DATE: June 12, 2018

TO: Planning Commission

FROM: Lisa Tennenbaum, Assistant City Attorney

SUBJECT: Text Amendments to the City of Petaluma Municipal Code and Implementing Zoning Ordinance Regulating Small Cell Facilities

RECOMMENDATION

It is recommended that the Planning Commission adopt a resolution recommending that the City Council approve text amendments to the Implementing Zoning Ordinance (IZO) and the Petaluma Municipal Code (PMC) to outline regulations for the installation of Small Cell Facilities in Petaluma.

BACKGROUND

Over the past several months, telecommunications companies have requested staff guidance on the installation of cellular equipment on City infrastructure such as light poles. These “Small Cell Facilities” are cellular infrastructure that are smaller than traditional standalone cell towers and building mounted towers. Small Cell Facilities are pole mounted to existing utility infrastructure (street lights, power poles, etc.) These sites are used to offset the wireless utility workload of larger cell towers to provide coverage on a more localized (block-wide) basis and provide consistent and continuous coverage and downloading of data. At this time, the City Manager has directed City staff that the City is not interested in having Small Cell Facilities mounted on City owned infrastructure, which the City has the right to refuse to do. The concerns regarding Small Cell Facilities on City owned infrastructure included wear and tear on City owned property, health concerns to adjacent residents, and the intrusion of related electrical equipment in the right-of-way.

However, staff has learned that a recent California Public Utilities Commission decision requires utility companies to allow the colocation of Small Cell Facilities on utility company owned infrastructure. This means that a telecommunications company would have access to Pacific Gas and Electric (PG&E), or any other utility company owned, poles throughout the City. As such, it is recommended that the City’s Municipal Code governing telecommunications infrastructure be amended to address Small Cell Facilities. Currently, the Small Cell Facilities, as emerging technology, do not equate to any existing PMC definitions regarding Telecommunication Facilities. It is also recommended that the City’s Implementing Zoning Ordinance Section 7.090 be amended to clearly identify where these facilities can be located and what permits are required.
While the City cannot outright ban Small Cell Facilities, the City may limit how, where and in what manner the infrastructure may be permitted so long as any limits applied apply to all telecom companies equally. An update to the IZO and PMC will treat all telecommunications companies equally.

**DISCUSSION**

To address these Small Cell Facilities, it is recommended that Petaluma Municipal Code Section 14.44 be amended to define the Small Cell Facilities and further describe how they can be installed within the City limits. Further, the City’s IZO should be updated to include the new Small Cell Facility as its own type of facility with a separate definition, and to identify where they can be located on the zoning table in the section that addresses Telecommunications Facilities (Section 7.090.)

Municipal Code Section 14.44, as proposed, will also include the following additional requirements for Small Cell Facilities:

- All new wires needed to service small cell facilities shall be installed within the width of the existing pole, not exceed the diameter and height of the existing pole;
- All ground-mounted equipment not to be installed inside the pole must be undergrounded, flush to the ground, within three (3) feet of the pole;
- Each pole must have its own, dedicated power source to be installed and metered separately;
- Each small cell facility must be no less than 1,500 feet away from the nearest small cell facility;
- Aside from the transmitter/antenna itself, no additional equipment shall be visible;
- An encroachment permit must be obtained before any right-of-way work can commence; and
- Small cell facilities must be at least 200 feet away from any residence.

Zoning text amendments are governed by Chapter 25 of the Implementing Zoning Ordinance (IZO) and by California Government Code Section 65853. Chapter 25 provides that the Planning Commission may recommend zoning text amendments for approval to the City Council based on Planning Commission findings that the proposed amendments are in conformance with the City's General Plan and consistent with the public necessity, convenience, and general welfare.

Chapter 7.090 of the IZO presents a matrix of where telecommunication facilities are allowed by right or CUP in each zone. It is proposed that a new paragraph be added to Section 7.0901 (C) to provide a definition for the Small Cell Facilities and Table 7.090(B) be amended to add a column for the newly defined “Small Cell” telecommunications facility. See Attached Ordinance for the proposed changes. These changes will minimize neighborhood impacts from Small Cell Facilities while providing for appropriate placement of such facilities.

**REQUIRED PLANNING COMMISSION FINDINGS AND DISCRETION**

To recommend the proposed amendments to the City Council, the Planning Commission must find that they conform to the Petaluma General Plan, and are consistent with the public necessity,
convenience and general welfare in accordance with Section 25.050(B) of the Implementing Zoning Ordinance. The Planning Commission has discretion to recommend modifications to the staff proposal. If it does so, the Commission should convey the reasons for the modifications to the City Council. A simple majority vote of the Commission member’s present, assuming a quorum of Commissioners is present, suffices to approve a resolution recommending action on the amendments to the City Council.

**GENERAL PLAN CONSISTENCY**

This change conforms with General Plan section 7-G-2 that states that the city should encourage the development of infrastructure and services to allow equal access to all who live, work and study in Petaluma to utilize new technologies to communicate with institutions from the local to the global level. The proposed changes to the Municipal Code and the Implement Zoning Ordinance complies with the general plan policy as Petaluma provides service coverage throughout the community through larger facilities that reach residential and commercial neighborhoods.

**PUBLIC NECESSITY, CONVENIENCE AND WELFARE**

The proposed amendments are consistent with the public necessity, convenience and welfare in that they:

- Identify how and where Small Cell Facilities can be located
- Limit the visible impact such facilities will have on Petaluma neighborhoods
- Assure proper distribution of the facilities throughout the community

**ENVIRONMENTAL REVIEW**

The proposed zoning text amendments are exempt from CEQA pursuant to CEQA Guidelines Sections 15061(b) (3), 15183, and 15301 as follows:

Section 15061(b) (3), General Rule, of the CEQA Guidelines is applicable as there is no possibility that the activity may have a significant impact on the environment in that specified uses are limited to those expressly permitted under the proposed zoning text amendments and the permitted uses are subject to compliance with all applicable state laws.

Section 15183 of the CEQA Guidelines provides an exemption for projects that are consistent with the General Plan. The subject zoning text amendments will direct Small Cell Facilities to appropriate business and industrial zones.

Section 15301 of the CEQA Guidelines is applicable in that the proposed zoning amendments will allow Small Cell Facilities with a City of Petaluma Conditional Use Permit and Encroachment Permit to: 1) add Small Cell Facilities to existing public utilities designed to support such uses and 2) modify existing public utilities with a new ancillary structure, without interfering with the
principle use and adding utility to the community. There are no cumulative impacts, unusual circumstances or other factors that would make the exemption inapplicable.

For the above reasons, the proposed amendments are exempt from environmental review.

**PUBLIC COMMENT**

Public notice was published in an eighth page ad in the Argus Courier on May 31, 2018. While no specific public comment has been received in response to this public notice as of preparation of this report, comments related to cellular facilities have been received at several City council meetings. Generally, those comments have related to the perceived harmful health effects caused by cellular transmission. The proposed ordinance is intended to strike a balance regarding limiting any potential health risk, while not addressing them directly, as that is the purview of the federal government.

**ATTACHMENTS**

A. Resolution recommending City Council approval of an Ordinance to amend the Petaluma Municipal Code to add the definition of Small Cell Facilities to Section 14.44 of the and Zoning Text Amendment to the Implementing Zoning Ordinance adding Small Cell Facilities to Table 7.090(B) and the definition of Small Cell Facilities to Section 7.090 (C).

   Exhibit 1 Draft Ordinance

B. REDLINE Implementing Zoning Ordinance – Chapter 7 Section 7.090

C. REDLINE Municipal Code Chapter 14.44.