Item 5a: Additional Materials Received
Planning Commission July 19, 2012
PA2012-057

Setting the new standard
Core Development Services
2749 Saturn Street
Brea, CA 92821
714) 729-8404
mfelten@core.us.com

7/18/12

Janet Johnson Brown
Associate Planner
City of Newport Beach
3300 Newport Blvd.
Newport Beach, CA 92663

Dear Ms. Brown,

On behalf of Core Communications, I would like to thank for the opportunity to provide feedback regarding the City's proposed Wireless Communications Facilities Ordinance. I commend planning staff and the City for determining that an updated ordinance is needed to allow for a uniform set of standards that each application will be subject to.

Below are our comments regarding the proposed ordinance amendment. Given our many concerns I feel it would be best if the city would continue this item to a later date to allow for an outreach meeting with the industry. I have found that a dialogue with City staff allows for the industry to understand staff's intent behind each requirement and also allows staff to understand the possible effects certain requirements may have. By understanding the goals and intent of both sides I feel that City staff will develop an ordinance that continues to achieve the City's objectives and protects the wellbeing of all those involved.

The following discussion highlights are an area of a concern:

1. Public Notice/Public Hearing Process and Review Authority, specifically Section 20.49.070(G): It should not necessary for all proposed projects to go through the hearing process. The City should utilize a set of objective design standards and if a carrier meets them, there should be no reason to go before any discretionary body, regardless of location. A streamlined process, such as an administrative approval, is recommended for sites that are co-located, building or roof-mounted, or located on utility infrastructures such as SCE towers. The code should explore incentives for applicants to bring forth quality proposals, such as a simplified review process. The City of Anaheim's code demonstrates this type of review, which has increased the wireless telecommunications coverage in the City and while upholding the quality of installations proposed.
2. Installations in the Public Right-of-Way, specifically Section 20.49.050(C): Requiring a full conditional use permit for all proposals in the public right-of-way seems overly cumbersome. If planning review is determined to be absolutely necessary, I recommended a streamlined administrative process. Public right-of-way sites are typically located on existing structures, such as light poles, therefore the aesthetic impact is minimal. I recommend only requiring specific design standards for these specific sites that the carrier will have to adhere to and if those

design standards are followed the site is approved. If it the site is unable to meet the City's design standards, then at that time the discretionary planning process may be required. For example, the City of Laguna Niguel has design standards that were adopted by the City Council. If a proposal is unable to conform to those standards then it must go through the planning process. Another example is the City of Tustin which only requires public right-of-way sites to go through an administrative design review process. Furthermore, subsection (1) requires all support equipment be placed below grade. As you may or may not be aware the industry tries to stay away from vaults at all costs. Facilities flood due to rains and the required flush-mount vents. When this occurs, sites go "off air", creating a gap in coverage, not to mention the fact that it could cost hundreds of thousands of dollars to repair even one facility. When a site goes "off air" the community will lose needed and required coverage. Additionally, some carriers' facilities often include an emergency generator which requires ventilations and specific clearance requirements that would not be able to be enclosed or vaulted. While it is understood that often Public Right-of-Way installations have very little space for equipment and vaulting may be the only option, there are occasionally circumstances where the equipment can be located above ground while being screened. Therefore, by limiting equipment to be undergrounded only, those occasions are restricted.

3. Design Standards and Criteria, specifically Section 20.49.060: Again, I commend the City for instituting design requirements; however, as stated above should the city institute a set of objective design standards and the carrier meets them, there should be no reason to go before any discretionary body, regardless of location. In this situation the aesthetic impacts are no longer of a concern given the facility meets code. A streamlined process, such as an administrative approval, is recommended for sites that meet the required design standards. Furthermore, the code should explore incentives for applicants to bring forth quality proposals, such as a streamlined review process.
4. Deviation to Height Limitations and Location Requirements, specifically Section 20.49.060(C)(1). Subsection (c) should be revisited as several schools, churches, and other public institutions are often in residentially zoned districts and typically they have flagpoles in front of their establishments. In the event there are no other options to locate antennas and equipment within a steeple, some other portion of the building, or a more appropriate stealth design; prohibiting flagpoles in residential zones may inadvertently cause a prohibition of service. In those cases where the current proposed code would allow a flagpole installation, 35' is an extremely restrictive height. As previously stated, wireless telecommunications antennas require line of site free of obstructions. Given that a great majority of buildings within the City are multiple stories and some areas of the City have topography challenges, 35' will not likely provide the necessary line of site. Therefore, it is recommended that no height limit be specified. The restriction of a 24" diameter pole is also extremely limiting. Often carriers

require at least 30" or more due to different technology and azimuth requirements. Again, it is recommended that a larger diameter measurement be provided or the size is left unspecified. Height may also be an issue in Subsection (d) having adverse implications on roof-mounted installations. The City is a beach community and often buildings are constructed to the maximum height limit. Only allowing five feet above base height limit may not be enough to allow for screening and many carriers' antenna technology. Some carriers have antennas in lengths of up to eight feet. Additionally, five feet may not be enough to meet EME safety standards depending on where on the rooftop the antennas are proposed. Therefore, it is extremely likely that majority of all rooftop installations will be greater than five feet above the base height limit requiring heightened review. This could potentially cause an architecturally integrated rooftop installation to proceed through a longer, more cumbersome process because it cannot meet the narrow five foot height limitation.

5. Setback Requirements, specifically Section 20.49.060(D): Wireless facilities are required to go through building plan check and demonstrate that they are structurally sound, just as any other building in the City would be required. However, no other building in the City is required to provide a "fall zone", yet the proposed wireless code amendment will require a 110% "fall zone" setback for any new ground mounted wireless facility. It is unclear why wireless telecommunications facilities would be held to a different standard. Additionally, as previously stated, wireless telecommunications antennas must have an unobstructed line of site which will often require the antennas to be much taller than the 25' example stated in the staff report. In fact, the average height of concealed ground mounted facilities will likely be around 55', to allow for a 45' centerline of antennas and additional camouflaging above the antennas. Therefore, if a 55' ground-mounted facility were proposed the 110% setback would be 60.5'from all properties lines, which would likely inadvertently prohibit any ground-mounted wireless facilities on the majority of properties within the City.
6. Modification of Existing Telecom Facilities: Given the recent "Tax Relief Act" legislation, I recommend the City handle all modification requests as ministerial permits. Limiting any change to 5% or less, as the current ordinance amendment proposes, may potentially prohibit any maintenance or equipment changes/additions that will increase the efficiency or technology of the facility .
7. Zoning District Land Uses and Permit Requirements: The City should not prohibit a wireless installation in any zone. This opens the possibility of the City prohibiting telecommunications services. Prohibiting an installation outright in any zone may cause the City to unknowingly create a barrier to entry which inadvertently regulates the business affairs of a wireless company. This is likely not the intention of the City and therefore I recommend that the City adopt specific design standards for the residential and open space zones to protect the integrity of the area. Also, many properties may be zoned residential, but are not used for residential

core
DEVELOPMENT SERVICES

purposes, which should be taken into consideration. It should be noted that many cities have found having wireless facilities in their parks zoned either residential or open space has created an avenue of revenue for the City.

The entire ordinance is quite lengthy, somewhat burdensome and may provide a barrier for wireless services to be provided to the Newport Beach community. Given the concerns explained in the text above, I feel it would be best if the City would continue this item to a later date to allow for an outreach meeting with the industry. I would like to thank the City for notifying us of this proposed amendment and look forward to working together in crafting a lawful ordinance that protects the residents and businesses of the City of Newport Beach along with operation of the wireless industry.

Yours truly,

Michelle Felten

Michelle Felten
Senior Project Manager