



TOWN OF HILLSBOROUGH

San Mateo County
1600 Floribunda Avenue
Hillsborough, CA 94010

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OLD BUSINESS
CITY COUNCIL MEETING
JULY 13, 2020

AGENDA STAFF REPORT

ITEM SUBJECT: RESOLUTION AMENDING CITY COUNCIL POLICY NO. 19-01 ESTABLISHING LOCATION AND DESIGN STANDARDS FOR WIRELESS COMMUNICATION FACILITIES AND OTHER INFRASTRUCTURE DEPLOYMENTS

SUMMARY: Between November 2019 and June 2020 the Wireless Communications Advisory Committee (WCAC), an ad hoc committee to the City Manager, held a series of meetings to conduct an in-depth review of the Town's existing Design Standards for Wireless Communication Facilities (WCFs) and other infrastructure deployments, and proposed amendments to those standards. The proposed amendments were developed by staff and legal counsel in response to comments received from the wireless industry, public input at a November 2019 and January 2020 City Council meetings, and recommendations in response to the June 9, 2020 Federal Communications Commission (FCC) Declaratory Ruling related to Section 6409 modification requests for existing WCFs. The WCAC has considered the comments, FCC ruling and technical information and made recommendations to the City Manager. These recommendations have resulted in amendments to key design standards in the Design Standards for Wireless Communication Facilities and other infrastructure deployments that continue to minimize the potential adverse impact of WCFs, preserve the community's aesthetics, address design standards ambiguities, and conform and respond to changes in state and federal law.

Below is a brief description of the key design standards discussed by the WCAC, and a high-level synopsis of the resulting proposed amendments which were presented at the January 13, 2020 City Council meeting and refined at the subsequent WCAC meetings in both February 2020 and June 2020. Supporting technical documents were provided to the WCAC to assist the group in its understanding and consideration of the issues. Per the City Council's direction and in consultation with the WCAC, proposed amendments to City Council Policy 19-01 have been made for each item, and the attachments, which are included in the City Council agenda packet, include a detailed table of key amendments to the language and the issue addressed as well as the strikethrough version of the Policy showing all proposed revisions.

1. New Integrated Pole and Base Designs: Secs. C(3), R and New Sec. S

Current Standard:

- For new poles, the design standards favor integrated designs (designs where all the equipment is located within a combined pole and base) but the dimensions included in the standards were not consistent with available designs or PG&E restrictions.

Proposed Change:

- Amendments would allow for slightly taller poles and slightly larger bases common in industry deployments.
- Amendments would also promote the use of passive cooling, and reduce noise generated by fans and mechanical devices typically used to cool equipment.
- Amendments would also allow flexibility to permit different size designs, by

permitting the Town to add “preferred concept designs” and case-by-case exceptions that may vary from strict requirements but still serve the aesthetic goals of the Town. (See discussion of Items 10 and 11 below)

2. Undergrounding and Vaults: Secs. E(1), E(2) and New Sec. S

Current Standard:

- The Town has favored the use of integrated designs; however, as currently drafted the design standards could be read to prohibit the use of integrated designs in underground areas.
- There are also concerns about the feasibility and other impacts of vaulting which can only be evaluated on a case-by-case basis.

Proposed Change:

- Although the idea was discussed with the WCAC, no exception has been added for integrated pole designs meeting the standards in Item 1 above. However, amendments would allow for a case-by-case exception to undergrounding based on a detailed feasibility assessment similar to that used in cities like Palo Alto and Sonoma. (See discussion of Item 11 below)

3. Tree Replacement: Secs. E(2) and E(11) (original E(10))

Current Standard:

- Trees are a vital and cherished feature of the Town. Vaulting and other work can cause the removal or damage to trees and other vegetation. The current standards place the responsibility for replacements on the applicant.

Proposed Change:

- Amendments would require payment of a fee by the applicant to cover costs of replacement and maintenance for a five-year period, allowing the Town to oversee landscaping establishment and perform the work. This was seen as preferable to relying on applicants and enforcement mechanisms.

4. Shrouds: Secs. E(5) (original E(4)), G(3) (original G(4)) and New Sec. S

Current Standard:

- The Town favors shrouding or concealing antennas and equipment attached to utility poles or placed in cabinets on the ground.

Proposed Change:

- Amendments would retain these protections and ensure that cabinets on the ground have no large flat surfaces.
- A case-by-case exception to shrouding or concealing antennas within a covering would be allowed for use of other forms of concealment (such as a colored film) where an applicant can demonstrate that shrouds would not be technically feasible, for example, because they would interfere with radio signals. (See discussion of Item 11 below)

5. Equipment Volume: Sec. E(8) (original E(7))

Current Standard:

- The FCC rules define a “small wireless facility” to include up to 28 cubic feet of equipment. The Town’s design standards currently limit the volume of equipment allowed to be added to a pole or put in a cabinet to much smaller amounts.

Proposed Change:

- Amendments would eliminate the distinction between residential and non-residential districts because it is inapplicable to the Town.
- Amendments would allow slightly larger volumes more common in industry deployments while keeping the allowed volume well below FCC limits.
- Amendments would also clarify how to calculate the volume and that the volume limit does not apply to integrated poles which are regulated under other standards. (See Item 1 above)

6. Pole Heights: Secs. C(3) and H

Current Standard:

- The FCC rules define a “small wireless facility” to be up to 50 feet. However, the Town’s design standards further limit the height of integrated poles to 32 feet in Sec. C(3) while allowing poles of 35 feet or more in other circumstances described in Sec. H.

Proposed Change:

- Amendments would allow a slightly larger height for new integrated poles (35 feet vs. 32 feet) which matches the height of most joint utility poles in Town.
- For utility poles a maximum height of 45 feet would only be allowed for safety separation from power lines, recognizing that the Town favors “pole top” antenna designs.

7. Setbacks from Intersections and Other Pathways: Sec. E(18) (Original E(17))

Current Standard:

- The Town’s design standards currently impose setbacks to limit visibility of sites from residential structures.

Proposed Change:

- Amendments would maintain a 15 foot separation from the edge of alleyways, driveways and pedestrian pathways to residential structures but would remove this limitation from road intersections.
- Placements at road intersections tend not be as visible from residential structures and these placements have the added benefit of potentially limiting the number of sites by allowing intersecting streets to be served by the same facility.

8. Setbacks from Residential Dwellings: Secs. E(21) and New E(22) (Original E(20))

Current Standard:

- In an effort to limit visibility of sites from residential structures, the current design standards require setbacks from front yards using an average setback formula.

Proposed Change:

- Provides more detail on how to calculate the standard that includes the setback as defined by a 500 foot radius from the WCF.
- Also would add a second standard to prohibit placements within the portion of the parcel’s lot line that lines up with the primary residential dwelling (including an attached garage).

9. Power and Metering: Secs. E(10) (original E(9)) and G(2) (original G(3))

Current Standard:

- The Town’s design standards ban standard meters. However, in some instances PG&E requires a standard meter.

Proposed Change:

- Amendments would maintain the clear preference for other options – such as a flat rate service (requiring no meter) and smart meters (which are smaller and often can be placed on the pole).
- Amendments would allow standard meters only if the other options are not available and would require placement of the meter within the integrated base or cabinet with other equipment rather than as a standalone meter box and strengthen the requirement for landscaping.

10. Concept Designs: Sec. R

Current Standard:

- The Town’s design standards allow for “pre-approved designs” but the process was not clear on how this provision would work in practice.

Proposed Change:

- Amendments would clarify that “preferred concept designs” could be approved by the City Council and added to the design standards. Applicants would still be required to go through the regular WCF application process when using such designs and will be advised that use of such designs do not guarantee approval of their use at specific locations.
- Amendments would also allow for periodic review of the list of approved preferred concept designs.

11. Exceptions: New Sec. S

Current Standard:

- The Town’s wireless ordinance allows for exceptions to the standards to be granted only where the applicant can demonstrate that a refusal to grant an exception would result in a violation of state or federal law, such as an effective prohibition of personal wireless service. (HMC 15.32.080(E))

Proposed Change:

- Amendments would remove exceptions interspersed in the existing design standards and add language establishing in one place a limited case-by-case exception process that would allow flexibility to approve applications with minor variations from the design standards in circumstances where the applicant demonstrates that strict compliance with the standards would not be feasible, might result in more significant impacts than minor noncompliance, or the minor variation would not result in negative aesthetic impacts. For example, a height variation might be allowed where the placement is in a location that would not be viewable from residences.

12. Wireless Communications Facilities on Public Property

The policy identifies technical and safety requirements for the location and design of WCFs on public property outside of the right-of-way (i.e., water tank facility). The policy applies the aesthetic design requirements implemented through Town review and a licensing agreement.

13. Stealth Facilities and New FCC Order

On June 9, 2020, the Federal Communications Commission (“FCC”) adopted a Declaratory Ruling related to Section 6409 modification requests (eligibility facilities requests) that, among other things, impacts a local authority to limit changes to facilities that are merely concealed rather than stealthed (i.e., made to look like something other than a wireless facility).

- New language clarifies requirements for “stealth” installations that would be better protected from undesirable eligible facilities requests.

FISCAL IMPACT: There is no fiscal impact associated with implementation of the resolution.

ENVIRONMENTAL ISSUES: This Resolution is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act (“CEQA”) Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly. The Resolution does not authorize any specific development or installation on any specific piece of property within the Town’s boundaries. Moreover, when and if an application for installation is submitted, the Town will at that time conduct preliminary review of the application in accordance with CEQA. Alternatively, even if the Resolution is a “project” within the meaning of State CEQA Guidelines section 15378, the Resolution is exempt from CEQA on multiple grounds. First, the Resolution is exempt CEQA because the City Council’s adoption of the Resolution is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. (State CEQA Guidelines, Section 15061(b)(3)) That is, approval of the Resolution will not result in the actual installation of any facilities in the Town. In order to install a facility in accordance with this Resolution, the wireless provider would have to submit an application for installation of the wireless facility. At that time, the Town will have specific and definite information regarding the facility to review in accordance with CEQA. And, in fact, the Town will conduct preliminary review under CEQA at that time. Moreover, in the event that the Resolution is interpreted so as to permit installation of wireless facilities on a particular site, the installation would be exempt from CEQA review in accordance with either State CEQA Guidelines section 15302 (replacement or reconstruction), State CEQA Guidelines section 15303 (new construction or conversion of small structures), and/or State CEQA Guidelines section 15304 (minor alterations to land).

ATTACHMENTS:

1. Table of Amended Policy and Issue Addressed
2. Amended Policy 19-01
3. Strikeout Version Policy 19-01
4. Resolution
5. WCAC Members

PREPARED BY: Ann Ritzma, City Manager

RECOMMENDATION: Adopt the resolution amending City Council Policy No. 19-01 establishing location and design standards for wireless communication facilities and other infrastructure deployments.