



Internet Communications Utilities Regulation

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October 20, 2023

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These comments are submitted by and on behalf of a group of Malibu residents. They address 19 applications in various stages of the application process. Each application and its status is identified in the below table, based on information taken from the October 12, 2023 WCF Pending Projects Report.¹ The commenting residents request that a copy of these comments be placed in and considered part of the record in each of the 19 application files and used to determine the appropriate action to be taken for each project. Where we address a unique aspect of any given project or a discrete subset of projects, then the specific issue we identify should be resolved as to that individual project or the ones in that subset.

App	Street #	Street Name	Description	Status	Case Planner
WRP 22-006	3652.5	SWEETWATER MESA RD	Upgrade existing T-Mobile facility	Notice of Application issued on 9/28/23; Application deemed complete on 9/25/23	Coli Turner
WRP 22-010	20155.5	PACIFIC COAST HWY	Upgrade existing T-Mobile facility	Incomplete application	Alexander Da Silva
WRP 22-011	24034.5	MALIBU RD	T-Mobile upgrade existing	Notice of Application issued on 10/03/23; Application deemed complete on	Coli Turner

¹ According to the October 12, 2023 WCF Pending Project Report:

Red Font means there is an “update” to the last report for the project;
Green Font means the project is subject to public comment or there is an open appeal period; and
Black Font appears to represent no change from the last report for the project.

App	Street #	Street Name	Description	Status	Case Planner
			wireless with new antenna		
WRP 22-012	24467.5	MALIBU RD	T-Mobile upgrade existing wireless with new antenna	Notice of Application issued on 9/28/23; Application deemed complete on 9/22/23	Samantha Elias
WRP 22-013	25153.5	PACIFIC COAST HWY	T-Mobile upgrade existing wireless with new antenna	Notice of Application issued on 9/28/23; Application deemed complete on 9/25/23	Coli Turner
WRP 22-014	3011.5	CORRAL CANYON RD	T-Mobile upgrade existing wireless with new antenna	Notice of Application issued on 9/28/23; Application deemed complete on 9/25/23	Coli Turner
WRP 22-017	19900.5	BIG ROCK DR	T-Mobile upgrade existing wireless with new antenna	Incomplete application	Alexander Da Silva
WRP 22-018	7311.5	BIRDVIEW AVE.	T-Mobile upgrade existing wireless	Notice of Application issued on 9/28/23; Application deemed complete on 9/22/23	Samantha Elias
WRP 22-019	5818.5	KANAN DUME RD.	T-Mobile upgrade existing wireless	Notice of Application issued on 9/28/23; Application deemed complete on 9/22/23	Samantha Elias
WRP 22-021	27513.5	PACIFIC COAST HWY	T-Mobile upgrade existing wireless facility	Notice of Application issued on 9/28/23; Application deemed complete on 9/25/23	Coli Turner
WRP 23-002	29029.5	CLIFFSIDE DR	T-Mobile upgrade existing wireless facility	Incomplete application	Coli Turner



App	Street #	Street Name	Description	Status	Case Planner
WRP 23-003	7101.5	FERNHILL DR	T-Mobile upgrade existing wireless facility	Notice of Application issued on 9/28/23; Application deemed complete on 9/22/23	Samantha Elias
WRP 23-004	24867.5	PACIFIC COAST HWY	T-Mobile upgrade existing wireless facility	Incomplete application	Coli Turner
WP 23-005	28211	PACIFIC COAST HWY	T-Mobile upgrade existing wireless facility	Incomplete application	Samantha Elias
WRP 23-005	6178.5	LATIGO CANYON RD	T-Mobile upgrade existing wireless facility	Incomplete application; Previous address: 6302.5 Latigo Canyon Road	Samantha Elias
WRP 23-007, CDP 23-003, VAR 23-001	21971.5	PACIFIC COAST HWY	T-Mobile upgrade existing wireless facility	Incomplete application	Samantha Elias
WRP 23-008	28395.5	PACIFIC COAST HIGHWAY	T-Mobile upgrade existing wireless facility	Notice of Application issued on 9/28/23; Application deemed complete on 9/25/23	Samantha Elias
WRP 23-009	23816.5	MALIBU CREST DR	T-Mobile upgrade existing wireless facility	Notice of Application issued on 9/28/23; Application deemed complete on 9/25/23	Coli Turner
WRP 23-010	22002.5	CARBON MESA RD	T-Mobile upgrade existing wireless facility	Incomplete application	Tyler Eaton



1. The Above Applications Are Being Processed In Contravention of Applicable Ordinances and Resolutions, And With Disregard for Residents' Rights

The residents who participated in the City Council's adoption of Ordinance 477, Ordinance 484 and each of the two associated Resolutions (Resolution 20-65 and Resolution 21-17) (hereafter referred to collectively as the Ordinances and Resolutions) had several key objectives. They sought to preserve, to the greatest extent possible, local control and they advocated for rational design guidelines to ensure the safety of wireless installations, particularly from fire. That is why the Council expressly required a showing of compliance with applicable safety codes and the material required by "[Wireless Permit \(WP\) and Wireless ROW Permit \(WRP\) Submittal Checklist/ Packet](#) Item 16 was put in the application content form. The residents also focused on the procedural process to ensure residents affected by a project could participate and have a voice in individual wireless facility applications.

The residents were somewhat comforted when their efforts resulted in the City Council's adoption of the Ordinances and Resolutions, and they are pleased that the Council recently recognized the need to further update them for consistency and clean-up. It is now apparent, however, that neither the residents' objectives and aspirations nor the City Council's intentions have been fulfilled in the handling of many of the above applications. The residents have not been afforded reasonable participatory rights and they have been denied timely and full access to important documents that the City has used to make procedural "completeness" determinations and that it will use to decide the merits of applications.

The residents have had to serially and repeatedly request application-related documents through public records requests and they have had no way of knowing when to file a refresh request to obtain documents and materials generated after the last request. The residents have had little to no insight into process or progress and could not anticipate when they might finally be allowed to provide any substantive input.

What is worse is that residents or their representatives were repeatedly informed that key materials existed but could not be released due to confidentiality or other reasons. The public documents released on Friday, October 13th reveal that these representations were untrue. The issue is *not* confidentiality of the documents; it is that there are, in fact, no such documents. City staff has not enforced the requirement for the key materials.

The claim of confidentiality was just a ruse to conceal the fact that higher-level² City staff were inhibiting implementation, application, and enforcement of the applicable wireless application content and processing rules. Residents were purposefully misinformed by certain City personnel and even the City's city attorney's office.³ This deceit is disturbing in its own

² The residents do not believe the case planners (Tyler Eaton, Coli Turner, Alexander Da Silva, or Samanth Elias) were willing participants in this gambit; at most they were carrying out instructions from their superiors.

³ Assistant City Attorney Patrick Donegan asserted the "confidentiality" claim through correspondence with the undersigned. City Attorney Trevor Rusin made the "confidentiality" argument to the full City Council with regard to the same materials during the Council's June 26, 2023 regular meeting. So it is not just the residents that have been misled; the City's attorney repeated the deceptive claim to the City Council, his own clients.



right. But it also points up a fatal problem with the applications listed above. It is now apparent that essential required materials were never submitted to begin with, and this deficiency was obfuscated and then ignored for purposes of evaluating the completeness and merits of the applications. This is most apparent from the Submittal Checklist submitted on November 30, 2022 for WRP 23-005, 6400.5 Latigo Canyon Road. The applicant typed “N/A” for Checklist item 16 even though Item 16 does apply. For whatever reason the responsible city personnel never required that the Item 16 information be submitted and it was never submitted.

These applications must be denied or at least re-noticed for deficiency. Simply put, the applicants have not carried their burden of proving compliance with the Fire and Electrical Safety Standards in Resolution 20-65, Sec. 4.G and consistency with the applicable Ordinances and Resolutions.

The residents have tried to obtain full access to application files for two projects (23-002, 29029.5 Cliffside and 23-010 Carbon Mesa) for more than 8 months. As part of that process city staff stated that the plan check materials delivered to the Building and Safety Department could not be made available to the public due to “confidentiality” and “copyright” concerns. Specifically, we were advised that the material required by “[Wireless Permit \(WP\) and Wireless ROW Permit \(WRP\) Submittal Checklist/ Packet](#)” Item 16 existed but would not be released. Undersigned counsel wrote a letter to City officials on July 11, 2023, contesting City staff’s refusal to release this material. There was never any substantive response to that letter.

Between September 28 and October 3, Planning staff deemed several wireless applications complete and invited comment by Monday, October 9th. After complaint about the short notice and the fact that the residents were not able to proffer meaningful comment without access to the full application, including the Item 16 information, the Assistant Planning Director stated on October 13th that the full file for 12 applications, in response to PRA 536, PRA 537 and PRA 539 would be allowed. As promised, the information was delivered on Friday, October 13. All but one (WRP 23-006) of the 12 applications related to wireless projects that had recently been deemed complete on September 28 or October 3, and therefore open for comments on the merits. There was more than a gigabit of information, with thousands of pages to pore through. The Assistant Planning Director also indicated there was still time to submit comments. It took five business days to review the material, gather information, secure an expert opinion and prepare comments.

The residents now submit these comments on those 12 applications, along with 7 others including the two projects the residents selected to monitor since early 2023 (WRP 23-002, 29029.5 Cliffside and WRP 23-010 Carbon Mesa).⁴ Notably, one of those two (WRP 23-002, 29029.5 Cliffside) is marked in green in the October 12, 2023 status report, indicating the project is open to public comment even though the status report also states the application is still incomplete.

The Applicant claims that wireless facilities in issue in 18⁵ of the applications are in public right-of-way. The affected parties involved here do not concede that point since there has

⁴ No Building and Safety plan check information for WRP 23-002 or WRP 23-010 has been provided even though the public records submitted for them specifically asked for all the plan check information.

⁵ The other one is WP 23-005, 28211 Pacific Coast Highway and it involves a project on private property.



not been any reliable evidence (deed or plat records) so demonstrating in any of the available materials. Assuming, without conceding, that the facilities are or will be in right-of-way, then MMC Chapter 12.02 as amended by Ordinance 477 and Resolution 20-65 govern them. For LIP purposes LIP Chapter 3.16 as it existed prior to Ordinance 477/Resolution 20-65 still applies. These comments apply both MMC Chapter 12.02 and LIP Chapter 3.16.

2. The Applications are Missing Essential and Mandatory Electrical Safety Information

The City Council adopted Ordinance 477 and its companion Resolution 20-65 for wireless facilities in rights-of-way.⁶ The residents active in the ordinance development proceedings dedicated considerable attention to fire, electrical, and structural safety. The residents' concerns flowed directly from the fact that Malibu was (and is still) reeling from the devastating 2018 Woolsey Fire. The residents were and still are most concerned about ensuring proper and *safe* design and operation for all wireless facilities in Malibu. This town has been devastated by two major fires in recent years (Woolsey Fire in 2018 and Malibu Canyon Fire in 2007), and both were caused in whole or part by faulty telecommunications equipment. The CPUC accused the responsible parties in both fires – three major wireless carriers including the applicant here, one major wireless infrastructure builder, and Malibu's primary utility, SCE – of attempting to impede the fire investigations. These parties still routinely ask for permits to build infrastructure.

History demands more scrutiny, not less, and certainly not turning a blind eye to the past. The carriers' reckless disregard for fire safety cannot be allowed to once again put Malibu at risk. That is why the City Council acted to adopt the Ordinances and Resolutions and it is why the City *must* enforce its safety requirements and ensure that public has access to information they need to be satisfied that happens. Certain city officials tried to prevent the public from discovering they were not enforcing the safety requirements put in place by the City Council. They have now been exposed.

The applications for 8 of the 19 projects (WRP 22-010, WRP 22-017, WRP 23-002, WRP 23-004, WP 23-005, WRP 23-005, WRP 23-007 and WRP 23-010) have still not been accepted as complete. The residents agree that these applications are not complete because the applicant has not provided documents and information expressly required by the Staff-promulgated "[Wireless Permit \(WP\) and Wireless ROW Permit \(WRP\) Submittal Checklist/ Packet.](#)" Specifically, the applicant has not provided the information mandated by Item 16, as explained below.

The applications for the remaining 11 projects have been deemed "complete," but this was error. The finding of completeness must be rescinded and withdrawn since the applicant in each of those projects also has not supplied Item 16-compliant information. If the completeness finding is not rescinded or withdrawn, then each of the 11 applications must be denied because the applicant has not carried its burden of proving that the facility meets the Fire and Electrical Safety Standards in Resolution 20-65, Sec. 4.G.

⁶ Ordinance 477 amended Malibu Municipal Code ("MMC") by adding Chapter 12.02. The amendments did not take immediate effect with regard to the Coastal Local Implementation Plan ("LIP") and the LIP portion has not yet become effective due to Coastal Commission approval delays. The previously-approved LIP terms still apply. The MMC amendments to Chapters 12.02, however, are effective.



The residents retained an electrical engineer to provide an opinion on the documentation and acceptable professional electrical engineering standards for two of the proposed wireless installations. Specifically, Erik Anderson, P.E., the principal of Andersen Engineering in Phoenix, Arizona reviewed the red-stamped “BSD Final Plans” for WRP 22-018, 7311.5 Birdview and WRP 23-008, 28395.5 Pacific Coast Highway. Engineer Anderson reviewed for the information that was there, and his opinion regarding the plans is attached and discussed below. More important, he was tasked with assessing the extent to which the applicant had satisfactorily supplied the information required by “[Wireless Permit \(WP\) and Wireless ROW Permit \(WRP\) Submittal Checklist/ Packet](#)” Item 16. He could not locate that material. The undersigned has also combed through the materials that were provided in response to the public records requests for 12 more of the 19 projects.⁷ Not a single one of them includes a complete set of materials responsive to Item 16 in the submittal checklist.

Checklist item 16 requires:

The following engineering documents prepared under the responsible charge of and sealed by a California licensed Professional Engineer must be included in the application:

- a. A short circuit and coordination study (“SCCS”) calculated pursuant to the IEEE 551-2006: Recommended Practice for Calculating AC Short-Circuit Currents in Industrial and Commercial Power Systems or the latest version of that standard. The study must demonstrate the protection devices will ensure the equipment enclosure will not be breached. The SCCS must include analysis of Voltage Transient Surges due to contact of conductors of different voltages;
- b. A one-line diagram of the electrical system;
- c. Voltage Drop & Load Flow Study;
- d. Load Calculation;
- e. Panel Directories;
- f. A plot plan showing the location of the mounting structure including address, or structure designation, or GPS location on the front sheet;
- g. A plot plan showing the location of the service disconnecting means; and
- h. An elevation drawing of the equipment and the service disconnecting means.

As the attached opinion letter from Engineer Anderson explains, the application content checklist properly requires this engineering information because it is key to determining whether the proposed design is safe. It is not possible to assess electrical design adequacy without all the foregoing information as part of the SCCS, Voltage Drop & Load Flow Study and Load Calculation performed and described by a Professional Engineer. The load calculation, including panel/load center and connected load data and type of overcurrent protection⁸ and KAIC⁹ are all

⁷ The residents have not submitted public records requests for 5 of the applications and therefore cannot definitively state that the Item 16 responses are missing from them. The working assumption for these comments is that those 5 basically follow the same general trends those for which records have been supplied.

⁸ Overcurrent protection is used to limit or disable current flow through hardware and other electrical components, typically in the form of fuses, circuit breakers, or fusible links.

⁹ KAIC stands for Kilo Ampere Interrupting Capacity and is sometimes referred to as Thousand Ampere Interrupting Capacity. KAIC refers to measurements of the ability of a circuit breaker to withstand a short



essential because they provide substantive and objective information regarding the likelihood of catastrophic failure that might cause a major fire. Nor can the assessment be made when the location and elevation of the service disconnecting means is not included. Engineer Anderson's opinion letter states that "the system cannot be assessed for its ability to function safely. The applications are incomplete and an assessment of their ability to function safely is not possible."

All 19 applications *must* be rejected because the applicant has not carried its burden of proving that the facility meets the Fire and Electrical Safety Standards in Resolution 20-65, Sec. 4.G.

3. Design Defect Is Apparent From The Plan Information That Is Provided

The design information that has been supplied for each of the applications also reveals one and perhaps two significant flaws. One flaw is apparent in every application. The second may be present for all, but some of the applications do not contain sufficient information to tell.

Engineer Anderson's attached opinion addresses the two applications he was able to review (WRP 22-018, 7311.5 Birdview and WRP 23-008, 28395.5 Pacific Coast Highway) in the short time that was afforded. For both WRP 22-018 and WRP 23-008 Engineer Anderson notes that "[t]he plans show No. 14 AWG Copper branch circuitry protected by a 20 Amp circuit breaker. This would not be allowed in an installation governed by the National Electrical Code, and it does not follow good / safe engineering practices." For WRP 23-008 he observes that the "plans also show No. 10 AWG Copper conductors protected by a 60 Amp circuit breaker. This would not be approved in an installation governed by the National Electrical Code, and it does not follow good / safe engineering practices." The plans for WRP 22-018 do not reveal supply current or protection for the service entrance conductors, so it is not possible to discern if they are overrated through excessive breaker capacity.

14 gauge wire is rated for 15 Amps. Using 14 AWG with a 20 Amp breaker will result in overheating and therefore a risk of electrical fire. 12 gauge wire is necessary for a 15 Amp breaker. Similarly, 10 gauge wire is rated for 30 Amps. A 60 Amp breaker will, once again, overheat the conductor. It can melt and then cause a fire. Instead, 6 gauge wire is required. The plans demonstrate that the applicant has failed to employ the correct conductors for the overcurrent protection that was used in the design.

The materials for many of the projects contain "Equipment Spec" Sheets for the antennas and radios contemplated for these projects. Page 45 of that material directly cautions against the very design that was used. The relevant discussion is reproduced below.

circuit or overload. Amperes is the unit used to measure electric current.



Fuse and Circuit Breaker Recommendations

The recommendations given in this section are based on peak power consumption and give no information on power consumption during normal operation.

The recommended melting fuse type is gG-gL-gD in accordance with IEC 60269-1. Circuit breakers must comply with at least Curve 3 tripping characteristics, in accordance with IEC 609 34.

The PSU AC has a built-in Class 1 (Type 1) SPD to protect the equipment in case of lightning and network transients. The recommended fuse or circuit breaker rating is therefore dimensioned for not tripping the fuse or circuit breaker in case of SPD operation. The PSU AC is described in [Table 7](#).

Table 7 Radio 4455 Fuse and Circuit Breaker Recommendations

Unit (AC Powered)	Output Power	Nominal AC Input Voltage	Maximum AC Input Current ⁽¹⁾	Maximum Allowed Fuse Rating ⁽²⁾
Radio 4455 B2/B25 B66A	4 × 40 W	100–127 V	10 A	16 A
		200–250 V	5 A	10 A

- (1) The Maximum AC Input Current is calculated at a total tolerance of -14% of the nominal value. This results from -10% tolerance of the nominal voltage at the AC delivery point of the utility company, and -4% voltage drop during the installation. The voltage drop is in accordance with IEC 60364-5-52. For example, if the minimum Nominal AC Input Voltage is denoted U_{nom_min} , then the Max AC Input Current is calculated at $0.86 \times U_{nom_min}$.
- (2) The Maximum Allowed Fuse Rating must be larger than the Maximum AC Input Current, yet still within a safety margin of 15%. This is to ensure reliable operation. However, it must not be larger than the standard value of the next or nearest higher fuse or circuit breaker. This is in order to minimize the cable cross-section area and comply with the relevant safety standard.

The equipment specifications state significantly lower Maximum Allowed Fuse ratings than the applicant has employed here. Note 2 directly says that exceeding the maximum will violate “the relevant safety standard.”

It is clear that none of the studies required by Checklist Item 16 have been performed or submitted. The Short Circuit and Coordination Study would have revealed that the conductors were not coordinated with the breakers. The Voltage Drop & Load Flow Study and Load Calculation would have also allowed a reviewer to discover the mismatches between sources, conductors and load.

But even on their face the designs demonstrate lack of safe design. The applications must be rejected due to unsafe design. Applicant must be required to redesign each of these projects to ensure none of them include oversized breakers in relation to the wire gauge, thereby possibly allowing overheating and therefore a fire. Any redesign submission must include full and complete information to determine the supply current and protection for all sources, conductors and load. If this is not required Malibu will soon experience another devastating fire because of conductor failure due to excessive load. Another telecom-initiated fire will destroy this town.



4. Side-Mounted Antennas Project More Than 30 Inches From The Pole.

Resolution 20-65, Section B.a.(2) states that “side-mounted wireless facilities” “shall not project from the pole more than 30 inches.” Most of the designs include side-mounted antennas and most of them include antennas that project more than 30 inches from the pole. The plans for WRP 23-003, 7101.5 Fernhill Drive have the antenna mount extending 3 feet (36 inches) and then the antenna goes out another 8 inches. WRP 22-006, 36652.5 Sweetwater Mesa, like WRP 23-003, has the mount extending 3 feet from the pole. WRP 23-006, 20111.5 Big Rock Drive, has the antenna positioned so that the mid-point is 3 feet from the pole, with the other half of the antenna protruding out farther by at least a few inches more. WRP 22-011, 24034.5 Malibu Road also has the antenna mid-point at 3 feet. This violation appears to be a constant with each, or at least the majority, of the 18 WRP applications. The applicant has not acknowledged this violation and did not attempt to seek an exception to the 30-inch projection limit “at the time the application [was] initially filed.” Resolution 20-65, Section 9.C. There was no effort to prove up, through clear and convincing evidence, that the limit should be excused. Resolution 20-65, Section 9.A.B.

The design for each of the projects violates the design guidelines. There was not a timely request for exception. There is no evidence to justify an exception in any event. Each and every one of the 18 WRP applications must be denied.

5. Coastal/LIP-Specific Issues

As noted earlier, the MMC amendments to Chapter 12.02 are effective but the right-of-way ordinance amendments relating to the LIP are not because of Coastal Commission approval delays. The previously-approved LIP terms in effect in since 2020 still apply to these applications. LIP Sections 2.2 and then 3.16 provide the current authority. Those provisions contemplate “site plan review permits” for facilities in right-of-way in all zones. LIP 3.16.2, 13.27.1.7. LIP 13.20.1 provides that decisions of the Planning Manager are appealable to the Planning Commission and then the Council. The assertion in the staff Pending Project Report that appeals are heard by a “Hearing Examiner” correctly reflects the outcome for MMC 12.02 but appeals to the Planning Commission and the Council are still available under the LIP. At least 6 applications (WRP 22-011, WRP 22-012, WRP 22-018, WRP 23-002, WP 23-005 and WRP 23-008) are completely or partially within the Coastal appeal area.

There is a latent issue in at least one of these applications, and perhaps others. Section 3.14.2.F of the LIP in effect in 2002 required that permits for wireless telecommunications facilities in rights-of-way “must be renewed every two years” and “inspected by the Public Works Director.” There is good reason to believe that the MMC provision then in effect also had a similar term limit and related provisions.

At least one site – the one associated with WRP 23-010, 22002.5 Carbon Mesa – obtained its original permit when this LIP provision was in effect. There is no evidence in the file that the permit was ever subjected to renewal or that the permit holder ever requested, obtained and provided an inspection “to insure that the facility is still in operation, that it has been properly maintained, and that the original conditions of approval have been adhered to and whether they are to remain the same or need to be modified.” That permit therefore lapsed some time in 2004. There may well be others within this group that also obtained their original permit when these older ordinances were in effect. For example, the Second Response Letter from the applicant in WRP 22-014, 3011.5 Corral Canyon Road incorrectly states that planning approval



was not required in 2001 “for ROW sites.” The original permit for this site may have lapsed as well.

A proper review for each of these projects must be performed to determine whether the same problem applies for those original permits as well. Others may have also lapsed.

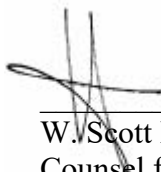
The wireless carrier must be required to turn off the existing facility for each of the sites where the original permit has lapsed, and then apply for a new permit. At minimum, the applicant cannot rely on its original permit for purposes of claiming the application qualifies as “a minor modification” or “exempt facility.” See 47 C.F.R. § 1.6100(5) (definition of “existing”).¹⁰ Instead, it must be treated as a new application and the longer shot clock period for small cells applies.

LIP 3.16.5 requires that each facility “must comply with any and all applicable provisions of the Malibu LCP and Municipal Code, including but not limited to provisions of the Uniform Building Code, National Electric Code, Uniform Plumbing Code, Uniform Mechanical Code, and Uniform Fire Code.” Therefore, all the discussion above related to electrical design applies in the LIP context as well.

Conclusion

Some of the concerns expressed herein are particular to some or a few of the applications, but several of the concerns apply to all. Collectively these comments demonstrate that each and every application has at least one significant problem and every one of these 19 applications must be denied or at least required to amend and/or supplement the application or proposed design.

These comments should give pause to middle and upper-level managers and officials inside the City; they should reflect on their performance and the actions they took that have brought us to this point. Malibu deserves better.



W. Scott McCollough
Counsel for affected Malibu residents

¹⁰ The FCC has noted in a slightly different context that “in order for a locality to disqualify a modification as an eligible facilities request based on an applicant’s noncompliance with a condition of the original approval, the locality must show that the condition existed at the time of the original approval.” *In re Implementation of State & Local Governments’ Obligation to Approve Certain Wireless Facility Modification Requests*, 35 FCC Rcd 5977, 5998 n.123 (2020). Here, the condition did exist at the time of original approval and the permit lapsed many years ago. Applicant cannot rely on an ineffective original authorization as the basis for claiming the current proposal is a “modification to an existing wireless tower or base station” under the Spectrum Act, 47 U.S.C. § 1455(a).



ATTACHMENT

Opinion Letter of Erik Anderson, P.E.





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October 18, 2023

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RE: Wireless Installation Proposals, Malibu, CA

Mr. McCollough,

This correspondence will serve as an opinion letter regarding the documentation and acceptable professional electrical engineering standards for wireless installations currently being proposed in Malibu, California.

I have reviewed the documentation provided regarding the proposed installations along with the required documentation for their application presented to the authority having jurisdiction (AHJ), the Planning Department.

The required documents are listed in the **City of Malibu Wireless Permit (WP) and Wireless ROW Permit (WRP) Submittal Checklist / Packet**. Specifically, section 16. *Electrical and Structural Safety Information* relates to the electrical design of the proposed installation.

Section 16 is given as follows:

16. Electrical and Structural Safety Information

The following engineering documents prepared under the responsible charge of and sealed by a California licensed Professional Engineer must be included in the application:

- a. *A short circuit and coordination study (“SCCS”) calculated pursuant to the IEEE 551-2006: Recommended Practice for Calculating AC Short-Circuit Currents in Industrial and Commercial Power Systems or the latest version of that standard. The study must demonstrate the protection devices will ensure the equipment enclosure will not be breached. The SCCS must include analysis of Voltage Transient Surges due to contact of conductors of different voltages;*
- b. *A one-line diagram of the electrical system;*

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- c. *Voltage Drop & Load Flow Study;*
- d. *Load Calculation;*
- e. *Panel Directories;*
- f. *A plot plan showing the location of the mounting structure including address, or structure designation, or GPS location on the front sheet;*
- g. *A plot plan showing the location of the service disconnecting means; and*
- h. *An elevation drawing of the equipment and the service disconnecting means*

In reviewing the application documentation there is no short circuit and coordination study. The plans show on the New Panel Schedule that the voltage is 120/240V, 1 Phase, 30A, 10KAIC. There is no voltage drop and load flow study.

The plans show No. 14 AWG Copper branch circuitry protected by a 20 Amp circuit breaker. This would not be allowed in an installation governed by the National Electrical Code, and it does not follow good / safe engineering practices. The plans also show No. 10 AWG Copper conductors protected by a 60 Amp circuit breaker. This would not be approved in an installation governed by the National Electrical Code, and it does not follow good / safe engineering practices.

The language of section 16 states that all the documents listed must be included in the application. This is stated in mandatory language, they must be provided.

There is good reason for the requirements. The safety of the public is of prime importance. The design must be safe. Without the proper documentation, as listed in the application, the system cannot be assessed for its ability to function safely. The applications are incomplete and an assessment of their ability to function safely is not possible.

Sincerely,



Erik S. Anderson, P.E.



Expires 06/30/24