DESIGN REVIEW BOARD STAFF REPORT

MEETING DATE: **May 24, 2010** REPORT COMPLETED: May 20, 2010

ITEM NUMBER: VI. B. – DESIGN REVIEW

FILE NUMBER: **DRB 07-10 – AT&T Wireless Transmitter Facility / Shannon McDougall (Applicant) for AT&T, PG&E (Transmission Tower Owner), Rancho Laguna LLC (Property Owner)**. Design review and hillside development permit for an equipment enclosure for a new AT&T telecommunications facility located 53-feet southeast of the EBMUD fence enclosure around the Fayhill Reservoir. APN 256-040-024.

ZONING: OSM-DT (Open Space – MOSO – Density Transfer)

CEQA STATUS: The project qualifies for the following categorical exemption as listed in the State Environmental Guidelines: Section 15303 – New construction of small structures and installation of small new equipment and facilities.

PUBLIC NOTICE AND MAILING LIST:
As required by Moraga Municipal Code Section 8.72.130(A)(1), written notices of the application for design review (Design Review Board Agenda) were mailed to all property owners within three hundred (300) feet of the subject property on May 14, 2010. A map showing the area of notice and a copy of the mailing list is attached as **EXHIBIT A**. Any correspondence received prior to the meeting will be copied an passed out to the Board members at the meeting.

APPLICATION SUMMARY:
The use permit for the new transmitter facility was approved by the Planning Commission on March 1, 2010. The purpose of the new transmitter facility is to provide cellular phone service to Rheem Valley and the Campolindo High School area. The conditions of approval for the use permit are listed in Planning Commission Resolution 05-2010, which is attached as **EXHIBIT B**. Condition number 4 requires Design Review Board approval of the following:

a. Assuming that a building permit will be required for the 4-foot high retaining wall at the backside of the equipment enclosure, the applicant shall apply for a Hillside Development Permit and address the factors listed under MMC Section 8.136.070, which include slope, soil instability, drainage, soil characteristics, seismic factors, existing and future residential development, view shed, access, potential traffic congestion, fire risk, noise, glare, wildlife, dust and impact on existing vegetation.

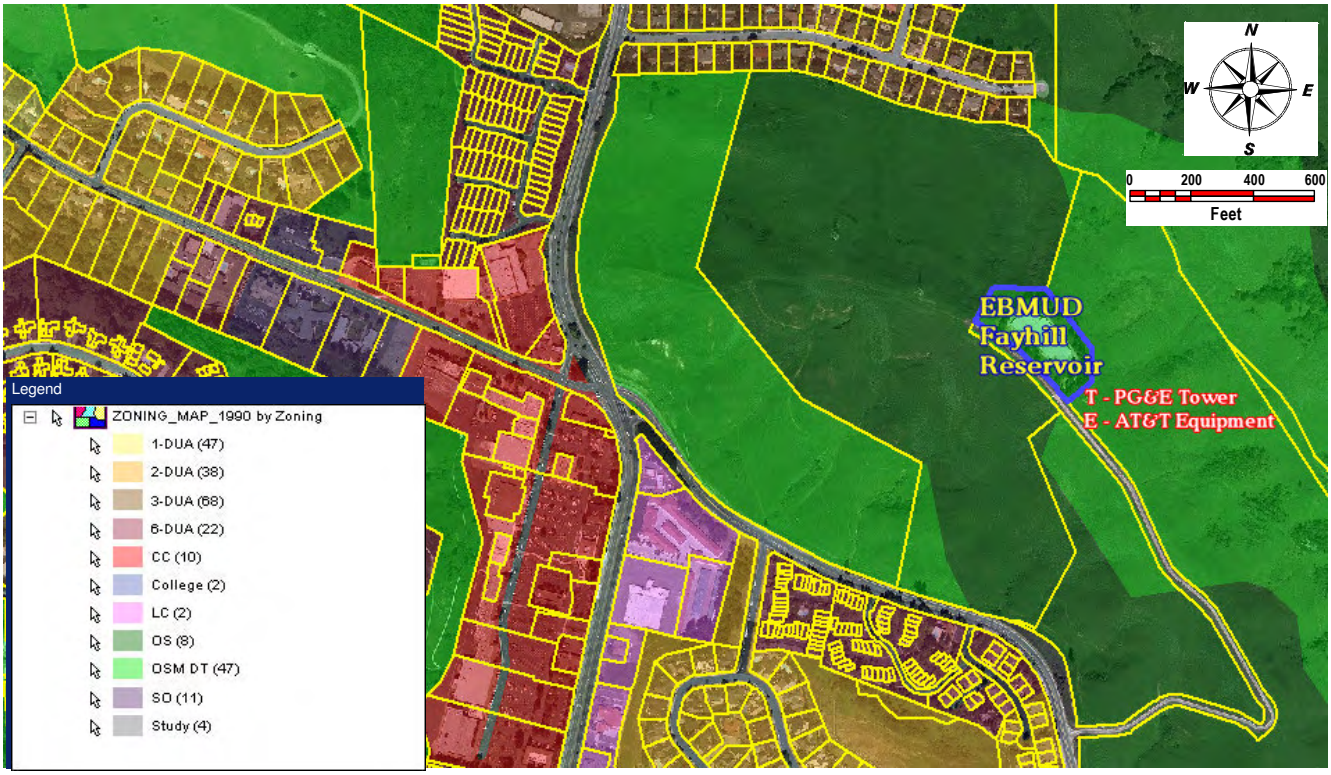
b. Plans for the equipment and the fencing of the enclosure, including the color of the fencing and equipment to blend with the natural color of the dried grass as it appears for the majority of the year.

c. Submit the color for the 9 panel antennas on the top of the PG&E tower. The paint shall have a non-reflective finish and shall be a color that will minimize visual impacts.

d. The Design Review Board may request submittal of a landscape plan if deemed necessary to help camouflage views of the equipment enclosure.

DESIGN DESCRIPTION:

The equipment enclosure will be 36-feet wide and 17-feet deep with a 35-inch high retaining wall behind it. The depth of the cut into the hill behind the wall will be less than 3-feet because the concrete slab for the equipment will be 18-inches above the grade of Fayhill Road (see cross sections on sheet C-3 of the plans). The plans also include a 3-foot wide concrete apron and a 6-foot high chain link fence around the perimeter of the enclosure. The chain link fence will also have a 12-inch high angled security barrier across the top with three strands of 6-gage galvanized spring steel wire. The will follow the slope of the hillside along the northwest side as shown on the small elevation drawing on sheet A-2 of the plans. Three cabinets measuring 69-inches high, 51-inches wide and 36-inches deep will be installed initially with splice boxes for two additional cabinets in the future. Nine 6-foot high panel antennae will be mounted 42-feet above the ground near the middle of the PG&E transmission tower located adjacent to the Fayhill Reservoir. The location of the project site is shown on the zoning map below:



HILLSIDE DEVELOPMENT PERMIT:

Any construction upon or disturbance of soil on a slope of 20% or greater requires approval of a hillside development permit. The factors to be considered under Moraga Municipal Code Section 8.136.070 for a Hillside Development Permit are listed in **EXHIBIT C** with staff discussion of each factor. Both AT&T and Verizon Wireless jointly submitted a Geotechnical

Investigation Report prepared by Brown & Mills, Inc. on December 14, 2009. This report was attached to the Verizon Wireless staff report as **EXHIBIT D**. In order to save paper a duplicate copy of the report has not been copied for the AT&T application. The report addresses faulting, seismicity, subsurface groundwater, and other geologic hazards such as ground rupture, estimated peak ground acceleration, liquefaction potential and ground subsidence. Recommendations are also included for site preparation, excavations and engineered fill including design parameters for retaining walls and equipment cabinet foundations. Since this application does not involve construction of a habitable structure, staff determined that the report was complete for the purpose of the hillside development permit and did not require geotechnical peer review of the report.

Condition number 5 from PC Resolution 04-2010 states in part "If the cut into the hillside exceeds 3-feet in depth, a grading permit will be required. **…**" The cut into the hill will be 35-inches since the pad elevation has been raised by 18-inches to reduce the height required for the retaining wall at the back. This also has the added advantage of reducing the amount of soil that may have to be taken off-site, since some of the soil can be used as fill under the slab. There is, however, a discrepancy in the plans. The detail section of the wall on Sheet A-3 does not jibe with the cross sections on sheet C-3 of the grading plans or with the elevation drawing on Sheet A-2. This drawing will need to be corrected and made consistent with the grading plans. Provided that the depth of the cut does not exceed 3-feet, a grading permit will not be required for the proposed AT&T enclosure. Brown & Mills recommend on page 17 of their geotechnical report that the retaining wall should extend above the slope at the back to allow for a "catchment area" for eroded or sloughed soil from the slope above the wall. The 3-foot wide concrete apron around the back could serve this purpose, but the applicant could also extend the wall above the concrete apron because this would not increase the depth of the cut into the hill or otherwise elicit a grading permit.

Photographs have been included in **EXHIBIT C** on pages 4 and 5 to help evaluate the visual impact of the project on the hillside. The photos show a "naked eye" view and an enlarged telephoto view inset. The proposed enclosure is hardly perceptible with the naked eye and can only be seen clearly with extreme enlargement. The applicant wrapped bright orange webbing material around the corners of the story poles, which makes the proposed enclosure much easier to see. However, if the fencing is a light brown color to blend with the dry pasture grass, it will virtually disappear from view.

DESIGN ASPECTS:

The design aspects discussed in **EXHIBIT E** are listed under Moraga Municipal Code (MMC) Section 8.72.080-A for projects that are not in a single family residential district. The project complies with the development standards that the Planning Commission established in condition number 3 from Resolution 05-2010 PC.

With regard to the colors and materials, staff recommends that light brown wood lath or vinyl slats should be inserted into the chain link fence to approximate the color of the dried pasture grass. PG&E will be installing the antennas on the tower. The color of the antennas will match the color of the metal structure on the tower. As noted in the Verizon Wireless report, staff recommends that the color and design of the fences around the equipment enclosures for both projects should be similar. If the Board prefers to have a solid wood fence rather than a chain link fence with slats, then both of the enclosures should have wood fences.

APPLICABLE TOWN DESIGN GUIDELINES:
The applicable design guidelines have been listed in **EXHIBIT F** with staff discussion of each guideline. The following guidelines are the basis for some of the recommended conditions of approval.

RH5, L3.7 and L3.14 *These guidelines encourage landscaping to screen unattractive views and features such as public utilities and other elements that detract from the appearance of the surrounding area. If the Board believes that landscaping is needed to enhance the screening of the equipment enclosure, then staff would recommend large native drought tolerant and deer resistant shrubs for the southwest side of Fayhill Road across from the enclosure. The Geotechnical Investigation Report showed no significant amount of ground water, so any plants would have to depend upon seasonal rainfall. The applicant would also need to consider a temporary water tank or cistern to irrigate the plants and establish them for the first year. In staff's opinion, fenced enclosures around plants to protect them from deer would simply attract more visual attention to the telecommunications facility. Staff has not included any condition requiring landscaping in the draft action memorandum.*

RH6 and ID10.3 *Both of these guidelines promote natural appearing contour grading on hillsides and avoidance of retaining walls. If contour grading was used to create the level equipment pad, it would require substantially more grading and could involve creation of slopes steeper than 25%. The proposed retaining wall is not very high and will be screened from view behind the enclosure fence.*

ID3 *This guideline requires projects to address the following factors: wind barriers, shade, sound absorption, dust abatement, glare reduction, and drainage on site. The project site is located more than 1000-feet from the closest residential structures and the proposed telecommunications equipment within the enclosure will not generate any significant amount of noise. Staff has included a condition in the draft action memorandum to address dust control during construction of the project. Staff recommends that the slats for the chain link fence should not be made of a shiny or reflective material. Wood lath or non-glossy vinyl strips would be acceptable screening material to avoid a source of glare on the hillside. The Town Engineer will need to review the drainage from the impervious surfaces to insure that erosion is avoided from the concentrated flow of stormwater.*

ID6 *This guideline requires lighting to be designed and mounted so that the source of light has minimal impact off site and is directed inward toward the property. In addition to the requirements from ID6, condition number 7 from Planning Commission Resolution 04-2010 states: "Any lighting used by technicians shall be manually operated and used only during night maintenance or emergencies. The lighting shall be constructed or located so that only the intended area is illuminated and off-site glare is fully controlled." The AT&T application includes an eight (8) foot high pole mounted light at the southwest front corner of the enclosure. The reflector around the light should be designed to restrict the light to the enclosure area.*

ID12.6 This guideline requires a sufficient number of drains behind retaining walls and requires the discharge to be directed to a landscape area. A 3-inch perforated pipe drain is shown behind the retaining wall on sheet A-3 of the plans. The note on the plans states that the pipe will be "daylighted at each end". The discharge for this drainage pipe will require review by the Town Engineer. As noted previously, the retaining wall/equipment slab detail on Sheet A-3 will need to be modified to show the depth of the cut into the hill is less than 3-feet.

FINDINGS FOR APPROVAL:

Moraga Municipal Code (MMC) Section 8.12.090 requires the Design Review Board to make findings to support any decision approving a project. The standards listed under MMC Section 8.72.080-B have been used as the basis for the Design Review Board findings as follows:

1. **Does the proposed structure conform with good design and in general contribute to the character and image of the Town as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high quality;**
   Comment: The proposed equipment enclosure and chain link fence have not been designed with any mitigation of the visual appearance. The proposed conditions of approval would add enhancements to improve the screening of the equipment inside the enclosure and make the fencing blend as much as possible with the hillside. The intent is to camouflage the enclosure and make it "disappear". The new antennae to be mounted in the middle of the PG&E tower will appear to be part of the tower if they are painted to exactly match the color of the tower.

2. **Will the structure be protected against exterior and interior noise, vibrations and other factors, which may tend to make the environment less desirable;**
   Comment: The equipment proposed within the enclosure does not produce any significant amount of noise.

3. **Is the exterior design and appearance of the structure of inferior quality as to cause the nature of the neighborhood to materially depreciate in appearance and value;**
   Comment: *The "neighborhood" is a considerable distance from the project site, which is located near the middle of a very large open space parcel. The closest residential structures are over 1000-feet from the proposed installation. The purpose of the structure is to provide improved wireless communication service for the Rheem Valley and Campolindo High School areas, which could help to slightly improve the value of property in the vicinity.*

4. **Is the structure in harmony with proposed developments on land in the general area**.
   Comment: The land in the general area is private open space, which has been primarily used for grazing of cattle. The proposed telecommunications facility is a functional public utility installation and is inherently inharmonious with open pasture land. The conditions of approval are intended to reduce the visibility of the proposed equipment enclosure and make it blend in with the pasture grasses on the hillside.

If the Board denies the application, the only required finding would be a statement that the applicant failed to present evidence sufficient to permit the Board to make the findings required to grant the application. Nevertheless, additional findings would be helpful to the Planning Commission if the action of the Board is appealed.

PERMIT STREAMLINING ACT:

The application for Design Review Board approval was submitted on May 10, 2010. The Permit Streamlining Act requires a decision on the project within ***60 calendar days*** after a project has been found to be exempt from CEQA or a negative declaration is adopted for the project. The staff report was written on May 20, 2010 at which time the project was determined to be exempt from CEQA. Therefore, the application must either be approved or disapproved by July 19, 2010 unless both the Town and the applicant agree to a one time 90-day extension.

RECOMMENDATION:

Staff recommends approval of the application in accordance with the suggested findings and the conditions of approval listed in the Draft Action Memorandum attached as **EXHIBIT G**.

Prepared By Richard Chamberlain, Senior Planner

EXHIBITS:

A – Notice Area Map, Public Notice and Mailing List
B – Planning Commission Resolution 05-2010 (AT&T Use Permit)
C – Hillside Development Permit Factors
D – Geotechnical Investigation Report (see Exhibit D in Verizon Wireless Report)
E – Design Aspects to be considered for AT&T facility on Fayhill Road
F – Applicable Town Design Guidelines for AT&T facility on Fayhill Road
G – Draft Action Memorandum
H – Applicant's Plans

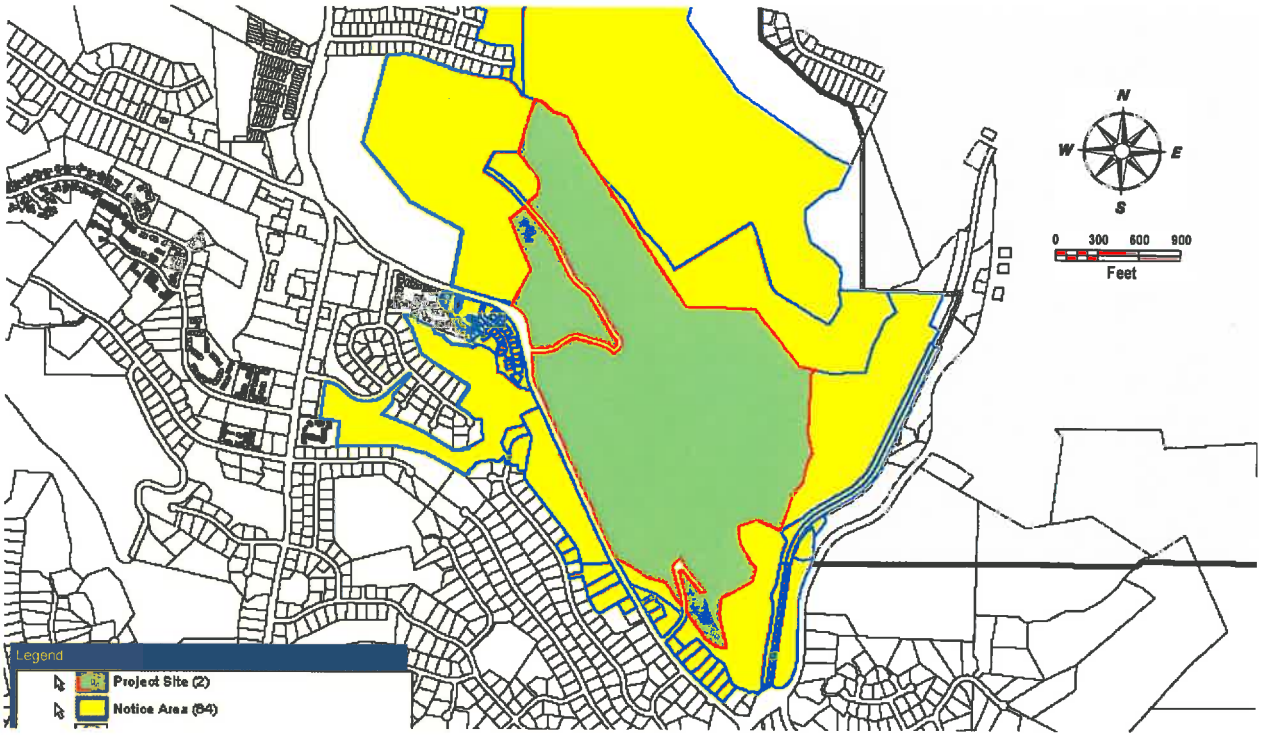
EXHIBIT A

NOTICE AREA MAP, PUBLIC NOTICE AND MAILING LIST

VICINITY MAP AND AREA OF NOTICE

Verizon Wireless and AT&T Antennas on PG&E Tower and Transmitter Equipment adjacent to Fayhill Reservoir

File Numbers:
Verizon Wireless DRB 06-10
AT&T DRB 07-10



NOTICE

Town of Moraga

YOU ARE HEREBY NOTIFIED THAT on Monday, May 24, 2010, at **7:00 p.m.**, in the **Moraga Public Library Meeting Room at 1500 St. Mary's Road**, Moraga, California, the Design Review Board of the Town of Moraga will conduct a pubic meeting to consider the following application:

DRB 06-10 – Verizon Wireless, Inc. / Charnel James for NSA Wireless, Inc. (Applicant), PG&E (Transmission Tower Owner), Rancho Laguna LLC (Property Owner). Design review and hillside development permit for an equipment enclosure for Verizon Wireless to be located 5-feet southeast of the EBMUD fence enclosure around the Fayhill Reservoir. The equipment enclosure will be 35-feet wide and 17-feet deep with a 5-foot high retaining wall behind it and a 6-foot high chain link fence around it. The equipment in the enclosure includes a 30 KVA generator for emergency power, cellular transmitter cabinets, battery cabinets and step-down transformer. Nine 6-foot high panel antennae will be located on a 12-foot extension of the existing 105-foot high PG&E transmission tower located on the Rancho Laguna property adjacent to the Fayhill Reservoir. The purpose of the new transmitter facility is to provide cellular phone service to Rheem Valley and the Campolindo High School area. The use permit for the new transmitter facility was approved by the Planning Commission on March 1, 2010. The property is zoned OSM-DT (Open Space - MOSO - Density Transfer). APN 256-040-024.

Applicant	Property Owners
Charnel James for NSA Wireless, Inc. 2000 Crow Canyon Place San Ramon, CA 94583	Rancho Laguna LLC 3001 "I" Street, Suite 200 Sacramento, CA 95816

The plans for this project are available for public review at the Moraga Planning Department, 329 Rheem Blvd. during normal business hours (Monday through Friday from 8 am to noon and 1 to 5 pm). Comments regarding the proposed project can be submitted in writing or orally at the public meeting. Written comments submitted to the Planning Department will be copied and submitted to the Design Review Board at their meeting. For additional information, contact the Planning Department at (925) 888-7042.

Richard Chamberlain
Senior Planner

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Applicant	Property Owners
Shannon McDougall for AT&T 1023 Eagle Avenue Alameda, CA 94501	Rancho Laguna LLC 3001 "I" Street, Suite 200 Sacramento, CA 95816

The plans for this project are available for public review at the Moraga Planning Department, 329 Rheem Blvd. during normal business hours (Monday through Friday from 8 am to noon and 1 to 5 pm). Comments regarding the proposed project can be submitted in writing or orally at the public meeting. Written comments submitted to the Planning Department will be copied and submitted to the Design Review Board at their meeting. For additional information, contact the Planning Department at (925) 888-7042.

Richard Chamberlain
Senior Planner

DRB 06-10 and
DRB 07-10
Mailing List

AT T and Verizon Wireless Fayhill Road

Design Review
Board Meeting

APN	Name	Address	City & Zip
256061002	Phillip L & Keitha C Demara	PO BOX 5715	WALNUT CREEK , CA 94596 1715
256262006	Joseph G & Edith M Wargo Trust	21 BIRCHWOOD PL	MORAGA, CA 94556 2308
256420011	Genyo & Teresa D Sumiyoshi	27 VIA BARCELONA	MORAGA, CA 94556 2360
256420013	Richard P Hansen Trust	28 VIA BARCELONA	MORAGA, CA 94556 2359
256420014	Lance D Howland	26 VIA BARCELONA	MORAGA, CA 94556 2359
256420004	Kenneth Y & Emiko Yonemura Trust	7 VIA BARCELONA	MORAGA, CA 94556 2360
256420001	John P & Celia M Geraghty Trust	3 VIA BARCELONA	MORAGA, CA 94556 2360
256420028	Rancho Moraga Hoa/j Geraghty	3 VIA BARCELONA	MORAGA , CA 94556 2360
256420010	Craig & Madeleine F Bull	25 VIA BARCELONA	MORAGA, CA 94556 2360
256061010	Clyde B & Dona M Taylor	611 RHEEM BLVD	MORAGA, CA 94556 2324
256061011	John B Lerner	240 REDWOOD HWY, Apt.#6	MILL VALLEY , CA 94941 6605
256262003	Eugene D & Susan Thompson Trust	293 BIRCHWOOD DR	MORAGA, CA 94556 2302
256061009	Delbert Y & Ling Lu Yamaki	609 RHEEM BLVD	MORAGA, CA 94556 2324
256061008	John T & Lillian Brogan Trust	607 RHEEM BLVD	MORAGA, CA 94556 2324
256061007	Dennis P & Diana K Felso	605 RHEEM BLVD	MORAGA, CA 94556 2324
256061006	Aida M Peterson Trust	603 RHEEM BLVD	MORAGA, CA 94556 2324
256061005	John D & Kyoko S Garvey	601 RHEEM BLVD	MORAGA, CA 94556 2324
256061003	Ken & Alayvahn Chew	595 RHEEM BLVD	MORAGA, CA 94556 2322
256130001	Dennis J & Kathleen K Kelleher	594 RHEEM BLVD	MORAGA, CA 94556 2323
256061004	Brian D & Cynthia L Morton	599 RHEEM BLVD	MORAGA, CA 94556 2322
256040020	Lawrence W Korb	591 RHEEM BLVD	MORAGA, CA 94556 2322
256262007	Jon C & Megan R Lueteneker Trust	31 BIRCHWOOD PL	MORAGA, CA 94556 2308
256262005	Joseph G & Victoria M Bauer	11 BIRCHWOOD PL	MORAGA, CA 94556 2308
258011006	Central Cc Sanitary District	5019 IMHOFF PL	MARTINEZ , CA 94553 4316
258011005	Real Estate Services	PO BOX 24055	OAKLAND , CA 94623 1055
256040021	Drake H & Marilyn Grega Trust	1040 DOLORES DR	LAFAYETTE , CA 94549 2908
258011002	Mary E Ortland Trust	86 BUCKINGHAM DR	MORAGA , CA 94556 2407
256262002	Dean Myatt	289 BIRCHWOOD DR	MORAGA, CA 94556 2302
258011001	Wayne William Ortland	1801 ST MARYS RD	MORAGA, CA 94556
256040021	Drake H & Marilyn Grega Trust	1040 DOLORES DR	LAFAYETTE , CA 94549 2908
237160093	Mary E Ortland Trust	1801 ST MARYS RD	MORAGA, CA 94556 2700
256400022	Randall L Rasmussen Trust	251 BIRCHWOOD DR	MORAGA , CA 94556
256420007	John & Marguerite Northrup Trust	19 VIA BARCELONA	MORAGA, CA 94556 2360
256100016	John A & Antonina Inzerillo	500 RHEEM BLVD	MORAGA, CA 94556 2323
256420012	Lin Xia	29 VIA BARCELONA	MORAGA, CA 94556 2360
256420009	Harold R & Nguyen N Robison	23 VIA BARCELONA	MORAGA, CA 94556 2360
256420015	Ronald O Martin Trust	24 VIA BARCELONA	MORAGA, CA 94556 2359
256420016	Michael & Sherry Mcdonald Trust	22 VIA BARCELONA	MORAGA, CA 94556 2359
256420008	James Kenneth Larkin Trust	21 VIA BARCELONA	MORAGA, CA 94556 2360
256040009	Real Estate Services	PO BOX 24055	OAKLAND , CA 94623 1055
256420017	Lei He	18 VIA BARCELONA	MORAGA, CA 94556 2359
256420018	Charles B Simkins Trust	16 VIA BARCELONA	MORAGA, CA 94556 2359

DRB 06-10 and DRB 07-10 Mailing List

AT T and Verizon Wireless Fayhill Road

Design Review Board Meeting

256420006	T Gordon & Rosalyn S Hum Trust	17 VIA BARCELONA	MORAGA, CA 94556 2360
256420019	Hua Guo	14 VIA BARCELONA	MORAGA, CA 94556 2359
256420005	Howard H & Louise A Kerr Trust	15 VIA BARCELONA	MORAGA, CA 94556 2360
256420003	Toni M Tischler Trust	5 VIA BARCELONA	MORAGA, CA 94556 2360
256380003	Place Owners Assoc Moraga	PO BOX 6143	MORAGA, CA 94570 6143
256420002	Hee Tae & Chang Soon Lee	1 VIA BARCELONA	MORAGA, CA 94556 2360
256420029	Robert Blechman	3 VIA BARCELONA	MORAGA , CA 94556 2360
256040018	Rheem California Land Company	PO BOX 307	MORAGA , CA 94570
256310050	Woodminster Homeowners Assn	PO BOX 6	MORAGA , CA 94556 0006
256040022	Acceptance Corp Cascade Trust	PO BOX 400	MILL VALLEY, CA 94942 0400
256040008	Real Estate Services	PO BOX 24055	OAKLAND , CA 94623 1055
256040023	Kar Fung Co Ltd	853 E VALLEY BLVD, Apt.#200	SAN GABRIEL , CA 91776
256203001	Thomas R & Leslie D Henning	98 BUCKINGHAM DR	MORAGA, CA 94556 2407
256040015	Rheem Valley Properties Llc	190 N WIGET LN, Apt.#101	WALNUT CREEK, CA 94598 2440
256040024	Rancho Laguna LLC - Stefan Manolakas	1625 CREEKSIDE DR, Apt.#201	FOLSOM , CA 95630 3819
	NSA Wireless - Charnel James	2000 Crow Canyon Place, Ste 400	San Ramon, CA 94583
	AT&T - Shannon McDougall	1023 Eagle Avenue	Alameda, CA 94501
	PG&E - Sean Randall	77 Beale Street, B26L	San Francisco, CA 94105
	MSA	301 8th Street, Suite 250	San Francisco, CA 94103
	PEEK	853 Lincoln Way #106	Auburn, CA 95603
	Duplicate Addresses		
256040024	Laguna Llc Rancho	1625 CREEKSIDE DR, Apt.#201	FOLSOM , CA 95630 3819
256420027	Rancho Moraga Hoa/j Geraghty	3 VIA BARCELONA	MORAGA , CA 94556 2360
256420026	Rancho Moraga Hoa/j Geraghty	3 VIA BARCELONA	MORAGA , CA 94556 2360
256370004	Kar Fung Co Ltd	853 E VALLEY BLVD, Apt.#200	SAN GABRIEL , CA 91776
256370005	Kar Fung Co Ltd	853 E VALLEY BLVD, Apt.#200	SAN GABRIEL , CA 91776
256400025	Randall L Rasmussen Trust	251 BIRCHWOOD DR	MORAGA, CA 94556 2302
256040006	Central Cc Sanitary District	5019 IMHOFF PL	MARTINEZ , CA 94553 4316

EXHIBIT B

PLANNING COMMISSION
RESOLUTION 05-2010
(AT & T USE PERMIT)

BEFORE THE TOWN OF MORAGA PLANNING COMMISSION

In the Matter of:		**Resolution 05-2010**
Approval of a conditional use permit for a new AT&T telecommunications facility with nine panel antennas on an existing PG&E tower and a 36-foot by 17-foot fenced equipment enclosure located 53-feet SE of the EBMUD Fayhill Reservoir on the Rancho Laguna property.	)))))))	File No. UP-07-2009 Adoption Date: March 1, 2010 Effective Date: March 10, 2010 (in not appealed)

WHEREAS, on August 25, 2009 an application was filed by Shannon McDougall on behalf of AT&T (applicant) and Stefan Manolakas, Rancho Laguna LLC (owner) for a Use Permit to allow the installation of twelve 6-foot high panel antennas to be mounted 43-feet above the bottom of an existing PG&E tower and a 36-foot by 17-foot equipment enclosure with a 4-foot high retaining wall and a 6-foot high fence around the enclosure located 53-feet Southeast of the EBMUD Fayhill Reservoir on the Rancho Laguna property; and

WHEREAS, the proposed telecommunications facility will collocate on the PG&E transmission tower adjacent to the Fayhill Reservoir along with Verizon Wireless and the planning staff met with the applicants from both AT&T and Verizon Wireless to discuss compliance with the Town's Wireless Ordinance and Open Space zoning; and

WHEREAS, on October 19, 2009 the applicant was requested to submit additional information needed to verify compliance with the MOSO guidelines; and

WHEREAS, on January 6, 2010 the applicant submitted revised drawings with a total of nine antenna on the PG&E tower, with three sectors and three antennas on each sector; and

WHEREAS, on January 26, 2010 a drawing was submitted by Phil Auer Surveying to show a 10,220 square foot MOSO cell with an average slope of 18% that would include both the Verizon Wireless and AT&T equipment enclosures; and

WHEREAS, on February 19, 2010 public hearing notices were mailed to all property owners within 300 feet of the property and posted at 2100 Donald Drive, the Moraga Commons and the Moraga Library; and

WHEREAS, the project was found to be Categorically Exempt in accordance with Section 15303 of the California Environmental Quality Act (CEQA); and

WHEREAS, on March 1, 2010 the Planning Commission held a public hearing and considered testimony from the applicant and interested parties.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the Town of Moraga hereby approves the new AT&T telecommunications facility with nine panel antennas on the PG&E tower and a 36-foot by 17-foot equipment enclosure located 53-feet southeast of the EBMUD Fayhill Reservoir with the findings listed below in accordance with Sections 8.12.120 of the Moraga Municipal Code and subject to the conditions listed herein:

SPECIFIC FINDINGS NECESSARY FOR ALL CONDITIONAL USE PERMITS:

Section 8.12.120 of the Moraga Municipal Code identifies the required findings that must be made to grant the Conditional Use Permit.

CHAPTER 8.12.120 – CONDITIONAL USE PERMIT REQUIRED FINDINGS.

1. **The proposed use is appropriate to the specific location** because MMC Section 8.144.030-D states that all new wireless communication facilities shall be collocated with existing facilities whenever feasible and the proposed location would be collocated on an existing PG&E transmission tower, with the equipment enclosure located near the existing EBMUD Fayhill Reservoir.

2. **The proposed use is not detrimental to the health, safety, and general welfare of the Town** because the RF emissions from the nine new antennas proposed at the top of the PG&E transmission tower will comply with the Federal Communication Commission (FCC) standards.

3. **The proposed use will not adversely affect the orderly development of property within the Town** because the site is not a pristine undeveloped ridgeline and already has the PG&E transmission tower and EBMUD reservoir on the crest of the ridge.

4. **The proposed use will not adversely affect the preservation of property values and the protection of the tax base and other substantial revenue sources within the Town** because the visibility of the telecommunications equipment enclosure and antennas is substantially reduced by the great distance of more than 1,000 feet from the nearest residence and the improved wireless telecommunications service in the community could contribute to an improvement in property values.

5. **The proposed use is consistent with the objectives, policies, general land uses and programs specified in the general plan and applicable specific plans.** The proposed AT&T installation is consistent with the requirements of the Town's Wireless Communications Ordinance and qualifies for an exception to the prohibition of development within the Town's open space and ridgeline areas in accordance with the development standards listed in MMC Section 8.144.060-A. The proposed equipment enclosure will be within a minimum 10,000 square foot "cell" with an average slope less than 20% in accordance with the MOSO Guidelines.

6. **The proposed use will not create a nuisance or enforcement problem within the neighborhood** because the remote location of the proposed AT&T antennas and equipment has restricted access to the site and the facility will not produce any smoke or debris. After construction AT&T's maintenance personnel will access the site less than twice a month.

7. **The proposed use will not encourage marginal development within the neighborhood** because the location of the facility is on a minor ridge over 800-feet in elevation where residential development or construction of other buildings would be prohibited by MOSO.

8. **The proposed use will not create a demand for public services within the Town beyond that of the ability of the Town to meet in light of taxation and spending restraints imposed by law** because the unmanned facility will require access by company representatives less than twice a month. There would be no demand for additional public services.

9. **The proposed use is consistent with the Town's approved funding priorities.** The installation of the new AT&T telecommunications transmission facility will have no impact on the Town's funding priorities.

CONDITIONS OF APPROVAL:

1. This use permit shall be valid for an initial period of ten years. The conditional use permit may be extended by the Planning Commission for an additional ten year period following a public hearing and verification of continued compliance with the conditions of approval and a showing that the facility has been upgraded to minimize its impact, including community aesthetics, to the greatest extent permitted by the technology that exists at the time of renewal and is consistent with the provisions of federal law.

2. Within thirty (30) days after completion of the new installation, and every five years thereafter, AT&T shall conduct tests to verify compliance with FCC radio frequency emissions standards and provide such test results to the Moraga Planning Department. Such testing shall be conducted during normal business hours and on a non-holiday weekday with the facility operating at maximum power and shall measure total emissions from the cell site.

3. The following development standards for height and building setbacks shall apply to this use permit: (1) maximum 50-feet height to the top of the antennas but the antennas cannot be closer than 10-feet to the bottom of the insulators for the high voltage wires on the PG&E tower, (2) 7-feet maximum height for the fencing around the equipment enclosure, but a building permit will be required for any fencing higher than 6-feet, and (3) building setbacks of 300-feet to any residential structure in accordance with MMC Section 8.144.030-I.

4. The applicant shall submit the following plans for Design Review Board approval prior to issuance of a building permit:

a. Assuming that a building permit will be required for the 4-foot high retaining wall at the backside of the equipment enclosure, the applicant shall apply for a Hillside Development Permit and address the factors listed under MMC Section 8.136.070, which include slope, soil instability, drainage, soil characteristics, seismic factors, existing and future residential development, view shed, access, potential traffic congestion, fire risk, noise, glare, wildlife, dust and impact on existing vegetation.

b. Plans for the equipment and fencing of the enclosure, including the color of the fencing and equipment to blend with the natural color of the dried grass as it appears for the majority of the year.

c. Submit the color for the 9 panel antennas to be mounted near the middle of the PG&E tower. The paint shall have a non-reflective finish and shall be a color that will minimize visual impacts.

d. The Design Review Board may request submittal of a landscape plan if deemed necessary to help camouflage views of the equipment enclosure.

5. If the cut into the hillside exceeds 3-feet in depth, a grading permit will be required. Grading permits are issued by the Town's Engineering Department. The process for approval of a grading permit, if required, will depend upon the average slope in the area of disturbance. If the average slope in the entire area to be graded is less than 20%, then the grading plans can be approved by the Town Engineer. If the average slope is between 20% and 25%, then plans for the grading will be submitted to the Design Review Board for approval. If the average slope is 25% or greater then the grading plans will require review by the Planning Commission and approval by the Town Council.

6. The MOSO Cell exhibit by Phil Auer Surveying shall be corrected to include both the Verizon Wireless and AT&T equipment enclosures within the cell and the average slope re-calculated since the cell will need to be increased in size to accommodate the AT&T fenced enclosure.

7. If a backup power generator is installed in the enclosure, it shall operate In accordance with MMC Section 8.144.070-D as follows to minimize noise impacts:

   a. A maximum allowable exterior noise level of sixty (60) dB at the property line of the facility must not be exceeded.

   b. Any maintenance or testing that will create noise that is audible from residences and other nearby sensitive receptors shall occur between the hours of eight a.m. to five p.m. Monday through Friday, excluding emergency repairs.

   c. Any backup generator shall only be operated during power outages, emergency occurrences, or for testing and maintenance.

8. Any lighting used by technicians shall be manually operated and used only during night maintenance or emergencies. The lighting shall be constructed or located so that only the intended area is illuminated and off-site glare is fully controlled.

9. All equipment associated with this wireless communication facility shall be removed within thirty days of the discontinuation of use and the site shall be restored to its original preconstruction condition in a manner consistent with continued use by any collocated facility. The town shall be given thirty (30) days notice of intent to discontinue use of the facility prior to discontinuation of use.

ADOPTED by the Planning Commission of the Town of Moraga on March 1, 2010 by the following vote:

AYES: Commissioners Driver, Levenfeld, Obsitnik, Richards, Socolich and Wykle

NOES: Commissioner Whitley

ABSTAIN: None

ABSENT: None

Jim Obsitnik, Chair

Attest: for
Lori Salamack, Planning Director

EXHIBIT C

HILLSIDE DEVELOPMENT PERMIT FACTORS

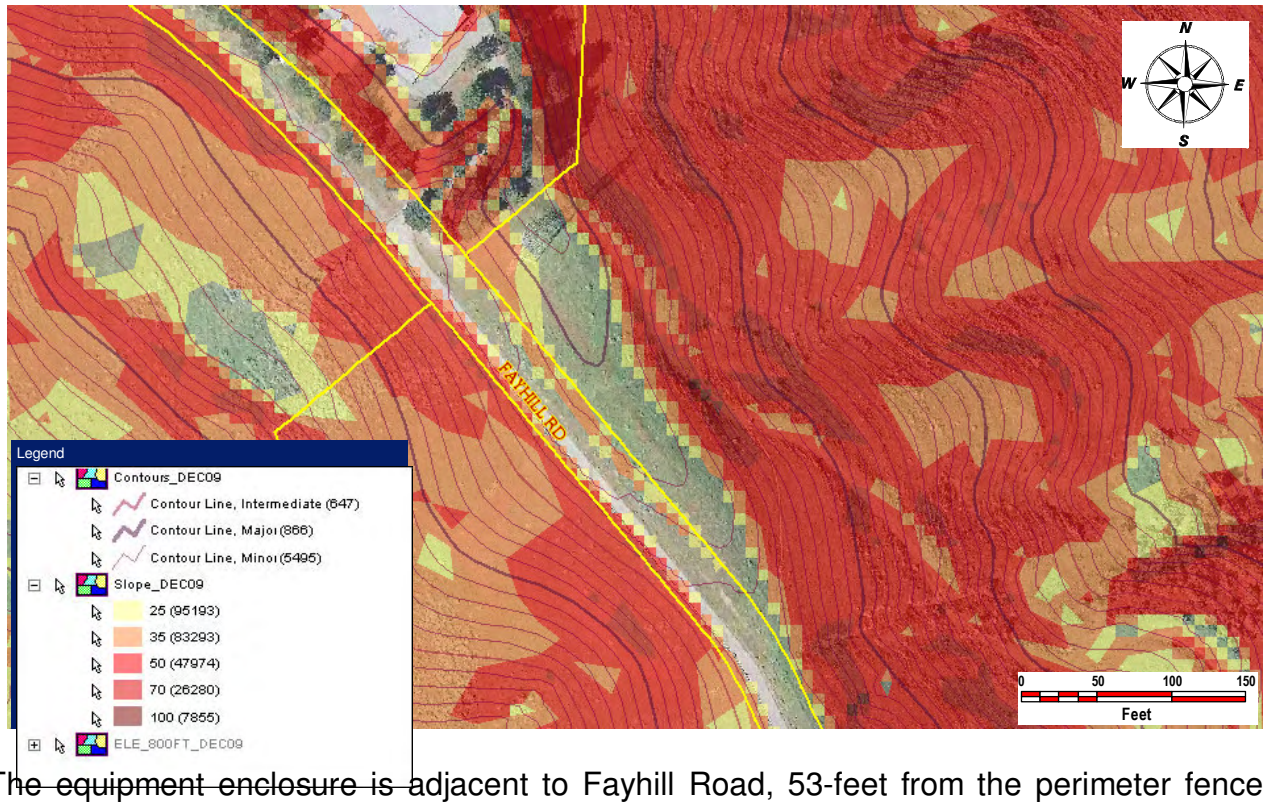
EXHIBIT C

FACTORS TO BE CONSIDERED IN ACCORDANCE WITH MORAGA MUNICIPAL CODE SECTION 8.136.070 FOR A HILLSIDE DEVELOPMENT PERMIT FOR THE AT&T TELECOMMUNICATIONS FACILITY AT FAYHILL ROAD

1. **Slope**

Chapter 8.136 of the Moraga Municipal Code (MMC) applies to any project with a slope of 20% or greater. The slope of the hill below the PG&E tower varies between 35% to less than 20% along Fayhill Road as shown on the GIS Aerial Photo and topography map below:

Slope Map in vicinity of AT&T Telecommunications Facility Installation on Fayhill Road



The equipment enclosure is adjacent to Fayhill Road, 53-feet from the perimeter fence around the East Bay Municipal Utility District (EBMUD) Fayhill reservoir and about 53-feet southwest of the PG&E tower. The project is within a MOSO "cell" that has an average slope less than 20%; however, a hillside development permit is still required because MMC Section 8.136.020-A-1 does not specify an "average" slope and portions of the hillside are over a 20% slope. The average slope in the area for the excavation of the equipment pad is shown as 25% in section 2 on Sheet C-3 of the project plans. Since this application for a telecommunications equipment installation does not involve construction of a habitable structure, staff determined that geotechnical peer review of the applicant's geotechnical investigation report was not required for the hillside development permit.

2. **Soil Instability**

In conjunction with the adjacent Verizon Wireless application, a Geotechnical Investigation Report was prepared by Brown & Mills, Inc. on December 14, 2009. In order to conserve paper, the report was printed only once. Please refer to **EXHIBIT D** in the Verizon Wireless report to review the Geotechnical Investigation Report. The report found the potential for significant ground subsidence at the site to be unlikely during or after a seismic event because shallow rock was encountered during the excavation of the test pit. On page 17 of the report, Brown and Mills, Inc. recommend that the retaining wall should extend above the level of the retained slope to provide a catchment area for eroded or sloughed surficial slope materials. The proposed wall behind the AT&T enclosure does not extend above the surface of the 3-foot wide concrete apron at the back of the enclosure. The cut slope for the AT&T has been reduced to less than 3-feet by raising the pad elevation under the equipment. The height of the retaining wall could be increased without increasing the depth of the cut, thereby complying with the recommendation of the geotechnical consultants.

3. **Drainage**

The drainage from the new concrete slab in the equipment enclosure has not been addressed on the project plans. The detail cross section on Sheet A-3 of the plans shows a 3-inch perforated pipe sub-drain behind the retaining wall and a 3-foot wide concrete drainage apron above the wall. The increase in impervious surfaces and concentration of the storm water by the concrete drainage apron will require some form of dispersal to prevent erosion of Fayhill Road or the slope below the road. The drainage plans will require further review by the Town Engineer in conjunction with the building permit review. The detail cross section on Sheet A-3 will also require revision prior to submittal of the building plans to conform with the grading plans and show that the excavation will not exceed three feet in depth.

4. **Soil Characteristics**

The soil characteristics were discussed in the Geotechnical Investigation Report by Brown & Mills, Inc. based on an exploratory test pit. The depth of the test pit was only about 6-feet because the backhoe hit rock below that level. The soils in the test pit consisted of medium dense silty sand to a depth of one foot below grade and moderately-weathered marine sedimentary rock. More detail is provided on Plates 3, 4 and 5 at the end of the report (**EXHIBIT D** in the Verizon Wireless report). No free groundwater was found during excavation of the test pit, which was done during the middle of winter on December 7, 2009. The Geotechnical Investigation Report includes recommendations for site preparation, excavations and engineered fill and design parameters for the retaining walls and equipment cabinet foundations.

5. **Seismic Factors**

The Hayward Fault is located about 5 miles west-southwest of the project site. No active faults cross the site and it is not located within an Alquist Priolo Special Studies Zone or known Earthquake Fault Zone. The potential for ground rupture at the site is considered very unlikely. Page 7 of the report includes the CBC Seismic design parameters recommended for the project. Brown and Mills, Inc. recommend type B (i.e. rock) site

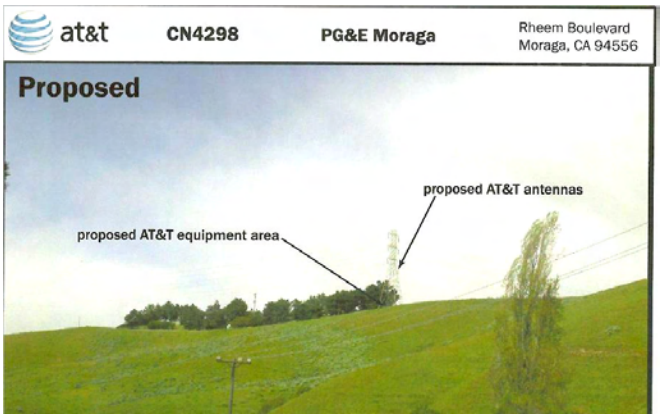
classification under the CBC 2007 edition. The ground acceleration parameters are included in a table with the peak ground acceleration estimated at 0.83^5g (where "g" equals 32.2 feet per second squared). The report also states on page 8 that the potential for liquefaction is unlikely due to the presence of shallow rock and the lack of free groundwater. The structural calculations for the retaining wall behind the equipment enclosure will be reviewed by the building department for the building permit.

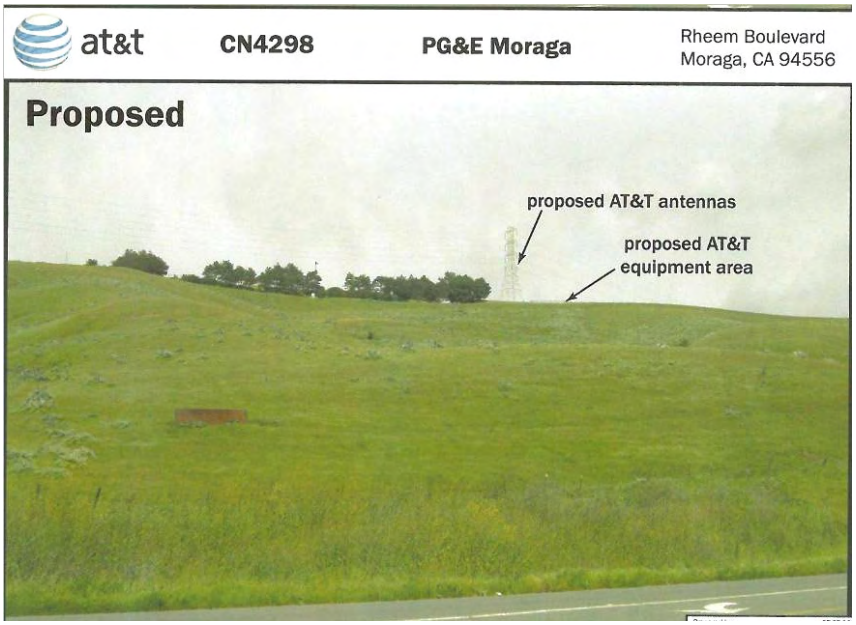
6. **Existing and Future Residential Development**

The proposed antennas and the equipment enclosure are not within 300 feet of any existing or proposed residential structures. The closest residential structures are located on Via Barcelona and Buckingham Drive. The home at 3 Via Barcelona is 1,126 feet from the PG&E tower and the home at 98 Buckingham Drive is 1,253 feet from the tower. The RF emissions would not have any measurable effect on any existing housing in Moraga. The subject parcel is privately maintained open space. The steep topography of the surrounding area and open space zoning would make additional residential development highly unlikely in the vicinity of the project. The proposed "Rancho Laguna" development is located much lower along the ridge and in the valley area closer to Rheem Boulevard.

7. **View Shed**

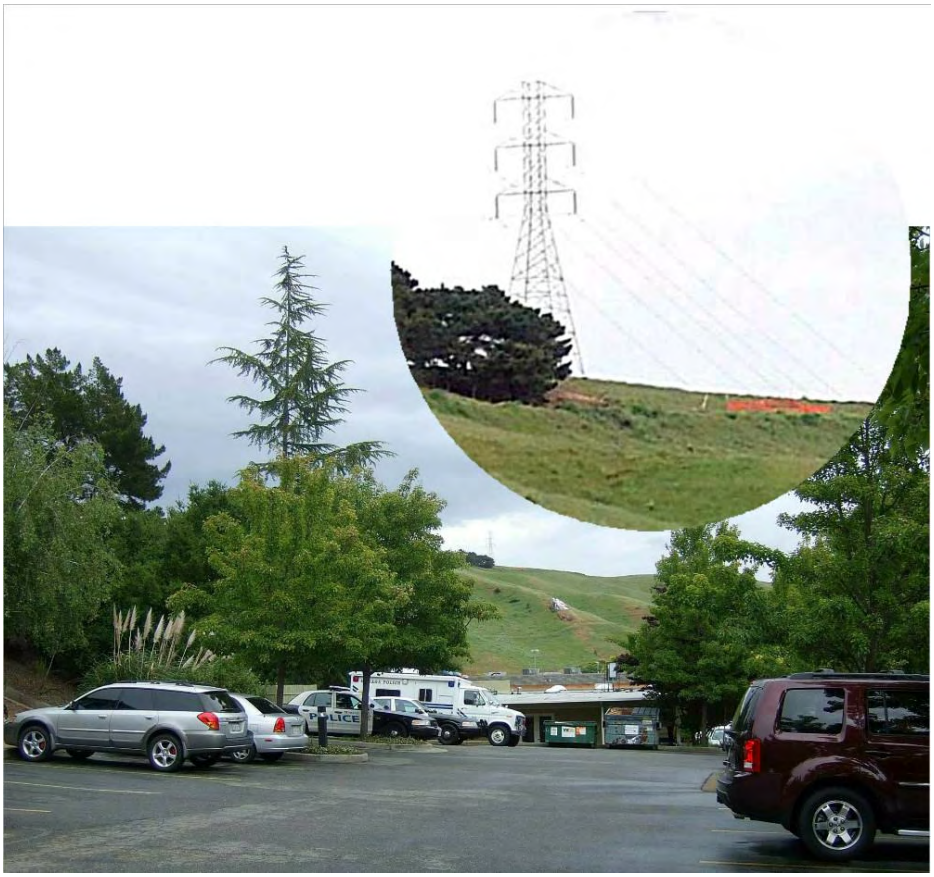
The nine new antenna will be located near the middle of the PG&E tower and 42-feet above the ground. In the photo simulation pictures below, the size of the antennas are relatively small in comparison to the overall size of the PG&E tower. There would be three six-foot high panel antennas on three sides of the tower.





Story poles were erected around the perimeter of the proposed equipment enclosure and wrapped with a bright orange plastic webbing material that significantly increases the visibility of the proposed structure. The picture at right shows a close-up view of the story poles and the orange wrapping.

The fenced enclosure will be visible from several areas; however, these views are from a great distance and the enclosure is only visible with an extreme telephoto view. The photographs below and on the next page show a standard view with the naked eye and an enlarged telephoto view where the orange webbing around the story poles can be seen.



View from the Town Office at 329 Rheem Boulevard

View from Via Barcelona

Condition 4-b in the use permit requires AT&T to submit "Plans for the equipment and the fencing of the enclosure, including the color of the fencing and equipment to blend with the natural color of the dried grass as it appears for the majority of the year". The plans show a chain link fence around the enclosure with a 12-inch high security barrier at the top. Staff recommends that light brown wood lath or vinyl slates should be added in the chain link fence to make the equipment less visible. Condition 4-d in the use permit states "The Design Review Board may request submittal of a landscape plan if deemed necessary to help camouflage views of the equipment enclosure". Some trees or perhaps large native shrubs could be planted on the slope below Fayhill Road to help screen the view of the fenced enclosure.

8. <u>Noise</u>

The proposed equipment inside the enclosure would not generate any significant amount of noise. If AT&T decides to install an emergency power generator at some time in the

future, condition number 7 in Resolution 05-2010 PC (**EXHIBIT B**) addresses the noise issues and sets the parameters for the level of noise permitted.

There will also be noise generated during construction of the equipment enclosure and trenching of Fayhill Road for the underground cables to the telecommunications site. These construction related noise impacts will be short-term in nature and are not expected to result in noise levels exceeding the Town's standards. The Town's Noise Ordinance limits construction activities to between the hours of 8:00 a.m. and 5:00 p.m.

9. <u>Potential traffic congestion</u>

This project will not impact traffic in the area since it is at the end of a very long private access road leading to the EBMUD Fayhill Reservoir. If the applicant needs to trench within the paved section of Rheem Boulevard to make the necessary underground connections, then an encroachment permit will be necessary from the Town's Engineering Department. The Town plans to resurface a portion of Rheem Boulevard during the summer of 2010. During this work access to Fayhill Road could be restricted.

10. <u>Fire risk</u>

A copy of the plans have been sent to the Moraga-Orinda Fire District (MOFD) for review by email. The applicant will need approval from the MOFD prior to release of the building permit.

11. <u>Wildlife</u>

No mature native trees, dense scrub or riparian areas, which typically provide important habitats for wildlife, will be removed for this project. The minor grading for the equipment enclosure is not expected to have any significant impact on wildlife on the project site.

12. <u>Dust</u>

The proposed grading is relatively minor; nevertheless, appropriate dust control mitigation measures should be implemented during the grading. The completed project would not generate any dust.

12. <u>Glare</u>

This project will have no affect on glare, since the retaining walls and fencing around the equipment will not be made of highly reflective material. The antennas will be installed by PG&E and the color of the antennas will match the color of the PG&E tower, with a non-reflective light grey paint color. The intention will be to make the antenna panels blend with the tower structure and to appear to be part of the tower.

13. <u>Impact on Existing Vegetation</u>

This project will not have any impact on existing vegetation. For the most part, the existing grasses on the hillside where the new enclosure will be built are introduced pasture grasses that are not native to the area. There are no shrubs, bushes or trees in the area proposed for excavation of the equipment pad.

15. <u>Additional factors to be considered</u>

a. <u>Minimum Lot Area</u>

Comment: This is a very large private open space parcel and is not intended as a building site. The minimum lot area is not a factor for this application.

b. <u>Appropriate Living Space</u>

Comment: This is not a residential project and the requirement for an appropriate living space is not applicable.

c. <u>Location of Building Sites Adjacent to Steep Slopes</u>

Comment: The site has been chosen because of its proximity to the PG&E transmission tower. The proposed equipment enclosure is not located on the crest of the ridge and will not be seen as a silhouette above the ridgeline as verified by the photographs taken of the story poles. The equipment will be connected to the antenna via underground cables to the tower and conduit running up the legs of the tower. Power to the equipment enclosure will also be underground in a trench that will run up Fayhill Road from Rheem Boulevard.

d. <u>Additional Restrictions or Requirements</u>

Comment: The Design Review Board should consider any concerns of affected neighbors and include any appropriate recommendations to address any visual or aesthetic concerns in the conditions of approval.

EXHIBIT D

GEOTECHNICAL INVESTIGATION REPORT

(IN ORDER TO CONSERVE PAPER, PLEASE SEE EXHIBIT D IN THE VERIZON WIRELESS REPORT)

EXHIBIT E

DESIGN ASPECTS TO BE CONSIDERED FOR THE AT & T FACILITY ON FAYHILL ROAD

EXHIBIT E

DESIGN ASPECTS TO BE CONSIDERED IN ACCORDANCE WITH MORAGA MUNICIPAL CODE SECTION 8.72.080-A FOR THE AT&T TELECOMMUNICATIONS FACILITY ON FAYHILL ROAD

1. **Maximum height, lot coverage and setbacks:**
   On March 1, 2010 the Planning Commission approved the Use Permit for the new telecommunications facility for AT&T Telecommunications Facility. Since the project is within an Open Space – MOSO zoned property, the Commission established the development standards for the project under condition number 3 in Resolution 05-2010 PC. The maximum height was set at 50-feet to the top of the antennas on the PG&E tower. The AT&T antennas must be at least 17-feet 6-inches from the high voltage wires. The maximum height for the fencing around the equipment enclosure was set at 7-feet. It was noted in the use permit that any fence higher than 6-feet would require a building permit. The proposed AT&T fencing will have a 12-inch high security barrier along the top, so it will require a building permit. The building setbacks were set at 300-feet from any residential structure in accordance with MMC Section 8.144.030-I. At present the closest residential homes are over 1000-feet from the PG&E tower and the equipment enclosure. The proposed new home sites for the Rancho Laguna II project will also be over 1000-feet from the new telecommunications installation. The lot coverage guidelines do not apply to fenced enclosures and the FAR guidelines are only applicable to residential lots that are 20,000 square feet or smaller in size.

2. **Overall mass and bulk of structures:**
   The 17-foot by 35-foot fenced equipment enclosure is located a considerable distance from vantage points where it can be seen. As shown on pages 4 and 5 of **EXHIBIT C** the enclosure is barely visible with the naked eye and can only be seen clearly with an enlarged telephoto view. The bright orange mesh that was wrapped around the corners of the story poles also helps make the proposed enclosure visible. If the fencing is a light brown color to blend with the dry pasture grass, it will virtually disappear from view. The fact that the equipment enclosure is set into the hillside also lowers the profile of the structure.

3. **Special features of the development, such as walls, screens, towers and signs:**
   The geotechnical consultant's recommend at the bottom of page 17 of the Geotechnical Investigation Report that the retaining wall should extend above the level of the retained slope to provide a catchment area. The proposed retaining wall does not extend higher than the retained area. The wall could be extended higher to comply with the geotechnical recommendation without triggering a grading permit as long as the depth of the cut into the slope remains below 3-feet deep.

   The PG&E tower is an existing structure and co-location of wireless antennas with other utilities is encouraged under the Town's Wireless Communications Ordinance. PG&E personnel will be installing the antennas on their tower.

4. **Effective concealment and sound attenuation of exposed mechanical and electrical equipment:**
   The primary purpose of the enclosure is to provide some security around the new telecommunication equipment cabinets. The secondary purpose is to screen the view of the equipment and make the enclosure blend with the surrounding pasture grasses. The proposed chain link fence would not be effective for sound attenuation, but the proposed telecommunications equipment would not generate any significant amount of noise. The project site is also a very great distance from any "sensitive receptors" of the sound.

5. **Colors and materials on the exterior face of the building or structures, striving for a limited number of colors and materials for each project:**
   Use permit condition numbers 4-b and 4-c require the applicant to submit:
   b. Plans for the equipment and the fencing of the enclosure, including the color of the fencing and equipment to blend with the natural color of the dried grass as it appears for the majority of the year.
   c. Submit the color for the 9 panel antennas on the PG&E tower. The paint shall have a non-reflective finish and shall be a color that will minimize visual impacts.

   Staff has included a recommendation in the draft action memorandum for insertion of light brown wood or vinyl slats in the chain link fence to approximate the color of the dried pasture grass. The antennas on the tower will be painted to match the color of the metal structure on the tower, with the intention to make the antennas appear to part of the tower. If the antennas are painted a different color than the tower they will stand out and become much more noticeable.

6. **Avoidance of repetition of identical entities whenever possible:**
   Under MMC Section 8.144.030-D, all new wireless communications facilities shall be co-located with existing facilities whenever feasible and aesthetically desirable. AT&T was first to sign a contract with PG&E for installation of the nine antennas on the tower. Verizon Wireless also filed an application to co-locate on the same PG&E tower. Both of these telecommunications companies have been working closely together to obtain the necessary approvals for their installations. Since PG&E requires 17-feet 6-inches minimum clearance between the antennas and the high voltage wires, there will be no space available on this tower for any additional antennae by other wireless service providers.

7. **Harmonious relationship with existing adjoining developments avoiding both excessive variety and monotonous repetition, but allowing similarity of style, if warranted:**
   There are only two "adjoining developments" in close proximity to the proposed AT&T equipment enclosure. The EBMUD Fayhill Reservoir is located 53-feet northwest of the enclosure and has a barbed wire fence around it. The reservoir tank is densely screened by Monterrey Pine trees. The other "adjoining development" is the proposed Verizon Wireless equipment enclosure. The AT&T application has modified the grading to raise the pad elevation 18-inches above Fayhill Road and thereby reduce the height of the retaining wall at the back. As noted in Exhibit C, this change will eliminate the need

for a grading permit. This approach also provides the opportunity for some of the excavated earth behind the enclosure to be used as fill below the equipment pad and thereby reduce the amount of soil to be taken off site. The fence around the AT&T enclosure is not mounted on top of the retaining wall but goes around the outside of the enclosure adjacent to the wall and follows the slope of the hillside. As noted previously, another significant difference between the applications is that the AT&T fence design includes a 12-inch high angled security barrier along the top. Staff recommends that both the AT&T and Verizon Wireless fence designs and colors should be similar. If the Board prefers to have a solid wood fence rather than a chain link fence with slats, then both of the enclosures should have wood fences. Similar fence designs would not be "monotonous repetition" because it would create a more harmonious relationship in design for the two adjacent enclosures.

8. **Pleasing landscaping which incorporates existing landscaping and terrain as a complement to the structure, using plants which thrive in the Moraga climate and which are large enough in size to be effective:**
   The applicant has not submitted any proposed landscaping to mitigate views of the equipment enclosure. Currently, there are only non-native pasture grasses in the vicinity of the project. Landscape screening would not be necessary along the back or sides of the enclosure because the only angle of view would be from the southwest front side. Since the southwest front side of the equipment enclosure is located adjacent to the road, any new landscaping would have to be on the slope on the opposite side of Fayhill Road. If landscaping is deemed necessary by the Board to help mitigate views of the enclosure, staff would then recommend native draught tolerant large shrubs that are deer resistant. If the plants are not deer resistant then they would have to be fenced to keep the deer from eating them. This was done at the wireless transmitter sites at the top of Alta Mesa, near the EBMUD Carter Reservoir. However, the fenced landscaping enclosures tend to work against the natural appearance of the landscaping.

9. **Compliance with Chapter 8.132 (scenic corridors)*:***
   The subject property is not located within 500-feet of the Rheem Boulevard or Moraga Road scenic corridors. Although the project can be seen from these two scenic corridor roads, it is not subject to the provisions in the Town's Scenic Corridor Ordinance.

EXHIBIT F

APPLICABLE TOWN DESIGN GUIDELINES FOR THE AT & T FACILITY ON FAYHILL ROAD

EXHIBIT F

DESIGN GUIDELINE ANALYSIS FOR THE AT&T TELECOMMUNICATIONS FACILITY ON FAYHILL ROAD

3 MAINTAIN THE TOWN'S SEMI-RURAL CHARACTER (SRC)

APPLICABLE TO ALL TYPES OF DEVELOPMENT

These guidelines are intended to help preserve the semi-rural features that make Moraga unique when considering applications for development. Therefore, ***these guidelines are applicable to all types of development.***

SRC1 Retain, protect, and utilize existing natural features, such as trees and other vegetation, interesting ground forms, rocks, water, and significant views in the design.
Comment: *There are no significant natural features in the proposed location for the equipment enclosure.*

SRC2 The impact and presence of vehicles resulting from the development should be minimized through proper siting and screening in order to buffer parking areas from locations both interior and exterior to the site.
Comment: *The project is located near the end of a long private access road to the East Bay Municipal Utility District (EBMUD) Fayhill Reservoir. After the project is completed, the vehicle trips will only be for maintenance of the equipment and are expected to be very infrequent.*

SRC3 Circulation systems should avoid conflict between vehicular, bicycle and pedestrian traffic. Emergency and service vehicle access shall be accommodated within the circulation system.
Comment: *There would be no conflicts between vehicular, bicycle and pedestrian traffic since Fayhill Road is a private access road and is gated to restrict access to authorized vehicles only.*

SRC4 Accessory structures should not encroach upon front yard and exterior side yard setbacks.
Comment: *The equipment enclosure is located a great distance from the property lines of adjacent developed parcels. The only property line that is close to the AT&T equipment enclosure is the EBMUD property, which is 53-feet from the proposed AT&T enclosure.*

SRC5 Preserve natural site amenities.

a. Development should be planned in relation to natural features.
b. Natural features must be protected both during and after construction of the project.
c. Retain trees and other native vegetation, consistent with tree preservation ordinance, to maintain current stability of steep hillsides, retain moisture, prevent erosion, and enhance the natural scenic beauty. Grading under tree driplines should be avoided to protect the root system during development.

d. Treat significant natural features, such as creeks, rock out-croppings, and prominent knolls, as assets.

Comment: *There are no significant natural features near the proposed equipment enclosure, including trees or native vegetation, creeks, rock out-croppings or other natural assets.*

SRC7 New trees should be planted to compliment the natural pattern of tree placement.

Comment: *There is no natural tree pattern in the vicinity of the project. The EBMUD Fayhill reservoir has many Monterrey Pines planted around the water tank, but they are not a native species. If additional screening of the enclosure is deemed necessary, the trees would have to be on the south side of Fayhill Road since the enclosure is immediately adjacent to the road.*

SRC8 Mature native tree groupings should be protected.

Comment: *No mature native trees will be removed for the project.*

SRC9 Improvements should be sited away from creeks to enhance safety and to protect existing drainage patterns, riparian habitat, and wildlife.

Comment: *The project is not near any creek or riparian habitat.*

4 PROTECT RIDGELINES AND HILLSIDE AREAS (RH)

APPLICABLE TO ALL RIDGELINE AND HILLSIDE CONSTRUCTION

RH1 Protect ridgelines from development.

Comment: *The ridgeline northeast of Rheem Boulevard is not defined as a "major ridgeline" under Moraga Municipal Code (MMC) Section 8.52.080. Only Indian Ridge, Sanders Ridge, Mulholland Ridge and Campolindo Ridge are listed as major ridges. Therefore the ridgeline at the Fayhill Reservoir is not subject to the prohibition of development within 500-feet of the ridgeline by MMC Chapter 8.128 (Ridgeline Protection). All ridgelines above 800-feet in elevation are classified as "Minor ridgelines". This would include the ridgeline northeast of Rheem Boulevard. Under MMC Section 8.52.140, development is prohibited "on the <u>crests</u> of minor ridgelines" in the MOSO district. The existing PG&E tower straddles the centerline of the minor ridgeline at an elevation of 953.9-feet. The addition of the wireless antennas to the existing tower would not be considered "construction or erection of a structure" under the definition of development in the MOSO guidelines. The addition of the antennas would be a modification of the existing structure. Under MMC Section 8.144.030-D, new wireless installations "shall be collocated with existing and/or with other planned new facilities whenever feasible and aesthetically desirable." The proposed location for the equipment enclosure is at an elevation of 933-feet, which would be 20-feet lower than the elevation at the crest of the minor ridgeline.*

RH2 New development should be sited in areas that are least sensitive in terms of environmental and visual resources, including areas of flat or gently sloping topography.

Comment: *The PG&E tower is an existing feature on the ridgeline. The proposed equipment enclosure is sited about 60-feet from the crest of the ridge and 20-feet below the crest of the ridge. The project has been located in a MOSO cell with an average slope less than 20%.*

RH3 In hillside and ridgeline areas, building sites should be sited so that visual impacts are minimized.

Comment: *The site for the equipment enclosure can only be seen from the southwest side because the enclosure will be excavated into the hillside so that the sides and rear of the enclosure will be hidden by the hillside. Only very distant views of the enclosure are possible from the southwest side due to the remote location of the site. The pictures on pages 4 and 5 of* ***EXHIBIT C*** *show that the enclosures are only visible with extreme magnification. Nevertheless, the visual impacts can be further reduced by inserting wood or vinyl slats in the chain link fence to help screen the view of the equipment within the enclosure. The slats should also be painted or colored a light brown to match the color of the dried pasture grass in the vicinity of the enclosure.*

RH4 The roofline of all hillside buildings should blend with or follow the ridgeline's natural contour.

Comment: *This guideline is not applicable because the proposed enclosure does not have a roof and is not classified as a "building".*

RH5 Hillside buildings and other improvements should have a low visual profile. Dense native landscaping should be provided to blend structures with the natural setting.

Comment *The enclosure has been set into the hillside to reduce the visual profile and the fence will be installed around the enclosure and not on top of the concrete block walls, which allows the fence to follow the slope of the hillside along the sides. Dense native landscaping cannot be installed along the southwest side of the enclosure because it is immediately adjacent to Fayhill Road. Some landscaping could be installed on the slope on the opposite side of Fayhill Road, but it would have to be highly deer resistant and drought tolerant. The Geotechnical Investigation Report showed no significant amount of ground water, so any plants would have to depend upon seasonal rainfall. If the plants are not deer resistant, then they would need to be protected with fencing, which could detract from the natural appearance of the landscaping and attract more attention to the telecommunications facility.*

RH6 Hillside grading shall blend with natural slopes and be contoured to achieve a natural appearance. The use of retaining walls and other man-made grading features to mitigate geologic hazards should be avoided.

Comment: *The proposed retaining wall is necessary to create a level pad for the equipment and is not proposed for mitigation of any geologic hazard. If contour grading was used to create the level pad, it would require substantially more grading and could involve creation of slopes steeper than 25%. The retaining wall will be hidden behind the fenced enclosure and is not unreasonably high.*

RH7 On hillside lots fire safe landscaping should be used. Landscaping should be distributed around structures to provide screening from off-site views. Adequate water supplies and fire-fighting access shall be provided.

Comment: *If landscaping is deemed necessary for screening of the enclosure fence, then it could be reviewed by the Moraga-Orinda Fire District (MOFD) to make sure that it is not a species that would contribute to wild-land fires. However, deer resistant and drought tolerant plants are a more important factor for landscaping at this site.*

RH8 In hillside areas, solid board privacy fences should only be used when located close to the residence. Site perimeter and other distant fencing should remain visually open (i.e., split rail or deer fencing) in order to minimize the visual "ribbon-like" effect of fencing on the hillsides.

Comment: *The purpose of the fencing around the enclosure is primarily for security of the telecommunications equipment and secondarily for screening the view of the equipment. Staff recommends wood or vinyl slats in the chain link fence painted to match the color of the dried pasture grass around the site. A solid wood fence would probably be less secure at this remote location. If this equipment enclosure was located in an urbanized area close to homes or business in Moraga, then an attractive heavy timber fence might be more appropriate.*

RH10 Preserve both close-up and distant views of the natural hillside and ridgeline landscape as seen from valley areas.

Comment: *The fenced enclosure will be visible from several areas in the Rheem Valley; however, the views are from a great distance and the enclosure will not be very perceptible with the naked eye. The photographs in* ***EXHIBIT C*** *on pages 4 and 5 show enlarged telephoto views as insets. The story poles around the proposed location for the equipment enclosure were wrapped with a bright orange plastic mesh material, which makes them very visible, but with wood lath or vinyl slats in the chain link fence the enclosure should blend with the surrounding pasture grass.*

RH11 All new structures located in hazardous fire areas (such as hillsides) should be constructed with fire resistant exterior materials consistent with applicable building codes and standards.

Comment: *Solid wood fencing would probably be less fire resistant than chain link fencing with non-reflective vinyl slats.*

5 COMPLEMENT EXISTING LANDSCAPING (L)

L1 FIRE SAFE LANDSCAPING

L1.2 Consideration should be given to avoiding flammable trees and shrubs where possible. Consult the Moraga Fire Protection District for highly flammable plant species to be avoided such as certain pine, juniper, and eucalyptus species.

Comment: *The applicant's submittal does not include any tree planting. If some trees or shrubs are deemed necessary to help screen the enclosure, then they should not be a highly flammable species.*

L1.3 Landscaping should be properly irrigated to assure that plants retain their fire retardant capability, but shall not be over watered so as to create runoff from the site.

Comment: *No landscaping is proposed with this submittal. When landscaping was installed at the top of Alta Mesa above the EBMUD Carter Reservoir, a temporary water tank was installed to provide water to the new plants to help get them started. The plants were selected as native draught tolerant species and they are now growing without any irrigation system. If landscaping is deemed necessary for screening of the enclosure, then a temporary water tank would probably be necessary to establish the plants.*

L3 COMMERCIAL LANDSCAPING AND IRRIGATION

L3.7 Dense landscaping should be incorporated into any project to screen unattractive views and features such as storage areas, trash enclosures, parking lots, public utilities, and other elements that detract from the appearance of the surrounding area.

Comment: *The enclosure will not be very perceptible with the naked eye from surrounding developed properties because it is located within a very large open space parcel and is a long distance from the other properties in the vicinity. In the event that the Board believes that landscaping is needed to enhance the screening of the equipment enclosure, then staff would recommend large native drought tolerant shrubs be chosen for the southwest side of Fayhill Road across from the enclosure.*

L3.14 Water-conserving system design and materials and drip irrigation should be used wherever appropriate.

Comment: *If plants are installed, then a temporary water tank would be needed to establish the plants for the first year of growth. Another alternative would be to install an underground cistern that would be fed by the stormwater coming from the drainage channel around the enclosure. The cistern could be connected to a drip irrigation system for the plants which could be activated by a timer which would turn on a small pump.*

6 ENHANCE TOWN'S SCENIC CORRIDORS (SC)

The project is not within 500-feet of Rheem Boulevard or Moraga Road and is therefore not subject to the Town's Scenic Corridor Ordinance or the scenic corridor guidelines. See guideline RH10 for visual impacts from Rheem Valley.

7 MINIMIZE THE IMPACTS OF DEVELOPMENTS (ID)

To the extent possible, development should be concentrated in areas that are least sensitive in terms of environmental and visual resources, including: a) areas of flat or gently sloping topography outside of flood plain or natural drainage areas; b) the Moraga Center and Rheem park area; c) Infill parcels in areas of existing developments.

ID1-7 APPLICABLE TO ALL DEVELOPMENT

ID1 Downhill or uphill portions of any project shall provide landscaped treatment to address potential erosion, to be in harmony with adjacent developments, and to provide a complimenting view from distant horizons. Dense native landscaping should be used to blend hillside structures with the natural setting.

Comment: *See comments for RH10 and L3.7 above. The Town Engineer will need to review the drainage plans to make sure that erosion does not occur from the new concrete drainage apron around the enclosure.*

ID3 Wind barriers, shade, sound absorption, dust abatement, glare reduction, and proper drainage should be provided on site.

Comment: *The project site is located more than 1000-feet from the closest residential structures and the use permit includes conditions to limit the sound level if AT&T chooses to install an emergency generator in the future. Staff has included some conditions in the draft action memorandum to address dust control during*

construction of the project. After the project is completed there would be no need for dust abatement. Staff recommends that the slats to be inserted in the chain link fence should not be a shiny or reflective material. Wood lath or non-glossy vinyl strips would be acceptable screening material to avoid a source of glare on the hillside. As stated above, the Town Engineer will need to review the drainage from the impervious surfaces to insure that erosion is avoided from the concentrated flow of stormwater.

ID5 Geologic hazards shall be addressed:

a. Construction should not take place in geologic hazard areas identified as landslides, springs, or earthquake fault zones.
b. Risk of off-site geologic property damage should be minimized by locating development away from areas which are vulnerable to slope failure.
c. Professional evaluation of soil conditions and potential geologic hazards should be completed for all new homes.

   Comment: *The applicant's Geotechnical Investigation Report prepared by Brown & Mills, Inc. dated December 14, 2009 (**EXHIBIT D** attached to the Verizon Wireless report)**,** stated that no geologic hazards or near surface ground water were identified. There is no risk of off-site property damage due to slope failure from this project. Since the equipment enclosure is not for human habitation, geotechnical peer review was not deemed to be necessary for this project. See **EXHIBIT C** for a more thorough discussion of the geologic issues.*

ID6 The level of lighting should not exceed the needs for security and safety or detract from the aesthetics of the development.

a. Outdoor lighting should be related to the design of the structure.
b. Outdoor light fixtures should be designed and mounted so that the source of light has minimal impact off site.
c. Outdoor lighting should be directed inward toward the property and may require additional screening to avoid spillage onto adjacent residential properties.

   Comment: *The AT&T Telecommunications Facility plans include an 8-foot high pole mounted light fixture at the southwest front corner of the enclosure. In addition to the above design guidelines for lighting, condition number 7 from Planning Commission Resolution 04-2010 reads "Any lighting used by technicians shall be manually operated and used only during night maintenance or emergencies. The lighting shall be constructed or located so that only the intended area is illuminated and off-site glare is fully controlled." Staff has included a condition to require the light source to be screened so that it will not have an impact off site and the light should be confined to the enclosure itself.*

ID7 Design shall be consistent with the Moraga Municipal Code section 13.04.090.

Comment: *Compliance with MMC Section 13.04.090 is included in the recommended conditions of approval, since it is primarily compliance with the best management practices (BMP's) for drainage, erosion control and other site maintenance standards. The BMPs will be taken into consideration by the Town Engineer during his review of the drainage for the new 17 by 35-foot concrete equipment platform and the 3-foot wide concrete drainage apron around the periphery of the enclosure.*

ID9 PAVING

ID9.1 Impervious surfaces shall be minimized through site design and building methods. Directly connected impervious surfaces shall be minimized to avoid excessive concentrated stormwater runoff. Any runoff from impervious surfaces shall be directed to pervious areas or landscaped depressions.

Comment: *Since the project site is an extremely large open space parcel, there is an ample area for stormwater runoff to drain to pervious areas. The only concern is that the concentration of stormwater by the drainage apron above the enclosure does not lead to erosion of the hillside below the enclosure. The water needs to be dispersed over the slope to avoid the potential for erosion.*

ID10 GRADING

ID10.1 Grading for any purpose may be permitted only in accordance with an approved development plan that is found to be geologically safe and aesthetically pleasing.

Comment: *The limited amount of grading for the project is necessary to create a level pad for the placement of the telecommunications equipment. The development plan was approved by the Planning Commission on March 1, 2010 when the use permit was approved. The applicant submitted a Geotechnical Investigation Report which found the project to be geologically safe. The 35-inch deep cut into the slope will be supported by a retaining wall, which will be hidden behind the fence at the front of the equipment enclosure. The question of aesthetics will be decided by the Board.*

ID10.2 Where the pre-development slope is less than 20% a grading permit may be required. See the Moraga Municipal Code 14.08.010 for details.

Comment: *The applicant has calculated the average slope on three sections through the enclosure. The average slope varies between 19.4% to 25% (See page C-3 of the plans). A grading permit is not required under MMC Section 14.04.031-4 because the grading does not exceed 3-feet in depth and would be less than 50-cubic yards.*

ID10.3 When the pre-development slope is greater than or equal to 20%, development shall be avoided, but may be permitted if supported by site-specific analysis. When grading land with a slope of 20% or more, soil displacement and retaining wall use shall be minimized by using contour grading techniques. In MOSO areas, development shall be prohibited on slopes with an average gradient of 20% or greater. Design shall be consistent with Moraga Municipal Code Title 14.

Comment: *The project is located within a MOSO "Cell" with an average slope less than 20%. A retaining wall is the best solution to minimize the grading for the equipment pad because contour grading would require a substantial increase in the area of disturbance of the hillside. In order to avoid any slopes steeper than 3:1 in accordance with guideline ID10.6, the hill behind the equipment pad would have to be cut back for a minimum of 9-feet to allow for the 35-inch high cut provided that the slope behind the wall was totally flat. In actual fact, the hill behind the enclosure continues to slope upward to the crest of the ridgeline under the PG&E tower. A 3:1 cut slope behind the enclosure would have to chase the slope all the way to the crest of the ridge, with more than three times the area of disturbance. This analysis*

suggests that minimizing the grading may be a more important goal than avoiding retaining walls in some cases.

ID10.5 Cut slopes should be placed behind buildings or other structures where they will be screened.

Comment: *The cut slope is behind the equipment enclosure and will be effectively hidden by the fence around the enclosure.*

ID10.6 Preserve the natural topography of the land, especially at the horizon:

a. Round off graded slopes, in a manner that conforms to the natural contours of the land and to the surrounding terrain. Sharp angles produced by earth moving, specifically at the top and toe of graded slopes shall be avoided.
b. Slopes shall be contour graded to achieve a natural appearance.
c. Slopes shall be blended with the contours of contiguous properties and create a smooth transition.
d. Grading shall minimize scars due to cuts, fills, and drainage benches on natural slopes.

   Neither cuts nor fills shall result in slopes steeper than 3:1 (horizontal to vertical), except where natural slopes are steeper. Where steeper slopes are unavoidable, special mitigation measures shall be incorporated into the design construction and maintenance of the slopes.

   Comment: *See comments for design guideline ID10.3 above.*

ID11 RETAINING WALLS

ID11.1 Retaining walls (excluding foundation retaining walls) and other man-made grading features may only be used to mitigate geologic hazards when:

a. required to decrease the possibility of personal injury or property damage
b. designed to blend with the natural terrain and avoid an artificial or structural appearance
c. appropriately screened by landscaping
d. designed to avoid creating a tunnel effect along roadways and to ensure unrestricted views for vehicular and pedestrian safety
e. designed to ensure minimal public and/or private maintenance costs

   Comment: *The proposed retaining wall is not designed to mitigate a geologic hazard other than hold the soil in place behind the wall. As shown in the discussion for ID10.3, the proposed retaining wall will substantially reduce the total amount of grading that would have been required for natural contour grading.*

ID11.2 Exterior retaining wall*s* shall be limited to five feet in height, unless it is visible from off site, in which case it shall be no higher than three feet. The total height of a retaining wall and fencing on top of the wall shall not exceed eight feet without Design Review Board approval. A guardrail or handrail (provided a solid fence does not support it) may be located on top of the retaining wall.

Comment: *The actual height of the retained soil will only be 35-inches deep. The height of the wall could be increase to provide a catchment area behind the wall as recommended by Brown & Mills, Inc., on page 17 of their report. The fence around*

the enclosure will serve the purpose of a guardrail above the back wall.

ID11.3 A retaining wall exceeding 3 feet requires professional engineering, a building permit, and may require a grading permit. Design Review Board approval is required if the retaining wall is visible from off-site.

Comment: *A building permit will probably be required for the retaining wall even if it is lower than 3-feet in height because it has a surcharge due to the slope behind the wall.*

ID12 STORMWATER GUIDELINES

ID12.4 Drainage should follow natural flow patterns and, where appropriate, plans should develop wide area flow patterns, rather than concentrating flow at one point.

Comment: *The 3-foot wide drainage apron around the enclosure will concentrate some of the stormwater, which will then require disbursement to avoid causing erosion of the slope below Fayhill Road.*

ID12.6 A sufficient number of drains should be provided for retaining wall backdrains to provide an outlet for water that may accumulate behind retaining walls. Such drainage facilities shall be directed to a landscape area or manufactured treatment system prior to connecting to the storm drain system. Design shall be consistent with the Moraga Municipal Code section 13.04.060d.

Comment: *The section detail on sheet A-3 of the plans shows a 3-inch perforated pipe drain behind the retaining wall. The discharge for this drainage pile is not shown in plan view and will need to be reviewed by the Town Engineer.*

EXHIBIT G

DRAFT ACTION MEMORANDUM

D R A F T

Town of Moraga

PLANNING DEPARTMENT
329 RHEEM BOULEVARD
MORAGA, CA 94556
(925) 888-7050

DESIGN REVIEW BOARD ACTION MEMORANDUM

On May 24, 2010, the Town of Moraga Design Review Board considered the application described below:

> **DRB 07-10 – AT&T Wireless Transmitter Facility / Shannon McDougall (Applicant) for AT&T, PG&E (Transmission Tower Owner), Rancho Laguna LLC (Property Owner).** Design review and hillside development permit for an equipment enclosure for a new AT&T telecommunications facility to be located 53-feet southeast of the EBMUD fence enclosure around the Fayhill Reservoir. The equipment enclosure will be 36-feet wide and 17-feet deep with a 3-foot high retaining wall behind it and a 6-foot high chain link fence around it. Three cabinets measuring 69-inches high, 51-inches wide and 36-inches deep will be installed initially with splice boxes for two additional cabinets in the future. Nine 6-foot high panel antennae will be mounted 42-feet above the ground near the middle of the 105-foot high PG&E transmission tower located adjacent to the Fayhill Reservoir. APN 256-040-024.

DESIGN REVIEW BOARD ACTION:

The DESIGN REVIEW BOARD hereby grants approval of the project in accordance with the following findings, design guideline exceptions and conditions of approval:

PART 1: DESIGN REVIEW FINDINGS:

In accordance with Moraga Municipal Code Section 8.72.080(B), the following findings must be made in order to approve an application for design review in land use districts other than single-family residential:

1. The proposed structure conforms with good design and in general contributes to the character and image of the Town as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high quality because the proposed conditions of approval would add enhancements to improve the screening of the equipment inside the

enclosure. The intent of the conditions of approval is to camouflage the enclosure and make it "disappear" as much as possible. The antennae on the PG&E tower will also appear to be part of the existing tower if they are painted to match the color of the tower.

2. The structure is protected against exterior and interior noise, vibrations and other factors, which may tend to make the environment less desirable because the telecommunications equipment does not produce any significant amount of noise and the conditions of approval include restrictions on the allowable noise if AT&T elects to install an emergency power generator in the future.

3. The exterior design and appearance of the structure is not of inferior quality as to cause the nature of the neighborhood to materially depreciate in appearance and value because the purpose of the equipment enclosure is to provide security and visual screening for the telecommunications facility, which is intended for improved wireless communication service for the "neighborhood" including Rheem Valley and Campolindo High School areas.

4. The structure is in harmony with proposed developments on land in the general area because the conditions of approval are intended to reduce the visibility of the proposed equipment enclosure and make it blend in with the pasture grasses on the hillside.

PART 2: CONDITIONS OF APPROVAL:

1. That the plans for construction of the new telecommunications equipment enclosure shall be substantially in accordance with the plans date stamped "Official Exhibit", May 24, 2010, and on file in the Town of Moraga Planning Department, except that the following changes shall be made to the plans prior to approval of the building permit.

   a. Light brown wood lath or vinyl slats shall be installed in the chain link fence to make it blend with the color of the dried pasture grass on the hillside and to help conceal the equipment cabinets within the enclosure in accordance with design guidelines RH3, RH8 and RH10.

   b. The slats for the chain link fence shall not be made of a shiny or reflective material that would be a source of glare on the hillside in compliance with guideline ID3.

   c. The retaining wall/equipment slab detail on Sheet A-3 shall be revised to be consistent with the grading sections on Sheet C-3 and show that the depth of the cut into the hill will not exceed 3-feet. The concrete block wall behind the enclosure could be increased in height to comply with the geotechnical consultants recommendation on page 17 of the Geotechnical Investigation Report as long as the retained slope behind the wall does not exceed 3-feet in depth.

   d. The reflector for the light fixture on top of the 8-foot high pole shown on sheet A-1 of the plans shall be shielded so that it is not a source of glare on the hillside in accordance with design guideline ID6 and the operation of the light shall conform to condition number 8 from Resolution 05-2010 PC.

   Any other significant changes to the plans or to the proposed grading shall be subject to further DRB approval.

2. A grading permit will not be required for the excavation of the equipment pad provided that the depth of the cut is less than 3-feet deep and the total amount of cut and fill does not exceed 50 cubic yards of soil.

3. The applicant shall submit a $137 design review fee to the Moraga-Orinda Fire District (MOFD) and provide evidence that the MOFD has approved the plans prior to receiving Planning Department approval of the building permit plans. If landscaping is deemed necessary to provide screening of the enclosure fence, then it shall be reviewed by the MOFD to make sure that it is not a species that could help fuel a wild-land fire in accordance with design guidelines RH7 and L1.2.

4. In compliance with design guidelines ID1, ID3, ID7, ID9.1, ID12.4, and ID12.6, drainage plans shall be submitted for review by the Town Engineering Department prior to the issuance of the grading or building permit. The increased peak runoff from the concrete pad of the equipment enclosure and the concentration of the stormwater from the concrete drainage apron around the enclosure shall not be directed across Fayhill Road or down the slope in a fashion that would lead to erosion of the road or the slope.

5. In accordance with design guideline ID12.6, the Town Engineer shall review the proposed discharge for the 3-inch perforated pipe drain behind the retaining wall, which is shown on the section drawing on sheet A-3 of the plans. The location of discharge shall be shown in plan view.

6. The applicant shall submit plans for trenching for any utility connections to the equipment enclosure to the Town Engineering Department. All utility connections for the new telecommunications facility shall be installed underground from point of connection.

7. The design of the retaining wall shall comply with the recommendations in the Geotechnical Investigation Report by Brown and Mills, Inc. dated December 14, 2009.

8. The applicant shall apply for and pay all appropriate fees for building permits, plan checks and inspections.

9. The grading for the excavation of the equipment pad shall occur between April 15 and October 15, in order to avoid seasonal rainfall. An erosion control plan may be required by the Town Engineer prior to September 1, if site inspection shows areas where ground cover by vegetation has been removed. All erosion control measures, if required, shall be installed and deemed operational by the project engineer and the Town's Grading Inspector prior to October 1. Erosion control measures shall be designed for long-term maintenance in order to provide protection throughout the winter.

10. All work to be undertaken within the right-of-way of Rheem Boulevard is to be shown on the construction plans (i.e. joint utility trench). Prior to undertaking any work within the public right-of-way, an encroachment permit shall be obtained from the Town Engineering Department.

11. The grading contractor, building contractor and the applicant shall be responsible for preventing spills of soil, rock or other debris on to the Town's streets. If any spills occur as a result of the grading or construction for this project, the responsible party will be

required to immediately cleanup the spill and repair any damage to the streets to the satisfaction of the Town Engineer.

12. Parking of grading equipment, tractor tread vehicles and all construction vehicles and equipment on Rheem Boulevard is prohibited. These vehicles shall be delivered to the property by trailer and kept on site during grading and construction operations.

13. If archaeological materials are encountered during the excavation for the equipment pad or trenching for utilities, all work within 100 feet of the find shall be stopped, and the Planning Director shall be notified within 24 hours. The Applicant shall retain a qualified archaeologist to evaluate the significance of the find, prepare a report that documents the field investigation, and advise the Town and the Applicant regarding any mitigation measures deemed necessary.

14. The Applicant and its contractors shall be responsible to prevent erosion of soil on the property. If inspection by the Town shows evidence that erosion has occurred, then the Applicant and their contractor shall be held responsible for the immediate cleanup of any soil deposits attributed to the project and correction of the cause of the soil erosion.

15. The Applicant shall provide phone numbers for its grading contractor and other responsible individuals so that the Town can contact these people at any time in the event that emergency repairs to the erosion control measures are needed.

16. Grading and construction activities shall be conducted in such a manner as to minimize the generation of dust in accordance with design guideline ID3. During the grading operation, the contractor shall wet down the grading areas at least twice daily during dry periods or as needed to prevent the generation of excessive dust. The wheels of hauling trucks shall be washed as needed when exiting the site to prevent tracking excessive dirt onto Rheem Boulevard. Any dust producing material shall be covered while being hauled, and storage piles of dust producing material on site shall be covered.

17. The hours of project construction and grading operations shall be limited from 8 a.m. to 5 p.m. in accordance with Moraga Municipal Code (MMC) Section 7.12.090.

18. These Conditions of Approval shall be located in the “Notes” section of the Building Plans.

19. If a building permit is not obtained within one year from the date of this Design Review Board action, this approval becomes null and void. However, this action may be renewed by the Planning Director for a maximum period of one (1) year provided the applicant places such a request in writing to the Planning Director showing good cause prior to the expiration of the Design Review Board approval.

Design Review Board action is appealable to the Planning Commission within 10 calendar days after the date of the decision. If you have any questions regarding the action of the Board, please contact the Moraga Planning Department at (925) 888-7040.

EXHIBIT H

APPLICANT'S PLANS