



# City of Portland

## Design Commission

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January 31, 2014

Thomas Wheeler  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

Re: FCC Rulemaking: 13-1222, WT Docket No. 13-238

Dear Chairman Wheeler,

Thank you for giving the Portland Design Commission the opportunity to review and comment on the FCC's Rulemaking procedure noted above. In a public hearing held January 30, 2014, the Portland Design Commission was briefed by City staff from the Office of Community Technology and the Bureau of Development Services on DAS and 'small cell' facilities, specifically in light of the proposed FCC Rulemaking. City staff invited wireless telecommunications industry professionals to come and testify at the hearing, and coordinated with AT&T and Verizon in particular prior to the hearing to get a better sense of DAS/small cell technology. Industry documents from AT&T briefing us on DAS/small cell technology were provided to us prior to the hearing, and industry testimony at the hearing was helpful and informative.

The Portland Design Commission (DC), authorized under Portland City Code 33.710.050, provides leadership and expertise on urban design and architecture and on maintaining and enhancing Portland's historical and architectural heritage. Our commission consists of seven volunteer members, whose duties include:

1. Recommending the establishment, amendment, or removal of a design district to the Planning and Sustainability Commission and City Council;
2. Developing design guidelines for adoption by City Council for all design districts except Historic Districts and Conservation Districts;
3. Reviewing and approving major developments within design districts, except those projects involving or located in Historic or Conservation Districts or projects that are themselves Historic or Conservation Landmarks;
4. Reviewing other land use requests assigned to the Design Commission; and
5. Providing advice on design matters to the Hearings Officer, Planning and Sustainability Commission, Historic Landmarks Commission, Portland Development Commission, and City Council.

Design Review has a proven track record in Portland of creating better buildings and places while facilitating development at the same time. The well-designed, architecturally harmonious character of Portland's Central City has been shaped by decades of careful development review provided by Portland's planning staff and our commission. The City of Portland has nine different sets of design guidelines that apply in various Design Districts throughout the City, all of which have been developed and refined over time to address unique architectural, social and cultural aspects of each neighborhood.

This stewardship brings associated benefits in terms of economic development, tourism, and quality of life for our citizens. Many of our neighborhood activists lobby for and desire design overlay zones and the resulting requirement for Design Review in their neighborhoods, especially in this era of rapid infill development.

The Portland Design Commission cares deeply about any alterations or additions to buildings and structures throughout the City, whether on private property or within our rights of way. The DC recognizes and acknowledges the national goals of timely review and accommodation for wireless telecommunications facilities, and understands the need to expand access to broadband wireless services for the general public in response to consumer demand. We understand the importance of improving access to broadband wireless connectivity in Portland, and many aspects of Portland city policy encourage us to move towards becoming a more socially just, livable, and wired/connected place. However, our charge as a Commission is to ensure that these facilities do not detract from the scenic, architectural, urbanistic or cultural values which are enmeshed in the fabric of our city. We don't believe expansion of wireless access and maintaining a well-designed city are mutually exclusive goals.

After consideration and discussion of these issues, we have found several areas of concern to relay to the FCC in regards to exempting 'small cell' facilities from local review, specifically when deployed within Portland's many Design Districts, including the following:

- *Because 85% of our city has no design review zoning, we have plenty of examples of the negative visual, architectural and urban design impacts of the innumerable wireless facilities installed outside of design or historic districts. We therefore strongly object to exempting these from local review. Unregulated facilities outside of design or historic districts in Portland at 30'-35' above grade (where DAS/small cell will likely locate) are typically found in our commercial and industrial areas, and consist of the following:*
  - *Unightly rooftop-mounted facilities with highly visible, bright white antennas which stick up above the building parapet or rooftop like a 'crown of thorns', completely overwhelming any sense of proportion and architectural integrity for the 1- or 2-story building below, and automatically drawing the eye when passing by on foot;*
  - *Antennas pipe-mounted to the side of a building wall without any consideration for a compatible paint color, concealment of the shiny black electrical and telecommunications conduit, creating unnecessary visual clutter and reducing the physical attractiveness and overall appearance of the surroundings;*
  - *At-grade equipment enclosures with chain link fencing which do not adequately visually screen the generators and unpainted metal cabinets, often with cheap, poorly-maintained landscaping that barely meets screening standards; and*
  - *Lower, stand-alone cell towers standing in surface parking lots or unused building setback areas with large triangular davit arm mountings of multiple antennas, with clearly visible and poorly-screened pedestrian-level accessory equipment enclosures, ice bridges, connecting conduit, and chain link fencing with razor/security wire atop the fence.*
- *Conversely, in recent years we have been quite successful at finding specific design solutions to better integrate wireless facilities into design and historic districts:*
  - *We have worked closely with the industry to explore acceptable screening materials for rooftop facilities, and understand the possibilities offered by molded fiberglass technology, allowing rooftop mounts in many locations where an unscreened facility would be unacceptable;*
  - *Recently there was some local confusion among industry actors regarding metal structural reinforcement for rooftop wireless stealth screening structures, with*

*industry officials claiming City plans examiners were requiring metal corner reinforcement which interfered with wireless signal transmission. We investigated and determined that this was not the case, and that in fact the recent code change had allowed stealth screening structures without metal corner reinforcements, communicating the results immediately to our local wireless applicants; and*

- *While solutions must be evaluated on a site-specific basis for visual impacts from the street, architectural integrity, impacts to the original structure, and other context-specific factors, we have approved most facilities in our design and historic districts with minimal or no stealth screening, a simple compatible paint finish, and careful consideration of concealment for the mounting devices, accessory cabling, and other necessary equipment integral to the facility but which can be hidden from view (e.g. through-wall electrical/wiring connections, concealing gps antennas and RRU units from view nearby but inside the parapet, etc.)*
- *In design overlay districts, we focus on carefully integrating exterior alterations to structures with the original materials and architectural design concept. We have concerns that without local review, unregulated wireless facilities and collocations will create visual clutter, detract from the high-quality architecture of our buildings, and diminish the scenic and cultural benefits achieved by Design Review in the first place.*
- *Design Review provides superior integration of these systems into existing facades and on exemplary buildings in each Design District. While this integration can be challenging, local Design Review provides flexibility in accommodating this crucial technology while minimizing or eliminating associated visual impacts.*
- *Design review (not including historic districts) only covers 15% of the land area in the City of Portland, including areas with high redevelopment potential. Facilities outside of these districts, when located more than 50' from a residential or open space zone, will remain allowed subject to non-discretionary design standards.*
- *We have a track record of approving wireless telecommunications facilities without undue delay or hardship. City staff have approved literally hundreds of such facilities over the years, with only two denials since 2006, both of which were able to be constructed in a nearby location at either a lower height or in the right-of-way (versus on private property as proposed).*
- *The City of Portland has a Broadband Strategic Plan that was adopted by City Council 2011 in order to provide city-wide policy guidance and remove unreasonable barriers to deployment of Broadband technology. As a Commission, we fully support this adopted plan, and recognize the importance of wireless as a critical element in our regions' economy.*
- *However, we wish to stress in the strongest language possible, that imposing a blanket federal mandate across the country, with no regard to situation, placement or local conditions flies in the face of, and erodes the effectiveness of Design Review within Portland's unique neighborhoods.*
- *As a Design Commission, we must ask, in the strongest terms possible, why the FCC would waive its own rules regarding environmental and historic review, in addition to categorically exempting local review for an industry and /or a specific technology. This is not a balanced approach of adequately weighing all public benefits and impacts of these important technologies, and literally destroys our efforts to ensure integrated and appropriate placement of these facilities in our many design districts.*

- *City policy as a whole favors locating wireless telecommunications facilities in the right-of-way, and typically right-of-way facilities are not subject to Design Review. Proposals in the right-of-way often have to provide neighborhood notice beforehand, but the facility itself is exempt from the discretionary Design Review procedure, consistent with City policy to encourage right-of-way locations.*
- *Right-of-way facility locations may make the most sense in the densely built, high-traffic areas where DAS/smart cell installations are proposed in Portland. Omni-directional installations on utility or streetlight poles in the streetscape may be available to provide greater coverage from a single antenna than multiple 'slap mounts' on the vertical exterior facades of downtown buildings.*
- *We are concerned about the broad and sometimes vague definitions in current federal law regarding wireless facilities, and hope language can be clarified in the current rule-making. A modification to a facility that can go up to 20'-0" tall, for example, is equivalent to a two-story building, and could have dramatic impacts on many of our existing rooftop and other wireless facilities if allowed by-right.*
- *If the FCC pre-empts DAS/small cell installations from local regulatory review, it will remove the incentive for our industry partners to work collaboratively with us on how best to deploy this new technology in a way that enhances the urban landscape. We are interested in extending our track record of working closely with industry to deploy wireless technology, and having regulations in place at the local level is not necessarily a disincentive or discouragement. Local review procedures can create a predictable path for deployment of DAS/small cell facilities, benefiting both industry and the city in the long term.*
- *The City is the only actor in this discussion who has to consider the potential impacts that result from multiple companies acting at the same time to deploy DAS/small cell technology. No one company or firm has the burden of considering city-wide impacts that result from deployment, but this is by necessity the City's perspective. Any discussion on how to move forward collaboratively can only happen if local involvement in the specifics of siting such facilities is not pre-empted by the FCC.*

Again, thank you for giving the Portland Design Commission an opportunity to comment on this crucial Rulemaking procedure. Please do not hesitate to call on the Commission if we can be of further assistance, or if you wish to discuss our recommendations further.

Sincerely,



Guenevere Millius  
Portland Design Commission Chair

Cc: Portland Design Commission  
Tim Heron