



COUNTY OF DUTCHESS
DEPARTMENT OF PLANNING AND DEVELOPMENT

July 10, 2018

To: City Council, City of Beacon

Re: **Referral 18-193, Local Law Regarding Small Cell Wireless Telecommunication Facilities**

The Dutchess County Department of Planning and Development has reviewed the submitted referral for countywide and intermunicipal impacts as outlined in General Municipal Law (Article 12B, §239-l/m).

ACTION

The City Council is considering a law that would regulate small cell wireless telecommunication facilities.

COMMENTS

To avoid confusion, we encourage the City to review its definitions to ensure that new terms are defined and old terms (regarding telecommunications) are reviewed in the context of the new law. For instance, absent its own definition, it would appear that a "small cell wireless telecommunications facility" would fall under the definition of "wireless telecommunication services facility" which has its own set of standards and is regulated within the City.

Under 223-26.4 (B)(2)(a) it states that the Planning Board may issue a permit for certain small cell facilities, including on an existing "tower". The definition for "tower" relates to a "wireless telecommunication services facility" for which the City Council issues special use permits. We believe there *may* be a conflict between the Planning Board issuing a permit for the "modification to an existing tower" as it appears that City Council may need to issue a permit for the "Wireless Telecommunications Service Facilities" under §223-24.5 of the Code.

Section 223-26.4(G)(1)(b) is unclear with respect to whether stealth technology designs are required due to the use of the words, "wherever possible" and "shall".

The City should note that although the law proposes to restrict new small cell sites in the Historic District and Landmark Overlay Zone, if a telecommunications provider wanted to place a small cell site in either the District or the Zone, they could apply for a use variance. As wireless telecommunications facilities are considered a public utility, they are not held to the same strict standards of the 4-part test that would normally apply. They need only prove that the site they selected is necessary to provide "adequate service".

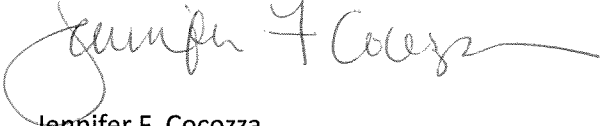
The impacts of the small cell (5G) network will become more apparent over time as multiple carriers begin rolling out their networks. We encourage the City to revisit this topic and, if necessary, amend the law to address impacts as they become evident.

RECOMMENDATION

The Department recommends that the Board rely upon its own study of the facts in the case with due consideration of the above comments.

Eoin Wrafter, Commissioner

By

A handwritten signature in cursive script, appearing to read "Jennifer F. Cocozza", written in dark ink.

Jennifer F. Cocozza
Deputy Commissioner

**Dutchess County Department of
Planning and Development**

Fax Info Only

To Jennifer Cocozza

Date 6/11/18

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Co./Dept.

From Lisa Edelson

Fax # 845-486-3610

Phone #

239 Planning/Zoning Referral - Standard Form

Municipality: City of Beacon

Referring Agency: ☐ Planning Board ☐ Zoning Board of Appeals ☒ Municipal Board

Tax Parcel Number(s):

Project Name: Local law concerning Small Cell Wireless Telecommunications Facilities

Applicant: City Council

Address of Property:

Please fill in this section

Type of Action:

- ☒ Local Law / Text Amendment
☐ Rezoning
☐ Site Plan
☐ Special Permit
☐ Use Variance
☐ Area Variance
☐ Other: _____

Parcels within 500 feet of:

- ☐ State Road _____
☐ County Road _____
☐ State Property (with recreation area or public building)
☐ County Property (with recreation area or public building)
☐ Municipal Boundary
☐ Farm operation in an Agricultural District

Date Response Requested (if less than 30 days): Public hearing is June 18th

If subject of a previous referral, please note County referral number(s):

FOR COUNTY OFFICE USE ONLY
Response from Dutchess County Department of Planning and Development
No Comments:

- ☐ Matter of Local Concern
☐ No Jurisdiction
☐ No Authority
☐ Withdrawn

Comments Attached:

- ☒ Local Concern with Comments
☐ Conditional
☐ Denial
☐ Incomplete — municipality must resubmit to County
☐ Incomplete with Comments — municipality must resubmit to County

Date Submitted: 6/11/18

Date Received: 6/11/18

Date Requested: 6/18/18

Date Required: 7/10/18

Date Response Faxed: 7/10/18

Notes:

☐ Major Project

Referral #: ZR18-193

☐ Also mailed
hard copyReviewer: 

REC'D 2018 JUN 11 PM 10:46 DCP

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