

Public Comments

Agenda Item # 13



September 14, 2020
City Council Meeting

September 1, 2020

Pacifica City Council
170 Santa Maria Ave.
Pacifica, CA 94044

RECEIVED

SEP 04 2020

CITY CLERK

Dear Mayor Martin and City Councilmembers,

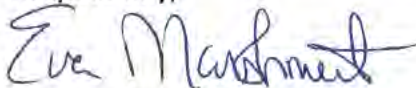
In regards to Councilman O'Neill's suggestion that the city allow RV's to park in Pacifica residents' driveways, may I suggest a sponsor program. Perhaps Councilman O'Neill can head this program and see how many residents would like to sponsor a RV. Maybe the RV owners could be vetted to see what they need to get back on their feet. Perhaps residents will be open to the idea of sharing their driveways and help if the RV's participate in a sponsored program with Councilman O'Neill making all the introductions and having a plan to help the occupants move forward in their lives. Such a program will limit the number of RV's residing in the city depending on how many sponsors sign up. Without limits and a plan, we will be overrun with RV's coming to our beautiful city. We will have a perpetual problem as RV occupants will not receive the help they need and we won't have enough resources to help everyone.

As poop seems to be a big issue in the RV debate, a sponsor could arrange for the Honey Dipper truck to come drain the poop tank alleviating the need to dump poop into the creeks, ocean or streets. The Honey Dipper truck will help keep our city cleaner. Perhaps the resource center could reimburse this expense to the sponsor and assist the occupants in receiving the help they need to move forward.

I realize this is a big issue and one that deserves dignity and respect for all concerned.
I appreciate the council's time and energy addressing this issue.

Thank you.

Respectfully,



Eva Marshment
Linda Mar

Marshment
[REDACTED]
Pacifica, CA 94044

SAN FRANCISCO CA 940

12 SEP 2020 PM 4 L



Pacifica City Council
170 Santa Maria Ave.
Pacifica, CA 94044

RECEIVED

SEP 04 2020

CITY CLERK

94044-250670



Brooks, Elizabeth

From: richard veltri [REDACTED]
Sent: Wednesday, August 26, 2020 3:03 PM
To: Public Comment
Subject: rv parking

[CAUTION: External Email]

There are plenty of quiet streets with no houses on some sides for rv parking in pacifica' .almost no or little traffic is happening so there is no safety issue at hand. One can install a traffic counter on the roadway to satisfy the accuracy of traffic flow. Most traffic is at a snails pace in these quiet places so traffic accidents is nearly impossible unless one is blind. So the safety concerns of larger vehicles in some areas is pure bunk.

Sent from [Mail](#) for Windows 10

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Brooks, Elizabeth

From: Wright, Shelby
Sent: Monday, August 31, 2020 1:18 PM
Cc: Public Comment
Subject: FW: New voicemail from Unknown Caller

Good afternoon, Council.

We received the below transcript and voicemail from a resident who lives in Linda Mar. They are asking for reformation on the current parking ordinance.

Thanks!
Shelby

From: Google Voice [mailto:voice-noreply@google.com]
Sent: Friday, August 28, 2020 3:51 PM
To: Wright, Shelby <wrights@ci.pacifica.ca.us>
Subject: New voicemail from Unknown Caller

[CAUTION: External Email]



Hello, I'm calling from Linda Mar. We need to modify the parking ordinance. So that the parking ordinance is not just a copy of an ordinance found somewhere else, found you know, somewhere else like in the state or some other County. and we need to we have a right to legislate that parking ordinance locally and give citizens a voice. And the basic thing I want the city council to do is to affirm in the parking ordinance modification that homeowners can park in front of their own house. Homeowners can park in front of their own house as long as they want. And that the real danger is when someone parks in front of someone else's house. So this would be parking in the residential areas. Now parking on a highway or a frontage road or Boulevard or a commercial District or an industrial district that could be closer to the parking ordinance that we currently have. Because an abandoned vehicle can obstruct activity in those areas, but in the residential area, we have to reaffirm property rights of the property owner. So Property Owners can park in front of their own property. The big problem is when property owners have a lot of cars and they

park in front of somebody else's property then there's cause the neighbor has caused when someone parks in front of their property. They have cause to complain or when a visitor or someone parks and carools and leaves their car in front of your property you have cause that's legal cause that's a legal concept of cause and therefore the police should not use the generally worded parking ordinance to disregard the property rights of the homeowner. Thank you.

PLAY MESSAGE

[YOUR](#) [HELP](#) [HELP](#)
[ACCOUNT](#) [CENTER](#) [FORUM](#)

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1600 Amphitheatre Pkwy
Mountain View CA 94043 USA

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Brooks, Elizabeth

From: Steven Bird [REDACTED]
Sent: Thursday, September 10, 2020 7:00 PM
To: Public Comment
Subject: NO STREET PARKING FOR HOMELESS

[CAUTION: External Email]

WE PAY BIG TAXES TO LIVE HERE. SO YOU WANT TO APPROVE RV'S THAT THE HOMELESS LIVE IN TO PARK ON OUR STREETS, DROP THEIR GARBAGE AND HUMAN WASTE ON OUR STREETS. WHO IS GOING TO PICK UP AFTER THESE PEOPLE. OUR TAXES KEEP GOING UP AND UP AND NOW YOU WANT US TO

SUPPORT THESE PEOPLE WITH OUR TAX DOLLARS, GET A GRIP ON REALITY. THIS CITY ALWAYS CRIES IT HAS NO MONEY TO DO THING WITH, NOW ALL OF THE SUDDEN YOU WANT T PUT THIS BURDIN ON US. STOP PENALIZING THOSE OF US THAT WORKED FOR ALL WE HAVE, I SAY NO NO NO TO RV PARKING ON

OUR STREETS. THNK YOU SUE BIRD

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Brooks, Elizabeth

From: A Mutti [REDACTED]
Sent: Friday, September 11, 2020 8:50 AM
To: Public Comment
Subject: No More RVs Street or Driveways

[CAUTION: External Email]

Please do not let RVs in The streets or Driveways, please let our kids be able to walk and ride with out fear in Pacifica.

A Mutti

[REDACTED]

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Brooks, Elizabeth

From: Jeffrey Sinder [REDACTED]
Sent: Saturday, September 12, 2020 8:24 PM
To: Public Comment
Subject: RV's in neighborhood driveways

[CAUTION: External Email]

Please stop this crazy idea now. You will never find a area where all surrounding neighbors would be in favor of this concept.
Due to politics there is enough negative tension between certain neighbors. This would be like throwing oil on a fire.

Jeffrey Sinder
[REDACTED]

Pacifica

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Brooks, Elizabeth

From: Linda [REDACTED]
Sent: Sunday, September 13, 2020 4:46 PM
To: Public Comment
Subject: "Live-Aboard Residents"

[CAUTION: External Email]

What benefit do these "Live-Aboard Residents" bring to Pacifica? NONE! So, why do we (local government) continue to visit this unacceptable lifestyle in our neighborhoods? JUST SAY NO and let's move on to other items that will help IMPROVE our community, not destroy it.

I am a Terra Nova townhome owner (since 1992) and I have never seen our city in such disarray when it comes to all the RV'S parked (some permanently) throughout Pacifica. It's disgusting to see such old and unkempt vehicles allowed to clutter our neighborhoods. Oceana Blvd and Manor have got to be the absolute worse. I'd be afraid to walk past the squatters domains. I don't even walk past the RV'S that park on Terra Nova Blvd. One RV has pretty much taken up permanent residence across from 1060 Terra Nova Blvd, Casa Pacifica senior housing (for years. He returns same time every year for about six month. This year he's been there for eleven months and counting). PPD continually tags it with the 72 hour notice to move. He moves about 50 feet and squats again until it gets tagged again. Cat and mouse game. The owner was seen peeing in the trees in front of the library, where children were playing . Obviously he doesn't care.

This idea of parking on church property and charging them is ridiculous! Who will control the situation? Garbage, brown waste, safety, what about these issues. PLEASE don't allow this in the residential neighborhoods. It's now fair to the residents. Time would be better spent working on positive changes for Pacifica, not this dead end issue.

I could go on, but I'll stop for now.
Thank you.

Respectfully,
Linda Mendoza

[Sent from Yahoo Mail for iPhone](#)

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Brooks, Elizabeth

From: Eleanor Natwick [REDACTED]
Sent: Sunday, September 13, 2020 5:23 PM
To: Public Comment
Cc: Jill Hawkins
Subject: Live aboard RV's in Pacifica driveways and parking lots.

[CAUTION: External Email]

Yet again. Here are my feelings about the proposal for RV's in Pacifica.

No. No. No.

Live-in RV parking in driveways and Live-in RV encampments in parking lots which are located in heavily residential neighborhoods should not be allowed.

There should not be a CEQA exemption.

I've written to all of the council members, with a list of my objections multiple times in the past.

Live-in RV's should be limited to areas with designated facilities specifically to meet their requirements for health and safety.

Vote No.

Eleanor Natwick
[REDACTED]

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Brooks, Elizabeth

From: Jill Hawkins [REDACTED]
Sent: Sunday, September 13, 2020 5:51 PM
To: Public Comment
Cc: [REDACTED]
Subject: FW: Live aboard RV's in driveways and parking lots., but not in Pacifica

[CAUTION: External Email]

Hello All,

Here we are again. I thought this was taken care of at the last meeting, but apparently not. Please hear this message, NO to live-in RV parking in driveways and live-in RV encampments in parking lots in residential neighborhoods. No exemptions. This is not my first message to the City Council, RV living should be limited to areas with designated health and safety facilities.

Please vote NO.

Jill Hawkins

[REDACTED]
Pacifica, CA 94044
[REDACTED]

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From: JESSICA HAGE [REDACTED]
Sent: Sunday, September 13, 2020 5:54 PM
To: Public Comment
Subject: Opposing RVs in Pacifica - September 14th meeting

[CAUTION: External Email]

Dear City Council,

As a long time Pacifica resident who has lived here most of my life and now raising two young teenagers in this town, I am saddened, fearful and upset over the growing homeless population and the number of RVs that are parked on our city streets. Since July, I have attended each of the city council meetings and have expressed my concerns over the homeless RV situation. The last meeting that was held, this topic was item number 11 on the agenda; I stayed on the call and was disappointed (although not surprised) that this item got pushed to the next meeting. I was frustrated that I had spent my evening waiting for this topic only to hear that I'd have to wait until the next meeting to voice my opinion. I'd like to put this issue to rest and stop entertaining half baked solutions for the ever growing homeless situation in our town.

This time, the proposition is to allow homeowners to "sponsor" a homeless family on their property or allow churches to open up their parking lot to RVs. I personally feel this is a band aid solution to a much bigger issue. I am disappointed and frustrated that we continue to explore these options and put Pacifica homeowners at risk. Not only do I not feel safe with a proposal like this, I do not think financially this is a solution that makes sense. The Pacifica police department does not have the bandwidth or expertise to deal with these types of issues. Who is going to pay for the oversight of this program, who is going to ensure that we don't continue to see illegal sewage dumping on our streets? Do we have funds already secured to support this program or will this cost be passed onto the residents of Pacifica? Who is going to screen these individuals to ensure they are not criminals or sex offenders?

Recently my 15 year daughter was confronted by a mentally ill homeless man that tried to grab her and screamed at her as she rode her bike near the Walgreens on Palmetto. Unfortunately when we tried to get a picture of him to share with the police, he had ran off. When we saw this same man verbally attacking people walking along Mori Point a week later, we took a picture of the man and called the police. The police came out and told us there is nothing they can do and "they can't arrest crazy". This is what it has come to, residents of Pacifica now have to walk around in fear of being attacked by someone who is mentally ill or homeless.

I DO NOT want this type of environment being brought to my neighborhood. I fear for my children now when they ride their bikes or hang out with their friends around town. As a taxpayer in this city, I do not want this in my neighborhood for multiple reasons. If we allow a program like this, it opens a can of worms to more homeless and mentally ill people taking over our neighborhood streets, it is a health hazard, a safety concern and I foresee parts of our beautiful town becoming like areas of San Francisco. I think if we are going to do this program right, we should find a proper spot as suggested in the July meeting, such as spots at the RV park that allows for water hook up, sewage hook up, etc.

I urge you to make a firm decision to not move forward with this program. It is unsafe, unsanitary, and a waste of the city's limited resources to even consider. As tax-paying citizens, I like many other residents oppose RVs permitted to park in our neighborhoods. We need to keep our streets clean and safe for our children and families.

Thank you
Jessica

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Brooks, Elizabeth

From: David Whitney [REDACTED]
Sent: Monday, September 14, 2020 11:15 AM
To: Public Comment
Subject: Agenda Item 13- RVs ,9/14/2020

[CAUTION: External Email]

Sent from [Mail](#) for Windows 10

I am opposed to RVs being serviced on city streets and host site permit program. We do not want neighborhood RV parking. Dispersing homeless to suburbia will lead to social disturbance absent now in Pacifica.

David Whitney

[REDACTED]
Pacifica, Ca 94044

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Brooks, Elizabeth

From: Barbara Wise [REDACTED]
Sent: Monday, September 14, 2020 12:55 PM
To: Public Comment
Cc: Lavonda Williams
Subject: RV/Motorhomes Terra Nova Church

[CAUTION: External Email]

I live directly across the street from St. Andrew Presbyterian Church of Pacifica [REDACTED] and their parking lot. I ask that the city not consider allowing RV/Motorhomes be housed in their lot. However well intentioned, its precedent setting is definitely an assault on our life and property value.

The County of San Mateo has resources and assistance that may be of help addressing the homeless problem. A property equipped with sanitary waste disposal to allow for multiple Motorhomes would be far more sanitary than individual sites without waste control.

As sad as this situation is, if Pacifica does not have a space to house all the motor homes with water and sanitary conditions perhaps there is another property in San Mateo County. Placing these motor homes throughout the City of Pacifica is not a solution to a big problem. It's not fair to the rest of the population of Pacifica who pay the City and County Taxes whose property values are affected.

I have lived in Pacifica since 1962 and wish to continue to enjoy our city.

PLEASE, DON,T LET THE CAMELS NOSE GET UNDER THE TENT.

Barbara Wise
Terra Nova Resident

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Brooks, Elizabeth

From: Jane Herman [REDACTED]
Sent: Monday, September 14, 2020 1:31 PM
To: Jane Herman; Public Comment
Subject: 9/14/20 meeting, item # 13

[CAUTION: External Email]

I am writing to express my concerns regarding the details of inhabited RVs in either host parking lots or private driveways.

Overall the intent of the proposed amendments to municipal code is the legitimizing of RVs as housing. This should be viewed as a temporary situation with the primary goal to assist those most eligible to transition to permanent housing. A 12 month duration for permits, which could be renewed for another year supports this assertion.

The reality is that many people are leaving the Bay Area in search of more affordable housing and this should apply to people living in RVs as well.

Creating a permanent pathway to the existence of living in RVs with all of the unknown costs to the city (taxpayers) is simply poor public policy. As stated in the proposal the 'fiscal impact of this proposal is not known at this time' and potential grants to assist with costs are 'not assured.'

The potential impact to available street parking if private host driveways were to accommodate an oversized vehicle is understated. Many residential streets are already constrained.

The mention of a host collecting fees or deposits from an RV dweller is also of concern: this could incentivize homeowners to 'rent' their driveways- would this create an Air bnb model?

If a church (or other semi public entity) agrees to allow a limited number of RVs who are working woth the PRC to achieve housing within a 12 month period then I think some (not all) residents might agree this is a reasonable offer and path forward - even while the city would incur some costs.

Otherwise please do not continue to ask the residents of Pacifica to sign a blank check to accommodate a reality that is not of our making, nor can be solved on our local level. Also please do not continue this debate that has gone on for over two years, used so much staff time, and divided this community.

Thank you.

Jane Herman
Linda Mar

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Brooks, Elizabeth

From: Deborah MacDonald [REDACTED]
Sent: Monday, September 14, 2020 2:24 PM
To: Public Comment
Subject: Agenda Item 13 Parking of RV for occupied residential private properties.

[CAUTION: External Email]

City Council

I am asking to please **NOT** approve the parking of RV on residential drive ways. I think this will bring about the same issues the city streets are experiencing. I hope you will consider what the voters the tax payers want for our community a clean safe environment. The RV need to move to RV parks, off of our streets. This town does not have the means to develop a long term solution.. I would rather my tax money be used to sustain city of Pacifica, make some improvement to our failing infrastructure. Please let the police **enforce the law**, you have made a joke of law enforcement, let them do their part to clean up the RV problem. This **CAN** has been kicked down the road for over 1.5 years, it is time to act, your waste of time has made the problem grow. Please let us get these RV's (rust buckets) off our streets and **FORBID driveway camping**.

Deborah MacDonald
Bruce Lockwood
[REDACTED]
Pacifica

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Public Comments

Agenda Item # 14



September 14, 2020
City Council Meeting

Brooks, Elizabeth

From: Coffey, Sarah
Sent: Thursday, September 3, 2020 8:42 AM
To: Public Comment
Cc: Woodhouse, Kevin; Wehrmeister, Tina; Murdock, Christian; Brooks, Elizabeth
Subject: FW: Cell Phone Towers

From: Kerry Anne Durkan [REDACTED]
Sent: Thursday, September 3, 2020 7:34 AM
To: _City Council Group <CityCouncil@ci.pacifica.ca.us>; Coffey, Sarah <coffeys@ci.pacifica.ca.us>
Subject: Cell Phone Towers

[CAUTION: External Email]

To: Pacifica City Council

From: Kerry Durkan

Thank you for your pro-active approach with your efforts to protect the economy, health, and well-being of the City and the residents during this Covid-19 emergency. As a member of a group of concerned citizens, I would like to share information on small cell applications. We want the wireless communication structure to be implemented in a thoughtful way with citizen involvement and planned expansion. There is potential for negatively affecting property values and aesthetics of the City. This letter is being provided to assist the City in managing this problem during this time of emergency.

Our concern is that the wireless providers are using the COVID-19 emergency to expand a hasty and unsupervised deployment of potentially harmful, untested, small cell (4G/4G LTE, and 5G) wireless facilities. Federal legislation to further this aim is threatened to be approved very soon.

Other cities have already halted wireless applications and small cell (4G/4G LTE and 5G wireless communication facilities- WCF's) new and pending permits- and are only allowing maintenance and repairs due to emergency situations. Pacifica can do the same under federal communications laws to implement tolling (pausing) of all the telecommunication applications- new or pending- during the Covid-19 emergency and for a reasonable time afterwards to resolve any permitting backlog. Governor Newsom's Executive Order N-33-20, includes "maintenance of communications infrastructure" but it does not provide essential status to new wireless facility construction. Such tolling is consistent with federal telecommunication laws. (see FCC 18-111: 157 (2018)).

Reasons for tolling WCF's:

Staff productivity may be impacted by technical difficulties at this time. This results in the pace of permit processing generally occurring more slowly than usual. A written directive can be issued to provide all

interested parties with prior notice of the City's reduced capacity and consequential tolling of the processing of wireless permits, to avoid noncompliance with FCC shot clocks.

In- person meetings cannot take place during the permit application process. Site visits, consultant analysis, and fire department review may be impaired.

It will not be feasible to implement public participatory rights in this process. Residents have the right to participate. Tolling the processing of wireless permits when the city has also slowed processing of other permits is lawful, non-discriminatory, and prudent.

The City may be exposed to liability if unable to comply with FCC shot clocks or declines to accept new applications without giving pre-notification to applicants. If the City decides to continue accepting or processing new applications, it may be unable to meet the usual 60-90 day shot clocks. (see FCC 18-111:109).

For the sake of the City and the residents, please follow the precedent of Simi Valley, CA, that has ceased accepting WCF applications for a 90-day period. Simi Valley has judged all non-essential activity to be discontinued until further notice. The City of Berkeley has also halted processing of new applications.

Thank you for your attention to this urgent matter.

Respectfully,

Kerry Durkan

[REDACTED] Pacifica, CA 94044

--

Kerry Anne Durkan

[REDACTED]

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Brooks, Elizabeth

From: Coffey, Sarah
Sent: Tuesday, September 8, 2020 8:45 AM
To: Public Comment
Cc: Wehrmeister, Tina; Murdock, Christian; O'Connor, Bonny; Kenyon, Michelle; Woodhouse, Kevin
Subject: FW: Letter in opposition of small cell tower On Redwood Drive and in Pacifica.

From: MarLuna Yoga [REDACTED]
Sent: Monday, September 7, 2020 4:59 PM
To: _City Council Group <CityCouncil@ci.pacifica.ca.us>; Coffey, Sarah <coffeys@ci.pacifica.ca.us>
Subject: Letter in opposition of small cell tower On Redwood Drive and in Pacifica.

[CAUTION: External Email]

September 6, 2020

Addressing our fellow Council Members and Commissioners,

Please follow the courage and spirit of our fellow neighbors who have listened to the voice of their citizens and chose to protect them. Mill Valley has updated their local ordinances to include a 500 FOOT BUFFER Between WCFs and Residences. Mill Valley, San Anselmo, San Ramon and Ross have followed suit and WE CAN TOO. I ask you council members of Pacifica to pass a similar Urgent Ordinance to Stop Verizon's quick roll out of a very dangerous technology. Here is a blueprint of the Urgency Ordinance in the following link and highlights below. We have the knowledge and you have the support!

Urgency Ordinance

http://cityofmillvalley.granicus.com/MetaViewer.php?view_id=2&clip_id=1290&meta_id=59943

Urgency Telecommunications Ordinance

Additional Standards for Facilities in the Public Right-of-Way (20.73.060-090)
Additional design and development standards are identified for wireless facility applications that are inside the right-of-way including establishing maximum height limits on utility and streetlight poles for antennas, occupation of space, obtaining an encroachment permit, and adhering to Americans with Disability Act (ADA) Compliance, and specific development standards.

Additional design and development standards have been incorporated based on the City of Petaluma's recently adopted ordinance, and interest from some community members that are concerned about potential health impacts associated with pole mounted wireless facilities (see ATTACHMENT 2 for public comments). **Staff has incorporated a distance requirement (1,500 ft. apart) for pole mounted telecommunications facilities, but has not gone as far as establishing a restriction on the proximity of pole mounted wireless telecommunication to any residence. The City of Petaluma also establishes a 500 foot buffer from any residence as part of its ordinance.** Due to the size and scale of Mill Valley, staff recommends moving forward with the following standards and incorporating a buffer.

Additional Requirements (20.73.160-240)

Urgency Telecommunications Ordinance

The requirements indicate that wireless facilities in the right-of-way must:

- 1.
2. **Connect**
3. **to an existing utility pole that can support its weight.**
- 4.

Be separated by at least 1,500 feet.

- 1.
2. **Install**
3. **all new wires needed to service the telecommunications facility within the width of the existing utility pole so as to not exceed the diameter and height of the existing utility pole.**
- 4.
- 5.
6. **Underground**
7. **(flush to the ground, within three (3) feet of the utility pole), all ground-mounted equipment not installed inside the pole.**
- 8.
- 9.
10. **Conceal**
11. **all equipment. Aside from the transmitter/antenna itself, no additional equipment may be visible.**
- 12.
- 13.
14. **All cables,**
15. **including, but not limited to, electrical and utility cables, shall be run within the interior of the telecommunications tower and shall be camouflaged or**

hidden to the fullest extent feasible without jeopardizing the physical integrity of the tower.

16.

Thank you for taking your time on this very important issue.
Kindly,

Maria Lunardi

[REDACTED]

Pacifican of 42 years

www.marlunayoga.com

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Brooks, Elizabeth

From: Coffey, Sarah
Sent: Tuesday, September 8, 2020 8:46 AM
To: Public Comment
Cc: Wehrmeister, Tina; Murdock, Christian; O'Connor, Bonny; Kenyon, Michelle; Woodhouse, Kevin
Subject: FW: Opposing Verizon Cellular tower application

From: dan koenig [REDACTED]
Sent: Monday, September 7, 2020 5:41 PM
To: _City Council Group <CityCouncil@ci.pacifica.ca.us>; Coffey, Sarah <coffeys@ci.pacifica.ca.us>
Subject: Opposing Verizon Cellular tower application

[CAUTION: External Email]

Dear Pacifica Council Members and Planning Commissioners,

Mill Valley, San Anselmo, Ross, San Ramon and Petaluma have all changed their local ordinances to have more local control to PROTECT their constituents and be the voice of the people. Please do your duty for Pacifica residents!

Members of the Mill Valley city council voted unanimously last week to block deployments of 5G towers in the city's residential areas by activating an [urgency ordinance](#). The legislation, which is active immediately, allows authorities to **enact regulations affecting the health and safety of residents**. San Anselmo and Ross have already adopted similar ordinances.

Please read this published article from SFGate:
<https://www.sfgate.com/local/article/mill-valley-5g-antenna-tower-cell-phone-block-13221925.php>

Sincerely,
Dan Koenig,
Grandfather and Father of Pacific residence.

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Brooks, Elizabeth

From: Coffey, Sarah
Sent: Tuesday, September 8, 2020 8:46 AM
To: Public Comment
Subject: FW: Opposing Verizon's Cellular tower application

From: dan koenig [REDACTED]
Sent: Monday, September 7, 2020 6:18 PM
To: _City Council Group <CityCouncil@ci.pacifica.ca.us>; Coffey, Sarah <coffeys@ci.pacifica.ca.us>
Subject: Opposing Verizon's Cellular tower application

[CAUTION: External Email]

Dear Pacifica Council Members and Planning Commissioners,

I Hope this email finds you well. Please consider our local citizens wellbeing over the profits of a Corporation.

Your responsibility is to take into consideration the likely damages to property values and harm to human health in close proximity to a Verizon Cellular tower.

Mill Valley, San Anselmo, Ross, San Ramon and Petaluma have all changed their local ordinances to have more local control to PROTECT their constituents and be the voice of the people. Please do your duty for Pacifica residents!

Members of the Mill Valley city council voted unanimously last week to block deployments of 5G towers in the city's residential areas by activating an [urgency ordinance](#). The legislation, which is active immediately, allows authorities to **enact regulations affecting the health and safety of residents**. San Anselmo and Ross have already adopted similar ordinances.

Please read this published article from SFGate:

<https://www.sfgate.com/local/article/mill-valley-5g-antenna-tower-cell-phone-block-13221925.php>

Sincerely,
Daniel Koenig

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Brooks, Elizabeth

From: Coffey, Sarah
Sent: Tuesday, September 8, 2020 9:00 AM
To: Public Comment
Cc: Bazzano, Denise; Kenyon, Michelle; Wehrmeister, Tina; Murdock, Christian; O'Connor, Bonny; Woodhouse, Kevin
Subject: FW: Opposing Verizon's Cellular tower application

From: [REDACTED]
Sent: Tuesday, September 8, 2020 7:27 AM
To: _City Council Group <CityCouncil@ci.pacifica.ca.us>; Coffey, Sarah <coffeys@ci.pacifica.ca.us>
Subject: Opposing Verizon's Cellular tower application

[CAUTION: External Email]

Dear City council members of Pacifica,

This information is in support of denying Verizon's application.

Insurance authorities classify 5G as "High Risk."

The Insurance authority Swiss Re released a [white paper](#) classifying 5G as a "high" emerging risk cautioning that "potential claims for health impairments may come with a long latency." If insurance companies won't take the risk why should we?

Please watch the 90 second link below.

Thank you for your time,

<https://ehtrust.org/key-issues/cell-phoneswireless/5g-internet-everything/>

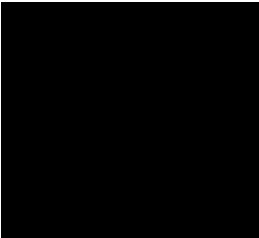
[Health Effects of 5G and Small Cells by Dr. Devra Davis](#)

Regards,

Doug Locsin

Douglas James Green Locsin

Affinity Sales Manager



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Brooks, Elizabeth

From: Coffey, Sarah
Sent: Tuesday, September 8, 2020 9:39 AM
To: Public Comment
Cc: Woodhouse, Kevin; Wehrmeister, Tina; Murdock, Christian; O'Connor, Bonny; Kenyon, Michelle; Bazzano, Denise
Subject: FW: Cell Tower

From: [REDACTED]
Sent: Sunday, September 6, 2020 1:06 PM
To: _City Council Group <CityCouncil@ci.pacifica.ca.us>; Coffey, Sarah <coffeys@ci.pacifica.ca.us>
Subject: Cell Tower

[CAUTION: External Email]

Dear Pacifica Council Members and Planning Commissioners,

I am writing in Opposition to Verizon's small cell tower going up on our residential blocks. Cell phone towers emit high-frequency radio waves and ***The closer you are, the greater the danger.***

Countless Studies have proven that **The microwaves from cell phone towers can interfere with your body's own EMFs, causing a variety of potential health problems, including:**

- **Headaches.**
- **Memory loss.**
- **Cardiovascular stress.**
- **Low sperm count.**
- **Birth defects.**
- **Cancer.**

Please see the article below by Joel Moskowitz, PhD, Director of Center for Family and Public Health, UC Berkeley

[We Have No Reason to Believe 5G Is Safe](#)



We Have No Reason to Believe 5G Is Safe

Joel M. Moskowitz

The technology is coming, but contrary to what some people say , there could be health risks

Please keep Pacifica residents safe by supporting the appeal and keep Verizon's small cell facilities off our residential blocks.

Best,
Lynelle Sigona

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Brooks, Elizabeth

From: Coffey, Sarah
Sent: Tuesday, September 8, 2020 1:44 PM
To: Public Comment
Cc: Wehrmeister, Tina; Murdock, Christian; O'Connor, Bonny; Kenyon, Michelle; Bazzano, Denise; Woodhouse, Kevin
Subject: FW: Opposing Verizon's Cellular tower application

From: [REDACTED]
Sent: Tuesday, September 8, 2020 1:42 PM
To: _City Council Group <CityCouncil@ci.pacifica.ca.us>; Coffey, Sarah <coffeys@ci.pacifica.ca.us>
Subject: Opposing Verizon's Cellular tower application

[CAUTION: External Email]

Dear Pacifica Council Members and Planning Commissioners,

Mill Valley, San Anselmo, Ross, San Ramon and Petaluma have all changed their local ordinances to have more local control to PROTECT their constituents and be the voice of the people. Please do your duty for Pacifica residents!

Members of the Mill Valley city council voted unanimously last week to block deployments of 5G towers in the city's residential areas by activating an **urgency ordinance**. The legislation, which is active immediately, allows authorities to **enact regulations affecting the health and safety of residents**. San Anselmo and Ross have already adopted similar ordinances.

Please read this published article from SFGate:
<https://www.sfgate.com/local/article/mill-valley-5g-antenna-tower-cell-phone-block-13221925.php>

Sincerely,

Laeni M Gross

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Brooks, Elizabeth

From: Coffey, Sarah
Sent: Tuesday, September 8, 2020 1:44 PM
To: Public Comment
Cc: Wehrmeister, Tina; Murdock, Christian; O'Connor, Bonny; Kenyon, Michelle; Bazzano, Denise; Woodhouse, Kevin
Subject: FW: Opposing Verizon's Cellular tower application

From: [REDACTED]
Sent: Tuesday, September 8, 2020 1:45 PM
To: _City Council Group <CityCouncil@ci.pacifica.ca.us>; Coffey, Sarah <coffeys@ci.pacifica.ca.us>
Subject: Opposing Verizon's Cellular tower application

[CAUTION: External Email]

Dear Pacifica Council Members and Planning Commissioners,

The firefighter exemption tells the tale.....

For the first time in U.S. history, a health exemption has been granted to firefighters for their stations in California. The state's firefighters have a history dating back to the late 1990s of fighting to get cell towers off their stations, and in a preemptive move the firefighters asked for and the legislators granted an exemption from SB 649.

See published article below:

<https://www.odwyerpr.com/story/public/9385/2017-09-13/firefighters-exempt-selves-from-calif-bill-save-others.html>

Calif. Firefighters Have Fought Cell Towers

California firefighters have a strong 17 year history of fighting cell towers on their stations, beginning in 2000 when a small fire department sued Nextel for health damages related to neurological impairment after towers were activated adjacent to their stations.

The men suffered from headache, insomnia, brain fog, getting lost in the same town they grew up in, sometimes forgetting protocol in routine medical procedures, mood swings and infertility.

In 2004 a SPECT brain pilot study was conducted on California firefighters who had lived in the shadow of a tower for over five years. The study, conducted by Gunnar Heuser, MD, PhD,

found brain abnormalities in all six men, including delayed reaction time, lack of impulse control, and cognitive impairment.

Please do not put your Pacifica residents at Risk.

Sincerely,

Laeni M Gross

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Brooks, Elizabeth

From: William Lopez [REDACTED]
Sent: Tuesday, September 8, 2020 2:33 PM
To: Public Comment
Subject: cell phone tower:
Attachments: council email.docx

[CAUTION: External Email]

Honorable Mayor and City Council.

here is the letter for the public comments. I would appreciate a reply to make sure that it was received.
thank you

William Lopez
Pacifica Resident

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September 8, 2020

Honorable Mayor and City Council:

I'm writing to you regarding the appeal letter on application to build the cell phone tower on Redwood Way of which I am in favor of it. While I have read the various letters and flyers being sent by our neighbor to oppose it we need to keep in mind a few items. While technology has increased, we need to realize also that the amount of radiation has decreased as well. The various items we use everyday if we look back in time, we find that most of them are now safer than they were for our parents. I don't want my family or anyone else to be exposed to radiation either but we need to look at reality instead of getting scared by some people telling us how high they exposure is when in fact they are not completely valid. If we look into the equipment that will be installed, we can get the test data and the results of the radiation that is being produced. Plus, the cellular phones that we carry around 24/7 can produce the actual radiation we are so scared of yet we even our babies play with the different tablets and we don't question it.

The second item is during last years black out because the cells were not available, we were not able to obtain any data or emergency text from our cell phone lines or internet access. We had to drive away to other towns to get the updates and cell access. It was horrific then and now with the current fires and what this fall could bring us it scares me even more as far as what updates we will receive if we go through the same blackout?

Third with this pandemic I have a family where sometimes we need to have internet access and cell phone to do our work and our children to receive distance learning. This has been extremely difficult to maintain good access either Wi- fi or wireless that sometimes we are not able to connect at all.

Lastly on a daily basis to receive our cellular phone calls and have some type of reception we need to step outside for us to hear the person calling us or for them to hear us. We pay for these services but are not able to get what we are paying for because of bad reception. Our phone calls need to be private and stay private and not for all our neighbors to hear.

It is very frustrating to face these issues and hope you listen to those of us who wish to move forward with the cell towers to be added to existing poles that already have other equipment installed in them. I look forward to the day when I won't have to step outside to get a clear reception from the phone call or to use wireless internet access and not have to use the feet of ethernet cable laid out throughout my house for my family to work and receive the online classes they are now required to attend because of Covid-19.

Thank you for your time.

William O Lopez

[REDACTED]

Pacifica, CA 94044

[REDACTED]

Brooks, Elizabeth

From: Coffey, Sarah
Sent: Tuesday, September 8, 2020 3:46 PM
To: Public Comment
Cc: Wehrmeister, Tina
Subject: FW: Verizon Wireless Response to Appeal, Application UP-102-18, Right-of-Way at 1307 Redwood Way - City Council Hearing September 14, 2020 [Pacifica 020]
Attachments: Verizon Wireless Letter 09.08.20.pdf

From: [REDACTED]
Sent: Tuesday, September 8, 2020 3:45 PM
To: Martin, Deirdre <martind@ci.pacifica.ca.us>; Vaterlaus, Sue <vaterlauss@ci.pacifica.ca.us>; Beckmeyer, Sue <beckmeyers@ci.pacifica.ca.us>; Bier, Mary <bierm@ci.pacifica.ca.us>; O'Neill, Mike <o'neillm@ci.pacifica.ca.us>; _City Council Group <CityCouncil@ci.pacifica.ca.us>; Coffey, Sarah <coffeys@ci.pacifica.ca.us>
Cc: Murdock, Christian <murdockc@ci.pacifica.ca.us>; Aggarwal, Ranu <pacificaplanner1@ci.pacifica.ca.us>; O'Connor, Bonny <o'connorb@ci.pacifica.ca.us>; Michelle Kenyon [BWS Law] <mkenyon@bwsllaw.com>; Bazzano, Denise <DBazzano@bwsllaw.com>
Subject: Verizon Wireless Response to Appeal, Application UP-102-18, Right-of-Way at 1307 Redwood Way - City Council Hearing September 14, 2020 [Pacifica 020]

[CAUTION: External Email]

Dear Councilmembers, attached please find our letter prepared on behalf of Verizon Wireless responding to the appeal of the above-referenced small cell wireless facility in the right-of-way that was approved by the Planning Commission. This item will be heard at your September 14 meeting.

Thank you.

--
Paul Albritton
Mackenzie & Albritton LLP
155 Sansome Street, Suite 800
San Francisco, California 94104
(415) 288-4000
pa@mallp.com

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MACKENZIE & ALBRITTON LLP

155 SANSOME STREET, SUITE 800
SAN FRANCISCO, CALIFORNIA 94104

TELEPHONE 415 / 288-4000
FACSIMILE 415 / 288-4010

September 8, 2020

VIA EMAIL

Mayor Deirdre Martin
Mayor Pro Tem Sue Beckmeyer
Councilmembers Sue Vaterlaus,
Mary Bier and Mike O'Neill
City Council
City of Pacifica
170 Santa Maria Avenue
Pacifica, California 94044

Re: Verizon Wireless Response to Appeal of Application UP-102-18
Small Cell Wireless Facility, Right-of-Way at 1307 Redwood Way
City Council Hearing, September 14, 2020

Dear Mayor Martin, Vice Mayor Beckmeyer and Councilmembers:

We write on behalf of Verizon Wireless to ask you to uphold the approval of the Planning Commission and deny the appeal by Sunil Bhat ("Appellant") of a small cell facility on a utility pole in the right-of-way (the "Approved Facility"). Verizon Wireless's small cell design poses little visual impact on existing utility infrastructure, and it satisfies all requirements for approval under the Pacifica Code of Ordinances (the "Code"). Notably, the Approved Facility satisfies the specific standards for wireless facilities in the right-of-way.

Appellant's objections to the Approved Facility raise no conflict with the Code, and provide no substantial evidence to warrant denial as required by the federal Telecommunications Act. Further, denial would constitute both a prohibition of service and unreasonable discrimination, according to the Telecommunications Act. The Approved Facility will enhance Verizon Wireless service for residents, visitors and emergency service personnel in the east Linda Mar area, near Park Pacifica. We urge you to reject the appeal and approve the Approved Facility.

I. The Approved Facility

The Approved Facility has been thoughtfully designed to minimize any visual impact in compliance with the Code. Verizon Wireless proposes to place a single, narrow two-foot canister antenna on top of a 39-foot 2-inch tall wood utility pole. The antenna must be elevated at least six feet above pole-top electric conductors to meet

safety clearances required by Public Utilities Code General Order 95 Rule 94. The height will increase 7 feet 7 inches, including the antenna. Associated equipment will be stacked vertically on the side of the utility pole between 8 and 16 feet: a PG&E smart meter, a disconnect switch, and two remote radio units (“RRUs”). This equipment will be rotated away from the roadway, and painted brown to match the pole. Verizon Wireless has worked closely with the City to refine its small cell design, lowering the height of the antenna, and reducing the number of RRUs from three to two.

Photosimulations of the Approved Facility are attached as Exhibit A. A radio frequency exposure report prepared by Hammett & Edison, Inc., Consulting Engineers, attached as Exhibit B, confirms that the Approved Facility will operate well below Federal Communications Commission (“FCC”) exposure limits.

II. The Approved Facility Satisfies All Requirements for Approval.

The Code provides for wireless facilities where needed in residential zones. As confirmed by staff and the Planning Commission, the Approved Facility complies with all applicable Code design standards and the findings for approval of a use permit.

In 2015, the Council unanimously amended the Code to add new, specific standards for right-of-way facilities. Code § 9-4.2608(e). The Approved Facility satisfies all of these right-of-way standards. Of note, the Approved Facility is not within any “building profile,” defined as the area extending directly from the outermost extent of a building foundation to the centerline of a right-of-way, along the front, side or rear of a parcel. Code §§ 9-4.2604(b), 9-4.2608(e)(4). This is because the Approved Facility will be placed on a utility pole in the right-of-way at the property line between a rear yard and a front yard, but not in front of a home.

The Approved Facility also meets the height requirements for right-of-way facilities, with only a single, two-foot tall cylindrical antenna. Per the Code, the height increase of 7 feet 7 inches is the minimum needed to comply with regulatory safety requirements, as Public Utilities Commission General Order 95 mandates a six-foot clearance for antennas above pole-top electric conductors. Code § 9-4.2608(e)(1). The maximum horizontal protrusion would be an RRU extending 1 foot 7 inches beyond the pole, under the two-foot limit. *Ibid.* Staff also confirmed that the Approved Facility satisfies the requirement not to cause any physical or visual obstruction to pedestrian or vehicular traffic. Code § 9-4.2608(e)(6).

Additionally, staff verified that the Approved Facility meets the Code’s general wireless facility standards. For example, the Approved facility employs a stealth design to the maximum extent practicable, with one small antenna manufactured in a cylindrical concealing radome, and only small equipment components. Code § 9-4.2608(b)(1). By using an existing utility pole supporting other utility connections, and painting equipment to match, the proposed small cell would not dominate the surrounding area. Code § 9-4.2608(b)(2).

The Approved Facility also satisfies all findings for approval of a use permit. Code § 9-4.3303(a). For example, it poses no impact to public health, safety and welfare, as radio frequency exposure will fall well under FCC limits, and the permit is conditioned to require safe installation through the building permit process. Further, the Approved Facility will comply with General Plan noise regulations because it involves no moving parts and will generate no sound. The Approved Facility also satisfies the special findings for wireless facilities. Code § 9-4.2614(b). In particular, there are no other feasible or less impactful sites in the right-of-way that can serve the gap, as described below.

Lastly, the Approved Facility is consistent with the *Pacifica Design Guidelines*, because it uses an existing structure, and equipment is small in scale and painted brown to be consistent with the utility pole. *Design Guidelines* §§ I(B)(1), (2). Based on these and other factors, the Approved Facility meets all City requirements for approval.

III. Verizon Wireless is Authorized to Place the Approved Facility in the Public Right-of-Way Pursuant to State Law

State law entitles telephone corporations such as Verizon Wireless to install telephone equipment, such as the Approved Facility, “along any public road and highway,” subject only to reasonable local regulations to avoid interference with the public use of the right-of-way. Cal. Pub. Util. Code § 7901. The California Supreme Court has confirmed that telephone corporations maintain the right to erect telephone equipment in the public right-of-way subject to local regulation based on aesthetic considerations. *T-Mobile West LLC v. City and County of San Francisco*, No. S238001, 2019 WL 1474847 (Cal. Sup. Ct. April 4, 2019).

IV. Appellant Presents No Substantial Evidence To Warrant Denial.

Under the federal Telecommunications Act, a local government’s denial of a wireless facility application must be based on “substantial evidence.” See 47 U.S.C. § 332(c)(7)(B)(iii). As interpreted under controlling federal court decisions, this means that denial must be based on requirements set forth in local regulations and supported by evidence in the record. See *Metro PCS, Inc. v. City and County of San Francisco*, 400 F.3d 715, 725 (9th Cir. 2005) (denial of application must be “authorized by applicable local regulations and supported by a reasonable amount of evidence”). Generalized aesthetic objections do not amount to substantial evidence upon which a local government could deny a wireless facility permit. See *City of Rancho Palos Verdes v. Abrams*, 101 Cal. App. 4th 367, 381 (2002).

Appellant raised several objections in their appeal statement and a memorandum of opposition, none of which rise to the level of substantial evidence that would support denial. Below, we respond to Appellant’s various arguments.

A. The Approved Facility Complies with the Code's Aesthetic Standards.

Appellant exaggerates the visual impact of the Approved Facility, submitting letters from residents who claim that the proposed small cell on an existing utility pole would be an “eyesore.” However, none of those letters uncover any conflict with the Code's specific standards for right-of-way facilities, all of which the Approved Facility satisfies, as described above. Code § 9-4.2608(e).

As to general wireless facility standards, Appellant makes a vague claim that the Approved Facility is not designed and located to minimize its visibility and to avoid dominating the surrounding area. In fact, Verizon Wireless worked closely with the City to reduce the already-small equipment profile, eliminating one radio unit and shrinking the antenna from four to two feet in height. The photosimulations demonstrate the minimal impact of the proposed small cell, which is placed on existing utility infrastructure that is found throughout the neighborhood.

Appellant claims that Verizon Wireless's photosimulations are “defective” because they do not show a view from nearby homes, relying on a 2005 case applying New York law for support. *Omnipoint Communications, Inc. v. The City of White Plains*, 430 F.3d 529 (2nd Cir. 2005). Appellant's contention is wrong, and the reliance on that case is misguided. In that case, the court found that there was substantial evidence to conclude that a 150-foot faux tree pole, that was 3.5 times taller than the tallest tree nearby, would have adverse aesthetic impact. The *White Plains* applicant had submitted pictures of a 150-foot crane it had erected to show that there would not be visual impacts. Verizon Wireless's proposal for Pacifica is entirely different: the Approved Facility is a small cell on an existing utility pole that will be less than 47 feet in height.

While Appellant wishes for photosimulations showing views from nearby homes, Verizon Wireless cannot enter private property without permission. At the virtual community meeting on August 27, 2020, Verizon Wireless offered to prepare photosimulations showing views from neighboring homes, but has not received any requests as of the date of this letter.

Appellant makes passing reference to the General Plan, the Code's “general welfare” finding, and the *Design Guidelines*. Both staff and the Planning Commission found that the Approved Facility complies with all three. Of note, staff confirmed that the Approved Facility satisfies the General Plan's noise, community design element and land use policies. This is because it is a noiseless, sleek installation on existing—not new—infrastructure. See *Planning Commission Staff Report, Item 2, June 15, 2020*, pp. 11-12.

Appellant's overstated claims of visual impact do not raise any contradiction with the Code's standards and findings, and must be dismissed.

B. Radio Frequency Emissions and Proxy Concerns over Property Values Cannot Be a Factor for Denial.

Appellant claims that the Approved Facility would be a “clear hazard to our property values,” likely a veiled reference to concern over radio frequency emissions. However, under the federal Telecommunications Act, the City cannot consider the environmental effects of radio frequency emissions as a factor because the Approved Facility will comply with FCC exposure guidelines. 47 U.S.C. § 332(c)(7)(B)(iv). The Hammett & Edison RF exposure report confirms that for a person anywhere at ground level, the maximum exposure from the Approved Facility will be only 1.4 percent—or 71 times below—the FCC’s public exposure limit. The maximum exposure at any nearby building would be only 2.8 percent—or over 35 times below—the FCC’s limit.

Moreover, federal law bars efforts to circumvent preemption of health concerns through proxy concerns such as property values. *See, e.g., AT&T Wireless Servs. of Cal. LLC v. City of Carlsbad*, 308 F. Supp. 2d 1148, 1159 (S.D. Cal. 2003) (“Thus, direct or indirect concerns over the health effects of RF emissions may not serve as substantial evidence to support the denial of an application”); *Calif. RSA No. 4, d/b/a Verizon Wireless v. Madera County*, 332 F. Supp. 2d 1291, 1311 (E.D. Cal. 2003).

Appellant submitted form letters from three realtors, each claiming to write in their professional opinion, but with identical language speculating that the Approved Facility would reduce nearby property values. In contrast, the Joint Venture Silicon Valley Network conducted a formal study with the Santa Clara County Association of Realtors and the Silicon Valley Association with Realtors in 2012. That study found that “[i]t is quite clear from the data that the distance from a wireless facility has no apparent impact on the value or sale price of a home.” *Wireless Facilities Impact on Property Values*, p. 5.¹

Property values are not a factor for the Code’s use permit findings. Appellant’s concerns regarding decreased property values are unfounded, and preempted from consideration. This ground for appeal must be rejected.

C. There is a Significant Gap in Verizon Wireless Service.

Appellant alleges that the Approved Facility is not needed, and that Verizon Wireless marketing maps show no service gap in the area. Verizon Wireless has identified a significant gap in its 4G LTE service in the east Linda Mar neighborhood, described in the *Statement of Verizon Wireless Radio Frequency Engineer Melvin Baccay* attached as Exhibit C. As shown through coverage maps and signal level data, the significant gap includes residential areas along Lerida Way. The Approved Facility will provide new 4G LTE coverage to the area, benefitting residents, visitors and emergency response personnel. While Appellant believes that only a drive test measuring signal can confirm the gap, the Verizon Wireless engineer’s statement includes comparable signal

¹ Available at: <https://jointventure.org/images/stories/pdf/wireless-facilities-impact-on-property-values.pdf>

level data that is reported to the network by customer devices using the TrueCall tool, confirming that signal is weak in the gap area.

The need for improved Verizon Wireless service in the area also is demonstrated by the 418 text messages and 83 emails received from Verizon Wireless customers in the vicinity who support improved service. These are described in a letter from a Verizon Wireless Consumer Sales Operations Manager attached as Exhibit D.

Appellant references Verizon Wireless's online coverage maps and claims they show adequate service in the area.² However, those marketing maps do not account for the precise coverage maps and network capacity analysis that Verizon Wireless engineers use to design network improvements. Engineers further refine this data with the actual performance data to accurately measure existing service levels in the field. A federal court has determined that marketing coverage maps are not equivalent to these system design tools that establish the need for a new facility. *See T-Mobile West Corporation v. City of Huntington Beach*, 2012 WL 4867775 ¶ 78 (C.D. Cal. 2012).

As noted above, Public Utilities Code Section 7901 grants telephone corporations such as Verizon Wireless a statewide right to place their telephone equipment along any public right-of-way. Because of this state law, Verizon Wireless need not demonstrate the necessity of its right-of-way facilities. Appellant's vague challenge to the need for the Approved Facility does not provide any substantial evidence nor reveal any contradiction with Code requirements, and it must be dismissed.

D. The Approved Facility Is the Least Intrusive Alternative in the Right-of-Way.

Appellant claims the Approved Facility is not the least intrusive option. Verizon Wireless has reviewed infrastructure along the right-of-way near the center of the gap, evaluating 15 utility poles as described in the Alternatives Analysis attached as Exhibit E. Verizon Wireless discounted alternative poles because they are infeasible due to General Order 95 regulations, PG&E rules or lack of ADA clearance.

Appellant claims that there is no evidence that certain poles would be more intrusive. However, for wireless carriers to establish a prohibition case, federal law does not require that a proposed facility be the "only" alternative, but rather that no feasible alternative is less intrusive than a proposed facility. *See Metro PCS, Inc. v. San Francisco*, 400 F.3d at 734-35.

² The map found at <https://www.verizonwireless.com/featured/better-matters/?map=4glte#maps> includes the disclaimer: "These maps are not a guarantee of coverage and contain areas of no service, and are a general prediction of where rates apply based on our internal data. Wireless service is subject to network and transmission limitations, including cell site unavailability, particularly near boundaries and in remote areas. Customer equipment, weather, topography and other environmental considerations associated with radio technology also affect service and service may vary significantly within buildings. Some information on service outside the Verizon Wireless proprietary network, and we can not vouch for its accuracy. Some devices may not be compatible with extended coverage areas depicted in the map."

The Alternatives Analysis confirms that the Approved Facility is the best option to serve the gap. As described above, the Approved Facility has been designed to minimize visual impact, and it meets all Code design standards and findings for approval. The Planning Commission's approval confirmed this. Appellant raises no evidence to contradict this conclusion, and this ground for appeal must be dismissed.

At the Planning Commission hearing, there was discussion of an alternative on a nearby hillside. Because Section 7901 grants telephone corporations a statewide right to place equipment along the right-of-way, Verizon Wireless need not evaluate options outside the right-of-way, nor can potential alternatives on private property be the basis for denial. Opponents have raised alternatives on a hillside 0.5 miles to the north, beyond Verizon Wireless's recently-approved small cell near Terra Nova High School. However, even a macro tower facility on that hillside could not serve the gap near Redwood Way due to distance and intervening terrain.

E. FCC Regulations Constrain Future Height Increases.

Appellant errs in claiming that Section 6409 of *The Middle Class Tax Relief and Job Creation Act of 2012* would allow a height increase up to 22 feet, and disregards structural factors that would preclude an increase. Section 6409 requires approval of "eligible facilities requests" to collocate or modify wireless facilities, provided the proposal "does not substantially change the physical dimensions." 47 U.S.C. § 1455(a)(1). In 2014, the FCC issued an order defining "substantial change" with six thresholds, including height increase. *Spectrum Act Order*, 29 FCC Rcd 12865, ¶ 188; 47 C.F.R. § 1.6100(b)(7). Appellant's claim of an allowed 22-foot increase is wrong, as that applies only to "towers" built primarily to support antennas, whereas an existing utility pole is a "base station" where any height increase would be limited to 10 feet. 47 C.F.R. §§ 1.6100(b)(2), 1.6100(b)(9).

Even so, such a height increase would be constrained by structural factors. Because Verizon Wireless's RF engineer has confirmed that the Approved Facility can serve the gap at the proposed height, the only reason for a future height increase would be if another wireless carrier sought to collocate on the same pole. However, additional height would require pole replacement, disqualifying an eligible facilities request, for which the FCC determined there can be no replacement of the underlying structure. *Spectrum Act Order*, ¶¶ 180-81. This is because the added weight of another carrier's antenna and equipment would pose insurmountable engineering hurdles and likely require full replacement of the utility pole. Further, PG&E rules provide for pole-top extensions up to only seven feet, and the Approved Facility extension is already adequate at five feet. See PG&E Document 028691, *Pole-Top Extension for Wood Poles*. Given the numerous utility poles in the greater area, another carrier would avoid complications simply by choosing a different pole.

Any Section 6409 collocation or modification is beyond the scope of the present application. As this ground for appeal misconstrues federal law and bears no relation to the Code's use permit findings, it must be rejected.

In sum, Appellant presents no evidence—let alone the substantial evidence required by federal law—to warrant denial of the Approved Facility. In contrast, Verizon Wireless has provided ample evidence to support approval.

V. Denial Would Constitute an Unlawful Prohibition of Service.

The Telecommunication Act provides that local government regulation of wireless facilities “shall not prohibit or have the effect of prohibiting” the provision of personal wireless service. 47 U.S.C. § 332(c)(7)(B)(i)(II). Under long-established Ninth Circuit case law, a local government’s denial of a permit for a wireless facility violates the “effective prohibition” clause of the act if a wireless provider can show (1) that it has a “significant gap” in service, and (2) that a facility is the “least intrusive means,” in relation to the land use values embodied in local regulations, to address the gap. *See T-Mobile USA, Inc. v. City of Anacortes*, 572 F.3d 987 (9th Cir. 2009).

If a provider proves both elements, the local government *must* approve the facility, even if there is substantial evidence to deny the permit under local regulations (which is not the case here). This is because federal law preempts local regulations when denial of the permit would effectively prohibit the provision of personal wireless services. *Id.*, 572 F.3d at 999. To avoid such preemption, the local government must show that another alternative is available, technologically feasible, and less intrusive than the proposed facility. *Id.*, 572 F.3d at 998-999.

In a 2018 order, the FCC determined that this two-part test is too narrow. *See Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, Declaratory Ruling and Third Report and Order, 33 FCC Rcd. 9088 (September 27, 2018) (the “Infrastructure Order”). Specifically, the FCC confirmed that a wireless carrier need not show an insurmountable barrier, or even a significant gap, to prove a prohibition of service. *Id.*, ¶¶ 35, 38. Instead, “a state or local legal requirement constitutes an effective prohibition if it ‘materially limits or inhibits the ability of any competitor or potential competitor to compete in a fair and balanced legal and regulatory environment.’” *Id.*, ¶ 35. Thus, state or local regulations are preempted if they materially inhibit “densifying a wireless network, introducing new services, or otherwise improving service capabilities.” *Id.*, ¶ 37. Last month, the Ninth Circuit upheld the FCC’s “materially inhibit” standard for a prohibition of service with respect to small cells. *City of Portland v. United States*, --- F.3d ----, 2020 WL 4669906 (9th Cir. 2020) at 5.

In this case, denial would not survive judicial review under either standard. First, denial would violate the two-part test for a prohibition of service claim. As described above, the *Statement of Verizon Wireless Radio Frequency Design Engineer Melvin Baccay* provides evidence of a significant gap in Verizon Wireless 4G LTE service in the east Linda Mar area. The Alternatives Analysis confirms that the Approved Facility is the least intrusive feasible option in the right-of-way to serve the gap.

Second, because Verizon Wireless has satisfied the two-part test to prove a prohibition of service, it has necessarily met the more flexible standard set forth in the FCC's Infrastructure Order. Whether or not it demonstrates a significant gap in service, the evidence proves at a minimum that the Approved Facility will improve Verizon Wireless service in the area. Thus, denial of the application would prevent Verizon Wireless from improving its service, and therefore materially limit or inhibit its ability to compete in a fair and balanced legal and regulatory environment. In other words, denial would effectively prohibit service in violation of the Telecommunications Act. *See* 47 U.S.C. §§ 253(a), 332(c)(7)(B)(i)(II); Infrastructure Order, ¶¶ 35, 37.

VI. Denial Would Constitute Unreasonable Discrimination against Verizon Wireless.

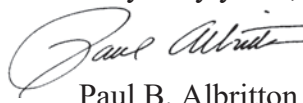
Under the Telecommunications Act, a local government may not unreasonably discriminate among providers of functionally equivalent services. 47 U.S.C. § 332(c)(7)(B)(i)(I). In this case, denial of the Approved Facility would unlawfully discriminate against Verizon Wireless because in 2016, the City Council approved use permits for twelve AT&T small cells in the rights-of-way of the residential Vallemar neighborhood.³ Like the Approved Facility, AT&T's facilities are located on existing utility poles in an R-1 zone, and not within residential building profiles.

Under these circumstances, where the Approved Facility is clearly "similarly situated" to the approved AT&T facilities, denial would mean it was "treated differently," and this would constitute unreasonable discrimination under federal law. *See Metro PCS, Inc. v. San Francisco*, 400 F.3d at 727 ("...[F]ederal courts considering such cases have ruled that providers alleging unreasonable discrimination must show that they have been treated differently from other providers whose facilities are 'similarly situated'.")

Conclusion

Verizon Wireless has worked diligently to identify the ideal location and design for its new small cell facility. The Approved Facility will pose minimal visual impact on existing utility infrastructure in the right-of-way, and it is consistent with all City standards and findings for approval. It will bring reliable Verizon Wireless service to the east Linda Mar area where it is lacking, benefitting residents, visitors and emergency responders. We encourage you to deny the appeal, and to approve the Approved Facility.

Very truly yours,



Paul B. Albritton

³ The use permits approved for AT&T's right-of-way facilities are UP-54-15 (244 Berendos Ave.), UP-55-15 (160 Calaveras Ave.), UP-56-15 (136 Amapola Ave.), UP-57-15 (172 Hiawatha Ave.), UP-58-15 (795 Reina Del Mar Ave.), UP-59-15 (648 Reina Del Mar Ave.), UP-60-15 (293 Juanita Ave.), UP-61-15 (351 Genevieve Ave.), UP-62-15 (571 Reina Del Mar Ave.), UP-63-15 (465 Reina Del Mar Ave.), UP-64-15 (139 Berendos Ave.), and UP-65-15 (217 Hillside Dr.).

cc: Michelle Marchetta Kenyon, Esq.
Denise Bazzano, Esq.
Christian Murdock
Ranu Aggarwal
Bonny O'Connor

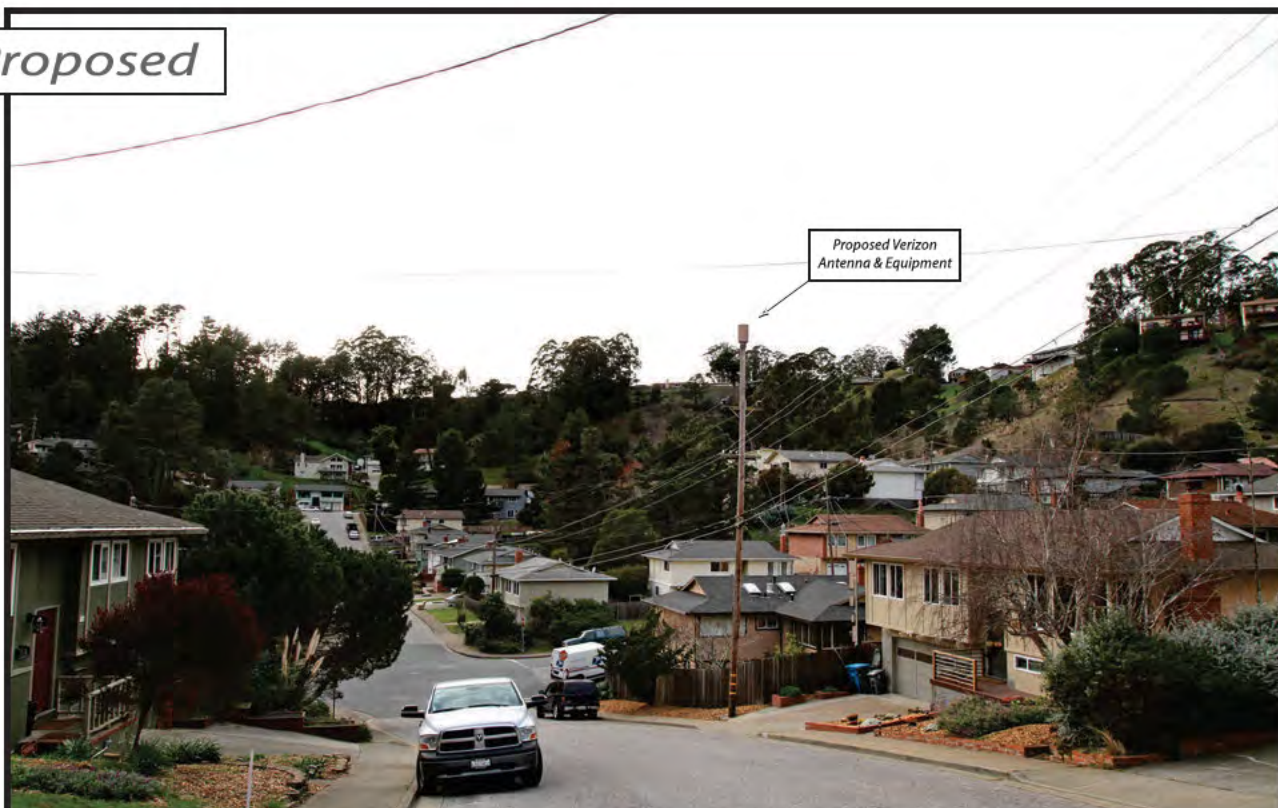
Schedule of Exhibits

- Exhibit A:** Photosimulations
- Exhibit B:** Hammett & Edison, Inc. Radio Frequency Exposure Report
- Exhibit C:** Statement of Verizon Wireless Radio Frequency Design Engineer Melvin Baccay
- Exhibit D:** Letter from Verizon Wireless Consumer Sales Operations Manager
Regarding 418 Text Messages and 83 Emails of Support for the Approved
Facility
- Exhibit E:** Alternatives Analysis

Existing



Proposed



view from Redwood Way looking west at site

Existing

view from Redwood Way looking northeast at site

verizon✓

SF Pacifica 020
1307 Redwood Way, Pacifica, CA
Photosims Produced on 1-8-2020

Proposed



Statement of Hammett & Edison, Inc., Consulting Engineers

The firm of Hammett & Edison, Inc., Consulting Engineers, has been retained on behalf of Verizon Wireless, a personal wireless telecommunications carrier, to evaluate the addition of Node No. 438439 “SF Pacifica 020” to the Verizon network in Pacifica, California, for compliance with appropriate guidelines limiting human exposure to radio frequency (“RF”) electromagnetic fields.

Executive Summary

Verizon proposes to install a cylindrical antenna on the utility pole sited in the public right-of-way near 1307 Redwood Way in Pacifica. The proposed operation will comply with the FCC guidelines limiting public exposure to RF energy.

Prevailing Exposure Standards

The U.S. Congress requires that the Federal Communications Commission (“FCC”) evaluate its actions for possible significant impact on the environment. A summary of the FCC’s exposure limits is shown in Figure 1. These limits apply for continuous exposures and are intended to provide a prudent margin of safety for all persons, regardless of age, gender, size, or health. The most restrictive limit for exposures of unlimited duration at several wireless service bands are as follows:

| Wireless Service Band | Transmit Frequency | “Uncontrolled” Public Limit | Occupational Limit (5 times Public) |
|------------------------------------|--------------------|-----------------------------|-------------------------------------|
| Microwave (point-to-point) | 1–80 GHz | 1.0 mW/cm ² | 5.0 mW/cm ² |
| Millimeter-wave | 24–47 | 1.0 | 5.0 |
| Part 15 (WiFi & other unlicensed) | 2–6 | 1.0 | 5.0 |
| CBRS (Citizens Broadband Radio) | 3,550 MHz | 1.0 | 5.0 |
| BRS (Broadband Radio) | 2,490 | 1.0 | 5.0 |
| WCS (Wireless Communication) | 2,305 | 1.0 | 5.0 |
| AWS (Advanced Wireless) | 2,110 | 1.0 | 5.0 |
| PCS (Personal Communication) | 1,930 | 1.0 | 5.0 |
| Cellular | 869 | 0.58 | 2.9 |
| SMR (Specialized Mobile Radio) | 854 | 0.57 | 2.85 |
| 700 MHz | 716 | 0.48 | 2.4 |
| 600 MHz | 617 | 0.41 | 2.05 |
| [most restrictive frequency range] | 30–300 | 0.20 | 1.0 |

Power line frequencies (60 Hz) are well below the applicable range of these standards, and there is considered to be no compounding effect from simultaneous exposure to power line and radio frequency fields.

**Verizon Wireless • Proposed Node (No. 438439 “SF Pacifica 020”)
1307 Redwood Way • Pacifica, California**

General Facility Requirements

Wireless nodes typically consist of two distinct parts: the electronic transceivers (also called “radios” or “channels”) that are connected to a central “hub” (which in turn are connected to the traditional wired telephone lines), and the passive antenna(s) that send the wireless signals created by the radios out to be received by individual subscriber units. The radios are often located on the same pole as the antennas and are connected to the antennas by coaxial cables. Because of the short wavelength of the frequencies assigned by the FCC for wireless services, the antennas require line-of-sight paths for their signals to propagate well and so are installed at some height above ground. The antennas are designed to concentrate their energy toward the horizon, with very little energy wasted toward the sky or the ground. This means that it is generally not possible for exposure conditions to approach the maximum permissible exposure limits without being physically very near the antennas.

Computer Modeling Method

The FCC provides direction for determining compliance in its Office of Engineering and Technology Bulletin No. 65, “Evaluating Compliance with FCC-Specified Guidelines for Human Exposure to Radio Frequency Radiation,” dated August 1997. Figure 2 describes the calculation methodologies, reflecting the facts that a directional antenna’s radiation pattern is not fully formed at locations very close by (the “near-field” effect) and that at greater distances the power level from an energy source decreases with the square of the distance from it (the “inverse square law”). This methodology is an industry standard for evaluating RF exposure conditions and has been demonstrated through numerous field tests to be a conservative prediction of exposure levels.

Site and Facility Description

Based upon information provided by Verizon, including drawings by Modus, LLC., dated April 21, 2020, it is proposed to install one CommScope Model VVSSP-360S-M, 2-foot tall, omnidirectional* cylindrical antenna on an extension to be added to the top of the utility pole sited in the public right-of-way in front of the two-story residence at 1307 Redwood Way in Pacifica. The antenna would employ up to 7° downtilt and would be mounted at an effective height of about 45½ feet above ground. The maximum effective radiated power proposed in any direction is 494 watts, representing simultaneous operation at 34 watts for CBRS, 230 watts for AWS, and 230 watts for PCS service. There are reported no other wireless telecommunications base stations at the site or nearby.

* Assumed to be omnidirectional, although manufacturer’s patterns show reduced power in certain directions.

**Verizon Wireless • Proposed Node (No. 438439 “SF Pacifica 020”)
1307 Redwood Way • Pacifica, California**

Study Results

For a person anywhere at ground, the maximum RF exposure level due to the proposed Verizon operation is calculated to be 0.014 mW/cm², which is 1.4% of the applicable public exposure limit. The maximum calculated level at the second-story elevation of any nearby building[†] is 2.8% of the public exposure limit. It should be noted that these results include several “worst-case” assumptions and therefore are expected to overstate actual power density levels from the proposed operation.

Recommended Compliance Measures

Due to its mounting location and height, the antenna would not be accessible to unauthorized persons, and so no measures are necessary to comply with the FCC public exposure guidelines. To prevent occupational exposures in excess of the FCC guidelines, it is recommended that appropriate RF safety training be provided to all workers who have access within 14 feet outward from the antenna. No access within 3 feet directly in front of the antenna, such as might occur during certain maintenance activities high on the pole, should be allowed while the antenna is in operation, unless other measures can be demonstrated to ensure that occupational protection requirements are met. It is recommended that explanatory signs[‡] be posted at the antenna and/or on the pole below the antenna, readily visible from any angle of approach.

Conclusion

Based on the information and analysis above, it is the undersigned’s professional opinion that operation of the node proposed by Verizon Wireless near 1307 Redwood Way in Pacifica, California, will comply with the prevailing standards for limiting public exposure to radio frequency energy and, therefore, will not for this reason cause a significant impact on the environment. The highest calculated level in publicly accessible areas is much less than the prevailing standards allow for exposures of unlimited duration. This finding is consistent with measurements of actual exposure conditions taken at other operating nodes. Training authorized personnel and posting explanatory signs are recommended to establish compliance with occupational exposure limits.

[†] Located at least 15 feet away, based on the drawings.

[‡] Signs should comply with OET-65 color, symbol, and content recommendations. Contact information should be provided (*e.g.*, a telephone number) to arrange for access to restricted areas. The selection of language(s) is not an engineering matter, and guidelines from the landlord, local zoning or health authority, or appropriate professionals may be required. Signage may also need to comply with the requirements of California Public Utilities Commission General Order No. 95.

**Verizon Wireless • Proposed Node (No. 438439 "SF Pacifica 020")
1307 Redwood Way • Pacifica, California**

Authorship

The undersigned author of this statement is a qualified Professional Engineer, holding California Registration No. E-21306, which expires on September 30, 2021. This work has been carried out under his direction, and all statements are true and correct of his own knowledge except, where noted, when data has been supplied by others, which data he believes to be correct.



Neil J. Olij

Neil J. Olij, P.E.
707/996-5200

April 27, 2020



HAMMETT & EDISON, INC.
CONSULTING ENGINEERS
SAN FRANCISCO

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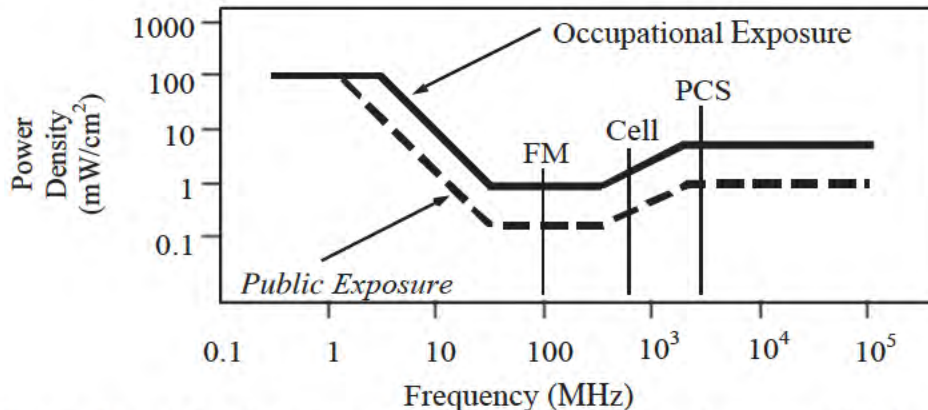
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Page 4 of 4

FCC Radio Frequency Protection Guide

The U.S. Congress required (1996 Telecom Act) the Federal Communications Commission (“FCC”) to adopt a nationwide human exposure standard to ensure that its licensees do not, cumulatively, have a significant impact on the environment. The FCC adopted the limits from Report No. 86, “Biological Effects and Exposure Criteria for Radiofrequency Electromagnetic Fields,” published in 1986 by the Congressionally chartered National Council on Radiation Protection and Measurements (“NCRP”). Separate limits apply for occupational and public exposure conditions, with the latter limits generally five times more restrictive. The more recent standard, developed by the Institute of Electrical and Electronics Engineers and approved as American National Standard ANSI/IEEE C95.1-2006, “Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 kHz to 300 GHz,” includes similar limits. These limits apply for continuous exposures from all sources and are intended to provide a prudent margin of safety for all persons, regardless of age, gender, size, or health.

As shown in the table and chart below, separate limits apply for occupational and public exposure conditions, with the latter limits (in *italics* and/or dashed) up to five times more restrictive:

| Frequency Applicable Range (MHz) | Electromagnetic Fields (f is frequency of emission in MHz) | | | | | |
|---|--|----------------|-------------------------------------|---------------|--|--------------------------|
| | Electric Field Strength (V/m) | | Magnetic Field Strength (A/m) | | Equivalent Far-Field Power Density (mW/cm ²) | |
| 0.3 – 1.34 | 614 | <i>614</i> | 1.63 | <i>1.63</i> | 100 | <i>100</i> |
| 1.34 – 3.0 | 614 | <i>823.8/f</i> | 1.63 | <i>2.19/f</i> | 100 | <i>180/f²</i> |
| 3.0 – 30 | 1842/f | <i>823.8/f</i> | 4.89/f | <i>2.19/f</i> | 900/f ² | <i>180/f²</i> |
| 30 – 300 | 61.4 | <i>27.5</i> | 0.163 | <i>0.0729</i> | 1.0 | <i>0.2</i> |
| 300 – 1,500 | 3.54√f | <i>1.59√f</i> | √f/106 | <i>√f/238</i> | f/300 | <i>f/1500</i> |
| 1,500 – 100,000 | 137 | <i>61.4</i> | 0.364 | <i>0.163</i> | 5.0 | <i>1.0</i> |



Higher levels are allowed for short periods of time, such that total exposure levels averaged over six or thirty minutes, for occupational or public settings, respectively, do not exceed the limits, and higher levels also are allowed for exposures to small areas, such that the spatially averaged levels do not exceed the limits. However, neither of these allowances is incorporated in the conservative calculation formulas in the FCC Office of Engineering and Technology Bulletin No. 65 (August 1997) for projecting field levels. Hammett & Edison has incorporated those formulas in a computer program capable of calculating, at thousands of locations on an arbitrary grid, the total expected power density from any number of individual radio frequency sources. The program allows for the inclusion of uneven terrain in the vicinity, as well as any number of nearby buildings of varying heights, to obtain more accurate projections.



RFR.CALC™ Calculation Methodology

Assessment by Calculation of Compliance with FCC Exposure Guidelines

The U.S. Congress required (1996 Telecom Act) the Federal Communications Commission (“FCC”) to adopt a nationwide human exposure standard to ensure that its licensees do not, cumulatively, have a significant impact on the environment. The maximum permissible exposure limits adopted by the FCC (see Figure 1) apply for continuous exposures from all sources and are intended to provide a prudent margin of safety for all persons, regardless of age, gender, size, or health. Higher levels are allowed for short periods of time, such that total exposure levels averaged over six or thirty minutes, for occupational or public settings, respectively, do not exceed the limits.

Near Field.

Prediction methods have been developed for the near field zone of panel (directional) and whip (omnidirectional) antennas, typical at wireless telecommunications base stations, as well as dish (aperture) antennas, typically used for microwave links. The antenna patterns are not fully formed in the near field at these antennas, and the FCC Office of Engineering and Technology Bulletin No. 65 (August 1997) gives suitable formulas for calculating power density within such zones.

For a panel or whip antenna, power density $S = \frac{180}{\theta_{BW}} \times \frac{0.1 \times P_{net}}{\pi \times D \times h}$, in mW/cm²,

and for an aperture antenna, maximum power density $S_{max} = \frac{0.1 \times 16 \times \eta \times P_{net}}{\pi \times h^2}$, in mW/cm²,

where θ_{BW} = half-power beamwidth of antenna, in degrees,

P_{net} = net power input to antenna, in watts,

D = distance from antenna, in meters,

h = aperture height of antenna, in meters, and

η = aperture efficiency (unitless, typically 0.5-0.8).

The factor of 0.1 in the numerators converts to the desired units of power density.

Far Field.

OET-65 gives this formula for calculating power density in the far field of an individual RF source:

power density $S = \frac{2.56 \times 1.64 \times 100 \times RFF^2 \times ERP}{4 \times \pi \times D^2}$, in mW/cm²,

where ERP = total ERP (all polarizations), in kilowatts,

RFF = three-dimensional relative field factor toward point of calculation, and

D = distance from antenna effective height to point of calculation, in meters.

The factor of 2.56 accounts for the increase in power density due to ground reflection, assuming a reflection coefficient of 1.6 (1.6 x 1.6 = 2.56). The factor of 1.64 is the gain of a half-wave dipole relative to an isotropic radiator. The factor of 100 in the numerator converts to the desired units of power density. This formula is used in a computer program capable of calculating, at thousands of locations on an arbitrary grid, the total expected power density from any number of individual radio frequency sources. The program also allows for the inclusion of uneven terrain in the vicinity, as well as any number of nearby buildings of varying heights, to obtain more accurate projections.



2785 Mitchell Drive
Walnut Creek, CA 94598

August 26, 2020

To: Pacifica City Council

**From: Melvin Baccay, Radio Frequency Design Engineer
Verizon Wireless Network Engineering Department**

**Subject: Statement in Support of Verizon Wireless's Proposed
Small Cell Facility, Right-of-Way at 1307 Redwood Way**

Executive Summary

Verizon Wireless has identified a significant gap in its fourth-generation long-term evolution (4G LTE) service in the east Linda Mar area in Pacifica. This area currently receives inadequate 4G LTE service coverage from the existing Verizon Wireless San Pedro Valley facility 0.75 miles northwest of the proposed facility, and the San Pedro Valley East facility 0.8 miles east. As a result of the distance of these facilities and intervening topography, there is an absence of reliable 4G LTE service coverage in the east Linda Mar area.

For its 4G LTE service the Pacifica area, over 70 percent of Verizon Wireless's available bandwidth is in the mid-band PCS and AWS frequency bands. With relatively higher frequencies, the PCS and AWS bands provide greater data capacity. However, these mid-band frequencies do not travel as far as low-band frequencies, and require facilities closer together and closer to the end user to provide reliable 4G LTE service. The lack of PCS and AWS coverage in the gap area compromises 4G LTE service for residents, visitors, students and workers in the vicinity, as well as emergency response personnel.

The coverage gap described below constitutes the significant gap that Verizon Wireless seeks to serve (the "Significant Gap"). To provide reliable 4G LTE service in the Significant Gap, Verizon Wireless must place a small cell on an existing utility pole in the right-of-way at 1307 Redwood Way (the "Proposed Facility").

Coverage Gap

There is a significant gap in Verizon Wireless service in the east Linda Mar residential area. This is principally because nearby topography blocks signal from existing Verizon Wireless facilities. Between the gap area and the San Pedro Valley facility to the northwest, the ridge along Crespi Drive rises up to 35 feet above that facility's elevation, and 240 feet above the Proposed Facility. Similarly, between the gap area and the San Pedro Valley East facility to the east, the ridge




along Park Pacifica Avenue rises up to 115 feet above that facility's elevation, and 225 feet above the Proposed Facility.

Because these ridges block signal from the distant facilities, there is an absence of reliable 4G LTE coverage in the east Linda Mar area on the east slope of the Crespi Drive ridge. Reliable in-building coverage is lacking in the residential area around the intersections of Lerida Way with Banyan Way and Redwood Way. Along Terra Nova Boulevard due east, there is a complete absence of reliable service. The Proposed Facility will provide new reliable 4G LTE service to the area, including new in-building service to the residential areas along Lerida Way, and in-vehicle and on-street service along Terra Nova Boulevard.

The maps below illustrate the Significant Gap and the additional coverage the Proposed Facility will provide. Such coverage plot maps depict the anticipated level of signal, and therefore the projected coverage provided by a wireless facility at a given location.

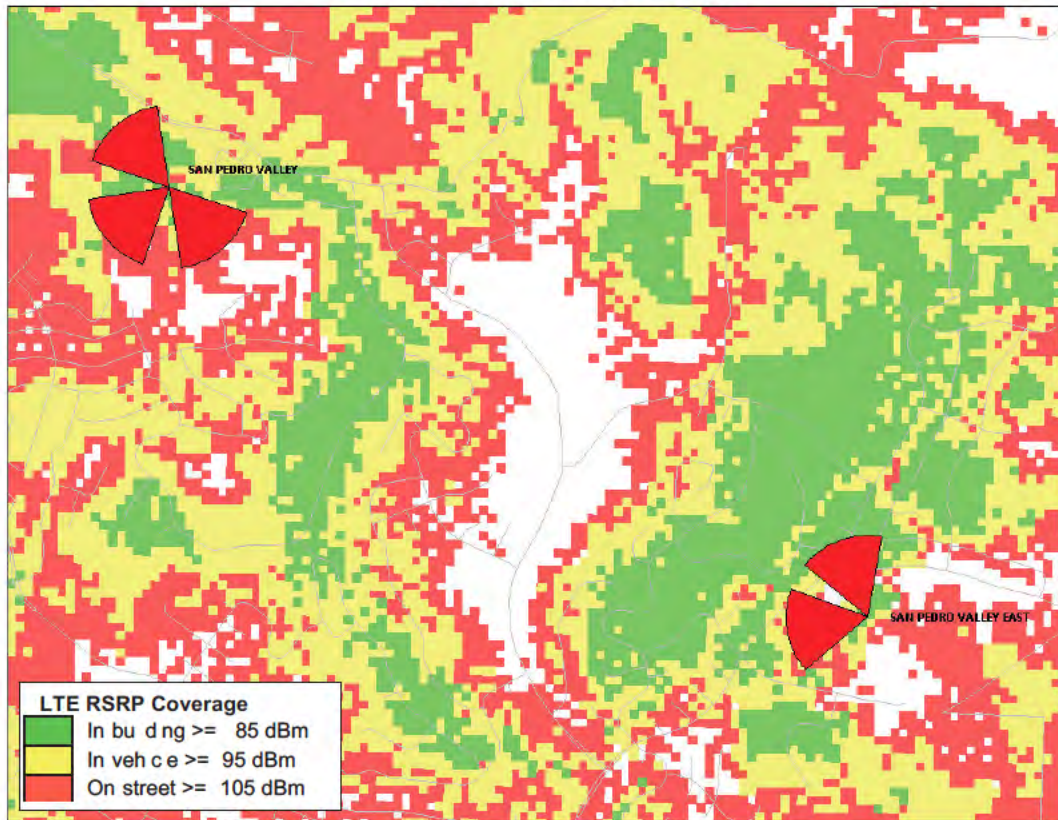
Referenced signal receive power (RSRP) is a measurement of signal level in decibels (dBm), which decreases due to distance, terrain and other factors. These coverage maps have been prepared using the AWS frequency band, which uses similar frequencies and has similar propagation characteristics to the PCS band.

The AWS RSRP coverage thresholds are:

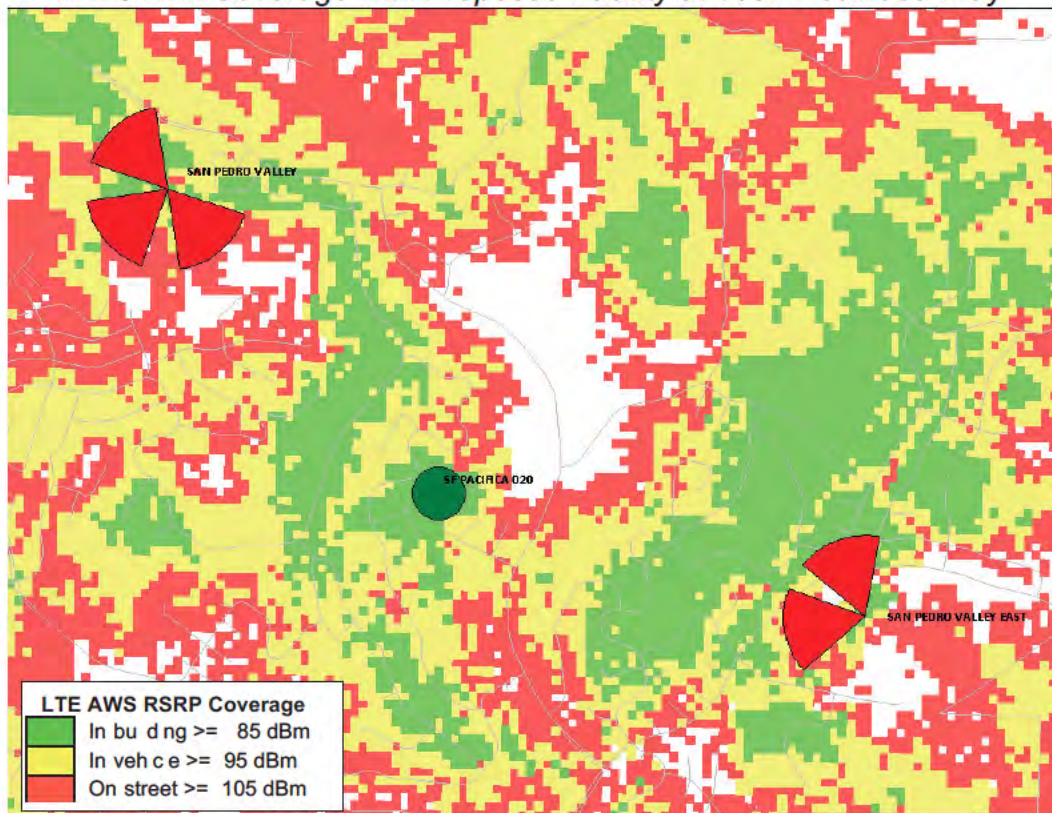
| | |
|---|--|
|  | In-building ≥ -85 dBm. Green depicts good coverage that meets or exceeds thresholds for reliable network coverage in homes and vehicles. |
|  | In-vehicle ≥ -95 dBm. Yellow depicts reliable in-vehicle coverage only. |
|  | Outdoor ≥ -105 dBm. Red depicts reliable outdoor service only. |

Unshaded areas do not receive reliable Verizon Wireless service.

Current AWS LTE Coverage

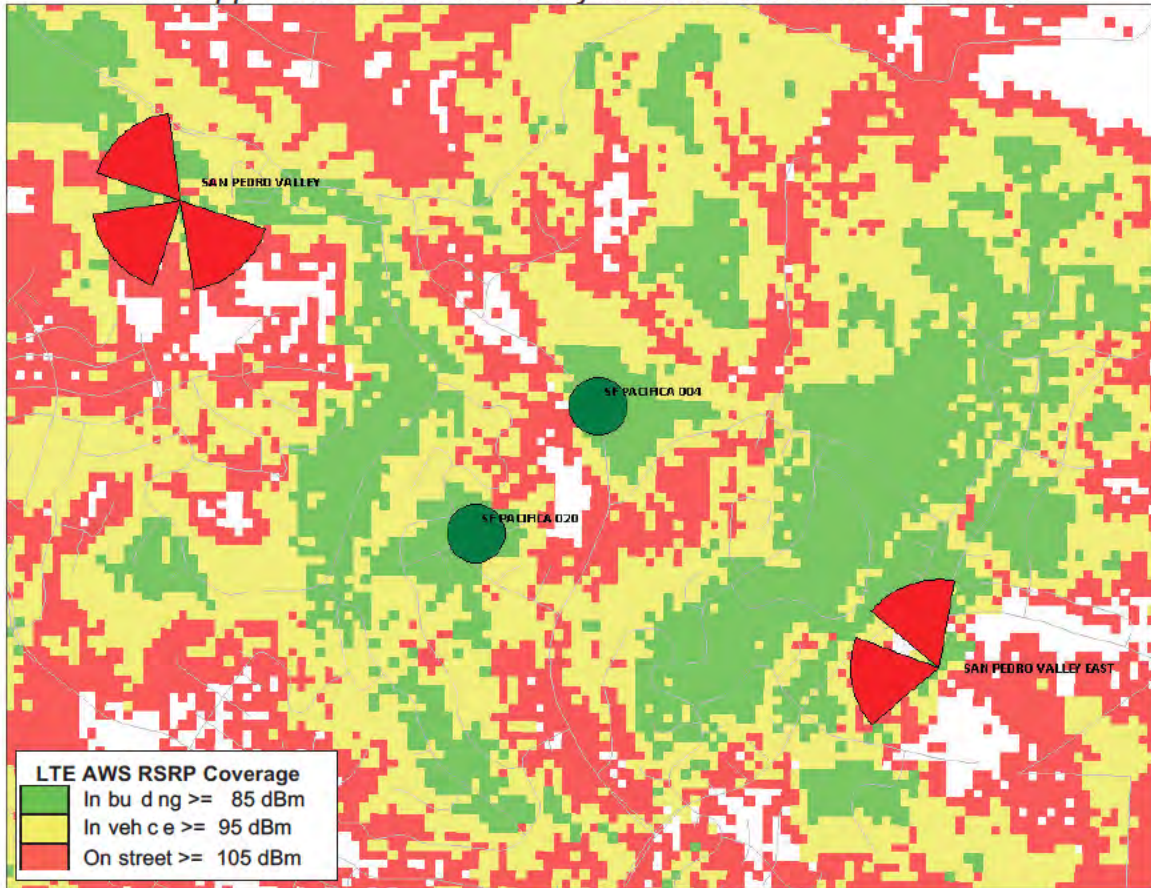


AWS LTE Coverage with Proposed Facility at 1307 Redwood Way



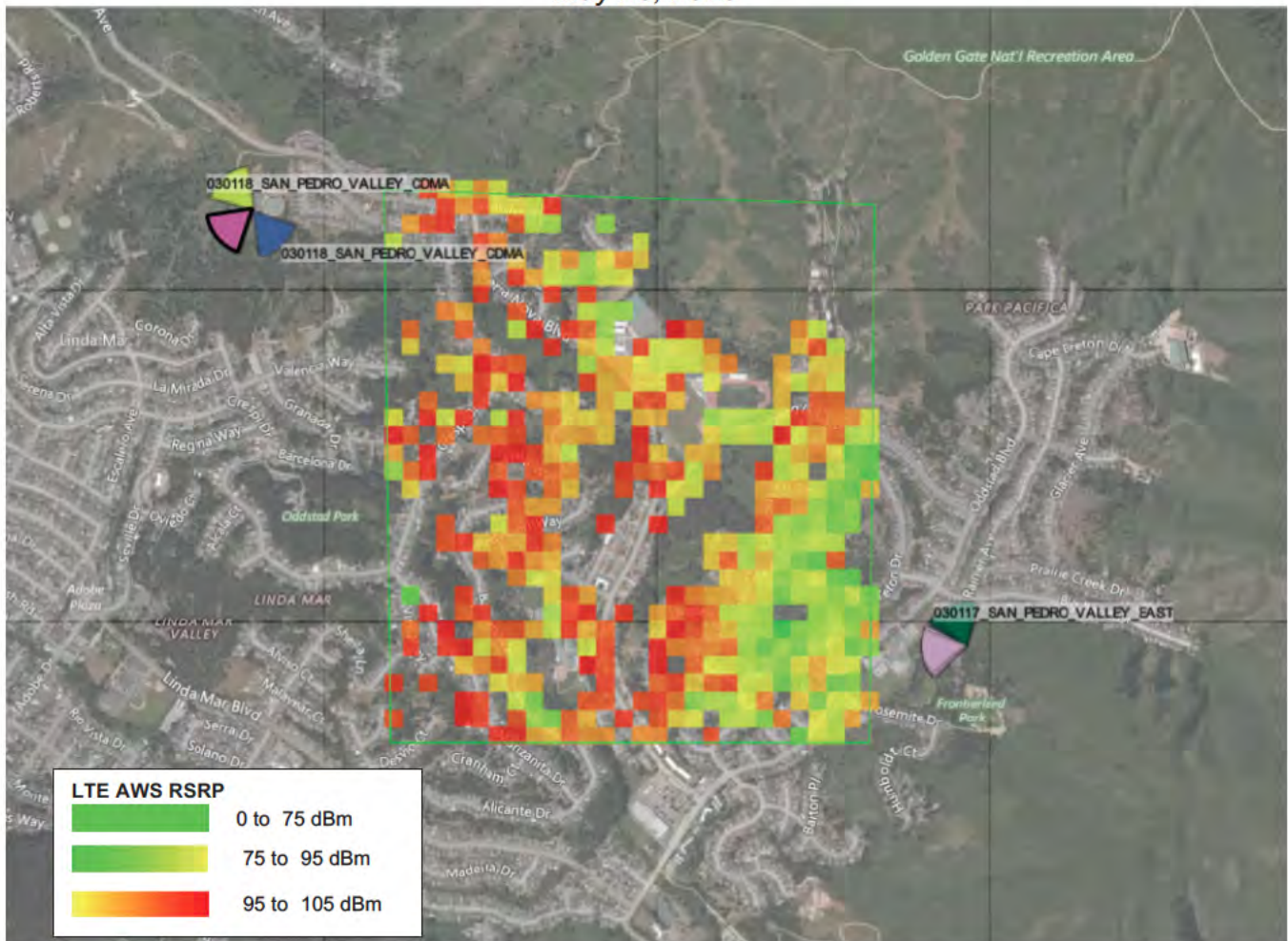
The Proposed Facility will complement the coverage of another small cell approved at 1450 Terra Nova Boulevard, 0.3 miles north, which will serve a distinct area. The following coverage map shows coverage including both of these facilities.

*AWS LTE Coverage with Proposed Facility at 1307 Redwood Way
and Approved Small Cell Facility at 1450 Terra Nova Boulevard*



The following map shows the average signal level from existing Verizon Wireless facilities received by customer devices in the gap area over 24 hours on Wednesday, May 28, 2020. The customer devices report this data to the network, and Verizon Wireless uses its TrueCall tool to analyze this data and optimize its network. Similar to the coverage maps, yellow and red squares show decreasing signal level, with the numerous red squares indicating only an on-street level of service. Where there are no squares in developed areas along roadways, the average signal strength is too weak for any reliable service, for example, in areas along Banyan Way.

*Existing AWS Signal Level Measured by Customer Devices
May 28, 2020*



Conclusion

The lack of Verizon Wireless 4G LTE service in the east Linda Mar area constitutes a Significant Gap in Verizon Wireless service. Reliable LTE service is necessary to provide data and voice services which are currently unreliable or unavailable to Verizon Wireless customers in the area. Verizon Wireless must deploy a new wireless facility to provide needed LTE service for residents, visitors, students, workers and emergency services personnel.

Please feel free to contact me with any questions or comments regarding Verizon Wireless's facility.

Respectfully submitted,



Melvin Baccay
RF Design Engineer
Network Engineering Department
Verizon Wireless

My responsibilities include engineering and design of wireless communications facilities within the area of San Mateo County. I have over 20 years of experience in the wireless communications industry, with proficiency in various planning, design and optimization tasks for wireless networks. I received my Bachelor's Degree in Electronics and Communications Engineering from FEATI University in Manila, Philippines.



Verizon Wireless

15505 Sand Canyon Ave, Bldg. D
Irvine, CA 92618

September 8, 2020

Mayor & City Council
City of Pacifica
170 Santa Maria Avenue
Pacifica, California 94044

Re: 501 Supporters for Verizon Wireless's Proposed Small Cell
Right-of-Way at 1307 Redwood Way, Pacifica

Dear Councilmembers:

I am a Verizon Wireless Manager for Consumer Sales Operations, and I oversee the network-related messages that are sent to Verizon Wireless customers in California. In connection with its proposed facility, Verizon Wireless arranged for a text message to be sent to customers with billing addresses within ZIP code 94044 in the Pacifica area. The entire text message sent reads as follows:

Verizon Msg: We want to hear from you! Do you need improved Verizon Wireless service in the Linda Mar neighborhood of Pacifica along Terra Nova Blvd. through placement of a small cell facility on an existing utility pole at 1307 Redwood Way? Reply YES and we'll share your support message with local officials.

Visit <https://improveyourwireless.com/pacifica> to learn more.

The text message was sent on September 4, 2020. As of September 8, 2020, we have received 418 affirmative text message responses indicating support for the proposed small cell and 52 respondents opposed, along with 83 emails of support with six opposed.

Samples of the supportive text messages received from Verizon Wireless customers appear on the next page, followed by the supportive emails received. I am available to verify the above information as you may require.

Sincerely,

A handwritten signature in blue ink that reads "Rynae Benson".

Rynae Benson
Manager - Legal Support
Consumer Sales Operations

Attachment

**Samples of Text Messages Received
in Support of Verizon Wireless's Small Cell
1307 Redwood Way, Pacifica**

Have had poor services for over 2 YEARS!!!!

We need it all over Linda Mar. So yes,yes,yes. If they don't agree . Please let us know there names. We'll try to change there minds.rj

YES. 1635 Rosita Road

Yes and in Vallemar

Yes and the manor section.

Yes That sould help alot Every little bit to Keep me with Verizon

YES PLEASE

YES!!!!

Yes, and fiber to the curb on Lauren ave Pacifica.

Yes, and need improved service in the back of Vallemar!

We seriously need one for Fairmont area. It is most challenging to call out. Thanks.

Yes. Also need better coverage on Rockaway Beach Ave.

Ha! We sorely need improved service in the Edgemar area around Beaumont!!!

We need improved strive on RockawY Beach Avenue

We need IMPROVEMENT writhing Verizon service in the EDGEMAR area of Pacifia!!!!

Sent: Friday, September 04, 2020 9:50 AM
To: Support Wireless <SupportWireless@VerizonWireless.com>
Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Caroline De Castro
City: Pacifica
ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: Communication on my cell phone during the current pandemic has been critical to the health and safety of my family. Reliable cell phone service is essential for my daily life. Please allow Verizon Wireless to install small cells in Pacifica rights-of-way. We need better service for today and tomorrow.

Im currently from home full time and renders service to our Medical patient population as health plan provider for San Mateo county. It definitely impacts the work flow in providing service when there is a delay in connecting online or dropped calls due to poor connection from Verizon. It's a huge negative impact when responding to our health plan members, healthcare providers that leads to delay in access to care. I support this proposal not only for personal reason but for the welfare of our community.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 9:44 AM
To: Support Wireless <SupportWireless@VerizonWireless.com>
Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Caroline De Castro
City: Pacifica
ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 4:55 PM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: christopher mcdonnell

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: Or create your own message:

Dear Pacifica officials. I cannot tell you enough how beneficial this Verizon upgrade would be to our family. I am the VP and General Manager of KRON4 TV. The Bay Areas Local News Station. I'm sure you are aware of our TV station.....we have reporters within Pacifica reporting news almost daily from our fine city. Problem is as I often conduct Station business from home now, on my cell, it is almost impossible to do so on Verizon Please pass this ordinance. Please. Thanks!!!!!!

Keep me informed of issues that impact the Verizon Wireless network in Pacifica. I would consider attending a future public hearing. Please send me information once a hearing is scheduled.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 10:32 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Rosalyn Dean

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica. On our Nextdoor website neighbors are always asking and complaining about cell phone coverage. We live in an area with hills and valleys so coverage is very spotty. Please allow any possible improvements because we need it.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 11:16 PM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Elizabeth Ferraris

City: Pacifica CA

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: Please support Verizon Wireless's network enhancements in Pacifica. This is important for my family and friends. We want to be able to use our cell phones during emergencies and for 911 calls.

I'm have very bad sinal in my place 🙄

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 9:12 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Linda Ostrom

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: Please support Verizon Wireless's network enhancements in Pacifica. This is important for my family and friends. We want to be able to use our cell phones during emergencies and for 911 calls.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 9:14 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Yevgeny Khodorkovsky

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 9:18 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Barbara Remley

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: Please support Verizon Wireless's network enhancements in Pacifica. This is important for my family and friends. We want to be able to use our cell phones during emergencies and for 911 calls.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 9:20 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Rachelle Bresnahan

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 9:23 AM
To: Support Wireless <SupportWireless@VerizonWireless.com>
Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Jeff Hooley
City: Pacifica
ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: My schedule may not allow me to attend a public meeting. Please accept this email as a show of my strong support for Verizon Wireless's network enhancements.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 9:24 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: David Barrios

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 9:24 AM
To: Support Wireless <SupportWireless@VerizonWireless.com>
Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Chris Guido
City: Pacifica
ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 9:25 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Aram Paronyan

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 9:26 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Marianna Fastovsky

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 9:27 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Tina Petrakis

City: PACIFICA

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 9:34 AM
To: Support Wireless <SupportWireless@VerizonWireless.com>
Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Celeste Orozco
City: Pacifica
ZIP code: CA

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 9:34 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Peter Freitag

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: Communication on my cell phone during the current pandemic has been critical to the health and safety of my family. Reliable cell phone service is essential for my daily life. Please allow Verizon Wireless to install small cells in Pacifica rights-of-way. We need better service for today and tomorrow.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica. I would consider attending a future public hearing. Please send me information once a hearing is scheduled.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 9:35 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Gary Young

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: My schedule may not allow me to attend a public meeting. Please accept this email as a show of my strong support for Verizon Wireless's network enhancements.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica., I would consider attending a future public hearing. Please send me information once a hearing is scheduled.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 9:35 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Anna Cosa

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: Communication on my cell phone during the current pandemic has been critical to the health and safety of my family. Reliable cell phone service is essential for my daily life. Please allow Verizon Wireless to install small cells in Pacifica rights-of-way. We need better service for today and tomorrow.

We are a family from the Manor area of Pacifica. Parents and older kids are working from home and younger ones students with distance learning. We have been experiencing drop calls mostly around the house and backyard since the start of pandemic. We did not have this problem before pandemic. Having a reliable cell signal is very important to our family. And for emergencies as well.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 9:36 AM
To: Support Wireless <SupportWireless@VerizonWireless.com>
Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Nathan Ram
City: Pacifica
ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 9:36 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Brett Needleman

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 9:38 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Erica Bigler

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica. I would consider attending a future public hearing. Please send me information once a hearing is scheduled.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 9:43 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Mark Torres

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I understand that Pacifica first responders are customers of Verizon Wireless. It is essential that our first responders maintain reliable communications for our public safety. Please support Verizon Wireless's proposal for Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 9:43 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Kay Ross

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: Communication on my cell phone during the current pandemic has been critical to the health and safety of my family. Reliable cell phone service is essential for my daily life. Please allow Verizon Wireless to install small cells in Pacifica rights-of-way. We need better service for today and tomorrow.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 9:44 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Steven Banares

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: Please support Verizon Wireless's network enhancements in Pacifica. This is important for my family and friends. We want to be able to use our cell phones during emergencies and for 911 calls.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 9:44 AM
To: Support Wireless <SupportWireless@VerizonWireless.com>
Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Jorge Garza
City: Pacifica
ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 9:45 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Linda Wylie

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 9:45 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Brandon Henry

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 9:45 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Michelle Torres

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: Communication on my cell phone during the current pandemic has been critical to the health and safety of my family. Reliable cell phone service is essential for my daily life. Please allow Verizon Wireless to install small cells in Pacifica rights-of-way. We need better service for today and tomorrow.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 9:46 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Makayla Torres

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 9:46 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Claudia Rodriguez

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 9:47 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Rosemarie Thompson

City: Pacifica

ZIP code: 94045

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 9:47 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Editha Banares

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica. I would consider attending a future public hearing. Please send me information once a hearing is scheduled.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 9:51 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Holly Morello

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 9:50 AM
To: Support Wireless <SupportWireless@VerizonWireless.com>
Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Lauren Reynolds
City: Pacifica
ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 9:52 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Marianne Willett

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica. My cell phone is useless at my home. Have tried various services, but none work in Rockaway Beach

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 9:53 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Nancy Ann Dooley

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica. I would consider attending a future public hearing. Please send me information once a hearing is scheduled.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 9:53 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Troy Walker

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: Please support Verizon Wireless's network enhancements in Pacifica. This is important for my family and friends. We want to be able to use our cell phones during emergencies and for 911 calls.

Please put up as many cell towers as possible. We need added service. Thank you
Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 9:57 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Shaun Jinkerson

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 9:58 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Chris Mirasol

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 9:59 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Aaron Redalen

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 10:01 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Adrienne Gulyassy

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 10:02 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Norm Claybaugh

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 10:02 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: ROGER MASCIO

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 10:01 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Robert Freschi

City: Pacifica

ZIP code: Ca.

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 10:02 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Alfred Ngaw

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: My schedule may not allow me to attend a public meeting. Please accept this email as a show of my strong support for Verizon Wireless's network enhancements.

There's also a significant gap in cell reception within the Skyridge subdivision off Skyline boulevard, what about that?? Come to the the corner of skyridge drive and viewridge drive to check it out!!

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 10:08 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Eystein Stenberg

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 10:11 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Jason Herring

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: Or create your own message:

Yes we want better reception and understand that means we need more cell towers. We want 5G.. so not sure why a 4G tower would be installed..?

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 10:32 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: david le

City: pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica. Yes to all the above!!! I am a surgeon at Kaiser SSF and I need a good cell signal to take care of my neighbors!

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 10:38 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Alexander Lowe

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 10:49 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: JENNIFER MENENDEZ

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 10:52 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: chin chong

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 10:54 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: NATHAN SHAW

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 11:03 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Luis Baeza

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: Please support Verizon Wireless's network enhancements in Pacifica. This is important for my family and friends. We want to be able to use our cell phones during emergencies and for 911 calls.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 11:09 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Jane Ambrose

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica. I would consider attending a future public hearing. Please send me information once a hearing is scheduled.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 11:14 AM
To: Support Wireless <SupportWireless@VerizonWireless.com>
Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Carlo Morales
City: Pacifica
ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 11:14 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica"

From: Merrick Wolfe

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 11:16 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Lucas Romero

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: Communication on my cell phone during the current pandemic has been critical to the health and safety of my family. Reliable cell phone service is essential for my daily life. Please allow Verizon Wireless to install small cells in Pacifica rights-of-way. We need better service for today and tomorrow.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 11:25 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Carol Camacho

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica. I and others in Pacifica have noticed a dramatic change of your service here in Pacifica. Regarding the Rockaway Beach Area. This is a popular tourist hot spot and 4 out of 7 of our hotels reside their along with 4 major restaurants, a wine bar, coffee shop and our visitor center. It used to be that AT&T customers could not receive reception there and now it's Verizon users who cannot get reception there. Over all I notices AT&T users are now receiving better reception than Verizon users.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 11:26 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Bea Gunn

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I understand that Pacifica first responders are customers of Verizon Wireless. It is essential that our first responders maintain reliable communications for our public safety. Please support Verizon Wireless's proposal for Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 11:47 AM
To: Support Wireless <SupportWireless@VerizonWireless.com>
Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Aline Elicagaray
City: Pacifica
ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 11:52 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Linda Scales

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 11:57 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Heath Kelly

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 12:10 PM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: William Bray

City: Pacifica

ZIP code: 94044-3234

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: Or create your own message:

I am all for improving the substandard Verizon service in Pacifica. Please consider an additional micro tower for Rockaway Beach. Cell service is nonexistent here.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica. I would consider attending a future public hearing. Please send me information once a hearing is scheduled.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 12:16 PM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Paul Picetti

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 12:53 PM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Colin McCracken

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: Or create your own message:

Yeah pacifica is notorious for bad cell service because of the fog and the big hill that separates the coast from the inner peninsula like south city and San Bruno. It would be so much better if we had more utility poles along the coast so we could boost service. This is a good idea

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 1:27 PM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Janet Barker

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 2:14 PM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Khaldoun TAYYEB

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 3:07 PM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Deborah Wong

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: Please support Verizon Wireless's network enhancements in Pacifica. This is important for my family and friends. We want to be able to use our cell phones during emergencies and for 911 calls.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 3:51 PM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Gabrielle Osegueda

City: PACIFICA

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica. I would consider attending a future public hearing. Please send me information once a hearing is scheduled.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 5:10 PM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Kurtis Carlson

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 5:48 PM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Robert Wong

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica. I would consider attending a future public hearing. Please send me information once a hearing is scheduled.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 6:13 PM
To: Support Wireless <SupportWireless@VerizonWireless.com>
Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Jenna Rego
City: Pacifica
ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Friday, September 04, 2020 8:07 PM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: David Godsoe

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: Communication on my cell phone during the current pandemic has been critical to the health and safety of my family. Reliable cell phone service is essential for my daily life. Please allow Verizon Wireless to install small cells in Pacifica rights-of-way. We need better service for today and tomorrow.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Saturday, September 05, 2020 5:48 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Annie Young

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Saturday, September 05, 2020 8:58 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: james Shook

City: pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica. I would consider attending a future public hearing. Please send me information once a hearing is scheduled.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Saturday, September 05, 2020 10:20 AM
To: Support Wireless <SupportWireless@VerizonWireless.com>
Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Linda Bowman
City: Pacifica
ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Saturday, September 05, 2020 1:48 PM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: John Gonzalez

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Saturday, September 05, 2020 7:37 PM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Roxanne Silver

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: Please support Verizon Wireless's network enhancements in Pacifica. This is important for my family and friends. We want to be able to use our cell phones during emergencies and for 911 calls.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica. I would consider attending a future public hearing. Please send me information once a hearing is scheduled.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Sunday, September 06, 2020 5:27 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Robert Martin

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Sunday, September 06, 2020 8:42 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Shirley Brim

City: Pacifica, CA

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

I would consider attending a future public hearing. Please send me information once a hearing is scheduled.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Monday, September 07, 2020 9:30 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: John Mendoza

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Monday, September 07, 2020 12:55 PM
To: Support Wireless <SupportWireless@VerizonWireless.com>
Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: James Vaccareza
City: Pacifica
ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: My schedule may not allow me to attend a public meeting. Please accept this email as a show of my strong support for Verizon Wireless's network enhancements.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Sent: Tuesday, September 08, 2020 10:54 AM

To: Support Wireless <SupportWireless@VerizonWireless.com>

Subject: Verizon "Verizon Wireless's Proposed Facility in Pacifica."

From: Stephanie Gillette

City: Pacifica

ZIP code: 94044

Subject: Verizon Wireless's Proposed Facility in Pacifica.

Message Body: I support improved coverage for everyday use and emergencies. I have personally experienced dropped calls, data delays or poor cell phone reception in Pacifica.

Keep me informed of issues that impact the Verizon Wireless network in Pacifica.

-- This e-mail was sent from a contact form on Verizon <https://improveyourwireless.com/>

Alternate Site Analysis

verizon✓
Pacifica 020

Small Cell in the Public Right-of-Way near
1307 Redwood Way, Pacifica, CA

*Proposed Verizon
Antenna & Equipment*



Version 2 Updated 8/26/2020
Summary of Site Evaluations
Conducted by: MODUS, LLC



I. Summary

Due to heavy demand for wireless voice and data, along with increased usage, the community and Verizon Wireless subscribers require a greater coverage area and capacity to accommodate their needs. Based on an extensive, comprehensive, and thorough review of available sites, Verizon Wireless has concluded that the target pole location constitutes the least intrusive alternate to help fill the identified significant gap in coverage/capacity (see *Statement of Verizon Wireless Engineer Melvin Baccay*, dated August 26, 2020) based on the guidelines set forth in the City of Pacifica Article 26 Sec. 9-4.2600 Wireless Communication Facilities (the “Code”). All 14 alternates were evaluated and eliminated based upon engineering analysis. As a result, Verizon Wireless proposes an installation in the public Right-of-Way on an existing wood utility pole located adjacent to 1307 Redwood Way., Pacifica, CA that is described in this Alternate Analysis.

II. Methodology

Once a capacity issue is determined, Verizon Wireless seeks to identify a target location that would optimize network performance to address the coverage issue. Once the target location is identified, field due diligence is completed to evaluate a solution that is the “least intrusive means” based upon Verizon Wireless’s experience with designing similar facilities and working within local regulations. In addition to seeking the “least intrusive” alternate, sites proposed by Verizon Wireless must be feasible. In this regard, Verizon Wireless reviews the topography, radio frequency propagation, elevation, height, available electrical and telephone utilities, access, and constructability. Wherever feasible, Verizon Wireless seeks to identify opportunities that allow placement of wireless facilities with minimal impacts. Should a target location not be feasible, Verizon Wireless will seek to identify alternate feasible locations as close to the target area as possible in which to locate a wireless facility to best service the area.

III. Analysis

Verizon Wireless has sought to identify a suitable location for its wireless facility to serve the City of Pacifica. The objective of this node is to improve coverage in and around the residential neighborhood near the intersection of Redwood Way and Lerida Way.

The following is an aerial map identifying the sites reviewed within the search area. A more detailed analysis of the specific candidates is also provided in this report.



OVERVIEW MAP OF ALTERNATE SITE ANALYSIS



Summary of Candidates Reviewed

Primary Candidate

37.590740, -122.479705

Adjacent Address: 1307 Redwood Way, Pacifica, CA

Adjacent Zoning: R-1 Single-Family Residential

Site Type: Pole Top Facility on Existing Wood Utility Pole



This facility was selected as the primary candidate because it is the closest viable wood utility pole from the original target location that is also the least intrusive means of servicing the area. This pole is situated to the side of only 1 residence with no residences directly across the street, and to an adjacent rear yard. It is not located in landscaping that would be disturbed as part of the installation. There are no ground obstructions preventing access for technicians. The block of Redwood Way also traveling east from Lerida Way is also technically preferred as the elevation change allows the facility to be higher and the signal to reach further in the neighborhood as the facility operates via line-of-sight.

ALTERNATE CANDIDATE 1

37.590673, -122.478855

Adjacent Address: 1324 Redwood Way, Pacifica, CA

Adjacent Zoning: R-1 Single-Family Residential

Site Type: Pole Top Facility on Existing Wood Utility Pole



Alternate Candidate 1 was the original target location identified by Verizon Engineers. The candidate was eliminated due to lack of adequate working space around the equipment and meter in compliance with General Order 95. GO95 requires a minimum 36" working space from the edge of any meter to safely read or access the meter and, the increased minimum of 4' working space from a driveway. The location of the driveway and the residential fence prevent the ability to meet those clearances.

This pole was also deemed more visually intrusive than the primary candidate because the pole is located directly between 2 residences and further set-back from the sidewalk than the primary candidate, creating a greater visual impact to the nearby residences.

ALTERNATE CANDIDATE 2

37.590775, -122.478558

Adjacent Address: 1332 Redwood Way, Pacifica, CA

Adjacent Zoning: R-1 Single-Family Residential

Site Type: Pole Top Facility on Existing Wood Utility Pole



Alternate Candidate 2 was eliminated as a candidate due to the presence of a transformer. PG&E Standard 027911 prohibits any non-PG&E owned antennas and communication equipment on poles with PG&E distribution equipment installed, including transformers.

ALTERNATE CANDIDATE 3

37.590998, -122.478113

Adjacent Address: 1344 Redwood Way, Pacifica, CA

Adjacent Zoning: R-1 Single-Family Residential

Site Type: Pole Top Facility on Existing Wood Utility Pole



Alternate Candidate 3 was eliminated due to lack of adequate working space around the equipment and meter in compliance with General Order 95. GO95 requires a minimum 36" working space from the edge of any meter to safely read or access the meter and, the increased minimum of 4' working space from a driveway. The location of the driveway and the resident landscaping prevent the ability to meet those clearances. Access to any equipment will intrude on residential landscaping

ALTERNATE CANDIDATE 4

37.590807, -122.479346

Adjacent Address: 1315 Redwood Way, Pacifica, CA

Adjacent Zoning: R-1 Single-Family Residential

Site Type: Pole Top Facility on Existing Wood Utility Pole



Alternate Candidate 4 was eliminated due to lack of adequate working space around the equipment and meter in compliance with General Order 95. GO95 requires a minimum 36" working space from the edge of any meter to safely read or access the meter and, and the increased minimum of 4' working space from a driveway. Access to any equipment will intrude on residential landscaping.

ALTERNATE CANDIDATE 5

37.590867, -122.480306

Adjacent Address: 1306 Lerida Way, Pacifica, CA

Adjacent Zoning: R-1 Single-Family Residential

Site Type: Pole Top Facility on Existing Wood Utility Pole



Alternate Candidate 5 was eliminated due to the presence of primary cutouts. PG&E Standard 027911 prohibits any non-PG&E owned antennas and communication equipment on poles with PG&E distribution equipment installed, including cutouts.

The candidate was eliminated due to lack of adequate working space around the equipment and meter in compliance with General Order 95. GO95 requires a minimum 36" working space from the edge of any meter to safely read or access the meter and, the increased minimum of 4' working space from a driveway. The location of the driveway and the residential fence prevent the ability to meet those clearances.

ALTERNATE CANDIDATE 6

37.590592, -122.480249

Adjacent Address: 1235 Redwood Way, Pacifica, CA

Adjacent Zoning: R-1 Single-Family Residential

Site Type: Pole Top Facility on Existing Wood Utility Pole



Alternate Candidate 6 was eliminated due to lack of adequate working space around the equipment and meter in compliance with General Order 95. GO95 requires a minimum 36" working space from the edge of any meter to safely read or access the meter and, the increased minimum of 4' working space from a driveway. The location of the landscaping prohibits the ability to meet those clearances. Construction would also be more intrusive and require landscaping maintenance.

ALTERNATE CANDIDATE 7

37.590374, -122.480870

Adjacent Address: 1227 Redwood Way, Pacifica, CA

Adjacent Zoning: R-1 Single-Family Residential

Site Type: Pole Top Facility on Existing Wood Utility Pole



Alternate Candidate 7 was eliminated due to the presence of a transformer. PG&E Standard 027911 prohibits any non-PG&E owned antennas and communication equipment on poles with PG&E distribution equipment installed, including transformers.

ALTERNATE CANDIDATE 8

37.590334, -122.480054

Adjacent Address: 1318 Lerida Way, Pacifica, CA

Adjacent Zoning: R-1 Single-Family Residential

Site Type: Pole Top Facility on Existing Wood Utility Pole



Alternate Candidate 8 was eliminated due to lack of adequate working space around the equipment and meter in compliance with General Order 95. GO95 requires a minimum 36" working space from the edge of any meter to safely read or access the meter and, and the increased minimum of 4' working space from a driveway. Both the concrete property fence and landscaping on the right of the pole and the landscaping on the left prohibit the ability to meet those clearances.

ALTERNATE CANDIDATE 9

37.589966, -122.479769

Adjacent Address: 1326 Lerida Way, Pacifica, CA

Adjacent Zoning: R-1 Single-Family Residential

Site Type: Pole Top Facility on Existing Wood Utility Pole



Alternate Candidate 9 was eliminated due to lack of adequate working space around the equipment and meter in compliance with General Order 95 and PG&E Standard 027911. GO95 requires a minimum 36" working space from the edge of any meter to safely read or access the meter and, and the increased minimum of 4' working space from a driveway.

The fence on the left side obstructs access if the power meter was place on the left, and the proximity of the driveway on the right precludes the ability to place the equipment on the right.

ALTERNATE CANDIDATE 10

37.589756, -122.479527

Adjacent Address: 1334 Lerida Way, Pacifica, CA

Adjacent Zoning: R-1 Single-Family Residential

Site Type: Pole Top Facility on Existing Wood Utility Pole



Alternate Candidate 10 was eliminated due to lack of adequate working space around the equipment and meter in compliance with General Order 95 and PG&E Standard 027911. GO95 requires a minimum 36" working space from the edge of any meter to safely read or access the meter and, and the increased minimum of 4' working space from a driveway. The fence on the left side obstructs access if the power meter was placed on the left, and the proximity of the driveway on the right precludes the ability to place the equipment on the right.

ALTERNATE CANDIDATE 11

37.589495, -122.479124

Adjacent Address: Lerida Way at Elm Ct, Pacifica, CA

Adjacent Zoning: R-1 Single-Family Residential

Site Type: Pole Top Facility on Existing Wood Utility Pole



Alternate Candidate 11 was eliminated due to the presence of a transformer. PG&E Standard 027911 prohibits any non-PG&E owned antennas and communication equipment on poles with PG&E distribution equipment installed, including transformers.

ALTERNATE CANDIDATE 12

37.589231, -122.478516

Adjacent Address: across from 1347 Lerida Way, Pacifica, CA

Adjacent Zoning: R-1 Single-Family Residential

Site Type: Pole Top Facility on Existing Wood Utility Pole



Alternate Candidate 12 was eliminated due to the presence of cutouts. PG&E Standard 027911 prohibits any non-PG&E owned antennas and communication equipment on poles with PG&E distribution equipment installed, including cut outs.

ALTERNATE CANDIDATE 13

37.589001, -122.477900

Adjacent Address: 1238 Terra Nova Blvd, Pacifica, CA

Adjacent Zoning: R-3-G Multiple Family Residential Garden

Site Type: Pole Top Facility on Existing Wood Utility Pole



Alternate Candidate 13 was eliminated due to the lack of available climbing space on the pole to meet General Order 95 Rule 54.7. The existing risers on the street facing side of the pole prevent any equipment and meter from being placed in those locations, reducing the available quadrants for climbing space.

ALTERNATE CANDIDATE 14

37.588755, -122.477266

Adjacent Address: 1238 Terra Nova Blvd, Pacifica, CA

Adjacent Zoning: R-3-G Multiple Family Residential Garden

Site Type: Pole Top Facility on Existing Wood Utility Pole



Alternate Candidate 14 was eliminated from a construction perspective. It lacks the requisite space to meet safe working space clearances from the roadway or to meet ADA sidewalk clearances if the equipment were placed on the backside of the pole further from the street.

IV. Conclusion

Verizon Wireless evaluated a total of 15 locations within the identified capacity service area, including a complete evaluation of (14) alternatives around the intersection of Redwood Way and Lerida Way, Pacifica, CA. Based on the analysis and evaluation, Verizon Wireless concludes that the proposed candidate and project design is the least intrusive means to provide the service improvements to the area and address the community wireless needs.

Brooks, Elizabeth

From: Coffey, Sarah
Sent: Tuesday, September 8, 2020 5:46 PM
To: Public Comment
Subject: FW: The city should be receiving revenue for Cell towers on public land
Attachments: Pacifica WCF Revenue letter to County.pdf; SMCCCellTowersPublicOppositionandRevenue.pdf; CA municipalities with accepted Ordinances and Highlights.pdf; USRepSuozziToFCC.pdf; FCC.2020.6.2. Letter re 6409 Ruling and NPRM.CAT_.pdf; HR530.jpg; S2012.jpg

From: Sunil Bhat [REDACTED]
Sent: Tuesday, September 8, 2020 5:41 PM
To: _City Council Group <CityCouncil@ci.pacifica.ca.us>; Coffey, Sarah <coffeys@ci.pacifica.ca.us>; Brooks, Elizabeth <brookse@ci.pacifica.ca.us>
Cc: internal@cc4rt.com
Subject: The city should be receiving revenue for Cell towers on public land

[CAUTION: External Email]

Honorable members of the City Council,

1) According to the attached correspondence between the San Mateo County Court and City of Pacifica from 2011, Pacifica had then "completed negotiations for lease agreements for installations [of wireless facilities] on public land that generate revenue and other tangible benefits for the community"

As the public-right-of-way is public land, it is assumed that the city is not receiving revenue that it is entitled to for the recent small cell applications. If the city were to be generating revenue at the expense of the property values of its residents, that would be equally concerning.

2) a compilation of the "Small Cell" ordinances from local municipalities and highlights from them is also attached

3) I'm also reattaching the covers of HR530 and S2012 which are US House and Senate bills aimed at returning local control for regulating wireless facilities. There are also two letters to the FCC from US House of Representatives Committee on Energy and Commerce, and Rep Suozzi showing that there is significant movement at the federal level challenging the FCC and working to restore local control. I repeat, at this time it is still fully within your right as a city to regulate this and any wireless facility on the basis of hazard to property value, and failure to prove that this is the least intrusive remedy to fill a *significant* gap in coverage.

I urge you to approve the appeal, make a motion to update the wireless ordinances, and pass a resolution in support of HR530

Ms Coffey, please add these attachments to the agenda packet for the upcoming appeal hearing, thank you

Sunil Bhat D.O.

Osteopathictouch.com

Board Certified Osteopathic Family Medicine

Board Certified Osteopathic Neuromusculoskeletal Medicine

Sent with [ProtonMail](#) Secure Email.

CAUTION: This email originated from outside of the City of Pacifica. Unless you recognize the sender's email address and know the content is safe, do not click links, open attachments or reply.

116TH CONGRESS
1ST SESSION

H. R. 530

To provide that certain actions by the Federal Communications Commission shall have no force or effect.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 14, 2019

Ms. ESHOO (for herself and Ms. SPEIER) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To provide that certain actions by the Federal Communications Commission shall have no force or effect.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Accelerating
5 Broadband Development by Empowering Local Commu-
6 nities Act of 2019”.

7 **SEC. 2. PRESERVATION OF RIGHTS OF STATE AND LOCAL**
8 **GOVERNMENTS.**

9 Actions by the Federal Communications Commission
10 in “Accelerating Wireless and Wireline Broadband De-

list of municipalities recently amending ordinances for small cells

hillsborough (1/13/2020)

<https://www.hillsborough.net/482/Wireless>

San Bruno (6/25/2019)

<https://www.sanbruno.ca.gov/civicax/filebank/blobdload.aspx?t=64777.12&BlobID=31182>

South San Francisco (2017)

San Mateo (7/16/2018)

<https://www.cityofsanmateo.org/DocumentCenter/View/64834/Executed-Ordinance-2018-5?bidId=>

Santa Cruz (2/11/2020)

<http://www.emfaware.org/small-cell-ordinance.html>

petaluma (10/11/2019)

<https://scientists4wiredtech.com/petaluma/petaluma-municipal-code/>

los altos (8/5/2019)

https://www.losaltosca.gov/sites/default/files/fileattachments/city_council/page/48421/2019-08-05_19-460_1.pdf

https://www.losaltosca.gov/sites/default/files/fileattachments/city_council/page/48421/resolution_no._2019-35.pdf

Palo Alto (04/2019)

Fairfax (07/2019)

mill valley (9/6/18)

san raphael (12/2018)

marin county (6/21/2019)

Sonoma (11/5/2018)

Ventura (4/8/2019)

San Diego County (5/31/2019)

Rancho Palos Vardes (4/16/2019)

san anselmo (6/26/2018)

danville (8/22/2018)

calabasas (3/13/2019)

southlake tahoe (4/14/2020)

nevada city (10/25/2019)

highlights of passed ordinances

City of Santa Cruz, Ordinance Highlights (2/11/20)

<http://www.emfaware.org/small-cell-ordinance.html>

Small cell facilities are now processed by the Public Works Department, and no longer require any public hearings. Appeals may be made to the City Council within 5 days of approval. Appeal fees are waived. Appeals premised on environmental effects from RF emissions that are compliant with all applicable FCC regulations will not be considered.

(4) Site location restrictions. (Small Cell Standards & Guidelines Policy)

In addition to the orders of preference specified in the preceding subsections, the following location prohibitions shall be applicable to all applications for installations of small cell facilities in the public rights-of-way.

a) All small cell facility locations shall be outside driveway and intersection sight lines. Where feasible, locations shall be located near property corners or side property lines and not directly in front of residences and businesses.

b) In Residential and Commercial Zoning Districts, only one (1) small cell facility and associated equipment shall be permitted within the public right-of-way within a 1500-foot radius; provided, however, that this restriction may be waived by the Director of Public Works upon a demonstration that the refusal to allow an additional facility within a 1500-foot radius will result in the creation of a significant coverage gap for the applicant and/or that such refusal will otherwise violate an applicable state or federal law;

c) Wireless on strand or overhead lines shall be prohibited;

IV. Public Notification (Permit Guidelines)

5. The City will post notice of the Permit Application on the Public Works "Small Cell" website page within 1-3 business days after an application is received, consisting of:

- 1) the applicant's identification and contact information;
- 2) a general project description;
- 3) the location of the project site in text and/or diagram.

As part of the application submittal, the applicant shall, within 24 hours of submitting a Permit Application, provide notices as follows:

a) by first class United States mail, to all property owners and occupants of buildings within 1000 feet of the project; and

The notice shall include:

f) a statement that the City will conduct a preliminary review of the project under the California Environmental Quality Act (CEQA) as part of the application process;

g) a statement that a reasonable accommodation request pursuant to the Americans with Disabilities Act or other applicable law may be directed to the City within 5 calendar days of the date of notice.

Note: A potential legal pathway for persons who are extremely EMF sensitive - allowing them to stay in their homes, should a cell tower be proposed nearby. The FHAA also guarantees each person the right to enjoy and safely live in their home. There are several other references to compliance with ADA, elsewhere in the ordinance.

h) instruction to the property owners and occupants to provide notice to its employees by posting the applicant's notice at the workplace.

Appeals - Section 15.38.100

Appeal fees are waived

Any interested person or entity may appeal any decision by the Public Works Director under this chapter to the city council in accordance with the provisions of Chapter 1.16. Appeals must be filed within ten (10) days of the Public Works Director's decision. As section 332(c)(7) of the Telecommunications Act preempts local decisions premised directly or indirectly on the environmental effects of radio frequency (RF) emissions to the extent such facilities comply with the FCC's regulations, appeals premised on environmental effects from RF emissions that are compliant with all applicable FCC regulations, will not be considered.

Small Cell Standards and Guidelines

1,500' minimum spacing between small cell installations in residential and commercial zones.

Petaluma, California (10/11/19)

Ordinance of the City Council of Petaluma

- Protect environmental resources; protect residents against adverse health effects
- Protect visual character; don't create visual blight
- Protect environmental resources; protect residents against adverse health effects
- Commercial or industrial zones
- Antennas must connect to an already existing utility pole that can support its weight.
- Servicing wires must be installed within the width of the existing utility.
- All ground-mounted equipment not to be installed inside the pole must be undergrounded, flush to the ground, within three (3) feet of the utility pole.
- Dedicated power source to be installed and metered separately.
- 1,500 feet minimum between each Small Cell facility.
- No Small Cell shall be within 500 feet of any residence.
- An encroachment permit must be obtained for any work in the right-of-way.
- [Petaluma, California: Ordinance of the City Council of PetalumaPDF](#)

Small cell facilities as defined in Section 14.44.020 may be installed, erected, maintained and/or operated in any commercial or industrial zoning district where such antennas are permitted under this title, upon the issuance of a minor conditional use permit, so long as all the following conditions are met:

- A. The small cell antenna must connect to an already existing utility pole that can support its weight.
- B. All new wires needed to service the small cell must be installed within the width of the existing utility pole so as to not exceed the diameter and height of the existing utility pole.
- C. All ground-mounted equipment not installed inside the pole must be undergrounded, flush to the ground, within three feet of the utility pole.
- D. Each small cell must be at least one thousand five hundred feet away from the nearest small cell facility.

E. Aside from the transmitter/antenna itself, no additional equipment may be visible.

F. Each small cell must be at least five hundred feet away from any existing or approved residence.

G. An encroachment permit must be obtained for any work in the public right-of-way. (Ord. 2662 NCS § 2 (part), 2018.)

marin county (6/21/2019)

“Marin’s draft rules select industrial, commercial or agricultural sites, or sites near public facilities, as preferred locations for the antennas; residential and mixed-use sites and areas within 1,500 feet of schools and daycare centers are the least-preferred locations. The draft favors placing antennas on existing street poles or traffic lights, versus new poles or small cell facilities. It limits antennas to one per pole and stipulates they must be at least 1,000 feet apart. It also includes aesthetic requirements that aim to blend equipment, and prohibits equipment on historic buildings.”

Fairfax, California’s Wireless Ordinance- Summary of Highlights (July 2019)

Americans With Disabilities Act – in many places – for building issues, exceptions, and in Compliance with Laws, where it could be interpreted more broadly.

Appeals by the public.

Conditional Use Permit required, along with any **building permit** required by the Town Code.

Decorative Light Poles – mounting prohibited, unless replaced by matching pole.

Distance separating facilities – 1500 feet.

Eligible Facilities Request – requires public notice.

Encroachment permit required in ROW.

Endangered Species Act.

Exceptions Chapter – tough and comprehensive, modeled after San Anselmo's.

Expert – Independent, with maximum latitude as to how and when monitoring is done – at expense of applicant.

Fee for Inspections (performed by city, paid for by applicant).

Fiber Optic Study.

IGrounding/ Mounting.

Height – 18 feet above roadway.

Indemnification and Insurance.

Mapping, photo simulations, and **STORY POLES – with prominent orange safety fencing.**

Noise regulation.

Public Hearing for appeals.

Public Notice – at applicant's expense – for owners **and occupants** within a 300-foot radius.

Prohibition in residential areas.

Recertification annually – as per Burlington, MA's ordinance.

Setbacks – a minimum of 300 feet from child daycare centers, schools, playgrounds, parks, ballfields, and medical facilities. A minimum of 50 feet from all residences (in non-residential zones).

Severability.

Testing – aggregate emissions at maximum output.

Tree Protection plan by arborist.

Undergrounding.

Warning signs for radiation on facilities.

Prohibition on ridgelines.

San Diego County, California

Draft ordinance (5-31-2019) for small cell antenna sites in San Diego County has the following requirement:

“SCWs shall not be located within 1,000 feet of schools, child care centers, hospitals, or churches. Distance, without regard to intervening structures, shall be a straight line measured from the closest property lines.”

Palos Vardes, California (4-16-19)

According to citizens of the City, after citizen uproar, Crown Castle began complying with municipal aesthetic requirements and moving proposed locations out of neighborhoods and away from homes. The ordinance has four key components, if these are met the site will almost certainly be approved:

- Minimal antenna size with screening
- All accessory equipment underground (everything except the antenna)
- Combining sites with existing vertical infrastructure (streetlights, traffic signals, etc.)
- Strict location restrictions, no sites on local, residential streets without an exception granted

If they don't comply with these, then the applicant must demonstrate the site is required to fill a significant gap and there is no less intrusive alternative to receive an exception. This is not simply checking a box (i.e. the applicant just claiming these conditions exist) but has to be demonstrated to the City planning commission via engineering analysis.

Palos Vardes, California Ordinance Chapter 12.18 – WIRELESS
TELECOMMUNICATIONS FACILITIES IN THE PUBLIC RIGHT-OF-WAY

Mill Valley, California

Urgency Ordinance No 18, September 6, 2018

- New or updated facilities prohibited in residential zones. Commercial only.
- Facilities installed on poles in public right of way must be 1,500 feet apart
- Design, noise standards
- Facilities in public right of way that would interfere with future projects / improvements must be relocated
- Promptly remove facilities when no longer needed; replace with smaller facilities as feasible
- Defend and indemnify the City
- [Mill Valley, California: Urgency Ordinance No 18, September 6, 2018](#)
- [Tech Crunch" Bay Area Blocks 5G Deployment Over Cancer Concerns](#)
- [Marin Post Mill Valley Council Adopts Wireless Ordinance Protects Community](#)

San Anselmo, California

Council Policy

- People within 300 feet of proposed antenna will be notified
- Town is entitled to employ independent consultant at applicant's expense to evaluate exceptions
- [San Anselmo, California PDF](#)

Danville, California (8/22/18)

Proposed Ordinance No. 2018-07: Wireless Communication Facilities

- Aesthetic requirements (design guidelines may be developed and amended from time to time to clarify aesthetic and public safety goals and standards)
- Utilities must be underground to extent feasible. “Meters, panels, disconnect switches and other associated improvements must be placed in inconspicuous locations to the extent possible”.
- Permits valid for initial period of 10 years max
- “Where feasible, the location of wireless communication facilities shall be encouraged to be located on publicly owned or controlled property or right-of-way.”
- Would allow small cells in residential districts:

–“All facilities shall be substantially screened from the view of surrounding properties and the public view or collocated with existing facilities or structures so as not to create substantial additional visual, noise, or thermal impacts. “

–Property owners within 300 ft of proposed site must be notified

Danville, California: Ordinance No. 2018-07 Wireless Communications Facilities PDF

<http://mystreetmychoice.com/danville.html>

<http://scientists4wiredtech.com/danville/municipal-wireless-code/>

Sonoma, California

Report and Urgency Ordinance

On Nov 5, 2018 Sonoma [approved](#) their 5G urgency ordinance.

“Based on the foregoing, the City Council finds and determines that the immediate preservation of the public health, safety and welfare requires that this Ordinance be enacted as an urgency ordinance pursuant to Government Code Section 36937(b), and take effect immediately upon adoption. Therefore, this Ordinance is necessary for the immediate preservation of the public peace, health, safety and welfare and its urgency is hereby declared.”

- The City also has a [Small Cell Tower page](#).
- [Sonoma California Ordinance on 5G](#)

Municipalities Recently Amending Ordinances for Small Cells

| | | |
|-----------------------------------|--------------------------|------------------------------------|
| Hillsborough (1/13/2020) | Palo Alto (04/2019) | San Diego County (5/31/2019) |
| San Mateo (7/16/2018) | Fairfax (07/2019) | Rancho Palos Vardes (4/16/2019) |
| San Bruno (6/25/2019) | Mill valley (9/6/18) | San Anselmo (6/26/2018) |
| South San Francisco (2017) | San Raphael (12/2018) | Danville (8/22/2018) |
| Foster City (5/28/2019) | Marin county (6/21/2019) | Calabasas (3/13/2019) |
| Santa Cruz (2/11/2020) | Sonoma (11/5/2018) | Southlake tahoe (4/14/2020) |
| Petaluma (10/11/2019) | Ventura (4/2/2019) | Nevada city (10/25/2019) |

Los altos (8/5/2019)

Encinitas (10/30/2019)

ONE HUNDRED SIXTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

June 2, 2020

The Honorable Ajit V. Pai
Chairman
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Dear Chairman Pai:

Given the ongoing challenges that local governments face during the COVID-19 pandemic, we write to urge the Federal Communications Commission (FCC) to delay its June 9 vote on the Declaratory Ruling and Notice of Proposed Rulemaking (Declaratory Ruling) in Docket 19-250.¹ Under the guise of clarifying its existing rules, the FCC's Declaratory Ruling would grant companies the right to expand existing cell sites without any regard to local processes, among other things.²

We are especially troubled by the burden responding to this Declaratory Ruling will place on local governments that are justifiably focused right now on combatting the ongoing coronavirus pandemic. Likewise, we worry that if this Declaratory Ruling does not benefit from meaningful input from local governments, the result could undermine municipalities' ability to balance their responsibilities to public safety and community design with their desire to ensure access to affordable wireless networks and the next generation services.

We believe such a delay is further warranted as local public servants and elected officials are filling the void left by their federal counterparts.³ These local officials cannot be expected to

¹ Federal Communications Commission, *Implementation of State and Local Governments Obligation to Approve Certain Wireless Facility Modification Requests Under Section 6409(a) of the Spectrum Act of 2012*, Draft Declaratory Ruling and Notice of Proposed Rulemaking, WT Docket No. 19-250, FCC-CIRC2006-03 (Rel. May 19, 2020).

² See *id.* at ¶ 4.

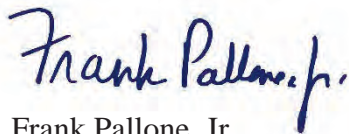
³ *State, Local Government Fill Void of Coordinated Federal Response to Coronavirus*, WBALTV.com (Mar. 31, 2020) (www.wbalv.com/article/coronavirus-state-local-governments-fill-void-coordinated-federal-response/31996023).

conduct a meaningful review and respond to an item of this nature within the very limited time provided by the FCC. If local governments are forced to respond to this Declaratory Ruling instead of focusing on their public health and safety responses, it very well may put Americans health and safety at risk.

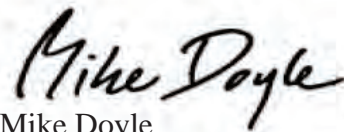
Postponing this Declaratory Ruling would also be in line with the request Committee Chairs of the House of Representatives made last month to immediately extend public comment deadlines in light of the COVID-19 pandemic across the federal government.⁴

For those reasons, we ask that you delay the FCC's proposed vote on the Declaratory Ruling currently scheduled for June 9, 2020. Thank you for your attention to this important matter. If you have any questions, please contact Gerald Leverich of the Majority Staff at (202) 225-2927.

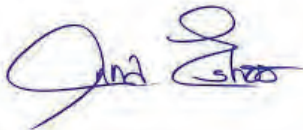
Sincerely,



Frank Pallone, Jr.
Chairman



Mike Doyle
Chairman
Subcommittee on Communications
and Technology



Anna G. Eshoo
Member of Congress



Bobby L. Rush
Member of Congress

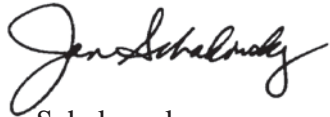
⁴ Letter from Chairman Frank Pallone, Chairman Jerrold Nadler, Chairwoman Carolyn Maloney, Chairwoman Eddie Bernice Johnson, Chairman Peter DeFazio, Chairman Raúl Grijalva, Chairman Bennie Thompson, Chairwoman Maxine Waters, Chairman Eliot Engel, Chairman Bobby Scott, Chairman Richard Neal, Chairwoman Nydia Velázquez, Chairman Mark Takano, and Chairman Adam Smith, United States House of Representatives to Acting Director Russell Vought, Office of Management and Budget (Apr. 1, 2020) (energycommerce.house.gov/sites/democrats.energycommerce.house.gov/files/documents/OMB.2020.4.1.%20Letter%20re%20Comment%20Period%20Extension.OI_.pdf).



Eliot L. Engel
Member of Congress



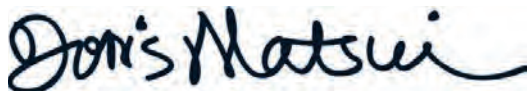
Diana DeGette
Member of Congress




Jan Schakowsky
Member of Congress



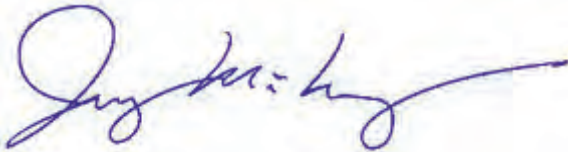
O. K. Butterfield
Member of Congress



Doris Matsui
Member of Congress



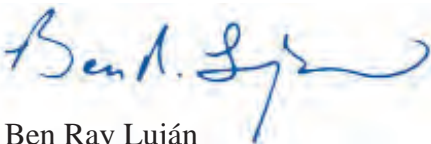
Kathy Castor
Member of Congress



Jerry McNerney
Member of Congress



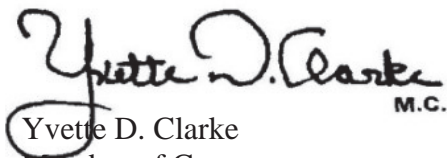
Peter Welch
Member of Congress



Ben Ray Luján
Member of Congress



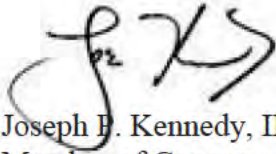
Paul D. Tonko
Member of Congress


M.C.

Yvette D. Clarke
Member of Congress



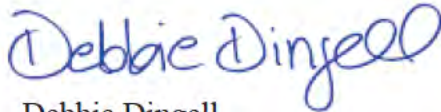
David Loebsock
Member of Congress



Joseph P. Kennedy, III
Member of Congress



Tony Cárdenas
Member of Congress



Debbie Dingell
Member of Congress



Marc Veasey
Member of Congress



Robin Kelly
Member of Congress



A. Donald McEachin
Member of Congress



Lisa Blunt Rochester
Member of Congress



Darren Soto
Member of Congress

The Honorable Ajit V. Pai

June 2, 2020

Page 5

cc: The Honorable Michael O’Rielly, Commissioner, Federal Communications Commission

The Honorable Brendan Carr, Commissioner, Federal Communications Commission

The Honorable Jessica Rosenworcel, Commissioner, Federal Communications
Commission

The Honorable Geoffrey Starks, Commissioner, Federal Communications Commission



Scenic Pacifica

CITY HALL

170 Santa Maria Avenue • Pacifica, California 94044-2506

www.cityofpacifica.org

MAYOR

Mary Ann Nihart

MAYOR PRO TEM

Peter DeJarnatt

COUNCIL

Sue Digre

James M. Vreeland, Jr.

Len Stone

CITY MANAGER'S OFFICE

TEL. (650) 738-7301

FAX (650) 359-6038

CITY ATTORNEY

TEL. (650) 738-7409

FAX (650) 359-8947

CITY CLERK

TEL. (650) 738-7307

FAX (650) 359-6038

CITY COUNCIL

TEL. (650) 738-7301

FAX (650) 359-6038

FINANCE

TEL. (650) 738-7392

FAX (650) 738-7411

FIRE ADMINISTRATION

TEL. (650) 991-8138

FAX (650) 991-8090

HUMAN RESOURCES

TEL. (650) 738-7303

FAX (650) 359-6038

PARKS, BEACHES & RECREATION

TEL. (650) 738-7381

FAX (650) 738-2165

PLANNING

TEL. (650) 738-7341

FAX (650) 359-5807

• Building

TEL. (650) 738-7344

• Code Enforcement

TEL. (650) 738-7341

POLICE DEPARTMENT

TEL. (650) 738-7314

FAX (650) 355-1172

PUBLIC WORKS

TEL. (650) 738-3760

FAX (650) 738-9747

• Engineering

TEL. (650) 738-3767

FAX (650) 738-3003

• Field Services

TEL. (650) 738-3760

FAX (650) 738-9747

August 9, 2011

Honorable Joseph E. Bergeron

Judge of the Superior Court

Hall of Justice - 400 County Center, 2nd Floor

Redwood City, California 94063-1655

Dear Judge Bergeron,

Our agency is in receipt of the 2010-2011 San Mateo County Civil Grand Jury report titled, "Cell Towers: Public Opposition and Revenue Source", which contains findings and recommendations regarding "Do cities and the County of San Mateo (the County) have effective governing policies and/or ordinances for cell tower installations that provide the public with a clear understanding of how applications are adjudicated and are cell tower installations a source of revenue for cities and the County?" The City of Pacifica agrees with the findings in the report.

In regards to the recommendations, the City of Pacifica has already implemented the following recommendations:

1. The City reviews and revises the fee structure to recoup staff costs for processing cell tower applications on an annual basis.
2. The City has just completed negotiations for lease agreements for installations on public land that generate revenue or other tangible benefit to the community.
3. The City has always had provisions for cell tower maintenance and removal in existing ordinances and lease agreements.
4. The City currently requires that all new lease agreements contain a provision requiring service providers to install newer technology as it becomes commercially available to reduce the footprint of cell towers.

The City of Pacifica has not yet implemented the following recommendation but will over the next 6 months explore options to expand information available on the City's website.

5. The City is exploring the options to add more information to the City website which would more clearly describe our ordinance, policies and procedures as well as federal regulations related to cell tower installations.

The City of Pacifica's response to the Grand Jury report was presented at the City of Pacifica City Council meeting on August 8, 2011 and was subsequently approved. If you have any questions regarding our response, please do not hesitate to contact us.

Respectfully,

Mary Ann Nihart, Mayor

Path of Portola 1769 • San Francisco Bay Discovery Site



Cell Towers: Public Opposition and Revenue Source

[Issues](#) | [Background](#) | [Findings](#) | [Conclusions](#) | [Recommendations](#) | [Responses](#) | [Attachments](#)

Issues

Do cities and the County of San Mateo (the County) have effective governing policies and/or ordinances for cell tower installations that provide the public with a clear understanding of how applications are adjudicated?¹ Are cell tower installations a source of revenue for cities and the County?

Summary

There are more than 450 cell tower installations in San Mateo County. Although people want reliable cell phone reception, community opposition to cell towers is common. The County and 18 of 20 cities reported public opposition to a cell tower application within the past 5 years.²

The County and 12 of 20 cities generate varying amounts of revenue from cell tower installations, primarily from the leasing of public lands.³ Although it may not pose a large source of revenue, cities that are not already taking advantage of lease agreements as a steady revenue source should negotiate such agreements with service providers in the future. In addition, any new leases should require service providers to maintain existing structures, remove unused or obsolete equipment, and replace structures with newer low profile structures as they become available.

Improving information available to the public and providing clearer communications can improve public response to future cell tower installation applications.

Background

While there is universal public demand for improved and more reliable cell phone transmissions, there exists a “not in my backyard” approach to having cell tower installations in close proximity to residences or commercial establishments. This statement is based on survey data and the number of incidences of public opposition recorded in local news articles or communications collected by members of the grand jury over a seven-month period in Fiscal Year 2010-2011. At least 8 of the 20 cities in San Mateo County had newspaper articles or communications of overt public opposition to cell tower applications during this timeframe.⁴

¹ For purposes of this report, “cell towers” refers to any wireless communications facility or structure erected for purposes of transmission on either public or private property.

² Only two cities, Colma and East Palo Alto, did not report incidences of public opposition.

³ Belmont, Brisbane, Burlingame, Foster City, Hillsborough, Menlo Park, Millbrae, Redwood City, San Bruno, San Carlos, San Mateo, South San Francisco.

⁴ Daly City, Half Moon Bay, Menlo Park, Pacifica, Portola Valley, San Bruno, San Carlos, South San Francisco.

Public opposition occurs most often from individuals living in close proximity to a proposed cell tower site. Individuals or homeowner associations may make their own case to the city or form new groups for the purpose of galvanizing opposition. These new groups typically exist only until a final decision is rendered, making it impractical for the grand jury to interview representatives.

Data shows opposition is typically based on perceived health risks such as electromagnetic radiation. To date such concern is regarded as scientifically unproven and has not been a legal basis for permit denial in accordance with provisions in the (federal) Telecommunications Act of 1996.⁵

An appellate court ruling in 2009 supported the decision by the City of Palos Verdes Estates in Southern California to deny the installation of cell towers on the basis of aesthetics alone. Service providers had argued that there must be a compelling “substantive” reason to deny an application or it must be approved in favor of communication expansion. The appellate court ruled that aesthetics were a valid reason to deny a cell tower application, so long as the denial does not cause a significant gap in service coverage that cannot feasibly be addressed by alternatives.⁶

Federal law governs some cell tower decision-making authority. For example, each application by a service provider to install a cell tower must be considered on an individual basis, and a government entity cannot favor one telecommunications provider over another under protections provided by the Telecommunications Act of 1996.⁷ Thus opposition is targeted to a specific application for cell tower installations.

Cell phone vendors compete for improved range, clarity of reception, and a reduction of dropped calls. Some cities report that cell tower installations have been increasing over the past five years to meet these demands.⁸

Investigation

The 2011 San Mateo County Civil Grand Jury collected information about cell towers via a survey sent to city managers and planning directors, or their counterparts, in the County and each of the 20 cities (see Attachment).

Online research was conducted, including a review of excerpts of the Telecommunications Act of 1996 and the United States Court of Appeals, Ninth Circuit decision in the *Sprint PCS Assets PCS P v. City of Palos Verdes Estates*.

Newspaper articles and communications from neighborhood groups regarding cell tower placement were collected and reviewed.

⁵ Peter M. Degnan et al, *The Telecommunications Act of 1996: §704 of the Act and Protections Afforded the Telecommunications Provider in the Facilities Siting Context*, May 18, 1999, pps. 7-8.

⁶ No. 05-56106 – *Sprint PCS Assets PCS P v. City of Palos Verdes Estates*, argued and submitted July 6, 2009 – October 14, 2009.

⁷ Degnan et al., op. cit., p. 5.

⁸ Belmont, Brisbane, Daly City, East Palo Alto, Foster City, Menlo Park, Portola Valley, Redwood City, San Carlos, South San Francisco.

Discussion

The County and 15 of 20 cities in San Mateo County have ordinances in place related to cell tower installation.⁹ These ordinances vary considerably in scope and comprehensiveness. Whether or not the County or a particular city has an ordinance governing cell tower installations does not seem to insulate it from public opposition. Service providers must make application to the County or cities whether or not there is an ordinance in place.

The County and 6 of 20 cities reported public opposition to cell tower applications occurred more frequently than once a year.¹⁰ The primary opposition came from individuals living in close proximity to the proposed installation site. The most frequent reason cited for such opposition was public safety such as perceived health risks from electromagnetic radiation, although it is not a valid basis on which the County or city can deny a permit. Visual or aesthetic impacts, which are a valid issue upon which to base a decision regarding denial or modification of a cell tower application, were less frequently mentioned.¹¹

In the County and 7 of 20 cities, service providers have withdrawn applications for cell tower installation due to public opposition.¹² In 2008 (referred to as the “2007 decision”), a service provider filed a lawsuit against the County because of a denied cell tower renewal application subsequent to an appeal filed by residents which overturned the initial approval.¹³ There have been no incidences of litigation reported by cities because an application for cell tower installation was denied.

The County and 12 of 20 cities generate revenue from cell tower installations, primarily from the leasing of public lands.¹⁴ In most cases, revenue is deposited to the general fund with no specific use indicated. The revenue is paid by service providers in addition to application or permit fees. Costs to file an application vary widely, with many cities requiring a deposit toward staff time.

Some cities do not require service providers to maintain cell towers and/or remove installations when they are no longer used, become obsolete, or the permit expires. These provisions are important because wireless technology continues to innovate and may in the future be replaced by devices significantly smaller with improved range.¹⁵

⁹ Belmont, Brisbane, Daly City, East Palo Alto, Hillsborough, Menlo Park, Millbrae, Pacifica, Portola Valley, Redwood City, San Bruno, San Carlos, San Mateo, South San Francisco, Woodside.

¹⁰ Belmont, Daly City, Millbrae, Pacifica, Redwood City, San Carlos.

¹¹ *Sprint PCS Assets PCS P v. City of Palos Verdes Estates*, op. cit.

¹² Belmont, Burlingame, Daly City, Hillsborough, Pacifica, San Bruno, San Carlos.

¹³ Litigation pending ; case no. CV11 0056 *Sprint v. County of San Mateo et al*, amended complaint filed Jan. 6, 2011, U.S. District Court of Appeal, Northern District of CA.

¹⁴ Belmont, Brisbane, Burlingame, Foster City, Hillsborough, Menlo Park, Millbrae, Redwood City, San Bruno, San Carlos, San Mateo, San Francisco.

¹⁵ Svensson, Peter AP Technology Writer, *Wireless Advances Could Mean No More Cell Towers*, February 12, 2011, and Bloomberg Businessweek, *Alcatel- ucent's Tiny Cell Tower*, February 28-March 6, 2011.

Findings

The 2011 San Mateo County Civil Grand Jury finds that:

1. There is no apparent correlation between the existence of policies and/or ordinances regarding cell towers and the likelihood of public resistance to an application.
2. Locating applicable cell tower ordinances and policies on County and city websites is cumbersome.
3. Federal law precludes the use of perceived health risk as a basis for denying an application¹⁶; visual or aesthetic impacts are a valid reason to deny or modify an application, so long as the denial does not cause a significant gap in service coverage that cannot feasibly be addressed by alternatives.¹⁷
4. Some cities do not require service providers to maintain cell towers and/or remove installations when they are no longer used, become obsolete, or the permit expires (see Attachment).
5. The County and all cities have varying filing and processing fees for processing cell tower applications (see Attachment).
6. The County and 12 of 20 cities generate widely varying amounts of revenue through cell tower lease agreements (see Attachment).¹⁸
7. Five cities which have cell towers on public property are not charging service providers for land use¹⁹; three cities do not currently have cell towers located on public property.²⁰

Conclusions

The 2011 San Mateo County Civil Grand Jury concludes that:

The County and most cities have governing policies and/or ordinances that prescribe cell tower installations. Having an ordinance in place does not reduce the likelihood of public opposition to a cell tower application.

The County and cities need to balance public desire for improved wireless reception with local concerns regarding health, aesthetics, and property values while recognizing the rights of service providers under federal law.

¹⁶ Telecommunications Act of 1996.

¹⁷ No. 05-56106 – *Sprint PCS Assets PCS P v. City of Palos Verdes Estates*, op. cit.

¹⁸ Belmont, Brisbane, Burlingame, Foster City, Hillsborough, Menlo Park, Millbrae, Redwood City, San Bruno, San Carlos, San Mateo, South San Francisco.

¹⁹ Daly City, East Palo Alto, Half Moon Bay, Portola Valley, and Woodside have cell towers on public property and do not receive revenue for land use.

²⁰ Atherton, Colma, and Pacifica do not currently have cell towers located on public property.

The County and cities which have cell towers located on public property should establish lease agreements with service providers to generate revenue to the general fund.

The County and cities have varying cell tower application fees for recouping staff costs in processing these often complex applications and use permits.

There is no standard way of ensuring that cell towers are maintained or removed when they are no longer used or the permit expires. Cities which do not already have maintenance and removal provisions required of service providers may be responsible for cell tower maintenance and/or removal on public property.

Educating the public about applicable governmental regulations may help to alleviate some of the angst generated by cell tower installations.

Recommendations

The 2011 San Mateo County Civil Grand Jury recommends to the County Board of Supervisors and the City Councils of all cities in San Mateo County the following:

1. Review and revise, if needed, the current fee structure to recoup staff costs for processing cell tower applications;
2. Negotiate lease agreements for future installations on public land that generate revenue or other tangible benefit to the community;
3. Add cell tower maintenance and removal provisions if they are not already included in existing ordinances and lease agreements;
4. Require that all new lease agreements contain a provision requiring service providers to install newer technology as it becomes commercially available to reduce the footprint of cell towers; and
5. Develop a webpage within County and city websites which clearly posts local ordinances, policies and procedures as well as federal regulations related to cell tower installations.

The Grand Jury further recommends the City Councils of Daly City, East Palo Alto, Half Moon Bay, Portola Valley, and Woodside pursue new or amended leases for existing cell towers on public property that are not currently generating revenue or other community benefits.

| Cell Tower Cities and County Survey Responses | | | | | | | | | | | |
|---|---|--|---|--|---|--|--|--|--|--|---|
| | Number of cell towers on private property | Number of cell towers on public property | Does the city have codes or ordinances governing cell towers? | Does the city's code/ordinance cover both public and private property? | Is there a provision requiring service providers to maintain cell towers? | Is there a provision requiring service providers to remove cell towers if obsolete or a use permit ends? | Have you had applications withdrawn by service providers due to public resistance? | What is the current cost to file an application or permit for a cell tower structure? | Does the city generate revenue paid by service providers in addition to application or permit fees from cell towers installations? | If yes, what is the average annual revenue paid by service providers to the city that is generated from cell towers? | If yes, how is revenue generated by cell towers used by the city? |
| Atherton | 3 | 0 | NO | N/A | N/A | NO | NO | Conditional use permit - Fee \$1,919 plus \$2,000 deposit - \$3,919 total | NO | N/A | N/A |
| Belmont | 18 | 7 | YES | YES | NO | YES | YES. Public reviews from 2007-2009, now waiting for withdrawal from applicant. | Fees: -complex project fee \$13,272 (deposit) -new construction engineering fee \$2,691 or \$1,704 (equipment change only) -fire fee for plan check \$268 -Environmental review fee \$547 -county recording fee \$50 -3rd party review of RF exposure study (deposit during review). | YES. There are leases for cell towers placed on public properties (parks, city hall, etc). | Unknown | Deposited to general fund for a variety of uses |
| Brisbane | 15 | 3 | YES | YES | NO | YES | NO | \$851 - administrative permit. \$2,698 - planning commission use permit | YES, land lease | \$1,500/month | Deposited to general fund for a variety of uses |
| Burlingame | Unknown | Unknown | NO | N/A | NO | NO | YES, once (2010) | Depends upon level of review and cost of installation | YES. Only in instances where city owned property is leased for the installation | \$25,000 (based on one installation on public property) | Deposited to general fund for a variety of uses |
| Colma | 4 | 0 | NO | N/A | NO | YES | NO | Minor use permit \$905 | NO | N/A | N/A |
| Daly City | 45 | 15 | YES | YES | YES | YES | YES, once (2010) | \$3,700 | NO | N/A | N/A |
| EPA | Unknown | Unknown | YES | YES | YES | YES standard condition of approval | NO | Staff level-minor cell tower cost-\$667. Conditional use permit-major cell tower cost-\$3,862 | NO | N/A | N/A |
| Foster City | 26 | 6 | NO | N/A | YES | NO | NO | Architectural review \$200. Use permit \$200 deposit. Applicant pays for cost to process | YES | The City receives approximately \$96,000 per year in revenue from the leasing of 4 sites for cell towers | Deposited to general fund for a variety of uses |
| HMB | 2 | 1 | NO | N/A | YES as a condition of CDP approval | YES as a condition of CDP approval | NO | \$1,300 deposit (actual cost determined by time required to complete processing) | NO | N/A | N/A |
| Hillsborough | 0 | 11 | YES | YES | YES | YES | YES, once (2006/07) | \$2,500 | YES, if lease of public property is needed. | The town collects \$162,120 annually for 7 sites. (\$1,930 monthly per site.) | Deposited to general fund for a variety of uses |
| Menlo Park | 39 | 9 | YES | NO, private property only | NO | NO | NO | Use permit deposit is \$1,500 subject to hourly billing rates for actual staff time expended toward the project | YES. Currently only one site in the Public ROW is subject to a lease agreement with the City. | \$2,500/month for the one cell site subject to a lease agreement | Deposited to general fund for a variety of uses |
| Millbrae | 14 | 5 | YES | YES | YES | YES | NO | \$7,000 on private property; \$2,000 on property | YES. Leases for facilities on city property | \$15,000/year per facility on city property | Deposited to general fund for a variety of uses |
| Pacifica | 40 | 0 | YES | No, private property only | YES | YES | YES, on more than one occasion | \$3,750 | NO | N/A | N/A |
| Portola Valley | 5 | 5 | YES | YES | YES | YES | NO | \$420/fee; \$7,500/Deposit | NO | N/A | N/A |
| Redwood City | Unknown | Unknown | YES | YES | YES | NO | NO | If property > 1/4 acre \$5k deposit; < 1/4 acre \$1k for Arch. Permit, \$2,830 for use permit | YES. One cell installation is on city land; a monthly or yearly lease is paid to the city | \$1k - \$1,686 per month | Deposited to general fund for a variety of uses |
| San Bruno | Unknown | Unknown | YES | YES | YES | YES | Yes, on more than one occasion | Use permit: \$2,145 Admin Approval: \$1,320 | YES. Only if built on city owned parcel (e.g., water tank, park, etc.) | \$24,000 per year on average | Deposited to general fund for a variety of uses |
| San Carlos | 9 | 3 | YES | YES | YES | YES | YES, on more than one occasion | \$5,660.00 | YES. Land lease of city property | \$2,000-\$3,000/month \$24,000-\$36,000/yr. | Deposited to general fund for a variety of uses |
| San Mateo | Unknown | Unknown | YES not specific | YES | NO | NO | NO | Deposit amount of \$2,079; could ultimately be more based on staff time | YES. If in city parks or ROW on city equipment/poles, a lease is negotiated | The city is still negotiating its first lease | If in parks, used for Park & Rec purposes. If on city poles, used for Public Works purposes |
| SSF | Approx 30 | Approx 8 | YES | YES | YES | YES | NO | Use permit application - \$4,070 | YES. Revenue ranges from \$1,500-\$3,000 per month per site | Approximately \$168,000/year | Deposited to general fund for a variety of uses |
| Woodside | 6 | 9 | YES | YES | YES | YES | NO | \$1,790 for CUP and Building permit fees | NO | N/A | N/A |
| County | 71 | 42 | YES | YES | YES | YES | YES, on more than one occasion | Varies - generally about \$7,813 | YES. Administrative review by the Planning and Building Dept is occasionally required. The County (Real Property) also receives revenue from carriers located on County Property | \$600 to the Planning and Building Dept. Unknown amount to the County. | Revenue for Administrative reviews allocated to the Planning and Building Dept. Revenue to the County unknown as to how it is allocated |

THOMAS R. SUOZZI

3RD DISTRICT, NEW YORK

COMMITTEE ON
WAYS AND MEANS



House of Representatives
Washington, DC 20515

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August 24, 2020

The Honorable Ajit Pai
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Chairman Pai:

I am once again writing to you regarding what I believe are misguided 5G deployment regulations adopted by the FCC in September 2018. As you know, these regulations overrode the longstanding relationship between cellular companies and communities in which they operate. What you may not be aware of is the devastating impact they are having on those communities, especially those that are located in densely populated areas such as my district. Residents of the towns and villages I represent have raised many and varied legitimate concerns. Some of the concerns I share are as follows:

- By overturning the longstanding relationship between companies and communities, the FCC has turned approval of cell tower installations into nothing more than a ministerial duty. There is absolutely no incentive for the cell companies to work with the communities to place these towers in the least offensive location that serves the interest of both parties. There is no incentive for cell companies to explore nearby alternatives that may be more suited for a particular community. Mayors, Supervisors and other locally elected officials know their communities. Their input can make the difference between a successful or acrimonious relationship. Their relationships with local individuals, businesses and organizations can open doors and present opportunities that benefit all parties. But by tipping the scale in favor of cellular communities, these opportunities for a win-win resolution are lost.

For example, Extenet, which has been hired by Verizon to install cell towers throughout my district, has sued the Town of North Hempstead and the Villages of Lake Success, Flower Hill, Plandome and Plandome Manor over cell node installations in residential neighborhoods. Instead of working with local municipalities, the company is forcing its business plans upon communities with little regard for the legitimate concerns of their citizens. There is no effort to compromise or find a workable solution.

- Home ownership is part of the American dream and usually takes many years of savings to become a reality. The placement of a cell tower in front of a home immediately decreases the value of that property. In my district, a modest home costs more than \$600,000. It takes many years for most families to save for their down payment. It is devastating to see that investment and hard work dismissed at the whim of a cell company that is quick to install their systems before moving on to the next community.
- This problem is exacerbated in densely populated neighborhoods, such as the ones found in my district. Many lots are less than a quarter acre. The buy-in of local communities is especially important in these cases.
- As noted in my April 16, 2019 letter to you, many families have concerns regarding the health impacts of cell towers. The FCC has done nothing to alleviate these concerns. Since 1996, communities have not been able to take human exposure to RF energy into consideration when reviewing applications for cell towers. Even though the technology has developed greatly over the past 24 years, the FCC has not released any updated reports definitively showing that exposure is not a problem. This feeling of vulnerability was heightened by the release of a study by the National Toxicology Program (NTP) in November 2018 which linked RF radiation used in 2G and 3G networks to cancerous growths in rats. While this study does not apply to 4G or 5G, it does raise concerns that have not been publicly addressed by NTP, FCC or any other federal agency.

While 5G technology is expected to yield significant long-term consumer, industrial, and economic benefits, its impact on communities should be of grave concern to the FCC. It is to many of us in Congress who have cosponsored H.R. 530 which would restore traditional oversight responsibilities to local government. This one size fits all communities across the United States is wrong. I strongly urge the FCC to roll back its September 2018 regulations, thus allowing communities to have input into the cellular networks located within their borders.

With kindest regards, I am

Sincerely,

A handwritten signature in black ink that reads "Thomas R. Suozzi". The signature is written in a cursive, flowing style.

Thomas R. Suozzi
Member of Congress

Brooks, Elizabeth

From: Sunil Bhat [REDACTED]
Sent: Friday, September 11, 2020 12:31 AM
To: Public Comment; _City Council Group
Cc: internal@cc4rt.com
Subject: 9/11 public comment on closed session agenda item
Attachments: SB public comment for 9_11 special meeting.pdf; Attachment A - Tmobile v City of San Francisco.pdf; Attachment B - USCOA18-1129.pdf

[CAUTION: External Email]

Please see the attached public comment "SB public comment for 9_11 special meeting.pdf" and Attachments A and B.

these should also be part of the 9/14 appeal hearing record

Thank you

Sunil Bhat D.O.

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**IN THE SUPREME COURT OF
CALIFORNIA**

T-MOBILE WEST LLC et al.,
Plaintiffs and Appellants,

v.

CITY AND COUNTY OF SAN FRANCISCO et al.,
Defendants and Respondents.

S238001

First Appellate District, Division Five
A144252

San Francisco City and County Superior Court
CGC-11-510703

April 4, 2019

Justice Corrigan authored the opinion of the court, in which
Chief Justice Cantil-Sakauye and Justices Chin, Liu, Cuéllar,
Kruger, and Groban concurred.

T-MOBILE WEST LLC v. CITY AND COUNTY OF SAN
FRANCISCO

S238001

Opinion of the Court by Corrigan, J.

By ordinance the City and County of San Francisco (the City) requires wireless telephone service companies to obtain permits to install and maintain lines and equipment in public rights-of-way. Some permits will not issue unless the application conforms to the City's established aesthetic guidelines. Plaintiffs assert a facial challenge urging that (1) the ordinance is preempted by state law and (2) even if not preempted, the ordinance violates a state statute. The trial court and the Court of Appeal rejected both arguments. We do likewise.

I. BACKGROUND

Plaintiffs are telecommunications companies. They install and operate wireless equipment throughout the City, including on utility poles located along public roads and highways.¹ In January 2011, the City adopted ordinance No.

¹ The plaintiffs named in the operative complaint were T-Mobile West Corporation, NextG Networks of California, Inc., and ExteNet Systems (California) LLC. T-Mobile West Corporation has also appeared in this litigation as T-Mobile West LLC. NextG Networks of California, Inc. has also appeared as Crown Castle NG West LLC and Crown Castle NG West Inc. (*T-Mobile West LLC v. City and County of San Francisco* (2016) 3 Cal.App.5th 334, 340, fn. 3 (*T-Mobile West*).)

12-11 (the Ordinance),² which requires “any Person seeking to construct, install, or maintain a Personal Wireless Service Facility in the Public Rights-of-Way to obtain” a permit. (S.F. Pub. Works Code, art. 25, § 1500, subd. (a).) In adopting the Ordinance, the board of supervisors noted that the City “is widely recognized to be one of the world’s most beautiful cities,” which is vital to its tourist industry and an important reason that residents and businesses locate there. Due to growing demand, requests from the wireless industry to place equipment on utility poles had increased. The board opined that the City needed to regulate the placement of this equipment to prevent installation in ways or locations “that will diminish the City’s beauty.” The board acknowledged that telephone corporations have a right, under state law, “to use the public rights-of-way to install and maintain ‘telephone lines’ and related facilities required to provide telephone service.” But it asserted that local governments may “enact laws that limit the intrusive effect of these lines and facilities.”

The Ordinance specifies areas designated for heightened aesthetic review. (See S.F. Pub. Works Code, art. 25, § 1502.) These include historic districts and areas that have “ ‘good’ ” or “ ‘excellent’ ” views or are adjacent to parks or open spaces.

Not all plaintiffs install and operate the same equipment, but there is no dispute that they are all “ ‘telephone corporation[s],’ ” as that term is defined by Public Utilities Code section 234, nor that all of the equipment in question fits within the definition of “ ‘telephone line’ ” in Public Utilities Code section 233. All unspecified statutory references are to the Public Utilities Code.

² The Ordinance was codified as article 25 of the San Francisco Public Works Code.

(*Ibid.*) The Ordinance establishes various standards of aesthetic compatibility for wireless equipment. In historic districts, for example, installation may only be approved if the City’s planning department determines that it would not “significantly degrade the aesthetic attributes that were the basis for the special designation” of the building or district. (S.F. Pub. Works Code, art. 25, § 1502; see also *id.*, §§ 1508, 1509, 1510.) In “view” districts, proposed installation may not “significantly impair” the protected views.³ (S.F. Pub. Works Code, art. 25, § 1502.)

Plaintiffs sought declaratory and injunctive relief. The operative complaint alleged five causes of action, only one of which is at issue.⁴ It alleges the Ordinance and implementing regulations are preempted by section 7901 and violate section 7901.1. Under section 7901, “telephone corporations may construct . . . telephone lines along and upon any public road or highway, along or across any of the waters or lands within this State, and may erect poles, posts, piers, or abutments for supporting the insulators, wires, and other necessary fixtures of their lines, in such manner and at such points as not to incommode the public use of the road or highway or interrupt

³ The Court of Appeal discussed other provisions of a previous enactment of the Ordinance that are not in issue here. (*T-Mobile West, supra*, 3 Cal.App.5th at pp. 340-341.) We review the current version of the Ordinance. (*Kash Enterprises, Inc. v. City of Los Angeles* (1977) 19 Cal.3d 294, 306, fn. 6.)

⁴ Plaintiffs’ first, second, fourth, and fifth causes of action are not before us. The first cause of action was resolved in plaintiffs’ favor by summary adjudication. The second was dismissed by plaintiffs before trial. The fourth was resolved in City’s favor by summary adjudication. And the fifth was resolved in plaintiffs’ favor after trial.

the navigation of the waters.”⁵ According to plaintiffs, section 7901 preempted the Ordinance to the extent it allowed the City to condition permit approval on aesthetic considerations.

Section 7901.1 sets out the Legislature’s intent, “consistent with Section 7901, that municipalities shall have the right to exercise reasonable control as to the time, place, and manner in which roads, highways, and waterways are accessed.” (§ 7901.1, subd. (a).) But section 7901.1 also provides that, to be considered reasonable, the control exercised “shall, at a minimum, be applied to all entities in an equivalent manner.” (§ 7901.1, subd. (b).) Plaintiffs alleged the Ordinance violated subdivision (b) of section 7901.1 by treating wireless providers differently from other telephone corporations.

The trial court ruled that section 7901 did not preempt the challenged portions of the Ordinance and rejected plaintiffs’ claim that it violated section 7901.1. The Court of Appeal affirmed. (*T-Mobile West, supra*, 3 Cal.App.5th at pp. 339, 359.)

II. DISCUSSION

A. Section 7901 Does Not Preempt the Ordinance

1. Preemption Principles

Under the California Constitution, cities and counties “may make and enforce within [their] limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.” (Cal. Const., art. XI, § 7.) General laws are those that apply statewide and deal with matters of statewide

⁵ This case does not involve the construction or installation of lines or equipment across state waters. Thus, we limit our discussion to lines installed along public roads and highways, which we refer to collectively as public roads.

concern. (*Eastlick v. City of Los Angeles* (1947) 29 Cal.2d 661, 665.) The “inherent local police power includes broad authority to determine, for purposes of the public health, safety, and welfare, the appropriate uses of land within a local jurisdiction’s borders.” (*City of Riverside v. Inland Empire Patients Health & Wellness Center, Inc.* (2013) 56 Cal.4th 729, 738 (*City of Riverside*); see also *Big Creek Lumber Co. v. County of Santa Cruz* (2006) 38 Cal.4th 1139, 1151 (*Big Creek Lumber*).) The local police power generally includes the authority to establish aesthetic conditions for land use. (*Ehrlich v. City of Culver City* (1996) 12 Cal.4th 854, 886; *Disney v. City of Concord* (2011) 194 Cal.App.4th 1410, 1416.)

“[L]ocal legislation that conflicts with state law is void.” (*City of Riverside, supra*, 56 Cal.4th at p. 743, citing *Sherwin-Williams Co. v. City of Los Angeles* (1993) 4 Cal.4th 893, 897.) A conflict exists when the local legislation “ ‘ “ ‘duplicates, contradicts, or enters an area fully occupied by general law, either expressly or by legislative implication.’ ” ’ ” (*Sherwin-Williams*, at p. 897.) Local legislation duplicates general law if both enactments are coextensive. (*Ibid.*, citing *In re Portnoy* (1942) 21 Cal.2d 237, 240.) Local legislation is contradictory when it is inimical to general law. (*Sherwin-Williams*, at p. 898, citing *Ex parte Daniels* (1920) 183 Cal. 636, 641-648.) State law fully occupies a field “when the Legislature ‘expressly manifest[s]’ its intent to occupy the legal area or when the Legislature ‘impliedly’ occupies the field.” (*O’Connell v. City of Stockton* (2007) 41 Cal.4th 1061, 1068 (*O’Connell*), citing *Sherwin-Williams*, at p. 898.)

The party claiming preemption has the burden of proof. (*Big Creek Lumber, supra*, 38 Cal.4th at p. 1149.) “[W]hen local government regulates in an area over which it traditionally has

exercised control, such as the location of particular land uses, California courts will presume” the regulation is not preempted unless there is a clear indication of preemptive intent. (*Ibid.*, citing *IT Corp. v. Solano County Bd. of Supervisors* (1991) 1 Cal.4th 81, 93.) Ruling on a facial challenge to a local ordinance, the court considers the text of the measure itself, not its application to any particular circumstances or individual. (*San Francisco Apartment Assn. v. City and County of San Francisco* (2016) 3 Cal.App.5th 463, 487, citing *Pieri v. City and County of San Francisco* (2006) 137 Cal.App.4th 886, 894, which in turn cites *Tobe v. City of Santa Ana* (1995) 9 Cal.4th 1069, 1084.)⁶

2. Analysis

Section 7901 provides that telephone corporations may construct lines and erect equipment along public roads in ways and locations that do not “incommode the public use of the road.” We review the statute’s language to determine the scope of the rights it grants to telephone corporations and whether, by

⁶ There is some uncertainty regarding the standard for facial constitutional challenges to statutes and local ordinances. (*Today’s Fresh Start, Inc. v. Los Angeles County Office of Education* (2013) 57 Cal.4th 197, 218.) Some cases have held that legislation is invalid if it conflicts in the generality or great majority of cases. (*Guardianship of Ann S.* (2009) 45 Cal.4th 1110, 1126.) Others have articulated a stricter standard, holding that legislation is invalid only if it presents a total and fatal conflict with applicable constitutional prohibitions. (*Ibid.*; see also *Tobe v. City of Santa Ana*, *supra*, 9 Cal.4th at p. 1084.) We need not settle on a precise formulation of the applicable standard because, as explained below, we find no inherent conflict between the Ordinance and section 7901. Thus, plaintiffs’ claim fails under any articulated standard.

granting those rights, the Legislature intended to preempt local regulation based on aesthetic considerations. These questions of law are subject to de novo review. (*Bruns v. E-Commerce Exchange, Inc.* (2011) 51 Cal.4th 717, 724; *Farm Raised Salmon Cases* (2008) 42 Cal.4th 1077, 1089, fn. 10.)

The parties agree that section 7901 grants telephone corporations a statewide franchise to engage in the telecommunications business.⁷ (See *Western Union Tel. Co. v. Visalia* (1906) 149 Cal. 744, 750 (*Visalia*)). Thus, a local government cannot insist that a telephone corporation obtain a *local* franchise to operate within its jurisdiction. (See *Visalia*, at p. 751; see also *Pac. Tel. & Tel. Co. v. City & County of S. F.* (1959) 51 Cal.2d 766, 771 (*Pacific Telephone I.*)). The parties also agree that the franchise rights conferred are limited by the prohibition against incommoding the public use of roads, and that local governments have authority to prevent those impacts.

Plaintiffs argue section 7901 grants them more than the mere right to operate. In their view, section 7901 grants them the right to construct lines and erect equipment along public roads so long as they do not obstruct the path of travel. The necessary corollary to this right is that local governments cannot prevent the construction of lines and equipment unless the installation of the facilities will obstruct the path of travel. Plaintiffs urge that the Legislature enacted section 7901 to promote technological advancement and ensure a functioning, statewide telecommunications system. In light of those

⁷ In this context, a franchise is a “government-conferred right or privilege to engage in specific business or to exercise corporate powers.” (Black’s Law Dict. (10th ed. 2014) p. 772, col. 2.)

objectives, they contend that their right to construct telephone lines must be construed broadly, and local authority limited to preventing roadway obstructions.

Preliminarily, plaintiffs' argument appears to rest on the premise that the City only has the power to regulate telephone line construction based on aesthetic considerations if section 7901's incommode clause can be read to accommodate that power. That premise is flawed. As mentioned, the City has inherent local police power to determine the appropriate uses of land within its jurisdiction. That power includes the authority to establish aesthetic conditions for land use. Under our preemption cases, the question is not whether the incommode clause can be read to permit the City's exercise of power under the Ordinance. Rather, it is whether section 7901 divests the City of that power.

We also disagree with plaintiffs' contention that section 7901's incommode clause limits their right to construct lines only if the installed lines and equipment would obstruct the path of travel. Contrary to plaintiffs' argument, the incommode clause need not be read so narrowly. As the Court of Appeal noted, the word " 'incommode' " means " 'to give inconvenience or distress to: disturb.' " (*T-Mobile West, supra*, 3 Cal.App.5th at p. 351, citing Merriam-Webster Online Dict., available at <<http://www.merriam-webster.com/dictionary/incommode>> [as of April 3, 2019].)⁸ The Court of Appeal also quoted the definition of "incommode" from the 1828 version of Webster's Dictionary. Under that definition, "incommode" means " '[t]o

⁸ All Internet citations in this opinion are archived by year, docket number, and case name at <<http://www.courts.ca.gov/38324.htm>>.

give inconvenience to; to give trouble to; to disturb or molest in the quiet enjoyment of something, or in the facility of acquisition.’ ” (*T-Mobile West, supra*, 3 Cal.App.5th at p. 351, citing Webster’s Dict. 1828—online ed., available at <<http://www.webstersdictionary1828.com/Dictionary/incommod>> [as of April 3, 2019].) For our purposes, it is sufficient to state that the meaning of incommode has not changed meaningfully since section 7901’s enactment.⁹ Obstructing the path of travel is one way that telephone lines could disturb or give inconvenience to public road use. But travel is not the sole use of public roads; other uses may be incommoded beyond the obstruction of travel. (*T-Mobile West*, at pp. 355-356.) For example, lines or equipment might generate noise, cause negative health consequences, or create safety concerns. All these impacts could disturb public road use, or disturb its quiet enjoyment.

Plaintiffs assert the case law supports their statutory construction. For example, *City of Petaluma v. Pac. Tel. & Tel. Co.* (1955) 44 Cal.2d 284 (*Petaluma*) stated that the “franchise tendered by [section 7901] . . . [is] superior to and free from any grant made by a subordinate legislative body.” (*Id.* at p. 287; see also *Pacific Telephone I, supra*, 51 Cal.2d at p. 770; *County of Inyo v. Hess* (1921) 53 Cal.App. 415, 425 (*County of Inyo*).)

⁹ The predecessor of section 7901, Civil Code section 536, was first enacted in 1872 as part of the original Civil Code. (*Anderson v. Time Warner Telecom of California* (2005) 129 Cal.App.4th 411, 419, citing *Sunset Tel. and Tel. Co. v. Pasadena* (1911) 161 Cal. 265, 273.) Civil Code section 536 contained the “incommode” language, as did its predecessor, which was adopted as part of the Statutes of California in 1850. (Stats. 1850, ch. 128, § 150, p. 369.)

Similarly, *Pac. Tel. & Tel. Co. v. City of Los Angeles* (1955) 44 Cal.2d 272 (*City of Los Angeles*), held that the “authority to grant a franchise to engage in the telephone business resides in the state, and the city is without power to require a telephone company to obtain such a franchise unless the right to do so has been delegated to it by the state.” (*Id.* at pp. 279-280.)

But these cases do not go as far as plaintiffs suggest. Each addressed the question whether a telephone corporation can be required to obtain a local franchise to operate. (See *Pacific Telephone I*, *supra*, 51 Cal.2d at p. 767; *Petaluma*, *supra*, 44 Cal.2d at p. 285; *City of Los Angeles*, *supra*, 44 Cal. 2d at p. 276; *County of Inyo*, *supra*, 53 Cal.App. at p. 425.) None considered the distinct question whether a local government can condition permit approval on aesthetic or other considerations that arise under the local police power. A permit is, of course, different from a franchise. The distinction may be best understood by considering the effect of the denial of either. The denial of a franchise would completely bar a telephone corporation from operating within a city. The denial of a permit, on the other hand, would simply prevent construction of lines in the proposed manner at the proposed location.

A few published decisions have tangentially addressed the scope of the inherent local police power to regulate the manner and location of telephone line installations. Those cases cut against plaintiffs’ proposed construction.

In *Pacific Tel. & Tel. Co. v. City & County of San Francisco* (1961) 197 Cal.App.2d 133 (*Pacific Telephone II*), the City argued it could require a telephone corporation to obtain a local franchise to operate within its jurisdiction because the power to grant franchises fell within its police power. (*Id.* at p. 152.) The

court rejected the City’s argument, reasoning that the phrase “‘police power’ has two meanings, ‘a comprehensive one embracing in substance the whole field of state authority and the other a narrower one including only state power to deal with the health, safety and morals of the people.’” (*Ibid.*) “Where a corporation has a state franchise to use a city’s streets, the city derives its rights to regulate the particular location and manner of installation of the franchise holder’s facilities from the narrower sense of the police power. Thus, because of the state concern in communications, the state has retained to itself the broader police *power of granting franchises*, leaving to the municipalities the narrower police *power of controlling location and manner of installation.*” (*Ibid.*, italics added.)

This court, too, has distinguished the power to grant franchises from the power to regulate the location and manner of installation by permit. In *Visalia, supra*, 149 Cal. 744, the city adopted an ordinance that (i) authorized a telephone company to erect telegraph poles and wires on city streets, (ii) approved the location of poles and wires then in use, (iii) prohibited poles and wires from interfering with travel on city streets, and (iv) required all poles to be of a uniform height. (*Id.* at pp. 747-748.) The city asserted its ordinance operated to grant the company a “‘franchise,’” and then attempted to assess a tax on the franchise. (*Id.* at p. 745.) The company challenged the assessment. It argued that, because the ordinance did not create a franchise, the tax assessment was invalid. (*Id.* at pp. 745-746.) We concluded the ordinance did not create a local franchise. (*Id.* at p. 750.) By virtue of its state franchise, “the appellant had the right, of which the city could not deprive it, to construct and operate its lines along the streets of the city.” (*Ibid.*) “[N]evertheless it could not maintain its poles and wires

in such a manner as to unreasonably obstruct and interfere with ordinary travel; and the city had the authority, under its police power, to so regulate the manner of plaintiff's placing and maintaining its poles and wires *as to prevent unreasonable obstruction of travel.*" (*Id.* at pp. 750-751, italics added.) "[T]he ordinance in question was not intended to be anything more . . . than the exercise of this authority to regulate." (*Id.* at p. 751)¹⁰

Plaintiffs argue the italicized language above shows that local regulatory authority is limited to preventing travel obstructions. But the quoted language is merely descriptive, not prescriptive. *Visalia* involved an ordinance that specifically prohibited interference with travel on city streets, and the court was simply describing the ordinance before it, not establishing the bounds of local government regulatory authority. Moreover, the *Visalia* court did not question the propriety of the ordinance's requirement that all poles be a uniform height, nor suggest that requirement was related to preventing obstructions to travel. Thus, *Visalia* does not support the conclusion that section 7901 was meant to restrict local government power in the manner plaintiffs suggest. The "right of telephone corporations to construct telephone lines in public rights-of-way is not absolute." (*City of Huntington Beach v. Public Utilities Com.* (2013) 214 Cal.App.4th 566, 590 (*City of Huntington Beach*).) Instead, it is a "limited right to use the highways . . . only to the extent necessary for the furnishing of services to the

¹⁰ *Visalia* interpreted a predecessor statute, Civil Code section 536, which was repealed in 1951 and reenacted as section 7901. (Stats. 1951, ch. 764, pp. 2025, 2194, 2258 [reenacting Civ. Code, former § 536 as Pub. Util. Code, § 7901].)

public.’ ” (*Ibid.*, quoting *County of L. A. v. Southern Cal. Tel. Co.* (1948) 32 Cal.2d 378, 387; see also *Pacific Tel. & Tel. Co. v. Redevelopment Agency* (1977) 75 Cal.App.3d 957, 963.)¹¹

Having delineated the right granted by section 7901, we now turn to its preemptive sweep. Because the location and manner of line installation are areas over which local governments traditionally exercise control (*Visalia, supra*, 149 Cal. at pp. 750-751), we presume the ordinance is not preempted absent a clear indication of preemptive intent. (*Big Creek Lumber, supra*, 38 Cal.4th at p. 1149.) Plaintiffs put forth a number of preemption theories. They argue the Ordinance is contradictory to section 7901. At oral argument, they asserted the Legislature occupied the field with section 7901, the terms of which indicate that a paramount state concern will not tolerate additional local action. And in their briefs, many of plaintiffs’ arguments were focused on what has been labeled, in the federal context, as obstacle preemption.

“The ‘contradictory and inimical’ form of preemption does not apply unless the ordinance directly requires what the state

¹¹ The Ninth Circuit has addressed this issue twice, coming to a different conclusion each time. In *Sprint PCS Assets v. City of Palos Verdes Estates* (9th Cir. 2009) 583 F.3d 716, the Ninth Circuit found no conflict between section 7901 and a local ordinance conditioning permit approval on aesthetic considerations. (*Palos Verdes Estates*, at pp. 721-723.) In an unpublished decision issued three years earlier, the Ninth Circuit had reached the opposite conclusion. (*Sprint PCS v. La Cañada Flintridge* (9th Cir. 2006) 182 Fed.Appx. 688, 689.) Due to its unpublished status, the *La Cañada Flintridge* decision carries no precedential value. (*T-Mobile West, supra*, 3 Cal.App.5th at p. 355, citing *Bowen v. Ziasun Technologies, Inc.* (2004) 116 Cal.App.4th 777, 787, fn. 6.)

statute forbids or prohibits what the state enactment demands.” (*City of Riverside, supra*, 56 Cal.4th at p. 743, citing *Big Creek Lumber, supra*, 38 Cal.4th at p. 1161.) “[N]o inimical conflict will be found where it is reasonably possible to comply with both the state and local laws.” (*City of Riverside*, at p. 743.) As noted, section 7901 grants telephone corporations the right to install lines on public roads without obtaining a local franchise. The Ordinance does not require plaintiffs to obtain a local franchise to operate within the City. Nor does it allow certain companies to use public roads while excluding others. Any wireless provider may construct telephone lines on the City’s public roads so long as it obtains a permit, which may sometimes be conditioned on aesthetic approval. Because section 7901 says nothing about the aesthetics or appearance of telephone lines, the Ordinance is not inimical to the statute.

The argument that the Legislature occupied the field by implication likewise fails. Field preemption generally exists where the Legislature has comprehensively regulated in an area, leaving no room for additional local action. (See, e.g., *American Financial Services Assn. v. City of Oakland* (2005) 34 Cal.4th 1239, 1252-1257; *O’Connell, supra*, 41 Cal.4th 1061, 1068-1074.) Unlike the statutory schemes addressed in *American Financial* and *O’Connell*, section 7901 does not comprehensively regulate telephone line installation or provide a general regulatory scheme. On the contrary, section 7901 consists of a single sentence. Moreover, although the granting of telephone franchises has been deemed a matter of statewide concern (*Pacific Telephone I, supra*, 51 Cal.2d at p. 774; *Pacific Telephone II, supra*, 197 Cal.App.2d at p. 152), the power to regulate the location and manner of line installation is generally a matter left to local regulation. The City is not attempting to

regulate in an area over which the state has traditionally exercised control. Instead, this is an area of regulation in which there are “ ‘significant local interest[s] to be served that may differ from one locality to another.’ ” (*Big Creek Lumber, supra*, 38 Cal.4th at p. 1149.)

City of Riverside, supra, 56 Cal.4th 729, is instructive. There, the question was whether state statutes designed to enhance patient and caregiver access to medical marijuana preempted a local zoning law banning dispensaries within a city’s limits. (*Id.* at pp. 737, 739-740.) An early enactment had declared that physicians could not be punished for recommending medical marijuana and that state statutes prohibiting possession and cultivation of marijuana would not apply to patients or caregivers. (*Id.* at p. 744.) A subsequent enactment established a program for issuing medical marijuana identification cards and provided that a cardholder could not be arrested for possession or cultivation in permitted amounts. (*Id.* at p. 745.) We concluded that the “narrow reach of these statutes” (*ibid.*) showed they did not “expressly or impliedly preempt [the city’s] zoning provisions” (*id.* at p. 752).

Preemption was not implied because the Legislature had not tried “to fully occupy the field of medical marijuana regulation as a matter of statewide concern, or to partially occupy this field under circumstances indicating that further local regulation will not be tolerated.” (*City of Riverside, supra*, 56 Cal.4th at p. 755.) While state statutes took “limited steps toward recognizing marijuana as a medicine,” they described “no comprehensive scheme or system for authorizing, controlling, or regulating the processing and distribution of marijuana for medical purposes, such that no room remains for local action.” (*Ibid.*) Moreover, there were significant local

interests that could vary by jurisdiction, giving rise to a presumption against preemption. (*Ibid.*)

Similarly, here, the Legislature has not adopted a comprehensive regulatory scheme. Instead, it has taken the limited step of guaranteeing that telephone corporations need not secure a local franchise to operate in the state or to construct local lines and equipment. Moreover, the statute leaves room for additional local action and there are significant local interests relating to road use that may vary by jurisdiction.

Finally, plaintiffs' briefing raises arguments that sound in the theory of obstacle preemption. Under that theory, a local law would be displaced if it hinders the accomplishment of the purposes behind a state law. This court has never said explicitly whether state preemption principles are coextensive with the developed federal conception of obstacle preemption. (See, e.g., *Great Western Shows, Inc. v. County of Los Angeles* (2002) 27 Cal.4th 853, 867-868; cf. *City of Riverside, supra*, 56 Cal.4th at pp. 763-765 (conc. opn. of Liu, J.).) But assuming for the sake of argument that the theory applies, we conclude there is no obstacle preemption here.

The gist of plaintiffs' argument is that section 7901's purpose is to encourage technological advancement in the state's telecommunications networks and that, because enforcement of the Ordinance *could* hinder that purpose, the Ordinance is preempted. But no legislation pursues its objectives at all costs. (*Pension Ben. Guar. Corp. v. LTV Corp.* (1990) 496 U.S. 633, 646-647.) Moreover, the Legislature made clear that the goal of technological advancement is not paramount to all others by including the incommode clause in section 7901, thereby leaving room for local regulation of telephone line installation.

Finally, we think it appropriate to consider the Public Utilities Commission's (PUC) understanding of the statutory scheme. In recognition of its expertise, we have consistently accorded deference to the PUC's views concerning utilities regulation. The PUC's "interpretation of the Public Utility Code 'should not be disturbed unless it fails to bear a reasonable relation to statutory purposes and language.' " (*Southern California Edison Co. v. Peevey* (2003) 31 Cal.4th 781, 796, quoting *Greyhound Lines, Inc. v. Public Utilities Com.* (1968) 68 Cal.2d 406, 410-411.) Here, the PUC has made determinations about the scope of permissible regulation that are on point.

The state Constitution vests principal regulatory authority over utilities with the PUC, but carves out an ongoing area of municipal control. (Cal. Const., art. XII, § 8.) A company seeking to build under section 7901 must approach the PUC and obtain a certificate of public necessity. (§ 1001; see *City of Huntington Beach, supra*, 214 Cal.App.4th at p. 585.) The certificate is not alone sufficient; a utility will still be subject to local control in carrying out the construction. Municipalities may surrender to the PUC regulation of a utility's relations with its customers (§ 2901), but they are forbidden from yielding to the PUC their police powers to protect the public from the adverse impacts of utilities operations (§ 2902).

Consistent with these statutes, the PUC's default policy is one of deference to municipalities in matters concerning the design and location of wireless facilities. In a 1996 opinion adopting the general order governing wireless facility construction, the PUC states the general order "recognize[s] that primary authority regarding cell siting issues should continue to be deferred to local authorities. . . . The [PUC's] role continues to be that of the agency of last resort, intervening only

when a utility contends that local actions impede statewide goals” (*Re Siting and Environmental Review of Cellular Mobile Radiotelephone Utility Facilities* (1996) 66 Cal.P.U.C.2d 257, 260; see also *Re Competition for Local Exchange Service* (1998) 82 Cal.P.U.C.2d 510, 544.)¹² The order itself “acknowledges that local citizens and local government are often in a better position than the [PUC] to measure local impact and to identify alternative sites. Accordingly, the [PUC] will generally defer to local governments to regulate the location and design of cell sites” (PUC, General order No. 159-A (1996) p. 3 (General Order 159A), available at <<http://docs.cpuc.ca.gov/PUBLISHED/Graphics/611.PDF>> [as of April 3, 2019].)

The exception to this default policy is telling: the PUC reserves the right to preempt local decisions about specific sites “when there is a clear conflict with the [PUC’s] goals and/or statewide interests.” (General Order 159A, *supra*, at p. 3.) In other words, generally the PUC will not object to municipalities dictating alternate locations based on local impacts,¹³ but it will step in if statewide goals such as “high quality, reliable and widespread cellular services to state residents” are threatened.

¹² In its 1996 opinion adopting general order No. 159-A, the PUC left implicit the portions of the statutory scheme it was applying. In its 1998 opinion, the PUC clarified the respective regulatory spheres in response to arguments based on sections 2902, 7901, 7901.1 and the constitutional provisions allocating authority to cities and the PUC. (See *Re Competition for Local Exchange Service*, *supra*, 82 Cal.P.U.C.2d at pp. 543–544.)

¹³ Among the PUC’s express priorities regarding wireless facility construction is that “the public health, safety, welfare, and zoning concerns of local government are addressed.” (General Order 159A, *supra*, at p. 3.)

(General Order 159A, at p. 3.) Contrary to plaintiffs’ view of the respective spheres of state and local authority, the PUC’s approach does not restrict municipalities to judging only whether a requested permit would impede traffic. Instead, the PUC accords local governments the full scope of their ordinary police powers unless the exercise of those powers would undermine state policies.

Plaintiffs argue our construction of section 7901, and a decision upholding the City’s authority to enforce the Ordinance, will “hinder the roll-out of advanced services needed to upgrade networks [and] promote universal broadband” and will “stymie the deployment of 5G networks, leaving California unable to meet the growing need for wireless capacity created by the proliferation of . . . connected devices.” This argument is premised on a hypothetical future harm that is not cognizable in a facial challenge. (*Pacific Legal Foundation v. Brown* (1981) 29 Cal.3d 168, 180; see also *Arcadia Unified School Dist. v. State Dept. of Education* (1992) 2 Cal.4th 251, 267.)

In sum, neither the plain language of section 7901 nor the manner in which it has been interpreted by courts and the PUC supports plaintiffs’ argument that the Legislature intended to preempt local regulation based on aesthetic considerations. The statute and the ordinance can operate in harmony. Section 7901 ensures that telephone companies are not required to obtain a local franchise, while the Ordinance ensures that lines and equipment will not unreasonably incommode public road use.¹⁴

¹⁴ We dispose here only of plaintiffs’ facial challenge and express no opinion as to the Ordinance’s application. We note, however, that plaintiffs seeking to challenge specific

B. The Ordinance Does Not Violate Section 7901.1

Plaintiffs next contend that, even if not preempted, the Ordinance violates section 7901.1 by singling out wireless telephone corporations for regulation. Section 7901.1 provides in relevant part that, consistent with section 7901, municipalities may “exercise reasonable control as to the time, place, and manner” in which roads are “*accessed*,” and that the control must “*be applied to all entities in an equivalent manner*.” (§ 7901, subds. (a), (b), italics added.)

Before trial, the parties stipulated to the following facts. First, that the City requires all utility and telephone corporations, both wireless and non-wireless, to obtain temporary occupancy permits to “access” public rights-of-way during the *initial* construction and installation of equipment facilities. These permits are not subject to aesthetic review. Second, that the City requires only wireless telephone corporations to obtain site-specific permits, conditioned on aesthetic approval, for the *ongoing* occupation and maintenance

applications have both state and federal remedies. Under state law, a utility could seek an order from the PUC preempting a city’s decision. (General Order 159A, *supra*, at p. 6.) Thus, cities are prohibited from using their powers to frustrate the larger intent of section 7901. (*Pacific Telephone II*, *supra*, 197 Cal.App.2d at p. 146.) Under federal law, Congress generally has left in place local authority over “the placement, construction, and modification of personal wireless service facilities” (47 U.S.C. § 332(c)(7)(A)), but it has carved out several exceptions. Among these, a city may not unduly delay decisions (47 U.S.C. § 332(c)(7)(B)(ii)) and may not adopt regulations so onerous as to “prohibit or have the effect of prohibiting the provision of wireless services” (47 U.S.C. § 332(c)(7)(B)(i)(II)). If a city does so, a wireless company may sue. (*Sprint PCS Assets v. City of Palos Verdes Estates*, *supra*, 583 F.3d at p. 725.)

of equipment facilities in public rights-of-way. The trial court and the Court of Appeal held that section 7901.1 only applies to *temporary* access to public rights-of-way, during initial construction and installation. Because the parties had stipulated that the City treats all companies equally in that respect, the lower courts found no violation of section 7901.1.

Plaintiffs argue the plain language of section 7901.1 does not limit its application to temporary access to public rights-of-way. Rather, the introductory phrase, “consistent with section 7901,” demonstrates that section 7901.1 applies to both short- and long-term access. Plaintiffs also suggest that the legislative history of section 7901.1 supports their position, and that the lower courts’ interpretation of section 7901.1 “results in an incoherent approach to municipal authority.”

Plaintiffs’ arguments are unpersuasive. Section 7901.1 allows cities to control the time, place, and manner in which roads are “accessed.” (§ 7901.1, subd. (a).) As the competing arguments demonstrate, the “plain meaning of the word ‘accessed’ is ambiguous.” (*T-Mobile West, supra*, 3 Cal.App.5th at p. 358.) It could refer only to short-term access, during the initial installation and construction of a telephone equipment facility. But it could also refer to the longer term occupation of public rights-of-way with telephone equipment. (*Ibid.*) Though it would be odd for a statute authorizing local control over *permanent* occupations to specifically allow for control over the “time” of such occupations, the statute’s plain language does not render plaintiffs’ construction totally implausible.

However, the legislative history shows that section 7901.1 only deals with temporary access to public rights-of-way. “This bill is intended to bolster the cities['] abilities with regard to

construction management . . .” (Sen. Rules Com., Off. of Sen. Floor Analyses, 3d reading analysis of Sen. Bill No. 621 (1995–1996 Reg. Sess.) as amended May 3, 1995, p. 3, italics added.) Before section 7901.1’s enactment, telephone companies had been taking the “extreme” position, based on their statewide franchises, that “cities [had] absolutely no ability to control construction.” (Assem. Com. on Utilities and Commerce, Rep. on Sen. Bill No. 621 (1995–1996 Reg. Sess.) as amended July 7, 1995, p. 2.) Section 7901.1 was enacted to “send a message to telephone corporations that cities have authority to manage their construction, without jeopardizing the telephone [corporations’] statewide franchise.” (Sen. Rules Com., Off. of Sen. Floor Analyses, 3d reading analysis of Sen. Bill No. 621 (1995–1996 Reg. Sess.) as amended May 3, 1995, p. 3.) Under section 7901.1, cities would be able to “plan maintenance programs, protect public safety, minimize public inconvenience, and ensure adherence to sound construction practices.” (Assem. Com. on Utilities and Commerce, Rep. on Sen. Bill No. 621 (1995–1996 Reg. Sess.) as amended July 7, 1995, p. 2.)

To accept plaintiffs’ construction of section 7901.1, we would have to ignore this legislative history. (*T-Mobile West, supra*, 3 Cal.App.5th at p. 358.) Contrary to plaintiffs’ argument, construing section 7901.1 in this manner does not render the scheme incoherent. It is eminently reasonable that a local government may: (1) control the time, place, and manner of temporary access to public roads during construction of equipment facilities; and (2) regulate other, longer term impacts that might incommode public road use under section 7901. Thus, we hold that section 7901.1 only applies to temporary access during construction and installation of telephone lines

and equipment. Because the City treats all entities similarly in that regard, there is no section 7901.1 violation.

III. DISPOSITION

The judgment of the Court of Appeal is affirmed.

CORRIGAN, J.

We Concur:

CANTIL-SAKAUYE, C. J.

CHIN, J.

LIU, J.

CUÉLLAR, J.

KRUGER, J.

GROBAN, J.

See next page for addresses and telephone numbers for counsel who argued in Supreme Court.

Name of Opinion T-Mobile West LLC v. City and County of San Francisco

Unpublished Opinion
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United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Argued March 15, 2019

Decided August 9, 2019

No. 18-1129

UNITED KEETOOWAH BAND OF CHEROKEE INDIANS IN
OKLAHOMA, INDIVIDUALLY AND ON BEHALF OF ALL OTHER
NATIVE AMERICAN INDIAN TRIBES AND TRIBAL
ORGANIZATIONS, ET AL.,
PETITIONERS

v.

FEDERAL COMMUNICATIONS COMMISSION AND UNITED
STATES OF AMERICA,
RESPONDENTS

NATIONAL ASSOCIATION OF TRIBAL HISTORIC PRESERVATION
OFFICERS, ET AL.,
INTERVENORS

Consolidated with 18-1135, 18-1148, 18-1159, 18-1184

On Petitions for Review of an Order of
the Federal Communications Commission

Stephen Díaz Gavin argued the cause for petitioners United Keetoowah Band of Cherokee Indians in Oklahoma, et al., and supporting intervenors. With him on the briefs were *J. Scott Sypolt, Joel D. Bertocchi, Joseph H. Webster, F. Michael*

Willis, Andrew Jay Schwartzman, James T. Graves, and Elizabeth S. Merritt. Angela J. Campbell entered an appearance.

Sharon Buccino argued the cause for petitioner Natural Resources Defense Council and intervenor Edward B. Myers. With her on the briefs was *Edward B. Myers*.

Natalie A. Landreth argued the cause for petitioners Blackfeet Tribe, et al. With her on the briefs were *Wesley J. Furlong, Joel West Williams, Troy A. Eid, Jennifer H. Weddle, and Heather D. Thompson*.

Jacob M. Lewis, Associate General Counsel, Federal Communications Commission, argued the cause for respondents. With him on the brief were *Jeffrey Bossert Clark*, Assistant Attorney General, U.S. Department of Justice, *Eric A. Grant*, Deputy Assistant Attorney General, *Andrew C. Mergen* and *Allen M. Brabender*, Attorneys, *Thomas M. Johnson Jr.*, General Counsel, Federal Communications Commission, *David M. Gossett*, Deputy General Counsel, and *C. Grey Pash Jr.*, Counsel. *Jonathan H. Laskin* and *Robert B. Nicholson*, Attorneys, U.S. Department of Justice, and *Richard K. Welch*, Deputy Associate General Counsel, Federal Communications Commission, entered appearances.

Joshua Turner argued the cause for intervenors in support of respondents. With him on the brief were *Christopher J. Wright* and *E. Austin Bonner*.

Before: TATEL and PILLARD, *Circuit Judges*, and EDWARDS, *Senior Circuit Judge*.

Opinion for the Court filed by *Circuit Judge PILLARD*.

PILLARD, *Circuit Judge*: Cellular wireless services, including telephone and other forms of wireless data transmission, depend on facilities that transmit their radio signals on bands of electromagnetic spectrum. The Federal Communications Commission (FCC or Commission) has exclusive control over the spectrum, and wireless providers must obtain licenses from the FCC to transmit. Wireless service in the United States has mostly depended on large, “macrocell” radio towers to transmit cell signal, but companies offering the next generation of wireless service—known as 5G—are in the process of shifting to transmission via hundreds of thousands of densely spaced small wireless facilities, or “small cells.” As part of an effort to expedite the rollout of 5G service, the Commission has removed some regulatory requirements for the construction of wireless facilities. These petitions challenge one of the FCC’s orders paring back such regulations, *In re Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment (Second Report & Order) (Order)*, FCC 18-30, 2018 WL 1559856 (F.C.C.) (Mar. 30, 2018).

The *Order* exempted most small cell construction from two kinds of previously required review: historic-preservation review under the National Historic Preservation Act (NHPA) and environmental review under the National Environmental Policy Act (NEPA). Together, these reviews assess the effects of new construction on, among other things, sites of religious and cultural importance to federally recognized Indian Tribes. The *Order* also effectively reduced Tribes’ role in reviewing proposed construction of macrocell towers and other wireless facilities that remain subject to cultural and environmental review.

Three groups of petitioners challenge the *Order* as violating the NHPA, NEPA, and the Administrative Procedure

Act on several grounds: that its elimination of historic-preservation and environmental review of small cell construction was arbitrary and capricious, an unjustified policy reversal, and contrary to the NHPA and NEPA; that the changes to Tribes' role in reviewing new construction was arbitrary and capricious; that the Commission arbitrarily and capriciously failed to engage in meaningful consultations with Tribes in promulgating the *Order*; and that the *Order* itself required NEPA review.

We grant in part the petitions for review because the *Order* does not justify the Commission's determination that it was not in the public interest to require review of small cell deployments. In particular, the Commission failed to justify its confidence that small cell deployments pose little to no cognizable religious, cultural, or environmental risk, particularly given the vast number of proposed deployments and the reality that the *Order* will principally affect small cells that require new construction. The Commission accordingly did not, pursuant to its public interest authority, 47 U.S.C. § 319(d), adequately address possible harms of deregulation and benefits of environmental and historic-preservation review. The *Order's* deregulation of small cells is thus arbitrary and capricious. We do not reach the alternative objections to the elimination of review on small cell construction. We deny the petitions for review on the remaining grounds.

BACKGROUND

I. Statutory and Regulatory Background

A. National Historic Preservation Act (NHPA)

Congress enacted the NHPA to “foster conditions under which our modern society and our historic property can exist

in productive harmony” and “contribute to the preservation of nonfederally owned historic property and give maximum encouragement to organizations and individuals undertaking preservation by private means.” 54 U.S.C. § 300101(1), (4). As part of that mission, NHPA’s Section 106 requires federal agencies to “take into account the effect of” their “undertaking[s] on any historic property.” *Id.* § 306108.

Both “historic property” and “undertaking” have specific meanings under the statute. Historic properties include myriad monuments, buildings, and sites of historic importance, including “[p]roperty of traditional religious and cultural importance to an Indian tribe.” *Id.* §§ 302706, 300308. Insofar as Tribal heritage is concerned, the Section 106 process requires federal agencies to “consult with any Indian tribe . . . that attaches religious and cultural significance to” a historic property potentially affected by a federal undertaking. *Id.* §§ 302706, 306102. To count as “historic,” such properties need not be on Tribal land; in fact, they “are commonly located outside Tribal lands and may include Tribal burial grounds, land vistas, and other sites that Tribal Nations . . . regard as sacred or otherwise culturally significant.” *Order* ¶ 97. Only a federal “undertaking,” not a state or purely private one, triggers the Section 106 Tribal consultation process. A federal “undertaking,” as relevant here, is “a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including . . . those requiring a Federal permit, license, or approval.” 54 U.S.C. § 300320. We have construed the statute to mean that, for an action to be a federal undertaking, “only a ‘Federal permit, license or approval’ is required,” not necessarily federal funding. *CTIA-Wireless Ass’n v. FCC*, 466 F.3d 105, 112 (D.C. Cir. 2006).

The Section 106 process requires that an agency “consider the impacts of its undertaking” and consult various parties, not

that it necessarily “engage in any particular preservation activities.” *Id.* at 107 (quoting *Davis v. Latschar*, 202 F.3d 359, 370 (D.C. Cir. 2000)). The NHPA established an independent agency, the Advisory Council on Historic Preservation (Advisory Council), 54 U.S.C. § 304101, which is responsible for promulgating regulations “to govern the implementation of” Section 106, *id.* § 304108(a). Agencies must consult with the Advisory Council, State Historic Preservation Officers, and Tribal Historic Preservation Officers, the last of which adopt the responsibilities of State Historic Preservation Officers on Tribal lands. 54 U.S.C. §§ 302303, 302702; 36 C.F.R. §§ 800.3(c), 800.16(v)-(w) (defining State and Tribal Historic Preservation Officers).

The Advisory Council’s regulations authorize the use of alternatives to the ordinary Section 106 procedures, called “programmatic agreements.” 36 C.F.R. § 800.14(b). The Commission develops programmatic agreements in consultation with the Advisory Council, Tribes, and other interested parties, “to govern the implementation of a particular program or the resolution of adverse effects from certain complex project situations or multiple undertakings” in certain circumstances, such as when “effects on historic properties are similar and repetitive” or “effects on historic properties cannot be fully determined prior to approval of an undertaking.” *Id.* § 800.14(1)(i)-(ii). Tribes’ views must be taken into account where the agreement “has the potential to affect historic properties on tribal lands or historic properties of religious and cultural significance to an Indian tribe.” *Id.* § 800.14(b)(1)(i), (f). For instance, the Commission has consulted with Tribes to use programmatic agreements to exclude from individualized review entire categories of undertakings that are unlikely to affect historic properties. *See In re Nationwide Programmatic Agreement Regarding the Section 106 [NHPA] Review Process (Section 106 Agreement)*, 20 FCC Rcd. 1073, 1075 ¶ 2 (2004).

B. National Environmental Policy Act (NEPA)

Congress enacted NEPA to “encourage productive and enjoyable harmony between man and his environment” and “promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man,” among other purposes. 42 U.S.C. § 4321. Like the NHPA, NEPA mandates a review process that “does not dictate particular decisional outcomes, but ‘merely prohibits uninformed—rather than unwise—agency action.’” *Sierra Club v. U.S. Army Corps of Eng’rs*, 803 F.3d 31, 37 (D.C. Cir. 2015) (quoting *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 351 (1989)).

All “major Federal actions significantly affecting the quality of the human environment” trigger environmental review under NEPA, just as federal “undertakings” trigger historic preservation review under the NHPA. 42 U.S.C. § 4332(C). Major federal actions “include[] actions . . . which are potentially subject to Federal control and responsibility.” 40 C.F.R. § 1508.18. Under the Commission’s procedures implementing NEPA, if an action may significantly affect the environment, applicants must conduct a preliminary Environmental Assessment to help the Commission determine whether “the proposal will have a significant environmental impact upon the quality of the human environment,” and so perhaps necessitate a more detailed Environmental Impact Statement. 47 C.F.R. § 1.1308; *see also* 40 C.F.R. § 1508.9. If, after reviewing the Environmental Assessment, the Commission determines that the action will not have a significant environmental impact, it will make a “finding of no significant impact” and process the application “without further documentation of environmental effect.” 47 C.F.R. § 1.1308(d).

NEPA also has an analogue to the NHPA's Advisory Council. In enacting NEPA, Congress established the Council on Environmental Quality, in the Executive Office of the President, to oversee implementation of NEPA across the entire federal government. 42 U.S.C. §§ 4342, 4344. With the endorsement of the Council on Environmental Quality and by following a series of mandated procedures, agencies can establish "categorical exclusions" for federal actions that require neither an Environmental Assessment nor an Environmental Impact Statement. 40 C.F.R. § 1508.4. Categorical exclusions are appropriate for "a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency." *Id.* "Categorical exclusions are not exemptions or waivers of NEPA review; they are simply one type of NEPA review." Council on Environmental Quality, *Memorandum for Heads of Federal Dep'ts and Agencies: Establishing, Applying & Revising Categorical Exclusions under [NEPA]* (*Categorical Exclusion Memo*) 2 (2010).

C. Legal Framework for Wireless Infrastructure

The Communications Act of 1934 established the FCC to make available a "rapid, efficient . . . wire and radio communication service with adequate facilities at reasonable charges." 47 U.S.C. § 151. In licensing use of the spectrum, the Commission is tasked with promoting "the development and rapid deployment of new technologies, products and services for the benefit of the public . . . without administrative or judicial delays," *id.* § 309, and "maintain[ing] the control of the United States over all the channels of radio transmission," *id.* § 301.

The Commission generally does not require construction permits before private parties can build wireless facilities. Congress largely eliminated the FCC's site-specific construction permits in 1982, and the Commission has since required construction permits only where it finds that the public interest would be served by such permitting. *See* Pub. L. 97-259, 96 Stat. 1087, § 119 (1982) (codified at 47 U.S.C. § 319(d)). It has not made such a finding for the wireless facilities at issue here.

The FCC does, however, require licensing of the spectrum used by wireless small cells. It does so by issuing geographic area licenses, which allow wireless providers to operate on certain frequency bands in a wide geographic area. *See* 47 U.S.C. § 309(j). Those licenses authorize using spectrum rather than building wireless facilities, but they necessarily contemplate facility construction. They have coverage requirements—for instance, one type of geographic area license required licensees to provide service to at least 40% of the population in their geographic service area by June 2013. *See* 47 C.F.R. § 27.14(h). If they fail to meet the coverage requirements, they can be stripped of authority to operate for the license's full term or serve part of its geographic area, and they “may be subject to enforcement action, including forfeitures.” *Id.* The Commission also exercises continuing authority to inspect radio installations to ascertain their compliance with any and all applicable laws, whether or not the licensee itself constructed those installations. *See* 47 U.S.C. § 303(n); 47 C.F.R. § 1.9020(c)(5).

The Commission has not identified any period since the enactment of the NHPA (in 1966) and NEPA (in 1970) when it did not require historic-preservation and environmental review of wireless facilities. After Congress eliminated the construction permit requirement, the Commission for a time

required NEPA and NHPA review of facilities before it granted their service licenses. *See, e.g., In re Amendment of Env'tl. Rules in Response to New Regulations Issued by [CEQ]*, FCC 85-626, 1986 WL 292182, at *5 ¶ 18 (F.C.C.) (Mar. 26, 1986) (requiring review “during the period prior to grant of a station license”); *id.* at *8 App’x ¶ 7 (requiring NEPA review on “[f]acilities that will affect districts, sites, buildings, structures or objects . . . that are listed in the National Register of Historic Places or are eligible for listing,” which includes property of religious or cultural significance to Indian Tribes, 54 U.S.C. § 302706(a)). In 1990, the Commission shifted review from the licensing stage to the construction stage by establishing a “limited approval authority” over construction of wireless facilities. *In re Amendment of Env'tl. Rules (1990 Order)*, 5 FCC Rcd. 2942 (1990). Limited approval authority required that, “where construction of a Commission-regulated radio communications facility is permitted without prior Commission authorization (*i.e.*, without a construction permit), the licensee must nonetheless comply with historic preservation and environmental review procedures.” *Order* ¶ 51; *see also* 47 C.F.R. § 1.1312. The authority was “limited” in that it allowed “the Commission [to] exercise[] control over deployment solely to conduct federal historic and environmental review.” Resp’t Br. 12. The Commission emphasized that shifting review to the pre-construction stage served a practical function: Before it had established its limited approval authority, the FCC’s rules “provide[d] that any required submission of [Environmental Assessments] and any required Commission environmental review take place at the licensing stage rather than prior to construction,” with the result that “[a]pplicants who ha[d] already constructed their facilities” could “subsequently be denied licenses on environmental grounds.” *1990 Order* 2942 ¶ 3. The Commission explained that it continued to require review “to ensure that the Commission fully complies with Federal

environmental laws in connection with facilities that do not require pre-construction authorization.” *Id.* ¶ 4. It announced the changes as “necessary to ensure that the Commission addresses environmental issues early enough in the licensing process to ensure that it fully meets its obligations under Federal environmental laws,” including NEPA and the NHPA. *Id.* at 2943 ¶ 9 & n.16.

The Commission has never required individualized review of each separate facility, however. A long series of regulations, programmatic agreements, and categorical exclusions has aggregated facilities for joint consideration and focused NHPA and NEPA review on those deployments most likely to have cultural or environmental effects. For instance, most collocations—deployments on existing structures—are excluded from individualized review under NHPA programmatic agreements and NEPA categorical exclusions. *See In re Implementation of the National Environmental Policy Act of 1969 (Implementation of NEPA)*, 49 F.C.C.2d 1313, 1319-20 (1974); *Nationwide Programmatic Agreement for the Collocation of Wireless Antennas (Collocation Agreement)*, 47 C.F.R. pt.1, app. B (2001); *Section 106 Agreement*, 20 FCC Rcd. at 1075 ¶ 2; *Nationwide Programmatic Agreement for Review Under the National Historic Preservation Act*, 70 Fed. Reg. 556 (2005); *In re Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies (Improving Wireless Facilities Siting Policies)*, 29 FCC Rcd. 12865, 12870 ¶ 11 (2014); 47 C.F.R. § 1.1320(b)(4). Categorical exclusions go through notice and comment, 40 C.F.R. § 1507.3; include impact findings, *Categorical Exclusion Memo* 9; require the Council on Environmental Quality to approve them as consistent with its regulations and NEPA, 40 C.F.R. § 1507.3(a); and reserve rights to interested parties to request further review in the event that atypical adverse effects do occur, 47 C.F.R. § 1.1307(c), (d). At the same time, they

achieve enormous efficiencies in the review processes for classes of actions or undertakings anticipated to have minimal or no adverse cultural or environmental effects.

Since 2004, the FCC has been conducting NHPA review in accordance with a broad programmatic agreement, the *Section 106 Agreement*, 20 FCC Rcd. 1073. Interested parties developed that agreement to “tailor the Section 106 review in the communications context in order to improve compliance and streamline the review process for construction of towers and other Commission undertakings, while at the same time advancing and preserving the goal of the NHPA to protect historic properties, including historic properties to which federally recognized Indian tribes . . . attach religious and cultural significance.” *Id.* at 1074-75 ¶ 1. In the *Section 106 Agreement*, the Commission adopted “procedures for participation of federally recognized Indian tribes,” among other changes. *Id.* at 1075 ¶ 2. It also formalized the use of the electronic Tower Construction Notification System, which notifies Tribes of proposed wireless construction in areas they have identified as containing properties of religious and cultural significance, and allows them to give applicants information on the potential effects of proposed construction. *Id.* at 1106-10 ¶¶ 89-100.

II. Order Under Review

The challenged *Order* eliminated NHPA and NEPA review on small cells that meet certain size and other specifications, based on the Commission’s conclusion that such review was not statutorily required and would impede the advance of 5G networks, and that its costs outweighed any benefits. *See Order* ¶¶ 36-45. The *Order* also altered Tribal involvement in those Section 106 reviews that are still conducted on wireless facilities that were not encompassed in

the small cell exemption. *See id.* ¶¶ 96-130. Two of the five Commissioners dissented. *See Order*, Dissenting Statement of Comm’r Mignon L. Clyburn; Dissenting Statement of Comm’r Jessica Rosenworcel.

We consolidated five timely petitions for review of the *Order* into this action. They challenge the Commission’s exclusion of small cell construction from NHPA and NEPA review, its changes to Tribal involvement in Section 106 review, and its promulgation of the *Order* itself. Three groups of petitioners and intervenors, each designated here by the name of its lead petitioner, challenge the *Order*. United Keetoowah Band of Cherokee Indians (Keetoowah) represents a group of Tribes and historic preservation organizations. Blackfeet Tribe (Blackfeet) represents another group of Tribes and the Native American Rights Fund. The Natural Resources Defense Council (NRDC) represents itself and Maryland citizen Edward B. Myers. Two wireless industry groups (jointly, CTIA) intervened to defend the order alongside the FCC.

ANALYSIS

We set aside an agency order only if it is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A). Agencies’ obligation to engage in “reasoned decisionmaking” means that “[n]ot only must an agency’s decreed result be within the scope of its lawful authority, but the process by which it reaches that result must be logical and rational.” *Michigan v. EPA*, 135 S. Ct. 2699, 2706 (2015) (quoting *Allentown Mack Sales & Serv., Inc. v. NLRB*, 522 U.S. 359, 374 (1998)). Although “a court is not to substitute its judgment for that of the agency,” the arbitrary and capricious standard demands that the agency “examine the relevant data and articulate a satisfactory

explanation for its action including a rational connection between the facts found and the choice made.” *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (internal quotation marks omitted). An agency action is arbitrary and capricious where the agency has “entirely failed to consider an important aspect of the problem” or “offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Id.*

The FCC is entitled to deference to its reasonable interpretations of ambiguous provisions of the Communications Act. *See Chevron, USA, Inc. v. Nat. Res. Def. Council, Inc.*, 467 U.S. 837, 844-45 (1984). We owe no deference to the FCC’s interpretations of the NHPA or NEPA, which are primarily administered by the Advisory Council, *see McMillan Park Comm. v. Nat’l Capital Planning Comm’n*, 968 F.2d 1283, 1287-88 (D.C. Cir. 1992), and the Council on Environmental Quality, *see Grand Canyon Tr. v. FAA*, 290 F.3d 339, 341 (D.C. Cir. 2002) (as amended Aug. 27, 2002), respectively.

I. Eliminating NHPA and NEPA Review on Small Cells

The *Order* did not follow the processes for a programmatic agreement under the NHPA, a categorical exclusion from NEPA, or any other wholesale or aggregated form of review, but simply eliminated NHPA and NEPA review on most small cells by removing them from the FCC’s limited approval authority. Small cells had not previously been defined or regulated separately from macrocell towers. The Commission defines the small cells that its *Order* deregulates as wireless facilities that are not on Tribal lands, do not require antenna structure registration because they could not constitute a

menace to air navigation, do not result in human exposure to radiofrequency radiation in excess of applicable safety standards, and that are “small” per the following conditions:

- (i) The facilities are mounted on structures 50 feet or less in height including their antennas . . . or the facilities are mounted on structures no more than 10 percent taller than other adjacent structures, or the facilities do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;
- (ii) Each antenna associated with the deployment, excluding the associated equipment . . . is no more than three cubic feet in volume;
- (iii) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume.

47 C.F.R. § 1.1312(e)(2). Small cells that meet those requirements are now outside the purview of the Commission’s limited approval authority, the mechanism by which it has required NHPA and NEPA review since 1990.

The Commission deregulated small cells as part of a broader effort to reduce regulations that the FCC says “are unnecessarily impeding deployment of wireless broadband networks” on which 5G service depends. *Order* ¶ 3. “Within the next few years,” the Commission explained, “5G networks . . . will make possible once-unimaginable advances, such as

self-driving cars and growth of the Internet of Things,” *i.e.* physical objects controllable over the internet. *Id.* ¶ 1. 5G networks “will increasingly need to rely on network densification,” which entails “the deployment of far more numerous, smaller, lower-powered base stations or nodes that are much more densely spaced.” *Id.* According to the Commission, rapid proliferation of hundreds of thousands of small cells would be hindered by the significant time and cost of NHPA and NEPA reviews, even as the benefits of such review—which it characterized as already minimal—would be negligible because small cells are “inherently unlikely to trigger environmental and historic preservation concerns.” *Id.* ¶ 92; *see also id.* ¶¶ 9, 11-16. It noted that the FCC’s baseline approach to environmental and historic-preservation review, which requires facility-specific review unless a programmatic agreement or categorical exclusion applies, “was developed when all or nearly all deployments involved large macrocell facilities and accordingly failed to consider both the relatively diminutive size of small wireless facilities and the proliferation of these facilities necessary for deployment of advanced wireless technologies.” *Id.* ¶ 9.

In the *Order*, the Commission asserts that federal law does not independently require such review. The only basis for treating small cell construction as either a federal undertaking triggering NHPA review or a major federal action triggering NEPA review was, the Commission says, the limited approval authority the Commission exercised over that construction—which the *Order* eliminated. *See Order* ¶¶ 58-59. The Commission reasons that removing small cell construction from its limited approval authority removes the “sufficient degree of federal involvement” necessary to render an undertaking or action “federal.” *Id.* ¶ 58. It now says its power to exercise limited approval authority over construction derives exclusively from its “public interest authority” under the

Communications Act, *see Order* ¶¶ 39, 53, 61, rather than from “its obligations under Federal environmental laws,” *1990 Order* at 2943 ¶ 9. In this context, the “public interest authority” refers to the FCC’s power to require pre-construction permits for wireless facilities if it “determines that the public interest, convenience, and necessity would be served by requiring such permits.” 47 U.S.C. § 319(d). While the Commission has never made such a determination for the category of facilities at issue here, it has previously interpreted the public interest authority “as allowing the Commission to require covered entities [not requiring preconstruction permits] to nonetheless comply with environmental and historic preservation processing requirements.” *Order* ¶ 53. In the *Order*, the Commission made a new determination that it was not in the public interest to require NHPA and NEPA review on small cells, so simply removed them from its limited approval authority.

Petitioners all argue that the FCC unlawfully excluded small cells from NHPA and NEPA review. They contend first that removing small cells from the FCC’s limited approval authority was arbitrary and capricious. *See* 5 U.S.C. § 706(2)(A). Keetoowah and the NRDC argue that the Commission failed to adequately consider the harms of massive deployment and to justify its decision to completely exempt small cells from review. Additionally, all petitioners argue that the NHPA and NEPA mandate review of small cell construction. They assert that the geographic licenses the Commission grants, which allow wireless companies to operate on spectrum, constitute sufficient federal control over wireless facility construction to make the construction a federal undertaking and a major federal action triggering review under those statutes. Keetoowah also contends that the exclusion violates the Administrative Procedure Act on various other grounds, including that it is an unjustified policy reversal. If

petitioners prevail on any one or more of those grounds, we must vacate the *Order*'s deregulation of small cells and remand to the FCC.

The Commission failed to justify its determination that it is not in the public interest to require review of small cell deployments. We therefore grant the petitions in part because the *Order*'s deregulation of small cells is arbitrary and capricious. The Commission did not adequately address the harms of deregulation or justify its portrayal of those harms as negligible. In light of its mischaracterization of small cells' footprint, the scale of the deployment it anticipates, the many expedients already in place for low-impact wireless construction, and the Commission's decades-long history of carefully tailored review, the FCC's characterization of the *Order* as consistent with its longstanding policy was not "logical and rational." *Michigan v. EPA*, 135 S. Ct. at 2706. Finally, the Commission did not satisfactorily consider the benefits of review.

First, the Commission inadequately justified its portrayal of deregulation's harms as negligible. The FCC partly based its public-interest conclusion on a picture of small cells that the record does not support. It described small cells as "materially different from the deployment of macrocells in terms of . . . the lower likelihood of impact on surrounding areas." *Order* ¶ 41. In its brief, the Commission sums up its explanation of the difference: "small cells are primarily pizza-box sized, lower-powered antennas that can be placed on existing structures." Resp't Br. 3; *see also Order* ¶¶ 66, 92. It likened small cells to small household items that operate on radiofrequency such as "consumer signal boosters [and] Wi-Fi routers," which do not undergo review. *Order* ¶ 66. Small cells are, to be sure, quite different from macrocells in many ways, but the Commission fails to address that small cells are typically *mounted* on much

bigger structures, and the *Order* is not limited to deployments on structures that already exist or are independently subject to review. Small cells deregulated under the *Order* can be “mounted on structures 50 feet or less in height including their antennas” or “mounted on structures no more than 10 percent taller than other adjacent structures.” 47 C.F.R. § 1.1312(e)(i). That makes them crucially different from the consumer signal boosters and Wi-Fi routers to which the FCC compares them.

The scale of the deployment the FCC seeks to facilitate, particularly given its exemption of small cells that require new construction, makes it impossible on this record to credit the claim that small cell deregulation will “leave little to no environmental footprint.” *Order* ¶ 41. The Commission anticipates that the needed “densification of small deployments over large geographic areas,” *id.*, could require 800,000 deployments by 2026, FCC, *Declaratory Ruling & Third Report & Order*, FCC 18-133 ¶ 126 (Sept. 26, 2018). Even if only twenty percent of small cells required new construction—as one wireless company estimates and the FCC highlights in its brief, *see* Resp’t Br. 54—that could entail as many as 160,000 densely spaced 50-foot towers (or 198-foot towers, as long as they are located near 180-foot adjacent structures). The Commission does not grapple with that possibility. Instead, it highlights the small cells that can be collocated without addressing the many thousands that cannot be.

As Keetoowah points out, the FCC “offers no analysis of the footprint of” the new towers on which small cells can be mounted, “what equipment will be used, what ongoing maintenance or security will be provided and how often towers will be updated or rebuilt.” Keetoowah Br. 15-16. Deployment of new small cells requires not only new construction but also wired infrastructure, such as electricity hookups, communications cables, and wired “backhaul,”

which connects the new antenna to the core network. *See, e.g., Comment of Sprint*, Joint Appendix (J.A.) 380 (describing process of deploying small cells); *Comment of the Cities of Bos., Mass., et al.*, J.A. 705-06 (describing the equipment associated with small cells), NRDC Br. Ex. A, Decl. of Warren Betts ¶¶ 11-12 (describing concerns about disruption “by the laying of cables and wires, by the maintenance they require, [and] by the sound of the maintenance vehicles” in otherwise tranquil areas, and concerns “that trees may be cut down or damaged by the construction of small cells”). Construction, connection, and maintenance may entail excavation and clearing of land. The Tribal Historic Preservation Officer for the Seminole Tribe of Florida expressed concern about effects of anticipated “additional related infrastructure, such as fencing, security, and access for periodic maintenance and troubleshooting.” Keetoowah Br. Add. 114, Decl. of Paul Backhouse, ¶ 28. While the Commission asserted that “deployment of small wireless facilities commonly (although not always) involves previously disturbed ground,” it eliminated review of small cells that will involve new ground disturbance without responding to concerns about such disturbance. *Order* ¶ 92; *see also, e.g., Comment of the Nat’l Cong. of Am. Indians, et al.* (NCAI), J.A. 430-31 (expressing concern about small cells that require ground disturbance); *Comment of the Cities of Bos., Mass., et al.*, J.A. 707 (“No explanation is offered by the Commission for its exclusion of any ground disturbance related conditions” in the draft *Order*).

The Commission also failed to assess the harms that can attend deployments that do not require new construction, particularly the cumulative harms from densification. While “Tribal Nations are most concerned with federal undertakings that disturb the ground and turn up dirt,” even “[c]ollocations can affect cultural and historical properties th[r]ough disturbing view sheds” because “[t]he cultural and spiritual

traditions of Tribal Nations across the United States frequently involve the uninterrupted view of a particular landscape, mountain range, or other view shed.” *Comment of NCAI*, J.A. 50. The FCC did not respond to historic-preservation commenters warning “that permanent, direct adverse effects will be more likely with small wireless facilities as in many cases they are proposed for installation on or in historic buildings,” and “these multi-site deployments have a greater potential to cause cumulative effects to historic properties, cluttering historic districts with multiple towers, antennae, and utility enclosures.” *Comment of Tex. Historical Comm’n*, J.A. 794; *see also, e.g., Ex Parte Comm’n of Thlopthlocco Tribal Town Tribal Historic Pres. Officer*, J.A. 690 (noting that the Commission did not discuss “the issue of multiple collocations on the same pole which cumulatively would exceed the volume restriction and would create an adverse impact”); *Comment of Ark. State Historic Pres. Officer*, J.A. 751 (“[A]lthough individual small cells are unlikely to adversely impact individual historic properties or districts, the FCC doesn’t address how the large scale, nationwide deployment of 5G and small cells facilities will cumulatively impact cultural and natural resources.”). The Commission noted that all facilities remain subject to its limits on radiofrequency exposure, *Order* ¶ 45, but failed to address concerns that it was speeding densification “without completing its investigation of . . . health effects of low-intensity radiofrequency radiation,” which it is currently reassessing. *Comment of BioInitiative Working Grp.*, J.A. 235.

The FCC does not reconcile its assertion that planned small cell densification does not warrant review because it will “leave little to no environmental footprint” with the *Order*’s principal deregulatory effect of eliminating review of precisely the new construction and other deployments that the Commission previously considered likely to pose cultural and

environmental risks. The Commission already had in place NEPA categorical exclusions and NHPA programmatic agreements covering most collocations—as well as other kinds of deployments unlikely to have cultural and environmental impacts. What the new *Order* accomplishes, then, is to sweep away the review the Commission had concluded should not be relinquished.

Since the 1970s, the Commission has explained that most collocations on existing towers or buildings are not “major” federal actions and therefore are not subject to NEPA review. *Implementation of NEPA*, 49 F.C.C.2d at 1319-20; 47 C.F.R. §§ 1.1301-1.1319. The FCC’s NEPA regulations limit environmental review to a small subset of actions likely to have significant environmental effects, *see* 47 C.F.R. § 1.1307, as well as those actions found through Section 106 review to have adverse effects on historic properties, *see id.* § 1.1307(a)(4). Before it promulgated the challenged rule, the Commission had further shrunk the category of actions that receive individualized NHPA or NEPA review by adopting programmatic agreements and categorical exclusions. In chronological order, it excluded most collocations from individualized review, *see Collocation Agreement*, 47 C.F.R. Pt.1, App. B; adopted “categories of undertakings that are excluded from the Section 106 process because they are unlikely by their nature to have an impact upon historic properties,” *Section 106 Agreement*, 20 FCC Rcd. at 1075 ¶ 2; excluded from individualized review new categories of wireless construction and modification unlikely to have historic preservation effects, *see Nationwide Programmatic Agreement for Review Under the National Historic Preservation Act*, 70 Fed. Reg. at 558; and, most recently, expanded NHPA and NEPA exclusions for collocations, *see Improving Wireless Facilities Siting Policies*, 29 FCC Rcd. at 12870 ¶ 11. In sum, the FCC had already streamlined and

minimized review of vast numbers of minor actions, focusing attention only on subcategories of deployments likely to have cultural or environmental effects.

Second, in sweeping away wholesale the review it had preserved for the small cell deployments most likely to be disruptive, the *Order* is not, as the FCC asserts, “consistent with the Commission’s treatment of small wireless facility deployments in other contexts,” but directly contrary to it. *Order* ¶ 42. We observe by way of example the Commission’s assertion that “under the Collocation [Agreement], the Commission already excludes” from NHPA review “many facilities that meet size limits similar to those” of small cells. *Id.* As the Commission sees it, the *Order* thus “builds upon the insight underlying these existing rules that small wireless facilities pose little or no risk of adverse environmental or historic preservation effects.” *Id.* But the *Collocation Agreement* exclusion was defined not just by size, but by other characteristics that minimized the likelihood of cultural harm. The section of the *Collocation Agreement* the FCC cites in fact only excludes from individualized NHPA review “small wireless antennas and associated equipment on building and non-tower structures that are outside of historic districts and are not historic properties,” which include property of religious and cultural importance to Tribes. *Collocation Agreement*, 47 C.F.R. Pt.1, App. B § VI (formatting altered); *see also* 54 U.S.C. §§ 300308, 302706. A different section of the *Collocation Agreement*, which did exempt certain collocations of small antennas in historic districts or on historic properties, likewise included numerous conditions to minimize effects on historic properties. An antenna could only be collocated on a historic property if, for example, “a member of the public, an Indian Tribe, a [State Historic Preservation Office] or the [Advisory] Council” had not complained “that the collocation ha[d] an adverse effect on one or more historic properties,”

Collocation Agreement, 47 C.F.R. Pt.1, App. B § VII(A)(6), and if the antenna was installed “using stealth techniques that match or complement the structure on which or within which it is deployed,” *id.* § VII(A)(2)(c), and “in a way that does not damage historic materials and permits removal of such facilities without damaging historic materials,” *id.* § VII(A)(4), among other conditions. After the *Order*, none of those limiting conditions applies. The insight of the *Collocation Agreement* was not that small cells by their nature “pose little or no risk of adverse environmental or historic preservation effects,” *Order* ¶ 42, but that small cells under certain carefully defined conditions pose little such risk.

Similarly, the FCC explains its “conclusion that, as a class, the nature of small wireless facility deployments appears to render them inherently unlikely to trigger environmental and historic preservation concerns” by reference to limiting criteria that it chose *not* to place on its small cell exemption. *Id.* ¶ 92. It notes, for example, that “deployment of small wireless facilities commonly (although not always) involves previously disturbed ground, where fewer concerns generally arise than on undisturbed ground,” and reiterates that “use of existing structures, where feasible, can both promote efficiency and avoid adverse impacts on the human environment.” *Id.* But the Commission decided not to limit the *Order*’s exemption only to facilities sited on previously disturbed ground, or those that are collocated on existing structures. It therefore fails to justify its conclusion that small cells “as a class” and by their “nature” are “inherently unlikely” to trigger concerns.

By ignoring the extent to which it had already streamlined review, the Commission also overstated the burdens of review. It said it could not “simply turn a blind eye to the reality that the mechanical application of [limited approval authority] requirements to each of [the] small deployments” necessary for

5G “would increase the burden of review both to regulated entities and the Commission by multiples of tens or hundreds.” *Id.* ¶ 65. As the preceding discussion of the *Collocation Agreement* illustrates, however, the FCC was not indiscriminately or “mechanic[ally]” requiring full NHPA and NEPA review for each individual small cell. The Commission fails to explain why the categorical exclusions and programmatic agreements in place did not already minimize unnecessary costs while preserving review for deployments with greater potential cultural and environmental impacts.

Third, given that only the most vulnerable cases were still subject to individualized NHPA or NEPA review, the Commission did not adequately address either the possible benefits of retaining review, or the potential for further streamlining review without eliminating it altogether. It dismissed the benefits of historic-preservation and environmental review in a two-sentence paragraph, describing most of the comments that highlight those benefits as “generalized” and the comments that point to specific benefits as “few.” *Id.* ¶ 78. Characterizing a concern as “generalized” without addressing that concern does not meet the standard of “reasoned decisionmaking.” *Michigan v. EPA*, 135 S. Ct. at 2706.

The Commission found that adverse effects are rare, but it considered neither the importance of the sites review does save, nor how that rarity depends on the very review it eliminates, which forestalled adverse effects that otherwise would have occurred. The FCC cited comments suggesting that only 0.3 or 0.4% of requests for Tribal review result in findings of adverse effects or possible adverse effects. *Order* ¶ 79. Based on the estimate of 800,000 small cell deployments, that could mean 3,200 adverse effects. The *Order* displayed no consideration of the importance of the 3,200 Tribal sites that might be saved

through review except to describe that benefit as “*de minimis* both individually and in the aggregate.” *Id.* As counsel for petitioner Blackfeet Tribe said at oral argument: “They may think that’s infinitesimal. To us, it means the world.” Oral Argument at 1:16:16-20. The Commission also did not address comments that “no adverse effects in 99% of tower deployments shows that the current system is working” because “[o]ften, after an applicant enters a location into” the Tower Construction Notification System, a Tribal representative “will notify the applicant of an issue and the applicant will choose a new location or resolve that effect,” which “gets counted as having no adverse effect.” *Comment of Nat’l Ass’n of Tribal Historic Pres. Officers*, J.A. 661. Other commenters agreed that “[t]he lack of significant impact should be a testament to the value of the review process in these instances, not negate its necessity.” *Comment of Tex. Historical Comm’n*, J.A. 794 (“In our experience, the vast majority of adverse effects for cell projects are resolved through sensitive design modifications, including stealth measures, modifying how equipment is attached if directly mounted to a historic building or structure, or relocation to an alternate site further removed from historic properties.”).

Similarly, the Commission dismissed the point that its own oversight deters adverse effects by describing comments to that effect as “generalized, and undercut by our conclusion that, as a class, the nature of small wireless facility deployments appears to render them inherently unlikely to trigger environmental and historic preservation concerns.” *Order* ¶ 92. For the reasons already explained, the FCC’s conclusion that small cells are inherently unlikely to trigger concerns is arbitrary and capricious, and describing comments as “generalized” does not excuse the agency of its obligation to consider those comments as part of reasoned decisionmaking.

We hold that the *Order*'s deregulation of small cells is arbitrary and capricious because its public-interest analysis did not meet the standard of reasoned decisionmaking. We therefore decide neither the alternative grounds for holding that the *Order* is arbitrary and capricious or otherwise violated the Administrative Procedure Act, nor the claim that small cell construction is a federal undertaking and a major federal action requiring NHPA and NEPA review.

II. Tribal Involvement in Section 106 Review

The *Order* also made three changes to Tribal involvement in the Section 106 review not eliminated by the *Order*, such as review of macrocells and small wireless facilities on Tribal land. The first two changes relate to two types of Tribal involvement that the Commission and the Advisory Council distinguish from one another: (a) government-to-government consultation between the agency and the Tribes, in which Tribes function in their governmental capacity, and (b) the "identification and evaluation phase of the Section 106 process when the agency or applicant is carrying out its duty to identify historic properties that may be significant to an Indian tribe." Advisory Council, *Consultation with Indian Tribes in the Section 106 Review Process: A Handbook* (*Section 106 Handbook*), J.A. 1015; see also FCC, *Voluntary Best Practices for Expediting the Process of Communications Tower and Antenna Siting Review Pursuant to Section 106 of the NHPA*, J.A. 933; *Order* ¶¶ 118-19.

Section 106 review comprises "four steps": "initiation, identification, assessment [or evaluation], and resolution." *Section 106 Handbook*, J.A. 1018. Government-to-government consultation is a background requirement of Section 106 review at every stage. See *id.* at J.A. 1014, 1018; Advisory Council, *Fees in the Section 106 Review Process*,

J.A. 913; 36 C.F.R. § 800.2(c)(2)(ii)(A) (consultation requires giving the interested Tribe “a reasonable opportunity to identify its concerns about historic properties, advise on the identification and evaluation of historic properties, . . . articulate its views on the undertaking’s effects on such properties, and participate in the resolution of adverse effects”). In the identification and evaluation period, however, applicants have often paid for expertise and assistance from Tribes acting “in a role similar to that of a consultant or contractor” such as by providing “specific information and documentation regarding the location, nature, and condition of individual sites” or even conducting surveys. *Section 106 Handbook*, J.A. 1015. The *Order* explains that identification and evaluation involves “activities undertaken after the initial determination that historic properties are likely to be located in the site vicinity,” and that it includes “monitoring and other activities directed toward completing the identification of historic properties as well as assessing and mitigating the project’s impacts on those properties.” *Order* ¶ 124.

The “initial determination” falls into the government-to-government consultation category. *See Section 106 Handbook*, J.A. 1021 (explaining that initiating contact with Tribes is part of the Commission’s “responsibilities to conduct government-to-government Consultation”). In practice, however, Tribes have been allowing applicants to contact them directly, in lieu of government-to-government consultation, to help make the initial determination. *See Section 106 Agreement*, 20 FCC Rcd. at 1108 ¶¶ 95-96; Keetoowah Br. 37. The *Section 106 Agreement* “expresses the ambition that this initial contact will lead to voluntary direct discussions through which applicants and tribes . . . will resolve questions involving the presence of relevant historic properties and effects on such properties to the tribe[’s] . . . satisfaction without Commission involvement.” 20 FCC Rcd. at 1108 ¶ 97. But “if an applicant and an Indian

tribe . . . disagree regarding whether an undertaking will have an adverse effect on a historic property of religious and cultural significance, or if the tribe . . . does not respond to the applicant's inquiries," the Commission steps in to consult and ultimately "make a decision regarding the proposed undertaking." *Id.*

The Advisory Council explains that "[t]hese two tribal roles"—government-to-government consultation, and assistance with identification and evaluation—"are not treated the same when it comes to compensation, although the line between them may not be sharp." Advisory Council, *Fees in the Section 106 Review Process*, J.A. 913. Advisory Council guidance states that "agencies are strongly encouraged to use available resources to help overcome financial impediments to effective tribal participation in the Section 106 process" and applicants are likewise "encouraged to use available resources to facilitate and support tribal participation." Advisory Council, *Section 106 Handbook*, J.A. 1015. At the same time, it says that agencies and applicants should not expect to pay fees for government-to-government consultation, which "give[s] the Indian tribe an opportunity to get its interests and concerns before the agency," Advisory Council, *Fees in the Section 106 Review Process*, J.A. 913, but "should reasonably expect to pay" fees for the identification and evaluation, which puts Tribes in a "consultant or contractor" role, Advisory Council, *Section 106 Handbook*, J.A. 1015. It notes, however, that "this encouragement is not a legal mandate; nor does any portion of the NHPA or the [Advisory Council's] regulations require an agency or an applicant to pay for any form of tribal involvement." *Id.*

First, apparently because applicants had been consistently paying upfront fees, *see* Keetoowah Br. 37, the *Order* made clear that applicants' payment of upfront fees to Tribes is

voluntary. *See Order* ¶ 116. Upfront fees are payments made to Tribes for the initial determination whether the Tribe actually has religiously or culturally significant properties that might be affected by a proposed construction. *See id.* ¶ 116. Applicants contact Tribes for that initial determination when Tribes have noted that properties in the general area of proposed construction may have religious or cultural significance for them. *Id.* When an applicant follows up “to ascertain whether there are in fact such properties that may be affected,” some Tribes have requested upfront fees before they will respond. *Id.* As the *Order* describes the practice, the upfront fees “do not compensate Tribal Nations for fulfilling specific requests for information and documentation, or for fulfilling specific requests to conduct surveys,” but are “more in the nature of a processing fee” to “obtain a response” to an applicant’s initial Tower Construction Notification contact with a Tribal Nation. *Id.* ¶ 119.

Second, while the *Order* approved of fees for identifying and evaluating properties that may be significant to Tribes, as opposed to upfront fees, *see id.* ¶ 123, it also authorized applicants to consult with non-Tribal parties in the identification and evaluation phase, *see id.* ¶¶ 124-45. The Commission found that, if an applicant asks a Tribe to perform work to aid it in documenting, surveying, or analyzing potentially historic properties, “the applicant should expect to negotiate a fee for that work” and, if the parties are “unable to agree on a fee, the applicant may seek other means to fulfill its obligations.” *Id.* ¶ 125. “The agency or applicant is free to refuse just as it may refuse to pay for an archeological consultant, but the agency still retains the duties of obtaining the necessary information for the identification [and evaluation] of historic properties . . . through reasonable means.” *Id.* (quoting Advisory Council, *Section 106 Handbook*, J.A. 1015).

Third, the *Order* shortened from 60 to 45 days the timeline for Tribes to respond to notifications on the Tower Construction Notification System, eliminated the requirement that applicants make a second attempt to contact Tribes, and shortened from 20 to 15 days the timeline for Tribal response to Commission contact. *Id.* ¶¶ 110-11.

Keetoowah and Blackfeet challenge those three changes as arbitrary and capricious and inconsistent with the NHPA. Keetoowah complains that the *Order* “encourages applicants, which have until this point voluntarily paid fees, to refuse paying Tribes” upfront fees, Keetoowah Br. 37; that “FCC implementation goes far beyond the terms of the Order by refusing to even allow Tribes to request voluntary fees through” the Tower Construction Notification System, *id.* at 37-38; that letting applications proceed where Tribes refuse to participate without compensation or are not hired as consultants violates the Commission’s legal obligation to consult with Tribes, *id.* at 38; and that the shortened timelines are unreasonable, *id.* at 40. Blackfeet asserts that the Commission lacks “the authority to prohibit tribes from collecting fees” because only the Advisory Council may promulgate regulations implementing Section 106. Blackfeet Br. 16.

None of those challenges is availing. The clarification that applicants are not required to pay upfront fees is consistent with the Advisory Council’s preexisting guidance and does not violate the Commission’s duty to consult with Tribes. The *Order* permissibly authorizes applicants to contract with non-Tribal parties in the identification-and-evaluation phase because it stipulates that contractors must be “properly qualified,” which we understand does not authorize hiring other contractors in any circumstance in which only Tribes are

qualified. *Order* ¶ 128. The shortened timeline for Tribal response is reasonable and sufficiently explained.

A. Upfront Fees

The *Order* permissibly confirms that upfront fees for Tribes to comment on proposed deployments are voluntary. Unchallenged Advisory Council regulations already make clear that fees are voluntary, so the *Order*'s reiteration of the same point is not arbitrary and capricious. While applicants have apparently been uniformly paying upfront fees for Section 106 review, no party asserts that they have been required to do so. *See Keetoowah Reply Br. 20*. The Advisory Council has been explicit that no "portion of the NHPA or the [Advisory Council's] regulations require an agency or an applicant to pay for any form of tribal involvement." Advisory Council, *Section 106 Handbook*, J.A. 1015; *see also* Advisory Council, *Fees in the Section 106 Review Process*, J.A. 913 (neither the NHPA nor Advisory Council regulations "requires Federal agencies to pay for any aspect of tribal [or] other consulting party participation in the Section 106 process"). Blackfeet's complaint that "[t]he FCC does not have the authority to prohibit tribes from collecting fees" and that the *Order* is impermissibly "implementing and administering Section 106 through regulation" is misplaced. The challenged *Order* contains no such prohibition, but does no more than recognize and reiterate the Advisory Council's existing rule.

The Commission has a non-delegable duty to consult with Tribes about the effect of federal undertakings on property significant to the Tribes, which Tribes can invoke or waive as they choose. The NHPA mandates that, "[i]n carrying out its responsibilities under [Section 106], a Federal agency shall consult with any Indian tribe . . . that attaches religious and cultural significance to property." 54 U.S.C. § 302706(b). The

Advisory Council has explained that “federal agencies cannot unilaterally delegate their tribal consultation responsibilities to an applicant,” but can only delegate if “expressly authorized by the Indian tribe to do so.” Advisory Council, *Limitations on the Delegation of Authority by Federal Agencies to Initiate Tribal Consultation under Section 106 of the National Historic Preservation Act (Limitations on Section 106 Delegation)* 1 (2011), <https://go.usa.gov/xyWGq>. The Commission has also recognized that its “fiduciary responsibility and duty of consultation [to Tribes] rest with the Commission as an agency of the federal government, not with licensees, applicants, or other third parties.” *Section 106 Agreement*, 20 FCC Rcd. at 1106 ¶ 91.

Keetoowah says its challenge is not to the “FCC’s clarification that fees are voluntary,” but to “the Order’s determination that FCC will process applications without tribal input if tribes insist on charging applicants for their reviews.” Keetoowah Reply Br. 19-20. That determination, Keetoowah asserts, violates the Commission’s “statutory obligation to consult with tribes.” *Id.* at 19. Under the *Section 106 Agreement*, Tribes can and do permit applicants to contact them to request review of proposed construction—essentially agreeing to accept that contact in satisfaction of the Commission’s responsibility to consult with Tribes directly. 20 FCC Rcd. at 1108 ¶ 96; *see also* Keetoowah Br. 37; *Comment of the Seminole Tribe of Florida*, J.A. 743 (“[T]ribes participate in review . . . on a voluntary basis” as a substitute for “direct Section 106 consultation with the FCC.”) But Tribes can request “the federal agency to reenter the consultation process at any time . . . since the federal agency remains responsible for government-to-government consultation.” *Limitations on Section 106 Delegation* 2. Keetoowah implies that Tribes have only agreed to accept direct contact from applicants under the condition that

applicants pay for Tribes' responses—meaning that if Tribes refuse to respond without being paid upfront fees, they will not have waived the Commission's responsibility to consult with them directly. Without having fulfilled its legal obligation to consult, Keetoowah contends, the Commission cannot permit applicants to go ahead with construction.

Keetoowah overlooks the fact that when a Tribe refuses to review an application without being paid, the *Order* requires the Commission to step in to ask the Tribe for a response before allowing applicants to construct. Tribes' refusal to respond triggers a process in which applicants can refer the matter to the Commission, the Commission must contact Tribes directly, and Tribes have 15 days from Commission contact to respond. *See Order* ¶ 111. Only if the Tribe does not timely respond to the Commission are “the applicant's pre-construction obligations . . . discharged with respect to that Tribal Nation.” *Id.* The Tribe is guaranteed the opportunity to consult as a sovereign—a capacity in which it need not be paid—and the Commission cannot force an unwilling Tribe to respond. Therefore, if a Tribe refuses to respond when the Commission requests its views on an application, the Commission has discharged its obligation of direct Commission-to-Tribe consultation. *See id.* ¶ 111. Apart from the shortened timeframe, discussed below, Keetoowah has not offered any reason the Commission's contacting Tribes directly with a request to consult that the Tribe rejects does not satisfy the Commission's consultation obligation.

Finally, the objection that the Commission is prohibiting Tribes from requesting voluntary fees on the Tower Construction Notification System, Keetoowah Br. 38-40, is not properly before us. That prohibition does not appear in the *Order* itself but seems to originate with a later decision of Commission staff. *See Resp't Br.* 64 n.19.

B. Non-Tribal Consultation

The *Order* states that applicants need not contract with Tribes to identify which properties have historic or cultural significance to Tribes and determine how to assess or mitigate adverse effects of construction. *Order* ¶¶ 124-25, 128-29. Keetoowah argues that allowing applicants to contract with non-Tribal parties is arbitrary and capricious because “only Tribes are qualified to perform” such services “based on their unique, often sacred, knowledge.” Keetoowah Br. 23. Because the *Order* stipulates that contractors must be “properly qualified,” we reject the arbitrary-and-capricious claim. *Order* ¶ 128.

Advisory Council regulations require the agency to “make a reasonable and good faith effort to carry out appropriate identification efforts” under Section 106. 36 C.F.R. § 800.4(b)(1). The *Order* explains that “the applicant is not bound to any particular method of gathering information,” *Order* ¶ 125, but it stipulates that contractors must be “properly qualified,” *id.* ¶ 128. The “reasonable and good faith efforts” standard together with the *Order*’s mandate that parties be “properly qualified” may sometimes require applicants to hire Tribes—for instance, where Tribes have “unique” and “sacred” knowledge of historic properties. Advisory Council guidance supports that notion, explaining that “unless an archeologist has been specifically authorized by a tribe to speak on its behalf on the subject, it should not be assumed that the archaeologist possesses the appropriate expertise to determine what properties are or are not of significance to an Indian tribe.” *Section 106 Handbook*, J.A. 1022. The *Order* itself suggests that applicants should try to hire Tribes first: “[I]f an applicant asks a Tribal Nation” to perform identification and evaluation of historic properties, “the applicant should expect to negotiate a fee for that work,” but if the Tribe and applicant “are unable

to agree on a fee, the applicant may seek other means to fulfill its obligations.” *Order* ¶ 125. We cannot say, *ex ante*, how often as a practical matter applicants might find qualified non-Tribal contractors or whether, as applied, the law will ordinarily require hiring Tribes. If a Tribe believes an applicant has hired an unqualified contractor, that issue can be litigated when it arises.

C. Timeline Changes

Keetoowah’s one-paragraph challenge to the *Order*’s shortening the timeline for Tribal response to Tower Construction Notification System notifications provides no basis on which to hold the shortened timeline arbitrary and capricious. Keetoowah Br. 40. Its sole objection is that Tribes “operate with limited staff and budget, making the shortening of Tribal review time unreasonable.” *Id.* The Commission acted within its discretion and “considered the relevant factors and articulate[d] a rational connection between the facts found and the choice made.” *Vonage Holdings Corp. v. FCC*, 489 F.3d 1232, 1241 (D.C. Cir. 2007) (quoting *BellSouth Telecomms., Inc. v. FCC*, 469 F.3d 1052, 1056 (D.C. Cir. 2006) (alteration in original)). It reasonably justified the decision as a compromise between industry requests for even shorter timelines to address delays, and Tribes’ need for adequate time to review submissions. *See Order* ¶¶ 112 n.262, 113.

III. Promulgation of the *Order* Itself

All petitioners argue that the promulgation of the *Order* itself violated the law. Keetoowah and Blackfeet argue that the Commission violated its duty to consult with Tribes, as established by the Tribes’ sovereign status and the government-to-government relationship recognized in Article I, Section 8 of the Constitution, the NHPA, and the Commission’s regulations. *See Keetoowah Br. 40-42; Blackfeet Br. 20-21.*

The NRDC argues that the *Order* itself was a major federal action that required NEPA review. *See* NRDC Br. 10-11. Because the *Order* documents extensive consultation with Tribes, we reject the first contention. We lack jurisdiction to consider the second because the NRDC forfeited it by failing to raise it to the Commission.

As for the Tribes' contention that the *Order* is invalid because the Commission did not meet its obligations to consult with Tribes, the Commission responds that it extensively consulted with Tribes, and that in any event its consultation obligation is not judicially enforceable. Resp't Br. 69-74. We conclude that the Commission fulfilled its obligation to consult. The Commission presented abundant evidence that it "consulted" Tribes in the ordinary sense of the word, and the Tribes have offered no other concrete standard by which to judge the Commission's efforts.

On this record, we cannot say that the Commission failed to consult with Tribes in its meetings and other communications, which began in 2016 and continued through early 2018. *See Order* ¶¶ 19, 34. The Commission documented extensive meetings it held with Tribes before it issued the *Order*. *See Order* ¶¶ 19-35. Under Advisory Council regulations, "[c]onsultation means the process of seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them regarding matters arising in the section 106 process." 36 C.F.R. § 800.16(f); *see also* 54 U.S.C. § 302706(b). The dictionary definition of consulting is "seek[ing] advice or information of." *Consult*, *American Heritage Dict.* (5th ed. 2019). Keetoowah complains that the FCC's efforts were "listening sessions, briefings, conference calls, and delivery of remarks by a Commissioner" rather than "consultations," and presents evidence that Tribes did not view these meetings as

consultations. Keetoowah Br. 44. But it offers no standard by which to judge which consultations were “listening sessions” or whether a “listening session” or a conference call qualifies as a consultation. The only case Keetoowah cites interpreting an agency’s failure to consult is inapposite: there, an agency official “acknowledged at trial” that the contested decision “had already been made prior to” the first meeting between Tribal members and agency officials discussing the decision. *Oglala Sioux Tribe of Indians v. Andrus*, 603 F.2d 707, 710 (8th Cir. 1979). No evidence in this record suggests the Commission had already determined the *Order*’s substance before meeting with Tribes—and the series of communications and meeting commenced even before the Commission issued the Notice of Proposed Rulemaking. *See Order* ¶ 19. The Commission appeared to “seek[], discuss[], and consider[] the views of” the Tribes, even if it did not ultimately adopt those views.

The NRDC argues that promulgating the *Order* was itself a major federal action that required NEPA review. *See* NRDC Br. 10-11. But, as intervenor CTIA points out, the NRDC forfeited that argument by failing to make it to the Commission, *see* CTIA Br. 38, and we lack jurisdiction to review a claim that was not raised there. *Free Access & Broad. Telemedia, LLC v. FCC*, 865 F.3d 615, 619 (D.C. Cir. 2017). While the NRDC points to its own and others’ comments “urg[ing] the Commission to conduct a NEPA analysis,” NRDC Reply Br. 3, none of those comments said the Commission was required to perform a NEPA analysis *of the Order*. The NRDC cites its own comment “that if the FCC sought to exclude an entire category of wireless facilities from NEPA, it was required to establish a categorical exclusion.” *Id.* (citing J.A. 787-90). But the NRDC did not there contend, as it now does, that the *Order* is a major federal action. Rather, the NRDC’s argument was that the federal character of the

geographic area license meant that the Commission could not entirely exempt wireless facility construction from NEPA review, J.A. 790—the same statutory argument it made here—and that the proper approach to exempting federal “activities that by their nature do not have significant impacts on the environment is with a categorical exclusion,” J.A. 789. Whether the licenses or construction are federal, the basis of the NRDC’s argument, is irrelevant to the question whether the *Order* overall is a major federal action that requires NEPA review. One of the other two comments it cites asserted that the proposed rule failed to comply with NEPA, but again, not because the *Order* required NEPA analysis—rather because the issuance of licenses constitutes a major federal action. *See Comment of the Nat’l Trust for Historic Pres.*, J.A. 770. The third comment urged the Commission to consider the cumulative effects of radiofrequency exposure, but did not even mention NEPA. *See Comment of BioInitiative Working Grp.*, J.A. 235-38. The argument that the *Order* required independent NEPA review was never fairly before the Commission.

CONCLUSION

We grant the petitions to vacate the *Order*’s removal of small cells from its limited approval authority and remand to the FCC. We deny the petitions to vacate the *Order*’s changes to Tribal involvement in Section 106 review and to vacate the *Order* in its entirety.

So ordered.

Honorable Members of the City Council, Ms. Kenyon,

- 1) We request Ms. Kenyon disclose to the Council and for the Public record, any conflicts of interest arising from, but not limited to, any financial, professional or personal relationships between herself or her firm Burke Williams & Sorensen LLP, and Mr. Paul Albritton, his law firm Albritton & McKenzie LLP, Verizon, Modus or any of their subcontractors.
- 2) We understand a denial of UP102-18 will create a concern of litigation from Modus/Verizon. A concern is a risk, or a **possibility** (notice the safety concern in excerpt #3 below does qualify an incommode). The risk of litigation is dependent on Verizon accepting the negative publicity it will receive for suing a city over a denied permit during a pandemic, which we as residents will spotlight and magnify in the public eye.

On the other hand, approval of the application will create HAZARDS to aesthetics and property values, which are in NO WAY related to RF emissions. These hazards are proven by three letters signed by three LOCAL realtors on their corporate letterhead. In Attachment H 'Applicant's letter' dated 9/8/20 in the Agenda Packet for 9/14, Mr Albritton cites on page 5 a Joint Venture Silicon Valley Network study trying to say property values will not be affected, however as this study was done in a completely different real estate market than Pacifica, and the signed professional opinion of three local Pacifica real estate professionals is clearly more substantial evidence in a court of law. This is a legitimate reason on its own to deny the application.

These Hazards are not possibilities, but sure realities. If the city denies the application, your residents will be satisfied that their city has their best interests at heart, and I can assure most would not expect any ongoing appeals on the part of the city. We are proud and honored to be Pacificans, and will stand by you if you stand for us.

- 3) There are two recent Supreme Court rulings you should be aware
 - a) T-Mobile vs City of San Francisco. April 4, 2019 (Attachment A)
 - i) Bloomberg article on this decision:
(<https://www.bloomberg.com/news/articles/2019-04-04/san-francisco-can-reject-5g-equipment-it-views-as-too-ugly>)
 - ii) PMC has provisions for preserving the aesthetics and character of our communities
 - (1) PMC **Sec. 9-4.2602** states "The purpose of this article is to provide locational, design and screening criteria to minimize the potential health, safety and **aesthetic impacts** of wireless communications facilities...while remaining consistent with the **scenic character of the City**. This article seeks to **minimize any adverse visual impact** created by wireless communications facilities..."

- (2) PMC **Sec. 9-4.2608(e)(6)(ii)** states “ Equipment facilities shall be located so as not to cause, **inconvenience to the public's use of the right-of-way**, including for persons with disabilities
- (3) PMC **Sec. 9-4.2614(b)(2)** states “That the information submitted **proves that a feasible alternate site** that would result in **fewer visual impacts** does not provide **reasonable signal coverage**”

iii) Excerpts from the ruling:

- (1) (Page 5) *“inherent local police power includes broad authority to determine, for purposes of the public health, safety, and welfare, the appropriate uses of land within a local jurisdiction’s borders.”*
“The local police power generally includes the authority to establish aesthetic conditions for land use”
- (2) (page 8) *“The City has **inherent local police power** to determine the appropriate uses of land within its jurisdiction. That power **includes the authority to establish aesthetic conditions for land use**... We also disagree with plaintiffs’ contention that section 7901’s incommode clause limits their right to construct lines only if the installed lines and equipment would obstruct the path of travel. Contrary to plaintiffs’ argument, **the incommode clause need not be read so narrowly.**”*
- (3) (page 9) *“But travel is not the sole use of public roads; **other uses may be incommoded beyond the obstruction of travel.*** (T-Mobile West, at pp. 355-356.) *For example, lines or equipment might generate noise, cause negative health consequences, or create safety concerns. All these impacts could disturb public road use, or disturb its quiet enjoyment.”*
- (4) (Page 12) *“The ‘**right of telephone corporations to construct telephone lines in public rights-of-way is not absolute.**’* Instead, it is a ‘limited right to use the highways . . . **only to the extent necessary for the furnishing of services to the public.**’ ”
- (5) (Page 14) *“As noted, section 7901 grants telephone corporations the right to install lines on public roads without obtaining a local franchise. The Ordinance does not require plaintiffs to obtain a local franchise to operate within the City. Nor does it allow certain companies to use public roads while excluding others. Any wireless provider may construct telephone lines on the City’s public roads so long as it obtains a permit, which **may sometimes be conditioned on aesthetic approval.** Because section 7901*

says nothing about the aesthetics or appearance of telephone lines, the Ordinance is not inimical to the statute.

(6) (page 17) *"The state Constitution vests principal regulatory authority over utilities with the PUC, but carves out an ongoing area of municipal control. (Cal. Const., art. XII, § 8.) A company seeking to build under section 7901 must approach the PUC and obtain a certificate of public necessity. (§ 1001; see City of Huntington Beach, supra, 214 Cal.App.4th at p. 585.) The certificate is not alone sufficient; a utility will still be subject to local control in carrying out the construction."*

(7) (page 18) footnote 13: *"Among the PUC's express priorities regarding wireless facility construction is that "the public health, safety, welfare, and zoning concerns of local government are addressed." (General Order 159A, supra, at p. 3.)"*

b) UNITED KEETOOWAH BAND OF CHEROKEE INDIANS ET AL., v. FEDERAL COMMUNICATIONS COMMISSION August 9 2019 (Attachment B)

- i) Press release by Intervenor at ehtrust.org:
<https://ehtrust.org/for-immediate-release-appeals-court-unanimously-overturns-fcc-effort-to-eliminate-nepa-and-historic-review/>
- ii) The United States Court of Appeals FOR THE DISTRICT OF COLUMBIA CIRCUIT in case 18-1129 found that the "FCC Order 18-30 was arbitrary and capricious and, therefore, unlawful". Consequently, the Court vacated FCC Order 18-30, thereby reinstating prior NEPA law requirements such as requiring an **Environmental Assessment** of densified 4G + 5G cell tower deployment. Since Verizon and AT&T and any other cell provider spectrum license is obtained at the FCC, the placement, construction and/or modification of any so-called 5G/4G Small Cells, also known as, "Small" Wireless Telecommunication Facilities (WTF) anywhere in the US, including the City of Pacifica, is considered a part of a federal undertaking. **This August 9, 2019 DC Circuit decision mandates environmental review by the FCC of the fully-envisioned network of these so-called "Small" Cells/"Small" WTF throughout the City.**

As I mentioned in my presentation before the Council 7/13, there is no way this denial can be interpreted as effective prohibition, as we are in fact asking for a more expansive improvement in our valley's verizon cellular service, with less intrusive remedies more similar to ones already used in our city. This application does not provide any defined new or additional services, and

while I agree we need better cellular coverage, this application has not proven through any legal definitions a *significant gap in coverage or capacity deficiency*. The technically *insignificant* gap in coverage that they have demonstrated, extends over the entire area between Park Pacifica Ave and Crespi Way, and can be improved by less intrusive means using different equipment that the applicant can propose with another application.

Thank you for your time on this important matter,

Sunil Bhat

Cal Coast for Responsible Tech

Brooks, Elizabeth

From: Coffey, Sarah
Sent: Friday, September 11, 2020 8:49 AM
To: Public Comment
Cc: Wehrmeister, Tina; Murdock, Christian; O'Connor, Bonny; Kenyon, Michelle; Woodhouse, Kevin; Bazzano, Denise
Subject: FW: additional images and letters from redwood residents
Attachments: additional letters (exhibit c supplement).pdf; additional images redwood way (attachment J supplement).pdf

From: Sunil Bhat [REDACTED]
Sent: Friday, September 11, 2020 1:10 AM
To: _City Council Group <CityCouncil@ci.pacifica.ca.us>; Coffey, Sarah <coffeys@ci.pacifica.ca.us>
Subject: additional images and letters from redwood residents

[CAUTION: External Email]

additional images and letters from Redwood that were not included on the agenda packet are attached

Sunil Bhat D.O.

Osteopathictouch.com
Board Certified Osteopathic Family Medicine
Board Certified Osteopathic Neuromusculoskeletal Medicine

Sent with [ProtonMail](#) Secure Email.

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Rejecting the “Verizon Small Cell Facility on Redwood Way”

Received: Wednesday, July 8, 2020 7:38 PM

From: [REDACTED]

To: [REDACTED]

CC: [REDACTED]

Sent from my iPad

June Kafka

[REDACTED] Pacifica, 94044

Dear City Planning Commission of Pacifica,

My name is June Kafka, and I am on the same side of the street, and next door to, Lena Koenig and Haiko Ritter at [REDACTED]. When we look out our kitchen window we will see the Verizon Small Cell Facility partially blocking our view of the mountains. It will lower the value of our house, and the houses in the neighborhood, making it less desirable to live there. It is easy to see, that Pacifica has many hills away from residential areas that could accommodate the Small Cell Facility, and it would not take too much of Verizon's time to research the idea of using a telephone pole that is farther away from residential areas. A business area would be better. There is a Small Cell Facility in Pedro Point connected to a telephone pole, near the Ace Hardware Store. It is in a business area, and is not as noticeable as people are busy with everyday business, and not enjoying the beauty around them. Several people on Redwood Way have recently spent time, labor and money, to fix up their houses, and they have homeowner pride, which should be respected and valued to help make Pacifica more beautiful. I am a long time member of The Pacifica Garden Club and we spent our time and money to put beautiful flowers in the front of the Community Center to help beautify Pacifica. I for one, go down there on a regular basis to water and weed. I have pride in a beautiful Pacifica. The Small Cell Tower will be an eyesore to myself, My neighbors and to Pacifica. It will lower the value of our homes. Respectfully, I will ask you to
Please take time to reconsider, and support rejecting the application for the Verizon Small Cell facility on Redwood Way, (that could easily be changed to a 5G without the vote of the people).

Thank You,

June Kafka, (Member of the Pacifica Garden Club)

Small Cell Facility

Received: Wednesday, July 8, 2020 8:22 PM

From: [REDACTED]

To: [REDACTED]

My name is Dennis Kafka I listened very carefully to all that was said on the Zoom Video and was very pleased to hear the negative tone, thinking very late into this meeting that this project will most likely fail. The councilman that seemed to be one of the most educated of the members related to this project, stated that his main objection is the fact that it is ugly, or an eyesore project. He also stated that this will lower the home values in the Redwood Way area. I was suddenly surprised to hear these comments and a moment later the project was approved. This same councilman corrected the modus representative when she falsely claimed that there is no other cell site in Pacifica like this one. It is directly in front of Ace Hardware in Linda Mar and it is ugly, but acceptable for a business location. The Verizon modus representative responded to another question in an unbelievable manner. She was asked, why this site location is not being considered near Ortega School or on their grounds? She responded with words similar to, Verizon doesn't want to get into it with teachers, and the parents of their students. I didn't memorize her exact words, but they were similar to Verizon would just open a can of worms if they tried to install this site anywhere near that school. The Verizon modus ladies reply, put a question in my mind. Are all of these educated teachers and the educated parents of these many children gong to be absolutely a positive no vote, for the reason of aesthetics. The view of it, while dropping off their children is horrifying. They can't imagine seeing it daily for 10 seconds two times per day, if they happen to glance in the direction of the pole, while watching their children avoid cars in the parking lot. I live at [REDACTED] and I don't want it installed there either! Thank you very much for your attention. Sincerely
Dennis Kafka

Sent from my iPad

July 8, 2020

Dear Pacifica City Council members,

Our home is within the 1,000 foot range of the utility pole where an 8 foot Verizon antenna is scheduled to be installed. We oppose the location of the antenna. It will hurt our home value by as much as 25%. It would have to be listed in disclosures, and at present market prices that would mean that some townhome owners are facing a \$200,000 loss. We understand there is no compensation for lost property values. You can't let this happen!

The location at a school is also troubling as many families with children will not want to buy a home in the district where antennas are on school's grounds. Presently this location is ideal for school families but that will change with the antenna looming over campus. Many parents with young children living in nearby townhomes are Terra Nova graduates who plan for their children to attend the school in the future. It's very sad to see this happen to this beloved school that generations of Pacificans have attended.

Please consider reversing the approval and please adopt municipal code that promotes fiber optics (light!) as an underground alternative to 5G antennas whenever possible. Petaluma passed ordinance that keeps the antennas away from schools and daycares—we hope Pacifica will do the same.

Thank you,

Lisa M Mendez, 54 year resident.

██████████ Pacifica CA

Brooks, Elizabeth

From: Coffey, Sarah
Sent: Friday, September 11, 2020 12:25 PM
To: Public Comment
Cc: Wehrmeister, Tina; Murdock, Christian; O'Connor, Bonny; Woodhouse, Kevin; Kenyon, Michelle; Bazzano, Denise
Subject: FW: 5G small cell installation at 1307 Redwood Way
Attachments: 5G small cell concern.pdf

-----Original Message-----

From: Mike Byrnes [REDACTED]
Sent: Friday, September 11, 2020 12:14 PM
To: _City Council Group <CityCouncil@ci.pacifica.ca.us>; Coffey, Sarah <coffeys@ci.pacifica.ca.us>
Subject: 5G small cell installation at 1307 Redwood Way

[CAUTION: External Email]

Dear Pacifica City Council Members,

I am asking you to please take a few minutes of your time and read the attached document I have put together. I've attempted to make it as factual as possible—checking sources. It lays out my view of what is going on with this small cell deployment. I realize the very difficult situation the FCC ruling has put you in. I do believe that this is our moment, to try to do something, to do the right thing.

Thank you for your time,
Mike Byrnes

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Dear Pacifica City Council Members,

Who are we to believe? I pose that question to you regarding the safety of 5G, as these small cells are in the process of being deployed in our Pacifica neighborhoods.

Surely the FCC with its Declaratory Ruling in 2018 stating it was “accelerating wireless broadband deployment by removing barriers to infrastructure” would not do it if it was not safe, or would they? They are not scientists, or medical professionals, but rather ex telecom lawyers and executives. The present chairman Ajit Pai was once general counsel for Verizon. In that same ruling, and I quote “the FCC is committed to doing our part to help ensure the US wins the global race to 5G to the benefit of all Americans”. Is it really to benefit all Americans, or is the motive more about money and profit?

In 2019 the US senate pushed back on the FCC’s ruling. In February, at a senate commerce meeting on the future of 5G technology, Senator Blumenthal blasted the FCC for failing to conduct any research into the safety of 5G technology. He ended the exchange by stating “So there really is no research ongoing. We’re kind of flying blind here, as far as health and safety is concerned”.

This sounds to me like our health and safety was not of primary, or perhaps any concern, of the FCC. Just deploy it, see what happens. I believe the scientific word for it is “human subject research”, I call it being a guinea pig. We deserve to know what the health risks are.

That FCC ruling stating it was “removing barriers to entry” basically means that towns and communities, like Pacifica, will have a much harder time controlling if, when, and how these small cells will be installed.

Senator Feinstein realized that and in July of 2019 she introduced senate bill 2012 titled Restoring Local Control over Public Infrastructure Act. This act would restore state and local government control over how wireless carriers deploy 5G equipment on phone and utility lines, and overturn the FCC ruling. In her words “state and

local governments have long regulated what goes on utility poles and how to manage the equipment. This is because they are in the best position to determine the safety and evaluate the impact of additional equipment, lines and chemicals. Our bill would restore state and local control of these decisions-where it belongs”.

So I ask again, who are we to believe?

On October 17, 2019 Scientific American published an article titled We Have No Reason to Believe 5G is Safe. The article mentions the 5G Appeal, which is a group of scientists from around the world who warn of potential serious health effects of 5G. They state “We, the undersigned scientists, recommend a moratorium on the roll-out of the fifth generation, 5G, for telecommunication until potential hazards for human health and the environment have been fully investigated by scientists independent from industry”.

On June 17, 2020 over 400 US medical professionals signed and sent a letter to the FCC stating that “Americans are entitled to know the full extent of any potential health risks associated with exposure to RF microwave radiation, particularly at this time when wireless companies are busy installing hundreds of thousands of new wireless antennas in close proximity to homes and apartments. The determination of risk can best be evaluated from properly conducting independent studies. The alternative of waiting for decades to learn whether or not these exposures increase disease rates in human populations and in the natural world is a dangerous and irresponsible strategy”.

While there are varying opinions, and unknowns, concerning long term health effects of exposure to 5G small cell radiation all sides agree that the closer you are to these towers, and the longer the duration, the greater the health risk. What is also agreed upon is that children are more vulnerable. They have 2-5 times the absorption rate. Their skulls are thinner, and their organs and brains are in the developmental stages. This makes them particularly vulnerable to the radiation being emitted from the 5G small cells.

I've lived at [REDACTED] in Pacifica for the past 35 years. Not long ago a new couple purchased the home at 1307 Redwood Way. They are a welcomed addition to the block, inviting neighbors over to meet them, their friends, and their family. Recently married they are the proud parents of a baby boy, [REDACTED].

[REDACTED] is 7 months old now, in those wonderful early stages of life where everything is new. His brain is developing rapidly, as is the rest of his body. He is amazed by this new world around him, and he looks to his parents to provide for him, and keep him safe.

Now the FCC has given the green light to Verizon to put a 5G small cell transmitter 17 feet from his second story bedroom window! Twenty four hours a day, seven days a week his bedroom will be hit with radiofrequency radiation. It's appalling to me that this is even being considered!

So I'm asking you as the leaders of our town to intercede here and deny the decision of the Planning Commission. Alternatively, modify the decision as to create more distance between these cell towers and our homes.

Thank You,
Mike Byrnes

Brooks, Elizabeth

From: Sunil Bhat [REDACTED]
Sent: Friday, September 11, 2020 2:19 PM
To: Public Comment; _City Council Group
Subject: 9/11 public comment for closed meeting agenda item
Attachments: Map 2 Measured Existing Consumer Signal Data.pdf

[CAUTION: External Email]

Honorable Members of the City Council,

Im sorry that I could not include this with the last comment, as I was only now able to finish reading through "attachment H applicant's letter"

In this letter

Mr Albritton makes a number of unfounded claims which show that the risk for litigation is not as high as you may suspect.

III.

Verizon Wireless is Authorized to Place the Approved Facility in the Public Right-of-Way Pursuant to State Law

Please

see the last comment regarding Tmobile vs San Francisco and the Right to use the public-right-of-way as not being absolute, and subject to aesthetic compliance with municipal code.

IV.

Appellant Presents No Substantial Evidence To Warrant Denial.

A.

The Approved Facility Complies with the Code's Aesthetic Standards.

PMC

calls in multiple places for installations to be minimally visually intrusive, including minimizing visual impacts from PROWS.

The site at Terra Nova High is minimally visually intrusive as it is not visible from many residences. The redwood site is visible from MANY residences

B.

Radio Frequency Emissions and Proxy Concerns over Property Values Cannot Be a Factor for Denial.

Radiofrequency

Emissions is NOT a concern over Property values, and has never been construed as such in the public record. Concerns are based on professional statements from real estate professionals in the local market.

C.

There is a Significant Gap in Verizon Wireless Service.

Mr.

Albritton admits in this letter that the gap in coverage claim is from the map (attached) labeled "existing AWS signal measured by consumer devices" if these are consumer devices, then it is impossible to know if the areas of no color are due to a resident

not having service, or that home not having a verizon customer in it. There is NO evidence in the public record of any pacifica residents on redwood way asking for this installation for better service at their homes.

D.

The Approved Facility Is the Least Intrusive Alternative in the Right-of-Way.

Since

the gap in coverage cannot be the uncolored areas of the map then the gap must be the red areas of this map, which extend from Crespi Dr to Park Pacifica Ave. the least intrusive remedy for this will be an alternate location with any equipment of Verizon's

choosing to close the entire gap.

V.

Denial Would Constitute an Unlawful Prohibition of Service.

We

are asking for an alternate location using any equipment verizon would like to use to close the entire gap. This along with the fact that the city just approved a facility at Terra Nova Highschool shows that the city is not prohibiting any provision of services

VI.

Denial Would Constitute Unreasonable Discrimination against Verizon Wireless.

Again,

the fact that the city just approved a facility at Terra Nova Highschool shows that the city is not discriminating against carriers.

Thank

you,

Dr.

Bhat

Sunil Bhat D.O.

Osteopathictouch.com

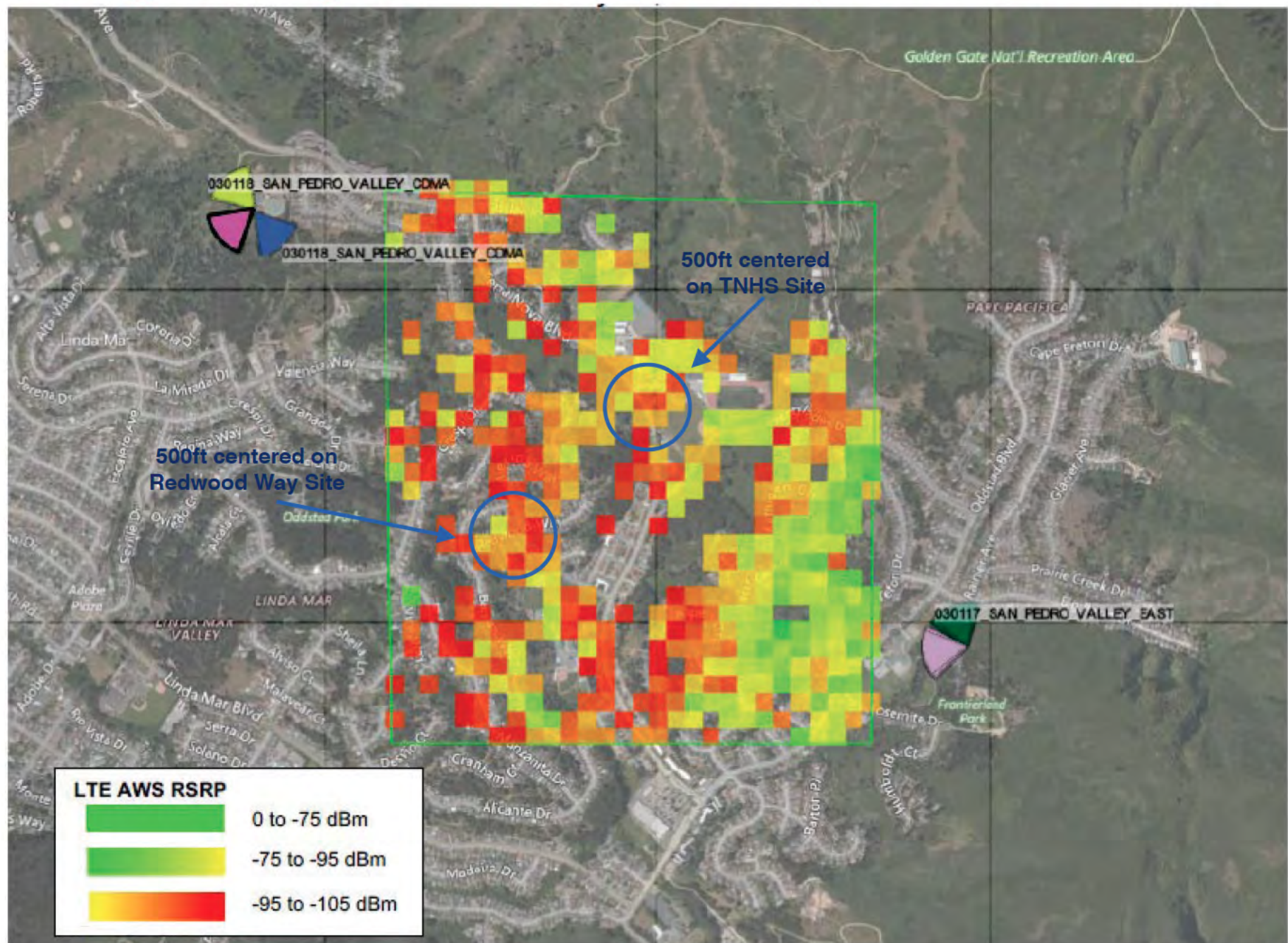
Board Certified Osteopathic Family Medicine

Board Certified Osteopathic Neuromusculoskeletal Medicine

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Existing AWS Signal Level Measured by Customer Devices



From: Heiko and Lena Ritter Koenig [REDACTED]
Sent: Friday, September 11, 2020 6:31 PM
To: Public Comment
Subject: Appeal of Verizon small cell facility on 1307 Redwood Way (TO BE READ ALOUD)

[CAUTION: External Email]

Dear Pacifica Council members and Commissioners,

We are writing today in support of the appeal to deny Verizon's application for installing a small cell facility on 1307 Redwood Way. Our names are Heiko Ritter and Lena Koenig and we are the property owners of the sited location. We have two children, a teenager and newborn who's rooms would face the cellular facility, less than 20 feet away, if you allow Verizon to build it. We have been in contact with hundreds of fellow neighbors who also oppose this application on our block and urge you take their correspondence seriously.

There is multiple published sources that confirm that our property's value as well as fellow neighbor's properties values will be negatively affected by the installation of this cellular facility. We have also received confirmation from various realtors in the area that the proposed cellular facility will devalue our property.

Heiko is a middle school science teacher and I am a small business owner who have worked hard our whole lives to create this home for our family. To have Verizon roll in (a company with a cap market valuation of about 250Billion) force a cellular facility on the easement of our property that will devalue our home is extremely unfair for us as the homeowners. NO PACIFICA HOMEOWNER should have to go through this and if you deny the appeal you are setting this problem up for dozens of other Pacifica residents. Verizon should be respecting us as customers and thoughtfully place their equipment in areas that does not hurt the value of our homes, destroy the aesthetic of our blocks and create a disturbance in our communities. As you are already aware this issue has cause great stir in the community and many homeowner will speak up about it. Verizon has the resources to build roads or new towers in open pasture and fields if necessary. They should not be putting the financial burden on the residents. They are simply doing what is easiest for them with total disregard of the community. That is not ethically right.

I've included a few published articles confirm that these cellular facilities do in fact devalue property. I also have a handful of realtors and brokers that have provided letters that claim a devaluation of our property if you allow Verizon to build their cellular facility on the easement of our property.

We respectfully urge you to take full consideration of the big picture; of the immediate detrimental outcome in allowing Verizon to build this facility as well as the long term consequences you will be setting the city up for. Please listen to voices of Pacifica homeowners and support our appeal.

Thank you,
Lena Koenig & Heiko Ritter



national association for realtors letter on 5G, June 24, 2019

<https://magazine.realtor/daily-news/2019/06/24/nar-fcc-s-5g-plan-could-hurt-property-owners>

Journal of Real Estate Finance & Economics, May 1, 2018

https://ideas.repec.org/a/kap/jrefec/v56y2018i4d10.1007_s11146-017-9600-9.html

Land Economics, Feb. 2016

<https://gatonweb.uky.edu/Faculty/blomquist/LE%202016%20Locke%20Blomquist%20towers.pdf>

national association for realtors letter Cell Towers, Antennas problematic for Buyers, July 15, 2014

<https://magazine.realtor/daily-news/2014/07/25/cell-towers-antennas-problematic-for-buyers>

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Brooks, Elizabeth

From: Sarah English [REDACTED]
Sent: Sunday, September 13, 2020 8:57 AM
To: Public Comment
Subject: 5G in Pacifica

[CAUTION: External Email]

To whom it may concern,

I do not want cell antennas on mine, or anyone's driveway in Pacifica. This is not ok, there are clearly better options for service as well as 5G. Deny the antenna at Redwood and update our ordinances now to protect our homes.

Sarah English
Resident since 2006

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Brooks, Elizabeth

From: June Kafka [REDACTED]
Sent: Sunday, September 13, 2020 9:08 AM
To: Public Comment
Subject: 9/14 City Council Meeting Agenda Item 14 Public Comment

[CAUTION: External Email]

I do not want cell antennas on mine, or anyone's driveway in Pacifica. This is not ok. Deny the antenna at Redwood and update our ordinances now

Sent from my iPad

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Brooks, Elizabeth

From: DENNIS KAFKA [REDACTED]
Sent: Sunday, September 13, 2020 9:09 AM
To: Public Comment
Subject: 9/14 City Council Meeting Agenda Item 14 Public Comment

[CAUTION: External Email]

I do not want cell antennas on mine, or anyone's driveway in Pacifica. This is not ok. Deny the antenna at Redwood and update our ordinances now

Sent from my iPad

CAUTION: This email originated from outside of the City of Pacifica. Unless you recognize the sender's email address and know the content is safe, do not click links, open attachments or reply.

Brooks, Elizabeth

From: Irene Monahan [REDACTED]
Sent: Sunday, September 13, 2020 10:33 AM
To: Public Comment
Subject: Pacifica Cell Tower

[CAUTION: External Email]

I do not want cell antennas on mine, or anyone's driveway in Pacifica. This is not ok, there are clearly better options for service as well as 5G. Deny the antenna at Redwood and update our ordinances now to protect our homes.

Irene Monahan

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Brooks, Elizabeth

From: Diana McAllister [REDACTED]
Sent: Sunday, September 13, 2020 12:06 PM
To: Public Comment
Subject: 9/14 City Council Meeting Agenda Item 14 Public Comment

[CAUTION: External Email]

Hello,

I am a Pacifica resident. I do not support allowing Verizon or any other cell provider from placing antenna towers in close proximity to any single-family home or apartment complex. I ask that you deny the antenna at Redwood and update our ordinances to ban the implementation of any close-proximity towers.

Thank you,

Diana McAllister
[REDACTED] Pacifica

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Brooks, Elizabeth

From: donna j. Wagner [REDACTED]
Sent: Sunday, September 13, 2020 12:39 PM
To: Public Comment
Subject: cell antennas on residential property

[CAUTION: External Email]

To whom it may concert

I'm writing as a resident and taxpayer; i'd like to state my objection to having cell antennas in residential areas (especially not in driveways). It isn't necessary, it isn't wanted, and if these are being placed on private property where the homeowners are against it, it needs to not happen

Thank you for taking this under advisement

Donna J Wagner
Salada ave
Pacifica, Ca

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Brooks, Elizabeth

From: James McAllister [REDACTED]
Sent: Sunday, September 13, 2020 12:42 PM
To: Public Comment
Subject: Cell tower approval scheduled for 9/14/20

[CAUTION: External Email]

Dear Council members,

I understand that Verizon is petitioning for approval to erect new cell towers utilizing 5G technology. Most studies have not shown a direct correlation between cell site radiation and health risks. The unknown question is whether more cell sites will increase the risk. As I understand it a 5G network will require substantially more cell sites, perhaps one on each phone pole, to operate effectively. It also operates at a much higher frequency. Although it is still considered non-ionizing radiation which, in most circumstances, does not alter cell structures, as the frequency increases the potential for damage also increases. Good studies take time and resources to compile and to date there are few available and they tend to be inconclusive. Although I do not necessarily oppose the sites I feel the burden of proof should be placed on Verizon's shoulders to show that the system is not harmful. Pacifica should proceed with caution towards the rollout of a new untested system.

Sincerely,
James McAllister
[REDACTED]

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Brooks, Elizabeth

From: Tierra [REDACTED]
Sent: Sunday, September 13, 2020 1:02 PM
To: Public Comment
Subject: 9/14 City Council Meeting Agenda Item 14 Public Comment

[CAUTION: External Email]

I do not want cell antennas on mine, or anyone's driveway in Pacifica. This is not ok. Deny the antenna at Redwood and update our ordinances now

Sent from ProtonMail Mobile

CAUTION: This email originated from outside of the City of Pacifica. Unless you recognize the sender's email address and know the content is safe, do not click links, open attachments or reply.

Brooks, Elizabeth

From: Boris Dimitshcheyn [REDACTED]
Sent: Sunday, September 13, 2020 1:08 PM
To: Public Comment
Subject: 9/14 City Council Meeting Agenda Item 14 Public Comment

[CAUTION: External Email]

I do not want cell antennas on mine, or anyone's driveway in Pacifica. This is not ok, there are clearly better options for service as well as 5G. Deny the antenna at Redwood and update our ordinances now to protect our homes.

Boris Dimitshcheyn
[REDACTED]

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Brooks, Elizabeth

From: Lorraine Bannister [REDACTED]
Sent: Sunday, September 13, 2020 2:32 PM
To: Public Comment
Subject: 9/14 City Council Meeting Agenda Item 14 Public Comment

[CAUTION: External Email]

Honorable Members of the Pacifica City Council, and Planning Commission,

I do not want cell antennas on mine, or anyone's driveway in Pacifica. This is not ok. Deny the antenna at Redwood and update our ordinances now

Respectfully,
Lorraine Bannister
[REDACTED]
Pacifica, CA 94044

--

Lorraine Bannister
Realtor #01119087
Better Homes and Gardens/JFF Realtors
650 455-1300 mobile
Lorraine@gobhg.com
www.LorraineBRealEstate.com
Facebook|LinkedIn|Twitter|Yelp|Instagram

Note: I have not and will not verify or investigate information provided by third parties.

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Brooks, Elizabeth

From: Marci Karr [REDACTED]
Sent: Sunday, September 13, 2020 2:59 PM
To: Public Comment
Subject: 9/14 City Council Meeting Agenda Item 14 Public Comment

[CAUTION: External Email]

Dear City Council members,

I do not want cell antennas on mine, or anyone's driveway in Pacifica. This is not ok. Deny the antenna at Redwood and update our ordinances now

Sincerely,

Marcia Karr

Sent from my iPhone

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Brooks, Elizabeth

From: Jim Durkan [REDACTED]
Sent: Sunday, September 13, 2020 3:51 PM
To: Public Comment
Subject: 9/14 City Council Meeting Agenda Item 14 Public Comment

[CAUTION: External Email]

City Council Members,

I do not want cell antennas on mine, or anyone's driveway in Pacifica. This is not ok, there are clearly better options for service as well as 5G. Deny the antenna at Redwood and update our ordinances now to protect our homes.

Thanks,
Jim Durkan
[REDACTED]

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Brooks, Elizabeth

From: Michelle Desaulniers [REDACTED]
Sent: Sunday, September 13, 2020 4:01 PM
To: Public Comment
Subject: 9/14 City Council Meeting Agenda Item 14 Public Comment

[CAUTION: External Email]

Dear City Council,

I do not want cell antennas on mine, or anyone's driveway in Pacifica. This is not ok, there are clearly better options for service as well as 5G. Deny the antenna at Redwood and update our ordinances now to protect our homes.

Michelle Desaulniers

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Brooks, Elizabeth

From: donna stoddard [REDACTED]
Sent: Sunday, September 13, 2020 4:40 PM
To: Public Comment
Subject: Pacifica Driveways
Attachments: image1.jpeg

[CAUTION: External Email]

D.m.s, M.S. NASM-PES, AFAA

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Subject: 9/14 City Council Meeting Agenda Item 14 Public Comment

Message:

I do not want cell antennas on mine, or anyone's driveway in Pacifica. This is not ok, there are clearly better options for service as well as 5G. Deny the antenna at Redwood and update our ordinances now to protect our homes.

Brooks, Elizabeth

From: Bill Soares [REDACTED]
Sent: Sunday, September 13, 2020 1:57 PM
To: Public Comment
Subject: Cell Antennas

[CAUTION: External Email]

I do not want cell antennas on mine, or anyone's driveway in Pacifica. This is not ok, there are clearly better options for service as well as 5G. Deny the antenna at Redwood and update our ordinances now to protect our homes.

Sincerely,
Jose Soares
[REDACTED]

Sent from my iPad

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Brooks, Elizabeth

From: Diane Fenster [REDACTED]
Sent: Sunday, September 13, 2020 5:57 PM
To: Public Comment
Subject: 9/14 City Council Meeting Agenda Item 14 Public Comment

[CAUTION: External Email]

Dear City Council:

We do not want cell antennas on mine, or anyone's driveway in Pacifica. This is not ok, there are clearly better options for service as well as 5G. Deny the antenna at Redwood and update our ordinances now to protect our homes.

Diane Fenster
Wendell Stryker
[REDACTED]
Pacifica, CA 94044

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Brooks, Elizabeth

From: elizabeth rubenstein [REDACTED]
Sent: Sunday, September 13, 2020 6:39 PM
To: Public Comment
Subject: NO 5G towers in residential areas

[CAUTION: External Email]

I do not want cell antennas on mine, or anyone's driveway in Pacifica. This is not ok, there are clearly better options for service as well as 5G. Deny the antenna at Redwood and update our ordinances now to protect our homes.

Elizabeth Rubenstein & Family
Park Pacifica

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Brooks, Elizabeth

From: Vicky Tucci [REDACTED]
Sent: Sunday, September 13, 2020 6:44 PM
To: _City Council Group; Public Comment
Subject: 9/14 City Council Meeting Agenda Item 14 Public Comment

[CAUTION: External Email]

Dear City Council,

I do not want cell antennas on mine, or anyone's driveway in Pacifica. This is not ok, there are clearly better options for service as well as 5G. Deny the antenna at Redwood and update our ordinances now to protect our homes.

I'll take it even further to add that I don't think we need any additional towers anywhere in Pacifica. Please remember there is an election coming up and this year has been a very pivotal year for the status quo.

--

Victoria Tucci

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Brooks, Elizabeth

From: Joe Tucci [REDACTED]
Sent: Sunday, September 13, 2020 8:10 PM
To: _City Council Group; Public Comment
Subject: 9/14 City Council Meeting Agenda Item 14 Public Comment

[CAUTION: External Email]

Dear City Council Members,

I do not want cell antennas on mine, or anyone's driveway in Pacifica. This is not ok, there are clearly better options for service as well as 5G. Deny the antenna at Redwood and update our ordinances now to protect our homes.

Thank you.

Joe Tucci

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Brooks, Elizabeth

From: Monica Kibbe [REDACTED]
Sent: Sunday, September 13, 2020 8:56 PM
To: Public Comment
Subject: 9/14 City Council Meeting Agenda Item 14 Public Comment

[CAUTION: External Email]

I do not want cell antennas on mine, or anyone's driveway in Pacifica. This is not ok, there are clearly better options for service as well as 5G. Deny the antenna at Redwood and update our ordinances now to protect our homes.

Monica Kibbe
Sheila Lane, Pacifica

Sent from [Mail](#) for Windows 10

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Brooks, Elizabeth

From: [REDACTED]
Sent: Sunday, September 13, 2020 9:04 PM
To: Public Comment
Subject: 9/14 City Council Meeting Agenda Item 14 Public Comment

[CAUTION: External Email]

I do not want cell antennas on mine, or anyone's driveway in Pacifica. This is not ok, there are clearly better options for service as well as 5G. Deny the antenna at Redwood and update our ordinances now to protect our homes.

Thank you
Jennifer

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Brooks, Elizabeth

From: [REDACTED]
Sent: Sunday, September 13, 2020 9:43 PM
To: Martin, Deirdre; Bier, Mary; Vaterlaus, Sue; Beckmeyer, Sue; O'Neill, Mike; Public
Subject: Comment
public comment item #14 Redwood Way appeal

[CAUTION: External Email]

Dear Deirdre, Mike, Sue V., Mary, and Sue B.,

I hope this finds you well, and with good energy to rest, and to meet the new day. It must be an incredibly hard time to serve on the City Council. You've been coping with and leading in this unexpected, strange time. Before I jump in to my "business" comments, I wanted to acknowledge that you deserve a shout-out.

My effort previously in sending you screen shots identifying the antennas as macro layer 5G equipment, was to show that Verizon masquerades the small cells as upgrades to existing 4G and cell service, to skirt CEQA and NEPA requirements. They're doing it all over the country as they roll out 5G.....not just here.

That's important because of how these poles will look.

Their renderings don't even show the 3x2x2 boxes that come with the 7 1/2 foot (eventually 15 foot and multiple antenna) equipment once they start renting that real estate to the other carriers.

So many homes in Pacifica will have those in their view when they look down onto the valleys and the ocean, or look up toward the mountains and the sky.

At Verizon's informational Zoom meeting the facilitator, Maureen, asked us to send questions to their Pacifica website and they would LOVE to answer those. I emailed them, twice now, no reply. Maybe they didn't like my questions. Instead of, "....SOOO excited, how fast will my party pics hit my Instagram, and will my likes be there before my posts?" they got,

- 1.-if a fire takes out a macro tower, will a small cell that works off that macro work? NA
- 2.-Verizon does provide fiber optic services in other parts of the country <https://fios.verizon.com/>. Why not here? NA
- 3.-If the antennas COULD communicate WIRELESSLY point-to-point given the terrain, WOULD they do so, and if not, would they use fiber? NA
- 4.-Other carriers like T-mobile and Google-Fi allow cell phones to transmit voice over IP through (home) WiFi connections. Why hasn't/can't Verizon enable this capability on their phones and network, and wouldn't this allow for better voice coverage in your service areas, ensuring better voice coverage and access for emergencies? NA

I really wanted those answers before this meeting. They're important, because there are safer ways to make us safer (not a typo); to solve coverage problems and bridge us to new technology, without making Pacifica look like an industrial city; and to ensure our devices will work when small cells can't, especially in emergencies.

Please have courage. Future Pacificans will thank you. Please support the appeal. Say no to small cells at our homes. I hope that tomorrow we can breathe a collective sigh of relief, and the next day, start working together for a brighter future.

The coalition is made up of many parents with young children, and some like me, with grandchildren. They rely on their cell phones, they use the technology, and they understand it. They just want to make it safer.... more reliable..... less intrusive, to build a better world for the children, and preserve the natural beauty of our home town.

Warmly,

Linda Prisajni

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Brooks, Elizabeth

From: Kathleen Tullius [REDACTED]
Sent: Sunday, September 13, 2020 10:20 PM
To: Public Comment
Subject: Cellphone Towers

[CAUTION: External Email]

Dear Council:

I must say, I was surprised to hear that Verizon applied to have 8 cell towers in Pacifica neighborhoods. One would think that a better location could be found that is not 14 feet away from a child's bedroom? I was then shocked to discover that one of the applications was for NEXT DOOR to my HOME! I live in Pacifica and I work in Pacifica and yes, cell phone coverage in Pacifica is spotty at best. But why was no one notified about this? I hate to sound as though I am one of those "not in my backyard" folks – but seriously – facing a 2% to 20% decline in the value of MY house is NOT acceptable. Please vote NO on the applications from Verizon for cell towers in neighborhoods next to residential homes. Would you want one next door to your home? I DO NOT want it next door to mine!


Thank you for your consideration.

Sincerely,

Kathleen Tullius ...



Kathleen Tullius



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Brooks, Elizabeth

From: Antoinette [REDACTED]
Sent: Sunday, September 13, 2020 10:51 PM
To: Public Comment
Subject: 9/14 City Council Meeting Agenda Item 14 Public Comment- In Support of the Appeal against Verizon's cellular facility

[CAUTION: External Email]

I do not want cell antennas on mine, or anyone's driveway in Pacifica. This is not ok, there are clearly better options for service as well as 5G. Deny the antenna at Redwood and update our ordinances now to protect our homes.

Antoinette Cresci
Pacifica Resident

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Brooks, Elizabeth

From: Rick May [REDACTED]
Sent: Sunday, September 13, 2020 11:26 PM
To: Public Comment; _City Council Group; Martin, Deirdre; Beckmeyer, Sue; Vaterlaus, Sue; Bier, Mary; O'Neill, Mike; Nibbelin, John; Berman, Lauren; Bigstych, Tygarjas; Godwin, James; Hauser, Samantha; Leal, David; Murdock, Christian; O'Connor, Bonny; Gannon, Helen; Aggarwal, Ranu; Montemayor, Joshua; Wehrmeister, Tina
Subject: 9/14 City Council Meeting Agenda Item 14 Public Comment

[CAUTION: External Email]

Dear Pacifica Council Members and Planning Commissioners,

Please deny this new small cell installation at 1307 Redwood Way. We should not be putting our fellow residents at risk, especially a new baby for better coverage. See the below information regarding Fire Fighters (ONLY) exemption for this in the US.

The firefighter exemption tells the tale.....

For the first time in U.S. history, a health exemption has been granted to firefighters for their stations in California. The state's firefighters have a history dating back to the late 1990s of fighting to get cell towers off their stations, and in a preemptive move the firefighters asked for and the legislators granted an exemption from SB 649.

See published article below:

<https://www.odwyerpr.com/story/public/9385/2017-09-13/firefighters-exempt-selves-from-calif-bill-save-others.html>

Calif. Firefighters Have Fought Cell Towers

California firefighters have a strong 17 year history of fighting cell towers on their stations, beginning in 2000 when a small fire department sued Nextel for health damages related to neurological impairment after towers were activated adjacent to their stations.

The men suffered from headache, insomnia, brain fog, getting lost in the same town they grew up in, sometimes forgetting protocol in routine medical procedures, mood swings and infertility.

In 2004 a SPECT brain pilot study was conducted on California firefighters who had lived in the shadow of a tower for over five years. The study, conducted by Gunnar Heuser, MD, PhD, found brain abnormalities in all six men, including delayed reaction time, lack of impulse control, and cognitive impairment.

Please do not put your Pacifica residents at Risk.

Sincerely,

Rick May



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Brooks, Elizabeth

From: KRISTA [REDACTED]
Sent: Monday, September 14, 2020 8:32 AM
To: Public Comment
Subject: Antennas

[CAUTION: External Email]

Please, NO cell antennas on private driveways in Pacifica neighborhoods starting with the one on Redwood Way. This is too intrusive and is unnecessary. Better ways for better days ahead!

Krista Markowitz
[REDACTED]

Sent from my iPad

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Brooks, Elizabeth

From: Coffey, Sarah
Sent: Monday, September 14, 2020 8:57 AM
To: Public Comment
Cc: Wehrmeister, Tina; Murdock, Christian; O'Connor, Bonny; Kenyon, Michelle; Bazzano, Denise; Woodhouse, Kevin
Subject: FW: Please review my presentation prior to the appeal if possible - from Sunil Bhat
Attachments: 9_14 appeal slides.pdf

From: Sunil Bhat [REDACTED]
Sent: Saturday, September 12, 2020 11:35 PM
To: _City Council Group <CityCouncil@ci.pacifica.ca.us>; Coffey, Sarah <coffeys@ci.pacifica.ca.us>; Brooks, Elizabeth <brookse@ci.pacifica.ca.us>
Subject: Please review my presentation prior to the appeal if possible

[CAUTION: External Email]

these 22 slides rebut every one of Mr. Albritton's points in his letter, showing you that his threat of litigation severely overblown. I will encourage you to ask Ms. Kenyon to review this against his letter prior to the appeal.

I also understand it will be a very long night, as the previous hearing is a very contentious one as well. This is unfortunate since i know many of our residents with children will not be able to stay up for the hearing. I know will honor the amount of emails you have received from them.

Ms Coffey I will be sending you a final copy in .pptx format prior to the hearing.

Thank you

Sunil Bhat D.O.


Osteopathictouch.com

Board Certified Osteopathic Family Medicine

Board Certified Osteopathic Neuromusculoskeletal Medicine

Sent with [ProtonMail](#) Secure Email.

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Pacifica is entitled to the most Effective and Efficient Network Enhancement

Dr. Sunil Bhat
Cal Coast for Responsible Tech




Reminder

Any and all discussion regarding RF Emissions is IRRELEVANT to this appeal.

Any discussion of RF emissions can be interpreted as a violation of federal law.

I ask the Council to listen to your constituents, but do NOT discuss RF emissions during tonight's appeal.



We agree, Verizon needs to Enhance their Network, but not just on Redwood Way

418 texts in favor, 52 opposed

Only 15 txts published, 10 from other neighborhoods (rosita, rockaway, vallemar, fairmont, edgemar, manor),

NONE mentioned redwood/lerida/park pacifica

83 emails in favor - only 4 have unique text

- 68 mention emergencies vs 8 mention 911 calls
- 61 mention reception vs 7 mention small cells

NONE mention Redwood/Lerida/Banyan/ Terra Nova/Park Pacifica

Today 9:46 AM

Verizon Msg: We want to hear from you! Do you need improved Verizon Wireless service in the Linda Mar neighborhood of Pacifica along Terra Nova Blvd. through placement of a small cell facility on an existing utility pole at 1307 Redwood Way? Reply YES and we'll share your support message with local officials. Visit <https://improveyourwireless.com/pacifica> to learn more.

No


VZW FREE MSG: This unmonitored mailbox cannot handle your reply.

We agree, Verizon needs to Enhance their Network, but ALL OVER Pacifica

418 txts, along with Verizon's coverage maps show we need better in an area much larger than the 1000 feet surrounding 1307 Redwood


Verizon is expected to use any and all available equipment to provide the *least intrusive remedy* (federal law) with *minimal visual impacts* (PMC) to most effectively and efficiently close Pacifica's coverage gaps.





All Six points in Mr. Albritton's Letter submitted for this Appeal are overstated or completely unfounded.

This proves the city's "risk" of litigation is also overstated and unfounded.



Point I - describes this facility. Its “thoughtful design” is subjective


Point II - Incorrectly states the facility satisfies all Municipal code requirements

Code § 9- 4.2608(b)(1) **ESTABLISHES AESTHETIC CONDITIONS FOR LAND USE** - All wireless communication facilities shall, to the maximum extent practicable, incorporate best practices to achieve concealment and stealth of antennas, equipment, and support structures. Further, all wireless communications facilities shall be screened to the fullest extent possible and located to minimize visibility from surrounding areas and private or public rights-of-way. In addition to the requirements of this subsection, wireless communications facilities within a private or public right-of-way shall conform to the standards of subsection (e)

Code § 9- 4.2608(e)(6)(ii) **ECHOES STATE LAW CPUC 7901-** Equipment facilities shall be located so as not to cause inconvenience to the public's use of the right-of-way.

Code § 9- 4.2614(b)(2) - That the information submitted proves that a feasible alternate site that would result in fewer visual impacts does not provide reasonable signal coverage


NONE of the 14 Alternate Sites submitted are presented in the record as having fewer visual impacts, nor is signal coverage mentioned for any of them.



Point III - Incorrectly implies that Verizon's right to use the public right of way is absolute. However Mr Albritton states:

“The California Supreme Court has confirmed that telephone corporations maintain the right to erect telephone equipment in the public right-of-way **subject to local regulation based on aesthetic considerations** (*T-Mobile West LLC v. City and County of San Francisco*, No. S238001, 2019 WL 1474847 (Cal. Sup. Ct. April 4, 2019).”


Point IV - Claims no Substantial Evidence was Provided for the Denial (A-E will be reviewed on slides 11-13)



Point V - Incorrectly claims a Denial would Constitute Unlawful Prohibition of Services.

“a state or local legal requirement constitutes an effective prohibition if it ‘materially **limits or inhibits the ability of any competitor or potential competitor to compete** in a fair and balanced legal and regulatory environment.’”


PMC aesthetic requirements have allowed an AT&T “small cell” at 560 San Pedro Ave, and a Verizon “small cell” at 1450 Terra Nova Blvd.




Point VI - Incorrectly claims a denial would constitute unreasonable discrimination against Verizon Wireless

The 12 AT&T Use Permits from 2016 that Mr Albritton refers to in Vallemar cannot be compared to these “small cell” applications as they did not significantly increase the height of the PROW poles, and therefore did not significantly “increase their visibility from surrounding areas and PROWS” pursuant to PMC § 9- 4.2608(b)(1)

The City has more recently approved “small cell” permits for both AT&T and Verizon in the PROW




Despite Mr. Albritton's baseless claims, we
HAVE provided the substantial evidence
required for denial, or preferably an alternate
proposal



Point IV (A) This facility does NOT comply with Pacifica's established aesthetic standards.

As shown on slide 6, PMC § 9- 4.2608(b)(1) establishes Pacifica's aesthetic conditions for land use by requiring a location "that minimizes visibility from surrounding areas and PROWS"


Please compare this location with the two previously approved "small cell" locations at 560 San Pedro Ave and 1450 Terra Nova Blvd, which are in direct view from 0 and 2 residential homes respectively. This site would be in plain view from >20 homes



Point IV (B) Property Value Statements have no reference to RF Emission

Three real estate professionals who work extensively in the Pacifica market have provided professional statements confirming the clear hazard to surrounding Property Values and do not in any way mention or suggest RF emissions as a cause.

The study that Mr. Albritton cites was done in Santa Clara, a completely different real estate market to Pacifica's, and holds no weight compared with these local professional statements.



Point IV (C) Verizon's characterization of a gap in coverage is inconsistent, and does not qualify as significant

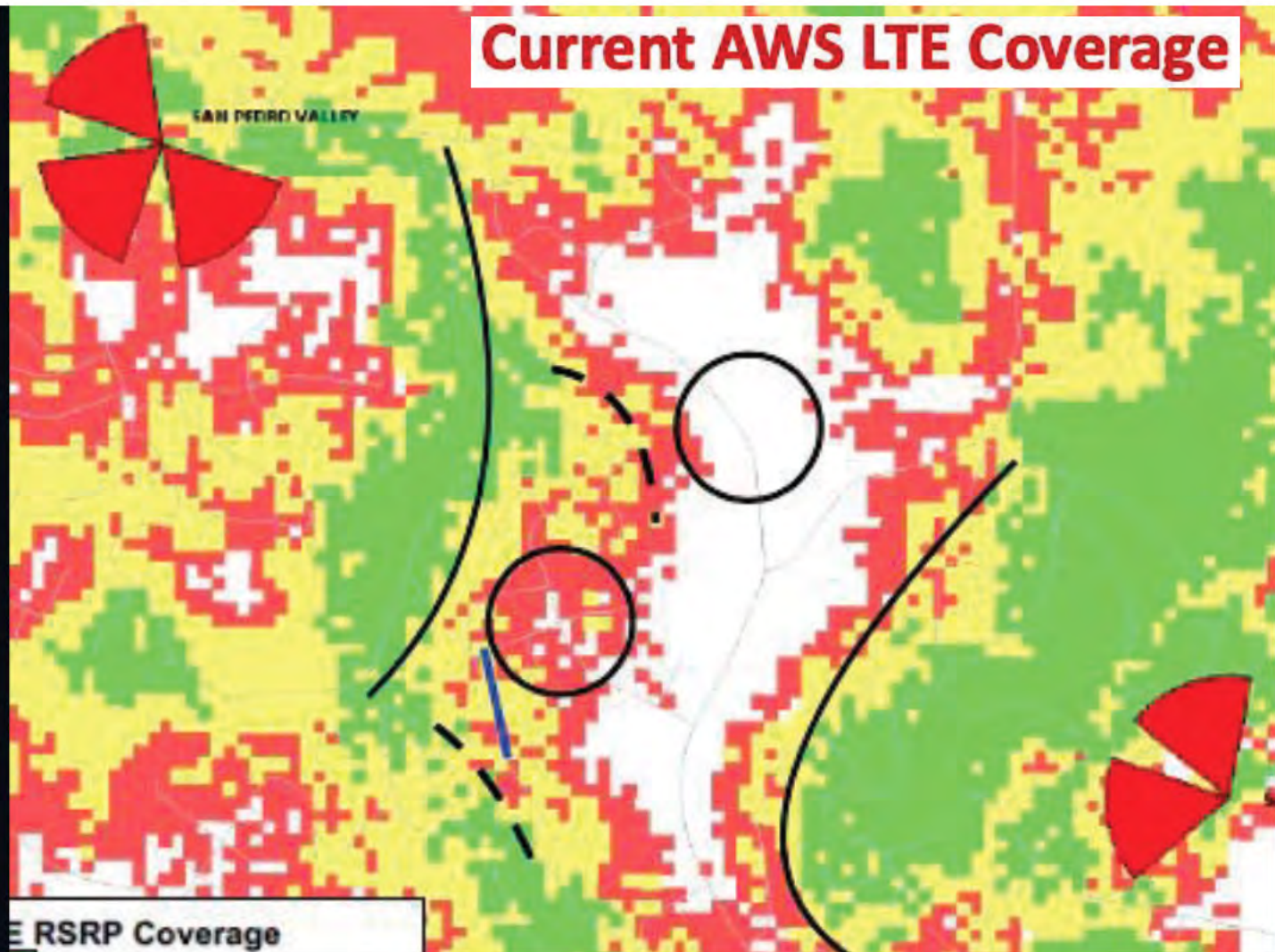
Defining a gap in coverage is no longer required, as FCC 18-133 was upheld by the supreme court last month

However “effective prohibition” is still not violated by a denial of this application

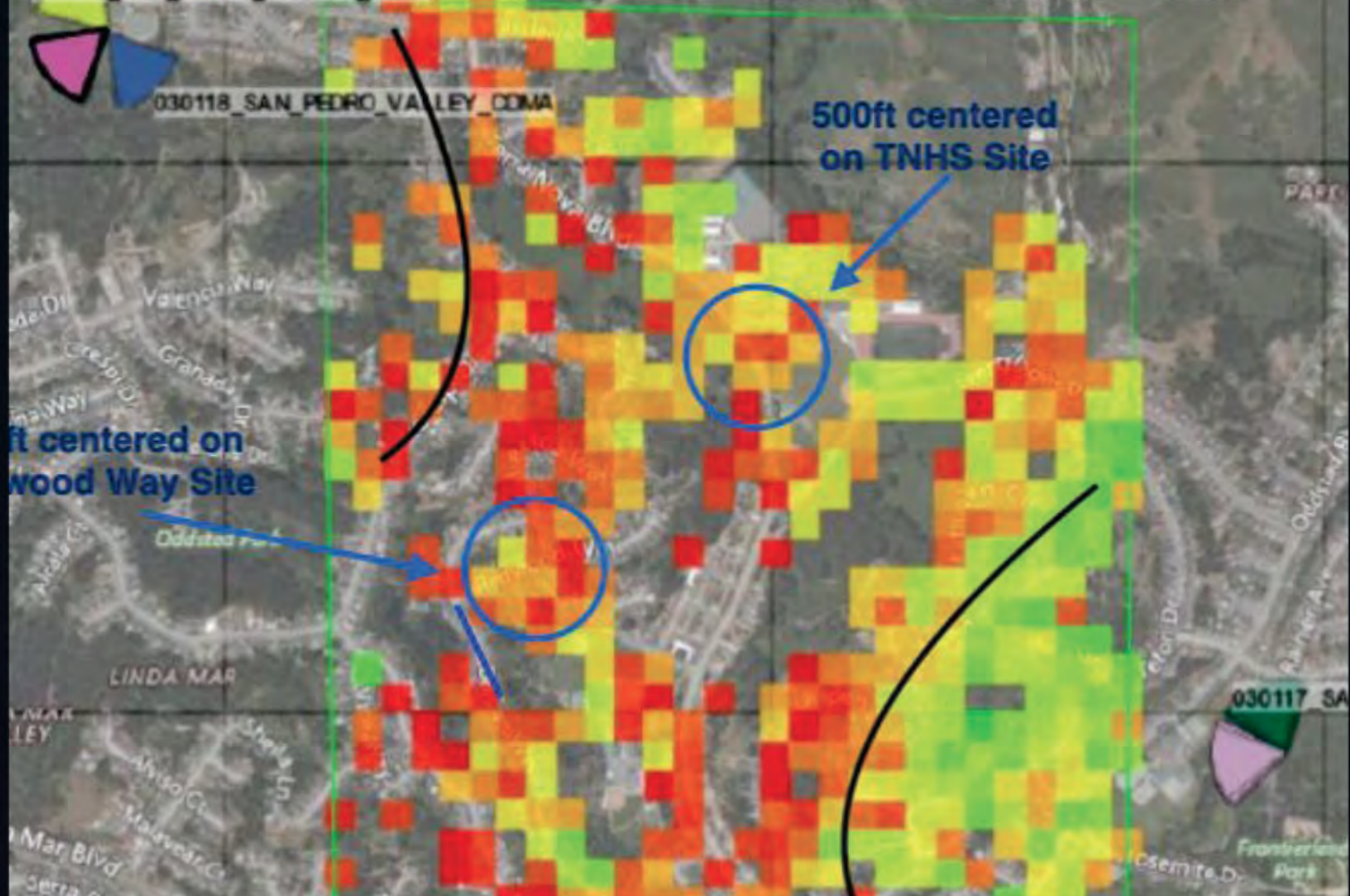
The inconsistencies of these maps are alarming, and show a much larger solution is required.




Current AWS LTE Coverage



Existing AWS Signal Level Measured by Customer Devices





Point IV (D) Because Verizon did not “prove that a feasible alternate site that would result in fewer visual impacts did not provide reasonable signal coverage” pursuant to § 9-4.2614(b)(2), their alternate site analysis was incomplete.

Verizon can find another PROW site that satisfies PMC's aesthetic conditions (like TNHS and ACE), or they can use non PROW sites and use any FCC approved equipment



In May 2018 Verizon CEO Lowell McAdams confirms on CNBC that even 5G millimeter wave can travel through foliage upto 3000ft and still provide 1000Mbps speeds,

There is no evidence on the record that the proposed sites north of TNHS are not feasible, as they are on public utility easements. They will not only provide better service now but also for next generation technology.

<https://youtu.be/FwAsr1pC13Q> or cc4rt.com/resources







Alternate Site #1



It has been a tough year for everyone...

Please help Pacifica end with a Win

Thank you.

Brooks, Elizabeth

From: Coffey, Sarah
Sent: Monday, September 14, 2020 8:59 AM
To: Public Comment
Cc: Wehrmeister, Tina; Murdock, Christian; O'Connor, Bonny; Kenyon, Michelle; Bazzano, Denise; Woodhouse, Kevin
Subject: FW: In opposition to proposed Verizon cell facility 1307 Redwood Way.

From: [REDACTED]
Sent: Sunday, September 13, 2020 12:30 PM
To: _City Council Group <CityCouncil@ci.pacifica.ca.us>; Coffey, Sarah <coffeys@ci.pacifica.ca.us>; Martin, Deirdre <martind@ci.pacifica.ca.us>; Beckmeyer, Sue <beckmeyers@ci.pacifica.ca.us>; Vaterlaus, Sue <vaterlauss@ci.pacifica.ca.us>; Bier, Mary <bierm@ci.pacifica.ca.us>; O'Neill, Mike <o'neillm@ci.pacifica.ca.us>
Subject: In opposition to proposed Verizon cell facility 1307 Redwood Way.

[CAUTION: External Email]

Dear Pacifica Council Members and Planning Commissioners,

Mill Valley, San Anselmo, Ross, San Ramon and Petaluma have all changed their local ordinances to have more local control to PROTECT their constituents and be the voice of the people. Please do your duty for Pacifica residents!

Members of the Mill Valley city council voted unanimously last week to block deployments of 5G towers in the city's residential areas by activating an [urgency ordinance](#). The legislation, which is active immediately, allows authorities to *enact regulations affecting the health and safety of residents*. San Anselmo and Ross have already adopted similar ordinances.

Please read this published article from SFGate:

<https://www.sfgate.com/local/article/mill-valley-5g-antenna-tower-cell-phone-block-13221925.php>

Sincerely,

Darrin Locsin

CAUTION: This email originated from outside of the City of Pacifica. Unless you recognize the sender's email address and know the content is safe, do not click links, open attachments or reply.

Brooks, Elizabeth

From: Allison Smith [REDACTED]
Sent: Monday, September 14, 2020 9:21 AM
To: Public Comment
Subject: Cell antennas

[CAUTION: External Email]

I do not want cell antennas on mine, or anyone's driveway in Pacifica.

Update our ordinances now to protect our homes!!

Allison Smith

Sent from my iPhone

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Brooks, Elizabeth

From: Megan McCullough [REDACTED]
Sent: Monday, September 14, 2020 9:55 AM
To: Public Comment
Subject: 5G Verizon Cell Tower

[CAUTION: External Email]

Regards City Council members,

We do not need 5G cell towers placed in our neighborhood so close to our schools & homes. As challenging as this year has been since March with the COVID-19 virus keeping us all at home 24/7 & the wildfires that have also driving us back into our homes due to health issues from the smoke trying to escape, why would you be so beholden to upping public safety to install a cell tower to a large corporation at the expense of your citizens.

We need a proper escape route for our community in the event of a fire or earthquake, not a cell tower.

I cannot believe that if the new 5G cell tower is so almighty powerful, there isn't some other area of our beautiful town that they can reconsider placing that will not endanger our communities health.

Thank you for your time & consideration in this matter.

Cheers,
Megan McCullough

M. McCullough

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Brooks, Elizabeth

From: peter k [REDACTED]
Sent: Monday, September 14, 2020 10:58 AM
Subject: Please approve the Verizon cellphone transmitter application.

[CAUTION: External Email]

Please approve the Verizon cellphone transmitter application.
Please deny the appeal; it is anti-science, anti-logic, and anti-progress. Please ignore the fearmongering.
I am tired of the poor cell coverage in that area; new cell towers are welcome.

Peter Key
Linda Mar

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Brooks, Elizabeth

From: Coffey, Sarah
Sent: Monday, September 14, 2020 10:57 AM
To: Public Comment
Cc: Wehrmeister, Tina; Murdock, Christian; O'Connor, Bonny; Woodhouse, Kevin; Kenyon, Michelle; Bazzano, Denise
Subject: FW: ITEM #14 Cell tower on Redwood Way

From: Lisa Pierra [REDACTED]
Sent: Monday, September 14, 2020 10:52 AM
To: _City Council Group <CityCouncil@ci.pacifica.ca.us>; Coffey, Sarah <coffeys@ci.pacifica.ca.us>
Subject: ITEM #14 Cell tower on Redwood Way

[CAUTION: External Email]

Dear Council members,

I urge you to stop the cell tower installation by Verizon on Redwood Way.

By now, you are aware of the reasons for this request including real estate devaluation and health risks. Remember this, years ago smoking was considered a non existent risk. However, hidden profit agendas only could remain that way for limited time. The rest is history as we now know the devastating effects of smoking.

Don't let the risk of radiation emitted by these small cell towers (and known as it is by scientific and medical communities worldwide) be placed here in Pacifica.

I oppose this tower and any other that is placed near homes, schools, playgrounds, parks and beaches.

Thank you for your service to our beautiful community.

Lisa Tresca
[REDACTED]

Pacifica CA

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Brooks, Elizabeth

From: geraldine pascua [REDACTED]
Sent: Monday, September 14, 2020 11:06 AM
To: Public Comment
Subject: Subject: 9/14 City Council Meeting Agenda Item 14 Public Comment- In Support of the Appeal against Verizon's cellular facility

[CAUTION: External Email]

I do not want cell antennas on mine, or anyone's driveway in Pacifica. This is not ok, there are clearly better options for service as well as 5G. Deny the antenna at Redwood and update our ordinances now to protect our homes.

Thank you,

Geraldine Pascua
(Pacifica Resident)

[Sent from Yahoo Mail for iPhone](#)

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Brooks, Elizabeth

From: [REDACTED]
Sent: Monday, September 14, 2020 11:16 AM
To: Yamahiro, Judy - SEQ; Public Comment
Cc: info@calcoastresponsiblettech.com
Subject: Re: Please move 5G tower away from Terra Nova High School

[CAUTION: External Email]

Judy,

Thank you for your email, I hope you have sent it to the city council at citycouncil@ci.pacifica.ca.us

Im not sure if you are aware, tonight the council is also going to hear our appeal for a second antenna proposed at 1307 redwood 20ft outside a 9month olds window.

I would ask you update your email to mention the redwood site, and send it to publiccomment@ci.pacifica.ca.us and mention agenda item #14 in the subject line.

Thank you

Sunil Bhat D.O.

Osteopathictouch.com

Board Certified Osteopathic Family Medicine

Board Certified Osteopathic Neuromusculoskeletal Medicine

Sent with [ProtonMail](https://protonmail.com) Secure Email.

----- Original Message -----

On Monday, September 14, 2020 5:27 PM, Yamahiro, Judy - SEQ [REDACTED]
wrote:

To Whom It May Concern:

This is largely untested technology being shoved down our throats without our permission. No one has done a long-term study on the effects of this technology and our children should not be guinea pigs.

Please move this tower to an unpopulated area – better yet – do not put it up at all.

Thank you for your time and attention,

Judy Yamahiro

De Solo Drive Pacifica

Caution: This email is both proprietary and confidential, and not intended for transmission to (or receipt by) any unauthorized person(s). If you believe that you have received this email in error, do not read any attachments. Instead, kindly reply to the sender stating that you have received the message in error. Then destroy it and any attachments. Thank you.

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Brooks, Elizabeth

From: Mary Nappi [REDACTED]
Sent: Monday, September 14, 2020 11:49 AM
To: Public Comment
Subject: Verizon Cell Tower

[CAUTION: External Email]

To the Pacifica City Council,

I am writing to voice my opposition to this cell tower being proposed in any of our Pacifica neighborhoods. The radiation fallout is hazardous to health and safety.

Sincerely,

Mary Nappi

Sent from my iPad

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Brooks, Elizabeth

From: Evelyn Reyes [REDACTED]
Sent: Monday, September 14, 2020 12:11 PM
To: Public Comment
Subject: Cell towers

[CAUTION: External Email]

Hello, I'm a Pacifica resident, and would like to send this email as a way to voice my opposition to the installation of cell towers in our neighborhoods. We're at a time when we're beginning to see the impacts of decisions we have made that have prioritized convenience vs. long-term wellness. Let's not let this be another one. Cell towers DO NOT belong in our streets.

Thank you,

Sent from my iPhone

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Brooks, Elizabeth

From: Helena Pacholuk [REDACTED]
Sent: Monday, September 14, 2020 12:22 PM
To: Public Comment
Subject: 9/14 City Council Meeting Agenda Item 14 Public Comment

[CAUTION: External Email]

Honorable Members of the Pacifica City Council, and Planning Commission, I do not want cell antennas on mine, or anyone's driveway in Pacifica. This is not ok. Deny the antenna at Redwood and update our ordinances now

CAUTION: This email originated from outside of the City of Pacifica. Unless you recognize the sender's email address and know the content is safe, do not click links, open attachments or reply.

Brooks, Elizabeth

From: Lacey Bastian [REDACTED]
Sent: Monday, September 14, 2020 12:33 PM
To: Public Comment
Subject: new cell towers?

[CAUTION: External Email]

Please plan new cell phone towers in a way that won't affect residents. It shouldn't be within say 50 feet of a house. We all want coverage but let's be considerate of people who don't want a tower next to their house. It could affect their house value and be a huge eye sore. Do we really need 8?! Let's be considerate.

Thanks,
Lacey Bastian

[Sent from Yahoo Mail on Android](#)

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Brooks, Elizabeth

From: Martin P [REDACTED]
Sent: Monday, September 14, 2020 1:05 PM
To: Public Comment
Subject: 9/14 City Council Meeting Agenda Item 14 Public Comment

[CAUTION: External Email]

Honorable Members of the Pacifica City Council, and Planning Commission,

I do not want cell antennas on mine, or anyone's driveway in Pacifica. This is not ok. Deny the antenna at Redwood and update our ordinances now (similar to other cities on the Peninsula).

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Brooks, Elizabeth

From: Coffey, Sarah
Sent: Monday, September 14, 2020 1:15 PM
To: Public Comment
Cc: Wehrmeister, Tina; Murdock, Christian; O'Connor, Bonny; Woodhouse, Kevin; Kenyon, Michelle; Bazzano, Denise
Subject: FW: 5G in Pacifica & a better way to get us there

From: Ligia Vilela [REDACTED]
Sent: Monday, September 14, 2020 1:13 PM
To: _City Council Group <CityCouncil@ci.pacifica.ca.us>; Coffey, Sarah <coffeys@ci.pacifica.ca.us>
Subject: 5G in Pacifica & a better way to get us there

[CAUTION: External Email]

Dear Council members,

I am writing to you ahead of your council meeting to express my concern regarding the installation of the 5G cell transmitter that was approved by the Planning Commission to go up at 1307 Redwood Way. I am asking you to modify the decision to create more distance between the cell transmitter and a residential home. The reason why my husband and I join many other Redwood Way neighbors objecting to this decision is due to the following:

- There is still a lot of research to be done to figure out health impact of close proximity to these antennas in residential areas by scientist independent of industry
- Given the little research, having a cell transmitter within 17 feet from a bedroom should not be allowed.
- Verizon should be able to work with the City to find more suitable locations

With over 30 years of living in Redwood Way, my husband and I are are very fortunate to live in such a wonderful neighborhood that cares about each other and their well being. I am sure that all of you probably feel the same way about your neighborhoods and would do anything to protect them from health risks.

I know that 5G is important for our future and we can't close our minds and wish it away, however, I also know that the health risk to our community should always be a priority for City Council and all of us that are so blessed to leave in beautiful Pacifica!

I ask you to use the power of the council to increase the distance between the cell transmitters to the residential areas.

Thank you for your consideration

Ligia Vilela
[REDACTED] Pacifica CA 94044

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Brooks, Elizabeth

From: Bill Soares [REDACTED]
Sent: Monday, September 14, 2020 2:03 PM
To: Public Comment
Subject: Cell Antenna Vote

[CAUTION: External Email]

I do not want cell antennas on mine, or anyone's driveway in Pacifica. This is not ok, there are clearly better options for service as that are not invasive to our homes, families or environment. Deny the antenna at Redwood and update our ordinances now to protect our homes.

Sheila Soares

[REDACTED]

94044

Sent from my iPad

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Brooks, Elizabeth

From: Coffey, Sarah
Sent: Monday, September 14, 2020 2:02 PM
To: Public Comment
Subject: Public Comment 9/14/2020 - Agenda Item #14 - marian pult

From: Martin, Deirdre <martind@ci.pacifica.ca.us>
Sent: Monday, September 14, 2020 2:00 PM
To: Coffey, Sarah <coffeys@ci.pacifica.ca.us>
Subject: Fwd: email from city website to Deirdre Martin

Begin forwarded message:

From: marian pult [REDACTED]
Date: September 14, 2020 at 1:49:37 PM PDT
To: "Martin, Deirdre" <martind@ci.pacifica.ca.us>
Subject: email from city website to Deirdre Martin

[CAUTION: External Email]

Having problems navigating my computer, Deidre so am asking you to deliver my sentiments to the City Council members at your next meeting.

"REALLY be honest with yourselves....each and every one of you! Would you want a Verizon tower erected near your home?

Do not allow Verizon or any other company to build them in residential neighborhoods. Deny Verizon's application!"

Thank you,
Marian Pult (Park Pacifica Ave.

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Brooks, Elizabeth

From: Kate Chınca [REDACTED]
Sent: Monday, September 14, 2020 2:07 PM
To: Public Comment
Subject: Cell Towers

[CAUTION: External Email]

Yes, I have sent a message to my City Council and appreciate getting responses from Sue V., Sue B. and Mary. Thank you.

If you remember the debacle of the Comcast "improvements" a few decades back which included HUGE (some are still present) boxes in our front yards on what is considered public easement then you will remember that it was a cheap fix. When questioned, Comcast said we could request to just move it onto our neighbor's property. Lovely. After much discussion and debate, they said they were able to put a very small connection on the wires of the phone pole in front of our home. It was not a health issue but no one was looking for alternatives without question.

THIS is a health issue. I believe that if pushed, Verizon and any other company can come up with a better fix. Fiber optics? Something far away from our children????

I know your decision has not been made but it is never too late to share thoughts and hopefully ask our council to think about this as a health issue and not be persuaded by any company without full disclosure of the science.

Thank you.

Sincerely,

Kate Chınca
45 year resident

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Brooks, Elizabeth

From: Eleanor Natwick [REDACTED]
Sent: Monday, September 14, 2020 2:09 PM
To: Public Comment
Subject: Verizon cell phone towers

[CAUTION: External Email]

Council Members,

I want to let you know that I strongly object to the council's approval of the proposed Verizon cell phone tower which will be located on Redwood Way.

And I also feel strongly that more research needs to be done about the health related effects of these towers in our residential neighborhoods.

Please do not approve the big corporation's plans without further input from the citizens directly impacted.

Eleanor Natwick
[REDACTED]

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Brooks, Elizabeth

From: Carmen [REDACTED]
Sent: Monday, September 14, 2020 2:24 PM
To: Public Comment
Subject: Cell antennas on our streets

[CAUTION: External Email]

I have already emailed to: citycouncil@ci.pacifica.ca.us

I am emailing again because I want to make sure my email is in the public comment category.

I am concerned to learn of Verizon plans to put a cell antenna on a utility pole at 1307 Redwood Way, here in Pacifica.

Whether this is 4G or 5G, cell antennas should not be placed so close to our homes. There are hundreds of studies verifying the negative ill health effects from cell phones and antennas.

Telecom industry funded studies show no problem. But independent studies do, in fact, show serious harm.

And, of course, distance matters. So, having cell antennas so close to our homes causes serious health problems, especially for children.

Here are links to studies and info:

<https://bioinitiative.org/>

<https://www.saferemr.com/>

Here at the International Appeal to Stop 5G, please see all the Scientists asking to stop 5G

<https://www.5gspaceappeal.org/scientists>

Please consider denying cell antennas on utility poles on Pacifica streets. Follow the wise precedent of cities like Mill Valley.

thank you, Carmen Pegan

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Brooks, Elizabeth

From: Lori Herold [REDACTED]
Sent: Monday, September 14, 2020 2:27 PM
To: Public Comment
Subject: Cell Towers

[CAUTION: External Email]

City Council Members,

I echo the sentiments from Pacifica resident, Jym Dingler (see verbiage below). **It is not safe for a tower to be placed so close to a family home, and I oppose it.** We have plenty of other locations away from residences. I agree this should be made an ordinance going forward, so this exercise will not need to be repeated.

Sincerely,

Laura Herold

[REDACTED]
Pacifica, CA 94044

Every engineer repeated their safety mantra: while they were on the towers, the only safe way to work on any of that equipment, including cell antennas, was to TURN IT OFF. No such equipment should be placed anywhere near a residence, ever. There's plenty of space on Pacifica hillsides for additional cell-phone antennas. Convenience for some corporation should never be put above public safety. Putting new cell towers in neighborhoods, next to houses, is an unwarranted risk. I am all for improving cell phone reception, and in Pacifica, it's problematic. But sticking radiation sources next to houses is the wrong solution. If engineers wouldn't have such an antenna next to their houses, why would anybody think it's OK for a Pacifica family? Please deny the Verizon application to build their new tower. Further, the involved ordinances should keep any new cell towers at a safe distance from residential housing. Best regards, Jym Dingler

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Brooks, Elizabeth

From: Eileen Barsi [REDACTED] on behalf of Eileen Barsi
Sent: Monday, September 14, 2020 2:31 PM
To: Public Comment
Subject: Verizon Installations on Utility Poles

[CAUTION: External Email]

We are opposed to the installation of equipment in our residential neighborhoods. According to their own admission (<https://upiti.be/FwAsr1pC13Q>), it is unsafe to install close proximity microwave radiation 4G/5G antennas and wireless telecommunications facilities on utility light poles. Please update our wireless code to allow WTFs only in commercial and industrial zones – NEVER in residential areas. Please exercise your responsibility to keep the residents of our City, including yourselves, SAFE.

Residents of Lerida Way since 1965
Ralph and Eileen Barsi

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Brooks, Elizabeth

From: N Mn [REDACTED]
Sent: Monday, September 14, 2020 2:58 PM
To: Public Comment

[CAUTION: External Email]

City council of Pacifica,

I do not want cell antennas on mine, or anyone's driveway in Pacifica. This is not ok, there are clearly better options for service as well as 5G. Deny the antenna at Redwood and update our ordinances now to protect our homes.

Nancy Mittendorf
[REDACTED]
Pacifica, CA 94044

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Brooks, Elizabeth

From: coastsided [REDACTED]
Sent: Monday, September 14, 2020 3:00 PM
To: Public Comment
Subject: New wireless cell tower

[CAUTION: External Email]

I'm writing to oppose the construction of new cell phone towers in Pacifica neighborhoods, especially when they are so close to people's homes.

The current plan, has one within 20 feet of a residence. High power electromagnetic pulses and sound waves are currently used by police departments and military groups around the world to assault civilians and military targets...should Pacifica be partaking in similar actions against its residents?

I say no!

Please ban construction new cell towers in the neighborhoods of Pacifica as it is a health and safety concern.

Thank you!

Matthew O'Malley

Sent via the Samsung GALAXY S® 5, an AT&T 4G LTE smartphone

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Brooks, Elizabeth

From: Rosanna Hardeman [REDACTED]
Sent: Monday, September 14, 2020 3:07 PM
To: Public Comment
Subject: VOTE NO ON VERIZON TOWER

[CAUTION: External Email]

-NO resident should be forced to live 17 feet from a cellular facility, especially developing babies...

-NO homeowner should be forced to house Verizon's equipment on their properties. It is intrusive!

-NO homeowner should bear the burden of cost from their home value depreciation because of Verizon's actions. They are doing what's easiest for them irrespective of the negative affect it will ultimately have on the value of our

--
null

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Brooks, Elizabeth

From: Coffey, Sarah
Sent: Monday, September 14, 2020 3:10 PM
To: Public Comment
Cc: Wehrmeister, Tina; Murdock, Christian; O'Connor, Bonny; Kenyon, Michelle; Bazzano, Denise; Woodhouse, Kevin; Brooks, Elizabeth
Subject: FW: Please prevent cell towers close to our homes

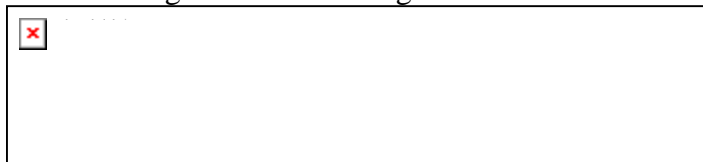
From: Lefio, Noelia [REDACTED]
Sent: Monday, September 14, 2020 3:04 PM
To: _City Council Group <CityCouncil@ci.pacifica.ca.us>; Coffey, Sarah <coffeys@ci.pacifica.ca.us>
Subject: Please prevent cell towers close to our homes

[CAUTION: External Email]

Dear City Council Leaders,

Please deny the application that Verizon has, and any other wireless companies in the near future, to install cell towers next to our families and homes. This will effect all of the families around the tower at a five mile radius with clear future cancer issues. Please do not allow Pacifica families to suffer only for “better cell service”. Please deny the application outright! Please change the ordinances to prevent future cell towers from also being installed to effect us all. Thank you!

Noelia Lefio
Patient Navigator/ NICU Navigator



Office of Patient Experience
[725 Welch Road, Suite 1701](#)
MC 5915
[Palo Alto, CA 94304](#)
Direct [\(650\) 823-8106](#)

NLefio@stanfordchildrens.org
stanfordchildrens.org

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have received this communication in error, please contact me and destroy all copies of the communication and attachments. Thank you.

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Brooks, Elizabeth

From: Coffey, Sarah
Sent: Monday, September 14, 2020 3:17 PM
To: Public Comment
Cc: Wehrmeister, Tina; Murdock, Christian; O'Connor, Bonny; Kenyon, Michelle; Bazzano, Denise; Woodhouse, Kevin; Brooks, Elizabeth
Subject: FW: Opposition to Verizon's small cell facility on 1307 Redwood Way

From: [REDACTED]
Sent: Sunday, September 13, 2020 9:57 AM
To: citycouncil@ci.pacifica.ca.us; %20coffeys@ci.pacifica.ca.us; o'neillm@ci.pacifica.ca.us; bierm@ci.pacifica.ca.us; vaterlauss@ci.pacifica.ca.us; beckmeyers@ci.pacifica.ca.us; martind@ci.pacifica.ca.us
Subject: Opposition to Verizon's small cell facility on 1307 Redwood Way

Dear honorable Pacifica City Council Members,

As a homeowner and Contractor I have witnessed the negative effects to property esthetics and valuations from cellular towers in close proximity to private residences. I am writing in opposition of Verizon's small cell facility on 1307 Redwood Way. There is multiple published sources that confirm that property's value will be negatively affected by the installation of cellular facilities on or near the premises. There is also confirmation from various local realtors in the area that the proposed cellular facility will devalue their property by up to 22%. That is not a negligible amount. As a homeowner myself, I am shocked that Verizon would put the burden of expense on homeowners instead of paying for the installation of their own equipment. Homeowners did not ask for this burden and It is ethically wrong to take advantage of them, especially since many of us are their customers. Verizon is a multi-billion dollar company and can afford to move their equipment to the hills or open pasture of Pacifica and off of our properties. Please approve this appeal and deny Verizon's application.

Thank you for supporting the homeowners of Pacifica.

Dan Koenig

For your reference:
national association for realtors letter on 5G, June 24, 2019
<https://magazine.realtor/daily-news/2019/06/24/nar-fcc-s-5g-plan-could-hurt-property-owners>

Journal of Real Estate Finance & Economics, May 1, 2018
https://ideas.repec.org/a/kap/jrefec/v56y2018i4d10.1007_s11146-017-9600-9.html

Land Economics, Feb. 2016
<https://gattoweb.uky.edu/Faculty/blomquist/LE%202016%20Locke%20Blomquist%20towers.pdf>

national association for realtors letter Cell Towers, Antennas problematic for Buyers, July 15, 2014

<https://magazine.realtor/daily-news/2014/07/25/cell-towers-antennas-problematic-for-buyers>

Brooks, Elizabeth

From: Coffey, Sarah
Sent: Monday, September 14, 2020 3:18 PM
To: Public Comment
Subject: FW: Please do not allow cell phone towers close to homes

-----Original Message-----

From: [REDACTED]
Sent: Monday, September 14, 2020 3:16 PM
To: Coffey, Sarah <coffeys@ci.pacifica.ca.us>
Subject: Please do not allow cell phone towers close to homes

[CAUTION: External Email]

Dear City Council Leaders,

Please deny the application that Verizon has, and any other wireless companies in the near future, to install cell towers next to our families and homes. This will effect all of the families around the tower at a five mile radius with clear future cancer issues. Please do not allow Pacifica families to suffer only for "better cell service". Please deny the application outright! Please change the ordinances to prevent future cell towers from also being installed to effect us all. Thank you!

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Brooks, Elizabeth

From: Coffey, Sarah
Sent: Monday, September 14, 2020 3:18 PM
To: Public Comment
Subject: FW: Deny cell tower application

-----Original Message-----

From: Noe Lefio [REDACTED]
Sent: Monday, September 14, 2020 3:18 PM
To: Coffey, Sarah <coffeys@ci.pacifica.ca.us>
Subject: Deny cell tower application

[CAUTION: External Email]

Dear City Council Leaders,

Please deny the application that Verizon has, and any other wireless companies in the near future, to install cell towers next to our families and homes. This will effect all of the families around the tower at a five mile radius with clear future cancer issues. Please do not allow Pacifica families to suffer only for "better cell service". Please deny the application outright! Please change the ordinances to prevent future cell towers from also being installed to effect us all. Thank you!

CAUTION: This email originated from outside of the City of Pacifica. Unless you recognize the sender's email address and know the content is safe, do not click links, open attachments or reply.

Brooks, Elizabeth

From: Coffey, Sarah
Sent: Monday, September 14, 2020 3:18 PM
To: Public Comment
Subject: FW: Deny Verizon cell tower application

-----Original Message-----

From: [REDACTED]
Sent: Monday, September 14, 2020 3:19 PM
To: Coffey, Sarah <coffeys@ci.pacifica.ca.us>
Subject: Deny Verizon cell tower application

[CAUTION: External Email]

Dear City Council Leaders,

Please deny the application that Verizon has, and any other wireless companies in the near future, to install cell towers next to our families and homes. This will effect all of the families around the tower at a five mile radius with clear future cancer issues. Please do not allow Pacifica families to suffer only for "better cell service". Please deny the application outright! Please change the ordinances to prevent future cell towers from also being installed to effect us all. Thank you!

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Brooks, Elizabeth

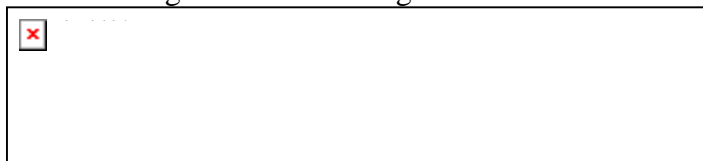
From: Coffey, Sarah
Sent: Monday, September 14, 2020 3:18 PM
To: Public Comment
Subject: FW: Please prevent cell towers close to our homes

From: [REDACTED]
Sent: Monday, September 14, 2020 3:14 PM
To: Coffey, Sarah <coffeys@ci.pacifica.ca.us>
Subject: Fwd: Please prevent cell towers close to our homes

[CAUTION: External Email]

Dear City Council Leaders,
Please deny the application that Verizon has, and any other wireless companies in the near future, to install cell towers next to our families and homes. This will effect all of the families around the tower at a five mile radius with clear future cancer issues. Please do not allow Pacifica families to suffer only for "better cell service". Please deny the application outright! Please change the ordinances to prevent future cell towers from also being installed to effect us all. Thank you!

Noelia Lefio
Patient Navigator/ NICU Navigator



Office of Patient Experience
[725 Welch Road, Suite 1701](#)
MC 5915
[Palo Alto, CA 94304](#)
Direct [\(650\) 823-8106](#)

NLefio@stanfordchildrens.org
stanfordchildrens.org

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have received this communication in error, please contact me and destroy all copies of the communication and attachments. Thank you.

Begin forwarded message:

From: "Lefio, Noelia" [REDACTED]
Date: September 14, 2020 at 3:03:39 PM PDT
To: "citycouncil@ci.pacifica.ca.us" <citycouncil@ci.pacifica.ca.us>,
"coffeys@ci.pacifica.ca.us" <coffeys@ci.pacifica.ca.us>
Subject: Please prevent cell towers close to our homes

Dear City Council Leaders,
Please deny the application that Verizon has, and any other wireless companies in the near future, to install cell towers next to our families and homes. This will effect all of the families around the tower at a five mile radius with clear future cancer issues. Please do not allow Pacifica families to suffer only for "better cell service". Please deny the application outright! Please change the ordinances to prevent future cell towers from also being installed to effect us all. Thank you!

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Patient Navigator/ NICU Navigator



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Brooks, Elizabeth

From: RAY CONTI [REDACTED]
Sent: Monday, September 14, 2020 3:28 PM
To: Public Comment
Subject: Cell Towers

[CAUTION: External Email]

I do not want cell antennas on mine, or anyone's driveway in Pacifica. This is not ok, there are clearly better options for service as that are not invasive to our homes, families or environment. Deny the antenna at Redwood and update our ordinances now to protect our homes.

Ray Conti
Park Pacifica

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