

**From:** [Rajesh Parekh](#)  
**To:** [Wireless Comments](#); [Al Royse](#); [Larry May](#); [Christine Krolik](#); [Marie Chuang](#)  
**Subject:** Comment on Wireless Proposal Under consideration - 6/3 meeting  
**Date:** Wednesday, June 2, 2021 7:15:43 PM  
**Attachments:** [6-2-21 HB wireless letter-](#)

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Please include attached comments in the public comments section of the meeting record for the June 3rd meeting.

Thank you  
Raj Parekh

Please include my comments in the public comments for the June 3rd meeting. Thank you.

Rajesh Parekh,  
[REDACTED]  
Hillsborough, CA 94010

June 2, 2021

Hillsborough Mayor Royce, Vice Mayor Krolik, and Councilmembers  
1600 Floribunda Avenue  
Hillsborough, CA 94010

Dear Mayor Royce, Vice Mayor Krolik, and Council members Chaung, Cole and May

Thank you for the time and energy you are putting in your role as Council members. I think most everyone in town agrees we need better wireless coverage. However, this a complex topic, and made more complicated by the somewhat tortured history with Crown Castle to date.

One thing I do urge you is to not to fall for the 'sunk cost' logic to justify approval. Just because lot of time and energy has spent on the topic – is not a good enough excuse to just approve and be done with the topic. As we all learn in fundamental finance – sunk cost is sunk – and should not factor into the decision on your decision making. Please avoid that bias if you can.

As you go into next set of meetings, I have tried to simplify and frame what I see as the handful of key questions facing the town council and try to summarize my perspectives for your consideration.

#### **Question 1 – Does town council have sufficient basis and good reasons for denial?**

**Answer is very clearly Yes.** As pointed out in “Staff Analysis of the Compliance of the Designs and Locations to Town Requirements” – the applications violate multiple of Hillsborough design standards. The standards violated include C3, E7, E9, G4, and E1 and some others. Some such as E1 are fundamental undergrounding standards that you would be overriding and set the precedence of all future towers to ignore the undergrounding requirements.

As a general matter, the failure to comply with the design standards would justify denial of the applications except where an exception may be granted consistent with the Code and the design standards.

#### **Question 2 – Should town council grant exceptions to design standards?**

**Answer is clearly No.** This proposal for 13 towers simply not the best or even good enough answer for improving coverage in HB. As pointed by Crown Castle itself the towers

- **Co-location will not be possible with the current design.** If you approve these towers in violation of our standards, Federal law will indeed tie your hands and you will be forced to make exactly the same concession to other carriers. How many more towers will AT&T, T-mobile and even Verizon (in response to towers from AT&T) will request in future?
- **Crown Castle also admitted that the current towers will not function in an emergency nor during PG&E power shutoffs.** Are we sure this is the best tower design for Hillsborough if it fails during one of the more likely emergency use scenarios?
- **Design is outdated.** Crown castle engineers admitted during last session that they are using 'old design' because this application process has gone on for long time. That makes no sense. These were fresh applications and Crown Castle could have updated the design to take advantage of their latest designs. Why are we approving old, outdated technology?
- **Coverage is only likely to improve for significantly less then majority of citizens.** Towers only help Verizon customers. They only help customers in selected radius near towers. Crown Castle's propagation maps show many areas of HB with no improvement in coverage.

- **So why are we doing this when the percentage of public that will be benefiting is a minority and we are tying our hands and our future by setting a precedent that will be used by others under Federal law?**

**Question 3 – What about FCC’s Materially Inhibits Test – is the Town forced to approve under that order?**

**Answer is clearly No.** This is a smokescreen and attempt by Crown Castle lawyers to use threat of legal action into forcing the town into approval.

As pointed out in Town Staff’s analysis *“The new standards clearly apply to small wireless facilities, and none of the proposed steel poles is a small wireless facility, per the FCC’s definition. Whether the FCC rules apply to all wireless facilities is an open legal question, as certain of the justifications were based on the characteristics of small wireless”*

This issue has not been settled in any court. So why do you want to take the leap and rely on unsettled legal matter to justify approval? This is not the job of legislative body. You should deny and let Crown Castle prove in federal court that FCC materiality inhibits test does apply to all wireless facilities. You will get lots of supporters from other towns in fighting this interpretation.

Additionally, Crown Castle has not actually provided sufficient fact base to justify that town standards are materially inhibiting them. In fact, they are trying to assert that burden has already shifted to town because of the settlement agreement. This is simply false, and you should let them prove this in front of a judge.

**Question 4 – What about legal standards for effective prohibition – is the Town forced to approve under the Ninth Circuit’s Significant Gap/Least Intrusive Means Test?**

**Answer is clearly No.** This is again an attempt by Crown Castle lawyers to use threat of legal action into forcing the town into approval.

As pointed out in Town Staff’s analysis and CTC report there are multiple areas where Crown Castle’s application fail the test – or the town has no sufficient fact base to make the determination.

Excerpts from CTC report follow:

*“Consideration of whether Crown Castle has shown that it is infeasible to comply with the Town’s design standards. Where the designs involve clear engineering trade-offs that CTC can identify, we discuss those trade-offs. **It has not shown that it is infeasible to comply.”***

*“For five of the facilities (H07, H12, H21, H27, and H30), **we are unable to conclude that Crown Castle has met its burden of showing there is a service “gap” that requires approval of the applications”***

*“One issue **we did not look at is whether the locations proposed are the least intrusive”.***

Just the last excerpt above would show that Crown Castle nor CTC has done the work to even remotely pressure test whether this are least intrusive facilities and sites. As residents have pointed out, there are clearly many less intrusive sites in nearby areas. Crown Castle has searched maybe within 50 feet of current sites – that is perfunctory search area and not a good faith effort to find least intrusive sites.

**Question 5 – What happens if we deny the applications? Are we exposing the town to significant legal costs?**

**Answer is likely No.**

This is because, even if they file a federal action against the Town and win, the Telecommunications Act of 1996 does not enable them to recover compensatory damages or attorneys' fees, even when they get creative and try to characterize their cases as claims under 42 U.S.C. §1983.

This means that if they sue the Town and win, the Town does not pay them anything in damages or attorneys' fees under the TCA. Typically, the only expense incurred by the local government is its own attorneys' fees. Since federal law mandates that TCA cases proceed on an "expedited" basis, such cases typically last only months rather than years.

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Please show courage and push to restart the process. An open, transparent process with help of solid technical advice can help us define the standards we want and coverage we all deserve.

Please keep in mind the long-term ramifications. Every exception for these 13 towers will have to be offered to any other carrier or cell tower firm. On that there is very little debate or wiggle room. Under federal law, you must give all three wireless companies the same treatment.

Thank you for your attention and for all your efforts on behalf of our Town and its citizens.

Sincerely

Rajesh Parekh

**From:** [Gina Haggarty](#)  
**To:** [Wireless Comments](#)  
**Subject:** Crown Castle - cell towers  
**Date:** Thursday, June 3, 2021 7:18:22 AM

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To whom it may concern,

My husband and I have lived in Hillsborough for over 30 years. We have loved our community, quiet enjoyment, no sidewalks and no businesses. We both oppose the installation of cell towers, especially ones that will only serve Verizon customers. This opens up additional cell tower companies to install additional cell towers for their use. We request our city council to oppose the approval of the Crown Castle cell towers and work towards the following:

**Hillsborough deserves a plan that:**

1. Provides access to all three carriers (colocation)
2. Will function in an emergency
3. Will not leave us open to AT&T, Verizon, and T-Mobile installing more 35 foot towers as close as 23 feet from homes
4. Will serve Hillsborough for the next 20 years
5. Will not deliver surprise design changes soon after installation

**Hillsborough deserves a City Council that:**

1. Delivers on its campaign commitment to a "reset" on the wireless issue – including a public meeting to air all the issues and setting the foundation for a true and lasting master plan for better wireless coverage
2. Stops believing (or trying to convince residents of) the lie that its hands are tied and has no choice but to cave to Crown Castle. They have a choice.
3. Enforces the laws it creates instead of only selective enforcement.

Thank you,  
Gina and Charley Haggarty  
[REDACTED], Hillsborough

**From:** [Jenna Golde](#)  
**To:** [Wireless Comments](#)  
**Subject:** We support 13 cellular sites in Hillsborough!  
**Date:** Thursday, June 3, 2021 7:48:50 AM

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To whom it may concern:

This email is to voice our support for the proposed 13 cellular sites in Hillsborough. For safety and communication purposes, we desperately need these cellular sites added. Currently, cellular service is terrible at my home. PLEASE, PLEASE approve these cellular sites and provide us with the coverage we need.

Thank you,  
Jenna & David Golde  
[REDACTED], Hillsborough

**From:** [Larry Friedberg](#)  
**To:** [Wireless Comments](#); [Al Royse](#); [Christine Krolik](#); [Larry May](#); [Marie Chuang](#); [Sophie Cole](#); [Ann Ritzma](#); [Paul Willis](#); [Lisa Natusch](#); [Christopher Diaz](#)  
**Subject:** Opposition to 8 Monopoles  
**Date:** Thursday, June 3, 2021 11:59:34 AM

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PLEASE INCLUDE THIS COMMENT IN THE PUBLIC RECORD

Mayor Royse, Vice Mayor Krolik and Council Members,

I oppose the approval of Crown Castle's applications calling for 8 monopoles at

H05 - Chateau/Laurent  
H07 - Easton  
H08 - Skyfarm  
H19 - Hayne/Mosely  
H20 - 1180 Marlborough  
H21 - El Cerrito/Sierra  
H28 - 1090 - 1110 Hayne  
H31 - Ralston/Pullman

On page seven of the Wireless Report submitted by Peninsula Conflict Resolution Center summarizing its two facilitated public meetings the headline reads, "***The location preferences in the Town's current wireless code provide a good starting point as wireless policies are updated.***" It goes on to say "... to the extent the facilities would be aboveground, the preferences in the existing code should be followed such that wireless will be placed first on Town-owned public property, second on existing utility poles, and last on new poles in the rights of way or on private property."

These were not suggestions. These were guiding principles establishing evidence of legislative intent.

On November 28, 2018, the Town published a one-page document entitled "***Sample Wireless Guiding Principles and Examples.***" It was this document which Council and Staff used to help create what would become the January 14, 2019 design standards law Ordinance 751. The number one guiding principle read,

"Minimize potential adverse impacts on the community" The first bullet point under that guiding principle was,

"Locate wireless sites away from homes, to the maximum extent possible.

Keeping towers away from homes was not the third or last guiding principle. It was the first.

The second guiding principle:

"Limit wireless site visibility and impacts to Town aesthetics."

"Place equipment underground, to the maximum extent possible."

Lo and behold, in the Staff Report dated January 14, 2019 the location preferences were listed in order as follows:

- a) Town owned property
- b) Existing support structure or wireless towers on non-residential private property
- c) Existing utility poles or other support structures or wireless towers where collocation has been pre-approved
- d) New concealed WCFs in the rights of way or on private property

These guiding principles lie at the heart of the actual resolution which passed on that date.

Fast forward to today.... Crown Castle's eight monopolies, eight of the 13 applications, are the dead LAST priority in our 2019 Ordinance. The prioritization is completely upside down. You will argue that these are "preferences." Yet, Ordinance 751, a legal document not known for lyrical prose lays out in such language: "The Town's public rights-of-way are a uniquely valuable public resource, closely linked with the City's natural beauty and rural character. The regulation of wireless installations in the public right-of-way is necessary to protect and preserve aesthetics in the community." This is not merely a preference. It's a confirmation. The Soviet Era style monopolies are a blight on this Town. At the very least, a reasonable wireless plan would invert the locations skewing heavily toward town-owned land rather than the public rights of way, so close to homes. I urge Hillsborough City Council to do the right and harder thing rather than the wrong and easier one: Deny these applications. Fulfill the campaign commitment to a wireless reset and let's get this right once and for all.

Larry Friedberg

