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## REGULAR MEETING OF THE CITY OF CONCORD ZONING ADMINISTRATOR

9:00 a.m., Wednesday, October 8, 2014  
CITY COUNCIL CHAMBERS  
1950 Parkside Drive, Concord

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### AGENDA

#### **PUBLIC COMMENT PERIOD**

(The public may speak on any item within the jurisdiction of the Zoning Administrator not listed on this agenda. Approximately 15 minutes is allocated for the Public Comment Period, and each speaker will be allowed approximately 3 minutes.)

#### **HEARINGS:**

1. [AT&T at 1021 Shary Court](#) (PL140203 – ZA) – Application for a Minor Use Permit to construct a wireless telecommunication facility consisting of a 61-foot tall monopole designed as a faux monopine with 12 antennas and associated remote radio units and cabling concealed within the branches, and an 11.5-foot by 12-foot equipment shelter, at 1021 Shary Court. The General Plan designation is Business Park; Zoning classification is IBP (Industrial Business Park); APN 129-341-005. Initiation of the environmental review process has not been made pursuant to CEQA Guidelines Section §15270. **Project Planner: Jason Hade @ (925) 671-3281.**

#### **ADJOURNMENT**

**Next Zoning Administrator's Meeting:** October 22, 2014

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In accordance with the Americans with Disabilities Act and California Law, it is the policy of the City of Concord to offer its public programs, services and meetings in a manner that is readily accessible to everyone, including those with disabilities. If you are disabled and require a copy of a public hearing notice, or an agenda and/or agenda packet in an appropriate alternative format; or if you require other accommodation, please contact the ADA Coordinator at (925) 671-3257, at least five (5) days in advance of the hearing. Advance notification within this guideline will enable the City to make reasonable arrangements to ensure accessibility.

Correspondence and writings received within 72 hours of the scheduled Zoning Administrator meeting that constitute a public record under the Public Records Act concerning any matter on the agenda is available for inspection during normal business hours at the Permit Center located at 1950 Parkside Drive, Concord. For additional information contact the Planning Division at (925) 671-3152.

#### **APPEALS**

Decisions of the Zoning Administrator may be appealed to the Planning Commission. Appeals and the required filing fee must be filed with the City Clerk within ten (10) days of the decision.

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**REPORT TO ZONING ADMINISTRATOR**

DATE: October 8, 2014

**SUBJECT: 1021 SHARY COURT MINOR USE PERMIT (PL140203-MP)**

**Recommendation: Adopt Zoning Order No. 14-05ZA (Exhibit A), denying 1021 Shary Court Minor Use Permit (PL140203-MP).**

**I. Introduction**

**A. Application Request**

Application for a Minor Use Permit for a wireless telecommunication facility consisting of a 61-foot tall monopole designed as a faux monopine with 12 antennas and associated remote radio units and cabling concealed within the branches, and an 11.5-foot by 12-foot equipment shelter, at 1021 Shary Court.

**B. Location**

The site is located at 1021 Shary Court; APN 129-341-005.



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<b>C. Applicant</b> Tawni Parr on behalf of AT&T Complete Wireless 2009 V Street Sacramento, CA 95818	<b>Property Owner</b> TBW Properties c/o Castle Management 12885 Alcosta Boulevard, Suite A San Ramon, CA 94583
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## II. Background

On May 16, 2014, the applicant, on behalf of AT&T, submitted an application for a Minor Use Permit for a wireless telecommunication facility consisting of a 61-foot tall monopole designed as a faux monopine with 12 antennas and associated remote radio units and cabling concealed within the branches, and an 11.5-foot by 12-foot equipment shelter, at 1021 Shary Court. Project plans are included as Exhibit B.

The application was deemed complete for processing on June 11, 2014.

On June 13, 2014, notification was mailed to all owners and occupants of property within three-hundred (300) feet of the subject parcel that the Zoning Administrator would not hold a public hearing on this matter unless one was requested.

A hearing was requested on June 23, 2014 by email (Exhibit C) by the owner of a business located at 1044 Shary Circle. In a telephone conversation with staff, the requestor cited the potential cancer risks associated with wireless facilities as his concern.

On August 5, 2014, the applicant was informed that because the maximum height is 35-feet within the IBP zoning district staff could not support the proposed 61-foot tall monopine. However, the applicant was encouraged to submit a Minor Exception application which would allow a height increase of up to 25 percent (43.75-feet) to be considered. The applicant was further advised that a height increase beyond what can be granted via a Minor Exception would require the submittal of a Variance application. To date, neither application has been submitted.

A Federal Communications Commission (FCC) shot clock deadline extension agreement was executed between the City and applicant on September 23, 2014 and is attached as Exhibit D. The agreement extends the City's time for acting on the application to on or before December 31, 2014.

## III. General Information

### A. **General Plan**

The General Plan designation is Business Park.

### B. **Zoning**

The project is zoned IBP (Industrial Business Park).

**C. CEQA Status**

Pursuant to the provisions of the California Environmental Quality Act (CEQA) of 1970, as amended, the project is classified as Statutorily Exempt pursuant to Section 15270, "Projects Which Are Disapproved," and therefore no further environmental review is required. If a Variance application were to be submitted, as discussed above, staff would initiate the environmental review process by preparing an Initial Study.

**D. Site Description**

<b>Lot Size and Dimensions</b>	28,750 sq. ft.	156 ft. x 184 ft. (approx.)
<b>Proposed Facility Leasing Area</b>	880 sq. ft.	20 ft. x 44 ft.
<b>Existing Improvements</b>	Commercial building, gated and fenced side yard	
<b>Topography</b>	The parcel is flat and similar in elevation to the neighboring properties.	
<b>Existing Vegetation</b>	Mature trees	

**E. Surrounding Land Use**

The site is surrounded by the following uses:

	<b>Use</b>	<b>General Plan</b>	<b>Zoning</b>
<b>North</b>	Commercial business	Business Park	Industrial Business Park
<b>East</b>	Multi-tenant commercial building	Business Park	Office Business Park
<b>South</b>	Commercial business	Business Park	Industrial Business Park
<b>West</b>	Multi-tenant commercial building	Business Park	Industrial Business Park

**IV. Discussion**

**A. General Plan**

The site's current General Plan land use designation is Business Park (BP). The BP land use designation is intended for campus-like office complexes as well as industrial parks, including single and multi-story office, flex-space, and industrial buildings for single and multiple users, light industrial and warehouse uses, and research and development activities. Other uses may include mini-storage, wholesale, bulk retail, and business with limited customer access, commercial recreation, and other uses that require large, warehouse-style buildings. Small-scale retail and service uses serving employees and visitors may be permitted as secondary and accessory uses. This designation may also allow small-restaurants, support services, and convenience retail activities at appropriate locations, subject to standards to minimize impacts on industrial users. Where permitted, storage uses in areas with this designation must be

screened by vegetation and other means to maintain community aesthetics. The maximum FAR is 0.8.

The project does not utilize good design methods to preserve and enhance neighborhood character as required under General Plan Goal LU-1. In addition to not being camouflaged, the facility's design creates a visual impact on adjoining properties and streets by proposing to install a 61-foot tall facility that is incongruous with the project area. General Plan Policy LU-9.1.5 requires utilities to be placed underground or screened from public view. The proposed height and lack of screening for the wireless facility would be inconsistent with this policy.

#### B. Zoning/Development Regulations

The following table provides a comparison of the existing site conditions with standards for the IBP district (see also Development Code Table 18.50.030). As noted above, the proposed facility leasing area would be approximately 880 square feet within the site and would be set back 10-feet from the rear property line.

Standards	IBP	Existing	Proposed
Lot Area (sq. ft.)	20,000	28,750	28,750
Lot width (ft.) minimum	100	184	184
Lot depth (ft.) minimum	100	156.18	156.18
Floor Area Ratio (FAR) maximum	0.80	<0.80	<0.80
Building Height (ft.) maximum	35	<35	61*
Setbacks (ft.) minimum			
Front	20	20	20
Interior side	10	10/14	10/14
Rear	10	10	10

\*Per section 18.205.0900(f)(3) of the City of Concord Development Code, the height of a wireless communication facility shall be no taller than the limit established by the zoning district. The burden of proof to demonstrate the need for a height that exceeds the height limit established for the zoning district shall be supported by objective, reliable data by the service provider. As noted above, a Minor Exception application would permit an increase of up to 43.75-feet for the facility while any additional height beyond that, such as what is proposed, would require the filing of a Variance application.

#### C. Wireless Communication Facilities General Requirements

Section 18.205.090 of the Development Code identifies general requirements for all wireless communication facilities. An analysis of the project's consistency with these requirements is provided below.

(a) **Siting.** Unless otherwise specifically described in this Section, facilities shall be sited to avoid adverse safety and aesthetic impacts. Facilities shall:

1. Not occupy or displace required parking spaces or landscape areas; *The project site is improved with an existing 10,800 square foot building which requires 14 off-street parking spaces based upon typical business park and industrial uses shown in Table 18.160.040. At present, the property is subject to Use Permit 86-65. As seven parking spaces are shown on the site plan and the proposed facility requires one additional parking space, the addition of a wireless tower would further contribute to an already overburdened parking area. Site circulation impacts would also occur because the proposed wireless facility lease area could interfere with truck turning movements.*
2. Not be placed within a street side yard, front yard area, or other area between the building and any public or private street adjoining the parcel unless completely screened or camouflaged, except for facilities attached to an existing utility or light pole that meet the other requirements of this Division; *The facility would be placed in the rear yard of the subject site.*
3. Be sited below the ridgeline in hillside areas and be designed sufficiently with screening or camouflage to mitigate their visibility on the ridgeline profile; and *The facility is not located within a hillside area.*
4. Be prohibited where special painting or lighting will be required by Federal Aviation Administration (FAA) regulations, unless it can be found that the required painting or lighting will not have a visual impact. *The proposed project is located within the Airport Influence Area and exceeds 45 feet in height and has not provided supporting documentation that can demonstrate to the Airport Land Use Commission that the project is consistent with Federal Aviation Regulations (FAR) Part 77 and Terminal Instrument Procedures (TERPS) criteria. The applicants have not provided information that evaluates the project's potential impacts on airport operations.*
- 5.

(b) **Noise.** All facilities shall be constructed and operated in such a manner as to minimize the amount of disruption caused to nearby residents, businesses, and nearby recreational areas such as public parks and trails. With the exception of construction noise that meets the facilities Conditions of Approval, any noise generated by the facility shall not exceed the noise standards in the Concord 2030 General Plan. Operation of backup generators and batteries shall be limited to power outages or testing and maintenance purposes only. *An acoustical analysis was prepared which indicates that facility noise levels would comply with the standards above.*

(c) **Lighting.** Exterior lighting shall be limited to the following:

1. A manually operated or motion-detector-controlled light above any accessory structure, which shall be kept off except when personnel are actually present at night;
2. The minimum tower lighting required by FAA regulations;

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3. Lighting shall be shielded or directed to the greatest extent possible in such a manner as to minimize the amount of light that falls onto nearby properties, particularly residences; and
  4. Aircraft warning lighting shall be provided when required by FAA regulations. The warning lighting shall be designed to minimize light trespass to ground-based structures *Lighting consistent with these standards would be installed, as necessary.*
- (d) **Facility Maintenance.** All facilities and related equipment, including lighting, fences, shields, cabinets, and poles, shall be maintained in good repair, free from trash, debris, litter, graffiti, and other forms of vandalism, and any damage from any cause shall be repaired as soon as possible so as to minimize occurrences of dangerous conditions or visual blight. Graffiti shall be removed by the service provider from any facility or equipment as soon as practicable, and in no instances more than 48 hours from the time of notification by the City. *The facility would be maintained consistent with these requirements.*
- (e) **Security.** All facilities shall be properly secured to prevent unauthorized access. *The facility would be secured consistent with these requirements.*
- (f) **Height.** The height of facilities shall be no taller than the limit established by the zoning district. The burden of proof to demonstrate the need for a height that exceeds the height limit established for the zoning district shall be supported by objective, reliable data by the service provider. *The maximum height within the IBP zoning district is 35-feet. While a Minor Exception application could be considered to increase the facility's height to 43.75-feet, a Variance application would be required to extend the facility's height beyond 43.75-feet. The applicant has submitted neither a Minor Exception nor a Variance application for review. The burden of proof is on the applicant to demonstrate the need for a height that exceeds the height limit established for the zoning district supported by objective, reliable data by the service provider. The evidence provided by the applicant to justify a facility height of 61-feet is not sufficient to warrant the requested height increase. Moreover, parcels located to the south of the project vicinity are zoned Industrial Mixed Use which permits a maximum building height of 50-feet. As such, alternative sites are available within the project area which could likely meet the project objectives while maintaining consistency with the City's Development Code requirements. Per Development Code Section 18.205.110, the applicant bears burden of proof to show that the alternate location is not feasible or reasonable for signal access. The applicant has submitted no such information.*
- (g) **Ancillary equipment, equipment cabinets, and equipment enclosures.** Base stations, equipment cabinets, back-up generators, and other equipment shall be installed within an enclosure located adjacent to, and integrated into, the design of the primary structure on the site. *The proposed equipment enclosure would be located adjacent to the primary structure within a gated area. However, the proposed chain link fencing with brown vinyl slats shown on the project plans is inconsistent with the requirement that the facility be*

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*screened with architecturally compatible design and materials to the primary building on-site.*

(h) **Landscaping.** *No landscaping is required or proposed for the project site.*

(i) **Signs.** *No signs are proposed other than those required by the FCC.*

#### **D. Minor Use Permit**

The City of Concord Development Code Section 18.205.120 requires that three specific findings be considered when determining whether a wireless facility can be approved. All of these findings must be analyzed before any action is taken and must be incorporated into the record of the proceeding relating to such approval. In addition, an affirmative response is required for all of these findings in order for an approval to be granted. The required findings are as follows:

1. All applicable standards in this Division have been met;

**Analysis and Conclusion** – *As stated above, the proposed 61-foot tall facility exceeds the maximum height permitted within the IBP zoning district and is therefore inconsistent with general requirements for wireless communication facilities outlined within Section 18.205.090. Specifically, the proposed facility is inconsistent with the requirements pertaining to siting and height.*

2. The facility will be substantially screened from the view of surrounding properties and public views or otherwise substantially camouflaged; and

**Analysis and Conclusion** – *The proposed monopine would not be substantially screened from view of surrounding properties and public views based on its proposed 61-foot tall height. Given the absence of tall mature trees or other tall structures within the project areas, camouflage is ineffective.*

3. Special design considerations have been incorporated into or applied to the facility to ensure the facility will not have an adverse visual impact to the surrounding properties or public views.

**Analysis and Conclusion** – *Special design considerations have not been incorporated into or applied to the facility to ensure that the facility will not have an adverse visual impact to the surrounding properties or public views. Although the monopine design of the facility is intended to blend in with trees in the surrounding area, the lack of tall mature trees within the project areas makes this ineffective. As a result, the facility would have an adverse visual impact to the surrounding properties and public views. Moreover, the proposed equipment enclosure would be located adjacent to the primary structure within a gated area. However, the proposed chain link fencing with brown vinyl slats shown on the project plans is inconsistent with the requirement that the facility be*

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*screened with architecturally compatible design and materials to the primary building on-site pursuant to Section 18.205.090.G.2.c.*

The City of Concord Development Code Section 18.465.060 requires that six specific findings be considered when determining whether a Minor Use Permit can be approved. All of these findings must be analyzed before any action is taken and must be incorporated into the record of the proceeding relating to such approval. In addition, an affirmative response is required for all of these findings in order for an approval to be granted. The required findings are as follows:

1. The proposed use is allowed within the applicable Zoning District and complies with all other applicable provisions of the Development Code and the CMC;

**Analysis and Conclusion** – *Although wireless facilities are allowed within the IBP zoning district, the general requirements of the Development Code pertaining to wireless facilities have not been met as detailed above.*

2. The proposed use is consistent with the General Plan and any applicable Specific Plan;

**Analysis and Conclusion** – *The project does not utilize good design methods to preserve and enhance neighborhood character as required under General Plan Goal LU-1. In addition to not being camouflaged, the facility's design creates a visual impact on adjoining properties and streets by proposing to install a 61-foot tall facility that is incongruous with the project area. In addition, the subject proposal is inconsistent with City of Concord General Plan Policy LU-9.1.5 which requires utilities to be placed underground or screened from public view. The proposed height and lack of screening for the wireless facility are in conflict with this policy and also result in visual impacts to the surrounding project area. There is no applicable Specific Plan at this site.*

3. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity;

**Analysis and Conclusion** – *The design, location, size, and operating characteristics of the proposed activity is incompatible with the existing and future land uses in the vicinity because the height of the proposed monopine exceeds the building height maximum for the IBP zoning district. As mentioned above, although the monopine design of the facility is intended to blend in with trees in the surrounding area, the lack of tall mature trees or other tall structures within the project areas makes this ineffective. As a result, it is incompatible with the existing land uses within the project vicinity.*

4. The site is physically suitable for the type, density, and intensity of the proposed use, including access, utilities, and the absence of physical constraints; and

**Analysis and Conclusion** – *The site is not physically suitable for the type, density, and intensity of the proposed wireless facility, including access, utilities, and the absence of physical constraints. As discussed above, the proposed use is not suitable for the site*

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*because the site's parking is already non-conforming and could be further impacted by the wireless facility and the proposed facility height is inconsistent with the surrounding structures and land uses.*

5. Granting the permit would not be detrimental to the public health, safety, or welfare of the persons residing or working in the subject neighborhood or materially detrimental or injurious to property or improvements in the vicinity and Zoning District where the property is located.

**Analysis and Conclusion** – *The radio frequency (RF) exposure levels from the project are below the applicable public exposure limit established by the FCC, so granting the permit would not be detrimental to the public health, safety, or welfare of the persons residing or working in the subject neighborhood to be materially detrimental or injurious to property or improvements in the vicinity and Zoning District where the property is located. In the 1996 Telecom Act, United States Congress required that the Federal Communications Commission (FCC) adopt a nationwide human exposure standard to ensure that its licensees do not, cumulatively, have a significant impact on the environment. The FCC adopted the limits from Report No. 86, "Biological Effects and Exposure Criteria for Radiofrequency Electromagnetic Fields," published in 1986 by the Congressionally chartered National Council on Radiation Protection and Measurements (NCRP). Separate limits apply for occupational and public exposure conditions, with the latter limits generally five times more restrictive. The more recent standard, developed by the Institute of Electrical and Electronics Engineers and approved as American National Standard ANSI/IEEE C95.1-2006, "Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 kHz to 300GHz," includes similar limits. These limits apply for continuous exposure from all sources and are intended to provide a prudent margin of safety for all persons, regardless of age, gender, size, or health. Higher levels are allowed for short periods of time, such that the total exposure levels averaged over six or thirty minutes, for occupational or public settings, respectively, do not exceed the limits. Because it is a federal commission, the FCC and its regulations supersede the authority of local government.*

*For this project, for a person anywhere at ground, the maximum radio frequency (RF) exposure level due to the proposed AT&T operation is calculated to be 0.041 mW/cm<sup>2</sup>, which is 4.5 percent of the applicable public exposure limit. The maximum calculated level at the building on the same parcel is 17 percent of the public exposure limit; the maximum calculated level at any other building is 24 percent of the public limit.*

*Granting the permit may be detrimental to the public health, safety, or welfare of the persons residing or working in the subject neighborhood or be materially detrimental or injurious to property or improvements in the vicinity and Zoning District where the property is located. As discussed above, the proposed facility is inconsistent with applicable zoning requirements, the General Plan, would adversely affect parking and circulation on the subject property, and would have negative aesthetic effects. With respect to public health, the applicant has submitted data that the radio frequency (RF) exposure levels from the project are below the applicable public exposure limit established by the FCC. Due to the technical nature of methodologies and analyses, the city may require that an independent qualified consultant*

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*review and evaluate the technical and other aspects of the proposal, at the applicant's expense, in order to aid the city in their review of the proposal. However, the City has not reached that step since the threshold requirements for the proposed facility (i.e. the minor exception application and/or the variance application) have not been submitted.*

6. If the Review Authority determines that is not possible to make all of the required findings for approval of the project as submitted or as modified with conditions, the application shall be denied. The specific basis for denial shall be established for the record.

**Analysis and Conclusion** – *Staff recommends denial of the application as all of the required findings cannot be made because of the proposed height of the facility. Detailed findings are provided within Exhibit A.*

#### **V. Public Contact**

Notification was mailed to all owners and occupants of property within three-hundred (300) feet of the subject parcel, and has been published in the Contra Costa Times, as required by the Concord Municipal Code.

On June 23, 2014 a hearing was requested by email by the owner of a business located at 1044 Shary Circle.

This item has also been posted at the Civic Center and at the subject site at least 10 days prior to the public hearing.

#### **VI. Summary and Recommendations**

Staff recommends denial of the Minor Use Permit as all of the required findings cannot be met. As noted above, the project is inconsistent with the City's General Plan and Development Code.

Therefore, staff recommends that the Zoning Administrator adopt Zoning Order No. 14-05ZA, denying Minor Use Permit (PL140203-MP) based upon the attached findings.

Prepared by:

  
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Associate Planner  
(925) 671-3281  
jason.hade@cityofconcord.org

Exhibits:

- A - Zoning Order No. 14-05ZA
- B - Project plans date stamp received May 16, 2014
- C - Public hearing request received June 23, 2014
- D - Extension Agreement for FCC Shot Clock Deadline

14srza.033

**ZA ORDER NO. 14-05ZA**

**OFFICE OF THE ZONING ADMINISTRATOR  
CITY OF CONCORD  
DENYING MINOR USE PERMIT (PL 140203-MP)  
Applicant: Tawni Parr, Complete Wireless  
Owner: TBW Properties c/o Castle Management  
Project Name: AT&T Wireless Facility at 1021 Shary Court**

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6       **WHEREAS**, on May 16, 2014, Tawni Parr, on behalf of AT&T, submitted an application for  
7 a Minor Use Permit to install a wireless telecommunication facility consisting of a 61-foot tall  
8 monopole designed as a faux monopine with 12 antennas and associated remote radio units and  
9 cabling concealed within the branches, and an 11.5-foot by 12-foot equipment shelter at 1021 Shary  
10 Court, APN 129-341-005; and

11       **WHEREAS**, on June 11, 2014 the application was deemed complete for processing; and

12       **WHEREAS**, pursuant to the provisions of the California Environmental Quality Act (CEQA)  
13 of 1970, as amended, the project is classified as Statutorily Exempt pursuant to Section 15270  
14 "Projects Which Are Disapproved," and therefore no further environmental review was initiated; and

15       **WHEREAS**, the Zoning Administrator, after giving all public notices required by State law  
16 and the Concord Municipal Code Section 18 (referred to herein as the Development Code), held a  
17 duly noticed public hearing on October 8, 2014 the subject proposal; and

18       **WHEREAS**, the Zoning Administrator considered testimony and information received at the  
19 public hearing and the oral and written reports from City staff dated October 8, 2014, as well as other  
20 documents contained in the record of proceedings relating to the project, which are maintained at the  
21 offices of the City of Concord Planning Division located at 1950 Parkside Drive, Concord, CA 94519;  
22 and

23       **WHEREAS**, on October 8, 2014 the Zoning Administrator, after consideration of all pertinent  
24 plans, documents and testimony, declared his intent to deny the project because of the project's  
25 inconsistency with the General Plan, and Development Code.

26       **NOW, THEREFORE, BE IT RESOLVED** that the Zoning Administrator does hereby deny  
27 Minor Use Permit PL140203-MP based on the following findings:  
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1 CEQA

2 1. Pursuant to the provisions of the California Environmental Quality Act (CEQA) of  
3 1970, as amended, the project is classified as Statutorily Exempt pursuant to Section 15270, "Projects  
4 Which Are Disapproved," and therefore no environmental review was initiated.

5 Minor Use Permit

6 2. The proposed facility is inconsistent with the requirements for wireless facilities outlined  
7 within Section 18.205.090 of the Development Code pertaining to height. The proposed 61-foot tall facility  
8 exceeds the maximum 35-foot tall height limitation within the Industrial Business Park (IBP) zoning  
9 district. While a Minor Exception application could be considered to increase the facility's height to 43.75-  
10 feet, a Variance application and approval would be required to extend the facility's height above 43.75-feet.  
11 The applicant has submitted neither a Minor Exception, nor a Variance application for review. The burden  
12 of proof is on the applicant to demonstrate the need for a height that exceeds the height limit established for  
13 the zoning district. Such proof shall be supported by objective, reliable data provided by the service  
14 provider and subject to a peer review. The evidence provided by the applicant to justify a facility height of  
15 61-feet is not sufficient to warrant the requested height increase. Moreover, parcels located to the south of  
16 the project's vicinity are zoned Industrial Mixed Use which permits a maximum building height of 50-feet.  
17 As such, alternative sites are available within the project area which could likely meet the project objectives  
18 while maintaining consistency with the City's Development Code requirements. Per Development Code  
19 Section 18.205.110, the applicant bears the burden of proof to show that the alternate location is not feasible  
20 or reasonable for signal access. The applicant has submitted no such information.

21 3. The proposed facility is inconsistent with the requirements for wireless facilities outlined  
22 within Section 18.205.090 of the Development Code pertaining to siting. The approximately 10,800 square  
23 foot existing building requires 14 off-street parking spaces based upon typical business park and industrial  
24 uses as shown in Table 18.160.040. As seven parking spaces are shown on the site plan and the proposed  
25 facility requires one additional parking space, the addition of a wireless tower would further contribute to an  
26 already overburdened parking area.

27 4. The facility will not be substantially screened from the view of surrounding properties  
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1 and public views or otherwise substantially camouflaged. Based on its proposed 61-foot tall height,  
2 the proposed monopine will not be substantially screened from view of surrounding properties and  
3 public views. Section 18.205.100 requires that wireless communication facilities shall be placed  
4 within the existing context where topography, vegetation, buildings, or structures provide the greatest  
5 amount of screening. Given the absence of similarly tall mature trees or other tall structures within the  
6 project areas, stealth or camouflage at this location is ineffective.

7         5. Special design considerations have not been incorporated into or applied to the facility  
8 to ensure that the facility will not have an adverse visual impact to the surrounding properties or  
9 public views. Although the monopine design of the facility is intended to blend in with trees in the  
10 surrounding area, the lack of tall mature trees within the project area renders this ineffective, resulting  
11 in an unnatural visual addition. As a result, the facility will have an adverse visual impact to the  
12 surrounding properties and public views. Moreover, the proposed equipment enclosure would be  
13 located adjacent to the primary structure within a gated area. However, the proposed chain link  
14 fencing with brown vinyl slats shown on the project plans is inconsistent with the requirement that the  
15 facility be screened with architecturally compatible design and materials to the primary building on-  
16 site pursuant to Section 18.205.090.G.2.c.

17         6. Although wireless facilities are allowed within the IBP zoning district, the general  
18 requirements of the Development Code pertaining to wireless facilities have not been met as detailed  
19 above.

20         7. The project does not utilize good design methods to preserve and enhance  
21 neighborhood character as required under General Plan Goal LU-1. In addition to not being  
22 camouflaged, the facility's design creates a visual impact on adjoining properties and streets by  
23 proposing to install a 61-foot tall facility that is incongruous with the project area. In addition, the  
24 subject proposal is inconsistent with City of Concord General Plan Policy LU-9.1.5 which requires  
25 utilities to be placed underground or screened from public view. The proposed height and lack of  
26 screening for the wireless facility are in conflict with this policy and also result in visual impacts to  
27 the surrounding project area. There is no applicable Specific Plan at this site.  
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1           8.     The design, location, size, and operating characteristics of the proposed activity is  
2 incompatible with the existing and future land uses in the vicinity because the height of the proposed  
3 monopine exceeds the building height maximum for the IBP zoning district. The proposed project is  
4 located within the Airport Influence Area and exceeds 45 feet in height and has not provided  
5 supporting documentation that can demonstrate to the Airport Land Use Commission that the project  
6 is consistent with Federal Aviation Regulations (FAR) Part 77 and Terminal Instrument Procedures  
7 (TERPS) criteria. The applicants have not provided information that evaluates the project's potential  
8 impacts on airport operations. As mentioned above, although the monopine design of the facility is  
9 intended to blend in with trees in the surrounding area, the lack of tall mature trees or other tall  
10 structures within the project areas makes this associated method of stealth and camouflage ineffective.  
11 As a result, it is incompatible with the existing land uses within the project vicinity.

12           9.     The site is not physically suitable for the type, density, and intensity of the proposed  
13 use, including access, utilities, and the absence of physical constraints. As discussed above, the  
14 proposed use is not suitable for the site because the loss of parking will further render the property out  
15 of compliance with the amount of on-site parking required by Section 18.160, necessary to serve the  
16 most common and likely uses, and the proposed wireless facility height is inconsistent with the  
17 surrounding structures and land uses.

18           10.    Granting the permit may be detrimental to the public health, safety, or welfare of the  
19 persons residing or working in the subject neighborhood or be materially detrimental or injurious to  
20 property or improvements in the vicinity and Zoning District where the property is located. As  
21 discussed above, the proposed facility is inconsistent with applicable zoning requirements, is  
22 inconsistent with the General Plan, is located within the Airport Influence Area, will adversely affect  
23 parking and circulation on the subject property, and will have negative aesthetic effects. With respect  
24 to public health, the applicant has submitted data that the radio frequency (RF) exposure levels from the  
25 project are below the applicable public exposure limit established by the FCC. Due to the technical nature  
26 of methodologies and analyses, the city may require that an independent qualified consultant review and  
27 evaluate the technical and other aspects of the proposal, at the applicant's expense, in order to aid the city in  
28

1 their review of the proposal. However, the City has not reached that step since the threshold requirements  
2 for the proposed facility (i.e. the minor exception application and/or the variance application) have not been  
3 submitted.

4 11. In summary, specific reasons for denial include the proposed project's inconsistency  
5 with the City's General Plan, Development Code, and wireless communications facility general  
6 requirements contained within the Development Code based on the 61-foot tall monopine's excessive  
7 height, potential visual and aesthetic impacts to the surrounding community, displacement of required  
8 parking spaces, potential to impact airport operations, and insufficient equipment enclosure screening.  
9 As discussed with the applicant, a Minor Exception application could be considered to increase the  
10 facility's height to 43.75-feet, but a Variance application would be required to extend the facility's height  
11 beyond 43.75-feet. Neither application has been submitted for review. Further, the evidence provided by  
12 the applicant to justify a facility height of 61-feet is not sufficient to warrant the requested height increase.  
13 Lastly, the alternatives analysis dismissed a nearby site at 1030 Detroit Avenue which is zoned Office  
14 Business Park and would permit a maximum building height of up to 50-feet. Sites to the south of the  
15 project site which are zoned Industrial Mixed Use and also permit a maximum building height of 50-feet  
16 were not investigated. AT &T has not evaluated all potential sites within their search ring including, but not  
17 limited to properties at 2411 Whitman Road, 965 Detroit Avenue, 975 Detroit Avenue, and 995 Detroit  
18 Avenue.

19  
20 Based on the above findings, on October 8, 2014, the Zoning Administrator denied said application.  
21  
22

23 \_\_\_\_\_  
24 G. Ryan Lenhardt,  
25 Zoning Administrator  
26  
27  
28

















PREPARED FOR  
  
 AT&T Intellectual Property  
 1515 Market Street, Suite 1400  
 San Francisco, California 94103

**COMPLETE**  
 Wireless Consulting, Inc.

**MST ARCHITECT**  
 401 Sherman Boulevard, Suite 200  
 Sacramento, California 95814

AT&T REF. NO.	CN14780
PROJECT NO.	218 016
DRAWN BY:	JCE
CHECKED BY:	MAJ

DATE	NO.	DESCRIPTION
05/13/14	1006X ID REV 1	
07/10/14	1006X ID	
03/27/14	1006X ID REV 1	
03/05/14	1006X ID	
11/1	2-1	24660-00

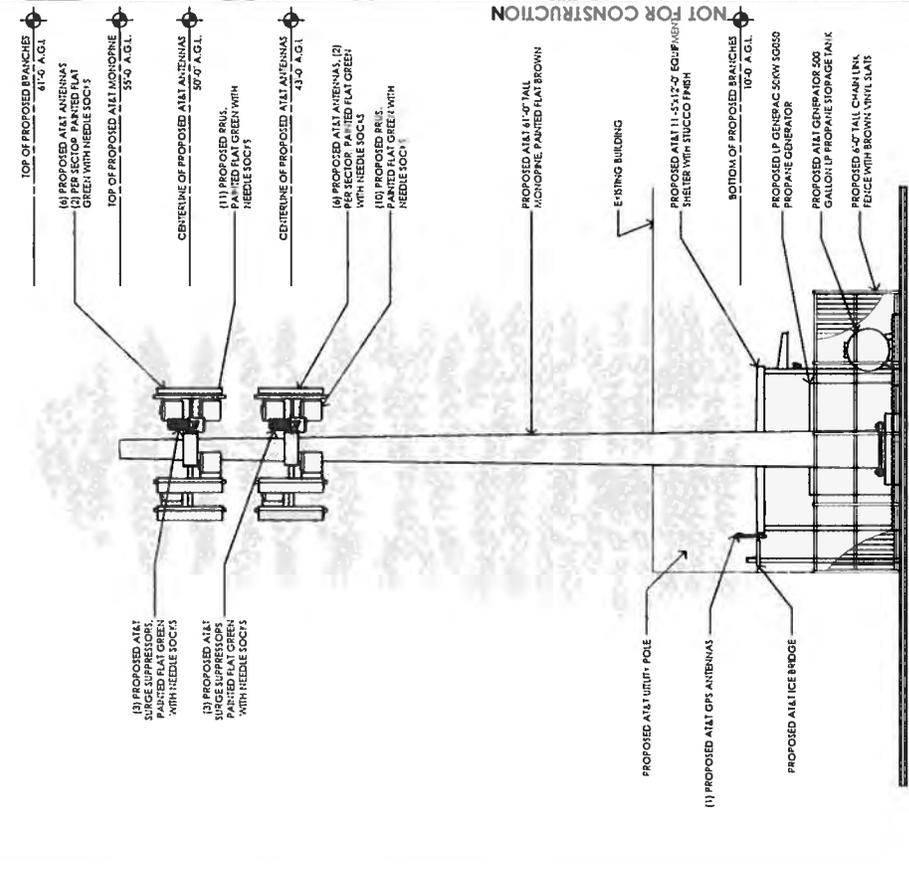
NOTED FOR:  
 OAK GROVE ROAD  
 1071 SHARBY COURT  
 CONCORD, CA 94518

SHEET TITLE:  
 PROPOSED SOUTH - EAST ELEVATION

SHEET NUMBER:  
**A-4.2**

NOTE: INITIAL "NEEDLE SOCKS" ON ALL PROPOSED PANEL ANTENNAS AND EQUIPMENT. ALL ANTENNAS & EQUIPMENT TO BE PAINTED FLAT GREEN.

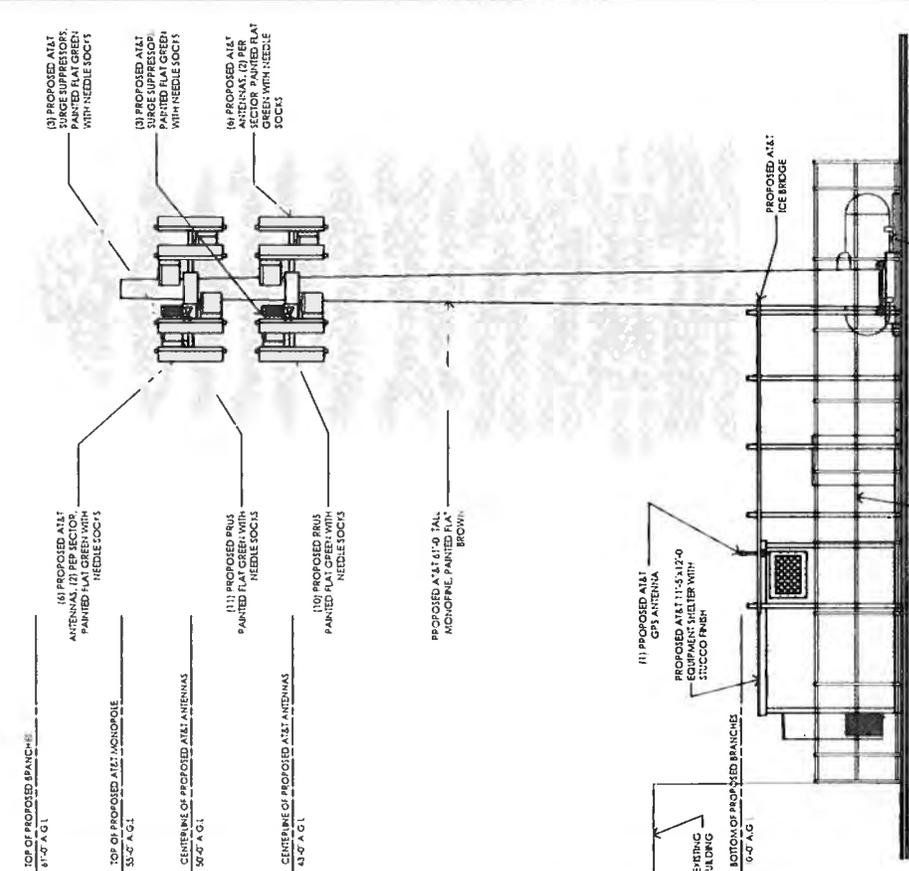
NOTE: BRANCHES SHOWN ARE FOR ILLUSTRATIVE PURPOSES ONLY. NOT TO SCALE. UMARS TO BE TAPERED AND BRANCH COUNT SHALL BE ADEQUATE TO PROVIDE VISUAL AIR QUALITY.



2 EAST ELEVATION  
 1/4" = 1'-0"

NOTE: INITIAL "NEEDLE SOCKS" ON ALL PROPOSED PANEL ANTENNAS AND EQUIPMENT. ALL ANTENNAS & EQUIPMENT TO BE PAINTED FLAT GREEN.

NOTE: BRANCHES SHOWN ARE FOR ILLUSTRATIVE PURPOSES ONLY. NOT TO SCALE. UMARS TO BE TAPERED AND BRANCH COUNT SHALL BE ADEQUATE TO PROVIDE VISUAL AIR QUALITY.



2 SOUTH ELEVATION  
 1/4" = 1'-0"

Fockler, Sarah

**From:** Fred <foods@ifoods.net>  
**Sent:** Monday, June 23, 2014 4:18 PM  
**To:** Fockler, Sarah

Hello Ms. Fockler,

I have a business based in 1044 Shary Circle and am concerned about the wireless telecommunications pole to be established in 1021 Shary Court. I am thereby requesting a public hearing.

Regards,  
Fraidoon "Fred" Jamshed  
Ph: 925-4-iFoods (925-443-6637)  
Ce: 925-207-0065  
Em: [Foods@ifoods.net](mailto:Foods@ifoods.net)



NELSONYA CAUSBY  
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Legal Department

AT&T Services, Inc.  
525 Market St.  
Room 2025  
San Francisco, CA 94105

(415) 778-1488 Phone  
(415) 543-0418 Fax  
[lc6239@att.com](mailto:lc6239@att.com)

September 23, 2014

*Via E-mail Only*

mark.coon@cityofconcord.org

Mark S. Coon, City Attorney  
Concord Office of City Attorney  
1950 Parkside Drive  
Concord, CA 94519-2526

Re: Extension Agreement for FCC Shot Clock Deadline

AT&T Site Address:	1021 Shary Court, Concord, CA 94518
AT&T Site No.:	CNU4780
Facility Type:	150 Review Period for NSB
City No.:	PL-140000203-MP

Dear Mr. Coon:

AT&T and the City of Concord hereby agree to extend the FCC "shot clock" presumptively reasonable time for acting on the above-referenced wireless telecommunications facility siting application to and through Wednesday, December 31, 2014. The parties recognize that if the City does not issue a final decision on the application on or by December 31, 2014, AT&T will have 30 days to file a rebuttable "unreasonable delay" claim under 47 U.S.C. 332(c)(7)(B)(v).

To confirm the City of Concord's agreement, please countersign below and return this letter to me. Thank you for your assistance.

Sincerely,  
Nelsonya Causby

Agreed:

City of Concord, California

By: \_\_\_\_\_

Mark S. Coon, City Attorney