

APPENDIX C
ITEMS NEEDED FROM AT&T AND NOVATO PLANNING DIVISION

Here are items that are most needed to be included as required by the Novato Wireless Ordinance 1654 and state and federal law:

1. ATT MUST supply stamped, addressed envelopes for all properties and record owners and occupants of properties, until then the applications are incomplete. It is in the ordinance and therefore AT&T's applications cannot be marked complete without this.
2. ATT must include substantial written evidence of NEPA review as required by federal code.
3. For the target search ring of each proposed sWTF, AT&T must provide 12-months of anonymized AT&T completed calls and dropped calls to establish if there is any significant gap in telecommunications coverage – in order to establish if there is a **need** for any of these sWTFs
4. RF Analysis needs to be done, **by an independent professional engineer acceptable to the city**, based on actual peak and average broadband measurements (100 MHz to 10,000 MHz) of RF microwave radiation in each of the target search ring areas and a spectrum analysis to show dBm readings of all licensed and unlicensed frequencies being transmitted into the target search ring search areas -- **this is completely missing**.
5. William Hammet, whose RF compliance reports and acoustic analysis reports were used in all 4 submitted applications, should be considered an unacceptable engineer to the City, as he is currently under investigation by the CA Board for Professional Engineers for making a fraudulent RF analysis for an antenna report prepared in support of Verizon's application to install a WTF in Palo Alto. *See the 2 attached documents detailing the investigation of William Hammet.*
6. Proof of proper grounding and mitigation by a **Professional Engineer** in Electrical matters Each WTF installation must strictly adhere to all City-adopted building, electrical, fire safety and fall-zone codes. All applications must be reviewed and stamped by independent professional engineers that have licenses in each required specialty: structural, electrical and RF microwave radiation; ensure that for each WTF proposed or currently operating in the City, that all five hazards listed Article 90.I(C) of the National Electric Code (NEC) **and conducted emissions (dirty electricity)** are sufficiently mitigated: (1) shock, also known as electrical contact, (2) thermal effects, (3) overcurrent, (4), fault current and (5) overvoltage.
7. A traffic control plan for construction is needed.
8. Please provide supplemental information on the **existing/proposed coverage maps** supporting this application.
 - a. Which AT&T wireless band is this coverage map calculated for?

APPENDIX C
ITEMS NEEDED FROM AT&T AND NOVATO PLANNING DIVISION

- b.** Provide signal coverage maps for **all Verizon wireless bands** (existing & proposed) to be deployed at the proposed site.
 - c.** Identify the **analytical modeling algorithm employed** to prepare the coverage maps, such as Okumura Hata, Cost-231-Hata, ITU-R P.529 ECC33, LongleyRice Irregular Terrain (ITM), or Verizon proprietary software.
 - d.** Provide existing and projected **Best Server Map plots** for sites surrounding the proposed installation site.

- 9. Please provide supplemental information **establishing** the need for the proposed site to address coverage issues that consider:
 - a.** All existing AT&T sites serving the service area proposed for the four installation locations.
 - b.** Each AT&T wireless band **[and channel, selected from the list in Exhibit A, below]**, i.e. 700 MHz, 1900 MHz (PCS) & 2100 MHz (AWS) by antenna sector
 - c.** Key Performance Indicator (KPI) network performance data covering 3 or more months of peak/average measurement statistics for:
 - 1. i. Physical Resource Blocks (PRB) download utilization
 - 2. ii. Voice connection failures
 - 3. iii. Number of concurrent users

- 10. Please revise the RF report to **indicate the locations of adjacent cell sites** and indicate if shared responsibilities exist in compliance with all applicable requirements, specifically FCC OET Bulletin 65.

- 11. Provide a **California Fire Code analysis** addressing section 1206 Electrical Energy Storage Systems, and revise plans accordingly to show specific compliance with Fire Code requirements.

- 12. Provide a **California Building Code analysis** addressing sections 508 Mixed Use and Occupancy, 509 Incidental Uses, and 1510.6.3 Type V Construction, and revise plans accordingly showing specific compliance with building code requirements.

APPENDIX C
ITEMS NEEDED FROM AT&T AND NOVATO PLANNING DIVISION

Here are additional items that are most needed to be included as required by the Novato Wireless Ordinance 1654 and state and federal law:

Page 3

Section 2 Applicability and Definitions. B. Applicability. 2. Special provisions for Eligible Facilities Requests. -all requests for WTFs will be reviewed consistent with the standards required by law. All determinations will be made by the Director.

-The Planning Division process isn't transparent ("Director" means planners for which parts of the process?)

Page 5

Section 2C. Definitions. 10. -"Director means Community Development Director for the city of Novato or the Director's designee."

-Where is that process outlined?

Page 8

Section 3 Required Permits and Applications. B Other Permits And Approvals -"in addition to the small cell use permit, the applicant must obtain all other permits and regulatory approvals as may be required by any other federal, state or local government agencies..."

- Inspection of public records indicates that this has not yet been evaluated for compliance. The City of Novato must follow all state and federal laws in the process, including but not limited to the 1996 Telecommunications Act (1996-TCA), the National Environmental Policy Act (NEPA), the Fair Housing Amendments Act (FHAA) the Americans with Disabilities Act (ADA), and the Rehabilitation Act (RA).

Section 3C Application Contents 2. Application fee

-Planning Division needs to outline the process of fee payment and make transparent to the public.

Section 3C 3. Construction drawings

-drawings were done by Engineer James Burrows of Modus, and engineer Steve Loupe of WMH Corp. (WMH is the consultant, Modus is the applicant)

-These drawings are incomplete, as noted in Novato's incomplete letter to ATT

-They do not include required identification of all structures within 250', nor required identification of all property lines, landscaping, etc.

Section 3C 3. (D) -requires "demonstration that proposed project will be in full compliance with all applicable health and safety laws, regulations or other rules, which includes without limitation all building codes, electric codes, local street standards and specifications, and public utility regulations and orders."

-The Planning Division checklist should have a full explicit description of all of these requirements in the checklist for ATT to complete. They are not listed out on the checklist.

APPENDIX C
ITEMS NEEDED FROM AT&T AND NOVATO PLANNING DIVISION

Page 9

Section 3C 6. Project Narrative and Justification. “Bare conclusions not factually supported do not constitute a complete written analysis. As part of the written statement the applicant must also include (A) whether and why the proposed support is a structure as defined by the FCC I 47 CFR Sec. 1.6002(m) and (B) whether and why the proposed wireless facility meets each required finding for a small cell permit as provided in Section 4 (c).”

-AT&T didn't do this.

Page 10

Section 3C 7. RF Compliance Report. -“The RF report must be prepared and certified by an RF engineer acceptable to the City.”

-Hammet is under investigation and should not be acceptable. The city has a right to hire another engineer for this purpose. The shot clock does not run while investigation on Hammet happens, even if AT&T has resubmitted the application, because the application is still considered incomplete.

Section 3C 8. Public Notices. “The applicant shall submit a mailing list and envelopes, stamped and addressed, for all properties and record owners of properties entitle to receive notice under Section 4(A). Insufficient postage and/or illegible addressing shall be a basis to deem the application incomplete.”

-This didn't happen. The application isn't and never will be complete without this and a new letter of incompleteness needs to require this.

Section 3C 12. Acoustic Analysis.

-This was done by Hammet, therefore unacceptable. It needs to be redone.

Page 11

Section 3D Requirements for a Duly Filed Application. 1. Submittal Appointment.

“All applications must be submitted to the City at a prescheduled appointment with the Director.

- Inspection of public records indicates that this has not yet been evaluated for compliance. Who submitted the application and with whom did they meet? The application form is not signed or dated by any City employee. Why was the application accepted when AT&T didn't submit payment? How did the shot clock even start when this in-person appointment would have shown incompleteness and should have been refused?

Page 12

Section 3H Additional Procedures. “The city council authorizes the Director to establish other reasonable rules and regulations for duly filed applications, which may include without limitation regular hours for appointments with applicants...All such rules and regulations must be in written form and publicly stated to provide all interested parties with prior notice.”

-Were there any additional rules and regulations established? Where is written documentation?

APPENDIX C
ITEMS NEEDED FROM AT&T AND NOVATO PLANNING DIVISION

Section 4 Approvals and Denials: Notices A. Public Notice. “Prior to any approval, conditional approval, or denial, public notice shall be mailed to all properties and record owners and occupants of properties within a 600’ radius of the project site....the notice shall [state] “for a minimum of 10 days from the date of the notice (the director will) accept written public comments that evaluate the application for compliance with the standards in this Ordinance...and that the FCC requires the City to act on small wireless facility applications, which includes any administrative appeals, within 60 days...”

-There is nothing that states that the public won’t be notified until the city planners deem the application complete, nor that would prevent the public from having enough time to evaluate compliance with the ordinance, and the notification would also falsely imply that there are 60 days to make a determination, which by the time the public is notified, would be much less, UNLESS the public had been notified the same day the original application was received, as appears was intended by the requirement of the applicant to include stamped addressed envelopes with the application.

Section 4C Required Findings. “The director may approve or conditionally approve a complete and duly filed application for a small cell permit when the director finds:”

2. “The proposed project would be in the most preferred location provided in section 6B or the applicant has demonstrated with clear and convincing evidence in the written record that any more-preferred location(s) within 500’ would be technically infeasible”

-Why does it say within 500’? What if there is no preferred location within 500’? Where is the explanation of technical infeasibility in AT&T’s application? The application is incomplete without these answers.

6. “The applicant has demonstrated the proposed project will be in compliance with all applicable health and safety regulations, which include without limitation the Americans with Disabilities Act and all FCC regulations and guidelines for human exposure to RF emissions”

-These applicable regulations and guidelines are not listed out in detail on the planning department’s checklist for application completeness, and they need to be to ensure they are checked for.

Page 15

Section 5 Standard Conditions of Approval A. General Conditions

7. Adverse Impacts on Other Properties.

“The permittee shall use all reasonable efforts to avoid any and all unreasonable, undue, or unnecessary adverse impacts on nearby properties that may arise from ...installation, operation...”

- The sWTF near 625 Arthur St. is less than 500 feet from a school site. What could be the impacts due to operation near a school or in front of a business, or in front of a home that the public can show as evidence or could be required proof from AT&T that they don’t cause problems?

Page 18

Section 5A 15: Landscaping

“The permittee shall replace any landscape features damaged or displaced by the construction, installation, operation, maintenance, or other work performed by the permittee or at the permittee's direction on or about the site.”

**APPENDIX C
ITEMS NEEDED FROM AT&T AND NOVATO PLANNING DIVISION**

- Inspection of public records indicates that this has not yet been evaluated for compliance.
Where is the landscape plan for construction disruption?

Page 18

Section 5A 16. Cost Reimbursement. -..."the applicant shall be responsible to enter into a cost recovery agreement and reimburse the City for all costs incurred in connection with the permit, which includes without limitation costs related to application review...and any other costs reasonably related to or caused by the request for authorization to construct, install and/or operate the wireless facility of any kind or nature including engineers', attorneys', or technical consultants' fees and costs incurred by the City in connection with the permittee's request....the City shall have the right to withhold any permits or other approvals in connection with the wireless facility until and unless any outstanding costs have been reimbursed to the City by the permittee.

- Given Hammet's misqualification, the hiring of a QUALIFIED engineer (not CTC) must be done before the application is considered complete. This should include site inspections and RF measurements of other currently operating antenna sites in Novato. This hasn't been done yet ever! The other sites could have RF compliance issues among others. Does Novato have cost recovery agreements with AT&T for the other AT&T antennas already in use in Novato? The city could start with a list of all AT&T antennas in Novato and have them assessed by the city's specialist at AT&T's expense.

Section 5A 17. Cooperation with RF Compliance Evaluations. "at no cost to the city...The City may conduct random tests to ensure compliance with the FCC's rules and regulations....In the event that the City determines that permittee is not in compliance with any legal requirements or conditions, the permittee shall be responsible for all costs and expenses incurred by the City in connection with the investigation, enforcement, and/or remediation of such noncompliance."

- This is a conflicting statement. It says there is no cost to the city to check for compliance, but then it states this applies only if found to be out of compliance will permittee at their expense.

Page 20

Section 6. Location Requirements B. Location Preferences.

1. Most Preferred locations. -includes all commercial/industrial zones

2. Less Preferred locations. -includes all residential zoning districts on or along roads designated as arterial roads.

3. Least Preferred locations. -includes all residential zoning districts NOT on or along roads designated as arterial roads.

-Two installations are in the least preferred locations (Pico Vista and Arthur). On the letters that city planners wrote to AT&T, the Redwood Blvd. location doesn't say which location it is in in terms of this 3-tier system. The one on Novato Blvd states less preferred, not least preferred, but it is across the street from houses, so it should be least preferred.

Page 23

APPENDIX C
ITEMS NEEDED FROM AT&T AND NOVATO PLANNING DIVISION

Section 7 Design Standards. A. General Standards. 6. Compliance with Health and Safety Regulations.

“All sWFTs shall be designed, constructed, operated, and maintained in compliance with all generally applicable health and safety regulations, which includes without limitation all applicable regulations for human exposure to RF emissions, the Americans with Disabilities Act, California Building Standards Code and the Novato Municipal Code.

- All of these regulations need to be detailed out so that they can be added to the checklist to verify completeness of the application. The Americans with Disabilities Act, for example, may include regulations about pacemakers and proximity to RF radiation.

Section 7B. Small Wireless Facilities in the Public Right-of-Way. 2. Antennas.

-It's not mentioned in the ordinance, but is this where maximum wattage should be mentioned? Or requirement for antenna to not be capable of exceeding the wattage needed.

Section 7G. Encroachments over Private Property.

-The Pico Vista antenna is to be placed on a streetlight just beyond the fence of a private property. Is that encroachment?