1.1 PUBLIC HEARING

MASTER APPLICATION (MA) NO. 19214 (SITE DEVELOPMENT PERMIT NO. 19099); PROPOSAL: A REQUEST TO CONSTRUCT A 70-FOOT WIRELESS TELECOMMUNICATION FACILITY (DESIGNED AS A EUCALPYTUS TREE) WITH ASSOCIATED EQUIPMENT ENCLOSURE PROPOSED TO BE LOCATED AT 5150 ETIWANDA AVENUE (APN: 159-221-005); APPLICANT: SMARTLINK LLC/ AT &T WIRELESS

Staff has determined that the project qualifies for an exemption per California Environmental Quality Act (CEQA) Guidelines Section 15303 (New Construction or Conversion of Small Structures).

RECOMMENDATION

Staff recommends that the Planning Director approve Site Development Permit No. 19099 subject to conditions of approval.

2.0 ADJOURNMENT

If you wish to speak, please complete a “SPEAKER IDENTIFICATION FORM” and give it to the Planning Director. The purpose of the public hearing is to allow interested parties to express their concerns. Please do not repeat information already given. If you have no additional information, but wish to be on record, simply give your name and address and state that you agree with the previous speaker(s).

In compliance with the Americans with Disabilities Act, if any accommodations are needed, please contact Grizelda Reed at (951) 332-6464 or e-mail at greed@jurupavalley.org. Request should be made at least 48 hours or as soon as possible prior to the scheduled meeting.
STAFF REPORT

DATE: MARCH 3, 2020
TO: THOMAS G. MERRELL, AICP, PLANNING DIRECTOR
BY: CHRIS MALLEC, ASSOCIATE PLANNER
SUBJECT: AGENDA ITEM NO. 1.1

MASTER APPLICATION (MA) NO. 19214 – SITE DEVELOPMENT PERMIT (SDP) NO. 19099

PROPOSAL: A REQUEST TO CONSTRUCT A 70-FOOT WIRELESS TELECOMMUNICATION FACILITY (DESIGNED AS A EUCALPYTUS TREE) WITH ASSOCIATED EQUIPMENT ENCLOSURE.

LOCATION: 5150 ETIWANDA AVENUE (APN: 159-221-005)

APPLICANT: SMARTLINK LLC/AT&T WIRELESS

RECOMMENDATION

Staff recommends that the Planning Director approve Site Development Permit No. 19099 subject to conditions of approval.

BACKGROUND

The Applicant submitted a Site Development Permit to propose the construction of a new disguised wireless communication facility in a C-1/C-P (General Commercial) zone. A public hearing is not required unless a property owner requests a public hearing pursuant to Section 9.275.050 (B) (1):

A notice shall be sent to all property owners within six hundred (600) feet of the parcel on which the disguised wireless communication facility would be located. If no property owner requests a public hearing on the application, then such a hearing shall not be required. If no property owner requests a public hearing on the application, then such a hearing shall not be required.

The Planning Department received a letter from the adjacent property owner requesting a public hearing. The letter is included as Attachment #3. The letter identifies areas of concern:

- CEQA determination
- Obstruction of views
- Screening of accessory ground-level equipment.

This staff report addresses all three areas of concern in further detail.

PROJECT DESCRIPTION

The project consists of the construction of a new 70-foot cellular tower, with a 400 square foot lease enclosure area for associated ground-mounted equipment. The equipment and cabinets will be enclosed and screened by a 6-foot high CMU block wall and generous landscaping. The equipment itself consists of cabinets, a generator and a battery pack.
The project site is located at 5150 Etiwanda Avenue, and is located north of Jurupa Road. The General Plan land use designation of the site is Commercial Retail (CR) and has a zoning designation of General Commercial (C-1/C-P). Table No. 1 summarizes the general project information. Exhibit 1 through 3 on the following pages provide additional context regarding the zoning and land use designations of the site and surrounding parcels.

The proposed facility is located on the southeastern portion of the property, and designed to appear as a large eucalyptus tree, with enough foliage to conceal the antenna arrays. The “trunk” will include bark-like finish, and coloring to match that of an actual eucalyptus tree. All antenna arrays and wiring equipment will be encased inside of the trunk and enclosure. The tower includes a total of 12 antenna panels, mounted at a height of 68 feet camouflaged with faux eucalyptus branches.

<table>
<thead>
<tr>
<th>TABLE 1: GENERAL PROJECT INFORMATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Area</td>
</tr>
<tr>
<td>General Plan Land Use Designation</td>
</tr>
<tr>
<td>Specific Plan</td>
</tr>
<tr>
<td>Zoning</td>
</tr>
<tr>
<td>Existing Land Use</td>
</tr>
</tbody>
</table>

EXHIBIT 1: SITE LOCATION MAP

Jurupa Rd.

Etiwanda Ave.
EXHIBIT 1: ZONING MAP

EXHIBIT 2: LAND USE MAP
ANALYSIS

Section 9.275.110 of the Jurupa Valley Municipal Code includes development standards for all wireless communications facilities. The following section analyzes the proposed facility with the required standards. In addition, specific conditions have been placed on the project to ensure the aesthetic quality of the facility, to encourage co-location of other facilities, and to prevent the proliferation of additional wireless communication facilities on the property.

1. **Area Disturbance** – Condition Nos. 7 through 9 have been specifically applied to minimize the area disturbance for the construction of a new wireless communication facility and the installation of ancillary equipment for the site.

2. **Fencing and Walls** – The project proposes a 6-foot CMU block wall around the equipment enclosure. The enclosure includes landscaping to screen the equipment cabinets within the lease area.

3. **Height** – The project complies with Section 9.275.110 of the Jurupa Valley Municipal Code, which stipulates a maximum height of 70 feet for non-residential zones. The proposed overall tower height is 70 feet.

4. **Landscaping** – The conceptual landscape plan includes groundcover and trees that both compliment the mono-eucalyptus design, and effectively screen the ground-level equipment enclosure. In addition, the Applicant has submitted a landscape estimate of cost for one year of maintenance.

5. **Lighting** – The project does not propose any outside lighting. In addition, the FAA nor the City’s Building and Safety Department do not require any marking or lighting for the project.

6. **Parking** – The project proposes access the site via a 12-foot wide access road from Etiwanda Avenue, and includes space for one vehicle, adjacent to the eastern property line.

7. **Power & Communication Lines** – There will not be any proposed above ground power or communication lines. If the project included any, they would have to be placed underground.

8. **Setbacks** – The code requires that these types of towers be setback from habitable dwellings a distance equal to be setback from a habitable dwelling 200% of facility height or setback from a property line 100% of facility height, whichever is greater. The criterion for this review is 200% of facility height, which will require a setback of 150 feet (70’ x 2 = 140’) from habitable dwelling. The closest habitable dwelling is approximately 163 feet and is compatible with the setback requirements of the Municipal Code.

9. **Supportive Facilities** – Condition No. 7 has been included that will require all equipment to be painted with neutral earth-toned colors which will blend with the surrounding setting.

SECOND DISTRICT DESIGN GUIDELINES

The City of Jurupa Valley adopted the County of Riverside Second District Design Guidelines. The design guidelines include provisions for all wireless communication facilities. The design features included the design guidelines intend to reduce visual impacts to surrounding properties to the maximum extent possible. Table 2 includes a summary of applicable design guidelines.
TABLE NO. 2 – SECOND DISTRICT DESIGN GUIDELINES

<table>
<thead>
<tr>
<th>STANDARDS</th>
<th>DOES THE PROJECT COMPLY WITH THE STANDARDS?</th>
<th>SUPPORTING INFORMATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monopole antenna array shall be “stealthed” in a manner which is acceptable to the site.</td>
<td>Yes</td>
<td>The project complies with this provision of the design guidelines, by disguising the cellular equipment with a mono-eucalyptus tower.</td>
</tr>
<tr>
<td>Electronic equipment shelter shall be on a concrete slab and painted in earth-toned colours, which blend together.</td>
<td>Yes</td>
<td>The project complies with this provision of the design guidelines, and is included as a condition of approval.</td>
</tr>
<tr>
<td>Facility shall be enclosed by a minimum 6-foot decorative block wall with landscaping.</td>
<td>Yes</td>
<td>The 6-foot CMU block wall and landscaping effectively screen the ground-level equipment.</td>
</tr>
</tbody>
</table>

REQUIRED FINDINGS FOR DISGUISED WIRELESS COMMUNICATION FACILITIES

Section 9.275.050 of the Jurupa Valley Municipal Code includes requirements for approval for disguised wireless communication facilities. Staff believes that the required findings for approval can be made for the reasons discussed below:

1. The facility is designed and sited so that it is minimally visually intrusive.

   The facility is sited towards the rear of corner of the property, roughly 250 feet from Etiwanda Avenue, and complies with the code requirement for setbacks from the nearest dwelling, which in this case is more than 150 feet away. Additionally, while there is no code requirement for separation distance from another wireless communication facility, the proposed facility will be roughly 100 feet away from another wireless facility (mono-palm) the north, as to not create a cluster of such facilities.

   The proposed design includes a faux trunk that hides the cell tower’s internal wiring and cables, while faux eucalyptus branches provide wide coverage to effectively screen the exterior-mounted panel antennae. Additionally at the ground level, substantial screening through walls and landscaping, screen the equipment enclosure from adjacent properties. While there are no eucalyptus trees in the immediate vicinity, the proposed landscaping augments the natural landscaping in the area. Therefore, staff determines the facility to be minimally visually intrusive.

2. Supporting equipment is located entirely within an equipment enclosure that is architecturally compatible with the surrounding area or is screened from view.

   The naturally colored equipment will blend in with the color palette of the mono-eucalyptus. In addition, with the construction of the block wall enclosure and planting of the landscaping along the perimeter of the equipment enclosure, will both adequately screen the equipment enclosure from view, and supplement the
existing landscape of the surrounding properties.

3. The application has met the processing requirements set forth in this chapter.

   All processing regulations pertaining to site development permits, including public noticing, have been satisfied.

4. The application has met the location and development standards set forth in this chapter.

   The project complies with setbacks and overall height, and further satisfies all development standards listed under Chapter 9.275. (Wireless Communication Facilities).

5. The application has met the requirements for approval set forth in Section 9.240.330 (Site Development Permits.)

   The application satisfies the approval requirements, in addition to the findings for Site Development Permits, further described below.

REQUIRED FINDINGS FOR SITE DEVELOPMENT PERMITS

Section 9.240.330 of the Jurupa Valley Municipal Code includes requirements for approval for all approved Site Development Permits. Staff believes that the required findings for approval can be made for the reasons discussed below:

1. The proposed use must conform to all the requirements of the Jurupa Valley General Plan and with all applicable requirements of state law and the ordinances of the city.

   Consistency with the General Plan: The Commercial Retail (CR) land use designation is consistent with the underlying zoning of General Commercial (C-1/C-P), which allows for a disguised wireless communication facility with an approved Site Development Permit. In addition, the design and improvements of the proposed mono-eucalyptus tower and equipment enclosure are consistent with the Jurupa Valley General Plan that requires communication facilities to be architecturally compatible with surrounding properties.

   Consistency with The Municipal Code: With the recommended conditions of approval for the Site Development Permit, the placement of the mono-eucalyptus tower and equipment enclosure are consistent with the current standards of the Municipal Code in that any visual effects have been minimized with the facility’s design, and that all development standards have been met.

2. The overall development of the land shall be designed for the protection of the public health, safety and general welfare; to conform to the logical development of the land and to be compatible with the present and future logical development of the surrounding property. The plan shall consider the location and need for dedication and improvement of necessary streets and sidewalks, including the avoidance of traffic congestion; and shall take into account topographical and drainage conditions, including the need for dedication and improvements of necessary structures as a part thereof.

   The project is required to meet all Building Codes and Engineering Department provisions that will ensure the public health, safety, and general welfare of the
community. Given the facility’s siting in the rear corner of a vacant parcel, instead of along the frontage, the project represents logical development of the land. In addition, it is and will be compatible with present and future logical development of the remaining vacant and surrounding properties, given its design features and landscaping.

3. All Site Development Permits permit the construction of more than one structure on a single legally divided parcel shall, in addition to all other requirements, be subject to a condition which prohibits the sale of any existing or subsequently constructed structures on the parcel until the parcel is divided and a final map recorded in accordance with Title 7 in such a manner that each building is located on a separate legally divided parcel.

Condition No. 22 has been applied to the project to address this requirement.

ENVIRONMENTAL REVIEW
Staff has determined that the project qualifies for an exemption per California Environmental Quality Act (CEQA) Guidelines Section 15303 (New Construction or Conversion of Small Structures).

NOTIFICATION
Pursuant to Section 9.240.250 (Permit Applications) a notice of hearing was sent to all owners of real property located within one thousand (1,000) feet of the exterior boundaries of the subject property. The public notice for the project was sent on February 19, 2020, and was also included as a legal notice in the Press Enterprise newspaper on February 21, 2020. As of the date of this staff report, no comments have been received.

CONCLUSION
The project meets the requirements with the approved Site Development Permit and conditions of approval. The wireless communication facility is consistent with the Jurupa Valley General Plan and the Jurupa Valley Municipal Code. Based upon the findings and conclusions set forth above, staff recommends approval of Master Application No. 19214 (SDP19099) subject to conditions of approval.

Prepared by: Chris Mallec
Associate Planner

Reviewed by: Annette Tam Chyan
Principal Planner

ATTACHMENTS
1. Exhibit A - Recommended Conditions of Approval
2. Exhibit B - Architectural Plans
3. Exhibit C - Public Hearing Request (dated: 01-16-2020)
ATTACHMENT 1
CONDITIONS OF APPROVAL
MA19214 (SDP19099)

1. **PROJECT APPROVAL.** Site Development Permit (SDP) No. 19099 (MA19214) is for the approval of the construction of a new 70-foot wireless telecommunication facility disguised as a eucalyptus tree (mono-eucalyptus) and associated ground mounted equipment enclosed within a 400 square-foot lease area. Project is approved to be constructed at 5150 Etiwanda Avenue.

2. **INDEMNIFY CITY.** The applicant, the property owner or other holder of the right to the development entitlement(s) or permit(s) approved by the City for the project, if different from the applicant (herein, collectively, the “Indemnitor”), shall indemnify, defend, and hold harmless the City of Jurupa Valley and its elected city council, its appointed boards, commissions, and committees, and its officials, employees, and agents (herein, collectively, the “Indemnitees”) from and against any and all claims, liabilities, losses, fines, penalties, and expenses, including without limitation litigation expenses and attorney’s fees, arising out of either (i) the City’s approval of the project, including without limitation any judicial or administrative proceeding initiated or maintained by any person or entity challenging the validity or enforceability of any City permit or approval relating to the project, any condition of approval imposed by City on such permit or approval, and any finding or determination made and any other action taken by any of the Indemnitees in conjunction with such permit or approval, including without limitation any action taken pursuant to the California Environmental Quality Act (“CEQA”), or (ii) the acts, omissions, or operations of the Indemnitor and the directors, officers, members, partners, employees, agents, contractors, and subcontractors of each person or entity comprising the Indemnitor with respect to the ownership, planning, design, construction, and maintenance of the project and the property for which the project is being approved. The City shall notify the Indemnitor of any claim, lawsuit, or other judicial or administrative proceeding (herein, an “Action”) within the scope of this indemnity obligation and request that the Indemnitor defend such Action with legal counsel reasonably satisfactory to the City. If the Indemnitor fails to so defend the Action, the City shall have the right but not the obligation to do so and, if it does, the Indemnitor shall promptly pay the City’s full cost thereof. Notwithstanding the foregoing, the indemnity obligation under clause (ii) of the first sentence of this condition shall not apply to the extent the claim arises out of the willful misconduct or the sole active negligence of the City.

3. **CONSENT TO CONDITIONS.** Within thirty (30) days after project approval, the owner or designee shall submit written consent to the required conditions of approval to the Planning Director or designee.

4. **FEES.** The approval of MA19214 (SDP19099) shall not become effective until all planning fees have been paid in full.

5. **CONFORMANCE TO EXHIBITS.** The project shall be in conformance to the approved plans (listed below) with any changes in accordance to these conditions of approval:

   - Architectural Set of Plans
     - Sheet No. T-1: Title Sheet (Dated: 11/8/2019)
     - Sheet No. LS-1: Topographic Survey (Dated: 9/23/2019)
6. **INCORPORATE CONDITIONS.** Prior to the issuance of any building permit, the owner or designee shall include within the first four pages of the working drawings a list of all conditions of approval imposed by the project’s final approval.

7. **APPROVAL PERIOD.** This approval shall be used within two (2) years of approval date; otherwise, it shall become null and void and of no effect whatsoever. By use is meant the beginning of substantial construction contemplated by this approval within a two (2) year period which is thereafter diligently pursued to completion or of the actual occupancy of existing buildings or land under the terms of the authorized use. Prior to the expiration of the two-year period, the permittee may request a one (1) year extension of time request in which to use this plot plan. A maximum of two (2) one-year extension of time requests shall be permitted. Should the time period established by any of the extension of time requests lapse, or should all two (2) one-year extensions be obtained and no substantial construction or use of this plot plan be initiated within four (4) years of the effective date of the issuance of this site development permit, this site development permit shall become null and void.

8. **EQUIPMENT AND CABINETS COLOR.** In accordance with Section 9.275.110 of the Jurupa Valley Municipal Code, and for the life of the permit, all finishes and surface treatment of the wireless communication facility shall be neutral in color with a matte finish.

9. **PANEL ANTENNA INSTALLATION.** All antennas and antenna arrays shall be painted green to match the eucalyptus foliage. Enough foliage on the tower shall be provided to shield the antennae from public view.

10. **SPLIT FACE BLOCK WALL ENCLOSURE.** The applicant shall secure the lease area with installation of six (6) foot split face block wall enclosure. The wall enclosure shall conform to the plans on file as part of this application, and also have an anti-graffiti coating.

11. **PLACEMENT OF MONO-EUCALYPTUS.** The placement of the mono-eucalyptus pole shall not interfere with the existing infrastructure and improvements at this location. The pole shall be placed at the location noted in the approved exhibits.

12. **LANDSCAPE MAINTENANCE.** All landscaped areas shall be maintained as approved on the final landscape plans in an orderly, attractive and healthy condition. This shall include proper pruning, mowing of turf areas, weeding, removal of litter, fertilization, replacement of plants when necessary, and the regular application of appropriate quantities of water to all landscaped areas. Irrigation systems shall be maintained as approved on the final landscape plans in proper operating condition. Waterline breaks, head/emitter ruptures, overspray or runoff conditions and other irrigation system failures shall be repaired immediately. The applicant shall maintain canopy trees in a manner that they provide the required shade coverage and encourages the canopy to grow to provide shade. Avoid topping trees or pruning the trees in a manner that the trees do not achieve mature height and form.
13. **ON-SITE LANDSCAPING.** Prior to the issuance of any Building permit, the applicant shall submit a “Professional Services (PROS)” application (with current fees) and the following items for Planning Director review and approval:

   a) The total cost estimate of landscaping, irrigation, and one-year of maintenance.

   b) Completed City Faithful Performance Bond for Landscape Improvements form with original signatures after the City provides the applicant with the required amount of bond.

   c) Completed City Landscape Agreement with original signatures after the City has reviewed the submitted cost estimate.

   d) Final landscape, maintenance, planting, and irrigation plans and digital copies (CD format).

**Prior to the issuance of the first Certificate of Occupancy for MA19214 (SDP19099), the following events shall be satisfied in the order it is listed:**

1. **Substantial Conformance Letter:** The Landscape Architect of Record shall conduct an inspection and submit a letter to the City of Jurupa Valley Planning Department once the landscape architect has deemed the installation is in conformance to the approved plans.

2. **City Inspection:** The City landscape architect shall conduct an inspection of the installation to confirm the landscape and irrigation plan was constructed in accordance to the approved plans.

14. **PROJECT SITE MAINTENANCE.** The project site shall be maintained in good condition. Graffiti shall be removed from any structures within one week of observation and/or notification. The project site shall be kept free of weeds, obtrusive vegetation, or combustible materials, for fire prevention purposes.

15. **CO-LOCATION.** The applicant/operator of the facility shall agree to allow the co-location of equipment of other wireless telecommunications providers at this site when applications are received by the City and it is considered feasible, subject to an agreement between the applicant/operator, the other proposed wireless telecommunications provider, and the property owner.

16. **SIGNAGE REQUIREMENT.** Prior to final inspection of any building permit, the permit holder, developer or successor-in-interest shall install a sign no smaller than 12 inches by 12 inches upon an exterior wall or fence that surrounds the lease area that provides the following contact information:

   a. Address of wireless communications facility and any internal site identification number or code;

   b. Name(s) of company who operates the wireless communications facility;

   c. Full company address, including mailing address and division name that will address problems;

   d. Telephone number of wireless communications facility company. If a co-located facility (addition of antennas and/or equipment shelters or cabinets) is added to the existing facility, an additional sign, including the above described information, shall
be installed on said shelter or cabinet stating the name of the company who operates the primary wireless communications facility and the name of the company that operates the co-located facility.

17. **ABANDONED SITES.** In accordance with Section 9.275.120 of the Jurupa Valley Municipal Code, and for the life of the permit, the following requirements shall apply:

   a. Any wireless communication facility that is not continuously operated for a period of sixty (60) days shall be conclusively deemed abandoned.

   b. The telecommunications service provider shall have sixty (60) days after a notice of abandonment is mailed by the city to make the facility operable, replace the facility with an operable facility, or remove the facility.

   c. Within ninety (90) days of the date the notice of abandonment is mailed, the city may remove the wireless communication facility at the underlying property owner's expense and shall place a lien on the property for the cost of such removal.

   d. The owner of the property shall, within one hundred and twenty (120) days of the city's removal, return the site to its approximate natural condition. If the owner fails to do so, the city can restore and revegetate the site at the property owner's expense.

If there are two (2) or more users of a single facility, the facility shall not be deemed abandoned until all users abandon it.

18. **CEASED OPERATIONS.** In the event the use hereby permitted ceases operation for a period of one (1) year or more, this approval shall become null and void.

19. **LEASE AGREEMENT.** Prior to final building permit inspection, the applicant shall submit a fully executed copy of the lease entered into with the owner of the underlying property. The agreement shall include a provision indicating that the telecommunications service provider, or its successors and assigns, shall remove the wireless communication facility completely upon its abandonment. The lease agreement shall also include a provision notifying the property owner that if the telecommunications service provider does not completely remove a facility upon its abandonment, the city may remove the facility at the property owner's expense and lien the property for the cost of such removal. Proprietary information in the lease may be redacted.

20. **SITE INSPECTION.** Prior to final building permit inspection, the Planning Department shall inspect and determine that the conditions have been met; the basis of the inspection shall be on whether the wireless communication facility is in accordance with the approved plans.

21. **FAA & FCC COMPLIANCE.** The applicant shall comply with the requirements of the Federal Aviation Administration (FAA) and Federal Communication Commission (FCC).

22. **MULTIPLE SPECIES HABITAT CONSERVATION PLAN MITIGATION (MSHCP) FEE (Title 3 of the Municipal Code).** The applicant shall pay any owed fees pursuant to Title 3 of the Municipal Code. In order for the agency to determine that the project qualifies for any exemptions for any of the subject fees, the applicant needs to submit sufficient evidence to the City to demonstrate that it qualifies for the exemption.

23. **CAUSES FOR REVOCATION.** In the event the use hereby permitted under this permit, a) is found to be in violation of the terms and conditions of this permit, b) is found to have been obtained by fraud or perjured testimony, or c) is found to be detrimental to the public health, safety or general welfare, or is a public nuisance, this permit shall be subject to revocation procedures.
The Applicant hereby agrees that these Conditions of Approval are valid and lawful and binding on the Applicant, and its successors and assigns, and agrees to the Conditions of Approval.

Applicant’s name (Print Form): ________________________________

Applicant’s name (Signature): __________________________________

Date: ________________
From: "John A. Henning, Jr." <jhenning@planninglawgroup.com>
Date: Thursday, January 16, 2020 at 10:11 AM
To: Roberto Gonzalez <rgonzalez@jurupavalley.org>
CC: Tom Merrell <tmerrell@jurupavalley.org>, Vicki Wasko <vwasko@jurupavalley.org>
Subject: Case No. MA19214 (SDP19099) / 5150 Etiwanda Avenue

To: Roberto Gonzalez, Assistant Planner

Mr. Gonzalez:

I represent SBA 2012 TC Assets, LLC, which owns and operates a telecommunications tower at 5140 Etiwanda Avenue, the property immediately adjacent to the site of the proposed wireless tower at 5150 Etiwanda Avenue (your Case No. MA19214 (SDP19099). I have been unable to reach you by phone for the last several days, so I am writing to you and copying the Planning Director and the City Clerk.

My client is in receipt of your December 18, 2019 Invitation for Public Comment. My client is directly affected by this project and requests a public hearing pursuant to section 9.275.050 of the Jurupa Valley Municipal Code.

It appears that under this code section the City classifies such applications as a site development permit not subject to the California Environmental Quality Act (CEQA). In fact, CEQA does apply to this project regardless of whether a public hearing is requested.

Further, your notice indicates that the project is “categorically exempt from CEQA per Section 15303 (New Construction or Conversion of Small Structures).” However, a 70-foot tall tower in a prominent location, and proximate to an existing 58-foot tall tower, does not qualify as a “small structure” for purposes of the section 15303 exemption. Moreover, even if it did qualify as a “small structure,” there would be unusual circumstances precluding the use of the exemption, including the proximity of the existing tower, which results in cumulative aesthetic impacts under CEQA.

In addition to requiring full CEQA review, the project also does not comply with JVMC section 9.275.050.C, which prohibits the approval of a “disguised wireless communications facility” unless the following findings can be made:

“(1) The facility is designed and sited so that it is minimally visually intrusive;” and

“(2) Supporting equipment is located entirely within an equipment enclosure that is architecturally compatible with the surrounding area or is screened from view.”

For purposes of finding (1), above, the facility is not “minimally visually intrusive.” The eucalyptus tree design is wholly inconsistent with the native vegetation on the parcel and on immediately surrounding parcels, which consists mainly of various types of palm trees. Further, the 70-foot height – which is the equivalent of a 7-story building – is about twice as tall as the tallest trees on the surrounding parcels.

My client’s telecommunication facility on the adjacent parcel at 5150 Etiwanda Avenue – disguised as a palm tree – is just 58 feet tall, which is 12 feet shorter than the proposed new tower. Further, the placement of a second, 70-foot tall telecommunications tower on the adjacent parcel (and less than 10C feet away from the existing tower) would create a concentration of such facilities and thereby increase the visual intrusiveness of the new tower. Any new tower should, at a minimum, be placed at a
significant distance from the existing tower, such that the two towers are not visible from view perspectives on Etiwanda Avenue and surrounding private properties.

For purposes of finding (2), above, the facility is neither (a) “located within an equipment enclosure that is architecturally compatible with the surrounding area” nor (b) “screened from view”. For purposes of subfinding (a), the facility is not located within any equipment enclosure at all. Instead, the tower itself, and the telecommunications equipment at the apex of the tower, are entirely unenclosed and are merely “disguised” as a eucalyptus tree. (In fact, the telecommunications equipment is readily visible, even with the disguised eucalyptus tree design. Further, even if the disguised eucalyptus tree design could itself be deemed an “equipment enclosure,” it is not “architecturally compatible with the surrounding area,” for the reasons described above – i.e., it is too tall and is wholly inconsistent with the native vegetation on the parcel and on immediately surrounding parcels. For purposes of subfinding (b), the facility is also “not screened from view,” such as by another structure or by trees. Rather, the entire facility – and especially the top 50 feet of the 70-foot tall structure – is in open view on a property that consists of bare land, a few structures less than 20 feet tall, and a single tree less than 30 feet tall.

We would like to explain these and other issues in the course of a duly noticed public hearing. We ask that you forego making any decision before holding such a hearing.

Should you have any questions, please call me.

Finally, we request that you confirm at your earliest convenience that you have received this written request.

Best Regards,

John Henning

cc: Thomas Merrell, Planning Director
Victoria Wasko, City Clerk

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