

Cellular Communications Advisory Committee (CCAC)

Interim Final Report (August 2011)

Draft #4

Overview

The Cellular Communications Advisory Committee (CCAC) met a total of 6 times from March 8 to July 13, 2011. The CCAC agreed that its primary goal was to conduct “*informed and responsible review of such issues and procedures, and where appropriate, advancing specific recommendations for changes to codes and procedures that govern and decide the location, construction, and regulation of wireless communication support structures (WCSS) in Hillsborough County, Florida.*” (See Attachment A, “Statement of Goals, etc.).

The Committee identified its primary areas of concern as

- (1) “Neighborhood and Property Concerns,”
- (2) issues related to “The Cell Phone Tower Approval Process” for new WCSS location and construction, and
- (3) issues related to “The Use of Public Schools” for the location and construction of WCSS

Given the amount of time required for the CCAC to process and deliberate its various concerns, less attention was devoted to the second and third of these areas. A record of the “Neighborhood and Property Concerns” identified by the committee is available in the document prepared and approved by the Committee, “Summary of Issues and Concerns related to Neighborhoods and Property” (Attachment B).

Formal Motions (Resolutions)

During the course of its deliberations, the CCAC voted on and passed seven resolutions or proposals with recommended actions that it can pass forward to County Administration and to the Board of County Commissioners (BOCC). These resolutions/proposals concern all three of the above areas directly or indirectly.

Neighborhood and Property Concerns

Resolution #1: Setback Requirement Change

The issue most significant to Neighborhood and Property Concerns is the issue of “setback” requirements for the placement of WCSS adjacent to residential properties. Concerns related to the Land Use Code requirements for “setbacks” included impact on the aesthetics of residential and community environments, impact on residential property values, and safety. In coming to its decisions, the CCAC consulted the comparative study of setback requirements in Florida counties (Attachment C, Wade Trim, “Comparative Ordinance Review...”) and heard testimony from WCSS construction engineer Kevin Baumann from Paul Ford, Inc. (June 16, 2011, services secured by Wade Trim, Inc.).

On July 13, 2011 the CCAC passed a motion to recommend that the BOCC change the current “setback” requirement of WCSS location from adjoining residential property lines from 1 ft of setback/ 3 ft. of tower height to 150% of tower height. Because of a previous motion, passed unanimously on 6/25, this change in setback requirements for neighborhood properties was intended also to include provisions for setback of WCSS on Hillsborough County School properties from residential properties (see resolution # 4, below).

The motion reads as follows:

R1: The CCAC recommends that the Hillsborough County Land Use Code, 6.11.29.D.2.a. be changed to read “a. Adjacent to residentially zoned property which is developed or developable for residential use, the minimum setback from the property line abutting said residential property shall be 150% of the tower [structure] height.”

The motion was passed by a vote of 7/6 with 13 of 15 CCAC members present and voting. The language of rear, side, etc. was removed by consensus.

Resolution #2: New WCSS Setback Requirements from Residential and School Buildings

Also at the 7/13 meeting, the CCAC took up the issue of requiring “setbacks” between the WCSS from residential and school buildings (and other related properties) themselves. Some CCAC members are concerned about the possibilities of tower collapse, however infrequent, onto school (and other) buildings; as well as aesthetic and other issues. One factor mentioned on several occasions has been the use of school buildings as hurricane shelters which may be in close proximity to a WCSS.

The motion reads:

R2: The CCAC recommends that setbacks between WCSS and school buildings, residences, and daycare facility buildings be 150% of the tower height.

The motion passed 7/6 with 13 of 15 CCAC members present and voting.
Cellular Equipment Approval Process

Resolution #3: Collocation and Expert Review

In the area of “review and approval” of WCSS location and construction, the CCAC was unable to devote extended time to consider all of the issues voiced throughout many conversations in their tenure. However, on 7/13/2011 the CCAC passed two resolutions that are intended to impact procedures in this area.

The first of these resolutions concerns the Land Development Code treatment of “collocation.” Collocation involves the practice of locating cellular antennae on existing WCSS facilities when possible to minimize the need for and impact of new WCSS construction. Current Hillsborough Land Use code “encourages” collocation, whereas in the opinions of at least some CCAC members the Country does not do enough to monitor and enforce this provision in review and approval procedures for new WCSS.

On 7/13/2011 the CCAC passed a resolution to alter the language of the Land Development Code from “encourage” collocation to “requiring” collocation, and recommends specific language and process changes to the existing code. The resolution reads:

R3: The CCAC recommends that the Hillsborough County Land Use Code, 6.11.29.E. be changed (changes highlighted) to read:

- E. A new WCSS shall not be approved unless it can be documented by the applicant, to the satisfaction of the Administrator, that ~~there is a need for the new WCSS which cannot be met by the proposed WCA cannot be placed on~~ an existing or approved WCSS, on a public structure, or on some other appropriate structure. Factors that ~~can-must~~ be considered in this determination will include, ~~but not be limited to~~ one or more of the following:
1. New WCA(s) would exceed the structural capacity of existing and approved WCSS/ other appropriate structures, considering existing and planned use of those WCSS/ structures, and existing and approved towers/structures cannot be reinforced to accommodate new WCA(s) at a reasonable cost.
 2. New WCA(s) would cause Radio Frequency (RF) interference which cannot be prevented at a reasonable cost.
 3. Existing or approved WCSS's do not have sufficient space on which new WCA's can be placed or are not located so as to allow new WCA's to function effectively and reasonably in parity with other similar equipment in place or approved.
 4. There are no existing structures of sufficient height in the area on which to locate a WCA.
 5. Other reasons that make it impracticable to place the equipment planned by the applicant on existing and approved towers or other appropriate structures or the leased property.

Reasonable cost shall be defined as the point up to which the cost, including any leasing agreement, of collocation exceeds what would be the cost for the applicant to construct a new WCSS. Construction costs shall not only include costs associated with the actual construction of a new WCSS (including building permits), but also those costs that would be incurred by

the applicant in order to secure either a permit, if required for the construction of a new WCSS. **[REORDERED]**

Documentation shall be submitted to the Administrator at the time of the permit application and shall contain, at a minimum, **if applicable**, a signed statement from appropriate accredited experts, including but not limited to a radio frequency engineer and/or a structural engineer, outlining the reasons as to why the proposed WCA **cannot be located on an existing or approved structure**. Appropriate support material, for verification by staff **or an outside expert**, shall be included.

Hillsborough County may obtain the services of an outside expert to review such support material for compliance with paragraphs 1-5 above or other reviews for compliance with this Code. The costs for this review shall be borne by the applicant.

This motion passed 12/1 with 13 of 15 members present and voting.

Resolution #4: Waivers and Variances Scrutiny

A second approval process concern for many CCAC members involves the process whereby “variances” to the provisions of the Land Use Code are granted in individual cases of WCSS location and construction. Arguments from Committee members recognize the difficulty and possible futility of setting and altering requirements for WCSS if the processes whereby “variances” and “waivers: to those requirements are granted are not also monitored and an attempt made at consistent enforcement. Given that the time and resources necessary to study the history and processes of granting variances and waivers were beyond the scope of the CCAC’s present charge, the CCAC opted to offer an advisory motion to be heard by the County Administration and BOCC. This motion reads:

R4: The CCAC advises the Board of County Commissioners to direct staff to look at the question of how the provisions of governing cell towers are waived and varied, and how variances are granted relative to how other uses are treated. In short, to scrutinize the issues of waivers and variances to cell tower regulations.

This motion passed by unanimously with 13 of 15 CCAC members present and voting.

Resolution #5: Review Process—Completeness Review and Special Use

R5: The CCAC recommends that the Hillsborough County Land Use Code, 6.11.29.D.3.b., “Review Process,” reflect these changes (as highlighted):

- b. Review Process
 1. Completeness Review
 - All applications for WCSS are deemed submitted or resubmitted on the date the application is received by the Administrator.
 - **If the application is not completed in compliance with the submittal requirements of this Code, the Administrator shall so notify the applicant in writing, indicating, with specificity, any deficiencies in the required**

documents or deficiencies in the content of the required documents which, if cured, would make the application properly completed.

- If the Administrator fails to notify the applicant in writing that the application is not completed in compliance with the submittal requirements of this Code within 20 business days after the date the application is initially submitted or additional information resubmitted, the application is deemed complete, properly submitted and review shall continue:
- Once an application is complete, corrected either by submission of the additional information, or it is considered complete by the lack of comments from local government agencies that it is incomplete within the 20 business day time frame, then the review shall move forward and a decision must be rendered within the normal timeframes of review, as outlined in Sec. 10.02.02.C of this Code.
- Failure to grant or deny a properly completed application within the timeframes designated for review renders the application automatically approved and the applicant may proceed with placement of the new tower without interference or penalty. [MOVED]2. The following nNew WCSS shall be reviewed as a Special Use pursuant to Section 10.02.00, except that Section 6.11.29.D.3.b.1 above regarding application completeness review shall apply in the following circumstances:
 - Any WCSS proposed to be located on property owned by any municipality, county, school, or state entity;
 - All WCSS proposed to be located in RSC, RDC, RMC and residential PD and IPD zoning districts; and,
 - All WCSS proposed to be located in CPV, BMS, UAC and TND districts permitting residential uses, excluding parcels developed with office or commercial uses; and,
 - WCSS 100 to 200 feet in height proposed to be located in the ASC-1 and AS-1 districts; and,
 - WCSS 100 to 200 feet in height proposed to be located within 250 feet of the ASC-1, AS-1, RSC, RMC, RDC and residential PD and IPD zoning districts; and,
 - WCSS 100 to 200 feet in height proposed to be located within 250 feet of CPV, BMS, UAC and TND districts permitting residential uses, excluding parcels developed with office or commercial uses.

The motion passed unanimously with 13 of 15 CCAC members present and voting.

The Use of Public Schools

Resolution #6: Residential and School Setbacks Parity in Code

The last substantive area of great concern to some of the members of CCAC concerns the practices associated with location and construction of WCSS on school properties in Hillsborough County school system. There is no doubt that many members would like to have had the opportunity for a more full hearing of issues and concerns related to these practices. Indeed, several members consistently remarked that it was these issues and practices that had “brought them here” to the CCAC task.

The CCAC passed 4 resolutions that affect the Land Use Code provisions that pertain to location of WCSS on Hillsborough County School properties. Two are presented above (see Resolutions #1 and #2).

On 6/15, in discussion of “setback” requirements, the CCAC moved and passed a resolution recommending that the current difference in the Land Use Code for setbacks between “residential properties” (currently 1 ft. per 3 ft. tower height) and “school” properties (currently 1 ft. per 4 ft. tower height) be eliminated, i.e., that there be no difference in the requirements for residential setbacks and those located on school properties.

The motion reads:

R6: The CCAC recommends that the Hillsborough County Land Development Code, 6.11.29.D.3.b.3.c. and 6.11.29.D.7.a. be changed to eliminate the distinction between setbacks for towers on school campuses from residential property (currently “one (1) foot for every four (4) feet of structure height”) and setbacks for towers on other properties adjoining residential property.

The motion was passed unanimously with 10 of 15 CCAC members present and voting.

Resolution #7: Deletion of Review Process of WCSS and Schools

The CCAC revisited the issue of differences in Land Use requirements for WCSS located on school properties in their meeting of 7/13. At that time, the CCAC moved and passed a resolution eliminating most distinctions in the Land Use Code for WCSS located on school properties.

The motion reads:

R7: The CCAC recommends that the Hillsborough County Land Use Code, 6.11.29.D.3.b.3. be eliminated in its entirety, previous D.3.b.4. be broken into two parts as new 3. And 4., and new 4. and the relocated language of new 5. be clarified, as indicated below:

3. WCSS and Schools

New WCSS to be located on the campus of a school shall be reviewed as a Special Use pursuant to Section 10.02.00 and Section 6.11.29 D.3.b.1. above regarding completeness review shall apply.

i. The WCSS must be designed and built as a camouflaged WCSS unless the following additional criteria are met:

a. The WCSS is smaller than 36 inches in diameter at the narrowest point on the WCSS; and

b. The WCSS is designed to house at least three wireless carriers; and

c. The setback from residentially zoned property is at least one (1) foot for every four (4) feet of structure height.

d. All cables are placed internal to the WCSS but the antennae may be external.

4. All other proposed WCSS shall be reviewed pursuant to Section 10.01.00, except that Section 6.11.29.D.3.b.1 above regarding application completeness review shall apply.
4. The table below identifies the zoning districts in which specific camouflage structure types are presumed compatible. If an alternative design to those identified below is desired, the request shall be reviewed pursuant to Section 10.02.00 as a Special Use, except that Section 6.11.29.D.3.b.1 above regarding application completeness review shall apply.
5. The Administrator shall grant or deny each properly completed application for collocation reviewed pursuant to Section 10.01.00, except that Section 6.11.29.D.3.b.1 above regarding application completeness review shall apply, but in no case later than 45 business days after the application is determined to be properly completed. [MOVED] Failure to grant or deny a properly completed application for a WCSS within the timeframes designated for review 90 business days renders the application automatically approved and the applicant may proceed with placement of the new tower the next level of review without interference or penalty.

The motion passed unanimously with 13 of 15 CCAC members present and voting.

End of Fourth Draft