

Members of the planning commission,

I apologize for the length of this letter, but it is a very important and complex topic. I urge you to quickly scan it now, and then digest the code violations when you have more time prior to the 5/18 PC meeting. As you may know, I have become very aware and educated on the issue of small cell wireless facilities, as I am appealing the approval of the first application last month for the facility at Terra Nova High School. I very much respect your decision given the information you were presented, and the short amount of time that you each have to review such applications. I hope that I am in no way disrespecting the planning department in my appeal, on the contrary I want to help optimize your ability to educate yourself on the issue with the short amount of valuable time you have.

Here I will provide to you the problems, most importantly code violations, that I have found in the previous application (UP-96-18) that I believe will be present in part or wholly in the upcoming application at Redwood Way and Lerida Way (UP-102-18). Of course since the agenda packet has not yet been released, I cannot cite the new application directly, but as soon as it is released I will update you with any relevant modifications to the below information that I find.

I want to make it clear that none of my appeal/opposition is based on any environmental or health concerns due to RF emissions, other than those related to the Americans with Disabilities Act and Fair Housing Act. My claims do not materially or otherwise prohibit the provision of personal wireless services¹, and in fact we should ask the carrier to better remedy provision of personal wireless telecommunications² services to the area. Wireless telecommunication services which is definitively consistent of cellular voice and txt coverage, is an essential service for safety and security of our residential neighborhoods and city as a whole, and these services are more strictly regulated by the FCC under Title I. Mobile data, and high speed mobile broadband, on the other hand fall under the definition of information service³, which the FCC cannot regulate as stringently under Title II regulation. These are not essential to our residential communities.

¹ [47 USC § 332\(c\)\(7\)\(C\)\(i\)](#) states the term "personal wireless services" means [commercial mobile services](#), [unlicensed wireless services](#), and [common carrier wireless exchange access services](#).

[47 USC § 153\(33\)](#) further defines "the term "mobile service" means a radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes (A) both one-way and two-way radio communication services, (B) a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation, and (C) any service for which a license is required in a personal communications service established pursuant to the proceeding entitled "Amendment to the Commission's Rules to Establish New Personal Communications Services" (GEN Docket No. 90-314; ET Docket No. 92-100), or any successor proceeding.

² [47 USC § 153\(50\)](#) states the term "telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

³ [47 USC § 153\(24\)](#) The term "information service" means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

The wireless carriers have already effectively removed our community's access to the wired telecommunications utility (telephone), the seriousness of this was clearly felt by many during the extended power outages last summer. Rather than letting our information services follow the same fate, a safer, quieter, less visually disturbing, and more ecologically responsible way to improve and expand information services for any residential neighborhood is to first invest in improving the wired utility infrastructure; in this case a fiber optic to the home network, that cellular carriers can then use (and even rent access rights from the city) to be used to intentionally and optimally improve personal wireless services. For small cells to work at full capacity they must have a fiber network connecting them, the current implementation of cellular before wired is backwards, inefficient and dangerous.

More importantly for you right now, the proposed wireless facilities are in violation of (7) articles of the existing City of Pacifica Municipal code, and (2) more significant concerns. We challenge that there are much better options for the carrier to improve essential cellular services over a larger coverage area, while also minimizing visual disturbances and aesthetic impact, including but not limited to placing simple cellular repeaters in forested easements away from residences. Even if this requires new construction it will be a far less intrusive remedy in almost every regard. The clear aesthetic impact to our school, and neighborhoods, as well as the increasingly negative public perception of cellular facilities in residential neighborhoods is a significant risk to property devalue in all the surrounding neighborhoods, and entire school district, based on published data and certified statements by local real estate professionals. A quick note on aesthetics, you cannot hide a cigarette smoker, for example with e-cigs or vapes, people who see someone smoking anything will likely still find it disgusting. The same goes for a cell tower, no matter what it is shrouded in or how it is painted, when people know it is a cellular installation and not a conduit box, it will always be extremely aesthetically displeasing.

Violations to the existing Pacifica Municipal Code

- 1) Pacifica Municipal Code [Section 9-4.2614](#) (Use Permits) requires:
 - (a) *Supplemental application materials*. In addition to all standard information required as part of the use permit and/or variance application, the following material shall also be submitted:
 - (1) A study produced by the applicant indicating that the selected site is required in order to provide adequate signal coverage, including a map showing the desired search ring and relationship to other facilities;

There was no study provided by the applicant that indicating the selected site is required in order to provide adequate signal coverage, which would require explicit signal data measurements. No maps were shown with search rings or relationships to other

facilities. As mentioned above simple cellular repeater technology would provide a better solution to improve signal coverage over a larger coverage area.

- 2) City of Pacifica Municipal Code [Section 9-4.2614](#) - (Use permits), also requires:

(b) *Use permit—findings.* In addition to the standard findings as enumerated in [Section 9-4.3303](#) of the Pacifica Municipal Code, the Commission may deny, approve or conditionally approve a use permit for wireless communications facilities as defined in this article upon making all of the following supplementary findings:

- (2) That the information submitted proves that a feasible alternate site that would result in fewer visual impacts does not provide reasonable signal coverage;

There was insufficient proof that NO alternate site with fewer visual impacts provides reasonable signal coverage. The proposed wireless facilities only service a 1000ft area, there are better options for our community like simple low energy cellular repeaters that could be placed in nearby forested easements and be more suited to provide improved personal wireless telecommunications coverage over larger service areas, and reach the very backs of our valley. There was also no evidence of need for densification of the cellular network submitted, and even if so, with our low population density, densification remedies can, and should, be performed at the macro towers.

- 3) City of Pacifica Municipal Code [Section 9-4.2608](#) (Site Development Standards) requires:

(b) *Design-related standards.*

- (1) All wireless communication facilities shall, to the maximum extent practicable, incorporate best practices to achieve concealment and stealth of antennas, equipment, and support structures. Further, all wireless communications facilities shall be screened to the fullest extent possible and located to minimize visibility from surrounding areas and private or public rights-of-way. In addition to the requirements of this subsection, wireless communications facilities within a private or public right-of-way shall conform to the standards of subsection (e).

There was no attempt to achieve concealment and stealth of the antenna, or to locate in an area to minimize visibility from surrounding areas and public rights-of-way. Placing a painted shroud does not conceal or provide stealth to the antenna, especially when compared to concealing it in forested areas and easements surrounding this area.

- 4) Pacifica Municipal Code [Section 9-4.2503](#) (Television and radio antennas, masts, and towers) requires:

The purpose of this section is to provide standards to regulate the placement and height of aerials, as defined in [Section 9-4.203](#)⁴ of Article 2 of this chapter. Such regulation is necessary to protect the public health and safety, and to ensure that placement of aerials is not detrimental to the aesthetics of the neighborhood. The following standards shall apply:

(c) The section of masts and towers more than thirty (30') feet above the ground shall have a cross-section which can be fitted within a square with a side of twelve (12") inches.

The proposed pole top installation which will be on a mast more than 30' above the ground (48'2") has an external diameter of 1'2⁵/₈" (4-20-20 planning commission public agenda 1294-packet page 71, box 11) which will not fit into a square with a side of 12".

5) City of Pacifica Municipal Code [Section 9-4.2503](#) (Television and radio antennas, masts, and towers) also requires:

(h) Any aerial based on the ground and extending to a height of more than thirty-four (34') feet, and any aerial based on a building and extending to a height of more than twenty-four (24') feet above its base, shall require a building permit. Any aerial based on the ground and extending to a height of less than thirty-four (34') feet, and any aerial based on a building and extending to a height of less than twenty-four (24') feet above its base, shall not require a building permit provided the following shall be found to be true:

(2) The tower, mast, and attached antenna shall be no closer than six (6') feet to a high-voltage overhead conductor, as provided in Section 385 of the Penal Code of the State;

For this "aerial based on the ground and extending to a height above 34'", the proposed mast (bayonet extension, 4-20-20 planning commission public agenda 1294-packet page 69 box1) will be closer than 6' to a high voltage overhead conductor. This is a clear fire hazard due to probability of arc flash.

6) City of Pacifica Municipal Code [Section 9-4.2602](#) (Purpose) states:

The purpose of this article is to provide locational, design and screening criteria to minimize the potential health, safety and aesthetic impacts of wireless communications facilities. The criteria establish standards and permit requirements to facilitate the installation of wireless

⁴ Sec. 9-4.203. States an "Aerial" shall mean a radio or television transmitting or receiving device consisting of one, or any combination, of the following elements: (a) A tower (a vertical framework which supports either an antenna or a mast); (b) A mast (a vertical element consisting of a tube or rod which supports an antenna); (c) An antenna (a horizontal or vertical element or array attached to a mast or to a tower); (d) Guy wires necessary to insure safety and stability; and (e) A dish (a broadcast device which receives microwave signals from a satellite). (§ 19.023, Ord. 363, as added by § 3, Ord. 463, as amended by § II, Ord. 440-85, eff. March 13, 1985)

communications systems while remaining consistent with the scenic character of the City. This article seeks to minimize any adverse visual impact created by wireless communications facilities while providing adequate service to the citizens of the City and to accommodate the need for a connection of such services to wireless facilities in adjacent and surrounding communities

The proposed pole top extension will increase the height of the existing utility pole from 38'2" to 45'5" which is a 19% increase in height of this pole, and in comparison to the surrounding utility poles of the entire city. It will also result in a significant change to the shape of the pole from, a simple T to a cross which will not be consistent with surrounding poles. This design also does not minimize potential safety impacts, as adding weight and length to a pole significantly increases the angular moment of inertia at the base, increasing the fall risk. As noted in #5 above, there is also increased safety impact of fire risk from high voltage arc flash.

7) City of Pacifica Municipal Code [Section 9-4.3303](#) (Granting: Findings: Conditions) requires:

(a) The Commission shall grant a use permit only upon making all of the following findings:

(1) That the establishment, maintenance, or operation of the use or building applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, and welfare of the persons residing or working in the neighborhood or to the general welfare of the City;

The approval of this use permit on this utility pole, which is already demonstrating a significant degree of lean, as well as the proximity of the metal mast and connected antenna to high voltage conductors exhibits clear detriment to the people residing and working in the neighborhood in the event of pole failure or electrical ignition and pole fire. Furthermore, this installation as proposed would bring violations of the Americans with Disability Act and Fair Housing Act. Electromagnetic Hypersensitivity (EMS) has been recognized by the ADA since 2002, and precedent in our state has been already addressed with regard to SMART-meters and the requirement to allow opt-outs by any resident even though these devices are in FCC compliance. It was estimated in 2019 that 5-30% of the population have mild EMS symptoms and 1.5-5% have moderate EMS symptoms⁵. Furthermore, since EMS has only relatively recently (2012) been recognized by medical groups like the American Academy of Environmental Medicine⁶, as the medical community understands more about diagnosis and treatment, these numbers are only expected to increase. Approval of cellular installations in or close to

⁵https://www.researchgate.net/publication/331378367_The_Prevalence_of_People_With_Restricted_Access_to_Work_in_Man-Made_Electromagnetic_Environments

⁶ <https://aaemonline.org/pdf/AAEMEMFmedicalconditions.pdf>

residential areas will be an access barrier to home and life under the ADA and FHA. For similar reasons, as well as aesthetic and noise generation, these installations will significantly incommode quiet enjoyment of our streets for all of our residents.

Furthermore,

1. City of Pacifica Municipal Code [Section 9-4.2608](#) (Site development standards) requires:

(e) G round-mounted antenna structures in private or public rights-of-way

- (1) All antennas attached to existing utility, streetlight, or traffic signal poles (including, without limitation, Pacific Gas & Electric and telecommunication provider poles) within private or public rights-of-way, shall not extend more than two (2') feet above the top of the support structure, and shall not extend horizontally more than two (2') feet from the point of attachment to the support structure, unless necessary to comply with regulatory requirements or for health and safety reasons.

While proposed the antenna will sit above the G.O.95 6' power safety zone, any worker having to perform maintenance on this antenna will clearly be within, or needing to travel through this power safety zone, and therefore these lines will be required to be de-energized during any installation or repair, causing unnecessary power outages to our neighborhoods. As mentioned above, less intrusive remedies are available.

2. City of Pacifica Municipal Code [Section 9-4.3401](#) (Authorized Limitations) requires:

Where practical difficulties, unnecessary hardships, or results inconsistent with the general purpose of this chapter may result from the strict application of certain provisions thereof, a variance may be granted as provided in this article; provided, however, such procedure may not be used to change the use of land. The granting of any variance, when conforming to the provisions of this article, is hereby declared to be an administrative function of the Commission and shall be final and conclusive, except in the event of an appeal as provided in this article.

There aforementioned code violations were not asked for nor granted variance, and even if so, this application would significantly "change the use of the land" as there are no current cellular installations visible in proximity to dwellings and schools, in our residential neighborhoods.

In Summary, this small cell installation, and any wireless communication facility near a school or in a residential neighborhood, has a clear and very significant, negative aesthetic impacts to our school, neighborhood, and city as a whole. With the increasingly negative public perception of

cellular facilities in residential neighborhoods, there is clearly a significant risk of property devalue in all the surrounding neighborhoods, and entire school district, which is confirmed by data published in the real estate literature and certified statements by local real estate professionals. There is a clear incommode to the public's quiet enjoyment of the streets, and the implications of ADA/FHA violations are also a significant consideration.

I understand these applications come from a very well funded, legally and politically connected industry, however I urge you do to everything in your power to create the opportunity for our city to truly thrive. There are dozens of municipalities up and down California who are taking the steps to protect themselves and fight the federal overreach into municipalities rights, so we would not be acting alone.

There are many people in the Bay Area (like myself) who are looking for a safe and quiet place to raise a family, and are happy to pay the price for it. Pacifica can continue to be that sanctuary, with the safest, fastest, and cleanest technology brought straight in to our homes. We have a serious potential to profit from this decision, but we must make it intentionally, and on our own terms, not on those of the wireless industry.

I thank you for your time, please do not hesitate to contact me with any questions or for clarifications. I look forward to continuing to interact with you as you continue to plan and develop our amazing city.

Sincerely,

Dr. Sunil Bhat, DO

██████████ Park Pacifica Ave

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