W. 18.a.

AGENDA COVER MEMO

ADDENDUM

DATE OF MEMO: October 26, 2004

HEARING DATE: November 3, 2004

TO: Board of County Commissioners

DEPT.: Public Works Department/Land Management Division

PRESENTED BY: Steve Hopkins, AICP

AGENDA ITEM TITLE:

IN THE MATTER OF AMENDING CHAPTER 16 OF LANE CODE TO REVISE THE APPLICABLE STANDARDS FOR TELECOMMUNICATION FACILITIES (LC 16.264).

The attached letter, dated Sept 29 and received Oct 12, is the same letter that was included in the Board packet as Attachment 6j. It was submitted after the packet was sent to the Board, but it is being presented to the Board because it is part of the record for Ordinance No. 17-04. Ron Fowler submitted comments on July 12, July 26, August 4, September 29, and now October 12. A response to Ron Fowler was included as Attachments 8b and 8c of the packet.

This letter presents numerous requests for changes to the proposed ordinance. Some of his ideas from previous letters have been included in the amendment. For example, in his letters dated July 26 and August 4, he noted that prohibiting towers to penetrate the imaginary surfaces of an airport would limit good siting opportunities. The amendment was changed to allow that encroachment if approved by the airport. Refer to 16.264(3)(g)

Other ideas contained in this (Oct 12) letter are beyond the scope of the amendment. For example, the request to allow "change outs" with no review. Allowing the replacement of existing equipment without review is not recommended by the Lane County Planning Commission or by staff. Further, this would be a significant policy change that would need to be discussed and approved by the Board.

OCT 0 1 2004

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September 29, 2004

Board of County Commissioners
Lane County
125 East 8th Street
Eugene, Oregon 97401

OCT 12 RECD

RE: Proposed amendments to Lane Code 16.264

Dear Chairman and members of the Commission:

TerraQuest International is a contracted consultant to AT&T Wireless Services of Oregon, Inc. ("AWS") and their affiliates and is representing them and acting on their behalf. We have reviewed the proposed changes to section 16.624 of the Lane County code and have presented evidence and testimony to the Planning Commission setting out several concerns about the proposed changes. The Planning Commission apparently ignored our concerns and we feel it is necessary to reaffirm and restate our objections and opposition to some of the proposed changes in the codes.

Attached is a copy of our August 4, 2004 letter that sets out the primary concerns under the proposed code. As previously stated, the objective in any planning code that relates to wireless telecommunications should be to weigh legitimate planning concerns with the general needs or requirements of industry and the service demands of the general population. The proposed amendments lack this objectivity and some provisions appear to violate existing federal laws and rulings. In addition, the code will make develop more difficult for providers to meet services objectives and facilitate necessary upgrades or modifications to their systems.

We are particularly concerned about the following issues that were set out in our letter of August 4, 2004 and continue to be unresolved:

1. **IN GENERAL**
   a. Several provisions in the proposed code appear to exceed the scope of the legal and statutory authority of the County to regulate the standards set. Shouldn't the County leave issues of regulatory authority with the authorized agency? Does the County maintain that they have regulatory authority that exceeds the powers of applicable Federal and State agencies? See various comments below regarding specific code sections.

b. The County code should encourage collocation of carriers, but several sections of the proposed code actually make collocation as difficult as building a new tower, and, does little to actively promote or encourage collocation by the carriers.

2. **16.264 2. Definitions**

Collocation- This language has not been clarified and continues to be confusing and difficult to interpret reasonably. A literal reading of this definition appears to require full review for collocation rather than encouraging collocation. Also, it only allows for installations on existing structures or buildings without providing for the necessary equipment space on the ground.

The code appears to require that the placement of any equipment on an existing site would trigger a full land use review, although the addition of equipment may be mandated by Federal or State law. A good example is the required addition of a GPS antenna to many sites (usually mounted on top of the equipment cabinets and is a small conical antenna about 6" long) or the Federal requirement that E911 antennas be added to sites. The E911 deadlines are very specific and the requirements are strict. The County should leave some flexibility in the code to allow for such occurrences.

In addition, replacing antennas with new antennas of like size, dimension and type should not create a situation where full land use approval is required. With changing technology and improving design of antennas, change-outs of antennas are a common event. In one recent case in Lane County, AT&T Wireless has been subjected to an extensive process for antenna change-outs (they have cited the collocation language) even though the actual impact on the site is nil. I am unaware of any other planning agency that considers antenna change-outs for an existing site as a new "collocation". The County appears to be seizing on these opportunities to exact more standards or requirements on previously approved and developed sites.

The Washington County, Oregon Board of County Commissioners approved the amending of their code on September 28, 2004 and the new code has many provisions that should be considered by Lane County that address this issue. I can supply the language if you need it.

Provider – The proposed language does not appear to be comprehensive or complete. This language would imply that users of a wireless system are actually providers, and, limits a provider to being a person, which would exclude the majority of actual wireless providers. This language should be completely rewritten to clearly define and set the intent of the County. The Federal statutes usually refer to wireless providers as "commercial mobile radio services" (CMRS) and this would include all present and future types of technologies that are not covered by this definition. In particular, the code does not cover wireless data systems, Wi-Fi or other future technologies.

3. 3.c. – In part, the provision states that ".... or do not provide the communication coverage necessary to provide the service." Coverage is not the only reason that new communications facilities are needed and this section appears to summarily disallow sites that are required to improve service or meet capacity objectives.

This section ignores the reality of the technology and may clearly violate Federal regulations pertaining to development.

4. 3.f. – There are some instances where federal or state law may require additional signage on a site. I would suggest that language be added to this provision stating, "All other signs are prohibited unless required by federal, state or local law or regulations." This language remains unchanged and should be corrected.
5. 3.h. – This provision is a major issue and will cause problems for carriers in the future. As noted above, in relation to "collocation", this section should be expanded to allow for substitution or replacement of existing antennas that may actually be considered an upgrade to the site, and not maintenance or repair. I would recommend integration of some of the sections of the new Washington County codes.

   This section needs to address realities and places Lane County in the position of being the only jurisdiction that considers antenna modifications as a "collocation" and requiring an existing tower operator to go back through an application process for upgrades that do not require new building permits or electrical connections, and, will have no substantive impact on the visual nature or characteristics of the site. The wireless industry is an evolving and dynamic industry that will require upgrades and minor changes to remain current and meet consumer demands. A reasonable rewriting of this language would also help alleviate the burden on the County's planning staff by avoiding the necessity of processing unnecessary applications.
6. We cannot concur with the County's position on item 3.i. Lane County is the only jurisdiction that I am aware of on the west coast that places land use restrictions on Federal property (rights of the County for land use review are pre-empted by the Constitution). This has caused considerable problems in the past and we can't understand the County's determination to undermine the rights of the Federal government in the administration and management of Federal property. Regardless of the County's representations to the contrary, the County does not have an unfettered right to regulate development on Federal lands and we are not certain why they maintain this position. On several occasions, Federal officials have expressed their opposition to the County position, but their objections have been ignored. This would be a good opportunity to correct this situation.
7. 4.b. – Why is a neighborhood meeting still required in the cases where the property owner owns all the property for ½ mile around the site area (forest lands or large agricultural tracts)? It would seem like the intention of the code is to maintain separation of the tower from neighboring properties, but this regulation appears to be excessive and unclearly defined. Shouldn't the actual intent be to maintain the separation rather than create undue process?
8. 4.c.ii (C) – This provision is still confusing and is impossible to interpret. It seems to require that the applicant have two collocation lease agreements in place before they can apply for the special use permit and planning approval. This requirement is excessive and unmatched in the regulation of other types of uses under the County codes. Are there other industries, buildings or developments where the County requires tenants before they approve the application? What is the purpose of this regulation of wireless development? The requirement of "two collocation lease" agreements ignores reality and will prevent necessary development.

9. 4.c.(iii) – This requirement should not apply to any collocation installations on existing facilities unless the overall height of the structure is increased.
10. 4.c.(vii) – Although this is a provision of the current code, that does not validate the requirement. We objected to this provision when it was passed previously and continue with our objections. The standard of ten miles appears to be arbitrary and without reasonable foundation. A 10-mile radius of the proposed site would far exceed the actual coverage of most wireless communications sites and would place an undue burden on applicants where terrain or other obstructions require the establishment of a new facility. New towers are often required to resolve service or "capacity" issues and if an applicant is filing for a new installation for that purpose, the County should be willing to recognize that communications facilities a substantial distance away may not meet that need. What is the reason for the 10-mile radius standard? Does the County place similar requirements on other similar types of uses (I.E. long haul microwave; emergency services)?
11. 4.c.(viii) – The term "collocation" still is problematic. Addition to or modification of existing equipment is NOT a collocation under any industry definition that I am aware of. These situations are not collocations.
12. 4.c.(x) – We have previously asked if this has been an actual concern or problem in the past in Lane County? If not, why subject the applicant to a requirement for a bond? Does the County require bonds for removal of other types of improvements on property?
13. 4.d.(i) – This section of the code appears to attempt to establish a "needs" requirement that the provider must meet when other uses are not subjected to similar requirements. The "ten-mile" standard is arbitrary and the County has not indicated the purpose or need for such a requirement, or, their ability to analyze the stated needs of the applicant. The Code continues to place requirements on wireless that are unique and without justification or merit. The wireless carriers do not build sites indiscriminately or without justifiable need. Do you place similar standards on re
14. 4.d.(i)(A) – In many cases, tower owners require excessive rents that make collocation economically infeasible, towers can be incapable of handling the loading, and, there may be unwilling landlords that will not lease ground space or access to the applicant. The section needs to be modified to allow for these exigent circumstances. Just because there is another tower within 10 miles, doesn't mean that it can be used. The section must be **comprehensive and complete**, or, it should not set standards at all.
15. 4.d.(i)(B) – As previously stated, this section should be more clearly defined to include other reasons that a site may be needed. For example, "Inability to meet the carrier's quality of service, coverage or capacity needs or requirements."
16. 4.d.(i)(C) – This section should be expanded to include other examples of type of problems that may arise. I would suggest modifying this language to allow for more flexibility on these types of issues. Suggested language could be something like "Technical reasons such as interference, incompatible uses, inter-modulation or other technical problems that would prohibit use by the carrier."
17. 4.d.(ii) – As previously noted, term "provider" should be rewritten. Does this section mean that the applicant has to provide space for the applicant, **and** space for two other collocation tenants? The provision is still not clear.
18. 4.d.(iii) – Although staff refers to Section 4(c)(iv) to cover this provision, this is strictly a FCC issue and the County has no authority regarding emissions or enforcement of FCC regulations.

19. 4.d.(iv) – According to the notes supplied by staff, it appears that this concern has been addressed. However, we wish to review the final drafts before commenting.
20. 4.d.(v)(A) – We would like to review the final draft of the ordinance.
21. 4.e. – Although this is previous code language, the section is still very confusing and difficult to interpret. Schools are often excellent sites for locating towers (lighting for athletic sports, parking lot lights) and are apparently excluded by implementation of a wide separation requirement. What is the purpose of this exclusionary zone? Why are schools a focus this provision? **Is the County concerned about health or safety issues?** This section should be clarified and rewritten, and, the County is obligated to explain the purpose for the separation.
22. 4.f.(iii) – What is the purpose of the requirement for renewing the permit every two years? Is this intended as an opportunity for the county to revoke the permit, or, to impose new requirements on the applicant in order for them to maintain their permit? If there are only two requirements for renewal, the County needs to clarify the Code and avoid any broad interpretation that may allow for abuse of this provision.

    Our primary concern is still unresolved and the County needs to explain the apparent discrimination against the telecommunications industry. What other commercial uses are subject to renewal of the permits every two years? Does the County require renewals for restaurants, fuel stations or other utilities? The telecommunications industry invests millions of dollars into the basic service infrastructure of the County and should not be subjected to arbitrary regulations or permitting renewal without good reason. Staff has indicated that this is unique to telecommunications and accordingly, **we strongly object to this provision.**

    Compliance with FCC regulations is a federal issue. Compliance with the bond requirements can be readily addressed by requiring notice if the bond is terminated or cancelled.
23. 5. – IN GENERAL
    The provisions for Collocation appear to be as complex as permitting for a new tower location and require the applicant to submit excessive information in relation to the prospective impact. The code should encourage collocation through a reduced or simplified process rather than creating excessive standards for use of an existing facility. Separate approval criteria should be set out and should not be left up to the Planning Director to modify or recommend non-standard solutions.

    The term "replacement collocation" is a non standard term and we are really not certain what the intent of this language is. Does the County want a party that is collocated on a tower to go through the permitting process again if they simply change antennas or upgrade their equipment? This is very unconventional language. This section remains a mystery and staff has offered no explanation.

    Does this section apply to antenna replacements or replacing of electronic equipment when the number and size of antennas do not increase, and, the equipment area is not increased? As noted above, antenna replacements or upgrades should be exempted from review if they do not substantially increase the overall impact of the site. The requirement should pass the "nexus" test set out in the Dolan case.

24. 5.b.(iii) – The County needs to avoid delving into regulatory matters that are not within their enforcement or regulatory authority. Why does the County require information relating to airports for collocations? The responsibility for compliance with FAA registration or FAA regulations rests entirely with the tower owner, and, unless the collocation tenant increases the overall height of the facility, further FAA review is not required or necessary. The provision simply appears to create an extra and unnecessary step in the process without substantive need. It is irrelevant that this provision is already a part of the code. We now have the opportunity to address and modify the language.
25. 5.b.(ix) and c.(iii)– Although the following questions have been asked, staff has not responded to our questions. Specifically, we wish to know what is the purpose of these provisions? Are collocations limited to only FCC licensed users? Is it required that an applicant be FCC licensed? What about tower companies that are building the tower on behalf of a licensed carrier, but the application and ownership of the tower will be in the tower company's name? What about other types of use that may not necessarily be subject to FCC licensing (Wi-Fi, unlicensed microwave, weather stations, monitoring)? Isn't the primary objective to limit the number of towers in the County and avoid tower proliferation? This requirement should not be a part of the code without some specific and valid reason for its inclusion.

As we previously requested in our reply to the Planning Commission, AT&T Wireless feels that it is imperative that the code amendment process to be delayed until a task force can work together to address some of the industry's concerns. As it is currently written, some of the code sections appear to be contrary to existing federal regulations and case law. The objective of any code amendment should be to develop reasonable and necessary regulation of proposed uses, but avoiding any unnecessary requirements that serve no valid purpose, or, potentially increase the likelihood of litigation and controversy. The proposed code needs additional work in order to set reasonable standards for the further development of infrastructure for these essential communications services.

In spite of repeated requests, we are still apparently not on the County mailing or notice list for this issue. We have not been receiving notices or information without requesting it from staff. It would also help if we could obtain a copy of the latest draft ordinance, as amended or modified, prior to the next hearing. AT&T Wireless wants to see this code be as successful as possible and pledges to work with the County to address the various issues. We will assist in any manner that we can, and, are available to provide information or sample language that may be in use in other jurisdictions.

Thank you for your time and consideration.

Sincerely,

Ron Fowler
Consultant for AT&T Wireless

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August 4, 2004

COPY

Lane County Planning Commission
125 East 8th Street
Eugene, Oregon 97401

OCT 12 RECD

RE: Proposed amendments to Lane Code 16.264

Dear Members of the Planning Commission:

TerraQuest International is a contracted consultant to AT&T Wireless Services of Oregon, Inc. and their affiliates. We have reviewed the proposed August 3, 2004 changes to the code and continue to have concerns about the proposed changes.

The objective in any planning code that relates to wireless telecommunications should be to weigh legitimate planning concerns with the general needs or requirements of the general population. Wireless telecommunications has become one of the most important and dynamic technologies of the last 100 years, and, a majority of the population, including the citizens of Lane County, benefit from the utilization of wireless services every day. As demands for wireless communications increase, the systems and infrastructure to support those services must also increase to meet the demand.

The overwhelming demand for services was greatly underestimated in 1984 when the first cellular telephones were placed in service. Even the most optimistic analysts predicted that the industry would have about two million subscribers in the year 2000. However, by the end of the year 2000, wireless telephone (PCS and Cellular) users in the United States numbered more than 100,000,000 and usage was increasing by about 20% per year. In order to address this incredible growth, the industry was forced to expand their networks and increased the number of telecommunications facilities from about 3000 in 1987 to over 150,000 at the end of 2003. With the introduction of new technologies (Max Wi-Fi, wireless data, fixed wireless, etc.) the demands for new communications facilities will continue to grow. County and City codes need to acknowledge the demand for these services and create codes that facilitate the expansion of the services without creating unnecessary or excessive process that inhibits the development of services. For example, Washington County, Oregon and Jefferson County, Colorado have passed recent revisions that acknowledge the growth of the industry and look to the future.

The proposed Lane County Code amendments have raised concerns that it may be difficult to meet the demands for wireless services in the County in a timely manner due to code

County. The Federal statutes usually refer to wireless providers as "commercial mobile radio services" (CMRS) and this would include all present and future types of technologies that are not covered by this definition. In particular, the code does not cover wireless data systems, Wi-Fi or other future technologies.

3. 3.c. – In part, the provision states that ".... or do not provide the communication coverage necessary to provide the service." Coverage is not the only reason that new communications facilities are needed and this section appears to summarily disallow sites that are required to improve service or meet capacity objectives.
4. 3.f. – There are some instances where federal or state law may require additional signage on a site. I would suggest that language be added to this provision stating, "All other signs are prohibited unless required by federal, state or local law or regulations."
5. 3. g. - Issues relating to proximity to an airport are strictly within the authority of the FAA and we would recommend leaving those issues with them. For example, in many cases the terrain will actually penetrate the "imaginary" surfaces, and/or a site may be located on the backside of a natural obstruction (hill, mountain, etc.) that violates the surface and the FAA and ODA will approve such installations up to 35' above ground level of the highest point. We would suggest that the County simply require FAA and ODA consent or approval for all installations. This provision in the code may actually limit good siting options that are acceptable to the enforcement agencies tasked with overseeing airport safety issues. In addition, the County has no authority to enforce FAA regulations.
6. 3.h. – As noted above, in relation to "collocation", this section should be expanded to allow for substitution or replacement of existing antennas that may actually be considered an upgrade to the site, and not maintenance or repair. I would recommend integration of some of the sections of the new Washington County codes. With the new changes that will be required by evolving technology and services, the expansion of this language would help alleviate the burden on planning staff.
7. 3.i – Our concerns with this section are primarily in relation to Federal lands where the policies for fire suppression, trimming of trees and removal of brush may be subject to full NEPA or FLPMA reviews. Lane County is the only jurisdiction that I am aware of on the west coast that places land use restrictions on Federal property (rights of the County for land use review are pre-empted by the Constitution) and the Federal agencies may be reluctant to agree to the fire break policies set by the County. The County code requirement would potentially impact an area ¼ of an acre or more in size.
8. 4.b. – Is a neighborhood meeting required in the cases where the property owner owns all the property for ½ mile around the site area (forest lands or large agricultural tracts)? If so, what is the notification area? Is there an exception under the code?
9. 4.c.ii (C) – This provision is confusing and is impossible to interpret. It seems to require that the applicant have two collocation lease agreements in place before they can apply for the special use permit and planning approval.
10. 4.c.(iii) – Would a FAA or ODA determination of "no significance" or acceptable fulfill this requirement? The County has no enforcement authority on FAA or ODA issues and we would suggest that the County simply require that the applicant provide evidence of FAA and ODA approval of the site. This

requirement should not apply to any collocation installations on existing facilities unless the overall height of the structure is increased.

11. 4.c.(vii) – This standard of ten miles appears to be arbitrary and without reasonable foundation. A 10-mile radius of the proposed site would far exceed the actual coverage of most wireless communications sites and would place an undue burden on applicants where terrain or other obstructions require the establishment of a new facility. New towers are often required to resolve service or "capacity" issues and if an applicant is filing for a new installation for that purpose, the County should be willing to recognize that communications facilities a substantial distance away may not meet that need. What is the reason for the 10-mile radius standard? Does the County place similar requirements on other similar types of uses (I.E. long haul microwave; emergency services)?
12. 4.c.(viii) – The term "collocation" still needs to be clarified.
13. 4.c.(x) – The Code appears to be overly concerned about the removal of the tower installation and also any collocations on the tower. This is somewhat unusual and rarely a significant concern in most codes. Has this been an actual concern or problem in the past in Lane County?
14. 4.d.(i) – This section of the code appears to attempt to establish a "needs" requirement that the provider must meet when other uses are not subjected to similar requirements. The "ten-mile" standard is arbitrary and the County has not indicated the purpose or need for such a requirement, or, their ability to analyze the stated needs of the applicant. The Code places an unfair burden on the Applicant by placing vague and arbitrary standards that do not appear to fall within the parameters of their planning authority.
15. 4.d.(i)(A) – In many cases, tower owners require excessive rents that make collocation economically infeasible, towers can be incapable of handling the loading, and, there may be unwilling landlords that will not lease space to the applicant. The section should be modified to allow for these reasons.
16. 4.d.(i)(B) – This section should be more clearly defined to include other reasons that a site may be needed. For example, "Inability to meet the carrier's quality of service, coverage or capacity needs or requirements."
17. 4.d.(i)(C) – I would suggest modifying this language to allow for more flexibility on these types of issues. Suggested language could be something like "Technical reasons such as interference, incompatible uses, inter-modulation or other technical problems that would prohibit use by the carrier."
18. 4.d.(ii) – The term "users" is not defined in the Code. Perhaps you should consider changing this term to "provider" which is defined. However, as noted above the term "provider" should be rewritten. Also, the term "...and two collocation sites" is confusing and the intent may be to refer to two additional collocation tenants. The term "collocation sites" is not defined in the Code.
19. 4.d.(iii) – This is a FCC issue and the County has no authority regarding emissions. What the Code should include is a requirement that in the case of collocations or changes of equipment, the applicant must provide evidence that the modifications or additions comply with FCC standards.
20. 4.d.(iv) – This provision may interfere unnecessarily with the private property rights of the parties (land owner and tower developer). If the property owner is a large commercial concern (logging company), the State or a Federal agency, they will usually not allow other parties to maintain their roads, and, to require maintenance of several miles of road would place an undue burden on the applicant. If the concern is about access for fire or other safety equipment, that should be addressed directly. The requirement may also violate "essential

nexus" requirements as set out in *Nollan v. California Coastal Commission,* 483 U.S. 825.

21. 4.d.(v)(A) – Approval of these agencies is not always required. The County should also allow evidence that the agency does not require approval, such as a copy of the results of a "TOWAIR" inquiry with the FAA. Such inquiries are handled over the internet and are the method preferred by the FAA for site review.
22. 4.e. – This section is still very confusing and difficult to interpret. Which standard ((i) or (ii)) is the minimum separation requirement? In addition, schools are often excellent sites for locating towers (lighting for athletic sports, parking lot lights) and are apparently excluded by implementation of a wide separation requirement. What is the purpose of this exclusionary zone? Why are schools a focus this provision? Is the County concerned about health or safety issues? This section should be clarified and rewritten.
23. 4.f.(iii) – What is the purpose of the requirement for renewing the permit every two years? Is this intended as an opportunity for the county to revoke the permit, or, to impose new requirements on the applicant in order for them to maintain their permit? If there are only two requirements for renewal, the County needs to clarify the Code and avoid any broad interpretation that may allow for abuse of this provision.

    Our primary concern is the apparent discrimination against the telecommunications industry. What other commercial uses are subject to renewal of the permits every two years? Does the County require renewals for restaurants, fuel stations or other utilities? The telecommunications industry invests millions of dollars into the basic service infrastructure of the County and should not be subjected to arbitrary regulations or permitting renewal without good reason. Compliance with GCC regulations is a federal issue and compliance with the bond requirements can be readily addressed by requiring notice if the bond is terminated or cancelled. We strongly object to this provision.
24. 5. – IN GENERAL
    The provisions for Collocation appear to be as complex as permitting for a new tower location and require the applicant to submit excessive information in relation to the prospective impact. The code should encourage collocation through a reduced or simplified process rather than creating excessive standards for use of an existing facility.

    The term "replacement collocation" is a non standard term and we are really not certain what the intent of this language is. Does the County want a person that is collocated on a tower to go through the permitting process again if they simply change antennas or upgrade their equipment? This is very unconventional language.

    Does this section apply to antenna replacements or replacing of electronic equipment when the number and size of antennas do not increase, and, the equipment area is not increased? As noted above, antenna replacements or upgrades should be exempted from review if they do not substantially increase the overall impact of the site. The requirement should pass the "nexus" test.

25. 5.b.(iii) – Why does the County require information relating to airports for collocations? The responsibility for compliance with FAA registration or FAA

regulations rests entirely with the tower owner, and, unless the collocation tenant increases the overall height of the facility, further FAA review is not required or necessary. The provision simply appears to create an extra and unnecessary step in the process without substantive need.

26. 5.b.(ix) and c.(iii)– What is the purpose of these provisions? Are collocations limited to only FCC licensed users? Is it required that an applicant be FCC licensed? What about tower companies that are building the tower on behalf of a licensed carrier, but the application and ownership of the tower will be in the tower company's name? What about other types of use that may not necessarily be subject to FCC licensing (Wi-Fi, unlicensed microwave, weather stations, monitoring)? Isn't the primary objective to limit the number of towers in the County and avoid tower proliferation? This requirement should not be a part of the code without some specific and valid reason for its inclusion.

AT&T Wireless would like the code amendment process to be delayed until a task force can work together to address some of the industry's concerns. As it is currently written, some of the code sections appear to be contrary to existing federal regulations and case law. The objective of any code amendment should be to develop reasonable and necessary regulation of proposed uses, but avoiding any unnecessary requirements that serve no valid purpose, or, potentially increase the likelihood of litigation and controversy. The proposed code needs additional work in order to set reasonable standards for the further development of infrastructure for these essential communications services. Wireless communications is rapidly becoming the norm rather than the anomaly, and, codes should anticipate and encourage development of these services throughout the county in order to meet the needs of a majority of the general public.

Please call me if you have questions or comments. Also, please place me on your mailing list for notification of all pending actions by the County in relation to wireless ordinance changes, including dates and times for hearings and submission of comments.

Sincerely,

Ron Fowler
Consultant for AT&T Wireless