

**Appeal of Planning Commission Approval
of Conditional Use Permit (PLN23-0031)
for a New Wireless Telecommunications Facility at
440 Peralta Ave**

CITY COUNCIL
December 16, 2024



PLANNING COMMISSION ACTION

- At a public hearing on November 7, 2024, by a vote of 7-0, the Planning Commission Approved a Conditional Use Permit to build a new Wireless Telecommunications Facility at 440 Peralta Avenue
- An appeal was timely filed by Wayne D. Russo, Jr., owner of the property adjacent to the subject property.

BACKGROUND & SURROUNDING AREA



TOW YARD

MULTI-FAMILY

PUBLIC STORAGE

APPLICABLE LEGAL STANDARDS

- Federal Telecommunications Act of 1996:
 - If provider's documentation shows proposed facility would close a significant coverage gap, City must allow facility if provider demonstrates it made a good faith effort to identify and evaluate feasible alternative locations.
 - ***Alternative Sites Analysis was submitted, documenting coverage gap and listing alternative locations.***
- Federal Communications Commission ("FCC") Standards:
 - FCC establishes RF emissions regulations.
 - Cities are prohibited from establishing different standards or denying a project due to RF emissions concerns if project complies with the FCC's standards.
 - City's only authority is to require a wireless provider to submit reports demonstrating compliance with the FCC's RF emissions regulations.
 - ***EME Report was submitted, documenting compliance with the FCC standards.***

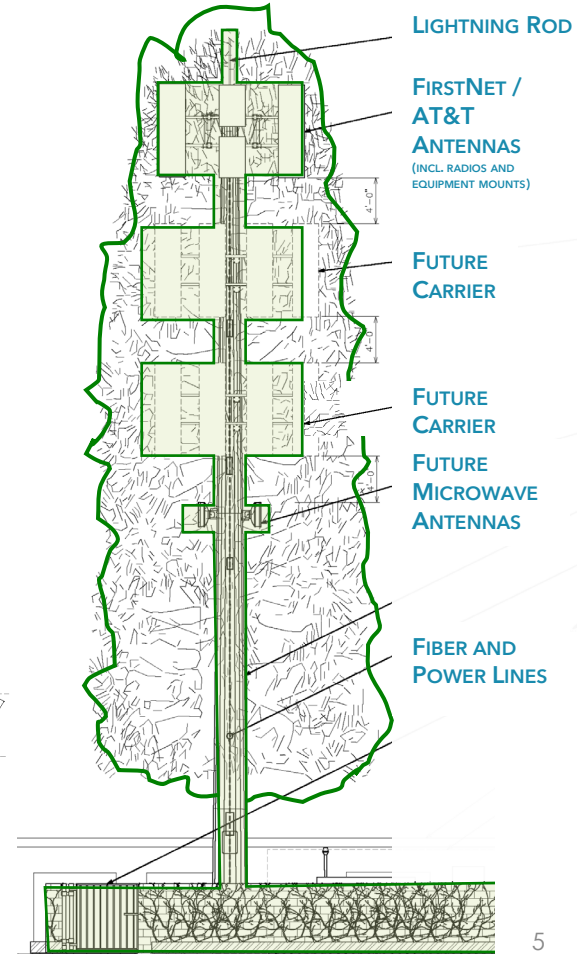
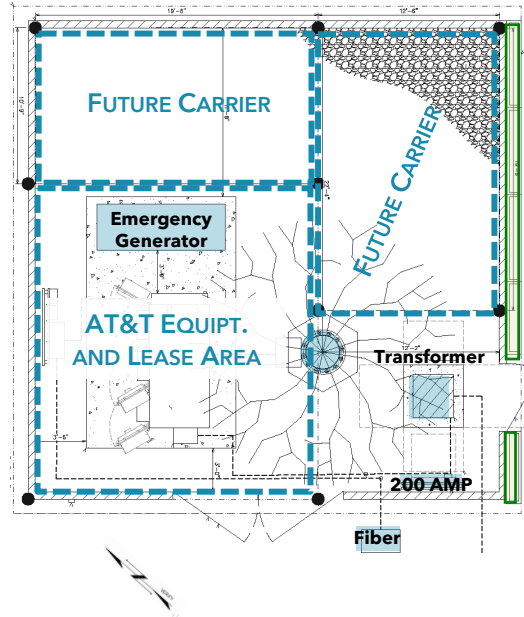
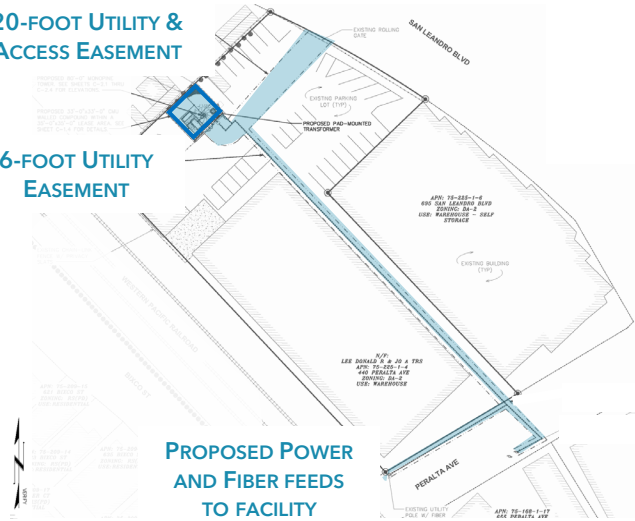
PROJECT PROPOSAL

Proposal: Establish New Wireless Telecom. Facility, a New Cell Tower (Monopine)
Applicant: Tower Engineering Professionals
Property Owner: Donald R. and Jo A. Lee Trust

20-FOOT UTILITY & ACCESS EASEMENT

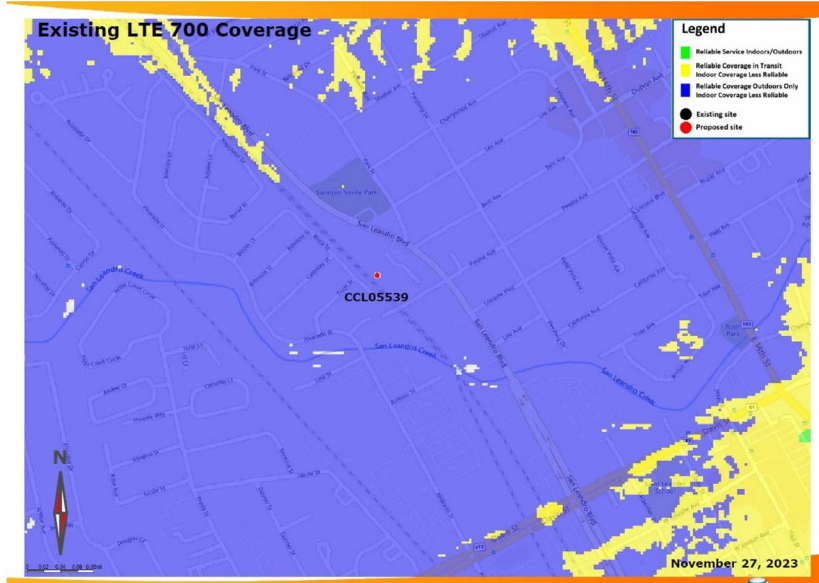
6-FOOT UTILITY EASEMENT

PROPOSED POWER AND FIBER FEEDS TO FACILITY

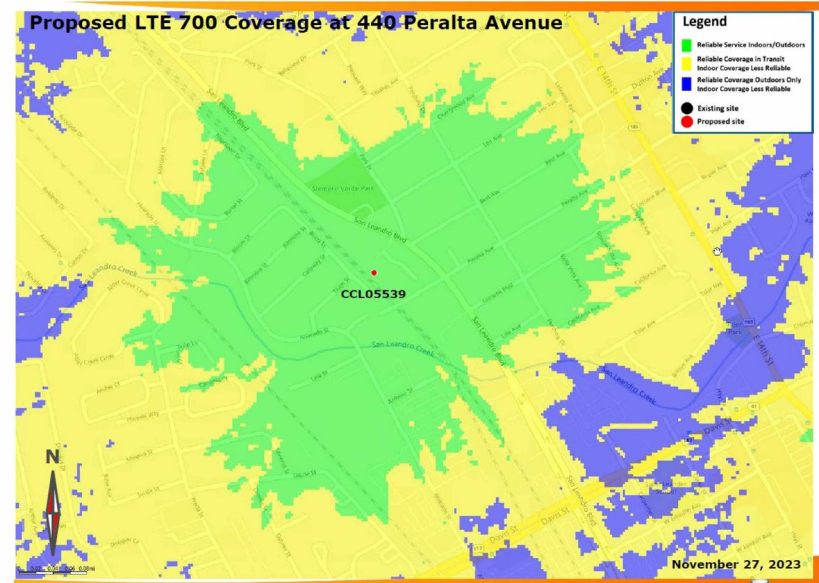


ALTERNATIVE SITES ANALYSIS & COVERAGE GAP

Alternative Sites Analysis: "The coverage objective [...] requires a minimum tower height of 80' and there are no surrounding buildings within this search ring that will allow [AT&T] to collocate at that height."



EXISTING COVERAGE GAP



COVERAGE WITH PROPOSED MONOPINE

KEY RECOMMENDED CONDITIONS OF APPROVAL

- Install camouflaging and screening methods.
- Underground utilities.
- Install RF warning signs.
- Comply with the City's Noise Ordinance.
- Remove facility if abandoned.
- **Following public hearing, the Planning Commission also added:**
 - *Provide an EME report once 30 days after activation - and every year for five years.*
 - *If a future EME report identifies that the project violates the FCC standards within any adjacent or neighboring residential building, the applicant shall adjust the facility until the emissions in the residential building do not exceed FCC standards.*



APPEAL OF PLANNING COMMISSION APPROVAL

APPELLANT: WAYNE D. RUSSO, JR.

- **Notification of Public Hearing**

- Notice was provided in accordance with code requirements.

- **Exposure to RF Emissions**

- Per the EME Report, project complies with the FCC's standards. The City cannot deny the project on that basis.
- COAs require verification that RF standards will be met after construction

- **Height and Design Compatibility**

- Per the Alternative Sites Analysis, 80-foot height is needed to provide effective wireless service in the target coverage area. The City cannot deny unless it can show the alternative sites analysis is incorrect.

- **Conflict with Future Plans and Property Values**

- Federal law does not allow the City to consider future plans or impact on property values when considering the proposed facility.
- COAs require the facility to be modified in adjacent development would exceed FCC standards.

- **Environmental Review**

- Exempt pursuant to CEQA Guidelines Section 15303

RECOMMENDATION TO CITY COUNCIL

Adopt a Resolution denying the appeal and approving Conditional Use Permit (PLN 23-0031) to build an 80-foot high Wireless Telecommunications Facility at 440 Peralta Avenue (PLN23-0031), based on the recommended Findings of Fact and subject to the recommended Conditions of Approval.