



CITY OF SAN LEANDRO
NOV 20 2024
CITY CLERK'S OFFICE

ATTACHMENT B -
Appeal Application and
January 6 Letter
www.sanleandro.org/planning

FY 2018-2019 CITY OF SAN LEANDRO PLANNING SERVICES

PLANNING APPEAL APPLICATION TO CITY COUNCIL

City Clerk's Office | 835 East 14th Street, San Leandro, CA 94577 | (510) 577-3367

MUST BE SUBMITTED IN PERSON

General Information + Appeal Timing

Decisions of the Board of Zoning Adjustments or the Planning Commission may be appealed to City Council and are filed with the City Clerk's Office.

This appeal application must be submitted within fifteen (15) calendar days of the decision, and within ten (10) calendar days of a Tentative Map approval. If the appeal period ends on a weekend or holiday, the time limit shall be extended to the next working day.

Appeal Application + Fees

Bring the following items to the City Clerk's Office:

1. Signed and completed Appeal Application (front side.)
2. Signed and completed Agreement for Payment of Appeal Fees (back side.)
3. Check payable to City of San Leandro or credit card (with a 2.5% fee) to pay the planning deposit
4. Check payable to City of San Leandro or credit card (2.5% fee) to pay the separate \$534 city clerk fee

OFFICIAL USE ONLY

APPEAL RECEIVED

By L. Juarez & S. Bunting

Date 11/20/24

DEPOSIT PAID (attach copy of receipt)

\$ —

FEE PAID (attach copy of receipt)

\$ 569 city clerk

CC: +

Planning CAO

I wish to appeal the decision of the:

Board of Zoning Adjustments

Planning Commission

Project Address

440 Peratta Ave

Project #

PLN 23 - 0031

Date of Action

11/07/2024

Approved

Denied

Reasons for Appeal - List all grounds relied upon in making this appeal. (Attach additional sheets if necessary)

Please see Attachments

APPELLANT INFORMATION

Print Full Name Wayne Drosso

Applicant Concerned Resident Concerned Business Owner Other:

Mailing Address

523 San Leandro Blvd.

Phone #

(510) 517-9883

Address

San Leandro CA 94577

Email

dsglobal510@gmail.com

Signature of Appellant

Date

11/20/2024

19th November, 2024

The City Council,
City Clerk's Office,
835 East 14th Street,
San Leandro, CA 94577

**Sub: Appeal Against the Proposed Telecommunications
Tower at 440 Peralta Avenue (PLN23-0031)**

Honorable City Council,

I am writing on behalf of **Wayne Daniel Russo Jr.** to appeal the Planning Commission's approval of the 80-foot wireless telecommunications tower at 440 Peralta Avenue. As the property owner located at 523 San Leandro Blvd., adjacent to the proposed site, Mr. Russo Jr. is deeply concerned about the adverse effects this project will have on public health, environmental safety, and his planned residential development. The **November 7, 2024** public hearing was conducted without proper notice to affected stakeholders, including Mr. Russo Jr. As a property owner whose plans for residential condominiums and apartments will be directly impacted, he was not informed of the hearing or provided an opportunity to raise his concerns. Transparency and adequate notice are essential for fair and equitable decision-making processes. The lack of sufficient communication with local property owners undermines trust in the planning process and necessitates a reevaluation of the project's approval.

The placement of an 80-foot telecommunications tower near residential properties raises serious health concerns due to potential exposure to radiofrequency (RF) radiation. Current FCC guidelines for RF emissions, which this project relies upon, are outdated and fail to reflect modern research on long-term exposure risks. These include increased cancer risk, neurological damage, and other health issues. Future residents of Mr. Russo Jr.'s planned development at 523 San Leandro Blvd. would face significant RF exposure, which is unacceptable from a public health standpoint. Additionally, the tower's height and structure pose potential hazards in the event of earthquakes or extreme weather conditions.

The proposed tower conflicts directly with Mr. Russo Jr.'s plans to develop a six-story condominium and apartment complex at 523 San Leandro Blvd. The presence of such a structure nearby will deter potential residents, reduce property values, and create

economic challenges for the broader community. San Leandro's housing objectives emphasize the need for sustainable residential development. Approving this project undermines these goals by prioritizing corporate infrastructure over local housing needs.

Although the tower is presented as a "monopine," its height and industrial appearance are incompatible with the neighborhood's aesthetic character. Additionally, the project has not undergone a thorough Environmental Impact Report (EIR) to assess its effects on local ecosystems, energy usage, and potential noise pollution, as required under CEQA.

In light of these concerns, Mr. Russo Jr. respectfully requests that the City Council rescind the current approval and schedule a new public hearing with proper notification to all affected stakeholders. Furthermore, he urges the Council to conduct a comprehensive Environmental Impact Report (EIR) to evaluate the health, safety, environmental, and economic impacts of this project while exploring alternative locations or designs. It is also imperative to prioritize residential development goals by considering how this project conflicts with the city's housing objectives and its impact on adjacent properties.

This appeal is not an opposition to technological progress but a call for responsible urban planning. The approval of this tower at 440 Peralta Avenue poses significant risks to the community and fails to align with San Leandro's commitment to equitable and sustainable development.

All correspondence regarding this matter should be directed to **Wayne Daniel Russo Jr.** at his provided contact information, with additional legal guidance from:

Jonathan E. Madison, Esq.

The Madison Firm

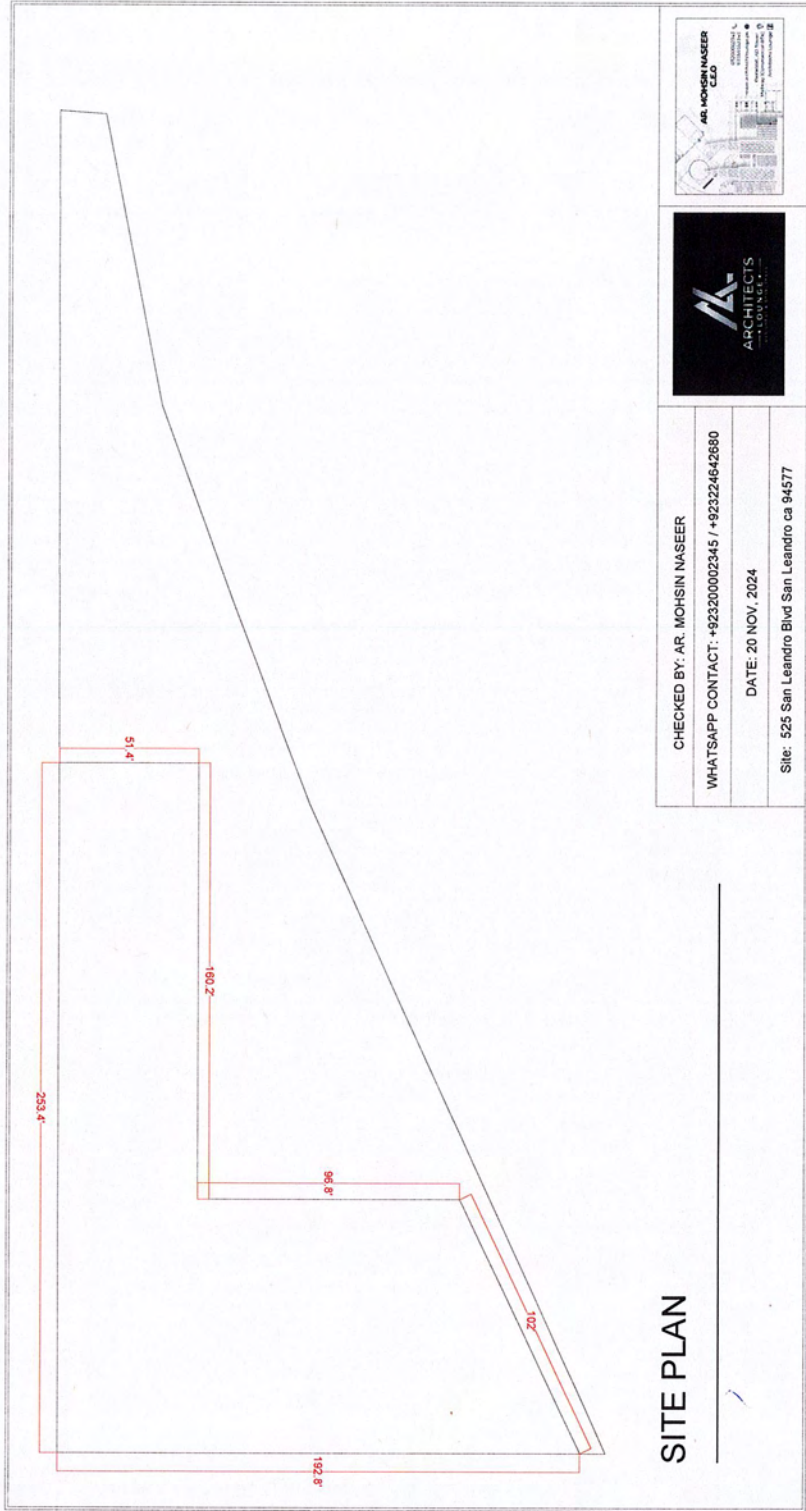
[Contact Information]

Thank you for your attention to this urgent matter.

Sincerely,

Wayne Daniel Russo Jr.

Owner, 523 San Leandro Blvd.



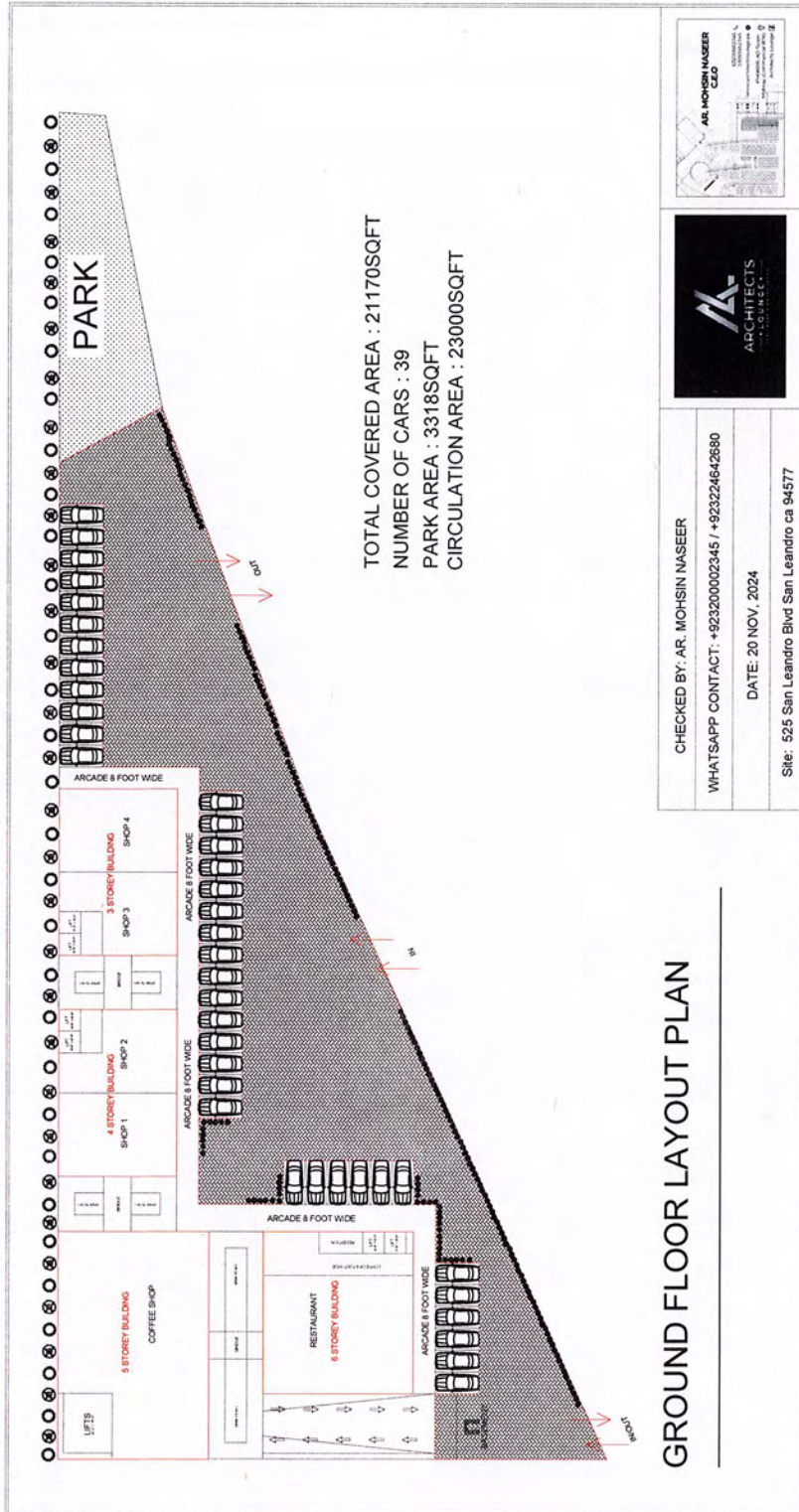
CHECKED BY: AR. MOHSIN NASEER

WHATSAPP CONTACT: +923200002345 / +923224642680

DATE: 20 NOV, 2024

Site: 525 San Leandro Blvd San Leandro ca 94577

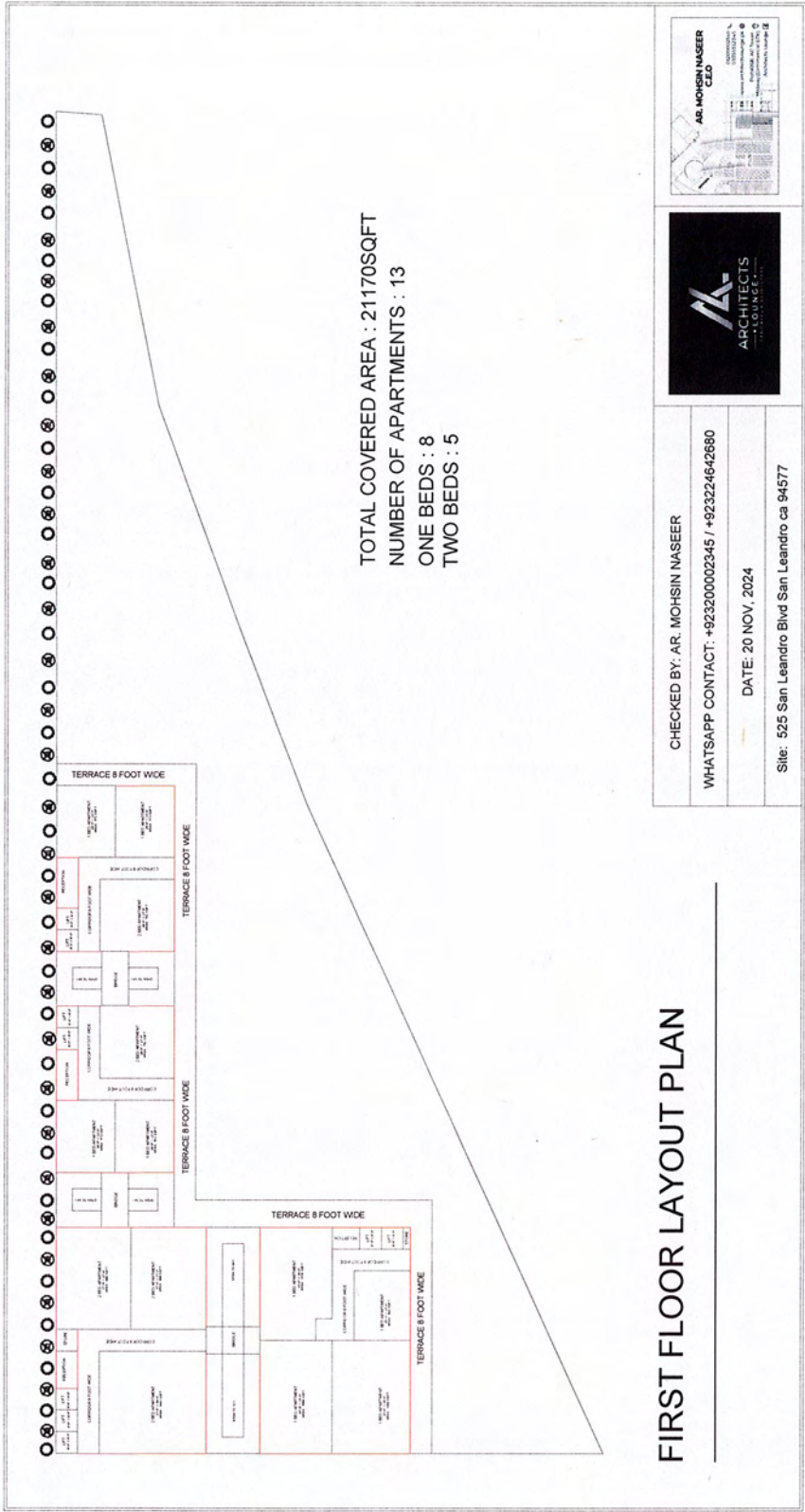




AR. MOHSIN NASEER
 CEO

ARCHITECTS
 CONSULTANTS

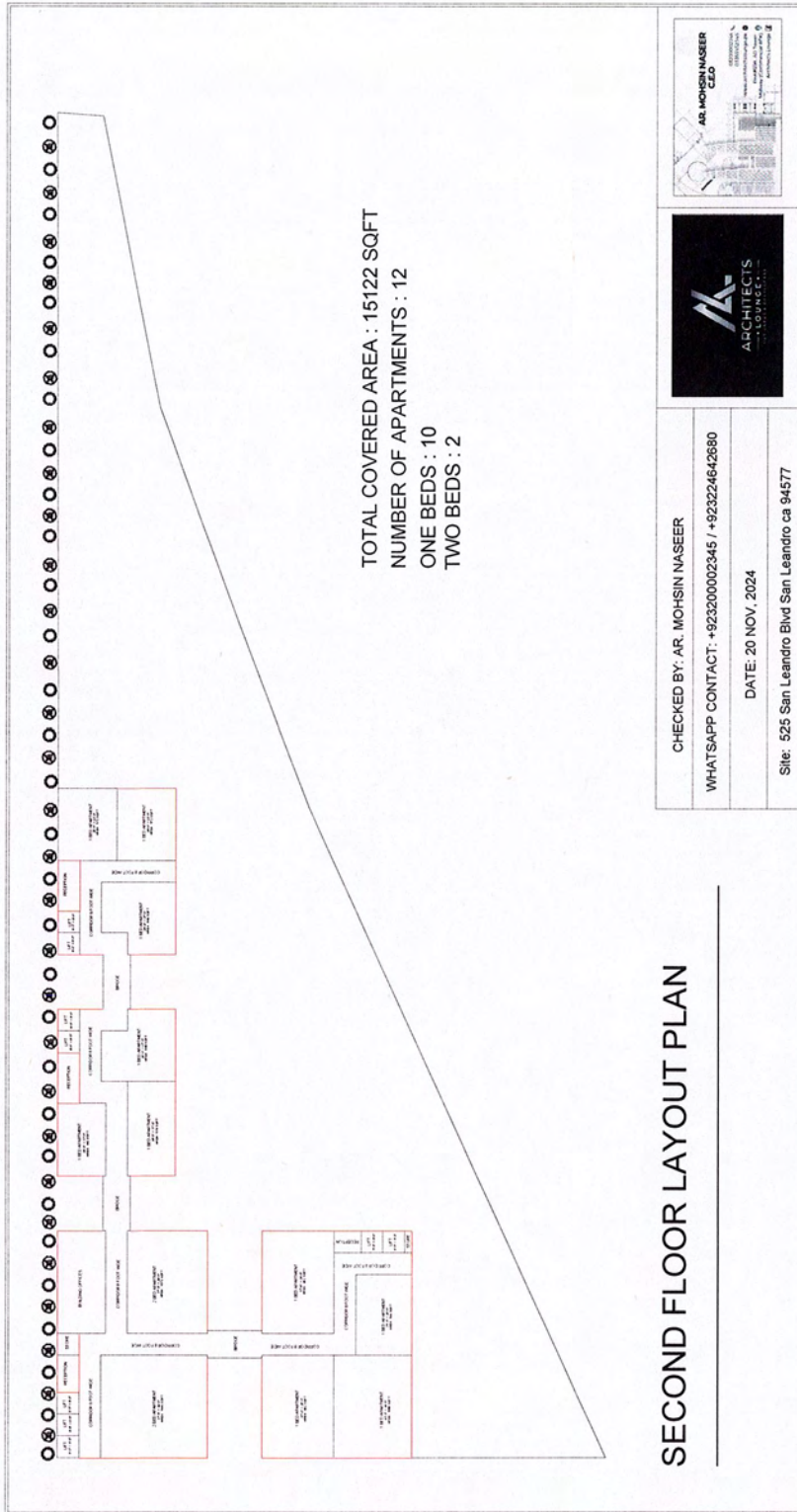
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 WHATSAPP CONTACT: +92320002345 / +923224642880
 DATE: 20 NOV, 2024
 Site: 525 San Leandro Blvd San Leandro ca 94577



FIRST FLOOR LAYOUT PLAN



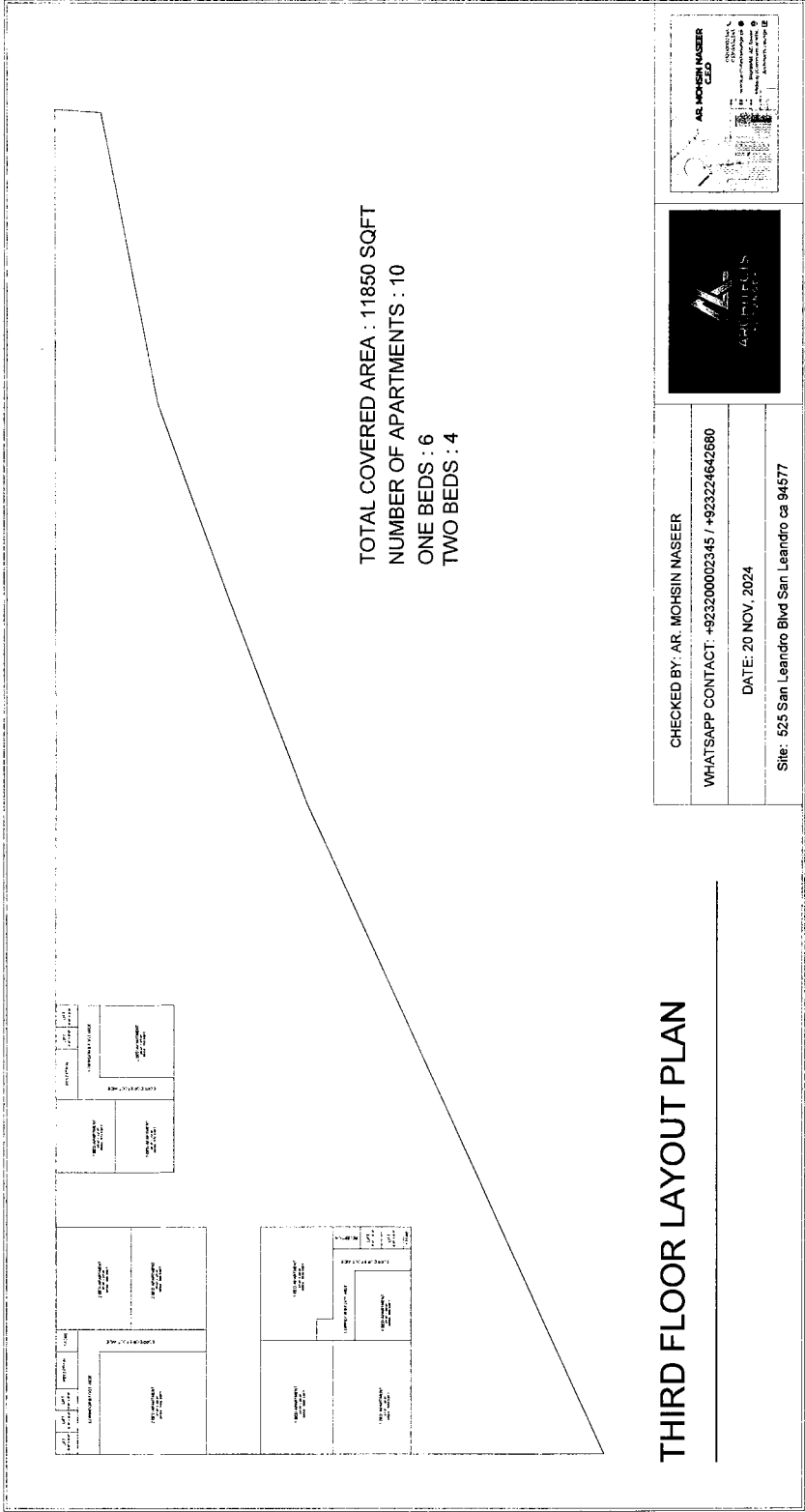
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 WHATSAPP CONTACT: +92320002345 / +923224642680
 DATE: 20 NOV, 2024
 Site: 525 San Leandro Blvd San Leandro ca 94577



SECOND FLOOR LAYOUT PLAN

CHECKED BY: AR. MOHSIN NASEER
 WHATSAPP CONTACT: +923200002345 / +923224642680
 DATE: 20 NOV. 2024
 Site: 525 San Leandro Blvd San Leandro ca 94577

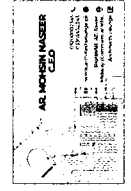


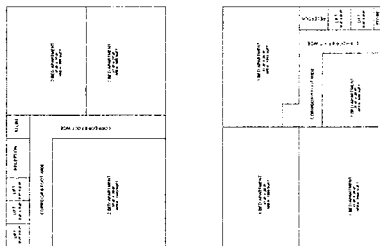


TOTAL COVERED AREA : 11850 SQFT
 NUMBER OF APARTMENTS : 10
 ONE BEDS : 6
 TWO BEDS : 4

THIRD FLOOR LAYOUT PLAN

CHECKED BY: AR. MOHSIN NASEER
 WHATSAPP CONTACT: +92320002345 / +923224642680
 DATE: 20 NOV, 2024
 Site: 525 San Leandro Blvd San Leandro ca 94577





TOTAL COVERED AREA : 9200 SQFT
 NUMBER OF APARTMENTS : 7
 ONE BEDS : 3
 TWO BEDS : 4

FOURTH FLOOR LAYOUT PLAN

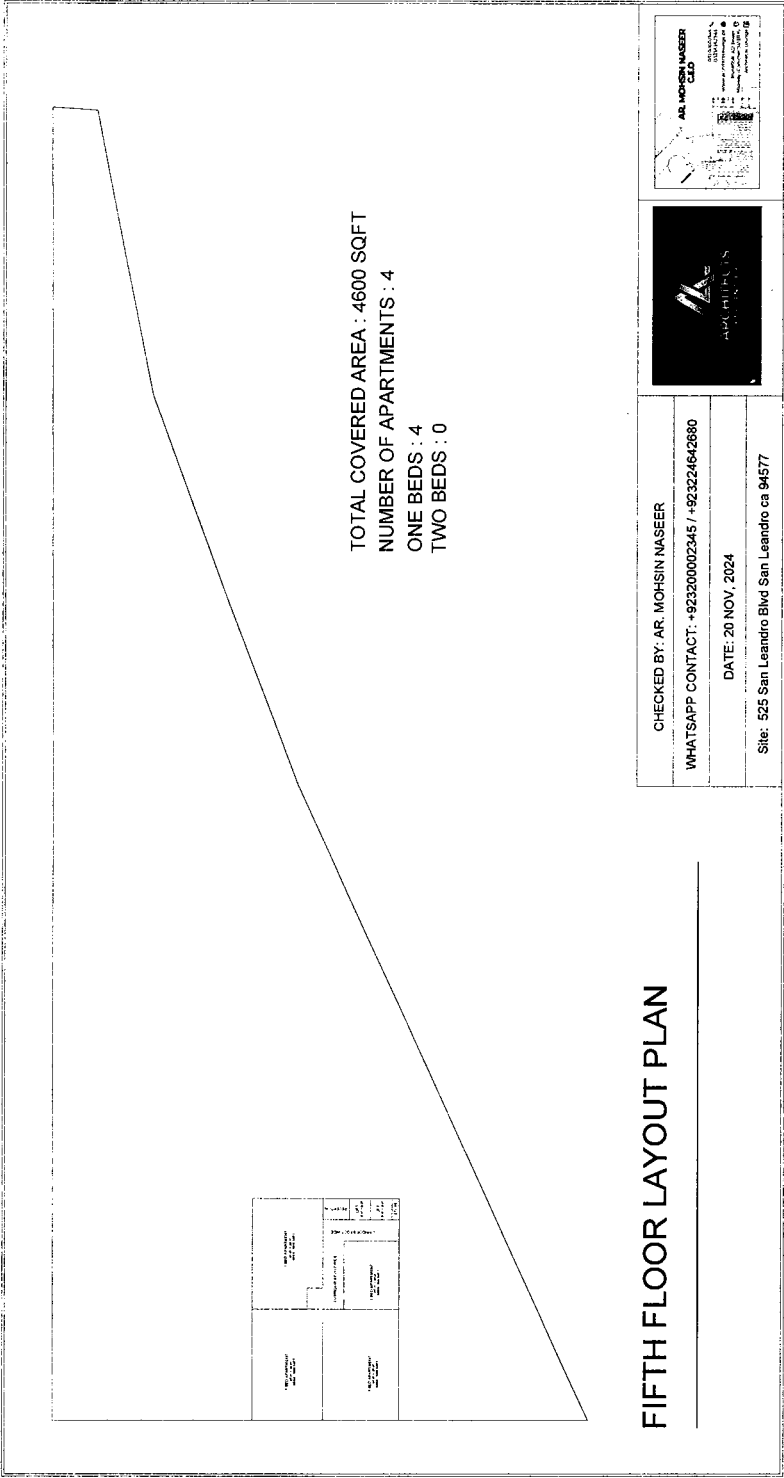
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WHATSAPP CONTACT: +923200002345 / +923224642680

DATE: 20 NOV, 2024

Site: 525 San Leandro Blvd San Leandro ca 94577





TOTAL COVERED AREA : 4600 SQFT
 NUMBER OF APARTMENTS : 4
 ONE BEDS : 4
 TWO BEDS : 0

FIFTH FLOOR LAYOUT PLAN

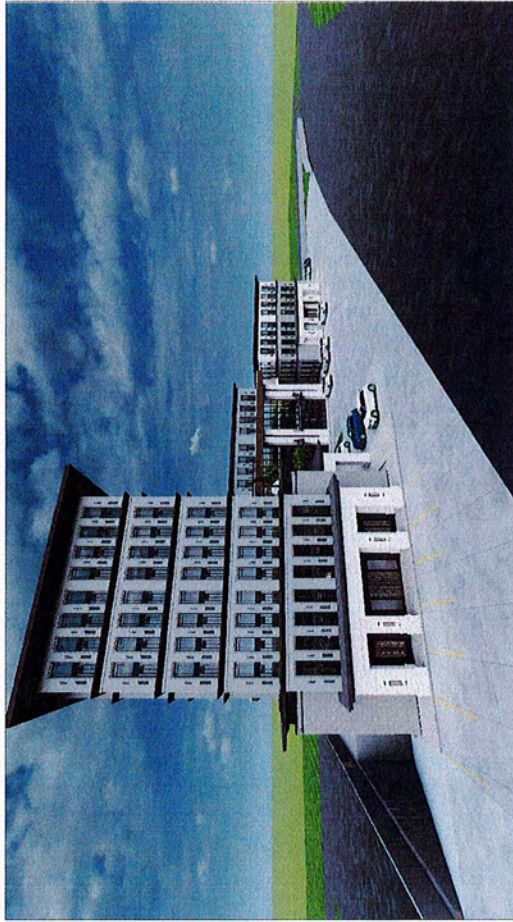
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WHATSAPP CONTACT: +923200002345 / +923224642680

DATE: 20 NOV, 2024

Site: 525 San Leandro Blvd San Leandro ca 94577





RENDER IMAGES

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DATE: 20 NOV, 2024

Site: 525 San Leandro Blvd San Leandro ca 94577





RENDER IMAGES

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Site: 525 San Leandro Blvd San Leandro ca 94577





RENDER IMAGES

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DATE: 20 NOV, 2024

Site: 525 San Leandro Blvd San Leandro ca 94577





RENDER IMAGES

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WHATSAPP CONTACT: +923320002345 / +923224642680

DATE: 20 NOV, 2024

Site: 525 San Leandro Blvd San Leandro ca 94577



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Berkeley, CA 94704
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Email: astrauss@greenfirelaw.com
www.greenfirelaw.com

January 5, 2025

By Electronic Mail

To: Mayor Juan González III, Vice Mayor Fred Simon, Councilmember Victor Aguilar, Jr., Councilmember Bryan Azevedo, Councilmember Dylan Boldt, Councilmember Xouhoa Bowen and Councilmember Sbeydeh Viveros-Walton (CityCouncil@sanleandro.org)

From: Ariel Strauss, Of-Counsel, Greenfire Law, P.C., on behalf of Wayne Daniel Russo, Jr.

Subject: *Letter Detailing Basis to Deny a CUP for 80-Foot Macro Tower on 440 Peralta Ave. (Agenda Item 8a)*

Dear Honorable Mayor González, Vice Mayor Simon and Councilmembers Aguilar, Azevedo, Boldt, Bowen and Viveros-Walton:

Through Greenfire Law, P.C., I am legal counsel to Wayne Daniel Russo, Jr., the owner of 523 San Leandro Blvd., in connection with appeal of the Conditional Use Permit (PLN23-0031) for a new 80-foot AT&T Wireless Telecommunications Facility applied for by Tower Engineering Professionals (the Applicant) for 440 Peralta Ave. My practice specializes in land use and telecommunications law. I am writing to request that the City uphold the appeal and deny the CUP because the tower as proposed is inconsistent with the City's General Plan and federal law does not obligate the City to approve the facility.

Mr. Russo's appeal raised the following objections in his notice of appeal:

- 1) Denial of due process due to failure to receive notice of the Planning Commission hearing.
- 2) Allowing the propagation of radiofrequency emissions (RF) in excess of the human exposure limits set by the Federal Communication Commission (FCC) at the altitude of intended residential development is unacceptable from a public health standpoint, deter potential residents, reduce property values and interferes with the City's housing objectives.

- 3) The tower's height and structure pose potential hazards to adjacent development in the event of earthquake or extreme weather conditions.
- 4) The height and industrial appearance of the so-called monopine is compatible with aesthetic character of the area.
- 5) The tower will interfere with Mr. Russo's right to construct an intended residential mixed-use project.
- 6) The tower is not eligible for a CEQA small structure exemption.

In short, the tower “conflicts with the city's housing objectives and [imposes inappropriate] impact on adjacent properties.”

This letter provides additional detail concerning several of the issues identified in the appeal notice. In order to assist the Council, I retained Robert C. Ross of Center for Municipal Solutions, a telecommunications expert who is the outside reviewer of wireless facility applications for multiple cities, to provide an opinion regarding the application. His report is included as Attachment A.

I. Mr. Russo’s due process rights were violated by failure to provide him notice prior to the Planning Commission hearing.

The application materials show Mr. Russo’s property as within 500 feet of the project site but it does not include a proof of service or list of the addresses to which notices were sent. Mr. Russo never received any notification regarding the original application but only discovered by chance after the Planning Commission had issued its decision on November 7, 2024. As a result, he did not have an opportunity to participate in the Planning Commission hearing and is engaging with the City now at the earliest practical moment. Given the impact to his property from the RF emissions in his airspace exceeding FCC levels, as well as other issues, that interfere with

development of his property, this lack of notice violated his due process rights.¹ Mr. Russo appreciates the opportunity to now bring these problems to the City Council’s attention.

II. The telecommunications service provider is AT&T, not FirstNet.

The first page of the Project Narrative describes the facility as a “FirstNet/AT&T/Public Safety Facility/wireless tower.” However, the application afterward only discusses the FirstNet aspect without sufficiently explaining what it is. FirstNet is a subscription plan that AT&T offers to individuals associated with emergency services. This service is built off of AT&T’s towers and utilizes AT&T’s other towers. As a result, lack of a “FirstNet” tower in this area is not indicative of lack of service for FirstNet subscribers. Mr. Ross in his report offers further detail on of FirstNet.

AT&T seems to attempt to obscure that most of the antennas on the tower have nothing to do with FirstNet and are regular “AT&T LTE-5G commercial facilities.”² FirstNet utilizes what is known as Band 14, which is a portion of the 700 MHz spectrum.³ According to the Antenna Inventory on in the Waterford EME Report, AT&T proposed to add more antennas for bands other than the 700MHz used by FirstNet (i.e., 850 MHz, 1900 MHz, 2100 MHz, 2300 MHz, 3500 MHz and 3700 MHz), than FirstNet-specific bands.

¹ See *Horn v. County of Ventura* (1979) 24 Cal.3d 605, 614; *GTE Mobilenet of Cal. v. Berkeley*, Case No. 20-cv-05460-DMR, fn. 17 (N.D. Cal., March 27, 2023) (recognizing applicability of Horn to cell towers when they are nearby and impact the neighbor); California Land Use Practice (Cal. CEB 2024) §4.33.

² Application Attachment C, p. 1.

³ <https://www.digi.com/blog/post/what-is-firstnet-band-14>.

3 Antenna Inventory

Ant #	Operator	Antenna Make	Pattern	Type	Freq (MHz)
1	AT&T	QUINTEL	QD6612-3D V1	Panel	700
1	AT&T	QUINTEL	QD6612-3D V1	Panel	850
1	AT&T	QUINTEL	QD6612-3D V1	Panel	1900
1	AT&T	QUINTEL	QD6612-3D V1	Panel	2100
2	AT&T	ERICSSON	SON AIR6449 NR TB 05.17.22 3700 AT&T	Panel	3700
3	AT&T	ERICSSON	SON AIR6419 NR TB 05.17.22 3700 AT&T	Panel	3500
4	AT&T	QUINTEL	QD6616-7 V1	Panel	700
4	AT&T	QUINTEL	QD6616-7 V1	Panel	700
4	AT&T	QUINTEL	QD6616-7 V2	Panel	2300
5	AT&T	QUINTEL	QD6612-3D V1	Panel	700
5	AT&T	QUINTEL	QD6612-3D V1	Panel	850
5	AT&T	QUINTEL	QD6612-3D V1	Panel	1900
5	AT&T	QUINTEL	QD6612-3D V1	Panel	2100
6	AT&T	ERICSSON	SON AIR6449 NR TB 05.17.22 3700 AT&T	Panel	3700
7	AT&T	ERICSSON	SON AIR6419 NR TB 05.17.22 3700 AT&T	Panel	3500
8	AT&T	QUINTEL	QD6616-7 V1	Panel	700
8	AT&T	QUINTEL	QD6616-7 V1	Panel	700
8	AT&T	QUINTEL	QD6616-7 V2	Panel	2300
9	AT&T	QUINTEL	QD6612-3D V1	Panel	700
9	AT&T	QUINTEL	QD6612-3D V1	Panel	850
9	AT&T	QUINTEL	QD6612-3D V1	Panel	1900
9	AT&T	QUINTEL	QD6612-3D V1	Panel	2100
10	AT&T	ERICSSON	SON AIR6449 NR TB 05.17.22 3700 AT&T	Panel	3700
11	AT&T	ERICSSON	SON AIR6419 NR TB 05.17.22 3700 AT&T	Panel	3500
12	AT&T	QUINTEL	QD6616-7 V1	Panel	700
12	AT&T	QUINTEL	QD6616-7 V1	Panel	700
12	AT&T	QUINTEL	QD6616-7 V2	Panel	2300

Yet, the application does not claim any gap in other bands used for conventional commercial service.

III. San Leandro emergency communications are not provided by FirstNet.

The applicant contends that the tower will enhance telecommunication services for emergency responders. However, FirstNet does not actually provide direct service to San Leandro emergency service providers. That is entirely the responsibility of the East Bay Regional Communications System Authority (EBRCSA).⁴ AT&T is trying to use this site to sell private communication services to first responders as part of their FirstNet service plan and to add antennas for its conventional AT&T customers. There is no demonstrated public safety need for this site.

IV. The proposed tower is inconsistent with General Plan Policies and Goals.

The most important problem with this application is that the tower is incompatible with the General Plan. The Planning Commission resolution considered only three goals and policies of the

⁴ <https://ebrcsa.org/about/participating-agencies.page>.

General Plan Community Services and Facilities Element. However, its resolution entirely failed to analyze compatibility with any of the other goals and polices in the Housing Element and Land Use Element impacted by the proposed macro tower. Both the proposed site and Mr. Russo's property are zoned Transit-oriented mixed use, which constitute only 1.9% of the City's land area.⁵ These scarce locations present particularly valuable opportunities for infill development.

Relevant General Plan provisions include:

- Transit-Oriented Mixed Use: "The purpose of this designation is to provide for a mix of high-intensity land uses that capitalize on proximity to the San Leandro BART station. This designation maximizes the potential for transit-oriented infill development and achieves compatible transitions to adjacent residential districts through design standards and zoning."⁶
- Land Use Policy LU-3.4 Promotion of Infill. Encourage infill development on vacant or underused sites within residential and commercial areas.
- LU-6.9A Taller buildings are encouraged in the area west of the station.
- Housing Element Policy P.1.2 Provide and Maintain Adequate Sites to Accommodate the RHNA. The City shall maintain appropriate land use designations and densities to accommodate an increased supply of housing units by type, cost, and size to meet its share of the regional housing need in alignment with citywide housing priorities.
- Policy P.1.4 Facilitate Infill Development. The City shall utilize infill development strategies to support neighborhoods and living environments that are served by public transit and services and are conducive to public health and wellness.

In order to issue a conditional use permit, the City must be able to make both of these findings:⁷

That the proposed location of the use is in accord with the objectives of this Code and the purposes of the district in which the site is located; [and]

That the proposed location of the use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing, or working in, or adjacent to, the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity, or to the general welfare of the City[.]

⁵ General Plan at 3-22.

⁶ Id. at 3-29.

⁷ San Leandro Municipal Code § 5.08.124(A)(1),(2).

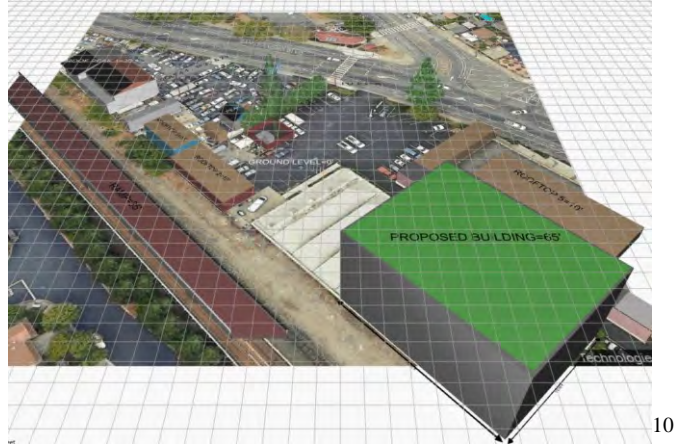
Additionally, specifically for wireless communication facilities, it is appropriate for the City to consider “Visual and other potential impacts to surrounding land uses.”⁸

The construction of the macro tower in this location is not “in accord” with the purposes of the transit-oriented mixed use district because it interferes with “high-intensity land uses.” It is also contrary to Housing Element policies to support “accommodate[ing] an increased supply of housing units.” Even if 440 Peralta, in theory, can still be built with the number of dwelling units forecasted by General Plan, the tower renders large swaths of that property, the appellant’s property, 523 San Leandro Blvd. and 695 San Leandro Blvd., the current self-storage site nestled within the “L” of the project site,⁹ essentially unbuildable above approximately three or four stories. It makes it impossible to “*maximize[]* th[ier] potential for transit-oriented infill development.” It does not “encourage infill development on . . . underused sites” such as tow yards and self-storage. For basic safety and physical placement reasons, developers now have to design not around the natural site constraints and opportunities but to contend with an 80-foot industrial obstruction and its emissions.

Note how the EME Report shows future development on subject property shoved into the corner, with significant “dead space” between it and the tower, to avoid unsafe levels of RF:

⁸ Id. § 4.04.376(K).

⁹ See Application, Attachment 5, p. 15, showing the nearby 10-foot-tall roof of 695 San Leandro Blvd. at 9.7% of allowable RF exposure. Because the inverse-square law governs radiation power, tripling the height to even 30 feet will increase RF exposure many-fold, likely placing it in excess of safe levels for occupants.



While the application site owner can accept this short-sighted devaluation, it is not appropriate to impose similar impacts on 523 San Leandro Blvd. and 695 San Leandro Blvd. It will be detrimental to properties in the vicinity and will frustrate General Plan goals for Mr. Russo's property by locking in the low-value land uses that exist there presently, preventing high-quality, dense, transit-oriented in-fill development.

As discussed in Mr. Ross' report, the applicant's EME Report demonstrates that RF emissions will exceed FCC limits well within Mr. Russo's property line and below the 65-foot maximum height allowed in the D-2 zone. It is rare for a site design to project FCC-exceeding levels of RF into buildable areas of a neighboring property. The reason for this occurring here is partly because FirstNet facilities operate "at the highest allowable power levels (Power Class 1)."¹¹ Such towers are not appropriate in all locations. The current tenants on Mr. Russo's property have month-to-month leases and Mr. Russo's plans, unless the tower prevents this, to move forward in the near future with the project. The tower would render infeasible the mixed-use condominium project described in the appeal letter.¹²

¹⁰ Application, Attachment 5, p. 19.

¹¹ <https://www.firstnet.com/coverage/band-14.html>.

¹² Mr. Russo's design is preliminary and he commits to working with the City to obtain relevant input and meet the applicable policies and goals of the General Plan.

Planning Commission resolution requirements number 57 and 58 purport to address concern about future RF exceedances affecting residents of Mr. Russo's property. However, this not sufficient in practice. Under SB 330, Mr. Russo has a ministerial right to build a residential development on his property up to the property line and up to 65-feet.¹³ By allowing AT&T to invade Mr. Russo's buildable airspace with FCC-exceeding levels of RF, the City is authorizing a de facto trespass that is devaluing the property. This is a form of regulatory taking and setting up the City for a lawsuit and a conflict between the property rights of the neighbor and AT&T. Authorizing this tower is like allowing a factory or oil refinery to be built with condition that the smoke and noise will be reduced if neighbors move next door. This is not a reasonable thing to do, particularly when the zoning and General Plan intend to prioritize the infill, not cell towers.

As legal counsel for lenders and borrowers closing loans on hundreds of multifamily residential developments, I know that lenders, especially the Department of Housing and Urban Development's Federal Housing Administration (FHA) that insures many multifamily loans, particularly subsidized loans for affordable housing, are risk adverse and would be wary of committing to finance construction of a site with this type of environmental condition. Any developer would need to negotiate the design of the building with the tower owner and then establish a sufficient RF monitoring regimen. This is very burdensome and will make development much more costly. AT&T's ability to remotely, mechanically adjust the power setting and angle of the antennas, as discussed in Mr. Ross' report, would make a lender, liability insurer a developer very hesitant to go forward with this project.

¹³ See San Leandro Municipal Code §§ 2.08.312 (DA-2 maximum height limit is 65 feet or seven stories); 2.08.308 (no yard setback requirement in DA-2 zone).

Mr. Ross' report also explains that, to comply with FCC RF standards, significant portions of the tower would have to be shut down altogether if multi-story buildings are constructed on the neighboring properties. It is not sensible to approve a large tower of this type to only render it largely unusable when the surrounding land uses are properly improved as desired by the General Plan. This is particularly paradoxical because the tower appears to be designed to serve a growing nearby population but such service will be infeasible from this location if it is curtailed to avoid unsafe RF exposure to adjacent residents.

The Housing Element, housing opportunity site analysis, attached as Attachment B, anticipates that the property proposed for the cell tower and the appellant's property "is lot consolidation potential[.]" Placing the tower in along the lot line makes that impossible. Even if the RF issue was addressed, the location of the tower structure, which exceeds the normal, allowable height for a building in the zone, would have a detrimental impact to the southern views of future occupants of Mr. Russo's property and, given the southern sun exposure, cast a long shadow over the site.

The City must also recognize that, once it approves this facility, under federal law, the site owner or a future wireless service provider can increase the height of the tower by up to 20-feet as a matter of right, provided the expansion is clad with the same faux tree materials.¹⁴ Plainly, this is not an intelligent location for this macro tower.

V. The tower should be built to public safety standards.

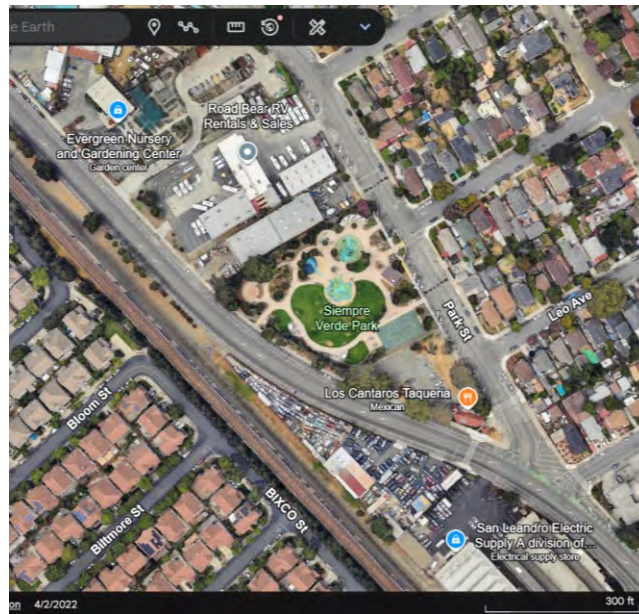
The appeal expresses concern that the tower's height poses a risk to adjacent properties in the event of earthquake or high winds. As explained by Mr. Ross, towers intended for public safety purposes are subject to special engineering standards known as APCO ANS 2.106.1-2019. The

¹⁴ 47 C.F.R § 1.6100(b)(7).

plans and specifications do not describe the tower meeting these standards. If the City is to approve the tower, it should require that it be constructed to meet the standards applicable to the purpose for which the applicant asserts it is intended.

VI. Placement of the tower on the north end of Mr. Russo’s parcel would avoid the most severe adverse impacts.

The applicant claims that it contacted the owners of several industrial parcel owners near the northern edge of Mr. Russo’s parcel. For instance, it claimed that placement in the Siempre Verde Park or Road Bear RV Rental & Sales would not meet coverage objectives but that the issue with Evergreen Nursery was that the owner was not interested.¹⁵ Given the close proximity of all these parcels to one another and to the proposed site, it is not self-evident who the rejected sites were not feasible.



AT&T does not demonstrate that it offered commercially reasonable terms to the property owners. It also does not discuss if the “feasibility” issue was the specific height to which the tower could be built on those locations. AT&T should provide examples of the coverage that

¹⁵ Application, Attachment 7, Alternative Site Analysis, p. 3.

could have been obtained from these industrial-zoned areas where new towers are allowed without a CUP.¹⁶

It is also inappropriate that AT&T did not approach Mr. Russo about using his property for the tower. While Mr. Russo objects categorically to the proposed tower and believes it must be denied as incompatible with the City's General Plan, he would be willing to host a macro tower on the northern edge of his property if there is no other feasible location in the vicinity and the applicant offered commercially reasonable terms and a sensible design.



That location would be sufficiently distant from the buildable portion of his lot and also avoid projecting RF emissions on to any other buildable parcel and would focus more of the visual impact on industrial parcels. As I was only retained late last week, I left a voicemail message and sent an email to the applicant on Friday seeking to discuss a potential resolution but have not heard back as of submittal of this letter. The City should not approve a tower in the proposed location in light of an unconsidered, far superior feasible alternative.

VII. Declaring no “LTE 700” does not demonstrate a lack of LTE service to AT&T/FirstNet customers.

¹⁶ See San Leandro Municipal Code § 4.04.376, Table 1.

AT&T has provided a map showing lack of *in-building* “LTE 700 coverage.”¹⁷ This concedes that there is *outdoor* LTE 700 coverage. According to AT&T:

LTE allows the following benefits, at much faster speeds:

- Stream your favorite movies.
- Download and view HD movies.
- Download songs in a few beats.
- Share photos in a flash.
- Watch live TV in HD.
- Play multiplayer online games.¹⁸

AT&T explains LTE on its website:¹⁹

With 4G Long Term Evolution (LTE²) technology, we can meet your demands to access a variety of content over our mobile network. We use a variety of technologies and frequencies to support our network. Some areas within a market may have different spectrum portfolios depending on the area and the license they own. Our 4G LTE network is composed of the following bands:

- 700 MHz: Bands 12/17/29
- 850 MHz: Band 5
- 1900 MHz: Band 2
- 1700 MHz /2100 MHz: Bands 4/66
- 2300 MHz: Band 30

As you can see, 700 MHz is only *one* band on which it provides LTE-type services. AT&T has not explained in any way how significant it would be to have allegedly less “LTE 700” in-building coverage or what the actual cell signal strength would be in those areas.

Moreover, because FirstNet subscribers have access to AT&T’s full network, they have the same coverage as AT&T’s customers.

The FirstNet and Family plan gives you the best of two networks to keep your worlds connected. First responders and the extended public safety community get the mission-critical wireless network and prioritized connectivity of FirstNet, and families get to save 25%* on the world-class connectivity of AT&T.²⁰

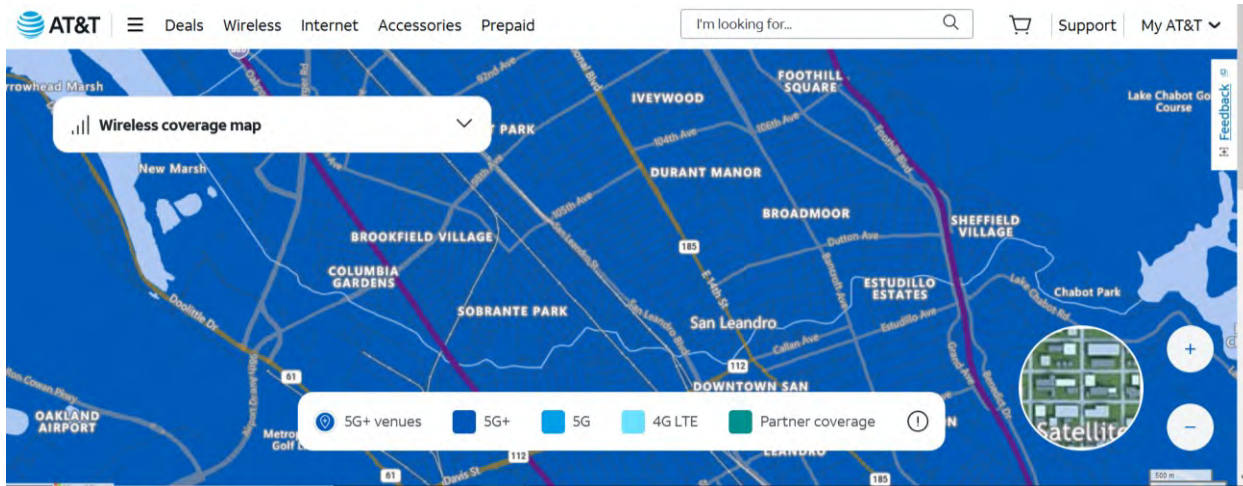
Here is a copy of the coverage map for this area provided on AT&T’s website:

¹⁷ Application, Attachment C, p. 5.

¹⁸ <https://www.att.com/support/article/wireless/KM1008740>.

¹⁹ <https://www.att.com/support/article/wireless/KM1008740>.

²⁰ <https://www.firstnet.com/faq.html>.



Given the misleading focus on LTE 700 in-building coverage, there is no factual basis for the finding in the Planning Commission resolution that DA-2 residents “would benefit from the improved wireless telecommunications service that the project would provide.”

In 2023, in *New Cingular Wireless PCS, LLC v. City of W. Covina*,²¹ a federal judge granted summary judgment West Covina and against AT&T because there, AT&T “declined to supply information regarding the number of residents who might benefit from the Proposed Facility.” Here too we do not know anything about the number or needs of any FirstNet subscribers in the area. The Ninth Circuit has required applicants to assess the quality of service “relative to the coverage available from existing WCFs”²² and demonstrate factually that the existing equipment actually is unable to provide the services that were needed.²³

The Applicant concedes that there is an AT&T macro towers within close proximity to the site.²⁴ The Applicant has not explained whether customers can receive LTE service from one of

²¹ No. 2:22-cv-01642-MEMF-JCx, 2023 U.S. Dist. LEXIS 118114, at *29-30 (C.D. Cal. July 10, 2023).

²² *Sprint PCS Assets, L.L.C. v. City of Palos Verdes Estates*, 583 F.3d 716, 727 (9th Cir. 2009) (questioning whether the Telecommunications Act’s “anti-prohibition language even covers situations, like that presented here, in which a telecommunications service provider seeks to replace existing WCFs, as contrasted with the more typical situation in which the provider seeks to construct new WCFs.”).

²³ *Id.* at 728.

²⁴ Application, Attachment C, p.4.

the other four bands that it utilizes. To demonstrate a deficit, the applicant must show how the functional service to be provided will actually be *significantly* better than whatever high-speed broadband AT&T is offering now. AT&T has not made any effort do this and hence has not carried its burden of needing this tower.

VIII. The Applicant has not proven that federal law requires approval of the application.

A. LTE is not “personal wireless services” and therefore declining to approve the CUP cannot violate federal law.

The federal Telecommunications Act of 1996 overrides local zoning authority when the local law has the “effect of prohibiting the provision of personal wireless services.”²⁵ The statute defines personal wireless service to be “commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services.”²⁶ In short, Congress only intended to enable wireless carriers to override local zoning regulations as necessary to assure voice calls provided by the carrier. On January 2, 2025, the Sixth Circuit confirmed this interpretation, holding that “mobile broadband does not qualify as 'commercial mobile service' under § 332(d)(1)” with the result that mobile broadband is not a form of “personal wireless services.”²⁷

AT&T claims there is a gap in in-building LTE 700 service. In addition to the misleading, confusing and irrelevant emphasis on a “gap” in a particular band of coverage as discussed above, LTE is a form of mobile broadband used by smartphones. The first page of the Project Narrative states that the purpose of the facility is to offer “FirstNet broadband.” “Improved capacity and speed are desirable (and, no doubt, profitable) goals in the age of smartphones, but they are not

²⁵ 47 U.S.C. § 332(c)(7)(B)(i)(II).

²⁶ Id. § 332(c)(7)(C)(i); see also, 47 U.S.C. §§ 332(c)(7)(C)(iii) (defining “unlicensed wireless service” with reference to “telecommunications services”), 153(33) (defining “mobile service” with reference to “radio communication service”), 153(20) (defining “exchange access”).

²⁷ *Ohio Telecom Assoc. v. FCC*, Case No. 24-7000 (6th. Cir. Jan. 2, 2025), available at <https://www.opn.ca6.uscourts.gov/opinions.pdf/25a0002p-06.pdf>.

protected by the [Telecommunications] Act.”²⁸ Consequently, the applicant has not carried its burden of proving that the denial of the application would result in a violation of federal law.

B. The Applicant has an alternative site from which it could provide the same coverage.

Even if LTE 700 is a form of “personal wireless services”, which it is not, federal laws only allows overriding local zoning when there is an “effective prohibition” of personal wireless services.²⁹ Determining whether the City’s standards would impose an effective prohibition “involves a two-pronged analysis requiring (1) the showing of a 'significant gap' in service coverage” and (2) some inquiry into the feasibility of alternative facilities or site locations.”³⁰ The feasibility prong is evaluated under a “least intrusive means” test, which “requires that the provider show that the manner in which it proposes to fill the significant gap in services is the least intrusive on the values that the denial sought to serve.”³¹ The Ninth Circuit has explained that federal law “does not guarantee wireless service providers coverage free of small ‘dead spots.’”³² Without defining the “nature and character of that area or the number of potential users in that area who may be affected by the alleged lack of service[,]” AT&T provides no context or point of departure for a meaningful discussion of alternatives.³³ For instance, could the need be met with multiple small cells? Why did AT&T constrain its search to the six sites listed in its Alternative Analysis? Moreover, because the Applicant failed to even consider the site next door, where Mr. Russo is

²⁸ *Exenet Sys., Inc. v. Vill. of Flower Hill*, 617 F. Supp. 3d 125, 131 (E.D. N.Y. 2022) (holding no right of Verizon to provide 4G LTE service given customers had sufficient signal strength to make voice calls).

²⁹ 47 U.S.C. § 332(c)(7)(B).

³⁰ *MetroPCS, Inc. v. City & County of San Francisco*, 400 F.3d 715, 731 (9th Cir. 2005).

³¹ *T-Mobile USA Inc. v. City of Anacortes*, 572 F.3d 987, 995 (9th Cir. 2009).

³² *MetroPCS, Inc.*, 400 F.3d at 733.

³³ *Sprint PCS Assets, L.L.C. v. City of Palos Verdes Estates*, 583 F.3d 716, 727 (9th Cir. 2009), quoting *Powertel/Atlanta, Inc. v. City of Clarkston*, No. 1:05-CV-3068, 2007 WL 2258720, at *6 (N.D.Ga. Aug.3, 2007).

expressing willingness to host a cell site on the portion of his property that would avoid interference with residential uses, clearly the applicant cannot demonstrate that denial of this site would result in an “effective prohibition.”

The Staff Presentation states: “If provider’s documentation shows proposed facility would close a significant coverage gap, City must allow facility if provider demonstrates it made a good faith effort to identify and evaluate feasible alternative locations.” AT&T did not demonstrate that there is any gap in LTE coverage, it did not demonstrate that LTE coverage is a form of “personal wireless services” under federal law or that it cannot meet the proposed gap through other means, such as small cells or the neighboring property. As a result, the City is not forced by federal law to approve this application.

IX. The Staff presentation is incorrect that the FCC prohibits the City from considering RF emissions in this situation.

The Staff presentation states that “Cities are prohibited from establishing different standards or denying a project due to RF emissions concerns if project complies with the FCC’s standards.” This is not fully descriptive of the instant situation. Applicant concedes that the tower will result in exceedance of the FCC limits in buildable areas of adjacent properties. Typically, cities have run afoul of federal law by considering diminution in property values that are a proxy for fear of health impacts of *FCC-compliant* levels of RF emissions.³⁴ But, a city may properly consider the reduction of property values that are caused by RF emissions that *exceed* FCC regulations and impact the realistic usability of the site. As discussed above, those exceedances will reliably and foreseeably diminish property values.

³⁴ See, e.g., *California RSA No. 4 v. Madera County*, 332 F. Supp. 2d 1291, 1310 (ED Cal. 2003); *Sprint Spectrum LP v. Willoth*, 176 F. 3d 630, 646-47 (2d Cir. 1999).

X. The 80-foot macro tower with diesel generator does not qualify for a Class 3 CEQA Exemption.

The Planning Commission approved an exemption to the California Environmental Quality Act (CEQA) under CEQA Guidelines section 15303. However, the Staff Report and the Planning Commission offer no discussion of why this it is appropriate here. The exemption applies to the

construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.

In the case of *Don't Cell Our Parks v. City of San Diego*, this CEQA exemption was upheld for a 35-foot faux tree antenna tower hidden in a stand of taller trees in a city park because it was “much smaller than a single-family residence, store, motel, office or restaurant[.]”³⁵ However, unlike the 35-foot disguised tower among trees at issue in *Don't Cell Our Parks*, AT&T's proposed facility is much larger and not hidden among any trees. It is conspicuous from many residential properties, to future neighboring residents and to riders of BART. It also can pose air quality and noise impacts from the 30kW diesel generator.³⁶

AT&T's tower, by virtue of its size and position, is also even more out of place with the surrounding environment than the installations denied in the 2022 case of *Saint Ignatius Neighborhood Association v. City & County of San Francisco*. There, the court of appeal explained that this CEQA exemption cannot be used to exempt 90-foot-tall light standards because they

are significantly taller than any other structure in the neighborhood, the city's zoning ordinance limits residential buildings in the area to 40 feet tall and typical streetlights are only 25 to 30 feet tall. . . The cell tower [in the *Don't Cell Our Parks* case] was small within its setting, unlike the light standards at issue here which will be by far the tallest structure

³⁵ *Don't Cell Our Parks v. City of San Diego* (2018) 21 Cal. App. 5th 338, 359-360.

³⁶ Application, Attachment 1, Exhibit C, Sheet C-5.

in the surrounding area. They are not small within the environment but instead tower over it.³⁷

The court also specifically pointed out that “residential and commercial structures listed in the guideline are subject to applicable zoning requirements, which ensure their height will be generally consistent with the surrounding neighborhood.”³⁸ Here too, surrounding structures are limited while the cell tower is not.³⁹ While AT&T’s 80-foot tower is slightly shorter than 90 feet, it has the potential to grow 20 feet under federal law (as discussed above).

When a project entails a “feature that distinguishes it from others in the exempt class” it does not qualify for the exemption.⁴⁰ The excessive height of the AT&T facility in this specific zone and diesel generator makes this project clearly ineligible for the Section 15303 CEQA exemption.

XI. Conclusion

As described in Mr. Russo’s notice of appeal, the report by Mr. Ross and this letter, the application is deficient in many serious respects and the proposed macro tower will detrimental to two adjacent properties and inconsistent with the goals and polices of the General Plan. The City Council should uphold the appeal and deny the application.

Respectfully,


Ariel Strauss

Cc: Richard D. Pio Roda, City Attorney (RPioRoda@sanleandro.org)

³⁷ *Saint Ignatius Neighborhood Assn. v. City and County of San Francisco* (2022) 85 Cal. App. 5th 1063, 1072-73 (later ordered depublished).

³⁸ *Id.* at 1072

³⁹ San Leandro Municipal Code § 4.04.376(C)(1) (“The height limitations applicable to buildings and structures shall not apply to wireless telecommunications facilities.”).

⁴⁰ *Berkeley Hillside Pres. v. City of Berkeley* (2015) 60 Cal.4th 1086, 1105.

ATTACHMENT A

Analysis of Robert C. Ross



CENTER FOR MUNICIPAL SOLUTIONS
1467 Mountain Meadow Drv., Oceanside CA 92056

January 3, 2025

Mr. Ariel Strauss
Greenfire Law, P.C.
2748 Adeline Street, Suite A
Berkeley, CA 94703

Subj: Proposed Wireless Site at 440 Peralta Avenue, San Leandro, CA 94577

Documents Reviewed:

- A - Draft Resolution (Appeal PLN24-0040)
- A - Exh A - Project Statement
- B - Appeal Application PLN24-0040
- C - Att 1 - Exh A - Project Statement_PLN23-0031
- C - Att 1 - Exh B - Project Plans_PLN23-0031
- C - Att 1 Draft PC Resolution 24-XXX_PLN23-0031
- C - Att 2 Vicinity Map_PLN23-0031
- C - Att 3 Development Regulations_PLN23-0031
- C - Att 4 Photo Sims_PLN23-0031
- C - Att 5 EME Report_PLN23-0031
- C - Att 6 Five-Year Plan_PLN23-0031
- C - Att 7 Alternative Sites Analysis_PLN23-0031
- C - Att 8 Public Comments_PLN23-0031
- C - Planning Commission Staff Report_PLN23-0031
- D - Planning Commission Resolution 2024-010
- E - Summary of Public Noticing
Presentation

Statement of Qualifications

I have a Masters Degree in Telecommunications, and am a NATO School-trained Frequency Manager and a former Planning Commissioner for the City of Oceanside, California, and VP for Operations of JNB Telecommunications which designed and constructed over one thousand cellular sites and constructed multiple switch rooms. Currently, I am in charge of Center for Municipal Solutions in California where I professionally advise municipalities on ordinances, the review of thousands of wireless facility applications and the conduct of final inspections on wireless facilities.



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Review of Submittal Completeness

Public Safety Towers, LLC is a third-party developer for cellular sites, primarily for AT&T. FirstNet is a nationwide wireless broadband network that provides communications “tools” for public safety and emergency responders. FirstNet was created to improve public safety communications and help save lives. It was established in response to the 9/11 Commission's recommendation to provide public safety agencies with modern communication tools. The City of New York and all the cellular carriers had their communications antennas on top of the Trade Centers, when they both collapse everything went down. Thus this “New” system called FirstNet. The First Responder Network Authority is an independent federal government agency that oversees FirstNet. However, FirstNet is being deployed through a public-private partnership and service is provided commercially by AT&T. Subscribers have access to FirstNet towers and all other AT&T antennas.

AT&T offers FirstNet wireless rate plans for public safety professionals, including the FirstNet Wireless Broadband Core plan, which costs \$65 per month and includes up to 25Mbps speeds and 175GB of data. This site could provide service for the FirstNet, which is no more than a paid AT&T service for first responders. First responders would be issued a prioritization code per phone number so that when the AT&T system is overloaded, their call will be complete in priority manner. These calls are all considered “Non-Emergency,” no matter who places the call. For example, a Firefighter can buy into the FirstNet wireless system and could receive a 1C24D priority code. Whereas a Fire Chief buying into the same system could receive a 1A400B priority code, which in this case supersedes the Firefighter’s 1C24D code. FirstNet is not free, each device on the system is paid for by the individual or the organization if so desired.

The antenna equipment on this tower is identical to standard antennas used by AT&T to serve its regular, non-FirstNet customers, and the application itself says as so: “In addition to AT&T LTE-5G commercial facilities, this proposed Public Safety Tower will include facilities to support FirstNet.” (**ATTACHMENT C- Attachment 7- Alternative Site Analysis.**) The Alternative Sites Analysis claims FirstNet has a gap in LTE 700 in-building coverage. However, because FirstNet subscribers can utilize other bands offered by AT&T, it is not at all clear that there is in fact any gap in in-building LTE coverage offered by any band. Additionally, the Antenna Inventory shows AT&T will also install 850 MHz, 1900 MHz, 2100 MHz, 2300 MHz, 3500 MHz and 3700 MHz antennas that do not address any asserted gap on 700MHz band in-building coverage. (See **ATTACHMENT C- ATTACHMENT EME Report, p. 7.**) The Application similarly does not discuss other means of addressing any LTE 700 in-building gap, such as with multiple small cells in the right-of-way.

Given that the tower is a conventional AT&T tower and FirstNet subscribers have access to all AT&T towers, this Five-Year Plan statement (**ATTACHMENT C- Attachment 7**) is incomplete:

Regarding future tower development in the area, aside from the currently proposed tower, PSTC has no additional projects planned for the next five years within the jurisdiction of the City or within one-quarter mile of the border thereof.

The relevant consideration is not just Public Safety Tower, LLC, but rather any planned AT&T towers, as these also provide the proposed service, which are not discussed.



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Public Safety Tower, LLC states that the proposed new 80' Tower is to "Improve communications capabilities for local police, fire, and emergency medical services (EMS)." (**ATTACHMENT C** - Attachment 6 – Five-Year Plan.) However, the City of San Leandro does not use FirstNet but uses East Bay Regional Communications System (EBRCS) for its emergency services communication system. I do not see any provisions on this site for enhancement of the EBRCS at all. I would highly recommend that the applicant clarify their statement regarding exactly how they propose to "improve communications capabilities" through the EBRCS system for the City.

Additionally, documents state that this proposed site is a "Public Safety Tower." However, the plans do not show that it meets the Public Safety Grade Site Hardening Requirements in APCO ANS 2.106.1-2019. This is the design and inspection guidelines established jointly by the Association of Public Safety Communication Officials and American National Standards Institute, which "represents public safety requirements regarding various characteristics to make mission critical communications network sites sufficiently robust to meet the service availability requirements of public safety."¹ The site needs to be redesigned under the guidelines and, if approved, the final inspection will need to be conducted as directed in the requirements.

I see that Mr. Russo was not contacted by the applicant as a potential alternative site. (**ATTACHMENT C** - Attachment 7 – Alternative Sites Analysis.) There is no reason to believe that Mr. Russo's property would not be able to provide the same degree of coverage as the proposed site.

Mr. Russo states in his appeal that he was not notified of the Planning Commission meeting. **ATTACHMENT E** - Summary of Public Notice, shows Mr. Russo's property on the map of noticed locations within 500' but no proof of service or list of the addresses to which notice were sent is included that would allow verification that such letters were properly mailed.

Review of Waterford EME Report

The Planning Commission concluded that the Conditional Use Permit was appropriate because the Tower "will not be detrimental to properties or improvements in the vicinity, or to the general welfare of the City." It seems that there potential that RF emissions from the site, if approved, would be "detrimental to properties or improvements in the vicinity" of the proposed site, in particular Mr. Russo's property.

First and foremost, the Waterford Report is a computer-generated report that is only as good as the information used to produce the report. This report was completed with Zero mechanical antenna down tilt as stated in the Antenna Inventory on pages 7-8. To understand what that means, go to page 13 of this report where there is a Horizontal prediction of the RF Signals as inputted to the program. Note the 80-foot straight line showing 0 Degree down tilt. This prediction is suspect because, in my experience, I have almost never seen an antenna install pointing only straight out at the horizon.

¹ <https://www.apcointl.org/~documents/standard/21061-2019-psg-site-hardening/?layout=default>.



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All the antennas shown on the plans have a range of 2 Degrees to 12 Degrees down tilt. So that line can be electronically, remotely tilted down 2 to 12 Degrees on each antenna on all three sectors. That tilt would significantly increase the amount of RF exposure on the adjacent property.

On page 14 of the Waterford Report, you are looking at a vertical view of the RF: the left side of the proposed tower in the Blue overlay (RF Blue overlay 100% -500%) is Mr. Russo's property, 523 San Leandro Blvd., where he plans to build a new residential building. On page 16 I believe you are shown Mr. Russo's proposed residential building location in the foreground. The Antenna Inventory shows AT&T intends to operate or lease space for operation of antennas at heights ranging from 71 feet 37 feet centerline elevation. The report does not detail how many feet into Mr. Russo's property RF in excess of FCC limits intrudes or exactly the exceedance percentages at various heights, only the very broad exceedance ranges (e.g., 100-500% etc.) and then projected levels for individual rooftops or unspecified distances from the tower. In my opinion, the proposed new residential property will be continuously radiated with RF signals in excess of FCC limits from the proposed new wireless facility. This scenario has the potential to cause serious financial harm to the developer of a residential property. Additional Horizontal views from the East to West and West to East would show a better potential view of the proposed site and the proposed structure on Mr. Russo property with regards to the potential RF Signals. Unfortunately, the Waterford Report does not include such views. It appears that the ALPHA Sector (65 Degrees) of the proposed site is pointing directly at the proposed new residential building.

The Presentation to the City Council states:

If a future EME report identifies that the project violates the FCC standards within any adjacent or neighboring residential building, the applicant shall adjust the facility until the emissions in the residential building do not exceed FCC standards.

However, if a residential/mixed-use building is constructed on the 523 San Leandro Blvd. site at the wide property line abutting 440 Peralta Ave., accomplishing this will not be simple. Given the very close proximity, it would require that all antennae facing North are reoriented so that they are not pointing at the proposed building at all. Proposed future antenna tenants in the tiers of antenna banks shown on the tower plans (**ATTACHMENT C-ATTACHMENT 1, Exh. C, p.7**) would also would need to be turned off. Macro towers of this large size are a long-term investment and intended to offer co-location for numerous tenants. The construction of a building by Mr. Russo to the north would dramatically reduce the utility of the tower for co-location potential and diminish the service AT&T seeks to provide to roughly one-third to half the target area identified on the map on page 6 of the Alternative Site Analysis.

Mr. Russo has expressed willingness to host this tower on the far northern end of property, which is nearly 500' north of the proposed site and far from where residential construction is proposed to occur. This location would enable more flexibility in future mixed-use development of the proposes site as well.



CENTER FOR MUNICIPAL SOLUTIONS

1467 Mountain Meadow Dr., Oceanside CA 92056

SUMMARY

There are serious deficiencies in the completeness of the application and sufficient questions that need to be answered before this Conditional Use Permit should be issued, primarily “is there a way in which the First Net Tower, LLC site and Mr. Rousso’s proposed mixed-use residential project could co-exist together.

If you have any questions, do not hesitate to contact me

Robert C. Ross

Director of Western Operations

ATTACHMENT B

Housing Element Site Inventory Analysis



Site ID	18	Group	C
APN	075-0225-001-03	Year Built	1962
Address	523 San Leandro Blvd	Current Use	Auto body shop and surface parking
Parcel Size	1.01 Acres*	FAR	0.10
Priority Dev. Area	N/A		
Imp. to Land Value Ratio	0.14		
General Plan	Transit-Oriented Development Mixed Use (MUTOD)		
Zoning	Downtown Area 2 (DA-2)		
Current Density	20-40 du/ac		
Amended Density	20-125 du/ac		
Current Realistic Capacity	24 Units: Lower, Moderate, Above-Moderate		
Amended Realistic Capacity	77 Units: Lower, Moderate, Above-Moderate		
Identified in Prior Cycle(s)	Not Used in Prior Housing Element		
Criteria Met	1, 2, 3		

SITE DESCRIPTION

This underutilized site was last sold in 2018 and is occupied by an auto body and towing company. It is located about 0.5 miles from San Leandro BART and there is an existing Class II bike route along San Leandro Boulevard that offers a direct connection to the station. There is lot consolidation potential with adjacent Site 17 for a combined 2.34 acres. There are no known environmental hazards or contaminations on the site.

Concurrent Zoning Amendments are proposed to increase the maximum density in the DA-2 District from 40 to 100 du/ac, which is reflected in the Amended Realistic Capacity based on an assumed density of 70 du/ac.

*The assumed site area used in assumptions was conservatively reduced to 0.88 acres due to the triangular shape of the parcel.