City of Santa Rosa
Planning & Economic
Development Department
01/21/2025
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City of Santa Rosa – Planning Department
100 Santa Rosa Ave. Suite 3
Santa Rosa, CA 95404

01/21/2025

Re: New Cingular Wireless PCS, LLC (“AT&T”) Wireless Design Review Application & Zoning Clearence for a 6409 Eligible Facilities Request to collocate onto an existing wireless telecommunications facility located 1350 Bennet Valley Rd, Santa Rosa, CA 95404.
APN 009-371-010

Dear Santa Rosa Planning Department,

AT&T is seeking to modify the exiting wireless site at the above-referenced address, located at the Sonoma County Fairgrounds. We are submitting this application as an eligible facilities request under Section 6409, referenced below. Please find enclosed the following documents in support of our application to obtain approval for zoning clearance and to submit directly to Building Permit.

1. Project Support and 6409 EFR Statement.
2. Universal Application
3. Indemnification
4. Disclosure
5. Electronic Signature Disclosure
6. Property Owner Consent
7. Zoning Clearance Application
8. Site Plans
9. Coverage maps
10. Photo Simulations
11. Radio Frequency
12. Noise Acoustic

Section 6409 of the Federal Middle Class Tax Relief and Job Creation Act (“Section 6409”) was adopted in 2012. Under Section 6409, your city retains discretionary zoning review over the construction of *new* towers, but simple collocations and/or equipment upgrades at existing telecommunications facilities must be approved. The new law provides that:

“**a State or local government** may not deny, and **shall approve**, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.” (Emphasis added.)

The federal law defines an “eligible facilities request” as “(A) **collocation of new transmission equipment**; (B) **removal of transmission equipment;** or (C) **replacement of transmission equipment.”** (Emphasis added.)

Also, the Federal Communications Commission issued a Wireless Infrastructure Report and Order on October 17, 2014 (“FCC Order”) which established regulations that clarify and streamline the municipal approval process for eligible facilities requests under Section 6409. A copy of the FCC Order is enclosed herewith.
The FCC Order clarifies that municipal review of an eligible facilities request is **limited to determining whether the request falls within Section 6409** a State or local government may require the applicant to provide documentation or information **only to the extent reasonably related to determining whether**

the request meets the requirements of this section [Section 6409]. A State or local government **may not require an applicant to submit any other documentation**, including but not limited to documentation intended to illustrate the need for such wireless facilities or to justify the business decision to modify such wireless facilities."47 C.F.R. 1.40001(c)(1) (Emphasis added). I have, however, attached photo simulations, a radio emissions report, acoustical study and coverage maps that outline the need for this facility and to show that we are in compliance with all local and FCC regulations.

AT&T's Application is an Eligible Facilities Request under Section 6409

AT&T's application qualifies as an eligible facilities request under Section 6409 because the proposed installation involves "a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station." As shown on the plans prepared by Streamline Engineering & Design dated February 15, 2024, AT&T's proposed installation consist principally of the following elements:

1. Twelve (12) panel antennas mounted and placed between centerline of 60' & 63'-8".
2. One (1) 30kw standby diesel generator with a 190-gallon fuel tank and placed on a 10'x5' concrete pad.
3. A new lease area of 20'x20' for AT&T equipment and above-mentioned generator.

Accordingly, AT&T's installation involves **the "collocation of new transmission equipment that will increase the height of the tower by no more than 20 ft.** As a result, the installation "does not substantially change the physical dimensions of such tower or base station." NO additional height will be added for this project. Therefore, these proposed equipment upgrades constitute an "eligible facilities request" under Section 6409 and must be approved.

Timeline for Review and Approval

We would like to highlight an important timing requirement for processing this application. The FCC Order determined that **a municipality must act on an eligible facilities request within sixty (60) days of receiving the application**. 47 C.F.R. 1.40001(c)(2) (Emphasis added). (Note, the sixty (60)-day period is also known as the "Shot Clock"). Thus, the city must approve this application within sixty (60) days of its receipt. The FCC Order provides that upon a municipality's failure to act prior to expiration of the Shot Clock, the **"request shall be deemed granted"** and AT&T will be legally entitled to proceed with construction. 47 C.F.R. 1.40001(c)(4) (Emphasis added).

Note that the FCC Order does allow the Shot Clock to be tolled if an application is incomplete. However, in order to do so, a municipality must provide written notice that the application is incomplete within thirty (30) days of the submittal. 47 C.F.R. 1.40001(c)(3)(i). The notice must "clearly and specifically" describe the missing documents or information, 47 C.F.R. 1.40001(c)(3)(i), and, as previously mentioned, such documentation must be necessary to the determination of whether the application qualifies as an eligible facilities request. If the municipality requests additional information after the first thirty (30) days have passed, we will still provide any "reasonably related" information allowed under the FCC Order, but the Shot Clock will not be tolled.

In light of the foregoing, AT&T respectfully requests that its proposed wireless site modification be approved pursuant to Section 6409.

If the City believes that AT&T's application does not qualify as an eligible facilities request under Section 6409, please let me know immediately. Otherwise, if you have any questions, please feel free to call or email me. Thank you for your cooperation.

Sincerely,

Steve Proo

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