

Burbank ACTION

Burbank Against Cell Towers In Our Neighborhood

July 26, 2010

Re: Residential Wireless Recommendations and Concerns, Report Part II

Dear Honorable Mayor Anja Reinke, Vice Mayor Jess Talamantes, and Council Members Gary Bric, Dr. David Gordon, and Dave Golonski, Planning Board Chair Kenneth San Miguel, Vice-Chair Emily Gabel-Luddy, and Planning Board Members Vahe Hovanessian, Undine Petrulis and Douglas Drake, and City Manager Michael Flad:

We truly appreciate the steps you are taking to revise Burbank's wireless facility ordinance and the recommendations you made at the Second Study Session on June 14, 2010. Previously, we submitted to you our first Burbank hillside Residential Report (updated version submitted to you via e-mail on June 19, 2010) with recommendations and concerns for your review and consideration, in advance of the Second Joint Study Session.

Attached here is our Burbank Residential Report – Part II. We support the revisions proposed by the Planning Department for consideration by the Planning Board on July 26, 2010. At the same time, we request more rigorous requirements and vigilance regarding coverage gap claims and alternative siting. We conducted our own resident cell phone survey, as you'll see in the DVD short video documentary we've attached here for you to view. We've also included other documents, references and citations to support our concerns and recommendations detailed in our Residential Report Part II

Thank you again for your concern and actions on this complex issue, your desire to protect the character and safety of our community, homes, schools and parks within the full extent of the law, and inviting residential input.

Appreciatively yours,

Ms. Kiku Lani Iwata, Mr. Andrew Bolhuis, Ms. Michelle Safarian,
and Mr. Alex Safarian

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Public Works Director Bonnie Teaford; Right-of-Way Specialist Diana Goulding;
BWP Principal Civil Engineer Michael Thompson; BWP General Manager Ron
Davis; BWP Assistant General Manager Bill Mace; BWP Customer Service and
Marketing Joanne Fletcher; Park, Recreation and Community Services Director
Christopher Daste

enc

**Residential Report – Part II
Wireless Issues:
Recommendations and Concerns
City of Burbank, CA
July 26, 2010**

Submitted by: Burbank ACTION
(Burbank Against Cell Towers In Our Neighborhood)
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Introduction

We truly appreciate the progress that our Mayor, City Council, Planning Board, City Attorney, City Manager and City Planning Department are making in studying and proposing revisions for the City's wireless telecommunications ordinance.

In an effort to provide further community input, we have prepared this Residential Report, Part II. It is a follow-up to our first Residential Report, dated June 19, 2010, sent to you for your review and consideration.

We have prepared this Report in support of some of revisions proposed by the Planning Department staff for the July 26, 2010 Planning Board public hearing, and to also offer additional recommendations. The first 15 pages of the enclosed Report are the main body (i.e., if you're in a hurry, please prioritize reading the first 15 pages); the remaining pages (Appendix) are supporting documents.

Section 1 of this report addresses installation of a wireless facility only if there is a significant gap in coverage. We're enclosing a DVD short video documentary of our own resident cell phone survey that we conducted in the Burbank Hillside neighborhood in and around Brace Canyon Park, where T-Mobile proposes installing a wireless cell tower base station facility. We will also post it on YouTube, in case viewing it via the internet is more convenient. Our resident T-mobile cell phone survey provides support for the proposed requirements in the Supplemental Application Form and also provides a rationale for why the City of Burbank and its residents cannot and should not accept prima facie provider claims of coverage gaps to justify a proposed cell tower.

On a related note, Section 2 is dedicated the need for our City to request feasible, available, alternative and less intrusive locations when an applicant proposes a cell tower, and to propose alternative less intrusive sites when needed. We recommend the City of Burbank's new Supplemental Application Form and wireless telecommunications ordinance include more detailed requirements regarding alternative, feasible, available and less intrusive sites to consider. We've provided examples of those required by other cities (Glendale, Richmond) and even included in Attorney Jonathan Kramer's Generic Application Form (which Burbank's new Supplemental Application Form takes many of its elements). We've also included the rationale behind our concerns and recommendations.

We thank you in advance for allowing us to assist you with your efforts to build a strong wireless facility ordinance for the City of Burbank that will protect and preserve our residential neighborhoods, homes, schools and parks.

Acknowledgements also go to residents active in wireless facility issues in Burbank, Glendale, the City and County of Los Angeles, and other communities outside of Burbank, for continuing to assist us with information and their support.

Section 1: Recommendations concerning significant gap

In our first and previous Residential Report, we recommended that the City require applicants provide information about whether their proposed installation is needed to fill a significant gap.¹ Thus, we're happy that the proposed Supplemental Application Form requires such information, and recommend:

1. our City approve the significant gap information requirements proposed today;
2. you review the enclosed DVD short video documentary of a resident cell phone survey we conducted that supports the need for such requirements;
3. that City officials, during the present and any future evaluation and public hearing for a proposed wireless installation, not accept provider prima facie claims of a significant gap in coverage¹ for reasons explained below.

Rationale for Significant Gap Recommendations

When we learned that T-Mobile was proposing to install a cell tower base station on BWP property at Brace Canyon park,² we conferred with residents from Glendale and Los Angeles. They informed us that they had done their own resident cell phone surveys that revealed and confirmed that they already had adequate coverage from the providers seeking to install wireless facilities in their neighborhoods. They suggested we do the same.

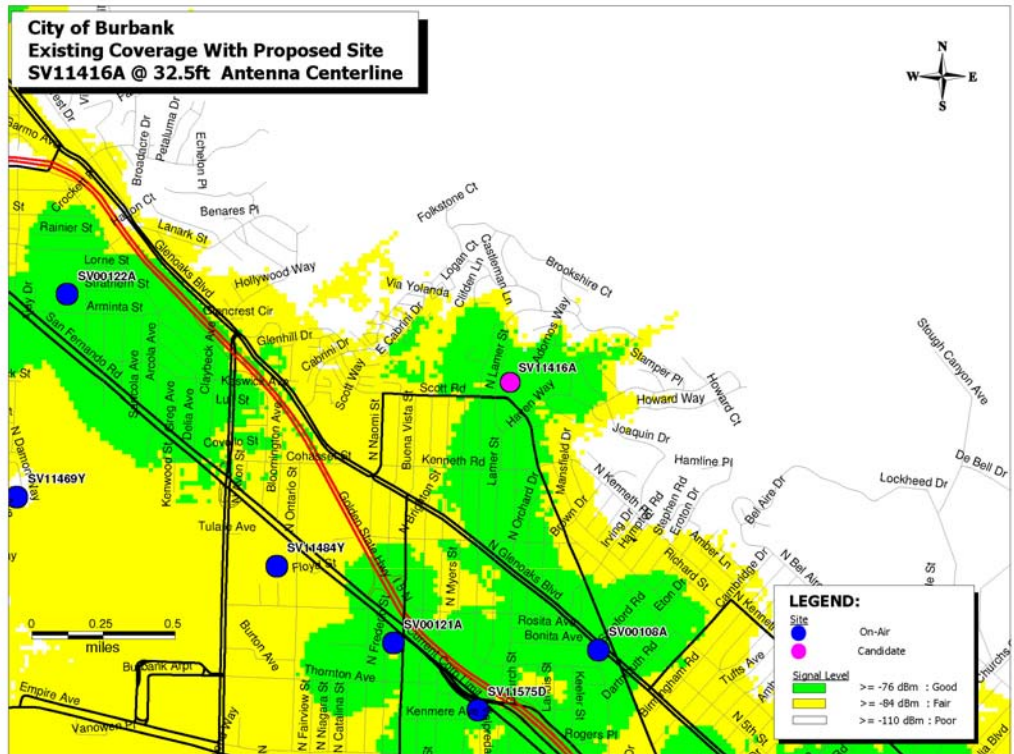
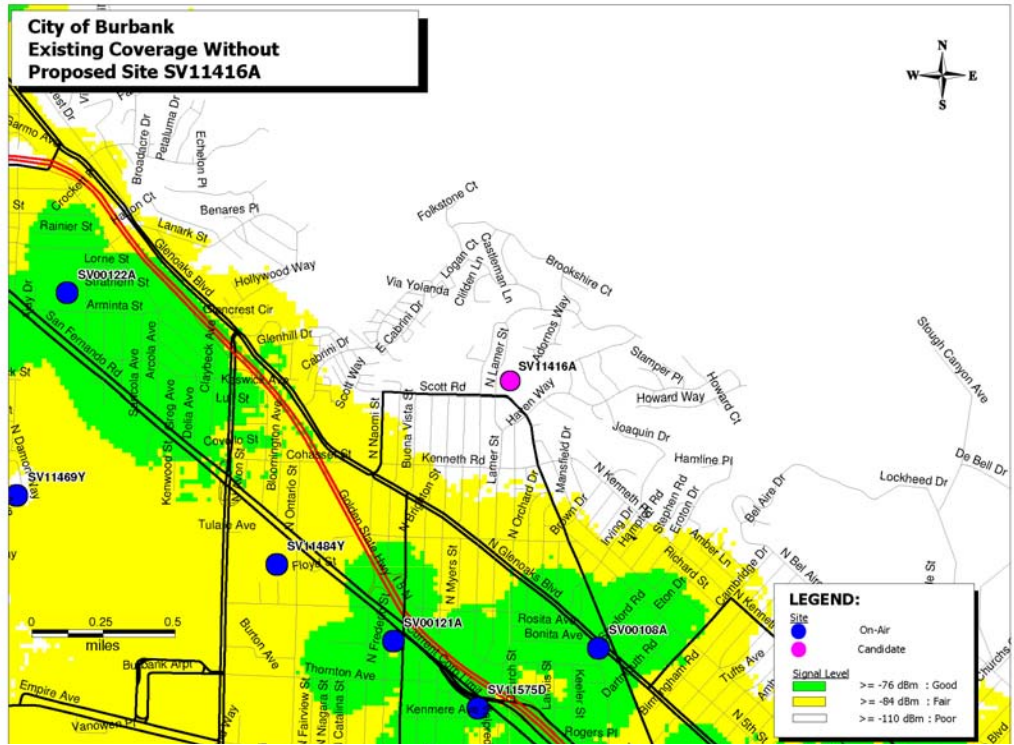
T-Mobile had provided us with two coverage maps (Fig. 1 and Fig. 2) – one showing current coverage with white areas representing “poor” coverage areas, and the other map projecting coverage with the proposed cell tower at Brace Canyon park.

1. In *Sprint PCS Assets v. Palos Verdes Estates*, the U.S. Ninth Circuit Court of Appeals addressed what a significant gap in coverage is and isn't. It noted how Sprint had convinced the lower district court that its RF propagation maps were sufficient to establish a significant gap in coverage. “We disagree,” asserted the Ninth Circuit Court, which found Sprint's projected coverage estimates “far from clear.” The Court added (boldface emphasis is our Report's):
In any event, that there was a “gap,” is certainly **not** sufficient to show there was a “significant gap” in coverage”... “[T]he relevant service gap must be **‘truly’** significant...The TCA does **not** guarantee wireless service providers coverage free of small ‘dead spots’
In addition, the Court noted how Sprint already had existing cell towers throughout the city. It also acknowledged that public remarks and residents' drive test results contained in the staff report “further illustrate that Sprint's existing network was, at the very least, functional.” See *Sprint PCS Assets v. Palos Verdes Estates* (Oct. 2009), pp. 14551-14554, enclosed here in **Appendix**, regarding prohibition of service and substantial gaps in coverage, in particular: <http://www.ca9.uscourts.gov/datastore/opinions/2009/10/13/05-56106.pdf>
2. Burbank Water and Power mailed residents a courtesy notice (postmarked Sept. 23, 2009) stating that T-Mobile wants to install the proposed Brace Canyon cell tower: “to improve cell phone service for T-Mobile customers in Burbank and especially in the neighborhood around the proposed facility by helping T-Mobile fill gaps in its cell phone coverage.” Copy of flyer text-side is enclosed in **Appendix**.

Next, we did our own survey, and videotaped the results.

Please see the enclosed DVD below of our short video documentary showing what happened when we surveyed the Hillside area in and around Brace Canyon park with our T-Mobile cell phone.⁴

We also have made this video available on-line, posting it on YouTube for your viewing convenience, at: <http://www.youtube.com/user/BurbankACTION>.



Figures 1 and 2: Map on top represents existing T-Mobile coverage, while Map on bottom represents coverage with proposed cell tower base station on BWP property at Brace Canyon recreational park (pink dot) in Burbank Hillside residential neighborhood. Maps provided (11-24-2009) to residents by Synergy, the consultant firm hired by T-Mobile to represent the provider's proposed installation.

In the video, you'll see Burbank Hillside resident Alex Safarian testing the signal strength in the alleged "poor" coverage areas of the Hillside area. Our resident test included observing the signal strength and call quality with our T-Mobile phone in various situations: inside/outside of homes, standing, walking, and while driving.⁵

In each of these situations, the T-Mobile call quality was excellent and the signal strength was strong; the lowest it got was two bars (and even at two bars, Mr. Safarian experienced great quality calls). Our resident survey showed how Burbank's Hillside residents already have T-Mobile service coverage in this area. We do not need the proposed cell tower here.

Here are examples of resident groups in other communities that did their own cell phone surveys and shared similar results with their local governments:

Glendale, CA: T-Mobile wanted to build a cell tower in a public right of way right in front of resident John McMahan's home. Mr. McMahan, armed with his friend's T-Mobile phone, was able to make and receive calls outside and inside of the homes of residents in and around his neighborhood, even into the highest of hills.⁶ . You can view Mr. McMahan's resident survey on YouTube and also posted on Get The Cell Out of Here (Glendale Residents Organized Against Cell Towers website): <http://www.getthecelloutofhere.com/tvyoutube.html>. T-Mobile ultimately pulled out and did not build in front of Mr. McMahan's home.

View Park/Windsor Hills, CA: T-Mobile wanted to install a cell tower on a CVS Pharmacy located in a residential neighborhood. Residents did a cell phone survey and found they had already had good T-mobile coverage. The Los Angeles County Board of Supervisors ultimately denied the permit. Please read related documents and County Counsel Final Findings and Order to Deny, enclosed in our **Appendix**.⁷

4. Resident test was done on Saturday, January 16 at 3:30 to 4:38 p.m. Prior to this: On Dec. 8, 2009, T-mobile subscribers Alex Safarian and Dr. Jan Iwata provided Public Comments to City Council about how they had no problem making and receiving calls with their personal T-mobile phones throughout the Hillside area. See Burbank City Council Meeting, December 8, 2009, video of proceedings: visiting physician, Dr. Jan Lei Iwata @ 5:25:33, and California State licensed real estate sales professional who lives near the proposed site, Alex Safarian @ 6:27:32, at http://burbank.granicus.com/MediaPlayer.php?view_id=6&clip_id=848.
5. Our video shows Mr. Safarian placing calls on a T-Mobile subscriber phone. He is communicating on speaker phone with Ms. Joanna Iwata, who is on a land-line phone in the Hillside home of her sister Kiku Lani Iwata.
6. You can also see video of Mr. McMahan informing Glendale City Council about his resident survey results; see City Council Meeting, Glendale, CA, Glendale TV, January 7, 2009 @ 2:13:22, http://glendale.granicus.com/MediaPlayer.php?view_id=12&clip_id=1227
7. View Park/Windsor Hills related documents enclosed in our **Appendix**: Letters by resident Sally Hampton and resident Catherine Laws about good T-Mobile coverage, Source: Los Angeles County Board of Supervisors Report Documents for Project No. R2006-03164-(2), Conditional Use Permit Case No. 2007-00020-(2), September 15, 2009, pp. 73-74, and p. 286; also found on-line at: <http://file.lacounty.gov/bos/supdocs/48444.pdf>. Read Public Comment by Miriam Nakamura-Quam re: coverage, see Transcript for LA Co. BOS Meeting, June 23, 2009, p. 44-45, on-line at: http://file.lacounty.gov/bos/transcripts/transcripts_2009.asp#P-1_0. Also read LA Co. BOS/LA Co. Counsel Final Findings and Order to Deny, September 15, 2009, on-line at <http://file.lacounty.gov/bos/supdocs/51099.pdf>.

La Crescenta/Montrose, CA: Sprint/Nextel wanted to install a wireless facility on the roof of a commercial office building. Residents near the location complained of aesthetic impact, and challenged the provider's coverage gap, and wanted Sprint/Nextel to find other suitable locations that would fill its gap. The Los Angeles County Board of Supervisors ultimately denied the permit. Please read related documents and L.A. Co. Counsel Final Findings and Order to Deny are enclosed in our **Appendix**.⁸

Hacienda Heights, CA: T-Mobile wanted to install a cell tower on an SCE lattice in their residential area. Residents there did their own cell phone survey and did not find a significant gap. The Los Angeles County Board of Supervisors ultimately denied the permit. Related documents and Final Findings to Deny are enclosed in our **Appendix**.⁹

Temple City, CA: T-Mobile wanted to install a cell tower, disguised as a monopine, at a church located in a residential neighborhood. At a public hearing in November 2009, David Castro, Temple City resident, said he used to live behind the church and was able to get perfect T-Mobile reception then, so he didn't understand why T-Mobile said they need coverage in this area. The Temple City Council on April 6, 2010, ultimately denied the permit; City Council's Motion to Deny is enclosed in our **Appendix**.¹⁰

San Francisco, CA: View this dramatic San Francisco Board of Supervisors meeting in which residents and Supervisor Matt Gonzalez reveal they already have sufficient cell phone coverage from Sprint in their neighborhood: <http://www.youtube.com/watch?v=eXMOakKF2bg9>. It's an excerpt from the documentary, "Bad Reception: The Wireless Revolution in San Francisco," produced by Doug Loranger of CLOUT (www.cloutnow.org), and has inspired residents in other communities, including ours, to follow suit.

We hope that our DVD and the examples above:

1. provide resident support for the need to require applicants provide substantial gap information in the Supplemental Application Form;
2. illustrate the merits of questioning claims of a significant gap during the evaluation and public hearing process of a proposed wireless facility;
3. contribute to the substantial evidence to support denial of the proposed cell tower base station on BWP property at Brace Canyon recreational park.

8. La Crescenta/Montrose related documents enclosed in our **Appendix**: Reasons for Appeal by Glenn Workman, and Letter by Workman Family and Neighbors regarding adequate coverage claims; Source: LA Co. BOS Report Documents for Project No. R2004-00805-(5), Conditional Use Permit Case No. 2007-00051-(5), see pp. 1-2, and pp. 13-15, on-line at: <http://file.lacounty.gov/bos/supdocs/46431.pdf>. Read Public Comments by Glenn Workman and Elise Kalfayan, see Transcript for LA Co. BOS Meeting, May 26, 2009, pp. 22-27, on-line at: <http://file.lacounty.gov/bos/transcripts/05-26-09%20Board%20Meeting%20Transcript%20%28C%29.pdf>. Also read LA Co. BOS and Co. Counsel Final Findings and Order to Deny, October 6, 2009, on-line at: <http://file.lacounty.gov/bos/supdocs/51430.pdf>

9. Hacienda Heights related documents enclosed in our **Appendix**: Reason for Appeal dated 2-17-2009 by John Chen re: coverage gap not true, Source: LA Co. BOS Report Documents for Project No. R2007-02104-(4), Conditional Use Permit Case No. 200700149-(4), pp. 1-2, on-line at: <http://file.lacounty.gov/bos/supdocs/48070.pdf>. Also read LA Co. BOS October 27, 2009, Public Hearing/Meeting Transcript, specifically: pp. 36-37, resident Cheryl Riley says that T-Mobile has not proven that its coverage claims are valid, and pp. 58-60, where Supervisor and Chairman Don Knabe addresses the resident coverage test that questions T-Mobile's information about its coverage deficiency, and that T-Mobile failed to show a significant coverage gap, on-line at: [http://file.lacounty.gov/bos/transcripts/10-27-09%20Board%20Meeting%20Transcript%20\(C\).pdf](http://file.lacounty.gov/bos/transcripts/10-27-09%20Board%20Meeting%20Transcript%20(C).pdf). Read LA Co. BOS approve motion of intent to deny, October 27, 2009, on-line at : <http://file.lacounty.gov/bos/supdocs/51925.pdf>. Also read LA BOS and LA Co. Counsel Final Findings and Order to Deny, March 9, 2010, on-line at: <http://file.lacounty.gov/bos/supdocs/53564.pdf>
10. See Temple City Council Meeting, video of proceedings, Item 8, November 17, 2009, Resident David Castro provides public comment @ 1:06:00, <http://kgem.tv/2009/11/temple-city-city-council-november-17-2009/>. Also read Temple City Council Resolution No. 10-4664 in Section IV-A, denying the CUP, approved April 6, 2010, in particular page 2, item H, re: coverage, enclosed in our **Appendix**. Provided by: City Clerk Mary Flandrick, Temple City, e-mail: mflandrick@templecity.us

Section 2: Recommendations concerning alternative siting

We recommended an “alternative site analysis” in our June 18, 2010 Residential Report. We’re grateful that the proposed Section 8 of the City’s Supplemental Application Form (enclosed in **Appendix**) will require alternative site information. However, we would like to request:

1. a more detailed "alternative site analysis" from applicants that requires listing other potential alternative, suitable, feasible and less obtrusive locations or sites;
2. that the City, if needed and if residents request, suggest alternative available and less intrusive sites for a proposed wireless facility installation during the application or public hearing process.

Examples for Recommendation 1

We provide the following three examples of required detailed alternative site information. The first two originate from the Cities of Richmond and Glendale; the third is pulled from Attorney Jonathan Kramer’s Generic Application Form:

1. **Richmond, CA:** The City’s Application Submittal Checklist¹ (enclosed in **Appendix**) includes among its minimum requirements (**bold-faced emphasis ours**), on page 2:

ALTERNATIVE SITE ANALYSIS

- **Identify and indicate on a map, at a minimum, two (2) viable technically and economically feasible or superior alternative locations outside the disfavored areas which could eliminate or substantially reduce the need to locate in a restricted area.** If there are fewer than two such alternative locations, the applicant must provide evidence establishing that fact. **The map shall also identify all locations where an unimpaired signal can be received to eliminate or substantially reduce the need for such a location.** Radio frequency plots of all alternative facilities considered for use in conjunction with these facility sites shall be provided as part of the alternatives analysis. For each alternative location so identified, the applicant shall describe the type of facility and design measures that could be used at that location so as to minimize negative visual, noise and aesthetic impacts (e.g., the use of camouflaging techniques).

1. Richmond’s “Planning Division Wireless Communications Facility Conditional Use Permit Application Submittal Checklist” can be found on the City’s website at <http://www.ci.richmond.ca.us/DocumentView.aspx?DID=5577>. Richmond, CA’s new wireless Ordinance No. 09-10 N.S. was unanimously approved by its Mayor and City Council on February 16, 2010. It can be found on-line on the City’s website at: <http://www.ci.richmond.ca.us/archives/66/Ord.%2009-10%20Wireless%20Communications%20Facilities-CONFORMED.pdf>

- **Evaluate the potential for co-location with existing wireless communications facilities as an alternative to the proposed facility.**
 - Compare, across the same set of evaluation criteria and to similar levels of description and detail, the relative merits of the proposed wireless communications facility site with those of each of the identified technically feasible alternative locations and facility designs, and all technically feasible inter-carrier roaming agreements. Such comparison analysis shall rank each of the alternatives (i.e., the proposed location/facility and each of the technically feasible location/design alternatives) in terms of impacts (i.e., from least to most impacts on visual, noise and aesthetic concerns), and shall support such ranking with analysis.
 - Include photo-simulations of each of the alternatives (i.e., the proposed location/facility and each of the technically feasible location/design alternatives).
2. **Glendale, CA:** Our neighboring city’s new wireless facility ordinance requires alternative sites information that includes the potential for co-location and the availability and feasibility of potential alternative sites:

For wireless facility installations proposed in public rights of way, look at “Section 5. 12.08.037 Wireless Telecommunications Facility Encroachment Permits. G. Application.” It includes the potential for co-location:

- 4. An alternative site analysis, assessing the feasibility of alternative sites, including the potential for co-location, in the vicinity of the proposed site, as deemed necessary by the director of public works. In the case of proposed sites that are inside or within 1000 feet of any residential zone, the alternative site analysis shall specifically include an evaluation of the availability and feasibility of potential alternative sites located at preferred locations and within preferred zones.

For all proposed locations, see “Section 25, 30.40.020 – Application Filing. H. [supplemental application requirements]. 1. All Proposed Locations.” It reads:

- n. An alternative site analysis, assessing the feasibility of alternative sites, including the potential for co-location, in the vicinity of the proposed site, as deemed necessary by the Planning Director. Said alternative site analysis shall specifically include an evaluation of the availability and feasibility of potential alternative sites located outside a ROS, RIR, RI , R-3050, R-2250, R-1650 and R-1250 zone.

2. The excerpts from Glendale’s wireless telecommunications ordinance cited here can be found in **Appendix**. You can also find these excerpts on-line in Glendale’s new wireless facility ordinance, which was unanimously approved by its Mayor and City Council on April 13, 2010, at: <http://www.ci.glendale.ca.us/gmc/Ordinance5692.pdf>. See Page 8 (item G.4) and Page 67 (item n).

3. **Attorney Jonathan Kramer's Generic Application Form:** enclosed in our **Appendix**, requests more detailed alternative site information under its Section 4.15 than Burbank's proposed Supplemental Application Form, even though ours does incorporate many parts of Mr. Kramer's model form. In particular, read Sections 4.15.b and 4.15c (**bold-faced** ours, below, for emphasis):

4.15 Attach a written statement fully and expansively describing at a minimum:

- a. Why this project is the least intrusive means to close the significant gap claimed and described in 4.12.
- b. Identify and discuss all alternative sites and means considered to close the significant gap claimed and described in 4.12.**
- c. Whether two or more sites in place of the site proposed in Section 1 could close the significant gap claimed and described in 4.12, or to reduce the significant gap to be less than significant.**
- d. Whether the Government of Generic requiring two or more sites in place of the site proposed in Section 1 would prohibit or have the effect of prohibiting the applicant from providing any interstate or intrastate telecommunications service. If the response asserts that a prohibition or effective prohibition would occur, explain in detail all of the reasons why it would
- e. Include all information whatsoever you relied on in reaching this determination.
- f. Include any other information you believe would assist the Government of Generic make findings regarding whether the proposed project is the least intrusive means of closing the significant gap claimed and described in 4.12, or to reduce the significant gap to be less than significant.

Designate this Exhibit, "Exhibit 4.15."

Initial here _____ to indicate that Exhibit 4.15 is attached hereto. Proceed to 4.20

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3. Attorney Jonathan Kramer's Generic Supplemental Application Form can be found on-line at: <http://telecomlawfirm.com/articles/pdf/generic.sitingpreapp.20100622.pdf>. See Page 7, Section 4.15.

Federal and Local Rationale for Recommendations

Just last year, the U.S. Ninth Circuit Court of Appeals, in *Sprint PCS Assets v. the City of Palos Verdes* (October 2009) and *T-Mobile v the City of Anacortes* (July 20, 2009), explained that the “effective prohibition”⁴ inquiry involves a “two-pronged” analysis requiring: (1) the showing of a “significant gap” in service coverage and (2) some inquiry into the feasibility of alternative facilities or site locations.

In *T-Mobile v the City of Anacortes*, the City conceded a significant gap existed, so the Court stated that the provider then had the burden of showing the lack of available and technologically feasible alternatives to close the gap, for instance, exploring and researching reasonable and viable alternative locations (called the “least intrusive means” standard).⁵ The Ninth Circuit noted that this standard:

allows for a meaningful comparison of alternative sites before the siting application process is needlessly repeated. It also gives providers an incentive to choose the least intrusive site in their first siting applications, and it promises to ultimately identify the best solution for the community, not merely the last one remaining after a series of application denials.⁶

This is what our new proposed Supplemental Application Form aims to accomplish. However, the Ninth Circuit Court of Appeals further explained:

A provider makes a prima facie showing of effective prohibition by submitting a comprehensive application, which includes consideration of alternatives, showing that the proposed WCF is the least intrusive means of filing a significant gap. **A locality is not compelled to accept the provider’s representations. However, when a locality rejects a prima facie showing, it must show that there are some potentially available and technologically feasible alternatives.**^{7, 8}

4. See *Sprint v Palos Verdes Estates*, U.S. Court of Appeals for the Ninth Circuit, October 13, 2009, p. 14551, <http://www.ca9.uscourts.gov/datastore/opinions/2009/10/13/05-56106.pdf>, and *T-Mobile v City of Anacortes*, U.S. Court of Appeals for the Ninth Circuit, July 20, 2009, p. 9221, on-line at: <http://www.ca9.uscourts.gov/datastore/opinions/2009/07/20/08-35493.pdf>. According to the Telecommunications Act of 1996, Section 332(c)(7)(B)(i)(II): “The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof...shall not prohibit or have the effect of prohibiting the provision of personal wireless services”; also see *Telecommunications Act of 1996*, FCC, p. 117, on-line at: <http://www.fcc.gov/Reports/tcom1996.pdf>
5. See *T-Mobile v City of Anacortes*, U.S. Court of Appeals for the Ninth Circuit, July 20, 2009, p. 9221, on-line at: <http://www.ca9.uscourts.gov/datastore/opinions/2009/07/20/08-35493.pdf>
6. See *T-Mobile v City of Anacortes*, p. 9222.
7. See *T-Mobile v City of Anacortes*, p. 9226.
8. Regarding the result of the 2-pronged analysis? In *Sprint PCS Assets v. the City of Palos Verdes*, the Court found substantial evidence proving Sprint’s existing network was functional. As a result, the Court affirmed: “Because we conclude that Sprint has not shown the existence of a significant gap as a matter of law, we do not reach the second element of the analysis.” In the case of *T-Mobile v the City of Anacortes*, the City conceded it had a significant gap, and failed to show the existence of some potentially available and technologically feasible alternative to the proposed location, and so the City’s denial was found in violation of this particular part of the TCA.

On a more local level, residents and/or local government officials from the neighboring communities mentioned in Section 1 took it upon themselves to find and propose alternative feasible and available locations that were the least intrusive on their communities and would still serve the coverage needs of the provider:

Glendale: resident Maggie McMahon suggested to City Council an alternative location with map overlay instead of the one proposed in front of her home. Watch her comments at Glendale City Council's Public Hearing on January 7, 2009, at 2:24:45, on Glendale TV, on-line at: http://glendale.granicus.com/MediaPlayer.php?view_id=12&clip_id=1227. As mentioned in Section 1, T-Mobile ultimately pulled out and did not build in front of the McMahon family's home.

Please read the Los Angeles County Board of Supervisors/L.A. County Counsel Final Finding and Order to Deny, included in our **Appendix** for your reference, in particular those Items relating to alternative siting:

View Park/Windsor Hills: please read Items 13, 19 and 22, 23, 33 and 43-45, addressing alternative siting:

44. The Board finds that the evidence showed that T-Mobile did not examine suggested alternative sites that could have provided additional coverage while being less intrusive in terms of visual and aesthetic impacts on the community.⁹

La Crescenta/Montrose: please read Items 12, 14, 15, 19 and 20; for instance:

19. The Board finds that Sprint/Nextel failed to conduct a meaningful comparison of alternative sites, instead zeroing in on what worked for Sprint/Nextel, rather than considering the community's interest in selecting a less intrusive site.¹⁰

Hacienda Heights: please read Items 12, 16, 17, 27; for instance:

17. Project opponents testified that specific proposed alternative sites were not investigated by T-Mobile. There are other SCE towers in the vicinity. One member of the Board stated that his staff had checked with SCE and was advised that T-Mobile had only inquired about two of the towers as possible alternatives.¹¹

9. View Park/Windsor Hills: L.A. Co. BOS/Co. Counsel Final Findings and Order to Deny, September 15, 2009, enclosed in **Appendix**, and on-line at <http://file.lacounty.gov/bos/supdocs/51099.pdf>.

10. La Crescenta/Montrose: LA Co. BOS/Co. Counsel Final Findings and Order to Deny, October 6, 2009, enclosed in **Appendix**, and on-line at: <http://file.lacounty.gov/bos/supdocs/51430.pdf>

11. Hacienda Heights: L.A. Co. BOS/Co. Counsel Final Findings and Order to Deny, March 9, 2010, enclosed in **Appendix**, and on-line at: <http://file.lacounty.gov/bos/supdocs/53564.pdf>

Thus, we recommend that our City suggest available alternative, and less intrusive sites than the location proposed, when needed, and when residents request this of the city. We also request that our City officials support residents' suggestions for alternative and less intrusive sites during the development, evaluation, public hearing process and/or appeal process.

In conclusion, being highly vigilant and attentive to this issue of alternative sitng is smart on two levels, protecting both the residents and City within the full extent of the law.

Epilogue

We will continue to provide additional residential recommendations, concerns and issues for the City Council, Planning Board and City Staff to consider as a follow-up to this report. We encourage further public hearings and study sessions on this complex subject.

Appendix

Supporting Documents

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Appendix:

**Excerpt from
*Sprint PCS Assets v. Palos Verdes
Estates* (Oct. 2009)
pp. 14551-14554
re: "significant" gap**

where it is supported by “ ‘such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.’ ” *Id.* at 725 (quoting *Town of Oyster Bay*, 166 F.3d at 494).

[9] The City’s finding that the proposed WCFs would adversely affect its aesthetic makeup easily satisfies this standard. The Council reviewed propagation maps and mock-ups of the proposed WCFs and a report that detailed the aesthetic values at stake. It had the benefit of public comments and an oral presentation from Sprint’s personnel. From the entirety of the evidence, one could reasonably determine, as the City did, that the Via Azalea WCF would detract from the residential character of the neighborhood and that the Via Valmonte WCF would not be in keeping with the appearance of that main entrance to the City. Consequently, we find that the City’s decision was supported by substantial evidence, and we reverse the district court.

B. Section 332(c)(7)(B)(i)(II)

[10] The TCA provides that a locality’s denial of a WCF permit application “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). “[A] locality can run afoul of the TCA’s ‘effective prohibition’ clause if it prevents a wireless provider from closing a ‘significant gap’ in service coverage.” *MetroPCS*, 400 F.3d at 731.⁷ The “effective prohibition” inquiry “involves a two-pronged analysis requiring (1) the showing of a ‘significant gap’ in service coverage and (2) some inquiry into the feasibility of alternative facilities or site locations.”⁸ *Id.* at 731. Because we conclude that Sprint has

⁷We focus on the “effective prohibition” clause because the City has not adopted a “general ban” on wireless services. *See MetroPCS*, 400 F.3d at 731. To the contrary, the City’s ordinance contemplates the construction of WCFs, and the City has repeatedly granted permits for WCF construction in the past.

⁸We have adopted the “multiple provider rule,” which focuses the “significant gap” inquiry on the issue of whether a particular provider is pre-

not shown the existence of a significant gap as a matter of law, we do not reach the second element of the analysis.

The district court's legal conclusion that Sprint established the existence of a "significant gap" rests on two purportedly undisputed facts: (1) "[w]ithout either facility, [Sprint's] network will contain significant gaps in coverage" and (2) existing wireless coverage in the City was "based on obsolete facilities needing replacement." These factual findings were insufficient to support summary judgment because they were disputed in the record below.

1. Significance of the Gap

"[S]ignificant gap' determinations are extremely fact-specific inquiries that defy any bright-line legal rule." *Id.* at 733. Yet Sprint and the district court take a bare-bones approach to this inquiry. The district court simply declared, as a matter of fact and fiat, that there was "a significant gap" in Sprint's coverage in the City. Sprint defends this factual finding on appeal, arguing that its presentation of radio frequency propagation maps was sufficient to establish a "significant gap" in coverage. We disagree.

Sprint's documentation stated that the proposed WCFs would provide "good coverage" for .2 to .4 miles in various directions. However, it remains far from clear whether these estimates were relative to the coverage available from existing WCFs or to the coverage that would be available if there were no WCFs at all (i.e., if the existing WCFs were removed). In any event, that there was a "gap" in coverage is certainly not sufficient to establish that there was a "significant gap" in coverage. *See id.* at 733 n.10 ("[T]he relevant service gap

vented from filling a significant gap in its own service coverage; the availability of wireless service from other providers in the area is irrelevant for purposes of this analysis. *MetroPCS*, 400 F.3d at 733.

must be truly ‘significant’ ”); *id.* at 733 (“The TCA does not guarantee wireless service providers coverage free of small ‘dead spots’ ”).

[11] The district court found that there was a “gap” in Sprint’s coverage but failed to analyze its legal significance. District courts have considered a wide range of context-specific factors in assessing the significance of alleged gaps. *See, e.g., Cellular Tel. Co. v. Zoning Bd. of Adjustment of the Borough of Ho-Ho-Kus*, 197 F.3d 64, 70 n.2 (3d Cir. 1999) (whether gap affected significant commuter highway or railway); *Powertel/Atlanta, Inc. v. City of Clarkston*, No. 1:05-CV-3068, 2007 WL 2258720, at *6 (N.D. Ga. Aug. 3, 2007) (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”); *Voice Stream PCS I, LLC v. City of Hillsboro*, 301 F. Supp. 2d 1251, 1261 (D. Or. 2004) (whether facilities were needed to improve weak signals or to fill a complete void in coverage); *Nextel Partners, Inc. v. Town of Amherst*, 251 F. Supp. 2d 1187, 1196 (W.D.N.Y. 2003) (gap covers well traveled roads on which customers lack roaming capabilities); *Am. Cellular Network Co., LLC v. Upper Dublin Twp.*, 203 F. Supp. 2d 383, 390-91 (E.D. Pa. 2002) (considering “drive tests”); *Sprint Spectrum, L.P. v. Town of Ogunquit*, 175 F. Supp. 2d 77, 90 (D. Me. 2001) (whether gap affects commercial district); *APT Minneapolis, Inc. v. Stillwater Twp.*, No. 00-2500, 2001 WL 1640069, at *2-3 (D. Minn. June 22, 2001) (whether gap poses public safety risk). Here, the district court said nothing about the gap from which it could have determined its relative significance (i.e., whether preventing its closure was tantamount to a prohibition on telecommunications service), nor did Sprint’s counsel offer any support for a conclusion that the gap was significant.⁹

⁹During oral argument, Sprint’s counsel was unable to explain satisfactorily on what basis the district court found that the gap was significant. He acknowledged that there was a dispute as to the significance of the gap in Sprint’s coverage within the City, and he even conceded that he had seen nothing in the record that led him to believe that the matter was uncontested.

2. Obsolescence of Existing WCF Network

We need not decide whether the TCA's anti-prohibition language even covers situations, like that presented here, in which a telecommunications service provider seeks to replace existing WCFs, as contrasted with the more typical situation in which the provider seeks to construct new WCFs. It is sufficient to note that the record does not establish the obsolescence of the old facilities as a matter of uncontested fact. Sprint's representatives not only failed to explain why the existing facilities were no longer usable, but they actually undermined that position by pointing out that those facilities were currently serving some four thousand residents and acknowledging at the public hearing that Sprint service was generally available in the City. Residents' comments at the public hearing and the drive test results contained in the staff report submitted to the Council further illustrate that Sprint's existing network was, at the very least, functional. Consequently, we reverse the grant of summary judgment in Sprint's favor on its § 332(c)(7)(B)(i)(II) "effective prohibition" claim.

C. Section 253

The district court also concluded that the City's ordinance was "preempted by the Supremacy Clause, insofar as it conflicts with section 253(a) of the Telecom Act." However, due to intervening changes in the law, this Supremacy Clause claim is no longer viable. *See Sprint Telephony PCS, L.P. v. County of San Diego*, 543 F.3d 571, 578 (9th Cir. 2008) (en banc) (overruling *City of Auburn v. Qwest Corp.*, 260 F.3d 1160 (9th Cir. 2001), and holding that "a plaintiff suing a municipality under section 253(a) must show actual or effective prohibition, rather than the mere possibility of prohibition" (citation omitted)); *see also City of Anacortes*, 572 F.3d at 993. Moreover, we need not decide whether § 253 contemplates "as applied" challenges. Insofar as Sprint seeks to advance an "as applied" challenge under § 253, we conclude,

Appendix:

Burbank Water & Power courtesy flyer



**City of Burbank
Burbank Water and Power**

Notice of Proposed Wireless Telecommunications Facility

The purpose of this notice is to inform you about a proposed wireless telecommunications facility in your neighborhood at Brace Canyon Park.

The proposed facility would be located in the northwest corner of the park behind the baseball field. The location is shown on the map on the back of this notice. The facility would be located in a grove of trees inside a fenced area.

T-Mobile West Corporation is requesting to enter into a lease agreement with Burbank Water and Power to construct the wireless facility on park property. The proposed facility would be a 35-foot tall pole with antennas, designed to look like a pine tree or "monopine." Equipment needed for the operation of the facility would be located at ground level next to the monopine and surrounded by a wall to completely screen the equipment from public view.

Burbank Water and Power has worked with T-Mobile West to find the most suitable design and location for the proposed facility. The facility will generally improve cell phone service for T-Mobile customers in Burbank and especially in the neighborhood around the proposed facility by helping T-Mobile fill gaps in its cell phone coverage.

The proposed facility complies with the Burbank Municipal Code, including zoning requirements. Public notice would not normally be required for this type of facility. However, because the facility will be located on Burbank Water and Power property in a public park, the City believes it is appropriate to provide notice to the neighborhood.

Additional information about the proposed facility, including plan drawings, are available for public review in the Permit Center located in the Community Services Building at 150 N. Third Street.

For further information, please contact Michael Thompson in Burbank Water and Power at **(818) 238-3500** or mthompson@ci.burbank.ca.us.

Please submit any comments you may have regarding the proposed facility to Michael Thompson no later than **Wednesday, October 7, 2009**. The Burbank City Council will consider the lease agreement with T-Mobile at a later date to be determined.

Appendix:

View Park/Windsor Hills documents re: coverage gap claims and alternative siting

- **Letter excerpt by Sally Hampton (read Item 8)**
- **Letter by Catherine Laws**
- **Transcript of Public Comment by Miriam Quam-Nakamura**
- **Los Angeles County Board of Supervisors/L.A. County Counsel Final Findings and Order to Deny for Project No. R2006-03164-(2), Conditional Use Permit Case No. 2007-00020-(2), September 15, 2009**

Their photo simulations also do not depict the reality of what the trellises will look like when raised (out of proportion they will no longer look like trellises), properly engineered to withstand the windstorms in our area (will no longer look like trellises), and covered with antennas and wires, which are very ugly no matter what color they are painted. **This scenario should also be compared to what this site is supposed to look like when the conditions of the alcohol permit are met.** The community is demanding these conditions be met immediately, as this is an entrance to our community and affects all of us. **Exhibit "2"** are letters received to date asking Supervisor Ridley-Thomas to take action to enforce the conditions of the alcohol permit. This effort was initiated by the Summerhill Blockclub president last week and we expect many more letters will be signed as they have a chance to distribute them. There is also a new petition with nearly 100 signatures already. This is in addition to the nearly 700 signatures already submitted on the prior petition asking for just a denial of the CUP permit.

5. We would like to remind the Commission of our numerous concerns with safety issues on the rooftop including the propane gas tank and the fact that fires are started by cell sites (e.g. the Catalina fires started when a cell tower was being serviced) and refer you back to our letter submitted at the last hearing that covers this section.
6. A resident in another community, who lives 70 feet from a T-Mobile cell site, testified at the hearing in Glendale that he is disturbed on a regular basis and at all hours by workers servicing the site. He is awakened by bright lights and voices calling out so loudly that he says he "knows what size wrench they are using." Yet, T-Mobile ignores his requests to maintain the appearance. As he knows well, industrial sites like these have no place close to homes. (his testimony can be viewed at Glendale's site: http://glendale.granicus.com/MediaPlayer.php?view_id=2&clip_id=1227)
7. The property owner is likely on record in support of this project because (1) it has a financial incentive to do so; and (2) it has signed a contract with T-Mobile and wishes to avoid potential legal repercussions should it take a position that undermines this contract. It is more important to note that the community at large and the CVS Corporation, trying to do business at the location, are strongly against this project.
8. Trillium's updated 'existing coverage' map now shows the site to the east as "on air" but why has it been moved on the map farther to the east away from the candidate site? In the prior map, it showed the central point of the site being at the end of S. Verdun and Slauson. Now it is quite a bit more to the east. Did this location change since the two maps were done? If not, why is it moved on the map?

The coverage areas around the sites are also smaller. Are we to believe that these sites provide less coverage now? Please compare the two coverage maps.

One of the sites that showed on their earlier map in red (in the area of W. 63rd St., and Overhill just S. of Slauson and near Overhill) has disappeared from the new map other than a very faint star. The commission did not ask about this site but the community had noted it, as it also covers some of the same areas of the candidate site.

We have just discovered another **T-Mobile site at Northridge between Southridge and Valley Ridge in the public right of way. This site and its projected coverage are also not showing on the new map. Why?** Installation began last week, which was how the neighbors found out. **No notices were received by anyone** in the near vicinity prior. **We believe this is improper procedure and expect it will be looked into immediately and the project put on hold.** (Can you check into this and get back to us, please?)

It appears T-Mobile/Trillium is withholding important information from the Commissioners and have manipulated the coverage map to avoid showing the area near the candidate site already getting good coverage. More importantly, residents already know for a fact that the area on their map that still shows all white for "no coverage" has very good coverage. One of the few residents with T-Mobile, who lives in the center of the claimed "no coverage" section, is able to make, receive and sustain calls inside

her home on her T-Mobile phone with no problems. We also drove the area several more times and had no issues with dropped calls using 3 different T-Mobile phones. How do their engineers explain that?

Where are their **studies and engineering data that can be verified to back up their claims?**

There is NO coverage gap and T-Mobile has provided no evidence that would hold up in a court to prove otherwise.

We know the project is unnecessary at this location and is not needed for coverage or to fill **existing** demand. Again, T-Mobile has provided absolutely no verifiable evidence to prove otherwise.

T-Mobile recently withdrew their application in Glendale. In that case, T-Mobile also claimed a gap existed and that the site was the only means available. Residents there also did their own field tests to prove good coverage already existed and the city of Glendale demanded verifiable documentation from T-Mobile. Suddenly their story changed and the gap disappeared.

T-Mobile's motives for entering our community are highly questionable. According to news releases, T-Mobile is losing market share and subscribers and wishes to drive demand by marketing **new services, e.g. broadband Internet, video/TV and their version of a "home phone."** All of us have and prefer these services delivered via landlines, cable and other wired infrastructure. It is also unwise to give up landlines when it is not necessary. Please see our attached **Exhibit "3"** for more information on all of the above. Fiber optic is far superior to wireless (faster and more stable) and enables the technology to expand. Should we have the right to choose?

9. **T-Mobile/Trillium's Exhibit B does not address technical alternatives,** e.g. roaming agreements or other less intrusive locations - farther from homes even if it means more expense for them to build a different type of site. (The courts have made clear that the location should be less intrusive for the community, not the company.) Should also be noted that the site mentioned above at 63rd and Overhill also falls within the range of their Exhibit B.
10. **T-Mobile/Trillium's property impact report is woefully inadequate.** We wish to address this more fully but, for now, will attempt to cover just a few key points in the interest of time. As I get more comments, I will forward immediately.

In the opening letter from Anderson & Brabant, Inc. it is stated that the equipment cabinets will not be "easily visible", which means they are still visible. There is no discussion of what the screening used to partially conceal antennas mounted on the side of the building will look like. What material will it be made of and how will it be maintained? There is no discussion of what the additional fencing required will look like and the engineering of the trellises is not addressed. Again, you can't just raise wooden trellises. In addition, the Warning/Safety Signage is not even addressed in this report but the signs will, or should be, very visible.

Comparing the parking lights to structures like the trellises once they are covered with antennas and wires, is quite frankly ridiculous. **And, again, simulations of what the roof top is supposed to look like with the landscaping done per the conditions of the alcohol permit is what we need to use as a comparison.**

On page 10 of the report illustrates that the trellis structures are already in view from nearby homes. Exactly. Currently they look like trellises meant for vines and with landscaping, will be quite nice and would fulfill their purpose. However, if this permit is approved, as already discussed these will no longer look like trellises. Raised out of proportion and blighted with antennas, they will become a very ugly eye sore for our residents and those entering our community.

On page 2 of the report, we are shown pictures at a great distance but even at the distance, the raised trellises look grossly out of proportion.

Exhibit 10

In Regards to T-Mobile Case at CVS Pharmacy

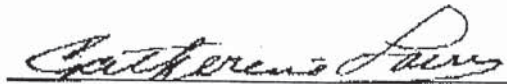
February 1, 2009

Dear Sirs and Madame Commissioners:

My name is Cathy Laws. I have resided at 4301 W. 59th Pl. in Windsor Hills for over 40 years. If you review the map provided, you will see my house is in the section of the T-Mobile coverage map that shows all white to denote no coverage indoors, in vehicles or outdoors.

I know this is untrue and T-Mobile has very good coverage here. As I testified before you December 17, 2008, I am a T-Mobile customer and exclusively use my cell phone for long distance calls inside my home. I never have a problem making or receiving calls inside my house and have talked for long periods with no problems.

Very Truly Yours,



Mrs. Catherine Laws
4301 W. 59th Pl.
Windsor Hills, CA 90043



The Meeting Transcript of
The Los Angeles County Board of Supervisors

1 ACCESS AND WOULD FAIL TO MEET F.C.C. GUIDELINES. ANTENNAS WERE
2 MEANT TO BE MOUNTED ON HIGH TOWERS FOR GOOD REASON. THESE
3 SITES SHOULD NOT BE DESIGNED BY T-MOBILE REPRESENTATIVES
4 RUSHING TO BE PAID A FEE. BUT BY RESPONSIBLE, INDEPENDENT
5 ENGINEERS WITH A BACKGROUND IF R.F. ENGINEERING. PLEASE DENY
6 THIS PERMIT. THANK YOU.

7

8 **MIRIAM NAKAMURA-QUAN:** HELLO. MY NAME IS MIRIAM NAKAMURA-QUAN,
9 AND I WOULD LIKE TO REMIND YOU THAT T-MOBILE TWICE SUBMITTED
10 MISLEADING HEIGHT REQUIREMENTS TO MAKE IT APPEAR THE PROJECT
11 MET THE HEIGHT LIMITS, MISLEADING TESTIMONY REGARDING 911
12 SAFETY, AND INCOMPLETE AND MISLEADING COVERAGE MAPS. T-
13 MOBILE'S FIRST COVERAGE MAP DID NOT INCLUDE COVERAGE FROM AN
14 ON-AIR SITE TO THE EAST. WHEN QUESTIONED BY COMMISSIONERS, THE
15 T-MOBILE REP ADMITTED THE COVERAGE MAP SUBMITTED WAS
16 QUOTE/UNQUOTE "OLD." BUT WHEN A NEW MAP WAS SUBMITTED, THIS
17 SITE WAS SUDDENLY MOVED FARTHER TO THE EAST. ANOTHER PENDING
18 SITE NOW ALIVE, THAT WAS PREVIOUSLY SHOWN, DISAPPEARED, AND
19 THE EXISTING COVERAGE DEPICTED IN THE OLD MAP WAS SHRUNK TO
20 STILL CREATE AN ILLUSION OF A GAP. MOST IMPORTANT, IS BOTH
21 MAPS SHOW THE LOCATION OF A HOME THAT BELONGED TO MRS. KATHY
22 LAWS IN AN AREA WHERE T-MOBILE CLAIMS NO COVERAGE EXISTS. SEE
23 SLIDE NO. 6 OF MY SUBMISSION DEPICTING HER HOME BY THE RED
24 SQUARE AND NOTE IN THE CENTER OF A WHITE CODED AREA WHICH
25 MEANS NO COVERAGE. MRS. LAWS TESTIFIED SHE REGULARLY MADE AND



The Meeting Transcript of
The Los Angeles County Board of Supervisors

1 SUSTAINED LONG DISTANCE CALLS INSIDE HER HOME ON HER T-MOBILE
2 PHONE AND PROVIDED COPIES OF HER T-MOBILE PHONE BILLS SHOWING
3 MANY CALLS LASTING LONGER THAN AN HOUR. YET ACCORDING TO T-
4 MOBILE, MRS. LAW SHOULD NOT BE ABLE TO MAKE EVEN A CALL
5 OUTDOORS, MUCH LESS INSIDE HER HOME. NEIGHBORS ALSO PROVIDED
6 EXTENSIVE EVIDENCE, VIDEO AND WRITTEN, OF MAKING AND RECEIVING
7 T-MOBILE CALLS IN AREAS ON T-MOBILE'S COVERAGE MAPS THAT
8 PURPORTEDLY LACK SUFFICIENT COVERAGE AND CAPACITY TO MAKE SUCH
9 CALLS. I WOULD ALSO TELL YOU THAT MANY OTHER COMMUNITIES
10 REPEATEDLY HAVE FOUND T-MOBILE'S COVERAGE CLAIMS TO BE
11 ABSOLUTELY FALSE. EVEN T-MOBILE'S OWN SITE SHOWS THE ENTIRE
12 SURROUNDING AREA WITH PERFECT VOICE AND DATA COVERAGE.
13 CLEARLY, T-MOBILE ALREADY ENJOYS SERVICE IN THIS AREA AND HAS
14 NO SIGNIFICANT GAP IN COVERAGE. PLEASE DENY T-MOBILE. THANK
15 YOU.

16

17 **SUP. KNABE, CHAIRMAN:** THANK YOU.

18

19 **SANDRA GOLDSMITH:** MY NAME IS SANDRA GOLDSMITH, AND I WOULD
20 LIKE TO COVER THE SIGNIFICANT SAFETY CONCERNS RELATED TO THIS
21 INDUSTRIAL SITE AND WHY IT IS INCOMPATIBLE IN A PREDOMINANTLY
22 RESIDENTIAL AREA. FIRST, A.B.C. NEWS REPORTED ON APRIL 26TH
23 THAT INVESTIGATIONS CONFIRM THE MALIBU FIRES WERE STARTED AS A
24 RESULT OF UTILITY POLLS "OVERBURDENED WITH HEAVY, WIND-
25 CATCHING CELLULAR ANTENNAS AND CABLES." POWER POLES THAT



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ROBERT E. KALUNIAN
Acting County Counsel

September 15, 2009

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

Agenda No. 2
06/23/09

The Honorable Board of Supervisors #15 SEPTEMBER 15, 2009
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Sachia Hamai
SACHIA HAMAI
EXECUTIVE OFFICER

Re: PROJECT NO. R2006-03164-(2)
CONDITIONAL USE PERMIT NO. 2007-00020-(2)
SECOND SUPERVISORIAL DISTRICT/THREE-VOTE MATTER

Dear Supervisors:

Your Board previously conducted a hearing regarding the above-referenced permit which sought to authorize the installation, operation, and maintenance of a wireless telecommunication facility. At the completion of the hearing you indicated an intent to deny the permit and instructed us to prepare findings for denial. Enclosed are findings for your consideration.

Very truly yours,

ROBERT E. KALUNIAN
Acting County Counsel

By *Elaine M. Lemke*
ELAINE M. LEMKE
Principal Deputy County Counsel
Property Division

APPROVED AND RELEASED:

John F. Krattli
JOHN F. KRATTLI
Senior Assistant County Counsel

EML:vn
Enclosure

**FINDINGS OF THE BOARD OF SUPERVISORS
AND ORDER
PROJECT NUMBER R2006-03164-(2)
CONDITIONAL USE PERMIT NUMBER 2007-00020-(2)**

1. The Los Angeles County ("County") Board of Supervisors ("Board") conducted a duly-noticed public hearing in the matter of Project No. R2006-03164-(2), consisting of Conditional Use Permit No. 2007-00020-(2) ("CUP") on June 23, 2009. The County Regional Planning Commission ("Commission") previously conducted a duly-noticed public hearing on the CUP on December 17, 2008 and February 18, 2009.
2. The applicant, T-Mobile, USA, Inc. ("T-Mobile"), requested the CUP to authorize construction, operation, and maintenance of an unmanned wireless telecommunications facility consisting of five panel antennas and one GPS antenna to be attached to two existing 14-foot-high trellises with a seven-foot height extension, four separate antenna panels to be attached to an existing parapet, and six BTS equipment cabinets. The trellises and parapet are located on the roof of an existing CVS Pharmacy building. The equipment cabinets were proposed to be located in a 304-square-foot area at ground level on the subject property, adjacent to the northern wall of the building under an extended portion of the rooftop parking area.
3. The subject property is located at 4501 West Slauson Avenue in the unincorporated area of the County in the View Park Zoned District. The property is located on the corner of Overhill Drive and West Slauson Avenue.
4. The subject property is designated as "Major Commercial" in the Los Angeles County General Plan ("General Plan"). Typical land uses for this classification include central business districts, regional office complexes, major shopping malls and centers, and a range of mixed commercial retail and service activities. The intent of this classification is to situate commercial activities in viable clusters that conveniently serve their market areas and provide sufficient commercial lands to accommodate the projected work force.
5. There are no specific policies related to unmanned wireless telecommunication facilities in the General Plan. The Land Use element of the General Plan, however, identifies among its goals: the maintenance and enhancement of existing residential neighborhoods and encouragement of high quality design in projects to be compatible with, and sensitive to, the natural and manmade environment.
6. The subject property is zoned C-2 (Neighborhood Business).

7. Surrounding properties are zoned as follows:

North: C-2 and R-1 (Single-Family Residence)
South: C-2
West: C-2
East: C-2 and R-3-P (Limited Multiple Residence – Parking)

8. The subject property is a 33,810-square-foot lot developed with the aforementioned CVS Pharmacy ("CVS") building with a total of 61 parking spaces. The property is located within an urban area surrounded in all directions by primarily single-family residential properties, including some adjacent parcels, and commercial properties to the east and to the west.

9. Title 22 (Zoning Ordinance) of the Los Angeles County Code ("County Code") does not specify wireless telecommunications facility as a use. Therefore, the Department of Regional Planning ("Regional Planning") has determined that the most similar use specified in the Zoning Ordinance is "radio or television tower," which may be allowed in the C-2 zone with a CUP. Accordingly, a CUP is likewise required for all wireless telecommunication facilities in the C-2 zone.

10. A conditional use permit for the same property at issue in this case, which authorized the sale of beer and wine for off-site consumption ("Alcohol CUP"), was approved on April 24, 2000, for what was then a Sav-on Pharmacy. Said Alcohol CUP remains in effect. One of its conditions requires: "Trellis structures shall be erected along the perimeter of the rooftop parking area in order to provide screening and aesthetics. The trellises and the northerly, easterly, and westerly faces of the building shall be planted with fast growing vines to soften the walls of the building and to provide relief from abutting streets and from the adjacent residential properties."

11. Prior to the above-referenced Board and Commission hearings, an initial hearing was held by a hearing officer on January 17, 2008, who approved the CUP. Pursuant to section 22.60.200 of the County Code, the Commission timely called up that approval for review and a public hearing thereon was held on April 9, 2008 and June 18, 2008, when the Commission closed the public hearing and approved the project. The Board then timely called up that Commission decision for review and a hearing was held before the Board on September 23, 2008. After hearing public testimony and closing the public hearing, the Board referred the case back to the Commission for further review and directed consideration of certain issues, leading to the hearings identified in Finding No. 1 above.

12. Proper and legal notice was provided by the County for all of the public hearings held regarding the CUP.

13. At the initial Commission hearing on April 9, 2008, three representatives of T-Mobile testified in favor of the CUP. Thirteen residents testified in opposition to the project and a petition with 300 signatures opposing the CUP was submitted. Among issues raised by project opponents were assertions that adequate wireless coverage existed in the proposed coverage area and that T-Mobile failed to consider alternative sites or co-location at other wireless facility sites.
14. The Commission continued this public hearing to June 18, 2008, and requested T-Mobile to meet with residents regarding their concerns and issues, provide a study of the property values of homes on the nearby hillside, and provide a study on radio frequency emissions. T-Mobile held a meeting in the community attended by a limited number of individuals and provided an updated study on anticipated radio frequency emissions from the proposed project, but did not provide the requested property values study. Instead, T-Mobile offered to provide an evaluation of properties outside of the area, comparing values before and after the installation of a wireless facility, which concluded that the installation of wireless facilities would not impact property values.
15. At the continued Commission hearing on June 18, 2008, all commissioners were present. Three T-Mobile representatives presented testimony in favor of the request and answered questions presented by the Commission. Among the information provide by T-Mobile was the importance of wireless with respect to "911" emergency calls and that the area had a significant number of such calls. One member of the public testified in favor of the project. Seven members of the public testified in opposition to the project. The opposition raised issues regarding the legitimacy of the applicant's claim regarding 911 calls in the area, improper notification for the community meeting, and failure to provide the requested hillside view property values study. They also testified and presented evidence showing that the proposed CUP did not meet the zoning height requirement. The opposition also took issue with the Radio Frequency-Electromagnetic Energy Compliance ("RF-EME") Report presented by T-Mobile and submitted their own information showing a lack of compliance with Federal Communications Commission Guidelines. Correspondence opposed to the CUP was also received expressing the same or similar concerns.
16. After closing public testimony, one commissioner made a motion stating that the CUP was incompatible with the existing character of the neighborhood, that the CUP would be detrimental to the community, that the concerns of the community greatly outweighed the need for this type of development, and that staff be instructed to return with findings for denial. The motion was seconded, but failed due to lack of majority vote. Thereafter, a second motion was made, and approved on a 3-2 vote, to grant the CUP with changes to Regional Planning's proposed findings and conditions as agreed to by T-Mobile.

17. The Board then called up that Commission decision for review and held a public hearing thereon on September 23, 2008. At the public hearing, the Board received support testimony from three T-Mobile representatives and opposition testimony from 10 residents, including one representing the Windsor Hills Homeowners Association and the United Homeowners Association.
18. At this first Board hearing, T-Mobile testified that there was a coverage gap and that it had explored four alternatives to the proposed site, all within two blocks of that site, including three other commercial buildings, but that the owners of those buildings were not interested. T-Mobile testified that these other options all would have included disguised monopoles, which T-Mobile asserted made the sites more intrusive than the proposed CVS site. The fourth option was an existing utility pole located in the right-of-way at the same corner as the CVS. T-Mobile indicated the pole was not a viable option because their equipment did not fit nor did it meet the coverage objectives of T-Mobile's engineer. T-Mobile's engineer identified criteria used in selecting a site, which was: (1) customer complaints; (2) a drive test; (3) current site performance; and (4) in certain areas, co-location. T-Mobile further testified that the site "was a prime location for the facility as it will provide and meet the coverage objections of our R.F. Engineer."
19. Opponents objected that T-Mobile had not considered other possible sites and had placed its coverage needs above the community's request for a less intrusive site. Testimony was also given regarding the negative impact of the proposed facility on the views for adjacent and nearby hillside homes. One resident testified that the antennas would be immediately across from their breakfast and dining rooms and that raising the trellises another seven feet would obstruct that view.
20. Opponents also contested T-Mobile's claim of a coverage gap. The evidence received on this issue included written comments which described coverage tests conducted by residents in six areas where T-Mobile's coverage map showed no coverage. Those resident tests revealed that calls were successfully made and received in such areas in buildings, in vehicles, and outside with no dropped calls when driving from one location to another.
21. Opponents testified that despite the aforementioned condition of the Alcohol CUP regarding visual screening, no vines were ever grown on the trellises. Submitted photos verified that claim. They testified that adding antennas and raising the height of the trellises would further blight the view.
22. Opponents testified that prior to T-Mobile's application to the County, a permit for a site only four to five blocks away was denied by the City of Los Angeles, the written decision for which also identified other sites that T-Mobile could consider. T-Mobile testified it did not have information available to respond to this claim at the hearing. T-Mobile never provided a response on that issue during the administrative process.

23. Opponents also suggested that T-Mobile should explore as a site alternative the intersection of La Brea and Stocker, which is not surrounded by homes. T-Mobile did not respond to this suggestion at any time during the administrative process. Opponents also testified, and provided documents in support thereof, to bolster their contention that the raised trellises would exceed the County's height limits. Finally, a representative for CVS stated that CVS opposed the installation and asserted that such an installation would be a violation of their lease with the property owner.
24. After all testimony, the Board closed the September 23, 2008 public hearing, and referred the matter back to the Commission with instructions to the Commission related to clarification, information, and evaluation regarding view impacts on the surrounding neighborhood, co-location opportunities, alternative sites, and impact on 911 emergency call service.
25. The Commission held a de novo public hearing on December 17, 2008. All Commissioners were present. No changes had been made to the proposed CUP that was initially approved by the Commission on June 18, 2008. At the de novo hearing, the applicant failed to submit all of the additional information that had been requested by Regional Planning after the Board hearing.
26. The Commission continued the hearing to February 18, 2009, to allow the applicant to submit requested additional information. The requested additional information included: a response from the Public Utilities Commission regarding possible investigation of T-Mobile related to this site and a response from the property owner regarding lease issues. From T-Mobile, it requested a view impact-property value study, additional simulation of view impacts, an updated service coverage map, a list of possible co-location sites and alternatives, and an explanation of industry standards for co-location.
27. The applicant submitted materials in response to the Commission's request on February 5, 2009. The Commission considered the additional information submitted by the applicant, including the property impact appraisal and height analyses. The Regional Planning staff report for the February 18, 2009 hearing concluded that the proposed trellises would exceed the 35-foot height limit of the zoning code.
28. At the February 18, 2009 continued public hearing, all Commissioners were present. Three T-Mobile representatives presented testimony in favor of the request. The testimony in favor included the following: the wireless telecommunications facility is proposed in response to customer demand, the view impact of the proposed antenna is similar to existing light poles, and the applicant is willing to reduce the height of the proposed trellises by 1.7 feet to meet the height limit after staff determined that the proposed height did exceed the limit.

29. Twelve persons, including representatives of the Windsor Hills Homeowners Association and the Baldwin Hills Homeowners Association, testified in opposition to the project. The opposition testimony included the following issues: locating antennas on the trellises would violate conditions of approval of the prior Alcohol CUP; the proposal does not meet the height limit; the case has created conflict within the community and thus disturbed the peace, comfort, and welfare of the community; the Commission has the authority to deny the case; a similar wireless site was proposed by T-Mobile only four blocks from the proposed site in the City of Los Angeles and denied; CVS is opposed to this case and is losing business as a result of this case; T-Mobile has adequate coverage in the area; 911 emergency service is available even without a carrier; and a 16-member consortium is organized against T-Mobile's proposals.
30. There being no further testimony, one of the Commissioners made a motion to close the hearing and to deny the CUP for the following reasons: the CUP may have a negative impact on property values, the conclusions in the value impact analysis presented by T-Mobile were provided by a San Diego appraisal firm who may not adequately understand the real estate market in the neighborhood impacted by this site, CVS opposes the CUP and may take legal action to enforce the terms of its lease, and CVS may close its business leaving a vacant site leading to blight. The Commission voted 3-2 to approve the motion and thus deny the CUP.
31. T-Mobile timely appealed the Commission's denial to the Board. A de novo hearing was held by the Board on June 23, 2009. Regional Planning staff identified the procedural status of the case and briefly identified the main issues claimed by both T-Mobile and project opponents. Twelve people testified, three on behalf of, and in support of, T-Mobile and nine in opposition.
32. T-Mobile representatives testified that there was a "significant gap" in coverage in the area, described as "spotty" coverage and advised that calls will be dropped, there was no view impact; an appraisal showed no impact on home values, and T-Mobile had agreed to lower the trellises to comply with the height limit as determined by Regional Planning. T-Mobile had submitted coverage maps, as it had at previous hearings, as well as other documents.
33. Opposition testimony focused on: (1) T-Mobile's claim of a coverage gap, which opponents disputed; (2) violation of the existing Alcohol CUP condition; (3) view impacts; (4) existence of unexplored other options; and (5) CVS' opposition to the project. In addition to oral testimony, the opponents noted that nearly 900 signatures had been gathered on petitions opposing the CUP.
34. More specifically as to coverage, testimony was presented along with written evidence that people with T-Mobile wireless phone service were able to consistently make and receive calls both inside buildings (homes) and outside in areas where T-Mobile's coverage maps had indicated no coverage existed. Testimony also was given that the coverage maps submitted by T-Mobile were

incomplete and misleading, identifying inconsistencies between maps submitted at different times, including that some existing wireless facility sites appeared to have been in different locations on the different maps and that the coverage area shown had decreased in later-submitted maps. One witness testified that T-Mobile's own website showed "the entire surrounding area with perfect voice and data coverage," which conflicted with the coverage maps submitted to the County by T-Mobile.

35. Opponents testified that increasing the height of the unadorned trellises and attaching antennas to them would negatively impact views. Increasing the height of the already 14-foot-tall trellises would only worsen their negative appearance and make them even more noticeable. Photographs from area homes were submitted in support of these statements.
36. Opponents again identified the condition of the Alcohol CUP requiring vines to be grown on the trellises and testified that there had not been compliance with that condition. The purpose of the foregoing trellises was to improve the aesthetics of the building and screen the rooftop parking. It was further stated that allowing installation of antennas on the trellises would effectively prohibit compliance with the condition requiring vines.
37. The Board finds that the proposed project exceeds the 35-foot height limit specified in section 22.28.170 of the County Code for structures in the C-2 zone.
38. The Board finds that the proposed project as a whole is out of character with the surrounding neighborhood and will result in visual blight for the surrounding community.
39. The Board finds that the proposed project, even if its height were limited to 35 feet, would still significantly increase the height of the trellises resulting in a negative visual impact for the surrounding community.
40. The Board finds that the property is not in compliance with the conditions of its Alcohol CUP because the trellises on the building are not planted with fast growing vines, or any vines, as required by the CUP. Thus, the Board finds that section 22.04.110 of the County Code, which prohibits approval of a project if the property is being operated in violation of a land use permit, is applicable.
41. The Board finds that placement of antennas on the trellises would preclude compliance with the vine-growing condition in the Alcohol CUP.
42. The Board finds that there is not a significant gap in T-Mobile coverage in the area surrounding the proposed site. The Board alternatively finds that if there is a significant gap in coverage that T-Mobile failed to present adequate evidence to make such a showing, that T-Mobile's own website aimed at signing up customers shows the area to have complete coverage, and that the contrary evidence submitted by project opponents, which showed no gap, was credible and much of that evidence was not responded to by T-Mobile.

43. The Board finds that T-Mobile failed to conduct a meaningful comparison of alternative sites, only analyzing four other possible sites that met T-Mobile's needs, rather than the community's interest in selecting the least intrusive site.
44. The Board finds that the evidence showed that T-Mobile did not examine suggested alternative sites that could have provided additional coverage while being less intrusive in terms of visual and aesthetic impacts on the community.
45. The Board finds that none of the four alternatives examined by T-Mobile were feasible.
46. The Board finds that the proposed project is inconsistent with the following goals of the General Plan, Land Use Element: maintenance and enhancement of existing residential neighborhoods and encouragement of high quality design in projects to be compatible with, and sensitive to, the manmade environment.
47. The Board finds that the appraisal provided by T-Mobile does not prove that the proposed wireless telecommunication facility will not have a negative impact on property values because the analysis is based on discussion of four properties, most of which are located in lesser neighborhoods.
48. The Board finds that CVS, the lessee of the building on which the antennas would be erected, opposes the CUP and has indicated that it may take legal action against the property owner to enforce the terms of its lease.
49. The Board finds that CVS has been negatively impacted by the proposed CUP and would be further impacted if the CUP were approved, which could lead to its closure and site vacancy leading to blight.

BASED ON THE FOREGOING, THE BOARD OF SUPERVISORS CONCLUDES:

1. The proposed use is not consistent with the adopted general plan for the area;
2. That the requested use at the proposed location will adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding area; and
3. That the requested use will be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site.

THEREFORE, THE BOARD OF SUPERVISORS:

1. Denies Project No. R2006-03164-(2) consisting of Conditional Use Permit No. 2007-00020-(2).

Appendix:

La Crescenta/Montrose documents re: coverage gap claims and alternative siting

- **Appeal: Read Reason for Appeal by Glenn Workman**
- **Letter by Workman Family and Neighbors;**
- **Transcript: Public Comments by Glenn Workman and Elise Kalfayan**
- **Final Findings and Order to Deny for Project No. R2004-00805-(5), Conditional Use Permit Case No. 2007-00051-(5)**

Date 8/10/2008

Mr. Don Ashton
Deputy Executive Officer
Los Angeles County Board of Supervisors
Room 383, Kenneth Hahn
Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Mr. Ashton:

Subject: Appeal of Project No. R2004-00805-(5)

Use: Conditional Permit No. 200700051-(5)

RPC Decision 7/30/2008

Address 2540 Foothill Blvd., La Crescenta, Ca.

Montrose Zoned District

Related zoning matters:

Tract or Parcel Map No. 5810-001-033

Change of Zone Case No. _____

Other _____

This is a notice of appeal from the decision of the Regional Planning Commission on:
(Check One)

The Denial of this request

The Approval of this request

The following conditions of the approval:

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Effective 07/04/08

Briefly, the reason for this appeal is as follows:

The community and tenants of the building came to all hearings and voiced strong disapproval of this project. We provided adequate proof and cited cases of Hottokus stating that adequate coverage existed and that the applicant needed to prove that Co-Location was not an option and cite Co-Location attempts. The CV Town Council also has been requesting that these companies Co-locate. The RPC recently approved a 60 foot Monopole within 1000-1500 feet of this project and it already exists and is operational. They could have Co-located there but showed no proof that they attempted to Co-locate. The Board ignored the Community and also chose to have the Cell Company educate them on undisputed facts they provided with no rebuttals. This should have been the RPC requesting to insist that the applicant move to the Co-locate facility since it exists in the circle of coverage that the Cell Company failed to mention to the Board. The Board failed on this one.

Enclosed is a check (or money order) in the total amount of \$ 775.00.
The amount of \$1,548.00 for applicants or \$775.00 for non-applicants is to cover the Regional Planning Department's processing fee.

FILED

2008 AUG 13 PM 2:34

BURBANK COUNTY COMMUNITIES

Glenn R. Workman
(Signed) Appellant

Glenn R. Workman
Print Name

2526 Community Ave
Address

Montrose, Ca. 91020

818-248-5205
Day Time Telephone Number

S:\2008 AOZ Section Forms\Appeal Land Use Permits.doc
Effective 07/04/08

I feel that the Board heard the Cell Company prey on the Recent Earthquake and gave some statistics that implied that if they had more cell sites there would not have been such downtime. They are not building this system to be ready or handle Emergencies it is for increased revenues. I am in communications and I know that I could have rebutted to make the Board ask more valid questions but was not given the opportunity to speak anymore. I tried and they had to send someone to tell me I was done. This was UNFAIR!

Harkins, Dennis

From: Glenn R. Workman [glenn@ipcomLA.com]
Sent: Monday, June 30, 2008 8:44 AM
To: Harkins, Dennis
Subject: LA County Planning Commission Letter for 07092008

Dennis,
I apologize for not getting this to you sooner. I have been preparing for the next meeting on July 9th and realized I had not gotten this to you yet.

**Workman Family
and Neighbors**

2526 Community Ave.
Montrose, Ca. 91020

June 30, 2008

**Department of Regional Planning
County of Los Angeles
320 West Temple St.
Room 150
Los Angeles, Ca. 90012
Attn: Dennis Harkins**

RE: Project Number R2004-00805-(5)

Dear Sir or Madam:

We the residents of 2526 Community Ave., Montrose, Ca. and the surrounding neighborhood and neighbors would like to protest the Project Number R2004-00805-(5) and Conditional Use Permit Number 200700051-(5). We have come to all meetings since March 4, 2008 and have repeatedly opposed this project.

The Cellular Industry is out of control as it tries to expand its range of services trying to compete with the local Telephone Companies and gain significant market share not to improve services but to expand new services for increased revenue. The Telecom Act of 1996 has allowed them to continue this out of control behavior by depriving the local jurisdictions and citizens of these localities, rights granted to us by the constitution. In many jurisdictions around the country for the past decade, the cellular companies have faced fierce opposition to facilitate placements and have had many legal battles that indicates the growing dissatisfaction with siting decisions. Despite all this opposition, the Cellular Industry has flourished beyond expectation.

Local Jurisdictions have been legally battered by Federal Court Rulings with many restrictions and in many cases long-term appeals that favor the Cell Providers. Local Planning Boards follow many of these cases and seem to blindly approve the requests without first requiring a Public Forum in the locality offices inviting public comment. The cellular providers are requesting more and more sites with little to no resistance in conquered jurisdictions and localities.

La Crescenta has many Cell Sites consisting of both Towers and Antennae Locations, which allows us to say that we have allowed change to happen. If you look at the maps that Sprint provides on their websites, the coverage areas and strength indicators depict a relatively healthy system in the chosen area proposed by this project. To back up this data, I have previously referred to Rob Perez's findings as given to him by Sprint's RF Engineer to justify the need for a new facility. The stats given by the Optimization/Performance Engineer are; **4% Dropped Calls** (Acceptable Level is **1%**), **3% Blocks** (Acceptable Level is **1.2%**) I again must bring the Argument that any Business must try to achieve perfection but if the levels of service are at **96-97%**, I believe they are doing Very Well. We are insisting that nothing looks broken here. In their own words, they are at Acceptable Levels and service is sufficient.

I would like Board Consideration to the 3rd Circuit, in Ho-Ho-Kus, 197 F.3d 64 (1999) held that a town may completely ban wireless facilities in a borough or neighborhood, so long as wireless facilities outside the neighborhood provide "adequate coverage" within the neighborhood. Id. At 71. Furthermore, "adequate coverage" means there are no significant gaps in the availability of wireless service, or the ability either to connect with the land based national network or to maintain a connection capable of supporting a reasonable uninterrupted communication. Id. at 70. Notice that this definition of "adequate coverage" refers to wireless communication in general, not to gaps in the particular applicants network, in other words, there is "adequate coverage" in an area if one could maintain wireless communication through any provider, not just the applicant, the term "significant gap" refers to the coverage provided by the sum of all providers.

At the last meeting, I provided a small chart showing statistics of our own studies using a Sprint and Verizon phone and the results were good for one mile in either direction. This would substantiate the Sprint Optimization Engineers findings and conclude that 96-97% efficiency is adequate. We feel this was an appropriate test to validate adequate coverage even though we did not arbitrarily just conclude that landline services were good and Verizon Cellular was equally adequate we wanted to be fair and balanced so we included their service as well. The test was done in a moving vehicle with three people, a driver and one each Sprint and Verizon wireless tester.

The Project proposal for 2540 Foothill Blvd. also poses other serious concerns for our community. The Building height is already high enough and just barely allows some surrounding neighbors to barely see the spectacular views the mountain ranges have to offer. One of the neighbors daughters bedroom window looks at the roofline of the building and allows the view currently of the mountains, if the wall goes up it would totally block her view and I think that creates a serious problem to a young growing child's perception of scenic beauty.

In the last year, there have been many Planning Commission Denials of Cell Tower Applications. On July 3, 2007, the South Berkley ZAB rejected Verizon Wireless and Nextel Communications for the placement of 11 Cell Antennas at a storage building site for the second time because they failed to prove inadequate service levels.

On October 9, 2007, the Diamond Bar Planning Commission denied a request for Sprint/Nextel to place a Cell Tower at Ronald Regan Park on the grounds of their failure to convince the board that a "significant gap" existed as defined by the Telecommunications Act of 1996.

On December 17, 2007, Verizon Wireless was denied to place a Cell Tower in an R1 District in North Annville Township, Pa. Verizon tried to use an analogy that a Cell Phone Tower is similar to a principal utility structure and to a municipal structure, which would allow its use in an R1 District. The court found that the Cell Phone Tower could be placed in Commercial Districts, but held that the zoning ordinance was not de jure exclusionary.

In our community, we have spent a lot of time and effort opposing this project when the real burden should be on the Cellular Companies to show that no less intrusive alternatives are available. Our community leadership has for years stated that the Cellular Companies should first and foremost look to Co-locate. This leads us to the Facts of Entitlement. If we allow any site to be approved it automatically becomes an embedded site which now becomes one of the sites to become Co-Location points, so there is definitely an Entitlement that goes along with being an Approved Project. Again, we reject this project based on "adequate coverage" and "no significant gap" clauses.

We also would like to be helpful to the Los Angeles County Regional Planning Commission to try and invoke change in the State of California and even at the Federal Level to urge an awareness that there needs to be Documentation of Current Cell Sites and Future Cell Sites so that the Wireless Topography of our Landscapes can be managed and explained as the airwaves and signals continue to be sliced and diced. The process should be like all formal permit and design approval requests and that they are part of the public record against

properties or locations.

Sincerely,

Glenn R. Workman

Citizen of Los Angeles County



The Meeting Transcript of
The Los Angeles County Board of Supervisors

1

2 **SUP. KNABE, CHAIRMAN:** IF THEY'RE NOT SIGNED UP, THEY CAN'T
3 GIVE IT TO YOU. CHRIS WORKMAN, OKAY. WHO ELSE?

4

5 **GLENN WORKMAN:** A PERSON WHO DIDN'T SIGN UP.

6

7 **SUP. KNABE, CHAIRMAN:** OKAY, WILL THEY FILL SOMETHING OUT?

8

9 **GLENN WORKMAN:** HE WILL FILL SOMETHING OUT, YES.

10

11 **SUP. KNABE, CHAIRMAN:** AND YOU ARE?

12

13 **ELISE KALFAYAN:** MY NAME IS ELISE KALFAYAN, I'LL GIVE UP--

14

15 **SUP. KNABE, CHAIRMAN:** ALL RIGHT, SO GIVE HIM FOUR MINUTES,
16 THEN. GO AHEAD. EXCUSE ME. GIVE HIM FIVE. FIVE, I'M SORRY.

17

18 **GLENN WORKMAN:** MY NAME IS GLEN WORKMAN. I AM A COMMUNICATIONS
19 PROFESSIONAL, SO I'M EXPERIENCED IN THE FIELD. I'M NOT A
20 WIRELESS COMMUNICATIONS SPECIALIST, BUT I'VE BEEN DOING
21 COMMUNICATIONS FOR 35 YEARS. WHEN WE FIRST OPPOSED THIS
22 FACILITY, WE BROUGHT TO THE BOARD THE IDEA THAT THERE'S
23 ALREADY SUFFICIENT COMMUNICATION, OR SUFFICIENT COVERAGE IN
24 OUR AREA. WE PRESENTED DATA TO BACK UP THAT REQUEST, OR BACK
25 UP THAT STATEMENT. AND I DON'T THINK THE BOARD EVEN CONSIDERED



**The Meeting Transcript of
The Los Angeles County Board of Supervisors**

1 IT. WHEN SPRINT CAME UP TO SPEAK CONCERNING THAT, THEY TOTALLY
2 CHANGED THE -- THEY HAD PROVIDED ME WITH DATA THAT SAID THEY
3 WERE ASKING FOR THIS SITE BECAUSE OF POOR NUMBERS OR POOR
4 RESULTS, WHICH SHOWED 96 PERCENT TO BE THE WORST RESULT THAT
5 THEY HAD. I FELT THAT THAT WAS PRETTY GOOD. AND OUR RESULTS,
6 DRIVING AROUND AND PROVIDING TO IT THE BOARD, PROVED THAT
7 THERE WAS SUFFICIENT COVERAGE. WE WERE ALSO STRAPPED WITH THE
8 LAST MEETING WHERE WE HAD JUST HAD THAT EARTHQUAKE JUST DAYS
9 BEFORE THE MEETING, AND THE BOARD MEMBERS, I FELT, WERE
10 CONCERNED IN THAT AFTER THAT EARTHQUAKE, THEY COULD NOT GET A
11 CELL SIGNAL TO MAKE A CALL FOR SEVERAL MINUTES. WELL, THEY
12 THEN ALLOWED SPRINT TO SPEAK TO EDUCATE THEM, I FELT, FOR
13 ABOUT 30 MINUTES ON A TOTALLY DIFFERENT ISSUE, SAYING THAT THE
14 REAL ISSUE WAS THAT PEOPLE IN THEIR HOMES AND BUSINESSES COULD
15 NOT GET A GOOD SIGNAL, WHICH, IT WAS TOTALLY AGAINST WHAT THE
16 ORIGINAL STATEMENT WAS. I DID NOT GET A CHANCE TO REBUT ON
17 THAT ISSUE. I DON'T KNOW WHAT THE REASON WAS, BUT THEY GOT ALL
18 THE TIME IN THE WORLD TO SUPPORT A CASE THAT WE WERE NEVER
19 PART OF. SO I THINK THAT THAT WAS KIND OF A BLOW TO OUR CASE
20 IN THAT HAD WE NOT HAD THAT EARTHQUAKE -- ON LAND LINES, WE
21 WERE ABLE TO GET OUT RIGHT AWAY. SO, EVEN NOW IF THAT
22 EARTHQUAKE HAPPENED AGAIN TODAY, IT WOULD NOT CHANGE THE FACT
23 THAT YOU STILL COULDN'T GET A CELL SIGNAL FOR SEVERAL MINUTES,
24 BECAUSE THE CELL COMPANIES ARE NOT HERE TO PROVIDE 911 OR
25 EMERGENCY COVERAGE FOR US. THEY'RE HERE TO PROVIDE MORE CELL



The Meeting Transcript of
The Los Angeles County Board of Supervisors

1 SITES TO GET ADDITIONAL SUBSCRIBERS. SO WE DO HAVE ADEQUATE
2 COVERAGE. NOW, I HAVE A POSTER HERE WHERE CELLULAR
3 COMMUNICATIONS HAS REALLY EVOLVED IN THE LAST COUPLE OF YEARS.
4 AND IT'S MOVING SO FAST THAT THERE REALLY ARE NO ISSUES --

5

6 **SUP. ANTONOVICH:** IT'S UPSIDE DOWN. THE OTHER ONE'S UPSIDE
7 DOWN.

8

9 **GLENN WORKMAN:** THESE I'VE GOT SEVERAL THAT ARE PICTURES. IT
10 MIGHT HELP IF I COULD PASS THESE AROUND.

11

12 **SUP. ANTONOVICH:** STEVE? SERGEANT?

13

14 **GLENN WORKMAN:** IF YOU GUYS COULD LOOK AT THAT THAT WAY, THAT
15 WOULD SAVE ME A LITTLE BIT OF TIME. BUT RIGHT HERE WE HAVE,
16 AND BECAUSE I'M A COMMUNICATIONS PROFESSIONAL, WE DO THIS ON A
17 FREQUENT BASIS. AND ALSO MY PEERS DO THIS ON A FREQUENT BASIS.
18 THERE ARE DEVICES IN THE MARKETPLACE NOW THAT ALLOW BUSINESSES
19 AND RESIDENCES TO PURCHASE THESE CELLULAR REPEATERS. YOU CAN
20 CALL ANY COMPANY, YOU CAN GO TO ANY STORE, YOU CAN GET THEM
21 ONLINE. AND INDIVIDUALLY YOU CAN GO OUT AND GET ONE OF THESE
22 AND HAVE ANYBODY INSTALL IT WHERE YOU HAVE POOR CELL
23 PERFORMANCE INSIDE YOUR BUILDING. YOU CAN PUT UP ONE OF THESE
24 REPEATERS AND YOU CAN HAVE THE SIGNAL THAT YOU DESIRE. IF
25 YOU'RE A SPRINT CUSTOMER, YOU CAN GET A SPRINT UNIT. IF YOU'RE



The Meeting Transcript of
The Los Angeles County Board of Supervisors

1 AN AT&T CUSTOMER, YOU CAN GET AN AT&T UNIT. SO YOU CAN HAVE
2 EXACTLY WHAT YOU WANT. AND OUTSIDE YOUR BUILDING THE SIGNAL
3 DOESN'T HAVE TO BE GREAT. THIS WILL AMPLIFY IT FOR YOU. SO
4 THERE ARE ALTERNATIVES. THEY SAY THAT THEY NEED TO GO OUT HERE
5 AND PUT A CELL SITE UP HERE. BUT SIMPLY BY THEM PUTTING THAT
6 CELL SITE UP DOESN'T MEAN THAT YOU'RE GOING TO GET BETTER
7 COVERAGE INSIDE YOUR HOME OR YOUR BUSINESS. SO THERE ARE
8 ALTERNATIVES OUT THERE THAT ARE AVAILABLE. WE DON'T HAVE TO GO
9 THAT ROUTE. THANK YOU.

10

11 **SUP. KNABE, CHAIRMAN:** THANK YOU. DO YOU WANT TO PASS THOSE
12 PICTURES? WHILE YOU HAVE PEOPLE TESTIFYING, WE'LL LOOK AT THE
13 PICTURES, TOO. ELSIE KALFAYAN? GENE VOSKOBOYNIK. OH, ELSIE
14 DID? MARGARET CHANG? CHRIS WORKMAN. MARGARET CHANG, CHRIS
15 WORKMAN. CHRIS WANTED A MINUTE. SHE SAID SHE WANTED A MINUTE.
16 SHE GAVE UP TWO MINUTES. OKAY. IDENTIFY YOURSELF FOR THE
17 RECORD, PLEASE.

18

19 **CHRIS WORKMAN:** HI, MY NAME IS CHRIS WORKMAN. AND I WANT TO
20 COMMEND LOS ANGELES FOR WORKING FOR CHILD SUPPORT FOR KIDS
21 AGAINST DRUGS. BUT WHAT I'M ASKING LOS ANGELES AND OUR
22 REPRESENTATIVES TO DO IS PLEASE, PLEASE KEEP KIDS FROM GETTING
23 OVERLOADED ON RADIATION. I KNOW WHAT RADIATION DOES FIRSTHAND.
24 I'VE HAD 13 BOUTS OF IT. AND IT SHRUNK AND CHANGED MY D.N.A.
25 IN MY BODY A LOT. WHERE I LIVE, EVERYWHERE I GO THERE'S CELL



The Meeting Transcript of
The Los Angeles County Board of Supervisors

1 SITES, THERE'S CELL TOWERS, THERE'S CELL ANTENNAS, EVERYWHERE.
2 I CANNOT LOOK ANYWHERE WITHOUT SEEING THEM. I GO DOWN THE 2 TO
3 GO ON THE 135, THERE'S THREE BIG FLAGPOLES WITH THE UNITED
4 STATES OF AMERICA FLAG, WITH THE CALIFORNIA FLAG, AND THESE
5 ARE ALL CELL TOWERS. THEY ARE BEING HIDDEN BY OUR FLAG. IT
6 LOOKS LIKE OUR COUNTRY IS HIDING SOMETHING FROM US. CANCER IS
7 A TERRIBLE, TERRIBLE THING, AND I KNOW I CANNOT FIGHT AGAINST
8 CANCER. BUT I ALSO DON'T WANT MY PROPERTY VALUE TO GO DOWN. I
9 DO NOT WANT TO LOOK OUTSIDE AND SEE IT. AND ALSO I CAN SEE IT
10 FROM MY WINDOW WHAT THEY WANT TO PUT UP. EVEN IF THEY HIDE IT
11 WITH CEMENT, YOU CAN'T HIDE WHAT'S THERE AND WHAT'S HAPPENING
12 AND HOW MUCH RADIATION IS GOING TO PEOPLE AND TO CHILDREN.
13 THEY'RE IN OUR CHURCHES. THEY'RE ON OUR SCHOOLS. I JUST BEG
14 EVERYBODY TO PUT UP A MORATORIUM AND LET'S DO SOME RESEARCH
15 BEFORE WE DO ANYMORE DAMAGE. THANK YOU.

16

17 **SUP. KNABE, CHAIRMAN:** THANK YOU. YES, MA'AM?

18

19 **ELISE KALFAYAN:** HELLO MY NAME IS ELISE KALFAYAN, AND I'M A
20 MEMBER OF A GLENDALE GROUP THAT IS OPPOSING CELL SITES IN
21 RESIDENTIAL AREAS. THE APPLICANT HERE HAS ASSERTED COVERAGE
22 PROBLEMS BUT IT HASN'T PROVEN THEM ACCORDING TO SOME UNIFORM
23 STANDARD. AND THE RESIDENTS HAVE GONE OUT AND FOUND THAT THEY
24 HAVE EXCELLENT COVERAGE WITH SPRINT. THE COUNTY ALSO HASN'T
25 INDEPENDENTLY VERIFIED SPRINT'S CLAIMED COVERAGE GAP. DO WE



The Meeting Transcript of
The Los Angeles County Board of Supervisors

1 KNOW FOR A FACT THAT SPRINT-NEXTEL NEEDS THIS SITE TO PROVIDE
2 BASIC CELL PHONE SERVICE, OR ARE THEY USING IT TO MARKET
3 ADDITIONAL SERVICES, LIKE BROADBAND? I ALSO KNOW THE COMMUNITY
4 HAS ASKED THAT THE APPLICANT BE DIRECTED TO CO-LOCATE ON AN
5 EXISTING SITE, AND HAS IDENTIFIED SEVERAL OF THESE SITES IN
6 THE IMMEDIATE AREA. WE HAVEN'T HEARD WHETHER THE APPLICANT
7 WILL EVEN CONSIDER DOING THAT. AND I THINK THE COUNTY SHOULD
8 ASK THAT THE APPLICANT PROVE THAT THEY CANNOT CO-LOCATE ON ONE
9 OF THOSE SITES. I THINK THAT WIRELESS PROVIDERS NEED TO GET
10 THE MESSAGE THAT THEY SHOULD WORK WITH COMMUNITIES TO FIND
11 APPROPRIATE SITES FOR THEIR FACILITIES. THANK YOU.

12

13 **SUP. KNABE, CHAIRMAN:** THANK YOU. A RICHARD -- OKAY. SO THAT'S
14 IT, HUH? MARGARET? PARDON ME? OH, OKAY. I CALLED THEM. THEY
15 DIDN'T COME UP. I THOUGHT THAT THEY WEREN'T PASSING. IS THAT
16 GENE AND MARGARET? THANK YOU, RICHARD. THANK YOU.

17

18 **MARGARET CHANG:** GOOD AFTERNOON, BOARD OF SUPERVISORS,
19 SUPERVISORS AND STAFF. MY NAME IS MARGARET CHANG, REPRESENTING
20 SPRINT-NEXTEL. THIS IS GENE, REPRESENTING, HE'S THE RADIO
21 FREQUENCY ENGINEER.

22

23 **SUP. KNABE, CHAIRMAN:** CAN WE TURN THAT UP A TAD.

24



COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL

648 KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012-2713

TELEPHONE
(213) 974-1930
FACSIMILE
(213) 613-4751
TDD
(213) 633-0901

ROBERT E. KALUNIAN
Acting County Counsel

October 6, 2009

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

#13 OCTOBER 6, 2009

Agenda No. 1
05/26/09

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

SACHIA HAMAI
EXECUTIVE OFFICER

Re: **PROJECT NO. R2004-00805-(5)**
CONDITIONAL USE PERMIT NO. 2007-00051-(5)
FIFTH SUPERVISORIAL DISTRICT/THREE-VOTE MATTER

Dear Supervisors:

Your Board previously conducted a hearing regarding the above-referenced permit which sought to authorize the installation, operation, and maintenance of a wireless telecommunication facility. At the completion of the hearing you indicated an intent to deny the permit and instructed us to prepare findings for denial. Enclosed are findings for your consideration.

Very truly yours,

ROBERT E. KALUNIAN
Acting County Counsel

By
ELAINE M. LEMKE
Principal Deputy County Counsel
Property Division

APPROVED AND RELEASED:

JOHN F. KRATTLI
Senior Assistant County Counsel

EML:vn

Enclosure

**FINDINGS OF THE BOARD OF SUPERVISORS
AND ORDER
PROJECT NUMBER R2004-00805-(5)
CONDITIONAL USE PERMIT NUMBER 2007-00051-(5)**

1. The Los Angeles County ("County") Board of Supervisors ("Board") conducted a duly-noticed public hearing in the matter of Project No. R2004-00805-(5), consisting of Conditional Use Permit No. 2007-00051-(5) ("CUP") on May 26, 2009. The County Regional Planning Commission ("Commission") previously conducted a duly-noticed public hearing on the CUP on May 21, 2008 and July 30, 2008.
2. The applicant, Sprint/Nextel ("Sprint/Nextel"), requested a CUP to authorize construction, operation, and maintenance of an unmanned wireless telecommunications facility consisting of 12 antennas and a GPS antenna mounted behind six-foot-high new screens on the corner of the roof of an existing office building, two ground-level equipment cabinets to be located at the east back side of the building, and a wall-mounted "Telco" panel.
3. The subject office building is located at 2540 Foothill Boulevard in the unincorporated La Crescenta area in the Montrose Zoned District. The property is located at the corner of Foothill Boulevard and Rosemont Avenue.
4. The subject property is designated as "Major Commercial" in the Los Angeles County General Plan ("General Plan"). Typical land uses for this classification include central business districts, regional office complexes, major shopping malls and centers, and a range of mixed commercial retail and service activities. The intent of this classification is to situate commercial activities in viable clusters that conveniently serve their market areas and provide sufficient commercial lands to accommodate the projected work force.
5. There are no specific policies related to unmanned wireless telecommunication facilities in the General Plan. The Land Use element of the General Plan, however, identifies among its goals: the maintenance and enhancement of existing residential neighborhoods and encouragement of high quality design in projects to be compatible with, and sensitive to, the natural and manmade environment.
6. The subject property is zoned C-2 BE (Neighborhood Business - Billboard Exclusion).

7. Surrounding properties are zoned as follows:

North: C-2 BE
South: C-2 BE
West: C-2 BE
East: C-2 BE
Southeast: R-1 (Single-family Residence)
Southwest: R-1

8. The proposed antennas would be located on the roof of an existing 17,961-square-foot office building that includes a parking lot. The property is located near other commercial properties with office buildings located to the north and east, a commercial center to the west, and single-family residences to the south, southeast, and southwest.
9. Title 22 (Zoning Ordinance) of the Los Angeles County Code ("County Code") does not specify wireless telecommunications facility as a use. Therefore, the Department of Regional Planning ("Regional Planning") has determined that the most similar use specified in the Zoning Ordinance is "radio or television tower," which may be allowed in the C-2 zone with a conditional use permit. Accordingly, a conditional use permit is likewise required for all wireless telecommunication facilities in the C-2 zone.
10. Prior to the above-referenced Board and Commission hearings, an initial hearing was held by a hearing officer on March 4 and March 12, 2008, who referred the case to the Commission. After closing its public hearing, the Commission approved the CUP. The Commission's approval of the CUP was timely appealed to the Board by a nearby resident.
11. Proper legal notice was provided by the County for all of the public hearings held regarding the CUP.
12. At the Commission hearing, representatives of Sprint/Nextel testified in favor of the CUP. Six residents testified in opposition to the CUP. Opposition testimony was based on aesthetics, that adequate wireless coverage existed in the proposed coverage area, and that co-location at other wireless facility sites should have been considered.
13. After the Commission's approval of the CUP was appealed to the Board, a de novo hearing was held by the Board on May 26, 2009. At that hearing, Regional Planning staff briefly outlined the proposed facility and explained the procedural status of the case. Seven people testified, five in opposition, including representatives of the Crescenta Valley Town Council. Two individuals testified on behalf of, and in support of, Sprint/Nextel.

14. Opposition testimony focused on: (1) Sprint/Nextel's claim of a coverage gap, which opponents disputed; (2) view impacts; (3) other aesthetic impacts; and (4) complaints that co-location should have been attempted.
15. More specifically as to coverage, opponents testified that Sprint/Nextel's own website showed good coverage in the area with only minor gaps. Opponents of the proposed CUP also complained that other less intrusive sites were not explored by Sprint/Nextel. Representatives of the Crescenta Valley Town Council testified that there already was a high concentration of sites in the area and that Sprint/Nextel should attempt to co-locate at one of those sites. With respect to alternative sites, Sprint/Nextel's engineer stated that the proposed site is "exactly where we want to go" and because none of the existing cell sites were within that radius, Sprint/Nextel rejected co-location. Sprint/Nextel did not testify that it looked at other sites that might provide some additional coverage to close the alleged gap.
16. Regarding aesthetic and view impacts, testimony was given that the proposed additional screening was unattractive. Photographs submitted show that the screens will be located on only one corner of the building so that the addition sticks out rather than being integrated with the design of the existing building. It is also awkwardly positioned. Opponents also testified that the addition would further obstruct views of the mountains for the residents whose homes are located south of the site. An earlier letter from one resident had indicated that the proposed screening would "totally block" the mountain views from one window of a nearby residence.
17. The Board finds that the proposed project as a whole is out of character with the surrounding neighborhood and will result in visual blight for the surrounding community.
18. The Board finds that it is not clear whether there is a significant gap in Sprint/Nextel's coverage in the area surrounding the proposed site, but that if there is a significant gap in coverage, Sprint/Nextel failed to present adequate evidence to make such a showing. The Board also finds that Sprint/Nextel's own website showed the area to have almost complete coverage.
19. The Board finds that Sprint/Nextel failed to conduct a meaningful comparison of alternative sites, instead zeroing in on what worked for Sprint/Nextel, rather than considering the community's interest in selecting a less intrusive site.
20. The Board finds that Sprint/Nextel did not examine alternative sites that could have provided additional coverage while being less intrusive in terms of visual and aesthetic impacts on the community.

21. The Board finds that the proposed project is inconsistent with the following goals of the General Plan, Land Use Element: maintenance and enhancement of existing residential neighborhoods and encouragement of high quality design in projects to be compatible with, and sensitive to, the manmade environment.

BASED ON THE FOREGOING, THE BOARD OF SUPERVISORS CONCLUDES:

1. The proposed use is not consistent with the adopted general plan for the area;
2. That the requested use at the proposed location will adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding area; and
3. That the requested use will be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site.

THEREFORE, THE BOARD OF SUPERVISORS:

1. Denies Project No. R2004-00805-(5), consisting of Conditional Use Permit No. 2007-00051-(5).

Appendix:

Hacienda Heights documents re: coverage gap claims and alternative siting

- **Appeal: Read Reason for Appeal by John Chen**
- **Transcript of Public Comment by Cheryl Riley**
- **Transcript of Supervisor Don Knabe discussing resident coverage test and questioning T-Mobile's significant coverage gap**
- **Board of Supervisors Motion to Deny**
- **Final Findings and Order to Deny for Project No. R2007-02104-(4), Conditional Use Permit Case No. 200700149-(4)**

Date 2/17/09

Mr. Don Ashton
Deputy Executive Officer
Los Angeles County Board of Supervisors
Room 383, Kenneth Hahn
Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Mr. Ashton:

Subject: Project number R2007-02104-(4)

CUP 200700149-(4)
Use: CONSTRUCTION, OPERATION AND MAINTENANCE OF A WIRELESS TELECOMMUNICATION FACILITY

Address BETWEEN S FRAME AVE & S

HOLMES CIRCE IN THE HACIENDA HEIGHTS

4th HACIENDA HEIGHTS Zoned District

Related zoning matters:

Tract or Parcel Map No. #8289-019-803

Change of Zone Case No. _____

Other _____

This is a notice of appeal from the decision of the Regional Planning Commission on:
(Check One)

The Denial of this request

The Approval of this request

_____ The following conditions of the approval:

Briefly, the reason for this appeal is as follows:

SEE ATTACHED

DISTURBANCE OF WILDLIFE & NATIVE PLANTS

ENVIRONMENTAL SENSITIVE SURROUNDINGS

(AS PER COUNTY PLANNING DRAFT REPORT 1-M)

ALTERNATE SITE NOT INVESTIGATED

AS PER 9TH CIRCUIT COURT OF APPEALS NO

WRITTEN PROOF OF BURDEN

INSTALLATION WILL REDUCE PROPERTY VALUE

WIRELESS CAPACITY & GAPS NOT TRUE

911 ISSUE VOID

Enclosed is a check (or money order) in the total amount of \$ 1755.00 Ob.
The amount of \$1,548.00 for applicants or \$775.00 for non-applicants is to cover the
Regional Planning Department's processing fee.



(Signed)

Appellant

JOHN CHEN

President of Monrovia Home owner association

3554 HOLMES CIR

Address

Hacienda Heights CA 91745

562 - 789 - 0189

Day Time Telephone Number



The Meeting Transcript of
The Los Angeles County Board of Supervisors

1 **CHERYL RILEY:** GOOD MORNING, SUPERVISORS. MY NAME IS CHERYL
2 RILEY, AND I'M HERE ON BEHALF OF MY NEIGHBORS AND RESPECTFULLY
3 REQUEST THAT THIS PROJECT BE DENIED OR AT LEAST BE RETURNED TO
4 THE PLANNING COMMISSION FOR FURTHER STUDIES. YOU HAVE OUR
5 EXHIBITS ON YOUR DESK, HOPEFULLY. AND I REQUEST THAT THEY BE
6 ENTERED INTO AN OFFICIAL RECORD. AS YOU WILL SEE, T-MOBILE HAS
7 NOT PROVEN THAT THEIR COVERAGE CLAIMS ARE VALID AND NO WRITTEN
8 PROOF EXISTS SHOWING ALTERNATIVE LOCATIONS OR TECHNICAL
9 STUDIES. IN ADDITION, I WANT TO MAKE YOU AVAILABLE THAT T-
10 MOBILE 911 CLAIMS ARE FALSE. THE 911 ISSUE IS A NON-ISSUE THAT
11 EVEN A DISCONNECTED CELL PHONE WILL PICK UP ANY SIGNAL FROM A
12 CARRIER WHEN 911 IS DIALED. NOW, EVERY CELL PHONE CARRIER HAS
13 THE CAPABILITY TO ANSWER ALL 911 CALLS, NOT JUST T-MOBILE.
14 ALSO, T-MOBILE CLAIMS REGARDING EMERGENCY SITUATIONS WHEN
15 POWER FAILS THAT THEY HAVE AN 8-HOUR BACKUP BATTERY. ALL
16 CELLULAR COMPANIES HAVE AN 8-HOUR BACKUP BATTERY, AS DO
17 TELEPHONE COMPANY LAND LINES. CABLE COMPANIES SUCH AS TIME
18 WARNER OR COX HAVE A 48-HOUR BACKUP. WHEN WE HAD AN EARTHQUAKE
19 LAST YEAR IN ORANGE COUNTY, ALL CELLULAR SERVICE WAS
20 DISCONTINUED BECAUSE THE CELLULAR COMPANIES WERE AFRAID OF A
21 CRASH BECAUSE OF AN OVER USAGE. CELL FACILITIES DO NOT BELONG
22 IN RESIDENTIAL AREAS, SO CLOSE TO OUR HOMES, AMIDST OUR HOMES.
23 IT WILL LOWER OUR PROPERTY VALUES, WHICH WILL ALSO REDUCE
24 PROPERTY TAX REVENUES AND FURTHER ERODE THE COUNTY'S TAX BASE.
25 PEOPLE'S LIVES ARE UNFAIRLY CRUMBLING BECAUSE OF THE LACK OF



**The Meeting Transcript of
The Los Angeles County Board of Supervisors**

1 RESPONSIBILITY EXHIBITED BY THIS INDUSTRY AND GOVERNMENTS IN
2 DESIGNING THESE TECHNOLOGIES AND THE SERIOUS BIOLOGICAL AND
3 D.N.A.-LEVEL EFFECTS OF MICROWAVE RADIATION HAVE BEEN KNOWN
4 ABOUT FOR DECADES. THIS POWER GRAB IS A TRAVESTY THAT NEEDS TO
5 BE REVERSED TO PROTECT THE HEALTH OF HUMANS, ANIMALS, NATURE
6 AND PROPERTY VALUES. THE BURDEN OF PROOF IS ON T-MOBILE TO
7 PROVE IT HAS A SIGNIFICANT GAP IN SERVICE, AS FEDERAL
8 APPELLATE COURTS HAVE DEFINED THAT TERM, INCLUDING THE NINTH
9 CIRCUIT COURT OF APPEALS. T-MOBILE HAS NO REPORT ON THIS. IN
10 TALKING TO OTHER COMMUNITIES, IT WAS ALSO BROUGHT TO OUR
11 ATTENTION THAT T-MOBILE HAS A PATTERN OF DECEPTION ABOUT
12 COVERAGE CLAIMS. PLEASE SEE OUR SECTION IN THE T-MOBILE
13 COVERAGE IN OUR EXHIBITS. T-MOBILE HAS SIMPLY GIVEN US NO
14 MEANINGFUL INFORMATION WHATSOEVER TO WARRANT THE COUNTY
15 APPROVING THIS PERMIT. THE COUNTY SHOULD NOT BLINDLY TRUST
16 WHATEVER T-MOBILE OR ANY CELL CARRIER GIVES THEM. AND WE ASK
17 THAT YOU TAKE THE TIME TO THOROUGHLY INVESTIGATE ALL OF THE T-
18 MOBILE CLAIMS. I URGE YOU TO CONSIDER THE WISHES OF THIS
19 COMMUNITY AND USE YOUR LEGAL AUTHORITY TO DENY THIS PROJECT OR
20 AT THE VERY LEAST TURN IT BACK TO THE PLANNING COMMISSION FOR
21 PROPER REVIEW AND EXAMINE THE NATURE OF THIS CASE. THANK YOU
22 VERY MUCH FOR YOUR ATTENTION.

23

24 **SUP. KNABE, CHAIRMAN:** THANK YOU. NEXT?

25



The Meeting Transcript of
The Los Angeles County Board of Supervisors

1 **DIANE ARANDA:** NO, THE DEPARTMENT OF REGIONAL PLANNING DOESN'T
2 HAVE ACCESS TO TECHNICAL EXPERTS.

3

4 **SUP. KNABE, CHAIRMAN:** SO WHAT STEPS DID YOU TAKE TO LOOK INTO
5 THE CLAIMS BY THE APPELLANTS THAT COVERAGE EXISTS IN THE GAP
6 AREAS IDENTIFIED BY T-MOBILE?

7

8 **DIANE ARANDA:** I DID REVIEW THE COVERAGE MAP AND I DID SPEAK TO
9 THE APPLICANT AND THE R.F. ENGINEER. AND IT APPEARED THAT THAT
10 FACILITY WOULD MEET THEIR COVERAGE, THEIR SIGNIFICANT COVERAGE
11 GAP.

12

13 **SUP. KNABE, CHAIRMAN:** ALSO AT THE REGIONAL PLANNING HEARING,
14 IN THE TRANSCRIPT, THE APPELLANTS TESTIFIED THAT THEY DROVE
15 WITH THE T-MOBILE COVERAGE MAPS AND HAD A T-MOBILE PHONE AND
16 GOT SERVICE IN THE GAP AREAS. DID WE TAKE THOSE CLAIMS
17 SERIOUSLY?

18

19 **DIANE ARANDA:** YES, WE DID. WE DID RECEIVE COVERAGE MAPS
20 SHOWING THAT THE DRIVE TEST, AS WELL.

21

22 **SUP. KNABE, CHAIRMAN:** I HAVE A QUESTION FOR COUNTY COUNSEL.
23 DOES THE BOARD HAVE THE AUTHORITY TO DENY THIS C.U.P. BASED ON
24 AESTHETICS AND LAND USE COMPATIBILITY ISSUES?

25



The Meeting Transcript of
The Los Angeles County Board of Supervisors

1 **LARRY HAFETZ, COUNSEL:** SUPERVISOR KNABE, YES, IN FACT YOU DO.
2 THE BOARD DOES HAVE THIS AUTHORITY. IN FACT, AS WAS EARLIER
3 DISCUSSED, THERE IS THIS RECENT CASE THAT EVEN CLARIFIES
4 FURTHER THE DISCRETION, THE PALOS VERDES ESTATES CASE, THE
5 DISCRETION THE BOARD HAS AND IS CERTAINLY ALLOWED TO LOOK AT
6 AESTHETIC IMPACTS, OTHER LAND USE COMPATIBILITY ISSUES LIKE
7 THEY WOULD IN ANY OTHER LAND USE MATTER. I WOULD JUST ADD THAT
8 WHILE IT IS TRUE THAT YOU CANNOT LOOK AT THE HEALTH EFFECTS
9 NECESSARILY, BUT THESE, THERE IS WIDE DISCRETION ON THE LAND
10 USE COMPATIBILITY SIDE, INCLUDING AESTHETICS. THE OTHER THING
11 I WOULD ADD IS THAT TO THE EXTENT THAT T-MOBILE WOULD HAVE ANY
12 CLAIM, IT WOULD BE ON THE EFFECT THAT OUR DENIAL WOULD HAVE
13 THE EFFECT OF PROHIBITING SERVICE. AND QUITE FRANKLY, I DIDN'T
14 SEE ANYTHING IN THE RECORD TO SUPPORT THAT CLAIM.

15

16 **SUP. KNABE, CHAIRMAN:** THANK YOU. I HAVE SOME ADDITIONAL
17 COMMENTS FOR THE RECORD. EVERYONE ELSE TODAY USED THE RECORD
18 TO -- I'M SURE WHERE THIS IS GOING TO WIND UP. BUT REGARDING
19 THE AESTHETIC VISUAL IMPACTS, THE REGIONAL PLANNING
20 COMMISSION'S FINDING NO. 19 IS INCORRECT. THIS PROPOSED
21 PROJECT WILL HAVE AN ADVERSE VISUAL IMPACT ON THE SURROUNDING
22 NEIGHBORHOOD BECAUSE THE EQUIPMENT'S GOING TO BE NEW. I MEAN
23 BASICALLY IT'S NOT AN EXISTING TOWER, EXISTING LOCATION. AND
24 THE SITE AND THE COMMUNITY'S NOT USED TO SEEING, PHYSICALLY
25 SEEING ANYTHING ON THAT PARTICULAR TOWER AND IT WILL BE VERY,



**The Meeting Transcript of
The Los Angeles County Board of Supervisors**

1 VERY VISIBLE. ALSO, ITEM NO. 20 APPEARS TO BE INCORRECT, AS
2 WELL, BECAUSE IT WILL SIGNIFICANTLY CHANGE AND IMPACT THE
3 AESTHETICS AND VISUAL HARMONY OF THE AREA. FINALLY, FINDING
4 NO. 22 I THINK IS INAPPROPRIATE. FIRST OF ALL, THE PLANNING
5 STAFF DID NOT INDEPENDENTLY VALIDATE THE TECHNICAL INFORMATION
6 SUBMITTED BY THE APPLICANT TO SHOW COVERAGE DEFICIENCY. AND SO
7 TO CONCLUDE THAT A COVERAGE GAP WITH NO TECHNICAL VERIFICATION
8 TO BACK THAT DECISION I THINK IS INAPPROPRIATE ONLY BECAUSE
9 YOU ALSO HAVE TRANSCRIPT TESTIMONY SAYING THEY DROVE THE AREA
10 WITH THE PHONE AND GOT COVERAGE. SO I JUST SAY THAT FOR THE
11 RECORD. I DO HAVE A MOTION RELATED TO THIS PARTICULAR ITEM.
12 AND BASED ON THE PROJECT INFORMATION SUBMITTED TO THE BOARD,
13 ALONG WITH TODAY'S TESTIMONY, IT IS CLEAR THAT THE PROPOSED
14 PROJECT HAS SIGNIFICANT ADVERSE AESTHETIC IMPACTS AND
15 COMPATIBILITY PROBLEMS WITH ITS SURROUNDINGS THAT I'M JUST NOT
16 WILLING TO IGNORE. ALSO, THE APPLICANT DID NOT PROVIDE
17 SUFFICIENT SITE ALTERNATIVES, NOR DID THE APPLICANT SHOW THAT
18 A SIGNIFICANT GAP IN COVERAGE WOULD OCCUR WITHOUT THE PROPOSED
19 PROJECT. SO I THEREFORE MOVE THAT THIS BOARD OF SUPERVISORS
20 INDICATE ITS INTENT TO DENY PROJECT NO. 2007-02104-(4) AND
21 CONDITIONAL USE PERMIT CASE NO. 2007-00149-(4) AND INSTRUCT
22 COUNTY COUNSEL TO PREPARE THE FINDINGS FOR DENIAL OF THE
23 CONDITIONAL USE PERMIT AND TO BRING BACK TO A FUTURE BOARD
24 MEETING FOR OUR CONSIDERATION. AND WOULD LOOK FOR A SECOND ON
25 THAT.

MOTION BY SUPERVISOR DON KNABE

October 27, 2009

Based on the project information submitted to the Board, along with today's testimony, it is clear that the proposed project has significant adverse aesthetic impacts and compatibility problems with its surroundings that I am not willing to ignore. Also, the applicant did not provide sufficient site alternatives, nor did the applicant show that a significant gap in coverage would occur without the proposed project.

I, THEREFORE MOVE, that the Board of Supervisors indicate its intent to DENY Project No. 2007-02104-(4) and Conditional Use Permit Case No. 2007-00149-(4) and instruct County Counsel to the prepare findings for denial of the conditional use permit to bring back to a future Board meeting for its consideration.

#

JM:lb

MOTION

MOLINA _____

RIDLEY-THOMAS _____

YAROSLAVSKY _____

ANTONOVICH _____

KNABE _____



COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL

648 KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012-2713

TELEPHONE
(213) 974-1930
FACSIMILE
(213) 613-4751
TDD
(213) 633-0901

ANDREA SHERIDAN ORDIN
County Counsel

March 9, 2010

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

Agenda No. 2
10/27/09

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

#10 MARCH 9, 2010

SACHIA HAMAI
EXECUTIVE OFFICER

**Re: PROJECT NO. R2007-02104-(4)
CONDITIONAL USE PERMIT NO. 2007-00149-(4)
FOURTH SUPERVISORIAL DISTRICT/THREE-VOTE MATTER**

Dear Supervisors:

Your Board previously conducted a hearing regarding the above-referenced permit which sought to authorize the installation, operation, and maintenance of a wireless telecommunications facility. At the completion of the hearing you indicated an intent to deny the permit and instructed us to prepare findings for denial. Enclosed are findings for your consideration.

Very truly yours,

ANDREA SHERIDAN ORDIN
County Counsel

By
ELAINE M. LEMKE
Principal Deputy County Counsel
Property Division

APPROVED AND RELEASED:

JOHN F. KRATTLI
Senior Assistant County Counsel

EML:vn

Enclosure

**FINDINGS OF THE BOARD OF SUPERVISORS
AND ORDER
PROJECT NUMBER R2007-02104-(4)
CONDITIONAL USE PERMIT NUMBER 2007-00149-(4)**

1. The Los Angeles County ("County") Board of Supervisors ("Board") conducted a duly-noticed public hearing in the matter of Project No. R2007-02104-(4), consisting of Conditional Use Permit No. 2007-00149-(4) ("CUP") on October 27, 2009. The County Regional Planning Commission ("Commission") previously conducted a duly-noticed public hearing on the CUP on February 4, 2009.
2. The applicant, T-Mobile, USA, Inc. ("T-Mobile"), requested a CUP to authorize construction, operation, and maintenance of an unmanned wireless telecommunications facility consisting of 12 panel antennas mounted 40 and 50 feet high on the riser legs of an existing Southern California Edison ("SCE") lattice tower and four associated equipment cabinets and a new GPS antenna to be located on a concrete pad within a 12-foot by 25-foot leased area under the tower. The cabinets would be enclosed within a six-foot-high cinder block wall.
3. The subject lattice tower is located on parcel lot APN-8289-019-803 on an SCE easement between South Frame Avenue and South Holmes Circle in the unincorporated Hacienda Heights Zoned District. The lattice tower is located on an approximate 300-foot-wide rectangular-shaped undeveloped parcel on relatively level land approximately 150 feet from homes on both the north and south sides of the parcel.
4. The subject property is located within the Open Space classification of the Hacienda Heights Community Plan ("Community Plan"), Los Angeles County General Plan ("General Plan"). The intent of this land use classification is for the conservation of open space for parks, riding and hiking trails, passive recreation, scientific study, sanitary landfills, and utility easements.
5. There are no specific policies related to unmanned wireless telecommunications facilities in the Community Plan. The Land Use element of the General Plan, however, identifies among its goals, the maintenance and enhancement of existing residential neighborhoods and encouragement of high quality design in projects to be compatible with, and sensitive to, the natural and manmade environment.
6. The subject property is zoned A-2-1 (Heavy Agricultural-one-acre minimum lot size.)

7. Surrounding properties are zoned as follows:
 - North: R-A-12,000 (Residential Agricultural-12,000 square-foot minimum lot size)
 - South: R-1-15,000 (Single Family Residential-15,000 square-foot lot size)
 - East: RPD-15,000 (Residential Planned Development-15,000 square-foot minimum lot size)
 - West: A-2-1; City of Whittier zoned properties
8. Surrounding uses include residential properties and open space, which includes a hiking and horse trail and the Puente Hills landfill native habitat preservation area.
9. Title 22 (Zoning Ordinance) of the Los Angeles County Code ("County Code") does not specify "wireless telecommunications facility" as a use. Therefore, the Department of Regional Planning ("Regional Planning") has determined that the most similar use specified in the Zoning Ordinance is "radio or television tower," which may be allowed in the A-2 zone with a conditional use permit. Accordingly, a conditional use permit is likewise required for all wireless telecommunication facilities in the A-2 zone.
10. Prior to the above-referenced Board and Commission hearings, an initial hearing was held by a hearing officer on September 8, 2008, who approved the project, and the case was then timely appealed to the Commission. After closing its public hearing, the Commission approved the CUP. The Commission's approval of the CUP was timely appealed to the Board by more than 85 residents in the area of the proposed project.
11. Proper legal notice was provided by the County for all of the public hearings held regarding the CUP.
12. At the Commission hearing, a representative of T-Mobile testified in favor of the CUP and upholding the hearing officer's prior approval. T-Mobile testified, among other things, that it examined alternative sites and that there was a significant gap in its coverage. Five residents testified in opposition to the CUP. Opposition testimony centered on: aesthetic impacts, that adequate wireless coverage existed in the proposed coverage area, impact of the proposal on the surrounding trails and wildlife in the area, and that inadequate consideration was given to alternative sites.
13. More specifically as to the opposition testimony at the Commission hearing regarding compatibility of the project with the surrounding area, testimony was given about the native habitat preservation area, the variety of wildlife in the area, including a red-tailed hawk that utilized the lattice tower for nesting, and the incompatibility of cellular antennas on the tower with residential uses.

14. Opponents of the project also testified that they performed a coverage field test using T-Mobile phones that revealed that T-Mobile has adequate coverage in the area, including testifying that they were able to make and receive calls in areas where T-Mobile claimed a gap in service. Written documentation from the test was submitted. Opponents also testified that T-Mobile's own website showed coverage in areas where T-Mobile's propagation map showed no coverage. Opposition testimony also asserted that T-Mobile undertook only a superficial review of the alternative sites it did consider, and failed to consider all possible alternatives.
15. After the Commission's approval of the CUP was appealed to the Board, a de novo hearing was held by the Board on October 27, 2009. At that hearing, Regional Planning staff briefly outlined the proposed facility and explained the procedural status of the case. Seven people testified, five in opposition. Two individuals testified on behalf of, and in support of, T-Mobile's application.
16. Opposition testimony focused upon: (1) T-Mobile's claim of a coverage gap, which opponents disputed; (2) view and other aesthetic impacts; and (3) complaints that T-Mobile did not prove its claims of efforts to locate elsewhere, co-locate, or that other locations would not provide adequate coverage.
17. Project opponents testified that specific proposed alternative sites were not investigated by T-Mobile. There are other SCE towers in the vicinity. One member of the Board stated that his staff had checked with SCE and was advised that T-Mobile had only inquired about two of the towers as possible alternatives.
18. Testimony was also received by the Board about the incompatibility of the antennas and equipment cabinets with the open space area and trail.
19. As they had done at the Commission hearing, area residents again testified that their field tests revealed that T-Mobile had coverage in the relevant area.
20. T-Mobile submitted cards from residents in support of the project. Review of the addresses of those cards, compared with T-Mobile's identified intended coverage area, reveal that many of the signatories appear to reside outside of the proposed project's intended coverage area.
21. While T-Mobile testified at the Board and Commission that there was a "significant gap" in its coverage in its "burden of proof" submittal to Regional Planning, T-Mobile described its service in the area as "substandard" and that the purpose of the proposed facility was to provide "improved coverage and capacity" to those who not only live in the area, but travel through it.
22. Another T-Mobile document indicated the facility was "necessary to meet customer demand as customers are demanding excellent wireless phone coverage in their homes..." [Underline added.] It also stated that the site

objective was to "improve the in-building coverage in the residential area" and that there were problems with "signal strength and call quality."

23. Testimony at the Board hearing pointed out that T-Mobile's goal of "improving" service reflected an absence of a significant gap and that service did exist.
24. Regarding aesthetic and view impacts, it was pointed out at the Board hearing that the antenna arrays are nine feet wide with a three-foot separation between the antennas and that the 12-panel antennas will each extend about three to five feet from the side of the tower rather than be flush mounted, and that the six-foot-high cinder block wall would be 12 by 25 feet in dimension. Further, as reflected by photos submitted, the antennas would be highly visible from South Frame Avenue and adjacent properties, including homes and the habitat preservation area.
25. The Board finds that the proposed project as a whole is out of character with the surrounding neighborhood, is not compatible with the natural or manmade environment, will result in adverse aesthetic impacts, and will create visual blight for the surrounding community.
26. Based upon the evidence presented, the Board finds that T-Mobile failed to present adequate evidence of a significant gap in its coverage in the area surrounding the site and that the contrary evidence submitted by project opponents, which showed no significant gap, was credible. The Board also finds that T-Mobile's own website showed the area to have adequate coverage.
27. The Board finds that T-Mobile failed to conduct a meaningful comparison of alternative sites, and that T-Mobile did not examine feasible alternative sites that could have provided additional coverage while being less intrusive in terms of visual and aesthetic impacts on the community.
28. The Board finds that the proposed project is inconsistent with the following goals of the General Plan, Land Use Element: maintenance and enhancement of existing residential neighborhoods and encouragement of high quality design in projects to be compatible with, and sensitive to, the natural and manmade environment.

BASED ON THE FOREGOING, THE BOARD OF SUPERVISORS CONCLUDES:

1. The proposed use is not consistent with the adopted general plan for the area;
2. That the requested use at the proposed location will adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding area; and
3. That the requested use will be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site.

THEREFORE, THE BOARD OF SUPERVISORS:

1. Denies Project No. R2007-02104-(4), consisting of Conditional Use Permit No. 2007-00149-(4).

Appendix:

**Temple City Council Resolution 10-4664,
approved April 6, 2010,**

**Read: Section IV-A, denying the CUP,
in particular page 2, item H, re: coverage**

RESOLUTION NO. 10-4664

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE CITY DENYING CONDITIONAL USE PERMIT 09-1747 FOR THE INSTALLATION OF A FIFTY-FOUR (54) FOOT TALL CELLULAR TOWER. (CUP 09-1747) (T-MOBILE, VICTORY IN JESUS CHURCH)

THE CITY COUNCIL OF THE CITY OF TEMPLE CITY DOES HEREBY RESOLVE:

SECTION 1. Based upon a review of the plans and based upon testimony received at a noticed public hearing before the Planning Commission on October 13, 2009 and upon testimony received at noticed public hearings before the City Council on November 17, 2009, December 15, 2009, and March 16, 2010, the City Council hereby makes the following findings with respect to Conditional Use Permit 09-1747:

A. The applicant initially proposed to site and operate a fifty-four (54) foot tall cellular tower camouflaged as a pine tree ("monopine") at 5221 El Monte Avenue. That location is found in the single family residential (R-1) zone and is designated low density residential and institutional by the General Plan land use map. The location is currently the site of the Victory in Jesus Church. The surrounding neighborhood is characterized by an absence of tall structures and an absence of trees at or above the height of the proposed cellular tower.

B. As depicted in the record, the proposed monopine cellular tower is out of scale in both height and massing with not only the church property on the immediate site on which the cellular tower would be located but with the single-family residential character of the neighborhood and the existing vegetation in the neighborhood. In addition, the proposed cellular tower exceeds the height limitations in the City's single-family residential (R-1) zone.

C. After these aesthetic issues were raised to the City Council and noted by the Council, the applicant was given an opportunity to present other ideas for camouflage of the cellular tower. At the December 15, 2009, meeting of the City Council, the applicant suggested camouflaging the tower as a palm tree ("monopalm") or as a eucalyptus tree ("mono-eucalyptus") or as a monument tower, as well as offering other monopine variations for the City Council's review. As depicted in the record, each of the nine (9) design options proposed by the applicant is visually unappealing and out of scale to the R-1 neighborhood in general and specifically to the precise location in which the cellular tower was proposed to be sited. In addition, each design option exceeds the R-1 height limitation.

D. Each cellular tower design, whether monopine, monopalm, monument tower, or mono-eucalyptus, was of an overall mass and height that is aesthetically out of character with the existing structures of the Victory in Jesus church and also with the R-1 neighborhood in which the cellular tower was proposed to be located, and would have been inconsistent with the neighborhood and conspicuous in the skyline for the area.

E. The proposed designs, including various camouflage designs, of the cellular tower cannot fully mitigate the aesthetic impacts of the tower on the neighborhood and therefore the City Council would not approve the Negative Declaration as originally submitted to the Planning Commission.

F. Despite being given ample opportunity to do so, the applicant has not proposed any means by which to diminish the scope, height, and mass of the cellular tower or to otherwise change the design of the cellular tower to sufficiently mitigate the aesthetic impacts of the tower on the neighborhood.

G. In light of the foregoing, it cannot be said that "the proposed use will not have an adverse effect upon the use, enjoyment or valuation of adjacent or neighboring properties or upon the public welfare" because an adverse aesthetic impact on the use and enjoyment of adjacent and neighboring properties has been identified and has not been sufficiently mitigated so as to allow the proposed use.

H. The applicant provided no evidence that failure to place the cellular tower on the proposed site would create a gap in coverage that could not be remedied by placing a cellular tower on a different site or with a different configuration. In addition, the party appealing the Planning Commission's original approval of the Conditional Use Permit presented testimony in the form of individual witness statements that cellular telephone service is already in place inside homes in addition to out of doors and in automobiles.

SECTION 2. Accordingly, Conditional Use Permit 09-1747 is hereby denied. In addition, the Negative Declaration for the project originally approved by the Planning Commission is denied and, to the extent that City Staff has filed the Negative Declaration, Staff is directed to nullify, repeal and withdraw the Negative Declaration.

PASSED, APPROVED AND ADOPTED THIS 6th DAY OF APRIL 2010.

/s/ Fernando L. Vizcarra
Mayor

ATTEST:

/s/ Mary R. Flandrick
City Clerk

I hereby certify that the foregoing Resolution, Resolution No. 10-4664, was adopted by the City Council of the City of Temple City at a regular meeting held on the 6^h day of April 2010, by the following vote:

AYES: Member-Blum, Sternquist, Yu, Vizcarra
NOES: Member-None
ABSENT: Member-None
ABSTAIN: Member-None

City Clerk

Appendix:

**Burbank's Proposed Supplemental
Application Form**



City of Burbank
Planning and Transportation Division
**WIRELESS
AND DISTRIBUTED ANTENNA SYSTEM ("DAS") PROJECTS
SUPPLEMENTAL APPLICATION FORM**

150 North Third Street
Burbank, California 91502
www.burbankusa.com
T: 818-235-5250
F: 818-238-5150

The City of Burbank recognizes that the provision of wireless and DAS services are highly technical enterprises subject to various federal, state, and local regulations. This supplemental application form is designed to elicit necessary and required technical information in support of an encroachment permit, Conditional Use Permit ("CUP"), or Variance application for a new or modified wireless telecommunications site project or a Distributed Antenna System ("DAS") project within the City of Burbank.

Completion of the supplemental application is a mandatory for a wireless project. This form assists the City of Burbank to comply with its duties under Sections 10-1-1118 of the Burbank Municipal Code (BMC); Sections 253, 332, and 704 of the Communications Act of 1934 as amended; the FCC Shot Clock Order (FCC 09-99); California Public Utilities Code Sections 7901 and 7901.1; the California Environmental Quality Act (CEQA); the provisions of Government Code Sections 65850.6 and 65964; and other local, state, and federal laws, regulations, and court rulings. The City of Burbank requires that the applicant provide this information to assist it in creating a written administrative record containing substantial evidence sufficient to permit the City of Burbank's informed consideration of your request, and to determine the rights and obligations of the City of Burbank and the applicant/owner of the proposed project.

No application for a new wireless site or for a modification of an existing wireless site shall be accepted for processing, determined complete, or be considered for determination of completeness until all required responses to this supplemental application form and required attachments are completed and tendered to the City of Burbank.

If you do not believe that a specific item of information is necessary or applies to your application, mark the item on this form with the words, "Not Applicable" and attach a detailed written explanation as to the basis for your belief (e.g., "Question 94.7 does not apply to this application because the proposed Project has no microwave transmission element.") An unsupported statement such as "Question 94.7 does not apply" is insufficient, and the determination of completeness of your application will be delayed while you provide a meaningful and detailed explanation.

Every page of this form **including this page and the last page** must be tendered to the City of Burbank. Each page **including this page and the last page** must be initialed where indicated. The last page must also be completed, signed, and dated. Note that gaps in the numbering of this form are intentional and you are **not** to renumber questions or responses in your reply.

Questions about this form or the required information to be provided should be directed to the City of Burbank Planning and Transportation Division.

1.00: **Project Location and Applicant Information**

1.01:	Project Physical Address	
1.02:	Applicant's Site Number (if any)	

1.03:	Assessor's Parcel Number:	
1.04:	Applicant is:	<input type="checkbox"/> Owner <input type="checkbox"/> Owner's Representative
1.05:	Applicant name is:	
1.06:	Applicant's Address Line 1:	
1.07:	Applicant's Address Line 2:	
1.08:	Applicant's Address Line 3:	
1.09:	Applicants Address Line 4:	
1.10:	Applicant's Phone number:	
1.11:	Applicant's Mobile number:	
1.12:	Applicant's Fax number:	
1.13:	Applicant's Email address	

2.00: Project Owner Information and CPCN Information

2.01: Disclose the Name and Address of all Project Owners, and attach a letter of agency appointing the Applicant as representative of the Project Owners in connection with this application. Designate the letter of agency as "Attachment 2.01."

Initial here _____ to indicate that Attachment 2.01 is attached hereto.

2.02: Is any telecommunications service to be offered from this project subject to a California Public Utilities Commission 'Certificate of Public Convenience and Necessity' (CPCN)?
 ___ Yes ___ No

2.03: If the answer to 2.02 is Yes, provide either a web site link to the complete CPCN decision at the California Public Utilities Commission (CPUC) web site, or a true and complete copy of the CPCN decision and mark it as "Attachment 2.02."

Initial here _____ to indicate that the required CPUC web site address or Attachment 2.02 is attached hereto.

3.00: FCC License / FAA Compliance / RF Safety Disclosure Information

3.01: For each person/legal entity that will be using the wireless site, provide the information in Sections 3 and 4. Copy these sections for each applicant if necessary.

Distributed Antenna System (DAS) providers and all other who are not licensed by the FCC for the radio services proposed for this project and identified in 3.09: For Section 3 disclose the information requested here for each FCC-licensee that will utilize the project as proposed.

3.02: For questions 3.03 through 3.09 inclusive, disclose all information for each proposed Radio Frequency Emitter (“RF Emitter”) at the project Site.

If additional space is necessary attach and mark the sheet as “Attachment 3.02.”

Initial here _____ to indicate that Attachment 3.02 is attached hereto.

3.03:	Name of RF Emitter:	
3.04:	RF Emitter’s Address Line 1:	
3.05:	RF Emitter’s Address Line 2:	
3.06:	RF Emitter’s Phone number:	
3.07:	RF Emitter’s Fax number:	
3.08:	RF Emitter’s Contact Email address:	
3.09:	Use of facility: (Check all that apply) Notice: Applicants not operating under their own FCC license(s) must mark “Other” and disclose of all information required here for all entities that use the project	<input type="checkbox"/> Amateur Radio <input type="checkbox"/> Broadcast Radio <input type="checkbox"/> Broadcast TV <input type="checkbox"/> Cellular telephone <input type="checkbox"/> Distributed Antenna System (DAS) <input type="checkbox"/> Enhanced Specialized Mobile Radio <input type="checkbox"/> Microwave <input type="checkbox"/> PCS telephone <input type="checkbox"/> Paging <input type="checkbox"/> Specialized Mobile Radio <input type="checkbox"/> WiMax/WiFi <input type="checkbox"/> Other(s) (specify): _____
3.10:	Project latitude and longitude	N _____ W _____
3.11:	Specify DATUM used above:	<input type="checkbox"/> WGS84 <input type="checkbox"/> NAD23 <input type="checkbox"/> NAD83 <input type="checkbox"/> Other DATUM (specify): _____
3.12	Project maximum height (ft AGL)	
3.13	Bottom of lowest transmitting antenna (ft AGL)	
3.14	RF Emissions (“Rad”) center of the lowest transmitting antenna (ft AGL)	

3.15: For each licensee (i.e., “ABC Wireless” or “XYZ Wireless”), **and** for each radio service (i.e., “PCS” or “Cellular”), complete and attach a separate two-page “Appendix A” form from “A Local Government Official’s Guide to Transmitting Antenna RF Emission Safety: Rules, Procedures, and Practical Guidance” available by download directly from the FCC at <http://www.fcc.gov/oet/rfsafety/>. Ensure that all proposed emissions from this project are

accounted for on the Appendix A forms you submit.

Distributed Antenna System (DAS) providers and all other who are not licensed by the FCC for the radio services proposed for this project and identified in 3.09: Unless the DAS provider is the FCC licensee for the proposed project, the DAS provider must provide an Appendix A form completed by each wireless carrier or wireless service provider to be transmitted through the Project at each wireless site. Appendix A forms completed by a DAS provider are unacceptable if they are not the FCC licensee for the particular wireless service(s) to be transmitted through the project.

For consistency, all Appendix A forms submitted must use effective radiated power (ERP) units of measure. Do not use effective isotropic radiated power (EIRP). To verify your understanding of this requirement, you must append the letters “ERP” following each wattage listing in each Appendix A form you submit.

Designate all completed Appendix A two page forms as “Attachment 3.15.”

In addition to the LSGAC form(s) which you must submit, for any proposed new wireless project where the antennas are mounted on a structure **not** exclusively used as an antenna support (e.g., any occupied structure; water tower and tanks; advertising signs; etc.) **or** any collocation project on any structure, you **must** also submit any additional RF emissions report by transmitter that lists for each all of the following: (1) existing emissions by frequency; (2) existing emissions by power output (stated in watts ERP); antenna elevation above ground level; and (3) emissions azimuth by antenna. Designate any additional RF safety compliance information as “Attachment 3.15-A.”

Initial here _____ to indicate that all required Attachment 3.15 and 3.15-A forms are attached hereto.

3.16: Considering your response in Attachment 3.15, above, and any other identifiable RF emitters that FCC OET Bulletin 65 requires be evaluated in connection with this Project, are all portions of this Project cumulatively “categorically excluded” under FCC OET 65 requirements?

Yes No

3.17: Does this Project require the Applicant to file an FAA Form 7460 or other documentation under Federal Aviation Regulation Part 77.13 et seq, or under the FCC rules?

Yes No

3.18: If the answer to 3.17 is No proceed to 4.00.

3.19: Attach complete copies of all required FAA/FCC forms including all attachments and exhibits thereto, including without limitation FAA Form 7460. Designate this attachment, “Attachment 3.19.”

Initial here _____ to indicate that Attachment 3.19 is attached hereto.

4.00: **Project Purpose**

4.01: Indicate the **dominant** purpose of the Project (check only one, and then proceed where directed):

Add network capacity **without** adding significant new RF coverage area: Proceed to 4.20; or

Provide significant **new** radio frequency coverage in an area **not** already served by radio frequency coverage: Proceed to 4.10; or

Increase the existing RF signal level in an area with existing radio frequency coverage: Proceed to 4.20; or

Other: Proceed to 4.19.

4.10 Is this project intended to close a “significant gap” in coverage?

Yes No

4.11 If the answer to 4.10 is No proceed to 4.20.

4.12 Attach a written statement fully and expansively describing the following:

- A. A clear description of the geographic boundary of the claimed significant gap area, and
- B. Attach a street-level map showing the geographic boundary of the claimed significant gap stated in 4.12(a) using the same standards as in 6.02; and
- C. Identify the size of the area, in units of square miles, of the claimed significant gap; and
- D. Explain exactly the definition of the term “significant gap” as it applies to this project;
- E. Explain exactly how the definition of significant gap term defined in 4.12(d) was developed;
- F. Discuss, if known, whether the significant gap term defined in 4.12(d) is identical to that term as used by some or all wireless carriers in the City of Burbank;
- G. Specify whether the definition of “significant gap” provided in 4.12(d) is the same definition used in by this applicant and owner in all of its prior projects submitted to the City of Burbank, and if not, explain all differences.
- H. Discuss all of the following in relation to the claimed significant gap area only:
 - i. Whether claimed significant gap affects significant commuter highway or railway, and if so, how;
 - ii. Describe in detail the nature and character of that area or the number of potential users in that area who may be affected by the claimed significant gap;
 - iii. Describe whether the proposed facilities are needed to improve weak signals or to fill a complete void in coverage, and provide proof of either;
 - iv. If the claimed significant gap covers well traveled roads on which customers lack roaming capabilities, identify all such well traveled roads by name within the claimed significant gap area and provide road use information about each such road;
 - v. If any “drive test” has been conducted within the claimed significant gap area, discuss in detail the methodology of how the test(s) was conducted, and provide all of the objective data collected during the drive test in .XLS or .CSV or similar portable spreadsheet format;
 - vi. If the claimed significant gap affects a commercial district, show the boundaries of the district on the map
 - vii. If the claimed significant gap poses a public safety risk, describe in detail the claimed risk, and the expansively discuss the basis for this claim.
- a. Provide all other relevant information you believe is useful for the City of Burbank to consider when evaluating your claim of significant gap. Designate this

attachment, "Attachment 4.12."

Initial here _____ to indicate that Attachment 4.12 is attached hereto. Proceed to 4.13

4.13 Is the proposed project the least intrusive means to close the significant gap claimed in 4.10?
___ Yes ___ No

4.14 If the answer to 4.13 is No proceed to 4.20.

4.15 Attach a written statement fully and expansively describing why this project is the least intrusive means to close the significant gap claimed in 4.10. Designate this attachment, "Attachment 4.15."

Initial here _____ to indicate that Attachment 4.15 is attached hereto. Proceed to 4.20

4.19 Attach a written statement fully and expansively describing the "Other" dominant purpose of this Project. Designate this attachment, "Attachment 4.19."

Initial here _____ to indicate that Attachment 4.19 is attached hereto.

4.20 If any portion of the project is to utilize radio spectrum that does not require an FCC license, identify in detail the portions of the project that used unlicensed spectrum. Designate this attachment, "Attachment 4.20."

Initial here _____ to indicate that Attachment 4.20 is attached hereto.

4.25 Is this project designed to use any form of radio interconnection with other existing or planned sites?
___ Yes ___ No

4.26: If the answer to 4.25 is No proceed to 4.30.

4.27: Attach a detailed written statement fully and expansively describing the radio interconnection proposed, and identify all other existing or planned sites that will be interconnected with this project. Designate this attachment, "Attachment 4.27."

Initial here _____ to indicate that Attachment 4.27 is attached hereto.

4.30 Will the project require the installation of any new utility or other type of pole or other new antenna support structure in the public right-of-way?

4.31: If the answer to 4.30 is No proceed to 5.00.

4.33: Attach a detailed written statement fully and expansively describing why the proposed pole will comply with Burbank Municipal Code Section 10-1-1118. Designate this attachment, "Attachment 4.33."

Initial here _____ to indicate that Attachment 4.33 is attached hereto.

5.00: **Build-Out Requirements**

5.01: Do any of radio services identified in 3.09 above require the licensee to provide specific radio frequency/population build-out coverage pursuant to the underlying FCC license?
 Yes No

5.02: If the answer to 5.01 is No proceed to 5.10.

5.03: Have all of the FCC build-out requirements as required by all licenses covering all radio services proposed at this Project been met?
 Yes No

5.04: If the answer to 5.04 is Yes proceed to 5.10.

5.05: Disclose by licensee call sign identified in Section 3.02 all remaining build-out requirements which have yet to be met, and the known or estimated date when the remaining build-out requirements will be met. Designate this attachment "Attachment 5.05."

Initial here _____ to indicate that Attachment 5.05 is attached hereto.

5.10 Will this proposed site be interconnected via radio frequency transmissions to any other site or sites now constructed, proposed, or anticipated? For the purpose of this question, interconnection includes one or more radio frequency links for the purpose provide for 'back-haul' from this site to a switching center or centralized node location.
 Yes No

5.11: If the answer to 5.10 is No proceed to 6.00.

5.15 Identify by physical address (or if none, by geographic description) all other sites, regardless of whether now constructed, proposed, or anticipated, that are to be interconnected with this project site. Disclose in technical detail the proposed method of interconnection. Designate this attachment, "Attachment 5.15."

Initial here _____ to indicate that Attachment 5.15 is attached hereto.

6.00: **Radio Frequency Coverage Maps**

6.01: Where a licensee intends to provide radio frequency coverage from the project to an identified geographic coverage, the coverage maps and information requested in Section 6 are required attachments.

Distributed Antenna System (DAS) providers and all others who are **not** licensed by the FCC for the radio services proposed for this project and identified in 3.09: You **must** provide radio frequency coverage maps prepared by the FCC licensee(s) that will control the RF emissions from this project. Radio frequency coverage maps required here that are completed by a DAS provider are **unacceptable** if they are **not** the FCC licensee for the particular wireless service transmitted through the project.

If no geographic coverage area is identified, initial here _____ and proceed to 7.00.

- 6.02 For the coverage maps required here, the following mandatory requirements apply.
- A. The size of each submitted map must be no smaller than 11 by 8½ inches. Each map must be of the same physical size and map area scale. Each map must use the same base map (i.e., same streets and legends shown on all).
 - B. If the FCC rules for any proposed radio service defines a minimum radio frequency signal level that level must be shown on the map in a color easily distinguishable from the base paper or transparency layer, and adequately identified by RF level and map color or gradient in the map legend. If no minimum signal level is defined by the FCC rules you must indicate that in the legend of each RF coverage map. You may show other RF signal level(s) on the map so long as they are adequately identified by objective RF level and map color or gradient in the map legend.
 - C. Where the City of Burbank reasonably determines that one or more submitted maps are inadequate, it will request supplemental maps with greater or different details be submitted.

6.03: Existing RF coverage within the City of Burbank on the same network, if any (if none, so state). This map should not depict any RF coverage to be provided by the Project. Designate this attachment "Attachment 6.03."

Initial here _____ to indicate that Attachment 6.03 is attached hereto.

6.04: RF coverage to be provided by the Project. This map should not depict any RF coverage provided any other existing or proposed wireless sites. Designate this attachment "Attachment 6.04."

Initial here _____ to indicate that Attachment 6.04 is attached hereto.

6.05: RF coverage to be provided by the Project and by other wireless sites on the same network should the Project site be activated. Designate this attachment "Attachment 6.05."

Initial here _____ to indicate that Attachment 6.05 is attached hereto.

7.00: Project Photographs and Photo Simulations

7.01: Where an Applicant proposes to construct or modify a wireless site, and the wireless site is visible from other residential properties, the Applicant shall submit photo simulations consistent with the following standards:

- A. Minimum size of each base photo and each photo simulation must be 10 inches by 8 inches (landscape orientation). Each base photo and matching photo simulation must be the same size. Single sheets of 11 x 8 ½ inches showing base photos and photo simulations on the same page are unacceptable.
- B. All elements of the Project as proposed by the Applicant which can be seen from any point at ground level, or from any level within or on buildings within 500 feet of the Project must be shown in one or more close-in photo simulations (i.e., panel antennas, omni-directional antennas, GPS antennas, antenna camouflage devices, cable trays; equipment cabinets; working lights; etc.).

- C. The overall Project as proposed by the Applicant must be shown in three or more area photo simulations. Base photographs must, at a minimum, be taken from widely scattered positions of 120 degrees. A map detail showing each location where a photograph was taken, the proposed site, and the direction to the site from each photo location must be included. Base photographs taken from locations that have some physical feature obscuring the Project site, and the photo simulations associated with those same base photographs, are not acceptable.
- D. Attach all base photographs and photo simulations to this application marked as Attachment 7.01.

The purpose of the photo simulations is to allow the City of Burbank to visualize the Project as completed, therefore the number of site photos, and photo simulations, and the actual or simulated camera location of these photos and photo simulations are subject to City of Burbank determination. The Applicant should submit photos and photo simulations consistent with these instructions, and be prepared to provide additional photos and photo simulations should they be requested by the City of Burbank.

Initial here _____ to indicate that all of the photo simulations provided for Attachment 7.01 are reliable photographic representations of the Project proposed and to be built by the Applicant, and that the Applicant is aware that the City of Burbank will rely on the photo simulations provided in Attachment 7.01 when it considers approval of this Project.

8.00: Alternative Candidate Sites

8.01: For applicants in the broadcast, cellular, PCS, broadcast, ESMR/SMR categories, as well as DAS providers and others as requested by the City of Burbank, the information requested in Section 8 is required. All others proceed to 9.00.

8.02: Has the Applicant or Owner or anyone working on behalf of the Applicant or Owner secured or attempted to secure any leases or lease-options or similar formal or informal agreements in connection with this Project for any sites other than the candidate site identified at 1.01/1.02?
 ___ Yes ___ No

8.03: If the answer to 8.02 is No, proceed to 8.05.

8.04: Provide the physical address of each such other location, and provide an expansive technical explanation as to why each such other site was disfavored over the Project Site. Designate this attachment "Attachment 8.04."

Initial here _____ to indicate that Attachment 8.04 is attached hereto.

8.05: Considering this proposed site, is it the one and only one location within or outside of the City of Burbank that can possibly meet the objectives of the Project?
 ___ Yes ___ No

8.06: If the answer to 8.05 is No, proceed to 9.00.

8.07: Provide a technically expansive and detailed explanation supported as required by comprehensive radio frequency data fully describing why the proposed site is the one is it the one and only one location within or without the City of Burbank that can possibly meet the radio frequency objectives of the Project. Explain, in exact and expansive technical detail, all of the objectives of this Project. Designate this attachment "Attachment 8.07."

Initial here _____ to indicate that Attachment 8.07 is attached hereto.

9.00: **Structural Safety**

9.01: Will the proposed project be constructed in whole or in part on a antenna support structure such as a pole, "lollipop mount," monopole, mono-tree, unipole, flagpole, lattice tower, or any other such antenna support?
___ Yes ___ No

9.02: If the answer to 9.01 is No, proceed to 10.00.

9.05: Is the antenna support structure subject to the requirements of ANSI/TIA/EIA-222G (2009) ("Structural Standard for Antenna Supporting structures and Antennas")?
___ Yes ___ No

9.07: If the answer to 9.05 is Yes, proceed to 9.12.

9.08: Provide a detailed statement as to why the antenna support structure is NOT subject to the requirements of ANSI/TIA/EIA-222G (2009). Designate this attachment "Attachment 9.08."

Initial here _____ to indicate that Attachment 9.08 is attached hereto.

9.09: Proceed to 10.00.

9.12: Provide a detailed structural engineering analysis signed and wet-stamped by a professional engineer appropriately licensed to practice in the City of Burbank, certifying that the existing and/or proposed tower (as applicable) has been evaluated by the engineer and that based on the engineer's evaluation the existing and/or proposed tower (as applicable) does now or by virtue of this project will meet all of the requirements of ANSI/TIA/EIA-222G (2009). Designate this attachment "Attachment 9.12."

Initial here _____ to indicate that Attachment 9.12 is attached hereto.

9.14: Provide a detailed soils engineering analysis signed and wet-stamped by a professional engineer appropriately licensed to practice in the City of Burbank, certifying that the soil suitability for the existing and/or proposed tower (as applicable) has been evaluated by the engineer and that based on the engineer's evaluation the existing and/or proposed tower (as applicable) does now or by virtue of this project will meet all of the requirements of [INSERT SOILS STANDARD] (Insert Standard Year) to bear the maximum anticipated load of the project as proposed. Designate this attachment "Attachment 9.14."

Initial here _____ to indicate that Attachment 9.14 is attached hereto.

10.00: **Identification of Key Persons**

10.01: Identify by name, title, company affiliation, work address, telephone number and extension, and email address the key person or persons most knowledgeable regarding this Project so that the City of Burbank may contact them with questions regarding the Project:

Person responsible for the final site selection for the Project	
Name:	
Title:	
Company Affiliation:	
Work Address:	
Telephone / Ext.:	
Email Address:	

Person responsible for the radio frequency engineering of the Project	
Name:	
Title:	
Company Affiliation:	
Work Address:	
Telephone / Ext.:	
Email Address:	

Person responsible for rejection of other candidate sites evaluated, if any	
Name:	
Title:	
Company Affiliation:	
Work Address:	
Telephone / Ext.:	
Email Address:	

10.02 If more than one key person is now or was involved in any of the functions identified in this section at or before the time of the submission of this form, attach a separate sheet providing the same information for each additional person, and identifying which function or functions are/were performed by each additional person. Designate this attachment "Attachment 10.40."

Initial here _____ to indicate that the information above is complete and there is no Attachment 10.40, or initial here _____ to indicate that Attachment 10.40 is attached.

11.00 Additional Information Optionally Provided by the Applicant

11.01 You are invited and encouraged to provide any additional written information that you wish the City of Burbank to consider in connection with your proposed project. Designate this attachment "Attachment 11."

Initial here _____ to indicate that Attachment 11 is attached hereto, or initial here _____ to indicate that there is no Attachment 11 provided by the applicant.

12.00 Application Processing Time

The City of Burbank strives to complete wireless application processing to reach a decision within 90 days for collocation projects, and 150 days for new siting projects, however, the complexity and other issues may impact processing time. If the Applicant is willing to voluntarily extend the initial processing times shown above by 30 days (120 days for collocation projects, and 150 days for new siting projects), please initial below.

Your agreement to this initial extension is strictly voluntary, and declining to agree to the extension will in no way impact the consideration or priority of your case, or the outcome of the case.

Initial here _____ to indicate the Applicant's acceptance of the initial additional 30 day processing time (120 days for collocation projects; 180 days for new siting projects).

13.00: Certification of Accuracy and Reliability

13.01: The undersigned certifies on behalf of itself, the Applicant, and the Owner that the information provided in response to this form and all attachments provided in response to this form are true and complete to the best of the undersigned's ability and knowledge, and that all of the information provided should be relied upon by the City of Burbank as being accurate and complete in evaluating this project.

Signature

Title

Print Name

Email Address

Print Company Name

Telephone Number

Date Signed

Please remember to complete the information and sign above, and initial below

A few reminders:

- 1) Be sure that all YES/NO questions are answered;
- 2) Check to see that all required attachments are properly identified and attached;
- 3) Verify that you have initialed all of the required blanks, and at the bottom of every page;
- 4) Review your narrative answers/attachments for completeness;
- 5) If you have questions regarding this form, contact the City of Burbank Planning and Transportation Division for assistance.

Appendix:

Richmond's Application Submittal Checklist



WIRELESS COMMUNICATIONS FACILITY CONDITIONAL USE PERMIT
Application Submittal Checklist

The following materials are required at minimum in order to submit a conditional use permit application for a wireless communication facility.

- PLANNING APPLICATION FORM**
- SUPPLEMENTAL APPLICATION FORM FOR WIRELESS PROJECTS AND "DAS" PROJECTS**
- PLANNING AND ENVIRONMENTAL REVIEW FEES**
- PROJECT DESCRIPTION**
 - Describe the subject property's existing use(s).
 - State whether the provider has any existing facilities at the subject property. If so, provide a description.
 - Describe what is being proposed and list all of the related improvements.
 - Describe how the proposed facilities will be screened from public view.
 - Explain why the permit is being sought; the reasons that the subject site is necessary to accomplish the provider's coverage objectives; and the reasons the proposed site is the most appropriate location.
- SUBMITTAL PLANS REQUIRED FOR INITIAL REVIEW**
 - 1 full-sized set of plans at 24" by 36"
 - 1 reduced-sized set of plans at 11" by 17"
- TITLE SHEET** - Include:
 - Title block with the project name, address, assessor's parcel number and contact information
 - Proposed scope of work
 - Vicinity map with north arrow, project location and major cross streets
- SITE PLAN** (1'-0" = 1/10" min. scale) - Show:
 - Property boundaries and dimensions
 - Footprints, dimensions and setbacks of existing/proposed structures
 - Adjacent streets, sidewalks, curbs, curb cuts, driveways, parking spaces, walks and landscaping
 - Easements and waterways, if any
 - Location of all wireless communications facility components including equipment, cabinets, cables, and antennas
- ELEVATIONS** (1'-0" = 1/4" min. scale) - Provide architectural elevations for each building affected by the proposed wireless communication facility.
- VISUAL ANALYSIS** - Provide a visual analysis to assess the effects on views and aesthetics from public areas and from private residences, and to address cumulative impacts of the proposed facility and other existing and foreseeable wireless communications facilities, including foreseeable co-location facilities. The analysis may utilize a simulations, field mock-up or other techniques. The analysis shall include feasible mitigations for any effects identified. If the proposed tower or structure is visible from a public right-of-way, then the applicant shall submit either a photo simulation of the proposed tower or structure from one or more locations along the public right-of-way, the locations of which shall be indicated on a map of suitable scale.

- COVERAGE MAP** - Provide a map depicting the existing and proposed coverage areas within a two (2) mile radius of the subject site. The map must show the coverage area at maximum power and design capacity.
- SPECIFIC REQUIREMENTS FOR TOWERS** - All applications for new tower construction, or modification of an existing tower must include the following:
 - A professional structural engineer's certification of the tower structure's capacity to safely sustain all projected loads as well as such structure's compliance with the Telecommunication Industry Association Structural Standard for Antenna Supporting Structures and Antennas (the later of TIA-222-G or the most recently revision to TIA-222), and all federal, state and local laws, rules, and regulations.
 - A description of available space on the tower, providing illustrations of the wireless communications facilities that will be mounted on the structure now or in the future as shown on the project plans.
- SUBMITTAL COPIES** - Provide copies of all submittals and showings pertaining to: FCC licensing, all relevant environmental impact studies and statements; FAA notice of construction or alteration; aeronautical studies; and all data, assumptions, and calculations relating to service coverage and power levels, regardless of whether categorical exemption from routine environmental evaluation under the FCC rule is claimed.
- BUSINESS LICENSE** - Provide evidence that the fee owner has secured the required business license pursuant to Richmond Municipal Code Chapter 7.04.

The following additional materials may be required by the Director of Planning and Building Services depending on the complexity of the project:

- RADIO FREQUENCY REPORT** - Provide a report by an approved radio frequency expert estimating the cumulative radio frequency emissions and compliance with FCC OET Bulletin 65 that would result if the proposed facility is approved.
- ALTERNATIVE SITE ANALYSIS**
 - Identify and indicate on a map, at a minimum, two (2) viable technically and economically feasible or superior alternative locations outside the disfavored areas which could eliminate or substantially reduce the need to locate in a restricted area. If there are fewer than two such alternative locations, the applicant must provide evidence establishing that fact. The map shall also identify all locations where an unimpaired signal can be received to eliminate or substantially reduce the need for such a location. Radio frequency plots of all alternative facilities considered for use in conjunction with these facility sites shall be provided as part of the alternatives analysis. For each alternative location so identified, the applicant shall describe the type of facility and design measures that could be used at that location so as to minimize negative visual, noise and aesthetic impacts (e.g., the use of camouflaging techniques).
 - Evaluate the potential for co-location with existing wireless communications facilities as an alternative to the proposed facility.
 - Compare, across the same set of evaluation criteria and to similar levels of description and detail, the relative merits of the proposed wireless communications facility site with those of each of the identified technically feasible alternative locations and facility designs, and all technically feasible inter-carrier roaming agreements. Such comparison analysis shall rank each of the alternatives (i.e., the proposed location/facility and each of the technically feasible location/design alternatives) in terms of impacts (i.e., from least to most impacts on visual, noise and aesthetic concerns), and shall support such ranking with analysis.
 - Include photo-simulations of each of the alternatives (i.e., the proposed location/facility and each of the technically feasible location/design alternatives).

- TECHNICAL REVIEW NOTICE -

Please be advised that Richmond Municipal Code 15.04890.060(E)(4) requires the Planning and Building Services Director to employ, on behalf of the City, an approved radio frequency expert to review the application submittal and provide determinations and recommendations on such issues as project design, radio frequency coverage, compliance with radio frequency emissions standards, the identification of alternative locations, and the justifications for installation of monopoles or for any requested exceptions to City standards. The costs of said review and any administrative costs, to be determined by the Director, shall be deposited with the City in advance by the applicant. Any unexpended deposited funds shall be promptly returned to the applicant after the conclusion of the final appeal period for action taken by the Planning Commission, or after an appeal to the City Council, or upon withdrawal of the application by the applicant. The applicant shall promptly reimburse the City for such costs paid by City that exceed the deposited amount. No applicant shall be issued a permit while still owing the City reimbursement pursuant to this Section.

- PLANNING DIVISION USE -

Project:	Location:
Planner:	Signature:
Date:	
Note(s):	

CITY OF RICHMOND, CALIFORNIA
SUPPLEMENTAL APPLICATION FORM FOR WIRELESS PROJECTS
AND DISTRIBUTED ANTENNA SYSTEM (“DAS”) PROJECTS

The City of Richmond, California recognizes that the provision of wireless and Distributed Antenna System (DAS) services are highly technical enterprises subject to various federal, state, and local regulations. This supplemental application form is designed to elicit necessary and required technical information in support of a planned Conditional Use Permit (CUP) or Exception application for a new or modified wireless telecommunications site project or a DAS project within the City of Richmond.

Completion of this supplemental application is a mandatory document for a wireless project. This form assists the City of Richmond to comply with its duties under Chapter 15.04.890 of the Richmond Municipal Code (RMC); Sections 253, 332, and 704 of the Communications Act of 1934 as amended; the FCC Shot Clock Order (FCC 09-99); California Public Utilities Code Sections 7901 and 7901.1; the California Environmental Quality Act (CEQA); the provisions of Government Code Sections 65850.6 and 65964; and other local, state, and federal laws, regulations, and court rulings. The City of Richmond requires that the applicant provide this information to assist it in creating a written administrative record containing substantial evidence sufficient to permit the City of Richmond’s informed consideration of your request, and to determine the rights and obligations of the City of Richmond and the applicant/owner of the proposed project.

No application for a new wireless site or for a modification of an existing wireless site shall be determined complete, or be considered for determination of completeness until all required responses to this supplemental application form and required attachments are completed and tendered to the City of Richmond.

If you do not believe that a specific item of information is necessary or applies to your application, mark the item on this form with the words, “Not Applicable” and attach a detailed written explanation as to the basis for your belief (e.g., “Question 94.7 does not apply to this application because the proposed project has no microwave transmission element.”) An unsupported statement such as “Question 94.7 does not apply” is insufficient, and the determination of completeness of your application will be delayed while you provide a meaningful and detailed explanation.

Every page of this form including this page and the last page must be tendered to the City of Richmond. Each page including this page and the last page must be initialed where indicated. The last page must also be completed, signed, and dated. Note that gaps in the numbering of this form are intentional, and you are not to renumber questions or responses in your reply.

Questions about this form or the required information to be provided should be directed to the City of Richmond Planning and Building Services Department planner assigned to your project.

1.00: Project Location and Applicant Information

- 1.01: Project Physical Address (if any):
- 1.02: Applicant's Site Number (if any):
- 1.03: Assessors Parcel Number:
- 1.04: Applicant is: Owner Owner's representative
- 1.05: Applicant name is:
- 1.06: Applicant's Address Line 1:
- 1.07: Applicant's Address Line 2:
- 1.08: Applicant's Address Line 3:
- 1.09: Applicants Address Line 4:
- 1.10: Applicant's Phone number:
- 1.11: Applicant's Mobile number:
- 1.12: Applicant's Fax number:
- 1.13: Applicant's Email address:

2.00: Project Owner Information and CPCN Information

- 2.01: Disclose the name and address of all project owners, and attach a letter of agency appointing the applicant as representative of the project owners in connection with this application. Designate the letter of agency as "Attachment 2.01."

Initial here _____ to indicate that Attachment 2.01 is attached hereto.

- 2.02: Is any telecommunications service to be offered from this project subject to a California Public Utilities Commission (CPUC) 'Certificate of Public Convenience and Necessity' (CPCN)? Yes No
- 2.03: If the answer to 2.02 is Yes, provide either a web site link to the complete CPCN decision at the CPUC web site, or a true and complete copy of the CPCN decision and mark it as "Attachment 2.02."

Initial here _____ to indicate that the required CPUC web site address or Attachment 2.02 is attached hereto.

3.00: FCC License / FAA Compliance / RF Safety Disclosure Information

3.01: For each person/legal entity that will be using the wireless site, provide the information in Sections 3 and 4. Copy these sections for each applicant if necessary.

DAS providers and all other who are not licensed by the FCC for the radio services proposed for this project and identified in 3.09: For Section 3, disclose the information requested here for each FCC-licensee that will utilize the project as proposed.

3.02: Disclose all of the FCC licenses call signs or Construction Permit identifications to permit the City of Richmond to verify your FCC authority: _____
_____. If additional space is necessary attach and mark the sheet as "Attachment 3.02." If none of the proposed radio facilities require an FCC license so indicate on the line, above.

Initial here _____ to indicate that Attachment 3.02 is attached hereto.

3.03: Name of FCC Licensee:

3.04: Licensee's Address Line 1:

3.05: Licensee's Address Line 2:

3.06: Licensee's Phone number:

3.07: Licensee's Fax number:

3.08: Licensee's Contact Email address:

3.09: Use of facility: Amateur Radio
(Check all that apply) Broadcast Radio
 Broadcast TV
 Cellular telephone
 Distributed Antenna System (DAS)
 Enhanced Specialized Mobile Radio
 Microwave
 PCS telephone
 Paging
 Specialized Mobile Radio
 WiMax/WiFi
 Other(s) (specify): _____

Notice: Applicants not operating under their own FCC license(s) must mark "Other" and disclose of all information required here for all entities that use the project.

3.10: Project latitude and longitude: N _____ W _____

3.11: Specify DATUM used above: WGS84 NAD23 NAD83
 Other DATUM (specify): _____

- 3.12: Project maximum height (ft AGL):
- 3.13: Bottom of lowest transmitting antenna (ft AGL):
- 3.14: RF Emissions (“Rad”) center of the lowest transmitting antenna (ft AGL):
- 3.15: For each licensee (i.e., “ABC Wireless” or “XYZ Wireless”), and for each radio service (i.e., “PCS” or “Cellular”), complete and attach a separate two-page “Appendix A” form from "A Local Government Official's Guide to Transmitting Antenna RF Emission Safety: Rules, Procedures, and Practical Guidance” available by download directly from the FCC at <http://www.fcc.gov/oet/rfsafety/>. Ensure that all proposed emissions from this project are accounted for on the Appendix A forms you submit.

DAS providers and all other who are not licensed by the FCC for the radio services proposed for this project and identified in 3.09: Unless the DAS provider is the FCC licensee for the proposed project, the DAS provider must provide an Appendix A form completed by each wireless carrier or wireless service provider to be transmitted through the project at each wireless site. Appendix A forms completed by a DAS provider are unacceptable if they are not the FCC licensee for the particular wireless service(s) to be transmitted through the project.

For consistency, all Appendix A forms submitted must use effective radiated power (ERP) units of measure. Do not use effective isotropic radiated power (EIRP). To verify your understanding of this requirement, you must append the letters “ERP” following each wattage listing in each Appendix A form you submit.

Designate all completed Appendix A two page forms as “Attachment 3.15.”

In addition to the LSGAC form(s) which you must submit, for any proposed new wireless project where the antennas are mounted on a structure not exclusively used as an antenna support (e.g., any occupied structure; water tower and tanks; advertising signs; etc.) or any collocation project on any structure, you must also submit any additional RF emissions report by transmitter that lists for each all of the following: (1) existing emissions by frequency; (2) existing emissions by power output (stated in watts ERP); antenna elevation above ground level; and (3) emissions azimuth by antenna. Designate any additional RF safety compliance information as “Attachment 3.15-A.”

Initial here _____ to indicate that all required Attachment 3.15 and 3.15-A forms are attached hereto.

3.16: Considering your response in Attachment 3.15, above, and any other identifiable RF emitters that FCC OET Bulletin 65 requires be evaluated in connection with this project, are all portions of this project cumulatively “categorically excluded” under FCC OET 65 requirements? Yes No

3.17: Does this project require the Applicant to file an FAA Form 7460 or other documentation under Federal Aviation Regulation Part 77.13 et seq, or under the FCC rules? Yes No

3.18: If the answer to 3.17 is No proceed to 4.00.

3.19: Attach complete copies of all required FAA/FCC forms including all attachments and exhibits thereto, including without limitation FAA Form 7460. Designate this attachment, “Attachment 3.19.”

Initial here _____ to indicate that Attachment 3.19 is attached hereto.

4.00: **Project Purpose**

4.01: Indicate the dominant purpose of the project (check only one, and then proceed where directed):

Add network capacity without adding significant new RF coverage area: Proceed to 4.20; or

Provide significant new radio frequency coverage in an area not already served by radio frequency coverage: Proceed to 4.10; or

Increase the existing RF signal level in an area with existing radio frequency coverage: Proceed to 4.20; or

Other: Proceed to 4.19.

4.10 Is this project intended to close a “significant gap” in coverage? Yes No

4.11 If the answer to 4.10 is No proceed to 4.20.

4.12 Attach a written statement fully and expansively describing the following:

- a. A clear description of the geographic boundary of the claimed significant gap area, and
- b. Attach a street-level map showing the geographic boundary of the claimed significant gap stated in 4.12(a) using the same standards as in 6.02; and
- c. Identify the size of the area, in units of square miles, of the claimed significant gap; and
- d. Explain exactly the definition of the term “significant gap” as it applies to this

- project;
- e. Explain exactly how the definition of significant gap term defined in 4.12(d) was developed;
 - f. Discuss, if known, whether the significant gap term defined in 4.12(d) is identical to that term as used by some or all wireless carriers in the City of Richmond;
 - g. Specify whether the definition of “significant gap” provided in 4.12(d) is the same definition used in by this applicant and owner in all of its prior projects submitted to the City of Richmond, and if not, explain all differences.
 - h. Discuss all of the following in relation to the claimed significant gap area only:
 - i. Whether claimed significant gap affects significant commuter highway or railway, and if so, how;
 - ii. Describe in detail the nature and character of that area or the number of potential users in that area who may be affected by the claimed significant gap;
 - iii. Describe whether the proposed facilities are needed to improve weak signals or to fill a complete void in coverage, and provide proof of either;
 - iv. If the claimed significant gap covers well traveled roads on which customers lack roaming capabilities, identify all such well traveled roads by name within the claimed significant gap area and provide road use information about each such road;
 - v. If any “drive test” has been conducted within the claimed significant gap area, discuss in detail the methodology of how the test(s) was conducted, and provide all of the objective data collected during the drive test in .XLS or .CSV or similar portable spreadsheet format;
 - vi. If the claimed significant gap affects a commercial district, show the boundaries of the district on the map
 - vii. If the claimed significant gap poses a public safety risk, describe in detail the claimed risk, and the expansively discuss the basis for this claim.
 - i. Provide all other relevant information you believe is useful for the City of Richmond to consider when evaluating your claim of significant gap.

Designate this attachment, “Attachment 4.12.” Initial here _____ to indicate that Attachment 4.12 is attached hereto. Proceed to 4.13

4.13 Is the proposed project the least intrusive means to close the significant gap claimed in 4.10? ___ Yes ___ No

4.14 If the answer to 4.13 is No proceed to 4.20.

- 4.15 Attach a written statement fully and expansively describing why this project is the least intrusive means to close the significant gap claimed in 4.10. Designate this attachment, "Attachment 4.15."

Initial here _____ to indicate that Attachment 4.15 is attached hereto. Proceed to 4.20

- 4.19 Attach a written statement fully and expansively describing the "Other" dominant purpose of this Project. Designate this attachment, "Attachment 4.19."

Initial here _____ to indicate that Attachment 4.19 is attached hereto.

- 4.20 If any portion of the project is to utilize radio spectrum that does not require an FCC license, identify in detail the portions of the project that used unlicensed spectrum.

Designate this attachment, "Attachment 4.20."

Initial here _____ to indicate that Attachment 4.20 is attached hereto.

- 4.25 Is this project designed to use any form of radio interconnection with other existing or planned sites? ___ Yes ___ No

- 4.26: If the answer to 4.25 is No proceed to 5.00.

- 4.27: Attach a detailed written statement fully and expansively describing the radio interconnection proposed, and identify all other existing or planned sites that will be interconnected with this project. Designate this attachment, "Attachment 4.25."

Initial here _____ to indicate that Attachment 4.25 is attached hereto.

5.00: **Build-Out Requirements**

- 5.01: Do any of radio services identified in 3.09 above require the licensee to provide specific radio frequency/population build-out coverage pursuant to the underlying FCC license? ___ Yes ___ No

- 5.02: If the answer to 5.01 is No proceed to 6.00.

- 5.03: Have all of the FCC build-out requirements as required by all licenses covering all radio services proposed at this project been met? ___ Yes ___ No

- 5.04: If the answer to 5.04 is Yes proceed to 6.00.

5.05: Disclose by licensee call sign identified in Section 3.02 all remaining build-out requirements which have yet to be met, and the known or estimated date when the remaining build-out requirements will be met. Designate this attachment "Attachment 5.05."

Initial here _____ to indicate that Attachment 5.05 is attached hereto.

5.10 Will this proposed site be interconnected via radio frequency transmissions to any other site or sites now constructed, proposed, or anticipated? For the purpose of this question, interconnection includes one or more radio frequency links for the purpose provide for 'back-haul' from this site to a switching center or centralized node location. ___ Yes ___ No

5.11: If the answer to 5.10 is No proceed to 6.00.

5.15 Identify by physical address (or if none, by geographic description) all other sites, regardless of whether now constructed, proposed, or anticipated, that are to be interconnected with this project site. Disclose in technical detail the proposed method of interconnection. Designate this attachment, "Attachment 5.15."

Initial here _____ to indicate that Attachment 5.15 is attached hereto.

6.00: Radio Frequency Coverage Maps

6.01: Where a licensee intends to provide radio frequency coverage from the project to an identified geographic coverage, the coverage maps and information requested in Section 6 are required attachments.

DAS providers and all others who are not licensed by the FCC for the radio services proposed for this project and identified in 3.09: You must provide radio frequency coverage maps prepared by the FCC licensee(s) that will control the RF emissions from this project. Radio frequency coverage maps required here that are completed by a DAS provider are unacceptable if they are not the FCC licensee for the particular wireless service transmitted through the project.

If no geographic coverage area is identified, initial here _____ and proceed to 7.00.

6.02 For the coverage maps required here, the following mandatory requirements apply.

- a. The size of each submitted map must be no smaller than 11 by 8½ inches Each map must be of the same physical size and map area scale. Each map must use the same base map (i.e., same streets and legends shown on all).
- b. If the FCC rules for any proposed radio service defines a minimum radio frequency signal level that level must be shown on the map in a color easily distinguishable from the base paper or transparency layer, and adequately

identified by RF level and map color or gradient in the map legend. If no minimum signal level is defined by the FCC rules you must indicate that in the legend of each RF coverage map. You may show other RF signal level(s) on the map so long as they are adequately identified by objective RF level and map color or gradient in the map legend.

- c. Where the City of Richmond reasonably determines that one or more submitted maps are inadequate, it will request supplemental maps with greater or different details be submitted.

6.03: Existing RF coverage within the City of Richmond on the same network, if any (if none, so state). This map should not depict any RF coverage to be provided by the project. Designate this attachment "Attachment 6.03."

Initial here _____ to indicate that Attachment 6.03 is attached hereto.

6.04: RF coverage to be provided by the project. This map should not depict any RF coverage provided any other existing or proposed wireless sites. Designate this attachment "Attachment 6.04."

Initial here _____ to indicate that Attachment 6.04 is attached hereto.

6.05: RF coverage to be provided by the project and by other wireless sites on the same network should the project site be activated. Designate this attachment "Attachment 6.05."

Initial here _____ to indicate that Attachment 6.05 is attached hereto.

7.00: **Project Photographs and Photo Simulations**

7.01: Where an applicant proposes to construct or modify a wireless site, and the wireless site is visible from other residential properties, the applicant shall submit photo simulations consistent with the following standards:

1. Minimum size of each base photo and each photo simulation must be 10 inches by 8 inches (landscape orientation). Each base photo and matching photo simulation must be the same size. Single sheets of 11 x 8 ½ inches showing base photos and photo simulations on the same page are unacceptable.
2. All elements of the project as proposed by the applicant which can be seen from any point at ground level, or from any level within or on buildings within 500 feet of the project must be shown in one or more close-in photo simulations (i.e., panel antennas, omni-directional antennas, GPS antennas, antenna camouflage devices, cable trays; equipment cabinets; working lights; etc.).
3. The overall project as proposed by the applicant must be shown in three or more area photo simulations. Base photographs must, at a minimum, be taken from widely

scattered positions of 120 degrees. A map detail showing each location where a photograph was taken, the proposed site, and the direction to the site from each photo location must be included. Base photographs taken from locations that have some physical feature obscuring the project site, and the photo simulations associated with those same base photographs, are not acceptable.

Attach all base photographs and photo simulations to this application marked as Attachment 7.01.

The purpose of the photo simulations is to allow the City of Richmond to visualize the project as completed, therefore the number of site photos, and photo simulations, and the actual or simulated camera location of these photos and photo simulations are subject to City of Richmond determination. The applicant should submit photos and photo simulations consistent with these instructions, and be prepared to provide additional photos and photo simulations should they be requested by the City of Richmond.

Initial here _____ to indicate that all of the photo simulations provided for Attachment 7.01 are reliable photographic representations of the project proposed and to be built by the applicant, and that the applicant is aware that the City of Richmond will rely on the photo simulations provided in Attachment 7.01 when it considers approval of this project.

8.00: Alternative Candidate Sites

8.01: For applicants in the broadcast, cellular, PCS, broadcast, ESMR/SMR categories, as well as DAS providers and others as requested by the City of Richmond, the information requested in Section 8 is required. All others proceed to 9.00.

8.02: Has the applicant or owner or anyone working on behalf of the applicant or owner secured or attempted to secure any leases or lease-options or similar formal or informal agreements in connection with this project for any sites other than the candidate site identified at 1.01/1.02? ___ Yes ___ No

8.03: If the answer to 8.02 is No, proceed to 8.05.

8.04: Provide the physical address of each such other location, and provide an expansive technical explanation as to why each such other site was disfavored over the project site. Designate this attachment "Attachment 8.04."

Initial here _____ to indicate that Attachment 8.04 is attached hereto.

8.05: Considering this proposed site, is it the one and only one location within or outside of the City of Richmond that can possibly meet the objectives of the project?
___ Yes ___ No

8.06: If the answer to 8.05 is No, proceed to 9.00.

8.07: Provide a technically expansive and detailed explanation supported as required by comprehensive radio frequency data fully describing why the proposed site is the one and only one location within or without the City of Richmond that can possibly meet the radio frequency objectives of the project. Explain, in exact and expansive technical detail, all of the objectives of this project.

Designate this attachment "Attachment 8.07."

Initial here _____ to indicate that Attachment 8.07 is attached hereto.

9.00: **Tower Structural Safety**

9.01: Will the proposed project be constructed in whole or in part on a wireless tower structure such as a monopole, monopine, unipole, flagpole, lattice tower, or any other such antenna support that may or may not be camouflaged? ___ Yes ___ No

9.02: If the answer to 9.01 is No, proceed to 10.00.

9.05: Is the wireless tower structure subject to the requirements of ANSI/TIA/EIA-222G (2009) ("Structural Standard for Antenna Supporting structures and Antennas")? ___ Yes ___ No

9.07: If the answer to 9.05 is Yes, proceed to 9.12.

9.08: Provide a detailed statement as to why the wireless tower structure is not subject to the requirements of ANSI/TIA/EIA-222G (2009).

Designate this attachment "Attachment 9.08."

Initial here _____ to indicate that Attachment 9.08 is attached hereto.

9.09: Proceed to 10.00.

9.12: Provide a detailed structural engineering analysis signed and wet-stamped by a professional engineer appropriately licensed in California certifying that the existing and/or proposed tower (as applicable) has been evaluated by the engineer and that based on the engineer's evaluation the existing and/or proposed tower (as applicable) does now or by virtue of this project will meet all of the requirements of ANSI/TIA/EIA-222G (2009).

Designate this attachment "Attachment 9.12."

Initial here _____ to indicate that Attachment 9.12 is attached hereto.

10.00: Identification of Key Persons

10.01: Identify by name, title, company affiliation, work address, telephone number and extension, and email address the key person or persons most knowledgeable regarding this project so that the City of Richmond may contact them with questions regarding the project:

10.10 (1) Person responsible for the final site selection for the project;

10.11 Name:

10.12 Title:

10.13 Company Affiliation:

10.14 Work Address:

10.15 Telephone / Ext.:

10.16 Email Address:

10.20 (2) Person responsible for the radio frequency engineering of the project;

10.21 Name:

10.22 Title:

10.23 Company Affiliation:

10.24 Work Address:

10.25 Telephone / Ext.:

10.26 Email Address:

10.30 (3) Person responsible for rejection of other candidate sites evaluated, if any;

10.31 Name:

10.32 Title:

10.33 Company Affiliation:

10.34 Work Address:

10.35 Telephone / Ext.:

10.36 Email Address:

10.40 If more than one key person is now or was involved in any of the functions identified in this section at or before the time of the submission of this form, attach a separate sheet providing the same information for each additional person, and identifying which function or functions are/were performed by each additional person.

Designate this attachment "Attachment 10.40."

Initial here _____ to indicate that the information above is complete and there is no Attachment 10.40, or initial here _____ to indicate that Attachment 10.40 is attached.

11.00 Additional Information Optionally Provided by the Applicant

11.01 You are invited and encouraged to provide any additional written information that you wish the City of Richmond to consider in connection with your proposed project.

Designate this attachment "Attachment 11."

Initial here _____ to indicate that Attachment 11 is attached hereto,
or initial here _____ to indicate that there is no Attachment 11.

12.00 Application Processing Time

The City of Richmond strives to complete application processing to reach a decision within 90 days for collocation projects, and 150 days for new siting projects, however, the complexity and other issues may impact processing time. If the applicant is willing to voluntarily extend the initial processing times shown above by 30 days (120 days for collocation projects, and 180 days for new siting projects), please initial below.

Your agreement to this initial extension is strictly voluntary, and declining to agree to the extension will in no way impact the consideration or priority of your case, or the outcome of the case.

Initial here _____ to indicate the applicant's acceptance of the initial additional 30 day processing time (120 days for collocation projects; 180 days for new siting projects).

13.00: Certification of Accuracy and Reliability

13.01: The undersigned certifies on behalf of itself, the applicant, and the owner that the information provided in response to this form and all attachments provided in response to this form are true and complete to the best of the undersigned's ability and knowledge, and that all of the information provided should be relied upon by the City of Richmond as being accurate and complete in evaluating this project.

Signature

Title

Print Name

Provide Email Address

Print Company Name

Provide Telephone Number

Date Signed

Appendix:

Glendale's Wireless Telecommunications Ordinance Excerpts re: alternative siting

E. Modifications. If a permittee proposes any modifications to any wireless telecommunications facility permit after said permit is granted, the permittee shall submit an application to the public works department for consideration; provided, however, that the city need not accept and/or process said application unless and until the permittee (i) demonstrates the existing wireless telecommunications facility's compliance with all applicable local requirements; and (ii) certifies that the existing wireless telecommunications facility complies with all applicable state, and federal requirements.

F. Term. Unless otherwise required by California Government Code section 65964(b), and as that section may be hereafter amended, a wireless telecommunications facility permit shall have a duration of no longer than ten (10) years. In accordance with requirements established by the director of public works, at the expiration of the time period set forth herein, the permittee may apply for an extension of its wireless telecommunications facility permit for a term of five (5) years with an optional additional five (5) year term. Such extensions shall be subject to the discretion of the director of public works who shall take account of at least the following factors: conformance with all conditions of approval of the permit as it was originally issued, operation of the facility in its intended manner, and conformance with all applicable laws, regulations, standards and updates thereof, including radio frequency emissions, and toxic or hazardous materials.

G. Application. In addition to standard application submittal requirements for an encroachment permit, the information listed below is required at the time a wireless telecommunication facility encroachment permit application is submitted to the public works department:

1. An accurate map, compatible with the City's version of GIS mapping software, indicating the proposed site and detailing existing wireless telecommunications facility locations owned and operated by the applicant within the City on the date of application submittal.
2. An engineering certification demonstrating planned compliance with all existing federal radio frequency emissions standards.
3. An engineering analysis providing technical data sufficient to justify the proposed height of the wireless communication facility.
4. An alternative site analysis, assessing the feasibility of alternative sites, including the potential for co-location, in the vicinity of the proposed site, as deemed necessary by the director of public works. In the case of proposed sites that are inside or within 1000 feet of any residential zone, the alternative site analysis shall specifically include an evaluation of the availability and feasibility of potential alternative sites located at preferred locations and within preferred zones. The alternative site analysis shall include a map that shows other potential stand alone locations for the proposed wireless telecommunications facility that have been explored, and shall describe why the proposed location is superior to other potential locations. Factors that must be considered in the alternative site analysis include but are not limited to cost, visual

an area determined by the Director of Planning to be directly affected by the request and to provide a property ownership map keyed to the mailing labels.

- n. An alternative site analysis, assessing the feasibility of alternative sites, including the potential for co-location, in the vicinity of the proposed site, as deemed necessary by the Planning Director. Said alternative site analysis shall specifically include an evaluation of the availability and feasibility of potential alternative sites located outside a ROS, R1R, R1, R-3050, R-2250, R-1650 and R-1250 zone. Said alternative site analysis shall include a map that shows other potential stand alone locations for the proposed wireless telecommunications facility that have been explored, and shall describe why the proposed location is superior to other potential locations. Factors that must be considered in the alternative site analysis include but are not limited to cost, visual benefits and detriments of alternative sites and proximity to single family dwellings.
- o. Noise/acoustical information derived from the manufacturer's specifications for all equipment such as air conditioning units and back-up generators, and a depiction of the equipment location in relation to adjoining properties.
- p. A conceptual landscape plan as determined necessary by the Planning Director. Said plan shall show all existing trees and all proposed landscaping, concealment, screening and proposed irrigation with a discussion of how the chosen material at maturity will screen the site as determined by the Planning Director.
- q. The Planning Director may require additional information related to topography, including slopes, contours and proposed grading.
- r. All other information as determined necessary by the Planning Director may be required by the city's wireless telecommunications facility permit supplemental application form.

2. Expert Review.

- a. In the event that the Director of Planning in his or her discretion determines the need to hire an independent, qualified consultant to evaluate technical and other aspects of the application, the applicant shall provide the City with written authorization for the city to do so. Such authorization shall include a written agreement by the applicant to advance the City for all reasonable costs associated with such consultation. The City may require the applicant to submit a cash deposit for the estimated cost of such consultation, and to replenish said deposit if consumed by reasonable costs associated with such consultation. Such consultation is intended to be a site-specific review of technical aspects of the proposed wireless telecommunications facility and shall address all of the following:
 - i. Compliance with applicable radio frequency emission standards;
 - ii. The appropriateness of granting any requested exceptions;

Appendix:

Attorney Jonathan Kramer's Generic Supplemental Application Form

**GOVERNMENT OF GENERIC
SUPPLEMENTAL APPLICATION FORM FOR WIRELESS PROJECTS
AND DISTRIBUTED ANTENNA SYSTEM (“DAS”) PROJECTS**

The Government of Generic recognizes that the provision of wireless and DAS services are highly technical enterprises subject to various federal, state, and local regulations. This supplemental application form is designed to elicit necessary and required technical information in support of a planned Conditional Use Permit (“CUP”) or Special Use Permit (“SUP”) or Variance/Waver application for a new or modified wireless telecommunications site project or a Distributed Antenna System (“DAS”) project within the Government of Generic.

Completion of this supplemental application is a mandatory document for a wireless and DAS projects. This form assists the Government of Generic to comply with its duties under its Municipal Code at Chapter ____, et seq.; Sections 253, 332, and 704 of the Communications Act of 1934 as amended; the FCC Shot Clock Order (FCC 09-99); California Public Utilities Code Sections 7901 and 7901.1; the California Environmental Quality Act (CEQA); the provisions of Government Code Sections 65850.6 and 65964; and other local, state, and federal laws, regulations, and court rulings. The Government of Generic requires that the applicant provide this information to assist it in creating a written administrative record containing substantial evidence sufficient to permit the Government of Generic’s informed consideration of your request, and to determine the duties, rights and obligations of the Government of Generic and the applicant/owner of the proposed project.

No application for a new wireless site or for a modification of an existing wireless site shall be considered for determination of completeness until all required responses to this supplemental application form and required Exhibits are completed and tendered to the Government of Generic.

If you do not believe that a specific item of information is necessary or applies to your application, mark the item on this form with the words, “Not Applicable” and attach a detailed written explanation as to the basis for your belief (e.g., “Question 94.7 does not apply to this application because the proposed Project has no microwave transmission element.”) An unsupported statement such as “Question 94.7 does not apply” is insufficient, and the determination of completeness of your application will be delayed while you provide a meaningful and detailed explanation.

Every page of this form including this page and the last page must be tendered to the Government of Generic. Each page including this page and the last page must be initialed where indicated. The last page must also be completed, signed, and dated. Please note that item numbers are intentionally non-sequential.

Questions about this form or the information required by this form should be directed to the Government of Generic Director of Community Development.

1.00: Project Location and Applicant Information

1.01: Project Physical Address (if any):

1.02 Project Site Number (if any)

1.03: Assessor's Parcel Number:

1.04: Legal Name of Applicant
(Wireless Carrier or DAS Firm,
referred to in this form as the
"Project Owner"):

1.08 Project Owner is:

1.10: Applicant's Representative is: Name:
Title:
Firm Name:
Address 1:
Address 2:
City: State: Zip:
Main Tel: Ext:
Direct Tel:
Work Fax:
Mobile Tel:
Email Address:
Website:

1.14 Provide the Government of Generic Business License number for the Applicant or Applicant's firm listed in 1.10: _____

2.00: Project Owner Information and CPCN Information

2.03: Attach a letter of agency appointing the Applicant's Representative as the agent for the Project Owner in connection with this application. Designate the letter of agency as "Exhibit 2.03."

Initial here _____ to indicate that Exhibit 2.03 is attached hereto.

2.05: Attach a letter of agency appointing the Applicant's Representative as the agent for the underlying Property Owner in connection with this application. Designate the letter of agency as "Exhibit 2.05."

Initial here _____ to indicate that Exhibit 2.05 is attached hereto.

2.07: Does the Project Owner hold a California Public Utilities Commission 'Certificate of

Public Convenience and Necessity' (CPCN) for any service to be provided by this project? ___ Yes ___ No

2.08: If the answer to 2.07 is Yes, provide a true and complete copy of the Project Owner's CPCN and mark it as "Exhibit 2.07."

Initial here _____ to indicate that the Exhibit 2.07 is attached hereto.

3.00: **FCC License / FAA Compliance / RF Safety Disclosure Information**

3.01: For each person/legal entity that will be using the project site, provide the information in Sections 3 and 4. If more than one person/legal entity, provide separate information for each person/legal entity using the project site.

Note to DAS provider applicants named in 1.04: Unless the DAS provider is the FCC licensee for the proposed project, or the non-licensee to be transmitted from the site for its own purposes, the information provided in response to Sections 3 and 4 must be provided by every individual wireless licensee or non-licensee to be transmitted via the project identified in Section 1 of this form. That information must be provided on the letterhead of each entity. Each such response must also be signed by an authorized person, and that person's printed name and title, address and telephone number must be shown on the letter. DAS provider-provided responses to Section 4 are unacceptable, and will result in your application being determined to be incomplete.

3.02: For questions 3.03 through 3.09 inclusive, disclose all information for each proposed Radio Frequency signal emitter ("RF Emitter") at the project site.

3.03: Name of RF Emitter:

3.04: RF Emitter's Address Line 1:

3.05: RF Emitter's Address Line 2:

3.06: RF Emitter's Phone number:

3.07: RF Emitter's Fax number:

3.08: RF Emitter's Contact Email
address:

3.09: Use of facility: ___ Amateur Radio
(Check all that apply) ___ Broadcast Radio
___ Broadcast TV
Notice: Applicants not operating ___ Cellular telephone
under their own FCC license(s) ___ Enhanced Specialized Mobile Radio

must mark "Other" and disclose Microwave
of all information required here PCS telephone
for all entities that use the project. Paging
 SMR/ESMR
 WiMax/WIFI
 Other(s) (specify): _____

3.10: Project latitude and longitude: N _____ W _____

3.11: Specify DATUM used above: WGS84 NAD23 NAD83
 Other DATUM (specify): _____

3.12: Project maximum height (ft AGL):

3.13: Bottom of lowest transmitting
antenna (ft AGL):

3.14: RF Emissions ("Rad") center of
the lowest transmitting antenna
(ft AGL):

3.15: For each licensee (i.e., "ABC Wireless" or "XYZ Wireless"), ***and*** for each radio service (i.e., "PCS" or "Cellular"), ***2*** complete and attach a separate two page "Appendix A" form from "A Local Government Official's Guide to Transmitting Antenna RF Emission Safety: Rules, Procedures, and Practical Guidance" available by download directly from the FCC at <http://www.fcc.gov/oet/rfsafety/> (the "Appendix A Form"). Ensure that all proposed emissions from this project are accounted for on the Appendix A Forms you submit.

Distributed Antenna System (DAS) providers and all other who are not licensed by the FCC for the radio services proposed for this project and identified in 3.09: Unless the DAS provider is the FCC licensee for the proposed project or the emissions from the site are solely for the DAS provider's own transmissions, the DAS provider must provide an Appendix A form completed by each wireless carrier or wireless service provider to be transmitted through the Project at each wireless site. Appendix A Forms completed by a DAS provider are unacceptable if they are not the FCC licensee for the particular wireless service(s) to be transmitted through the project.

Designate all completed Appendix A Forms as "Exhibit 3.15."

For collocation projects: In addition to the Appendix A Form(s) which you must submit in connection with the project identified in this application, you must also submit an Appendix A Form for each collocated RF emitter. Designate any additional RF safety compliance information as "Exhibit 3.15-A."

For consistency, all Appendix A forms submitted must use effective radiated power (ERP) units of measure. Do not use effective isotropic radiated power (EIRP). To verify your understanding of this requirement, you must append the letters “ERP” following each wattage listing in each Appendix A form you submit.

Initial here _____ to indicate that all required Exhibit 3.15 and 3.15-A forms are attached hereto.

3.16 Considering your response in Exhibit 3.15, above, and any other identifiable RF emitters that FCC OET Bulletin 65 requires be evaluated in connection with this Project, are all portions of this Project cumulatively “categorically excluded” under FCC OET 65 requirements? Yes No

3.17: Does the project design or location require the Applicant to file an FAA Form 7460 or other documentation under Federal Aviation Regulation Part 77.13 et seq, or under the FCC rules? Yes No

3.18: If the answer to 3.17 is NO proceed to 4.00.

3.19: Attach complete copies of all required FAA/FCC forms including all Exhibits and exhibits thereto, including without limitation FAA Form 7460. Designate this Exhibit, “Exhibit 3.17.”

Initial here _____ to indicate that Exhibit 3.17 is attached hereto.

4.00: **Project Purpose**

4.05: Indicate the dominant purpose of the Project (check only one, then proceed as indicated):

Add network capacity without adding significant new RF coverage area: Proceed to 4.10;

Provide significant new radio frequency coverage in an area not already served by radio frequency coverage: Proceed to 4.10;

Increase the existing RF signal level in an area with existing radio frequency coverage: Proceed to 4.10;

Other: Proceed to 4.19.

4.10 Is this project intended to close or reduce what the applicant asserts to be a “significant gap” in its network? Yes No

4.11 If the answer to 4.10 is NO proceed to 4.20.

- 4.12 Attach a written statement fully and expansively describing the following:
- a. A clear description of the geographic boundary of the claimed significant gap area, and
 - b. Attach a street-level map showing the geographic boundary of the claimed significant gap stated in 4.12(a) using the same standards as in 6.02; and
 - c. Identify the size of the area, in units of square miles, of the claimed significant gap; and
 - d. Explain exactly the definition of the term “significant gap” as it applies to this project;
 - e. Explain exactly how the definition of significant gap term defined in 4.12(d) was developed, and identify who developed that definition, and when the definition was developed;
 - f. Discuss whether the significant gap term defined in 4.12(d) is identical to that term as used by some or all wireless carriers in the Government of Generic and/or the wireless industry as a whole, or whether that information is unknown;
 - g. Specify whether the definition of “significant gap” provided in 4.12(d) is the same definition used in by this applicant and owner in all of its prior projects submitted to the Government of Generic, and if not, explain all differences and the reasons for the differences.
 - h. Discuss in detail all of the following in relation to the claimed significant gap area only. Where you have relied on external data sources, identify those sources in detail your response.
 1. Whether claimed significant gap affects significant commuter highway or railway, and if so, name each highway or railway, and how affected;
 2. Describe in detail the nature and character of that area or the number of potential users in that area who may be affected by the claimed significant gap;
 3. Describe whether the proposed facilities are needed to improve weak signals or to fill a complete void in coverage, and provide proof of either;
 4. If the claimed significant gap covers well traveled roads on which customers lack roaming capabilities, identify all such well traveled roads by name within the claimed significant gap area and provide road use information about each such road;
 5. If any “drive test” has been conducted within the claimed significant gap area, discuss in detail the methodology of how the test(s) was conducted, including details about the test equipment model numbers and location of the test equipment and antennas in or on the test vehicle, and provide all of the objective data collected during the drive test in .XLS or .CSV or similar portable spreadsheet format;
 6. If the claimed significant gap affects a commercial district, show the boundaries of the district on the map
 7. If the claimed significant gap poses a public safety risk, describe in detail the claimed risk, and the expansively discuss the basis for this claim.
 - i. Provide all other relevant information you want the Government of Generic to consider when evaluating your claim of a significant gap.

Designate this Exhibit, "Exhibit 4.12." Initial here _____ to indicate that Exhibit 4.12 is attached hereto.

4.13 Is the proposed project the least intrusive means to close the significant gap claimed and described in 4.12? ___ Yes ___ No

4.14 If the answer to 4.13 is NO proceed to 4.20.

4.15 Attach a written statement fully and expansively describing at a minimum:

- a. Why this project is the least intrusive means to close the significant gap claimed and described in 4.12.
- b. Identify and discuss all alternative sites and means considered to close the significant gap claimed and described in 4.12.
- c. Whether two or more sites in place of the site proposed in Section 1 could close the significant gap claimed and described in 4.12, or to reduce the significant gap to be less than significant.
- d. Whether the Government of Generic requiring two or more sites in place of the site proposed in Section 1 would prohibit or have the effect of prohibiting the applicant from providing any interstate or intrastate telecommunications service. If the response asserts that a prohibition or effective prohibition would occur, explain in detail all of the reasons why it would
- e. Include all information whatsoever you relied on in reaching this determination.
- f. Include any other information you believe would assist the Government of Generic make findings regarding whether the proposed project is the least intrusive means of closing the significant gap claimed and described in 4.12, or to reduce the significant gap to be less than significant.

Designate this Exhibit, "Exhibit 4.15."

Initial here _____ to indicate that Exhibit 4.15 is attached hereto. Proceed to 4.20

4.19 Attach a written statement fully and expansively describing all portions or elements of the "Other" dominant purpose of this Project. Designate this Exhibit, "Exhibit 4.19."

Initial here _____ to indicate that Exhibit 4.19 is attached hereto.

4.20 If any portion of the project is to utilize radio spectrum that does not require an FCC license, identify in detail the portions of the project that used unlicensed spectrum.

Designate this Exhibit, "Exhibit 4.20."

Initial here _____ to indicate that Exhibit 4.20 is attached hereto.

4.25 Is this project designed to use any form of direct site-to-site radio interconnection (i.e., microwave or donor/donee configuration, for example) with another existing or currently planned site? Yes No

4.26: If the answer to 4.25 is NO proceed to 5.00.

4.27: Attach a detailed written statement fully and expansively describing the radio interconnection proposed, and identify all other existing or planned sites that will be interconnected with this project. Designate this Exhibit, "Exhibit 4.25."

Initial here _____ to indicate that Exhibit 4.25 is attached hereto.

5.00: **Build-Out Requirements**

5.01: Do any of radio services identified in 3.09 above require the licensee to provide specific radio frequency/population build-out coverage pursuant to the underlying FCC license? Yes No

5.02: If the answer to 5.01 is NO proceed to 6.00.

5.03: Have all of the FCC build-out requirements as required by all licenses covering all radio services proposed at this Project been met? Yes No

5.04: If the answer to 5.03 is YES proceed to 6.00.

5.05: Disclose by licensee call sign identified in Section 3.02 all build-out requirements/obligations which have yet to be met, and the known or estimated date when the remaining build-out requirements will be met. Designate this Exhibit "Exhibit 5.05."

Initial here _____ to indicate that Exhibit 5.05 is attached hereto.

5.10 Will this proposed site be interconnected via radio frequency transmissions to any other site or sites now constructed, proposed, or anticipated? For the purpose of this question, interconnection includes one or more radio frequency links to provide for 'back-haul' from this site to a switching center or centralized node location.
 Yes No

5.11: If the answer to 5.10 is NO proceed to 6.00.

5.15 Identify by physical address (or if none, by geographic description) all other sites,

regardless of whether now constructed, proposed, or anticipated, that are to be interconnected with this project site. Disclose in technical detail the proposed method of interconnection. Designate this Exhibit "Exhibit 5.15."

Initial here _____ to indicate that Exhibit 5.15 is attached hereto.

6.00: Radio Frequency Coverage Maps

6.01: Where a licensee intends to provide radio frequency coverage from the project to an identified geographic coverage, the coverage maps and information requested in Section 6 are required Exhibits.

Distributed Antenna System (DAS) providers and all others who are not the RF emitters for the radio services proposed for this project and identified in 3.09: You must provide radio frequency coverage maps prepared by the FCC licensee(s) that will control the RF emissions from this project. Radio frequency coverage maps required here that are completed by a DAS provider are unacceptable if they are not the FCC licensee or in full control of the RF emitter for the particular wireless service transmitted through the project.

If no geographic coverage area is identified, initial here _____ and proceed to 7.00.

6.02 For the coverage maps required here, the following mandatory requirements apply. Failure to adhere to these requirements may delay your application's determination of completeness.

- a. The size of each submitted map must be no smaller than 11" by 8.5." Each map must be of the same physical size and map area scale. Each map must use the same base map (i.e., same streets and legends shown on all).
- b. If the FCC rules for any proposed radio service defines a minimum radio frequency signal level that level must be shown on the map in a color easily distinguishable from the base paper or transparency layer, and adequately identified by RF level and map color or gradient in the map legend. If no minimum signal level is defined by the FCC rules you must indicate that in the legend of each RF coverage map. You may show other RF signal level(s) on the map so long as they are adequately identified by objective RF level and map color or gradient in the map legend.

6.03: Provide a map consistent with the requirements of 6.02 showing the existing RF coverage within the Government of Generic on the Applicant's same network, if any (if no existing coverage, so state). This map should not depict any RF coverage to be provided by the Project. Designate this Exhibit "Exhibit 6.03."

Initial here _____ to indicate that Exhibit 6.03 is attached hereto.

6.04: Provide a map consistent with the requirements of 6.02 showing the RF coverage to be provided only by the Project. This map should not depict any RF coverage provided any other existing or proposed wireless sites. Designate this Exhibit "Exhibit 6.04."

Initial here _____ to indicate that Exhibit 6.04 is attached hereto.

6.05: Provide a map consistent with the requirements of 6.02 showing the RF coverage to be provided by the Project and by all other existing wireless sites on the same network should the Project site be activated. Designate this Exhibit "Exhibit 6.05."

Initial here _____ to indicate that Exhibit 6.05 is attached hereto.

7.00: Project Photographs and Photo Simulations

7.01: The Applicant shall submit photo simulations consistent with the following standards:

1. Minimum size of each base photo and each photo simulation must be 10 inches by 8 inches (landscape orientation). Each base photo and matching photo simulation must be the same size. Single sheets of 11 x 8 ½ inches showing base photos and photo simulations on the same page are unacceptable.
2. All elements of the Project as proposed by the Applicant which can be seen from any point at ground level, or from any level within or on buildings within 500 feet of the Project must be shown in one or more close-in photo simulations (i.e., panel antennas, omni-directional antennas, GPS antennas, antenna camouflage devices, cable trays; equipment cabinets; working lights; etc.).
3. The overall Project as proposed by the Applicant must be shown in three or more area photo simulations. Base photographs must, at a minimum, be taken from widely scattered positions of 120 degrees. A map detail showing each location where a photograph was taken, the proposed site, and the direction to the site from each photo location must be included. Base photographs taken from locations that have some physical feature obscuring the Project site, and the photo simulations associated with those same base photographs, are not acceptable.

Attach all base photographs and photo simulations to this application marked as Exhibit 7.01.

The purpose of the photo simulations is to allow the Government of Generic to visualize the Project as completed, therefore the number of site photos, and photo simulations, and the actual or simulated camera location of these photos and photo simulations are subject to Government of Generic determination. The Applicant should submit photos and photo simulations consistent with these instructions, and be prepared to provide additional photos and photo simulations should they be requested by the Government of Generic.

The Applicant certifies by initialing in the space at the end of this paragraph that that all of the photos and photo simulations provided for Exhibit 7.01 are accurate and reliable photographic representations of the current project site and the proposed project to be constructed or modified, and that the Applicant is fully aware that the Government of Generic will rely on all of the photos and photo simulations provided in Exhibit 7.01 when it considers approval of this Project, and later when determining project completion.

Applicant's initials: _____ (If not initialed, this application may be deemed incomplete by the Government of Generic.)

8.00: Alternative Candidate Sites

8.01: Amateur radio applicants proceed to 9.00.

8.02: Has the Applicant or Owner or anyone working on behalf of the Applicant or Owner secured or attempted to secure any leases or lease-options or similar formal or informal agreements in connection with this Project for any sites other than the proposed project site? Yes No

8.03: If the answer to 8.02 is NO proceed to 8.05.

8.04: Provide the physical address of each such other location, and provide an expansive technical explanation as to why each such other site was disfavored over the Project Site. Designate this Exhibit "Exhibit 8.04."

Initial here _____ to indicate that Exhibit 8.04 is attached hereto.

8.05: Considering this proposed site, is it the one and only one location within or outside of the Government of Generic that can possibly meet the objectives of the Project?
 Yes No

8.04: If the answer to 8.05 is NO, proceed to 9.00.

8.05: Provide a technically expansive and detailed explanation supported as required by comprehensive radio frequency data and all other necessary information fully describing why the proposed site is the one is it the one and only one location within or outside of the Government of Generic that can possibly meet the radio frequency objectives of the Project. Explain, in exact and expansive technical detail all of the objectives of this Project that can be achieved only at this project site, and why.

Designate this Exhibit "Exhibit 8.05."

Initial here _____ to indicate that Exhibit 8.05 is attached hereto.

9.00: Identification of Key Persons

9.01: Identify by name, title, company affiliation, work address, telephone number and extension, and email address the key person or persons most knowledgeable regarding this Project so that the Government of Generic may contact them with questions regarding the Project:

9.10 Person responsible for the final site selection for the Project;

Name:

Title:

Company Affiliation:

Work Address:

Telephone / Ext.:

Email Address:

9.20 Person responsible for the radio frequency engineering of the Project;

Name:

Title:

Company Affiliation:

Work Address:

Telephone / Ext.:

Email Address:

9.30 Person responsible for rejection of other candidate sites evaluated, if any;

Name:

Title:

Company Affiliation:

Work Address:

Telephone / Ext.:

Email Address:

9.40 If more than one key person is now or was involved in any of the functions identified in this section at or before the time of the submission of this form, attach a separate sheet providing the same information for each additional person, and identifying which function or functions are/were performed by each additional person.

Designate this Exhibit "Exhibit 9.40."

Initial here _____ to indicate that the information above is complete and there is no Exhibit 9.4, or initial here _____ to indicate that Exhibit 9.40 is attached.

10.00 **Additional Information Provided by Applicant**

10.01 You are invited and encouraged to provide any additional written information that you wish the Government of Generic to consider in connection with your proposed project.

Designate this Exhibit "Exhibit 10."

Initial here _____ to indicate that Exhibit 10 is attached hereto,
or initial here _____ to indicate that there is no Exhibit 10.

11.00 Application Processing Time

The Government of Generic strives to complete application processing to reach a decision within 90 days for collocation projects, and 150 days for new siting projects, however, the complexity and other issues may impact processing time. If the Applicant is willing to voluntarily extend the initial processing times shown above by 30 days (i.e., 120 days for collocation projects, and 180 days for new siting projects), please initial below.

Your agreement to this initial extension is strictly voluntary, and declining to consent to the extension will in no way impact the consideration or priority of your case, or the outcome of the case.

Initial here _____ to indicate the Applicant's acceptance of the initial additional 30 day processing time (120 days for collocation projects; 180 days for new siting projects).

12.00: Certification of Accuracy and Reliability

12.01: The undersigned certifies on behalf of itself, the Applicant, and the Owner that the information provided in this form and its contents are true and complete to the best of the undersigned's ability and knowledge, and that information provided here should be relied upon by the Government of Generic as being accurate and complete when the Government of Generic evaluates this project.

Signature

Title

Print Name

Provide Email Address

Print Company Name

Provide Telephone Number

Date Signed

<Last Page: Remember to sign above and initial below>