

RESOLUTION NO. 2019-51

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
TO [DENY/GRANT] AN APPEAL OF GTE MOBILENET OF CALIFORNIA
LIMITED PARTNERSHIP DBA VERIZON WIRELESS AND TO
[DENY/APPROVE] THE APPLICATION FOR A PROPOSED WIRELESS
INSTALLATION AT 155 ALMOND AVENUE**

WHEREAS, July 16, 2019, GTE Mobilenet of California Limited Partnership dba Verizon Wireless (“Applicant” of “Verizon”) filed a wireless telecommunications facilities permit application, Application No. SE19-00019, (the “Application”) to install a wireless telecommunications facility at 155 Almond Avenue, Los Altos, CA 94022; and

WHEREAS, on September 11, 2019, the City Manager issued a decision denying the Application in the form of a denial letter; and

WHEREAS, the Applicant submitted an appeal of the City Manager’s Decision by letter dated September 16, 2019; and

WHEREAS, the Applicant submitted an additional letter and exhibits dated October 23, 2019 in support of its appeal (the “Appeal Letter”); and

WHEREAS, on October 29, 2019 a public hearing was opened by the City of Los Altos (the “City”) City Council to consider the Applicant’s appeal of the City Manager’s Decision regarding the Application and was continued to a later date, with the verbal agreement of the Applicant to extend the applicable FCC shot clock, and later confirmed in writing to extend the time for final action to December 31, 2019; and

WHEREAS, on December 17, 2019, a public hearing was held by the City of Los Altos City Council to consider the Applicant’s appeal of the City Manager’s Decision regarding the Application.

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Los Altos, based on the evidence contained in the written record, which includes the Application, the record related to the City Manager’s Decision, the appeal letters and supporting documentation and written submissions provided to Council, and the record of the oral testimony given by, among others, the Applicant, City officials, and the public at public hearings held on October 29, 2019 and December 17, 2019, hereby makes the following findings:

APPLICABLE STANDARDS

1. *Ordinance 2019-460 (new Ch. 11.12) and Resolution 2019-35 (Design and Siting Standards) apply to this Application.*

On August 5, 2019, the City of Los Altos adopted Ordinance 2019-460 to repeal and replace Ch. 11.12 of the Municipal Code, and Resolutions 2019-35 and 2019-36, which collectively address placement of wireless facilities within the City limits (“Wireless Regulations”). Section

11.12.030(A)(1) of the new Ordinance requires that these new provisions be applied to all pending permit applications. The Application was pending as of August 5, 2019 and therefore the Wireless Regulations apply to it.

REQUIRED FINDINGS FOR APPROVAL ON APPEAL

Under Municipal Code Section 11.12.210, the City Council must limit its review on appeal to whether the project should be approved or denied in accordance with the provisions of Municipal Code Chapter 11.12 and any applicable design and siting guidelines. In order to approve an application to install a wireless telecommunications facility in the public right-of-way, six positive findings set forth in Municipal Code Section 11.12.080 must be made. The Council makes the following findings:

1. ***The proposed facility does not comply with all applicable provisions of Chapter 11.12 of the Municipal Code, and with design and siting guidelines adopted by the City Council, and will be in compliance with all applicable building, electrical, and fire safety codes.***

Section 4.E. of Resolution 2019-35 states: “No facilities shall be permitted within 500 feet of any school in a PCF District.” The location of the proposed wireless facility is located within 500 feet from a school in a PCF District and does not meet the siting requirements in this section. Thus, the location selected for siting this wireless facility does not conform with the location requirements of Resolution 2019-35.

2. ***The proposed facility has not been designed and located to achieve compatibility with the community to the maximum extent reasonably feasible.***

Finding 2 was made for the same reasons described under Finding 1 above.

3. ***The applicant has submitted a statement of its willingness to allow other carriers to collocate on the proposed wireless telecommunications facility wherever technically and economically feasible and where collocation would not harm community compatibility.***

In Exhibit G of the Appeal Letter, Verizon stated its willingness to allow collocations “wherever technically and economically feasible and where collocation would not harm community compatibility.”

Further, in the application resubmittal by Verizon dated October 25, 2019, the applicant stated its willingness to allow collocation “so long as the Company’s equipment does not interfere with Verizon’s service and does not impact the structural integrity of the pole.”

4. ***Noise generated by equipment will not be excessive, annoying or be detrimental to the public health, safety, and welfare and will not exceed the standards set forth in Chapter 6.16 of the Municipal Code and Resolution 2019-35.***

In the application resubmittal by Verizon dated October 25, 2019, the applicant includes a Small Cell Noise Report prepared by a Third-Party Consultant indicating that “the noise

produced from operation of the proposed remote radio units (RRUs) and associated wireless telecommunication equipment will comply with the Exterior Noise Limits as outlined in the Los Altos Municipal Code, Section 6.16.050 at the nearest residential property line.”

5. ***The applicant has provided substantial written evidence supporting the applicant's claim that it has the right to enter the public right-of-way pursuant to state or federal law.***

In Exhibit H of the Appeal Letter, the Associate General Counsel for GTE Mobilenet of California Limited Partnership dba Verizon Wireless, Jesus G. Roman, states that GTE Mobilenet is authorized to use the public right-of-way and operate in California pursuant to a Certificate of Public Convenience and Necessity (CPCN) granted by the California Public Utilities Commission (CPUC) and because it is deemed pursuant to law to hold a Wireless Identification Registration (WIR). Exhibit H also contained a screen shot of the CPUC website showing CPCN entries for GTE Mobilnet.

6. ***The applicant has demonstrated that the facility will not interfere with the use of the public right-of-way, existing subterranean infrastructure, or the city's plans for modification or use of such location and infrastructure.***

The submitted design of the proposed wireless telecommunications facility does not indicate any physical interferences with the use of the public right-of-way.

Based on the above analysis, the City Council cannot make all the positive findings for approval of the Application, and finds that the appeal and the Application should be denied. Because the City Council would deny the appeal and the Application, it must consider Verizon's claim that an exception must be granted.

REQUIRED FINDINGS FOR GRANT OF AN EXCEPTION

Municipal Code Section 11.12.090(A) allows for exceptions pertaining to Chapter 11.12 if the City makes certain findings. Pursuant to Section 11.12.090(A) of the Municipal Code, an exception pertaining to Chapter 11.12 may be granted if the City makes one or more of the following findings:

1. Denial of the facility as proposed would violate federal law, state law, or both; **or**
2. A provision of Chapter 11.12, as applied to the applicant, would deprive applicant of its rights under federal law, state law, or both.

Pursuant to Section 11.12.090(D), the burden of proof is on the Applicant.

1. ***The applicant [has/has not] demonstrated that an exception from Chapter 11.12 is warranted.***
 - a. ***The Applicant [has/has not] demonstrated that a denial of the facility as proposed would violate federal law.***

Verizon claims that a denial of its application would constitute an unlawful prohibition of service under federal law. Further, Verizon claims that a prohibition exists applying either the test established by the Ninth Circuit Court of Appeals or the one established in the FCC Small Cell Order (33 FCC Rcd. 9088).

Verizon also claims that the ban on wireless facilities in the residential public right-of-way is preempted by federal and state law.

- i. *The Ninth Circuit test should be applied to evaluate Verizon's effective prohibition claim.*

In the Ninth Circuit, case law interpreting 47 U.S.C. Sections 332 and 253 determined that a denial can be found to improperly “prohibit” personal wireless services if it prevents a wireless services provider from closing a “significant gap” in its own service coverage using the least intrusive means. In the Small Cell Order, the FCC rejected that Ninth Circuit standard for small wireless facilities and found that a local regulation will “have the effect of prohibiting wireless telecommunications services if it materially inhibits the provision of such services.” The FCC’s “materially inhibits” standard should not be applied here because according to the U.S. Supreme Court, a plain language ruling by a court of appeals, such as the Ninth Circuit, trumps the determination of a regulatory agency. *See National Cable & Telecommunications Ass’n v. Brand X Internet Services*, 545 U.S. 967, 982-983 (2005). Therefore, unless the Ninth Circuit determines otherwise, an applicant must show an actual prohibition to obtain relief under Section 332 or Section 253. The current FCC “materially inhibits” standard does not require an actual prohibition.

- ii. *The Applicant [has/has not] demonstrated that there is a significant gap in service.*

Federal law does not guarantee wireless service providers coverage free of small “dead spots.” Under existing case law, “significant gap” determinations are fact-specific inquiries that defy any bright-line legal rule. For example, context specific factors that have been considered in assessing the significance of alleged gaps include: whether the gap affected significant commuter highway or railway; assessing the nature and character of that area or the number of potential users in that area who may be affected by the alleged lack of service; whether the gap covers well-traveled roads on which customers lack roaming capabilities; and whether the gap poses public safety risk.

Applying the Ninth Circuit test, in Exhibit J of the Appeal Letter, Verizon indicates that there is a significant gap in reliable LTE in-building and in-vehicle service coverage in the City.

- iii. *The Applicant [has/has not] demonstrated that the proposed installation is the least intrusive means to fill a significant gap in service.*

Applying the Ninth Circuit test, in Exhibit K of the Appeal Letter, Verizon presents the alternative site analysis and concludes that the proposed location is the least intrusive means to fill the significant gap in service.

- b. The Applicant **has/has not** demonstrated that a denial of the facility as proposed would violate state law.

Verizon claims that the City has “some discretion over the time, place, and manner of such access [under Cal. Pub. Util. Code Section 7901.1], and may review aesthetic and other site-specific impacts.” However, Verizon concludes that the City’s ban on wireless installations in the residential public right-of-way restricts installation in the majority of the City’s public rights-of-way in violation of Section 7901. Ultimately, Verizon is making a facial challenge that the ban on wireless facilities in the public right-of-way is unlawful, meaning that the ban is unlawful on its face rather than based on when or how it is applied.

Under California Public Utilities Code Section 7901, telephone companies may not “incommode the public use of the road or highway,” which means that their franchise to use the public right-of-way is not unfettered. Local governments may regulate wireless installations in the public right-of-way to ensure that they do not incommode the public use. This local government authority includes aesthetic regulations for wireless installations. Therefore, a local government must perform a location-specific analysis of a proposed wireless facility to determine if it will incommode with the use of the public right-of-way.

Further, Verizon’s statement that the City has “some discretion” over the time, place, and manner of Verizon’s access to the public right-of-way under Section 7901.1 is a misleading statement. As was confirmed by the California Supreme Court in the *T-Mobile W. LLC v. City & Cty. Of San Francisco* case, Section 7901.1’s “equivalent regulation” requirement only applies to local regulation of the *temporary access* for construction; it does not limit local authority under Section 7901 to regulate *longer term impacts* that might incommode the public use.

In Exhibit A of the Appeal Letter, Verizon presents the photo-simulations to support the argument that the proposed design does not impact the public use of roads and highways. Further, in the Alternatives Analysis in Exhibit K of the Appeal Letter, Verizon provides information on the aesthetics of the proposed facility and installation location, and it addresses the reasons that it feels the alternative installation sites are less intrusive or viable.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (“CEQA”) FINDING
[ONLY NECESSARY IF APPLICATION IS BEING APPROVED]

Provided a project has no potential to cause a significant effect on the environment, it is eligible to be exempt from further review under CEQA pursuant to Section 15303(d) of the CEQA Guidelines. Pursuant to the provisions of CEQA, an environmental assessment was completed and it was determined that the Project has no potential to cause a significant effect on the environment and is exempt pursuant to Section 15303 of the CEQA Guidelines, which exempts construction of small new utility facilities. For the foregoing reasons the City Council determines that the Project is Categorically Exempt per Section 15303 of the CEQA Guidelines, and approves Verizon Application No. SE19-00019.

I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the ___ day of _____ 2019 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Janis C. Pepper, MAYOR

Attest:

Dennis Hawkins, CMC, CITY CLERK

RESOLUTION NO. 2019-52

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS TO [DENY/GRANT] AN APPEAL OF NEW CINGULAR WIRELESS PCS, LLC DBA AT&T MOBILITY AND TO [DENY/APPROVE] THE APPLICATIONS FOR PROPOSED WIRELESS INSTALLATIONS AT 12 LOCATIONS LISTED HEREIN

WHEREAS, New Cingular Wireless PCS, LLC dba AT&T Mobility (“Applicant” or “AT&T”) filed multiple wireless telecommunications facilities permit applications (the “Applications”) to install wireless telecommunications facilities at various locations in Los Altos, CA:

Cell Nodes	Application No.	Location	Date Application Received
AT&T #1	SE19-00009	141 Almond Avenue	3/22/2019
AT&T #2	SE19-00003	687 Linden Avenue	3/22/2019
AT&T #3	SE19-00017	421 Valencia Drive	5/28/2019
AT&T #4	SE19-00004	33 Pine Lane	3/22/2019
AT&T #5	SE19-00010	49 San Juan Court	3/22/2019
AT&T #6	SE19-00011	791 Los Altos Avenue	3/22/2019
AT&T #7	SE19-00005	98 Eleanor Avenue	3/22/2019
AT&T #8	SE19-00006	182 Garland Way	3/22/2019
AT&T #9	SE19-00012	491 Patrick Way	3/22/2019
AT&T #10	SE19-00013	300 Los Altos Avenue	3/22/2019
AT&T #11	SE19-00007	130 Los Altos Avenue	3/22/2019
AT&T #12	SE19-00008	356 Blue Oak Lane	3/22/2019

; and

WHEREAS, on September 17, 2019, the City Manager issued a decision denying the Application in the form of a denial letter; and

WHEREAS, the Applicant submitted an appeal of the City Manager’s Decision by letter dated September 20, 2019 (the “Appeal Letter”); and

WHEREAS, the Applicant submitted additional materials on October 28, 2019 in support of its appeal; and

WHEREAS, on October 29, 2019 a public hearing was opened by the City of Los Altos (the “City”) City Council to consider the Applicant’s appeal of the City Manager’s Decision regarding the Application and was continued to a later date, with the verbal agreement of the Applicant to extend the applicable FCC shot clock, and later confirmed in writing to extend the time for final action to December 31, 2019; and

WHEREAS, on November 25, 2019, the City sent a Request for Additional Information letter to AT&T detailing the required application content that AT&T had not yet provided related to radiofrequency emissions documents and an acoustic analysis report; and

WHEREAS, on December 4, 2019, the City received the radiofrequency emissions documents and the acoustic analysis from AT&T; and

WHEREAS, on December 17, 2019, a public hearing was held by the City of Los Altos City Council to consider the Applicant's appeal of the City Manager's Decision regarding the Application.

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Los Altos, based on the evidence contained in the written record, which includes the Applications, the record related to the City Manager's Decision, the appeal letters and supporting documentation and written submissions provided to Council, and the record of the oral testimony given by, among others, the Applicant, City officials and the public at public hearings held on October 29, 2019 and December 17, 2019, hereby makes the following findings:

APPLICABLE STANDARDS

1. *Ordinance 2019-460 (new Ch. 11.12) and Resolution 2019-35 (Design and Siting Standards) apply to this Application.*

On August 5, 2019, the City of Los Altos adopted Ordinance 2019-460 to repeal and replace Ch. 11.12 of the Municipal Code, and Resolutions 2019-35 and 2019-36, which collectively address placement of wireless facilities within the City limits ("Wireless Regulations"). Section 11.12.030(A)(1) of the new Ordinance requires that these new provisions be applied to all pending permit applications. The Applications were pending as of August 5, 2019 and therefore the Wireless Regulations apply to it.

REQUIRED FINDINGS FOR APPROVAL

Under Municipal Code Section 11.12.210, the City Council must limit its review on appeal to whether the project should be approved or denied in accordance with the provisions of Municipal Code Chapter 11.12 and any applicable design and siting guidelines. In order to approve an application to install a wireless telecommunications facility in the public right-of-way, six positive findings set forth in Municipal Code Section 11.12.080 must be made. The Council makes the following findings:

1. *The proposed facilities do not comply with all applicable provisions of Chapter 11.12 of the Municipal Code, and with design and siting guidelines adopted by the City Council, and will be in compliance with all applicable building, electrical, and fire safety codes.*

Section 4.E. of Resolution 2019-35 states: “No facilities shall be permitted within 500 feet of any school in a PCF District.” The location for Cell Node Location No. 1 is within 500 feet from a school in a PCF District and does not meet the siting requirements in this section.

Section 4.D. of Resolution 2019-35 states: “Wireless facilities shall only be permitted in the City in accordance with the following table.” The table indicates wireless facilities of the type described in the Applications are permitted in public rights-of-way in non-residential districts with a use permit. The proposed locations of the facilities for Cell Node Location Nos. 2 to No. 12 do not meet this siting requirement.

Thus, the residential zone locations selected for siting Cell Node Location Nos. 2 to No. 12 do not conform with the location requirements of Resolution 2019-35.

2. The proposed facilities have not been designed and located to achieve compatibility with the community to the maximum extent reasonably feasible.

Finding 2 was made for the same reasons described under Finding 1 above.

3. The applicant has submitted a statement of its willingness to allow other carriers to collocate on the proposed wireless telecommunications facility wherever technically and economically feasible and where collocation would not harm community compatibility.

In the letter to the City Council dated October 28, 2019, AT&T stated that it is willing to allow other carriers to “collocate on the poles utilized by the Small Cell Nodes wherever technically and economically feasible and where collocation would not harm community capability.”

4. Noise generated by equipment will not be excessive, annoying or be detrimental to the public health, safety, and welfare and will not exceed the standards set forth in Chapter 6.16 of the Municipal Code and Resolution 2019-35.

In the letter submitted to the City Council dated October 28, 2019, AT&T stated that the noise generated by its equipment will not be “excessive, annoying, or detrimental to the public health, safety, and welfare, and it will not exceed the standards set forth in Chapter 6.16 of the Municipal Code and Resolution 2019-35.”

Further, in the letter and additional information submitted in response to the request for additional information dated December 4, 2019, AT&T submitted the acoustic analysis prepared by a Third-Party Consultant and it is reiterated that the proposed telecommunications facilities will comply with the City’s noise standards.

5. The applicant has provided substantial written evidence supporting the applicant's claim that it has the right to enter the public right-of-way pursuant to state or federal law.

In the Appeal Letter, AT&T asserted its statewide franchise under California Public Utilities Code Section 7901 to access and construct wireless telecommunications facilities in the public right-of-way.

6. ***The applicant has demonstrated that the facility will not interfere with the use of the public right-of-way, existing subterranean infrastructure, or the city's plans for modification or use of such location and infrastructure.***

The submitted designs of the proposed wireless telecommunications facilities do not indicate any physical interferences with the use of the public right-of-way.

Based on the above analysis, the City Council cannot make all the positive findings for approval of the Applications, and finds that the appeal and the Applications should be denied. Because the City Council would deny the appeal and the Applications, it must consider AT&T's claim that an exception must be granted.

REQUIRED FINDINGS FOR GRANT OF AN EXCEPTION

Municipal Code Section 11.12.090(A) allows for exceptions pertaining to Chapter 11.12 if the City makes certain findings. Pursuant to Section 11.12.090(A) of the Municipal Code, an exception pertaining to Chapter 11.12 may be granted if the City makes one or more of the following findings:

1. Denial of the facility as proposed would violate federal law, state law, or both; **or**
2. A provision of Chapter 11.12, as applied to the applicant, would deprive applicant of its rights under federal law, state law, or both.

Pursuant to Section 11.12.090(D), the burden of proof is on the Applicant.

1. ***The applicant [has/has not] demonstrated that an exception from Chapter 11.12 is warranted.***
 - a. *The Applicant [has/has not] demonstrated that a denial of the facility as proposed would violate federal law.*

AT&T claimed that the ban on wireless facilities in residential rights-of-way is preempted by federal law. It argued that the ban is a prohibition on personal wireless services and denial would materially inhibit the company's ability to provide and improve service in the area.

- i. *The FCC standard should not be applied, and the Ninth Circuit test is appropriate.*

In the Ninth Circuit, case law interpreting 47 U.S.C. Sections 332 and 253 determined that a denial can be found to improperly "prohibit" personal wireless services if it prevents a wireless services provider from closing a "significant gap" in its own service coverage using the least intrusive means. In the Small Cell Order, the FCC rejected that Ninth Circuit standard for small wireless facilities and found that a local regulation will "have the effect of prohibiting wireless telecommunications services if it materially inhibits the provision of such services."

The FCC’s “materially inhibits” standard should not be applied here because according to the U.S. Supreme Court, a plain language ruling by a court of appeals, such as the Ninth Circuit, trumps the determination of a regulatory agency. *See National Cable & Telecommunications Ass’n v. Brand X Internet Services*, 545 U.S. 967, 982-983 (2005). Therefore, unless the Ninth Circuit determines otherwise, an applicant must show an actual prohibition to obtain relief under Section 332 or Section 253. The current FCC “materially inhibits” standard does not require an actual prohibition.

- ii. *The Applicant [has/has not] demonstrated that there is a significant gap.*

Federal law does not guarantee wireless service providers coverage free of small “dead spots.” Under existing case law, “significant gap” determinations are fact-specific inquiries that defy any bright-line legal rule. For example, context specific factors that have been considered in assessing the significance of alleged gaps include: whether the gap affected significant commuter highway or railway; assessing the nature and character of that area or the number of potential users in that area who may be affected by the alleged lack of service; whether the gap covers well-traveled roads on which customers lack roaming capabilities; and whether the gap poses public safety risk.

Applying the Ninth Circuit test, in the Radio Frequency Statement submitted as additional submittal by AT&T dated October 28, 2019, AT&T indicates that the existing sites do not provide sufficient high-band, in building LTE service in the gap area.

- iii. *The Applicant [has/has not] demonstrated that the proposed installation is the least intrusive means to fill a significant gap.*

Further, in the Alternative Site Analysis submitted as additional information by AT&T dated October 28, 2019, AT&T presents the alternative site analysis and concludes that the proposed locations are the least intrusive means to fill the significant gaps in service.

- b. *The Applicant [has/has not] demonstrated that a denial of the facility as proposed would violate state law.*

AT&T claims that the proposed installations are consistent with state law, and AT&T suggested that its Section 7901 franchise right is subject only to the City’s reasonable and equivalent time, place, and manner regulations under Section 7901.1 and the ban on residential deployments is not “an equivalent regulation.”

Under California Public Utilities Code Section 7901, telephone companies may not “incommode the public use of the road or highway,” which means that their franchise to use the public right-of-way is not unfettered. Local governments may regulate wireless installations in the public right-of-way to ensure that they do not incommode the public use. This local government authority includes aesthetic regulations for wireless installations. Therefore, a local government must perform a location-specific analysis of a proposed wireless facility to determine if it will incommode with the use of the public right-of-way.

Further, AT&T's statement regarding the interplay of Sections 7901 and 7901.1 is simply incorrect and was rejected by the California Supreme Court in the *T-Mobile W. LLC v. City of San Francisco* case. Section 7901.1's "equivalent regulation" requirement only applies to local regulation of the *temporary access* for construction; it does not limit local authority under Section 7901 to regulate *longer term impacts* that might incommode the public use.

In the original Applications and resubmittals, AT&T presents the photo-simulations to support the argument that the proposed designs do not impact the public use of roads and highways.

Further, in the Alternatives Analysis submitted as additional submittal by AT&T dated October 28, 2019, AT&T provides information on the aesthetics of the proposed facilities and installation locations, and it addresses the reasons that it feels the alternative installation sites are less intrusive or viable.

CALIFORNIA ENVIRONMENTAL QUALITY ACT ("CEQA") FINDING
[ONLY NECESSARY IF APPLICATION IS BEING APPROVED]

Provided a project has no potential to cause a significant effect on the environment, it is eligible to be exempt from further review under CEQA pursuant to Section 15303(d) of the CEQA Guidelines. Pursuant to the provisions of CEQA, an environmental assessment was completed and it was determined that the Project has no potential to cause a significant effect on the environment and is exempt pursuant to Section 15303 of the CEQA Guidelines, which exempts construction of small new utility facilities. For the foregoing reasons the City Council determines that the Project is Categorically Exempt per Section 15303 of the CEQA Guidelines, and approves AT&T Applications No. SE19-00009, SE19-00003, SE19-00017, SE19-00004, SE19-00010, SE19-00011, SE19-00005, SE19-00006, SE19-00012, SE19-00013, SE19-00007, SE19-00008.

I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the ___ day of _____ 2019 by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

Janis C. Pepper, MAYOR

Attest:

Dennis Hawkins, CMC, CITY CLERK



**City of Los Altos
One North San Antonio Road
Los Altos, California 94022-3087
Tel: (650) 947-2700
Fax (650) 947-2701**

The CBR Group
Attn: Steve Piper
2840 Howe Road, Suite E
Martinez, CA 94553

September 11, 2019

RE: Denial Decision: Application for personal wireless facility located at **Verizon #1, 155 Almond Avenue, Application No. SE19-00019**

Dear Applicant,

The above referenced application to locate a personal wireless facility at 155 Almond Avenue is hereby denied for the reasons stated below.

A. Applicable Siting Regulations

On August 5, 2019, the City of Los Altos adopted Ordinance 2019-460 and Resolutions 2019-35 and 2019-36, which collectively address placement of wireless facilities within the City limits (“Wireless Regulations”). Section 11.12.030(A)(1) of the new Ordinance requires that these new provisions be applied to all pending permit applications. The above referenced application was pending as of August 5, 2019 and is therefore required to be processed pursuant to the Wireless Regulations. This was communicated to the applicant by letter dated August 13, 2019. By email dated August 22, 2019, the applicant did not clearly dispute the applicability of the new ordinance, and instead the applicant sought clarifications from the letter received.

B. Application Findings

The above referenced application is for a wireless facility to be placed on a new utility pole and with equipment mounted on the pole in the public right-of-way in an area of the City zoned as residential. Section 11.12.080 of the New Ordinance provides that the City shall *not* approve an application for placement in the public right-of-way unless several findings can be made. For the reasons discussed below, a number of the required findings cannot be made.

Required Finding 1. The proposed facility complies with all applicable provisions of this chapter, and with design and siting guidelines adopted by the City Council, and will be in compliance with all applicable building, electrical, and fire safety codes.

Section 4.D. of Resolution 2019-35 states: “Wireless facilities shall only be permitted in the City in accordance with the following table:” The table indicates wireless facilities of the type described in the application are permitted in public rights-of-way in non-residential districts with a use permit. Thus, the residential zone location selected for siting this wireless facility does not conform with the location requirements of Resolution 2019-35.

Section 2 of Resolution 2019-35 defines Small Cell Facility as each antenna associated with the deployment, excluding associated antenna equipment as no more than three cubic feet in volume. The proposed design of the antenna has exceeded this requirement and does not qualify as a Small Cell Facility.

No letter of authorization between PG&E and Verizon is included in the application.

The certificate of liability insurance for both Commercial General Liability and Automobile Liability expired on August 23, 2019 and August 30, 2019 respectively.

No evidence of a valid business license with City of Los Altos is included in the application.

For these reasons, required finding 1 cannot be made.

Required Finding 2. The proposed facility has been designed and located to achieve compatibility with the community to the maximum extent reasonably feasible.

For the same reasons described under required finding 1 above, required finding number 2 cannot be made.

Required Finding 3. The applicant has submitted a statement of its willingness to allow other carriers to collocate on the proposed wireless telecommunications facility wherever technically and economically feasible and where collocation would not harm community compatibility.

No such statement is included in the application. Therefore, required finding 3 cannot be made.

Required Finding 4. Noise generated by equipment will not be excessive, annoying nor be detrimental to the public health, safety, and welfare and will not exceed the standards set forth in chapter 6.16 of the Municipal Code and Resolution 2019-35.

No information needed to assess this issue is included in the application. Therefore, required finding 4 cannot be made.

Required Finding 5. The applicant has provided substantial written evidence supporting the applicant's claim that it has the right to enter the public right-of-way pursuant to state or federal law, or the applicant has entered into a franchise or other agreement with the City permitting them to use the public right-of-way.

No such evidence is included in the application. Therefore, required finding 5 cannot be made.

Required Finding 6. The applicant has demonstrated that the facility will not interfere with the use of the public right-of-way, existing subterranean infrastructure, or the City's plans for modification or use of such location and infrastructure.

The submitted design of the facility does not indicate any physical interferences with the use of the public right-of-way. Therefore, required finding 6 can be made.

C. Findings With Regard to Exceptions

LAMC Section 11.12.090 provides that exceptions pertaining to any provision of Chapter 11.12, including, but not limited to, exceptions from findings that would otherwise justify denial, may be granted by the City if the City makes the finding that:

1. Denial of the facility as proposed would violate federal law, state law, or both; or
2. A provision of this chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or both.

Among other things, Section 11.12.090 further provides that an applicant may only request an exception at the time of applying for a wireless telecommunications facility permit; the request must include both the specific provision(s) of Chapter 11.12, and any design or siting standards from which the exception is sought and the basis of the request; and the applicant shall have the burden of proving that denial of the facility as proposed would violate federal law, state law, or both, or that the provisions of this chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or both, using the evidentiary standards required by that law at issue.

City staff was aware that some of the required findings for approval likely could not be made based on the application as filed and determined that it would be fair to the applicant to treat the application as requesting one or more exceptions under Section 11.12.090 of the new Ordinance and to give the applicant an opportunity to supplement its application with supporting information if desired. This was communicated to the applicant by letter dated August 13, 2019. As The CBR Group did not identify in any of its application materials any specific requirements of the Wireless Regulations that create an effective prohibition or establish any other basis for granting of an exception, the applicant has not met its burden of proving that an exception is warranted and therefore no exceptions are granted.

For all of the above reasons the application is denied. In accordance with LAMC 11.12.210, you have the opportunity to appeal this decision. The appeal of this decision must be filed with the City Clerk within 5 days of the decision. The appeal will be heard by the City Council at a noticed public meeting. Attached for your information is LAMC 11.12.210.

If you have any questions, please contact Engineering Services Director Jim Sandoval at jsandoval@losaltosca.gov.

Sincerely,



Chris Jordan
City Manager

Enclosure



**City of Los Altos
One North San Antonio Road
Los Altos, California 94022-3087
Tel: (650) 947-2700
Fax (650) 947-2701**

Suresite
Attn: Annie Freeman, Site Development Specialist
2033 Gateway Place, 5th Floor
San Jose, CA 95110

September 17, 2019

RE: Denial Decision: Application for personal wireless facility located at **AT&T #1, 141 Almond Avenue, Application No. SE19-00009**

Dear Applicant,

The above referenced application to locate a personal wireless facility at 141 Almond Avenue is hereby denied for the reasons stated below.

A. Applicable Siting Regulations

On August 5, 2019, the City of Los Altos adopted Ordinance 2019-460 and Resolutions 2019-35 and 2019-36, which collectively address placement of wireless facilities within the City limits (“Wireless Regulations”). Section 11.12.030(A)(1) of the new Ordinance requires that these new provisions be applied to all pending permit applications. The above referenced application (and eleven others submitted by AT&T addressed in separate decision letters) was pending as of August 5, 2019 and is therefore required to be processed pursuant to the Wireless Regulations.

By letter dated August 21, 2019, AT&T asserted that all of its applications which were filed prior to the adoption of the Wireless Regulations (including the above referenced application) must be processed under the City’s regulations in effect at the time the applications *were filed*. The alleged basis for this position is AT&T’s belief that because the FCC’s *Small Cell Order* (FCC 18-133)¹ requires that aesthetic standards be published “in advance” and the City adopted its Wireless Regulations after the applications were filed, they cannot be applied to the applications. The City disagrees with this reading of the FCC order. The requirement that aesthetic standards be published in advance of an application only went into effect on April 15, 2019, after all but one of the AT&T applications were submitted. The FCC requirement to publish in advance does not apply retroactively to applications submitted prior to April 15, 2019 when there was no FCC rule obligating the City to apply only those aesthetic standards published in advance. Moreover,

¹ The Small Cell Order is referred to by AT&T in its letter as the Infrastructure Order.

the referenced FCC requirement to publish in advance only applies to aesthetic standards. It does not apply to any other elements of the application requirements and review process. Therefore, this application is being processed under the requirements of the Wireless Regulations.

B. Application Findings

The above referenced application is for a wireless facility to be placed on a new pole and with equipment mounted on the pole in the public right-of-way in an area of the City zoned as residential. Section 11.12.080 of the New Ordinance provides that the City shall *not* approve an application for placement in the public right-of-way unless several findings can be made. For the reasons discussed below, a number of the required findings cannot be made.

Required Finding 1. The proposed facility complies with all applicable provisions of this chapter, and with design and siting guidelines adopted by the City Council, and will be in compliance with all applicable building, electrical, and fire safety codes.

Section 4.D. of Resolution 2019-35 states: “Wireless facilities shall only be permitted in the City in accordance with the following table:” The table indicates wireless facilities of the type described in the application are permitted in public rights-of-way in non-residential districts with a use permit. Thus, the residential zone location selected for siting this wireless facility does not conform with the location requirements of Resolution 2019-35.

For these reasons, required finding 1 cannot be made.

Required Finding 2. The proposed facility has been designed and located to achieve compatibility with the community to the maximum extent reasonably feasible.

For the same reasons described under required finding 1 above, required finding number 2 cannot be made.

Required Finding 3. The applicant has submitted a statement of its willingness to allow other carriers to collocate on the proposed wireless telecommunications facility wherever technically and economically feasible and where collocation would not harm community compatibility.

No such statement is included in the application. Therefore, required finding 3 cannot be made.

Required Finding 4. Noise generated by equipment will not be excessive, annoying nor be detrimental to the public health, safety, and welfare and will not exceed the standards set forth in chapter 6.16 of the Municipal Code and Resolution 2019-35.

No information needed to assess this issue is included in the application. Therefore, required finding 4 cannot be made.

Required Finding 5. The applicant has provided substantial written evidence supporting the applicant's claim that it has the right to enter the public right-of-way pursuant to state or federal law, or the applicant has entered into a franchise or other agreement with the City permitting them to use the public right-of-way.

No such evidence is included in the application. Therefore, required finding 5 cannot be made.

Required Finding 6. The applicant has demonstrated that the facility will not interfere with the use of the public right-of-way, existing subterranean infrastructure, or the City's plans for modification or use of such location and infrastructure.

The submitted design of the facility does not indicate any physical interferences with the use of the public right-of-way. Therefore, required finding 6 can be made.

C. Findings With Regard to Exceptions

LAMC Section 11.12.090 provides that exceptions pertaining to any provision of Chapter 11.12, including, but not limited to, exceptions from findings that would otherwise justify denial, may be granted by the City if the City makes the finding that:

1. Denial of the facility as proposed would violate federal law, state law, or both; or
2. A provision of this chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or both.

Among other things, Section 11.12.090 further provides that an applicant may only request an exception at the time of applying for a wireless telecommunications facility permit; the request must include both the specific provision(s) of Chapter 11.12, and any design or siting standards from which the exception is sought and the basis of the request; and the applicant shall have the burden of proving that denial of the facility as proposed would violate federal law, state law, or both, or that the provisions of this chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or both, using the evidentiary standards required by that law at issue.

City staff was aware that some of the required findings for approval likely could not be made based on the application as filed and determined that it would be fair to the applicant to treat the application as requesting one or more exceptions under Section 11.12.090 of the new Ordinance and to give the applicant an opportunity to supplement its application with supporting information if desired. This was communicated to the applicant by letter dated August 13, 2019. In response, the applicant's letter dated August 21, 2019 took the position described above that the Wireless Regulations do not apply and the act of imposing the Wireless Regulations on the

application itself is an effective prohibition. For the reasons discussed in Part A above, the City disagrees. As AT&T did not identify in any of its application materials any specific requirements of the Wireless Regulations that create an effective prohibition or establish any other basis for granting of an exception, the applicant has not met its burden of proving that an exception is warranted and therefore no exceptions are granted.

For all of the above reasons the application is denied. In accordance with LAMC 11.12.210, you have the opportunity to appeal this decision. The appeal of this decision must be filed with the City Clerk within 5 days of the decision. The appeal will be heard by the City Council at a noticed public meeting. Attached for your information is LAMC 11.12.210.

If you have any questions, please contact Engineering Services Director Jim Sandoval at jsandoval@losaltosca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Jordan", written over a horizontal line.

Chris Jordan
City Manager

Enclosure



**City of Los Altos
One North San Antonio Road
Los Altos, California 94022-3087
Tel: (650) 947-2700
Fax (650) 947-2701**

Suresite
Attn: Annie Freeman, Site Development Specialist
2033 Gateway Place, 5th Floor
San Jose, CA 95110

September 17, 2019

RE: Denial Decision: Application for personal wireless facility located at **AT&T #2, 687 Linden Avenue, Application No. SE19-00003**

Dear Applicant,

The above referenced application to locate a personal wireless facility at 687 Linden Avenue is hereby denied for the reasons stated below.

A. Applicable Siting Regulations

On August 5, 2019, the City of Los Altos adopted Ordinance 2019-460 and Resolutions 2019-35 and 2019-36, which collectively address placement of wireless facilities within the City limits (“Wireless Regulations”). Section 11.12.030(A)(1) of the new Ordinance requires that these new provisions be applied to all pending permit applications. The above referenced application (and eleven others submitted by AT&T addressed in separate decision letters) was pending as of August 5, 2019 and is therefore required to be processed pursuant to the Wireless Regulations.

By letter dated August 21, 2019, AT&T asserted that all of its applications which were filed prior to the adoption of the Wireless Regulations (including the above referenced application) must be processed under the City’s regulations in effect at the time the applications *were filed*. The alleged basis for this position is AT&T’s belief that because the FCC’s *Small Cell Order* (FCC 18-133)¹ requires that aesthetic standards be published “in advance” and the City adopted its Wireless Regulations after the applications were filed, they cannot be applied to the applications. The City disagrees with this reading of the FCC order. The requirement that aesthetic standards be published in advance of an application only went into effect on April 15, 2019, after all but one of the AT&T applications were submitted. The FCC requirement to publish in advance does not apply retroactively to applications submitted prior to April 15, 2019 when there was no FCC rule obligating the City to apply only those aesthetic standards published in advance. Moreover,

¹ The Small Cell Order is referred to by AT&T in its letter as the Infrastructure Order.

the referenced FCC requirement to publish in advance only applies to aesthetic standards. It does not apply to any other elements of the application requirements and review process. Therefore, this application is being processed under the requirements of the Wireless Regulations.

B. Application Findings

The above referenced application is for a wireless facility to be placed on an existing utility pole and with equipment mounted on the pole in the public right-of-way in an area of the City zoned as residential. Section 11.12.080 of the New Ordinance provides that the City shall *not* approve an application for placement in the public right-of-way unless several findings can be made. For the reasons discussed below, a number of the required findings cannot be made.

Required Finding 1. The proposed facility complies with all applicable provisions of this chapter, and with design and siting guidelines adopted by the City Council, and will be in compliance with all applicable building, electrical, and fire safety codes.

Section 4.D. of Resolution 2019-35 states: “Wireless facilities shall only be permitted in the City in accordance with the following table:” The table indicates wireless facilities of the type described in the application are permitted in public rights-of-way in non-residential districts with a use permit. Thus, the residential zone location selected for siting this wireless facility does not conform with the location requirements of Resolution 2019-35.

For these reasons, required finding 1 cannot be made.

Required Finding 2. The proposed facility has been designed and located to achieve compatibility with the community to the maximum extent reasonably feasible.

For the same reasons described under required finding 1 above, required finding number 2 cannot be made.

Required Finding 3. The applicant has submitted a statement of its willingness to allow other carriers to collocate on the proposed wireless telecommunications facility wherever technically and economically feasible and where collocation would not harm community compatibility.

No such statement is included in the application. Therefore, required finding 3 cannot be made.

Required Finding 4. Noise generated by equipment will not be excessive, annoying nor be detrimental to the public health, safety, and welfare and will not exceed the standards set forth in chapter 6.16 of the Municipal Code and Resolution 2019-35.

No information needed to assess this issue is included in the application. Therefore, required finding 4 cannot be made.

Required Finding 5. The applicant has provided substantial written evidence supporting the applicant's claim that it has the right to enter the public right-of-way pursuant to state or federal law, or the applicant has entered into a franchise or other agreement with the City permitting them to use the public right-of-way.

No such evidence is included in the application. Therefore, required finding 5 cannot be made.

Required Finding 6. The applicant has demonstrated that the facility will not interfere with the use of the public right-of-way, existing subterranean infrastructure, or the City's plans for modification or use of such location and infrastructure.

The submitted design of the facility does not indicate any physical interferences with the use of the public right-of-way. Therefore, required finding 6 can be made.

C. Findings With Regard to Exceptions

LAMC Section 11.12.090 provides that exceptions pertaining to any provision of Chapter 11.12, including, but not limited to, exceptions from findings that would otherwise justify denial, may be granted by the City if the City makes the finding that:

1. Denial of the facility as proposed would violate federal law, state law, or both; or
2. A provision of this chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or both.

Among other things, Section 11.12.090 further provides that an applicant may only request an exception at the time of applying for a wireless telecommunications facility permit; the request must include both the specific provision(s) of Chapter 11.12, and any design or siting standards from which the exception is sought and the basis of the request; and the applicant shall have the burden of proving that denial of the facility as proposed would violate federal law, state law, or both, or that the provisions of this chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or both, using the evidentiary standards required by that law at issue.

City staff was aware that some of the required findings for approval likely could not be made based on the application as filed and determined that it would be fair to the applicant to treat the application as requesting one or more exceptions under Section 11.12.090 of the new Ordinance and to give the applicant an opportunity to supplement its application with supporting information if desired. This was communicated to the applicant by letter dated August 13, 2019. In response, the applicant's letter dated August 21, 2019 took the position described above that the Wireless Regulations do not apply and the act of imposing the Wireless Regulations on the application itself is an effective prohibition. For the reasons discussed in Part A above, the City disagrees. As AT&T did not identify in any of its application materials any specific requirements

of the Wireless Regulations that create an effective prohibition or establish any other basis for granting of an exception, the applicant has not met its burden of proving that an exception is warranted and therefore no exceptions are granted.

For all of the above reasons the application is denied. In accordance with LAMC 11.12.210, you have the opportunity to appeal this decision. The appeal of this decision must be filed with the City Clerk within 5 days of the decision. The appeal will be heard by the City Council at a noticed public meeting. Attached for your information is LAMC 11.12.210.

If you have any questions, please contact Engineering Services Director Jim Sandoval at jsandoval@losaltosca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Jordan", written over a horizontal line.

Chris Jordan
City Manager

Enclosure



City of Los Altos
One North San Antonio Road
Los Altos, California 94022-3087
Tel: (650) 947-2700
Fax (650) 947-2701

Suresite
Attn: Annie Freeman, Site Development Specialist
2033 Gateway Place, 5th Floor
San Jose, CA 95110

September 17, 2019

RE: Denial Decision: Application for personal wireless facility located at **AT&T #3, 421 Valencia Drive, Application No. SE19-00017**

Dear Applicant,

The above referenced application to locate a personal wireless facility at 421 Valencia Drive is hereby denied for the reasons stated below.

A. Applicable Siting Regulations

On August 5, 2019, the City of Los Altos adopted Ordinance 2019-460 and Resolutions 2019-35 and 2019-36, which collectively address placement of wireless facilities within the City limits (“Wireless Regulations”). Section 11.12.030(A)(1) of the new Ordinance requires that these new provisions be applied to all pending permit applications. The above referenced application (and eleven others submitted by AT&T addressed in separate decision letters) was pending as of August 5, 2019 and is therefore required to be processed pursuant to the Wireless Regulations.

By letter dated August 21, 2019, AT&T asserted that all of its applications which were filed prior to the adoption of the Wireless Regulations (including the above referenced application) must be processed under the City’s regulations in effect at the time the applications *were filed*. The alleged basis for this position is AT&T’s belief that because the FCC’s *Small Cell Order* (FCC 18-133)¹ requires that aesthetic standards be published “in advance” and the City adopted its Wireless Regulations after the applications were filed, they cannot be applied to the applications. The City disagrees with this reading of the FCC order. The requirement that aesthetic standards be published in advance of an application only went into effect on April 15, 2019, after this AT&T application was submitted. The referenced FCC requirement to publish in advance only applies to aesthetic standards. It does not apply to any other elements of the application requirements and review process. Therefore, this application is being processed under the

¹ The Small Cell Order is referred to by AT&T in its letter as the Infrastructure Order.

requirements of the Wireless Regulations. And even if the Wireless Regulations adopted on August 5, 2019 do not apply, the application will still be denied based on the application findings explained in the next section.

B. Application Findings

The above referenced application is for a wireless facility to be placed on a new utility pole and with equipment mounted on the pole in the public right-of-way in an area of the City zoned as residential. Section 11.12.080 of the New Ordinance provides that the City shall *not* approve an application for placement in the public right-of-way unless several findings can be made. For the reasons discussed below, a number of the required findings cannot be made.

Required Finding 1. The proposed facility complies with all applicable provisions of this chapter, and with design and siting guidelines adopted by the City Council, and will be in compliance with all applicable building, electrical, and fire safety codes.

Section 4.D. of Resolution 2019-35 states: “Wireless facilities shall only be permitted in the City in accordance with the following table:” The table indicates wireless facilities of the type described in the application are permitted in public rights-of-way in non-residential districts with a use permit. Thus, the residential zone location selected for siting this wireless facility does not conform with the location requirements of Resolution 2019-35.

Section A of City’s Distributed Antenna Systems for Wireless Communications Encroachment Permit Requirements states that antenna system facilities “are allowed on local streets upon verification by a qualified electrical engineer licensed by the state of California representing the FCC licensee that using local streets is necessary to obtain capacity and coverage.” City cannot confirm the qualification of the individual who prepared the Mobility Radio Frequency Statement for this location.

Section B of City’s Distributed Antenna Systems for Wireless Communications Encroachment Permit Requirements states that “Antenna systems are permitted on joint utility poles at a height not to exceed 10 feet above the height of joint utility pole.” The increase in height for the proposed design has exceeded this requirement.

For these reasons, required finding 1 cannot be made.

Required Finding 2. The proposed facility has been designed and located to achieve compatibility with the community to the maximum extent reasonably feasible.

For the same reasons described under required finding 1 above, required finding number 2 cannot be made.

Required Finding 3. The applicant has submitted a statement of its willingness to allow other carriers to collocate on the proposed wireless telecommunications facility wherever technically and economically feasible and where collocation would not harm community compatibility.

No such statement is included in the application. Therefore, required finding 3 cannot be made.

Required Finding 4. Noise generated by equipment will not be excessive, annoying nor be detrimental to the public health, safety, and welfare and will not exceed the standards set forth in chapter 6.16 of the Municipal Code and Resolution 2019-35.

No information needed to assess this issue is included in the application. Therefore, required finding 4 cannot be made.

Required Finding 5. The applicant has provided substantial written evidence supporting the applicant's claim that it has the right to enter the public right-of-way pursuant to state or federal law, or the applicant has entered into a franchise or other agreement with the City permitting them to use the public right-of-way.

No such evidence is included in the application. Therefore, required finding 5 cannot be made.

Required Finding 6. The applicant has demonstrated that the facility will not interfere with the use of the public right-of-way, existing subterranean infrastructure, or the City's plans for modification or use of such location and infrastructure.

The submitted design of the facility does not indicate any physical interferences with the use of the public right-of-way. Therefore, required finding 6 can be made.

C. Findings With Regard to Exceptions

LAMC Section 11.12.090 provides that exceptions pertaining to any provision of Chapter 11.12, including, but not limited to, exceptions from findings that would otherwise justify denial, may be granted by the City if the City makes the finding that:

1. Denial of the facility as proposed would violate federal law, state law, or both; or
2. A provision of this chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or both.

Among other things, Section 11.12.090 further provides that an applicant may only request an exception at the time of applying for a wireless telecommunications facility permit; the request must include both the specific provision(s) of Chapter 11.12, and any design or siting standards from which the exception is sought and the basis of the request; and the applicant shall have the burden of proving that denial of the facility as proposed would violate federal law, state law, or

both, or that the provisions of this chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or both, using the evidentiary standards required by that law at issue.

City staff was aware that some of the required findings for approval likely could not be made based on the application as filed and determined that it would be fair to the applicant to treat the application as requesting one or more exceptions under Section 11.12.090 of the new Ordinance and to give the applicant an opportunity to supplement its application with supporting information if desired. This was communicated to the applicant by letter dated August 13, 2019. In response, the applicant's letter dated August 21, 2019 took the position described above that the Wireless Regulations do not apply and the act of imposing the Wireless Regulations on the application itself is an effective prohibition. For the reasons discussed in Part A above, the City disagrees. As AT&T did not identify in any of its application materials any specific requirements of the Wireless Regulations that create an effective prohibition or establish any other basis for granting of an exception, the applicant has not met its burden of proving that an exception is warranted and therefore no exceptions are granted.

For all of the above reasons based on City's Distributed Antenna Systems for Wireless Communications Encroachment Permit Requirements, the application is denied. In accordance with LAMC 11.12.210, you have the opportunity to appeal this decision. The appeal of this decision must be filed with the City Clerk within 5 days of the decision. The appeal will be heard by the City Council at a noticed public meeting. Attached for your information is LAMC 11.12.210.

If you have any questions, please contact Engineering Services Director Jim Sandoval at jsandoval@losaltosca.gov.

Sincerely,



Chris Jordan
City Manager

Enclosure



City of Los Altos
One North San Antonio Road
Los Altos, California 94022-3087
Tel: (650) 947-2700
Fax (650) 947-2701

Suresite
Attn: Annie Freeman, Site Development Specialist
2033 Gateway Place, 5th Floor
San Jose, CA 95110

September 17, 2019

RE: Denial Decision: Application for personal wireless facility located at **AT&T #4, 33 Pine Lane, Application No. SE19-00004**

Dear Applicant,

The above referenced application to locate a personal wireless facility at 33 Pine Lane is hereby denied for the reasons stated below.

A. Applicable Siting Regulations

On August 5, 2019, the City of Los Altos adopted Ordinance 2019-460 and Resolutions 2019-35 and 2019-36, which collectively address placement of wireless facilities within the City limits (“Wireless Regulations”). Section 11.12.030(A)(1) of the new Ordinance requires that these new provisions be applied to all pending permit applications. The above referenced application (and eleven others submitted by AT&T addressed in separate decision letters) was pending as of August 5, 2019 and is therefore required to be processed pursuant to the Wireless Regulations.

By letter dated August 21, 2019, AT&T asserted that all of its applications which were filed prior to the adoption of the Wireless Regulations (including the above referenced application) must be processed under the City’s regulations in effect at the time the applications *were filed*. The alleged basis for this position is AT&T’s belief that because the FCC’s *Small Cell Order* (FCC 18-133)¹ requires that aesthetic standards be published “in advance” and the City adopted its Wireless Regulations after the applications were filed, they cannot be applied to the applications. The City disagrees with this reading of the FCC order. The requirement that aesthetic standards be published in advance of an application only went into effect on April 15, 2019, after all but one of the AT&T applications were submitted. The FCC requirement to publish in advance does not apply retroactively to applications submitted prior to April 15, 2019 when there was no FCC rule obligating the City to apply only those aesthetic standards published in advance. Moreover,

¹ The Small Cell Order is referred to by AT&T in its letter as the Infrastructure Order.

the referenced FCC requirement to publish in advance only applies to aesthetic standards. It does not apply to any other elements of the application requirements and review process. Therefore, this application is being processed under the requirements of the Wireless Regulations.

B. Application Findings

The above referenced application is for a wireless facility to be placed on an existing utility pole and with equipment mounted on the pole in the public right-of-way in an area of the City zoned as residential. Section 11.12.080 of the New Ordinance provides that the City shall *not* approve an application for placement in the public right-of-way unless several findings can be made. For the reasons discussed below, a number of the required findings cannot be made.

Required Finding 1. The proposed facility complies with all applicable provisions of this chapter, and with design and siting guidelines adopted by the City Council, and will be in compliance with all applicable building, electrical, and fire safety codes.

Section 4.D. of Resolution 2019-35 states: “Wireless facilities shall only be permitted in the City in accordance with the following table:” The table indicates wireless facilities of the type described in the application are permitted in public rights-of-way in non-residential districts with a use permit. Thus, the residential zone location selected for siting this wireless facility does not conform with the location requirements of Resolution 2019-35.

For these reasons, required finding 1 cannot be made.

Required Finding 2. The proposed facility has been designed and located to achieve compatibility with the community to the maximum extent reasonably feasible.

For the same reasons described under required finding 1 above, required finding number 2 cannot be made.

Required Finding 3. The applicant has submitted a statement of its willingness to allow other carriers to collocate on the proposed wireless telecommunications facility wherever technically and economically feasible and where collocation would not harm community compatibility.

No such statement is included in the application. Therefore, required finding 3 cannot be made.

Required Finding 4. Noise generated by equipment will not be excessive, annoying nor be detrimental to the public health, safety, and welfare and will not exceed the standards set forth in chapter 6.16 of the Municipal Code and Resolution 2019-35.

No information needed to assess this issue is included in the application. Therefore, required finding 4 cannot be made.

Required Finding 5. The applicant has provided substantial written evidence supporting the applicant's claim that it has the right to enter the public right-of-way pursuant to state or federal law, or the applicant has entered into a franchise or other agreement with the City permitting them to use the public right-of-way.

No such evidence is included in the application. Therefore, required finding 5 cannot be made.

Required Finding 6. The applicant has demonstrated that the facility will not interfere with the use of the public right-of-way, existing subterranean infrastructure, or the City's plans for modification or use of such location and infrastructure.

The submitted design of the facility does not indicate any physical interferences with the use of the public right-of-way. Therefore, required finding 6 can be made.

C. Findings With Regard to Exceptions

LAMC Section 11.12.090 provides that exceptions pertaining to any provision of Chapter 11.12, including, but not limited to, exceptions from findings that would otherwise justify denial, may be granted by the City if the City makes the finding that:

1. Denial of the facility as proposed would violate federal law, state law, or both; or
2. A provision of this chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or both.

Among other things, Section 11.12.090 further provides that an applicant may only request an exception at the time of applying for a wireless telecommunications facility permit; the request must include both the specific provision(s) of Chapter 11.12, and any design or siting standards from which the exception is sought and the basis of the request; and the applicant shall have the burden of proving that denial of the facility as proposed would violate federal law, state law, or both, or that the provisions of this chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or both, using the evidentiary standards required by that law at issue.

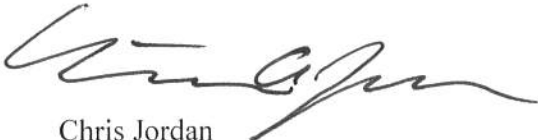
City staff was aware that some of the required findings for approval likely could not be made based on the application as filed and determined that it would be fair to the applicant to treat the application as requesting one or more exceptions under Section 11.12.090 of the new Ordinance and to give the applicant an opportunity to supplement its application with supporting information if desired. This was communicated to the applicant by letter dated August 13, 2019. In response, the applicant's letter dated August 21, 2019 took the position described above that the Wireless Regulations do not apply and the act of imposing the Wireless Regulations on the application itself is an effective prohibition. For the reasons discussed in Part A above, the City disagrees. As AT&T did not identify in any of its application materials any specific requirements

of the Wireless Regulations that create an effective prohibition or establish any other basis for granting of an exception, the applicant has not met its burden of proving that an exception is warranted and therefore no exceptions are granted.

For all of the above reasons the application is denied. In accordance with LAMC 11.12.210, you have the opportunity to appeal this decision. The appeal of this decision must be filed with the City Clerk within 5 days of the decision. The appeal will be heard by the City Council at a noticed public meeting. Attached for your information is LAMC 11.12.210.

If you have any questions, please contact Engineering Services Director Jim Sandoval at jsandoval@losaltosca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Jordan", written in a cursive style.

Chris Jordan
City Manager

Enclosure



**City of Los Altos
One North San Antonio Road
Los Altos, California 94022-3087
Tel: (650) 947-2700
Fax (650) 947-2701**

Suresite
Attn: Annie Freeman, Site Development Specialist
2033 Gateway Place, 5th Floor
San Jose, CA 95110

September 17, 2019

RE: Denial Decision: Application for personal wireless facility located at **AT&T #5, 49 San Juan Court, Application No. SE19-00010**

Dear Applicant,

The above referenced application to locate a personal wireless facility at 49 San Juan Court is hereby denied for the reasons stated below.

A. Applicable Siting Regulations

On August 5, 2019, the City of Los Altos adopted Ordinance 2019-460 and Resolutions 2019-35 and 2019-36, which collectively address placement of wireless facilities within the City limits (“Wireless Regulations”). Section 11.12.030(A)(1) of the new Ordinance requires that these new provisions be applied to all pending permit applications. The above referenced application (and eleven others submitted by AT&T addressed in separate decision letters) was pending as of August 5, 2019 and is therefore required to be processed pursuant to the Wireless Regulations.

By letter dated August 21, 2019, AT&T asserted that all of its applications which were filed prior to the adoption of the Wireless Regulations (including the above referenced application) must be processed under the City’s regulations in effect at the time the applications *were filed*. The alleged basis for this position is AT&T’s belief that because the FCC’s *Small Cell Order* (FCC 18-133)¹ requires that aesthetic standards be published “in advance” and the City adopted its Wireless Regulations after the applications were filed, they cannot be applied to the applications. The City disagrees with this reading of the FCC order. The requirement that aesthetic standards be published in advance of an application only went into effect on April 15, 2019, after all but one of the AT&T applications were submitted. The FCC requirement to publish in advance does not apply retroactively to applications submitted prior to April 15, 2019 when there was no FCC rule obligating the City to apply only those aesthetic standards published in advance. Moreover,

¹ The Small Cell Order is referred to by AT&T in its letter as the Infrastructure Order.

the referenced FCC requirement to publish in advance only applies to aesthetic standards. It does not apply to any other elements of the application requirements and review process. Therefore, this application is being processed under the requirements of the Wireless Regulations.

B. Application Findings

The above referenced application is for a wireless facility to be placed on a new utility pole and with equipment mounted on the pole in the public right-of-way in an area of the City zoned as residential. Section 11.12.080 of the New Ordinance provides that the City shall *not* approve an application for placement in the public right-of-way unless several findings can be made. For the reasons discussed below, a number of the required findings cannot be made.

Required Finding 1. The proposed facility complies with all applicable provisions of this chapter, and with design and siting guidelines adopted by the City Council, and will be in compliance with all applicable building, electrical, and fire safety codes.

Section 4.D. of Resolution 2019-35 states: “Wireless facilities shall only be permitted in the City in accordance with the following table:” The table indicates wireless facilities of the type described in the application are permitted in public rights-of-way in non-residential districts with a use permit. Thus, the residential zone location selected for siting this wireless facility does not conform with the location requirements of Resolution 2019-35.

For these reasons, required finding 1 cannot be made.

Required Finding 2. The proposed facility has been designed and located to achieve compatibility with the community to the maximum extent reasonably feasible.

For the same reasons described under required finding 1 above, required finding number 2 cannot be made.

Required Finding 3. The applicant has submitted a statement of its willingness to allow other carriers to collocate on the proposed wireless telecommunications facility wherever technically and economically feasible and where collocation would not harm community compatibility.

No such statement is included in the application. Therefore, required finding 3 cannot be made.

Required Finding 4. Noise generated by equipment will not be excessive, annoying nor be detrimental to the public health, safety, and welfare and will not exceed the standards set forth in chapter 6.16 of the Municipal Code and Resolution 2019-35.

No information needed to assess this issue is included in the application. Therefore, required finding 4 cannot be made.

Required Finding 5. The applicant has provided substantial written evidence supporting the applicant's claim that it has the right to enter the public right-of-way pursuant to state or federal law, or the applicant has entered into a franchise or other agreement with the City permitting them to use the public right-of-way.

No such evidence is included in the application. Therefore, required finding 5 cannot be made.

Required Finding 6. The applicant has demonstrated that the facility will not interfere with the use of the public right-of-way, existing subterranean infrastructure, or the City's plans for modification or use of such location and infrastructure.

The submitted design of the facility does not indicate any physical interferences with the use of the public right-of-way. Therefore, required finding 6 can be made.

C. Findings With Regard to Exceptions

LAMC Section 11.12.090 provides that exceptions pertaining to any provision of Chapter 11.12, including, but not limited to, exceptions from findings that would otherwise justify denial, may be granted by the City if the City makes the finding that:

1. Denial of the facility as proposed would violate federal law, state law, or both; or
2. A provision of this chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or both.

Among other things, Section 11.12.090 further provides that an applicant may only request an exception at the time of applying for a wireless telecommunications facility permit; the request must include both the specific provision(s) of Chapter 11.12, and any design or siting standards from which the exception is sought and the basis of the request; and the applicant shall have the burden of proving that denial of the facility as proposed would violate federal law, state law, or both, or that the provisions of this chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or both, using the evidentiary standards required by that law at issue.

City staff was aware that some of the required findings for approval likely could not be made based on the application as filed and determined that it would be fair to the applicant to treat the application as requesting one or more exceptions under Section 11.12.090 of the new Ordinance and to give the applicant an opportunity to supplement its application with supporting information if desired. This was communicated to the applicant by letter dated August 13, 2019. In response, the applicant's letter dated August 21, 2019 took the position described above that the Wireless Regulations do not apply and the act of imposing the Wireless Regulations on the application itself is an effective prohibition. For the reasons discussed in Part A above, the City disagrees. As AT&T did not identify in any of its application materials any specific requirements

of the Wireless Regulations that create an effective prohibition or establish any other basis for granting of an exception, the applicant has not met its burden of proving that an exception is warranted and therefore no exceptions are granted.

For all of the above reasons the application is denied. In accordance with LAMC 11.12.210, you have the opportunity to appeal this decision. The appeal of this decision must be filed with the City Clerk within 5 days of the decision. The appeal will be heard by the City Council at a noticed public meeting. Attached for your information is LAMC 11.12.210.

If you have any questions, please contact Engineering Services Director Jim Sandoval at jsandoval@losaltosca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Jordan", written in a cursive style.

Chris Jordan
City Manager

Enclosure



**City of Los Altos
One North San Antonio Road
Los Altos, California 94022-3087
Tel: (650) 947-2700
Fax (650) 947-2701**

Suresite
Attn: Annie Freeman, Site Development Specialist
2033 Gateway Place, 5th Floor
San Jose, CA 95110

September 17, 2019

RE: Denial Decision: Application for personal wireless facility located at **AT&T #6, 791 Los Altos Avenue, Application No. SE19-00011**

Dear Applicant,

The above referenced application to locate a personal wireless facility at 791 Los Altos Avenue is hereby denied for the reasons stated below.

A. Applicable Siting Regulations

On August 5, 2019, the City of Los Altos adopted Ordinance 2019-460 and Resolutions 2019-35 and 2019-36, which collectively address placement of wireless facilities within the City limits (“Wireless Regulations”). Section 11.12.030(A)(1) of the new Ordinance requires that these new provisions be applied to all pending permit applications. The above referenced application (and eleven others submitted by AT&T addressed in separate decision letters) was pending as of August 5, 2019 and is therefore required to be processed pursuant to the Wireless Regulations.

By letter dated August 21, 2019, AT&T asserted that all of its applications which were filed prior to the adoption of the Wireless Regulations (including the above referenced application) must be processed under the City’s regulations in effect at the time the applications *were filed*. The alleged basis for this position is AT&T’s belief that because the FCC’s *Small Cell Order* (FCC 18-133)¹ requires that aesthetic standards be published “in advance” and the City adopted its Wireless Regulations after the applications were filed, they cannot be applied to the applications. The City disagrees with this reading of the FCC order. The requirement that aesthetic standards be published in advance of an application only went into effect on April 15, 2019, after all but one of the AT&T applications were submitted. The FCC requirement to publish in advance does not apply retroactively to applications submitted prior to April 15, 2019 when there was no FCC rule obligating the City to apply only those aesthetic standards published in advance. Moreover,

¹ The Small Cell Order is referred to by AT&T in its letter as the Infrastructure Order.

the referenced FCC requirement to publish in advance only applies to aesthetic standards. It does not apply to any other elements of the application requirements and review process. Therefore, this application is being processed under the requirements of the Wireless Regulations.

B. Application Findings

The above referenced application is for a wireless facility to be placed on a new utility pole and with equipment mounted on the pole in the public right-of-way in an area of the City zoned as residential. Section 11.12.080 of the New Ordinance provides that the City shall *not* approve an application for placement in the public right-of-way unless several findings can be made. For the reasons discussed below, a number of the required findings cannot be made.

Required Finding 1. The proposed facility complies with all applicable provisions of this chapter, and with design and siting guidelines adopted by the City Council, and will be in compliance with all applicable building, electrical, and fire safety codes.

Section 4.D. of Resolution 2019-35 states: “Wireless facilities shall only be permitted in the City in accordance with the following table:” The table indicates wireless facilities of the type described in the application are permitted in public rights-of-way in non-residential districts with a use permit. Thus, the residential zone location selected for siting this wireless facility does not conform with the location requirements of Resolution 2019-35.

For these reasons, required finding 1 cannot be made.

Required Finding 2. The proposed facility has been designed and located to achieve compatibility with the community to the maximum extent reasonably feasible.

For the same reasons described under required finding 1 above, required finding number 2 cannot be made.

Required Finding 3. The applicant has submitted a statement of its willingness to allow other carriers to collocate on the proposed wireless telecommunications facility wherever technically and economically feasible and where collocation would not harm community compatibility.

No such statement is included in the application. Therefore, required finding 3 cannot be made.

Required Finding 4. Noise generated by equipment will not be excessive, annoying nor be detrimental to the public health, safety, and welfare and will not exceed the standards set forth in chapter 6.16 of the Municipal Code and Resolution 2019-35.

No information needed to assess this issue is included in the application. Therefore, required finding 4 cannot be made.

Required Finding 5. The applicant has provided substantial written evidence supporting the applicant's claim that it has the right to enter the public right-of-way pursuant to state or federal law, or the applicant has entered into a franchise or other agreement with the City permitting them to use the public right-of-way.

No such evidence is included in the application. Therefore, required finding 5 cannot be made.

Required Finding 6. The applicant has demonstrated that the facility will not interfere with the use of the public right-of-way, existing subterranean infrastructure, or the City's plans for modification or use of such location and infrastructure.

The submitted design of the facility does not indicate any physical interferences with the use of the public right-of-way. Therefore, required finding 6 can be made.

C. Findings With Regard to Exceptions

LAMC Section 11.12.090 provides that exceptions pertaining to any provision of Chapter 11.12, including, but not limited to, exceptions from findings that would otherwise justify denial, may be granted by the City if the City makes the finding that:

1. Denial of the facility as proposed would violate federal law, state law, or both; or
2. A provision of this chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or both.

Among other things, Section 11.12.090 further provides that an applicant may only request an exception at the time of applying for a wireless telecommunications facility permit; the request must include both the specific provision(s) of Chapter 11.12, and any design or siting standards from which the exception is sought and the basis of the request; and the applicant shall have the burden of proving that denial of the facility as proposed would violate federal law, state law, or both, or that the provisions of this chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or both, using the evidentiary standards required by that law at issue.

City staff was aware that some of the required findings for approval likely could not be made based on the application as filed and determined that it would be fair to the applicant to treat the application as requesting one or more exceptions under Section 11.12.090 of the new Ordinance and to give the applicant an opportunity to supplement its application with supporting information if desired. This was communicated to the applicant by letter dated August 13, 2019. In response, the applicant's letter dated August 21, 2019 took the position described above that the Wireless Regulations do not apply and the act of imposing the Wireless Regulations on the application itself is an effective prohibition. For the reasons discussed in Part A above, the City disagrees. As AT&T did not identify in any of its application materials any specific requirements

of the Wireless Regulations that create an effective prohibition or establish any other basis for granting of an exception, the applicant has not met its burden of proving that an exception is warranted and therefore no exceptions are granted.

For all of the above reasons the application is denied. In accordance with LAMC 11.12.210, you have the opportunity to appeal this decision. The appeal of this decision must be filed with the City Clerk within 5 days of the decision. The appeal will be heard by the City Council at a noticed public meeting. Attached for your information is LAMC 11.12.210.

If you have any questions, please contact Engineering Services Director Jim Sandoval at jsandoval@losaltosca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Jordan", written in a cursive style.

Chris Jordan
City Manager

Enclosure



City of Los Altos
One North San Antonio Road
Los Altos, California 94022-3087
Tel: (650) 947-2700
Fax (650) 947-2701

Suresite
Attn: Annie Freeman, Site Development Specialist
2033 Gateway Place, 5th Floor
San Jose, CA 95110

September 17, 2019

RE: Denial Decision: Application for personal wireless facility located at **AT&T #7, 98 Eleanor Avenue, Application No. SE19-00005**

Dear Applicant,

The above referenced application to locate a personal wireless facility at 98 Eleanor Avenue is hereby denied for the reasons stated below.

A. Applicable Siting Regulations

On August 5, 2019, the City of Los Altos adopted Ordinance 2019-460 and Resolutions 2019-35 and 2019-36, which collectively address placement of wireless facilities within the City limits (“Wireless Regulations”). Section 11.12.030(A)(1) of the new Ordinance requires that these new provisions be applied to all pending permit applications. The above referenced application (and eleven others submitted by AT&T addressed in separate decision letters) was pending as of August 5, 2019 and is therefore required to be processed pursuant to the Wireless Regulations.

By letter dated August 21, 2019, AT&T asserted that all of its applications which were filed prior to the adoption of the Wireless Regulations (including the above referenced application) must be processed under the City’s regulations in effect at the time the applications *were filed*. The alleged basis for this position is AT&T’s belief that because the FCC’s *Small Cell Order* (FCC 18-133)¹ requires that aesthetic standards be published “in advance” and the City adopted its Wireless Regulations after the applications were filed, they cannot be applied to the applications. The City disagrees with this reading of the FCC order. The requirement that aesthetic standards be published in advance of an application only went into effect on April 15, 2019, after all but one of the AT&T applications were submitted. The FCC requirement to publish in advance does not apply retroactively to applications submitted prior to April 15, 2019 when there was no FCC rule obligating the City to apply only those aesthetic standards published in advance. Moreover,

¹ The Small Cell Order is referred to by AT&T in its letter as the Infrastructure Order.

the referenced FCC requirement to publish in advance only applies to aesthetic standards. It does not apply to any other elements of the application requirements and review process. Therefore, this application is being processed under the requirements of the Wireless Regulations.

B. Application Findings

The above referenced application is for a wireless facility to be placed on an existing utility pole and with equipment mounted on the pole in the public right-of-way in an area of the City zoned as residential. Section 11.12.080 of the New Ordinance provides that the City shall *not* approve an application for placement in the public right-of-way unless several findings can be made. For the reasons discussed below, a number of the required findings cannot be made.

Required Finding 1. The proposed facility complies with all applicable provisions of this chapter, and with design and siting guidelines adopted by the City Council, and will be in compliance with all applicable building, electrical, and fire safety codes.

Section 4.D. of Resolution 2019-35 states: “Wireless facilities shall only be permitted in the City in accordance with the following table:” The table indicates wireless facilities of the type described in the application are permitted in public rights-of-way in non-residential districts with a use permit. Thus, the residential zone location selected for siting this wireless facility does not conform with the location requirements of Resolution 2019-35.

For these reasons, required finding 1 cannot be made.

Required Finding 2. The proposed facility has been designed and located to achieve compatibility with the community to the maximum extent reasonably feasible.

For the same reasons described under required finding 1 above, required finding number 2 cannot be made.

Required Finding 3. The applicant has submitted a statement of its willingness to allow other carriers to collocate on the proposed wireless telecommunications facility wherever technically and economically feasible and where collocation would not harm community compatibility.

No such statement is included in the application. Therefore, required finding 3 cannot be made.

Required Finding 4. Noise generated by equipment will not be excessive, annoying nor be detrimental to the public health, safety, and welfare and will not exceed the standards set forth in chapter 6.16 of the Municipal Code and Resolution 2019-35.

No information needed to assess this issue is included in the application. Therefore, required finding 4 cannot be made.

Required Finding 5. The applicant has provided substantial written evidence supporting the applicant's claim that it has the right to enter the public right-of-way pursuant to state or federal law, or the applicant has entered into a franchise or other agreement with the City permitting them to use the public right-of-way.

No such evidence is included in the application. Therefore, required finding 5 cannot be made.

Required Finding 6. The applicant has demonstrated that the facility will not interfere with the use of the public right-of-way, existing subterranean infrastructure, or the City's plans for modification or use of such location and infrastructure.

The submitted design of the facility does not indicate any physical interferences with the use of the public right-of-way. Therefore, required finding 6 can be made.

C. Findings With Regard to Exceptions

LAMC Section 11.12.090 provides that exceptions pertaining to any provision of Chapter 11.12, including, but not limited to, exceptions from findings that would otherwise justify denial, may be granted by the City if the City makes the finding that:

1. Denial of the facility as proposed would violate federal law, state law, or both; or
2. A provision of this chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or both.

Among other things, Section 11.12.090 further provides that an applicant may only request an exception at the time of applying for a wireless telecommunications facility permit; the request must include both the specific provision(s) of Chapter 11.12, and any design or siting standards from which the exception is sought and the basis of the request; and the applicant shall have the burden of proving that denial of the facility as proposed would violate federal law, state law, or both, or that the provisions of this chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or both, using the evidentiary standards required by that law at issue.

City staff was aware that some of the required findings for approval likely could not be made based on the application as filed and determined that it would be fair to the applicant to treat the application as requesting one or more exceptions under Section 11.12.090 of the new Ordinance and to give the applicant an opportunity to supplement its application with supporting information if desired. This was communicated to the applicant by letter dated August 13, 2019. In response, the applicant's letter dated August 21, 2019 took the position described above that the Wireless Regulations do not apply and the act of imposing the Wireless Regulations on the application itself is an effective prohibition. For the reasons discussed in Part A above, the City disagrees. As AT&T did not identify in any of its application materials any specific requirements

of the Wireless Regulations that create an effective prohibition or establish any other basis for granting of an exception, the applicant has not met its burden of proving that an exception is warranted and therefore no exceptions are granted.

For all of the above reasons the application is denied. In accordance with LAMC 11.12.210, you have the opportunity to appeal this decision. The appeal of this decision must be filed with the City Clerk within 5 days of the decision. The appeal will be heard by the City Council at a noticed public meeting. Attached for your information is LAMC 11.12.210.

If you have any questions, please contact Engineering Services Director Jim Sandoval at jsandoval@losaltosca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Jordan", written in a cursive style.

Chris Jordan
City Manager

Enclosure



**City of Los Altos
One North San Antonio Road
Los Altos, California 94022-3087
Tel: (650) 947-2700
Fax (650) 947-2701**

Suresite
Attn: Annie Freeman, Site Development Specialist
2033 Gateway Place, 5th Floor
San Jose, CA 95110

September 17, 2019

RE: Denial Decision: Application for personal wireless facility located at **AT&T #8, 182 Garland Way, Application No. SE19-00006**

Dear Applicant,

The above referenced application to locate a personal wireless facility at 182 Garland Way is hereby denied for the reasons stated below.

A. Applicable Siting Regulations

On August 5, 2019, the City of Los Altos adopted Ordinance 2019-460 and Resolutions 2019-35 and 2019-36, which collectively address placement of wireless facilities within the City limits (“Wireless Regulations”). Section 11.12.030(A)(1) of the new Ordinance requires that these new provisions be applied to all pending permit applications. The above referenced application (and eleven others submitted by AT&T addressed in separate decision letters) was pending as of August 5, 2019 and is therefore required to be processed pursuant to the Wireless Regulations.

By letter dated August 21, 2019, AT&T asserted that all of its applications which were filed prior to the adoption of the Wireless Regulations (including the above referenced application) must be processed under the City’s regulations in effect at the time the applications *were filed*. The alleged basis for this position is AT&T’s belief that because the FCC’s *Small Cell Order* (FCC 18-133)¹ requires that aesthetic standards be published “in advance” and the City adopted its Wireless Regulations after the applications were filed, they cannot be applied to the applications. The City disagrees with this reading of the FCC order. The requirement that aesthetic standards be published in advance of an application only went into effect on April 15, 2019, after all but one of the AT&T applications were submitted. The FCC requirement to publish in advance does not apply retroactively to applications submitted prior to April 15, 2019 when there was no FCC rule obligating the City to apply only those aesthetic standards published in advance. Moreover,

¹ The Small Cell Order is referred to by AT&T in its letter as the Infrastructure Order.

the referenced FCC requirement to publish in advance only applies to aesthetic standards. It does not apply to any other elements of the application requirements and review process. Therefore, this application is being processed under the requirements of the Wireless Regulations.

B. Application Findings

The above referenced application is for a wireless facility to be placed on an existing utility pole and with equipment mounted on the pole in the public right-of-way in an area of the City zoned as residential. Section 11.12.080 of the New Ordinance provides that the City shall *not* approve an application for placement in the public right-of-way unless several findings can be made. For the reasons discussed below, a number of the required findings cannot be made.

Required Finding 1. The proposed facility complies with all applicable provisions of this chapter, and with design and siting guidelines adopted by the City Council, and will be in compliance with all applicable building, electrical, and fire safety codes.

Section 4.D. of Resolution 2019-35 states: “Wireless facilities shall only be permitted in the City in accordance with the following table:” The table indicates wireless facilities of the type described in the application are permitted in public rights-of-way in non-residential districts with a use permit. Thus, the residential zone location selected for siting this wireless facility does not conform with the location requirements of Resolution 2019-35.

For these reasons, required finding 1 cannot be made.

Required Finding 2. The proposed facility has been designed and located to achieve compatibility with the community to the maximum extent reasonably feasible.

For the same reasons described under required finding 1 above, required finding number 2 cannot be made.

Required Finding 3. The applicant has submitted a statement of its willingness to allow other carriers to collocate on the proposed wireless telecommunications facility wherever technically and economically feasible and where collocation would not harm community compatibility.

No such statement is included in the application. Therefore, required finding 3 cannot be made.

Required Finding 4. Noise generated by equipment will not be excessive, annoying nor be detrimental to the public health, safety, and welfare and will not exceed the standards set forth in chapter 6.16 of the Municipal Code and Resolution 2019-35.

No information needed to assess this issue is included in the application. Therefore, required finding 4 cannot be made.

}
}
Required Finding 5. The applicant has provided substantial written evidence supporting the applicant's claim that it has the right to enter the public right-of-way pursuant to state or federal law, or the applicant has entered into a franchise or other agreement with the City permitting them to use the public right-of-way.

No such evidence is included in the application. Therefore, required finding 5 cannot be made.

Required Finding 6. The applicant has demonstrated that the facility will not interfere with the use of the public right-of-way, existing subterranean infrastructure, or the City's plans for modification or use of such location and infrastructure.

The submitted design of the facility does not indicate any physical interferences with the use of the public right-of-way. Therefore, required finding 6 can be made.

C. Findings With Regard to Exceptions

LAMC Section 11.12.090 provides that exceptions pertaining to any provision of Chapter 11.12, including, but not limited to, exceptions from findings that would otherwise justify denial, may be granted by the City if the City makes the finding that:

1. Denial of the facility as proposed would violate federal law, state law, or both; or
2. A provision of this chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or both.

Among other things, Section 11.12.090 further provides that an applicant may only request an exception at the time of applying for a wireless telecommunications facility permit; the request must include both the specific provision(s) of Chapter 11.12, and any design or siting standards from which the exception is sought and the basis of the request; and the applicant shall have the burden of proving that denial of the facility as proposed would violate federal law, state law, or both, or that the provisions of this chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or both, using the evidentiary standards required by that law at issue.

City staff was aware that some of the required findings for approval likely could not be made based on the application as filed and determined that it would be fair to the applicant to treat the application as requesting one or more exceptions under Section 11.12.090 of the new Ordinance and to give the applicant an opportunity to supplement its application with supporting information if desired. This was communicated to the applicant by letter dated August 13, 2019. In response, the applicant's letter dated August 21, 2019 took the position described above that the Wireless Regulations do not apply and the act of imposing the Wireless Regulations on the application itself is an effective prohibition. For the reasons discussed in Part A above, the City disagrees. As AT&T did not identify in any of its application materials any specific requirements

of the Wireless Regulations that create an effective prohibition or establish any other basis for granting of an exception, the applicant has not met its burden of proving that an exception is warranted and therefore no exceptions are granted.

For all of the above reasons the application is denied. In accordance with LAMC 11.12.210, you have the opportunity to appeal this decision. The appeal of this decision must be filed with the City Clerk within 5 days of the decision. The appeal will be heard by the City Council at a noticed public meeting. Attached for your information is LAMC 11.12.210.

If you have any questions, please contact Engineering Services Director Jim Sandoval at jsandoval@losaltosca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Jordan", written in a cursive style.

Chris Jordan
City Manager

Enclosure



**City of Los Altos
One North San Antonio Road
Los Altos, California 94022-3087
Tel: (650) 947-2700
Fax (650) 947-2701**

Suresite
Attn: Annie Freeman, Site Development Specialist
2033 Gateway Place, 5th Floor
San Jose, CA 95110

September 17, 2019

RE: Denial Decision: Application for personal wireless facility located at **AT&T #9, 491 Patrick Way, Application No. SE19-00012**

Dear Applicant,

The above referenced application to locate a personal wireless facility at 491 Patrick Way is hereby denied for the reasons stated below.

A. Applicable Siting Regulations

On August 5, 2019, the City of Los Altos adopted Ordinance 2019-460 and Resolutions 2019-35 and 2019-36, which collectively address placement of wireless facilities within the City limits (“Wireless Regulations”). Section 11.12.030(A)(1) of the new Ordinance requires that these new provisions be applied to all pending permit applications. The above referenced application (and eleven others submitted by AT&T addressed in separate decision letters) was pending as of August 5, 2019 and is therefore required to be processed pursuant to the Wireless Regulations.

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¹ The Small Cell Order is referred to by AT&T in its letter as the Infrastructure Order.

the referenced FCC requirement to publish in advance only applies to aesthetic standards. It does not apply to any other elements of the application requirements and review process. Therefore, this application is being processed under the requirements of the Wireless Regulations.

B. Application Findings

The above referenced application is for a wireless facility to be placed on a new utility pole and with equipment mounted on the pole in the public right-of-way in an area of the City zoned as residential. Section 11.12.080 of the New Ordinance provides that the City shall *not* approve an application for placement in the public right-of-way unless several findings can be made. For the reasons discussed below, a number of the required findings cannot be made.

Required Finding 1. The proposed facility complies with all applicable provisions of this chapter, and with design and siting guidelines adopted by the City Council, and will be in compliance with all applicable building, electrical, and fire safety codes.

Section 4.D. of Resolution 2019-35 states: “Wireless facilities shall only be permitted in the City in accordance with the following table:” The table indicates wireless facilities of the type described in the application are permitted in public rights-of-way in non-residential districts with a use permit. Thus, the residential zone location selected for siting this wireless facility does not conform with the location requirements of Resolution 2019-35.

For these reasons, required finding 1 cannot be made.

Required Finding 2. The proposed facility has been designed and located to achieve compatibility with the community to the maximum extent reasonably feasible.

For the same reasons described under required finding 1 above, required finding number 2 cannot be made.

Required Finding 3. The applicant has submitted a statement of its willingness to allow other carriers to collocate on the proposed wireless telecommunications facility wherever technically and economically feasible and where collocation would not harm community compatibility.

No such statement is included in the application. Therefore, required finding 3 cannot be made.

Required Finding 4. Noise generated by equipment will not be excessive, annoying nor be detrimental to the public health, safety, and welfare and will not exceed the standards set forth in chapter 6.16 of the Municipal Code and Resolution 2019-35.

No information needed to assess this issue is included in the application. Therefore, required finding 4 cannot be made.

Required Finding 5. The applicant has provided substantial written evidence supporting the applicant's claim that it has the right to enter the public right-of-way pursuant to state or federal law, or the applicant has entered into a franchise or other agreement with the City permitting them to use the public right-of-way.

No such evidence is included in the application. Therefore, required finding 5 cannot be made.

Required Finding 6. The applicant has demonstrated that the facility will not interfere with the use of the public right-of-way, existing subterranean infrastructure, or the City's plans for modification or use of such location and infrastructure.

The submitted design of the facility does not indicate any physical interferences with the use of the public right-of-way. Therefore, required finding 6 can be made.

C. Findings With Regard to Exceptions

LAMC Section 11.12.090 provides that exceptions pertaining to any provision of Chapter 11.12, including, but not limited to, exceptions from findings that would otherwise justify denial, may be granted by the City if the City makes the finding that:

1. Denial of the facility as proposed would violate federal law, state law, or both; or
2. A provision of this chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or both.

Among other things, Section 11.12.090 further provides that an applicant may only request an exception at the time of applying for a wireless telecommunications facility permit; the request must include both the specific provision(s) of Chapter 11.12, and any design or siting standards from which the exception is sought and the basis of the request; and the applicant shall have the burden of proving that denial of the facility as proposed would violate federal law, state law, or both, or that the provisions of this chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or both, using the evidentiary standards required by that law at issue.

City staff was aware that some of the required findings for approval likely could not be made based on the application as filed and determined that it would be fair to the applicant to treat the application as requesting one or more exceptions under Section 11.12.090 of the new Ordinance and to give the applicant an opportunity to supplement its application with supporting information if desired. This was communicated to the applicant by letter dated August 13, 2019. In response, the applicant's letter dated August 21, 2019 took the position described above that the Wireless Regulations do not apply and the act of imposing the Wireless Regulations on the application itself is an effective prohibition. For the reasons discussed in Part A above, the City disagrees. As AT&T did not identify in any of its application materials any specific requirements

of the Wireless Regulations that create an effective prohibition or establish any other basis for granting of an exception, the applicant has not met its burden of proving that an exception is warranted and therefore no exceptions are granted.

For all of the above reasons the application is denied. In accordance with LAMC 11.12.210, you have the opportunity to appeal this decision. The appeal of this decision must be filed with the City Clerk within 5 days of the decision. The appeal will be heard by the City Council at a noticed public meeting. Attached for your information is LAMC 11.12.210.

If you have any questions, please contact Engineering Services Director Jim Sandoval at jsandoval@losaltosca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Jordan", written over a horizontal line.

Chris Jordan
City Manager

Enclosure



City of Los Altos
One North San Antonio Road
Los Altos, California 94022-3087
Tel: (650) 947-2700
Fax (650) 947-2701

Suresite
Attn: Annie Freeman, Site Development Specialist
2033 Gateway Place, 5th Floor
San Jose, CA 95110

September 17, 2019

RE: Denial Decision: Application for personal wireless facility located at **AT&T #10, 300 Los Altos Avenue, Application No. SE19-00013**

Dear Applicant,

The above referenced application to locate a personal wireless facility at 300 Los Altos Avenue is hereby denied for the reasons stated below.

A. Applicable Siting Regulations

On August 5, 2019, the City of Los Altos adopted Ordinance 2019-460 and Resolutions 2019-35 and 2019-36, which collectively address placement of wireless facilities within the City limits (“Wireless Regulations”). Section 11.12.030(A)(1) of the new Ordinance requires that these new provisions be applied to all pending permit applications. The above referenced application (and eleven others submitted by AT&T addressed in separate decision letters) was pending as of August 5, 2019 and is therefore required to be processed pursuant to the Wireless Regulations.

By letter dated August 21, 2019, AT&T asserted that all of its applications which were filed prior to the adoption of the Wireless Regulations (including the above referenced application) must be processed under the City’s regulations in effect at the time the applications *were filed*. The alleged basis for this position is AT&T’s belief that because the FCC’s *Small Cell Order* (FCC 18-133)¹ requires that aesthetic standards be published “in advance” and the City adopted its Wireless Regulations after the applications were filed, they cannot be applied to the applications. The City disagrees with this reading of the FCC order. The requirement that aesthetic standards be published in advance of an application only went into effect on April 15, 2019, after all but one of the AT&T applications were submitted. The FCC requirement to publish in advance does not apply retroactively to applications submitted prior to April 15, 2019 when there was no FCC rule obligating the City to apply only those aesthetic standards published in advance. Moreover,

¹ The Small Cell Order is referred to by AT&T in its letter as the Infrastructure Order.

the referenced FCC requirement to publish in advance only applies to aesthetic standards. It does not apply to any other elements of the application requirements and review process. Therefore, this application is being processed under the requirements of the Wireless Regulations.

B. Application Findings

The above referenced application is for a wireless facility to be placed on a new utility pole and with equipment mounted on the pole in the public right-of-way in an area of the City zoned as residential. Section 11.12.080 of the New Ordinance provides that the City shall *not* approve an application for placement in the public right-of-way unless several findings can be made. For the reasons discussed below, a number of the required findings cannot be made.

Required Finding 1. The proposed facility complies with all applicable provisions of this chapter, and with design and siting guidelines adopted by the City Council, and will be in compliance with all applicable building, electrical, and fire safety codes.

Section 4.D. of Resolution 2019-35 states: “Wireless facilities shall only be permitted in the City in accordance with the following table:” The table indicates wireless facilities of the type described in the application are permitted in public rights-of-way in non-residential districts with a use permit. Thus, the residential zone location selected for siting this wireless facility does not conform with the location requirements of Resolution 2019-35.

For these reasons, required finding 1 cannot be made.

Required Finding 2. The proposed facility has been designed and located to achieve compatibility with the community to the maximum extent reasonably feasible.

For the same reasons described under required finding 1 above, required finding number 2 cannot be made.

Required Finding 3. The applicant has submitted a statement of its willingness to allow other carriers to collocate on the proposed wireless telecommunications facility wherever technically and economically feasible and where collocation would not harm community compatibility.

No such statement is included in the application. Therefore, required finding 3 cannot be made.

Required Finding 4. Noise generated by equipment will not be excessive, annoying nor be detrimental to the public health, safety, and welfare and will not exceed the standards set forth in chapter 6.16 of the Municipal Code and Resolution 2019-35.

No information needed to assess this issue is included in the application. Therefore, required finding 4 cannot be made.

Required Finding 5. The applicant has provided substantial written evidence supporting the applicant's claim that it has the right to enter the public right-of-way pursuant to state or federal law, or the applicant has entered into a franchise or other agreement with the City permitting them to use the public right-of-way.

No such evidence is included in the application. Therefore, required finding 5 cannot be made.

Required Finding 6. The applicant has demonstrated that the facility will not interfere with the use of the public right-of-way, existing subterranean infrastructure, or the City's plans for modification or use of such location and infrastructure.

The submitted design of the facility does not indicate any physical interferences with the use of the public right-of-way. Therefore, required finding 6 can be made.

C. Findings With Regard to Exceptions

LAMC Section 11.12.090 provides that exceptions pertaining to any provision of Chapter 11.12, including, but not limited to, exceptions from findings that would otherwise justify denial, may be granted by the City if the City makes the finding that:

1. Denial of the facility as proposed would violate federal law, state law, or both; or
2. A provision of this chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or both.

Among other things, Section 11.12.090 further provides that an applicant may only request an exception at the time of applying for a wireless telecommunications facility permit; the request must include both the specific provision(s) of Chapter 11.12, and any design or siting standards from which the exception is sought and the basis of the request; and the applicant shall have the burden of proving that denial of the facility as proposed would violate federal law, state law, or both, or that the provisions of this chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or both, using the evidentiary standards required by that law at issue.

City staff was aware that some of the required findings for approval likely could not be made based on the application as filed and determined that it would be fair to the applicant to treat the application as requesting one or more exceptions under Section 11.12.090 of the new Ordinance and to give the applicant an opportunity to supplement its application with supporting information if desired. This was communicated to the applicant by letter dated August 13, 2019. In response, the applicant's letter dated August 21, 2019 took the position described above that the Wireless Regulations do not apply and the act of imposing the Wireless Regulations on the application itself is an effective prohibition. For the reasons discussed in Part A above, the City disagrees. As AT&T did not identify in any of its application materials any specific requirements

of the Wireless Regulations that create an effective prohibition or establish any other basis for granting of an exception, the applicant has not met its burden of proving that an exception is warranted and therefore no exceptions are granted.

For all of the above reasons the application is denied. In accordance with LAMC 11.12.210, you have the opportunity to appeal this decision. The appeal of this decision must be filed with the City Clerk within 5 days of the decision. The appeal will be heard by the City Council at a noticed public meeting. Attached for your information is LAMC 11.12.210.

If you have any questions, please contact Engineering Services Director Jim Sandoval at jsandoval@losaltosca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Jordan". The signature is fluid and cursive, with a prominent initial "C".

Chris Jordan
City Manager

Enclosure



**City of Los Altos
One North San Antonio Road
Los Altos, California 94022-3087
Tel: (650) 947-2700
Fax (650) 947-2701**

Suresite
Attn: Annie Freeman, Site Development Specialist
2033 Gateway Place, 5th Floor
San Jose, CA 95110

September 17, 2019

RE: Denial Decision: Application for personal wireless facility located at **AT&T #11, 130 Los Altos Avenue, Application No. SE19-00007**

Dear Applicant,

The above referenced application to locate a personal wireless facility at 130 Los Altos Avenue is hereby denied for the reasons stated below.

A. Applicable Siting Regulations

On August 5, 2019, the City of Los Altos adopted Ordinance 2019-460 and Resolutions 2019-35 and 2019-36, which collectively address placement of wireless facilities within the City limits (“Wireless Regulations”). Section 11.12.030(A)(1) of the new Ordinance requires that these new provisions be applied to all pending permit applications. The above referenced application (and eleven others submitted by AT&T addressed in separate decision letters) was pending as of August 5, 2019 and is therefore required to be processed pursuant to the Wireless Regulations.

By letter dated August 21, 2019, AT&T asserted that all of its applications which were filed prior to the adoption of the Wireless Regulations (including the above referenced application) must be processed under the City’s regulations in effect at the time the applications *were filed*. The alleged basis for this position is AT&T’s belief that because the FCC’s *Small Cell Order* (FCC 18-133)¹ requires that aesthetic standards be published “in advance” and the City adopted its Wireless Regulations after the applications were filed, they cannot be applied to the applications. The City disagrees with this reading of the FCC order. The requirement that aesthetic standards be published in advance of an application only went into effect on April 15, 2019, after all but one of the AT&T applications were submitted. The FCC requirement to publish in advance does not apply retroactively to applications submitted prior to April 15, 2019 when there was no FCC rule obligating the City to apply only those aesthetic standards published in advance. Moreover,

¹ The Small Cell Order is referred to by AT&T in its letter as the Infrastructure Order.

the referenced FCC requirement to publish in advance only applies to aesthetic standards. It does not apply to any other elements of the application requirements and review process. Therefore, this application is being processed under the requirements of the Wireless Regulations.

B. Application Findings

The above referenced application is for a wireless facility to be placed on an existing utility pole and with equipment mounted on the pole in the public right-of-way in an area of the City zoned as residential. Section 11.12.080 of the New Ordinance provides that the City shall *not* approve an application for placement in the public right-of-way unless several findings can be made. For the reasons discussed below, a number of the required findings cannot be made.

Required Finding 1. The proposed facility complies with all applicable provisions of this chapter, and with design and siting guidelines adopted by the City Council, and will be in compliance with all applicable building, electrical, and fire safety codes.

Section 4.D. of Resolution 2019-35 states: “Wireless facilities shall only be permitted in the City in accordance with the following table:” The table indicates wireless facilities of the type described in the application are permitted in public rights-of-way in non-residential districts with a use permit. Thus, the residential zone location selected for siting this wireless facility does not conform with the location requirements of Resolution 2019-35.

For these reasons, required finding 1 cannot be made.

Required Finding 2. The proposed facility has been designed and located to achieve compatibility with the community to the maximum extent reasonably feasible.

For the same reasons described under required finding 1 above, required finding number 2 cannot be made.

Required Finding 3. The applicant has submitted a statement of its willingness to allow other carriers to collocate on the proposed wireless telecommunications facility wherever technically and economically feasible and where collocation would not harm community compatibility.

No such statement is included in the application. Therefore, required finding 3 cannot be made.

Required Finding 4. Noise generated by equipment will not be excessive, annoying nor be detrimental to the public health, safety, and welfare and will not exceed the standards set forth in chapter 6.16 of the Municipal Code and Resolution 2019-35.

No information needed to assess this issue is included in the application. Therefore, required finding 4 cannot be made.

Required Finding 5. The applicant has provided substantial written evidence supporting the applicant's claim that it has the right to enter the public right-of-way pursuant to state or federal law, or the applicant has entered into a franchise or other agreement with the City permitting them to use the public right-of-way.

No such evidence is included in the application. Therefore, required finding 5 cannot be made.

Required Finding 6. The applicant has demonstrated that the facility will not interfere with the use of the public right-of-way, existing subterranean infrastructure, or the City's plans for modification or use of such location and infrastructure.

The submitted design of the facility does not indicate any physical interferences with the use of the public right-of-way. Therefore, required finding 6 can be made.

C. Findings With Regard to Exceptions

LAMC Section 11.12.090 provides that exceptions pertaining to any provision of Chapter 11.12, including, but not limited to, exceptions from findings that would otherwise justify denial, may be granted by the City if the City makes the finding that:

1. Denial of the facility as proposed would violate federal law, state law, or both; or
2. A provision of this chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or both.

Among other things, Section 11.12.090 further provides that an applicant may only request an exception at the time of applying for a wireless telecommunications facility permit; the request must include both the specific provision(s) of Chapter 11.12, and any design or siting standards from which the exception is sought and the basis of the request; and the applicant shall have the burden of proving that denial of the facility as proposed would violate federal law, state law, or both, or that the provisions of this chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or both, using the evidentiary standards required by that law at issue.

City staff was aware that some of the required findings for approval likely could not be made based on the application as filed and determined that it would be fair to the applicant to treat the application as requesting one or more exceptions under Section 11.12.090 of the new Ordinance and to give the applicant an opportunity to supplement its application with supporting information if desired. This was communicated to the applicant by letter dated August 13, 2019. In response, the applicant's letter dated August 21, 2019 took the position described above that the Wireless Regulations do not apply and the act of imposing the Wireless Regulations on the application itself is an effective prohibition. For the reasons discussed in Part A above, the City disagrees. As AT&T did not identify in any of its application materials any specific requirements

of the Wireless Regulations that create an effective prohibition or establish any other basis for granting of an exception, the applicant has not met its burden of proving that an exception is warranted and therefore no exceptions are granted.

For all of the above reasons the application is denied. In accordance with LAMC 11.12.210, you have the opportunity to appeal this decision. The appeal of this decision must be filed with the City Clerk within 5 days of the decision. The appeal will be heard by the City Council at a noticed public meeting. Attached for your information is LAMC 11.12.210.

If you have any questions, please contact Engineering Services Director Jim Sandoval at jsandoval@losaltosca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Jordan", written in a cursive style.

Chris Jordan
City Manager

Enclosure



City of Los Altos
One North San Antonio Road
Los Altos, California 94022-3087
Tel: (650) 947-2700
Fax (650) 947-2701

Suresite
Attn: Annie Freeman, Site Development Specialist
2033 Gateway Place, 5th Floor
San Jose, CA 95110

September 17, 2019

RE: Denial Decision: Application for personal wireless facility located at **AT&T #12, 356 Blue Oak Lane, Application No. SE19-00008**

Dear Applicant,

The above referenced application to locate a personal wireless facility at 356 Blue Oak Lane is hereby denied for the reasons stated below.

A. Applicable Siting Regulations

On August 5, 2019, the City of Los Altos adopted Ordinance 2019-460 and Resolutions 2019-35 and 2019-36, which collectively address placement of wireless facilities within the City limits (“Wireless Regulations”). Section 11.12.030(A)(1) of the new Ordinance requires that these new provisions be applied to all pending permit applications. The above referenced application (and eleven others submitted by AT&T addressed in separate decision letters) was pending as of August 5, 2019 and is therefore required to be processed pursuant to the Wireless Regulations.

By letter dated August 21, 2019, AT&T asserted that all of its applications which were filed prior to the adoption of the Wireless Regulations (including the above referenced application) must be processed under the City’s regulations in effect at the time the applications *were filed*. The alleged basis for this position is AT&T’s belief that because the FCC’s *Small Cell Order* (FCC 18-133)¹ requires that aesthetic standards be published “in advance” and the City adopted its Wireless Regulations after the applications were filed, they cannot be applied to the applications. The City disagrees with this reading of the FCC order. The requirement that aesthetic standards be published in advance of an application only went into effect on April 15, 2019, after all but one of the AT&T applications were submitted. The FCC requirement to publish in advance does not apply retroactively to applications submitted prior to April 15, 2019 when there was no FCC rule obligating the City to apply only those aesthetic standards published in advance. Moreover,

¹ The Small Cell Order is referred to by AT&T in its letter as the Infrastructure Order.

the referenced FCC requirement to publish in advance only applies to aesthetic standards. It does not apply to any other elements of the application requirements and review process. Therefore, this application is being processed under the requirements of the Wireless Regulations.

B. Application Findings

The above referenced application is for a wireless facility to be placed on an existing utility pole and with equipment mounted on the pole in the public right-of-way in an area of the City zoned as residential. Section 11.12.080 of the New Ordinance provides that the City shall *not* approve an application for placement in the public right-of-way unless several findings can be made. For the reasons discussed below, a number of the required findings cannot be made.

Required Finding 1. The proposed facility complies with all applicable provisions of this chapter, and with design and siting guidelines adopted by the City Council, and will be in compliance with all applicable building, electrical, and fire safety codes.

Section 4.D. of Resolution 2019-35 states: “Wireless facilities shall only be permitted in the City in accordance with the following table:” The table indicates wireless facilities of the type described in the application are permitted in public rights-of-way in non-residential districts with a use permit. Thus, the residential zone location selected for siting this wireless facility does not conform with the location requirements of Resolution 2019-35.

For these reasons, required finding 1 cannot be made.

Required Finding 2. The proposed facility has been designed and located to achieve compatibility with the community to the maximum extent reasonably feasible.

For the same reasons described under required finding 1 above, required finding number 2 cannot be made.

Required Finding 3. The applicant has submitted a statement of its willingness to allow other carriers to collocate on the proposed wireless telecommunications facility wherever technically and economically feasible and where collocation would not harm community compatibility.

No such statement is included in the application. Therefore, required finding 3 cannot be made.

Required Finding 4. Noise generated by equipment will not be excessive, annoying nor be detrimental to the public health, safety, and welfare and will not exceed the standards set forth in chapter 6.16 of the Municipal Code and Resolution 2019-35.

No information needed to assess this issue is included in the application. Therefore, required finding 4 cannot be made.

Required Finding 5. The applicant has provided substantial written evidence supporting the applicant's claim that it has the right to enter the public right-of-way pursuant to state or federal law, or the applicant has entered into a franchise or other agreement with the City permitting them to use the public right-of-way.

No such evidence is included in the application. Therefore, required finding 5 cannot be made.

Required Finding 6. The applicant has demonstrated that the facility will not interfere with the use of the public right-of-way, existing subterranean infrastructure, or the City's plans for modification or use of such location and infrastructure.

The submitted design of the facility does not indicate any physical interferences with the use of the public right-of-way. Therefore, required finding 6 can be made.

C. Findings With Regard to Exceptions

LAMC Section 11.12.090 provides that exceptions pertaining to any provision of Chapter 11.12, including, but not limited to, exceptions from findings that would otherwise justify denial, may be granted by the City if the City makes the finding that:

1. Denial of the facility as proposed would violate federal law, state law, or both; or
2. A provision of this chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or both.

Among other things, Section 11.12.090 further provides that an applicant may only request an exception at the time of applying for a wireless telecommunications facility permit; the request must include both the specific provision(s) of Chapter 11.12, and any design or siting standards from which the exception is sought and the basis of the request; and the applicant shall have the burden of proving that denial of the facility as proposed would violate federal law, state law, or both, or that the provisions of this chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or both, using the evidentiary standards required by that law at issue.

City staff was aware that some of the required findings for approval likely could not be made based on the application as filed and determined that it would be fair to the applicant to treat the application as requesting one or more exceptions under Section 11.12.090 of the new Ordinance and to give the applicant an opportunity to supplement its application with supporting information if desired. This was communicated to the applicant by letter dated August 13, 2019. In response, the applicant's letter dated August 21, 2019 took the position described above that the Wireless Regulations do not apply and the act of imposing the Wireless Regulations on the application itself is an effective prohibition. For the reasons discussed in Part A above, the City disagrees. As AT&T did not identify in any of its application materials any specific requirements

of the Wireless Regulations that create an effective prohibition or establish any other basis for granting of an exception, the applicant has not met its burden of proving that an exception is warranted and therefore no exceptions are granted.

For all of the above reasons the application is denied. In accordance with LAMC 11.12.210, you have the opportunity to appeal this decision. The appeal of this decision must be filed with the City Clerk within 5 days of the decision. The appeal will be heard by the City Council at a noticed public meeting. Attached for your information is LAMC 11.12.210.

If you have any questions, please contact Engineering Services Director Jim Sandoval at jsandoval@losaltosca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Jordan". The signature is fluid and cursive, with a long horizontal stroke at the end.

Chris Jordan
City Manager

Enclosure



September 16, 2019

VIA HAND DELIVERY

Chris Jordan
City Manager
Los Altos City Hall
1 North San Antonio Road
Los Altos, CA 94022

RE: Appeal Letter to address Denial of Verizon Wireless Small Cell "Los Altos 001" on an existing utility pole at 155 Almond Avenue, Application no. SE19-00019.

Dear Chris,

Please find enclosed the Appeal Letter for Los Altos 001, addressing the denial letter for a proposed project at 155 Almond Avenue. These are for your review and approval.

The submitted items include the following:

- Los Altos 001 – Appeal Letter
- ~~Fee of \$390.00~~

If you have questions please feel free to contact Allison Holleman at 925-699-7460 or Allison@TheCBRGroup.com.

Sincerely,

The CBR Group, Inc.

Please sign below your acknowledgement of receipt of the above site drawings.

Name / Company	Date of Receipt
----------------	-----------------

MACKENZIE & ALBRITTON LLP

155 SANSOME STREET, SUITE 800
SAN FRANCISCO, CALIFORNIA 94104

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

September 16, 2019

VIA EMAIL

City Council
c/o City Clerk
City of Los Altos
1 North San Antonio Road
Los Altos, California 94022

Re: Appeal of City Manager's Denial of
Verizon Wireless Application No. SE19-00019
Small Cell Wireless Facility, 155 Almond Avenue

Dear Councilmembers:

We write to you on behalf of Verizon Wireless to appeal the September 11, 2019 decision of the City Manager to deny the above-referenced application filed July 16, 2019 (the "Application") for a small cell wireless facility at 155 Almond Avenue (the "Proposed Facility"). Verizon Wireless appeals on the ground that the decision is in direct violation of the Telecommunications Act of 1996, applicable decisions of the Federal Communications Commission (the "FCC"), and state law granting telephone corporations a statewide right to place equipment along any right-of-way. The Council should reverse the decision.

The City Manager committed an error and abuse of discretion by declaring that the Proposed Facility does not meet required findings of Code Section 11.12.080(A) or standards of Council Resolution 2019-35 (the "Resolution"), which were adopted August 5, 2019, after the Application was filed. The denial violated the Telecommunications Act because it was not supported by substantial evidence, in violation of 47 U.S.C. Section 332(c)(7)(B)(iii). Further, the denial contradicts the FCC's September 2018 order addressing appropriate approval criteria for small cells. *See Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, Declaratory Ruling and Third Report and Order, FCC 18-133 (September 27, 2018) (the "Small Cells Order"). The Small Cells Order became effective on January 14, 2019, with cities required to adopt small cell aesthetic criteria by April 15, 2019. Small Cells Order, ¶¶ 89, 153. The Code and Resolution were adopted after these deadlines.

There is substantial evidence to demonstrate that the Proposed Facility satisfies all required findings and standards that are not preempted by federal law. In our letters to the Council dated July 29, 2019 and August 6, 2019, we advised regarding certain provisions of the draft Resolution that would contradict the Telecommunications Act, the Small Cells Order or state law, but the Council did not make needed revisions.

The City Manager found that the Proposed Facility does not meet location standards because such facilities are not allowed in residential rights-of-way. Code § 11.12.080(A)(1), Resolution § 4.D. However, this residential siting prohibition is preempted by federal and state law. The FCC affirmed that small cells are critical to densifying wireless networks and enhancing service, and that thwarting these goals constitutes a prohibition of service. 47 U.S.C. §§ 253(a), 332(c)(7)(B)(i)(II); Small Cells Order, ¶¶ 37-40. California Public Utilities Code Section 7901 grants telephone corporations a statewide right to place their equipment along any right-of-way, and it does not provide any exception for certain types of rights-of-way such as those in residential areas.

The potential granting of an exception does not excuse preempted standards such as the residential zone prohibition because the exception process itself violates federal law. For small cells, the FCC required cities to provide objective standards that are published in advance. Small Cells Order, ¶ 86. In contrast, the exception process is based on a vague finding that City standards infringe on an applicant's rights under federal and/or state law. Such quasi-judicial determinations are inappropriate for City decision-makers. Further, the exception process leaves Verizon Wireless guessing at the outcome of its applications, but the FCC discouraged such guesswork because small cell criteria must be clear at the outset. Small Cells Order, ¶ 88.

Where the City Manager claimed that the Proposed Facility does not qualify as a small cell wireless facility as defined by the FCC due to antenna volume, that is in error. Functional antenna components are very small, well under the FCC's volume thresholds. 47 C.F.R. § 1.6002(l). Those antenna components are concealed within a cylindrical shroud to improve appearance, and the shroud does not count toward antenna volume calculations. In any case, a three cubic foot enclosure with antenna is available for use with the Proposed Facility.

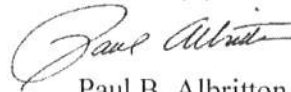
One finding of denial was that the Proposed Facility does not meet the required finding of "compatibility with the community." Code § 11.12.080(A)(2). However, that finding is entirely subjective and preempted by the Small Cells Order which, as noted above, requires aesthetic criteria for small cells to be objective.

Another finding of denial claims that Verizon Wireless did not submit information regarding potential noise. Code § 11.12.080(A)(4). However, the Proposed Facility includes no moving parts and will generate no noise, satisfying that finding.

The City Manager claimed that Verizon Wireless did not submit a PG&E letter of authorization, evidence of a City business license, a collocation statement, or proof of the right to enter the right-of-way. The City Manager also described certificates of insurance that have expired. Following Verizon Wireless's application submittal on July 16, 2019, the City did not provide a timely notice of incomplete application within 10 days of the submittal date as required by the FCC. 47 C.F.R. § 1.6003(c)(d)(1). Lack of providing any information required by the Code or Resolution, which were adopted after the application submittal date, cannot be the grounds for denial.

Verizon Wireless reserves the right to supplement these grounds for denial.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Paul Albritton".

Paul B. Albritton



September 20, 2019

CITY CLERK'S OFFICE
2019 SEP 23 AM 10 45
CITY OF LOS ALTOS
CALIFORNIA

Via Email and Hand-Delivery

Office of the City Clerk
administration@losaltosca.gov
jmaginot@losaltosca.gov
City of Los Altos
Los Altos City Hall
1 North San Antonio Road
Los Altos, CA 94022

Re. Appeal of Denial Decision
Application No. SE19-00009
AT&T Site ID LOSA0_01
Public Right-of-Way near 141 Almond Avenue

To the Clerk:

New Cingular Wireless PCS, LLC dba AT&T Mobility(AT&T), hereby appeals the Denial Decision of the City Manager issued on September 17, 2019, denying AT&T's Application No. SE19-00009, which seeks to place a small wireless facility on an existing wood utility pole located in the public right-of-way near 141 Almond Avenue, which is a collector street. AT&T has an urgent need to deploy this and other small wireless facilities in the City of Los Altos, and particularly to provide and improve wireless services in residential areas of the City. The proposed small wireless facility is consistent with the City's wireless regulations in place at the time this application was submitted. And approval of this proposed facility is necessary pursuant to applicable federal law. AT&T respectfully requests the City Council reverse the denial and approve AT&T's application.

This proposed small wireless facility will help improve AT&T's wireless services by offloading network traffic carried by existing macro facilities in the area. In addition, faster data rates allow customers to get on and off the network quickly, which produces more efficient use of AT&T's limited spectrum. By placing the small cell facility in areas where AT&T's existing wireless telecommunications facilities are constrained and where AT&T experiences especially high network traffic, AT&T can address the existing and forecasted demand.

The proposed small wireless facility complies with the City's wireless regulations in effect at the time the application was filed. Specifically, AT&T's application complies with the City's *Distributed Antenna Systems for Wireless Communications Encroachment Permit Requirements* ("Permit Requirements"). Item A under the Permit Requirements states, "Antenna systems are encouraged along the city's arterial and collector streets. These facilities are allowed on local streets upon verification by a qualified electrical engineer licensed by the state of California representing the FCC licensee that using local streets is necessary to obtain capacity and coverage."

The proposed small wireless facility is small and typical of infrastructure deployments in residential rights-of-way in the City, including the right-of-way along Almond Avenue and nearby streets. AT&T conducted a good faith search and comparison of alternative locations and identified the proposed facility as the best available and least intrusive means to address AT&T's service needs in this portion of the City.

Applicable Siting Regulations

Again, the pending application was duly filed before the City enacted new regulations governing small wireless facilities. It must be evaluated in the context of the City's regulations in effect at the time the applications were filed (i.e., the Permit Requirements). Last year, the Federal Communications Commission issued its *Infrastructure Order*, which established rules and standards for siting authorities to follow with respect to applications for approvals to construct small wireless facilities.¹ Under the *Infrastructure Order*, the FCC established a standard for local aesthetic regulations that they must be (1) reasonable, (2) no more burdensome than those applied to other infrastructure deployments, and (3) objective and published in advance.² Regulations that do not meet these criteria are preempted as they are presumed to effectively prohibit wireless service in violation of the Telecommunications Act of 1996 (Act).³

Here, the new City's siting regulations were not "published in advance" at the time AT&T submitted this application. Thus, design criteria and other aesthetic regulations under the new regulations cannot be applied to this application. For example, the City's new regulations ban small wireless facilities on residential streets. That rule does not apply. In addition, applying post-application regulations violates AT&T's due process rights.

Further, the city cannot lawfully deny this application even if the new regulations applied. The general ban on small wireless facilities in residential districts is unlawful and preempted by federal law. Specifically, this amounts to a prohibition on personal wireless services in large portions of the City, which violates the Act. As applied to this application, denial on the basis that this location is in a residential area materially inhibits AT&T's ability to provide and improve wireless services in this area, in violation of the Act.

Further, the City's residential-area ban is a more burdensome restriction than imposed on other infrastructure deployments. The streets in this residential area have existing wooden utility poles with utility equipment. For example, there are utility poles along Almond Avenue, including existing utility poles with existing utility deployments at the proposed location and the next closest utility poles. Thus, this restriction is more burdensome than those imposed on other infrastructure deployments, which is an unlawful prohibition and denial on that basis is preempted by federal law.

Further, AT&T's application materials contain sufficient information for City Council to make all necessary approval findings. This is true even if the City (unlawfully) applies its new wireless siting regulations. To wit: the proposed facility is designed to be compatible with the community, AT&T is willing to allow collocations (although they will likely be infeasible), AT&T's facility will comply with the

¹ See *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, Declaratory Ruling and Third Report and Order, FCC 18-133 (September 27, 2018) ("*Infrastructure Order*").

² See *id.* at ¶ 86.

³ See *id.*; 47 U.S.C. § 332(c)(7)(B)(i)(II).

City's noise standards, AT&T has a state law franchise right to access the public rights-of-way, and the proposed facility will not interfere with the public right-of-way.

Again, AT&T has a statewide franchise right to access and construct telecommunications facilities in the public rights-of-way. Under Public Utilities Code Section 7901, AT&T has the right to access and construct facilities in public rights-of-way in order to furnish wireless services, so long as it does not "incommode" the public use of the public right-of-way. And under Section 7901.1, AT&T's right is subject only to the City's reasonable and equivalent time, place, and manner regulations. AT&T's proposed small wireless facility does not incommode the right-of-way and the ban on residential deployments is not an equivalent regulation.

Finally, it is unreasonable and unlawful to require AT&T to provide evidence of a potential effective prohibition or other violation of law at the time an application is filed. For example, here it could not have been known until September 17th the various ways in which the City would violate state and federal laws.

AT&T reserves the right to supplement this appeal statement.

Conclusion

AT&T is working diligently to improve its wireless services in the City of Los Altos, and it is doing so pursuant to applicable law and within the City's applicable process and standards. This application and this small wireless facility are urgently needed to provide and improve personal wireless service in this portion of the City. AT&T has worked carefully to develop responsible proposed facilities, including this small wireless facility. The proposed facility is the best available and least intrusive means by which AT&T can address its service needs in this location. AT&T urges City Council to reverse the denial decision and approve its application.

Sincerely,

Ivan Toews, Ericsson on behalf of AT&T
Site Acquisition Manager, CRAN Small Cell

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September 20, 2019

Via Email and Hand-Delivery

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jmaginot@losaltosca.gov
City of Los Altos
Los Altos City Hall
1 North San Antonio Road
Los Altos, CA 94022

CITY CLERK'S OFFICE
2019 SEP 23 AM 10 45
CITY OF LOS ALTOS
CALIFORNIA

Re. Appeal of Denial Decision
Application No. SE19-00003
AT&T Site ID LOSA0_02
Public Right-of-Way near 687 Linden Avenue

To the Clerk:

New Cingular Wireless PCS, LLC dba AT&T Mobility(AT&T), hereby appeals the Denial Decision of the City Manager issued on September 17, 2019, denying AT&T's Application No. SE19-00003, which seeks to place a small wireless facility on an existing wood utility pole located in the public right-of-way near 687 Linden Avenue, which is a local street. AT&T has an urgent need to deploy this and other small wireless facilities in the City of Los Altos, and particularly to provide and improve wireless services in residential areas of the City. The proposed small wireless facility is consistent with the City's wireless regulations in place at the time this application was submitted. And approval of this proposed facility is necessary pursuant to applicable federal law. AT&T respectfully requests the City Council reverse the denial and approve AT&T's application.

This proposed small wireless facility will help improve AT&T's wireless services by offloading network traffic carried by existing macro facilities in the area. In addition, faster data rates allow customers to get on and off the network quickly, which produces more efficient use of AT&T's limited spectrum. By placing the small cell facility in areas where AT&T's existing wireless telecommunications facilities are constrained and where AT&T experiences especially high network traffic, AT&T can address the existing and forecasted demand.

The proposed small wireless facility complies with the City's wireless regulations in effect at the time the application was filed. Specifically, AT&T's application complies with the City's *Distributed Antenna Systems for Wireless Communications Encroachment Permit Requirements* ("Permit Requirements"). Item A under the Permit Requirements states, "Antenna systems are encouraged along the city's arterial and collector streets. These facilities are allowed on local streets upon verification by a qualified electrical engineer licensed by the state of California representing the FCC licensee that using local streets is necessary to obtain capacity and coverage."

The proposed small wireless facility is small and typical of infrastructure deployments in residential rights-of-way in the City, including the right-of-way along Linden Avenue and nearby streets. Because the proposed location is along a local street, AT&T submitted a Radio Frequency Statement by Phil Dale, an AT&T-employed radio frequency design engineer.¹ The Radio Frequency Statement explains AT&T's need for this small wireless facility in this location and demonstrates how the proposed facility will help satisfy AT&T's service needs. In addition, AT&T conducted a good faith search and comparison of alternative locations and identified the proposed facility as the best available and least intrusive means to address AT&T's service needs in this portion of the City.

Applicable Siting Regulations

Again, the pending application was duly filed before the City enacted new regulations governing small wireless facilities. It must be evaluated in the context of the City's regulations in effect at the time the applications were filed (i.e., the Permit Requirements). Last year, the Federal Communications Commission issued its *Infrastructure Order*, which established rules and standards for siting authorities to follow with respect to applications for approvals to construct small wireless facilities.² Under the *Infrastructure Order*, the FCC established a standard for local aesthetic regulations that they must be (1) reasonable, (2) no more burdensome than those applied to other infrastructure deployments, and (3) objective and published in advance.³ Regulations that do not meet these criteria are preempted as they are presumed to effectively prohibit wireless service in violation of the Telecommunications Act of 1996 (Act).⁴

Here, the new City's siting regulations were not "published in advance" at the time AT&T submitted this application. Thus, design criteria and other aesthetic regulations under the new regulations cannot be applied to this application. For example, the City's new regulations ban small wireless facilities on residential streets. That rule does not apply. In addition, applying post-application regulations violates AT&T's due process rights.

Further, the city cannot lawfully deny this application even if the new regulations applied. The general ban on small wireless facilities in residential districts is unlawful and preempted by federal law. Specifically, this amounts to a prohibition on personal wireless services in large portions of the City, which violates the Act. As applied to this application, denial on the basis that this location is in a residential area materially inhibits AT&T's ability to provide and improve wireless services in this area, in violation of the Act.

Further, the City's residential-area ban is a more burdensome restriction than imposed on other infrastructure deployments. The streets in this residential area have existing wooden utility poles with utility equipment. For example, there are wood utility poles along Linden Avenue, including existing utility poles with existing utility deployments at the proposed location and the next closest utility poles. Thus, this restriction is more burdensome than those imposed on other infrastructure deployments, which is an unlawful prohibition and denial on that basis is preempted by federal law.

¹ Although Mr. Dale is not licensed in California, he is exempt from the licensure requirement under the Permit Requirements. Sections 6746 and 6747 of the California Professional Engineers Act exempts such requirements for communications companies and employees of the communications industry.

² See Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, Declaratory Ruling and Third Report and Order, FCC 18-133 (September 27, 2018) ("*Infrastructure Order*").

³ See *id.* at ¶ 86.

⁴ See *id.*; 47 U.S.C. § 332(c)(7)(B)(i)(II).

Further, AT&T's application materials contain sufficient information for City Council to make all necessary approval findings. This is true even if the City (unlawfully) applies its new wireless siting regulations. To wit: the proposed facility is designed to be compatible with the community, AT&T is willing to allow collocations (although they will likely be infeasible), AT&T's facility will comply with the City's noise standards, AT&T has a state law franchise right to access the public rights-of-way, and the proposed facility will not interfere with the public right-of-way.

Again, AT&T has a statewide franchise right to access and construct telecommunications facilities in the public rights-of-way. Under Public Utilities Code Section 7901, AT&T has the right to access and construct facilities in public rights-of-way in order to furnish wireless services, so long as it does not "incommode" the public use of the public right-of-way. And under Section 7901.1, AT&T's right is subject only to the City's reasonable and equivalent time, place, and manner regulations. AT&T's proposed small wireless facility does not incommode the right-of-way and the ban on residential deployments is not an equivalent regulation.

Finally, it is unreasonable and unlawful to require AT&T to provide evidence of a potential effective prohibition or other violation of law at the time an application is filed. For example, here it could not have been known until September 17th the various ways in which the City would violate state and federal laws.

AT&T reserves the right to supplement this appeal statement.

Conclusion

AT&T is working diligently to improve its wireless services in the City of Los Altos, and it is doing so pursuant to applicable law and within the City's applicable process and standards. This application and this small wireless facility are urgently needed to provide and improve personal wireless service in this portion of the City. AT&T has worked carefully to develop responsible proposed facilities, including this small wireless facility. The proposed facility is the best available and least intrusive means by which AT&T can address its service needs in this location. AT&T urges City Council to reverse the denial decision and approve its application.

Sincerely,

Ivan Toews, Ericsson on behalf of AT&T
Site Acquisition Manager, CRAN Small Cell

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September 20, 2019

Via Email and Hand-Delivery

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jmaginot@losaltosca.gov
City of Los Altos
Los Altos City Hall
1 North San Antonio Road
Los Altos, CA 94022

Re. Appeal of Denial Decision
Application No. SE19-00017
AT&T Site ID LOSA0_03
Public Right-of-Way near 421 Valencia Drive

To the Clerk:

New Cingular Wireless PCS, LLC dba AT&T Mobility(AT&T), hereby appeals the Denial Decision of the City Manager issued on September 17, 2019, denying AT&T's Application No. SE19-00017, which seeks to place a small wireless facility on an existing wood utility pole located in the public right-of-way near 421 Valencia Drive, which is a local street. AT&T has an urgent need to deploy this and other small wireless facilities in the City of Los Altos, and particularly to provide and improve wireless services in residential areas of the City. The proposed small wireless facility is consistent with the City's wireless regulations in place at the time this application was submitted. And approval of this proposed facility is necessary pursuant to applicable federal law. AT&T respectfully requests the City Council reverse the denial and approve AT&T's application.

This proposed small wireless facility will help improve AT&T's wireless services by offloading network traffic carried by existing macro facilities in the area. In addition, faster data rates allow customers to get on and off the network quickly, which produces more efficient use of AT&T's limited spectrum. By placing the small cell facility in areas where AT&T's existing wireless telecommunications facilities are constrained and where AT&T experiences especially high network traffic, AT&T can address the existing and forecasted demand.

The proposed small wireless facility complies with the City's wireless regulations in effect at the time the application was filed. Specifically, AT&T's application complies with the City's *Distributed Antenna Systems for Wireless Communications Encroachment Permit Requirements* ("Permit Requirements"). Item A under the Permit Requirements states, "Antenna systems are encouraged along the city's arterial and collector streets. These facilities are allowed on local streets upon verification by a qualified electrical engineer licensed by the state of California representing the FCC licensee that using local streets is necessary to obtain capacity and coverage."

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CITY OF LOS ALTOS
CALIFORNIA

The proposed small wireless facility is small and typical of infrastructure deployments in residential rights-of-way in the City, including the right-of-way along Valencia Drive and nearby streets. Because the proposed location is along a local street, AT&T submitted a Radio Frequency Statement by Phil Dale, an AT&T-employed radio frequency design engineer.¹ The Radio Frequency Statement explains AT&T's need for this small wireless facility in this location and demonstrates how the proposed facility will help satisfy AT&T's service needs. In addition, AT&T conducted a good faith search and comparison of alternative locations and identified the proposed facility as the best available and least intrusive means to address AT&T's service needs in this portion of the City.

Applicable Siting Regulations

Again, the pending application was duly filed before the City enacted new regulations governing small wireless facilities. It must be evaluated in the context of the City's regulations in effect at the time the applications were filed (i.e., the Permit Requirements). Last year, the Federal Communications Commission issued its *Infrastructure Order*, which established rules and standards for siting authorities to follow with respect to applications for approvals to construct small wireless facilities.² Under the *Infrastructure Order*, the FCC established a standard for local aesthetic regulations that they must be (1) reasonable, (2) no more burdensome than those applied to other infrastructure deployments, and (3) objective and published in advance.³ Regulations that do not meet these criteria are preempted as they are presumed to effectively prohibit wireless service in violation of the Telecommunications Act of 1996 (Act).⁴

Here, the new City's siting regulations were not "published in advance" at the time AT&T submitted this application. Thus, design criteria and other aesthetic regulations under the new regulations cannot be applied to this application. For example, the City's new regulations ban small wireless facilities on residential streets. That rule does not apply. In addition, applying post-application regulations violates AT&T's due process rights.

Further, the city cannot lawfully deny this application even if the new regulations applied. The general ban on small wireless facilities in residential districts is unlawful and preempted by federal law. Specifically, this amounts to a prohibition on personal wireless services in large portions of the City, which violates the Act. As applied to this application, denial on the basis that this location is in a residential area materially inhibits AT&T's ability to provide and improve wireless services in this area, in violation of the Act.

Further, the City's residential-area ban is a more burdensome restriction than imposed on other infrastructure deployments. The streets in this residential area have existing wooden utility poles with utility equipment. For example, there are wood utility poles along Valencia Drive and nearby streets, including existing utility poles with existing utility deployments at the proposed location and the next closest utility poles. Thus, this restriction is more burdensome than those imposed on other

¹ Although Mr. Dale is not licensed in California, he is exempt from the licensure requirement under the Permit Requirements. Sections 6746 and 6747 of the California Professional Engineers Act exempts such requirements for communications companies and employees of the communications industry.

² See Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, Declaratory Ruling and Third Report and Order, FCC 18-133 (September 27, 2018) ("*Infrastructure Order*").

³ See *id.* at ¶ 86.

⁴ See *id.*; 47 U.S.C. § 332(c)(7)(B)(i)(II).

infrastructure deployments, which is an unlawful prohibition and denial on that basis is preempted by federal law.

Further, AT&T's application materials contain sufficient information for City Council to make all necessary approval findings. This is true even if the City (unlawfully) applies its new wireless siting regulations. To wit: the proposed facility is designed to be compatible with the community, AT&T is willing to allow collocations (although they will likely be infeasible), AT&T's facility will comply with the City's noise standards, AT&T has a state law franchise right to access the public rights-of-way, and the proposed facility will not interfere with the public right-of-way.

Again, AT&T has a statewide franchise right to access and construct telecommunications facilities in the public rights-of-way. Under Public Utilities Code Section 7901, AT&T has the right to access and construct facilities in public rights-of-way in order to furnish wireless services, so long as it does not "incommode" the public use of the public right-of-way. And under Section 7901.1, AT&T's right is subject only to the City's reasonable and equivalent time, place, and manner regulations. AT&T's proposed small wireless facility does not incommode the right-of-way and the ban on residential deployments is not an equivalent regulation.

Finally, it is unreasonable and unlawful to require AT&T to provide evidence of a potential effective prohibition or other violation of law at the time an application is filed. For example, here it could not have been known until September 17th the various ways in which the City would violate state and federal laws.

AT&T reserves the right to supplement this appeal statement.

Conclusion

AT&T is working diligently to improve its wireless services in the City of Los Altos, and it is doing so pursuant to applicable law and within the City's applicable process and standards. This application and this small wireless facility are urgently needed to provide and improve personal wireless service in this portion of the City. AT&T has worked carefully to develop responsible proposed facilities, including this small wireless facility. The proposed facility is the best available and least intrusive means by which AT&T can address its service needs in this location. AT&T urges City Council to reverse the denial decision and approve its application.

Sincerely,

Ivan Toews, Ericsson on behalf of AT&T
Site Acquisition Manager, CRAN Small Cell

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September 20, 2019

Via Email and Hand-Delivery

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Los Altos City Hall
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Los Altos, CA 94022

CITY CLERK'S OFFICE
2019 SEP 23 AM 10 46
CITY OF LOS ALTOS
CALIFORNIA

Re. Appeal of Denial Decision
Application No. SE19-00004
AT&T Site ID LOSA0_04
Public Right-of-Way near 33 Pine Lane

To the Clerk:

New Cingular Wireless PCS, LLC dba AT&T Mobility(AT&T), hereby appeals the Denial Decision of the City Manager issued on September 17, 2019, denying AT&T's Application No. SE19-00004, which seeks to place a small wireless facility on an existing wood utility pole located in the public right-of-way near 33 Pine Lane, which is a local street. AT&T has an urgent need to deploy this and other small wireless facilities in the City of Los Altos, and particularly to provide and improve wireless services in residential areas of the City. The proposed small wireless facility is consistent with the City's wireless regulations in place at the time this application was submitted. And approval of this proposed facility is necessary pursuant to applicable federal law. AT&T respectfully requests the City Council reverse the denial and approve AT&T's application.

This proposed small wireless facility will help improve AT&T's wireless services by offloading network traffic carried by existing macro facilities in the area. In addition, faster data rates allow customers to get on and off the network quickly, which produces more efficient use of AT&T's limited spectrum. By placing the small cell facility in areas where AT&T's existing wireless telecommunications facilities are constrained and where AT&T experiences especially high network traffic, AT&T can address the existing and forecasted demand.

The proposed small wireless facility complies with the City's wireless regulations in effect at the time the application was filed. Specifically, AT&T's application complies with the City's *Distributed Antenna Systems for Wireless Communications Encroachment Permit Requirements* ("Permit Requirements"). Item A under the Permit Requirements states, "Antenna systems are encouraged along the city's arterial and collector streets. These facilities are allowed on local streets upon verification by a qualified electrical engineer licensed by the state of California representing the FCC licensee that using local streets is necessary to obtain capacity and coverage."

The proposed small wireless facility is small and typical of infrastructure deployments in residential rights-of-way in the City, including the right-of-way along Pine Lane and nearby streets. Because the proposed location is along a local street, AT&T submitted a Radio Frequency Statement by Phil Dale, an AT&T-employed radio frequency design engineer.¹ The Radio Frequency Statement explains AT&T's need for this small wireless facility in this location and demonstrates how the proposed facility will help satisfy AT&T's service needs. In addition, AT&T submitted an Alternatives Review with this application, which demonstrates that the proposed small wireless facility is the best available and least intrusive means to address AT&T's service needs in this portion of the City.

Applicable Siting Regulations

Again, the pending application was duly filed before the City enacted new regulations governing small wireless facilities. It must be evaluated in the context of the City's regulations in effect at the time the applications were filed (i.e., the Permit Requirements). Last year, the Federal Communications Commission issued its *Infrastructure Order*, which established rules and standards for siting authorities to follow with respect to applications for approvals to construct small wireless facilities.² Under the *Infrastructure Order*, the FCC established a standard for local aesthetic regulations that they must be (1) reasonable, (2) no more burdensome than those applied to other infrastructure deployments, and (3) objective and published in advance.³ Regulations that do not meet these criteria are preempted as they are presumed to effectively prohibit wireless service in violation of the Telecommunications Act of 1996 (Act).⁴

Here, the new City's siting regulations were not "published in advance" at the time AT&T submitted this application. Thus, design criteria and other aesthetic regulations under the new regulations cannot be applied to this application. For example, the City's new regulations ban small wireless facilities on residential streets. That rule does not apply. In addition, applying post-application regulations violates AT&T's due process rights.

Further, the city cannot lawfully deny this application even if the new regulations applied. The general ban on small wireless facilities in residential districts is unlawful and preempted by federal law. Specifically, this amounts to a prohibition on personal wireless services in large portions of the City, which violates the Act. As applied to this application, denial on the basis that this location is in a residential area materially inhibits AT&T's ability to provide and improve wireless services in this area, in violation of the Act.

Further, the City's residential-area ban is a more burdensome restriction than imposed on other infrastructure deployments. The streets in this residential area have existing wooden utility poles with utility equipment. For example, there are wood utility poles along Pine Street, including existing utility poles with existing utility deployments at the proposed location and the next closest utility poles. Thus, this restriction is more burdensome than those imposed on other infrastructure deployments, which is an unlawful prohibition and denial on that basis is preempted by federal law.

¹ Although Mr. Dale is not licensed in California, he is exempt from the licensure requirement under the Permit Requirements. Sections 6746 and 6747 of the California Professional Engineers Act exempts such requirements for communications companies and employees of the communications industry.

² See *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, Declaratory Ruling and Third Report and Order, FCC 18-133 (September 27, 2018) ("*Infrastructure Order*").

³ See *id.* at ¶ 86.

⁴ See *id.*; 47 U.S.C. § 332(c)(7)(B)(i)(II).

Further, AT&T's application materials contain sufficient information for City Council to make all necessary approval findings. This is true even if the City (unlawfully) applies its new wireless siting regulations. To wit: the proposed facility is designed to be compatible with the community, AT&T is willing to allow collocations (although they will likely be infeasible), AT&T's facility will comply with the City's noise standards, AT&T has a state law franchise right to access the public rights-of-way, and the proposed facility will not interfere with the public right-of-way.

Again, AT&T has a statewide franchise right to access and construct telecommunications facilities in the public rights-of-way. Under Public Utilities Code Section 7901, AT&T has the right to access and construct facilities in public rights-of-way in order to furnish wireless services, so long as it does not "incommode" the public use of the public right-of-way. And under Section 7901.1, AT&T's right is subject only to the City's reasonable and equivalent time, place, and manner regulations. AT&T's proposed small wireless facility does not incommode the right-of-way and the ban on residential deployments is not an equivalent regulation.

Finally, it is unreasonable and unlawful to require AT&T to provide evidence of a potential effective prohibition or other violation of law at the time an application is filed. For example, here it could not have been known until September 17th the various ways in which the City would violate state and federal laws.

AT&T reserves the right to supplement this appeal statement.

Conclusion

AT&T is working diligently to improve its wireless services in the City of Los Altos, and it is doing so pursuant to applicable law and within the City's applicable process and standards. This application and this small wireless facility are urgently needed to provide and improve personal wireless service in this portion of the City. AT&T has worked carefully to develop responsible proposed facilities, including this small wireless facility. The proposed facility is the best available and least intrusive means by which AT&T can address its service needs in this location. AT&T urges City Council to reverse the denial decision and approve its application.

Sincerely,

Ivan Toews, Ericsson on behalf of AT&T
Site Acquisition Manager, CRAN Small Cell

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September 20, 2019

CITY CLERK'S OFFICE
2019 SEP 23 AM 10 46
CITY OF LOS ALTOS
CALIFORNIA

Via Email and Hand-Delivery

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City of Los Altos
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1 North San Antonio Road
Los Altos, CA 94022

Re. Appeal of Denial Decision
Application No. SE19-00010
AT&T Site ID LOSA0_05
Public Right-of-Way near 49 San Juan Court

To the Clerk:

New Cingular Wireless PCS, LLC dba AT&T Mobility(AT&T), hereby appeals the Denial Decision of the City Manager issued on September 17, 2019, denying AT&T's Application No. SE19-00010, which seeks to place a small wireless facility on an existing wood utility pole located in the public right-of-way near 49 San Juan Court, which is a local street. AT&T has an urgent need to deploy this and other small wireless facilities in the City of Los Altos, and particularly to provide and improve wireless services in residential areas of the City. The proposed small wireless facility is consistent with the City's wireless regulations in place at the time this application was submitted. And approval of this proposed facility is necessary pursuant to applicable federal law. AT&T respectfully requests the City Council reverse the denial and approve AT&T's application.

This proposed small wireless facility will help improve AT&T's wireless services by offloading network traffic carried by existing macro facilities in the area. In addition, faster data rates allow customers to get on and off the network quickly, which produces more efficient use of AT&T's limited spectrum. By placing the small cell facility in areas where AT&T's existing wireless telecommunications facilities are constrained and where AT&T experiences especially high network traffic, AT&T can address the existing and forecasted demand.

The proposed small wireless facility complies with the City's wireless regulations in effect at the time the application was filed. Specifically, AT&T's application complies with the City's *Distributed Antenna Systems for Wireless Communications Encroachment Permit Requirements* ("Permit Requirements"). Item A under the Permit Requirements states, "Antenna systems are encouraged along the city's arterial and collector streets. These facilities are allowed on local streets upon verification by a qualified electrical engineer licensed by the state of California representing the FCC licensee that using local streets is necessary to obtain capacity and coverage."

The proposed small wireless facility is small and typical of infrastructure deployments in residential rights-of-way in the City, including the right-of-way along San Juan Court and nearby streets. Because the proposed location is along a local street, AT&T submitted a Radio Frequency Statement by Phil Dale, an AT&T-employed radio frequency design engineer.¹ The Radio Frequency Statement explains AT&T's need for this small wireless facility in this location and demonstrates how the proposed facility will help satisfy AT&T's service needs. In addition, AT&T submitted an Alternatives Review with this application, which demonstrates that the proposed small wireless facility is the best available and least intrusive means to address AT&T's service needs in this portion of the City.

Applicable Siting Regulations

Again, the pending application was duly filed before the City enacted new regulations governing small wireless facilities. It must be evaluated in the context of the City's regulations in effect at the time the applications were filed (i.e., the Permit Requirements). Last year, the Federal Communications Commission issued its *Infrastructure Order*, which established rules and standards for siting authorities to follow with respect to applications for approvals to construct small wireless facilities.² Under the *Infrastructure Order*, the FCC established a standard for local aesthetic regulations that they must be (1) reasonable, (2) no more burdensome than those applied to other infrastructure deployments, and (3) objective and published in advance.³ Regulations that do not meet these criteria are preempted as they are presumed to effectively prohibit wireless service in violation of the Telecommunications Act of 1996 (Act).⁴

Here, the new City's siting regulations were not "published in advance" at the time AT&T submitted this application. Thus, design criteria and other aesthetic regulations under the new regulations cannot be applied to this application. For example, the City's new regulations ban small wireless facilities on residential streets. That rule does not apply. In addition, applying post-application regulations violates AT&T's due process rights.

Further, the city cannot lawfully deny this application even if the new regulations applied. The general ban on small wireless facilities in residential districts is unlawful and preempted by federal law. Specifically, this amounts to a prohibition on personal wireless services in large portions of the City, which violates the Act. As applied to this application, denial on the basis that this location is in a residential area materially inhibits AT&T's ability to provide and improve wireless services in this area, in violation of the Act.

Further, the City's residential-area ban is a more burdensome restriction than imposed on other infrastructure deployments. The streets in this residential area have existing wooden utility poles with utility equipment. For example, there are wood utility poles along San Juan Court, including existing utility poles with existing utility deployments at the proposed location and the next closest utility poles. Thus, this restriction is more burdensome than those imposed on other infrastructure deployments, which is an unlawful prohibition and denial on that basis is preempted by federal law.

¹ Although Mr. Dale is not licensed in California, he is exempt from the licensure requirement under the Permit Requirements. Sections 6746 and 6747 of the California Professional Engineers Act exempts such requirements for communications companies and employees of the communications industry.

² See Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, Declaratory Ruling and Third Report and Order, FCC 18-133 (September 27, 2018) ("*Infrastructure Order*").

³ See *id.* at ¶ 86.

⁴ See *id.*; 47 U.S.C. § 332(c)(7)(B)(i)(II).

Further, AT&T's application materials contain sufficient information for City Council to make all necessary approval findings. This is true even if the City (unlawfully) applies its new wireless siting regulations. To wit: the proposed facility is designed to be compatible with the community, AT&T is willing to allow collocations (although they will likely be infeasible), AT&T's facility will comply with the City's noise standards, AT&T has a state law franchise right to access the public rights-of-way, and the proposed facility will not interfere with the public right-of-way.

Again, AT&T has a statewide franchise right to access and construct telecommunications facilities in the public rights-of-way. Under Public Utilities Code Section 7901, AT&T has the right to access and construct facilities in public rights-of-way in order to furnish wireless services, so long as it does not "incommode" the public use of the public right-of-way. And under Section 7901.1, AT&T's right is subject only to the City's reasonable and equivalent time, place, and manner regulations. AT&T's proposed small wireless facility does not incommode the right-of-way and the ban on residential deployments is not an equivalent regulation.

Finally, it is unreasonable and unlawful to require AT&T to provide evidence of a potential effective prohibition or other violation of law at the time an application is filed. For example, here it could not have been known until September 17th the various ways in which the City would violate state and federal laws.

AT&T reserves the right to supplement this appeal statement.

Conclusion

AT&T is working diligently to improve its wireless services in the City of Los Altos, and it is doing so pursuant to applicable law and within the City's applicable process and standards. This application and this small wireless facility are urgently needed to provide and improve personal wireless service in this portion of the City. AT&T has worked carefully to develop responsible proposed facilities, including this small wireless facility. The proposed facility is the best available and least intrusive means by which AT&T can address its service needs in this location. AT&T urges City Council to reverse the denial decision and approve its application.

Sincerely,

Ivan Toews, Ericsson on behalf of AT&T
Site Acquisition Manager, CRAN Small Cell

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September 20, 2019

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2019 SEP 23 AM 10 46
CITY OF LOS ALTOS
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Via Email and Hand-Delivery

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Re. Appeal of Denial Decision
Application No. SE19-00011
AT&T Site ID LOSA0_06
Public Right-of-Way near 791 Los Altos Avenue

To the Clerk:

New Cingular Wireless PCS, LLC dba AT&T Mobility(AT&T), hereby appeals the Denial Decision of the City Manager issued on September 17, 2019, denying AT&T's Application No. SE19-00011, which seeks to place a small wireless facility on an existing wood utility pole located in the public right-of-way near 791 Los Altos Avenue, which is a local collector street. AT&T has an urgent need to deploy this and other small wireless facilities in the City of Los Altos, and particularly to provide and improve wireless services in residential areas of the City. The proposed small wireless facility is consistent with the City's wireless regulations in place at the time this application was submitted. And approval of this proposed facility is necessary pursuant to applicable federal law. AT&T respectfully requests the City Council reverse the denial and approve AT&T's application.

This proposed small wireless facility will help improve AT&T's wireless services by offloading network traffic carried by existing macro facilities in the area. In addition, faster data rates allow customers to get on and off the network quickly, which produces more efficient use of AT&T's limited spectrum. By placing the small cell facility in areas where AT&T's existing wireless telecommunications facilities are constrained and where AT&T experiences especially high network traffic, AT&T can address the existing and forecasted demand.

The proposed small wireless facility complies with the City's wireless regulations in effect at the time the application was filed. Specifically, AT&T's application complies with the City's *Distributed Antenna Systems for Wireless Communications Encroachment Permit Requirements* ("Permit Requirements"). Item A under the Permit Requirements states, "Antenna systems are encouraged along the city's arterial and collector streets. These facilities are allowed on local streets upon verification by a qualified electrical engineer licensed by the state of California representing the FCC licensee that using local streets is necessary to obtain capacity and coverage."

The proposed small wireless facility is small and typical of infrastructure deployments in residential rights-of-way in the City, including the right-of-way along Los Altos Avenue and nearby streets. Because the proposed location is along a local collector street, AT&T submitted a Radio Frequency Statement by Phil Dale, an AT&T-employed radio frequency design engineer.¹ The Radio Frequency Statement explains AT&T's need for this small wireless facility in this location and demonstrates how the proposed facility will help satisfy AT&T's service needs. In addition, AT&T submitted an Alternatives Review with this application, which demonstrates that the proposed small wireless facility is the best available and least intrusive means to address AT&T's service needs in this portion of the City.

Applicable Siting Regulations

Again, the pending application was duly filed before the City enacted new regulations governing small wireless facilities. It must be evaluated in the context of the City's regulations in effect at the time the applications were filed (i.e., the Permit Requirements). Last year, the Federal Communications Commission issued its *Infrastructure Order*, which established rules and standards for siting authorities to follow with respect to applications for approvals to construct small wireless facilities.² Under the *Infrastructure Order*, the FCC established a standard for local aesthetic regulations that they must be (1) reasonable, (2) no more burdensome than those applied to other infrastructure deployments, and (3) objective and published in advance.³ Regulations that do not meet these criteria are preempted as they are presumed to effectively prohibit wireless service in violation of the Telecommunications Act of 1996 (Act).⁴

Here, the new City's siting regulations were not "published in advance" at the time AT&T submitted this application. Thus, design criteria and other aesthetic regulations under the new regulations cannot be applied to this application. For example, the City's new regulations ban small wireless facilities on residential streets. That rule does not apply. In addition, applying post-application regulations violates AT&T's due process rights.

Further, the city cannot lawfully deny this application even if the new regulations applied. The general ban on small wireless facilities in residential districts is unlawful and preempted by federal law. Specifically, this amounts to a prohibition on personal wireless services in large portions of the City, which violates the Act. As applied to this application, denial on the basis that this location is in a residential area materially inhibits AT&T's ability to provide and improve wireless services in this area, in violation of the Act.

Further, the City's residential-area ban is a more burdensome restriction than imposed on other infrastructure deployments. The streets in this residential area have existing wooden utility poles with utility equipment. For example, there are wood utility poles along Los Altos Avenue, including existing utility poles with existing utility deployments at the proposed location and the next closest utility poles.

¹ Although Mr. Dale is not licensed in California, he is exempt from the licensure requirement under the Permit Requirements. Sections 6746 and 6747 of the California Professional Engineers Act exempts such requirements for communications companies and employees of the communications industry.

² See Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, Declaratory Ruling and Third Report and Order, FCC 18-133 (September 27, 2018) ("*Infrastructure Order*").

³ See *id.* at ¶ 86.

⁴ See *id.*; 47 U.S.C. § 332(c)(7)(B)(i)(II).

Thus, this restriction is more burdensome than those imposed on other infrastructure deployments, which is an unlawful prohibition and denial on that basis is preempted by federal law.

Further, AT&T's application materials contain sufficient information for City Council to make all necessary approval findings. This is true even if the City (unlawfully) applies its new wireless siting regulations. To wit: the proposed facility is designed to be compatible with the community, AT&T is willing to allow collocations (although they will likely be infeasible), AT&T's facility will comply with the City's noise standards, AT&T has a state law franchise right to access the public rights-of-way, and the proposed facility will not interfere with the public right-of-way.

Again, AT&T has a statewide franchise right to access and construct telecommunications facilities in the public rights-of-way. Under Public Utilities Code Section 7901, AT&T has the right to access and construct facilities in public rights-of-way in order to furnish wireless services, so long as it does not "incommode" the public use of the public right-of-way. And under Section 7901.1, AT&T's right is subject only to the City's reasonable and equivalent time, place, and manner regulations. AT&T's proposed small wireless facility does not incommode the right-of-way and the ban on residential deployments is not an equivalent regulation.

Finally, it is unreasonable and unlawful to require AT&T to provide evidence of a potential effective prohibition or other violation of law at the time an application is filed. For example, here it could not have been known until September 17th the various ways in which the City would violate state and federal laws.

AT&T reserves the right to supplement this appeal statement.

Conclusion

AT&T is working diligently to improve its wireless services in the City of Los Altos, and it is doing so pursuant to applicable law and within the City's applicable process and standards. This application and this small wireless facility are urgently needed to provide and improve personal wireless service in this portion of the City. AT&T has worked carefully to develop responsible proposed facilities, including this small wireless facility. The proposed facility is the best available and least intrusive means by which AT&T can address its service needs in this location. AT&T urges City Council to reverse the denial decision and approve its application.

Sincerely,

Ivan Toews, Ericsson on behalf of AT&T
Site Acquisition Manager, CRAN Small Cell

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September 20, 2019

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CITY OF LOS ALTOS
CALIFORNIA

Re. Appeal of Denial Decision
Application No. SE19-00005
AT&T Site ID LOSAO_07
Public Right-of-Way near 98 Eleanor Avenue

To the Clerk:

New Cingular Wireless PCS, LLC dba AT&T Mobility(AT&T), hereby appeals the Denial Decision of the City Manager issued on September 17, 2019, denying AT&T's Application No. SE19-00005, which seeks to place a small wireless facility on an existing wood utility pole located in the public right-of-way near 98 Eleanor Avenue, which is a local street. AT&T has an urgent need to deploy this and other small wireless facilities in the City of Los Altos, and particularly to provide and improve wireless services in residential areas of the City. The proposed small wireless facility is consistent with the City's wireless regulations in place at the time this application was submitted. And approval of this proposed facility is necessary pursuant to applicable federal law. AT&T respectfully requests the City Council reverse the denial and approve AT&T's application.

This proposed small wireless facility will help improve AT&T's wireless services by offloading network traffic carried by existing macro facilities in the area. In addition, faster data rates allow customers to get on and off the network quickly, which produces more efficient use of AT&T's limited spectrum. By placing the small cell facility in areas where AT&T's existing wireless telecommunications facilities are constrained and where AT&T experiences especially high network traffic, AT&T can address the existing and forecasted demand.

The proposed small wireless facility complies with the City's wireless regulations in effect at the time the application was filed. Specifically, AT&T's application complies with the City's *Distributed Antenna Systems for Wireless Communications Encroachment Permit Requirements* ("Permit Requirements"). Item A under the Permit Requirements states, "Antenna systems are encouraged along the city's arterial and collector streets. These facilities are allowed on local streets upon verification by a qualified electrical engineer licensed by the state of California representing the FCC licensee that using local streets is necessary to obtain capacity and coverage."

The proposed small wireless facility is small and typical of infrastructure deployments in residential rights-of-way in the City, including the right-of-way along Eleanor Avenue and nearby streets. Because the proposed location is along a local street, AT&T submitted a Radio Frequency Statement by Phil Dale, an AT&T-employed radio frequency design engineer.¹ The Radio Frequency Statement explains AT&T's need for this small wireless facility in this location and demonstrates how the proposed facility will help satisfy AT&T's service needs. In addition, AT&T submitted an Alternatives Review with this application, which demonstrates that the proposed small wireless facility is the best available and least intrusive means to address AT&T's service needs in this portion of the City.

Applicable Siting Regulations

Again, the pending application was duly filed before the City enacted new regulations governing small wireless facilities. It must be evaluated in the context of the City's regulations in effect at the time the applications were filed (i.e., the Permit Requirements). Last year, the Federal Communications Commission issued its *Infrastructure Order*, which established rules and standards for siting authorities to follow with respect to applications for approvals to construct small wireless facilities.² Under the *Infrastructure Order*, the FCC established a standard for local aesthetic regulations that they must be (1) reasonable, (2) no more burdensome than those applied to other infrastructure deployments, and (3) objective and published in advance.³ Regulations that do not meet these criteria are preempted as they are presumed to effectively prohibit wireless service in violation of the Telecommunications Act of 1996 (Act).⁴

Here, the new City's siting regulations were not "published in advance" at the time AT&T submitted this application. Thus, design criteria and other aesthetic regulations under the new regulations cannot be applied to this application. For example, the City's new regulations ban small wireless facilities on residential streets. That rule does not apply. In addition, applying post-application regulations violates AT&T's due process rights.

Further, the city cannot lawfully deny this application even if the new regulations applied. The general ban on small wireless facilities in residential districts is unlawful and preempted by federal law. Specifically, this amounts to a prohibition on personal wireless services in large portions of the City, which violates the Act. As applied to this application, denial on the basis that this location is in a residential area materially inhibits AT&T's ability to provide and improve wireless services in this area, in violation of the Act.

Further, the City's residential-area ban is a more burdensome restriction than imposed on other infrastructure deployments. The streets in this residential area have existing wooden utility poles with utility equipment. For example, there are wood utility poles along Eleanor Avenue, including existing utility poles with existing utility deployments at the proposed location and the next closest utility poles. Thus, this restriction is more burdensome than those imposed on other infrastructure deployments, which is an unlawful prohibition and denial on that basis is preempted by federal law.

¹ Although Mr. Dale is not licensed in California, he is exempt from the licensure requirement under the Permit Requirements. Sections 6746 and 6747 of the California Professional Engineers Act exempts such requirements for communications companies and employees of the communications industry.

² See Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, Declaratory Ruling and Third Report and Order, FCC 18-133 (September 27, 2018) ("*Infrastructure Order*").

³ See *id.* at ¶ 86.

⁴ See *id.*; 47 U.S.C. § 332(c)(7)(B)(i)(II).

Further, AT&T's application materials contain sufficient information for City Council to make all necessary approval findings. This is true even if the City (unlawfully) applies its new wireless siting regulations. To wit: the proposed facility is designed to be compatible with the community, AT&T is willing to allow collocations (although they will likely be infeasible), AT&T's facility will comply with the City's noise standards, AT&T has a state law franchise right to access the public rights-of-way, and the proposed facility will not interfere with the public right-of-way.

Again, AT&T has a statewide franchise right to access and construct telecommunications facilities in the public rights-of-way. Under Public Utilities Code Section 7901, AT&T has the right to access and construct facilities in public rights-of-way in order to furnish wireless services, so long as it does not "incommode" the public use of the public right-of-way. And under Section 7901.1, AT&T's right is subject only to the City's reasonable and equivalent time, place, and manner regulations. AT&T's proposed small wireless facility does not incommode the right-of-way and the ban on residential deployments is not an equivalent regulation.

Finally, it is unreasonable and unlawful to require AT&T to provide evidence of a potential effective prohibition or other violation of law at the time an application is filed. For example, here it could not have been known until September 17th the various ways in which the City would violate state and federal laws.

AT&T reserves the right to supplement this appeal statement.

Conclusion

AT&T is working diligently to improve its wireless services in the City of Los Altos, and it is doing so pursuant to applicable law and within the City's applicable process and standards. This application and this small wireless facility are urgently needed to provide and improve personal wireless service in this portion of the City. AT&T has worked carefully to develop responsible proposed facilities, including this small wireless facility. The proposed facility is the best available and least intrusive means by which AT&T can address its service needs in this location. AT&T urges City Council to reverse the denial decision and approve its application.

Sincerely,

Ivan Toews, Ericsson on behalf of AT&T
Site Acquisition Manager, CRAN Small Cell

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September 20, 2019

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Los Altos City Hall
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Los Altos, CA 94022

Re. Appeal of Denial Decision
Application No. SE19-00006
AT&T Site ID LOSAO_08
Public Right-of-Way near 182 Garland Way

To the Clerk:

New Cingular Wireless PCS, LLC dba AT&T Mobility(AT&T), hereby appeals the Denial Decision of the City Manager issued on September 17, 2019, denying AT&T's Application No. SE19-00006, which seeks to place a small wireless facility on an existing wood utility pole located in the public right-of-way near 182 Garland Way, which is a local street. AT&T has an urgent need to deploy this and other small wireless facilities in the City of Los Altos, and particularly to provide and improve wireless services in residential areas of the City. The proposed small wireless facility is consistent with the City's wireless regulations in place at the time this application was submitted. And approval of this proposed facility is necessary pursuant to applicable federal law. AT&T respectfully requests the City Council reverse the denial and approve AT&T's application.

This proposed small wireless facility will help improve AT&T's wireless services by offloading network traffic carried by existing macro facilities in the area. In addition, faster data rates allow customers to get on and off the network quickly, which produces more efficient use of AT&T's limited spectrum. By placing the small cell facility in areas where AT&T's existing wireless telecommunications facilities are constrained and where AT&T experiences especially high network traffic, AT&T can address the existing and forecasted demand.

The proposed small wireless facility complies with the City's wireless regulations in effect at the time the application was filed. Specifically, AT&T's application complies with the City's *Distributed Antenna Systems for Wireless Communications Encroachment Permit Requirements* ("Permit Requirements"). Item A under the Permit Requirements states, "Antenna systems are encouraged along the city's arterial and collector streets. These facilities are allowed on local streets upon verification by a qualified electrical engineer licensed by the state of California representing the FCC licensee that using local streets is necessary to obtain capacity and coverage."

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The proposed small wireless facility is small and typical of infrastructure deployments in residential rights-of-way in the City, including the right-of-way along Garland Way and nearby streets. Because the proposed location is along a local street, AT&T submitted a Radio Frequency Statement by Phil Dale, an AT&T-employed radio frequency design engineer.¹ The Radio Frequency Statement explains AT&T's need for this small wireless facility in this location and demonstrates how the proposed facility will help satisfy AT&T's service needs. In addition, AT&T submitted an Alternatives Review with this application, which demonstrates that the proposed small wireless facility is the best available and least intrusive means to address AT&T's service needs in this portion of the City.

Applicable Siting Regulations

Again, the pending application was duly filed before the City enacted new regulations governing small wireless facilities. It must be evaluated in the context of the City's regulations in effect at the time the applications were filed (i.e., the Permit Requirements). Last year, the Federal Communications Commission issued its *Infrastructure Order*, which established rules and standards for siting authorities to follow with respect to applications for approvals to construct small wireless facilities.² Under the *Infrastructure Order*, the FCC established a standard for local aesthetic regulations that they must be (1) reasonable, (2) no more burdensome than those applied to other infrastructure deployments, and (3) objective and published in advance.³ Regulations that do not meet these criteria are preempted as they are presumed to effectively prohibit wireless service in violation of the Telecommunications Act of 1996 (Act).⁴

Here, the new City's siting regulations were not "published in advance" at the time AT&T submitted this application. Thus, design criteria and other aesthetic regulations under the new regulations cannot be applied to this application. For example, the City's new regulations ban small wireless facilities on residential streets. That rule does not apply. In addition, applying post-application regulations violates AT&T's due process rights.

Further, the city cannot lawfully deny this application even if the new regulations applied. The general ban on small wireless facilities in residential districts is unlawful and preempted by federal law. Specifically, this amounts to a prohibition on personal wireless services in large portions of the City, which violates the Act. As applied to this application, denial on the basis that this location is in a residential area materially inhibits AT&T's ability to provide and improve wireless services in this area, in violation of the Act.

Further, the City's residential-area ban is a more burdensome restriction than imposed on other infrastructure deployments. The streets in this residential area have existing wooden utility poles with utility equipment. For example, there are wood utility poles along Garland Way, including existing utility poles with existing utility deployments at the proposed location and the next closest utility poles. Thus, this restriction is more burdensome than those imposed on other infrastructure deployments, which is an unlawful prohibition and denial on that basis is preempted by federal law.

¹ Although Mr. Dale is not licensed in California, he is exempt from the licensure requirement under the Permit Requirements. Sections 6746 and 6747 of the California Professional Engineers Act exempts such requirements for communications companies and employees of the communications industry.

² See Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, Declaratory Ruling and Third Report and Order, FCC 18-133 (September 27, 2018) ("*Infrastructure Order*").

³ See *id.* at ¶ 86.

⁴ See *id.*; 47 U.S.C. § 332(c)(7)(B)(i)(II).

Further, AT&T's application materials contain sufficient information for City Council to make all necessary approval findings. This is true even if the City (unlawfully) applies its new wireless siting regulations. To wit: the proposed facility is designed to be compatible with the community, AT&T is willing to allow collocations (although they will likely be infeasible), AT&T's facility will comply with the City's noise standards, AT&T has a state law franchise right to access the public rights-of-way, and the proposed facility will not interfere with the public right-of-way.

Again, AT&T has a statewide franchise right to access and construct telecommunications facilities in the public rights-of-way. Under Public Utilities Code Section 7901, AT&T has the right to access and construct facilities in public rights-of-way in order to furnish wireless services, so long as it does not "incommode" the public use of the public right-of-way. And under Section 7901.1, AT&T's right is subject only to the City's reasonable and equivalent time, place, and manner regulations. AT&T's proposed small wireless facility does not incommode the right-of-way and the ban on residential deployments is not an equivalent regulation.

Finally, it is unreasonable and unlawful to require AT&T to provide evidence of a potential effective prohibition or other violation of law at the time an application is filed. For example, here it could not have been known until September 17th the various ways in which the City would violate state and federal laws.

AT&T reserves the right to supplement this appeal statement.

Conclusion

AT&T is working diligently to improve its wireless services in the City of Los Altos, and it is doing so pursuant to applicable law and within the City's applicable process and standards. This application and this small wireless facility are urgently needed to provide and improve personal wireless service in this portion of the City. AT&T has worked carefully to develop responsible proposed facilities, including this small wireless facility. The proposed facility is the best available and least intrusive means by which AT&T can address its service needs in this location. AT&T urges City Council to reverse the denial decision and approve its application.

Sincerely,

Ivan Toews, Ericsson on behalf of AT&T
Site Acquisition Manager, CRAN Small Cell

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September 20, 2019

Via Email and Hand-Delivery

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Los Altos, CA 94022

CITY CLERK'S OFFICE
2019 SEP 23 AM 10 46
CITY OF LOS ALTOS
CALIFORNIA

Re. Appeal of Denial Decision
Application No. SE19-00012
AT&T Site ID LOSA0_09
Public Right-of-Way near 491 Patrick Way

To the Clerk:

New Cingular Wireless PCS, LLC dba AT&T Mobility(AT&T), hereby appeals the Denial Decision of the City Manager issued on September 17, 2019, denying AT&T's Application No. SE19-00012, which seeks to place a small wireless facility on an existing wood utility pole located in the public right-of-way near 491 Patrick Way, which is a local street. AT&T has an urgent need to deploy this and other small wireless facilities in the City of Los Altos, and particularly to provide and improve wireless services in residential areas of the City. The proposed small wireless facility is consistent with the City's wireless regulations in place at the time this application was submitted. And approval of this proposed facility is necessary pursuant to applicable federal law. AT&T respectfully requests the City Council reverse the denial and approve AT&T's application.

This proposed small wireless facility will help improve AT&T's wireless services by offloading network traffic carried by existing macro facilities in the area. In addition, faster data rates allow customers to get on and off the network quickly, which produces more efficient use of AT&T's limited spectrum. By placing the small cell facility in areas where AT&T's existing wireless telecommunications facilities are constrained and where AT&T experiences especially high network traffic, AT&T can address the existing and forecasted demand.

The proposed small wireless facility complies with the City's wireless regulations in effect at the time the application was filed. Specifically, AT&T's application complies with the City's *Distributed Antenna Systems for Wireless Communications Encroachment Permit Requirements* ("Permit Requirements"). Item A under the Permit Requirements states, "Antenna systems are encouraged along the city's arterial and collector streets. These facilities are allowed on local streets upon verification by a qualified electrical engineer licensed by the state of California representing the FCC licensee that using local streets is necessary to obtain capacity and coverage."

The proposed small wireless facility is small and typical of infrastructure deployments in residential rights-of-way in the City, including the right-of-way along Patrick Way and nearby streets. AT&T conducted a good faith search and comparison of alternative locations and identified the proposed facility as the best available and least intrusive means to address AT&T's service needs in this portion of the City.

Applicable Siting Regulations

Again, the pending application was duly filed before the City enacted new regulations governing small wireless facilities. It must be evaluated in the context of the City's regulations in effect at the time the applications were filed (i.e., the Permit Requirements). Last year, the Federal Communications Commission issued its *Infrastructure Order*, which established rules and standards for siting authorities to follow with respect to applications for approvals to construct small wireless facilities.¹ Under the *Infrastructure Order*, the FCC established a standard for local aesthetic regulations that they must be (1) reasonable, (2) no more burdensome than those applied to other infrastructure deployments, and (3) objective and published in advance.² Regulations that do not meet these criteria are preempted as they are presumed to effectively prohibit wireless service in violation of the Telecommunications Act of 1996 (Act).³

Here, the new City's siting regulations were not "published in advance" at the time AT&T submitted this application. Thus, design criteria and other aesthetic regulations under the new regulations cannot be applied to this application. For example, the City's new regulations ban small wireless facilities on residential streets. That rule does not apply. In addition, applying post-application regulations violates AT&T's due process rights.

Further, the city cannot lawfully deny this application even if the new regulations applied. The general ban on small wireless facilities in residential districts is unlawful and preempted by federal law. Specifically, this amounts to a prohibition on personal wireless services in large portions of the City, which violates the Act. As applied to this application, denial on the basis that this location is in a residential area materially inhibits AT&T's ability to provide and improve wireless services in this area, in violation of the Act.

Further, the City's residential-area ban is a more burdensome restriction than imposed on other infrastructure deployments. The streets in this residential area have existing wooden utility poles with utility equipment. For example, there are wood utility poles along Patrick Way, including existing utility poles with existing utility deployments at the proposed location and the next closest utility poles. Thus, this restriction is more burdensome than those imposed on other infrastructure deployments, which is an unlawful prohibition and denial on that basis is preempted by federal law.

Further, AT&T's application materials contain sufficient information for City Council to make all necessary approval findings. This is true even if the City (unlawfully) applies its new wireless siting regulations. To wit: the proposed facility is designed to be compatible with the community, AT&T is willing to allow collocations (although they will likely be infeasible), AT&T's facility will comply with the

¹ See *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, Declaratory Ruling and Third Report and Order, FCC 18-133 (September 27, 2018) ("*Infrastructure Order*").

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City's noise standards, AT&T has a state law franchise right to access the public rights-of-way, and the proposed facility will not interfere with the public right-of-way.

Again, AT&T has a statewide franchise right to access and construct telecommunications facilities in the public rights-of-way. Under Public Utilities Code Section 7901, AT&T has the right to access and construct facilities in public rights-of-way in order to furnish wireless services, so long as it does not "incommode" the public use of the public right-of-way. And under Section 7901.1, AT&T's right is subject only to the City's reasonable and equivalent time, place, and manner regulations. AT&T's proposed small wireless facility does not incommode the right-of-way and the ban on residential deployments is not an equivalent regulation.

Finally, it is unreasonable and unlawful to require AT&T to provide evidence of a potential effective prohibition or other violation of law at the time an application is filed. For example, here it could not have been known until September 17th the various ways in which the City would violate state and federal laws.

AT&T reserves the right to supplement this appeal statement.

Conclusion

AT&T is working diligently to improve its wireless services in the City of Los Altos, and it is doing so pursuant to applicable law and within the City's applicable process and standards. This application and this small wireless facility are urgently needed to provide and improve personal wireless service in this portion of the City. AT&T has worked carefully to develop responsible proposed facilities, including this small wireless facility. The proposed facility is the best available and least intrusive means by which AT&T can address its service needs in this location. AT&T urges City Council to reverse the denial decision and approve its application.

Sincerely,

Ivan Toews, Ericsson on behalf of AT&T
Site Acquisition Manager, CRAN Small Cell

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September 20, 2019

Via Email and Hand-Delivery

Office of the City Clerk
administration@losaltosca.gov
jmaginot@losaltosca.gov
City of Los Altos
Los Altos City Hall
1 North San Antonio Road
Los Altos, CA 94022

CITY CLERK'S OFFICE
2019 SEP 23 AM 10 46

CITY OF LOS ALTOS
CALIFORNIA

Re. Appeal of Denial Decision
Application No. SE19-00013
AT&T Site ID LOSAO_10
Public Right-of-Way near 300 Los Altos Avenue

To the Clerk:

New Cingular Wireless PCS, LLC dba AT&T Mobility(AT&T), hereby appeals the Denial Decision of the City Manager issued on September 17, 2019, denying AT&T's Application No. SE19-00013, which seeks to place a small wireless facility on an existing wood utility pole located in the public right-of-way near 300 Los Altos Avenue, which is a local collector street. AT&T has an urgent need to deploy this and other small wireless facilities in the City of Los Altos, and particularly to provide and improve wireless services in residential areas of the City. The proposed small wireless facility is consistent with the City's wireless regulations in place at the time this application was submitted. And approval of this proposed facility is necessary pursuant to applicable federal law. AT&T respectfully requests the City Council reverse the denial and approve AT&T's application.

This proposed small wireless facility will help improve AT&T's wireless services by offloading network traffic carried by existing macro facilities in the area. In addition, faster data rates allow customers to get on and off the network quickly, which produces more efficient use of AT&T's limited spectrum. By placing the small cell facility in areas where AT&T's existing wireless telecommunications facilities are constrained and where AT&T experiences especially high network traffic, AT&T can address the existing and forecasted demand.

The proposed small wireless facility complies with the City's wireless regulations in effect at the time the application was filed. Specifically, AT&T's application complies with the City's *Distributed Antenna Systems for Wireless Communications Encroachment Permit Requirements* ("Permit Requirements"). Item A under the Permit Requirements states, "Antenna systems are encouraged along the city's arterial and collector streets. These facilities are allowed on local streets upon verification by a qualified electrical engineer licensed by the state of California representing the FCC licensee that using local streets is necessary to obtain capacity and coverage."

The proposed small wireless facility is small and typical of infrastructure deployments in residential rights-of-way in the City, including the right-of-way along Los Altos Avenue and nearby streets. AT&T conducted a good faith search and comparison of alternative locations and identified the proposed facility as the best available and least intrusive means to address AT&T's service needs in this portion of the City.

Applicable Siting Regulations

Again, the pending application was duly filed before the City enacted new regulations governing small wireless facilities. It must be evaluated in the context of the City's regulations in effect at the time the applications were filed (i.e., the Permit Requirements). Last year, the Federal Communications Commission issued its *Infrastructure Order*, which established rules and standards for siting authorities to follow with respect to applications for approvals to construct small wireless facilities.¹ Under the *Infrastructure Order*, the FCC established a standard for local aesthetic regulations that they must be (1) reasonable, (2) no more burdensome than those applied to other infrastructure deployments, and (3) objective and published in advance.² Regulations that do not meet these criteria are preempted as they are presumed to effectively prohibit wireless service in violation of the Telecommunications Act of 1996 (Act).³

Here, the new City's siting regulations were not "published in advance" at the time AT&T submitted this application. Thus, design criteria and other aesthetic regulations under the new regulations cannot be applied to this application. For example, the City's new regulations ban small wireless facilities on residential streets. That rule does not apply. In addition, applying post-application regulations violates AT&T's due process rights.

Further, the city cannot lawfully deny this application even if the new regulations applied. The general ban on small wireless facilities in residential districts is unlawful and preempted by federal law. Specifically, this amounts to a prohibition on personal wireless services in large portions of the City, which violates the Act. As applied to this application, denial on the basis that this location is in a residential area materially inhibits AT&T's ability to provide and improve wireless services in this area, in violation of the Act.

Further, the City's residential-area ban is a more burdensome restriction than imposed on other infrastructure deployments. The streets in this residential area have existing wooden utility poles with utility equipment. For example, there are wood utility poles along Los Altos Avenue, including existing utility poles with existing utility deployments at the proposed location and the next closest utility poles. Thus, this restriction is more burdensome than those imposed on other infrastructure deployments, which is an unlawful prohibition and denial on that basis is preempted by federal law.

Further, AT&T's application materials contain sufficient information for City Council to make all necessary approval findings. This is true even if the City (unlawfully) applies its new wireless siting regulations. To wit: the proposed facility is designed to be compatible with the community, AT&T is willing to allow collocations (although they will likely be infeasible), AT&T's facility will comply with the

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City's noise standards, AT&T has a state law franchise right to access the public rights-of-way, and the proposed facility will not interfere with the public right-of-way.

Again, AT&T has a statewide franchise right to access and construct telecommunications facilities in the public rights-of-way. Under Public Utilities Code Section 7901, AT&T has the right to access and construct facilities in public rights-of-way in order to furnish wireless services, so long as it does not "incommode" the public use of the public right-of-way. And under Section 7901.1, AT&T's right is subject only to the City's reasonable and equivalent time, place, and manner regulations. AT&T's proposed small wireless facility does not incommode the right-of-way and the ban on residential deployments is not an equivalent regulation.

Finally, it is unreasonable and unlawful to require AT&T to provide evidence of a potential effective prohibition or other violation of law at the time an application is filed. For example, here it could not have been known until September 17th the various ways in which the City would violate state and federal laws.

AT&T reserves the right to supplement this appeal statement.

Conclusion

AT&T is working diligently to improve its wireless services in the City of Los Altos, and it is doing so pursuant to applicable law and within the City's applicable process and standards. This application and this small wireless facility are urgently needed to provide and improve personal wireless service in this portion of the City. AT&T has worked carefully to develop responsible proposed facilities, including this small wireless facility. The proposed facility is the best available and least intrusive means by which AT&T can address its service needs in this location. AT&T urges City Council to reverse the denial decision and approve its application.

Sincerely,

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September 20, 2019

Via Email and Hand-Delivery

Office of the City Clerk
administration@losaltosca.gov
jmaginot@losaltosca.gov
City of Los Altos
Los Altos City Hall
1 North San Antonio Road
Los Altos, CA 94022

CITY CLERK'S OFFICE
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CITY OF LOS ALTOS
CALIFORNIA

Re. Appeal of Denial Decision
Application No. SE19-00007
AT&T Site ID LOSAO_11
Public Right-of-Way near 130 Los Altos Avenue

To the Clerk:

New Cingular Wireless PCS, LLC dba AT&T Mobility(AT&T), hereby appeals the Denial Decision of the City Manager issued on September 17, 2019, denying AT&T's Application No. SE19-00007, which seeks to place a small wireless facility on an existing wood utility pole located in the public right-of-way near 130 Los Altos Avenue, which is a local collector street. AT&T has an urgent need to deploy this and other small wireless facilities in the City of Los Altos, and particularly to provide and improve wireless services in residential areas of the City. The proposed small wireless facility is consistent with the City's wireless regulations in place at the time this application was submitted. And approval of this proposed facility is necessary pursuant to applicable federal law. AT&T respectfully requests the City Council reverse the denial and approve AT&T's application.

This proposed small wireless facility will help improve AT&T's wireless services by offloading network traffic carried by existing macro facilities in the area. In addition, faster data rates allow customers to get on and off the network quickly, which produces more efficient use of AT&T's limited spectrum. By placing the small cell facility in areas where AT&T's existing wireless telecommunications facilities are constrained and where AT&T experiences especially high network traffic, AT&T can address the existing and forecasted demand.

The proposed small wireless facility complies with the City's wireless regulations in effect at the time the application was filed. Specifically, AT&T's application complies with the City's *Distributed Antenna Systems for Wireless Communications Encroachment Permit Requirements* ("Permit Requirements"). Item A under the Permit Requirements states, "Antenna systems are encouraged along the city's arterial and collector streets. These facilities are allowed on local streets upon verification by a qualified electrical engineer licensed by the state of California representing the FCC licensee that using local streets is necessary to obtain capacity and coverage."

The proposed small wireless facility is small and typical of infrastructure deployments in residential rights-of-way in the City, including the right-of-way along Los Altos Avenue and nearby streets. AT&T conducted a good faith search and comparison of alternative locations and identified the proposed facility as the best available and least intrusive means to address AT&T's service needs in this portion of the City.

Applicable Siting Regulations

Again, the pending application was duly filed before the City enacted new regulations governing small wireless facilities. It must be evaluated in the context of the City's regulations in effect at the time the applications were filed (i.e., the Permit Requirements). Last year, the Federal Communications Commission issued its *Infrastructure Order*, which established rules and standards for siting authorities to follow with respect to applications for approvals to construct small wireless facilities.¹ Under the *Infrastructure Order*, the FCC established a standard for local aesthetic regulations that they must be (1) reasonable, (2) no more burdensome than those applied to other infrastructure deployments, and (3) objective and published in advance.² Regulations that do not meet these criteria are preempted as they are presumed to effectively prohibit wireless service in violation of the Telecommunications Act of 1996 (Act).³

Here, the new City's siting regulations were not "published in advance" at the time AT&T submitted this application. Thus, design criteria and other aesthetic regulations under the new regulations cannot be applied to this application. For example, the City's new regulations ban small wireless facilities on residential streets. That rule does not apply. In addition, applying post-application regulations violates AT&T's due process rights.

Further, the city cannot lawfully deny this application even if the new regulations applied. The general ban on small wireless facilities in residential districts is unlawful and preempted by federal law. Specifically, this amounts to a prohibition on personal wireless services in large portions of the City, which violates the Act. As applied to this application, denial on the basis that this location is in a residential area materially inhibits AT&T's ability to provide and improve wireless services in this area, in violation of the Act.

Further, the City's residential-area ban is a more burdensome restriction than imposed on other infrastructure deployments. The streets in this residential area have existing wooden utility poles with utility equipment. For example, there are wood utility along Los Altos Avenue, including existing utility poles with existing utility deployments at the proposed location and the next closest utility poles. Thus, this restriction is more burdensome than those imposed on other infrastructure deployments, which is an unlawful prohibition and denial on that basis is preempted by federal law.

Further, AT&T's application materials contain sufficient information for City Council to make all necessary approval findings. This is true even if the City (unlawfully) applies its new wireless siting regulations. To wit: the proposed facility is designed to be compatible with the community, AT&T is willing to allow collocations (although they will likely be infeasible), AT&T's facility will comply with the

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City's noise standards, AT&T has a state law franchise right to access the public rights-of-way, and the proposed facility will not interfere with the public right-of-way.

Again, AT&T has a statewide franchise right to access and construct telecommunications facilities in the public rights-of-way. Under Public Utilities Code Section 7901, AT&T has the right to access and construct facilities in public rights-of-way in order to furnish wireless services, so long as it does not "incommode" the public use of the public right-of-way. And under Section 7901.1, AT&T's right is subject only to the City's reasonable and equivalent time, place, and manner regulations. AT&T's proposed small wireless facility does not incommode the right-of-way and the ban on residential deployments is not an equivalent regulation.

Finally, it is unreasonable and unlawful to require AT&T to provide evidence of a potential effective prohibition or other violation of law at the time an application is filed. For example, here it could not have been known until September 17th the various ways in which the City would violate state and federal laws.

AT&T reserves the right to supplement this appeal statement.

Conclusion

AT&T is working diligently to improve its wireless services in the City of Los Altos, and it is doing so pursuant to applicable law and within the City's applicable process and standards. This application and this small wireless facility are urgently needed to provide and improve personal wireless service in this portion of the City. AT&T has worked carefully to develop responsible proposed facilities, including this small wireless facility. The proposed facility is the best available and least intrusive means by which AT&T can address its service needs in this location. AT&T urges City Council to reverse the denial decision and approve its application.

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CITY CLERK'S OFFICE
2019 SEP 23 AM 10 46
CITY OF LOS ALTOS
CALIFORNIA

September 20, 2019

Via Email and Hand-Delivery

Office of the City Clerk
administration@losaltosca.gov
jmaginot@losaltosca.gov
City of Los Altos
Los Altos City Hall
1 North San Antonio Road
Los Altos, CA 94022

Re: Appeal of Denial Decision
Application No. SE19-00008
AT&T Site ID LOSA0_12
Public Right-of-Way near 356 Blue Oak Lane

To the Clerk:

New Cingular Wireless PCS, LLC dba AT&T Mobility(AT&T), hereby appeals the Denial Decision of the City Manager issued on September 17, 2019, denying AT&T's Application No. SE19-00008, which seeks to place a small wireless facility on an existing wood utility pole located in the public right-of-way near 356 Blue Oak Lane, which is a local street. AT&T has an urgent need to deploy this and other small wireless facilities in the City of Los Altos, and particularly to provide and improve wireless services in residential areas of the City. The proposed small wireless facility is consistent with the City's wireless regulations in place at the time this application was submitted. And approval of this proposed facility is necessary pursuant to applicable federal law. AT&T respectfully requests the City Council reverse the denial and approve AT&T's application.

This proposed small wireless facility will help improve AT&T's wireless services by offloading network traffic carried by existing macro facilities in the area. In addition, faster data rates allow customers to get on and off the network quickly, which produces more efficient use of AT&T's limited spectrum. By placing the small cell facility in areas where AT&T's existing wireless telecommunications facilities are constrained and where AT&T experiences especially high network traffic, AT&T can address the existing and forecasted demand.

The proposed small wireless facility complies with the City's wireless regulations in effect at the time the application was filed. Specifically, AT&T's application complies with the City's *Distributed Antenna Systems for Wireless Communications Encroachment Permit Requirements* ("Permit Requirements"). Item A under the Permit Requirements states, "Antenna systems are encouraged along the city's arterial and collector streets. These facilities are allowed on local streets upon verification by a

Further, AT&T's application materials contain sufficient information for City Council to make all necessary approval findings. This is true even if the City (unlawfully) applies its new wireless siting regulations. To wit: the proposed facility is designed to be compatible with the community, AT&T is willing to allow collocations (although they will likely be infeasible), AT&T's facility will comply with the City's noise standards, AT&T has a state law franchise right to access the public rights-of-way, and the proposed facility will not interfere with the public right-of-way.

Again, AT&T has a statewide franchise right to access and construct telecommunications facilities in the public rights-of-way. Under Public Utilities Code Section 7901, AT&T has the right to access and construct facilities in public rights-of-way in order to furnish wireless services, so long as it does not "incommode" the public use of the public right-of-way. And under Section 7901.1, AT&T's right is subject only to the City's reasonable and equivalent time, place, and manner regulations. AT&T's proposed small wireless facility does not incommode the right-of-way and the ban on residential deployments is not an equivalent regulation.

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AT&T is working diligently to improve its wireless services in the City of Los Altos, and it is doing so pursuant to applicable law and within the City's applicable process and standards. This application and this small wireless facility are urgently needed to provide and improve personal wireless service in this portion of the City. AT&T has worked carefully to develop responsible proposed facilities, including this small wireless facility. The proposed facility is the best available and least intrusive means by which AT&T can address its service needs in this location. AT&T urges City Council to reverse the denial decision and approve its application.

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October 23, 2019

VIA EMAIL

Mayor Lynette Lee Eng
Vice Mayor Jan Pepper
Councilmembers Jeannie Bruins,
Anita Enander and Neysa Fligor
City Council
City of Los Altos
1 North San Antonio Road
Los Altos, California 94022

Re: Verizon Wireless's Appeal of City Manager's Denial of
Application No. SE19-00019
Small Cell Wireless Facility, Right-of-Way at 155 Almond Avenue
City Council Agenda, October 29, 2019

Dear Mayor Eng, Vice Mayor Pepper and Councilmembers:

We write on behalf of Verizon Wireless to ask that you grant its appeal of the City Manager's denial of a small cell wireless facility on a replacement utility pole (the "Proposed Facility"). The City Manager's denial was not supported by substantial evidence, and it relied on provisions of the Los Altos Municipal Code (the "Code") and recently-adopted wireless facility *Design and Siting Guidelines* (the "Guidelines") that are preempted by state or federal law. Located adjacent to a non-residential zone, the Proposed Facility poses minimal visual impact. The Council can grant approval in accordance with those City standards and findings that are consistent with applicable law. Further, approval would avoid an unlawful prohibition of service that would violate the federal Telecommunications Act. We urge you to grant Verizon Wireless's appeal and to approve the Proposed Facility.

I. The Project

The Proposed Facility has been thoughtfully designed and redesigned to minimize any impact to the surrounding neighborhood. Verizon Wireless proposes to place a single narrow two-foot canister antenna above a wood utility pole in the right-of-way adjacent to a parking lot in the PCF-public/community facilities zone. The antenna must be elevated at least six feet above pole-top electrical conductors to meet safety clearances required by Public Utilities Commission General Order 95. The existing wood utility

pole will be replaced to increase its height and structural capacity. Associated equipment will be stacked vertically on the side of the pole between eight and 18 feet: a very small electric meter, a disconnect switch, distribution panel, and an equipment shroud that will fully conceal radios and other network gear. This pole-mounted equipment will be rotated away from the roadway to reduce visibility and painted to match the pole. Established street trees on either side of the pole will help screen the associated equipment, and trees of greater height behind the pole will provide a backdrop to minimize the impact of the antenna.

Photosimulations of the Proposed Facility are attached as Exhibit A. A report by RF Global Safety Consultants, attached as Exhibit B, confirms that radio frequency exposure from the Proposed Facility will comply with Federal Communications Commission (“FCC”) guidelines. A report by EBI Consulting, attached as Exhibit C, confirms that the Proposed Facility will comply with Code noise limits.

II. The City Manager’s Denial Was Not Based on Substantial Evidence.

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 of an application must be based on requirements set forth in the local code 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”). While federal law permits a local government to regulate the placement of wireless facilities based on aesthetics, mere generalized concerns or opinions about aesthetics or compatibility with a neighborhood do not constitute substantial evidence upon which a local government could deny a permit. *See City of Rancho Palos Verdes v. Abrams*, 101 Cal. App. 4th 367, 381 (2002).

The City Manager’s denial was largely based on a lack information required to process the application. Verizon Wireless has subsequently provided: a letter of authorization from PG&E, a current certificate of liability insurance, a valid business license, a statement of willingness to allow other carriers to collocate, and a declaration providing evidence of its state authorization to use the right-of-way. These documents are attached as Exhibits D through H. As noted above, the EBI Consulting report confirms compliance with City noise limits.

Verizon Wireless also has revised architectural plans, attached as Exhibit I, showing that the Proposed Facility antenna has been reduced in height to two feet, with a volume falling under the three cubic foot threshold to qualify as a “small wireless facility” as defined by the FCC. 47 C.F.R. § 1.6002(I).

With these matters resolved, there remain only two other grounds for denial raised by the City Manager: the purported violation of the City’s ban on facilities in residential

zone rights-of-way, and the subjective “compatibility with the community” finding. Neither of these grounds for denial were based on substantial evidence, and both are preempted.

A. The Ban on Wireless Facilities in Residential Rights-of-Way is Preempted by State and Federal Law.

The City Manager’s primary ground for denial was a claim that the Proposed Facility is in a residential zone right-of-way where wireless facilities are not allowed. However, the City Manager committed an error because the Proposed Facility is actually in the right-of-way adjacent to a parcel in the PCF-public/community facilities zone. While the parcels abutting and across the street are in residential zones, that is not pertinent because the guidelines specifically allow facilities in rights-of-way of non-residential zones such as the PCF zone. Guidelines § 4(D).¹

Even if the Proposed Facility fell within a residential zone—which it does not—these restrictions are unenforceable under both state and federal law and therefore cannot be a basis for denial of the Proposed Facility.

Public Utilities Code Section 7901 grants telephone corporations such as Verizon Wireless a statewide right to place their equipment along any right-of-way. While the City has some discretion over the time, place, and manner of such access (Cal. Pub. Util. Code § 7901.1), and may review aesthetic and other site-specific impacts, the City’s outright ban on facilities in residential zone rights-of-way puts the great majority of rights-of-way in Los Altos either absolutely or presumptively off-limits for wireless facilities in violation of Section 7901. The state law preempts the local regulation.

The residential right-of-way ban is also preempted by the federal Telecommunications Act, which among other things provides that local government regulations “shall not prohibit or have the effect of prohibiting the provision of personal wireless services.” 47 U.S.C. § 332(c)(7)(B)(i)(II). The Ninth Circuit has held that local governments may violate this provision either by adopting a city-wide “general ban” on wireless facilities, or by individual denials that prevent a provider from filling a significant gap in service by the least intrusive means. *See Metro PCS, Inc. v. City and County of San Francisco*, 400 F.3d 715, 730-35 (9th Cir. 2005), *overruled on other grounds by T-Mobile South, LLC v. City of Roswell, Ga.*, 135 S. Ct. 808 (2015).

We address the second option below, but for present purposes note that the residential siting restrictions of the Guidelines may constitute an unlawful general ban

¹ A footnote to the permitting table states, “Facilities located in the public rights-of-way shall have their preference evaluated based on the least-preferred zoning district adjacent to the proposed facility.” Guidelines § 4(D). However, with respect to the right-of-way, the zone preferences pertain to only the non-residential commercial and public zones. Residential zones are not preferred or discouraged in the right-of-way; they simply are not an option under the Guidelines. The footnote cannot be used to classify the Proposed Facility location as a residential zone.

even though they do not apply to the City's entire land area. The combined effect of these provisions is to place large contiguous areas of the City off-limits to wireless facilities, without any consideration of their impacts (or lack thereof). We are confident that a court would find the ban on facilities in residential areas to be unlawful on its face. *See Sprint Telephony PCS, L.P. v. County of San Diego*, 543 F.3d 571, 580 (9th Cir. 2008) ("That is not to say, of course, that a plaintiff could never succeed in a facial challenge. . . . [I]f an ordinance mandated that no wireless facilities be located within one mile of a road, a plaintiff could show that, because of the number and location of roads, the rule constituted an effective prohibition.").

B. Federal Law Preempts the Subjective Finding of "Compatibility with the Community" with Respect to Small Cells.

The City Manager found that the Proposed Facility does not satisfy the use permit finding of "compatibility with the community," but that finding is preempted by the FCC's recent order addressing appropriate small cell approval criteria. *See Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, Declaratory Ruling and Third Report and Order, FCC 18-133 (September 27, 2018) (the "Small Cells Order"). The order requires that a city's aesthetic standards for small cells be objective and reasonable. Vague, subjective "compatibility" standards violate this requirement because they make it impossible for carriers to determine in advance what is permissible. *See* Small Cells Order, ¶¶ 86-88.

We note that while the City Manager did not grant any exceptions to City requirements because Verizon Wireless did not apply for any, the exceptions process does not excuse provisions of the Code or Guidelines that are preempted by state or federal law. Those preempted provisions cannot be the basis for denial.

In sum, all of the City's Manager's grounds for denial must be dismissed because either Verizon Wireless has provided all required application information or the findings of denial are preempted by state or federal law. Therefore, there is no substantial evidence to support denial of the Proposed Facility.

III. Verizon Wireless Has Provided Ample Evidence to Warrant Approval.

Verizon Wireless has provided substantial evidence to show that the Proposed Facility complies with those City standards and findings that are not preempted. For example, with respect to objective standards, the Proposed Facility is placed in a favored mid-block location near a property line. Guidelines §§ 4(E)(1). Photosimulations demonstrate the minimal impact of Verizon Wireless's small cell placed on a utility pole supporting existing utility infrastructure. The RF Global Safety Consultants report confirms that radio frequency exposure will comply with FCC guidelines. Code § 11.12.050(A)(5). With respect to applicable findings for approval, Verizon Wireless has confirmed its willingness to allow other carriers to collocate where feasible, and submitted evidence confirming noise compliance and its right to use the right-of-way. Code §

11.12.080. The City Manager's decision confirmed another finding of approval, that the Proposed Facility will not interfere with use of the right-of-way, subterranean infrastructure or future City plans. With ample evidence to support applicable findings of approval, the Council should grant Verizon Wireless's appeal and approve the Proposed Facility.

IV. Denial Would Constitute an Unlawful Prohibition of Service.

Under Ninth Circuit case law, a local government's denial of a permit for a wireless facility violates the "effective prohibition" clause of the Telecommunications Act if the wireless provider can show two things: (1) that it has a "significant gap" in service; and (2) that the proposed 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. 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 the Small Cells Order, the FCC determined that the Ninth Circuit's two-part test is too narrow. 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. Small Cells Order, ¶¶ 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.

In this case, denial would not survive judicial review under either standard. The Proposed Facility constitutes the least intrusive means to address a significant gap in service, and denial would materially inhibit Verizon Wireless's ability to improve service on its network and to compete in a fair and balanced legal and regulatory environment.

A. The Significant Gap and Least Intrusive Means Test

As described in the *Statement of Verizon Wireless Radio Frequency Engineer Brian Ung* attached as Exhibit J (the "RF Engineer's Statement"), there is a significant gap in Verizon Wireless coverage and network capacity in north Los Altos. The Proposed Facility will provide new reliable in-building and in-vehicle coverage to the gap area. It will also provide new dominant signal to the vicinity, offloading demand from the distant Verizon Wireless facility currently serving the gap area that has reached capacity exhaustion. This will improve overall network performance in the area.

The Alternatives Analysis attached as Exhibit K reviews 11 alternative locations on utility poles in the right-of-way in the vicinity of the Proposed Facility. Several alternatives are infeasible because PG&E does not allow antennas above utility poles with certain operable equipment including primary risers and line cut-outs that function as fuses. Other alternatives are more intrusive because they are adjacent to residential zones or have less tree screening than the Proposed Facility, which is adjacent to a PCF-public/community facilities zone and has ample screening from established trees nearby. The Alternatives Analysis confirms that the Proposed Facility is the least intrusive feasible option within the right-of-way for Verizon Wireless to fill the Significant Gap. For wireless carriers to establish a case for prohibition of service, 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*, 400 F.3d at 734-35.

The RF Engineer’s Statement and Alternatives Analysis provide sufficient evidence to demonstrate that denial of the Proposed Facility would satisfy the Ninth Circuit standard to establish an effective prohibition of service.

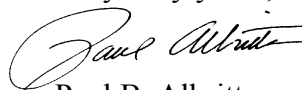
B. The FCC’s Material Inhibition Test

Since Verizon Wireless has satisfied the Ninth Circuit test to prove a prohibition of service, it has necessarily met the more flexible standard set forth in the FCC’s Small Cells Order. Whether or not it demonstrates a significant gap in service, the RF Engineer’s Statement proves at a minimum that the Proposed 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. § 332(c)(7)(B)(i)(II); Small Cells Order, ¶¶ 35, 37.

Conclusion

Verizon Wireless has worked diligently to identify the ideal location and design for a small cell facility to enhance service in Los Altos. The Proposed Facility is consistent with Code and Guidelines requirements that are not pre-empted, and it meets applicable findings for approval of a small cell pursuant to FCC regulations. Bringing improved Verizon Wireless service to this area is essential to residents, visitors and emergency services providers in the surrounding community. We strongly encourage you to grant Verizon Wireless’s appeal and to approve the Proposed Facility.

Very truly yours,



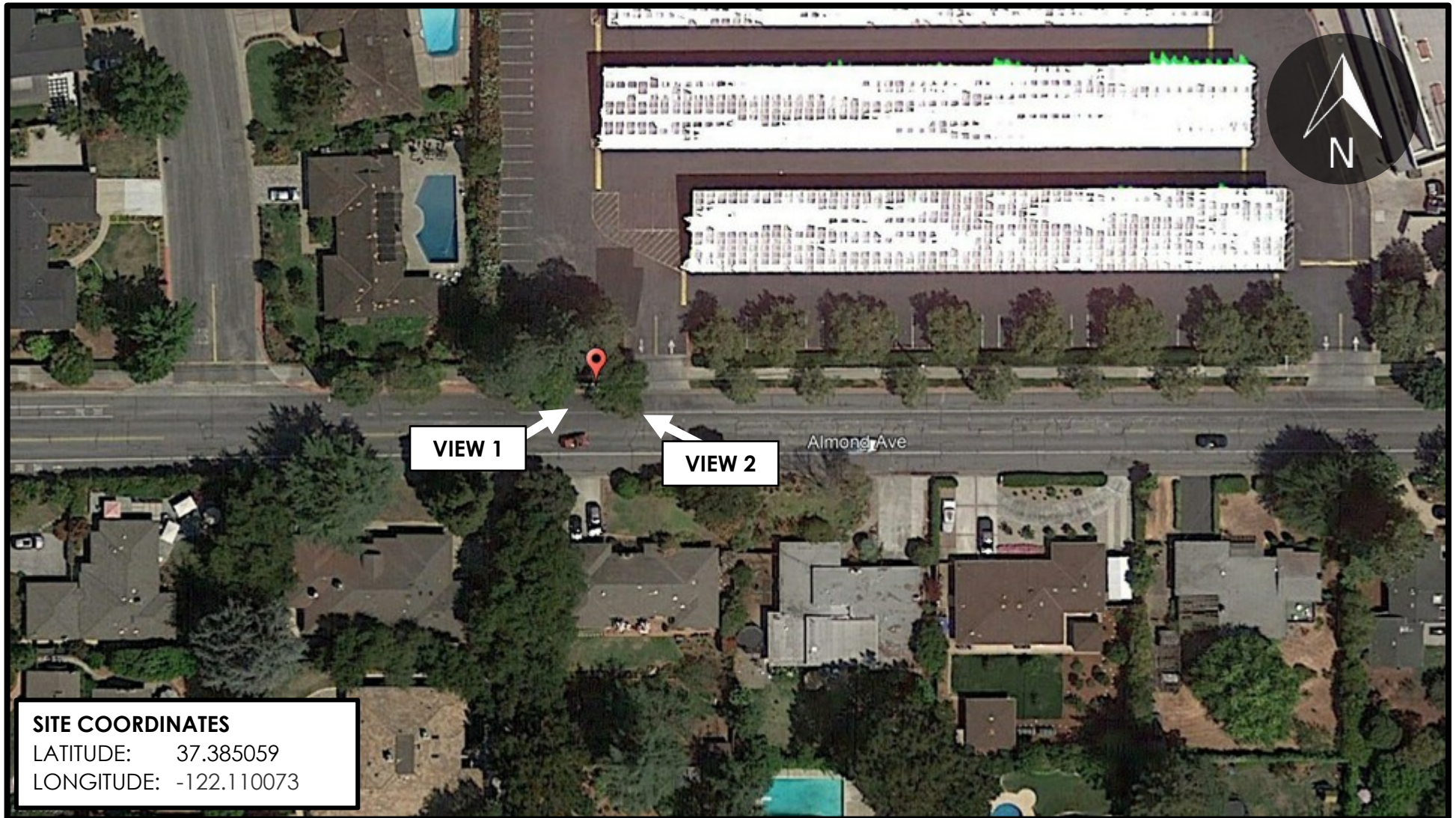
Paul B. Albritton

cc: Christopher Diaz, Esq.
Gail Karish, Esq.
Chris Jordan
Vency Woo

Schedule of Exhibits

Exhibit A: Photosimulations
Exhibit B: RF Global Radio Frequency Exposure Report
Exhibit C: EBI Consulting Noise Report (without Appendixes)
Exhibit D: PG&E Letter of Authorization
Exhibit E: Certificate of Liability Insurance
Exhibit F: Business license
Exhibit G: Statement of Willingness To Allow Other Carriers To Collocate
Exhibit H: Verizon Wireless Declaration of Authorization to Use Right-of-Way
Exhibit I: Revised Architectural Drawings
Exhibit J: RF Engineer's Statement
Exhibit K: Alternatives Analysis

PROPOSED SITE LOCATION



CA_LOS ALTOS 001
155 ALMOND AVE
LOS ALTOS, CA 94022
Location Code: 427814

SHOT MAP
Verizon Node: "LOS ALTOS 001"
Verizon Location Code: 427814



The CBR Group
841 Arnold Dr., Suite A
Martinez, CA 94553

Exhibit A

EXISTING



PROPOSED



**PROPOSED
WIRELESS ANTENNA**

PROPOSED SUPPORT EQUIPMENT

CA_LOS_ALTOS_001
155 ALMOND AVE
LOS ALTOS, CA 94022
Location Code: 427814

**VIEW 1: LOOKING NORTH EAST ALONG
ALMOND AVE**

PHOTOSIMS PRODUCED 6/20/2019



The CBR Group
841 Arnold Dr., Suite A
Martinez, CA 94553
info@theCBRgroup.com

EXISTING



PROPOSED



LOS ALTOS 001
155 ALMOND AVE.
LOS ALTOS, CA 94022
Location Code: 427814

**VIEW 2: LOOKING NORTH WEST ALONG
ALMOND AVE**

PHOTOSIMS PRODUCED 6/20/2019



The CBR Group
841 Arnold Dr., Suite A
Martinez, CA 94553
info@thecbrgroup.com



**Radio Frequency Electromagnetic Energy (RF-EME)
Maximum Permissible Exposure (MPE)
Public Exposure Safety Report**

**Verizon Wireless 4G Small Cell Site
"CA_LOS ALTOS_001"
155 ALMOND AVE.
Los Altos, California 94022
LAT:37.385059, LONG:-122.11073**

October 22, 2019



Prepared by RF GLOBAL SAFETY CONSULTANTS
California Registered Professional Engineer



Executive Summary

This report concludes that the proposed wireless 4G small cell site equipment to be installed at the aforementioned location with the specifications provided by Verizon Wireless complies with the applicable FCC- approved safety standards and guidelines for general public and occupational exposure.

General Information

In 1992, the American National Standards Institute (ANSI) published IEEE Standard C95.1-1991, "Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 KHz to 300 GHz.". This current publication defines "controlled" (i.e., occupational) and "uncontrolled" (i.e., public) environments, setting for the latter more restrictive exposure limits, but longer periods for time averaging.

The FCC has provided direction to the telecommunications industry on determining compliance with ANSI standards. This is presented in the Office of Engineering and Technology Bulletin No. 65, "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," dated August 1997. The equations given in this document are designed to yield a "worst-case" prediction of RF power densities in the near-field of an antenna.

The occupational (controlled) exposure limit is for personnel operating and maintaining the facilities small cell wireless equipment. This type of personnel should have training on the radiating equipment and will be able to disable the equipment when performing routine maintenance and replacement of equipment.

The general public (uncontrolled) exposure limit is for people who are unaware of the facilities small cell equipment and they are unfamiliar with any safety measures for being near this type of equipment.

I. Introduction

Verizon Wireless is proposing to build a 4G small cell site at the location described below. This is part of the 4G Network Verizon Wireless is building nationwide. The equipment to be installed at this site will be mounted on the electric utility pole. The cell site will include a radio mounted near the base of the pole and antenna will be mounted on an extended mast on top of the utility pole. This report will determine if the proposed cell site equipment when in operation, complies with the applicable FCC and ANSI safety guidelines.

II. Proposed Site Information

The proposed site will be located in the City of Lost Altos at aforementioned location. The equipment will be mounted on the utility pole at 48.9 feet above ground. The base station and antenna units will be mounted at the designated height and connected to the Verizon fiber network.

II.a Site Map - Google Earth



Equipment Information

The site equipment will be comprised of base station(s) and antenna(s) mounted on a utility pole.

Base Station make and Model: Ericsson, RRU-2208 & 2205.

Operating Frequencies (MHz): 1900 (PCS); 2100 (AWS).

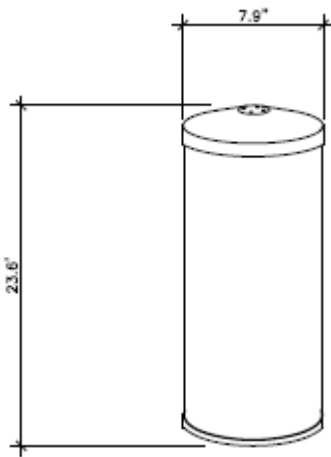
Antenna make and model: ANDREW/COMMSCOPE, VVSSP-360S-M.

Output Power (ERP, dBm): 1900 (52.64); 2100 (52.64).

Antenna Type: Quasi-Omnidirectional multi-port.

Unit Dimension (in), Height x Diameter: 23.6 x 7.9.

Table-3 Below is a snapshot of the unit specification



IV. Theoretical Calculation of the proposed cell site exposure limits

Table IV.1

Ground Level,	% of Limit, (Highest)	Compliance Y/N	Mitigation Y/N
Occupational/ Controlled Exposure	0.10	Y	N,1
General Public/ Uncontrolled Exposure	0.49	Y	N,1

Table IV.2

Antenna Face Level	Distance, Feet (closest)	% of limit	Compliance, Y/N	Mitigation Y/N
Occupational/ Controlled Exposure	5.5	86	Y	N,1
General Public/Uncontrolled Exposure	12	90	Y	N,1

1 It is recommended that RF safety signage and warnings to be posted to remind general public and personnel of the existence of cell transmitter that is generating electromagnetic energy equipment at this location.

IV.a Power Density calculation method

The calculation was based on the OET Bulletin 65 guidelines for Maximum Permissible Exposure (MPE) to humans. A worst case scenario is used to calculate the power density using the following mathematical formula:

$$S = 0.0334 * P / R^2$$

S is the power density in mW/cm²

P is the Effective radiated power in Watts

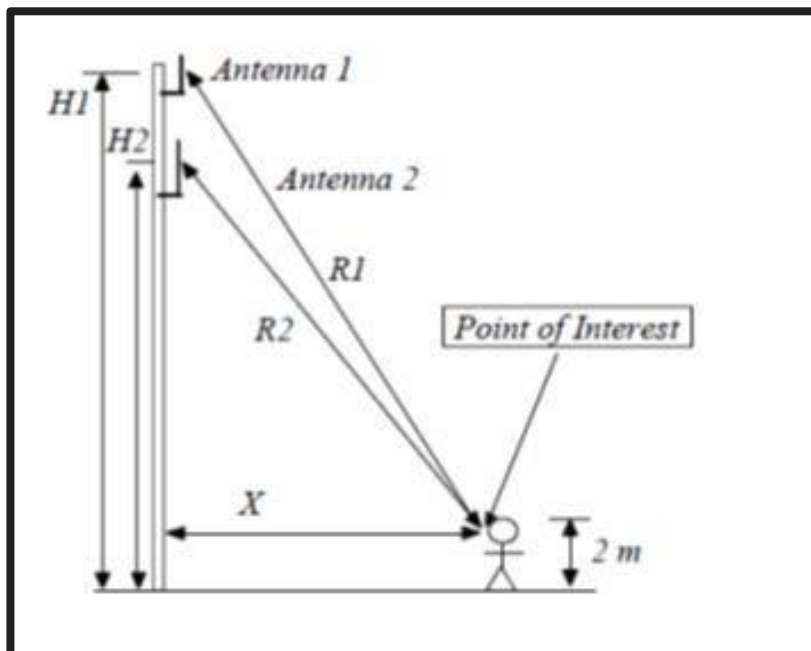
R is the distance from the center of the antenna in meters

IV.b Distance Calculation from the small cell antenna

The above calculation was based on a worst case scenario for a person with an average height of 6.56 feet and standing at various distances in feet from the base of the utility pole. The direct distance R used in the calculation below is determined by using the mathematical formula:

$$R = \text{SQRT}(H^2 + X^2)$$

Illustration-1



Where X is the distance from the general public to the base of the pole and H is the distance from the

general public (individual) standing on the ground to the bottom of the panel antenna. The average height of an individual used in the calculations is 2 meters or 6.56 feet.

It should be noted that the strongest energy radiated from the antenna is at the face and center of the antenna. The general public may be exposed to more RF energy when standing in the face of the panel antenna. Additional calculations were done to determine the power density when general public is exposed to the energy at the antenna face level, such as on balconies in a residential area or in an office building that is in close proximity to the cell site. Calculations were completed at various distances for locations in direct path of the antenna beam. The table shows the calculated values of the minimum safe distances from the cell site.

V. Conclusion

The proposed Verizon Wireless 4G small cell site to be installed at the designated location with the equipment specifications provided will comply with the applicable FCC safety guidelines for maximum permissible occupational and general public exposure limits. This conclusion based on the analysis conducted in this report that showed the power density calculated to be below the safety limits set by the FCC OET Bulletin 65. The minimum distance from the face of the antenna where occupational and general public are below safety guidelines are 5.5 feet and 12 feet respectively. The power density calculated at the roof of the closest building (about 85 feet from the antenna pole) is 1.81% of the general public exposure limit. Furthermore, since the study was based on worst case scenario, the actual power density that may result from the equipment when in operation will most likely be far less than showing in the tables IV.1 and IV.2. And even though the proposed site to be installed will comply with applicable safety standards, it is recommended that signage to be posted on the utility pole to let the general public and personnel know of the presence of the cell site.

References:

A) Technical Standards applicable to this measurement

1. "Safety Levels with Respect to Human Exposure Frequency Electromagnetic Fields", American National Standards Institute (ANSI); IEEE Standard C95.1-1991.
2. "Evaluating Compliance with FCC Guidelines for Human Exposure to Frequency Electromagnetic Fields, Federal Communications Commission, Office of Engineering and Technology; OET Bulletin 65, Edition 97-01, August 1997.

B) Occupational and general public exposure limits as guidelines per the FCC OET Bulletin 65.

Table 1. LIMITS FOR MAXIMUM PERMISSIBLE EXPOSURE (MPE)

(A) Limits for Occupational/Controlled Exposure

Frequency Range (MHz)	Electric Field Strength(E) (V/m)	Magnetic Field Strength(H) (A/m)	Power Density(S) (mW/cm ²)
0.3-3.0	614	1.63	(100)*
3.0-30	1842/f	4.89/f	(900/f ₂)*
30-300	61.4	0.163	1.0
300-1500	--	--	f/300
1500-100,000	--	--	5.0

(B) Limits for General Population/Uncontrolled Exposure

Frequency Range (MHz)	Electric Field Strength(E) (V/m)	Magnetic Field Strength(H) (A/m)	Power Density(S) (mW/cm ²)
0.3-1.34	614	1.63	(100)*
1.34-30	824/f	2.19/f	(180/f ₂)*
30-300	27.5	0.073	0.2
300-1500	--	--	†/1500
1500-100,000	--	--	1.0

f=frequency in MHz

*Plane-wave equivalent power density

Small Cell Noise Study

Los Altos 001
155 Almond Avenue
Los Altos, California 94022
Santa Clara County
37.385059; -122.110730 NAD83

EBI Project No. 6219005379
October 11, 2019



Prepared for:

Verizon
c/o The CBR Group
2840 Howe Road, Suite E
Martinez, CA 94553

Prepared by:



EXECUTIVE SUMMARY

Purpose of Report

EnviroBusiness Inc. (dba EBI Consulting) has been contracted by The CBR Group and Verizon to evaluate potential environmental noise impacts for modeling for Verizon Site Los Altos 001 located at 155 Almond Avenue in Los Altos, California.

This report summarizes the results of EBI's technical review of equipment specifications in relation to the Exterior Noise Limits as outlined in the Los Altos Municipal Code, Section 6.16.050. Theoretical results included in this report are based on equipment shown in site drawings dated July 12, 2019. Subsequent changes to the site design may yield changes in the projected post construction noise levels or compliance with applicable regulations and guidelines.

Statement of Compliance

Based on the results of this study, EBI concludes that the noise produced from operation of the proposed remote radio units (RRUs) and associated wireless telecommunication equipment will comply with the Exterior Noise Limits as outlined in the Los Altos Municipal Code, Section 6.16.050 at the nearest residential property line.

I.0 REGULATORY REQUIREMENTS

City of Los Altos, California Municipal Code 16.16.050 – Exterior Noise Limits.

The City of Los Altos limits sound pressure levels generated by any use of combination of uses to the decibel levels specified in Table I, below. These limits are applicable at the property line.

TABLE I – Table of Applicable Los Altos Exterior Noise Level Limits

Receiving Land Use Category	Maximum Noise Level in dBA at Property Line
All R1 Zoning Districts	45 (nighttime) 55 (daytime)
All R3 and PCF Zoning Districts	50 (nighttime) 55 (daytime)
All OA Zoning Districts	55 (nighttime) 60 (daytime)
All C Zoning Districts	60 (nighttime) 65 (daytime)

Where nighttime is defined as the period between 10:00 p.m. and 7:00 a.m. and daytime is defined as the period between 7:00 a.m. and 10:00 p.m.

2.0 PROJECT DESCRIPTION

The Site Los Altos 001 includes a proposed Small Cell Wireless Facility on a proposed pole at an existing right of way located in Los Altos, California. The proposed site design does not include installation of emergency back-up generators, equipment cabinets or other noise-generating equipment typically associated with traditional wireless telecommunications sites. The following equipment is proposed for installation at this site:

Quantity	Description	Manufacturer	Model Number	Sound Pressure Level (dBA)	Distance (m)
1	Remote Radio Head	Ericsson	Radio 8843	30	2
1	Remote Radio Head	Ericsson	Radio 2205 (single radio)	38	2
1	Remote Radio Head	Ericsson	RRU 2208	4.8	2
1	Remote Radio Head	Ericsson	Power 6302	None measureable	n/a
1	Omnidirectional Antenna	Amphenol	CUUS070X12FX0Z0-T00-1900	None measureable	n/a
n/a	RF Coaxial Cables	n/a	n/a	None measureable	n/a
n/a	Power Conductors	n/a	n/a	None measureable	n/a

An ambient temperatures were assumed to reach up to 40° Celsius / 104° Fahrenheit to approximate the acoustic properties of the RRU-2208 and 2205. No acoustic specifications were available for the Power 6302 unit, as is passively cooled via air flanges.

6.0 RESULTS AND CONCLUSIONS

Projected noise levels from the equipment installation at 155 Almond Avenue were calculated using the calculation methodology shown in Appendix B, using the equipment data provided by the manufacturer (see Appendix A). Antenna and RRU specifications for the proposed antenna are provided in Appendix A for the purposes of this study. The proposed installations will not utilize any external alarms.

Sound level propagation calculations were performed to determine the minimum distance at which the worst-case modeled equipment sound levels will comply with the most restrictive noise level limit. Equipment sound levels at or above the City's most restrictive noise limit of 45 dBA were calculated to extend less than 0.97 meters (3.18 feet) away from the equipment. All nodes with this equipment configuration located farther away from any property line, dwelling, or other noise-sensitive receiver will be in compliance Exterior Noise Limits as outlined in the Los Altos Municipal Code, Section 6.16.050.

This minimum compliance distance, and the worst-case modeled equipment noise level at that distance is shown in Table 3. The sources and receiver were assumed to be at the same reference height in order to account for balconies, open windows and changes in elevation at adjacent properties in the site vicinity. All calculations shown in Table 3 assume a free-field environment with no ground absorption, reflecting surfaces, barriers, or other obstructions. Actual results may vary due to field and environmental conditions.

TABLE 3 – CALCULATED SOUND LEVEL RESULTS AND APPLICABLE LIMITS

Source	Distance from Receiver at which site Complies with Applicable Limit
	3.18 feet / 0.97 meters
Equipment (See Table 2)	44.9 dBA
Applicable Limit	45 dBA

According to the construction drawings and aerial photographs, the nearest residential property is located approximately 14 feet to the west of the proposed equipment. This nearest residential property would experience a noise impact of approximately 32 dBA at the property line. Since the distance between the proposed equipment and the receivers is considerably greater than the minimum compliance distance, the proposed Los Altos 001 Small Cell installation located at 155 Almond Avenue in Los Altos, California will comply with the Exterior Noise Limits as outlined in the Los Altos Municipal Code, Section 6.16.050.

7.0 LIMITATIONS

This report was prepared for the use of The CBR Group and Verizon. It was performed in accordance with generally accepted practices of other consultants undertaking similar studies at the same time and in the same locale under like circumstances. The conclusions provided by EBI are based solely on the information provided by the client. The observations in this report are valid on the date of the investigation. Calculations contained in this report should be considered accurate to within one decibel. Any additional information that becomes available concerning the site should be provided to EBI so that our conclusions may be revised and modified, if necessary. This report has been prepared in accordance with Standard Conditions for Engagement and authorized proposal, both of which are integral parts of this report. No other warranty, expressed or implied, is made.

8.0 CERTIFICATION

This report has been reviewed and approved by:



sealed 14oct2019

Michael McGuire PE
Professional Electrical Engineer
California License# E18898
mike@h2dc.com

Note that EBI's scope of work is limited to an evaluation of the Sound Properties of the equipment noted in this report. The engineering and design of the building and related structures, as well as the impact of the antennas and broadcast equipment on the structural integrity of the building, are specifically excluded from EBI's scope of work.

August 06, 2019

City of Los Altos
Planning Department
1 N San Antonio Rd, Los Altos, CA 94022

RE: *Proposed Verizon Wireless telecommunication installation located on PG&E owned utility poles located in the City of Los Altos. 155 Almond Ave. Los Altos, CA 94022; 123 N El Monte Ave. Los Altos, CA 94022; 447 Yerba Buena Ave. Los Altos, CA 94022; 365 Traverso Ave. Los Altos, CA 94022*

To whom it may concern:

PG&E entered into a Master License Agreement (MLA) with Verizon Wireless in October 2016. The MLA allows Verizon to attach their equipment and antennas to PG&E distribution poles, subject to PG&E approval. Verizon had already been authorized to attach their equipment below the primary and secondary power lines in the "communications zone." Under the MLA, Verizon is now licensed to use the "power zone" space owned by PG&E. The power zone is at the pole top, above the power lines. California Public Utilities Commission (CPUC) General Order 95, Rule 94 established that antennas can be installed at the pole top position.

PG&E will comply with CPUC regulations and standards with regard to its distribution poles and reviews of proposed attachments.

However, Verizon is solely liable and responsible for complying with all applicable requirements, including CPUC General Order 95, with regard to its attachments on distribution poles. PG&E provides no guarantees that any or all of Verizon's applications will be approved, but consents to Verizon filing jurisdictional permit applications for space on the pole(s) listed in this LOA.

Please call me at (925) 459-3706 if you have any questions or concerns regarding this matter.

Respectfully,
Kristopher L. Van Liew

Kris Van Liew
k1v6@pge.com
Program Manager
PG&E Joint Utilities

LOA PG&E: Los Altos 001 - 155 Almond Ave. Los Altos, CA 94022
Los Altos 002 - 123 N El Monte Ave. Los Altos, CA 94022
Los Altos 003 - 447 Yerba Buena Ave. Los Altos, CA 94022
Los Altos 004 - 365 Traverso Ave. Los Altos, CA 94022



CERTIFICATE OF LIABILITY INSURANCE

Exhibit E

DATE(MM/DD/YYYY)
07/24/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Aon Risk Services Northeast, Inc. New York NY Office One Liberty Plaza 165 Broadway, Suite 3201 New York NY 10006 USA	CONTACT NAME: PHONE (A/C. No. Ext): (866) 283-7122 FAX (A/C. No.): (800) 363-0105		
	E-MAIL ADDRESS:		
INSURER(S) AFFORDING COVERAGE		NAIC #	
INSURED Cellco Partnership dba Verizon wireless 1095 Avenue of the Americas New York NY 10036 USA	INSURER A: National Union Fire Ins Co of Pittsburgh		19445
	INSURER B: New Hampshire Insurance Company		23841
	INSURER C: AIU Insurance Company		19399
	INSURER D: American Home Assurance Co.		19380
	INSURER E: Illinois National Insurance Co		23817
	INSURER F:		

Holder Identifier :

COVERAGES **CERTIFICATE NUMBER: 570077603194** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS. **Limits shown are as requested**

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> XCU Coverage is Included GENL AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			GL6412251	06/30/2019	06/30/2020	EACH OCCURRENCE	\$1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$2,000,000
							MED EXP (Any one person)	\$10,000
							PERSONAL & ADV INJURY	\$1,000,000
							GENERAL AGGREGATE	\$2,000,000
							PRODUCTS - COMP/OP AGG	\$2,000,000
A	AUTOMOBILE LIABILITY			CA 299-19-14 AOS	06/30/2019	06/30/2020	COMBINED SINGLE LIMIT (Ea accident)	\$2,000,000
A	<input checked="" type="checkbox"/> ANY AUTO			CA 299-19-18 MA	06/30/2019	06/30/2020	BODILY INJURY (Per person)	
A	<input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS			CA 299-19-15 VA	06/30/2019	06/30/2020	BODILY INJURY (Per accident)	
A	<input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			See Next Page	06/30/2019	06/30/2020	PROPERTY DAMAGE (Per accident)	
	UMBRELLA LIAB						EACH OCCURRENCE	
	EXCESS LIAB						AGGREGATE	
	DED RETENTION							
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			WC014649148 AOS	06/30/2019	06/30/2020	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER	
D	ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	WC014649146 CA	06/30/2019	06/30/2020	E.L. EACH ACCIDENT	\$1,000,000
							E.L. DISEASE-EA EMPLOYEE	\$1,000,000
							E.L. DISEASE-POLICY LIMIT	\$1,000,000

Certificate No : 570077603194

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
RE: Public Rights-of-way throughout the City of San Jose. City of San Jose, its officers, officials, agents and volunteers are included as Additional insured with respect to the General Liability and Automobile Liability policies.

CERTIFICATE HOLDER**CANCELLATION**

City of San Jose Attn: City of San Jose Finance Department, Risk Management 200 E. Santa Clara St., 14th Floor San Jose CA 95113 USA	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Aon Risk Services Northeast, Inc.</i>
--	---





ADDITIONAL REMARKS SCHEDULE

AGENCY Aon Risk Services Northeast, Inc.		NAMED INSURED Cellco Partnership dba Verizon wireless	
POLICY NUMBER See Certificate Number: 570077603194			
CARRIER See Certificate Number: 570077603194	NAIC CODE	EFFECTIVE DATE:	

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM, FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER	
INSURER	
INSURER	
INSURER	

ADDITIONAL POLICIES If a policy below does not include limit information, refer to the corresponding policy on the ACORD certificate form for policy limits.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
	AUTOMOBILE LIABILITY						
A				CA 299-19-16 NH - Primary	06/30/2019	06/30/2020	
A				CA 299-19-17 NH - Excess	06/30/2019	06/30/2020	
	WORKERS COMPENSATION						
C		N/A		WC014649149 NY	06/30/2019	06/30/2020	
E		N/A		WC014649144 FL	06/30/2019	06/30/2020	
B		N/A		WC014649145 MA, ND, OH, WI, WY	06/30/2019	06/30/2020	
B		N/A		WC014649147 NJ, TX, VA	06/30/2019	06/30/2020	

NON TRANSFERABLE

EXPIRATION
06/30/2020

TYPE OF BUSINESS

BUSINESS NAME

MAILING
ADDRESS

CITY OF LOS ALTOS

Business License

1 N SAN ANTONIO RD
LOS ALTOS, CA 94022-3000

SERVICE - OUTSIDE CITY

GTA Mobilenet of California

**GTA Mobilenet of California
C/O KPMG LLP
2200 Cabot Dr., Ste. 400
LISLE, IL 60532**

POST IN CONSPICUOUS PLACE

Exhibit F

LICENSE NUMBER

BL-000332



BUSINESS ADDRESS
101 FREMONT AVENUE
LOS ALTOS, CA 94022



Re: Verizon Wireless Application No. SE19-00019 for Small Cell Wireless Facility, 155 Almond Avenue Collocation Statement Pursuant to Los Altos Municipal Code Section 11.12.080

To Whom it May
Concern,

In compliance with Los Altos Municipal Code Section 11.12.080(A)(3), Verizon Wireless (the "Applicant") confirms its willingness to allow other carriers to collocate on the proposed wireless telecommunications facility wherever technically and economically feasible and where collocation would not harm community compatibility. Verizon Wireless makes no representation or warranty. Its consent to collocation set forth herein does not grant any right, title or interest to the utility pole or right-of-way upon which the wireless facility is to be located, which rights are controlled by others.

Respectfully
Submitted,

A handwritten signature in blue ink, appearing to read "Alba Barber", written over a horizontal line.

Alba Barber

Senior Real Estate Manager
-Verizon Wireless, Northern
California Northern Nevada

DECLARATION OF JESUS G. ROMAN

I, **Jesús G. Román**, declare and state:

1. I am the Associate General Counsel for GTE Mobilnet of California Limited Partnership dba Verizon Wireless (GTE Mobilnet). My business address is 15505 Sand Canyon Avenue, Irvine, CA 92618. My phone number is 949-286-7202.

2. I am providing this declaration in connection with establishing that GTE Mobilnet is authorized to use the Right of Way and operate in California pursuant to a Certificate of Public Convenience and Necessity (CPCN) with the California Public Utilities Commission (CPUC) and because it is deemed pursuant to law to hold a Wireless Identification Registration (WIR). GTE Mobilnet holds a CPCN by virtue of CPUC Decision No. 85-04-008. CPUC Decision 94-10-031, implementing Federal legislation that prohibits states from erecting barriers to wireless service entry, explicitly recognized that a wireless provider with a CPCN (like Mobilnet) is deemed to satisfy the WIR requirement, stating: "Such carriers are deemed to have complied with the Wireless Identification Registration requirement." See D.94-10-031, 1994 Cal. PUC LEXIS 700, *7, 56 CPUC2d 578 (Cal. P.U.C. Oct. 12, 1994).

3. The CPUC maintains a publicly available database of public utilities that have authority to operate in California. The CPUC assigns a Utility Number to each such public utility. GTE Mobilnet's CPCN can be verified by visiting the CPUC's website <https://apps.cpuc.ca.gov/apex/f?p=102:1:0::NO:RP::> and entering GTE Mobilnet into the "Search Utility Name" field. Doing this will show the utility name as GTE Mobilnet of Ca., Ltd. Ptnrshp and show the dba as Verizon Wireless. It will also show the Utility number assigned to GTE Mobilnet as 3002. Graphically, it shows this:



I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on October 6, 2017 at Simi Valley, CA.

Jesús G. Román

Jesús G. Román
Associate General Counsel

LOS ALTOS 001

155 ALMOND AVENUE
LOS ALTOS, CA 94022
STRUCTURE TYPE: PG&E POLE-TOP
LOCATION CODE: 427814



Prepared For:



Vendor:

Site Number: 427814
Site Name: LOS ALTOS 001
Site Address: 155 ALMOND AVENUE LOS ALTOS, CA 94022
County: SANTA CLARA COUNTY

Issued For:

CONSTRUCTION			
REV	DATE	DESCRIPTION	BY
C	10/22/19	DESIGN CHANGE	ALR
B	07/12/19	50% CD'S FOR REVIEW	JG
A	05/22/19	50% CD'S FOR REVIEW	JG

PROJECT DESCRIPTION

THIS IS AN UNMANNED WIRELESS TELECOMMUNICATION FACILITY FOR VERIZON WIRELESS CONSISTING OF THE INSTALLATION AND OPERATION OF AN ANTENNA AND ASSOCIATED EQUIPMENT. SCOPE OF WORK CONSISTS OF THE FOLLOWING:

- INSTALL (N) CANISTER ANTENNA ON (N) 55' REPLACEMENT POLE (47'-0" ABOVE GROUND LEVEL, 8'-0" UNDERGROUND EMBEDMENT).
- INSTALL (1) (N) SHROUD ON (N) UTILITY POLE.
- INSTALL (1) (N) RRJ UNIT INSIDE (N) SHROUD.
- INSTALL (1) (N) RADIO 2205 AND (1) (N) RADIO 2208 INSIDE (N) SHROUD.
- INSTALL (1) (N) 6302 POWER SUPPLY UNIT INSIDE (N) SHROUD.
- INSTALL (1) (N) DISTRIBUTION PANEL ON (N) UTILITY POLE.
- INSTALL (1) (N) DISCONNECT SWITCH ON (N) UTILITY POLE.
- INSTALL (1) (N) PG&E SMART METER ON (N) UTILITY POLE.
- INSTALL (N) FCC STORAGE ON (N) UTILITY POLE.
- INSTALL (N) GROUND RODS/WELLS.
- INSTALL (3) (N) CONDUITS FOR POWER, TELCO AND COAX.

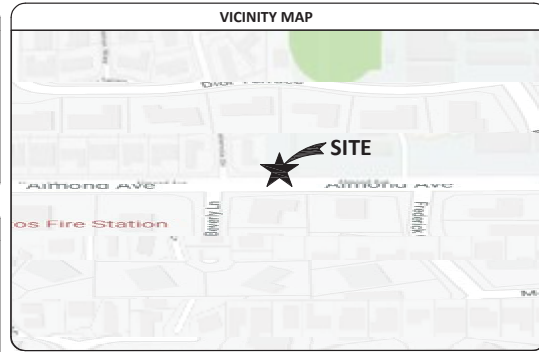
SHEET INDEX

T-1	TITLE SHEET	REV
LS-1	UTILITY POLE EXHIBIT	C
A-1	OVERALL SITE PLAN	C
A-2	EXISTING AND PROPOSED EQUIPMENT AND ANTENNA PLANS	C
A-3	EXISTING AND PROPOSED EAST ELEVATIONS	C
A-4	EXISTING AND PROPOSED SOUTH ELEVATIONS	C
A-5	PROPOSED FRONT VIEW ELEVATION	C
A-6	EQUIPMENT AND CONSTRUCTION DETAILS	C
A-7	EQUIPMENT AND CONSTRUCTION DETAILS	C
E-1	ELECTRICAL GROUND DIAGRAMS	C
E-2	ELECTRICAL DETAILS	C
TCP	TRAFFIC CONTROL PLAN	C

PROJECT TEAM

APPLICANT/LESSEE:
VERIZON WIRELESS
2785 MITCHELL DRIVE, BLDG 9
WALNUT CREEK, CA 94598

APPLICANT/ENGINEER:
THE CBR GROUP
2840 HOWE ROAD, SUITE E
MARTINEZ, CA 94553
PH: (925) 246-3212
EMAIL: projects@thebrgroup.com



PROJECT INFORMATION

CURRENT USE:
UTILITY POLE

PROPOSED USE:
UTILITY POLE & TELECOMMUNICATIONS FACILITY

JURISDICTION:
CITY OF LOS ALTOS

LATITUDE:
37.385059

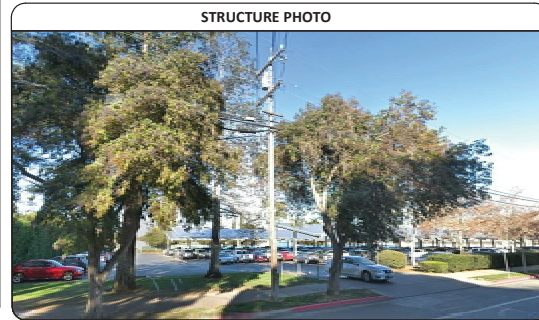
LONGITUDE:
-122.11073

AMSL:
±150' AMSL

PROPERTY OWNER:
R.O.W.

POLE OWNER:
PG&E

POWER AGENCY:
PG&E
77 BEALE STREET
SAN FRANCISCO, CA 94109
PH: (800) 743-5000



- CODE COMPLIANCE**
- ALL WORK AND MATERIALS SHALL BE PERFORMED AND INSTALLED IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE FOLLOWING CODES AS ADOPTED BY THE LOCAL GOVERNING AUTHORITIES. NOTHING IN THESE PLANS IS TO BE CONSTRUED TO PERMIT WORK NOT CONFORMING TO THESE CODES.
- 2016 CALIFORNIA BUILDING CODE (CBC)
 - 2016 CALIFORNIA RESIDENTIAL CODE (CRC)
 - 2016 CALIFORNIA HISTORICAL BUILDING CODE (CHBC)
 - 2016 CALIFORNIA EXISTING BUILDING CODE (CEBC)
 - 2016 CALIFORNIA GREEN BUILDINGS STANDARDS CODE (CGSBS)
 - 2016 CALIFORNIA FIRE CODE (CFC)
 - 2016 CALIFORNIA MECHANICAL CODE (CMC)
 - 2016 CALIFORNIA PLUMBING CODE (CPC)
 - 2016 CALIFORNIA ELECTRICAL CODE (CEC)
 - 2016 CALIFORNIA ENERGY CODE (CEC)
 - ANSI / EA-TA-222-G
 - 2015 NFPA 101, LIFE SAFETY CODE
 - 2015 NFPA 72, NATIONAL FIRE ALARM CODE
 - 2015 NFPA 13, FIRE SPRINKLER CODE
 - G.O. 95

OCCUPANCY AND CONSTRUCTION TYPE

OCCUPANCY : U (UNMANNED COMMUNICATIONS FACILITY)

CONSTRUCTION TYPE: -

HANDICAP REQUIREMENTS
FACILITY IS UNMANNED AND NOT FOR HUMAN HABITATION, ACCESSIBILITY ACCESS AND REQUIREMENTS ARE NOT REQUIRED, IN ACCORDANCE WITH CALIFORNIA STATE ADMINISTRATIVE CODE, PART 2, TITLE 24, SECTION 11038.1, EXCEPTION 1 & SECTION 11348.2.1, EXCEPTION 4.

RADIO FREQUENCY DATA PLAN

INITIATIVE:	REVISION LEVEL	DATE:
-	-	-

GENERAL CONTRACTOR NOTES

DO NOT SCALE DRAWINGS

THESE DRAWINGS ARE FORMATTED TO BE FULL SIZE AT 24" x 36". CONTRACTOR SHALL VERIFY ALL PLANS AND EXISTING DIMENSIONS AND CONDITIONS ON THE JOBSITE AND SHALL IMMEDIATELY NOTIFY THE ARCHITECT/ENGINEER IN WRITING OF ANY DISCREPANCIES BEFORE PROCEEDING WITH THE WORK OR MATERIAL ORDERS OR BE RESPONSIBLE FOR THE SAME.



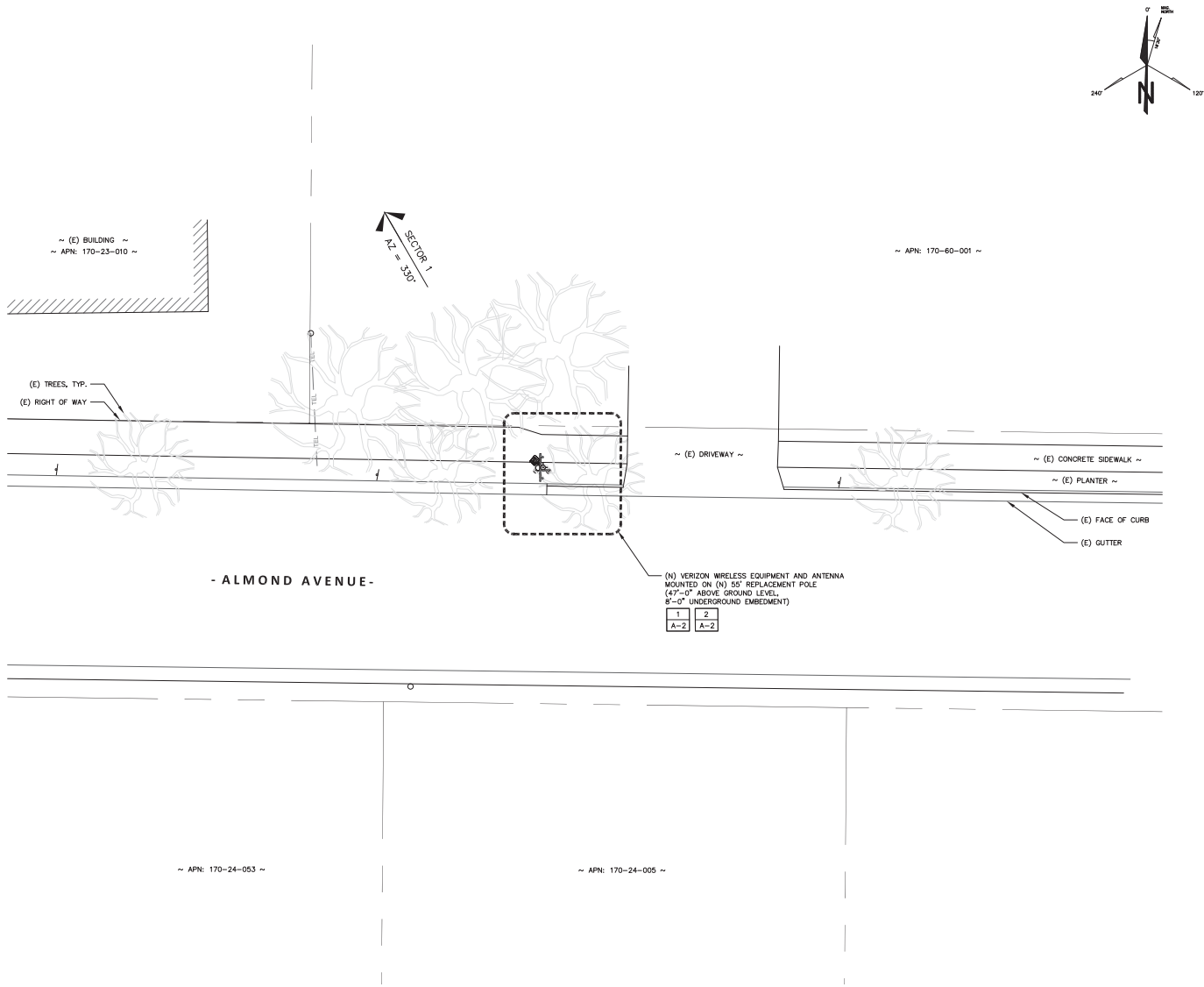
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TITLE SHEET

Sheet Number:
T-1

Exhibit I

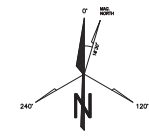
SYMBOLS

- 2 GRID REFERENCE
- 1
A-2 DETAIL REFERENCE
- A ELEVATION REFERENCE
- A SECTION REFERENCE
- CENTERLINE
- - - PROPERTY/LEASE LINE
- MATCH LINE
- WORK POINT
- TELEPHONE CONDUIT
- ELECTRICAL CONDUIT
- COAXIAL CABLE
- OVERHEAD SERVICE CONDUCTORS
- GROUT OR PLASTER
- (E) BRICK
- (E) MASONRY
- CONCRETE
- EARTH
- GRAVEL
- PLYWOOD
- SAND
- WOOD CONTINUOUS
- WOOD BLOCKING
- STEEL
- (N) NEW
- (E) EXISTING
- ⬆ NEW ANTENNA
- ⬆ EXISTING ANTENNA
- ⊙ GROUND ROD
- ⊙ GROUND BUS BAR
- MECHANICAL GRND. CONN.
- CADWELD
- GROUND ACCESS WELL
- ELECTRIC BOX
- TELEPHONE BOX
- ☀ LIGHT POLE
- FND. MONUMENT
- ◆ SPOT ELEVATION
- △ SET POINT
- △ REVISION



1 OVERALL SITE PLAN

SCALE: 3/32" = 1'-0"
0' 4' 8' 16' 32'



Prepared For:

verizon

2785 MITCHELL DRIVE, SUITE 9
WALNUT CREEK, CA 94598

Engineer:

THE CBR GROUP

2840 HOWE ROAD, SUITE E
MARTINEZ, CA 94553
www.TheCBRGroup.com

Vendor:

Site Number: 427814

Site Name: LOS ALTOS 001

Site Address: 155 ALMOND AVENUE
LOS ALTOS, CA 94022

County: SANTA CLARA COUNTY

Issued For: CONSTRUCTION

REV	DATE	DESCRIPTION	BY
C	10/22/15	DESIGN CHANGE	ALR
B	07/14/15	100% CD'S FOR REVIEW	JG
A	05/22/15	90% CD'S FOR REVIEW	JG

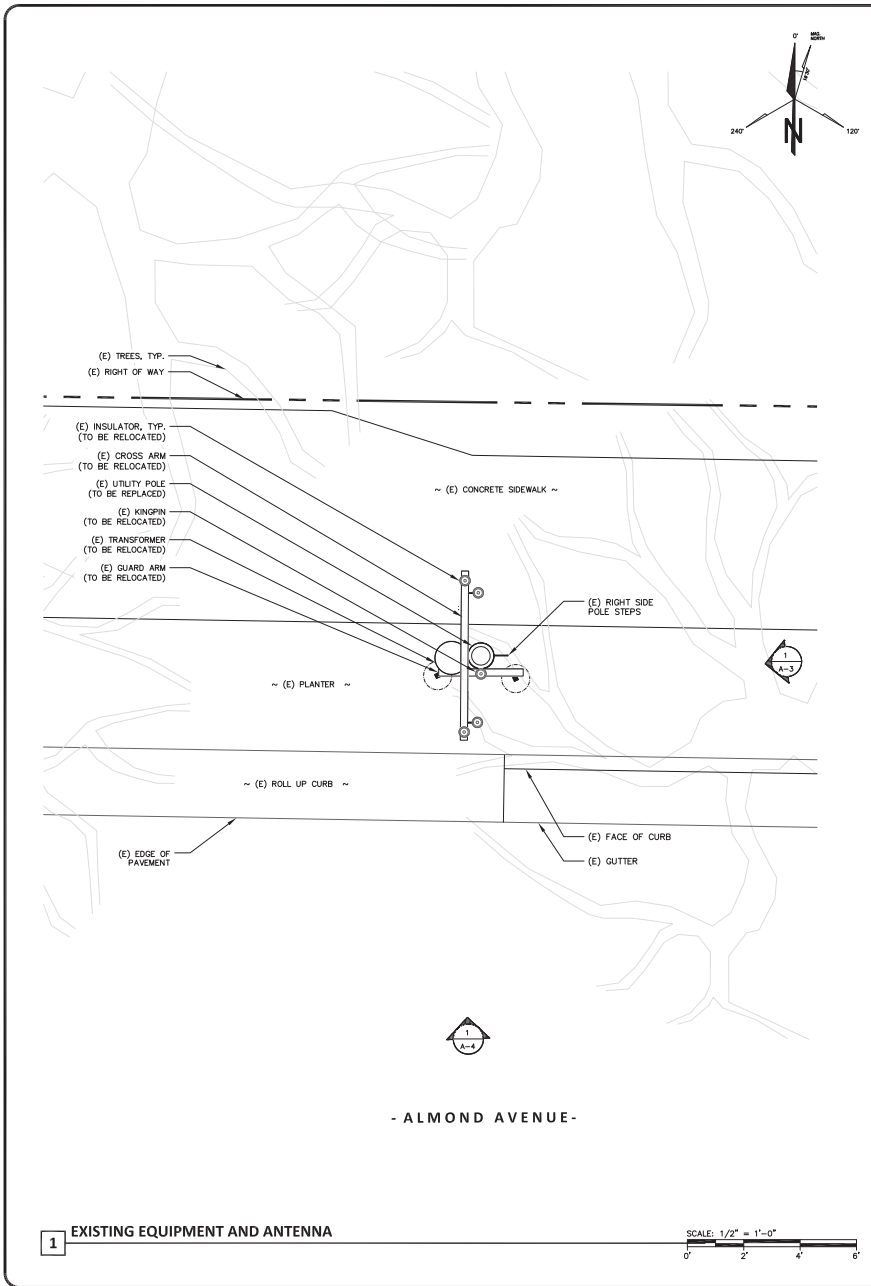
Licenser:

JEFFREY A. CALLAWAY
No. C-60884
Exp. 3/31/21
CIVIL ENGINEER
STATE OF CALIFORNIA

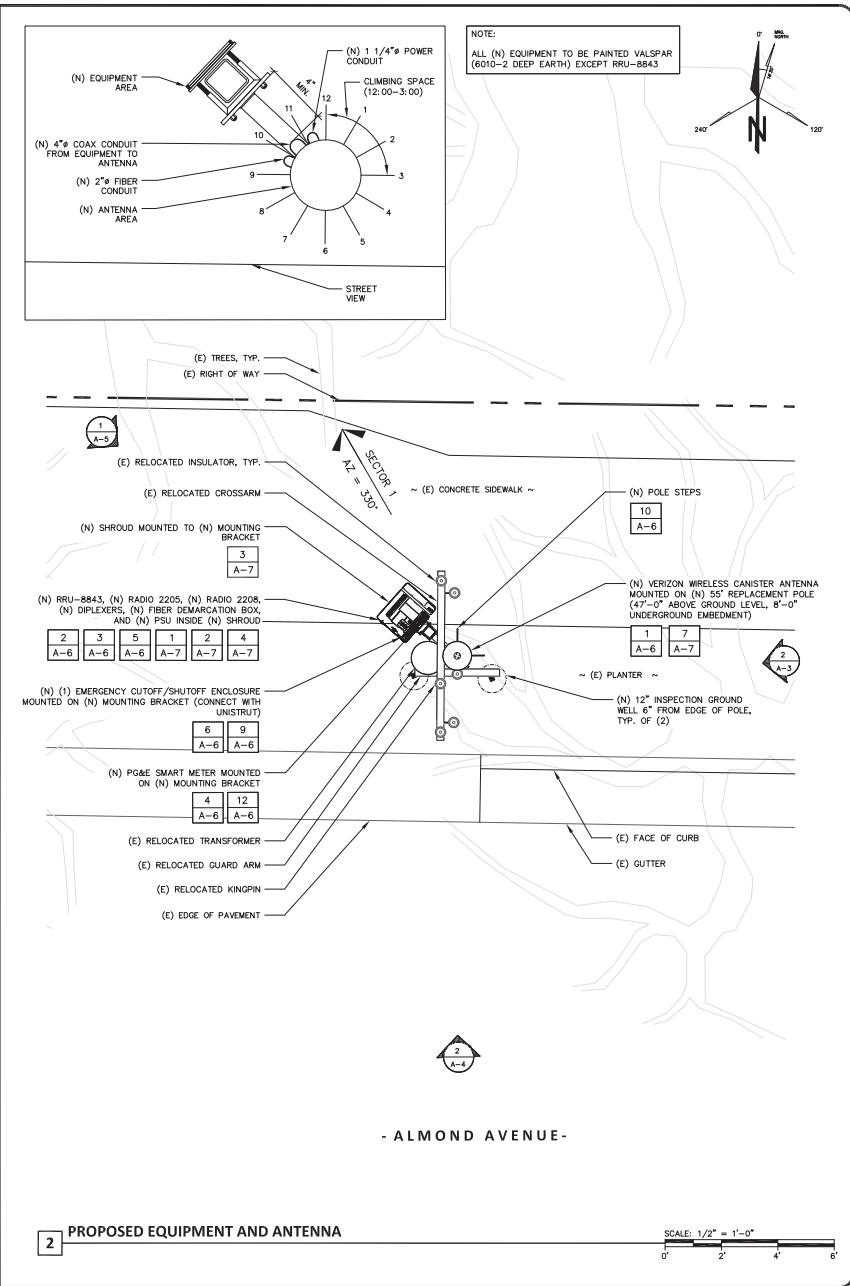
IT IS A VIOLATION OF LAW FOR ANY PERSON UNLESS THEY ARE THE ISSUING PROFESSIONAL ENGINEER, TO ALTER THIS DOCUMENT IN ANY MANNER.

Sheet Title: OVERALL SITE PLAN

Sheet Number: **A-1**



1 EXISTING EQUIPMENT AND ANTENNA



2 PROPOSED EQUIPMENT AND ANTENNA

Prepared For:

verizon
2785 MITCHELL DRIVE, SUITE 9
WALNUT CREEK, CA 94598

Engineer:
THE CBR GROUP
2840 HOWE ROAD, SUITE E
MARTINEZ, CA 94553
www.TheCBRGroup.com

Vendor:

Site Number: 427814
Site Name: LOS ALTOS 001
Site Address: 155 ALMOND AVENUE
LOS ALTOS, CA 94022
County: SANTA CLARA COUNTY

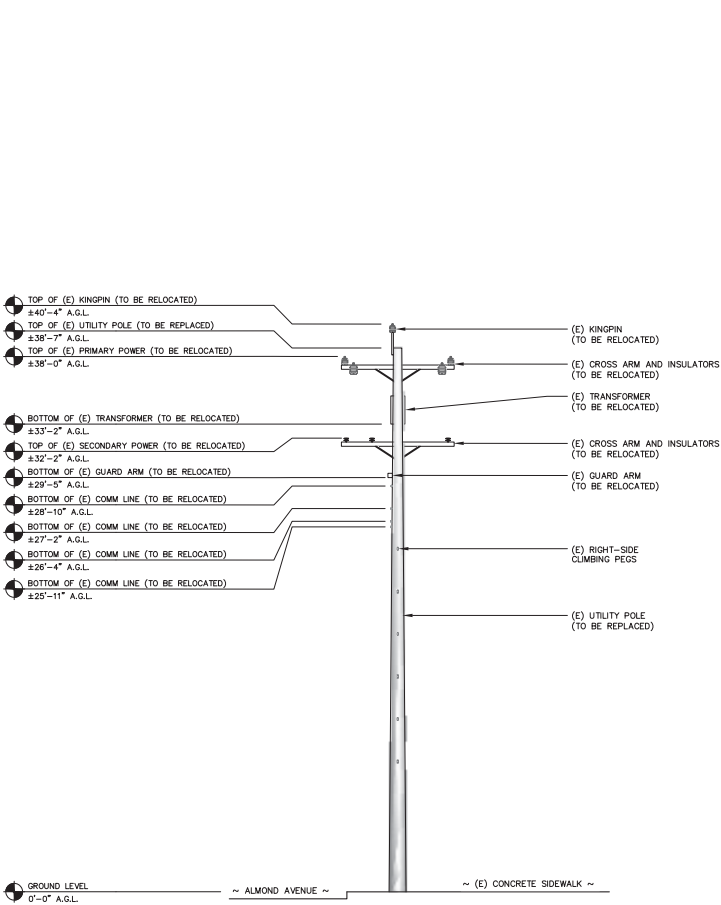
Issued For: CONSTRUCTION

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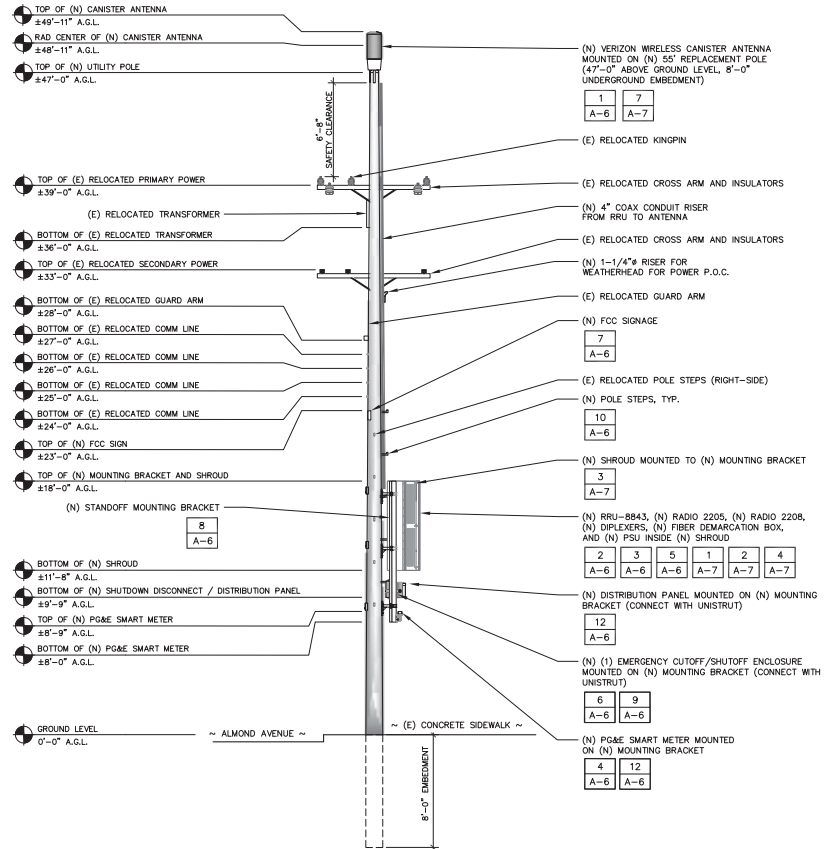
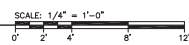
Licenser:
PROFESSIONAL ENGINEER & PROFESSIONAL LANDSCAPE ARCHITECT
No. C-60884
Exp. 3/31/21
JAMES J. CALVERT
STATE OF CALIFORNIA

Sheet Title:
EXISTING AND PROPOSED
EQUIPMENT AND ANTENNA
PLANS

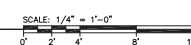
Sheet Number:
A-2



1 EXISTING EAST ELEVATION



2 PROPOSED EAST ELEVATION



Prepared For:



Engineer:

Vendor:

Site Number: 427814
 Site Name: LOS ALTOS 001
 Site Address: 155 ALMOND AVENUE LOS ALTOS, CA 94022
 County: SANTA CLARA COUNTY

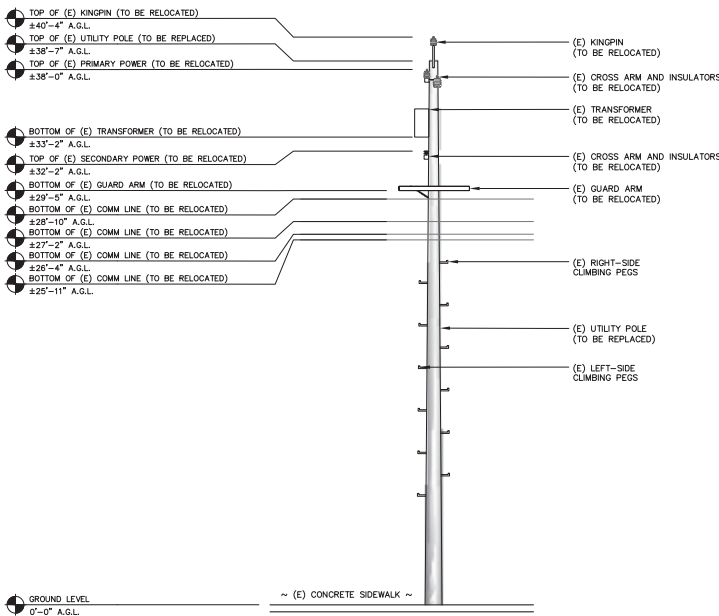
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B	07/11/19	100% CDS FOR REVIEW	JIG
A	05/22/19	90% CDS FOR REVIEW	JIG

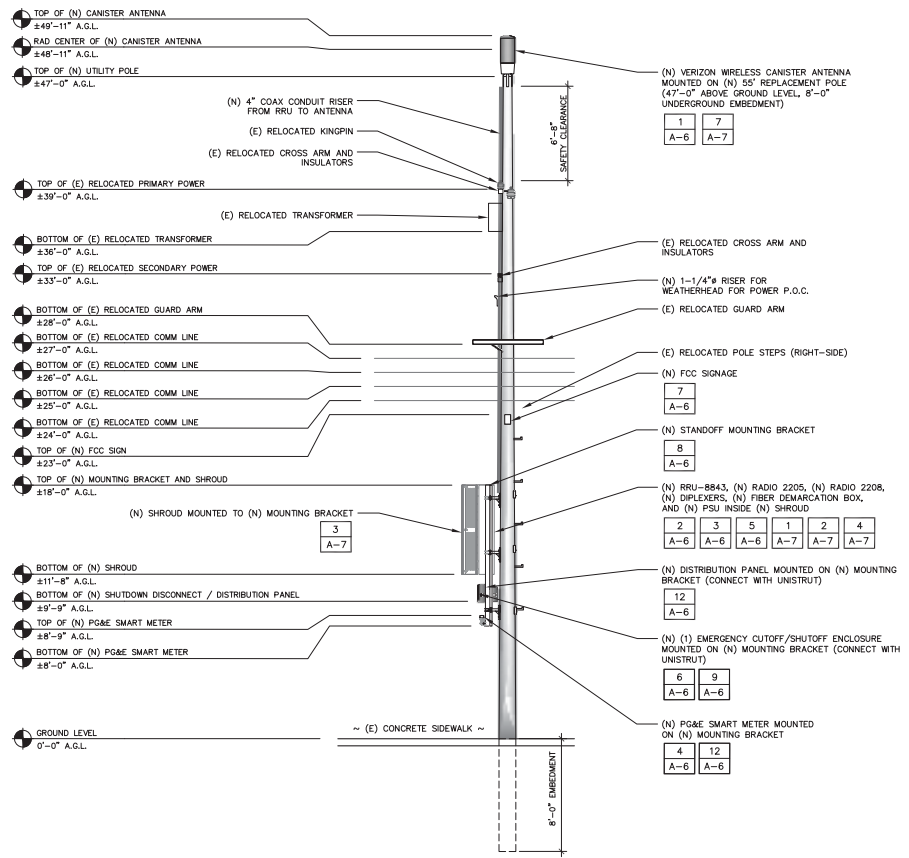
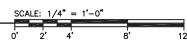


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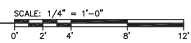
Sheet Number: A-3



1 EXISTING SOUTH ELEVATION



2 PROPOSED SOUTH ELEVATION



NOTE:
ALL (N) EQUIPMENT TO BE PAINTED VALSPAR (8010-2 DEEP EARTH) EXCEPT RRU-8843

1	7
A-6	A-7

7
A-6

8
A-6

2	3	5	1	2	4
A-6	A-6	A-6	A-7	A-7	A-7

12
A-6

6	9
A-6	A-6

4	12
A-6	A-6

Prepared For:
verizon
 2785 MITCHELL DRIVE, SUITE 9
 WALNUT CREEK, CA 94598

Engineer:
THE CBR GROUP
 2840 HOWE ROAD, SUITE E
 MARTINEZ, CA 94553
 www.TheCBRGroup.com

Vendor:

Site Number: 427814
 Site Name: LOS ALTOS 001
 Site Address: 155 ALMOND AVENUE
 LOS ALTOS, CA 94022
 County: SANTA CLARA COUNTY

Issued For: CONSTRUCTION

REV	DATE	DESCRIPTION	BY
C	10/22/19	DESIGN CHANGE	ALR
B	07/11/19	100% CDS FOR REVIEW	JG
A	05/22/19	90% CDS FOR REVIEW	JG

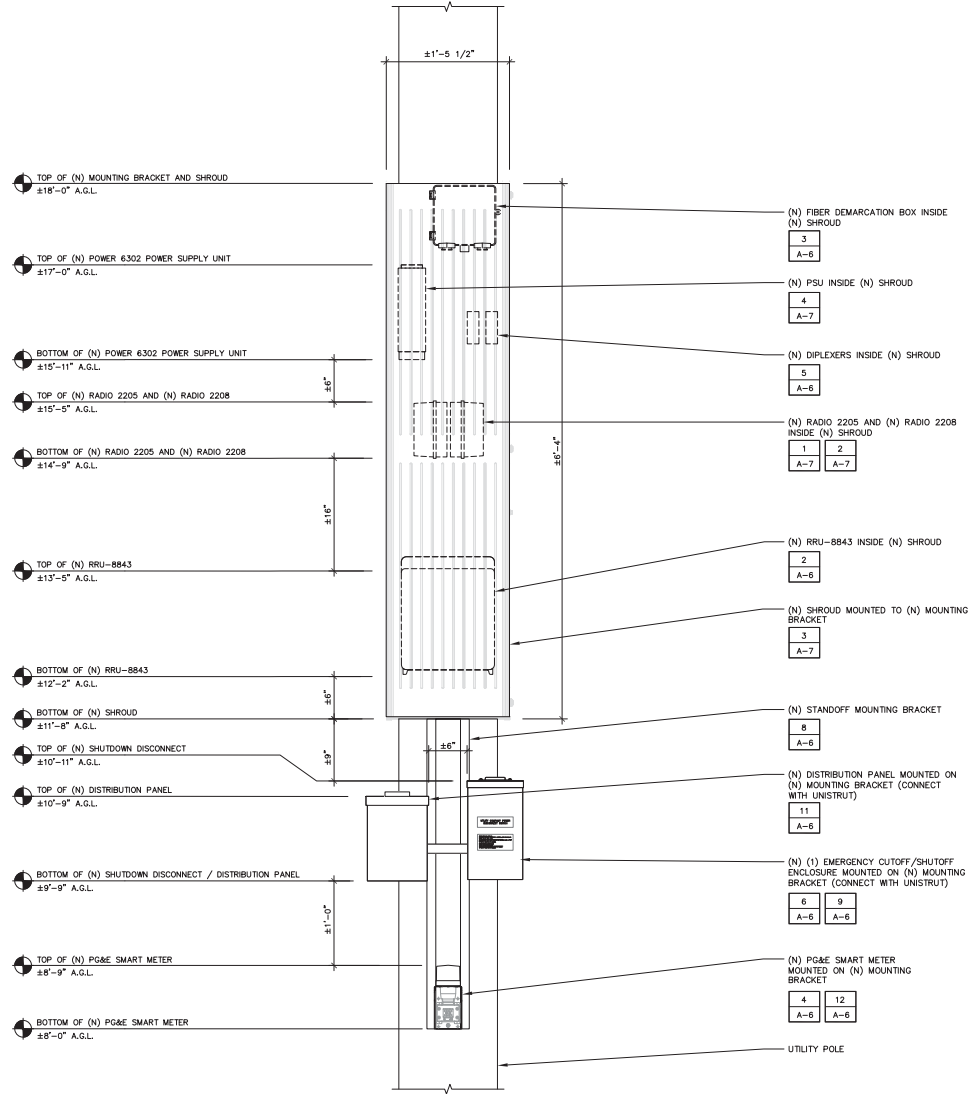
Licenser:

 Jeffrey A. Calver
 No. C-60884
 Exp. 9/21/21
 STATE OF CALIFORNIA

Sheet Title:
 EXISTING AND PROPOSED
 SOUTH ELEVATION

Sheet Number:
A-4

NOTE:
ALL (N) EQUIPMENT TO BE PAINTED VALSPAR
(6010-2 DEEP EARTH) EXCEPT RRU-8843



1 PROPOSED FRONT VIEW ELEVATION

SCALE: 1-1/2" = 1'-0"

Prepared For:



Engineer:



Vendor:

Site Number: 427814
Site Name: LOS ALTOS 001
Site Address: 155 ALMOND AVENUE, LOS ALTOS, CA 94022
County: SANTA CLARA COUNTY

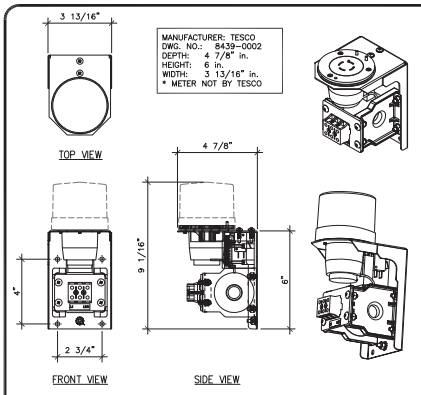
Issued For:

CONSTRUCTION				
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A	05/22/19	90% CDS FOR REVIEW	JG	

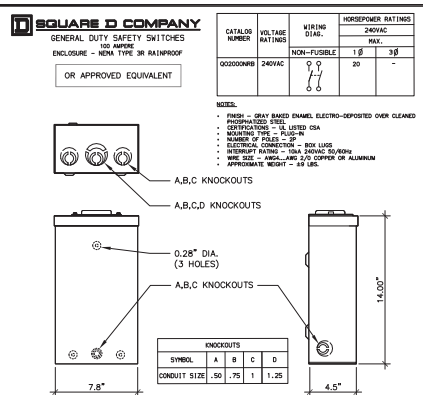


Sheet Title:
PROPOSED FRONT VIEW ELEVATION

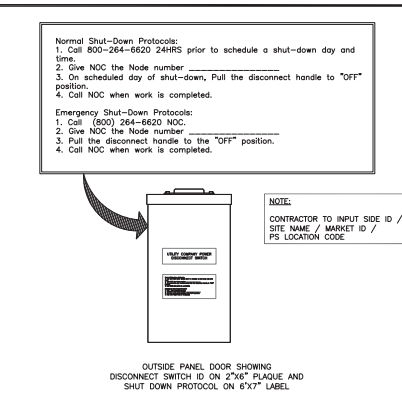
Sheet Number:
A-5



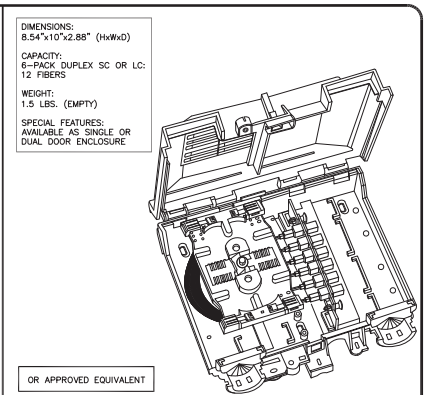
MOUNT FOR ELECTRICAL METER SCALE: N.T.S. **12**



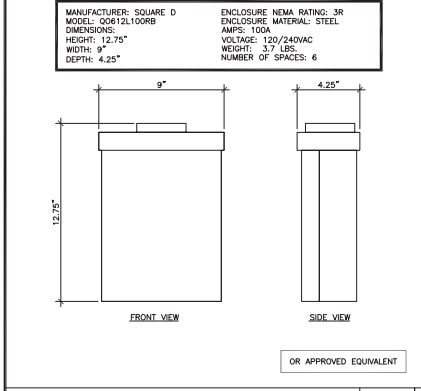
SHUTDOWN DISCONNECT SWITCH SCALE: N.T.S. **9**



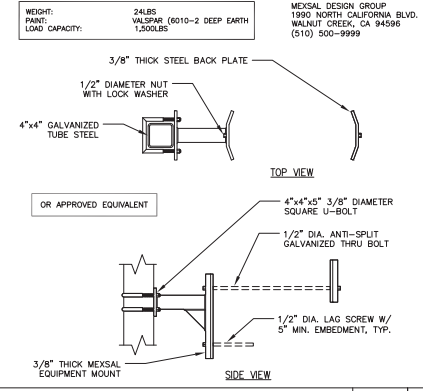
SHUTDOWN PROTOCOL PLAQUE SCALE: N.T.S. **6**



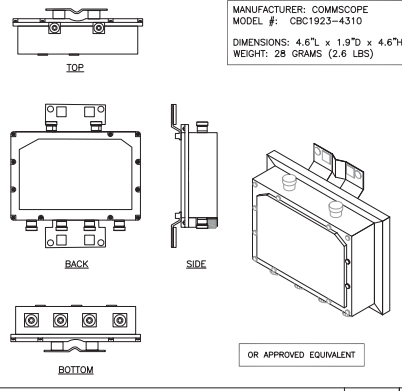
FIBER DEMARCATON BOX DETAIL SCALE: N.T.S. **3**



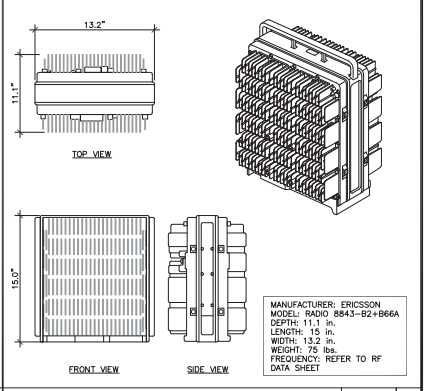
DISTRIBUTION PANEL DETAIL SCALE: N.T.S. **11**



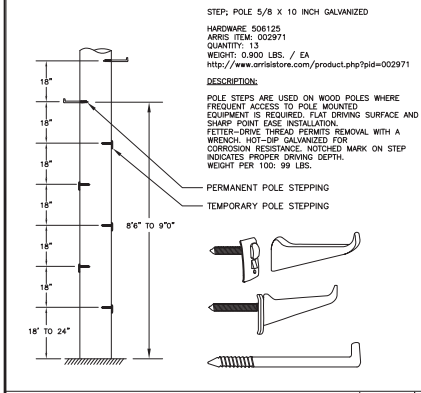
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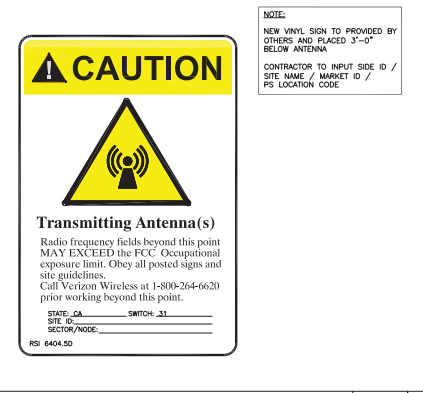
DIPLEXER DETAIL SCALE: N.T.S. **5**



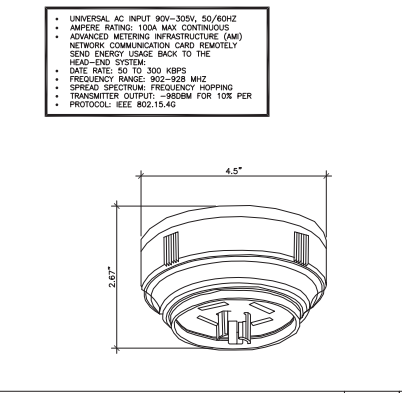
RRUS-8843 DETAIL SCALE: N.T.S. **2**



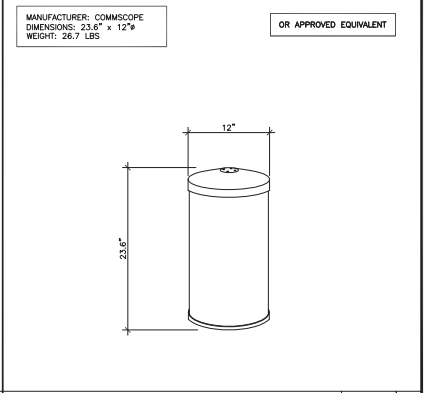
POLE STEPPING DETAIL SCALE: N.T.S. **10**



FCC SIGN SCALE: N.T.S. **7**



PG&E SMART METER DETAIL SCALE: N.T.S. **4**



ANTENNA DETAIL SCALE: N.T.S. **1**

Prepared For:
verizon
 2785 MITCHELL DRIVE, SUITE 9
 WALNUT CREEK, CA 94598

Engineer:
THE CBR GROUP
 2840 HOWE ROAD, SUITE E
 MARTINEZ, CA 94553
 www.TheCBRGroup.com

Vendor:

Site Number: 427814
 Site Name: LOS ALTOS 001
 Site Address: 155 ALMOND AVENUE
 LOS ALTOS, CA 94022
 County: SANTA CLARA COUNTY

Issued For: CONSTRUCTION

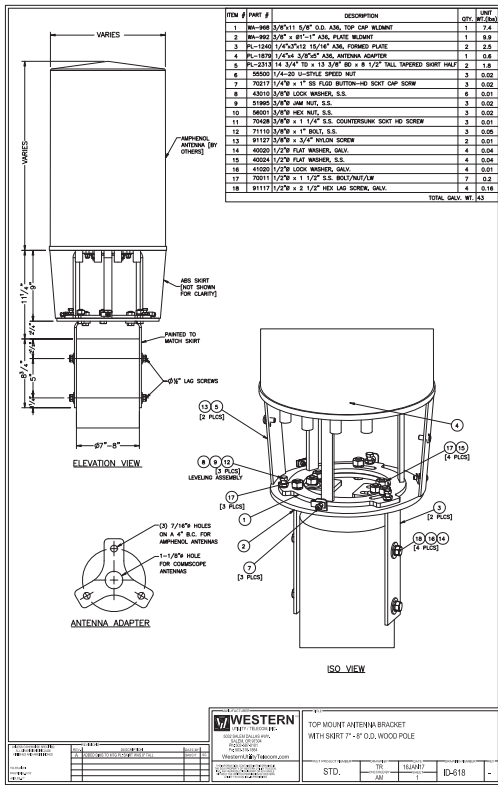
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B	07/11/18	100% CDS FOR REVIEW	JG
A	05/22/18	90% CDS FOR REVIEW	JG

Licensor:

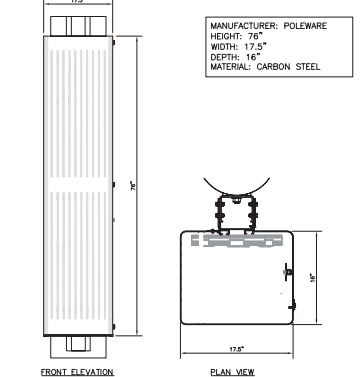
 If a duplicate of any form or printed labels are used, they are void. Only the original printed labels are valid. Do not use a duplicate of any form or printed labels to alter the original.

Sheet Title:
 EQUIPMENT AND CONSTRUCTION DETAILS

Sheet Number:
A-6

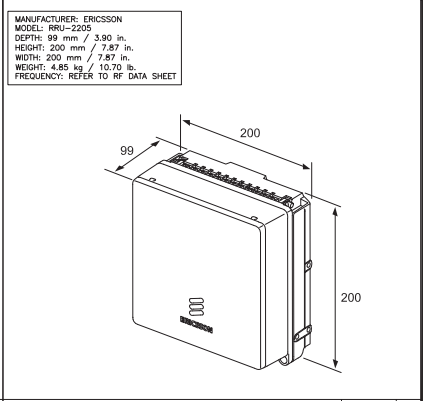


OR APPROVED EQUIVALENT



RADIO SHROUD DETAIL SCALE: N.T.S. 3

NOT USED

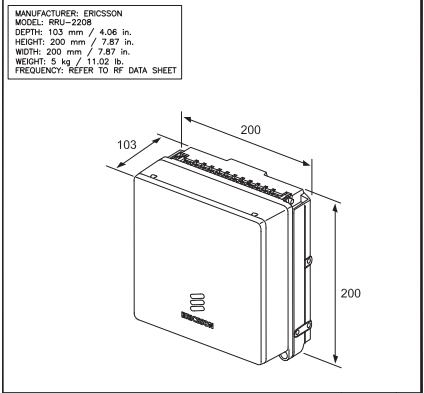


NOT USED SCALE: N.T.S. 5

RRU-2205 DETAIL SCALE: N.T.S. 2

Total Power Output:	2300W
Number of Output port:	3
Max Power On One Output Port:	815W
Power Input:	200-250 V AC
Circuit Breaker and Fuse Recommendation:	20A Min, 50A Max
Heat Dissipation:	125W Max
Dimension (H x W x D):	13"x11.4"x3.9"
Heat Dissipation:	22 Lbs
Operational Conditions:	-40 to +55 Degrees Celsius
IP Class:	IP 65
Supported Installations:	Pole/Wall/Rail

NOT USED SCALE: N.T.S. 6



RRU-2208 DETAIL SCALE: N.T.S. 4

TOP MOUNT ANTENNA BRACKET WITH SKIRT DETAIL SCALE: N.T.S. 7

NOT USED

Prepared For:
verizon
2785 MITCHELL DRIVE, SUITE 9
WALNUT CREEK, CA 94598

Engineer:
THE CBR GROUP
2840 HOWE ROAD, SUITE E
MARTINEZ, CA 94553
www.TheCBRGroup.com

Vendor:

Site Number: 427814
Site Name: LOS ALTOS 001
Site Address: 155 ALMOND AVENUE
LOS ALTOS, CA 94022
County: SANTA CLARA COUNTY

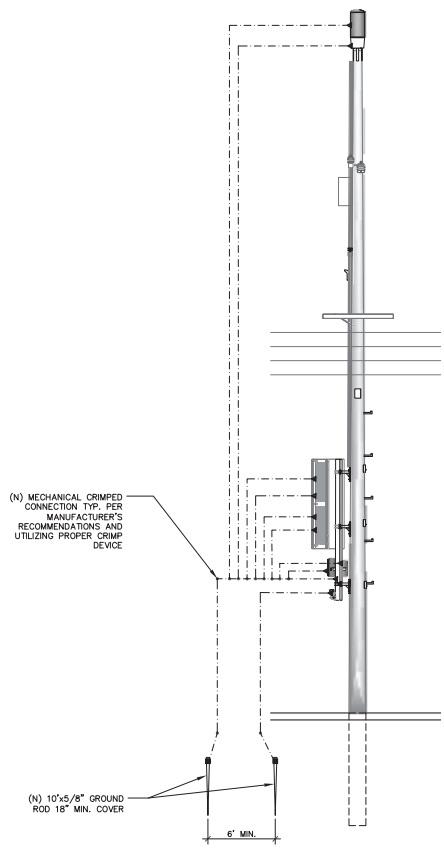
Issued For: CONSTRUCTION

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C	10/22/18	DESIGN CHANGE	ALR
B	07/11/18	100% CDS FOR REVIEW	JG
A	05/22/18	90% CDS FOR REVIEW	JG

Licenser:
REGISTERED PROFESSIONAL ENGINEER
No. C-68844
Exp. 3/31/21
CIVIL
STATE OF CALIFORNIA

Sheet Title:
EQUIPMENT AND CONSTRUCTION DETAILS

Sheet Number:
A-7



1 POLE GROUNDING DIAGRAM

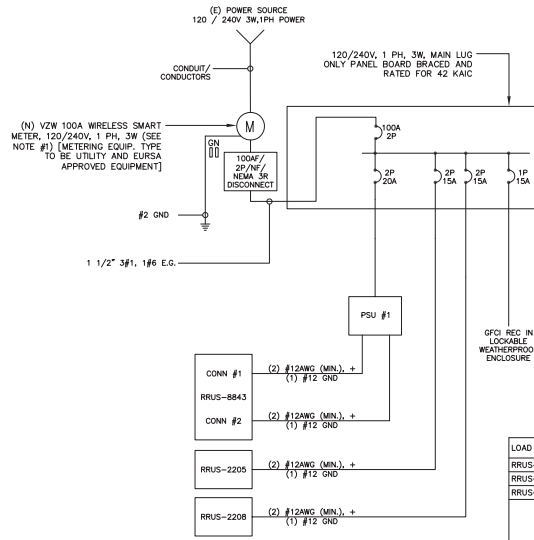
SCALE: 1/4" = 1'-0"
0' 2' 4' 6' 8' 12'

POWER AND TELCO CONNECTIONS:

1. POWER AND TELCO POINT OF CONNECTION AND ROUTE ARE PRELIMINARY AND SUBJECT TO CHANGE TO CONFIRMATION BY THE UTILITY COMPANIES RESPECTIVELY.
2. CONTRACT SHALL COORDINATE WITH UTILITY COMPANY FOR FINAL AND EXACT WORK/MATERIALS REQUIREMENTS AND CONSTRUCT TO UTILITY ENGINEERING PLAN AND SPECIFICATIONS ONLY WHERE APPLICABLE FOR THE PROJECT SCOPE OF WORK.
3. CONTRACT SHALL FURNISH AND INSTALL CONDUIT, PULL WIRES, CABLE PULL BOXES, CONCRETE ENCASMENT OF CONDUIT, TRANSFORMER PAD, BARRIERS, RISER TRENCHING, BACK FILL AND UTILITY FEES, AND INCLUDE REQUIREMENTS IN THE SCOPE.
4. CONTRACTOR SHALL LABEL ALL MAIN DISCONNECT SWITCHES AS REQUIRED BY CODE.
5. SUBCONTRACTOR SHALL PROVIDE METER WITH DIST. PANEL AND BREAKERS FOR POWER TO THE BITS UNITS AND THE BITS/UTILITY CABINET.
6. ALL SERVICE EQUIPMENT AND INSTALLATIONS SHALL COMPLY WITH THE N.E.C. AND UTILITY COMPANY AND LOCAL CODE REQUIREMENTS.
7. SUBCONTRACTOR SHALL PROVIDE ELECTRICAL SERVICE ENTRANCE EQUIPMENT WITH FAULT CURRENT RATINGS GREATER THAN THE AVAILABLE FAULT CURRENT FROM THE POWER UTILITY.
8. FIELD ROUTE CONDUIT TO CABINETS AS REQUIRED.
9. MAXIMUM ONE WAY CIRCUIT RUN NOT TO EXCEED 75 FEET.

GENERAL ELECTRICAL NOTES:

1. PROVIDE ALL ELECTRICAL WORK & MATERIALS AS SHOWN ON THE DWGS, AS CALLED FOR HEREIN, & AS IS NECESSARY TO FURNISH A COMPLETE INSTALLATION.
2. THE INSTALLATION SHALL CONFORM TO THE REQUIREMENTS OF THE CURRENT ADOPTED CALIFORNIA ELECTRICAL CODE, STATE OF CALIFORNIA TITLE24, ALL OTHER APPLICABLE CODES AND ORDINANCES & THE REQUIREMENTS OF THE FIRE MARSHALL. ALL EQUIPMENT & WIRING SHALL BEAR THE APPROVAL STAMP OF UNDERWRITERS LABORATORY (UL) OR AN APPROVED TESTING LABORATORY. PAYMENT FOR ALL INSPECTION FEES AND PERMITS ARE PART OF THIS CONTRACT.
3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE SAFETY AND GOOD CONDITION OF ALL MATERIALS & EQUIPMENT FOR THE ENTIRE INSTALLATION & UNIT COMPLETION OF WORK, ERECT & MAINTAIN APPROVED & SUITABLE BARRIERS, PROTECTIVE DEVICES & WARNING SIGNS, BE FULLY RESPONSIBLE FOR ANY LOSS OR INJURY TO PERSONS OR PROPERTY RESULTING FROM NEGLIGENCE AND/OR ENFORCEMENT OF ALL SAFETY PRECAUTIONS & WARNINGS.
4. COORDINATE THE ELECTRICAL INSTALLATION WITH ALL OTHER TRADES.
5. ALL SAW CUTTING, TRENCHING, BACK FILLING & PATCHING SHALL BE PART OF THIS CONTRACT.
6. FINALIZE ALL ELECTRICAL SERVICE ARRANGEMENTS, INCLUDING VERIFICATION OF LOCATIONS, DETAILS, COORDINATION OF THE INSTALLATION & PAYMENT OF ACCRUED CHARGES WITH LOCAL POWER COMPANY. VERIFY LOCATION FOR FACILITIES & DETAILS WITH POWER UTILITY, IN ADDITION TO THE REQUIREMENTS SHOWN IN THE CONTRACT DOCUMENTS, WORK SHALL COMPLY WITH CONSTRUCTION STANDARDS & SERVICE REQUIREMENTS OF THE RESPECTIVE UTILITIES, INCLUDING ANY SUPPLEMENTAL DWGS ISSUED & SHALL BE SUBJECT TO APPROVAL OF THESE UTILITIES.
7. ALL WIRING SHALL BE COPPER. INSULATION FOR BRANCH CIRCUIT CONDUCTORS SHALL BE TYPE "THWN" CONDUCTORS LARGER AND #6 AWG MAY BE TYPE "THWN" OR "TWN".
8. PROVIDE CONDUIT SEALS FOR ALL CONDUITS PENETRATING WEATHERPROOFING OR WEATHERPROOF ENCLOSURE ENVELOPE. MASTIC SEAL ALL CONDUIT OPENING PENETRATIONS COMPLETELY WATERTIGHT.
9. UNLESS SHOWN OTHERWISE, FUSED DISCONNECT SWITCHES SHALL BE PROVIDED WITH LOW-PEAK, SYDUAL ELEMENT FUSES SIZED TO EQUIPMENT NAMEPLATE FUSE CURRENT RATING. MOTOR STARTERS SHALL BE PROVIDED WITH SIMILARLY SIZED FUSIBLE ELEMENTS. SWITCHES AND OTHER OUTDOOR EQUIPMENT SHALL BE RATED NEMA 3R AND/OR UL LISTED FOR WET ENVIRONMENT.
10. THE CONTRACTOR SHALL BE RESPONSIBLE FOR TESTING THE GROUNDING SYSTEM AND ENSURING A 5 OHM OR LESS GROUNDING PATH, ADDITIONAL GROUND RODS AND/OR CHEMICAL ROD SYSTEM SHALL BE USED TO ACHIEVE THIS REQUIREMENT.



LOAD CALCULATIONS-VERIZON WIRELESS

EXISTING LOAD: 0 AMPS
NEW LOAD: 10.0 AMPS MAX
NEW TOTAL LOAD: 10.0 AMPS MAX

POWER AND TELCO DESIGN IS BASED ON INITIAL SITE VISIT.

CONTRACTOR SHALL OBTAIN CURRENT UTILITY COORDINATOR PLANS PRIOR TO START OF CONSTRUCTION.

AVAILABLE FAULT CURRENT PER UTILITY.

NOTE: CONTRACTOR TO CHECK WITH UTILITY TO ENSURE ELEC. METER IS BRACED FOR ACTUAL FAULT CURRENT.

LOAD DESCRIPTION	MAX LOAD BREAKDOWN	LOAD
RRUS-2205	2 x 0.316W	0.632 W
RRUS-2208	2 x 10W	20 W
RRUS-8843	320W	320 W
TOTAL WATTS		340.632 W
SUBTOTAL VA w/ PF .8		425.79 VA
RECEPTACLE	180VA	180 VA
TOTAL VA		605.79 VA
TOTAL AMPS		2,524.25 Amps at 240V
		5.04825 Amps at worst case 120V

2 SINGLE LINE DIAGRAM

N.T.S.

Prepared For:



2785 MITCHELL DRIVE, SUITE 9
WALNUT CREEK, CA 94598

Engineer:



2840 HOWE ROAD, SUITE E
MARTINEZ, CA 94553
www.TheCBRGroup.com

Vendor:

Site Number: 427814

Site Name: LOS ALTOS 001

Site Address: 155 ALMOND AVENUE
LOS ALTOS, CA 94022

County: SANTA CLARA COUNTY

Issued For:

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Licenser:



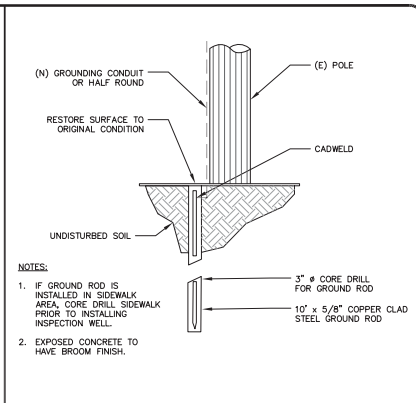
IF A RECEPTION OF SEAL FOR ANY PERSON, UNLESS THE SEAL HAS BEEN REVOKED BY THE BOARD OF PROFESSIONAL ENGINEERS, TO ALTER THE OCCURRENCE.

Sheet Title:

ELECTRICAL GROUND DIAGRAMS

Sheet Number:

E-1

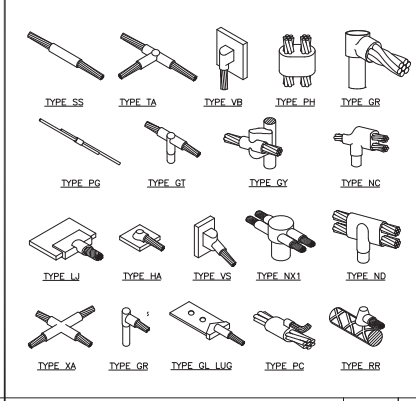


NOT USED SCALE: N.T.S. 12

NOT USED SCALE: N.T.S. 9

NOT USED SCALE: N.T.S. 6

POLE GROUNDING ROD SCALE: N.T.S. 3

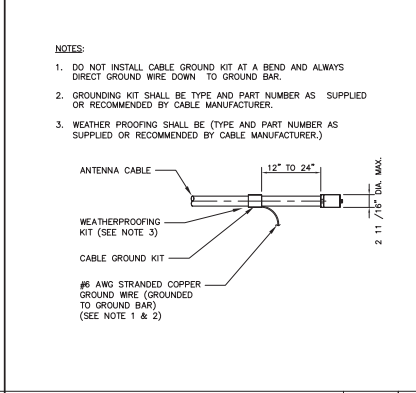
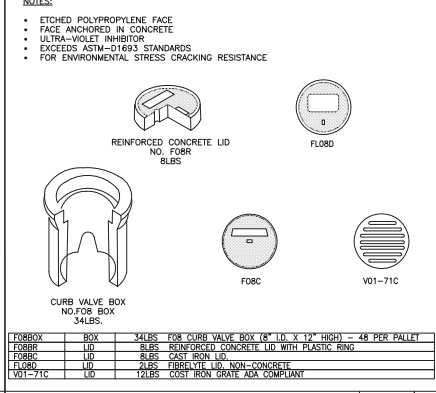
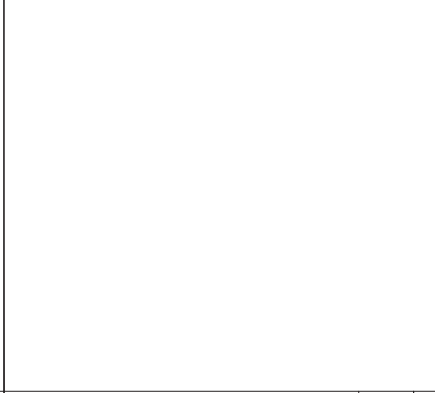
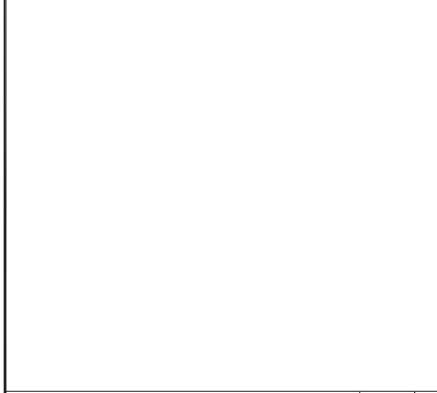


NOT USED SCALE: N.T.S. 11

NOT USED SCALE: N.T.S. 8

NOT USED SCALE: N.T.S. 5

EXOTHERMIC WELD CONNECTION SCALE: N.T.S. 2



NOT USED SCALE: N.T.S. 10

NOT USED SCALE: N.T.S. 7

F08 BOX GROUND WELL DETAIL SCALE: N.T.S. 4

CONNECTION OF CABLE GND. KIT TO ANTENNA SCALE: N.T.S. 1

Prepared For:
verizon
2785 MITCHELL DRIVE, SUITE 9
WALNUT CREEK, CA 94598

Engineer:
THE CBR GROUP
2840 HOWE ROAD, SUITE E
MARTINEZ, CA 94553
www.TheCBRGroup.com

Vendor:

Site Number: 427814
Site Name: LOS ALTOS 001
Site Address: 155 ALMOND AVENUE
LOS ALTOS, CA 94022
County: SANTA CLARA COUNTY

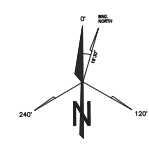
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Sheet Title: ELECTRICAL DETAILS

Sheet Number: E-2



GENERAL TRAFFIC CONTROL NOTES	
TRAFFIC SHALL CONFORM TO THE 2014 CALIFORNIA MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MUTCD) AND THE 2012 WATCH HANDBOOK.	
ACCESS TO DRIVEWAYS SHALL BE MAINTAINED AT ALL TIMES.	
ONE LANE OF TRAFFIC IN EACH DIRECTION AND ALL HIGH VOLUME TURNING LANES SHALL BE MAINTAINED AT ALL TIMES ON ALL STREETS AT A MINIMUM LANE WIDTH OF 10 FEET.	
ANY CONFLICTING SIGNS, STRIPING AND PAVEMENT MARKINGS SHALL BE REMOVED OR COVERED BEFORE TRAFFIC CONTROL IS IN PLACE. ANY SIGN, STRIPING OR PAVEMENT MARKING REMOVED OR COVERED SHALL BE REPLACED WHEN TRAFFIC CONTROL IS NO LONGER NECESSARY.	
SAFE PEDESTRIAN ACCESS SHALL BE MAINTAINED AT ALL TIMES.	

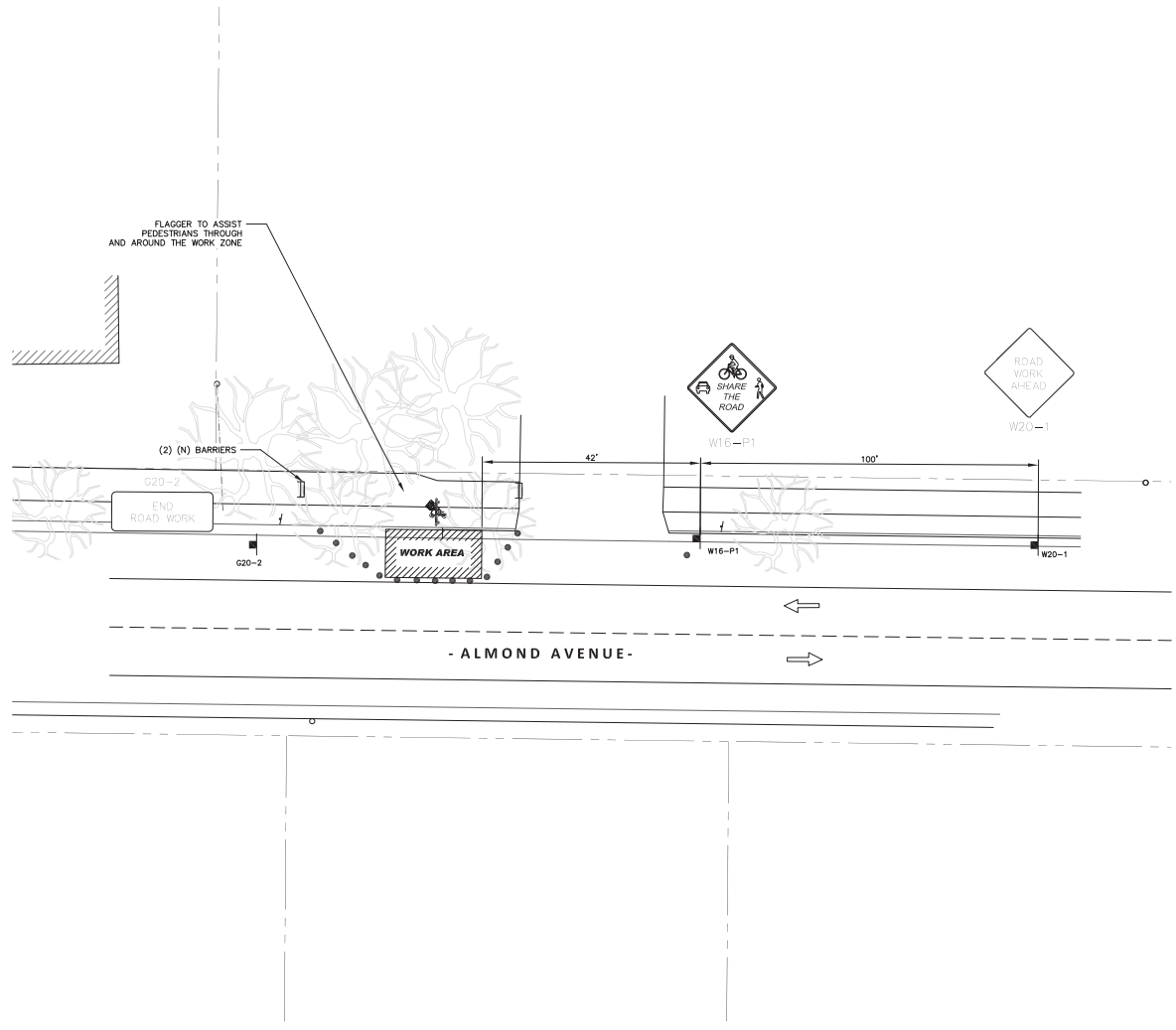
- NOTES:
- FACILITY IS UNMANNED AND NOT FOR HUMAN HABITATION. ACCESSIBILITY ACCESS AND REQUIREMENTS ARE NOT REQUIRED, IN ACCORDANCE WITH CALIFORNIA STATE ADMINISTRATIVE CODE, PART 2, TITLE 24, SECTION 1103B.1, EXCEPTION 1 & SECTION 11462.1, EXCEPTION 4.

TABLE 6H-3 & 6H-4 - FROM THE 2014 CALIFORNIA MUTCD

POSTED SPEED LIMIT - MPH	MERGING TAPER		SHIPPING TAPER		SHOULDER TAPER		SIGN SPACING ADVANCE OF TAPER & BETWEEN SIGNS - FEET
	LENGTH - FEET	WIDTH - FEET	LENGTH - FEET	WIDTH - FEET	LENGTH - FEET	WIDTH - FEET	
20	80	40	27	100			
25	125	63	42	100			
30	180	90	60	250			
35	245	123	82	250			
40	320	160	107	250			
45	540	270	180	350			
50	600	300	200	350			
55	660	330	220	350			

MAINTAIN DRIVEWAY ACCESS AT ALL TIME

- LEGEND
- TYPE III BARRICADE W/ SIGN
 - TYPE II BARRICADE W/ SIGN
 - CHANNELIZING DEVICE
 - TRAFFIC CONE WITH CLIP ON SIGN
 - SKIN
 - SIGNALIZED INTERSECTION
 - ARROW PANEL (FLASHING ARROW) (WHERE REQUIRED)
 - HIGH LEVEL WARNING DEVICE (FLAGTREE) (OPTIONAL)
 - FLAGGER
 - TANS TOW AWAY NO STOPPING ___ TO ___ (SHOW HOURS)
 - TANSAT TOW AWAY NO STOPPING ANY TIME
 - WORK ZONE (ACTIVITY AREA) LIMITS
 - DIRECTION OF TRAFFIC (NOT PAVEMENT MARKING)
 - ROADWAY DESIGNATION (A THROUGH D)
 - SITE



1 TRAFFIC CONTROL PLAN
N.T.S.

Prepared For:



Engineer:



Vendor:

Site Number: 427814

Site Name: LOS ALTOS 001

Site Address: 155 ALMOND AVENUE LOS ALTOS, CA 94022

County: SANTA CLARA COUNTY

Issued For: CONSTRUCTION

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B	07/11/19	100% CD'S FOR REVIEW	JG
A	05/22/19	90% CD'S FOR REVIEW	JG



Sheet Title: TRAFFIC CONTROL PLAN

Sheet Number: TCP

verizon[✓]
2785 Mitchell Drive
Walnut Creek, CA 94598

October 21, 2019

To: City Council, City of Los Altos

**From: Brian Ung, Radio Frequency Design Engineer
Verizon Wireless Network Engineering Department**

**Subject: Statement in Support of Verizon Wireless's Proposed
Small Cell, Right-of-Way at 155 Almond Avenue, Los Altos**

Executive Summary

Verizon Wireless has identified a significant gap in its fourth-generation long-term evolution (LTE) service in north Los Altos. This area currently receives inadequate LTE service coverage from the existing Verizon Wireless Mountain View facility 1.1 miles north of the proposed small cell, the Downtown Mountain View facility 1.6 miles east, the Los Altos facility 0.9 miles south, and the Los Altos Hills facility 1.5 miles west.

As a result of the distance from those existing facilities, there is a gap in reliable LTE in-building and in-vehicle service coverage in north Los Altos. Further, accelerated growth in voice and data usage by Verizon Wireless customers has increased the demand on the existing Verizon Wireless network in a manner that compromises network accessibility and reliability. This accelerating growth in demand has led to capacity exhaustion of the existing Verizon Wireless facility that serves the gap area.

To meet this increased demand, Verizon Wireless is deploying efficient high-speed fourth-generation LTE technology in the Los Altos area. The majority of Verizon Wireless's LTE service is provided using high-band PCS and AWS frequency spectrum. With their shorter wavelengths, the PCS and AWS bands provide greater data capacity. However, these high-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 LTE service.

The coverage gap and capacity gap described below constitute the "significant gap" Verizon Wireless seeks to serve (the "Significant Gap"). To provide reliable LTE service and avoid further degradation of Verizon Wireless service in north Los Altos, the Significant Gap must be remedied through placement of a small cell on a utility pole in the right-of-way (the "Proposed Small Cell").

Coverage Gap

Verizon Wireless is experiencing a gap in its LTE service coverage in north Los Altos. Reliable in-building coverage is lacking in an area that includes Los Altos High School, with an enrollment of approximately 2,100 students, and the surrounding residential neighborhood. Reliable in-vehicle coverage is lacking along a 0.5-mile stretch of Almond Avenue between San Antonio Road and North Avalon Drive, with a daily average traffic count of 5,430 vehicles.¹ Reliable in-vehicle coverage is also lacking along a 0.8-mile stretch of San Antonio Road between Alvarado Avenue and West Edith Avenue. (Collectively, the “Coverage Gap”).

A graphic description of the current high-band LTE coverage gap is shown in the following map, followed by a map showing the improved coverage provided by the Proposed Small Cell.

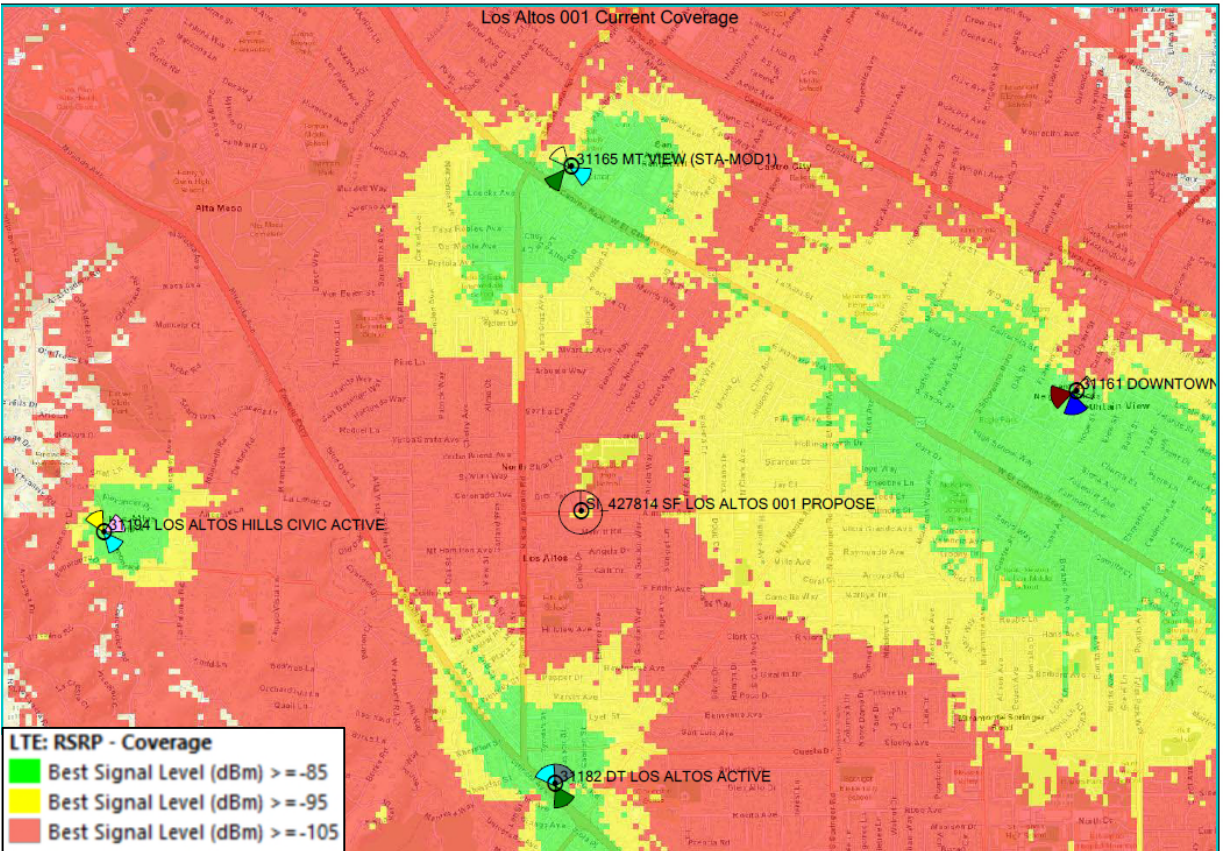
The Proposed Small Cell will provide reliable LTE service coverage to a total area of 0.7 square miles and a population of 2,290 residents. This will include new reliable in-building and in-vehicle coverage to serve the Coverage Gap.

Coverage plot maps like those below provide important information regarding the anticipated level of signal, and therefore the projected coverage provided by a site at a given location. The areas in green reflect good coverage that meets or exceed thresholds to provide consistent and reliable network coverage in homes and in vehicles. The areas in yellow and red depict decreasing levels of coverage, respectively, with yellow areas generally representing reliable in-vehicle coverage only, and red areas depicting poor service areas with marginal coverage unsuitable for in-vehicle use.

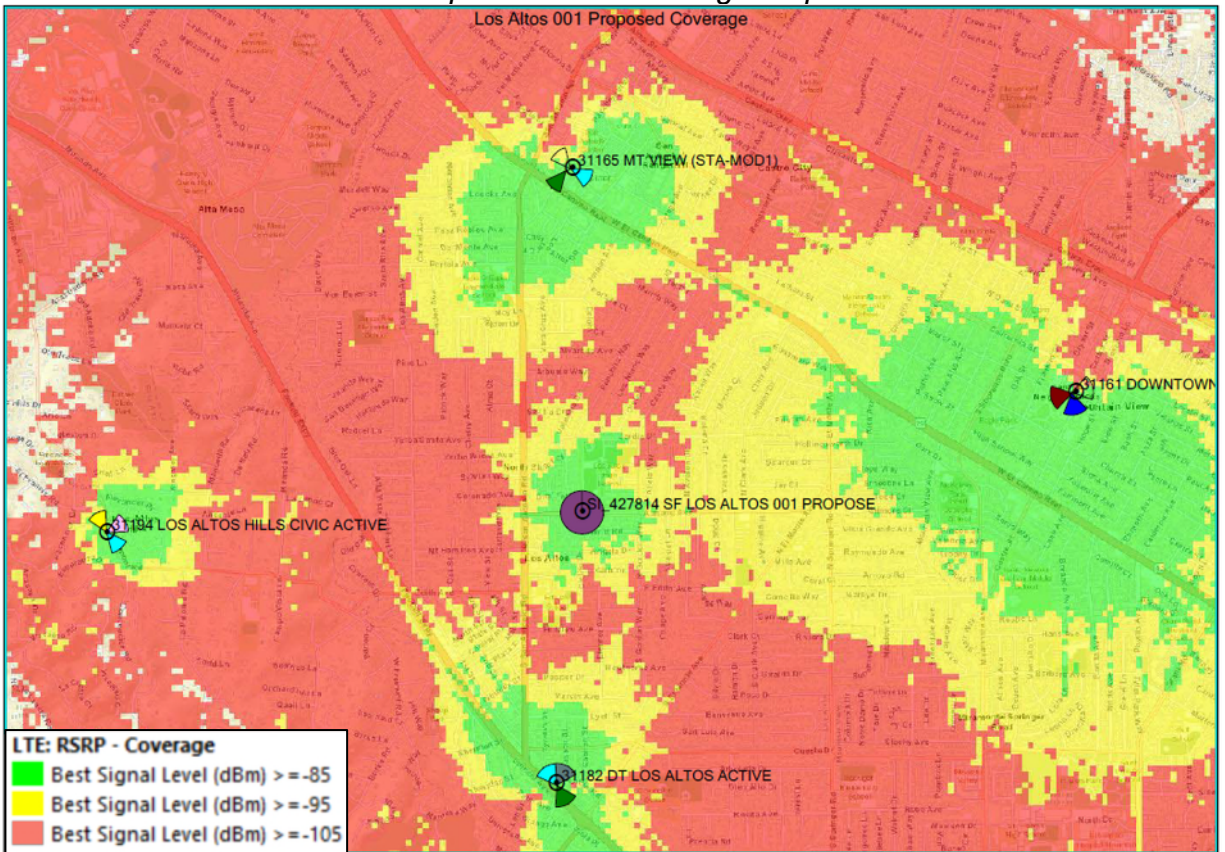
See Coverage Maps on Following Page

¹ RBF Consulting *Collector Traffic Calming Plan*, June 28, 2011.

Current LTE Coverage Map



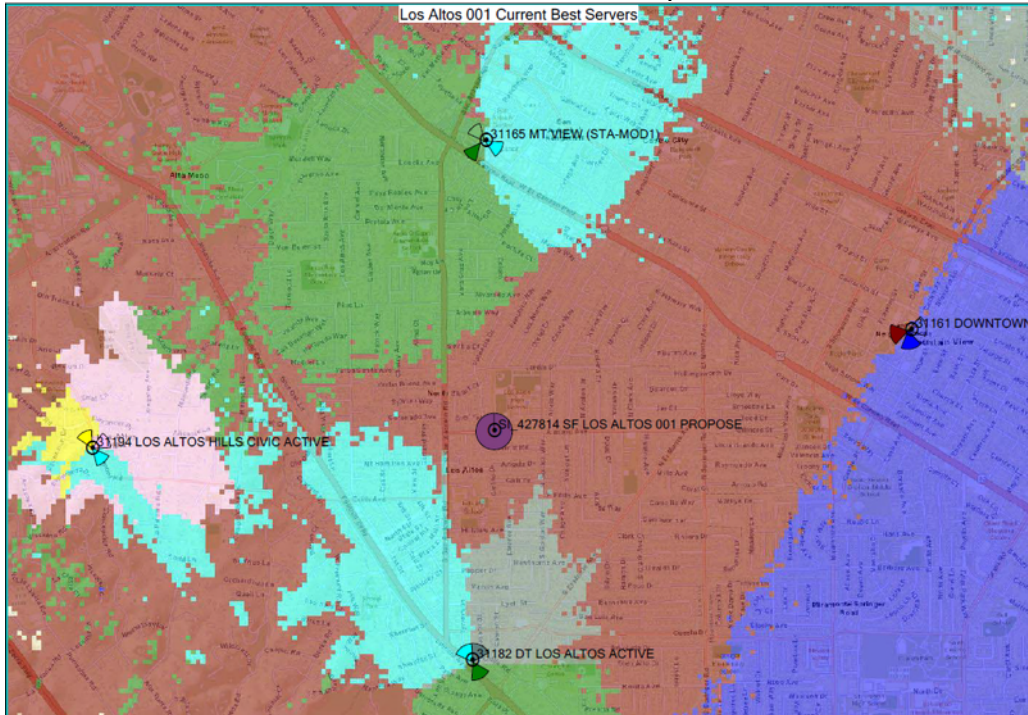
Proposed LTE Coverage Map



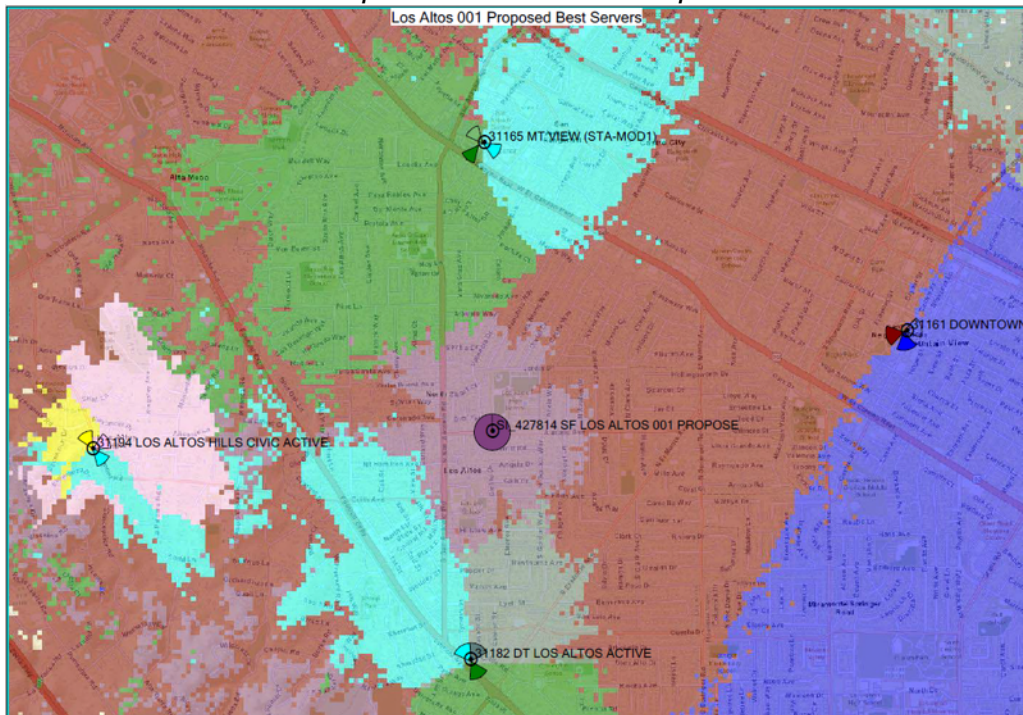
Capacity Gap

As described above, the identified gap area receives inadequate service from distant Verizon Wireless macro facilities. This is illustrated in the following best server map. Best server maps depict the dominant signal provided by each Verizon Wireless facility in the greater area. Signal from each antenna sector of the macro facilities is depicted in a different color.

Current Best Server Map



Proposed Best Server Map



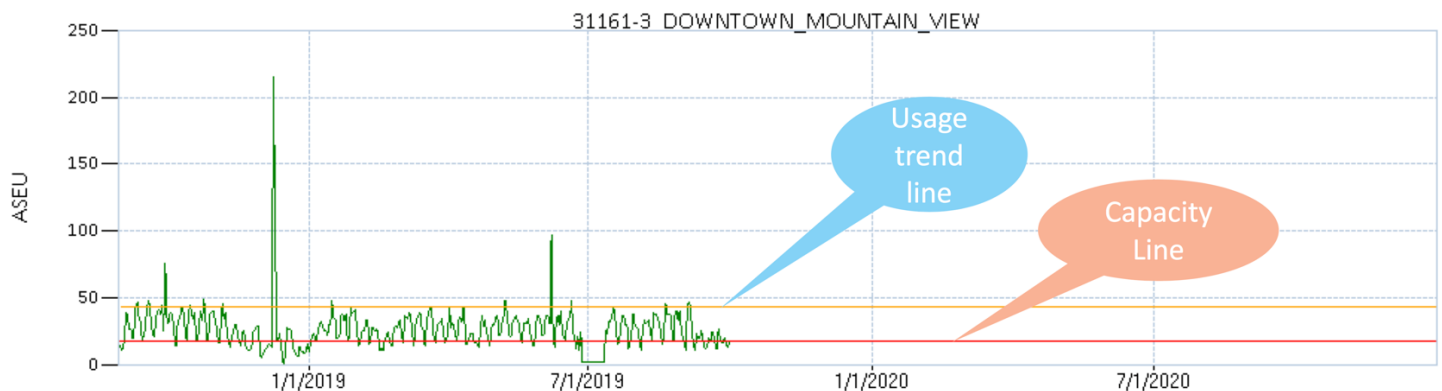
Of note, the west-facing (Gamma) antenna sector of the Downtown Mountain View facility, shown in brown on the best server maps, provides dominant signal to a particularly large area of 4.3 square miles, including the location the Coverage Gap and the Proposed Small Cell. Even though it provides the dominant signal to the gap area, the signal strength is decreased at such a great distance from the facility which is 1.6 miles east of the Proposed Small Cell.

The Proposed Small Cell, with its signal shown in lavender on the proposed best server map, is strategically located to provide new dominant signal to the gap area. It will substantially relieve the west-facing antenna sector of the Downtown Mountain View facility currently serving the gap, which has reached capacity exhaustion as explained below.

At times of high traffic volume, the coverage area of the surrounding Verizon Wireless macro facilities shrinks to accommodate an increasing number of mobile devices closer to that facility. As a result, the Coverage Gap area expands and is exacerbated during times of high customer usage. The contraction of coverage during times of high usage has become more relevant as the volume of voice and data services used by wireless customers has increased rapidly over time. In North America, mobile data traffic increased 44 percent during the year 2016.²

As shown in the following capacity chart, increased demand for voice and data services has already outstripped the capacity of the Downtown Mountain View west-facing antenna sector serving the gap area. The capacity chart shows the high usage of that antenna sector since mid-2018 as well as predicted usage through late 2020.

*Capacity Chart
Downtown Mountain View Facility
West-Facing (Gamma) Antenna Sector*



² Cisco Visual Networking Index: Global Mobile Data Traffic Forecast Update, 2016-2021 White Paper, updated March 28, 2017.

ASEU (Average Scheduler Eligibility Usage) is a daily measure of data usage (green line). The ASEU chart trend line shows steady demand from customers accessing the network through this antenna sector.

By comparing the trend line of average usage (orange line) with the maximum capacity of a facility (red line), Verizon Wireless RF engineering demonstrates that the Downtown Mountain View facility west-facing antenna sector reached capacity exhaustion over one year ago. Capacity exhaustion severely compromises the Verizon Wireless network in the entire area served by the exhausted antenna sector, leading to call failures, slow data speeds, and failure to connect to websites (the "Capacity Gap").

Conclusion

As cellular networks mature, the network must be supplemented with more sites closer to customers, in large measure due to the increase in usage of the network. The LTE technology used by Verizon Wireless to provide fourth-generation service requires facilities closer to customers, and this technology cannot be provided by the current distant sites serving the gap area. These coverage and capacity demands have resulted in the Significant Gap in Verizon Wireless LTE coverage and network capacity in north Los Altos. Verizon Wireless must deploy the Proposed Small Cell to provide reliable LTE service to customers and to avoid further degradation of its network in the area of the Significant Gap.

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

Respectfully submitted,



Brian Ung
RF Design Engineer
Network Engineering Department
Verizon Wireless



VERIZON SMALL CELL
FOR STAND ALONE SMALL CELL
ALTERNATIVE SITE ANALYSIS

Verizon Small Cell Node "Los Altos 001" (near 155 Almond Ave.)

Prepared October 21, 2019



Exhibit K

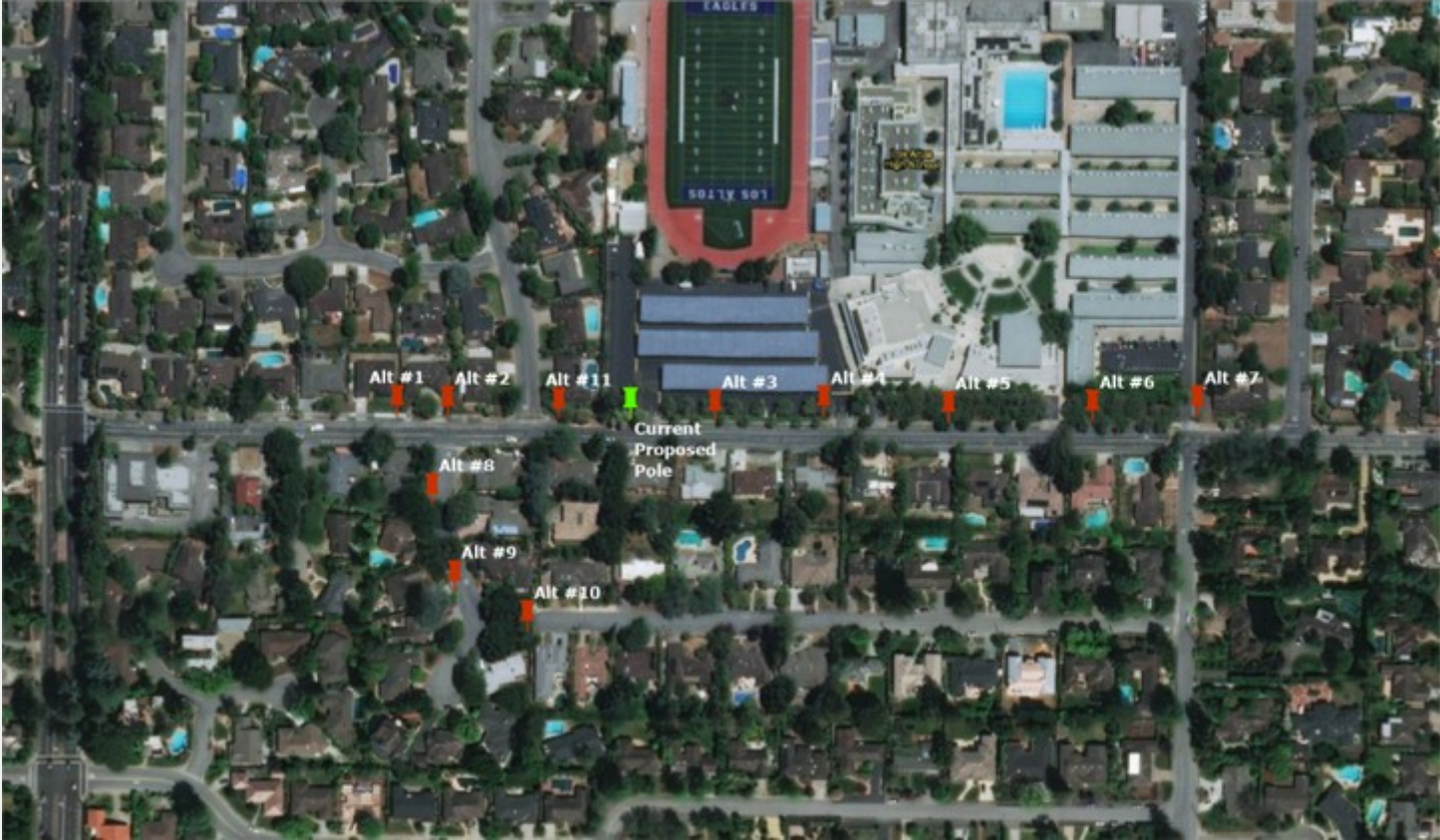
OVERVIEW

- Verizon is proposing to install a small cell standalone project in the area to improve network coverage and capacity.
- A small cell is just like the name implies. A small cell augments Verizon's capacity in a given area. It consists of a radio, antenna, power and a fiber connection. Small Cells are short range mobile cell sites used to complement larger macro cells (or cell towers). Small cells enable the Verizon network team to strategically add capacity to high traffic areas.
- Demand for wireless data services has nearly doubled over the last year, and is expected to grow 650% between 2013 and 2018 according to Cisco. It's part of Verizon's network strategy to provide reliable service and to stay ahead of this booming demand for wireless data.

SHOT MAP OF PROPOSED SITE LOCATION AND ALTERNATIVES CONSIDERED



SHOT MAP OF PROPOSED SITE LOCATION AND ALTERNATIVES CONSIDERED



CURRENT PROPOSED SITE
(155 ALMOND AVE.)



Los Altos 001



Revision Date 10/21/19

ALTERNATIVES REVIEW

Alternatives	Coordinates		Comments (Expanded explanation on each slide)	Location
	Latitude	Longitude		
Alternative #1	37.385052	-122.112158	Less preferable, adjacent to residential front yard.	83 Almond Ave.
Alternative #2	37.385053	-122.111856	Cut outs on pole.	93 Almond Ave.
Alternative #3	37.385056	-122.110234	Less vegetated screening.	A/F 154 Almond Ave.
Alternative #4	37.385086	-122.109582	Cut outs and Primary riser on pole.	A/F 200 Almond Ave.
Alternative #5	37.385067	-122.108829	Cut outs and Primary riser on pole.	199 Almond Ave.
Alternative #6	37.385085	-122.107957	Primary riser on pole.	A/F 288 Almond Ave.
Alternative #7	37.385117	-122.107321	Cut outs on pole.	A/F 300 Almond Ave.
Alternative #8	37.384630	-122.111941	Less preferable, adjacent to residential front yard.	Between 170 & 174 Fredrick Ct.
Alternative #9	37.384212	-122.111794	Less preferable, adjacent to residential front yard.	146 Fredrick Ct.
Alternative #10	37.384024	-122.111348	Cut outs on pole.	124 Merrit Rd.
Prior Candidate #11	37.385051	-122.111181	Moved off the location at the request of Los Altos Public Works. Less preferable, adjacent to residential front yard.	A/F 128 Almond Ave.

ALTERNATE SITE #1 (83 ALMOND AV.)



Los Altos 001

Node - Alternative Site #1

This alternative location is a wood utility pole located in the Public ROW. The nearest address is 83 Almond Ave.

This pole is not a preferred candidate due to being adjacent to residential front yard.

ALTERNATE SITE #2 (93 ALMOND AVE.)

Node - Alternative Site #2

This alternative location is a wood utility pole located in the Public ROW. This pole is located near 93 Almond Ave.

This pole has PG&E safety cut outs. Wireless equipment is not allowed on poles with these configurations. PG&E considers this “operable” equipment.



ALTERNATE SITE #3 (A/F 154 ALMOND AVE.)



Los Altos 001

Node - Alternative Site #3

This alternative location is a wood utility pole located in the Public ROW. The nearest address is A/F 154 Almond Ave.

This pole is not well screened as the proposed candidate.

ALTERNATE SITE #4 (A/F 200 ALMOND AVE.)

Node - Alternative Site #4

This alternative location is a wood utility pole located in the Public ROW. This pole is located across from 200 Almond Ave.

This pole has PG&E primary service riser. Wireless equipment is not allowed on poles with these configurations.



ALTERNATE SITE #5 (199 ALMOND AVE.)



Node - Alternative Site #5

This alternative location is a wood utility pole located in the Public ROW. The nearest address is 199 Almond Ave.

This pole has PG&E primary service riser. Wireless equipment is not allowed on poles with these configurations.

ALTERNATE SITE #6 (A/F 288 ALMOND AVE.)

Node - Alternative Site #6

This alternative location is a wood utility pole located in the Public ROW. This pole is located near across from 288 Almond Ave.

This pole has PG&E primary service riser. Wireless equipment is not allowed on poles with these configurations.



ALTERNATE SITE #7 (A/F 300 ALMOND AVE.)



Los Altos 001

Node - Alternative Site #7

This alternative location is a wood utility pole located in the Public ROW. The nearest address is across from 300 Almond Ave.

This pole has PG&E primary service riser. Wireless equipment is not allowed on poles with these configurations.

**ALTERNATE SITE #8
(BTWN 170 & 174 FREDRICK CT.)**

Node - Alternative Site #8

This alternative location is a wood utility pole located in the Public ROW. This pole is located between 170 & 174 Fredrick Ct.

This pole is a less preferred candidate due to being adjacent to residential front yard.



ALTERNATE SITE #9 (146 FREDRICK CT.)



Node - Alternative Site #9

This alternative location is a wood utility pole located in the Public ROW. The nearest address is 146 Fredrick Ct.

This pole is a less preferred candidate due to being adjacent to residential front yard.

ALTERNATE SITE #10 (124 MERRIT RD.)

Node - Alternative Site #10

This alternative location is a wood utility pole located in the Public ROW. This pole is located near 124 Merrit Rd.

This pole has PG&E safety cut outs. Wireless equipment is not allowed on poles with these configurations.



PRIOR CANDIDATE #11 (A/F 128 ALMOND AVE.)



Node – Prior Candidate #11

This alternative location is a wood utility pole located in the Public ROW. The nearest address is across from 128 Almond Ave.

This pole is a less preferred candidate due to being adjacent to residential front yard.



THANK YOU

The CBR Group, Inc.