



THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: May 6, 2010 **REPORT NO. PC-10-027**

ATTENTION: Planning Commission, Agenda of May 13, 2010.

SUBJECT: CLEARWIRE SPRINT – 939 COAST BLVD
PROJECT NO. 198041, PROCESS 4

**OWNER/
APPLICANT:** Nine Three Nine Coast Management (See Attachment 11)
Sprint Nextel Corporation

SUMMARY

Issue(s): Should the Planning Commission approve a modification to a Wireless Communication Facility (WCF) at 939 Coast Boulevard within the La Jolla Planned District Area?

Staff Recommendation: Approve Conditional Use Permit 700980.

Community Planning Group Recommendation: On March 4, 2010, the La Jolla Community Planning Association voted 13-0-1 to recommend approval of this project (Attachment 10).

Environmental Review: This project is exempt from environmental review pursuant to Article 19, Section 15301, Existing facilities, of the California Environmental Quality Act (CEQA). This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was made on January 11, 2010 and the opportunity to appeal that determination ended January 25, 2010 (Attachment 16).

Fiscal Impact Statement: None with this action. All costs associated with the processing of this project are paid from a deposit account maintained by the applicant.

Code Enforcement Impact: None with this action.

Housing Impact Statement: None with this action.

BACKGROUND

The existing 183 foot tall condominium building was approved and constructed prior to the adoption of Proposition D in 1972. The Coastal Height Limit Overlay Zone became effective in 2000 with the adoption of the Land Development Code. This overlay prohibits structures from exceeding 30 feet in height. The City Attorney's office issued a Memorandum of Law (MOL) in 2006 which opined that the City of San Diego is prohibited by Proposition D from approving wireless communication facilities that exceeds 30'-0" height limit in the Coastal Overlay Zone unless the placement of the wireless communication facility is located on previously conforming structures that exceed the 30'-0", and the installation is within the structural envelope of the existing structure (Attachment 14). In addition to conforming to the MOL, it has also been determined that Clearwire Sprint's proposed design complies with Land Development Code Section 132.0501, Coastal Height Limit Overlay Zone.

The project site is zoned LJPD-5 and is designated for residential use in the La Jolla Community Plan (Attachments 2). The site is adjacent to multi-family units to the north, south and east of the property and Ellen Scripps Browning Park to the west (Attachment 1).

The Wireless Communication Facilities regulations identify this proposal as a Process 4, Conditional Use Permit due to the fact that it is located on a residential use within a residential zone. The project complies with the Wireless Communication Facilities Regulations which require a facility to use all reasonable means to conceal and minimize the visual impacts through architectural integration, landscape and siting solutions. The proposed antennas and equipment will be completely concealed inside the existing stairwell and penthouse and will not be visible to the public (Attachment 7).

DISCUSSION

Project Description:

Clearwire Sprint proposes to install five (5) new panel antennas and install five (5) new directional antennas inside an existing stairwell and penthouse. These antennas shall be completely concealed behind new FRP screen walls, and will not be visible from any public perspectives. As a result of this modification, a total of six (9) panel antennas and five (5) directional antennas shall be maintained by Clearwire Sprint (Existing Conditional Use Permit 490936). The associated Clearwire Sprint equipment is located inside the rooftop penthouse next to the approved Sprint equipment cabinets.

Due to the topography of the surrounding area, the current location was considered the ideal candidate. As designed, the WCF will be completely concealed inside existing elements behind FRP screening with minimal visual impact to the surrounding homes. The current design allows Clearwire Sprint to fully stealth both the equipment and the antennas from the public perspectives as opposed to other more intrusive designs such as façade mounting the antennas on the building.

Wireless Communication Facility (WCF) Regulations – The site is located on a residential use and is permitted with Conditional Use Permit (CUP) pursuant to Land Development Section 141.0420(f)(2). As designed, the proposed Clearwire Sprint WCF complies with LDC Section 141.0420(g)(23). This section states, “The applicant shall use all reasonable means to conceal or minimize the visual impacts of the wireless communication facilities through integration. Integration with existing structures among other existing uses shall be accomplished through the use of architecture, landscaping, and siting solutions.” The antennas and equipment are completely concealed inside the rooftop penthouse and stairwell. Therefore, this proposed WCF complies with the design requirement as indicated in this section of the code.

Council Policy 600-43 – The guidelines establish a hierarchy from the most preferred locations (Preference 1) to the least preferred locations (Preference 4) for WCFs. The project is proposed within a preference 4 location according to Council Policy 600-43, which categories WCF according to the land use in which they are located. In this case, the property is zoned LJPD-5 and requires a Conditional Use Permit. Nevertheless, the applicant must demonstrate that sites within Preference 1, 2 and 3 were explored in good faith and found unacceptable. The height of the existing penthouse and stairwell allows Clearwire Sprint to provide a significant coverage objective which would result in fewer sites. Multiple buildings would be required to service the same coverage objective which may result in a less desirable design such as faux trees and exterior mounted antennas. As designed, the equipment and antennas are fully stealth, and can be supported by staff.

Community Plan Analysis - The proposed wireless communication facility is located in a residentially designated property within the La Jolla Community Plan. The La Jolla Community Plan recommends that all telecommunication facilities be reviewed and analyzed by the City of San Diego for visual impact. It recommends that all cellular facilities adhere to the Telecommunication Policy.

The proposed wireless communication facility will be completely concealed and camouflaged from the surrounding residential and commercial areas, therefore this facility is consistent with the recommendations contained within the La Jolla Community Plan.

Project-Related Issues:

The project proposes to install a wireless communication facility inside an existing rooftop stairwell and inside an existing rooftop penthouse. The addition of the proposed wireless communication facility would allow Clearwire Sprint to implement their 4th Generation (4G) wireless technology in the La Jolla Community area (Attachment #15). The proposed modification would also include one additional cabinet inside an existing rooftop penthouse resulting in no additional visual impacts to the site.

The project is located within the Coastal Height Limitation Overlay Zone, which has a maximum allowable height of 30 feet. However, this is a previously conforming structure and the proposed wireless communication facility will be completely recessed within the structural envelope. As a result, the project will not be violating the Coastal Height Limit Overlay Zone as discussed in the

Per Land Development Code Section 141.0420(f), wireless communication facilities located on a residential use within a residential zone requires a Conditional Use Permit, Process 4, Planning Commission decision. The project is within a Preference 4 location according to Council Policy 600-43, however, the applicant has demonstrated to staff that the proposed project will be fully integrated with the existing building.

The wireless communication antenna regulations require project applicants to integrate their wireless projects into the architecture of the existing buildings or environment. Wireless communication technology is dependent on clear lines of site and the height where the antennas are proposed is needed to provide coverage to the surrounding area. Staff supports the proposed design as it has been determined that it will not cause any visual impacts to the surrounding community.

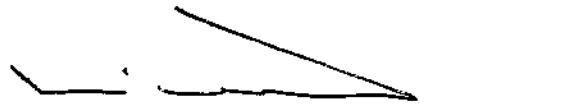
Conclusion:

Staff has reviewed the proposed project and has determined the project is consistent with the purpose and intent of the applicable development regulations of the San Diego Municipal Code, which includes the development regulations of the LJPD-5 zone and the Wireless Communication Antennas Regulations. The required findings can be made (Attachment 8) to support staff's recommendation. Therefore, staff recommends approval of Conditional Use Permit No. 700980 (Attachment 9).

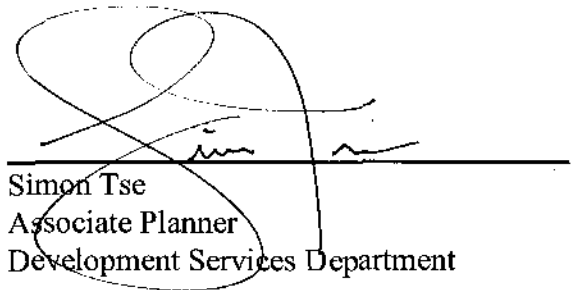
ALTERNATIVES

1. **APPROVE** Conditional Use Permit No. 700980, **with modifications.**
2. **DENY** Conditional Use Permit No. 700980, **if the findings required to approve the project cannot be affirmed.**

Respectfully submitted,



Mike Westlake
Program Manager
Development Services Department



Simon Tse
Associate Planner
Development Services Department

WESTLAKE/ST

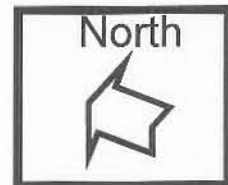
Attachments:

1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Project Data Sheet
5. Project Site Plan(s)
6. Project Site Photos
7. Project Photosimulation
8. Draft Permit with Conditions
9. Draft Resolution with Findings
10. Community Planning Group Recommendation
11. Ownership Disclosure Statement
12. Notice of Hearing
13. Project Chronology
14. Memorandum of Law
15. Coverage Map
16. Notice of Exemption/Notice of Right to Appeal Environmental Determination



Aerial Photo

CLEARWIRE SPRINT- 939 COAST BLVD - PROJECT NO. 198041
939 COAST BLVD, LA JOLLA, CA 92037





Map ONE

La Jolla

Existing Conditions

Land Use

Legend

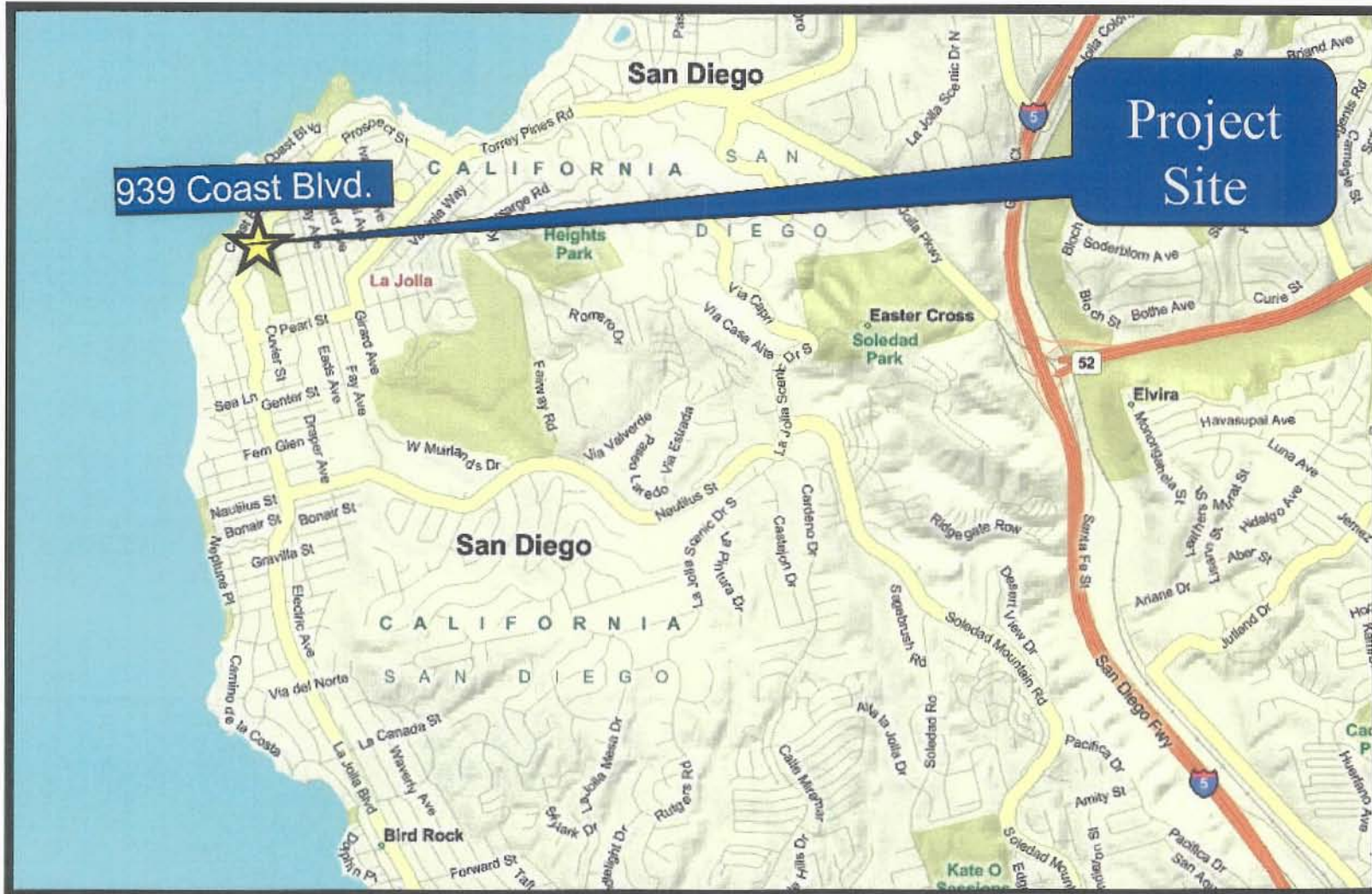
- Single Family Residential
- Multi-Family Residential
- Group Quarters
- Mobile Home Park
- Commercial; Visitor Commercial
- Industrial; Warehouse/Storage
- Communication Utilities; Transportation Related
- Institutional
- Military Use
- Schools
- Park; Open Space; Beaches; 7605
- Private Recreation
- Undeveloped



Community Land Use Map (LA JOLLA)
CLEARWIRE SPRINT- 939 COAST BLVD - PROJECT NO. 198041
939 COAST BLVD, LA JOLLA, CA 92037



ATTACHMENT 2



Project Location Map

CLEARWIRE SPRINT- 939 COAST BLVD - PROJECT NO. 198041
939 COAST BLVD, LA JOLLA, CA 92037



PROJECT DATA SHEET		
PROJECT NAME:	SPRINT/CLEARWIRE COAST BLVD	
PROJECT DESCRIPTION:	A modification to an existing Wireless Communication Facility consisting of two (2) new Clearwire panel antennas and five (5) new Clearwire directional antennas concealed inside an existing penthouse and stairwell behind Fiberglass Resistant Panel (FRP). The associated equipment will also be concealed within an existing penthouse, not visible to the public.	
COMMUNITY PLAN AREA:	La Jolla	
DISCRETIONARY ACTIONS:	Conditional Use Permit	
COMMUNITY PLAN LAND USE DESIGNATION:	La Jolla Planned District Zone 5	
<u>ZONING INFORMATION:</u>		
Zone:	<u>Required</u> LJPD-5	<u>Proposed</u> LJPD-5
Height Limit:	30 feet	181 feet
Front Setback:	15 feet	15 feet
Interior Side Setback:	7 feet	7 feet
Street Side Setback:	10 feet	10 feet
Rear Setback:	0 feet	0 feet
ADJACENT PROPERTIES:	LAND USE DESIGNATION & ZONE	EXISTING LAND USE
NORTH:	La Jolla Planned District Zone 5	Multi-Family Housing
SOUTH:	La Jolla Planned District Zone 5	Multi-Family Housing
EAST:	RM-5-12	Multi-Family Housing
WEST:	La Jolla Planned District Zone 5	Park
DEVIATIONS OR VARIANCES REQUESTED:	None	
COMMUNITY PLANNING GROUP RECOMMENDATION:	On March 4, 2009, the La Jolla Community Planning Association voted 13-0-1 to recommend approval of this project. (Attachment 10)	

Sprint / Clearwire®

Together with NEXTEL

COAST BLVD (CA-SDG5093)

939 COAST BLVD,
SAN DIEGO, CA 92037

Sprint
Together with NEXTEL

5761 COPLEY DRIVE, #100, SAN DIEGO, CA 92111
PHONE: (619) 650-4200 FAX: (619) 650-4202

DCI PACIFIC

ARCHITECTURE • ENGINEERING • CONSULTING
32 EXECUTIVE PARK, SUITE 110, IRVINE, CA 92612
TEL: 949-475-1000 FAX: 949-475-1001

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 SPRINT PROJECT IS STRICTLY PROHIBITED.

DEVELOPMENT SUMMARY

PROJECT SCOPE OF WORK:

- SPRINT PROPOSES TO MODIFY THE EXISTING UNMANNED TELECOMMUNICATIONS FACILITY AS FOLLOWS:
- "SPRINT/CLEARWIRE" DIRECTIONAL ANTENNAS (TOTAL OF 5)
- "SPRINT/CLEARWIRE" PANEL ANTENNAS (TOTAL OF 5) INSIDE EXISTING ROOFTOP PENTHOUSE BEHIND FRP PANELS.
- GPS ANTENNA (TOTAL OF 1)
- EQUIPMENT ENCLOSURE: "SPRINT/CLEARWIRE" WIMAX RACK INSIDE (E) SHELTER AT ROOFTOP
- BOXED BELOW IS A LIST OF DEVELOPMENT REGULATION DEVIATIONS, AND THE REQUIRED PERMITS/APPROVALS, N/A IF LEFT BLANK:

CONDITIONAL USE PERMIT

PROPERTY INFORMATION:

- LEGAL DESCRIPTION: CONDOMINIUM 939 COAST (AMD) DOC 68-30573 & 69-79165 MAP 800 - TERRACE SUB LOTS 19-23 & 32-36
- ASSESSOR PARCEL NUMBER: 350-021-25
- LEASE AREA: EXISTING

OWNER:

OWNER: 939 COAST MANAGEMENT
ADDRESS: 939 COAST BLVD.
LA JOLLA, CA 92037

CONTACT: BARBARA PRINTZ
PHONE: (858) 454-0312

EXISTING WCFs ON SAME PROPERTY:

- SPRINT

BUILDING CODE INFORMATION:

- EXISTING BUILDING/STRUCTURE: OCCUPANCY = S2
CONSTRUCTION TYPE = V-B
SPRINKLER SYSTEM = NO
- PROPOSED STRUCTURE: OCCUPANCY = S2
CONSTRUCTION TYPE = V-B
SPRINKLER SYSTEM = NO

PROJECT TEAM:

RF ENGINEER: IMELDA CUEVAS
PHONE: (760) 250-3579
CONSTRUCTION: PAUL HOKENESS
PHONE: (818) 231-8889
SITE ACQUISITION: DEBRA DEPRATTI
PHONE: (619) 726-8110
PLANNING: DEBRA DEPRATTI
PHONE: (619) 726-8110
ARCHITECT: D.K. DO, RA
PHONE: (949) 475-1000
SURVEYOR: N/A
PHONE: -
CIVIL/STRUCTURAL ENGR. N/A
PHONE: -

ZONING INFORMATION:

JURISDICTION: SAN DIEGO
ZONING DESIGNATION: ZONE 5 LA JOLLA PLANNED DISTRICT COASTAL OVERLAY COASTAL HT. LIMIT
LATITUDE: 32°50'54.16" N
LONGITUDE: 117°16'33.82" W
TOP OF (E) STRUCTURE: 182'-0" AGL
BASE OF STRUCTURE: AGL @ BASE

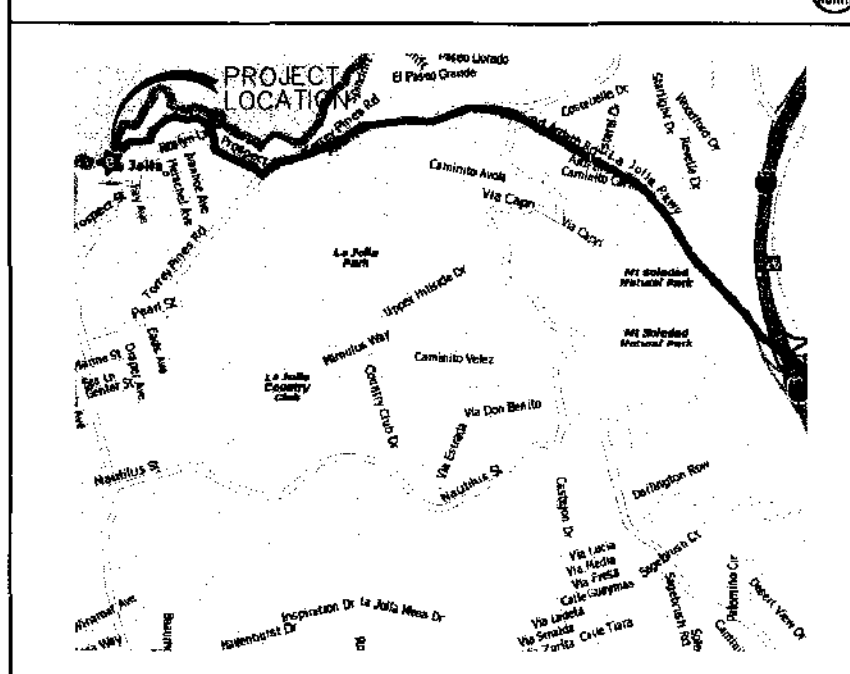
CODE COMPLIANCE

- CALIFORNIA BUILDING CODE CBC-2007
- CALIFORNIA ADMINISTRATIVE CODE (INCL. TITLES 24 & 25) 2007
- ANSI/EIA-222-F LIFE SAFETY CODE
- NFPA-101-2006
- CALIFORNIA ELECTRICAL CODE CEC-2007
- CALIFORNIA MECHANICAL CODE CMC-2007

- CALIFORNIA PLUMBING CODE CPC-2007
- LOCAL BUILDING CODE(S)
- CITY AND/OR COUNTY ORDINANCES

** NOTE: ALL WORK AND MATERIALS SHALL BE PERFORMED AND INSTALLED IN ACCORDANCE WITH THE CURRENT EDITIONS OF THESE CODES. NOTHING IN THESE PLANS IS TO BE CONSTRUED TO PERMIT WORK NOT CONFORMING TO THESE CODES.

VICINITY MAP



DRIVING DIRECTIONS

DEPART FROM SAN DIEGO INTERNATIONAL AIRPORT
START OUT GOING EAST TOWARD N HARBOR DR.
TURN LEFT ONTO N HARBOR DR.
TURN LEFT ONTO W LAUREL ST.
TURN LEFT ONTO INDIA ST.
MERGE ONTO I-5 N VIA THE RAMP ON THE LEFT.
TAKE THE WEST LA JOLLA PKWY EXIT 26A
MERGE ONTO LA JOLLA PKWY
STAY STRAIGHT TO GO ONTO TORREY PINES RD.
TURN RIGHT ONTO PROSPECT PL.
TURN SLIGHT RIGHT ONTO COAST BLVD.
TURN RIGHT TO STAY ON COAST BLVD.
939 COAST BLVD IS ON THE LEFT.
939 COAST BLVD., SAN DIEGO, CA 92037-4128

APPROVAL	DATE	SIGNATURE
P.M.:		
LANDLORD:		
CONST:		
S/A:		
R.F.:		
ZONING:		
A&E:		
R.F.:		

REVIEWERS SHALL CLEARLY PLACE INITIALS ADJACENT TO EACH REDLINE NOTE AS DRAWINGS ARE BEING REVIEWED

DRAWING INDEX

SHEET	DESCRIPTION
T1	TITLE SHEET
A1	SITE/ROOF PLAN, EQUIP. /ANT. LAYOUT PLANS
A2	ELEVATIONS
A3	ELEVATIONS

APPLICANT INFORMATION

APPLICANT:
CLEAR WIRELESS LLC
4400 CARILLON POINT
KIRKLAND, WA 98033
CONTACT: ANNE FORD, PROJECT MANAGER
PHONE: (619) 454-1839
FAX: -
E-MAIL: ANNE.FORD@CLEARWIRE.COM

ARCHITECT:
DCI PACIFIC
32 EXECUTIVE PARK, SUITE 110
IRVINE, CA 92614
CONTACT: D.K. DO, RA
PHONE: (949) 475-1000
FAX: (949) 475-1001
E-MAIL: DK@DCIPACIFIC.COM

SITE ACQUISITION:
DEPRATTI INC.
13948 CALLE BUENO GANAR
JAMUL, CA 91935
CONTACT: SEE PROJECT TEAM FOR INFO.
PHONE: (619) 726-8110
FAX: (619) 669-0985

ABBREVIATIONS

A/C	AIR CONDITIONING	GA	GAUGE	OC	ON CENTER
AGL	ABOVE FINISH GRADE	GALV	GALVANIZED	OD	OUTSIDE DIAMETER
APPROX	APPROXIMATELY	GC	GENERAL CONTRACTOR		
BLDG	BUILDING	GRD	GROUND	PLYWD	PLYWOOD
BLK	BLOCKING	GYP BD	GYPSPUM WALL BOARD	PROJ	PROJECT
CLG	CEILING	HORZ	HORIZONTAL	PROP	PROPERTY
CLR	CLEAR	HR	HOUR	PT	PRESSURE TREATED
CONC	CONCRETE	HT	HEIGHT	REQ	REQUIRED
CONST	CONSTRUCTION	HVAC	HEATING, VENTILATION, AIR CONDITIONING	RM	ROOM
CONT	CONTINUOUS	INS	INSULATION	SHT	SHEET
DBL	DOUBLE	ID	INSIDE DIAMETER	SIM	SIMILAR
DIA	DIAMETER	IN	INCH	SPEC	SPECIFICATION
DIAG	DIAGONAL	INFO	INFORMATION	SS	STAINLESS STEEL
DN	DOWN	INSUL	INSULATION	STL	STEEL
DET	DETAIL	INT	INTERIOR	STRUCT	STRUCTURAL
DWG	DRAWING	INT	INTERIOR CALIFORNIA BUILDING CODE	STD	STUD
EA	EACH	LBS	POUNDS	SUSP	SUSPENDED
ELEV	ELEVATION	MAX	MAXIMUM	THRU	THROUGH
ELEC	ELECTRICAL	MECH	MECHANICAL	TYP	TYPICAL
EQ	EQUAL	MTL	METAL	UNO	UNLESS NOTED OTHERWISE
EQUIP	EQUIPMENT	MFR	MANUFACTURE	VERT	VERTICAL
EXT	EXTERIOR	MGR	MANAGER	VIF	VERIFY IN FIELD
FIN	FINISH	MIN	MINIMUM	W/	WITH
FLOOR	FLOURESCENT	MISC	MISCELLANEOUS	W/O	WITHOUT
FLR	FLOOR	RO	ROUGH OPENING	WP	WATER PROOF
FT	FOOT	NA	NOT APPLICABLE		
		NIC	NOT IN CONTRACT		
		NTS	NOT TO SCALE		

COAST BLVD
(CA-SDG5093)
939 COAST BLVD.,
SAN DIEGO, 92037

LICENSURE

REVISIONS

NO.	DATE	DESCRIPTION	INITIAL
1	09-15-09	PRELIM ZD	RF
2	10-27-09	100% ZD	RF
3	11-08-09	CITY COMMENTS	RF
4	12-02-09	CITY COMMENTS	RF
5	01-29-10	CITY COMMENTS	RF
6	04-30-10	CITY COMMENTS	RF

NOT FOR CONSTRUCTION UNLESS LABELED AS CONSTRUCTION SET

SHEET TITLE
TITLE SHEET

SHEET NUMBER
T1

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COAST BLVD
(CA-SDG5093)

939 COAST BLVD.,
SAN DIEGO, 92037

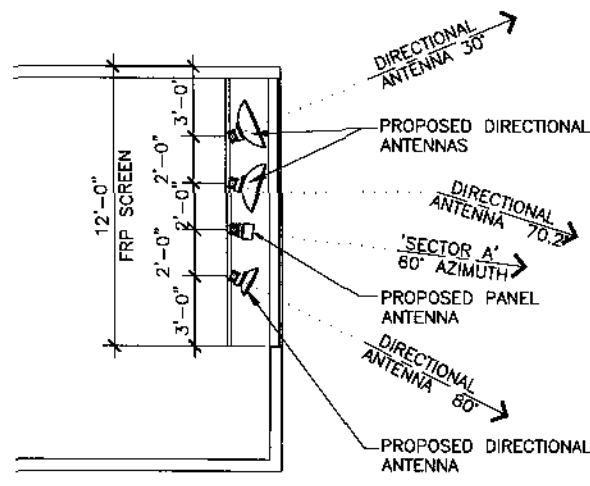
LICENSURE

REVISIONS			
NO.	DATE	DESCRIPTION	INITIAL
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2	10-27-09	100% ZD	HH
3	11-09-09	CITY COMMENTS	HH
4	12-02-09	CITY COMMENTS	IP
5	01-28-10	CITY COMMENTS	IP
6	04-29-10	CITY COMMENTS	IP

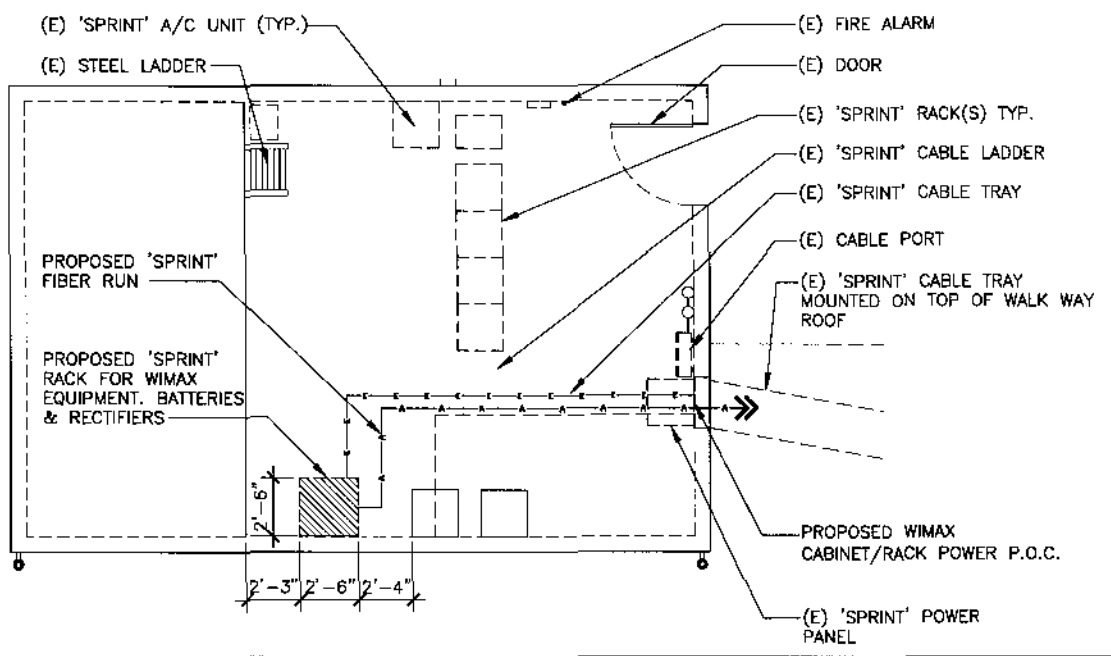
NOT FOR CONSTRUCTION UNLESS LABELED AS CONSTRUCTION SET

SHEET TITLE
SITE/ROOF PLAN, EQUIPMENT & ANTENNA LAYOUT PLANS

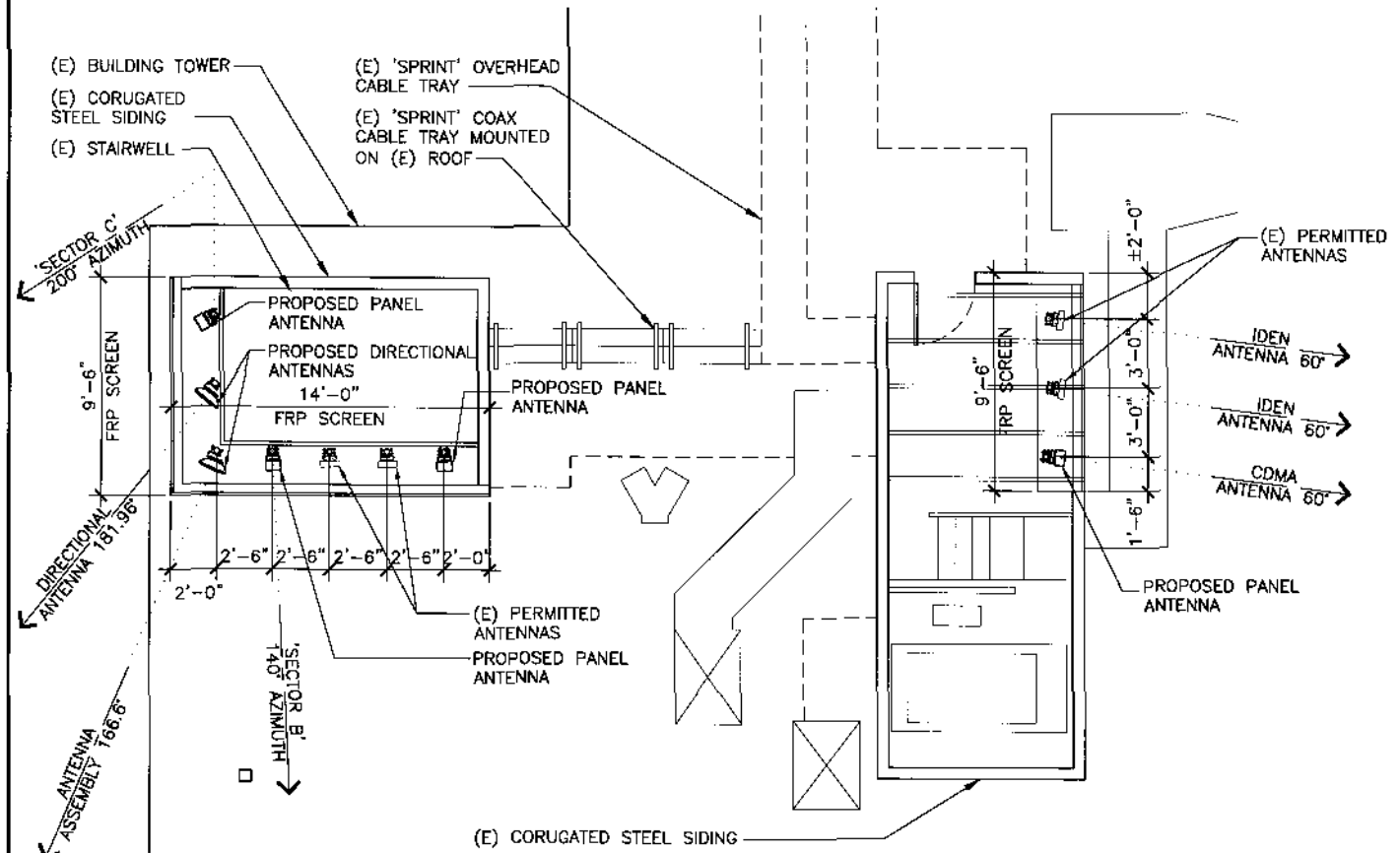
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A1



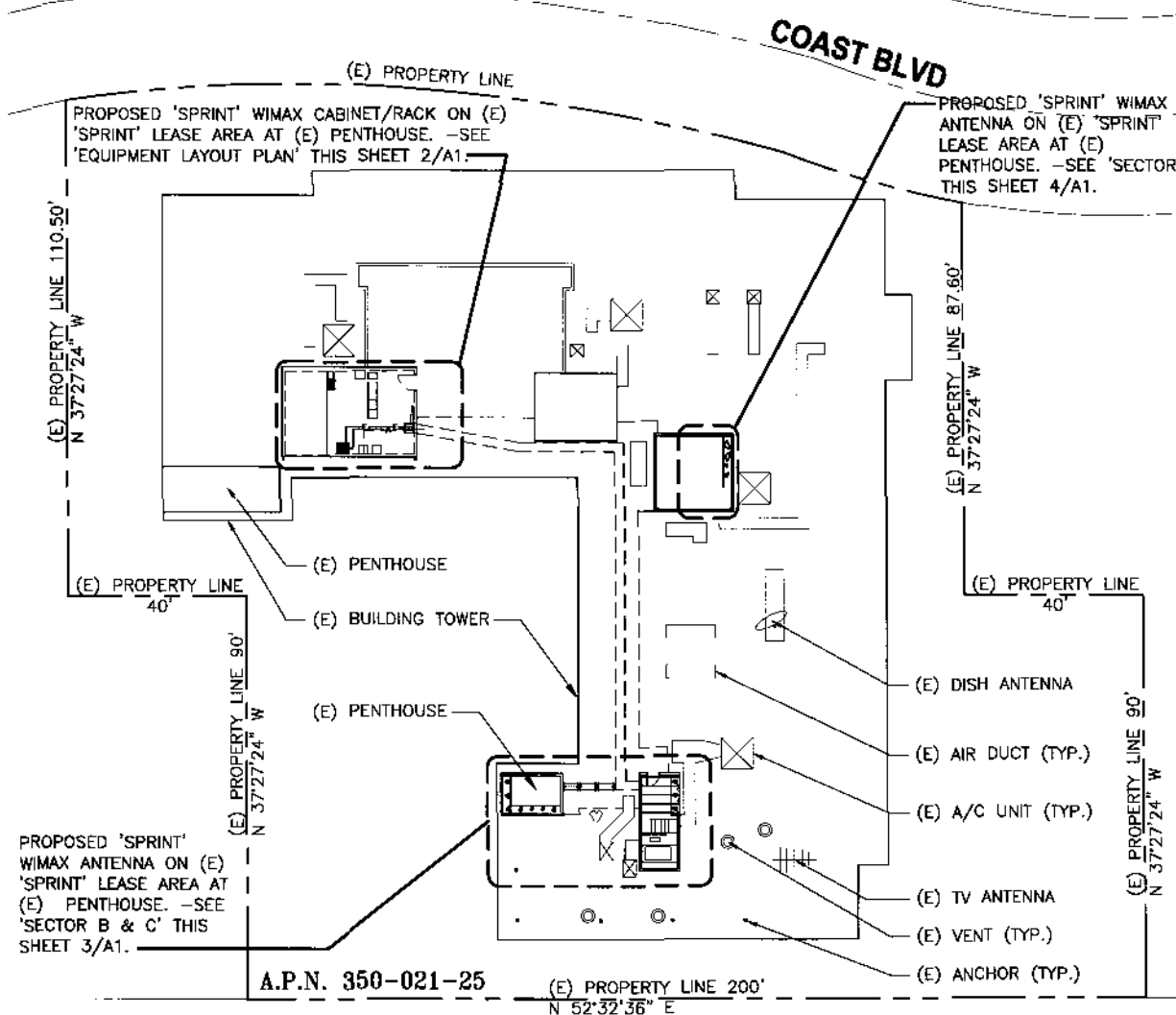
ANTENNA LAYOUT SCALE: 1/4"=1'-0" 0 2' 4' **4**



EQUIPMENT LAYOUT PLAN SCALE: 1/4"=1'-0" 0 2' 4' **2**



ANTENNA LAYOUT PLAN SCALE: 1/8"=1'-0" 0 2' 4' **3**



SITE/ROOF PLAN SCALE: 1"=20'-0" 0 10' 20' **1**

COAST BOULEVARD SOUTH

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COAST BLVD
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939 COAST BLVD.,
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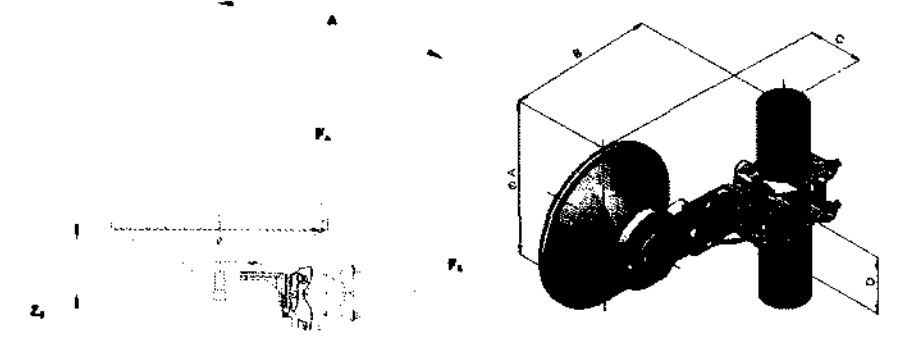
LICENSURE

REVISIONS			
NO.	DATE	DESCRIPTION	INITIAL
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2	10-27-09	LOOK ZD	HH
3	11-09-09	CITY COMMENTS	IP
4	12-02-09	CITY COMMENTS	IP
5	01-29-10	CITY COMMENTS	IP
6	04-20-10	CITY COMMENTS	IP

NOT FOR CONSTRUCTION UNLESS
LABELED AS CONSTRUCTION SET

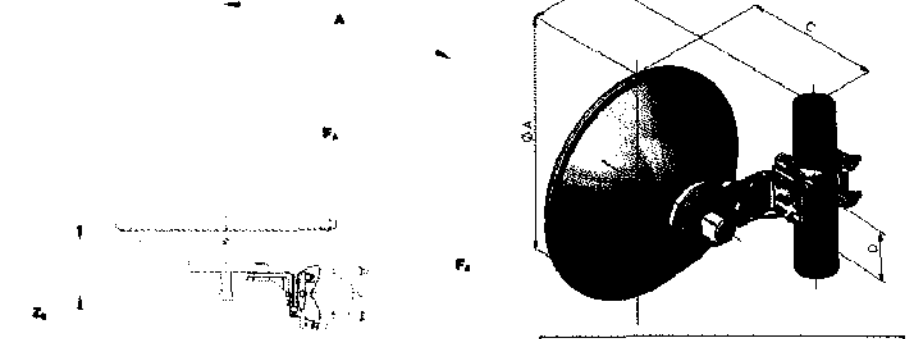
SHEET TITLE
ELEVATIONS

SHEET NUMBER
A2



Dimensions in inches (mm)				
Antenna Size, R (m)	A	B	C	D
1 (0.3)	15.3 (388)	14.1 (358)	8.9 (219)	5.9 (150)

Gross Weight, Packed Antenna 8.9 kg | 19.6 lb
Height 325.0 mm | 12.8 in
Length 640.0 mm | 25.2 in
Volume 0.1 m³
Width 460.0 mm | 18.1 in

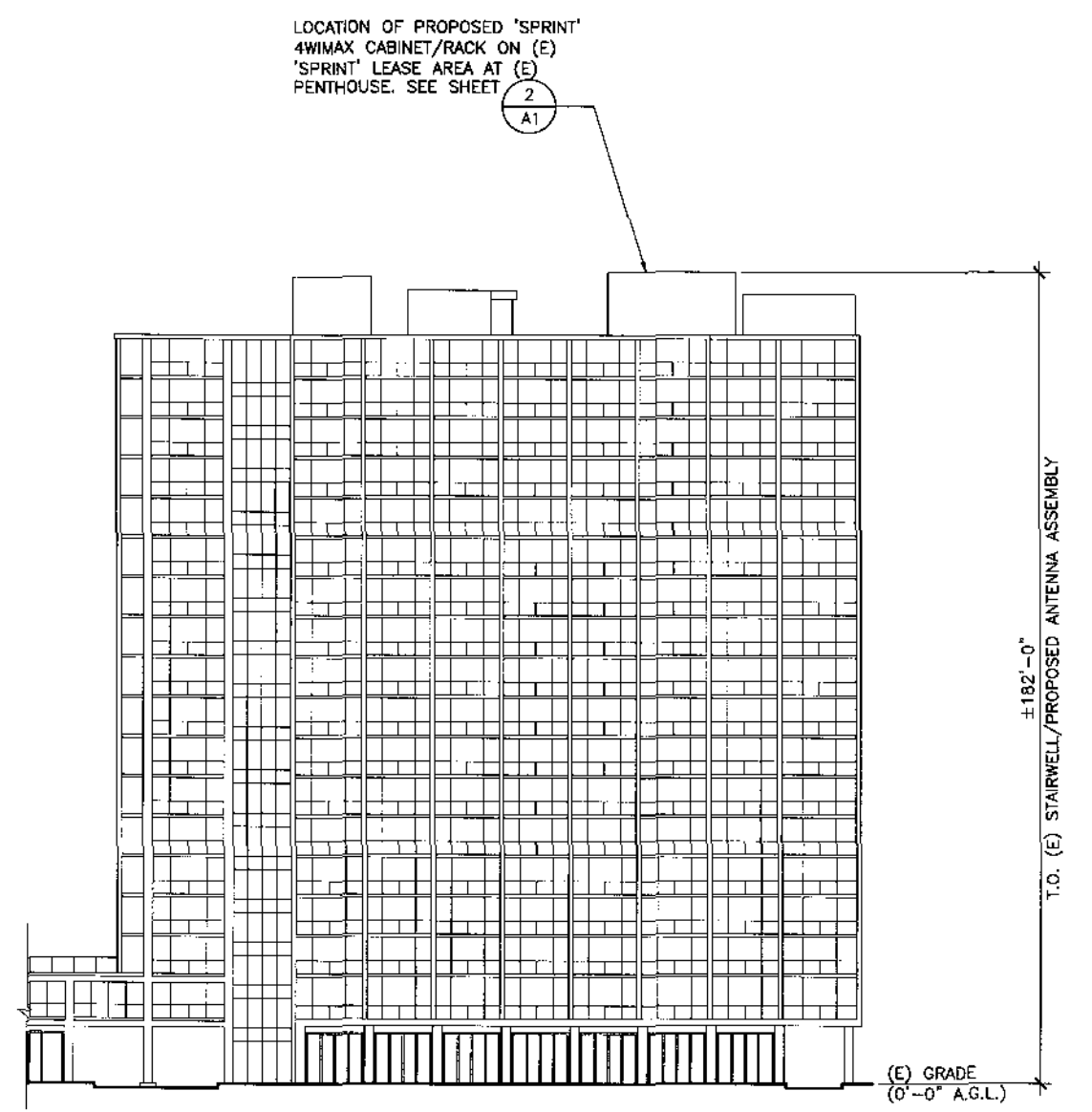


Dimensions in inches (mm)				
Antenna Size, R (m)	A	B	C	D
2	26.1 (662)	14.1 (358)	12.3 (313)	5.9 (150)

Gross Weight, Packed Antenna 14.0 kg | 30.9 lb
Height 540.0 mm | 21.3 in
Length 700.0 mm | 27.6 in
Volume 0.3 m³
Width 700.0 mm | 27.6 in

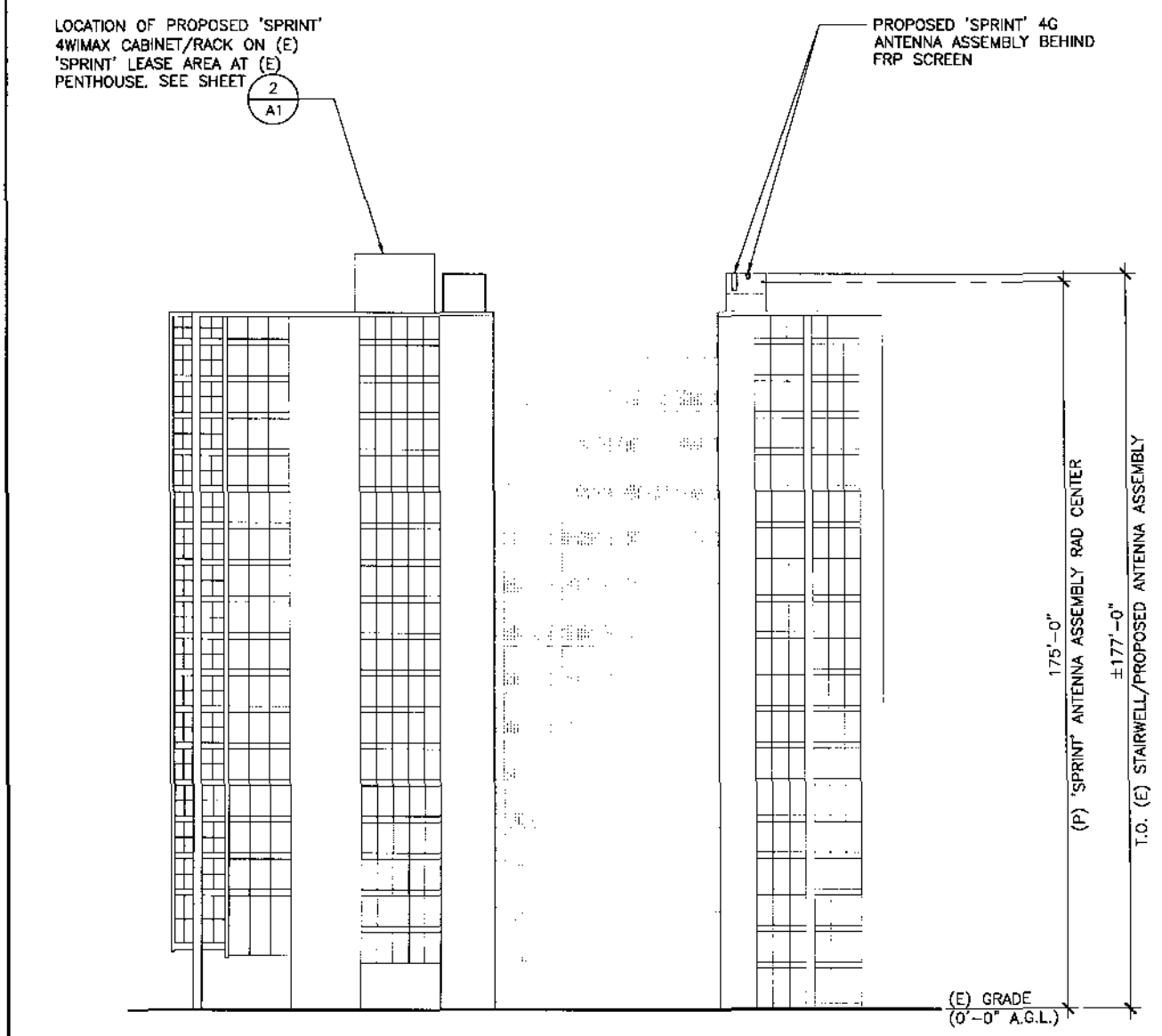
DIRECTIONAL ANTENNA DETAILS

SCALE: 1
N.T.S.



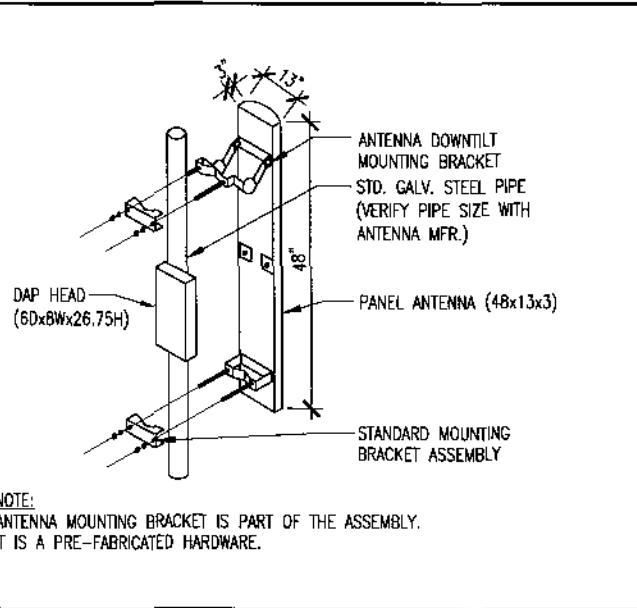
NORTH ELEVATION

SCALE: 1/32" = 1'
0 5 10' 2

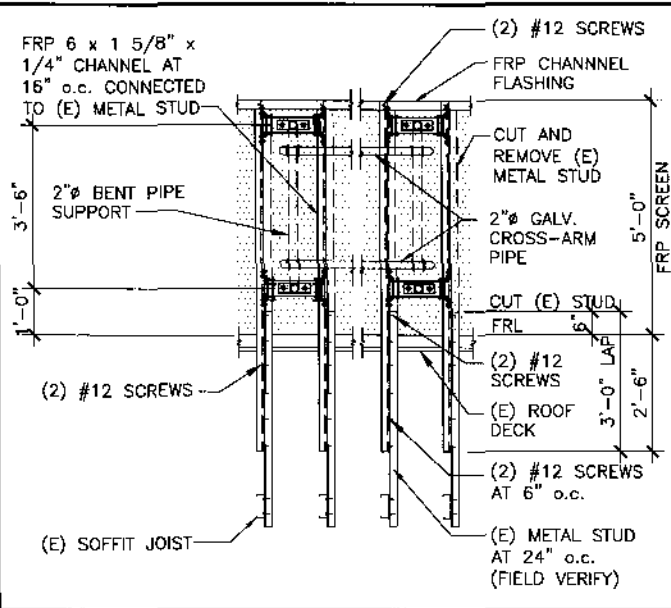


WEST ELEVATION

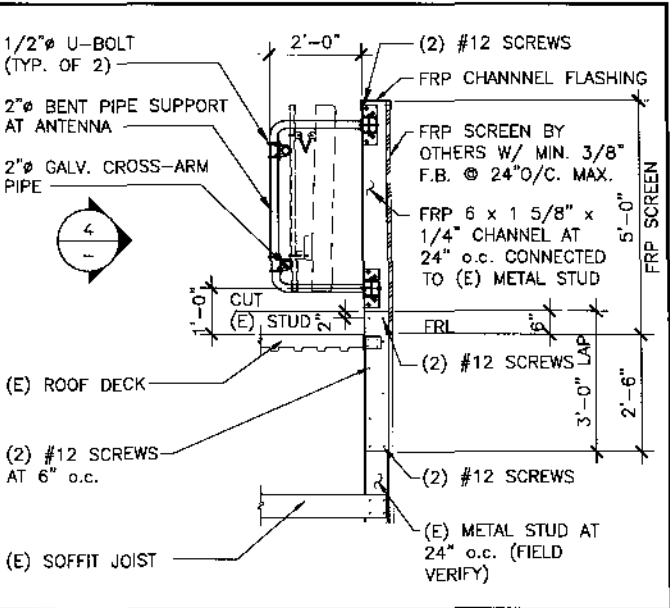
SCALE: 1" = 10'
0 5 10' 1



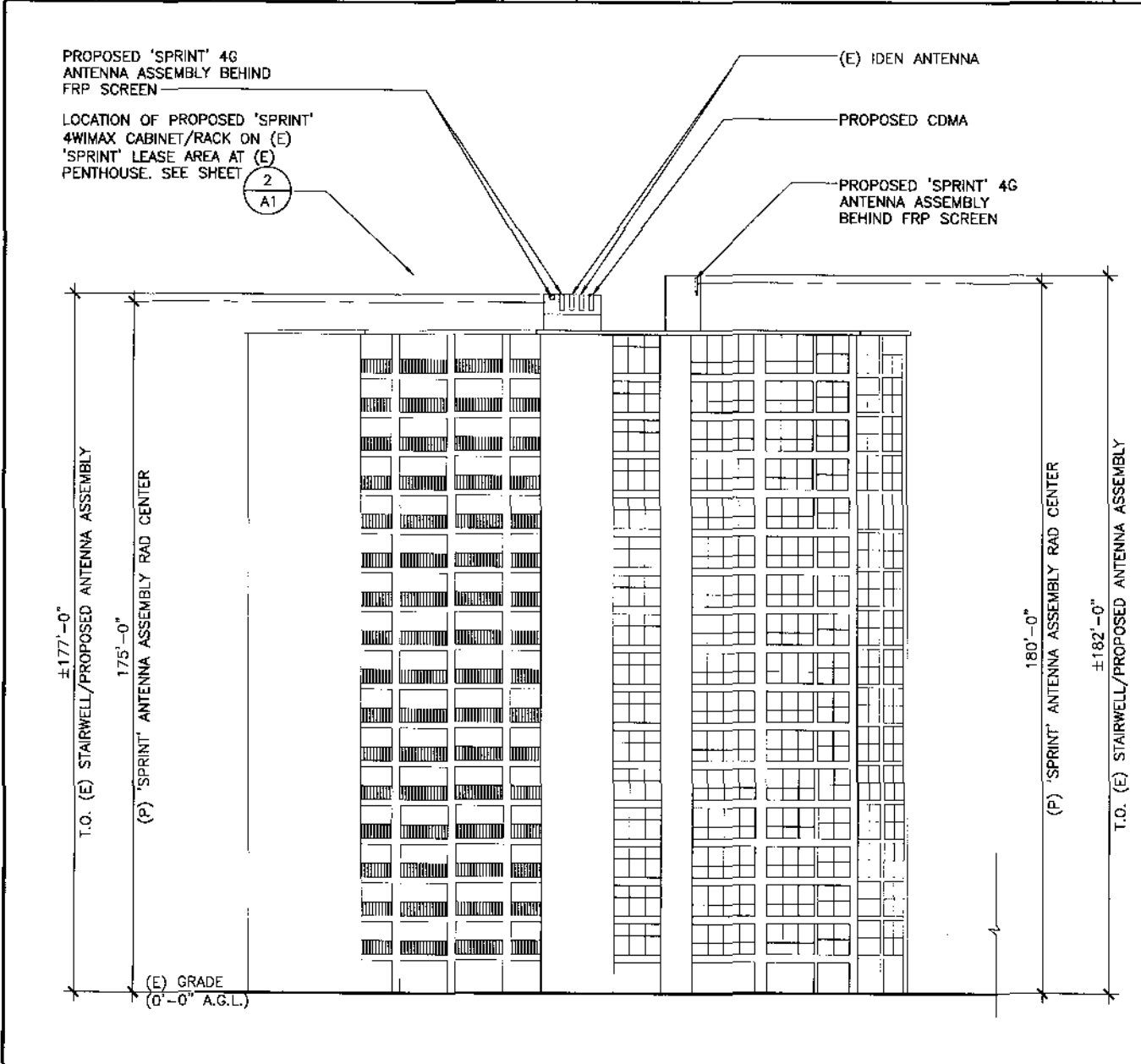
ANTENNA MOUNTING DETAIL SCALE: N.T.S. 5



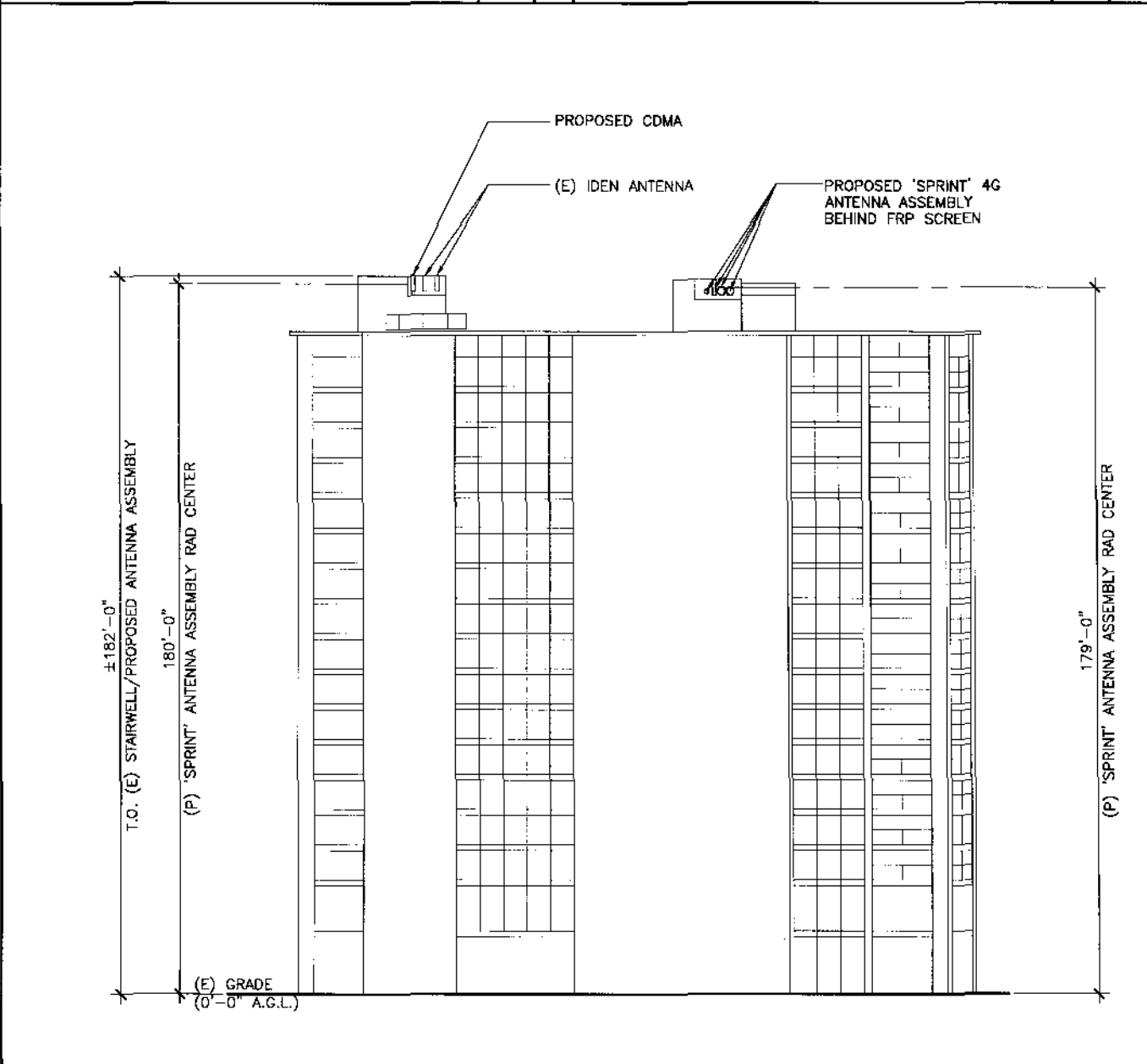
FRP SCREEN WALL ELEVATION SCALE: 1/2"=1'-0" 4



FRP SCREEN WALL SECTION SCALE: 1/2"=1'-0" 3



SOUTH ELEVATION SCALE: 1"=20' 2



EAST ELEVATION SCALE: 1"=20' 1

Sprint
Together with NEXTEL

5751 CORLEY DRIVE, #100, SAN DIEGO, CA 92111
PHONE: (858) 850-4200 FAX: (858) 680-4202

DCI PACIFIC

ARCHITECTURE • ENGINEERING • CONSULTING
32 EXECUTIVE PARK • SUITE 110 • IRVINE • CA 92612
TEL: 949-475-1000 FAX: 949-475-1001

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 SPRINT PROJECT IS STRICTLY PROHIBITED.

COAST BLVD
(CA-SDG5093)

939 COAST BLVD.,
SAN DIEGO, 92037

LICENSURE

REVISIONS

NO.	DATE	DESCRIPTION	INITIAL
1	09-15-09	PRELIM 2D	IP
2	10-27-09	100% 2D	HH
3	11-09-09	CITY COMMENTS	HH
4	12-02-09	CITY COMMENTS	IP
5	01-29-10	CITY COMMENTS	IP
6	04-20-10	CITY COMMENTS	IP

NOT FOR CONSTRUCTION UNLESS LABELED AS CONSTRUCTION SET

SHEET TITLE
ELEVATIONS

SHEET NUMBER
A3



Existing Telecommunications (not Sprint-owned)



Looking North



Looking East



Looking South

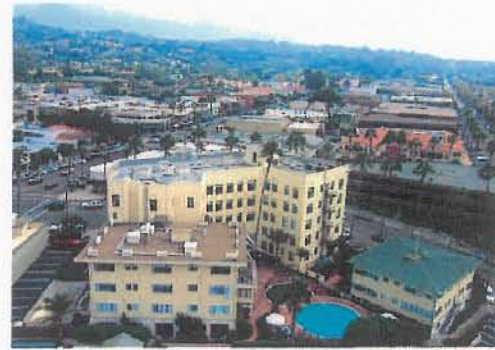


Site Photos

CLEARWIRE SPRINT- 939 COAST BLVD - PROJECT NO. 198041
939 COAST BLVD, LA JOLLA, CA 92037



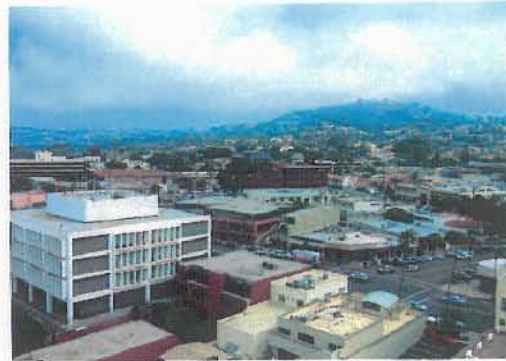
Looking Northwest



Example (1 of 3) Topographical



Example (2 of 3)



Example (3 of 3)



Site Photos

CLEARWIRE SPRINT- 939 COAST BLVD - PROJECT NO. 198041
939 COAST BLVD, LA JOLLA, CA 92037



1. Looking Southwest From Coast Boulevard



2. Looking Northeast From Coast Boulevard



3. Looking Northwest From Prospect & Jenner Street



Looking East/Proposed Antenna Location



Site Photos

CLEARWIRE SPRINT- 939 COAST BLVD - PROJECT NO. 198041
939 COAST BLVD, LA JOLLA, CA 92037

Photosimulations

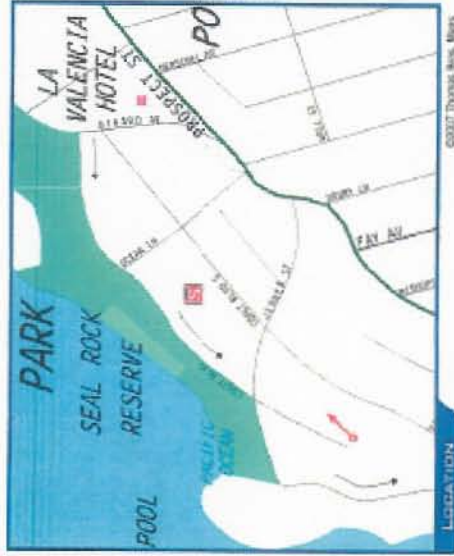
Royal Street
Communications
California, L.L.C.

CA5116
COAST BOULEVARD

939 COAST BOULEVARD LA JOLLA, CA 92037



VIEW 2



LOCATION



EXISTING



PROPOSED

LOOKING NORTHEAST FROM COAST BOULEVARD

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

Photosimulations

Royal Street
Communications
California, L.L.C.

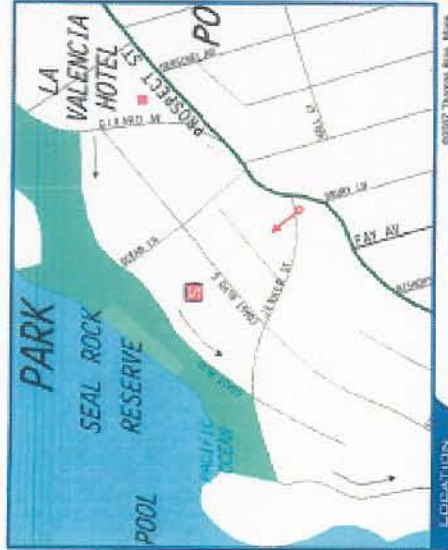
CA 5116

COAST BOULEVARD

939 COAST BOULEVARD LA JOLLA, CA 92037

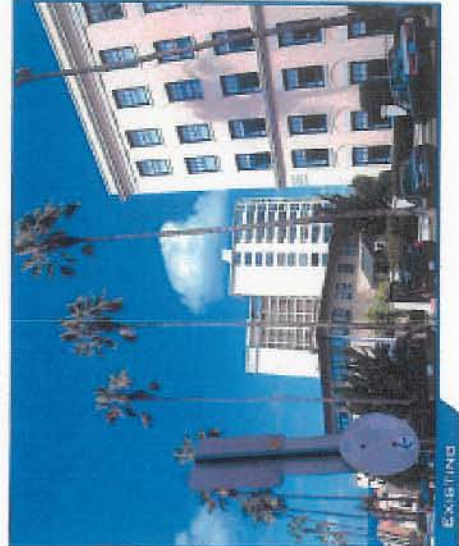


VIEW 3

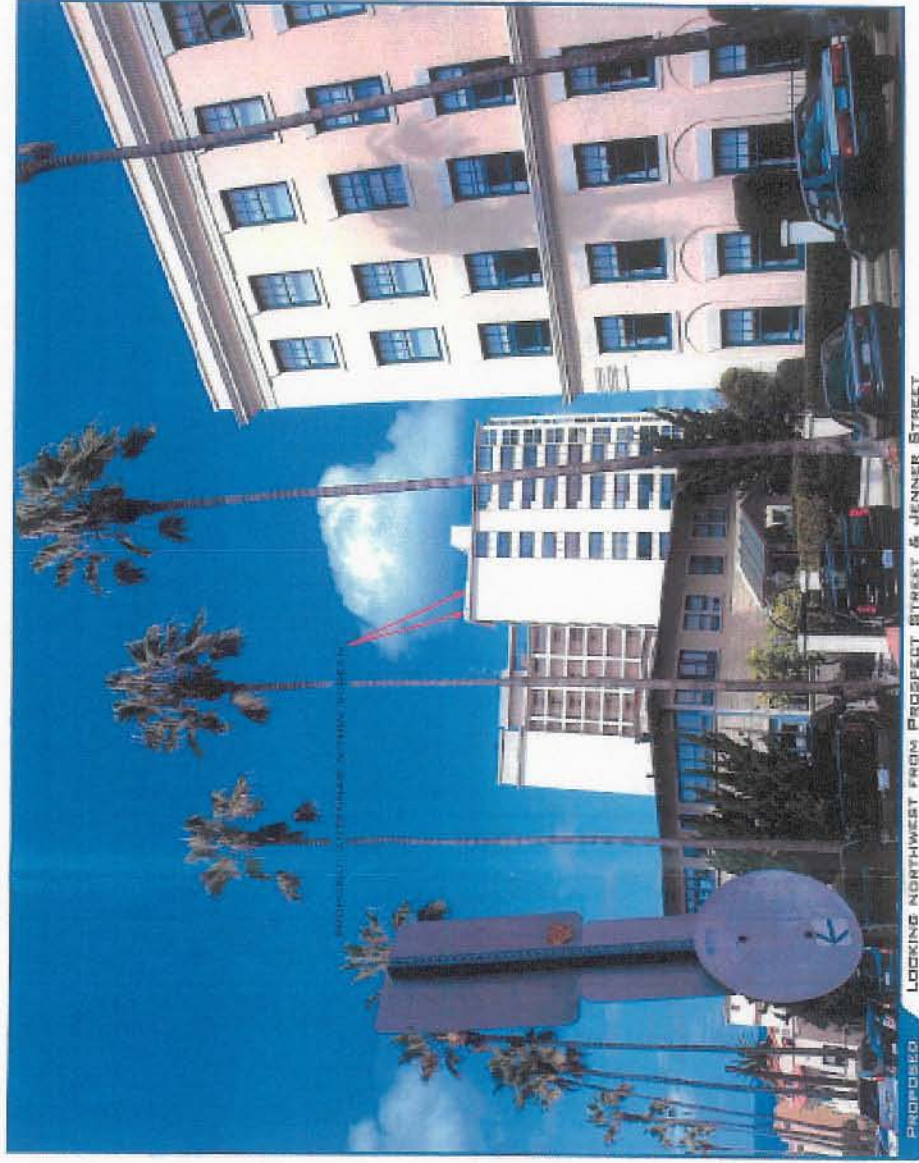


©2007 Thomas Risk Maps

LOCATION



EXISTING



PROPOSED

LOOKING NORTHWEST FROM PROSPECT STREET & JENNER STREET

RENDERING OF PHOTO SIMULATION BASED UPON INFORMATION PROVIDED BY VISUAL APPROVAL

Photosimulations

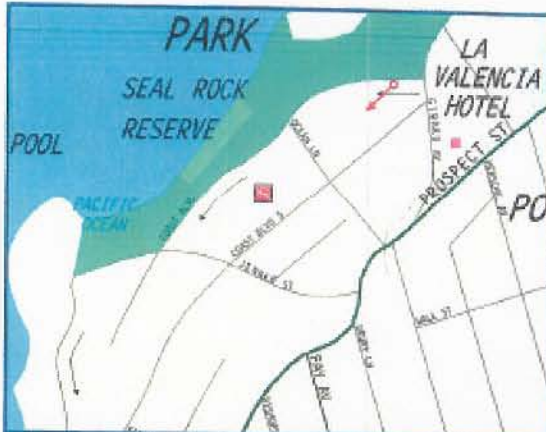
Royal Street
Communications
California, L.L.C.

CA5116
COAST BOULEVARD

939 COAST BOULEVARD, LA JOLLA, CA 92037

ARTISTIC
ENGINEERING
AEsims.com
187718AESIMS

VIEW 1



LOCATION

©2007 Terra Data, Maps



EXISTING



PROPOSED

LOOKING SOUTHWEST FROM COAST BOULEVARD

ACCURACY OF PHOTO SIMULATION BASED UPON INFORMATION PROVIDED BY CLIENT AFFILIATES

RECORDING REQUESTED BY
 CITY OF SAN DIEGO
 DEVELOPMENT SERVICES
 PERMIT INTAKE, MAIL STATION 501

WHEN RECORDED MAIL TO

PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 24000453

CONDITIONAL USE PERMIT NO. 700980
CLEARWIRE SPRINT – COAST BLVD
 PROJECT NO. 198041
PLANNING COMMISSION

This Conditional Use Permit is granted by the Planning Commission, of the City of San Diego to **NINE THREE NINE COAST MANAGEMENT ASSOCIATION**, Owner, and **SPRINT NEXTEL CORPORATION**, Permittee, pursuant to San Diego Municipal Code [SDMC] section Chapter 12, Article 6, Division 2 and Section 141.0420. The site is located at 939 Coast Boulevard in the La Jolla Planned District 5 zone of the La Jolla Community Plan. The project site is legally described as an undivided .15860 interest in and to lots 19 to 23, inclusive and lots 32 to 36 inclusive of Terrace Subdivision. According to map thereof No. 800, filed in the Office of the County Recorder of San Diego County, May 7, 1895. Except units 3A to 21J, inclusive, as shown on the diagrammatical map attached to and made a part of the amended condominium plan and certificate recoded in compliance with Section 1351 of the California Civil Code, on May 7, 1969 Series 10, Book 1969 as file No. 79165 of official records of said county.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner and Permittee for a wireless communication facility, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated May 13, 2010, on file in the Development Services Department.

The project shall include:

- a. A modification to an existing Wireless Communication Facility consisting of five (5) new Clearwire panel antennas and five (5) new Clearwire directional antennas concealed inside an existing penthouse and stairwell behind Fiberglass Resistant Panel (FRP). The associated equipment will also be concealed within an existing penthouse, not visible to the public.
- b. Where not otherwise specified in this Conditional Use Permit No. 700980, the existing conditions identified in Conditional Use Permit 490936, PTS 140684 shall apply.

- b. Accessory improvements determined by the Development Services Department to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. Failure to utilize and maintain utilization of this permit as described in the SDMC will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the Development Services Department.
4. This Permit is a covenant running with the subject property and shall be binding upon the Owner/Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
8. Construction plans shall be in substantial conformity to Exhibit "A." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

9. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

10. In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

11. The proposed design complies with the Telecommunication Facility Guidelines as a Complete Concealment Facility and as a result, the permit will not contain an expiration date. It is the responsibility of the wireless carrier and owner(s) to maintain the appearance of the approved facility to the conditions set forth in this permit unless the site is removed and restored to its original condition. Code compliance shall be notified if the appearance or the scope of the project has changed without the approval of the City Manager.

ENGINEERING REQUIREMENTS:

12. Prior to the issuance of any construction permits, the applicant shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the Municipal Code, into the construction plans or specifications.

13. Prior to the issuance of any construction permits, the applicant shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards.

PLANNING/DESIGN REQUIREMENTS:

14. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as a condition of approval of this Permit. Where there is a conflict (including exhibits) of this Permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) for this Permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

15. The building materials and paint used for the RF transparent screen shall not result in any noticeable lines or edges in the transition as illustrated in the approved Exhibit "A".

16. One WiMax equipment cabinet shall be located inside the existing penthouse, completely concealed from the public as illustrated in the approved Exhibit "A".
17. All cables and conduits shall be concealed inside the cable tray to the satisfactory of the Development Services Department.
18. The photosimulation(s) for the proposed project must be printed (not stapled) on the building plans. This is to ensure the construction team building the project is aware of what the completed design was approved to look like.
19. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and exhibits (including, but not limited to, elevations, and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this permit.
20. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Owner/Permittee.
21. Any future requested amendments to this Permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.
22. No mechanical equipment, tank, duct, elevator, cooling tower, mechanical ventilator or air conditioner shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within a completely enclosed, architecturally integrated structure whose top and sides may include grillwork, louvers, and latticework.
23. Prior to the issuance of a construction permit, the telecommunication provider shall provide a certified cumulative radio frequency model study demonstrating compliance with the Federal Communications Commission's Radio Frequency Guidelines. All significant contributors to the ambient RF environment should be considered in the radio frequency model study.
24. Prior to obtaining a Construction Permit the following items must be illustrated on the construction drawings: coax cable tray, meters, telco, A/C units, generator receptacles, cable runs, bridges, dog houses and external ports. These appurtenances must be minimized visually so as to avoid the effect of changing the outward appearance of the project from what was approved on the exhibits.
25. The Owner/Permittee of record is responsible for notifying the city within 30 days of the sale or takeover of this site to any other provider.
26. Once this site is deemed complete from construction, Owner/Permittee is required to send a letter (Subject: Planning Inspection Project Number 198041) to the City of San Diego, Development Services Department requesting for a planning inspection. The site is officially deemed complete once the City Manager signs the letter. The applicant shall be provided with a copy of the signed letter for record purposes.

27. Prior to issuance of construction permits, the Permittee shall pay the Long Term Monitoring Fee to cover the City's costs associated with implementation of permit compliance monitoring.

INFORMATION ONLY:

This project is not within the FAA Part 77 Noticing Area.

Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code §66020.

Date of Approval: May 13, 2010
PTS No. 198041; Internal No. 24000453
Conditional Use Permit No. 700980

AUTHENTICATED BY THE DEVELOPMENT SERVICES DEPARTMENT

Simon Tse, Associate Planner
City of San Diego

**NOTE: Notary acknowledgment
must be attached per Civil Code
section 1180 et seq.**

**The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of
this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.**

[NINE THREE NINE MANAGEMENT ASSOCIATION]

Owner

By _____

PRINTED NAME: _____

PRINTED TITLE: _____

[SPRINT NEXTEL CORPORATION]

Permittee

By _____

PRINTED NAME: _____

PRINTED TITLE: _____

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1180 et seq.**

PLANNING COMMISSION
PC REPORT NO. PC-10-027
CONDITIONAL USE PERMIT APPROVAL NO. 700980
CLEARWIRE SPRINT COAST BLVD

WHEREAS, NINE THREE NINE COAST MANAGEMENT, Owner, and SPRINT NEXTEL CORPORATION, Permittee, filed an application with the City of San Diego for a permit to modify an existing Wireless Communication Facility consisting of five (5) new Clearwire panel antennas and five (5) new Clearwire directional antennas concealed inside an existing penthouse and stairwell behind Fiberglass Resistant Panel (FRP). The associated equipment will also be concealed within an existing penthouse, not visible to the public as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 700980;

WHEREAS, the project site is located at 939 Coast Blvd, within the La Jolla Planned District Zone 5 within the La Jolla Community Plan.

WHEREAS, the project site is legally described as an undivided .15860 interest in and to lots 19 to 23, inclusive and lots 32 to 36 inclusive of Terrace Subdivision. According to map thereof No. 800, filed in the Office of the County Recorder of San Diego County, May 7, 1895. Except units 3A to 21J, inclusive, as shown on the diagrammatical map attached to and made a part of the amended condominium plan and certificate recorded in compliance with Section 1351 of the California Civil Code, on May 7, 1969 Series 10, Book 1969 as file No. 79165 of official records of said county;

WHEREAS, on May 13, 2010, the Planning Commission of the City of San Diego considered Conditional Use Permit No. 700980 pursuant to the Land Development Code of the City of San Diego; NOW, THEREFORE,

BE IT RESOLVED by the Planning Commission of the City of San Diego as follows:

That the Planning Commission adopts the following written Findings, dated May 13, 2010.

FINDINGS:

Conditional Use Permit - Section 126.0305

1. **The proposed development will not adversely affect the applicable land use plan;**

Both the City of San Diego General Plan and the La Jolla Community Plan addresses wireless communication facilities with specific recommendations. The City of San Diego General Plan recommends minimizing visual impacts by concealing wireless facilities in existing structures when possible. It also recommends that facilities be aesthetically pleasing and respectful to the neighborhood context and to conceal mechanical equipment and devices associated with wireless facilities in underground vaults or unobtrusive structures. The La Jolla Community Plan recommends that all telecommunication facilities be reviewed and analyzed by the City of San

Diego for visual impact. It recommends that all cellular facilities adhere to the Citywide Telecommunication Policy.

Pursuant to the San Diego Land Development Code, wireless communication facilities are permitted in all zones citywide with the appropriate permit process. Wireless communication facilities are separately regulated uses, which have limitations or require compliance with conditions in order to minimize potential impacts. The intent of the regulations is to camouflage facilities from public view. The proposed modifications shall be completely concealed inside the existing stairwell and penthouse behind Fiberglass Resistant Panels (FRP). As a result, the proposed development is consistent with the recommendations identified and would not adversely affect the La Jolla Community Plan or the City of San Diego General Plan and Progress Guide.

2. The proposed development will not be detrimental to the public health, safety, and welfare;

The Telecommunication Act of 1996 preempts local governments from regulating the “placement, construction and modification of wireless communication facilities on the basis of the environmental effects of Radio Frequency (RF) emissions to the extent that such facilities comply with the Federal Communication Commission’s (FCC) standards for such emissions.” To insure that the FCC standards are being met, a condition to require a Radio Frequency Report prior to the issuance of a building permit has been added.

3. The proposed development will comply to the maximum extent feasible with the regulations of the Land Development Code; and

The project complies with all applicable development regulations of the Land Development Code and the City of San Diego Communication Antenna Regulations (Land Development Code Section 141.0420). This section of the code requires telecommunication facilities to be minimally visible through the use of architecture, landscape architecture and siting solutions. The antennas are concealed inside the existing stairwell and penthouse. The associated equipment is also concealed inside an existing penthouse. The existing use of the property is residential and as such, requires a Conditional Use Permit. There are no deviations from the development regulations or variances requested with this application. Therefore, Sprint Clearwire’s project is in full compliance with the applicable regulations of the Land Development Code.

4. The proposed use is appropriate at the proposed location.

Typically, the City of San Diego encourages wireless carriers to locate on non-residential properties. In this case, the search ring identifies non-residential properties, but due to the height of the existing building Clearwire Sprint was able to cover a larger objective area with one site. All the proposed antennas are concealed inside the existing stairwell and penthouse. Additionally, Clearwire Sprint is required to submit a Radio Frequency Report demonstrating compliance with Federal Communication Commissions standards. This project has been designed to comply with Section 141.0420 and the Wireless Communication Facility Guidelines. Additionally, this site will address Clearwire Sprint’s 4G technology located in the La Jolla Community Area. Thus, the proposed use is appropriate for this site.

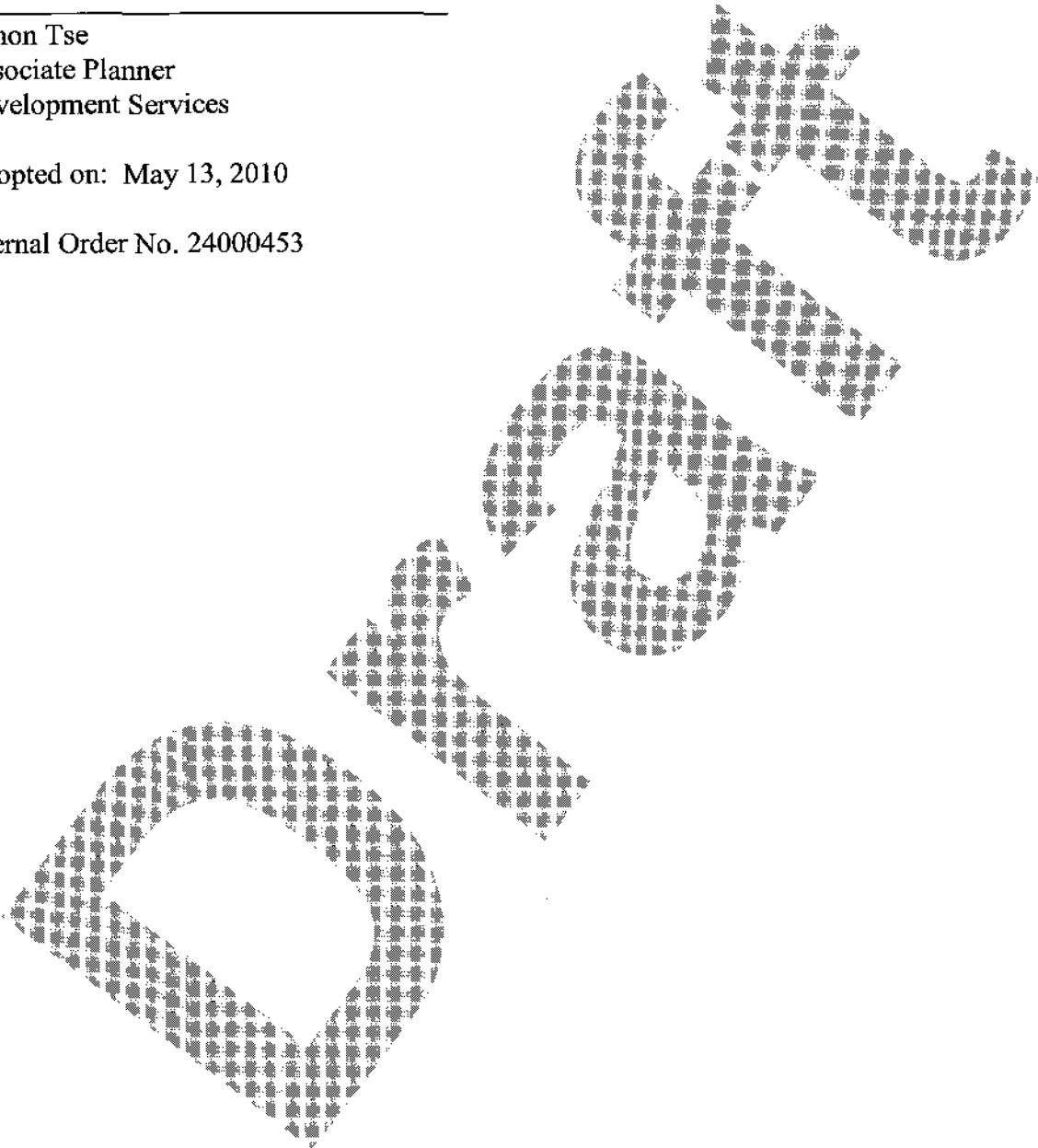
BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, Conditional Use Permit 700980 is hereby GRANTED by the Conditional Use Permit

700980 to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 700980 copy of which is attached hereto and made a part hereof.

Simon Tse
Associate Planner
Development Services

Adopted on: May 13, 2010

Internal Order No. 24000453



La Jolla Community Planning Association



LA JOLLA COMMUNITY PLANNING ASSOCIATION

P.O. Box 889 La Jolla CA 92038 Ph 858.456.7900
<http://www.LaJollaCPA.org> Email: info@LaJollaCPA.org

Regular Meeting – 4 March 2010

Attention: Simon Tse, DPM, City of San Diego

Project: Sprint Clearwire Coast Blvd
 939 Coast Blvd
 PN 194433

Motion: To accept the recommendation of the DPR Committee: to approve Sprint Clearwire Coast Blvd application and forward the recommendation to the City. **Vote:** 13-0-1

Submitted by: *Joseph LaCava* **4 March 2010**
 Joe LaCava, President **Date**
 La Jolla CPA

DPR Committee, Feb 2010

Project Name: SPRINT CLEARWIRE COAST BLVD.
Address: 939 Coast Blvd.
Permits: CUP
Project #: 198041
DPM: Simon Tse, 619-687-5984, stse@sanidiego.gov
Zone: Zone 3 La Jolla PDO
Applicant: Deborah Deprati, 619-726-8110, ddgardner@cox.net

Scope of Work:

(Process 4) Conditional Use Permit for a wireless communication facility on the roof of an existing multi family residential building in Zone 3 of the La Jolla Community Plan, Coastal Overlay (appealable), Coastal Height Limit.

Subcommittee Motion:

(Motion Passed 6-1-0) The findings can be made for CUP.

Note: Equipment is to be located within an existing enclosed penthouse of which a portion of steel wall will be replaced with visually in kind fiberglass.

Ownership Disclosure Statement

Project Title: <u>Coast Blvd</u>	Project No. (For City Use Only)
----------------------------------	---------------------------------

Part II - To be completed when property is held by a corporation or partnership

Legal Status (please check):

Corporation Limited Liability or- General) What State? _____ Corporate Identification No. _____
 Partnership

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property with the intent to record an encumbrance against the property. Please list below the names, titles and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all corporate officers, and all partners in a partnership who own the property). A signature is required of at least one of the corporate officers or partners who own the property. Attach additional pages if needed. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process. Additional pages attached Yes No

Corporate/Partnership Name (type or print):
939 Coast

Owner Tenant/Lessee
HOA President

Street Address:
939 Coast Blvd

City/State/Zip:
La Jolla CA 92037

Phone No: 658-454-0312 Fax No:

Name of Corporate Officer/Partner (type or print):
James W. Walker

Title (type or print):
HOA President

Signature: James W. Walker Date:

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature: Date:

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature: Date:

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature: Date:

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature: Date:

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature: Date:

Homeowner

Alpren, Muriel
 Alvy, Lidia (Gullo)
 16H Arnold, Mr & Mrs
 20H Asher, Charles & Barbara
 8C Auerbach, Carl & Lenore Lang
 15G Barrie, Douglas & Maryann
 12A Beja, Graciela
 6D Bell, Stanley & Rita
 14J Biderman, Mr & Mrs Bill
 16F Biro, Irene
 21C Bowes, Joan
 4A Brandt, Arthur & Mardell
 6J Brooks, Anne
 4J Bryan-Allen, Mary
 4L Buffer, Gary
 11J Chadwick, Andrea
 16J Chen, Java & Cathy
 16A Cheng, Jean & Kung, George
 19F Cielak, Frida
 5C Conlon, Suzanne
 10B Cooper, Valerie & Harry
 10AF Cooper, Valerie & Harry
 20F Creelman, Mary Ellen
 12G Vanier (939 Coast Civil Co)
 LE Das, Pankaj & Virginia
 20A David, Clive
 8D Diaz, Antonio & Maria
 4H Derrick, John
 6A Diaz-Lombardo, Carmelina
 6F Diaz-Lombardo, Carmelina
 17A Draper, Robert & Kathleen
 4E Ebert, Henry & Estelle
 5G Einhom, Daniel & Emily
 4D Fabiani, Mark
 6H Faes, Jose & Ana Luisa
 16C Fainsliber, Josef & Hanna
 9D Farrand, Stephen & Nancy
 20B Feder, Dan
 17B Fisher, Leonard
 12E Formica, Vito & Shirley
 21AB Frederick, Larry & Jean
 LD Acord, Brian
 19C Gaines, Ira &
 17D Gelman, Webster & Gloria
 14D Gerson, Fred & Roben
 15HJ Nobel Charitable Trust
 4M Glinskii, Gennadi & Ana
 5H Gold, Morris & Phyllis
 8G Gorbach, Sherwood & Judith
 17GJ Graham, Ronald & Jane
 17F Graham, Ronald & Jane
 7A Haber, Mrs. Susannah
 5J In Foreclosure-Bank Owned
 9G In Foreclosure-Bank Owned

Homeowner List - Alphanumeric

Apt #

Homeowner

6BC Haggerty, Dottie Mae
 5D Haggerty, Pat
 14B Hambleton, Enrique & Patricia
 17H Hambleton, Enrique & Patricia
 7H Herman, Jerry & Eileen Mason
 4F Houkom, John & Alexandra Page
 12B Houkom, John & Alexandra Page
 21H Holmes, Col & Mrs Lee & Joan
 21J Holmes, Col & Mrs Lee & Joan
 14C Hurd, Stacy
 10H Ittleson, Mr. & Mrs. Alvin
 8A Kalmanson, Alan
 18C Karatz, William
 9A Kassar, Barry
 9F Kassar, Barry & Avra
 19B Kassel, Javier
 4G Kontilia, Mykail & Veronica
 19G Kwatek, Irwin
 9C Lance, Coleen
 14E Landeros, Natalie
 21F Leslie, Robert & Elizabeth
 15D Levi, Ed & Sara
 12H Lizi, Norman (primary residence)
 12J Lizi, Norman
 11G Lochtefeld, Donna
 12F Lopez & Forestal (Loblum Holding)
 5F Lopez, Carmen & Forestal, Peter
 7G Lyman, Mary Keough
 10G Mackler, Bruce & Irene
 12C Mamorsky, Charlotte
 14G Mauser, Mario & Lillian
 4B Mazzei, William & Barbara
 7D Glassmeyer, Penny
 6E Mestre, Marcos & Cecilia
 18B Meyer, Chris
 11D Miller, Robert
 LB Mofidi, Kevin
 8J Minter, Elizabeth
 8B Minocherhomjee, Arda
 15E Minocherhomjee, Arda
 20D Minocherhomjee, Arda
 10D Mount, Walter & Susan
 21DE Nagelberg, David & Teri
 LA McGonigle, John
 LC Norton, Lynn & Donna
 20GJ Norwich, Jean
 20E O'Brien, James & Patricia
 5E Parzen, Judy
 18D Peake, Jan (Daniel S. Block)
 11F Pesin, Mrs Harry (Betty)
 18A Petersen, Betty-Jo

Apt #

Homeowner

10C Podell, Norma
 6G Rahman, Jady
 9H Rapp, Mr & Mrs Fred
 8F Robert, Jean Luc & Jacqueline
 8H Rosenthal, Mason & Lynne
 4K Rosenthal, Mason & Lynne (Beth)
 10J Rumbaugh, Max
 14F Ruttenberg, Harry & Irene
 11A Sable, Mr & Mrs Roy
 17E Sakurai, Atsushi & Katsuko
 17C Salame, Roger & Kristin
 7C Sandoval, Anna Delores
 5A Sampson, Scott & Peggy
 16E Sawan, Victor
 15BC Sheinbein, Stanley & Ruth
 18HJ Shifrin, Gordon & Arleen
 7F Sias, Richard & Jeannette
 16B Small, James & Carol
 9J Smith, David
 15A Solomon, Bill & Gay
 A4C Staniford, Geoffrey & Khatharya
 14A Stern, Mickey
 16D Stewart, George & Norma
 19HJ Stewart, Phillip & Cheryl
 11BC Sullivan, Jeanne
 9E Swerdfow, Adrienne
 18E Tayebi, Sean
 19DE Tayebi, Sean
 11H Toussier, Gail & Soily
 5B Udelf, Irene
 18FG Unruh, Ken & Dixie
 8E Valentini, Peter, Alberta
 4C Veghie, Richard & Jan
 21G Walker, James & Lazer, Harriet
 15G Warren, John & Karen
 20C Weintraub Estate
 7E Wester, Peter
 7J Wendt, Dr. Richard
 10E Whitaker, Dona
 7B Winkleman, Dane
 14H Wolff, Sean & Shiff, Jonathan
 15F Wolf, Gloria
 11E Zeisler, Karl & Joan

Updated 02-16-10



THE CITY OF SAN DIEGO

DATE OF NOTICE: April 27, 2010

NOTICE OF PUBLIC HEARING PLANNING COMMISSION

DATE OF HEARING: May 13, 2010
TIME OF HEARING: 9:00 A.M.
LOCATION OF HEARING: Council Chambers, 12th Floor, City Administration Building,
202 C Street, San Diego, California 92101

PROJECT TYPE: CONDITIONAL USE PERMIT
PROJECT NUMBER: PTS #198041
PROJECT NAME: CLEARWIRE SPRINT 939 COAST BLVD
APPLICANT: Debra Depratti

COMMUNITY PLAN AREA: La Jolla
COUNCIL DISTRICT: 1

CITY PROJECT MANAGER: SIMON TSE, Development Project Manager
PHONE NUMBER: (619) 687-5984

As a property owner, tenant or person who has requested notice, you should know that the Planning Commission will hold a public hearing to approve, conditionally approve, or deny an application for a modification to an existing wireless communication facility consisting of two additional Clearwire panel antennas and five (5) new Clearwire directional antennas and one equipment cabinet, all concealed inside a stairwell and a penthouse behind RF transparent materials located at 939 Coast Blvd within the La Jolla Community Planning Area.

The decision of the Planning Commission is final unless the project is appealed to the City Council. In order to appeal the decision of the Planning Commission you must be present at the public hearing and file a speaker slip concerning the application or have expressed interest by writing to the Planning Commission before the close of the public hearing. See Information Bulletin 505 "Appeal Procedure", available at www.sandiego.gov/development-services or in person at the office of the City Clerk, 202 "C" Street, Second Floor. The appeal must be made within 10 working days of the Planning Commission decision. If you wish to challenge the City's action on the above proceedings in court, you may be limited to addressing only those issues you or someone else have raised at the public

hearing described in this notice, or written in correspondence to the City at or before the public hearing.

This project is exempt from environmental review pursuant to Article 19, Section 15301, Existing facilities, of the California Environmental Quality Act (CEQA). This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was made on January 11, 2010 and the opportunity to appeal that determination ended January 25, 2010.

If you have any questions after reviewing this information, you can contact the City Project Manager listed above.

This information will be made available in alternative formats upon request. To request an agenda in alternative format or to request a sign language or oral interpreter for the meeting, call the Disability Services Program Coordinator at 236-5979 at least five working days prior to the meeting to insure availability. Assistive Listening Devices (ALD's) are available for the meeting upon request.

Internal Order No. 24000453

CLEARWIRE SPRINT 939 COAST BLVD**PROJECT CHRONOLOGY**

PTS #198041 INTERNAL # 24000453

Date	Action	Description	City Review	Applicant Response
11/6/2009	First Submittal	Project Deemed Complete		
1/15/2010	First Assessment Letter		70 days	
2/16/2010	Second Submittal			31 days
3/4/2010	Community Planning Group Presentation			16 days
4/5/2010	All issues resolved by applicant			32 days
5/13/2010	Public Hearing – Planning Commission		38 days	
Total Staff Time:		Does not include City Holidays and Furlough	108 days	
Total Applicant Time:		Does not include City Holidays and Furlough		79 days
Total Project Running Time:		From Deemed Complete to HO Hearing	187 days	

Memorandum of Law

SHANNON THOMAS
Deputy City Attorney

OFFICE OF
THE CITY ATTORNEY
CITY OF SAN DIEGO

1200 THIRD AVENUE, SUITE 1620
SAN DIEGO, CALIFORNIA 92101-4178
TELEPHONE (619) 236-6220
FAX (619) 236-7215

Michael J. Aguirre
CITY ATTORNEY

MEMORANDUM OF LAW

DATE: March 6, 2006

TO: Kelly Broughton, Deputy Director, Development Services Department

FROM: City Attorney

SUBJECT: Wireless Antenna Placement within the Coastal Height Limit Overlay Zone

INTRODUCTION

On November 7, 1971, the voters approved Proposition D. This proposition limits the height of buildings within the Coastal Zone to no more than 30 feet, except in the downtown area. The Coastal Zone is essentially the area from the US-Mexico border to the northern border of the City of San Diego, and from the Pacific Ocean to Interstate 5. The Proposition became effective on December 7, 1972. The Proposition is codified at section 132.0505 of the San Diego Municipal Code, and has been amended three times by the voters to allow for the historic restoration of the chimney and rooftop of the Mission Brewery building, as well as development at Sea World and at the International Gateway of the Americas. The passage of the federal Telecommunications Act of 1996 [Act], which limits the City's ability to regulate placement of wireless antennas, and the development of wireless technology since the passage of Proposition D, has created the need to further define what height limits are applicable for wireless antennas within the Coastal Zone.

QUESTIONS PRESENTED

May wireless communication antennas be installed within the Coastal Zone to the façade of existing buildings above 30 feet and may equipment associated with the antennas be installed on the roof tops of those buildings when neither exceeds the height of the existing structure, without violating Proposition D?

SHORT ANSWERS

Yes. Wireless antennas that fit within the structural envelope of a pre-existing building may be installed without violating Proposition D. However, compliance with the federal Telecommunications Act of 1996 may require the placement of antenna or equipment that exceeds the 30-foot limit in some circumstances.

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BACKGROUND

To provide coverage within the coastal area, providers of wireless communications desire to install antennas on existing buildings over 30 feet high in the Coastal Zone. Over the years, City approvals for antenna installation in the Coastal Zone have been given for both flush mounted antennas and recessed antennas. The antennas that were approved as flush mounted have, in some cases, not been installed flush with the building, and may extend as much as 18-24" from the building. The antennas transmit on a line of sight basis between the communication facilities and the mobile users. Antenna height becomes a critical issue in areas with hills or other physical obstructions.

ANALYSIS

The City must find a way to comply with the voters' directive as set forth in Proposition D, and still permit wireless antennas to the extent required by federal law. As recently characterized by one court that was attempting to reconcile the Act with local zoning, this type of conflict is indicative of "the ongoing struggle between federal regulatory power and local administrative prerogatives--the kind of political collision that our federal system seems to invite with inescapable regularity." *MetroPCS v. City and County of San Francisco*, 400 F.3d 715, 718 (9th Cir. 2005).

I

Local Regulation

Proposition D, with three excepted areas, prohibits the construction of a building or an addition to a building in excess of 30 feet within the Coastal Zone. The ballot argument in favor of Proposition D stated that the measure "preserves the unique and beautiful character of the coastal zone of San Diego." The proper method of measurement, per Proposition D, is in accordance with the Uniform Building Code of 1970. This office has previously opined that for the purposes of complying with Proposition D, measurements should be from the finished grade of a site, rather than the pre-existing grade. City Att'y MOL No. 2004-13 (August 12, 2004). The height of the building is then measured vertically to the uppermost point of the structure. SDMC § 113.0270(a)(3).

The Coastal Zone contains some structures that are over 30 feet in height and were built before the passage of Proposition D. These are "previously conforming" structures. "Previously conforming" is defined as meaning:

the circumstances where a use, *structure*, or *premises* complied with all applicable state and local laws when it was first built or came into existence, but because of a subsequent change in zone or development regulations, is not in conformance with the current zone or all development regulations applicable to that zone.

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Regulations regarding previously conforming structures do not allow the granting of any deviation from the height limit regulations in the Coastal Zone, meaning no new development can exceed the 30-foot limit. SDMC § 127.0102(f). Section 127.0103 and the corresponding tables, 127-01A through 127-01C, set forth what type of permit must be obtained for various development proposals. For example, maintenance, repair or alteration that is less than 50% of the market value of the entire structure or improvement, which does not expand the structural envelope, is permitted with the issuance of a construction permit and a Process 1 review. "Structural envelope" means the three-dimensional space enclosed by the exterior surfaces of a building or structure. SDMC § 113.0103.

In addition to the above regulations limiting structure height in the Coastal Zone, the City regulates communication antennas City-wide as a separately regulated use in Chapter 14, Article 1, Division 4 of the San Diego Municipal Code. The City of San Diego's stated purpose for separately regulating land uses is to provide "regulations for specific uses that may be desirable and appropriate in a particular zone if limitations or conditions are placed on the development of those uses to minimize detrimental effects to neighboring properties or incompatibility with the permitted uses of the base zone." SDMC § 141.0101.

A wireless antenna used for telephone, paging or similar services that complies with all development regulations and overlays, and that meets the criteria in section 141.0405(e)(1) or (2) is considered a minor communication facility. SDMC § 141.0405(a). Section 141.0405(e) allows minor communication facilities as a limited use or through the issuance of a Neighborhood Use Permit in certain zones, if the facility is concealed from public view or integrated into the architecture or environment through architectural enhancement, unique design solutions, or accessory use structures.

In an effort to encourage collocation and in recognition of the fact that some telecommunication facilities are minimally visible, the Municipal Code also recognizes as minor telecommunication facilities the following:

- (A) Additions or modifications that do not increase the area occupied by the antennas or the antenna enclosure by more than 100% of the originally approved facility and do not increase the area occupied by an outdoor equipment unit more than 150 feet beyond the originally approved facility, if the additions and modifications are designed to minimize visibility;
- (B) Panel-shaped antennas that are flush-mounted to an existing building façade on at least one edge, extend a maximum of 18 inches from the building façade at any edge, do not exceed the height of the building, and are designed to blend with the color and texture of the existing building; or
- (C) Whip antennas if the number of antennas that are visible from the public right of way does not exceed six, if the antennas measure 4 inches or less in diameter, and if they have a mounting apparatus that is concealed from public view.

SDMC § 141.0405(e)(2)(A)-(C).

The City's regulations regarding height limits in the Coastal Zone, as well as those regulating the placement of wireless antenna are clearly designed to limit visual and aesthetic

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impacts. Zoning regulations to preserve aesthetics are valid, and in fact the preservation of aesthetics is a traditional basis for zoning regulations. *MetroPCS*, 400 F.3d at 727.

II

Federal Regulation

The purpose of the Federal Telecommunication Act of 1996 is "to promote competition and higher quality in American telecommunications services and to 'encourage the rapid deployment of new telecommunications technologies.'" *City of Rancho Palos Verdes v. Abrams*, 544 US 113, ___, 125 S.Ct. 1453, 1455, 161 L.Ed. 2d 316 (2005) (quoting the Act). A general overview of the Act was previously provided by this office. 2001 City Att'y MOL 307. The Act reserves for the states and local governments the right to make decisions regarding the placement, construction, and modification of personal wireless service facilities. 47 USC § 332(c)(7)(A). However, the regulations may not unreasonably discriminate among providers of functionally equivalent services and shall not prohibit or have the effect of prohibiting the provision of personal wireless services. 47 USC § 332(c)(7)(B).

The Ninth Circuit recently ruled for the first time on several of the standards set forth in the Act, most of which are the subject of split rulings by other circuit courts. In *MetroPCS*, the Board of Supervisors for the City and County of San Francisco denied an application by MetroPCS for a conditional use permit [CUP], allowing the installation of a wireless telecommunications antenna atop a public parking garage. The CUP was denied based on findings that: 1) the facility was not necessary to MetroPCS's ability to service that area; 2) the facility was not necessary for the community, because there was already adequate wireless service in the neighborhood; 3) the proposed facility would constitute a visual and industrial blight and would be detrimental to the character of the neighborhood; and 4) the proposed antenna facility was not in conformance with and would not further the policies of the City's General Plan. The Board stated that the CUP denial did not constitute unreasonable discrimination against MetroPCS, did not limit or prohibit access to wireless services, and did not limit or prohibit the filling of a significant gap in MetroPCS's coverage. The Board also stated that the proposed facility was not the least intrusive means to provide wireless coverage in the area.

A provider making a claim of unreasonable discrimination must show that they have been treated differently than other providers with facilities that are similarly situated in terms of the structure, placement or cumulative impact of the proposed facilities. *MetroPCS*, 400 F.3d at 727. In concluding that local zoning regulations may properly discriminate between facilities that have different effects on aesthetics, the court considered the House Conference Report on the Act, which stated that the Act would "provide localities with the flexibility to treat facilities that create different visual, aesthetic, or safety concerns differently to the extent permitted under generally applicable zoning requirements even if those facilities provide functionally equivalent services." HR Conf. Rep. No. 104-458, at 208 (1996). Ultimately, in *MetroPCS*, the court found that the record was insufficient to make a determination on this issue, because there was no systematic comparison of the proposed site with other approved facilities in that neighborhood.

Regulations that prohibit or have the effect of prohibiting the provision of personal wireless services are those that constitute either a complete prohibition against wireless service or those

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regulations that have the effect of preventing a provider from closing a significant gap in its own service coverage, along with a showing that there are no feasible alternative facilities or sites. *MetroPCS*, 400 F.3d at 731. A significant gap in service coverage is extremely fact specific and an inquiry may include information such as the physical size of the gap and the number of users affected; however, the gap must be more than individual dead spots within a service area. *Id.*; *Second Generation Properties, LP v. Town of Pelham*, 313 F.3d 620 (1st Cir. 2002). In *MetroPCS*, the record contained numerous directly conflicting accounts as to whether the site was needed to prevent a significant gap in coverage, and so the court did not rule on the merits of that claim. The Act does not require 100% coverage, and federal regulations recognize the existence of "dead spots," defined as "small areas within a service area where the field strength is lower than the minimum level for reliable service." 47 CFR § 22.99; *360° Communications Company of Charlottesville v. Board of Supervisors of Albemarle County*, 211 F.3d 79 (4th Cir. 2000). Cellular geographic service areas licensed to providers of cellular service by the Federal Communications Commission include "dead spots." 47 CFR § 22.911(b).

Once the provider has demonstrated a significant gap in coverage, it must then show that the manner in which it proposes to fill the gap in service is the least intrusive on the values that the denial sought to serve. *MetroPCS*, 400 F.3d at 734. In *APT Pittsburgh Limited Partnership v. Penn Township Butler County of Pennsylvania*, 196 F.3d 469 (3rd Cir. 1999), the court found that APT only submitted evidence that it had been unable to install the system it desired in the locations it desired at a price it desired. The evidence in the record demonstrated that ample other opportunities existed for the plaintiff to install the towers. Some alternatives that the court suggested were choosing a less sensitive site, reducing the tower height, using a preexisting structure or camouflaging the tower and/or antenna. *Id.* at 479, (citing *Sprint Spectrum, LP v. Willloth*, 176 F.3d 630, 643 (2nd Cir. 1999)).

The Act requires that any decision to deny a request to place, construct or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record. 47 USC § 332(c)(7)(B)(iii). These standards were also addressed by the court in *MetroPCS*. The requirement that the decision be in writing means that the written denial, issued separately from the written record, must contain "a sufficient explanation of the reasons for the . . . denial to allow a reviewing court to evaluate the evidence in the record supporting those reasons." *MetroPCS*, 400 F.3d at 722 (quoting *Southwestern Bell Mobile Systems, Inc. v. Todd*, 244 F.3d 51, 60 (1st Cir. 2001)).

In *MetroPCS*, the court found sufficient a five page decision by the Board of Supervisors which contained a summary of the facts and the proceedings, articulated the reasons for the denial, and included the evidence that supported the ruling. "Substantial evidence" in the context of the Act has been held to mean such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *MetroPCS*, 400 F.3d at 725. It is a reasonable amount of evidence; more than a scintilla, but not necessarily a preponderance. *Id.* In finding that the Board's decision to deny the application by MetroPCS was supported by substantial evidence, the court first noted that San Francisco's zoning ordinances allowed for the consideration of whether the antenna was necessary or desirable for, and compatible with, the neighborhood or community. The court went on to hold that the record clearly established that the neighborhood was already served by at least five other providers, and therefore did not need the proposed facility. Although MetroPCS challenged the ability of the City and County of San Francisco to base a decision on need, arguing that the Act preempted the local regulations on this issue, the

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court noted that the Act was "agnostic" on the issue of the substantive content of local zoning regulations and that a decision on aesthetics could prevent the addition of more antennas, which would have the same result of disadvantaging new entrants to the market. *Id.* at 730 n. 6. The City of San Diego regulations do not allow for an analysis of the needs of the community, only the aesthetics.

Therefore, a provider applying to install an antenna or equipment that violates the City's regulations must show that the installation is necessary to prevent a significant gap in service, of a nature greater than "dead spots" in coverage. Once the provider sufficiently demonstrates that the installation is needed, it must then show that its proposed installation is the least obtrusive method available, in light of the City's concerns regarding height and aesthetics. Any decision by the City to deny a permit must be accompanied by a written decision, supported by substantial evidence in the record.

CONCLUSION

The City of San Diego is prohibited by Proposition D from approving wireless antenna or equipment that exceeds 30 feet in the Coastal Zone, unless the placement of antenna or equipment is on previously conforming structures that exceed 30 feet, and the installation is within the structural envelope of that existing structure. However, compliance with the Federal Telecommunication Act of 1996 may require the placement of antenna or equipment that exceeds the 30 foot height limit. In that case, any placement of antenna or equipment that exceeds the structural envelope of a preexisting structure in excess of 30 feet in height should only be permitted when the applicant has demonstrated that the installation is necessary to prevent a significant gap in service and there is no less obtrusive alternative available. Any denial of an application to install wireless facilities must be accompanied by a written record of the decision, supported by substantial evidence in the record.

MICHAEL J. AGUIRRE, City Attorney

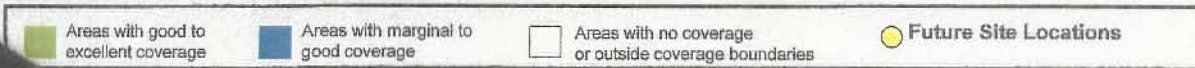
By

Shannon Thomas
Deputy City Attorney

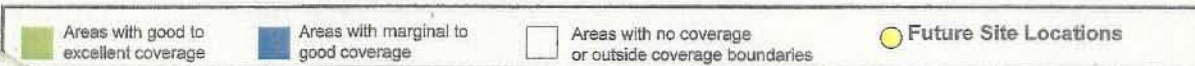
SMT:als
ML-2006-5



Coverage of planned sites including SDG5093



Individual coverage provided by SDG5093



NOTICE OF EXEMPTION

TO: X RECORDER/COUNTY CLERK
P.O. BOX 1750, MS A-33
1600 PACIFIC HWY, ROOM 260
SAN DIEGO, CA 92101-2422

FROM: CITY OF SAN DIEGO
DEVELOPMENT SERVICES DEPARTMENT
1222 FIRST AVENUE, MS 501
SAN DIEGO, CA 92101

 OFFICE OF PLANNING AND RESEARCH
1400 TENTH STREET, ROOM 121
SACRAMENTO, CA 95814

PROJECT NO.: 198041 PROJECT TITLE: SPRINT/CLEARWIRE COAST BLVD

PROJECT LOCATION-SPECIFIC: 939 Coast Blvd, La Jolla, CA 92037

PROJECT LOCATION-CITY/COUNTY: San Diego/San Diego

DESCRIPTION OF NATURE AND PURPOSE OF THE PROJECT: A request for a Conditional Use Permit (Process 4) for a modification to an existing wireless communication facility on the roof of 939 Coast Blvd. The project consists of three (3) new Clearwire panel antennas and six (6) new Clearwire directional antennas concealed inside the existing penthouse behind Radio Frequency panels. The project is located in Zone 5 of La Jolla Planned District within the La Jolla Community Plan.

NAME OF PUBLIC AGENCY APPROVING PROJECT: City of San Diego

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT: Clearwire (Attention :Debra Gardner)
5761 Copley Drive, Suite 100
San Diego, CA 92131
760-250-7544

EXEMPT STATUS: (CHECK ONE)

- () MINISTERIAL (SEC. 21080(b)(1); 15268);
- () DECLARED EMERGENCY (SEC. 21080(b)(3); 15269(a));
- () EMERGENCY PROJECT (SEC. 21080(b)(4); 15269 (b)(c))
- (X) CATEGORICAL EXEMPTION: EXISTING FACILITIES [15301]
- () STATUTORY EXEMPTIONS:

REASONS WHY PROJECT IS EXEMPT: THE PROPOSED PROJECT WOULD NOT HAVE THE POTENTIAL FOR CAUSING SIGNIFICANT EFFECT ON THE ENVIRONMENT. THE PROJECT PROPOSED MODIFICATION TO AN EXISTING WIRELESS COMMUNICATION FACILITY.

LEAD AGENCY CONTACT PERSON: Simon Tse TELEPHONE: (619) 687-5984

IF FILED BY APPLICANT:

- 1. ATTACH CERTIFIED DOCUMENT OF EXEMPTION FINDING.
- 2. HAS A NOTICE OF EXEMPTION BEEN FILED BY THE PUBLIC AGENCY APPROVING THE PROJECT?
() YES () NO

IT IS HEREBY CERTIFIED THAT THE CITY OF SAN DIEGO HAS DETERMINED THE ABOVE ACTIVITY TO BE EXEMPT FROM CEQA

SIGNATURE/TITLE

DATE

- CHECK ONE:
(X) SIGNED BY LEAD AGENCY
() SIGNED BY APPLICANT

DATE RECEIVED FOR FILING WITH COUNTY CLERK OR OPR:



THE CITY OF SAN DIEGO

Date of Notice: January 11, 2010

NOTICE OF RIGHT TO APPEAL ENVIRONMENTAL DETERMINATION

DEVELOPMENT SERVICES DEPARTMENT

Job Order #43-2983

PROJECT NAME/NUMBER: Sprint/Clearwire Coast Blvd
COMMUNITY PLAN AREA: La Jolla
COUNCIL DISTRICT: 1
LOCATION: 939 Coast Blvd, La Jolla, CA 92037

PROJECT DESCRIPTION: Conditional Use Permit (Process 4) for a modification to an existing wireless communication facility on the roof of 939 Coast Blvd. The project consists of three (3) new Clearwire panel antennas and six (6) new Clearwire directional antennas concealed inside the existing penthouse behind Radio Frequency panels. The project is located in Zone 5 of La Jolla Planned District within the La Jolla Community Plan.

ENTITY CONSIDERING PROJECT APPROVAL: Planning Commission (Process 4).

ENVIRONMENTAL DETERMINATION: Categorically exempt from CEQA pursuant to CEQA State Guidelines, Section 15301 (Existing facilities).

ENTITY MAKING ENVIRONMENTAL DETERMINATION: City of San Diego Development Services Staff.

STATEMENT SUPPORTING REASON FOR ENVIRONMENTAL DETERMINATION: The proposed project is exempt from CEQA pursuant to Section 15301. None of the exceptions described in CEQA Guidelines Section 15300.2 apply, and the project has no potential to result in a significant impact on the environment.

CITY CONTACT: Simon Tse, Project Manager
MAILING ADDRESS: 1222 First Avenue, MS 501, San Diego, CA 92101-4153
PHONE NUMBER: (619) 687-5984

On January 11, 2010, the City of San Diego made the above-referenced environmental determination pursuant to the California Environmental Quality Act (CEQA). This determination is appealable to the City of San Diego Planning Commission. If you have any questions about this determination,

contact the Project Manager above.

Applications to appeal CEQA determination made by staff (including the City Manager) to the City Council must be filed in the office of the City Clerk within 10 business days from the date of the posting of this Notice **OR** 15 business days from the date of the environmental determination, whichever occurs earlier. Applications to appeal CEQA determinations made by the Planning Commission from a Process Two or Three Appeal under SDMC section 112.0506 must be filed in the Office of the City Clerk within 10 business days from the date of the Planning Commission's decision. The appeal application can be obtained from the City Clerk, 202 'C' Street, Second Floor, San Diego, CA 92101.

This information will be made available in alternative formats upon request.