

Katherine Douglas

Public Comment

3



From: Tuttle, Alex
Sent: Monday, February 3, 2025 1:45 PM
To: sbcob
Subject: FW: Verizon Wireless Comments on Draft Telecom Ordinance Amendments – Board of Supervisors Agenda February 4, 2025 [Santa Barbara County]
Attachments: Verizon Wireless Letter 01.29.25.pdf

Forwarding a public comment letter for Board hearing tomorrow (item D3).



Alex Tuttle
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From: Paul Albritton <pa@mallp.com>
Sent: Thursday, January 30, 2025 5:31 PM
To: Tuttle, Alex <Atuttle@countyofsb.org>
Subject: Re: Verizon Wireless Comments on Draft Telecom Ordinance Amendments – Board of Supervisors Agenda February 4, 2025 [Santa Barbara County]

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Attached.

Paul

From: Tuttle, Alex <Atuttle@countyofsb.org>
Date: Thursday, January 30, 2025 at 5:29 PM
To: Paul Albritton <pa@mallp.com>
Subject: RE: Verizon Wireless Comments on Draft Telecom Ordinance Amendments – Board of Supervisors Agenda February 4, 2025 [Santa Barbara County]

Hi Paul. Your email was missing the attachment.



Alex Tuttle
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From: Paul Albritton <pa@mallp.com>
Sent: Thursday, January 30, 2025 4:33 PM
To: Roy Lee <roylee@countyofsb.org>; Laura Capps <lcapps@countyofsb.org>; Joan Hartmann <jhartmann@countyofsb.org>; Supervisor Nelson <Nelson@bos.countyofsb.org>; Steve Lavagnino <slavagnino@countyofsb.org>
Cc: Jennifer Richardson <jrichardson@countyofsb.gov>; Rachel Van Mullem <Rvanmull@countyofsb.org>; Venegas, Corina <cvenegas@countyofsb.org>; Tuttle, Alex <Atuttle@countyofsb.org>; Jennifer Richardson <jrichardson@countyofsb.org>
Subject: Re: Verizon Wireless Comments on Draft Telecom Ordinance Amendments – Board of Supervisors Agenda February 4, 2025 [Santa Barbara County]

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Resending with corrected email addresses.

Paul

From: Paul Albritton <pa@mallp.com>
Date: Wednesday, January 29, 2025 at 3:02 PM
To: Roy Lee <roylee@countyofsb.org>, Laura Capps <lcapps@countyofsb.org>, Joan Hartmann <jhartmann@countyofsb.org>, Bob Nelson <nelson@bos.countyofsb.org>, Steve Lavagnino <steve.lavagnino@countyofsb.org>
Cc: Rachel Van Mullem <jvanmullem@santabarbara.ca.gov>, Jennifer Richardson <jrichardson@countyofsb.gov>, Alex Tuttle <atuttle@countyofsb.gov>, Corina Venegas Martin <cvenegas@countyofsb.gov>
Subject: Verizon Wireless Comments on Draft Telecom Ordinance Amendments – Board of Supervisors Agenda February 4, 2025 [Santa Barbara County]

Dear Supervisors: Attached please find our comments prepared on behalf of Verizon Wireless regarding the draft telecom ordinance amendments to be considered at your February 4, 2025, meeting.

We urge you to direct staff to incorporate our suggested revisions prior to adoption of the draft ordinance amendments.

Thank you,

Paul

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January 29, 2025

VIA EMAIL

Chair Laura Capps
Vice Chair Bob Nelson
Supervisors Roy Lee, Joan Hartmann,
and Steve Lavagnino
Board of Supervisors
Santa Barbara County
105 East Anapamu Street
Santa Barbara, California 93101

Re: Draft Telecom Ordinance Amendments
Board of Supervisors Agenda, February 4, 2025

Dear Chair Capps, Vice Chair Nelson, and Supervisors:

We write on behalf of Verizon Wireless to provide comment on the draft amendments to the County's telecom ordinances (the "Draft Amendments"). Verizon Wireless applauds the County's initiative to streamline permitting of small cell facilities and allow larger "macro" wireless facilities to provide enhanced coverage in residential areas where needed. In particular, Verizon Wireless appreciates recent communications with County planning staff regarding improved procedures for wireless facility applications.

While the Draft Amendments include beneficial revisions, several of the proposed small cell standards are infeasible or prohibitive in contradiction of federal and state law, and would undercut the benefit of administrative approval because typical small cell designs could not comply. For example, requiring that small cell accessory equipment be placed underground is technically infeasible and unnecessary. Various location restrictions should be revised to avoid an absolute prohibition or to specify a reasonable 100-foot search distance for preferred options. Several standards should be revised for consistency with state safety regulations. We urge the Board to direct staff to incorporate our suggested revisions prior to adoption of the Draft Amendments.

FCC Regulations and State Law

According to the FCC's 2018 Infrastructure Order, a local government's aesthetic criteria for small cell facilities must be "reasonable," that is, technically feasible and meant to avoid "out-of-character" deployments. See *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, Declaratory Ruling and

Third Report and Order, 33 FCC Rcd. 9088, ¶¶ 86-88 (September 27, 2018). The FCC ruled that local standards that “materially inhibit” service improvements constitute an effective prohibition of service under the Telecommunications Act. *Id.*, ¶¶ 35-37; *see also* 47 U.S.C. §§ 253(a), 332(c)(7)(B)(i)(II). The FCC emphasized that “a legal requirement can ‘materially inhibit’ the provision of services even if it is not an insurmountable barrier.” Infrastructure Order, ¶ 35. Federal courts have upheld these FCC requirements. *See City of Portland v. United States*, 969 F.3d 1020 (9th Cir. 2020), *cert. denied*, 141 S.Ct. 2855 (Mem) (U.S. June 26, 2021).

California Public Utilities Code Section 7901 grants telephone corporations such as Verizon Wireless a statewide right to install their infrastructure along any public right-of-way, including new poles.

Comments on Specific Draft Amendments

The following amended provisions appear in each the County Land Use & Development Code (§ 35.44.010), the Montecito Land Use & Development Code (§ 35.444), and the Coastal Zoning Ordinance (§ 35-144F). Our comments apply to each.

(C)(2)(a) – Standards for Tier 2 Projects, Small Wireless Facilities

(7). Accessory equipment preferences. As explained in detail below, the first two equipment placement options would not accommodate typical small cell designs, while option 3 would if modified. *As a first preference, the County should allow up to 6 cubic feet of accessory (non-antenna) equipment on the side of a streetlight pole, or 18 cubic feet on a utility pole, before undergrounding is considered. Minimum ground clearance should be reduced to 7 feet, as discussed below.*

- (a) Underground.** This first preference is unreasonable in two ways per FCC regulations. First, undergrounding generally is technically infeasible due to sidewalk space constraints, the large excavation area required, utility lines already routed underground, and undue environmental and operational impacts for required active cooling and dewatering equipment. Second, small radios are not “out-of-character” on the side of poles in the right-of-way, including on utility poles that already support utility equipment such as transformers.
- (b) Concealed within the structure.** This is physically impossible for wood utility poles. For steel poles, a very large diameter over 25 inches would be required to accommodate radio units, other network gear, cables, worker access, and air circulation, leading to an awkward appearance.
- (c) Pole mounted.** Small cell accessory equipment is typically mounted to the side of the pole, so this third preference should be the first option. However, a 10-foot ground clearance would be technically infeasible to accommodate an electric meter/disconnect switch. For example, PG&E requires that the base of an electric meter/disconnect switch be placed between 7 and 8 feet on a utility

pole. See PG&E Document 027911, Figure 5, and PG&E Document 094675, Item 5. *The minimum ground clearance for pole-mounted accessory equipment should be 7 feet, as noted above.*

(8)(a), (b). Close to property lines, not in front of residences/businesses; not within 20 feet residential doors/windows. Both of these standards could exclude multiple poles in a coverage area. For example, there may be several poles in the right-of-way next to long frontages of large properties, where a small cell would pose little impact. Alone or in combination, these absolute restrictions could eliminate numerous feasible poles in a target service area, contradicting Public Utilities Code Section 7901 granting telephone corporations the use of any right-of-way, and constituting a prohibition of service. To provide clear direction to applicants, staff, and decision-makers, we suggest qualifying both Sections 8(a) and 8(b) with a 100-foot search distance, adding to each: *“...unless there is no feasible option within 100 feet along the right-of-way.”*

(8)(d). Not within intersection clear zone. Small cell equipment elevated on poles poses little impact. Intersections are often optimal locations for small cells to direct signal along multiple crossing streets. View lines are addressed in the next provision. *This standard should be deleted.*

(8)(e). No obstruction of streetlight illumination or view lines. This strict standard could lead to denial of small cells that pose minimal disruption to illumination patterns. Small cell equipment elevated on poles does not block motorist, pedestrian, or cyclist sight lines, so does not pose a safety impact. Where feasible, accessory equipment can be rotated on a pole away from the roadway. *We suggest the following revision: “Shall not be placed in a location that ~~obstructs~~ significantly impedes illumination patterns for existing streetlights, views of any traffic signs or signals, or view lines for traveling vehicles, bicycles, or pedestrians, as determined by County’s Public Works Department.”*

8(f). 2-foot setback for pole protrusions. As discussed above, small cell equipment need not be placed lower than 7 feet on a utility pole, and so poses no safety impact to pedestrians on the sidewalk. *This standard should be deleted.*

(9)(a). Stealth/concealment. The first sentence is fully subjective, with vague “stealth,” “concealment,” and “blending” requirements, which could be used to deny otherwise-compliant facilities. Utility infrastructure should not be compared to the “surrounding environment and adjacent uses,” which would likely be vegetation and/or buildings. The unique technological requirements for wireless signal propagation vary by frequency band, so multiple small antennas may be required at different locations on a pole. Fortunately, accessory (non-antenna) equipment can be concealed within a narrow shroud on the side of a streetlight or utility pole, except a pole-mounted electric meter/disconnect switch, which must be fully accessible. *We suggest replacing the first sentence with the following: “Pole-mounted accessory equipment may be concealed within a shroud, except for an electric meter/disconnect switch.”*

(9)(b)(iii). Pole-mounted equipment concealment. For utility poles, small cell accessory equipment is placed between 7 and 18 feet, and can only be rotated to a position that is not occupied by cable risers and complies with PG&E and SCE requirements for safe worker climbing space, which are dictated by Public Utilities Commission General Order 95. The second sentence regarding optional placement behind signs provides an exception for safety regulations, which should also be acknowledged in the first sentence. *The first sentence should be revised to add: "...provided the location is technically feasible and complies with applicable safety regulations."*

(9)(e). Shrouding. As noted above, Verizon Wireless may place different types of antennas at different locations on a pole. A cylindrical antenna is actually a concealing shroud with multiple small antenna elements inside, so it does not need additional shrouding. Small panel antennas that use higher frequencies such as C-Band cannot be shrouded, as that impedes signal propagation, and a shroud covering multiple antennas would only add bulk. *This section should be deleted.*

(9)(g)(i). Antenna volume. Limiting antenna volume to only three cubic feet near residences would preclude a typical small cell design with a cylindrical antenna plus one or two small panel antennas that use higher frequencies. This volume limit would require that these antennas be distributed on multiple poles, leading to more facilities and more permits overall. A slight increase from three to four cubic feet could accommodate the typical design. *For areas within 500 feet of a residence, we suggest an antenna volume limit of four cubic feet.*

(9)(g)(ii). Accessory equipment volume. The criterion "as small as technically feasible" is vague and could lead to disagreements about technology and safety standards. Our suggested revision to Section (C)(2)(a)(7) would allow a workable maximum volume of 6 cubic feet on streetlight poles and 18 cubic feet on utility poles. *This standard should be deleted.*

(9)(h)(i). Side-mounted antenna prohibition. As noted, Verizon Wireless may employ different types of antennas for different frequency bands, which must be separated to avoid signal interference and optimize performance. For example, a cylindrical antenna may be placed on top of a pole, and small high-frequency panel antennas mounted to the side. The County cannot selectively prohibit service in certain frequencies. On some utility poles, side-mounted antennas are the only option due to safety regulations. *The first sentence of this provision should be deleted.*

(9)(i)(i). Undergrounded. This requires that accessory equipment be placed underground in underground districts, or anywhere the Director believes that above-ground equipment would "incommode" the public use. As explained above, blanket undergrounding requirements are unreasonable per FCC regulations. Our suggested revision to Section (C)(2)(a)(7) would allow up to 6 cubic feet of accessory equipment on any streetlight poles that remain in designated underground districts. Leaving the choice of undergrounding to the Director after an application is filed would contradict the FCC's

requirement that small cell standards be “published in advance.” *This section should be deleted.*

(9)(i)(iii). Minimum ground clearance. As described above, electric providers may require that the base of a meter/disconnect switch be placed at 7 feet. *References to 10 feet should be changed to 7 feet.*

(9)(i)(iv). Orientation. As noted, cable risers and General Order 95 may restrict rotation of equipment on a utility pole. This topic is addressed in Section (C)(2)(a)(9)(b)(iii), for which our suggested revision provides a feasible solution. *This standard should be deleted.*

F – Additional Findings (Section G of Coastal Zoning Ordinance)

(1). Minimize visibility, blend into environment. As discussed above, subjective standards may lead to unfounded denials of facilities that comply with specific standards (such as dimension limits). Generalized concerns about aesthetics do not constitute substantial evidence upon which a local government can deny a wireless facility permit. *See City of Rancho Palos Verdes v. Abrams*, 101 Cal. App. 4th 367, 381 (2002). Denial of a small cell that is not “out-of-character” compared to nearby infrastructure would constitute a prohibition of service, according to the FCC’s Infrastructure Order. *At a minimum, Finding 1 should not apply to small cells. The County should work with wireless providers to develop reasonable, specific standards for approval of wireless facilities, rather than relying on subjective criteria.*

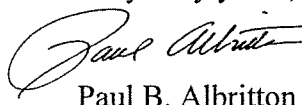
H – Application Requirements (Section G of Montecito Development Code)

1(a). Deemed withdrawn (Section 2(a) of Coastal Zoning Ordinance). The County cannot terminate an application at intake or afterward if an applicant has not provided all required information. FCC rules provide the County either 10 days (small cells) or 30 days (other new facilities, eligible facilities requests) to notify an applicant of missing information. FCC rules also plainly state that the Shot Clock restarts or resumes running on the date than an applicant responds to a timely notice of incomplete application. 47 C.F.R. § 1.6003(d), 47 C.F.R. § 1.6100(c)(3). Notably, FCC rules do not allow early, unilateral termination of a pending application. *This provision should be deleted.*

Conclusion

Verizon Wireless appreciates the opportunity to provide comment on the Draft Amendments. We encourage the Board to direct staff to incorporate our suggested revisions prior to adoption.

Very truly yours,



Paul B. Albritton

cc: Rachel Van Mullem, Esq.
Jennifer Richardson, Esq.
Alex Tuttle
Corina Venegas-Martin