June 19, 2016

Dear Mayor Piercy and Esteemed Members of the City Council,

Thank you for listening to the public testimony of the Westside Neighbors for Responsible Cell Tower Placement at the Monday, 6/13/16 City Council meeting. We appreciate your time and consideration of the complex issues facing the city around cell tower placement; we recognize that the work of public servants is often taxing and not always recognized nor properly appreciated.

We were heartened to hear that the city is in the process of revising its codes, and hope that the revisions fulfill the spirit of the Metro Plan and mandate city development and land use in a manner that maintains the livability of Eugene for all its citizens and not just those who have economic and social privilege.

We hope that the city will model our revised code on those of other municipalities such as Glendale and Calabasas, CA, which have crafted effective rules for siting telecommunication towers in light of the restrictions imposed by both the 1996 Telecommunications Act and its addendum, the 2012 Spectrum Act, and ask now that you indulge us in a rather lengthy explanation of our case.

We fear that any revisions to our current code will further privilege the interests of telecommunications companies and simultaneously disempower local residents. Our fears have been amplified by the recent conduct of the planning department in its handling of --some might say collusion with--Verizon in an application to have a variance granted for construction of a cell tower in the churchyard of Bethel Temple at 2170 West 18th Ave.

So, what exactly was so troubling about the planning department's decisions and behavior?

First, the city officials granted a variance to Verizon for above-ground communication equipment to be housed in a building that **does not**, at present, **exist** (a fake steeple)**,** despite the fact that the 2012 Spectrum Act specifically states that municipalities **do no**t have to grant collocation* requests on non-existent buildings. In doing so, the planning department effectively subverted the regulations spelled out in section 9.5750 of the Eugene code for Conditional Use Permits (CUP), which delineate the processes and parameters for **new** cell tower construction in the following manner:

1. In R-1 neighborhoods, equipment should be undergrounded so as to minimize noise;
2. Set-backs from property lines should be, at minimum, equal to the height of the tower;
3. The applicant demonstrates the necessity of a new cell tower to provide adequate coverage;

4. The applicant demonstrates that alternative locations within a 2000-foot radius are not feasible;
5. The applicant demonstrates that they cannot collocate on an existing cell tower or suitable already existing tall structure, such as a water tower or utility pole;
6. The height of proposed tower does not exceed zoning limits for the area;
7. In R-1 locations, no tower will be constructed except on a vacant lot or a lot that is zoned non-residential use;
8. The city retains a third-party consultant to verify the claims made by the cell tower company about #s 2, 3, 4, 5, and 6.

Second, Mike McKerrow, the responsible planner, in response to citizen queries and concerns, encouraged us to give up and consider the tower construction a "done deal." He repeatedly stated that we shouldn't waste our time exercising our right to appeal. His actions and statements seemed designed to discourage any public involvement, which we feel is a problematic stance, given that he is, in fact, a public servant and should facilitate, rather than impede, public input over serious code issues.

Third, we take issue with what we view as the planning department personnel's callous disregard for the well being of neighborhood residents. We feel that the responsible planners would understand the speciousness of granting a variance based on a hypothetical building, that they surely comprehend the inaccuracy of Verizon's assessment of the noise disturbance that will be caused by the tower's fans (the acoustic sensor used to establish a baseline for noise levels was placed at ground level, on the North side of the church right next to 18th Ave traffic, not on the southeast side, behind the church and closer to property lines, at a height of 43 feet, where there is no muffling of sound via fences, brush, or buildings). Surely someone with as much experience as McKerrow would be able to distinguish the level of disruption and the negative impact on quality of life presented by intermittent traffic noise vs. a constant, 24-7, 45+ decibel-level hum of a fan?

Although we cannot know for certain, the speed with which Verizon withdrew its request for a variance on the heels of our submitted appeal leads us to believe that the **process** followed by the city planners was, indeed, **questionable**, and further reinforces our sense that the planning office is not concerned with the welfare of neighborhoods and citizenry—the loss of property values, the aesthetic blight on our neighborhoods, our loss of health, the negative effects of constant noise — and left to their own devices — may not revise codes to protect the community.

The fact that members of the planning department were able to justify the granting of a variance points to our **fourth** concern: the city needs to overhaul the section of the code that deals with the mechanisms for granting variances: almost every instance of a cell tower erection--whether new construction or collocation on an existing building--should trigger third party evaluation. Given what we perceive about the planning department's orientation, their tendency to function as agents for corporate interests rather than public servants working to apply code language ethically and uniformly, we argue strongly

for an input model of code revision, rather than the review model that seems to be in practice. We would be happy to recommend local and/or national experts to assist with the process of code revision. Or, were the council to establish a citizen advisory group, we would eagerly serve in such a capacity.

Should council members hesitate to recognize the seriousness of our current situation, we would point to **two additional issues**: 1) federal law means that any tower that becomes a co-location* site, which can/will host other telecommunication companies, falls under the jurisdiction of the FCC and is no longer subject to any local ordinances and cannot be removed at the behest of the property owner or the city--once such a tower is up, it's permanent; 2) we have moved beyond a model of tower construction necessitated by cell phone coverage and into the realm of companies competing for tower locations in order to facilitate streaming services.

This means that cities ***literally will be blanketed*** by cell towers unless local ordinances prevent such a proliferation, and as long as the current variance language exists, the planning department will most likely deem future applications as meeting collocation requirements, which means construction will not be subject to the regulations designed to protect citizens. We are not being provocative when we warn that your neighborhood may be next, and you may find yourself with a cell tower fifteen feet from your property line: it will, as will many other neighborhoods as companies jockey for position in the burgeoning streaming market and compete with cable companies.

Finally, we would remind the council that the 1996 Telecommunications Act is based on **outdated,** thirty-year-old **science.** The FCC's safety guidelines, based on those same outdated studies, only consider the **thermal** effects of electromagnetic radiation emitted by cell antennae. The FCC has never taken into account the **non-thermal** effects of EMR on human health and the environment, which have been linked to a plethora of negative outcomes. We do not doubt that eventually this piece of legislation will be overturned and the dangers of EMR recognized, though this reckoning is, perhaps, years off. In the meantime, Eugene should be prudent in the revision of its land use codes and focus on protecting its citizenry and quality of life as best it can.

Should you desire or require additional information or context for this letter, please do not hesitate to contact us.

Thank you for your generosity in taking the time to read this lengthy missive.

Sincerely,

Westside Neighbors for Responsible Cell Tower Placement

***collocation** generally means that the tower will be added to an already existing structure (existing cell tower, utility pole, water tower, etc.); **co-location** appears to mean that several telecommunications companies will be providing services through the same

tower. It is the latter that functions to remove any control over the structure from local governments and place it in the hands of the FCC.

In the case of the recent variance granted to Verizon, the city planning office reasoned that since the church already existed, and the tower/"steeple" would be attached to the church, there was sufficient rationale to grant a variance based on collocation criteria, as they apply to an already existing structure. We find this reasoning specious.