

## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
(805) 585-1800

# Th9a



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original staff report](#)

## ADDENDUM

**DATE:** December 6 , 2016  
**TO:** Commissioners and Interested Parties  
**FROM:** South Central Coast District Staff  
**SUBJECT:** Agenda Item 9a on Thursday, December 8, 2016  
Appeal A-4-VNT-16-0090 (Verizon Wireless, Ventura County)

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The purpose of this addendum is to (1) attach a letter received on November 22, 2016 from the applicant's attorney, Paul Albritton, that expresses support of staff's recommendation (Attachment 1), and (2) attach and respond to a letter received on November 23, 2016 from the owner of a neighboring property, Robyne Hutto, that objects to the approved project due to visual impact concerns (Attachment 2).

Robyne Hutto's letter expresses concern that the approval of the subject wireless communication facility atop the cliff will allow other facilities to be constructed in the project vicinity, which will impact coastal views. The letter suggests that the subject wireless communication facility should instead be constructed on an existing AT&T facility located in the Santa Barbara County portion of Rincon Point Park.

As discussed in the staff report, the applicant submitted an alternatives analysis that examined potential sites for the subject wireless communication facility including the existing AT&T facility. The analysis found that the utility pole currently housing the AT&T facility was not capable of providing sufficient support to also accommodate the proposed Verizon Wireless (Verizon) facility. In addition, the topographic obstructions of the cliff and surrounding hillsides would prevent the signal from adequately filling the service gap. As such, Verizon would require multiple communication facilities at lower elevations that would be more visible from scenic public viewing areas within the Rincon Point viewshed. With regards to Robyne Hutto's claim that the approved project will allow for other wireless communication facilities in the project vicinity, the County and the Commission cannot prejudice their review of the subject project on possible future applications for wireless communication facilities. It should be noted that if future facilities are proposed in the project vicinity or elsewhere within the County's Coastal Zone, they will be still be subject to the requirements of the Federal Telecommunications Act and the resource protection policies of the County's Local Coastal Program (LCP).

**MACKENZIE & ALBRITTON LLP**

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**Received**

November 22, 2016

NOV 22 2016

**VIA EMAIL AND FEDEX**

California Coastal Commission  
c/o Wesley Horn  
Coastal Program Analyst  
South Central Coast District Office  
89 South California Street  
Ventura, California 93001

California Coastal Commission  
South Central Coast District

Re: Appeal of Verizon Wireless Facility  
Commission Appeal No. A-4-VNT-16-0090  
Camouflaged Telecommunications Facility  
8320 Bates Road, Ventura County  
Coastal Commission Agenda, December 8, 2016

Dear Commissioners:

On behalf of our client Verizon Wireless, we urge you to decline the appeal filed by Nicholas A. Brown ("Appellant") of the approval by Ventura County (the "County") of a 45-foot communication tower disguised as palm tree (the "Project"). In particular, we ask you to determine that the appeal does *not* raise a substantial issue of compliance with the approved Local Coastal Program (the "LCP").

While the project is of vital importance to those who live and work in the Rincon Point area and travel on Highway 101 – which currently suffers from poor Verizon Wireless service – it is insignificant from a land use or coastal protection perspective. Verizon Wireless has worked with the County to find a location and design that meets the need for improved Verizon Wireless service while avoiding any significant impacts on coastal resources or the surrounding community. After thorough review, the County has found that the Project meets these goals, and that it complies with all applicable requirements of the LCP. As we explain below, those findings have ample support in the record, and the appeal does not raise any substantial issue.

**I. Project Description**

Before turning to the issues raised in the appeal, we will briefly summarize the Project and the County's extensive review process. Verizon Wireless proposes to fully

**ATTACHMENT 1  
A-4-VNT-16-0090 (Verizon Wireless)  
Letter from Applicant's Attorney**

conceal its panel antennas within a tower disguised as a palm tree placed approximately 47 feet behind a row of established palm trees up to 27 feet in height. Faux palm fronds will radiate in all directions from the top of the tower, providing a realistic crown extending to 45 feet. The faux palm tree will be placed within a 35 foot by 35 foot equipment area that will contain radio cabinets and a standby generator to provide continued service in case of emergency. The equipment area will be surrounded by a six-foot chain link fence with green slats. Utilities serving the Approved Facility will be placed underground. As shown in photosimulations of the Project, no transmission equipment whatsoever is visible from vantage points along the coast.

## **II. The County's Exhaustive Review of the Project**

It is also important to consider how thoroughly the County reviewed the Project. Prior to public hearings, the Planning Department prepared a thorough Initial Study in compliance with the California Environmental Quality Act. The County determined that environmental impacts will be less than significant, except for potential impacts to sensitive plants and cultural resources which were determined to be less than significant with mitigation measures. Recommended mitigation measures include planting of native vegetation<sup>1</sup> and typical procedures for protection of any archaeological resources discovered during construction.<sup>2</sup>

Notably, the Initial Study found less-than-significant impacts on scenic resources, concluding that:

...the proposed stealth design of the facility (i.e. a faux palm tree) will soften the visual impact of the tree on public views....Due to the existing topography, landscaping and proposed design of the wireless communications facility, the project would not substantially alter existing views from U.S. Highway 101.<sup>3</sup>

Based on the Initial Study, the Planning Commission adopted a mitigated negative declaration for the Project at its June 23, 2016, hearing, and the Board of Supervisors upheld this on appeal at its October 4, 2016, hearing.

Both the Planning Commission and Board of Supervisors found that the Project complies with all requirements of the Coastal Zoning Ordinance (the "CZO"), the component of the LCP that addresses land use permits. Under the CZO, communication facilities are allowed in the subject CA-Coastal Agriculture zone upon issuance of a conditional use permit.<sup>4</sup> Following staff's recommendation, the Planning Commission adopted all five findings of approval for a conditional use permit required by CZO

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<sup>1</sup> See *Revised Initial Study for Verizon Wireless Communications Facility, Rincon Point, Conditional Use Permit Case No. PL14-0128*, June 3, 2016, pp. 14-15.

<sup>2</sup> *Id.* at 26-27.

<sup>3</sup> *Id.* at 23.

<sup>4</sup> See Ventura County Coastal Zoning Ordinance §8174-5.

§8181-3, including that the Project is compatible with the character of surrounding development and planned land uses in the general area.

In support of the findings of approval, staff emphasized that that the camouflaged palm tree design visually blends into the nearby row of established palm trees such that it will not be prominently visible or substantially alter public views, in compliance with General Plan Scenic Resources Policy 1.7.2-1.<sup>5</sup> The other component of the LCP, the Coastal Area Plan, does not include scenic or visual policies for the Rincon Point area and has no bearing on any claim of visual impacts.<sup>6</sup>

### **III. The Appeal Raises No Substantial Issue.**

Despite the thorough review described above, Appellant asks the Commission to second-guess the County. He claims that the Board of Supervisors ignored impacts on cropland, visual qualities of coastal areas, and an existing wireless facility that is infeasible for collocation by Verizon Wireless. As we explain below, none of these claims have any merit, and none raise a substantial issue of LCP compliance.

#### **A. The Project Will Have No Significant Visual Impacts.**

In the face of the evidence described above, Appellant's claim that the Board of Supervisors ignored protection of scenic qualities, special communities and coastal view sheds is simply frivolous. Verizon Wireless carefully selected the facility location, 47 feet behind a row of existing palm trees, to minimize any visual impact while allowing for a facility of the minimum height required to serve the significant gap in service. Verizon Wireless is deploying a novel design for the Project, with antennas fully concealed within the trunk of the proposed treepole and no transmission equipment exposed to view. As confirmed by the Initial Study, staff reports, the Planning Commission and Board of Supervisors, the Project will have no significant visual impacts.

#### **B. The Project Will Not Affect Agricultural Resources**

Appellant's claim that Project threatens agricultural resources is equally frivolous. The Approved Facility will occupy only 0.03 unused acres (or 0.3 percent) of a 10-acre parcel and will not affect existing orchards on the property. County staff addressed the specific Coastal Act provision cited by Appellant, Public Resources Code Section 30242, determining that "the proposed project would not adversely impact agricultural resources"<sup>7</sup> and is thus consistent with the cited provision as well as related provisions of the Coastal Area Plan and Coastal Act for protection of agricultural uses.

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<sup>5</sup> See *Planning Commission Staff Report – Hearing on June 23, 2016, Case No. PL14-0128* "(PC Staff Report)", p. 12.

<sup>6</sup> See *Ventura County General Plan Coastal Area Plan*, General Statement 5.

<sup>7</sup> *PC Staff Report*, at 11.

**C. The Existing Wireless Facility in Rincon Beach Park Is Not Feasible for Collocation by Verizon Wireless to Serve Its Significant Gap.**

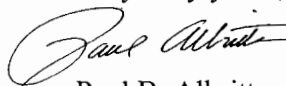
Appellant continues to press for Verizon Wireless to locate on an existing wooden utility pole one-quarter mile southwest in Rincon Beach Park in Santa Barbara County, but Verizon Wireless RF engineers have determined that this location is infeasible for several reasons. The pole is at a very low elevation (130 feet lower than the Project location), which would significantly compromise coverage. In addition, the utility pole does not have sufficient space or structural capacity; another wireless carrier has placed two miniature panel antennas on the pole, but Verizon Wireless's multiple frequencies and technologies require several larger panel antennas to serve the broader area affected by the significant gap in service. Further, the major topographic rise to the north would obstruct the signal from the utility pole location to portions of Verizon Wireless's significant gap. Verizon Wireless RF engineers evaluated all available utility poles on Rincon Point and found none would be feasible. Generally, small pole-mounted wireless facilities have a limited coverage footprint. At such a low elevation, Verizon Wireless would be required to place numerous facilities on poles in the right-of-way to serve its service gap, including installation of new poles alongside the coastline that would present substantial visual impacts.

Section 30260 of the Coastal Act cited by Appellant applies to industrial facilities, not public utility installations such as the Project. Appellant also misconstrues Public Resources Code §21002, which does not require a public agency to evaluate alternatives to a project when mitigation measures substantially eliminate environmental impacts as described in the Initial Study for the Project.

**IV. Conclusion**

Appellant's claims that Board of Supervisors ignored scenic and agricultural considerations are not supported by substantial evidence, and the alternative site raised by Appellant is not feasible. We respectfully ask you to find that the appeal does not raise a substantial issue of compliance with the local coastal program or impacts to coastal resources.

Very truly yours,



Paul B. Albritton

cc: Erin Chalmers, Esq.

California Coastal Commission  
89 South California St., Suite 200  
Ventura, CA 93001

**Received**

NOV 23 2016

California Coastal Commission  
South Central Coast District

Re: Appeal No. A-4-VNT-16-0090, 8320 Bates Road, Ventura Co.

Dear Coastal Commission of California,

My name is Robyne Hutto and I am the owner Of Bates Ranch House at 8316 Bates Rd. My Grandfather built this house in 1928. It was one half of an original Spanish land grant that included half of Rincon Point and 1200 acres. Robert W. Bates was active in Ventura county real estate and the Farm Bureau. This property has remained in the family for five generations and is somewhat of an historic icon. We are the closest residence to the proposed cell tower.

The county of Ventura stipulates that a 45 ' cell tower, disguised as a palm tree and a maintenance generator be installed in Ventura County. What is not stressed is that once this cell tower is in place other utility companies besides Verizon are free to place their own towers in the same vicinity.

Thus the impact on the coastal view is seriously impaired. To this high probability, I object strongly. I was ill during the first hearing. My objection is that in this day and age of community cohesion why is Ventura county placing a cell tower 400 yards from an existing cell tower in Santa Barbara County? This division over county lines seems miserly in regard to duplicating county only cell towers. If the proposed cell tower can be expanded then surely the existing cell tower can be expanded.

Rincon Point has been a confluence of both counties from its inception. Police from both counties may appear at the Point at the same time. It seems trivial to argue cell towers that are actually very close.

I realize Verizon has spent \$2 plus million on the new location. How many conversations did they have with the Santa Barbara location? I suspect none. In the best interests of all residents, I request and demand to see all negotiations put into the existing cell tower placement. A company like Verizon has their own financial interests as their top priority and has played on the Ventura County outlook to make sure that happens.

Please mediate another possibility for the existing cell tower placement with half the energy you have focused on building a new one one.

Citizens look to their government officials guarding their coast. You are named the Coastal Commission of California. You are charged with the protection of the whole coast not of representing one county to be separate from another.

Sincerely  
Robyne Hutto November 3, 2015

*Robyne Hutto*

**ATTACHMENT 2**  
**A-4-VNT-16-0090 (Verizon Wireless)**  
**Letter from Robyne Hutto**

## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
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**Th9a**

Appeal Filed: 10/26/16  
49<sup>th</sup> Day: 12/14/16  
Staff: W. Horn - V  
Staff Report: 11/17/16  
Hearing Date: 12/8/16

**STAFF REPORT: APPEAL - SUBSTANTIAL ISSUE**

**APPEAL NO.:** A-4-VNT-16-0090

**LOCAL GOVERNMENT:** County of Ventura

**LOCAL DECISION:** Approval with Conditions

**APPLICANT:** Verizon Wireless

**APPELLANTS:** Nicholas Brown

**PROJECT LOCATION:** 8320 Bates Road, Ventura County (APN 008-0-160-450)

**PROJECT DESCRIPTION:** Installation of a wireless communication facility consisting of a 45 foot tall faux palm tree (mono-palm) antenna structure, a 168 square foot equipment shelter, and a 30-kilowatt emergency backup generator.

**STAFF RECOMMENDATION: No Substantial Issue**

**MOTION & RESOLUTION: Page 6**

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NOTE: This is a substantial issue only hearing. Testimony will be taken only on the question of whether the appeal raises a substantial issue. Generally, and at the discretion of the Chair, testimony is limited to 3 minutes total per side. Please plan your testimony accordingly. Only the applicant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify. Others may submit comments in writing. If the Commission determines that the appeal does raise a substantial issue, the *de novo* phase of the hearing will occur at a future Commission meeting during which it will take public testimony.

**SUMMARY OF STAFF RECOMMENDATION**

Staff recommends that the Commission determine that a **no substantial issue** exists with respect to the grounds on which the appeal has been filed. The **motion** and **resolution** for a “no substantial issue” finding are found on **page 6**. The project approved by Ventura County (County) includes the installation of a wireless communication facility consisting of a 45 foot tall faux palm tree (mono-palm) antenna structure, a 168 square foot equipment shelter, and a 30-

kilowatt emergency backup generator. The proposed telecommunications facility and mono-palm will be located approximately 47 feet north of the edge of a terraced cliff and a row of existing palm trees ranging in height from 17 to 27 feet. All of the components for the proposed communication facility will be within a 1,225 square foot lease area of a parcel zoned Coastal Agricultural (CA) located at 8320 Bates Road in the Rincon Point area of Ventura County.

The appellant contends that the approved project is not consistent with policies and provisions of the County's certified Local Coastal Program (LCP) with regard to: visual resources, agriculture, and location of new coastal-dependent development. Specifically, the appellant contends that the project is inconsistent with Coastal Act Sections 30251, 30253(e), 30242, and 30260, which are incorporated into the County LCP as policies. The standard of review at this stage of an appeal requires the Commission to determine whether the appeal of the project, as approved, raises a substantial issue with respect to its conformity to the standards set forth in the certified LCP or the public access policies of the Coastal Act that the appellant raises in the appeal.

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question". In previous decisions on appeals, the Commission has been guided by five factors, which are: 1) the degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP and with the public access policies of the Coastal Act; 2) the extent and scope of the development as approved or denied by the local government; 3) the significance of coastal resources affected by the decision; 4) the precedential value of the local government's decision for future interpretations of its LCP; and 5) whether the appeal raises only local issues or those of regional or statewide significance.

Applying these five factors to the issues raised by the subject appeal demonstrates that the proposed project does not raise a substantial issue regarding conformity with the certified LCP. Specifically, the County correctly applied the policies and provisions of its certified LCP by requiring the proposed communication facility to be designed as a stealth mono-palm that will blend in with the existing row of palm trees and by situating the proposed facility atop a disturbed, terraced cliff, outside of the scenic viewshed of Rincon Point. Furthermore, the proposed project will not have a significant impact on the parcel's existing agricultural production or the ability to allow expanded agricultural production. Although the proposed tower exceeds otherwise applicable height limits in the LCP, the communication facility is subject to the requirements of the federal Telecommunications Act, which establishes federal oversight over the deployment of telecommunications facilities across the county. Pursuant to the Telecommunications Act, if a wireless communications provider demonstrates that a new communication facility is necessary in order to fill a significant gap in that carrier's service, the policies and ordinances of the County's certified LCP can only be applied to the extent necessary to ensure that the proposed communication facility is the least intrusive means to fill that gap. In this instance, the County correctly analyzed the applicant's information substantiating that the coverage gap in the area of Rincon Point is significant and worked with the applicant to find a site and design for the proposed communication facility that is the least intrusive means of filling the coverage gap. The County reviewed several potential alternative sites and layouts for the proposed communication facility and



determined that the current proposal is the least intrusive one that will have the fewest impacts on coastal resources. The evidence supports the County's conclusions.

Therefore, the proposed project does not raise a substantial issue regarding conformance with the relevant LCP policies and the Coastal Act, which is incorporated into the LCP. As more fully described in the findings below, staff recommends the Commission find that no substantial issue exists with regard to the grounds of the appeal.

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### APPENDIX A: [Substantive File Documents](#)

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### EXHIBITS

- Exhibit 1. [Vicinity Map](#)
- Exhibit 2. [Site Map](#)
- Exhibit 3. [Project Plans](#)
- Exhibit 4. [Photosimulations of Proposed Project](#)
- Exhibit 5. [Appeal No. A-4-VNT-16-0090](#)
- Exhibit 6. [Final Local Action Notice](#)

# **I. APPEAL JURISDICTION AND PROCEDURES**

## **A. APPEAL PROCEDURES**

The Coastal Act provides that after certification of Local Coastal Programs (LCPs), a local government's actions on Coastal Development Permit applications for development in certain areas and for certain types of development may be appealed to the Coastal Commission. Local governments must provide notice to the Commission of their coastal development permit actions. During a period of ten working days following Commission receipt of a notice of local permit action for an appealable development, an appeal of the action may be filed with the Commission.

### **1. Appeal Areas**

Approvals of CDPs by cities or counties may be appealed if the development authorized is to be located within the appealable areas, which include the areas between the sea and the first public road paralleling the sea, within 300 feet of the inland extent of any beach or of the mean high-tide line of the sea where there is no beach, whichever is greater, on state tidelands, or along or within 100 feet of natural watercourses and lands within 300 feet of the top of the seaward face of a coastal bluff. (Coastal Act Section 30603(a)). Any development approved by a County that is not designated as the principal permitted use within a zoning district may also be appealed to the Commission irrespective of its geographic location within the Coastal Zone. (Coastal Act Section 30603(a)(4)). Finally, developments which constitute major public works or major energy facilities may be appealed to the Commission. (Coastal Act Section 30603(a)(5)).

In this case, the County's CDP approval is appealable to the Coastal Commission because the permitted development does not constitute the principal permitted use.

### **2. Grounds for Appeal**

The grounds for appeal of a local government approval of development shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in the Coastal Act (See Public Resources Code Section 30603(b)(1)).

### **3. Substantial Issue Determination**

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue exists with respect to the grounds on which the appeal was filed. When Commission staff recommends that no substantial issue exists with respect to the grounds of the appeal, the Commission will hear arguments and vote on the "substantial issue" question. A majority vote of the members of the Commission is required to determine that the Commission will not hear an appeal. If the Commission determines that no substantial issue exists, then the local government's coastal development permit action will be considered final.

### **4. De Novo Permit Hearing**

Should the Commission determine that a substantial issue exists, the Commission will consider the CDP application de novo. The applicable test for the Commission to consider in a de novo

review of the project is whether the proposed development is in conformity with the certified Local Coastal Program and, if the development is between the sea and the first public road paralleling the sea, the public access and recreation policies of the Coastal Act. If a de novo hearing is held, testimony may be taken from all interested persons.

## **B. LOCAL GOVERNMENT ACTION AND FILING OF APPEAL**

On June 23, 2016, the Ventura County Planning Commission approved the subject coastal development permit (CDP) (No. PL14-0128) for the installation of a wireless communication facility consisting of a 45 foot tall faux palm tree (mono-palm) antenna structure, a 168 square foot equipment shelter, and a 30-kilowatt emergency backup generator. Approval of the subject CDP was appealed to the County Board of Supervisors on July 1, 2016 by Anthony Brown. The County Board of Supervisors denied the appeal and approved the subject CDP on October 4, 2016.

The Notice of Final Action for the project was received by Commission staff on October 12, 2016 ([Exhibit 6](#)). A ten working-day appeal period was set and notice provided beginning October 12, 2016, and extending to October 26, 2016.

An appeal of the County's action was filed by Nicholas Brown on October 26, 2016, during the appeal period ([Exhibit 5](#)). Commission staff notified the County, the applicant, and interested parties that were listed on the appeal form and requested that the County provide its administrative record for the permit. The administrative record was received on November 10, 2016.

## **II. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE**

**MOTION:** *I move that the Commission determine that Appeal No. A-4-VNT-16-0090 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

### **STAFF RECOMMENDATION:**

Staff recommends a **YES** vote. Passage of this motion will result in a finding of **No Substantial Issue** and adoption of the following resolution and findings. If the Commission finds **No Substantial Issue**, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

### **RESOLUTION TO FIND NO SUBSTANTIAL ISSUE:**

The Commission hereby finds that Appeal No. A-4-VNT-16-0090 raises **No Substantial Issue** with respect to the grounds on which the appeal has been filed under §30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

### **III. FINDINGS AND DECLARATIONS FOR NO SUBSTANTIAL ISSUE**

The Commission hereby finds and declares:

#### **A. PROJECT DESCRIPTION AND BACKGROUND**

The project approved by the County includes the installation of a wireless communication facility consisting of a 45 foot tall faux palm tree (mono-palm) antenna structure, a 168 square foot equipment shelter, and a 30-kilowatt emergency backup generator. The faux palm tree will be fitted with three panel antennas at a height of 38 feet above the ground, three panel antennas at a height of 28 feet above the ground, three remote radio units at a height of 20 feet above the ground, three remote radio units at a height of 15 feet above the ground, and one ray cap surge protector at a height of 15 feet above the ground. A second ray cap surge protector and two GPS antennas will be located within the proposed adjacent equipment shelter. All of the components for the proposed communication facility will be located within a 1,225 square foot lease area. Site plans of the proposed communication facility are included in [Exhibit 3](#).

The project site is located at 8320 Bates Road within the community of Rincon Point, unincorporated Ventura County (APN 008-0-160-450) ([Exhibit 2](#)). The subject parcel is 10.05 acres in size and is zoned Coastal Agricultural (CA). Parcels zoned CA and Coastal Open Space (COS) are located to the west, north and east. A terraced cliff on the inland side and overlooking U.S. Highway 101 and Rincon Point is located approximately 20 feet south of the boundary line of the subject parcel. The proposed telecommunications facility and mono-palm will be located approximately 47 feet north of the cliff edge and a row of existing palm trees ranging in height from 17 to 27 feet ([Exhibit 3](#)). Existing development on the parcel consists of a single family residence located approximately 1,000 feet to the northeast of the project site and orchards located throughout the parcel. However, the proposed project will be set back approximately 70 feet to the southwest of existing orchards and will not interfere with the agricultural use of the property. Minimal ground disturbance (removal and recompaction) and thinning of native vegetation will be necessary to accommodate the proposed facility within the 1,225 square foot lease area. However, the native vegetation required to be thinned does not constitute Environmentally Sensitive Habitat Area (ESHA).

#### **B. SUMMARY OF APPEAL CONTENTIONS**

The appeal filed by Nicholas Brown is attached as [Exhibit 5](#). The appeal grounds assert that the approved development is inconsistent with the County of Ventura's Local Coastal Program (LCP) with regard to Coastal Act Sections 30260, 30242, 30251, and 30253(e) that are incorporated into the LCP as policies. The appellant also asserts that the development is inconsistent with Section 21002 of the California Environmental Quality Act.

#### **C. ANALYSIS OF SUBSTANTIAL ISSUE**

Pursuant to Sections 30603 and 30625 of the Coastal Act, the appropriate standard of review for an appeal is whether a substantial issue exists with respect to the grounds raised by the appellant

relative to the project's conformity to the policies contained in the certified County of Ventura (County) Local Coastal Program (LCP) or the public access policies of the Coastal Act. Thus, the allegation that the County's decision is not in compliance with California Environmental Quality Act (CEQA) requirements is not a valid grounds for appeal of a coastal permit. In addition, the appellant did not cite the public access policies of the Coastal Act as a ground for appeal.

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question" (Cal. Code Regs., Title 14, Section 13115(b)).

In evaluating the issue of whether the appeal raises a substantial issue, the Commission considers the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretation of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

In this case, for the reasons discussed below, the Commission determines that the appeal raises **no substantial issue** with regard to the grounds on which the appeal has been filed.

### **1. Visual Resources**

The appellant asserts that the project approved by the County fails to conform with Coastal Act Section 30251 regarding the protection of visual resources, and Coastal Act Section 30253(e) regarding communities and neighborhoods that are popular visitor destinations. These Coastal Act provisions are incorporated into the Coastal Area Plan (CAP) of the County's LCP as policies.

Coastal Act Policy 30251 states:

*The scenic or 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, and, where feasible, to restore and enhance visual quality in visually degraded areas.*

Coastal Act Section 30253(e) states in relevant part:

*New development shall do all of the following...*

*Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.*

As described above, the proposed project consists of a 45 foot tall mono-palm antenna structure, a 168 square foot equipment shelter and a 30-kilowatt emergency backup generator located within a 1,225 square foot lease area and enclosed with a 6 foot high chain link fence. The proposed facility will be located approximately 47 feet north of the edge of a terraced cliff on the inland side of U.S. Highway 101 that is lined with a row of existing palm trees ranging in height from 17 to 27 feet ([Exhibit 3](#)). The edge of the terraced cliff where the project will be setback is approximately 150 feet above U.S. Highway 101 and extends 500 feet to the west. Continuing east from the project site the cliff extends for nearly one mile and reaches a height of approximately 400 feet above U.S. Highway 101 ([Exhibit 2](#)). The purpose of the proposed wireless communication facility is to fill a Verizon Wireless coverage gap that includes the unincorporated Rincon Point community of Ventura County along U.S. Highway 101 as well as portions of U.S. Highway 150 extending to the north into Santa Barbara County. Existing Verizon Wireless facilities are located within the unincorporated community of La Conchita to the east and the City of Carpinteria to the west; however, the steep topography adjacent to U.S. Highway 101 on the inland side and continuing to the north currently obstructs the line-of-sight of the existing communication facilities and has resulted in a lack of Verizon Wireless service coverage in the area of Rincon Point.

To address the lack of service coverage in the aforementioned area, Verizon is proposing the subject 45 foot tall mono-palm antenna structure atop the terraced cliff, setback 47 feet inland from the cliff edge. An existing row of palm trees ranging in height from 17 feet to 27 feet currently span the length of the cliff edge, running in an west-east orientation for approximately 1,000 feet. The proposed mono-palm is designed as a stealth facility, with a similar color and structure as the existing palm trees ([Exhibit 3](#)). Communication facilities are an allowed use within parcels zoned Coastal Agriculture (CA), pursuant to a Conditional Use Permit (CUP), up to a height of 35 feet. However, after considering the topography of the area and reviewing studies and alternative analyses submitted by Verizon's engineers, the County determined that a 45 foot tall mono-palm antenna is necessary to effectively fill the coverage gap. The County also found that while the proposed mono-palm would be taller than the existing palm trees that line the cliff edge, the 47 foot setback from the cliff edge in conjunction with the stealth design will allow the mono-palm to blend in with, and not significantly alter, the existing landscape. Furthermore, the County also found that the distance of the proposed location of the mono-palm atop a steep, terraced cliff more than 500 feet from any public viewing areas along U.S. Highway 101 and Rincon Point Park will further allow the facility to blend in with the surrounding environment. Finally, the primary public view afforded to drivers along U.S. Highway 101 and visitors to Rincon Point Park is the coastline and topography seaward of the highway. For these reasons, the County found that the project has been sited and designed in a manner that minimizes adverse impacts to public views to and along the ocean and scenic coastal areas, consistent with Coastal Act Section 30251. The illustrations in [Exhibit 4](#) show the location and visual simulations of the proposed facility from the Rincon Point public viewing area. Finally, due to the 47 foot setback and height of the terraced cliff, the equipment shelter and the backup generator will be concealed behind the cliff edge and not visible from any public viewing areas.

In addition to the requirements of the County's LCP, the proposed wireless communications facility is also subject to the Federal Telecommunications Act. In 1996, Congress amended the Communications Act of 1932 to establish federal regulation over the deployment of telecommunications facilities across the country. The amended Telecommunications Act allows local governments to regulate new wireless telecommunications facilities to some extent, but mandates that state and local governments shall not unreasonably discriminate among providers of functionally equivalent services, shall not prohibit or have the effect of prohibiting the provision of personal wireless services, and shall not regulate facilities on the basis of environmental effects of Radio Frequency emissions. In particular, a new wireless facility must be approved if such development is necessary in order to fill a significant gap in the carrier's service and the applicant has provided evidence that there are no other feasible alternatives to avoid or minimize adverse impacts. Thus, the Commission and local jurisdictions may require that the facility be designed, located, and/or conditioned in a manner to ensure that the approved project will avoid or minimize adverse impacts to coastal resources to the extent feasible.

To address the issue of the project's non-conformance with the 35 foot height limitation of the County LCP, the County's approval of the subject permit included findings regarding the Federal Telecommunications Act in relation to the proposed project. In this instance, Verizon provided evidence to the County substantiating the significant coverage gap in the area of the Rincon Point community and also submitted an alternatives analysis to examine potential sites for the communication facility within the area that could fill the coverage gap. The analysis considered impacts to visual resources, radio frequency propagation, elevation, topography, slope, grading requirements, access, available ground space, and landowners willing to lease a portion of their property for the facility. The analysis considered two sites located in low elevation areas, including collocation with an existing AT&T Wireless Communication Facility within the Santa Barbara County portion of Rincon Beach Park and the right-of-way along U.S. Highway 101, and three other sites situated in high elevation areas within private parcels atop the cliff.

The analysis found that there were insufficient utility poles within the lower elevations at the existing AT&T Wireless facility and within the U.S. Highway 101 right-of-way that could support the necessary equipment for the project, and that even if those poles were capable of providing sufficient support, the topographic obstructions of the cliff and surrounding hillsides would prevent the signal from providing adequate coverage to fill the gap. In order to overcome the topographic obstructions within these lower elevations Verizon would need multiple communication facilities, likely resulting in a significant visual impact within the viewshed of Rincon Point. The primary public view of drivers along U.S. Highway 101 and visitors to Rincon Point Park is the coastline and topography seaward of the highway. Siting the communication facility within the highway right-of-way or the AT&T Wireless Facility located seaward of U.S. Highway 101 would have a greater impact to the visual characteristics of those scenic coastal areas that attract visitors than the subject mono-palm facility.

With regards to the private parcels located atop the cliff, the subject parcel is the only site that would allow the proposed communication facility to not only overcome the topographic challenges of the cliff and surrounding areas, but also allow the signal from the facility to provide adequate coverage for vehicles traveling along U.S. Highway 101. Furthermore, the analysis found that the existing row of palm trees along the cliff edge provide the best available



means of concealing the proposed facility and reducing visual impacts. Any designs for a shorter antenna would require locating the unit closer to the bluff edge which raises issues of stability. As such, consistent with the federal statutes previously discussed, Verizon demonstrated the existence of a significant gap in service within the Rincon Point area and that the proposed facility is the least intrusive means to successfully fill the gap.

The appeal also asserts that the project approved by the County fails to conform to Coastal Act Section 30253(e), which requires that new development protect special communities and neighborhoods that are popular visitor destination points for recreational uses. The appeal states that: “Hundreds of thousands of locals and tourists visit Rincon Beach annually, and would be directly impacted by the disruption of the historic and iconic coastal view shed”. The proposed communication facility is located within a private agricultural parcel located on the top of a steep, terraced cliff above U.S. Highway 101. Access to the site is only available via Bates Ranch Road, a private road that begins at Bates road and continues east along the top of the cliff. Public access is not available along Bates Ranch Road. As such, the area where the new development would be located is not itself part of a special community or neighborhood that is a visitor destination point. As discussed previously, the primary public view in the area is of the coast and ocean, not of the slope inland of the highway. Further, as discussed above, the proposed communication facility is designed and situated so that impacts to public views are minimized. Therefore, the project will not impact special communities or neighborhood, as required by the LCP [which incorporates Coastal Act Section 30253(e)].

For the reasons discussed above, the County has legally and factually supported its findings regarding the project’s conformance with the LCP and no substantial issue exists with respect to the visual resource ground raised by the appellant relative to the project’s conformity to the policies contained in the certified LCP.

## **2. Agriculture**

The appellant asserts that the proposed project fails to conform with Coastal Act Section 30242 regarding the protection of agricultural resources, which is incorporated into the Coastal Area Plan (CAP) of the County’s LCP as a policy.

Coastal Act Section 30242 states:

*All other lands suitable for agricultural use shall not be converted to nonagricultural uses unless: (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.*

The location of the proposed wireless communication facility is at the southern end of a 10.05 acre parcel zoned Coastal Agricultural (CA). The proposed facility, including the mono-palm, equipment shelter and emergency backup generator, will occupy an area of only 1,225 square feet located near the perimeter of the property and set back 70 feet to the southwest of existing orchards on the property ([Exhibit 3](#)). The County found that considering the small area of the proposed project site compared to the overall acreage of the parcel and the distance of the

proposed facility from existing orchards, the proposed communication facility will not displace or adversely impact current agricultural production and will not have a significant impact on the parcel's ability to expand agricultural production. In addition, wireless communication facilities are an allowed use within parcels zoned CA with a Conditional Use Permit (CUP) pursuant to the relevant policies and provisions of the LCP. The County processed the project pursuant to a CUP and found that the proposed project will not significantly affect existing or future agricultural production at the site. Accordingly, and for the reasons discussed above, the County has legally and factually supported its findings regarding the project's conformance with the LCP and no substantial issue exists with respect to the agriculture ground raised by the appellant relative to the project's conformity with the certified LCP.

### **3. Location of New Coastal-Dependent Development**

The appellant asserts that the proposed project fails to conform with Coastal Act Section 30260 regarding the location of new coastal-dependent development, which is incorporated into the Coastal Area Plan (CAP) of the County's LCP as a policy.

Coastal Act Section 30260 states:

*Coastal-dependent industrial facilities shall be encouraged to locate or expand within existing sites and shall be permitted reasonable long-term growth where consistent with this division...*

A coastal-dependent development is defined in Coastal Act Section 30101.3 as "any development or use which requires a site on, or adjacent to, the sea to be able to function at all". While the Coastal Act does not go on to specifically identify which types of development require a site on, or adjacent to, the sea, a wireless communication facility most certainly does not require a site on, or adjacent to, the sea to function and thus does not meet the definition of coastal-dependent development. In fact, the subject wireless facility will be located on a site that is not on or adjacent to the ocean. Because the proposed communication facility is not a coastal-dependent use pursuant to the definition of Section 30101.3, Section 30260 of the Coastal Act does not apply to the subject project. Therefore, the appellants' appeal assertion regarding Section 30260 of the Coastal Act is not an applicable ground for appeal in this case.

### **4. California Environmental Quality Act**

The appellant also alleges that the County failed to comply with Section 21002 of the California Environmental Quality Act (CEQA). However, the appellant's contention about the adequacy of the County's compliance with CEQA statutes does not allege an inconsistency of the project as approved with the certified LCP. This assertion regarding CEQA compliance is not a valid grounds for appeal, as it does not relate to the conformity of the project, as approved, with any specific policy of the certified LCP or the public access policies of the Coastal Act. The Commission therefore finds that this contention is not a valid ground for appeal pursuant to Section 30603(b)(1) of the Coastal Act.

### **5. Substantial Issue Factors Considered by Commission**

In evaluating the issue of whether the appeal raises a substantial issue, the Commission considers the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretation of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

The first factor in evaluating the issue of whether the appeal raises a substantial issue is the degree of factual evidence and legal support for the local government's decision that the development is consistent with the subject provisions of the certified LCP. In this case, based on the analysis above, the County has provided the factual and legal support for the decision that the proposed development is consistent with the relevant goals, guidelines, policies, and provisions of the certified LCP.

The second factor in evaluating the issue of whether the appeal raises a substantial issue is the extent and scope of the development as approved. The subject approval allows for the installation of a wireless communication facility consisting of a single 45 foot tall mono-palm antenna structure, a 168 square foot equipment shelter, and a 30-kilowatt emergency backup generator. In analyzing the factors relevant to the issue of whether this appeal raises a substantial issue, the Commission finds that the extent and scope of the project is relatively minor.

The third factor in evaluating the issue of whether the appeal raises a substantial issue is the significance of the coastal resources affected by the decision. In this case, there would be no significant coastal resources affected by the decision. As previously discussed, the proposed mono-palm is designed as a stealth facility to match the visual quality of the existing palm trees along the cliff. Furthermore, the project is set back 47 feet from the cliff edge, minimizing the height discrepancy of the proposed mono-palm with existing palm trees and hiding the equipment shelter and emergency generator behind the cliff edge, thus allowing the project to further blend in with the visual landscape. Although the facility will be higher than existing, nearby palm trees, the project is situated on a private parcel and is only visible from distant public viewing areas located over 500 feet away. Lastly, the project will not displace current agricultural production or inhibit future agricultural production, and it is an allowed use within the subject CA zone pursuant to a CUP. Thus, no significant coastal resources would be affected by the decision.

The fourth factor in evaluating the issue of whether the appeal raises a substantial issue is the precedential value of the local government's decision for future interpretation of its LCP. In this instance, the Commission finds that the project is consistent with the policies of the LCP, to the maximum extent feasible consistent with federal law, with respect to the grounds of the appeal. It should be noted that the County's interpretation regarding the requirements of the Telecommunications Act is correct in that the policies and provisions of the LCP can be applied

where a proposed communication facility is necessary to fill a significant gap in coverage, but only to the extent that it ensures that the proposed facility is the least intrusive means to fill the coverage gap. As such, the County's decision will not be an adverse precedent for future CDP decisions. Additionally, Ventura County is current working with staff on an update to the LCP's telecommunications policies, which will address situations such as this where federal law limits the ability to implement the LCP and Coastal Act.

The final factor in evaluating the issue of whether the appeal raises a substantial issue is if the appeal raises only local issues, or those of regional or statewide significance. The approved project raises issues of local, regional, and statewide significance because, as previously discussed, the Telecommunications Act established federal regulation over the development of telecommunications facilities across the country. However, this issue is not substantial because the Commission and local jurisdictions must consistently interpret and carry out the Telecommunication Act's provisions in the context of proposed projects, and the County's position here is consistent with the law and with the Commission's prior practice in regulating new wireless communication facilities subject to the Telecommunication Act.

In conclusion, the Commission finds that the approved project conforms to the policies and provisions of the LCP relative to visual resources, agriculture and location of new coastal-dependent development. The Commission further finds that, based on the administrative record, the County had sufficient legal and factual support for its decision. Additionally, the Commission finds that the extent and scope of the project is minor and that no significant coastal resources would be affected. The project approval will not set a precedent for future CDPs. Therefore, the Commission finds that the assertions of the appeal do not raise a substantial issue.

## **APPENDIX A**

### **Substantive File Documents**

Certified Ventura County Local Coastal Plan; Ventura County Board of Supervisors Findings and Conditions dated October 4, 2016 (Local Permit No. PL14-0128); Staff Report prepared for the Ventura County Planning Commission Hearing dated June 23, 2016.



CARPINTERIA



PROJECT LOCATION

**EXHIBIT 1**  
**A-4-VNT-16-0090 (Verizon Wireless)**  
**Vicinity Map**

VENTURA





**EXHIBIT 2**  
**A-4-VNT-16-0090 (Verizon Wireless)**  
**Site Map**



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**arizonawireless**  
2785 MITCHELL DRIVE, BLDG 9  
WALNUT CREEK, CA 94598

**HWY 101  
& RINCON  
PSL # 177707**

T-1

DISCIPLINE:	SIGNATURE:	DATE:
SITE ACQUISITION:		
PLANNER:		
CONSTRUCTION:	Kelly McCurnin	2/5/16
LANDLORD:		

**A-4-VNT-16-0090 (Verizon Wireless)  
Project Plans**



NOTES

OWNER(S): GARY & BETH SCHUBERG  
APN: 008-0-160-450

THE INFORMATION SHOWN HEREON IS BASED UPON A FIELD SURVEY AND A COMPILATION OF AVAILABLE RECORD AND TITLE INFORMATION, UNLESS NOTED OTHERWISE, PROPERTY LINES ARE DERIVED FROM RECORD INFORMATION. THE INTENT OF THIS DRAWING IS FOR EXAMINATION ONLY. THIS IS NOT A BOUNDARY SURVEY.

THE EASEMENTS (IF ANY) THAT APPEAR ON THIS MAP HAVE BEEN PLOTTED BASED SOLELY ON INFORMATION CONTAINED IN THE PRELIMINARY TITLE REPORT BY: FIRST AMERICAN TITLE COMPANY, ORDER NO. 4201-4373815, DATED APRIL 16, 2013. WITHIN SAID TITLE REPORT THERE ARE SIXTEEN (16) EXCEPTIONS LISTED, FOUR (4) OF WHICH ARE EASEMENTS, AND X (X) OF WHICH CAN NOT BE PLOTTED.

THE UNDERGROUND UTILITIES (IF ANY) THAT APPEAR ON THIS MAP HAVE BEEN LOCATED BY FIELD OBSERVATION. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH HE DOES STATE THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM THE INFORMATION AVAILABLE.

THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD RATE MAP FOR COMMUNITY NO. 060413, PANEL NO. 0538E, DATED JANUARY 20, 2010, SHOWS THAT THE LOCATION OF THIS SITE FALLS WITHIN ZONE X, WHICH ARE AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN.

THE LATITUDE AND LONGITUDE AT THE LOCATION AS SHOWN WAS DETERMINED BY GPS OBSERVATIONS.

LAT. 34°22'37.7" N, NAD 83  
LONG. 119°28'29.1" W, NAD 83  
ELEV. 195.6' NAVD 88 (BASIS OF DRAWING)

The information shown above meets or exceeds the requirements set forth in FAA order 8260.19D for 1-A accuracy ( $\pm 20'$  horizontally and  $\pm 3'$  vertically). The horizontal datum (coordinates) are expressed as degrees, minutes and seconds, to the nearest hundredth of a second. The vertical datum (heights) are expressed in feet and decimals thereof and are determined to the nearest 0.1 foot.

LEGAL DESCRIPTION (PER TITLE REPORT):

REAL PROPERTY IN THE UNINCORPORATED AREA OF THE COUNTY OF VENTURA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

PARCEL A:  
PARCEL A, AS SHOWN AND DESIGNATED ON THAT CERTAIN PARCEL MAP WAIVER (LOT LINE ADJUSTMENT) NO. 1157, RECORDED APRIL 8, 2003 AS DOCUMENT NO. 2003-116322 OF OFFICIAL RECORDS, IN THE COUNTY OF VENTURA, STATE OF CALIFORNIA, AND BEING A PORTION OF RANCHO EL RINCON, AS PER MAP RECORDED IN BOOK "A", PAGE 349 OF PATENTS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

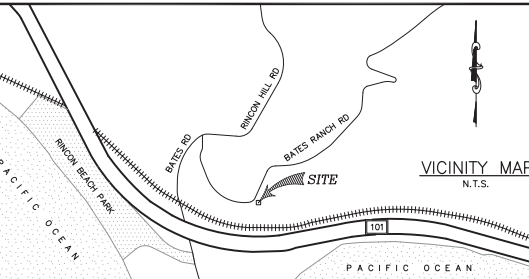
PARCEL B:  
A NON-EXCLUSIVE EASEMENT FOR ACCESS AND UTILITIES PURPOSES, BEING A STRIP OF LAND, 20.00 FEET WIDE, THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS:  
BEGINNING AT A 1 INCH IRON PIPE SET AT THE NORTHWESTERLY CORNER OF THE LAND DESCRIBED IN THE QUITCLAIM DEED, RECORDED APRIL 18, 1932, IN BOOK 376, PAGE 488 OF OFFICIAL RECORDS, SAID IRON PIPE IS SHOWN ON THE RECORD OF SURVEY, FILED IN BOOK 51, PAGES 5 THROUGH 9, INCLUSIVE, OF RECORDS OF SURVEY, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE ALONG THE WESTERLY BOUNDARY OF SAID QUITCLAIM DEED, AS SHOWN ON SAID RECORD OF SURVEY, SOUTH 6° 09' 29" WEST 243.91 FEET TO A 1 INCH IRON PIPE AT THE SOUTHWESTERLY CORNER OF SAID QUITCLAIM DEED; THENCE NORTH 25° 42' 08" WEST 455.71 FEET TO THE INTERSECTION WITH THE CENTERLINE OF THE COUNTY ROAD COMMONLY REFERRED TO AS BATES ROAD, SAID POINT BEING THE POINT OF BEGINNING OF THE CENTERLINE OF A NON-EXCLUSIVE RIGHT OF INGRESS AND EGRESS, DESCRIBED IN THE "CONTRACT AND GRANT OF EASEMENT" RECORDED DECEMBER 15, 1967, IN BOOK 3235, PAGE 394 OF OFFICIAL RECORDS, SAID POINT BEING ALSO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE ALONG SAID CENTERLINE BY THE FOLLOWING COURSES:

1ST: SOUTH 34° 53' 52" EAST 60.00 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE WESTERLY AND HAVING A RADIUS OF 50.00 FEET; THENCE, 2ND: SOUTHEASTERLY ALONG SAID CURVE AN ARC DISTANCE OF 55.80 FEET THROUGH A CENTRAL ANGLE OF 63° 56' 17" TO THE BEGINNING OF A TANGENT REVERSING CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 250.00 FEET; THENCE, 3RD: SOUTHERLY ALONG SAID REVERSING CURVE AN ARC DISTANCE OF 213.60 FEET THROUGH A CENTRAL ANGLE OF 48° 57' 14"; THENCE TANGENT TO SAID CURVE, 4TH: SOUTH 19° 54' 49" EAST 135.60 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 375.00 FEET; THENCE, 5TH: SOUTHEASTERLY ALONG SAID CURVE AN ARC DISTANCE OF 418.64 FEET THROUGH A CENTRAL ANGLE OF 63° 57' 50"; THENCE TANGENT TO SAID CURVE,  
6TH: SOUTH 83° 52' 39" EAST 49.50 FEET; THENCE, 7TH: SOUTH 89° 07' 53" EAST 97.08 FEET TO THE INTERSECTION WITH A LINE PARALLEL WITH AND 10.00 FEET NORTHERLY OF, MEASURED AT RIGHT ANGLES, THE SOUTHERLY LINE OF PARCEL 1, AS DESCRIBED IN THE GRANT DEED, RECORDED AUGUST 8, 1997 AS DOCUMENT NO. 97-100414 OF OFFICIAL RECORDS, SAID LINE DESCRIBED IN SAID PARCEL 1.  
AS HAVING A BEARING AND DISTANCE OF NORTH 88° 02' 29" WEST 205.10 FEET; THENCE ALONG SAID PARALLEL LINE, 8TH: SOUTH 88° 02' 29" EAST 44.60 FEET TO THE INTERSECTION WITH THE WESTERLY BOUNDARY OF PARCEL 2, HEREIN ABOVE DESCRIBED.

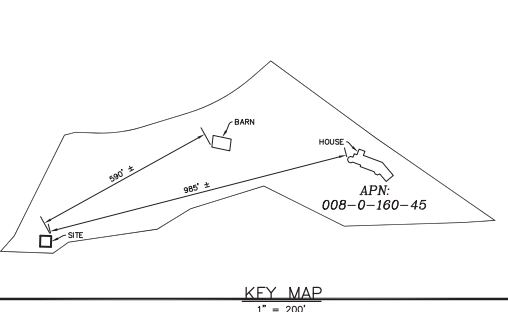
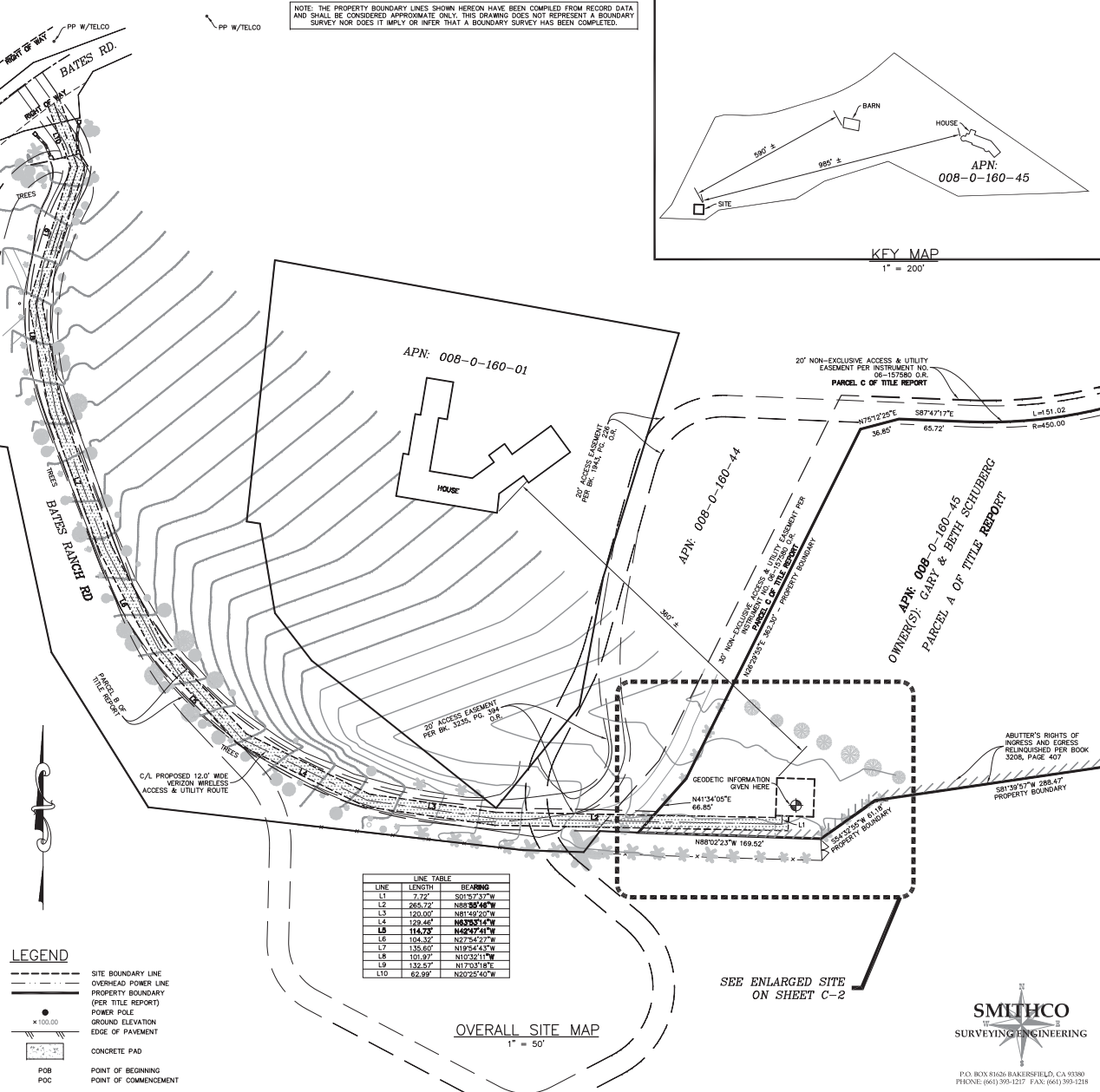
THE SIDELINES OF SAID STRIP OF LAND TO BE LENGTHENED OR SHORTENED TO TERMINATE EASTERLY IN SAID WESTERLY BOUNDARY OF PARCEL 2.

PARCEL C:  
NON EXCLUSIVE EASEMENTS FOR ACCESS AND UTILITIES, AS SET FORTH AND DESCRIBED AS UTILITY EASEMENTS 1, 2, 3 AND 4, AND ACCESS EASEMENTS 1, 2 AND 3 IN THE DECLARATION OF RESTRICTIONS, RECORDED JULY 26, 2006, AS DOCUMENT NO. 20060726-157580 OF OFFICIAL RECORDS.

APN: 008-0-160-450



NOTE: THE PROPERTY BOUNDARY LINES SHOWN HEREON HAVE BEEN COMPILED FROM RECORD DATA AND SHALL BE CONSIDERED APPROXIMATE ONLY. THIS DRAWING DOES NOT REPRESENT A BOUNDARY SURVEY NOR DOES IT IMPLY OR INFER THAT A BOUNDARY SURVEY HAS BEEN COMPLETED.



ISSUE STATUS

REV	DATE	DESCRIPTION	BY
0	03/13/13	PRELIMINARY	SL
1	03/21/13	LEASE AREA	SL
2	08/01/13	UTILITY ROUTE	SL
3	08/21/13	TITLE REVIEW	SL
4	08/29/13	REV. UTILITY ROUTE	SL
5	09/23/13	REV. UTILITY ROUTE	SL
6	09/26/13	ADD ACCESS	SL
7	10/22/13	ADD RESIDENCE	SL
8	05/02/14	CHANGE ADDRESS	SL
9	05/12/14	REV. LEASE	SL

SMITHCO JOB NO.: 82-165



**WIRELESS**  
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RINCON

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CARPINTERIA, CA  
93013  
VENTURA  
COUNTY

SHEET TITLE:  
**SITE SURVEY**  
FOR EXAMINATION ONLY

C-1



P.O. BOX 81626, BAKERSFIELD, CA 93380  
PHONE: (661) 390-1207 FAX: (661) 393-1218

4. A RIGHT OF WAY FOR WATER WAYS AND DITCHES AND INCIDENTAL PURPOSES AS SET FORTH IN AN INSTRUMENT.  
AFFECTS : JULY 25, 1987 IN BOOK 20, PAGE 423 OF RECORDS  
AFFECTS : OVER A PORTION OF SAID LAND  
\*\*\* NOT PLOTTABLE - EXACT LOCATION CANNOT BE DETERMINED FROM RECORD \*\*\*
5. AN EASEMENT FOR ROAD AND INCIDENTAL PURPOSES, RECORDED DECEMBER 28, 1960 IN BOOK 1943, PAGE 226 AND DECEMBER 15, 1967 IN BOOK 3235, PAGE 394, BOTH OF OFFICIAL RECORDS. IN FAVOR OF: UNITED STATES OF AMERICA  
AFFECTS: AS DESCRIBED THEREIN  
TERMS AND PROVISIONS CONTAINED IN THE ABOVE DOCUMENT.  
\*\*\* PLOTTED AS SHOWN HEREIN \*\*\*
6. ABUTTEE'S RIGHTS OF INGRESS AND EGRESS TO OR FROM STREET OR HIGHWAY HAVE BEEN RELINQUISHED IN THE DOCUMENT RECORDED OCTOBER 12, 1967 IN BOOK 3208, PAGE 407 OF OFFICIAL RECORDS.  
\*\*\* PLOTTED AS SHOWN HEREIN \*\*\*
10. COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS IN THE DOCUMENT RECORDED JULY 26, 2009 AS INSTRUMENT NO. 06-157580 OF OFFICIAL RECORDS, BUT DELETING ANY COVENANT, CONDITION, OR RESTRICTION INDICATING A PREFERENCE, LIMITATION OR DISCRIMINATION BASED ON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, MARITAL STATUS, ANCESTRY, DISABILITY, HANDICAP, FAMILIAL STATUS, NATIONAL ORIGIN OR SOURCE OF INCOME (AS DEFINED IN CALIFORNIA GOVERNMENT CODE §12595(P)), TO THE EXTENT SUCH COVENANTS, CONDITIONS OR RESTRICTIONS VIOLATE 42 U.S.C. §860c(a)(4) OR CALIFORNIA GOVERNMENT CODE §12955. LAWFUL RESTRICTIONS UNDER STATE AND FEDERAL LAW ON THE AGE OF OCCUPANTS IN SENIOR HOUSING OR HOUSING FOR SENIORS SHALL NOT BE CONSIDERED AS RESTRICTIONS BASED ON FAMILIAL STATUS.  
\*\*\* PLOTTED AS SHOWN HEREIN \*\*\*

ALL THAT PORTION OF THE HEREON DESCRIBED LESSOR'S PROPERTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWESTERLY MOST CORNER OF SAID LESSOR'S PROPERTY, THENCE ON AND ALONG THE SOUTH LINE OF SAID LESSOR'S PROPERTY, S 88°02'23" E, A DISTANCE OF 126.75 FEET; THENCE LEAVING SAID SOUTH LINE, N 01°57'37" E, A DISTANCE OF 20.00 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING N 01°57'37" E, A DISTANCE OF 35.00 FEET;

THENCE S 88°02'23" E, A DISTANCE OF 35.00 FEET;

THENCE N 01°57'37" W, A DISTANCE OF 35.00 FEET;

THENCE N 88°02'23" W, A DISTANCE OF 29.00 TO A POINT HEREAFTER DESCRIBED AS POINT 'A';

THENCE CONTINUING N 88°02'23" W, A DISTANCE OF 6.00 TO THE POINT OF BEGINNING.

CONTAINING 1,225 SQUARE FEET, MORE OR LESS.

A 5.00 MILE EASEMENT FOR POWER AND TELCO PURPOSES, LYING 6.00 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:  
 BEGINNING AT THE HEREBEFORE DESCRIBED POINT 'A';  
 THENCE S 01°37'37" W, A DISTANCE OF 7.72 FEET;  
 THENCE N 88°55'46" W, A DISTANCE OF 265.72 FEET;  
 THENCE N 81°49'20" W, A DISTANCE OF 120.00 FEET;  
 THENCE N 63°53'14" W, A DISTANCE OF 129.46 FEET;  
 THENCE N 42°47'41" W, A DISTANCE OF 114.73 FEET;  
 THENCE N 27°54'27" W, A DISTANCE OF 104.92 FEET;  
 THENCE N 19°54'43" W, A DISTANCE OF 135.60 FEET;  
 THENCE N 10°32'11" W, A DISTANCE OF 101.97 FEET;  
 THENCE N 17°03'18" E, A DISTANCE OF 132.57 FEET;  
 THENCE N 20°25'40" W, A DISTANCE OF 109.92 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF BATES ROAD AND THE TERMINUS OF THIS DESCRIPTION.  
 THE SIDELINES OF WHICH SHALL BE SHORTENED OR LENGTHENED TO INTERSECT WITH THE EASTERLY OF BATES ROAD AND THE SOUTHERLY LINE OF THE ABOVE DESCRIBED DEMISED PREMISE.

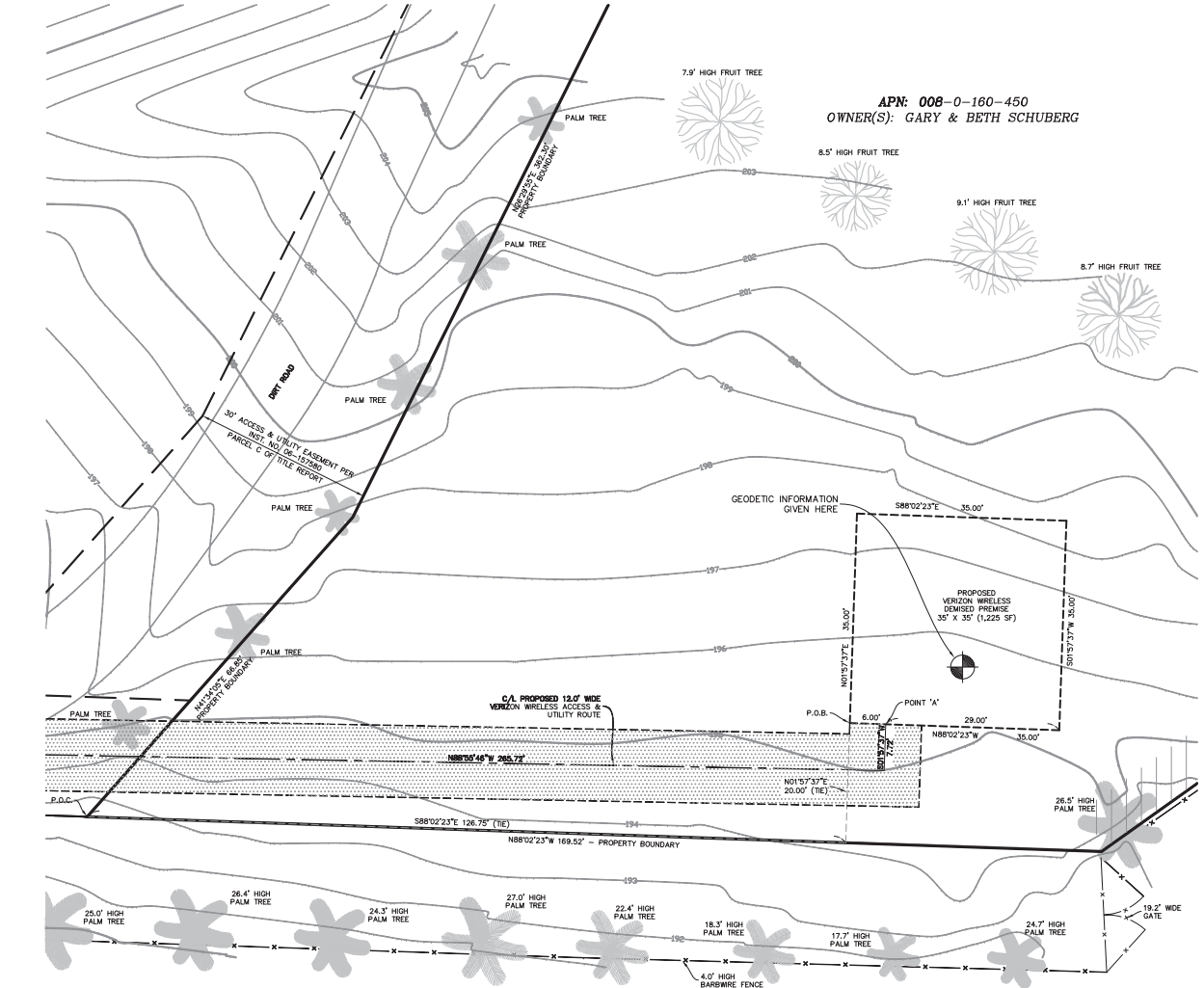


Diagram illustrating the symbols used in a typical utility plan:

- SITE BOUNDARY LINE
- OVERHEAD POWER LINE
- PROPERTY BOUNDARY (PER TITLE REPORT)
- POWER POLE
- GROUND ELEVATION
- EDGE OF PAVEMENT
- CONCRETE PAD
- POB (POINT OF BEGINNING)
- POC (POINT OF COMMENCEMENT)



**SMITHCO**  
SURVEYING ENGINEERING

P.O. BOX 81626 BAKERSFIELD, CA 93380  
PHONE: (661) 393-1217 FAX: (661) 393-1218

**PROPRIETARY INFORMATION**

THE INFORMATION CONTAINED IN THIS SET  
OF DRAWINGS IS PROPRIETARY & CONFIDENTIAL  
TO VERIZON WIRELESS

ANY USE OR DISCLOSURE OTHER THAN  
AS IT RELATES TO VERIZON WIRELESS  
IS STRICTLY PROHIBITED

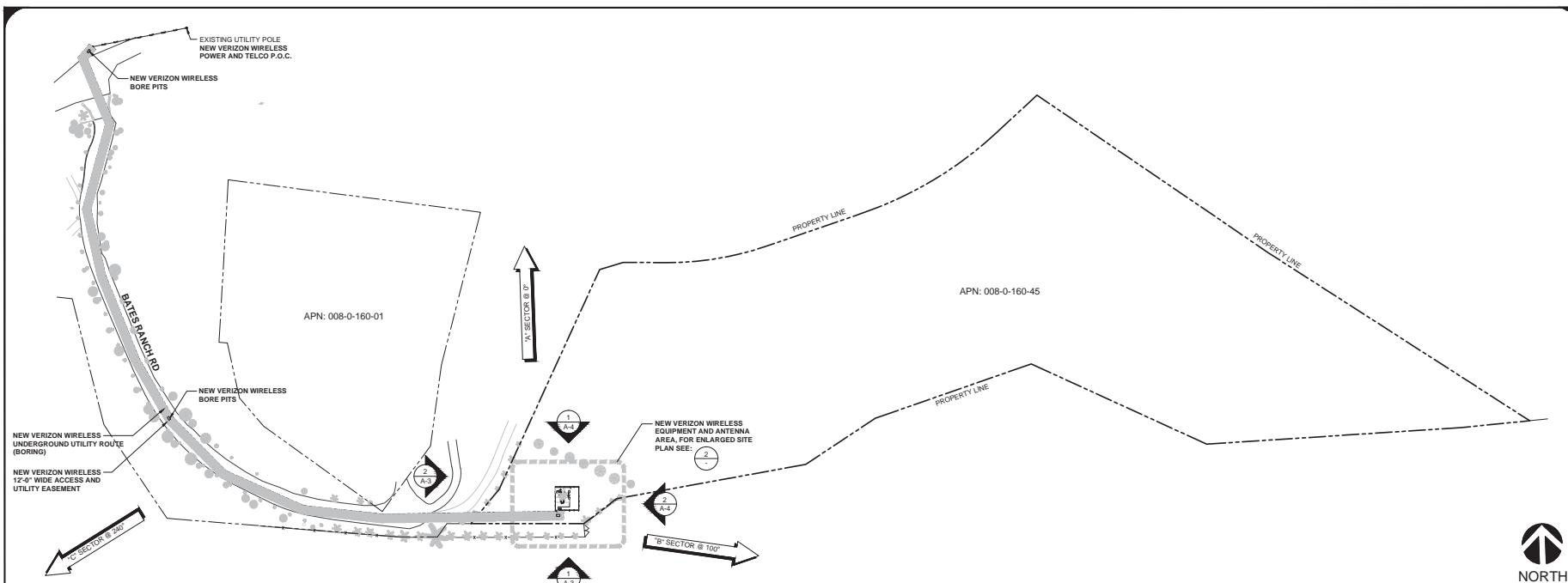
**verizon**wireless

2785 MITCHELL DRIVE, BLDG 9  
WAINUT CREEK, CA 94598

RINCON

SHEET TITLE:

C-2



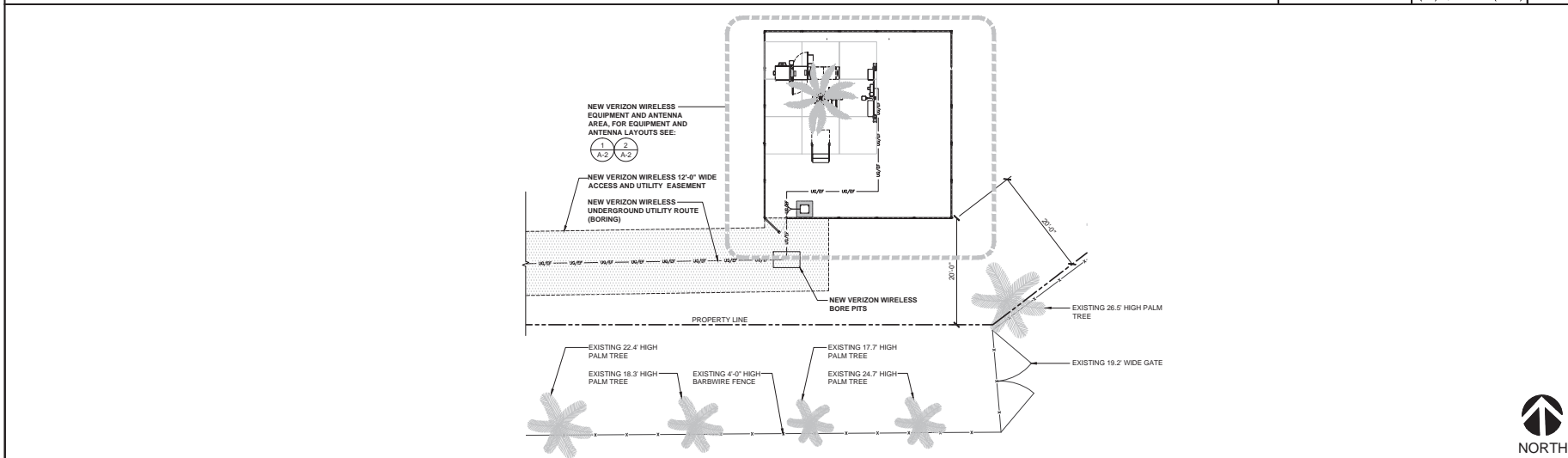
OVERALL SITE PLAN



SCALE: 1" = 80'-0" (24x36)  
(OR) 1/2" = 80'-0" (11x17)



1



ENLARGED SITE PLAN



SCALE: 1" = 10'-0" (24x36)  
(OR) 1/2" = 10'-0" (11x17)



2

ISSUE STATUS

REV	DATE	DESCRIPTION	BY
0	01/15/16	PLANNING SUBMITTAL	OM
1	02/05/16	RE-DESIGN	AS



5015 SHOREHAM PLACE  
SAN DIEGO, CA 92122  
WWW.SOC-ENG.COM  
619.736.5766

PROPRIETARY INFORMATION  
THE INFORMATION CONTAINED IN THIS SET OF  
DRAWINGS IS PROPRIETARY & CONFIDENTIAL TO  
VERIZON WIRELESS

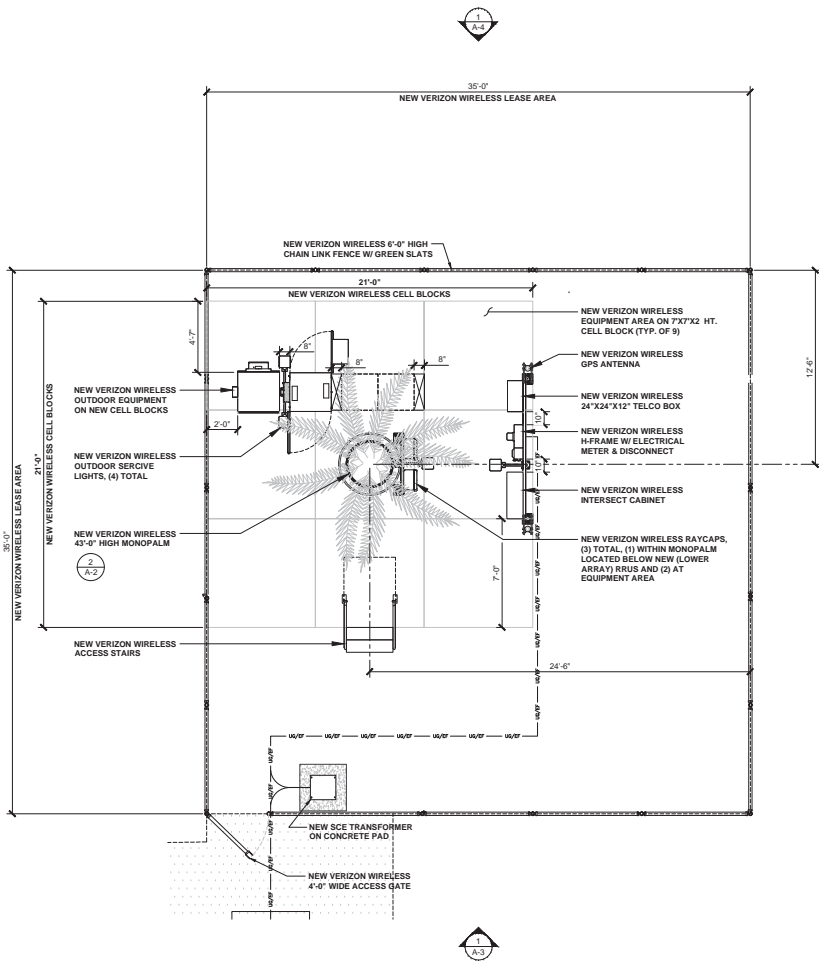
ANY USE OR DISCLOSURE OTHER THAN AS IT RELATES  
TO VERIZON WIRELESS IS STRICTLY PROHIBITED



HWY 101  
& RINCON  
PSL # 177707  
8320 BATES RD.  
CARPINTERIA, CA 93013

SHEET TITLE:  
OVERALL &  
ENLARGED SITE PLAN

A-1

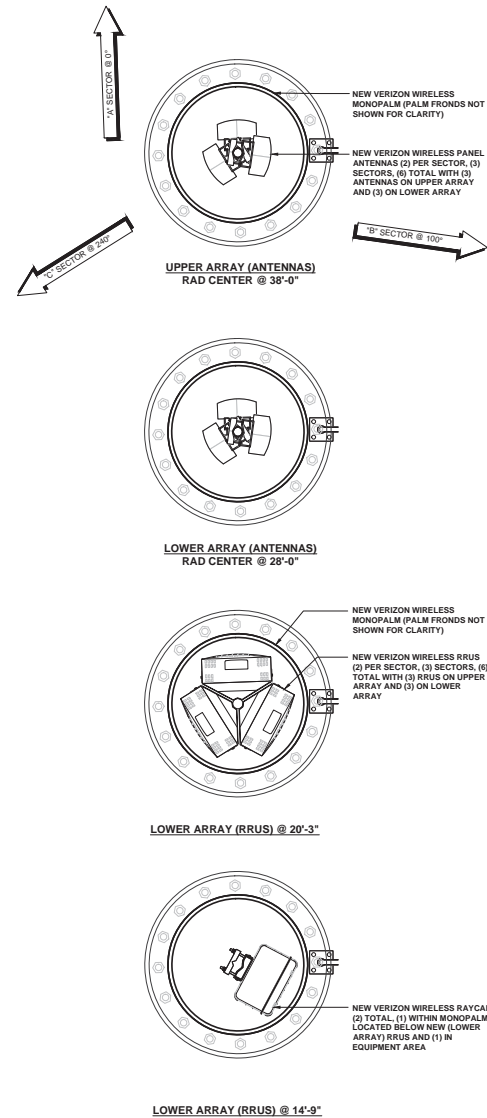


EQUIPMENT LAYOUT

0 1' 2' 4'  
SCALE: 1/4" = 1'-0" (24x36)  
(OR) 1/8" = 1'-0" (11x17)

1

ANTENNA LAYOUT



0 3' 6' 1'  
SCALE: 3/4" = 1'-0" (24x36)  
(OR) 3/8" = 1'-0" (11x17)

2

ISSUE STATUS

REV	DATE	DESCRIPTION	BY
0	01/15/16	PLANNING SUBMITTAL	OM
1	02/05/16	RE-DESIGN	AS



5015 SHOREHAM PLACE  
SAN DIEGO, CA 92122  
WWW.SDCI.COM  
619.736.5766

PROPRIETARY INFORMATION

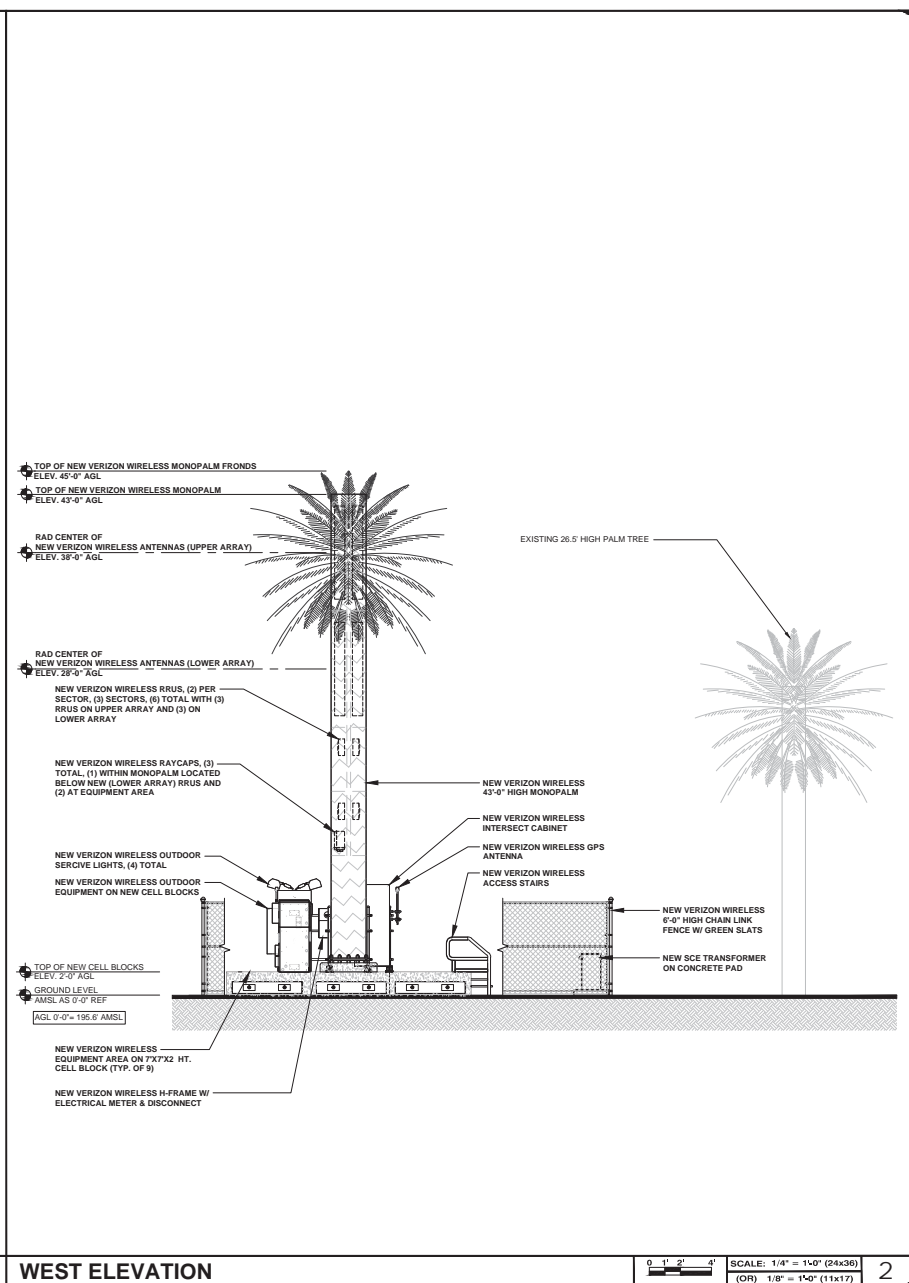
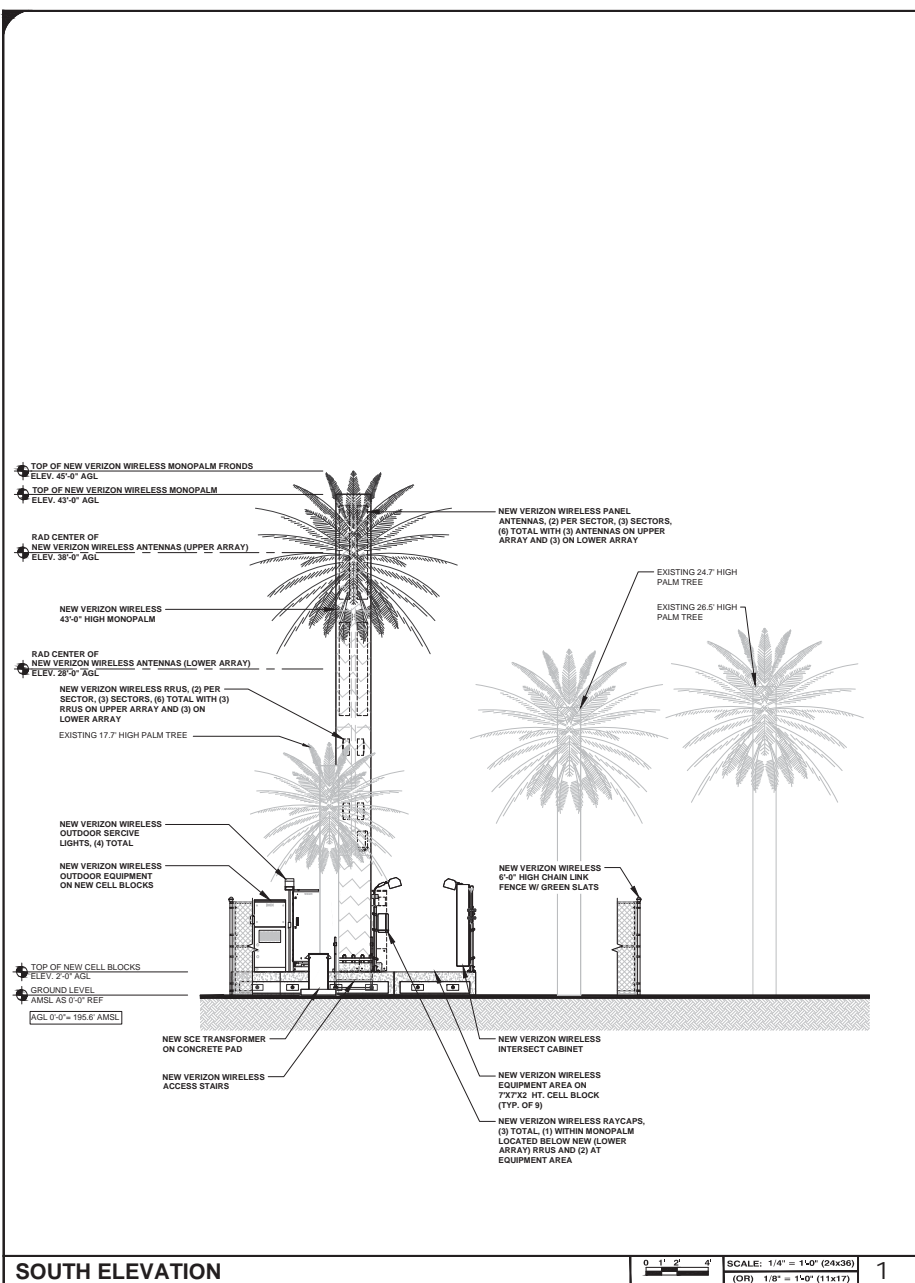
THE INFORMATION CONTAINED IN THIS SET OF DRAWINGS IS PROPRIETARY & CONFIDENTIAL TO VERIZON WIRELESS. ANY USE OR DISCLOSURE OTHER THAN AS IT RELATES TO VERIZON WIRELESS IS STRICTLY PROHIBITED.



HWY 101  
& RINCON  
PSL # 177707  
8320 BATES RD.  
CARPINTERIA, CA 93013

SHEET TITLE:  
EQUIPMENT &  
ANTENNA LAYOUT

A-2



REV	DATE	DESCRIPTION	BY
0	01/15/16	PLANNING SUBMITTAL	OM
1	02/05/16	RE-DESIGN	AS



**PROPRIETARY INFORMATION**  
THE INFORMATION CONTAINED IN THIS SET OF DRAWINGS IS PROPRIETARY & CONFIDENTIAL TO VERIZON WIRELESS  
ANY USE OR DISCLOSURE OTHER THAN AS IT RELATES TO VERIZON WIRELESS IS STRICTLY PROHIBITED



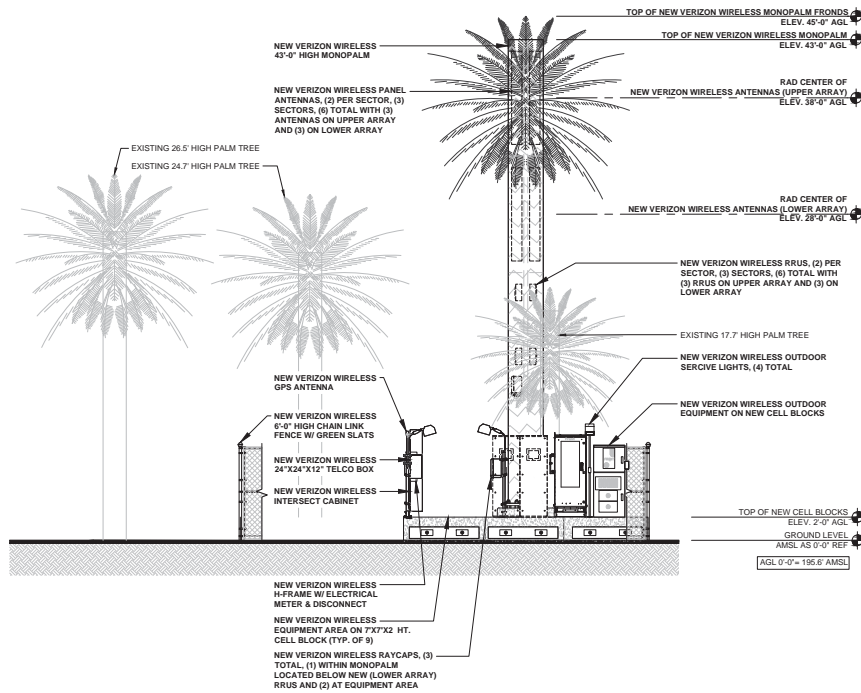
**HWY 101  
& RINCON  
PSL # 177707  
8320 BATES RD.  
CARPINTERIA, CA 93013**

**SHEET TITLE:  
SOUTH & WEST  
ELEVATION**

**A-3**



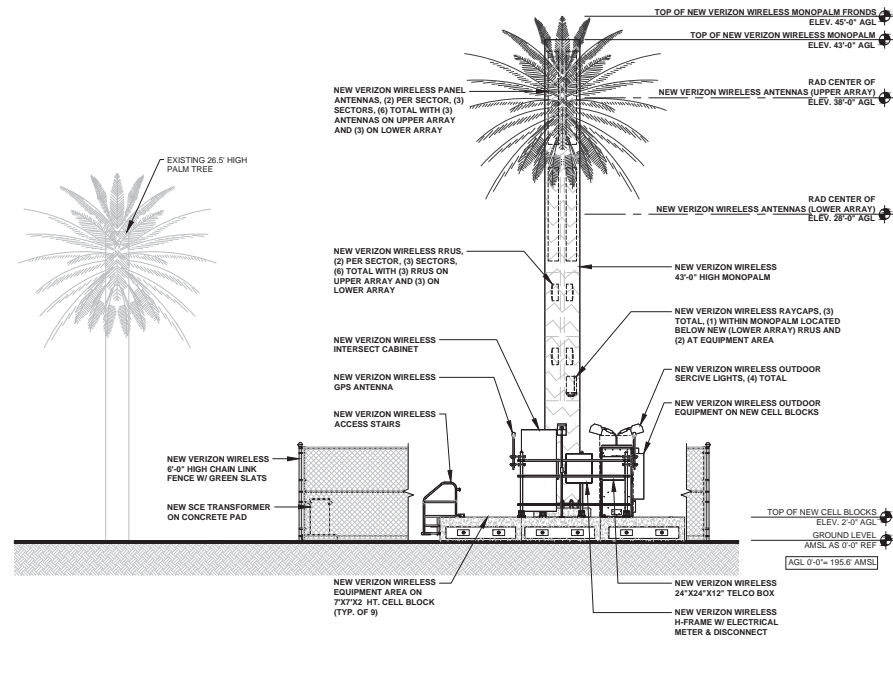
NOTES: THE GENERAL NOTE OF THIS DRAWING IS: SEE ALL NOTES ON THE PROJECT AND ALL NOTES ON THE PROJECT.



NORTH ELEVATION

0' 1' 2' 4'  
SCALE: 1/4" = 1'-0" (24x36)  
(OR) 1/8" = 1'-0" (11x17)

1



EAST ELEVATION

0' 1' 2' 4'  
SCALE: 1/4" = 1'-0" (24x36)  
(OR) 1/8" = 1'-0" (11x17)

2

ISSUE STATUS

REV	DATE	DESCRIPTION	BY
0	01/15/16	PLANNING SUBMITTAL	OM



5865 AVENIDA ENCINAS  
CARLSBAD, CA 92008  
WWW.SACW.COM  
760.795.5200

PROPRIETARY INFORMATION  
THE INFORMATION CONTAINED IN THIS SET OF  
DRAWINGS IS PROPRIETARY & CONFIDENTIAL TO  
VERIZON WIRELESS.  
ANY USE OR DISCLOSURE OTHER THAN AS IT RELATES  
TO VERIZON WIRELESS IS STRICTLY PROHIBITED

verizon wireless  
2785 MITCHELL DRIVE, BLDG 9  
WALNUT CREEK, CA 94598

HWY 101  
& RINCON  
PSL # 177707  
8320 BATES RD.  
CARPINTERIA, CA 93013

SHEET TITLE:  
NORTH & EAST  
ELEVATION

A-4



**VICINITY MAP**  
**PHOTOSIMULATION VIEWPOINTS**



HWY 101 & RINCON  
PSL #177707  
8320 BATES RD.  
CARPINTERIA, CA 93013



**EXHIBIT 4**  
**A-4-VNT-16-0090 (Verizon Wireless)**  
**Photosimulations of Proposed Project**





HWY 101 & RINCON  
PSL #177707  
8320 BATES RD.  
CARPINTERIA, CA 93013

**SOC**  
WIRELESS  
ENGINEERING GROUP  
5505 AVENIDA ENCINAS, SUITE 142B  
CARLSBAD, CA 92008  
OFFICE: (760) 795-5200

## PHOTOSIMULATION VIEW 1

EXISTING



NEW





PHOTOSIMULATION VIEW 2



HWY 101 & RINCON  
PSL #177707  
8320 BATES RD.  
CARPINTERIA, CA 93013



EXISTING



NEW





PHOTOSIMULATION VIEW 3



HWY 101 & RINCON  
PSL #177707  
8320 BATES RD.  
CARPINTERIA, CA 93013



## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST DISTRICT OFFICE  
89 SOUTH CALIFORNIA STREET, SUITE 200  
VENTURA, CA 93001-4508  
VOICE (805) 585-1801 FAX (805) 641-1732

OCT 26 2016



## APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Nicholas A. Brown (On behalf of surrounding property owners and family members whose property surrounds proposed project site)  
Mailing Address: 6940 Casitas Pass  
City: Carpinteria Zip Code: 93013 Phone: 805-450-4469

SECTION II. Decision Being Appealed

1. Name of local/port government: Ventura County
2. Brief description of development being appealed:  
Verizon Wireless Communications Facility @ Rincon Point
3. Development's location (street address, assessor's parcel no., cross street, etc.):  
8320 Bates Road, Parcel # 008-0-160-450
4. Description of decision being appealed (check one.):  
☐ Approval; no special conditions  
☒ Approval with special conditions:  
☐ Denial

**Note:** For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:	
APPEAL NO:	<u>A-4-VNT-16-0090</u>
DATE FILED:	<u>10/26/16</u>
DISTRICT:	<u>South Central Coast</u>

EXHIBIT 5  
A-4-VNT-16-0090 (Verizon Wireless)  
Appeal

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)**

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator  
☒ City Council/Board of Supervisors  
☐ Planning Commission  
☐ Other

6. Date of local government's decision:

Planning Commission (June-23<sup>rd</sup>) Board of Supervisors (Oct. 4<sup>th</sup>)

7. Local government's file number (if any):

Case No. PL14-0128

**SECTION III. Identification of Other Interested Persons**

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Verizon Wireless  
2785 Mitchell Drive, Building 9  
Walnut Creek, CA 94598

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Anthony Brown  
6940 Casitas Pass Road, Carpinteria, CA 93013

(2) Jehanne Brown  
1565 Seacoast Way, Carpinteria, CA 93013

(3) Christine Brown  
6940 Casitas Pass Road, Carpinteria, CA 93013

(4) Jonathan Brown  
6910 Casitas Pass Road, Carpinteria, CA 93013

(5) Kirk Peterson  
~~8316~~ 8316 Bates Road, Carpinteria, CA 93013

★ continued on Back of this page ★

(6) Brook Harvey-Taylor  
8111 Puesta del Sol, Carpinteria, 93013

(7) Jeremy Harper<sup>★</sup>  
270 Bonnie Lane, Santa Barbara, CA 93108

(8) Duncan Abbott  
P.O. Box 1322 Carpinteria, CA 93014

(9) Doug White<sup>★</sup>  
8128 Puesta del Sol, Carpinteria, 93013

(10) Billy Taylor<sup>★</sup>  
8111 Puesta del Sol, Carpinteria, CA 93013

(11) Justin Kellenberger<sup>★</sup>

(12) Pete Muller<sup>★</sup>  
8072 Puesta del Sol, Carpinteria, CA 93013

(13) Jeffrey Stott<sup>★</sup>  
8111 Buena Fortuna Road, Carpinteria, CA 93013

(14) Malia Murphy<sup>★</sup>

(15) Michael Haber<sup>★</sup>

(16) Eileen Haber<sup>★</sup>

(17) Marta Ulvaeus<sup>★</sup>

(18) Gayle Teague<sup>★</sup>

★ = Wrote in to the county to oppose this project.

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)**

**SECTION IV. Reasons Supporting This Appeal**

**PLEASE NOTE:**

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)**

**SECTION V. Certification**

The information and facts stated above are correct to the best of my/our knowledge.



Signature of Appellant(s) or Authorized Agent

Date:

10-26-16

**Note:** If signed by agent, appellant(s) must also sign below.

**Section VI. Agent Authorization**

I/We hereby  
authorize

\_\_\_\_\_

to act as my/our representative and to bind me/us in all matters concerning this appeal.

\_\_\_\_\_  
Signature of Appellant(s)

Date:

\_\_\_\_\_



OCT 26 2016

This appeal is based on the failure of the applicant, Verizon Wireless, to propose their project at an existing cell site location 346 yards away from their proposed new development.

Further, the Ventura County Planning Commission, as well as the Board of Supervisors, approved this project, disregarding the Coastal Act, Sections:

- 30260 "Location or Expansion"

- "Coastal-dependent industrial facilities shall be encouraged to locate or expand within existing sites and shall be permitted reasonable long-term growth where consistent with this division." The competitor located on the existing site has remedied their gap in coverage with excellent results. The applicant stated to the Planning Commission that the gap in coverage was their only issue.

- 30242 "Lands Suitable for Agricultural Use; conversion"

- "All other lands suitable for agriculture use shall not be converted to non agriculture uses, unless "1" continued or renewed agriculture use is not feasible" The proposed site is on land that has been historically farmed for about 100 years with various crops.

- 30251 "Scenic and Visual Qualities"

- "The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance."

-30253, Item E, "Minimization of adverse Impacts"

- "Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses." (Hundreds of thousands of locals and tourists visit Rincon Beach annually, and would be directly impacted by the disruption of the historic and iconic coastal view shed.)

The California Environmental Quality Act statute #21002, "Approval of Projects; Feasible Alternative or Mitigation Measures" states:

"...it is the policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects..."

In the October 4<sup>th</sup>, 2016 hearing, Chairwoman Linda Parks (District 2, voted against project) suggested to the applicant that they collocate with the existing nearby cell site. However, even though it is less than 400 yards away from the proposed site, it is in Santa Barbara County, therefore, collocation could not be mandated by the Ventura County board.



SB

County line

Ventura





Existing  
cell pole  
just over  
county  
line



Proposed development  
now being reviewed by  
Coastal Commission

© 2016 Google



Guide 1994

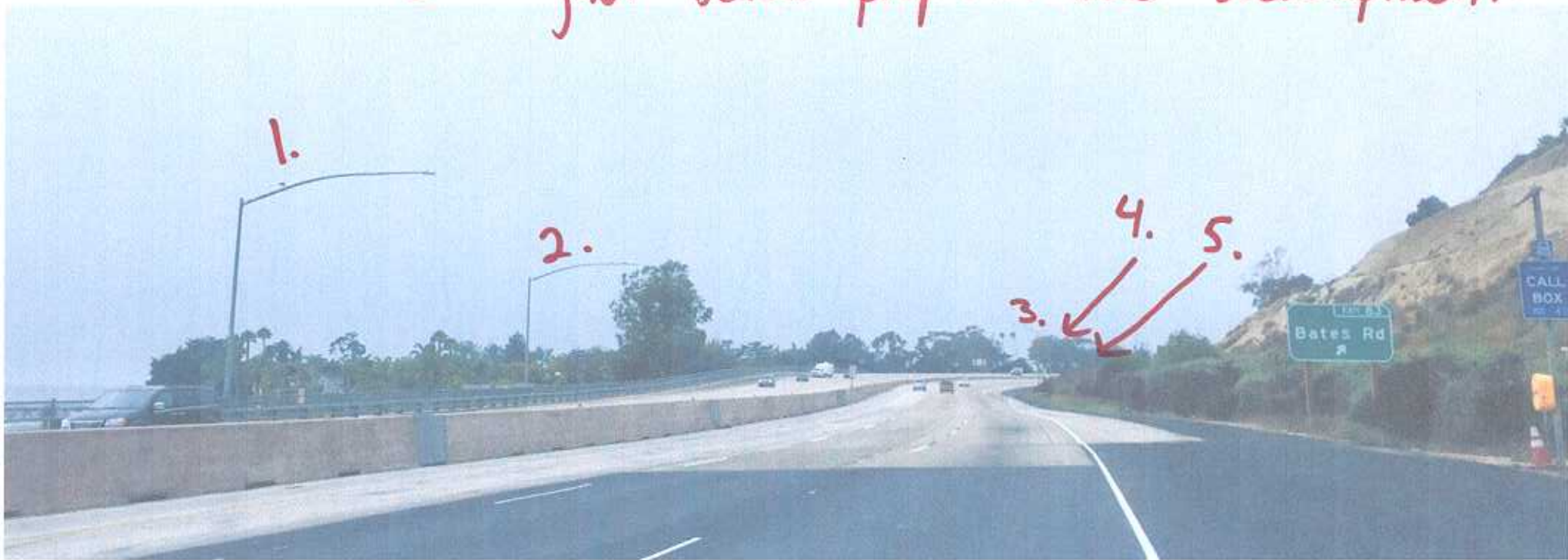
Imagery Date: 2/3/2016 34°22'48.70" N 119°28'29.18" W elev 110 ft eye alt 1300 ft



Verizon  
at AT&T  
cell site



Existing poles/structures on Vent. County  
just below proposed new development.



Verizon lawyer + engineer claimed there  
were no poles and no electricity in that  
area — repeatedly.



Massive structure in area claimed  
Verizon lawyer + engineer exists.  
no structures or electricity exists.



Proposed site



Rincon  
Point  
↓





Existing AT&T site.



Collocation?

Verizon claimed this site was  
"too small"



Pole, wiring coming over  
from AT&T site just over 101

train  
tracks →



101  
Freeway →

Existing fiber optics.  
Engineer claimed it wasn't available  
along the freeway/ in this area.





AT&T  
site.  
Behind  
shrub.

4-VNT-16-0985

RESOURCE MANAGEMENT AGENCY

 county of ventura

Planning Division

Kimberly L. Prillhart  
Director

*appealable*

**NOTICE OF FINAL DECISION**

**Received**

October 10, 2016

OCT 12 2016

California Coastal Commission  
89 South California Street, Suite 200  
Ventura, CA 93001

California Coastal Commission  
South Central Coast District

On October 4, 2016, the Board of Supervisors approved Conditional Use Permit No. PL14-0128. No Appeals were filed with the County, so the decision to approve the project will be final and effective at the end of the Coastal Commission Appeal period if no Appeals are filed. The project information is as follows:

**Applicant's Name and Address:** Verizon Wireless, 2785 Mitchell Drive, Building 9, Walnut Creek, CA 94598

**Project Location:** 8320 Bates Road, Rincon Point area

**Assessor Parcel No.:** 008-0-160-450

**Project Description:** The applicant requests that a CUP be granted to authorize the construction, operation and maintenance of an unmanned wireless communication facility. The proposed wireless communications facility would include the following components:

- A 45-foot tall faux palm tree (i.e. mono-palm) antenna structure with a RAD center (radiation center, or the center line of the antenna mounting height) placed at 38 feet above the ground.
- An equipment shelter that encompasses approximately 186 square feet.
- Six panel antennas installed on the mono-palm. Three antennas would be located at the 38-foot level of the mono-palm. Three antennas would be located at the 28-foot level of the mono-palm.
- Six remote radio units installed on the mono-palm. Three remote radio units would be located at the 20-foot, 3-inch level of the mono-palm. Three remote radio units would be located at the 14-foot, 9-inch level of the mono-palm.



- Two ray cap surge protectors installed on the mono-palm. One would be installed at the 14-foot, 9-inch level of the mono-palm and one would be located in the equipment shelter.
- Two GPS antennas installed on the roof of the proposed equipment shelter.
- A 30-kilowatt emergency backup generator.

All of the above components of the proposed wireless communications facility would be located within a 1,225 square foot lease area and installed on a concrete pad. A 6-foot tall chain link fence with green slats would be erected at the perimeter of the lease area.

About 0.29 acres of existing native brush and vegetation is required to be removed to accommodate the new facility. Minimal ground disturbance is required in the form of removal and recompaction of the soil to accommodate the installation of the wireless communications facility. Water is not required to operate the unmanned facility. Access to the site is provided by a private unpaved driveway (Bates Ranch Road) that connects to Bates Road.

**Date Project Application Filed:** August 28, 2014

**Project Approval Date:** October 4, 2016

**End of County Appeal Period:** None. No appeal period after Board of Supervisors decision

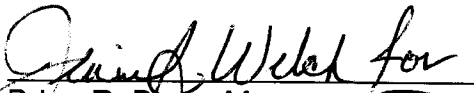
**Findings and Conditions:** Please see the attached staff report for the findings and conditions that apply to the project.

**Appeals:** After receipt of this Notice, the Coastal Commission will establish its Appeal period. At the conclusion of that Appeal period, if no Appeals are filed, this decision will be final.

This project is not located in the Coastal Commission Appeals Jurisdiction. However, the project is appealable to the Coastal Commission as the proposed wireless communications facility is not defined as a principally permitted use per Section 8174-5 of the Ventura County Coastal Zoning Ordinance. Section 8181-9.5(b)(3) of the Ventura County Coastal Zoning Ordinance, states that any *development approved by the County that is not designated as the principally-permitted use under this Ordinance is appealable to the Coastal Commission*. The Ventura County Coastal Zoning Ordinance also states that the *grounds of appeal for any development that is subject to appeal pursuant to Section 8181-9.5b(3) shall be limited to whether the development is in*

*conformity with the Local Coastal Plan* (i.e. California Coastal Act and Ventura County Coastal Area Plan Policies)

Any inquiries regarding this Notice of Final Decision should be directed to Kristina Boero, the Case Planner, at (805) 2467 or [kristina.boero@ventura.org](mailto:kristina.boero@ventura.org).



Brian R. Baca, Manager  
Commercial and Industrial Permits Section  
Ventura County Planning Division

Attachment:

Final Conditions of Approval for PL14-0128  
Board of Supervisors Board Letter for PL14-0128  
Coastal Commission Staff Report  
Site Plans and Photo Simulations  
Zoning, General Plan and Area Plan Maps

- c: Verizon Wireless, 2785 Mitchell Drive, Building 9, Walnut Creek, CA 94598 (Applicant)  
Gary and Beth Schuberg, 8320 Bates Road, Carpinteria, CA 93013 (Property Owner)  
Tricia Knight of TEK Consulting, Inc., 123 Seacliff Drive, Pismo Beach, CA 93449 (applicant's representative)  
Mackenzie and Albritton, LLP / Mr. Paul Albritton, 220 Sansome Street, 14<sup>th</sup> Floor, San Francisco, CA 94104 (Verizon Counsel)  
Anthony Brown, 6940 Casitas Pass Road, Carpinteria, CA 93014  
File

## **EXHIBIT 5- FINAL CONDITIONS OF APPROVAL FOR CONDITIONAL USE PERMIT (CUP) NO. PL14-0128**

### **VERIZON WIRELESS BATES ROAD, RINCON POINT**

#### **RESOURCE MANAGEMENT AGENCY (RMA) CONDITIONS**

##### **Planning Division (PL) Conditions**

###### **1. Project Description**

This CUP is based on and limited to compliance with the project description stated in this condition below, all County land use hearing exhibits in support of the project marked exhibits 2 through 13, dated October 4, 2016, and conditions of approval set forth below. Together, these conditions and documents describe the "Project." Any deviations from the Project must first be reviewed and approved by the County in order to determine if the Project deviations conform to the Project as approved. Project deviations may require Planning Commission approval for changes to the permit or further California Environmental Quality Act (CEQA) environmental review, or both. Any Project deviation that is implemented without requisite County review and approval(s) may constitute a violation of the conditions of this permit and applicable law.

The Project description is as follows:

This permit authorizes the construction, operation and maintenance of an unmanned wireless communication facility.

The wireless communications facility includes the following components:

- A 45-foot tall faux palm tree (i.e. mono-palm) antenna structure with a RAD center (radiation center, or the center line of the antenna mounting height) placed at 38 feet above the ground.
- An equipment shelter that encompasses approximately 186 square feet.
- Six panel antennas installed on the mono-palm. Three antennas would be located at the 38-foot level of the mono-palm. Three antennas would be located at the 28-foot level of the mono-palm.
- Six remote radio units installed on the mono-palm. Three remote radio units would be located at the 20-foot, 3-inch level of the mono-palm. Three remote radio units would be located at the 14-foot, 9-inch level of the mono-palm.
- Two ray cap surge protectors installed on the mono-palm. One would be installed at the 14-foot, 9-inch level of the mono-palm and one would be located in the equipment shelter.
- Two GPS antennas installed on the roof of the proposed equipment shelter.

**4. Acceptance of Conditions and Schedule of Enforcement Responses**

The Permittee's acceptance of this CUP and/or commencement of construction and/or operations under this CUP shall constitute the Permittee's formal agreement to comply with all conditions of this CUP. Failure to abide by and comply with any condition of this CUP shall constitute grounds for enforcement action provided in the Ventura County Coastal Zoning Ordinance (Article 13), which shall include, but is not limited to, the following:

- Public reporting of violations to the Planning Commission and/or Board of Supervisors;
- Suspension of the permitted land uses (Condition No. 1);
- Modification of the CUP conditions listed herein;
- Recordation of a "Notice of Noncompliance" on the deed to the subject property;
- The imposition of civil administrative penalties; and/or
- Revocation of this CUP.

The Permittee is responsible for being aware of and complying with the CUP conditions and all applicable federal, state, and local laws and regulations.

**5. Time Limits**

- a. Use inauguration: The approval decision for this CUP becomes effective upon the expiration of the 10-day appeal period following the approval decision, or when any appeals of the decision are finally resolved. Once the approval decision becomes effective, the Permittee must obtain a Zoning Clearance for construction in order to initiate the land uses set forth in Condition No. 1.

This CUP shall expire and become null and void if the Permittee fails to obtain a Zoning Clearance for construction within one year from the date the approval decision of this CUP/PD becomes effective pursuant to Ventura County Coastal Zoning Ordinance (§ 8181-7.7). The Planning Director may grant a one year extension of time to the Permittee in order to obtain the Zoning Clearance for construction if the Permittee can demonstrate to the satisfaction of the Planning Director that the Permittee has made a diligent effort to implement the Project, and the Permittee has requested the time extension in writing at least 30 days prior to the one year expiration date.

Prior to the issuance of the Zoning Clearance for construction, all fees and charges billed to that date by any County agency, as well as any fines, penalties, and sureties, must be paid in full. After issuance of the Zoning Clearance for construction, any final billed processing fees must be paid within 30 days of the billing date or the County may revoke this CUP.

- b. Permit Life or Operations Period: This CUP will expire on June 23, 2026. The lack of additional notification of the expiration date provided by the County to the Permittee shall not constitute grounds to continue the uses that are authorized by this CUP after the CUP expiration date. The uses authorized by this CUP may continue after the CUP expiration date if:

(1) The Permittee has filed a permit modification application pursuant to § 8181-10.4 of the Ventura County Coastal Zoning Ordinance prior to June 23, 2026; and

(2) The County decision-maker grants the requested modification.

The uses authorized by this CUP may continue during processing of a timely-filed modification application in accordance with § 8181-5.7 of the Ventura County Coastal Zoning Ordinance.

6. Documentation Verifying Compliance with Other Agencies' Requirements Related to this CUP

**Purpose:** To ensure compliance with, and notification of, federal, state, and/or local government regulatory agencies that have requirements that pertain to the Project (Condition No. 1, above) that is the subject of this CUP and the completion of Mitigation and Monitoring Reporting Program.

**Requirement:** Upon the request of the Planning Director, the Permittee shall provide the Planning Division with documentation (e.g., copies of permits or agreements from other agencies, which are required pursuant to a condition of this CUP) to verify that the Permittee has obtained or satisfied all applicable federal, state, and local entitlements and conditions that pertain to the Project.

**Documentation:** The Permittee shall provide this documentation to Planning Division staff in the form that is acceptable to the agency issuing the entitlement or clearance, to be included in the Planning Division Project file.

**Timing:** The documentation shall be submitted to the Planning Division prior to the issuance of the Zoning Clearance for construction or as dictated by the respective agency.

**Monitoring and Reporting:** The Planning Division maintains the documentation provided by the Permittee in the respective Project file. In the event that the federal, state, or local government regulatory agency prepares new documentation due to changes in the Project or the other agency's requirements, the Permittee shall submit the new documentation within 30 days of receipt of the documentation from the other agency.



7. Notice of CUP Requirements and Retention of CUP Conditions On-Site

**Purpose:** To ensure full and proper notice of these CUP conditions affecting the use of the subject property.

**Requirement:** Unless otherwise required by the Planning Director, the Permittee shall notify, in writing, the Property Owner(s) of record, contractors, and all other parties and vendors who regularly conduct activities associated with the Project, of the pertinent conditions of this CUP.

**Documentation:** The Permittee shall present to the Planning Division staff copies of the conditions, upon Planning Division staff's request.

**Timing:** Prior to issuance of a Zoning Clearance for construction and throughout the life of the Project.

**Monitoring and Reporting:** The Planning Division has the authority to conduct periodic site inspections to ensure ongoing compliance with this condition consistent with the requirements of § 8183-5 of the Ventura County Coastal Zoning Ordinance.

8. Recorded Notice of Land Use Entitlement

**Purpose:** The Permittee shall record a "Notice of Land Use Entitlement" form and the conditions of this CUP with the deed for the subject property that notifies the current and future Property Owner(s) of the conditions of this CUP.

**Requirement:** The Permittee shall sign, have notarized, and record with the Office of the County Recorder, a "Notice of Land Use Entitlement" form furnished by the Planning Division and the conditions of this CUP, with the deed of the property that is subject to this CUP.

**Documentation:** Recorded "Notice of Land Use Entitlement" form and conditions of this CUP.

**Timing:** The Permittee shall record the "Notice of Land Use Entitlement" form and conditions of this CUP, prior to issuance of a Zoning Clearance for construction.

**Monitoring and Reporting:** The Permittee shall return a copy of the recorded "Notice of Land Use Entitlement" form and conditions of this CUP to Planning Division staff to be included in the Project file.

9. Financial Responsibility for Compliance Monitoring and Enforcement

- a. Cost Responsibilities: The Permittee shall bear the full costs of all County staff time, materials, and County-retained consultants associated with condition compliance review and monitoring, CEQA mitigation monitoring, other permit

monitoring programs, and enforcement activities, actions, and processes conducted pursuant to the Ventura County Coastal Zoning Ordinance (§ 8183-5) related to this CUP. The facility shall be maintained at all times consistent with the original design and shall be immediately repaired if damaged due to vandalism or acts of nature. The Permittee shall notify the County within 14 days of said occurrence that the required maintenance activities have been completed. Such condition compliance review, monitoring and enforcement activities may include (but are not limited to): periodic site inspections; preparation, review, and approval of studies and reports; review of permit conditions and related records; enforcement hearings and processes; drafting and implementing compliance agreements; and attending to the modification, suspension, or revocation of permits. Costs will be billed at the rates set forth in the Planning Division or other applicable County Fee Schedule, and at the contract rates of County-retained consultants, in effect at the time the costs are incurred.

- b. Establishment of Revolving Compliance Account: Within 10 calendar days of the effective date of the final decision approving this CUP, the Permittee shall submit the following deposit and reimbursement agreement to the Planning Director:
  - (1) A payment of \$500.00 for deposit into a revolving condition compliance and enforcement account to be used by the Planning Division to cover costs associated with condition compliance review, monitoring, and enforcement activities described in 9.a (above), and any duly-imposed civil administrative penalties regarding this. The Permittee shall replenish such account to the above-stated amount within 10 calendar days after receiving notice of the requirement to do so from the Resource Management Agency.
  - (2) An executed reimbursement agreement, in a form provided by the Planning Division, obligating the Permittee to pay all condition compliance review, monitoring, and enforcement costs, and any civil administrative penalties, subject to the Permittee's right to challenge all such charges and penalties prior to payment.
- c. Billing Process: The Permittee shall pay all Planning Division invoices within 30 days of receipt thereof. Failure to timely pay an invoice shall subject the Permittee to late fees and charges set forth in the Planning Division Fee Schedule, and shall be grounds for suspension, modification, or revocation of this CUP. The Permittee shall have the right to challenge any charge or penalty prior to payment.

10a. Defense and Indemnification

- a. The Permittee shall defend, at the Permittee's sole expense with legal counsel acceptable to the County, against any and all claims, actions, or proceedings against the County, any other public agency with a governing body consisting of the members of the County Board of Supervisors, or any of their respective board members, officials, employees and agents (collectively, "Indemnified Parties") arising out of or in any way related to the County's issuance, administration, or enforcement of this CUP. The County shall promptly notify the Permittee of any such claim, action or proceeding and shall cooperate fully in the defense.
- b. The Permittee shall also indemnify and hold harmless the Indemnified Parties from and against any and all losses, damages, awards, fines, expenses, penalties, judgments, settlements, or liabilities of whatever nature, including but not limited to court costs and attorney fees (collectively, "Liabilities"), arising out of or in any way related to any claim, action or proceeding subject to subpart (a) above, regardless of how a court apportions any such Liabilities as between the Permittee, the County, and/or third parties.
- c. Except with respect to claims, actions, proceedings, and Liabilities resulting from an Indemnified Party's sole active negligence or intentional misconduct, the Permittee shall also indemnify, defend (at Permittee's sole expense with legal counsel acceptable to County), and hold harmless the Indemnified Parties from and against any and all claims, actions, proceedings, and Liabilities arising out of, or in any way related to, the construction, maintenance, land use, or operations conducted pursuant to this CUP, regardless of how a court apportions any such Liabilities as between the Permittee, the County, and/or third parties. The County shall promptly notify the Permittee of any such claim, action, or proceeding and shall cooperate fully in the defense.
- d. Neither the issuance of this CUP, nor compliance with the conditions hereof, shall relieve the Permittee from any responsibility otherwise imposed by law for damage to persons or property; nor shall the issuance of this CUP serve to impose any liability upon the Indemnified Parties for injury or damage to persons or property.

10b. Invalidation of Condition(s)

If any of the conditions or limitations of this CUP are held to be invalid in whole or in part by a court of competent jurisdiction, that holding shall not invalidate any of the remaining CUP conditions or limitations. In the event that any condition imposing a fee, exaction, dedication, or other mitigation measure is challenged by the Permittee in an action filed in a court of competent jurisdiction, or threatened to be filed therein, the Permittee shall be required to fully comply with this CUP, including without limitation, by remitting the fee,

exaction, dedication, and/or by otherwise performing all mitigation measures being challenged. This CUP shall continue in full force unless, until, and only to the extent invalidated by a final, binding judgment issued in such action.

If a court of competent jurisdiction invalidates any condition in whole or in part, and the invalidation would change the findings and/or the mitigation measures associated with the approval of this CUP, at the discretion of the Planning Director, the Planning Director, may review the project and impose substitute feasible conditions/mitigation measures to adequately address the subject matter of the invalidated condition. The Planning Director shall make the determination of adequacy. If the Planning Director cannot identify substitute feasible conditions/mitigation measures to replace the invalidated condition, and cannot identify overriding considerations for the significant impacts that are not mitigated to a level of insignificance as a result of the invalidation of the condition, then this CUP may be revoked.

**10. Consultant Review of Information and Consultant Work**

The County and all other County permitting agencies for the Project have the option of referring any and all special studies that these conditions require to an independent and qualified consultant for review and evaluation of issues beyond the expertise or resources of County staff.

Prior to the County engaging any independent consultants or contractors pursuant to the conditions of this CUP, the County shall confer in writing with the Permittee regarding the necessary work to be contracted, as well as the estimated costs of such work. Whenever feasible, the County will use the lowest responsible bidder or proposer. Any decisions made by County staff in reliance on consultant or contractor work may be appealed pursuant to the appeal procedures contained in the Ventura County Zoning Ordinance Code then in effect.

The Permittee may hire private consultants to conduct work required by the County, but only if the consultant and the consultant's proposed scope-of-work are first reviewed and approved by the County. The County retains the right to hire its own consultants to evaluate any work that the Permittee or a contractor of the Permittee undertakes. In accordance with Condition No. 11 above, if the County hires a consultant to review any work undertaken by the Permittee, or hires a consultant to review the work undertaken by a contractor of the Permittee, the hiring of the consultant will be at the Permittee's expense.

**11. Relationship of CUP Conditions, Laws, and Other Entitlements**

The Permittee shall implement the Project in compliance with all applicable requirements and enactments of federal, state, and local authorities. In the event of conflict between various requirements, the more restrictive requirements shall apply. In the event the Planning Director determines that any CUP condition contained herein is in conflict with any other CUP condition contained herein, when principles of law do not provide to the

contrary, the CUP condition most protective of public health and safety and environmental resources shall prevail to the extent feasible.

No condition of this CUP for uses allowed by the Ventura County Ordinance Code shall be interpreted as permitting or requiring any violation of law, lawful rules, or regulations, or orders of an authorized governmental agency. Neither the approval of this CUP, nor compliance with the conditions of this CUP, shall relieve the Permittee from any responsibility otherwise imposed by law for damage to persons or property.

The Permittee shall obtain a business tax certificate and regulatory licenses for the operation of wireless communications facility.

**12. Contact Person**

**Purpose:** To designate a person responsible for responding to complaints.

**Requirement:** The Permittee shall designate a contact person(s) to respond to complaints from citizens and the County which are related to the permitted uses of this CUP. The designated contact person shall be available, via telecommunication, 24 hours a day.

**Documentation:** The Permittee shall provide the Planning Director with the contact information (e.g., name and/or position title, address, business and cell phone numbers, and email addresses) of the Permittee's field agent who receives all orders, notices, and communications regarding matters of condition and code compliance at the Project site.

**Timing:** Prior to the issuance of a Zoning Clearance for construction, the Permittee shall provide the Planning Division the contact information of the Permittee's field agent(s) for the Project file. If the address or phone number of the Permittee's field agent(s) should change, or the responsibility is assigned to another person, the Permittee shall provide Planning Division staff with the new information in writing within three calendar days of the change in the Permittee's field agent.

**Monitoring and Reporting:** The Planning Division maintains the contact information provided by the Permittee in the Project file. The Planning Division has the authority to periodically confirm the contact information consistent with the requirements of § 8183-5 of the Ventura County Coastal Zoning Ordinance.

**13. Resolution of Complaints**

The following process shall be used to resolve complaints related to the Project:

- a. The Permittee shall post the telephone number for the designated Contact Person as identified pursuant to Condition No. 13 in a visible location on the site. The Contact Person shall be available via telephone on a 24-hour basis. Persons with

concerns about the wireless communications facility may directly contact the Contact Person;

- b. If County staff receives a written complaint about the Project, Planning Division staff may contact the Permittee's Contact Person or the Permittee to request information regarding the alleged violation; and
- c. If, following a complaint investigation by County staff, a violation of the Ventura County Code or a condition of this CUP is confirmed, County staff may initiate enforcement actions pursuant to § 8183-5 of the Ventura County Coastal Zoning Ordinance.

14. Reporting of Major Incidents

**Purpose:** To ensure that the Planning Director is notified of major incidents associated with, or resulting from, the Project.

**Requirement:** The Permittee shall immediately notify the Planning Director by telephone, email, FAX, and/or voicemail of any incidents (e.g., fires, explosions, spills, landslides, or slope failures) that could pose a hazard to life or property inside or outside the Project Site.

**Documentation:** Upon request of any County agency, the Permittee shall provide a written report of any incident that shall include, but is not limited to: a description of the facts of the incident; the corrective measures used, if any; and the steps taken to prevent a recurrence of the incident.

**Timing:** The Permittee shall provide the written report to the requesting County agency and Planning Division within seven days of receiving the request.

**Monitoring and Reporting:** The Planning Division maintains any documentation provided by the Permittee related to major incidents in the Project file.

15. Change of Permittee

**Purpose:** To ensure that the Planning Division is properly and promptly notified of any change of Permittee.

**Requirement:** The Permittee shall file, as an initial notice with the Planning Director, the new name(s), address(es), telephone/FAX number(s), and email addresses of the new owner(s), lessee(s), operator(s) of the permitted uses, and the company officer(s). The Permittee shall provide the Planning Director with a final notice once the transfer of ownership and/or operational control has occurred.

**Documentation:** The initial notice must be submitted with the new Permittee's contact information. The final notice of transfer must include the effective date and time of the



transfer and a letter signed by the new Property Owner(s), lessee(s), and/or operator(s) of the permitted uses acknowledging and agreeing to comply with all conditions of this CUP.

**Timing:** The Permittee shall provide written notice to the Planning Director 10 calendar days prior to the change of ownership or change of Permittee. The Permittee shall provide the final notice to the Planning Director within 15 calendar days of the effective date of the transfer.

**Monitoring and Reporting:** The Planning Division maintains notices submitted by the Permittee in the Project file and has the authority to periodically confirm the information consistent with the requirements of § 8183-5 of the Ventura County Coastal Zoning Ordinance].

#### 16. Sign Plan

**Purpose:** To ensure signage on the property complies with § 8175-5.13 of the Ventura County Coastal Zoning Ordinance and, by reference, Chapter 1, Article 10 of the Ventura County Non-Coastal Ordinance Coastal Area Plan.

**Requirement:** The Permittee shall prepare a sign plan that includes the proposed size, colors, materials, and lighting details. The Permittee also shall be responsible for obtaining a Zoning Clearance for any new or replacement sign to ensure that the signage for the Project continues to be in conformance with the approved sign plan.

**Documentation:** The Permittee shall submit two copies of a sign plan to the Planning Division for review and approval. The Permittee shall bear the total cost of such review and approval.

**Timing:** The Permittee must obtain approval of the sign plan from the Planning Division prior to the issuance of a Zoning Clearance for construction. The signs must be installed in accordance with the approved sign plan prior to the issuance of the Zoning Clearance for Use Inauguration.

**Monitoring and Reporting:** The Planning Division maintains a stamped copy of the approved sign plan in the Project file. The Planning Division has the authority to conduct periodic site inspections to ensure ongoing compliance with this condition consistent with the requirements of § 8183-5 of the Ventura County Coastal Zoning Ordinance.

#### 17. Color/Material/Manufacture Specifications

**Purpose:** To comply with the Ventura County General Plan *Goals, Policies and Programs* Scenic Resources Policies 1.7.2-1 through 1.7.2-4 and to ensure that the communication facility is constructed as illustrated on the approved plans and photo simulations.

**Requirement:** The Permittee shall:

- a. construct and maintain the exterior surfaces of all buildings and structures of the communication facility using building materials and colors that are compatible with surrounding terrain (e.g., earth tones and non-reflective paints). The green slats attached to the chain link fence surrounding the facility shall be maintained for the life of the permit. Replacement of the slats on the fence with similar materials shall occur, when necessary, in order to screen the facility equipment from public view.
- b. provide the manufacturer's specifications and model numbers of all tower, antenna, and ancillary equipment (e.g., batteries, equipment in cabinets, GPS, and antennae) on all development plans;
- c. construct and maintain the site in compliance with the approved plans and photo-simulations; and
- d. provide photos to the Planning Division to verify that the facility is constructed as approved.

**Documentation:** The Permittee shall provide plans, photo simulations, and a materials sample/color board to the Planning Division for review and approval. Prior to final inspection of the communication facility, the Permittee shall provide photographs demonstrating that the Permittee constructed the facility in compliance with the approved plans, photo simulations, and materials sample/color board.

**Timing:** The Permittee shall obtain approval of the plans, photo simulations, and a materials sample/color board from the Planning Division prior to the issuance of a Zoning Clearance for construction. Prior to final inspection, the Permittee shall construct and paint the structures according to the approved plans.

**Monitoring and Reporting:** The Planning Division maintains copies of the approved plans, photo simulations, and materials sample/color board in the Project file. The Permittee shall provide photos of the constructed facility to the Planning Division, or schedule a site inspection with the Planning Division, to verify that the Permittee constructed and painted the facility according to the approved plans, photo simulations, and materials sample/color board. The Planning Division has the authority to ensure ongoing compliance with this condition pursuant to the requirements of Condition of Approval 9a of this permit.

**18. Removal of Facility upon Abandonment of Use or Expiration of Permit**

**Purpose:** In compliance with § 8181-5.8 of the Ventura County Coastal Zoning Ordinance and in order to ensure that the use of the subject property remains compatible with existing and potential uses of other property within the general area, the communication facility shall be removed if this CUP expires or if the facility is abandoned.

**Requirement:** Upon the expiration of this CUP, or abandonment of the use of the communication facility, the Permittee shall:

- a. notify the County that the Permittee has discontinued the use of the facility;
- b. remove the facility and all appurtenant structures; and
- c. restore the premises to the conditions existing prior to the issuance of the CUP, to the extent feasible as determined by the Planning Director.

In the event that the Permittee fails to perform the required actions, the Property Owner shall be responsible for compliance with the requirements set forth in this condition.

The facility shall be considered to be abandoned if it has not been in use for 12 continuous months.

**Documentation:** The Permittee shall provide photos of the site after restoration is completed, to the County Planning Division.

**Timing:** The Permittee shall complete the notification, removal, and restoration activities within 60 days of the expiration of this CUP, or abandonment of the use, unless the Planning Director grants (in writing) additional time.

**Monitoring and Reporting:** The Planning Division has the authority to conduct periodic site inspections to ensure compliance with this condition consistent with the requirements of § 8183-5 of the Ventura County Coastal Zoning Ordinance.

#### 19. Future Collocation of Wireless Telecommunication Facilities and Equipment

**Purpose:** To reduce the number of communication facilities and minimize the potential environmental impacts associated with such facilities.

**Requirement:** The Permittee shall avail its facility and site to other telecommunication carriers and, in good faith, accommodate all reasonable requests for collocation in the future subject to the following parameters:

- a. the party seeking the collocation shall be responsible for all facility modifications, environmental review, mitigation measures, associated costs, and permit processing;
- b. the Permittee shall not be required to compromise the operational effectiveness of its facility or place its prior approval at risk;
- c. the Permittee shall make its facilities and site available for collocation on a non-discriminatory and equitable cost basis; and

- d. the County retains the right to verify that the use of the Permittee's facilities and site conforms to County policies.

**Documentation:** Permittee shall demonstrate to the satisfaction of the Planning Director that the wireless telecommunications tower associated with the communication facility is engineered in a manner that can accommodate supplementary antennas to collocate at least one additional telecommunication carrier.

**Timing:** Prior to the issuance of a Zoning Clearance for construction, the Permittee shall submit evidence to the Planning Division that the facility is engineered to accommodate the collocation of at least one additional carrier.

**Monitoring and Reporting:** Prior to the issuance of a Certificate of Occupancy, Building and Safety inspectors and Planning Division staff have the authority to inspect the facility to confirm that is constructed as approved.

20. Mitigation Measure BR-1: Avoidance of Monarch Butterfly Winter Roost Sites

**Purpose:** To minimize indirect project impacts to monarch butterfly roosts.

**Requirement:** The Permittee shall avoid monarch butterfly roosts during all construction activities related to the proposed development. This can be accomplished by implementing either one of the following options:

1. Timing of construction: Prohibit construction activities during the monarch wintering season (October 1 through March 1); or,
2. Surveys and avoidance: Conduct site-specific surveys prior to construction activities during the monarch wintering season (October 1 through March 1) and avoid monarch roosts.

Surveys shall be conducted to identify any monarch roosts in the area proposed for disturbance. Monarch roosts shall be avoided during the wintering season by establishing a 100-foot buffer between construction activity and the roost. All surveys shall be conducted by a County-approved biologist with a CDFW Scientific Collecting Permit.

An initial monarch survey shall be conducted 30 days prior to the initiation of construction activities. The project site must continue to be surveyed on a weekly basis with the last survey completed no more than 5 days prior to the initiation of construction activities. The monarch butterfly survey must cover monarch wintering habitat within the footprint of the WCF, including utility lines, and 100 feet from the footprint including all construction areas. If monarch roosts are found, construction activities within 100 feet surrounding the roost shall be postponed or halted while the monarchs are present (typically October 1 through March 1). Construction activities can occur outside of the 100-foot setback areas.

**Documentation:** The Permittee shall provide to the Planning Division a Survey Report from a County-approved biologist documenting the results of the initial monarch survey and a plan for continued surveys and avoidance of roosts in accordance with the requirements above. Along with the Survey Report, the Permittee shall provide a copy of a signed contract (financial information redacted) with a County-approved biologist responsible for the surveys and monitoring of any monarch roosts that are discovered. The Permittee shall submit to the Planning Division a Mitigation Monitoring Report from a County-approved biologist following construction activities that documents the results of subsequent surveys and actions taken to avoid monarch roosts. All observations of monarchs should be noted, including location, within the Survey Report

**Timing:** If construction activities will occur between October 1 and March 1, monarch surveys shall be conducted 30 days prior to initiation of construction activities, and weekly thereafter, and the last survey for monarchs shall be conducted no more than 7 days prior to initiation of construction activities. The Survey Report documenting the results of the first monarch survey and the signed contract shall be provided to the Planning Division prior to issuance of a Zoning Clearance for construction. The Mitigation Monitoring Report shall be submitted within 14 days of completion of the construction activities.

**Monitoring and Reporting:** The Planning Division shall review for adequacy the Survey Report and signed contract prior to issuance of a Zoning Clearance for construction. The Planning Division maintains copies of the signed contract, Survey Report, and Mitigation Monitoring Report in the project file.

**21. Mitigation Measure BR- 2: Pre-Construction Surveys for Nesting Birds**

**Purpose:** To avoid potential impacts to birds protected under the Migratory Bird Treaty Act which could occur during the nesting season.

**Requirement:** The Permittee shall conduct all demolition, tree removal/trimming, vegetation clearing (including vegetation clearing for fuel modification), construction activities, and grading activities (collectively, "development activities") in such a way as to avoid nesting native birds. No development activities shall occur on the project site during the breeding and nesting season (February 1 – August 31), or if development activities must be conducted during the nesting season, by conducting a pre-development activities survey for active bird nests and avoiding nests until juvenile birds have vacated the nest.

For any development activities that are planned between February 1 and August 31, the Permittee shall retain a County-approved qualified biologist with a CDFW Scientific Collecting Permit to conduct a breeding and nesting bird survey within 7 days prior to the development activities. The nesting bird survey must cover the development footprint and a buffer of 500 feet from the development footprint. All areas subject to fuel modification shall be surveyed. If active nests are found, development activities within 300 feet of the nest (500 feet for raptors) shall be postponed or halted until the nest is vacated and juveniles have fledged and there is no evidence of a second attempt at nesting, as determined by the qualified biologist. If the development is outside of the



buffered nesting bird area(s) then development activities can commence outside the restricted area(s). If development activities are delayed after the survey has been conducted, then the qualified biologist shall conduct an additional nesting bird survey such that no more than 7 days have elapsed between the last survey and the commencement of development activities.

**Documentation:** The Permittee shall provide a signed contract with a County-approved qualified biologist to the Planning Division that ensures that a nesting bird survey will be conducted 7 days prior to any land disturbing activities. The Permittee shall submit a memorandum to the Planning Division within 14 days of the nesting bird surveys, notifying the Planning Division of the results of the surveys and measures taken to avoid nesting birds.

**Timing:** Prior to development activities, including fuel modification activities, the Permittee shall provide the signed contract to the Planning Division for review and approval. Within 14 days of the nesting bird surveys, the Permittee shall provide a memorandum reporting the results.

**Monitoring and Reporting:** The Permittee shall confirm with the Planning Division that he has contracted with a County-approved qualified biologist to implement the requirements of this condition prior to issuance of a Use Inauguration. The Planning Division maintains copies of the signed contract and the nesting bird survey reports provided by the Permittee in the project file.

## **22. Mitigation Measure BR-3: Fuel Modification Plan**

**Purpose:** To mitigate potentially significant impacts to coastal sage scrub habitats from fuel modification activities.

**Requirement:** The Permittee shall use a County-approved qualified biologist to prepare a Fuel Modification Plan for County Planning review and approval that minimizes impacts to the surrounding coastal sage scrub habitat and meets the Ventura County Fire Protection District's requirements to modify fuels surrounding structures. The Fuel Modification Plan shall specify the methods of modifying vegetation surrounding structures that will minimize indirect impacts to coastal sage scrub habitats (e.g., use of hand tools to prune vegetation, thinning shrubs rather than clear-cutting, avoiding rare plants, avoiding nesting birds). Because a portion of the fuel modification area is on or near a slope, the Fuel Modification Plan shall incorporate erosion control measures as necessary e.g. straw waddles, silt fencing, hydroseeding, erosion control blankets, etc. The Fuel Modification Plan shall include native, drought tolerant ground cover and shrubs that VCFPD deems not to pose a flammability risk. A County-approved qualified biologist shall monitor all fuel modification activities.

**Documentation:** A Fuel Modification Plan shall be prepared by a County-approved qualified biologist. Following all fuel modification activities, a County-approved biologist shall submit to the Planning Division an annual report that confirms that vegetation modification activities are maintained consistent with the provisions of the Fuel

Modification Plan and has not resulted in increased indirect impacts to the surrounding coastal sage scrub.

**Timing:** The Permittee shall submit a Fuel Modification Plan prior to issuance of a Zoning Clearance for construction. A County-approved biologist shall submit annual reports on fuel modification activities to the Planning Division by July 1 of each year (June 1 is the deadline for fuel modification).

**Monitoring and Reporting:** The Permittee shall submit the Fuel Modification Plan to Planning Division and the Fire Department for review and approval to assure compliance with the requirements of this condition prior to issuance of a Zoning Clearance for construction. The Permittee shall submit the annual reports to the Planning Division to assure compliance with the requirements of this condition. The Planning Division maintains copies of the Fuel Modification Plan and the annual reports provided by the Permittee in the project file.

**23. Mitigation Measure AR-1: Fencing for Protection of Archaeological Resources**

**Purpose:** The purpose of this mitigation measure is to ensure the protection of archaeological resources that exist near to the project site.

**Requirement:** The Permittee shall temporarily fence the area identified in the Phase I Archaeological study (MacFarlane Archaeological Consultants 2011) that has the potential for archaeological resources, in order to prevent the illicit collection of archaeological resources. The Permittee shall install temporary protective fencing around the area identified in the Phase I Archaeological study in order to delineate the area within which human encroachment is prohibited. (Attachment 5, Archeological Resources Fencing Area). The fencing materials must consist of typical ranch wire or orange construction fence material and shall remain in place until construction of the wireless communication facility is completed.

**Documentation:** The Permittee shall provide photographic evidence to the Planning Division which demonstrates that the Permittee installed the fencing in compliance with the requirements of this mitigation measure.

**Timing:** The Permittee shall submit the photographic evidence of the fencing to the Planning Division for review and approval, prior to conducting any vegetation removal, ground disturbance activities, or construction activities.

**Monitoring and Reporting:** The Planning Division maintains the photographic evidence provided by the Permittee in the project file. The Planning Division has the authority to inspect the site to confirm that the fencing has been installed in compliance with, and remains in place throughout, all ground disturbance and construction activities of the project.

**24. Paleontological Resources Discovered During Grading**

**Purpose:** In order to mitigate potential impacts to paleontological resources that may be encountered during ground disturbance or construction activities.

**Requirement:** If any paleontological remains are uncovered during ground disturbance or construction activities, the Permittee shall:

- a. Cease operations and assure the preservation of the area in which the discovery was made;
- b. Notify the Planning Director in writing, within three days of the discovery;
- c. Obtain the services of a paleontological consultant or professional geologist who shall assess the find and provide a report that assesses the resources and sets forth recommendations on the proper disposition of the site;
- d. Obtain the Planning Director's written concurrence with the recommended disposition of the site before resuming development; and
- e. Implement the agreed upon recommendations.

**Documentation:** The Permittee shall submit the paleontologist's or geologist's reports. Additional documentation may be required to demonstrate that the Permittee has implemented the recommendations set forth in the paleontological report.

**Timing:** If any paleontological remains are uncovered during ground disturbance or construction activities, the Permittee shall provide the written notification to the Planning Director within three days of the discovery. The Permittee shall submit the paleontological report to the Planning Division immediately upon completion of the report.

**Monitoring and Reporting:** The Permittee shall provide the paleontological report to the Planning Division to be made part of the Project file. The Permittee shall implement any recommendations made in the paleontological report to the satisfaction of the Planning Director. The paleontologist shall monitor all ground disturbance activities within the area in which the discovery was made, in order to ensure the successful implementation of the recommendations made in the paleontological report. The Planning Division has the authority to conduct site inspections to ensure that the Permittee implements the recommendations set forth in the paleontological report, consistent with the requirements of § 8183-5 of the Ventura County Coastal Zoning Ordinance

## **25. Archaeological Resources Discovered During Grading**

**Purpose:** In order to mitigate potential impacts to archaeological resources discovered during ground disturbance.

**Requirement:** The Permittee shall implement the following procedures:

- a. If any archaeological or historical artifacts are uncovered during ground disturbance or construction activities, the Permittee shall:
  - i. Cease operations and assure the preservation of the area in which the discovery was made;
  - ii. Notify the Planning Director in writing, within three days of the discovery;
  - iii. Obtain the services of a County-approved archaeologist who shall assess the find and provide recommendations on the proper disposition of the site in a written report format;
  - iv. Obtain the Planning Director's written concurrence of the recommended disposition of the site before resuming development; and
  - v. Implement the agreed upon recommendations.
- b. If any human burial remains are encountered during ground disturbance or construction activities, the Permittee shall:
  - i. Cease operations and assure the preservation of the area in which the discovery was made;
  - ii. Immediately notify the County Coroner and the Planning Director;
  - iii. Obtain the services of a County-approved archaeologist and, if necessary, Native American Monitor(s), who shall assess the find and provide recommendations on the proper disposition of the site in a written report format;
  - iv. Obtain the Planning Director's written concurrence of the recommended disposition of the site before resuming development on-site; and
  - v. Implement the agreed upon recommendations.

**Documentation:** If archaeological remains are encountered, the Permittee shall submit a report prepared by a County-approved archaeologist including recommendations for the proper disposition of the site. Additional documentation may be required to demonstrate that the Permittee has implemented any recommendations made by the archaeologist's report.

**Timing:** If any archaeological remains are uncovered during ground disturbance or construction activities, the Permittee shall provide the written notification to the Planning Director within three days of the discovery. The Permittee shall submit the archaeological report to the Planning Division immediately upon completion of the report.



**Monitoring and Reporting:** The Permittee shall provide the archaeological report to the Planning Division to be made part of the Project file. The Permittee shall implement any recommendations made in the archaeological report to the satisfaction of the Planning Director. The archaeologist shall monitor all ground disturbance activities within the area in which the discovery was made, in order to ensure the successful implementation of the recommendations made in the archaeological report. The Planning Division has the authority to conduct site inspections to ensure that the Permittee implements the recommendations set forth in the archaeological report, consistent with the requirements of § 8183-5 of the Ventura County Coastal Zoning Ordinance.

#### 26. Construction Noise

**Purpose:** In order for this project to comply with the Ventura County General Plan *Goals, Policies and Programs* Noise Policy 2.16.2-1(5) and the County of Ventura Construction Noise Threshold Criteria and Control Plan (Amended 2010).

**Requirement:** The Permittee shall limit construction activity for site preparation and development to the hours between 7:00 a.m. and 7:00 p.m., Monday through Friday, and from 9:00 a.m. to 7:00 p.m. Saturday, Sunday, and State holidays. Construction equipment maintenance shall be limited to the same hours. Non-noise generating construction activities such as interior painting are not subject to these restrictions.

**Documentation:** The Permittee shall post a sign stating these restrictions in a conspicuous location on the Project site, in order so that the sign is visible to the general public. The Permittee shall provide photo documentation showing posting of the required signage to the Planning Division, prior to the commencement of grading and construction activities. The sign must provide a telephone number of the site foreman, or other person who controls activities on the jobsite, for use for complaints from the public. The Permittee shall maintain a "Complaint Log," noting the date, time, complainant's name, complaint, and any corrective action taken, in the event that the Permittee receives noise complaints. The Permittee must submit the "Complaint Log" to the Planning Division upon the Planning Director's request.

**Timing:** The Permittee shall install the sign prior to the issuance of a building permit and throughout all grading and construction activities. The Permittee shall maintain the signage on-site until all grading and construction activities are complete. If the Planning Director requests the Permittee to submit the "Complaint Log" to the Planning Division, the Permittee shall submit the "Complaint Log" within one day of receiving the Planning Director's request.

**Monitoring and Reporting:** The Planning Division reviews, and maintains in the Project file, the photo documentation of the sign and the "Complaint Log." The Planning Division has the authority to conduct site inspections and take enforcement actions to ensure that the Permittee conducts grading and construction activities in compliance with this

condition, consistent with the requirements of § 8183-5 of the Ventura County Coastal Zoning Ordinance.

### **Environmental Health Division**

#### **28. Hazardous Materials**

**Purpose:** To comply with the California Health and Safety Code and Ventura County Ordinance Code to ensure the safe storage, handling, and disposal of any potentially hazardous material.

**Requirement:** The Permittee shall submit a business plan to the Environmental Health Division/Certified Unified Program Agency for the hazardous materials associated with the backup power supply.

**Documentation:** A completed business plan submitted to the Certified Unified Program Agency.

**Timing:** The business plan must be submitted and approved by the Certified Unified Program Agency prior to the storage of any hazardous material on site.

**Monitoring and Reporting:** A copy of the approved business plan shall be maintained by the Permittee as part of the project file. Ongoing compliance with the requirements shall be accomplished through field inspection by District Inspectors of the Certified Unified Program Agency.

#### **29. Hazardous Materials Management**

The storage, handling, and disposal of any potentially hazardous material must be in compliance with applicable state regulations.

### **PUBLIC WORKS AGENCY CONDITIONS**

#### **Engineering Services Department**

#### **30. Grading Permit**

**Purpose:** In order to ensure the Permittee performs all grading in compliance with Appendix J of the Ventura County Building Code.

**Requirement:** The Permittee shall submit a grading plan showing existing and proposed elevations to the Public Works Agency's Development and Inspection Services Division for review and approval. If a grading permit is required, a State licensed civil engineer must prepare and submit the grading plans to Development and Inspection Services Division for review and approval. The Permittee must post sufficient surety in order to ensure proper completion of the proposed grading.

**Documentation:** If a grading permit is required, all materials, as detailed on Public Works

Agency Form DS-37 and/or DS-44, must be submitted to Development and Inspection Services Division for review and approval.

**Timing:** All applicable documentation, as specified above, must be approved prior to issuance of a Building Permit.

**Monitoring and Reporting:** Public Works Agency engineers will review grading plans and reports for compliance with Ventura County codes, ordinances and standards, as well as state and federal laws. Public Works Agency inspectors will monitor the proposed grading to verify that the work is done in compliance with the approved plans and reports.

### **Watershed Protection District Conditions**

#### **Groundwater Section**

##### **31. Diesel Fuel Tank Area**

**Purpose:** In accordance with the Ventura County General Plan Policies 1.3.2.2 & 4a, Diesel Fuel Tank Area is required.

**Requirement:** The Diesel Fuel Tank Area shall be constructed with a covered (roof or canopy), concrete pad with berm designed to prevent runoff and to collect all spilled liquids into a sump for legal disposal off site. The concrete pad shall be underlain by a cemented and lapped 80-mil HDPE liner turned up on the edges to prevent leakage.

**Documentation:** A copy of the approved Diesel Fuel Tank Area site plan.

**Timing:** Prior to the Issuance of a Zoning Clearance for construction, the Permittee shall submit a Diesel Fuel Tank Area site plan to the WPD for review and approval.

**Monitoring and Reporting:** A copy of the approved Diesel Fuel Tank Area site plan will be maintained in the case file. The Permittee shall allow the WPD to inspect the Diesel Fuel Tank Area upon request.

### **OTHER VENTURA COUNTY AGENCIES CONDITIONS**

#### **Ventura County Fire Protection District**

##### **32. Hazardous Fire Area**

**Purpose:** To advise the applicant that the project is located within a Hazardous Fire Area and ensure compliance with California Building and Fire Codes.

**Requirement:** The Permittee shall construct all structures to meet hazardous fire area building code requirements.

**Documentation:** A stamped copy of the approved building plans to be retained by the Building Department.

**Timing:** The Permittee shall submit building plans to the Building Department for approval before the issuance of building permits.

**Monitoring and Reporting:** The Fire Prevention Bureau shall conduct a final inspection to ensure that the structure is constructed according to the approved hazardous fire area building code requirements. Unless a modification is approved by the Fire Prevention Bureau, the Permittee, and his successors in interest, shall maintain the approved construction for the life of the structure.

### 33. Hazard Abatement

**Purpose:** To ensure compliance with Ventura County Fire Protection District Ordinance.

**Requirement:** All grass and brush shall be removed a distance of 30 feet adjacent to towers, equipment cabinets, and generators or to the property line if less than 30 feet. The Fire District may require the entire parcel to be cleared. Note: A Notice to Abate Fire Hazard may be recorded against the parcel.

**Documentation:** A signed copy of the Ventura County Fire Protection District's Form #126 "Requirement for Construction" or the "Notice to Abate" issued under the Fire District's Fire Hazard Reduction Program.

**Timing:** The Permittee shall remove all grass and brush as outlined by the Ventura County Fire Protection District's Fire Hazard Reduction Program guidelines before the start of construction on any structure or tower.

**Monitoring and Reporting:** The Fire Prevention Bureau shall conduct on-site inspections to ensure compliance with this condition.

### 34. Fire Department Clearance

**Purpose:** To provide the Permittee a list of all applicable fire department requirements for the project.

**Requirement:** The Permittee shall obtain VCFD Form #126 "Requirements for Construction" for any new structures or additions to existing structures before issuance of building permits.

**Documentation:** A signed copy of the Ventura County Fire Protection District's Form #126 "Requirements for Construction"

**Timing:** The Permittee shall submit VCFPD Form #126 Application to the Fire Prevention Bureau for approval before issuance of building permits.

**Monitoring and Reporting:** A copy of the completed VCFPD Form #126 shall be kept on file with the Fire Prevention Bureau. The Fire Prevention Bureau will conduct a final on-site inspection of the project to ensure compliance with all conditions and applicable codes / ordinances.



35. Fire Code Permits

**Purpose:** To comply with the requirements of the Ventura County Fire Code.

**Requirement:** The Permittee and/or tenant shall obtain all applicable Fire Code permits.

**Documentation:** A signed copy of the Fire Code permit(s).

**Timing:** The Permittee shall submit a Fire Code permit application along with required documentation/plans to the Fire Prevention Bureau for approval before final occupancy, installation and/or use of any item/system requiring a Fire Code permit.

**Monitoring and Reporting:** A copy of the approved Fire Code permits shall be kept on file with the Fire Prevention Bureau. The Fire Prevention Bureau shall conduct a final inspection to ensure that the requirements of the Fire Code permit are installed according to the approved plans. Unless a modification is approved by the Fire Prevention Bureau, the Permittee, and his successors in interest, shall maintain the conditions of the Fire Code permit for the life of the development.

# county of ventura

October 4, 2016

Board of Supervisors  
County of Ventura  
800 South Victoria Avenue  
Ventura, CA 93009

**SUBJECT: De Novo Hearing to Consider the Request that a Conditional Use Permit Be Granted and a Mitigated Negative Declaration Be Adopted pursuant to the California Environmental Quality Act to Authorize the Installation, Operation and Maintenance of a Wireless Communication Facility (Case No. PL14-0128); Consideration of a Related Appeal of the Planning Commission's Decision Regarding the Same Matter; Supervisorial District No. 1.**

**A. STAFF RECOMMENDATIONS:**

1. **CERTIFY** that the Board of Supervisors has reviewed and considered this letter and all exhibits hereto, including the proposed Mitigated Negative Declaration (MND) [Exhibit 4], and the Mitigation Monitoring and Reporting Program (Exhibit 5, Condition of Approval Nos. 21 to 24), and has considered all comments received during the public comment and hearing processes regarding this proposed project;
2. **FIND** based on the whole of the record before the Board of Supervisors that the MND (Exhibit 4):
  - a. Was presented to the Board of Supervisors and that the Board of Supervisors reviewed and considered the information contained therein prior to approving the project; and,
  - b. Reflects the Board of Supervisors' independent judgment and analysis;
3. **APPROVE** and **ADOPT** the MND (Exhibit 4), and the Mitigation Monitoring and Reporting Program included in the project's Conditions of Approval (Exhibit 5);
4. **MAKE** the required findings to grant the requested Conditional Use Permit (CUP) (CUP No. PL14-0128) pursuant to Section 8181-3.5 of the Ventura County Coastal Zoning Ordinance (CZO);
5. **GRANT** CUP No. PL14-0128, subject to the conditions of approval (Exhibit 5);
6. **DENY** the appeal submitted by Anthony Brown in its entirety, and decline to refund any appeal fees;



7. **SPECIFY** that the Clerk of the Board of Supervisors is the custodian, and 800 S. Victoria Avenue, Ventura, CA 93009 is the location, of the documents and materials that constitute the administrative record of proceedings upon which the foregoing decisions are based.

**B. FISCAL/MANDATES IMPACT AND APPEAL FEES:**

The Appellant, Anthony Brown, submitted a \$1,000 appeal fee deposit for the appeal in accordance with the Board-adopted Planning Division Fee Schedule. The Applicant is responsible for an additional \$1,000 of the Planning Division's costs to process the subject appeal. If the appeal is granted by your Board in whole, the total of \$1,000 in appeal fees must be refunded to the Appellant. If the appeal is granted in part, your Board must determine at the time the decision is rendered what portion of the \$1,000 appeal charges should be refunded to the Appellant. Therefore, should your Board grant the appeal in part, your actions must include a determination regarding the appropriate refund to the Appellant.

County costs in excess of the appeal fees received from Appellant and Applicant will be funded out of the Planning Division FY 2016-17 budget. To date, the County cost to process the appeal of the Planning Commission decision to approve the proposed project is \$4,531.15. The Appellant is responsible for \$1,000 of these County costs. The Applicant is responsible for \$1,000 of these costs. Thus, the net cost to the County to process these appeals is currently \$2,531.13.

**C. PROPOSED PROJECT**

The Applicant, Verizon Wireless, requests that a CUP be granted to authorize the construction, operation and maintenance of a new wireless communication facility.

The proposed facility would include the following components:

- A 45-foot tall faux palm tree (i.e. mono-palm) antenna structure with the centerline of the antenna mounted at the 38 foot level of the tree.
- An equipment shelter that encompasses approximately 186 square feet.
- Six panel antennas installed on the mono-palm. Three antennas would be located at the 38-foot level of the mono-palm. Three antennas would be located at the 28-foot level of the mono-palm.
- Six remote radio units installed on the mono-palm. Three remote radio units would be located at the 20-foot, 3-inch level of the mono-palm. Three remote radio units would be located at the 14-foot, 9-inch level of the mono-palm.

- Two ray cap surge protectors installed on the mono-palm. One would be installed at the 14-foot, 9-inch level of the mono-palm and one would be located in the equipment shelter.
- Two GPS antennas installed on the roof of the proposed equipment shelter.
- A 30-kilowatt emergency backup generator.

All of the above components of the proposed wireless communications facility would be located within a 1,225 square foot lease area and installed on a concrete pad. A 6-foot tall chain link fence with green slats would be erected at the perimeter of the lease area. About 0.29 acres of existing native brush and vegetation is required to be removed to accommodate the new facility. Minimal ground disturbance is required in the form of removal and re-compaction of the soil to construct the foundation of the wireless communications facility. Water is not required to operate the facility. Access to the site is provided by a private unpaved driveway (Bates Ranch Road) that connects to Bates Road (Exhibit 3).

#### **D. DISCUSSION OF DE NOVO HEARING TO CONSIDER CASE NO. PL14-0128**

##### **Standard of Review and Authority of Your Board**

This land use matter comes before your Board as an appeal of the Planning Commission's June 23, 2016 decision to grant a CUP for the installation, operation and maintenance of the above-described wireless communications facility project for a 10-year period, and to adopt the MND for the project.

Under the Ventura County CZO, the Applicant's request for a CUP, and the related consideration of the MND prepared for the proposed project pursuant to CEQA, come to your Board for a hearing *de novo*, or anew. This means your Board is required to conduct a public hearing on the requested land use entitlement and CEQA document just as if the matter came to your Board in the first instance pursuant to sections 8181-9.1-5 et seq. of the CZO. In this regard, your Board has the authority to approve, deny, or approve with modifications the requested land use entitlement.

Your Board is not required to give any deference to the Planning Commission's findings or decision regarding the proposed project, or to the above-stated recommendations. Of course, your Board is free to make the same findings and decisions as the Planning Commission if, based on your independent judgment, your Board finds them to be persuasive and supported by substantial evidence in the record. While your Board should consider the appeal points raised by the Appellant, your Board is not limited by them. Whether or not the appeal should be granted is a consequence of your Board's final decision on the merits of the land use entitlement request, and not on the merits of the appeal points.

## **E. LAW GOVERNING DECISION**

### **Ventura County Coastal Zoning Ordinance**

Pursuant to sections 8174-4 and 8181-3.5 of the CZO, the proposed wireless communications facility project is allowed in the Coastal Agricultural zone where the subject property is located with the granting of a CUP. In order to grant the requested CUP, your Board must make the required findings specified in section 8181-3.5 of the CZO based on the whole of the record. These findings include:

1. The proposed development is consistent with the intent and provisions of the County's Certified Local Coastal Program [Section 8181-3.5.a].
2. The proposed development is compatible with the character of surrounding development [Section 8181-3.5.b].
3. The proposed development, if a conditionally permitted use, is compatible with planned land uses in the general area where the development is to be located [Section 8181-3.5.c].
4. The proposed development would not be obnoxious or harmful, or impair the utility of neighboring property or uses [Section 8181-3.5.d].
5. The proposed development would not be detrimental to the public interest, health, safety, convenience, or welfare [Section 8181-3.5.e].

The recommended actions include the making of these findings of approval by your Board.

### **California Environmental Quality Act**

An action by your Board to grant the requested CUP would require your Board to adopt the MND (Exhibit 4) as satisfying the requirements of CEQA, and to approve a Mitigation Monitoring and Reporting Program (Exhibit 5) that implements the measures identified in the MND that address the potentially significant environmental impacts of the project.

The proposed MND (Exhibit 4), includes public comments on the MND and staff's responses to those comments. The MND identifies potentially significant impacts of the project on biological resources (nesting birds, Monarch Butterflies, sensitive plants) and cultural resources. Mitigation measures were also identified to reduce these potential impacts to a less than significant level. The MND was prepared in accordance with the Initial Study Assessment Guidelines adopted by your Board.



1. **Findings for Adoption of an MND:** The CEQA Guidelines [Section 15074(b)] state that a MND shall only be adopted by a decision-making body if there is no substantial evidence, in light of the whole record, that the proposed project may have a significant adverse effect on the environment and that the MND reflects the Lead Agency's independent judgment and analysis.

The analysis in the MND concludes that the proposed project, absent mitigation, may have a significant effect on the environment. The identified mitigation measures, discussed in detail below (Section E.2) and in the mitigation monitoring and reporting program (Exhibit 5, Condition of Approval Nos. 21 through 24), are feasible and would reduce impacts to a less than significant level.

Based on the information provided in the MND, and in light of the whole record, staff recommends that your Board find there is no substantial evidence that the proposed project may have a significant adverse effect on the environment and that the MND (Exhibit 4) reflects the Board's independent judgment and analysis.

2. **Mitigation Monitoring and Reporting Program:** The CEQA Guidelines [Section 15091(d)] state that, when approving a project for which a MND has been prepared, the agency shall also adopt a program for reporting on, or monitoring, the changes which it has either required in the project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be fully enforceable through permit conditions, agreements, or other measures.

A mitigation monitoring and reporting program (MMRP) has been prepared in compliance with the CEQA Guidelines. The mitigation measures included in the conditions of approval (Exhibit 5) constitute the MMRP for the proposed project. The requirements of the four mitigation measures are discussed in detail below.

**Mitigation Measures required for PL14-0128**

- a. **Biological Resources- Monarch Butterfly Winter Roost Sites (Exhibit 5, Condition No. 21):** The applicant shall avoid monarch butterfly roosts during all construction activities related to the proposed development. This can be accomplished by implementing either one of the following options:
  - i. **Timing of construction:** Prohibiting construction activities during the monarch wintering season (October 1 through March 1); or,
  - ii. **Surveys and avoidance:** Conduct site-specific surveys prior to construction activities during the monarch wintering season (October 1 through March 1) and avoid monarch roosts.

- b. Biological Resources- Pre-Construction Surveys for Nesting Birds (Exhibit 5, Condition No. 22): The applicant shall conduct all demolition, tree removal/trimming, vegetation clearing (including vegetation clearing for fuel modification), construction activities, and grading activities (collectively, "development activities") in such a way as to avoid nesting native birds. No development activities shall occur on the project site during the breeding and nesting season (February 1 – August 31), or if development activities must be conducted during the nesting season, by conducting a pre-development activities survey for active bird nests and avoiding nests until juvenile birds have vacated the nest.
- c. Biological Resources- Sensitive Plant Communities- Fuel Modification Plan (Exhibit 5, Condition No. 23): The applicant shall use a County-approved qualified biologist to prepare a Fuel Modification Plan for County Planning review and approval that minimizes impacts to the surrounding coastal sage scrub habitat and meets the Ventura County Fire Protection District's requirements to modify fuels surrounding structures. The Fuel Modification Plan shall specify the methods of modifying vegetation surrounding structures that will minimize indirect impacts to coastal sage scrub habitats (e.g., use of hand tools to prune vegetation, thinning shrubs rather than clear-cutting, avoiding rare plants, avoiding nesting birds). Because a portion of the fuel modification area is on or near a slope, the Fuel Modification Plan shall incorporate erosion control measures as necessary e.g. straw waddles, silt fencing, hydroseeding, erosion control blankets, etc. The Fuel Modification Plan shall include native, drought tolerant ground cover and shrubs that VCFPD deems not to pose a flammability risk. A County-approved qualified biologist shall monitor all fuel modification activities.
- d. Cultural Resources- Fencing for Protection of Archeological Resources (Exhibit 5, Condition No. 24): In order to prevent the illicit collection of archaeological resources, the applicant shall temporarily protect with fencing the area identified in the Phase I Archaeological study (MacFarlane Archaeological Consultants 2011) that has the potential for the presence of archaeological resources. Human encroachment in the fenced area (Exhibit 6) shall be prohibited. The fencing materials must consist of typical ranch wire or orange construction fence material.

The MND was revised subsequent to the Planning Commission hearing to clarify that only minimal ground disturbance would be required to install the proposed wireless communications facility. This minimal ground disturbance would be comprised of removal and re-compaction of the soil to construct the foundation for the facility. The minimal ground disturbance would have no visual impact on the public view corridor just south of the project site (i.e. Highway 101) due to the location of the facility site on a plateau that is more than 100 feet in elevation above the freeway.

Impacts of the proposed facility itself on visual resources would be less than significant. This conclusion is based on the lack of visibility of the ground mounted equipment from

public viewpoints due to topography and the stealth design of the antenna tower. The antenna tower is designed as a faux palm tree that would be located about 47 feet north of an existing row of palm trees that range from 17 feet to 27 feet in height. These palm trees are located at the edge of the steep terraced cliff that overlooks Highway 101 and would allow the proposed facility to blend in with, and not significantly alter, existing public views.

The clarification made to the MND did not affect any conclusions regarding the environmental effects of the project. Thus, recirculation of the MND is not required.

## **F. PROJECT HISTORY**

### **Permit History**

The property where the wireless communication facility is proposed is currently developed with a single family residence, garage and barn. These residential uses were authorized by Coastal Planned Development Permit No. LU11-0033. A portion of the subject parcel is currently in agricultural production with lemon and cherimoya trees. Discretionary permits granted on the parcel include the following:

- On September 2, 2011, the Planning Director granted Coastal Planned Development Permit (CPD) No. LU11-0033 to authorize the construction of a 4,071 square foot single family dwelling with an attached 1,535 square foot garage, and a 3,744 square foot accessory barn to support the onsite agricultural operation.
- On December 15, 2011, the Planning Director granted Site Plan Adjustment No. LU11-0145 to Coastal Planned Development Permit No. LU11-0033 to authorize the installation of solar panels and an emergency generator.
- On December 14, 2012, the Planning Director granted Site Plan Adjustment No. PL12-0162 to Coastal Planned Development Permit No. LU11-0033 to authorize changes in the design of the barn authorized by CPD LU11-0033.

## **G. PREVIOUS HEARING AND ACTION BY COUNTY DECISION-MAKERS**

### **Planning Commission Hearing and Decision of June 23, 2016**

On June 23, 2016, a public hearing was held by the Planning Commission to consider the proposed project (Case No. PL14-0128). The Planning Commission heard approximately one hour and 25 minutes of public testimony by staff, the Appellant, the Applicant and members of the public. Following the close of the public hearing and deliberation, the Planning Commission voted 4-1 to approve the project and adopt the MND as

recommended by staff.

## **H. APPEAL OF PLANNING COMMISSION DECISION**

On July 1, 2016, the Appellant, Anthony Brown, filed a timely appeal (Exhibit 11) of the Planning Commission's decision to grant the requested CUP and adopt the MND.

### **Grounds of Appeal and Staff Analysis:**

The grounds of appeal are reproduced verbatim below along with the staff response.

#### **Appellant Ground of Appeal No. 1**

*At no point in the public record, or the staff report to the Planning Commission, was an analysis done to consider alternative sites for this project, as required under CEQA section 21001.*

*An alternate site already exists nearby, that voice coverage maps show, greatly reduce this "gap in coverage". According to Federal Law, section 6409A, local governments are required to approve modification to existing wireless towers or base stations. For this reason, the proposed site is unnecessary.*

#### **Staff Response**

The "alternate site" referenced by the Appellant is a wireless communication facility mounted on a pole located in the County of Santa Barbara just west of the Ventura County line. In accordance with section 6409(a) of the federal Spectrum Act, non-substantial changes to an existing facility are eligible for an exemption from local discretionary permitting under certain circumstances. Federal law, however, does not mandate that a facility operator seek such changes or authorize a local agency to mandate that any facility be modified to accommodate another carrier. Should the operator of the separate facility referenced by Appellant seek to expand under the provisions of Section 6409(a), an application would have to be filed with, and processed by, the County of Santa Barbara. The County of Ventura has no authority to mandate land use actions in the County of Santa Barbara. Furthermore, the County of Ventura cannot base its land use decisions on speculative discretionary decisions that may be made in the future by the decision-makers of another jurisdiction.

The MND that was prepared for the proposed project concludes that no significant impacts would result from the installation, operation and maintenance of the proposed wireless communications facility. The five mitigation measures (Exhibit 5, Condition Nos. 21 through 24) identified in the MND that have been incorporated into the proposed conditions of approval would reduce the potentially significant environmental effects of

the project to a less than significant level.

Given the lack of significant environmental effects that would result from the proposed project, a detailed analysis of a project alternatives is not warranted or required. In accordance with CEQA Guideline Section 15126.6(a), an alternatives analysis is only required for environmental impacts deemed significant. The Applicant has demonstrated, with coverage maps and a Line of Site survey (Exhibit 3), that the proposed facility with a 45-foot tall antenna structure is the least intrusive means available for the carrier to fill a significant coverage gap. The County is required under federal law to allow a wireless communication provider to fill a significant coverage gap in its service area with the least intrusive means.

The nearest County of Ventura-permitted wireless communication facility (authorized by CUP No. LU08-0048) is located about 7,781 feet southeast of the project site, adjacent to the Southern Pacific Railroad and Highway 101 and near the community of La Conchita. The facility is a 35-foot monopole operated by American Tower. According to the Applicant's Radio Frequency Engineer (Exhibit A), the location and height of the proposed facility above Highway 101 would achieve coverage objectives by providing service to the north bound lanes of Highway 101, areas south of Carpinteria and the community of Rincon Point. A direct line of site cannot be adequately achieved between the wireless communication facility authorized by CUP No. LU08-0048 and the proposed project site due to the existing terrain, and vegetation between the two sites. The location of the proposed mono-pole on the ridgeline above Highway 101 is required in order to achieve the line of site needed to successfully achieve Verizon's coverage objectives in the Rincon Point area of the County.

Based on the above discussion, the ground of appeal is without merit.

**Appellant Ground of Appeal No. 2**

*This parcel, 008-0-160-450, is actually prime agriculture, if not unique. The proposed cell site has been intensively farmed until the last few years, and is subject to Land Conservation Act Contract LCA 12-4.10. This contract requires that 90% of the parcel be in agricultural production. At no point in the public record, or the Staff report to the Planning Commission, is there an analysis by the AG Preserve Committee, to ensure that this project will not invalidate this contract.*

**Staff Response**

The parcel where the proposed facility would be located is currently subject to a Land Conservation Act Contract (LCA Contract No. 12.40). This contract requires 90 percent of the parcel to be in agricultural production. An LCA contract is an agreement between the County and a qualifying landowner that restricts contracted land to agricultural or open space uses for 10 years. In exchange for the land use restriction, the contracting



landowner receives preferential property tax treatment.

It appears the property owner is not in compliance with the terms of LCA Contract No. 12.40. The County Planning Division is working with the property owner to bring the site into compliance with the terms of the contract.

The proposed project involves the use of 1,225 square feet (0.03 acre) of land and will require about 0.29 acre of brush clearing. No agricultural crops will be affected. This minor use of land on a 10.05-acre property will have a negligible effect on the ability of the landowner to fulfill obligations of the LCA contract.

Based on the above discussion, the ground of appeal is without merit.

**Appellant Ground of Appeal No. 3**

*The Staff Report shows efforts to consider the potential impacts to the public, even at great distances. However, it shows little concern for the immediate neighbors who will be impacted daily by this new commercial use, in a beautiful agricultural setting.*

**Staff Response**

As discussed in Staff Response to Appeal Ground No. 1 above, the MND concludes that no significant impacts would result from the installation, operation and maintenance of the proposed wireless communications facility. The five mitigation measures (Exhibit 5, Condition of Approval Nos. 21 through 24) would reduce the potentially significant environmental effects of the project to a less than significant level. Furthermore, no adverse effects on the neighboring properties or uses has been identified. As indicated in the Planning Commission staff report (Exhibit 1), the finding that the project is compatible with the surrounding land uses can be made.

The Planning Division mailed the Notice of Intent to Adopt the MND and the notice of the Planning Commission hearing to owners of property within 300 feet and residents within 100 feet of the property on which the project site is located. A legal ad was also placed in the *Ventura County Star*. In addition, the owners of property in the Rincon Point community located south of U.S. 101 were notified of both the MND and the public hearing. Public comments received are included in the MND along with a staff response.

The nearest offsite single family residence is located 397 feet northwest of the proposed facility. The resident(s) and owner of the parcel this residence is located on were notified of the Planning Commission hearing and were mailed the Notice of Intent to Adopt the MND. No public comments were received from either party regarding the proposed project. In addition, no public comments were received from the property owners and residents of the four parcels located along Bates Road nearest to the project site.

Based on the above discussion, the ground of appeal is without merit.

**Appellant Ground of Appeal No. 4**

*The project as proposed, encroaches onto other parcels in order to meet Fire Department conditions. The public record does not show any contact to affected property of the encroachment.*

**Staff Response**

Parcel Map Waiver Lot Line Adjustment No. 1157 was recorded with the County Recorder on April 8, 2003. This document identifies an existing 20-foot wide access easement (Exhibit 12, Parcel 2, detail A) connecting the subject property to the public Bates Road. This easement was established in 1932 for access and utility purposes (Exhibit 12, page 7). Thus, the Applicant has the authority to use the easement to access and maintain the proposed facility.

Based on the above discussion, the ground of appeal is without merit.

**Appellant Ground of Appeal No. 5**

*The Planning Commission made no condition for minimum maintenance standards, nor are there any conditions as to the eventual dismantling of this site.*

**Staff Response**

On June 23, 2016, the Planning Commission granted the requested CUP, subject to the recommended conditions of approval (Exhibit 5).

Recommended Condition of Approval No. 19 (Exhibit 5) addresses the removal of the facility upon expiration of the CUP or abandonment of the site by the Applicant. The Applicant is required to notify the Planning Division, remove the facility and all appurtenant structures and restore the premises to the conditions existing prior to the issuance of the CUP, within 60 days of the expiration of the CUP, or abandonment of the use.

The Applicant is required to maintain the wireless communication facility and all appurtenant structures and uses within the lease area, in conformance with the project description, as stated in proposed Condition of Approval No. 1 (Project Description) of the CUP. Maintenance of the private road in the established road easement is the responsibility of the property owners. Any dispute over road maintenance responsibility and cost is a private civil matter between property owners and not a County issue.

Based on the above discussion, the ground of appeal is without merit.

**I. APPELLANTS RECOMMENDATIONS:**

The Appellant requests that your Board take the following action (verbatim):

- *Review all the points of my appeal, staff report, etc.*

**J. NOTICE AND PUBLIC COMMENTS**

The Planning Division provided public notice regarding the Planning Commission hearing in accordance with the Government Code section 65091 and CZO section 8181-6.2 et seq. The Planning Division mailed notice to owners of property within 300 feet and residents within 100 feet of the property on which the project site is located and placed a legal ad in the *Ventura County Star*. Property owners and residents of the parcels located in the residential development on Rincon Point were also notified of the Planning Commission hearing. Interested members of the public who requested notification about the proposed project were also contacted. The owners and residents of a total of 87 parcels were notified.

Public comments received are included in the MND (Exhibit 4) along with a staff response. As of September 15, 2016, one public comment has been received. Mr. Paul Albritton of McKenzie and Albritton, LLP submitted documentation regarding the need for the proposed facility and an alternative site analysis (Exhibit 13) for the proposed project.

This Board letter was reviewed by County Counsel, the Auditor-Controller and the County Executive Office. If you have any questions regarding this matter, please contact me at (805) 654-2481, or Kristina Boero at (805) 654-2467.



Kim L. Prillhart, Director  
Ventura County Planning Division

for

**Attachments:**

*Note: Exhibits 1 through Exhibit A below are the planning documents provided to the Planning Commission for the June 23, 2016 hearing.*

- Exhibit 1 Planning Commission Staff Report, dated June 23, 2016
- Exhibit 2 Aerial Location, General Plan and Zoning Designations, and Land Use Maps



## Planning Commission Staff Report – Hearing on June 23, 2016

County of Ventura • Resource Management Agency • Planning Division

800 S. Victoria Avenue, Ventura, CA 93009-1740 • (805) 654-2478 • [ventura.org/rma/planning](http://ventura.org/rma/planning)

### Verizon Wireless Communications Facility Rincon Point Case No. PL14-0128

#### A. PROJECT INFORMATION

1. **Request:** The applicant requests that a Conditional Use Permit (CUP) be granted to authorize the construction, operation and maintenance of a wireless communications facility. (Case No. PL14-0128)
2. **Applicant:** Verizon Wireless, 2785 Mitchell Drive, Building 9, Walnut Creek, CA 94598
3. **Property Owner:** Gary and Beth Schuberg, 8320 Bates Road, Carpinteria, CA 93013
4. **Applicant's Representative:** Tricia Knight of TEK Consulting, Inc., 123 Seacliff Drive, Pismo Beach, CA 93449
5. **Decision-Making Authority:** Pursuant to the Ventura County Coastal Zoning Ordinance (CZO) (§ 8174-5 and § 8181-3 et seq.), the Planning Commission is the decision-maker for the requested CUP.
6. **Project Site Size, Location, and Parcel Number:** The 10.05-acre property is located at 8320 Bates Road, near the intersection of Bates Road and U.S. Highway 101, near the community of Rincon Point, in the unincorporated area of Ventura County. The wireless communications facility lease area is located about 1,003 feet southwest of the existing single family dwelling that is located on the subject parcel and about 20 feet from the southern property line of the subject parcel. The Assessor Parcel Number of the property that comprises the project site is 008-0-160-450 (Exhibit 2).
7. **Project Site Land Use and Zoning Designations:**
  - a. Countywide General Plan Land Use Map Designation: Open Space (Exhibit 2)
  - b. Coastal Area Plan Land Use Map Designation: Agriculture (Exhibit 2)

- c. Zoning Designation: Coastal Agricultural 40 acres minimum lot size/ slope density formula (CA 40ac/sdf) [Exhibit 2]

**8. Adjacent Zoning and Land Uses/Development (Exhibit 2):**

Location in Relation to the Project Site	Zoning	Land Uses/Development
North	CA 40 ac/sdf	Open Space
East	COS 10 ac/sdf (Coastal Open Space 10 acres minimum lot size/ slope density formula)	Open Space
South	COS 10 ac/sdf	Pacific Ocean and single family dwellings
West	CA 40 ac/sdf & COS 10 ac/sdf	Open Space, County of Santa Barbara and single family dwelling

- 9. History:** The subject property is currently developed with a single family residence, garage and barn. These residential uses were authorized by Coastal Planned Development Permit No. LU11-0033. A portion of the subject parcel is currently in agricultural production with lemon and cherimoya trees. Discretionary development on the parcel includes the following permits:

- On September 2, 2011, The Planning Director granted Coastal Planned Development Permit (CPD) No. LU11-0033 to authorize the construction of a 4,071 square foot single family dwelling with an attached 1,535 square foot garage, and a 3,744 square foot accessory barn to support the onsite agricultural operation.
- On December 15, 2011, the Planning Director granted Site Plan Adjustment No. LU11-0145 to Coastal Planned Development Permit No. LU11-0033 to authorize the installation of solar panels and an emergency generator.
- On December 14, 2012, the Planning Director granted Site Plan Adjustment No. PL12-0162 to Coastal Planned Development Permit No. LU11-0033 to authorize the reconfiguration in design of the barn that was approved under CPD LU11-0033.

- 10. Project Description:** The applicant requests that a CUP be granted to authorize the construction, operation and maintenance of an unmanned wireless communication facility.

The proposed wireless communications facility would include the following components:



- A 45-foot tall faux palm tree (i.e. mono-palm) antenna structure with a RAD center (radiation center, or the center line of the antenna mounting height) placed at 38 feet above the ground.
- An equipment shelter that encompasses approximately 186 square feet.
- Six panel antennas installed on the mono-palm. Three antennas would be located at the 38-foot level of the mono-palm. Three antennas would be located at the 28-foot level of the mono-palm.
- Six remote radio units installed on the mono-palm. Three remote radio units would be located at the 20-foot, 3-inch level of the mono-palm. Three remote radio units would be located at the 14-foot, 9-inch level of the mono-palm.
- Two ray cap surge protectors installed on the mono-palm. One would be installed at the 14-foot, 9-inch level of the mono-palm and one would be located in the equipment shelter.
- Two GPS antennas installed on the roof of the proposed equipment shelter.
- A 30-kilowatt emergency backup generator.

All of the above components of the proposed wireless communications facility would be located within a 1,225 square foot lease area and installed on a concrete pad. A 6-foot tall chain link fence with green slats would be erected at the perimeter of the lease area.

About 0.29 acres of existing native brush and vegetation is required to be removed to accommodate the new facility. Minimal ground disturbance is required in the form of removal and recompaction of the soil to accommodate the installation of the wireless communications facility. Water is not required to operate the unmanned facility. Access to the site is provided by a private unpaved driveway (Bates Ranch Road) that connects to Bates Road (Exhibit 3).

## **B. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) COMPLIANCE**

Pursuant to CEQA (Public Resources Code Section 21000 et seq.) and the CEQA Guidelines (Title 14, California Code of Regulations, Division 6, Chapter 3, Section 15000 et seq.), the proposed project is subject to environmental review.

County staff prepared an Initial Study in accordance with the County's Initial Study Assessment Guidelines. Based on the information contained in the Initial Study, the County prepared a Mitigated Negative Declaration (MND) and made the MND available for public review and comment from April 1, 2016 to May 2, 2016. One comment letter was received regarding the proposed project's potential to cause adverse impacts on

public health to the surrounding residences within proximity to the proposed project site. This comment letter and a response to the comment is included in the final MND (Exhibit 4).

An MND is a written statement briefly describing the reasons that a proposed project will not have a significant effect on the environment and therefore does not require the preparation of an Environmental Impact Report. However, the Initial Study identified four potentially significant effects on the environment, but mitigation agreed to by the applicant before the MND was released for public review would avoid the effects or mitigate the effects to a point where no significant effect on the environment would occur.

The MND identified potentially significant impacts on biological resources and cultural resources. These impacts include the following:

- a. Biological Resources-Nesting Birds: Proposed ground disturbance activities and construction of the proposed project could result in potentially significant indirect impacts on nesting birds due to noise, vibration and human presence.
  - b. Biological Resources-Monarch Butterfly: Proposed ground disturbance activities and construction of the wireless communications facility could result in potentially significant indirect impacts on Monarch Butterfly winter roost sites.
  - c. Biological Resources-Sensitive Plant Communities: Proposed vegetation removal in order to accommodate the construction of the wireless communications facility could result in potentially significant indirect impacts on sensitive plant communities.
  - d. Cultural Resources: Proposed ground disturbance activities could result in potentially significant indirect impacts on previously identified culturally sensitive resources located near the proposed project site.
1. **Findings for Adoption of an MND**: The CEQA Guidelines [§ 15074(b)] states that a MND shall only be adopted by a decision-making body if there is no substantial evidence, in light of the whole record, that the proposed project may have a significant adverse effect on the environment and that the MND reflects the Lead Agency's independent judgment and analysis.

The MND concludes that proposed project, absent mitigation, may have a significant effect on the environment. The identified mitigation measures, discussed in detail below (Section B.2) and in the mitigation monitoring and reporting program (Exhibit 5, Condition Nos. 21 through 24), are feasible and would reduce impacts to a less than significant level. The proposed final MND, including written comments on the MND and staff's responses to the comments on the MND, is attached as Exhibit 4.

Based on the information provided above and in light of the whole record, staff recommends that the decision-makers find there is no substantial evidence that the proposed project may have a significant adverse effect on the environment and the MND (Exhibit 4) reflects the County's independent judgment and analysis.

- 2. Mitigation Monitoring and Reporting Program:** The CEQA Guidelines [§ 15091(d)] states that, when approving a project for which a MND has been prepared, the agency shall also adopt a program for reporting on, or monitoring, the changes which it has either required in the project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be fully enforceable through permit conditions, agreements, or other measures.

A mitigation monitoring and reporting program (MMRP) has been prepared in compliance with the CEQA Guidelines. These mitigation measures are included in the conditions of approval (Exhibit 5) which constitute the MMRP for the proposed project. The requirements of the four mitigation measures are discussed in detail below.

**Required Mitigation Measures for PL14-0128**

- a. Biological Resources- Monarch Butterfly Winter Roost Sites (Exhibit 5, Condition No. 21): The applicant shall avoid monarch butterfly roosts during all construction activities related to the proposed development. This can be accomplished by implementing either one of the following options:
  - i. Timing of construction: Prohibiting construction activities during the monarch wintering season (October 1 through March 1); or,
  - ii. Surveys and avoidance: Conduct site-specific surveys prior to construction activities during the monarch wintering season (October 1 through March 1) and avoid monarch roosts.
- b. Biological Resources- Pre-Construction Surveys for Nesting Birds (Exhibit 5, Condition No. 22): The applicant shall conduct all demolition, tree removal/trimming, vegetation clearing (including vegetation clearing for fuel modification), construction activities, and grading activities (collectively, "development activities") in such a way as to avoid nesting native birds. No development activities shall occur on the project site during the breeding and nesting season (February 1 – August 31), or if development activities must be conducted during the nesting season, by conducting a pre-development activities survey for active bird nests and avoiding nests until juvenile birds have vacated the nest.

- c. Biological Resources- Sensitive Plant Communities- Fuel Modification Plan (Exhibit 5, Condition No. 23): The applicant shall use a County-approved qualified biologist to prepare a Fuel Modification Plan for County Planning review and approval that minimizes impacts to the surrounding coastal sage scrub habitat and meets the Ventura County Fire Protection District's requirements to modify fuels surrounding structures. The Fuel Modification Plan shall specify the methods of modifying vegetation surrounding structures that will minimize indirect impacts to coastal sage scrub habitats (e.g., use of hand tools to prune vegetation, thinning shrubs rather than clear-cutting, avoiding rare plants, avoiding nesting birds). Because a portion of the fuel modification area is on or near a slope, the Fuel Modification Plan shall incorporate erosion control measures as necessary e.g. straw waddles, silt fencing, hydroseeding, erosion control blankets, etc. The Fuel Modification Plan shall include native, drought tolerant ground cover and shrubs that VCFPD deems not to pose a flammability risk. A County-approved qualified biologist shall monitor all fuel modification activities.
- d. Cultural Resources- Fencing for Protection of Archeological Resources (Exhibit 5, Condition No. 24): In order to prevent the illicit collection of archaeological resources, the applicant shall temporarily protect with fencing the area identified in the Phase I Archaeological study (MacFarlane Archaeological Consultants 2011) that has the potential for the presence of archaeological resources. Human encroachment in the fenced area (Exhibit 6) shall be prohibited. The fencing materials must consist of typical ranch wire or orange construction fence material.

The MND was revised to clarify that the proposed project would include minimal ground disturbance with the installation of the wireless communications facility. This minimal ground disturbance would include removal and recompaction of the soil to accommodate the installation of the wireless communications facility. The minimal ground disturbance would have negligible to no visual impact on the public view corridor just south of the project site (i.e. Highway 101) due to the stealth design of the facility and the fact that the facility would be screened by existing trees. The facility would also be setback about 47 feet north of an existing row of palm trees that range from 17 feet to 27 feet in height. These palm trees are adjacent to the steep terraced cliff that overlooks Highway 101. Thus, public views would not be significantly altered. This clarification did not affect the environmental determinations included in the MND, and recirculation of the MND is not required.

Based on the above discussion, the proposed project has been evaluated in compliance with CEQA and the CEQA Guidelines.

### **C. CONSISTENCY WITH THE GENERAL PLAN**

The Ventura County General Plan *Goals, Policies and Programs* (2015, page 4) states:

*...in the unincorporated area of Ventura County, zoning and any permits issued thereunder, any subdivision of land, any public works project, any public (County, Special District, or Local Government) land acquisition or disposition, and any specific plan, must be consistent with the Ventura County General Plan Goals, Policies and Programs, and where applicable, the adopted Area Plan.*

Furthermore, the Ventura County CZO (§ 8181-3.5.a) states that in order to be approved, a Coastal CUP must be found consistent with all applicable policies of the Ventura County Coastal Area Plan.

Evaluated below is the consistency of the proposed project with the applicable policies of the General Plan *Goals, Policies and Programs* and *Coastal Area Plan*.

- 1. Ventura County General Plan Goals, Policies and Programs Resources Policy 1.1.2-1:** *All General Plan amendments, zone changes and discretionary development shall be evaluated for their individual and cumulative impacts on resources in compliance with the California Environmental Quality Act.*

As discussed in Section B (above) and in the MND prepared for the proposed project (Exhibit 4), the project's individual impacts and contribution to cumulative impacts on resources have been evaluated in compliance with CEQA.

Based on the above discussion, the proposed project is consistent with this Policy.

- 2. Ventura County General Plan Goals, Policies and Programs Resources Policy 1.1.2-2:** *Except as otherwise covered by a more restrictive policy within the Resources Chapter, significant adverse impacts on resources identified in environmental assessments and reports shall be mitigated to less than significant levels or, where no feasible mitigation measures are available, a statement of overriding considerations shall be adopted.*

As discussed in Section B (above) and in the MND prepared for the proposed project (Exhibit 4), the proposed project will have a potentially significant but mitigable impact on biological resources and cultural resources. The CUP would include four mitigation measures identified in the MND as conditions of approval (Exhibit 5, Condition Nos. 21 through 24). With the implementation of these conditions of approval, impacts to biological resources and cultural resources will be less than significant.

Based on the above discussion, the proposed project is consistent with this Policy.



3. **Ventura County General Plan Goals, Policies and Programs Air Quality Resources Policy 1.2.2.2:** *The air quality impacts of discretionary development shall be evaluated by use of the Guidelines for the Preparation of Air Quality Impact Analyses.*

The proposed project will include the use of a 30-kilowatt emergency backup generator. This generator is subject to permits issued by the Ventura County Air Pollution Control District (VCAPCD). As indicated in the Guidelines for the Preparation of Air Quality Impact Analyses (now titled the Air Quality Assessment Guidelines or AQAG), emissions from facilities permitted by the VCAPCD are not counted toward the Thresholds of Significance established in the AQAG for impacts on air quality. In any case, the Ventura County Air Pollution Control District (VCAPCD) has reviewed the proposed project and determined that the occasional use of the emergency generator will not produce emissions above the 25 pounds per day Threshold of Significance established in AQAG for impacts on air quality.

Based on the above discussion, the proposed project is consistent with this Policy.

4. **Ventura County General Plan Goals, Policies and Programs Water Resources Policy 1.3.2-2:** *Discretionary development shall comply with all applicable County and State water regulations.*

**Ventura County General Plan Goals, Policies and Programs Water Resources Policy 1.3.2-4:** *Discretionary development shall not significantly impact the quantity or quality of water resources within watersheds, groundwater recharge areas or groundwater basins.*

The proposed project will not involve a long-term use of water. The project would be constructed in an undeveloped area adjacent to existing agriculture. Although the proposed project involves 1,225 square feet of new impervious surfaces, this minimal level of development does not have the potential to substantially change surface water runoff or water quality.

The proposed project includes of the installation of a 30 kilowatt emergency backup generator. To protect groundwater quality from potential spillage/leakage of stored fuel for the generator, the project will include a condition that will require the applicant to construct the diesel fuel tank area with a covered (roof or canopy) concrete pad and a berm designed to prevent runoff and to collect all spilled liquids into a sump for legal disposal (Exhibit 5, Condition No. 30). Implementation of the recommended condition of approval would prevent adverse effects on water resources.

Based on the above discussion, the proposed project is consistent with the above Policies.

5. **Ventura County General Plan Goals, Policies and Programs Biological Resources Policy 1.5.2-1:** *Discretionary development which could potentially impact biological resources shall be evaluated by a qualified biologist to assess impacts and, if necessary, develop mitigation measures.*

**Ventura County General Plan Goals, Policies and Programs Biological Resources Policy 1.5.2-2:** *Discretionary development shall be sited and designed to incorporate all feasible measures to mitigate any significant impacts to biological resources. If the impacts cannot be reduced to a less than significant level, findings of overriding considerations must be made by the decision-making body.*

**Coastal Area Plan Coastal Act Policy § 30244 (a) Environmentally Sensitive Habitat Areas:** *Environmentally sensitive habitat areas (ESHA) shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.*

**Coastal Area Plan Coastal Act Policy § 30244 (b) Environmentally Sensitive Habitat Areas:** *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.*

**Coastal Area Plan Environmentally Sensitive Habitats Policy A. Tidepools and Beaches:** *An applicant for any coastal project, including shoreline protective devices, will show that their proposal will not cause long-term adverse impacts on beach or intertidal areas. Impacts include, but are not limited to, destruction of the rocky substrate, smothering of organisms, contamination from improperly treated waste water or oil, and runoff from streets and parking areas. Findings to be made will include, but not be limited to, proper waste water disposal.*

As identified in the MND (Exhibit 4), potentially significant but mitigable impacts on special status animal species and ecological sensitive plant communities would result from the proposed project. Three mitigation measures, as discussed in Section B of this staff report, have been included in the conditions of approval (Exhibit 5, Condition Nos. 21 through 24), and serve to reduce impacts to a less than significant level.

The MND concludes that although the project occurs outside the Santa Monica Mountains, Planning staff utilized the three site-specific test criteria, which is routinely used to determine ESHA impacts in the Santa Monica Mountains, to the

proposed project in order to determine whether or not the coastal sage scrub present could qualify as ESHA. The test includes the following criteria:

1. Has the native vegetation been properly identified to the alliance level as coastal sage scrub in the Initial Study Biological Assessment prepared for the proposed project?
2. Does the project area consist of pristine or undeveloped land?
3. Is the habitat part of a large contiguous block of relatively pristine native vegetation?

Planning staff concluded that although the proposed project included areas where coastal sage scrub is present, the proposed project would not significantly impact ESHA. The coastal sage scrub vegetation that exists within and around the proposed project area is sparse, likely due to the steep cliff south of the lease area and somewhat contiguous with other coastal sage scrub communities near the project area. However, this vegetation is not a part of a large contiguous block of relatively pristine native vegetation which is characteristic of the vegetation found on the slope to the east of the project site. To ensure that that coastal sage scrub communities continue to be preserved onsite, the applicant will be required to provide for the thinning of vegetation, selective retention of some shrubs, and the planting of non-flammable native species to minimize indirect impacts on coastal sage scrub resulting from the development of the wireless communications facility (Exhibit 5, Condition No. 23).

Based on the above discussion, the proposed project is consistent with the above Policies.

6. **Ventura County General Plan Goals, Policies and Programs Farmland Resources Policy 1.6.2-6:** *Discretionary development adjacent to Agricultural-designated lands shall not conflict with agricultural use of those lands.*

**Ventura County General Plan Goals, Policies and Programs Land Use Policy 3.2.2-4:** *Agricultural land shall be utilized for the production of food, fiber and ornamentals; animal husbandry and care; uses accessory to agriculture and limited temporary or public uses which are consistent with agricultural or agriculturally related uses.*

**Coastal Area Plan Coastal Act Policy § 30241 Agriculture:** *The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas' agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following:*

- (a) *By establishing stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban uses.*

- (b) By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.*
- (d) By developing available lands not suited for agriculture prior to the conversion of agricultural lands.*
- (e) By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.*

**Coastal Area Plan Coastal Act Policy § 30242 Agriculture:** *All other lands suitable for agricultural use shall not be converted to nonagricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.*

**Coastal Area Plan Coastal Act Policy § 30250 Agriculture:** *New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the acreage size of surrounding parcels.*

According to the State Important Farmland Inventory Maps, the project site has a soil designation of grazing land. The proposed project is not an agricultural use. However, the project site is located on land currently in agricultural production with open space and agricultural uses surrounding the project site. Although, the proposed project lease area is located about 70-feet from existing orchards, the proposed facility is not expected to adversely affect agricultural resources. The proposed facility would only encompass 1,225 square feet of the existing soil on the project site. The facility would be completely surrounded by a 6-foot high chain-link fence with green slats. There would not be any existing orchards removed or adversely affected by the installation of the proposed facility. Thus, the proposed project would not adversely impact agricultural resources.

Based on the above discussion, the proposed project is consistent with the above Policies.

7. **Ventura County General Plan Goals, Policies and Programs Scenic Resources Policy 1.7.2-1:** *Notwithstanding Policy 1.7.2-2, discretionary development which would significantly degrade visual resources or significantly alter or obscure public views of visual resources shall be prohibited unless no feasible mitigation measures are available and the decision-making body determines there are overriding considerations.*

The proposed wireless communication facility would be located within ½ mile of U.S. Highway 101, which is a state eligible scenic highway. The southern perimeter of the property is visible from U.S. Highway 101 at an elevation about 100 feet above the freeway. The proposed wireless communication facility will be designed to include a 45-foot tall faux palm tree antenna structure. The facility would be located on a flat portion of the property, about 20 feet from the property line. The proposed project lease area will be located about 47 feet north of an existing row of palm trees that range from 17 feet to 27 feet in height. These trees are located along the edge of the steep terraced cliff on the subject property. The proposed mono-palm antenna structure is designed to visually blend with these existing trees such that the proposed facility will not be prominently visible from public views along U.S. Highway 101 and the public beach at Rincon Point.

The proposed wireless communications facility shelter and equipment area would be located at the base of the faux palm tree structure. The shelter and equipment area would not be visible from a public viewing location due to the topography of the project site and the limited height (7 feet) of the equipment. The existing vegetation adjacent to the proposed facility would further screen the shelter from offsite views.

Based on the above discussion, the proposed project is consistent with this Policy.

8. **Ventura County General Plan Goals, Policies and Programs Paleontological and Cultural Resources Policy 1.8.2-1:** *Discretionary developments shall be assessed for potential paleontological and cultural resource impacts, except when exempt from such requirements by CEQA. Such assessments shall be incorporated into a Countywide paleontological and cultural resource data base.*

**Ventura County General Plan Goals, Policies and Programs Paleontological and Cultural Resources Policy 1.8.2-2:** *Discretionary development shall be designed or re-designed to avoid potential impacts to significant paleontological or cultural resources whenever possible. Unavoidable impacts, whenever possible, shall be reduced to a less than significant level and/or shall be mitigated by extracting maximum recoverable data. Determinations of impacts, significance and mitigation shall be made by qualified archaeological (in consultation with recognized local Native American groups), historical or paleontological consultants, depending on the type of resource in question.*



**Ventura County General Plan Goals, Policies and Programs Paleontological and Cultural Resources Policy 1.8.2-3:** *Mitigation of significant impacts on cultural or paleontological resources shall follow the Guidelines of the State Office of Historic Preservation, the State Native American Heritage Commission, and shall be performed in consultation with professionals in their respective areas of expertise.*

**Coastal Area Plan Coastal Act Policy § 30244 Archaeological and Paleontological Resources:** *Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required*

**Coastal Area Plan Archaeological and Paleontological Resources Policy 7:** *Where new development would adversely impact archaeological resources, reasonable mitigation measures will be required. Such measures may involve covering the site, moving the structure(s) to another site on the parcel, or not constructing on the site, depending on the severity of the impacts and the significance of the resources.*

**Coastal Area Plan Archaeological and Paleontological Resources Policy 8:** *If previously unknown resources are discovered after construction starts, all work shall cease and the Public Works Agency shall be notified. After review of the site by the Agency, or other qualified personnel, additional reasonable mitigation measures may be required.*

The proposed project would include minimal ground disturbance activities to accommodate the construction of the wireless communications facility.

The project site is located within the vicinity of a known archaeological site. A Phase I archaeological study (MacFarlane Archaeological Consultants, 2011) was prepared when the construction of the existing single family dwelling was proposed on the project site. A cultural resources survey (EBI Consulting, April 10, 2014) was also prepared by the applicant in order to assess the proposed wireless communication's facility impact on archeological resources.

The cultural resources survey (2014) did not reveal the presence of any archaeological resources within the areas that will be subject to ground-disturbance activities associated with the proposed wireless communications facility. Although it is unlikely that currently unknown subsurface archaeological resources will be encountered during facility installation, the proposed project will be subject to a standard condition to address any discoveries. In the event that resources are encountered during ground disturbance activities, the applicant will be required to 1) halt all ground disturbance activities, 2) secure the area of the

find, 3) retain an archaeological or paleontological consultant and, if required, Native American Consultant, and 4) develop a program to preserve and curate the resources. Work will be able to resume after the successful implementation of the preservation and curation program (Exhibit 5, Condition Nos. 25 and 26).

The Phase I archaeological study (2011) identified an area of the subject property that exhibits qualities that indicate the presence of archaeological resources. Although outside of the proposed area of construction, the identified site could be disturbed by construction workers. To ensure that the cultural resources area is preserved throughout the life of the permit, the applicant will be required, as a mitigation measure (Exhibit 5, Condition No. 24), to temporarily protect with fencing the area (Exhibit 6) identified in the Phase I Archaeological study (2011).

Based on the above discussion, the proposed project is consistent with these Policies.

9. **Ventura County General Plan Goals, Policies and Programs Energy Resources Policy 1.9.2-1:** *Discretionary development shall be evaluated for impact to energy resources and utilization of energy conservation techniques.*

The proposed wireless communications facility would not involve a substantial increase in energy demand. All new construction would be required to meet the Building Code standards for energy efficiency. In any case, the amount of energy consumed by the proposed facility would have no effect on regional energy resources or generating stations.

Based on the above discussion, the proposed project is consistent with this Policy.

10. **Ventura County General Plan Goals, Policies and Programs Fire Hazards Policy 2.13.2-1:** *All applicants for discretionary permits shall be required, as a condition of approval, to provide adequate water supply and access for fire protection and evacuation purposes.*

**Ventura County General Plan Goals, Policies and Programs Fire Hazards Policy 2.13.2-2:** *All discretionary permits in fire hazard areas shall be conditioned to include fire-resistant vegetation, cleared firebreaks, or a long-term comprehensive fuel management program as a condition of approval. Fire hazard reduction measures shall be incorporated into the design of any project in a fire hazard area.*

**Ventura County General Plan Goals, Policies and Programs Fire Hazards Policy 2.13.2-4:** *All applicants for subdivisions, multi-unit residential complexes, and commercial and industrial complexes shall be required to obtain, prior to*

*permit approval, certification from the Fire Protection District that adequate fire protection is available, or will be available prior to occupancy.*

**Ventura County General Plan Goals, Policies and Programs Fire Protection Policy 4.8.2-1:** *Discretionary development shall be permitted only if adequate water supply, access and response time for fire protection can be made available.*

**Ventura County General Plan Goals, Policies and Programs Fire Protection Policy 4.8.2-2:** *Fire stations shall be sited in locations central to the area served and on or near arterial highways so as to minimize call response time.*

The proposed project site is located within a high fire hazard area. The Ventura County Fire Protection District (VCFPD) has recommended conditions of approval that would ensure adequate fire prevention on the project site. The applicant would be required to remove brush and vegetation annually within 30 feet of the wireless communications facility (Exhibit 5, Condition No. 33). The applicant would also be required to obtain all required fire code permits (Exhibit 5, Condition No. 35) and fire clearances (Exhibit 5, Condition No. 34) to ensure compliance with VCFPD requirements for development of the wireless communications facility.

As discussed in the MND prepared for the proposed project, the wireless communications facility does not require water for fire suppression or equivalent system (i.e. fire protection system). The VCFPD has also determined that access and response time are adequate, as Fire Station No. 25 is located within five miles of the project site.

Based on the above discussion, the proposed project is consistent with these Policies.

- 11. Ventura County General Plan Goals, Policies and Programs Hazardous Material Policy 2.15.2:** *Site plans for discretionary development that will generate hazardous wastes or utilize hazardous materials shall include details on hazardous waste reduction, recycling and storage.*

The Ventura County Environmental Health Division (EHD) comments that the project may include the use of hazardous materials typically associated with operation of the proposed wireless communications facility. The applicant will be required to store, handle and dispose of hazardous materials and waste in compliance with applicable state and local regulations (Exhibit 5, Condition No. 28). The applicant will also be required to submit a Hazardous Materials Business Plan (HMBP) that identifies the type and quantity of such materials maintained on the project site. The HMBP also includes material handling and emergency procedures (Exhibit 5, Condition No. 28). Installation of this facility would provide additional convenience with improved wireless communication for the public.

Based on the above discussion, the proposed project is consistent with this Policy.

**12. Ventura County General Plan Goals, Policies and Programs Noise Policy**

**2.16.2-1:** *All discretionary development shall be reviewed for noise compatibility with surrounding uses. Noise compatibility shall be determined from a consistent set of criteria based on the standards listed below. An acoustical analysis by a qualified acoustical engineer shall be required of discretionary developments involving noise exposure or noise generation in excess of the established standards. The analysis shall provide documentation of existing and projected noise levels at on-site and off-site receptors, and shall recommend noise control measures for mitigating adverse impacts.*

*(1) Noise sensitive uses proposed to be located near highways, truck routes, heavy industrial activities and other relatively continuous noise sources shall incorporate noise control measures so that:*

*a. Indoor noise levels in habitable rooms do not exceed CNEL 45.*

*b. Outdoor noise levels do not exceed CNEL 60 or Leq1H of 65 dB(A) during any hour.*

*(4) Noise generators, proposed to be located near any noise sensitive use, shall incorporate noise control measures so that ongoing outdoor noise levels received by the noise sensitive receptor, measured at the exterior wall of the building, does not exceed any of the following standards:*

*a. Leq1H of 55dB(A) or ambient noise level plus 3dB(A), whichever is greater, during any hour from 6:00 a.m. to 7:00 p.m.*

*b. Leq1H of 50dB(A) or ambient noise level plus 3dB(A), whichever is greater, during any hour from 7:00 p.m. to 10:00 p.m.*

*c. Leq1H of 45dB(A) or ambient noise level plus 3dB(A), whichever is greater, during any hour from 10:00 p.m. to 6:00 a.m.*

*Section 2.16.2(4) is not applicable to increased traffic noise along any of the roads identified within the 2020 Regional Roadway Network (Figure 4.2.3) Public Facilities Appendix of the Ventura County General Plan (see 2.16.2-1(1)). In addition, State and Federal highways, all railroad line operations, aircraft in flight, and public utility facilities are noise generators having Federal and State regulations that preempt local regulations.*

During the construction phase of the proposed project, noise is expected to be produced. However, the construction phase will be temporary in nature, lasting approximately 60 days. To ensure that noise-generating activities would not adversely impact nearby residential uses, the applicant will be required to limit noise-generating construction activities to the daytime (i.e., 7:00 AM to 7:00 PM, Monday through Friday, and 9:00 AM to 7:00 PM, Saturday, Sunday, and local holidays) [Exhibit 5, Condition No. 27]. Implementation of this noise control measure would ensure compliance with the Ventura County General Plan Noise Policy (Policy 2.16.2-1).

The nearest offsite single family residence is located 397 feet from the proposed facility. The facility is expected to produce minimal noise with the operation of the proposed electrical equipment and occasional noise due to operation of the emergency generator to be installed within the equipment area. At a distance of 397 feet to the nearest sensitive receptor, the amount of noise emitted from the operation of the facility will not exceed the ambient noise level thresholds established in the Ventura County General Plan Noise Policy (Policy 2.16.2-1). In addition, the ambient noise of the area resulting from traffic on U.S. 101 will effectively mask the minor noise generated by the proposed facility.

Based on the discussion above, the proposed project is consistent with this Policy.

- 13. Ventura County General Plan Goals, Policies and Programs Land Use Policy 3.1.2-7: Nonconforming Parcel Size:** *The use or development of a parcel which is a legal lot for the purposes of the County Subdivision Ordinance, but which fails to meet the minimum parcel size requirements of the applicable land use category, shall not be prohibited solely by reason of such failure. However, this policy shall not be construed to permit the subdivision of any parcel into two or more lots if any of the new lots fails to meet the minimum parcel size requirements.*

The 10.05-acre property does not conform to the 40-acre minimum lot size requirement for the subject property. However, the project site is located on a legal lot, which is identified as Parcel 2 of Parcel Map Waiver No. 1157.

Based on the above discussion, the proposed project is consistent with this Policy.

- 14. Ventura County General Plan Goals, Policies and Programs Public Services and Facilities Policy 4.1.2-2:** *Development shall only be permitted in those locations where adequate public services are available (functional), under physical construction or will be available in the near future.*

Adequate public services are available to the proposed project site. Access to the site is available from Bates Road and U.S. Highway 101. The proximity to a full-time, paid fire station allows for adequate emergency response time.



Based on the above discussion, the proposed project is consistent with this Policy.

- 15. Coastal Area Plan Coastal Act Policy § 30211 Shoreline Access:** *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

**Coastal Area Plan Coastal Act Policy § 30212 Shoreline Access:** *Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.*

The proposed project site is located at the top of a steep terraced cliff overlooking Rincon Beach Park and U.S. Highway 101. The proposed wireless communications facility would be located about 746 feet north of the Pacific Ocean. Existing public access to the beach is provided by a trail and parking area that connect to Rincon Point Road and Bates Road. The construction, operation and maintenance of the proposed wireless communications facility would not interfere with public access to the coast.

Based on the above discussion, the proposed project is consistent with these Policies.

- 16. Coastal Area Plan Coastal Act Policy § 30253 Hazards:** *New development shall:*

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazards.*
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs*

**Coastal Area Plan Hazards Policy Hazards Policy 2:** *New development shall be sited and designed to minimize risks to life and property in areas of high geologic, flood, and fire hazards.*

**Coastal Area Plan Hazards Policy Hazards Policy 3:** *All new development will be evaluated for its impacts to, and from, geologic hazards (including seismics*

*safety, landslides, expansive soils, subsidence, etc.), flood hazards, and fire hazards. Feasible mitigation measures shall be required where necessary.*

The Ventura County Public Works Agency Engineering Services Division reviewed the proposed project and determined that the proposed location of the wireless communications facility would not create or contribute to erosion or geologic instability of the terraced cliff located 20 feet south of the proposed facility lease area.

To ensure that the proposed minimal ground disturbance (i.e. removal and recompaction of the soil) required to accommodate the installation of the wireless communications facility, the applicant will be required (Exhibit 5, Condition No. 30) to submit grading and elevation plans that demonstrate compliance with the California Building Code, Appendix J. (reference only herein).

As discussed above, the applicant would be required to remove brush and vegetation annually within 30 feet of the wireless communications facility (Exhibit 5, Condition No. 33) for fire safety. The applicant would also be required to obtain all required fire code permits (Exhibit 5, Condition No. 35) and fire clearances (Exhibit 5, Condition No. 34) to ensure compliance with VCFPD requirements for development of the wireless communications facility.

Based on the above discussion, the proposed project is consistent with these Policies.

#### **D. ZONING ORDINANCE COMPLIANCE**

The proposed project is subject to the requirements of the Ventura County CZO.

Pursuant to the Ventura County Ventura County CZO (§ 8174-4), the proposed use is allowed in the CA 40 ac/sdf zone district with the granting of a CUP. Upon the granting of the CUP, the Permittee will be in compliance with this requirement.

The proposed project includes the construction and use of buildings and structures that are subject to the development standards of the Ventura County CZO (§ 8175-2). Table 1 lists the applicable development standards and a description of whether the proposed project is designed in compliance with applicable development standards.

**Table 1 – Development Standards Consistency Analysis**

Type of Requirement	Zoning Ordinance Requirement	Complies?
Minimum Lot Area (Gross)	40 acres	No. However, as discussed above, the project site is located on a legal lot, identified as Parcel 2 of

**Table 1 – Development Standards Consistency Analysis**

Type of Requirement	Zoning Ordinance Requirement	Complies?
		Parcel Map Waiver No. 1157, and, therefore, may be developed in compliance with the regulations set forth in the Ventura County Coastal Zoning Ordinance.
Maximum Percentage of Building Coverage	21,878 sq.ft. (using the formula for non-conforming parcel size)	Yes
Front Setback	20 feet	Yes
Side Setback	10 feet	Yes
Rear Setback	15 feet	Yes
Maximum Principal Building height	35 feet	Yes
Maximum Accessory Structure Height	35 feet	No. Section 8174-5 of the CZO limits the maximum height of an accessory structure in the CA-40 ac zone to be 35 feet. However, the applicant has demonstrated, with coverage maps and a Line of Site survey (see Exhibit 3), that the proposed 45-foot tall wireless facility structure (i.e. an additional 10 feet above the maximum height allowed per the CZO) is the least intrusive means available for the carrier to fill a significant coverage gap in its service area. The County is required under federal law to allow a wireless communication provider to fill a significant coverage gap in its service area with non-conforming facilities provided that the carrier establishes that the proposed non-conforming facility is the least intrusive means of filling the significant coverage gap.

## **E. CUP FINDINGS AND SUPPORTING EVIDENCE**

The Planning Commission must make certain findings in order to determine that the proposed project is consistent with the permit approval standards of the Ventura County CZO (§ 8181-3.5 et seq.). The proposed findings and supporting evidence are as follows:

**1. The proposed development is consistent with the intent and provisions of the County's Certified Local Coastal Program [§ 8181-3.5.a].**

Based on the information and analysis presented in Sections C and D of this staff report, the finding that the proposed development is consistent with the intent and provisions of the County's Certified Local Coastal Program can be made.

**2. The proposed development is compatible with the character of surrounding development [§ 8181-3.5.b].**

The proposed wireless communications facility would be located near the top of a steep terraced cliff overlooking the Pacific Ocean. The facility would be located about 20 feet north of the property line. The antenna structure included in the proposed facility is designed as a faux palm tree that would blend in with existing mature palm trees located along the southern property line at the top edge of the cliff. Although taller than the natural palm trees, it will not appear substantially taller from public views along US 101 because of geometry of the project site. The antenna structure would be located about 47 feet north of the row of natural palm trees located along the edge of the cliff. In summary, the proposed facility will not result in substantial alteration of public views along U.S. Highway 101 or from the Rincon Point community.

The design of the facility will not be out of character with the sparse residential development in the area.

Based on the above discussion, this finding can be made.

**3. The proposed development, if a conditionally permitted use, is compatible with planned land uses in the general area where the development is to be located [§ 8181-3.5.c].**

The proposed wireless communications facility would be located near the top of a steep terraced cliff overlooking the Pacific Ocean. The facility would be located about 20 feet north of the property line. The antenna structure included in the proposed facility is designed as a faux palm tree that would blend in with existing mature palm trees located along the southern property line at the top edge of the cliff. Although taller than the natural palm trees, it will not appear substantially

taller from public views along US 101 because of geometry of the project site. The antenna structure would be located about 47 feet north of the row of natural palm trees located along the edge of the cliff. Given the Coastal Agricultural designation and zoning of the property and the location of the property adjacent to a cliff and US 101, changes in land use designation or zoning in the vicinity of the project are not foreseeable at this time.

In summary, the proposed facility will be compatible with the existing and planned land uses in the area because it will not result in substantial alteration of public views along U.S. Highway 101 or from the Rincon Point community.

Based on the above discussion, this finding can be made.

**4. The proposed development would not be obnoxious or harmful, or impair the utility of neighboring property or uses [§ 8181-3.5.d].**

The proposed wireless communications facility is designed to blend in with the surrounding landscape and will not be predominantly visible from public viewpoints. The amount of noise emitted from the operation and maintenance of the facility will be far less than the ambient noise emitted by Southern Pacific Railroad trains and vehicles travelling on U.S. Highway 101. To ensure the safe storage, handling, and disposal of any potentially hazardous material (i.e. diesel fuel for the backup generator), the applicant will be required to submit a Hazardous Materials Business Plan (HMBP) that identifies the type and quantity of such materials maintained on the project site. The HMBP also includes material handling and emergency procedures (Exhibit 5, Condition No. 28). Installation of this facility would provide additional convenience with improved wireless communication for the public. No aspect of this facility has been identified that would be detrimental to the public health, safety or welfare.

Pursuant to section 704(a) of the federal Telecommunications Act of 1996, the County is preempted from regulating or prohibiting the placement, construction, or modification of wireless communications facilities on the basis of potential health effects of radio frequency emissions to the extent such facilities comply with the Federal Communication Commission's regulations concerning such emissions. As part of the CUP application submittal, the applicant submitted documentation that concludes that the proposed facility, if constructed and in operation, would be in compliance with Federal Telecommunications Commission Radio Frequency emission regulations (Exhibit 7).

Based on the above discussion, this finding can be made.

**5. The proposed development would not be detrimental to the public interest, health, safety, convenience, or welfare [§ 8181-3.5.e].**



No aspect of the proposed facility has been identified that would be detrimental to the public interest, health, safety, convenience or welfare. The installation of the facility would not result in significant impacts on the environmental and will be compatible with surrounding development because of siting and design. In particular, public views will not be substantially altered with installation of the proposed facility.

Based on the above discussion, this finding can be made.

#### **F. INFORMATION ON SECTION 6409(A) MODIFICATIONS**

The proposed project before your Commission is a wireless communication facility consisting primarily of a 45-foot tall mono-palm tree antenna structure. The applicant has not indicated a desire to seek future County approval of a 20-foot increase in the height of this structure, the maximum height increase to the structure that the applicant could theoretically request on a ministerial basis pursuant Section 6409(a) of the federal Spectrum Act of 2015. Moreover, Planning Division staff does not believe it is reasonable foreseeable that the applicant could obtain authorization to increase the structure's height by 20 feet pursuant to this ministerial process mandated by federal law. This is because the concealment element of the proposed wireless communications facility would be defeated by such a height increase, and such loss of the facility's concealment element renders the height increase modification ineligible for approval under the ministerial process mandated by federal law. An increase in the height of the proposed wireless facility structure would create a disparate height difference between the existing row of palms trees that are designed to visually blend the proposed facility with the surrounding landscape, and the proposed 45-foot tall antenna structure. The proposed project lease area will be located about 47 feet north of an existing row of palm trees that range from 17 feet to 27 feet in height. These trees are located along the edge of the steep terraced cliff on the subject property. The proposed mono-palm antenna structure is designed to visually blend with these existing trees such that the proposed facility will not be prominently visible from public views along U.S. Highway 101 and the public beach at Rincon Point.

Also, if the applicant subsequent requests a ministerial modification, pursuant to Section 6409(a) of the federal Spectrum Act, to install additional wireless equipment at various additional locations on the antenna structure, this equipment would likely not be concealed to the extent that the proposed panel antennas would be concealed as part of the current design of the antenna structure. Consequently, it is doubtful that an applicant request to modify the structure to add wireless equipment at various other locations on the antenna structure would qualify for a ministerial modification under federal law due to the likelihood that such a modification would defeat the structure's concealment elements.

## **G. PLANNING COMMISSION HEARING NOTICE, PUBLIC COMMENTS, AND JURISDICTIONAL COMMENTS**

The Planning Division provided public notice regarding the Planning Commission hearing in accordance with the Government Code section 65091 and CZO section 8181-6.2 et seq. The Planning Division mailed notice to owners of property within 300 feet and residents within 100 feet of the property on which the project site is located and placed a legal ad in the *Ventura County Star*. Property owners and residents of the parcels located in the residential development on Rincon Point were also notified of the Planning Commission hearing. Interested members of the public who requested notification about the proposed project were also contacted. As of the date of this document, 16 comment letters were received by the Planning Division. These letters were received prior to the Planning Division's determination that the proposed CUP application was complete. These comments generally include concerns that the proposed wireless communications facility would cause adverse impacts on public health to the surrounding residences within proximity to the proposed project site. Comments were also received in opposition to the location of the proposed wireless communication facility and that questioned the need for such a facility above Rincon Point. The comment letters and staff responses to these letters are provided in Exhibit 8 of this staff report.

As explained above, the County is preempted by federal law from regulating or prohibiting the placement, construction, or modification of wireless communications facilities on the basis of potential health effects of radio frequency emissions to the extent such facilities comply with the Federal Communication Commission's regulations concerning such emissions.

## **H. RECOMMENDED ACTIONS**

Based upon the analysis and information provided above, Planning Division Staff recommends that the Planning Commission take the following actions:

1. **CERTIFY** that the Commission has reviewed and considered this staff report and all exhibits thereto, including the proposed MND (Exhibit 4), Mitigation Measures and Mitigation Monitoring and Reporting Program (Exhibit 5), and has considered all comments received during the public comment process;
2. **FIND**, based on the whole of the record before the Planning Commission, including the Initial Study and any comments received, that upon implementation of the project revisions and/or mitigation measures there is no substantial evidence that the project will have a significant effect on the environment and that the MND reflects the Planning Commission's independent judgment and analysis;
3. **ADOPT** the MND (Exhibit 4) and Mitigation Monitoring Program (Exhibit 5);

4. **MAKE** the required findings to grant a CUP pursuant to § 8181-3.5 of the Ventura County CZO, based on the substantial evidence presented in Sections C and D of this staff report and the entire record;
5. **GRANT** CUP Case No. PL14-0128 subject to the conditions of approval (Exhibit 5).
6. **SPECIFY** that the Clerk of the Planning Commission is the custodian, and 800 S. Victoria Avenue, Ventura, CA 93009 is the location, of the documents and materials that constitute the record of proceedings upon which this decision is based.

The decision of the Planning Commission is final unless appealed to the Board of Supervisors within 10 calendar days after the permit has been approved, conditionally approved, or denied (or on the following workday if the 10<sup>th</sup> day falls on a weekend or holiday). Any aggrieved person may file an appeal of the decision with the Planning Division. The Planning Division shall then set a hearing date before the Board of Supervisors to review the matter at the earliest convenient date.

County Counsel has reviewed this Staff Report.

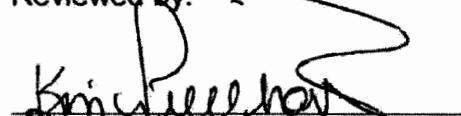
If you have any questions concerning the information presented above, please contact Kristina Boero at (805) 654-2467 or [kristina.boero@ventura.org](mailto:kristina.boero@ventura.org).

Prepared by:



*for*  
Kristina Boero, Case Planner  
Commercial and Industrial Permits Section  
Ventura County Planning Division

Reviewed by:



Kim L. Prillhart, Director  
Ventura County Planning Division

#### EXHIBITS

- Exhibit 2 - Aerial Location, General Plan and Zoning Designations, and Land Use Maps
- Exhibit 3 - Site Plans, Coverage Maps, Photo Simulations and Line of Site Analysis
- Exhibit 4 - Environmental Document and Response to Public Comment
- Exhibit 5 - Conditions of Approval and Mitigation Monitoring and Reporting Program
- Exhibit 6 - Map of Archeological Resources Fencing Area
- Exhibit 7 - Radio Frequency Emissions Statement, prepared by Hammett and Edison, Inc., dated August 20, 2014
- Exhibit 8 - Response to Public Comments received prior to the release of the Environmental Document



ORDER(S): GARY & BETH SCHUBERT  
APN: 000-0-160-450

[illegible]

ELEV. 1956' NAVD 80 (BASES OF DRAINING)

The information used above results or assumes the *readability* set (avg. in PAA order 8200.100 for  $\tau = 1$  accuracy) ( $\pm 20\%$  variability) and its  $J'$  weighting). The *balanced edition* (constructed) is expressed as *avg. read.* and *avg. read.* to the nearest thousandth of a second. The *read* edition (avg. read) are expressed in 1000 and divided by 1000 and are determined to the nearest 0.1 foot.

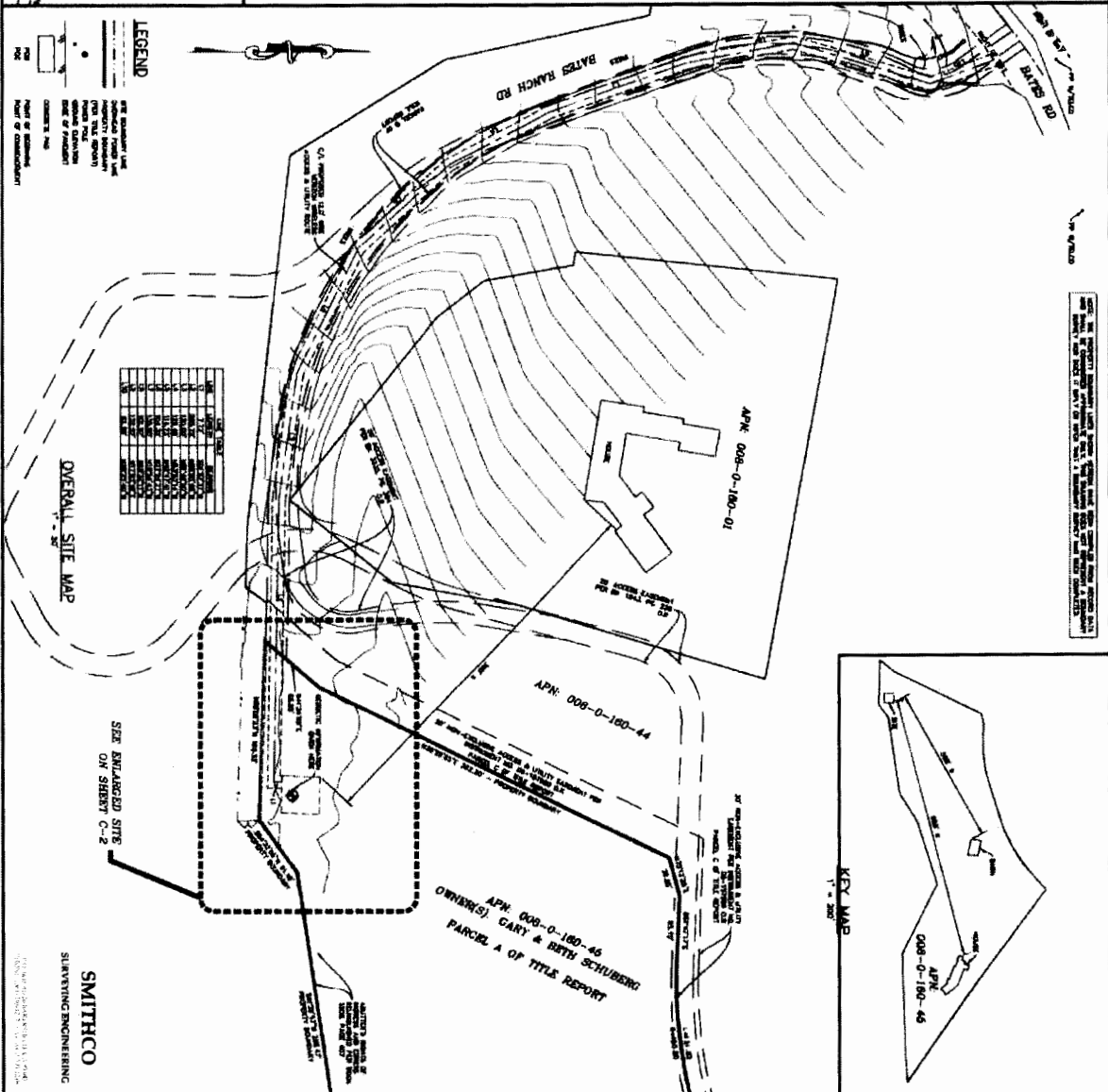
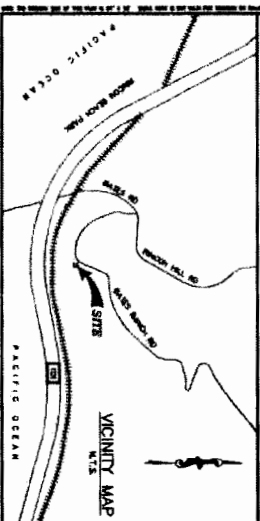
REAL PROPERTY IN THE UNINCORPORATED AREA OF THE COUNTY OF KENTUCKY, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

PAGE 1. AS SHOWN AND DESCRIBED ON THE CERTIFICATE, YOU SHOULD NOT USE ANY OTHERS.

NO. 113, RETURNED JAN. 8, 2003 AS DOCUMENT NO. 2003-1133 OF OFFICIAL RECORDS IN THE COUNTY OF KENTUCKY, STATE OF CALIFORNIA, AND BEING A PART OF SAID RECORDS IN THE COUNTY OF KENTUCKY, STATE OF CALIFORNIA, IN THE OFFICE OF THE CLERK OF SAID COUNTY, RECORDED IN BOOK "A", PAGE 346 OF SAID RECORDS, IN THE OFFICE OF THE CLERK OF SAID COUNTY.

[illegible]

APR. 2009 • 01-603-0820

[illegible]

**SC**  
WIRELESS  
ANALOG COMMUNICATIONS

PROVIDE LAST INFORMATION  
RE RECENTLY OBTAINED BY  
RESEARCH & ANALYSIS & CONCLUSIONS  
BY OTHER SOURCES  
RE RECENTLY OBTAINED BY  
RE RESEARCH & ANALYSIS & CONCLUSIONS  
BY OTHER SOURCES

**verizon**wireless  
2785 MITCHELL DRIVE, BLDG 9  
WALNUT CREEK, CA 94598

177707  
RINCON  
8320 BATES RD  
CARPINTERIA, CA  
93013  
VENTURA  
COUNTY

SHEET TITLE:  
SITE SURVEY  
FOR EXAMINATION ONLY  
C-1

# **CASUALTIES FOR SITE REPORT**

4. A RIGHT OF WAY FOR WATERWAYS AND DITCHES AND INCIDENTAL PURPOSES AS SET FORTH IN AN INSTRUMENT RECORDED JULY 23, 1987 IN BOOK 20, PAGE 423 OF RECORDS AFFECTS A PORTION OF SAID LAND NOT PLOTTABLE - EXACT LOCATION CANNOT BE DETERMINED FROM RECORDS
5. AN EASEMENT FOR ROAD AND INCIDENTAL PURPOSES, RECORDED DECEMBER 28, 1980 IN BOOK 1843, PAGE 220 AND DECEMBER 18, 1987 IN BOOK 3235, PAGE 304, BOTH OF OFFICIAL RECORDS IN FAVOR OF UNITED STATES OF AMERICA AFFECTS AS DESCRIBED THEREIN TERMS AND PROVISIONS CONTAINED IN THE ABOVE DOCUMENT. PLOTTED AS SHOWN HEREON
6. ADJUTANT'S RIGHTS OF INGRESS AND EGRESS TO OR FROM STREET OR HIGHWAY HAVE BEEN RECORDED IN THE DOCUMENT RECORDED OCTOBER 12, 1987 IN BOOK 3234, PAGE 407 OF OFFICIAL RECORDS. PLOTTED AS SHOWN HEREON
10. COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS IN THE DOCUMENT RECORDED JULY 28, 2008 AS INSTRUMENT NO. 08-157580 OF OFFICIAL RECORDS, BUT OBTAINING ANY COVENANT, CONDITION OR RESTRICTION INDICATING A PREFERENCE, LIMITATION OR DISCRIMINATION BASED ON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, MARITAL STATUS, ANCESTRY, DISABILITY, HANDICAP, FAMILIAL STATUS, NATIONAL ORIGIN OR SOURCE OF INCOME (AS DEFINED IN CALIFORNIA GOVERNMENT CODE §12865(P)), TO THE EXTENT SUCH COVENANTS, CONDITIONS OR RESTRICTIONS VIOLATE 42 U.S.C. §1981(a)(2) OR CALIFORNIA GOVERNMENT CODE §12865, LAWFUL RESTRICTIONS UNDER STATE AND FEDERAL LAW ON THE AGE OF OCCUPANTS IN SENIOR HOUSING OR HOUSING FOR OLDER PERSONS SHALL NOT BE CONSTRUED AS RESTRICTIONS BASED ON FAMILIAL STATUS. PLOTTED AS SHOWN HEREON

## **PROPOSED VERIZON WIRELESS DEEMED PRIMER DISPOSITION**

ALL THAT PORTION OF THE HEREON DESCRIBED LESSOR'S PROPERTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWESTERLY MOST CORNER OF SAID LESSOR'S PROPERTY, THENCE ON AND ALONG THE SOUTH LINE OF SAID LESSOR'S PROPERTY, S 89°52'23" E, A DISTANCE OF 126.75 FEET, THENCE LEAVING SAID SOUTH LINE, N 01°57'37" E, A DISTANCE OF 30.00 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING N 01°57'37" E, A DISTANCE OF 30.00 FEET;

THENCE S 89°52'23" E, A DISTANCE OF 35.00 FEET;

THENCE S 01°57'37" E, A DISTANCE OF 35.00 FEET;

THENCE N 89°52'23" W, A DISTANCE OF 20.00 TO A POINT HEREINAFTER DESCRIBED AS POINT 'A';

THENCE N 89°52'23" W, A DISTANCE OF 8.00 TO THE POINT OF BEGINNING.

CONTAINING 1,225 SQUARE FEET, MORE OR LESS.

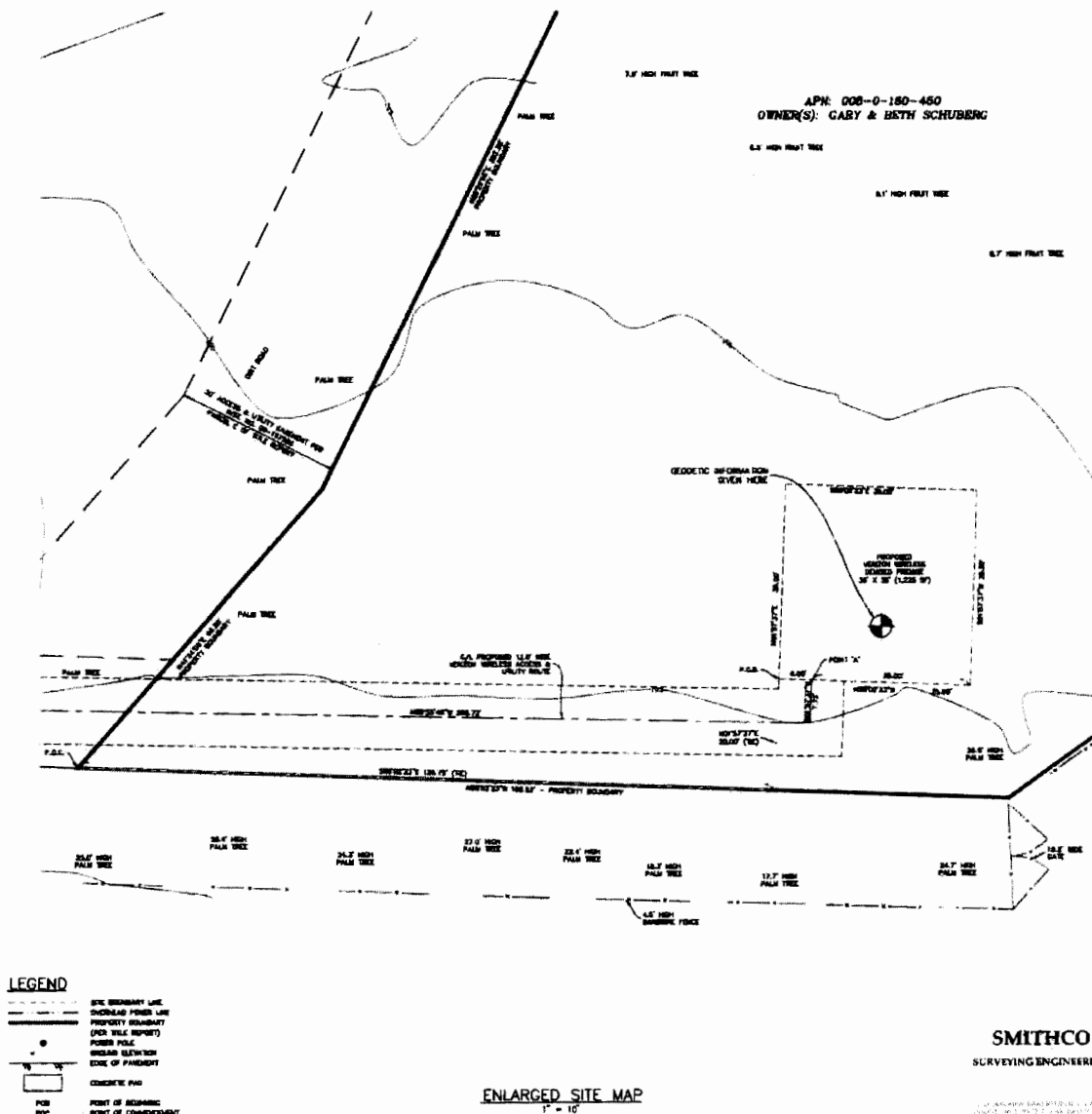
## **CHUNKER VERIZON WIRELESS ACCESS & UTILITY ROUTE DISPOSITION**

A 540 WIDE EASEMENT FOR POWER AND TELCO PURPOSES, LYING 8.00 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT THE HEREINBEFORE DESCRIBED POINT 'A':

- THENCE S 01°57'37" W, A DISTANCE OF 7.72 FEET;
- THENCE N 89°52'46" W, A DISTANCE OF 285.72 FEET;
- THENCE N 81°49'20" W, A DISTANCE OF 120.00 FEET;
- THENCE N 83°32'14" W, A DISTANCE OF 128.46 FEET;
- THENCE N 43°47'41" W, A DISTANCE OF 114.73 FEET;
- THENCE N 27°54'27" W, A DISTANCE OF 104.32 FEET;
- THENCE N 16°54'42" W, A DISTANCE OF 136.80 FEET;
- THENCE N 10°32'11" W, A DISTANCE OF 101.67 FEET;
- THENCE N 17°03'18" E, A DISTANCE OF 132.57 FEET;
- THENCE N 20°52'40" W, A DISTANCE OF 82.90 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF BATES ROAD AND THE TERMINUS OF THIS DESCRIPTION.

THE SIDELINES OF WHICH SHALL BE SHORTENED OR LENGTHENED TO INTERSECT WITH THE EASTERLY LINE OF BATES ROAD AND THE SOUTHERLY LINE OF THE ABOVE DESCRIBED DEEMED PRIMER.



## **ISSUE STATUS**

REV	DATE	DESCRIPTION	BY
0	03/13/13	PRELIMINARY	SL
1	03/27/13	ISSUE	SL
2	05/07/13	UTILITY ROUTE	SL
3	06/01/13	WALL REMOVAL	SL
4	06/26/13	REV. UTILITY ROUTE	SL
5	06/26/13	REV. UTILITY ROUTE	SL
6	06/26/13	WALL REMOVAL	SL
7	06/26/13	WALL REMOVAL	SL
8	06/26/13	WALL REMOVAL	SL
9	06/26/13	REV. LEADS	SL

ISSUED JULY 10, 2013



PROPRIETARY INFORMATION  
 VERIZON WIRELESS  
 2785 MITCHELL DRIVE, BLDG. 9  
 WALNUT CREEK, CA 94598

**verizon wireless**  
 2785 MITCHELL DRIVE, BLDG. 9  
 WALNUT CREEK, CA 94598

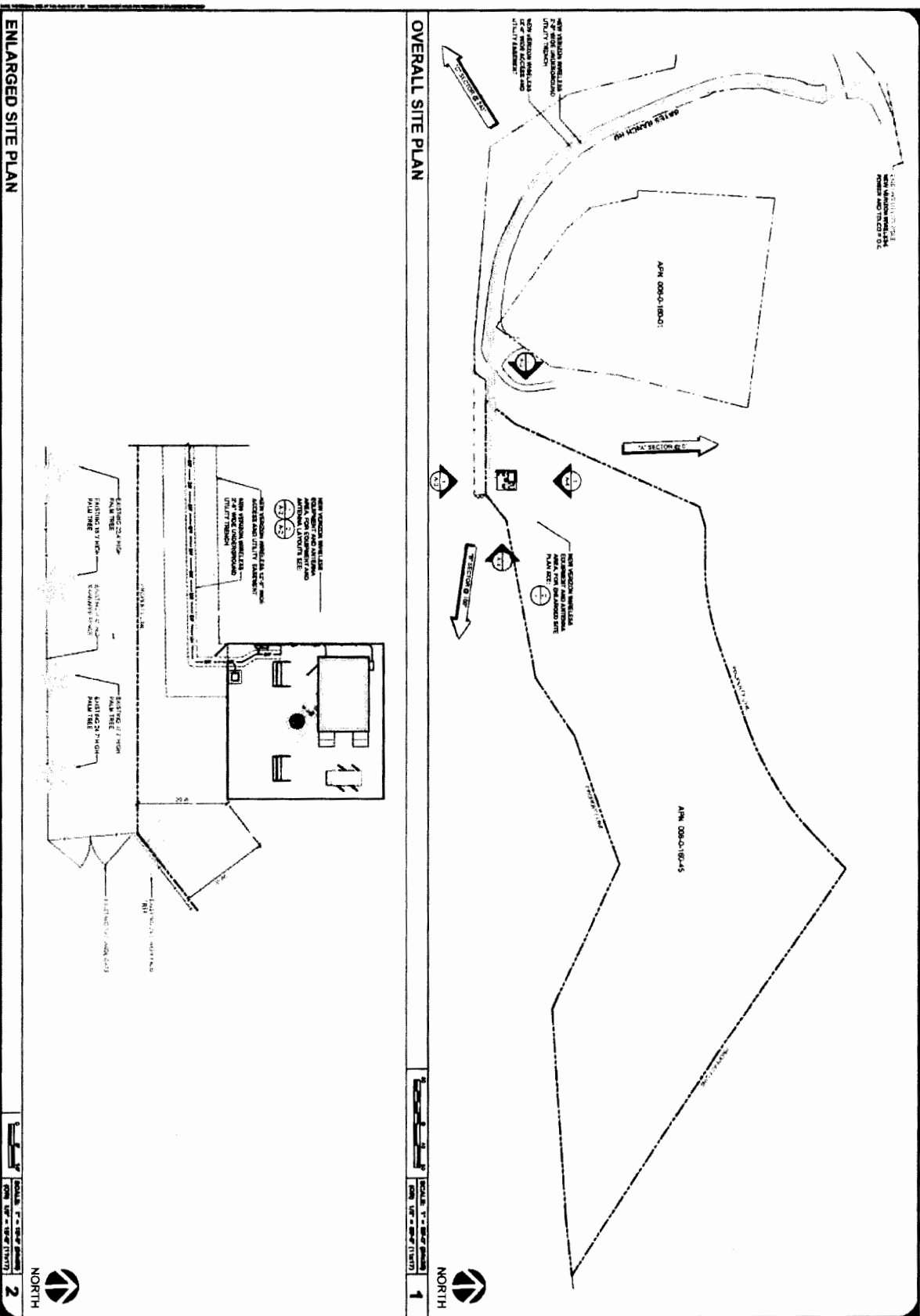
177707

**RINCON**  
 8320 BATES RD  
 CARPINTERIA, CA  
 93013  
 VENTURA COUNTY

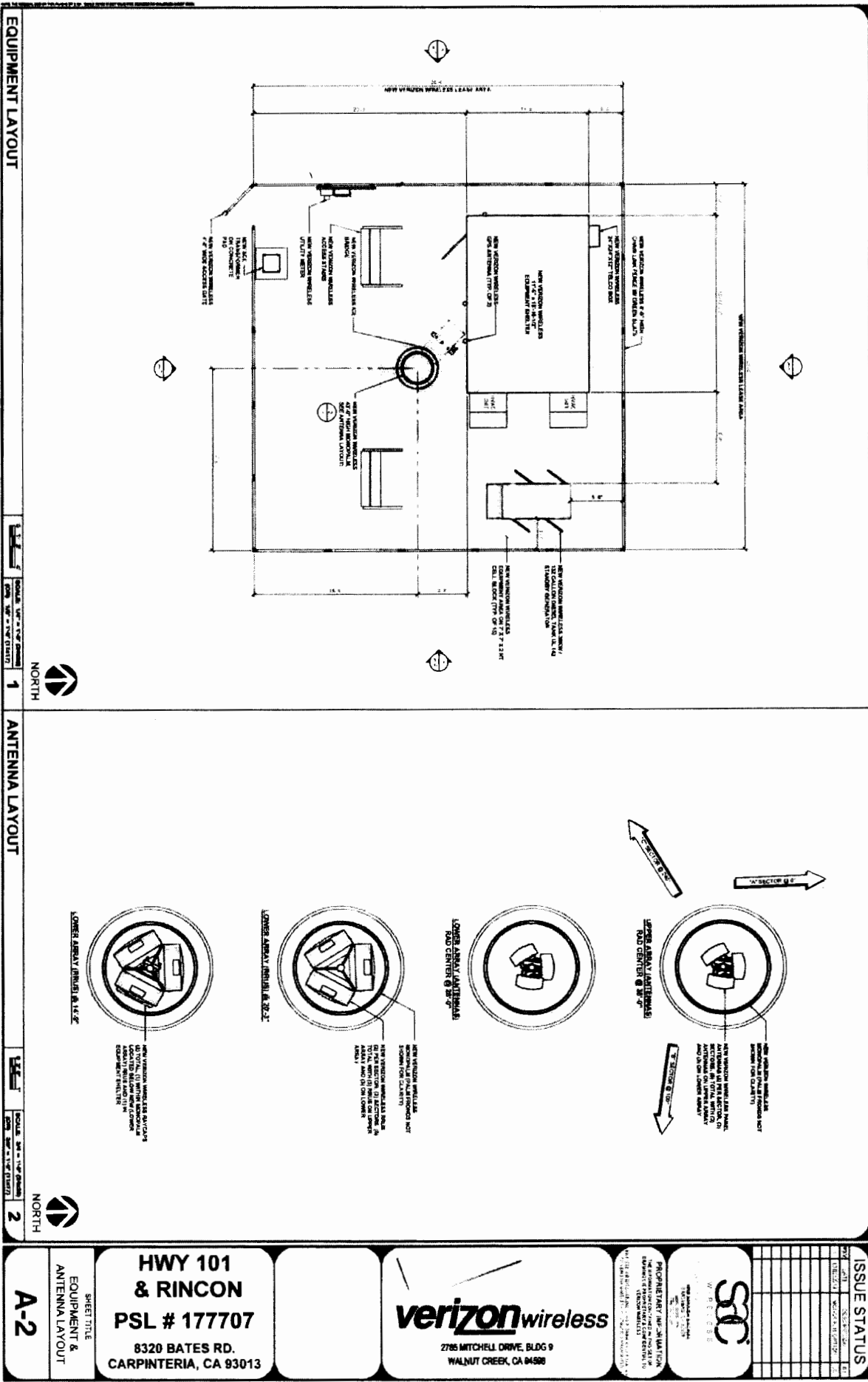
SHEET TITLE:  
**SITE SURVEY**  
 FOR CONSTRUCTION ONLY

**C-2**





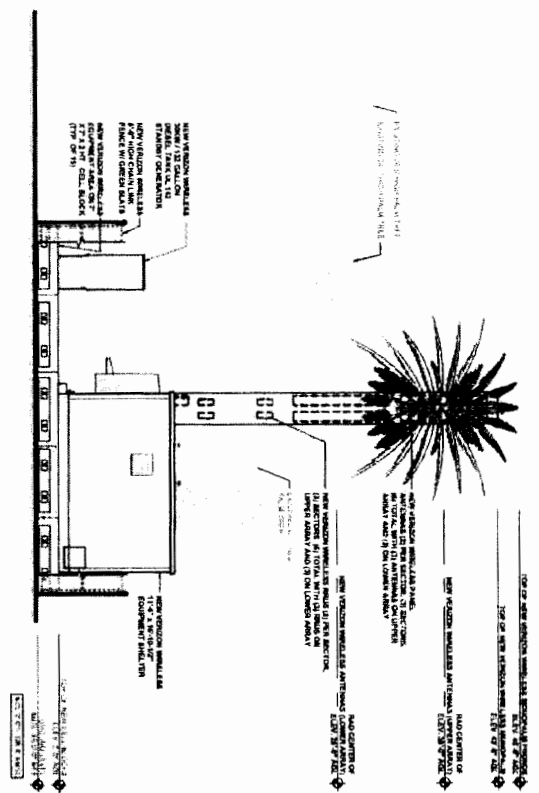
<b>HWY 101 &amp; RINCON</b> <b>PSL # 177707</b> <b>8320 BATES RD.</b> <b>CARPINTERIA, CA 93013</b>		<b>2785 MITCHELL DRIVE, BLDG 9</b> <b>WALNUT CREEK, CA 94698</b>	<b>PROJECT INFORMATION</b> PROJECT NO. 177707 SHEET NO. A-1 DATE: 10/1/07		<b>ISSUE STATUS</b>	
					1. DESIGN 2. PERMITS 3. CONSTRUCTION	1. DESIGN 2. PERMITS 3. CONSTRUCTION





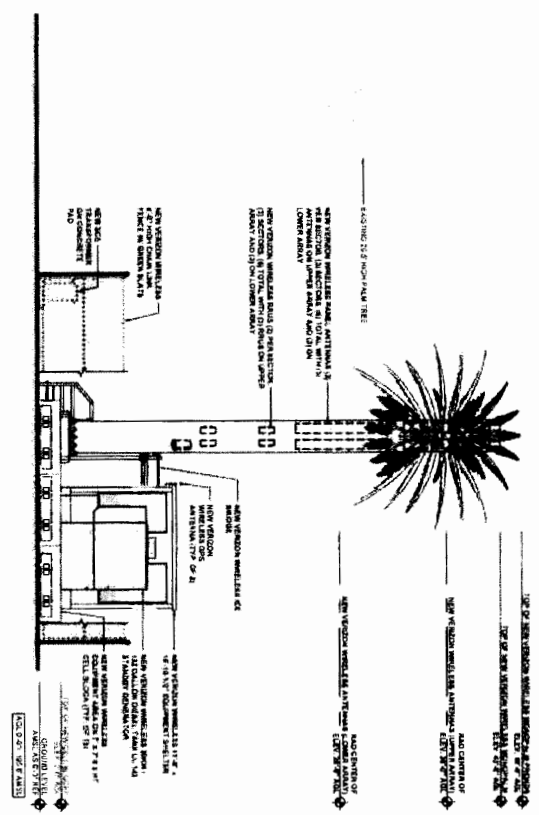
NORTH ELEVATION

SCALE: 1/8" = 1'-0" (PLAN)  
1



EAST ELEVATION

SCALE: 1/8" = 1'-0" (PLAN)  
2



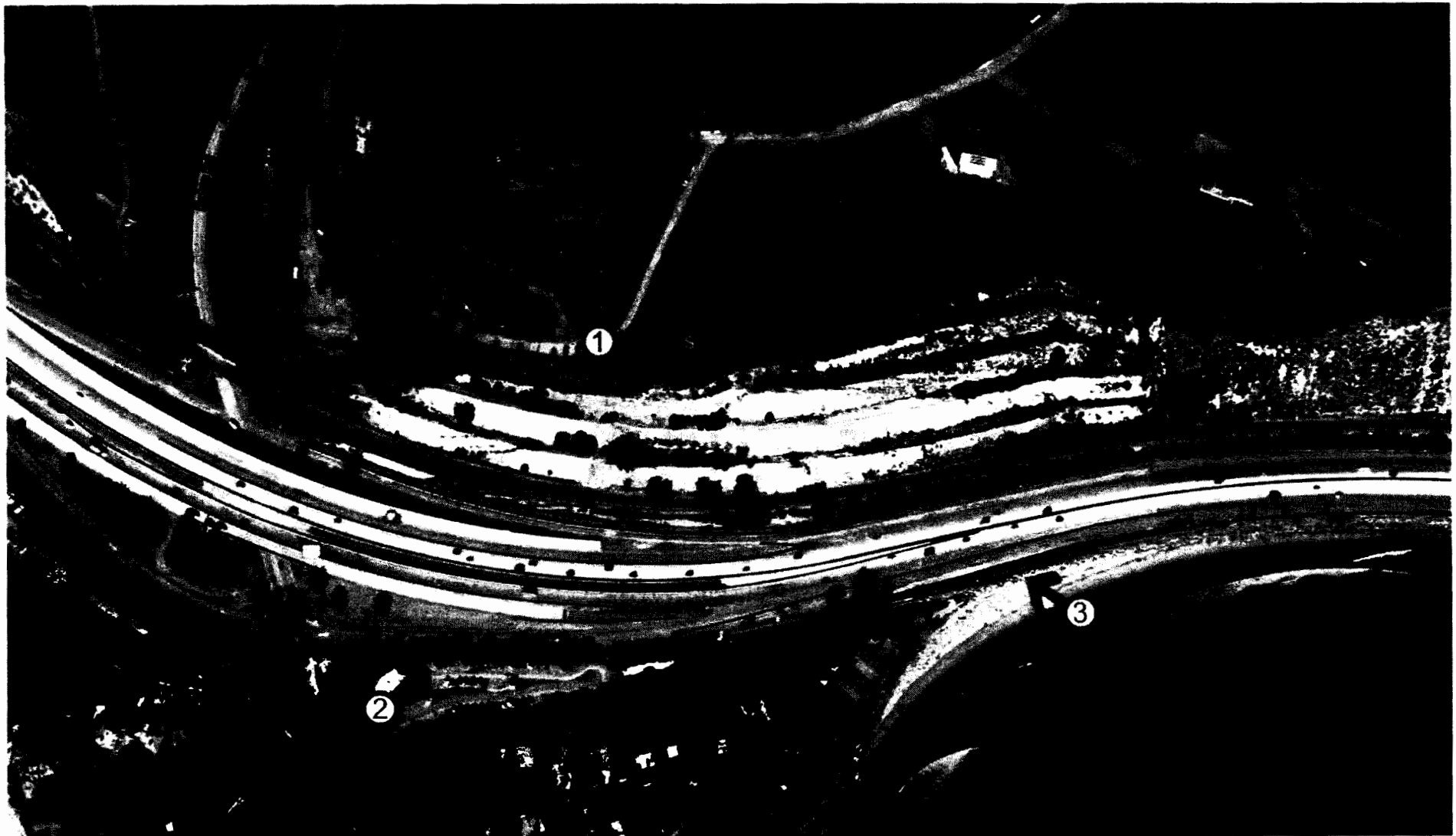
<p>ISSUE STATUS</p> <table border="1"> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> <tr> <td>1</td> <td>10/10/08</td> <td>ISSUED FOR PERMIT</td> </tr> <tr> <td>2</td> <td>10/10/08</td> <td>ISSUED FOR PERMIT</td> </tr> <tr> <td>3</td> <td>10/10/08</td> <td>ISSUED FOR PERMIT</td> </tr> <tr> <td>4</td> <td>10/10/08</td> <td>ISSUED FOR PERMIT</td> </tr> <tr> <td>5</td> <td>10/10/08</td> <td>ISSUED FOR PERMIT</td> </tr> <tr> <td>6</td> <td>10/10/08</td> <td>ISSUED FOR PERMIT</td> </tr> <tr> <td>7</td> <td>10/10/08</td> <td>ISSUED FOR PERMIT</td> </tr> <tr> <td>8</td> <td>10/10/08</td> <td>ISSUED FOR PERMIT</td> </tr> <tr> <td>9</td> <td>10/10/08</td> <td>ISSUED FOR PERMIT</td> </tr> <tr> <td>10</td> <td>10/10/08</td> <td>ISSUED FOR PERMIT</td> </tr> </table>	NO.	DATE	DESCRIPTION	1	10/10/08	ISSUED FOR PERMIT	2	10/10/08	ISSUED FOR PERMIT	3	10/10/08	ISSUED FOR PERMIT	4	10/10/08	ISSUED FOR PERMIT	5	10/10/08	ISSUED FOR PERMIT	6	10/10/08	ISSUED FOR PERMIT	7	10/10/08	ISSUED FOR PERMIT	8	10/10/08	ISSUED FOR PERMIT	9	10/10/08	ISSUED FOR PERMIT	10	10/10/08	ISSUED FOR PERMIT	<p>PROJECT INFORMATION</p> <p>10000 HWY 101 &amp; RINCON</p> <p>DRIVE, CARPINTERIA, CA 93013</p>	<p>HWY 101 &amp; RINCON</p> <p>PSL # 177707</p> <p>8320 BATES RD.</p> <p>CARPINTERIA, CA 93013</p>	<p>verizon wireless</p> <p>2785 MITCHELL DRIVE, BLDG 6</p> <p>WALNUT CREEK, CA 94598</p>	<p>PROJECT INFORMATION</p> <p>10000 HWY 101 &amp; RINCON</p> <p>DRIVE, CARPINTERIA, CA 93013</p>	<p>PROJECT INFORMATION</p> <p>10000 HWY 101 &amp; RINCON</p> <p>DRIVE, CARPINTERIA, CA 93013</p>
	NO.	DATE	DESCRIPTION																																			
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10	10/10/08	ISSUED FOR PERMIT																																				
<p>SHEET TITLE</p> <p>NORTH &amp; EAST ELEVATION</p> <p>A-4</p>																																						

**VICINITY MAP**  
**PHOTOSIMULATION VIEWPOINTS**



HWY 101 & RINCON  
PSL #177707  
8320 BATES RD  
CARPINTERIA, CA 93013

SC  
SOUTHERN CALIFORNIA  
SOUTHERN CALIFORNIA  
SOUTHERN CALIFORNIA  
SOUTHERN CALIFORNIA



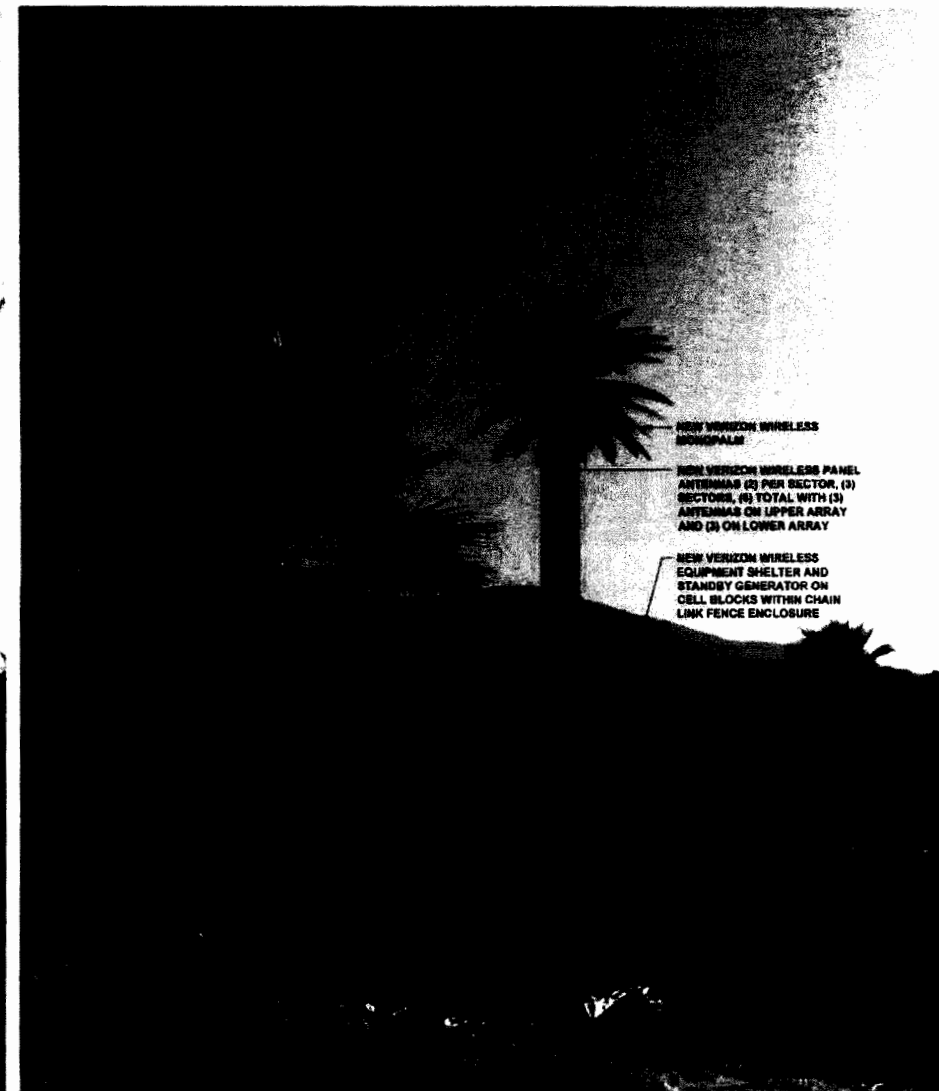
PHOTOSIMULATION VIEW 1



HWY 101 & RINCON  
PSL #177707  
8320 BATES RD.  
CARPINTERIA, CA 93013

SC

2007 AUGUST 14/15/16/17/18/19/20/21/22/23/24/25/26/27/28/29/30/31/SEP/1/OCT/1/2/3/4/5/6/7/8/9/10/11/12/13/14/15/16/17/18/19/20/21/22/23/24/25/26/27/28/29/30/31/OCT/1/2/3/4/5/6/7/8/9/10/11/12/13/14/15/16/17/18/19/20/21/22/23/24/25/26/27/28/29/30/31/NOV/1/2/3/4/5/6/7/8/9/10/11/12/13/14/15/16/17/18/19/20/21/22/23/24/25/26/27/28/29/30/31/DEC/1/2/3/4/5/6/7/8/9/10/11/12/13/14/15/16/17/18/19/20/21/22/23/24/25/26/27/28/29/30/31/JAN/1/2/3/4/5/6/7/8/9/10/11/12/13/14/15/16/17/18/19/20/21/22/23/24/25/26/27/28/29/30/31/FEB/1/2/3/4/5/6/7/8/9/10/11/12/13/14/15/16/17/18/19/20/21/22/23/24/25/26/27/28/29/30/31/MAR/1/2/3/4/5/6/7/8/9/10/11/12/13/14/15/16/17/18/19/20/21/22/23/24/25/26/27/28/29/30/31/APR/1/2/3/4/5/6/7/8/9/10/11/12/13/14/15/16/17/18/19/20/21/22/23/24/25/26/27/28/29/30/MAY/1/2/3/4/5/6/7/8/9/10/11/12/13/14/15/16/17/18/19/20/21/22/23/24/25/26/27/28/29/30/31/JUN/1/2/3/4/5/6/7/8/9/10/11/12/13/14/15/16/17/18/19/20/21/22/23/24/25/26/27/28/29/30/JUL/1/2/3/4/5/6/7/8/9/10/11/12/13/14/15/16/17/18/19/20/21/22/23/24/25/26/27/28/29/30/AUG/1/2/3/4/5/6/7/8/9/10/11/12/13/14/15/16/17/18/19/20/21/22/23/24/25/26/27/28/29/30/31/SEP/1/2/3/4/5/6/7/8/9/10/11/12/13/14/15/16/17/18/19/20/21/22/23/24/25/26/27/28/29/30/OCT/1/2/3/4/5/6/7/8/9/10/11/12/13/14/15/16/17/18/19/20/21/22/23/24/25/26/27/28/29/30/31/NOV/1/2/3/4/5/6/7/8/9/10/11/12/13/14/15/16/17/18/19/20/21/22/23/24/25/26/27/28/29/30/31/DEC/1/2/3/4/5/6/7/8/9/10/11/12/13/14/15/16/17/18/19/20/21/22/23/24/25/26/27/28/29/30/31



NEW VERIZON WIRELESS  
BOULEVARD

NEW VERIZON WIRELESS PANEL  
ANTENNAS (3) PER SECTOR, (3)  
SECTORS, (9) TOTAL WITH (3)  
ANTENNAS ON UPPER ARRAY  
AND (3) ON LOWER ARRAY

NEW VERIZON WIRELESS  
EQUIPMENT SHELTER AND  
STANDBY GENERATOR ON  
CELL BLOCKS WITHIN CHAIN  
LINK FENCE ENCLOSURE

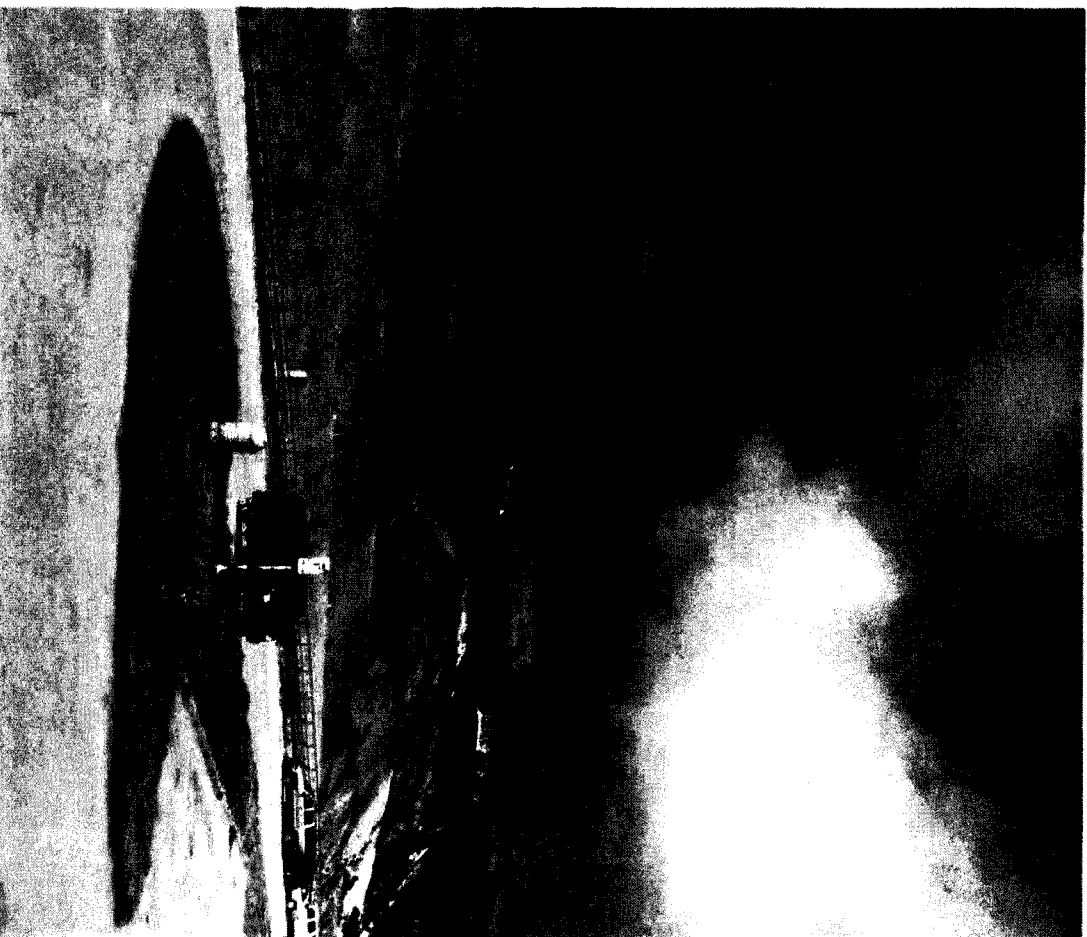
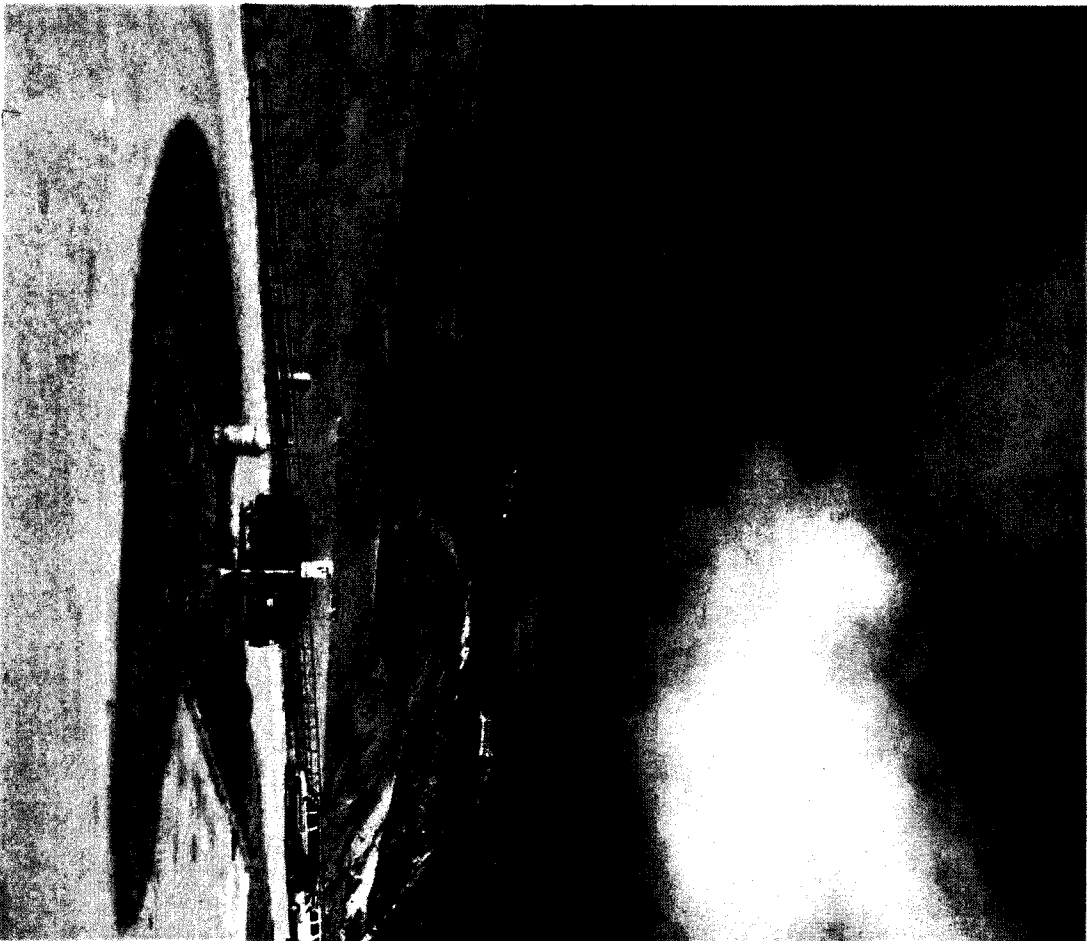


PHOTOSIMULATION VIEW 2



HWY 101 & RINCON  
PSL #17707  
8320 BATES RD  
CARPINTERIA, CA 93013

SD  
KIMBERLY D. BROWN, J.D.  
OFFICE 380 720-0000



**PHOTOSIMULATION VIEW 3**

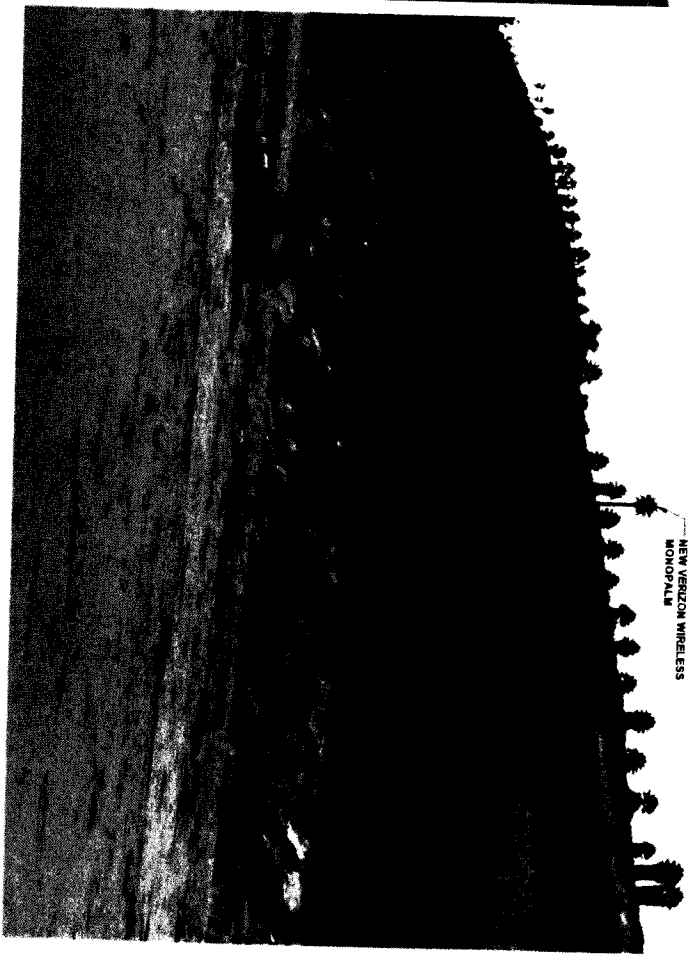
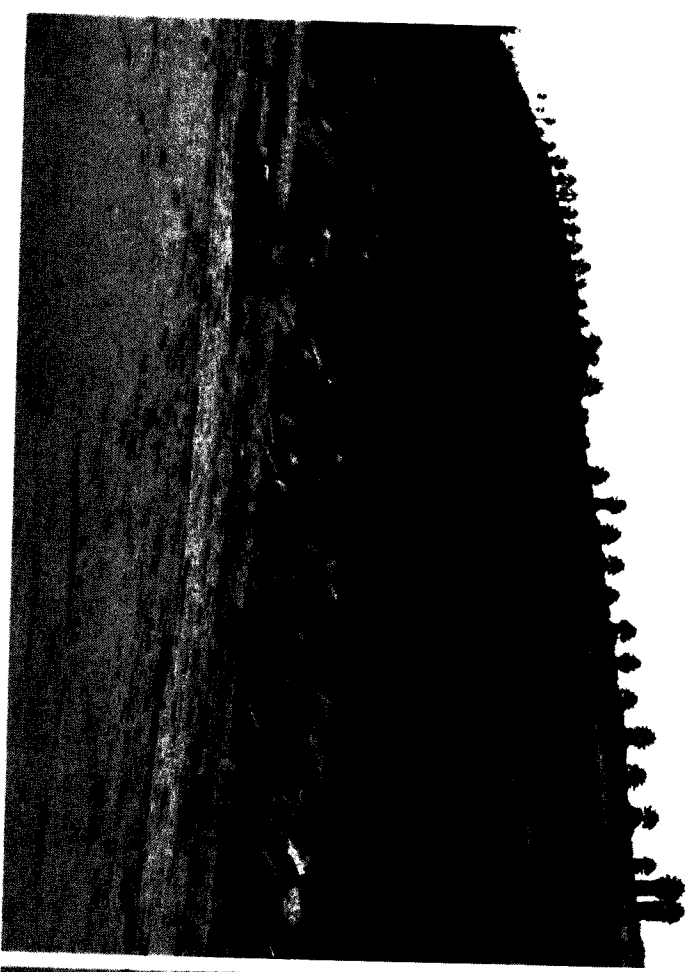
EXISTING



HWY 101 & RINCON  
PSL #17767  
8320 BATES RD  
CARPINTERIA, CA 93013

NEW

SC  
OF 11 PAGES  
ENCLOSURE SHEET  
3000 WILSON AVENUE SUITE 100  
CARPINTERIA, CA 93013  
OFFICE: (805) 798-2000





# RINCON

Before and After Coverage

Zoning Application

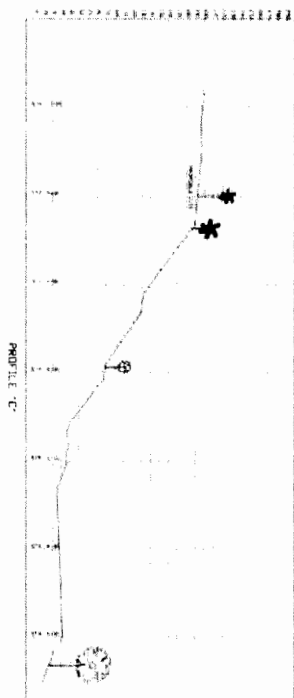
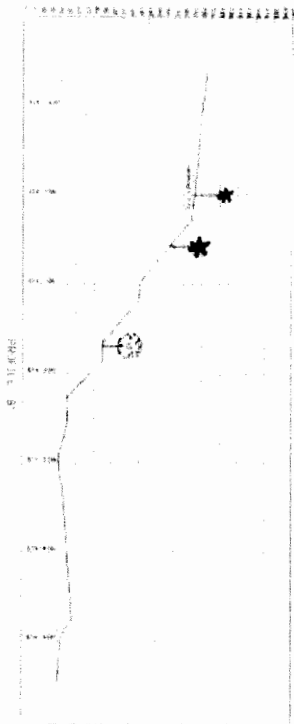
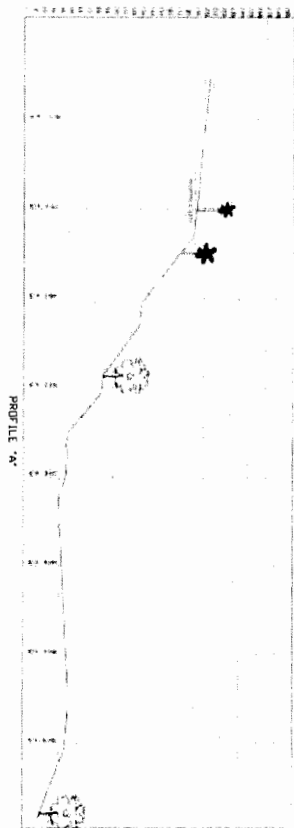
County of Ventura

EXISTING COVERAGE



PROPOSED COVERAGE





SSUE STATUS

REV	DATE	DESCRIPTION
1	10/1/00	Initial Issue
2	10/1/00	Revised Issue
3	10/1/00	Final Issue

**verizon**wireless

17707 RINCON

8320 BATES RD.

CARPINTERIA, CA

99013

VENTURA

COUNTY

17707 RINCON

8320 BATES RD.

CARPINTERIA, CA

99013

VENTURA

COUNTY

TOPO PROFILE

C-3



