



Los Angeles County Department of Regional Planning

Planning for the Challenges Ahead



Amy J. Bodek, AICP
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SUPPLEMENTAL MEMO TO THE REGIONAL PLANNING COMMISSION

DATE ISSUED: March 17, 2022

MEETING DATE: 3/23/2022 AGENDA ITEM: 5

PROJECT NUMBER: 2021-002931 (1-5)

PROJECT NAME: Wireless Facility Ordinance

PLAN NUMBER(S): Advance Planning Case No. RPPL2021007939

SUPERVISORIAL DISTRICT: 1-5

PROJECT LOCATION: Countywide

PROJECT PLANNER: Alyson Stewart, Senior Regional Planner
ordinance@planning.lacounty.gov

This item is the Wireless Facility Ordinance, which is an amendment to Title 22 (Planning and Zoning) of the Los Angeles County Code to establish land use regulations for wireless communication facilities.

Since the posting of the public hearing materials, staff received additional materials relating to the ordinance in the form of comment letters, which are attached here.

An additional 11 letters and e-mails were received in opposition of the project, which included local residents and community groups.

An additional letter was received in support of the project, from a business association.

Memo Reviewed By: *A. Bruce Durbin*
Bruce Durbin, Supervising Regional Planner

Memo Approved By: 
Connie Chung, Deputy Director



March 15, 2022

Los Angeles County Department of Regional Planning
Attn. Chair Duarte-White
320 W Temple St. 13th Floor
Los Angeles, CA 90012

Subject: Item 5: LA County Wireless Facility Ordinance- SUPPORT

Dear Chair Duarte-White and Commissioners,

The Valley Industry and Commerce Association (VICA), representing over 245,000 businesses in the San Fernando Valley, fully supports the LA County Wireless Facility Ordinance as recommended by the Board of Supervisors.

The proposed revisions to the WFO establishes application requirements and land use regulations, including zoning and development standards for Small Cell Facilities. Small Cells will assist in expanding 5G wireless network service across the county.

As noted in a CTIA report, 5G is transforming the wireless industry into a full-fledged mobile and fixed broadband solution for homes, enterprises, and communities large and small. New 5G wireless technology offers a future proof and cost-effective option for delivering high-speed broadband, including in rural areas of America. 5G for home broadband services already can offer 100+ Mbps and faster speeds. These speeds are more than enough to simultaneously support the online services used by American families, from video conferencing and streaming and to remote learning and gaming.

The recommended revisions to standards and regulations will serve to update the County's current ordinance and will greatly assist in advancing the Board's regional digital divide strategy for improving access to broadband services.

For these reasons, VICA respectfully urges you to support the LA County Wireless Facility Ordinance.

Sincerely,

Victor Berrellez
VICA Chair

Stuart Waldman
VICA President

Alyson Stewart

From: julian juliangresser <juliangresser77@gmail.com>
Sent: Thursday, March 10, 2022 4:45 PM
To: DRP Ordinance Studies; julian juliangresser
Cc: Ben Levi; 5GFreeCalifornia@gmail.com; Robert Berg; Marin Lutz
Subject: March 23 Title 22 Ordinance Hearing - Comments of Julian Gresser, Counsel 5G Free California
Attachments: 5G Free CA Gresser Comments re 2022-03-09 Topanga Meeting.pdf

CAUTION: External Email. Proceed Responsibly.

Dear Sir or Madam,

Thank you for your consideration of the attached.

Sincerely,

Julian Gresser

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Julian Gresser Attorney at Law/Of Counsel, Swankin & Turner/Co-founder [BroadBand International Legal Action Network \(BB-ILAN\)](#)/CEO/Chairman/Big Heart Technologies / Office: 1-805-563-3226 | Cell: 1-805-708-1864

juliangresser77@gmail.com | www.bighearttechnologies.com | www.alliancesfordiscovery.org | www.resiliencemultiplier.com

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Julian Gresser — Counsel to 5G Free California — Comments at Topanga City Council Town Meeting — Evening March 9, 2022

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- Thank you for the opportunity to offer these brief Comments on the proposed Ordinance, amending Title 22 of Los Angeles Planning and Zoning Code.
- First, I concur with President Carriel Carrier that the scheduling of the proposed public hearing on March 23 of the Planning Commission, whose recommendations the Board of Supervisors (BOS) will give heavy weight, is way too hasty. In fact, impulsive action and a failure to set a proper legal, scientific, and environmental foundation for consideration of Title 22 are the hallmark of this ill-conceived Ordinance.
- In a nutshell, the Ordinance will effectively codify the present illegal practice of bypassing over 30 years of a well-established and balanced Conditional Use Permit Registration system with an accelerated Ministerial Site Review of small cell and macro cell antennas installed on private property. This *de facto* practice is currently being challenged in the Los Angeles Superior Court in the case of [*Angela Sherick-Bright v. County of Los Angeles*](#). The ostensible justification for this precipitous rush to Ordinance is the FCC’s shot clock deadlines that aim to accelerate densification of small cell and macro towers antennas emitting Radio Frequency/Electromagnetic Field (RF/EMF) radiation in high and dangerous concentrations within residential communities. The clear intention of the proposed Ministerial Site Review Application process, which will effectively replace Conditional Use Permits on new facilities, is to eliminate due process protections for the Los Angeles County community — namely, timely prior notification and an opportunity to be heard in public hearings, which are guaranteed by the First and Fifth Amendments of the U.S. Constitution and Article I, Section 7 of the California Constitution.
- Let us all agree that many local authorities recognize that protecting the public’s constitutional rights to due process, and the health and wellbeing of communities are an important responsibility and priority. However, many local city councils and Boards of Supervisors are laboring under the false impression that “their hands are tied,” because they are being told and believe that the Telecommunications Act of 1996 preempts them from taking local protective action. This appears to be an unstated premise behind

the proposed [amendment to Title 22](#). However, there are many important exceptions and qualifications to this overbroad blanket premise. You are being misled if you are told otherwise.

- I will summarize by the following questions the blatant legal deficiencies in the proposed Ordinance which also point to effective remedies. Most if not all the defects can be cured, if sufficient time is made available to consider them, soberly:
- **Question # 1:** By what legal authority and on what constitutional grounds can the BOS bypass and strip away due process protections of prior notification and public hearings?
 - **Response:** Nowhere in the Telecommunications Act of 1996 is there authority to bypass and to violate the U.S. Constitution or the California Constitution guarantees of due process. To apply the doctrine of preemption as the Board of Supervisors is considering would be to establish the FCC as a supra-constitutional agency. It is not. The shot clock is an excuse. The Los Angeles Planning Authority simply doesn't want to bother to take the time to ensure an opportunity for the public to participate in a meaningful way. The fundamental First Amendment right of the public to be heard was reaffirmed in footnote #6 of the recently decided case of *Children's Health Defense v. FCC*.¹
- **Question # 2:** Where does it say in the 1996 Telecommunications Act that local communities can allow telecom purveyors to convert easements to property rights without just compensation to private property owners?
 - **Response:** The Telecommunications Act of 1996 contains no such provision. As vigorously argued in *Angela Sherick-Bright v. County of Los Angeles*, the practice is an unconstitutional taking, an inverse condemnation, in violation of the Fifth and Fourteenth Amendments.

¹ The Commission maintains that because local regulation of where these antennas are installed is preempted, there is no point in providing the local authorities or their citizens with notice of pending installations. But it does not follow that because citizens do not have a vote or a veto over the placement of an antenna on a neighbor's property, they are not entitled to know of the prospect. The First Amendment to the Constitution preserves the right of the people to petition the government for redress of grievances. See *Sorrell v. IMS Health Inc.*, 564 U.S. 552, 577 (2011) ("The First Amendment directs us to be especially skeptical of regulations that seek to keep people in the dark for what the government perceives to be their own good." (citation omitted)); *Am. Bus Ass'n v. Rogoff*, 649 F.3d 734, 738 (D.C. Cir. 2011) ("The right 'extends to [petitioning] all departments of the Government,' including administrative agencies and courts." (alteration in original) (quoting *Cal. Motor Transp. Co. v. Trucking Unlimited*, 404 U.S. 508, 510 (1972)); *Liberty Lobby, Inc. v. Pearson*, 390 F.2d 489, 491 (D.C. Cir. 1967) (Burger, J.) ("[E]very person or group engaged . . . in trying to persuade Congressional action is exercising the First Amendment right of petition."); 2 Joseph Story, *Commentaries on the Constitution* § 1894, at 619 (Thomas M. Cooley ed., 4th ed. 1873) (1833) (emphasizing the centrality of petitioning for redress of grievances in republican government).

- **Question # 3:** Has there been any determination, affirmative or negative, relating to the necessity of assessing the environmental impacts of this project through an EIS interagency consultative process under the California Environmental Quality Act (CEQA)? Has the BOS complied with its obligations under the federal National Environmental Policy Act (NEPA), including coordinating with other concerned federal agencies, recognizing that there is substantial federal involvement in Los Angeles County? (so-called NEPA “federal handle.”)
- **Response:** We can find no evidence of any official finding or determination pursuant to a formal due process compliant process to reach a decision on this question. Certainly, the BOS and the Planning Department have not prepared a Comprehensive Programmatic Environmental Impact Statement (EIS) as these statutes require for a series of actions that will transform Los Angeles County, as the proposed Ordinance will allow. There has been no formal finding of consistency with the environmental and health protections in the Regional, Coastal, Santa Monica Mountains, and other existing plans.
- **Fire Hazards:** Given its record of fire catastrophes, Los Angeles County is justifiably concerned with fire prevention and management. This area is well within the County’s authority, jurisdiction, and control. For example, what special protections does the Ordinance provide for fires resulting from combustion of terpenes in conifers? Scientific studies² document that continuous RF/EMF radiation exposure is closely tied with increased terpene production in conifers. Terpenes are a combustible organic compound. The Ordinance utterly ignores this risk which would need to be addressed in any CEQA/NEPA compliant EIS. There is no question that Los Angeles County has an absolute right to take reasonable protections for fire protection and management, which are certainly not preempted by the 1996 Telecommunications Act, and addressed in the present Los Angeles Fire Ordinance. Again, from the perspective of the First and Fifth Amendments noted above, is the Board of Supervisors seriously proposing to deny the public its right of timely notification and hearing before approving a program that will impose pervasive and intensifying fire risks?
- The contention that small cell and macro tower densification is essential for emergency response is bogus. As is well documented by the [Resolution of](#)

² E.g. see [“Influence of microwave frequency electromagnetic radiation on terpene emission and content in aromatic plants”](#)

[the International Association of Fire Fighters](#), there are far safer well-established alternatives to addressing major fire hazards than by amplifying them.

- **Question # 4:** What special dangers does the proposed amendments to Title 22 pose to public schools in Los Angeles County? How will the BOS reconcile and balance its statutory obligation to deliver safe learning environments for children and teachers in Los Angeles County? What special risks will RF/EMF radiation released from densifying small cell and macro towers around schools present to children, teachers, and staff?
 - **Response:** The scientific record is clear that children are especially vulnerable. The accelerated deployment of macro towers on school properties is today causing direct conflicts with school administrator's fiduciary responsibilities to deliver healthy and safe learning environments for children. (See: www.techsafeschools.org; [Environmental Health Trust - Children](#); [Tech Safe Schools Legal Advisory](#))
- **Question # 5:** What special dangers do the proposed amendments pose for airports in Los Angeles County? How can the BOS reconcile the serious conflicts with current FAA regulations?
 - **Response:** See: Complaint in *Angela Sherick-Bright v. County of Los Angeles*.
- **Question # 6:** The proposed amendment stipulates that it must comply with existing federal laws, which include: the Historic Preservation Act, the Endangered Species Act, the Americans with Disabilities Act, the Fair Housing Amendments Act, to name a few. None of these federal statutes are preempted by the 1996 Telecommunications Act. They are entitled to co-equal dignity and consideration. The BOS cannot override these federal statutes by some ministerial gimmick, simply because it doesn't want to take the time to devise a reasonable and balanced solution.
 - **Response:** The nationally protected, historic area of View Park is the focus in *Angela Sherick-Bright v. County of Los Angeles*. How many other protected areas exist in Los Angeles County? How many already disabled persons will be further impaired, and their fragile conditions jeopardized? What endangered species will be threatened? What will be the impact on economically challenged and minority communities within Los Angeles County? Federal laws prohibit the ministerial mayhem contemplated by this illegal Ordinance. These concerns cannot be

brushed aside by a provision buried in the Ordinance conceding, abstractly, that all federal, state, and local laws will be observed.

- **Question # 7:** What provision has been made for insurance for RF/EMF related harms? What consideration has been given to a bonding requirement, recognizing the hazards of RF/EMF radiation? What process is contemplated to coordinate with the Board of Health to report, investigate, and arrange for compensation of the thousands of victims of RF/EMF radiation exposure over the coming years? What provision is being made to deploy best available community wide radiation monitoring devices and methodologies, recognized by the National Spectrum Management Association, so that the Los Angeles County Health Department will even know the levels of RF/EMF radiation to which County communities are being exposed?
 - **Response:** None. No monitoring, no investigation, no compensation, no interest. It is called the “Public Pays Principle,” which the wireless providers are advocating must replace the well-established 1972 international OECD “Polluter Pays Principle.” For a note on the power of “mixed systems” of compensation and prevention, see www.bbilan.org)
- **Question # 8:** What potential liabilities will the BOS and Los Angeles County incur if Title 22 is passed without adequate consideration of the risks?
 - **Response:** The harms of proliferating and densifying small cell and macro towers in Los Angeles County are clear, foreseeable, measurable, and preventable. They are also uninsurable, because no reputable insurance company anywhere in the world will cover the risks of RF/EMF radiation harms. They are simply too great.
 - Under these conditions, at the very least the BOS has a fiduciary obligation to the community to address these risks, by inserting provisions in the Ordinance that require adequate insurance and indemnification and the posting of a substantial bond, which is a customary condition of other ultrahazardous activities.
- **Question # 9:** Why does the BOS not take the time to study carefully existing best ordinance practices, such as being implemented in Scarsdale, Malibu, Encinitas, and other local communities?
 - **Response:** Far preferable balanced alternatives consistent with the 1996 Telecommunications Act exist. The Planning Department and the BOS should study these templates and consider adopting them.

- The Planning Department and BOS are advised to take a bold and innovative additional step: that is seriously to consider providing incentives for a far superior broadband option: optical fiber to the premises (OFTP). Optical fiber broadband will accomplish the infrastructural goals of the proposed Ordinance, including bridging the Digital Divide, while optimizing the beneficial uses of wireless and minimizing its hazards. OFTP is faster, safer, private³, more cybersecure, lower latency, energy efficient, and climate change friendly. OFTP must be a serious option for consideration in the BOS' forthcoming NEPA/CEQA EIS. (See: Timothy Schoechle, [*Reinventing Wires: The Future of Landlines and Networks*](#))

Conclusion: Let us recognize that the present law and regulations pertaining to RF/EMF are in a state of flux. The FCC is claiming before the DC Circuit that the FDA, the principal health agency in the country, has adopted an Administrative Procedure Act (APA) compliant policy and regulations regarding RF/EMF safety and performance standards. But our legal team can find no evidence for these claims. Meanwhile, local communities like Los Angeles County are relying on these false claims and are placing their helpless populations under an Imminent Hazard. (See: [*The Landmark FDA Case.*](#))

The last thing one should do in chaos is to plunge more deeply. The precipitate haste by which Title 22 is being promoted provides a telltale clue to its overall character. President Carrier is wise in asking the BOS to pause and postpone; to think things through clearly and responsibly, especially given the long-term consequences; where necessary to consult with independent, uncompromised experts; to engage the public; and to prevent and correct an imminent folly. Los Angeles County and its Board of Supervisors will never regret taking the time at this critical juncture to discover the path of reasonable balance.

Thank you,

Julian Gresser, Counsel 5G Free California

³ Accelerating densification of small cell and macro towers raises serious unexamined questions regarding the encroachment on privacy protected under the CA Consumer Privacy Act. Many of these problems may be avoided under an OFTP framework. See webinar: [Citizen Rights and Remedies Under the Shadow of 5G Surveillance and Behavioral Modification.](#)

Alyson Stewart

From: 5GFree California <5gfrecalifornia@gmail.com>
Sent: Tuesday, March 15, 2022 10:45 AM
To: DRP Ordinance Studies; Elida Luna; Charnofsky, Tessa; Carrie Carrier
Subject: Comments on LA County Draft Wireless Ordinance - Title 22, Advance Planning Case No. RPPL2021007939

CAUTION: External Email. Proceed Responsibly.

To whom it may concern,

My name is Julie Levine and I am a founder and the Executive Director of a non-profit called 5G Free California. I reside in Topanga Canyon, an unincorporated area in Los Angeles County.

I became sick from wireless exposure in late 2011 and my symptoms were exacerbated when the smart meter program was rolled out in my Topanga neighborhood. Since then, I have worked with municipalities throughout California to develop the most protective ordinances possible. I would like to point to the Encinitas, Malibu and Elk Grove ordinances as documents you should be reviewing and considering. Most importantly, these ordinances provide for a set aside of 500-1000 feet in front of people's homes, and provide proper notice to residents as well as a chance to appeal during the shot clock period. None of this is in this draft ordinance.

I understand you feel inhibited by the Telecom Act of 1996 but neither this or subsequent legal rulings prevent or diminish the power of local protective ordinances. Although the FCC (which has neither doctors or scientists) may not acknowledge harm from these wireless technologies, in the LANDMARK FEDERAL COURT RULING AGAINST THE FCC on August 13, 2021 the U.S. Court of Appeals for the D.C. Circuit ruled the Federal Communications Commission (FCC) ignored scientific evidence and failed to provide a reasoned explanation for its determination that its 1996 regulations adequately protect the public against all the harmful effects of wireless radiation. The legal case challenged the FCC's 2019 decision not to update its 1996 regulations regarding allowable radiofrequency radiation (RF) exposures from wireless technologies - including 5G, cell phones, cell towers, Wi-Fi, and wireless networks. FCC limits are based on the outdated belief that heating is the only proven harm from RF. Over 11,000 pages of evidence - 447 exhibits in 27 Volumes - was submitted to the Court documenting biological effects and illness from wireless radiation exposure below heating levels. Research has found brain damage, headaches, memory problems, reproduction damage, synergistic effects, nervous system impacts, brain cancer, genetic damage, as well as harm to trees, birds, bees, and wildlife. Your efforts to circumvent CEQA especially in sensitive coastal areas absolutely fail to account for this environmental harm, not to mention your failure to address fire and safety hazards from this equipment.

Using the term "ministerial" as a way of eliminating our protections under the law as well as our constitutional rights is misleading and unacceptable at best, and in our opinion, illegal. We urge you to delay finalizing this ordinance until you have fully heard from LA County residents and incorporated the best practices in this field. Failure to do so will result in a lawsuit and we have already identified and engaged one of the best telecommunications lawyers in the country to litigate should you fail to do so. You have been forewarned.

Sincerely,

Julie Levine
5G Free California

Alyson Stewart

From: Allan Cate <aocate49@gmail.com>
Sent: Sunday, March 13, 2022 7:39 AM
To: DRP Ordinance Studies
Cc: rola masri
Subject: Wireless Facilities

CAUTION: External Email. Proceed Responsibly.

Dear Planning,

I am strongly opposed to the proposed ordinances.

AT&T should not be given the right to install transmitters on private property without notice or consent.

If approved, this will be another example of government of, by, and for the big corporations.

Sincerely,
Allan Cate

Alyson Stewart

From: Amber <activeclicker@roadrunner.com>
Sent: Tuesday, March 15, 2022 4:31 PM
To: DRP Ordinance Studies
Subject: Re: March 23 Los Angeles County Planning Board Proposed Changes to County Code Title 22

CAUTION: External Email. Proceed Responsibly.

To Whom it May Concern:

Will I wake up one day to a macro cell tower being built 20 feet from my door? Will you??

The Proposed Changes to County Code Title 22 are in direct conflict with the law. They eliminate Due Process and our Democratic tradition of timely prior notification and public hearings (please reference the First and Fifth Amendments of the U.S. Constitution and Article I, Section 7 of the California Constitution).

Contrary to what some may believe, the Telecommunications Act of 1996 does not give the FCC the authority to dismiss and violate the US Constitution or the California Constitution. The FCC is still subject to Federal Constitutional Law, and therefore applying a doctrine of preemption is against the law.

In light of this, it is also useful to remember that we do not need to hurry through this process. Indeed, it would serve all of us well to perform our due diligence in assessing all risks of densification of small cell, and macro cell antennas with a proper Environmental Impact Survey. We need the data on safety concerns, fire concerns, and any other possible risk that comes from this sort of densification. There is actually no real reason for the rush, other than perhaps profits for telecommunication companies.

Additionally, there ARE other, safer options to seriously consider: Optical fiber broadband (OFTP) will accomplish the infrastructural goals of the proposed Ordinance, including bridging the Digital Divide. OFTP is faster, safer, more private, more cybersecure, has lower latency, is energy efficient, and climate change friendly. OFTP must be a serious option for consideration in the BOS' forthcoming NEPA/CEQA EIS.

In short, I strongly OPPOSE the proposed changes to LA County Code Title 22; and I strongly support due diligence, proper notification, and the Democratic tradition of public hearings.

Respectfully,

Amber Cannon

Alyson Stewart

From: bibicaspari@gmail.com
Sent: Friday, March 11, 2022 2:31 PM
To: DRP Ordinance Studies
Subject: Concern re Title 22 ordinance

CAUTION: External Email. Proceed Responsibly.

I have a disability called EHS (Electromagnetic Hypersensitivity). <https://scientists4wiredtech.com/2021/02/california-appellate-court-holds-that-ems-is-a-disability-under-feha/>

Because of my health concerns, I have educated myself about the dangers of wireless technology, including cell towers. And the science shows the dangers. There are more than 1,000 scientific studies conducted by independent researchers from around the world concerning the negative biological effects of RF (wireless) radiation.

Title 22 terrifies me. The proposed changes mean that I am threatened by the possibility of a small cell being placed on my or my neighbors' properties with little or no recourse to prevent it from happening.

It will expose our most vulnerable populations—children, disabled persons, pregnant women, fetuses, the elderly, minorities, and economically-disadvantaged populations—to unchecked, unmonitored, continuous, and cumulative Radio Frequency/ElectroMagnetic Field (RF/EMF) Radiation with no compensation or insurance available at all for the victims. The risks are so great no reputable insurance company in the world today will offer RF/EMF radiation damage coverage.

It will eliminate the basic right of self-defense and safeguards under the 2nd Amendment to the U.S. Constitution of your person, home, property, and security of your family. (The U.S. Supreme Court has noted that “the need for defense of self, family, and property is most acute” in the home.)

I implore the Board of Supervisors to stop this terrible ordinance, and others like it that give control to the telecoms rather than to residents. The reckless densification of small cell and macro towers, exposing the general population to RF/EMF radiation is fundamentally an anti-social practice, and needs to be halted.

Thank you. Sincerely,

Bibi Caspari

3771 Glenfeliz Blvd, Los Angeles, CA 90039

323-660-3027

Alyson Stewart

From: janetplanetstar@icloud.com
Sent: Tuesday, March 15, 2022 12:23 PM
To: DRP Ordinance Studies
Subject: Re: March 23 Los Angeles County Planning Board Proposed Changes to County Code Title 22:

CAUTION: External Email. Proceed Responsibly.

To Whom It May Concern:

I oppose this ordinance because the proposed changes to County Code Title 22 are being done in haste and without due legal process. Please allow for proper discussion and a proper environmental impact statement (EIS).

I oppose any changes unless this is done on the grounds of safety concerns and fire hazard concerns, until it has been proven otherwise.

best,
Janet Freund

Alyson Stewart

From: Marin <marinlutz@gmail.com>
Sent: Tuesday, March 15, 2022 4:58 PM
To: DRP Ordinance Studies; Elida Luna; Charnofsky, Tessa; Carrie Carrier
Subject: Comments on LA County Draft Wireless Ordinance - Title 22, Advance Planning Case No. RPPL2021007939

CAUTION: External Email. Proceed Responsibly.

My name is Marin Lutz. I am one of the founders as well as a board member of 5G Free California.

I am writing to you today as a resident, a mother as well as a molecular biologist and geneticist. I was a Senior Research Associate at UCLA and spearheaded Collaborations at AGRE (The Autism Genetic Resource Exchange). It is because of my scientific background and research as well as my own sensitivities to wireless radiation that I was compelled to investigate EMF/RF technologies.

To begin, it is extremely important that we put a PAUSE on the proposed Ordinance, amending Title 22 of the Los Angeles Planning and Zoning Code. To schedule a meeting on March 23 of the Planning Commission is simply too fast. Key and critical points have not been addressed.

I will cite in this email some of what our working group here at 5G Free California has put together to make this clear:

This Ordinance will effectively codify the present illegal practice of bypassing over 30 years of a well-established and balanced Conditional Use Permit Registration system with an accelerated Ministerial Site Review of small cell and macro cell antennas installed on private property. This de facto practice is currently being challenged in the Los Angeles Superior Court in the case of Angela Sherick-Bright v. County of Los Angeles.

The ostensible justification for this precipitous rush to Ordinance is the FCC's shot clock deadlines that aim to accelerate densification of small cell and macro towers antennas emitting Radio Frequency/Electromagnetic Field (RF/EMF) radiation in high and dangerous concentrations within residential communities. **It seems pretty clear that the intention of the proposed Ministerial Site Review Application process, which will effectively replace Conditional Use Permits on new facilities, is to eliminate due process protections for the Los Angeles County community — namely, timely prior notification and an opportunity to be heard in public hearings,** which are guaranteed by the First and Fifth Amendments of the U.S. Constitution and Article I, Section 7 of the California Constitution.

In addition, by what legal authority and on what constitutional grounds can the BOS bypass and strip away due process protections of prior notification and public hearings?

Nowhere in the Telecommunications Act of 1996 is there authority to bypass and to violate the U.S. Constitution or the California Constitution guarantees of due process. To apply the doctrine of preemption as the Board of Supervisors is considering would be to establish the FCC as a supra-constitutional agency. It is not. The shot clock is an excuse. The Los Angeles Planning Authority simply doesn't want to bother to take the time to ensure an opportunity for the public to participate in a meaningful way. The fundamental First Amendment right of the public to be heard was reaffirmed in footnote #6 of the recently decided case of *Children's Health Defense v. FCC*.

Another main point: **Fire Hazards.** Given its record of fire catastrophes, Los Angeles County is justifiably concerned with fire prevention and management. This area is well within the County's authority, jurisdiction, and control. For example, what special protections does the Ordinance provide for fires resulting from combustion of terpenes in conifers? Scientific studies document that continuous RF/EMF radiation exposure is closely tied with increased terpene production in conifers. Terpenes are a combustible organic compound. The Ordinance utterly ignores this risk which would need to be addressed in any CEQA/NEPA compliant EIS. There is no question that Los Angeles County has an absolute right to take reasonable protections for fire protection and management, which are certainly not preempted by the 1996 Telecommunications Act, and addressed in the present Los Angeles Fire Ordinance. Again, from the perspective of the

First and Fifth Amendments noted above, is the Board of Supervisors seriously proposing to deny the public its right of timely notification and hearing before approving a program that will impose pervasive and intensifying fire risks?

There is so much more to address here and my hope is that we will have ample time to discuss these points and many more. It is also prudent to add that there are existing Ordinances that are in place and being used in both Malibu and Encinitas that can help us guide this process in a way where best practices are addressed.

We are asking that you put a PAUSE on this proposed ordinance and process.

Sincerely,

Marin Lutz
5G Free California

Alyson Stewart

From: 4squaredplus <4squaredplus@protonmail.com>
Sent: Tuesday, March 15, 2022 10:15 AM
To: DRP Ordinance Studies
Cc: Elida Luna
Subject: Public Comments on the Title 22 Hearing on March 23rd

CAUTION: External Email. Proceed Responsibly.

To the LA Board of Supervisors:

This 5G ordinance is not acceptable in its current form and we demand you to delay the passing of this ordinance from June 2022 until more scientific research can be done that embraces international research on 5G and focuses specifically on its harm towards our most vulnerable populations: children, disabled persons, pregnant women, fetuses, the elderly, minorities and economically-disadvantaged communities.

The proposed ordinances would weaken protections under the National Historic Preservation Act and substantially increase risks of fires in high-risk fire zones, without any due consideration to prevention or mitigation.

The proposed action of codifying the present BOS practice of authorizing ministerial approvals of small cell and macro towers by the Los Angeles Board of Supervisors and the Land Use Planning Commission should not be passed without extensive research and the following research (which is voluminous) is reviewed and parsed through to understand the potential negative outcomes (albeit unintentional) to our communities and future generations:

Data Center Forum White Paper, (2020) Environmentally Sustainable 5G Deployment
<https://www.datacenter-forum.com/datacenter-forum/5g-will-prompt-energy-consumption-to-grow-by-staggering-160-in-10-years>

German Environment Agency and German Federal Environment Ministry (2020) "Fibre optic video transmission is nearly 50 times more efficient than UMTS"
<https://www.umweltbundesamt.de/en/press/pressinformation/video-streaming-data-transmission-technology>

High Council for the Climate Report (2020) "Controlling the carbon impact of 5G"
<https://www.hautconseilclimat.fr/publications/maitriser-limpact-carbone-de-la-5g/>

Huawei (2020) 5G Power: Creating a green grid that slashes costs, emissions & energy use,
<https://www.huawei.com/us/publications/communicate/89/5g-power-green-grid-slashes-costs-emissions-energy-use>

Mills, Mark P., National Mining Association / American Coalition for Clean Coal Electricity (2013), "The Cloud Begins with Coal – Big Data, Big Networks, Big Infrastructure, and Big Power. An overview of the electricity used by the global digital ecosystem." https://www.tech-pundit.com/wp-content/uploads/2013/07/Cloud_Begins_With_Coal.pdf

National Resources Defense Council, 2014 "Data Center Efficiency Assessment" <https://www.nrdc.org/sites/default/files/data-center-efficiency-assessment-IP.pdf>

Shehabi et al., Berkeley Laboratory (2016) "United States Data Center Energy Usage Report" <https://eta.lbl.gov/publications/united-states-data-center-energy> PDF

The Center for Energy Efficient Telecommunications (2013) "The Power of Wireless Cloud: An analysis of the energy consumption of wireless cloud", [https://www.cesc.kth.se/polopoly_fs/1.647732.1600689929!/ceet_white_paper_wireless_cloud_v2%20\(1\).pdf](https://www.cesc.kth.se/polopoly_fs/1.647732.1600689929!/ceet_white_paper_wireless_cloud_v2%20(1).pdf)

The Shift Project (2019) "LEAN ICT: TOWARDS DIGITAL SOBRIETY": OUR NEW REPORT ON THE ENVIRONMENTAL IMPACT OF ICT" , PDF Summary <https://theshiftproject.org/en/article/lean-ict-our-new-report/>

Vertiv 5G (2019) Telco Industry Hopes and Fears FROM ENERGY COSTS TO EDGE COMPUTING TRANSFORMATION https://www.vertiv.com/globalassets/documents/white-papers/451-research-paper/10648_advisory_bw_vertiv_266274_0.pdf
Publications on 5G, Energy Consumption, and Climate

Andrae, A.S.G.; Edler, T. On Global Electricity Usage of Communication Technology: Trends to 2030 Challenges 2015, 6, 117-157. <https://doi.org/10.3390/challe6010117>

Baliga, Jayant, Ayre, Robert, Hinton, Kerry, Tucker, Rodney S. "Energy Consumption in Wired and Wireless Access Networks in IEEE Communications Magazine, vol. 49, no. 6, pp. 70-77, June 2011, doi: 10.1109/MCOM.2011.5783987.14

Obviously, there is a lot to be reviewed and understood and we demand that this research be taken into consideration by the Board of Supervisors and, more importantly, to be cross-checked by the California Attorney General's office and District Attorney's offices all across Southern California including Todd Spitzer in Orange County, George Gascon in Los Angeles, Summer Stephan in San Diego, Michael Hestrin in Riverside, Jason Anderson in San Bernadino, Eric Nasarenko in Ventura, Joyce Dudley in Santa Barbara and Gilbert Otero in Imperial County.

There are serious conflicts with the proposed ordinances and approvals of 5G wireless technology with existing California state law, regional statutes, charter city ordinances, and local regulations and it is only fair to allow local District Attorney's and others to review the proposed changes before they go into effect. Decisions made in Los Angeles County (as the largest county of them all) will have a

ripple effect and the Board of Supervisors should open a larger window to receive feedback, comments, and questions from other regional representatives and law enforcement officials before passing ordinances that will likely lead to more and more establishment of 5G technology in the region.

I've bcc'ed the named District Attorney's offices as well as sheriffs and police officers here for reference to allow them to review the linked research as well as make any comment before the time expires to do so at the end of the day.

Sincerely,
Michael Law

Sent from ProtonMail for iOS

Alyson Stewart

From: m v <mvukusic@roadrunner.com>
Sent: Tuesday, March 15, 2022 4:59 PM
To: DRP Ordinance Studies
Subject: Re: March 23 Los Angeles County Planning Board Proposed Changes to County Code Title 22

CAUTION: External Email. Proceed Responsibly.

To: ordinance@planning.lacounty.gov

To Whom it May Concern:

The Proposed Changes to County Code Title 22 are in direct conflict with the law. They eliminate Due Process and our Democratic tradition of timely prior notification and public hearings (please reference the First and Fifth Amendments of the U.S. Constitution and Article I, Section 7 of the California Constitution).

Contrary to what some may believe, the Telecommunications Act of 1996 does not give the FCC the authority to dismiss and violate the US Constitution or the California Constitution. The FCC is still subject to Federal Constitutional Law, and therefore applying a doctrine of preemption is against the law.

In short, I strongly OPPOSE the proposed changes to LA County Code Title 22; and I strongly support due diligence, proper notification, and the Democratic tradition of public hearings.

Respectfully,

Michael Vukusic

Alyson Stewart

From: River V <HenryAngel2003@hotmail.com>
Sent: Tuesday, March 15, 2022 4:49 PM
To: DRP Ordinance Studies
Subject: March 23 Los Angeles County Planning Board Proposed Changes to County Code Title 22

CAUTION: External Email. Proceed Responsibly.

To Whom it May Concern:

The proposed changes infringe upon the sanctity of private property by allowing infrastructure to be built near private property without the landowner's consent. This is a major infringement that needs to be considered in order to maintain the cleanliness of our cities. If infrastructure can be built anywhere without having to go through due process, then it could clutter our city and interfere with citizen's plans for their property.

In large urban areas, it is relied upon for each citizen individually to take care of their own property, so that the whole city can expand in a healthy manner. The proposed changes would make this harder, which would overall decrease the quality of life for everybody in the city, especially property owners who may now have conflict with their neighbors over this infrastructure.

In addition to these general concerns, there are also fire dangers and other more practical problems which should be considered as well.

For these reasons, I oppose the changes in question.

Alyson Stewart

From: dgrayson <dgrayson@uhawhvp.org>
Sent: Thursday, March 10, 2022 5:00 PM
To: DRP Ordinance Studies
Cc: Angela Sherick
Subject: Final comments for Title 22 and Title 16
Attachments: comments 3-9-22 second revision1.pdf

CAUTION: External Email. Proceed Responsibly.

We are submitting comments for Title 22 and 16 draft ordinances for your consideration. Please see attached.

Thank you.

Darryl

Darryl Grayson

President

United Homeowners' Association II (UHA)

4859 West Slauson Avenue, #333

Los Angeles, CA 90056

dgrayson@uhawhvp.org

www.uhawhvp.org



Type of facility: Required Applications Title 22

Section 13.Section 22.140.650 Wireless Facilities

A. Purpose. This purpose of this Section is to:

1. Facilitate wireless communications service providers to provide equitable, high quality wireless communications service infrastructure to serve the current and future needs of the County's residents, visitors, businesses and local governments quickly, effectively, and efficiently.

2. Establish streamlined permitting procedures for the installation, operation and modification of wireless facilities, while protecting the public health, safety and welfare of the County residents.

- **Comment-Higher and safer level of Internet access can be obtained by direct fiber optic installation through now readily available computer controlled lateral drilling, or through micro-trenching, as well as through the mounting of fiber optic cable on existing pole systems. Therefore, the idea that 5G radio wave based installations are technically essential is not correct. Rather, instead, the reason for 5G instead of fiber optic is to assure that the involved telecommunications companies continue to accrue massive profits. In this instance, those massive profits to the telecommunications companies instead of the provision of jobs to the small businesses, which would otherwise be engaged in this safer approach that not only avoids radiation issues but is also fire immune, is not a strong enough reason to risk the potential harm to the health, safety and welfare this non-essential technology could cause.**

1. Ministerial Site Plan Review. A Ministerial Site Plan Review (chapter 22.186) application is required to authorize the following:

a. Installation and operation of a small cell facility located on private property and public property that is not a public right of way:

- **Comment-Please clarify, it appears that this section of the ordinance gives the cell tower applicant the authority to install a SCF on private property using only a Ministerial Site Plan Review. This section does not seem to require the approval of the land owner to construct a SCF on his/her property. If this is the case it is unacceptable as it negates the rights of the land owner to say what can and cannot be built on his/her property. This suggested provision violates the basic need of urban planners for Recorded land transactions, and if taken without the advance written**

agreement of the landowner also thereby exposes the County to liability to that landowner for Inverse Condemnation, in which case the County faces liability not only for the value loss involved, but for attorneys' fees and expert appraisal costs as may be incurred by that landowner. A recent study in the Journal of Real Estate Research by College of Charleston assistant professors Chris Mothorpe and David Wyman, finds that vacant lots adjacent to high-voltage transmission lines sell for 45% less than equivalent lots not located near transmission lines. Non-adjacent lots still located within 1,000 feet of transmission lines sell at a discount of 18%.". Whatever the actual amount in a particular case, outright seizure of private real estate is a 'taking' within the 5th Amendment of the United States Constitution. "The Fifth Amendment to the Constitution says 'nor shall private property be taken for public use, without just compensation.'

Even if this is a misunderstanding of this section, at the very least a Conditional use permit should be required for Small and macro facilities in order to give residents the opportunity to offer public input. This section, which excludes public Notice and Hearing, is a violation of the Due Process rights of the landowners under both the federal and California Constitutions.

- **Comment-Residents living within 300 feet of a new or existing cell tower should be notified of impending installations or modifications of a cell tower. Even in the ministerial context, the landowners near such installations are entitled by law and Due Process to prior notification of the process through which such installation decisions are being made.**

Development Standards for All Facilities (except small cell facilities).

Bullet number three. In Residential Zones, facilities shall be within 5 feet from a common property line with adjoining lots and be concealed.

- **Comment-Please clarify that it is the County's intent that cell phone towers be within 5 feet from a common property line. Using the words "within" and "from" in the same sentence confuses the non-lawyer reader. Residents need to be sure about distance meaning because: Through the \$25 million dollar study conducted by the U. S. National Institutes of Health, in particular the National Toxicology Program, it is established that cellular wavelengths pose risks of direct carcinogenic harm to residents. Residents are not in normal language 'part' of the environment, but rather**

we are concerned with protecting the environment from excessive toxicity harm to the environment caused by humans, pollution being notable, FROM the activities of humans. This is a well-documented direct physical harm situation, separate from the documented effects of these radiations on the environment in which we live, we are 'in' the environment, but not part of it, as a matter of the normal language uses at the time the applicable 1996 act was finally signed into law. See the discussion at the NIH site:

<https://ntp.niehs.nih.gov/whatwestudy/topics/cellphones/index.html>

Conditions of Approval:

For CUPs, the RPC or Hearing Officer may impose additional conditions to ensure facilities are in compliance with the Ordinance. Conditions may involve the establishment, operation or maintenance of the facility, and may require a RF emission report every five years. The CUP may be for a term of up to 15 years.

- **Comment-RF emission reports are extremely important as they alert residents to a potentially hazardous condition. Waiting 5 years to find out if the emissions are outside of acceptable range is unreasonable. The cell phone tower operator should provide these reports on an annual basis. If emissions are above the levels specified in 47 C.F.R Section 1.1307 and 1.1310, a mitigation plan should be implemented by the SCF operator and monitored by Los Angeles County. It appears that the County is contemplating, on the one hand, the Conditional Use Permit process, and yet, on the other hand, usurping that process through this direct administrative approach, which cuts out citizen involvement, which is a keystone of the democratic process. Most importantly, the section doesn't require that a CUP should be required for ALL antenna installation projects, when in fact telecommunications companies should be required to obtain a CUP to proceed with any project.**

Title 16 Comments

Chapter 16.08 - PERMITS—APPLICATION AND ISSUANCE CONDITIONS

16.08.080 - Application—Issuance conditions.

If the applicant complies with every applicable provision of this Division 1 and all applicable provisions of all other ordinances and statutes, the commissioner may issue to the applicant a written permit to perform the work set forth in the application. The commissioner may refuse to issue a permit if he finds that it is not in the best interest of the general public to do so.

(Ord. 9349 § 1 (part), 1967; Ord. 3597 Ch. 2 § 209, 1940.)

16.08.010 - Application—Form.

Application for a permit shall be made in writing to the commissioner, on the forms provided by the commissioner.

- **Comment—In reviewing Sections 16.08.080, and 16.08.10 having to do with the application process and 16.25.030 having to do with the permitting process there is no discussion of the specific application review or approval process. Is this a Ministerial review similar to that stated in Title 22 for SCF or is this a Conditional Use Permit process? The process that is to be used should be specifically stated. If this is a Ministerial process, the County should give residents the opportunity to offer public comment on the construction of new and modifications of existing SCF. The interest of the general public must be understood by that public, which requires Due Process, which is being circumvented. Due Process requires the fair application of uniform standards, so that all are treated as equally as possible. Proceeding without such standards violates the very most basic rights of the residents of Los Angeles County, and also ultimately the rights, as this progresses, of those who live in any of the more than 80 cities within the Los Angeles basin.**

Because this is a new process and there do not appear to be written guidelines for the Road Commissioner's approval of the permit, public

until this recent approach by the County of Los Angeles.

comment as part of the review process must be included. Additionally, up

16.08.090 - Blanket permits.

Blanket permits, renewable annually, may be issued subject to the compliance with all applicable provisions of this Division 1. The commissioner may revoke any such blanket permit if the permittee fails to comply with any of the provisions of this Division

1. The issuance of a blanket permit does not relieve the permittee from making such reports of activity under the blanket permit as may be required by the commissioner and for paying for inspection, repairs and other costs incurred by the commissioner due to the permittee's activity.

- **Comment-Because the SCF on highways is an amendment to Title 16, it is understood that Blanket Permits facilitate some types of construction that are under the purview of the Road Commissioner, however, under no circumstances should blanket approvals be issued for SCF or macro towers. Each tower should be reviewed, considered and approved separately. There are many practical reasons for this. Recently, for example, it has been shown, by multiple parties in commercial aviation and as now being further assessed by the FAA, 5G interferes with radar altimeters in commercial aircraft, such as at LAX. Also, there are terrain differences between different sections of Los Angeles. The historic rights of the residents to voice their views on this are at risk of permanent subjugation to professional administrators, whom are no more perfect than the rest of us. The value of citizen involvement is thorough discussion of pertinent issues. Also, in some, perhaps all, instances, where there is the use of private property, if liability results from such use for radiation generation, which, regardless of its utility is the core premise of these installations, then the involved property owner, and also directly involved public entities (such as pole ownership where applicable), or where public property is involved, faces that liability. The telecommunications companies have not been able to get insurance coverage for this liability, and the net effects of these factors includes that the taxpayers of Los Angeles County will in some instances become the insurance companies for the telecommunications companies. This liability exposure problem is perhaps the best illustration as to why each set of installation projects must be individually analyzed on the basis of terrain. A blanket permit defeats the absolute need for this individualized analysis.**

16.06.130 - Facilities within highways—Protection—Repair of damages.

The permittee shall support and protect all facilities by a method satisfactory to the owner. The owner has the right to support or protect any of its facilities at the sole expense of the permittee. In case any of said facilities should be damaged (and for this purpose, pipe coating or other encasement of devices should be considered as part of a structure), they may be repaired by the owner at the expense of the permittee or, if authorized by the owner, may be repaired by the permittee under the supervision of the owner. The expense of repairs to any damaged facilities shall be borne by the permittee.

- **Comment-Because the County is amending this ordinance, section 16.06.130 should also be amended. Such amendment should say that if there is damage to or from the tower and that damage encroaches on the adjacent homeowner's property, the permittee and the owner of the SCF should bear the expense of repair and the repairs should be completed immediately under the supervision of the homeowner.**

16.25.030 Permit required

B. Application

2. Design guidelines and permit checklist. The road commissioner may develop and issue design guidelines for SCFs, permit condition for SCFs and EFRs, and permit checklists for SCFs and EFRs implementing the provisions of this chapter.

- **Comment-Is there currently a Road Commissioner design guideline and checklist for Small cell Facilities (SCF) or Eligible Facilities Request (EFR)? If not what are the applicable guidelines for applicants to follow when submitting applications or completing installations? Here once again, instead of a reliable set of standards, subject to public review, the residents of Los Angeles County, and in eventual effect the basin, face an absence of standards, and this by itself is a violation of the Due Process rights of the residents.**
- **Comment-Similar to the Wireless Facility Design Guidelines submitted by the Department of Regional Planning accompanying the draft ordinances, the Road Commissioner should submit guidelines for the SCF construction and approval process so that they too can be reviewed prior to the passage of the Title 16 ordinance.**

16.25.040 other requirements

1. Regional Planning. A SCF on a new support structure to be located in a highway identified as Scenic Highway in the County General Plan, or to be located within the boundaries of a Coastal Zone or Significant Ecological Area, or within 50 feet of a Significant Ridgeline, as described in Title 22 of the county code, shall obtain land use approvals from Regional Planning.

- **Comment-Title 16 should include the same Historic Resource Assessment that is required in Title 22. Up until now, for example in View Park, and despite federal and California legal standards, the County has not only failed to comply with those duties, but an email to one of our residents had specifically stated that same would not be undertaken. We agree that in this historical review context individual assessment is both necessary and**

required by law, and this factor is yet another example of the impropriety of any attempt to impose a blanket permit approach to our topographically diverse County.

Additional Comments

- **Comment-Residents living within 300 feet, at the very least, of a new or existing cell tower should be notified of impending installations or modifications of the cell tower.**
- **Comment-There is no requirement for monitoring SCF EMF emissions. Operators should be required to submit emission reports on an annual basis. If emissions are above the levels specified in 47 C.F.R Section 1.1307 and 1.1310, a mitigation plan should be implemented by the SCF operator and monitored by Los Angeles County. The County has the unrestricted right to this because, based on a federalism concept, supervision of operations has been left to responsible local and as applicable regional power in the 1996 Telecommunications Reform Act.**
- **Comment-There are 300 cell towers and 806 antennas within a three mile radius of View Park. I am sure the numbers of existing cell towers are similar in other parts of unincorporated Los Angeles County. SCF applicants should be required to review the feasibility of replacing old 2 and 3G towers with 5G towers rather than installing new 5G towers in residential neighborhoods. An additional benefit of the use of existing sites is that in general these are at higher elevations above ground level, which decreases the intensity of radiation saturation to the nearest dwellings and businesses.**