



# COUNTY OF SAN DIEGO

## LAND USE AGENDA ITEM

### BOARD OF SUPERVISORS

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**DATE:** April 25, 2001

**TO:** Board of Supervisors

**SUBJECT:** IMPLEMENTING WIRELESS SMART GROWTH (District: All)

### SUMMARY:

#### Overview

Supervisor Jacob and Chairman Horn Board letter adopted January 23, 2001 (15).

On January 23, 2001 (15), the Board of Supervisors directed the Chief Administrative Officer to draft a Board policy with input from Industry and Planning Group representatives to establish development standards or guidelines for siting antennas for wireless services to include, but not be limited to the following:

1. Return to the Board with strict design standards, particularly in residential areas, prohibiting steel towers.
2. Preference shall be given to locating antennas in commercial or industrial areas.
3. Preference shall be given to applicants that locate antennas on public buildings or existing structures.
4. Co-locate with other providers when the concept is the preferred method of the community.
5. Design facilities that are consistent with community character, i.e., stealth sites such as chimneys, steeples, flagpoles, light poles, clock towers, painting, screening, or masking as determined through the community design/review standards.

In response to the Board's direction, the Department of Planning and Land Use reviewed wireless facility ordinances from approximately 25 jurisdictions. Based upon that review, an outline of possible regulations was distributed to the industry and the Planning and Sponsor Groups for comment. The outline was meant to be a starting point for discussion. While it is possible that certain regulations from the outline will be part of the final ordinance, the Department is not proposing that the Board adopt the outline at this time. The outline is not part of the proposed action.

Staff has met with industry representatives three times and with Planning Group representatives once regarding the possible regulations. From those meetings, a framework for implementing the Board's direction has been developed. The

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Department of Planning and Land Use is recommending that this framework, along with certain other wide-ranging items be endorsed by the Board for inclusion in a future Zoning Ordinance amendment.

**Recommendation(s)**

**CHIEF ADMINISTRATIVE OFFICER:**

Direct the Chief Administrative Officer to initiate a Zoning Ordinance Amendment that includes a Master Plan, regulations regarding the number of towers and antennas permitted on a single site, a three-tiered permitting process, height limitations, along with other design requirements to be determined through meetings with community groups and industry.

**Fiscal Impact**

There is no fiscal impact associated with today's action.

**Business Impact Statement**

N/A

**Advisory Board Statement**

Comments have been received from the Ramona Planning Group, Valle de Oro Planning Group, San Dieguito Planning Group, Julian Planning Group, Boulevard Sponsor Group, Valley Center Planning Group, Twin Oaks Valley Sponsor Group and the Lake Moreno/Campo Sponsor Group.

**BACKGROUND:**

At the Board's direction, staff has met with representatives of the wireless industry and representatives of the Planning Groups. As a result of those meetings, staff is recommending the institution of three permitting tiers that will offer incentives to the industry to locate wireless facilities in the preferred areas whenever possible. The purpose of this Board Letter is to discuss the framework through which that process can be implemented. The letter also discusses areas of concern expressed by the industry and by the Planning Groups.

**AREAS OF CONCERN**

Prior to meeting with the industry and Planning Group representatives, an outline of possible requirements for wireless facilities was distributed to both groups as a starting point for discussing areas of concern between the two groups. The draft list of requirements offered a number of requirements and restrictions found in various ordinances from other jurisdictions. Concerns brought up by community groups and the industry are discussed below.

**Community Concerns**

The Planning Group representatives' concerns generally revolve around health, land use and aesthetics. First, there is a concern that the full effects of long-term exposure to radio wave radiation are not yet known. They believe that any regulations should take a conservative view of the appropriate sites for facilities. Residential areas, schools and medical facilities were

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named as specific areas of concern. The concern regarding medical facilities extends to questions as to how a facility might interfere with the operation of delicate medical equipment.

Second, wireless facilities are seen as commercial uses and therefore as being incompatible with residential zones. That incompatibility can be further exacerbated if a tower which is higher than the surrounding uses is proposed. The representatives believe that wireless facilities are not utilities in the same manner as telephone or cable companies because the wireless users may not be associated with the wireless facility site; i.e., a facility placed on an apartment building might be serving vehicles driving on a nearby freeway rather than residents of the apartments.

Third, the community representatives believe that because every site is unique in terms of visual, noise and other impacts, universal standards cannot be developed and use permit findings are necessary for all telecommunication sites. Consequently, they do not support a three-tiered system that allows approval of some facilities through the site plan process. Rather, they believe that requiring a Major Use Permit for residential sites and a Minor Use Permit for all other sites is the more appropriate means of regulating the facilities. Representatives stated that facilities approved by their groups often change from their initial design to a design that better fits the community.

Fourth, there are concerns that even if “stealthed”, the means used could result in negative aesthetic impacts since methods of stealthing a facility could include such things as altering the architectural profile of a building or result in equipment cabinets that do not fit into the surrounding neighborhood character.

**Planning and Sponsor Group Comments**

The following is a summary of Planning and Sponsor Group Comments:

On March 1, 2001, the Ramona Planning Group voted 15-0-0 to request a plan for: 1) where towers would be located; 2) an accounting of how many carriers want to locate their facilities in Ramona; 3) where the towers are necessary; and 4) preferred towers located in commercial areas and stealthed.

On March 6, 2001, the Valle de Oro Planning Group voted 11-0-0 to recommend that Use Permit findings be required to determine suitability for any location of commercial wireless facilities and that some locations (residential, medical, child care/schooling) should be excluded from allowing wireless facilities.

On March 8, 2001, the San Dieguito Planning Group voted to support a proposed document conditioning that the Planning Group retain the opportunity to utilize the guidelines with discretionary right to deny or accept any project based upon character and conditions to specific sites and requiring an applicant to fully spell out the impacts to the community should disaster conditions occur.

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On March 12, 2001, the Julian Planning Group voted 10-0-0 that the Planning Group supports the proposed standards subject to the following changes and clarifications and incorporating the comments on attached "JCPG Memorandum dated 02/12/01: 1) No visible facilities shall be placed on any replication of a historic building. 2) Questioned restricting facilities on residential buildings, private schools or within 300 feet of public schools. 3) Under Rural Residential add, "all facilities shall require a Minor Use Permit, and all adjacent neighbors within a 300 foot radius or a minimum of 20 property owners shall be notified." Under submittals, Item 4, modify the "visual analysis" to "a worst case awareness analysis (visual, noise, etc.)." Further, the Planning Group voted 10-0-0 to recommend placing a 180-day moratorium on accepting telecommunications applications in the Julian Planning Area or until proposed development standards are approved.

On March 16, 2001, the Boulevard Sponsor Group voted 5-0-1 to endorse the Board's direction for its January 23, 2001 (15) meeting.

On March 20, 2001, the Valley Center Community Planning Group commented that some measure is needed to properly identify by type the height, distance and directional properties of antennas and suggested that the tall lighting standards at middle and high schools might be appropriate sites for wireless antennas.

On March 21, 2001, the Twin Oaks Valley Sponsor Group discussed the possible development standards and offered a number of suggestions regarding possible design regulations. These will be addressed during the amendment of The Zoning Ordinance.

On March 21, 2001, the Lake Moreno/Campo Sponsor Group voted unanimously to support the adoption of design guidelines with a recommendation that the words, "water wells" be included in any regulations dealing with community character.

**Industry Concerns**

In general, the industry agreed with setting priorities for the location of wireless facilities and with a tiered processing system offering incentives. However, they felt that many of the possible regulations would not work in San Diego County due to some of the unique circumstances found in the unincorporated areas. For instance, placing restrictions on siting in residential zones could create problems since there is so much more residential than commercial or industrial zoning in the unincorporated areas, especially in the backcountry.

Also, placing absolute height restrictions on towers is seen as inappropriate because the varying topography of the region often requires relatively tall towers to ensure proper coverage of a service area. Further, height restrictions on towers could preclude some co-location possibilities.

Another concern expressed by the industry had to do with the possible requirement of a Master Plan from each applicant showing the general location of existing towers, planned towers and possible future towers. Master plans of one sort or another are required by some cities and counties in California, including the City of Santee. The main purpose for requiring them is to

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maintain an understanding of how development patterns will occur and to identify possible co-location opportunities.

The industry does not believe that such a plan is feasible for several reasons. First, there are concerns regarding proprietary information. The wireless industry is highly competitive and the companies do not share their plans with each other because of that competitiveness. Second, the industry describes itself as being demand driven and often does not know where their next facility will be sited until they receive input from customers regarding gaps in their coverage. Lastly, the industry felt that having a Master Plan would not necessarily assist in co-location efforts because each tower is site specific and might not lend itself to co-location even if existing and planned sites were identified.

**PROPOSAL FOR IMPLEMENTING WIRELESS SMART GROWTH**

Zoning Ordinance Amendment

*Recommendation: Implement Wireless Smart growth through a Zoning Ordinance amendment rather than a Board Policy.*

Because the proposed implementation requires instituting processing requirements, a Zoning Ordinance Amendment is preferable to a Board policy to meet the Board's direction. Further, an ordinance is considered a higher level document than a policy and is therefore more easily enforced. The Amendment can be included in The Zoning Ordinance as a "stand-alone" section, rather than being integrated into existing sections, thereby offering consolidated regulations in one spot.

Three-Tiered Permitting Process

*Recommendation: A three-tiered permitting process is recommended in order to offer incentives to industry to locate their facilities in the more preferable areas.*

A three-tier permitting system along with various design standards will offer incentives to the industry to locate their facilities in the more preferable areas (see Attachment A). The tiers are based largely upon visual and community compatibility considerations and would apply to all zones except residential which would always require a Minor Use Permit. The visual categories are divided into invisible sites (Tier I), low visibility sites (Tier II) and high visibility sites (Tier III). Each of these would have a different processing track with the more preferable sites and designs being allowed the least amount of review. Tier I would require a Site Plan that would be approved administratively without community review. A waiver of the Site Plan would be possible if certain criteria are met. Tier II would require a Site Plan that does have community review and Tier III projects would require a Minor Use Permit. All projects in areas having a Special Area Designator, such as a "B" or "D" Designator would be required to meet that designator's requirements, including public review. Steel towers would be prohibited in residential zones. Attachment A is a proposed matrix depicting the three tiers.

Also, a system of priorities would be developed as a means of directing towers and antennas to the most reasonable location. The priorities are ranked in descending order of preference:

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1. Existing structures, such as water tanks, utility towers, etc.
2. Co-locations sites
3. County and other government agency buildings, including fire stations
4. Commercial and industrial zones
5. Churches and other institutional buildings
6. Residential zones

Applicants would be required to review the list of priorities and write a report outlining the reasons why the highest priorities were infeasible if a lower level priority site was chosen.

As stated above, community concerns regarding wireless facilities generally fall into the realm of aesthetic and health concerns, including the effect of radio waves on delicate medical equipment. The Telecommunications Act of 1996 forbids State and local government from denying an application for a facility solely on the basis of health concerns. Radio Wave Emissions are regulated by the Federal Communication Commission (FCC). Medical devices are regulated by the Food and Drug Administration (FDA). The FDA has required shielding of medical equipment by manufacturers based upon potential interference from wireless facilities and devices.

Industry representatives have stated that if a facility were “stealthed”, a 300 foot setback from residential zones would be required solely as a health issue and therefore would not be in conformance with the Telecommunications Act of 1996. Planning Group representatives, however, state that other concerns, such as the noise generated by maintenance activities and air conditioners on the site, along with questions regarding maintenance personnel being allowed unrestricted access to residential properties creates a need for greater community involvement and use permit findings. The Planning Group representatives view facilities as activities that were not there before and may have impacts other than health concerns on the area.

Impacts other than health impacts associated with wireless facilities could be addressed through Site Plans and Minor Use Permits. Site Plans and Minor Use Permits are subject to the California Environmental Quality Act (CEQA). Therefore, any application would be reviewed for impacts such as noise. Further, conditions regarding these concerns could be placed in Site Plan and Minor Use Permit approvals. Consequently, the Department is recommending that a Minor Use Permit should be required for certain uses with visual impact and for uses within 300 feet of residential zones, regardless of the visual aspects of the facility.

Master Plan

*Recommendation: Require a master plan showing existing sites and how new sites will fit into the network.*

A master plan will allow for a greater ability to plan for wireless towers by offering the County a greater understanding of possible development patterns. Identifying the service area of each tower would offer information on whether the service areas might overlap and be better served through co-location rather than through placement of a new tower. Further, given the community concern regarding the proliferation of wireless towers, an understanding of possible development

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patterns allows a greater ability to deal with those concerns by allowing planning to take place at an earlier time.

Co-Location

*Recommendation: Co-locate, but limit the number of towers and companies using each tower in order to avoid the appearance of an “antenna farm”.*

Review of ordinances from approximately twenty-five jurisdictions has found that there are different schools of thought on co-location. Some jurisdictions prefer to see towers that are not clustered and are lower in height, which might allow them to blend more easily into the surrounding land uses. Other jurisdictions prefer co-location and a few have designated areas that essentially become “antenna farms”. Still others prefer co-location but limit the number of towers and companies using each tower in order to avoid the appearance of an “antenna farm”. Community flexibility is important in these decisions but “antenna farms” are not visually desirable and therefore, it is recommended that the third method, limiting the number of towers and other facilities, be considered the most appropriate approach.

Height limitations

*Recommendation: Stealthed towers exceeding Zoning Ordinance height regulations be allowed only through Minor Use Permit with community review. Ground-mounted non-stealthed towers greater than 60 feet would require a Major Use Permit.*

Currently, Department of Planning and Land Use policy requires a Major Use Permit for any tower over 250 feet in height. Various Planning Group and community representatives believe that there should be a lower threshold. Under current Zoning Ordinance, Section 4600 Height Regulations, no structure may be more than 60 feet in height, except for radio and television receiving antennas, transmitting antennas used by licensed “ham” or citizens band radio operators and chimneys located in industrial zones. The Planning Group representatives stated a preference for anything over 60 feet requiring a Major Use Permit.

By contrast, the industry has argued that flexibility is necessary in siting telecommunications towers due to the unique terrain and the necessity of having higher towers to accommodate co-location. Some jurisdictions have used a third approach by requiring documentation that the tower has been designed at the minimum height necessary to meet its purpose.

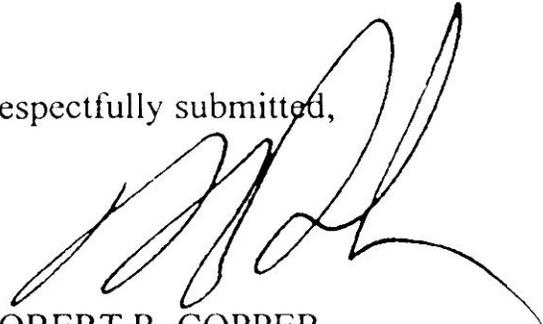
A 250-foot threshold for a Major Use Permit is of questionable value given that very few towers are built to that height. Required findings are the same for Major and Minor Use Permits and a finding that the structure fits the bulk and scale of the surrounding area must be made. Consequently, it is recommended that ground-mounted low visibility (stealthed) towers exceeding height limitations per Section 4600 of The Zoning Ordinance be allowed only through the Tier II Minor Use Permit, with community review by Planning or Sponsor Group and Design Review Board (if one exists). A ground-mounted non-stealthed tower greater than 60 feet would require a Major Use Permit.

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**CONCLUSION**

Today's proposed action would authorize the development of a Zoning Ordinance Amendment. Staff will continue to work with the industry and community groups during the development of the Zoning Ordinance Amendment, at which time specific design and review standards will be addressed. A Zoning Ordinance Amendment will take approximately nine months to complete.

Respectfully submitted,



ROBERT R. COPPER

Deputy Chief Administrative Officer

cc: All Planning and Sponsor Groups

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**ATTACHMENTS**

Attachment A – Proposed Approval Matrix for Wireless Sites  
Attachment B – Public Communications  
Attachment C – Outline Distributed to Planning Groups and Industry

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**AGENDA ITEM INFORMATION SHEET**

**CONCURRENCE(S)**

<b>COUNTY COUNSEL REVIEW</b>	<input checked="" type="checkbox"/> Yes	
Written disclosure per County Charter §1000.1 required?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<b>GROUP/AGENCY FINANCE DIRECTOR</b>	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> N/A
<b>CHIEF FINANCIAL OFFICER</b>	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> N/A
Requires Four Votes	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<b>GROUP/AGENCY INFORMATION TECHNOLOGY DIRECTOR</b>	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> N/A
<b>CHIEF TECHNOLOGY OFFICER</b>	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> N/A
<b>DEPARTMENT OF HUMAN RESOURCES</b>	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> N/A

**Other Concurrence(s):**

**ORIGINATING DEPARTMENT:** Planning and Land Use

**CONTACT PERSON(S):**

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**AUTHORIZED REPRESENTATIVE:**

GARY L. PRYOR, DIRECTOR

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(continued)

**PREVIOUS RELEVANT BOARD ACTIONS:**

April 4, 2001 (4), Withdrawn by the Chief Administrative Officer to allow more time for community input. January 23, 2001 (15); Directed the Chief Administrative Officer to return in 60 days with a policy establishing development standards or guidelines for siting antennas for wireless service, including a number of considerations.

**BOARD POLICIES APPLICABLE:**

N/A

**BOARD POLICY STATEMENTS:**

N/A

**CONTRACT NUMBER(S):**

N/A

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