

**CITY OF NEWPORT BEACH  
PLANNING DEPARTMENT ACTION REPORT**

**TO:** CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION

**FROM:** David Lepo, Planning Director

**SUBJECT:** Report of actions taken by the Zoning Administrator, Planning Director and/or Planning Department staff for the week ending August 27, 2010

**ACTIONS TAKEN AT AUGUST 26, 2010 ZONING ADMINISTRATOR HEARING**

- Item 1: Modification Permit No. MD2010-004 (PA2010-020)  
1231 Dolphin Terrace
- This item was approved. Council District 5
- Item 2: Modification Permit No. MD2010-005 (PA2010-021)  
300 E. Coast Highway
- This item was continued to the 09/16/10 Zoning Administrator Hearing. Council District 5
- Item 3: Modification Permit No. MD2010-011 (PA2010-086)  
730 Poppy Avenue
- This item was approved. Council District 6
- Item 4: Modification Permit No. MD2010-012 (PA2010-094)  
600 Cliff Drive
- This item was approved. Council District 3

**ACTIONS TAKEN BY THE PLANNING DIRECTOR OR PLANNING DEPARTMENT STAFF**

- Item 5: Reliant Land Services on behalf of Clearwire – Telecommunications Permit No. TP2009-011 (PA2009-132)  
5000 Birch Street
- Approved – August 26, 2010 Council District 4
- Item 6: Reliant Land Services on behalf of Clearwire – Telecommunications Permit No. TP2009-014 (PA2009-172)  
2401 Irvine Avenue
- Approved – August 27, 2010 Council District 1

  
David Lepo, Planning Director:

APPEAL PERIOD: Modification Permit applications do not become effective until 14 days after the date of action, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code. Tentative Parcel Map, Condominium Conversion, Lot Merger, and Lot Line Adjustment applications do not become effective until 10 days following the date of action, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code.

**TELECOM APPEAL:**

The applicant or any interested party may appeal the decision of the Planning Director to the City Council by a written request to the City Council within 14 days of the action date. A \$4,010.00 filing fee shall accompany any appeal filed. The City Council's action on appeals shall be final.

*Email*    City Council  
             Planning Commission  
             David Lepo, Planning Director  
             Sharon Wood, Assistant City Manager  
             David Keely, Public Works Senior Civil Engineer  
             Code Enforcement Division  
             John Lewis, Support Services Lt., NBPD



## **ZONING ADMINISTRATOR ACTION LETTER**

PLANNING DEPARTMENT  
3300 NEWPORT BOULEVARD  
NEWPORT BEACH, CA 92663  
(949) 644-3200 FAX (949) 644-3229

**Application No.**                      **Modification Permit No. MD2010-004 (PA2010-020)**  
**Applicant**                              **Marcelo E. Lische, Architect AIA**  
**Site Address**                        **1231 Dolphin Terrace**  
**Legal Description**                **Lot 3, Tract 02334**

On **August 26, 2010**, the Zoning Administrator approved the following: A modification permit to allow the following accessory structures to exceed the 3-foot height limit required for front yard setbacks: portions of an infinity pool and spa structure including a water trough for spillage, pool deck, 42-inch-high, pool-protection glass walls, and a pool equipment room (156 square feet, ceiling height to be 6 feet or less) located below the pool deck. The application also includes a request to allow 5-foot-high, open wrought-iron, pool-protection fencing which extends along the northerly side property line and the rear property line facing Bayside Drive. The property is located in the R-1 (Single-Family Residential) District. The Zoning Administrator's approval is based on the following findings and subject to the following condition(s).

In reviewing this application, the Zoning Administrator has determined the following:

The Land Use Element of the General Plan and the Local Coastal Program Land Use Plan designate the site for Single-Unit Residential Detached (RS-D) use. The existing residential structure is consistent with this designation.

The project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) Guidelines under Section 15303 Class 3 (New Construction or Conversion of Small Structures).

### **FINDINGS AND CONDITIONS: MD2010-004 (PA2010-020)**

#### **Required Findings for Action and Facts in Support of Findings**

The Zoning Administrator determined in this case that the proposed Modification Permit is consistent with the legislative intent of Title 20 of the Newport Beach Municipal Code and is approved based on the following findings per Section 20.93.030:



1. **Finding:** The granting of the application is necessary due to the practical difficulties associated with the property and that the strict application of the Zoning Code results in physical hardships that are inconsistent with the purpose and intent of the Zoning Code.

**Facts in Support of Finding:**

- The subject lot is located in the Irvine Terrace development between Dolphin Terrace and Bayside Drive, and has a total lot area of approximately 14,450 square feet (80' x 177.68' x 76.20' x 184.19'). It is slightly irregular in shape because the rear property line (adjacent to the public easement along Bayside Drive) is skewed. The portion of the lot adjacent to Dolphin Terrace is atop a bluff and provides a nearly flat building pad for construction of a proposed single-family residence. The remainder of the lot area consists of a bluff which slopes steeply downward toward Bayside Drive. The grade of bluff face is generally consistent across the width of the lot.
- Approved in 1954, Variance 162 established a required front yard setback for all lots adjacent to the southerly side of Dolphin Terrace. The setback line corresponded to an elevation contour fifteen feet below the top of the bluff and extended to the rear property line (adjacent to Bayside Drive).
- The area of the required front yard setback for the subject lot is equal to more than 40 percent of the total lot area, and the setback area is irregular in shape because the rear property line is skewed.
- Due to the skewed nature of the required front yard setback line, a small portion of the spill trough of the proposed infinity pool structure would encroach beyond the predominant line of development.
- The topography and deep, required front yard setback limit the useable area of the subject lot, and constrain the location and design of the proposed accessory structures. Approval of the modification permit application is necessary due to these practical difficulties related to the property.

2. **Finding:** The requested modification will be compatible with existing development in the neighborhood.

**Facts in Support of Finding:**

- The Coastal Land Use Plan (CLUP) describes the bluffs located along Bayside Drive as being "bluffs not subject to marine erosion", and states policies requiring new accessory structures be set back from the bluff edge in accordance with the predominant line of development in the subject area (CLUP 4.4.3-5). The location of the proposed project elements would be

generally consistent with the predominant line of existing development for similar accessory structures located on neighboring lots (approximately the seventy-foot contour line).

- The pool equipment room would be constructed under the pool deck and would not be visible to neighboring properties. The floor to ceiling height would be six feet, and approximately two-thirds of the square footage of the room does not encroach into the required front yard setback. The area which would encroach does not exceed the height allowed for accessory structures within the front yard setback.
  - The small portion of the spill trough of the proposed infinity pool would be a minor encroachment and is a necessary component of the overall design of the pool.
  - The proposed elements are commonly found on properties located on lots located along the southerly side of Dolphin Terrace and throughout the Irvine Terrace development.
3. **Finding:** The granting of such an application will not adversely affect the health or safety of persons residing or working in the neighborhood of the property and will not be detrimental to the general welfare or injurious to property or improvements in the neighborhood.

**Facts in Support of Finding:**

- The proposed 42-inch-high glass walls and the 5-foot-high, open wrought-iron fencing are safety elements required by the California Building Code when constructing a pool or spa; and the proposed elements would not exceed the minimum heights required.

Conditions

1. The development shall be in substantial conformance with the approved plot plan, floor plans and elevations, except as noted in the following conditions.
2. Anything not specifically approved by this Modification Permit is prohibited and must be addressed in a separate and subsequent Modification Permit review.
3. This approval was based on the particulars of the individual case and does not, in and of itself or in combination with other approvals in the vicinity or Citywide, constitute a precedent for future approvals or decisions.



4. Prior to issuance of building permits, the applicant shall submit to the Planning Department an additional copy of the approved architectural plans for inclusion in the Modification Permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Modification Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.
5. A building permit shall be obtained prior to commencement of the construction.
6. A copy of this approval letter shall be incorporated into the Building Department and field sets of plans prior to issuance of the building permits.
7. If any of the existing public improvements surrounding the site is damaged by private work, new concrete sidewalk, curb and gutter, street pavement, and other public improvements will be required by the City at the time of private construction completion. Said determination and the extent of the repair work shall be made at the discretion of the Public Works inspector.
8. All work performed within the public right-of-way shall be reviewed and approved by the Public Works Department under an encroachment permit/agreement, if required.
9. This approval shall expire unless exercised within 24 months from the approval date, as specified in Section 20.93.050 (A) of the Newport Beach Municipal Code. Prior to the expiration date of this approval, an extension may be approved in accordance with Section 20.93.050 (B) of the Newport Beach Municipal Code. Requests for an extension must be in writing.
10. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the 1231 Dolphin Terrace including, but not limited to, the MD2010-004 (PA2010-020). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs,

attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

**APPEAL PERIOD:** Modification Permit applications do not become effective until 14 days after the date of action, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code. For additional information on filing an appeal, contact the Planning Department at 949 644-3200.

By:   
James W. Campbell, Zoning Administrator

JWC/ks

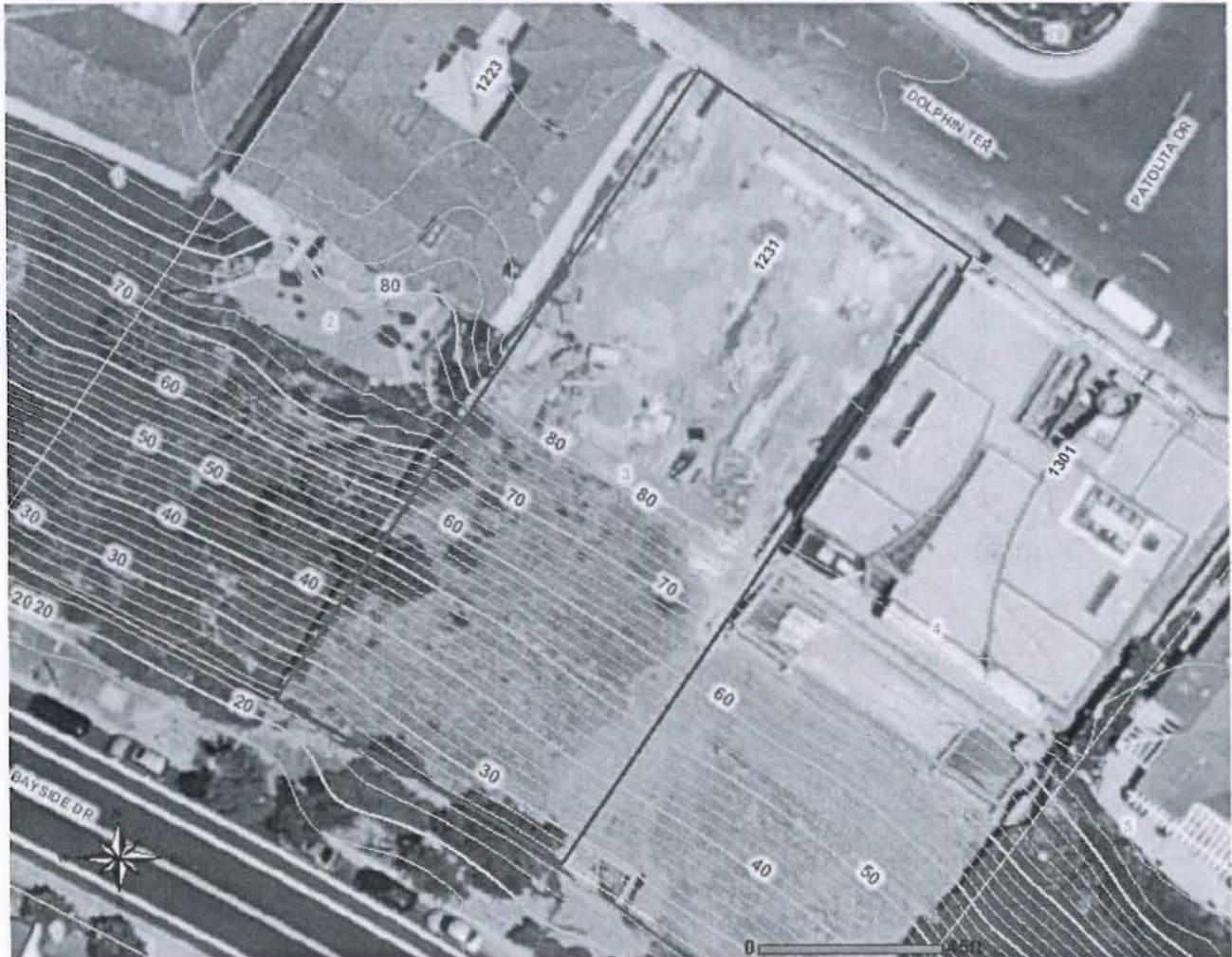
Attachments: Vicinity Map

Appeared in Opposition: None

Appeared in Support: None



## VICINITY MAP



**Modification Permit No. MD2010-004  
PA2010-020**

**1231 Dolphin Terrace**





## **ZONING ADMINISTRATOR ACTION LETTER**

PLANNING DEPARTMENT  
3300 NEWPORT BOULEVARD  
NEWPORT BEACH, CA 92663  
(949) 644-3200 FAX (949) 644-3229

**Application No.**                      **Modification Permit No. MD2010-011  
(PA2010-086)**

**Applicant**                              **Richard K. Natland Architect**

**Site Address**                        **730 Poppy Avenue  
Dereon Residence**

**Legal Description**                **Lot 2, Block , Tract 00673**

On **August 26, 2010**, the Zoning Administrator approved the following: A modification permit for a remodel of and 443-square-foot addition to an existing, non-conforming single-unit dwelling. The single-unit dwelling is non-conforming because it currently encroaches four feet six inches into the 20-foot front setback, two inches into the 3-foot side setback and only provides one of the two code-required parking spaces. The property is located in the R-1 (Single-Family Residential) District. The Zoning Administrator's approval is based on the following findings and subject to the following conditions.

### **FINDINGS AND CONDITIONS: PA2010-086 (MD2010-011)**

The Land Use Element of the General Plan designates the site for "Two-Unit Residential" use. The existing residential structure is consistent with this designation.

Pursuant to Section 20.62.050.A of the Zoning Code, where residential uses are nonconforming only because they do not conform to the off-street parking requirements of the code, minor additions to existing buildings, such as the constructions of bathrooms, closets and hallways, or the expansion of existing rooms, subject to the floor area limits of Section 20.62.040.D.2 of the Zoning Code; which limits the addition to 50 percent of the gross floor area within any 12 month period upon the approval of a modification permit.

This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) Guidelines under Section 15303, Class 3 (New Construction or Conversion of Small Structures).

Required Findings for Action and Facts in Support of Findings

The Zoning Administrator determined in this case that the proposed Modification Permit is consistent with the legislative intent of Title 20 of the Newport Beach Municipal Code and is approved based on the following findings per Section 20.93.030:

1. **Finding:** The granting of the application is necessary due to the practical difficulties associate with the property and that the strict application of the Zoning Code results in physical hardships that are inconsistent with the purpose and intent of the Zoning Code.

**Facts in Support of Finding:**

- The practical difficulty associated with the existing single-unit dwelling on the property is in the form of a nonconformity with setbacks and parking requirements per the Zoning Code, whereby strict application of the Zoning Code results in physical hardship.

Pursuant to Chapter 20.66 of the Zoning Code, two parking spaces per unit are required for a single-unit dwelling; however, the existing single-unit dwelling only has one parking space.

Pursuant to Chapter 20.10 of the Zoning Code, the front-yard setback for the subject property is 20 feet; however, the existing single-unit dwelling is only setback 15 feet 6 inches in the front-yard. Moreover, the side-yard setback for the subject property is 3 feet; however, the existing single-unit dwelling is only setback 2 feet 10 inches in the side-yard.

If the applicant is required to include two parking spaces on site and comply with the front- and side-yard setbacks, the entire building would need to be rebuilt.

- The project will not increase the nonconforming status once complete.

2. **Finding:** The requested modification will be compatible with existing development in the neighborhood.

**Facts in Support of Finding:**

- The area of the 443-square-foot addition complies with all of the development standards relating to area and setbacks, which is compatible with the existing development in the neighborhood.
- The neighborhood is comprised of a development pattern of single-unit and two-unit (duplex) dwellings. One parking space per residential unit was the parking requirement in 1940, when the property was constructed.

3. **Finding:** The granting of such an application will not adversely affect the health or safety of persons residing or working in the neighborhood of the property and



will not be detrimental to the general welfare or injurious to property or improvements in the neighborhood.

**Facts in Support of Finding:**

- As conditioned, the application of the California Building Code regulations to the construction of the project will ensure the safety and welfare of the surrounding community.
- The proposed addition complies with the side-yard setback requirements, which are intended to allow for sufficient light and air into the adjacent properties.
- The proposed construction does not increase the degree of nonconformity by reduction or elimination of parking.

Conditions

1. The development shall be in substantial conformance with the approved plot plan, floor plans and elevations, except as noted in the following conditions.
2. Anything not specifically approved by this Modification Permit is prohibited and must be addressed in a separate and subsequent Modification Permit review.
3. This approval was based on the particulars of the individual case and does not, in and of itself or in combination with other approvals in the vicinity or Citywide, constitute a precedent for future approvals or decisions.
4. Prior to issuance of building permits, the applicant shall submit to the Planning Department an additional copy of the approved architectural plans for inclusion in the Modification Permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Modification Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.
5. A building permit shall be obtained prior to commencement of the construction.
6. A copy of this approval letter shall be incorporated into the Building Department and field sets of plans prior to issuance of the building permits.
7. If any of the existing public improvements surrounding the site is damaged by private work, new concrete sidewalk, curb and gutter, street pavement, and other public improvements will be required by the City at the time of private

construction completion. Said determination and the extent of the repair work shall be made at the discretion of the Public Works inspector.

8. All work performed within the public right-of-way shall be reviewed and approved by the Public Works Department under an encroachment permit/agreement, if required.
9. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Dereon Residence including, but not limited to, Modification Permit No. MD2010-011. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.
10. This approval shall expire unless exercised within 24 months from the approval date, as specified in Section 20.93.050 (A) of the Newport Beach Municipal Code. Prior to the expiration date of this approval, an extension may be approved in accordance with Section 20.93.050 (B) of the Newport Beach Municipal Code. Requests for an extension must be in writing.

**APPEAL PERIOD:** Modification Permit applications do not become effective until 14 days after the date of action, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code. Tentative Parcel Map, Condominium Conversion, Lot Merger, and Lot Line Adjustment applications do not become effective until 10 days following the date of action, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code. For additional information on filing an appeal, contact the Planning Department at 949 644-3200.



By:   
James W. Campbell, Zoning Administrator

JWC/rwb

Attachments: Vicinity Map

Appeared in Opposition:

Appeared in Support:

## VICINITY MAP



Modification Permit No. MD2010-011  
PA2010-086

**730 Poppy Avenue**





## **ZONING ADMINISTRATOR ACTION LETTER**

PLANNING DEPARTMENT  
3300 NEWPORT BOULEVARD  
NEWPORT BEACH, CA 92663  
(949) 644-3200 FAX (949) 644-3229

**Application No.**                      **Modification Permit No. MD2010-012**

**(PA2010-094)**

**Applicant**                              **Studio 6 Architects**

**Site Address**                        **600 Cliff Drive**  
   **Woodall Residence**

### **Legal Description**

On **August 26, 2010**, the Zoning Administrator approved the following: A Modification Permit for a 1,200-square-foot addition to an existing, non-conforming single-unit dwelling. The single-unit dwelling is non-conforming because it encroaches two feet six inches into the 10-foot rear setback and the addition exceeds 25 percent of the existing floor area. The property is located in the R-1 (Single-Family Residential, PC) District. The Zoning Administrator's approval is based on the following findings and subject to the following conditions.

### **FINDINGS AND CONDITIONS: PA2010-094 (MD2010-012)**

The Land Use Element of the General Plan designates the site for "Single-Unit Residential" use. The existing residential structure is consistent with this designation.

Pursuant to Section 20.62.050.A of the Zoning Code, where residential uses are nonconforming only because they do not conform to the off-street parking requirements of the code, minor additions to existing buildings, such as the constructions of bathrooms, closets and hallways, or the expansion of existing rooms, subject to the floor area limits of Section 20.62.040.D of the Zoning Code.

This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) Guidelines under Section 15303 Class 3 (New Construction or Conversion of Small Structures).

### **Required Findings for Action and Facts in Support of Findings**

The Zoning Administrator determined in this case that the proposed Modification Permit is consistent with the legislative intent of Title 20 of the Newport Beach Municipal Code and is approved based on the following findings per Section 20.93.030:

1. **Finding:** The granting of the application is necessary due to the practical difficulties associate with the property and that the strict application of the Zoning Code results in physical hardships that are inconsistent with the purpose and intent of the Zoning Code.

**Facts in Support of Finding:**

- The practical difficulty associated with the existing single-unit dwelling on the property is in the form of a nonconformity with the setback requirements per the Zoning Code, whereby strict application of the Zoning Code results in physical hardship.

Pursuant to Chapter 20.10 of the Zoning Code, the rear-yard setback for the subject property is 10 feet; however, the existing single-unit dwelling is only setback 7 feet 6 inches in the rear. If the applicant is required comply with the rear setback, a portion of the rear of the dwelling would need to be rebuilt.

- The project will not increase the nonconforming status once complete.

2. **Finding:** The requested modification will be compatible with existing development in the neighborhood.

**Facts in Support of Finding:**

- The area of the remodel and addition complies with all of the development standards relating to area and setbacks, which is compatible with the existing development in the neighborhood.

3. **Finding:** The granting of such an application will not adversely affect the health or safety of persons residing or working in the neighborhood of the property and will not be detrimental to the general welfare or injurious to property or improvements in the neighborhood.

**Facts in Support of Finding:**

- As conditioned, the application of the California Building Code regulations to the construction of the project will ensure the safety and welfare of the surrounding community.
- The proposed alterations comply with the front- and side-yard setback requirements, which are intended to allow for sufficient light and air into the adjacent properties.



- The proposed construction does not increase the degree of nonconformity by reduction or elimination of parking.

#### Conditions

1. The development shall be in substantial conformance with the approved plot plan, floor plans and elevations, except as noted in the following conditions.
2. Anything not specifically approved by this Modification Permit is prohibited and must be addressed in a separate and subsequent Modification Permit review.
3. This approval was based on the particulars of the individual case and does not, in and of itself or in combination with other approvals in the vicinity or Citywide, constitute a precedent for future approvals or decisions.
4. Prior to issuance of building permits, the applicant shall submit to the Planning Department an additional copy of the approved architectural plans for inclusion in the Modification Permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Modification Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.
5. A building permit shall be obtained prior to commencement of the construction.
6. A copy of this approval letter shall be incorporated into the Building Department and field sets of plans prior to issuance of the building permits.
7. If any of the existing public improvements surrounding the site is damaged by private work, new concrete sidewalk, curb and gutter, street pavement, and other public improvements will be required by the City at the time of private construction completion. Said determination and the extent of the repair work shall be made at the discretion of the Public Works inspector.
8. All work performed within the public right-of-way shall be reviewed and approved by the Public Works Department under an encroachment permit/agreement, if required.
9. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Woodall Residence including, but not limited to Modification Permit No.

MD2010-012. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

10. This approval shall expire unless exercised within 24 months from the approval date, as specified in Section 20.93.050 (A) of the Newport Beach Municipal Code. Prior to the expiration date of this approval, an extension may be approved in accordance with Section 20.93.050 (B) of the Newport Beach Municipal Code. Requests for an extension must be in writing.

**APPEAL PERIOD:** Modification Permit applications do not become effective until 14 days after the date of action, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code. Tentative Parcel Map, Condominium Conversion, Lot Merger, and Lot Line Adjustment applications do not become effective until 10 days following the date of action, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code. For additional information on filing an appeal, contact the Planning Department at 949 644-3200.

By:   
James W. Campbell, Zoning Administrator

JWC/rwb

Attachments: Vicinity Map

Appeared in Opposition:

Appeared in Support:



## VICINITY MAP



Modification Permit No. MD2010-012  
PA2010-094

**600 Cliff Drive**



**TELECOM PERMIT NO. TP2009-011**  
**(PA2009-132)**  
(Reliant Land Services for Clearwire)

Planning Department  
3300 Newport Boulevard  
Newport Beach, CA 92663  
(949) 644-3200; FAX (949) 644-3229

Staff Person:

Makana Nova  
(949) 644-3249

**APPLICATION:** Telecom Permit No. TP2009-011 (PA2009-132)

**APPLICANT:** Reliant Land Services for Clearwire

**LOCATION:** 5000 Birch Street

**LEGAL DESCRIPTION:** Parcel 5 as shown on map filed in Book 181 pages 13-19 inclusive of parcel maps, in the office of the county recorder of the County of Orange, Resubdivision No. 713

---

**PROJECT REQUEST AND DESCRIPTION**

Reliant Land Services for Clearwire has submitted an application requesting a telecom permit to allow the replacement of three four-foot panel antennas, the addition of three parabolic dish antennas, one GPS antenna, and one enclosed rooftop equipment cabinet for Clearwire at an existing telecommunications facility on the rooftop of an office building.

**DIRECTOR'S ACTION:** **Approved with Conditions – August 26, 2010**

In approving this application, the Planning Director analyzed issues regarding compliance with Chapter 15.70 of the Newport Beach Municipal Code. This approval is based on the findings and subject to the following conditions attached to this report.

The Planning Director determined in this case that the proposed wireless telecommunications facility ("telecom facility") meets the provisions of Chapter 15.70.

**BACKGROUND**

The subject property is located within the Office Site B sub-area of the PC-15 (Koll Center Planned Community) Zoning District. The project site is 104,544 square feet (approximately 2.4 acres). The property is bounded by Birch Street, Jamboree Road, and Von Karmen Avenue.

The existing development consists of a ten-story office building that complies with the twelve-story limit established by the Koll Center Planned Community and the 375-foot



height limit established by the Zoning Code. The existing telecom facilities for Sprint are located on the rooftop of the office building and are screened from view by architecturally compatible screen panels that match the exterior of the building.

The project site is relatively flat, bounded to the north, east, and west by commercial office development. Industrial and office development is also located to the south of the subject property. The project site is not located within the coastal zone.

### **APPEAL PERIOD**

The applicant or any interested party may appeal the decision of the Planning Director to the City Council within 14 days of the action date. The City Council's action on appeals shall be final. A \$4,010.00 filing fee shall accompany any appeal filed. For additional information on filing an appeal, contact the City Clerk at 949 644-3005.

On behalf of David Lepo, Planning Director

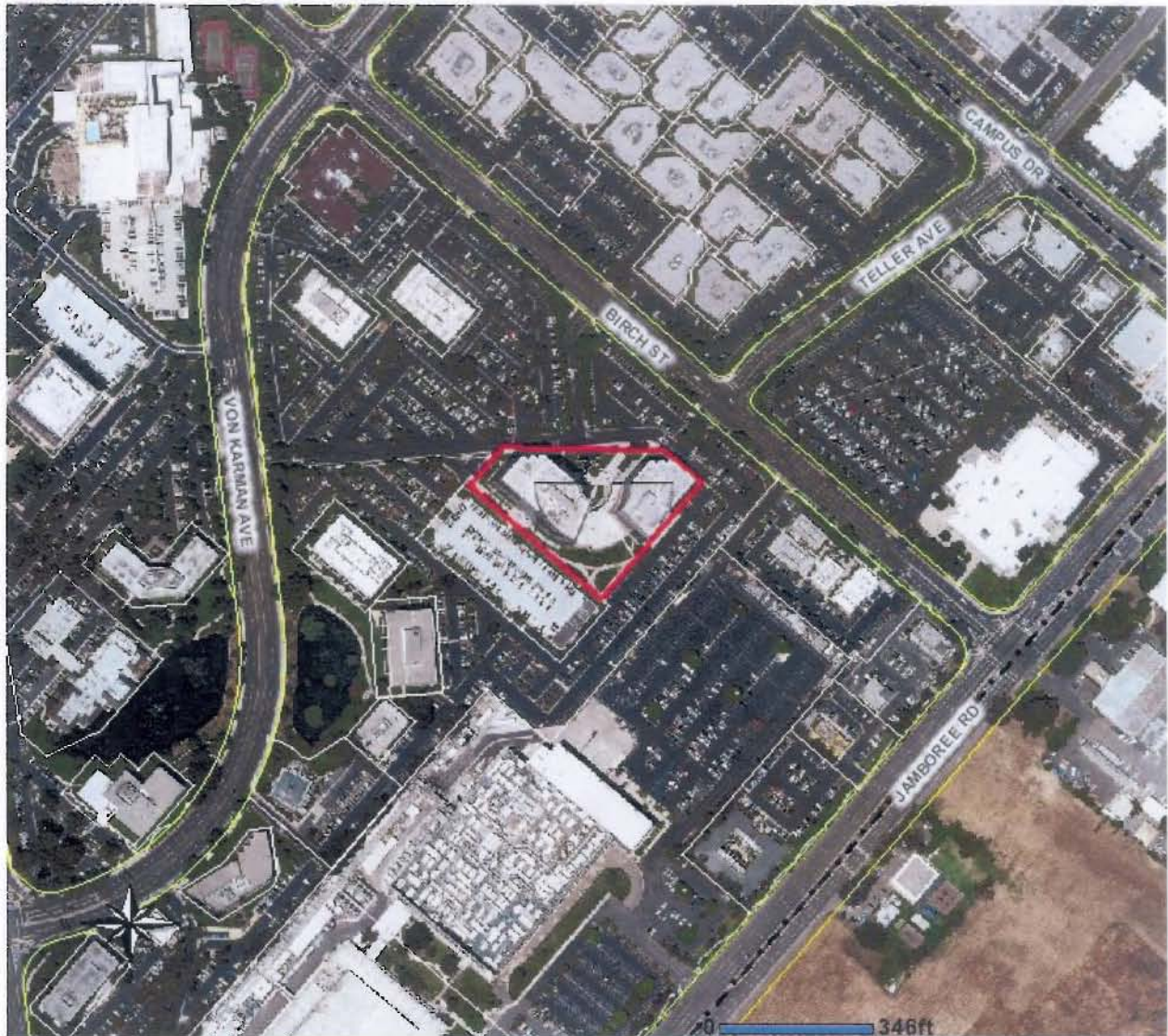
By

  
Makana Nova, Assistant Planner

DL/mkn

Attachments: Vicinity Map  
Findings and Conditions of Approval  
Site Plan & Elevations

## VICINITY MAP



5000 Birch Street

TP2009-011 (PA2009-132)



**FINDINGS AND  
CONDITIONS OF APPROVAL  
TP2009-011 (PA2009-132)**

**FINDINGS**

1. The telecommunications facility as proposed meets the intent of Chapter 15.70 of the Newport Beach Municipal Code (NBMC), while ensuring public safety, reducing the visual effects of telecom equipment on public streetscapes, protecting scenic ocean and coastal views, and otherwise mitigating the impacts of such facilities for the following reasons:
  - The proposed telecom facility will not be detrimental to public health or safety because it is required to comply with the applicable rules, regulations and standards of the Federal Communications Commission (FCC) and the California Public Utilities Commission (CPUC).
  - The telecom facility is located on an existing building, and any future proposed facility to be located within 1,000 feet of the existing facility shall be required to co-locate on the same site to limit the adverse visual effects of proliferation of facilities in the City.
  - The telecom facility is located on the rooftop of an existing building and screened by panels that are consistent with the architecture of the existing building. Therefore, there is no impact to public views.
2. The telecommunications facility as proposed conforms to the technology, height, location and design standards for the following reasons:
  - The telecom facility approved under this permit utilizes the most efficient and diminutive available technology in order to minimize the number of facilities and reduce the visual impact.
  - The telecom facility approved by the permit does not exceed the maximum building height limit of 375 feet established by the Zoning Code or the 12-story height limit as established by the PC-15 (Koll Center Planned Community) Zoning District.
  - The antennas for the telecom facility approved by this permit will be roof-mounted and will be blended or screened from public view in a manner consistent with the architectural style, color and materials of the building to avoid adverse impacts to views from land or buildings at higher elevations.
  - The support equipment for the telecom facility will be within an existing enclosed roof-top enclosure and will be blended or screened from public view in a manner consistent with the architectural style, color and materials of the building. The roof-mounted equipment will comply with the height limit

applicable to the building in PC-15 (Koll Center Planned Community) Zoning District.

3. This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act under Class 3 (New Construction or Conversion of Small Structures).

### **CONDITIONS**

1. The development shall be in substantial conformance with the approved plot plan, antenna and equipment plans, and elevations, except as noted in the following conditions.
2. Anything not specifically approved by this Telecom Permit is not permitted and must be addressed in a separate and subsequent Telecom Permit review.
3. The telecom facility approved by this permit shall comply with all applicable rules, regulations and standards of the Federal Communications Commission (FCC) and the California Public Utilities Commission (CPUC).
4. Any future facilities proposed by other carriers to be located within 1,000 feet from the subject property shall be approved to co-locate at the same site by the property owner or authorized agent, unless otherwise approved by the Planning Director.
5. The telecom facility shall comply with all regulations and requirements of the Uniform Building Code, Uniform Fire Code, Uniform Mechanical Code and National Electrical Code. All required permits shall be obtained prior to commencement of the construction.
6. Prior to the issuance of any building, mechanical and/or electrical permits, architectural drawings and structural design plans shall be submitted to the City of Newport Beach for review and approval by the applicable departments. A copy of this approval letter shall be incorporated into the drawings approved for the issuance of permits.
7. Appropriate information warning signs or plates shall be posted at the access locations and each transmitting antenna. In addition, contact information (e.g. a telephone number) shall be provided on the warning signs or plates to arrange for access to the roof top area. The location of the information warning signs or plates shall be depicted on the plans submitted for construction permits.
8. No advertising signage or identifying logos shall be displayed on the telecom facility except for small identification, address, warning and similar information plates. A detail of the information plates depicting the language on the plate shall be included in the plans submitted for issuance of building permits.



9. The facility shall transmit at a frequency range of 2496 to 2502 MHz, and shall receive at a frequency range of 2618 to 2673.5 MHz. Any change or alteration to the frequency range shall require the prior review and approval of the Planning Director.
10. The applicant recognizes that the frequencies used by the cellular facility located at **5000 Birch Street** are extremely close to the frequencies used by the City of Newport Beach for public safety. This proximity will require extraordinary "comprehensive advanced planning and frequency coordination" engineering measures to prevent interference, especially in the choice of frequencies and radio ancillary hardware. This is encouraged in the "Best Practices Guide" published by the Association of Public-safety Communications Officials-International, Inc. (APCO), and as endorsed by the Federal Communications Commission (FCC).
11. The applicant shall not prevent the City of Newport Beach from having adequate spectrum capacity on the City's 800 MHz radio frequencies at any time.
12. Within 30 days after installation of the telecom facility, a radio frequency (RF) compliance and radiation report prepared by a qualified RF engineer acceptable to the City shall be submitted in order to demonstrate that the facility is operating at the approved frequency and complies with FCC standards for radiation. If the report shows that the facility does not so comply, the use of the facility shall be suspended until the facility is modified to comply and a new report has been submitted confirming such compliance.
13. Prior to issuance of building permits, a deposit of \$1,000 shall be paid to the City of Newport Beach. This deposit is required by the Planning Department to ensure preparation and submittal of the RF Compliance and Radiation Report, referenced in the above Condition. The deposit will be used to defray any and all fees associated with review of the report by an independent technical consultant, pursuant to Section 15.70.070 B-10 of the Telecom Ordinance. Any unused deposit fees will be refunded to the applicant upon determination of compliance with the approved frequency and FCC standards.
14. The applicant shall provide a "single point of contact" in its Engineering and Maintenance Departments that is monitored 24 hours per day to ensure continuity on all interference issues, and to which interference problems may be reported. The name, telephone number, fax number and e-mail address of that person shall be provided to the Planning Department and Newport Beach Police Department's Support Services Commander prior to activation of the facility.
15. Should interference with the City's Public Safety radio equipment occur, use of the facility shall be suspended until the radio frequency is corrected and verification of the compliance is reported.



16. The applicant shall ensure that lessee or other users shall comply with the terms and conditions of this permit, and shall be responsible for the failure of any lessee or other users under the control of the applicant to comply.
17. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the applicant, current property owner or leasing agent.
18. The telecom facility approved by the permit shall comply with any easements, covenants, conditions or restrictions on the underlying real property upon which the facility is located.
19. The telecom facility shall not be lighted except as deemed necessary by the Newport Beach Police Department for security lighting. The night lighting shall be at the lowest intensity necessary for that purpose and such lighting shall be shielded so that direct rays do not shine on nearby properties. Prior to the final of building permits, the applicant shall schedule an evening inspection by the Code Enforcement Division to confirm compliance with this condition.
20. The operator of the telecom facility shall maintain the facility in a manner consistent with the original approval of the facility.
21. The City reserves the right and jurisdiction to review and modify any telecom permit approved pursuant to Chapter 15.70 of the Newport Beach Municipal Code, including the conditions of approval, based on changed circumstances. The operator shall notify the Planning Department of any proposal to change the height or size of the facility; increase the size, shape or number of antennas; change the facility's color or materials or location on the site; or increase the signal output above the maximum permissible exposure (MPE) limits imposed by the radio frequency emissions guidelines of the FCC. Any changed circumstance shall require the operator to apply for a modification of the original telecom permit and obtain the modified telecom permit prior to implementing any change.
22. This telecom permit may be modified or revoked by the City Council should they determine that the facility or operator has violated any law regulating the telecom facility or has failed to comply with the requirements of Chapter 15.70 of the NBMC, or this telecom permit.
23. Any operator who intends to abandon or discontinue use of a telecom facility must notify the Planning Director by certified mail no less than 30 days prior to such action. The operator or property owner shall have 90 days from the date of abandonment or discontinuance to reactivate use of the facility, transfer the rights to use the facility to another operator, or remove the telecom facility and restore the site.
24. This approval shall expire unless exercised within 24 months from the date of approval.



25. *To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Clearwire Telecom Permit including, but not limited to, the Telecom Permit No. TP2009-011 (PA2009-132). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.*

PROPRIETARY INFORMATION

THE INFORMATION CONTAINED IN THIS SET OF CONSTRUCTION DOCUMENTS IS PROPRIETARY BY NATURE. ANY USE OR DISCLOSURE OTHER THAN THAT WHICH RELATES TO CARRIER SERVICES IS STRICTLY PROHIBITED.

# clearwire®

CA5206 (WIMAX)  
CA-ORC5033-A

5000 BIRCH ST  
NEWPORT BEACH, CA 92660

RECEIVED BY  
PLANNING DEPARTMENT

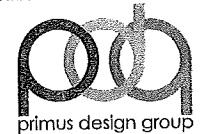
AUG 18 2010

CITY OF NEWPORT BEACH

clearwire®

4400 CARILLON POINT  
KIRKLAND, WA 98033

PLANS PREPARED BY:



primus design group

1588 BATAVIA ST SUITE 1D  
ORANGE CA 92667

PH. (714) 685-0123

FAX (714) 685-0125

CONSULTING GROUP:



1588 BATAVIA ST SUITE 1D  
ORANGE CA 92667

PH. (714) 685-0123

FAX (714) 685-0125

## PROJECT INFORMATION

### PROJECT DESCRIPTION:

CLEARWIRE PROPOSES TO MODIFY AN UNMANNED TELECOMMUNICATIONS FACILITY WITH (3) 4' PANEL ANTENNAS TO REPLACE EXISTING, AND THE ADDITIONAL OF (1) INDOOR EQUIPMENT CABINET, (3) 2' PARABOLIC DISHES, AND (1) 8PS ANTENNA.

### APPLICANT:

CLEARWIRE  
4400 CARILLON POINT  
KIRKLAND WA 98032  
CONTACT: CHRISTOPHER GLASS  
PHONE: 714.920.0419

### PROPERTY OWNER:

CORNERSTONE PARTNERS  
100 WILSHIRE BLVD SUITE 700  
SANTA MONICA, CA 90401  
CONTACT:  
PHONE:

### PROPERTY INFORMATION:

JURISDICTION: CITY OF NEWPORT BEACH  
ZONING CLASSIFICATION: COMMERCIAL  
CONSTRUCTION TYPE:  
OCCUPANCY:  
CURRENT USE: TELECOMMUNICATIONS FACILITY  
PROPOSED USE: TELECOMMUNICATIONS FACILITY  
PARCEL NO.: 445-151-19  
AREA OF PARCEL: . ACRES  
PROJECT AREA: . SF (LEASE AREA)

### SITE ACQUISITION:

CONTACT: JUSTIN DAVIS  
PHONE: 602.391.0344

### ZONING:

CONTACT: H.P. KANG  
PHONE: 904.991.3757

### CONSTRUCTION:

CONTACT: JIM DIMINO  
PHONE: 408.410.2208

### RF ENGINEER:

CONTACT: R. SCOTT TORBAN  
PHONE: 617.834.4142

### CODE INFORMATION:

2007 CALIFORNIA BUILDING CODE (BASED ON 2006 INTERNATIONAL BUILDING CODE)  
2007 CALIFORNIA ELECTRICAL CODE (BASED ON 2005 NATIONAL ELECTRICAL CODE)  
2007 CALIFORNIA MECHANICAL CODE (BASED ON 2006 UNIFORM MECHANICAL CODE)  
2007 CALIFORNIA PLUMBING CODE (BASED ON 2006 UNIFORM PLUMBING CODE)

### TELCO COMPANY:

COMPANY: AT&T  
PHONE: 800.222.0300

### POWER COMPANY:

COMPANY: SCE  
PHONE: 800.990.7788

### 24 HOUR CONTACT:

ENGINEERING AND MAINTENANCE  
CLEARWIRE NETWORK OPERATIONS CENTER (NOC)  
PHONE: 866.316.7575  
EMAIL: NOC@CLEARWIRE.COM

### GENERAL INFORMATION

1. PARKING REQUIREMENTS ARE UNCHANGED
2. TRAFFIC IS UNAFFECTED
3. NO ADDITIONAL IMPERVIOUS AREA IS PROPOSED

## PROJECT TEAM

### ARCHITECT

PRIMUS DESIGN GROUP  
1588 BATAVIA ST, SUITE 1D  
ORANGE CA 92667  
CONTACT: ALEXANDER MUTUC  
PHONE: 714.685.0125  
FAX: 714.685.0125

### PROJECT CONSULTANT

RELIANT LAND SERVICES  
1588 BATAVIA ST, SUITE 1D  
ORANGE CA 92667  
CONTACT: SITE AG NAME  
PHONE: 714.685.0125  
FAX: 714.685.0125

## VICINITY MAP



## DRIVING DIRECTIONS

DEPART FROM:  
510 COMMERCE, IRVINE CA 92602

1. HEAD NORTHEAST ON EL CAMINO REAL N TOWARD BRYAN AVE
2. LEFT ONTO BRYAN AVE
3. CONTINUE STRAIGHT TO STAY ON BRYAN AVE
4. LEFT ONTO JAMBOREE RD
5. CONTINUE TO FOLLOW JAMBOREE RD
6. RIGHT ONTO BIRCH ST
7. ARRIVE AT 5000 BIRCH ST

APPROVAL	DATE	SIGNATURE
CLEARWIRE		
LANDLORD		
CONST		
S/A		
RF		
ZONING		
A/E		
RF		

REVIEWERS SHALL CLEARLY PLACE INITIALS ADJACENT TO EACH REDLINE NOTED ON DRAWINGS

## DRAWING INDEX

T-1	TITLE SHEET
A-1	SITE PLAN
A-2	ENLARGED SITE PLAN, BEFORE/AFTER
A-3	ANTENNA CONFIG ARCHITECTURAL ELEVATIONS

## ABBREVIATIONS

A/C	AIR CONDITIONING
ABL	ABOVE FINISH GRADE
APPROX	APPROXIMATELY
BLDG	BUILDING
BLK	BLOCKING
CONC	CONCRETE
CONST	CONSTRUCTION
CONT	CONTINUOUS
DIA	DIAMETER
EA	EACH
ELEV	ELEVATION
ELEC	ELECTRICAL
EQ	EQUAL
EQUIP	EQUIPMENT
EXT	EXTERIOR
FLR	FLOOR
FT	FOOT
SA	SAUSE
GALV	GALVANIZED
GC	GENERAL CONTRACTOR
HORZ	HORIZONTAL
HR	HOUR
HT	HEIGHT
HVAC	HEATING VENTILATION AIR CONDITIONING
IN	INCH
INT	INTERIOR
LBS	POUNDS
MAX	MAXIMUM
MECH	MECHANICAL
MTL	METAL
MIN	MINIMUM
NA	NOT APPLICABLE
NIC	NOT IN CONTRACT
NTS	NOT TO SCALE
OC	ON CENTER
OD	OUTSIDE DIAMETER
PLYWD	PLYWOOD
PROJ	PROJECT
PROP	PROPERTY
FT	PRESSURE TREATED
REQ	REQUIRED
RM	ROOM
SHT	SHEET
SIM	SIMILAR
SPEC	SPECIFICATION
SF	SQUARE FOOT
SS	STAINLESS STEEL
STL	STEEL
STRUCT	STRUCTURAL
STD	STUD
SUSP	SUSPENDED
THRU	THROUGH
TNNS	TINNED
TFP	TYPICAL
UNO	UNLESS NOTED OTHERWISE
VERT	VERTICAL
VIF	VERIFY IN FIELD
W/	WITH
W/O	WITHOUT
WP	WATER PROOF

### SITE INFORMATION:

CA5206 (WIMAX)

CA-ORC5033-A

5000 BIRCH ST  
NEWPORT BEACH, CA 92660

### SEAL:



### SHEET TITLE:


TITLE SHEET

### SHEET NUMBER:

T-1



4400 CARILLON POINT  
KIRKLAND, WA 98033



primus design group

PH. (714) 685-0123

FAX (714) 685-0125

RELIANT  
**RLS**  
LAND SERVICES

PH. (714) 685-0123

FAX (714) 685-0125

[illegible]

**SITE INFORMATION:**

5000 BIRCH ST  
NEWPORT BEACH, CA 92660

SEAL:



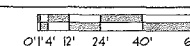
**SHEET TITLE:**

## SITE PLAN

**SHEET NUMBER:**

A-1

## SITE PLAN



SCALE

$$1/32'' = 1'-0''$$

4

clear wire®

4400 CARILLON POINT  
KIRKLAND, WA 98033

PLANS PREPARED BY:



primus design group  
1588 BATAVIA ST SUITE 10  
ORANGE CA 92667

PH. (714) 685-0123

FAX (714) 685-0125

CONSULTING GROUP:



1588 BATAVIA ST SUITE 10  
ORANGE CA 92667

PH. (714) 685-0123

FAX (714) 685-0125

NO.	DATE:	DESCRIPTION:	BY:
1	07/06/09	PRELIMINARY ZD	CM
2	08/31/09	FINAL ZD	CM
3	10/27/09	JURISDICTION COMMENTS	CM
4	04/08/10	INTER. COMMENTS	CR
5	08/11/10	INTER. COMMENTS	GC

SITE INFORMATION:

CA5206 (WIMAX)

CA-ORC5033-A

5000 BIRCH ST  
NEWPORT BEACH, CA 92660

SEAL:



SHEET TITLE:

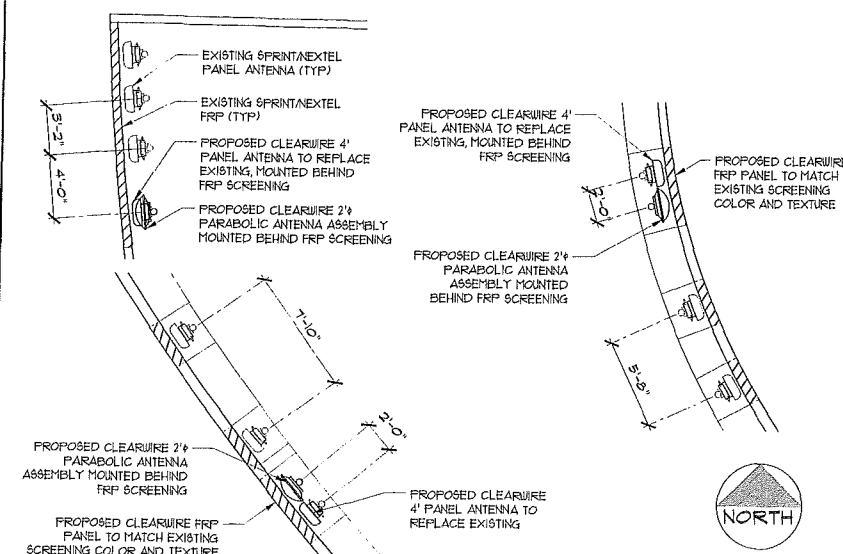
ENLARGED SITE PLAN,  
EQUIPMENT PLAN,  
& ANTENNA  
CONFIGURATION

SHEET NUMBER:

A-2

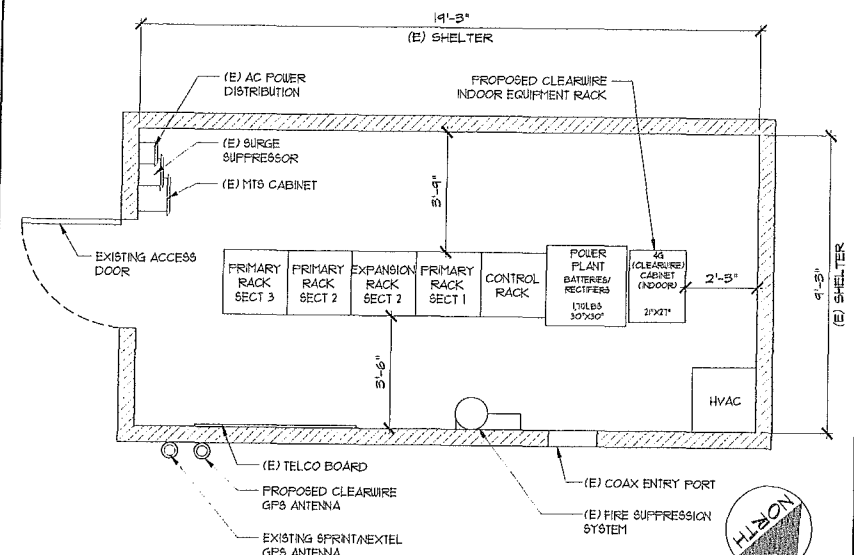
## EXISTING ANTENNA CONFIGURATION

SCALE  
3/16" = 1'-0" 2



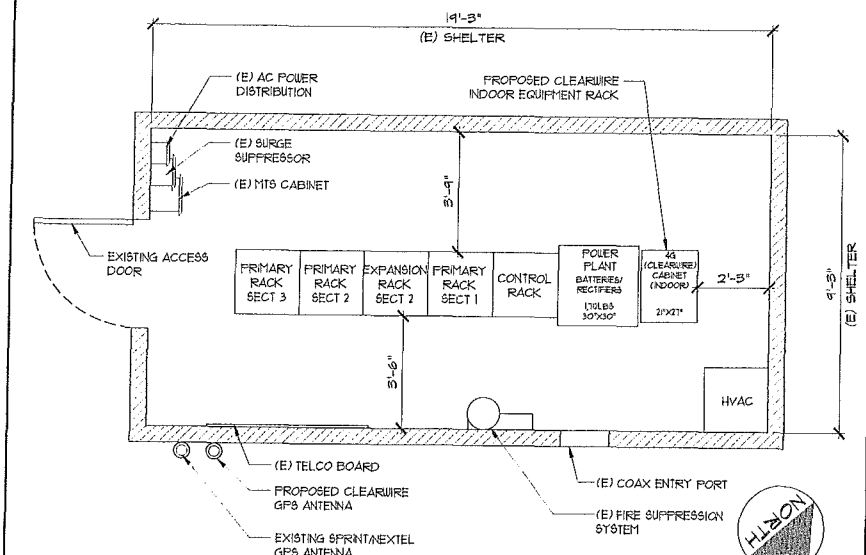
## PROPOSED ANTENNA CONFIGURATION

SCALE  
3/16" = 1'-0" 3



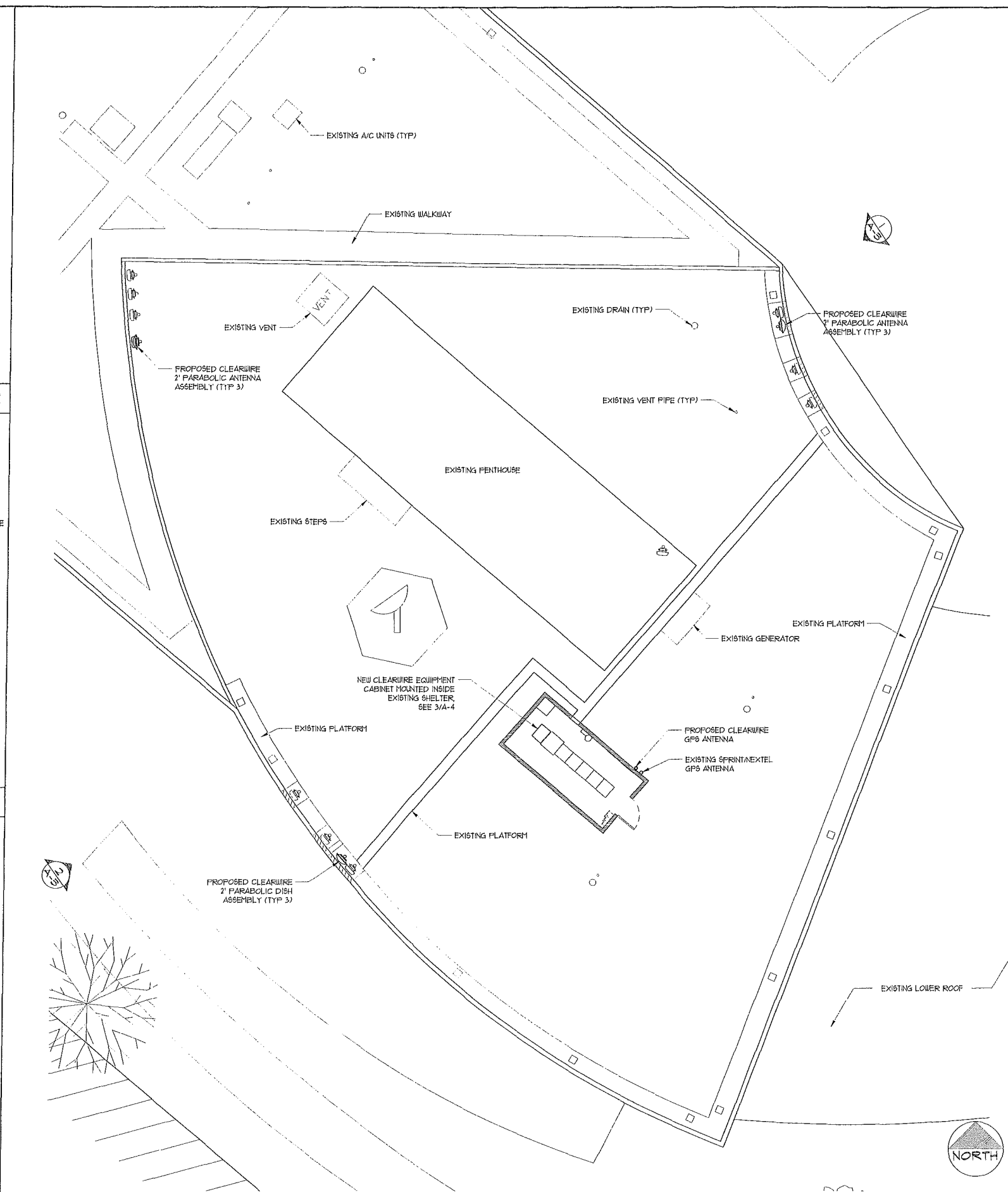
## EQUIP SHELTER FLOOR PLAN

SCALE  
NTS 4



## ENLARGED SITE PLAN

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









**TELECOM PERMIT NO.**  
**TP2009-014**  
(PA2009-172)

Planning Department  
3300 Newport Boulevard  
Newport Beach, CA 92663  
(949) 644-3200; FAX (949) 644-3229

Staff Person:

Rosalinh Ung  
(949) 644-3208

**APPLICATION:** Telecom Permit No. TP2009-014 (PA2009-172)

**APPLICANT:** Clearwire US LLC

**LOCATION:** 2401 Irvine Avenue

**LEGAL DESCRIPTION:** Parcel 1 of Book 38, Page 14 of Parcel Maps in the City  
Newport Beach, County of Orange, CA

---

**PROJECT REQUEST AND DESCRIPTION**

Clearwire US LLC has submitted an application requesting a Telecom Permit to install two (2) new panel antennas at four (4) feet in height which to be replaced the two (2) existing Sprint/Nextel's panel antennas; and to install two (2) new parabolic antennas at one feet in diameter to be mounted within the existing 34-foot high cross structure; and to install one GPS antenna and one equipment cabinet to be located behind the existing 6-foot high block wall enclosure. The property is located in the GEIF (Governmental, Educational and Institutional Facilities) Zoning District.

**DIRECTOR'S ACTION:** **Approved with Conditions – August 27, 2010**

In approving this application, the Planning Director analyzed issues regarding compliance with Chapter 15.70 of the Newport Beach Municipal Code. This approval is based on the findings and subject to the following conditions attached to this report.

The Planning Director determined in this case that the proposed wireless telecommunications facility ("telecom facility") meets the provisions of Chapter 15.70.



## **APPEAL PERIOD**

The applicant may appeal any denial of the application or any conditions of approval to the City Council within 14 days of the date of written notification of action by the Planning Director. The City Council's action on appeals shall be final. Any appeal filed shall be accompanied by a filing fee of \$4,010.00.

On behalf of David Lepo, Planning Director

By  \_\_\_\_\_  
Rosalinh Ung  
Associate Planner

Attachments: Vicinity Map  
Findings and Conditions of Approval  
Site Plan & Elevations

## VICINITY MAP

Telecom Permit No. 2009-014  
(PA2009-172)  
2401 Irvine Avenue





**FINDINGS AND  
CONDITIONS OF APPROVAL  
TP2009-014(PA2009-172)**

**FINDINGS**

1. The telecommunications facility as proposed meets the intent of Chapter 15.70 of the Newport Beach Municipal Code (NBMC), while ensuring public safety, reducing the visual effects of telecom equipment on public streetscapes, protecting scenic ocean and coastal views, and otherwise mitigating the impacts of such facilities for the following reasons:
  - The proposed telecom facility will not be detrimental to public health or safety because it is required to comply with the applicable rules, regulations and standards of the Federal Communications Commission (FCC) and the California Public Utilities Commission (CPUC).
  - The telecom facility is located on an existing religious cross structure, and any future proposed facility to be located within 1,000 feet of the existing facility shall be required to co-locate on the same site to limit the adverse visual effects of proliferation of facilities in the City.
  - Due to the location or design of the facility, there is no impact to public views.
2. The telecommunications facility as proposed conforms to the technology, height, location and design standards for the following reasons:
  - The telecom facility approved under this permit utilizes the most efficient and diminutive available technology in order to minimize the number of facilities and reduce the visual impact.
  - The telecom facility approved by the permit does not exceed the maximum building height limit of 32/50 feet allowed in the GEIF Zoning District, as specified in the Zoning Code.
  - The panel and parabolic antennas for the telecom facility approved by this permit will be mounted within the existing religious cross structure and will be screened from public view in a manner consistent with the architectural style, color and materials of the building to avoid adverse impacts to views from land or buildings at higher elevations.
  - The GPS antenna and equipment cabinet will be placed within the existing 6-foot high block wall enclosure adjacent to the religious building and screened from public view in a manner consistent with the architectural style, color and materials of the building.

3. This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act under Class 3 (New Construction or Conversion of Small Structures) for the following reason(s): Class 3 exempts the installation of small new equipment and facilities in small structures. The proposed panel and parabolic antennas are small structures to be mounted within the existing religious cross structure and remaining GPS antenna and equipment cabinet are to be located within the existing 6-ft high block wall enclosure.
4. The subject property currently has a total of 3 telecommunication carriers: AT&T, T-Mobile and Sprint-Nextel and therefore is subject to co-location restriction per Section 18.70.050.C.2 of the Newport Beach Municipal Code (NBMC). However, the Planning Director finds the following that could be in support of the request:
  - The proposed telecommunications facility is located within the existing cross structure and therefore, will not be visible to the general public.
  - There are no additional feasible alternative locations for the proposed telecom facility as the subject site is surrounded by residential development to the north, west and east, and the Upper Newport Bay to the south.

#### **CONDITIONS**

1. The development shall be in substantial conformance with the approved plot plan, antenna and equipment plans, and elevations, except as noted in the following conditions.
2. A total of two (2) panel antennas and two (2) parabolic antennas may be mounted within the existing 34-foot high religious cross structure. The two (2) new panel antennas shall replace the two (2) existing panel antennas that belong to Sprint/Nextel.
3. The GPS antenna and one equipment cabinet may be located behind the existing 6-foot high block wall enclosure and shall be screened from public view. The block wall enclosure shall be painted and textured to match the existing religious building.
4. Anything not specifically approved by this Telecom Permit is not permitted and must be addressed in a separate and subsequent Telecom Permit review.
5. The telecom facility approved by this permit shall comply with all applicable rules, regulations and standards of the Federal Communications Commission (FCC) and the California Public Utilities Commission (CPUC).
6. Any future facilities proposed by other carriers to be located within 1,000 feet from the subject property shall be approved to co-locate at the same site by the property owner or authorized agent, unless otherwise approved by the Planning Director.



7. The telecom facility shall comply with all regulations and requirements of the Uniform Building Code, Uniform Fire Code, Uniform Mechanical Code and National Electrical Code. All required permits shall be obtained prior to commencement of the construction.
8. Prior to the issuance of any building, mechanical and/or electrical permits, architectural drawings and structural design plans shall be submitted to the City of Newport Beach for review and approval by the applicable departments. A copy of this approval letter shall be incorporated into the drawings approved for the issuance of permits.
9. Appropriate information warning signs or plates shall be posted at the access locations and each transmitting antenna. In addition, contact information (e.g. a telephone number) shall be provided on the warning signs or plates to arrange for access to the roof top area. The location of the information warning signs or plates shall be depicted on the plans submitted for construction permits.
10. No advertising signage or identifying logos shall be displayed on the telecom facility except for small identification, address, warning and similar information plates. A detail of the information plates depicting the language on the plate shall be included in the plans submitted for issuance of building permits.
11. The facility shall transmit and receive at a frequency range of 2496 to 2690 MHz. Any change or alteration to the frequency range shall require the prior review and approval of the Planning Director.
12. The applicant recognizes that the frequencies used by the cellular facility located at 2401 Irvine Avenue are extremely close to the frequencies used by the City of Newport Beach for public safety. This proximity will require extraordinary "comprehensive advanced planning and frequency coordination" engineering measures to prevent interference, especially in the choice of frequencies and radio ancillary hardware. This is encouraged in the "Best Practices Guide" published by the Association of Public-safety Communications Officials-International, Inc. (APCO), and as endorsed by the Federal Communications Commission (FCC).
13. The applicant shall not prevent the City of Newport Beach from having adequate spectrum capacity on the City's 800 MHz radio frequencies at any time.
14. Within 30 days after installation of the telecom facility, a radio frequency (RF) compliance and radiation report prepared by a qualified RF engineer acceptable to the City shall be submitted in order to demonstrate that the facility is operating at the approved frequency and complies with FCC standards for radiation. If the report shows that the facility does not so comply, the use of the facility shall be suspended until the facility is modified to comply and a new report has been submitted confirming such compliance.



15. Prior to issuance of building permits, a deposit of \$1,000 shall be paid to the City of Newport Beach. This deposit is required by the Planning Department to ensure preparation and submittal of the RF Compliance and Radiation Report, referenced in the above Condition. The deposit will be used to defray any and all fees associated with review of the report by an independent technical consultant, pursuant to Section 15.70.070 B-10 of the Telecom Ordinance. Any unused deposit fees will be refunded to the applicant upon determination of compliance with the approved frequency and FCC standards.
16. The applicant shall provide a "single point of contact" in its Engineering and Maintenance Departments that is monitored 24 hours per day to insure continuity on all interference issues, and to which interference problems may be reported. The name, telephone number, fax number and e-mail address of that person shall be provided to the Planning Department and Newport Beach Police Department's Support Services Commander prior to activation of the facility.
17. Should interference with the City's Public Safety radio equipment occur, use of the facility shall be suspended until the radio frequency is corrected and verification of the compliance is reported.
18. The applicant shall insure that lessee or other user(s) shall comply with the terms and conditions of this permit, and shall be responsible for the failure of any lessee or other users under the control of the applicant to comply.
19. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the applicant, current property owner or leasing agent.
20. The telecom facility approved by the permit shall comply with any easements, covenants, conditions or restrictions on the underlying real property upon which the facility is located.
21. The telecom facility shall not be lighted except as deemed necessary by the Newport Beach Police Department for security lighting. The night lighting shall be at the lowest intensity necessary for that purpose and such lighting shall be shielded so that direct rays do not shine on nearby properties. Prior to the final of building permits, the applicant shall schedule an evening inspection by the Code Enforcement Division to confirm compliance with this condition.
22. The operator of the telecom facility shall maintain the facility in a manner consistent with the original approval of the facility.
23. The City reserves the right and jurisdiction to review and modify any telecom permit approved pursuant to Chapter 15.70 of the Newport Beach Municipal Code, including the conditions of approval, based on changed circumstances. The operator shall notify the Planning Department of any proposal to change the height or size of the facility; increase the size, shape or number of antennas;

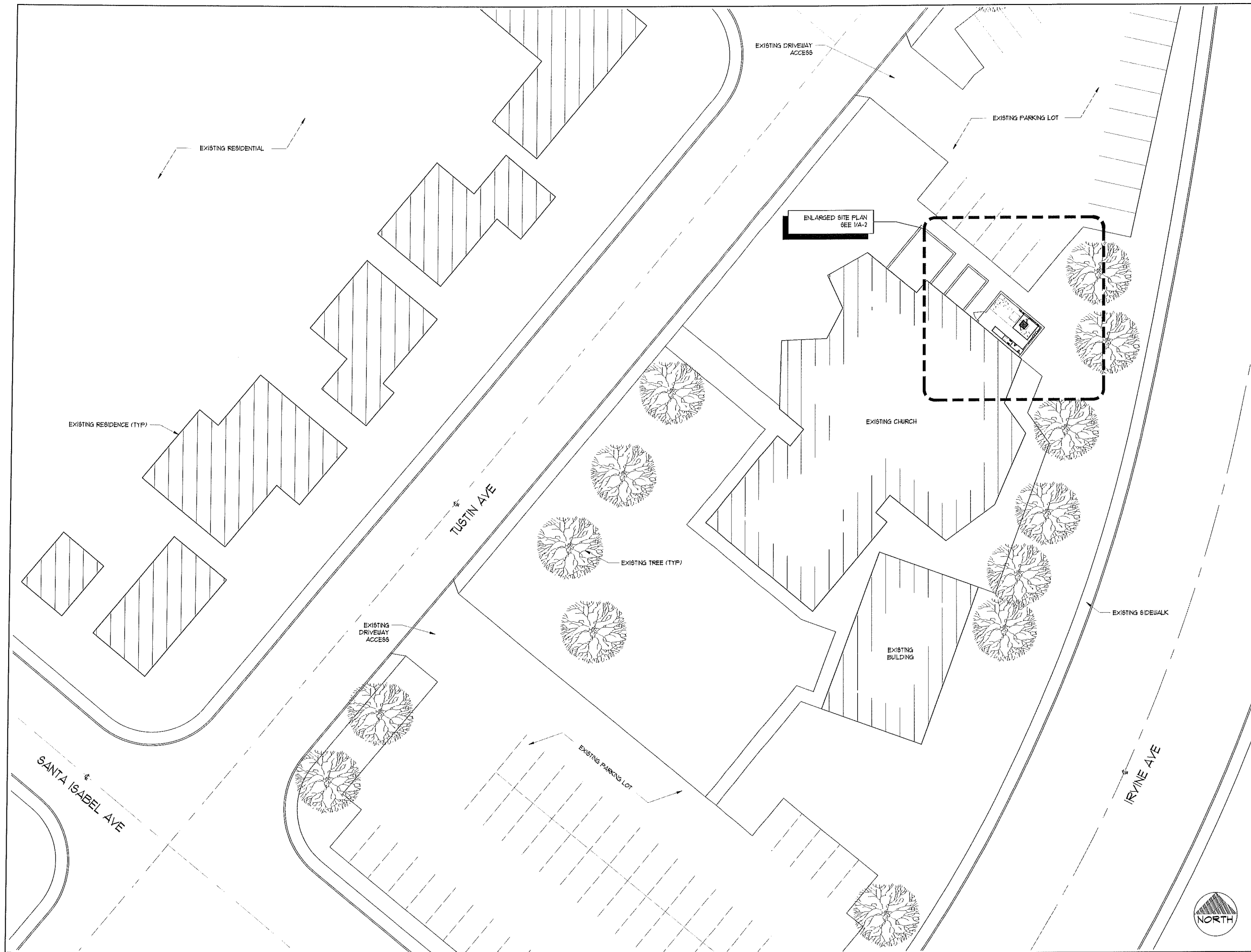


change the facility's color or materials or location on the site; or increase the signal output above the maximum permissible exposure (MPE) limits imposed by the radio frequency emissions guidelines of the FCC. Any changed circumstance shall require the operator to apply for a modification of the original telecom permit and obtain the modified telecom permit prior to implementing any change.

24. This telecom permit may be modified or revoked by the City Council should they determine that the facility or operator has violated any law regulating the telecom facility or has failed to comply with the requirements of Chapter 15.70 of the NBMC, or this telecom permit.
25. Any operator who intends to abandon or discontinue use of a telecom facility must notify the Planning Director by certified mail no less than 30 days prior to such action. The operator or property owner shall have 90 days from the date of abandonment or discontinuance to reactivate use of the facility, transfer the rights to use the facility to another operator, or remove the telecom facility and restore the site.
26. This approval shall expire unless exercised within 24 months from the date of approval.







**SITE PLAN**



SCALE  
1/16" = 1'-0"

**1**

**clear wire®**  
4400 CARILLON POINT  
KIRKLAND, WA 98033

PLANS PREPARED BY:

**primus design group**  
1594 BATAVIA ST  
ORANGE CA 92667  
PH. (714) 685-0123 FAX (714) 685-0125

CONSULTING GROUP:

**RELIANT**  
**RLS**  
LAND SERVICES  
1594 BATAVIA ST  
ORANGE CA 92667  
PH. (714) 685-0123 FAX (714) 685-0125

NO.	DATE	DESCRIPTION	BY
1	08/24/09	PRELIMINARY ZD	CM
2	08/26/09	FINAL ZD	AM
3	09/01/09	T1 UPDATE	AM
4	04/08/10	INTER. COMMENTS	CR

SITE INFORMATION:

**OG03XC166**  
**CA-ORC5166-A**  
2401 IRVINE AVE  
NEWPORT BEACH, CA 92660

SEAL:

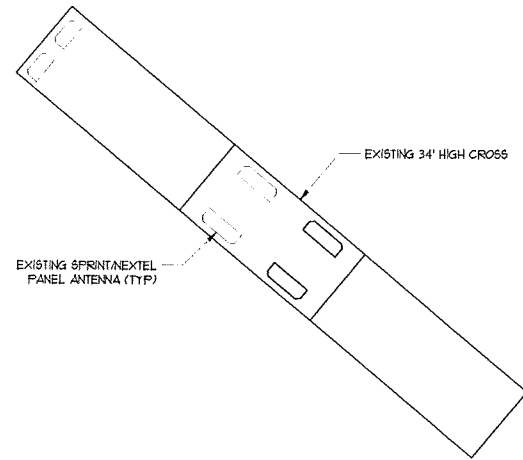


SHEET TITLE:

**SITE PLAN**

SHEET NUMBER:

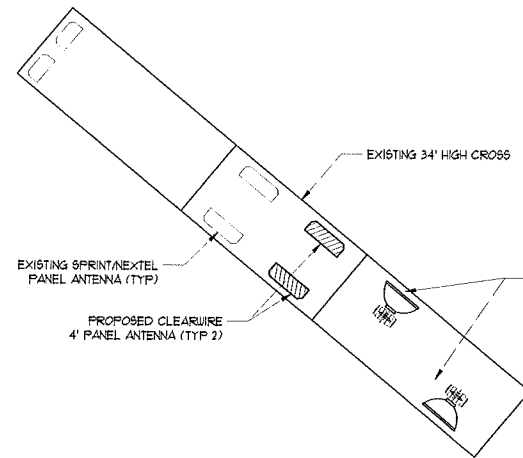
**A-1**



## EXISTING ANTENNA CONFIGURATION

SCALE  
1/2" = 1'-0"

2



## PROPOSED ANTENNA CONFIGURATION

SCALE  
1/2" = 1'-0"

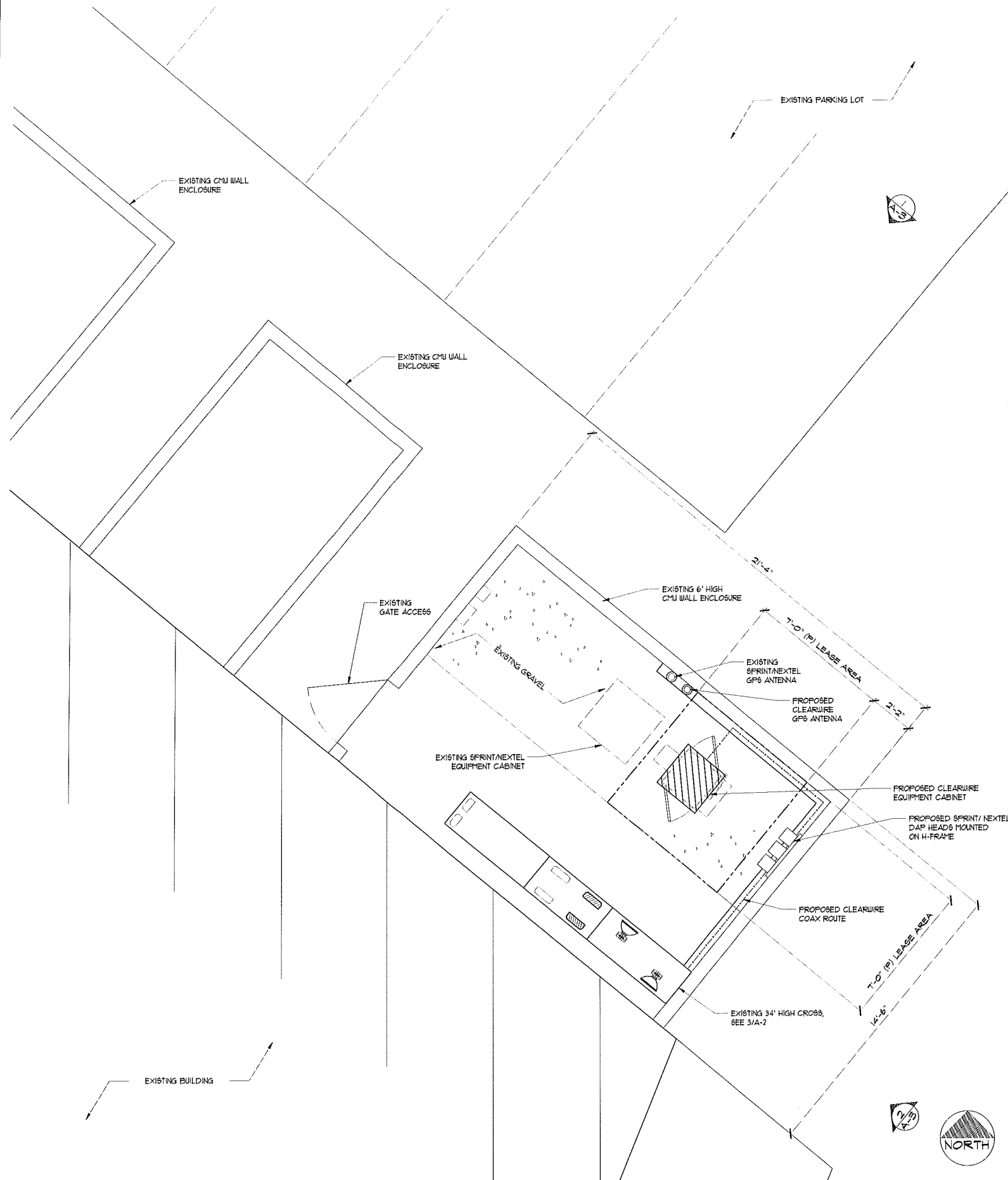
3

NOT USED

SCALE  
NTS

4

## ENLARGED SITE PLAN



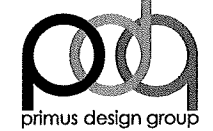
SCALE  
3/8" = 1'-0"

1

clear wire®

4400 CARILLON POINT  
KIRKLAND, WA 98033

PLANS PREPARED BY:



1594 BATAVIA ST  
ORANGE, CA 92667

PH. (714) 685-0123

FAX (714) 685-0125

CONSULTING GROUP:



1594 BATAVIA ST  
ORANGE, CA 92667

PH. (714) 685-0123

FAX (714) 685-0125

NO.	DATE	DESCRIPTION	BY:
1	08/24/09	PRELIMINARY ZD	CM
2	08/26/09	FINAL ZD	AM
3	09/01/09	T1 UPDATE	AM
4	04/08/10	INTER. COMMENTS	CR

SITE INFORMATION:

OG03XC166

CA-ORC5166-A

2401 IRVINE AVE  
NEWPORT BEACH, CA 92660

SEAL:



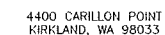
SHEET TITLE:

ENLARGED SITE PLAN,  
EQUIPMENT PLAN,  
& ANTENNA  
CONFIGURATION

SHEET NUMBER:

A-2





PLANS PREPARED BY:



PH. (714) 685-0123

FAX (714) 685-0129

CONSULTING GROUP:



PH (714) 685-0123

FAY (714) 685-0125

[illegible]

☐ SITE INFORMATION:

OG03XC166

CA-ORC5166-A

2401 IRVINE AVE  
NEWPORT BEACH, CA 92660

SEAL:

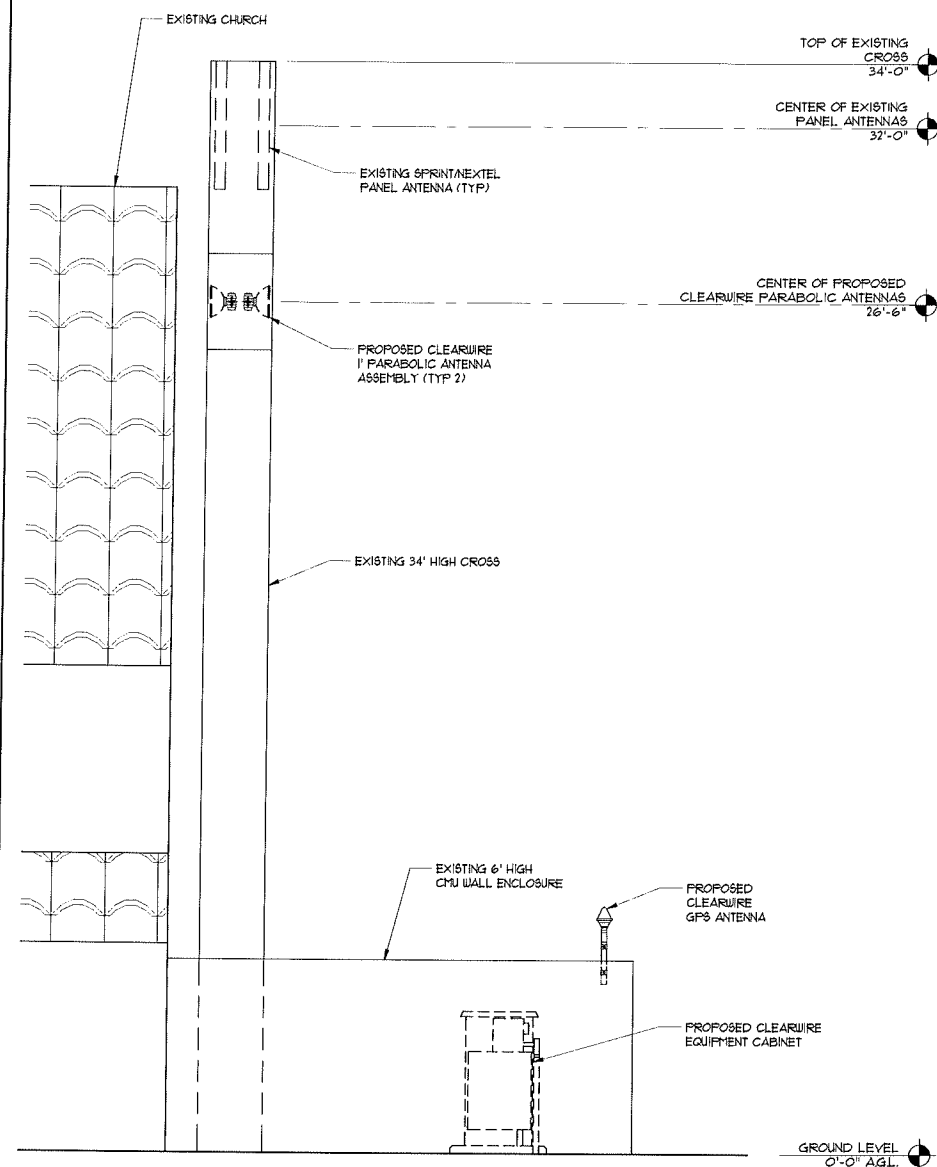


**SHEET TITLE:**

## ARCHITECTURAL ELEVATIONS

**SHEET NUMBER:**

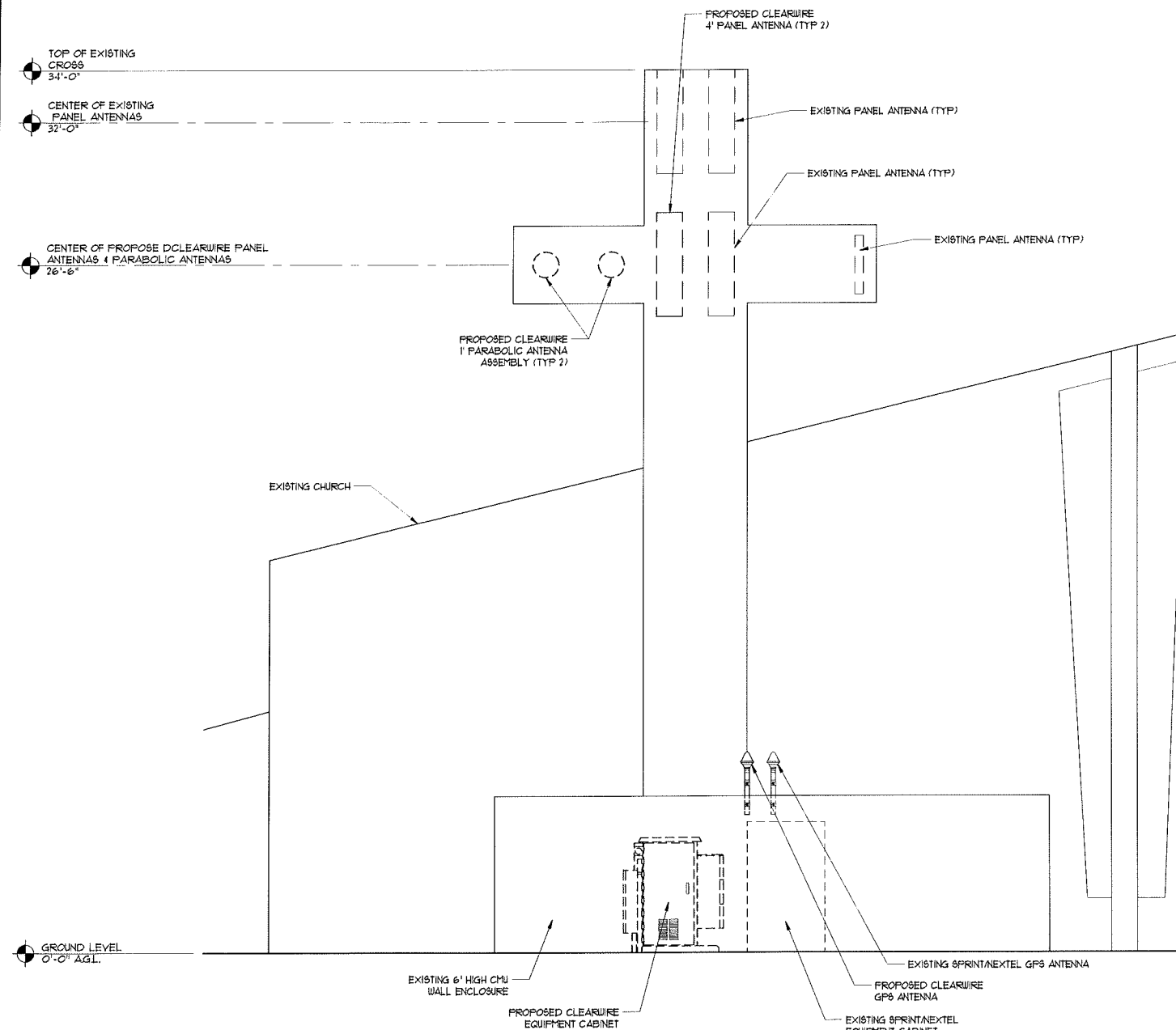
**A-3**



### SOUTHEAST ELEVATION

SCALE
$3/8" = 1'-0"$

2



### NORTHEAST ELEVATION

SCALE
$3/8" = 1'-0"$

--	--