



## **Discussion of Bases for Part V of City Manager's Decision Crown Castle's 16 Applications for Proposed Wireless Facilities**

**Date: December 20, 2017**

This document references evidence in the record and describes bases for findings in Part V of the City Manager's decision dated December 20, 2017, consistent with the Hillsborough Municipal Code. As part of its review, the Town considered the evidence submitted supporting (or purporting to support) grant of the applications, as well as evidence submitted supporting (or purporting to support) denial of the applications. This does not discuss each individual statement for or against the decision, but rather attempts to summarize the state of the record on issues important to the City Manager's decision. The decision, this document, and the record are all available on the Town's website which is located at: <https://www.hillsborough.net/482/Wireless>.

***1. Whether the WCF and support structure additions and modifications proposed are consistent with the general plan and will not adversely affect the policies and goals set forth therein or alter the rural character of the community.***

Based on the record, the City Manager finds that the Applicant has not shown that the WCF and support structure additions and modifications proposed are consistent with the general plan. Applicant has also failed to show that its proposal will not: (a) adversely affect the policies and goals set forth in the general plan; or (b) alter the rural character of the community.

### **KEY ELEMENTS OF RECORD**

- Hillsborough General Plan Land Use Element (see pages LU- 2, 3, 18, and 19) goals and policies.
- Hillsborough Design Guidelines

- Wireless Communications Advisory Committee (WCAC) December 5, 2017 letter
- Transcript of Public Meeting dated November 7, 2017
- Many public written public comments expressing concerns about aesthetics noting the DAS project's negative impacts to the "rural aesthetic" of the community including project's "extreme proximity" and "very intrusive" nature to single family homes. For example, see Public Comments submitted by Shailly Guleri (12/13/2017), Allyson Willoughby (11/16/2017), John Shupe (11/14/2017 and 12/14/2017).
- Hillsborough is a community of unique residential character and aesthetic values. It is a community of low density (the minimum lot size of one-half acre was set in 1953), single family residences of singularly unique quality craftsmanship and architectural design in a rustic and rural setting. The Town's Design Guidelines for homes reference the Town as being developed with finely crafted homes set on large estates, with a precedent for quality, rustic character, and rich in history including homes designed by Willis Polk Julia Morgan, Richard Neutra and William Wurster. The Design Guidelines recommend that antennas on homes be installed in such a way as to not be visible from streets or neighboring properties and further if the installation of the device is on the front façade, appropriate screening shall be installed.
- The unique character of the community is experienced not just by individual residents living adjacent to the proposed WCFs, but by residents passing by in both pedestrian and vehicular modes experiencing the visual streetscapes of the community.
- The roadways in Hillsborough are mainly narrow, lightly traveled twisting two-lane roads used to access residences rather than for through-traffic access. To maintain the rural feel, there are almost no streetlights in the Town. There are no rail, bus, or highway routes in the Town. All areas of the Town where the proposed facilities would be placed are zoned as residence district ("RD"), and designated as "Residential" under the General Plan. There are no commercially zoned properties within the Town of Hillsborough anywhere near any of the proposed WCFs that could be served by them.
- The Applicant's proposal's scale, style and character with installations of up to 54'9" in height and commercial in design, is not consistent with the low density scale and size

(32' height limit) of the single family residential nature of the structures within the Town, with many neighborhoods consisting of predominantly single story residences.

- Applicant submitted little information addressing this issue, beyond the information in its application, and that information is not sufficient, in light of the information in the record, to carry applicant's burden on this point.

***2. Except where the Town is prohibited from considering it by law, whether the applicant has shown that the proposed WCF is necessary to close a significant gap in coverage and has further shown that its proposal is the least intrusive means of closing that significant gap.***

While there was conflicting evidence on this point, the City Manager finds that considering the record as a whole, the Applicant has not shown there is a significant gap in coverage. If the Applicant had shown a significant gap in coverage, the City Manager would have found that the Applicant's proposal is not the least intrusive means of closing that significant gap.

#### **KEY ELEMENTS OF RECORD**

- Crown Castle Applications and related correspondence
- CTC Technology and Energy Reports on Coverage and Capacity
- Transcript of Public Meeting dated November 7, 2017
- Various written public comments regarding Applicant's significant gap claim. For example, see Public Comments submitted by Karen and Bill Wong (12/12/2017), John Lavrich (12/14/2017), Patrick Shannon (12/17/2017).
- In evaluating whether the Applicant met its burden, anecdotal comments from the public as to the quality of service and coverage were not relied upon. Expert analyses and other information, including comments related to the lack of data and analysis provided by the Applicant on blocked and dropped calls and alternatives, were relied upon.
- The Applicant's proposal is for a DAS network of 16 nodes to address an alleged significant gap in Verizon Wireless service within the Town.
- The DAS network proposed to address the alleged significant gap is comprised of 16 nodes, each of which would serve a limited area which varies by node. The Applicant has

given reference points for the service provided by each node such as approximately 25 residences, robust in-building coverage within one-quarter mile, and outdoor/on-street coverage to the area approximately within 2000 feet of the site.

- The primary service goal according to the Applicant is to provide city-wide robust in-home coverage, and meet demand from non-resident mobile users.
- In considering whether any gap is “significant”, the City Manager is guided by case law which makes it clear that the significance of a “gap” is a fact specific determination. For example, “context specific factors” that have been considered in assessing the significance of alleged gaps. The examples include: whether gap affected significant commuter highway or railway; assessing the “nature and character of that area or the number of potential users in that area who may be affected by the alleged lack of service”; whether facilities were needed to improve weak signals or to fill a complete void in coverage; gap covers well-traveled roads on which customers lack roaming capabilities; considering “drive tests”; whether gap affects commercial district; whether gap poses public safety risk.
- The population of Hillsborough has been stable (roughly 10,000-11,000) for decades, and the density is relatively low due to the large minimum lot size (minimum lot size of one-half acre established in 1953). There are approximately 4100 residences in the Town spread over an area of just over 6 miles. The population density roughly 1800 people per square mile, as compared to about 8,000 per square mile in neighboring San Mateo.
- The roadways in Hillsborough are mainly narrow, lightly traveled twisting two-lane roads used to access residences rather than for through-traffic access. There are no rail, bus, or highway routes in the Town. All areas of the Town where the proposed facilities would be placed are zoned as residence district (“RD”), and designated as “Residential” under the General Plan. There are no commercially zoned properties within the Town of Hillsborough anywhere near any of the proposed WCFs that could be served by them.
- Considering the information submitted by the Applicant, as well as the information submitted by the public and CTC, the Applicant has failed to show that there is either a coverage or a capacity gap.

- Among other things, wireless coverage is generally available from Verizon Wireless using its 700 MHz band, and 16 DAS sites are not required to serve sites where coverage is weak..
- No information was provided by the Applicant on dropped calls or capacity restraints; the information that was provided shows that there is increasing use of the system, or parts of the system, but does not demonstrate an actual service issue that requires 16 DAS nodes.
- Given the nature of the community, even if one assumes some gaps exist, the significance of those gaps has not been shown.
- In light of the above, Applicant has not demonstrated any gaps in service within the Town are significant.
- Even assuming any gaps are significant, the 16 node DAS proposal chosen to fill the gaps not shown to be the least intrusive alternative for the areas addressed in light of a possible alternatives.

***3. Whether the WCF and support structure modifications and additions proposed, comply with the design standards in Chapter 15.32, and other applicable provisions of the Code.***

The City Manager finds that the Applicant has not shown the WCF and support structure modifications and additions proposed, comply with the design standards in Chapter 15.32, and other applicable provisions of the Code.

**KEY ELEMENTS OF RECORD**

- Crown Castle Applications and related correspondence
- Transcript of Public Meeting dated November 7, 2017
- Various written public comments outlining aesthetic concerns and inconsistencies with HMC requirements. For example, see Public Comments submitted by Patrick Shannon (12/17/2017), Aditya Tim Guleri and Paula Shi (12/14/2017), Lisa Dugoni (12/14/2017).
- Multiple reports of area real estate agents regarding anticipated loss of property value due to aesthetic concerns. For example, Public Comments submitted by Tina and Allen Jin (12/14/2017), Patty Dwyer (12/13/2017), Denise Laugesen (12/14/2017), Phil Chen,

President of Sybarite Realty (1/28/2017), KKMA Real Estate Properties LLC (12/112/2017), Fred Cho (12/14/2017).

- The Town has a hierarchy of preferred locations for WCFs. None of the proposed WCFs would be located on the first preference, public property (HMC 15.32.70.C.1). Most of the proposed WCFs would not be on existing utility poles, the second preference. (HMC 15.32.70.C.2). None of the proposed WCFs would be located on existing support structures or wireless towers on nonresidential private property, a third preference (HMC 15.32.70.C.3). At least half are WCF on new monopoles, but concealment is generally inadequate. (HMC 15.32.70.C.4)
- Several of the WCFs are proposed to be located within 1500' of an existing wireless cell facility. (HMC 15.32.70.D)
- Some of the proposed WCF poles exceed the height of existing utility poles by as much as 20 feet. (HMC 15.32.70.E.2)
- Most of the new proposed pole mounted equipment would be in locations where other pole mounted equipment does not exist. Where pole mounted equipment for other utility companies does exist nearby, the existing equipment is significantly smaller than the equipment proposed by the Applicant. (HMC 15.32.70.F.2)
- The proposed 100 amp electrical service panel is oversized and the electrical panel size is excessive for the purpose. (HMC 15.32.70.F.2)
- None of the equipment is proposed in underground vaults while other utility companies readily use vaults to house their equipment. (HMC 15.32.70.G.1)
- None of the proposed equipment is flush to grade where necessary to avoid incommoding the public or creating a hazard. (HMC 15.32.70.G.2)
- Several of the proposed WCFs do not have landscaping to camouflage and blend with surroundings.
- None of the proposed WCFs are consistent with the height and design of surrounding features. (HMC 15.32.70.H.2)
- The majority of the proposed WCF locations are visually impactful to the adjacent properties. Some of the WCFs are located within the direct view corridors of residences. (HMC 15.32.70.J.1)

- Ground mounted equipment impacts existing landscaping. (HMC 15.32.70.J.1)
- None of the proposed WCFs accommodate collocation (HMC 15.32.70.J.2)
- See Finding #1 for inconsistencies with the general plan (HMC 15.32.70.J.4)
- All of the WCFs incommode the public by physical location or aesthetics or both. (HMC 15.32.70.O).
- All of the WCFs are highly visible to the public and do not camouflage with the surrounding neighborhood features. (HMC 15.32.70.P)
- Applicant submitted little information addressing this issue, beyond the information in its application, and that information is not sufficient, in light of the information in the record, to carry applicant's burden on this point.

***4. Whether the WCF and support structure modifications and additions proposed comply with applicable safety codes and laws (including without limitation the ADA).***

The City Manager finds that the WCF and support structure modifications and additions proposed comply with applicable safety codes and laws (including without limitation the ADA). This is not a finding with respect to environmental laws, but rather laws governing the integrity of structures placed in the public rights of way (for example, whether the proposed pole be strong enough to support the proposed WCF). This is distinct from the question of whether the structures create a hazard. With respect to the ADA, the City Manager finds that the placement of the facilities would not incommode the disabilities community more than the general community, and hence issues with respect to interference with the public's use are addressed under finding 5.

**KEY ELEMENTS OF RECORD**

- Crown Castle Applications and related correspondence
- Plans provided clearly show all the WCFs and support structure comply with applicable safety codes, and no contrary evidence appears to have been submitted.

***5. Whether the WCF and support structure modifications and additions interfere with the public's use of rights-of-way, or create undue risks to persons or property.***

The City Manager finds that the WCF and support structure modifications and additions interfere with the public's use of rights-of-way, or create undue risks to persons or property. This is particularly evident with respect to the applications for new poles and above ground equipment.

#### **KEY ELEMENTS OF RECORD**

- Crown Castle Applications and related correspondence
- Various written public comments on concerns about road hazards. For example, see Public Comments submitted by John Shupe (12/14/2017).
- One of the proposed WCF locations imposes a line of sight safety impediment for vehicular traffic.
- Some of the WCFs are encroaching on areas in the public right-of-way where roads are already very narrow and space is limited.
- All of the proposed WCFs and equipment take up more area than the existing poles they replace or where no poles/equipment previously existed.
- Applicant submitted little information addressing this issue, beyond the information in its application, and that information is not sufficient, in light of the information in the record, to carry applicant's burden on this point

***6. Whether the applicant has made the required affirmation regarding compliance with the FCC's RF regulations, as the same may be amended.***

The City Manager finds that the Applicant has made the required affirmation regarding compliance with the FCC's RF regulations, as the same may be amended.

#### **KEY ELEMENTS OF RECORD**

- Crown Castle Applications and related correspondence
- Applications provided clearly show all the WCFs would comply with applicable FCC RF regulations, and no contrary information was submitted.

- Concerns raised by a few public commenters about health effects of radio frequency emissions may not be taken into account under federal law, and were not considered.

**7. *Whether the applicant is authorized to file the application.***

The City Manager finds that the Applicant is authorized to file the application.

**KEY ELEMENTS OF RECORD**

- Crown Castle Applications and related correspondence.
- Transcript of Public Meeting dated November 7, 2017
- While some questions were raised at the public meeting, Crown Castle's Applications complied with Town requirements on this point.

**8. *Whether the applicant has or will have necessary local, state or federal regulatory approvals required in connection with the WCF (including but not limited to necessary CEQA approvals, if any; and approvals for utility box design under this Code).***

The City Manager finds that the Applicant has failed to satisfy its burden of proof for this finding for the reasons discussed in Part III above.

**KEY ELEMENTS OF RECORD**

- See City Manager's Decision, Part III. Crown Castle has not provided proof that it is in has such approvals as any part of the record.

**9. *Whether alternative designs or locations would be more consistent with the general plan and otherwise minimize the impact of the WCF and support structure modifications and additions required.***

Based on the negative findings discussed above, the proposed WCFs and support structure modifications comprising the DAS project are not consistent with the general plan and do not minimize the impacts. Even assuming all the proposed WCF and support structure modifications and additions were required, the City Manager would find that alternative designs or locations would be more consistent with the general plan and otherwise minimize the impacts.

### **KEY ELEMENTS OF RECORD**

- See above findings, and in particular, the elements of the record cited in connection with findings 2-3.
- Among other things, techniques such as sectorization (which increase coverage/capacity of existing facilities) do not appear to have been considered and use of existing wireless facilities would be more consistent with the general plan and otherwise minimize the impacts. The application does not adequately explain why these alternatives were not considered.