

CALIFORNIA COASTAL COMMISSION

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**W9b**

Filed: July 26, 2010
49th Day: September 13, 2010
180th Day: January 22, 2010
270th Day: April 22, 2011
Staff: John Del Arroz - LB
Staff Report: December 22, 2010
Hearing Date: January 12-14, 2010
Commission Action:

STAFF REPORT: REGULAR CALENDAR**APPLICATION NUMBER:** 5-10-110**APPLICANT:** T-Mobile West Corporation**AGENT:** Sequoia Deployment Services**PROJECT LOCATION:** On the northerly (inland side) of the right of way along Irvine Avenue near the intersection with Private Road. Located near the Upper Newport Bay Regional Park. Newport Beach, Orange County.**PROJECT DESCRIPTION:** Removal of existing concrete light pole, and installation of a new steel light pole of the same dimensions with two mounted panel antennas, a 11' x 7' x 8' underground equipment vault, two above ground 17" x 20" x 48" electrical meters, and two vault vent stacks.**LOCAL APPROVAL:** Newport Beach Telecommunication Permit No. 2007-001**SUMMARY OF STAFF RECOMMENDATION**

Staff is recommending that the Commission **APPROVE** a coastal development for the proposed development with **FIVE (5) Special Conditions** regarding: **1)** co-location of antennas; **2)** future redesign of wireless facility; **3)** permit compliance; **4)** construction-phase debris; and **5)** future development. As conditioned, the proposed development does not adversely affect visual resources, public access and recreation, or the adjacent wetlands of the Upper Newport Bay Regional Park. **See Page Two for the motion to carry out the staff recommendation.** The applicant agrees with the staff recommendation. Staff recommends that the Commission find that the proposed development, as conditioned, conforms with the Chapter 3 policies of the Coastal Act and previous Commission approvals, and will not prejudice the City's ability to prepare an LCP.

STAFF NOTE:

The project was previously scheduled to be on the Consent Calendar on October 13, 2010, at the Commission's hearing in Oceanside. Due to public opposition, the Commission voted to remove the item from the Consent Calendar and move the item to the Regular Calendar at a later meeting. The applicant has agreed to extend the 180 day time limit to process the permit application to 270 days. Therefore, the Commission must act on the application by April 22, 2011.

Three letters of opposition from members of the public were submitted (**Exhibits 8, 9, 10**), with eight (8) main points:

- 1) the City's local approval is not valid
- 2) there is not sufficient need for the facility
- 3) the facility could be easily located outside of the coastal zone
- 4) the project is inconsistent with a park designation
- 5) the project will have impacts on traffic safety
- 6) the project will result in visual impacts to users of the park and designated scenic views in the Land Use Plan
- 7) an excess of antennas may be co-located on the site in the future
- 8) the project will have visual impacts on adjacent private residences.

Staff has reviewed the claims made by the opposition, and has determined that they are not sufficient to warrant an alteration of the staff recommendation for approval. However, staff did add Special Condition No. 5, regarding permit requirements for future improvements, to be sure the Commission is involved with any future additions to the subject light pole/antenna. The issues raised by the opposition are addressed in more detail in the findings below.

SUBSTANTIVE FILE DOCUMENTS:

1. City of Newport Beach Telecommunications Permit
2. City of Newport Beach certified Land Use Plan

LIST OF EXHIBITS:

1. Vicinity Map
2. Design of Pole and Antenna
3. Site Plan
4. Coverage Map
5. Photograph of Existing Pole
6. Email from City Planner Janet Brown
7. Letter from applicant
8. Letter from Mr. Tabbert
9. Letter from Mr. LaFrance
10. Letter of opposition from residents of Private Road

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolutions to **APPROVE** the coastal development permit with special conditions:

MOTION: ***"I move that the Commission approve Coastal Development Permit No. 5-10-110 pursuant to the staff recommendation."***

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

I. Resolution: Approval with Conditions

The Commission hereby **APPROVES** a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions

1. Co-Location of Future Antennas

BY ACCEPTANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant agrees on behalf of itself and all successors and assigns to cooperate with other communication companies in co-locating additional antennas and/or equipment on the project site in the future, provided such shared use does not impair the operation of the approved facility. Upon the Executive Director's request, the permittee shall provide an independently prepared technical analysis to substantiate the existence of any practical technical prohibitions against the operation of a co-use facility.

2. Future Redesign

BY ACCEPTANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant agrees on behalf of itself and all successors and assigns that where future technological advances would allow for reduced visual impacts resulting from the proposed telecommunication facility, the applicant (or its successor/assignee) shall make those modifications which would reduce the visual impact of the proposed facility. In addition, the applicant (or its successor/assignee) agrees that if, in the future, the facility is no longer needed, the applicant (or its successor/assignee) shall abandon the facility and be responsible for removal of all permanent structures and restoration of the site as needed to re-establish the area consistent with the character of the surrounding area. Before performing any work in response to the requirements of this condition, the applicant (or its successor/assignee) shall contact the Executive Director of the California Coastal Commission to determine if an amendment to this coastal development permit or a new coastal development permit is necessary.

3. Permit Compliance

All development must occur in strict compliance with the proposal as set forth in the application, subject to any special conditions imposed herein. Any deviation from the approved plans must be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations.

4. Construction Responsibilities and Debris Removal

By acceptance of this permit, the permittee agrees that the permitted development shall be conducted in a manner that protects water quality pursuant to the implementation of the following BMPs:

- A. No demolition debris, construction materials, equipment, debris, or waste shall be placed or stored where it may be subject to wind or rain erosion or dispersion.
- B. The permittee shall dispose of all demolition and construction debris resulting from the proposed project at an appropriate location. If the disposal site is located within the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.
- C. All grading and excavation areas shall be properly covered and sandbags and/or ditches shall be used to prevent runoff from leaving the site, and measures to control erosion must be implemented at the end of each day's work.
- D. Washout from concrete trucks shall be disposed of at a controlled location not subject to runoff into coastal waters or onto the beach, and more than fifty feet away from a storm drain, open ditch or surface waters.
- E. Erosion control/sedimentation Best Management Practices (BMPs) shall be used to control sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into the sea.

- F. All construction equipment and materials shall be stored and managed in a manner to minimize the potential for discharge of pollutants. Any spills of construction equipment fluids or other hazardous materials shall be immediately contained on-site and disposed of in an environmentally safe manner as soon as possible.
- G. During construction of the proposed project, no runoff, site drainage or dewatering shall be directed from the site into any street or drainage unless specifically authorized by the California Regional Water Quality Control Board.
- H. In the event that hydrocarbon-contaminated soils or other toxins or contaminated material are discovered on the site, such matter shall be stockpiled and transported off-site only in accordance with Department of Toxic Substances Control (DTSC) rules and/or Regional Water Quality Control Board (RWQCB) regulations.

The permittee shall undertake the approved development in accordance with this condition.

5. Future Development

This permit is only for the development described in Coastal Development Permit No. 5-10-110. Pursuant to Title 14 California Code of Regulations Section 13253(b) (7.5), the exemptions otherwise provided in Public Resources Code Section 30610(b) shall not apply to the development governed by Coastal Development Permit No. 5-10-110. Accordingly, any future improvements to the new steel light standard, mounted panel antennas, electrical meters, and vent stacks authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-10-110 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

6. Liability for Costs and Attorneys Fees

The Permittee shall reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys fees -- including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorneys fees that the Coastal Commission may be required by a court to pay -- that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the applicant against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit, the interpretation and/or enforcement of permit conditions, or any other matter related to this permit. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description

The proposed project would co-locate a new wireless telecommunications facility with a new light pole at the location of an existing light pole, on the landward side of Irvine Avenue, across the road from the Upper Newport Bay Regional Park West (**Exhibit 1**). An entrance to the Brown Trail, which runs towards the northeast along the boundary of the park, is located approximately 200 feet to the southwest of the project site along the bayward side of the road. Landward of the project site are single family residences located along Private Road.

The proposed project is the removal of the existing 29'9" high cement light pole and replacement with a new steel light pole of the same dimensions at the same location to support two mounted panel antennas. Additional equipment includes one 11' x 7' x 8' underground vault, two new above ground electrical meters, and two new vault vent stacks. All equipment will be placed in the public right-of-way. As described more fully in the public access findings below, most of the ground-level equipment – except for the two vent stacks - is underground or outside of the existing sidewalk that crosses through the project site. The proposed project does not block physical or visual access to Upper Newport Bay. The proposed antennas do not contribute significantly to the bulk of the light pole (**Exhibit 2**).

Claims made by opponents to the project state that the project does not have the requisite local approvals. Janet Johnson Brown, a planner at the City of Newport Beach, has reviewed the claims made by the opponents, and has stated that the project has received a telecom permit and encroachment permit from the City of Newport Beach, and the City has given the project its approval in concept(**Exhibit 6**).

B. Need for Proposed Development

The applicant has stated that the proposed development would serve to enhance coverage around the project site. More specifically, the project is designed to address a reduction in signal strength along Irvine Ave which results in dropped calls. The coverage map submitted (**Exhibit 4**) shows a lack of signal coverage in the immediate vicinity of the subject site.

Opponents to the project claim that significant coverage exists currently at the site. The opponents state that T-Mobile antennas are currently located at Harbor Christian Church¹, located approximately ½ mile to the northeast of the subject site, and additionally have submitted a picture showing a T-Mobile cell phone with 6 bars of coverage. Additionally, the applicants state that the proposed project is located within a short distance of both the boundary of the City of Newport Beach, and the boundary of the Coastal Zone.

The applicant has responded to the issue of need for coverage at the site (**Exhibit 7**). The applicant states that adequate coverage is composed of two signals: the weak signal from the mobile cell phone to the stationary antenna, and the strong signal from the stationary antenna to the cell phone. The lack of coverage in the vicinity of the project site is due to inability of the stationary antenna to adequately receive signals from mobile antennas. Therefore, although the opponents have submitted pictures showing strong reception in the vicinity of the subject

¹ Permit status of development at Harbor Christian Church has been forwarded to Enforcement Staff for review

site, the other half of the equation – the ability of the cell phones to transmit to a stationary antenna – is not being adequately considered. The applicant states that a topographic low at the subject site has resulted in this coverage gap, and prevent the existing antennas at Harbor Christian Church, or alternative locations submitted by members of the public, from being able to adequately cover this portion of Irvine Ave.

The coverage maps submitted by the applicant do show a reduction in signal quality in the vicinity of the project site, and the dropped call maps show that there is a deficiency in coverage in the project vicinity. The proposed project would address this deficiency in signal, with minimal impacts to coastal resources, including scenic views along Irvine Ave. The proposed project is located near the boundary of the Coastal Zone, and the opponents suggest that because of this the project should be relocated outside of the Coastal Zone. However, just because a project is located near the boundary of the Coastal Zone does not give support for denial of the permit in the proposed location. The applicant chose the proposed location in order to address a localized lack of coverage due to topography in the vicinity of the project site. The project does not raise issue with respect to policies within the Coastal Act; therefore there is no exist a substantial reason for denying the proposed project based upon its location within the Coastal Zone.

C. Access

One of the basic goals stated in the Coastal Act is to maximize public access and recreation along the coast.

Section 30210 states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30213 states (in relevant part):

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided.

The proposed development includes the placement of electrical meters and vault vent stacks within the public right of way (**Exhibit 3**). The proposed meters and vents do not obstruct access for pedestrians, and meets ADA requirements. The proposed electrical meters are located on the grass to the north side of the sidewalk, and as such do not obstruct the sidewalk. The vent stacks are located on the sidewalk; however they still provide sufficient room for pedestrians, as they are located on the edge of the sidewalk, where the sidewalk widens to a total of 9 feet. Therefore, the proposed development will not affect the public's ability to gain access to, and/or to make use of, the coast and nearby recreational facilities.

Opponents to the project have made the claim that the proposed electrical meters and vent stacks are inconsistent with the Park designation in the city's LUP. However, the City's certified Land Use Plan designates the landward side of Irvine Avenue Single Unit Residential Detached. Only the bayward side of the street, adjacent to Upper Newport Bay and across the street from the project site, is designated as Open Space. The 'little park' that the opponents describe is actually a landscaped shoulder along the side of Irvine Avenue. The electrical meters will be placed within the landscaped shoulder along the side of Irvine Avenue, within

the City's right of way. The proposed development is not located within a designated park, and will not impact the ability of the public to access the Open Space area located across the street from the project site. Therefore, as proposed the development conforms with Sections 30210 and 30213 of the Coastal Act.

D. Visual Resources

Section 30251 of the Coastal Act states, in relevant part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas...

The standard of review for the proposed development is the Coastal Act; however the visual protection policies located in the City of Newport Beach's certified Land Use Plan may be used for guidance.

Land Use Plan Policy 4.4.1-6 states, in relevant part:

Protect public coastal views from the following roadway segments: Irvine Avenue from Santiago Drive to University Drive

Land Use Plan policy 4.4.1-1 states:

Protect and, where feasible, enhance the scenic and visual qualities of the coastal zone, including public views to and along the ocean, bay, and harbor and to coastal bluffs and other scenic coastal areas.

The proposed project's impact on visual resources will be minimal. The proposed project involves the replacement of the existing concrete light pole with a new steel light pole of the same height and dimensions at the same location. The applicant proposes to mount panel antennas to the reconstructed pole, which would add only a few inches of bulk to the top of the antenna (**Exhibit 2**). The pole and accompanying vault vent stacks and electrical meters are located on the landward side of Irvine Avenue, adjacent to existing single family residential structures along Private Road, and as such do not obstruct scenic views of Upper Newport Bay from the perspective of drivers, pedestrians along the sidewalk, or pedestrians at the Brown trail.

Opponents to the project state that the proposed electrical meters and vent stacks would result in impacts to traffic safety due to obstruction of line of sight before the entrance to Private Road. The applicant has submitted a view analysis of the proposed traffic impacts (**Exhibit 7**). The analysis shows that the proposed electrical meters and vent stacks do not obstruct the intersection of Private Road and Irvine Ave, and would therefore not obstruct a driver's views of the intersection. The City of Newport Beach is ultimately responsible for ensuring that structures constructed in their right-of-way do not create a traffic safety issue. The Commission notes the City has granted approvals for the proposed facility in the proposed location. If traffic safety issues are a remaining concern, those should be raised with the City, and, if the City decides the facility needs to be redesigned and/or relocated to address traffic safety, the new location –if in the coastal zone- would need to be reviewed by the Commission for consistency with the Coastal Act.

The opponents claim that the proposed project would result in visual impacts to a designated Scenic View Road and impacts to users of the park. As described above, the project is located on the landward side of Irvine Ave, within the City's right of way in a landscaped shoulder located adjacent to single family residences. The proposed project would result in the erection of two new 3' tall vent stacks and two new 5' tall electrical meters within the right of way on the landward side of Irvine Ave. The structures are set against a wall and vegetation covered slope leading to the single family residences, and would not obstruct scenic coastal views, including those of the bay and landscape, for pedestrians, drivers, or users of the adjacent Brown Trail. The opponents have also claimed that the project will result in impacts to existing private views from the single family residences along Private Road; however the Commission has consistently held that private views are not protected under the Coastal Act. Therefore, the proposed project does not: a) obstruct a significant view to or along the coast; b) adversely impact public access to and use of the water; c) adversely impact public recreational use of a public park or beach; or d) otherwise adversely affect recreation, access or the visual resources of the coast.

While the proposed facility will not have significant adverse impacts on the visual quality of the area, the Commission is concerned that cumulatively, installation of additional similar projects in the area could have adverse impacts on visual resources. When reviewing cellular antenna facility sites, the Commission must assure that the facility is the smallest in size and shortest in height that it can be, that it cannot be co-located with another existing site nearby or located elsewhere, in order to reduce any potential adverse impacts on visual resources and public views to the ocean associated with such facilities. As demand for wireless communication facilities increases, it is likely that other service providers will be interested in placing additional structures, antennas and equipment in the project area, and the Commission is concerned that cumulatively, installation of additional similar projects in the area could have adverse impacts on visual resources. Co-location is the preferred way to provide future telecommunication services. If co-location is not possible, then the visual impacts of such structures must be mitigated either through project design or siting so as not to result in adverse cumulative visual impacts.

As such, Special Conditions One and Two are imposed on this permit. Special Condition One requires that the applicant (and all successors and assigns) agree to cooperate with other communication facilities in co-locating additional antenna on the proposed development, unless the applicant can demonstrate a substantial technical conflict to doing so. . Of course, the visual impacts associated with a co-located facility compared with another location would also need to be analyzed to determine which option has the least impact. Special Condition Two requires the applicant (or its successor or assignee) to agree to remove the structure and restore this site in the future should technological advances make this facility obsolete. In this way, it can be assured that the proliferation of these types of facilities can be limited to appropriate locations, and that the area will not be littered with outdated and obsolete facilities in the future.

As specified in California Code of Administrative Regulations Section 13253, addition of antennas to an existing structure would be exempt from permit requirements, and would therefore be exempt from further Commission review. The proposed project would result in a small increase in the bulk of the light standard, and would therefore not pose a significant impact to visual resources. However, future co-location of additional antennas onto the light

pole in the future may result in a significant increase in the number of attached antennas. Without Commission review, this may result in significant increased visual impacts. Therefore, the Commission imposes **Special Condition 5**, requiring Commission review of changes to the proposed development. Therefore, as conditioned, the Commission finds the project is consistent with Chapter 3 policies of the Coastal Act with respect to protecting visual resources.

E. Water Quality

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The proposed work will be occurring in a location where there is a potential for a discharge of polluted runoff from the project site into coastal waters. The storage or placement of construction material, debris, or waste in a location where it could be carried into coastal waters would result in an adverse effect on the marine environment. To reduce the potential for construction and post-construction related impacts on water quality, the Commission imposes special conditions requiring, but not limited to, the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters and for the use of on-going best management practices following construction. As conditioned, the Commission finds that the development conforms with Sections 30230 and 30231 of the Coastal Act.

F. Sensitive Habitat Area

Section 30230 requires the protection of the marine resources and biological productivity in wetland areas like Upper Newport Bay.

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30240 of the Coastal Act states:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

The proposed project is located across the road from the Upper Newport Bay Regional Park West. The City's Certified Land Use Plan designates the Upper Newport Bay as an Environmental Study Area, an area which "may be capable of supporting sensitive biological resources", and describes Upper Newport Bay as "one of the largest coastal wetlands remaining in southern California and is an ecological resource of national significance."

No work for the proposed project will take place within or directly adjacent to the Park, and the proposed project involves no filling of wetlands or displacement of any habitat. The proposed pole is in the same place as the existing light pole and is compatible with preservation of the habitat in Upper Newport Bay Regional Park West. Additionally, a report issued by the applicant's consultant, Environmental Assessment Specialists, indicates that the project will not result in impacts to wetlands or to any sensitive biological resources.

The proposed project, as conditioned by the permit, is compatible with the habitat and has been sited to prevent impacts that would significantly degrade the wetland area. As conditioned, the development will not result in significant degradation of adjacent habitat, recreation areas, or parks and is compatible with the continuance of those habitat, recreation, or park areas. Therefore, the Commission finds that the project, as conditioned, conforms with Section 30240(b) of the Coastal Act.

G. Costs and Attorneys Fees

Coastal Act section 30620(c)(1) authorizes the Commission to require applicants to reimburse the Commission for expenses incurred in processing CDP applications. See *also* 14 C.C.R. § 13055(e). Thus, the Commission is authorized to require reimbursement for expenses incurred in defending its action on the pending CDP application. Therefore, consistent with Section 30620(c), the Commission imposes Special Condition 6, requiring reimbursement of any costs and attorneys fees the Commission incurs "in connection with the defense of any action brought by a party other than the Applicant/Permittee ... challenging the approval or issuance of this permit."

H. Local Coastal Program

Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. The Land Use Plan for the City of Newport Beach was effectively certified on May 19, 1982. The certified LUP was updated on October 2005. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

I. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires Commission approval of a coastal development permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable

requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

In this case, the City of Newport Beach is the lead agency and the Commission is the responsible agency for the purposes of CEQA. The City of Newport Beach issued a determination that the project was ministerial or categorically exempt on February 2, 2010. As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

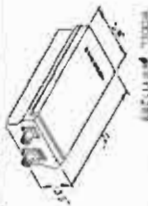
Vicinity Map

Overview



Subject Site

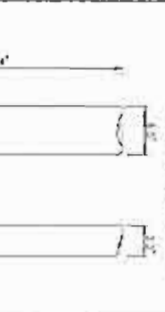




DUAL DIMPLEX TOWER MOUNTED AMPLIFIER RAIL-BAR
SCALE: 1/16" = 1'-0"



GROUND ROD DETAIL
SCALE: 1/16" = 1'-0"



ANTENNA DETAIL
SCALE: 1/16" = 1'-0"



ANTENNA ORIENTATION
SCALE: 1/16" = 1'-0"



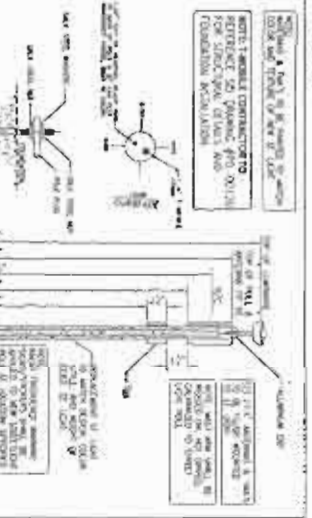
TYPICAL ANCHOR BOLT DETAIL
SCALE: 1/16" = 1'-0"



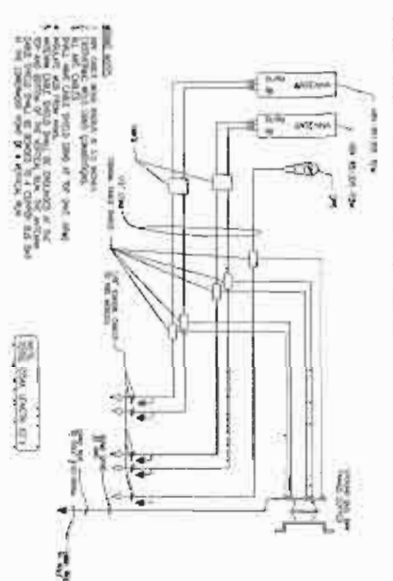
INTERIOR ELECTRICAL METER PEDIESTAL
SCALE: 1/16" = 1'-0"



WIRE DIAGRAM
SCALE: 1/16" = 1'-0"



POLE SCHEMATIC
SCALE: 1/16" = 1'-0"



POLE SCHEMATIC
SCALE: 1/16" = 1'-0"



POLE SCHEMATIC
SCALE: 1/16" = 1'-0"

COASTAL COMMISSION
EXHIBIT # 2
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T-Mobile
Get more from life

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www.cgs-engineering.com

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Phone: 918.438.1000
Fax: 918.438.1001
www.sequoiainc.com

NO.	DESCRIPTION	QTY	UNIT	PRICE	TOTAL
1	10' x 10' x 10' TOWER	1	EA	10000.00	10000.00
2	10' x 10' x 10' TOWER	1	EA	10000.00	10000.00
3	10' x 10' x 10' TOWER	1	EA	10000.00	10000.00
4	10' x 10' x 10' TOWER	1	EA	10000.00	10000.00
5	10' x 10' x 10' TOWER	1	EA	10000.00	10000.00
6	10' x 10' x 10' TOWER	1	EA	10000.00	10000.00
7	10' x 10' x 10' TOWER	1	EA	10000.00	10000.00
8	10' x 10' x 10' TOWER	1	EA	10000.00	10000.00
9	10' x 10' x 10' TOWER	1	EA	10000.00	10000.00
10	10' x 10' x 10' TOWER	1	EA	10000.00	10000.00
11	10' x 10' x 10' TOWER	1	EA	10000.00	10000.00

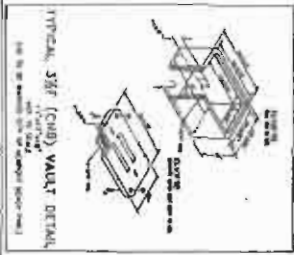
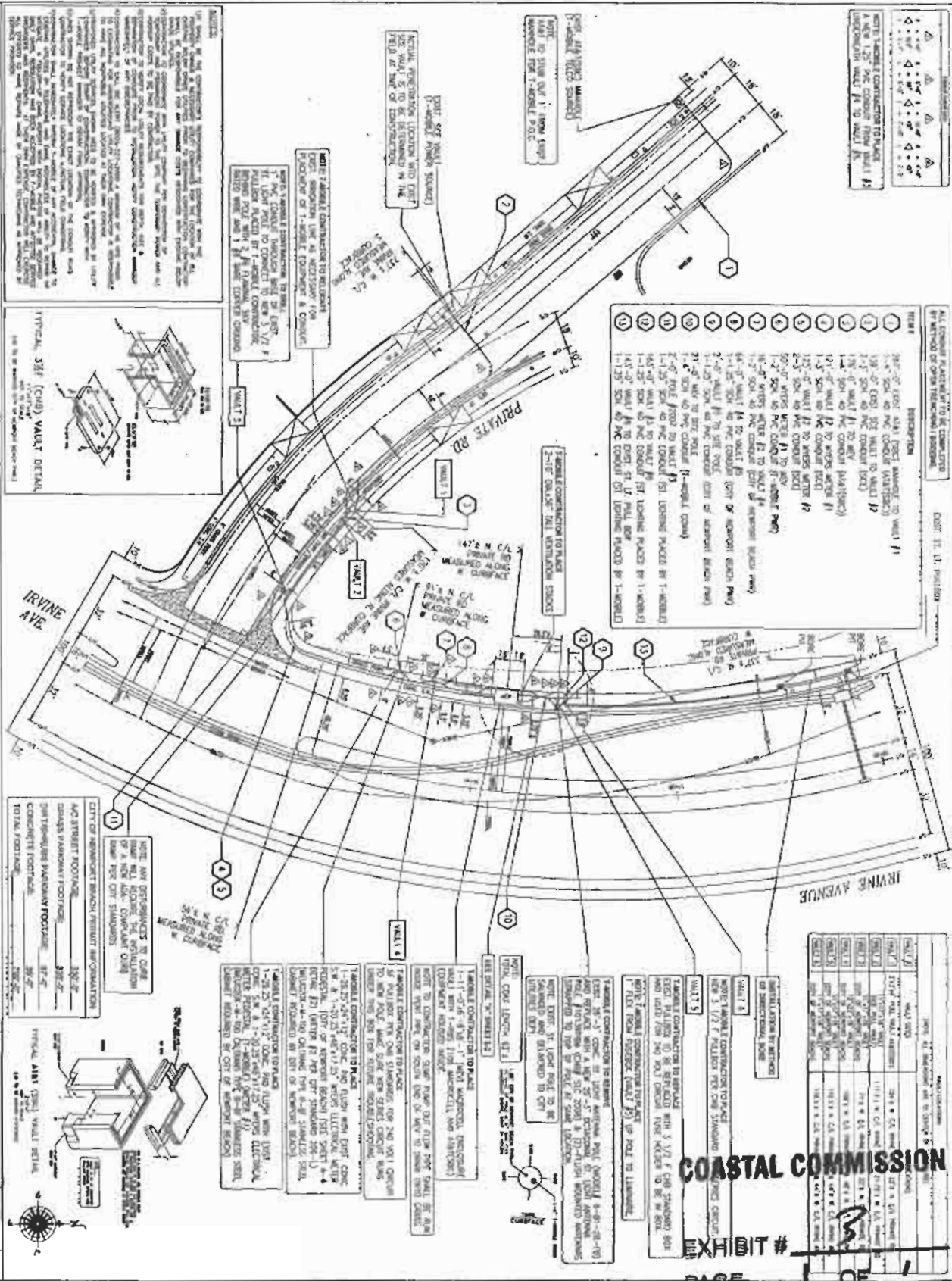
LA13163A
POLE #10139PM
(CNS# SLC 2008)

DETAILS

A-4

NOTE: ALL CONSTRUCTION SHALL BE COMPLETED BY THE DATE OF THE PERMIT EXPIRES UNLESS OTHERWISE SPECIFIED.

- | ITEM | DESCRIPTION |
|------|---|
| 1 | 24" x 24" CONC. SLAB FLOOR TO WALK #1 |
| 2 | 12" x 12" CONC. SLAB FLOOR TO WALK #2 |
| 3 | 12" x 12" CONC. SLAB FLOOR TO WALK #3 |
| 4 | 12" x 12" CONC. SLAB FLOOR TO WALK #4 |
| 5 | 12" x 12" CONC. SLAB FLOOR TO WALK #5 |
| 6 | 12" x 12" CONC. SLAB FLOOR TO WALK #6 |
| 7 | 12" x 12" CONC. SLAB FLOOR TO WALK #7 |
| 8 | 12" x 12" CONC. SLAB FLOOR TO WALK #8 |
| 9 | 12" x 12" CONC. SLAB FLOOR TO WALK #9 |
| 10 | 12" x 12" CONC. SLAB FLOOR TO WALK #10 |
| 11 | 12" x 12" CONC. SLAB FLOOR TO WALK #11 |
| 12 | 12" x 12" CONC. SLAB FLOOR TO WALK #12 |
| 13 | 12" x 12" CONC. SLAB FLOOR TO WALK #13 |
| 14 | 12" x 12" CONC. SLAB FLOOR TO WALK #14 |
| 15 | 12" x 12" CONC. SLAB FLOOR TO WALK #15 |
| 16 | 12" x 12" CONC. SLAB FLOOR TO WALK #16 |
| 17 | 12" x 12" CONC. SLAB FLOOR TO WALK #17 |
| 18 | 12" x 12" CONC. SLAB FLOOR TO WALK #18 |
| 19 | 12" x 12" CONC. SLAB FLOOR TO WALK #19 |
| 20 | 12" x 12" CONC. SLAB FLOOR TO WALK #20 |
| 21 | 12" x 12" CONC. SLAB FLOOR TO WALK #21 |
| 22 | 12" x 12" CONC. SLAB FLOOR TO WALK #22 |
| 23 | 12" x 12" CONC. SLAB FLOOR TO WALK #23 |
| 24 | 12" x 12" CONC. SLAB FLOOR TO WALK #24 |
| 25 | 12" x 12" CONC. SLAB FLOOR TO WALK #25 |
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| 97 | 12" x 12" CONC. SLAB FLOOR TO WALK #97 |
| 98 | 12" x 12" CONC. SLAB FLOOR TO WALK #98 |
| 99 | 12" x 12" CONC. SLAB FLOOR TO WALK #99 |
| 100 | 12" x 12" CONC. SLAB FLOOR TO WALK #100 |



NO STREET FOOTING	3\"/>
DRYAS WALKWAY FOOTING	3\"/>
DRYAS WALKWAY FOOTING	3\"/>
CONCRETE FOOTING	3\"/>
TOTAL FOOTING	3\"/>



SITE PLAN

SCALE: 1/8" = 1'-0"

DATE: 11/11/2008

PROJECT: LA13163A POLE #10139PBM (CNS# SLIC 2008)

COASTAL COMMISSION

EXHIBIT #

PAGE

T-Mobile

Get more from life!

Cgs

cable engineering services

SEQUOIA

COMMUNICATIONS

NO.	DATE	DESCRIPTION	BY
1	08-24-07	ISSUE FOR PERMIT	C.E.S.
2	08-24-07	ISSUE FOR PERMIT	C.E.S.
3	08-24-07	ISSUE FOR PERMIT	C.E.S.
4	08-24-07	ISSUE FOR PERMIT	C.E.S.
5	08-24-07	ISSUE FOR PERMIT	C.E.S.
6	08-24-07	ISSUE FOR PERMIT	C.E.S.
7	08-24-07	ISSUE FOR PERMIT	C.E.S.
8	08-24-07	ISSUE FOR PERMIT	C.E.S.
9	08-24-07	ISSUE FOR PERMIT	C.E.S.
10	08-24-07	ISSUE FOR PERMIT	C.E.S.
11	08-24-07	ISSUE FOR PERMIT	C.E.S.

LA13163A

POLE #10139PBM

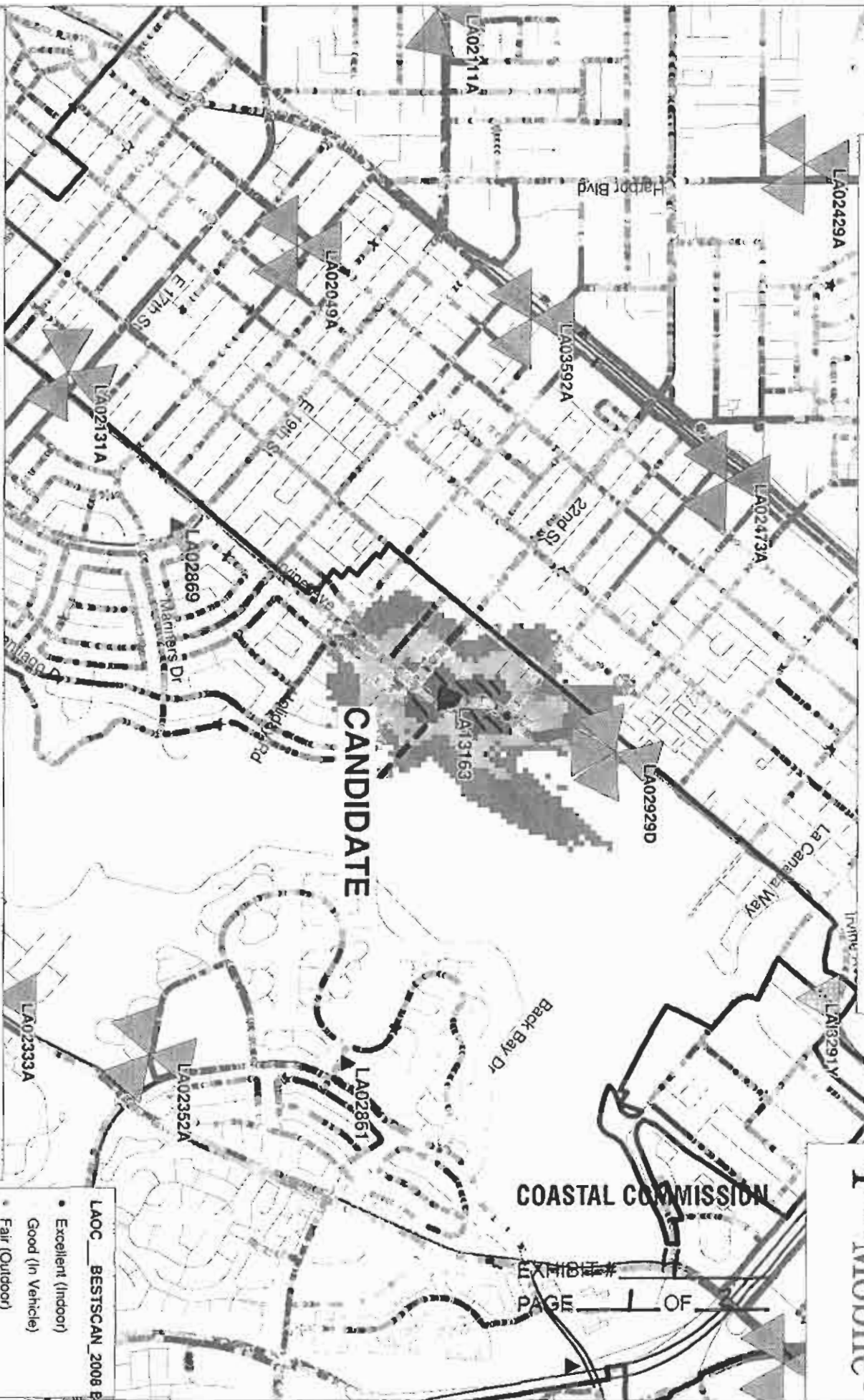
(CNS# SLIC 2008)

E-1

SITE PLAN

Drive Test Data with LA13163A Light Standard Predicted Coverage

T-Mobile



COASTAL COMMISSION

EXHIBIT # 1 OF 2
PAGE 1 OF 2

This information, property of T-Mobile USA, Inc is confidential and is intended solely for the use of the individual or entity to whom it is addressed. Any other use or distribution of this information is strictly prohibited. This map predicts and approximates our wireless coverage area outdoors, which may change without notice. It may include locations with limited or no coverage. Our maps do not guarantee service availability. Even within a coverage area, there are several factors, such as: network changes, traffic volume, service outages, technical limitations, signal strength, your equipment, terrain, structures, weather, and other conditions that may interfere with actual service, quality, and availability, including the ability to make, receive, and maintain calls.

- LAOC BESTSCAN 2008 B
- Excellent (Indoor)
 - Good (In Vehicle)
 - Fair (Outdoor)
 - Poor Coverage
 - Marginal Coverage

Existing Coverage without LA13163A Light Standard

T-Mobile



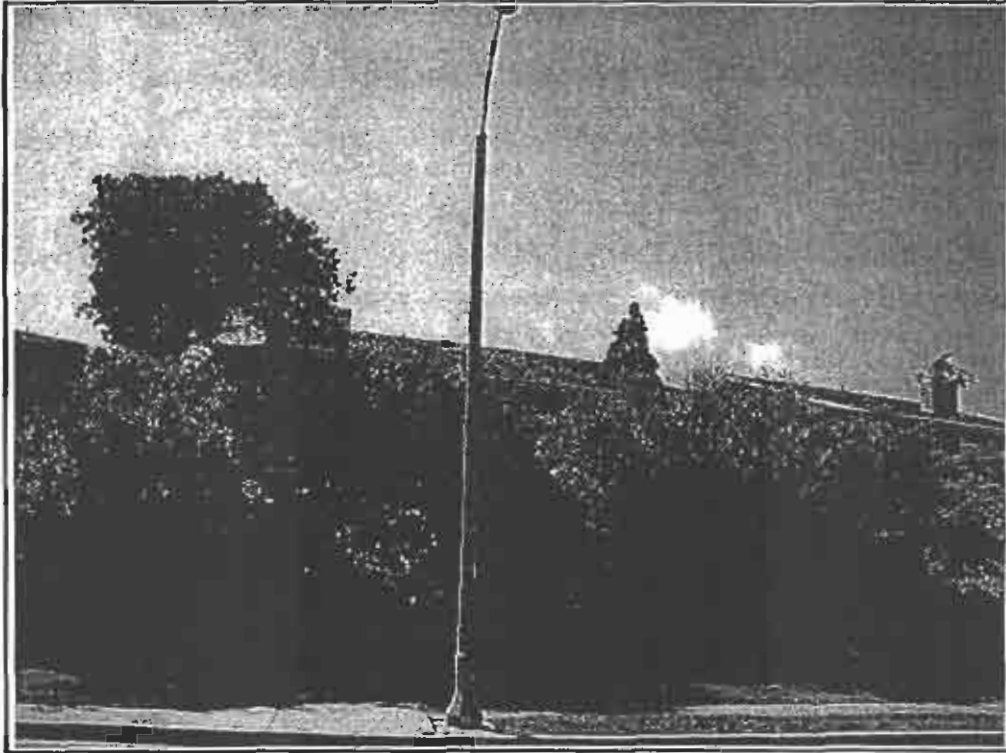
This information, property of T-Mobile USA, Inc is confidential and is intended solely for the use of the individual or entity to whom it is addressed. Any other use or distribution of this information is strictly prohibited. This map predicts and approximates our wireless coverage area outdoors, which may change without notice. It may include locations with limited or no coverage. Our maps do not guarantee service availability. Even within a coverage area, there are several factors, such as: network changes, traffic volume, service outages, technical limitations, signal strength, your equipment, terrain, structures, weather, and other conditions that may interfere with actual service, quality, and availability, including the ability to make, receive, and maintain calls.

Coverage Legend

- Outdoor
- In Vehicle
- In Building



SITE PHOTOGRAPHS FOR LA13163A- IRVINE BLVD.LIGHT STANDARD# 2008
WEST SIDE OF IRVINE BOULEVARD, APPX 500 FEET NORTH OF SANTIAGO
NEWPORT BEACH, CA 92663
APN: N/A



VIEW OF SITE FROM EAST



VIEW OF SITE FROM SOUTH

COMMISSION

5
1 OF 1

John Del Arroz

From: Brown, Janet [JBrown@newportbeachca.gov]
Sent: Tuesday, August 17, 2010 4:11 PM
To: John Del Arroz
Cc: Torres, Michael
Subject: RE: T-Mobile Pole @ 2101 1/2 Irvine Ave
Follow Up Flag: Follow up
Flag Status: Completed
Attachments: TP2007-001 Appr.pdf

Good afternoon, John.

The telecom permit for this project has not expired and is still valid. I believe you were provided with a copy of the telecom permit with the AIC that was submitted to your office. I've attached a copy of the telecom permit for your convenience. You'll notice there is no expiration date.

The other required local approval for the project would be the encroachment permit issued by the Public Works Department to allow construction of the project in the public right-of-way. I have confirmed with Public Works that this permit is also still valid, pending action by the Coastal Commission. We might need to update the contractor's information and/or review any revised plans if any changes are required based on the Coastal Commission's review. If Coastal Commission approval is not granted, then the encroachment permit will be closed without action.

Please let me know if you need any other information or have any questions. Thank you.

Janet Johnson Brown
Associate Planner
City of Newport Beach
(949) 644-3236
jbrown@newportbeachca.gov

COASTAL COMMISSION

EXHIBIT # 5
PAGE 1 OF 1

John Del Arroz

From: Paul Gerst [paul.gerst@sequoia-ds.com]
Sent: Friday, December 10, 2010 2:06 PM
To: John Del Arroz
Subject: FW: LA13163A Irvine Avenue // Coastal Submission (1 of 2)
Attachments: LA02929 Letter of LUP Approval and COAs 3-22-06.pdf; LA02929 Harbor Christian Church Photosims Rev2 (2).pdf; LA13163 Private Road Traffic Views.pdf

Reduced attachments

Paul Gerst
 Sequoia Deployment Services, Inc.
 Telephone: 949.290.0602
 Facsimile: 949.753.7203
 www.sequoia-ds.com

From: Paul Gerst
Sent: Friday, December 10, 2010 1:59 PM
To: 'John Del Arroz'
Subject: FW: LA13163A Irvine Avenue // Coastal Submission (1 of 2)

John – Here is what I have so far:

- 1) Permitting status of neighbor site: Neighbor site is T-Mobile LA02929 Harbor Christian Church, 2401 Irvine Avenue. I attached the plans, photo-sims and city permits. There is no record of any permitting review done by the coastal commission.
- 2) Traffic sight lines: I reviewed the plans and have attached photos depicting a cone placed at the approximate location of the closest meter box. As you can see, it is beyond the curve of the existing hill and is not visible (and hence not blocking views of traffic) from the intersection of Irvine Avenue and Private Road until you are well into the intersection. To the extent the vent stacks are even more to the north and west due to the continuing curve of the road, they too are not visible.
- 3) Pedestrian and ADA access: All proposed ROW equipment satisfies ADA requirements for clearance and grade. The meter pedestals are proposed in the grass area, not the sidewalk, so will not impeded access. And while the vent stacks are at the west edge of the sidewalk, the sidewalk is nine feet wide at that point due to the vault and there is no blockage of ADA or pedestrian access.
- 4) Need for the site: The drive test data, coverage maps, dropped calls, etc. have been previously submitted (copies attached). The coverage issue we are trying to address here is not only improved coverage in the area but also a localized uplink problem from the handset to the base station due to the topography of the area.

The cell network is a two way radio communication between the handset and the base station. The base stations are built with a combination of antennas and electronic equipment. The electronic equipment includes radio receivers and transmitters that provide various channels for customers to use for voice or data communication. A typical base station design consists of sectorized transmission patterns called "sectors" at 120 degrees apart. Each sector covers

COASTAL COMMISSION

12/20/2010

EXHIBIT # 7
 PAGE 1 OF 5

gain antennas which for its construction specifications, to concentrate maximum power right in front of the antenna (main lobe) and power decrease toward the antennas sides (side lobe). At any given time a cell phone user could be located at the main lobe (maximum power) or at a side lobe (low power) and as a result a handset can register more or less bars on the its screen. If the user is located at a taller structure is more likely to receive stronger signal not only from nearest base station but from a numerous of distant ones.

Base stations are capable of handling multiple, simultaneous calls with handsets and operate at higher power levels with high-gain antennas (akin to high power spot lights). The hand sets operate at low power with omni-directional antennas (akin to a night light). Thus it is easier for the handset to see the base station due to its much higher power levels (appx 1000 times higher). The majority of dropped calls are a result of a failure of the handset to be seen by the base station due to location, terrain, physical obstruction. This is referred to as "uplink" or "reverse link." The problem is not that the handset can not see the base station (as evidenced by the photo of four bars submitted by the opposition, the handset can in fact see the base station), but rather that the base station can not see the handset due to the lower power of the handsets and the drop in elevation of the road topography. These types of uplink problems are not diagnosed by coverage bars on the handset but rather by dropped call data registered from the base stations. The dropped call data for this area is about 1000 calls per month dropped from neighboring sites.

I have also contacted the city and Irvine Avenue is an arterial ingress/egress out of the city. I have attached traffic counts for the major exit points from the city indicating that the Irvine Avenue/Campus route in fact carries the most traffic out of the city (this is north of the site location with several additional streets adding traffic, so the vehicle counts at Private road will be lower.) Given that Irvine/Campus has the fewest lights, is centrally located in the city (Newport is to the north and Jamboree and MacArthur to the south) and has the quickest access to the 55/405 freeway, this is not surprising that is is one of the main arterials for city traffic. And vehicle traffic means cell phone use; in addition to improving coverage in the overall neighborhood, the site location is intended to address the uplink problem as well and significantly reduce the dropped calls in the area.

5) T-Mobile Customer Input – as I indicated, T-Mobile is contacting their customers in Newport Beach for letters in support of the project. I will be submitting those at a later date as I do not have them yet.

Paul Gerst
Sequoia Deployment Services, Inc.
Telephone: 949.290.0602
Facsimile: 949.753.7203
www.sequoia-ds.com

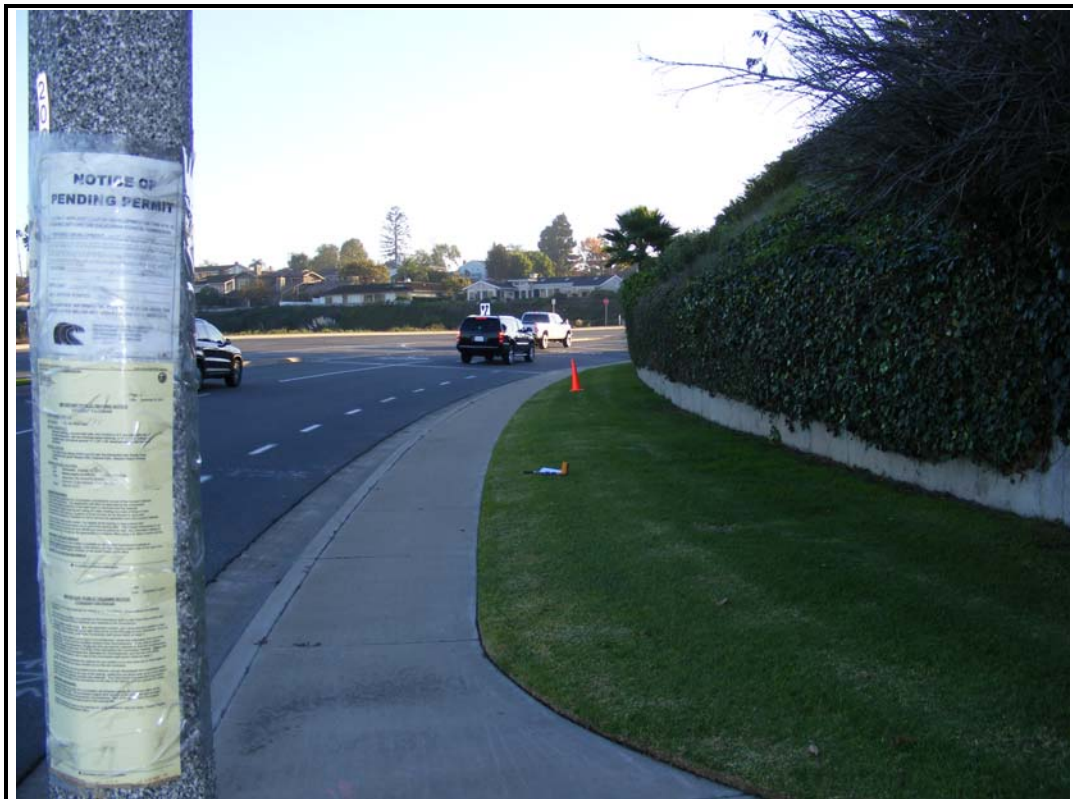
COASTAL COMMISSION

EXHIBIT # 7
PAGE 2 OF 5

SITE PHOTOGRAPHS FOR LA13163A IRVINE AVE
2101 1/2 IRVINE AVE NEWPORT BEACH
TRAFFIC VIEW PHOTOS FROM PRIVATE ROAD



VIEW OF APPROXIMATE LOCATION OF METER PEDESTAL, ±91 FEET N FROM C/L PRIVATE ROAD, ±9 FEET W OF CONCRETE ROAD EDGE



VIEW OF METER PEDESTAL LOCATION FROM ANTENNA LOCATION

SITE PHOTOGRAPHS FOR LA13163A IRVINE AVE
2101 1/2 IRVINE AVE NEWPORT BEACH
TRAFFIC VIEW PHOTOS FROM PRIVATE ROAD



VIEW FROM C/L PRIVATE ROAD AT LIMIT LINE; NO VIEW OBSTRUCTION



VIEW FROM VEHICLE DRIVER SEAT (1996 TAHOE) AT LIMIT LINE

SITE PHOTOGRAPHS FOR LA13163A IRVINE AVE
2101 1/2 IRVINE AVE NEWPORT BEACH
TRAFFIC VIEW PHOTOS FROM PRIVATE ROAD



VIEW FROM VEHICLE (1996 TAHOE) AFTER ENTERING INTERSECTION, LIMIT LINE IS APPROXIMATELY MID-POINT OF VEHICLE, LOCATION OF METER PEDESTAL IS JUST VISIBLE.

Agenda Item: W14b (Oct. 13, 2010)
Application Number: 5-10-110
Position: AGAINST

California Coastal Commission
South Coast District Office
200 OceanGate, 10th Floor
Long Beach, Ca 90802-4416

RECEIVED
South Coast Region

OCT 7 - 2010

Attn: John Del Arroz (for distribution to the Commissioners)

**CALIFORNIA
COASTAL COMMISSION**

Dear Commissioners,


I am running for City Council in Newport Beach. In the course of my campaign I have met with and listened to the issues confronted by a great many of our residents, including Dr. Jim Mosher on Private Road, who has brought to my attention this application for installation of a cell site and associated equipment on a City-owned streetlight in a park area adjacent to the Upper Newport Bay Nature Reserve. As a Friend of the Back Bay we have worked hard to create a pleasant open-space environment, and the addition of a new cell site detracts significantly from the enjoyment of this area by residents and visitors alike.

In the present case, Dr. Mosher, a highly intelligent individual whose private bluff-top views of the Back Bay would be materially impaired by this project, has demonstrated to my satisfaction that T-Mobile already has near-perfect reception at the proposed location, making this a singularly inappropriate place for a new cell site. As in so many other things, City staff seems to have been asleep at the switch in allowing this project to progress to the extent that it has (local code is supposed to prevent unnecessary sites and minimize telecom impacts on both public and private views).

As I understand from Dr. Mosher, City staff was not only unaware of the need for Coastal Commission review, but has also neglected the City Charter requirement to seek City Council approval before making public property available for private commercial use. My understanding is that the Council has never voted on the underlying License Agreement, and I would like you to know that if elected I would be vote against it.

I urge you to reject this project.

Yours sincerely,



Mark Tabbert
20172 Spruce Ave
Newport Beach, CA. 92660
(949) 355-6073

COASTAL COMMISSION

EXHIBIT # 8
PAGE 1 OF 1

October 2, 2010

Craig LaFrance
2209 Private Road
Newport Beach, CA 92831
Cell Phone: 949-322-7964

Coastal Commission Hearing Oct. 13, 2010
Agenda Item No. W14b
Application No. 5-10-110 (T-Mobile West Corp.)
Craig LaFrance – Opposed to the Project

California Coastal Commission
South Coast District
P.O. Box 1450
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

Attn: John Del Arroz, Coastal Program Analyst

Subject: Coastal Commission Hearing Oct. 10, 2010
Agenda Item No. W14b
Application No. 5-10-110

Gentlemen:

In reviewing the Staff Report for the subject application I am concerned that the City of Newport Beach has not presented an accurate representation of the circumstances surrounding the application to the Commission. Additionally, the document submitted to the Commission may not have had full City of Newport Beach review.

I request the Commission reconsider the recommendation to approve, considering the following:

- A. **Traffic Safety:** The proposed location of equipment (two 5' tall boxes)will block visibility of Southbound Irvine Avenue traffic as it approaches intersection to Private Road. The traffic approaches around a blind curve on Irvine Ave. and already presents a hazardous intersection for residents exiting Private Road to enter Irvine Ave. The equipment, two (4) foot high boxes mounted on (1) foot pedestals appears to be positioned directly in the view line of traffic approaching around the corner. Additionally, other proposed equipment installations appear to block the view of traffic entering Irvine Avenue from Private Road.

Opposition Point: I was not notified by the city concerning the development of the project so did not have the opportunity to express this observation. Has Newport Beach assured the Commission that due process has been followed in issuing a permit to the utility's developer? Has Traffic and Legal at Newport Beach been consulted concerning the increase in the traffic hazard? While this may not be a Commission concern it may be indicative that Newport Beach

has not diligently reviewed this project. It seems that traffic safety should be a first consideration for installations in a public right-of-way. Subsequent traffic accidents at the intersection may put the city at risk.

- B. Visual Impact: Under section "E" (Visual Resources) of the "Project Description" the Commission notes the "project's impact will be minimal", and further goes on to state "the Commission is concerned that cumulatively, installation of additional similar projects in the area could have adverse impacts on visual resources".

Opposition Point #1: The applicant (T-Mobile, et al) already has a location at Harbor Christian Church (at the Santa Isabel intersection with Irvine Ave.) two blocks away. This project is a second installation within two blocks and is not in keeping with the stated intent of the Commission to minimize such installations.

Opposition Point #2: The visual attractiveness of the area (benefitting the appearance of the Upper Newport Bay) is in part due to substantial underground installations of utilities in the adjacent neighborhood, eliminating the unsightly impact of overhead power lines and (shared) telecommunications lines. The Commission in recommending approval is, in fact, taking the first step in adversely affecting the visual impact by this addition. The installation of the proposed equipment boxes will certainly degrade the appearance of the small park at the proposed installation site. Users of the Upper Bay reservation will also experience deterioration in the quality of the appearance as they hike/bike along the adjacent trails.

Opposition Point #3: The application provides for sharing the installation with other telecommunications companies. There do not appear to be restrictions concerning the quantity or size of the equipment of additional parties participating in the use of the facility, only that they do not interfere with each other. I have observed a circumstance where permitted approval of a single radio broadcast tower subsequently resulted in a substantial array of antennae in an otherwise protected environment. The wording of the Newport Beach recommendation to the Commission provides T-Mobile with a product to market to other telecommunications companies (whether they use it or not?). I suspect this is a revenue driven activity (both for Newport Beach as well as T-Mobile and their developer), and is not based on a need for additional T-Mobile service in the area.

I strongly urge the commission to withhold approval and reexamine:

1. Is this a second installation within two blocks for T-Mobile? If so, why is that information not divulged to the Commission by both T-Mobile and Newport Beach?
2. Has Newport Beach properly followed procedures to warn residents of the project? The interference with traffic safety sends up a yellow (if not red) flag that due diligence was

COASTAL COMMISSION

not followed. Additionally, the interference of view on adjacent property owners does not seem to have been considered.

3. Is the open-ended offer to other telecommunications companies an exposure to unrestricted and uncontrolled additions to the pole and the site? Language in the Staff Report has the appearance that the permitted site can be expanded, sold, transferred, etc. without restriction. Once fully permitted, the removal of an unsightly, contentious or abandoned installation would likely involve expensive/extensive litigation to resolve. The Commission should require Newport Beach to reevaluate the contract terms and be sure all "T"s are crossed (e.g. City Council approval of a contract. We do not want another City of Bell here).

One reason for the existence of the Coastal Commission is to protect against unsightly utility rights-of-way detracting from protected environments. While substantial improvements are being made in the appearance and location of telecommunications installations in general, the Commission should not ignore the propensity of overzealous marketers to rush a municipality to permit an unnecessary, visually detractive installation.

Thank you for your consideration of the above.

Respectfully submitted,



Craig P. LaFrance
Cell Phone: 949-322-7964

Agenda Item: W14b (Oct. 13, 2010)
Application Number: 5-10-110
Position: AGAINST

California Coastal Commission
South Coast District Office
200 Oceangate, 10th Floor
Long Beach, Ca 90802-4416

RECEIVED
South Coast Region

OCT 7 - 2010

Attn: John Del Arroz (for distribution to the Commissioners)

CALIFORNIA
COASTAL COMMISSION

Dear Commissioners,

We urge you to remove from the Consent Calendar this questionable application for an uncalled for and redundant wireless facility that unnecessarily degrades the Coastal Zone.

Earlier written concerns submitted to the Long Beach office by our spokesperson, Dr. James Mosher, dating back as far as March 18, 2010, do not seem to be part of the present Staff Report, but our main reasons for objecting to this proposal can be summarized as follows:

1. There are very serious questions about T-Mobile's legal right to use the site.
 - a. The Newport Beach City Charter (EXHIBIT 1) requires City Council approval of all contracts, including Telecom License Agreements. As the City Clerk can confirm, the Agreement for private use of public property underlying the present proposal has never been approved at any public meeting of the Newport Beach City Council. City staff holds the required approval can be granted without meeting, vote, or documentation in apparent violation of the Brown Act.
 - b. Despite City Planner Brown's e-mailed assurances that there is no expiration date explicitly mentioned in the permit (TP2007-001) she forwarded to Coastal Plan Analyst Del Arroz, the permit says (EXHIBIT 2), and it was ordered printed on the plans, that it is issued subject to all conditions of the Uniform Building Code. Under both that and the nearly identical administrative section of the title of the Municipal Code under which it was issued (EXHIBIT 3) the permission becomes void if construction is not commenced within 180 days of issuance. This permit was issued in 2007, without thought of possible Coastal Commission review. The first attempt to commence construction was not announced until 2009.
 - c. City Planner Brown also refers to an encroachment permit for use of the public right of way. Although that permit, also issued in 2007, can perhaps be extended indefinitely at the discretion of the City's Public Works Director, it includes the condition "#15. Any above ground utility facilities will require documented approval from the adjacent affected property owner(s)." This project definitely affects coastal views from immediately adjacent bluff-top properties, and T-Mobile does not have approval from those homeowners
 - d. Pre-approving an application for a project which does not yet have proper local approvals sets a poor precedent and may prejudice the local process.

COASTAL COMMISSION

EXHIBIT # 10
PAGE 1 OF 10

2. The project is redundant with existing facilities.
 - a. The proposed site is on the 1 mile-long stretch of Irvine Avenue defining the western edge of the Upper Newport Bay Nature Reserve, a unique scenic and ecological treasure. This segment of Irvine Avenue is designated as a Coastal View Road in the City's Coastal Land Use Plan (EXHIBIT 4).
 - b. In 2006, the City (without Coastal Commission review) granted T-Mobile permission to expand an existing wireless site at a higher location at the exact mid-point of this 1-mile stretch (Harbor Christian Church wireless co-location facility). According to T-Mobile's application, use of that site would provide adequate coverage along the entire Coastal View Road portion of Irvine Avenue.
 - c. Overlapping with the request for use of the Harbor Christian Church site, the City offered T-Mobile use of the present City-owned site, two blocks to the south.
 - d. The promise to achieve coverage with the first site appears to have been fulfilled, with "6-bar" signal strength currently existing at the second site, which is the subject of the present review (EXHIBIT 5). The lowest outdoor signal strength observed anywhere along the 1-mile stretch of Coastal View Road is 3-4 bars, more than adequate for T-Mobile's equipment to function well.
 - e. T-Mobile's agents have subsequently attempted to justify the need for the second site by claiming there is a dropped call problem between the two sites (in the area where the signal strength is 3-4 bars). However 3-4 bars is a quite typical signal level for urban areas. The data offered in support of the dropped call claim, including that submitted to the Coastal Commission, shows only that T-Mobile experiences occasional dropped calls in all its antenna sectors. It does nothing to localize a problem to the present area, or to compare it to the number of dropped calls in any other randomly selected area.

3. The project unnecessarily impacts the coastal zone.
 - a. Already having a major facility operating at the exact mid-point of the coastal zone portion of Irvine Avenue, T-Mobile is now asking the Commission to approve a second facility illogically located in a low open-space park area under a bluff, within 0.1 mile (500 feet) of the southern terminus of the coastal zone.
 - b. The new facility will add unnatural elements to that park area, including not only the antennas themselves, but ventilator stacks and above-ground utility boxes. These will all add visual blight, and the latter, as currently proposed, will also create a significant traffic safety hazard at an already blind intersection.
 - c. The Commission is being asked to approve these additions when, as indicated above, T-Mobile has no demonstrable gap in coverage at the proposed site.
 - d. By comparison, T-Mobile has much lower signal strengths in numerous areas *outside* the coastal zone, for example in the area to the south, yet it is not asking to use any of the many non-coastal zone streetlights or traffic standards available in that area (EXHIBIT 6). Indeed, this long dormant application to address problems outside the coastal zone by adding a redundant facility within the coastal zone is the only proposal T-Mobile, with City staff's active encouragement, is currently pursuing in the whole of Newport Beach.

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4. The proposed condition *requiring* co-location of future wireless facilities at this site (Special Condition III-1 in the Staff Report) is both ambiguous and in direct conflict with the condition of the local permit *prohibiting* co-location (EXHIBIT 7).
 - a. Since it was never reviewed or approved by the Coastal Commission, staff is possibly unaware of the existing major Harbor Christian Church wireless site at the mid-point of the coastal zone segment of Irvine Avenue. It would seem a more logical co-location site for future vendors than the present one, which is singularly ineffective because it is in a topographic hole at one extreme end of the coastal zone segment. Approving sites at the extreme southerly location would quite possibly require the Commission to approve a second site to serve the northern end of the coastal zone segment. Hence this co-location requirement appears to encourage adding two sites to the coastal zone where a single one might do.
 - b. The Staff Report also fails to define the radius over which co-location to this site would be desirable. Is staff asking the Commission to encourage other carriers to co-locate within the coastal zone to correct deficiencies outside the coastal zone as T-Mobile appears to be doing in the present case?

The Coastal Commission has previously denied wireless proposals where it could not be verified that the applicant had a substantial gap in coverage within the coastal zone and was proposing the solution least impactful on the coastal zone (for example, Application 5-09-103).

For the many reasons cited above, the undersigned feel this application requires closer scrutiny. We beg you to remove it from the Consent Calendar so that you can hear our concerns.

Yours sincerely,

Signature: Connie Skibba Printed name: CONNIE SKIBBA
 Address: 2218 Private Road Date: 10-2-10
President Service Company

Signature: [Signature] Printed name: Michael L. Skibba
 Address: 2218 Private Rd Date: 10-2-10

Signature: [Signature] Printed name: James M. Mosler, Ph.D.
 Address: 2210 Private Road Date: 10/2/2010

Signature: [Signature] Printed name: Jim Bennett
 Address: 2202 Private Rd Date: 10/2/10 **COASTAL COMMISSION**

Signature: [Signature] Printed name: SAMUEL W. TATE
Address: 2322 PRIVATE RD. Date: 10/2/10

Signature: [Signature] Printed name: Joan A. Lyon
Address: 2316 Private Rd Date: 10-2-10

Signature: [Signature] Printed name: M. Craig Lyon
Address: 2316 PRIVATE ROAD Date: 10/2/10

Signature: [Signature] Printed name: Sunday Petrie
Address: 2301 Private Rd Date: 10/2/10

Signature: [Signature] Printed name: John Petrie
Address: 2301 PRIVATE RD Date: 10/2/10

Signature: [Signature] Printed name: JOHN BURTON
Address: 2317 PRIVATE RD, N.B. Date: 02-OCT-2010

Signature: [Signature] Printed name: NANCY CLARK
Address: 2317 Private Rd NB Date: 10/2/10

Signature: [Signature] Printed name: Cynthia Borceman
Address: 2217 Private Rd Date: 10/3/10

Signature: [Signature] Printed name: ROBERT SPARKS
Address: 2201 PRIVATE Rd NB Date: 10/3/10

COASTAL COMMISSION

Signature: Julie N. Sparks Printed name: JULIE N SPARKS
Address: 2201 PRIVATE RD Date: 10/3/10

Signature: Darryl Shinder Printed name: Darryl Shinder
Address: 2329 PRIVATE Rd. NB, CA 92060 Date: 10/3/10

Signature: Jacqueline Shinder Printed name: Jacqueline Shinder
Address: 2329 Private Road NB 92060 Date: 10/3/10

Signature: Val. Grady Printed name: Valerie Grady
Address: 2226 Private Rd. Date: 10/3/10

Signature: CRAK P. LAFRANCE Printed name: CRAK P. LAFRANCE
Address: 2209 PRIVATE ROAD Date: 10/3/10

Signature: JANET CERCEL Printed name: JANET CERCEL
Address: 2225 PRIVATE ROAD Date: 10/3/10

Signature: Del-Tha Tate Printed name: Del-Tha Tate
Address: 2322 Private Rd Date: 10/4/10

Signature: John Drake Printed name: John Drake
Address: 2323 Private Rd Date: 10/4/10

Signature: Christine Drake Printed name: Christine Drake
Address: 2323 Private Rd Date: 10/4/10

COASTAL COMMISSION

Signature: [Signature] Printed name: Jaclyn Drake
Address: 2323 Private Rd. Date: 10-4-2010

Signature: [Signature] Printed name: Truly Gold Boring
Address: 2300 Private Rd Date: 10-4-2010

Signature: [Signature] Printed name: MICHAEL SCHLESINGER
Address: 2309 PRIVATE ROAD Date: 10/4/10

Signature: [Signature] Printed name: Kathryn Schlesinger
Address: 2309 Private Road Date: 10-5/10

Signature: [Signature] Printed name: Jaime Chilton
Address: 2308 Private Rd. Date: 10/5/10

Signature: [Signature] Printed name: TALLIE Z. BORN
Address: 2209 Private Rd. Date: 10/6/2010

Signature: [Signature] Printed name: Cary Boring
Address: 2300 Private Road NPB Date: 10/6/10

Signature: [Signature] Printed name: SHEERY Cagle
Address: 2291 Justin NPB Date: 10/6/10

Signature: [Signature] Printed name: Ben Cagle
Address: 2291 Justin NPB Date: 10/6/10

Signature: [Signature] Printed name: Timzee Gold EXHIBIT # 10
Address: 2322 Private Rd NPB Date: 10/6/10 PAGE 6 OF 16

COASTAL COMMISSION

EXHIBIT 1

CHARTER OF THE CITY OF NEWPORT BEACH

Section 421. Contracts. Execution.

The City shall not be bound by any contract, except as hereinafter provided, unless the same shall be made in writing, approved by the City Council and signed on behalf of the City by the Mayor and City Clerk or by such other officer or officers as shall be designated by the City Council.

(note: there is nothing in the "except as hereinafter provided" list that excludes wireless License Agreements from the Council approval requirement)

EXHIBIT 2

From page 5 of Newport Beach Telecommunications Permit No. 2007-001 (March 30, 2007)

Conditions:

6. The telecom facility shall comply with all regulations and requirements of Chapter 13 of the Newport Beach Municipal Code, the Americans with Disabilities Act (ADA), as well as the Uniform Building Code, Uniform Fire Code, Uniform Mechanical Code and National Electrical Code.

EXHIBIT 3

**From Newport Beach Municipal Code Title 15
(Permit TP2007-001 was issued under Chapter 15.70)**

Chapter 15.02 Administrative Code

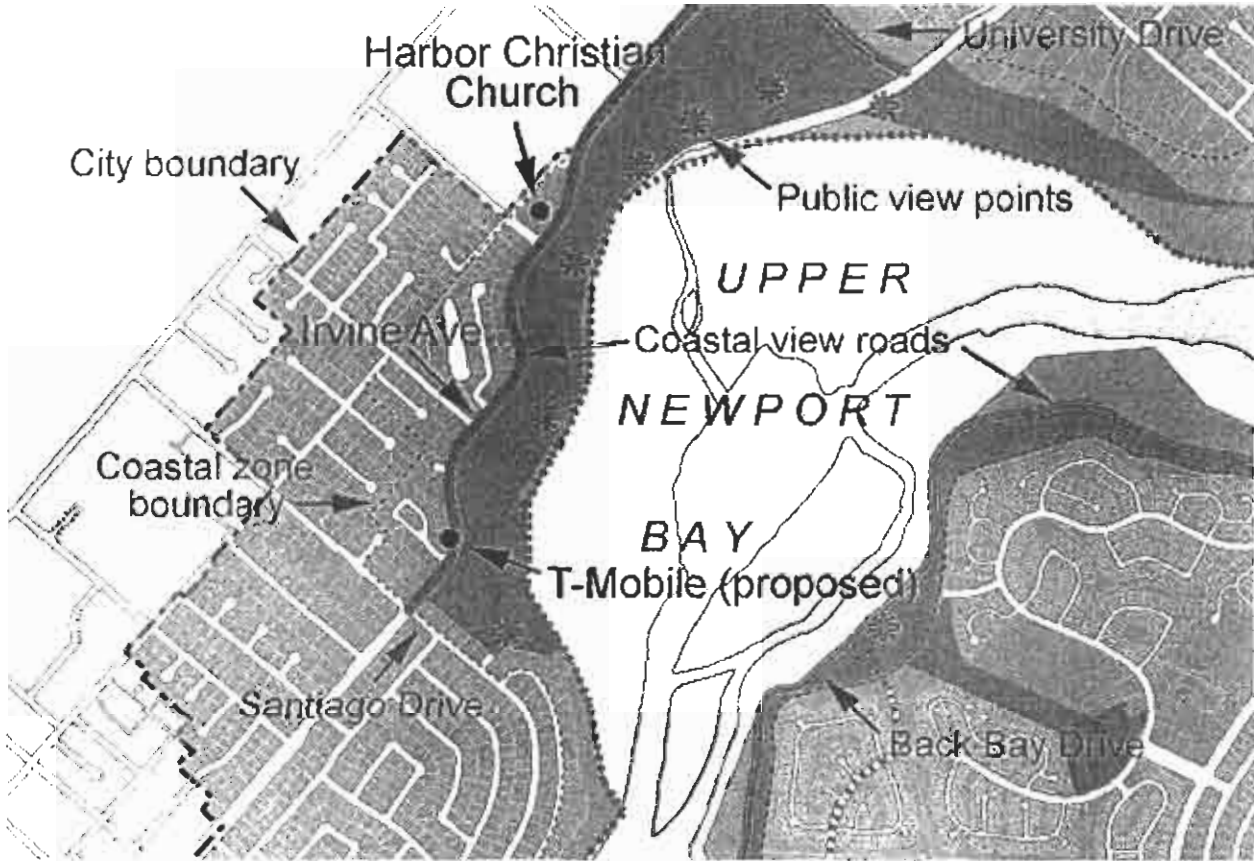
15.02.090 Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building official is authorized to grant, in writing, one extension of time, for a period not more than 180 days. The extension shall be requested in writing and justifiable cause demonstrated.

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EXHIBIT 4:

Proposed site on Coastal Views map in *Coastal Land Use Plan* (Map 4-3_2)



T-Mobile already has a wireless installation, undisclosed in the application upon which the local approval is based, and unapproved by the Coastal Commission, at Harbor Christian Church, 2401 Irvine Ave.

That facility, at the mid-point of the 1-mile segment of Irvine Avenue bordering the west edge of the Upper Newport Bay State Marine Park and Nature Reserve, was said to be sufficient to cover the entire length. Now T-Mobile is asking for a second facility at the southern fringe of the Coastal Zone, apparently to improve coverage in the area outside the Coastal Zone.

The Coastal Commission should not encourage adding equipment within the Coastal Zone to solve problems outside it.

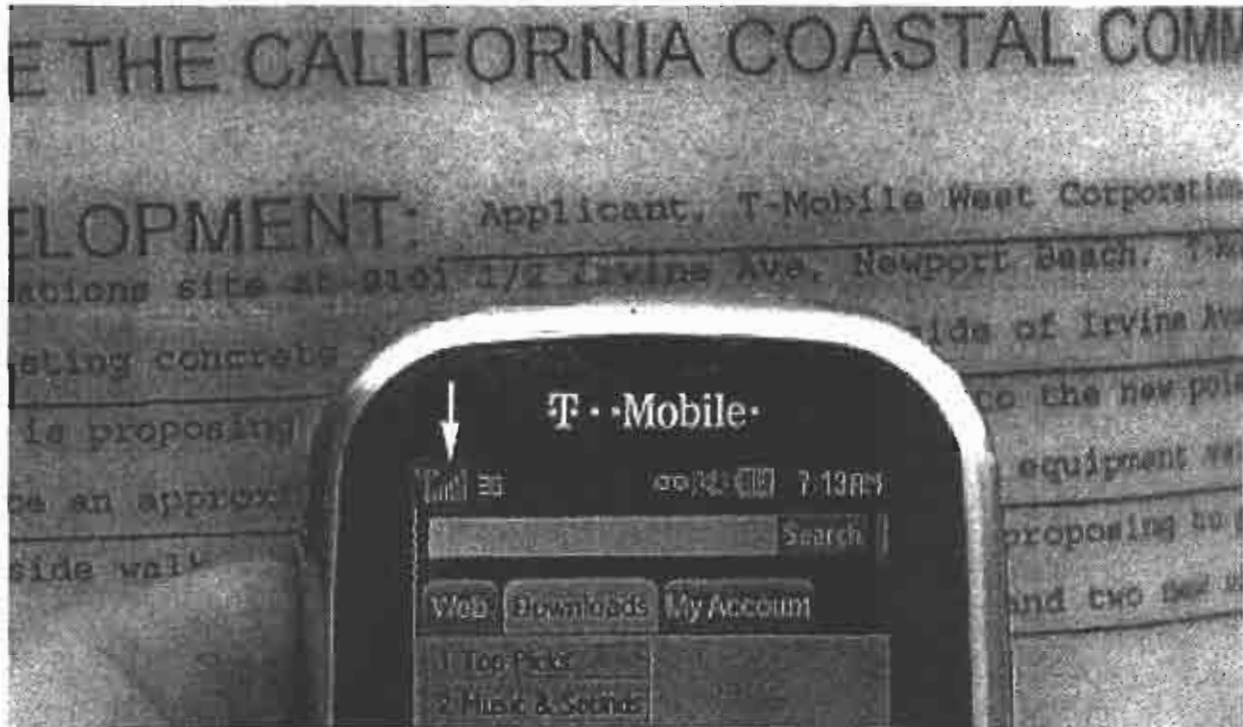
COASTAL COMMISSION

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EXHIBIT 5:

Existing signal strength at proposed location

T-Mobile's Harbor Christian Church facility, two blocks north on the same Coastal View road, already adequately serves the area.



Signal strength at the proposed location is currently "six bars" (arrow), the maximum T-Mobile's equipment can register.

See the website <http://newportcellsites.wikispaces.com/Signal+Strength+Survey> for additional examples of observed T-Mobile signal strengths along Irvine Avenue and elsewhere in Newport Beach.

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EXHIBIT 6:

Example of a possible alternate location. The arrowed pole at the SE corner of the Irvine Ave/Santiago Drive intersection, as an example, is outside the coastal zone (which ends at this intersection, 200 yards [0.1 miles] south of the proposed location). It is higher, has minimal impact on views, and would better serve the area to the south, where T-Mobile signal strengths are much lower than anywhere in the coastal zone. T-Mobile's Government Affairs representative wrote of this particular location (e-mail, December 2, 2009): "This would work for us if we can get an antenna at a height of 35-feet (top of antenna) because there is an existing tree that would block the south sector."



Many more streetlights and traffic standards are available outside the Coastal Zone, to south.

EXHIBIT 7

From page 4 of Newport Beach Telecommunications Permit No. 2007-001 (March 30, 2007)

Findings:

1. The telecommunications facility as proposed meets the intent of Chapter 15.70 ... for the following reasons:

- ... Any future facility proposed to be located in the vicinity shall be a minimum of 1,000 feet from the facility approved by this permit so as to limit the adverse visual effects of proliferation of facilities in the **COASTAL COMMISSION**

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