

**MEETING MINUTES OF THE CITY OF  
COSTA MESA PLANNING COMMISSION**

**May 28, 2019**

*These meeting minutes represent an "action minute" format with a concise summary of the meeting. A video of the meeting may be viewed on the City's website at [www.costamesaca.gov](http://www.costamesaca.gov) or purchased on DVD upon request.*

Chair de Arakal called the meeting to order at 6 p.m.

Chair de Arakal led the Pledge of Allegiance.

**ROLL CALL**

Present: Chair Byron de Arakal  
Vice Chair Jeffrey Harlan  
Commissioner Kedarious Colbert  
Commissioner Carla Navarro Woods  
Commissioner Jon Zich

Staff: Barry Curtis, Director of Economic and Development Services  
Jennifer Le, Assistant Director of Development Services  
Tarquin Preziosi, Assistant City Attorney  
Bart Mejia, City Engineer  
Dr. Jonathan Kramer, City Consultant  
Justin Arios, Assistant Planner  
Johnwilly Aglupos, Assistant Planner  
Katelyn Walsh, Assistant Planner  
Julie Colgan, Recording Secretary

Chair de Arakal asked that New Business Item No. 1 be moved up and considered before the Public Hearings so that the public and Commission has the benefit of hearing Dr. Kramer's presentation regarding telecommunication facilities prior to hearing the applications for small cell facilities.

**ANNOUNCEMENTS AND PRESENTATIONS:**

None.

**PUBLIC COMMENTS:**

Ann Parker, Costa Mesa resident, stated that she hoped everyone in Costa Mesa is signing the petition on the John Wayne Airport expansion. She requested officials not campaign from the dais. She expressed concerns with small cell items being heard after a holiday weekend was concerned residents may not know about this.

The Chair closed public comments.

## **PLANNING COMMISSIONER COMMENTS AND SUGGESTIONS:**

Commissioner Zich responded to the public comment about the timing of tonight's items and spoke on the City's e-notifications that are available to the public so they can know what is going on in the City.

Vice Chair Harlan spoke on the opening of the new Donald Dungan Library; thanked staff and elected officials for all their work on it; and hoped that it will bring more development to that area.

Chair de Arakal spoke on the opening of the new Donald Dungan Library; congratulated Jenna Tourje and Dianne Russell on their appointments to the Commission and stated they will be joining the Commission at the next meeting; and congratulated Jake Knapp who grew up in Costa Mesa on his win at the Canada Life Open golf tournament.

## **CONSENT CALENDAR: None**

### **NEW BUSINESS:**

#### **1. PRESENTATION REGARDING RADIO FREQUENCY EMISSIONS RELATED TO SMALL CELL FACILITIES BY DR. JONATHAN L. KRAMER**

Jennifer Le, Assistant Director of Development Services, introduced Dr. Jonathan L. Kramer..

Dr. Jonathan L. Kramer presented a slideshow on the Telecommunications Act passed by Congress in 1996; how the FCC developed their rules; the FCC adopted Radio Frequency (RF) safety standards; how the FCC set RF safety emissions limits; for cell sites;; and what the City can review under state law, under federal regulations, and under federal law.

Commissioner Zich and Dr. Kramer discussed the area a typical small cell facility is designed to serve; the distance from the facility at which the signal is at less than the maximum; the two different metrics involved for service area versus RF emissions; the larger number is the service area desired by the carrier; and the smaller number is the control zone that the City focuses on for compliance with the FCC's RF safety rules.

Commissioner Zich and Ms. Le discussed how changes in site conditions could be addressed; how the City is reviewing small cell installations for FCC compliance; and whether an informal process could occur where members of the public could submit written questions to staff on small cell facilities.

Commissioner Navarro Woods and Dr. Kramer discussed whether the FCC measured the RF emissions from a single source; how to know if a small cell facility signal is overlapping with another small cell facility; whether a consumer should be concerned with the effects of all the wireless devices in addition to a nearby small cell facility; and how RF emissions exposure changes for adults versus infants.

Chair de Arakal, Dr. Kramer, and Ms. Le discussed when the site characteristics became different in the pre-installation report for small cell sites; the post installation report; whether the City or the applicant obtains the RF Engineer that submits an in-field Radio Frequency (RF) analysis once the installation is completed; what standards did the FCC put in place for SAR; and where SAR falls into the ruler sample relative to small cell sites.

Chair de Arakal stated that he would like to see a process where there is a peer review of the post installation RF analysis report.

Vice Chair Harlan and Dr. Kramer discussed whether there are physical site characteristics in the area that would impact the compliance of the small cell site.

Chair de Arakal and Dr. Kramer discussed whether the FCC has any plans to review its standards when 5G networks take place; what the difference is between a 4G and 5G network; and whether the FCC has taken a position that the signal power level and the frequency are still the dominate effect.

Commissioner Colbert and Dr. Kramer discussed why the law does not have standards where local jurisdictions can look at the health and safety when reviewing cell sites.

Commissioner Navarro Woods and Dr. Kramer discussed what the RF Engineer looks at in a post installation report.

Commissioner Navarro Woods and Ms. Le discussed the notification process for Dr. Kramer's presentation. Commissioner Navarro Woods stated that she would like Dr. Kramer's presentation to be heard at a City Council meeting so residents can be informed more completely.

Chair de Arakal asked that Dr. Kramer's presentation be posted online.

**MOTION: Receive and file his report.**

**Moved by Chair de Arakal, seconded by Commissioner Navarro Woods.**

Commissioner Navarro Woods commented since the Planning Commission is an advisory body to the City Council, it is in the jurisdiction of the Commission to advise the City Council to hear Dr. Kramer's presentation in person for the benefits of the residents.

Commissioner Zich commented that he learned tonight that the post installation report is a paper review, not a physical measurement report and stated concerns with that and that the City Council should hear Dr. Kramer's presentation.

Vice Chair Harlan commented that the take away from tonight is that there is a limited role that local government plays in regulating the cell sites; the City is doing more than other jurisdictions; and the residents have the right to go to any elected official but suggested making the State and Federal representatives aware of their concerns because this is an issue that has to be resolved at a higher level.

Dr. Kramer clarified that the City rules do not specify the type of reports that they receive post construction and that is why the City receives the paper reports. The Commission and staff has the right to craft conditions to require on-site verification.

The motion carried by the following roll call vote:

Ayes: de Arakal, Harlan, Colbert, Navarro Woods, Zich

Noes: None

Absent: None

Abstain: None

## **PUBLIC HEARINGS:**

### **1. ZONING APPLICATION 19-14, A REQUEST FOR A MINOR CONDITIONAL USE PERMIT TO INSTALL A SMALL CELL FACILITY ON TOP OF A SOUTHERN CALIFORNIA EDISON STREETLIGHT POLE LOCATED WITHIN THE PUBLIC STREET RIGHT-OF-WAY NEAR 400 ENCLAVE CIRCLE**

**Project Description:** Zoning Application 19-14 is a request for a Minor Conditional Use Permit (MCUP) to install a small cell facility on top of a Southern California Edison streetlight pole located within public street right-of-way near 400 Enclave Circle.

**Environmental Determination:** The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15303 (Class 3), New Construction or Conversion of Small Structures.

No ex-parte communication to report.

Justin Arios, Assistant Planner, presented the staff report.

Commissioner Zich, Mr. Arios, and Ms. Le discussed how many approved small cell applications have been with Verizon; whether the height of the Enclave Apartments and the height of the pole would affect the visual compatibility and be in purview of the Commission to control; and discussed the direction of energy coming from the small cell facility.

## **PUBLIC COMMENTS**

Jeff Rome, applicant's representative, stated he has read the conditions of approval and agrees to them. He explained the reasons behind the request to install the small cell facility.

Commissioner Zich and Mr. Rome discussed the emissions that would occur from the small cell facility; how many feet away would the direct emissions from the small cell facility site occur; and whether the third-story of the Enclave Apartment building would be affected.

Craig Thomas, Costa Mesa resident, stated he is located within 50 feet of the proposed small cell facility; stated concerns with the exemption status; spoke in reference to a report about the harmful effects of electromagnetic field exposure on the reproductive system; asked to require an environmental study to learn more on the electromagnetic field (EMF); and asked that there be a buffer to the residential side for public safety concerns.

Ray Walls, property owner in Costa Mesa, stated concerns with small cell applications being fast tracked; suggested asking the applicants for an extension to authorize the City to do more studies; spoke on a recent California Supreme Court decision on how the City does have choices when deciding on small cell applications; spoke on the health issues of small cells facilities; stated concerns with the post installation report being a paper report and suggested that a Professional Engineer not an RF Engineer handle the in-field RF analysis; and stated that there are exempted areas like fire stations and schools/preschools.

Milton Alleyown, Costa Mesa resident, stated concerns with the analysis of the RF emissions from the government and spoke on the effect his cell phone has had on him.

Becca Walls, Costa Mesa resident, spoke on how fire stations fought the FCC and received exemptions for having small cell facilities placed on top of the stations; stated concerns with the third-party reviewer process and suggested that the applicant should pay for it but the City should choose the reviewer; and asked that any changes to the small cell facility be brought back to the Commission.

Sandra Rios, Costa Mesa resident, spoke on an article by the World Health Organization on April 24, 2013 about them classifying mobile phones and cell towers as being possible carcinogenic to humans and the effects on children and stated concerns with the cell towers being around preschools, high schools, libraries and public parks because there are no studies analyzing exposure to the radiation.

Robin Leffler, Costa Mesa resident, stated concerns with the radiation exposure from the proposed small cell facility to a newborn baby located at the Enclave Apartments; stated concerns with the FCC rules on small cells; and asked that the Planning Commission protect the residents by passing the small cell items along to the City Council so they can make a final decision with a recommendation that the health and well-being of the residents be protected.

Ann Parker, Costa Mesa resident, stated that she agreed with what everyone just said and appreciates that Commissioner Navarro Woods and Commissioner Zich are not feeling comfortable with this. She asked that the Commissioners recuse themselves if they have cell phone company clients; spoke on how former Council Member Jim Righeimer had to recuse himself because of his involvement with Verizon and since he owned Verizon stock; and stated that if any of the Commission have cell phone stock or the holding company that owns it that they recuse themselves. She also spoke about the noise coming from the cell tower located at 20<sup>th</sup> Street and Tustin Avenue and how the property value will go down 15-20% near cell facilities; how Pacific Palisades is also fighting the issue; and they have signs on the bottom that state "danger do not stand within five feet of this pole." She referred to other things considered safe – Agent Orange and roundup listed as number one, the water in Flint Michigan that was really safe, tobacco, vaping, Boeing jets, and OxyContin. She stated it is just like our marijuana situation and our sober living situation. She indicated staff doesn't have a handle on this and she resents that the small cell tower on 20<sup>th</sup> Street and Tustin Avenue (sic) was put forward without anyone in the City knowing about it until the surrounding residents went berserk. She stated there have been three deaths from brain cancer on the cul-de-sac right by it and one backing up to it. She indicated that she smells a rat with Mr. Righeimer and his association with Verizon and wants to know why Costa Mesa is once again being dumped upon. She indicated small cell facilities are not going in all over Newport Beach or Huntington Beach.

Mr. Rome responded to public comments.

Commissioner Zich and Mr. Rome discussed whether an alternate pole location was considered; the process that would take place if an alternate pole were to be considered; and whether the applicant would consider an alternate pole location.

The Chair closed the public comment portion of the hearing.

Commissioner Zich, Dr. Kramer, Mr. Arios and Ms. Le discussed whether EMF is a generic term; clarified that residents and occupants were notified within 500 feet of the project site;

and how the residents and occupants within 500 feet from a project site where a small cell facility was installed will be notified when the post installation testing report is available.

Vice Chair Harlan and Ms. Le discussed that the cell tower off 20<sup>th</sup> Street and Tustin Avenue is a macro-site not a small cell facility and that it was approved before the City had a small cell ordinance.

Commissioner Navarro Woods and Ms. Le discussed whether changes to the antenna from a 4G to 5G network would have to go back through the approval process; why the Commission reviews small cell facility applications if the Commission is limited in what it can do; and why alternative locations were not provided.

Commissioner Zich and Dr. Kramer discussed whether there are any public agency organizations that prohibit the location of small cell sites in their jurisdictions.

Chair de Arakal and Ms. Le discussed that staff would prefer a City peer to review the post construction in-filed studies.

The Chair closed the public hearing.

**MOTION: Move that the Planning Commission approve Zoning Application 19-14 subject to the findings in Exhibit A and conditions of approval in Exhibit B with additional conditions of approval from the City Engineering division supplied to the Commission in the May 24 supplemental memo and also modify Condition No. 11 to read: "Within 30 days of the installation of the telecommunications facility, the applicant shall submit to the City Development Services Department an in-field Radio Frequency (RF) analysis from an RF Engineer which details the amount and location of emissions from the telecommunications facility measured in field. Such studies shall be reviewed and approved by the Director of Economic and Development Services or his/her designee.**

Chair de Arakal and Ms. Le discussed the revised condition.

**Moved by Chair de Arakal.**

**SUBSTITUTE MOTION: Move that the Planning Commission continue the item so that the applicant's representative can evaluate alternative locations due to the aesthetic concerns placing this facility in front of an apartment building.**

**Moved by Commissioner Navarro Woods, seconded by Commissioner Zich for discussion.**

Commissioner Zich stated concerns with how the motion would affect future small cell applications.

Commissioner Navarro Woods spoke on small cell applications providing alternative analysis on pole locations when there are potential areas to do so.

Vice Chair Harlan stated he agreed with Commissioner Zich's concerns and stated concerns with requiring a small cell applicant to provide an alternative analysis on pole locations when it is not a requirement and spoke against the motion.

Mr. Preziosi suggested that the Planning Commission consider that continuing the item would affect the shot clock; whether the applicant would wave the shot clock and consent to doing so; and whether the applicant's representative has authority to consent on behalf of the applicant to wave the shot clock.

Chair de Arakal and Mr. Preziosi talked about the shot clock.

The motion failed by the following roll call vote:

Ayes: Navarro Woods  
Noes: de Arakal, Harlan, Colbert, Zich  
Absent: None  
Abstain: None

**MOTION: Move that the Planning Commission find that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15303, Class 3, for New Construction or Conversion of Small Structures; and approve Zoning Application 19-14 based on the findings and subject to conditions of approval including Engineering conditions and the modified condition offered by the Chair.**

**Condition of Approval No. 11 to read: "Within 30 days of the installation of the telecommunications facility, the applicant shall submit to the City Development Services Department an in-field Radio Frequency (RF) analysis from an RF Engineer which details the amount and location of emissions from the telecommunications facility measured in field. Such studies shall be reviewed and approved by the Director of Economic and Development Services or his/her designee. The RF Engineer shall certify that the facility, as installed, complies with all applicable RF-related FCC regulations".**

**Moved by Chair de Arakal.**

Commissioner Zich spoke on the limited discretion that the Planning Commission has when deciding on a small cell application and contacting state and federal government representatives.

Ms. Le stated that there was no second recorded for the motion. Commissioner Zich seconded the motion.

Vice Chair Harlan spoke on the limited discretion the Planning Commission has on small cell applications and spoke on the options that a member of the public has if they do not like the motion on the item.

Chair de Arakal asked that RF emission pre-construction reports reflect the site location.

**RESOLUTION PC-19-25 - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA TO APPROVE MINOR CONDITIONAL USE PERMIT ZA-19-14 TO INSTALL A SMALL CELL FACILITY ON TOP OF A SOUTHERN CALIFORNIA EDISON STREETLIGHT POLE WITHIN THE PUBLIC RIGHT-OF-WAY NEAR 400 ENCLAVE CIRCLE**

The motion carried by the following roll call vote:

Ayes: de Arakal, Harlan, Colbert, Navarro Woods, Zich  
Noes: None  
Absent: None

Abstain: None

The Chair explained the appeal process.

The Commission took a break at 8:31 p.m.

The Commission reconvened at 8:41 p.m.

**2. ZONING APPLICATIONS 19-31, 19-33, AND 19-35, REQUESTS FOR THREE MINOR CONDITIONAL USE PERMITS TO INSTALL SMALL CELL FACILITIES ON TOP OF SOUTHERN CALIFORNIA EDISON STREETLIGHT POLES LOCATED WITHIN PUBLIC STREET RIGHTS-OF-WAY NEAR 1772 ORIOLE DRIVE, 3007 COUNTRY CLUB DRIVE, AND 2926 CLUB HOUSE ROAD, RESPECTIVELY**

**Project Description:** Zoning Applications 19-31, 19-33, and 19-35 are requests for three Minor Conditional Use Permits (MCUPs) to install small cell facilities on top of Southern California Edison streetlight poles located within public street rights-of-way near 1772 Oriole Drive, 3007 Country Club Drive, and 2926 Club House Road, respectively.

**Environmental Determination:** The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15303 (Class 3), New Construction or Conversion of Small Structures.

No ex-parte communications to report.

The Chair stated that all three zoning applications will be presented together but each resolution will be voted on separately.

Katelyn Walsh, Assistant Planner, presented the staff report.

Commissioner Navarro Woods and Ms. Le discussed whether alternative locations were reviewed and how compliance with the design guidelines was the primary consideration.

The Chair opened the public hearing.

**PUBLIC COMMENTS**

Jeff Rome, applicant's representative, stated he has read the conditions of approval and agrees to them. He also stated that alternative locations were considered on all three sites.

Commissioner Zich and Mr. Rome discussed how many minor conditional use permits for small cell applications have been approved for Verizon; why the small cell sites have not been constructed yet; the background on signage that is applied to a small cell facility; and whether there are any restrictions that residents might have when they are out in their front yard if a small cell facility is constructed on a pole adjacent to their home.

Ray Walls, Costa Mesa resident, asked whether the City has hired an independent contractor to evaluate the gap coverage in residential areas that the cell phone companies claim; asked for clarification on the shot clock timeframe on the applications; asked if there is a way to not start the shot clock to give the City time to look into these facilities; asked why residents being



exposed to a small cell facility radiation is not a concern; and spoke on the distance requirement of a small cell facility to residential when it comes before the Commission.

Monica Draghici, Costa Mesa resident, spoke on the notification of the small cell items, stated concerns with the decrease in property values that the small cell facilities will cause; how the City will coordinate and monitor the cell phone providers on the proposed small cell facilities; verifying the gap in coverage; noise from the small cell facility; and asked how the small cell facility underground unit will look aesthetically in the parkway.

Carry Lang, Costa Mesa resident, stated concerns with the signage height; with the aesthetics of the new replacement poles matching the surrounding poles; and asked how the landscaped parkway will be affected when the small cell facility underground boxes are installed.

Becca Walls, Costa Mesa resident, asked who will pay for the removal of a small cell facility when it is decommissioned; what happens if a small facility gets denied and the reason for the denial is questionable; spoke on the notification process; and on the cell phone carriers working together to collocate facilities on one pole.

Robin Leffler, Costa Mesa resident, spoke on a correspondence from Raymond Wall that included a 2019 CA Supreme Court Decision about a T-Mobile versus San Francisco case that talks about municipalities having discretionary powers on small cell towers in the public right-of-way; stated concerns with the effect on the landscape parkway that the installation of the small cell facility underground box will cause; and on the safety effects on residents.

Julie Elion, Costa Mesa resident, stated concerns with the aesthetics of the small cell facilities and the effect it will have on her property value; spoke in opposition to approving the small cell applications; spoke about a website that stated that the City of Monterey Planning Commission had denied permits for small cell facilities; and questioned why the City cannot do anything on the small cell applications.

Terry Wahls, Costa Mesa resident, stated concerns with where the sign will be located on the light pole.

Ann Parker, Costa Mesa resident, asked why the public is being misinformed when the staff report has alternatives and one is to deny the application; spoke on the small cell facilities happening in Pacific Palisades; stated that Ms. Draghici wanted to say why not put the facilities in the middle of the golf course; stated to put them right by Jim Rigeheimer's house because he is getting kickbacks off of all this; stated concerns with not thinking of the alternatives and just going along with whatever is easiest for the cell phone company; stated that the Edison street light poles in College Park and on the east side used to be underground but are not anymore and asked who thought that was okay; and asked why the boxes are above ground.

The Chair closed the public comment portion of the hearing.

Commissioners and Mr. Rome discussed the purpose of the sign that will be mounted on the pole; whether there is a reason to not locate a small cell facility adjacent to a preschool; and to provide an updated engineering stamp on the street light pole drawings.

The Chair closed public comments.

Chair de Arakal, Bart Mejia, City Engineer, Ms. Walsh, Ms. Le, Barry Curtis, Director of Economic and Development Services, and Dr. Kramer discussed that no boxes are above ground; diameter of the existing poles; whether the City has contemplated doing an independent analysis on coverage gaps; the history on the distance requirement guidelines for small cell facilities; whether small cell facilities generate any noise; and whether multiple carries can occupy the same pole.

Commissioner Zich and Dr. Kramer discussed the public comment about the Supreme Court decision and the suggestion that the Commission has other options beyond aesthetics when deciding on a small cell facility application.

Chair de Arakal asked for clarification on the difference between the 60- and 90-day shot clocks. Dr. Kramer explained that there are three different shot clocks, 60, 90, and 120 days.

Vice Chair Harlan and Dr. Kramer discussed the time period when the shot clock begins.

The Chair closed the public hearing.

**MOTION: Move that the Planning Commission find that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15303, Class 3; and approve Zoning Application 19-31 based on the findings and subject to conditions of approval including conditions as modified in the Supplemental Memo dated May 24, 2019.**

Chair de Arakal asked Vice Chair Harlan if he was agreeable to include modification to Condition of Approval No. 11 to his motion. Vice Chair Harlan agreed.

**Condition of Approval No. 11 to read: “Within 30 days of the installation of the telecommunications facility, the applicant shall submit to the City Development Services Department an in-field Radio Frequency (RF) analysis from an RF Engineer which details the amount and location of emissions from the telecommunications facility measured in field. Such studies shall be reviewed and approved by the Director of Economic and Development Services or his/her designee. The RF Engineer shall certify that the facility, as installed, complies with all applicable RF-related FCC regulations”.**

Commissioners and staff discussed that staff will make sure that there will be updated Engineering stamps on the final plans.

**Moved by Vice Chair Harlan, seconded by Chair de Arakal.**

**RESOLUTION PC-19-26 - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA TO APPROVE MINOR CONDITIONAL USE PERMIT ZA-19-31 TO INSTALL A SMALL CELL FACILITY ON TOP OF A SOUTHERN CALIFORNIA EDISON STREETLIGHT POLE WITHIN THE PUBLIC RIGHT-OF-WAY NEAR 1772 ORIOLE DRIVE**

The motion carried by the following roll call vote:

Ayes: de Arakal, Harlan, Colbert, Navarro Woods, Zich  
Noes: None  
Absent: None  
Abstain: None

**MOTION:** Move that the Planning Commission find that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15303, Class 3, New Construction or Conversion of Small Structures; and approve Zoning Application 19-33 based on the findings and subject to conditions of approval including conditions as modified in the Supplemental Memo dated May 24, 2019 and modified Condition of Approval No. 11 offered by the Chair.

**Condition of Approval No. 11 to read:** “Within 30 days of the installation of the telecommunications facility, the applicant shall submit to the City Development Services Department an in-field Radio Frequency (RF) analysis from an RF Engineer which details the amount and location of emissions from the telecommunications facility measured in field. Such studies shall be reviewed and approved by the Director of Economic and Development Services or his/her designee. The RF Engineer shall certify that the facility, as installed, complies with all applicable RF-related FCC regulations”.

**Moved by Vice Chair Harlan, seconded by Chair de Arakal.**

Commissioner Zich asked Ms. Le if there would be any concerns with the noticing because the property is for sale and whether there is a practice on where the signs are placed for noticing.

**RESOLUTION PC-19-27 - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA TO APPROVE MINOR CONDITIONAL USE PERMIT ZA-19-33 TO INSTALL A SMALL CELL FACILITY ON TOP OF A SOUTHERN CALIFORNIA EDISON STREETLIGHT POLE WITHIN THE PUBLIC RIGHT-OF-WAY NEAR 3007 COUNTRY CLUB DRIVE**

The motion carried by the following roll call vote:

Ayes: de Arakal, Harlan, Colbert, Navarro Woods, Zich  
Noes: None  
Absent: None  
Abstain: None

**MOTION:** Move that the Planning Commission find that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15303, Class 3, New Construction or Conversion of Small Structures; and approve Zoning Application 19-35 based on the findings and subject to conditions of approval including conditions as modified in the Supplemental Memo dated May 24, 2019 and modified Condition of Approval No. 11 offered by the Chair.

**Condition of Approval No. 11 to read:** “Within 30 days of the installation of the telecommunications facility, the applicant shall submit to the City Development Services Department an in-field Radio Frequency (RF) analysis from an RF Engineer which details the amount and location of emissions from the telecommunications facility measured in field. Such studies shall be reviewed and approved by the Director of Economic and Development Services or his/her designee. The RF Engineer shall certify that the facility, as installed, complies with all applicable RF-related FCC regulations”.

**Moved by Vice Chair Harlan, seconded by Chair Harlan.**

**RESOLUTION PC-19-28 - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA TO APPROVE MINOR CONDITIONAL USE PERMIT ZA-19-35 TO INSTALL A SMALL CELL FACILITY ON TOP OF A SOUTHERN CALIFORNIA EDISON STREETLIGHT POLE WITHIN THE PUBLIC RIGHT-OF-WAY NEAR 2926 CLUB HOUSE ROAD**

The motion carried by the following roll call vote:

Ayes: de Arakal, Harlan, Colbert, Navarro Woods, Zich  
Noes: None  
Absent: None  
Abstain: None

The Chair explained the appeal process for all three items.

3. **ZONING APPLICATIONS 19-03, 19-04, 19-06, AND 19-37, REQUESTS FOR FOUR MINOR CONDITIONAL USE PERMITS TO INSTALL SMALL CELL FACILITIES ON TOP OF SOUTHERN CALIFORNIA EDISON STREETLIGHT POLES LOCATED WITHIN PUBLIC STREET RIGHTS-OF-WAY NEAR 1620 ELM AVENUE, 1641 LABRADOR DRIVE, 1300 ADAMS AVENUE, AND 1541 WINTERGREEN PLACE, RESPECTIVELY**

**Project Description:** Zoning Applications 19-03, 19-04, 19-06, and 19-37 are requests for four Minor Conditional Use Permits (MCUPs) to install small cell facilities on top of Southern California Edison streetlight poles located within public street rights-of-way near 1620 Elm Avenue, 1641 Labrador Drive, 1300 Adams Avenue, and 1541 Wintergreen Place, respectively.

**Environmental Determination:** The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15303 (Class 3), New Construction or Conversion of Small Structures.

No ex-parte communications to report.

Johnwilly Aglupos, Assistant Planner, presented the staff report.

### **PUBLIC COMMENTS**

Franklin Orozco, applicant's representative, stated he has read the conditions of approval including the Engineering conditions included in the supplemental memo and agrees to them.

Commissioner Zich and Mr. Orozco discussed whether AT&T - Ericsson have any concerns or policies on the location of small cell facilities near firehouses or preschools.

Ray Walls, Costa Mesa resident at 1541 Wintergreen Place, shared a conversation he had with Mr. Orozco at City Hall about the location of a small cell facility near a preschool; inquired why the small cell facility is needed if there is no gap in coverage; asked how many small cell facilities have been approved within 19 feet of a property; and expressed concerns with the proximity of the proposed small cell facility to his property, staff relying solely on Dr. Kramer's recommendations, and regarding the value of his property due to the small cell facility.

Mike Stoddard, Costa Mesa resident near 1541 Wintergreen Place, expressed concerns with the FCC safety position on radio frequency based on measured heat affect; stated that California is a sanctuary state and is in direct contradiction with the Federal law so he has no concern going against the federal law in regards to the radio frequency; spoke on how the inverse square law works for radio frequency; and asked why the City cannot deny small cell facility applications based on the fact that aesthetics will reduce property values.

Yvette Seecutt, Costa Mesa resident at 1541 Wintergreen Place, is concerned with noise and parking during installation and asked why the facility cannot be relocated to the nearby park.

Becca Walls, Costa Mesa resident 1541 Wintergreen Place, identified errors on the application; asked who would maintain the pole; the repercussions if the item is denied tonight; a conversation she had with Mr. Orozco regarding locations near a preschool; stated concerns with the proximity of the proposed small cell facility to her house; stated concerns with the sidewalk construction that will occur; and asked that the small cell facility be moved further away from her house.

Robin Leffler, Costa Mesa resident, read from the California Supreme Court decision and expressed that the Commission has more authority over small cell facility application than previously exercised.

Carry Lang, Costa Mesa resident, stated concerns regarding the proximity of the small cell facilities to the homes in Mesa Verde and disturbance of the existing landscape in order to install the underground boxes.

A speaker stated concerns with the noticing requirements for small cell facilities especially when the Commissioners cannot deny it; asked what company Dr. Kramer works for; stated that on Page 174 of the staff report there is a plan that has an expired stamp; spoke about homebuyers or renters being less interested in a home if a small cell tower is nearby; and ask to deny the project on 1541 Wintergreen if not all four of them.

Ann Parker, Costa Mesa resident, stated she is going to do a public records request, even though she frequently gets denied and that is illegal, on how much Dr. Kramer was paid; asked for an explanation on why the Commissioners recused themselves before but are not doing so now; stated that the City does not need to spend money on a small cell consultant; and does not need to hire someone to work against the City.

The Chair closed the public comment portion.

Commissioner Colbert and Mr. Orozco discussed how long the construction and maintenance would take.

Commissioner Navarro Woods and Ms. Le discussed what staff looks at when recommending approval for small cell facility applications such as aesthetic impacts or visual compatibility within a neighborhood or whether the application met the design guidelines.

Commissioner Zich and Mr. Orozco discussed how many AT&T applications have been approved; how many have been built; and the reasons why the small cell facilities are not up and running.

Mr. Orozco provided clarification on some comments made on the Wintergreen application.

Chair de Arakal and Mr. Orozco discussed how the evaluation process works for choosing an area for a small cell site.

The Chair closed public comments.

Commissioner Zich stated concerns with the proposed 1541 Wintergreen Place small cell facility being very close to livable space and discussed with staff whether they looked into the other small cell applications occupied space and the distance to the poles.

Commissioner Colbert and Ms. Le discussed the three small cell facility 5G design applications that were previously denied.

Chair de Arakal and Mr. Preziosi discussed how the design guidelines provide a regulatory and legal framework by which the Commission can make findings to deny an application based on aesthetic issues and that if the Commission wanted to make findings for denial based on aesthetics they would need to conclude that the application is outside the bounds of the City's design guidelines and the Commission decision would have to be based on facts in the record either in the materials or in testimony that came forth at the hearing.

The Chair closed the public hearing.

**MOTION: Move that the Planning Commission find that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15303, Class 3, New Construction or Conversion of Small Structures; and approve Zoning Application 19-03 based on the findings and subject to conditions of approval including conditions as modified in the Supplemental Memo dated May 24, 2019 and modified Condition of Approval No. 11 offered by the Chair.**

**Condition of Approval No. 11 to read: "Within 30 days of the installation of the telecommunications facility, the applicant shall submit to the City Development Services Department an in-field Radio Frequency (RF) analysis from an RF Engineer which details the amount and location of emissions from the telecommunications facility measured in field. Such studies shall be reviewed and approved by the Director of Economic and Development Services or his/her designee. The RF Engineer shall certify that the facility, as installed, complies with all applicable RF-related FCC regulations".**

**Moved by Chair de Arakal, seconded by Vice Chair Harlan.**

**RESOLUTION PC-19-29 – A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA TO APPROVE MINOR CONDITIONAL USE PERMIT ZA-19-03 TO INSTALL A SMALL CELL FACILITY ON TOP OF A SOUTHERN CALIFORNIA EDISON STREETLIGHT POLE WITHIN THE PUBLIC RIGHT-OF-WAY NEAR 1620 ELM AVENUE**

Ayes: de Arakal, Harlan, Colbert, Navarro Woods, Zich  
Noes: None  
Absent: None  
Abstain: None

**MOTION:** Move that the Planning Commission find that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15303, Class 3, New Construction or Conversion of Small Structures; and approve Zoning Application 19-04 based on the findings and subject to conditions of approval including conditions as modified in the Supplemental Memo dated May 24, 2019 and modified Condition of Approval No. 11 offered by the Chair.

Condition of Approval No. 11 to read: “Within 30 days of the installation of the telecommunications facility, the applicant shall submit to the City Development Services Department an in-field Radio Frequency (RF) analysis from an RF Engineer which details the amount and location of emissions from the telecommunications facility measured in field. Such studies shall be reviewed and approved by the Director of Economic and Development Services or his/her designee. The RF Engineer shall certify that the facility, as installed, complies with all applicable RF-related FCC regulations”.

Moved by Chair de Arakal, seconded by Vice Chair Harlan.

**RESOLUTION PC-19-30** – A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA TO APPROVE MINOR CONDITIONAL USE PERMIT ZA-19-04 TO INSTALL A SMALL CELL FACILITY ON TOP OF A SOUTHERN CALIFORNIA EDISON STREETLIGHT POLE WITHIN THE PUBLIC RIGHT-OF-WAY NEAR 1641 LABRADOR DRIVE

Ayes: de Arakal, Harlan, Colbert, Navarro Woods, Zich  
Noes: None  
Absent: None  
Abstain: None

**MOTION:** Move that the Planning Commission find that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15303, Class 3, New Construction or Conversion of Small Structures; and approve Zoning Application 19-06 based on the findings and subject to conditions of approval including conditions as modified in the Supplemental Memo dated May 24, 2019 and modified Condition of Approval No. 11 offered by the Chair.

Condition of Approval No. 11 to read: “Within 30 days of the installation of the telecommunications facility, the applicant shall submit to the City Development Services Department an in-field Radio Frequency (RF) analysis from an RF Engineer which details the amount and location of emissions from the telecommunications facility measured in field. Such studies shall be reviewed and approved by the Director of Economic and Development Services or his/her designee. The RF Engineer shall certify that the facility, as installed, complies with all applicable RF-related FCC regulations”.

Moved by Chair de Arakal, seconded by Commissioner Colbert.

**RESOLUTION PC-19-31** – A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA TO APPROVE MINOR CONDITIONAL USE PERMIT ZA-19-06 TO INSTALL A SMALL CELL FACILITY ON TOP OF A SOUTHERN CALIFORNIA EDISON STREETLIGHT POLE WITHIN THE PUBLIC RIGHT-OF-WAY NEAR 1300 ADAMS AVENUE

Ayes: de Arakal, Harlan, Colbert, Navarro Woods, Zich  
Noes: None  
Absent: None  
Abstain: None

**MOTION: Move that the Planning Commission find that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15303, Class 3, New Construction or Conversion of Small Structures; and approve Zoning Application 19-37 based on the findings and subject to conditions of approval including conditions as modified in the Supplemental Memo dated May 24, 2019 and modified Condition of Approval No. 11 offered by the Chair.**

**Moved by Chair de Arakal, seconded by Commissioner Colbert .**

**SUBSTITUTE MOTION: Continue this item until the next scheduled meeting to give the applicant an opportunity to study this location further and determine if there is another pole that will satisfy their engineering requirements and be further away from an adjacent property.**

**Moved by Commissioner Zich, seconded by Commissioner Navarro Woods.**

Chair de Arakal and Ms. Le discussed the application's shot clock timeline and Ms. Le asked that before a vote is taken on the substitute motion the applicant agree to a tolling agreement of the shot clock.

Chair de Arakal asked Mr. Orozco if he would be willing to do a tolling agreement on the shot clock. Mr. Orozco explained that other pole locations were looked at and they were not feasible locations from the RF perspectives and that they are willing to work with the City.

Ms. Le explained where the applicant is with the shot clock and asked for a tolling agreement to allow for additional time to accommodate the Commissioners request.

Mr. Orozco stated that he is willing to do a tolling agreement.

Chair de Arakal asked Commission Zich to add to his substitute motion a date certain preferably June 10.

Mr. Preziosi suggested that the Commission stipulate how long the shot clock is going to be tolled to give time for the applicant to provide information to the City.

Chair de Arakal asked whether a verbal agreement to a tolling agreement is sufficient. Dr. Kramer responded that a verbal agreement on video record would be sufficient.

Chair de Arakal and Mr. Orozco discussed whether the June 10 Planning Commission meeting would give the applicant enough time to figure out if the pole across the street would work.

Mr. Preziosi asked that part of the motion include the applicant agreeing to a certain number days to allow for an appeal process.

Commission and staff discussed how many days to toll the shot clock.



Mr. Orozco stated that he agreed to a 45-day tolling agreement from today's date.

Chair de Arakal asked Commissioner Zich to amend the motion to continue this item to the June 10 meeting with the agreement of the applicant to toll the shot clock for 45 days.

Commissioner Zich and Commissioner Navarro Woods agreed to the amendment to the motion.

Ms. Le stated that if the pole location changes than that would change the 500-foot radius and the item would have to be re-noticed and suggested the June 24 meeting.

Commissioner Zich and Ms. Le discussed that, if this item was appealed to the City Council, how its review of this item and shot clock would work together.

Chair de Arakal asked Mr. Orozco whether he agreed to a 60-day tolling agreement from tonight's meeting date. Mr. Orozco responded yes.

Chair de Arakal asked Commissioner Zich to modify his motion to tolling the shot clock 60 days and bringing back the item to the June 24 meeting.

Commissioner Zich and Commissioner Navarro Woods agreed to the modification of the motion.

The motion carried by the following roll call vote:

Ayes: de Arakal, Harlan, Colbert, Navarro Woods, Zich

Noes: None

Absent: None

Abstain: None

The Chair explained the appeal process.

#### **DEPARTMENTAL REPORT(S)**

1. Public Services Report – none.
2. Development Services Report – none.

#### **CITY ATTORNEY'S OFFICE REPORT(S)**

1. City Attorney – Mr. Preziosi provided an update on Senate Bill 50 and stated that legislators will not hear it this year. He also spoke on Assembly Bill 302 that would allow community college students to sleep in their cars overnight.

#### **ADJOURNMENT AT 10:29 PM**

Submitted by:

  
\_\_\_\_\_  
BARRY CURTIS, SECRETARY  
COSTA MESA PLANNING COMMISSION