

# PLANNING COMMISSION

## ADDITIONAL ITEM ADDED AFTER DISTRIBUTION OF PACKET (#5)

Agenda # 2

1. Crown Castle letter dated + e-mailed 6/30/14
2. John Signorino e-mail dated 6/30/14  
with Attachment
3. Elliot Herman e-mail to Mayor Desmond  
dated 6/17/14

Date 6/30/14

Time 11:55 AM



**Kiss, Lisa**

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**From:** Brindley, Karen  
**Sent:** Monday, June 30, 2014 8:38 AM  
**To:** Kiss, Lisa  
**Cc:** Backoff, Jerry; Leichliter, Rosalia  
**Subject:** FW: Draft Wireless Telecommunication Facilities Ordinance-City of San Marcos  
**Attachments:** LTR-San Mar Ord comments-06-30-14.pdf

**Importance:** High

Lisa,  
Here's another comment letter. Please also forward to Avneet, Helen, and Jonathan.

Karen

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**From:** Dohm, Jon [<mailto:Jon.Dohm@crowncastle.com>]  
**Sent:** Monday, June 30, 2014 8:34 AM  
**To:** Brindley, Karen; Leichliter, Rosalia  
**Cc:** Scully, Sean C. <[ScullySC@bv.com](mailto:ScullySC@bv.com)> ([ScullySC@bv.com](mailto:ScullySC@bv.com)); Dean Brown; Heapy, William; [pro@oboylelaw.com](mailto:pro@oboylelaw.com)  
**Subject:** RE: Draft Wireless Telecommunication Facilities Ordinance-City of San Marcos  
**Importance:** High

Dear staff—thank you for the opportunity to comment. Attached is a comment letter from Crown Castle. For the record, my comments are focused on Crown's "macro" sites in the city of San Marcos.

My apologies for late submittal but Crown would appreciate entering this letter into tonight's record. Although I was prepared to attend last week's hearing, its continuance to tonight does not allow me to testify in person.

Thank you.

**JON DOHM, AICP**  
Zoning Manager, West Area  
T: (805) 560-7844 / M: (805) 729-1715



**CROWN CASTLE**  
222 East Carrillo Street, Suite 107, Santa Barbara, CA 93101  
[CrownCastle.com](http://CrownCastle.com)

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**From:** Leichliter, Rosalia [<mailto:RLeichliter@san-marcos.net>]  
**Sent:** Friday, June 27, 2014 1:10 PM  
**To:** Leichliter, Rosalia  
**Subject:** Draft Wireless Telecommunication Facilities Ordinance-City of San Marcos

The Planning Commission is meeting on Monday, 6-30-14 at 6:30pm in the City Council Chambers at City Hall. The item before the Planning Commission is the City's Draft Wireless Telecommunication Facilities Ordinance. Provided below is the link to the Planning Commission packet. Your contact regarding this email and the Ordinance is Karen Brindley, Principal Planner. Ms. Brindley can be contacted at (760) 744-1050, Ext. 3220 or [kbrindley@san-marcos.net](mailto:kbrindley@san-marcos.net). Thank you.

<http://www.ci.san-marcos.ca.us/index.aspx?page=17&recordid=3984>

Rosalia Leichliter  
Development Services Department - Planning Division  
City of San Marcos  
(760) 744-1050, Ext. 3216  
(760) 591-4135 Fax

This email may contain confidential or privileged material. Use or disclosure of it by anyone other than the recipient is unauthorized. If you are not an intended recipient, please delete this email.



Crown Castle  
222 East Carrillo Street  
Santa Barbara, CA 93101

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JUN 30 2014

CITY OF SAN MARCOS  
PLANNING DIVISION

June 30, 2014

Ms. Karen Brindley, Principle Planner  
City of San Marcos  
1 Civic Center Drive  
San Marcos, CA 92069

Sent via email delivery

RE: Comments to Amendments to Chapter 20.465, SMMC Title 20  
Case P13-0065, Draft Wireless Telecommunications Facility Ordinance

Dear Ms. Brindley:

Thank you for including Crown Castle ("Crown") on the city's interested parties list for this wireless code update. Crown is the nation's leading provider of shared wireless infrastructure. With the recent acquisition of over 9,700 tower facilities from AT&T Towers, Crown now owns and manages approximately 40,000 communications facilities in the United States. In addition to these tower facilities, Crown owns and manages distributed antenna systems and small cell systems throughout the country.

Crown is also a leading provider of zoning and permitting services for our wireless customers. This broad range of expertise, both as a communications facility owner and manager, and as a service provider working for wireless carrier providers, gives Crown a unique perspective when reviewing public policy that affects wireless deployment.

The next several years is expected to see incredible growth in the mobile broadband market. Put simply, this means escalating demand for high-speed wireless services. Over the next four years, mobile data traffic in the top thirty markets in the United States is expected to increase by 850%. The increased use of smartphones and tablets is straining the existing wireless networks around the country. To address this strain, wireless carriers expect to invest between \$34 to \$36 billion dollars annually over the next five years. This investment is expected to create approximately \$1.2 trillion dollars in economic development and the creation of 1.3 million net new jobs.

A critical component in addressing this consumer demand is the speed with which carriers can deploy new wireless networks as well as their ability to rapidly modify existing wireless networks. In order to do so, relief is needed in the form of reasonable public policy that regulates wireless siting and development at the local level.

#### **Comments to Section 20.465.020, "Applicability"**

Section C. should be amended to include additional exemptions: like for like antenna swaps and the addition of small, ancillary ground equipment that does not change the size of the existing compound or the aesthetic appearance of the facility. Both types of projects are extremely common and carriers should be provided an incentive for this type of modification, including an exemption to the zoning and building permit process. Often for example, 4G upgrades can be achieved with simple antenna swap-outs. While conforming to a "like for like" standard is not always achievable, the incentive and option should be provided.

With respect to ancillary ground equipment, quite often upgrades result in very minor alterations or additions of small pieces of ground equipment that is not visible to the general public and does not result in the expansion of the existing compound area. Zoning (and potentially building permit) processes should not be required for this minor work.

### **Comments to Section 20.465.030, "Permit Requirements"**

While Crown compliments the city for its intent to simplify the ordinance by separating permit requirements into Administrative Permits or "preferred" locations, and Conditional Use Permits for "discouraged" locations, we suggest these two types of "location/zone" preferences represent an antiquated methodology in wireless siting and ignore recent changes in Federal regulations that govern wireless projects. Consequently, the "preferred" and "discouraged" zone/locations concepts should be removed entirely from this ordinance amendment.

Rather, Crown recommends that the Administrative Permit process be amended to follow the guidelines of Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012. Administrative permits should be issued for all "eligible facilities projects" that involve the modification and replacement of wireless equipment that do not "substantially change" the dimensions of the tower of base station pursuant to the definition of this term found in Section 6409(a).

Conditional Use Permits should only be considered for new facilities and any modification or replacement project that "substantially changes" the physical dimensions of a wireless facility.

### **Comments to Section 20.465.040, "General Regulations"**

Crown has concerns over several provisions in this Section. First, "non-camouflaged" facilities are prohibited in every zone. This seems severe and would require a stealth facility in an industrial area or an electrical substation, for example. Crown would recommend changing the wording so that these facilities are "discouraged" but not entirely prohibited.

In Section D, the Parcel Size will make it difficult to provide wireless services to residential neighborhoods. With nearly 40% of Americans choosing not to have a landline phone in their home, this type of regulation will have the effect of prohibiting service to these residential areas, or at a minimum, make it extremely difficult to do so. Crown recognizes the challenges involved in attempting to install wireless facilities in residential neighborhoods. We believe these challenges are best overcome by working with the community and good design and placement, not stringent regulations.

### **Comments to Section 20.465.050, "Location Criteria"**

Crown believes the use of "preferred" and "discouraged" location criteria has never been an effective methodology and today, is simply antiquated due to the maturity of wireless networks. Quite simply, a carrier is incented to improve their existing network, either by the modification of existing facilities, or by the installation of new sites. Their ongoing goal is to address all service coverage gap issues that exist in their network quickly and effectively. These deficiencies surface in a number of ways, not the least of which is by complaints by the citizens of San Marcos. It is irrelevant if a park property or city-owned property is available for lease or is the "preferred location" in the view of the city.

Crown recommends that this entire Section be stricken from the ordinance.

### **Comments to Section 20.465.070, "Design and Development Standards"**

Consistent with the city's intent to issue only two types of permits, Administrative and Conditional Use, Crown recommends that this Section be divided in a similar manner. For Administrative Permits, since they should follow the provisions of Section 6409(a), we suggest that the design standards simply mimic the law and focus on meeting the definitions of whether or not a project "substantially changes the physical dimensions" of the wireless



facility. Similarly, all other design and development standards should be clearly identified as pertaining only projects subject to a Conditional Use permit.

**Comments to Section 20.465.080, "Maintenance and Operation Standards"**

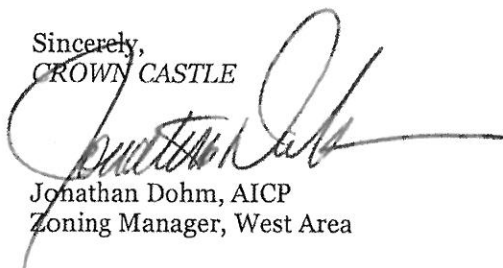
While Crown believes most of the requirements found in this Section are reasonable, we do not support the provisions of Section I.1 and I.2. Both these Sections, in our view represent overregulation. With respect to I.1, there is no compelling reason to require an annual EME compliance report if the facility has already demonstrated compliance and nothing has changed at the facility. The city is well aware that the average site measures approximately 5% of the FCC standard for EME. There is little reason to continually request verification of this fact unless significant equipment changes have been made to the facility.

Crown also sees little need to submit annual CUP compliance reports, as required by Section I.2. A more reasonable standard, at a minimum, would be every 5 years. Obviously, with the ongoing work at virtually every cell site, the city has ample opportunity on a regular basis to make a CUP compliance determination in the regular course of business, without the need for carriers and facility owners to spend valuable time producing reports that only serve to document existing, approved conditions.

Should you have any questions or would like further information you may reach me at (805) 560-7844 or at [jon.dohm@crowncastle.com](mailto:jon.dohm@crowncastle.com).

Thank you again for the opportunity to comment.

Sincerely,  
CROWN CASTLE



Jonathan Dohm, AICP  
Zoning Manager, West Area

Cc: Regulatory Committee Chairs, California Wireless Association  
Will Heapy, District Manager, Crown Castle  
Paul O'Boyle, Outside Counsel, Crown Castle





**Kiss, Lisa**

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**From:** Wilcox, Lori on behalf of CityClerk  
**Sent:** Monday, June 30, 2014 8:29 AM  
**To:** Scollick, Phil; Backoff, Jerry; Kiss, Lisa; Leichter, Rosalia  
**Subject:** FW: For the Record, June 30 PC Hearing  
**Attachments:** Response to letters June 28 2014(a).docx

Fyi..

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**From:** Constance Signorino [<mailto:jcsiggy@gmail.com>]  
**Sent:** Monday, June 30, 2014 7:55 AM  
**To:** CityClerk  
**Subject:** For the Record, June 30 PC Hearing

I have reviewed the documentation submitted "on the record" for the June 30 Planning Commission hearing and have prepared the attached comments to statements/information I believe to be misleading or erroneous.

Please include this email and attachment "for the record". Thank you.

John Signorino

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JUN 30 2014

CITY OF SAN MARCOS  
PLANNING DIVISION

**AT&T March 11, 2014**

3. Adoption of the Ordinance and the extended moratorium fails to meet the requirements of Government Code section 65858(c), which allows an urgency measure only if it contains findings: (1) that there is a current and immediate threat to the public health, safety and welfare and (2) that approval of any additional permits would result in a threat to the public health, safety and welfare.

*The AT&T CUP processes mandates highly flammable pine trees in a "high risk fire zone" next to residential homes (in SEH) making this a public health and safety issue. The May 2014 San Marcos fires definitely prove and punctuate this safety issue.*

**AT&T April 21, 2014 Backoff Letter**

2. **Proposal to mandate "DAS only" networks in certain areas of the City.** The small number of cell site opponents in attendance at the Workshop proposed that the revised City WTF Ordinance should mandate exclusive DAS network coverage within at least certain areas of the City, presumably residential areas. As discussed above, such

*AT&T references a "small number of cell site opponents"—To date, 285 residents have signed a petition against the macro cell towers and the ordinance (still growing). This does not include the SEH residents that signed a petition on October 2013 against the cell farm.*

4. **Alleged "radiation," community character, and property value impacts.** The cell site opponents made repeated and lengthy comments during the Workshop about alleged adverse impacts from wireless telecommunications facilities relating to "radiation," community character, and property values. Again, no credible support for these statements was provided, and none exists. Moreover, such comments and concerns are improper. Localities are federally-preempted from regulating wireless facilities based on radio frequency emissions. 47 U.S.C. §332(c)(7)(B)(iv). Concerns over supposed

*In the documents provided to the City and at the Planning Commission and City Council meeting, it was the cell companies that have brought up "radiation". Obviously this will create community concerns and feeds a RF dialog. Responsible Cell is opposing the ordinance on community character and visual blight (see City files on the AT&T permit, City Planning Commission City Council meeting videos).*

*Since AT&T has brought up RF and also AT&T talks a lot about RF in their permit filing with the City, they create concerns. Dr. Jerrold Bushberg, AT&T RF expert, said "No panel of experts can guarantee safe levels of exposure". Does this sound like the early warning signs on cigarette packages?*

*Dr. Bushberg also states in his report regarding the SEH Cell Farm (2080 Golden Eagle), a warning "sign conforming with ANS C95.2... should be placed near the antenna" saying "presence of RF transmissions and to take precautions to avoid exposures in excess of FCC limits" (see below). These signs will be less than 300 to 400 feet from SEH homes.*

A sign conforming to with ANSI C95.2 color, symbol and content, and other markings as appropriate, should be placed close to the antennas with appropriate contact information in order to alert maintenance or other workers approaching the antenna to the presence of RF transmissions and to take precautions to avoid exposures in excess of FCC limits.

*Additionally, his assessment and recommendation was done November 2012, before the T-Mobile cell tower at this site was expanded. The City's AT&T decision was with outdated information. This T-Mobile site has been operating out of permit compliance for over 15 months. Now the ordinance will allow a third macro cell tower at this cell site in SEH.*

*AT&T brought up property values (see below) yet provides no facts ("no creditable support") regarding cell towers impact on property values. Responsible Cell provided supporting documentation that showed cell towers negatively impact property values (see October City Council Meeting presentation). California Association of Realtors classifies cell towers as a "nuisance" and requires seller to declare the cell tower when they list their property. Dr. Sandy Bond's quantitative analysis on Cell Towers and Property Values concluded that cellular phone towers.... "Increased resistance" to sites near those towers... "decreases values" from 2 to 20% depending on how close the tower is to homes.*

*Note AT&T expert*

*AT&T is misleading the City with no documentation, partial information and misinformation.*

#### **5. Proposal for significant minimum setbacks between cell sites and adjacent residences.**

...

FCC, noise and building code standards to be approved. Therefore, the proposed sizeable minimum setback requirements are arbitrary and unreasonable and appear to be based on the unfounded fears of RF emissions or "radiation," which is not a valid basis for local regulation, as noted above.

*The set back was not based on RF but on the cell towers impact on our community character and visual blight (see the resident visual analysis files with the City). Again the cell companies brought up RF at the meetings and on their permits.*

6. **Suggestions for onerous and unnecessary studies by third parties.** Cell site opponents asked the City during the Workshop to include a provision in the new Ordinance to mandate that the carriers pay for independent and de novo third party studies about claimed coverage gaps and about alternative site analyses for any site in a non-preferred location. This burdensome and costly analysis would be above and beyond the traditional practice for the City to have its consultant generally review the carrier's information on those matters.

*These studies are not "unnecessary" and the fact it is moving beyond "traditional practices for the City" is exactly what the City is doing – changing "traditional practicing" to protect residents and their communities. Additionally, such an analysis is not "burdensome". AT&T operating profits were over \$30 billion last year. They can afford it and would be hard pressed to claim this is a "burden".*

*Regarding confidentially, such information is routinely shared to third parties via signed confidentially agreements.*

*AT&T also claims there is a current review process and this "independent analysis" is unnecessary. The City records show AT&T did not provide sufficient or adequate data for the current review process to make a determination if their SEH tower is needed. This is exactly why an "independent analysis" is necessary (see City records)!*

7. **Cell facility network plans and further permit review requirements.** Cell site opponents suggested during the Workshop that the City should establish a separate "Citizens' Council" for cell sites, and that the City should develop 1, 3 and 5-year City-wide plans for cell facilities. Such suggested City central planning structure is unnecessary.

*AT&T is again misleading the City. They say this is unnecessary and useless without documentation. They also claim "delays" when in fact the Citizens Council cannot delay the permit process based on the shot clock requirement.*

#### **May 11, 2014 letter from Jeff Brandon (The Cell Tower Site Owner and AT&T partner)**

States the cell towers are "protecting everyone's health and safety" with no documentation. It is also misleading and ignores the facts that FCC guidelines dictate all 911 calls from any carrier will be picked up by the an existing carrier (T-Mobile Tower in this case) and adding 2 more towers will do nothing for "everyone's" safety.

He goes on to say it is only his immediate neighbors that are opposing the cell farm in SEH when in fact, 280 (and growing) San Elijo and San Marco residents have signed a petition against the ordinance and his cell farm.

He says the Ag parcels provide larger separation from neighbor's property. The ordinance allows the cell towers to be set directly next to their neighbor's property. Look at his SEH Cell Farm, the towers are at the far western edge of his property and directly next to (within about 200 feet) of SEH home's property lines. Also, there are many non-ag properties that provide "best elevation" for cell towers. Additionally, non-ag elevations owned by the City provide the City needed revenues and the profits do no go to single property owners.

He also shows photos which he claims are DAS systems. They are cell antennas and not current DAS systems. A DAS antenna is small and hardly noticeable from the street. He also said DAS puts "everyone's safety at risk" since they do not have "long term back up emergency power" but neither does his macro cell towers and, when they are all clustered together next to highly flammable pine trees, they will be the first to go.

These macro towers can and do emit microwave cell transmissions for 20 to 40 miles. This is why the cell companies like them. The cell tower ordinance will cover Carlsbad, Encinitas, San Diego County... All that San Elijo needs to fill their voids is DAS. Carlsbad, Encinitas, San Diego County has better cell ordinance this is why the cell companies and their cell site partner are fighting to dilute and defeat the San Marcos cell ordinance. DAS stand for Directional Antenna Systems and are used in communities like

San Elijo and are especially effective in areas where hills block the powerful signals from macro towers. DAS is all SEH needs to fill our voids.

The cell tower site owner says his cell tower site "allows RF signals to originate a very long distance away from residences" when the three cell towers allowed on his "parcel" in this ordinance are just 300 feet from homes in SEH. Again these cell towers can transmit over many miles. If these three towers are a "very long distance from residents", why are 280 residents opposing the ordinance and his cell farm.

He states some people have a micro site in their home. He neglects a critical point; it is their decision, they can hide the small boxes and control the visual bright, can control the amount of RF and placement and can turn them off at will. His neighbors can do none of this when his parcel has 3 macro cell towers. He and the cell companies are in control of their RF, not the residence.

He claims the "opponents" learned at the work shop that "DAS would not be an appropriate alternative" to his macro tower. This is just not true. Although the City did try and sell macro towers to support their flawed ordinance the "opponents" are too well informed and did not fall for this.

The Cell site owner claims that "opponents" of his cell site would push it "closer to residents". Again, this is not true. Within 1,500 feet of his site are 174 SEH homes but from the prior AT&T preferred site there were only around 8 homes affected. And, some of the sites the "opponents" recommended would provide revenue to the City (not to this property owner).

The cell site owner dedicated four to five paragraphs to RF yet claims there is no issue with RF. Strange.

The cell tower owner stands to make a great deal of money if this cell tower ordinance is passed. This clouds his objective. The Ordinance specifically moves the Cell Farm to SEH because, in order to have three cell towers, a property must be 10.1 acres. The SEH Cell Farm site is 10.2 acres! It looks like the City allowed him to write the ordinance. Why?



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**From:** Brindley, Karen  
**Sent:** Monday, June 30, 2014 11:46 AM  
**To:** Kiss, Lisa  
**Cc:** Backoff, Jerry  
**Subject:** FW: Proposed Cell Tower Ordinance.

Lisa,  
Please include the email from Mr. Herman to the Mayor in the PC Packet for tonight's hearing.

Thanks,  
Karen

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**From:** Kiss, Lisa  
**Sent:** Monday, June 30, 2014 7:57 AM  
**To:** Brindley, Karen  
**Subject:** FW: Proposed Cell Tower Ordinance.

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**From:** Elliot Herman [<mailto:email@elliotherman.com>]  
**Sent:** Friday, June 27, 2014 7:35 AM  
**To:** CityClerk  
**Subject:** FW: Proposed Cell Tower Ordinance.

I do not see my letter as part of the record of the planning commission even though it was sent to you on June 12<sup>th</sup>.  
Why?

This email also includes exchanges with Jerry Backoff and Mayor Jim Desmond.

Please get back to me.

Elliot Herman  
Phone

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**From:** Elliot Herman  
**Sent:** Wednesday, June 25, 2014 8:11 PM  
**To:** Jerry Backoff - City of San Marcos ([jbackoff@san-marcos.net](mailto:jbackoff@san-marcos.net))  
**Subject:** FW: Proposed Cell Tower Ordinance.

Jerry,

I do not see my letter originally submitted on June 12th (see below) included in the Public Comments on the Planning commission agenda. Any reason why?

Elliot Herman  
Phone



-----Original Message-----

From: Elliot Herman

Sent: Tuesday, June 17, 2014 8:33 AM

To: 'Desmond, Jim'

Subject: RE: Proposed Cell Tower Ordinance.

Mr. Mayor,

I truly hope you take my concerns and incorporate them into the ordinance. The more I drive around the area and beyond, it is amazing to see what Cell Companies will erect if the decision is left up to them entirely.

I have included a link to the AGL Media Group (Above Ground Level) which is an industry website that talks about when is coming. The story I found interesting was a clip by Chris Hills of Stealth Co that makes camouflage for towers.

The link is <http://www.aglmediagroup.com/aglvideos/>

Skip to 5:15 if you do not have the time to see it all. Very interesting to see what he feels the future is an the enormous amount of money that AT&T is going to spend next year on new towers. You need to control the future placement and now is the time.

I looked at another industry site [www.CellTowerInfor.com](http://www.CellTowerInfor.com) What I found interesting is the comparison of height to setback. In general that amount ranges from a 1 to 1 ratio to higher across this country. That would make a 35 foot tower need to be 350 feet from the property line. If it is higher, it must be further away. I believe this backs my argument on how far the sites should be from the owners property line.

Mayor, I know the issue is complicated, but the feeling of being ignored by the people that we elect is the most damaging of all. I still would like to speak to you about the issue. These are not trees that grow together, they are cell towers that are constructed. The pain and visual blight needs to be spread around.

Thank you.

Elliot Herman

Phone