

THE SAN MATEO HIGHLANDS COMMUNITY ASSOCIATION  
1851 Lexington Avenue, San Mateo, CA 94402  
HighlandsCommunity.org

May 15, 2019

**RE: PLN 2018-00079**

Dear Supervisor Pine,

San Mateo Highlands residents join Baywood Park residents in strong opposition against Verizon's proposal to install a 5G cell phone antenna on a telephone pole in the front yard of one of our homes.

We appreciate your previous support in taking action to postpone the hearing on **PLN 2018-00079**. Unfortunately, we need to ask you to request a continuance due to our not being apprised of information from the applicant and the unaddressed need for resolution among local, state, and federal regulations. There is serious legislative conflict over this issue as well as a current legal appeal of County rules being preempted on the very regulations on which this proposal is being pushed along. There must not be a decision taken until there is a stable and consistent set of rules.

This application has implications throughout San Mateo County communities. Many San Mateo County citizens have expressed the salient concern that this case opens the floodgates to turn San Mateo County communities into antenna farms for private corporations. So in support of your efforts and ours, we are copying this to your colleagues on the Board of Supervisors.

There is no specific analysis in the Staff Report of regulatory conflicts between Local, State and Federal regulations, nor of the implications of current congressional efforts emanating here in San Mateo County for a legislative resolution.

Additional bases for postponement of this hearing are as follows:

1. We most certainly oppose the County staff unsubstantiated statement: "That this telecommunication facility *is necessary for the public health, safety, convenience or welfare of the community*. (emphasis added). Do you stand behind this statement in the County Staff Report?
2. Major Fire Safety Issue not addressed in Staff Report. PG&E has repeatedly failed to ensure a safe environment as it relates to their equipment in our communities. Attaching a physically significant 5G cell phone antenna to a telephone pole increases the infrastructure danger to the public which is already at unacceptable levels. In addition to the very visible San Bruno disaster and wildfires in recent times, PG&E has not been able to explain four separate telephone pole fires that occurred within one month during the summer of 2018 in the Highlands neighborhood. This happened immediately after a PG&E inspection of the poles! Placing additional and sizable

industrial antenna on infrastructure whose reliability and safety has repeatedly been mis-represented through false records, as we now know has been the case in recent crises elsewhere in the state, is perilous. It also defies common sense.

PG&E has used bankruptcy to escape financial responsibility for lose of life and property. County staff report does not provide an analysis of liability of either the applicant nor PG&E in the event of failures. Staff also does not provide a mechanism of who will pay in the event of lose of life or property in the event of safety failure. What is the County plan for these contingencies?

3. San Mateo County Planning should **not take action on proposal PLN 2018-00079** when there is pending national legislation, H.R. 530, by Congresswoman Anna Eshoo, as well as ongoing litigation in the 9<sup>th</sup> circuit court, that directly impacts Staff's conclusions on this 5G Verizon proposal. No decision should be made, when the conflict between local and Federal regulations is unsettled, unstable, and unresolved.
4. Congresswoman Anna G. Eshoo (CA-18) introduced H.R. 530, the *Accelerating Wireless Broadband Development by Empowering Local Communities Act of 2019*, legislation to overturn Federal Communications Commission (FCC) regulations limiting the ability of local governments to regulate the deployment of 5G wireless infrastructure.
5. Other bay area municipalities have suspended approval activities on these 5g towers pending clarification. What steps has San Mateo County taken in this regard?

*"Both Mill Valley and San Rafael passed an emergency ordinance in September (2018) blocking the installation of 5G transmitters based on public fears of increased cancer risk and other health problems linked to proximity of wireless radiation."*

*"The city council of Mill Valley,... voted unanimously late last week to effectively block deployments of small-cell 5G wireless towers in the city's residential areas. Through an urgency ordinance, which allows the city council to immediately enact regulations that affect the health and safety of the community, the restrictions and prohibitions will be put into force immediately for all future applications to site 5G telecommunications equipment in the city. Applications for commercial districts are permitted under the passed ordinance."*, TechCrunch 2018

*"Last week the Santa Cruz County Board of Supervisors adopted a resolution of support for House Resolution 530, introduced by Eshoo, D-Atherton, aimed at overturning Federal Communications Commission regulations that curtail the local control of permitting new cell towers and wireless transmitters"., Feb 11, 2019 Press Banner*

6. Due process is not being followed consistently. Documents for Conditional approval from Department of Public Works and Cal-fire are not provided in the Staff Report. The names of state licensed personnel, especially engineers, who granted the conditional approvals based on safety for the public are missing.
7. The staff report does not properly verify and certify the safety, reliability, and private as well as government security. 5G Network security is a major, unresolved national issue.
8. Location of antenna violates SM County regulations. Less than 500 feet away from the

proposed location, there are 2 water towers on Tournament Dr. that comply with County regulations for antenna placement and are in direct range of this antenna. Location at the water tower would not culminate in a prohibition of the wireless facility. The report does not adequately analyze that such placement would not result in “effective prohibition”. (see item 9 below)

The County has not made a valid or proven case for this faulty conclusion and representation to County citizens and taxpayers.

9. The Staff Report appears contrary to the San Mateo County Supervisor’s letter of objection to the FCC rules to limit local control of placement of equipment. (SMC Letter to FCC, September 19, 2018). The County report contains mixed and contradictory messages that convey it is considering weakening the aesthetic standards in our wireless ordinance – rather than strengthening the standards applicable to other infrastructure. The FCC Declaratory Ruling and Third Report and Order, titled “*Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*” (the Order) acknowledges that some courts have read the preemption provisions as requiring evidence of a “coverage gap” or “an existing or complete inability to offer a telecommunications service.” However, the Order rejects these alternative interpretations, reasoning that the “‘effectively prohibit’ language must have some meaning independent of the ‘prohibit’ language.”

The Order applies the “materially inhibits” standard to three types of non-fee requirements. Specifically, it addresses state and local laws imposing aesthetic requirements, undergrounding requirements (i.e., laws mandating that wireless infrastructure be deployed underground), and minimum spacing requirements (i.e., laws requiring wireless facilities be a certain minimum distance apart from each other).

The Order articulates a three-part test for evaluating these restrictions. According to the Order, such requirements are not preempted if they are: “(1) reasonable, (2) no more burdensome than those applied to other types of infrastructure deployments, and (3) objective and published in advance.”

10. FCC has said that aesthetic requirements aimed at “avoiding or remedying the intangible public harm of unsightly or out-of-character deployments” are permissible.  
(See FCC Summary at page 30:

<https://www.federalregister.gov/documents/2018/10/15/2018-22234/accelerating-wireless-and-wireline-broadband-deployment-by-removing-barriers-to-infrastructure>

11. County Staff report has not addressed the proposal of this 5 story industrial antenna tower on Parrot Drive which is in a scenic corridor. The whole area is a mapped sensitive habitat, which is why it is RM zoned.

12. Where is the certification from 1.) The Applicant, Verizon and 2.) The County that the added equipment will not cause a Safety hazard to property and will not catch fire with the additional equipment?

We must rely on San Mateo County to certify safety of any proposed installations that they issue a permit for. There have been many recent PG&E induced fires that have burned down complete communities, thus we must object to this application as so far presented to the communities. (Malibu 2007 fire caused by cell phone equipment). There is no certification in writing that the County will verify the equipment will cause no hazard to the location and surrounding and San Mateo County will be fully responsible for public safety with additional equipment on their poles.

This hearing, PLN 2018-00079 needs to be continued until local zoning regulations and FCC involvement is clarified. The Planning Dept. Staff report on the Verizon 5G proposal points out how the proposal violates the SMC zoning regulations multiple times over.

Please help us with accomplishing a continuance or postponement of this hearing and let us know as soon as possible today.

Please let us know what steps San Mateo County is taking to protect our residents from cell phone antenna installation that violates San Mateo County regulation. Has the Board joined other local government efforts with the 9<sup>th</sup> Circuit Court of Appeals and Congresswoman Anna Eshoo's legislative initiative?

Thank you for your assistance and prompt response to this issue.

Sincerely,



Liesje Nicolas  
President, Highlands Community Association

Cc:

Supervisor David Canepa  
Supervisor Carole Groom  
Supervisor Don Horsley  
Supervisor Warren Slocum