

CITY OF PETALUMA  
STATE OF CALIFORNIA

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In the Matter of the Application of:

**Verizon Wireless**

**MEMORANDUM  
IN OPPOSITION**

Application for a Conditional Use Permit

Premises: 611 Western Avenue  
Petaluma, CA

A.P.N: 008-032-009

Location #: 387975

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**MEMORANDUM IN OPPOSITION**

Respectfully Submitted,

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## Preliminary Statement

Verizon Wireless (hereinafter "*Verizon*") has filed an application for a Conditional Use Permit, seeking to install sixteen (16) wireless facility antennas and associated equipment on the Historic Petaluma Creamery Building. This Memorandum is submitted in opposition to *Verizon's* application.

As set forth hereinbelow, *Verizon's* application should be denied because:

- (a) *Verizon* has failed to establish that granting the application would be consistent with smart planning requirements under the Petaluma Zoning Code and the Petaluma Municipal Code;
- (b) granting the application would violate the Petaluma Zoning Code, Petaluma Municipal Code and the legislative intents of both;
- (c) the applicant has failed to establish that the proposed facility: (i) is actually necessary for the provision of personal wireless services within the City, or (ii) that it is necessary that the facility be built at the proposed site.
- (d) there are far less intrusive alternative locations where the desired facility could be built, in greater conformity with the requirements of the City's Zoning Code and Municipal Code;
- (e) the irresponsible placement, with lower screening, would inflict upon the nearby homes and community the precise types of adverse impacts which the City of Petaluma's Zoning and Municipal Codes were enacted to prevent;

*Verizon's* application should be denied because granting the application would violate the *requirements* of the Petaluma Zoning Code and Petaluma Municipal Code as well as the *legislative intent* behind the requirements set forth in both.

As is explicitly set forth within its text, the very purpose for which the City of Petaluma enacted its Zoning Code was to, among other things, "protect and promote the public health, safety, comfort, convenience, prosperity, and general welfare of residents, and businesses in the



City."<sup>1</sup>

Moreover, Chapter 14.44 of the Petaluma Municipal Code deals specifically with antennas and telecommunications facilities. Specifically, Section §14.44.010 sets forth that the regulations within the section are intended, among other things, to (i) "protect and promote public health, safety, community welfare and the aesthetic quality of Petaluma as set forth within the goals, objectives and policies of the Petaluma general plan"; (ii) "encouraging managed development of telecommunications infrastructure to insure Petaluma's role in the evolution of technology"; and (iii) "provide a public forum to insure a balance between public concerns and private interest in establishing telecommunication and related facilities."

As such, we respectfully submit that *Verizon's* application for the proposed wireless facility be denied and denied in a manner that does not violate the Telecommunications Act of 1996.

#### **POINT I**

*Verizon* Has Failed to Proffer Probative Evidence Sufficient to Establish a Need for the Proposed Wireless Facility at the Location Proposed, or That the Granting of its Application Would be Consistent With the Smart Planning Requirements of the City Zoning and Municipal Codes

The apparent intent behind the provisions of the City of Petaluma's Zoning and Municipal Codes, specifically Chapter 14.44 of the Municipal Code which deals with Wireless Telecommunication Facilities, was to promote "smart planning" of wireless infrastructure within the City.

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<sup>1</sup> See Section §1.010 of the City of Petaluma Zoning Code

Smart planning involves the adoption and enforcement of zoning provisions that require wireless telecommunication facilities be *strategically placed* so that they minimize the number of facilities needed while saturating the City with complete wireless coverage (i.e., they leave no gaps in wireless service) while contemporaneously avoiding any unnecessary adverse aesthetic or other impacts upon homes and communities situated in close proximity to such towers.

Entirely consistent with that intent, Section §14.44.010 states that "[t]he purpose and intent of this chapter is to provide a uniform and comprehensive set of standards for the development of telecommunication facilities and installation of antennas;" "encouraging managed development" and "to provide a public forum to insure a balance between public concerns and private interest in establishing telecommunication and related facilities."

To enable them to determine if a proposed wireless facility would be consistent with smart planning requirements, sophisticated zoning and planning boards require site developers to provide direct evidentiary proof of:

- (a) the precise locations, size, and extent of any geographic gaps in personal wireless services that are being provided by a specifically-identified wireless carrier, which provides personal wireless services within the respective jurisdiction and
- (b) the precise locations, size, and extent of any geographic areas within which that identified wireless carrier suffers from a capacity deficiency in its coverage.

The reason that local zoning boards invariably require such information is that without it, the boards are incapable of knowing: (a) if, and to what extent a proposed facility will remedy any actual gaps or deficiencies which may exist, and (b) if the proposed placement is in such a poor location that it would all but require that more facilities be built because the proposed facility did not actually cover the gaps in service which actually existed, thereby causing an unnecessary redundancy in wireless facilities within the City.

In the present case, *Verizon* has wholly failed to provide any hard data to establish that the proposed placement of its facility would, in any way, be consistent with the smart planning provisions. By virtue of same, it has failed to provide actual probative evidence to establish: (a) the *actual location of gaps* (or deficient capacity locations) in personal wireless services within the City, and (b) why or how their proposed facility would be the best and/or least intrusive means of remedying those gaps. Moreover, as will be further discussed below, *Verizon* failed to present any hard data and has failed to present any useful data at all.

A. *Verizon* Has Failed to Submit Probative Evidence to Establish the Need for The Proposed Wireless Facility at the Location Proposed

(i) The Applicable Evidentiary Standard

The United States Court of Appeals for the Ninth Circuit has determined that an applicant must prove that (1) there is a significant gap in service coverage and (2) there are not feasibly less intrusive alternative facilities or site locations. *See Sprint PCS Assets, L.L.C. v. City of Palos Verdes Estates*, 583 F.3d 716, 726 (9th Cir. 2009).

(ii) *Verizon* Has Failed To Meet Its Burdens

It is beyond argument that *Verizon* has failed to establish to meet its burdens of proving: (a) that there is a significant gap in service coverage, (b) that there is no feasible less intrusive alternative location and (c) that denial of its applications would constitute a "prohibition of personal wireless services" within the meaning of 47 U.S.C.A. §332(7)(B)(i)(II).

Glaringly absent from *Verizon's* application is any "*hard data*," which could easily be submitted by the applicant, as *probative evidence* to establish that: (a) there is an actual Public Necessity for the facility being proposed, which (b) not only necessitates the installation of a new wireless facility, but (c) requires it to be built at the specifically chosen location.

Consistent with such, Section §24.030(G)(5) of the Petaluma Zoning Code requires the Commission to determine "[t]he degree to which the location of the particular use in the particular location can be considered a matter of public convenience and necessity."

Here, *Verizon* has failed to prove that the proposed location is the best possible location to remedy whatever gap in personal wireless service it is claiming exists. Thus, the Commission cannot reasonably establish whether or not the proposed location is a matter of public convenience or necessity. Moreover, *Verizon* has not set forth any alternative locations which may be better suited for both the needs of *Verizon* and the needs of the community.

Recently, both the FCC and the California Public Utilities Commission have recognized the absolute need for hard data rather than the commonly submitted propagation maps which can be easily manipulated to create over-exaggeration in need and significant gaps.

On July 17, 2020 the FCC noted on page 44 of its proposed order FCC-20-94 that "[i]n this section, we propose requiring mobile providers to submit a statistically valid sample of on-the-ground data (i.e., both mobile and stationary drive-test data) as an additional method to verify mobile providers' coverage maps."

Further on page 45 the FCC states that:

The Mobility Fund Phase II Investigation Staff Report, however, found that drive testing can play an important role in auditing, verifying, and investigating the accuracy of mobile broadband coverage maps submitted to the Commission. The Mobility Fund Phase II Investigation Staff Report recommended that the Commission require providers to "submit sufficient actual speed test data sampling that verifies the accuracy of the propagation model used to generate the coverage maps. Actual speed test data is critical to validating the models used to generate the maps."

On page 45 of the FCC order it notes that California Public Utilities Commission has concluded that "drive tests are the most effective measure of actual mobile broadband service speeds."

California PUC has additionally stated that "the data and mapping outputs of propagation based models will not result in accurate representation of actual wireless coverage" and that based on its experience "drive tests are required to capture fully accurate data for mobile wireless service areas."<sup>2</sup>

(iii) Hard Data and the Lack Thereof

The most accurate and least expensive evidence used to establish the location, size, and extent of both *gaps* in personal wireless services and areas suffering from *capacity deficiencies* are two specific forms of *hard data*, which consist of: (a) dropped call records and (b) actual drive test data.

Unlike "expert reports," RF modeling and propagation maps, all of which are most often manipulated to reflect whatever the preparer wants them to show, *hard data* is straightforward and less likely to be subject to manipulation, unintentional error, or inaccuracy.

While *Verizon* has not submitted and Drive Test Data that City has hired Columbia Telecommunications Corporation as an independent telecommunications consulting firm. It is however important to note that the burden is on *Verizon* to demonstrate to the City that it needs the proposed facility to remedy a significant gap in personal wireless service, it is not the City's burden. The City acts as the final arbiter and has the sole authority to determine what weight to give to all of the evidence and to determine whether or not *Verizon* has satisfied its burden.

Columbia Telecommunications Corporation concluded that "[t]he current Verizon network provides reliable in-vehicle coverage for traditional voice, text messaging and email services throughout the entire area of the testing we conducted."<sup>3</sup> Additionally the report

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<sup>2</sup> <https://arstechnica.com/tech-policy/2020/08/att-t-mobile-fight-fcc-plan-to-test-whether-they-lie-about-cell-coverage/>

<sup>3</sup> See page 3 of the ctc technology & energy Review of Verizon Coverage.

concludes that "Download/upload throughput data transmission rate measurements confirm that the download links operate at or near full utilization..."<sup>4</sup> Based upon the findings in the report it appears that Verizon's service coverage in the area of the proposed site is not experiencing a significant gap in coverage.

#### Drive Test Data

Actual drive test data does not encompass and does not typically involve the type of manipulation that is almost uniformly found in "computer modeling," the creation of hypothetical propagation maps, or "expert interpretations" of actual data, all of which are so easily manipulated, that they are essentially rendered worthless as a form of probative evidence.

To obtain drive test data, all that is required is the performance of a drive test. This involves attaching a recording device to a cell phone and driving through any given area to test for wireless service gaps. The device records wireless signal strength every few milliseconds so that in a two-hour drive test, the device records several hundred thousand recorded signal strengths, which collectively depict a complete and accurate record of the existence, or lack, of any significant gap in wireless service.

Hard drive test data consists of the actual records of a carrier's wireless signal's actual recorded strengths at precise geographic locations.

#### Dropped Call Record

Dropped call records are generated by a carrier's computer systems. They are typically extremely accurate because they are generated by a computer that already possesses all of the data pertaining to dropped calls, including the number, date, time, and location of all dropped calls suffered by a wireless carrier at any geographic location, and for any chronological period.

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<sup>4</sup> Id.

With the clicks of a few keystrokes, each carrier's system can printout a precise record of all dropped calls for any period of time, at any geographic location, and the likelihood that someone would enter false data into a carrier's computer system to materially alter that information is highly unlikely.

As is reflected in the record in this case, *Verizon* has not provided either of these forms of *hard data* as probative evidence.

Instead, *Verizon* has provided only its own vague coverage maps depicting the alleged existing and potential coverage. A simple review of the map submissions from *Verizon* reflects that they contain no hard data whatsoever.

The maps presented by *Verizon* are not actually based on any hard data recorded from any actual drive test, simply because no such drive test was conducted. Concomitantly, the maps do not possess any probative value in establishing: (a) the existence of any significant gap in personal wireless service, or any capacity deficiency, much less (b) the location and geographic size of any actual gap in service or area suffering from a capacity deficiency.

Without providing a shred of hard data to support the same, and after manipulating the actual data, *Verizon* arrived at what was undoubtedly their pre-determined conclusion that *Verizon* "needs" to have this proposed wireless facility to provide reliable wireless services within the City.

Moreover, as is stated above the United States Court of Appeals for the Ninth Circuit has set forth that applicants must prove there is a significant gap in personal wireless coverage. *See Sprint PCS Assets, L.L.C. v. City of Palos Verdes Estates*, 583 F.3d 716, 726 (9th Cir. 2009). Here, *Verizon's* goal is not even to remedy a significant gap in coverage. Rather, *Verizon's* goal is: (i) "to improve communications service to residences, businesses, public services, and area

travelers in Petaluma, California" and (ii) "to improve coverage for both existing and potential customers."<sup>5</sup>

*Verizon* states that the proposed facility is for nothing more than to improve service for existing and potential clients." Improving service does not meet the standard set forth by the Ninth Circuit and based on *Verizon's* stated goals it is clear that no significant gap in service coverage needs to be remedied.

On Page 3 of the Project Support Statement by Verizon Wireless, *Verizon* attempts to comply with the Ninth Circuit requirements by claiming capacity deficiencies. Specifically, *Verizon* states that "[w]hile more sites provide a mixture of both coverage and capacity, the City of Petaluma needs an additional telecommunications site primarily due to capacity deficiencies."<sup>6</sup> However, claiming capacity deficiencies is not enough to meet the significant gap in coverage standard and more egregious *Verizon* does not set forth any evidence or explanation of what alleged capacity deficiencies even exist.

On Page 4 of the same document *Verizon* does mention an alleged gap in coverage however, as stated above the only evidence of the alleged gap in coverage that *Verizon* provides are vague and likely erroneous coverage maps. The maps provided set forth no explanation or data as to how they were created or how *Verizon* reached such conclusions. It would be improper and irresponsible for the Commission to rely on these maps as proof of any alleged gap in coverage. Further, as also stated on page 4 of the Project Support Statement, *Verizon* acknowledges some small areas of "poor quality" coverage but does not point out any significant gap in coverage as the Ninth Circuit requires.

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<sup>5</sup> See page 1 of the Project Support Statement by Verizon Wireless.

<sup>6</sup> *Id.* at page 3.



Upon information and belief it appears that the City has acknowledged the fact that the evidence provided by *Verizon* is insufficient as it has requested supplemental information on the existing/proposed coverage maps, existing and projected Best Server Map plots and, amongst other things, has asked *Verizon* to identify the analytical modeling algorithm employed to prepare the coverage maps. See Deputy Planning Manager, Brittany Bendix's November 10, 2020 letter to Maria Kim.

Additionally, *Verizon* has failed to provide any meaningful alternative locations. Within Deputy Planning Manager, Brittany Bendix's November 10, 2020 letter she requests "supplemental information supporting the need for the proposed site to address capacity issues that consider all existing *Verizon* sites serving the service area proposed for the Creamery site."

*Verizon* states that there are no available collocation opportunities or alternative sites but gives absolutely no evidence or data to prove how it reached such conclusions. For example, *Verizon* dismisses three locations, the Moose Lodge, Elim Lutheran Church and First Presbyterian Church as alternative locations because it claims the buildings would need to be substantially structurally modified in height to cover the alleged gap in coverage. However, *Verizon* submits only these vague conclusory statements with no data to support them.

Further, *Verizon* dismisses the new tower location on Dana Street as neither feasible nor a lesser intrusive alternative but again without any data or evidence.

B. *Verizon's* Expert's Analysis Regarding *Verizon's* Wireless Coverage is Contradicted By *Verizon's* Own Actual Coverage Data

As is a matter of public record, *Verizon* maintains an internet website at the internet domain address of <http://www.verizonwireless.com>.

In conjunction with its ownership and operation of that website, *Verizon*

contemporaneously maintains a database that contains geographic data points that cumulatively form a geographic inventory of *Verizon's actual current* coverage for its wireless services.

As maintained and operated by *Verizon*, that database is linked to *Verizon's* website and functions as the data-source for an interactive function, which enables users to access *Verizon's* own data to ascertain both: (a) the existence of *Verizon's* wireless coverage at any specific geographic location, and (b) the level, or quality of such coverage.

*Verizon's* interactive website translates *Verizon's actual coverage data* to provide imagery whereby areas that are covered by *Verizon's* service are depicted in red, and areas where *Verizon* has a lack (or gap) in coverage are depicted in white.

Contemporaneously, the website further translates the data from *Verizon's* database to specify the actual *coverage* at any specific geographic location. Exhibit "A," which is being submitted together with this Memorandum, is a true copy of a record obtained from *Verizon's* website<sup>7</sup> on January 19, 2021.

This Exhibit depicts *Verizon's* actual wireless coverage at 611 Western Avenue, Petaluma, California, that being the specific geographic location at which *Verizon* seeks to install its proposed tower under the claim that *Verizon* "needs" such tower to remedy a gap in *Verizon's* personal wireless service at and around such location.

As reflected within Exhibit "A," *Verizon's* own data reflects that there is no coverage gap in *Verizon's* service at that precise location, or anywhere around or in close proximity to it.

*Verizon's* submissions are entirely void of any hard data or probative evidence that establishes that *Verizon needs* the proposed tower. *Verizon's* data affirmatively contradicts what it placed in its application. As such, it is beyond argument that *Verizon* has wholly failed to

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<sup>7</sup> <http://www.verizonwireless.com>.

submit documentation that "demonstrates and proves" that the proposed tower is necessary *for Verizon* to provide personal wireless services within the City.

As such, *Verizon's* application should be denied.

## POINT II

### Granting *Verizon* Permission to Construct a Wireless Facility at the Location it Proposes Would Violate the Requirements Under the Zoning and Municipal Codes as well as the Legislative Intent Based Upon Which Those Requirements Were Enacted by the City

As set forth hereinbelow, *Verizon's* application should be denied because granting the application would violate both the *requirements* of the City of Petaluma's Zoning and Municipal Codes, as well as the *legislative intent* behind those requirements.

Pursuant to the Environmental Impact Questionnaire dated August 7, 2019, the proposed wireless installation requires a Minor Conditional Use. As is set forth in Section 7.090(C)(3),

A Minor facility requires approval of a minor conditional use permit as prescribed in Section 24.030 and administrative site plan and architectural review approval as prescribed in Section 24.010. When a Minor facility is located in a Historic District or on the site of a designated landmark, approval of a major conditional use permit as prescribed in Section 24.030 and Historic and Cultural Preservation Committee approval as prescribed in Section 15.030 are required.

"For the purpose of this section, 'minor use permits' include minor exterior modifications or enlargements to existing use permits, said modifications or enlargements being inconsequential in nature and not involving a significant change in operations..." See Section §24.030(P).

A telecommunication facility is considered minor if it meets following:

- a. Antennas which meet the definition of "mini" with the exception of the height limit.
- b. Telecommunications facilities less than thirty-five feet in height and that adhere to Section 14.44.090.
- c. A single ground- or building-mounted whip (omni-) antenna without a

reflector, less than four inches in diameter, whose total height does not exceed thirty-five feet, including any mast to which it is attached, located on commercial- and/or industrial-zoned property.

- h. Telecommunication facilities, including multiple antennas, in compliance with the applicable sections of this chapter, located on an industrial parcel and utilized for the sole use and purpose of a research and development tenant of said parcel, where it is found by the planning director to be aesthetically compatible with the existing and surrounding structures.
- i. Telecommunication facilities located on a structure recognized as a historic landmark.<sup>8</sup>

A. Verizon's Application for the Proposed Wireless Facility Does Not Meet the Requirements for a Minor Conditional Use Permit

Section §24.030 states that the purpose "of the conditional use permit is to ensure the proper integration of uses which, because of their special nature, may be suitable only on certain locations and only provided such uses are arranged or operated in a particular manner."

As set forth within Section §24.030(H), "[t]he Planning Commission shall approve a conditional use permit only when it has found in writing that the proposed structure or use, subject to any conditions which it may have attached, will conform to the requirements and the intent of this Ordinance and the Petaluma General Plan. Further, "that such use will not, under the circumstances of the particular case, constitute a nuisance or be detrimental to the public welfare of the community."

Moreover, Section §24.030(G) sets forth the requirements which the Planning Commission must consider prior to granting conditional use permit:

- 1. The siting of the building or use, and in particular:
  - a. The adequacy of the site of accommodate the proposed use or building and all related activities.
  - b. The location and possible screening of all outdoor activities.
  - c. The relation of the proposed building or use to any adjoining building with particular attention to protection of outlook, light,

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<sup>8</sup> See Section §14.44.020(S)(4)(a)-(i) of the Petaluma Municipal Code.

- air, and peace and quiet.
  - d. The location and character of any display of goods and services and the size, nature, and lighting of any signs.
  - e. The intensity of activity.<sup>9</sup>
3. The compatibility of the proposed building or use with its environment, and in particular:
- a. The number of customers or users and the suitability of the resulting activity level to the surrounding uses and especially to any neighboring uses of unusual public importance such as schools, libraries, playgrounds, churches, and hospitals.
  - b. Hours of operation.
  - c. Adequacy of provisions for the control of any off-site effects such as noise, dust, odors, light, or glare, etc.
  - d. Adequacy of provisions for protection of the public against any special hazards arising from the intended use.
  - e. The proportion of total space utilized.<sup>10</sup>

The most glaring reason *Verizon's* proposed installation does not meet the requirements of a minor use permit is the height of the structure. As stated above, pursuant to the Petaluma code a minor use is a "Telecommunications facilities that is less than thirty-five feet in height and that adhere to Section 14.44.090." Section §14.44.090(L) states that "[t]he height of the facility shall include the height of any structure upon which it is placed, unless otherwise defined within this chapter."

Here, "Verizon Wireless seeks to extend the roof of the existing 61.1' tall building by 10'

<sup>11</sup> Thus, the structure will be nearly double the height that the code considers a minor use.

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<sup>9</sup> See Section §24.030(G)(1)(a)-(e) of the Petaluma Zoning Ordinance.

<sup>10</sup> See Section §24.030(G)(3)(a)-(e) of the Petaluma Zoning Ordinance.

<sup>11</sup> See Page 2 of the Project Support Statement by Verizon Wireless.

(i) The Proposed Cell Tower Would Inflict Dramatic and Wholly Unnecessary Adverse Impacts Upon the Aesthetics and Character of The Area

Recognizing the likely adverse aesthetic impacts that an irresponsibly placed wireless facility would inflict upon nearby homes and residential communities, the City of Petaluma enacted specific Sections of its Zoning and Municipal Code to prevent such intrusions.

It is important to note that, as is detailed on page 1 of the Project Support Statement by Verizon Wireless, "[t]he area surrounding the Creamery is predominantly residential."

Specifically, Section §14.44.010 of the Petaluma Municipal Code states that purpose for the Telecommunications Facility and Antenna section was to (i) "[p]rotect the visual character of the city from the potential adverse effects of telecommunication facility development and minor antenna installation;"<sup>12</sup> and (ii) "[i]nsure against the creation of visual blight within or along the city's scenic corridors and ridgelines."<sup>13</sup>

Moreover, Section §24.030(G)(1)(c) of the Petaluma Zoning Ordinance requires the Commission to consider "[t]he relation of the proposed building or use to any adjoining building with particular attention to protection of outlook, light, air, and peace and quite." Further, Section §24.030(G)(3)(a) requires the Commission to consider "[t]he number of customers or users and the suitability of the resulting activity level to the surrounding uses..."

Additionally, Section §24.030(H) states that the "Planning Commission shall approve a conditional use permit only when it has found in writing that the proposed structure or use .... will not, under the circumstances of the particular case, constitutes a nuisance or be detrimental to the public welfare or the community. These findings shall be based on substantial evidence in view of

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<sup>12</sup> See Section §14.44.010(A) of the Petaluma Municipal Code.

<sup>13</sup> See Section §14.44.010(B) of the Petaluma Municipal Code.

the whole record to justify the decision.”

It is beyond argument that the irresponsible placement of *Verizon's* proposed wireless facility in a residential neighborhood will inflict substantial adverse aesthetic impacts upon the nearby homes. As can be seen from photo simulations presented by *Verizon*, the proposed radomes on top of the creamery will clearly make the structure not only significantly taller but will also make it appear much more industrialized thus, creating severe adverse aesthetic impacts on the surrounding homes.

Pursuant to *Verizon's* January 6, 2020<sup>14</sup> Alternatives Analysis and *Verizon's* Revised Project Support Statement dated January 7, 2021, it appears that "[e]ach group of antennas will be concealed within a cylindrical radome 9 feet tall and 7 feet in diameter" although upon information and belief there has been some confusion as to what the height of the screening will actually be.

As has been held by federal courts, including the United States Court of Appeals for the Ninth Circuit, significant and/or unnecessary adverse aesthetic impacts are proper legal grounds upon which a local government may deny a zoning application seeking approval for the construction of a cell tower. *See Sprint Telephony PCS, L.P. v. Cty. of San Diego*, 543 F.3d 571, 580 (9th Cir. 2008); *See also Omnipoint, infra*.

Moreover, the Court in *T-Mobile USA, Inc. v. City of Anacortes* held that, "the city may consider a number of factors including the height of the proposed tower, the proximity of the tower to residential structures, the nature of uses on adjacent and nearby properties, the surrounding topography, and the surrounding tree coverage and foliage." *T-Mobile USA, Inc. v. City of Anacortes*, 572 F.3d 987, 994 (9th Cir. 2009)

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<sup>14</sup> Upon information and belief we believe the correct date of this documents is January 6, 2021.

The Court further went on to explain that, "[w]e, and other courts, have held that these are legitimate concerns for a locality." Id at 994-95. *See also*; Sprint Telephony PCS, L.P. v. Cty. of San Diego, 543 F.3d 571, 580 (9th Cir. 2008) (stating that the zoning board may consider "other valid public goals such as safety and aesthetics"); T-Mobile Cent., LLC v. Unified Gov't of Wyandotte County, Kan., 546 F.3d 1299, 1312 (10th Cir.2008) (noting that "aesthetics can be a valid ground for local zoning decisions"); Cellular Tel. Co. v. Town of Oyster Bay, 166 F.3d 490, 494 (2d Cir.1999) (recognizing that "aesthetic concerns can be a valid basis for zoning decisions")

(ii) Evidence of the Actual Adverse Aesthetic Impacts Which the Proposed Tower Would Inflict Upon the Nearby Properties

As logic would dictate, the persons who are best suited to accurately assess the nature and extent of the adverse aesthetic impacts that an irresponsibly placed cell tower would inflict upon properties in close proximity to the proposed tower are the property owners themselves.

Consistent with same, The United States Court of Appeals for the Second Circuit has recognized that when a local government is entertaining a cell tower application, it should accept, as direct evidence of the adverse aesthetic impacts that a proposed tower would inflict upon nearby properties, statements and letters from the actual property owners, because they are in the best position to know and understand the actual extent of the impact they stand to suffer *See, e.g.*, Omnipoint Communications Inc. v. The City of White Plains, 430 F2d 529 (2nd Cir. 2005).

Annexed collectively herein as Exhibit "B" are letters from adjacent homeowners as "substantial evidence" of the wholly unnecessary and substantial adverse aesthetic impacts that the irresponsible placement of *Verizon's* proposed wireless facility would inflict upon the nearby homes are letters from the owners of those homes who detail, from their personal perspective, the specific adverse aesthetic impacts their homes and residential properties would suffer if the facility proposed by *Verizon* was permitted to be built so close to their respective homes.



(ii) Verizon's Visual Assessment is Inherently Defective and Should be Disregarded Entirely

In a hollow effort to induce the City to believe that the installation of the proposed wireless facility *would not* inflict a severe adverse aesthetic impact upon the adjacent homes, *Verizon has* failed to submit any meaningful or accurate Visual Resource Assessments.

As is undoubtedly known to *Verizon*, the Visual Assessments presented are inherently defective because they do not serve the purpose for which they have been purportedly offered.

The whole purpose for which local governments require photo-simulations of a proposed cell tower is to require applicants to provide the reviewing authority with a clear visual image of the *actual* aesthetic impacts that a proposed installation is going to inflict upon the nearby homes and residential community.

Not surprisingly, applicants often seek to disingenuously minimize the visual impact depictions by *deliberately omitting* from any such photo-simulations any images **actually taken from** the nearby homes that would sustain the most severe adverse aesthetic impacts.

In Omnipoint Communications Inc. v. The City of White Plains, 430 F2d 529 (2nd Cir. 2005), the United States Court of Appeals for the Second Circuit explicitly ruled that where a proponent of a wireless facility presents visual impact depictions wherein they "omit" any images from the actual perspectives of the homes that are in closest proximity to the proposed installation, such presentations are inherently defective, and should be disregarded by the respective government entity that received it.

As was explicitly stated by the federal court:

"the Board was free to discount Omnipoint's study because it was conducted in a defective manner. . . *the observation points were limited to locations accessible to the public roads, and no observations were made from the residents'*

*backyards much less from their second story windows" Id.*

Omnipoint Communications Inc. v. The City of White Plains,  
430 F2d 529 (2nd Cir. 2005),

A simple review of the records shows that *Verizon* has failed to submit a meaningful Visual Resource Assessment. *Verizon* does not include a single image taken from any of the nearby homes that will sustain the most severe adverse aesthetic impacts from the installation of the wireless facility, which *Verizon* seeks to construct in such close proximity to those homes.

This is the exact type of "presentation," which the federal court explicitly ruled to be defective in Omnipoint.

As such, in accord with the federal court's holding in Omnipoint, *Verizon's* Visual Assessments should be recognized as inherently defective and disregarded entirely.

(iii) The Proposed Installations Will Inflict Substantial and Wholly Unnecessary Losses in the Values of Adjacent and Nearby Residential Properties

In addition to the adverse impacts upon the aesthetics and residential character of the area at issue, such an irresponsibly placed wireless facility in such close proximity to nearby residential homes would contemporaneously inflict upon such homes a severe adverse impact upon the actual value of those residential properties.

As established by the evidence submitted herewith, if *Verizon* is permitted to install the wireless facility it proposes in such close proximity to nearby homes, it would inflict upon the homes dramatic losses in property value, to the extent that the homeowners would suffer significant losses in the values of their residential properties.

Across the entire United States, both real estate appraisers<sup>15</sup> and real estate brokers have

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<sup>15</sup> See e.g. a February 22, 2012 article discussing a NJ appraiser's analysis wherein he concluded that the installation of a Cell Tower in close proximity to a home had reduced the value of the home by more than 10%, go to <http://bridgewater.patch.com/articles/appraiser-t-mobile-cell-tower-will-affect-property-values>.

rendered professional opinions that simply support what common sense dictates.

When wireless facilities are installed unnecessarily close to residential homes, such homes suffer material losses in value, typically ranging from 5% to 20%.

In the worst cases, wireless facilities built near existing homes have caused the homes to be rendered wholly unsaleable.

As has been recognized by federal courts, it is perfectly proper for a local zoning authority to consider as direct evidence of the reduction in property values that an irresponsibly-placed wireless facility would inflict upon nearby homes, the professional opinions of licensed real estate brokers (as opposed to appraisers), who provide their professional opinions as to the adverse impact upon property values that would be caused by the installation of the proposed cell tower *See Omnipoint Communications Inc. v. The City of White Plains*, 430 F2d 529 (2nd Cir. 2005). This is especially true when they possess years of real estate sales experience within the community and the specific geographic area at issue.

Further, a District Court within the Ninth Circuit was challenged with determining whether the argument from residents that the "facility would be an eyesore that could adversely affect their views and property values" was a valid argument, "[t]he Court accepts the proposition that Defendants retain local control over land use issues generally, including aesthetics. The issue, however, is whether this particular decision was supported by substantial evidence." See California RSA No. 4 v. Madera Cty., 332 F. Supp. 2d 1291, 1306 (E.D. Cal. 2003).

As evidence of the adverse impact that the proposed facility would have upon the property values of the homes that would be adjacent and/or in close proximity to it, annexed hereto as Exhibit "C" are letters setting forth the professional opinions of a licensed real estate professionals, who are acutely familiar with the specific real estate market at issue, and who

submit their professional opinions that the installation of the proposed wireless facility would cause property values of the affected homes to be reduced by eighteen (18%) to thirty percent (30%) (or more), and would make those homes more difficult to sell, even at reduced purchase prices.

Given the significant reductions in property values that the proposed installation would inflict upon the nearby homes, the granting of *Verizon's* application would inflict upon the residential neighborhood the very type of injurious impacts which the City of Petaluma's Zoning Ordinance and Municipal Code were specifically intended to prevent. Accordingly, *Verizon's* application should be denied.

B. *Verizon's Application Does Not Meet the Standards for Site Plan and Architectural Approval*

Pursuant to the City Code, Minor facilities require Site Plan approval. Set forth in Section 24.010(A) of the Zoning Ordinance "[t]he purpose of site plan and architectural approval is to secure compliance with the Zoning Ordinance and to promote the orderly and harmonious development of the City of Petaluma." Additionally Section 24.010(G)(1) states "[i]t is the intent of this Section than any controls be exercised to achieve a satisfactory quality of design in the individual building and its site, appropriateness of the building to its intended use, and the harmony of the development with its surroundings."

In taking action, the review body shall consider the following:

- a. The appropriate use of quality materials and harmony and proportion of the overall design.<sup>16</sup>
- b. The architectural style which should be appropriate for the project in question, and compatible with the overall character of the neighborhood.<sup>17</sup>
- c. The siting of the structure on the property, as compared to the siting of other structures in the immediate neighborhood.<sup>18</sup>

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<sup>16</sup> See Section 24.010(G)(1)(a) of the Petaluma Zoning Ordinance.

<sup>17</sup> See Section 24.010(G)(1)(b) of the Petaluma Zoning Ordinance.

<sup>18</sup> See Section 24.010(G)(1)(c) of the Petaluma Zoning Ordinance.

As stated above the proposed facility will not be harmonious with the overall character of the neighborhood. The proposed radomes on top of the creamery will make the structure not only significantly taller but will also make it appear much more industrialized thus, creating severe adverse aesthetic impacts on the surrounding homes. Additionally, *Verizon* has failed to demonstrate that no lesser intrusive alternative locations exist.

Thus, not only is the proposed facility not harmonious to the community, *Verizon* has not even seriously considered alternative locations which would create a lesser adverse aesthetic impact.

### POINT III

#### § 6409(a) of the Middle-Class Tax Relief and Job Creation Act of 2012 Would Allow *Verizon* to Increase the Height of the Proposed Facility Without Further or Prior Zoning Approval

As substantial as the adverse impacts upon the nearby homes and communities will be if the proposed facility was constructed as currently proposed by *Verizon*, if such a facility were to be built, *Verizon* might unilaterally choose to increase the height of the tower by as much as twenty (20) feet. The City would be legally prohibited from stopping them from doing so due to the constraints of the Middle-Class Tax Relief and Job Creation Act of 2012.

§ 6409(a) of the Middle-Class Tax Relief and Job Creation Act of 2012 provides that notwithstanding section 704 of the Telecommunications Act of 1996 or any other provision of law, a State or local government may not deny, and shall approve, any eligible request for a modification of an existing wireless facility or base station that does not substantially change the physical dimensions of such facility or base station. *See* 47 U.S.C. § 1455(a).

Under the FCC's reading and interpretation of § 6409(a) of the Act, local governments are

prohibited from denying modifications to wireless facilities unless the modifications will "substantially change" the physical dimensions of the facility, pole, or tower.

The FCC defines "substantial change" to include any modification that would increase the height of the facility by more than ten (10%) percent of the height of the tower, plus the height of an additional antenna, plus a distance of ten (10) feet to separate a new antenna from the pre-existing top antenna, up to a maximum height increase of twenty (20) feet.

#### **POINT IV**

##### **To Comply With the TCA, Verizon's Application Should Be Denied in a Written Decision Which Cites the Evidence Provided Herewith**

The Telecommunications Act of 1996 requires that any decision denying an application to install a wireless facility: (a) be made in writing, and (b) be made based upon substantial evidence, which is discussed in the written decision. *See* 47 U.S.C.A. §332(c)(7)(B)(iii).

##### **A. The Written Decision Requirement**

To satisfy the requirement that the decision be in writing, a local government must issue a written denial which is separate from the written record of the proceeding, and the denial must contain a sufficient explanation of the reasons for the denial to allow a reviewing court to evaluate the evidence in the record supporting those reasons. *See, e.g., MetroPCS v. City and County of San Francisco*, 400 F.3d 715(2005).

##### **B. The Substantial Evidence Requirement**

To satisfy the requirement that the decision be based upon substantial evidence, the decision must be based upon such relevant evidence as a reasonable mind might accept as

adequate to support a conclusion. "Substantial evidence" means "less than a preponderance, but more than a scintilla."

Review under this standard is essentially deferential, such that Courts may neither engage in their own fact-finding nor supplant a local zoning board's reasonable determinations. *See e.g. American Towers, Inc. v. Wilson County*, Slip Copy 59 Communications Reg. P & F 878 (U.S.D.C. M.D. Tennessee January 2, 2014)[3:10-CV-1196].

To ensure that the City's decision cannot be challenged under the Telecommunications Act of 1996, it is respectfully requested that the City deny *Verizon's* application in a separate written decision, wherein the City cites the evidence upon which it based its final determination.

C. The Non-Risks of Litigation

All too often, representatives of wireless carriers and/or site developers seek to intimidate local zoning officials with either open or veiled threats of litigation. These threats of litigation under the TCA are, for the most part, entirely hollow.

This is because, even if they file a federal action against the City and win, the Telecommunications Act of 1996 does not enable them to recover compensatory damages or attorneys' fees, even when they get creative and try to characterize their cases as claims under 42 U.S.C. §1983.<sup>19</sup>

This means that if they sue the City and win, the City does not pay them anything in damages or attorneys' fees under the TCA.

Typically the only expense incurred by the local government is its own attorneys' fees.

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<sup>19</sup> *See City of Rancho Palos Verdes v. Abrams*, 125 S.Ct 1453 (2005), *Network Towers LLC v. Town of Hagerstown*, 2002 WL 1364156 (2002), *Kay v. City of Rancho Palos Verdes*, 504 F.3d 803 (9<sup>th</sup> Cir 2007), *Nextel Partners Inc. v. Kingston Township*, 286 F.3d 687 (3<sup>rd</sup> Cir 2002).

Since federal law mandates that TCA cases proceed on an "expedited" basis, such cases typically last only months rather than years.

As a result of the brevity and relative simplicity of such cases, the attorneys' fees incurred by a local government are typically quite small, compared to virtually any other type of federal litigation—as long as the local government's counsel does not try to "maximize" its billing in the case.

### **Conclusion**

In view of the foregoing, it is respectfully submitted that *Verizon's* application for approval to install sixteen (16) antennas should be denied in its entirety.

Respectfully Submitted,

Eberle Ewing, MD, 330 English St., Petaluma, CA 94952  
Lydia Schindler, MD, 131 Hill Blvd., Petaluma, CA 94952  
Scott Springhorn, 748 Western Ave., Petaluma, CA 94952  
Mima Cataldo, PhD, 528 Howard St., Petaluma, CA 94952  
Stephen Gelburd, 528 Howard St., Petaluma, CA 94952  
Shad Cloney, 742 Western Ave., Petaluma, CA 94952  
Taryn Obaid, 7 Graylawn Ave., Petaluma, CA 94952  
Wendy Denny, 404 Sheldon St., Petaluma, CA 94952  
Stephen McCarthy, 404 Sheldon St., Petaluma, CA 94952  
Buck Crowley, 330 english St., Petaluma, CA 94952  
Ahmed Obaid, 7 Graylawn Ave., Petaluma, CA 94952  
Justine Tyree, 748 Western Ave., Petaluma Ca. 94952  
Julia Allen, 320 Post St., Petaluma, CA 94952  
Kelly Cloney, 742 Western Ave., Petaluma, CA 94952  
Alvin Hirshe, 320 Post St., Petaluma, CA 94952  
Lendri Purcell, 617 Galland St., Petaluma, CA 94952  
David Mozersky, 701 Oak Terrace, Petaluma, CA 94952  
Jessica Lee, 701 Oak Terrace, Petaluma, CA 94952



CITY OF PETALUMA  
STATE OF CALIFORNIA

-----X  
In the Matter of the Application of:

**Verizon Wireless**

**EXHIBITS IN  
OPPOSITION**

Application for a Conditional Use Permit

Premises: 611 Western Avenue  
Petaluma, CA

A.P.N: 008-032-009

Location #: 387975

-----X

## **EXHIBITS IN OPPOSITION**

Respectfully Submitted,

Eberle Ewing, MD, 330 English St., Petaluma, CA 94952  
Lydia Schindler, MD, 131 Hill Blvd., Petaluma, CA 94952  
Scott Springhorn, 748 Western Ave., Petaluma, CA 94952  
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Lendri Purcell, 617 Galland St., Petaluma, CA 94952  
David Mozersky, 701 Oak Terrace, Petaluma, CA 94952  
Jessica Lee, 701 Oak Terrace, Petaluma, CA 94952

## **Exhibit List**

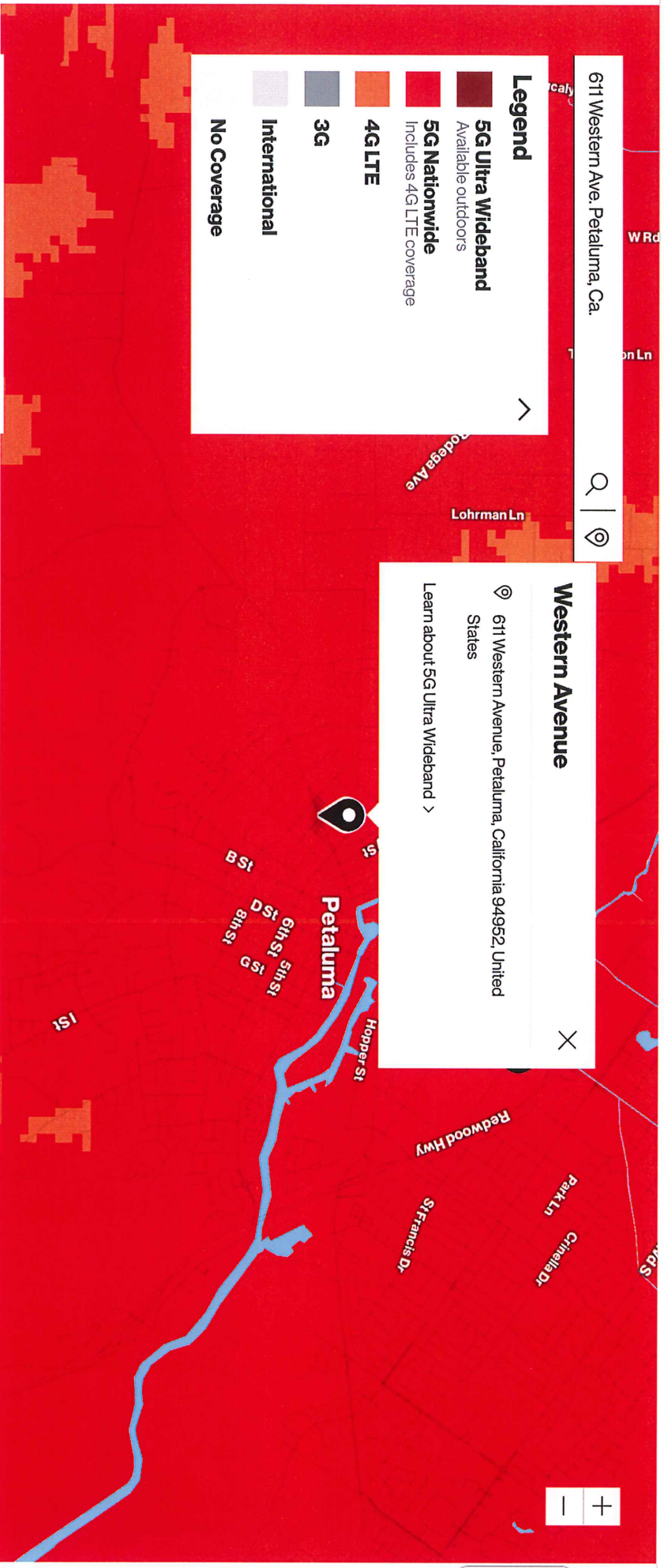
- A *Verizon* Coverage Map for the Proposed Location
- B Adverse Aesthetic Impact Letters
- C Real Estate Professional Opinion Letters

# **EXHIBIT A**



Personal Business  
 Shop Why Verizon Support

Stores Español Sign In







611 Western Avenue, Petaluma

**Legend**

**Western Avenue**

611 Western Avenue, Petaluma, California 94952, United States

[Learn about 5G Ultra Wideband](#)

**5G Edge cities for business**

On

**Disclaimer**

# **EXHIBIT B**



330 English St.  
Petaluma CA 94952

January 16, 2021

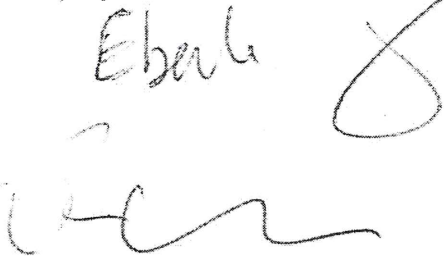
To the Members of the Petaluma Planning Commission:

We have lived in our home on English St., just up from the Petaluma Creamery, since 1989. We look directly at the Creamery from our backyard, our bedroom, our workshop loft. A simple 700 square foot victorian "carpenter style" cottage built in 1900 that our family quickly outgrew, we initially planned to move to a larger home. That changed as we got to know the neighbors, appreciated the heterogeneous character of the area, its proximity to down town. So, instead of moving, we added on, fixed up, put down roots. Because of the improvements we made to **our** house, neighbors told us that they too decided to stay put and fix up their own homes. It was a nice place to live and we were looking forward to spending our retirement here.

If Verizon and the Petaluma Creamery have their way and the Petaluma City Government grants a permit for a wireless cell facility, our decision to stay and invest in the neighborhood will have been a huge mistake.

The latest plan for the Verizon Cell Towers includes 4 large radomes. There is no disguising their industrial purpose. Our view of Sonoma Mountain be forever blighted by the increased height of the drying tower that we look directly out on. The increased noise created by the inverters and air conditioning unit will disturb the quiet on those days and evenings when we sit outside, or open our windows to get the evening breeze. The already overly loud noise generated by the Creamery will be even more intolerable taking away from the enjoyment of walking the streets of the neighborhood.

We ask that you stand by the residents of the neighborhood and do the right thing by denying this proposal.

The image shows two handwritten signatures in black ink. The top signature is 'Eberle' followed by a large, stylized flourish. The bottom signature is 'Buck Crowley' written in a cursive, flowing style.

Buck Crowley

Eberle Ewing  
330 English St.

Lendri Purcell  
617 Galland Street  
Petaluma, CA 9452  
(707) 658-2847

January 17, 2021

City of Petaluma Planning Commission &  
City of Petaluma Historic & Cultural Preservation Committee

Re: Aesthetic Issues – Proposed Verizon Tower at Petaluma Creamery

Petaluma is a historic town, that's part of the charm that welcomes residents and visitors to the downtown and beyond. We live about a 5 minute walk to the Petaluma Creamery and frequent that area almost daily. We moved to this neighborhood, in large part, due to its quaint historic charm. The historic Petaluma Creamery adds to that charm. However, if they choose to go with the proposed Verizon Wireless Facility, the bucolic view of the hills will be marred. Placing antennas (aka wireless facilities) atop building will detract from the historic appeal and turn our skyline into a horizon of science fiction monstrosities. Antennas blotting the skyline distract from the vistas of sky and sun that give our town a historic quaint feeling. Further, large cities saturated with wireless radiation are a deterrent for many tourists and visitors seeking a day or a weekend "in the country" not to mention people trying to leave the cities because of increasing awareness and disturbance by radio frequency radiation.

In addition to the aesthetic element, please read the research I have included from the Environmental Health Trust on how property values can be negatively impacted by cell tower and antenna placement. They indicate that over 90% of home buyers and renters are less interested in properties near cell towers *and* would pay less for a property in close vicinity to cellular antennas. Documentation of a price drop up to 20% is found in multiple surveys and published articles as listed on the next pages.

Sincerely, Lendri Purcell



January 15, 2021

Petaluma Planning Commission/HCPC:

We are writing on behalf of our neighborhood which will be most affected by the proposed Verizon towers on the Petaluma Creamery building.

We have lived in this neighborhood for over 35 years and love it for its diversity and proximity to outdoor/walking areas as well as to schools, businesses etc. This area is no less historic than the "historic" district. It does however have many businesses, churches, schools and multi-unit apartments that create a denser neighborhood.



The Creamery as 24/7 actives which affect our visual, olfactory and auditory senses year round. This has been tolerated for the most part because it is apparently essential to the business.

The problem we see with the proposed cellular antennas is that they are not essential and will add an entirely new, negative dimension to our already congested neighborhood. It appears that the reason the Creamery is proposing this project is solely to increase their revenue.

The antennas do not need to be added to the Creamery for their business to run and it does not belong in our immediate visual field. Our kitchen, dining area, porch all look directly on the proposed location. We live approximately 300 feet from the site and the increased height will dramatically effect our view. There is no disguising the industrial intent of the new structure and it is completely out of character with our historical neighborhood. While the Creamery is undeniably industrial, it has the patina of age which allows it to blend in, while these radomes clearly will not.

We are sure Verizon can find a more suitable site for its project if it is indeed required for residents to have reliable cell phone service.

Sincerely,

  
  
Lory Teicheira

Dana Teicheira  
306 Bassett St.

November 16th 2020

To whom it may concern,

My name is Samantha Buller, I live at 824 Western Avenue with my family of three, soon to be four. We reside in the childhood home of the well known Petaluma family, the Kortum's. All three of the Kortum children left an impact on our specific community, as well as the surrounding areas. Karl Kortum founded the Maritime museum in San Francisco, Maxine Kortum was a Petaluma librarian/environmental leader and Bill (maybe the most familiar locally) championed the cause of environmental protection in Sonoma County and played an instrumental role in keeping the nuclear power plant from being built at Bodega head. Our home is a part of Petaluma history and sits within viewing distance of the Petaluma Creamery.

This proposed Verizon Cell Tower is my nuclear power plant at Bodega Head. Imagine driving out to the picturesque Bodega Bay, only to have panoramic views obstructed by the equipment and structures needed for such a plant? The same can be said for our charming West side neighborhoods, with massive communication centers being installed.

Growing up in Sebastopol, I knew that one day I would want to raise a family in Petaluma. I enjoyed its vibrant social scene, its family friendly neighborhoods and it's beautiful West side architecture that holds so much history. I wanted to be a part of all of that. In 2011 my husband and I lived with family for two *very long* years, saving every dime we earned in hopes to one day be able to afford our own piece of Petaluma. Our dream became possible when the previous owner for 824 Western had financially walked from the property and the home was scheduled to go to auction. With a small miracle, we offered everything we had to the bank and the deal was accepted. In dismal condition, we spent the next 7 years pouring our literal blood, sweat, and tears into our home to bring it back to life, all the while trying to maintain its original character and charm. Our goal was and always will be, to add to the history of Petaluma, and we want to do our part to keep our town beautiful.

Within this past year alone we have invested \$50,000 in renovations, which included work to remove multiple illegal structures, and \$30,000 of that investment went strictly towards painting the exterior of the home in order to protect the original redwood siding that had been so neglected over the years. Overall, we have put more than \$100,000 into this property so far, and have more work to go. Our intentions from the beginning were to make this our forever home and that plan now feels absolutely compromised. If we spend all of our time, money, and energy trying to better our neighborhood aesthetic by fixing up the "worst house" on the block, why would we want to stay when the city will allow unsightly cell towers to be plopped down directly next to us?

November 16th 2020

Please deny this project in order to allow my family and the generations to come, a beautiful neighborhood with views of the quaint homes, hills and trees instead of an eyesore cell tower that will tarnish our small town skyline.

Sincerely,

Samantha Buller



Heather Muir  
526 Western Avenue  
Petaluma, CA 9452  
(707) 769-1694

January 16, 2021

City of Petaluma Planning Commission &  
City of Petaluma Historic & Cultural Preservation Committee

Re: Aesthetic Issues – Proposed Verizon Tower at Petaluma Creamery

Our 1906 home on Western Avenue is located kitty-corner to Petaluma Creamery.

After living in the Sonoma Valley for many years, we moved to Petaluma 16 years ago. We chose to purchase a piece of Petaluma history – a house which at one time belonged to a family who owned a butchery further down Western, in the heart of downtown. The father of the family of 5 who lived in our 2-bedroom house, was not only the local butcher, but an accomplished accordion player, who gave accordion lessons to both youth and adults in the front parlor of our house.

This parlor room of our home with its storied history (along with our front porch, and backyard), all look directly over the milk towers and adjacent buildings of the Petaluma Creamery. Because the houses on our block sit above street-level, we and our immediate neighbors all have direct line of site to the top of the Creamery buildings.

In purchasing our home, we embraced the Petaluma Creamery given its rich local history, and the deep dairy roots of this community, of which we're proud to be a part.

Given this, the prospect of our home and view experience being spoiled by the proposed Verizon Wireless Facility is heartbreaking. Rather than looking out over the historical Creamery building to the hills beyond, we'll have direct line of site at dreadful "radomes" which will be completely exposed both to our home, and the surrounding residences.

There will no longer be the opportunity for anyone looking from our home and wondering if they had stepped back in time, which was the experience that we sought upon moving to this home. Rather the presence of multiple Verizon antennas and the accompanying electrical equipment will have marred the historical and cultural experience of our home, and neighborhood.

Not only will the Cell Towers break the treasured historic nature of our home, they will interfere with the view of the hills to our west which are daily reminders of why we chose to move here in the first place.

Rather we and our neighbors will have daily reminders of Verizon, a company that's currently 22 on the Fortune 500 list, and their efforts to save money (by being unwilling to invest in a more appropriate site) on the backs of Petaluma families - by pursuing a site that is in the heart of a residential neighborhood with historic homes, within 1000 feet of 3 houses of worship, 2 pre-schools and our Public High School with its 1400 students, and faculty.

I invite any member of the Historic & Cultural Preservation Commission, the Planning Commission, the

City Council, or the City Administration to come to our home and observe the problem. While during Covid it isn't advisable to join us in our 1906 parlor, come sit on our front porch, or observe the view of the Creamery and the surrounding hills from our backyard, and you'll immediately understand the level of impact this project will have on the experience of our home, and the quality of our lives.

Please reject the proposed Cell Towers on the Creamery site, and honor the aesthetics of the historical nature of our neighborhood and the beautiful views to the surrounding hills, both of which will be forever ruined by this project.

Sincerely,

Heather Muir

# EXHIBIT C



## LUXURY COLLECTION

January 11, 2021

Scott and Christine Springhorn  
748 Western Ave.  
Petaluma, CA 94952

Dear Mr and Mrs Springhorn,

I am a licensed Real Estate Broker and have specialized in Fine Bay Area Homes and Commercial Real Estate since 1985. I writing to alert you to the consequences of permitting a proposed Verizon Wireless Facility at the Petaluma Creamery located near your home on Western Avenue.

Based on my experience with home buyers in Marin, Sonoma and San Francisco counties, the installation of a cell facility of any size will likely substantially diminish your home's property value as well as the other homes in the area.

The real estate marketplace is impacted by both perceived and measurable characteristics. In terms of measurable factors pertaining to property values, there are multiple data studies that show properties near any wireless facility, regardless of size, appearance, or visibility, experience reduced value up to 30%. That percentage decline in sale price is based on national home sales data.

The impact of wireless facilities on buyer preference, property marketability, and property values is a generally known and accepted fact among real estate agents-the shared opinion of most of my colleagues.

I believe you and your neighbors are in an unfortunate situation.

For the sake of your family's investment in the neighborhood and that of your neighboring families I encourage you to contact your city officers and work with them to ensure any wireless facility be located well away from homes.

I am happy to answer any additional questions you may have.

Sincerely,

**Audrey Moira Shimkas**

Senior Marketing Consultant; ASSOCIATE BROKER  
Berkshire Hathaway DRE # 00896873

[www.bhhsdrysdaile.com](http://www.bhhsdrysdaile.com)



December 9, 2020

To Whom it May Concern,

I am writing this letter in response to Verizon's proposed cell towers on the Petaluma Creamery site. I have been a Petaluma resident for eleven years.

As a Realtor for over 14 years, it is my opinion that homes within the cell tower's proximity will suffer a decrease in property value. There are fewer buyers interested in a home within vicinity of a cell tower, driving prices down. There has been much documented research regarding this issue.

According to "Cell Tower Antennas Problematic for Buyers" published in REALTOR® Magazine:

*An overwhelming 94 percent of home buyers and renters surveyed by the National Institute for Science, Law & Public Policy (NISLAPP) say they are less interested and would pay less for a property located near a cell tower or antenna.*

*The NISLAPP survey echoes the findings of a study by Sandy Bond of the New Zealand Property Institute and past president of the Pacific Rim Real Estate Society (PRRES). "The Impact of Cell Phone Towers on House Prices in Residential Neighborhoods," which was published in The Appraisal Journal in 2006, found that buyers would pay as much as 20 percent less for a property near a cell tower or antenna.*

The US Department of Housing and Urban Development (HUD) long considers cell towers as "Hazards and Nuisances."

The California Association of Realtors' Property Sellers Questionnaire specifically "cell towers" listed on the disclosure form for sellers of real estate. The seller must note "neighborhood noise, nuisance or other problems from.." and includes cell towers and high voltage transmission lines on the list problems.

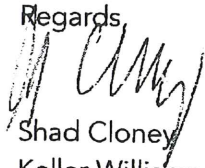
In a 2014 Survey by the National Institute for Science, Law and Public Policy (NISLAPP) in Washington, D.C., titled "Neighborhood Cell Towers & Antennas—Do They Impact a Property's Desirability?"

*Home buyers and renters are less interested in properties located near cell towers and antennas, as well as in properties where a cell tower or group of antennas are placed on top of or attached to a building. 94% said a nearby cell tower or group of antennas would negatively impact interest in a property or the price they would be willing to pay for it.*



Please take into consideration the impact the towers will have on the neighborhood home values when making your decision regarding approval. A major cell facility will most definitely change the landscape of the neighborhood and impact the current pricing market.

Regards,



Shad Cloney

Keller Williams Realty

1383 North McDowell Blvd, Suite 200

Petaluma, California 94952

(707) 787-6587



December 1, 2020

RE: Proposed Cell Tower at the Petaluma Creamery

To whom it may concern,

I am writing with concern to the proposed cell tower at the Petaluma Creamery property. I am a practicing real estate broker with 19+ years of experience in Sonoma County. It is my professional opinion that the installation of the cell tower will cause a decrease in property values to the surrounding area. The decrease in values will be due to the homes being far less marketable and it will be much harder to find buyers willing to purchase a home in close proximity to the cell tower due to health and aesthetic reasons.

Many homeowners in the area have invested significant time and money purchasing and improving their homes in this area and it would not be fair to anybody to have their values decreased due to the installation of the cell tower. I hope you take this matter seriously and I am confident others in the real estate industry would also feel strongly that the value decrease due to the cell tower would have a huge negative impact on the real estate in the area.

Thank you for your consideration of this matter and should you have any further questions, please do not hesitate to contact me.

Sincerely,

Shawn Lowe  
Keller Williams Realty  
1383 N. Mcdowell Blvd, Suite 200  
Petaluma, CA 94954  
(707) 953-6973 Cell  
[shawn@shawnlowerestate.com](mailto:shawn@shawnlowerestate.com)

The Heinz Group  
Ed Heinz  
EXP Realty of California, Inc.  
140 Keller Street  
Petaluma, CA 94952



January 11, 2021

To Whom it May Concern,

I am writing this letter in response to Verizon's proposed cell towers on the Petaluma Creamery site. I have been a Petaluma resident for eleven years.

As a Realtor for over 21 years, it is my opinion that homes within the cell tower's proximity will suffer a decrease in property value. There are fewer buyers interested in a home within vicinity of a cell tower, driving prices down. There has been much documented research regarding this issue.

According to "Cell Tower Antennas Problematic for Buyers" published in REALTOR® Magazine:

An overwhelming 94 percent of home buyers and renters surveyed by the National Institute for Science, Law & Public Policy (NISLAPP) say they are less interested and would pay less for a property located near a cell tower or antenna.

The NISLAPP survey echoes the findings of a study by Sandy Bond of the New Zealand Property Institute and past president of the Pacific Rim Real Estate Society (PRRES). "The Impact of Cell Phone Towers on House Prices in Residential Neighborhoods," which was published in The Appraisal Journal in 2006, found that buyers would pay as much as 20 percent less for a property near a cell tower or antenna.

The US Department of Housing and Urban Development (HUD) long considers cell towers as "Hazards and Nuisances."

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noise, nuisance or other problems from.. " and includes cell towers and high voltage transmission lines on the list problems.

In a 2014 Survey by the National Institute for Science, Law and Public Policy (NISLAPP) in Washington, D.C., titled "Neighborhood Cell Towers & Antennas—Do They Impact a Property's Desirability?"

Home buyers and renters are less interested in properties located near cell towers and antennas, as well as in properties where a cell tower or group of antennas are placed on top of or attached to a building. 94% said a nearby cell tower or group of antennas would negatively impact interest in a property or the price they would be willing to pay for it.

Please take into consideration the impact the towers will have on the neighborhood home values when making your decision regarding approval. A major cell facility will most definitely change the landscape of the neighborhood and impact the current pricing market.

Regards,



Ed Heinz

The Heinz Group at EXP Realty



December 4, 2020

RE: Proposed Cell Tower at the Petaluma Creamery

To whom it may concern,

I am writing in regards to the proposed cell tower at the Petaluma Creamery property. I am a practicing real estate agent and part of a successful Real Estate team. With a combined 18+ years of experience in Sonoma County. It is my professional opinion that the installation of the cell tower will cause a decrease in property values to the surrounding area. The decrease in values will be due to the homes being far less marketable and it will be much harder to find buyers willing to purchase a home in close proximity to the cell tower. Many homeowners in the area have invested significant time and money purchasing and improving their homes in this area and it would not be fair to anybody to have their values decreased due to the installation of the cell tower. I hope you take this matter seriously and I am confident others in the real estate industry would also feel strongly that the value decrease due to the cell tower would have a huge negative impact on the real estate in the area. Thank you for your consideration of this matter and should you have any further questions, please do not hesitate to contact me.

Sincerely,

Jacob Taylor

A handwritten signature in black ink, appearing to read "Jacob Taylor", with a long, sweeping underline that extends to the right.

Jacob Taylor  
TaylorRealEstateTeam.com  
Keller Williams Realty  
1383 N. McDowell Blvd #200  
Petaluma, CA 94954





January 13, 2021

RE: Cell Tower Near the Petaluma Creamery Area

To Whom It May Concern,

It has been brought to my attention that a cell tower installation near the Petaluma Creamery area is being seriously looked at and is nearing commencing. I have been an active, licensed real estate agent for over 18 years in Sonoma County area and I would like to voice my opinion on this matter.

It is my professional opinion that the installation of this cell tower will not be good for property values nor will it be good for the city of Petaluma and its surrounding areas. My feeling is the cell tower will not only do harm to property values, but it will make this area of Petaluma a deterrent for home buyers.

Please know this is not only my opinion but the opinion of many of my colleagues. This is a serious matter and I hope you will consider all alternative measures before moving forward with this installation.

Thank you for your consideration of this matter.

Sincerely,

Jonny Sanchez  
Keller Williams Realty  
1383 N. Mcdowell Blvd, Suite 200  
Petaluma, CA 94954  
(707) 529-4149 Cell  
[jonny Sanchez@kw.com](mailto:jonny Sanchez@kw.com)

BRAD ANDRESEN | REALTOR®

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andresenrealestate.com | CalRE# 01881092

165 First Street, Petaluma CA 94952



RESIDENTIAL BROKERAGE

To whom it May Concern,

I am writing this letter regarding the proposed 5G cell tower to be installed in West Petaluma.

I have been a local licensed Real Estate Agent with Coldwell Banker Residential Brokerage Petaluma for the past 11 years. I am a native of Petaluma and am very familiar with the area including general market conditions and issues that concern many prospective home buyers.

In my professional experience, prospective buyers are concerned with the proximity of a home to cellular transmission equipment and prefer homes that are not located near cell towers. Homes near cell towers see a decrease of approximately 18% in value when compared to similar homes away from cell towers. Homes near cell towers take an additional 60 to 90 days to sell in my experience.

Based on my professional experience, it is my opinion that the addition of a cellular tower near this residential area will substantially decrease the value of the homes and have a great impact on the ability for the homeowners to sell.

Sincerely,

A handwritten signature in black ink, appearing to be "Brad Andresen", with a long, sweeping horizontal line extending to the right.

Brad Andresen

Coldwell Banker Residential Brokerage

165 1<sup>st</sup> Street, Petaluma Ca 94952

[www.AndresenRealEstate.com](http://www.AndresenRealEstate.com)