ATTACHMENT

For Item

#6

Wednesday, August 7, 2019

PUBLIC COMMUNICATION RECEIVED BY THE CLERK OF THE BOARD

DISTRIBUTED 08/07/19

Rodriguez, Chrystal

From: Paul Albritton <pa@mallp.com>
Sent: Tuesday, August 06, 2019 4:58 PM
To: Cox, Greg; Jacob, Dianne; Gaspar, Kristin; Fletcher, Nathan (BOS); Desmond, Jim; FGG-DL, LSDOCS
Cc: Michael Montgomery; Crumley, Justin; Sjoblom, Randall
Subject: Verizon Wireless Comments on Small Wireless Facilities Ordinance - Board Agenda Item 6, August 7, 2019 [San Diego County]
Attachments: Verizon Wireless Letter 08.06.19.pdf

Dear Supervisors, attached please find our comments prepared on behalf of Verizon Wireless regarding the draft ordinance regulating small wireless facilities to be considered at your meeting tomorrow.

We urge the Board to direct staff to work with industry on needed revisions.

Thank you.

--
Paul Albritton
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August 6, 2019

VIA EMAIL

Chair Dianne Jacob
Vice Chair Greg Cox
Supervisors Kristin Gaspar,
Nathan Fletcher and Jim Desmond
Board of Supervisors
San Diego County
1600 Pacific Highway
San Diego, California 92101

Re: Draft Ordinance, Small Cell Wireless Facilities
Board Agenda Item 6, August 7, 2019

Dear Chair Jacob, Vice Chair Cox and Supervisors:

We write on behalf of Verizon Wireless regarding the draft ordinance regulating small cell wireless facilities (the "Draft Ordinance"). Verizon Wireless generally agrees in spirit with the proposed code amendments. However, a number of critical Draft Ordinance provisions require modification prior to adoption by the Board. In particular, proposed location restrictions will inhibit deployment of small cells in contradiction of federal and state law. The Draft Ordinance should be revised to prevent the inevitable prohibition of service that would assuredly result from its implementation. We urge you to defer action on the Draft Ordinance, and direct staff to work with industry on needed revisions.

To streamline permitting of small cells and encourage expansion of 4G and 5G networks, the FCC adopted an order in September 2018 that provides guidance on appropriate small cell approval criteria. *See Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment,* Declaratory Ruling and Third Report and Order, FCC 18-133 (September 27, 2018) (the "Small Cells Order"). According to the FCC, local regulations that impede deployment of small cells cause an unlawful prohibition of service because they "materially inhibit" the objectives of "densifying a wireless network, introducing new services, or otherwise improving service capabilities." Small Cells Order, ¶ 37. The FCC also addressed aesthetic criteria for approval of qualifying small cells, concluding that they must be: "(1) reasonable, (2) no more burdensome than those applied to other types of infrastructure deployments, and (3)

objective and published in advance." *Id.*, ¶ 86. "Reasonable" standards are "technically feasible" and meant to avoid "out-of-character deployments." *Id.*, ¶ 87.

Our comments on the Draft Ordinance are as follows.

Location Restrictions Must Be Revised to Avoid Violating State and Federal Law.

The prohibition of right-of-way small cells within 1,000 feet of schools, child care centers, hospitals or religious facilities would place much of the unincorporated County off-limits, creating multiple 72-acre exclusion zones that overlap. Draft Ordinance § 6992(A)(3). While staff suggests an exception if this is technically infeasible, it is unreasonable nonetheless. The Planning Commission recommended an alternative to exclude small cells within 100 feet of the aforementioned locations plus residential buildings, with no exceptions, which would have an even greater prohibitive effect.

Either setback proposal clearly violates state and federal law. California Public Utilities Code Section 7901 grants telephone corporations a statewide right to place their equipment along any right-of-way. The exclusion areas also pose a direct prohibition of service in conflict with the FCC's Small Cells Order, whether the broad 1,000 foot setback, or the 100-foot setback that includes residential buildings. Not only would the proposed setbacks constitute an outright prohibition of service in large areas, they would "materially inhibit" the expansion of wireless services. The proposed exception for technical infeasibility does not excuse the setbacks as it ignores that service objective for small cells.

Wireless facilities pose no more aesthetic or other land use impact near schools or churches than elsewhere. Small cells in particular present no appreciable effect on nearby residences as compared to existing right-of-way utility infrastructure. There can be no other reason for the proposed setbacks than concern over radio frequency emissions. However, the federal Telecommunications Act bars local governments from regulating wireless facilities over emissions concerns if facilities are shown to comply with FCC exposure guidelines. 47 U.S.C. § 332(c)(7)(B)(iv). At hospitals and schools in particular, there are many wireless users and devices that create great demand on the existing wireless network. In times of emergency, when the demand on existing infrastructure is greatest, the networks will be incapable of shouldering this additional burden if wireless carriers cannot deploy small cells nearby. *To avoid violating state and federal law, Draft Ordinance Section 6992(A)(3) must be stricken.*

While the Small Cells Order contemplates reasonable separation distances between small cells, the Draft Ordinance imposes excessive separations of 500 or 1,000 feet. Draft Ordinance § 6992(A)(9). There is no reason to require this much separation, particularly where a new small cell is on a different street or otherwise out-of-view. Even on the same street, intervening trees, poles and utility lines lessen the impact of an additional small cell. Clustering small cells in a low-impact area may avoid the need to

distribute them along streets with view impacts. Placing a small cell as little as 500 feet away from its intended location could leave a target coverage area unserved. *We suggest reducing the separation distance between small cells to 300 feet, and substituting the phrase "where possible" with "unless the separation distance is technically infeasible for providing service."*

The Draft Ordinance requires applicants to show that any higher-preference locations or structures within a 1,000-foot radius are unavailable or technically infeasible. Draft Ordinance §§ 6992(A)(1), 6992(A)(7). This would require evaluation of most if not all possibilities within an 72-acre area, an onerous and excessive requirement. As noted, steering small cells away from a required location could result in a target coverage area remaining underserved or unserved, contradicting Section 7901 and the FCC's Small Cells Order. If forced to relocate facilities as much as 1,000 feet away, Verizon Wireless would need to install small cells of greater height and higher wattage to cover a greater distance. This would be infeasible given strict height limits. Further, by creating a situation demanding high-wattage radio units, the County would essentially dictate the technology used by Verizon Wireless. However, this would intrude on the exclusive federal authority over the technical and operational aspects of wireless technology. *See New York SMSA Ltd. Partnership v. Town of Clarkstown,* 612 F.3d 97, 105-106 (2nd Cir. 2010). Due to conflicts with state and federal law, the 1,000-foot review radius should be reduced to a practicable distance. *At most, applicants for right-of-way facilities should demonstrate unavailability or technical infeasibility of any reasonable higher-preference locations or structures within 200 feet along the subject right-of-way.*

The Blanket Undergrounding Requirement is Unreasonable.

The FCC determined that undergrounding requirements, similar to aesthetic requirements, must be reasonable, non-discriminatory and objective. Small Cells Order, ¶¶ 86, 90. The Draft Ordinance requires placement of most accessory small cell equipment underground. Draft Ordinance § 6992(A)(15). While there is an exception if applicants show undergrounding is technically infeasible, this standard is unreasonable nonetheless, in two ways. First, undergrounding is generally technically infeasible due to sidewalk space constraints and undue environmental and operational impacts for required active cooling and dewatering equipment. In particular, radio units must be placed above-ground for optimal facility performance. Second, small equipment boxes on the side of a pole are not "out-of-character" among typical infrastructure in the right-of-way, including on utility poles and street light poles. Utility poles offer ideal sites for small cells by consolidating new equipment on to existing utility infrastructure. *To allow for typical small cell equipment required for service, the Draft Ordinance should include "radios" in the equipment that must be placed above-ground to function, and the County should permit up to nine cubic feet of accessory equipment on the side of a utility pole, or five cubic feet on a street light pole, before any undergrounding is considered.*

The County Cannot Require Annual Emissions Testing of Compliant Facilities.

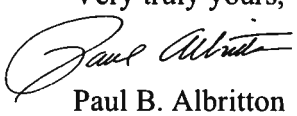
The Draft Ordinance requires an annual report on radio frequency emissions for each facility, but this contradicts federal law. Draft Ordinance § 6993(E). Once an installed wireless facility is shown to comply with FCC radio frequency exposure guidelines, local jurisdictions cannot require repeat exposure tests, as that regulation of operational requirements is preempted by federal law. *See* 47 U.S.C. § 332(c)(7)(B)(iv); *see also Crown Castle USA Inc. v. City of Calabasas* (Los Angeles Superior Court BS140933, 2014) ("...the regulation of a facility's planned or ongoing operation constitutes an unlawful supplemental regulation into an area of federal preemption.") *This requirement must be stricken.*

The County Cannot Require a Master Plan for Approval of a Small Cell.

The Planning Commission recommended that the Draft Ordinance require applicants to submit a master plan of future facilities to be installed near a proposed small cell. Draft Ordinance § 6692(C)(1). This requirement poses a problem from a practical as well as a proprietary standpoint. Such master plans do not exist and cannot practicably be prepared as static reference material. Network plans change often and are subject to frequent changes in demand along with dynamic network capabilities and constraints. A "master plan" prepared today will be inaccurate and obsolete as a reference for tomorrow. Further, a master plan is not relevant to any reasonable, objective aesthetic standards for approval. Lastly, applicants cannot be required to provide proprietary information regarding their network design. Small Cells Order, ¶¶ 37-40. Each small cell must be evaluated on its own merits. *The requirement to submit a small cell master plan should be stricken.*

In order to ensure reliable connectivity, to prevent service prohibition zones, and to allow providers the ability to maintain and improve their networks, Verizon Wireless respectfully requests that the Board adopt our recommended revisions to the Draft Ordinance. Otherwise, the Draft Ordinance will undoubtedly result in policy that will inhibit Verizon Wireless's ability to maintain and reinforce its wireless network, and consequently, service will suffer and the introduction of new technologies will be delayed.

Very truly yours,



Paul B. Albritton

cc: Thomas Montgomery, Esq.
Justin Crumley, Esq.
Randall Sjoblom, Esq.
Eric Lardy
Mark Wardlaw

Rodriguez, Chrystal

From: Lardy, Eric
Sent: Wednesday, August 07, 2019 7:11 AM
To: FGG-DL, LSDOCS
Cc: Neal, Stephanie; Lieberman, Tara; Shute, Madeline
Subject: FW: AT&T comments to staff report on the Small Cell Wireless Facilities ordinance
Attachments: San Diego County Small Cell Ordinance - 08-02-2019.docx; ATT00001.htm

Good morning, please see an additional comment letter we received.

From: "OSBORNE, JOHN R" <jo2783@att.com>
Date: August 5, 2019 at 7:38:46 PM PDT
To: "mark.wardlaw@sdcounty.ca.gov" <mark.wardlaw@sdcounty.ca.gov>
Cc: "MOORE, CHRISTINE R" <CM9485@att.com>
Subject: AT&T comments to staff report on the Small Cell Wireless Facilities ordinance

Mark,

Per our conversation, please find attached AT&T's comments regarding the Small Cell Wireless Facilities ordinance. Please feel free to contact me to discuss further as needed.

John Osborne
Director
External Affairs

AT&T
650 Robinson Ave, Suite 170
San Diego, CA 92103

m 619.200.3024
o 619-574-3046
e john.osborne@att.com or jo2783@att.com

San Diego County Small Wireless Code Change
August 2, 2019

Before the Board are two versions of the proposed small wireless code:

- one recommended by the Planning Commission (Attachments A-1 and A-2); and
- one recommended by staff (Attachments B-1 and B-2).

These versions differ with respect to several modifications to the code recommended by the Planning Commission, disagreeing on three modifications and agreeing on three modifications.

With reference to these two proposed versions of the code, AT&T suggests the following. AT&T also incorporates by reference its detailed comments made in its July 17, 2019, letter to the Planning Commission.

Site Avoidance (6992.A.3)

Staff and Planning Commission disagree on the proposed setbacks in the code. AT&T suggests:

- **Eliminating the 100-foot setback from residences**. AT&T agrees with staff that "this would be an effective prohibition of service as defined in the FCC Order based on the current residential zoning within the unincorporated county." Board Letter, page 8. Staff provides a detailed analysis of the impact of this standard in pages C-7 through C-10 in the hearing packet. These maps and analysis show that this setback forecloses site locations in extensive areas of the County, notably in higher density residential areas where demand for wireless service is likely high.
- **Eliminating the 1,000-foot separation from schools, child care centers, hospitals, and religious facilities.** This standard is contrary to federal law, technically infeasible, and otherwise impracticable, as detailed in our July 17, 2019, comment letter. Of particular importance:
  - The proposed 1,000-foot site avoidance standard would ban small wireless facilities from significant portions of the County. For example, the standard would ban small wireless facilities in approximately ***half*** of the community village of Casa de Oro. See map at page 3-94 of the Staff Report to the Planning Commission. The proposed site avoidance standard would thus have the effect of prohibiting wireless service contrary to federal law. See July 17th letter for details.
  - The proposed standard appears to be regulating small wireless facilities on the basis of perceived health effects, especially due to the list of uses generally considered to be "sensitive." Such regulations are not allowed. *Sprint Spectrum v. Borough of Ringwood,* 386 N.J. Super. 62, 898 A.2d 1054 (2005)(the ordinance there prohibited a wireless facility within 1,000 feet of a hospital, school, or public recreation facility).
  - Staff has not provided a reasonable rationale for the standard. Presumably, the County does not ban standard utility poles and street light poles from the right-of-way near the listed uses based on the rationale that those poles might fall or that there are particular concerns about visual clutter near those uses.

RF Reporting Requirements (6992.C.7 & 6993.E)

Staff and Planning Commission both recommend additional requirements that an applicant provide an RF report with each application, as well as an annual RF report for each facility in operation.

AT&T suggests a clarification that such report may be prepared by a qualified professional other than a licensed engineer because carriers' in-house RF engineers are not typically licensed by the State. Such a clarification would be as follows:

7. RF Emissions: Applicants shall submit a radiofrequency radiation study (prepared by a licensed engineer ***or other professional*** *qualified to evaluate radiofrequency emissions) which estimates the proposed project's radiofrequency emissions, demonstrating compliance of the proposed facility with applicable FCC policies, standards, and guidelines for MPE to radiofrequency radiation emissions.*

Master Plan (6992.C.1)

Staff and Planning Commission disagree on whether a master plan should be required with an application for a small wireless facility.

AT&T agrees with staff's analysis in its Board Letter, page 11:

> Staff Recommendation: Staff does not recommend requiring a master plan because it goes beyond what is required for other similar infrastructure facilities. If a master plan requires identification of the location of SCWs' the FCC permit processing timelines of 60- and 90-days would begin. Wireless providers object to this because it is burdensome compared to how other infrastructure facilities are processed, which is not allowed the FCC Order.

AT&T supports the staff's recommendation of no master plan requirement.

Visual Separation Requirements (6992.A.9) (*as between small wireless facilities*)

Both proposed versions of the code include 500 and 1,000-foot separation distances.

AT&T suggests that separation standards apply on a carrier-specific basis, be only **300 feet** regardless of zone, and be subject to variation when needed, applying "to the extent technically feasible." The proposed 1,000-foot separation distances are too large when carriers are deploying 5G technology and may need to work around obstructions and other siting challenges.

Rodriguez, Chrystal

From: Vanessa Patman <drvwpatman@gmail.com>
Sent: Tuesday, August 06, 2019 9:18 PM
To: Desmond, Jim
Cc: FGG-DL, LSDOCS; Mills, Benjamin
Subject: Re: Ordinance revisions

Thank you for your time and response, Sup. Desmond!

I just found this. Other cities and counties are taking measures to protect residents. Los Altos is another to add themselves to the list:
https://padailypost.com/2019/08/05/los-altos-council-to-vote-on-ordinance-that-mostly-keeps-small-cell-antennas-out-of-neighborhoods/

On Tue, Aug 6, 2019 at 4:32 PM Desmond, Jim <Jim.Desmond@sdcounty.ca.gov> wrote:

> Dear Vanessa,
>
> Thank you for your email. I appreciate you sharing your thoughts on this matter. When this item comes before the Board of Supervisors, I will consider your input and all other input before making a decision.
>
> Again, I appreciate you contacting my office. Please feel free to contact me or my Land Use Policy Advisor, Ben Mills, if you have any questions at (619) 531-5555.
>
> Sincerely,
>
> Jim Desmond
>
> County of San Diego
>
> Supervisor, 5th District

From: Vanessa Patman <drvwpatman@gmail.com>
Sent: Tuesday, August 6, 2019 4:22 PM
To: Jacob, Dianne <Dianne.Jacob@sdcounty.ca.gov>; Cox, Greg <Greg.Cox@sdcounty.ca.gov>; Desmond,

Jim <Jim.Desmond@sdcounty.ca.gov>; Fletcher, Nathan (BOS) <Nathan.Fletcher@sdcounty.ca.gov>; Gaspar, Kristin <Kristin.Gaspar@sdcounty.ca.gov>
Subject: Ordinance revisions

San Diego County Resident Comments on Proposed Wireless Ordinance Changes as will appear in BOS Meeting Agenda for August 7, 2019

Dr. Vanessa W. Patman
12229 Carmel Vista Rd. Unit 253
San Diego, CA 92130
512.585.7201
Drvwpatman@gmail.com

_____August 6,_____ 2019
(Date)

San Diego County Board of Supervisors
County Administration Center
1600 Pacific Hwy, Rm 335
San Diego, CA 92101
greg.cox@sdcounty.ca.gov, dianne.jacob@sdcounty.ca.gov, kristin.gaspar@sdcounty.ca.gov,
nathan.fletcher@sdcounty.ca.gov, jim.desmond@sdcounty.ca.gov

Dear County Supervisors,

I am writing to express my concern about the installment of 5G/small-cell antennas throughout San Diego County. The threats to public health, safety, privacy, security, property values, landscapes, and more must be addressed in the wireless ordinance. The citizens of San Diego County require your protection. I am grateful that The County is taking measures to incorporate such protections into an updated wireless ordinance, since the version approved in February makes no such provisions.

Based on review of the latest ordinance draft, there are still a number of ways this ordinance could be improved to ensure the best for SD County citizens, which I trust is your primary goal.

I ENCOURAGE YOU NOT TO VOTE IN FAVOR OF THE CURRENT DRAFT ORDINANCE UNTIL IT CONTAINS THE FOLLOWING:

Restrict small cells in residential areas, and sensitive zones where children, elderly and those with special/medical needs will be. No small cell should be allowed within (a minimum) of 1000 feet from a residential property line, in any direction. Or within 1500 – 3,000 ft of civic areas, including schools, hospitals, libraries, churches, daycares, community centers,senior facilities, police and fire stations, parks, and sports fields- to the property lines. Verizon has a commercial on YouTube where they measured the distance of a 5G signal (through hills and obstacles) at a distance of greater than 3,000 feet, so there should be zero issue with these setbacks, they are a necessity.

Restrict proximity of small cells in business areas

Stronger language. Use words which are definitive, instead of suggestions which can be ignored.

Permit approvals must be made to be discretionary rather than ministerial, with the entire shot clock used, so the public can provide input *that can be acted on*, with a new streamlined system to accommodate objections and ADA Accommodations Requests.

ADA language and provisions. The ordinance lacks language that protects Americans with disabilities, and their use of these rights-of-way and travel paths, where the small cells structures will be deployed. Small cells may make it impossible to occupy one's home or yard, as well, if sensitive to rf radiation. ADA protection must not be discriminatory toward those who have physical mobility disabilities only. What about citizens with EHS, pacemakers, ADD/ADHD, autoimmune, etc? Also, provide a set of directions for these requests with a timeline for granting them and incorporate into the shot clocks and beyond (which can then hold up the shot clock). These rights-of-wayand public streets belong to us too, and this liability belongs to San Diego County.

Require a Master Plan. The master plan needs to be coordinated across all carriers, and provide information for each antenna project like RF exposure levels, power levels, frequencies, and location address. The master plan should also be published online with ample notice, such that citizens can provide input BEFORE the antenna is installed. REQUIRE that these companies have a plan and strategy for where they place the antennas, and enforce their compliance. This will minimize excessive, haphazard installments. If there is no plan, require it as part of permit application. This will be especially helpful for residents who would like to stay in San Diego, (I teach at Mira Costa, my husband is a scientist at Pfizer in oncology) but also want to avoid constant EMF exposure! Based on the Master Plan, we can map the best place for us to live and raise our kids.

No Colocation! Co-location means multiple antennas to a single pole. And despite the thinking, it does not reduce clutter. Actually, it produces a huge eyesore of a pole will multiple projections hanging off of it. It DRAWS more attention because of the extra hardware. Colocation allows poles to become scarily top-heavy, and also exposes citizens to higher doses of radiation since multiple antennas will emit from a single location. Sure, a single antenna may be below FCC limits, but what about a stack of them? One antenna per pole, and no antennas within 1000 feet of ANY other antenna, even from other providers.

No cutting or disturbance of trees and landscaping – at all. This must be forbidden! There are other towns and cities with gorgeous, old trees being chopped down or excessively trimmed to allow for small cell deployment. Not going to happen in San Diego!

Provide clear-easy-to-reach County support for citizens. We need to have a dedicated hotline/service to contact The County when issues with the small cells arise, such as noise, safety, health problems, or other complaints need to be reported. This service can be funded by the wireless providers as a part of their application/bond/yearly renewal fees.

Insurance for rf radiation and other injuries, and Bonds. Require proof that the companies, annually, have adequate insurance ($2 million dollars each small cell) and bonds of $500,000 per small cell to protect against malfunction, accidents, damages, and injuries, including from exposure to nonionizing radiation. These provide protection for the County too.

Random third-party testing. Random, independent third party inspections, by companies contracting with the County, must be required at least 3-4 times annually, at the expense of the telecom company owning the small cells, to ensure compliance with FCC guidelines for each pole (in total) and for each small cell on the pole.

Require notice for any residence within a mile of a proposed small cell site, to provide ample time for residents to come forward and provide input, particularly those with medical reasons to avoid rf radiation. During noticing, large signage noticing must also be placed on prospective poles with full details of application plans in large print, including frequencies and power, size of small cell.

Approvals for permits may only be reissued yearly with new re-application, with proof of having met all criteria including noticing, liability insurance as above, and bonds. *Small cells may not be upgraded without a full new application process.*

Require safety signage on all poles. All poles must have necessary warning signs and RF safety information as well as company and County contact names and phone numbers. *Include total rf emission levels near bottom ten feet of poles or general area if more than one pole.*

Keep small cells away from parks and ball fields – at least 3000 ft away. The County Parks Dept. income desires do not come ahead of public safety and aesthetics. Cell towers and small cells are a safety hazard and produce clutter in our parks and ballfields.

Thank you for taking the time to consider and apply these suggestions. I look forward to seeing these changes in theordinance draft before it is voted on.

Sincerely,

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Vanessa W. Patman, Ph.D.

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Vanessa W. Patman, Ph.D.

Rodriguez, Chrystal

From: Shute, Madeline
Sent: Tuesday, August 06, 2019 6:00 PM
To: FGG-DL, LSDOCS
Subject: FW: no 5G in San Diego County!!

Please see below for public comment regarding agenda item #6.

-----Original Message-----
From: AdvancePlanning, PDS <PDS.AdvancePlanning@sdcounty.ca.gov>
Sent: Tuesday, August 06, 2019 5:56 PM
To: Shute, Madeline <Madeline.Shute@sdcounty.ca.gov>
Subject: RE: no 5G in San Diego County!!

-----Original Message-----
From: Wilson Donna <donnahwilson@earthlink.net>
Sent: Monday, July 22, 2019 11:54 PM
To: AdvancePlanning, PDS <PDS.AdvancePlanning@sdcounty.ca.gov>
Subject: no 5G in San Diego County!!

hazardess to health...speed not worth
health risks.

Donna Wilson
Encinitas, CA

Rodriguez, Chrystal

From: Shute, Madeline
Sent: Tuesday, August 06, 2019 6:00 PM
To: FGG-DL, LSDOCS
Subject: FW: Zoning Ordinance Update for Small Cell Wireless Facilities

Please see below for public comment regarding agenda item #6.

From: AdvancePlanning, PDS <PDS.AdvancePlanning@sdcounty.ca.gov>
Sent: Tuesday, August 06, 2019 5:56 PM
To: Shute, Madeline <Madeline.Shute@sdcounty.ca.gov>
Subject: RE: Zoning Ordinance Update for Small Cell Wireless Facilities

From: Daniel Gizzo <dpgizzo@gmail.com>
Sent: Friday, August 02, 2019 11:12 PM
To: Lieberman, Tara <Tara.Lieberman@sdcounty.ca.gov>; Neal, Stephanie <Stephanie.Neal@sdcounty.ca.gov>; Desmond, Jim <Jim.Desmond@sdcounty.ca.gov>; Fletcher, Nathan (BOS) <Nathan.Fletcher@sdcounty.ca.gov>; Gaspar, Kristin <Kristin.Gaspar@sdcounty.ca.gov>; Jacob, Dianne <Dianne.Jacob@sdcounty.ca.gov>; Cox, Greg <Greg.Cox@sdcounty.ca.gov>
Subject: Zoning Ordinance Update for Small Cell Wireless Facilities

Tara Lieberman & Stephanie Neal
Land Use / Environmental Planner, Advance Planning
5510 Overland Avenue, Suite 310 / Mail Stop – 0650
San Diego California 92123

Re: Small Cell Wireless Facilities Ordinance

Dear Tara Lieberman & San Diego County Supervisors:

I am a resident and property owner in the unincorporated area of San Diego County (Rancho Del Mar area just north of Via de la Valle), part of District 5 represented by Mr. Desmond. I am deeply concerned about the new FCC directive making it possible for the telecommunications industry to place cell antennas anywhere in the County right-of-way. I am voicing my strong objection to the FCC's takeover of our County's land as well as due process with respect to our rights. We do not feel that the current County plan to update the zoning ordinance does not provide enough protect for communities such as ours (Rancho Del Mar). We live in a semi-rural neighborhood in a dark sky designated area. We do not have streetlights. The installation of metal poles to house the small cell 5G wireless equipment would be out of place in our neighborhood, and would be inconsistent with our neighborhood character. Further, we are opposed to the cutting of trees in the neighborhood to accommodate the equipment. The installation of these cell towers would result in devaluation of our properties. We request that the County adopt a more stringent zoning requirement. We further request that neighborhood associations be fully informed before any projects are approved. Some suggestions of improvements to the zoning update include:

1. Cell towers are not to be located in "Sensitive" areas. 1000 foot setbacks from sensitive areas as defined by the County are necessary.

2. 500 foot set back from residential. This is in addition to using priority placement schema. No placement of poles in front of a residence.
3. Pre application site inspection & survey required for each site application. There must be an on-site inspection prior to approval of the site by the County or agent representing the County. If application is in conflict with a sensitive area, site inspector may suggest the tower relocate so coverage is the same but sensitive area is protected.
4. Setback must meet fall zone length or zoning setback requirements, whichever is greater. Fall zone length must exceed the height of the tower by 20% because the height of the tower may be increased by 10% the next year.
5. Require mandatory live RF compliance testing immediately after tower is installed and "on demand testing" by a third party paid for by carrier.
6. Height restriction 30 feet; next year [under 1903] tower may go 10% higher.
7. Payment, performance and removal bond paid up front.
8. Require a Certificate of Completion.
9. No cutting of trees to facilitate line of sight or initial placement. The general ambience of the community is to be preserved.
10. Under-grounding of equipment where possible; priority for undergrounding for areas without existing street light poles.
11. The ordinance shall comply with the Americans with Disabilities Act (this includes but is not limited to safe access to private, commercial and public buildings).
12. Noticing for the occupants and building owners of all residences, apartments, and businesses within 1000 feet of the proposed location.

Please consider adopting all of the sections and verbiage of the "City of Hercules CA Wireless Telecommunications Facilities Ordinance (Chapter 16)" at this link, weaving in specific SD County requirements as deemed appropriate. I suggest this because the Hercules Ordinance provides enforceable directions on the administration of Telecom applications and siting of antennas and reasonable restrictions for the Telcom companies.
https://www.codepublishing.com/CA/Hercules/#!/Hercules10/Hercules1016.html#10-16
Respectfully,
Dan & Monica Gizzo
4820 Rancho Viejo Dr
Del Mar, CA 92014

--
Dan Gizzo Jr
dpgizzo@gmail.com

Rodriguez, Chrystal

From: Shute, Madeline
Sent: Tuesday, August 06, 2019 6:00 PM
To: FGG-DL, LSDOCS
Subject: FW: Comments on San Diego County Ordinance for Small Wireless Facilities

Please see below for public comment regarding agenda item #6.

From: Hamilton, Mary [CTO] <Mary.Hamilton@sprint.com>
Sent: Thursday, August 01, 2019 6:00 PM
To: Browning, Diane C [GA] <Diane.C.Browning@sprint.com>; AdvancePlanning, PDS <PDS.AdvancePlanning@sdcounty.ca.gov>
Cc: Atkinson, Bill R [GA] <Bill.Atkinson@sprint.com>; Schifman, Kenneth A [GA] <Kenneth.Schifman@sprint.com>; Kukta, Stephen H [GA] <Stephen.H.Kukta@sprint.com>; Robinson, Yvonne [CTO] <Yvonne.Robinson@sprint.com>
Subject: RE: Comments on San Diego County Ordinance for Small Wireless Facilities

Hi Diane and Team,

Question—does your team happen to know about a small book that was published early this year I think called " 5G for Dummies" it contains a foreword from Dr. Saw and it really is a great reference book that could be most useful to present to the Commissioner's and Councilmembers when it comes to understanding the 5G technology. I would love to get my hands on a couple dozen of these and pass them out—do you know anything about them or where to get within Sprint? It was developed by Sprint Business....

Thanks!

Mary Hamilton
Network Project Manager III/ San Diego & Imperial Counties
Regional Site Development
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Mary.Hamilton@sprint.com

From: Hamilton, Mary [CTO]
Sent: Thursday, August 1, 2019 5:57 PM
To: Browning, Diane C [GA] <Diane.C.Browning@sprint.com>; PDS.AdvancePlanning@sdcounty.ca.gov
Cc: Atkinson, Bill R [GA] <Bill.Atkinson@sprint.com>; Schifman, Kenneth A [GA] <Kenneth.Schifman@sprint.com>; Kukta, Stephen H [GA] <Stephen.H.Kukta@sprint.com>; Robinson, Yvonne [CTO] <Yvonne.Robinson@sprint.com>
Subject: RE: Comments on San Diego County Ordinance for Small Wireless Facilities
Importance: High

Hi Diane,

Well more planning boards and commissions have taken place here in San Diego- the County of San Diego had their County Planning hearing on July 19th which I attended on behalf of Sprint- I did not speak publicly but was there for appearance sake.

The wireless ordinance that the County Staff wanted to implement was not 100% bad- but had a few items that certainly precludes the wireless industry from placing small cells in certain areas- which is prohibitive such as 1,000 feet set back from schools. Childcare centers, hospitals and religious facilities to ensure public safety in large public gathering places. They considered these area least preferred zones. They wanted to expand their noticing from 300 feet to 500 feet at the time of submittal rather than during the zoning process; They want an annual reporting of each small cell to show or prove that we are complaint under the FCC guidelines with the EMF exposure limits. (More of a CYA if you ask me)

As part of staff's due diligence they were directed to find ways to avoid clutter, encourage collocations, establish distance requirements to avoid proliferation of poles in the ROW, come up with preferred areas to locate these small cells. Staff sat down with the industry and stakeholders (community groups) and devised some requirements to address the concerns along with a Staff Recommendations- as attached for your reference.

At the actual Planning Commission hearing, Commissioners went on with some crazy recommendations and voted to approve. Now per this agenda item, Staff is only agreeing with 3 of the 6 modifications to the wireless ordinance. This seems like an unchartered territory as it is somewhat unprecedented from I am told and concerning as to how to proceed with staff in order to get some of these crazy modifications removed. The carriers in the room were shocked at the Planning Commission hearing and today we attended an industry call to discuss how we as a "group/industry" can join forces and hopefully get the Board of Supervisors to either 1) continue the item until such time as staff and industry can meet again and/or allow additional time for the industry to lobby the Board of Supervisors individually and make them see what a mistake these modifications are to the future of 5G, etc; 2) to just stand up at the hearing and say our peace hoping that will be enough to swing the vote?

Of the 6 modifications to the proposed small cell ordinance staff is asking for only 3 of them to be approved;

1. Comply with FCC permissible exposure-- the industry is all in agreement- no brainer;
2. Submit an annual RF report by each carrier to place on file (or more of a CYA); and AT&T was the only carrier that was not in agreement but would conceded if forced.
3. Require signage warning of RF emissions- again the industry is all in agreement as we do that anyway.

Staff is not supporting the following;

1. 100-ft set back from residential buildings; none of us like this requirement;
2. Reduce the proposed set back with in the ROW from 1,000 feet from the property line to 100 feet from the nearest building for sites that are near schools, religious facilities, daycare and hospitals; same as above
3. Require the carriers to submit a "master plan" for placement to the County- as each carrier stated- we have no master plan- its whatever area needs additional coverage and we have a budget to build...

Sprint's biggest issue are these set back requirements- it would preclude us from placing a small cell in residential areas which is where we are needing them for additional coverage and we typically cannot locate a macro cell in that area; the coverage for small cells is limited in distance, with a setback we perhaps could not even provide the coverage to the building where we have the customer demand which defeats the entire need for the small cells program.

The county asking for collocation- so far I have not seen a pole that can accommodate 2 carriers and be stealth to where you do not even notice them. The diameter would have to be massive to accommodate the antenna and equipment box that is required. When they talk about clutter- I am not sure the staff or county commissioners truly know what to expect with that statement. Adding pole separation requirements also does not make sense, as that could prohibit carriers from having the same access to customers from one another. What was talked about and would make sense, would be to have a clause in the ordinance that would allow on special circumstances that can be proved with coverage or lack thereof to be given flexibility and an exception.

The County is asking for written response from the carriers no later than Tuesday- August 6th at 4:00pm. I know AT&T is putting together a written statement and will have their external affairs person present at the hearing – Verizon has said the same thing. Crown Castle (our vendor) the external affairs guy will be on vacation that day- so they have hired an independent attorney to speak on their behalf. TMO indicated they would have an external affairs person present at the hearing. Can Sprint have someone come into market for this hearing?

Please advise on how your office would like us to proceed. Thanks!

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Sprint **Brighter Future For All**

From: Browning, Diane C [GA]
Sent: Tuesday, June 18, 2019 7:41 AM
To: PDS.AdvancePlanning@sdcounty.ca.gov
Cc: Hamilton, Mary [CTO] <Mary.Hamilton@sprint.com>; Atkinson, Bill R [GA] <Bill.Atkinson@sprint.com>; Schifman, Kenneth A [GA] <Kenneth.Schifman@sprint.com>; Kukta, Stephen H [GA] <Stephen.H.Kukta@sprint.com>
Subject: Comments on San Diego County Ordinance for Small Wireless Facilities

Please see attached comments from Sprint. Should you have any questions, please contact the undersigned. Thanks

Diane C. Browning | Counsel, State Regulatory Affairs | Sprint Corporation
6450 Sprint Parkway, Mailstop KSOPHN0314-3B161 | Overland Park, KS 66251
(913) 315-9284 (office) | (913) 523-0571 (fax) | diane.c.browning@sprint.com

Rodriguez, Chrystal

From: Shute, Madeline
Sent: Tuesday, August 06, 2019 6:01 PM
To: FGG-DL, LSDOCS
Subject: FW: <no subject>

Please see below for public comment regarding agenda item #6.

From: Engler, Robert <rengler@ucsd.edu>
Sent: Saturday, August 03, 2019 10:47 AM
To: Neal, Stephanie <Stephanie.Neal@sdcounty.ca.gov>
Subject: <no subject>

Stephanie Neal
Land Use / Environmental Planner, Advance Planning
5510 Overland Avenue, Suite 310 / Mail Stop – 0650
San Diego California 92123

Re: Small Cell Wireless Facilities Ordinance

Dear Stephanie Neal & San Diego County Supervisors:

I am a resident and property owner in the unincorporated area of San Diego County (Rancho Del Mar area just north of Via de la Valle), part of the County District 5. I am deeply concerned about the new FCC directive making it possible for the telecommunications industry to place cell antennas anywhere in the County right-of-way. I am voicing my strong objection to the FCC's takeover of our County's land as well as due process with respect to our rights. We do not feel that the current County plan to update the zoning ordinance provides enough protection for communities such as ours (Rancho Del Mar). We live in a semi-rural neighborhood in a dark sky designated area. We do not have streetlights. The installation of metal poles to house the small cell 5G wireless equipment would be out of place in our neighborhood, and would be inconsistent with our neighborhood character. Further, we are opposed to the cutting of trees in the neighborhood to accommodate the equipment. The installation of these cell towers would result in devaluation of our properties. We request that the County adopt a more stringent zoning requirement. We further request that neighborhood associations be fully informed before any projects are approved. Some suggestions of improvements to the zoning update include:

1. Cell towers are not to be located in "Sensitive" areas. 1000 foot setbacks from sensitive areas as defined by the County are necessary.
2. 500 foot set back from residential. This is in addition to using priority placement schema. No placement of poles in front of a residence.
3. Pre application site inspection & survey required for each site application. There must be an on-site inspection prior to approval of the site by the County or agent representing the County. If application is in conflict with a sensitive area, site inspector may suggest the tower relocate so coverage is the same but sensitive area is protected.

4. Setback must meet fall zone length or zoning setback requirements, whichever is greater. Fall zone length must exceed the height of the tower by 20% because the height of the tower may be increased by 10% the next year.
5. Require mandatory live RF compliance testing immediately after tower is installed and "on demand testing" by a third party paid for by carrier.
6. Height restriction 30 feet; next year [under 1903] tower may go 10% higher.
7. Payment, performance and removal bond paid up front.
8. Require a Certificate of Completion.
9. No cutting of trees to facilitate line of sight or initial placement. The general ambience of the community is to be preserved.
10. Under-grounding of equipment where possible; priority for undergrounding for areas without existing street light poles.
11. The ordinance shall comply with the Americans with Disabilities Act (this includes but is not limited to safe access to private, commercial and public buildings).
12. Noticing for the occupants and building owners of all residences, apartments, and businesses within 1000 feet of the proposed location.

Please also consider adopting all of the sections and verbiage of the "City of Hercules CA Wireless Telecommunications Facilities Ordinance (Chapter 16)" at this link, weaving in specific SD County requirements as deemed appropriate. I suggest this because the Hercules Ordinance provides enforceable directions on the administration of Telecom applications and siting of antennas and reasonable restrictions for the Telecommunication companies who will be installing 5G cellular towers.
https://www.codepublishing.com/CA/Hercules/#!/Hercules10/Hercules1016.html#10-16
Respectfully,

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