

**CITY OF ALBANY  
CITY COUNCIL AGENDA  
STAFF REPORT**

Prepared Date: 2/14/05  
Agenda Date: 2/22/05  
Reviewed By: \_\_\_\_\_

**SUBJECT:** Wireless Communication Facilities Ordinance

**FROM:** Dave Dowswell, Planning Manager  
Ed Phillips, Zoning Consultant

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**RECOMMENDATION**

1. Hold Public Hearing on :
  - a. Resolution #05-3, adopting a Negative Declaration regarding proposed Wireless Communication Facilities Ordinance.
  - b. Ordinance #05-02, amending Municipal Code Chapter 20 to include regulations on Wireless Communications Facilities.
2. Adopt Resolution #05-3.
3. Introduce Ordinance #05-02 for First Reading.

**BACKGROUND**

**Summary of Review Process:** The City Council adopted, on October 18, 2004, an urgency ordinance, establishing a 45-day moratorium on approvals of wireless communication facilities, pending adoption of new regulations. On November 15, 2004, the City Council extended the duration of moratorium to April 17, 2005. City staff subsequently prepared a draft of wireless regulations, based on previously drafted material and incorporating the various changes recommended by the City Attorney and a residents' group. The draft was considered by the Planning and Zoning Commission in a public study session on December 14, 2004.

During a public hearing on January 11, 2005 the Commission received additional written communications, heard public testimony on the draft ordinance, and provided direction to staff for additional revisions. The public hearing was continued to January 25, 2005. At that time, the Commission heard additional testimony from residents and industry

representatives. At the conclusion of the hearing the Commission decided on the content of its recommendation to the City Council, and adopted Planning and Zoning Commission Resolution No. PZ-05-01.

On February 7, 2005, the City Council held a Workshop Session on the proposed wireless regulations, and heard comments from the Public.

**CEQA status:** In compliance with requirements of the California Environmental Quality Act (CEQA), staff circulated, for public comment, a draft Negative Declaration based on an Initial Study of potential environmental effects of the proposed ordinance. No comments were received during the 20-day review period that ended on January 11, 2005. However the Commission received a comment during the January 25 public hearing, regarding the adequacy of the noise analysis in the Initial Study. The Commission approved the draft Negative Declaration, subject to further staff analysis of potential noise effects. Staff prepared an addendum to the Initial Study, with a determination that noise impacts would be less-than-significant, and that this had no effect on the original conclusions of the Initial Study. The addendum is included in the CEQA documents attached to this staff report.

## **DISCUSSION**

**Draft Ordinance:** The attached draft Ordinance #05-02 has been prepared in a form suitable for introduction by the City Council. The actual text of the Ordinance, beginning on page 3 at line 12, is not changed from the draft that Council members received in the packet for the Work Session on February 7, 2005. The Council's choices, as they work through the attached Decision Agenda, will be reflected in final text to be prepared for the Second Reading. Explanatory notations will be removed in the final text.

Specific correction noted: On page 9, line 14, of the draft Ordinance, the underlined words were omitted and have been added: "...operated to avoid interference with the quiet enjoyment..."

**Decision Agenda:** Staff has prepared a Decision Agenda to aid the Council in reviewing the draft ordinance and in resolving outstanding issues. The Decision Agenda includes the following:

1. Questions posed to Council regarding acceptance of each of Subsections A through I of the proposed text.

- Subsections B, C and G were recommended unanimously by the Planning and Zoning Commission, and therefore may not require much discussion by Council.
- Subsection A was recommended by a 4-1 vote of the Commission. The dissenting vote was based on a belief that wireless facilities should be permitted in all zones. Staff recommends that, if Council members support preferential

tiering of zones, Subsection A should be accepted by Council without further discussion.

- Subsections D, E, F, H and I include portions of text on which there remain outstanding issues. The issues are presented in a series of questions in *italics*. Each question is accompanied by a staff note that appears at the end of the Decision Agenda.

2. Staff notes include information on the Planning and Zoning Commission's position on specific issues, with background comments by staff. Some notes describe additional changes offered by staff or by other parties. In some cases, staff has indicated what might be alternative text that might be used if Council does not support the draft text.

Attachments:

- A. Decision Agenda
- B. Ordinance #05-02, adopting Wireless Communications Facilities regulations
- C. Resolution #05-3, adopting Negative Declaration
- D. Negative Declaration, with Initial Study, 12-16-04, and Addendum 2-2-05
- E. P&Z Resolution No. PZ 05-01
- F. S.F. Chronicle article, distributed at 2-7-05 Work Session
- G. List of proposed application requirements, Wishner et al, 1-19-05
- H. Memo to P&Z on 911 service, Wishner et al 1-25-05
- I. Additional correspondence received from public.

Additional References not attached:

Correspondence attached to Council packet for 2-7-05 Work Session

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