

**From:** [REDACTED]  
**To:** [Ann Ritzma](#); [Al Royse](#); [Christine Krolik](#); [Marie Chuang](#); [Sophie Cole](#); [Larry May](#)  
**Cc:** [Wireless Comments](#); [Christopher Diaz](#); [Lisa Natusch](#); [Paul Willis](#)  
**Subject:** PLEASE READ - Public Comment in Opposition to H27M3  
**Date:** Thursday, June 17, 2021 3:44:38 PM  
**Attachments:** [Opposition to H27M3 public comment from 1560 Black Mountain 20210617.pdf](#)

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Mayor & Town Council,

Attached is my public comment for the 6/17/21 hearing on H27M3. Please read and consider these points when reviewing the proposed application. I would like the attached to be entered into the public record.

Thank you,  
John Lavrich

6/17/2021

Mayor & City Council,

I am writing in opposition to the proposed tower known as H27M3 at the Marlborough water tank site. You have the right and duty to deny the application as it violates both our municipal code and general plan. The proposed Marlborough water tank site is a sub-standard lot and positioning the tower on this parcel puts the tower closer to residents than other proposed right of way towers. There are numerous other sites nearby that would keep the tower away from homes that conform to our code without compromising the rural character of our neighborhood. I ask that you deny the application or re-locate the tower to a more suitable location that complies with 15.32, 19-01 and is in-line with the general plan.

**Right & Duty to Deny:**

As a willing landlord, you have the right to deny this application and license for “any reason” or “no reason” at all. Denial is 100% your discretion. Even the unlawful settlement agreement you signed with Crown Castle clearly states that you have the right to deny the applications.

Crown Castle is wrongfully trying to assert that your denial would be an Effective Prohibition (EP). Since this is not a right of way application and town-owned land is considered private under the FCC this WCF is not subject to the FCC order. As such, the argument for PE cannot be applied to towers on town-owned property.

EP is a federal issue, and can only be asserted by the FCC, similar agency, or court with Federal Jurisdiction to do so. The carrier may petition the Federal government for that declaration, but the town has no right to circumvent their laws based on baseless claims EP from an infrastructure vendor. Approving non-compliant WCFs is an even more egregious violation of our code since the town’s own expert from CTC has publicly stated and documented that all the requirements of 15.32 and its design standards can be met with current technology. They are all “feasible” which means there is no EP.

In summary Crown Castle has **not** “shown that denial of the proposed WCF would result in an effective prohibition of personal wireless services” as required by 15.32.080.C.2. Nor have any of the town’s consultants or attorneys provided evidence to that fact.

As Town Council one of your main duties is to establish “the local law and policies through enactment of ordinances and resolutions” (from Hillsborough.net). As a legislative body you and the community are both bound by the laws that you enact as well as state and federal law. The very laws you passed require you to deny the application H27M3. In fact, your approval (of this or any currently proposed tower) would be a violation of 15.32 and are considered an infraction under 15.32.140. Each council member could be fined up to \$1,000 per day.

15.32.140 - Violations are infractions.

*It is unlawful for any person to violate any provision or to fail to comply with any of the requirements of this chapter. Any person, firm, partnership, or corporation violating any provision of this chapter or failing to comply with any of its requirements will be deemed guilty of*

*an infraction and upon conviction thereof will be punished by fine not exceeding one thousand dollars. Each such person, firm, partnership, or corporation will be deemed guilty of a separate offense for each and every day or any portion thereof during which any violation of any of the provisions of this chapter is committed, continued or permitted by such person, firm, partnership, or corporation, and will be deemed punishable therefor as provided in this chapter.*

### **Right to Deny License Agreement**

The town in its sole discretion may deny the applicant the license needed to place and operate a WCF on town owned property. There is no governing state or federal law that requires the town to approve a license on its own private town-owned property.

The proposed license agreement is a bad deal for the Town and will put control of the Marlborough tank sites in the hands of Crown Castle. The license term is for 15years with no opportunity to re-valuate or terminate the agreement other than “sale” or the assertion of “Paramount Rights”.

#### Section 8 of the proposed license agreement:

***Town’s Termination.*** *In addition to other rights of termination and revocation Town has under this License, Town may terminate and revoke this License prior to expiration of the License Term or Option Period, if applicable, in any of the following circumstances: By giving Licensee twelve (12) months prior written notice, if Town determines in its sole discretion that the Licensed Area is necessary for the exercise of its Paramount Rights at the Site or Town decides to sell or otherwise dispose of its fee ownership of the Site. Upon notice of termination and revocation under this Section, Town shall make a good faith effort to permit Licensee to relocate the Communications Facility to another of Town’s sites prior to termination of the License, provided Licensee assumes all costs of any such relocation.*

#### Section 4 of the proposed license agreement:

***License Term; Option Period.*** *This License shall be for a term of fifteen (15) years, referred to as the “License Term,” commencing on the Commencement Date as defined above. Unless Licensee gives Town written notice of its intention not to extend the License at least six (6) months prior to the end of the License Term, and provided Licensee is not in default under this License, this License shall automatically be extended upon the expiration of the License Term for one (1) additional five (5) year period (“Option Period”), subject to all terms and conditions of this License.*

If executed in its current form, this license agreement will violate 15.32.010.C, which calls for 10-year term and the opportunity to reevaluate the WCF to preserve the rural character of the town.

***15.32.010.C - To allow the town to better preserve the established rural character of the town, it is the intent to limit the duration of WCF permits, in most cases, to terms of ten years, and to reevaluate existing WCFs at the end of each term.***

Entering into this flawed license agreement will allow Crown Castle to lock up the Marlborough Tank Site for up to 20 years. It is a bad deal for the town and its residents. As a developer I would never

enter into such a lease agreement without specific provisions for termination to protect might rights. What if the town needs to remove the tower to put seismically sound water tanks in place? Crown Castle would prevent the town for using the site for the benefits its residents even in an emergency for up to 15 years. It would be poor judgment not to reduce the term to 10 years and to include termination provisions that would allow the town to operate or improve the site to serve the public needs.

### **Deficiencies of H27M3 Proposed Site:**

The proposed 55' wood pole violates numerous provisions and requirements both 15.32 and the policy 19-01 design standards. The Marlborough tank site is the smallest and most poorly screened tank site in Hillsborough. It is the 35<sup>th</sup> smallest non-easement lot in Hillsborough (that's for all lots, private and town-owned). It is a sub-standard lot sandwiched in between homes. The tanks and structures are not properly setback from the lot lines. This site is over-crowded housing 2 massive 40' tanks multiple pump/equipment buildings, 2 lattice towers and an array of on-tank antenna. The existing equipment on the sight does not conform to the town's current setback standards. This lot has been poorly maintained by the town for years.

The town has failed to properly screen the tanks/site. Due to the small lot size, there is insufficient space to plant trees to conceal the tanks and lattice structures. The town has had to rely on neighboring residents to plant and maintain privacy screens to shield the community from the visual blight on the site. Recently the resident at 1655 Marlborough removed the trees from their lot that screened the backside of the Marlborough tanks from Black Mountain. At the present time the site is exposed and there is no screening of this unsightly complex for numerous residents and visitors who use Black Mountain Road. In its current state the Marlborough water tank site is out of compliance with the general plan policies following polices/goals

- Goal LU-1: Provide for the preservation and enhancement of the Town's unique residential character."
- Policy LU-1.1: Maintain the character of the Town's neighborhoods.

Since this site already detracts from the rural character and charm of our town, I ask that you do not permit any WCF installations at this location. Furthermore, I ask that you engage the Hillsborough Beautification Foundation to develop a plan to enhance screening. All changes made by public works should be done consistent with the general plan to reduce clutter and visual blight at this site. Adding a WCF to an already overburdened site is not the right outcome for residents and will further destroy the rural character of the Town.

### **Alternate Sites:**

There are at least 4 alternate sites which are farther from homes. These sites are within the 0.2 mile radius of H27M3 which per Crown Castle is required to not disrupt their coverage plan. These sites would provide improved coverage with less burden to the community and would be compliant with

15.32, 19-01 and the general plan. I urge the Town to work with Crown Castle to evaluate each of these alternate locations and identify one that works:

- 1) PGE transmission line tower along Wedgewood ([Link to Location](#) )
  - a. Antenna attached to existing structure – similar to other nearby Verizon deployments.
  - b. Sufficient space for equipment to support multiple carriers.
  - c. Increased elevation and coverage
- 2) PGE transmission line tower at Marlborough and Black Mountain ( [Link to Location](#) )
  - a. Antenna attached to existing structure – similar to other nearby Verizon deployments.
  - b. Sufficient space for equipment to support multiple carriers.
  - c. Increased elevation and coverage
- 3) Right of Way on Black Mountain at PGE access gate ( [Link to Location](#) )
  - a. Monopole desired in ROW
  - b. Could replace existing PGE power drop pole to improve aesthetics
  - c. Sufficient space to allow integrated base to collocate multiple carriers in 2.5' (30in) base
    - i. see Crown Castel “Small Cell Video” (Link [https://www.youtube.com/watch?v=X9\\_iasZxm18](https://www.youtube.com/watch?v=X9_iasZxm18) NOTE: begins at 1Min mark)
- 4) Island and Black Mountain and Wedgewood: ( [Link to Location](#) )
  - a. Monopole desired in ROW
  - b. Sufficient space to allow integrated base to collocate multiple carriers in 2.5' (30in) base
    - i. see Crown Castel “Small Cell Video” (Link [https://www.youtube.com/watch?v=X9\\_iasZxm18](https://www.youtube.com/watch?v=X9_iasZxm18) NOTE: begins at 1Min mark)
  - c. Could contain a light post to improve intersection safety.

#### **Governing Code Standards and Policies:**

As previously stated in the attached letter from my attorney William Parkin dated 5/20/21, WCFs on Town-owned property are governed by 15.32, the design standards in policy 19-01 and by proxy the General Plan. If the 19-01 design standard policy does not apply to “town-owned” land then, the town under their own admission has violated section 15.32.070.D of the municipal code for failing to adopt design standards.

**15.32.070.D** *The city council shall adopt design and development standards for WCFs, consistent with the requirements of this section.”*

Recently the Town admitted its failure to perform their duties to adopt standards for town-owned land. This violation began on when policy 19-01 was adopted. The Town has been noticed of this deficiency which is in violation of our municipal code by both residents and the WCAC but has failed to act. The Town Councils willful and deliberate dereliction of duty to adopt governing design standards for town-owned property is a violation of 15.32.070.D and the individual City council members (both past and sitting) should be held accountable under 15.32.140 for this infraction and subject to penalty since that time.

### **Code Violations:**

The proposed tower at H27M3 is governed by 15.32 and the design standards in 19-01. Any approval of this tower or other towers that do not adhere to 15.32 and its subsequent design standards is an unlawful violation of 15.32 and subject to 15.32.140. Furthermore, the Crown Castle has already violated 15.32 numerous times during the application process. These violations are infractions per 15.32.140 and the applicant should be fined the maximum fine of \$1000/day since the first violation. Given that the applications were submitted on March 23, 2021 that's over 86 days of violations by Crown Castle which should be found guilty of violating 15.32 and subject to a maximum of \$86,000+ in fines which continue to accrue until they withdraw of comply.

### **Deficiencies in H27M3 design**

The proposed wooden monopole that is more than the 32foot height limit is out of character for this location. It does not blend into its surroundings. The use of pole mounted equipment and surface conduit will result in visual blight that is not in-line with preserving out rural character. This already over-burdened sight should not be subject to more unsightly infrastructure. The design is not permissible under 15.32, 19-01 and is inconsistent with the general plan in its current form.

Local residents prefer a design that includes:

- a monopole with internal wiring
- Integrated equipment base or properly concealed ground-based cabinet
- Limited tower height to conform with 15.32 and 19-01 and all other chapters of the municipal code.
- Support to collocate multiple carriers in the same enclosure and antenna shroud **to prevent the need for more towers and unsightly modifications.** – per Crown's website they can support this.

### **Request to Modify Application & Design:**

In the absence of an outright denial of the H27M3 application, which is both righteous and required under by law under our municipal code, I ask that you modify the application and design.

Since the proposal for H27M3 is a) not consistent with the general plan, b) will alter the rural character of the community, and c) nearby alternate design locations would minimize the impact of the WCF, I request that the city manger and Town Council invoke their rights to modify the applications and designs under 15.32.080.C

***15.32.080.C.1 – request to modify under “Except as to Section 6409(a) modifications, 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;”***

**15.32.080.C.9** - request to modify under “Except as to Section 6409(a) modifications, 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.”

The modifications should include:

- 1) The use of an alternate site (see above for options)
- 2) The use of a monopole with internal wiring and integrated base
- 3) The support for colocation of multiple carriers without modifications
  - a. See Crown Castle Video exploring small cells (1 minute mark)  
[https://www.youtube.com/watch?v=X9\\_iasZxm18](https://www.youtube.com/watch?v=X9_iasZxm18)

**Summary:**

Please do your duty under the law and deny the unlawful application and flawed license agreement for H27M3. Please exercise your limited rights to modify under 15.32.080.C to preserve our Town’s rural character for this generation and generations to come. This project will be your legacy to the Town please ensure it is one that will be viewed favorably so you and the residents will be proud of the outcome for generations to come.

Thank you,

John Lavrich

May 20, 2021

**VIA EMAIL**

The Honorable Alvin L. Royse and City Council  
Town of Hillsborough  
1600 Floribunda Avenue  
Hillsborough, CA 94010

Re: Crown Castle's 13 Wireless Communications Applications

Dear Mayor Royse and City Council:

This law firm represents John Lavrich and Josh Burns regarding the above referenced applications.

Our clients object to the Town's approach and consideration of the three Wireless Communication Facilities (WCF) that are proposed on Town-owned property. First and foremost, Crown Castle's assertions that the any denial by the Town of its WCF Application for tower H27M3 violates the Telecommunications Act of 1996 and California Public Utilities Code section 7901 are not only overblown, but are wrong with respect to facilities proposed on the Town's own property. The Town's control over its own property is the same as a private landowner's rights with respect to WCF. No resident in Hillsborough can be forced to accept WCF on his or her own property to facilitate Crown Castle's commercial endeavors. Likewise, the Town is not preempted from prohibiting WCF on its own property. (See for example, *Calguns Foundation, Inc. v. County of San Mateo* (2013) 218 Cal.App. 661.) Indeed, the Town has to grant a lease or license to the Crown Castle to operate WCFs on its own property. No federal or state law can usurp the Town's interest in its property. Therefore, we urge the Town to deny any application for WCF on its own property. The Town has an unfettered right to deny such applications.

Second, our clients are concerned that the Town will not carefully review the WCF on its own property pursuant to the Town Code and Town policy. It is noteworthy that the WCF on the Town's own property are not exempt from HMC Chapter 15.32. The only exemption for Town-owned property is found in HMC section 15.32.130, which states that "WCFs installed or operated at the direction of the town for the sole use of the town, regardless of where located in the town, shall be exempt from this chapter, but as a matter of policy, shall be designed and located consistent with the design requirements of this chapter." If the Code intended to apply to commercial WCF such as those proposed by Crown Castle, then this exemption would say so under basic principles of statutory construction: *expressio unius est exclusio alterius*, meaning when one or more things of a class are expressly mentioned others of the same class are

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excluded. And even these exempt city facilities have to be consistent with the design requirements of Chapter 15.32.

Third, HMC section 15.32.070(D) states that “The city council shall adopt design and development standards for WCFs, consistent with the requirements of this section.” The City Council has adopted Resolution 19-03 to implement Policy 19-01 for this section. It has been asserted that this resolution does not apply to the Town-owned properties. However, the resolution does not explicitly exclude Town-owned properties. Moreover, if the resolution does not apply, then the Council is violating HMC section 15.32.070(D) for failure to adopt design standards that apply to Town property.

Finally, pursuant to the California Public Records Act, we are requesting copies of any agreement with Crown Castle, including but not limited to any lease or license agreement, with respect to the WCF on the Town-owned properties, including but not limited to any agreement for the proposed tower at H27M3. If you have them in electronic form, you can provide them via email at [wparkin@wittwerparkin.com](mailto:wparkin@wittwerparkin.com).

Thank you for your attention and consideration.

Very truly yours,  
WITTMER PARKIN LLP



William P. Parkin

cc: clients

Christopher Diaz, Esq. (via email at [Christopher.Diaz@bbklaw.com](mailto:Christopher.Diaz@bbklaw.com))  
Ann Ritzma, City Manager (via email at [aritzma@hillsborough.net](mailto:aritzma@hillsborough.net))

**From:** [Hillsborough Citizens Alliance](#)  
**To:** [Wireless Comments](#); [Lisa Natusch](#); [Christopher Diaz](#)  
**Cc:** [Bradley Benbrook](#); [Steve Duvernay](#)  
**Subject:** Opposed to Three Public Land Towers  
**Date:** Thursday, June 17, 2021 3:45:02 PM

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Dear Mayor Royse, Vice Mayor Krolik and Council Members,

Hillsborough Citizens Alliance urges Hillsborough City Council to reject the applications for 400 El Arroyo (H2), 510 Eucalyptus (H12) and 1650 Marlborough (H27).

First, regarding WCF and infrastructure on public land... the Hillsborough Municipal Code specifies that to the extent the design standards in the resolution don't apply, the City shall create similar standards for WCF in other settings. The City's refusal to create such standards does not allow it to evade the law. Any exceptions to the design standards should be narrowly construed to prevent any illicit evasion. In short: Public land locations, although listed as the first option of possible WCF sites, is subject to the same laws that apply to Public Rights of Way.

Second, each of the proposed sites violates Hillsborough's design standards as follows:

### **H02M3 / El Arroyo Rd**

C5 requires that "equipment placed above ground, whether pole-mounted or ground-mounted, shall be placed so as to avoid, to the extent technically feasible, prominent visibility from the driveways, entryways and windows associated with residential dwellings." As the applicant did not provide any tangible evidence that it would be technically infeasible to place H03M2 in a location where it does not have "prominent visibility from the driveways, entryways and windows associated with residential dwellings," H03M2 does not comply since it is prominently visible from the driveway of 400 El Arroyo, as well as other residential dwellings.

P requires that "all new wireless towers and base stations shall be concealed. The installation of an unconcealed wireless tower or base station is prohibited." Hillsborough Municipal Code section 15.32.020 (Definitions) notes that a "'Camouflaged or concealed WCF" means a wireless communications facility that (i) is integrated as an architectural feature of an existing structure such as (but not limited to) a cupola, or (ii) is integrated in an outdoor fixture such as (but not limited to) a flagpole; or (iii) uses a design which mimics and is consistent with nearby natural, or architectural features, or is incorporated into or replaces existing permitted facilities (including but not limited to stop signs or other traffic signs or freestanding light standards) so that the presence of the WCF is not readily apparent." H02M3 does not comply, as the design of the proposed installation is not such to ensure the "presence of the WCF is not readily apparent," as the installation is completely out in the open and fully visible from the street.

## **H12M3 / Eucalyptus Ave**

C3 requires “applicants that propose to install a WCF on a new, non-replacement pole must install a support structure that fully conceals the equipment from public view and blends with the surrounding environment.” H12M3 does not comply, as it does not “[blend] with the surrounding environment,” as the stark green monopole is visually prominent as it towers over the nearby Gate House structure and light pole as well as the surrounding greenery.

C3 requires that “if there are no existing streetlights in the immediate vicinity, the applicant may install a metal or composite decorative pole capable of concealing all the accessory equipment either within the pole or within an enclosure integrated into the base of the pole,” however H12M3 does not comply as there is a streetlight mere feet from the proposed monopole..

C3 requires that “the centerline of the new pole shall be consistent with the location of other existing poles or street trees relative to the edge of the paved road,” H12M3 does not comply as it stands alone towering above all the other landscaping and infrastructure, not near the centerline created by the streetlight.

C3 requires that “pole height shall not exceed 32 feet in overall height above ground level adjacent to the base of the pole,” therefore H12M3 does not comply since the entire pole structure is 35’ high.

C3 requires that the “pole diameter shall not exceed 18 inches,” therefore H12M3 does not comply since the bottom of the pole structure is 35.75”.

C3 requires that the “any base enclosure [of the pole structure] shall not exceed 24 inches,” therefore H12M3 does not comply since the base of the pole structure is 35.75”.

C5 requires that “equipment placed above ground, whether pole-mounted or ground-mounted , shall be placed so as to avoid, to the extent technically feasible, prominent visibility from the driveways, entryways and windows associated with residential dwellings.” As the applicant did not provide any tangible evidence that it would be technically infeasible to place H12M3 in a location where it does not have “prominent visibility from the driveways, entryways and windows associated with residential dwellings,” H12M3 does not comply since it is prominently visible from the driveway of 510 Eucalyptus Ave, as well as other residential dwellings.

P requires that “all new wireless towers and base stations shall be concealed. The installation of an unconcealed wireless tower or base station is prohibited.” Hillsborough Municipal Code section 15.32.020 (Definitions) notes that a ““Camouflaged or concealed WCF” means a wireless communications facility that (i) is integrated as an architectural

feature of an existing structure such as (but not limited to) a cupola, or (ii) is integrated in an outdoor fixture such as (but not limited to) a flagpole; or (iii) uses a design which mimics and is consistent with nearby natural, or architectural features, or is incorporated into or replaces existing permitted facilities (including but not limited to stop signs or other traffic signs or freestanding light standards) so that the presence of the WCF is not readily apparent.” H12M3 does not comply, as the design of the proposed installation is not such to ensure the “presence of the WCF is not readily apparent,” as the stark green monopole is visually prominent as it towers over the nearby Gate House structure and light pole as well as the surrounding greenery, making it obvious to passers by, whether on foot or by car.

### **H27M3 / Marlborough Rd**

C1 requires that “a WCF or any other infrastructure deployment shall not be permitted on any new, non-replacement wood poles, unless the wood pole is integrated into a fully concealed pre-approved design pursuant to Section R of this policy.” H27M3, a “new, non-replacement wood pole“ does not comply, as it is not based on a “pre-approved design pursuant to Section R.”

C3 requires “applicants that propose to install a WCF on a new, non-replacement pole must install a support structure that fully conceals the equipment from public view and blends with the surrounding environment.” H27M3 does not comply, as it stands starkly against the bright green background of the pair of massive water tanks due to its brown color and lack of any concealment by shrubbery or otherwise, leaving the entire pole and equipment plainly visible from the street through the chain link fence of that secures the parcel.

C3 requires that “the centerline of the new pole shall be consistent with the location of other existing poles or street trees relative to the edge of the paved road,” H27M3 does not comply as it not placed along the centerline created by either of the existing lattice towers if viewed from the street.

C3 requires that “pole height shall not exceed 32 feet in overall height above ground level adjacent to the base of the pole,” therefore H27M3 does not comply since the entire pole structure is 55’ high.

C5 requires that “equipment placed above ground, whether pole-mounted or ground-mounted , shall be placed so as to avoid, to the extent technically feasible, prominent visibility from the driveways, entryways and windows associated with residential dwellings.” As the applicant did not provide any tangible evidence that it would be technically infeasible to place H27M3 in a location where it does not have “prominent visibility from the driveways, entryways and windows associated with residential dwellings,” H27M3 does not comply since it is prominently visible from the driveway of 1640 Marlborough Rd, as well as

other residential dwellings.

F2 requires that “the pole-mounted components of a WCF or other infrastructure deployment on a streetlight, traffic signal, utility pole or similar support structure shall, whether on private property or within the public the rights-of-way...[b]e consistent with the size and shape of pole-mounted equipment installed on utility poles near the WCF or other infrastructure deployment,” however the shroud box mounted on the pole is over 9 cubic feet on its own, and massively bigger than any of the pole mounted components on the nearby PG&E poles to the site, therefore meaning that H27m3 does not comply.

F4 requires that “the pole-mounted components of a WCF or other infrastructure deployment on a streetlight, traffic signal, utility pole or similar support structure shall, whether on private property or within the public the rights-of-way...[b]e placed and oriented to minimize the overall visual profile when viewed from properties that abut the public rights-of-way,” however due to the poor screening of the parcel and the proposed pole’s prominent position near the front of the parcel, the pole mounted components are clearly visible from both properties (1635 Marlborough & 1655 Marlborough), and therefore H27m3 does not comply.

F4 also requires that for “the pole-mounted components of a WCF or other infrastructure deployment on a streetlight, traffic signal, utility pole or similar support structure shall, whether on private property or within the public the rights-of-way, ...[if] all orientations would be equally visible from abutting properties as determined by the city manager, and no existing signage can conceal the attachments, the default orientation will be away from the view of oncoming traffic on the side of the street where the installation is proposed,” however all the pole mounted components are facing the street as seen in View #1 in the application schematics and therefore not “away from” the view of oncoming traffic proceeding east on Marlborough Rd, so H27m3 does not comply.

F6 also requires that “the pole-mounted components of a WCF or other infrastructure deployment on a streetlight, traffic signal, utility pole or similar support structure shall, whether on private property or within the public the rights-of-way,...[s]hall be centered on the pole and no wider than 1.5 times the diameter of the pole,” however the pole mounted radio shroud is 22 inches wide which is 122% of the allowable width since the pole is 12 inches at its widest point, so H27m3 does not comply.

F7 also requires that “the pole-mounted components of a WCF or other infrastructure deployment on a streetlight, traffic signal, utility pole or similar support structure shall, whether on private property or within the public the rights-of-way,...[s]hall be mounted so that the lowest portion of the lowest attachment is no less than eight feet above the established grade,” however the button of the pole mounted meter is only 7’ 6” off the ground, so H27m3 does not comply.

G3 requires that for “[t]he ground-mounted components of a WCF or other infrastructure shall, whether on private property or within the public the rights -of-way...[w]henver possible, above ground equipment components should be placed behind landscaped features in the right-of-way to further conceal the equipment and blend in with the surroundings,” however the entire ground mounted utility pole is clearly visible and through the chain link fence of the Marlborough tank site, as it is not properly positioned to even be concealed partially by the shrubbery along the front of the tank site in the right of way, so H27m3 does not comply.

H requires that “[u]nless it is determined that there is no more preferred and technically feasible alternative or it is determined that the town is legally required to approve an application , the city manager may not approve an application for a support structure whose highest point would be more than thirty-five feet above surrounding ground level” unless as outlined in H1, it is an “existing support structure,” which H27M3 is not, as it is a new wood pole or as outlined in H2, “[t]he support structure and all attachments thereto will be concealed, whose height and design is consistent with the surrounding features it mimics,” which H27m3 does not, as its massive 55’ height towers of the surrounding PG&E poles, so therefore H27m3 does not comply.

J requires that “WCFs and other infrastructure deployments shall be designed and located to minimize the impact on the surrounding neighborhood, and to maintain the character and appearance of the town , consistent with other provisions of the Code and this policy. To that end, WCFs and other infrastructure deployments should.”

- J1: “Employ the smallest and lowest profile equipment,” however we know from H30m1 that smaller 2.3 cubic foot antennas are available (vs.the 4.7 cubic foot antennas in H27m3) as well as the radio shroud box comes in a much smaller size (model SHRD52-107) from the same manufacturer.
- J1: be “placed in the least conspicuous location when viewed from properties from which the WCF is visible,” however the proposed installation is planned for the front of the water tank site, making it visible from at a minimum 1635, 1640, 1650 and 1655 Marlborough Rd.
- J3: “[b]e consistent with the general plan,” however the “E. Goals, Policies and Actions” lists the goals and policies:
  - “Goal LU-1 Provide for the preservation and enhancement of the Town’s unique residential character.”

- Policy LU-1.1: Maintain the character of the Town's neighborhoods.
- Goal LU-2 Provide for orderly development in a manner compatible with the existing character of Hillsborough.
- Policy LU-2.2: Continue to review new development proposals to ensure that they do not overwhelm their sites or their neighborhood.

A 55' wireless installation next to an already existing 60'+ industrial wireless installation on a parcel with little visual screening that is sandwiched next to residences in an area with significantly below average lot sizes does not "provide for the preservation and enhancement of the Town's unique residential character," "maintain the character of the Town's neighborhoods," "Provide for orderly development in a manner compatible with the existing character of Hillsborough," etc.

Based on the above points of non-compliance, H27m3 does not complete with J, J1 or J3.

K requires that "without limiting the foregoing, all portions of a WCF or other infrastructure deployment affixed to a support structure shall be designed to blend in or be screened from view in a manner consistent with the support structure 's architectural style, color and materials, when viewed from any part of the town," however the proposed wood pole and mounted equipment is not screened in any way and does not blend in against the bright green backdrop of the water tanks, so therefore H27m3 does not comply.

P requires that "all new wireless towers and base stations shall be concealed. The installation of an unconcealed wireless tower or base station is prohibited." Hillsborough Municipal Code section 15.32.020 (Definitions) notes that a "'Camouflaged or concealed WCF" means a wireless communications facility that (i) is integrated as an architectural feature of an existing structure such as (but not limited to) a cupola, or (ii) is integrated in an outdoor fixture such as (but not limited to) a flagpole; or (iii) uses a design which mimics and is consistent with nearby natural, or architectural features, or is incorporated into or replaces existing permitted facilities (including but not limited to stop signs or other traffic signs or freestanding light standards) so that the presence of the WCF is not readily apparent." H27M3 does not comply, as the design of the proposed installation is not such to ensure the "presence of the WCF is not readily apparent," as it stands starkly against the bright green background of the pair of massive water tanks due to its brown color and lack of any concealment by shrubbery or otherwise, leaving the entire pole and equipment plainly visible from the street through the chain link fence of that secures the parcel.

Respectfully Submitted,

Larry Friedberg, Co-Founder  
Hillsborough Citizens Alliance