



City of Huntington Beach Planning and Building Department
STAFF REPORT

TO: Planning Commission
FROM: Scott Hess, AICP, Director of Planning and Building
BY: Tess Nguyen, Associate Planner *TN*
DATE: July 14, 2015

SUBJECT: ZONING TEXT AMENDMENT NO. 14-002 (UTILITY DATA COLLECTION UNITS)

APPLICANT: City of Huntington Beach, 2000 Main Street, Huntington Beach, CA 92648

LOCATION: Citywide

STATEMENT OF ISSUE:

- ◆ Zoning Text Amendment (ZTA) No. 14-002 request:
 - To amend Section 230.96 (Wireless Communication Facilities) of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) by adding definitions for City property and data collection unit and simplifying the process for installation of such infrastructure.

- ◆ Staff Recommendation:

Approve Zoning Text Amendment No. 14-002 based upon the following:

 - Establishes the City's desired approval process and design requirements for data collection units
 - Allows wireless communication facilities while protecting the community's general welfare and quality of life through the new permitting process
 - Does not alter zoning or change the uses allowed on any property

RECOMMENDATION:

Motion to:

“Approve Zoning Text Amendment No. 14-002 with findings (Attachment No. 1) and forward Draft Ordinance (Attachment No. 2) to the City Council for adoption.”

ALTERNATIVE ACTION(S):

The Planning Commission may take alternative actions such as:

- A. “Deny Zoning Text Amendment No. 14-002 with findings for denial.”
- B. “Continue Zoning Text Amendment No. 14-002 and direct staff accordingly.”

PROJECT PROPOSAL:

Zoning Text Amendment No. 14-002 represents a request pursuant to Chapter 247 to amend Section 230.96 (Wireless Communication Facilities) of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) by adding definitions for City property and utility data collection unit and simplifying the process for installation of such infrastructure. The changes to Section 230.96 include the following new language:

1. Section 230.96.B.2:

City Property. Property owned by the City of Huntington Beach, excluding any Public Right-of-Way.

2. Section 230.96.B.5:

Data Collection Unit ("DCUs"). A Wireless Communication Facility comprised of a collection unit, a solar panel and whip antennas used for receiving and/or transmitting wireless signals from distributed gas and water data collector meters, which is a stand-alone facility not connected via fiber optic or other physical wiring to any other facility. No Wireless Communication Facility operated by an electric corporation, a telephone corporation, a personal wireless service provider, a commercial mobile service provider or a mobile telephone service provider shall be considered a DCU.

Size: Solar panels not larger than 7 square feet, whip antennas not longer than 40 inches, and collection units not larger than 1.5 cubic feet. DCUs shall be designed to blend into the surrounding environment and minimize the visual appearance by matching the color of the poles or buildings where the DCU is located.

3. Section 230.93.D.6:

Any Data Collection Unit (DCU) on existing poles, or on any new poles within the Public Right-of-Way or on City Property. DCUs shall comply with setback and height requirements for the zone in which they are located. In addition, all DCUs must comply with all City Municipal Code requirements, including but not limited to Chapter 12.38 regarding Encroachments and Chapter 17.64 regarding Undergrounding of Utilities. DCUs shall be at least 500 feet from another DCU within the same network.

4. Section 230.93.H:

Facilities in the Public Right-of-Way. Any Wireless Communication Facility to be placed over, within, on or beneath the public right-of-way shall comply with all City Municipal Code requirements, including but not limited to Chapter 12.38 regarding Encroachments and Chapter 17.64 regarding Undergrounding of Utilities.

Background:

Government agencies and some utilities are turning toward advanced metering infrastructure systems and wireless technologies to remotely read utility meters and wirelessly send the data to the service provider. Advanced metering infrastructure is an integrated system of smart meters, communication networks, and data management systems that enables communication between utilities (water, gas, electricity, etc.) and customers. These systems measure, collect, analyze usage, and communicate with metering devices such as water meters, gas meters, and electricity meters.

Smart meters are electronic devices that record consumption of energy or water and communicate that information back to the utilities' computer network system for monitoring and billing. Data collection units receive usage data collected from meters and transfer the information over a wireless network to the utilities. Data collection facilities consist of whip antennas, data collection units (DCUs), and an energy source (solar panels or a/c power). The data collection unit collects information from the utility meters and transmits this information several times a day with each transmission lasting between three to six seconds via cell phone frequencies. The data collection units are located within a grid system based on such factors such as population density and land topography.

Data collection units are a part of the communication network in the advanced metering infrastructure. Some of benefits of the advanced metering infrastructure include:

- Increase meter reading and billing accuracy
- Reduce need for utility personnel to access customer property for manual meter reading
- Reduce miles driven resulting in less fuel consumption and lower vehicle emissions
- Reduce expenses by being more efficient and cost-effective

Study Session:

The Planning Commission held a study session for the project on June 23, 2015, and discussed the following issues:

- *Data Transmission Duration*
The data collection units transmit usage information several times a day with each transmission lasting between three to six seconds via cell phone frequencies.
- *Information Encryption*
Only usage information and meter identification numbers are transmitted through the air waves.
- *Locating Data Collection Units*
Data collection units are located within a grid system based on factors such as land topography and population density. The Water Division would have 37 DCUs for the entire City, each spaced approximately one mile apart. The DCUs are proposed to be located on public properties such as buildings, parks, or other facilities. The Water Division would own, maintain, and operate all the units. The Gas Company would have 24 DCUs for the entire City. The data collection units for the Gas Company are proposed to be located on existing utility poles.
- *Data Collection Units Design*
The data collection units are defined to be of a certain size and required to blend into the surrounding environment by matching the color of the poles or buildings where they are located. If the units comply with the above requirements, they would be small enough to be considered camouflaged and would not need any further entitlement processing.
- *Partnering Among Utilities*
The Water Division and the Gas Company are on different timelines in the planning process. Therefore, the opportunity to collaborate between them is no longer possible.

ISSUES:

General Plan Conformance:

The proposed Zoning Text Amendment is consistent with the goals, objectives, and policies of the City's General Plan as follows:

A. Land Use Element:

Goal LU 2: Ensure the development is adequately served by transportation infrastructure, utility infrastructure, and public services.

B. Utilities Element:

Goal U 5: Maintain and expand service provision to the City of Huntington Beach residences and businesses.

Objective U 5.1: Ensure that adequate natural gas, telecommunication and electrical systems are provided.

Policy U 5.1.1: Continue to work with service providers to maintain current levels of service and facilitate improved levels of service.

C. Economic Development Element:

Policy ED 2.3.1: Strive to reduce all discretionary permit and licensing processing time.

The proposed ZTA allows data collection units of a certain size to service the needs of the residents and businesses and continue to provide processing incentives for those facilities that meet certain standards. It continues to require all associated structures to be compatible with the surrounding environment.

Zoning Compliance: Not applicable.

Urban Design Guidelines Conformance: The proposed Zoning Text Amendment requires the utility data collection facility to be designed to blend into the surrounding environment.

Environmental Status:

ZTA No. 14-002 is categorically exempt pursuant to City Council Resolution No. 4501, Class 20, which supplements the California Environmental Quality Act.

Coastal Status:

This project would be considered a minor amendment to the City's Local Coastal Program and will be forwarded to the California Coastal Commission with other minor amendments for certification.

Design Review Board: Not applicable.

Subdivision Committee: Not applicable.

Other Departments Concerns and Requirements: ZTA No. 14-002 was prepared by Planning staff and the City Attorney's Office with input from the City Manager's Office and Public Works Department.

Public Notification:

Legal notice was published in the Huntington Beach/Fountain Valley Independent on July 2, 2015, and notices were sent to individuals/organizations requesting notification (Planning Division's Notification Matrix). As of July 6, 2015, no communication supporting or opposing the request has been received.

Application Processing Dates:

DATE OF COMPLETE APPLICATION:

Not Applicable

MANDATORY PROCESSING DATE(S):

Legislative Action - Not Applicable

ANALYSIS:

The intent of the proposed Zoning Text Amendment is to facilitate the collection of usage data for utility service providers through the use of data collection units. Consumption data are obtained over a wireless network where usage information is transmitted from utility meters to the data collection units and then to the service providers. The data collection units are located within a grid system, spaced a certain distance from each other, to ensure sufficient coverage. This system of information gathering provides benefits such as increasing billing accuracy and reducing the need for manual meter reading. In order to realize some of the benefits, HBZSO Section 230.96 is proposed to be amended to permit data collection units. The changes include defining a data collection unit, establishing the approval process and creating design requirements for data collection units. A legislative draft of the ordinance changes is provided in Attachment No. 3.

Approval Process and Design Requirements

Data collection units are exempt from the requirements of Section 230.96 if they comply with the following parameters:

1. meet the definition of a data collection unit
2. locate on existing poles, or on any new poles within the public right-of-way or on City property
3. comply with setback and height requirements for the zone in which they are located
4. blend into the surrounding environment and minimize the visual appearance by matching the color of the poles or buildings where they are located
5. locate at least 500 feet from another data collection unit within the same network

Staff recommends that the Planning Commission approve Zoning Text Amendment No. 14-002 and forward to the City Council for adoption because the changes are consistent with the General Plan and would establish the City's desired approval process and design requirements for data collection units while protecting the community's general welfare and quality of life.

ATTACHMENTS:

1. Suggested Findings for Approval – ZTA No. 14-002
2. Draft Ordinance
3. Legislative Draft HBZSO Section 230.96
4. Sample Pictures of a Data Collection Unit

SH:JJ:TN:kd

ATTACHMENT NO. 1

SUGGESTED FINDINGS FOR APPROVAL

ZONING TEXT AMENDMENT NO. 14-002

SUGGESTED FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

The Planning Commission finds that the project will not have any significant effect on the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to City Council Resolution No. 4501, Class 20, which supplements CEQA because the request is a minor amendment to a zoning ordinance that does not change the development standards intensity or density.

SUGGESTED FINDINGS FOR APPROVAL - ZONING TEXT AMENDMENT NO. 14-002:

1. Zoning Text Amendment No. 14-002 to amend Section 230.96 (Wireless Communication Facilities) of the Huntington Beach Zoning and Subdivision Ordinance is consistent with the goals, objectives, policies, general land uses and programs specified in the General Plan including:

A. Land Use Element:

Goal LU 2: Ensure the development is adequately served by transportation infrastructure, utility infrastructure, and public services.

B. Utilities Element:

Goal U 5: Maintain and expand service provision to the City of Huntington Beach residences and businesses.

Objective U 5.1: Ensure that adequate natural gas, telecommunication and electrical systems are provided.

Policy U 5.1.1: Continue to work with service providers to maintain current levels of service and facilitate improved levels of service.

C. Economic Development Element:

Policy ED 2.3.1: Strive to reduce all discretionary permit and licensing processing time.

The proposed Zoning Text Amendment allows data collection units of a certain size to service the needs of the residents and businesses and continue to provide processing incentives for those facilities that meet certain standards. It continues to require all associated structures to be compatible with the surrounding environment.

2. In the case of the general land use provisions, the change proposed is compatible with the uses authorized in, and the standards prescribed for the zoning districts for which it is proposed. Zoning Text Amendment No. 14-002 will revise the citywide wireless communication facilities ordinance. It will not affect zoning of any property or the allowed uses and development standards of any zoning district.

3. A community need is demonstrated for the change proposed. Zoning Text Amendment No. 14-002 will reflect the City's desired approval process and design requirements for data collection units in consideration of maximizing the goals of the General Plan.
4. Its adoption will be in conformity with public convenience, general welfare and good zoning practice because Zoning Text Amendment No. 14-002 will continue to allow wireless communication facilities while protecting the community's general welfare and quality of life through the new permitting process.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF HUNTINGTON BEACH
AMENDING CHAPTER 230 OF THE HUNTINGTON BEACH
ZONING AND SUBDIVISION ORDINANCE RELATING TO
WIRELESS COMMUNICATIONS FACILITIES
(ZONING TEXT AMENDMENT NO. 14-002)

WHEREAS, pursuant to the California State Planning and Zoning Law, the Huntington Beach Planning Commission and Huntington Beach City Council have held separate, duly noticed public hearings to consider Zoning Text Amendment No. 14-002, which amends Chapter 230 of the Huntington Beach Zoning and Subdivision Ordinance relating to wireless communication facilities; and

After due consideration of the findings and recommendations of the Planning Commission and all other evidence presented, the City Council finds that the aforesaid amendment is proper and consistent with the General Plan;

NOW, THEREFORE, the City Council of the City of Huntington Beach does hereby ordain as follows:

SECTION 1. Subsections B and D of Section 230.96 of Chapter 230 of the Huntington Beach Zoning and Subdivision Ordinance are hereby amended to read as follows:

230.96 Wireless Communication Facilities

A. **Purpose.** This Section of the Zoning Code is to protect public safety, general welfare, and quality of life by regulating the location, height and physical characteristics and provide for orderly and efficient placement of Wireless Communications Facilities in the City of Huntington Beach.

Because of the potential negative aesthetic impacts of Wireless Communications Facilities, including visual blight and diminution of property value, the City endeavors to locate antennas within commercial, industrial and other non-residential zones, screen them from view, and encourage co-location with other Wireless Communication Facilities. However, the Federal Telecommunications Act, specifically 47 U.S.C. Section 332(c)(7), preempts local zoning where a Wireless Facility is necessary to remedy a significant gap in the Wireless Provider's service. Consequently, where the City determines that the Facility does not satisfy City planning and zoning standards, the Wireless Provider may then choose to establish Federal preemption because (i) a significant gap in wireless coverage exists, and (ii) there is a lack of feasible alternative site locations. A myriad of factors are involved in determining if a gap is significant, such as: whether the gap affects a commuter highway; the nature and character of the area and the number of potential users affected by the alleged lack of service; whether the signal is weak or nonexistent, and whether the gap affects a commercial district. Consequently, the City will require scientific evidence from an expert

in the field demonstrating the existence of a significant gap in service, and a lack of feasible alternative sites. The applicant will be required to pay for the cost of said expert opinion.

B. Definitions. For the purpose of this Section, the following definitions for the following terms shall apply:

1. Accessory Structure. Any structure or equipment that is to be located ancillary to an antenna or antennas in the establishment and operation of a Wireless Communication Facility.
2. City Property. Property owned by the City of Huntington Beach, excluding any Public Right-of-Way.
3. Co-Location or Co-Located. The location or placement of multiple Wireless Communication Facilities which are either owned or operated by more than one service provider at a single location and mounted to a common supporting structure, wall or building.
4. Completely Stealth. Any Wireless Communication Facility that has been designed to completely screen all aspects of the facility including appurtenances and equipment from public view. Examples of completely stealth facilities may include, but are not limited to, architecturally screened roof mounted antennas, façade mounted antennas treated as architectural elements to blend in with the existing building, church steeples, fire towers, and flag poles and light standards of a typical diameter.
5. Data Collection Unit (“DCUs”). A Wireless Communication Facility comprised of a collection unit, a solar panel and whip antennas used for receiving and/or transmitting wireless signals from distributed gas and water data collector meters, which is a stand-alone facility not connected via fiber optic or other physical wiring to any other facility. No Wireless Communication Facility operated by an electric corporation, a telephone corporation, a personal wireless service provider, a commercial mobile service provider or a mobile telephone service provider shall be considered a DCU.

Size: Solar panels not larger than 7 square feet, whip antennas not longer than 40 inches, and collection units not larger than 1.5 cubic feet. DCUs shall be designed to blend into the surrounding environment and minimize the visual appearance by matching the color of the poles or buildings where the DCU is located.
6. Ground Mounted Facility. Any wireless antenna that is affixed to a pole, tower or other freestanding structure that is specifically constructed for the purpose of supporting an antenna.
7. Microwave Communication. The transmission or reception of radio communication at frequencies of a microwave signal (generally, in the 3 GHz to 300 GHz frequency spectrum).
8. Modified Facility. An existing Wireless Communication Facility where the antennas and/or supporting structure are proposed to be altered in any way from their existing condition, including like-for-like replacement but excluding co-location.

9. Pre-existing Wireless Facility. Any Wireless Communication Facility for which a building permit or conditional use permit has been properly issued prior to the effective date of this ordinance, including permitted wireless antennas that have not yet been constructed so long as such approval is current and not expired.

10. Public Right-of-Way. The area across, along, beneath, in, on, over, under, upon, and within the dedicated public alleys, boulevards, courts, lanes, places, roads, sidewalks, streets, ways, private streets with public access easements within the City's boundaries, and City owned properties, as they now exist or hereafter will exist.

11. Roof Mounted. Any wireless antenna directly attached or affixed to the roof of an existing building, water tank, tower or structure other than a telecommunications tower.

12. Stealth Techniques. Any Wireless Communication Facility, including any appurtenances and equipment, which is designed to blend into the surrounding environment. Examples of Stealth Technique include, but are not limited to, monopoles/monopines.

13. Utility Mounted. Any wireless antenna mounted to an existing above-ground structure specifically designed and originally installed to support utilities such as but not limited to electrical power lines, cable television lines, telephone lines, non-commercial wireless service antennas, radio antennas, street lighting but not traffic signals, recreational Facility lighting, or any other utility which meets the purpose and intent of this definition.

14. Wall Mounted. Any wireless antenna mounted on any vertical or nearly vertical surface of a building or other existing structure that is not specifically constructed for the purpose of supporting an antenna (including the exterior walls of a building, an existing parapet, the side of a water tank, the face of a church steeple, or the side of a freestanding sign) such that the highest point of the antenna structure is at an elevation equal to or lower than the highest point of the surface on which it is mounted.

15. Wireless Communication Facility or Facility or Wireless Antenna. An antenna structure and any appurtenant facilities or equipment that transmits electronic waves or is used for the transmission or receipt of signals that are used in connection with the provision of wireless communication service, including, but not limited to digital, cellular and radio service.

C. **Applicability**. This Ordinance shall apply to all Wireless Communication Facilities which are erected, located, placed or modified within the City of Huntington Beach.

D. **Exceptions**. The following Wireless Communication Facilities shall be exempt from this Ordinance.

1. Any Facility, which is subject to a previously approved and valid entitlement, may be modified within the scope of the applicable permit without complying with these regulations. However, modifications outside the scope of the valid entitlement or any modification to an existing facility that does not have a previously approved and valid entitlement is subject to the requirements of this ordinance.

2. Any antenna structure that is one meter (39.37 inches) or less in diameter that 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.

3. 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.

4. 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.

5. Any antenna structure used by authorized amateur radio stations licensed by the FCC.

6. Any Data Collection Unit (DCU) on existing poles, or on any new poles within the Public Right-of-Way or on City Property. DCUs shall comply with setback and height requirements for the zone in which they are located. In addition, all DCUs must comply with all City Municipal Code requirements, including but not limited to Chapter 12.38 regarding Encroachments and Chapter 17.64 regarding Undergrounding of Utilities. DCUs shall be at least 500 feet from another DCU within the same network.

E. Process to Install and Operate Wireless Communication Facilities. No Facility shall be installed anywhere in the City without first securing either a Wireless Permit or a Conditional Use Permit as required below.

1. Wireless Permit Application. The applicant shall apply to the Planning and Building Department for a Wireless Permit by submitting a completed Wireless Permit Application ("Application") and paying all required fees. The Application shall be in the form approved by the Director, and at a minimum shall provide the following information:

- a. Precise location of the Facility.
- b. Evidence that the Facility is compatible with the surrounding environment or that the facility is architecturally integrated into a structure.
- c. Evidence that the facility is screened or camouflaged by existing or proposed topography, vegetation, buildings or other structures as measured from beyond the boundaries of the site at eye level (six feet).
- d. Evidence that the massing and location of the proposed facility are consistent with surrounding structures and zoning districts.
- e. Evidence that no portion of the Facility will encroach over property lines.
- f. Property owner authorization or evidence of fee ownership of property where the Facility will be installed. In the case of City-owned property or any public right-of-way, the applicant shall provide a license, lease, franchise, or other

similar agreement from the City to place any Facility over, within, on, or beneath City property or right-of-way.

g. Locations of all other Wireless Antennas within 1,000 feet of a proposed ground mounted facility. Co-location of ground mounted facilities shall be required where feasible whenever such a facility is proposed within 1,000 feet of any existing Wireless Antenna.

h. Any other relevant information as required by the Director of Planning and Building.

The Planning and Building Department will initially review and determine if the Application is complete. The City may deem the Application incomplete and require re-submittal if any of the above information is not provided.

2. Director Approval. Following submittal of a complete Application, the City will determine whether the Facility may be approved by the Director or whether a Conditional Use Permit or other entitlement is required. Wireless Permit applications will be processed based upon the location and type of antennas defined in herein. Although said classifications are assigned at project intake, a re-evaluation of antenna classifications may occur at any point in the process including at the time of review by the Director, Zoning Administrator, Planning Commission or City Council.

A Facility not subject to any other discretionary approval may be administratively approved by the Director by issuing a Wireless Permit if it is:

a. Co-located on an existing approved Wireless Facility, does not exceed the existing Wireless Facility heights, and employs Stealth Techniques such that the co-located Wireless Facility is compatible with surrounding buildings and land uses; or

b. A modified Facility that complies with the base district height limit plus up to an additional 10 feet of height as permitted in Section 230.72 and compatible with surrounding buildings and land uses by incorporating stealth techniques; or

c. A Facility that complies with the base district height limit plus up to an additional 10 feet of height as permitted in Section 230.72, is Completely Stealth and is not ground or utility mounted.

The Director may require conditions of approval of the Facility in order to minimize adverse health, safety and welfare impacts to the community.

A decision of the Director to grant a Wireless Permit shall become final ten (10) days following the date of the decision unless an appeal to the Planning Commission is filed as provided in Chapter 248 of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO).

The Director shall issue findings of approval that the Facility meets the above criteria and is not a detriment to the health, safety and welfare of the community.

3. Zoning Administrator Approval. In the event the Director determines that the applicant does not meet the requirements for Director approval of a Wireless Permit, then the applicant shall apply for a Conditional Use Permit (CUP) to the Zoning

Administrator pursuant to Chapter 241 of the HBZSO. Notwithstanding any other provisions of the HBZSO, any new ground or utility mounted wireless facilities shall be required to obtain a CUP. CUP applications shall also include the same information required under subsection E.1.

The Zoning Administrator may require, as a condition of approval of the CUP that the applicant minimize significant adverse impacts to the community and public visual resources by incorporating one or more of the following into project design and construction:

- a. Completely Stealth installations;
- b. Stealth Techniques;
- c. Co-location and locating Facilities within existing building envelopes;
- d. Colorization or landscaping to minimize visual prominence; and/or
- e. Removal or replacement of Facilities that are obsolete.

Further conditions of approval of a facility CUP may be imposed as provided in Chapter 241 of the HBZSO. The Zoning Administrator's decision may be appealed to the Planning Commission in accordance with Chapter 248 of the HBZSO.

4. Design Review. Design review shall be required for any Wireless Communication Facilities pursuant to the HBZSO as well as those located on public right-of-way and on or within 300 feet of a residential district or use in the City.

Notwithstanding any other provisions of the HBZSO, design review is not required for Wireless Communication Facilities that may be approved by the Director pursuant to subsection E.2 (Director Approval) above and have all appurtenant facilities and equipment located underground or within an existing building or existing enclosure.

F. Applicant May Assert Federal Preemption At Time of Appeal To Planning Commission.

1. If the decision on the Wireless Permit or Conditional Use Permit is appealed (either by applicant or an aggrieved party) to the Planning Commission, the Applicant may assert that Federal Law preempts the City from denying the application because denial would effectively prohibit Wireless Service. The applicant shall pay a Denial of Effective Service appeal fee in an amount to be established by City Council Resolution, which amount shall be the estimated cost for the City to retain an independent, qualified consultant to evaluate any technical aspect of a proposed Wireless Communications Facility, including, but not limited to, issues involving whether a significant gap in coverage exists. A Denial of Effective Service appeal must be submitted prior to the expiration of the appeal period for a Wireless Permit or Conditional Use Permit.

2. The Director shall establish the form of the Denial of Effective Service appeal. At a minimum, the Applicant shall provide the following information as part of its appeal: In order to prevail in establishing a significant gap in coverage claim the applicant shall establish at minimum the following based upon substantial evidence:

- a. Evidence demonstrating the existence and nature of a significant gap in service in the vicinity of the proposed Facility, including but not limited to

whether the gap pertains to residential in-building, commercial in-building coverage, in-vehicle coverage, and/or outdoor coverage.

- b. Evidence demonstrating that the applicant has pursued other feasible sites for locating the Facility, but that they are unavailable on commercially practicable terms.
- c. Evidence demonstrating the radio frequency signal strength transmission requirements and objectives that the applicant has established for the Southern California region, and for the City of Huntington Beach.
- d. Radio frequency propagation maps demonstrating actual transmission levels in the vicinity of the proposed Facility site, and any alternative sites considered.
- e. Radio frequency drive tests demonstrating actual transmission levels in the vicinity of the proposed Facility site, and any alternative sites considered.
- f. Reports regarding the applicant's monthly volume of mobile telephone calls completed, not completed, dropped, handed-off, not handed-off, originated and not originated for the signal area to be covered by the proposed Facility.
- g. Any proprietary information disclosed to the city or the consultant is deemed not to be a public record, and shall remain confidential and not to be disclosed to any third party without the express consent of the applicant, unless otherwise required by law. In the event the applicant does not provide this information, the City may conclusively presume that no denial of effective service exists.

All of the information noted above shall be submitted to the City within 30 days of the filing of the Denial of Effective Service appeal unless an extension is granted by the Director.

3. The Denial of Effective Service appeal shall be considered concurrently with the Wireless Permit or CUP appeal hearing before the Planning Commission. Prior to the scheduling of the public hearing on the Wireless Permit or CUP appeal, the City Attorney shall be authorized to issue administrative subpoenas to compel production of such documents, testimony and other evidence relevant to the applicant's denial of effective service claims.

G. Wireless Communication Facility Standards. The following standards shall apply to all wireless communication facilities:

1. Screening. All screening used in conjunction with a wall or roof mounted Wireless Antenna shall be compatible with the architecture of the building or other structure to which it is mounted, including color, texture and materials. All ground or utility mounted facilities shall be designed to blend into the surrounding environment, or architecturally integrated into a building or other concealing structure.
2. Equipment/Accessory Structures. All equipment associated with the operation of the Wireless Antenna, including but not limited to transmission cables, shall be screened in a manner that complies with the development standards of the zoning district in which such equipment is located and Section 230.76. Screening materials and support structures housing equipment shall be architecturally compatible with

surrounding structures by duplicating materials and design in a manner as practical as possible. Chain link fencing and barbed wire are prohibited.

3. General Provisions. All Wireless Communication Facilities shall comply with the Huntington Beach Urban Design Guidelines.

4. Building Codes: To ensure the structural integrity of Wireless Communication Facilities, the owners of a Facility shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for facilities that are published by the Electronic Industries Association, as amended from time to time.

5. Co-Location: Co-location of ground mounted facilities shall be required where feasible whenever such a facility is proposed within 1,000 feet of any existing Wireless Antenna.

6. Federal and State Requirements: All Wireless Communication Facilities must meet or exceed current federal and state laws, standards and regulations of the FCC, and any other agency of the federal or state government with the authority to regulate Wireless Communication Facilities.

7. Interference: To eliminate interference, at all times, other than during the 24-hour cure period, the applicant shall comply with all FCC standards and regulations regarding interference and the assignment of the use of the radio frequency spectrum. The applicant shall not prevent the City of Huntington Beach or the countywide system from having adequate spectrum capacity on the City's 800 MHz voice and data radio frequency systems. The applicant shall cease operation of any Wireless Antenna causing interference with the City's facilities immediately upon the expiration of the 24-hour cure period until the cause of the interference is eliminated.

8. Lighting: All outside lighting shall be directed to prevent "spillage" onto adjacent properties, unless required by the FAA or other applicable authority, and shall be shown on the site plan and elevations.

9. Maintenance: All facilities and appurtenant equipment including landscaping shall be maintained to remain consistent with the original appearance of the Wireless Antenna. Ground mounted facilities shall be covered with anti-graffiti coating.

10. Monitoring: The applicant shall provide a copy of the lease agreement between the property owner and the applicant prior to the issuance of a building permit.

11. Signs: The Wireless Antenna shall not bear any signs or advertising devices other than owner identification, certification, warning, or other required seals of signage.

12. Landscaping: Landscape planting, irrigation and hardscape improvements may be imposed depending on the location, the projected vehicular traffic, the impact on existing facilities and landscape areas, and the visibility of the proposed Wireless Antenna. Submittal of complete landscape and architectural plans for review and approval by the Directors of Public Works and Planning and Building Departments may be required.

13. Utility Agreement: If the proposed facility will require electrical power or any other utility services to the site, the applicant will be required to furnish the City's Real Estate Services Manager either a drafted utility franchise agreement between the City

of Huntington Beach and the applicant to place those lines in the public right-of-way, or a written statement from the utility company that will be supplying the power or other services, that they accept all responsibility for those lines in the public right-of-way.

H. Facilities in the Public Right-of-Way. Any Wireless Communication Facility to be placed over, within, on or beneath the public right-of-way shall comply with all City Municipal Code requirements, including but not limited to Chapter 12.38 regarding Encroachments and Chapter 17.64 regarding Undergrounding of Utilities.

I. Facility Removal. Wireless communication facilities affecting the public view and/or located in areas designated Water Recreation, Conservation, Parks and Shoreline, and Public Right of Ways shall be removed in its entirety within six (6) months of termination of use and the site restored to its natural state.

J. Cessation of Operation.

1. Abandonment. Within thirty (30) calendar days of cessation of operations of any Wireless Communication Facility approved under this Section, the operator shall notify the Director in writing. The Wireless Antenna shall be deemed abandoned pursuant to the following sections unless:

- a. The City has determined that the operator has resumed operation of the Wireless Communication Facility within six (6) months of the notice; or
- b. The City has received written notification of a transfer of the Wireless Communication Facility.

2. City Initiated Abandonment: A Wireless Antenna that is inoperative or unused for a period of six (6) continuous months shall be deemed abandoned. Written notice of the City's determination of abandonment shall be provided to the operator of the Wireless Antenna and the owner(s) of the premises upon which the antenna is located. Such notice may be delivered in person, or mailed to the address(es) stated on the permit application, and shall be deemed abandoned at the time delivered or placed in the mail.

3. Removal of Abandoned Wireless Antenna: The operator of the Wireless Antenna and the owner(s) of the property on which it is located, shall within thirty (30) calendar days after notice of abandonment is given either (1) remove the Wireless Antenna in its entirety and restore the premises, or (2) provide the Director with written objection to the City's determination of abandonment.

a. Any such objection shall include evidence that the Wireless Antenna was in use during the relevant six- (6) month period and that it is presently operational. The Director shall review all evidence, determine whether or not the Facility was properly deemed abandoned, and provide the operator notice of its determination.

b. At any time after thirty-one (31) calendar days following the notice of abandonment, or immediately following a notice of determination by the Director, if applicable, the City may remove the abandoned Wireless Antenna and/or repair any and all damage to the premises as necessary to be in compliance with applicable codes. The City may, but shall not be required to, store the removed

Antenna (or any part thereof). The owner of the premises upon which the abandoned Antenna was located, and all prior operators of the Antenna, shall be jointly liable for the entire cost of such removal, repair, restoration and/or storage, and shall remit payment to the City promptly after demand thereof is made. The City may, in lieu of storing the removed Wireless Antenna, convert it to the City's use, sell it, or dispose of it in any manner deemed appropriate by the City.

SECTION 2. All other provisions of Section 230.96 not amended hereby remain in full force and effect.

SECTION 3. This ordinance shall become effective 30 days after its adoption.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the _____ day of _____, 2015

Mayor

ATTEST:

APPROVED AS TO FORM:

City Clerk

City Attorney MV - 7-1-15

REVIEWED AND APPROVED:

INITIATED AND APPROVED:

City Manager



Director of Planning and Building

**Legislative Draft
Changes to HBZSO Section 230.96**

230.96 Wireless Communication Facilities

A. **Purpose.** This Section of the Zoning Code is to protect public safety, general welfare, and quality of life by regulating the location, height and physical characteristics and provide for orderly and efficient placement of Wireless Communications Facilities in the City of Huntington Beach.

Because of the potential negative aesthetic impacts of Wireless Communications Facilities, including visual blight and diminution of property value, the City endeavors to locate antennas within commercial, industrial and other non-residential zones, screen them from view, and encourage co-location with other Wireless Communication Facilities. However, the Federal Telecommunications Act, specifically 47 U.S.C. Section 332(c)(7), preempts local zoning where a Wireless Facility is necessary to remedy a significant gap in the Wireless Provider's service. Consequently, where the City determines that the Facility does not satisfy City planning and zoning standards, the Wireless Provider may then choose to establish Federal preemption because (i) a significant gap in wireless coverage exists, and (ii) there is a lack of feasible alternative site locations. A myriad of factors are involved in determining if a gap is significant, such as: whether the gap affects a commuter highway; the nature and character of the area and the number of potential users affected by the alleged lack of service; whether the signal is weak or nonexistent, and whether the gap affects a commercial district. Consequently, the City will require scientific evidence from an expert in the field demonstrating the existence of a significant gap in service, and a lack of feasible alternative sites. The applicant will be required to pay for the cost of said expert opinion.

B. **Definitions.** For the purpose of this Section, the following definitions for the following terms shall apply:

1. Accessory Structure. Any structure or equipment that is to be located ancillary to an antenna or antennas in the establishment and operation of a Wireless Communication Facility.

2. City Property. Property owned by the City of Huntington Beach, excluding any Public Right-of-Way.

23. Co-Location or Co-Located. The location or placement of multiple Wireless Communication Facilities which are either owned or operated by more than one service provider at a single location and mounted to a common supporting structure, wall or building.

34. Completely Stealth. Any Wireless Communication Facility that has been designed to completely screen all aspects of the facility including appurtenances and equipment from public view. Examples of completely stealth facilities may include, but are not limited to, architecturally screened roof mounted antennas, façade mounted antennas treated as architectural elements to blend in with the existing building, church steeples, fire towers, and flag poles and light standards of a typical diameter.

5. Data Collection Unit ("DCUs"). A Wireless Communication Facility comprised of a collection unit, a solar panel and whip antennas used for receiving and/or transmitting wireless signals from distributed gas and water data collector meters, which is a stand-alone facility not connected via fiber optic or other physical wiring to any other facility. No Wireless Communication Facility operated by an electric corporation, a telephone corporation, a personal wireless service provider, a commercial mobile service provider or a mobile telephone service provider shall be considered a DCU.

Size: Solar panels not larger than 7 square feet, whip antennas not longer than 40 inches, and collection units not larger than 1.5 cubic feet. DCUs shall be designed to blend into the surrounding environment and minimize the visual appearance by matching the color of the poles or buildings where the DCU is located.

Legislative Draft
Changes to HBZSO Section 230.96

~~46.~~ Ground Mounted Facility. Any wireless antenna that is affixed to a pole, tower or other freestanding structure that is specifically constructed for the purpose of supporting an antenna.

~~57.~~ Microwave Communication. The transmission or reception of radio communication at frequencies of a microwave signal (generally, in the 3 GHz to 300 GHz frequency spectrum).

~~68.~~ Modified Facility. An existing Wireless Communication Facility where the antennas and/or supporting structure are proposed to be altered in any way from their existing condition, including like-for-like replacement but excluding co-location.

~~79.~~ Pre-existing Wireless Facility. Any Wireless Communication Facility for which a building permit or conditional use permit has been properly issued prior to the effective date of this ordinance, including permitted wireless antennas that have not yet been constructed so long as such approval is current and not expired.

~~810.~~ Public Right-of-Way. The area across, along, beneath, in, on, over, under, upon, and within the dedicated public alleys, boulevards, courts, lanes, places, roads, sidewalks, streets, ways, private streets with public access easements within the City's boundaries, and City owned properties, as they now exist or hereafter will exist.

~~911.~~ Roof Mounted. Any wireless antenna directly attached or affixed to the roof of an existing building, water tank, tower or structure other than a telecommunications tower.

~~1012.~~ Stealth Techniques. Any Wireless Communication Facility, including any appurtenances and equipment, which is designed to blend into the surrounding environment. Examples of Stealth Technique include, but are not limited to, monopoles/monopines.

~~1113.~~ Utility Mounted. Any wireless antenna mounted to an existing above-ground structure specifically designed and originally installed to support utilities such as but not limited to electrical power lines, cable television lines, telephone lines, non-commercial wireless service antennas, radio antennas, street lighting but not traffic signals, recreational Facility lighting, or any other utility which meets the purpose and intent of this definition.

~~1214.~~ Wall Mounted. Any wireless antenna mounted on any vertical or nearly vertical surface of a building or other existing structure that is not specifically constructed for the purpose of supporting an antenna (including the exterior walls of a building, an existing parapet, the side of a water tank, the face of a church steeple, or the side of a freestanding sign) such that the highest point of the antenna structure is at an elevation equal to or lower than the highest point of the surface on which it is mounted.

~~1315.~~ Wireless Communication Facility or Facility or Wireless Antenna. An antenna structure and any appurtenant facilities or equipment that transmits electronic waves or is used for the transmission or receipt of signals that are used in connection with the provision of wireless communication service, including, but not limited to digital, cellular and radio service.

C. Applicability. This Ordinance shall apply to all Wireless Communication Facilities which are erected, located, placed or modified within the City of Huntington Beach.

D. Exceptions. The following Wireless Communication Facilities shall be exempt from this Ordinance.

1. Any Facility, which is subject to a previously approved and valid entitlement, may be modified within the scope of the applicable permit without complying with these regulations. However,

Legislative Draft
Changes to HBZSO Section 230.96

modifications outside the scope of the valid entitlement or any modification to an existing facility that does not have a previously approved and valid entitlement is subject to the requirements of this ordinance.

2. Any antenna structure that is one meter (39.37 inches) or less in diameter that 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.
3. 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.
4. 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.
5. Any antenna structure used by authorized amateur radio stations licensed by the FCC.
6. Any Data Collection Unit (DCU) on existing poles, or on any new poles within the Public Right-of-Way or on City Property. DCUs shall comply with setback and height requirements for the zone in which they are located. In addition, all DCUs must comply with all City Municipal Code requirements, including but not limited to Chapter 12.38 regarding Encroachments and Chapter 17.64 regarding Undergrounding of Utilities. DCUs shall be at least 500 feet from another DCU within the same network.

E. Process to Install and Operate Wireless Communication Facilities.

No Facility shall be installed anywhere in the City without first securing either a Wireless Permit or a Conditional Use Permit as required below.

1. Wireless Permit Application. The applicant shall apply to the Planning and Building Department for a Wireless Permit by submitting a completed Wireless Permit Application (“Application”) and paying all required fees. The Application shall be in the form approved by the Director, and at a minimum shall provide the following information:
 - a. Precise location of the Facility.
 - b. Evidence that the Facility is compatible with the surrounding environment or that the facility is architecturally integrated into a structure.
 - c. Evidence that the facility is screened or camouflaged by existing or proposed topography, vegetation, buildings or other structures as measured from beyond the boundaries of the site at eye level (six feet).
 - d. Evidence that the massing and location of the proposed facility are consistent with surrounding structures and zoning districts.
 - e. Evidence that no portion of the Facility will encroach over property lines.
 - f. Property owner authorization or evidence of fee ownership of property where the Facility will be installed. In the case of City-owned property or any public right-of-way, the applicant shall provide a license, lease, franchise, or other similar agreement from the City to place any Facility over, within, on, or beneath City property or right-of-way.

Legislative Draft
Changes to HBZSO Section 230.96

- g. Locations of all other Wireless Antennas within 1,000 feet of a proposed ground mounted facility. Co-location of ground mounted facilities shall be required where feasible whenever such a facility is proposed within 1,000 feet of any existing Wireless Antenna.
- h. Any other relevant information as required by the Director of Planning and Building.

The Planning and Building Department will initially review and determine if the Application is complete. The City may deem the Application incomplete and require re-submittal if any of the above information is not provided.

2. Director Approval. Following submittal of a complete Application, the City will determine whether the Facility may be approved by the Director or whether a Conditional Use Permit or other entitlement is required. Wireless Permit applications will be processed based upon the location and type of antennas defined in herein. Although said classifications are assigned at project intake, a re-evaluation of antenna classifications may occur at any point in the process including at the time of review by the Director, Zoning Administrator, Planning Commission or City Council.

A Facility not subject to any other discretionary approval may be administratively approved by the Director by issuing a Wireless Permit if it is:

- a. Co-located on an existing approved Wireless Facility, does not exceed the existing Wireless Facility heights, and employs Stealth Techniques such that the co-located Wireless Facility is compatible with surrounding buildings and land uses; or
- b. A modified Facility that complies with the base district height limit plus up to an additional 10 feet of height as permitted in Section 230.72 and compatible with surrounding buildings and land uses by incorporating stealth techniques; or
- c. A Facility that complies with the base district height limit plus up to an additional 10 feet of height as permitted in Section 230.72, is Completely Stealth and is not ground or utility mounted.

The Director may require conditions of approval of the Facility in order to minimize adverse health, safety and welfare impacts to the community.

A decision of the Director to grant a Wireless Permit shall become final ten (10) days following the date of the decision unless an appeal to the Planning Commission is filed as provided in Chapter 248 of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO).

The Director shall issue findings of approval that the Facility meets the above criteria and is not a detriment to the health, safety and welfare of the community.

3. Zoning Administrator Approval. In the event the Director determines that the applicant does not meet the requirements for Director approval of a Wireless Permit, then the applicant shall apply for a Conditional Use Permit (CUP) to the Zoning Administrator pursuant to Chapter 241 of the HBZSO. Notwithstanding any other provisions of the HBZSO, any new ground or utility mounted wireless facilities shall be required to obtain a CUP. CUP applications shall also include the same information required under subsection E.1.

The Zoning Administrator may require, as a condition of approval of the CUP that the applicant minimize significant adverse impacts to the community and public visual resources by incorporating one or more of the following into project design and construction:

**Legislative Draft
Changes to HBZSO Section 230.96**

- a. Completely Stealth installations;
- b. Stealth Techniques;
- c. Co-location and locating Facilities within existing building envelopes;
- d. Colorization or landscaping to minimize visual prominence; and/or
- e. Removal or replacement of Facilities that are obsolete.

Further conditions of approval of a facility CUP may be imposed as provided in Chapter 241 of the HBZSO. The Zoning Administrator's decision may be appealed to the Planning Commission in accordance with Chapter 248 of the HBZSO.

4. Design Review. Design review shall be required for any Wireless Communication Facilities pursuant to the HBZSO as well as those located on public right-of-way and on or within 300 feet of a residential district or use in the City.

Notwithstanding any other provisions of the HBZSO, design review is not required for Wireless Communication Facilities that may be approved by the Director pursuant to subsection E.2 (Director Approval) above and have all appurtenant facilities and equipment located underground or within an existing building or existing enclosure.

F. Applicant May Assert Federal Preemption At Time of Appeal To Planning Commission.

1. If the decision on the Wireless Permit or Conditional Use Permit is appealed (either by applicant or an aggrieved party) to the Planning Commission, the Applicant may assert that Federal Law preempts the City from denying the application because denial would effectively prohibit Wireless Service. The applicant shall pay a Denial of Effective Service appeal fee in an amount to be established by City Council Resolution, which amount shall be the estimated cost for the City to retain an independent, qualified consultant to evaluate any technical aspect of a proposed Wireless Communications Facility, including, but not limited to, issues involving whether a significant gap in coverage exists. A Denial of Effective Service appeal must be submitted prior to the expiration of the appeal period for a Wireless Permit or Conditional Use Permit.

2. The Director shall establish the form of the Denial of Effective Service appeal. At a minimum, the Applicant shall provide the following information as part of its appeal:

In order to prevail in establishing a significant gap in coverage claim the applicant shall establish at minimum the following based upon substantial evidence:

- a. Evidence demonstrating the existence and nature of a significant gap in service in the vicinity of the proposed Facility, including but not limited to whether the gap pertains to residential in-building, commercial in-building coverage, in-vehicle coverage, and/or outdoor coverage.
- b. Evidence demonstrating that the applicant has pursued other feasible sites for locating the Facility, but that they are unavailable on commercially practicable terms.
- c. Evidence demonstrating the radio frequency signal strength transmission requirements and objectives that the applicant has established for the Southern California region, and for the City of Huntington Beach.

Legislative Draft
Changes to HBZSO Section 230.96

- d. Radio frequency propagation maps demonstrating actual transmission levels in the vicinity of the proposed Facility site, and any alternative sites considered.
- e. Radio frequency drive tests demonstrating actual transmission levels in the vicinity of the proposed Facility site, and any alternative sites considered.
- f. Reports regarding the applicant's monthly volume of mobile telephone calls completed, not completed, dropped, handed-off, not handed-off, originated and not originated for the signal area to be covered by the proposed Facility.
- g. Any proprietary information disclosed to the city or the consultant is deemed not to be a public record, and shall remain confidential and not to be disclosed to any third party without the express consent of the applicant, unless otherwise required by law. In the event the applicant does not provide this information, the City may conclusively presume that no denial of effective service exists.

All of the information noted above shall be submitted to the City within 30 days of the filing of the Denial of Effective Service appeal unless an extension is granted by the Director.

3. The Denial of Effective Service appeal shall be considered concurrently with the Wireless Permit or CUP appeal hearing before the Planning Commission. Prior to the scheduling of the public hearing on the Wireless Permit or CUP appeal, the City Attorney shall be authorized to issue administrative subpoenas to compel production of such documents, testimony and other evidence relevant to the applicant's denial of effective service claims.

G. Wireless Communication Facility Standards. The following standards shall apply to all wireless communication facilities:

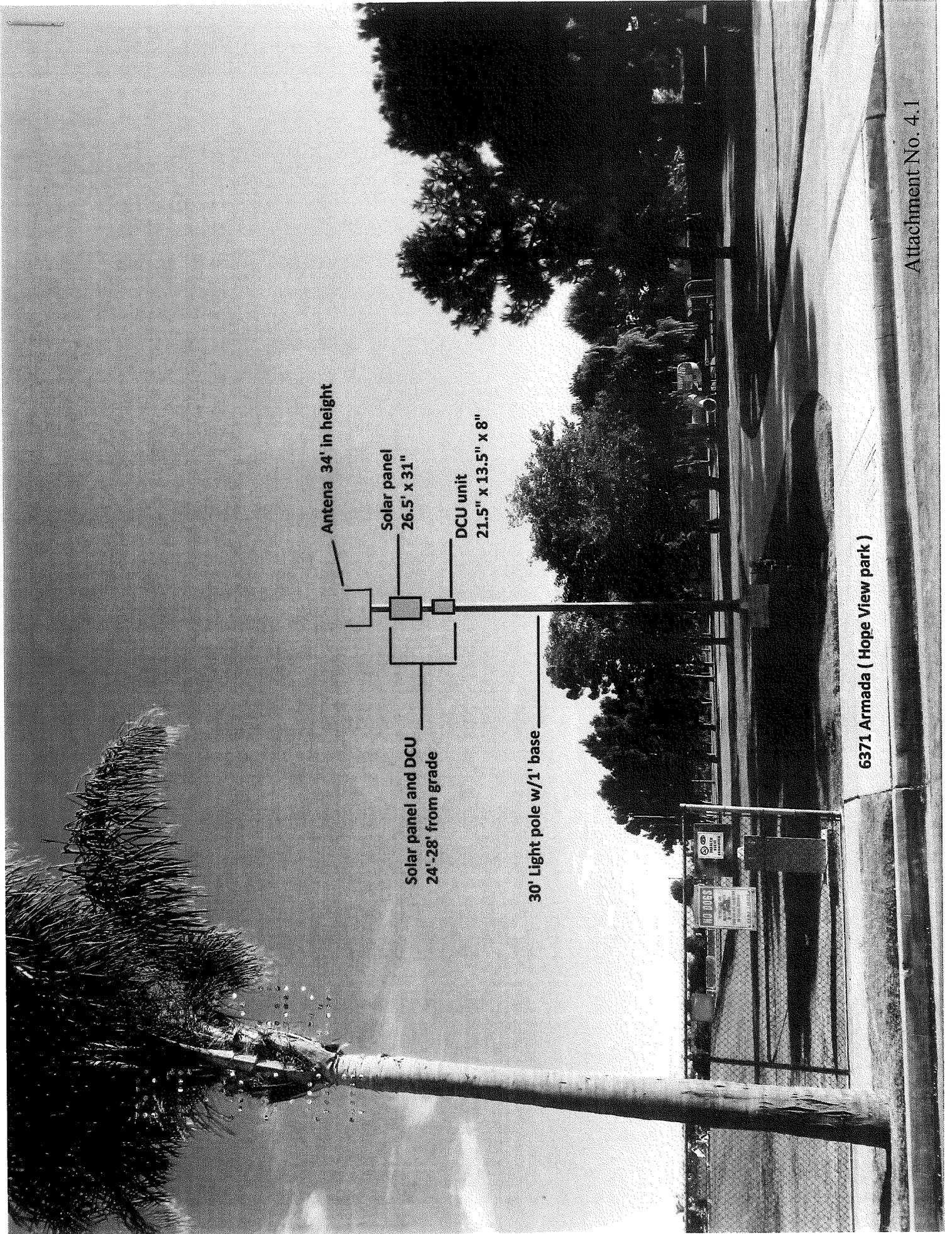
- 1. Screening. All screening used in conjunction with a wall or roof mounted Wireless Antenna shall be compatible with the architecture of the building or other structure to which it is mounted, including color, texture and materials. All ground or utility mounted facilities shall be designed to blend into the surrounding environment, or architecturally integrated into a building or other concealing structure.
- 2. Equipment/Accessory Structures. All equipment associated with the operation of the Wireless Antenna, including but not limited to transmission cables, shall be screened in a manner that complies with the development standards of the zoning district in which such equipment is located and Section 230.76. Screening materials and support structures housing equipment shall be architecturally compatible with surrounding structures by duplicating materials and design in a manner as practical as possible. Chain link fencing and barbed wire are prohibited.
- 3. General Provisions. All Wireless Communication Facilities shall comply with the Huntington Beach Urban Design Guidelines.
- 4. Building Codes: To ensure the structural integrity of Wireless Communication Facilities, the owners of a Facility shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for facilities that are published by the Electronic Industries Association, as amended from time to time.
- 5. Co-Location: Co-location of ground mounted facilities shall be required where feasible whenever such a facility is proposed within 1,000 feet of any existing Wireless Antenna.

Legislative Draft
Changes to HBZSO Section 230.96

6. Federal and State Requirements: All Wireless Communication Facilities must meet or exceed current federal and state laws, standards and regulations of the FCC, and any other agency of the federal or state government with the authority to regulate Wireless Communication Facilities.
 7. Interference: To eliminate interference, at all times, other than during the 24-hour cure period, the applicant shall comply with all FCC standards and regulations regarding interference and the assignment of the use of the radio frequency spectrum. The applicant shall not prevent the City of Huntington Beach or the countywide system from having adequate spectrum capacity on the City's 800 MHz voice and data radio frequency systems. The applicant shall cease operation of any Wireless Antenna causing interference with the City's facilities immediately upon the expiration of the 24-hour cure period until the cause of the interference is eliminated.
 8. Lighting: All outside lighting shall be directed to prevent "spillage" onto adjacent properties, unless required by the FAA or other applicable authority, and shall be shown on the site plan and elevations.
 9. Maintenance: All facilities and appurtenant equipment including landscaping shall be maintained to remain consistent with the original appearance of the Wireless Antenna. Ground mounted facilities shall be covered with anti-graffiti coating.
 10. Monitoring: The applicant shall provide a copy of the lease agreement between the property owner and the applicant prior to the issuance of a building permit.
 11. Signs: The Wireless Antenna shall not bear any signs or advertising devices other than owner identification, certification, warning, or other required seals of signage.
 12. Landscaping: Landscape planting, irrigation and hardscape improvements may be imposed depending on the location, the projected vehicular traffic, the impact on existing facilities and landscape areas, and the visibility of the proposed Wireless Antenna. Submittal of complete landscape and architectural plans for review and approval by the Directors of Public Works and Planning and Building Departments may be required.
 13. Utility Agreement: If the proposed facility will require electrical power or any other utility services to the site, the applicant will be required to furnish the City's Real Estate Services Manager either a drafted utility franchise agreement between the City of Huntington Beach and the applicant to place those lines in the public right-of-way, or a written statement from the utility company that will be supplying the power or other services, that they accept all responsibility for those lines in the public right-of-way.
- H. Facilities in the Public Right-of-Way. Any Wireless Communication Facility to be placed over, within, on or beneath the public right-of-way shall comply with ~~the Undergrounding Ordinance (Chapter 17.64 of HBMC)~~ all City Municipal Code requirements, including but not limited to Chapter 12.38 regarding Encroachments and Chapter 17.64 regarding Undergrounding of Utilities.
- I. Facility Removal. Wireless communication facilities affecting the public view and/or located in areas designated Water Recreation, Conservation, Parks and Shoreline, and Public Right of Ways shall be removed in its entirety within six (6) months of termination of use and the site restored to its natural state.
- J. Cessation of Operation.

Legislative Draft
Changes to HBZSO Section 230.96

1. Abandonment. Within thirty (30) calendar days of cessation of operations of any Wireless Communication Facility approved under this Section, the operator shall notify the Director in writing. The Wireless Antenna shall be deemed abandoned pursuant to the following sections unless:
 - a. The City has determined that the operator has resumed operation of the Wireless Communication Facility within six (6) months of the notice; or
 - b. The City has received written notification of a transfer of the Wireless Communication Facility.
2. City Initiated Abandonment: A Wireless Antenna that is inoperative or unused for a period of six (6) continuous months shall be deemed abandoned. Written notice of the City's determination of abandonment shall be provided to the operator of the Wireless Antenna and the owner(s) of the premises upon which the antenna is located. Such notice may be delivered in person, or mailed to the address(es) stated on the permit application, and shall be deemed abandoned at the time delivered or placed in the mail.
3. Removal of Abandoned Wireless Antenna: The operator of the Wireless Antenna and the owner(s) of the property on which it is located, shall within thirty (30) calendar days after notice of abandonment is given either (1) remove the Wireless Antenna in its entirety and restore the premises, or (2) provide the Director with written objection to the City's determination of abandonment.
 - a. Any such objection shall include evidence that the Wireless Antenna was in use during the relevant six- (6) month period and that it is presently operational. The Director shall review all evidence, determine whether or not the Facility was properly deemed abandoned, and provide the operator notice of its determination.
 - b. At any time after thirty-one (31) calendar days following the notice of abandonment, or immediately following a notice of determination by the Director, if applicable, the City may remove the abandoned Wireless Antenna and/or repair any and all damage to the premises as necessary to be in compliance with applicable codes. The City may, but shall not be required to, store the removed Antenna (or any part thereof). The owner of the premises upon which the abandoned Antenna was located, and all prior operators of the Antenna, shall be jointly liable for the entire cost of such removal, repair, restoration and/or storage, and shall remit payment to the City promptly after demand thereof is made. The City may, in lieu of storing the removed Wireless Antenna, convert it to the City's use, sell it, or dispose of it in any manner deemed appropriate by the City. (3568-9/02, 3779-10/07, 3934-4/12)



Antenna 34' in height

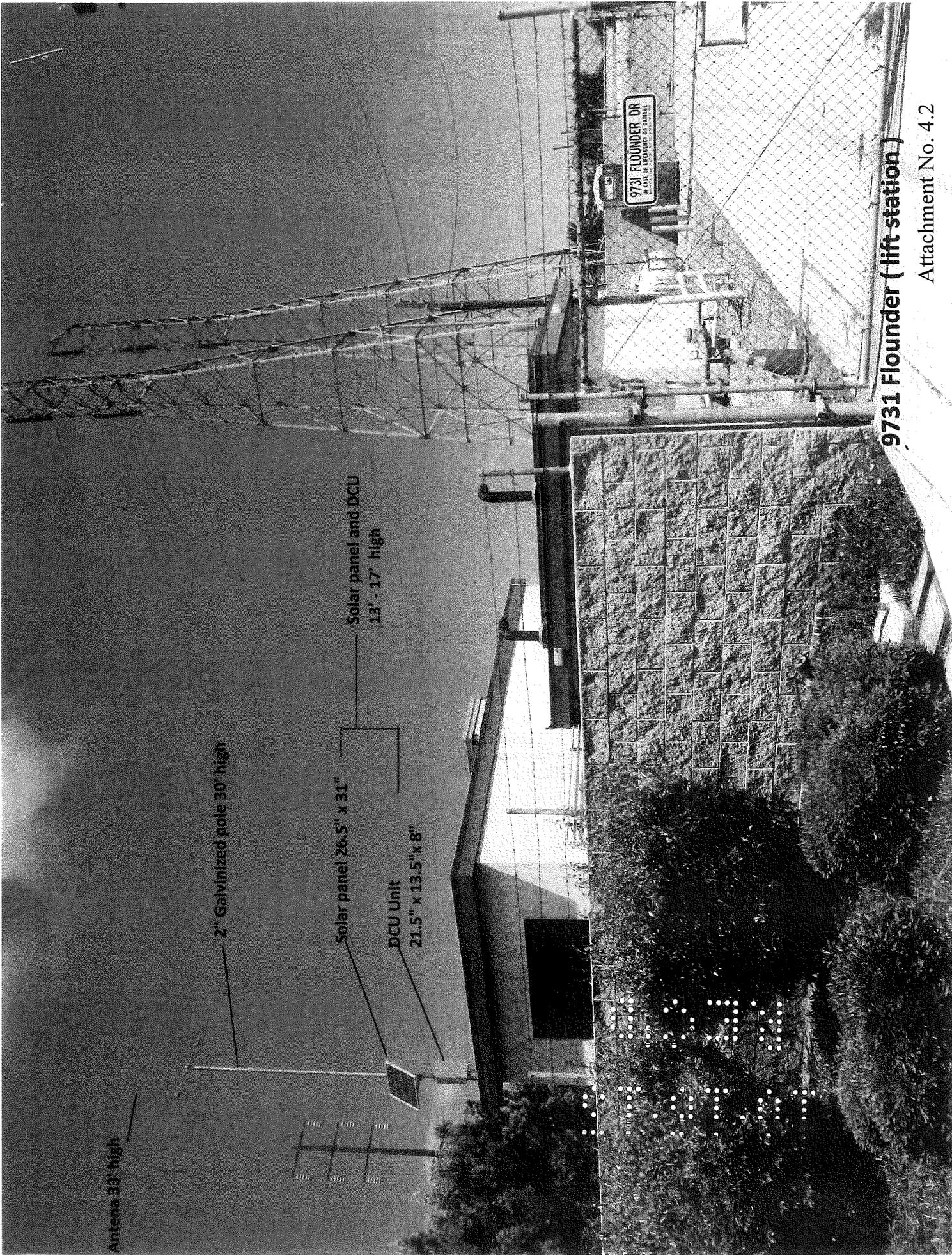
Solar panel
26.5' x 31"

DCU unit
21.5' x 13.5" x 8"

Solar panel and DCU
24'-28' from grade

30' Light pole w/1' base

6371 Armada (Hope View park)



Antenna 33' high

2" Galvanized pole 30' high

Solar panel 26.5" x 31"

Solar panel and DCU
13' - 17' high

DCU Unit
21.5" x 13.5" x 8"

9731 Flounder (lift station)

Attachment No. 4.2

Fullerton site LH103

Between 2601 & 2606 Tiffany Pl.
End of cul de sac SE side.
223' S. of S. curb face of Fairford Dr.
2' SE of SE curb face of Tiffany Pl.
Fullerton, CA 92833
Lat. 33.89378611
Lon. -117.97040555

