



Planning Commission Staff Report

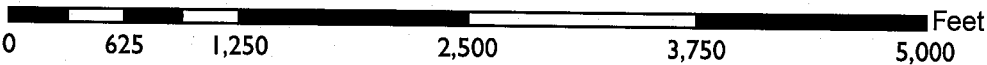
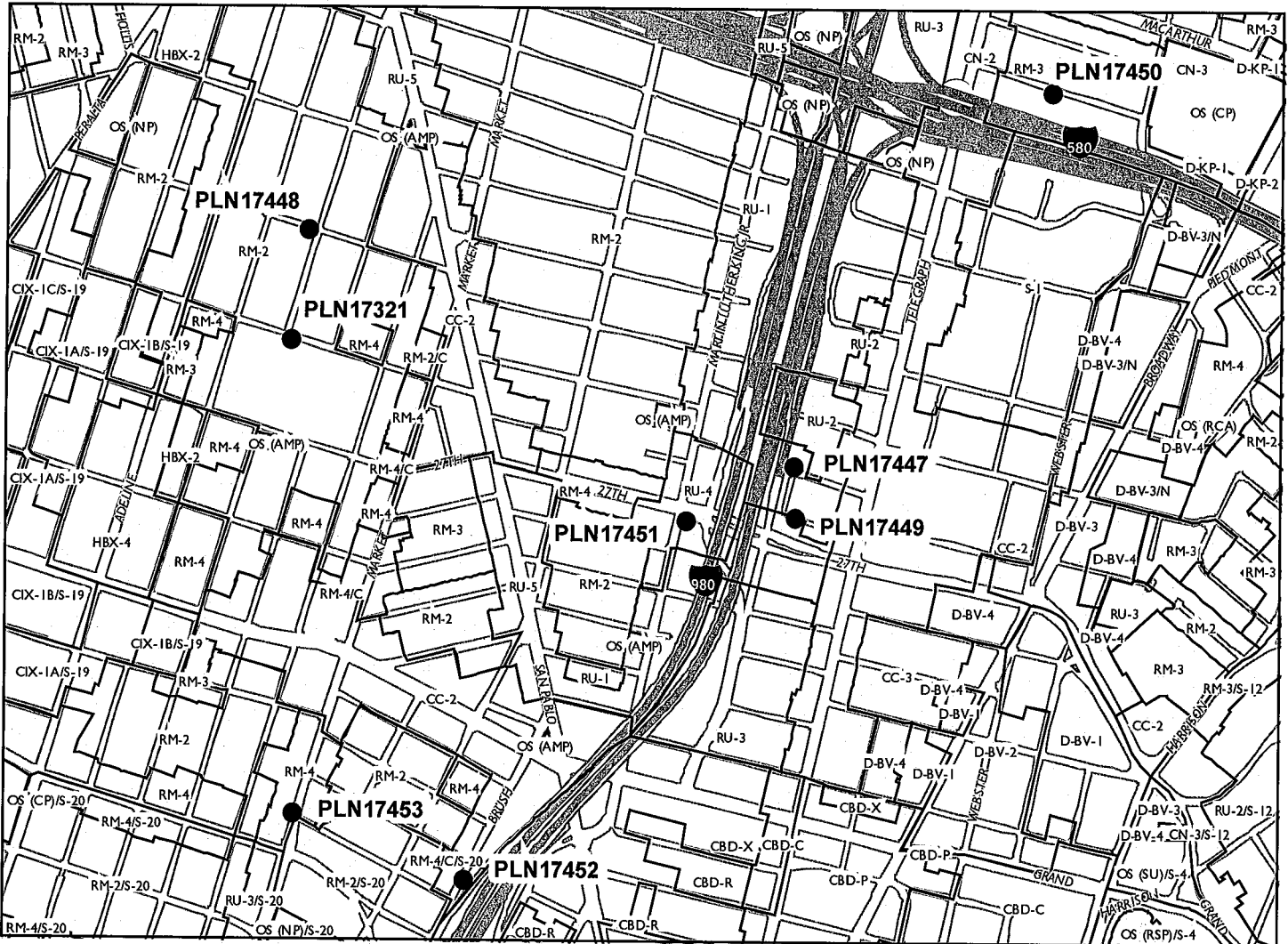
Location:	Utility pole in public right-of-way (sidewalk) adjacent to: 1040 28th Street (PLN17321, APN:005-0454-022-00) Zone: RM-2, Land Use: Mixed Housing Type Residential; 554 28th Street (PLN17447 APN: 009-0697-011-00) Zone: RU-1, Land Use: Urban Residential; 1052 30th Street (PLN17448, APN:005-0465-01-900) Zone: RM-2, Land Use: Mixed Housing Type Residential; 557 Merrimac Street (PLN17449 APN: 009-0689-040-01) Zone: RU-5, Land Use: Urban Residential; 459 36th Street (PLN17450 APN: 0093-0745-040-00) Zone: RM-3, Land Use: Mixed Housing Type Residential; 691 27th Street (PLN17451, APN: 009-0681-035-01) Zone: RM-2, Land Use: Mixed Housing Type Residential; 1925 Brush Street (PLN17452 APN 003-0047-009-01) Zone: RM-4/C/S-20, Land Use: Mixed Housing Type Residential; 1909 Market Street (PLN17453 APN: 005-0410-016-01) Zone: RM-4, Land Use: Mixed Housing Type Residential.
Proposal:	To establish (8) wireless "small cell site" Macro Telecommunication Facilities on existing utility light poles located in the Public Right-of-Way.
Permits Required:	Regular Design Reviews for Macro Telecommunication Facilities in Residential Zoning
Applicant:	Ana Gomez-Abarca/Black & Veatch & Extenet (for: T-Mobile) (925)458-9148
Environmental Determination:	Exempt, Section 15301 of the State CEQA Guidelines: Existing Facilities; Exempt, Section 15302: Replacement or Reconstruction; Exempt, Section 15303: New Construction of Small Structures; Section 15183: Projects Consistent with a Community Plan, General Plan or Zoning
Historic Status:	Non-historic poles
City Council District:	3
For further information:	Contact case planner Marilu Garcia at (510) 238-5217 or by email: mgarcia2@oaklandnet.com

EXECUTIVE SUMMARY

The applicant requests Planning Commission approval to establish eight small cell sites on existing utility poles located the public right-of-way in residential neighborhoods. The project involves attaching an antenna and equipment to each utility pole as described in the submitted plans to enhance wireless services in those areas. The proposals are classified as "Macros" and require a Regular Design Review.

Staff recommends approval, subject to conditions, as described in this report.

CITY OF OAKLAND PLANNING COMMISSION



Case Files: PLN17321, PLN17447, PLN17448, PLN17449, PLN17450, PLN17451, PLN17452, PLN17453
Applicant: Ana Gomez/Black & Veatch & Extenet (for: T-Mobile)
Addresses: 1040 28th St, 554 28th St, 1052 30th St, 557 Merrimac St, 459 36th St, 691 27th St, 1925 Brush St, 1909 Market St
Zones: RM-2, RU-1, RU-5, RM-3, RM-4 / C / S-20, RM-4

SURROUNDING USES

The proposed sites are located in residential neighborhoods. The surrounding consists of detached single-family and multi-family homes.

SIMILAR CASES

Records show that the Planning Commission has approved approximately 68 Macro Telecommunications Facilities requiring Design Review throughout the City since 2016.

GENERAL PLAN AND ZONING

Two of the sites are located within the Urban Residential area and six sites are located within the Mixed Use Housing Type Residential area under the General Plan's Land Use and Transportation Element (LUTE). Per OMC Sections 17.128.070 and 17.136.040 Macro Telecommunications Facilities on JPA/utility poles require a Regular Design Review with additional findings when located in residential zones.

Staff finds the proposal, as conditioned, to conform to the General Plan and Planning Code.

ENVIRONMENTAL DETERMINATION

The California Environmental Quality Act (CEQA) Guidelines categorically exempts specific types of projects from environmental review. Section 15301 exempts projects involving 'Existing Facilities'; Section 15302 exempts projects involving 'Replacement or Reconstruction'; and, Section 15303 exempts projects involving 'Construction of Small Structures.' The proposal fits all of these descriptions. The project is also subject to Section 15183 for 'Projects consistent with a community plan, general plan or zoning.' The project is therefore exempt from further Environmental Review.

KEY ISSUES AND IMPACTS

The proposal to establish eight Macro Telecommunications Facilities is subject to the following Planning Code development standards, which are followed by staff's analysis in relation to this application:

17.128.070 Macro Telecommunications Facilities.

A. General Development Standards for Macro Telecommunications Facilities.

1. The Macro Facilities shall be located on existing buildings, poles or other existing support structures, or shall be post mounted.

The projects involve attachment to existing utility poles hosting power lines.

2. The equipment shelter or cabinet must be concealed from public view or made compatible with the architecture of the surrounding structures or placed underground. The shelter or cabinet must be regularly maintained.

Recommended conditions of approval require painting and texturing the antennas and all components to match the appearance of the utility poles and power line posts.

3. Macro Facilities may exceed the height limitation specified for all zones but may not exceed fifteen (15) feet above the roof line or parapet. Placement of an antenna on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure.

This standard is inapplicable because the proposal does not involve attachment to a roofed structure.

4. Ground post mounted Macro Facilities must not exceed seventeen (17) feet to the top of the antenna.

This standard is inapplicable because the proposal does not involve ground post mounting.

5. The applicant shall submit written documentation demonstrating that the emissions from the proposed project are within the limits set by the Federal Communications Commission.

This standard is met by the proposal; a satisfactory emissions report has been submitted and is attached to this report (Attachment F).

17.128.110 Site location preferences.

New wireless facilities shall generally be located on the following properties or facilities in order of preference:

- A. Co-located on an existing structure or facility with existing wireless antennas.**
- B. City-owned properties or other public or quasi-public facilities.**
- C. Existing commercial or industrial structures in Nonresidential Zones (excluding all HBX Zones and the D-CE-3 and D-CE-4 Zones).**
- D. Existing commercial or industrial structures in Residential Zones, HBX Zones, or the DCE-3 or D-CE-4 Zones.**
- E. Other Nonresidential uses in Residential Zones, HBX Zones, or the D-CE-3 or D-CE-4 Zones.**
- F. Residential uses in Nonresidential Zones (excluding all HBX Zones and the D-CE-3 and D-CE-4 Zones).**
- G. Residential uses in Residential Zones, HBX Zones, or the D-CE-3 or D-CE-4 Zones.**

A site alternatives analysis is not required because the proposal conforms to 'B' as it would be located on a quasi-public facility (utility pole with power lines). Nonetheless, the applicant has submitted an analysis which is attached to this report (Attachment E).

17.128.120 Site design preferences.

New wireless facilities shall generally be designed in the following order of preference:

- A. Building or structure mounted antennas completely concealed from view.**
- B. Building or structure mounted antennas set back from roof edge, not visible from public right-of-way.**
- C. Building or structure mounted antennas below roof line (facade mount, pole mount) visible from public right-of-way, painted to match existing structure.**
- D. Building or structure mounted antennas above roof line visible from public right-of-way.**
- E. Monopoles.**
- F. Towers.**

Facilities designed to meet an A or B ranked preference do not require a site design alternatives analysis. Facilities designed to meet a C through F ranked preference, inclusive, must submit a site design alternatives analysis as part of the required application materials. A site design alternatives analysis shall, at a minimum, consist of: a. Written evidence indicating why each such higher preference design alternative cannot be used. Such evidence shall be in sufficient detail that independent verification could be obtained if required by the City of Oakland Zoning Manager. Evidence should indicate if the reason an alternative was rejected was technical (e.g. incorrect height, interference from existing RF sources, inability to cover required area) or for other concerns (e.g. inability to provide utilities, construction or structural impediments).

The proposal most closely conforms to 'C' (Building or structure mounted antennas below roof line (facade mount, pole mount) visible from public right-of-way, painted to match existing structure), and the applicant has submitted a satisfactory site design alternatives analysis (Attachment E).

17.128.130 Radio frequency emissions standards.

The applicant for all wireless facilities, including requests for modifications to existing facilities, shall submit the following verifications:

- a. With the initial application, a RF emissions report, prepared by a licensed professional engineer or other expert, indicating that the proposed site will operate within the current acceptable thresholds as established by the Federal government or any such agency who may be subsequently authorized to establish such standards.
- b. Prior to commencement of construction, a RF emissions report indicating the baseline RF emissions condition at the proposed site.
- c. Prior to final building permit sign off, an RF emissions report indicating that the site is actually operating within the acceptable thresholds as established by the Federal government or any such agency who may be subsequently authorized to establish such standards.

A satisfactory report is attached to this report (Attachment F).

RECOMMENDATIONS:

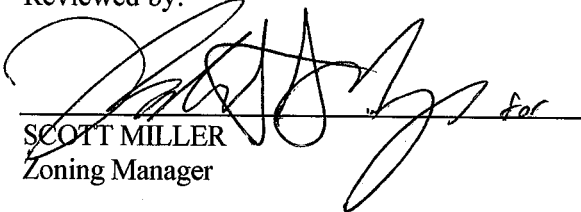
1. Affirm staff's environmental determination.
2. Approve the Regular Design Reviews subject to the attached Findings and Conditions of Approval.

Prepared by:



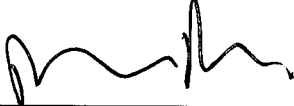
Marilu Garcia
Planner I

Reviewed by:



SCOTT MILLER
Zoning Manager

Approved for forwarding to the Planning Commission:



DARIN RANELLETTI, Deputy Director
Bureau of Planning

ATTACHMENTS:

- A. Findings
- B. Conditions of Approval
- C. Plans
- D. Applicant's Photo-Simulations
- E. Site Alternatives Analysis/Site Design Alternatives Analysis
- F. RF Emissions Report by Hammett & Edison, Inc.
- G. CPUC Compliance Letter
- H. Applicant's Proof of Public Notification Posting

ATTACHMENT A: FINDINGS

This proposal meets the required findings under Regular Design Review Criteria for Nonresidential Facilities (OMC Sec. 17.136.050(B)) and Telecommunications Regulations/Design Review Criteria for Macro Telecommunications Facilities (OMC Sec. 17.128.070(B)), as set forth below. Required findings are shown in **bold** type; explanations as to why these findings can be made are in normal type.

REGULAR DESIGN REVIEW CRITERIA FOR NON-RESIDENTIAL FACILITIES (OMC SEC. 17.136.050(B))**1. That the proposed design will create a building or set of buildings that are well related to the surrounding area in their setting, scale, bulk, height, materials, and textures:**

The attachment of a small antenna and equipment to non-historic utility poles, painted and texturized to match the poles and power line posts in appearance for camouflaging, will be the least intrusive design. The antenna will project over the street, away from the closest residences.

2. That the proposed design will protect, preserve, or enhance desirable neighborhood characteristics;

The proposals would not create a view obstruction, be directly adjacent to a primary living space such as a living room or bedroom window, or be located on an historic structure.

3. The project will provide a necessary function without negatively impacting surrounding opens pace and hillside residential properties.

The proposals will enhance essential services in urbanized neighborhoods.

4. That the proposed design will be sensitive to the topography and landscape.

The proposals will not be ground mounted.

5. That, if situated on a hill, the design and massing of the proposed building relates to the grade of the hill.

This finding is inapplicable because the sites are level.

6. That the proposed design conforms in all significant respects with the Oakland General Plan and with any applicable design review guidelines or criteria, district plan, or development control map which have been adopted by the Planning Commission or City Council.

The sites are located in Mixed Housing Type Residential and Urban Residential areas under the General Plan's Land Use and Transportation Element (LUTE). Given resident's and visitors' increasing reliance upon cellular service for phone and internet, the proposal for a Macro Telecommunications Facility that is not adjacent to a primary living space or historic structure conforms to this intent.

TELECOMMUNICATIONS REGULATIONS/DESIGN REVIEW CRITERIA FOR MACRO TELECOMMUNICATIONS FACILITIES (OMC SEC. 17.128.070(B))**1. Antennas should be painted and/or textured to match the existing structure.**

The antennas will be painted and texturized to match the poles in appearance for camouflaging will be the least intrusive design, as required by conditions of approval.

2. Antennas mounted on architecturally significant structures or significant architectural detail of the building should be covered by appropriate casings which are manufactured to match existing architectural features found on the building.

This finding is inapplicable because the antennas will not be mounted onto an architecturally significant structure but to a wooden utility pole.

3. Where feasible, antennas can be placed directly above, below or incorporated with vertical design elements of a building to help in camouflaging.

The antennas will be located parallel to the host utility pole below posts hosting power lines.

4. Equipment shelters or cabinets shall be screened from the public view by using landscaping, or materials and colors consistent with surrounding backdrop or placed underground or inside existing facilities or behind screening fences.

Conditions of approval require painting and texturing to match the pole in appearance for camouflaging.

5. Equipment shelters or cabinets shall be consistent with the general character of the area.

Equipment will be attached to the utility pole with an unobtrusive design.

6. For antennas attached to the roof, maintain a 1:1 ratio (example: ten (10) feet high antenna requires ten (10) feet setback from facade) for equipment setback; screen the antennas to match existing air conditioning units, stairs, or elevator towers; avoid placing roof mounted antennas in direct line with significant view corridors.

This finding is inapplicable because the antennas would be attached to a pole and not to a roofed structure.

7. That all reasonable means of reducing public access to the antennas and equipment has been made, including, but not limited to, placement in or on buildings or structures, fencing, anti-climbing measures and anti-tampering devices.

The minimal clearance to the facility will be approximately 8-feet.

Attachment B: Conditions of Approval

Approved Use

The project shall be constructed and operated in accordance with the authorized use as described in the approved application materials, **staff report** and the approved plans **submitted September 16, 2017**, as amended by the following conditions of approval and mitigation measures, if applicable (“Conditions of Approval” or “Conditions”). Case Numbers: PLN17321, (APN:005-0454-022-00); PLN17447 (APN: 009-0697-011-00); PLN17448, (APN:005-0465-01-900); PLN17449 (APN: 009-0689-040-01); PLN17450, (APN: 0093-0745-040-00); PLN17451, (APN: 009-0681-035-01); PLN17452 APN 003-0047-009-01); PLN17453, (APN: 005-0410-016-01).

2. Effective Date, Expiration, Extensions and Extinguishment

This Approval shall become effective immediately, unless the Approval is appealable, in which case the Approval shall become effective in ten calendar days unless an appeal is filed. Unless a different termination date is prescribed, this Approval shall expire **two calendar years** from the Approval date, or from the date of the final decision in the event of an appeal, unless within such period all necessary permits for construction or alteration have been issued, or the authorized activities have commenced in the case of a permit not involving construction or alteration. Upon written request and payment of appropriate fees submitted no later than the expiration date of this Approval, the Director of City Planning or designee may grant a one-year extension of this date, with additional extensions subject to approval by the approving body. Expiration of any necessary building permit or other construction-related permit for this project may invalidate this Approval if said Approval has also expired. If litigation is filed challenging this Approval, or its implementation, then the time period stated above for obtaining necessary permits for construction or alteration and/or commencement of authorized activities is automatically extended for the duration of the litigation.

3. Compliance with Other Requirements

The project applicant shall comply with all other applicable federal, state, regional, and local laws/codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City’s Bureau of Building, Fire Marshal, and Public Works Department. Compliance with other applicable requirements may require changes to the approved use and/or plans. These changes shall be processed in accordance with the procedures contained in Condition #4.

4. Minor and Major Changes

- a. Minor changes to the approved project, plans, Conditions, facilities, or use may be approved administratively by the Director of City Planning.
- b. Major changes to the approved project, plans, Conditions, facilities, or use shall be reviewed by the Director of City Planning to determine whether such changes require submittal and approval of a revision to the Approval by the original approving body or a new independent permit/approval. Major revisions shall be reviewed in accordance with the procedures required for the original permit/approval. A new independent permit/approval shall be reviewed in accordance with the procedures required for the new permit/approval.

5. Compliance with Conditions of Approval

- a. The project applicant and property owner, including successors, (collectively referred to hereafter as the “project applicant” or “applicant”) shall be responsible for compliance with all the Conditions of Approval and any recommendations contained in any submitted and approved technical report at his/her sole cost and expense, subject to review and approval by the City of Oakland.

- b. The City of Oakland reserves the right at any time during construction to require certification by a licensed professional at the project applicant's expense that the as-built project conforms to all applicable requirements, including but not limited to, approved maximum heights and minimum setbacks. Failure to construct the project in accordance with the Approval may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension, or other corrective action.
- c. Violation of any term, Condition, or project description relating to the Approval is unlawful, prohibited, and a violation of the Oakland Municipal Code. The City of Oakland reserves the right to initiate civil and/or criminal enforcement and/or abatement proceedings, or after notice and public hearing, to revoke the Approval or alter these Conditions if it is found that there is violation of any of the Conditions or the provisions of the Planning Code or Municipal Code, or the project operates as or causes a public nuisance. This provision is not intended to, nor does it, limit in any manner whatsoever the ability of the City to take appropriate enforcement actions. The project applicant shall be responsible for paying fees in accordance with the City's Master Fee Schedule for inspections conducted by the City or a City-designated third-party to investigate alleged violations of the Approval or Conditions.

6. Signed Copy of the Approval/Conditions

A copy of the Approval letter and Conditions shall be signed by the project applicant, attached to each set of permit plans submitted to the appropriate City agency for the project, and made available for review at the project job site at all times.

7. Blight/Nuisances

The project site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within 60 days of approval, unless an earlier date is specified elsewhere.

8. Indemnification

- a. To the maximum extent permitted by law, the project applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the Oakland Redevelopment Successor Agency, the Oakland City Planning Commission, and their respective agents, officers, employees, and volunteers (hereafter collectively called "City") from any liability, damages, claim, judgment, loss (direct or indirect), action, causes of action, or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City to attack, set aside, void or annul this Approval or implementation of this Approval. The City may elect, in its sole discretion, to participate in the defense of said Action and the project applicant shall reimburse the City for its reasonable legal costs and attorneys' fees.
- b. Within ten (10) calendar days of the filing of any Action as specified in subsection (a) above, the project applicant shall execute a Joint Defense Letter of Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Joint Defense Letter of Agreement shall survive termination, extinguishment, or invalidation of the Approval. Failure to timely execute the Letter of Agreement does not relieve the project applicant of any of the obligations contained in this Condition or other requirements or Conditions of Approval that may be imposed by the City.

9. Severability

The Approval would not have been granted but for the applicability and validity of each and every one of the specified Conditions, and if one or more of such Conditions is found to be invalid by a court of competent jurisdiction this Approval would not have been granted without requiring other valid Conditions consistent with achieving the same purpose and intent of such Approval.

10. Job Site Plans

Ongoing throughout demolition, grading, and/or construction

At least one (1) copy of the stamped approved plans, along with the Approval Letter and Conditions of Approval, shall be available for review at the job site at all times.

11. Special Inspector/Inspections, Independent Technical Review, Project Coordination and Monitoring

The project applicant may be required to cover the full costs of independent third-party technical review and City monitoring and inspection, including without limitation, special inspector(s)/inspection(s) during times of extensive or specialized plan-check review or construction, and inspections of potential violations of the Conditions of Approval. The project applicant shall establish a deposit with the Bureau of Building, if directed by the Building Official, Director of City Planning, or designee, prior to the issuance of a construction-related permit and on an ongoing as-needed basis.

12. Public Improvements

The project applicant shall obtain all necessary permits/approvals, such as encroachment permits, obstruction permits, curb/gutter/sidewalk permits, and public improvement ("p-job") permits from the City for work in the public right-of-way, including but not limited to, streets, curbs, gutters, sidewalks, utilities, and fire hydrants. Prior to any work in the public right-of-way, the applicant shall submit plans for review and approval by the Bureau of Planning, the Bureau of Building, and other City departments as required. Public improvements shall be designed and installed to the satisfaction of the City.

13. Construction Days/Hours

Requirement: The project applicant shall comply with the following restrictions concerning construction days and hours:

- a. Construction activities are limited to between 7:00 a.m. and 7:00 p.m. Monday through Friday, except that pier drilling and/or other extreme noise generating activities greater than 90 dBA shall be limited to between 8:00 a.m. and 4:00 p.m.
- b. Construction activities are limited to between 9:00 a.m. and 5:00 p.m. on Saturday. In residential zones and within 300 feet of a residential zone, construction activities are allowed from 9:00 a.m. to 5:00 p.m. only within the interior of the building with the doors and windows closed. No pier drilling or other extreme noise generating activities greater than 90 dBA are allowed on Saturday.
- c. No construction is allowed on Sunday or federal holidays.

Construction activities include, but are not limited to, truck idling, moving equipment (including trucks, elevators, etc.) or materials, deliveries, and construction meetings held on-site in a non-enclosed area.

Any construction activity proposed outside of the above days and hours for special activities (such as concrete pouring which may require more continuous amounts of time) shall be evaluated on a case-by-case basis by the City, with criteria including the urgency/emergency nature of the work, the proximity of residential or other sensitive uses, and a consideration of nearby residents'/occupants' preferences. The project applicant shall notify property owners and occupants located within 300 feet at least 14 calendar days prior to construction activity proposed outside of the above days/hours. When submitting a request to the City to allow construction activity outside of the above days/hours, the project applicant shall submit information concerning the type and duration of proposed construction activity and the draft public notice for City review and approval prior to distribution of the public notice.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

PROJECT-SPECIFIC CONDITIONS**14. Emissions Report**

Requirement: A RF emissions report shall be submitted to the Planning Bureau indicating that the site is actually operating within the acceptable thresholds as established by the Federal government or any such agency who may be subsequently authorized to establish such standards.

Requirement: Prior to a final inspection

When Required: Prior to final building permit inspection sign-off

Initial Approval: N/A

Monitoring/Inspection: N/A

15. Camouflage

Requirement: The antenna shall be painted, texturized, and maintained matte brown (to match existing poles), and the equipment and any other accessory items including cables matte brown, to better camouflage the facility to the pole.

When Required: Prior to a final inspection

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

16. Operational

Requirement: Noise levels from the activity, property, or any mechanical equipment on site shall comply with the performance standards of Section 17.120 of the Oakland Planning Code and Section 8.18 of the Oakland Municipal Code. If noise levels exceed these standards, the activity causing the noise shall be abated until appropriate noise reduction measures have been installed and compliance verified by the Planning and Zoning Division and Building Services.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

17. Possible District Undergrounding PG&E Pole

Requirement: Should the City light pole be permanently removed for purposes of district undergrounding or otherwise, the telecommunications facility can only be re-established by applying for and receiving approval of a new application to the Oakland Planning Bureau as required by the regulations.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: N/A

18. Graffiti Control

Requirement:

- a. During construction and operation of the project, the project applicant shall incorporate best management practices reasonably related to the control of graffiti and/or the mitigation of the impacts of graffiti. Such best management practices may include, without limitation:
 - a. The project applicant shall remove graffiti by appropriate means within seventy-two (72) hours. Appropriate means include the following:
 - i. Removal through scrubbing, washing, sanding, and/or scraping (or similar method) without damaging the surface and without discharging wash water or cleaning detergents into the City storm drain system.
 - ii. For galvanized poles, covering with new paint to match the color of the surrounding surface.

iii. Replace pole numbers.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building