

Carrier Paging licenses.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

22. *Backup Power Supply.* The Order on Reconsideration maintains the requirement that LECs and CMRS providers have an emergency backup power source for all assets necessary to maintain communications that are normally powered from local commercial power, including those inside central offices, cell sites, remote switches and digital loop carrier system remote terminals. Under this existing requirement, LECs and CMRS providers, as defined in Section 20.9 of the Commission's rules, must maintain emergency backup power for a minimum of 24 hours for assets inside central offices and eight hours for assets at other locations such as cell sites, remote switches and digital loop carrier system remote terminals that normally are powered from local commercial power.

23. In the Order on Reconsideration, the Commission clarifies that the assets subject to the rule are those necessary to ensure communications that are normally powered from local commercial power and that CMRS providers, including paging carriers, as defined in Section 20.9 of the Commission's rules, are subject to the rule. The Commission further exempts assets from the rule where LECs and CMRS providers can demonstrate that they can not comply with the rule due to constraints related to federal, state, tribal or local laws, risk to safety of life or health, or private legal obligations or agreements. LECs and CMRS providers must file a report with the Chief of the Public Safety & Homeland Security Bureau that identifies: (1) each asset that was designed to comply with the applicable backup power requirement; (2) each asset where compliance is precluded due to risk to safety of life or health, private legal obligation or agreements, or federal, state, tribal, or local law; and (3) each asset that was designed with less than the required emergency backup power capacity that is not precluded from compliance under (2). Our expectation is that this requirement will not create an undue additional burden, because the exemptions adopted in the Order on Reconsideration will substantially decrease the burden imposed on LECs and CMRS providers and several communications providers reported in their petitions for reconsideration and other filings that they already maintain some level of emergency backup power.⁶⁴ Additionally, the Order on Reconsideration also maintains the previously adopted exemption for LECs that meet the definition of a Class B company as set forth in Section 32.11(b)(2) of the Commission's rules, and for non-nationwide CMRS providers with no more than 500,000 subscribers. Further,, providers identifying assets designed with less than the required backup power capacity and not precluded from compliance for one of the three reasons listed above, must either comply with the backup power requirement or file an emergency backup power compliance plan that certifies that the service providers will ensure 100 percent coverage in each of the areas covered by any non-compliant asset. Filing this plan will presumably be less burdensome than implementing a backup power source for these assets in compliance with the rule. Many providers have also reported that they already have business continuity

⁶⁴ See USTelecom Petition at 2,8 (noting that the vast majority of all network remote terminals have onsite backup battery power typically designed to an eight hour engineering standard, although the actual life of the battery at any point in time depends on numerous factors and some remote terminals are too small to support a battery); Verizon Wireless *Ex Parte* filed September 4, 2007 (stating that Verizon Wireless' internal design standard is for eight hours or more of backup power (generators, batteries or both) at every cell site where possible, that the majority of its cell sites have on-site generators or batteries capable of providing backup power for much longer than eight hours, that only a small percentage of sites have only batteries that will not last for eight hours, and that only a handful of sites have no on-site backup power at all). See also CTIA comments at 8 (observing that wireless carriers "must ensure network reliability and reliance" and that, to do so, they "provision their cell sites and switches with batteries to power them when electrical grids fail" and "maintain permanent generators at all of the switches and critical cell sites, as well as an inventory of backup power generators to recharge the batteries during extended commercial power failures).

plans that address the issue of backup power. Finally, the Commission clarified that on-site power sources satisfy the this rule if such sources were originally designed to provide the minimum backup power capacity level required by the rule and the provider has implemented reasonable methods and procedures to ensure that batteries are regularly checked and replaced when they deteriorate. This too should lessen the burden on providers.

E. Steps Taken to Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

24. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include (among others) the following four alternatives: (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.⁶⁵

25. *Backup Power Supply.* The Order on Reconsideration does not disturb the previously-adopted exemptions from the requirement for LECs (both ILECs and CLECs) that meet the definition of a Class B company as set forth in Section 32.11(b)(2) of the Commission's rules and non-nationwide CMRS providers with no more than 500,000 subscribers.⁶⁶ Thus, for example, paging carriers that are non-nationwide CMRS providers and have no more than 500,000 subscribers will be exempt from this rule. The Order on Reconsideration also provides relief to LECs and CMRS providers subject to the rule for assets where they cannot comply with the rule due to legal and other constraints as described above. Finally, the Order on Reconsideration provides that, for non-compliant assets designed with less than the required emergency backup power capacity that are not otherwise exempt, LECs and CMRS providers must comply with the backup power requirement or submit an emergency backup power compliance plan.

Report to Congress: The Commission will send a copy of the Order, including this Supplemental FRFA, in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act.⁶⁷ In addition, the Commission will send a copy of the Order, including this Supplemental FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the Order and Supplemental FRFA (or summaries thereof) will also be published in the Federal Register.⁶⁸

⁶⁵ 5 U.S.C. § 603(c).

⁶⁶ Although this subscriber level is based on the Tier III CMRS definition, which is defined as non-nationwide CMRS providers with no more than 500,000 subscribers as of the end of 2001, we note that we are not exempting from this requirement those non-nationwide CMRS providers that have grown to exceed the 500,000 subscriber threshold since 2001 as we believe that such providers are at a size where they should be able to comply with the emergency backup power rule.

⁶⁷ See 5 U.S.C. § 801(a)(1)(A).

⁶⁸ See 5 U.S.C. § 604(b).

Arabe, Jill

From: debbie zentil [dzvirtual@msn.com]
Sent: Wednesday, November 04, 2009 8:54 AM
To: Arabe, Jill
Subject: T-Mobile Cell Phone Coverage

Jill:

I have used T-Mobile for many years now. The reason I use them is that I do get such good coverage from my home @ 16641 Dale Vista Lane, HB. I work part-time from home so need to be able to use my work (cell) phone from my home office. I have never had a problem.

Debbie Zentil
Legal Assistant
Phone: (714) 293-1216
Facsimile: (714) 847-5619

ATTACHMENT NO. 5. III

11/4/2009

TO: Jill Ann Arabe
Assistant Planner
City of Huntington Beach

Date: 11/2/09

FROM: Diana Mentas, Ph.D.

RE: T-Mobile Cell Tower & CUMC

Number of pages including cover page: 2

Urgent: Please read attachment prior to the meeting on November 4, 2009

November 2, 2009

Ricky Ramos, Senior Planner
City of Huntington Beach
Planning Department
2000 Main Street, 3rd Floor
Huntington Beach, CA 92648

Dear Mr. Ramos:

My daughter attends the Community United Methodist Church Nursery School and I am writing you in regards to the T-Mobile Cell Tower that the church wants to place on its property.

The Nursery School Director, Vicki Compean who may be reached at (714) 842-1630, recently conducted a survey in order to determine what actions parents would take if the church placed a cell tower on church property. Out of 104 responses, fifty-five (55) of the parents indicated that "Yes" they would withdraw their child from the nursery school if the church went ahead and placed a cell tower on its property and forty-nine (49) indicated "No or Undecided".

More than half of the parents feel very strongly and have determined by their own investigation that co-locating a cellular tower on church property is detrimental to the general welfare of their children (please see Chapter 241 Section 241.10(A)(1) of the Huntington Beach Zoning and Subdivision Ordinance). As parents, we have a legal right and moral responsibility to make these determinations for our children and we humbly request that you use your discretionary powers granted to you by law to take into consideration our opinions and heavily weigh them in the decision-making process. Parents who send their children to nursery school in the City of Huntington Beach should have the backing of the city when issues of their children's general welfare comes into question.

In addition, if more than half of the parents withdraw their children from the nursery school, this will intensify the negative community perception of the surrounding neighborhood, which could lead to a further devaluing of property values in the area.

As you are aware, an application for a conditional use permit must meet all required findings under (A) or (B) of Chapter 241 Section 241.10 and a failure to make all the required findings under (A) or (B) shall require denial of the application. Thank you for your time and consideration in this matter.

Sincerely,


Diana Mentas, Ph.D.
(562) 858-0996

cc: Mary Beth Brocken, AICP
Planning Manager

Jill Ann Arabe
Assistant Planner

Arabe, Jill

From: larsondj@verizon.net
Sent: Thursday, October 22, 2009 7:28 AM
To: Arabe, Jill
Subject: Re: Re: T-Mobile Wireless Communications Facility (CUP 09-015)

Good morning Jill,

FYI - in case you don't already know...

T-Mobile is supposed to have a Public Hearing in Agoura Hills on Oct 28 - it was continued from Sept 23. Could that be why he requested a continuance??

BUT... breaking news in Agoura Hills !!!!!
A MORATORIUM WAS ENACTED TODAY AGAINST APPROVING NEW CELL TOWER PERMITS !!!!!

Agoura Hills – Zoning MORATORIUM on cell towers!!!!
Stephanie Bertholdo article
http://www.theacorn.com/news/2009-10-22/Front_Page/Agoura_Hills_puts_new_cell_towers_on_hold.html

Agoura Hills – Zoning MORATORIUM on cell towers!!!!
Public Notice
<http://www.theacorn.com/node/81136>

Agoura Hills cell tower – T-Mobile – Telecom Act 1996 – revision in Feb 2010?
Stephanie Bertholdo article
http://www.theacorn.com/news/2009-10-15/Front_Page/Alternative_sites_considered_for_Agoura_Hills_cell.html

T-Mobile's application is already in the works so it is exempted from the moratorium.

Dianne Larson

Oct 21, 2009 11:32:46 AM, jarabe@surfcity-hb.org wrote:

I apologize. To clarify, the project is:

Conditional Use Permit No. 2009-015 (T-Mobile Wireless Communications Facility) at 6666 Heil Avenue, 92648 (south side of Heil Avenue, between Edwards Street and Goldenwest Street)

If you have any questions, please contact me.

Jill Ann Arabe

Assistant Planner

ATTACHMENT NO. 5.114

11/4/2009

City of Huntington Beach

(P) 714.374.5357

From: Arabe, Jill

Sent: Wednesday, October 21, 2009 11:23 AM

To: 'beaublondy@aol.com'; Summer Powers; Ginny Bean; 'larsondj@verizon.net'; 'Mr Bill Kettler'; 'rjones2325@verizon.net'; Diane & John "aka" Duke Anderson; Carol Settimo; Brad Maguin; Michelle Herthington; Jannie Bolotin; 'litmermade@aol.com'; Adam Rodell; 'michelek@ci.garden-grove.ca.us'; 'bmcfarland2@verizon.net'; 'dzvirtual@msn.com'; 'millar0125@aol.com'; 'marilyn@kuga.tv'; Laura Harris; 'ron_passmore@yahoo.com'; 'bevans@combanal.com'; 'daliabru@yahoo.com'; 'tonyawick@gmail.com'; 'rkuga@hotmail.com'; 'utley_kathy@yahoo.com'

Subject: CUP 09-015 - continuance

This email is being provided to notify you that a continuance request has been submitted by the applicant for additional time to prepare plans and photosims as a result of the Zoning Administrator's request for a completely stealth design of the wireless communications facility.

The applicant is requesting to continue the project to the November 4th ZA meeting.

If you have any questions, please contact me.

Jill Ann Arabe

Assistant Planner

City of Huntington Beach

(P) 714.374.5357

11/4/2009

ATTACHMENT NO. 5.115

Received @
the 9/30/09
ZA meeting
by Dianne
Larson

Dianne Larson - homeowner living less than 500' from the CUMC cell tower site

I would like to thank the Zoning Administrator for listening to and considering public opinion before making a decision on T-Mobile's request for Conditional Use Permit (CUP) No. 2009-015.

I would also like to thank the staff at the Planning Dept and City Clerk's Office for their professionalism and helpfulness.

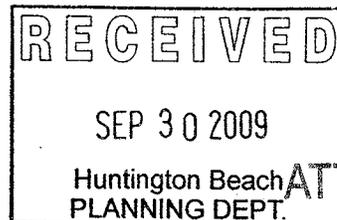
I am **OPPOSED** to T-Mobile's proposal to build a freestanding, 12-antenna cell tower on the grounds of the Community United Methodist Church (CUMC) and Pre-school.

- I believe that T-Mobile does NOT meet Finding #1 in the Conditional Use Permit application for these reasons:

POTENTIAL HEALTH RISKS ASSOCIATED WITH LONG-TERM EXPOSURE TO CELL TOWER EMISSIONS

- T-Mobile's application states that the proposed cell tower with 12 antennas, 1 GPS antenna and associated equipment "**will not be detrimental to the general welfare of persons working or residing in the vicinity**".
- I am very concerned about the potential health risks associated with the long-term effects of exposure to, and the gradual absorption of Radio Frequency (RF) and Electromagnetic (EM) Radiation from, cell tower emissions.
- Higher incidences of cancer, childhood leukemia, and neurological problems are associated with people living near sources of radio frequency and electromagnetic radiation emissions than for people living farther away.
- Children, with thinner skulls and developing brains, are more at risk than adults.
- The CUMC students and staff would be exposed 8 hours a day, 5 days a week.
- The local neighbors would be exposed 24 hours a day, 7 days a week!
- The research regarding this danger is ongoing but scientists are already cautioning that people should minimize and avoid exposure to these emissions whenever possible.
- **Article – "Residents protest 2nd Surf City cell phone tower"**
(www.ocregister.com, Annie Burris, May 6, 2009)
 - Residents protested cell sites at Harbour View and Bolsa View parks, 1 next to Harbour View Elem School, citing health effects
 - Omnipoint ("T-Mobile") said towers were regulated by FCC guidelines
- **Article – "Cell Tower Radiation Poisoning of School Children"**
(techbuz.blogspot.com, Ray Conley, Sept 10, 2009)
 - references several CURRENT studies finding increased incidence of cancer for people living near cell towers
 - references several articles in which the medical and scientific community is calling for FCC to re-evaluate the current guidelines and standards because they are set too high

Dianne Larson



- LAUSD and the EU currently have resolutions opposing placement of cell towers near schools
- o **Article – “President Obama panel exploring cell tower radiation risks”**(emfjournal.com, Jan 29, 2009)
 - This cancer panel was set up by President Obama in JAN 2009 – the month he was inaugurated
- o I believe that long-term exposure to the radio frequency and electromagnetic radiation emissions from the proposed 12-antenna cell tower will be harmful to the pre-school students and staff at CUMC, and to the local residents.

IMPACT ON PROPERTY VALUE

- o T-Mobile’s application also states that the proposed cell tower and associated equipment **“will not be... detrimental to the value of the property and improvements in the neighborhood”**.
 - o I believe that the presence of a freestanding, 12-antenna cell tower that is easily seen from my home less than 500’ feet away will greatly reduce the number of buyers willing to purchase my home and therefore, reduce the value of the property.
 - o Many people are aware of the potential health risks linked to cell towers and do not want to live or raise a family in that environment.
 - o **Tina Burke, a local realtor/certified home appraiser** said within the last week **“any industrialization of an area such as a cell phone tower will result in lower property values”**
 - o **Article from “Appraisal Journal” dated 1996**, refers to a legal ruling regarding for obtaining damages due to decreased property values from proximity to EM radiation
- I object to the basis of Finding #4 in the Conditional Use Permit application for these reasons:

LACK OF NEED

- o T-Mobile’s project assumes a need to improve cell phone coverage in the area.
- o Based on Empirical evidence, I do not recognize this need: I have a T-Mobile cell phone but do NOT experience any difficulty using it.
- o **Billshrink.com website** (http://www.billshrink.com/cell-phones/carrier/t-mobile_2.html) compares cell phone company signal quality for T-Mobile, Sprint, AT&T, and Verizon, - showing that although Sprint, AT&T and Verizon have strong coverage in this area, the T-Mobile coverage is stronger – FULL strength.
- o **T-mobile’s coverage map** (coverage.t-mobile.com) shows full strength coverage in this area except for the Seal Beach Naval Weapons Station area and a small residential area around the edges.
- o T-Mobile’s “Need” may actually be outdated, exaggerated or non-existent.

ATTACHMENT NO. 5.117

- I suggest that a current, independent study of cell phone coverage be required and submitted whenever a cell antenna or tower project is proposed.
- **Especially since there are multiple cases on the internet showing T-Mobile proposed cell towers based on a need to fill a coverage gap that did not exist.**
- I am including several internet articles about several cases including Hempstead, NY, in which T-Mobile's application was denied in Oct 2008
- **Article – “Mixed Signals on Cellphone Towers”** (Jan 2009) mentions the ‘Center for Municipal Solutions’ that evaluates “the justification for wireless services”.
 - In reference to the Hempstead, NY case, the **denial was based on lack of proof that a tower was needed, and “that T-Mobile had not made a good-faith effort to find alternative sites that were less intrusive, an important part of the Telecommunications Act.”**
- Even if a current and accurate need to increase cell coverage was shown as a result of a current, independent study, I continue to object to the **site location** at CUMC for these reasons:

CO-LOCATION and PHYSICAL LOCATION

- T-Mobile's literature repeatedly claims they are committed to co-locating with existing structures in order to minimize the need to build new freestanding structures.
- Quotes from T-Mobile literature
- I do not believe T-Mobile has exhausted all the existing local antenna, cell tower and structure possibilities.
- There are commercial areas and open areas in the immediate vicinity.
- An antenna mounted in any of these areas would be farther from residences and certainly **not** on the doorstep of a pre-school. People would still be exposed to the radio frequency and electromagnetic radiation emissions from the antenna at these locations, but not on a 24/7 basis as in a residential area.
- **I do not believe a “last resort” condition has been reached that justifies constructing a new, freestanding, 12-antenna cell tower structure in a pre-school and residential environment.**
- I am also concerned and angered that instead of proposing to install a minimum **impact solution** (single antenna, or co-location with existing structure?) in the area to reinforce the alleged “weak” coverage, T-Mobile is proposing a **freestanding, 12-antenna cell tower** at this site. After T-Mobile uses their antenna, the other antennas would be available for T-Mobile to lease to other companies. T-Mobile is apparently attempting to operate an **income-generating, and Radio Frequency and Electro-Magnetic radiation-generating business at a pre-school!**

ATTACHMENT NO. 5.11B

- People understand that in order to use cell phones, antennas are necessary. And it may be possible that a single antenna is needed in this area. But it is important to be cognizant of future effects of our actions.
- **Responsible environmental decisions need to be made now in order to minimize potential negative health impacts later.**

I STRONGLY URGE THE ZONING ADMINISTRATOR TO DENY CONDITIONAL USE PERMIT No. 2009-015 !!!!!

because T-Mobile has NOT met finding #1, has not proved the need for the tower, has not exhausted all other options, and has not provided a STEALTH solution.

Thank you for giving me the opportunity to express my concerns and opinions on this matter.

Requests for City Code Changes

I understand that the City Council is already looking at changing city codes and I want to add my requests.

I urge that HB city codes be modified to require a much longer prior notification period, and a much larger notification area.

In addition, I also urge that HB city code modifications include required notification to the parents of students who attend a school near a proposed cell tower – regardless of whether the school is public, private or a pre-school.

I urge that a current, independent study of cell phone coverage be required and submitted whenever a cell antenna or tower project is proposed.

In addition to the previously mentioned documents, I want to enter the Minutes of the April 27, 2009, City Council / Redevelopment Agency special meeting into the public minutes of the Zoning Administrator hearing.

I feel that the April 27, 2009 minutes should be included because they show:

- a history of public concern and outrage about the attempts by Omnipoint Communications, Inc. (A T-Mobile USA, Inc., Subsidiary) ("T-Mobile") to site a cell tower near Harbour View Elementary School.
- that people are aware of and concerned about the negative health risks of long-term emissions from cell towers.
- that citizens want modifications to the city codes regarding length and extensiveness of public notification, and want additional modification to protect children from cell tower emissions.
- a pattern of T-Mobile attempting to build cell towers near schools even though T-Mobile is aware of the public concern and outrage.

ATTACHMENT NO. 5.119

Wednesday, May 6, 2009

Residents protest 2nd Surf City cell phone tower

Mayor says he doesn't plan to rework contract for tower near Bolsa View Park, unlike decision to change another tower.

By ANNIE BURRIS

The Orange County Register

HUNTINGTON BEACH – A handful of residents who live near Bolsa View Park criticized the City Council for approving a contract with T-Mobile that allows a cell phone tower to be built at a park near their homes.

The residents asked council members to rework the contract with the cell phone company, similar to a council decision April 27 regarding a cell tower being built at

Harbour View Park, adjacent to a playground at Harbour View School.

Council members voted to redo the Harbour View contract with T-Mobile after about 200 residents expressed concerns that the tower could cause cancer and complained that they were not notified about the construction.

Residents near Bolsa View Park also expressed concerns about the health effects of the tower and said it would be an eyesore in the community.

"I'm very disappointed in the plan to install the cell phone tower," resident Margret Tracy said at Monday's council meeting. "Dozens of homes will be subjected to radiation 24 hours a day, seven days week. That is unacceptable."

The Harbour View and Bolsa View cell phone towers were unanimously approved by the council Jan. 20 and were expected to bring the city \$5,000 a month for up to 20 years.

Mayor Keith Bohr – who spearheaded revisions to the Harbour View tower agreement – said he doesn't plan to revisit the contract for the Bolsa View tower. Bohr said he was willing to change city rules about cell phone towers near schools, but additional restrictions on cell phone towers near residential areas was too broad of a scope.

Cancer,
health
*
effect

*

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ATTACHMENT NO. 5-120

"I don't think we are going to that level," Bohr said of analyzing towers near homes. "To me, that is just too blanketing it."

During the April 27 meeting, the council also asked staff to change city rules to require notification of local residents when future cell phone sites are planned to be built within 500 feet of a school. The changes will come back to the council for an official vote.

Councilman Joe Carchio said he would visit Bolsa View Park to see how close the tower would be to homes.

"The public perception is they don't want them in their backyard," Carchio said of the towers. "If we can't put them there, where are we going to put them so that people are able to have good reception? It is kind of a Catch 22."

T-Mobile officials said the cell phone towers are regulated by the Federal Communications Commission, "which sets conservative, science-based radio frequency emission guidelines to protect the health of citizens."

* FCC regulations

Contact the writer: aburris@ocregister.com or 949-553-2905

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ATTACHMENT NO. 5.121

Sept 10, 2009

Ray Conley, CFA

Technology, Investing, & Random Stuff

THURSDAY, SEPTEMBER 10, 2009

Cell Tower Radiation Poisoning of School Children

A substantial body of research suggests that radio frequency (RF) radiation (the kind emitted by cell towers as they provide "signal" to mobile phones) has harmful health effects on humans and animals, even in amounts well below FCC exposure limits. Surprisingly, the FCC standards for RF emissions are based on thermal effect but the case for non thermal hazards from RFs is substantial. Here are a few examples:

} FCC limits
* are too high

A study presented in the peer-reviewed publication of Germany's environmental medicine society found that the risk of newly developing cancer was three times higher among those patients who had lived during past ten years (1994-2004), within a distance of 400m from a cellular transmitter, in comparison to those who had lived further away. The study indicates a 99% confidence interval that the difference observed was not due to a random statistical effect.

*

An Israeli study published in the peer-reviewed journal The International Journal of Cancer Prevention also showed an association between increased incidence of cancer and living in proximity to a cell -phone transmitter station. In a two year period, there were 4.15 times more cancer cases in the area of proximity to the cell tower than in the entire population. The authors made a point of noting, "The measured level of RF radiation (power density) in the area was low; far below the current guidelines based on the thermal effects of RF exposure. We suggest, therefore, that the current guidelines be re-evaluated."

*

] re-evaluate current guidelines

The Bioinitiative Working Group, a collaboration of neuroscientists and others studying the effects of electromagnetic radiation from a variety of sources, has taken the position that "current standards are inadequate to control against harm from low-intensity, chronic exposures and that an entirely new, biologically-based standard is needed."

] Current standards are inadequate

The European Union, which deployed GSM cellular technology on a broad basis long before it was deployed in the US, and thus has been able to observe longer exposures on its population, formally adopted a resolution in April 2009 recommending that GSM antennas be kept a safe distance from schools.

] EU - Keep antennas away from schools

Why would a resolution be needed to keep towers out of schools?

ATTACHMENT NO. 5.122

Because the cell tower companies prey upon schools that have prime locations and need the money. They also take advantage of the lack of finance and legal resources at most schools so they can get an advantageous contract.

Parents in Cupertino, CA successfully fought a proposal to place a tower at Monte Vista High School, as have many other schools and municipalities throughout the U.S. In 2000, the Los Angeles Unified School District (LAUSD) Board of Education adopted a resolution opposing the placement of cellular telecommunications towers on or immediately adjacent to school property until appropriate regulatory standards have been adopted. For a list of other municipalities examining this issue, see <http://cloutnow.org/localres/>.

LAUSD - no cell towers on or near schools

However, their success is even more notable since the Telecommunications Act of 1996 explicitly prohibits municipal governing bodies from saying "no" to cell towers based upon health concerns. See page 117 of the Act (Section 704 amendment). Who was the genius legislator who put something like that into law? In reality, it was more likely instituted by the cellular companies through a lobbying process to provide liability coverage, should the truth eventually emerge. I predict the tort cases from cell tower induced cancer will eclipse the tobacco industry's damages.

!!!

ATTACHMENT NO. 5.123

EMF Journal

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President Obama panel exploring cell tower radiation risks, sign petition

Presidential Cancer Panel Exploring Cell Tower Radiation Risks

29.01.2009 by admin Category [Electromagnetic Health Blog](#)

Source: birminghammail.net

Jan 29 2009 by Neil Elkes, Birmingham Mail

January 29, 2009; US PRESIDENT Barack Obama has turned to a Midland anti-mobile phone mast campaigner to help the fight against cancer.

Eileen O'Connor, as a founder member of the Radiation Research Trust, has led the battle against the relentless growth of mobile phone masts and technology for the past seven years.

And now the US President's cancer panel, set up by Obama to research the possible links with both nuclear and electromagnetic radiation, has asked Eileen for her views on the issue.

The trust has supported widespread research into the possible dangers of mobile and wireless radiation and campaigns for the technology to be made safer.

Eileen said: **"Obama's panel has launched an information gathering exercise and I was invited to provide evidence"**. While I am not building up my hopes, I am delighted the issue is being taken seriously by the President.

"President Obama recently said science is about ensuring that facts and evidence are never twisted or obscured by politics or ideology." **"It's about listening to what our scientists have to say; even when it's inconvenient and I welcome this approach."**

The evidence gathered by the panel will be considered in drawing up advice to the new President on measures needed to be taken to improve the health of Americans.

Any steps taken are likely to be considered around the world.

ATTACHMENT NO. 5.124

Eileen first suspected a link between mobile phone masts and cancer when the arrival of a mast in her home village of Wishaw, near Sutton Coldfield coincided with a cluster of cancer cases, including her own.

The campaign hit the headlines in 2003 when the mast was pulled down in the middle of the night and residents blockaded the site to stop it being replaced.

The Radiation Research Trust funds and draws together scientific research from around the world and lobbies government to adopt a more cautious approach to mobile technology.

A key theory is that it is the electromagnetic radiation frequency, and not intensity or power of the signal, which can cause the damage. It is also thought that some people are more sensitive to the effects than others.

Comment from Camilla Rees, Founder of ElectromagneticHealth.org:

What Obama's advisors will learn is that people are being made sick by the radiation being emitted from cell towers, health care costs are being driven by related illnesses, peoples lives are unfairly crumbling because of the lack of responsibility exhibited by industry and governments in designing these technologies and the serious biological and DNA-level effects of microwave radiation have been known about for decades. He will also learn that, under pressure from the telecom lobby, the Telecommunications Act of 1996 included language taking away state and local government's rights to limit towers on health or environmental grounds. This power grab is a travesty that needs to be reversed to protect the health of humans, animals, and nature.

If Obama is the courageous, intelligent, truth telling man we want to believe, informed by his team of the health hazards of microwave radiation, he will need to immediately stop the proliferation of the Wi-Max network underway in this country and press industry to find safer means of telecommunications. He should pressure Congress to mandate the FCC lower EMF emissions guidelines for industry, repeal Section 704 of the Telecommunications Act of 1996, and establish cell-phone and wireless-free neighborhoods, government buildings, public spaces and schools.

These are the mandates of ElectromagneticHealth.org's Petition to Congress found at:

<http://www.thepetitionsite.com/6/urge-congress-on-emf-safety-fcc-must-change-exposure-guidelines-for-microwave-radiation-exposure>

For journalists wanting to learn more about the known biological effects see www.BioInitiative.org. There is no question there are biological effects, the uncertainties concern the various potential mechanisms of action.

Possibly related posts: (automatically generated)

- [President Obama, your concern about EMF](#)
- [Sign Petition – MCS / EMF / EMS](#)
- [Sign Our New Online Petition – President Obama, Stay Home!](#)
- [Fight FOCA Petition](#)

February 17, 2009 - Posted by Moderator | [EMF](#), [EMR](#), [Health](#), [WiFi](#), [awareness](#), [cell phone](#), [cell tower](#), [electromagnetic fields](#), [electromagnetic radiation](#), [electrosmog](#), [family](#), [mast](#), [tower](#) | [cancer](#), [cell phone](#), [cell tower](#), [DNA](#), [electromagnetic radiation field](#), [EMF](#), [FCC](#), [mast](#), [radiation](#), [telecom](#) | 1 Comment

ATTACHMENT NO. 5.125

Property Value and Cell Towers

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Electromagnetic radiation field property devaluation

Rikon, M

Appraisal Journal [APPRAISAL J.]. Vol. 64, no. 1, pp. 87-90. 1996.

The Criscuola v. Power Authority of the State of New York decision by the New York State Court of Appeals seems to provide the means to obtain damages due to diminution of property values as a result of proximity to an electromagnetic radiation field (EMF). This article explores ramifications of the decision and its application to valuation problems.

Descriptors: Article Subject Terms [decision making](#) | [economics](#) | [electromagnetic fields](#) | [litigation](#)
Article Geographic Terms [USA](#), [New York](#)

Appraisal Journal
- 1996

legal precedent for
obtaining damages due to
decreased property values

re: proximity to EMF-Radiation?

http://www.billshrink.com/cell-phones/carrier/t-mobile
for zip code 92647

T-Mobile - Maps, facts and reviews

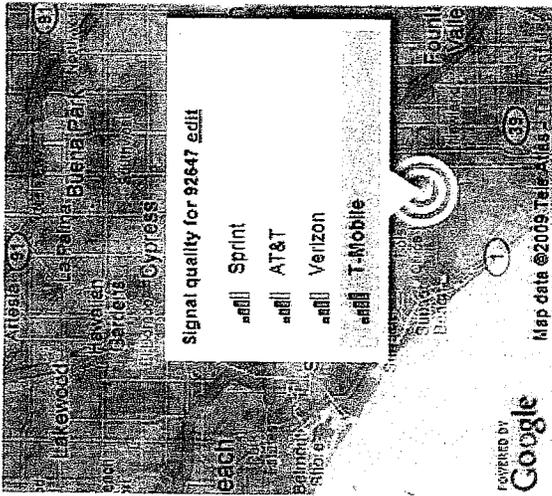
T-Mobile has a fast-growing subscriber base using its nationwide GSM network. T-Mobile is well-known for its aggressive pricing and innovative features such as myFaves and Hotspot@Home. T-Mobile is also well-regarded for its customer service, as shown by its long-standing position at the top of JD Power's customer care survey.

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Rated 3.6/5 by 26 users



Overview | Key Facts | Plans | Phones | Reviews (13)



Key Features:

- ✓ National Coverage
- ✓ GSM
- ✓ CDMA
- ✓ 3G
- ✓ Rollover minutes
- ✓ Pre-Paid Plans
- ✓ My Faves

Hottest Phones [See all](#)



Samsung Behold
RIM BlackBerry
Curve 8500

Customer Service

- ✓ (877) 334-7069
- ✓ Email
- ✓ User forums
- ✓ FAQ

See other major carriers:

Share this bill shrink (does not save people money) -> [Share with friends](#)

T-Mobile Reviews, T...

Internet | Protected Mode: On

100%

11:15 AM

Monday, Sept. 28, 2009 11:15 AM

Check if T-Mobile coverage is right for you with Personal Coverage Check

Street Intersection ex: Broadway and W 148th Street
 City State Zip 92647

search

clear

T-Mobile's own website clearly shows "BEST" signal strength -

The "FAIR" area is not residential Naval Weapons Station in Seal Beach

Voice Coverage | Data Coverage

Prepaid and FlexPay coverage map >

Learn more about T-Mobile's expanded coverage >

Signal Strength

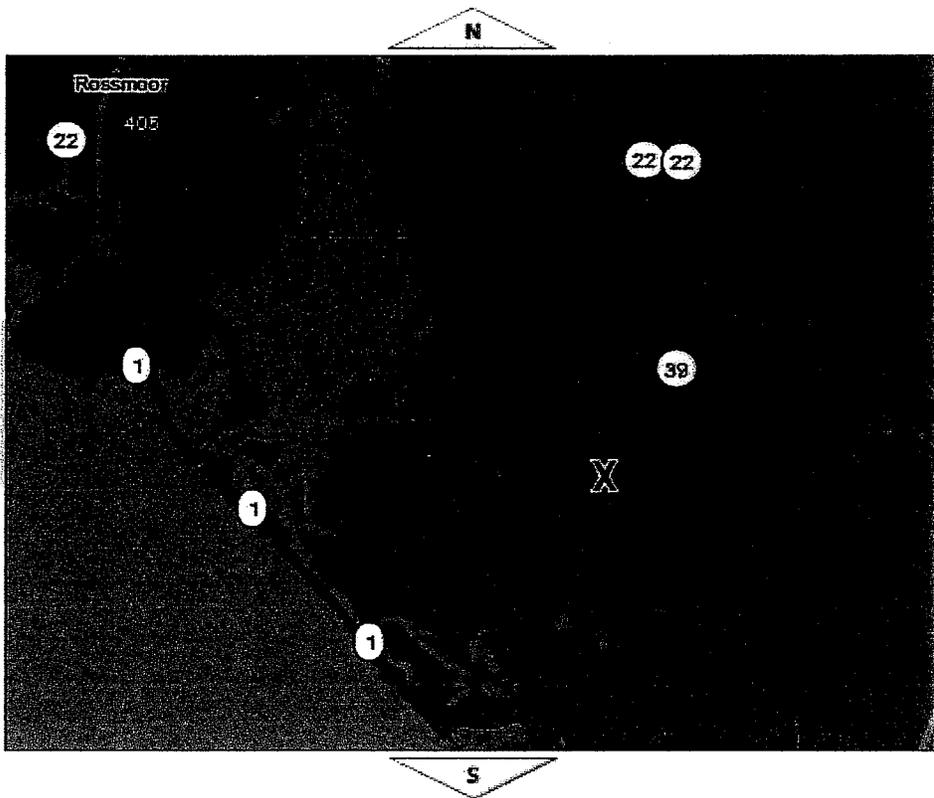
Best Good Fair None



Zoom In



Zoom Out



Please zoom in to see street level coverage details for the areas where you live, work, and play.

Print

Map Legend

- X Address Location
- T-Mobile HotSpot Display
- T-Mobile Roaming Coverage
- Roaming HotSpot (Additional charges apply)
- Find a T-Mobile HotSpot >

ATTACHMENT NO. 5.128

3:44 PM

9/29/2009

MAP INFORMATION: Maps predict and approximate our anticipated wireless coverage area outdoors, which varies from location to location. Maps may include locations with limited or no coverage, and do not guarantee service availability. Even within coverage areas, factors — including network changes, traffic volume, service

T-Mobile in the news ...

USING FALSE STATEMENTS OF "GAP IN COVERAGE" TO JUSTIFY THE NEED FOR A CELL TOWER.

THIS IS ONE OF SEVERAL INCIDENTS OF OPPOSITION TO OMNIPOINT (a.k.a. T-MOBILE) CLAIMING A CELL TOWER IS NEEDED BASED ON "GAP OF COVERAGE" FOUND IN A QUICK ONLINE SEARCH.

THESE RESIDENTS FOUGHT OMNIPOINT / T-MOBILE **AND WON.**

http://www.wirelessestimator.com/t_content.cfm?pagename=Cell%20Tower%20Leasing

Residents to pit their engineer against T-Mobile's on coverage needs

November 6, 2007

TOWN OF HEMPSTEAD, NY - Residents fighting a T-Mobile 65-foot cell tower on Dogwood Avenue, in front of the Franklin Bridge Centre Shopping Plaza in Franklin Square, have hired an engineer that disputes the carrier's claim that there is a gap in the cell phone coverage in that area.

Residents said they conducted a test last year to show there is no gap in cell coverage. They tried 100 cell phone calls from inside buildings, on the street, in cars, in homes and they all went through, they say.

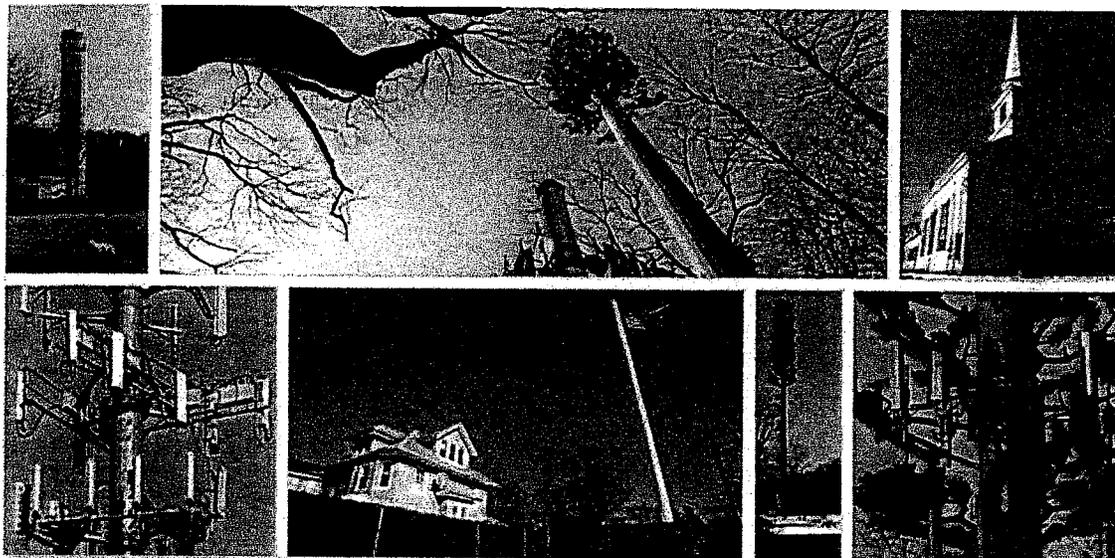
On December 6 during a zoning hearing, attorneys for T-Mobile will question the residents' expert during a December 6 zoning hearing.

••• more

Mixed Signals on Cellphone Towers

By DERRICK HENRY

Published: January 9, 2009



SHAPES Cell towers throughout the New York Region, some in obvious view and others disguised as trees, flagpoles or doubling as church steeples.

METROPCS wanted to install eight cellphone antennas on the roof of Biltmore Towers, a 12-story condominium building on Lake Street in White Plains. Verizon Wireless sought a similar deal.

MetroPCS negotiated a 25-year lease with the condominium association's board that would have paid \$27,600 a year.

But some Biltmore residents resisted, saying the board had violated its own bylaws in granting the lease. And eventually they won. Verizon walked away from its deal in September, three months before Justice Alan D. Scheinkman of State Supreme Court voided the MetroPCS lease.

Cellphone towers have proliferated throughout New York City's suburbs in recent years, often welcomed by municipalities and by residents who would benefit from the tens or hundreds of thousands of dollars a year that go into public coffers.

But in some places there is a fight — like the one at Biltmore Towers, but more often in a municipality. Some efforts start strong but fade; sometimes, opponents go to hearings without adequate resources or knowledge to defend their position.

"The expertise is with the industry," said Richard Comi, co-founder of the Center for Municipal Solutions, a consultant on municipal telecommunications.

The industry also has legal support for cellphone towers. "The courts tend to look favorably on this use," said Deborah M. Kole, a lawyer at the New Jersey State League of Municipalities, adding, "It's almost got to be disproved that this is a good use."

Still, acceptance of the towers varies among towns and states. One community might see potential revenue from a tower, while another might see it as an intrusion.

"Obviously, the issue of towers can be contentious when people want services but don't want the facilities," said Jackie McCarthy, a spokeswoman for PCIA — the Wireless Infrastructure Association, which lobbies for the tower and antenna siting industry.

James D. Taiclet, the chairman and chief executive of American Tower Corporation, of Boston, the nation's largest owner of cellphone tower properties, estimated that there were at least 2,000 towers in Westchester County and on Long Island. The company owns 107 towers inside an area that includes Monticello, N.Y.;

Danbury, Conn.; Long Island; and Morristown and Freehold, in New Jersey.

TowerSource, of Colorado Springs, which maintains an extensive database of cellphone tower sites, said the number of towers in Connecticut had increased 27 percent in the last two years, to 1,441 in 2008 from 1,135 in 2006; in New Jersey, the increase was 19 percent, to 2,630 towers in 2008 from 2,215 in 2006. TowerSource did not have numbers for Westchester or Long Island but said towers in New York State had increased by nearly 19 percent since 2006, to 6,180 in 2008 from 5,213.

Throughout the region, battles over the location of cellphone towers have been won and lost.

"It's no different than any other zoning or planning issues," like noise and dog leash ordinances, Mr. Comi, of the Center for Municipal Solutions, said.

The center says it does not take a stand on the proliferation of cellphone towers but works with municipalities to evaluate the justification for wireless services. On Long Island, a civic group in Franklin Square, a hamlet in Nassau County, hired Mr. Comi to evaluate an application by T-Mobile for a 65-foot tower by a strip mall; ultimately, the Board of Appeals in the Town of Hempstead denied the application.

Mr. Comi said that the center looks at about 200 applications a year and that only about 2 percent become contentious. Most of those cases end with the proposed tower being modified, he said.

But in Franklin Square, Mr. Comi said, the group's opposition relied on three factors: "resources, commitment and perseverance."

In addition to those, he said, opponents must understand how wireless companies demonstrate their need for the towers. "It's really one of the key issues," he said. "Do they really need it?"

In applying for towers, the industry often cites the federal Telecommunications Act of 1996, which was intended to help wireless companies increase the number of sites and to promote competition in the cellular telephone industry.

Under the act, municipalities cannot create laws that prevent or have the effect of preventing cellphone tower sites. It also prevents them from giving preference to one cellular provider over another, and applications must be

acted on in a reasonable time, usually determined by how a town would consider regular building applications.

The issue usually comes down to aesthetics, said Kevin Fry, president of Scenic America, which seeks to preserve and enhance the visual character of communities. Some solutions have included installing antennas on water towers, bridges, farm silos, tall buildings, even in church steeples. Sometimes a tower is used for multiple carriers. And some towns have decided that it is easier on the eyes to have more but shorter towers, Mr. Fry said.

"There's no single magic bullet for this," he said. "Every community has to decide what works for it."

At Biltmore Towers, the opponents earned a rare victory in court. Justice Scheinkman ruled that the condominium association's bylaws limit commercial uses of the building to those that benefit only its occupants. MetroPCS and the condominium board had argued that the rooftop was needed to provide cellphone service to White Plains.

"The industry still has a significant number of cases where there is controversy," said Douglas W. Dimitroff, the president of the New York State Wireless Association. "It's always been difficult to put cellphone towers up in residential areas."

Franklin Square on Long Island was one of those places. T-Mobile wanted to install the 65-foot tower at a strip mall. Six wireless antennas would be inside. For aesthetic purposes, the company proposed topping the pole with the American flag. Another option was to paint it brown.

Ron Lipsky, president of a neighborhood group, the Franklin Square United Neighborhood Association, said he realized that fighting T-Mobile would be a big task requiring a long-term effort. He and others organized fashion shows and other fund-raisers and campaigns with slogans like "Refuse to Lose" to maintain interest and momentum in their fight. They raised about \$30,000, he said.

"We had to find ways to keep people focused and united," said Mr. Lipsky, who is a lawyer. "Most communities are not prepared to fight the company."

For starters, raising health concerns over radio frequency emissions would not work, because if those

emissions meet federal standards, courts will not give weight to local concerns, Mr. Lipsky said. To fight on that issue would have been useless, he said.

Instead, the group focused on aspects like T-Mobile's aesthetics tests, which were conducted using a crane extending to 65 feet, the height of the proposed tower. When Mr. Lipsky heard about the second of the two tests, he arranged to have the crane photographed from all over the area where T-Mobile contended there was a coverage gap.

The 59 photographs were presented to the Board of Appeals at a hearing and, the board later ruled, contradicted T-Mobile's statements that the tower would have minimal visual impact.

When Hempstead's Board of Appeals denied T-Mobile's application last October — three years after the application was submitted — it said that the company had not proved that it needed the tower to close a gap in service. The ruling also said that T-Mobile had not made a good-faith effort to find alternative sites that were less intrusive, an important part of the Telecommunications Act.

T-Mobile did not appeal the decision. In a statement, it said, "Moving forward, we plan to go back to the community and work to find a solution that both addresses the concerns we've heard along the way and allows T-Mobile to provide seamless coverage throughout Franklin Square."

Although Mr. Lipsky's group won its fight, the demand for more wireless services and places to install antennas grows.

In Lewisboro, for example, the Town Board selected Verizon as the applicant to seek approval from the Town Planning Board to build a 120- to 160-foot-tall cellphone tower on town-owned land near a park on Route 35. Town officials have said that Lewisboro suffers from incomplete cellphone coverage and last year sent out a request for proposals to build a tower.

The industry has also seen an increase in demand for features other than voice. For example, the number of monthly text messages had grown to 75 billion last June from 7.2 billion in June 2005, according to CTIA — the Wireless Association, a trade group. Demand for features that allow people to surf the Web and use video- and music-based services are also on the rise, it said.

"We want to provide those services," said Joe Farren, a CTIA spokesman. "And the only way to provide those services is towers."

David Wendlandt, co-owner of TowerSource, said: "The whole thing is to find a willing landlord. Alternative sites are becoming much more attractive."

Mr. Wendlandt said that on average, a cellphone tower could bring in \$1,000 to \$1,500 a month in rent from a wireless company.

That can attract willing landlords, like the East Meadow Fire District on Long Island, which approved an 80-foot tower to be built next to a firehouse near Carman Avenue and Salisbury Park Drive. The tower will be topped with a flag; it is unclear when it will be built.

The Town of Hempstead approved that East Meadow tower in late November over the objections of some residents worried about health effects. Another tower, at a firehouse on East Meadow Avenue, is being reviewed.

Carey Welt, East Meadow's fire commissioner, said he expected T-Mobile to pay the district about \$2,000 a month for the tower. With each tower having space for equipment for five carriers, Mr. Welt said he expected them to bring in about \$240,000 a year in rent.

"We were pretty much told that if they didn't put it on our property, they would put it next door," Mr. Welt said.

Chuck May, a landscape architect from Fishkill, N.Y., whom Mr. Lipsky's organization hired to prepare a visual-impact study during the fight with T-Mobile, said there was another, more basic factor in winning the Franklin Square case. Besides the legal and technical issues involved, the residents had tenacity, he said.

"They didn't give up," Mr. May said. "That's what happens when people in their community band together and put their seat belts on. They're tough."

Group forms in opposition to cell tower

Omnipoint wants to place structure on Robertsville Road

BY ZACH LEVINE Correspondent

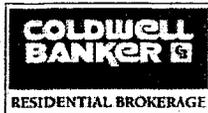
When residents who oppose the placement of a cellular communications tower on Robertsville Road in Freehold Township continue to make their case at the Oct. 30 meeting of the Freehold Township Zoning Board of Adjustment, they will be trying to convince the board not to grant a variance to the applicant, Omnipoint.

Omnipoint, more commonly known as T-Mobile, is proposing to construct a 120-foot-tall monopole with cellular antennas and a related equipment shed at 169 Robertsville Road. The application requires a use variance because a cell tower is not a permitted use on the residential property.

The previous hearing on the application was held at the zoning board's Sept. 25 meeting.

The Oct. 30 hearing will be held in the main meeting room of the Freehold Township municipal building, Stillwells Corner Road.

The Freehold Township residents may want to consider the successful fight against a cell tower that was recently waged in Franklin Square, Hempstead, N.Y. Residents in that Long Island community knocked down a proposed cell tower with a final vote on Oct. 2.

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In that case, Omnipoint wanted to build a 65-foot-tall cell tower in front of the Franklin Square Shopping Plaza. Community members were outraged at the idea and came together to form the Franklin Square United Neighborhood Association.

The association's first order of business was to hire attorney Tom McKeivitt.

"It is difficult finding attorneys to represent towns in these cases because usually all the attorneys in this business actually work for the major companies," McKeivitt told the News Transcript this week.

He said the first meeting with the zoning board took place in September 2006 and ran for 10 hours. Another hearing in May 2008 lasted for about nine hours.

"It is rare for a zoning board to find in favor of the community, but the residents were very adamant in not having the tower built," McKeivitt said. "I told the community before I took the case that no one was allowed to mention environmental or health aspects (connected with cell towers), since neither are proven just yet. I told them if they mentioned that, I would leave the case immediately."

At the Freehold Township zoning board meeting on Sept. 25, representatives of Omnipoint began presenting testimony to support their contention that a tower is needed on Robertsville Road to close a gap in coverage. Residents indicated they do not want a tower near their homes.

Last week a flier was circulated in Freehold Township which states that residents have come together to form Freehold Against Cell Tower (FACT).

In a statement provided to the News Transcript, the residents said, "We, residents of Freehold Township, have gotten together and formed the FACT coalition to oppose the placement of a 120-foot tall cellular tower right in the middle of our residential neighborhood. The area they want to place this 12-story structure in is located between Green Acres and a Scenic Corridor Roadway (established April 2002 by Monmouth County).

"In addition, there are two schools within a half-mile, as well as three parks. Furthermore, the site is in a valley and is definitely not the proper location. T-Mobile already has a tower on Dutch Lane. If they are permitted to put up this tower in a residential area, a precedent will be set.

"Being exposed to electromagnetic radiation 24/7, decreased property values, the aesthetics, additional traffic the tower's maintenance and infrastructure will create — all these are enough reasons for us to come together and let Freehold Township and Omnipoint know that we strongly oppose this tower's placement in a residential area."

Meanwhile, McKeivitt offered some advice to residents who do not want a tower on Robertsville Road.

"I would give the residents two pieces of advice for fighting this cell tower. First, prove that you don't need the tower. We had a group of people make approximately 140 calls in the area (of Franklin Square where the tower was proposed), showing that service for T-Mobile was fine the way it was.



"Second, we brought in a landscape architect who proved that the tower was a bad idea aesthetically. The tower was 65 feet tall and the nearest residential property wasn't even half that size," he said. "Also, it is important to note that even though the zoning board found in our favor, the applicant can bring the issue to federal court, so nothing is completely over just yet."

It is expected that Omnipoint will present testimony from additional witnesses when the hearing in Freehold Township resumes on Oct. 30.

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TAKE DOWN THE BOARD

Activists Seek To Disconnect BSA After Maspeth Antenna Approved
story and photo by Robert Pozarycki



Members of the Juniper Park Civic Association and City Council Member Tony Avella held a press conference outside Board of Standards and Appeals headquarters in Manhattan on Monday, Jan. 5 calling for the agency to be disbanded. The calls were made in the wake of the Dec. 16, 2008 decision by the BSA to approve plans for the construction of a cell phone tower atop a Maspeth home.

Angry with the Board of Standards and Appeals' recent support of plans to install a cell phone antenna atop a Maspeth home, a handful of activists called for the panel's termination during a press conference on Monday, Jan. 5 in lower Manhattan.

During the event outside the BSA's Rector Street headquarters, members of the Juniper Park Civic Association and City Council Member Tony Avella condemned the agency for giving the green light to T-Mobile USA (which conducts business as Omnipoint Communications) to erect the largescale device on the roof of a twofamily house on 72nd Place in Maspeth.

Originally planned to be a 25'- tall antenna disguised as a flagpole atop a 25'- high residential building, as previously reported, T-Mobile reduced the total height of the tower by 10 feet in the application approved by the BSA on Dec. 16. The changes were made after objections were raised by local residents at several public hearings held pre-viously.

Manny Caruana, a Maspeth resident and JPCA board member, stated that numerous local elected officials, civic groups and residents had opposed the antenna plan from the very beginning. Among them was Community Board 5, which recommended in October 2007 rejection of the application.

In addition to the size and scale of the original antenna plan, as reported, residents had also raised concerns over possible health problems that could arise as a result of prolonged exposure to radio frequency radiation produced by the active antenna.

Despite the overwhelming opposition from the Maspeth community, Caruana said, the BSA nonetheless voted unanimously at their Dec. 16 meeting to approve the scaled-back version of the cell phone tower plan. Charging that the panel lacked the expertise to make the appropriate decision, he denounced the board for not holding a public hearing on the matter after business hours in the area affected by the tower.

"Here they are in Manhattan, making decisions for communities in Brooklyn, Queens and Staten Island," he said, adding that hearings are held "at an unreasonable time of the day and making it almost impossible for residents of these communities to come down and testify.

"The decision they made on this cell tower is so unreasonable that anyone with any common sense that looks at it would immediately say, 'This is a piece of garbage,'" Caruana added. "But we have no recourse at this point."

Though T-Mobile had stated that the new antenna was needed to eliminate a coverage gap in the area, JPCA members charged that no such gap existed in the area around the 72nd Place site. Citing testimony before the BSA, Robert Doocey noted that T-Mobile customers tested their phones in the area and found that they received clear reception.

Christina Wilkinson, the civic group's secretary, added that after objections were raised by residents at previous hearings, the BSA asked T-Mobile for information on other sites in the area where the cell phone tower could be placed. The communications company, she said, did not provide a public response to the request.

Caruana suggested that T-Mobile's true motive for the cell phone tower in Maspeth was to develop its own 3G (third-generation) network in order to keep up with competitors who have installed similar systems for faster wireless communication.

Council Member Avella labeled the board's decision as "one more example of the abuse of power of this little known agency," noting that its five members—appointed exclusively by the mayor—answer to no one else in city government.

He stated that the BSA, in recent years, has approved variances for developers to build structures outside of the zoning codes enforced in certain neighborhoods of the city. The quality of life of some of those communities has either been damaged or destroyed as a result of these decisions, Avella observed.

ATTACHMENT NO. 5.134

"They are entity unto themselves," he said. "Time and time again, as in this case, the community board opposed it. The civic association opposed it. Every elected official opposed it. The borough president opposed it. And yet, BSA grants the authority to build this cell phone tower.

"It is time for the Board of Standards and Appeals, in the interest of good government, to be abolished," the legislator added.

In recent years, Avella noted that he has introduced several pieces of legislation in an effort to reform the BSA's practices. Among the bills he authored or co-sponsored would have expanded the board from five to 13 members, with the City Council, borough presidents, comptroller and public advocate appointing the eight new members.

But each of the proposals has been stalled in the City Council, which Avella charged was the result of "the real estate industry's influence" on city government.

The approval of the cell phone tower in Maspeth, the Council member said, sets an "unbelievable" precedent in the city, alluding to the possibility that other cell phone companies may seek to erect similar devices in residential areas.

While the health effects of prolonged exposure to cell phone antennas remain unclear, Avella suggested that the city ought to "err on the side of caution" in rejecting future applications to install the towers in residential communities.

"If you go back 50 years, no one thought asbestos was deadly," said the Council member.

Currently, any decision handed down by the BSA may be challenged through an "Article 78" lawsuit filed by residents in the community. When asked if such legal action would be taken to stop the Maspeth antenna's construction, Avella stated that it was unlikely due to potential legal expenses and a tight statute of limitations.

"It is an almost an impossibility," he said. "How many communities can come up with the money" to sue the city? "It shouldn't be on the community to sue its own government."

The Council member said that other courses of action were being considered to block the antenna proposal, including an inquiry with the Federal Communications Commission, which oversees the operation of cell phone antennas.

"We as a municipality have virtually no control over where these cell phone towers are cited because of federal legislation," Avella added. "That is something that has to change."

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ATTACHMENT NO. 5.135

Fri, Sept 25, 2009

I asked Jill Arabe

what other locations were examined

Jill-

T-Mobile's rpt -

indicated they had exhausted all other possibilities for co-location

⇒ Jill - said she would contacted ~~T-Mobile~~ T-Mobile to get a copy of ~~that~~ rpt that shows alternative locations researched

Mon, Sep 28, 2009

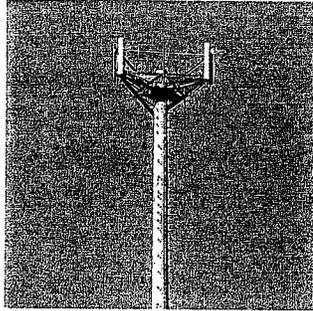
Jill said lady at T-Mobile told her there were no

claims this is the other possible locations - only location to provide coverage and meet code

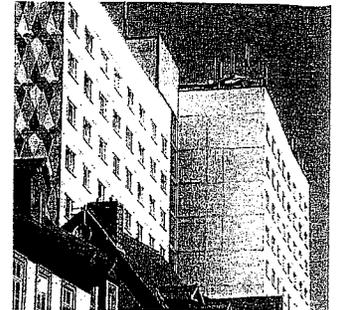
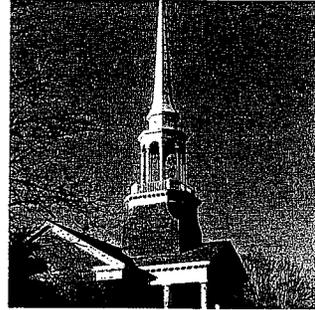
? = So how do other cell companies have good signal strength & coverage in this area?

DID YOU KNOW?

T-Mobile works to co-locate on an existing structure before erecting a new structure like this monopole.



Buildings work well as locations to minimize the visual impact of antennas.



T-Mobile often partners with schools, hospitals and places of worship as locations for cell sites.

Cell sites to fit every

Why are cell sites sometimes needed in residential areas?

Cell sites need to be located where people use their cell phones, and people use their phones increasingly at home throughout their neighborhoods. Wireless carriers must add new sites to their networks in these areas to handle increasing call and data volume.

- Per Pew Research, 74 percent of Americans who own mobile phones said they have used their handheld devices in an emergency and gained valuable help.⁴

Questions about wireless and home values

Some homeowners have questions about whether the presence of new cell sites affects their ability to sell their homes. One issue is whether there are undesirable health effects from living or working near a tower. The Federal Communications Commission and independent organizations like the American Cancer Society and World Health Organization consistently say there is no evidence that exposure to the low level of RF signals emitted by cell sites poses a health risk.

Another issue is the assumption that new towers may degrade views or otherwise be unsightly. Wireless carriers are sensitive to the needs of each community and work to reduce the visual impact of a cell site on the local community through design elements like camouflage and landscaping. In addition, T-Mobile is committed to minimizing the need for new freestanding structures, and roughly two-thirds of our wireless facilities are built on existing structures, such as local government buildings, rooftops, and utility poles.

ATTACHMENT NO. 5.137

T-Mobile committed to minimizing need for new structures

T-Mobile

¹Property value studies conducted across the U.S. for T-Mobile by independent appraisers with no vested interest in the results. ²The Nielsen Company, "Twenty Million U.S. Telephone Households are Wireless-Only," 09/16/06. ³National Emergency Number Association, "Wireless 9-1-1 Overview." ⁴Pew Research Center's Pew Internet & American Life Project, the Associated Press and AOL, "Cell Phone Society," 04/01/06.

**Minutes
Council/RDA Special Meeting
City of Huntington Beach**

Monday, April 27, 2009
5:00 PM - Room B-8
6:00 PM - Council Chambers
Civic Center, 2000 Main Street
Huntington Beach, California 92648

**A video recording of the 6:00 PM portion of this meeting
is on file in the Office of the City Clerk and is archived at
www.surfcity-hb.org/government/agendas/**

5:00 PM - CALL TO ORDER

Mayor Pro Tem Green called the special meeting of the City Council/Redevelopment Agency to order at 5:00 PM.

ROLL CALL

Present: Carchio, Dwyer, Green, Bohr (arrived at 5:07 PM), Coerper, Hardy, and Hansen
(arrived at 5:01 PM)
Absent: None

ANNOUNCEMENT OF LATE COMMUNICATION PERTAINING TO SPECIAL MEETING
CLOSED SESSION ITEM ONLY - None.

PUBLIC COMMENTS PERTAINING TO SPECIAL MEETING CLOSED SESSION ITEM ONLY
(3 Minute Time Limit) - None.

RECESS TO CLOSED SESSION

A motion was made by Coerper, second Green to recess to Closed Session. The motion carried by the following roll call vote:

AYES: Carchio, Dwyer, Green, Coerper, Hardy, and Hansen
NOES: None
ABSENT/OUT OF ROOM: Bohr

CLOSED SESSION

(City Council) Litigation - Pursuant to Government Code Section 54956.9, the City Council recessed into Closed Session to confer with the City Attorney regarding the following lawsuits (and potential lawsuits):

Pursuant to *Government Code* Section 54956.9(b)(3)(A), the City Council recessed to Closed Session to confer with its attorney regarding potential litigation. Facts and circumstances that might result in litigation against the local agency but which the local agency believes are not yet

ATTACHMENT NO. 5.138

known to a potential plaintiff or plaintiffs, which facts and circumstances need not be disclosed.
Number of Potential Cases: Unknown at this time. Subject: Potential Litigation re: Site

License Agreement with Omnipoint Communications, Inc. (A T-Mobile USA, Inc., Subsidiary) for
Wireless Telecommunication Facility at Harbour View Park.

6:00 PM - RECONVENE CITY COUNCIL SPECIAL MEETING

Mayor Bohr reconvened the special meeting of the City Council at 6:02 p.m.

ROLL CALL

Present: Carchio, Dwyer, Green, Bohr, Coerper, Hardy, and Hansen
Absent: None

ANNOUNCEMENT OF LATE COMMUNICATION

Pursuant to the Brown "Open Meetings" Act, City Clerk Joan Flynn announced the following
communications to the City Council received after distribution of the agenda packet:

Communications received regarding Administrative Item #1 - Wireless Telecommunication
Facility at Harbour View Park: 1) Anonymous, 2) Heather Lenore, 3) Lisa Vallefucio Bayley, 4)
Cindy and Jeff Busche, 5) Suzie Slope (2), 6) Kevin Veal, 7) Lisa Veal, 8) Barbara Hamilton
Howard, 9) Ron and Jen Johnson, 10) Mary Ellen Houseal, 11) Todd and Deborah Rosenlof,
12) The Parkin Family, 13) Drew Kovacs, 14) Lisa and Tony Rudy, 15) JoAnne Flory, 16) Ana
Youngsma, 17) Diana Rovano, 18) Joan Smith, and 19) Dan and Linda Fillet.

COMMUNICATIONS RECEIVED DURING THE MEETING

Communication submitted by Traci White, dated April 26, 2009, voicing opposition to
Administrative Item #1 - Wireless Telecommunication Facility at Harbour View Park.

Petition entitled *Reject the Cell Tower* submitted by Julia Lucas, undated and containing
119 signatures.

CITY ATTORNEY REPORT OUT OF CLOSED SESSION ITEM(S)

The City Attorney announced that in regard to the settlement agreement between the City of
Huntington Beach and T Mobile, by a vote of 7-0, the Council directed staff to renegotiate the
existing license agreement with T Mobile for Harbor View Park, and agreed to reimburse
appropriate expenses in an amount not to exceed \$50,000.

Mayor Bohr added that T-Mobile representatives committed verbally that they will not proceed
with the construction on the cell site at Harbour View Park.

PLEDGE OF ALLEGIANCE - Mayor Bohr led the Flag Salute.

PUBLIC COMMENTS PERTAINING TO SPECIAL MEETING ITEM (3 Minute Time Limit)

(The numbers following speakers' comments reflect the approximate point in time in the archived video the speaker appears at <http://www.surfcity-hb.org/government/agendas>)

James M. Jackson, M.D., resident, spoke in opposition to a site license agreement with Omnipoint Communications, Inc. (T-Mobile USA, Inc. Subsidiary) for a wireless telecommunication facility at Harbour View Park. He noted the parallels between cell tower radiation and their potential effects on children. (00:06:09)

Gracey Van Der Mark, concerned parent, spoke in opposition to a site license agreement with Omnipoint Communications, Inc. (T-Mobile USA, Inc. Subsidiary) for a wireless telecommunication facility at Harbour View Park. She noted that the cell tower radiation may wind up exceeding FCC acceptable standards and thanked the Council for voting to remove the tower. (00:09:34)

Fred "Skip" Booth, spoke in opposition to a site license agreement with Omnipoint Communications, Inc. (T-Mobile USA, Inc. Subsidiary) for a wireless telecommunication facility at Harbour View Park. Mr. Booth referenced a book by a neurosurgeon who studied brain cancer and its causes in children. He also referenced policies from neighboring jurisdictions that limit cell tower construction. (00:11:30)

Mike Thermos, Homeowners of Huntington Beach, spoke in opposition to a site license agreement with Omnipoint Communications, Inc. (T-Mobile USA, Inc. Subsidiary) for a wireless telecommunication facility at Harbour View Park. He noted the close proximity of the proposed cell tower and the adjacent school site and its potential negative impact on the students. (00:13:14)

Tay Norton spoke in opposition to a site license agreement with Omnipoint Communications, Inc. (T-Mobile USA, Inc. Subsidiary) for a wireless telecommunication facility at Harbour View Park. She thanked the City Council for their efforts and decisions related to the proposed cell tower site. She further suggested that the Council conduct public hearings before they make any policy decisions on matters where students or school sites are impacted. (00:15:32)

Heather Lenore, resident of Huntington Harbor, spoke in opposition to a site license agreement with Omnipoint Communications, Inc. (T-Mobile USA, Inc. Subsidiary) for a wireless telecommunication facility at Harbour View Park. She noted the negative impacts of cell towers on the brain development cycle in children. She thanked the Council for their decision in moving the cell tower. (00:17:38)

Ralph Bauer, resident, spoke in opposition to a site license agreement with Omnipoint Communications, Inc. (T-Mobile USA, Inc. Subsidiary) for a wireless telecommunication facility at Harbour View Park. He suggested the Council conduct public hearings on these types of matters in the future. He also noted that Measure "C" may come into play when considering policy decisions relative to parks and referenced the City's subdivision Ordinance. (00:20:00)

Patrick Munoz thanked Council for their decision to reconsider a site license agreement with Omnipoint Communications, Inc. (T-Mobile USA, Inc. Subsidiary) for a wireless telecommunication facility at Harbour View Park. He thanked the Council for listening to the community on this issue. (00:22:25)

Cindy Osterhout, principal of Harbor View School, spoke in opposition to a site license agreement with Omnipoint Communications, Inc. (T-Mobile USA, Inc. Subsidiary) for a wireless telecommunication facility at Harbour View Park. She thanked the Council, City staff, representatives from T-Mobile, and the students and families of Harbor View School for their work in this matter and for keeping students and staff safe. (00:22:52)

Mary Busche, resident, spoke in opposition to a site license agreement with Omnipoint Communications, Inc. (T-Mobile USA, Inc. Subsidiary) for a wireless telecommunication facility at Harbour View Park. She mentioned her children and grandchildren who attended Harbor View School, the future consequences of potentially harmful environmental decisions, and the community's support for removal of the cell tower equipment. (00:25:37)

Jim Shaffer, resident, spoke in opposition to a site license agreement with Omnipoint Communications, Inc. (T-Mobile USA, Inc. Subsidiary) for a wireless telecommunication facility at Harbour View Park. He expressed concerns that this item was initially considered on the Consent Calendar rather than at a public hearing. (00:28:35)

Annalisa Phantumabamrung, resident, spoke in opposition to a site license agreement with Omnipoint Communications, Inc. (T-Mobile USA, Inc. Subsidiary) for a wireless telecommunication facility at Harbour View Park. She expressed concerns that the community did not receive adequate notice regarding the proposed cell tower. (00:29:48)

Christina Tsimerekis, parent of Harbor View student, spoke in opposition to a site license agreement with Omnipoint Communications, Inc. (T-Mobile USA, Inc. Subsidiary) for a wireless telecommunication facility at Harbour View Park. She thanked the Council for their work in cancelling the contract with T Mobile, however, she also expressed concerns with the Council's due diligence in this matter. She also referenced the apparent lack of proper notice to adjacent residents and the school site. (00:33:42)

Mayor Bohr reiterated the City Council's decision in Closed Session regarding this matter.

Debi Windle, parent of Harbor View student, spoke in opposition to a site license agreement with Omnipoint Communications, Inc. (T-Mobile USA, Inc. Subsidiary) for a wireless telecommunication facility at Harbour View Park. She thanked the Council for tonight's decision and suggested the City adopt certain provisions to their zoning code to protect students and children from such future cell tower construction. (00:36:46)

Tim Branoff, resident, spoke in opposition to a site license agreement with Omnipoint Communications, Inc. (T-Mobile USA, Inc. Subsidiary) for a wireless telecommunication facility at Harbour View Park. He suggested a modification to the City's development application process as to proactively determine potential impacts to school sites. (00:39:48)

Margaret Tracy, resident, spoke in opposition to a site license agreement with Omnipoint Communications, Inc. (T-Mobile USA, Inc. Subsidiary) for a wireless telecommunication facility at Harbour View Park. She expressed concerns and made inquiries as to placement of a cell tower near Bolsa View Park. (00:41:19)

Diane Rector, resident, spoke in opposition to a site license agreement with Omnipoint Communications, Inc. (T-Mobile USA, Inc. Subsidiary) for a wireless telecommunication facility

at Harbour View Park. She mentioned how a neighborhood element, such as a cell tower, may negatively affect local property values. (00:41:44)

Jerry Rich, resident, spoke in opposition to a site license agreement with Omnipoint Communications, Inc. (T-Mobile USA, Inc. Subsidiary) for a wireless telecommunication facility at Harbour View Park. He noted the City's efforts in maintaining a high quality of life for residents and supported tonight's decision. (00:42:49)

Norm Westwell, President, Ocean View School District, thanked Mayor Bohr and Councilmember Carchio for attending a community meeting held on April 23, and spoke in opposition to a site license agreement with Omnipoint Communications, Inc. (T-Mobile USA, Inc. Subsidiary) for a wireless telecommunication facility at Harbour View Park. He encouraged the Council to consider widespread public notification when a matter of this magnitude is to be discussed. (00:44:24)

Jodie Arendt spoke in opposition to a site license agreement with Omnipoint Communications, Inc. (T-Mobile USA, Inc. Subsidiary) for a wireless telecommunication facility at Harbour View Park. She referenced a personal cancer diagnosis and the potential connection between environmental elements and the negative health risk of exposures. (00:45:53)

Deane McDaniel, resident, inquired as to whether the Council will be considering action to remove other existing cell sites in the City. (00:47:24)

Noting that there were no further speakers, Mayor Bohr closed public comments.

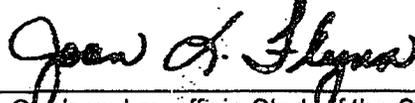
ADMINISTRATIVE ITEMS

1. (City Council) Reviewed status of site license agreement with Omnipoint Communications, Inc. (a T-Mobile USA, Inc. Subsidiary) for wireless telecommunication facility at Harbour View Park.

A motion was made by Bohr, second Hardy to direct staff to bring back a Zoning Text Amendment that addresses the permitting and entitlement of cell sites located within 500 feet of school sites to require a Conditional Use Permit and public notice. The motion carried by the following roll call vote:

AYES: Carchio, Dwyer, Green, Bohr, Coerper, Hardy, and Hansen
NOES: None

ADJOURNMENT - Council adjourned at 6:50 p.m. to the next regularly scheduled meeting on Monday, May 4, 2009, at 4:00 PM, Civic Center, 2000 Main Street, Huntington Beach, California.



City Clerk and ex-officio Clerk of the City Council of the City of Huntington Beach and Clerk of the Redevelopment Agency of the City of Huntington Beach, California

ATTEST:


City Clerk-Clerk
Mayor-Chair



PREFERRED LOCATIONS FOR NEW SITES

T-Mobile adds new wireless facilities only when and where they are needed. When possible, T-Mobile locates antennas on existing structures, such as:

- Water towers or smoke stacks
- Existing wireless facilities or freestanding structures such as monopoles or lattice structures
- Existing utility infrastructure such as power or light poles
- Buildings and rooftops
- Billboards
- Commercial signs

Key steps in the site selection process

Step 1: Determine need through a scientific analysis of the network.

In order to provide the best possible performance, T-Mobile continually works on its network. When customer demand drives the need for improvements, radio engineers conduct a thorough analysis of the network using scientific and topographic models. This may include identifying the wireless traffic at individual cell sites, considering the number of dropped and blocked calls, and gathering customer input via surveys and direct feedback.

Step 2: Identify feasible locations.

Once a need for a wireless facility has been determined, potential sites are examined and evaluated on the basis of how well they address the needs of the network, such as filling in coverage and capacity gaps. Because wireless signals travel by line-of-sight, large buildings, hills, and tall trees can limit signal strength and thus affect where a site may be located. T-Mobile gives priority to placing new wireless facilities in industrial, commercial, and mixed-use areas when possible. However, as customers increasingly use their wireless phones at home—often as their only phone—it becomes necessary to locate wireless facilities in neighborhoods.

Step 3: Acquire the necessary permits and leases.

Local zoning and building codes also guide where facilities may be constructed, what type of site can be proposed, and what it looks like. Many experts participate in this step.

Measure*
"C"

- Land use professionals carefully research local zoning requirements to determine where wireless sites are allowed, and under what conditions.
- Siting and acquisition professionals identify properties that allow for the placement of a facility that is feasible, constructible, and that addresses community concerns. They work to ensure that the site complies with all pertinent local, state, and federal requirements. They also negotiate lease agreements with property owners, such as municipal governments, utility companies, or private landowners.
- Land use professionals also work with city or county officials, the community, and landowners to obtain all required permits to construct the wireless facility.
- Construction managers ensure that the proposed site can be constructed safely and will meet all municipal building codes and safety standards.

Once all the necessary permits have been acquired, T-Mobile constructs the facility. By following this rigorous process for site selection, T-Mobile is able to expand its network to deliver the quality of service that customers rightfully expect, now and in the future.

LEARN MORE

Please visit www.t-mobile-takeaction.com for additional information about wireless communications and links to the American Cancer Society, CTIA, FCC, and others.

CONTACT US

If you have questions on the information provided in this fact sheet, please contact natextaffairs@t-mobile.com.

ATTACHMENT NO. 5.144

T-MOBILE USA
12920 SE 38th Street
Bellevue, Washington 98006



- Measure "C" - \$100K limit w/o vote
- T-Mobile building permit said \$60K

THE ORANGE COUNTY REGISTER
ocregister.com

Monday, June 1, 2009

T-Mobile sues Surf City over cell phone tower dispute

Company alleges city broke contract because of rule protecting parks and beaches; city denies the contract was broken.

By ANNIE BURRIS

The Orange County Register

HUNTINGTON BEACH – T-Mobile is suing Huntington Beach in federal court, alleging that city officials broke a contract allowing the cell phone company to install tree-shaped cell phone towers at two local parks.

The cell phone company claims the city is preventing them from providing competitive cell phone service primarily because of a city rule intended to protect parks and beaches, according to the suit, filed May 27 in U.S.

District Court.

"We intend to preserve our legal rights to maintain the highest quality communications network for our customers," T-Mobile said in a statement to the Register.

Huntington Beach officials denied that the contract was broken. They said T-Mobile can build the cell tower but only if it meets city rules.

A portion of the city's charter – referred to as Measure C – requires residents to vote on any structure to be built in a park or beach costing more than \$100,000.

T-Mobile had planned to build a cell phone tower at Harbour View Park costing between \$120,000 and \$200,000 as the "least intrusive means" to fill a gap in the company's wireless services, the lawsuit said. Another cell tower planned for Bolsa View Park is estimated to cost \$80,000, which falls within Measure C requirements.

The company pointed out in its lawsuit that the \$100,000 figure residents voted for in 1990 is equal to \$183,890 in today's dollars, based on a widely used Construction Cost Index. City Attorney Jennifer McGrath said the dollar amount in Measure C could only be changed if the residents voted for the change.

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The city has given the company three possible options: change their plans so the tower would cost less than \$100,000, move the tower to a new location, or put the cell towers to a public vote.

The City Council voted unanimously Jan. 20 to allow a cell phone tower at Harbour View and Bolsa View parks – a contract that was to give the city \$5,000 a month for up to 20 years.

When the city first began negotiations with T-Mobile for the Harbour View tower, the projected cost of construction was less than \$100,000, McGrath said. The building permit for the site said the value of the improvements was \$60,000, she said.



However, after public outcry over concerns about the health effects of the cell towers and the public disclosure of the deal, the council directed staff to renegotiate the contract with T-Mobile and reimburse the company up to \$50,000. During those discussions, T-Mobile officials said the Harbour View tower cost more than \$120,000.

In May, the City Council rescinded their \$50,000 offer and negotiations to redo the contract ended without a new agreement.

Contact the writer: aburris@ocregister.com
or 949-553-2905

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YOU'RE INVITED!

Notice of Neighborhood Meeting

To improve wireless phone service in your area T-Mobile is proposing to install a communications site at Community United Methodist Church. T-Mobile has designed the site to blend with the surrounding area by proposing to install a tower camouflaged as a palm tree.

T-Mobile would like to invite you to attend a neighborhood meeting with their project representatives to discuss the proposed site. You will have an opportunity to review our plans and photo-simulation depictions of the proposed facility, and ask any questions you might have about it.

Date: Thursday, September 24, 2009

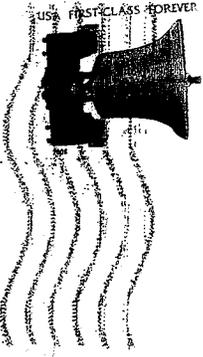
Time: 6:00 p.m. to 7:00 p.m.

**Place: Community United Methodist Church
6662 Heil Ave
Huntington Beach, CA 92647**

Further information regarding this meeting may be obtained by contacting Monica Moretta, Sequoia Deployment Services, at (949) 241-0175 or monica.moretta@sequoia-ds.com.

T-Mobile would like to hear from you and we look forward to seeing you at this meeting.

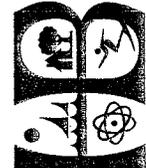
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Thurs, Sep 24, 2009

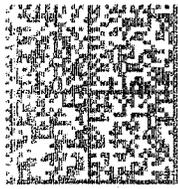
165. APN: 146-483-10
DIANNE JO LARSON
16631 DALE VISTA LN
HUNTINGTON BEACH CA 92647-4318

926474318



CITY OF HUNTINGTON BEACH
P.O. Box 190
Huntington Beach, CA 92648-2702

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165. APN: 146-483-10
DIANNE JO LARSON
16631 DALE VISTA LN
HUNTINGTON BEACH CA 92647-4318

Tues-
mailed 9-15-09
mtg Wed, 9-30-09





**CITY OF HUNTINGTON BEACH
NOTICE OF PUBLIC HEARING
BEFORE THE ZONING ADMINISTRATOR**

You are receiving this Notice of Public Hearing because you own property, are a resident, or conduct business within close proximity of the item checked below. The Zoning Administrator Public Hearing is scheduled for:

WHEN: Wednesday, September 30, 2009 **TIME:** 1:30 PM

WHERE: Room B-8, Lower Level, City Hall Huntington Beach Civic Center, 2000 Main Street, Huntington Beach

→ ALL INTERESTED PERSONS are invited to attend said hearing and express opinions or submit evidence for or against the application as outlined below. A copy of the application is on file in the Planning Department, 2000 Main Street, Huntington Beach, California 92648, for review by the public. If you challenge the Zoning Administrator's action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City at, or prior to, the public hearing. If there are any further questions please call the Project Planner at 536-5271 and refer to the application below.

NOTICE IS HEREBY GIVEN that the Zoning Administrator will hear the following items:

NOTICE IS HEREBY GIVEN that on Wednesday, September 30, 2009, at 1:30 PM in Room B-8, Lower Level, City Hall, 2000 Main Street, Huntington Beach, the Zoning Administrator will hold a public hearing on the following item:

- ✕ 1. CONDITIONAL USE PERMIT NO. 2009-015 (T-MOBILE WIRELESS COMMUNICATION FACILITY): **Applicant:** Monica Moretta, Sequoia Deployment Services, Inc. **Request:** To permit the construction of a 55 ft. high wireless communications facility designed as a palm tree "monopalm" with 12 panel antennas and one (1) GPS antenna, including associated equipment surrounded by a seven ft. six inch high blockwall. The request includes the relocation of a five-foot high block wall trash enclosure. **Location:** 6666 Heil Avenue, 92647 (south side of Heil Avenue, east of Edwards Street) **Project Planner:** Jill Arabe

? NOTICE IS HEREBY GIVEN that Item #1 is categorically exempt from the provisions of the California Environmental Quality Act.

WHY?

ON FILE: A copy of the staff report will be available to interested parties at the City of Huntington Beach, Planning Department.

Rami Talleh, Liaison to the Zoning Administrator
2000 Main Street
Huntington Beach, CA 92648
(714) 536-5271

ATTACHMENT NO. 5.149

Carrier Technology Choices for Cell Sites

TELECOMMUNICATIONS

ACT OF 1996

The Federal Communications Commission (FCC) is responsible for implementing the Telecommunications Act of 1996. Under these rules,¹ licensed wireless carriers are entitled to make technological and operational decisions free from state and local governmental interference.

FCC regulation also requires that these governments act in a competitively neutral and non-discriminatory manner towards all telecommunications providers. The result is that while state and local governments can make determinations regarding the placement, construction, and modification of wireless facilities, the choice of technology is left to each carrier to determine, in accordance with applicable FCC rules.

Distributed Antenna System (DAS) technology is effective solution in custom environments

A Distributed Antenna System (DAS) is a technology originally developed for in-built areas—to contain the signal to an interior area that is typically difficult to cover. DAS fundamentally different technology than that used for standard wireless facilities. It's in unique environments, such as airports, malls, stadiums, casinos, and corporate

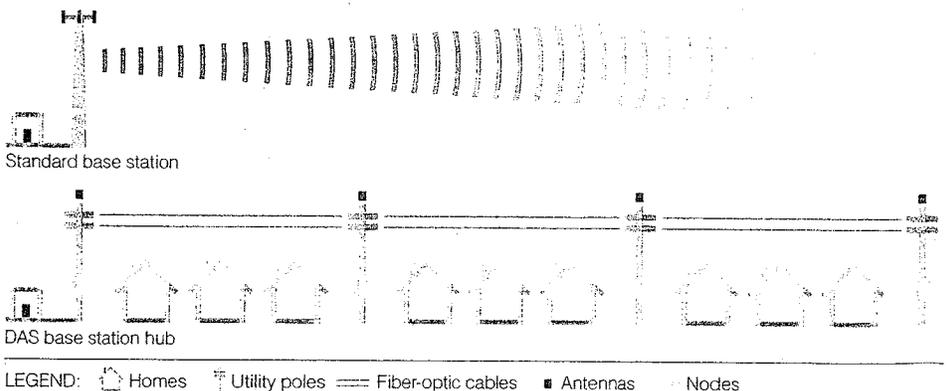
Coverage: Depends on surrounding physical characteristics—same as with a stand wireless facility. But because DAS nodes are typically the height of a second-story v coverage is extremely limited, and the technology requires more antennas and abo infrastructure. What's more, major roadwork and sidewalk construction may be nee locate a fiber network underground.

Capacity: Does not effectively scale for increased capacity. Because there is limitec the system and each user on a DAS system must share this power, the coverage ar DAS network is dramatically reduced. The more power that must be shared among weaker the signal and the smaller the coverage area.

Network flexibility: Cannot be expanded as easily as standard wireless facilities, bec the limited capacity of a DAS system. When all positions are taken, co-location or e within that system is no longer possible. More nodes or a new system will be requir means many more antenna facilities. And network performance may be affected.

Network reliability: May be compromised or experience catastrophic failure in the ex public emergency or natural disaster. This is because DAS networks use a single fit to host varying numbers of client uses over a large area.

STANDARD WIRELESS TECHNOLOGIES VS. DAS



DAS typically requires more antenna facilities to match, or come close to, the coverage of a single standard wireless site.

LEARN MORE

Please visit www.t-mobile-takeaction.com for access to additional information about wireless communications.

CONTACT US

If you have questions on the information provided in this fact sheet, please contact natextaffairs@t-mobile.com.

¹Federal Communications Commission: Telecommunications Act of 1996. See sections

T-MOBILE USA
12920 SE 38th Street
Bellevue, Washington 98006

ATTACHMENT NO. 5.150



RECEIVED

SEP 30 2009

Huntington Beach
PLANNING DEPT.



RECEIVED

SEP 30 2009

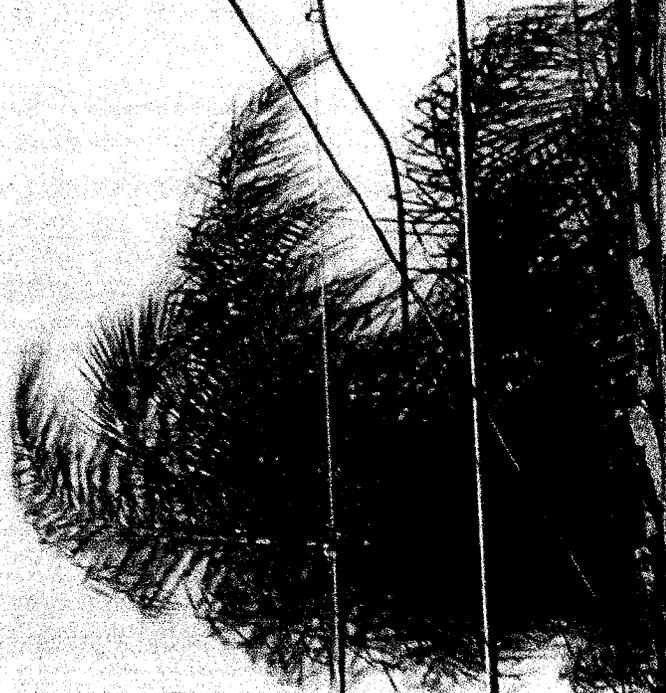
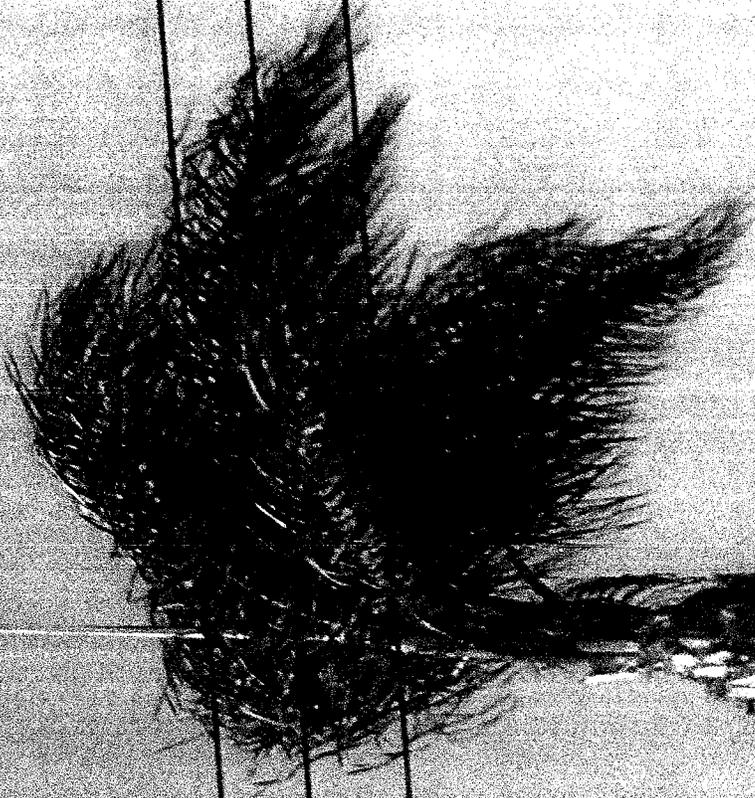
Huntington Beach
PLANNING DEPT.

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SEP 30 2009

Huntington Beach
PLANNING DEPT.



ATTACHMENT NO

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ATTACHED TO NO. 5155

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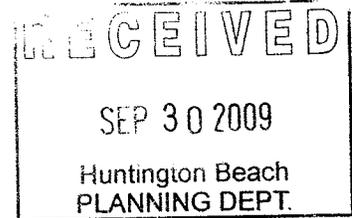


ATTACHMENT NO. 5.156

T Mobil Cell Phone Company

9-28-09

To Whom It May Concern:



Gentlemen:

I am writing your Company to inform you of my opinion of your intension of installation of a disguised Cell Phone antenna located in a parking lot of a local Church, approx. 800 feet, as the crow flys, from my house.

We have been a T Mobil customer for many years and we have to say, in all honesty, that we have always had great reception with our cell phone through the years of use. This use of the cell phone has included long-distant calls to Indiana.

It is my observation and opinion, there seems to be a sufficient amount of existing antennas to service our area as well as way beyond the area.

It is my suggestion to locate another site, away from populace areas in order to avoid future problems.

Tract 5557
Lot 38

Thanking You in Advance
John A Kamp, 16612 Fountain Lane
Huntington Bch, (714) 842-3242

John A Kamp ATTACHMENT NO. 5.157

Joy Nishiwaki
16461 Redlands Lane
Huntington Beach, CA 92647
September 30, 2009

Zoning Administrator
City of Huntington Beach
2000 Main St.
Huntington Beach, CA 92648



To Whom It May Concern:

I am a long-time resident of our city, and I am writing to express my concern about recent discussion to permit T-Mobile to construct a 55 foot high wireless tower across the street from my house. I understand that the decision is being considered to enable better service to T-Mobile cell phone user.

However, I do not believe T-Mobile "wants" should be placed higher than the local residents. Consider: That a 55 foot tower would be significantly visible from all parts of many people's homes which can negatively affect the community's property value. I do not look forward to sitting in my back yard having a barbecue staring at a cellular tower. I also am concerned that the Preschool at Community United Methodist church conducts business at the proposed site and that the faculty and staff were not noticed by T-Mobile regarding the 55 foot tower. They are concerned that although T-Mobile claims that the tower is "safe" that there have not been long term studies and that parent may not want to bring their young children and the future of this community and expose them to the cellular tower. The teacher at the preschool that I spoke to, felt that it would effect enrollment in the Preschool. Also the parents that pay for their children to attend the Preschool were not noticed by T-Mobile. It seems there were short notice to the residents and no notice to the people who work and do business at the preschool. I have heard that there have been other sites that have been rejected and I hope that the City will consider that there is public outrage toward the building of this site and if people were not appropriately notified that the community will be further upset. It would seem that the City should reject the request to build a cellular tower that will decrease surrounding property values and upset the attendance of a wonderful Preschool.

Sincerely,

A handwritten signature in black ink, appearing to read "Joy Nishiwaki". The signature is fluid and cursive, with a long horizontal line extending to the right.

Joy Nishiwaki

ATTACHMENT NO. 5.158

Q

Cell Phone Tower Threat?

You haven't discussed the risks of living near a cell phone tower since 2002. Can you update us on any recent research on the risks (if any) of living near a cell tower?

Answer (Published 6/5/2008)

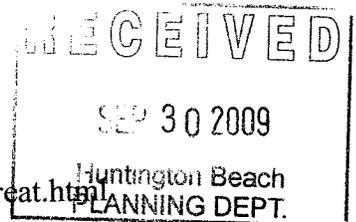
I wish I could tell you that we know a lot more about the health effects of radiofrequency (RF) signals from cell phone towers than we did in 2002, but I'm afraid there are still more questions than answers. In fact, in January 2008, the National Research Council (NRC), an arm of the National Academy of Sciences and the National Academy of Engineering, issued a report saying that we simply don't know enough about the potential health risks of long-term exposure to RF energy from cell phones themselves, cell towers, television towers, and other components of our communications system. The scientists who prepared the report emphasized, in particular, the unknown risks to the health of children, pregnant women, and fetuses as well as of workers whose jobs entail high exposure to RF energy. Because so much of cell phone technology is new and evolving, we don't have data on the consequences of 10, 20 or 30 years worth of exposure to the RF energy they emit. The report chairman, Frank S. Barnes, a professor of electrical and computer engineering at the University of Colorado, was quoted in news reports as saying that it is "pretty clear" that there are no major acute effects from all the various sources of RF exposure due to cell phone use: "People aren't using their phones and dropping dead. So the question is, 'What is happening from long term use, in various ways?'"

The report called for studies of long-term exposure to all wireless devices including cell phones, wireless personal computers, and cell towers. A report issued in 2006 from the World Health Organization (WHO) found no scientific evidence that RF signals from cell towers cause adverse health effects and made the following points: Up to five times more of the RF signals from FM radio and television (than from cell towers) are absorbed by the body with no known adverse effects on health in the more than 50 years that radio and TV broadcast stations have been operating. Reported cancer clusters surrounding cell phone towers are "often a collection of different types of cancer with no common characteristics" and are therefore "unlikely to have a common cause." What's more, the report noted that there are now so many cell towers that cancer clusters will occur near some merely by chance. And during the past 15 years, no epidemiological studies have found an increased risk of human or animal cancers related to the transmitters.

But none of this proves that RF exposure from cell towers is harmless. We'll have to wait and see what further investigation reveals.

Andrew Weil, M.D.

From: <http://www.drweil.com/drw/u/QAA400407/Cell-Phone-Tower-Threat.html>



November 4, 2009

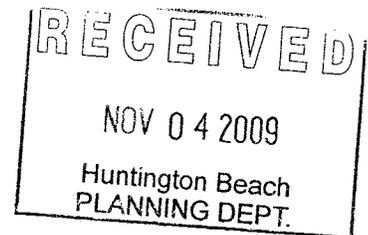
Huntington Beach Zoning Administrator:

I am Dianne Larson, a Huntington Beach resident, and I am **AGAINST** T-Mobile's proposed cell tower at Community United Methodist Church (CUMC).

There are **major inconsistencies** and what I personally consider to be **intentional misrepresentation and falsification** of facts presented to the public and submitted to the City of Huntington Beach in T-Mobile's application for Conditional Use Permit (CUP) No. 2009-015 for a cell tower at CUMC. But more importantly, **T-Mobile has failed to meet application and HB Zoning and Subdivision Ordinance requirements for the permit.**

Five areas of concern include:

- **the Coverage Objective area,**
- **Alternative Site locations,**
- **verification of an actual need,**
- **failure to meet city ordinance requirements,** and
- **failure to fulfill application requirements.**



Coverage Objective Area

I have submitted T-Mobile documents that specify distinctly different Coverage Objective areas for this cell tower.

1. "T-Mobile LA33421A Coverage Objective" (available to the public at CUMC on Sept 24, 2009) is an aerial view with a yellow oval indicating an area:
 - just over 1 mile east to west (from just west of Goldenwest to the west side of Springdale) and
 - just over ¾ mile north to south (from the north side of College View Elementary School to just north of Warner).
2. "T-Mobile's Alternative Location Map" is another aerial view showing a much smaller Coverage Objective area.
 - This pdf was emailed to me after I requested to see the Alternate Locations T-Mobile had researched.
 - approximately .4 mile east to west
 - approximately .3 mile north to south
 - This document specifically identifies **College View Elementary School, College View Park, Spring View Middle School, and Irby Park**
 - states that the school district and city will not lease space to wireless carriers
 - states that these locations are "**outside of the coverage objective.**"
3. "Coverage for LA33421A" "Attachement 6.03" (misspelling copied from T-Mobile document)
 - This document shows the **most intense cell tower coverage level ("In Building")** completely blanketing **College View Elementary School, College View Park, the**

playground at Spring View Middle School and the northern half of Irby Park which includes the developed playground area

- All of these locations were specifically identified as being “**outside of the coverage objective**” on T-Mobile’s Alternative Location map.
- Mid-level cell tower coverage (“In Vehicle”) extends north to Edinger Ave where T-Mobile has an existing cell tower site at McDonalds; east of Goldenwest just beyond T-Mobile’s existing cell tower at Murdy Park; south almost to Warner; east almost to Springdale
- Lowest level cell tower coverage (“Outdoor”) extends even further.

Alternative Site Locations

I have submitted a copy of T-Mobile’s “Wireless Permit Application Form” and attachments received by the Huntington Beach Planning Department on April 20, 2009.

4. “6.00 Candidate Sites” (page 7 of 9) of application:
 - 6.02 indicates that no other “leases, lease-options or similar formal or informal agreements” were “attempted.”
5. “Site Justification Study for LA33421-A Community UMC” “Attachment 6.07” (paragraph 3) states that “alternative candidates were ruled out due to the lack of interest to lease space.”
6. “Project Description” (paragraph 3)
 - Despite T-Mobile’s statement that the “coverage objective is primarily the residential neighborhoods located to the north, south, east and west of the intersection of **Main Street and Palm Avenue,**” (*emphasis mine*),
 - T-Mobile claimed that research of alternative locations included **“Redeemer Lutheran Church, St. Bonaventure Roman Catholic Church, and even city parks.”**
7. “T-Mobile’s Alternative Location Map” (discussed in Coverage Objective Area 2.)
 - This document specifically identifies **College View Elementary School, College View Park, Spring View Middle School, and Irby Park** and
 - states that the school district and city will not lease space to wireless carriers

If T-Mobile claims that the public schools and parks within 1500 feet of CUMC are “outside of the coverage objective”, why did they state that Redeemer Lutheran Church (and pre-school) and St. Bonaventure Roman Catholic Church (and school), which are over ½ mile away, were researched as alternative locations?

If no other leases or informal agreements were attempted, how did T-Mobile rule out at least six “alternative candidates... due to the lack of interest to lease space”?

The changing Coverage Objective and the Alternative Location issues show **major inconsistencies** in facts presented to the public and submitted to the City of Huntington Beach in T-Mobile’s application.

Verification of Actual Need

I have submitted an additional T-Mobile coverage document, an enlargement of a portion of the Thomas Guide map book for the area surrounding the intersection of Heil and Edwards, and a spreadsheet showing results of a simple one-hour cell phone coverage test.

8. T-Mobile's "LA33421A Predicted Coverage Without the Proposed Site" was available to the public at CUMC on September 24, 2009.
 - This document shows a portion of T-Mobile's "Coverage Without LA33421A" (Attachment 4.02) which was submitted with their application.
 - "4.00: Radio Frequency Coverage Maps" (page 5 of 9) states that Attachment 4.02 is to be a "map of **existing** RF coverage" (so why is the hand-out titled "predicted"?)
 - The hand-out and Attachment 4.02 show coverage in the CUMC area as only strong enough for "Outdoor" use of T-Mobile cell phones and not strong enough for "In Vehicle" or "In Building" cell phone usage.
 - I live within 500 feet of CUMC in an area designated as "Outdoor," and I am able to make, receive and maintain calls without being dropped inside my home.
 - The other T-Mobile cell phone users I have spoken with who reside in this so-called "Outdoor" area also claim adequate "In Building" cell phone coverage inside their homes:
 - The homes of residents living within 500' of CUMC (on Dale Vista and Fountain) near the southeast perimeter of the smaller Objective Coverage area
 - Residents living directly west of CUMC on Abbott, the closest residential street southeast of the Heil / Edwards intersection
 - Residents living over ½ mile away, (south of Chris Carr Park) near the southwestern perimeter of the larger Coverage Objective area.
 - These areas SHOULD BE DESIGNATED "IN BUILDING" (green) ON T-MOBILE'S COVERAGE MAP!!
9. Using a blow-up of the Thomas Guide map of this area, Debbie Zentil, my neighbor and fellow T-Mobile cell phone user, and I conducted a simple test of "In-Vehicle" cell coverage.
 - On October 17, 2009, a T-Mobile IN-VEHICLE cell phone coverage test was conducted by two Huntington Beach residents.
 - Calls were made on Saturday morning, October 17, 2009, between 10:55 AM and 11:45 AM. Late Saturday morning was chosen because most people would be home and cell phone use would potentially be at its highest in this residential neighborhood.
 - Ten IN-VEHICLE phone calls were made / received between two T-Mobile cell phone users in the Coverage Objective specified by T-Mobile's proposed cell tower site LA33421A at CUMC.
 - Test locations included next to College View Park, next to Spring View Middle School's playground, and next to Irby Park. (These locations are potentially cell phone Emergency 911 locations.)
 - The locations of the cars during the test are marked on the Thomas Guide map.
 - All calls were made & received inside vehicles which were pulled over to the side of the road and while the engines were running (in case of engine interference).
 - Calls lasted from a few seconds to over two minutes in duration.

- All ten IN-VEHICLE cell phone calls were made, received and maintained (call not dropped) without any problems.
- The quality of all the calls was excellent.

10. A spreadsheet titled "October 17, 2009 T-Mobile IN-VEHICLE cell phone coverage test conducted by two Huntington Beach residents" shows the details and results of this test.

11. T-Mobile's "Site Justification Study for LA33421-A Community UMC" "Attachment 6.07" (paragraph 2) states that the CUMC "facility is needed to correct a hole in network coverage."

Residents' at-home, "In-Building" T-Mobile cell phone use, and the simple, one-hour, "In-Vehicle" cell phone test show that T-Mobile's "Coverage Without LA33421A" (Attachment 4.02) coverage map is incorrect, and therefore invalid, as justification for the cell tower at CUMC.

Areas that T-Mobile shows as only having strong enough coverage for "Outdoor" cell phone calls are actually robust enough for "In Building" cell phone usage.

At best, T-Mobile's map reflects old, outdated coverage data and does not accurately represent current coverage conditions.

T-Mobile did not meet the requirements of Zoning and Subdivision Ordinance 230.96 D1 (Chapter 230 Page 50 of 55)

230.96 Wireless Communication Facilities

D. Wireless Permit Required.

1. Demonstrate existing gaps in coverage

The HB Zoning and Subdivision Ordinance 230.96 D1 states that an existing gap in coverage must be demonstrated.

The one-hour, "In Vehicle" test and the fact that residents within T-Mobile's targeted area already have "In Building" coverage prove that T-Mobile's claim of "a hole in network coverage" is false.

Since T-Mobile failed to "demonstrate existing gaps in coverage," T-Mobile failed to meet the requirements of the city's Zoning and Subdivision Ordinance.

T-Mobile did not meet the requirements of the Conditional Use Permit application

The topic of the application's Page 7 of 9 is "Candidate Sites".

- 6.07 requires a "**technically expansive and detailed explanation supported as required by comprehensive radio frequency data**".

- Attachment 6.07 is titled "Site Justification Study for LA33421-A Community UMC".
- The most technical phrase on that page is "a hole in network coverage".
- The required technical explanation supported by "comprehensive radio frequency data" was not included.

Since T-Mobile failed to submit the required technical explanation supported by "comprehensive radio frequency data," T-Mobile failed to meet the requirements of the Conditional Use Permit application.

In closing:

- Inconsistent, inaccurate and missing data is the basis for T-Mobile's application.
- T-Mobile failed to meet HB Zoning and Subdivision Ordinance requirements for the permit.
- T-Mobile failed to meet the requirements of the Conditional Use Permit application.
- T-Mobile's claim of a "hole in network coverage" is **false**.
- T-Mobile **cell phone coverage already exists** to make, receive and maintain calls in this area.

This cell tower must be stopped.

Based on the lack of need for the tower, and that T-Mobile has failed to meet application and city ordinance requirements, I request that the Zoning Administrator **DENY** T-Mobile's Conditional Use Permit application.

Thank you.

Composite Map

T-Mobile document information on a Thomas Guide map

I combined and color-coded information from several documents into one to make it easier to understand the relationships.

All the source documents are in the packet.

The **large BLUE oval** represents the Coverage Objective area shown on two handouts I got from the Sep 24, 2009 T-Mobile meeting at CUMC.

On Sep 25, 2009, I asked the HB Planning Dept about Alternate Locations, and later received a forwarded digital file from T-Mobile.

The **smaller PINK oval** is the Coverage Objective area from the T-Mobile Alternate Locations file.

The **ORANGE rectangle** is the location of Community United Methodist Church (CUMC) on Heil Avenue just east of Edwards Street.

The **PURPLE** designates T-Mobile's Alternative Locations:

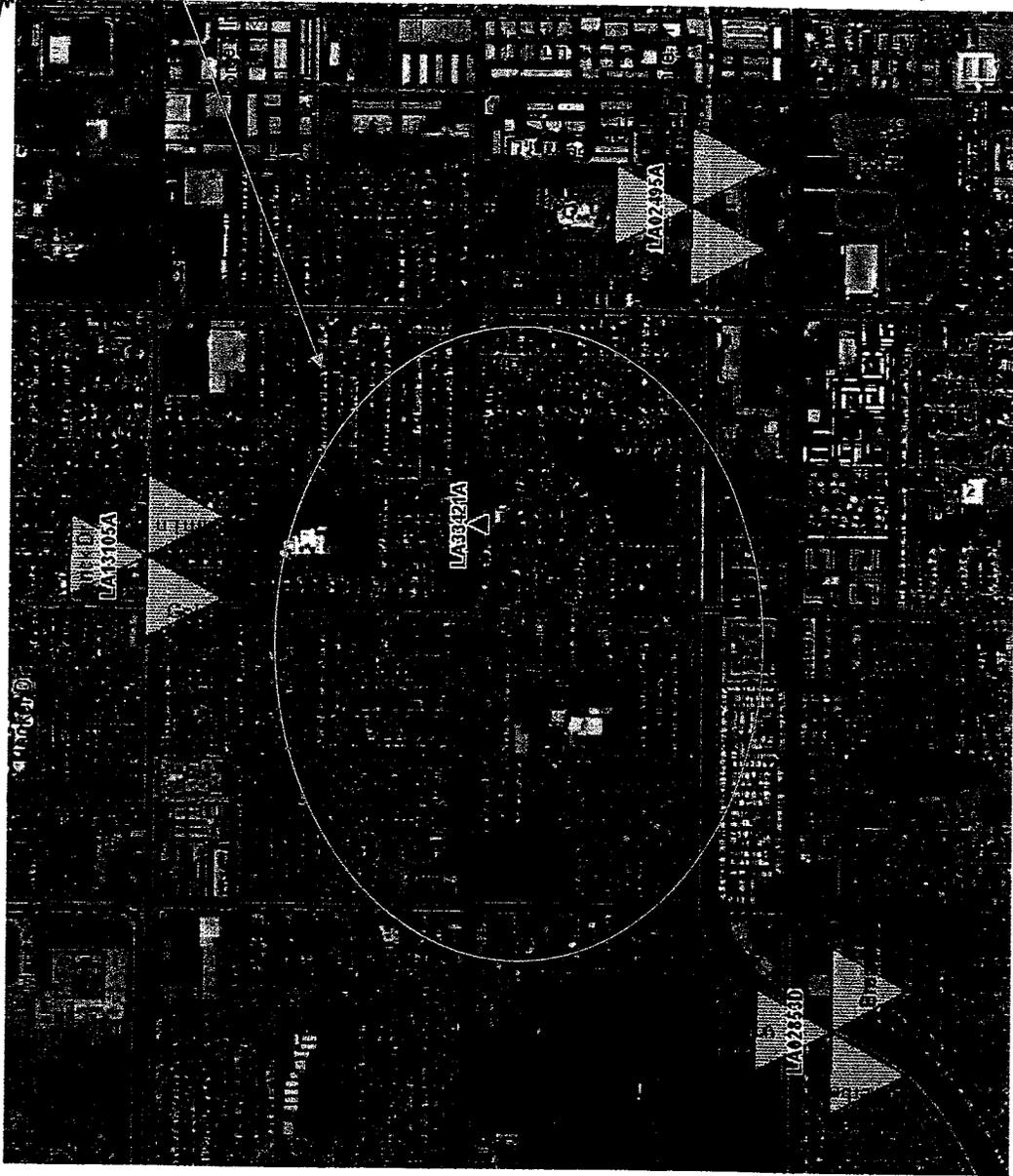
- College View Elementary School
- College View Park
- Spring View Middle School
- Irby Park
- Redeemer Lutheran Church (and pre-school)
- St. Bonaventure Roman Catholic Church (and school)

The **small BLUE radiation symbols** show the locations of existing T-Mobile cell towers:

- McDonalds on Edinger Avenue just east of Edwards Street
- Murdy Park by the tennis courts
- 24 Hour Fitness parking lot on Warner Avenue just west of Springdale Street

...T-Mobile...

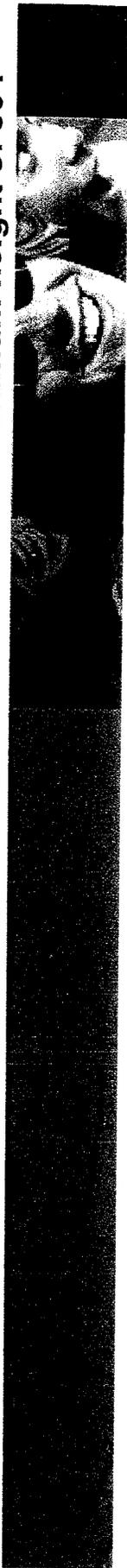
LA33421A Coverage Objective ?



LA33509A mainly designed to improve Residential coverage along the surrounding areas of Edward Street and Heil Avenue in city of Huntington Beach.

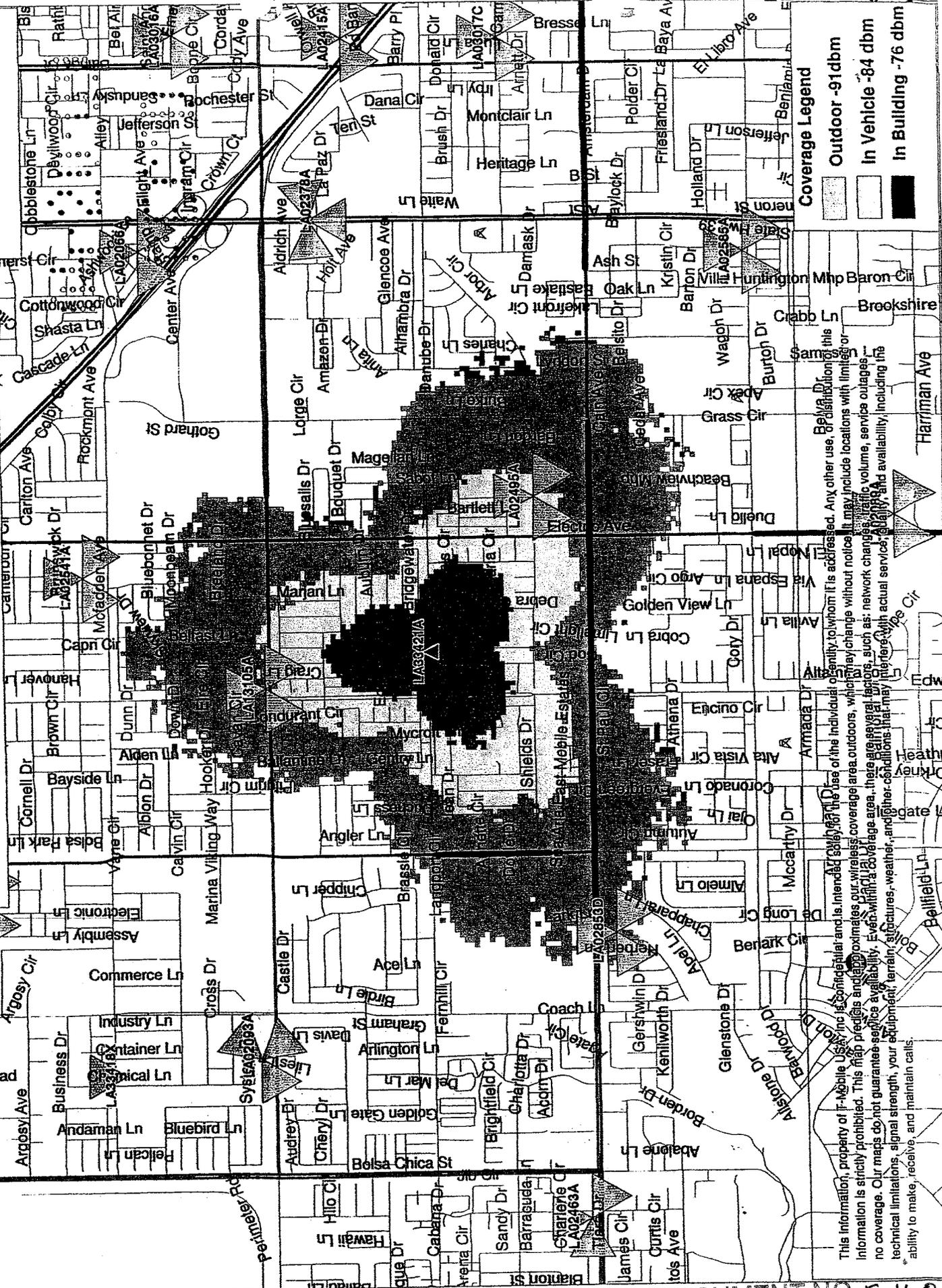
There are currently high customer complaint in the area due to weak indoor coverage. This can only be fixed by installing this proposed site.

Site can also be located at the corner of Heil Ave and Edward Street but there was no suitable candidate that will meet a minimum height of 50'.



T-Mobile

Coverage for LA33421A



This information, property of T-Mobile USA, Inc. is confidential and is intended solely for the use of the individual or entity to whom it is addressed. Any other use, or distribution of this information is strictly prohibited. This map predicts and approximates our wireless coverage area outdoors, which may change without notice. It may include locations with limited or no coverage. Our maps do not guarantee service availability. Even within a coverage area, there are several factors, such as network changes, traffic volume, service outages, technical limitations, signal strength, your equipment, terrain, structures, weather, and other conditions, that may interfere with actual service quality and availability, including the ability to make, receive, and maintain calls.

CITY OF HUNTINGTON BEACH
WIRELESS PERMIT APPLICATION FORM

This form is designed to elicit required technical information in support of an application for a new or modified permit (generally, the "Permit") for a wireless site within the City of Huntington Beach.

This application is a mandatory element of the application process. No application for a new wireless site Permit or for a modification of an existing wireless site Permit shall be considered for determination of completeness until this form and required attachments are provided to the City of Huntington Beach.

Every page of this form, including this page, must be completed and submitted to the City of Huntington Beach, and each page must be signed and/or initialed where indicated.

Questions about this form or the required information to be provided should be directed to the City Planner assigned to your project or to the Director of Planning at (714) 536-5271 for the City of Huntington Beach.

You are advised to be familiar with the City's Municipal Code and Zoning and Subdivision Ordinance, which establishes standards and guidelines for the installation of wireless communications facilities in the City of Huntington Beach.

<Continue to next page>



1.00: **Applicant Information**

1.01: Project Address: Community United Methodist Church located at
6666 Heil Ave.

1.02: Project Assessors Parcel Number: 146-483-29

1.03: Name of Applicant: Omnipoint Communications, Inc. a subsidiary
of T-Mobile USA, Inc. (T-Mobile).

1.04: Name of Property Owner: (Ms.) Pastor Jan Wiley, Senior Pastor

1.05: Applicant is: __ Owner xx Owner's representative __
Other

1.06: Applicant's Address Line 1: Agent Representative for T-Mobile

1.07: Applicant's Address Line 2: One Venture, Suite 200, Irvine CA 92618

1.08: Applicant's Address Line 3: 3 Imperial Promenade, Santa Ana CA 92707

1.09: Applicants Address Line 4: _____

1.10: Applicant's Phone number: 714.850.2414

1.11: Applicant's Mobile number: 949.350.5376

1.12: Applicant's Fax number: 714.850.6630

1.13: Applicant's Email address: joe.thompson@T-Mobile.com

Please contact: Monica Moretta Phone No: 949.241.0175 Fax No: 949.753.7203 monica.moretta@sequoia-ds.com Applicant Representative
--

If Applicant is the Property Owner and the name and contact information above is the same, initial here _____ and proceed to 3.01.

<Continue to next page>

2.00: **Project Owner Information**

2.01: Disclose the Names, Addresses, contact persons, and telephone numbers for all Project Owners (use additional sheets if required and mark as "Attachment 2.01"): Omnipoint Communications, Inc. a subsidiary

2.02: Project Owner Name (i.e., carrier or licensee): of T-Mobile USA, Inc. (T-Mobile).

2.03: Address (line 1): 3 Imperial Promenade, Santa Ana CA 92707

2.04: Address (line 2): One Venture, Suite 200

2.05: City: Irvine State: CA Zip: 92618

2.06: Contact Person Name: Monica Moretta

2.07: Contact Person's telephone number/extension: 949.241.0175

2.08: If the Applicant is not the project owner, attach a letter of agency appointing the Applicant as representative of the Project Owner(s) in connection with this application. Designate the letter of agency as "Attachment 2.08".

Initial here MM if Attachment 2.08 is attached to this application, and continue to 3.00.

2.09: If the Applicant is not the property owner, attach a letter of agency appointing the Applicant as representative of the Property Owner in connection with this application. Designate the letter of agency as "Attachment 2.09".

Initial here MM if Attachment 2.09 is attached to this application, and continue to 3.00.

<Continue to next page>

3.00: **Project Purpose**

3.01: Justification. Provide a non-technical narrative, accompanied by written documentation where appropriate, which explains the purpose(s) of the proposed Project.

3.02: Indicate whether the dominant purpose of the Project is to add additional network capacity, to increase existing signal level, or to provide new radio frequency coverage (check only one).

Add network capacity without adding significant new RF coverage area

Increase the existing RF signal level in an existing coverage area

Provide new radio frequency coverage in a significant area not already served by existing radio frequency coverage by the same Owner or affiliated entity (such as a roaming agreement with an affiliated entity for a cellular or PCS carrier).

Other

3.03 If the answer in 4.02 is not "Other" proceed to 5.00.

3.04 Attach a statement fully and expansively describing the "Other" dominant purpose of this project. Designate this attachment, "Attachment 4.04".

Initial here _____ to indicate that Attachment 4.04 is attached to this application.

<Continue to next page>

4.00: **Radio Frequency Coverage Maps**

4.01: Where a licensee intends to provide radio frequency geographic coverage to a defined area from the Project (including applicants in the cellular, PCS, broadcast, ESMR/SMR categories), the coverage maps and information requested below are required attachments. All others proceed to 7.00.

For the coverage maps required here, the following mandatory requirements apply:

1. The size of each submitted map must be no smaller than 8.5" by 11", and all maps must be of the same physical size, scale, and depict the same geographic area. Include major streets and street names on each map. All maps must share a common color scheme.
2. If the FCC rules for any proposed radio service define a minimum radio frequency signal strength 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.
3. RF coverage maps with labels such as, "In-Building" "In-Car" and "Outdoor" or referencing a link budget without corresponding signal strengths in units of "dBm" will be rejected.
4. Where the City of Huntington Beach determines that one or more submitted maps are inadequate, it reserves the right to require that one or more supplemental maps with greater or different detail be submitted.

4.02: Map of existing RF coverage within the City of Huntington Beach on the same network, if any (if none, so state). This map should not depict any RF signal coverage to be provided by the Project. Designate this map "Attachment 6.02".

Initial here MM to indicate that Attachment 6.02 is attached to this application.

4.03: Map of RF coverage to be provided only by the Project. This map should not depict any RF coverage provided by any other existing or proposed wireless sites. Designate this map "Attachment 6.03".

Initial here MM to indicate that Attachment 6.03 is attached to this application.

4.04: Map of RF coverage to be provided by the Project and by other wireless sites on the same network should the Project be approved. Designate this map "Attachment 6.04".

Initial here MM to indicate that Attachment 6.04 is attached to this application.

<Continue to next page>

5.00: Project Photographs and Photo Simulations

5.01: Where an Applicant proposes to construct or modify a wireless site, the Applicant shall submit pre-project photographs, and photo simulations showing the project after completion of construction, all consistent with the following standards:

1. Minimum size of each photograph and photo simulation must be 8.5" by 11" (portrait or landscape orientation);
2. All elements of the project as proposed by the Applicant must be shown in one or more close-in photo simulations.
3. The overall project as proposed by the Applicant must be shown in five or more area photos and photo simulations. Photos and photo simulation views must, at a minimum, be taken from widely scattered positions separated by an angle of no greater than 72 degrees from any other photo location.
4. For each photograph and photo simulation, show on an area map the location and perspective angle of each photograph and photo simulation in relationship to the Project location.
5. All 'before' and after photos and photo simulations must be of the same scale. For example, do not place a smaller 'before' photo in a box on the same page as a large 'after' photo simulation.

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 Huntington Beach determination. The Applicant must 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 Huntington Beach.

<Continue to next page>

6.00: **Candidate Sites**

6.01: For applicants in the cellular, PCS, broadcast, ESMR/SMR categories, and others as requested by the City of Huntington Beach, the information requested in Section 8 is required. All others proceed to 9.00.

6.02: 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 and 1.02? ___ Yes xx No

6.03: If the answer to 8.02 is NO, proceed to 8.05.

6.04: 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 to this application.

6.05: Considering this proposed site, is it the one and only one location within or without the City of Huntington Beach that can possibly meet the objectives of the project?
xx Yes ___ No

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

6.07: 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 Huntington Beach 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 MM _____ to indicate that Attachment 8.07 is attached to this application.

<Continue to next page>

7.00: **Identification of Key Persons**

7.01: Identify by name, title, company affiliation, work address, telephone number and extension, and email address the key person or persons most knowledgeable regarding:

7.10 (1) The site selection for the proposed project, including alternatives;
7.11 Name: Monica Moretta
7.12 Title: Agent Representative
7.13 Company Affiliation: Sequoia Deployment Services, Inc.
7.14 Work Address: One Venture, Suite 200 Irvine, CA 92618
7.15 Telephone / Ext.: 949.241.0175
7.16 Email Address: monica.moretta@sequoia-ds.com

7.20 (2) The radio frequency engineering of the proposed project;
7.21 Name: Jose Pena
7.22 Title: RF Engineer
7.23 Company Affiliation: T-Mobile
7.24 Work Address: 3 Imperial Promenade Santa Ana, CA 92707
7.25 Telephone / Ext.: 310.279.9925
7.26 Email Address: Pena, Jose [Jose.Pena@T-Mobile.com]

7.30 (3) Rejection of other candidate sites evaluated, if any;
7.31 Name: Jose Pena
7.32 Title: RF Engineer
7.33 Company Affiliation: T-Mobile
7.34 Work Address: 3 Imperial Promenade Santa Ana, CA 92707
7.35 Telephone / Ext.: 310.279.9925
7.36 Email Address: Pena, Jose [Jose.Pena@T-Mobile.com]

7.40 (4) Approval of the selection of the proposed site identified in this project.
7.41 Name: Joe Thompson & Duan Dao
7.42 Title: Zoning Manager & District Manager
7.43 Company Affiliation: T-Mobile
7.44 Work Address: 3 Imperial Promenade Santa Ana, CA 92707
7.45 Telephone / Ext.: 714.850.2414
7.46 Email Address: joe.thompson@T-Mobile.com //

7.5 If more than one person is/was involved in any of the four functions identified in this section, 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 7.5".

Initial here MM to indicate that the information above is complete and there is no Attachment 7.5, or initial here _____ to indicate that Attachment 7.5 is attached to this application.

<Continue to next page>



**SITE JUSTIFICATION STUDY FOR
LA33421-A COMMUNITY UMC
6666 HEIL AVE
HUNTINGTON BEACH, CA 92647
APN: 146-483-29**



Omnipoint Communications, Inc. a subsidiary of T-Mobile USA, Inc. (T-Mobile) selected the proposed location for a needed wireless facility as it was the best location available for the facility when considering the needs of the network, land use patterns in the area, willingness of the landlord to enter into a lease for the facility, and the zoning code requirements of the City of Huntington Beach.

The facility is needed to correct a hole in network coverage created by the local demand on the existing network. As the number of users of the network increases the coverage area of existing sites decreases creating areas where it is difficult to make a call or keep a call connected. The area surrounding the proposed site, approximately at the intersection of Heil Avenue and Edward Street, suffers from this situation. This intersection and surroundings became the target search area for the facility. The facility will increase signal strength and the network capacity in and surrounding the neighborhood adjacent to the site to better serve the communications needs of the residents, workers and visitors in the City of Huntington Beach. Radio-frequency propagation maps shows the existing coverage and the modeled coverage after installation of the facility at the proposed height are attached. Approval of the facility at the proposed height provides the needed coverage for the surrounding neighborhood, providing a high quality signal for both indoor and outdoor users of the network.

The proposed site is zoned Residential Low Density (RL) developed as a church. All adjacent land uses are zoned residential but the facility is located more than 100 ft away from residential developments. In fact, the location was selected since is not developed or used for residential purposes. The alternative candidates were ruled out due to the lack of interest to lease space, and height restrictions that will not satisfy T-Mobile's coverage objective. The current location is best suited for the facility as it offers space for the equipment and antennas, when considering zoning restrictions and design compatibility and offers the best opportunity to screen the installation from public view through the use of screening.

All equipment is proposed to be inside a CMU wall and behind a planter that separated the block wall from the front property line (approximately 20 ft.). This equipment location was selected as the space available created did not altered the functionality/ circulation patterns or character of the existing development. ?

The proposed facility is an unmanned telecommunications facility and has no habitable or occupied space. The facility will operate (transmit and receive calls) 24 hours per day for residents and visitors of Huntington Beach. The facility has no "employees" or "customers" per se. Customer use does not require any access to the facility and only periodic maintenance is performed on the facility (approximately one hour per month.) Existing streets, access drives, and circulation patterns are adequate to serve the project and will not be impacted by the project.



PROJECT DESCRIPTIC -OR
 LA33421-A COMMUNITY UMC
 6666 HEIL AVE
 HUNTINGTON BEACH, CA 92648
 APN: 146-483-29



Omnipoint Communications, Inc. a subsidiary of T-Mobile USA, Inc. (T-Mobile) proposes to construct, operate and maintain a wireless telecommunications facility consisting of twelve (12) panel antennas in three (3) sectors, two (2) GPS antennas, five (5) BTS telecommunication, one (1) BBU equipment cabinets, coaxial cable runs from the antennas to the BTS, and power and Telco utility connections.

In order to completely conceal the wireless facility the panel antennas will be attached to a new fifty five (55) foot wireless facility designed as a palm tree. The facility is located in an area surrounded by mature landscaping as depicted in the attached photo simulations. The equipment cabinets will be located in a lease area inside of a new 6'-7" block wall design to be painted and textured to match the materials of the existing building. All utilities runs for the project will be routed underground. This location also provides for easy maintenance access from Heil Avenue Street. ?

The coverage objective of the site is primarily the residential neighborhoods located to the north, south, east and west of the intersection of Main Street and Palm Avenue. This area suffers a lack of coverage, resulting in poor service for T-Mobile's customers and limited wireless telecommunications service options for the residents and visitors to the area. T-Mobile underwent a search for potential site locations that included properties along Heil Avenue and Edwards Street. T-Mobile research the possibility of a facility in alternative locations such as; Redeemer Lutheran Church, St. Bonaventure Roman Catholic Church, and even city parks. However, both locations were further away from the coverage objective and closer to on-air sites. Community United Methodist Church is the best location considering that coverage objective for this area. The search was limited to these areas because they provide the only potentially zone-able site locations in the search area. The existing landscaping also provided an opportunity to locate the monopalm around existing mature palm trees, and more than 60 ft away from the front property line. The city code preference for disguising the facility and aesthetically integrated into their surroundings determined the site location and design. The properties within other parts of the search area were ruled out do their proximity to residential areas and lease restrictions. T-Mobile was also limited in where the facility could be sited in relationship to other nearby facilities in the area (surrounding facilities are shown on the RF propagation maps included with this application) which limited the ability of the site to be located at the intersection of Heil Avenue and Edwards Street. ?

The proposed site is currently developed as a church with a existing mature landscaping and this is the taller structure in the area. The surrounding area of subject site location is characterized by mature trees and thus a monopalm is not an uncommonly seen part of the landscape. The property is completely developed and encompasses the necessary infrastructure to serve both the existing and proposed facilities. The proposed wireless facility is located to approximately 185 feet from the southern property line and at this location it will not block access into the site and site circulation. Proposed access is adequate in serving the parking needs during maintenance visits. The proposed facility will not impact potential development in the surrounding area.

The proposed project will be unoccupied and only require a single maintenance visit per month. The project will make negligible noise that is most often less than the ambient noise level of the area surrounding the equipment. Wireless facilities are passive in nature and have been located in all zoning districts without impacting property values.

Letter of Authorization

APPLICATION FOR ZONING/LAND USE ENTITLEMENTS

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APR 20 2009
Huntington Beach
PLANNING DEPT.

Property Address: 6662 Heil Ave, Huntington Beach, CA
Assessor's Parcel Number: 146-483-29

I/We, the owner(s) of the above-described property, authorize Omnipoint Communications, Inc., a subsidiary of T-Mobile USA, Inc., with offices located at 3 MacArthur Place, #1100, Santa Ana, CA 92707, its employees, representatives, agents, and/or consultants, to act as an agent on my/our behalf for the purpose of creating, filing and/or managing any land use and building permit applications, or any other entitlements necessary to construct and operate a wireless communications facility on the above-described property. I/We understand that any application may be denied, modified, or approved with conditions, and that such conditions or modifications must be complied with prior to issuance of building permits.

I/We further understand that signing of this authorization in no way creates an obligation of any kind.

Owner(s): Community United Methodist Church of Huntington Beach, a California corporation

By: Duane Ray Hurtado
Signature

By: _____
Signature

Print Name: Duane Ray Hurtado

Print Name: _____

Title: PRESIDENT / TRUSTEES

Title: _____

Date: 12/30/2008

Date: _____

State of California
County of Orange

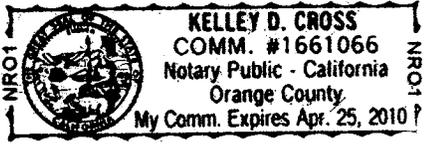
On Dec 30, 2008 before me, Kelley D. Cross, Notary Public, personally appeared Duane Hurtado who proved to me on

the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: Kelley D. Cross



ATTACHMENT NO. 5.180

T



May 1, 2006

To Whom It May Concern,

Sequoia Deployment Services, its employees and agents are authorized representatives of T-Mobile, USA, Inc. (T-Mobile), and have been contracted to perform real estate leasing, land-use entitlements and architectural and engineering services for T-Mobile's telecommunications facilities.

As an authorized representative of T-Mobile, Sequoia Deployment Services may sign, submit, review land-use applications and permits, represent at meetings and hearings, accept conditions of approval, and negotiate leases on T-Mobile's behalf. All final land use documents are subject to T-Mobile's review and approval. Furthermore, all leases are contingent upon T-Mobile's signature.

If there are any questions or comments, please contact me immediately.

Sincerely,

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

Joseph Thompson
Zoning Manager
Southern California Market
T-Mobile USA
3 Imperial Promenade
Santa Ana CA, 92707

Desk 714/850-2414
Mobile 949/350-5376
Fax 714/850-6630



DOCUMENT TRANSMITTAL COVER SHEET

TO:	City of Huntington Beach Department Planning Case Planner To be Determined	FROM:	Monica Moretta Agent Representative Sequoia Deployment Services, Inc. on behave of T-Mobile.
COMPANY:	City of Huntington Beach	DATE:	April 20, 2009
SITE IDENTIFIER:	APN: 146-483-29	ADDITIONAL REFERENCE NUMBER:	T-Mobile LA33421-A Community UMC
RE:	Wireless Permit Application		

Attached please find the following items:

Quantity	Title
1	Check for \$ 149 for Planning Fees.
1	One Application for Wireless Permit Application.
1	One Letter of Authorization.
1	One Copy of Agent Authorization.
1	One Project Description.
1	One Site Justification.
1	One Set of Pictures of the Site.
1	Set of Propagation Maps including RF Report
3	Sets of Photo Simulations.
3	Sets of Complete Plans.
1	One Set of Plans reduced to 8 ½ x 11.

NOTES/COMMENTS:

The attached items are being submitted to the City of Huntington Beach for an Application for a Wireless Permit Application on behalf of Omnipoint Communication, Inc. a subsidiary of T-Mobile USA, Inc. (T-Mobile). Please contact: Monica Moretta at (949) 241.0175 or monica.moretta@sequoia-ds.com regarding this application.

Thank you,
Monica Moretta



One Venture, Suite 200
Irvine, CA 92618
TELEPHONE: 949.241-0175

ONE VENTURE, SUITE 200, IRVINE, CA 92618
TELEPHONE: 949.753.7200

FACSIMILE: 949.753.7203

LA33421-A Community UMC-Transmittal for Wireless permit.doc

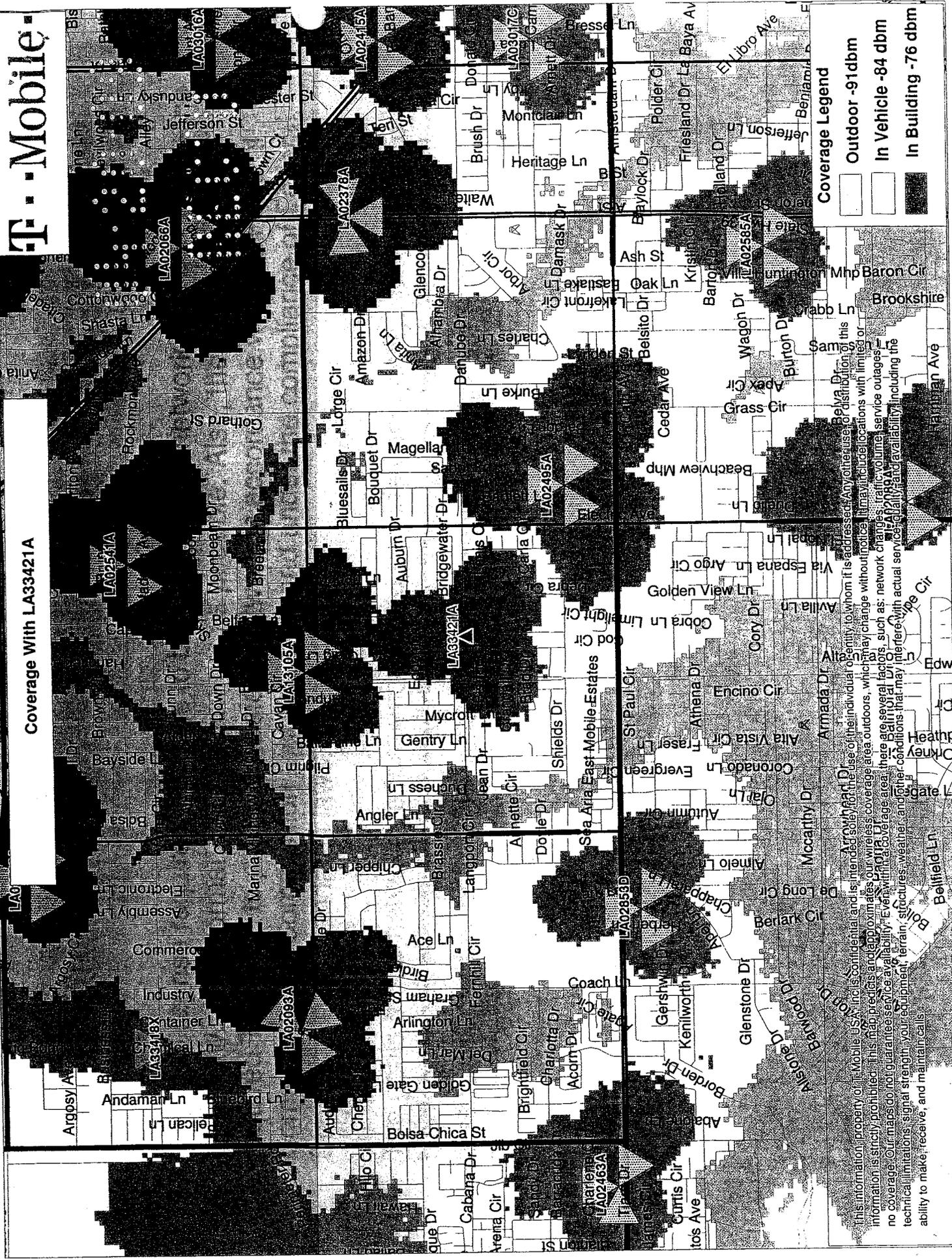
ATTACHMENT NO. 5.182

T-Mobile

Coverage With LA33421A

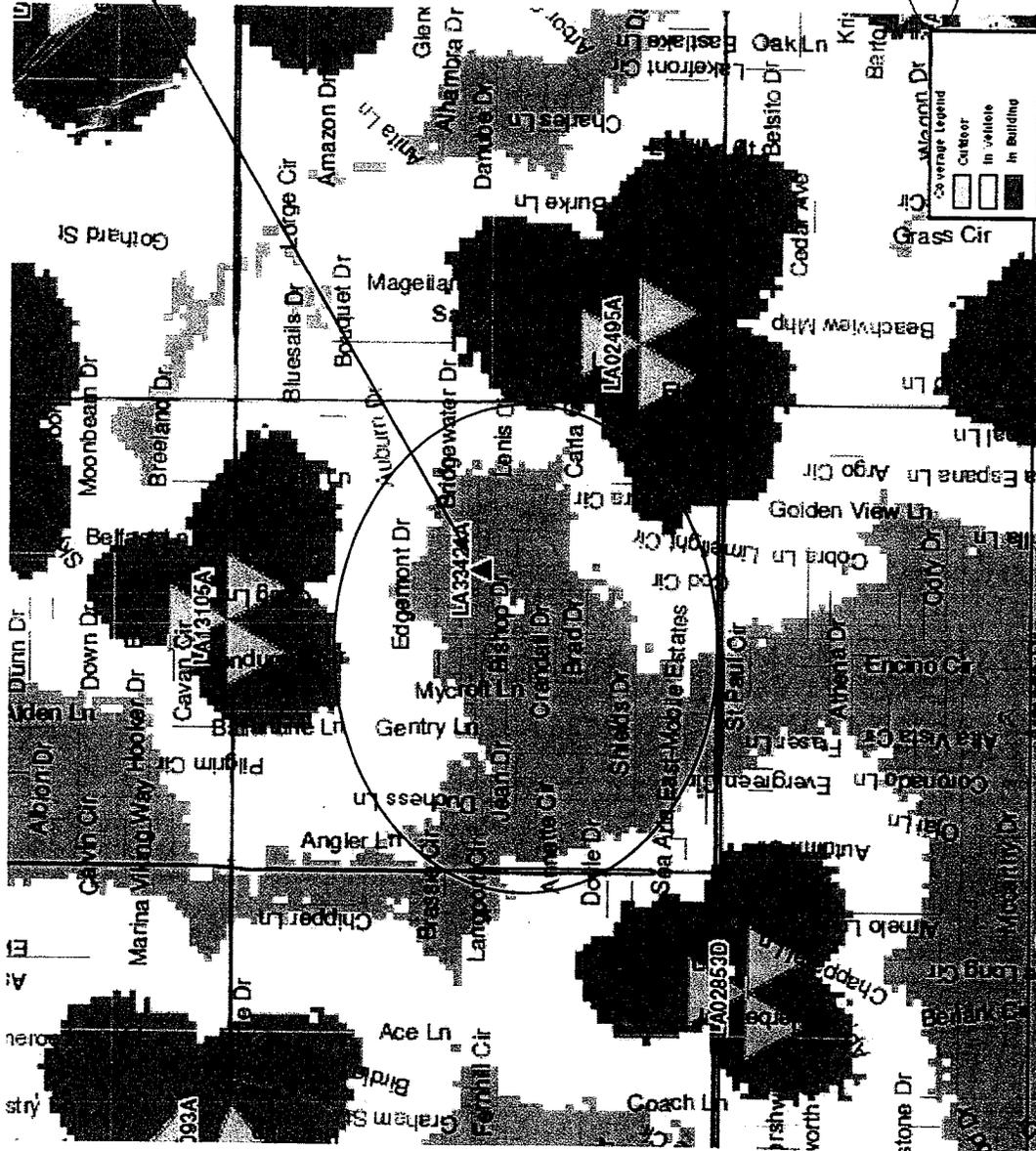
Coverage Legend

-  Outdoor -91dbm
-  In Vehicle -84 dbm
-  In Building -76 dbm



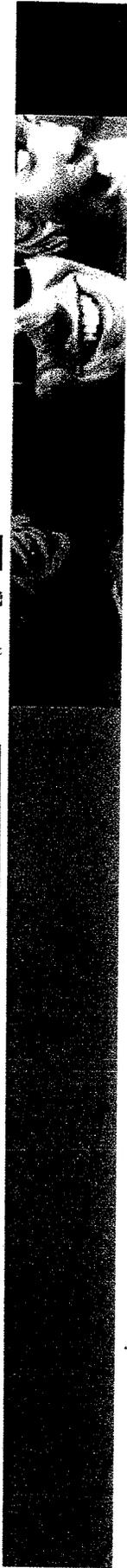
This information, property of T-Mobile USA, Inc. is confidential and is intended solely for the use of the individual or entity to whom it is addressed. Any other use or distribution of this information is strictly prohibited. This map predicts and approximates our wireless coverage area outdoors, which may change without notice. It may include locations with limited or no coverage. Our maps do not guarantee service availability. Even in areas where coverage is shown, there are several factors, such as network changes, traffic volume, service outages, technical limitations, signal strength, your equipment, terrain, structures, weather, and other conditions that may interfere with actual service availability, including the ability to make, receive, and maintain calls.

T-Mobile LA33421A Predicted Coverage Without the Proposed Site



Weak coverage on this area (low on In vehicle and In Building Coverage) Existing sites LA13105A, LA02495A, and LA02853D cant provide enough coverage hence LA33421A is being proposed to be installed in Community UMC to provide the needed coverage as well as a balance coverage with existing sites.

Proposed site location is symmetrical with existing sites hence required coverage objective is meet



October 17, 2009 T-Mobile IN-VEHICLE cell phone coverage test conducted by two Huntington Beach residents

CALL	PHONE TIME PLACED	MADE / RECEIVED		PERSON	ADDRESS OR NEAREST INTERSECTION	RESULTS
		MIN	:SEC			
1	10:55 AM	MADE	RECEIVED	DIANNE LARSON DEBBIE ZENTIL	16631 DALE VISTA LN, DALE VISTA/FOUNTAIN 16641 DALE VISTA LN, DALE VISTA/FOUNTAIN	EXCELLENT CALL QUALITY EXCELLENT CALL QUALITY
2	11:01 AM	MADE	RECEIVED	DIANNE LARSON DEBBIE ZENTIL	6352 SHAYNE DR, SHAYNE/MERCIER RUTH DR / PATRICIA LN	EXCELLENT CALL QUALITY EXCELLENT CALL QUALITY
3	11:04 AM	MADE	RECEIVED	DEBBIE ZENTIL DIANNE LARSON	16571 SIMONNE LN 16331 NORMANDY LN, NORMANDY/RINGO CR	EXCELLENT CALL QUALITY EXCELLENT CALL QUALITY
4	11:08 AM	MADE	RECEIVED	DEBBIE ZENTIL DIANNE LARSON	BONNIE DR / KETTLER LN OAKMONT LN / EDGEMONT DR	EXCELLENT CALL QUALITY EXCELLENT CALL QUALITY
5	11:13 AM	MADE	RECEIVED	DIANNE LARSON DEBBIE ZENTIL	EDGEMONT DR / REDLANDS LN 16752 DEBRA CR	EXCELLENT CALL QUALITY EXCELLENT CALL QUALITY
6	11:16 AM	MADE	RECEIVED	DIANNE LARSON DEBBIE ZENTIL	DEFIANCE TUFTS LN EDWARDS ST / FARINELLA DR	EXCELLENT CALL QUALITY EXCELLENT CALL QUALITY
7	11:21 AM	MADE	RECEIVED	DIANNE LARSON DEBBIE ZENTIL	6811 BRIDGEWATER DR GLORIA DR / TORJIAN LN	EXCELLENT CALL QUALITY EXCELLENT CALL QUALITY
8	11:26 AM	MADE	RECEIVED	DIANNE LARSON DEBBIE ZENTIL	6502 OAKGROVE CR 7244 HEIL AVE	EXCELLENT CALL QUALITY EXCELLENT CALL QUALITY
9	11:31 AM	MADE	RECEIVED	DEBBIE ZENTIL DIANNE LARSON	BRIDGEWATER DR / HOBART LN 6511 ABBOTT DR	EXCELLENT CALL QUALITY EXCELLENT CALL QUALITY
10	11:39 AM	MADE	RECEIVED	DIANNE LARSON DEBBIE ZENTIL	6361 GLORIA DR LAKEMONT LN / EDGEMONT DR	EXCELLENT CALL QUALITY EXCELLENT CALL QUALITY

C. Applicability.

1. All wireless communication facilities which are erected, located, placed, constructed or modified within the City of Huntington Beach shall comply with these regulations provided that: (3568-9/02, 3779-10/07)
 - a. All facilities, for which permits were issued prior to the effective date of this section, shall be exempt from these regulations and guidelines. (3568-9/02, 3779-10/07)
 - b. All facilities for which Building and Safety issued building permits prior to the effective date of section 230.96 shall be exempt from these regulations and guidelines, unless and until such time as subparagraph (2) of this section applies. (3568-9/02)
 - c. Any facility, which is subject to a previously approved and valid conditional use permit, may be modified within the scope of the applicable permit without complying with these regulations and guidelines. Modifications outside the scope of the valid conditional use permit will require submittal of a Wireless Permit application. (3568-9/02, 3779-10/07)
2. The following uses shall be exempt from the provisions of section 230.96 until pertinent federal regulations are amended or eliminated. See Section 230.80 (Antennae) for additional requirements. (3568-9/02, 3779-10/07)
 - a. Any antenna structure that is one meter (39.37 inches) or less in diameter and is designed to receive direct broadcast satellite service, including direct-to-home satellite service for television purposes, as defined by Section 207 of the Telecommunication Act of 1996, Title 47 of the Code of Federal Regulations, and any interpretive decisions thereof issued by the Federal Communications Commission (FCC). (3568-9/02)
 - b. Any antenna structure that is two meters (78.74 inches) or less in diameter located in commercial or industrial zones and is designed to transmit or receive radio communication by satellite antenna. (3568-9/02)
 - c. Any antenna structure that is one meter (39.37 inches) or less in diameter or diagonal measurement and is designed to receive Multipoint Distribution Service, provided that no part of the antenna structure extends more than five (5) feet above the principle building on the same lot. (3568-9/02)
 - d. Any antenna structure that is designed to receive radio broadcast transmission. (3568-9/02)
 - e. Any antenna structure used by authorized amateur radio stations licensed by the FCC. (3568-9/02)

230.96 WCF

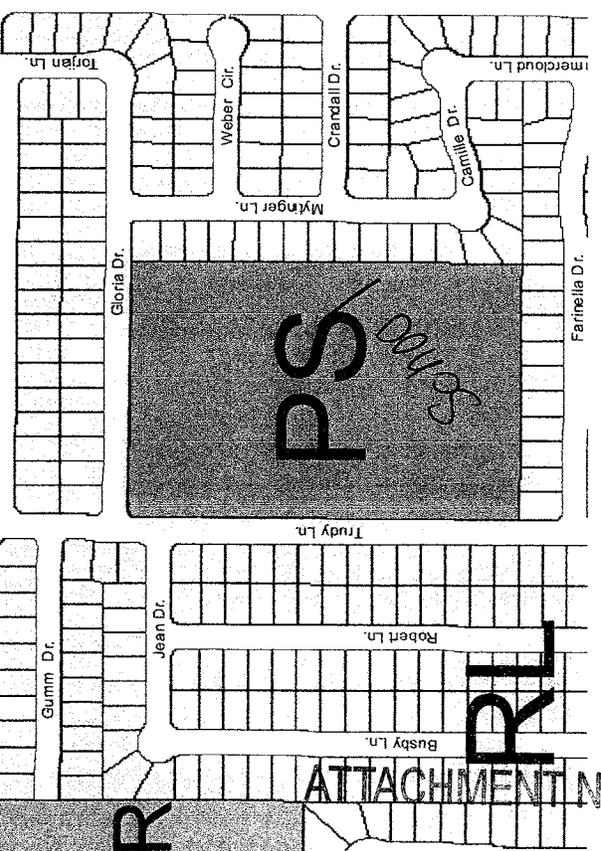
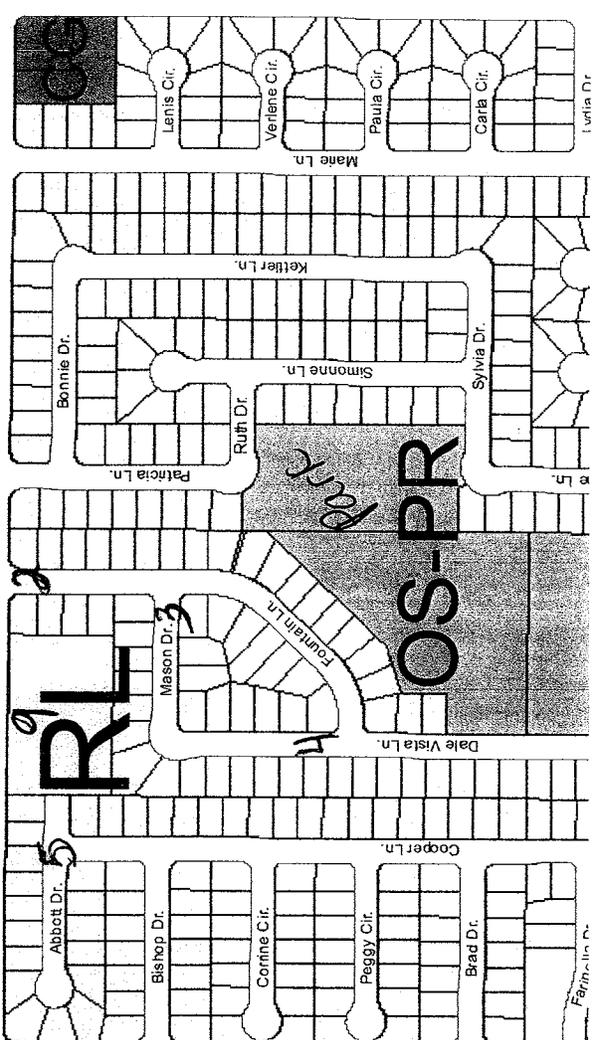
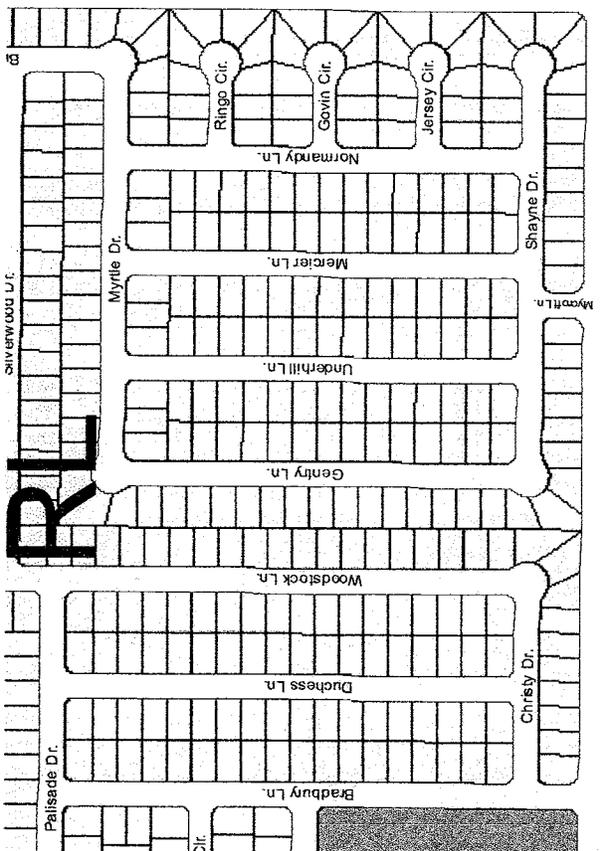
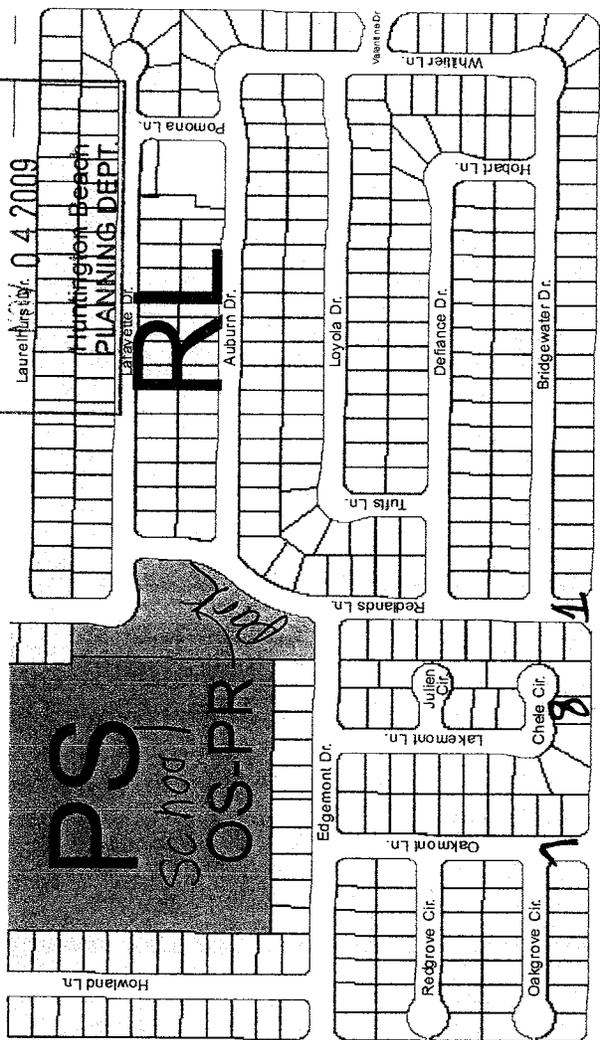
D. Wireless Permit Required. No wireless communication facility shall be installed anywhere in the City without submission of a Wireless Permit Application that demonstrates that the antenna is located in the least obtrusive location feasible so as to eliminate any gap in service and also includes the following information: (3779-10/07)

1. Demonstrate existing gaps in coverage, and the radius of area from which an antenna may be located to eliminate the gap in coverage. (3779-10/07)
2. Compatibility with the surrounding environment or that the facilities are architecturally integrated into a structure. (3779-10/07)

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Laurelhurst Cir. 04/2009

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ATTACHMENT NO. 5.190

9th Circuit Court of Appeals MetroPCS v City of S.F.

board's decision, reached under its own rules, is not supported by substantial evidence, then we need not consider the application of the anti-prohibition or anti-discrimination prongs of the statute. Second, local regulations standing alone may offer little insight into whether they violate the substantive requirements of the TCA. Zoning rules — such as those that allow local authorities to reject an application based on "necessity" — may not suggest on their face that they will lead to discrimination between providers or have the effect of prohibiting wireless services. Thus, in most cases, only when a locality applies the regulation to a particular permit application and reaches a decision — which it supports with substantial evidence — can a court determine whether the TCA has been violated.

TP
29

The dissent disagrees with this approach, arguing that any zoning regulation — or application of such a regulation — based on considerations of community "necessity" by its terms discriminates against new providers, cannot be squared with the TCA's anti-discrimination provision, 47 U.S.C. § 332(c)(7)(B)(i)(II), and is therefore, *ipso facto*, not supported by substantial evidence. Yet such an interpretation may thwart congressional intent concerning the independence accorded local zoning authorities under the TCA. As the dissent recognizes, the only direct *substantive* restriction the Act places on local zoning authorities is the proscription of decisions based on concerns over radio frequency emissions contained in § 332(c)(7)(B)(iv). (See discussion of this provision, *infra* in Section III-F.) Had Congress desired to proscribe zoning decisions based on community necessity — or, for that matter, any other disfavored rationale — we are confident that it could have done so. Yet as the foregoing legal precedents and legislative history demonstrate, Congress instead intended that the traditional substantive prerogatives of local zoning authorities not be disturbed.

Perhaps more fundamentally, the dissent's conflation of the TCA's substantive anti-discrimination provision, 47 U.S.C. § 332(c)(7)(B)(i)(II), with its procedural "substantial evidence" requirement threatens to render the "substantial evidence" provision superfluous. Rather than review a zoning decision for basic evidentiary support, the dissent would require, as a threshold matter, that we review the decision for discriminatory *rationale*. But regardless of the rationale employed, zoning decisions must still satisfy the TCA's anti-discrimination provision, *id.*, which prohibits *actual* discrimination. Similarly situated providers are not treated differently *in fact*, there is little reason to obviate a zoning decision based purely on an impermissible "necessity" rationale.

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Having thus delimited the scope of our substantial evidence inquiry, we may now turn to the merits of the question before us. The most authoritative and oft-cited elaboration of the TCA's substantial evidence standard comes from the Second Circuit in *Oyster Bay*, where the court explained that "substantial evidence" implies "less than a preponderance, but more than a scintilla of evidence." It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." 166 F.3d at 494 (quoting *Universal Camera Corp. v. NLRB*, 340 U.S. 474, 477, 71 S.Ct. 456, 95 L.Ed. 456 (1951)). This formulation has been adopted by every circuit that has had occasion to consider the issue. See, e.g., *St. Croix County*, 342 F.3d at 830 (7th Cir.2003); *United States Cellular Tel. of Greater Tulsa, L.L.C. v. City of Broken Arrow*, 340 F.3d 1122, 1133 (10th Cir.2003); *Troup County*, 296 F.3d at 1218 (11th Cir.); *Second Generation Props., L.P. v. Town of Pelham*, 313 F.3d 620, 627-28 (1st Cir.2002); *360 Communications Co. of Charlottesville v. Bd. of Supervisors*, 211 F.3d 79, 83 (4th Cir.2000).

Review under this standard is essentially "deferential," such that courts may "neither engage in [their] own fact-finding nor supplant the Town Board's reasonable determinations." *Oyster Bay*, 166 F.3d at 494. In applying this standard to the facts of a given case, the written record must be viewed in



The Impact of Wireless Towers on Residential Property Values

BY CAROL C. McDONOUGH, PhD

The Telecommunications Act of 1996 authorized the Federal Communications Commission (FCC) to expand the wireless telephone industry by auctioning off six personal communication services (PCS) licenses per geographic area. Because wireless communication antennae must be mounted on high, unobstructed locations, the build out of the PCS industry has led to the need for additional communications towers.

Abutters and neighbors of these communication towers have often opposed their construction, citing aesthetic and health concerns, and alleging a consequent decrease in property values. Such opposition has primarily targeted towers located in residential zones, where such towers are generally less harmonious with surrounding structures. This article examines the impact of proximity to a wireless tower on residential property values.

Mundy (1992) and Patchin (1991) report that a nuisance feature, or source of stigma, typically reduces the market value of a property. It is the perceived undesirability of a source of stigma that leads to reduction in property value. As

Farber (1998) explains, perceived risks are a function of subjective risk factors as well as statistical risks; whether the source of the perception is quantitative or subjective, the effect on property values may be the same.

In *Komis v. City of Sante Fe*, the Supreme Court of New Mexico awarded damages for the perceived decline in property value resulting from a source of stigma, even when no objective evidence demonstrated that the perceived nuisance was unsafe, and when market loss was not proven by comparable sales data. The Criscuola decision established the "fear in the marketplace" theory of damages, by allowing fear in the marketplace regarding transmission lines, rather than actual epidemiological evidence of adverse health effects from electromagnetic frequencies (EMF), to affect appraised valuation. The literature (for example, Mundy 1992, Levitt 1995, and Harrison 1989) includes high-tension wires and utility poles as sources of stigma to a property.

Are wireless towers also a source of stigma? Because most wireless towers have been constructed recently, time-series data for a valid empirical study of

Carol C. McDonough, PhD, is professor of economics at the University of Massachusetts in Lowell, Massachusetts.

The statements made or views expressed by authors in Assessment Journal do not necessarily represent a policy position of the International Association of Assessing Officers.

the impact of wireless towers on property values are virtually unavailable. Therefore, the first step is to review research on the impact of electric power lines and towers on property values, because they may have effects similar to wireless towers. If it is found that (1) proximity to electrical lines reduces residential property values, and (2) the factors causing reduced valuation near electric lines also apply to proximity to wireless towers, and (3) these factors

Such opposition has primarily targeted towers located in residential zones, where such towers are generally less harmonious with surrounding structures.

have led to significant concern about proximity to wireless towers, then it may be inferred that proximity to a wireless tower may reduce residential property values.

POWER LINES AND PROPERTY VALUES: SOME EVIDENCE

The scientific community has conducted numerous studies of the health effects of proximity to power lines. The first epidemiological study linking EMF exposure and cancer incidence was published in 1979. In June of 1998, a panel convened by the National Institute of Environmental Health Sciences concluded that low-frequency EMF should

be classified as a Group 2B human carcinogen under the International Agency for Research on Cancer classification scheme. This means the agent is possibly carcinogenic to humans. The California Department of Health's *1999 Fact Sheet on EMF* points out that epidemiology studies of childhood leukemia provide enough evidence to classify EMF as a possible human carcinogen.

Numerous studies have examined the impact of proximity to power lines on property values:

Kinnard (1967) reported that proximity to a tower line had little negative impact on residential market values in several Connecticut subdivisions. Higher priced subdivisions showed slightly greater negative impact from power line proximity.

Colwell (1990) found that proximity to power lines was associated with diminished selling prices in two Illinois subdivisions.

In Delaney and Timmons's (1992) survey of appraisers, 84 percent responded that the market value of residential property is negatively affected when located proximate to a high voltage electric power line; on average, market price is 10.01 percent lower than the price of comparable properties. The most frequently cited factors for property value reduction were visual unattractiveness and issues of health and safety.

Kung and Seagle's attitudinal survey (1992) found that 53 percent of the Tennessee homeowners surveyed considered transmission lines and towers an eyesore. Once informed of possible health risks, 87 percent felt power lines and towers would adversely affect property values.

Kroll and Priestley (1992) reported that the perceived impact of transmission lines cluster's into three areas: health and safety, aesthetics, and property values. They concluded that overhead transmission lines have the potential to reduce the sales price of single-family homes by zero to 10 percent.

Gimmy's (1994) research on power

lines and California residential property values found diminutions of between 18 and 54 percent in lot values from properties abutting power line easements.

Studying residential home prices in Vancouver, Canada, Hamilton and Schwann (1995) reported that properties adjacent to 60 kV power lines lost 6.3 percent of their value due to proximity and the visual impact.

According to the Cowger, Bottemiller, Cahill study (1996), the value of Oregon single-family residential property fell by less than 10 percent because of proximity to overhead transmission lines.

Gregory and von Winterfeldt (1996) determined that the public perception of health risks associated with proximity to power lines led to a reduction in property value: post-1979 property valuation studies showed a decline in values of 5 to 10 percent.

According to Bolton and Sick (1999), real estate professionals, (even those performing studies for power line companies) believed that concern about the adverse health effects of EMF from power lines resulted in a reduction in the values of nearby properties. Bolton's earlier study (1994) found that the general public's perception that EMF were harmful drove down the values of adjacent property.

Jaconetty (2001) concluded that, on a subjective level, most people believe that the electromagnetic fields generated by high-voltage towers and lines adversely influence real property values, primarily because of health concerns.

SIMILARITIES BETWEEN POWER LINES AND WIRELESS TOWERS

According to the studies cited above, proximity to electric lines and towers is associated with a reduction in residential property values because of aesthetic and health concerns. In this section, the similarities between the aesthetic and health effects of electric lines and wireless towers are examined.

Consider first aesthetic similarities. The literature states that the view enjoyed from a property may affect its value—a poor view, such as that of utility poles and high-tension wires, detracts from value. The aesthetic effects of transmission lines and wireless towers are similar. Both electric lines and wireless towers rise above building height in typical single-family neighborhoods; therefore, they are visible for some distance. Unless camouflaged, these structures typically do not complement rural or suburban landscapes.

Are health concerns surrounding elec-

...perceived risks are a function of subjective risk factors as well as statistical risks; whether the source of the perception is quantitative or subjective, the effect on property values may be the same.

tric lines also applicable to wireless towers?

Technically, radio waves from wireless antennae differ from the electromagnetic fields produced by power lines. Although both radio waves and EMF are part of the electromagnetic spectrum, electric power in the United States operates at 60 Hz, while cellular phones operate at 860–900 MHz, and PCS phones operate at about 2000 MHz. As Moulder (1998) explains, radio waves

are non-ionizing, that is, the energy of the particles is too low to break chemical bonds. Power lines are nonthermal, that is, they produce no significant non-ionizing radiation. Fields from power lines do not radiate energy into space, and the fields cease to exist when power is turned off.

However, the technical distinction between radio waves emitted by wireless antennae and low-frequency EMF emitted by electric lines is not generally

In other cases, courts have ruled for the wireless companies, finding that community opposition was not sufficient grounds for denying a permit for tower construction.

understood. The federal government has issued guidelines regarding safe levels of exposure for both power lines and wireless antennae, but there is ongoing controversy within the scientific community about whether these government guidelines are too lax. Because a final verdict on the safety of both electric lines and wireless antennae is still moot, many people are fearful about living in proximity to either type of structure. As Rikon (1996) points out, the fear in marketplace argument established by the Criscuola decision regarding EMF has also been invoked regarding health concerns about cell towers.

EVIDENCE OF CONCERNS ABOUT WIRELESS TOWERS

In this section, evidence is presented about the significant level of concern about the aesthetic and health effects of wireless towers. The evidence is grouped into three categories: (1) lawsuits regarding wireless tower construction, (2) organizations and conferences dealing with the harmful effects of wireless towers, and (3) municipal moratoria on wireless tower construction and mandatory visual impact studies.

Lawsuits

Numerous lawsuits have been filed regarding the actual or proposed construction of wireless towers. As Foster and Carrel (1999) discuss, case law on the issue is somewhat ambiguous. Some courts have ruled for the municipality opposing wireless tower construction. In *Franklin v. Nextel*, for instance, the court found that a 120 foot wireless tower erected in a residential neighborhood was so incongruous and damaging to the neighborhood that it must be dismantled. In Jacksonville, Florida, in 1996, community opposition to a 150 foot tower in a residential neighborhood led the wireless company, InterCel, to take it down.

In other cases, courts have ruled for the wireless companies, finding that community opposition was not sufficient grounds for denying a permit for tower construction. For instance, in *Westinghouse v. Hampton*, the court found that the Telecommunications Act pre-empts tower regulation based on perceived health concerns and that "aesthetics alone... [are not]... an adequate reason to deny... use of...property." OMP-USA, dealing specifically with the location of towers in residential neighborhoods, found that "towers cannot always be compatible with the character of the surrounding property. [I]n order to meet...demand...towers have to be...located in...residential, commercial, and rural areas.

Organizations, Conferences, and International Concerns

Concerns about wireless towers have resulted in the formation of organizations and the scheduling of conferences to voice these concerns. The EMR Alliance argues that electromagnetic radiation from wireless antennae is hazardous to life and public health. The Communication Workers of America and the EMR Alliance jointly published *Your Community Guide to Cellular Phone Towers* to help consumers mobilize against the placement of wireless transmission facilities that could adversely affect their health, safety, property values, or the aesthetics of the community.

The 2000 International Conference on Cell Tower Siting included testimony from numerous scientists on the health effects of exposure to high frequency EMF. Several questioned the safety of current standards for exposure to radiation from wireless antennae.

The US Supreme Court, in January 2001, denied a writ for certiorari filed by the Ad Hoc Association of Parties Concerned about the Federal Communications Commission Health and Safety Rules (AHA). Fifty-four petitioners filed as co petitioners; similar appeals by the Communications Workers of America and The Cellular Phone Task Force were consolidated with the AHA case. The AHA had charged that the FCC's ruling, that adverse health effects cannot be discussed in reviewing zoning rules or permit applications for cell towers, denies the public their first amendment right to free speech.

In Europe, opposition to cell tower construction has led to lawsuits and the destruction of wireless equipment. In an attempt to quell concerns about the health effects of wireless towers, one Italian mobile phone operator, Omnitel, launched an Internet site on which residents can check the amount of electromagnetic radiation emitted by nearby cell phone towers and antennas.

Municipal Regulations

Responding to community concerns about the negative impact of wireless towers, more than 150 municipalities have adopted temporary moratoria on wireless tower construction. Although the Telecommunications Act prevents a municipality from permanently banning wireless tower construction, the Act does allow municipalities to establish criteria based on aesthetic—but not health—considerations.

Community concern has also led to municipal enactment of zoning ordinances regulating wireless tower construction by

- Requiring that the visual impact of wireless towers be disclosed prior to construction
- Limiting tower construction to municipal sites, or encouraging such sites
- Encouraging co-location and the use of concealed structures

In response to community concerns about the aesthetics of wireless towers, so-called stealth towers—in the form of pine and palm trees—have been erected in more than 200 locations in the United States. The issue of the visual impact of wireless towers has also been addressed by placing antennas on silos, church steeples, tall buildings, and water towers.

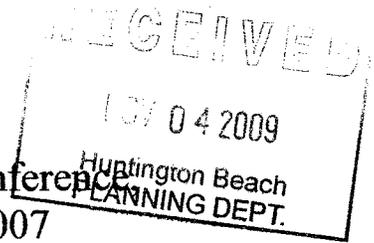
CONCLUSION

It has been shown that aesthetic and health concerns about electric lines and towers lead to a reduction in the valuation of nearby residential properties. There are similar concerns about wireless towers; these concerns are widespread and have been expressed in multiple venues. Therefore, proximity to a wireless tower needs to be considered as a negative amenity that may reduce residential property valuation. However, the severity of the aesthetic impact may be mitigated by screening and concealment of the wireless towers.

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**Using GIS to Measure the Impact of Distance to
Cell Phone Towers on House Prices in Florida**

Draft: December 2006

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ATTACHMENT NO. 5.198

Using GIS to Measure the Impact of Distance to Cell Phone Towers on House Prices in Florida

Keywords: Cellular phone base stations – GIS - health risks – multiple regression analysis – property values – stigma

Abstract:

The siting of cellular phone transmitting antennas, their base stations and the towers that support them (*towers*) is a public concern due to fears of potential health hazards from the electromagnetic fields (EMFs) that these devices emit. Negative media attention to the potential health hazards has only fuelled the perception of uncertainty over the health effects. The unsightliness of these structures and fear of lowered property values are other regularly voiced concerns about the siting of these towers. However, the extent to which such attitudes are reflected in lower property values affected by tower proximity is controversial.

This paper outlines the results of a study carried out in Florida in 2004 to show the effect that tower proximity has on residential property prices. The study involved an analysis of residential property sales transaction data. Both GIS and multiple regression analysis in a hedonic framework were used to determine the effect of actual distance of homes to towers on residential property prices.

The results of the research show that prices of properties decreased by just over 2%, on average, after a tower was built. This effect generally reduced with distance from the tower and was almost negligible after about 200 meters (656 feet).

1. Introduction

This paper outlines the results of one of the first US-based cell-phone tower studies. The research was carried out in Florida in 2004 to show the effect that **distance** to a CPBS has on residential property prices. It follows on from several New Zealand (NZ) studies conducted in 2003.¹ The first of the earlier NZ studies examined residents' perceptions toward living near CPBSs, while the most recent NZ study adopted GIS to measure the impact that distance to a CPBS has on residential property prices using multiple regression analysis in a hedonic pricing framework. The current study was conducted to determine if US residents respond similarly to those in NZ towards living near CPBSs and hence, whether the results can be generally applied.

The paper commences with a brief literature review of the previous NZ studies for the readers' convenience as well as the literature relating to property value effects from other similar structures. The next section describes the research data and methodology used. The results are then discussed. The final section provides a summary and conclusion.

¹ Bond, S.G. and Wang, K. (2005). "The Impact of Cell Phone Towers on House Prices in Residential Neighborhoods", *The Appraisal Journal*, Volume LXXIII, No.3, pp.256-277, Bond, S.G., Beamish, K. (2005). "Cellular Phone Towers: Perceived Impact on Residents and Property Values", *Pacific Rim Property Research Journal*, vol. 11, no. 2, pp. 158-177 and Bond, S.G. and Xue, J. (2005). "Cell Phone Tower Proximity Impacts on House Prices: A New Zealand Case Study", *European Real Estate Society and International Real Estate Society Conference*, June 15-18, Dublin, Ireland.

2. Literature Review

2.1 Property Value Effects

First, an opinion survey by Bond and Beamish (2005) was used to investigate the current perceptions of residents towards living near CPBSs in a case study city of Christchurch, New Zealand and how this proximity might affect property values. Second, a study by Bond and Wang (2005) that analyzed property sales transactions using multiple regression analysis was conducted to help confirm the results of the initial opinion survey. It did this by measuring the impact of proximity to CPBSs on residential property prices in four case study areas. The Bond and Xue (2005) study refined the previous transaction-based study by including a more accurate variable to account for distance to a CPBS.

The City of Christchurch was selected as the case study area for all the NZ studies due to **the large amount of media attention** this area had received in recent years relating to the siting of CPBSs. Two prominent court cases over the siting of CPBSs were the main cause for this attention.² In summary, the Environmental Court ruled in each case that there is no established adverse health effects arising from the emission of radio waves from CPBSs as there is no epidemiological evidence to show this. However, in the court's decisions they did concede that while there is no proven health affects that there is evidence of **property values** being affected by both of the above allegations.

These court cases were only the start of the negative publicity surrounding CPBSs in Christchurch. Dr. Neil Cherry, a prominent and vocal local Professor, served only to fuel the negative attention to CPBSs by regularly publishing the health hazards relating to these structures.³ This media attention had an impact on the results of the studies, outlined next.

2.2 The Opinion Survey

The Bond and Beamish (2005) opinion survey study included residents in ten suburbs: five case study areas (within 100 feet of a cell phone TOWER) and five control areas (over 0.6 of a mile from a cell phone TOWER). The five the case study suburbs were matched with five control suburbs that had similar living environments (in socio-economic terms) except that the former are areas where a CPBS is located, while the latter are without a CPBS. Eighty questionnaires⁴ were distributed to each of the ten suburbs in Christchurch (i.e. 800 surveys were delivered in total). After sending out reminder letters to those residents who had not yet responded, an overall response rate of 46% was achieved. Over three-quarters (78.5%) of the case study respondents were homeowners compared to 94% in the control area.

The results were mixed with responses from residents ranging from having no concerns to being very concerned about proximity to a CPBS. Interestingly, in general, those people living in areas further away from CPBSs were **much more** concerned about issues from proximity to CPBSs than residents who lived near CPBSs.

² McIntyre and others vs. Christchurch City Council [1996] NZRMA 289 and Shirley Primary School vs. Telecom Mobile Communications Ltd [1999] NZRMA 66

³For example, Cherry, N. (2000), "Health Effects Associated with Mobil Base Stations in Communities: The Need for Health Studies," Environmental Management and Design Division, Lincoln University, June 8. Available from: <http://pages.britishlibrary.net/orange/cherryonbasestations.htm>.

⁴ Approved by the University of Auckland Human Subjects Ethics Committee (reference 2002/185).

Over 40% of the control group respondents were worried a lot about future health risks, aesthetics and future property values compared to the case study areas where only 13% of the respondents were worried a lot about these issues. However, in both the case study and control areas, the impact of proximity to CPBSs on future **property values** is the issue of **greatest concern** for respondents. If purchasing or renting a property near a CPBS, over a third (38%) of the control group respondents would **reduce price** of their property by more than **20%**. The perceptions of the case study respondents were again less negative with a third of them saying they would reduce price by only 1-9%, and 24% would reduce price by between 10 and 19%.

Reasons for the lack of concern shown by the case study respondents may be due to the CPBS being either not visible or only barely visible from their homes. Another reason may be that the CPBS was far enough away from respondent's property (as was indicated by many respondents, particularly in St Albans West, Upper Riccarton, and Bishopdale) or hidden by trees and consequently it did not affect them much. The results may have been quite different had the CPBS being more visually prominent.

2.3 Transaction-based Market Study

The Bond and Wang (2005) market transaction-based regression study included 4283 property sales in four suburbs that occurred between 1986 and 2002 (approximately 1000 sales per suburb). The sales data that occurred before a CPBS was built were compared to sales data after a CPBS was built to determine any variance in price, after accounting for all the relevant independent variables.

Interestingly, the effect of a CPBS on price (a decrease of between 20.7% and 21%) was very similar in the two suburbs where the towers were built in the year 2000, after the negative media publicity given to CPBSs following the two legal cases outlined above. The other two suburbs that indicated a CPBS was either insignificant or increased prices by around 12%, had towers built in them in 1994, prior to the media publicity. Also, given that the cell phone technology was relatively new to NZ in 1994 (introduced in late 1987) there may have been more desire then to live closer to a tower to receive better coverage than in later years when the technology became more common and the potential health hazards from these became more widely publicized.

The main limitation affecting this study was that there was no accurate proximity measure included in the model, such as GIS coordinates for each property. Instead, street name was included as an independent variable to help to control for the proximity effects. A study has subsequently been performed using GIS analysis to determine the impact that distance to a CPBS has on residential property prices. The results from this study are outlined next.

2.4 Proximity Impact Study

Bond and Xue study conducted in 2004 involved analysis of the residential transaction data using the same hedonic framework as the previous study as well as including the same data but added a further six suburbs to give a total of ten suburbs: five suburbs with CPBSs located in them and five control suburbs without CPBSs. In addition, the geographical {x, y} coordinates that relate to each property's absolute location were included. A total of 9,514 geo-coded property sales were used (approximately 1000 sales per suburb).

In terms of the effect that proximity to a CPBS has on price the overall results indicate that this is significant and negative. Generally, the closer to the CPBS a property is the greater the decrease in price. The effect of proximity to a CPBS **reduces price by 15%, on average**. This effect reduces

with distance from the CPBS and is negligible after 1000 feet.

2.5 High Voltage Overhead Transmission Line Research

CPBSs are very similar structures to high voltage overhead transmission lines (HVOTLs) and their supporting structure, the pylons. Therefore, despite the limited research relating to value effects from CPBS, it is worthwhile reviewing the body of literature on the property values effects from HVOTLs and pylons.

2.5.1 New Zealand HVOTL Research

The only recently published study in New Zealand on HVOTLs value effects is by Bond and Hopkins (2000).⁵ The case study area selected for the research was a low-middle income, predominantly single-family residential district in the northern Wellington suburb of Newlands that is crossed by two 110KV transmission lines with 85 foot high steel pylons **located on private land**.

The results of the sales analysis, comprising sales from 1989 to 1991 (330 of which were within 1000 feet, or 300 meters, of a HVOTL), indicate the effect of having a 'pylon' close to a particular property is statistically significant and has a **negative effect of 27%** at 33 feet (10 meters) from the pylon, 18% at 50 feet (15 meters), decreasing to 5% at 164 feet (50 meters). This effect diminishes to a negligible amount after 328 feet (100 meters). However, the presence of a 'transmission line' in the case study area has a minimal effect and is not a statistically significant factor in the sales price.

2.5.2 UK HVOTL Research

In England, the effect of HVOTLs on the value of residential property remains relatively unexplored due, in part, to the lack of available transaction data for analysis. The most recently published study is by Sims and Dent (2005).⁶ They compare the results of two parallel UK studies: the first is an analysis of transaction data from a case study in Scotland where sales data are available; the second is a national survey of property appraisers' perceptions (Chartered Surveyors and members of the National Association of Estate Agents) of the presence of distribution equipment in close proximity to residential property.

The data set for the Scotland study consisted of 593 single-family houses that sold between 1994 and 1996 near Glasgow. There is a 275 kV HVOTL running through the centre of the neighborhood in a corridor of land. (Note: This scenario is akin to the US situation where HVOTLs are also situated in easement corridors).

In summary, the analysis of prices at varying distances from the HVOTL showed no clear pattern. The presence of a pylon was found to have a **more significant impact on value than the HVOTL** and could **reduce price by up to 20.7%**. All negative impacts appeared to reduce with distance and were negligible at around 820 feet (250 meters).

The results from the survey of appraisers and real estate agents indicate they **reduce house price by around 5-10%** when valuing a property within close proximity to a HVOTL. Comparing the

⁵ Bond, S.G. & Hopkins, J. (2000). "The Impact of Transmission Lines on Residential Property Values: Results of a Case Study in a Suburb of Wellington, New Zealand". *Pacific Rim Property Research Journal*, Vol.6, No.2, pp.52-60.

⁶ Sims, S. and Dent, P. (2005), "High-voltage overhead power lines and property values: A residential study in the UK", *Urban Studies*, Vol.42, No.4, pp. 665-694.

results from both studies suggests that appraisers and real estate agents underestimate the impact of proximate HVOTLs on value.

2.5.3 US and Canadian Research

There have been a number of HVOTLs studies carried out in the US and Canada. A major review and analysis of the literature by Kroll and Priestley indicated that in about half the studies carried out, HVOTLs had not affected property values and in the rest of the studies there was a loss in property value between 2-10%.⁷

Kroll and Priestley were generally critical of most valuer type studies because of the small number of properties included and the failure to use econometric techniques, such as multiple regression analysis. They found that the Colwell study was one of the more careful and systematic analysis of residential impacts.⁸ This study was carried out in Illinois and found that the strongest effect of the HVOTLs was within the first 50 feet (15m) but with this dissipating quickly further away, disappearing beyond 200 feet (60m).

A Canadian study (Des Rosiers, 2002) based on a sample of 507 single-family house sales in the City of Brossard, Greater Montreal that sold between 1991-1996 showed that the severe visual encumbrance due to a direct view of either a pylon or lines exerts a significantly negative impact on property prices of between 5% to well in excess of 20%. The extent of value diminution depended on the degree of set back of the homes with respect to the HVOTL easement. The smaller the set back the greater the reduction in price (for example, with a setback of 50ft price was reduced by 21%).

However, the study also showed that a house located adjacent to a transmission corridor may increase values. The proximity advantages include enlarged visual field and increased privacy. The decrease in value from the visual impact of the HVOTLs and pylons (between, on average, 5-10% of mean house value) tends to be cancelled out by the increase in value from proximity to the easement.⁹

A study by Wolverton and Bottemiller¹⁰ utilized a paired-sale methodology of home sales occurring in 1989-1992 to ascertain any difference in sale price between properties abutting rights-of-way of transmission lines (subjects) in Portland, Oregon; Vancouver, Washington; and Seattle, Washington and those located in the same cities but not abutting transmission line rights-of-way (comparisons). Their results did not support a finding of a price effect from abutting an HVTL right-of-way. In their conclusion they warn that the results cannot and should not be generalized outside of the data. They explain that

“limits on generalizations are a universal problem for real property sale data because analysis is constrained to properties that sell and sold properties are never a randomly drawn representative sample. Hence, generalizations must rely on the weight of evidence

⁷ Kroll, C. and Priestley, T. (1992), “The Effects of Overhead Transmission Lines on Property Values: A Review and Analysis of the Literature”, Edison Electric Institute, July.

⁸ Colwell, P. (1990), “Power Lines and Land Value”, *The Journal of Real Estate Research*, American Real Estate Society, Vol. 5, No. 1, Spring.

⁹ Des Rosiers, F. (2002), Power Lines, Visual Encumbrance and House Values: A Microspatial Approach to Impact Measurement, *Journal of Real Estate Research*, Vol.23, No.3, pp. 275 – 301.

¹⁰ Wolverton, M.L. & Bottemiller, S.C., (2003), “Further analysis of transmission line impact on residential property values”, *The Appraisal Journal*, Vol.71, No.3, pp. 244.

Please make this a part of the record. Joy Nishiwak



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No cell tower at new school

Health effects reviewed

BY JANE MEGGITT Staff Writer

The Millstone Township School District will not pursue the construction of a cell tower on the middle school property.

At the Oct. 12 Board of Education meeting, the majority of the board members indicated they are not interested in having a cell tower on the middle school grounds, even if it would generate revenue.

The elementary school property on Millstone Road has a cell tower that Monmouth County leases and various emergency services use. The district's administration received an offer for constructing a cell tower at the middle school site along Dawson Road about two years ago.

When the board discussed the issue at its June 23, 2008, meeting, President Tom Foley said the district could earn up to \$100,000 per year for five years for allowing the construction of a cell tower on the middle school property. At that time, Foley said that the federal Telecommunications Act of 1996 determined that cell towers do not produce adverse health effects. He also said plenty of other studies had been done on their health effects.

Donna Haag, who lives across the street from the school, provided board members with newspaper articles regarding other boards of education facing similar decisions. She said the articles contain information that the board may not get from the cell tower vendor, such as the potential long-term effects of radiation produced by cell towers and related equipment.



Foley addressed community members' concerns about the cell tower producing radiation at the recent meeting. He said student and teacher cell phone use should be banned if people are concerned about radiation because their heads are at risk for exposure when they use the phones. He also suggested that the district's Operations Committee consider taking down the tower at the elementary school.

Vice President Margaret Gordon alleged that fear of the unknown is driving the hysteria around cell towers. She said the district needs another revenue source and considered the tower due to the failed school budgets.

Haag agreed with the board's decision to not install a new tower and said she is grateful that the members evaluated all of the facts before coming to their decision.



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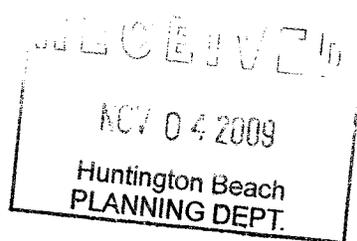
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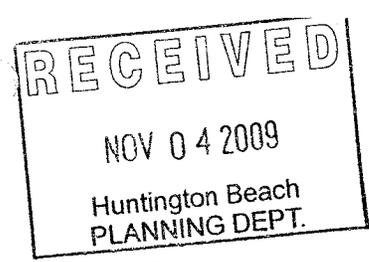
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ATTACHMENT NO. 5.204



I, Blanca Evans, resident of the City of Huntington Beach ("City"), and homeowner materially affected by the Application for Conditional Use Permit by T-Mobile USA ("T-Mobile") and the Community United Methodist Church of Huntington Beach ("Church") to erect a wireless site within the property of the Church hereby **OPPOSE** the granting of the permit based on the following:

Grounds for Denial of Permit

A. The Purpose of T-Mobile's Application Is False and Misleading

At section 3.02, page 4 of its original Application, T-Mobile asserts that the purpose for their proposed wireless antenna is to "[i]ncrease the existing RF signal level in an existing coverage area". At page 2 of their attachment to the Application, T-Mobile asserts that "[t]he facility is needed to correct a hole in network coverage created by the local demand on the existing network."

The Telecommunications Act of 1996 ("TCA") provides that the City may deny T-Mobile's Application unless T-Mobile shows by substantial evidence that (1) the proposed wireless antenna is needed to close a "significant gap" in service coverage and (2) there are no alternative facilities or site locations.

Here, T-Mobile has submitted a false and misleading Application by first asserting that the wireless antenna is needed to "increase the existing coverage" while in another portion of its Application it attempts to assert that there is a "hole" in coverage. There is not one trace of supporting documentation from T-Mobile's customers supporting their inconsistent assertions. On the contrary, I am aware of the statements of at least two T-Mobile's existing customers stating that coverage in the concerned area is very adequate. It should be noted that T-Mobile's Service Contracts do not guarantee full uninterrupted coverage in any area, nor do they guarantee any coverage free of small dead spots!

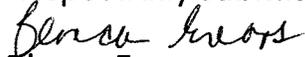
B. T-Mobile's Application Must Be Denied on Aesthetic Grounds

The City has the authority to consider time, place and manner concerns in this instance. We assert that the proposed wireless site will:

1. Cause all concerned and adjacent homeowners inconvenience, discomfort, trouble, annoyance, and embarrassment as we will more specifically testify to during upcoming City's public hearings;
2. The proposed wireless antenna site will detract from the residential character and appearance of our surrounding neighborhood;
3. The proposed wireless antenna site is not compatible with the character and appearance of our surrounding neighborhood;
4. As submitted by real estate professionals in our area, the proposed wireless antenna site will have a negative impact on the value of our homes, and our future ability to obtain a fair price if we decide to sell and relocate our residence.
5. The City must consider (1) the height of the proposed wireless antenna (55') and its proximity to residential structures; (2) the nature of uses of nearby properties (all residential!); (3) surrounding topography; and (4) surrounding tree coverage and foliage.

Based on the foregoing, together with all other documentary and testimonial evidence submitted in this matter, ~~we~~ ^I strongly urge the City to **DENY** T-Mobile's and the Church's Application for a Conditional Use Permit.

Respectfully submitted,


Blanca Evans

Supplemental Ground For Denial Of Permit

The City will ignore the responsibility it has under Section 230.96, Section A, of the Huntington Beach Zoning and Subdivision Ordinance if it approves the conditional permit.

In short summary, the City has the responsibility to, and I quote: "...protect the public safety, general welfare, and quality of life in the City of Huntington Beach." If you approve this conditional permit, how will you be protecting my quality of life and my neighbors and the lives of approximately 350 residents who signed a petition to stop the construction of this cell tower?

The character of my neighborhood will change if the proposed T-Mobile cell tower is built at the Community United Methodist Church. Neighbors are worried about the negative impact of the proposed cell tower; I am worried. **As evidence states:**

>I will have to disclose that the cell tower is located in close proximity—for me, just on the other side of my back wall.

>If my house is less desirable to potential buyers because of its location next to a cell tower, the price goes down.

>People who are aware of the international health concerns of living close to a cell tower will not want their young children to be constantly exposed to the cell tower's emissions.

>Neighbors with young children are already talking about moving if the cell tower is built.

>Now is not a good time to sell a house because home prices are low due to the economy.

>I am worried that this cell tower will cause my neighborhood to change in a negative way.

I assert that the City's approval of this conditional permit will affect my quality of life in a negative way.

Blanca Evans

Supplemental Request

Public Hearing

The public hearing presently set for Wednesday, November 4, 2009, should be continued. I, and concerned homeowners and stakeholders, have been informed that T-Mobile has submitted a Supplemental Application and supporting documents, which significantly and materially alters the original Application by changing the location of the proposed site for the wireless antenna and related equipment within the Church's property. We have not been provided a copy of these public documents, which are necessary for us to review and provide informed input during the upcoming public hearings, and related appeals to the Planning Commission and City Council if necessary. We are willing to reimburse the City for any necessary reproductions costs.

Arabe, Jill

From: GBean37467@aol.com
Sent: Wednesday, November 04, 2009 12:19 PM
To: Arabe, Jill
Subject: PreSchool and CUMC



Dear Ms. Arabe,

I attend CUMC as a church member and I oppose the cell phone tower that T-Mobile wants to place on this site. The Advisory Board is not made up of all the members of the church. There are quite a few people who oppose this decision and they were not included in the discussions or decisions. When the church had a meeting a few weeks ago after the first ZA meeting the members of the board were stunned to hear about how many students they would lose if the tower goes up. My daughter and I attended this meeting and only because we were members of the church were we allowed to attend all the discussions. The loss of this environment of learning and safety for the children of Huntington Beach that has been in business on guiding children for over 30 years will be a great loss for our community. Below is some information that has been obtained.

Regarding Huntington Beach CUP 2009-015, T-Mobile fails to meet:

- 241.10 Required Findings
 - A. For All Conditional Use Permits.
 - 1. The establishment, maintenance and operation of the use will not be detrimental to the general welfare of persons working or residing in the vicinity nor detrimental to the value of the property and improvements in the neighborhood;

The CUMC Pre-school, which rents space from the CUMC church, surveyed parents of the enrolled pre-school students regarding the proposed T-Mobile cell tower.

The result of that survey was:
50% of the parents would pull their children out of the pre-school,
15% of the parents were as yet undecided, and
35% would keep their children in the pre-school.

If over 50% of the students leave, the pre-school would flounder financially and would probably either close or move to another location.

The children would lose a good learning and development center; the parents would lose the excellent neighborhood resource; the pre-school staff would lose their jobs; and, the church would lose the pre-school income.

The proposed T-Mobile cell tower would "be detrimental to the general welfare of persons working or residing in the vicinity."

DENY this permit for the welfare of our neighborhood!

Thank you.

Ginny Bean
15892 Malm Circle
Huntington Bch, CA 92647

11/4/2009

ATTACHMENT NO. 5.2009

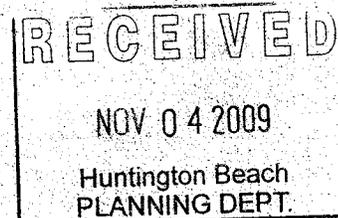
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November 2, 2009

Dana Drake
20301 Bluffside Cir
Huntington Beach, CA 92646



Dear Ms. Drake:

I have been asked to comment as to what affect the location of a cell tower will have on residential property values in the immediate bordering area of these towers.

Over the past 20+ years as an appraiser, I have appraised homes that have had close proximity to both cell towers and homes bordering power lines. Based on this experience, it is my opinion that there is a negative affect on property values with close proximity to these towers. It is my opinion that these towers could have a negative affect on values by as much as 5%.

Respectfully,

Tom Garland

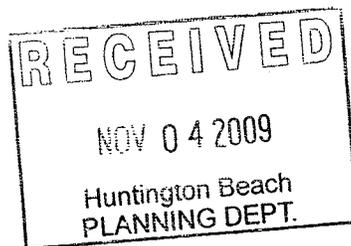
ATTACHMENT NO. 5.210



Beachside, Realtors®

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November 3, 2009



Diane Anderson
6651 Mason Drive
Huntington Beach, CA 92647

Dear Mrs. Anderson:

I sincerely appreciate all of the effort put forth by you and your family to defend itself against the proposed installation of the T-Mobile cell tower at the Community United Methodist Church. As experienced Realtors for a combined 31 years in Huntington Beach, my wife and I know firsthand the truth about a Buyer's perception of diminutive features when deciding on which home to buy, and how much to offer. There is absolutely no doubt in my mind that this cell tower can have any positive impact on that process. Rather, it simply comes down to how much of a negative impact this type of structure could have on the value of a person's property.

Certainly, in a low inventory market the degree of diminished value would likely decrease based on a lack of supply such as we saw in the markets from 1998 - 2005. However, the exact opposite is now occurring for a home's value with detrimental obstacles (i.e., backing to streets and thoroughfares, backing to commercial or industrial use zones, within sight visibility to high voltage power lines/billboards/water towers, etc.) as the supply of homes has increased due to a lack of demand.

I feel the biggest problem in this specific situation is the lack of studies and surveys that have been prepared to date based on proximity to cell towers exclusively. The installation of cell towers in residential neighborhoods (via church bell towers, steeples, and crosses) is a relatively new phenomenon so it would be virtually impossible to assess the diminutive value implications until we have had more time to track continued sales activity during this current market condition, or at the very least a balanced real estate market.

One area of real estate that I can say for sure will be immediately impacted will be on the necessity to fully disclose to perspective Buyers the proposed installation of such cell towers in areas that are in direct proximity to housing. The installation of this particular cell tower by T-Mobile is a "material fact that may effect the desirability of the home." Therefore, I must disclose this information on all transactions at this time. I have one

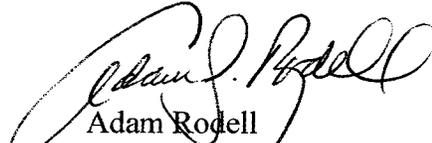
ATTACHMENT NO. 5.211

home currently in escrow less than 500 feet from the proposed cell tower (located at 16622 Fountain Lane), and I have just furnished the disclosures to the Buyer's Agent and Buyer at the end of last week. They are currently reviewing the disclosures at this time.

My bigger concern emanates from the possibility that future "Environmental Zone Disclosure Reports" may be required to disclose the location of ALL cell towers just as they are now required to disclose the location of fuel storage tanks, remediation projects, ordinance locations, etc. Just imagine how that will look to perspective Buyers when they look on a map "dotted" with all cell tower locations noted as a potential cause for concern? The neighborhoods that have had these cell towers installed will clearly face an uphill challenge in the future if they're competing against neighborhoods where cell towers have not been installed or banned altogether. There is no question, at that point, of whether these cell towers will have a negative impact on the value of a home or neighborhood where they do exist. It's just unfortunate at this time that most homeowners and consumers aren't aware of these towers until they experience the invasiveness firsthand that this neighborhood is now experiencing.

Diane, once again I urge you to continue with your efforts. On behalf of this neighborhood, we all benefit with caring neighbors like yourself.

Respectfully,



Adam Rodell
Century 21 Beachside

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FCC RULING REQUIRING BACKUP POWER FOR CELL TOWERS

This will alert you about an FCC ruling requiring backup power for cell towers which may generate activity and litigation for municipalities in the next year regarding (1) cell towers on municipal property, and (2) zoning, permits and other regulations affecting cell towers on private property. The key points are as follows.

Order: On October 4 the FCC issued an order reinforcing and clarifying a prior order requiring cell phone (and landline) phone companies within one year to install backup power supplies at most sites (and have portable power supplies available for sites without permanent backup power). This is an outgrowth of Hurricane Katrina, a finding that telephone and cell phone companies there did not have adequate backup power supplies to keep the phones operating, and hence that backup power supplies need to be installed at key phone and cell phone locations nationwide. See http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-07-177A1.doc

In its order, the FCC declined to exempt cell antennas in non-traditional locations, such as the small "distributed antenna" systems popularized by companies such as NextG, which are often located on utility poles, light poles, in the rights of way, or camouflaged in steeples and the like.

The FCC order does not by its terms preempt state or local laws or leases which prevent backup power installations--but as set forth below, cell companies may claim that Federal law preempts in any event, even as to lease terms that prohibit dangerous substances (e.g.--gasoline) from being introduced on the municipal land or building being leased for a cell antenna.

Municipal Sites: As a result, municipalities may shortly see a lot of activity to put generators and battery backup systems at cell tower sites on private and public property, including those in the rights of way. This may cause problems for towers in sensitive municipal locations, such as on the roofs of municipal or school buildings, or on water towers, because the systems typically involve gas, diesel or propane powered generators (with accompanying fuel tanks) or batteries with lots of sulfuric acid. Lease terms often prohibit such dangerous substances or require municipal approval of changes from the initial installation, and either type of system is heavy, which may cause building or structural concerns.

Cell companies may seek lease amendments to allow them to install such backup power systems (in fact the FCC said they should seek such amendments, if leases now preclude such systems). Due to decisions by the Ninth Circuit Court of Appeals, in west coast and adjacent states the cell companies may claim that lease provisions effectively preventing backup power systems violate Section 253 of the Federal Communications Act. On the other hand, municipalities may have concerns if they justifiably don't want such systems installed on particular properties, yet the lease does not clearly preclude them.

Zoning, Building Codes and the Like: The cell phone companies complained to the FCC that local zoning laws, building codes or environmental restrictions may prevent backup power installations.

Municipalities should be aware that if this is the case, they may face challenges to such laws not under the FCC order but under the cell tower zoning provisions of the Federal 1996 Telecommunications Act. These provisions apply to all state and local laws which regulate the "placement, construction or modification" of cell towers--i.e. building codes, permits and other local requirements, not just zoning. They require action by a municipality in "a reasonable time" which here the carriers will argue is very short, given the FCC directive for backup power installations to be completed within a year. Carriers will likely argue that local requirements which they can't comply with "prohibit or effectively prohibit" the provision of cell phone service, in violation of the statute.

And (this is often the hardest part) under the statute, all denials have to "in writing" and based on "a written record". Although these requirements sound simple, the courts have interpreted them in ways that local practices and procedures often may not meet. Failure to meet them is one of the most common reasons local zoning decisions violate the Federal statute. Most importantly, note that a violation of the statute usually (under court decisions) leads to the permit or zoning approval in question being granted as it was applied for, the courts do not send the case back to the municipality for it to redo in compliance with the statute.

Suggested Actions: Municipalities should examine the leases they have with cell companies, to see if backup power supplies (batteries or generators) can be installed without municipal approval, especially as to locations where this would be a concern.

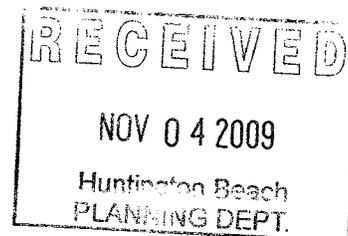
Municipalities should be prepared to respond promptly to the various types of local approvals (zoning, building codes, permits, environmental) which may be involved in likely new backup power installations at cell sites. They should make sure they comply with the Federal statute regarding zoning and other local regulations applicable to cell towers. In particular, in a contentious case, municipalities should make sure to involve people with knowledge of the statute and comply with its procedural requirements regarding the form of any denial, what has to be in it and the need for a written record.

We have a detailed paper on the Federal cell tower statute. If you would like a copy, either email me, or get a copy from our web site--go to [HTTP://www.varnumlaw.com/serviceGroups/cableTV/cellularwireless/](http://www.varnumlaw.com/serviceGroups/cableTV/cellularwireless/)

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