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**REGULAR MEETING OF THE  
CITY OF CONCORD  
ZONING ADMINISTRATOR**

**9:00 a.m., Wednesday, February 25, 2015  
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. [Verizon Wireless at 3425 Concord Boulevard](#) (PL140357 – MP, AA) – Application for a Minor Use Permit to construct a new roof-mounted wireless communication facility by adding nine (9) panel antennas concealed within a new 10’ x 10’ cupola-style enclosure on the roof of the multi-use room at the Calvary Apostolic Church. The facility also includes a 20’ x 40’ lease area enclosed with a 6-foot tall wooden fence to screen a 16’-10 ½” x 11’-6” equipment shelter and generator, adjacent to the northwest corner of the multi-use room. The application also includes a request for a Minor Exception to allow an increase in the allowed height to accommodate the top of the cupola at 38.9 feet above ground level. The General Plan designation is Low Density Residential (LDR); Zoning classification is R-7.5 (Low Density Residential, 7,500 sq. ft. minimum lot size); APN 113-091-035. 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 environmental review is required. **Project Planner: Andrew Mogensen @ (925) 671-3332.**
2. [Majka’s Child Care \(PL140447 – MP\)](#) – Application for a Minor Use Permit to operate a large family day care home at 5501 Sloan Court. A large family day care home is one that provides child care services for up to 14 children. The General Plan designation is Low Density Residential; Zoning classification is Planned Development; APN 118-250-005. 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 15274(a), “Family Day Care Homes”, and therefore no further environmental review is required. **Project Planner: Andrew Mogensen @ (925) 671-3332.**

**ADJOURNMENT**

**Next Zoning Administrator’s Meeting: March 11, 2015**

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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: February 25, 2015

**SUBJECT: MAJKA'S CHILD CARE (ZA 14-00447)**

**Recommendation:** Adopt Zoning Order No. 15-003, approving a Minor Use Permit for Majka's Child Care Facility (ZA 14-00447).

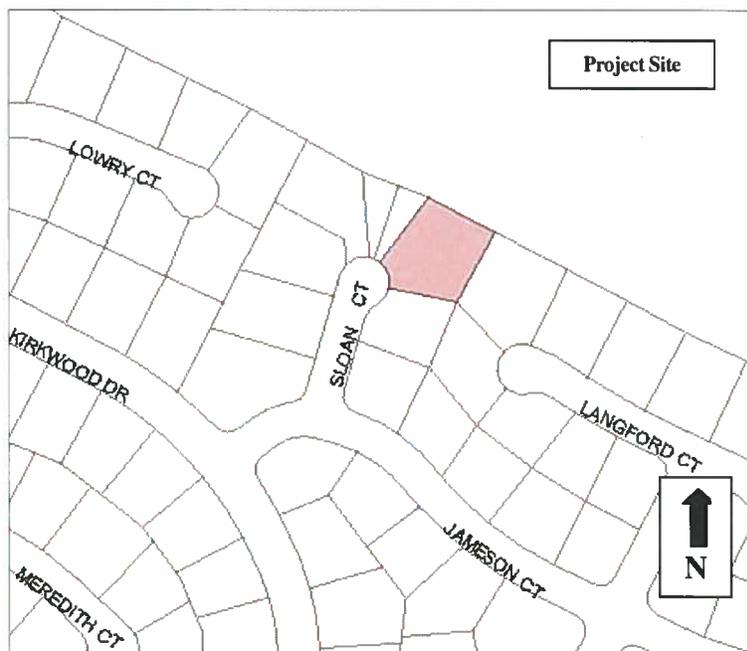
**I. Introduction**

**A. Application Request**

Application for a Zoning Administrator Permit (Minor Use Permit) to operate a large family day care home at 5501 Sloan Court.

**B. Location**

The project site is located at 5501 Sloan Court; APN 118-250-005



**C. Applicant/Owner**  
Maria Szarmach  
Jacek Szarmach  
5501 Sloan Court  
Concord, CA 94521  
(925) 639-7612

## II. Background

On December 1, 2014, the applicant submitted a Zoning Administrator permit application (Exhibit B) to operate a large family day care home (also called family child care homes) to accommodate a large family day care home facility for about 12 children at 5501 Sloan Ct. The applicant currently holds a valid childcare license to operate a family day care home with a total capacity of up to 14 children (Facility Number 073407871), issued by the Community Care Licensing Division of the California Department of Social Services.

The DAC reviewed the application on December 23, 2014 and deemed the application incomplete until a clearance was provided from the Contra Costa County Fire Protection Department. Fire Inspector Lisa Martinez provided the City of Concord with the clearance on January 7, 2015 with a condition that the second story be off-limits to children.

The Planning Division forwarded a public notice on January 5, 2015 regarding the proposed Minor Use Permit to the surrounding residents and property owners within 100 feet of the proposed family day care home. Associate Planner Jason Hade received an email from Janet Davis, a neighbor residing at 5504 Sloan Court, on January 8, 2015, citing concerns with traffic and noise generated by the proposed residential child care facility (Exhibit E). Ms. Davis later forwarded a second email on January 14, 2015 requesting a public hearing (Exhibit F).

Following receipt and review of the Fire Department clearance, the Minor Use Permit application was deemed complete on January 20, 2015. Because one neighbor had requested a hearing on this item, a public hearing was scheduled. On February 12, 2015 notices advertising the hearing were again forwarded to all property owners and persons residing within 100 feet of the proposed home day care facility. Ms. Janet Davis, the resident requesting the hearing, was notified by both mail and email ten days prior to the scheduled public hearing.

Family child care homes are regulated by the State of California. The California State Legislature has found that there are insufficient numbers of family child care homes in California, and so has enacted legislation which addresses licensing and operations. The Community Care Licensing Division of the California Department of Social Services handles licensing, and the City is not involved in the licensing process. Licensing regulations address, among other things, health and safety issues related to the care and supervision of children from infancy to 12 years of age. Family child care is provided in the licensee's home (owned or rented), and is considered a residential (not commercial) use of the property.

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For a large family child care home, the maximum number of children cared for when there is an assistant provider in the home, including children under age 10 who live in the home, and the assistant provider's children under age 10, is either:

- Twelve children, no more than four of whom may be infants, or
- Up to 14 children when one child is at least six years of age and one child is enrolled in and attending kindergarten or elementary school, and no more than three infants are in care.

State law limits a city's discretion in imposing land use restrictions on family child care homes. Large family child care homes must be classified as a permitted use of residential property for zoning purposes, but must pay a business tax as would any other business in the City of Concord. Although the City can require a Minor Use Permit, the City can only prescribe reasonable standards, restrictions, and requirements as they pertain to traffic, parking, noise, concentration, and certain State Fire Marshall regulations. The City of Concord's conditions<sup>1</sup> include providing an adequate off-street parking and loading area, minimizing noise impacts, providing an outdoor play area, maintaining a State license (requiring a Fire District clearance), and complying with applicable Building and Fire Codes. These conditions are fully described in the Development Code and are also identified in the "Analysis/Discussion" section of this staff report below. Per State law, if those conditions are met, then the City must grant the use permit.

Before a decision is made on a large family day care home, notices must be sent to owners of record within a 100 foot radius, and no hearing on the permit application can be held unless requested by the applicant or another affected person. Notices were sent pursuant to Health and Safety Code section 1597.46(a) and a hearing was requested by Janet Davis, who received ten days prior notice of the hearing by both mail and email.

### **III. General Information**

#### **A. General Plan**

The General Plan land use designation is Low Density Residential (LDR).

#### **B. Zoning**

The site is a residential single family home zoned Planned Development (PD). As per Section 18.25.040 of the Development Code, the closest applicable RS zoning district development standards apply. Section 18.200.050 of the Development Code requires that a Minor Use Permit be obtained in order to operate a large family day care home at the project site. The rear yard of the residential home is adjacent to the Concord Pavilion.

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<sup>1</sup> Because the Legislature has found that family day care homes are a matter of statewide concern, State law controls over any conflicting language in a city's municipal code. The City is in the process of conforming Concord Municipal Code Section 122 (referred to herein as the Development Code) to State law.

**C. CEQA Status**

The proposed project is Statutorily Exempt pursuant to CEQA Section 15274, Family Day Care Homes, which states that CEQA does not apply to the establishment or operation of a large family day care home which provides in-home care for up to 14 children, as defined in Section 1596.78 of the Health and Safety Code. Therefore, no environmental review is required.

**D. Site Description**

<b>Lot Size and Dimensions</b>	10,000± sq. ft.	95 ft. x 105 ft. (approx.)
<b>Existing Improvements</b>	Single-family residence, driveway, and landscaping.	
<b>Topography</b>	The parcel is relatively flat.	
<b>Existing Vegetation</b>	Trees along the perimeter of the site and in the front-yard. The property has typical residential landscaping.	

**E. Surrounding Land Use**

The site is surrounded by the following uses:

	<b>Land Use</b>	<b>General Plan Designation</b>	<b>Zoning</b>
<b>North</b>	Open Space	Open Space	OS
<b>South</b>	Planned Development	Low Density Residential	PD
<b>East</b>	Planned Development	Low Density Residential	PD
<b>West</b>	Planned Development	Low Density Residential	PD

**IV. Detailed Project Description**

**A. Description of Business**

The proposed project would consist of a large family day care home to provide care for up to 14 children. The applicant's requested hours of operation are from 7:00 a.m. to 6:00 p.m. Monday through Friday. The facility's description of business activities is provided in the applicant's written statement (Exhibit C). The age of children is anticipated to range from infants to children five years of age. A portion of the property's front-side yard is fenced in and will be used as an outdoor play area. Children will not be allowed in the rear yard, which is fenced in and has a swimming pool which is surrounded by a secondary fence as well. No signage or exterior improvements are proposed as part of the proposed project.

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**V. Analysis/Discussion****A. General Plan Consistency**

The project site's General Plan land use designation of Low Density Residential is intended for residential development at densities from 2.5 to 10 units per net acre.

**Discussion**

General Plan Policy LU-1.1.3 states that the City shall ensure that the scale, operation, and other characteristics of community facilities, including parks, schools, childcare facilities, religious institutions, and other public and quasi-public facilities enhance the character and quality of neighborhoods. In addition, General Plan Policy LU-1.1.4 requires the mitigation of residential uses from impacts of more intensive land uses through good site planning and/or appropriate operational measures. As discussed in detail below, the proposed project provides the required off-street parking and loading area to mitigate potential traffic and circulation impacts which detract from the character and quality of the neighborhood. For this reason, staff finds the proposed project consistent with the Low Density Residential land use designation and the applicable policies within the General Plan.

**B. Zoning Consistency**

As noted above, the zoning classification for the project site is PD. Pursuant to Section 18.25.040 of the Development Code, the equivalent zoning category is Single Family Residential (RS). A minor use permit is required for large family day care homes within all RS zoning districts. In order for a Minor Use Permit to be approved, the findings contained within Section 18.435.060 of the Development Code must be made by the reviewing authority. Additionally, the specific findings related to large family day care homes included within Section 18.200.050 must also be made prior to approval. An analysis of the proposal relative to the required large family day care home general requirements and findings is provided below.

**General Requirements.** The following standards apply to all large family day care homes, child day care centers, pre-schools, and nurseries. Discussion of whether these standards are met is in *italics* after each standard.

**(1) Parking and Loading.** The following parking requirements shall be provided as per Section 18.200.050 (Parking and Loading):

- a. A minimum of one off-street parking space per employee;

*One off-street parking space is available in the driveway in order to accommodate a potential future non-resident employee working at the proposed facility. An additional paved off-street parking space is also available on the left side of the garage.*

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- b. For large family day care homes, employee parking shall be in addition to the off-street parking required for the residential use. Driveways may be used for employee parking, provided the driveway is no less than 18 feet in length, measured from the property line or back of sidewalk whichever is less; and

*The driveway length is approximately 19-feet long and 29 feet wide.*

- c. A safe area for pick-up and delivery of children shall be provided. This area shall only be allowed in a driveway, in an off-street parking area, or other on-site area with direct access to the facility

*Pick-up and delivery area is available in the driveway. Site access would be provided via Sloan Court. A minimum of three off-street parking spaces would be required for the proposed use which would include two parking spaces for the residential use as well as one parking space to accommodate a non-resident employee. In addition, one on-site loading space would be required to serve as a safe drop-off area for pick-up and delivery of children. The applicant's proposed parking plan is illustrated on the site plan included as Exhibit D. As shown, the required off-street employee parking and pick-up/delivery area spaces would be provided in the home's driveway consistent with the requirements described above.*

*These requirements are in addition to the requirements of Development Code Section 18.160 (Parking, Loading, and Access). As noted above, two-off street covered parking spaces are required for the existing residential use pursuant to Section 8.160.040 of the Development Code. These spaces are provided in the existing garage.*

- (2) **Noise.** The location of the facility, including outdoor play areas, shall be sited to minimize noise impacts on neighboring properties. Noise levels shall comply with the standards identified in the General Plan.

*The outdoor play area is located in the front side yard of the home and is screened by an approximately six-foot tall wooden fence, as noted in the applicant's site plan (Exhibit D) The applicant has noted in their written statement (Exhibit C) that most activities will take place inside the home. Pursuant to General Plan Policy S-2.1.3, the anticipated noise increase from the proposed use would be three dBA or less and is therefore considered insignificant and no mitigation is needed.*

- (3) **Outdoor Play Areas.** Outdoor play areas shall be:

- a. Enclosed by a natural barrier, wall, solid fence, or other solid structure at least six feet in height; and

*Enclosed by a six-foot tall wooden fence.*

- b. Adequately separated from driveways, streets, and parking.

*Separated by a fence with a gate.*

- (4) Building and Fire Codes.** All facilities shall comply with all applicable City, county, and state requirements including the Uniform Building Code and Fire Codes.

*As part of the state licensing review process, the facility received a fire safety clearance from the Contra Costa Fire Protection District on January 7, 2015. Additionally, the Building Division has reviewed the proposed project and recommended a condition of approval to ensure compliance with the Uniform Building Code.*

**Findings.** The following findings shall be made for approval of a Minor Use Permit for a large family day care home, child day care center, pre-school, or nursery school, in addition to the findings required in Section 18.435 (Minor Use Permits and Use Permits):

- (1) The facility meets all of the standards specified in this Section.**

Discussion

Based upon staff's review of the application materials, it was concluded that the proposed project is consistent with the standards specified in this section because an adequate on-site parking and loading area is provided, noise levels do not exceed the standards outlined within the General Plan, and an outdoor play area consistent with applicable standards is available. Further, the proposed project complies with the applicable Uniform Building Code and Fire Codes.

- (2) The facility meets applicable state licensing requirements.**

Discussion

The existing large family day care home has been licensed by the California Department of Social Services since March 2, 2014.

- (3) Drop-off facilities avoid interference with traffic and promote the safety of children.**

Discussion

As shown on the site plan (Exhibit D) a drop-off area is provided within the site's driveway consistent with the standards identified in Section 18.200.050 (D) of the Development Code. The Transportation Division reviewed the site plan and circulation plan and expressed no concerns regarding traffic volume issues.

**(4) The facility meets applicable fire and building codes.**Discussion

As discussed above, as part of the state licensing review process, the facility received a fire safety clearance from the Contra Costa Fire Protection District on January 7, 2015. Additionally, the Building Division has reviewed the proposed project and recommended a condition of approval to ensure compliance with the Uniform Building Code.

Additional findings for large family day care homes are analyzed below.

**(5a) The primary use of the home is as a residence.**Discussion

Based upon statements from the property owners and applicants, a staff inspection on December 17, 2014, and a review of the available public information, staff concluded the primary use of the home is as a residence.

**(5b) One off-street parking space is provided for each non-resident employee.**Discussion

The driveway length is approximately 19-feet which exceeds the minimum requirement that it be 18-feet in length to be eligible for use as off-street employee parking. The property also has an available parking space on the side of the garage. Sufficient off-street parking is available at the project site.

**(5c) The facility avoids noise impacts to neighboring properties by design and layout of the site.**Discussion

As noted above, the outdoor play area is located behind a fence in the front side yard of the home and is screened by an approximately six-foot tall wooden fence. As noted in the applicant's written statement (Exhibit C), most of the activities will take place inside the house. The property is adjacent to the Concord Pavilion outdoor concert hall.

**(5d) The facility is not within 300 feet of any other such licensed facility.**Discussion

The facility is not located within 300-feet of any other licensed facility.

The Review Authority may approve a Minor Use Permit or a Use Permit application only after first making the following findings:

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

Discussion

The proposed large family day care use is allowed within the PD zoning district with an approved Minor Use Permit and complies with all other applicable provisions of the Development Code, including those discussed above, and the Concord Municipal Code.

- (2) The proposed use is consistent with the General Plan and any applicable Specific Plan.**

Discussion

As noted above, General Plan Policy LU-1.1.3 states that the City shall ensure that the scale, operation, and other characteristics of community facilities, including parks, schools, childcare facilities, religious institutions, and other public and quasi-public facilities enhance the character and quality of neighborhoods. In addition, General Plan Policy LU-1.1.4 requires the mitigation of residential uses from impacts of more intensive land uses through good site planning and/or appropriate operational measures. As discussed in detail above, the proposed project provides the required off-street parking and loading area to mitigate potential traffic and circulation impacts which detract from the character and quality of the neighborhood. Therefore, the proposed use is consistent with the site's low-density residential General Plan land use designation and other applicable policies regarding land use compatibility. There is no Specific Plan applicable to the project 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.**

Discussion

The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses in the vicinity because, as discussed above, adequate off-street parking and a drop-off area is provided to avoid potential traffic, circulation, and pedestrian safety impacts. Operational measures have been implemented by the applicant and are being imposed by the Conditions of Approval to minimize noise impacts to the surrounding neighborhood.

- (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.**

Discussion

The site is physically suitable for the type, density, and intensity of the proposed use, including access, utilities, and the absence of physical constraints because, as discussed above, sufficient

on-site area is available for an outdoor play area, parking, and drop-off area. Further, the driveway exceeds the 18-foot minimum length required by the Development Code and therefore can be utilized for parking and delivery purposes.

- (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.**

Discussion

Granting the minor use permit for the proposed use will not be detrimental to the health, safety and general welfare of persons residing or working in the subject neighborhood or materially injurious to property or improvements in the vicinity and the Zoning District where the property is located because the project has been designed in a manner to maintain land use compatibility with the surrounding residential land uses. Moreover, the Community Care Licensing Division of the California Department of Social Services retains oversight of licensing matters and the Conditions of Approval address continuing compliance with Development Code standards. Lastly, State law considers the proposed large family day care home to be a residential use. As a residential use, the proposed use would be compatible with the surrounding single-family residential uses.

- (6) If the Review Authority determines that it 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.**

Discussion

In approving a Minor Use Permit, the Review Authority (here, the Zoning Administrator) may impose conditions including those that are deemed reasonable and necessary to ensure that the approval will comply with the findings required by Development Section 18.435.060(A) (Findings), and as such imposes the Conditions of Approval.

**C. Neighborhood Comments**

Staff received one letter opposing the proposed project as of the writing of this report (Exhibit E). The letter in opposition to the proposed project raised traffic concerns. The same neighbor later requested a public hearing (Exhibit F).

**VI. Fiscal Impact**

The proposed project would have a negligible fiscal impact on the City.

**VII. Public Contact**

Notification was mailed to all owners and occupants of property within one-hundred (100) feet of the subject parcel, and has been published in the Contra Costa Times, as required by the Concord Municipal Code. The resident requesting a hearing was provided notice of the hearing ten days prior to the date by both mail and email. This item was also posted at the Civic Center and at the subject site at least 10 days prior to the public hearing.

**VIII. Summary and Recommendations**

As discussed in detail above, staff believes the required findings for a Minor Use Permit as well as specific findings related to large family day care homes can be made because the proposed project complies with the relevant provisions of the Development Code. Further, the proposed project is consistent with the applicable General Plan policies regarding land use compatibility and noise levels. Therefore, staff recommends that the Zoning Administrator adopt Zoning Order No. 15-003, approving Minor Use Permit ZA 14-000447, subject to the attached findings and Conditions of Approval.

Prepared by:

  
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Reviewed by:

  
Laura Simpson  
Planning Manager  
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**Exhibits:**

- A - Zoning Order No. 15-003 with Conditions of Approval
- B - Zoning Administrator Permit Application dated December 1, 2014
- C- Applicant's written statement dated December 1, 2014
- D- Applicant's site plan dated December 1, 2014
- E - Comment letter received from neighbor
- F- Requests for Public Hearing

## ZA ORDER NO. 15-003

OFFICE OF THE ZONING ADMINISTRATOR  
CITY OF CONCORD  
APPROVING ZONING ADMINISTRATOR PERMIT (ZA 14-000447)  
Applicants: Maria Szarmach & Jacek Szarmach  
Owners: Maria Szarmach & Jacek Szarmach  
Project Name: Majka's Child Care Facility

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6       **WHEREAS**, on December 1, 2014, Maria Szarmach & Jacek Szarmach submitted an  
7 application for a Zoning Administrator Permit for a large family day care home to accommodate up to  
8 14 children at 5501 Sloan Ct, APN 118-250-005; and

9       **WHEREAS**, on January 20, 2015 the application was deemed complete for processing; and

10       **WHEREAS**, pursuant to the provisions of the California Environmental Quality Act (CEQA)  
11 of 1970, as amended, the project is classified as Statutorily Exempt pursuant to Section 15274,  
12 "Family Day Care Homes," and therefore no environmental review is required; and

13       **WHEREAS**, the Zoning Administrator after giving all public notices required by State law  
14 and the Concord Municipal Code (referred to herein as the Development Code), held a duly noticed  
15 public hearing on February 25, 2015 the subject proposal; and

16       **WHEREAS**, the Zoning Administrator considered testimony and information received at the  
17 public hearing and the oral and written reports from City staff dated February 25, 2015, as well as  
18 other documents contained in the record of proceedings relating to the project, which are maintained  
19 at the offices of the City of Concord Planning Division located at 1950 Parkside Drive, Concord, CA  
20 94519; and

21       **WHEREAS**, on February 25, 2015 the Zoning Administrator, after consideration of all  
22 pertinent plans, documents and testimony, declared his intent to approve the project subject to the  
23 Final Conditions of Approval (Majka's Child Care, ZA 14-000447, 5501 Sloan Court, APN 118-250-  
24 005) attached hereto as Attachment A and incorporated by reference (Conditions of Approval).

25       **NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:** that the Zoning Administrator  
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1 does hereby approve Zoning Administrator Permit ZA15-003 (Minor Use Permit) subject to the  
2 Conditions of Approval and further makes the following findings:

3 CEQA

4 1. Pursuant to the provisions of the California Environmental Quality Act (CEQA) of  
5 1970, as amended, the project is classified as Statutorily Exempt pursuant to Section 15274, "Family  
6 Day Care Homes," and therefore no environmental review is required.

7 Zoning Administrator/Minor Use Permit

8 2. The facility meets all of the standards specified in the Development Code as outlined  
9 below.

10 (1) **Parking and Loading.** The following parking requirements shall be provided in  
11 addition to the parking requirements in Section 18.200.050 (Parking, Loading, and  
12 Access):

13 a. A minimum of one off-street parking space per employee;

14 *One off-street parking space is available in the driveway in order to*  
15 *accommodate a potential future non-resident employee working at the proposed*  
16 *facility. An additional paved off-street parking space is also available on the*  
17 *left side of the garage.*

18 b. For large family day care homes, employee parking shall be in addition to the  
19 off-street parking required for the residential use. Driveways may be used for  
20 employee parking, provided the driveway is no less than 18 feet in length,  
21 measured from the property line or back of sidewalk whichever is less; and

22 *The driveway length is approximately 19-feet long and 29 feet wide.*

23 c. A safe area for pick-up and delivery of children shall be provided. This area  
24 shall only be allowed in a driveway, in an off-street parking area, or other on-  
25 site area with direct access to the facility.

1 *Pick-up and delivery area is available in the driveway. The property is located*  
2 *at the end of a cul-de-sac and will not have any passing vehicular traffic. Site*  
3 *access to the property is provided via Sloan Court. A minimum of three off-*  
4 *street parking spaces would be required for the proposed use which would*  
5 *include two parking spaces for the residential use as well as one parking space*  
6 *to accommodate a non-resident employee. In addition, one on-site loading*  
7 *space would be required to serve as a safe drop-off area for pick-up and*  
8 *delivery of children. The applicant's proposed parking plan is illustrated on*  
9 *the site plan included as Exhibit C. As shown, the required off-street employee*  
10 *parking and pick-up/delivery area spaces would be provided in the home's*  
11 *driveway consistent with the requirements described above.*

12 *These requirements are in addition to the requirements of Development Code*  
13 *Section 18.160 (Parking, Loading, and Access). As noted above, two-off street*  
14 *covered parking spaces are required for the existing residential use pursuant to*  
15 *Section 18.160.040 of the Development Code. These spaces are provided in the*  
16 *existing garage.*

- 17 (2) **Noise.** The location of the facility, including outdoor play areas, shall be sited to  
18 minimize noise impacts on neighboring properties. Noise levels shall comply with the  
19 standards identified in the General Plan.

20 *The outdoor play area is located in the front side yard of the home and is*  
21 *screened by an approximately six-foot tall wooden fence, as noted in the*  
22 *applicant's site plan (Exhibit C) The applicant has noted in their written*  
23 *statement (Exhibit B) that most activities will take place inside the home.*  
24 *Pursuant to General Plan Policy S-2.1.3, the anticipated noise increase from*  
25 *the proposed use would be three dBA or less and is therefore considered*  
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1                                    *insignificant and no mitigation is needed.*

2            (3)    **Outdoor Play Areas.** Outdoor play areas shall be:

3                    a.        Enclosed by a natural barrier, wall, solid fence, or other solid structure at least  
4                                    six feet in height; and

5                                    *Enclosed by a six-foot tall wooden fence.*

6                    b.        Adequately separated from driveways, streets, and parking.

7                                    *Separated by a fence with a gate.*

8            (4)    **Building and Fire Codes.** All facilities shall comply with all applicable City, county,  
9                                    and state requirements including the Uniform Building Code and Fire Codes.

10                                    *As part of the state licensing review process, the facility received a fire safety  
11                                    clearance from the Contra Costa Fire Protection District on January 7, 2015.*

12                                    *Additionally, the Building Division has reviewed the proposed project and  
13                                    recommended a condition of approval to ensure compliance with the Uniform  
14                                    Building Code.*

15            3.        The facility meets applicable state licensing requirements as the applicant holds a valid  
16                                    childcare license to operate a family day care home with a total capacity of 14 children (Facility  
17                                    Number 073407871) issued by the Community Care Licensing Division of the California Department  
18                                    of Social Services.

19            4.        Drop-off facilities avoid interference with traffic and promote the safety of children  
20                                    because a drop-off area is provided within the site's driveway consistent with the standards identified  
21                                    in Section 18.200.050 (D) of the Development Code.

22            5.        The facility meets applicable fire and building codes because a fire safety clearance  
23                                    was obtained from the Contra Costa Fire Protection District on January 7, 2015 as part of the state  
24                                    licensing process. Further, the Building Division has reviewed the project and recommended a  
25                                    condition of approval to ensure compliance with the Uniform Building Code.

1           6.       The primary use of the home is as a residence, as evidenced by the statements of the  
2 property owners and applicants, supported by a site inspection by City staff and the information  
3 available to the City at the time of application.

4           7.       One off-street parking space is available for each non-resident employee. Should a  
5 non-resident employee be employed at the facility, they would park adjacent to the garage or within  
6 the driveway which exceeds the minimum 18-foot length requirement prescribed within the  
7 Development Code.

8           8.       The facility avoids noise impacts to neighboring properties by design and site layout.  
9 The outdoor play area is located in the front side yard of the home and is screened by an  
10 approximately six-foot tall wooden fence. As noted in the applicant's written statement, most  
11 activities will take place within the home.

12          9.       The facility is not within 300-feet of any other such licensed facility.

13          10.      The proposed large family day care use is allowed within the PD zoning district with  
14 an approved Minor Use Permit and complies with all other applicable provisions of the Development  
15 Code, including those discussed above, and the Concord Municipal Code.

16          11.      General Plan Policy LU-1.1.3 states that the City shall ensure that the scale, operation,  
17 and other characteristics of community facilities, including parks, schools, childcare facilities,  
18 religious institutions, and other public and quasi-public facilities enhance the character and quality of  
19 neighborhoods. In addition, General Plan Policy LU-1.1.4 requires the mitigation of residential uses  
20 from impacts of more intensive land uses through good site planning and/or appropriate operational  
21 measures. As discussed in detail above, the proposed project provides the required off-street parking  
22 and loading area to mitigate potential traffic and circulation impacts which detract from the character  
23 and quality of the neighborhood. Therefore, the proposed use is consistent with the site's low-density  
24 residential General Plan land use designation and other applicable policies regarding land use  
25 compatibility. There is no Specific Plan applicable to the project site.

1           12. The design, location, size, and operating characteristics of the proposed use are  
2 compatible with the existing and future land uses in the vicinity because, as discussed above, adequate  
3 off-street parking and a drop-off area is provided to avoid potential traffic, circulation, and pedestrian  
4 safety impacts. Operational measures have been implemented by the applicant and are being imposed  
5 by the Conditions of Approval to minimize noise impacts to the surrounding neighborhood.

6           13. The site is physically suitable for the type, density, and intensity of the proposed use,  
7 including access, utilities, and the absence of physical constraints because, as discussed above,  
8 sufficient on-site area is available for an outdoor play area, parking, and drop-off area. Further, the  
9 driveway exceeds the 18-foot minimum length required by the Development Code and therefore can  
10 be utilized for parking and delivery purposes.

11           14. Granting the minor use permit for the proposed use will not be detrimental to the  
12 health, safety and general welfare of persons residing or working in the subject neighborhood or  
13 materially injurious to property or improvements in the vicinity and the Zoning District where the  
14 property is located because the project has been designed in a manner to maintain land use  
15 compatibility with the surrounding residential land uses, the Community Care Licensing Division of  
16 the California Department of Social Services retains oversight of licensing matters, and the Conditions  
17 of Approval address continuing compliance with Development Code standards. Lastly, State law  
18 considers the proposed large family day care home to be a residential use. As a residential use, the  
19 proposed use would be compatible with the surrounding single-family residential uses.

20           15. In approving a Minor Use Permit, the Review Authority (here, the Zoning  
21 Administrator) may impose conditions including those that are deemed reasonable and necessary to  
22 ensure that the approval will comply with the findings required by Development Section  
23 18.435.060(A) (Findings), and as such imposes the Conditions of Approval.

1 Based on the above findings, on February 25, 2015, the Zoning Administrator approved said  
2 application subject to the Conditions of Approval, referenced as Attachment A.

3  
4  
5 G. Ryan Lenhardt,  
6 Zoning Administrator

7 Attachment:  
8 A – Final Conditions of Approval  
9 B – Written Statement  
10 C – Site Plan

11 cc: Robert Ovadia, PE, City Engineer  
12 Robert Woods, Building Division  
13 Lisa Martinez, Contra Costa County Fire Protection District  
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**ATTACHMENT A**  
**FINAL**  
**CONDITIONS OF APPROVAL**  
**MAJKA'S CHILD CARE**  
**ZA 15-003**  
**5501 Sloan Court**  
**APN 118-250-005**

9

**PERMIT DESCRIPTION**

- 10  
11  
12  
13
1. These Conditions apply to and constitute the approval of a Zoning Administrator Permit (Minor Use Permit) (ZA14-000447) for a large family day care home for up to 14 children.
  2. Exhibits date stamped received by the City of Concord on December 1, 2014 are approved and shall be incorporated as Conditions of Approval.

14

**GENERAL CONDITIONS**

- 15  
16  
17  
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28
3. The applicant shall obtain and maintain all the necessary City and State licenses and permits for the operation of a family day care home. Compliance with these conditions is required for all permits and final inspections associated with this Zoning Order. *(PLNG, BLDG, ENGR)*
  4. The Conditions are the responsibility of the applicant and all contractors. If timing for compliance is not specified, it shall be determined by the Divisions listed after the Condition. *(PLNG, BLDG, ENGR)*
  5. The project shall comply with all applicable Federal and State laws and Concord Municipal Code (CMC) requirements. *(PLNG, BLDG, ENGR)*
  6. Minor modifications that are found to be in substantial conformance with the approved plans may be approved administratively. Major modifications shall be approved by the applicable decision making body. *(PLNG, ENGR)*

1 **PARKING**

- 2 7. Parking shall comply with all applicable provisions of Section 18.160, "Parking, Loading, and  
3 Access" of the Development Code as well as those requirements identified in Development  
4 Code Section 18.200.050 regarding large family day care homes prior to occupancy approval.  
5 No on-street parking shall be permitted for the facility. *(ENGR, PLNG)*  
6  
7 8. Pursuant to Development Code Section 18.200.050 (D), a safe area for pick-up and delivery of  
8 children shall be provided in a driveway, in an off-street parking area, or other on-site area  
9 with direct access to the family day care home facility.

10 **NOISE**

- 11 9. The location of outdoor play areas shall be sited to minimize noise impacts on neighboring  
12 properties. Noise levels shall comply with the standards identified in the General Plan  
13 throughout the operation of the facility under this Minor Use Permit.  
14  
15 10. The facility shall adhere to the following hours of operation to minimize any noise issues:  
16 Monday through Friday 7:00 a.m. to 6:00 p.m.

17 **AGREEMENTS, FEES, BONDS**

- 18 11. Pay a Document Imaging fee to reimburse the City for implementation of the Document  
19 Imaging and File Retention programs within 90 days of the date of this approval. *(PLNG)*

20 **FIRE DISTRICT**

- 21 12. Applicant shall submit a completed Licensed Care Facility Fire Safety Application and Zoning  
22 Verification Form and fees to Cindy McGrath (925-941-3674) at the Fire District. The  
23 application and fee information are attached. Applicant shall include: a site plan indicating the  
24 building dimensions, distance to property lines, emergency vehicle access, and a floor plan  
25 with dimensions identifying the use of all rooms, hallways, and exit doors. Plans shall include  
26 the exterior exit pathways and gates with dimensions. *(CCCFPD)*

27 **CONTRA COSTA HEALTH SERVICES**

- 28 13. A permit from CCEHD is required for any well or soil boring prior to commencing drilling  
activities, including those associated with water supply, environmental investigation and  
cleanup, or geotechnical investigation. *(CCHS)*

1 14. Any abandoned wells (water, environmental, or geotechnical) and septic tanks must be  
2 destroyed under permit from CCEHD. If the existence of such wells or septic tanks are known  
3 in advance or discovered during construction or other activities, these must be clearly marked,  
4 kept secure, and destroyed pursuant to CCEHD requirements. (*CCHS*)

4 **OTHER/MISCELLANEOUS**

5 15. The applicant shall defend, indemnify and hold harmless the City, its agents, officials, and  
6 employees from any claim, action or proceeding brought by a third party to set aside, annul,  
7 attack or otherwise void the permit. (*PLNG*)

8 16. The effective date of the permit and approval is March 9, 2015. (*PLNG*)

9 17. Applicant's failure to live in the home on the property/project site shall be cause for revocation  
10 of the Minor Use Permit. (*PLNG*)

11 18. Applicant shall maintain in good standing a license issued by the Community Care Licensing  
12 Division of the California Department of Social Services for a large family day care home at  
13 the property/project site. Failure to do so shall be cause for revocation of the Minor Use  
14 Permit. (*PLNG*)

15 19. The City shall maintain the ability to modify this Minor Use Permit and set a new public  
16 hearing date in order to impose additional conditions to correct problems that may arise such  
17 as public nuisances and related Municipal Code violations, and excessive nuisance related  
18 responses from Code Enforcement. Additional conditions, to correct problems, may include  
19 but are not limited to modifications of hours of operation, limitations on the use and location  
20 of outdoor play areas, safety requirements, and noise control measures. (*PLNG*)

21 20. The applicant shall apply for a business license prior to conducting said business. (*PLNG,*  
22 *BLDG, ENGR*)

RECEIVED

DEC 01 2014

PLANNING

Bus. Name: MAJKA'S CHILD CARE

Applicants: MARIA SZARMACH, JACEK SZARMACH

Address: 5501 SLOAN CT, CONCORD CA 94521

Contact: 925 639 7612 or 925 705 1194

### Description of Business Activities.

- \* Large Family Child care setup  
State Licensed
- \* Open Monday to Friday 7am to 6pm
- \* Ages from 0 to 5 year old
- \* Most of the activities like feeding  
playing, napping take place inside  
the house.
- \* Will only serve 12 CHILDREN or less with  
parents dropping them off in the morning  
and picking them up in the afternoon

STATE OF CALIFORNIA HEALTH AND HUMAN SERVICES DEPARTMENT

**FACILITY SKETCH (Yard) - Family Child Care Home PLANNING**

The yard sketch should show all buildings in the yard including the home (with no detail), garage and storage building. Include walks, driveways, play area, fences, gates. Please identify areas which will be "off limits" to children. Show any potential hazardous areas such as pools, garbage storage, animal pens, etc. Show the overall yard size. Try to keep the sizes close to scale. Use the space below.

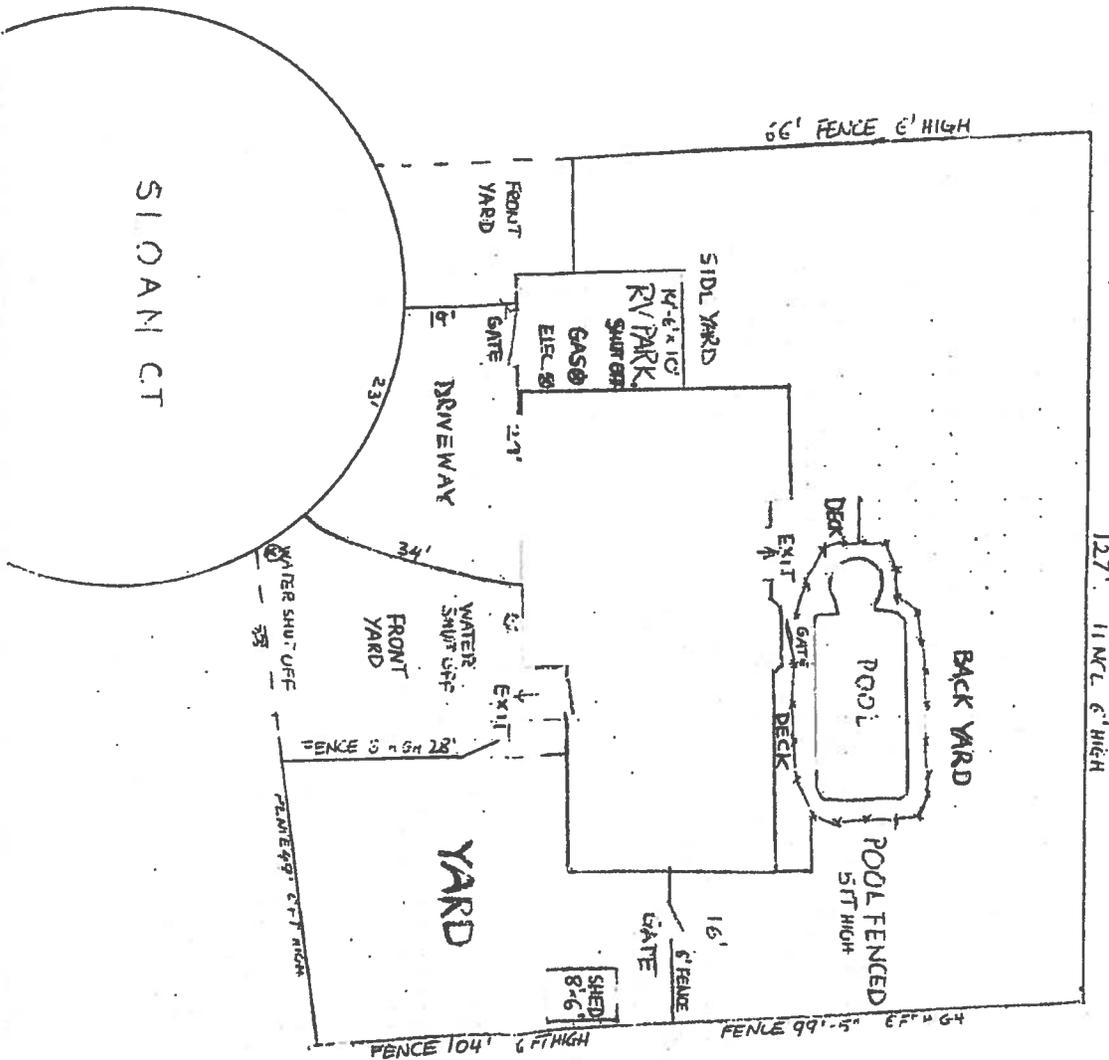
FACILITY NAME  
**MACKA'S CHILD CARE**

ADDRESS  
**5501 SLOAN CT, CONCORD, CA**

RECEIVED

DEC 01 2014

DEPARTMENT OF SOCIAL SERVICES  
COMMUNITY CARE LICENSING



CITY OF CONCORD  
 PLANNING DIVISION  
 PHONE: (925) 671-3152  
 FAX: (925) 671-3381



Community & Economic  
 Development Department  
 1950 Parkside Drive, M/S 53  
 Concord, CA 94519-2578  
 www.cityofconcord.org

APPLICATION FORM

Date Received by Planning

12/1/14

- |  |  |  |  |
|--|--|--|--|
| <input type="checkbox"/> Preliminary Application           | <input type="checkbox"/> Development Code Amendment      | <input type="checkbox"/> Major Subdivision/Vesting Tentative Map | <input type="checkbox"/> Rezoning                                |
| <input type="checkbox"/> Administrative Permit             | <input type="checkbox"/> Finding of Public Convenience   | <input type="checkbox"/> Minor Exception                         | <input type="checkbox"/> Secondary Living Unit                   |
| <input type="checkbox"/> Animal Permit                     | <input type="checkbox"/> General Plan Amendment          | <input type="checkbox"/> Minor Subdivision                       | <input type="checkbox"/> Sidewalk Café                           |
| <input type="checkbox"/> Building Move                     | <input type="checkbox"/> Heritage Tree Nomination        | <input checked="" type="checkbox"/> Minor Use Permit             | <input type="checkbox"/> Use Permit                              |
| <input type="checkbox"/> Certificate of Appropriateness    | <input type="checkbox"/> Hillside Development Use Permit | <input type="checkbox"/> Planned Development Use Permit          | <input type="checkbox"/> Variance                                |
| <input type="checkbox"/> Condominium Conversion Use Permit | <input type="checkbox"/> Landscape Project Application   | <input type="checkbox"/> Protected Tree Removal                  | <input type="checkbox"/> Vacation/Abandonment of Property Rights |
| <input type="checkbox"/> Design & Site Development Review  |  | <input type="checkbox"/> Pumpkin & Christmas Tree Sales          | <input type="checkbox"/> Vendor Permit                           |
|  |  | <input type="checkbox"/> Reasonable Accommodation                | <input type="checkbox"/> Wireless Communication Facility         |

PROJECT INFORMATION:

PROJECT NAME: MARIA, JACEK SZARMACH

PROJECT SITE ADDRESS/LOCATION: 5501 SLOAN CT, CONCORD CA 94521  
 ASSESSOR'S PARCEL NUMBER: 118-250-005

PROJECT DESCRIPTION (Provide brief description and submit a more detailed description as an attachment.)  
 FAMILY CHILD CARE HOME - CHILDREN WILL BE HERE MON - FRIDAY 9am - 6pm. AS RESPECTFUL NEIGHBORS WE ARE MINIMIZING IMPACT TO OTHER RESIDENTS NEARBY

NOTE: All applicants are encouraged to hold a neighborhood meeting with nearby property owners and tenants early in the development review process. Planning Division staff will work with applicants to schedule the neighborhood meeting.

APPLICANT'S CONTACT INFORMATION

PROPERTY OWNER'S CONTACT INFORMATION

NAME/COMPANY: MARIA, JACEK SZARMACH  
 ADDRESS: 5501 SLOAN CT  
 CITY, STATE: CONCORD, CA ZIP: 94521  
 BUSINESS PHONE: 925-304-2092 CELL: 925-639-7612  
 FAX: 925-304-2092 EMAIL: majka.szarmach@gmail.com

NAME/COMPANY: MARIA, JACEK SZARMACH  
 ADDRESS: 5501 SLOAN CT  
 CITY, STATE: CONCORD, CA ZIP: 94521  
 BUSINESS PHONE: 925-304-2092 CELL: 925-639-7612  
 FAX: 925-304-2092 EMAIL: majka.szarmach@gmail.com

Agent Authorization Note: If the Applicant is not the Property Owner, then the Property Owner must sign below to authorize the Applicant as his/her official representative

I, \_\_\_\_\_, Owner, authorize \_\_\_\_\_ to act as the official representative on my behalf for this project and in all matters relating to this application. I have read and agree with all of the above (application must be signed by property owner)

Property Owner's Signature: Maria Szarmach Date: 12-01-2014

FOR PLANNING DIVISION USE ONLY:

FILE NAME: <u>Majka's Child Care</u>	FEE'S: <u>\$1,152.00</u>	FIN. REV. CODE
FILE NUMBERS: <u>PL1400 0447</u>	APPLICATION RECEIVED BY: <u>J. Hade</u>	GP DESIGNATION: <u>LDR</u>
ASSOCIATED FILES: <u>ZA1400 0447</u>	PLANNER: <u>J. Hade</u>	ZONING: <u>PD</u>
	ENGINEER:	

RECEIVED

DEC 01 2014

PLANNING

Bus. Name: MAJKA'S CHILD CARE

Applicants: MARIA SZARMACH, JACEK SZARMACH

Address: 5501 SLOAN CT, CONCORD CA 94521

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- \* Most of the activities like feeding  
playing, napping take place inside  
the house.
- \* Will only serve 12 CHILDREN or less with  
parents dropping them off in the morning  
and picking them up in the afternoon



**Mogensen, Andrew**

---

**From:** Hade, Jason  
**Sent:** Thursday, January 08, 2015 4:55 PM  
**To:** 'janetd454@comcast.net'  
**Cc:** Mogensen, Andrew  
**Subject:** RE: Large Day Care at 5501 Sloan Ct, Concord

Ms. Davis,

All properties within 100-feet of the project site were notified consistent with the City's Public Hearing Notice Distribution requirements (Table 18.500.020 of the Development Code) and State law.

Regards,

Jason R. Hade, AICP, Associate Planner  
City of Concord Planning Division  
1950 Parkside Drive  
Concord, CA 94519  
T: 925.671.3281  
F: 925.671.3381  
[jason.hade@cityofconcord.org](mailto:jason.hade@cityofconcord.org)

*How are we doing? Your feedback is important to us.  
Please following this link for a quick survey.  
<http://www.surveymonkey.com/s/DRS1>*

*Thank you in advance for your time!*

**From:** [janetd454@comcast.net](mailto:janetd454@comcast.net) [mailto:[janetd454@comcast.net](mailto:janetd454@comcast.net)]  
**Sent:** Thursday, January 08, 2015 3:36 PM  
**To:** Hade, Jason  
**Cc:** Hade, Jason  
**Subject:** Large Day Care at 5501 Sloan Ct, Concord

Mr. Hade,

The public notice I received about a LARGE DAY CARE facility on my court is **extremely** upsetting. I feel it is an invasion of our space, and there certainly is no room for more traffic on our small very populated court. I cannot believe that people can just decide to open a business like this in a small residential court and inflict their personal preferences on their neighbors no matter how inconvenient and annoying. I am finally retiring very shortly and looked forward to enjoying my home that I have lived in for 38+ years, not being awakened early in the morning to cars coming and going, turning around in my driveway all day long. With a potential of 14 children there could possibly be 28 drop-offs and pickups throughout the day!

For now, I would like to know how many of these public notices went out to our neighbors and how far out around our court were the notices sent.

Thank you,

Janet Davis  
5504 Sloan Court

**RECEIVED**  
JAN 15 2015  
**PERMIT CENTER**

Wed, Jan 14, 2015 04:12 PM

**Re: Large Day Care at 5501 Sloan Ct, Concord**

**From :** janetd454@comcast.net

**Subject :** Re: Large Day Care at 5501 Sloan Ct, Concord

**To :** Jason Hade <Jason.Hade@cityofconcord.org>

Mr. Jason Hade  
City of Concord Planning Division

I am hereby requesting a Public Hearing be held with regard to the opening of a Large Family Day Care at 5501 Sloan Court (PL140447-MP).

Thank you,

Janet Davis  
5504 Sloan Ct  
Concord, CA  
672-4720

**From:** "Jason Hade" <Jason.Hade@cityofconcord.org>  
**To:** "janetd454@comcast.net" <janetd454@comcast.net>  
**Cc:** "Andrew Mogensen" <Andrew.Mogensen@cityofconcord.org>  
**Sent:** Thursday, January 8, 2015 4:55:01 PM  
**Subject:** RE: Large Day Care at 5501 Sloan Ct, Concord

Vs Davis,

All properties within 200-feet of the project site were notified consistent with the City's Public Hearing Notice Distribution requirements (Table 18.500.020 of the Development Code) and State law.

Regards,

Jason R. Hade, AICP, Associate Planner  
City of Concord Planning Division  
1550 Parkside Drive  
Concord, CA 94515  
T: 925.571.3261  
F: 925.571.3361  
jason.hade@cityofconcord.org

*How are we doing? Your feedback is important to us.  
Please following this link for a quick survey.  
<http://www.surveymonkey.com/s/DRS1>*

*Thank you in advance for your time!*

**From:** janetd454@comcast.net [mailto:janetd454@comcast.net]  
**Sent:** Thursday, January 08, 2015 3:36 PM  
**To:** Hade, Jason  
**Cc:** Hade, Jason  
**Subject:** Large Day Care at 5501 Sloan Ct, Concord



## REPORT TO ZONING ADMINISTRATOR

DATE: February 25, 2015

**SUBJECT: VERIZON WIRELESS AT 3425 CONCORD BLVD. MINOR USE PERMIT AND MINOR EXCEPTION (PL140428-MP, AA)**

**Recommendation: Adopt Zoning Order No. 15-04ZA (Exhibit A), denying Verizon Wireless at 3425 Concord Blvd., Minor Use Permit and Minor Exception (PL140428-MP, AA).**

**I. Introduction**

**A. Application Request**

Application for a Minor Use Permit to construct a new roof-mounted wireless communication facility by adding nine (9) panel antennas concealed within a new 10' x 10' cupola-style enclosure on the roof of the multi-use room at the Calvary Apostolic Church. The facility also includes a 20' x 40' lease area enclosed with a 6-foot tall wooden fence to screen a 16'-10 1/2" x 11'-6" equipment shelter and generator, adjacent to the northwest corner of the multi-use room. The application also includes a request for a Minor Exception to allow an increase in the allowed height to accommodate the top of the cupola at 38.9 feet above ground level.

**B. Location**

The site is located at 3425 Concord Boulevard; APN 113-091-035.



---

<b>C. Applicant</b> Verizon Wireless c/o Complete Wireless Consulting, Inc. 2009 V Street Sacramento, CA 95818 Attn: Michelle Ellis	<b>Property Owner</b> Calvary Apostolic Church 3425 Concord Blvd. Concord, CA 94519
--	--

## II. Background

On July 2, 2003, the Planning Commission adopted Resolution No. 03-15PC approving a Use Permit Amendment (UP 02-23) and Design Review (DR 02-21) application, subject to conditions of approval to allow a 3,000 sq. ft. addition to an existing 4,500 sq. ft. multi-use building at 3425 Concord Blvd. for the Calvary Apostolic Church.

On November 18, 2014, the applicant, on behalf of Verizon Wireless, submitted an application for a Minor Use Permit and Minor Exception for construction of a new wireless telecommunication facility, consisting of the construction of a new cupola atop the two-story building behind the church sanctuary to house nine (9) panel antennas with a 20'x40' fenced lease area within the parking area on the northwest side of the building at 3425 Concord Blvd. The Minor Exception was submitted to allow the 38.9 foot overall height of the cupola to exceed the 26 foot maximum height limit (established by the development standards for the Use Permit Amendment (UP 02-23) in 2003. Project plans are included as Exhibit B.

The application was deemed complete for processing on January 20, 2015.

On December 5, 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 December 10, 2014 by email (Exhibit C) by the owner of a residence located on Elm Road. In a telephone conversation and through e-mails with staff, the requestor cited the potential health risks associated with wireless facilities as her primary concern.

On December 12, 2014, a notice of incompleteness was mailed and e-mailed to the applicant requesting elevations for all four sides of the project and a color and materials board for the cupola.

On December 22, 2014, the Planning Division received revised plan sets incorporating the elevations and an agreement was made between the Planning Division and applicant that the color and materials board could be addressed at a later date through conditions of approval and submitted prior to issuance of a building permit.

On January 20, 2015, a letter of completeness was mailed and e-mailed to the applicant.

On January 30, 2015, the applicant was informed that staff would be pursuing a recommendation of denial. Staff followed up with a call to the applicant on February 5, detailing the reasons the project would be recommended for denial. The recommendation includes a combination of five (5) factors, based on which staff could not support the wireless communication facility. These include: 1) the facility exceeding the height requirements even when allowing for the minor exception; 2) the proximity to adjacent residences and the day care play yard; 3) the conclusions within the RF report presented with the application; 4) the reduction in parking spaces to accommodate the ancillary equipment area; and 5) the insufficient screening of the ancillary equipment area.

A Federal Communications Commission (FCC) shot clock deadline on the project expires on April 16, 2015 based upon 150 days after the date of the initial submittal date of November 18, 2014; however, tolling for the incomplete letter extends the date 10 days to April 26, 2015.

**III. General Information**

**A. General Plan**

The General Plan designation is Low Density Residential (LDR).

**B. Zoning**

The project is zoned R-7.5 (Low Density Residential, 7,500 sq. ft. minimum lot size).

**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.

**D. Site Description**

<b>Lot Size and Dimensions</b>	1.79 acres 77,972 sq. ft.	250 ft. x 300 ft. (approx.)
<b>Proposed Facility Leasing Area</b>		
Cupola	100 sq. ft.	10 ft. x 10 ft.
Equipment Leasing Area	800 sq. ft.	20 ft. x 40 ft.
<b>Existing Improvements</b>	Church building, classroom building, multi-use room, gated and fenced day care yard, parking area	
<b>Topography</b>	The parcel is flat and similar in elevation to the neighboring properties.	
<b>Existing Vegetation</b>	Mature trees on the perimeter	

**E. Surrounding Land Use**

The site is surrounded by the following uses:

	Use	General Plan	Zoning
<b>North</b>	Single family residences	Low Density Residential	R-7.5
<b>East</b>	Single family residences	Low Density Residential	R-10
<b>South</b>	Single family residences	Low Density Residential	R-10
<b>West</b>	Single family residences	Low Density Residential	R-10

**IV. Discussion**

**A. General Plan**

The site’s current General Plan land use designation is Low Density Residential (LDR). The LDR land use designation is intended for residential development at densities from 2.5 to 10 units per net acre. This designation may also allow schools, churches, meeting facilities and child care, as discretionary uses.

The proposed project design does not support the policy to preserve and enhance positive neighborhood characters as required under General Plan Goal LU-1. The design creates a new visual element that exceeds the current height limit by proposing to install an approximately 14-foot tall cupola on the second story roof of the multi-use building to screen panel antennas. General Plan Policy LU-9.1.5 requires utilities to be placed underground or screened from public view. The proposed height of the cupola and proposed screening of the equipment area 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 LDR district (see also Development Code Table 18.30.030). Setbacks shown below are for the existing buildings. The proposed facility leasing area would be approximately 800 square feet within the site and would be set back 57 feet from the side property line and 73 feet from the rear property line.

**Development Standards (R-7.5 Zoning)**

Standards	LDR	Existing	Proposed
Min. Lot Area (sq. ft.)	7,500	77,970	77,970
Min. Lot width (ft.)	75	75	75
Min. Lot depth (ft)	85	85	85
Max. Building Height (ft.)	26 <sup>1</sup>	27.7 <sup>2</sup>	38.9

Standards	LDR	Existing	Proposed
Setbacks (ft.) minimum			
Front	20	21	21
Interior side	5, 10	57, 62	57, 62
Rear	20	115	115
Parking (Current)	per UP 02-023	91 <sup>3</sup>	86 <sup>4</sup>

1. Table 18.30.030 of the Development Code for RR and RS Districts states that the building height for non-residential uses shall be established in compliance with the requirements specified by the permit. The prior Use Permit Amendment and Design Review conditions for the multi-use building state the multi-use building is to meet the development regulations as stated in Condition 1 of the Use Permit which lists building height as 26 feet.

2. Per Verizon plans

3. Per 2003 Use Permit Amendment Conditions and on-site conditions

4. Reflecting elimination of five parking spaces

**C. Project Analysis**

The site is developed with a 4,000 sq. ft. sanctuary located on the southern portion of the site, along Concord Blvd., as shown on the site plan. Two adjacent classroom wings (1,150 sq. ft. each) are located on either side of the sanctuary. A 4,500 sq. ft. day school/childcare building is located behind the northeast side of the sanctuary and a 3,000 sq. ft., two story, multi-use building was most recently approved for the site in 2003, and is located behind the northwest side of the sanctuary. The Verizon antennas and cupola are proposed atop this multi-use building, extending to a height of 38.9 feet. The proposed 10-foot by 10-foot cupola would house a total of nine (9) panel antennas with a transparent screen. In addition, a 20-foot by 40-foot equipment lease area enclosed with a 6-foot tall fence surrounds a 10’-6” tall equipment shelter and an emergency diesel stand-by generator. The proposed antennas are considered a Category 2 facility under Section 18.205.040(B)3, as any wireless communication facility proposed on a new antenna support structure, which requires a Minor Use Permit.

**Basis for Denial**

Staff is recommending denial based on five issues, discussed below. These include: 1) the facility exceeding the height requirements even when allowing for the minor exception; 2) the proximity to adjacent residences and the day care play yard; 3) the conclusions within the RF report presented with the application; 4) the reduction in parking spaces to accommodate the ancillary equipment area; and 5) the insufficient screening of the equipment area.

**Height**

\*Per Section 18.205.090(f)(3) of the City’s Development Code, the height of a wireless communication facility shall be no taller than the limit established by the zoning district. The maximum building height for the RS Districts is listed in Table 18.30.030 of the Development Code and states that for non-residential buildings, the height shall be established in compliance with the requirements specified by the permit. The 2003 Use Permit Amendment and Design Review conditions for the multi-use building state the maximum building height as 26 feet in Condition 1 of the permit.

Table 18.425.020 of the Minor Exception section of the City’s Development Code provides for a 25% increase in the maximum allowable structure height for a nonresidential building

(single family uses would be 10%). As such, the 25% increase would be applied to the maximum height of 26 feet, and thus the maximum height with an approved minor exception would be 32.5. The proposed cupola is 38.9 feet above ground and thus exceeds the height limit by 6.4 feet, even with the minor exception. Section 18.150.070 (C)9 states that Telecommunication facilities may be authorized to exceed the height limit if in compliance with Chapter 18.205 CDC (Wireless Communication Facilities)<sup>1</sup>

#### Proximity to Residential Uses

The proposed project is considered a Category 2 Facility under the City's Development Code. Section 18.205.080(A) provides location standards and states that:

- A. *New facilities shall be allowed as follows:*
  2. *Category 2 facilities shall be:*

*b) Discouraged within 300 feet of any residential dwelling.*

The project site is surrounded by single family residential dwellings, with the nearest residence approximately 95 feet northwest of the proposed cupola. In addition, a day care play yard is located adjacent to the multi-use building and immediately adjacent to the equipment enclosure. As such, the proposed location is inconsistent with the Development Code's location standards. Verizon Wireless provided an alternative site analysis for staff's consideration; that analysis stated that no practical site alternatives exist within the desired search ring because there are only single family homes within the search ring. However, staff suggests there may be possible alternative locations outside of Verizon's desired (but not ideal) search ring along Clayton Road and Willow Pass Road.

#### RF Report

Verizon Wireless submitted a Radio Frequency (RF) Site Compliance Report, prepared by Site Safe, and dated October 10, 2014. In the report it is assumed that all antennas are operating at full power at all times. The report indicates the site has been modeled with assumptions believed to be a worst-case analysis, based on best available data. The study modeled the Alpha, Beta and Gamma sectors, as shown on Plan Sheet A2.2.

The Federal Communications Commission (FCC) has established safety guidelines relating to RF exposure from cell sites. The FCC developed those standards, known as Maximum Permissible Exposure (MPE) limits. There are two classifications for exposure limits: 1) occupational limits; and 2) general population limits. The occupational group includes those situations in which individuals are "exposed as a consequence of their employment" and are "fully aware of the potential for exposure and can exercise control over their exposure."

The conclusions, shown in Section 4.a. of the report indicate that:

- Verizon Wireless antennas would exceed the General Public MPE limit at all three of the Alpha, Beta and Gamma sectors.

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<sup>1</sup> While Section 18.150.070 (C)2 states that cupolas, gables, domes, elevator penthouses, mechanical equipment screening, monuments, spires or towers less than 10 percent of the roof area may exceed the height limit by 10 feet with approval of a minor exception, that provision does not apply to telecommunications facilities. Even if the proposed cupola were not part of a telecommunication facility installation, the proposal would still be over the limit of 36 feet.

- Verizon Wireless antennas were modeled and the Max. MPE predicted is 401.8% Occupational at the Beta Sector. The summary page indicates the RF Power density levels are ABOVE the MPE for Occupational/Controlled environments.
- The report does not address the human access issues or detail whether the recommended signage alone is sufficient to mitigate or reduce the potential for the general population or workers to be exposed.

Based on the RF Report, the conclusions can be drawn that given the RF levels, siting of the antennas as proposed are not appropriate given the close proximity to residences and the day care play yard on the site.

#### Parking

The required number of parking spaces at the site is 91 standard parking spaces, as outlined in the original use permit amendment condition #1. This was based upon the 250-seat church use, being operated at different times than the day school/childcare and multi-purpose room and thus parking needs not overlapping and considered separately.

The current number of parking spaces at the site includes 55 standard spaces, 32 compact spaces, and 4 handicapped spaces for a total of 91 parking spaces. The church has installed 6 parallel spaces at the rear of the site (in addition to the 91 spaces), however, the parking spaces are non-compliant and thus cannot be counted, as they conflict with the 30-foot width required for a two-way driveway, where a narrower (20' to 23') width is shown. The proposed equipment shelter for the Verizon facilities would eliminate five (5) parking spaces at the northwest corner of the building reducing the number of spaces from 91 to 86 spaces, and would therefore not be in compliance with their current Use Permit.

In addition, Section 18.205.090(A) provides general requirements regarding siting:

*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*

Based on the review of parking, the proposal is inconsistent with the parking requirements, due to the removal of parking spaces. Required parking is not to be displaced by the ancillary equipment. The applicant did not apply for a parking reduction through their Use Permit Amendment and staff cannot take those actions at an administrative level.

#### Ancillary Equipment Screening

Section 18.205.090G(1) states that "Base stations, equipment cabinets, back-up generators, and other equipment shall be installed to fully screen from view." This can be done by placing the equipment, as noted in 18.205.090G(1)d) "within an enclosure located adjacent to, and integrated into, the design of the primary structure on the site." Section 18.205.090G(2) states, if not feasible, then one or more of the following design strategies shall be employed to reduce or eliminate the visual impact of the equipment: c) Screen the facility with architecturally compatible design and materials to the primary building on site. Staff has concerns that the screening is not adequate or secure given the proximity to the play yard.

Based on the review of equipment enclosure, the proposal is inconsistent with the Development Code. Although the equipment enclosure is located nearby the building, it is not incorporated into the design of the primary structure, does not fully screen the equipment, and the fencing of the large area is not architecturally compatible with the appearance of the other buildings at the site.

#### Summary of Basis for Denial

In summary, 1) the facility exceeds the height requirements; 2) the facility is located in proximity to adjacent residences; 3) the conclusions within the RF report are not appropriate given the location; 4) the reduction in parking for the equipment area is inconsistent with the range of uses at the site; and 5) the ancillary equipment area is not incorporated into the design of the primary structure on the site, and not screened with architecturally compatible design and materials to those of the primary building to reduce the visual impact of the equipment.

#### Height

- The proposed cupola is 38.9 feet above ground and thus exceeds the height limit by 6.4 feet.

#### Proximity to Residential Uses

- The project site is surrounded by single family residential dwellings, with the nearest residence approximately 95 feet northwest of the proposed cupola. In addition, a day care play yard is located adjacent to the multi-use building and immediately adjacent to the equipment enclosure.

#### RF Report Conclusions

- Based on the RF Report, the conclusions can be drawn that given the RF levels, siting of the antennas as proposed are not appropriate given the close proximity to residences and the day care play yard.

#### Parking

- The incorporation of the equipment shelter into the parking area would remove five required parking spaces.
- Facilities shall not occupy or displace required parking spaces or landscape areas.

#### Screening of Ancillary Equipment

- Equipment area is not integrated into the design of the primary structure on the site.
- Equipment lease area at the site is not fully screened with the proposed 6-foot tall fence and does not appear architecturally compatible to other buildings on the site.

### **D. 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 occupies and displaces five required parking spaces.*

- 
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 on the roof and within a side yard. The equipment lease area is not fully screened or camouflaged and adequate design strategies have not been employed to screen the area..*
  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.  
*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 but does not exceed 45 feet in height.*
- (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 Environmental Noise Analysis was prepared, dated November 18, 2014, 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;
  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 LDR for non-residential uses is per the permit approval which for the subject multi-use building upon which the project is proposed is 26 feet. The Minor Exception would only allow an increase of 25% to 32.5. Therefore, the proposed height of 38.9 feet exceeds the height limit by 6.4 feet.*

- (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 near the multi-use building. The 6-foot tall wooden fence around the lease area is not consistent with other building elements (building walls) and the equipment within the 20' x 40' lease area (with equipment enclosure) would be largely visible, rather than "fully screened" which is inconsistent with Section 18.205.090(G) and the requirement that the facility be fully screened with architecturally compatible materials and integrated into the design of the primary structure on the site.*

- (h) **Landscaping.** No landscaping is proposed for the project site. The equipment enclosure would benefit from landscape screening.

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

## **E. Wireless Telecommunications Facilities**

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 project does not meet applicable standards, and is not being supported by City staff.*

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

**Analysis and Conclusion** – *The proposed new cupola, although utilizing camouflage techniques to screen the panels with an RF transparent screen, would exceed the height limit, even with the processing of a Minor Exception. In addition, the ancillary equipment is not proposed to be integrated into the design of the main building and the equipment is not fully screened and is not architecturally compatible to the primary building.*

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 been applied to the facility to reduce visual impact to the surrounding properties. However, the addition proposed is over the height limit, and in close proximity to adjacent residences and a day care play yard, and the conclusions of the RF report indicate that RF emissions exceed the prudent standards for the FCC Public Exposure limits. In addition, parking will be reduced at the site to below the number of legally required spaces.*

#### **F. Minor Use Permit**

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 zoning district, the general requirements of the Development Code pertaining to wireless facilities have not been met as detailed above. The proposed project is considered a Category 2 Facility under the City's Development Code. Section 18.205.080(A) provides location standards and states that such facilities are discouraged within 300 feet of any residential dwelling. This project is located within approximately 95 feet of a residence and the day care play yard is located in close proximity, and thus does not satisfy the distance requirement. The project exceeds the height requirements as discussed earlier.*

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

**Analysis and Conclusion** – *The proposed project design does not support the policy to preserve and enhance positive neighborhood characters as required under General Plan Goal LU-1. The design creates a new visual element that exceeds the current height limit by proposing to install an approximately 14-foot tall cupola on the second story roof of the*

*multi-use building to screen panel antennas. General Plan Policy LU-9.1.5 requires utilities to be placed underground or screened from public view. The proposed height of the cupola and proposed screening of the equipment area would be inconsistent with this policy.*

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 are not compatible, based on the reasons stated in Section C of the report, discussed above.*

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. As discussed above, the proposed use is not suitable for the site because the proposed facility height exceeds the current height requirements and is inconsistent with the surrounding land uses, given the Code discourages such projects within 300 feet of residences.*

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 Federal Communications Commission (FCC) has established safety guidelines relating to RF exposure from cell sites. The FCC developed those standards, known as Maximum Permissible Exposure (MPE) limits. There are two classifications for exposure limits: 1) occupational limits; and 2) general population limits. The occupational group includes those situations in which individuals are “exposed as a consequence of their employment” and are “fully aware of the potential for exposure and can exercise control over their exposure.”*

*The radio frequency (RF) exposure levels from the project are above the applicable public exposure limit established by the FCC, so granting the permit may be detrimental to the public health, safety, or welfare of the persons residing or working in the subject neighborhood where the property is located. The conclusions, shown in Section 4.a. of the RF Report indicate that:*

- *Verizon Wireless antennas would exceed the General Public MPE limit at all three of the Alpha, Beta and Gamma sectors.*
- *Verizon Wireless antennas were modeled and the Max. MPE predicted is 401.8% Occupational at the Beta Sector. The summary page indicates the RF Power density levels are ABOVE the MPE for Occupational/Controlled environments.*

*Based on the RF Report, the conclusions can be drawn that given the RF levels, siting of the antennas as proposed are not appropriate given the close proximity to residences and the day care play yard on the site.*

*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, and would adversely affect parking on the subject property, and may 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 above 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 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, in the event an appeal is 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 due to the issues discussed in this report, including 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 December 10, 2014 a hearing was requested by email by the owner of a residence located on Elm Road.

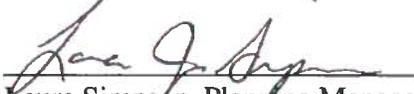
This item has also been posted at the Civic Center and at the subject site at least 10 days prior to the public hearing.

## **VI. Summary and Recommendations**

The proposed project is inconsistent with the City's General Plan and Development Code, violates the existing Use Permit for the property, and the required findings for the Minor Use Permit and Minor Exception cannot be made.

Therefore, staff recommends that the Zoning Administrator adopt Zoning Order No. 15-04ZA, denying the Minor Use Permit (PL140428-MP) and Minor Exception, which order is attached to this staff report and incorporated herein by reference.

Prepared by:   
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Exhibits:

- A - Zoning Order No. 15-04ZA
- B - Project plans date stamp received December 22, 2014
- C - Public hearing request received December 10, 2014

15srza.007

## ZA ORDER NO. 15-04ZA

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**OFFICE OF THE ZONING ADMINISTRATOR  
CITY OF CONCORD  
DENYING MINOR USE PERMIT (PL 140203-MP, AA)  
Applicant: Michelle Ellis, Complete Wireless  
Owner: Calvary Apostolic Church  
Project Name: Verizon Wireless Facility at 3425 Concord Blvd.**

6           **WHEREAS**, on November 18, 2014, Michelle Ellis, on behalf of Verizon Wireless, submitted  
7 an application for a Minor Use Permit and Minor Exception to install a new roof-mounted wireless  
8 telecommunication facility by adding nine (9) panel antennas concealed within a new 10' x10' cupola-  
9 style enclosure on the roof of the multi-use building at the Calvary Apostolic Church. The facility  
10 also includes a 20' x 40' lease area enclosed with a 6-foot tall wooden fence to screen a 16'-10 1/2" x  
11 11'-6" equipment shelter and generator, adjacent to the northwest corner of the multi-use building.  
12 The application also includes a request for a Minor Exception to allow an increase in the allowed  
13 height from 26 feet in height as stated in the Use Permit Amendment UP 03-23 (though built at 27.7  
14 feet in height), to accommodate the top of the cupola at 38.9 feet above ground level at 3425  
15 Concord Blvd.; APN 113-091-035; and

16           **WHEREAS**, on January 20, 2015 the application was deemed complete for processing; and

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

20           **WHEREAS**, the Zoning Administrator, after giving all public notices required by State law  
21 and the Concord Municipal Code Section 18 (referred to herein as the Development Code), held a  
22 duly noticed public hearing on February 25, 2015 on the subject proposal; and

23           **WHEREAS**, the Zoning Administrator considered testimony and information received at the  
24 public hearing and the oral and written reports from City staff dated February 25, 2015, as well as  
25 other plans, documents, and testimony contained in the record of proceedings relating to the project  
26 ("Project Information"), which are maintained at the offices of the City of Concord Planning Division  
27 located at 1950 Parkside Drive, Concord, CA 94519; and  
28

1           **WHEREAS**, on February 25, 2014 the Zoning Administrator, after consideration of the  
2 Project Information, declared his intent to deny the project because of the project’s inconsistency with  
3 the General Plan, and Development Code, and the Use Permit.

4           **NOW, THEREFORE, BE IT RESOLVED** that the Zoning Administrator does hereby deny  
5 Minor Use Permit PL140428-MP and Minor Exception, based on the Project Information and the  
6 following findings:

7           CEQA

8           1.       Pursuant to the provisions of the California Environmental Quality Act (CEQA) of  
9 1970, as amended, the project is classified as Statutorily Exempt pursuant to Section 15270, “Projects  
10 Which Are Disapproved,” and therefore no environmental review was initiated.

11           Wireless Communication Facilities

12           2.       All applicable standards in the telecommunications ordinance have not been met.

13           a.       The proposed facility is inconsistent with the provisions and requirements for  
14 wireless facilities outlined within Section 18.205.090 of the Development Code pertaining to height. The  
15 applicant has submitted a Minor Exception, however, the project would still exceed the limit by 6.4 feet.  
16 Per Section 18.205.090(f)(3) of the City’s Development Code, the height of a wireless communication  
17 facility shall be no taller than the limit established by the zoning district. The maximum building  
18 height for the RS Districts is listed in Table 18.30.030 of the Development Code and states that for  
19 non-residential buildings, the height shall be established in compliance with the requirements  
20 specified by the permit. The 2003 Use Permit Amendment and Design Review conditions for the  
21 multi-use building state the maximum building height as 26 feet in Condition 1 of the permit (though  
22 plans submitted for the proposed project show roof height at 27.7 feet above ground level). Table  
23 18.425.020 of the Minor Exception section of the City’s Development Code provides for a 25%  
24 increase in the maximum allowable structure height for a nonresidential building (single family uses  
25 would be 10%). As such, the 25% increase would be applied to the maximum height of 26 feet, and  
26 thus the maximum height with an approved minor exception would be 32.5. The proposed cupola is  
27 38.9 feet above ground and thus exceeds the height limit by 6.4 feet, even with the minor exception.

1           b.       The proposed facility is inconsistent with the requirements for wireless facilities  
2 outlined within Section 18.205.080 of the Development Code pertaining to location. The proposed project  
3 is considered a Category 2 Facility under the City's Development Code. The site is considered a Category 2  
4 facility because the cupola serves as a new antenna support structure. Section 18.205.080(A) provides  
5 location standards and states that Category 2 facilities shall be discouraged within 300 feet of any residential  
6 dwelling. The project site is surrounded by single family residential dwellings with the nearest residence  
7 approximately 95 feet northwest of the proposed cupola. In addition, a day care play yard is located in  
8 nearby proximity to the cupola and immediately adjacent to the equipment enclosure. In addition, the  
9 proposal would remove five (5) required parking spaces, based on the number of parking spaces required in  
10 the prior Use Permit Amendment (UP 02-023).

11           c.       The conclusions of the RF Report for the project conclude that the Verizon  
12 Wireless antennas would exceed the General Public Maximum Permissible Exposure (MPE) limits at  
13 all three of the Alpha, Beta and Gamma sectors. In addition, Verizon antennas were modeled and the  
14 Maximum MPE predicted is 401.8% Occupational at the Beta sector. The summary page indicates  
15 the RF Power density levels are ABOVE the MPE for Occupational/Controlled environments. Based  
16 on the RF Report, the conclusions can be drawn that given the RF levels, siting of the antennas as  
17 proposed are not appropriate given the close proximity to residences and the day care play yard on the  
18 site. The report does not address the human access issues or detail whether signage alone is sufficient.

19           d.       The project does not utilize good design methods to preserve and enhance  
20 neighborhood character as required under General Plan Goal LU-1. There is no applicable Specific  
21 Plan at the site. The design creates a new visual element that exceeds the current height limit by  
22 proposing to install an approximately 14-foot tall cupola on the second story roof of the multi-use  
23 building to screen panel antennas. In addition, the screening of the ancillary equipment is not  
24 integrated into the design of the primary structure and the screening provided is not architecturally  
25 compatible to the primary building on the site. Thus the design does not preserve or enhance the  
26 neighborhood character, given the issues outlined above;

1           3.     The facility will not be substantially screened from the view of surrounding properties  
2 and public views or otherwise substantially camouflaged. The cupola although intended to screen  
3 equipment exceeds the height limit and the ancillary equipment will not be fully screened from view  
4 consistent with Section 18.205.090(G)1.

5           4.     Special design considerations have been incorporated into or applied to the facility to  
6 reduce visual impact to the surrounding properties. However, although the cupola design of the  
7 facility is intended to blend in with the architecture, the overall height exceeds the allowance provided  
8 through the City's Development Code for a Minor Exception. In addition, the ancillary equipment is  
9 not substantially screened from surrounding properties and the equipment lease area is not adequately  
10 enclosed given the proximity to the play yard.

11 Minor Use Permit

12           5.     Although wireless facilities are allowed within the LDR zoning district, the general  
13 requirements of the Development Code pertaining to wireless facilities have not been met as detailed  
14 above.

15           6.     The proposed project is inconsistent with the City's General Plan, Development Code,  
16 and wireless communications facility general requirements contained within the Development Code  
17 based on the: 1) height requirements being exceeded by 6.4 feet; 2) the proximity to adjacent  
18 residences and the day care play yard; 3) the results shown within the RF Report; 4) the proposal to  
19 eliminate five (5) required parking spaces which would require an Amendment to the earlier Use  
20 Permit; and 5) the ancillary equipment has not been integrated into the design of the primary structure on  
21 the site. In addition, the facility is not screened with architecturally compatible design and materials to  
22 those for the primary building on the site.

23           7.     The design, location, size, and operating characteristics of the proposed activity is  
24 incompatible with the existing and future land uses in the vicinity because the height of the proposed  
25 project exceeds the allowable height maximum, based on the Minor Exception (25%) being applied to  
26 the building height limit of 26 feet within the Use Permit Amendment (UP 02-23). The proposed  
27 project is located within close proximity to residences and therefore inconsistent with Section  
28

1 18.205.080(A) 2 which discourages locating facilities within 300 feet of any residential dwelling. In  
2 addition, the project is in close proximity to the day care play yard. As a result, it is incompatible with  
3 the existing land uses within the project vicinity.

4 8. The site is not physically suitable for the type, density, and intensity of the proposed  
5 wireless facility, including access, utilities, and the absence of physical constraints. The site is  
6 surrounded by residential homes, the proposed project exceeds the height requirements and the siting  
7 is inconsistent with Section 18.205.090 (A) 1 that states facilities shall not occupy or displace required  
8 parking spaces or landscape areas. The site currently has 91 spaces, consistent with the Use Permit  
9 Amendment. Five of these required parking spaces would be displaced. Six parallel parking spaces at  
10 the rear of the site (in addition to the 91 spaces) do not conform to the City's requirements because  
11 they conflict with the City's requirement for a 30-foot driveway width for a two-way driveway.  
12 Therefore these spaces cannot be included in the overall parking count. The replacement of parking  
13 spaces with the equipment lease area would thus reduce the number of parking spaces to 86 below  
14 that required (91) per the earlier Use Permit conditions of approval, which would require an  
15 Amendment to that Use Permit.

16 9. Granting the permit would be detrimental to the public health, safety, or welfare of the  
17 persons residing or working in the subject neighborhood or be materially detrimental or injurious to  
18 property or improvements in the vicinity and Zoning District where the property is located. The  
19 proposed facility is inconsistent with applicable zoning requirements, is inconsistent with the General  
20 Plan, and the RF Report indicates that the project would exceed the General Public MPE limit at all  
21 three sectors and the RF Power density levels are above the MPE for Occupational/Controlled  
22 environments.

23 10. The Zoning Administrator hereby determines that it is not possible to make all of the  
24 required findings for approval of the project as submitted or as modified with conditions; for example,  
25 the reduction in parking from 91 to 86 spaces would require an Amendment to the earlier Use Permit;  
26 as a result, the application is hereby denied. The specific basis for denial has established for the record  
27 as set forth in in this Order and in the Project Information.

28  

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G. Ryan Lenhardt,  
Zoning Administrator





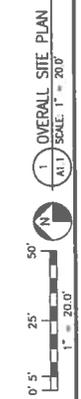
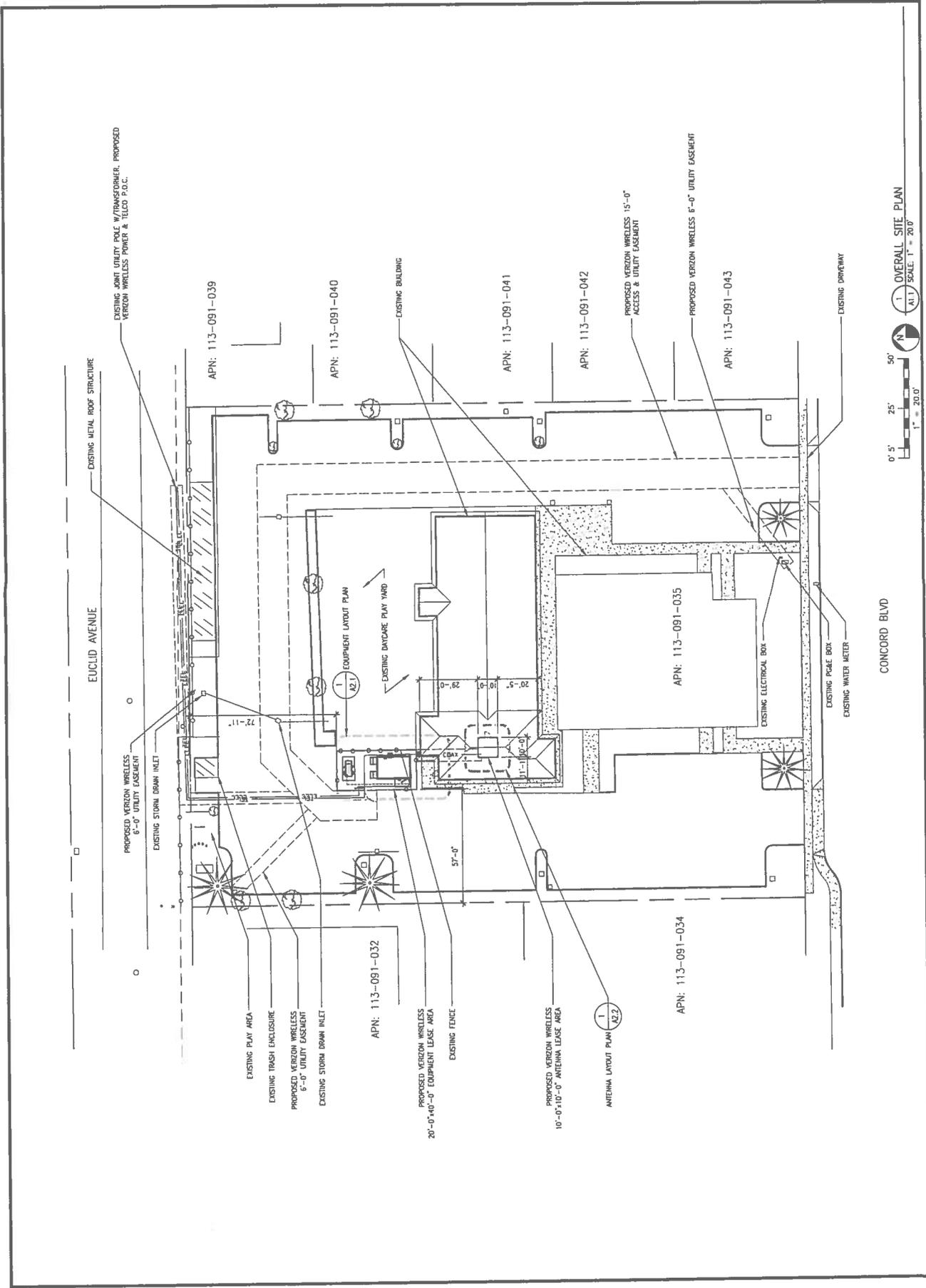

**MST ARCHITECTS**  
 1520 First Street, Suite 200, Concord, CA 94518  
 916-427-9199  
 www.mstarchitects.com

**verizon** WIRELESS  
 3425 CONCORD BLVD  
 CONCORD, CA 94519  
 SHEET TITLE: **OVERALL SITE PLAN**

DATE: 10/27/14
SCALE: AS SHOWN
PROJECT: 14-000000000
DRAWN BY: JAC
CHECKED BY: JAC
DATE: 10/27/14

PROJECT NO: 14-000000000
DATE: 10/27/14
SCALE: AS SHOWN
DRAWN BY: JAC
CHECKED BY: JAC
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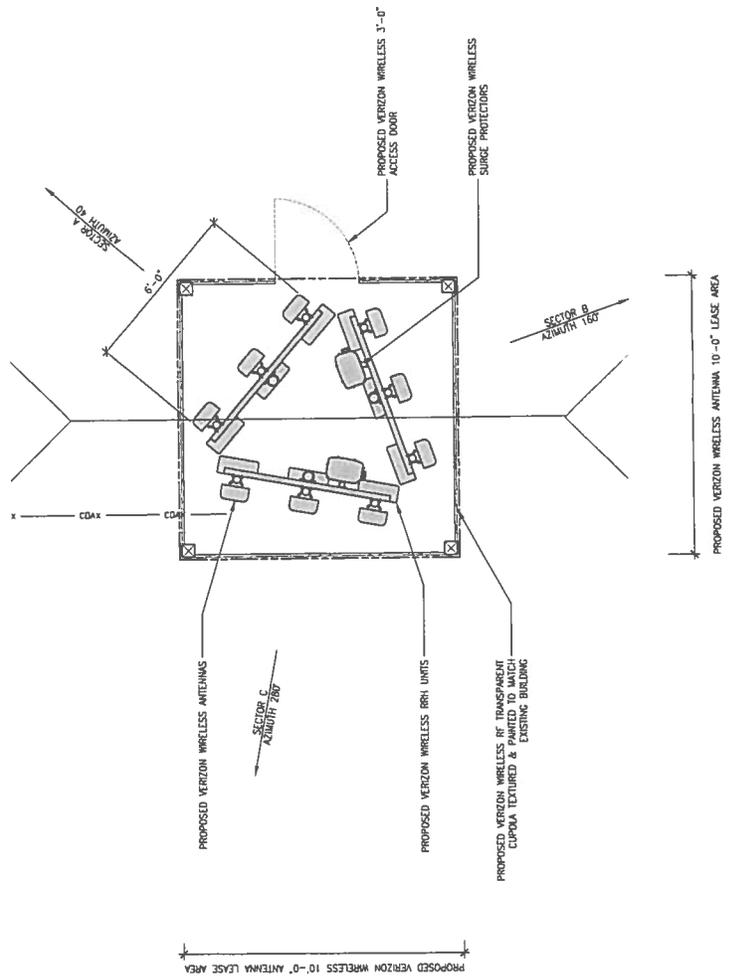
**A1.1**





**EQUIPMENT SCHEDULE**

EQUIPMENT	DESCRIPTION	QUANTITY			TOTAL
		SECTOR A	SECTOR B	SECTOR C	
ANTENNA	TO BE DETERMINED	3	3	3	9
RRH	RRH12	3	3	3	9
TIA OR DIPLEXER	N/A	0	0	0	0
SURGE PROTECTOR/HYBRID	RAYCAP DC3315 / HYBRID TRUNK CABLE		2/2		2/2
COAXIAL CABLE	1 5/8" DIAMETER COAX	0	0	0	0
RFET CABLE	N/A	0	0	0	0






**MST ARCHITECTS**  
 1126 BAYVIEW DRIVE, SPOKANE, WA 99216  
 509-325-9178  
 www.mstarchitects.com

PROJECT ELEVATION  
 SHEET TITLE  

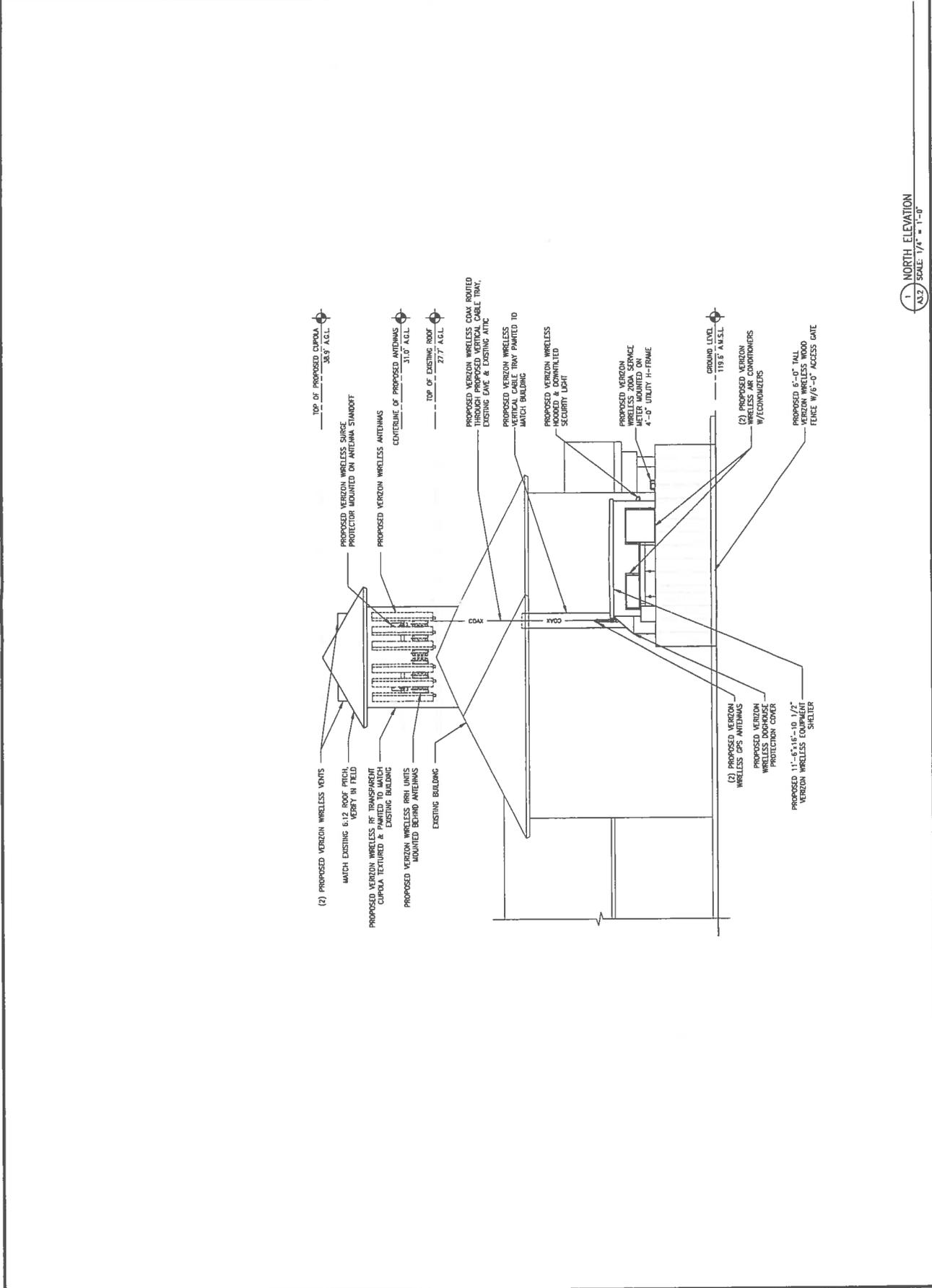
**Verizon Wireless**  
 3425 CONCORD BLVD  
 CONCORD, CA 94519

Revision:

1	12/11/11
2	12/17/11
3	
4	
5	

Job No. 102.072  
 Date: 12/17/11  
 Drawn By: JAC  
 Checked By: JAC  
 Project No. 102.072

**A3.2**



1 NORTH ELEVATION  
 A3.2 SCALE: 1/4" = 1'-0"




**MST ARCHITECTS**  
 1155 Main Street, Concord, CA 94521  
 916-427-9129  
 www.mstarchitects.com

**COMPLETE**  
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**PROJECT ELEVATION**  
 SHEET TITLE: \_\_\_\_\_  

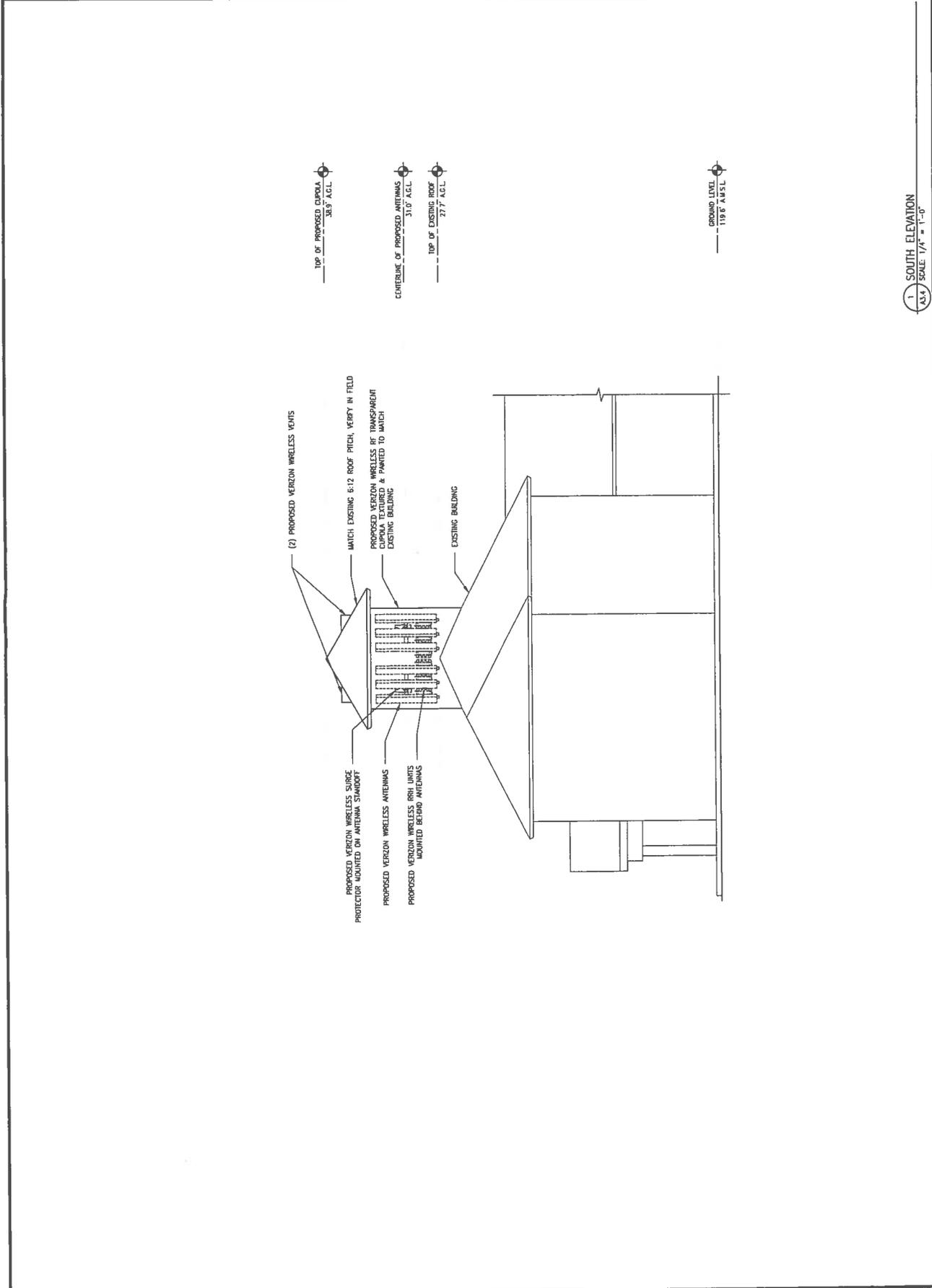
**Verizon WIRELESS**  
 3425 CONCORD BLVD.  
 CONCORD, CA 94519

Date: 12/12/2011  
 Drawn By: ac  
 Checked By: ut  
 Scale: as noted  
 Date: 12/17/11

Revisions:  
 A 10/2/11  
 A 12/17/11  
 A  
 A

File: 12/12/2011.dwg  
 Drawn By: ac  
 Checked By: ut  
 Scale: as noted  
 Date: 12/17/11

Job No. 101312  
**A3.4**



**Hade, Jason**

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**From:** Jessica Loberstein <jhloberstein@gmail.com>  
**Sent:** Wednesday, December 10, 2014 12:06 AM  
**To:** Hade, Jason  
**Subject:** Verizon Wireless at 3425 Concord Blvd (PL140428 - MP, AA)

Hi Jason:

Thank you for taking the time to speak to me today regarding the Verizon Wireless Telecommunications Facility public notice I received. Per our conversation, I would like this email to serve as my official request to open a public hearing in regard to the Verizon Wireless Telecommunications Facility permit that is being requested for 3425 Concord Blvd in Concord, CA.

Additionally, I wanted to let you know that I have sent you an invite to a folder in my Dropbox account. It will allow you to upload up to 2G of data. If you could please upload any plans/specs you have relative to the Verizon Wireless Telecommunications facility I would greatly appreciate it. I have also listed some questions, below, that I have about the facility/structure that is going up and/or being constructed.

- What brand is the unit(s) going up/being installed (I understand it's Verizon, however I'm looking for who manufactured the unit itself)
- What will the frequency be?
- What type of antennae is used?
- What is the RF exposure? Will this increase if other carriers piggy-back on to the existing unit in the future, and if so, what would the RF exposure be then?
- What direction will the tower/antennae be facing?
- How are the waves being sent out?
- What is the transmitter's rated power?
- How high is the tower (total ft)?
- What will it look like? If there are plans/specs I would like to see them (can be uploaded to Dropbox).
- In regard to the permit notice: Can I obtain a listing as to which residences, businesses, etc. received a copy of the notice?

Thank you again for your attention to this matter. Please let me know that you have received this and have adequate information in order to open the public hearing. If you have any questions please feel free to contact me at 925-381-0670.

Sincerely,

Jessica Loberstein