

Attachment C – Implementation Options Summary Report

Implementation Options Summary Report

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Summary of Options

The Board may consider the options below and: 1) adopt the staff recommendation, 2) modify, remove, or establish new requirements for the proposed amendments, or 3) make new recommendations.

TABLE 1 – LOCATION AND DESIGN OPTIONS

#	Requirement	Revised Staff Recommendation	Planning Commission Recommendation	Options included in the Board Letter
1-1	Residential Areas	Rely on location preferences, do not establish residential setbacks	Establish 100 ft. distance from residential buildings in the right-of-way	Modify the proposed Amendments to require a setback from SCWs to all residential property lines
1-2	Site Avoidance	Establish 1,000 ft. distance from schools, childcare centers, hospitals and religious facilities, in the right-of-way, when feasible	Establish 100 ft. distance from schools, childcare centers, hospitals, and religious facilities in the right-of-way	Option 1: Modify the proposed Amendments to remove site avoidance requirements (Requested by the wireless industry)
				Option 2: Modify the proposed Amendments to include fire stations, sheriff stations, shopping areas, and County parks
1-3	Visual Separation of Existing Structures	Co-Locate when possible, limited to two small cells on a single structure		Option 1: Modify the proposed Amendments to prohibit the co-location of facilities
				Option 2: Modify the proposed Amendments to increase the number of SCW allowed to co-locate on a pole to three or more facilities
1-4	Visual Separation of New Structures	Separation of small cells (of same provider) of 500 ft in most preferred locations and 1,000 feet in least preferred locations		Option 1: Modify the proposed Amendments to be more restrictive and require any SCW, regardless of carrier, to comply with separation requirements

TABLE 1 – LOCATION AND DESIGN OPTIONS

#	Requirement	Revised Staff Recommendation	Planning Commission Recommendation	Options included in the Board Letter
				Option 2: Modify the proposed Amendments to reduce distances required for new structures to 300 feet in most preferred and 500 feet in lease preferred locations (Requested by the wireless industry)

TABLE 2 – COMPLIANCE AND MONITORING OPTIONS

#	Requirement	Revised Staff Recommendation	Planning Commission Recommendation	Options included in the Board Letter
2-1	Signage	Establish requirement for RF warning signage		Modify the proposed Amendments to require signage requirements with RF emission levels to be posted on SCW
2-2	Bonding	No additional bonding requirements		Modify proposed Amendments to require minimum bonding assurances
2-3	Master Plan	Do no recommend requiring Master Plans	Establish requirement for Master Plans	No Additional Option
2-4	RF Emissions Check & Annual Reporting	Require annual reporting of RF emission levels		No Additional Option
2-5	Maximum Permissible Exposure	Include language specifying compliance with FCC guidelines		No Additional Option

TABLE 3 – PUBLIC INPUT OPTIONS				
#	Requirement	Revised Staff Recommendation	Planning Commission Recommendation	Options included in the Board Letter
3-1	Public Noticing	Send notice to corresponding CP/CSG and property owners within 500 feet within 10 days of application submittal		Modify distance of notification

Section 1: Location and Design

1-1 RESIDENTIAL AREAS

Location & Design

PROJECT OPTIONS

Staff Recommendation: Not Recommended

This requirement could be an effective prohibition which is in violation of the FCC Order.

PC Recommendation: Establish 100 ft. Distance Requirement from Residential Buildings

The Planning Commission recommended staff establish a requirement for small cell installations to not be closer than 100 feet from residential buildings, measured from the structure itself.

Option: Establish Distance Requirement from Residential

To address community requests, establish distance requirements from residential property lines.

PC RECOMMENDATION

The Planning Commission recommended staff establish a requirement to allow SCWs closer than 100 feet from residential buildings, measured from the structure itself.

Staff does not support this recommendation. Approximately 92% of the unincorporated County is residentially zoned. In addition, as established in the County's Zoning Ordinance, standard minimum front yard setbacks for buildings abutting public streets or private thoroughfares range from 5 feet to 60 feet for residential buildings. Exterior side yard setbacks are required to be 35 feet, and rear yard setbacks range from 0 to 35 feet.

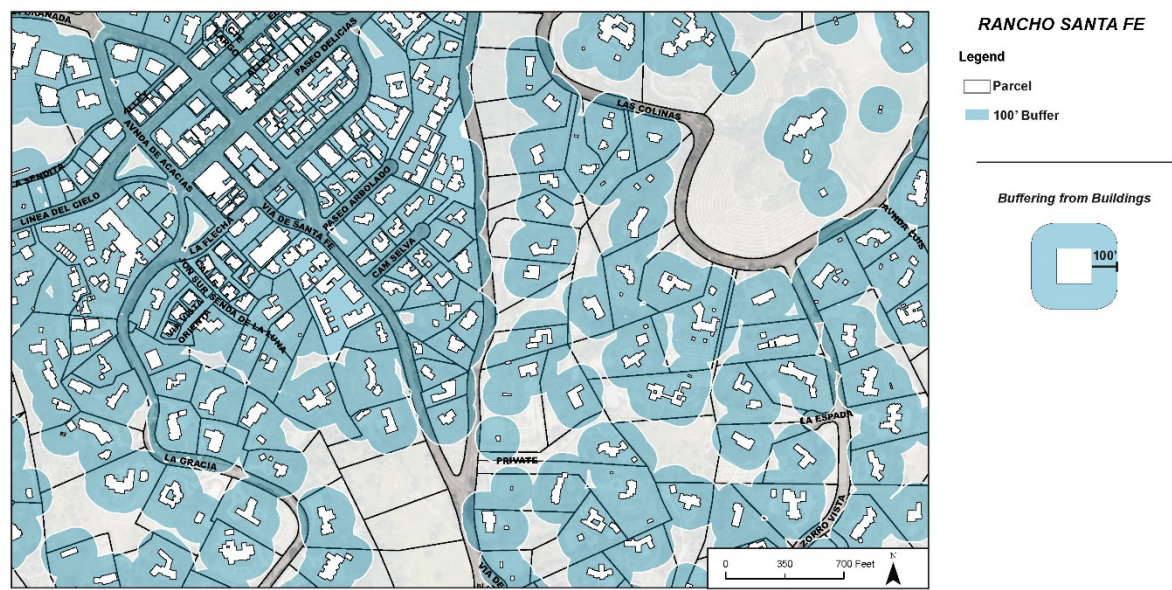
Staff has analyzed requiring a 25 ft, 50 ft, 100 ft and up to 1-mile setback from all residential buildings in Village, Semi-Rural, and Rural areas. Based on this analysis, requiring even a 25-foot setback from buildings in Village areas could prohibit the installation of small cells within the right-of-way in these areas entirely.

Section 253 of the Telecommunications Act explicitly states that "no State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service."

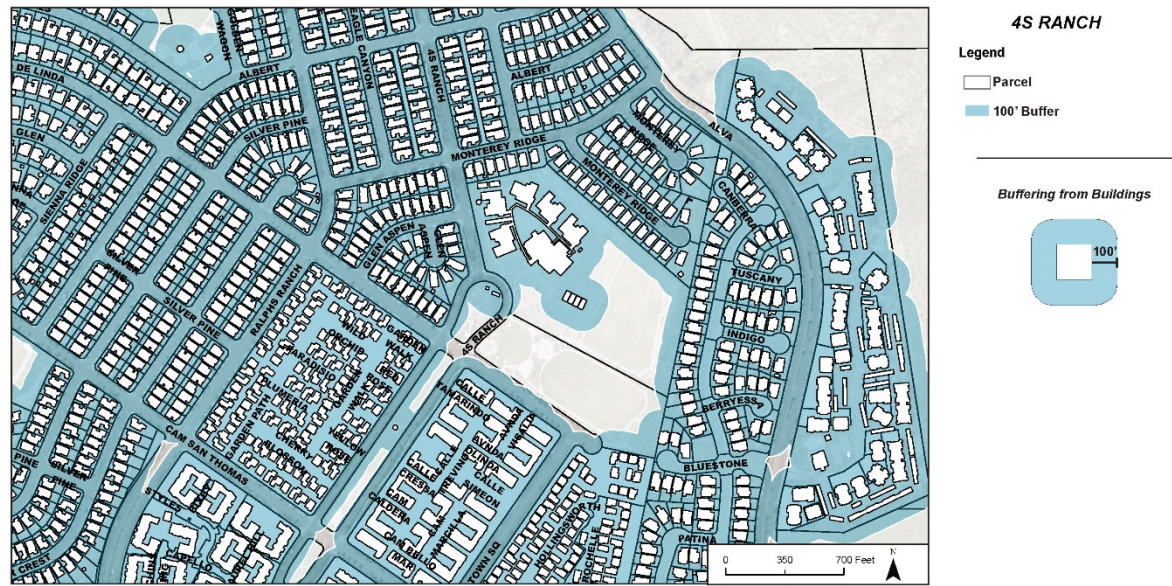
The FCC Report and Order 18-133 reaffirmed the FCC's interpretation that a local jurisdiction can violate the "effective prohibition" language of Section 253 by enacting regulations that merely materially inhibit the ability of wireless carriers to provide service. It specifically states that "a state or local legal requirement could materially inhibit service in numerous ways—not only by rendering a service provider unable to provide an existing service in a new geographic area or by restricting the entry of a new provider in providing service in a particular area, but also by materially inhibiting the introduction of new services or the improvement of existing services. Thus, an effective prohibition includes materially inhibiting additional services or improving existing services."

The PC recommendation to require a 100-foot setback from all residential buildings would materially inhibit service in the unincorporated County by preventing the installation of small cells within Village, and some Semi-Rural, and Rural areas; restricting the ability of wireless carriers to provide services, densify their networks, and add capacity to their networks. The figures below illustrate the PC recommended 100-foot setback from residences in several example communities representing Village, rural, and semi-rural areas.

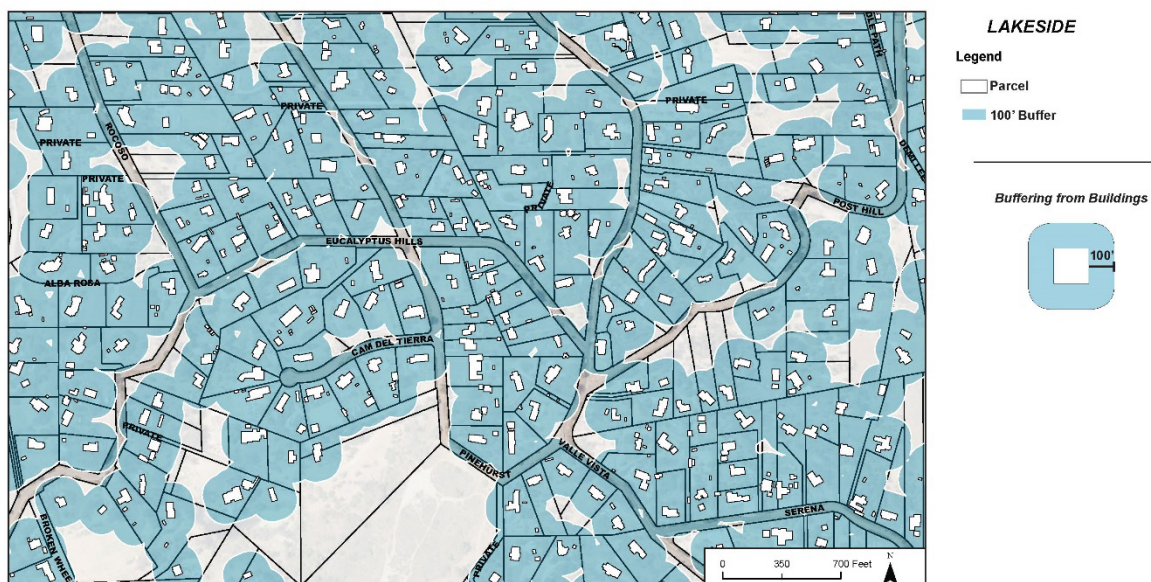
Rancho Santa Fe (Village and Semi-Rural Area)



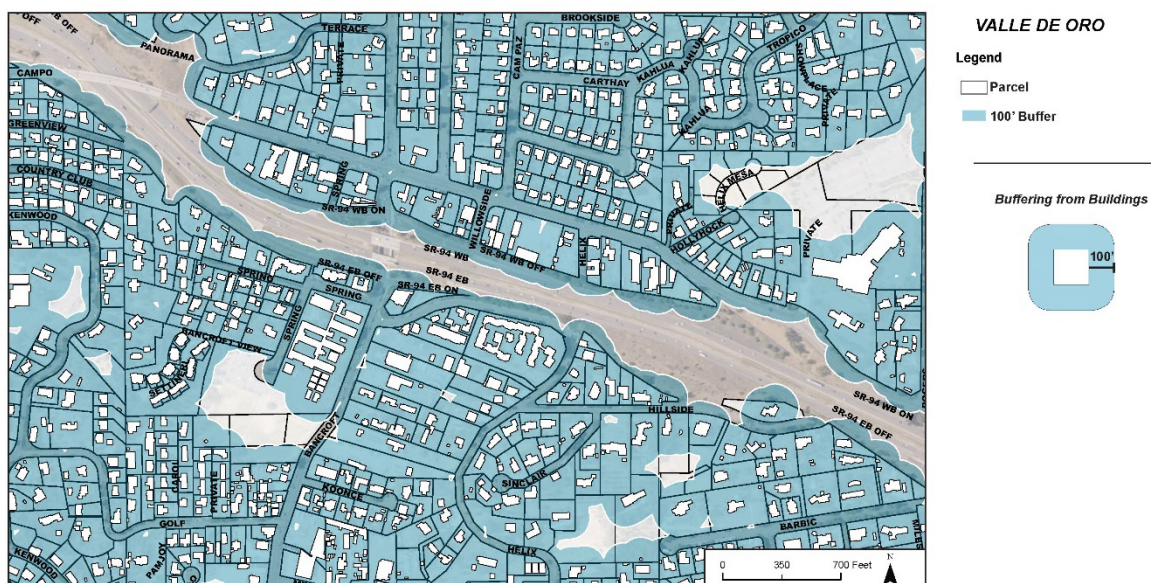
4S Ranch (Village Area)



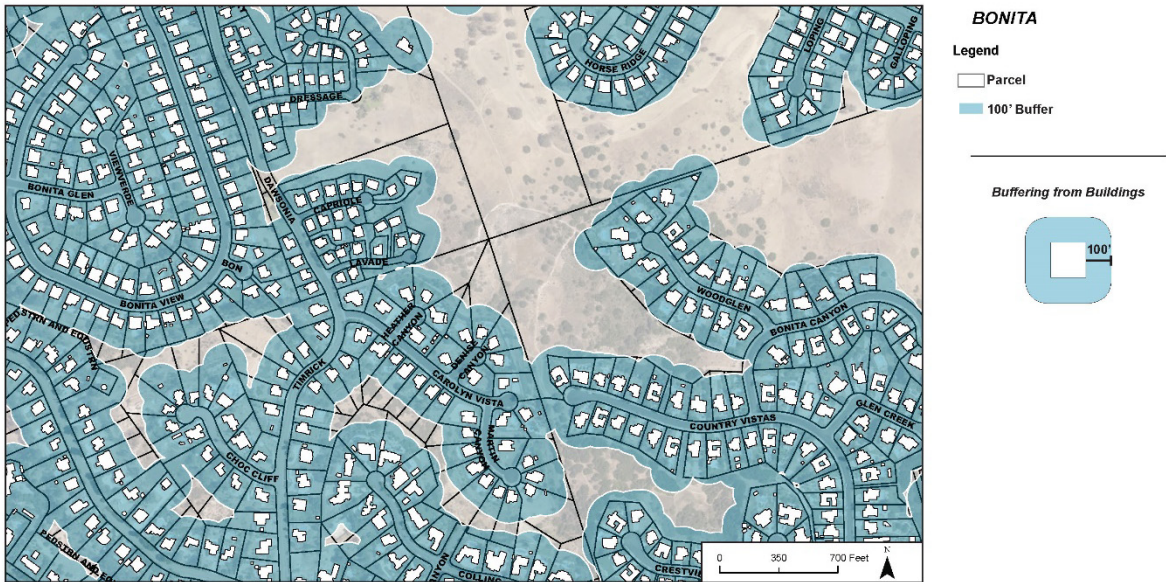
Lakeside (Semi-Rural Area)



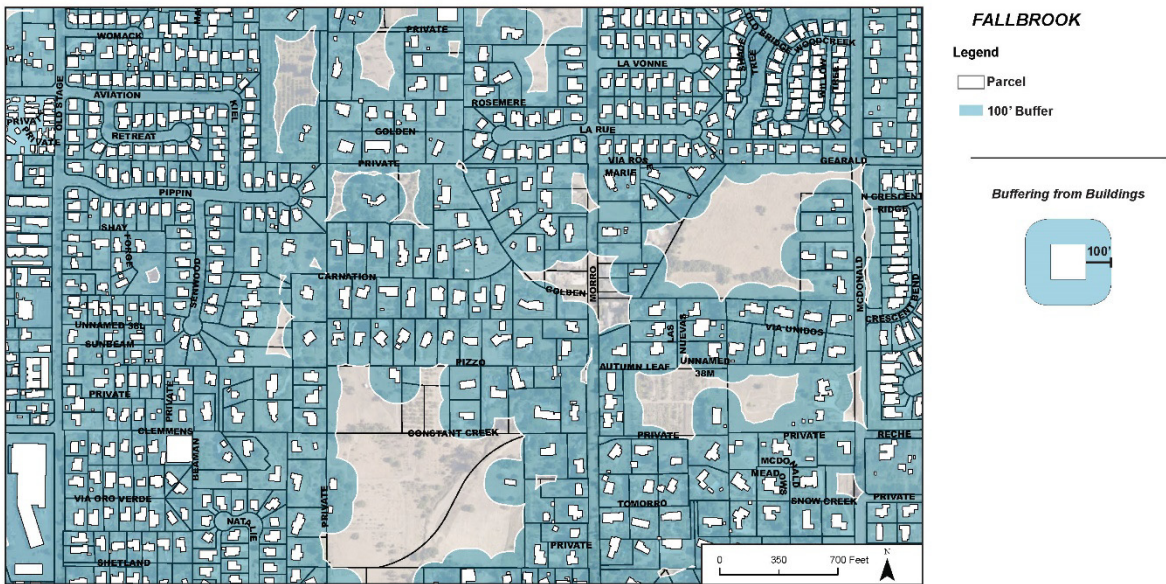
Valle De Oro (Village Area)



Bonita (Village Area)



Fallbrook (Village and Semi-Rural Area)



LANGUAGE TO CONSIDER

Staff Recommendation
Not recommended.

PC Recommendation (6992.A.3.)

SCWs in the right-of-way shall not be located within 100 feet of residential buildings, schools, childcare centers, hospitals, or religious facilities. Distance, without regard to intervening structures, shall be a straight line measured from the exterior walls of the building.

Option (6992.A.2.iii)

SCWs located adjacent to a residential zone shall be set back from the nearest residential lot line by a distance of XXX feet. The setback shall be measured from that part of the SCW that is closest to the neighboring property.

DIRECTION REQUESTED

Adopt the staff recommendation. Board could direct a different distance to be required.

1-2 SITE AVOIDANCE

Location & Design

PROJECT OPTIONS

Staff Recommendation: Establish 1,000 ft. Distance Requirement from Certain Areas, When Feasible
Proposed ordinance establishes distance requirements from schools, childcare centers, hospitals, and religious facilities for facilities installed within the right-of-way.

PC Recommendation: Modify Staff Recommendation to Establish 100 ft. Distance Requirement from Certain Areas, Measured from the Building

The Planning Commission modified the staff recommendation to require 100 feet setbacks from schools, childcare centers, hospitals, and religious facilities for facilities installed within the right-of-way, measured from building on the site.

Option 1: Remove Requirement

To address wireless carriers' requests, remove this requirement in its entirety.

Option 2: Modify to Include Additional Sites

To address community requests, modify the Amendments to include additional sites requested such as fire and police stations, shopping areas, and County Parks.

PC RECOMMENDATION

The Planning Commission recommended staff modify the distance requirements for SCWs installed within the right-of-way to 100 feet from schools, childcare centers, hospitals, and religious facilities.

Staff is in support of this recommendation if it is established on the basis of reducing clutter and maintaining the aesthetic quality and community character of these uses. Title 47 of the United States Code of laws states that no state or local government may regulate the placement of personal wireless service facilities on the basis of the environmental effects of RF emissions.

LANGUAGE TO CONSIDER

Staff Recommendation (6992.A.3.)

In order to reduce clutter and maintain the aesthetic quality and community character of certain civic and community uses, SCWs in the right-of-way shall not be located within 1,000 feet of schools, child care centers, hospitals, or religious facilities unless the applicant demonstrates that compliance with this requirement would be technically infeasible. Distance, without regard to intervening structures, shall be a straight line measured from the closest property lines.

PC Recommendation (6992.A.3.)

SCWs in the right-of-way shall not be located within 100 feet of residential buildings, schools, child care centers, hospitals, or religious facilities. Distance, without regard to intervening structures, shall be a straight line measured from the exterior walls of the building.

Option 2 (6992.A.3.)

SCWs in the right-of-way shall not be located within 1,000 feet of XXX, XXX, XXX. Distance, without regard to intervening structures, shall be a straight line measured from the exterior walls of the building.

DIRECTION REQUESTED

Adopt the staff recommendation. Board could direct a different distance to be required.

1-3 VISUAL SEPARATION OF EXISTING STRUCTURES

Location & Design

PROJECT OPTIONS

PC & Staff Recommendation: Co-locate When Possible, Limited to Two Facilities

The proposed ordinance limits co-location to two SCWs for each structure to reduce visual impacts.

Option 1: Modify to Prohibit Co-location

To address community requests, the requirement to co-locate SCWs on a single structure can be removed.

Option 2: Modify to Increase Co-location

To address community requests, the number of co-located SCWs on a single structure can be increased.

PC RECOMMENDATION

Adopt staff recommendation.

LANGUAGE TO CONSIDER

PC & Staff Recommendation (6992.A.8.iii.)

SCWs permitted on existing structures shall be co-located where possible, provided, however, that no more than two (2) SCWs shall be co-located on the same structure. SCWs shall be constructed and sited to accommodate the future co-location of up to one (1) additional facilities.

Option 1

(6992.A.8.) Remove configuration preference 1.

(6992.A.8.iii.) SCWs shall not be co-located in order to minimize clutter and limit other impacts to aesthetics and community character

Option 2 (6992.A.8.iii.)

SCWs permitted on existing structures shall be co-located where possible, provided, however, that no more than X SCWs shall be co-located on the same structure. SCWs shall be constructed and sited to accommodate the future co-location of up to X additional facilities.

DIRECTION REQUESTED

Adopt the staff recommendation. Board could direct a different distance to be required.

1-4 VISUAL SEPARATION OF NEW STRUCTURES

Location & Design

PROJECT OPTIONS

PC & Staff Recommendation: Establish Separation Requirements for Facilities Based on Provider

SCWs owned by the same provider must be separated by 500 feet in Most Preferred zones, and 1,000 feet in Least Preferred zones.

Option 1: Modify Distance Requirement Between SCWs on New Structures to be More Restrictive

To address community requests, modify the requirement to require separation distances between all SCWs installed on new structures, regardless of provider.

Option 2: Modify Distance Requirement Between SCWs on New Structures to be Less Restrictive

To address wireless carrier requests, modify the requirement by decreasing the distance between SCWs installed on new structures.

PC RECOMMENDATION

Adopt staff recommendation.

LANGUAGE TO CONSIDER

PC & Staff Recommendation (6992.A.9.)

Wherever possible, no two SCWs owned by the same provider shall be located within 500 feet of one another in Most Preferred Locations, or within 1,000 feet of one another in Least Preferred Locations in order to minimize clutter and other impacts to aesthetics and community character within the right of way.

Option 1 (6992.A.9.)

Wherever possible, no two SCWs shall be located within 500 feet of one another in Most Preferred Locations, or within 1,000 feet of one another in Least Preferred Locations in order to minimize clutter and other impacts to aesthetics and community character within the right of way.

Option 2 (6992.A.9.)

Wherever possible, no two SCWs owned by the same provider shall be located within XXX feet of one another in Most Preferred Locations, or within XXX feet of one another in Least Preferred Locations in order to minimize clutter and other impacts to aesthetics and community character within the right of way.

DIRECTION REQUESTED

Adopt the staff recommendation. Board could direct a different distance to be required.

Section 2: Compliance and Monitoring

2-1 SIGNAGE

Compliance & Monitoring

PROJECT OPTIONS

PC & Staff Recommendation: Establish RF Warning Signage Requirements

The Planning Commission recommended establishing signage requirements with RF warning signs.

Option: Establish Additional Signage Requirements

To address community requests, require additional signage requirements with RF emissions levels posted on structure.

PC RECOMMENDATION

The Planning Commission recommended staff establish requirements for RF warning signage. Staff has modified the proposed Amendments to include the Planning Commission recommendation.

Staff does not recommend requiring signage with RF emissions levels to be required because this requirement exceeds what the County requires for other utilities in the public right-of-way such as SDG&E utility poles.

The FCC's policy on RF warning signs is to allow RF warning or alerting signs to provide information on the presence of RF radiation or to control exposure to RF radiation within a given area. Standard radiofrequency hazard warning signs are commercially available from several vendors. Appropriate signs should incorporate the format recommended by the Institute for Electrical and Electronics Engineers (IEEE) and as specified in the IEEE standard: IEEE Std C95.2-1999. Guidance concerning the placement of signs can be found in the IEEE Standard: IEEE Std C95.7-2005 (available for free through the IEEE Get Program). When signs are used, meaningful information should be placed on the sign advising affected persons of: (1) the nature of the potential hazard (i.e., high RF fields), (2) how to avoid the potential hazard, and (3) whom to contact for additional information.

LANGUAGE TO CONSIDER

PC & Staff Recommendation (6992.B.4.)

Signs shall be limited to those needed to identify the property and the owner and to warn of any danger. SCWs must include signage that accurately identifies the site owner/operator, the owner/operator's site name or identification number and a toll-free number to the owner/operator's network operations center. SCWs may not bear any other signage or advertisements unless expressly approved by the County, required by law or recommended under FCC, OSHA or other United States governmental agencies for compliance with RF emissions regulations. Signs shall be no larger than 18 inches wide and 24 inches tall, be mounted at least 10 feet above the ground to not impair pedestrian and equestrian use of sidewalks or pathways, and not conflict with other standard colors in the road right-of-way such as orange, fluorescent green, and red in order to not create a visual distraction for drivers.

Option (6992.B.4.)

Signs shall be limited to those needed to identify the property and the owner and to warn of any danger. SCWs must include signage that accurately identifies the site owner/operator, the owner/operator's site name or project number, a toll-free number to the owner/operator's network operations center. Signage must be updated annually to include RF emission levels from the most recent annual report. SCWs may not bear any other signage or advertisements unless expressly approved by the County, required by law or recommended under FCC, OSHA or other United States governmental agencies for compliance with RF emissions regulations. Signs shall be no larger than 18 inches wide and 24 inches tall, be mounted at least 10 feet above the ground to not impair pedestrian and equestrian use of sidewalks or pathways, and not conflict with other standard colors in the road right-of-way such as orange, fluorescent green, and red in order to not create a visual distraction for drivers.

DIRECTION REQUESTED

Adopt the staff recommendation.

2-2 BONDING

Compliance & Monitoring

PROJECT OPTIONS

Staff & Planning Commission Recommendation: Not Recommended

Permit application requires insurance for construction and includes defense and indemnity language.

Option: Establish Requirement for Bonding

To address community requests, establish minimum bonding assurances.

PC RECOMMENDATION

Adopt staff recommendation.

Members of the public have requested the County include bonding requirements for the duration of the permit to cover any costs the County may incur due to the abandonment of facilities. Staff does not recommend this requirement as the language on the permit application states that the “permittee shall be responsible for the restoration or costs to restore the county facility to the equivalent or better condition than it was prior to the date this permit became effective, or prior to the date the small cell wireless facility was first placed, whichever is earlier.” Staff has also determined that bond issuers do not typically provide bonding beyond the time it takes to construct a project, and does not recommend bonding requirements because of the insurance requirements already in place.

Members of the public have requested insurance requirements of up to \$5 million for each small cell. Staff does not recommend this as it goes beyond what is currently required for wireless facility installations. All excavation applications require the applicant to provide a certificate of insurance for General Liability with a \$500,000 minimum, naming County of San Diego Department of Public Works as certificate holder, which applies to the construction and installation of facilities. In addition, the defense and indemnification language on the permit application states that the “permit Owner agrees to indemnify, hold harmless, and defend the County and each of its officers and employees from any liability of responsibility for accident, loss or damage to persons or property resulting from the encroachment’s presence within the County right-of-way or any installation, construction, maintenance, state of use, or repair work related to the encroachment done by Permit Owner, or Permit Owner’s agents, employees or representatives.”

LANGUAGE TO CONSIDER

Staff Recommendation

Not recommended.

Option (6992.B.8.)

Prior to permit issuance, the applicant or owner/operator of the SCW must pay for and provide a performance bond, which shall be in effect until all facilities are fully and completely removed and the site is reasonably returned to its original condition. The purpose of the bond is to cover the applicant's or owner/operator obligation under the conditions of approval. The bond coverage must include, but not be

limited to, removal of the SCW, which includes without limitation all antennas, radios, batteries, generators, utilities, cabinets, mounts, brackets, hardware, cables, wires, conduits, structures, shelters, towers, poles, footings and foundations, whether above ground or below ground, constructed or installed in connection with the SCW, plus the cost to completely restore any areas affected by the removal work to a standard compliant with applicable laws. (The amount of the performance bond shall be set by the Director on a case-by case basis and in an amount reasonably related to the obligations required under this Chapter and all conditions of approval, and must be specified in the conditions of approval.)

DIRECTION REQUESTED

Adopt the staff recommendation.

2-3 MASTER PLAN

Compliance & Monitoring

PROJECT OPTIONS

Staff Recommendation: Not Recommended

PC Recommendation: Establish Requirement for Master Plans

The Planning Commission recommended staff establish a requirement for wireless carriers to submit Master Plans before installing in an area.

PC RECOMMENDATION

The Planning Commission recommended staff establish a requirement for Master Plans to be submitted by the wireless carriers before installing any small cells within a neighborhood.

Staff does not recommend this requirement as the wireless carriers have stated they do not have a strategy or plan for how the installation of small cells will take place over time within the unincorporated County. Since adoption of the Small Cell Wireless Facilities Zoning Ordinance Update in February 2019, only 15 small cell applications have been received.

The existing ordinance allows for the adoption of a voluntary Master Plan and defines a Wireless Community Master Plan as “a Master Plan of preferred sites and designs for wireless facilities for a defined geographic area prepared in cooperation with one or more wireless service providers; formally submitted by the community planning group or sponsor group or by a homeowners association representing at least 4,000 residents and at least 5,000 acres to the Director; reviewed by the Director for such issues as aesthetics and community compatibility; and following public review, approved by the Director. A Community Master Plan can be applicable to all providers or to selected providers as defined in the Plan.”

The FCC Order suggests that the specific locations of the wireless facilities must be approved within the shot clocks, whether by permit or under some sort of master plan (i.e., a master license agreement). Master plans which serve the purpose of an agreement between the wireless carrier and the County to approve the locations without further approvals must be processed within the established shot clocks. If the master plan is instead a framework agreement, such as a license agreement, then the shot clocks would apply to the approval of the licenses for the locations after the agreement is in effect. In either scenario, this requirement would be a challenging effort for staff to undertake given the current staffing.

LANGUAGE TO CONSIDER

Staff Recommendation

Not recommended.

PC Recommendation (6992.C.1.)

Scope of Work: Applicant shall submit a scope of work with sufficient detail to determine compliance with the requirements set forth below. This shall include a Master Plan for each SCW to be installed within the neighborhood of the proposed site.

DIRECTION REQUESTED

Adopt the staff recommendation.

Section 3: Public Input

3-1 PUBLIC NOTICING

Public Input

PROJECT OPTIONS

Option: Modify Distance of Notification

To address industry and community concerns, notification to property owners in proximity to the proposed site should be required at a modified the distance. Distance must be determined to be reasonable compared to the impact and type of facility, the range of SCWs is estimated to be between 160 to 1,600 feet.

PC & Staff Recommendation: Require Notification of CPGs and Neighbors within 500 feet

Wireless providers must send a notice of application to the corresponding CPSG and property owners within 500 feet.

PC RECOMMENDATION

Adopt staff recommendation.

LANGUAGE TO CONSIDER

Option (6992.C.6.)

Any application for a new or co-located SCW shall include evidence of compliance with the following notice requirements:

- i. A notice of intent to request a permit for a new SCW shall be provided to all property owners within 500 feet of the proposed facility within 10 days of the submittal of a request.*
- ii. A notice of intent to request a permit for a new SCW shall be provided to any applicable community planning or sponsor group where the proposed facility within 10 days of the submittal of a request.*

PC & Staff Recommendation (6992.C.6.)

Any application for a new or co-located SCW shall include evidence of compliance with the following notice requirements:

- i. A notice of intent to request a permit for a new SCW shall be provided to all property owners within 500 feet of the proposed facility within 10 days of the submittal of a request.*
- ii. A notice of intent to request a permit for a new SCW shall be provided to any applicable community planning or sponsor group where the proposed facility within 10 days of the submittal of a request.*

DIRECTION REQUESTED

Adopt the staff recommendation.