

CITY OF ALAMEDA RESOLUTION NO. \_\_\_\_\_

UPHOLDING PLANNING BOARD RESOLUTION PB-15-03  
APPROVING DESIGN REVIEW APPLICATION (PLN14-0729) TO  
INSTALL TELECOMMUNICATIONS FACILITIES AT 1538 SAINT  
CHARLES STREET

WHEREAS, an application was made on December 8, 2014, by Cortel Inc. representing AT&T requesting Design Review approval to install wireless telecommunication facilities on the rooftop of a residential building at 1538 Saint Charles Street; and

WHEREAS, the application was accepted as complete on February 10, 2015; and

WHEREAS, the project site is located within the R-4 (Neighborhood Residential) zoning district; and

WHEREAS, AMC Section 30-37.2 requires Design Review for new structures such as a proposed wireless telecommunications facility; and

WHEREAS, local government authority over the review and approval of wireless communications antenna applications is established by the Federal Telecommunications Act of 1996, the Middle Class Tax Relief Act of 2012, and FCC regulations; and

WHEREAS, the Planning Board held a public hearing and approved this application on April 13, 2015; and

WHEREAS, on April 23, 2015 the City Council called the Planning Board decision for review and held a public hearing on May 19, 2015 to further consider the application.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council finds this project exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 -- minor alterations to existing public or private structures involving negligible or no expansion of use beyond that which exists. The proposed installation is a negligible expansion of the residential use and is in compliance with all applicable zoning regulations. Approval of the project would not result in any significant environmental impacts.

BE IT FURTHER RESOLVED THAT the City Council considered the public testimony, and all pertinent maps and reports and made the following findings concerning the project:

## Design Review Findings

1. The proposed design is consistent with the General Plan, Zoning Ordinance, and the City of Alameda Design Review Manual, in that the design of the installation is visually consistent with the building on which it will be located and has a harmonious relationship with the surrounding area.
2. The project will be compatible and harmonious with the design and use of the surrounding area. The design and dimensions of the stealth enclosure (15'0" by 14'6" by 10' tall) are appropriate to the site, compatible with adjacent or neighboring buildings or surroundings, and promotes harmonious transitions in scale and character in areas between different designated land uses, in that the facilities will be located at the rear of the property and away from public view from the street, and will blend in with the apartment complex.
3. The proposed design of the structure and exterior materials are visually compatible with the surrounding development, and design elements have been incorporated to ensure the compatibility of the facility with the character and uses of adjacent development in that the antennas are screened from view by a stealthing structure that will be painted to match the building color, exterior cables will be boxed in and painted to match the building color, and the cabinet boxes will be located inside of the ground floor parking garage.

BE IT FURTHER RESOLVED THAT the City Council of the City of Alameda hereby upholds Planning Board Resolution PB-15-03 approving PLN14-0729, Design Review application to install wireless telecommunication facilities on the rooftop at 1538 Saint Charles Street, subject to compliance with the following conditions:

1. **Building Permit Plans:** The plans submitted for the Building Permit shall include printed copies of these conditions and shall be in substantial compliance with plans prepared by Cortel dated February 2, 2015, and on file in the office of the City of Alameda Community Development Department, except as modified in these conditions of approval specified by the Planning Board:
  - a. This Planning Board resolution and conditions of approval shall be printed on the first sheet of the building permit plan set.
  - b. The final plans, submitted for building permit approval, shall conform to all applicable codes, regulations, and guidelines.
  - c. The final plans, submitted for building permit approval, shall note that exterior surfaces of the stealthing structure and the exterior cable boxing are to be painted in the matching color(s) as the building.
2. **Permit Expiration.** The Design Review approval shall terminate two years from April 13, 2015, unless actual construction under valid building permits has commenced, or the applicant applies for, and is granted by the Community Development Director or his/her designee, a one-time twenty-four month extension prior to the expiration of the Design Review.

3. **Discontinuation of Wireless Use.** Upon discontinuation of the use of the subject antennas, the property owner and/or permittee shall remove all antenna improvements and related equipment/enclosures associated with this Permit within 30 days.
4. **Co-location.** The owner(s) and operators of the proposed telecommunications facility shall fully cooperate and allow the co-location of antennas for other providers once a mutual agreement between the providers is established. Other wireless providers shall also be allowed to add on to existing at-grade equipment enclosures. Co-location proposals shall be subject to Design Review.
5. **Compliance with FCC Standards.** The proposed wireless communication facility shall comply with all applicable Federal Communications Commission (FCC) radio frequency emissions safety standards.
6. **Subsequent Changes to Approved Plans.** The approved design and dimensions of the stealth enclosure (15'0" by 14'6" by 10' tall) are appropriate to the site, compatible with adjacent or neighboring buildings, and promotes harmonious transitions in scale and character in the surrounding areas. Any subsequent exterior changes shall be submitted to the Community Development Department for review and approval prior to construction. Minor project design details requested by the applicant may be established, modified, and approved by the Community Development Director or his/her designee provided that the findings can be made that the proposed changes are consistent in character and quality to the design review plans approved by the Planning Board.
7. **Construction and Maintenance Hours.** Except in the case of emergency, construction and maintenance on the roof shall be limited to the hours of 8:00 AM to 5:00 PM, Mondays through Fridays.
8. **Radio Frequency Emission Safety.**
  - a. The roof access door shall be locked and fitted with an alarmed "panic bar" so that the antennas on the roof are not accessible to unauthorized persons.
  - b. RF safety training shall be provided to all authorized personnel who have access to the roof, including employees and contractors of the wireless carriers, and the property owner.
  - c. No access shall be allowed within 10 feet directly in front of the antennas while the base stations are in operation, unless other measures can be demonstrated to ensure that occupational protection requirements are met.
  - d. Yellow demarcation lines shall be painted on the roof to identify areas calculated to exceed the FCC occupational limit.

- e. Explanatory signs shall be posted at the roof access door that comply with OET-65 color, symbol, and content recommendations. Contact information shall be included to arrange for access to restricted areas.
  - f. All residents within the building, and property management and maintenance personnel, shall be notified of the location of rooftop antennas and their associated safety issues. The notification shall state that access to the roof is for authorized personnel only. It shall be the responsibility of the property owner/management to notify future tenants of the building.
9. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
10. **Noise.** Maximum noise levels emanating from any of the facilities operating on the subject site shall comply with the City's Noise Ordinance requirements.
11. **Revocation.** This Use Permit may be modified or revoked by the Zoning Administrator, pursuant to Alameda Municipal Code Section 30-21.3d should the Zoning Administrator determine that: 1) the use or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity; 2) the property is operated or maintained so as to constitute a public nuisance; or 3) the use is operated in violation of the conditions of the Use Permit.
12. **Indemnification.** The applicant shall defend (with counsel reasonably acceptable to the City), indemnify, and hold harmless the City of Alameda, the Alameda Planning Board and their respective agents, officers, and employees from any claim, action, or proceeding (including legal costs and attorney's fees) against the City of Alameda, Alameda Planning Board and their respective agents, officers or employees to attack, set aside, void or annul, an approval by the City of Alameda, the Community Development Department, Alameda Planning Board or City Council relating to this project. The City shall notify the applicant of any claim, action or proceeding and the City shall cooperate in such defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action or proceeding.

NOTICE. No judicial proceedings subject to review pursuant to California Code of Civil Procedure Section 1094.5 may be prosecuted more than ninety (90) days following the date of this decision plus extensions authorized by California Code of Civil Procedure Section 1094.6

NOTICE. The conditions of project approval set forth herein include certain fees and other exactions. Pursuant to Government Code Section 66020 (d) (1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations and exactions. The applicant is hereby further notified that the 90-day appeal period, in which the applicant may protest these fees and other exactions, pursuant to

Government Code Section 66020 (a) has begun. If the applicant fails to file a protest within this 90-day period complying with all requirements of Section 66020, the applicant will be legally barred from later challenging such fees or exactions.

\* \* \* \* \*

I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the City Council of the City of Alameda at a City Council Meeting assembled on the 19<sup>th</sup> day of May, 2015, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City Council this 20<sup>th</sup> day of May, 2015.

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Lara Weisiger, City Clerk  
City of Alameda

APPROVED AS TO FORM:

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Janet C. Kern  
City Attorney