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Wireless Ordinance Update Study Session

Design Review and Preservation Board

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Agenda



1. Introduction to Wireless Facilities
2. Overview of City Authority to Regulate Aesthetics of Wireless Facilities
3. Overview of Wireless Deployments in the City and Recent Examples
4. Discussion - Design and Aesthetic Preferences

Introduction to Wireless Facilities

Types of Wireless Carrier Facilities

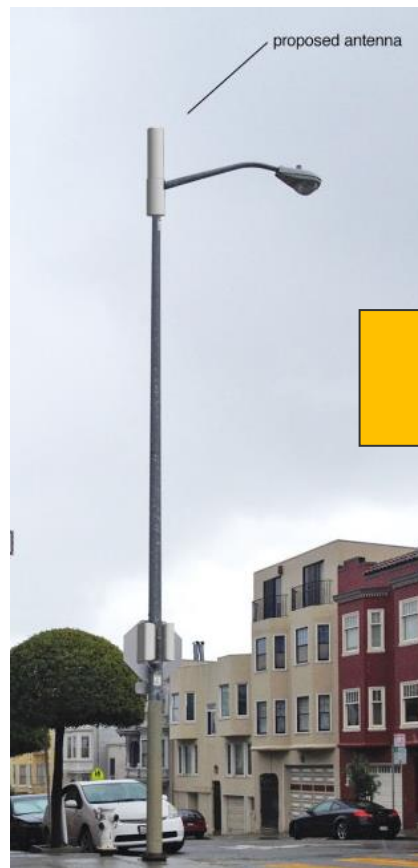
Macro Cell Sites

- Multiple high-powered antennas serving a large area from a single site.
- Typically on monopoles or other towers, or on rooftops.
- Equipment typically on ground.

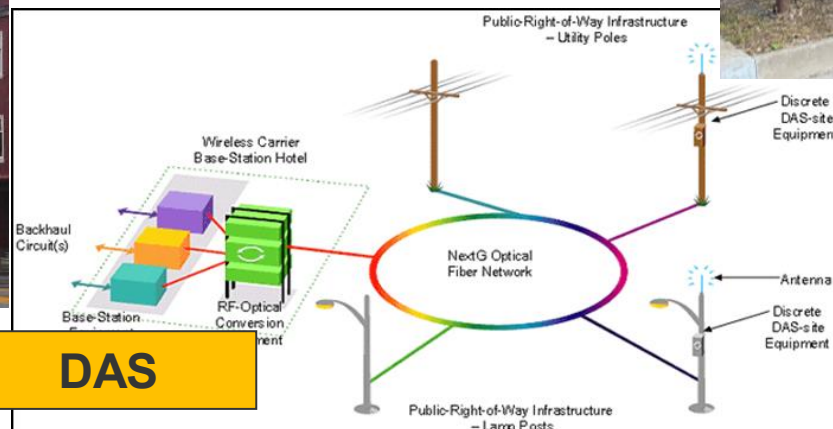
Small Cells/Distributed Antenna Systems (DAS)

- Low-powered antenna(s) serving a small coverage area
- DAS is network of connected low-powered nodes collectively serving larger area.
- Typically on low structures (~35ft.) such as utility poles or street lights.
- Equipment on pole or ground

Types of Facilities



**Small
Cells**



DAS

Figure 2: Distributed Antenna System

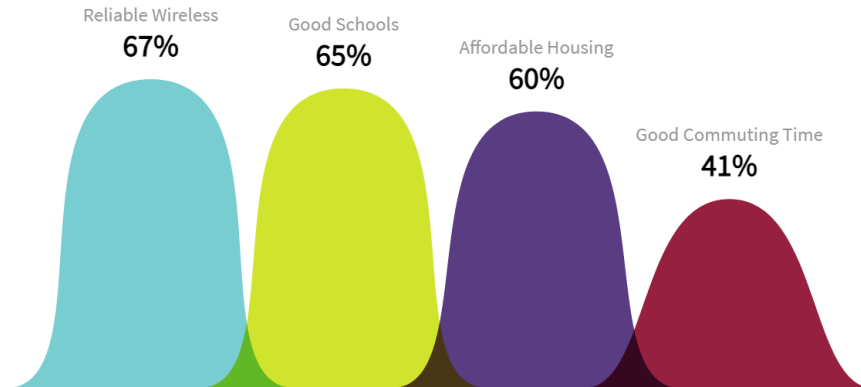


**Macro Cell
Site**

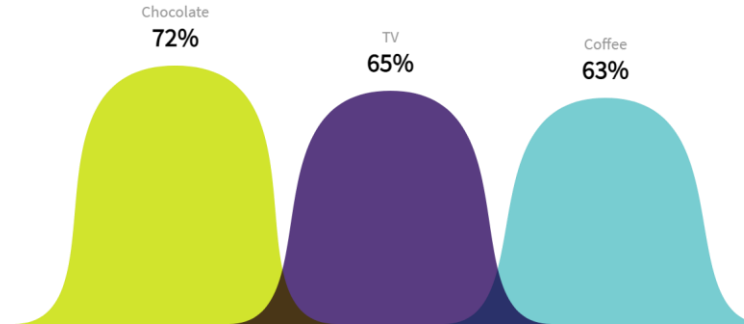
CTIA, WIA and PEW Data on Wireless Demand & Infrastructure



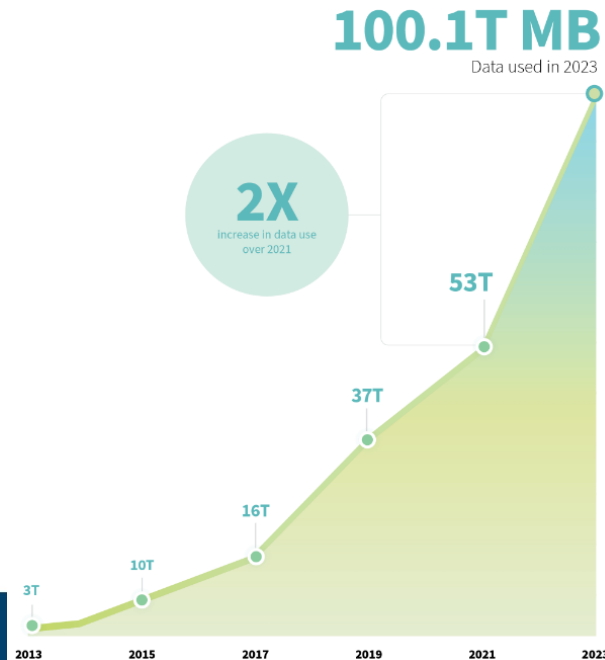
What Consumers Want When Picking a New Place to Live



What Would Consumers Give Up for Their Smartphone?

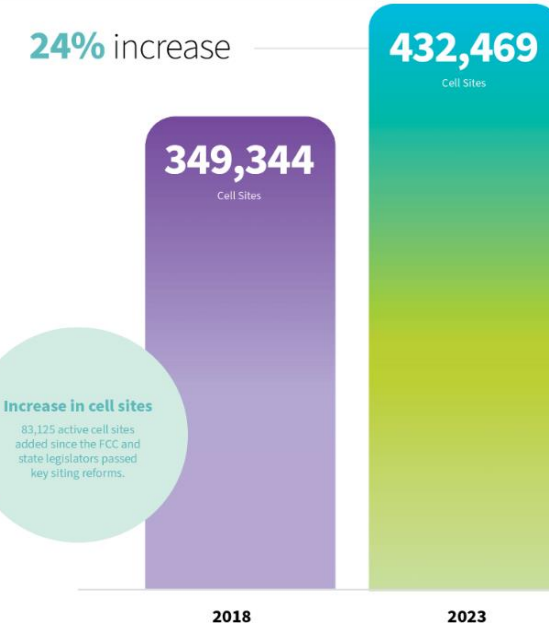


Increase in Wireless Data Traffic



Increase in Cell Sites

More recent WIA data reports 655,000 sites including 153,400 towers and 202,100 small cells



Overview of City Authority to Regulate Aesthetics of Wireless Facilities

National Policy On Wireless Service (1996)



- **National deployment policy** – no local decision or regulation can prohibit or have the effect of prohibiting the provision of personal wireless service (Sec. 332) or telecommunications service (Sec. 253)
- **National RF emissions guidelines** – FCC sets the RF emissions safety standards; localities cannot regulate placement based on RF emissions except to ensure applicant has shown it will comply with FCC guidelines
- **Timely action required on wireless applications**
- **Written denials required for wireless applications** – denial must be in writing and based on substantial evidence in the record
- **Non-discrimination** – no unreasonable discrimination among providers of functionally equivalent services (Sec. 332); competitively neutral and nondiscriminatory ROW management and fair and reasonable compensation (Sec. 253)
- **Expedited appeals for wireless applications** – 30 days from final action

Federal and California Preemption Push



- **Shot clocks and deemed granted remedies**
 - 2009 – Original FCC Shot Clock Order
 - 2015 – California deemed granted remedy for federal shot clocks
 - 2017 – California small cell bill (SB 649) **vetoed**
 - 2018 – FCC Moratoria Order
 - 2018 – FCC Small Cell Order
 - 2021 – California small cell bill (SB 556) **vetoed**
 - 2021 – California deemed granted remedy for small cell shot clocks (AB 537)
 - 2023 – California applies FCC shot clocks and deemed granted remedies to batch permits (AB 965)

Federal and California Preemption Push



- **Mandatory approvals**
 - 2012 – Spectrum Act, Section 6409 – eligible facilities requests/deemed granted remedy
 - 2014 – Original FCC EFR Order
 - 2020 – Two FCC Orders expanding/clarifying EFR rules
 - 2020 – California macro site generators (AB 2421 - 3 yrs, now expired)
 - 2023 – California microtrenching technique for fiber (SB 378)

Effective Prohibition



- General Rule: No City design requirement can prohibit or have the effect of prohibiting the provision of personal wireless service.
- What is an effective prohibition? There are two judicial tests:
 - *Significant Gap/Least Intrusive Means Test*
 - Provider must demonstrate not just a gap, the gap has to be *significant*
 - Provider must demonstrate their proposal is least intrusive to the values in local code, having analyzed alternatives
 - *Materially Inhibits Test*
 - Preempts regulation that “materially inhibits or limits the ability of any competitor or potential competitor to compete in a fair and balanced legal and regulatory environment.”

FCC on Aesthetics for Small Cells



- 2018 Small Cell Order: FCC's attempt to further limit aesthetic regulation; Applicable only to small wireless facilities aka small cells
- Aesthetic requirements (including undergrounding) not preempted if:
 - reasonable,
 - ~~no more burdensome than those applied to other types of infrastructure deployments~~, and
 - ~~objective~~ and published in advance.
- FCC interpretation of what is reasonable: "...aesthetic requirements that are reasonable in that they are technically feasible and reasonably directed to avoiding or remedying the intangible public harm of unsightly or out-of-character deployments are also permissible."

Eligible Facilities Requests: 47 U.S.C. 1455(a) (Sec. 6409)



- State or local government **may not deny, and shall approve**, certain qualifying modifications to an existing wireless tower or base station that do not substantially change the physical dimensions of such tower or base station.
 - May preempt certain original design and aesthetic requirements from original facility approval.
- A modification is “substantial” if it will exceed any criteria specified in the FCC’s regulations.
- Criteria are set forth in 47 C.F.R. 1.6100(b)(7), which allow:
 - 1. Increased height
 - 2. Increased width
 - 3. New equipment cabinets
 - 4. Some excavation or deployment outside of current site
 - 5. Cannot defeat concealment conditions
 - 6. Non-compliance with siting approval conditions

Concealment Criterion for EFRs

- What is a permissible concealment requirement:
 - Reasonable requirements on the design and visual nature of the facility itself:
 - Paint color; shrouding, faux trees, faux water towers, rooftop screens etc.
 - 2020 FCC EFR Clarifications Order
 - Reasonable requirements on the context and location that the facility will inhabit:
 - Setbacks from rooftop edges; matching tree strand height;
- How do you ensure that future EFRs will not defeat concealment?
 - Tailor stealthing and concealment requirements in advance to ensure that they are carried through in subsequent modifications.
 - Carefully draft conditions of approval that outline in detail all concealment requirements.

Overview of Wireless Deployments in the City and Recent Examples

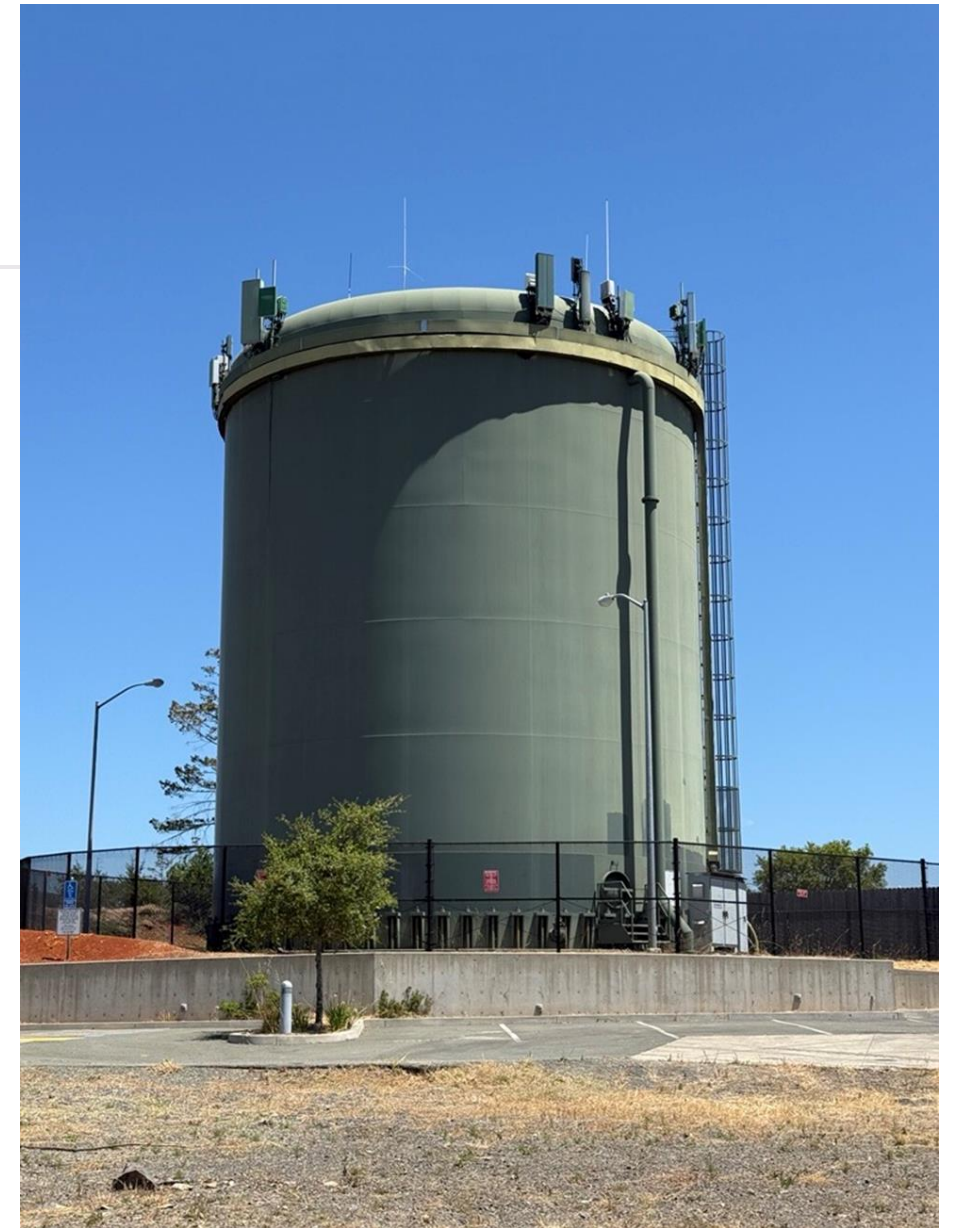
Recent Santa Rosa Wireless Permitting Trends



- In the past three years, the City has received seven (7) wireless applications (all types).
- Typically, new wireless facility sites receive the following general design conditions:
 - When the telecommunications facility becomes obsolete or is no longer used, the telecommunications facility shall be removed at the operator's expense.
 - The telecommunication facility (monopine and supporting equipment), including foliage, trunk, and fence, shall be maintained in good condition.
 - The building materials, elevations, and appearance of this project, as presented for issuance of a building permit, shall be the same as that approved by the Planning Commission. Any future additions, expansions, remodeling, etc., will be subject to review and approval of the Planning Division.

Facility Example 1:

- Location: 2201 Newgate Court
- Zone: PD 72-0010 (Planned Development)
- Water Tower Site
- Flush Mounted Antennas and Cable Trays
- Color Match to Blend
- Landscape screening



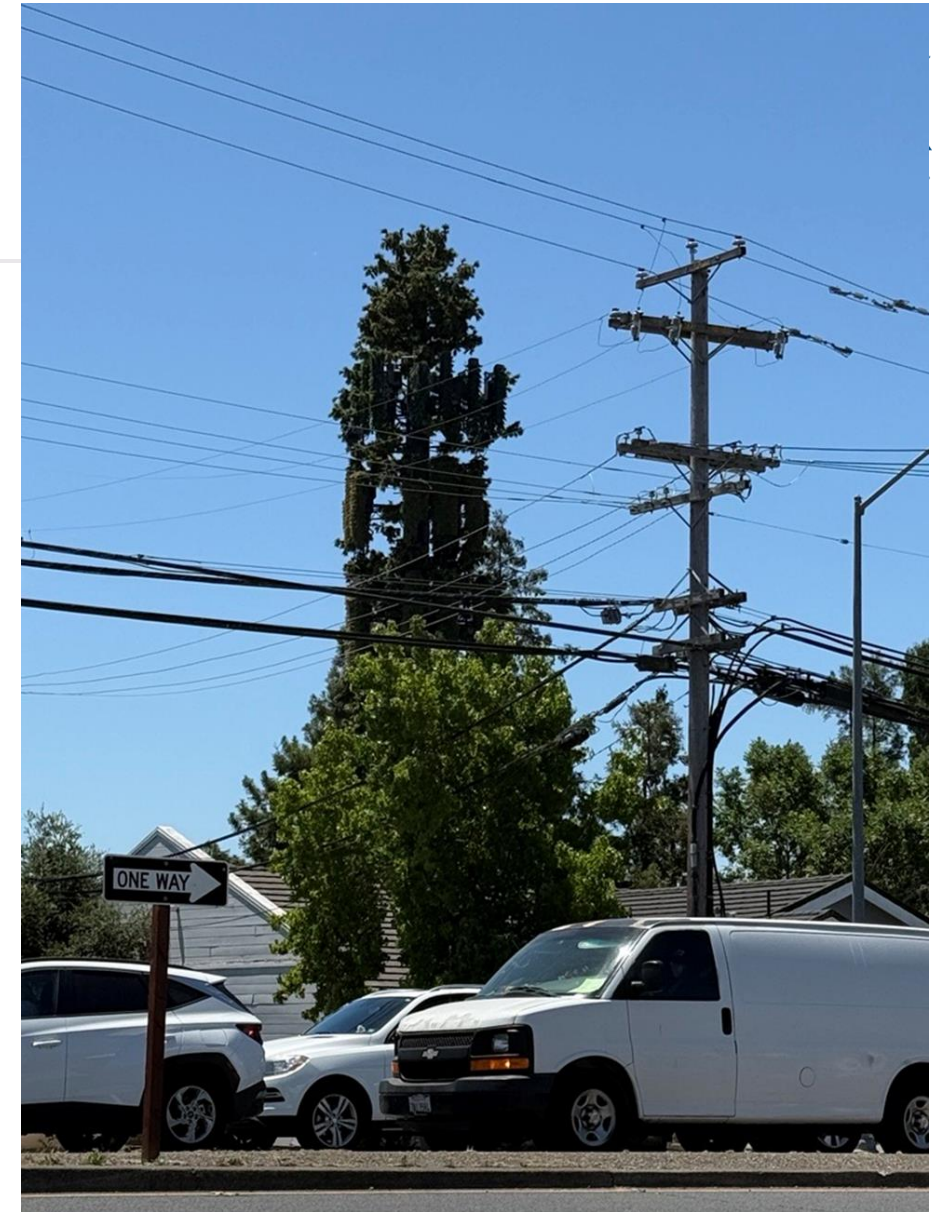
Facility Example 2:

- Location: 478 Los Alamos Rd
- Zone: RR-40-SR (Very Low-Density Residential)
- Faux Monopine Tree
- Color Match to Blend
- Height Limitation
- Antenna array above faux branches



Facility Example 3:

- Location: 4900 Hwy 12
- Zone: General Commercial (CG)
- Faux Monopine Tree
- Color Match to Blend
- Faux branch placement above and below antennas



Facility Example 4:

- Location: 1620 Sonoma Avenue
- Zone: R-2 (Medium-Density Residential)
- Steeple tower
- Color and design consistent with existing church



Discussion - Aesthetic Preferences

Design Topics for Today's Discussion



- Concealment and Stealthing
 - Standalone
 - Roof top (general preferences, separation from roofline, parapets, screens)
- Ground-mounted equipment:
 - Screening
- Height & Facility Placement on Parcel

Concealment and Stealthing

- Current Requirements:
 - Facilities shall be screened by existing and/or proposed structures and landscaping to the extent possible without compromising reception and/or transmission.
 - No telecommunications tower shall be installed closer than two miles from another readily visible, uncamouflaged or unscreened telecommunication tower unless it is a co-located facility, situated on a multiple user site or not readily visible (camouflaged).
 - Innovative design solutions that minimize visual impacts should be utilized.
 - Telecommunication facilities should be designed and painted a color that blends with the surrounding natural or manmade features.
 - Rooftop Mounted:
 - Building mounted telecommunication facilities should be integrated with existing structures.
 - Building mounted telecommunication facilities are encouraged over telecommunication towers.

What is your preference for concealment of standalone facilities?



What is your preference for concealment of rooftop and building mounted facilities?



Ground-Mounted Equipment



- Current:
 - Telecommunication facilities and appurtenances shall be screened by existing and/or proposed structures and landscaping to the extent possible without compromising reception and/or transmission.
 - The design of fencing, landscaping, and other screening for telecommunication facilities shall be integrated and compatible with surrounding improvements.
 - Each commercial telecommunication facility shall be installed in a manner that will maintain and enhance existing native vegetation. Suitable landscaping to screen the facility shall also be installed where necessary.

What is your preference for ground mounted equipment?



Height and Placement on Parcel



- Current:
 - Antennas and their support structures should be located on the rear half of property or structures when reasonable transmission and/or reception would not be impaired and when visual impacts would be reduced, unless no other feasible alternative location exists.
 - Telecommunication facilities shall be as small as possible and the minimum height necessary without compromising reasonable reception or transmission.
- What is your preference for placement of the facility on a parcel?



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Questions?



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Discussion Question Summary



- What is your preference for concealment of rooftop and building mounted facilities?
- What is your preference for concealment of standalone facilities?
- What is your preference for facility height limits?
- What is your preference for placement of the facility on a parcel?
- What is your preference for ground mounted equipment?