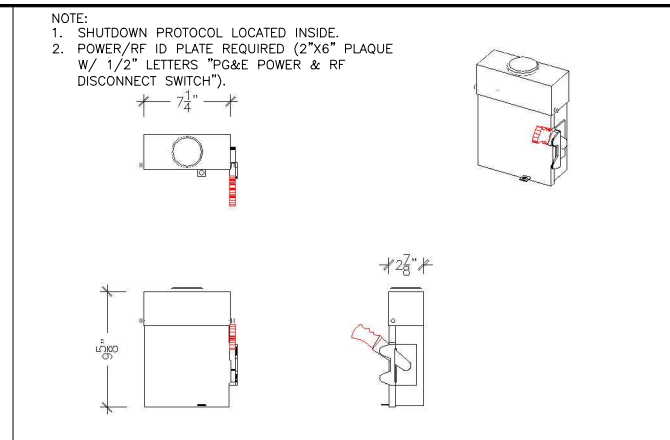
POLE TOP ANTENNA ASSEMBLY B-SCALE 1/4"=1'-0" D-SCALE 1/2"=1'-0" 11



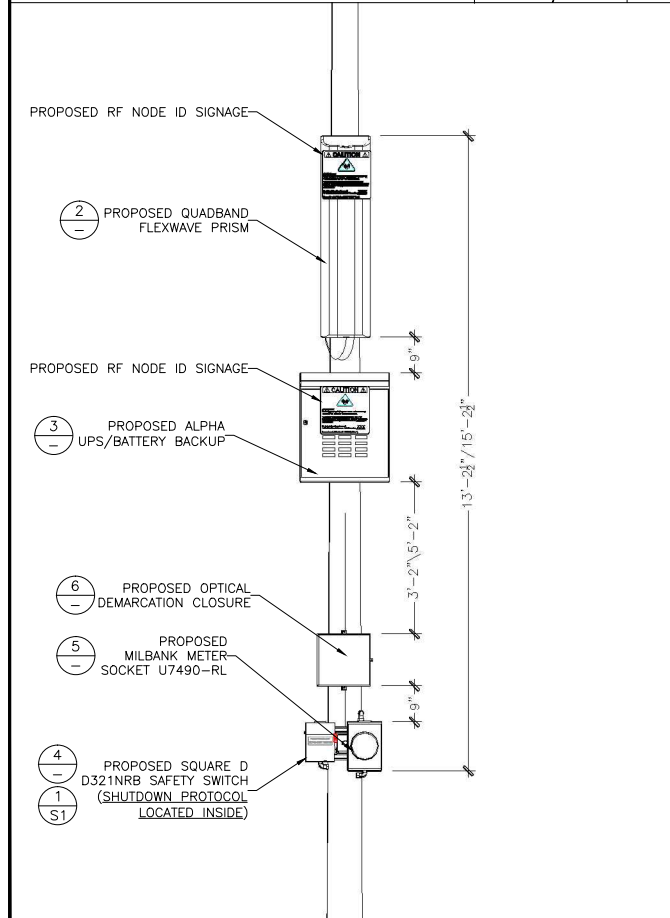
POLE TOP EXTENSION ANTENNA MAST W/ BRKTS B-SCALE 3/8"=1'-0" D-SCALE 3/4"=1'-0" 8



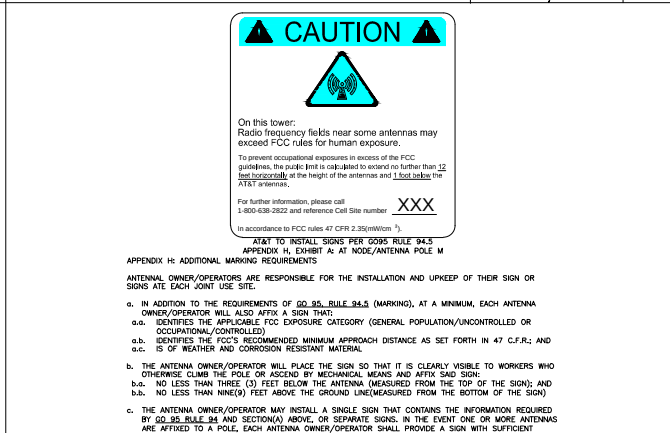
POLE TOP EXTENSION BAYONET B-SCALE 3/8"=1'-0" D-SCALE 3/4"=1'-0" 7



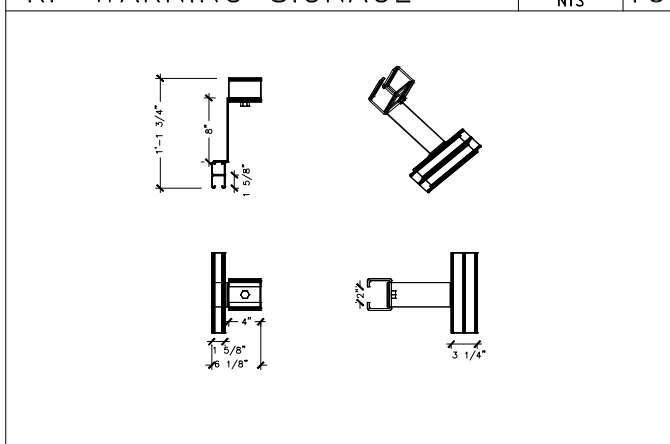
SQUARE D D321NRB SAFETY SWITCH B-SCALE 3/4"=1'-0" D-SCALE 1 1/2"=1'-0" 4



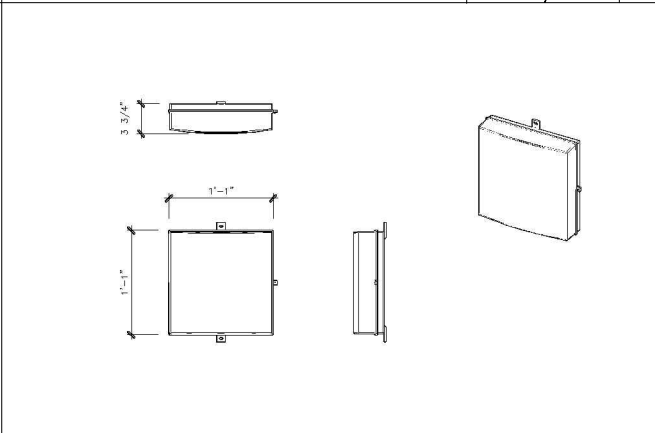
EQUIPMENT CONFIG. B-SCALE 3/8"=1'-0" D-SCALE 3/4"=1'-0" 12



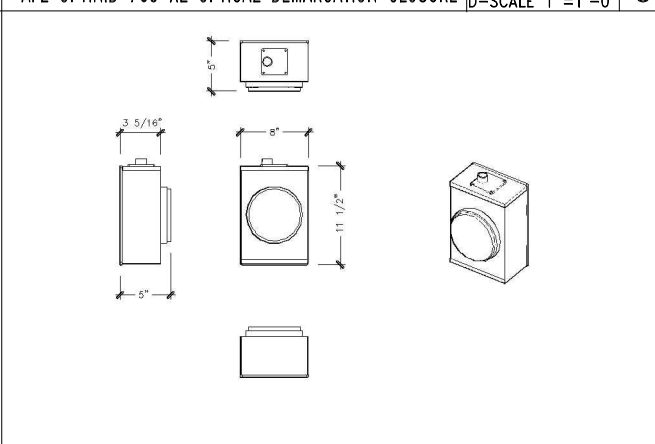
RF WARNING SIGNAGE SCALE NTS 10



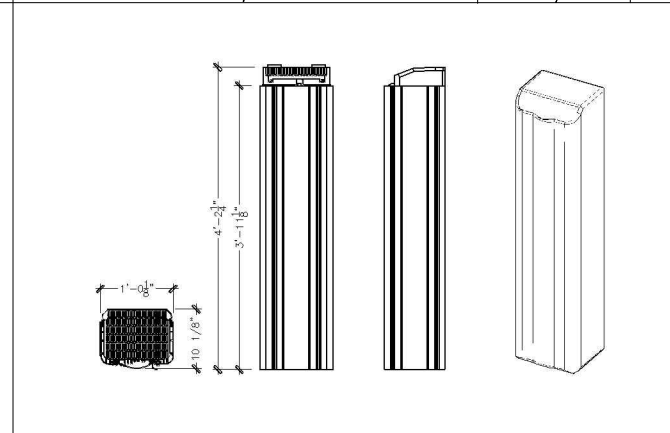
LADDER BRACKET B-SCALE 1/2"=1'-0" D-SCALE 1"=1'-0" 9



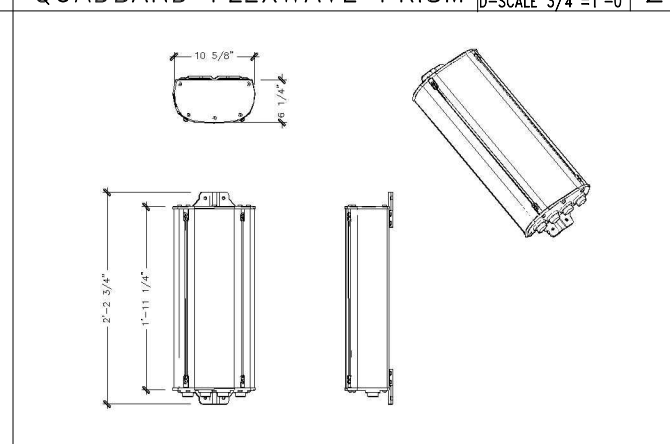
AFL OPTINID 760 XL OPTICAL DEMARCATION CLOSURE B-SCALE 1/2"=1'-0" D-SCALE 1"=1'-0" 6



MILBANK METER SOCKET U7490-RL B-SCALE 1/2"=1'-0" D-SCALE 1"=1'-0" 5



QUADBAND FLEXWAVE PRISM B-SCALE 3/8"=1'-0" D-SCALE 3/4"=1'-0" 2



KATHREIN PANEL ANTENNA B-SCALE 1/2"=1'-0" D-SCALE 1"=1'-0" 1

at&t
NEW CINGULAR WIRELESS PCS, LLC
4430 ROSEWOOD DR, BLDG 3
PLEASANTON, CA 94588-3050

PROJECT INFORMATION:
OAKHILLS AT&T
NORTH NETWORK
NODE 006A
7800 EUREKA AVE
EL CERRITO, CA 94530

CURRENT ISSUE DATE:
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ACI	12/07/12	ZDs	0
BY	DATE	DESCRIPTION	REV

PLANS PREPARED BY:
ACI
Aero Communications Inc.
1-800-825-4ACI
5711 Research Drive
Canton, MI 48188
ACI NUMBER: OAKN-006A

CONSTRUCTED BY:
extenet
YOUR NETWORK. EVERYWHERE.
SYSTEMS
3030 Warrenville Rd, Suite 340
Lisle, IL 60532
www.extenet.com

SEAL OF APPROVAL:

SHEET TITLE:
EQUIPMENT DETAILS

SHEET NUMBER: D1
REVISION: 3
12/05/13

SHUTDOWN PROTOCOL 7”X9” LAMINATED CARD CARDSTOCK



AT&T oDAS Shutdown Procedure

PROCEDURE TO DE-ENERGIZE RADIO FREQUENCY (RF) SIGNAL
EMERGENCY and NON-EMERGENCY WORK REQUIRING RF SIGNAL
SHUTDOWN

(A) PG&E personnel SHALL contact AT&T Mobility Switch Center to notify them of an emergency shutdown 800-638-2822. Dial option 9 for cell site “Related” emergency’s then option 1. Provide the following information when calling or leave a voicemail:

- (1) Identify yourself and give callback phone number.
- (2) Site number and if applicable site name (located on the shutdown box)
- (3) Site address and location
- (4) Nature of emergency and site condition

(B) Pull Disconnect Handle down to the Open or “OFF” Position. The RF signal will shut down within a few seconds. A visual inspection of the interior blade will confirm that both incoming AC Lead and Battery Backup are disconnected.

(C) Notify AT&T (New Cingular) Switch Center when the emergency work is completed.

See reverse side to view photo of the “on” and “off” position.

FRONT



Switch in the Closed Position (“ON”)



Blade in the Closed
or "ON" Position.



Switch in the Open Position (“Off”)



Blade in the Open
or "OFF" Position.



BACK



NEW CINGULAR WIRELESS PCS, LLC
4430 ROSEWOOD DR, BLDG 3
PLEASANTON, CA 94588-3050

PROJECT INFORMATION:

OAKHILLS AT&T
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7800 EUREKA AVE
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PLANS PREPARED BY:



ACI NUMBER: OAKN-006A

CONSTRUCTED BY:



3030 Warrenville Rd, Suite 340
Lisle, IL 60532
www.extenet.com

SEAL OF APPROVAL:

SHEET TITLE:

POWER & RF
SAFETY
PROTOCOLS

SHEET NUMBER: REVISION:

S 1

3

12/05/13



JOHN DI BENE
General Attorney
Legal Department

AT&T Services, Inc.
2600 Camino Ramon
Room 2W901
San Ramon, CA 94583

925.543.1548 Phone
925.867.3869 Fax
jdb@att.com

March 21, 2014

Via E-mail

El Cerrito City Council
City Hall
109890 San Pablo Avenue
El Cerrito, CA 94530

Re: New Cingular Wireless PCS, LLC d/b/a AT&T Mobility
Development Review Application PL13-0009
Distributed Antenna System Node 6

Dear Mayor Abelson, Mayor Pro Tem Benassini, and Councilmembers Bridges, Friedman and Lyman:

I write on behalf of New Cingular Wireless PCS, LLC d/b/a AT&T Mobility (AT&T) to respond to the appeal of the Planning Commission's ("Commission") approval of AT&T's Development Review Application PL13-0009 ("Application"), seeking to install a distributed antenna system node on an existing utility pole in the public right-of-way near 7800 Eureka Avenue ("DAS Node 6"). The appeal raises issues (a) that already have been addressed by the Commission when it previously granted AT&T conditional use rights, (b) that exceed the scope of the present review, and (c) that cannot form the basis for a denial pursuant to the federal Telecommunications Act of 1996, 47 U.S.C. § 332.

AT&T worked closely with the city to identify the most appropriate location and site design for DAS Node 6. On June 19, 2013, the Commission granted AT&T's use entitlement, finding that DAS Node 6 is necessary to provide wireless coverage in El Cerrito, is consistent with the El Cerrito General Plan, conforms to the standards for wireless telecommunications facilities under Chapter 19.28 of the El Cerrito Municipal Code ("Code"), and limits visual impacts to the extent feasible.¹ The Commission's grant of AT&T's use entitlement was not appealed. Thereafter, AT&T's Application proceeded to final design review under the city's three-step approval process.² At this

¹ See Commission Resolution No. PC13-12 (June 19, 2013) (ATTACHMENT A).

² Section 19.28.050 of the Code requires AT&T to first seek preliminary conceptual design review from the Design Review Board ("DRB"), then obtain use approval by the Commission, and then return to the DRB for final design approval. AT&T filed its Application on January 10, 2013. The DRB conducted its preliminary conceptual design

stage of the proceedings, only design review issues are subject to appeal from the Commission's February 19, 2014 approval.

Scope of Appeal

Because the Commission's grant of AT&T's use entitlement last June was not appealed, the scope of the pending appeal is limited to the subsequent design review approval by the Commission. Section 19.38.040 of the Code makes clear that final design review is limited to "final aesthetic architectural review," based on an analysis of seven enumerated design elements:

- A. Building articulation, facade treatment and architectural details.
- B. Exterior colors and materials.
- C. Character defining features and the relation to existing settings.
- D. Design of fences, walls, and screen plantings, including but not limited to height of those structures, materials, colors, and type.
- E. Location and type of landscaping including selection and size of plant materials and design of hardscape including landscape lighting.
- F. The size, location, design, color, number, lighting, and materials of signs.
- G. Design of the streetscape, including but not limited to landscaping, furniture and materials.

To the extent the appeal raises concerns germane to the separate use permit process – such as AT&T's significant service coverage gap, AT&T's analysis of alternative sites, property values, etc. – these issues are not timely and not relevant to the matter now before Council.

The appellant raises seven issues in his appeal. But none fall within the scope of final aesthetic architectural review under the Code. Accordingly, the appeal should be denied.

Applicable Federal Law – Telecommunications Act of 1996

To the extent Council may be inclined to consider one or more of the out-of-scope issues raised by the appellant, AT&T offers the following framework for Council's review based on controlling federal and state laws.

The federal Telecommunications Act of 1996, 47 U.S.C. § 332 ("Act") provides rights to wireless service providers and establishes limitations upon state and local zoning authorities with respect to applications for permits to construct personal wireless service facilities. This important law was enacted in part to prioritize and streamline proliferation of wireless technologies on a national basis. The United States Supreme Court has explained:

Congress enacted the Telecommunications Act of 1996 (TCA), 110 Stat. 56, to promote competition and higher quality in American telecommunications services and to "encourage the rapid deployment of new telecommunications technologies."

review for the Applications on May 1, 2013 and determined that the proposed facility was acceptable. On June 19, 2013, the Commission granted AT&T's use entitlement. On August 7, 2013, the DRB denied final design review, which AT&T appealed on August 19, 2013. On February 19, 2014, the Commission heard and granted AT&T's appeal.

Ibid. One of the means by which it sought to accomplish these goals was reduction of the impediments imposed by local governments upon the installation of facilities for wireless communications, such as antenna towers. To this end, the TCA amended the Communications Act of 1934, 48 Stat. 1064, to include § 332(c)(7), which imposes specific limitations on the traditional authority of state and local governments to regulate the location, construction, and modification of such facilities, 110 Stat. 151, codified at 47 U. S. C. § 332(c)(7).³

Thus, the Act limits local regulation of wireless communications facilities in pursuit of increasing deployment of the necessary wireless infrastructure.

The Act defines the scope and parameters of the city's overall review of AT&T's application. Importantly, the Act prohibits a local government from denying an application for a wireless telecommunications facility where doing so would "prohibit or have the effect of prohibiting the provision of personal wireless services."⁴ Courts have found an "effective prohibition" exists where a wireless carrier demonstrates (1) a "significant gap" in wireless service coverage; and (2) that the proposed facility would provide the "least intrusive means," in relation to the land use values embodied in local regulations, to provide the service coverage necessary to fill that gap.⁵ If a wireless carrier satisfies both of these requirements, state and local standards that would otherwise be sufficient to permit denial of the facility are preempted and the municipality must approve the wireless facility.⁶ When a wireless provider presents evidence of a significant gap and the absence of a less intrusive alternative, the burden shifts to the local government to prove that a less intrusive alternative exists. In order to meet this burden (and overcome the presumption in favor of federal preemption), the local government must show that another alternative is available that fills the significant gap in coverage, that it is technologically feasible, and that it is "less intrusive" than the proposed facility.⁷

Here, AT&T has met both of these standards. AT&T has a significant service coverage gap in the vicinity of proposed DAS Node 6⁸, and AT&T's Application is the least intrusive means to close the gap.⁹ These two facts are undisputed and, accordingly, the city has not identified an available and feasible alternative. Indeed, in approving AT&T's applications, the Commission concluded that AT&T's proposed facility is necessary and appropriate. Thus, federal law requires the city to deny the appeal.

In addition, local governments are specifically precluded from considering any alleged effects of RF emissions in making decisions as to the siting of wireless telecommunications facilities "to the

³ *City of Rancho Palos Verdes v. Abrams*, 544 U.S. 113, 115-16 (2005).

⁴ 47 U.S.C. §332(c)(7)(B)(i)(II).

⁵ See e.g., *Metro PCS, Inc. v. City and County of San Francisco*, 400 F.3d 715, 734-35 (9th Cir. 2005); *Sprint PCS Assets, LLC v. City of Palos Verdes Estates*, 583 F.3d 716, 726 (9th Cir. 2009).

⁶ See *T-Mobile USA, Inc. v. City of Anacortes*, 572 F.3d 987, 999 (9th Cir. 2009).

⁷ *Id.*, 572 F.3d at 998-999.

⁸ See Radio Frequency Statement (ATTACHMENT B).

⁹ See Alternative Sites Analysis (ATTACHMENT C).

extent such facilities comply with the FCC's regulations concerning such emissions."¹⁰ Here, it is beyond dispute that the proposed equipment will operate well below applicable FCC limits. A radio frequency engineering analysis provided by Hammett & Edison, Inc., Consulting Engineers, confirms that the proposed equipment will operate well within (and actually far below) all applicable FCC public exposure limits.¹¹ Thus, it would be improper for the city to consider effects of RF emissions, directly or indirectly.

Applicable State Law – California Public Utilities Code

AT&T has a state-law franchise right to construct its facilities in the public rights-of-way. Sections 7901 and 7901.1 of the California Public Utilities Code restrict local, public entities from limiting a telephone company's right to construct telecommunications facilities in the public rights-of-way based on aesthetic grounds.¹² Section 7901 provides:

Telegraph or telephone corporations may construct lines of telegraph or telephone lines along and upon any public road or highway, along or across any of the waters or lands within this State, and may erect poles, posts, piers, or abutments for supporting the insulators, wires, and other necessary fixtures of their lines, in such manner and at such points as not to incommode the public use of the road or highway or interrupt the navigation of the waters.

In 1995, the Legislature enacted Section 7901.1(a), which declares:

It is the intent of the Legislature, consistent with Section 7901, that municipalities shall have the right to exercise reasonable control as to the time, place, and manner in which roads, highways and waterways are accessed.

In essence, Section 7901.1 clarifies that municipalities may regulate construction to minimize public inconvenience in using the right-of-way. On many occasions over the course of the last century, California courts have construed Section 7901 and confirmed that telephone companies are granted broad rights to construct and maintain facilities in the public rights-of-way.¹³ Thus, the city may not

¹⁰ See 47 U.S.C. §332(c)(7)(B)(iv).

¹¹ See Statement of Hammett & Edison, Inc., Consulting Engineers (ATTACHMENT D).

¹² The California Public Utilities Commission ("CPUC"), state and federal courts have agreed that personal wireless service providers like AT&T are telephone corporations and public utilities. See, e.g., CPUC Decision 11-1-027 (stating that the "plain language of section 7901 contains no language limiting this statute to only wireline telephone corporations"); *City of Huntington Beach v. Public Utilities Com.*, 214 Cal. App. 4th 566, 584-587 (2013) (NextG was properly classified as a "telephone corporation" by the CPUC and telephone corporations are "public utilities"); *GTE Mobilnet of Cal. L.L.P. v. City & County of San Francisco*, 440 F. Supp. 2d 1097, 1103 (N.D. Cal. 2006) (wireless carriers are included in the definition of "telephone corporation" in Section 7901 of the California Public Utilities Code).

¹³ *Western Union Telegraph Co. v. City of Visalia*, 149 Cal. 744, 750-51 (1906) (interpreting then Section 536, held city police power in regulating the placement and maintenance of poles and wires in the public rights-of-way is limited to preventing unreasonable obstruction of travel). *Accord Postal Telegraph-Cable Co. v. City and County of San Francisco*, 53 Cal. App. 188, 192 (1921) (holding that company had the right to lay its conduit along and beneath the street so long as doing so would not "interfere with the normal and ordinary use of the street for purposes of travel and traffic"); *Pacific Tel. &*

burden AT&T's use of the public rights-of-way unless the use poses an unreasonable obstruction of public use. Installing equipment on utility poles does not unreasonably obstruct the public use.

Section 7901.1 is consistent with the well-established principle that in California the provision of telecommunication service is a matter of state—not local or municipal—law.¹⁴ As such, the broad delegation of authority to construct telecommunication facilities in the public rights-of-way trumps local regulations, including the city's zoning provisions under Chapters 19.28 and 19.38 of the Code. The fact that regulation of telephone companies is a statewide concern and not a local concern is further buttressed by the California Constitution. Article XII, § 8 provides: "A city, county, or other public body may not regulate matters over which the Legislature grants regulatory power to the [Public Utilities] Commission." Because AT&T's proposed facility will not obstruct the public use, the city cannot cut off AT&T's right to install DAS Node 6 as proposed.

Other Issues Raised By Appeal

Planning Commission Process

The appellant raises seven enumerated bases for his appeal from the Commission's final design review approval. He first raises a concern about the procedure before the Commission. The appellant expresses confusion as to whether the proposed design for DAS Node 6 is a modification of the existing utility pole or a new pole to replace the existing pole. The Application proposes to install the DAS node on a 7-foot pole-top extension of the existing utility pole. During the Commission hearing, in response to a specific question about design posed by one of the Commissioners, AT&T's representative stated that AT&T would be willing to consider a different design involving swapping out the existing pole for a new pole to house AT&T's equipment. In the end, however, the Commission approved the proposed design – a pole-top extension of the existing utility pole.

Necessity of Proposed Facility

The appellant next contends that proposed facility is not necessary and will serve to "relay signals to Kensington." Appellant is incorrect – AT&T needs DAS Node 6 to close its significant service coverage gap in the vicinity of the proposed site, which includes portions of El Cerrito and Kensington. AT&T's Application includes a Radio Frequency Statement, which is the statement of the radio frequency engineer assigned to DAS Node 6. The Radio Frequency Statement provides the engineer's expert evaluation and conclusions that AT&T's needs a new site in the area and that the proposed facility will close the coverage gap. On June 19, 2013, the Commission considered this

Tel. Co. v. City and County of San Francisco, 197 Cal. App. 2d 133, 146 (1961) (stating permissible restriction by a city "necessarily is limited to an unreasonable obstruction of the public use").

¹⁴ See *Pac. Tel. & Tel. Co. v. City of Los Angeles*, 44 Cal. 2d 272, 280 (1955) (California Supreme Court explained that the "business of supplying the people with telephone service is not a municipal affair; it is a matter of statewide concern"); *Pac. Tel. & Tel. Co. v. City & County of San Francisco*, 51 Cal. 2d 766, 768 (1959) (California Supreme Court held that "the construction and maintenance of telephone lines in the streets and other public places within the city is today a matter of state concern and not a municipal affair"); *Williams Communications, LLC v. City of Riverside*, 114 Cal. App. 4th 642 (2004) (held same).

evidence and approved AT&T's use permit and, in its Resolution PC13-012, explained that DAS Node 6 "is necessary to provide wireless coverage to the southern portion of El Cerrito." That decision was not appealed.

Moreover, lay speculation about the adequacy of service coverage does not support overturning the Commission's approvals of AT&T's Application. The appellant claims that a few residents tested various wireless devices and found that they showed strong signals. First, this sort of ad hoc attempt to estimate signal strength cannot undermine the expert analysis and conclusions of AT&T's radio frequency engineer who is familiar with AT&T's network, understands radio frequency design criteria and has personally studied the empirical data concerning the service coverage in the area. Second, indications of signal strength on a wireless device, such as the bars on a cell phone, are an imprecise and slow-to-update estimate of service quality. In other words, a customer's wireless phone can show bars of signal strength, but that customer can still, at times, be unable to initiate voice calls, complete calls, or download data reliably and without service interruptions. In contrast to speculation by lay persons, when determining where new or upgraded communications facilities need to be located to provide reliable service in any area, AT&T's radio frequency engineers rely on far more complete tools and data sources than just signal strength from individual phones. AT&T creates maps incorporating signal strength based on network design, as well as terrain and clutter databases, to depict existing service coverage and service coverage gaps in a given area. For DAS Node 6, these propagation maps are included as exhibits to the Radio Frequency Statement, and they depict the existing and proposed coverage.

AT&T needs DAS Node 6 to close its significant service coverage gap in the area. This coverage gap spans portions of El Cerrito and Kensington. It is not intended merely to "relay signals to Kensington" as appellant claims. As the Commission has already concluded, the evidence supports AT&T's gap and DAS Node 6 is needed to close that gap.

CEQA Exemption

On June 19, 2013, the Commission concluded that AT&T's Application is exempt from CEQA.¹⁵ Although there was no appeal from that Commission decision, the appellant now claims that DAS Node 6 should not be exempted from CEQA because it is part of a larger DAS network. However, AT&T's Application seeks to install one DAS node to close a specific significant service coverage gap in the area immediately surrounding the proposed site. As the propagation maps that are attached as exhibits to the Radio Frequency Statement show, the area to be served by DAS Node 6 consists of neighborhoods in its immediate vicinity. This separate application is for one DAS node.

Pole Safety

The appellant next claims that the proposed pole-top extension will somehow impair the structural integrity of the pole. He says the area is a "dangerous zone" and implies that the proposed facility would somehow make this utility pole more susceptible to risks related to earthquakes and landslides. The appellant does not cite any basis for his speculation that this utility

¹⁵ See Commission Resolution No. PC13-12 (June 19, 2013) (ATTACHMENT A).

pole would become a danger. Nor does he indicate any danger associated with the other numerous utility poles in the area, many of which house more equipment than the proposed facility will house. His naked speculation does not support denial of the Application. In fact, this utility pole will comply with all applicable structural code provisions. Further, DAS Node 6 surely will be subject to conditions of approval that will ensure the structural integrity of the utility pole is maintained. And, of course, AT&T will accept appropriate conditions to that end.

Property Values

The appellant claims that the relatively small proposed installation will have a negative effect on property values. Such concerns are merely pretext to concerns about RF emissions. Evidence about RF emissions is not substantial evidence that can support a denial. Local governments are specifically precluded from considering any alleged health or environmental effects of RF emissions in making decisions as to the siting of wireless telecommunications facilities “to the extent such facilities comply with the FCC’s regulations concerning such emissions.”¹⁶ Here, it is beyond dispute that the proposed equipment will operate well below applicable FCC limits.

Given the compliance with the FCC standards, this Application cannot be rejected based on such health concerns of RF emissions. This is true whether those concerns are raised explicitly or indirectly through some proxy such as “property values” or even, in some instances, aesthetics. A federal district court in California has held that in light of the federal preemption of RF regulation, “concern over the decrease in property values may not be considered as substantial evidence if the fear of property value depreciation is based on concern over the health effects caused by RF emissions.”¹⁷ Thus, complaints about diminished property values cannot be a “proxy” for preempted concerns about RF emissions. To the extent that the appeal is animated by concerns over RF frequency radiation, Council cannot consider them.

The appellant also cites speculation about property values by others made during proceedings in other jurisdictions. These generalized statements that are not supported by empirical data or analysis about local property values cannot support overturning the Commission’s approvals of AT&T’s Application. Contrary to the appellant’s allegation, reliable wireless coverage can have a positive impact on property values. Home buyers expect access to strong in-building wireless coverage. This expectation is consistent with the findings by the Center for Disease Control and Prevention (“CDC”) in its latest “wireless substitution” survey results, which found that for the period of January to June 2013, 39.4% of American homes have only wireless telephones and another 15.7% receive all or almost all calls on wireless telephones despite having a landline telephone.¹⁸ The value of and need for adequate in-building service is growing as more and more Americans come to rely on wireless technologies at home, and DAS Node 6 will support this need.

¹⁶ See 47 U.S.C. §332(c)(7)(B)(iv).

¹⁷ *AT&T Wireless Services of California LLC v. City of Carlsbad*, 308 F.Supp.2d 1148, 1159 (S.D. Cal. 2003) (quoting H.R. Conference Report No. 104-458, 201 (1996)).

¹⁸ The CDC tracks “wireless substitution” rates as part of its National Health Interview Survey and publishes these statistics every six months in its Wireless Substitution reports. The cited data comes from CDC’s most recent report, issued on December 20, 2013. See *Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, January-June, 2013*, available at <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201312.pdf>.

Analysis of Alternatives

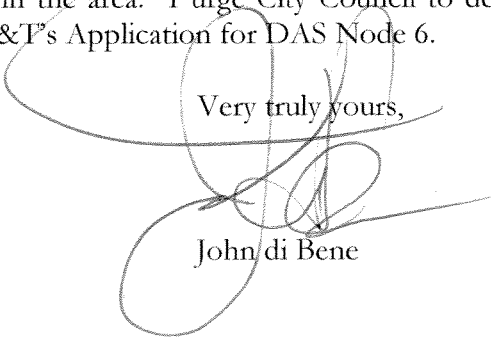
Finally, the appellant points out that AT&T regularly works with cities and counties to identify the most appropriate location and design for its wireless telecommunications facilities. Likewise, here, AT&T worked with city staff and took care to identify the utility pole in the gap area that would minimize visual impact. Specifically, as explained in AT&T's Alternative Sites Analysis, AT&T examined nine utility poles (three along Eureka Avenue, one along Midcrest Avenue, and four along Seaview Drive) as possible candidate sites for a DAS node to close the significant service coverage gap in this area. On the strength of this analysis, the Commission approved AT&T's use permit last year and approved final design review last month. In any event, as explained above, within the context of this Application AT&T remains willing to entertain alternative designs such as swapping out a new pole for the existing pole as was raised during the Commission hearing last month.

The appellant points out that Sunset View Cemetery is in this area, and he inquires whether it would be a better alternative. In addition to the utility poles in the area, AT&T also considered locating proposed DAS Node 6 in this cemetery. However, the cemetery would not allow AT&T to locate its facility there. Thus, after searching the area for appropriate candidate sites, and with input from the city, AT&T identified the proposed site and proposed design as the least intrusive means to close its significant service coverage gap.

Conclusion

AT&T is diligently trying to upgrade its network to meet the growing wireless communications demand within El Cerrito. It is doing so in a manner that takes prudent and careful consideration of the aesthetic impacts of its facilities and the values the city seeks to promote. AT&T's proposed design is fully consistent with city's land use regulations and its general plan, and the proposed facility is the least intrusive means by which AT&T can fill the significant wireless service coverage gap in the area. I urge City Council to deny the appeal and uphold the Commission's approval of AT&T's Application for DAS Node 6.

Very truly yours,



John di Bene

Attachment A: Planning Commission Resolution No. PC13-12 (June 19, 2013)

Attachment B: Radio Frequency Engineering Statement

Attachment C: Alternative Sites Analysis

Attachment D: Statement of Hammett & Edison, Inc., Consulting Engineers

ATTACHMENT A

Planning Commission Resolution PC13-12

APPLICATION NO. PL13-0009

A RESOLUTION OF THE CITY OF EL CERRITO PLANNING COMMISSION APPROVING A CONDITIONAL USE PERMIT TO ALLOW A WIRELESS TELECOMMUNICATION FACILITY ON AN EXISTING UTILITY POLE NEAR 7800 EUREKA AVENUE.

WHEREAS, the subject site is located in the public right-of-way near 7800 Eureka Avenue;

WHEREAS, the zoning district of the site is RS-5 (Single Family Residential);

WHEREAS, the general plan land use designation of the site is Low Density Residential;

WHEREAS, on January 10, 2013, the applicant submitted an application for a conditional use permit; and

WHEREAS, this project is Categorically Exempt from the provisions of CEQA – Section 15301 Class I – Existing Facilities;

WHEREAS, on June 19, 2013, the Planning Commission of El Cerrito, after due consideration of all evidence and reports offered for review, does find and determine the following:

1. The existing facility is compatible with and does not adversely affect the adjacent properties.
2. The project will provide 4G LTE wireless service to the southern portion of El Cerrito. The improved service will enhance the convenience of the living, and working environment.
3. The project is consistent with the El Cerrito General Plan. There are no other relevant adopted plans.
4. The proposed facility conforms with the standards of Chapter 19,28: Wireless Telecommunications Facilities of the El Cerrito Municipal Code.
5. The applicant currently operates facilities at El Cerrito Plaza and 6830 Stockton Avenue. There are limited structures in the southern portion of El Cerrito that can accommodate new facilities. The applicant identified alternative sites and found them to be less desirable from both coverage and aesthetic perspectives.
6. The proposed site (on top of an existing utility pole) limits the visual impact of the facility. The project is exempt from review under the California Environmental Quality Act.
7. The location of the proposed facility is within the public right-of-way. It is incorporated onto an existing utility pole. It is not feasible to limit the site's visual impact. Sites that would enable the facilities to be not readily visible are limited in this portion of El Cerrito.
8. The applicant operates wireless telecommunications facilities at El Cerrito Plaza and 6830 Stockton Avenue. The topography of this portion of El Cerrito provides coverage challenges. The proposed facility will extend the existing utility pole to the minimum height required for separation from existing utilities and to provide coverage.
9. The proposed facility is necessary to provide wireless coverage to the southern portion of El Cerrito.

NOW, THEREFORE, BE IT RESOLVED, that after careful consideration of maps, facts, exhibits, correspondence, and testimony, and other evidence submitted in this matter, and, in consideration of the findings, the El Cerrito Planning Commission hereby approves Application No. PL13-0009, subject to the following conditions:

Planning Division:

1. The project shall be developed and maintained substantially in compliance with the plans dated January 10, 2013 except as amended by subsequent conditions of this Resolution. Minor changes may be approved by the Zoning Administrator.
2. Approval of this conditional use permit shall be limited to allow a wireless telecommunications facility on an existing utility pole.
3. If not used, this use permit shall expire two years from the date of this action.
4. All antennas, cables, equipment and any other visible elements of the facility shall be brown in color to match the color of the utility pole.

Public Works:

5. Prior to installation, the applicant shall secure all necessary Encroachment Permits.
6. The owner and/or operator of the facility shall not take any action to oppose any future undergrounding of utilities in the area of the facility.

Building Division:

7. Prior to installation, the applicant shall secure all necessary Building Permits.

Fire Department:

8. Construction shall meet current all meet all current building codes and the El Cerrito Fire Code.

CERTIFICATION

I CERTIFY that this resolution was adopted by the El Cerrito Planning Commission at a regular meeting held on June 19, 2013 upon motion of Commissioner Pine, second by Commissioner Lucas:

AYES: Coty, Hansen, Kuhlman, Lucas, Pine

NOES: Hirano

ABSTAIN: None

ABSENT: Motoyama



Sean Moss, AICP
Senior Planner

ATTACHMENT B

AT&T Mobility Radio Frequency Statement
DAS Node 6A: Existing Utility Pole in Public Right-of-Way
Near 7800 Eureka Avenue, El Cerrito, CA

I am the AT&T radio frequency engineer assigned to the proposed wireless telecommunications facility (“Node 6A”), which is a distributed antenna system (“DAS”) node to be located on an existing utility pole in the public right-of-way near 7800 Eureka Avenue, El Cerrito (the “Property”). Based on my personal knowledge of the Property and with AT&T’s wireless network, as well as my review of AT&T’s records with respect to the Property and its wireless telecommunications facilities in the surrounding area, I have concluded that the work associated with this permit request is needed to close a service coverage gap in the area immediately surrounding the Property.

The service coverage gap is caused by inadequate infrastructure in the area. As explained further in Exhibit 1, AT&T’s existing facilities cannot adequately serve its customers in the desired area of coverage, let alone address rapidly increasing data usage. Moreover, 4G LTE service coverage has not yet been fully deployed in this area. To remedy this service coverage gap, AT&T needs to construct a new wireless telecommunications facility.

AT&T uses industry standard propagation tools to identify the areas in its network where signal strength is too weak to provide reliable in-building service quality. This information is developed from many sources including terrain and clutter databases, which simulate the environment, and propagation models that simulate signal propagation in the presence of terrain and clutter variation. AT&T designs and builds its network to ensure customers receive reliable in-building service quality.

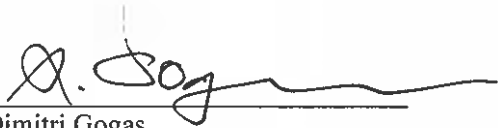
Exhibit 2 to this Statement is a map of the existing service coverage (without Node 6A) in the area at issue. It includes service coverage provided by existing AT&T sites. The green shaded areas depict areas within a signal strength range that provide acceptable in-building service coverage. In-building coverage means customers are able to place or receive a call on the ground floor of a building. The yellow shaded areas depict areas within a signal strength range that provide acceptable in-vehicle coverage. In this area, an AT&T customer should be able to successfully place or receive a call within a vehicle. The blue shading depicts areas within a signal strength range in which a customer might have difficulty receiving a consistently acceptable level of service. The quality of service experienced by any individual can differ greatly depending on whether that customer is indoors, outdoors, stationary, or in transit. Any area in the blue or yellow category is considered inadequate service coverage and constitutes a service coverage gap.

Exhibit 3 predicts service coverage in the vicinity of the Property if the Node 6A antennas are placed as proposed in the application. As shown by this map, placement of Node 6A closes the significant 3G service coverage gap in the area immediately surrounding the Property.

In addition to these 3G wireless service gap issues, AT&T is in the process of deploying its 4G LTE service in El Cerrito with the goal of providing the most advanced personal wireless experience available to residents of the City. 4G LTE is capable of delivering speeds up to 10 times faster than industry-average 3G speeds. LTE technology also offers lower latency, or the processing time it takes to move data through a network, such as how long it takes to start downloading a webpage or file once a customer has sent the request. Lower latency helps to improve the quality of personal wireless services. What's more, LTE uses spectrum more efficiently than other technologies, creating more space to carry data traffic and services and to deliver a better overall network experience.

Exhibit 4 is a map that depicts 4G LTE service in the area surrounding the Property, and it shows a significant 4G LTE service coverage gap in the area. Exhibit 5 shows that after Node 6A is on air, 4G LTE service is available both indoors and outdoors in the area. This is important not only to bring 4G LTE to residents of El Cerrito but also because as existing customers migrate to 4G LTE, the LTE technology will provide the added benefit of reducing 3G data traffic, which can cause capacity issues on the UMTS (3G) network during peak usage periods, especially in light of the forecasted increase in usage noted in Exhibit 1.

I have a Bachelor's Degree in Electrical Engineering from Concordia University, and I have worked as a radio frequency design engineer in the wireless communications industry for over 7 years.



Dimitri Gogas

February 3, 2014

EXHIBIT 1
Prepared by AT&T Mobility

AT&T's digital wireless technology converts voice or data signals into a stream of digits to allow a single radio channel to carry multiple simultaneous signal transmissions. This technology allows AT&T to offer services such as secured transmissions and enhanced voice, high-speed data, texting, video conferencing, paging and imaging capabilities, as well as voicemail, visual voicemail, call forwarding and call waiting that are unavailable in analog-based systems. With consumers' strong adoption of smartphones, customers now have access to wireless broadband applications, which consumer utilize at a growing number.

AT&T customers are using these applications in a manner that has caused a **30,000% increase in mobile data usage on AT&T's network since 2007**. AT&T expects total mobile data volume to **grow 8x-10x over the next five years**. To put this estimate in perspective, all of AT&T Mobility's mobile traffic during 2010 would be equal to only six or seven weeks of mobile traffic volume in 2015. The FCC noted that U.S. mobile data traffic grew almost 300% in 2011, and driven by 4G LTE smartphones and tablets, traffic is projected to grow an additional 16-fold by 2016.

Mobile devices using AT&T's technology transmit a radio signal to antennas mounted on a tower, pole, building, or other structure. The antenna feeds the signal to electronic devices housed in a small equipment cabinet, or base station. The base station is connected by microwave, fiber optic cable, or ordinary copper telephone wire to the Radio Network Controller, subsequently routing the calls and data throughout the world.

The operation of AT&T's wireless network depends upon a network of wireless communications facilities. The range between wireless facilities varies based on a number of factors. The range between AT&T mobile telephones and the antennas in and nearby El Cerrito, for example, is particularly limited as a result of topographical challenges, blockage from buildings, trees, and other obstructions as well as the limited capacity of existing facilities.

To provide effective, reliable, and uninterrupted service to AT&T customers in their cars, public transportation, home, and office, without interruption or lack of access, coverage must overlap in a grid pattern resembling a honeycomb.

In the event that AT&T is unable to construct or upgrade a wireless communications facility within a specific geographic area, so that each site's coverage reliably overlaps with at least one adjacent facility, AT&T will not be able to provide adequate personal wireless service to its customers within that area. Some consumers will experience an abrupt loss of service. Others will be unable to obtain reliable service, particularly if they are placing a call inside a building.

Service problems occur for customers even in locations where the coverage maps on AT&T's "Coverage Viewer" website appear to indicate that coverage is available. As the legend to the Coverage Viewer maps indicates, these maps depict a high-level *approximation* of coverage, which may not show gaps in coverage; *actual* coverage in an area may differ substantially from map graphics, and may be affected by such things as terrain, foliage, buildings and other construction, motion, customer equipment, and network traffic. The legend states that AT&T does not guarantee coverage and its coverage maps are not intended to show actual customer performance on the network, nor are they intended to show future network needs or build requirements inside or outside of AT&T's existing coverage areas.

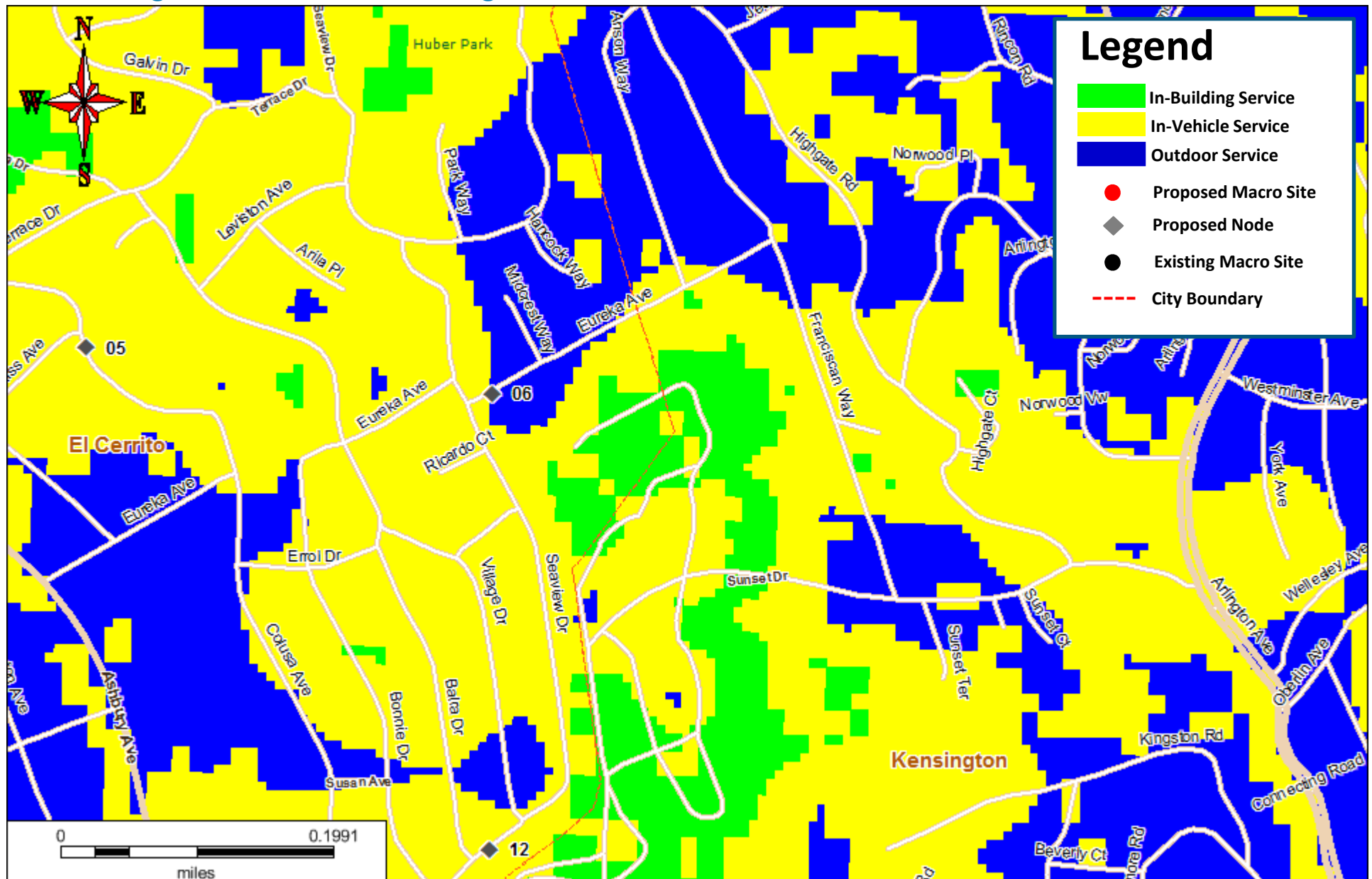
It is also important to note that the signal losses and service problems described above can and do occur for customers even at times when certain other customers in the same vicinity may be able to initiate and complete calls on AT&T's network (or other networks) on their wireless phones. These problems also can and do occur even when certain customers' wireless phones indicate "all bars" of signal strength on the handset.

The bars of signal strength that individual customers can see on their wireless phones are an imprecise and slow-to-update estimate of service quality. In other words, a customer's wireless phone can show "four bars" of signal strength, but that customer can still, at times, be unable to initiate voice calls, complete calls, or download data reliably and without service interruptions.

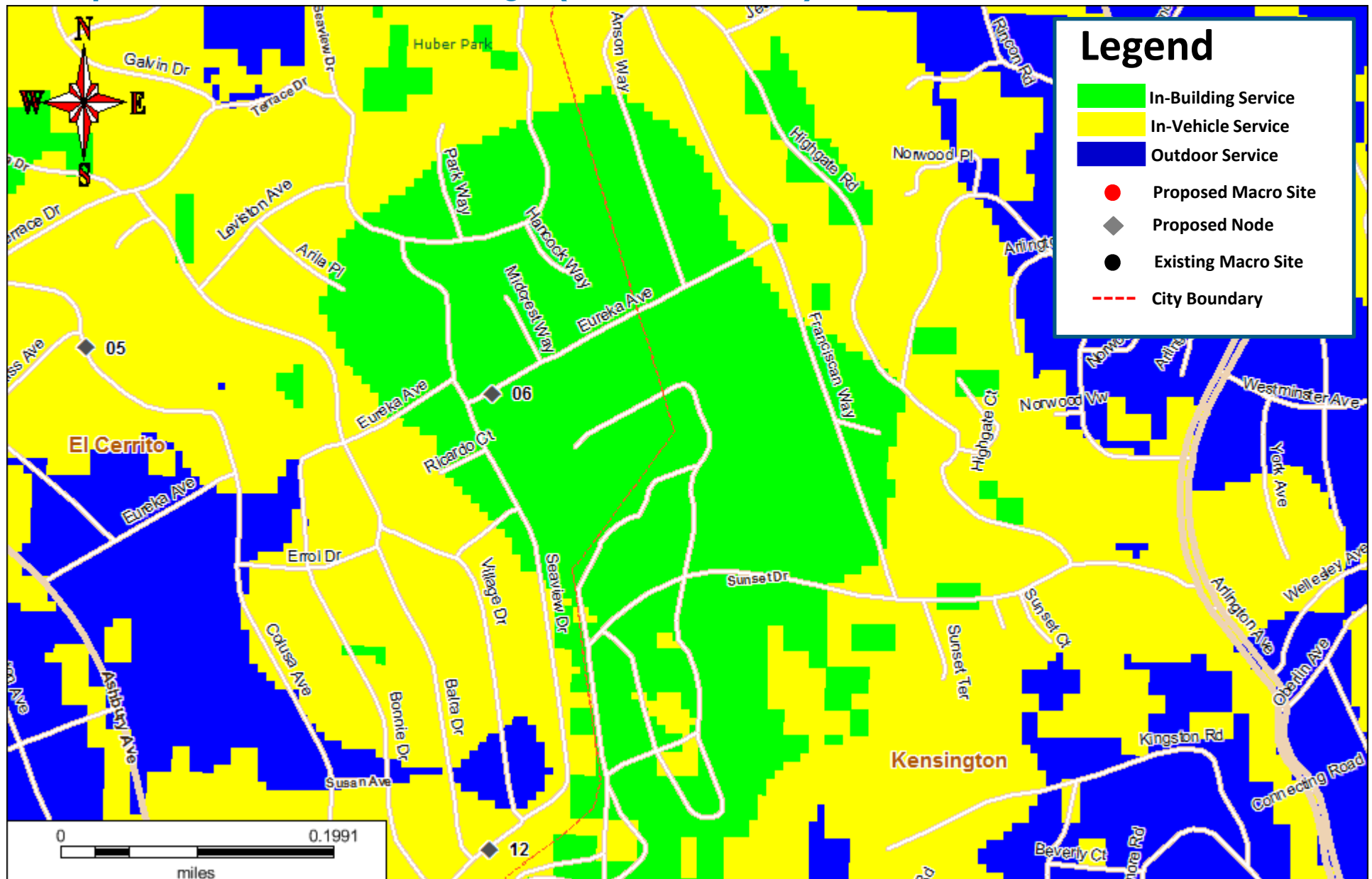
To determine where new or upgraded telecommunications facilities need to be located for the provision of reliable service in any area, AT&T's radio frequency engineers rely on far more complete tools and data sources than just signal strength from individual phones. AT&T creates maps incorporating signal strength that depict existing service coverage and service coverage gaps in a given area.

To rectify this significant gap in its service coverage, AT&T needs to locate a wireless facility in the immediate vicinity of the Property.

Existing UMTS 850 Coverage

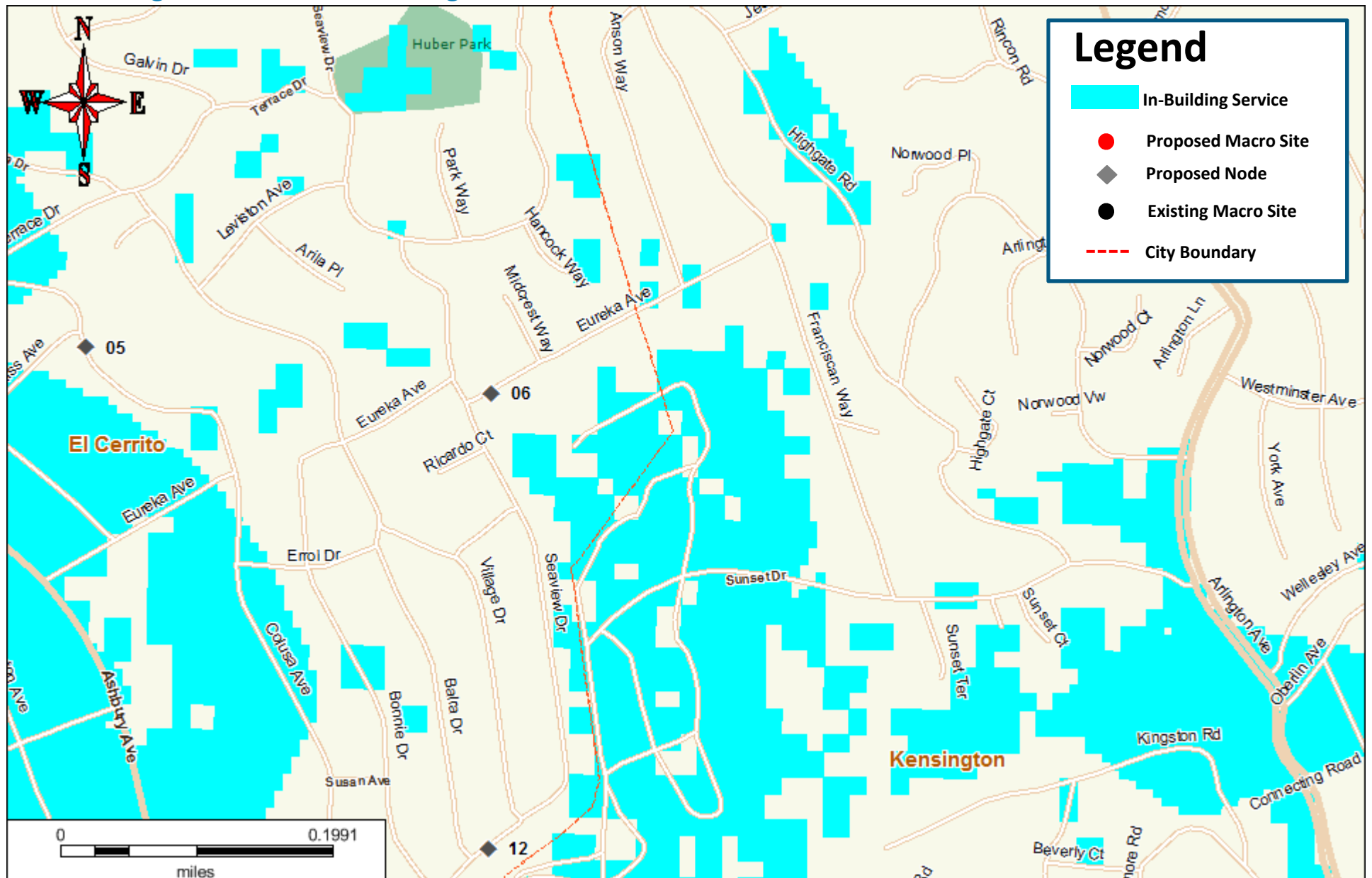


Proposed UMTS 850 Coverage (With Node 06)



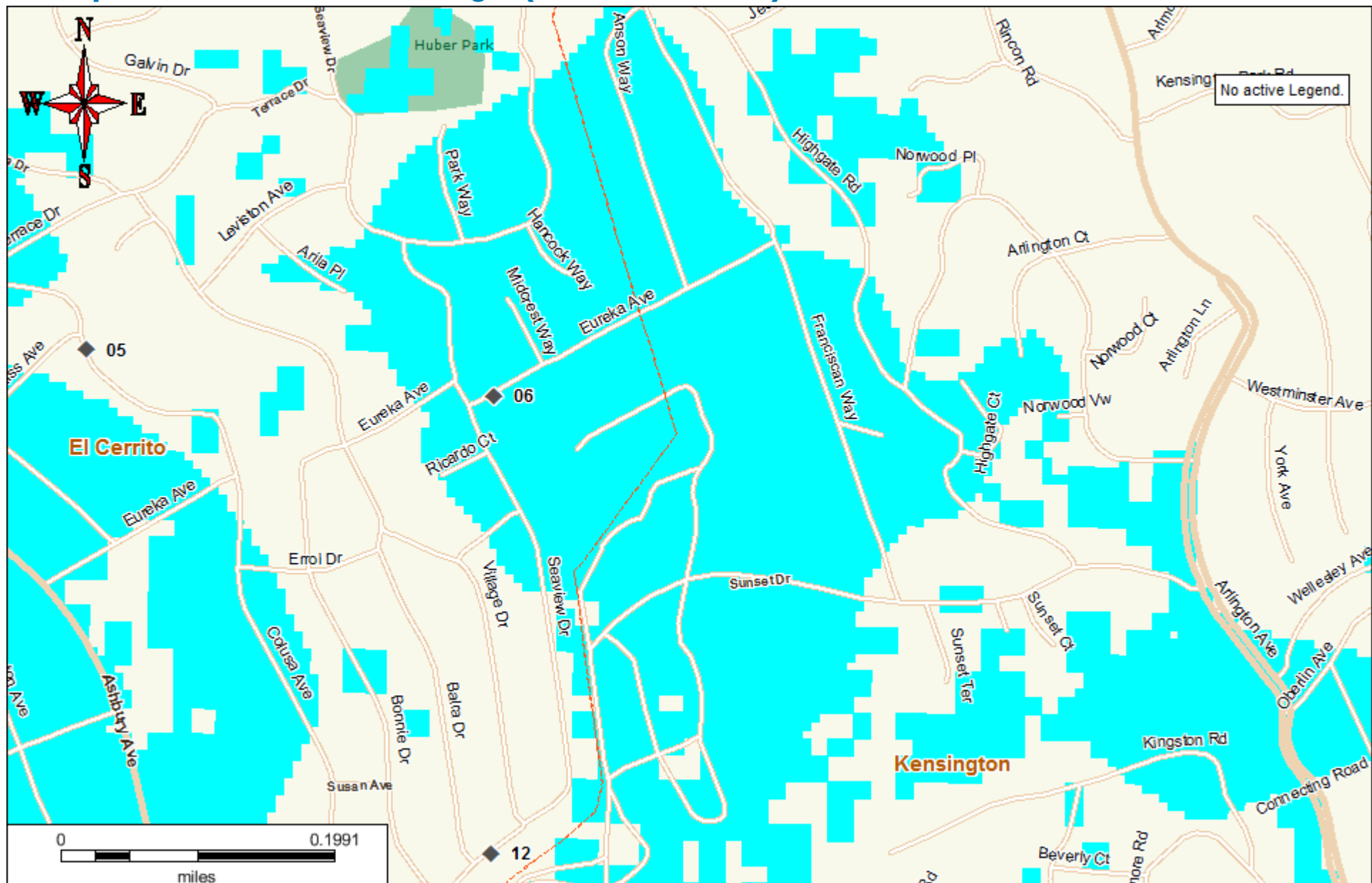
January 15, 2014

Existing LTE 700 Coverage



January 15, 2014

Proposed LTE 700 Coverage (With Node 06)



January 15, 2014



ATTACHMENT C

Alternative Sites Analysis

DAS Node 6

JPA Pole 110228857 near 7800 Eureka Avenue

Submitted by Extenet Systems on behalf of AT&T

Primary Site (6A)

- The primary candidate for this site is JPA pole 110228857 near 7800 Eureka Avenue (see Development Review Application No. PL13-0009).
- This site is feasible from radio frequency and construction perspectives.
- This site is the least intrusive means to close AT&T's service coverage gap in the area. This is the last utility pole in a line of poles along Eureka Avenue, and its aesthetic impact is lessened by large trees downhill.



Primary & Alternative Locations



- On the map above, the primary site (6A) is marked with a yellow pin and the alternative sites are marked by blue pins.

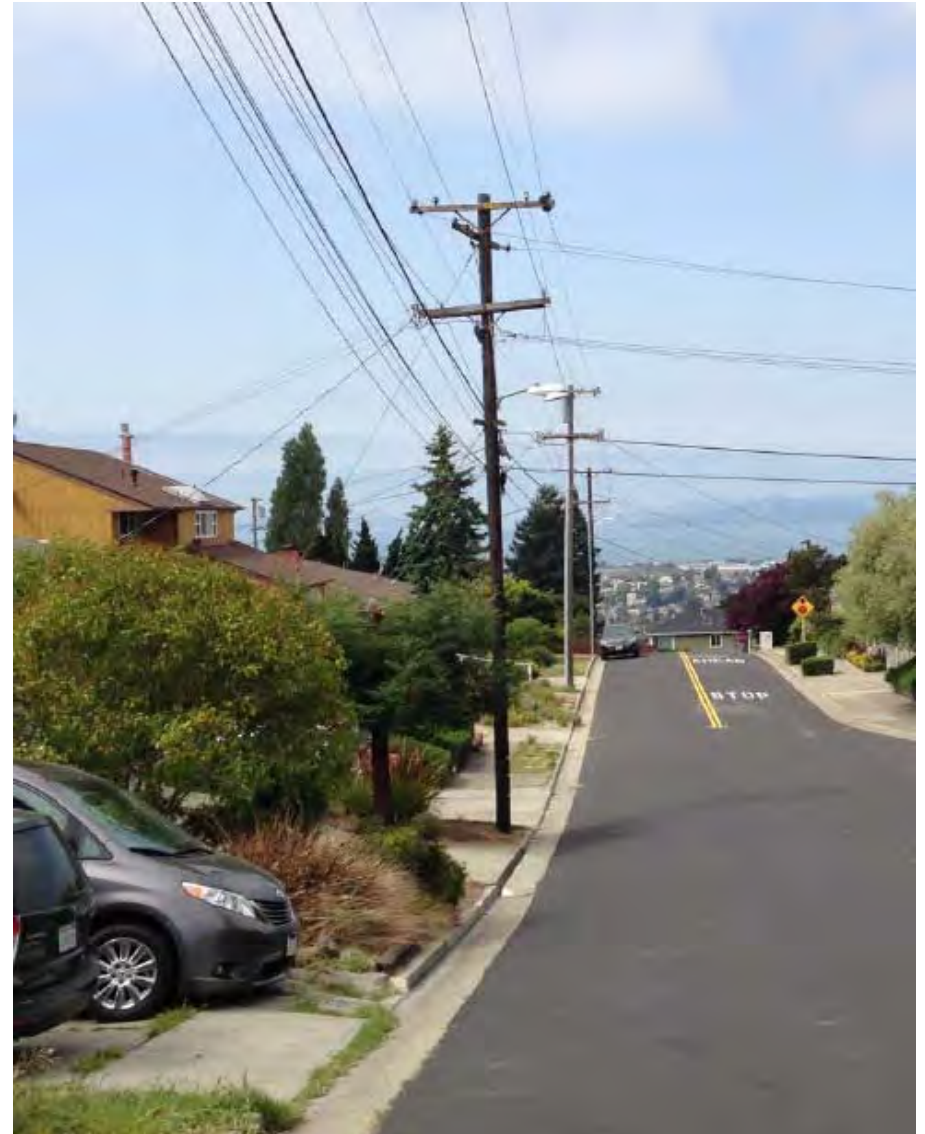
ALTERNATIVE 1: Node 06B



- Alternative 1 is JPA pole 110228775 near 7812 Eureka Avenue.
- The site is highly exposed, so it would have a greater aesthetic impact than the primary site.
- This site is not feasible from a construction perspective due to no climbing space.

ALTERNATIVE 2: Node 06C

- Alternative 2 is JPA pole 110228774 near 7820 Eureka Avenue.
- This pole is located in a view corridor, and it would have a greater aesthetic impact than the primary site.
- This site is not feasible from a construction perspective due to cross arms and a box.
- This site also is not feasible from a construction standpoint because the PG&E riser interferes with climbing space.



ALTERNATIVE 3: Node 06D



- Alternative 3 is JPA pole 110228773 near 704 Midcrest Avenue.
- This site is not feasible from a construction perspective due to cross arms and a box.
- This site also is not feasible from a construction standpoint because the PG&E riser interferes with climbing space.

ALTERNATIVE 4: Node 06E

- Alternative 4 is JPA pole 110235769 across from 617 Seaview Drive.
- This site is exposed due to its location on a corner, so it would be a greater aesthetic impact than the primary site.
- This site is not feasible from a construction perspective due to cross arms and because there is no climbing space.



ALTERNATIVE 5: Node 06F



- Alternative 5 is JPA pole 110235772 near 650 Seaview Drive.
- This site is not feasible from a construction perspective due to cross arms.
- This site also is not feasible from a construction standpoint because the PG&E risers interfere with climbing space.

ALTERNATIVE 6: Node 06G

- Alternative 6 is JPA pole 110228851 near 7720 Eureka Avenue.
- This is located in a view corridor, so it has a greater aesthetic impact than the primary site.
- This site is not feasible from a radio frequency perspective because a site here will not close AT&T's service coverage gap in the area.



ALTERNATIVE 7: Node 06H



- Alternative 7 is JPA pole 110228875 near 620 Seaview Drive.
- The site is highly exposed, so it would have a greater aesthetic impact than the primary site.

ALTERNATIVE 8: Node 06I

- Alternative 8 is JPA pole 110228873 near 612 Seaview Drive.
- This site is not feasible from a construction perspective due to cross arms and no climbing space.



ATTACHMENT D

**New Cingular Wireless, LLC • Six Proposed Distributed Antenna System Nodes
Oakland Hills • El Cerrito, California**

Statement of Hammett & Edison, Inc., Consulting Engineers

The firm of Hammett & Edison, Inc., Consulting Engineers, has been retained on behalf of New Cingular Wireless, LLC, a wireless telecommunications service provider, to evaluate six distributed antenna system (DAS) nodes proposed to be located in the Oakland Hills area of El Cerrito, California, for compliance with appropriate guidelines limiting human exposure to radio frequency (“RF”) electromagnetic fields.

Executive Summary

New Cingular Wireless proposes to install two directional panel antennas on six existing or proposed utility poles sited in the Oakland Hills area of El Cerrito. The proposed operation will comply with the FCC guidelines limiting public exposure to RF energy.

Prevailing Exposure Standards

The U.S. Congress requires that the Federal Communications Commission (“FCC”) evaluate its actions for possible significant impact on the environment. A summary of the FCC’s exposure limits is shown in Figure 1. These limits apply for continuous exposures and are intended to provide a prudent margin of safety for all persons, regardless of age, gender, size, or health. The most restrictive FCC limit for exposures of unlimited duration to radio frequency energy for several personal wireless services are as follows:

Wireless Service	Frequency Band	Occupational Limit	Public Limit
Microwave (Point-to-Point)	5,000–80,000 MHz	5.00 mW/cm ²	1.00 mW/cm ²
BRS (Broadband Radio)	2,600	5.00	1.00
AWS (Advanced Wireless)	2,100	5.00	1.00
PCS (Personal Communication)	1,950	5.00	1.00
Cellular	870	2.90	0.58
SMR (Specialized Mobile Radio)	855	2.85	0.57
700 MHz	700	2.35	0.47
[most restrictive frequency range]	30–300	1.00	0.20

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

General Facility Requirements

Base stations typically consist of two distinct parts: the electronic transceivers (also called “radios” or “channels”) that are connected to the traditional wired telephone lines, and the passive antennas that send the wireless signals created by the radios out to be received by individual subscriber units.



New Cingular Wireless, LLC • Six Proposed Distributed Antenna System Nodes Oakland Hills • El Cerrito, California

The transceivers are often located at ground level and are connected to the antennas by coaxial cables. A small antenna for reception of GPS signals is also required, mounted with a clear view of the sky. Because of the short wavelength of the frequencies assigned by the FCC for wireless services, the antennas require line-of-sight paths for their signals to propagate well and so are installed at some height above ground. The antennas are designed to concentrate their energy toward the horizon, with very little energy wasted toward the sky or the ground. Along with the low power of such facilities, this means that it is generally not possible for exposure conditions to approach the maximum permissible exposure limits without being physically very near the antennas.

Computer Modeling Method

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

Site and Facility Description

Based upon information provided by New Cingular Wireless, that carrier proposes to install six new nodes, listed in Table 1 below, in the Oakland Hills area of El Cerrito. Each node would consist of two Kathrein Model 840-10525 directional panel antennas installed on a new or existing utility pole to be sited in a public right-of-way. The antennas would be mounted with no downtilt at an effective height of about 35 feet above ground and would be oriented in different directions, as shown in Table 1. The maximum effective radiated power in any direction would be 219 watts, representing simultaneous operation by New Cingular Wireless at 104 watts for PCS, 61 watts for cellular, and 54 watts for 700 MHz service. There are reported no other wireless telecommunications base stations at the site or nearby.

Node #	Approximate Address	Antenna Orientations	
Node 2	859 Gelston Place	69°T	113°T
Node 3	851 Seaview Drive	49°T	124°T
Node 4	906 Balra Drive	79°T	130°T
Node 5	762 Colusa Avenue	29°T	105°T
Node 6	7800 Eureka Avenue	20°T	106°T
Node 12	202 Seaview Drive	16°T	107°T

Table 1. New Cingular Wireless Nodes Evaluated



**New Cingular Wireless, LLC • Six Proposed Distributed Antenna System Nodes
Oakland Hills • El Cerrito, California**

Study Results

For a person anywhere at ground, the maximum RF exposure level due to the proposed operation is calculated to be 0.0026 mW/cm², which is 0.50% of the applicable public exposure limit. The maximum calculated level at the second-floor elevation of any nearby building* is 1.2% of the public limit. It should be noted that these results include several “worst-case” assumptions and therefore are expected to overstate actual power density levels from the proposed operation.

Recommended Mitigation Measures

Due to their mounting locations on utility poles, the New Cingular Wireless antennas would not be accessible to the general public, and so no mitigation measures are necessary to comply with the FCC public exposure guidelines. To prevent occupational exposures in excess of the FCC guidelines, no access within 3 feet directly in front of the antennas themselves, such as might occur during maintenance work on the poles, should be allowed while the pertinent node is in operation, unless other measures can be demonstrated to ensure that occupational protection requirements are met. Posting explanatory warning signs† at the antennas and/or on the poles below the antennas, such that the signs would be readily visible from any angle of approach to persons who might need to work within that distance, would be sufficient to meet FCC-adopted guidelines.

Conclusion

Based on the information and analysis above, it is the undersigned’s professional opinion that the proposed operation of these New Cingular Wireless nodes in El Cerrito, California, will comply with the prevailing standards for limiting public exposure to radio frequency energy and, therefore, will not for this reason cause a significant impact on the environment. The highest calculated level in publicly accessible areas is much less than the prevailing standards allow for exposures of unlimited duration. This finding is consistent with measurements of actual exposure conditions taken at other operating base stations. Posting explanatory signs is recommended to establish compliance with occupational exposure limitations.

* Including nearby residences located at least 24 feet from any pole, based on photographs from Google Maps.

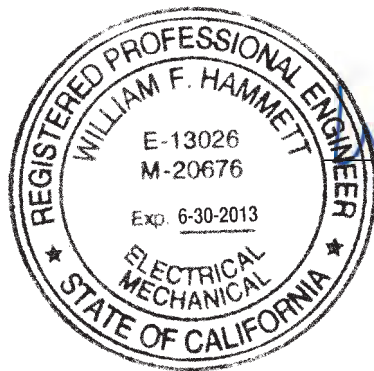
† Warning signs should comply with OET-65 color, symbol, and content recommendations. Signage may also need to comply with the requirements of California Public Utilities Commission General Order No. 95.



**New Cingular Wireless, LLC • Six Proposed Distributed Antenna System Nodes
Oakland Hills • El Cerrito, California**

Authorship

The undersigned author of this statement is a qualified Professional Engineer, holding California Registration Nos. E-13026 and M-20676, which expire on June 30, 2013. This work has been carried out under his direction, and all statements are true and correct of his own knowledge except, where noted, when data has been supplied by others, which data he believes to be correct.



A handwritten signature in blue ink, appearing to read "William F. Hammett", written over a horizontal line.

William F. Hammett, P.E.

707/996-5200

December 13, 2012



HAMMETT & EDISON, INC.
CONSULTING ENGINEERS
SAN FRANCISCO

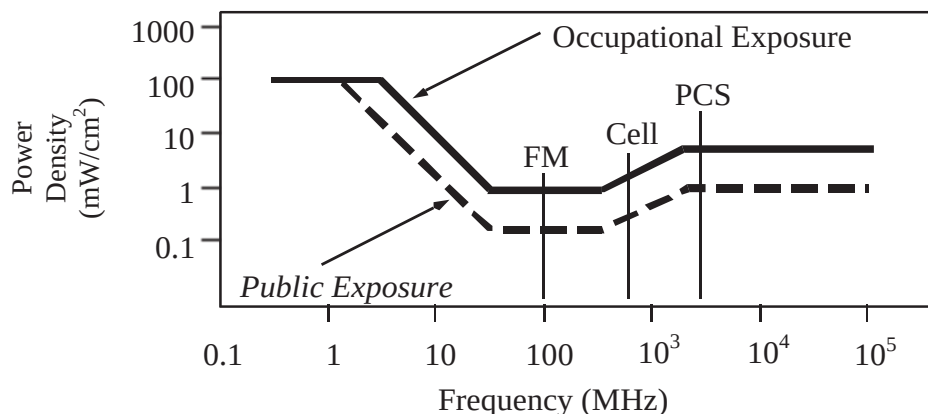
S5XH
Configuration 2B
Page 4 of 4

FCC Radio Frequency Protection Guide

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

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

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



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

RFR.CALC™ Calculation Methodology

Assessment by Calculation of Compliance with FCC Exposure Guidelines

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

Near Field.

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

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

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

where θ_{BW} = half-power beamwidth of the antenna, in degrees, and
 P_{net} = net power input to the antenna, in watts,
 D = distance from antenna, in meters,
 h = aperture height of the antenna, in meters, and
 η = aperture efficiency (unitless, typically 0.5-0.8).

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

Far Field.

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

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

where ERP = total ERP (all polarizations), in kilowatts,
RFF = relative field factor at the direction to the actual point of calculation, and
D = distance from the center of radiation to the point of calculation, in meters.

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



AGENDA BILL

Agenda Item No.7(A)

Date: April 1, 2014
To: El Cerrito City Council
From: Cheryl Morse, City Clerk
Subject: Wall of Fame Subcommittee Appointment

ACTION REQUESTED

Appoint two members to a Wall of Fame Subcommittee for the purpose of reviewing one nomination/application.

BACKGROUND

Resolution No. 2008-77 establishes guidelines and policy for nomination and selection of Wall of Fame inductees. Section 1(A) states that the subcommittee shall consist of two members of the City Council to be appointed by the Mayor on ad-hoc basis for the purpose of reviewing nominations for the Wall of Fame and make recommendations regarding appointment to the City Council.

Information pertaining to the Wall of Fame was advertised in the citywide newsletter and publicized on the City's website. The deadline for submission of nomination forms was March 15, 2014. As a result, the City Council received a nomination for Tom Panas.

FINANCIAL CONSIDERATIONS

There is no fiscal impact associated with this action.

Reviewed by:

Scott Hanin
City Manager

Attachments:

1. Resolution No. 2008-77
2. Nomination of Tom Panas

RESOLUTION 2008-77

RESOLUTION OF THE EL CERRITO CITY COUNCIL CONFIRMING THE GUIDELINES AND POLICY FOR NOMINATION AND SELECTION OF WALL OF FAME INDUCTEES, ESTABLISHING A PROCESS FOR NOMINATION AND SELECTION OF APPOINTMENTS TO THE WALL OF FAME AND ESTABLISHING AN ANNUAL WALL OF FAME EVENT

WHEREAS, at its meeting of September 15, 2008 the City Council appointed Councilmembers Letitia Moore and Jan Bridges to an El Cerrito Wall of Fame City Council Subcommittee; and

WHEREAS, on September 19, 2008 the Wall of Fame City Council Subcommittee met and prepared recommendations for Council consideration regarding the process for nomination and selection of appointments to the Wall of Fame; an Annual Wall of Fame Event; Guidelines for Nomination and Selection of Inductees to the Wall of Fame; and consideration of Miriam Wilkins; and

WHEREAS, the City Council considered and discussed the Wall of Fame Subcommittee recommendation at its meeting of October 20, 2008; and

WHEREAS, the City Council adopted the Wall of Fame Subcommittee's recommendations by unanimous vote with the provision that future Wall of Fame Subcommittees be appointed by the Mayor on an ad-hoc basis.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby establishes the following components of the Wall of Fame Program:

Section 1: PROCESS FOR NOMINATION AND SELECTION OF APPOINTMENTS TO THE WALL OF FAME

A. Future Wall of Fame City Council Subcommittees (Wall of Fame Subcommittee) shall consist of two members of the City Council who will be appointed on an ad-hoc basis by the Mayor for the purpose of reviewing nomination(s) for the Wall of Fame and will make recommendations regarding appointment to the City Council.

B. An annual application deadline of March 15th is established for nominations to the Wall of Fame.

C. Each year, once the application deadline passes, the City Clerk will provide copies of all nomination packages, if any, received that year by the application deadline to the Wall of Fame Subcommittee.

D. The City Clerk will determine when an application is complete. Only complete applications will be passed on to the Wall of Fame Subcommittee for review.

E. Each year, and ad-hoc Wall of Fame Subcommittee shall review the nominations, if any, and provide a written recommendation concerning each nomination to the City Council for consideration on or before May 15th.

F. All persons identified in the nomination papers shall be notified prior to the City Council Meeting of the Subcommittee recommendation(s) and the date and time of the City Council Meeting to consider the recommendation(s).

G. Each year in July, at the City Council meeting scheduled on the third Monday in July, the City Council shall consider the recommendation(s), if any, of the Wall of Fame Subcommittee and induct nominee(s), if any, to the Wall of Fame.

Section 2: ANNUAL WALL OF FAME EVENT

A. Each year the City Newsletter will feature an article showcasing the El Cerrito Wall of Fame which will highlight one of the people inducted into the El Cerrito Wall of Fame and provide a complete list of all persons on the Wall of Fame (living and deceased) and briefly describe why each was inducted in to the Wall of Fame, and announce any new inductee(s) to the Wall of Fame who were appointed at the July City Council Meeting and provide a brief description of that persons achievements and contributions.

B. New inductees to the Wall of Fame shall be invited to and recognized at the Annual Volunteer Recognition Dinner.

Section 3: GUIDELINES/POLICY FOR NOMINATION AND SELECTION OF INDUCTEES TO WALL OF FAME

The purpose and policy for nomination and selection of inductees shall remain as follows:

A. PURPOSE: To reaffirm the City Council's commitment to recognizing citizens of El Cerrito for outstanding community contributions by portrayal on the "Wall of Fame" and to advise employees and the public of the guidelines for Council selection.

B. POLICY: It is the policy of the City of El Cerrito to recognize citizens of El Cerrito who have made substantial contributions to the community over a long period of time through their work on special projects. The persons selected by the City Council shall have their photograph, preferably in the setting of the activity for which they are being recognized, placed on the Wall of Fame located at City Hall. The guidelines for selection are:

1. The Honoree must be a resident of the City of El Cerrito.
2. The work for which an individual is recognized must be an ongoing activity in El Cerrito for at least ten (10) consecutive years, but may be an annual event.
3. The event or activity must be available to potentially benefit all El Cerrito residents.
4. The event or activity must be non-profit in nature.
5. City board, commission or committee service is not in itself grounds for selection. Members may, however, qualify for this award if they have been active in an ongoing activity for the benefit of El Cerrito in addition to serving on a board, commission or committee.
6. Recipients of this honor should have been recognized for their efforts by a citizen group or an organization in El Cerrito, West County, regionally, statewide or nationally.

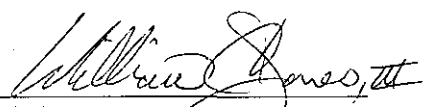
I CERTIFY that at a regular meeting on November 3, 2008 the City Council of the City of El Cerrito passed this Resolution by the following vote:

AYES: Councilmembers Abelson, Bridges, Moore, Potter and Mayor Jones
NOES: None
ABSENT: None
ABSTAIN: None

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on November 5, 2008.


Cheryl Morse, City Clerk

APPROVED:


William C. Jones, III, Mayor



**April 1, 2014
City Council Meeting**

**Agenda Item No. 7(A) – Wall of Fame Subcommittee
Appointment
Attachment 2 – Nomination**

Hardcopies are available for review at:

Office of the City Clerk
10890 San Pablo Avenue
El Cerrito, CA
(510) 215-4305

and

The El Cerrito Library
6510 Stockton Avenue
El Cerrito, CA