

City Council

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## City of Sebastopol Planning Commission Staff Report

Meeting Date: October 11, 2016  
Agenda Item: 8A  
To: Planning Commission  
From: Kenyon Webster, Planning Director  
Subject: Appeal of Administrative Approval of Antenna Application  
Recommendation: Deny Appeal, Uphold Approval with Findings and Conditions  
Appellant: Sebastopol Alliance for Rural Preservation (SHARP), Bob Jenkins  
Applicant/Owner: KOWS Community Radio/City of Sebastopol  
File Number: 2016-73  
Address: 1281 Pleasant Hill Road, Sebastopol  
CEQA Status: Exempt  
General Plan: Community Facilities  
Zoning: Community Facilities

### **Introduction:**

This is an Appeal application, requesting that the Planning Commission overturn an Administrative Approval (attached) which would allow KOWS Community Radio to construct and operate a 30-foot radio tower, with a 5-foot pole extension for a total height of 35 feet at 1281 Pleasant Hill Road. The Administrative Approval determined that the proposed project qualified for approval as meeting parameters for consideration as a Minor Telecommunications Facility, which is a permitted use in the CF District.

KOWS operates a non-profit radio station. The antenna structure would be painted flat green. The structure would be approximately 18 inches in diameter, with diagonal bracing and with an open structure.

KOWS submitted this administrative application (attached) subsequent to a separate application for an antenna on the same site of up to 70 feet in height.

Per provisions of the Municipal Code, the proposed 35-foot antenna qualifies for administrative approval as a minor telecommunications facility.

The Environmental Coordinator has determined that this project is categorically exempt from the California Environmental Quality Act (CEQA).

An appeal of this approval was filed by Robert Jenkins on behalf of the Sebastopol Hills Alliance for Rural Preservation (SHARP).

1281 Pleasant Hill Road is a City-owned 3.39 acre parcel surrounded by unincorporated Sonoma County. The site is currently home to the Pleasant Hill Road Reservoir, which contains two 3 million gallon water tanks and an ancillary structure and equipment.

Summary: Considerable materials have been submitted in conjunction with the application and appeal. However this is a relatively simple and small project, and exemption under CEQA is appropriate. The new application is half the height of the prior antenna application, and would be lower in height than some of the adjacent on-site trees. There would be some visual effect, but that would be relatively minor and similar to the height and visual effect of telephone poles/wires common in the area and routinely installed without any discretionary process. The height would also not exceed the allowed height for a single family home in the nearby unincorporated area. The facility would conform to emission standards. It is recommended the appeal be denied with the findings and conditions set forth in the staff report.

Background: KOWS expressed interest in constructing and operating a radio tower at the site in an effort to have an antenna with greater broadcast reach than their current antenna location. The City Council gave KOWS permission to apply for a radio antenna tower as the property owner. If the project is approved, KOWS and the City would sign a lease agreement with an anticipated payment of \$1 a year.

The prior KOWS application was for an antenna of up to 70 feet in height, later modified to 65 feet. The Planning Commission approved a Use Permit for a 65-foot antenna structure, and determined that project was exempt from CEQA. That action was appealed by SHARP to the City Council. The City Council upheld the appeal on the sole grounds that a focused Environmental Impact Report was needed for that application. Further work on processing the 65-foot antenna application has not occurred.

Appeal: Sebastopol Hills Alliance for Rural Preservation (SHARP) submitted a detailed appeal application, requesting that the City overturn the administrative approval. SHARP cited a number of concerns as the basis for their Appeal application. Please refer to the attached appeal statement date-stamped September 8, 2016, as well as the SHARP response to the September 29, 2016 KOWS letter, as well as the October 5, 2016 letter from attorneys Shute, Mihaly and Weinberger for specific appeal grounds. These submittals are attached.

KOWS has also provided a written responses to the appeal in a letter dated September 29, 2016. That submittal is attached.

### **Project Description:**

KOWS is a nonprofit community radio station and Federal Communications Commission (FCC) Emergency Alert Station, which began broadcasting in 2007. KOWS relocated its studio to the Sebastopol United Methodist Church at 500 North Main Street in 2015, after years of operation in Occidental, California. KOWS proposes to construct and operate a Low Power FM Radio antenna, which would be installed on a 30 foot tall radio tower, with a 5 foot pole extension at the southeast corner of the Pleasant Hill Road Reservoir site. The tower would be painted flat green. The structure would have an approximate diameter of 18 inches with diagonal bracing and an open structure.

Planning Commissioners were invited to a special Commission brief meeting to visit the site on October 4, 2016. Four Commissioners attended. Bob Jenkins, representing SHARP, invited

individual Commissioners to visit his adjoining property after the special meeting, and several Commissioners did so.

**Environmental Review:**

The project was found to be categorically exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to the following:

*15301: Existing Facilities:* Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

The approval found that the project was consistent with this categorical exemption in that the site is a 3.39 acre City-owned existing facility with two very large water tanks, and the addition of a radio tower with a small footprint, an open structure, and with minimal activity with a Low Power FM Radio antenna, constitutes a minor physical alteration to this existing substantial facility.

*15303: New Construction or Conversion of Small Structures:* Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.

The approval found that the project was consistent with this categorical exemption in that the height of the radio tower would be 30 feet with a 5 foot pole extension, and its actual footprint and the improvements to construct it are minor, as it has a diameter of 18 inches.

**General Plan Consistency:**

The General Plan Land Use Designation for this site is Community Facilities. The General Plan describes Community Facilities as the following: *"This designation includes public buildings and facilities, utility facilities and related easements, public libraries, city offices, fire and police stations, and school sites. Maximum FAR shall not exceed 1.0."* The project is consistent with this land use designation in that it involves a utility use located on a community facility, which currently contains major public utility uses.

The following General Plan goals and policies are applicable to the project:

**Chapter I: Land Use**

**Section V: Residential Land Use**

*Goal 4: Preserve the unique character and ambiance of residential areas.*

*P. 15: Prevent encroachment of non-residential use.*

*P. 16: Protect Residential Neighborhoods: Protect residential neighborhoods from the effects of adjacent non-residential uses.*

The project is consistent with this goal and policies in that the construction and operation of a small radio tower is a minor addition to a large non-residential parcel that has already been

developed as a City reservoir with substantial utility improvements. The radio tower is a supplemental use and does not expand the footprint of the site nor does it encroach onto residential uses.

## Chapter V: Community Identity

### Section B: Preservation of Scenic Views

*Goal 13: Preserve and enhance scenic views of the Laguna de Santa Rosa, Atascadero Creek, the hills to the west of Sebastopol and other natural resources within the Sebastopol Planning and Referral Area.*

*P.40: Preserve scenic views of the natural landscape.*

As with many types of permitted improvements, the project would have a visual impact, but is consistent with this goal and policy in that the radio tower would be lower in height than some of the adjacent on-site trees, which provide substantial screening, the structure has a diameter of 18 inches and an open structure with diagonal bracing, which makes it less impactful than other telecommunications improvements, and comparable in visual impact to telephone and other utility poles of similar heights and dimensions, which are common in the area and in California generally. The 30-foot tower is located on a corner of the site that has no visibility from the property frontage along Pleasant Hill Road, minimal visibility from other areas of Pleasant Hill Road, is shielded by large trees, a number of which are taller than the tower, and has limited apparent visibility to area homes due to its location, topography of intervening land, and distance from homes. The 5-foot pole extension would have minimal visual effect, and some of the surrounding trees are taller than 35 feet, providing substantial screening. There are also smaller trees around the site that over time will provide additional screening. The radio tower would also be located on a site that currently contains two large water tanks, numerous mature trees, and would be required to be painted flat green to blend in with vegetation and the green-painted water tanks.

## Chapter VII: Safety

### Section X: Minimizing Magnetic Field Hazards

*Goal 9: Minimize community exposure to EMF.*

*P.37: Consider EMF in Land Use Decisions: Consider information regarding EMF radiation from new electrical transmission lines and substations in making land use decisions.*

*P.38: Siting and Construction of Electrical Transmission Facilities: Minimize and reduce EMF radiation levels near sensitive areas such as schools, hospitals, and playgrounds when planning for electrical transmission facilities repair and new construction.*

The project is consistent with this goal and policies in that the radio tower contains Low Power FM Radio antennas, and is consistent with FCC standards for Nonionizing Radiation (NIER) emissions. Furthermore, exposure is minimal in that the radio tower is secured by a fence.

### **Zoning Ordinance Consistency:**

The site is located in the CF: Community Facilities District. The Zoning Ordinance states the following: "The purpose of the CF District is to implement the 'Community Facilities' and 'Parks' and 'Open Space' land use categories of the General Plan. This District is applicable to lands accommodating governmental, public utility, and educational facilities, as well as parks and open space land in public ownership." The project is consistent with the CF District in that it involves the construction and operation of a small radio tower with a total planned height of 35 feet, which is a permitted use as a 'Minor Telecommunications Facility.'

The radio tower is considered a 'Major Telecommunications Facility' because its height will not exceed 35 feet and otherwise qualifies for approval as set forth in the Administrative Approval

### **Public Comment:**

Notice of the Administrative Approval is required to be mailed to property owners within 300 feet of the site. The City provided notice within 600 feet. In conjunction with the appeal hearing, City staff did the following to comply with Section 17.260.030.B (5) of the Zoning Ordinance for the Appeal application: (1) Provided written notice to all property owners within 600 feet of the external boundaries of the subject property; (2) provided a written notice that was published in the Sonoma West Times; and (3) posted three written notices publicly on and within vicinity of the subject property.

The Planning Department received comments from the public that are attached to this staff report.

### **City Departmental Comment:**

The Administrative Approval reflected conditions to address issues identified by City departments.

### **Analysis:**

In the appeal documents, SHARP raised a number of concerns with the Administrative Approval. Major issues are addressed below.

- CEQA determination. This is a new and separate application. The scale of the application, with a 30 foot, 18 inch wide tower structure, and a maximum 5' pole on top, is of substantially reduced scale from the prior application, as well as being lower in height than a number of existing and adjacent trees on the property, and of comparable height (and likely lesser visual impact) to telephone poles (with attendant wires) common in the area. The Administrative Approval appropriately found it exempt from CEQA under the referenced findings.
- Height. As described in the project application and as approved, maximum height is limited to 35 feet. Height will be verified in building plans. To clearly memorialize this requirement, an additional condition is recommended.
- Accessory use. The proposal is a minor addition to an existing utility facility, and as such qualifies as an accessory use as the City has interpreted this term. The City routinely considers a number of minor, small or other secondary uses to be accessory to a primary use, including when that minor use is different than the primary use, and in the case of minor telecommunication facilities, the Zoning Ordinance requires that the primary use not be a telecommunications facility.

- NEIR emissions. As documented in KOWS response to the appeal, the project would meet the relevant emissions limitation for minor facilities. A condition is recommended to clearly state required emission limitations.
- Distance from residential dwellings. The project conforms to this standard in that there are no residential dwellings within 75 feet of the facility.
- Screening. The KOWS submittal provides a site plan that does not include new landscaping. Appropriate landscaping already exists. Staff determined that the site plan was sufficient and a new landscaping plan was not required since there are tall existing trees screening the site providing major screening, and younger smaller trees around the site that provide some screening currently, and will provide more substantial screening in the future. The intent of the code is met. Planting of additional trees would be redundant, and given the specifics of this site, was not determined necessary to fulfil the intent of this provision.
- General conformance with CF District and Telecommunications Ordinance. The CF District lists minor telecommunications facilities not exceeding 35 feet in height as a permitted use. The determination did not list every applicable code section in its findings; the Administrative Approval includes findings relating to the requirements set forth for this category in Municipal Code Section 17.100240. To make this clear, additional findings are recommended.
- Colocation. While many hypothetical situations may be imagined, as approved, colocation would not be permitted.
- Alternative sites. In this and the prior application, the applicant provided extensive analysis of alternative sites.

#### **Hearing Format:**

The Chair has indicated the following format for the meeting. After the staff report and questions of staff, the appellant will have up to 20 minutes to make a presentation; then the applicant will have up to 20 minutes to make a presentation. If there is a large number of members of the public wishing to speak, speakers will have 2 minutes to make comments.

#### **Recommendation:**

Staff recommends that the Commission deny the appeal application and uphold the administrative approval based on the findings and conditions set forth in this staff report. The Commission could otherwise consider the following alternatives:

1. Deny the appeal application and uphold the administrative approval, with the findings and conditions set forth in the staff report. Findings and conditions have been updated from the administrative approval.
2. Uphold approval with additional modifications: The Commission may find the approval was appropriate in that the radio tower use is compatible with the site but determine that additional modifications would be appropriate.
3. Continuance for additional information: The Commission may determine that more information is needed, prior to acting on the appeal application. However, there is a limit on continuance of a decision on appeals. The Municipal Code requires that a decision on appeals be made within 30 days of the appeal hearing. This deadline can be extended by mutual agreement of the City and the applicant.
4. Approve the appeal and deny the administrative approval permit: The Commission could find that it is appropriate to overturn the administrative approval decision and approve

the appeal. The Commission should articulate its rationale for supporting the appeal and denying the application, and staff will subsequently prepare findings based on Commission comments, public testimony, and the appellant's submittals for review and approval at a future Commission meeting.

Attachments:

- A. KOWS administrative approval application
- B. Administrative approval
- C. Appeal statement date-stamped September 8, 2016
- D. KOWS written responses to the appeal in a letter dated September 29, 2016.
- E. SHARP response to the September 29, 2016 KOWS letter
- F. October 5, 2016 letter from attorneys Shute, Mihaly and Weinberger
- G. Other public comments

**KOWS Community Radio Application for Minor Telecommunications Facility:  
Radio Tower with Low Power FM Antenna  
1281 Pleasant Hill Road**

**Findings**

1. That this determination reflects review of the administrative approval application, the administrative approval, the appeal materials, the applicant's response to the appeal, the staff report, written public comments, and comments and submittals at the Commission's appeal hearing.
2. That the project is categorically exempt from the requirements of CEQA, pursuant to Section 15301, Class 1, as well as Section 15303, Class 3. The project site has not been identified as unique or as environmentally sensitive. Based on the current project application for a 35-foot tower, the prior application and analysis for a proposed 70-foot antenna tower at the same location (Planning File No. 2015-126), and materials associated with review of a subsequent appeal of the approval of that application (Planning File No. 2016-13), and staff analysis of the current application, and as articulated in these findings, there are no site environmental resources of hazardous or critical concern that have been designated, precisely mapped, or officially adopted by local, state, or federal agencies. While this site may provide habitat for various animal or bird species, no information has been documented that the construction and operation of the tower would create adverse impacts to such species; the very small tower footprint, the fact that no trees will be removed; and the nature of the fixed tower, which does not have moving parts, supports this finding. Further, the project is a small radio tower for a local non-profit radio station, and is not one of multiple such applications or developments which might have significant cumulative impacts, in that the City is unaware of any other such applications or such recent developments in the City or its environs. As analyzed in the staff report, there are no identified unusual circumstances relative to the project or the site which might reasonably raise the possibility of a significant effect on the environment. The project would not damage trees, rock outcroppings, or similar resources, and based on information provided by the applicant, would not impact scenic resources along the County-designated scenic corridor, Highway 116 in that the analysis indicates it would not be visible or substantially visible from Highway 116. Further,

the site is not located on a hazardous waste site, and would not affect or cause a substantial adverse change in the significance of a cultural or historical resource in that no such resources have been identified at or adjoining the site.

3. The project qualifies for an exemption under Class 1 in that the site is a 3.39 acre City-owned existing facility that was purchased for utility purposes, which includes two very large water tanks, and the addition of a 35-foot radio tower with a very small footprint, an open structure, and with the minimal activity associated with operation of a Low Power FM Radio antenna, constitutes a minor improvement with a negligible scope of use, and constitutes a physical alteration which is accessory in nature and scale to the primary substantial water storage use. Placement of such minor improvements is a common feature of larger public utility sites. Further, the examples provided for modification of existing facilities under a Section 15301 exemption include substantially larger structures, such as a building addition of 2,500 square feet, which would have different, and potentially greater impacts.
4. The project is also categorically exempt from the requirements of CEQA, pursuant to Section 15303, Class 3, in that the height of the radio tower would be 35 feet, which is similar to the height of utility poles common in the area, which are routinely installed without special approval; its actual footprint is minimal; and the improvements to construct it are minor, as it has a diameter of 18 inches, making it also comparable to horizontal dimensions of utility poles common in the area, while having less mass, likely resulting in lesser visual impact. In addition, County zoning in the immediate area includes the Diverse Agriculture designation, which allows homes of up to 35 feet in height, and agricultural structures of up to 50 feet in height. The project is comparable to, or of lower height than these allowances, and has considerably less bulk and visual mass than would a 35-foot tall home, or a 50-foot tall barn or water tower. Further, as documented in the administrative approval application, its location at considerable distance from a public road and from most area residences, the presence of large trees of 30-50 feet in height on the site, some of which exceed the height of the proposed tower, and variations in grade in the area will substantially lessen the visibility of the project from public areas. While not required to qualify for these CEQA exemptions, the conditions of approval, a number of which are required by existing City ordinance provisions for any antenna of this type, will further reduce the visibility of the project. This exemption category provides for exemption of projects of considerably greater scale and impact than the subject project, such as development of a 4-unit multi-family structure (which would have considerably greater bulk, potentially greater visual impact, and more traffic and noise impacts; or a store or restaurant of up to 2,500 square feet; or substantial utility and street extensions. Construction of the project would involve minimal changes to the environment, and the completed project would not generate noise, would not generate waste products or air pollution, would generate negligible vehicle traffic, and would only modestly change the visual character of the project area.
5. These CEQA determinations have been made after carefully reviewing detailed project information, including the project description, plans, photographs, and visual simulations, and considering past extensive public testimony and written submittals associated with a previous application for a substantially-taller 70-foot antenna by the same applicant, for the same location.
6. That the project is consistent with the General Plan and Zoning Ordinance in that it involves the operation of a limited utility use at a site that, as detailed in the staff report and application materials currently contains substantial public utility improvements. The project is consistent with General Plan policies and Zoning Ordinance provisions in that the

construction and operation of a small radio tower is a minor addition to a large non-residential parcel that has already been developed as a City reservoir with substantial utility improvements. The radio tower is an accessory use and does not expand the footprint of the site nor does it encroach onto residential uses. The project would modestly change the visual character of the project area and may be interpreted as consistent with General Plan goals and policies in that the radio tower has a diameter of 18 inches and an open structure with diagonal bracing, which makes it less visually intrusive than other telecommunications improvements, and comparable in visibility and height to telephone and other utility poles, which are common in the area and in California generally and routinely installed in a non-discretionary process. As documented in the administrative application, the radio tower would also be located on a site that currently contains two very large and tall water tanks, numerous mature trees, some of which are taller than the proposed antenna, and under conditions mandated by an existing City ordinance provision and a condition of approval, the antenna structure would be required to be painted a flat green, to blend in with the large trees in the area of the antenna. There are also smaller, younger trees in the vicinity of the tower site that will add to vegetative screening. The site plan is adequate and additional landscaping is not needed to provide reasonable screening and meet ordinance provisions. The location of the tower and the existing trees obviate the need for additional landscaping.

7. That the subject site is zoned CF, Community Facilities District. CF District 'Permitted Facilities Section 17.76.020 F lists 'Minor telecommunication facilities and commercial minor antennas, not exceeding 35 feet in height...' as permitted uses, subject to review by the Planning Director. The proposed antenna is subject to these allowances, in that it is 35 feet in height, and otherwise conforms to relevant standards.
8. The proposed antenna qualifies for classification as a 'minor antenna' and a 'minor telecommunications facility in that it is not greater than 35 feet in height, and it conforms to the provisions of Municipal Code Section 17.100.030, as well as Section 17.100.240, in that is accessory to the primary use of the property (municipal water system use); it would not result in an exceedance of the numerical limit on antennas (6) at a given site; it would conform to relevant NIER standards as set forth in the application submittal; it is not situated between a primary building on the parcel and any public street; it is located outside of all yard and street setbacks specified for the zoning district; no guy wires will be employed; antenna arrays will not extend beyond the property line; no power lines are in the immediate vicinity of the antenna site; the antenna will be comprised of noncombustible and durable materials; the antenna would be painted flat green to blend in with site area landscaping; the installation will be performed consistent with the manufacturer's specifications and will be subject to permitting and inspection by the Building Official; the antenna will be located on a fenced, secured site, and the antenna will have anti-climb panels; the project will protect visual character by virtue of its modest height, open structure, minimal footprint, distance from any public road, and siting near tall trees, as documented in the application materials; and will assist in providing emergency response and communication, in that KOWS is an FCC-designated emergency alert provider, and indicates that they would provide localized information to the community in major emergency situations, which would be of substantial benefit in an region-wide emergency situation.
9. That the project is consistent with goals and policies relating to EMF in that the radio tower contains Low Power FM Radio antennas, and is consistent with FCC standards for Nonionizing Radiation (NIER) emissions. Furthermore, exposure is minimal in that the radio

tower is secured by a fence and the actual antenna is located well above the natural grade and at substantial distances from residences.

- 10.** That the project is consistent with zoning district requirements in that the site is located in the CF: Community Facilities District. The Zoning Ordinance states the following: "The purpose of the CF District is to implement the 'Community Facilities' and 'Parks' and 'Open Space' land use categories of the General Plan. This District is applicable to lands accommodating governmental, public utility, and educational facilities, as well as parks and open space land in public ownership." The project is consistent with the CF District in that it involves the construction and operation of a radio tower, which depending on height and other factors, is listed as both a permitted and a conditionally-permitted use in the CF Zoning District. The subject application is a permitted use, in that it is not greater than 35 feet tall and otherwise meets parameter for administrative approval. The CF District also allows Communications Equipment, Electrical Substations, Water and Sewer Pumping and Treatment Facilities, Gas Substations, Police and Fire Stations, Public Works Yards, Post Offices, Public Parking Lots, Libraries, and Government Offices. Further, as detailed in other findings, the project is consistent with the provisions of the telecommunications facilities provisions of the Zoning Ordinance.
- 11.** That the actual visibility of the project is acceptable in that the radio tower has a diameter of 18 inches and an open structure with diagonal bracing, which makes it less visible than some other telecommunications improvements which may have more massive or solid tower structures, or may have extensive attachments, or may have extensive horizontal elements, that the 35-foot height is comparable to utility poles found throughout the area, and will be comparable or lower than the height of some of the screening trees on the project site.
- 12.** That the visibility of the radio tower is minimal in that as detailed in the application materials, including the visual simulation analysis, it would be located on a site that currently contains two very large water tanks, a number of large, tall mature trees, and would be required to be painted a flat green. The site is not on an exposed ridge line, the specific location takes advantage of natural landforms (a location at a lower elevation than Pleasant Hill Road) and existing vegetation (tall trees) to minimize visual effects. The project does not involve cut and fill grading, or construction of a new road or driveway. While the Sonoma County General Plan designates Highway 116 as a 'scenic corridor,' the site area is not within a County-designated 'scenic landscape unit,' and the actual antenna site does not appear to be visible from Highway 116, as documented by multiple photographs and analysis submitted by KOWS for this application, as well as similar submittals for the previous application for a 70-foot tower at the same site. Further, the site is thousands of feet beyond Highway 116. Even if the structure was subject to County regulation, which it is not, the scenic corridor policies state that telecommunications facilities may be permitted, provided they meet applicable County Development Code criteria. Further, the County itself has approved other structures, including taller antennas, in substantially closer visual proximity to Highway 116 than the subject site. The visibility of the tower can also be compared to that of telephone and other utility poles, which are common in the area, and while some such poles are lower in height than the proposed project, others are taller, and they are often in closer proximity to roadways and residences than the proposed tower will be and also have visually noteworthy wires attached to them; and from that perspective, the visual impact of the proposed project, while present, is not substantial. This is demonstrated by the updated visual simulation analysis submitted as part of the KOWS submittal, which shows the tower from different perspectives and distances. The submittals also shows the effect of the varying topography in the area, which reduces or eliminates visual impact of the project from

some locations, as well as the limited visibility of the tower due to its minimal physical profile and modest height.

13. That the applicant provided information regarding their site search and alternative locations in the subject application as well as in conjunction with the referenced prior antenna application and the appeal of its approval, which demonstrates that the proposed site is reasonably appropriate, given consideration of the multiple parameters set forth in such analysis.
14. That the radio tower does not threaten public health in that it will be compliant with FCC and City standards in terms of NIER exposure, and that it is a Low Power FM Antenna.
15. That the actual antennas are located above natural grade and the radio tower site is enclosed by fencing, which creates a vertical, as well as horizontal, distance between the telecommunication improvements and members of the public.
16. That the radio tower will not threaten public safety in that it will be subject to standard conditions and code requirements to meet several structural and safety requirements to the satisfaction of the Building Official, Fire Chief, Public Works Superintendent, and City Engineer.
17. That the project is a compatible with the site in that it is a utility use proposed for a parcel that is zoned for and contains utility uses, and the radio tower would not impede or cause any demonstrated effects on the City's primary water use of the property.
18. That the project is subject to several conditions of approval that are intended to further reduce impacts on the site and surrounding uses, and includes a condition which allows only KOWS to install antennas on the radio tower, and prohibits other telecommunications providers from making improvements on the site.
19. That any contentions that if the project were approved, the City could be forced to allow other telecommunication antennas on the structure are inaccurate. There are Federal requirements that place restrictions on State and local government's ability to regulate co-location of wireless facilities, however these are not applicable to the KOWS antenna situation. FCC Report and Order FCC 14-153 clearly states that co-location mandates do not apply to State and local governments when they are acting as property owners. This is comparable to the rights of other property owners to control uses on their property. This interpretation is supported by a May 2015 legal analysis of FCC wireless rules prepared for the League of California Cities. This issue is also analyzed in the April 25, 2016 KOWS submittal for the previous antenna project.
20. The radio tower will not threaten public health in that it will be compliant with FCC and City standards in terms of NIER exposure, and is a Low Power FM Antenna, which does not emit the same NIER as a major cellular tower. Furthermore, the actual antennas are located above natural grade and the radio tower site is enclosed by fencing, which creates a substantial distance between the telecommunication improvements and members of the public. Finally, the radio tower will not threaten public safety in that per existing code requirements, it will be conditioned to meet several structural and safety requirements to the satisfaction of the Building Official, Fire Chief, Public Works Superintendent, and City Engineer.

21. That the City appropriately regulates telecommunication facilities within its jurisdiction, and the City has approved several telecommunications facilities at a number of sites, such as the considerably taller and more massive cell tower at Sebastopol's City Hall, a major antenna structure next to Sonoma West Hospital, a substantial tower at the Police Station, and other substantial antenna installations on buildings including the Rialto Cinemas and Redwood Credit Union. KOWS initiated this proposal after a site search determined that it was a suitable location; as demonstrated by a number of approved antenna projects in the City limits, the City is open to consideration of such applications, consistent with provisions of the Municipal Code.
22. Based on the above findings, and following careful consideration of the appeal, the applicant's response, and public testimony, the appeal application is hereby denied.

**Conditions of Approval:**

1. Approval is granted for the Administrative Antenna Permit for a minor telecommunications facility with a maximum total height above grade of 35 feet, as described in the application date-stamped August 16, 2016, except as modified by the conditions of approval, and is valid for a period of two (2) years during which time the rights granted must be exercised. However, the applicant may request one (1) one-year extension of this Permit from the Planning Director, pursuant to Section 17.250.050 of the Zoning Ordinance.
2. The City of Sebastopol and its agents, officers and employees shall be defended, indemnified, and held harmless from any claim, action or proceedings against the City, or its agents, officers and employees to attach, set aside, void, or annul the approval of this application or the environmental determination which accompanies it, or which otherwise arises out of or in connection with the City's action on this application, including but not limited to, damages, costs, expenses, attorney's fees, or expert witness fees.
3. The Planning Director shall interpret applicable requirements in the event of any redundancy or conflict in conditions of approval.
4. No signs shall be installed that identify the KOWS use of this property, unless specifically authorized by the City.
5. No sound may emanate from the telecommunications facility, which violates the Noise Ordinance or causes an undue disturbance to site neighbors.
6. An Encroachment Permit shall be obtained for work on this public property prior to any construction. No Building Permit will be issued unless an Encroachment Permit has been obtained. Please call the Engineering Department for information at (707) 823-5331.
7. All applicable permits shall be obtained from other approving agencies prior to commencement of this use, including, but not limited to Building and Safety Department, Fire Department, and the Federal Communications Commission (FCC).
8. KOWS shall be responsible for all improvements and maintenance. All electrical, internet, or other utility connections shall be KOWS responsibility, with any improvements subject to City approval. KOWS shall ensure that the operation of the tower does not interfere with Public Works Department requirements for municipal water operations.

9. The radio tower shall be selected for the appropriate wind load at the site per the Building Official.
10. Unless waived by the Building Official, a Geotechnical Report shall be required.
11. The facility shall require a Building Permit and an Electrical Permit. The plans shall be prepared, stamped, and signed by a licensed design professional. If a solar-powered back-up system is proposed, it shall only be permitted if approved by the Planning Director and Public Works Superintendent and shall also be to the satisfaction of the Building Official, and such facilities may require a Building Permit.
12. All construction work shall be done by California-licensed contractors, who have a current Business License with the City of Sebastopol.
13. All California State mandated SMIF and Green Building fees shall be paid.
14. The applicant shall execute a lease agreement with the City of Sebastopol that authorizes the use and improvements, and establishes terms of use including any lease payments, access and security restrictions, and other appropriate provisions prior to any construction, and establishing KOWS responsibility to remove its improvements upon expiration or revocation of the Permit, or expiration of the lease. The project may not proceed to construction unless and until the City Council approves such lease, and as property owner, the City reserves the right to set conditions or requirements, or to decline to approve such lease if its terms are not satisfactory.
15. Specific access and security arrangements shall be made with the Public Works Department.
16. Consistent with the adopted requirements of the telecommunications ordinance, the radio tower shall be painted flat green, matching the color of the on-site water tanks.
17. The facility shall be designed and maintained to withstand without failure the maximum forces expected from wind, earthquakes, and ice when the facility is fully loaded with antennas, transmitters and other equipment, and camouflaging, pursuant to Section 17.100.100 of the Zoning Ordinance. Initial demonstration of compliance with this requirement shall be provided via submission of a report to the Building Official prepared by a structural engineer licensed by the State of California describing the tower structure, specifying the number and type of antennas it is designed to accommodate, providing the basis for the calculations done, and documenting the actual calculations performed. Proof of ongoing compliance shall be provided via submission to the Planning Director at least every 5 (self-supporting and guyed towers)/10 (monopoles) years of an inspection report prepared by a California-licensed structural engineer indicating the number and types of antennas and related equipment actually present and indicating the structural integrity of the tower. Based on this report, the Building Official may require repair of, if a serious safety problem exists, removal of the tower.
18. This approval is only for the KOWS antenna and related facilities. KOWS is not authorized to install or allow the installation of any other antennas or facilities on the radio tower or at the site, and this requirement shall be memorialized in the lease with the City.

- 19.** The facility shall remain unlit, unless otherwise approved by the City, pursuant to Section 17.100.160 of the Zoning Ordinance.
- 20.** The facility shall be designed and operated in such a manner so as to minimize the risk of igniting a fire or intensifying one that otherwise occurs to the satisfaction of the Fire Chief, pursuant to Section 17.100.190 of the Zoning Ordinance. All tree trimmings and trash generated by construction of the facility shall be removed from the property and properly disposed of prior to Building Permit finalization or commencement of operation, whichever comes first.
- 21.** The applicant shall submit a site plan, drawn to scale, showing all above and underground features on the site. The site plan shall also include detailed specifications for trenching and address erosion control, pursuant to Section 17.100.200 of the Zoning Ordinance.
- 22.** The facility shall be constructed and operated in such a manner as to minimize the amount of disruption caused the residents of nearby homes and the users of any nearby recreational areas such as public parks and trails, pursuant to Section 17.100.200 of the Zoning Ordinance. To that end all the following measures shall be implemented: (1) Outdoor noise producing construction activities shall only take place on weekdays (Monday through Friday) between the hours of 7:30 a.m. and 5:30 p.m. unless allowed at other times by the Planning Commission; (2) Backup generators shall only be operated during power outages and for testing and maintenance purposes. Noise attenuation measures shall be included to reduce noise levels to an exterior noise level of at least an LDN of 60 DB at the property line and an interior noise level of an LDN of 45 DB; and (3) Traffic at all times be kept to an absolute minimum, but in no case more than two round trips per day on an average annualized basis once construction is complete.
- 23.** The telecommunications facility shall continue to maintain compliance with FCC emission standards for human exposure, related to Nonionizing Electromagnetic Radiation (NIER), pursuant to Section 17.100.230 -240 of the Zoning Ordinance, including the standard set forth in Section 17.100.240 F. Every 5 years a report listing each transmitter and antenna present at the facility and the effective radiated power radiated shall be submitted to the Planning Director. If either the equipment or effective radiated power has changed, calculations specifying NIER levels in the inhabited areas where said levels are projected to be highest shall be prepared. NIER calculations shall also be prepared every time the adopted NIER standard changes. If calculated levels in either of these cases exceed 80% of the standard established by this section, the operator of the facility shall hire a qualified electrical engineer licensed by the State of California to measure the actual NIER levels produced. A report of these calculations, required measurements, if any, and the author's/engineer's findings with respect to compliance with the current NIER standard shall be submitted to the Planning Director within 5 years of facility approval and every 5 years thereafter. In the case of a change in the standard, the required report shall be submitted within 90 days of the date said change becomes effective.
- 24.** KOWS shall be responsible for obtaining and for the payment of all approvals and expenses related to PG&E and any internet or other communication services for its facility.
- 25.** The tower structure shall include anti-climb panels.

**26.** The site shall be secure with appropriate fencing as determined appropriate by the City Manager.



A. KOWS administrative approval application



**KOWS - LP COMMUNITY RADIO**  
**107.3 FM**

P.O. Box 1073 OCCIDENTAL, CALIFORNIA 95465

OFFICE PHONE: (707)874-9090  
STUDIO PHONE: (707) 874-1073

WEBSITE: WWW.KOWS.FM  
EMAIL: KOWS@SONIC.NET

To: Kenyon Webster, Planning Director, City of Sebastopol

From: KOWS Community Radio

August 15, 2016

KOWS Community Radio submits the accompanying Antenna Use Permit application materials for your review and consideration.

Enclosed in this submittal:

- Master Planning Application Form
- Antenna Use Permit Application Checklist
- Supplemental Information: Antenna Use Permit Application
- Determination Worksheet – Storm Water Low Impact Development Manual
- MWELo Preliminary Application Determination Checklist

Regarding the use permit deposit, KOWS has submitted a written fee reduction request to the City Manager. When we receive notification of the amount required, we will provide the appropriate deposit amount.

Please contact us with any questions or need for clarification.

Thank you,

David Dillman,

for KOWS Community Radio Antenna Relocation Committee





**Don Campau, Spokesperson**  
**P.O. Box 1073, Occidental CA 95465**  
**Office Phone: 707-874-9090 Studio Phone: 707-874-1073**  
**Email: [kows@sonic.net](mailto:kows@sonic.net) Website: [www.kows.fm](http://www.kows.fm) [www.facebook.com/KOWS.fm](http://www.facebook.com/KOWS.fm)**

August 15, 2016

To: Larry McLaughlin, City of Sebastopol Manager and Attorney  
From: Arnold Levine, Board Chair, KOWS Community Radio

KOWS Community Radio requests, at your discretion, a reduction in fees associated with our 35' Use Permit Application. As you know, KOWS is a non-profit 501(c)3 entity, our area's FCC-designated emergency alert station, and all-volunteer radio project. We are committed to inform, educate, connect, activate, and entertain our community.

KOWS is not a commercial endeavor, and seeks only to cover costs related to increasing our broadcast signal range. KOWS believes the long-term financial and other benefits to the City will far exceed the initial monetary value of such fees.

Thank you very much for your consideration on this matter.

Arnold Levine,  
Board Chair, KOWS Community Radio



# City of Sebastopol

Planning Department  
7120 Bodega Avenue  
Sebastopol, CA 95472  
(707) 823-6167 (Phone) or (707) 823-1135 (Fax)  
[www.ci.sebastopol.ca.us](http://www.ci.sebastopol.ca.us)

## MASTER PLANNING APPLICATION FORM

### PROJECT INFORMATION:

ADDRESS:	1281 PLEASANT HILL ROAD, SEBASTOPOL, CA 95472
PARCEL #:	076-050-067
PARCEL AREA:	3.39 ACRES

### FOR CITY USE ONLY

PLANNING FILE #: 2016/65

DATE FILED: 08.16.16

TOTAL FEES PAID: \$ 630-

RECEIVED BY: [Signature]

DATE APPLICATION

DEEMED COMPLETE: \_\_\_\_\_

### APPLICANT OR AGENT:

Name: KOWS c/o Arnold Levine, Board President

Email Address: arnold101@earthlink.net

Mailing Address: 266 Jesse Street

City/State/Zip: Sebastopol, CA 95472

Phone: 707 540-2641

Fax: none

Business License #: applied

Signature: [Signature]

Date: 8/15/16

### OWNER OF PROPERTY

#### IF OTHER THAN APPLICANT:

Name: City of Sebastopol

Email Address: lmclaughlin@cityofsebastopol.org

Mailing Address: 7120 Bodega Avenue

City/State/Zip: Sebastopol, CA 95472

Phone: 707 823-1153

Fax: 707 823-1135

Business License #: n/a

Signature: [Signature]

I certify that this application is being made with my consent.

Date: 8/22/16

### OTHER PERSONS TO BE NOTIFIED: (Include Agents, Architects, Engineers, etc.).

Name: David Dillman

Email Address: sasha@monitor.net

Mailing Address: PO Box 403

City/State/Zip: Occidental, CA 95465

Phone: 707 874-2350

Fax: 707 874-2350

Name: \_\_\_\_\_

Email Address: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

**PROJECT DESCRIPTION:**

**DESCRIBE IN DETAIL**, the proposed project and permit request. (Attach additional pages, if needed):

See detailed Project Description in attached Supplemental Information document

This application includes the checklist for the type of application requested:       Yes       No

Please indicate the type(s) of application that is being requested (example: Use Permit, Design Review, Variance, Planned Community Rezone, etc.):

Antenna Use Permit

Please describe existing uses (businesses, residences, etc.) and other structures on the property:

See Existing Site Uses in attached Supplemental Information document

**DEVELOPMENT DATA:**

<b>SQUARE FEET BUILDING EXISTING:</b>		<b>X</b> N / A
<b>SQUARE FEET BUILDING DEMOLISHED:</b>		<b>X</b> N / A
<b>SQUARE FEET BUILDING NEW:</b>		<b>X</b> N / A
<b>NET CHANGE IN BUILDING SQUARE FEET:</b>		<b>X</b> N / A
<b>NUMBER OF DWELLING UNITS EXISTING:</b>	<input type="checkbox"/> 0 Bedrooms <input type="checkbox"/> 2 Bedrooms <input type="checkbox"/> 4+ Bedrooms	<input type="checkbox"/> 1 Bedrooms <input type="checkbox"/> 3 Bedrooms <input checked="" type="checkbox"/> N / A
<b>NUMBER OF DWELLING UNITS PROPOSED:</b>	<input type="checkbox"/> 0 Bedrooms <input type="checkbox"/> 2 Bedrooms <input type="checkbox"/> 4+ Bedrooms	<input type="checkbox"/> 1 Bedrooms <input type="checkbox"/> 3 Bedrooms <input checked="" type="checkbox"/> N / A
<b>NET CHANGE IN DWELLING UNITS:</b>		<b>X</b> N / A
<b>SETBACKS:</b>	<b>Existing:</b> <input type="checkbox"/> Front Yard 15' <input type="checkbox"/> Side Yard 5' <input type="checkbox"/> Rear Yard 15' <input type="checkbox"/> N / A	<b>Proposed:</b> <input type="checkbox"/> Front Yard _____ <input type="checkbox"/> Side Yard _____ <input type="checkbox"/> Rear Yard _____ <input checked="" type="checkbox"/> N / A

<b>EXISTING LOT DIMENSIONS:</b>	Front: _____ Left: 3.39 acres	Rear: _____ Right: _____	<input type="checkbox"/> N / A
<b>PROPOSED LOT DIMENSIONS:</b>	Front: _____ Left: _____	Rear: _____ Right: _____	<input checked="" type="checkbox"/> N / A
<b>EXISTING LOT AREA:</b>	3.39 acres		<input type="checkbox"/> N / A
<b>PROPOSED LOT AREA:</b>	_____ Square Feet		<input checked="" type="checkbox"/> N / A
<b>BUILDING HEIGHT:</b>	Existing: _____	Proposed: 35' tower	<input type="checkbox"/> N / A
<b>NUMBER OF STORIES:</b>	Existing: _____	Proposed: _____	<input checked="" type="checkbox"/> N / A
<b>PARKING SPACE (S):</b>	Existing: _____	Proposed: _____	<input checked="" type="checkbox"/> N / A
<b>ZONING</b>	Existing: CF: Community Facility	Proposed: _____	<input type="checkbox"/> N / A

Will the project involve a new curb cut or driveway?  Yes  No

Are there existing easements on the property?  Yes  No

Will Trees be removed?  Yes  No

*If yes, please describe (Example: Type, Size, Location on property, etc.)*

Will Existing Landscaping be revised?  Yes  No

*If yes, what is square footage of new or revised landscaping?*

Will Signs be Changed or Added?  Yes  No

Business: Hours of Operation? Open: \_\_\_\_\_ Close: \_\_\_\_\_

Is alcohol service proposed?  Yes  No

If yes, what type of State alcohol license is proposed? \_\_\_\_\_

If yes, have you applied to the State Alcoholic Beverage Control for a license?  Yes  No

If this is a restaurant, café or other food service, bar, or nightclub, please indicate total number of seats: \_\_\_\_\_

Is any live entertainment proposed?  Yes  No

If yes, please describe: \_\_\_\_\_

# INDEMNIFICATION AGREEMENT

As part of this application, applicant agrees to defend, indemnify, release and hold harmless the City, its agents, officers, attorneys, employees, boards and commissions from any claim, action or proceeding brought against any of the foregoing individuals or entities, the purpose of which is to attack, set aside, void or annul the approval of this application or the adoption of the environmental document which accompanies it or otherwise arises out of or in connection with the City's action on this application. This indemnification shall include, but not be limited to, damages, costs, expenses, attorney fees or expert witness fees that may be asserted by any person or entity, including the applicant, arising out of or in connection with the City's action on this application, whether or not there is concurrent passive or active negligence on the part of the City.

If, for any reason any portion of this indemnification agreement is held to be void or unenforceable by a court of competent jurisdiction, the remainder of the agreement shall remain in full force and effect.

  
Applicant's Signature

August 15, 2016  
Date Signed

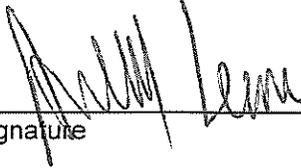
2016-65  
Planning File Number

**NOTE:** The purpose of the indemnification agreement is to allow the City to be held harmless in terms of potential legal costs and liabilities in conjunction with permit processing and approval.

## NOTICE OF MAILING:

Email addresses or facsimiles will be used for sending out staff reports and agendas to applicants, their representatives, property owners, and others to be notified.

**Please sign and acknowledge you have been notified of the Notice of Mailing for applications and have provided an email address or fax number.**

  
\_\_\_\_\_  
Signature

ARNOLD LEVINE  
\_\_\_\_\_  
Printed Name

**NOTE:** It is the responsibility of the applicant and their representative to be aware of and abide by City laws and policies. City staff, Boards, Commissions, and the City Council will review applications as required by law; however the applicant has responsibility for determining and following applicable regulations.

# NEIGHBOR NOTIFICATION

In the interest of being a good neighbor, it is highly recommended that you contact those homes or businesses directly adjacent to, or within the area of your project. Please inform them of the proposed project, including construction activity and possible impacts such as noise, traffic interruptions, dust, larger structures, tree removals, etc.

Many projects in Sebastopol are remodel projects which when initiated bring concern to neighboring property owners, resident and businesses. Construction activities can be disruptive, and additions or new buildings can affect privacy, sunlight or landscaping. Some of these concerns can be alleviated by neighbor-to-neighbor contacts early in the design and construction process.

It is a "good neighbor policy" to inform your neighbors so that they understand your project. This will enable you to begin your construction with the understanding of your neighbors and will help promote good neighborhood relationships.

Many times development projects can have an adverse effect on the tranquility of neighborhoods and tarnish relationships along the way. If you should have questions about who to contact or need property owner information in your immediate vicinity, please contact the Building and Safety Department for information at (707) 823-8597, or the Planning Department at (707) 823-6167.

I have informed site neighbors of my proposed project:  Yes  No

If yes, or if you will inform neighbors in the future, please describe outreach efforts:

Neighbors were notified of previous project plans for 70' foot antenna tower. (See Page 3, KOWS Antenna Use Permit Application 12/30/15)

Neighbor notification for the current modified 35'-tower project will be done by the City of Sebastopol

## WEBSITE REQUIRED FOR MAJOR PROJECTS

Applicants for major development projects (which involves proposed development of 25,000 square feet of new floor area or greater, or 25 or more dwelling units), are required to create a project website in conjunction with submittal of an application for Planning approval (including but not limited to Subdivisions, Use Permits, Rezoning's, and Design Review). Required information may be provided on an existing applicant web site.

The website address shall be provided as part of the application. The website shall be maintained and updated, as needed until final discretionary approvals are obtained for the project.

Such website shall include, at a minimum, the following information:

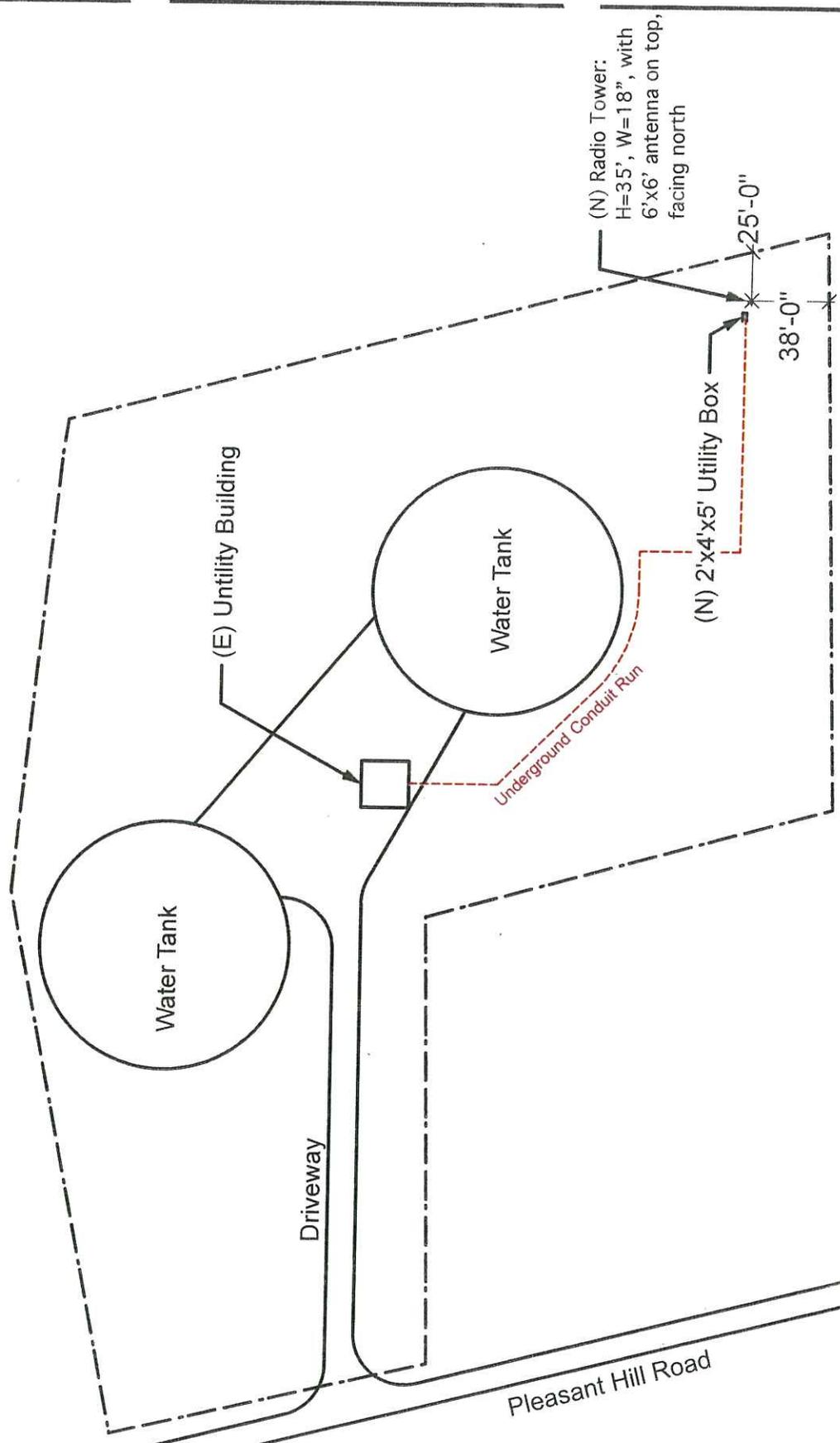
- ✓ Project description
- ✓ Contact information for the applicant, including address, phone number, and email address
- ✓ Map showing project location
- ✓ Photographs of project site
- ✓ Project plans and drawings



RECEIVED

AUG 18 2016

BY: *[Signature]*



Sebastopol Water Tanks		Site Plan	
1281 Pleasant Hill Rd Sebastopol, CA 95472		Autumn Streamfellow	
		12/29/2015	
<b>KOWS Radio Tower</b>			

Telecommunications Facility Acknowledgement of Maintenance Requirements

Facility: 1281 PLEASANT HILL ROAD

Applicant: KOWS COMMUNITY RADIO

Pursuant to Zoning Ordinance Section 17.100. H. new telecommunication facilities, or modifications thereto are required to maintain the facility as set forth below.

1. A maintenance/facility removal agreement signed by the applicant shall be submitted to the Planning Director prior to approval of the use permit or other entitlement for use authorizing the establishment or modification of any telecommunications facility which includes a telecommunication tower, 1 or more new buildings/equipment enclosures larger in aggregate than 300 square feet, more than 3 satellite dishes of any size, or an applicant's successors-in interest to properly maintain the exterior appearance and ultimately remove the facility all in compliance with the provisions of this chapter and any conditions of approval. It shall further bind them to pay all costs for monitoring compliance with and enforcement of the agreement and to reimburse the city for all costs incurred to perform any work required of the applicant by this agreement that the applicant fails to perform. It shall also specifically authorize the city and/or its agents to enter onto the property and undertake said work so long as:

(a) The Planning Director has first provided the applicant the following written notices:

- 1) An initial compliance request identifying the work needed to comply with the agreement and providing the applicant at least 45 calendar days to complete it; and
- 2) A follow-up notice of default specifying the applicant's failure to comply with the work within the time period specified and indicating the city's intent to commence the required working with 10 working days;

(b) The applicant has not filed an appeal pursuant to Chapter 17.130 within 10 working days of the notice required under (a) (2) above. If an appeal is filed, the city shall be authorized to enter the property and perform the necessary work if the appeal is dismissed or final action on it taken in favor of the Planning Director;

2. All costs incurred by the city to undertake any work required to be performed by the applicant pursuant to the agreement referred to in (1) including, but not limited to, administrative and job supervision costs, shall be borne solely by the applicant. The applicant shall deposit within 10 working days of written request therefore such costs as the City reasonably estimates or has actually incurred to complete such work. When estimates are employed, additional monies shall be deposited as needed within 10 working days of demand to cover actual costs. The agreement shall specifically require the applicant to immediately cease operation of the telecommunication facility involved if the applicant fails to pay the monies demanded within 10 working days. It shall further require that operation remain suspended until such costs are paid in full.

I acknowledge having reviewed the above requirements and the maintenance responsibilities set forth therein.

Signature

Date

Print Name

*Arnold Levine*  
2/16/16

ARNOLD LEVINE

*Applicable to  
August 2016  
application.*

*- A W*



City of Sebastopol

ANTENNA USE PERMIT – Staff Level Application Checklist

The submittal information shall be provided to the Planning Department. All submittal information shall be presented along with the Planning Application form, related fees, and any additional information required by the Planning Department before the application can be accepted as complete.

Upon receipt of this information the Planning Department will determine if the application is complete. Once this is completed the project can be processed by the Planning Department.

The applicant and/or his representative must be present for any meetings, if required. Failure to do so may result in the application being continued.

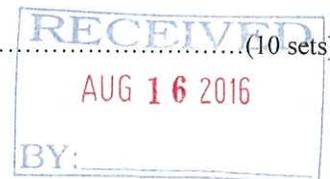
Size Limit: Plans should not be larger than 36" x 42". All plans shall be folded into a 9" x 11" size. Unfolded plans will not be accepted.

Scale: The scale used on submittal plans shall generally be at a 1/8" = 1'0" for the architectural plans, 1" = 20' for site engineering plans. Include a north arrow, the scale and a bar scale on all plans.

SUBMITTAL REQUIREMENTS

(# of copies)

- 1. Application Form: Completed and signed by applicant and property owner. (1)
2. Deposit: As defined on the fee schedule listed on the Master Planning Application. Checks should be made payable to the City of Sebastopol. Total application costs are determined by the Planning Department with the final amount based on processing time spent by staff and consultants.
3. Location Map: Indicate the subject parcel(s) and adjacent streets on an 8 1/2" by 11" map. (1)
4. Written Statement: Statement should include a description of the proposed use(s), as well as a description of current uses and conditions. If, because of use permit approval, there will be multiple uses on the site, indicate the location and square footage of the different uses. Describe the project in detail. State the reasons for the project, including the City's potential benefits and costs. (1)
6. Site Photographs: Clearly show the views of and from the project, including neighboring development. Include a key map indicating where the pictures were taken from and in what direction they were taken. Label the pictures accordingly. It is often desirable to provide the City with a series of overlapping photographs of the surrounding neighborhood that show a panoramic view. Polaroids or digital photos on a CD are acceptable. (1 set)
7. Area Development Map: Drawing should show existing development on site, surrounding land uses, streets and driveways and structures within 300 feet of subject parcel. Drawings should be accurately drawn to scale. Information may be obtained from recent aerial photos. (10 sets)
8. Site Plan: Scaled plan identifying proposed site development. (10 sets)



9. **Reduction:** ..... (1 set)  
 Include an 8 1/2" x 11" reduction of each plan.

Describe in detail the type of antenna and other improvements proposed (use additional sheets as needed):

See Project Description and Attachments B and C, Supplemental Information document

Describe how the type of antenna and other proposed facilities will be designed and/or screened to blend in or reduce visual impacts (use additional sheets as needed):

See Reduction of Visual Impact in Project Description section of Supplemental Information document

State the need for an Antenna Use Permit including the rationale for the proposed location.

See Need for Permit and Rationale for Location in Project Description section of Supplemental Information document

Describe the reason(s) for any exceptions to the City antenna regulations are being requested (use additional sheets as needed):

N/A

**BUILDING HEIGHT AND ANTENNA HEIGHT:**

	<i>Existing</i>		<i>Proposed</i>	
	Building	Antenna	Building	Antenna
Average Natural Grade	_____	_____	_____	_____
Feet Above Grade	_____	_____	<u>35' tower</u>	_____
Stories Above Grade	_____	_____	_____	_____
Feet Above Roof	_____	_____	_____	_____

Will the facility include a back-up generator? No. (Future plans include a small solar-powered back-up system.)

Commercial Hours of Operation: N/A

Number of Peak Hour Employees: N/A



# City of Sebastopol Determination Worksheet

**City Use Only**  
Project Requires  
Permanent Storm  
Water BMPs?  
Yes  No

## *Storm Water Low Impact Development Manual*

**Purpose:** Use this form to determine *whether or not* this project will need to incorporate permanent Storm Water Best Management Practices (BMPs) and submit a Standard Urban Storm Water Mitigation Plan (SUSMP).

**Applicability:** Required with all Master Planning Application Forms. Information presented on this worksheet must reflect final development conditions.

### PART 1: INFORMATION

<b>Applicant Name</b>	KOWS c/o Arnold Levine, Board President
<b>Mailing Address</b>	266 Jesse Street
<b>City</b>	Sebastopol
<b>State Zip Code</b>	CA 95472
<b>Phone</b>	707 540-2641
<b>Fax</b>	n/a
<b>Email</b>	arnold101@earthlink.net

<b>Engineer Name</b>	
<b>Mailing Address</b>	
<b>City</b>	
<b>State Zip Code</b>	
<b>Phone</b>	
<b>Fax</b>	
<b>Email</b>	

**No Project Engineer**

### Project Description

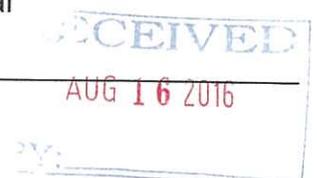
<b>Project Name</b>	KOWS Community Radio Antenna Use Permit
<b>Site Address</b>	1281 Pleasant Hill Road, Sebastopol, CA 95472

1. Total Project Area:

\_\_\_\_\_ : Square Feet      OR      3.39 : Acre(s)

2. Existing Land Use(s): (Check all that apply)

- |                                      |  |                                      |
|--------------------------------------|--|--------------------------------------|
| <input type="checkbox"/> Commercial  | <input type="checkbox"/> Office                          | <input type="checkbox"/> Industrial  |
| <input type="checkbox"/> Residential | <input checked="" type="checkbox"/> Community Facilities | <input type="checkbox"/> Other _____ |



**Description of buildings and site features:**

The site houses two 3-million-gallon-welded-steel-water-storage-tanks, for water supply to the City of Sebastopol, total of 6 million gallons. The site also houses a wooden shed that contains controls for level sensors in the tanks.

**3. Existing Impervious Surface Area:**

0 \_\_\_\_\_ : Square Feet      or      0 \_\_\_\_\_ : Acres

**4. Proposed Land Use(s): (Check all that apply)**

- Commercial                       Office                                       Industrial  
 Residential                       Community Facilities                       Other \_\_\_\_\_

**Description of buildings and site features:**


**Type of Application**

- Design Review                       Use Permit                                       Variance  
 Subdivision                       Lot Line Adjustment                       Other \_\_\_\_\_

**PART 2: REGULATORY DETERMINATIONS**

**Cal Green:**

1. Does this Project require a non-residential building permit for a newly constructed building without sleeping accommodations?<sup>1</sup>
- YES:** This project may need to implement permanent Storm Water BMP's and be designed in accordance with the Storm Water Low Impact Development (LID) Technical Design Manual due to CAL Green requirements. Complete the remainder of this worksheet.  
 **NO:** Complete the reminder of this worksheet.

<sup>1</sup> Additions, alterations, repairs, and existing structures are not subject to the requirements of CAL Green. Please contact the Building and Safety Department for further information on Building Permit requirements.

**Section 401:**

2. Does this Project require a Section 401 Permit?<sup>2</sup>

Yes  No

A. **IF YES:** Are any of the following a component of this project? (Check all that apply)

Soil Disturbance (one or more acre)

New Outfall

New Impervious Surface(s)

**If you checked any of the boxes in section 2A, please be advised that this project will require North Coast Regional Water Quality Control Board review and permanent Storm Water BMPs designed in accordance with the Low Impact Development (LID) Technical Design Manual. Please go to Page 5 and complete the "Acknowledgement Signature" section.**

**Initial Determination:**

3. Does this Project create or replace 10,000 square feet or more of impervious surface?

**YES:** Complete the remainder of this worksheet.

**NO:** This Project does not need to incorporate permanent Storm Water BMPs.

*Please go to Page 5 and complete the "Exemption Signature" section.*

**PART 3: EXEMPTIONS**

1. Is this a **routine maintenance activity**<sup>3</sup> that is being conducted to maintain original line (horizontal alignment) and grade (horizontal alignment), hydraulic capacity, and original purpose of facility, such as resurfacing existing roads and parking lots?

Yes  No

2. Is this an **emergency activity**<sup>4</sup> required to protect public health and safety?

Yes  No

3. Is this a project undertaken solely to install or reinstall **public utilities** (such as sewer or water lines) that does not include any additional street or road development or development activities?

Yes  No

---

<sup>2</sup> A 401 Permit is required from the North Coast Regional Water Quality Control Board (NCRWQCB) if any part of this project is located within or adjacent to "waters of the State" which can be a creek, drainage ditch, wetland or any seasonal waterway. Please contact the North Coast Regional Water Quality Control Board for further information on 401 Permit requirements.

<sup>3</sup> "**Routine Maintenance Activity**": This exemption includes activities such as overlays and/or resurfacing of existing roads or parking lots as well as trenching and patching activities and reroofing activities.

<sup>4</sup> "**Emergency Redevelopment**": The Regional Water Quality Control Board must agree that the activities are needed to protect public health and safety to qualify for this exemption.

4. Is this a **reconstruction project**<sup>5</sup>, undertaken by a **public agency**, of street or roads remaining within the original footprint and less than 48 feet wide?

Yes  No

5. Is this a stand-alone pedestrian pathway, trail or off street bike lane?

Yes  No

**Did you answer "YES" to any of the above questions in Part 3?**

**YES: STOP:** This project is exempt and will not need to incorporate permanent Storm Water BMP's. *Please go to Page 5 and complete the "Exemption Signature" section.*

**NO:** Proceed to Part 4 below to see if this project will need to incorporate permanent Storm Water BMPs.

#### **PART 4: PROJECT TRIGGERS**

**Requirements:** Please answer the following questions to determine whether this project requires permanent Storm Water BMP's and the submittal of a SUSMP.

1. Does this **development or redevelopment project** create or replace a combined total of 1.0 acre or more of impervious surface?

Yes  No

2. Does this project create or replace a combined total of 10,000 feet or more of impervious street, roads, highways, or freeway construction or reconstruction?

Yes  No

3. Does this project include **four or more new homes**?

Yes  No

4. Is this project an **industrial development** creating or replacing a combined total of 10,000 ft. or more of impervious surface?

Yes  No

5. Is this project a **commercial development** creating or replacing a combined total of 10,000 ft. or more of impervious surface?

Yes  No

6. Is this project a **retail gasoline outlet** creating or replacing a combined total of 10,000 ft. or more of impervious surface?

Yes  No

---

<sup>5</sup> "Reconstruction": Work that replaces surfaces down to subgrade. Street width is measured from face-of-curb to face-of-curb. Overlays, resurfacing, trenching, and patching are considered maintenance activities and are exempt.

7. Is this project a **restaurant** creating or replacing a combined total of 10,000 ft. or more of impervious surface?<sup>6</sup>

Yes  No

8. Is this project a **parking lot** (not included as part of a project type listed above) creating or replacing a combined total of 10,000 feet or more impervious surface or with 25 or more parking spaces?

Yes  No

9. Is this project an **automotive service facility** creating or replacing a combined total of 10,000 ft. or more or impervious surface?

Yes  No

**PART 5: DETERMINATION SIGNATURE**

**Did you answer "YES" to any of the above questions in Part 4?**

**YES:** The project must implement permanent Storm Water BMPs and be designed in accordance with the Storm Water LID Technical Design Manual. A Preliminary Standard Urban Storm Water Mitigation Plan (SUSMP) must be submitted to the Engineering Department. *Please complete the "Acknowledgment Signature" section.*

**NO:** The project will not need to incorporate permanent Storm Water BMPs. *Please complete the "Exemption Signature" section.*

**Acknowledgment Signature:**

As the property owner or applicant, I understand that this project is required to implement permanent Storm Water Best Management Practices and the submittal of a SUSMP. Any unknown responses must be resolved to determine if the project is subject to these requirements.

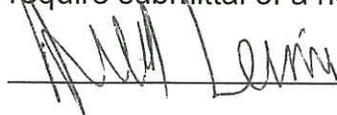
\_\_\_\_\_  
Applicant Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

**Exemption Signature:**

As the property owner or applicant, I understand that this project as currently designed does not require permanent Storm Water BMPs or the submittal of a SUSMP. I understand that redesign may require submittal of a new Determination Worksheet and may require permanent Storm Water BMPs.

  
\_\_\_\_\_  
Applicant Signature

Arnold Levine, Board President  
\_\_\_\_\_  
Printed Name

August 15 2016  
\_\_\_\_\_  
Date

<sup>6</sup> "Impervious Surface": An area that has been modified to reduce storm water runoff capture and percolation into underlying soils. Such surfaces include rooftops, walkways, and parking areas. Permeable pavements shall be considered impervious for this section if they have sub-drains to preclude infiltration into underlying soils.



# CITY OF SEBASTOPOL

7120 Bodega Avenue, Sebastopol, California 95472 707-823-6167

## MWELO: California Model Water Efficient Landscape Ordinance

Permit applicants are required to complete this form, or applications may be incomplete.

### MWELO PRELIMINARY APPLICABILITY DETERMINATION CHECKLIST

#### **Applicant Information:**

Name: KOWS Community Radio, c/o Arnold Levine, Board President

Phone: 707 540-2641

Address: 266 Jesse Street, Sebastopol, CA 95472

Email: arnold101@earthlink.net

#### **Project Information:**

Site Address: 1281 Pleasant Hill Road, Sebastopol, CA 95472

Project Type (*new dwelling, commercial, remodel, etc.*): \_\_\_\_\_

- A.  Currently, this project **does not include new or rehabilitated landscaping**. I am aware that future landscape installations may be required to comply with the Model Water Efficient Landscape Ordinance (MWELO) requirements per California Code of Regulations, Municipal code 15.36 Title 23, Division 2, Chapter 2.7.
- B.  This project is **not** a homeowner project and will include new or rehabilitated landscaping of **2,500 sq. ft. or greater in area**.
- C.  This project is for a **homeowner-provided or homeowner hired single-family or multi-family residential project** with new or rehabilitated landscaping of **more than 5,000 sq. ft.**

*If you checked Item B. or C. above, please provide the information below specific to the new or rehabilitated landscape area which will be completed as part of this project **and** specify the compliance method to be used (ask Planning staff for compliance options, if you have questions):*

Total Landscape Area (sq. ft.): \_\_\_\_\_ Turf Area (sq. ft.): \_\_\_\_\_

Non-Turf Plan Area (sq. ft.): \_\_\_\_\_ Special Landscape Area (sq. ft.): \_\_\_\_\_

Water Type (*potable, recycled, well*): \_\_\_\_\_

Name of water purveyor (*If not served by private well*): \_\_\_\_\_

#### **Compliance Method** (*anticipated*):

- Performance (Items required in Performance Checklist to be included on final plans)
- Prescriptive (Items required in Prescriptive Checklist to be included on final plans)



**Signature:** *Arnold Levine*

**Date:** August 15, 2016



**KOWS - LP COMMUNITY RADIO  
107.3 FM**

P.O. Box 1073 OCCIDENTAL, CALIFORNIA 95465

OFFICE PHONE: (707)874-9090  
STUDIO PHONE: (707) 874-1073

WEBSITE: WWW.KOWS.FM  
EMAIL: KOWS@SONIC.NET

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August 14, 2016

From: David Dillman, on behalf of KOWS Community Radio, email: [sasha@monitor.net](mailto:sasha@monitor.net)

To: Kenyon Webster, Director, City of Sebastopol Planning Department

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### **Supplemental Information: Antenna Use Permit Application**

#### Project Description

- Project Construction Overview
- Construction Details
- Broadcast Operations, Equipment and Signal
- Benefits to Sebastopol
- Existing Site Uses
- Neighbor Notification
- Reduction of Visual Impact
- Need for Permit and Rationale for Location

#### Attachments

- A. Site-related Maps, Photos and Drawings
- B. Antenna Tower Model: Trylon STGSS (35')
- C. Antenna Model: Kathrein Scala CA2-FM/CP
- D. Non-Ionizing Electromagnetic Radiation (NIER) Report
- E. Photo Simulations of antenna tower structure



## **Project Description**

KOWS Community Radio, a registered 501(c)3 non-profit organization, and the area's FCC-designated emergency alert station, proposes placing a low-power (LP) FM antenna at the City of Sebastopol reservoir (water tank) site on Pleasant Hill Road. The accompanying site-related maps, photos and drawings provide further details. (Attachment A)

The KOWS broadcast signal will primarily serve the greater Sebastopol area to reach, inform, entertain and engage local residents, businesses, community-based organizations and visitors.

The KOWS studio is now in downtown Sebastopol at 500 N. Main Street, in the United Methodist Church. Since our December 1, 2015 relocation to this site, KOWS has attracted City-wide support.

KOWS proposes an open-ended Lease with the City, with the option for both parties to review terms every five years.

### Construction Overview

- Erect 30' x 18" self-supporting tower with see-through visibility, and 5' extension pole at top
- Mount directional, single-bay antenna facing north, toward Sebastopol
- Install 50-watt FCC-type approved transmitter at antenna structure base

Note: Upon purchase, the tower vendor (Trylon) will provide 2 sets of pre-engineered design drawings and calculations with a State of California PE seal, paid for by KOWS

### Construction Details

- Dig 5-foot square by 4-foot deep hole at southeast corner of site
- Reinforce foundation and fill with concrete to 12-inches above grade
- Erect self-supporting (no guy wires) 35-foot high antenna tower (Attachment B)
- Anchor lowest 10-foot section to top plate, which is set in concrete
- Stack 2 additional 10-foot sections and 5-foot pole for total height of 35 feet
- Mount antenna on top section of tower (Attachment C)
- Install and cover transmitter with enclosure (up to 6-feet high x 4-feet square) set on concrete pad
- Dig approximate 300-foot trench between transmitter and existing wooden shed at site (PG&E and Sonic electrical panels already in shed)
- Install underground conduits for (120-volt AC) PG&E and Sonic coaxial cable

### Broadcast Operations, Equipment and Signal

KOWS plans to transmit an FM radio signal of the type in use for over 50 years. This signal has been proven safe, with no reports of serious health conditions or fatalities resulting from Non-Ionizing Electromagnetic Radiation (NIER) exposure due to FM radio transmission. In comparison, cell phone and wireless technologies do not have a comparable long-term safety record.

KOWS has received an official NIER report specifically addressing radiation concerns, prepared by Paul Bame, Engineering Director, Prometheus Radio Project, a non-profit organization supporting community radio stations since 1998. (Attachment D)

KOWS is a Low Power FM (LPFM) FCC-licensed radio station. Legally, KOWS may only transmit a low power broadcast signal, much weaker than full power FM radio stations.

Broadcast Equipment and Signal details: At the base of the self-supporting antenna tower, there will be an enclosure (up to 6-foot high x 4-foot square) with the following equipment inside: Cable modem, Codec device, audio processor, 50watt transmitter, Un-interruptible Power Supply, Kill-O-Watt electric use meter, and a small thermostatically-controlled vent fan. No noise will be audible beyond a 5-foot radius.

The broadcasting equipment will draw approximately 200 watts steadily at 120 volts, from an 8-2 cable buried in a conduit run from the existing wooden shed. A dedicated 15-amp breaker will serve this branch. An additional Kill-O-Watt meter may be installed here for monitoring PG&E usage.

The signal begins at the KOWS studio. Audio signals from the main mixing board travel through an FCC-Type Approved EAS (Emergency Alert System) unit. The unit automatically monitors three different sources for emergency information, thus serving the public even if the KOWS studio is unattended.

The signal then goes to an audio processor that compensates for sounds that are too soft or too loud, and then to a Codec device, which converts the analog audio to digital, and puts the signal on the Internet.

Signals are received via the Internet at the transmitting site. The received signal is taken from the Sonic modem and sent to another Codec device to be decoded back into an audio signal. The signal goes through a second audio processor, which modulates loudness to comply with rules.

Then the signal is fed to a low-power, 50-watt FCC-Type Approved transmitter. The transmitter power will be substantially reduced to provide the licensed 37 watts Effective Radiated Power (ERP) from the antenna. An FM signal at 92.5 megaHertz is generated, translating to 92.5 FM on the radio. A ½-inch diameter coaxial cable carries the radio frequency signal up the tower to the antenna.

A relatively low Effective Radiated Power (ERP) of 37 watts of radiofrequency energy at 92.5 megaHertz will emanate from this assembly.

#### Benefits to Sebastopol

Increased broadcast reach of KOWS Community Radio provides multiple benefits, including:

- Uninterrupted broadcasting of important local news, emergency alerts and vital information, (KOWS is this area's FCC designated emergency alert station)
- Promotion, coverage and support of local services, organizations, activities, public events
- Increased City tax revenues from more people attending events, patronizing businesses
- Collaboration with local schools to inspire and involve students in community radio
- Effective outreach via information on municipal topics and issues of local importance
- Civic engagement and involvement by broadcasting public meetings, events, discussions
- Showcase for musicians, writers, artists, etc. via in-studio performances and interviews
- Access and welcome to diverse ages, abilities, backgrounds, cultural/ethnic communities
- Affordable opportunities to promote locally owned and operated businesses and entities

#### Existing Site Uses

There are two 3-million gallon welded-steel water storage tanks at the site that supply the City of Sebastopol, and a wooden shed with controls for level sensors in the tanks.

#### Neighbor Notification

Refer to the Antenna Use Permit Application (December 30, 2015) for documentation of outreach efforts by KOWS Community Radio to contact residents in 20 dwellings closest to the proposed site, including Pleasant Hill Road, Lawrence Lane and Blackney Road. Neighbors also received an information packet with a location map, NIER report, and photo simulations of the antenna and self-supporting tower structure. In all communications, KOWS provided contact information to address questions or concerns.

#### Reduction of Visual Impact

KOWS Community Radio broadcast equipment components (antenna, tower and transmitter) are designed to blend in with the Pleasant Hill environment, thus reducing visual impact.

The directional, single-bay antenna was selected for its effectiveness at a relatively low height. It can be mounted at 35 feet and not cause any potential interference problems at nearby homes. The tower is engineered to be self-supporting, with no guy wires or other visual “eye-catching” components. It will be painted flat green to blend in with trees. The proposed location in the southeast corner of the site was selected because it is not visible to neighbors.

#### Need for Permit and Rationale for Location

KOWS community radio has been serving west Sonoma County since 2008 with a limited, spotty radio signal, effectively at 3 watts of power. In part, this weakness is due to FCC broadcast-range regulation of Low Power FM (LPFM) radio stations.

The KOWS broadcast signal is further weakened by topography. Currently, the antenna is in a tree at the Occidental Arts and Ecology Center on Coleman Valley Road, which is in a valley. Rolling hills to the east of Occidental block radio coverage into the more populated areas of Sebastopol and Santa Rosa. Until a recent change, KOWS was prevented by FCC distance regulations from moving broadcast equipment near or within the City of Sebastopol.

Since 2008, KOWS Community Radio has explored options to relocate broadcast equipment closer to Sebastopol to reach and engage more listeners. Two years ago, an Antenna Relocation Committee (ARC) was formed to achieve this goal.

Since then, ARC members have worked with a variety of property owners, the FCC and nationally-recognized broadcast engineers to identify the best Sebastopol-area site for KOWS broadcast equipment. Although several property owners were willing to consider hosting KOWS broadcast equipment, other limiting factors thwarted our search for an alternative location.

A major hindrance is the north-south ridgeline to the west of Sebastopol along Grandview Road. We identified several promising sites to the west of this ridgeline. However, broadcast signals from these areas did not reach over the ridgeline into the valley of Sebastopol. Further, the 107.3 FM frequency in the selected locations was severely compromised by interference from competing and much more powerful commercial stations.

In the summer of 2015, prospects changed for the positive: The FCC gave KOWS permission to move to a different frequency (92.5 FM) as well as relocate the antenna a greater distance into Sebastopol. When KOWS found the City of Sebastopol's Pleasant Hill site, many advantages were evident, including:

- Direct line of sight into Sebastopol, unimpeded by the Grandview Road ridgeline
- Existing FM airwaves at the site do not compromise the approved change to 92.5 FM frequency
- The site's southeast corner is elevated so the 36-foot high water tanks below the proposed KOWS antenna structure cause no signal interference problems

We appreciate your careful consideration and approval of this KOWS antenna project to benefit and serve the City of Sebastopol and west Sonoma County.

## **Attachments**

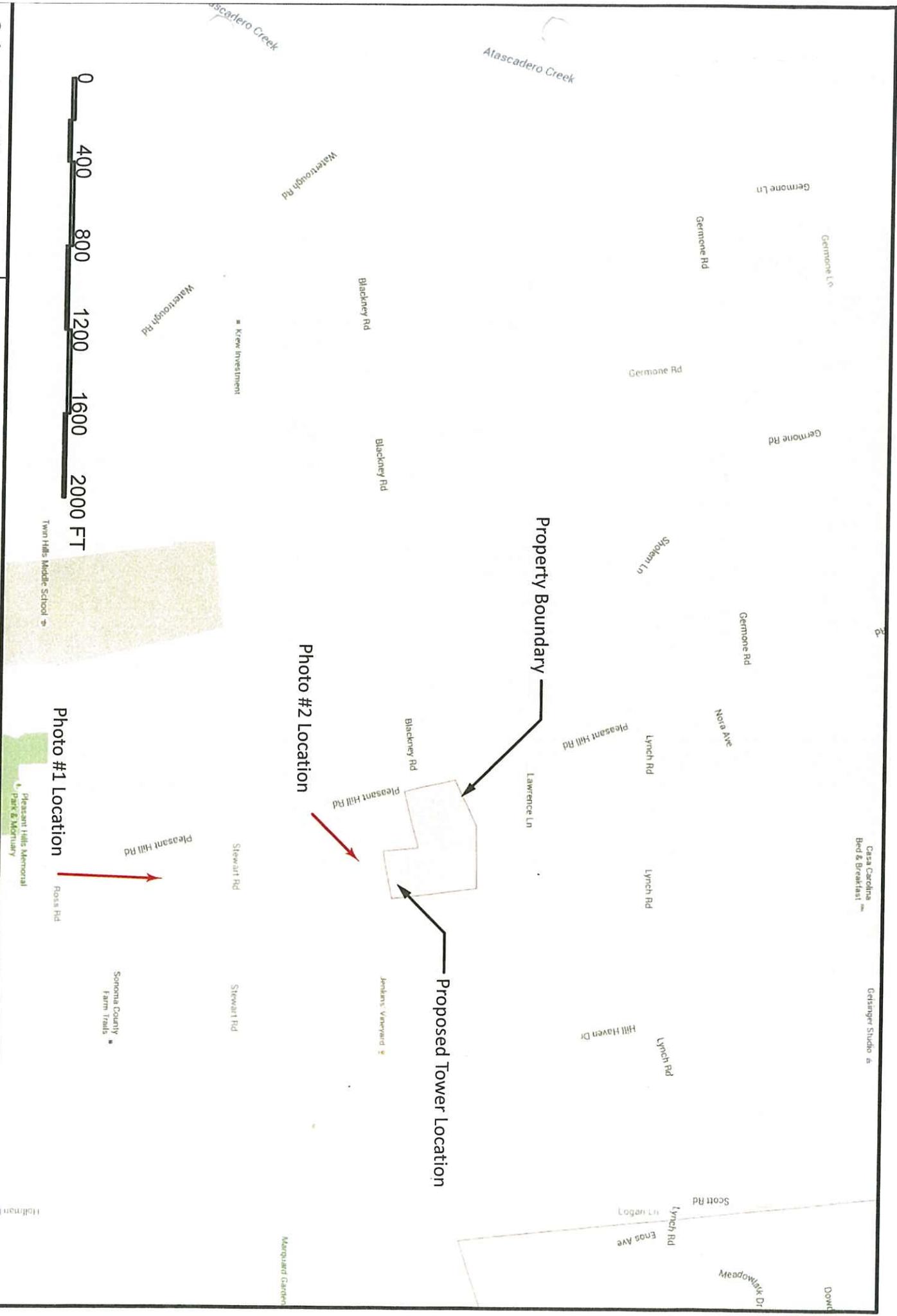
- A. Site-related Maps, Photos and Drawings
- B. Antenna Tower Model: Trylon STGSS (35')
- C. Antenna Model: Kathrein Scala CA2-FM/CP
- D. Non-Ionizing Electromagnetic Radiation (NIER) Report
- E. Photo-Simulations of antenna tower structure

**Supplemental Information:  
KOWS Antenna Use Permit Application**

**Attachment A**

**Site-related Maps, Photos and Drawings**





Sebastopol Water Tanks

1281 Pleasant Hill Rd  
Sebastopol, CA 95472

# KOWS Radio Tower

Location & Key Map

Autumn Streamfellow

12/29/2015



Sebastopol Water Tanks

1281 Pleasant Hill Rd  
 Sebastopol, CA 95472

KOWS Radio Tower

Area Development Map

Autumn Streamfellow

12/29/2015

# West View



Proposed Tower Location

Sebastopol Water Tanks

1281 Pleasant Hill Rd  
Sebastopol, CA 95472

Site Photograph

Autumn Streamfellow

KOWS Radio Tower

12/29/2015

# North View



Proposed Tower Location

Sebastopol Water Tanks

1281 Pleasant Hill Rd  
Sebastopol, CA 95472

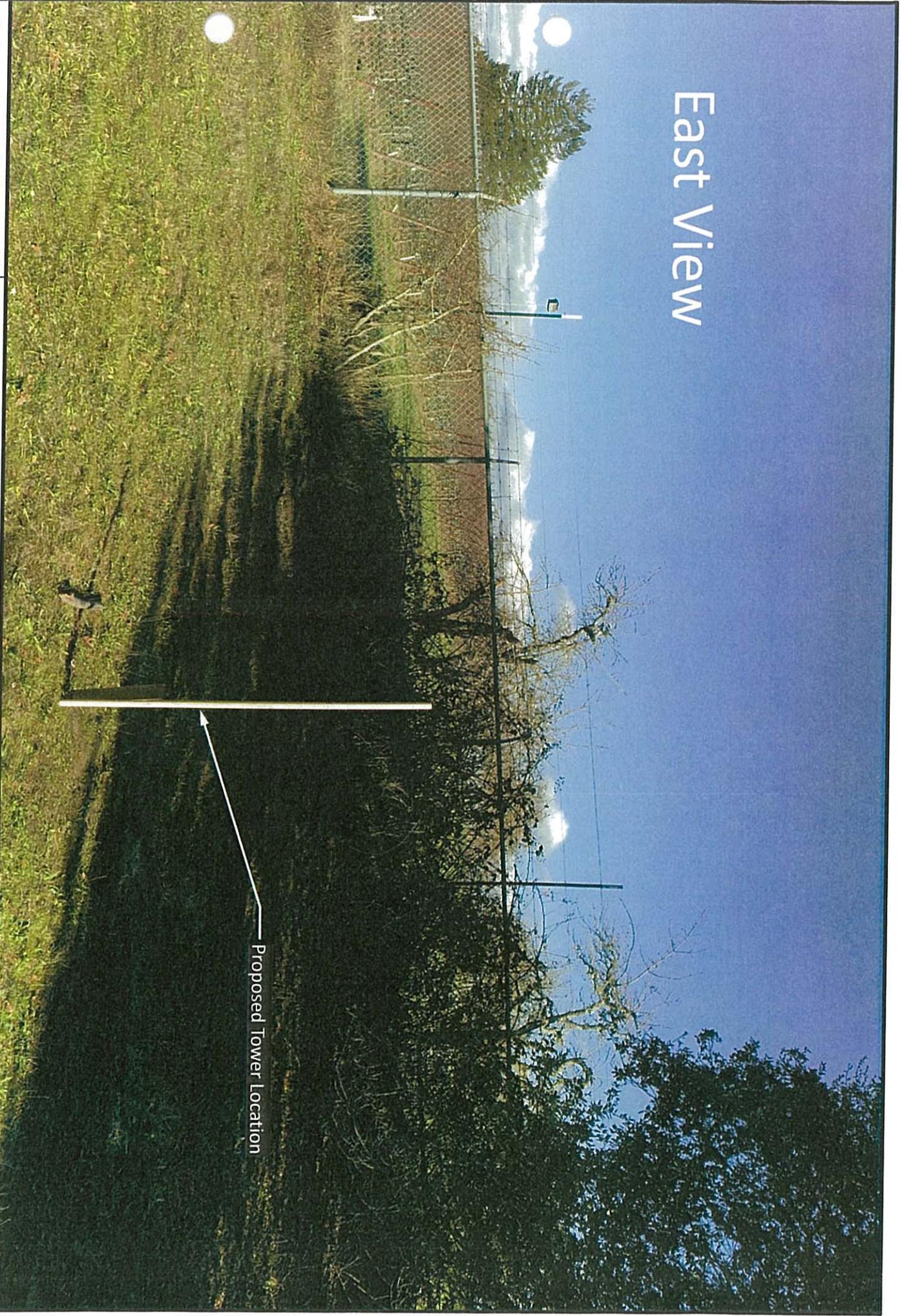
KOWS Radio Tower

Site Photograph

Autumn Streamfellow

12/29/2015

# East View



Proposed Tower Location

Sebastopol Water Tanks

1281 Pleasant Hill Rd  
Sebastopol, CA 95472

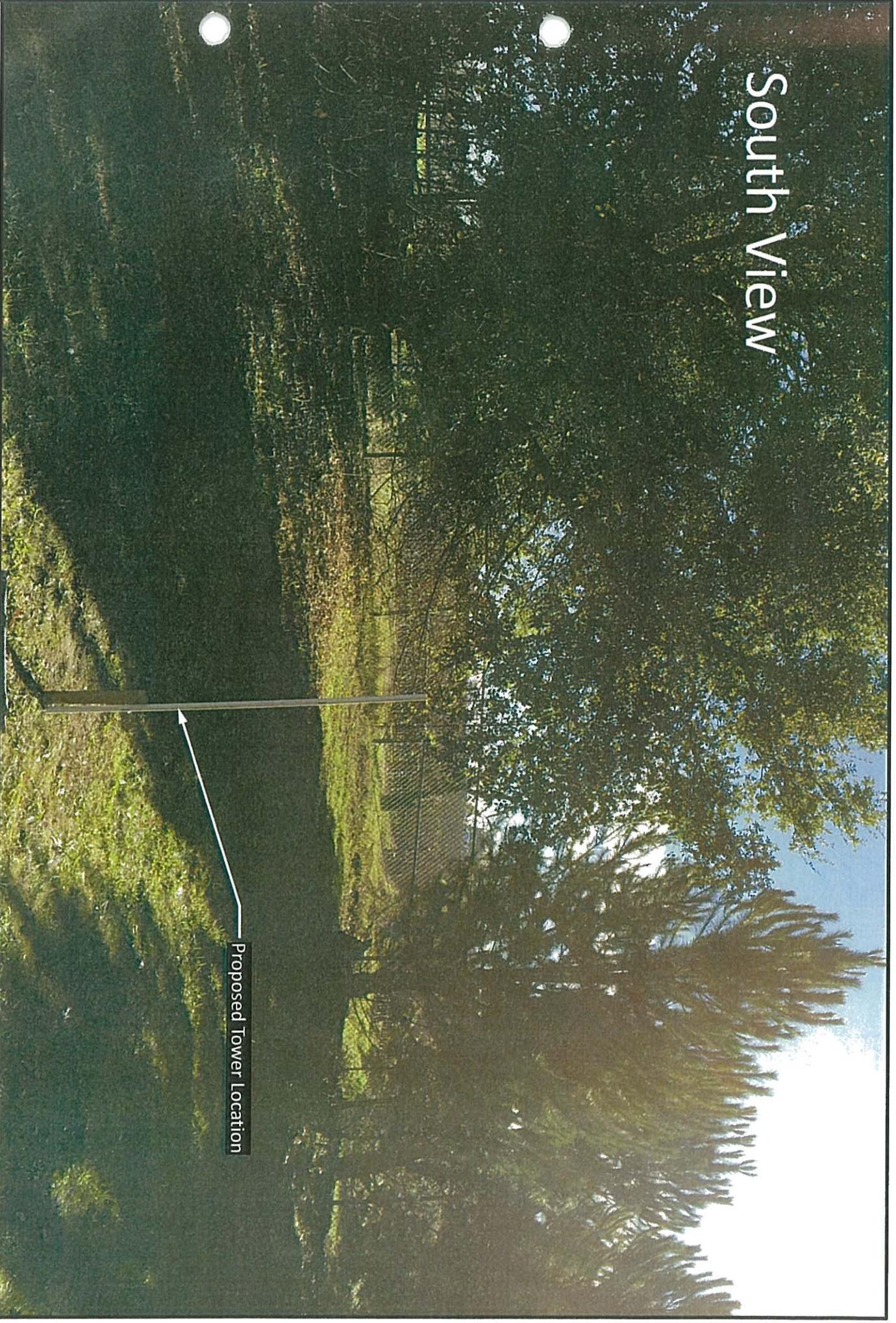
KOWS Radio Tower

Site Photograph

Autumn Streamfellow

12/29/2015

# South View



Proposed Tower Location

Sebastopol Water Tanks

1281 Pleasant Hill Rd  
Sebastopol, CA 95472

Site Photograph

Autumn Streamfellow

KOWS Radio Tower

12/29/2015

**Supplemental Information:  
KOWS Antenna Use Permit Application**

**Attachment B**

**Antenna Tower Model: Trylon STGSS (35')**





August-12-16

## Trylon Tower Analysis TA1850-7

### Tower Details

Tower Height (ft)	30 (35' SPECIFICATIONS ARE INSIDE)
Tower Line	STG
Model Designation	STG SS
Tower Part Number	4.618.SSTG.030

### Optional Accessories and Services

Description	Quantity	Part Number
Safety Climb Kit - 3/8in Cable - Face Mounted (No Slider)	1	4.99.0250.000
Anti Climb Shield Kit	1	4.618.3601.001
Grounding Kit - Tower Base	N/A	INTEGRAL
Grounding Kit - Guy Anchor	N/A	N/A
Lightning Rod - 5' Long Copper Clad with Mount	1	4.90.0618.C05
Work Platform	1	4.618.1801.001
Turnbuckle Anti-Rotation	N/A	N/A
Foundation Material	N/A	INTEGRAL
Canada P.Eng Stamped Dwg	1	4.77.0101.920
Quebec P.Eng Stamped Dwg	1	4.77.0101.201
USA P.E. Stamped Dwg	1	4.77.0101.900



**Trylon Tower Analysis: TA1850-7**

The tower analysis was performed based on the wind speed, antenna and line loading parameters provided. Please note that the software used for this analysis depends on users supplying accurate antenna data, wind speed and other critical input parameters. Trylon assumes no liability for inaccurate user assumptions or any tower failures as a result thereof.

**Please review this tower set-up to ensure it matches with the final tower design.**

Upon completion it was seen that the tower under study, **PASSED** TIA-222-G with the below listed design parameters, and equipment attached.

Trylon Tower	
Tower Height:	35 ft (5' pipe extension)
Model Designation:	STGSS
Tower Line:	STG Self Support (STG SS)
Part Number:	4.618.SSTG.030

Design Parameters	
Design Code:	TIA-222-G
Max. Basic Wind Speed:	110 mph
Max. Basic Wind Speed with Ice:	30 mph
Max. Design Ice Thickness:	0.50 in.
Service Wind Speed:	60 mph
Exposure Category:	C (Open terrain)
Topographic Category:	1 (No abrupt changes)
Reliability Category:	II (Substantial hazard)

Project Data	
Site Location:	Sonoma, California
Designer Initials:	MS

**Tower Loading**

Elev. (ft)	Qty	Fixture Type	UPSA <sup>1</sup> (sqft)	TX Line Qty	TX Line Type	Mounted on	Offset (ft)
35	1	CA2-FM/CP	1.34	1	LDF4P-50A	Centre Pipe	0.5
35	1	CA2-FM/CP	1.34	1	LDF4P-50A	Centre Pipe	0.5
35	1	CA2-FM/CP	1.34	1	LDF4P-50A	Centre Pipe	0.5

<sup>1</sup>UPSA: Un-factored Projected Surface Area (each)

<sup>2</sup>Assumed mount is a 10' x 2" Pipe, top not to exceed 35' AGL.

**Results**

Tower with the above noted loading is at <b>91% Capacity</b> .	
Tower Maximum Tilt/Twist is <b>0.19°/ 0.18°</b> .	
<b>Factored Leg Foundation Loads</b>	<b>Factored Global Foundation Loads</b>
Max Download: 17.48 kips	Max Axial: 0.89 kips
Max Uplift: 16.90 kips	Max OTM: 22.39 kipsft
Max Shear: 0.74 kips	Max Shear: 0.95 kips

**P.E. Stamped Drawings:**

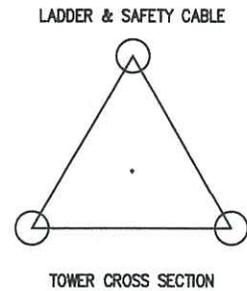
If P.E. Stamped Drawings are required for this tower then we require a Geotechnical Report be provided to ensure a proper foundation design – If one is not available we will assume Normal Dry Soil conditions.

DESCRIPTION	New Section	New Section
MARKING		
LEG	SR 0 7/8	SR 0 7/8
HORIZONTAL	SR 0 1/2	SR 0 1/2
DIAGONAL	SR 0 1/2	SR 0 1/2
SECTION WT. (lbs)	116	116

Material grade legs: 350W  
Material grade bracing: A36



ANTENNA				Tx-Line
Description	Elev. (m)	Elev. (ft)	Azimuth (°TN)	Description
15sqft Antenna Area	9.1	30	0	(3) LDF4P-50A



ANCHOR BOLTS: N/A  
**LEG FOUNDATION LOADS**  
Max Download = 16.69 (Kips)  
Max Uplift = 16.28 (Kips)  
Max Shear = 0.61 (Kips)

**GLOBAL FOUNDATION LOADS**  
Max Axial = 0.70 (Kips)  
Max OTM = 21.38 (Kipsft)  
Max Shear = 0.93 (Kips)

REV.	REV. BY:	CHK. BY:	DESCRIPTION	DATE

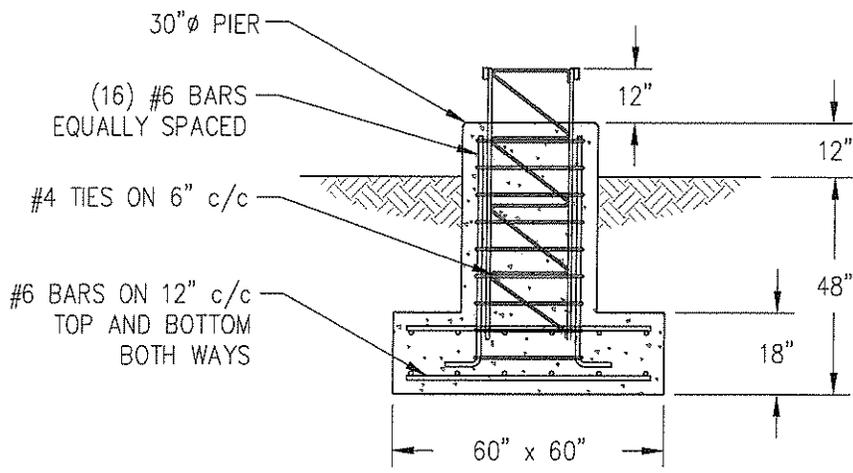
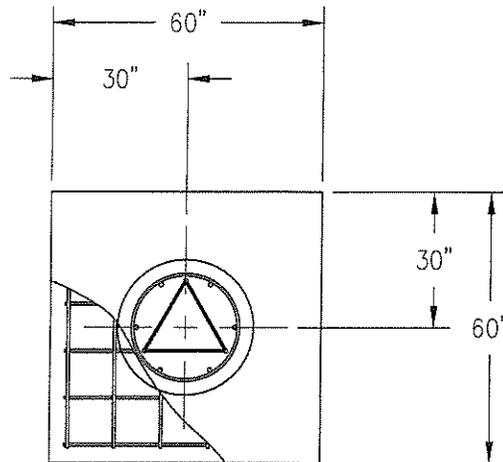
**NOTES:**

DESIGN STANDARD: EIA-222-G  
BASIC 3 SEC. GUST WIND SPEED: 100.0 (mph)  
BASIC 3 SEC. GUST WIND SPEED WITH ICE: 30.0 (mph)  
BASIC ICE THICKNESS: 0.50 (in)  
EXPOSURE CATEGORY: C  
IMPORTANCE CLASS: 2  
MAX MW ROTATION AT 60.0 (mph) : 0.00°

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CUSTOMER: ANY CLIENT		SITE: ANY SITE		5
DATE: 08 JUL 15	BY: ANY ENGINEER	CHK:	APP:	
TITLE: 30FT STGSS			DRAWING NO. PROJECT	



STG SS BASE FOUNDATION

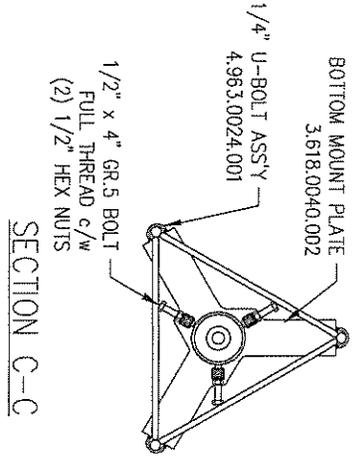
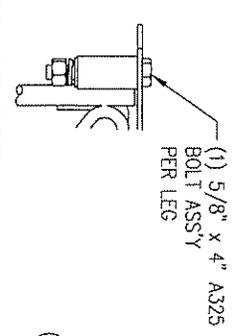
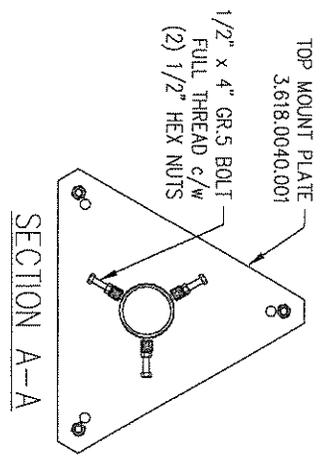
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 CONSENT OF TRYLON MANUFACTURING COMPANY LTD.

REV.	REV. BY:	CHK. BY:	DESCRIPTION	DATE

- NOTES:
- 1) BASED ON NORMAL DRY SOIL
  - 2) ALLOWABLE BEARING CAPACITY: 3000 psf
  - 3) DRY DENSITY OF BACKFILL MATERIL: 100 psf (COMPACT TO 95% spd)
  - 4) REBAR - DEFORMED BAR GRADE 60.
  - 5) MINIMUM 28 DAY CONCRETE STRENGTH 3600 psi.

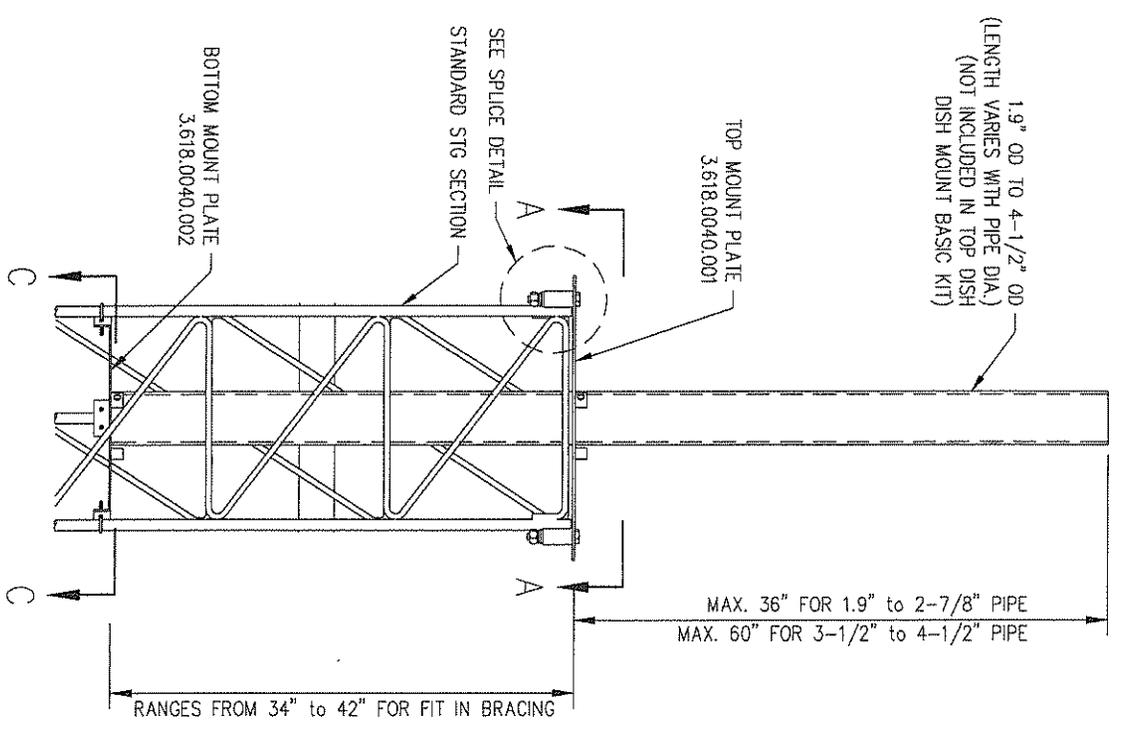


CUSTOMER:		SITE: STG SELF SUPPORT		SCALE: 40.000
DATE: 29 MAR 06	BY: MRH	CHK:	APP:	
TITLE: STG SS FND - EIA			DRAWING NO. 618.0606	



TOP DISH MOUNT BASIC KIT: 4.618.2711.001	
1	3.618.0040.001 TOP MOUNT PLATE
1	3.618.0040.002 BOTTOM MOUNT PLATE
3	1202051 5/8" x 4" A325 BOLT ASS'Y
3	4.963.0024.001 1/4" U-BOLT ASS'Y
6	1201354 1/2"x4" GR.5 FULL THRD BOLT
12	1201120 1/2" HEX NUT GR.5

BASIC KIT WITH PIPE	USE KIT NUMBER
1.9"OD TUBE x 6Lg	4.618.2711.015
2-3/8"OD TUBE x 6Lg	4.618.2711.020
2-7/8"OD TUBE x 6Lg	4.618.2711.025
3-1/2"OD TUBE x 8Lg	4.618.2711.030
4"OD TUBE x 8Lg	4.618.2711.035
4-1/2"OD TUBE x 8Lg	4.618.2711.040



DESIGNED TO ANSI A58.1 EXPOSURE B, 70 MPH  
 MAX PROJECTED AREA FOR THIS MOUNT = 34 SQ.FT.  
 OR A 6'Ø SOLID, GRID OR MESH DISH

REV. BY:	CHK:	DATE:	DESCRIPTION:
A	MRH	21 MAR 06	ISSUE FOR DISTRIBUTION

CUSTOMER:	SITE:	SCALE:
DATE:	DATE:	DATE:
01 MAR 06	01 MAR 06	01 MAR 06

**TRYLON TSF**

DRAWING NO. 000001.618.2711

**Supplemental Information:  
KOWS Antenna Use Permit Application**

**Attachment C**

**Antenna Model: Kathrein Scala CA2-FM/CP**



### CA2-FM/CP

#### FM YAGI ANTENNA

1.0 dBd gain  
88 to 108 MHz  
Circularly polarized

The Kathrein Scala Division CA2-FM/CP is a circularly polarized antenna, designed for professional FM transmit and receive applications.

Like all Kathrein Scala Division antennas, the CA2-FM/CP is made of the finest materials resulting in superior performance and long service life.

The CA2-FM/CP may be used stand-alone or in stacked arrays for higher gain, increased side-lobe suppression, or custom azimuth patterns.

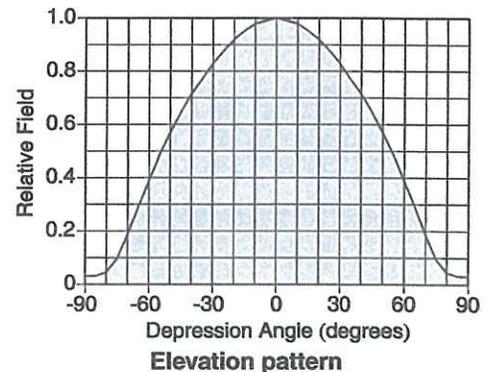
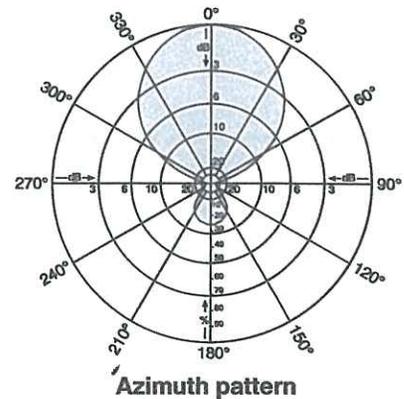
#### Specifications:

Frequency range	Any specified FM channel 88 to 108 MHz
Gain	1.0 dBd
Impedance	50 ohms
VSWR	< 1.5:1
Polarization	Circular
Front-to-back ratio	> 11 dB
Maximum input power	250 watts
Azimuth pattern	80 degrees (half-power)
Elevation pattern	80 degrees (half-power)
Connector	N female
Weight	21 lb (9.5 kg)
Dimensions	51 x 51 x 39 inches maximum (1295 x 1295 x 991 mm)
Wind load	at 100 mph (160 kph) 34.6 lbf (154 N)
Wind survival rating*	120 mph (200 kph)
Shipping dimensions	75 x 11 x 6 inches (1905 x 279 x 152 mm)
Shipping weight	24 lb (10.9 kg)
Mounting	For masts of 2.375 inches (60 mm) OD.

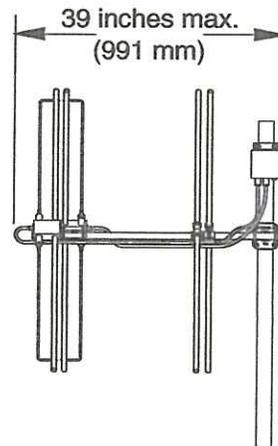
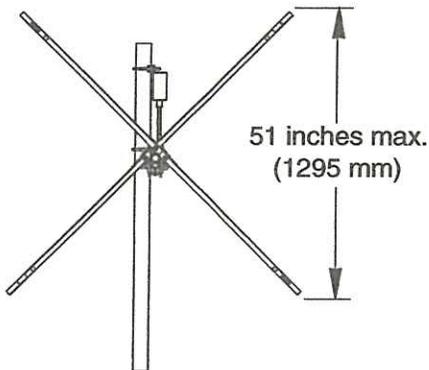
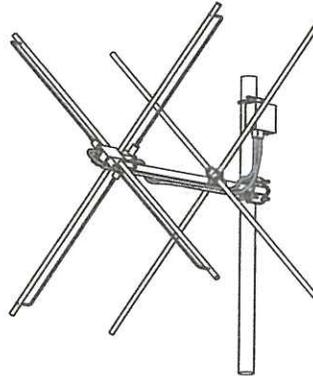
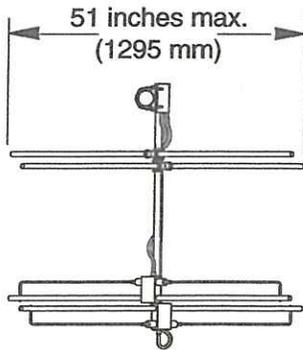
\* Mechanical design is based on environmental conditions as stipulated in TIA-222-G-2 (December 2009) and/or ETS 300 019-1-4 which include the static mechanical load imposed on an antenna by wind at maximum velocity. See the Engineering Section of the catalog for further details.

#### Order Information:

Contact Kathrein Scala Division Customer Service for detailed order information.



10813-A



**Order Information:**

Contact Kathrein Scala Division Customer Service for detailed order information.

All specifications are subject to change without notice. The latest specifications are available at [www.kathrein-scala.com](http://www.kathrein-scala.com).

Kathrein Inc., Scala Division Post Office Box 4580 Medford, OR 97501 (USA) Phone: (541) 779-6500 Fax: (541) 779-3991  
Email: [communications@kathrein.com](mailto:communications@kathrein.com) Internet: [www.kathrein-scala.com](http://www.kathrein-scala.com)

**Supplemental Information:  
KOWS Antenna Use Permit Application**

**Attachment D**

**Non-Ionizing Electromagnetic Radiation  
(NIER) Report**

CEIVEL

AUG 16 2016



# Prometheus Radio Project

**Subject:** KOWS-LP compliance with non-ionizing electromagnetic radiation (NIER) standards

**Date:** August 8, 2016

Low-power FM station KOWS-LP, KOWS Community Radio (formerly Occidental Arts and Ecology Center) holds an authorized FCC construction permit, pursuant to FCC application BMPL-20150828ABW, to broadcast at 92.5 MHz from the location 38 23 0.83 N 122 49 59.95 W near the intersection of Pleasant Hill and Blackney roads. KOWS-LP is proposing to reduce their antenna height to 35 feet above ground level and utilize a directional antenna.

**This report demonstrates that KOWS-LP complies with NIER RF exposure standards specified in Federal statute 47CFR§1.1310 at the antenna site and at nearby homes under the proposed conditions.**

## 1 - NIER Standards for Maximum Exposure

The Federal Communications Commission offers information and resources regarding NIER, which in FCC terminology is called “**RF Safety**”. It is efficient to quote at length from the instructions for KOWS-LP's low-power FM FCC application, FCC Form 318, <http://www.fcc.gov/Forms/Form318/318.pdf>: [emphasis added]

**RF Exposure Guidelines.** In 1996, the Commission modified its guidelines and procedures for evaluating environmental effects of RF emissions. All LPFM station applications subject to environmental processing must demonstrate compliance with the new requirements. The new guidelines are explained in more detail in OET Bulletin 65, entitled *Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields, Edition 97-01*, released August, 1997, and *Supplement A: Additional Information for Radio and Television Broadcast Stations* (referred to here as "OET Bulletin 65" and "Supplement A," respectively). Both OET Bulletin 65 and Supplement A can be viewed and/or downloaded from the FCC Internet site at <http://transition.fcc.gov/oet/rfsafety/>

For FM broadcast frequencies, Supplement A states that the exposure safety limit for “**general population/uncontrolled exposure is 0.2 mW/cm<sup>2</sup> (200 μW/cm<sup>2</sup>) and the limit for occupational/controlled exposure is 1 mW/cm<sup>2</sup> (1000 μW/cm<sup>2</sup>)**”.

OET Bulletin 65 is the practical implementation of the controlling statute, **47CFR§1.1310** -



# Prometheus Radio Project

**Radiofrequency radiation exposure limits.**

## 2 – Site Details

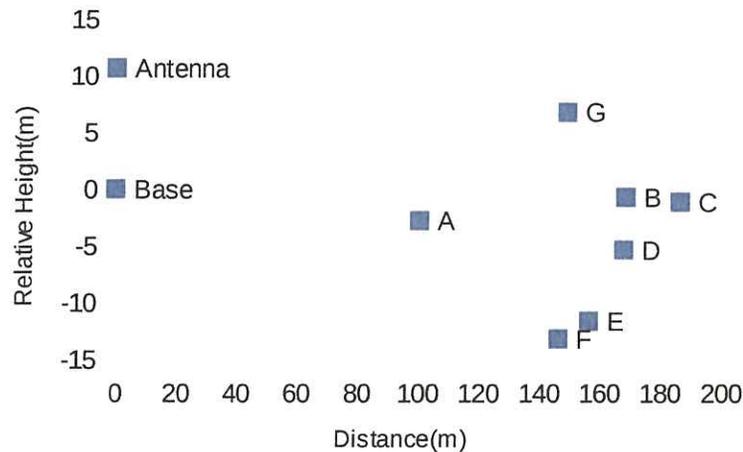
KOWS-LP is approved by the FCC to construct an antenna near Blackney Rd and Pleasant Hill Rd, just southwest of the southern water tank shown below, centered at 35 feet above the ground. Nearby homes labeled A-G and faint 1-foot-interval contour lines are also shown.





# Prometheus Radio Project

The graph below shows the distance (meters) to each house from the antenna and the elevation of each house (meters) relative to the base of the antenna. Both the antenna base and antenna itself are shown on the left.



### 3 – Existing NIER Demonstration to the FCC

LPFM applicants must demonstrate compliance with NIER RF Safety standards, and KOWS-LP indicated their compliance by checking Yes to box 10 in their LPFM (FCC form 318) construction-permit application:

<p>10. <b>National Environmental Policy Act.</b> The applicant certifies, based on its completion of Worksheets 2 and 3 and its review of the instructions to this application, that the proposed facility is excluded from environmental processing under 47 C.F.R. Section 1.1306 (i.e., the facility will not have a significant environmental impact and complies with the maximum permissible radiofrequency electromagnetic exposure limits for controlled and uncontrolled environments). Unless the applicant can determine compliance through the use of the attached General Environmental and RF Exposure Worksheets, an <b>Exhibit is required.</b></p>	<p><input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 14]</p>
---	--

A goal of the LPFM radio service is accessibility, which means attempting to unburden applicants – usually small community groups – from purchasing expensive radio engineering services. To this end, the LPFM application offers a simplified method for RF safety NIER compliance. KOWS-LP utilized the simplified method and was approved by the FCC.

The proposed directional antenna and height is also safe according to the simplified method.



## Prometheus Radio Project

### 4 – Exposure Calculations

In situations requiring more sophisticated NIER field calculations, the FCC's “FM Model” software, originally developed by the EPA, is normally utilized. FM Model predicts the power density around an antenna given the antenna model, height, and radiated power.

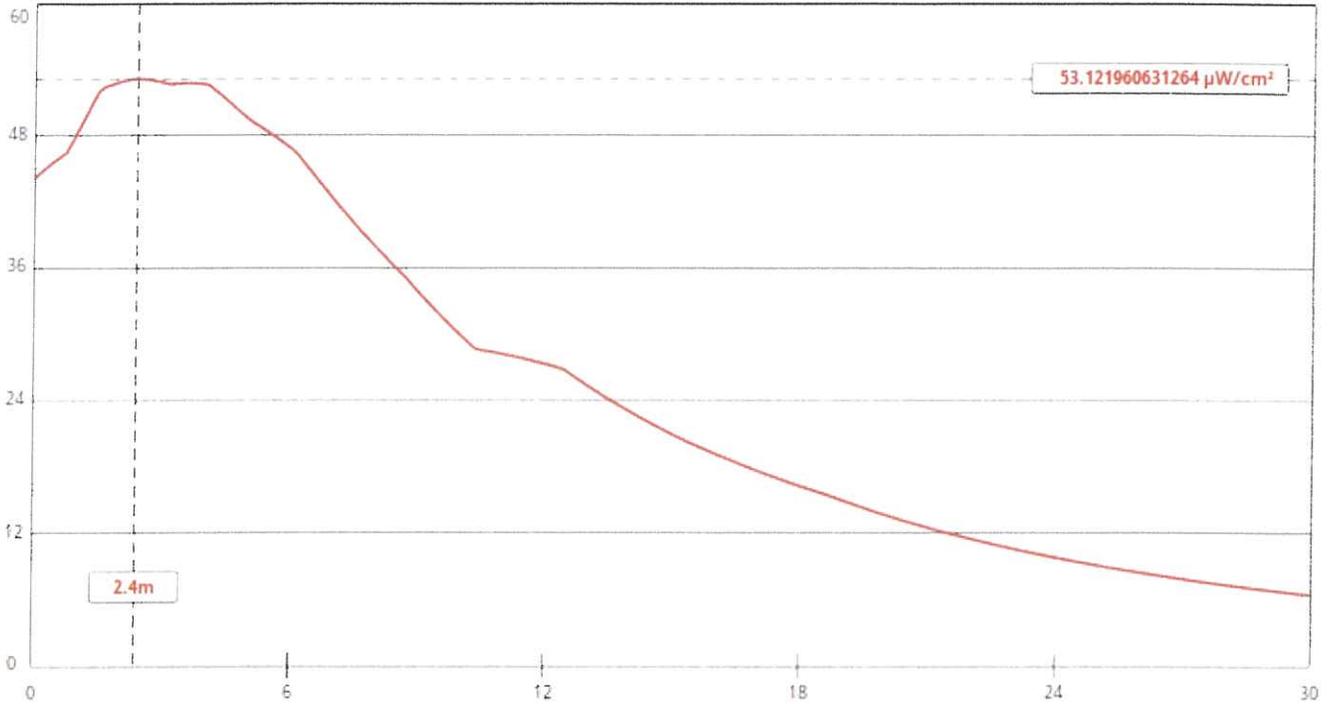
KOWS-LP is proposing a directional antenna and anticipating emitting 37 watts subject to FCC approval.

In order to provide more universal and *conservative worst case radiation exposure values*, this report utilizes an omni-directional circularly-polarized “ring stub” antenna, which is the highest-radiating model available in FM Model, and is much worse from a radiation perspective than a directional antenna. An increased power level of 100 watts is also used, which is approximately twice the power which the FCC would allow at this site, and more than twice the 37 watts anticipated. These worst-case choices make this NIER report applicable to any antenna at 35' above ground at this location.

The figure below shows the radiation intensity that would be experienced by a person (assumed to be 2 meters tall) standing at the elevation of the base of KOWS-LP's antenna under the circumstances above – actual exposure will be considerably less from the actual antenna and actual transmission power.



# Prometheus Radio Project



Channel Selection	Channel 223 (92.5 MHz)		
Antenna Type +	EPA Type 1: Ring-and-Stub or "Other"		
Height (m)	10.7	Distance (m)	30
ERP-H (W)	100	ERP-V (W)	100
Num of Elements	1	Element Spacing (λ)	1
Num of Points	200	<b>Apply</b>	

The maximum exposure level for people on the ground in the vicinity of this artificial worst-case antenna is less than  $54 \mu\text{W}/\text{cm}^2$ . **This is approximately one quarter of the more-stringent exposure limit of  $200 \mu\text{W}/\text{cm}^2$ , therefore this installation meets NIER requirements.**

## 5 – Exposure at Nearby Homes

FM Model was used to estimate the exposure of people outdoors at the locations of the nearby homes labeled previously A through F. Note that the indoor exposure will be less than predicted due to



# Prometheus Radio Project

attenuation by walls and roofs. Considering both the distance to each home and its height relative to the base of the antenna, and using the artificial worst case antenna and power levels, the predicted exposures are listed below.

Home	Distance (meters)	Relative Height (meters)	Exposure $\mu\text{W}/\text{cm}^2$	% of Limit
A	100.6	-2.8	0.60	0.3%
F	146.5	-13.2	0.30	0.2%
G	149.1	6.8	0.30	0.2%
E	156.6	-11.6	0.30	0.2%
D	168.0	-5.3	0.20	0.1%
B	168.6	-0.7	0.20	0.1%
C	186.5	-1.1	0.20	0.1%

**In all cases, exposure to non-ionizing electromagnetic radiation due to an artificial worst-case KOWS-LP radio station, at the locations of the nearby homes, is less than 1/300th of the stringent NIER limit.**

The effects of electromagnetic radio on humans are unlikely to be fully understood at this time and these safety limits may well change as research proceeds, nevertheless the limits are based on the accepted best practices at this time. Anecdotal stories of low rigor and blatant misinformation about radiation exposure abound on the internet, by parties on all sides of the issues. May the casual researcher beware.

Additional FCC references:

- RF Safety FAQ <https://www.fcc.gov/engineering-technology/electromagnetic-compatibility-division/radio-frequency-safety/faq/rf-safety>
- FCC FM Model <https://www.fcc.gov/general/fm-model>
- Main page <https://www.fcc.gov/general/radio-frequency-safety-0>
- *Questions and Answers about Biological Effects and Potential Hazards of Radio frequency Electromagnetic Fields* <http://www.fcc.gov/encyclopedia/oet-bulletins-line#56>

## 6 – Recommendations

1. Reduce power when work is to be performed on the antenna or upon the nearest water tank.
2. Post a caution sign at the antenna tower and provide mechanical discouragement to casual climbers, with a fence or collar for example.

*Radio professionals in the course of their job may operate outside of these recommendations because they are allowed occupational exposure limit of  $1,000 \mu\text{W}/\text{cm}^2$*



## Prometheus Radio Project

The calculations in this report were made by myself, Paul Bame, Engineering Director at the Prometheus Radio Project. I am an experienced radio engineer and have prepared many engineering exhibits accepted by the FCC. I affirm that the information and calculations herein are true to the best of my knowledge.

A handwritten signature in blue ink that reads "Paul A. Bame". The signature is written in a cursive, flowing style.

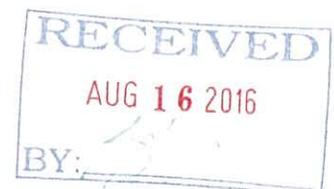
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Paul Bame, Engineering Director, Prometheus Radio Project

**Supplemental Information:  
KOWS Antenna Use Permit Application**

**Attachment E**

**Photo Simulations of antenna tower structure**



# Photo Simulation Index



AUG 16 2016

Photo Simulation 1: Blackney Road

Telephone pole:  
Height 50 feet,  
Distance 250 feet

Tower:  
Height 35 feet,  
Distance 810 feet  
Tower Not Visible  
from this location

Pleasant Hill Rd

Blackney Rd

Photo Simulation 2: Pleasant Hill Road at Stewart Road

Trees:  
Height: 45 feet,  
Distance: 620 feet

Tower:  
Height: 35 feet,  
Distance: 605 feet

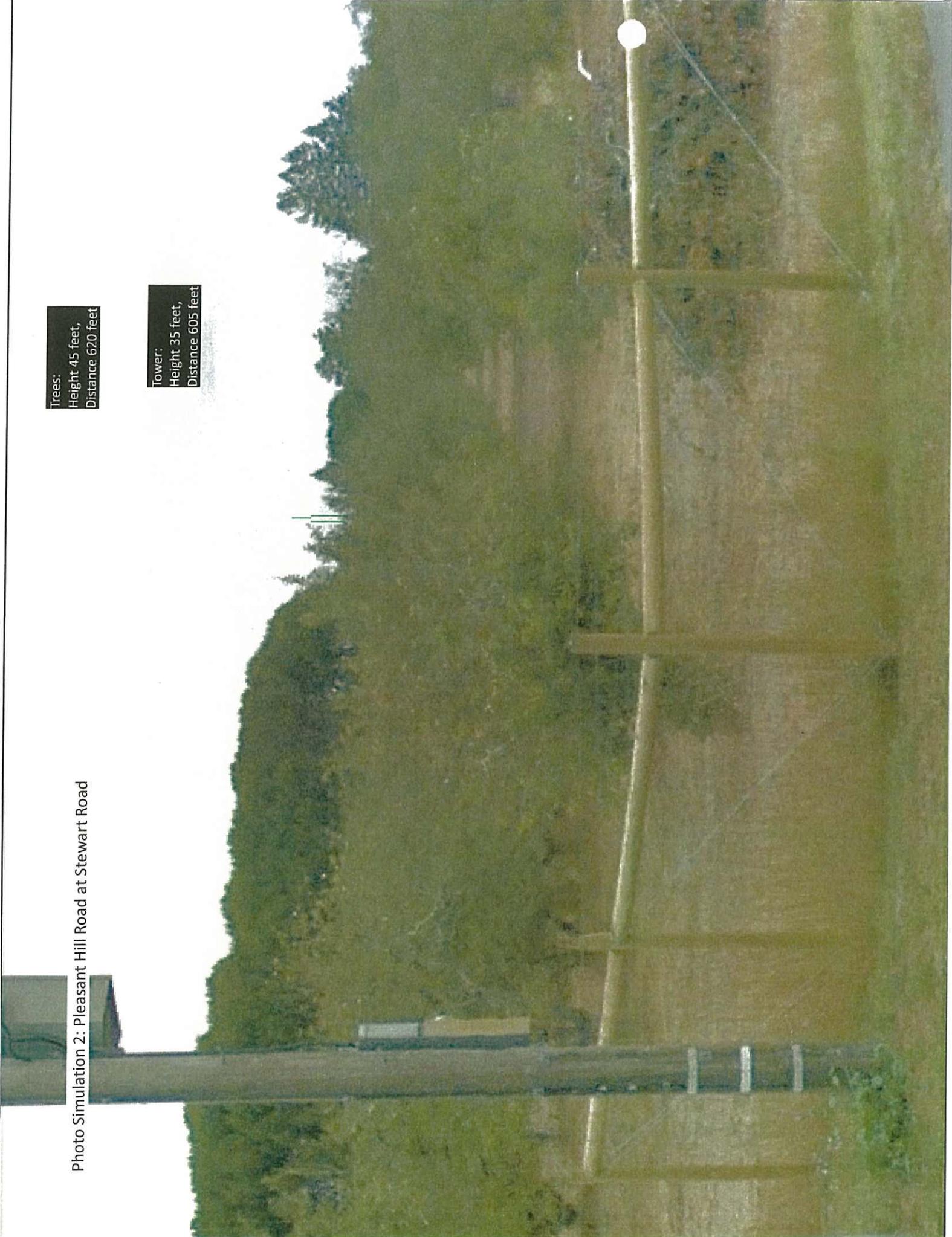


Photo Simulation 3: Pleasant Hill Road at Cemetary Entrance

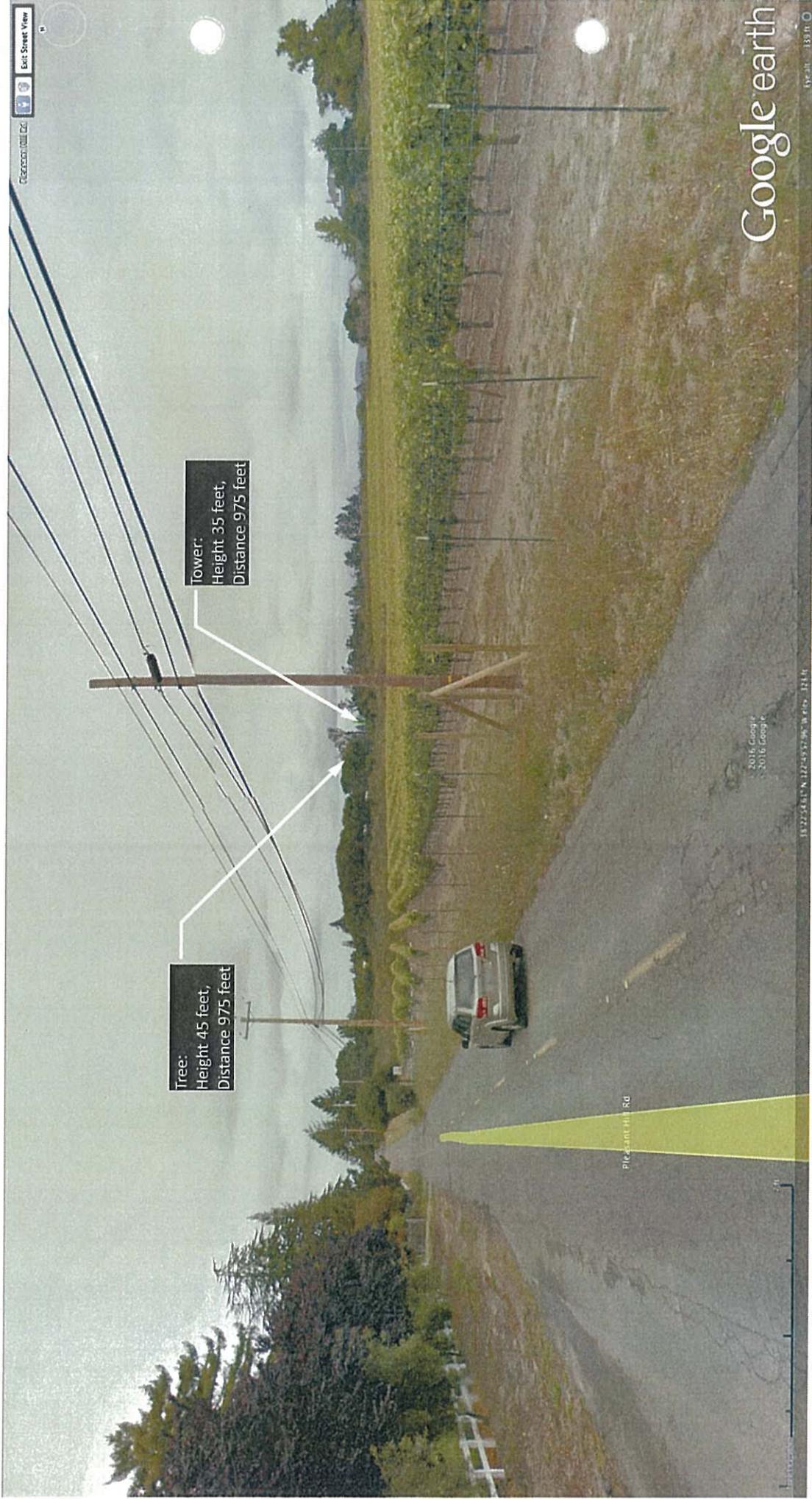


Photo Simulation 4: Pleasant Hill Road at Elphick Road



Photo Simulation 5: Elphick Road at Hollman Lane



Photo Simulation 6: 1900 Pleasant Hill Road

Tree:  
Height 50 feet,  
Distance 500 feet

Tower:  
Height 35 feet,  
Distance 500 feet





## B. Administrative approval

City Council  
Mayor Sarah Glade Gurney  
Vice Mayor Una Glass  
John Eder  
Robert Jacob  
Patrick Slayter



Planning Director  
Kenyon Webster  
Administrative Assistant  
Rebecca Mansour

## City of Sebastopol Planning Department

August 22, 2016

Arnold Levine, Board Chair  
KOWS Community Radio  
P.O. Box 1073  
Occidental, California 95465

### **Re: Administrative Antenna Application 2016-65**

Dear Mr. Levine:

You submitted an Administrative Antenna application (2016-65) on August 16, 2016, requesting approval to install a 35-foot antenna structure at 1281 Pleasant Hill Road, California.

Based on a review of the application materials, review by City departments, and consideration of conformance with relevant provisions of the Municipal Code, the application is approved pursuant to the findings, and subject to the conditions contained in this letter.

This approval is not effective until the Appeal Period has officially expired. Anyone dissatisfied with the decision of the Planning Department has the right to file an appeal to the Planning Commission within ten (10) working days of the decision. This requires the submittal of a completed City Appeal Form, written statement, and payment of the applicable fee delivered to the Planning Department at 7120 Bodega Avenue, Sebastopol, California no later than 5:00 P.M. on September 8, 2016.

Please feel free to contact me if you have any questions.

Sincerely,

Kenyon Webster, Planning Director

cc:

City Manager  
Public Works Superintendent  
Building Official

**KOWS Community Radio Application for Minor Telecommunications Facility:  
Radio Tower with Low Power FM Antenna  
1281 Pleasant Hill Road**

**Findings**

1. That the project is categorically exempt from the requirements of CEQA, pursuant to Section 15301, Class 1, as well as Section 15303, Class 3. The project site has not been identified as unique or as environmentally sensitive. Based on the current project application for a 35-foot tower, the prior application and analysis for a proposed 70-foot antenna tower at the same location (Planning File No. 2015-126), and materials associated with review of a subsequent appeal of the approval of that application (Planning File No. 2016-13), and staff analysis of the current application, and as articulated in these findings, there are no site environmental resources of hazardous or critical concern that have been designated, precisely mapped, or officially adopted by local, state, or federal agencies. While this site may provide habitat for various animal or bird species, no information has been documented that the construction and operation of the tower would create adverse impacts to such species; the very small tower footprint, the fact that no trees will be removed; and the nature of the fixed tower, which does not have moving parts, supports this finding. Further, the project is a small radio tower for a local non-profit radio station, and is not one of multiple such applications or developments which might have significant cumulative impacts, in that the City is unaware of any other such applications or such recent developments in the City or its environs. As analyzed in the staff report, there are no identified unusual circumstances relative to the project or the site which might reasonably raise the possibility of a significant effect on the environment. The project would not damage trees, rock outcroppings, or similar resources, and based on information provided by the applicant, would not impact scenic resources along the County-designated scenic corridor, Highway 116 in that the analysis indicates it would not be visible or substantially visible from Highway 116. Further, the site is not located on a hazardous waste site, and would not affect or cause a substantial adverse change in the significance of a cultural or historical resource in that no such resources have been identified at or adjoining the site.
2. The project qualifies for an exemption under Class 1 in that the site is a 3.39 acre City-owned existing facility that was purchased for utility purposes, which includes two very large water tanks, and the addition of a 35-foot radio tower with a very small footprint, an open structure, and with the minimal activity associated with operation of a Low Power FM Radio antenna, constitutes a minor improvement with a negligible scope of use, and constitutes a physical alteration which is accessory in nature and scale to the primary substantial water storage use. Placement of such minor improvements is a common feature of larger public utility sites. Further, the examples provided for modification of existing facilities under a Section 15301 exemption include substantially larger structures, such as a building addition of 2,500 square feet, which would have different, and potentially greater impacts.
3. The project is also categorically exempt from the requirements of CEQA, pursuant to Section 15303, Class 3, in that the height of the radio tower would be 35 feet, which is similar to the height of utility poles common in the area, which are routinely installed without special approval; its actual footprint is minimal; and the improvements to construct it are minor, as it has a diameter of 18 inches, making it also comparable to horizontal dimensions of utility poles common in the area, while having less mass, likely resulting in lesser visual impact. In addition, County zoning in the immediate area includes the Diverse Agriculture designation, which allows homes of up to 35 feet in height, and agricultural structures of up

to 50 feet in height. The project is comparable to, or of lower height than these allowances, and has considerably less bulk and visual mass than would a 35-foot tall home, or a 50-foot tall barn or water tower. Further, its location at considerable distance from a public road and from most area residences, the presence of large trees of 40-50 feet in height on the site, some of which exceed the height of the proposed tower, and variations in grade in the area will substantially lessen the visibility of the project from public areas. While not required to qualify for these CEQA exemptions, the conditions of approval, a number of which are required by existing City ordinance provisions for any antenna of this type, will further reduce the visibility of the project. This exemption category provides for exemption of projects of considerably greater scale and impact than the subject project, such as development of a 4-unit multi-family structure (which would have considerably greater bulk, potentially greater visual impact, and more traffic and noise impacts; or a store or restaurant of up to 2,500 square feet; or substantial utility and street extensions. Construction of the project would involve minimal changes to the environment, and the completed project would not generate noise, would not generate waste products or air pollution, would generate negligible vehicle traffic, and would only modestly change the visual character of the project area.

4. These CEQA determinations have been made after carefully reviewing detailed project information, including the project description, plans, photographs, and visual simulations, and considering past extensive public testimony and written submittals associated with a previous application for a substantially-taller 70-foot antenna by the same applicant, for the same location.
5. That the project is consistent with the General Plan and Zoning Ordinance in that it involves the operation of a limited utility use at a site that, as detailed in the staff report and application materials currently contains substantial public utility improvements. The project is consistent with General Plan policies and Zoning Ordinance provisions in that the construction and operation of a small radio tower is a minor addition to a large non-residential parcel that has already been developed as a City reservoir with substantial utility improvements. The radio tower is an accessory use and does not expand the footprint of the site nor does it encroach onto residential uses. The project would modestly change the visual character of the project area and may be interpreted as consistent with General Plan goals and policies in that the radio tower has a diameter of 18 inches and an open structure with diagonal bracing, which makes it less visually intrusive than other telecommunications improvements, and comparable in visibility and height to telephone and other utility poles, which are common in the area and in California generally. The radio tower would also be located on a site that currently contains two very large and tall water tanks, numerous mature trees, some of which are taller than the proposed antenna, and under conditions mandated by an existing City ordinance provision and a condition of approval, the antenna structure would be required to be painted a flat green, to blend in with the large trees in the area of the antenna.
6. That the subject site is zoned CF, Community Facilities District. CF District 'Permitted Facilities Section 17.76.020 F lists 'Minor telecommunication facilities and commercial minor antennas, not exceeding 35 feet in height...' as permitted uses, subject to review by the Planning Director. The proposed antenna is subject to these allowances, in that it is 35 feet in height, and otherwise conforms to relevant standards.

7. The proposed antenna qualifies for classification as a 'minor antenna' in that it is not greater than 35 feet in height, and it conforms to the provisions of Municipal Code Section 17.100.030, in that it is accessory to the primary use of the property (municipal water system use); it would not result in an exceedance of the numerical limit on antennas (6) at a given site; it would conform to relevant NIER standards as set forth in the application submittal; it is not situated between a primary building on the parcel and any public street; it is located outside of all yard and street setbacks specified for the zoning district; no guy wires will be employed; antenna arrays will not extend beyond the property line; no power lines are in the immediate vicinity of the antenna site; the antenna will be comprised of noncombustible and durable materials; the antenna would be painted flat green to blend in with site area landscaping; the installation will be performed consistent with the manufacturer's specifications and will be subject to permitting and inspection by the Building Official; the antenna will be located on a fenced, secured site, and the antenna will have anti-climb panels; the project will protect visual character by virtue of its modest height, open structure, minimal footprint, distance from any public road, and siting near tall trees, as documented in the application materials; and will assist in providing emergency response and communication, in that KOWS is an FCC-designated emergency alert provider, and indicates that they would provide localized information to the community in major emergency situations, which would be of substantial benefit in a region-wide emergency situation.
8. That the project is consistent with goals and policies relating to EMF in that the radio tower contains Low Power FM Radio antennas, and is consistent with FCC standards for Nonionizing Radiation (NIER) emissions. Furthermore, exposure is minimal in that the radio tower is secured by a fence and the actual antenna is located well above the natural grade and at substantial distances from residences.
9. That the project is consistent with zoning district requirements in that the site is located in the CF: Community Facilities District. The Zoning Ordinance states the following: "The purpose of the CF District is to implement the 'Community Facilities' and 'Parks' and 'Open Space' land use categories of the General Plan. This District is applicable to lands accommodating governmental, public utility, and educational facilities, as well as parks and open space land in public ownership." The project is consistent with the CF District in that it involves the construction and operation of a radio tower, which depending on height and other factors, is listed as both a permitted and a conditionally-permitted use in the CF Zoning District. The subject application is a permitted use, in that it is not greater than 35 feet tall and otherwise meets parameter for administrative approval. The CF District also allows Communications Equipment, Electrical Substations, Water and Sewer Pumping and Treatment Facilities, Gas Substations, Police and Fire Stations, Public Works Yards, Post Offices, Public Parking Lots, Libraries, and Government Offices. Further, as detailed in other findings, the project is consistent with the provisions of the telecommunications facilities provisions of the Zoning Ordinance.
10. That the actual visibility of the project is acceptable in that the radio tower has a diameter of 18 inches and an open structure with diagonal bracing, which makes it less visible than some other telecommunications improvements which may have more massive or solid tower structures, or may have extensive attachments, or may have extensive horizontal elements, that the 35-foot height is comparable to utility poles found throughout the area, and will be comparable or lower than the height of some of the trees on the project site.
11. That the visibility of the radio tower is minimal in that as detailed in the application materials, including the visual simulation analysis, it would be located on a site that currently contains

two very large water tanks, a number of large, tall mature trees, and would be required to be painted a flat green. The site is not on an exposed ridge line, the specific location takes advantage of natural landforms (a location at a lower elevation than Pleasant Hill Road) and existing vegetation (tall trees) to minimize visual effects. The project does not involve cut and fill grading, or construction of a new road or driveway. While the Sonoma County General Plan designates Highway 116 as a 'scenic corridor,' the site area is not within a County-designated 'scenic landscape unit,' and the actual antenna site does not appear to be visible from Highway 116, as documented by multiple photographs and analysis submitted by KOWS for this application, as well as similar submittals for the previous application for a 70-foot tower at the same site. Further, the site is thousands of feet beyond Highway 116. Even if the structure was subject to County regulation, which it is not, the scenic corridor policies state that telecommunications facilities may be permitted, provided they meet applicable County Development Code criteria. Further, the County itself has approved other structures, including taller antennas, in substantially closer visual proximity to Highway 116 than the subject site. The visibility of the tower can also be compared to that of telephone and other utility poles, which are common in the area, and while some such poles are lower in height than the proposed project, others are taller, and they are often in closer proximity to roadways and residences than the proposed tower will be; and from that perspective, the visual impact of the proposed project, while present, is not substantial. This is demonstrated by the updated visual simulation analysis submitted as part of the KOWS submittal, which shows the tower from different perspectives and distances. The submittals also shows the effect of the varying topography in the area, which reduces or eliminates visual impact of the project from some locations, as well as the limited visibility of the tower due to its minimal physical profile and modest height.

12. That the applicant provided information regarding their site search and alternative locations in the subject application as well as in conjunction with the referenced prior antenna application and the appeal of its approval, which demonstrates that the proposed site is reasonably appropriate, given consideration of the multiple parameters set forth in such analysis.
13. That the radio tower does not threaten public health in that it is compliant with FCC standards in terms of NIER exposure, and that it is a Low Power FM Antenna.
14. That the actual antennas are located above natural grade and the radio tower site is enclosed by fencing, which creates a vertical, as well as horizontal, distance between the telecommunication improvements and members of the public.
15. That the radio tower will not threaten public safety in that it will be subject to standard conditions and code requirements to meet several structural and safety requirements to the satisfaction of the Building Official, Fire Chief, Public Works Superintendent, and City Engineer.
16. That the project is a compatible with the site in that it is a utility use proposed for a parcel that is zoned for and contains utility uses, and the radio tower would not impede or cause any demonstrated effects on the City's primary water use of the property.
17. That the project is subject to several conditions of approval that are intended to further reduce impacts on the site and surrounding uses, and includes a condition which allows only KOWS to install antennas on the radio tower, and prohibits other telecommunications providers from making improvements on the site.

18. That any contentions that if the project were approved, the City could be forced to allow other telecommunication antennas on the structure are inaccurate. There are Federal requirements that place restrictions on State and local government's ability to regulate co-location of wireless facilities, however these are not applicable to the KOWS antenna situation. FCC Report and Order FCC 14-153 clearly states that co-location mandates do not apply to State and local governments when they are acting as property owners. This is comparable to the rights of other property owners to control uses on their property. This interpretation is supported by a May 2015 legal analysis of FCC wireless rules prepared for the League of California Cities. This issue is also analyzed in the April 25, 2016 KOWS submittal for the previous antenna project.
19. The radio tower will not threaten public health in that it is compliant with FCC standards in terms of NIER exposure, and is a Low Power FM Antenna, which does not emit the same NIER as a major cellular tower. Furthermore, the actual antennas are located above natural grade and the radio tower site is enclosed by fencing, which creates a substantial distance between the telecommunication improvements and members of the public. Finally, the radio tower will not threaten public safety in that per existing code requirements, it will be conditioned to meet several structural and safety requirements to the satisfaction of the Building Official, Fire Chief, Public Works Superintendent, and City Engineer.
20. That the City appropriately regulates telecommunication facilities within its jurisdiction, and the City has approved several telecommunications facilities at a number of sites, such as the considerably taller and more massive cell tower at Sebastopol's City Hall, a major antenna structure next to Sonoma West Hospital, a substantial tower at the Police Station, and other substantial antenna installations on buildings. KOWS initiated this proposal after a site search determined that it was a suitable location; as demonstrated by a number of approved antenna projects in the City limits, the City is open to consideration of such applications, consistent with provisions of the Municipal Code.
21. Based on the above findings, and following careful consideration of the application, the application is hereby approved.

**Conditions of Approval:**

1. Approval is granted for the Administrative Antenna Permit for a minor telecommunications facility described in the application date-stamped August 16, 2016, except as modified by the conditions of approval, and is valid for a period of two (2) years during which time the rights granted must be exercised. However, the applicant may request one (1) one-year extension of this Permit from the Planning Director, pursuant to Section 17.250.050 of the Zoning Ordinance.
2. The City of Sebastopol and its agents, officers and employees shall be defended, indemnified, and held harmless from any claim, action or proceedings against the City, or its agents, officers and employees to attach, set aside, void, or annul the approval of this application or the environmental determination which accompanies it, or which otherwise arises out of or in connection with the City's action on this application, including but not limited to, damages, costs, expenses, attorney's fees, or expert witness fees.
3. The Planning Director shall interpret applicable requirements in the event of any redundancy or conflict in conditions of approval.

4. No signs shall be installed that identify the KOWS use of this property, unless specifically authorized by the City.
5. No sound may emanate from the telecommunications facility, which violates the Noise Ordinance or causes an undue disturbance to site neighbors.
6. An Encroachment Permit shall be obtained for work on this public property prior to any construction. No Building Permit will be issued unless an Encroachment Permit has been obtained. Please call the Engineering Department for information at (707) 823-5331.
7. All applicable permits shall be obtained from other approving agencies prior to commencement of this use, including, but not limited to Building and Safety Department, Fire Department, and the Federal Communications Commission (FCC).
8. KOWS shall be responsible for all improvements and maintenance. All electrical, internet, or other utility connections shall be KOWS responsibility, with any improvements subject to City approval. KOWS shall ensure that the operation of the tower does not interfere with Public Works Department requirements for municipal water operations.
9. The radio tower shall be selected for the appropriate wind load at the site per the Building Official.
10. Unless waived by the Building Official, a Geotechnical Report shall be required.
11. The facility shall require a Building Permit and an Electrical Permit. The plans shall be prepared, stamped, and signed by a licensed design professional. If a solar-powered back-up system is proposed, it shall only be permitted if approved by the Planning Director and Public Works Superintendent and shall also be to the satisfaction of the Building Official, and such facilities may require a Building Permit.
12. All construction work shall be done by California-licensed contractors, who have a current Business License with the City of Sebastopol.
13. All California State mandated SMIF and Green Building fees shall be paid.
14. The applicant shall execute a lease agreement with the City of Sebastopol that authorizes the use and improvements, and establishes terms of use including any lease payments, access and security restrictions, and other appropriate provisions prior to any construction, and establishing KOWS responsibility to remove its improvements upon expiration or revocation of the Permit, or expiration of the lease. The project may not proceed to construction unless and until the City Council approves such lease, and as property owner, the City reserves the right to set conditions or requirements, or to decline to approve such lease if its terms are not satisfactory.
15. Specific access and security arrangements shall be made with the Public Works Department.
16. Consistent with the adopted requirements of the telecommunications ordinance, the radio tower shall be painted flat green.

- 17.** The facility shall be designed and maintained to withstand without failure the maximum forces expected from wind, earthquakes, and ice when the facility is fully loaded with antennas, transmitters and other equipment, and camouflaging, pursuant to Section 17.100.100 of the Zoning Ordinance. Initial demonstration of compliance with this requirement shall be provided via submission of a report to the Building Official prepared by a structural engineer licensed by the State of California describing the tower structure, specifying the number and type of antennas it is designed to accommodate, providing the basis for the calculations done, and documenting the actual calculations performed. Proof of ongoing compliance shall be provided via submission to the Planning Director at least every 5 (self-supporting and guyed towers)/10 (monopoles) years of an inspection report prepared by a California-licensed structural engineer indicating the number and types of antennas and related equipment actually present and indicating the structural integrity of the tower. Based on this report, the Building Official may require repair of, if a serious safety problem exists, removal of the tower.
- 18.** This approval is only for the KOWS antenna and related facilities. KOWS is not authorized to install or allow the installation of any other antennas or facilities on the radio tower or at the site, and this requirement shall be memorialized in the lease with the City.
- 19.** The facility shall remain unlit, unless otherwise approved by the City, pursuant to Section 17.100.160 of the Zoning Ordinance.
- 20.** The facility shall be designed and operated in such a manner so as to minimize the risk of igniting a fire or intensifying one that otherwise occurs to the satisfaction of the Fire Chief, pursuant to Section 17.100.190 of the Zoning Ordinance. All tree trimmings and trash generated by construction of the facility shall be removed from the property and properly disposed of prior to Building Permit finalization or commencement of operation, whichever comes first.
- 21.** The applicant shall submit a site plan, drawn to scale, showing all above and underground features on the site. The site plan shall also include detailed specifications for trenching and address erosion control, pursuant to Section 17.100.200 of the Zoning Ordinance.
- 22.** The facility shall be constructed and operated in such a manner as to minimize the amount of disruption caused the residents of nearby homes and the users of any nearby recreational areas such as public parks and trails, pursuant to Section 17.100.200 of the Zoning Ordinance. To that end all the following measures shall be implemented: (1) Outdoor noise producing construction activities shall only take place on weekdays (Monday through Friday) between the hours of 7:30 a.m. and 5:30 p.m. unless allowed at other times by the Planning Commission; (2) Backup generators shall only be operated during power outages and for testing and maintenance purposes. Noise attenuation measures shall be included to reduce noise levels to an exterior noise level of at least an LDN of 60 DB at the property line and an interior noise level of an LDN of 45 DB; and (3) Traffic at all times be kept to an absolute minimum, but in no case more than two round trips per day on an average annualized basis once construction is complete.
- 23.** The telecommunications facility shall continue to maintain compliance with FCC emission standards for human exposure, related to Nonionizing Electromagnetic Radiation (NIER), pursuant to Section 17.100.230 of the Zoning Ordinance. Every 5 years a report listing each

transmitter and antenna present at the facility and the effective radiated power radiated shall be submitted to the Planning Director. If either the equipment or effective radiated power has changed, calculations specifying NIER levels in the inhabited areas where said levels are projected to be highest shall be prepared. NIER calculations shall also be prepared every time the adopted NIER standard changes. If calculated levels in either of these cases exceed 80% of the standard established by this section, the operator of the facility shall hire a qualified electrical engineer licensed by the State of California to measure the actual NIER levels produced. A report of these calculations, required measurements, if any, and the author's/engineer's findings with respect to compliance with the current NIER standard shall be submitted to the Planning Director within 5 years of facility approval and every 5 years thereafter. In the case of a change in the standard, the required report shall be submitted within 90 days of the date said change becomes effective.

- 24.** KOWS shall be responsible for obtaining and for the payment of all approvals and expenses related to PG&E and any internet or other communication services for its facility.
- 25.** The tower structure shall include anti-climb panels.
- 26.** The site shall be secure with appropriate fencing as determined appropriate by the City Manager.

C. Appeal statement date-stamped September 8, 2016



# City of Sebastopol APPEAL FORM

Date: 09.08.16  
\* Filing Fee Paid: \$560  
File #: 2016-73

To: (check one):

- PLANNING COMMISSION (limited to the appeal of staff determination not involving design matters)
- DESIGN REVIEW BOARD (limited to the appeal of staff determination on design matters)
- CITY COUNCIL (all other appeals)

FROM:

SEBASTOPOLE HILLS ALLIANCE FOR RURAL PRESERVATION (SHARP)  
(Please print your name)

SUBJECT:

I wish to appeal the action of: (check one):

- CITY STAFF (please give name or title) ADMINISTRATIVE APPROVAL OF KOWS ANTENNA TOWER AT 1281 PLEASANT HILL RD, DATED AUG. 22, 2016
- DESIGN REVIEW BOARD
- PLANNING COMMISSION

Taken or made on Aug. 22, 2016 with regards to Admin. Approval of Kows Antenna Tower @ 1281 Pleasant Hill Rd.  
(Date of action or decision) (Name of use, applicant, project or other description of item you are appealing)

I ask that the decision or determination made above be reversed and/or modified, and that the original application be:  
(Check one):  granted  denied  modified

The reason(s) that my appeal should be granted by the Board, Commission, or Council named above  are set forth below: or,  are attached.

SEE ATTACHED APPEAL

I understand that there is a filing fee for appeal, whether the appeal is from a Staff Determination, Design Review Board Decision, or Planning Commission Decision, and that the fee must be paid on the date that the appeal is submitted. Most appeals must be submitted within 5 days\* from the day of the original staff determination, or of the Board/Commission action. \*\*

You will be notified by mail of the date of the City Council hearing on review of your appeal. All interested persons will be entitled to attend the meeting and be heard.

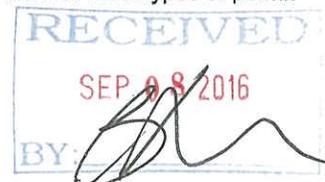
Robert Jenkins ROBERT JENKINS ON BEHALF OF SHARP  
Your Signature SHARP REPRESENTATIVE Print Name

1411 PLEASANT HILL RD. SEBASTOPOLE, CA 95472  
Your Mailing Address

707-484-2800 rhjenkins1@gmail.com  
Your Phone Number Your Email Address

\*For purposes of this requirement, 'days' do not include Saturdays, Sundays, or holidays.

\*\* If a staff determination was mailed to you, and a public meeting has not been held, then for most types of permit actions, the appeal must be submitted within five (5) days of the mailing of the letter.



**SHARP APPEAL OF AN ADMINISTRATIVELY APPROVED ANTENNA TOWER  
PROPOSED BY KOWS RADIO  
AT 1281 PLEASANT HILL ROAD**

The Sebastopol Hills Alliance for Rural Preservation (SHARP) is appealing the August 22, 2016 Administrative Approval of a 36 foot high antenna tower (referred to as a 35 foot tower in the Administrative Approval) proposed by KOWS radio station at 1281 Pleasant Hill Road (the City of Sebastopol reservoir property). SHARP is a neighborhood association consisting of residents that live in the Sonoma County rural residential areas outside the Sebastopol city limits. The mission of SHARP is to protect the scenic hills adjacent Sebastopol from industrial blight and health related hazards caused by telecommunication towers and other industrial structures.

SHARP believes the August 22, 2016 Administrative Approval by the Planning Director is inappropriate, inconsistent with Sebastopol zoning ordinances, and is an attempt to unilaterally circumvent the already established public review process for the KOWS antenna tower Use Permit application at 1281 Pleasant Hill Road, while ignoring the many complex issues that have been established and that continue to exist at the reservoir site for any antenna tower, regardless of height. SHARP's legal representative, Tamara Galanter, of Shute Mihaly & Weingberger LLC, will be providing the City of Sebastopol a legal analysis of the issues related to the KOWS application, the Administrative Approval and this appeal prior to the Planning Commission hearing for this appeal.

The Planning Director wrongly determined that a change in the KOWS tower height to 36 feet warranted an entirely new application from KOWS, which in turn allowed him to make an independent administrative decision in direct opposition to the City Council's determination that an EIR was required, and in direct opposition to the Planning Director's own determination that the scope of study in the EIR involved areas of study that were not related to or affected by the height of the tower. The Planning Director did not make a similar determination to require a new application of KOWS, between two previous City Council hearings when KOWS suddenly modified its Use Permit application with a new tower that changed both the design and the height. The Administrative Approval by the Planning Director appears to be an abuse of discretion showing favoritism towards the applicant, KOWS radio, to the detriment of the rural residential homes and county residents surrounding the tower site at 1281 Pleasant Hill Road. The Planning Department's receipt of the \$70,000 to \$100,000 EIR proposals for the KOWS 65-70 foot tower project, which KOWS radio could apparently not afford, appears to be the motivation for terminating the review process in favor of an Administrative Approval.

The new KOWS application for a 36 foot tower at 1281 Pleasant Hill Road was submitted to the City of Sebastopol on August 16, 2016 and the Planning Director formally approved the application on August 22, 2016, 3 working days later (Friday being a non-working day for the City of Sebastopol). The Planning Director accepted all KOWS submittals on August 16, 2016 as true and accurate, with no independent analysis provided by outside experts, even though the City Council unanimously required independent analysis of impacts through an EIR, and KOWS has a proven history of providing inaccurate and misleading information to the City of Sebastopol for the many previous public hearings regarding their antenna tower Use Permit application (see Attachment 1 - SHARP May 31 presentation to the City Council).

The Sebastopol City Council unanimously required that an Environmental Impact Report (EIR) be prepared for the 65-70 foot high KOWS radio antenna tower then proposed at 1281 Pleasant Hill Road. The Planning Director was tasked with preparing a Scope of Study for the EIR, which scope was presented to the City Council on July 5, 2016. The Planning Director determined that the following CEQA categories required detailed analysis in the EIR: 1. Visual Impacts; 2. Biological Impacts; and, 3. Consistency with City and County land use ordinances and plans.



CEQA also requires that alternative sites and cumulative impacts be thoroughly reviewed, and all viable mitigation measures be determined. SHARP's attorney, Tamara Galanter, notified the City of Sebastopol in a letter dated June 8, 2016 that additional CEQA categories required analysis as follows:

- 1. Aesthetics (including an accurate on-site physical tower simulation to allow accurate photo simulations from various community locations where the proposed tower would be visible, including from locations on Hwy. 116 and along Burnside Road west of Watertrough Road).**
- 2. Biological Resources (including an onsite survey, research and analysis of plant and wildlife, including endangered and protected species, and raptors and other birds that will be affected by the proposed tower and any proposed mitigations).**
- 3. Cultural Resources (including research and analysis of possible Native American burial or settlement artifacts at the site, and consultation with tribes as required by recently enacted legislation [AB 52]).**
- 4. Geology and Soils (including analysis of erosion issues, expansive soil issues, and seismic issues).**
- 5. Hazards and Hazardous Materials (including analysis of radiation issues, falling/failure issues, solar panel hazardous materials issues if damaged on-site, petroleum/fuel issues for backup generators).**
- 6. Hydrology and Water Quality (including analysis of erosion issues and water table issues at trenching and excavation locations).**
- 7. Land Use and Planning (including conformance to city and county land use policies and ordinances and General Plans).**
- 8. Noise (including noise from generators and other permanently proposed features and noise during construction).**
- 9. Public Services (including analysis of required electricity, telephone and cable services to the antenna tower, the amount and cost of services, the method of separate billing of services to the applicant, the need and cost for heightened security at the Reservoir site due to a private antenna tower and the time and cost of city personnel required for such added security).**
- 10. Growth Inducing Impacts (including the impact of approval of the tower on future facilities and collocation at this site, and possible future pressure in Sebastopol to use City property for private business purposes).**
- 11. Cumulative Impacts (including analysis of impacts from this project together with other nearby existing and future projects on EMF radiation, visual impacts, future on-site towers, off-site towers, and radio/TV reception at nearby homes).**
- 12. Evaluation of Alternatives (including no tower, a move to the Respini Ranch location at 11333 Occidental Rd., or to Bodega Ave./Ives Park Fire Station, or to ham radio towers on Hurlbut Ave. or on Hwy. 116, etc.)**
- 13. Mitigation Measures (including the addition of perimeter 60 foot screen trees, disguising the tower as a tree, and a tower relocated to another site).**

The Planning Director has continued to erroneously state in Staff Reports and in his Administrative Approval Findings that the KOWS antenna tower is Categorically Exempt from CEQA, regardless of the height and design. SHARP retained Richard Grassetti, a CEQA expert with over 30 years of experience as a consultant and university professor, to review the Planning Director's Categorical Exemption designation for the original 70 foot KOWS tower. His April 25, 2016 report was submitted to the City Council and is a matter of public record. Mr. Grassetti stated that in his expert opinion the original 70 foot KOWS tower could not be Categorically Exempt from CEQA, and his arguments against Categorical Exemption continue to be valid for a 35 or 36 foot KOWS tower. Mr. Grassetti dismisses the Class 1 CEQA exemption as having no validity for the KOWS tower since the tower would be a new structure and would not be functionally related to the primary water tank use on the reservoir property and would therefore not be an accessory use. Mr. Grassetti dismisses the Class 3 CEQA exemption

based on the original 70 foot tower being large, and not a small addition to the site, but also based on CEQA law that prohibits the adoption of a Categorical Exemption if mitigation measures are required to assure that the project would have no significant adverse impacts to the physical environment, (*Salmon Protection and Watershed network v. County of Marin*). While it could be debated whether the proposed 36 foot tower is small or not, the 36 foot tower still requires mitigation measures to reduce significant adverse impacts. Other factors also render the Class 3 exemption invalid for the 36 foot KOWS tower, and this will be addressed more completely by SHARP's legal representative in her letter to the City of Sebastopol prior to the Planning Commission meeting on this appeal.

This new application by KOWS does not qualify as a Minor Telecommunication facility as set forth in the zoning requirements of Chapter 17.100 - General Provisions Relating to Telecommunication Facilities and Minor Antenna, (see Attachment 2 – Relevant Zoning), and therefore does not qualify as an application that can be administratively approved by the Planning Director. The KOWS application requires a Use Permit, and a Use Permit process is already underway for a KOWS antenna tower at 1281 Pleasant Hill Road. The KOWS 36 foot tower application and its Administrative Approval should be denied and the existing Use Permit process for the KOWS antenna tower be allowed to proceed with an EIR, if KOWS is able and willing to provide the deposit required by Sebastopol in advance; otherwise the existing KOWS Use Permit application should be terminated along with the current application. An indefinite suspension of the existing KOWS Use Permit application, with no date certain on its expiration or termination, which is apparently its current status, is bad policy and should not be allowed to continue.

Chapter 17.100, Section 17.100.240, of the zoning requirements defines the conditions that must be met in order for a telecommunication facility to qualify as a Minor telecommunication facility, and it requires that ALL the conditions must be met. The KOWS antenna tower application **fails** under five or more of the conditions.

17.100.240 B. requires that the facility be an accessory to the primary use of the property, which is water storage for the City of Sebastopol and its public utility. An FM radio station and its antenna tower is not a utility. It is not related to the Sebastopol public water supply, it is not governmentally owned, it is not a quasi-governmental/public entity, it is not a provider of telecommunication services governed by the California Public Utilities Commission, and it does not provide a critical service required by a majority of residents. Therefore, the KOWS antenna tower is not an accessory to water storage or utility use and does not meet this condition. In fact legal rulings have specifically found that radio stations and their broadcast towers are not utilities, in disagreement with the Planning Director's attempt to label the KOWS tower a utility in his Findings for Administrative Approval. Courts have found that although the FCC provides licenses to radio stations in order to avoid broadcast interference with other stations, radio stations are considered more similar to other forms of media, like newspapers, that are subject to governmental oversight and constitutional laws, but do not have monopoly-like powers providing a service deemed critical or a necessity to residents in a community, which is the definition of a utility.

17.100.240 C. requires that a telecommunication tower structure shall not exceed 35 feet in height. The application submitted by KOWS radio includes detailed information regarding the Trylon STG SS tower being proposed and the foundation that is required for it. It shows a 35 foot high tower structure that will be mounted on a foundation that rises 12 inches above the existing ground level. Therefore, the tower will be 36 feet high and does not meet this condition. (Zoning section 17.100.140 states that a tower shall be measured from the natural undisturbed ground surface below the center of the base of said tower to the top of the tower itself, or if higher, to the tip of the highest piece of equipment attached thereto.)

17.100.240 F. requires that combined NIER levels produced by all the telecommunications facilities and minor antennas present on the parcel must be less than 10% of the NIER standard established in zoning section 17.100.230. Zoning section 17.100.230 utilizes the current FCC NIER radiation limit of 200 microwatts/sq. cm, (200 uW/sq. cm), as the standard, so the radiation produced by the KOWS antenna tower must be below 20 uW/sq. cm. to meet the requirements of condition F. The latest Prometheus NIER report provided by KOWS shows the maximum exposure level to be 54 uW/sq. cm. for people on the ground 2.4 meters away from the antenna tower. Therefore the KOWS antenna tower does not meet this condition as it emits radiation 2.7 times the limit established in condition F.

17.100.240 G. requires that an antenna tower facility may not be closer than 75 feet to any residential dwelling unit. There is a 1.9 acre parcel of land immediately adjacent the KOWS tower site to the east that is zoned Rural Residential and has an existing approved home site which is 55' from the proposed KOWS tower base. A home built on this 1.9 acre parcel would result in the KOWS tower not meeting the requirements in this condition, not to mention the extreme loss of value that the property and a future home would suffer with a 36 foot antenna tower looming over it.

17.100.240 K. requires that any new buildings shall be screened from view from off site. Condition 17.100.180 A. requires that a landscape plan be submitted with the project application indicating all existing vegetation that is to be retained and any additional vegetation that is needed to satisfactorily screen the facility from adjacent land uses. Condition 17.100.220 D. requires that all feasible mitigation measures be employed. The CF (Community Facilities) zoning requires under 17.76.080, Buffering/Screening, that whenever a lot in the CF district abuts a lot located in ANY residential district, it shall be screened from the residentially zoned lot, along the entire abutting line, by dense landscaping, including screen-type trees, and by a solid fence not less than six feet in height. The 1.9 acre lot immediately adjacent to the reservoir site is zoned Rural Residential by Sonoma County. KOWS radio and the City of Sebastopol have not met any of the above requirements. No landscaping plan was submitted by KOWS. No screening vegetation, trees, or solid wood fencing has been proposed along the property line with the 1.9 acre lot to the east. No drawings or location information is provided for the structure that KOWS refers to in its application as a 4' x 4' x 6' structure to house radio station equipment, and no landscape plan is provided to show how this structure would be screened with vegetation. Additionally, no screening trees, solid 6 foot fences or landscape plans have been proposed or provided along the reservoir site's property lines that abut with the other rural residential homes and property on the south, west and north. A tree protection plan for *existing* trees, prepared by a certified arborist, (17.100.180 B.1.), would also be required if KOWS was allowed to submit for a building permit in the future. This report would be particularly important since the 300 foot trench that KOWS intends to dig on the site will cut through the root systems of many of the trees on the site and will significantly endanger the trees, along with removing four dump truck loads of earth, and dumping 10,000 pounds of concrete and reinforcing steel on the site. The EIR required by the City Council would have addressed the potential for serious damage to these 40-45 foot trees in its biological analysis. These trees were planted over 30 years ago in order to mitigate the visual impact of the water tanks on surrounding homes. A biological impact study would also determine the potential for harm to migratory birds and raptors, including a threatened species of falcon, that regularly utilize the trees and vegetation on the reservoir site.

Any telecommunication tower at 1281 Pleasant Hill Road will harm the surrounding neighborhoods in a variety of ways, regardless of height. That is why it is imperative to have independent analysis of all impacts from an antenna tower.

The erection of any telecommunication tower on any site ultimately leads to the collocation of other antennas on the tower, and then to more antenna towers being erected on the site, as we have seen throughout California and elsewhere. English Hill at the top of Burnside Road in west Sebastopol is an example. The only way to insure there will not be future antenna and tower proliferation on a site is to never permit a tower to be erected on a site in the first place. Restrictions in a site lease document or in Conditions of Approval will become irrelevant whenever a City Council wishes to begin collocation at the reservoir site. While the City of Sebastopol could perhaps not be forced to allow collocation of other antennas at the reservoir site under FCC rules, the key issue is really that future City Councils will *want* collocation and future towers on the reservoir site. That is exactly what happened in 1979, in 1987, and then again in 1994. The City Council in 1979 promised the neighborhoods surrounding 1281 Pleasant Hill Road that there would only be one large water storage tank built by the City of Sebastopol on the site and nothing else. A new City Council in 1987 ignored the previous City Council's promises and authorized the construction of a second large water storage tank on the site, while assuring the surrounding neighborhoods that two water storage tanks would be the limit of improvements on the site. The 1994 City Council authorized GTE Mobilnet to proceed with a 75 foot antenna tower Use Permit application on the site, only to later unanimously reject it at the final public hearing due to intense opposition from the surrounding neighborhoods. Sebastopol's own General Plan and Zoning Ordinance favor collocation of new antennas. The KOWS antennas should be collocated on an existing antenna tower within the Sebastopol city limits as dictated by your zoning and General Plan, if city officials believe it is imperative and the city's responsibility to help KOWS improve antenna coverage within Sebastopol proper, even though KOWS streams all of its programming on the World Wide Web, and it is available now to anyone in the world with a smart phone or internet connection, including virtually everyone in Sebastopol. The Planning Director also indicated that he was "not sure" whether the City of Sebastopol could overrule or have any control over FCC ruling 6409(a) that allows antenna towers to be strengthened and expanded by 10 feet in height and 6 feet in width, once any tower is erected.

Lowering the height of an antenna tower at the reservoir site significantly increases the health risks to nearby residents and to vineyard and orchard workers. The radiation exposure for adjacent vineyard and orchard workers will increase from 16uW/sq. cm. (based on the NIER report for the previously proposed 70 foot KOWS tower) to 54uW/sq. cm. (based on the NIER report for the now proposed 36 foot KOWS tower). This is 3.4 times the previous radiation exposure, and 5.4 times the maximum radiation exposure allowed in China and Russia. China and Russia both already have radiation exposure limits of approximately 10 uW/sq. cm, 1/20 of the current FCC limit of 200 uW/sq. cm. The FCC's own standard setting organization, the IEEE, completed a new health study in 2016 that found long term cancer risks from exposure to low level radiation from cellular telephone and broadcast towers. This will almost certainly force the FCC to reduce the radiation limits which it considers safe, and render the current FCC limits unsafe. The City of Sebastopol zoning rules allow KOWS to have up to six antennas on a tower, with no oversight on installation or the radiation levels being created, except for any information they choose to submit every 5 years. This will only increase the health hazards to orchard and vineyard workers and to surrounding homes over time, and it is unacceptable to SHARP and nearby residents. Additional antennas guarantees that a radiation bath will be broadcast through the adjacent homes to the south and southeast that are elevated 30 feet higher than the base of the proposed tower and on the same plane as the proposed KOWS antenna.

While lowering the height of the proposed KOWS tower from 70 feet to 36 feet will diminish **some** of the negative visual impacts of the KOWS tower on the surrounding area, it does not eliminate **all** the negative visual impacts, and many homes would continue to have unacceptable visual impacts from the proposed tower, (see

Attachment 3 – 36 Foot Tower Simulation Photos). The tower is proposed in a location on the reservoir property that does not have tall trees surrounding it and the 36 foot tower will still stand out exposed against the skyline. KOWS continues to provide the City of Sebastopol with self-serving and inaccurate simulation photos of their proposed tower which do not fairly and accurately show the visual impact of the 36 foot tower on surrounding homes and from Pleasant Hill Road. Independent visual analysis by an EIR expert, or other independent expert, is the only unbiased and accurate way to show the visual impacts from the proposed antenna tower.

A 36 foot KOWS antenna tower will cause significant property value losses for nearby homes and lots. Chris Blakeslee of Blakeslee Land Services, an appraisal expert with over 30 years of experience appraising rural residential and agricultural properties, was hired to determine the value loss for the three closest lots to the KOWS tower site should the proposed 36 foot tower be constructed. All three lots have approved percolation fields and designated home sites. A 1.9 acre lot is immediately adjacent the reservoir property on the east side and the designated home site for this lot is 55 feet from the proposed location for the KOWS antenna tower. A 2.1 acre lot and a 10 acre lot are adjacent that lot to the east. A recorded road easement provides access to the three lots from Pleasant Hill Road along the south property line of the reservoir property. Blakeslee Land Services reviewed the estimated property value loss to the three adjacent lots using data on Sonoma County land sales and data from his previous valuation report research for neighborhood properties that would have been negatively affected by the KOWS 70 foot antenna tower, (see Attachment 4 – Blakeslee Valuation Letter). He estimates that the three lots would lose \$337,000 in total value if the proposed KOWS 36 foot tower is erected. Should the tower be approved and erected, KOWS would need to be prepared to reimburse the property owners for this loss of value or potentially face litigation. Other homes nearby would also suffer property value losses from the proposed KOWS tower and they too would expect to be reimbursed by KOWS for the value loss caused by the proposed antenna tower. Property value loss is not just caused by negative visual impacts but also by the perceived health risks from EMF radiation, regardless of the ever-changing limits considered safe by the FCC. Antenna towers are therefore considered a “nuisance” in legal terms and the FHA will not lend on homes near antenna towers.

KOWS leaders provided significantly misrepresented data regarding alternative locations for its antennas just prior to the May 31, 2016 City Council meeting, and long after Planning Commissioners asked for it on February 23, 2016. The KOWS data was skewed to make the reservoir site appear to be the only acceptable site, even though their own steering committee notes and their requests to the public for antenna relocation funds showed several sites the station was actively and publically pursuing, with broadcast coverage equal to the reservoir site. No updated and accurate alternative site information has been provided by KOWS for the proposed 36 foot tower and this tower’s more limited broadcast coverage. Reduced broadcast coverage requirements open up far more site options for the KOWS antenna relocation. (Please see both Attachment 1 - SHARP May 31 presentation to the City Council, and Attachment 5 – SHARP Recap of the February 23, 2016 Planning Commission Meeting).

KOWS continues to broadcast with an antenna located at the OAEC in Occidental, exposing and negating the misleading statements by KOWS leaders at the February 23, 2016 Planning Commission meeting that persuaded Commissioners that the radio station could lose its antenna and go out of business by June 2016 unless the antenna tower at the reservoir site was approved (see Attachment 1 and Attachment 5). KOWS also continues to stream its programming around the world via the world-wide web. The world has embraced receiving music, entertainment, and news through devices such as smart phones, i-pads and computers. Broadcast radio antenna towers are fast becoming obsolete and it makes no sense for Sebastopol to invite such infrastructure into a rural residential neighborhood, causing immediate and permanent harm for the sake of an experiment with KOWS, a

business with very limited finances, a tiny audience and self-described program quality control issues, that is already broadcasting and streaming to Sebastopol.

KOWS program host Robert Feuer assaulted one of our neighbors at the May 31, 2016 City Council meeting, after the Council voted unanimously for an EIR to be prepared for the KOWS antenna tower. He was arrested and charged. Robert Feuer was a key leader in moving the KOWS broadcast studio from Occidental to the Methodist church in Sebastopol, and he remains active in the KOWS organization. His behavior, the limited response by other KOWS leaders, and his continued work at KOWS calls into question the core values at KOWS. SHARP and the residents in the surrounding neighborhoods are seriously concerned about the City of Sebastopol inviting Mr. Feuer and his organization into the middle of our neighborhood with a radio broadcast tower, and allowing them 24 hours/day, 7 days/week access to its tower, and to the reservoir site..

The surrounding neighborhoods do not want an antenna tower looming over their homes emitting radiation 24 hours a day with the likelihood of more antennas, more towers, and more radiation in the future. 327 individuals signed petitions and over 400 letters and emails have been sent to the City of Sebastopol opposing a KOWS antenna tower at 1281 Pleasant Hill Road. The City of Sebastopol is a guest in the county with its island property surrounded by county rural residential homes, and Sebastopol would be a bad guest and a bad neighbor to allow an unwanted and harmful private radio tower on to the reservoir property. Please support your next door county neighbors who have called Sebastopol their home for decades. Please deny the KOWS antenna tower application and put an end to this relentless and unnecessary effort by KOWS, a so-called Community radio station that chooses to ignore the health and welfare of our neighborhood community, and instead chooses to create harmful and irreversible impacts in the hope of gaining a few more broadcast listeners.

ATTACHMENT 1  
TO THE SHARP APPEAL OF  
THE KOWS 36 FOOT ANTENNA TOWER  
AT 1281 PLEASANT HILL ROAD

MAY 31, 2016 SHARP PRESENTATION TO THE SEBASTOPOL CITY COUNCIL  
REGARDING THE KOWS ANTENNA TOWER USE PERMIT

## SHARP July 31, 2016 City Council Presentation Summary

327 individuals have now signed petitions, and over 400 letters have been sent to the City of Sebastopol, opposing the KOWS antenna tower. These residents do not want our neighborhoods blighted with an antenna tower; they oppose Sebastopol inviting a non-municipal private structure onto the Reservoir site; they want the city to honor its own General Plan regarding our scenic western hills; they have no faith in a lease preventing eventual collocation of cellular antennas and microwaves and the resulting EMF pollution; they object to taxpayers footing the bill for liabilities that the city will very likely be taking on for KOWS.

It is difficult to understand how the City of Sebastopol could decide that a tiny radio station with an unknown audience size and very poor finances matters more than your General Plan, more than the negative environmental impacts, and more than the health, safety, peace, comfort and general welfare of the surrounding community.

The City of Sebastopol promised the surrounding neighborhoods in 1979 and again in 1987 they would restrict the use of the Pleasant Hill Reservoir site to water storage. Sebastopol would be breaking those promises if the KOWS tower is approved. Those promises and restrictions make good sense, because the site would be a rural residential home site or home today, surrounded by all the existing rural residential homes, if Sebastopol had not purchased it for water storage.

The site has become a quiet, undisturbed habitat for plants and animals. Mature trees hide the water tanks from neighboring homes. The construction of an antenna tower of any size would dump 40,000 pounds of cement, remove four dump truck loads of earth, and require a 300 foot trench. It is a major excavation of the site which could cause permanent damage to a habitat that has taken decades to create.

Sebastopol officials should ask why they have become immersed in the business affairs of a small radio station; why is Sebastopol offering free land to help a radio station reach other parts of Sonoma County; and is it worth Sebastopol spending precious city funds underwriting KOWS' liabilities for a new tower, when the station already reaches a good portion of the West county with its broadcast signal and reaches Sebastopol and the entire world by streaming on-line?

Someone posed this question on a local community blog: **"Just wondering if other sites were considered. ...could have saved all this contentiousness."**

Planning Commissioners back in February were looking for the same solution. A transcript of the Planning Commission hearing shows that they were leaning towards a delay or denial due to CEQA, collocation, and visual impact issues, and nearly every Commissioner asked KOWS for more information about alternative sites. KOWS representative, Arnold Levine, only responded, "Nothing else quite worked". Soon after, another KOWS spokesman, John Parry, said that KOWS had to remove its antenna from the OAEC by June, then muttered a barely audible modification of that statement, but the misrepresentation worked and four Commissioners believed that KOWS might be out of business soon if the Reservoir site wasn't approved. We now know that was not true.

KOWS has, finally, under pressure, manufactured a chart showing sites that have been considered for their antenna relocation. It is surprising that only the Pleasant Hill Reservoir looks acceptable on this new chart, when previously KOWS boasted about other locations as ideal antenna sites. Take Cherry Ridge Road for instance. It looks pretty bad on the chart. But in 2014, KOWS was set to move to Cherry Ridge. They had completed tests, gotten a waiver of county permit fees, received FCC approval, and negotiated a lease. Public requests by KOWS for relocation donations at that time declared that the new site "will enable KOWS radio to reach a tested 250,000 people all over the county, nearly 10 times its current audience reach."

If those numbers sound familiar, they are the exact same numbers KOWS has used to describe the potential listenership they could achieve at the Pleasant Hill Reservoir. KOWS was GOING to Cherry Ridge Road with its antenna in 2014, a site in an area along the ridge line above Sebastopol that KOWS now denigrates as unacceptable.

The April 2015, KOWS Steering Committee notes report that "Respini Ranch is a leading candidate for relocation". It is down near the bottom of the NEW chart and suddenly considered unacceptable. But when KOWS initiated a campaign to raise relocation funds in May of 2015, months before the Pleasant Hill site was on the radar, KOWS fund raising statements & materials describe "expanded service to a larger part of Sebastopol, Santa Rosa, Guerneville, Rohnert Park, Graton, and portions of Windsor" at this new location, with a "robust signal for West County." 250,000 listeners were again vaunted to potential donors. Respini Ranch and other sites along the Sebastopol western ridgeline have broadcast ranges that KOWS previously thought were excellent with quoted listenership from those sites equal to their current projections at the Reservoir site, but KOWS now is saying those sites don't work.

KOWS should not be rewarded with application approval and free city owned land for its antenna tower, based on repeated misrepresentations to the City of Sebastopol. KOWS has misrepresented its tower project throughout this process. At the November 3 City Council meeting last year, KOWS stated that "this is not a tower, but an antenna". KOWS then misled the community with neighborhood letters that stated their proposed project only involved an antenna, with no mention of a 70 foot steel tower or the multiple antennas that would be mounted on it. KOWS later misled the neighborhood AND city officials, by providing simulation photos that hid the antenna tower in a distant grove of trees over 800 feet away. KOWS misled the Planning Commission by ignoring requests by 6 of the 7 Commissioners to provide information about alternate sites. KOWS continued to mislead the Planning Commission by giving the impression that the radio station could go out of business if the Pleasant Hill Reservoir site wasn't approved. We now know there is no specific timeline for KOWS to remove its antenna from its current location at the OAEC. Robert Feuer, a KOWS spokesman at the May 3 City Council hearing, confirmed that KOWS could keep its antenna in the tree at the OAEC until another location was found. Dave Henson, the Executive Director of the OAEC, in 2013 offered KOWS all the time it needed to move the antenna, according to KOWS meeting notes. Mr. Henson sent an email to a SHARP member the day after the February 23 Planning Commission meeting, stating that KOWS had initiated the antenna move from the OAEC for various reasons that KOWS wanted to solve. A copy of that email is in the SHARP information packet provided to the City Council.

KOWS has made no effort to provide an accurate on-site, physical simulation of its tower at the Pleasant Hill Reservoir, so that city officials and the public could determine first-hand the actual impact an antenna tower would have on the surrounding area. SHARP did. Our neighborhood group raised a helium balloon to the tower height, and no one in the surrounding neighborhoods liked what they saw. The helium balloon pictures allowed SHARP to prepare accurate tower simulation photos to better understand the tower's impact on the surrounding area, and they show a vastly different and far worse visual impact than any of the manipulated images provided by KOWS.

KOWS, in its recent submittal, states that if you just hold up a pinky finger at a certain distance, and can't see the tower behind it, there is no impact to worry about. That is absurd. By that logic, any monstrosity can be justified.....you could go to San Francisco and make the 977 foot Sutro antenna tower disappear behind a pinky finger, and say it has no impact.

KOWS still needs to raise significant funds to erect an antenna tower, while also raising money for monthly operations. It may need to pay for further environmental studies, additional site mitigations, possible legal costs, and reimbursements to the neighborhood for property value losses caused by the antenna tower. All of these costs will be competing for the few donation dollars that KOWS survives on. Approving an antenna tower at the Pleasant Hill Reservoir could cause crippling financial problems for KOWS. There are, however, vetted and tested alternative antenna locations that KOWS could pursue that resolve these issues. Given there is no timeline to move its existing antenna and other site solutions exist, we ask KOWS and the City of Sebastopol to stand behind being good community members. Please deny this Use Permit and keep the reservoir site free of antenna towers.

ATTACHMENT 2  
TO THE SHARP APPEAL OF  
THE KOWS 36 FOOT ANTENNA TOWER  
AT 1281 PLEASANT HILL ROAD

RELEVANT SEBASTOPOL ZONING ORDINANCE SECTIONS FROM CHAPTER 17.100 -  
GENERAL PROVISIONS RELATING TO TELECOMMUNICATION FACILITIES AND  
MINOR ANTENNA

## RELEVANT SECTIONS OF THE SEBASTOPOL ZONING CODE RELATED TO ANTENNA TOWERS

### Chapter 17.100 GENERAL PROVISIONS RELATING TO TELECOMMUNICATIONS FACILITIES AND MINOR ANTENNAS

#### 17.100.030 Minor antennas – Basic requirements.

Minor antennas as defined in SMC 17.08.114 may be installed, erected, maintained and/or operated in any zoning district where such antennas are permitted under this title as long as all the following conditions are met:

A. The minor antenna use involved is accessory to the primary use of the property which is not a telecommunications facility;

B. No more than a total of six antennas, satellite dishes no greater than 10 feet in diameter, panel antennas with up to three panels, or combination thereof, are allowed on the parcel;

#### 17.100.140 Telecommunications facilities – Height determination.

Telecommunications tower shall be measured from the natural undisturbed ground surface below the center of the base of said tower to the top of the tower itself or, if higher, to the tip of the highest antenna or piece of equipment attached thereto. In the case of building-mounted towers, the height of the tower includes the height of the portion of the building on which it is mounted.

#### 17.100.150 Telecommunications facilities – Co-located and multiple-user facilities.

A. An analysis shall be prepared by or on behalf of the applicant, subject to the approval of the decision-making body, which identifies all reasonable, technically feasible, alternative locations and/or facilities which would provide the proposed telecommunications service. The intention of the alternatives analysis is to present alternative strategies which would minimize the number, size, and adverse environmental impacts of facilities necessary to provide the needed services to the subject area. The analysis shall address the potential for co-location at an existing or a new site and the potential to locate facilities as close as possible to the intended service area. It shall also explain the rationale for selection of the proposed site in view of the relative merits of any of the feasible alternatives. Approval of the project is subject to the decision-making body making a finding that the proposed site results in fewer or less severe environmental impacts than any feasible alternative site. The City may require independent verification of this analysis at the applicant's expense. Facilities which are not proposed to be co-located with another telecommunications facility shall provide a written explanation why the subject facility is not a candidate for co-location.

#### 17.100.180 Telecommunications facilities – Vegetation protection and facility screening.

All telecommunications facilities shall be installed in such a manner so as to maintain and enhance existing native vegetation and to install suitable landscaping to screen the facility, where necessary. To this end all of the following measures shall be implemented:

A. A landscape plan shall be submitted with project application submittal indicating all existing vegetation that is to be retained on the site and any additional vegetation that is needed to satisfactorily screen the facility from adjacent land uses and public view areas. The landscape plan shall be in compliance with Chapter 15.36 SMC, Water Efficient Landscape Program, and shall be subject to review

and approval of the Design Review Board. All trees protected under Chapter 8.12 SMC, Tree Protection, shall be identified in the landscape plan with indication of species type, diameter at four and one-half feet high, and whether it is to be retained or removed with project development;

B. Existing trees and other screening vegetation in the vicinity of the facility and along the access roads and power/telecommunications line routes involved shall be protected from damage, both during the construction period and thereafter. To this end, the following measures shall be implemented:

1. A tree protection plan shall be submitted with building permit or improvement plan submittal in accordance with Chapter 8.12 SMC, Tree Protection. This plan shall be prepared by a certified arborist and give specific measures to protect trees during project construction;

2. Grading, cutting/filling, and the storage/parking of equipment/vehicles shall be prohibited in landscaped areas to be protected and the dripline of any trees required to be preserved. Such areas shall be fenced to the satisfaction of the Planning Director or Design Review Board, as appropriate. Trash, debris, or spoils shall not be placed within these fences nor shall the fences henceforth be opened or moved until the project is complete and written approval to take the fences down has been received from the Planning Director; and

3. All underground lines shall be routed such that a minimum amount of damage is done to tree root systems;

C. All areas disturbed during project construction other than the access road and parking areas required under SMC 17.100.170 shall be replanted with vegetation compatible with the vegetation in the surrounding area (e.g., ornamental shrubs or natural brush, depending upon the circumstances) to the satisfaction of the Planning Director;

D. Any existing trees or significant vegetation that die subsequent to installation of a tower shall be replaced with native trees and vegetation of a size and species acceptable to the Planning Director and City Arborist; and

E. No actions shall be taken subsequent to project completion with respect to the vegetation present that would increase the visibility of the facility itself or the access road and power/telecommunications lines serving it. (Formerly 17.100.010(R))

17.100.200 Telecommunications facilities – Environmental resource protection.

All telecommunications facilities shall be sited so as to minimize the effect on environmental resources. To that end the following measures shall be implemented:

A. No telecommunications facility or related improvements including but not limited to access roads and power lines shall be sited so as to create a significant threat to the health or survival of rare, threatened or endangered plant or animal species;

B. No telecommunications facility or related improvements shall be sited such that their construction will damage an archaeological site or have an adverse effect on the historic character of a historic feature or site;

C. No telecommunications facility shall be sited such that its presence threatens the health or safety of migratory birds;

17.100.220 Telecommunications facilities – Visual compatibility:

A. Facility structures and equipment shall be located, designed and screened to blend with the existing natural or built surroundings so as to reduce visual impacts to the extent feasible considering the technological requirements of the proposed telecommunications service and to be compatible with neighboring residences and the character of the community.

B. The facility is designed to blend with any existing supporting structure and does not substantially alter the character of the structure or local area.

C. Following assembly and installation of the facility, all waste and debris shall be removed and disposed of in a lawful manner; and

D. A visual analysis, which may include photo montage, field mock-up, or other techniques, shall be prepared by or on behalf of the applicant which identifies the potential visual impacts, at design capacity, of the proposed facility to the satisfaction of the Planning Director. Consideration shall be given to views from public areas as well as from private residences. The analysis shall assess the cumulative impacts of the proposed facility and other existing and foreseeable telecommunications facilities in the area, and shall identify and include all feasible mitigation measures consistent with the technological requirements of the proposed telecommunications service. (Formerly 17.100.010(V))

17.100.230 Telecommunications facilities – NIER exposure.

A. Telecommunications facility shall not be sited or operated in such a manner that it poses, either by itself or in combination with other such facilities, a potential threat to public health. To that end no telecommunications facility or combination of facilities shall produce at any time power densities in any inhabited area as this term is defined in SMC 17.08.110 that exceed the FCC adopted NEIR standard for human exposure, as amended from time to time.

B. Initial compliance with this requirement shall be demonstrated for any facility within 400 feet of residential uses or sensitive receptors such as schools, churches, hospitals, etc., and all broadcast radio and television facilities, regardless of adjacent land uses, through submission, at the time of application for the necessary permit or entitlement, of NIER (nonionizing electromagnetic radiation) calculations specifying NIER levels in the inhabited area where the levels produced are projected to be highest. If these calculated NIER levels exceed 80 percent of the NIER standard established by this section, the applicant shall hire a qualified electrical engineer licensed by the State of California to measure NIER levels at said location after the facility is in operation. A report of these measurements and his/her findings with respect to compliance with the established NIER standard shall be submitted to the Planning Director. Said facility shall not commence normal operations until it complies with, or has been modified to comply with, this standard. Proof of said compliance shall be a certification provided by the engineer who prepared the original report. In order to assure the objectivity of the analysis, the City may require, at the applicant's expense, independent verification of the results of the analysis.

C. Every telecommunications facility within 400 feet of an inhabited area and all broadcast radio and television facilities shall demonstrate continued compliance with the NIER standard established by this section. Every five years a report listing each transmitter and antenna present at the facility and the effective radiated power radiated shall be submitted to the Planning Director. If either the equipment or effective radiated power has changed, calculations specifying NIER levels in the inhabited areas where

said levels are projected to be highest shall be prepared. NIER calculations shall also be prepared every time the adopted NIER standard changes. If calculated levels in either of these cases exceed 80 percent of the standard established by this section, the operator of the facility shall hire a qualified electrical engineer licensed by the State of California to measure the actual NIER levels produced. A report of these calculations, required measurements, if any, and the author's/engineer's findings with respect to compliance with the current NIER standard shall be submitted to the Planning Director within five years of facility approval and every five years thereafter. In the case of a change in the standard, the required report shall be submitted within 90 days of the date said change becomes effective.

D. Failure to supply the required reports or to remain in continued compliance with the NIER standard established by this section shall be grounds for revocation of the use permit or other entitlement use. (Formerly 17.100.010(W))

#### 17.100.240 Telecommunications facilities – Minor facilities.

Minor telecommunications facilities as defined in SMC 17.08.121 may be installed, erected, maintained and/or operated in any zoning district where such facilities are permitted under this title so long as all the following conditions are met:

A. The facility complies with all of the minimum requirements specified in SMC 17.100.010 through 17.100.230 except as changed below:

B. The facility use involved is accessory to the primary use of the property which is not a telecommunications facility;

C. The facility does not exceed 35 feet in height;

D. No more than six minor antennas, satellite dishes no greater than 10 feet or less in diameter, panel antennas, or combination thereof, are allowed on the parcel;

E. No more than a single telecommunications tower and one related equipment building/structure is allowed on the parcel;

F. The combined NIER levels produced by all the telecommunications facilities and minor antennas present on the parcel are less than 10 percent of the NIER standard established in SMC 17.100.230;

G. The facility is located at least 75 feet away from any residential dwelling unit, except for one single-family residence on the property in which the facility is located;

H. The facility is located outside all yard and street setbacks specified in the zoning district regulations in which the facility is located and no closer than 20 feet to any property line;

I. Traffic at all times shall be kept to an absolute minimum, but in no case more than one round trip per day on an average annualized basis once construction is complete;

J. No native trees 20 inches or larger in diameter measured at four and one-half feet high on the tree would have to be removed;

K. Any new building(s) shall be effectively screened from view from off site;

M. The total silhouette of a tower shall not exceed 80 square feet in area;

Chapter 17.76

CF – COMMUNITY FACILITIES DISTRICT

17.76.020 Permitted uses.

The following uses are permitted:

F. Minor telecommunications facilities and commercial minor antennas, not exceeding 35 feet in height, provided the requirements of SMC 17.100.010 through 17.100.240 are met, as appropriate, as determined by the Planning Director.

17.76.080 Buffering/screening.

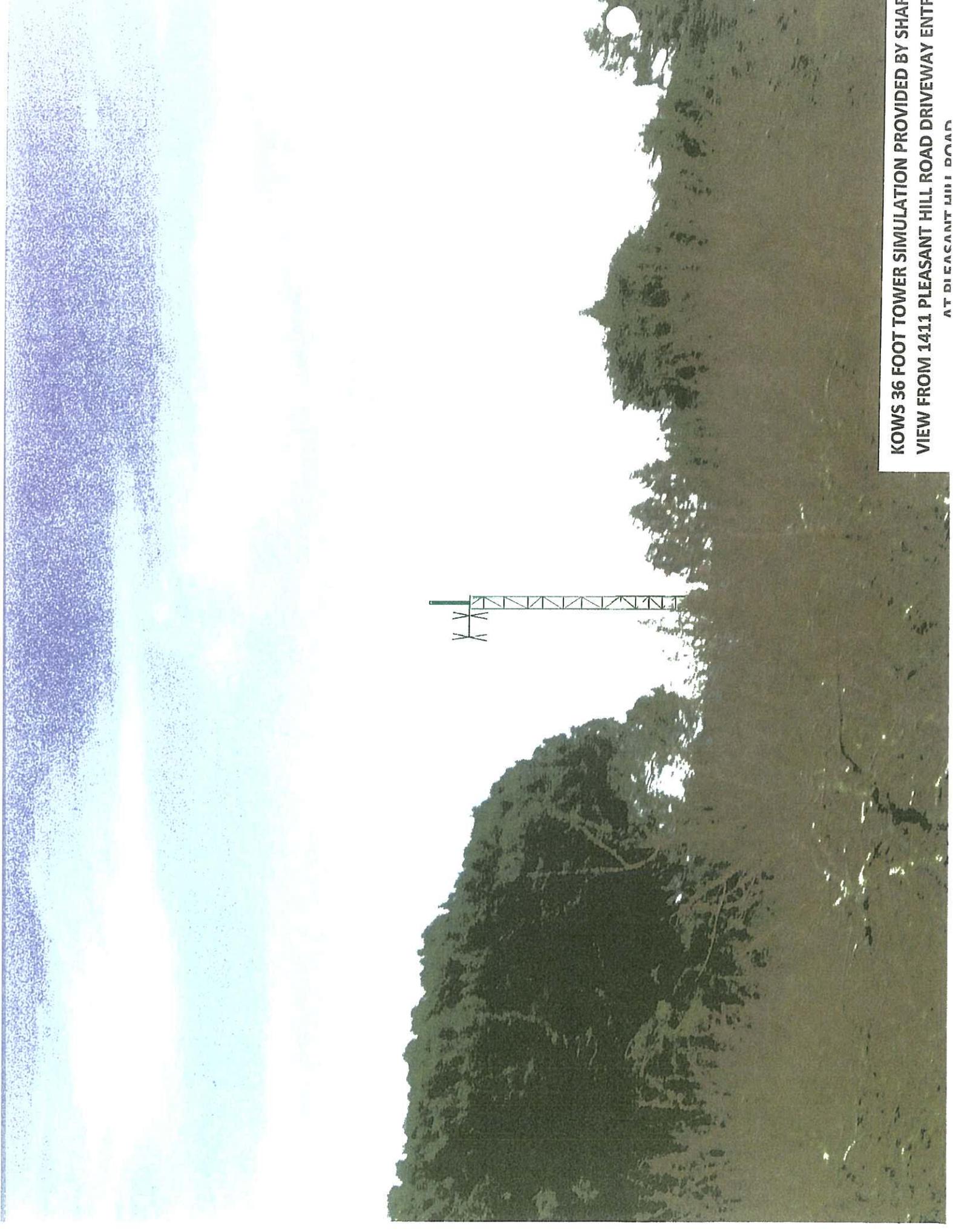
Whenever a lot in the CF District abuts a lot located in any residential district, it shall be screened from the residentially zoned lot, along the entire abutting lot line, by dense landscaping, including screen-type trees, and by a solid fence not less than six feet in height.

ATTACHMENT 3  
TO THE SHARP APPEAL OF  
THE KOWS 36 FOOT ANTENNA TOWER  
AT 1281 PLEASANT HILL ROAD

36 FOOT ANTENNA TOWER SIMULATION PHOTOS PREPARED BY SHARP FROM  
DRIVEWAY LOCATIONS AT 1426, 1411 AND 1400 PLEASANT HILL ROAD



**KOWS 36 FOOT TOWER SIMULATION PROVIDED BY SHAI  
VIEW FROM 1426 PLEASANT HILL ROAD DRIVEWAY ENTT  
AT PIFASANT HILL ROAD**



**KOWS 36 FOOT TOWER SIMULATION PROVIDED BY SHAR  
VIEW FROM 1411 PLEASANT HILL ROAD DRIVEWAY ENTR  
AT DEACANT HILL ROAD**



**KOWS 36 FOOT TOWER SIMULATION PROVIDED BY SHAI  
VIEW FROM 1400 PLEASANT HILL ROAD DRIVEWAY ENTI  
AT PLEASANT HILL ROAD**

ATTACHMENT 4  
TO THE SHARP APPEAL OF  
THE KOWS 36 FOOT ANTENNA TOWER  
AT 1281 PLEASANT HILL ROAD

BLAKESLEE LAND SERVICES LOSS OF VALUE REPORT FOR THE 3 PARCELS OF LAND  
ADJACENT THE KOWS ANTENNA SITE

# BLAKESLEE LAND SERVICES

368 Monte Vista Lane  
Petaluma, CA 94952  
(707) 495-0522  
Chris.landservices@comcast.net

September 2, 2016

**Robert Jenkins**  
1411 Pleasant Hill Rd.  
Sebastopol, CA 95472

**Re: *Estimated range in values of a 1.9 acre lot (Sonoma County Assessor Parcel # 076-050-074), 2.1 acre lot (Sonoma County Assessor Parcel # 076-050-075) and a 10 acre vineyard parcel (Sonoma County Assessor Parcel # 076-050-076), on a before and after basis. The before and after values are related to the before the erection of a proposed 35-36 foot tall FM radio antenna tower and after the erection of the tower which is proposed at 1281 Pleasant Hill Rd. in Sebastopol and directly adjacent to the three parcels.***

Dear Mr. Jenkins,

Per your request, I have developed a statistical range in values in the before and after the erection of a 35-36 foot tall FM Radio Tower to be located on the City of Sebastopol's property located adjacent to and just west of your three parcels. (All of the three parcels are considered to be legal and "perked" allowing the development of a three bedroom home on each of them).

## **Parcel Locaiton of 1.9 acre, 2.1 acre & 10 acre Subject Parcels**



2



### Aerial

The range of values, in the before condition, is based upon publicly reported closed sales of similar small acreage lots and vineyard located within the subject's Sonoma County neighborhoods.

The after condition value is based upon various studies conducted on the negative effect on real estate values in close proximity to cell and FM towers. The primary studies used were based upon the Sandy Bond PhD studies related to real estate proximity to cell and FM towers and their effect on value. From these studies, I have derived reductions in value for your three parcels from 40% for the 1.9 acre parcel directly adjacent to the tower parcel, 30% for the 2.1 acre parcel which is east of the 1.9 acre parcel and 20% for the 10 acre property with east of the 2.1 acre parcel. These negative percentages will be applied to the range of values in the before condition to determine the range of values in the after condition as demonstrated below:

I have used a statistical analysis of 17 small acreage lot sales within the Sebastopol area that have been sold in the past two years or that are currently listed for sale. I have removed the high and low the eliminate any unusual market influences to them. Below is the result of this range of values.

## Statistical Market Analysis Report

Property Type: Lots & Land Include Property Subtypes: Acreage, Agricultural, Residential Transaction Type: Sale Area: Sebastopol County: Sonoma Statuses: Active, Contingent - Release, Contingent-Show, Contingent-No Show, Pending, Sold (9/7/2014 or after) Price: 200,000 to 1,000,000 Lot Size: .5 ac to 4 ac

Report run on 09/07/16 at 11:55am

Page 1

Status	# of Listings	Price				Total Volume	Avg DOM
		Low	High	Average	Median		
<b>Lots &amp; Land</b>							
<b>For Sale</b>							
Active	3	\$525,000	\$899,000	\$574,333	\$599,000	\$1,723,000	51
Contingent	2	\$225,000	\$465,000	\$345,000	\$345,000	\$690,000	385
Pending	1	\$725,000	\$725,000	\$725,000	\$725,000	\$725,000	58
Sold	11	\$225,000	\$599,000	\$327,455	\$289,000	\$3,602,000	110
<b>Total</b>	<b>17</b>						
<b>Grand Total</b>	<b>17</b>					<b>\$6,740,000</b>	

The high value for a small acreage lot sold was \$599,000 and the low was \$225,000. The average for the sold was \$327,455 and the mean was \$289,000. The values for the subject lots would likely fall into the higher end of this range due to their favorable Sebastopol locations. The large 10 acre estate parcel would likely fall at the high end of the range. I will use the average price for a small acreage lot of approximately \$330,000 for the closest small acreage subject parcel, \$350,000 for the better located 2.1 acre parcel and \$500,000 for the home site value on the larger 10 acre parcel located further from the proposed tower. (This is based upon this statistical analysis for a general understanding of the value before and after. A full appraisal would include a more in-depth study of each property and the comparables).

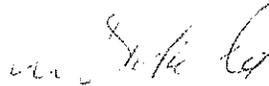
So using this statistical analysis I have concluded the following values:

- 1) 1.9 acre subject parcel value of \$330,000 in the before condition and applying a 40% discount in the after condition, the value would be \$198,000 or a reduction in parcel/lot value of \$132,000.
  
- 2) 2.1 acre subject parcel value is also considered to be \$350,000 in the before condition and applying a 30% discount in the after condition, the value would be \$245,000 or a reduction in parcel/lot value of \$105,000.

- 3) 10 acre subject parcel of which there is 2+/- home site has an estimated parcel value of \$500,000 in the before condition and applying a 20% discount in the after condition, the value would be \$400,000 or a reduction in the home site component of \$100,000.

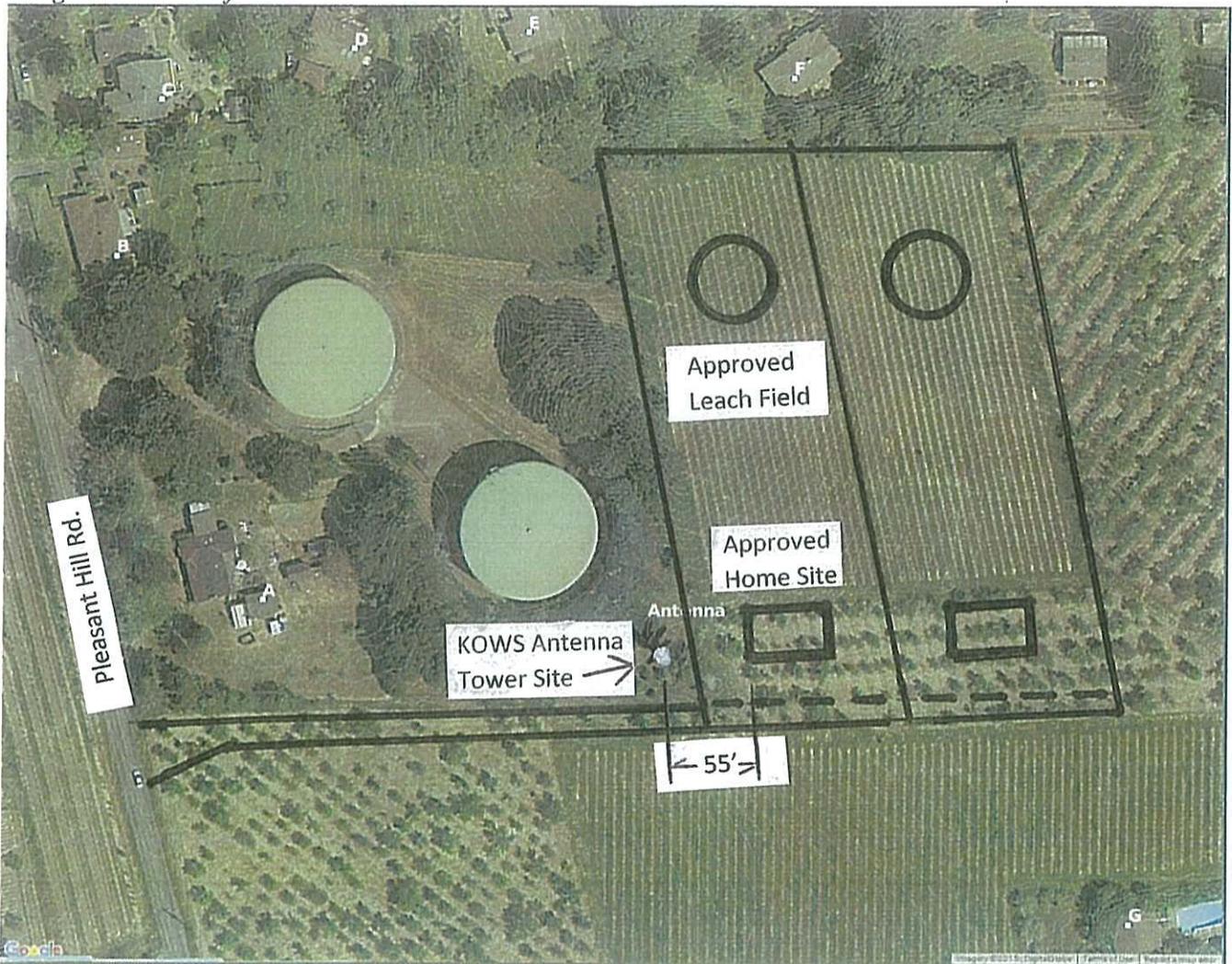
*The total estimated loss based upon this statistical analysis is determined to be \$337,000.*

Respectfully submitted,



---

Christopher L Blakeslee  
Real Estate Consultant  
Real Estate Broker  
CA BRE# 01949179



**1281 PLEASANT HILL ROAD & THE KOWS TOWER SITE**

**TWO ADJACENT 2 ACRE PARCELS WITH APPROVED LEACH FIELDS**

**& HOME SITES WITHIN 55' OF THE KOWS TOWER SITE**

ATTACHMENT 5  
TO THE SHARP APPEAL OF  
THE KOWS 36 FOOT ANTENNA TOWER  
AT 1281 PLEASANT HILL ROAD

SHARP Recap of the February 23, 2016 Planning Commission Meeting  
For the KOWS Tower  
& the Subsequent Staff Report provided to the City Council  
(Presented to the City Council on May 3, 2016)

**SHARP Recap of the February 23, 2016 Planning Commission Meeting  
for the KOWS Antenna Tower  
& the Subsequent Staff Report provided to the City Council  
(Presented to the City Council on May 3, 2016)**

When the Staff Report came out for the May 3, 2016 City Council meeting regarding the KOWS antenna tower, it was shocking to see that it completely minimized, actually did not even mention, the many issues and concerns that were discussed for over two hours by the Planning Commission.

No mention was made in the Staff Report of the four Commissioners that were very concerned about further collocation of other antennas on this proposed tower.

Commissioner Douch said that it was probably his biggest concern.

Commissioner Fritz said: "If we approve this tower, there is nothing to stop someone else from bringing another application forward, and we will have set a precedent for putting towers on properties like this, and I do have concerns about possible future proliferation."

All but one commissioner spoke about concerns with the Planning Staff's Categorical Exemption designation under CEQA, and its tandem issue of Alternative Sites. There is no mention of this in the subsequent Staff Report.

Commissioner Fernandez went so far as to say, "The CEQA is not solid."

Commissioners repeatedly suggested that more information and analysis was wanted regarding other possible locations that might be more appropriate.

Commissioner Doyle, the lone holdout, said he was reluctant to ask for any more studies regarding the CEQA.....the radio station, he said, is very low on funds and could not afford it.

Having read the KOWS monthly Steering Committee meeting notes for several years, which are available online, our neighborhood has learned a lot about how the station operates, and about the sites that the station has looked at and tested in various ways. One in particular, Respini Ranch on Occidental Road, was tested at least twice and described as follows in the KOWS notes:

"Broadcasting there would be as effective as the tower options at Pleasant Hill, but costs would be exponentially less. There would be no tower, eliminating a large portion of the expense. The antenna would be in a tree, as it is currently."

At the Occidental Community Council, where KOWS gives monthly status reports, KOWS leader Donald True reported that "the antenna location could move forward at either Respini or Pleasant Hill."

In March of this year, AFTER the Planning Commission meeting, the KOWS Steering Committee again discussed and compared the two sites, stating that their broadcast coverage would be better with an antenna at Respini Ranch than at the Pleasant Hill reservoir site, if the antenna were lowered to 50 feet there.

It turns out that KOWS had an alternative location all along, but chose not to share that information. Did Planning Staff know about this? Planning Commissioners clearly did not.

When Commissioner Kelly said, "we need to explore where there might be another site,"

and when Commissioner Jacob said, "I would like further information about other locations that are in the city's purview",

and when Commissioner Pinto asked, "what is the site that produces the best benefit at the least cost?"

and when Commissioner Douch asked, "exactly what other locations exist and are they an improvement over Pleasant Hill or not?",

and when Commissioner Fritz asked, "even if an alternative site does not provide as wide a reach as the Pleasant Hill site, is it the city's responsibility to provide a location for the largest potential audience, for this one radio station?"

To all of those questions---there was actually an answer, but KOWS leaders ignored the Commissioners requests and responded with Arnold Levine's statement that, "Nothing else quite worked".

Within minutes of the Commissioner requests for further analysis of collocation, CEQA, visual impacts, and alternative sites issues, KOWS leader John Parry told Commissioners that KOWS had been asked to remove its antenna at the OAEC by June.

Immediately Commissioner Jacob said,

"They have to leave the OAEC, they've only got this *one* place to go, and if we deny this, we could be shutting KOWS down."

And then a vote was quickly taken, with a narrow 4-3 approval, based on what we now know was false or misleading information.

At the very least, an honest and complete analysis of all the impacts that could result from a proposed KOWS antenna tower at 1281 Pleasant Hill Road should have been completed, irrespective of the applicant's fiscal status, along with a thorough analysis of other viable locations for the KOWS antenna. Not a narrow approval based on misrepresentation, followed by a Staff Report that acts as if no significant issues, concerns or questions were raised by Planning Commissioners.

ATTACHMENT 6  
TO THE SHARP APPEAL OF  
THE KOWS 36 FOOT ANTENNA TOWER  
AT 1281 PLEASANT HILL ROAD

Sebastopol General Plan Policies and Goals which are not Consistent with the  
Approval of a 36 foot Antenna Tower

## **Sebastopol General Plan Policies and Goals which are not Consistent with the Approval of a 36 foot Antenna Tower in the Scenic Hills & Rural Residential Areas West of Sebastopol**

### **Current Sebastopol General Plan**

1. General Plan Section V. C. Residential Land Use:
  - "Preserve the unique character and ambiance of residential areas."
  - "Protect residential neighborhoods from the effects of adjacent non-residential uses."
  
2. General Plan VII. B. Agriculture and Other Land Uses:
  - "A significant portion of Sebastopol's sense of place comes from the environment. The city is .....adjacent to rolling orchards and rural residential areas that characterize western Sonoma County. The importance of preserving the natural environment was a consistent theme expressed in the results of the community survey and in the public meetings on the General Plan. A high priority of the community is maintaining open space separators around Sebastopol."
  
3. General Plan Chapter V. Community Identity, Section III Historic Resources, Scenic Views & Public Art:
  - "The views of open space and rolling hills surrounding Sebastopol contribute to the community's sense of identity and well-being. They can be readily lost by development or signs blocking scenic views. Typically, the views from public right-of- ways, the city's streets and roads, are the most important since they are shared by the entire community."
  - Goal 13 states, "Preserve and enhance scenic views of the....hills to the west of Sebastopol and other natural resources within the Sebastopol Planning and Referral Area."
  
4. General Plan VI. Safety:
  - "There is no consensus in the scientific community regarding the degree of risk presented from electromagnetic fields."
  - "We do not know what levels of exposure to electromagnetic fields are safe."
  - "The approach taken to this potential health hazard is one of prudent avoidance."
  - "Goal – Minimize community exposure to electromagnetic fields"

### **Draft General Plan under Review**

1. "Policy LU 2-1: Urban Growth Boundary. An Urban Growth Boundary (UGB) is established. The UGB is a line beyond which development will not be allowed, except for public parks and public schools."  
[Providing for a private broadcast tower on a small island of city land outside of the Urban Growth Boundary does not meet the definition of a public park or a school.]
  
2. "Measure O also amended the 1994 General Plan to prohibit extension of City services outside the UGB, except under specific extraordinary circumstances."  
[The erection of a privately owned broadcast tower is not a City service nor is it an extraordinary circumstance. It would be private industry on City owned land.]

3. "Goal LU 1: Maintain Sebastopol as a Unique, Charming, and Environmentally Sensitive Small Town that Provides Residents, Businesses, and Visitors with Opportunities to Enjoy a High Quality of Life"  
[The small island of city land in question is adjacent the city limits and adjacent the Urban Growth Boundary, but it is surrounded by rural residential County neighborhoods with Sebastopol addresses whose residents have always been very much a part of Sebastopol. These residents deserve the same High Quality of Life as residents within the city limits]

4. "Policy LU 1-2: Avoid urban sprawl by concentrating development within the City limits; favor infill development over annexation."

[A radio tower looming over vineyards and homes constitutes a form of urban sprawl that can become worse over time.]

5. "Policy LU1-4: Community Facilities: This designation includes public buildings and facilities, utility facilities and related easements, public libraries, city offices, fire and police stations, and school sites."  
[The site for the KOWS radio tower is designated as Community Facility. A privately owned radio tower is not a public building or facility, a utility facility or related easement, a public library, city office, fire or police station, or a school site and does not meet the criteria for a Community Facility.]

Summary: The construction of an antenna tower at 1281 Pleasant Hill Road, in the middle of scenic west Sonoma County apple orchards, vineyards and rural homes within the Sebastopol Referral Area, would not seem to satisfy the goals and criteria of the current or future Sebastopol General Plans.

Many residents in the surrounding county neighborhoods moved to this area to escape urban sprawl and industrial encroachment that slowly expanded in their previous neighborhoods. Sebastopol's General Plan is a model showing how Sebastopol can continue to be good stewards of the land while providing a high quality of life for its residents, neighbors and visitors. Once the west Sebastopol hills have been encroached with antenna towers and other kinds of industrial development, rationalizing that it doing good for some other purpose, it begins the step-by-step permanent erosion of the unique pastoral beauty that defines and enhances the greater Sebastopol area.

ATTACHMENT 7  
TO THE SHARP APPEAL OF  
THE KOWS 36 FOOT ANTENNA TOWER  
AT 1281 PLEASANT HILL ROAD

Grassetti Environmental Consulting April 25, 2016 CEQA report  
(relevant sections relating to Categorical Exemption not being valid for a 36 foot  
antenna tower)

Honorable Councilmembers  
City of Sebastopol  
7120 Bodega Avenue  
Sebastopol, CA 95472

April 25, 2016

**SUBJECT: PEER REVIEW OF PROPOSED CEQA CATEGORICAL EXEMPTIONS FOR KOWS  
RADIO TOWER PROJECT**

Honorable Councilmembers,

Grassetti Environmental Consulting (GEC) has been retained by Sebastopol Hills Alliance for Rural Preservation (SHARP) to conduct a peer review of the proposed CEQA Categorical Exemptions for the KOWS Sebastopol radio tower project to be located on a City-owned hilltop parcel off of Pleasant Hill Road. This review is based on an analysis of information contained in the City Planning Commission's February 23, 2016 staff report, as well as photo-simulations and other information provided by SHARP members. The purpose of this review is to determine the appropriateness/applicability of the exemptions to the proposed project.

As Principal of GEC, I have personally prepared this analysis on the basis of my 32+ years of experience preparing and reviewing CEQA documents and presenting numerous CEQA workshops to agency staff. My qualifications are attached to this letter (Attachment A).

#### DESCRIPTION OF PROPOSED PROJECT

The project as described in the Planning Commission Staff Report is construction of a 70-foot-tall steel lattice tower and placement of four monopole antennas on the upper reaches of tower (at elevations of 46, 54, 62, and 70 feet). The tower would be constructed on the southeast corner of a fenced 3.39-acre City-owned property the top of a hill that currently houses two large steel water tanks, which are surrounded by mature trees. The tower would be constructed under a lease agreement with the City. The 2-foot by 2-foot by 2-foot triangular tower would be painted a flat green and supported on concrete footings. The project would involve digging an 8-foot square by 4-foot deep hole for construction of the foundations. The tower would be powered by extension of lines to existing electrical power at the site, and would include a solar-powered battery back-up electrical system. A 15-watt transmitter and associated equipment also would be constructed in a 4-foot by 4-

foot box to be located on the concrete pad, and a 300-foot trench would be dug for the power connection. The site is surrounded by agricultural and rural residential land uses.

#### PROPOSED CEQA CATEGORICAL EXEMPTIONS

The City proposes to exempt the project from CEQA review under two Categorical Exemptions, the Class 1 exemption for existing facilities, and the Class 3 exemption for small structures (CEQA Guidelines Sections 15301 and 15303, respectively). Specifically, the staff report states:

The application is categorically exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to the following:

15301: Existing Facilities: Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

15303: New Construction or Conversion of Small Structures: Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.

#### ANALYSIS OF APPLICABILITY OF PROPOSED EXEMPTIONS

As described by the Staff in its report to the Planning commission, the Planning Commission and City Council) must find whether or not the project as proposed meets the criteria for the identified exemption categories. The discussion below is intended to provide the City with a detailed analysis of this question.

##### Class 1 Exemption

This exemption explicitly applies to existing structures. The proposed tower is a new structure and, therefore, does not conform to the requirements of this exemption. The exemption does allow some modifications of existing structures. The City staff is proposing considering the tower to be a modification of the existing water tanks. The tower, per the plans included in the Planning Commission Staff Report, is not proposed to be located on the tanks, nor is it in any way functionally related to the tanks, therefore it cannot be considered to be a modification of those existing facilities. It is clearly a new facility on a currently unused area of the City-owned site. Further, it does not comport with any of the numerous examples of existing facilities listed in Guidelines Section 15301 (a-p).

e) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource." (CEQA Guidelines Section 15300.2(f))

The applicability of this exemption to the project in light of these considerations is discussed below.

Definition of "Small Structure".

The project is not subsumed or anticipated in any of the examples listed in Guidelines Section 15303 (a-f). Therefore we must independently determine whether the project meets the definition of a "small structure". The project has a small footprint and is dimensionally small with one exception, its height. None of the examples of "small projects" provided in the exemption discussion would have a height of more than 2-3 stories, compared with the project's 5-6-story height. In evaluating whether a project is a "small structure" per CEQA, all of the dimensions must be considered. Considering the unusual height of the tower in the context of surrounding structures, none of which exceed around 35 feet, it appears that the 70-foot tower does not meet the exemption's definition of a "small structure".

Applicability of Exceptions to the Exemption.

If the tower were considered a "small structure" per this exemption, then a determination would need to be made as to whether a fair argument can be made that any of the exceptions to the exemption apply. As discussed below, several of the exceptions to this exemption appear to apply to this project.

**Project Location and Scenic Highway Exceptions:** SR 116 from Highway 1 to Sebastopol has been designated a State Scenic Highway by Caltrans ([http://www.dot.ca.gov/hq/LandArch/16\\_livability/scenic\\_highways/index.htm](http://www.dot.ca.gov/hq/LandArch/16_livability/scenic_highways/index.htm)). The project site and surrounding parcels are located in the protected viewshed of State Route (SR) 116 Scenic Corridor, as determined by the Sonoma County Zoning Ordinance. Most of the parcels adjacent to the site on the south and east (the sides from which the tower would be most visible) have a combined County zoning designation of LG/116, which indicates that the parcel is in the Scenic Highway Corridor (see Attachment B to this letter); some of the parcels directly to the southwest of the site also have that designation.

As stated in the Sonoma County Code, Section 26-90-070, "The purpose of the Highway 116 Scenic Corridor is to provide for the protection and enhancement of the scenic corridor along State Route 116 in Sonoma County." The hill upon which the tower would be located is more prominent in the viewshed than any of the surrounding County parcels with the LG/116 zoning. Therefore the site is within a designated sensitive location where the project could have a potentially significant visual impact. Absent a detailed visual

Based on the above, it is my professional opinion, supported by substantial evidence, that the Class 1 exemption is not applicable to this project.

The Class 1 exemption also includes a number of exceptions. Because the project, on its face, does not fit into the exemption, the applicability of the exceptions is not discussed here. The exceptions are discussed with respect to the Class 3 exemption, below.

### Class 3 Exemption

The applicability of the Class 3 exemption to the proposed project is dependent on a number of factors:

- 1) Does the project meet the definition of a "small structure"?
- 2) If the project is a small structure, do any of the exceptions to the exemption apply? These exceptions include:

a) Location. Per CEQA Guidelines Section 15300.2(a), "Classes 3, 4, 5, 6, and 11 exemptions are qualified by consideration of where the project is to be located- a project that is normally insignificant in its impact on the environment may in a particularly sensitive environment be sensitive. Therefore, these classes are considered to apply.....except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted...."

b) Cumulative Impact. "All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant." (CEQA Guidelines Section 15300.2(b))

c) Significant Effect. "A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances." (CEQA Guidelines Section 15300.2(c)) The California Supreme Court recently clarified the application of this exception as having two tests (Berkeley Hillside Preservation v. City of Berkeley, 2015); 1) it is applicable if a project would be likely to have a significant impact to the physical environment; and, 2) it is applicable is if there may be a significant impact but only if that impact would be due to unusual circumstances.

d) Scenic Highways. "A categorical exemption shall not be used for a project which may result in damage to scenic resources....within a....designated state scenic highway." (CEQA Guidelines Section 15300.2(d))

assessment of the project with respect to the Highway 116 Scenic Corridor, the site must be considered a sensitive component of that corridor. (Such a detailed visual assessment would be required if a similar project were proposed on one of the adjacent County-jurisdiction parcels, per Section 26-90-070 (b) of the County Code.)

Based on the above analysis, and absent a detailed viewshed analysis with findings to the contrary, it is my professional opinion that there is a fair argument that both the Project Location and Scenic Highway exceptions to the Class 3 exemption would apply to this project.

**Cumulative Impact Exception:** The appellant has noted that under the Federal Communications Act, once a site has been approved for a radio tower, other proposed towers would be encouraged to locate at the same site. We note that the proposed City Conditions of Approval include a condition limiting the site to solely this tower. However, federal law may have primacy over local approval conditions. In such a case, significant cumulative impacts are possible. We suggest that the City Attorney review the applicable regulations and determine whether or not the City's proposed condition of approval with respect to co-location of radio towers is actually enforceable. If it is not enforceable, then there is the potential for a cumulative visual impact.

**Significant Effect Exception:** As discussed above, this exception requires findings of both an unusual circumstance and a possible significant impact in order to apply. There are three possible unusual circumstances associated with this project:

- As described above, the radio tower itself is unusual in its height.
- The site is in the County-designated Highway 116 Scenic Corridor, and,
- The site is on a prominent hill, which makes it unusually visually prominent.

A possible fourth unusual circumstance would apply if it were determined that the City would not be able to limit cumulative placement of other towers on the site once this tower is approved.

The second test for this exception is whether the project may have a significant adverse impact to the physical environment. SHARP has prepared and submitted to the City under separate cover a series of detailed photo-simulations of the project from various public and private viewpoints. It is my professional opinion that those simulations indicate that the project, due to its 70-foot height and location atop a prominent hill, may have a significant visual impact to views from nearby roads and homes.

Therefore both tests for significant impacts would be satisfied and the exception to the exemption appears to apply to this project.

**Historic Resources Exception.** To our knowledge, the site has not been surveyed for the

presence of cultural resources. Although much of the city parcel has been disturbed for construction of the water tanks, the portion of the hill where the project would be located does not appear to have been substantially altered from historic conditions. Given the proposed project's excavation of an eight-by-eight foot pit four feet deep for the tower pad, plus 300 feet of power cable trenching, and given the prominence of the hill may have made it attractive to pre-historic Native American residents of the area, it is possible that cultural resources may be encountered during construction. A cultural resources assessment should be prepared for the site, or mitigations required in case of construction encountering any prehistoric resources. Absent this assessment and/or mitigation, this exception may apply.

#### Use of Exemptions with Mitigation Measures

CEQA case law prohibits the adoption of an exemption if mitigation measures are required to assure that the project would have no significant adverse impacts to the physical environment (See *Salmon Protection and Watershed Network v. County of Marin*, 23 Cal.Rptr.3d 321 [2004] 125 Cal.App.4th 1098). A review of the proposed project conditions listed in the Planning Commission Staff Report (Use Permit 2015-126) indicates that a number of those conditions are, in fact, mitigation measures intended to assure that the project's impacts do not exceed a less-than-significant level. This is acknowledged in item 9 on p. 9 of the proposed CUP, which states,

*That the project is subject to several conditions of approval that are intended to ensure that it does not have an unacceptable detrimental impact on the site and surrounding uses, and includes a condition, which only allows KOWS to install antennas on the radio tower, and prohibits other telecommunications providers from making improvements on the site.*

The recommended conditions of approval that constitute mitigation measures include:

**Condition 15.** The radio tower shall be painted flat green while elements which rise above the horizon shall be painted a blue gray color that matches the typical sky color at that location, unless otherwise approved by the Planning Commission.

**Condition 18.** This approval is only for the KOWS antenna and related facilities. KOWS is not authorized to install or allow the installation of any other antennas or facilities on the radio tower or at the site.

**Condition 20.** The facility shall be designed and operated in such a manner so as to minimize the risk of igniting a fire or intensifying one that otherwise occurs to the satisfaction of the Fire Chief, pursuant to Section 17.100.010.S of the Zoning Ordinance. All tree trimmings and trash generated by construction of the facility shall be removed from the property and properly disposed of prior to Building

Permit finalization or commencement of operation, whichever comes first.

**Condition 22.** The facility shall be constructed and operated in such a manner as to minimize the amount of disruption caused the residents of nearby homes and the users of any nearby recreational areas such as public parks and trails, pursuant to Section 17.100.010.U of the Zoning Ordinance. To that end all the following measures shall be implemented: (1) Outdoor noise producing construction activities shall only take place on weekdays (Monday through Friday) between the hours of 7:30 a.m. and 5:30 p.m. unless allowed at other times by the Planning Commission; (2) Backup generators shall only be operated during power outages and for testing and maintenance purposes. Noise attenuation measures shall be included to reduce noise levels to an exterior noise level of at least an LDN of 60 DB at the property line and an interior noise level of an LDN of 45 DB; and (3) Traffic at all times be kept to an absolute minimum, but in no case more than two round trips per day on an average annualized basis once construction is complete.

In addition, as discussed above, we would recommend that cultural resources mitigation be applied to the site unless an existing study shows that the presence of such resources is very unlikely at the site.

Given the need for mitigation measures and in consideration of the SPAWN decision referenced above, the project would not be exemptable under CEQA.

#### CONCLUSIONS

As detailed above, there is substantial evidence that the proposed Class 1 and Class 3 exemptions are not applicable to the project. In addition, given the apparent need for mitigation measures to assure that the project impacts would be less-than-significant, it is likely that no exemptions would be applicable to the project. Therefore, in my professional opinion, an Initial study should be prepared for the project. Please feel free to contact me if you would like to discuss any of the analyses in this letter.

Sincerely

Richard Grassetti  
Principal

Attachments: Grassetti Qualifications, Zoning Information

D. KOWS written responses to the appeal in a letter dated September 29, 2016.



**KOWS - LP COMMUNITY RADIO  
107.3 FM**

P.O. Box 1073 OCCIDENTAL, CALIFORNIA 95465

OFFICE PHONE: (707)874-9090  
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September 29, 2016

From: David Dillman, on behalf of KOWS Community Radio, email: [sasha@monitor.net](mailto:sasha@monitor.net)

To: Kenyon Webster, Director, City of Sebastopol Planning Department

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**KOWS Community Radio Response to Appeal  
Administrative Approval of KOWS 35' Antenna Proposal**

Overview

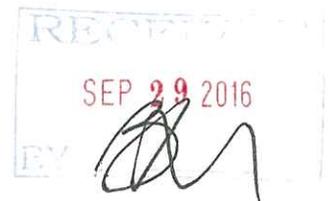
The purpose of this response is to provide the City of Sebastopol accurate information and facts about the proposed KOWS antenna project on City-owned property at 1281 Pleasant Hill Road. This project has been approved via Administrative Review by the City of Sebastopol. The 35' antenna structure is half the height of the 70' tower KOWS originally proposed for the site, and this administratively approved project is barely if at all visible, and complies with all Federal Communication Commission and City of Sebastopol regulations and codes.

Our intent is to set the record straight and separate factual information from unsubstantiated claims and false allegations submitted by the Appellant. We respond here to the main arguments cited by the Appellant in their City of Sebastopol Appeal Form, dated August 22, 2016. KOWS Community Radio welcomes this opportunity to address and refute the Appellant's claims, allegation by allegation.

Attachments

We provide the following documents to substantiate the KOWS response:

- A. Trylon STG SS Antenna Structure Design and Specifications
- B. Updated Non-Ionizing Electromagnetic Radiation/NIER Report, showing the 35' antenna project complies completely with City of Sebastopol regulatory and zoning requirements
- C. Accurate Photos and Maps, showing minimal to non-existent visual impact of antenna structure
- D. Site Selection Analysis, Previously submitted to the City of Sebastopol with project application
- E. Letter to Neighbors, sent as a courtesy to inform residents adjacent to the Pleasant Hill site



## Appellant Claims and KOWS Community Radio Responses

*Claim #1: The Administrative Approval by the Planning Director is inappropriate, inconsistent with zoning ordinances and an attempt to circumvent the public review process.*

KOWS Response: It is entirely appropriate for the Planning Director to give Administrative Approval to an application that meets all City regulatory and zoning requirements. Since appeals can be filed to protest Administrative Approvals, it is blatantly false to allege a circumvention of the public review process. Allegations that the Planning Director ignored complex issues in his decision-making do not accurately reflect the reality of the Planning Department's comprehensive and exhaustive review of nine months of voluminous filings and extensive public comment presented by both KOWS and Appellants.

*Claim #2: The Administrative Approval by the Planning Director was an abuse of discretion, and showed favoritism towards KOWS in allowing KOWS to avoid an EIR (and CEQA categories requiring review therein) as directed by the City Council in a separate Use Permit application.*

KOWS Response: It is legal and proper for KOWS Community Radio to submit an application to the Planning Department requesting Administrative Approval for a project fundamentally different in scope from an earlier, separate application. This administrative review process exists with its own set of rules and regulations, and actions of City of Sebastopol staff were entirely appropriate.

The Sebastopol Planning Department has consistently maintained in all Staff Reports on these matters that the original KOWS 70' antenna proposal, the subsequent 65' modification, and the new 35' antenna proposal are categorically exempt under CEQA and should not require an EIR. This was also the opinion of the Planning Commission when it approved a Use Permit for the 70' tower proposal on 1281 Pleasant Hill Road.

The City Council requested a targeted EIR scoped exclusively to assess the visual impact of a proposed 65' antenna tower at the May 3, 2016 meeting as a means to respond to neighborhood concerns about the appearance of the structure. This new 35' antenna tower proposal obviates this need, because the proposed structure is now lower than the dense concentration of PG&E power poles on public and private roads in the vicinity, about the same height as the owl boxes on an adjacent property, and significantly more shielded by trees on the property than other additions to the landscape.

*Claim #3: The Planning Director erred in his Administrative Approval Finding that the KOWS antenna tower is categorically exempt from CEQA, regardless of height or design.*

KOWS Response: The Planning Director did not err in his finding. The Appellant challenged the categorical exemption ruling numerous times, in lengthy submissions to the Planning Department and in public testimony. This matter has been thoroughly reviewed, with the Planning Commission (Use Permit approval on Feb. 23, 2016) and the Planning Department (consistent Use Permit support) in agreement on the issue of a categorical exemption. The KOWS application clearly qualifies for an exemption.

*Claim #4: The application by KOWS does not qualify as a Minor Telecommunication Facility as set forth in the zoning requirements.*

KOWS Response: Under Minor Telecommunications facility guidelines, The KOWS application qualifies as an application that can be administratively reviewed by the City of Sebastopol Planning Director.

Claim #5: A telecommunication tower structure shall not exceed 35 feet in height, but the application shows a tower height of 36 feet.

KOWS Response: This project will not exceed the 35' limit, and building plans will comply with this standard. Adjusting for a 12" above grade foundation, KOWS is prepared to set the 2" center pole (atop the main 30' tower structure) for a 35' height. All analyses performed by the radio engineer on antenna structure and NIER assumed a structured at 35' above ground level. This center pole height to take into account the 12" foundation does not impact our analysis. (Attachment A, *Trylon STG SS Antenna Structure Design and Specifications*)

Claim #6: The KOWS antenna tower emits NIER radiation 2.7 times the limit established in zoning section 17, condition F.

KOWS Response: This erroneous conclusion is based on the Appellant's misreading of the NIER report KOWS submitted with the 35' antenna tower proposal. In *Section 4 – Exposure Calculations* of the NIER Report, radio engineer Paul Bame states that he is performing a worst-case analysis assuming an omnidirectional antenna broadcasting at 100 Watts located at 35' in height. This worst-case analysis is typically done to show compliance with the FCC lower limit for NIER field strength at 200  $\mu\text{W}/\text{cm}^2$ . The engineer was unaware at the time of this analysis that KOWS might be subject to a stricter NIER limit than the most stringent FCC exposure limit.

In this same section, the engineer states the actual power of the proposed 35' antenna will be 37 Watts, which is required to meet FCC regulations. NIER field density scales linearly with the broadcast power of the antenna, so the actual NIER field strength values will be 37% (37 Watts/100 Watts) of the values shown in the graph of field strength as a function of distance from the antenna.

The worst-case maximum field density at 2.4 meters from the tower at 100 Watts broadcast power is 53.1  $\mu\text{W}/\text{cm}^2$ . Thus, the actual worst-case maximum field density for the proposed 37 Watt antenna is  $0.37 \times 53.1 = 19.6 \mu\text{W}/\text{cm}^2$ . *Section 17, Condition F* states the NIER level present at a minor telecommunication facility must be 10% or less of the appropriate FCC NIER standard. That level is 10% of 200  $\mu\text{W}/\text{cm}^2$  or 20  $\mu\text{W}/\text{cm}^2$ . Since the worst case NIER level from the proposed 35' antenna is 19.6  $\mu\text{W}/\text{cm}^2$ , the KOWS proposal is compliant with the *Sebastopol Zoning Ordinance Chapter 17* relating to telecommunication facilities and minor antennae.

To clarify, we provide an additional report from the same radio engineer analyzing NIER levels for the exact 37-Watt, directional antenna to be installed at the site. (Attachment B, *Updated Non-Ionizing Electromagnetic Radiation/NIER Report*) This report demonstrates unequivocally that the KOWS proposal is compliant with the Sebastopol Zoning Ordinance. When the detailed analysis is done for a 35' tower and the type of directional antenna that KOWS plans to install broadcasting at 37 Watts, the worst case NIER field strength is 9.0  $\mu\text{W}/\text{cm}^2$  at a distance of 9 meters from the base of the tower structure. This is less than half of the Sebastopol NIER limit level defined in *Sebastopol Zoning Ordinance Chapter 17* relating to telecommunication facilities and minor antennae.

Claim #7: Because of an immediately adjacent 1.9-acre parcel of land, the antenna tower facility does not meet the zoning requirement of not being closer than 75 feet to any residential dwelling unit.

KOWS Response: The immediately adjacent 1.9-acre parcel of land is undeveloped for housing, and there are no residential dwelling units next to the proposed antenna project.

Claim #8: *No landscaping plan was submitted by KOWS to screen the facility from offsite views.*

KOWS Response: At this location, the proposed project is naturally screened from off-site views. Existing trees (some taller than the proposed antenna structure), bushes and elevation changes, coupled with the low elevation of the antenna tower structure, make this project nearly invisible to all nearby neighbors. Given the trees around the planned site, it does not appear that more tree planting is necessary. The next closest residents who could potentially see the facility (a neighbor to the south, and viewers from Pleasant Hill Road) are over five hundred feet away. Also, as pointed out in past KOWS narratives on the 65' tower proposal, Pleasant Hill Road is lined at approximately 150' intervals with PG&E utility poles of 35' to 50' in height. The visual impact of a new 35' antenna tower is minimal in comparison to utility structures in the area. An objective, disinterested observer will readily conclude that KOWS has gone to great lengths to mitigate potential visual concerns by scaling back the antenna tower height in its new proposal.

Claim #9: *Construction will require a tree protection plan (for root protection, etc.) and a biological impact study to determine the potential harm to migratory birds and raptors.*

KOWS Response: The foundation and trenching construction related to this project is standard, straightforward, and minimal in scope. The Building and Public Works Departments of Sebastopol, as a matter of natural course, will oversee construction plans and operations to ensure mitigation of any potential environmental impacts to the area. Regarding migratory birds, any remote possibility of potential harm is much more likely to come from the numerous 50' telephone poles/transmitters in the neighborhood than a low-to-the-ground 35' antenna tower structure with no moving parts, and already surrounded by existing trees. All available studies on the impact of antenna towers on migratory birds and raptors focus on significantly taller (e.g. 200') structures. No analysis that we have found shows any impact on migratory birds and raptors for structures under 50' in height.

A neighborhood coalition headed by a vineyard owner whose property is surrounded by an 8' deer fence, with agricultural use that over time likely removed many acres of natural habitat, claiming potential harm to migratory birds and raptors due to a 35' low-profile tower on a property already host to two 3-million gallon water tanks is absurd. The Appellant is clearly disingenuous in attempting to invoke biological considerations, since the vineyard's fencing, which denies access to indigenous mammal species, has a far greater biological impact than the proposed antenna structure. The Appellant's argument is without merit, and is merely an attempt to block an extremely low-impact project.

Claim #10: *The erection of any telecommunication tower on any site ultimately leads to the collocation of other antennas on the tower, and then to more antennas towers being erected on the site.*

KOWS Response: This statement is untrue. Telecommunication towers exist with no collocation of other antennas, and telecommunication towers exist without other antenna towers being erected on the site. As previously stated in the antenna Use Permit application, the proposed project is a radio structure, designed and engineered for this use only, and is not structurally appropriate for additional antennas. The antenna is not a cell tower, nor will it ever be used for any purpose other than low-

power radio signal transmission. The City of Sebastopol has indicated its lease agreement will state the use of the tower will be limited to a single entity, KOWS. Furthermore, KOWS is an FCC-licensed LPFM radio station, and may only transmit a low power broadcast signal, much weaker than full-power FM radio stations.

It is inappropriate to address future site uses at this time, or to deny this application based on fears of hypothetical actions. Any future use of the site will have to undergo the same use permit application process as the one for this project, and objections to a hypothetical future project should be addressed if, and when, such a project engages in a use permit process. Future site uses are unrelated to this application, and each use permit application must stand on its own merits.

*Claim #11: Lowering the antenna height significantly increases the health risks to nearby residents and to vineyard and orchard workers.*

KOWS Response: This claim is based on a misreading of the NIER report KOWS submitted with its application for the 35' tower. As noted in the response to claim #6 above, values shown in the NIER report for field strength versus distance must be reduced by 37% to reflect the true impact of a 37-Watt antenna broadcasting at an elevation of 35'. The antenna is set back from the property lines by 25' and 38'. The worst-case NIER field strengths at the fence line of the adjacent vineyard property are 10  $\mu\text{W}/\text{cm}^2$  and 14  $\mu\text{W}/\text{cm}^2$  respectively. These values fall off quickly with distance from the fence line. The worst case NIER continuous exposure of a worker at the fence (an unlikely working situation) is between 5 and 7% of the most stringent FCC NIER standard of safe continuous exposure.

When this same analysis is done utilizing the updated NIER Report (Attachment B), the worst case exposure for a worker at the fence line of the adjacent vineyard property is 9  $\mu\text{W}/\text{cm}^2$  at the point 25' from the base of the antenna. Again, this level quickly drops off as one moves further from the base of the antenna. 9  $\mu\text{W}/\text{cm}^2$  is less than 5% of most stringent FCC NIER standard and less than half of the conservative Sebastopol NIER limit level defined in *Sebastopol Zoning Ordinance Chapter 17* relating to telecommunication facilities and minor antennae. The latter NIER level is the most accurate prediction, based as it is on the exact height, power, and antenna design of the proposed KOWS installation.

*Claim #12: Lowering the antenna height from 70' to 35' does not eliminate all negative visual impacts.*

KOWS Response: It is the nature of many construction projects approved by public agencies that sometimes there is opposition due to perceived negative visual impacts. This makes sense and is to be expected. The only way to avoid this scenario is for the City to approve no new construction at all. Short of this approach, projects get approved where projects comply with established community laws and regulations, and visual impacts are limited and mitigated; this precisely defines the antenna tower project under consideration. Using the Appellant's reasoning, residents on Lawrence Lane may well be upset at the loss of an unobstructed view when two proposed houses are constructed sometime in the future. (Sonoma County zoning allows houses of the same height as the proposed antenna structure.)

KOWS has already made substantial concessions to reduce the visual impact of the antenna structure, including a redesign that is half the originally planned height, a modification that will result in a loss of approximately 35% of area broadcast coverage. The 35' tower is well below the average height of the surrounding, nearby trees, with a range of 40' to 55' in height, and from most angles cannot be seen.

(Attachment C, *Accurate Photos and Maps*) In the few locations where the structure can be seen at all, it will not be noticeable, and will blend into the background due to its green painted color.

The Photo simulations submitted by the Appellant do not represent the true appearance of the antenna structure. It appears the photos were taken with a telephoto lens, which distorts perception and does not accurately portray reality. The highest trees in the foreground actually stand 55' tall, although in the Appellant's photo simulations, they appear lower than the 35' structure in the distance, which is impossible. The photos show the tower projected against an open sky. There are few, if any, points of view other than the one where this photo was taken that permit this perspective. From most locations the antenna structure is not visible, or appears against a background of trees taller than the tower.

Telephoto-related distortion and lack of information as to where photos were taken or methodology used to obtain photos bring into question the credibility of the photographic "evidence" presented by the Appellant. Therefore, the accuracy and credibility of the Appellant's photos cannot be verified.

By comparison, the photo simulations submitted by KOWS include a clear description of the methodology used and unaltered photos from Google Earth, which accurately portray the views.

Claim #13: *A 35' KOWS tower antenna tower will cause significant property value losses for nearby homes and lots.*

KOWS Response: It is not the responsibility of the City to make land use decisions based on the impact on property values, which by their nature, are not provable. This statement is conjecture, its analysis a product of a study the Appellants funded to reach the stated conclusion. Future Sebastopol property values are unknown. Regarding the KOWS antenna project, radiation levels are safe and visual impacts are minimal. Nearby properties and property values will be unaffected by the exceptionally small impact of this project. Rather than property values decreasing, nearby properties may well appreciate in value. A thriving community radio station in the Sebastopol area – enhancing the economic, political, social and cultural fabric of the City – makes Sebastopol an even more desirable and valuable place to live.

Claim #14: *KOWS leaders significantly misrepresented data regarding alternative locations.*

KOWS Response: This is yet another flagrant misrepresentation by the Appellant. KOWS statements to the City of Sebastopol regarding alternative sites explored, and the pluses and minuses attached to each, have been honest and straightforward. KOWS has presented a thorough analysis of all potential sites in written submissions for the 65' tower proposal, supplemental information requested by the City of Sebastopol and in testimony to the City Council. (*Attachment D, Site Selection Analysis*)

Claim #15: *KOWS leaders made negative and misleading statements at the February 23, 2016 Planning Commission meeting that KOWS could go out of business unless this Pleasant Hill site was approved.*

KOWS Response: KOWS leaders made no such statements at the Planning Commission meeting.

Claim #16: *Broadcast radio antenna towers are fast becoming obsolete. Inviting such infrastructure into a rural residential neighborhood would cause immediate and permanent harm.*

KOWS Response: This statement is untrue. Broadcast radio is thriving, with antennas broadcasting radio signals into towns and cities all across the nation. Testimony was presented by many community

members at various public hearings on this matter that the only way they could listen to KOWS was via radio broadcast signal. The suggestion of permanent harm is subjective with no basis in fact. Rather than causing harm, an unobtrusive, low profile broadcast tower will be of enormous benefit in bringing community radio into the Pleasant Hill Road neighborhood and the entire Sebastopol area.

*Claim #17: KOWS Community Radio is an organization of the programmer who was arrested after the City Council meeting in May of this year. His behavior calls into question the core values at KOWS.*

KOWS Response: This type of slander and allegation of guilt by association calls into question the core values of certain opponents to the KOWS antenna project. KOWS Community Radio is not any programmer's organization; rather it is the other way around. The person in question is one of nearly a hundred KOWS volunteers, and made a serious mistake. He was suspended as a consequence, and KOWS Community Radio immediately issued an apology for this incident, making it clear this behavior in no way reflected the values of KOWS Community Radio.

*Claim #18: City of Sebastopol would be a bad guest and bad neighbor to allow a private radio tower on City reservoir property. KOWS is a so-called radio station, ignoring the health and welfare of the neighborhood. KOWS efforts have been relentless and unnecessary.*

KOWS Response: What has been relentless and unnecessary are the intentional exaggerations, misrepresentations, allegations, and legal bullying that have characterized the Appellant's responses to a relatively minor construction proposal, as viewed by the Planning Commission, the Planning Department, and the City Council. This project has responded reasonably and fully to concerns about visual impact, and is appropriate for the community. Once again, KOWS has reached out to local residents to inform them about the proposed 35' antenna project (Attachment E, *Letter to Neighbors*)

### Summary

We have worked diligently to fulfill all regulatory and zoning requirements. The KOWS Community Radio antenna project has been modified from the original plan to address neighborhood concerns, even though the broadcast signal will be reduced, and fewer Sebastopol-area residents will be able to hear regular programming or gain access to the local emergency alert system. Specifically, the height has been lowered from 70' to 35', although this modification drops broadcast range approximately 35%, and results in a weaker signal due to 45-50' tall trees around the 35' antenna structure.

Extended appeals and lengthy public process on the original and modified project proposals have resulted in a serious time challenge to the FCC construction license, which will lapse if the project is not completed by February 10, 2017, with no possibility of extension. The next window of opportunity likely will not open for another ten years.

We request an expedited decision so that KOWS Community Radio will be able to complete construction and begin broadcasting as soon as possible.

We appreciate your careful consideration and timely action to bring KOWS Community Radio to the City of Sebastopol and surrounding areas.

**KOWS Community Radio Response to Appeal  
Administrative Approval of KOWS 35' Antenna Proposal**

**Attachment A**

**Trylon STG SS Antenna Structure Design and Specifications**



August-12-16

## Trylon Tower Analysis TA1850-7

### Tower Details

Tower Height (ft)	30 (+ 5' P.P.S EXTENSION)
Tower Line	STG
Model Designation	STG SS
Tower Part Number	4.618.SSTG.030

### Optional Accessories and Services

Description	Quantity	Part Number
Safety Climb Kit - 3/8in Cable - Face Mounted (No Slider)	1	4.99.0250.000
Anti Climb Shield Kit	1	4.618.3601.001
Grounding Kit - Tower Base	N/A	INTEGRAL
Grounding Kit - Guy Anchor	N/A	N/A
Lightning Rod - 5' Long Copper Clad with Mount	1	4.90.0618.C05
Work Platform	1	4.618.1801.001
Turnbuckle Anti-Rotation	N/A	N/A
Foundation Material	N/A	INTEGRAL
Canada P.Eng Stamped Dwg	1	4.77.0101.920
Quebec P.Eng Stamped Dwg	1	4.77.0101.201
USA P.E. Stamped Dwg	1	4.77.0101.900

### Trylon Tower Analysis: TA1850-7

The tower analysis was performed based on the wind speed, antenna and line loading parameters provided. Please note that the software used for this analysis depends on users supplying accurate antenna data, wind speed and other critical input parameters. Trylon assumes no liability for inaccurate user assumptions or any tower failures as a result thereof.

**Please review this tower set-up to ensure it matches with the final tower design.**

Upon completion it was seen that the tower under study, **PASSED** TIA-222-G with the below listed design parameters, and equipment attached.

Trylon Tower	
Tower Height:	35 ft (5' pipe extension)
Model Designation:	STGSS
Tower Line:	STG Self Support (STG SS)
Part Number:	4.618.SSTG.030

Design Parameters	
Design Code:	TIA-222-G
Max. Basic Wind Speed:	110 mph
Max. Basic Wind Speed with Ice:	30 mph
Max. Design Ice Thickness:	0.50 in.
Service Wind Speed:	60 mph
Exposure Category:	C (Open terrain)
Topographic Category:	1 (No abrupt changes)
Reliability Category:	II (Substantial hazard)

Project Data	
Site Location:	Sonoma, California
Designer Initials:	MS

#### Tower Loading

Elev. (ft)	Qty	Fixture Type	UPSA <sup>1</sup> (sqft)	TX Line Qty	TX Line Type	Mounted on	Offset (ft)
35	1	CA2-FM/CP	1.34	1	LDF4P-50A	Centre Pipe	0.5
35	1	CA2-FM/CP	1.34	1	LDF4P-50A	Centre Pipe	0.5
35	1	CA2-FM/CP	1.34	1	LDF4P-50A	Centre Pipe	0.5

<sup>1</sup>UPSA: Un-factored Projected Surface Area (each)

<sup>2</sup>Assumed mount is a 10' x 2" Pipe, top not to exceed 35' AGL.

#### Results

Tower with the above noted loading is at **91% Capacity**.  
 Tower Maximum Tilt/Twist is **0.19°/ 0.18°**.

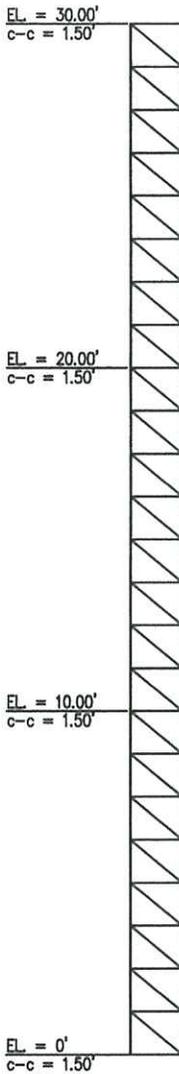
Factored Leg Foundation Loads		Factored Global Foundation Loads	
Max Download:	17.48 kips	Max Axial:	0.89 kips
Max Uplift:	16.90 kips	Max OTM:	22.39 kipsft
Max Shear:	0.74 kips	Max Shear:	0.95 kips

#### P.E. Stamped Drawings:

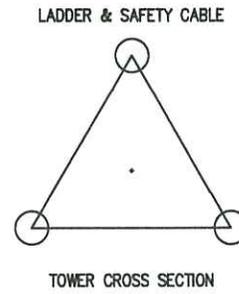
If P.E. Stamped Drawings are required for this tower then we require a Geotechnical Report be provided to ensure a proper foundation design – If one is not available we will assume Normal Dry Soil conditions.

DESCRIPTION	New Section	New Section
MARKING		
LEG	SR 0 7/8	SR 0 7/8
HORIZONTAL	SR 0 1/2	SR 0 1/2
DIAGONAL	SR 0 1/2	SR 0 1/2
SECTION WT. (lbs)	116	116

Material grade legs: 350W  
Material grade bracing: A36



ANTENNA				Tx-Line
Description	Elev. (m)	Elev. (ft)	Azimuth (TN)	Description
15sqft Antenna Area	9.1	30	0	(3) LDF4P-50A



ANCHOR BOLTS: N/A  
**LEG FOUNDATION LOADS**  
 Max Download = 16.69 (Kips)  
 Max Uplift = 16.28 (Kips)  
 Max Shear = 0.61 (Kips)  
**GLOBAL FOUNDATION LOADS**  
 Max Axial = 0.70 (Kips)  
 Max OTM = 21.38 (Kipsft)  
 Max Shear = 0.93 (Kips)

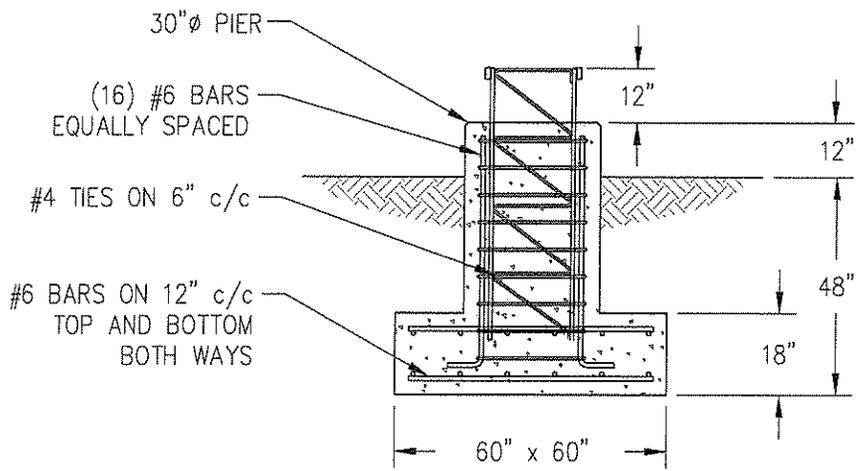
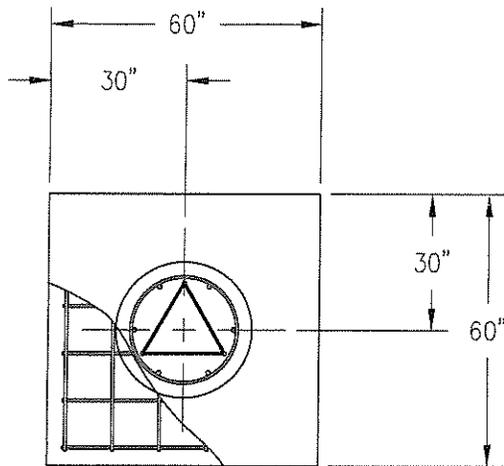
REV.	REV. BY:	CHK. BY:	DESCRIPTION	DATE

**NOTES:**  
 DESIGN STANDARD: EIA-222-G  
 BASIC 3 SEC. GUST WIND SPEED: 100.0 (mph)  
 BASIC 3 SEC. GUST WIND SPEED WITH ICE: 30.0 (mph)  
 BASIC ICE THICKNESS: 0.50 (in)  
 EXPOSURE CATEGORY: C  
 IMPORTANCE CLASS: 2  
 MAX MW ROTATION AT 60.0 (mph) : 0.00°

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CUSTOMER: ANY CLIENT	SITE: ANY SITE	5
DATE: 08 JUL 15	BY: ANY ENGINEER	CHK: APP:
TITLE: 30FT STGSS		DRAWING NO. PROJECT



STG SS BASE FOUNDATION

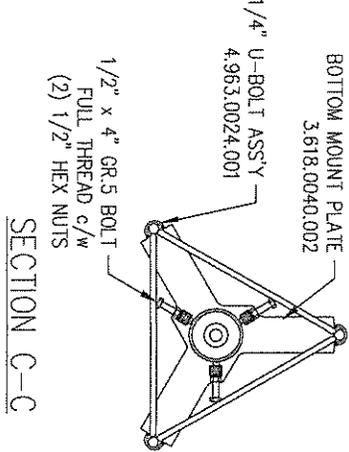
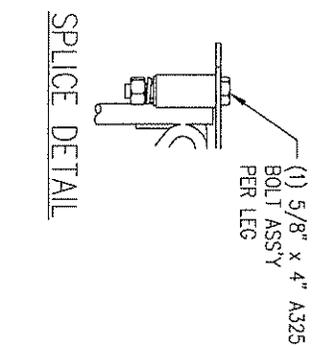
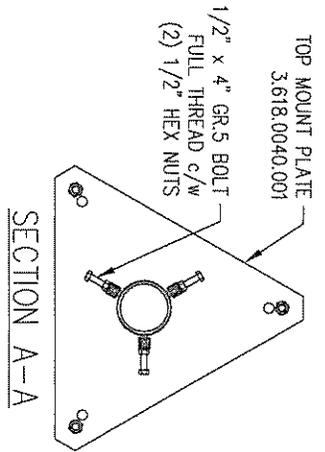
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REV.	REV. BY:	CHK. BY:	DESCRIPTION	DATE

- NOTES:
- 1) BASED ON NORMAL DRY SOIL
  - 2) ALLOWABLE BEARING CAPACITY: 3000 psf
  - 3) DRY DENSITY OF BACKFILL MATERIL: 100 psf (COMPACT TO 95% spd)
  - 4) REBAR - DEFORMED BAR GRADE 60.
  - 5) MINIMUM 28 DAY CONCRETE STRENGTH 3600 psi.



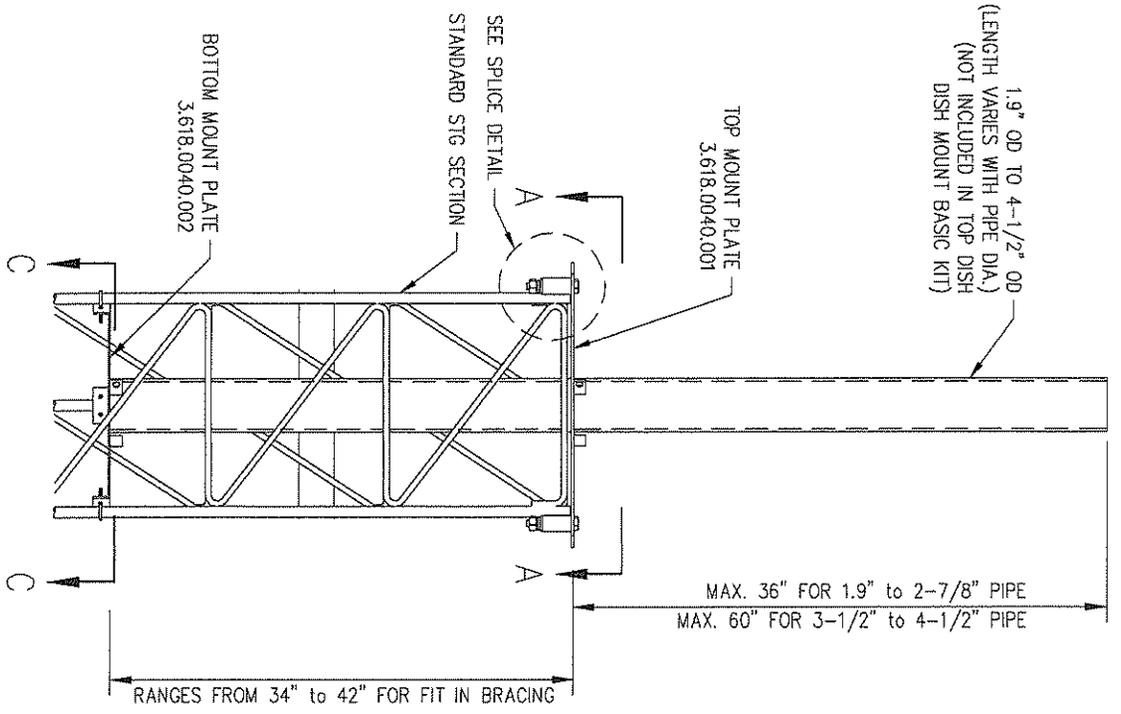
# TRYLON TSE

CUSTOMER:	SITE: STG SELF SUPPORT	SCALE: 40.000
DATE: 29 MAR 06	BY: MRH	CHK: APP:
TITLE: STG SS FND - EIA		DRAWING NO. 618.0606



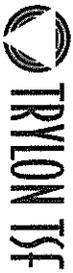
TOP DISH MOUNT BASIC KIT: 4.618.2711.001		
1	3.618.0040.001	TOP MOUNT PLATE
1	3.618.0040.002	BOTTOM MOUNT PLATE
3	1.202051	5/8" x 4" A325 BOLT ASSY
3	4.963.0024.001	1/4" U-BOLT ASSY
6	1.201354	1/2" x 4" GR.5 FULL THRD BOLT
12	1.201120	1/2" HEX NUT GR.5

BASIC KIT WITH PIPE		
1.9" OD TUBE x 61g	4.618.2711.015	USE KIT NUMBER
2-3/8" OD TUBE x 61g	4.618.2711.020	
2-7/8" OD TUBE x 61g	4.618.2711.025	
3-1/2" OD TUBE x 81g	4.618.2711.030	
4" OD TUBE x 81g	4.618.2711.035	
4-1/2" OD TUBE x 81g	4.618.2711.040	



DESIGNED TO ANSI A58.1 EXPOSURE B, 70 MPH  
 MAX PROJECTED AREA FOR THIS MOUNT = 34 SQ.FT.  
 OR A 6" Ø SOLID, GRID OR MESH DISH

REV. A	MRI	JAS	ISSUE FOR DISTRIBUTION	21 MAR 06	CUSTOMER:	SITE:	STG:	SCALE:	15.000
REV. BY:	CHK:	DATE:	DESCRIPTION:	DATE:	DATE:	BY:	MRI	CHK:	JAS
COPYRIGHT HEREIN IS THE PROPERTY OF TRYLON MANUFACTURING COMPANY LTD. ALL INFORMATION, RECORDING, REPRODUCTION OR USE IS PROHIBITED WITHOUT WRITTEN CONSENT OF TRYLON MANUFACTURING COMPANY LTD.					TITLE: TOP DISH MOUNT				
					DRAWING NO. 000001.618.2711				



**KOWS Community Radio Response to Appeal  
Administrative Approval of KOWS 35' Antenna Proposal**

**Attachment B**

**Updated  
Non-Ionizing Electromagnetic Radiation/NIER Report**



# Prometheus Radio Project

**Subject:** KOWS-LP compliance with non-ionizing electromagnetic radiation (NIER) of the Sebastopol City Code and federal regulations

**Date:** September 26, 2016

## Summary

Low-power FM station KOWS-LP, KOWS Community Radio holds an authorized FCC construction permit, pursuant to FCC application BMPL-20150828ABW, to broadcast at 92.5 MHz from the location 38 23 0.83 N 122 49 59.95 W near the intersection of Pleasant Hill and Blackney roads.

This is the third in a series of NIER reports. In section 4 of the Dec 2015 study, an omnidirectional antenna centered at 60 feet above the ground with 4 bays and emitting 25 watts circularly polarized was analyzed and found to have a predicted maximum exposure to people on the ground near the antenna of approximately  $0.27 \mu\text{W}/\text{cm}^2$  (updated in section 7).

In the version of August 2016, exposure from a 35-foot-high directional antenna was predicted to produce an exposure of more than  $50 \mu\text{W}/\text{cm}^2$  near the antenna, which is less than the federal limit but exceeds Sebastopol's current limit. This was a worst-case projection based on a power level much greater than is allowed by the FCC at that site, combined with using the worst-case antenna type which directs much more energy downward than the proposed directional antenna.

Maximum exposure near the antenna in this newest study is predicted to be  $9 \mu\text{W}/\text{cm}^2$  which is less than half of the Sebastopol limit. The actual power level and a more closely-representative antenna type are responsible for the new predictions.

**This report demonstrates that KOWS-LP complies with NIER RF exposure standards specified in federal statute 47CFR§1.1310 and City of Sebastopol 17.100.240(F) at the antenna site, nearby agricultural areas, and at nearby homes.**

## 1 - NIER Standards for Maximum Exposure

The Federal Communications Commission offers information and resources regarding NIER, which in FCC terminology is called “**RF Safety**”. It is efficient to quote at length from the instructions for KOWS-LP's low-power FM FCC application, FCC Form 318,

<http://www.fcc.gov/Forms/Form318/318.pdf>: [emphasis added]

**RF Exposure Guidelines.** In 1996, the Commission modified its guidelines and procedures for evaluating environmental effects of RF emissions. All LPFM station applications subject to environmental processing must demonstrate compliance with the new



## Prometheus Radio Project

requirements. The new guidelines are explained in more detail in OET Bulletin 65, entitled *Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields, Edition 97-01*, released August, 1997, and *Supplement A: Additional Information for Radio and Television Broadcast Stations* (referred to here as "OET Bulletin 65" and "Supplement A," respectively). Both OET Bulletin 65 and Supplement A can be viewed and/or downloaded from the FCC Internet site at <http://transition.fcc.gov/oet/rfsafety/>

For FM broadcast frequencies, Supplement A states that the exposure safety limit for “**general population/uncontrolled exposure is 0.2 mW/cm<sup>2</sup> (200 μW/cm<sup>2</sup>) and the limit for occupational/controlled exposure is 1 mW/cm<sup>2</sup> (1000 μW/cm<sup>2</sup>)**”.

OET Bulletin 65 is the practical implementation of the controlling statute, **47CFR§1.1310 - Radiofrequency radiation exposure limits**.

Combining City of Sebastopol 17.100.240(F) with 17.100.230(A) and the aforementioned federal standards results in an uncontrolled exposure limit of **20 μW/cm<sup>2</sup>** and occupational exposure of **100 mW/cm<sup>2</sup>** for the City.

## 2 – Site Details

KOWS-LP is approved by the FCC to construct an antenna near Blackney Rd and Pleasant Hill Rd, just southwest of the southern water tank shown below, proposed to be centered at 35 feet above the ground. Nearby homes labeled A-G and faint 1-foot-interval contour lines are also shown. The perimeter security fence of the City property is not visible and is at its closest point, approximately 28 feet of the proposed antenna.



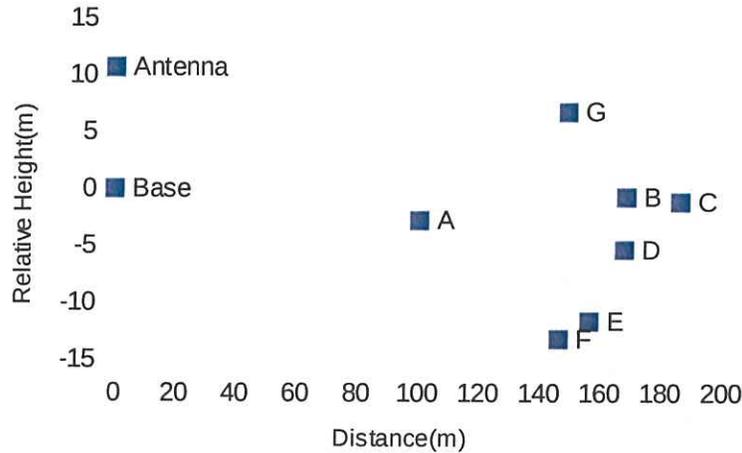
# Prometheus Radio Project





# Prometheus Radio Project

The graph below shows the distance (meters) to each house from the antenna and the elevation of each house (meters) relative to the base of the antenna. Both the antenna base and antenna itself are shown on the left.



## 3 – Existing NIER Demonstration to the FCC

LPFM applicants must demonstrate compliance with federal NIER RF Safety standards, and KOWS-LP indicated their compliance by checking Yes to box 10 in their LPFM (FCC form 318) construction-permit application:

<p>10. <b>National Environmental Policy Act.</b> The applicant certifies, based on its completion of Worksheets 2 and 3 and its review of the instructions to this application, that the proposed facility is excluded from environmental processing under 47 C.F.R. Section 1.1306 (i.e., the facility will not have a significant environmental impact and complies with the maximum permissible radiofrequency electromagnetic exposure limits for controlled and uncontrolled environments). Unless the applicant can determine compliance through the use of the attached General Environmental and RF Exposure Worksheets, an <b>Exhibit is required.</b></p>	<p><input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 14]</p>
---	--

A goal of the LPFM radio service is accessibility, which means attempting to unburden applicants – usually small community groups – from purchasing expensive radio engineering services. To this end, the LPFM application offers a simplified method for RF safety NIER compliance. KOWS-LP utilized the simplified method and was approved by the FCC.

The proposed directional antenna and height is also safe according to the simplified method.



## 4 – Exposure Calculations

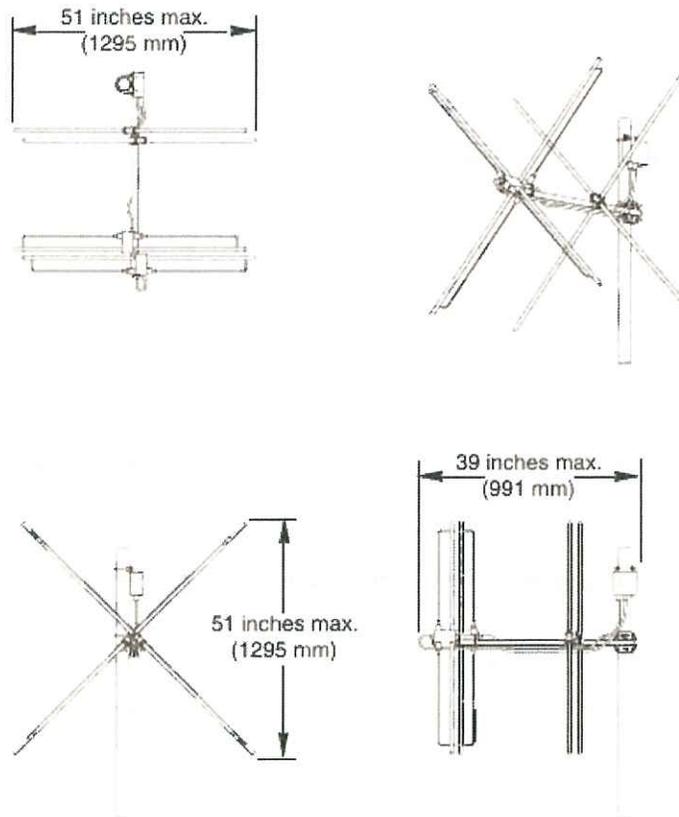
In situations requiring more sophisticated NIER field calculations, the FCC's "FM Model" software, originally developed by the EPA, is normally utilized. FM Model predicts the power density around an antenna given the antenna model, height, and radiated power.

KOWS-LP is proposing a directional antenna emitting 37 watts subject to FCC approval.

Earlier versions of this report utilized an impermissible conservative worst case to demonstrate compliance with federal NIER standards under unrealistically extreme conditions. In contrast, this report utilizes the actual power and a more closely-matched antenna, so as to more realistically portray the proposed radiation exposure.

The proposed antenna consists of two, 2-element yagis crossed at right angles, which can also be considered as two crossed dipole antennas each with a single reflector. FM Model has no equivalent to crossed yagis, however does include the EPA Type 2 "Opposed V Dipole" pattern which is functionally similar to the crossed dipoles minus the reflectors. The absence of the reflectors means that the FM Model pattern will still overestimate the downward radiation exposure, however it will be much closer to reality than the worst-case ring-stub used previously. Notably the type 2 antenna is omnidirectional, which further overestimates the total radiation compared to the directional antenna in all directions except its primary pointing direction.

Below is shown the radiation intensity that would be experienced by a person (assumed to be 2 meters tall) standing at the elevation of the base of KOWS-LP's antenna emitting 37 watts of power in both the

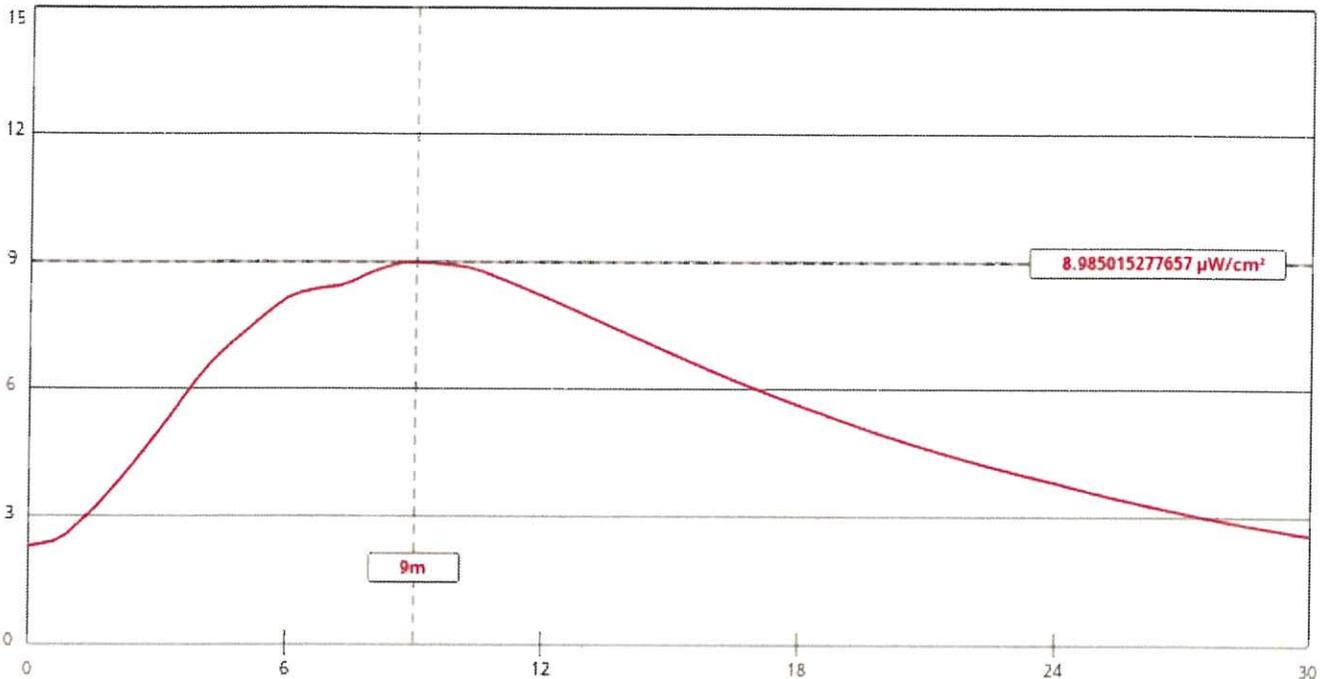


*Kathrein Scala CA2-FM/CP*



# Prometheus Radio Project

vertical and horizontal polarizations, with the directional antenna modeled by the EPA Type-2 “Opposed V Dipole” antenna element.



Channel Selection	Channel 223 (92.5 MHz)		
Antenna Type +	EPA Type 2: Opposed V Dipole		
Height (m)	10.7	Distance (m)	30
ERP-H (W)	37	ERP-V (W)	37
Num of Elements	1	Element Spacing (λ)	0.85
Num of Points	100	<b>Apply</b>	

The maximum exposure level for people on the ground in the vicinity of this Type 2 antenna is almost  $9 \mu\text{W}/\text{cm}^2$ . **This is approximately one half of the more-stringent Sebastopol exposure limit of  $20 \mu\text{W}/\text{cm}^2$ , therefore this installation meets NIER requirements.**

Maximum exposure occurs at 9 meters from the base of the antenna, which coincides with the nearby facility security fence, thus nearby agricultural workers and future homes will receive at most, and generally much less than,  $9 \mu\text{W}/\text{cm}^2$



# Prometheus Radio Project

## 5 – Exposure at Nearby Homes

FM Model was used to estimate the exposure of people outdoors at the locations of the nearby homes labeled previously A through F. Note that the indoor exposure will be less than predicted due to attenuation by walls and roofs. Considering both the distance to each home and its height relative to the base of the antenna, and using the Type 2 antenna and actual power levels, the predicted exposures are listed below.

Home	Distance (meters)	Relative Height (m)	Exposure $\mu\text{W}/\text{cm}^2$	% of Fed	% of City
A	100.6	-2.8	0.29	0.15%	1.45%
F	146.5	-13.2	0.10	0.05%	0.50%
G	149.1	6.8	0.10	0.05%	0.50%
E	156.6	-11.6	0.10	0.05%	0.50%
D	168.0	-5.3	0.10	0.05%	0.50%
B	168.6	-0.7	0.10	0.05%	0.50%
C	186.5	-1.1	0.10	0.05%	0.50%

**In all cases, exposure to non-ionizing electromagnetic radiation at the locations of the nearby homes, is less than 1/60<sup>th</sup> of the City of Sebastol NIER limit.**

The effects of electromagnetic radio on humans are still being studied and these safety limits may well change as research proceeds, nevertheless the limits are based on the accepted best practices at this time. Anecdotal stories of low rigor and blatant misinformation about radiation exposure abound on the internet, by parties on all sides of the issues.

Additional FCC references:

- RF Safety FAQ <https://www.fcc.gov/engineering-technology/electromagnetic-compatibility-division/radio-frequency-safety/faq/rf-safety>
- FCC FM Model <https://www.fcc.gov/general/fm-model>
- Main page <https://www.fcc.gov/general/radio-frequency-safety-0>
- *Questions and Answers about Biological Effects and Potential Hazards of Radio frequency Electromagnetic Fields* <http://www.fcc.gov/encyclopedia/oet-bulletins-line#56>



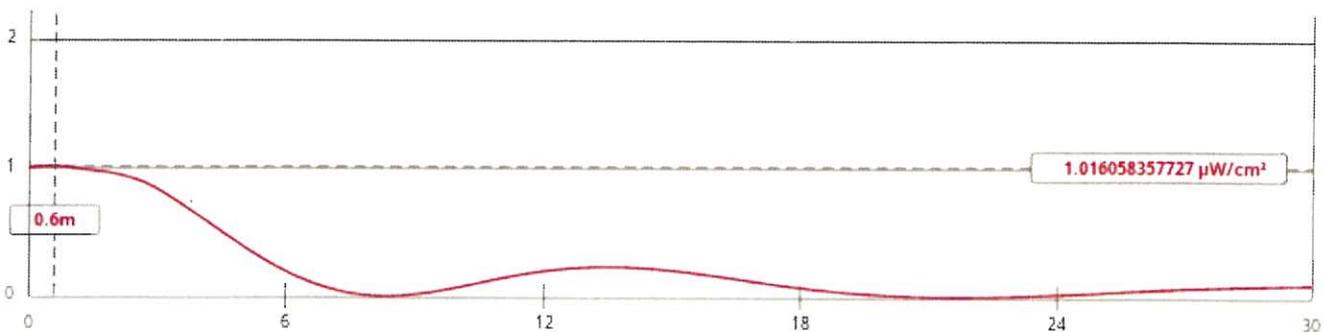
## 6 – Recommendations

1. Radiation exposure can be reduced (9 times reduction see next section) further by raising the antenna
2. Reduce power when work is to be performed on the antenna or upon the nearest water tank.
3. Post a caution sign at the antenna tower and provide mechanical discouragement to casual climbers, with a fence or collar for example.

*Radio professionals in the course of their job may operate outside of these recommendations because they are allowed occupational exposure limit of  $1,000 \mu\text{W}/\text{cm}^2$*

## 7 – Update to First Version of this Report

Since the first version of this report was published, the FCC has updated FM Model in ways which have implications for multi-bay antennas. The updated exposure graph presented there in section 4 for a 4-bay ring-stub antenna with 0.85-wavelength spacing centered at 18 meters is shown below. The exposure has increased approximately threefold to  $1 \mu\text{W}/\text{cm}^2$ .



Channel Selection	Channel 223 (92.5 MHz)		
Antenna Type +	EPA Type 1: Ring-and-Stub or "Other"		
Height (m)	18	Distance (m)	30
ERP H (W)	25	ERP v (W)	25
Num of Elements	4	Element Spacing (λ)	0.85
Num of Points	100	<b>Apply</b>	



## Prometheus Radio Project

The calculations in this report were made by myself, Paul Bame, Engineering Director at the Prometheus Radio Project. I am an experienced radio engineer and have prepared many engineering exhibits accepted by the FCC. I affirm that the information and calculations herein are true to the best of my knowledge.

A handwritten signature in black ink that reads "Paul A. Bame". The signature is fluid and cursive, with a long horizontal stroke at the end.

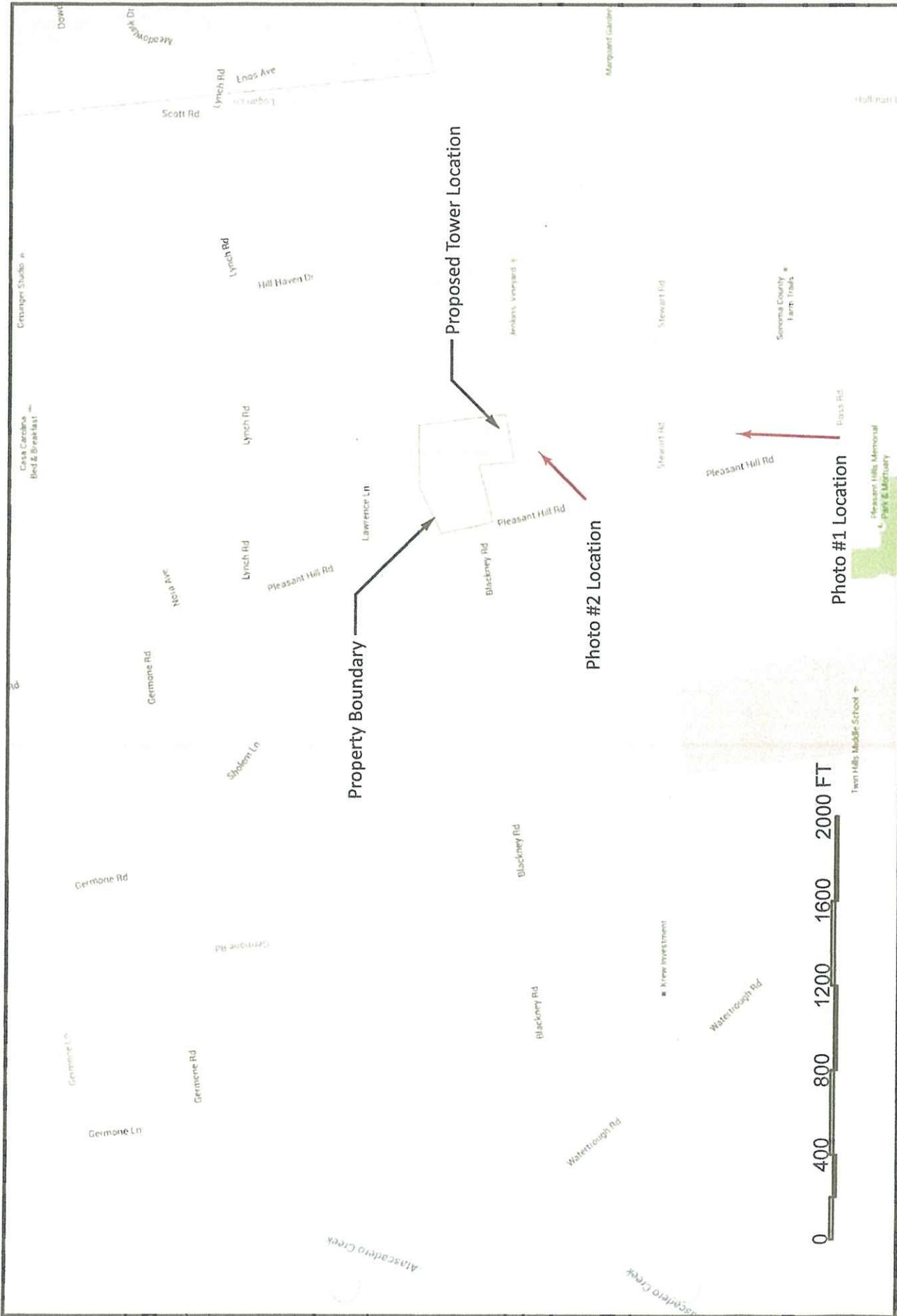
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Paul Bame, Engineering Director, Prometheus Radio Project

**KOWS Community Radio Response to Appeal  
Administrative Approval of KOWS 35' Antenna Proposal**

**Attachment C**

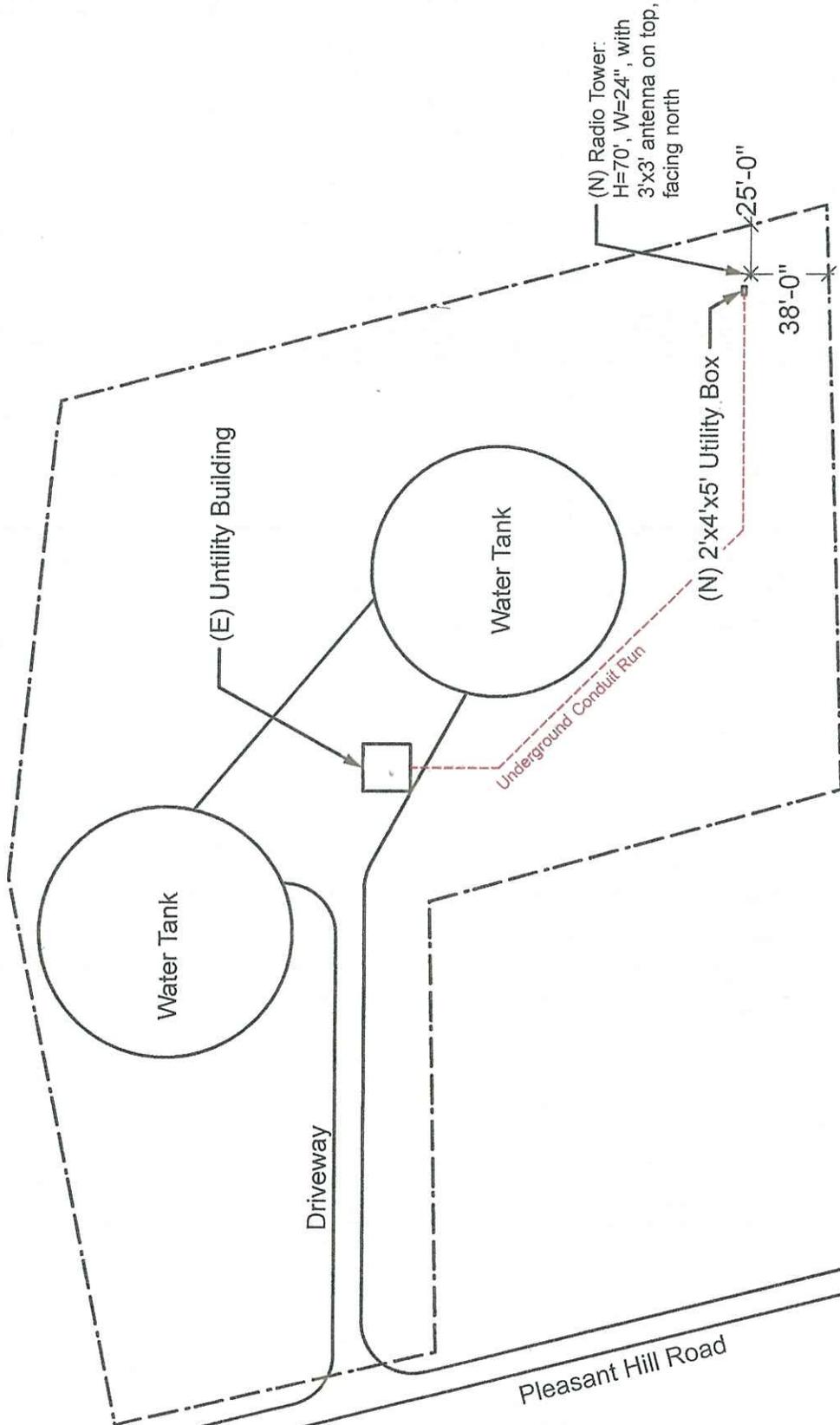
**Accurate Photos and Maps**



Sebastopol Water Tanks		Location & Key Map	
1281 Pleasant Hill Rd Sebastopol, CA 95472		Autumn Streamfellow	
		12/29/2015	
<b>KOWS Radio Tower</b>			



Sebastopol Water Tanks	KOWS Radio Tower	Area Development Map
1281 Pleasant Hill Rd Sebastopol, CA 95472		Autumn Streamfellow
		12/29/2015



Sebastopol Water Tanks

1281 Pleasant Hill Rd  
Sebastopol, CA 95472

Site Plan

Autumn Streamfellow

12/29/2015

# KOWS Radio Tower

(N) Radio Tower:  
H=70', W=24", with  
3'x3' antenna on top,  
facing north

(N) 2'x4'x5' Utility Box

Underground Conduit Run

Water Tank

(E) Utility Building

Water Tank

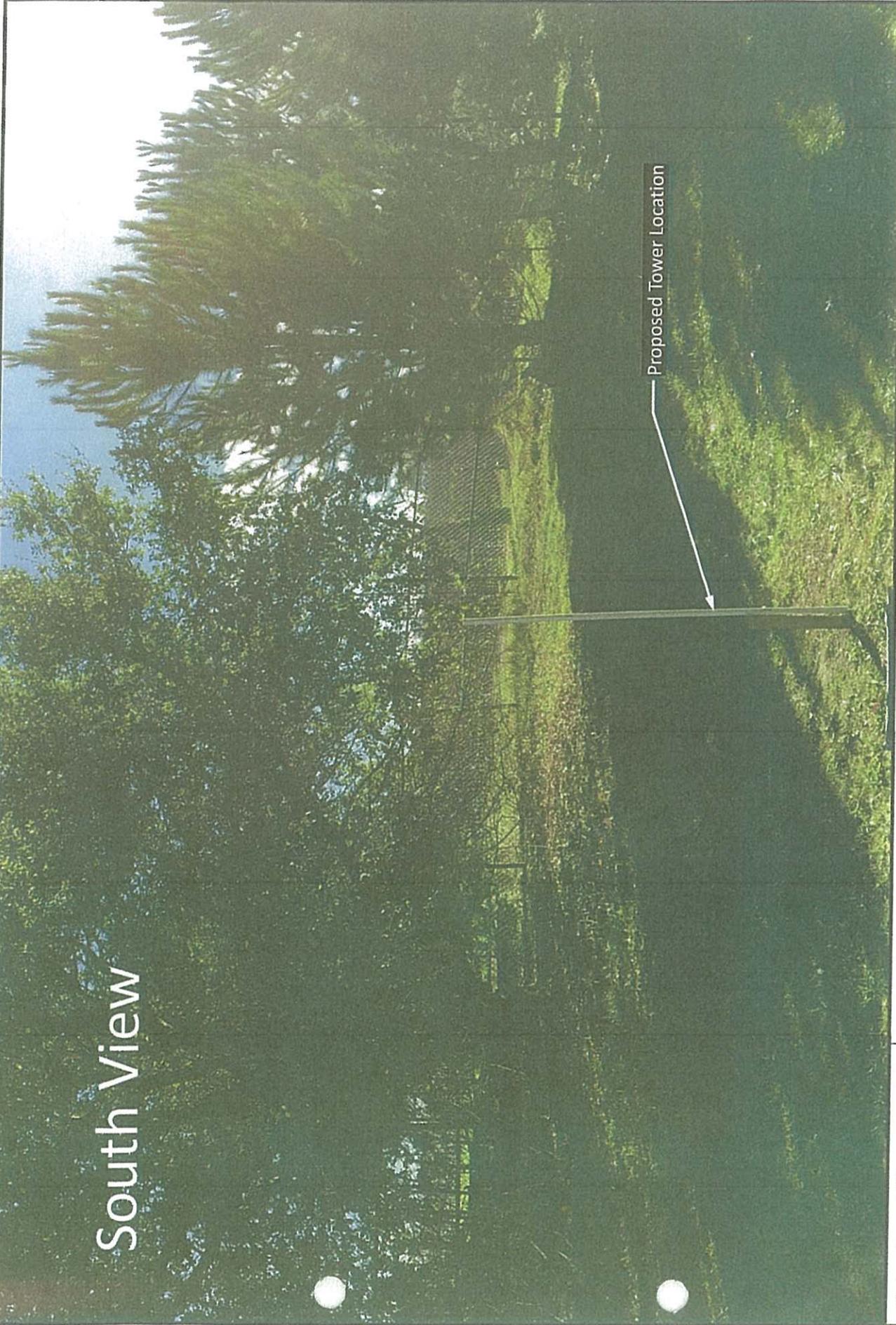
Driveway

Pleasant Hill Road

25'-0"

38'-0"

# South View



Proposed Tower Location

Sebastopol Water Tanks

1281 Pleasant Hill Rd  
Sebastopol, CA 95472

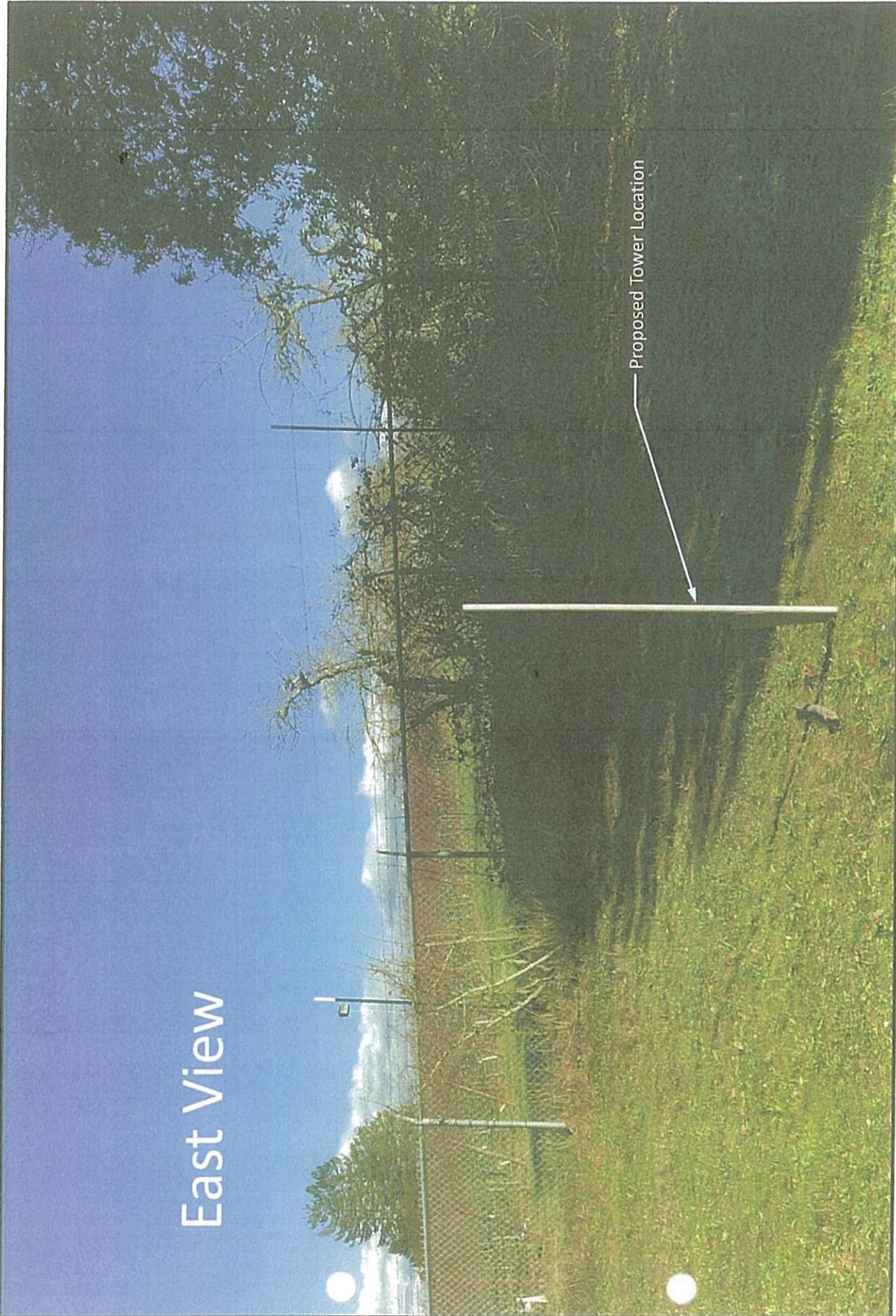
Site Photograph

Autumn Streamfellow

12/29/2015

KOWS Radio Tower

East View



Proposed Tower Location

Sebastopol Water Tanks

1281 Pleasant Hill Rd  
Sebastopol, CA 95472

Site Photograph

Autumn Streamfellow

12/29/2015

KOWS Radio Tower

North View

Proposed Tower Location

Sebastopol Water Tanks

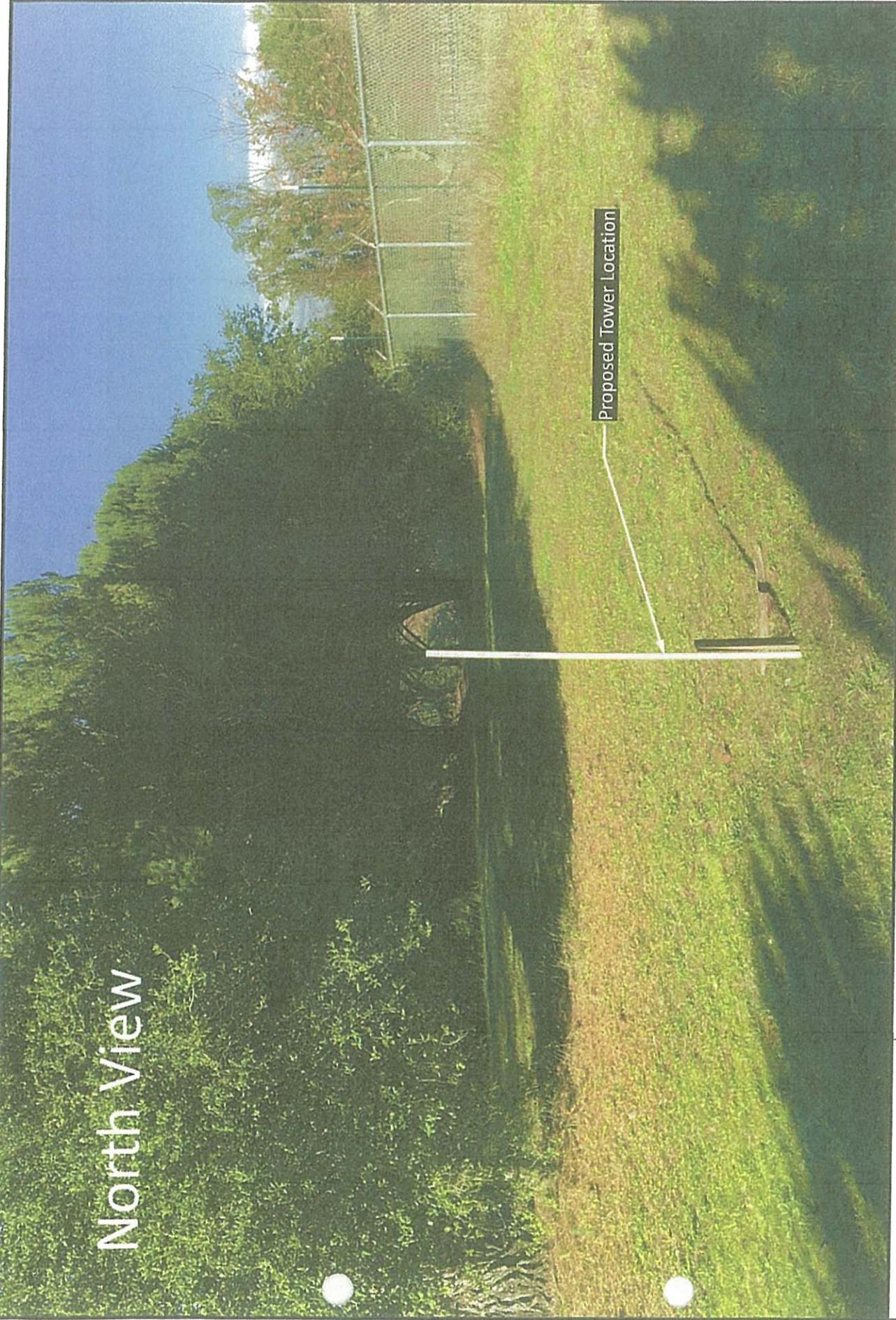
1281 Pleasant Hill Rd  
Sebastopol, CA 95472

KOWS Radio Tower

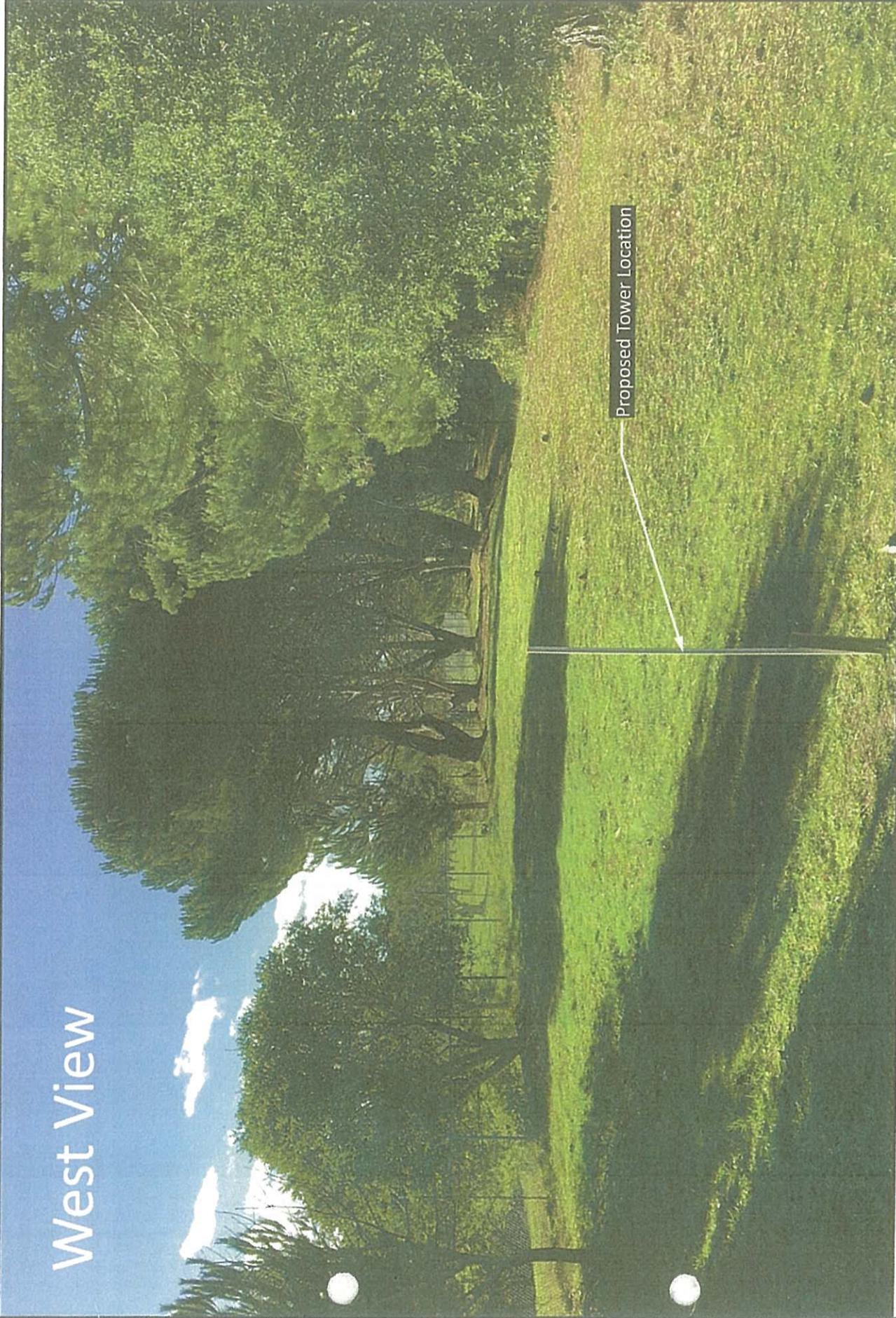
Site Photograph

Autumn Streamfellow

12/29/2015



# West View



Proposed Tower Location

Sebastopol Water Tanks

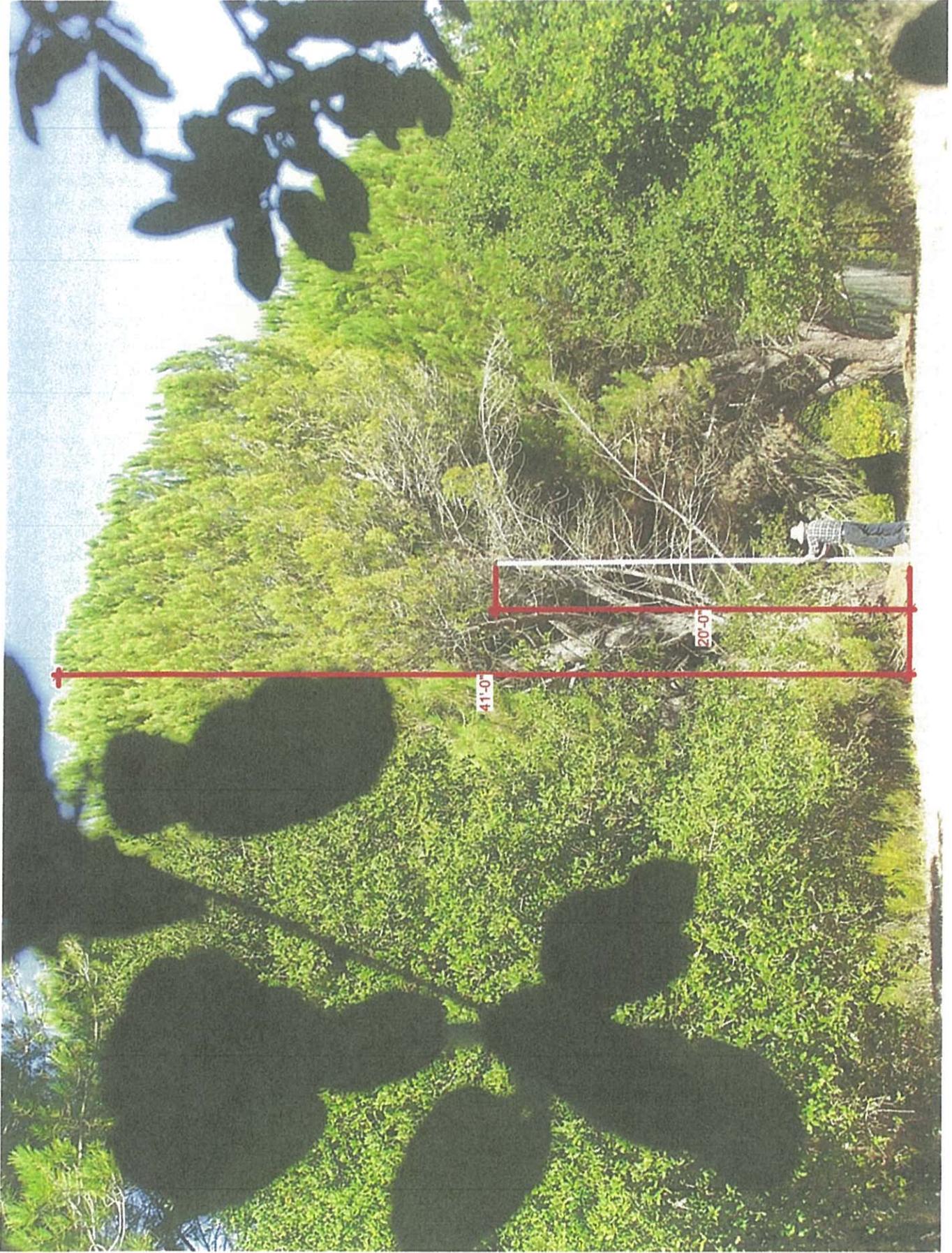
1281 Pleasant Hill Rd  
Sebastopol, CA 95472

Site Photograph

Autumn Streamfellow

12/29/2015

KOWS Radio Tower



METHOD OF CALCULATION OF ADJACENT TREE HEIGHT USING 20' PIPE

## Photo Simulations

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### General Notes

Creating photo simulations is a subjective and difficult process. For example, the choice of photo location and degree of magnification can be used to skew the degree of visual impact. There are also inherent difficulties in gauging the size of objects in the shot, such as tree heights, and the actual location of the ground, as is the case for all the included photos. Additionally, the closest location where a photo can be taken that is accessible to the public is over 450 feet from the antenna structure site. Distances to the antenna structure from the photo locations range from 500 feet to 2120 feet. Thus, a 35-foot tower from long distances becomes a relatively small object to illustrate.

### Choice of Photos

Google Earth street view photos were chosen for inclusion in the photo simulations because they are the most realistic, unbiased, and replicable images available. These public domain photos also offer a certain degree of protection against attempts to bias the photo simulations, and serve to portray the visual impact as seen by people walking or driving on the nearby roads. Also, lack of access to private property limits photo options.

### Choice of Photo Locations

There are only two residences within 500 feet of the antenna structure site. The closest home is 375 feet away, with no clear line of sight to the structure, and the other is 475 feet away. Six residences are located within 600 feet of the antenna structure, and only three neighbors have the potential to see it from their property. The low population density in this area was a contributing factor in siting the antenna structure at this location. Although the tower may be visible, it will not be a prominent feature from any nearby residence.

Attempts were made to provide photos taken north of Blackney Road, towards Lynch Road, but because all street view shots contain too much close range vegetation a clear view of the antenna site could not be found and inclusion of photo simulations would be of no value.

Lawrence Lane also lacks a clear view to the site and no Google Earth street view shots are available, so no attempt was made to do a simulation. There may be places where a view of the antenna is possible from private property and local residents may be able to provide simulations from their properties. It is not clear if such photos will accurately portray the visual impact.

**Photos that do not include complete and verifiable information must be viewed with skepticism.** The location of the photos, distances to the tower, and sizing methodology are essential for photos to be considered credible. For example, a six-foot diameter red balloon is not a fair representation of an open lattice antenna that is one foot wide at the top and painted green to blend in with surrounding trees, and blue-grey to blend in with the sky.

The simulations included here were taken from locations near residences that may have a view of the tower, and from other nearby places to show what would be seen from the road. The Photo Simulation Index shows the exact location and direction of each shot, which includes the distance to the antenna and a reference object's estimated height and distance, sufficient data to verify the validity of the simulations.

### Methodology Used to Determine Relative Size of Objects

As mentioned above, certain inherent difficulties exist with simulations. Extreme care was taken to accurately portray the antenna size and location in each shot.

- All simulations were accurately created in Vectorworks, a professional CAD program
- The antenna was carefully re-created from the manufacturer's plans and appropriately scaled in each drawing by referencing it to objects of known or easily determined height
- Trees directly to the north of the antenna site were calculated to be approximately 45 feet tall by directly referencing their height to a 20-foot pipe placed next to the tree
- The trees on the south side of the tanks are slightly higher, estimated to be 50-feet tall

- The telephone pole height referenced in *Photo Simulation #1: Blackney Road* was determined through trigonometric methods to be between 45 and 50 feet tall
- Objects used for scaling purposes are noted in each photo simulation
- Surface distances were determined using Google Earth

Another inherent difficulty is determining the actual location of the ground at the antenna site when it is heavily obscured by foreground vegetation, as is the case in all shots. However, a conservative interpretation was chosen so as to not intentionally diminish the visual impact. Some degree of inaccuracy is inevitable and actual heights may vary by as much as plus or minus ten percent.

### **Seeing the Antenna in Photo Simulations**

The tower is difficult to see in most of the included photos. This is a result of trying to be as accurate as possible. Several combined factors contribute to this challenge, including:

- Without the magnifying effect of a telephoto lens the Google Earth street view images make the antenna appear relatively distant and small; however, this view accurately reflects what an observer would see at these photo sites.
- Sebastopol's Planning Department requires the tower be painted to blend in with surroundings. The antenna blends in with the background sky due lack of strong contrast.
- The low-profile, see-through lattice design makes the tower fairly transparent. No component of the tower is wider than about 3 inches.
- The ¾" diameter stainless steel antennas are included, but are too small to be seen from long distances in the simulations and do not contrast well with the background sky which causes them to seem to disappear.

The visual impact of the tower is minimal due to screening by the vegetation and distances to nearby residences; thus it is not of sufficient concern to deny approval of this project. The following photo simulations corroborate this assertion.

# Photo Simulation Index



Photo Simulation 1: Blackney Road



Photo Simulation 2: Pleasant Hill Road at Stewart Road

Trees:  
Height: 45 feet,  
Distance: 620 feet

Tower:  
Height: 35 feet,  
Distance: 605 feet

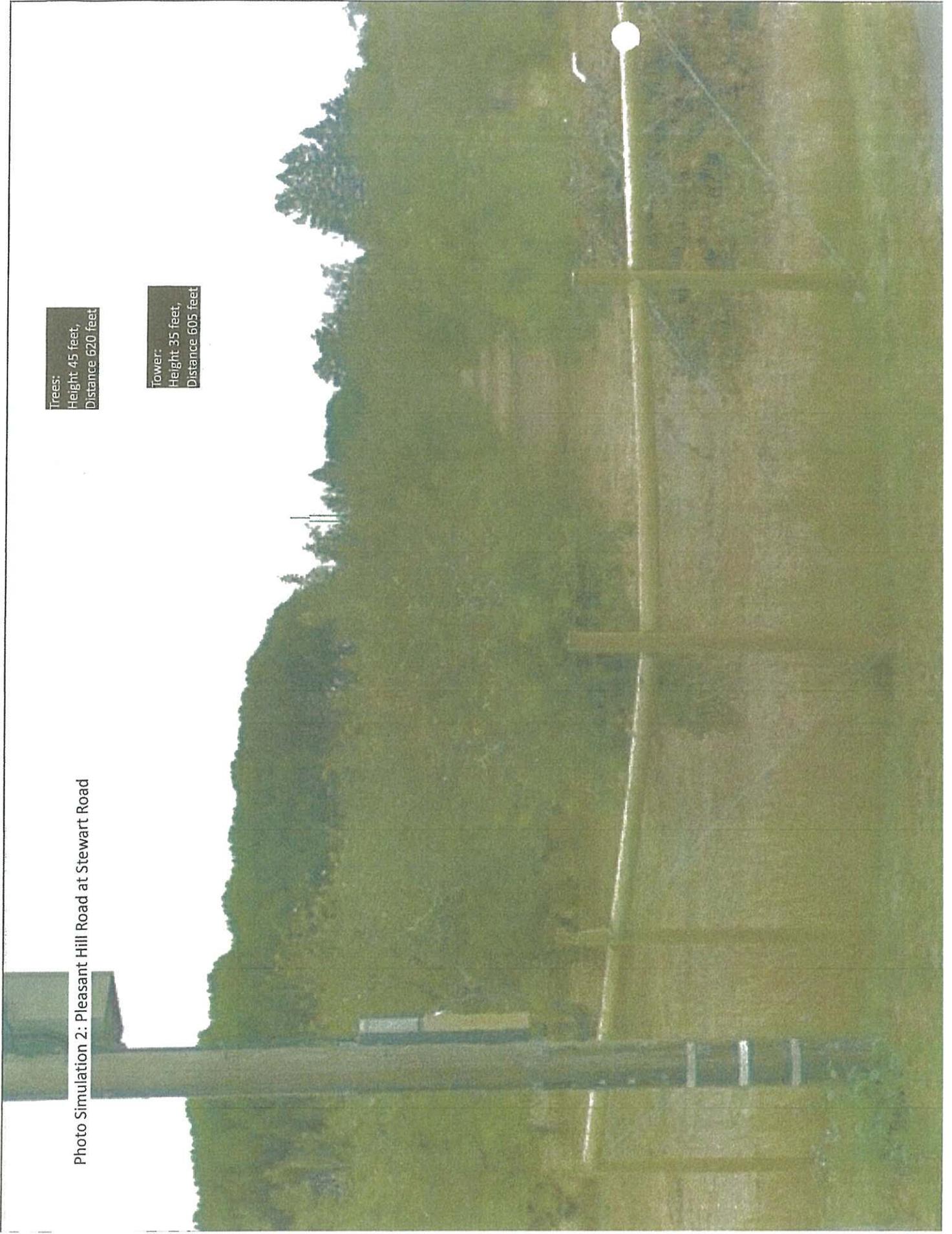


Photo Simulation 3: Pleasant Hill Road at Cemetary Entrance



Photo Simulation 4: Pleasant Hill Road at Elphick Road



Photo Simulation 5: Elphick Road at Hollman Lane



Photo Simulation 6: 1900 Pleasant Hill Road



Tree:  
Height: 50 feet,  
Distance: 500 feet

Tower:  
Height: 35 feet,  
Distance: 500 feet

**KOWS Community Radio Response to Appeal  
Administrative Approval of KOWS 35' Antenna Proposal**

**Attachment D**

**Site Selection Analysis**

## **Section I**

### **KOWS Antenna Relocation Project Site Selection Analysis**

The following materials provide additional technical detail on methodology used by the KOWS Antenna Relocation Committee (ARC) for selecting the optimal site for a new antenna. Previous KOWS documentation submitted to the City of Sebastopol details the early history of the KOWS antenna at the Occidental Arts and Ecology Center (OAEC) and the extended site search process (*KOWS Antenna Relocation Project Response to SHARP Appeal April 25, 2016, Attachment A*). Although the Appellants suggested otherwise in materials and testimony before the City Council, in reality the expanded search for a new KOWS antenna site began in 2013 in response to a request by the owners of the land where OAEC is located (Sowing Circle LLC) that KOWS find a new site. Dave Henson, OAEC Executive Director, wrote a letter, excerpted here, to the City Council on May 17, 2016 (See Attachment A)

Several years ago, KOWS and OAEC together agreed that KOWS would be better served under its own 501(c)3 non-profit status, and we together began the long process to move the KOWS radio project from OAEC's fiscal sponsorship to the independent KOWS entity.

As part of the move from being a project of OAEC to being an independent organization, OAEC and the Sowing Circle LLC very specifically required KOWS to move its antenna from the OAEC site to a new site. While moving the antenna is to the benefit of the community KOWS serves (by reaching a much larger listening audience than was delivered when broadcasted from OAEC's fir tree), OAEC and Sowing Circle – with KOWS engaged agreement – have been very clear that the antenna needs to be moved from our site. This is not due to any criticism we had of KOWS or their management of the antenna, but rather to our own internal planning about what projects we can and should host on our land.

During the initial phase of the site search process (2009 to 2013) and during the recent expanded site search phase, KOWS evaluated 15 potential sites for consideration as an alternative to OAEC. To assess the merits of each site as objectively as possible, the KOWS ARC identified 14 criteria that represent key success factors for an effective antenna installation. Each site was rated as acceptable or unacceptable under these criteria, and a total ranking was determined by summing up the number of acceptable entries for each given site. The best possible ranking with this methodology is 14 out of 14.

The 14 criteria/success factors for an effective antenna installation are as follows:

1. Line-of-sight Sebastopol: Line-of-sight into Sebastopol is an essential criterion; Sebastopol is the primary community we intend to serve.
2. Line-of-sight West County: Line-of-sight into West County is important because many rural listeners have expressed concern about losing the signal when KOWS moves the antenna closer to Sebastopol. The KOWS mission is to serve as much of West Sonoma County as possible including towns such as Forestville, Graton, and Occidental.
3. Line-of-sight Santa Rosa Plain: Line-of-sight into the Santa Rosa plain doubles the number of potential listeners by reaching listeners in Santa Rosa, Cotati, Rohnert Park and Windsor and rural areas in between.
4. Hwy 116 and Hwy 12 Reception: People in vehicles tend to listen to broadcast radio while driving. Therefore, it is very important to have the best signal possible along the key West County Highways 116 and 12.
5. 92.5 MHz Allowed: Sites where broadcasting at 92.5 MHz is allowed are preferred to sites limited to 107.3 MHz because 92.5 MHz allows for higher power and allows us to locate the antenna closer to Sebastopol. This is due to FCC short spacing requirements for adjacent frequencies. Higher power at a closer range increases signal strength into the community we intend to serve.
6. Within FCC Allowable Area: Some sites are not located within the FCC allowable area for the specified frequency, or would require a reduction in power due to encroachment into adjacent frequencies. This factor categorically excludes certain sites from consideration.
7. Ease of Working with Host: Municipal and non-profit organizations are preferred over private land owners due to the difficulty in securing a lease with entities that have little familiarity with negotiating leases or contracts. Businesses can have complications due to not owning the land, or because there are multiple decision makers.
8. Long Term Lease Security: Municipalities offer the highest degree of lease security because it is highly unlikely that ownership changes will occur, as they most certainly may with privately held land. Losing a lease would require going through a costly, time-consuming process once again, and could lead to the loss of broadcast capabilities.
9. Construction Cost ≤ \$25K: The estimated cost at the Pleasant Hill site is about \$25,000. The other sites are rated relative to this cost.
10. Availability of Utilities: Electricity and Internet access are required. Some sites do not have electricity nearby, and others do not have high-speed Internet service available or nearby.
11. 24/7 Site Access: Antenna and transmission equipment seldom need servicing, but when they do, immediate access is crucial to resume broadcasting quickly. Privately owned properties and businesses do not provide easy 365/24/7 access, thus are rated lower than publicly owned sites.
12. Ease of Antenna Access: Antennas located in trees are extremely difficult to access, and higher towers are more difficult to access than lower support structures. Support structures over 65 feet in height are designated as “hard” in terms of access in the site selection criteria.
13. Site Security: Sites with security fencing and restricted access are preferred to open, unprotected sites. Theft and vandalism are concerns because important broadcast-related equipment will be located at the antenna site.
14. Visual Impact: Sites in urban areas will have a higher visual impact than in rural sites. Visual impact is minimized by setbacks from the road, surrounding vegetation, and relatively low numbers of nearby residences with a direct view of the tower. High towers in population-dense areas are considered to have more visual impact.

The attached spreadsheets detail the relative ranking of the sites evaluated by the KOWS ARC during its multi-year site search. Of the 15 potential sites evaluated, as well as the current OAEC site, the Pleasant Hill Reservoir site (1281 Pleasant Hill Road) scores 14 of 14 and is by far the most optimal site

that KOWS identified. The lines of sight into Sebastopol, West County, and the Santa Rosa plain from the Pleasant Hill site are excellent, as is the potential coverage of Highways 116 and 12. The 92.5MHz signal in an FCC-allowable area permits a robust signal with extensive reach. Because the property in question is owned by the City of Sebastopol, there is a great advantage of easily working with an experienced lessor and having long-term lease security. Because the site is already zoned as Community Facility, the antenna represents a project consistent with existing zoning requirements. Financially, the \$25K construction cost is realistic for KOWS. The Pleasant Hill site already has electricity and Internet utilities, simplifying antenna construction and operation. The site permits 24/7 access to authorized personnel, with security fencing to prevent intruders. Because the site elevation allows for a 65' support structure, maintenance access to the antenna will be easy. Visual impact at the Pleasant Hill site is minimized by the sizable setback from the road, surrounding vegetation, and the relatively low number of nearby residences that will have a direct view of the tower.

The next highest ranked site, the Sebastopol Police Station, has a score of 11 of 14. However, this site is excluded from consideration because it is not within an FCC-allowable area at any target frequency.

The next viable site is the Sebastopol Fire Station. Since a member of SHARP testified to the viability of this site at the May 3, 2016 City Council Meeting, it is useful to compare and contrast this site with the proposed Pleasant Hill location. The Sebastopol Fire Station scores 10 of 14 on the KOWS evaluation scale. Its line of sight into Sebastopol is comparable to Pleasant Hill, though limited by a lower elevation. The line of sight into West County is significantly degraded compared to the Pleasant Hill site, and coverage of Highways 116 and 12 are somewhat degraded compared to Pleasant Hill. The Longley-Rice analysis for this site also shows that the Pleasant Hill antenna has better reach into the Santa Rosa plain.

When we worked with our FCC-licensed radio engineer to evaluate the Sebastopol Fire Station site, we asked that he provide a rough estimate of a tower structure that would yield comparable population coverage to the Pleasant Hill site. On this basis he estimated it would require a 6-bay antenna centered at 80' for a total tower height of approximately 90' to 100', assuming a signal strength at the maximum allowable 100 watts. It would be possible to lower the tower by 30% and lower the power by 50%, but this would degrade the potential reach into West County, Sebastopol, and the Santa Rosa plain, significantly reducing potential listenership. We did not evaluate if the allowable power at 90' might need to be reduced (thereby limiting coverage) due to the requirement to minimize interference for nearby residents of local adjacent FM stations.

A 90' to 100' tower complicates construction and significantly increases the expense of the project to about three times the cost at Pleasant Hill. The proposed 6-bay antenna at the Sebastopol Fire Station doubles the antenna cost of the 3-bay design proposed for Pleasant Hill. With a tall tower located in a dense population area in the middle of Sebastopol, we rated it as a "significant" visual impact. Access to the antenna on a 90' tower is rated as "hard" in the site search criteria. Another construction complication is that at heights above 80' it may not be feasible to install a freestanding tower, and guy wires might be required. If these construction factors are mitigated at the Fire Station site by designing a lower tower at lower power, the number of potential listeners will be reduced. The lower elevation will further degrade line of sight into Sebastopol, West County, and the Santa Rosa plain.

Even if we agree on the feasibility of a 90' tower at the Fire Station site, the relative elevations of the two sites provide clarity. According to USGS topographical maps, the elevation of the Pleasant Hill site is about 310' above sea level; the elevation of the Fire Station site, roughly 100' above sea level. A multi-bay antenna centered at 360' above sea level provides superior coverage to *all* of West County compared to an antenna centered at 180' above sea level. Based on all considerations, the Pleasant Hill reservoir site remains the optimal antenna site evaluated by the KOWS ARC.

Given the Appellant's claims about the supposed viability of the Respini property for the KOWS antenna, it is useful to note this site scores a low 4 of 14 in the selection criteria. Line-of-sight considerations alone make it a poor choice for a Sebastopol-receptive community radio station. Private ownership, lack of security, difficult site and antenna access all contribute to a low rating. This site was considered as a possibility when negotiations for a lease fell through for one of the Cherry Ridge sites, and before KOWS consulted with the City of Sebastopol on the possibility of City-owned sites. At that time, the KOWS Steering Committee considered Respini as a "next best" alternative. With continuing analysis of many other potential sites by the KOWS ARC, and refining our criteria for an ideal site, the Respini alternative no longer was under consideration.

It is worthwhile to include the opportunity offered by the Pleasant Hill antenna site to reach potential listeners in the Santa Rosa plain. The most recent Longely-Rice analyses done for our proposed antenna design show estimates of 50K potential listeners, based on signal strength and population density in the Sonoma County area surrounding the proposed antenna. A key assumption that limits this number is the presence of the Santa Rosa based Redwood Justice Fund KZCM-LP FM station licensed to operate at 92.3MHz FM from downtown Santa Rosa. FCC interference requirements basically exclude listeners in locations in which the signal strength from KOWS at 92.5MHz and KZCM at 92.3MHz might interfere with each other. At such locations, KOWS reception might not be reliable. However, KZCM-LP is not currently in operation and does not yet have an approved antenna location designated.

Thus, there is a sizeable advantage to acting now: With an antenna at the Pleasant Hill site, KOWS will have a strong signal into Santa Rosa with a potential listenership of well over 100K. By taking immediate action and leveraging the first-mover advantage, Sebastopol-based KOWS community radio will establish strong service into Santa Rosa, and have the opportunity to further designate and brand Sebastopol as a Sonoma County center for creativity and culture. Extended outreach will not only promote the city, but also provide wider recognition of local businesses and other community-based underwriters that support KOWS Community Radio. This type of outreach and recognition will undoubtedly provide a net-positive, ongoing economic and municipal benefit for the City of Sebastopol.

# KOWS Site Search Comparison

Site Criteria Comparison	Total Rating	Line-of-sight Sebastopol <sup>1</sup>	Line-of-sight West County <sup>2</sup>	Line-of-sight SR Plain <sup>3</sup>	Hwy 116 & Hwy 12 Reception <sup>4</sup>	92.5 MHz Allowed <sup>5</sup>	Within FCC Allowable Area <sup>6</sup>	Ease of Working With Host <sup>7</sup>	Long Term Lease Security <sup>8</sup>	Construction Cost ≤ \$25k <sup>9</sup>	Availabilities of Utilities <sup>10</sup>	24/7 Site Access <sup>11</sup>	Ease of Antenna Access <sup>12</sup>	Site Security <sup>13</sup>	Visual Impact <sup>14</sup>
1 Pleasant Hill Water Tanks	14	100%	100%	100%	excellent	92.5	in	city-utility	yes	25k	yes	yes	easy	highest	minor
2 Sebastopol Police Station	11 <sup>15</sup>	85%	0%	100%	good	92.5	out	city	yes	10k	yes	yes	hard	high	none
3 Sebastopol Fire Station	10	75%	0%	75%	fair	92.5	in	city	yes	75k	yes	yes	hard	moderate	significant
4 Druids Cemetery	7	0%	100%	25%	poor	107.3	in	non-profit	yes	25k	no	yes	hard	low	minor
5 Burbank Heights & Orchard	7	50%	50%	75%	fair	92.5	in	private corp	yes	50k	yes	no	hard	moderate	significant
6 Aubergine	6	75%	0%	100%	good	92.5	in	business	no	50k	yes	no	extreme	low	significant
7 Peaks Pike	6	0%	100%	50%	poor	107.3	out	business	yes	50k	yes	yes	easy	low	minor
8 Vinegar Ridge	6	0%	100%	50%	poor	107.3	in	private	no	15k	yes	no	extreme	moderate	minor
9 O.A.E.C.	6	0%	25%	25%	poor	107.3	out	non-profit	no	0	yes	yes	extreme	moderate	none
10 Cherry Ridge-1	6	25%	75%	50%	fair	107.3	out	private	no	30k	yes	no	easy	moderate	minor
11 Cherry Ridge-2	6	25%	75%	50%	fair	107.3	out	private	no	30k	yes	no	easy	moderate	minor
12 Miramar Vineyards	5	0%	100%	50%	poor	107.3	in	business	no	30k	no	yes	easy	low	minor
13 Facendini Lane	5	0%	100%	25%	poor	107.3	in	private	no	30k	yes	no	easy	low	minor
14 Fitzpatrick Lane	5	0%	100%	25%	poor	107.3	out	private	no	25k	yes	no	extreme	moderate	minor
15 Respini Ranch	4	0%	100%	50%	poor	107.3	in	private	no	15k	no	no	extreme	low	minor
16 Dusty Lane	4	0%	50%	25%	poor	107.3	out	business	no	30k	no	yes	easy	moderate	none

## Footnotes:

**Green = acceptable**  
**Red = unacceptable**

- Line-of-sight into Sebastopol is an essential criterion. Sebastopol is the primary community we intend to serve. Previous sites became undesirable upon discovering that a frequency change was possible that would allow us to locate closer to Sebastopol. The Pleasant Hill site is by far the best site of all for maximizing signal penetration into Sebastopol.
- Line-of-sight into West County is important because many rural listeners have expressed disappointment about losing the signal when we move the antenna closer to Sebastopol. Of all the sites presented the Pleasant Hill site offers the best reception in both central Sebastopol and West County, making it the best site.
- Line-of-sight into the Santa Rosa plane doubles the number of potential listeners by reaching listeners in Santa Rosa, Cotati, Rohnert Park and Windsor and rural areas in between.
- People in vehicles tend to listen to broadcast radio while driving. Therefore, it is very important to have the best signal possible along Highways 116 and 12. The Pleasant Hill site provides far superior coverage along these major local highway routes than any other site.
- Sites where broadcasting at 92.5 MHz is allowed are preferred to site limited to 107.3 MHz because 92.5 MHz allows for higher power and allows us to locate the antenna closer to Sebastopol. Higher power at a closer range increases signal strength into the community we are trying to serve.
- Some sites are not located within the FCC allowable area for the specified frequency, or would require a reduction in power due to encroachment into adjacent frequencies.
- Municipal and non-profit organizations are preferred over private land owners because of the difficulty securing a lease with entities that have little familiarity with negotiating leases or contracts. Businesses can have complications due to not owning the land, or multiple decision-makers. The Pleasant Hill property has the additional benefit of being zoned for utilities.
- Municipalities offer the highest degree of lease security because it is highly unlikely that ownership changes will occur, as they most certainly will with privately held land. Losing a lease would require going through this costly, time consuming process all over again, and could lead to the loss of broadcast capabilities.
- The estimated cost at the Pleasant Hill site is about \$25,000. The other sites are rated relative to this cost.
- Electricity and internet access are required. Some sites do not have electricity nearby. Some sites do not have high speed internet service available or nearby.
- The antenna seldomly needs servicing. But, when it does, immediate access is necessary to get back on the air quickly. Private residences and businesses do not allow for easy 365/24/7 access, as required. The Pleasant Hill site is the only site that offers anytime access without coordinating with the property owner.
- Antennas located in trees are extremely difficult to access. Higher towers are harder to access than lower towers. Towers over 65 feet in height are designated 'hard'.
- Pleasant Hill is the only site with security fencing. All other sites allow access by intruders and are less secure, even though some are on private property. Theft and vandalism are concerns.
- Sites in urban areas will have a higher visual impact on more people than rural sites. Visual impact at the preferred Pleasant Hill site is minimized by the sizable setback from the road, surrounding vegetation, and relatively low number of nearby residences that will have a direct view of the tower. Towers at other sites would need to be higher and more powerful to achieve the same level of performance as the Pleasant Hill site and thus generally have a higher visual impact. (See KOWS Antenna Data table for heights and power information).
- The Sebastopol police station has a rating of 11, but is precluded from consideration because it is not in our allowable transmitter area.

# KOWS Antenna Data for Specific Sites

Antenna Comparison	Type of Mounting Structure	Max Height Above Ground <sup>1</sup>	Transmitter Power (watts) <sup>2</sup>	Reasons Sites are Inferior to Pleasant Hill Water Tanks <sup>3</sup>
1 Pleasant Hill Water Tanks	tower	65	30	This is the only site that meets all the criteria
2 Sebastopol Police Station	ex. tower	80	100	Out of allowable area and cannot be considered
3 Sebastopol Fire Station	tower	90	100	Significantly higher cost, 90' tower with 6 bays, greater visual impact for more people, no West County line-of-sight
4 Druids Cemetery	tree	80	5	107.3 frequency does not reach into Sebastopol, lower allowable power
5 Burbank Heights & Orchard	tower	80	100	Higher cost, no 24/7 access, higher visual impact in more densely populated area, no West County coverage
6 Aubergine	tower	100	100	Higher cost, no West County coverage, business property, 100' tower & 100 watts needed, high visual impact
7 Peaks Pike	tower	60	3	107.3 frequency does not reach into Sebastopol, lower allowable power
8 Vinegar Ridge	tree	80	12	107.3 frequency does not reach into Sebastopol, lower allowable power
9 O.A.E.C.	ex. tree	65	3	107.3 frequency does not reach into Sebastopol, lower allowable power
10 Cherry Ridge-1	tower	60	20	107.3 frequency does not reach into Sebastopol, lower allowable power
11 Cherry Ridge-2	tower	60	20	107.3 frequency does not reach into Sebastopol, lower allowable power
12 Miramar Vineyards	tower	60	3	107.3 frequency does not reach into Sebastopol, lower allowable power
13 Facendini Lane	tower	60	5	107.3 frequency does not reach into Sebastopol, lower allowable power
14 Fitzpatrick Lane	tree	60	3	107.3 frequency does not reach into Sebastopol, lower allowable power
15 Respini Ranch	tree	80	15	107.3 frequency does not reach into Sebastopol, lower allowable power
16 Dusty Lane	tower	60	20	107.3 frequency does not reach into Sebastopol, lower allowable power

## Footnotes:

<sup>1</sup> Obtained from Longley-Rice studies.

<sup>2</sup> Obtained from Longley-Rice studies and estimates based on similar sites. Power listed is the power needed to produce coverage comparable to the Pleasant Hill site. In some cases power is limited by elevation.

<sup>3</sup> The 107.3 allowable area does not include any sites that have a direct line-of-sight into the town of Sebastopol, whereas 92.5 sites allow for excellent Sebastopol and Santa Rosa plain coverage, which is the primary goal of the antenna move. Therefore, once we became aware of the 92.5 option we categorically rejected all 107.3 sites because of their inferiority. Of the four remaining sites the Pleasant Hill Water Tanks site is superior because it provides the greatest penetration into our target area, best coverage to the west, and extended coverage into the Santa Rosa plain and main traffic corridors of Highways 116 & 12. It also requires a smaller tower, fewer antenna bays, and lower power than the other 92.5 sites. In short, the Pleasant Hill site costs less, reaches more people, requires a much lower tower with fewer bays, impacts the fewest neighbors and has the greatest security and accessibility, and offers superior lease stability. No other site comes close.

**Green = acceptable**

**Red = unacceptable**

## Attachment A: OAEC/Sowing Circle LLC letter to City of Sebastopol



15290 COLEMAN VALLEY RD., OCCIDENTAL, CA 95465  
(707) 874-1557 + OAEC@OAEC.ORG  
WWW.OAEC.ORG

May 17, 2016

To: The Members of the Sebastopol City Council  
Re: The KOWS antenna on the OAEC site

Dear Sebastopol City Council,

I am a partner in and resident of the Sowing Circle LLC Intentional Community that owns the 80-acre parcel at 15290 Coleman Valley Road 1/5 mile west Occidental. The Sowing Circle LLC leases most of the land to the Occidental Arts and Ecology Center, for which I serve as Executive Director.

I write to clarify an issue I understand has come before you regarding a request made by the Sowing Circle LLC and the Occidental Arts and Ecology Center that KOWS move the antenna that we have hosted at the OAEC site since KOW's inception. For background, OAEC created KOWS as a project of OAEC – we applied for and secured the license, and we facilitated the building of what has become a wonderful community radio project with, over the years, hundreds of volunteer programmers and committee members.

Several years ago, KOWS and OAEC together agreed that KOWS would be better served under its own 501(c)3 non-profit status, and we together began the long process to move the KOWS radio project from OAEC's fiscal sponsorship to the independent KOWS entity.

As part of the move from being a project of OAEC to being an independent organization, OAEC and the Sowing Circle LLC very specifically required KOWS to move its antenna from the OAEC site to a new site. While moving the antenna is to the benefit of the community KOWS serves (by reaching a much larger listening audience than was delivered when broadcasted from OAEC's fir tree), OAEC and Sowing Circle – with KOWS engaged agreement – have been very clear that the antenna needs to be moved from our site. This is not due to any criticism we had of KOWS or their management of the antenna, but rather to our own internal planning about what projects we can and should host on our land.

And to be further clear, we love KOWS. We have been a partner, supporter and admirer of the remarkable community that KOWS has become – and the public service it provides – since its founding.

You are very welcome to contact me with any questions. Thank you, Sebastopol City Council, for always striving for inclusion, participation, and robust democracy in your super fine city!. Good luck with your deliberations on this.

My best,

A handwritten signature in cursive script that reads "Dave Henson".

Dave Henson

Executive Director, OAEC • [dhenson@oaec.org](mailto:dhenson@oaec.org) • (707) 874-1557 x104

**KOWS Community Radio Response to Appeal  
Administrative Approval of KOWS 35' Antenna Proposal**

**Attachment E**

**Letter to Neighbors**



E. SHARP response to the September 29, 2016 KOWS letter

**SHARP RESPONSE TO THE SEPTEMBER 29, 2016 KOWS LETTER REGARDING SHARP'S APPEAL OF THE  
KOWS TELECOMMUNICATION FACILITY AT 1281 PLEASANT HILL ROAD**

Date: October 4, 2016

This response from the SHARP neighborhood organization is intended to correct inaccurate information provided to the City of Sebastopol by KOWS radio in its September 29, 2016 response letter, regarding the appeal of the KOWS commercial telecommunication facility at 1281 Pleasant Hill Road. Much of the information provided by KOWS in its September 29, 2016 letter response to the appeal is incorrect or exaggerated and requires a detailed response. SHARP utilizes the same format that KOWS utilized in its September 29 letter response for ease of review.

Claims #1 through #8: The Administrative Approval by the Planning Director has been proven inappropriate and inconsistent with the Sebastopol Zoning Ordinance based on the information contained in the original application by KOWS, the KOWS September 29, 2016 response letter, and the conditions in the zoning ordinance which must be met for a Minor Telecommunication Facility, as discussed below:

- a. The Planning Director failed to apply the zoning requirements in section 17.100.240 of the Zoning Ordinance related to a Minor Telecommunication Facility (this zoning section is not mentioned in his Findings report) when he approved the KOWS application, and he did not review the KOWS application materials sufficiently to determine the aspects of the application that failed to meet the requirements for a Minor Telecommunication Facility. The Planning Director instead referred to section 17.100.030 which addresses six different types of ground mounted or building mounted antennas, which are primarily home and hobby antennas unrelated to the KOWS commercial telecommunication facility, which facility includes a tower structure, antennas, an equipment building, special equipment, and 300 feet of trenching.
- b. The KOWS telecommunication facility is not an accessory to water storage as required in 17.100.240 condition B and therefore the KOWS project cannot be a Minor Telecommunication Facility. It is self-evident that a private entertainment based radio station and its antenna tower telecommunication facility have nothing to do with water storage and are not an accessory to water storage, the city's water utility, or any utility. At a minimum, in order for a service to be considered a utility, a large majority of city residents must require the service and it must be deemed a critical service. The KOWS entertainment radio programming does not satisfy these minimum requirements for a utility and legal cases support that interpretation.
- c. KOWS admits in its September 29, 2016 response letter that its original submittal application included a telecommunication facility that was in excess of 35 feet and therefore it did not meet 17.100.240 condition C for a Minor Telecommunication Facility when the Planning Director approved the project. KOWS claims in its response letter that they are now willing to lower the tower height to comply with the zoning requirements. The application as submitted by KOWS and approved by the Planning Director does not comply with 17.100.240 condition C. No drawings have been submitted by KOWS showing the modifications they propose along with approvals for such modifications by the Tylon Corporation that manufactures the proposed tower and provides stamped engineering drawings for their towers.

OCT 04 2016  


d. KOWS admits in its September 29, 2016 response letter that the original application did not comply with 17.100.240 condition F when the Planning Director approved the application. Condition F requires NIER emissions on the tower site to be less than 20 microwatts/sq. cm., while the KOWS NIER report submitted with the application showed maximum NIER emissions of 54 microwatts/sq. cm. for the KOWS telecommunication facility. KOWS requested a new Prometheus NIER report to try to determine if the NIER emissions from the KOWS telecommunication facility could be determined to be below the required zoning limit of 20 microwatts/sq. cm. The updated KOWS NIER report by Prometheus purports to have achieved that, although Prometheus states in the new report that their NIER modelling programs do not include or reflect the type of antenna that KOWS has specified for the reservoir site and Prometheus instead used another antenna in its analysis. It should be noted that Low Power FM stations, like KOWS, are allowed up to 100 watts of power by the FCC and that is why the original Prometheus report used 100 watts in its NIER emissions modeling. KOWS may increase its power to 100 watts at any time without notice to the public, so long as its broadcasting does not interfere with other stations as determined by the FCC. EMF safety and prudence dictates that NIER emissions modelling should continue to use 100 watts of power for the KOWS telecommunication facility, as Prometheus has assumed in all previous NIER reports, given the possibility and likelihood of future increases in broadcasting power by KOWS whenever broadcasting conditions allow it. The KOWS NIER emissions fail condition F with 100 watts of power as shown in the Prometheus NIER report submitted with the application and it is still highly uncertain whether the currently proposed KOWS telecommunication facility emits less than 20 microwatts/sq. cm. as required in 17.100.240 condition F, given that the Prometheus computer modeling does not include the antenna specified by KOWS. An analysis by an independent NIER expert seems warranted given the nature of the estimates in the Prometheus NIER reports, the close relationship between Prometheus and KOWS, and the Prometheus mission to help small radio stations at reduced expense.

e. The KOWS telecommunication facility does not meet the intended spirit of 17.100.240 condition G since the KOWS telecommunication facility will be 55 feet away from a future home on the adjacent lot, and not 75 feet or more as required in condition G. While it is true that a home does not currently exist on the adjacent lot, it seems short-sighted to approve a telecommunication facility 55 feet away from a future home when the telecommunication facility immediately fails condition G upon the construction of the home. The Sebastopol General Plan states as a key goal to protect neighboring residential uses from the effects of adjacent non-residential uses. Approving a telecommunication facility 55 feet from a future home does not meet General Plan goals or the spirit of the Zoning Ordinance.

f. The City Council's May 31, 2016 requirement that an EIR be completed for the KOWS telecommunication facility at the reservoir site negated and over-ruled all previous observations by the Planning Commission or the Planning Director that the KOWS telecommunication facility was Categorically Exempt from CEQA. The Planning Director himself determined the scope of study for the EIR and he determined that visual impacts, biological impacts and compliance with city and county zoning required independent analysis in the EIR. All three of those impacts remain for the revised KOWS tower structure, in addition to increased safety concerns due to much higher NIER emissions that result from lowering the mounting height of the antenna. Alternative sites, effective mitigation measures and cumulative impacts would also have been independently analyzed in an EIR. The requirement of numerous mitigation measures by the Planning Department for the KOWS telecommunication facility is

a key factor that disqualifies the KOWS telecommunication facility from being exempt from CEQA, and this is supported by California legal rulings. Additionally, the most effective mitigation measures have not been proposed by KOWS or the Planning Director, such as fast growing screen trees planted at the perimeter of the reservoir site or disguising the antenna tower as a tree, which is now standard procedure for antenna towers in Sonoma County.

g. A landscaping plan is required with an application under 17.100.180 and none was provided by KOWS. The Planning Director approved the application without it. The neighboring homes and home sites, at a minimum, require irrigated screening trees along all property lines to “satisfactorily screen the facility from adjacent land uses”, as required. Zoning section 17.100.220 requires that “facility structures and equipment shall be located, designed and screened to blend with the existing natural surroundings so as to reduce visual impacts to the extent feasible.” Zoning section 17.100.220 requires the facility to “include all feasible mitigation measures”.

Claim #9: The KOWS response letter erroneously states that SHARP is being disingenuous in invoking biological considerations. The Planning Director required independent study of biological impacts in the EIR required by the City Council and a change of tower height does not reduce the potential biological impacts.

Claim # 10: It is clearly observable throughout California that the approval and erection of an antenna tower can lead to the co-location of other antennas on the tower, regardless of a tower’s size and strength, both of which can easily be modified by firms that exist solely for that purpose. Most California cities require co-location of antennas on existing towers, just as Sebastopol does. Staff reports throughout California regularly use the existence of one antenna tower on a site to justify the approval of other antenna towers on the same site, reasoning that a site has already been compromised by the first antenna tower and additional towers will result in minimal additional impact. Our neighborhood adamantly opposes the approval and erection of a first antenna tower at the reservoir site and we are compelled to utilize all legally available measures to protect our families and homes from such an event.

Claim #11: It is a scientific fact that lowering the height of an FM antenna on a tower increases the NIER emissions at ground level. The two KOWS Prometheus NIER reports confirm this fact. The maximum NIER emissions from the original 70 foot KOWS tower, with a maximum LPFM (Low Power FM station) 100 watts of power, was determined to be 16 microwatts/sq. cm in the original Prometheus analysis. The maximum NIER emissions from the 35 to 36 foot KOWS tower presented in the KOWS application, with an identical maximum LPFM 100 watts of power, was determined to be 54 microwatts/sq. cm., or 3.4 times the NIER emissions at ground level.

Claim #12: The visual and health impacts from industrial EMF emitting radio antenna towers can hardly be compared to the homes where we all live and the trees we all enjoy viewing, as KOWS has proposed in its September 29 response letter. 35-36 foot industrial structures can be EMF emitting metal grid antenna towers, smoke stacks, oil rigs and other undesirable industrial elements which no one would equate to homes and trees nor do neighborhoods want these industrial structures near their homes and families. SHARP has requested several times in writing over the last year that the City of Sebastopol require KOWS to erect an accurate on-site model of its various antenna towers at the reservoir site to avoid the continued finger pointing between SHARP and KOWS regarding the accuracy of the simulation

photos provided by each party. No effort has been made by KOWS to erect an accurate tower model on-site to resolve the visual impact issues. SHARP prepared accurate simulation photos of the KOWS tower using a helium balloon raised to the tower height with a scaled flag line to determine the proper width and height of an antenna tower from various perspectives. Pictures were taken of the raised helium balloon from various locations using an Apple iPhone camera and these pictures were digitally scanned into a photo program to allow the helium balloon to be replaced in the pictures with a properly scaled KOWS antenna tower simulation.

Claim #13: Loss of property value resulting from an antenna tower is a proven fact based on several international and U.S. research studies by Sandy Bond PHD, a noted international real estate expert. This was confirmed locally in a valuation study prepared by Sonoma County appraisal expert, Chris Blakeslee, which was included in the SHARP appeal document. Mr. Blakeslee provided an unbiased and independent valuation report which determined a likely \$337,000 loss of value for the three closest adjacent lots, resulting from a 35-36 foot KOWS antenna tower being erected at the reservoir site. His valuation report is based solely on his own research and over 30 years of appraisal experience in Sonoma County.

Claim #14: KOWS did not provide any new site information or co-location information regarding alternative site and co-location options for a 35 to 36 foot antenna tower with its reduced broadcast coverage, as is required in zoning section 17.100.150. KOWS and the Planning Director relied on the previous list of alternative site locations submitted to the City Council by KOWS, which was based on a 65-70 foot antenna tower with a much expanded broadcast coverage. The alternative site list provided by KOWS to the City Council was proven to be an unreliable evaluation profile of alternative sites due to contradictory information provided by KOWS in its own monthly Steering Committee notes posted online and by its publicly available marketing materials. KOWS ranked several alternative sites in west Sebastopol very highly in its Steering Committee notes and in its marketing materials and ranked those same sites as unacceptable in its alternative site list provided to the City Council.

Claim #15: The transcript of the February 23, 2016 Planning Commission meeting confirms that KOWS leaders misled the Planning Commission based on the transcript quotes from the meeting and the response by Commissioners. The exact comments by KOWS leaders and the Commissioners' reaction to those comments are readily available on the DVD of the Planning Commission meeting provided by the City Clerk.

Claim #16: It is clear that KOWS wishes to leave its current base in the Occidental area due to insufficient support by residents and businesses in an area where the KOWS broadcast signal is strong. Moving the KOWS antenna to the Sebastopol area will lead to very poor broadcast coverage in the Occidental area and KOWS seems willing to sacrifice its current Occidental audience by moving its antenna to Sebastopol. KOWS claims that a stronger broadcast signal in the Sebastopol area is necessary and will lead to more support from Sebastopol residents and businesses; however, there is no verifiable information that supports that claim. The lack of financial support for KOWS in the Occidental area where the broadcast signal is strong, in fact indicates that a strong broadcast signal does not lead to more local support, and is likely to lead to a similar result in the Sebastopol area. KOWS relies on anecdotal statements by a few listeners and its own program hosts to support the claim that a new antenna tower in Sebastopol is necessary or will improve financial support. No research has been

conducted in the Sebastopol area to support those claims or to determine the actual number of listeners that KOWS currently has. Therefore, no verifiable information supports the need for or the benefit from a new KOWS antenna tower at the Pleasant Hill reservoir site.

Claim #17: The assault on a SHARP member by KOWS program host and leader Robert Feuer during the May 31 City Council meeting, and his subsequent arrest, is a matter of public record. KOWS claims to have 100 program hosts and the KOWS Steering Committee notes confirm that very limited oversight or control is provided by KOWS over program hosts.

Claim #18: SHARP has provided accurate and verifiable information to the City of Sebastopol throughout the KOWS antenna tower process. SHARP's statements and information are primarily sourced from statements and information provided by KOWS leaders in application submittals and public hearings, as well as from Steering Committee notes and marketing materials posted by KOWS on-line. Any misrepresentations or exaggerations claimed by KOWS result from misrepresentations and exaggerations provided by the KOWS leaders in its published materials and submittals.

Summary: The KOWS 35 to 36 foot telecommunication facility does not meet the zoning requirements for a Minor Telecommunication Facility. The project is a Major Telecommunication Facility requiring a Use Permit. A Use Permit process is already underway for the KOWS telecommunication facility and an EIR is required for it. Independent expert research and analysis is required to fairly determine the impacts from a KOWS telecommunication facility and to independently substantiate claims. The City Council agreed and required that an EIR be prepared. The only research and analysis that will eliminate mistrust and potentially biased results is research and analysis by independent experts that are not hired by the applicant or the appellant. Lack of funds by an applicant does not justify incomplete analysis, rushed decision making or approval of projects that do not meet the requirements and goals of the Sebastopol General Plan and Zoning Ordinance.

F. October 5, 2016 letter from attorneys Shute, Mihaly and Weinberger

SHUTE, MIHALY  
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October 5, 2016

*Via E-Mail and U.S. Mail*

Sebastopol Planning Commission  
c/o Sebastopol Planning Department  
7120 Bodega Ave.  
Sebastopol, CA 95472

Re: Appeal of Approval of Application 2016-65

Dear Commissioners:

Our firm represents The Sebastopol Hills Alliance for Rural Preservation (“SHARP”) with regard to the proposed telecommunications facility on property owned by the City of Sebastopol at 1281 Pleasant Hill Road (“Project”). The latest version of this Project will extend more than 35 feet above ground level and will adversely impact the surrounding area by interfering with scenic views, exposing neighboring homes to dangerous radiation, and attracting additional antennas to the site in the future, among other harms. Our June 8, 2016 letter to the Planning Director commended the City for recognizing the need for an Environmental Impact Report (“EIR”) for this Project that analyzes its numerous potentially significant environmental impacts. Nonetheless, the Planning Director acted directly against the City’s direction and contrary to the City’s own municipal code by issuing an administrative approval for the Project on August 22, 2016 (“Approval”) and preparing no environmental review.

As detailed below, SHARP has appealed the Planning Director’s Approval of the Project because it violates Sebastopol’s land use rules and the California Environmental Quality Act (“CEQA”).<sup>1</sup> SHARP believes that the same bias favoring KOWS that permeated earlier staff reports also drove the recent approval. The Planning Director did not provide a fair and impartial perspective, nor an accurate analysis, of the Project’s relevant impacts. For example, KOWS misrepresented the potential for

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<sup>1</sup> Pub. Resources Code § 21000 et seq.; see also California Code of Regulations, title 14 § 15000 et seq. (“CEQA Guidelines”).

alternative sites and the size and impacts of the proposed facility, and the Planning Director accepted these representations at face value. The Planning Director's failure to engage in a meaningful review of KOWS's claims resulted in an inadequate assessment of the Project's impacts and will permanently harm the surrounding community if the Planning Commission does not rescind the Approval.

**I. The Project Violates Numerous Provisions of Sebastopol's Zoning Code.**

The Planning Director appears to claim the Project qualifies for administrative approval as a "minor telecommunications facility" and a "minor antenna."<sup>2</sup> However, the Approval completely neglects Zoning Code section 17.100.240, which outlines the requirements for minor telecommunications facilities, and section 17.08.114, which defines "minor antenna." If the Planning Director had considered these sections, as well as the other relevant Zoning Code provisions that protect the community from the potentially harmful effects of telecommunications facilities, the Planning Director would have determined the Project is a major telecommunications facility that does not qualify for administrative approval. Indeed, even if the Project were a minor telecommunications facility or minor antenna, the Approval was required to consider other key Zoning Code provisions governing visual impacts, environmental impacts, and location of telecommunications facilities. The Approval addressed none of these factors. Thus, the Approval violates the Zoning Code and must be reversed.

**A. The Project Is a Major Telecommunications Facility.**

The Planning Director made a critical preliminary error in deeming the Project subject to administrative approval as a "minor telecommunications facility" or "minor antenna" without considering the requirements for these classifications.<sup>3</sup> The proposed Project site is in the CF District,<sup>4</sup> which allows certain telecommunications

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<sup>2</sup> City of Sebastopol Notice of Permit Approval (Aug. 22, 2016) ("Notice of Approval"); *see also* Letter from Kenyon Webster, City of Sebastopol Planning Director, to Arnold Levine, Board Chair, KOWS Community Radio re: Administrative Antenna Application 2016-65 (Aug. 22, 2016) ("Approval") at 6 ("Approval is granted for the Administrative Antenna Permit for a minor telecommunications facility . . .").

<sup>3</sup> Approval at 3-4; Notice of Approval.

<sup>4</sup> Approval at 3-4.

facilities and antennas as permitted uses, but requires conditional use permits for others.<sup>5</sup> Specifically, the CF District permits:

Minor telecommunications facilities and commercial minor antennas, not exceeding 35 feet in height, *provided the requirements of SMC 17.100.010 through 17.100.240 are met . . .*<sup>6</sup>

In other words, the Planning Director may only administratively approve telecommunications facilities that comply with all relevant provisions of Zoning Code chapter 17.100.

Chapter 17.100 “provide[s] a uniform and comprehensive set of standards for the development of telecommunications facilities and installation of minor antennas,” to promote and protect public health, safety, and community welfare.<sup>7</sup> The chapter is specifically intended to “[p]rotect the visual character of the City from the potential adverse effects of telecommunications facility development and minor antenna installation”; “[p]rotect the inhabitants of the City from the possible adverse health effects associated with exposure to high levels of NIER (nonionizing electromagnetic radiation)”; and “[p]rotect the environmental resources of the City.”<sup>8</sup> The chapter draws distinctions based on size and type of telecommunications facility, thereby balancing the City’s desire to simplify and shorten the permitting process with its interest in “protecting the legitimate interests of the City’s citizens.”<sup>9</sup>

As explained in more detail below, the Planning Director failed to consider the relevant sections of this chapter and related definitions. Indeed, the Approval findings even omit the key portion of the CF District rule above: *provided the requirements of SMC 17.100.010 through 17.100.240 are met.*<sup>10</sup> The Notice of Approval deems the

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<sup>5</sup> Sebastopol Municipal Code (“SMC”) §§ 17.76.020 (permitted uses), 17.76.030 (conditionally permitted uses).

<sup>6</sup> SMC § 17.76.020(F) (emphasis added).

<sup>7</sup> SMC § 17.100.010.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *See* Approval at 3 (Finding 6 states: “CF District ‘Permitted Facilities[’] Section 17.76.020 F lists ‘Minor telecommunication facilities and commercial minor antennas, not exceeding 35 feet in height . . .’ as permitted uses, subject to review by the Planning Director.” (omission in original)).

Project a “minor telecommunications facility,” but the Approval fails to discuss section 17.100.240, which outlines the requirements for a minor telecommunications facility, or section 17.08.121, which defines various types of telecommunications facilities. Instead, the Approval cites only section 17.100.030, which addresses the requirements for minor antennas, without acknowledging this Project falls in none of the categories for a “minor antenna” defined in section 17.08.114. The result is an indefensible approval of a project that requires significantly more review. This improper decision to shorten the permitting process, at the expense of the community’s “legitimate interests,” cannot stand.<sup>11</sup>

1. *The Project’s Height Alone Makes it a Major Telecommunications Facility.*

Zoning Code section 17.08.121 defines “telecommunications facility” and various subcategories. In general, a “telecommunications facility” may include “antennas . . . and other types of equipment for the transmission or receipt of [electromagnetic] signals, telecommunications towers or similar structures supporting said equipment, equipment buildings, . . . and other accessory development.”<sup>12</sup> “Major” telecommunications facilities are “35 to 100 feet in height and . . . adhere to SMC 17.100.010 to 17.100.230.”<sup>13</sup> In contrast, “minor” telecommunications facilities are “no greater than 35 feet in height and . . . adhere to SMC 17.100.010 through 17.100.240.”<sup>14</sup> If a facility does not meet the criteria for a “minor” telecommunications facility, “then it is considered a ‘major’ telecommunications facility.”<sup>15</sup>

Contrary to claims in KOWS’s application and the Approval, the telecommunications facility the Planning Director approved would exceed 35 feet, so it is a major telecommunications facility.<sup>16</sup> The height of a telecommunications facility is measured “from the natural undisturbed ground surface below the center of the base of [the] tower to the top of the tower itself or, if higher, to the tip of the highest antenna or piece of equipment attached thereto.”<sup>17</sup> While the proposed tower itself would be 35 feet

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<sup>11</sup> SMC § 17.100.010.

<sup>12</sup> SMC § 17.08.121.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> SMC §§ 17.08.121, 17.100.240(C).

<sup>16</sup> SMC § 17.08.121.

<sup>17</sup> SMC § 17.100.140; *see also* SMC § 17.100.030(L) (“The height of the facility shall include the height of any structure upon which it is placed”).

tall, it would be placed on a concrete foundation that extends 1 foot above grade,<sup>18</sup> for a total of 36 feet above “the natural undisturbed ground surface.”<sup>19</sup> The antenna will also be mounted on the top section of the tower,<sup>20</sup> and it is unclear from the application whether the antenna may extend above the tower. Because the facility will be greater than 35 feet in height, it is a major telecommunications facility requiring a use permit.<sup>21</sup>

2. *The Project Is Not a Minor Antenna.*

Height aside, the Approval erroneously relies on Zoning Code section 17.100.030, which identifies the basic requirements for minor antennas. The Planning Director found that “[t]he proposed antenna qualifies for classification as a ‘minor antenna’ in that . . . it conforms to the provisions of Municipal Code Section 17.100.030.”<sup>22</sup> Not only is the Project outside the scope of this section, the Project also fails to meet its requirements. If a commercial antenna sited in the CF District does not meet *all* the requirements of section 17.100.030, it requires a use permit and is not subject to administrative approval.<sup>23</sup> That is the case here.

Section 17.100.030 applies only to “[m]inor antennas as defined in SMC 17.08.114.”<sup>24</sup> Section 17.08.114 defines “minor antenna” as any of the following:

1. A ground- or building-mounted receive-only radio or television antenna including any mast;

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<sup>18</sup> KOWS Antenna Use Permit Application (Aug. 15, 2016) (“Application”), Project Description at 2, Attachment B at 4 (Drawing No. 618.0606).

<sup>19</sup> SMC § 17.100.140.

<sup>20</sup> Application, Project Description at 2.

<sup>21</sup> SMC §§ 17.08.121, 17.100.240(C); *see also* SMC § 17.100.030(L). KOWS’s proposal in response to SHARP’s appeal confirms that the Planning Director approved a facility that exceeds 35 feet. KOWS now claims it is prepared to change the Project, yet again, by setting the center pole for a 35-foot height, to adjust for the 1-foot foundation. KOWS Response to Appeal (Sept. 29, 2016) (“KOWS Response”) at 3. However, the facility’s total height, including the antenna, is still not clear. KOWS’s response includes only a single depiction of the antenna actually mounted on the tower, and that depiction shows the antenna rising above the tower. *See id.*, Attachment B at 5.

<sup>22</sup> Approval at 4.

<sup>23</sup> SMC §§ 17.76.020(F); 17.76.030(B), (C), (D).

<sup>24</sup> SMC § 17.100.030.

2. A ground- or building-mounted citizens band radio antenna including any mast;
3. A single ground- or building-mounted whip (omni) antenna without a reflector less than four inches in diameter whose total height includes any mast to which it is attached;
4. A ground- or building-mounted panel antenna with a face area of less than four and one-half square feet;
5. A ground- or building-mounted satellite dish no greater than 10 feet in diameter; or
6. A ground-, building-, or tower-mounted antenna operated by a Federally licensed amateur radio operator as part of the Amateur Radio Service.

As a tower-mounted commercial radio antenna, the Project does not fall into any of these categories. Thus, section 17.100.030 does not apply.

Further, even if it were subject to section 17.100.030, the Project fails to comply with its requirements. Section 17.100.030 states minor antennas may be installed where permitted, “as long as *all* the following conditions are met.”<sup>25</sup> The Project does not meet *all* the conditions in section 17.100.030. For example, the telecommunications use is not “accessory to the primary use of the property.”<sup>26</sup> An accessory use is “subordinate to the principal use” and “serv[es] a purpose clearly incidental to a permitted principal use.”<sup>27</sup> The principal use of the proposed Project site is public water storage.<sup>28</sup> Contrary to the Planning Director’s vague findings, the Project would not be a “utility” use.<sup>29</sup> The definition of “public utility” does not include radio companies,<sup>30</sup> and courts have distinguished non-public utility radio and television companies from public utility

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<sup>25</sup> *Id.* (emphasis added).

<sup>26</sup> See SMC § 17.100.030(A).

<sup>27</sup> SMC § 17.08.030.

<sup>28</sup> Approval at 2, 5 (referring to the “City’s primary water use of the property”).

<sup>29</sup> See Approval at 3, 5.

<sup>30</sup> Pub. Util. Code § 216(a) (“‘Public utility’ includes every common carrier, toll bridge corporation, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system corporation, and heat corporation, where the service is performed for, or the commodity is delivered to, the public or any portion thereof.”).

telephone companies.<sup>31</sup> Moreover, the proposed private antenna use bears no relationship to the public water storage use. It is not “subordinate to” water storage or “incidental to” water storage.<sup>32</sup> Therefore, the Project is not an accessory use and does not meet “all” the conditions in section 17.100.030.

3. *The Project Is Not a Minor Telecommunications Facility.*

Nor does the Project meet the requirements of section 17.100.240, governing minor telecommunications facilities—even if it did meet the height requirements for that section. The Planning Director’s position is that the Project “qualifies for administrative approval as a minor telecommunications facility.”<sup>33</sup> However, if a telecommunications facility does not “adhere to SMC 17.100.010 through 17.100.240 . . .[,] then it is considered a ‘major’ telecommunications facility”<sup>34</sup> and requires a use permit in the CF District.<sup>35</sup>

Like section 17.100.030, section 17.100.240 requires compliance with “all” the conditions established in that section.<sup>36</sup> These conditions include the same “accessory use” requirement that applies to minor antennas.<sup>37</sup> As noted above, the Project is not accessory to water storage. The Project also violates several other section 17.100.240 requirements. As evidenced by even KOWS’s incomplete visual representations, the Project lacks sufficient screening.<sup>38</sup> Section 17.100.240 requires that the facility be

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<sup>31</sup> See *Television Transmission, Inc. v. P.U.C.* (1956) 47 Cal.2d 82, 86-89 (a community television antenna, like a community radio antenna, is not a public utility); see also *Trs. of Wash. Twp. v. Davis* (2002) 95 Ohio St.3d 274, 279 (“One cannot equate the importance of this radio broadcasting service (which consists of a self-determined format intermixed with commercial advertising) with the essential nature of services provided by traditional public utilities such as electricity, gas, and local telephone services.”).

<sup>32</sup> SMC § 17.08.030.

<sup>33</sup> Notice of Approval.

<sup>34</sup> SMC §§ 17.08.121, 17.100.240.

<sup>35</sup> SMC § 17.76.030(D).

<sup>36</sup> SMC § 17.100.240.

<sup>37</sup> SMC § 17.100.240(B).

<sup>38</sup> Application, Attachments A, E; see also SHARP Appeal of an Administratively Approved Antenna Tower Proposed by KOWS Radio at 1281 Pleasant Hill Road (“Appeal”), Attachment 3.

“effectively screened from view from off site,”<sup>39</sup> but the Project will be visible from several off-site vantage points.<sup>40</sup> The Project also would be 20 feet closer to an existing approved home site than is permitted for a minor telecommunications facility.<sup>41</sup> Accordingly, the Project is a major telecommunications facility not subject to administrative approval.<sup>42</sup>

**B. KOWS Failed to Provide Adequate Analysis of the Project’s Impacts.**

The Planning Director also violated the Zoning Code in approving the Project without further analysis of its visual and environmental impacts.

Telecommunications facilities must be located, designed, and screened to reduce their visual impacts, and any telecommunications facility application must include a visual analysis.<sup>43</sup> The visual analysis must show the full visual impact of the facility, including impacts to “views from public areas as well as from private residences.”<sup>44</sup> The KOWS analysis is wholly inadequate. The photo simulations of the Project depict only a narrow pole; they do not show the full tower structure, antenna, foundation, or support structures nearby.<sup>45</sup> KOWS also failed to analyze views from Highway 116 and neighboring residences. Nonetheless, the Planning Director explicitly relied on “the application materials, including the visual simulation analysis,” to find that the visibility of the Project is “minimal.”<sup>46</sup> Further assessment of the Project’s visual impacts, potential alternative sites, and mitigation measures is required.<sup>47</sup>

The Zoning Code also directs that telecommunications facilities “be installed in such a manner so as to maintain and enhance existing native vegetation and to

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<sup>39</sup> SMC § 17.100.240(K).

<sup>40</sup> See Appeal, Attachment 3 (visual representations of visible structure from neighboring properties).

<sup>41</sup> SMC § 17.100.240(G).

<sup>42</sup> SMC §§ 17.08.121; 17.76.030(D); 17.100.240.

<sup>43</sup> SMC § 17.100.220(A), (D).

<sup>44</sup> SMC § 17.100.220(D).

<sup>45</sup> See Application, Attachments A, E. SHARP provided a more accurate depiction of the Project, including the more than 4-square-foot antenna, in its appeal packet. Appeal, Attachment 3.

<sup>46</sup> Approval at 4.

<sup>47</sup> See SMC § 17.100.220.

install suitable landscaping to screen the facility.”<sup>48</sup> To this end, the Zoning Code requires applicants to provide landscape and tree protection plans.<sup>49</sup> KOWS failed to provide either.

**C. The City Is Required to Consider Co-Location Prior to, and After, Approving the Project.**

The Approval violates the City’s strong co-location policies for telecommunications facilities, in several ways.<sup>50</sup> First, the Zoning Code requires preparation of an alternatives analysis for the Project that identifies “all reasonable, technically feasible, alternative locations and/or facilities” for the proposed telecommunications service.<sup>51</sup> The purpose of this requirement is to “minimize the number, size, and adverse environmental impacts of facilities.”<sup>52</sup> Here, KOWS provided no alternatives analysis. Instead it relies on its consideration of alternative locations for its previous iteration of this Project—a 70-foot telecommunications tower. But the lower telecommunications tower, with its more limited broadcast coverage, will have far more viable alternative locations. These must be considered.

As in its previous application, KOWS notes that after it identified the proposed site, it stopped its search for alternatives.<sup>53</sup> It did not provide the required “written explanation why the subject facility is not a candidate for co-location.”<sup>54</sup> And rather than making the required finding that “the proposed site results in fewer or less severe environmental impacts than any feasible alternative site,”<sup>55</sup> the Planning Director simply found, “the proposed site is reasonably appropriate” and “KOWS initiated this proposal after a site search determined that it was a suitable location.”<sup>56</sup> This is a direct violation of the Zoning Code.

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<sup>48</sup> SMC § 17.100.180.

<sup>49</sup> SMC § 17.100.180(A), (B)(1).

<sup>50</sup> SMC § 17.100.150.

<sup>51</sup> SMC § 17.100.150(A).

<sup>52</sup> *Id.*

<sup>53</sup> Application at 4.

<sup>54</sup> SMC § 17.100.150(A).

<sup>55</sup> *Id.*

<sup>56</sup> Approval at 5, 6.

The Approval also violates a second City policy aimed at limiting sprawl of telecommunications facilities, in two ways. The Zoning Code requires telecommunications facilities to make space available for co-location of other telecommunication facilities, including for entities providing similar, competing services.<sup>57</sup> This means that the City was required to consider allowing KOWS to co-locate at existing facilities. It also means the condition of approval that limits the Project to one antenna and prohibits other telecommunications providers from using the site violates the Zoning Code. Although the Approval purports to impose this condition to mitigate the impacts to this site and surrounding uses, the Zoning Code has already established that co-location is the best way to mitigate such impacts. The Planning Director's failure to consider these co-location rules was an abuse of discretion.

## **II. The Project Is Inconsistent with General Plan Policies that Protect Resources and Limit Impacts of Telecommunications Facilities.**

The Project is inconsistent with the existing Sebastopol General Plan,<sup>58</sup> the proposed update to that Plan,<sup>59</sup> and the Sonoma County General Plan.<sup>60</sup> The Sebastopol General Plan is the “constitution” that determines the direction of future development in the City and on City property.<sup>61</sup> The Project may only be approved if it is consistent with the City's General Plan.<sup>62</sup> Both the existing Sebastopol General Plan and the draft revision emphasize protection of the environment and scenic and cultural resources as critical elements of the City's land use decisions and the community's identity. Further, because the Project site is in Sonoma County, CEQA requires the City to consider consistency with similar policies in the Sonoma County General Plan.<sup>63</sup> The Project is inconsistent with policies in all of these Plans, so the Approval cannot stand.

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<sup>57</sup> SMC § 17.100.150(C).

<sup>58</sup> City of Sebastopol, General Plan (2008) (“Sebastopol General Plan”).

<sup>59</sup> City of Sebastopol, Draft General Plan (2016) (“Sebastopol Draft General Plan”).

<sup>60</sup> Sonoma County General Plan 2020 (2008) (“Sonoma County General Plan”).

<sup>61</sup> *Leshar Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531, 541.

<sup>62</sup> *See, e.g., Land Waste Management v. Contra Costa County Bd. of Supervisors* (1990) 222 Cal.App.3d 950, 957-58 (“[L]ocal government entities cannot issue land-use permits that are inconsistent with controlling land-use legislation, as embodied in zoning ordinances and general plans.”).

<sup>63</sup> Pub. Resources Code §§ 21100, 21151.

“The views of the open space and rolling hills surrounding Sebastopol contribute to the community’s sense of identity and well-being.”<sup>64</sup> The Sebastopol General Plan specifically directs the City to “[p]reserve and enhance scenic views of . . . the hills to the west of Sebastopol,” where the Project would be located.<sup>65</sup> An obstruction of a scenic view need not be large to run afoul of City policies that protect those views. For example, the General Plan notes that signs blocking scenic views may contribute to the loss of important scenic resources.<sup>66</sup> Critically, the General Plan prioritizes views from public-rights-of-way, such as Highway 116 and other neighboring roads, because those viewed “are shared by the entire community.”<sup>67</sup> The Plan explicitly directs the City to revise the Zoning Code to regulate design and location of antenna towers to protect these scenic views of the natural landscape.<sup>68</sup> This means that the zoning decisions described above are also inconsistent with the General Plan.<sup>69</sup>

Further, the General Plan directs the City to preserve cultural and historical resources.<sup>70</sup> It notes the planning area contains nine known archaeological sites; the entire area is considered “highly sensitive” and may contain additional undiscovered sites, particularly in rural areas.<sup>71</sup> The same is true in broader Sonoma County. For example, the Wilson Grove Formation, a common location for paleontological remains, extends across the County.<sup>72</sup> The draft Sebastopol General Plan recognizes the importance of identifying such resources *before* developments are approved; it would require a cultural and archaeological survey prior to approval of any project where a potential historical, archaeological, or other cultural resource may be located.<sup>73</sup>

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<sup>64</sup> Sebastopol General Plan at V-24.

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*; Sonoma County General Plan, Figure OSRC-1 (“Scenic Resource Areas”).

<sup>68</sup> Sebastopol General Plan at V-24, V-26.

<sup>69</sup> The converse is also true: Zoning Code section 17.100.020(A) requires the Project to comply with all applicable General Plan policies, so inconsistencies with the General Plan violate the Zoning Code.

<sup>70</sup> Sebastopol General Plan at V-22.

<sup>71</sup> *Id.*

<sup>72</sup> Sonoma County General Plan EIR (2008) at 3.1.1.

<sup>73</sup> Sebastopol Draft General Plan at 5-16.

The Planning Director makes sweeping claims about consistency with general plans in the Approval,<sup>74</sup> but the fact that the Project is consistent with *some* general plan policies does not override its inconsistency with other clear and fundamental policies and objectives.<sup>75</sup> The Project is inconsistent with applicable general plan policies because it would harm the environment and interfere with scenic views. It would encroach on residential and open space uses and violate the Zoning Code for the reasons outlined above. And without a cultural resources survey, we cannot know how it might impact cultural resources. The Sebastopol and Sonoma General Plans do not allow such a project to move forward.

### **III. The Planning Director's Approval Violates CEQA.**

The Planning Director concludes, based entirely on materials provided by KOWS, that the latest version of the proposed Project is categorically exempt from CEQA despite clear direction from the City Council to prepare an EIR.<sup>76</sup> The Planning Director is wrong for several reasons. First, the Planning Director's decision turns entirely on changes to the Project aimed at mitigating its visual impacts. Such mitigation measures cannot support a categorical exemption finding.<sup>77</sup> Second, even with these mitigation measures, the Project does not fall within the categorical exemptions for existing facilities or small structures.<sup>78</sup> Third, even if it did, several exceptions to these exemptions apply here.<sup>79</sup> Finally, by relying on KOWS's misleading materials, the Planning Director fails to exercise the independent judgment that CEQA requires. Thus, the Planning Commission must reverse the Planning Director's Approval and allow environmental review to proceed as previously directed by the City Council.

#### **A. The Planning Director Improperly Relied on Mitigation Measures to Find the Project Exempt from CEQA.**

The Planning Director's determination that the Project is categorically exempt from CEQA turns on changes to the Project, including a height modification, that

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<sup>74</sup> Approval at 3.

<sup>75</sup> See *Napa Citizens for Honest Gov. v. Napa County* (2001) 91 Cal.App.4th 342, 378-79.

<sup>76</sup> Approval at 2-3; Notice of Approval.

<sup>77</sup> *Salmon Protection & Watershed Network v. County of Marin* (2004) 125 Cal.App.4th 1098, 1102.

<sup>78</sup> See CEQA Guidelines §§ 15301, 15303.

<sup>79</sup> See CEQA Guidelines § 15300.2.

KOWS claims will mitigate the Project's environmental impacts.<sup>80</sup> However, a mitigation measure cannot support a finding that a project is categorically exempt from CEQA.<sup>81</sup> An agency must decide whether a project is eligible for a categorical exemption "as part of its preliminary review of the project . . . , not in the second phase [of CEQA review] when mitigation measures are evaluated."<sup>82</sup> This is because CEQA includes "elaborate standards" designed to assess whether proposed mitigation measures will adequately protect the environment.<sup>83</sup> The "evaluative process of assessing . . . mitigation measures and weighing them against potential environmental impacts . . . must be conducted under the established CEQA standards and procedures."<sup>84</sup> Thus, reliance on mitigation measures to avoid full CEQA review amounts to an "end run" around the governing standards.<sup>85</sup>

The Planning Director's conclusion that the latest version of the Project qualifies for categorical exemptions is precisely this type of "end run."<sup>86</sup> The City determined, after several months of careful consideration, that this Project may have significant impacts on the environment that must be analyzed in an EIR.<sup>87</sup> Specifically, the City's Initial Study found the Project will have potentially significant impacts on the vistas, scenic character, and visual character of the proposed site at 1281 Pleasant Hill Road.<sup>88</sup> The Initial Study noted the visual impacts issue "was the focus of considerable comment" and recommended that "further analysis be conducted."<sup>89</sup>

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<sup>80</sup> See Approval at 2-3; Notice of Approval.

<sup>81</sup> *Salmon Protection*, 125 Cal.App.4th at 1102.

<sup>82</sup> *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, 1199-1200.

<sup>83</sup> *Id.* at 1200.

<sup>84</sup> *Salmon Protection*, 125 Cal.App.4th at 1108.

<sup>85</sup> *Azusa Land Reclamation Co.*, 52 Cal.App.4th at 1201.

<sup>86</sup> See *id.*

<sup>87</sup> City of Sebastopol, City Council Meeting Minutes (May 31, 2016) at 15 (approving appeal of the Project approval, on the grounds that CEQA review was required); City of Sebastopol, City Council Meeting Minutes (July 5, 2016) at 9 (directing staff to issue a Request for Proposals for preparation of an EIR for the Project).

<sup>88</sup> Initial Study Checklist: Use Permit Application, KOWS Community Radio Planning File 2015-126 (June 28, 2016) ("Initial Study") at 5.

<sup>89</sup> *Id.*

Nonetheless, the Planning Director has now determined the *same Project* requires no CEQA review. Although KOWS framed its application as addressing a different project, the Planning Director notes the “new” application for the Project is “by the same applicant, for the same location,” and the Director’s findings refer to the earlier application materials repeatedly.<sup>90</sup> For example, the very first finding is based on “the prior application and analysis” and cites an earlier staff report.<sup>91</sup> Likewise, KOWS’s response to SHARP’s appeal relies on “the Planning Director’s comprehensive and exhaustive review of nine months of voluminous filings and extensive public comment.”<sup>92</sup>

Thus, the changes to the Project that the Director approved are mitigation measures aimed at reducing the Project’s adverse environmental impacts. In concluding the Project will not have significant visual impacts, the Planning Director compares the Project’s “modest height,” “minimal physical profile,” and “very small footprint” to the “substantially-taller 70-foot” version of the Project.<sup>93</sup> KOWS also points to changes it made “to reduce the visual impact of the antenna structure.”<sup>94</sup> Further, the Approval imposes restrictions on construction activities to address the Project’s noise and traffic impacts,<sup>95</sup> and, as discussed above, the Approval purports to limit co-location of telecommunications facilities to limit the Project’s potential cumulative impacts.<sup>96</sup> These are all mitigation measures. CEQA prohibits the use of a categorical exemption when mitigation measures are required to ensure the project would have no significant adverse impacts.<sup>97</sup> KOWS and the Planning Director cannot escape the City’s decision that the Project requires an EIR by unilaterally determining how the Project’s impacts should be mitigated.<sup>98</sup>

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<sup>90</sup> Approval at 2-3, 5. KOWS did not even change the date on its application materials. See Application, Project Description (dated 12/30/15).

<sup>91</sup> Approval at 2.

<sup>92</sup> KOWS Response at 2.

<sup>93</sup> Approval at 5.

<sup>94</sup> KOWS Response at 5.

<sup>95</sup> Approval at 8.

<sup>96</sup> Approval at 5, 8.

<sup>97</sup> *Salmon Protection*, 125 Cal.App.4th at 1102.

<sup>98</sup> See *id.*; *Azusa Land Reclamation Co.*, 52 Cal.App.4th at 1199-1201.

**B. The Project Does Not Fall within a Categorical Exemption.**

Moreover, the Planning Director erred in finding the Project qualifies for Class 1 and Class 3 categorical exemptions.<sup>99</sup> Categorical exemptions are based on the determination of the Resources Agency that, barring unusual circumstances, exempt projects will never have a significant effect on the environment and therefore will never require environmental review or mitigation.<sup>100</sup> The City has already acknowledged that the Project may have a significant effect on the environment,<sup>101</sup> so it cannot qualify for an exemption.<sup>102</sup> Further, a project subject to a categorical exemption is excused from any further compliance with CEQA, and courts therefore “construe the exemptions narrowly in order to afford the fullest possible environmental protection.”<sup>103</sup> The proposed Project does not meet the requirements for an exemption, so the City must move ahead with full environmental review before considering Project approval.

1. *The Project Is Not a Class 1 Addition to an Existing Facility.*

Class 1 exempts various activities related to “existing . . . structures, facilities, [or] mechanical equipment,” provided such activities involve “negligible or no expansion of use beyond that existing at the time of the lead agency’s determination.”<sup>104</sup> The Planning Director’s findings describe the Project as “a minor improvement with a negligible scope of use”<sup>105</sup>; however this is not the correct test for this exemption. The CEQA Guidelines explicitly state that the “key consideration” for Class 1 exemptions is “whether the project involves negligible or no expansion of *an existing use*.”<sup>106</sup> Class 1 includes “[e]xisting facilities of . . . utilities used to provide electric power, natural gas, sewerage, or other public utility services,” but this does not mean that *any* addition to a site that hosts a particular utility facility is categorically exempt.<sup>107</sup> The existing use of

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<sup>99</sup> See Approval at 2-3.

<sup>100</sup> *Salmon Protection*, 125 Cal.App.4th at 1107.

<sup>101</sup> Initial Study at 5.

<sup>102</sup> See *Wildlife Alive v. Chickering* (1976) 18 Cal.3d 190, 205-06 (if there is “any reasonable possibility” that a project “may have a significant effect on the environment, an exemption would be improper”).

<sup>103</sup> *Azusa Land Reclamation Co.*, 52 Cal.App.4th at 1193-94.

<sup>104</sup> CEQA Guidelines § 15301.

<sup>105</sup> Approval at 2.

<sup>106</sup> CEQA Guidelines § 15301 (emphasis added).

<sup>107</sup> See CEQA Guidelines § 15301(b).

the site is water storage.<sup>108</sup> The Project would introduce a new telecommunications use that generates a new set of potential environmental impacts. Therefore, the Project does not meet the requirements for Class 1 exemption.

2. *The Project Is Not a Class 3 Small Structure.*

Nor is the radio tower eligible for the Class 3 categorical exemption for small facilities or structures, given the Project's height, bulk, and potential impacts.<sup>109</sup> As explained in detail above, the City's own zoning code defines this Project as a major telecommunications facility.<sup>110</sup> The Project will rise more than 35 feet above ground level, include a large antenna, and be accompanied by a bulky transmitter and enclosure.<sup>111</sup> The Planning Director's comparisons to heights of exempt facilities stretch this category beyond its intended scope. For instance, the Planning Director relates the Project's height to that of utility poles, "which are routinely installed without special approval."<sup>112</sup> But Class 3 explicitly includes "utility *extensions*,"<sup>113</sup> not utility poles, presumably for the same reason Class 1 exempts minor additions to existing utilities: their environmental impacts have already been assessed.<sup>114</sup> Indeed, the wide range of exempt facilities covered by Class 3 indicates that height alone is not the determinative factor.<sup>115</sup> Rather, the Class 3 exemption is reserved for structures the Resources Agency determined will categorically never have a significant impact on the environment.<sup>116</sup> Private, commercial telecommunications facilities, which pose a unique set of potential threats to the environment and their surroundings, are not included.

**C. Multiple "Exceptions to the Exemption" Require CEQA Review.**

Even if the Project did appear to qualify for a Class 1 or Class 3 categorical exemption, at least two exceptions to the exemptions apply to the Project. CEQA

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<sup>108</sup> Approval at 2.

<sup>109</sup> See CEQA Guidelines § 15303.

<sup>110</sup> See SMC § 17.08.121.

<sup>111</sup> Application, Project Description at 2.

<sup>112</sup> Approval at 2.

<sup>113</sup> CEQA Guidelines § 15303(d) (emphasis added).

<sup>114</sup> See *Salmon Protection*, 125 Cal.App.4th at 1107.

<sup>115</sup> See CEQA Guidelines § 15303 (exempting certain residential and commercial buildings).

<sup>116</sup> *Salmon Protection*, 125 Cal.App.4th at 1107.

exempts “only those activities which do not have a significant effect on the environment.”<sup>117</sup> It follows that if there is “any reasonable possibility” that a project “may have a significant effect on the environment, an exemption would be improper.”<sup>118</sup> This idea is codified in CEQA Guidelines section 15300.2, which outlines situations where further environmental review is necessary, even if a proposed project fits an identified exemption. As discussed above, here, the Project may result in significant effects due to unusual circumstances, and it is likely to have cumulative impacts related to co-location.<sup>119</sup> The City also already determined that it will have potentially significant impacts.<sup>120</sup> Where substantial evidence shows that a project might impair the environment, an agency must not use a categorical exemption—even if other evidence in the record might support a conclusion that the project would not harm the environment.<sup>121</sup> Thus, the City cannot legally rely on categorical exemptions for approval of the Project.

1. *Unusual Circumstances Create A Reasonable Possibility of Significant Environmental Impacts.*

The Project involves unusual circumstances that prevent the City from relying on a categorical exemption. “A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.”<sup>122</sup> For example, a court found “unusual circumstances” were presented by proposed construction of storm drainage and utility poles in an area “whose public value [was] recognized by the designation of the road adjoining it as an official county scenic highway.”<sup>123</sup> Other courts have found the exception applicable to proposals to site new or expanded uses in close proximity to residences.<sup>124</sup> The “unusual circumstances” exception applies both where either “the

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<sup>117</sup> *Wildlife Alive*, 18 Cal.3d at 205-06.

<sup>118</sup> *Id.*

<sup>119</sup> CEQA Guidelines § 15300.2(a), (b), (c).

<sup>120</sup> Initial Study at 5.

<sup>121</sup> *Azusa Land Reclamation Co.*, 52 Cal.App.4th at 1195.

<sup>122</sup> CEQA Guidelines § 15300.2(c).

<sup>123</sup> *Myers v. Board of Supervisors* (1976) 58 Cal.App.3d 413, 426-27.

<sup>124</sup> *See, e.g., Lewis v. Seventeenth Dist. Agricultural Assn.* (1985) 165 Cal.App.3d 823, 829 (racetrack adjacent to residential areas constituted “unusual circumstances”).

project has some feature that distinguishes it from others in the exempt class,” or there is evidence that the project will have a significant environmental effect.<sup>125</sup>

Here, both are true. First, many of the Project site’s characteristics – particularly its proximity to a scenic highway and residences – distinguish it from other similar locations and facilities.<sup>126</sup> The Project would be located within the scenic viewshed of a recognized scenic highway.<sup>127</sup> It would also be directly visible from adjacent residential properties.<sup>128</sup> Further, the Project would emit electromagnetic radiation near these residences. Such unusual use impacts distinguish the Project from the small structures the Planning Director uses as points of comparison.

Second, the City already determined, in the Initial Study, that the Project will result in potentially significant environmental effects related to its visual impacts and a prior staff report concluded the Project could have biological and land use impacts.<sup>129</sup> As discussed further in Section II, above, the Project would result in other significant impacts, including land use conflicts related to the General Plans. Given the prevalence of cultural resources in the area, there is a strong possibility that the site could contain such resources and construction of the Project without appropriate mitigation would result in significant environmental impacts to cultural resources. Also, the 300 foot trench proposed as part of the Project will likely cut through the root systems of 40-45 foot trees on site, resulting in biological impacts. All of these circumstances preclude the conclusion that the Project will have no potentially significant impacts. Accordingly, the unusual circumstances exception bars the Planning Director’s decision to rely on categorical exemptions. Instead, CEQA requires independent analysis and comprehensive environmental review.

2. *The Cumulative Impact of This Project, in Conjunction with Past, Present and Future Projects, Is Significant.*

Categorical exemptions are also inapplicable where, as here, “the cumulative impact of successive projects of the same type in the same place, over time is

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<sup>125</sup> *Berkeley Hillside Preservation v. City of Berkeley* (2015) 241 Cal.App.4th 943, 952.

<sup>126</sup> *See Lewis*, 165 Cal.App.3d at 829; *Myers*, 58 Cal.App.3d at 426-27.

<sup>127</sup> Sonoma County General Plan, Figure OSRC-1 (“Scenic Resource Areas”).

<sup>128</sup> *See Appeal*, Attachment 3 (photo simulation from driveways on Pleasant Hill Road).

<sup>129</sup> Initial Study at 5, City of Sebastopol, City Council Staff Report (July 5, 2016) at 1.

significant.”<sup>130</sup> As described above, the Zoning Code requires the City to consider co-location of additional antennas at any existing telecommunications facility.<sup>131</sup> To the extent the Planning Director’s conditions of approval prohibit co-location, the Approval violates the Zoning Code. Without the invalid condition, the approval of a new telecommunications facility at the Project site will open this site up to approvals for additional antennas. Thus, the City is required to consider the cumulative impacts of future co-location of antennas at the Project site, and the Project is not exempt.

**D. The Planning Director Failed to Independently Review the Project.**

The Planning Director accepted KOWS’s new materials as “facts” without proper or detailed independent analysis to verify their accuracy. This includes KOWS’s misrepresented tower simulation photos and line of sight information, misrepresented alternative site comparisons, dismissal of environmental impacts, and misrepresented conformance with surrounding city/county land use zoning ordinances and General Plans. The City must complete its own independent analysis of the Project, both to comply with CEQA and to ensure the environmental review process avoids bias and prejudicial abuse of discretion. The conflicts between the evidence before the City only highlights the need for an EIR and independent analysis of the visual and other impacts from the Project.

As noted in our June 8, 2016 letter, the Project will result in numerous potentially significant impacts, and the environmental review process must thoroughly and independently consider these impacts and appropriate mitigation measures. Although the Initial Study identified only the Project’s potentially significant aesthetic impacts,<sup>132</sup> the Project may also adversely affect numerous other resources, including biological resources, cultural resources, and land use.<sup>133</sup> Thus, the EIR for the Project should address the following issues:

1. Project Description and Setting (including an accurate description of the project and the rural setting of the project site)

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<sup>130</sup> CEQA Guidelines § 15300.2(b).

<sup>131</sup> SMC § 17.100.150.

<sup>132</sup> Initial Study at 5.

<sup>133</sup> City of Sebastopol, City Council Staff Report (July 5, 2016) at 1; Initial Study at 7, 12.

2. Aesthetics (including an accurate on-site physical tower simulation to allow accurate photo simulations from various community locations where the proposed tower would be visible, including from locations on Pleasant Hill Road, Highway 116 and along Burnside Road west of Watertrough Road)
3. Biological Resources (including an onsite survey, research, and analysis of plant and wildlife, including endangered and protected species, and raptors and other birds that will be affected by the proposed tower and any proposed mitigations)
4. Cultural Resources (including research and analysis of possible Native American burial or settlement artifacts at the site, and consultation with tribes as required by recently enacted legislation (AB 52))
5. Geology and Soils (including analysis of erosion issues, expansive soil issues, and seismic issues)
6. Hazards and Hazardous Materials (including analysis of radiation issues, falling/failure issues, solar panel hazardous materials issues if damaged on-site, petroleum/fuel issues for backup generators)
7. Hydrology and Water Quality (including analysis of erosion issues and water table issues at trenching and excavation locations)
8. Land Use and Planning (including conformance to city and county land use policies and ordinances and general plans)
9. Noise (including noise from generators and other permanently proposed features, and noise during construction)
10. Population and Housing (including analysis of the impact of a community radio station and tower on future housing in Sebastopol and in the adjacent county)
11. Public Services (including analysis of required electricity, telephone and cable services to the antenna tower, the amount and cost of services, the method of separate billing of services to KOWS, the need and cost for heightened security at the Project site due to a private antenna tower, and the time and cost of city personnel required for such added security)

12. Transportation & Traffic (including analysis of traffic during construction, and expected trips per month to the site after completion for antenna and tower repairs)
13. Utility, Energy & Service Systems (including an analysis of the power required for the operation of the antenna tower and backup generators and their impact on utility services in general)
14. Growth Inducing Impacts (including the impact of approval of the tower on future facilities and collocation at this site, and possible future relocation pressure in the Sebastopol area to use City property)
15. Cumulative Impacts (including analysis of impacts of this project together with other nearby existing and future projects on EMF radiation, visual impacts, future on-site towers, off-site towers, and radio/TV reception at nearby homes)
16. Evaluation of Alternatives (including no tower, a shorter tower, a relocated tower on site, a redesigned tower, a move to the Respini Ranch location at 11333 Occidental Road, or to Bodega Ave./Ives Park Fire Station, or to ham radio towers on Hurlbut Ave. or on Highway 12)
17. Mitigation Measures (including the addition of perimeter screen trees, disguising the tower as a tree, a shorter tower, a revised tower, and a tower relocated to another site or to another location on the site)

#### **IV. Conclusion**

Based on the issues raised above, the Planning Commission should uphold the appeal and reverse the Planning Director's administrative approval of the telecommunications facility proposed for 1281 Pleasant Hill Road and allow the existing process for KOWS' use permit to proceed with the EIR required by the City Council. We appreciate the Commission's consideration of this important issue.

Sebastopol Planning Commission  
October 5, 2016  
Page 22

Sincerely,

SHUTE, MIHALY & WEINBERGER LLP

A handwritten signature in black ink, appearing to read "Tamara Galanter". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Tamara S. Galanter  
Allison A. Johnson

Cc: Larry McLaughlin, City Manager and City Attorney  
Mary Gourley, City Clerk

823784.12

SHUTE, MIHALY  
& WEINBERGER LLP



G. Other public comments



## Kenyon Webster

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**From:** Kenyon Webster  
**Sent:** Tuesday, October 04, 2016 3:08 PM  
**To:** afinneral@sbcglobal.net  
**Cc:** Rebecca Mansour; Mary Gourley  
**Subject:** RE: Notification Request  
**Attachments:** 1281 Pleasant Hill Road (KOWS Community Radio) Appeal of application approval 10.11.16.pdf

Ms. Finneral-

The notice for an appeal hearing the revised KOWS project is attached. The hearing is a week from today, 7pm on Tuesday Oct. 11, at the Youth Annex at 425 Morris Street.

There are sometimes glitches in the generation of mailing lists from the property data service we use; this appears to be one of those. Our apologies.

I will add you to the list for future hearings on this application.

-Kenyon Webster

**From:** Mary Gourley  
**Sent:** Tuesday, October 04, 2016 1:36 PM  
**To:** afinneral@sbcglobal.net  
**Cc:** Kenyon Webster <kwebster@cityofsebastopol.org>; Rebecca Mansour <rmansour@cityofsebastopol.org>  
**Subject:** RE: Notification Request

Hi Annamarie:

I have forwarded your email to the Planning Department regarding notification of items that deal with 1281 Pleasant Hill Road. The Planning Department can add you to their mailing list for any changes to the City property regarding planning applications.

A public hearing notice was prepared for this item and was sent to properties within 600 feet of the City property and those mailings were mailed out ten days prior to the meeting.

I can also add you to our City Council agenda mailing list if you like to be notified of all Council items.

Please let me know if you would like to be added to this list.

If you have any questions, please feel free to contact me.

Thank you

**Mary C. Gourley, City Clerk, MMC**  
**City of Sebastopol**  
**7120 Bodega Avenue**  
**Sebastopol, CA 95472**

## Kenyon Webster

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**From:** Mary Gourley  
**Sent:** Tuesday, October 04, 2016 9:33 PM  
**To:** Geoffrey Skinner (skinnerbird@gmail.com); John Eder; Patrick Slayter; Robert Jacob; Sarah Glade Gurney; Una Glass; unaglass@coastwalk.org (unaglass@coastwalk.org); Colin Doyle (doylearchitect@hotmail.com); Evert Fernandez (evertf@aol.com); Linda Kelley (lkelley@sonic.net); Michael Jacob (tdmj@sonic.net); Paul Fritz (paul@fritzarchitecture.com); RUSSELL PINTO (russpinto@sonic.net); Zach Douch (zac@mindfulbuilding.com)  
**Cc:** Lawrence McLaughlin; Kenyon Webster  
**Subject:** FW: PLANNING COMMISSION MEETING ON SHARP OCTOBER 11, 2016

Please see email below  
Thank you

Mary C. Gourley, City Clerk, MMC  
City of Sebastopol  
7120 Bodega Avenue  
Sebastopol, CA 95472  
Email: [mgourley@cityofsebastopol.org](mailto:mgourley@cityofsebastopol.org)  
Phone: 707-823-1153  
Fax: 707-823-1135  
[www.cityofsebastopol.org](http://www.cityofsebastopol.org)



**CITY ADMINISTRATION OFFICES WILL BE CLOSED MONDAY, OCTOBER 10TH, 2016**

**From:** Chloe Baskin [<mailto:shelterescue@gmail.com>]  
**Sent:** Monday, October 03, 2016 11:44 AM  
**To:** Ana Kwong <[akwong@cityofsebastopol.org](mailto:akwong@cityofsebastopol.org)>; Google group <[emf-safety-network@googlegroups.com](mailto:emf-safety-network@googlegroups.com)>  
**Subject:** PLANNING COMMISSION MEETING ON SHARP OCTOBER 11, 2016

**PLEASE FORWARD THIS TO THE PLANNING COMMISSION AND CITY COUNCIL MEMBERS.**

THANK YOU.  
CHLOE BASKIN

SEBASTOPOL CITY PLANNING COMMISSION/CITY COUNCIL

RE: SHARP MEETING ON CELL TOWER OCTOBER 11, 2016

## A SUMMARY OF COMMENTS FROM “RESONANCE BEINGS OF FREQUENCY by Rinchen Dawa (YouTube)

In 1951 a scientist named Schuman measured the electromagnetic frequency of the ionosphere around planet earth at 7.83 herz. Some time later, the “alpha waves” (electromagnetic frequencies) in the human brain were measured and found to be 7.83hz - identical to those of the planet!

In the 1960's the circadian rhythms, also called day/night cycles, were studied and measured. It was discovered that the health of all living organisms suffer greatly when shielded from the earth's magnetic resonances. We are all beings that vibrate to em resonance!

To date, 4 billion cell phones and their accompanying cell towers are in use across the planet. All life on planet earth resonates with magnetic frequencies. The disruption to all living beings from cell towers, microwaves, radar and other technological instruments is incontrovertible.

The light/dark cycles and magnetic compasses of birds, insects, marine mammals, as well as people, are know to be disrupted by low level fields of emf's. Man made radio frequencies have increased MANY MILLIONS of times in the past 50 years. Hundreds of thousands of people across the planet have reported suffering from em hypersensitivity with such diverse symptoms as insomnia, headache, nausea, vertigo, sleep disorders, tinnitus, dementia, heart problems, cancer, compromised endocrine and thyroid function, and many, many others.

Numerous studies saying the new technologies are safe to use, are in fact funded by scientists from these same industries. 2-5% of the population have reported suffering from em hypersensitivity. 100% of the planet's people and other living entities are reactive to magnetic resonances.

The devastation from the disruptive utilization of current technologies such as WiFi, Cell Phones, Microwaves, et al is only now being addressed. The FCC is hell bent on bumping up radio frequency limits in the very near future, despite evidence that hundreds of thousands of people are in desperate stages of illness due to radio frequency poisoning.

October 3, 2016

Chloe Baskin

Sebastopol

Email: [mgourley@cityofsebastopol.org](mailto:mgourley@cityofsebastopol.org)

Phone: 707-823-1153

Fax: 707-823-1135

[www.cityofsebastopol.org](http://www.cityofsebastopol.org)



CITY ADMINISTRATION OFFICES WILL BE CLOSED MONDAY, OCTOBER 10TH, 2016

**From:** [afinneral@sbcglobal.net](mailto:afinneral@sbcglobal.net) [mailto:[afinneral@sbcglobal.net](mailto:afinneral@sbcglobal.net)]

**Sent:** Monday, October 03, 2016 10:49 PM

**To:** Mary Gourley <[mgourley@cityofsebastopol.org](mailto:mgourley@cityofsebastopol.org)>

**Subject:** Notification Request

Dear Ms. Gourley,

In recent chats with neighbors I've realized that I haven't received some timely mail notifications from the City. Two in particular deal with City property that adjoins mine to the South. That would be the City reservoir property at 1281 Pleasant Hill RD. Since we share our entire property line at that point I would like to be informed of proposed changes to the City property. And I understand that the notifications were also meant to alert residents to explanatory meetings coming up where we could perhaps ask questions we might have.

Please include me in these mailings as I do like to participate.

Sincerely, I am,  
Annmarie Finneral  
1245 Pleasant Hill Rd  
Sebastopol CA 95472



**KOWS - LP COMMUNITY RADIO**  
**107.3 FM**

P.O. Box 1073 OCCIDENTAL, CALIFORNIA 95465

OFFICE PHONE: (707)874-9090  
STUDIO PHONE: (707) 874-1073

WEBSITE: [WWW.KOWS.FM](http://WWW.KOWS.FM)  
EMAIL: [KOWS@SONIC.NET](mailto:KOWS@SONIC.NET)

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October 6, 2016

Hello, Pleasant Hill Road Area Neighbors:

We're writing to give you an update on the proposed KOWS Community Radio antenna at the City of Sebastopol water reservoir property on Pleasant Hill Road.

In response to neighborhood concerns about visual impact, KOWS applied for and received City approval for a 35' antenna structure, which is now half the originally proposed 70' height. Despite the structure having nearly no visibility, an appeal was filed in opposition to the project.

The structure will be almost completely shielded from sight by surrounding trees, and is at the same height or lower than the area's many utility poles and nearby owl boxes.

The KOWS antenna is in full compliance with FCC and local regulations and codes governing radio frequency emissions, independently verified by an FCC-approved broadcast engineer.

There is no possibility of co-locating other antennas of any kind. The structure is at full capacity and is not engineered for additional antennas, and the City's lease explicitly states no other use is permitted.

We hope our modifications to the project will allay any concerns and fears you may have.

Please let the KOWS Antenna Relocation Committee know if you'd like more information, and we will be happy to provide additional details: [KOWS@sonic.net](mailto:KOWS@sonic.net)

