

# Public Correspondence Item 1

**From:** [Mishelle Merino-Caswall](#)  
**To:** [Russell, Denise](#)  
**Cc:** [Rebecca Falk](#); [Yzaguirre, Lauren](#); [Mishelle Merino-Caswall](#)  
**Subject:** [External] Re: Notice of Public Hearing- American Legion Wireless  
**Date:** Monday, September 13, 2021 3:59:25 PM

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Dear Ms. Russell,

I am writing again regarding PROJECT/CASE NUMBER(S): American Legion Wireless Telecommunication Facility; PDS2020-MUP-20-08; PDS2020-ER-20-11-001. I understand that there is a Public Hearing scheduled for September 17, 2021 at 9:00. Depending on my work schedule, I may or may not be able to attend via telephone, so I wanted to provide comments via email.

I would like to go on record again that I oppose the approval of the MUP and the project at the current location, 4515 Borrego Springs Road. I also encourage the Planning Committee to reject the MUP and Project at this location, and at the very least postpone the vote until additional evidence around the Environmental exemption can be solidified. I am a homeowner in Deep Wells in Borrego Springs, CA. The proposed cell tower structure will be approximately 1 block from our home.

Major Use Permit findings in Section 7358 of the Zoning Ordinance indicate that before any use permit may be granted or modified it shall be found:

- a. *That the location size, design and operating characteristics of the proposed use will be compatible with the adjacent uses, residents, buildings or structures, with consideration given to:*
  1. *Harmony in scale, bulk coverage and density;*
  2. *The availability of public facilities, services and utilities;*
  3. *The harmful effect, if any, upon desirable neighborhood character;*
  4. *The generation of traffic and the capacity and physical character of surrounding streets;*
  5. *The suitability of the site for the type and intensity of use or development which is proposed; and to*
  6. *Any other relevant impact of the proposed use; and*
- b. *That the impacts, as described in paragraph "a" of this section, and the location of the proposed use will be consistent with the San Diego County General Plan.*
- c. *That the requirements of the California Environmental Quality Act have been complied with.*

Regarding item a.1 - Clearly a 100-foot cell tower is not in harmony due to scale, coverage and density. The maximum height for our neighborhood is currently 35 feet. This would exceed the current maximum height limit by almost 3 times.

With regard to item a.3 – A 100-foot cell tower will have multiple harmful effects on the character of our neighborhood.

- Historical evidence indicates that Property values could drop between 20% - 40% in locations where cell towers are placed. This translates to a \$100,000 value decrease for our home
- We currently have an unobstructed view of the surrounding mountains and desert. The construction of the cell tower will impede our view and have an impact on our property value as well.
- Borrego has been designated a Dark Sky Community, lights on a tower would interfere with our current view of the night sky.
- Our neighborhood currently contains multiple statues by the artist Ricardo Breceda. As you know these statues are a highlight of our community and draws many visitors each year. The cell tower project does not fit w/ the artistry and whimsical nature of these sculptures.

Regarding item c. – This project is requesting exemption from environmental review pursuant to Section 15303 of the State California Environmental Quality Act Guidelines. Section 15303 involves the installation of small, new equipment and facilities in small structures. It has been determined that the Project is not in an environmentally sensitive location; will not have a cumulative effect on the environment; is not on a hazardous waste site; will not cause substantial change in the significance of a historical resource; and will not result in damage to a scenic highway.

However, CEQA Guidelines 15300.2 reflect the following, in particular, paragraph (c):

#### 15300.2. EXCEPTIONS

- (a) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.
- (b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.
- (c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.**
- (d) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.
- (e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.

(f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

There is substantial evidence to support an argument against the approval of the exemption based on this paragraph. This is supported by a recent ruling by the U.S. Court of Appeals for the D.C. circuit on August 13, 2021 CHS v. FCC. **This case brings to the forefront that the FCC is using evidence and data that shows no harm to the environment from its 1996 guidelines.** The court ruled that the FCC failed to engage at the level of reasoned decision-making required from a federal agency. The courts said that the FCC's complete failure to acknowledge and respond to evidence concerning environmental harms led them to rule that the FCC will have to re-examine its determination and meaningfully and responsibly confront the vast amount of scientific and medical data showing that their current guidelines do not adequately protect health and the environment.

I request that these considerations be taken into account, and that the County postpones any decision on approval of the permit and project based on the potential impact of the outcome of the guideline revisions that the court has requested.

Respectfully,  
Mishelle Caswall and Jon Caswall

On Sep 3, 2021, at 9:53 AM, Yzaguirre, Lauren  
<[Lauren.Yzaguirre@sdcounty.ca.gov](mailto:Lauren.Yzaguirre@sdcounty.ca.gov)> wrote:

Good Morning,

The American Legion Wireless Facility Major Use Permit (PDS2020-MUP-20-008) will be presented to the Planning Commission for decision on September 17, 2021. There are two ways you can participate in the hearing: you can attend in person at the County Operations Center (COC), or you can participate by calling in using the phone number associated with the item – instructions for how to call in will be sent in a subsequent email later this week. If you wish to attend in-person, you will go to the COC Campus Chambers at 5520 Overland Avenue, San Diego, CA 92123.

If you would like to provide comments at the hearing via telephone, staff is holding a rehearsal on Friday September 10<sup>th</sup> between 11:30am and 12:30pm to ensure there are no technical issues. **If you are interested in participating in the rehearsal, please respond to this email with your name and telephone number and we will contact you with further instructions.**

Please feel free to contact me at 619-323-7021 or by email at  
[Lauren.Yzaguirre@sdcounty.ca.gov](mailto:Lauren.Yzaguirre@sdcounty.ca.gov)

Kind Regards,

*Lauren Yzaguirre* -she/her

Lauren Yzaguirre, Land Use/Environmental Planner  
County of San Diego

Department of Planning and Development Services  
5510 Overland Ave, Suite 110 San Diego, CA 92123

☎ 619-323-7021 | ✉ [Lauren.Yzaguirre@sdcounty.ca.gov](mailto:Lauren.Yzaguirre@sdcounty.ca.gov)

<American Legion Wireless MUP-Notice Of Public Hearing.pdf>

**From:** [noreply@granicusideas.com](mailto:noreply@granicusideas.com)  
**To:** [Barnhart, Douglas](#); [Calvo, Yolanda](#); [Edwards, Michael \(LUEG\)](#); [Flannery, Kathleen](#); [Hitzke, Ginger](#); [Hough, Tommy](#); [Jimenez, Ann](#); [Nicoletti, Vince](#); [Pallinger, David](#); [Ashman, Ronald](#); [Slovick, Mark](#); [Smith, Ashley](#); [Talleh, Rami](#); [Tessitore, Lynnette](#)  
**Subject:** [External] New eComment for Planning Commission Hearing  
**Date:** Tuesday, September 14, 2021 8:19:58 AM

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[SpeakUp](#)

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## New eComment for Planning Commission Hearing

Richard Walczak submitted a new eComment.

Meeting: Planning Commission Hearing

Item: 1. American Legion Wireless Telecommunication Facility Major Use Permit; PDS2020-MUP-20-008, PDS2020-ER-20-11-001; Borrego Springs Community Plan Area (L. Yzaguirre)

eComment: My property is some 300 yards from the American Legion. Will there be any danger from Micro Waves.? Will this install be any benifit to the neiborhood.? EG enhanced cell phone or WiFi ?

[View and Analyze eComments](#)

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**From:** [Yzaguirre, Lauren](#)  
**To:** [Mitzi Merino](#)  
**Cc:** [Jimenez, Ann](#)  
**Subject:** RE: [External] Re: Notice of Public Hearing- American Legion Wireless  
**Date:** Friday, September 10, 2021 2:21:27 PM

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Hi Mitzi,

Ann Jimenez has been cc'd in this email. Her email is [Ann.Jimenez@sdcounty.ca.gov](mailto:Ann.Jimenez@sdcounty.ca.gov)

The Federal Communications Commission (FCC) authorizes and licenses devices, transmitters and facilities that generate radiofrequency (RF) radiation. The FCC issues the licenses for frequencies and mandates that carriers deploy the technology and use the limited number of frequencies for which they are granted licenses. The FCC is responsible for determining any required setbacks of facilities in relation to the location of facilities near residential uses, etc. FCC approval and licensing of transmitters and facilities must be evaluated for significant impact on the environment. Human exposure to RF radiation emitted by FCC-regulated transmitters is one of several factors that must be considered in such environmental evaluations.

Furthermore, Section 704 of the Federal Telecommunications Act states that, "No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions." As such, when considering applications for wireless communication facilities, local agencies are preempted from considering environmental effects of Electro Magnetic Radiation (EMR) associated with RF emissions.

Therefore, by federal law, the County is prohibited from regulating the placement, construction and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency (RF) emissions, if the facilities comply with the Federal Communications Commission's (FCC) regulations concerning RF emissions. Information regarding potential health effects is available from the cellular providers upon request as it is also available from the FCC.

As previously mentioned, the County of San Diego is preempted from discussing health effects from wireless telecommunication facilities. The FCC has issued a guide talking specifically about cell phone towers, and can be found at:

<http://www.fcc.gov/guides/human-exposure-rf-fields-guidelines-cellular-and-pcs-sites>.

In addition, general information about RF from the FCC can be found at:

<http://www.fcc.gov/encyclopedia/radio-frequency-safety>.

At the end of the above website there you will find answers to frequently asked questions including a link to a website that includes cell phone towers.

Kind Regards,

*Lauren Yzaguirre* -she/her

Lauren Yzaguirre, Land Use/Environmental Planner  
County of San Diego

Department of Planning and Development Services  
5510 Overland Ave, Suite 110 San Diego, CA 92123  
☎ 619-323-7021 | ✉ [Lauren.Yzaguirre@sdcounty.ca.gov](mailto:Lauren.Yzaguirre@sdcounty.ca.gov)

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**From:** Mitzi Merino <[merinomitzi1@gmail.com](mailto:merinomitzi1@gmail.com)>  
**Sent:** Friday, September 10, 2021 12:24 PM  
**To:** Yzaguirre, Lauren <[Lauren.Yzaguirre@sdcounty.ca.gov](mailto:Lauren.Yzaguirre@sdcounty.ca.gov)>  
**Subject:** Re: [External] Re: Notice of Public Hearing- American Legion Wireless

Thank you so much. I would like to talk with commissioners prior to the meeting if possible. The current research on the health impacts of cell towers needs to be taken into consideration and finding a location that is not proximate to homes is critical. As you know I care deeply about having safe living conditions for my family and all families in Borrego.

Can you please provide the contact information for Ann Jimenez.

With Appreciation,

Mitzi Merino

On Fri, Sep 10, 2021 at 12:15 PM Yzaguirre, Lauren <[Lauren.Yzaguirre@sdcounty.ca.gov](mailto:Lauren.Yzaguirre@sdcounty.ca.gov)> wrote:

Hi Mitzi,

We are forwarding your comments to the commissioners for review prior to the hearing.

The names of the commissioners can be found here:

<https://www.sandiegocounty.gov/content/sdc/pds/commission.html>

All correspondence for the commissioners goes through Ann Jimenez. I have forwarded your email to her.

Kind Regards,

*Lauren Yzaguirre* -she/her

Lauren Yzaguirre, Land Use/Environmental Planner  
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**From:** Mitzi Merino <[merinomitzi1@gmail.com](mailto:merinomitzi1@gmail.com)>  
**Sent:** Thursday, September 9, 2021 11:04 AM  
**To:** Yzaguirre, Lauren <[Lauren.Yzaguirre@sdcounty.ca.gov](mailto:Lauren.Yzaguirre@sdcounty.ca.gov)>

**Subject:** [External] Re: Notice of Public Hearing- American Legion Wireless

I am not sure that I will be able to rearrange my schedule with this short notice. I am an Area Superintendent in San Diego Unified and it is a very busy time of year with school reopening and COVID.

It is my hope that the Planning Commission understands the current research as it relates to health and safety. I would expect this Board to look into this matter as if their own family members health at risk. I know that Dr. Merino has shared the research and the current legal decisions related to cell towers and health impact.

The Merino family actively supports the health and well-being of people who live in San Diego...we are medical doctors, we are scientists who studied at UCSD and UCLA, we are leaders in our educational community.

I would like the names and numbers of voting members of the Planning Commission in the event I cannot make the meeting.

Additionally, Please forward this to the commission members in case I don't reach them before they vote.

Mitzi Merino  
Area 5 superintendent  
SDUSD

On Fri, Sep 3, 2021 at 9:54 AM Yzaguirre, Lauren <[Lauren.Yzaguirre@sdcounty.ca.gov](mailto:Lauren.Yzaguirre@sdcounty.ca.gov)> wrote:  
Good Morning,

The American Legion Wireless Facility Major Use Permit (PDS2020-MUP-20-008) will be presented to the Planning Commission for decision on September 17, 2021. There are two ways you can participate in the hearing: you can attend in person at the County Operations Center (COC), or you can participate by calling in using the phone number associated with the item – instructions for how to call in will be sent in a subsequent email later this week. If you wish to attend in-person, you will go to the COC Campus Chambers at [5520 Overland Avenue, San Diego, CA 92123](https://www.sdcounty.ca.gov/5520-Overland-Avenue).

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Kind Regards,

*-she/her*

*Lauren Yzaguirre*

Lauren Yzaguirre, Land Use/Environmental Planner

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**From:** [Yzaguirre, Lauren](#)  
**To:** [Mitzi Merino](#); [Susie Merino](#)  
**Cc:** [Jimenez, Ann](#)  
**Subject:** RE: [External] Re: Notice of Public Hearing- American Legion Wireless  
**Date:** Monday, September 13, 2021 7:33:23 AM

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Hi Mitzi,

As stated before, the County is preempted from regulating the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency (RF) emissions, if the facilities comply with the Federal Communications Commission's (FCC) regulations concerning RF emissions.

I will include your additional comment to the commissioners.

Let me know if you have any questions.

Kind Regards,

*Lauren Yzaguirre* -she/her

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**From:** Mitzi Merino <merinomitzi1@gmail.com>  
**Sent:** Saturday, September 11, 2021 10:13 AM  
**To:** Yzaguirre, Lauren <Lauren.Yzaguirre@sdcounty.ca.gov>; Susie Merino <57richsusie@sbcglobal.net>  
**Cc:** Jimenez, Ann <Ann.Jimenez@sdcounty.ca.gov>  
**Subject:** Re: [External] Re: Notice of Public Hearing- American Legion Wireless

Using guidance from 1996 regarding environmental impacts is illogical given the current research and the evolution of technology. The Commission should push back and demand the use of current research when making decisions that impact the human beings that live near such cell towers. As you know many Latino families are living in Borrego Springs, these families have a right to be protected from the environmental impacts and the . This decision matters and the Commission should act responsibly and protect the people of Borrego Springs.

On Fri, Sep 10, 2021 at 2:21 PM Yzaguirre, Lauren <[Lauren.Yzaguirre@sdcounty.ca.gov](mailto:Lauren.Yzaguirre@sdcounty.ca.gov)> wrote:

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