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February 29, 2024

Los Angeles City Council
c/o Office of the City Clerk
City Hall, Room 395
Los Angeles, California 90012

Attention: PLUM Committee

Dear Honorable Members:

REPORT ON FEDERAL COMMUNICATIONS COMMISSION REGULATIONS AND THE WIRELESS STANDARDS IN CHAPTER 1A OF THE LOS ANGELES MUNICIPAL CODE (NEW ZONING CODE); CF-22-0617

The Los Angeles City Council at its meeting on May 3, 2023, voted unanimously to approve the Downtown Community Plan and the new Zoning Code. Along with their approval, the City Council also requested several follow up items and reports. This report is in response to City Council's instruction, reflected in their approval of Council District 9's recommendations included in their April 21st, 2023, letter to the Council File, for the Department of City Planning, in coordination with the City Attorney, to prepare a report with recommendations within 60 days, to ensure consistency between Federal Communications Commission (FCC) regulations and the wireless standards in the new Zoning Code. The following report provides background information and describes the steps the Department of City Planning and the City Attorney will take during the Form and Legality process to comply with those regulations.

Background

In 2012, the Department of City Planning received approval from City Council (CF 12-0460) to comprehensively update the City's Zoning Code, an effort not undertaken since 1946. The key objectives for the new Zoning Code were to: 1) provide tools to implement a wide range of community visions as expressed in the City's Community Plans and other elements of the General Plan, 2) create an easy-to-use zoning system that would be adaptable to current and future policy needs, 3) improve design outcomes by incorporating existing design guidelines into objective standards.

The process to craft the new Zoning Code has been an engaging effort with preliminary listening sessions, multiple rounds of public forums, two advisory committees, over 200 outreach events, a dedicated website, email and social media.

The wireless regulations in the new Zoning Code generally carry forth those of the current Zoning Code (Chapter 1 of the Los Angeles Municipal Code (LAMC)). However, analysis is needed to ensure the standards are in compliance with the latest FCC regulations.

As reflected in the April 21, 2023 letter from Council District 9 to Council File 22-0617, there is also an interest from the wireless industry in undertaking additional updates to the City's wireless standards, which the City Council directed be addressed through an update of the Use Lists for the current Zoning Code and the new Zoning Code and through a separate ordinance to update the wireless provisions of the current Zoning Code and new Zoning Code.

This report is focused solely on the directive to ensure the wireless standards in the new Zoning Code are consistent with the latest FCC regulations.

Discussion

The regulation of wireless facilities is an incredibly complex area of law, subject to frequent updates and interpretations by the FCC.

The City of Los Angeles, with nearly 4 million residents and an average of 1.5 wireless devices per person (source: Cellular Telephone Industries Association) has a pressing need for clear local regulations that are consistent with Federal Telecommunications law. Yet, the City seeks to preserve local authority over wireless facilities without running afoul of Federal and State law. This requires City staff to navigate a web of complex and intertwining Federal, State and local regulations and analyze and revise the City's telecommunications regulations, which have not been substantially revised in decades.

Recommendation

To ensure the wireless standards within the new Zoning Code are consistent with the latest FCC regulations, City Planning and the City Attorney recommend the following steps during the Form & Legality process:

1. Incorporate applicable provisions from the "Spectrum Act" into the new Zoning Code. In 2012, the Middle Class Tax Relief and Job Creation Act, Section 6409(a), also known as the Spectrum Act, created a streamlined process that municipalities must follow to permit modifications, co-locations and removal of existing wireless facilities. In 2013, the City of Los Angeles' Chief Zoning Administrator wrote ZA memo 130 to memorialize how City Planning will process these types of projects in a timely manner. Standards and provisions reflecting Federal wireless regulations, relevant standards and provisions from ZA memo 130 should be integrated into the Existing Wireless Telecommunications Facilities Spectrum Act Compliance Handbook that accompanies and is enabled by the new Zoning Code so that the City's wireless regulations can be easily updated as Federal regulations shift.

2. Incorporate additional changes required by the Federal Communications Commission Report and Order titled, "Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies," which was adopted on October 17, 2014, and effective February 9, 2015. This Report and Order created definitions for the terms, "tower," "base station," and "existing." It also listed the types of requests that fall under the Section 6409(a) process as well as shortened the review time local governments have to approve applications. City Planning and the City Attorney should analyze the Report and Order and identify any changes needed to the standards within the new Zoning Code and the wireless handbook to ensure compliance. This will entail a review of the law in addition to case law regarding telecommunications.

The FCC-compliant draft of the wireless standards would then be presented along with the new Zoning Code and accompanying wireless handbook for City Council's consideration after the Form and Legality process is complete.

Sincerely,



VINCENT P. BERTONI, AICP
Director of Planning

VPB:SMMB:AR:EC:RR