

**MINUTES OF THE
JOINT STUDY SESSION
OF THE CITY OF SAN CLEMENTE
CITY COUNCIL AND PLANNING COMMISSION
November 8, 2023 @ 6:30 p.m.
San Clemente City Hall Council Chambers
910 Calle Negocio, San Clemente, CA 92673
Teleconference via www.san-clemente.org/live**

CALL TO ORDER

Chair Cosgrove called the Joint Study Session of the City Council and Planning Commission of the City of San Clemente to order at 6:42 p.m. The meeting was offered in person at The City of San Clemente City Hall Council Chambers, 910 Calle Negocio, San Clemente, California, and also via live stream from the City's YouTube Channel

RECESS

Chair Cosgrove called a recess at 6:42 p.m. and reconvened at 6:47 p.m.

ROLL CALL

Commissioners Present: Barton Crandell; Brent Davis; Scott McKhann; Karen Prescott-Loeffler; Chair Pro Tem Gary P. McCaughan, M.D., Vice Chair M. Steven Camp; Chair Cameron Cosgrove

Councilmembers Present: Mark Enmeier, Mayor Pro Tem Steve Knoblock, and Rick Loeffler

Staff Present: Andy Hall, City Manager
Adam Atamian, Community Development Director
Jonathan Lightfoot, City Planner
Gena Burns, Deputy City Attorney
Tamara Tatich, Recording Secretary

AGENDA

- A. Overview of permitting procedures for wireless communications facilities, including a case study of an existing tower facility located at 616 Del Dios in Rancho San Clemente.

City Planner Lightfoot presented a PowerPoint outlining existing wireless communications facilities; legal framework on permitting; City Zoning regulations; and the Case Study at 616 Del Dios. He explained the meaning of co-location.

Emily Murray, attorney from the law offices of Allen Matkins, counsel for American Tower, introduced herself and thanked the Commission and Council for their time.

Mike Blackwell, resident, expressed concern regarding the stability of the tower, and suggested not building on an invalid use of an abandoned tower.

Vonnie Barnes, Rancho San Clemente Community Association Board President, stated American Tower should be penalized for violating the use permit for 60 years. She expressed concern regarding the risk of fires and presented slides showing recent nearby fires.

Bert Levesque, Harbor View Homeowners Association President, , stated there were no permits or record of a Certificate of Occupancy, therefore, modifications should not be allowed. He expressed concern about the safety of the tower.

Steve Lawson, resident, discussed the history of the Conditional Use Permit and indicated the electrical infrastructure was inadequate. He questioned the building structure and fire suppression and notification system.

Dave Armstrong, resident, stated he visited the site and was told there was no meter, nor antennae on the property. He requested City staff review the project.

Joel Rummerman, resident, discussed liability of people climbing the tower and urged denial.

Dolly Erickson, resident, expressed concern with the property being an eyesore, cited nuisance and liability concerns, and requested the facility be located elsewhere.

Tina Johnson, resident, expressed concern regarding people climbing the tower and the impact on home values.

Frazer Moran discussed a recent fire in the area and stated placing the tower in the severe fire danger area was negligent.

Shawn Nelson, resident, requested the tower be relocated.

Ben Stevens, resident, expressed concern about noise, dangers of people climbing on the tower and emission of radiation.

Christie Bundy, resident, stated the tower was unsafe and a nuisance.

Suzana Cortini, Harbor View resident, expressed concern with the installation of a wireless cell phone tower in a residential community. She discussed medical evidence of harmful effects of radiation and provided a comprehensive scientific report.

Ann Carpenter, Harbor Ridge resident, expressed concern about the safety of the tower and urged its relocation.

Pete Brady, resident, concurred with the former speakers, especially Ms. Cortini.

David Schick, resident, urged reconsideration of the project and expressed concern about liability, property value impacts, and health risks.

Ruth Spaethe, resident, presented a petition opposing the cell tower.

Jon Savas, Rancho San Clemente resident, expressed concern about the lack of notification and lack of records of permitting and development.

Lindsey Spaethe, resident, discussed the elected officials' obligation towards the residents' health, safety and well-being. He urged the Commission to put the process on hold to evaluate compliance and allow for additional public input.

Korney Morrow, resident, discussed her 2019 request to the Council to remove the tower and stated the City had indicated it was never an approved cell site. She discussed the nuisance created by the tower and expressed concern with the lack of evidence of proper permitting.

Norman MacLeod, Dish Wireless Representative, discussed the goal for collaboration and invited staff to reach out to him with questions or concerns.

Lyndie O'Toole, resident, presented images of work trucks and construction rigs in the area. She expressed concern about health risks and requested the Commission follow the City's mission and core values.

Amanda Quintanilla, resident, expressed concern with City staff not doing its due diligence and not being proactive in allowing public input. She discussed the need for transparency.

Martin Dach, resident, stated he had not been notified by the City about the installation of 5G. He urged the Commission to fight for the residents.

Andrew Morow, Harbor View resident, expressed concern with health impacts and home values. He urged completion of due diligence including review by the Fire Department.

Emery Yecpot, resident, expressed concern about the impacts of radiation and safety of people climbing the tower.

Chair Cosgrove thanked the speakers for sharing their comments.

City Manager Hall stated staff had requested the landlord and applicant toll the shot clock to allow the concerns to be addressed.

The Councilmembers and Commissioners proceeded to ask a few clarifying questions of staff and the representatives of the property ownership and of Dish Wireless.

Ms. Murray, representing the landlord, American Tower, stated she would discuss tolling the matter with her client in the morning. In response to Council and Commission questions, she stated the tower had operating equipment and had been in continuous use. Chair Cosgrove discussed the community concerns and need for time to deal with the issues. He implored Ms. Murray to take the request back to her client. Ms. Murray stated they would continue to work with the City.

Mr. MacLeod, Dish Wireless Representative, stated he would present the requested tolling agreement to his client. He discussed the desire to utilize existing vertical elements and indicated they would work collaboratively to determine the permitting issues. Chair Cosgrove requested a pause on the application to meet with staff to determine a plan to work through the issues. Mr. MacLeod agreed to a tolling agreement for some period of time but reiterated the 60-day mandate under Section 6409 of the Spectrum Act.

In response to Council and Commission questions, City Planner Lightfoot noted that a prior collocation was denied due to an unpermitted increase in height above the 70' height identified in the CUP; a permit was issued in 2023 to reduce the tower height back to 70'. He discussed the inspection process by Orange County Fire Authority (OCFA); original approval by the County of Orange and lack of documentation related to building permits over the prior 60 years; and noted that plans submitted for the Dish collocation indicated antennae on the lattice tower.

In response to Council and Commission inquiries, Deputy City Attorney Burns indicated they had not found grounds to deny the application and that the City had given the opportunity for the tower to come into compliance with the permit.

In response to Council and Commission questions, Community Development Director Atamian discussed the current construction activities, which did not require permits. He stated the Sheriff's Department could assist with trespassing on easements. He stated staff could monitor the construction activity concerns. Deputy City Attorney Burns indicated she would investigate the liability of nuisance climbing on the tower.

Councilmember Loeffler urged the applicant to determine the question of continuous use of the tower.

Councilmember Enmeier encouraged staff to proactively notice the residents on such issues.

Chair Cosgrove suggested the Planning Commission review some of the City's processes.

City Planner Lightfoot clarified that standards pertaining to the City's small cell ordinance do not apply in this case, including the 500-foot radius for residential properties

The Commissioners and Councilmembers expressed appreciation to the participants; indicated the need for both the applicant and the City to comply with Federal laws; and suggested reducing the size of the tower.

ADJOURNMENT

THERE BEING NO OTHER BUSINESS BEFORE THE COMMISSION, IT WAS MOVED BY CHAIR COSGROVE, SECONDED BY CHAIR PRO TEM MCCAUGHAN AND UNANIMOUSLY APPROVED TO ADJOURN THE MEETING AT 8:46 P.M. TO THE STUDY SESSION OF THE PLANNING COMMISSION TO BE HELD IN-PERSON ON DECEMBER 6, 2023, AT 5:00 P.M., AT THE SAN CLEMENTE CITY HALL COUNCIL CHAMBERS LOCATED AT 910 CALLE NEGOCIO, SAN CLEMENTE, CA, 92672, AND TELECONFERENCE AVAILABLE TO THE PUBLIC VIA LIVE STREAM FROM THE CITY'S YOUTUBE CHANNEL.

Respectfully submitted,

Cameron Cosgrove, Chair

Attest:

Jonathan Lightfoot, City Planner