



Appeal of the Decision of the Director of Public Works Granting Encroachment Permit No. EP-823 for the Installation of Telecommunications Wireless Facilities in the Public Right-Of-Way located at 1544 W. Kenneth Road

November 7, 2023

# Project Description

- Applicant is Extenet Systems, LLC (“Extenet”).
- The proposed project is to install small telecommunications wireless facilities (“Small Cell”) on a replacement street light within the public right-of-way (“Project”).
- The Project is located in a non-preferred zone.
  - Preferred zones: commercial and industrial locations.
  - Non-Preferred – residential zones or historic districts.



# Project Description (Cont.)

- Applications for installations in Preferred zones are reviewed and decided by the Director of Public Works; no public hearing required.
- Applications for installations in Non-Preferred zones are subject to community notification and a noticed public hearing prior to the Director of Public Works making a decision.
  - Applicant must demonstrate that the preferred location/zone is not reasonably feasible.
  - For proposed sites inside a residential zone, or within 1,000 feet of a residential zone, the alternative site analysis must include an evaluation of the availability and feasibility of potential preferred locations and within preferred zones. Feasibility factors include, but are not limited to, coverage, ability to provide camouflage and other aesthetic treatments, construction and operations costs, and site availability.



# Project Description (Cont.)

- City Council's review is *de novo* – independent examination.
- City Council's decision is the final decision of the City.



# Summary of Appellant's Appeal

Appellant contends that the proposed Project:

- Will impact the health and safety of neighbors/tenants/public.
- Decrease in property values.
- Proposed location is near a private child care facility.
- Applicant never presented a study on the health and safety of 5G technology in the past 15-20 years.
- Discrimination against Armenian American property owners vs. Lutheran Church due to Extenet's withdrawal of an application for a proposed facility in front of Lutheran Church.



# Municipal Authority Over Telecommunications Wireless Facilities

## **Telecommunications Act (1996)**

**47 USC Section 253(a)** – prohibits a state or local agency from establishing statutes, regulations or local requirements which “may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.”

- Regulatory authority of municipalities is limited to time/place/manner.
- Traffic safety/aesthetics/pole load/noise.



# Municipal Authority Over Telecommunications Wireless Facilities

## **47 USC Section 332(c)**

### ➤ Establishes:

#### 1. The “Shot Clock”

- 60 days to review applications for small cells attached to existing structures (poles, street lights)
- 90 days to review applications for colocations and small cells attached to new locations.

#### 2. Radiofrequency (RF) jurisdiction

### ➤ Prohibits discrimination among different providers.

### ➤ Requires denials of applications to be in writing and supported by substantial evidence.



# Municipal Authority Over Telecommunications Wireless Facilities

## **Radio Frequency (RF) Safety Standards:**

- FCC has exclusive jurisdiction over RF safety standards.
- “No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission’s regulations concerning such emissions.” 47 USC Section 332(c)(7)(iv).
- Municipalities are allowed to request proof of compliance with FCC.



# Municipal Authority Over Telecommunications Wireless Facilities

## Radiofrequency (RF) – December 2019 FCC Order

- “Resolves and terminates” the inquiry to review FCC’s RF exposure standards.
- FCC found “no appropriate basis...to reevaluate the existing RF exposure limits” since federal agencies such as the Environmental Protection Agency (EPA) and the Food and Drug Administration (FDA) have found no evidence that links cell phones with any health problems.
- FCC declined to reevaluate RF exposure policy as it pertains to children.



# Glendale Municipal Code (GMC)

## Section 12.08.037 Requirements

The proposed Small Cell facility must meet the provisions of GMC 12.08.037, the City's ordinance rules for cell site installations in the public right-of-way.

1. Notification requirements: mailed and posted notice of the proposed project, as well as mailed and posted notice of the public hearing.
2. Proposed facility must meet the provisions of GMC 12.08.037.
3. Proposed facility must not interfere with the use of the public right-of-way.
4. Proposed facility must not interfere with vehicular, bicycle and/or pedestrian use of streets, intersections, sidewalks or driveways.



# Glendale Municipal Code (GMC)

## Section 12.08.037 Requirements (Cont.)

5. Proposed facility must comply with Americans with Disabilities Act.
  
6. Proposed facility is designed to meet the City's aesthetic standards.
  
7. Alternative sites analysis.
  
8. "High visibility" vs. "low visibility" considerations for the proposed facility.



# Glendale Municipal Code (GMC)

## Section 12.08.037 Requirements (Cont.)

9. Possibility of colocation for the proposed facility.

10. Proposed facility is intended to close a significant gap (macro sites) or enhance coverage (micro sites). The application includes propagation maps of coverage. \*

require

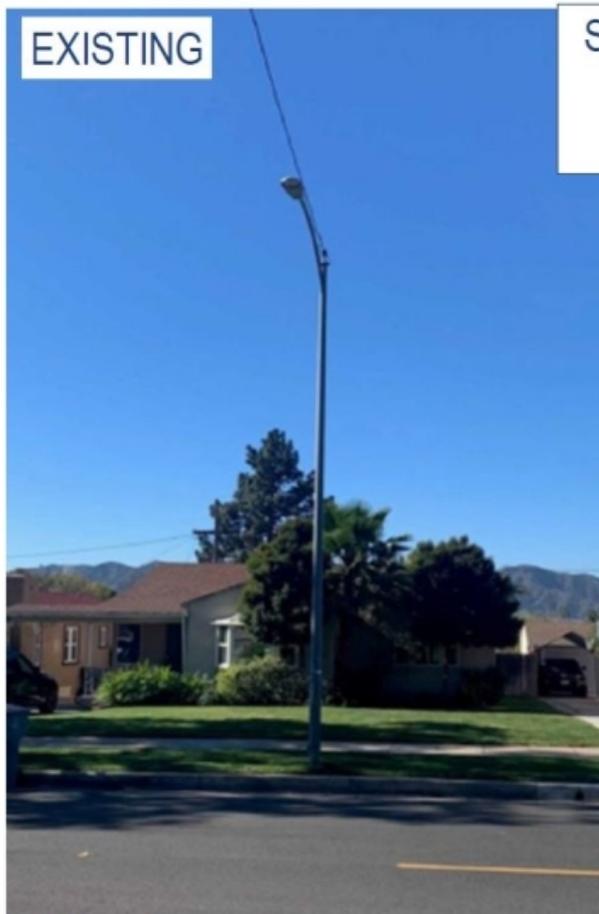
\*2019 FCC Third Order and Declaratory Ruling prohibits cities to carriers from proving a significant gap coverage.



# Proposed Project – 1544 W. Kenneth

(Photo Simulation by Verizon)

EXISTING



SW-CA-GLENDA-00237C

FO 1544 W Kenneth Rd  
Glendale, CA 91201

Facing West

PROPOSED



Proposed Power and  
Fiber Vault Locations

Proposed Power and  
Fiber Vault Locations

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Disclaimer: This photo simulation is an artist's depiction of a future installation. The actual construction may vary slightly in size, layout, color and texture from this simulation.

extenet  
TeleWorld  
Solutions

(Source: Applicant)



# Proposed site

## Proposed Site



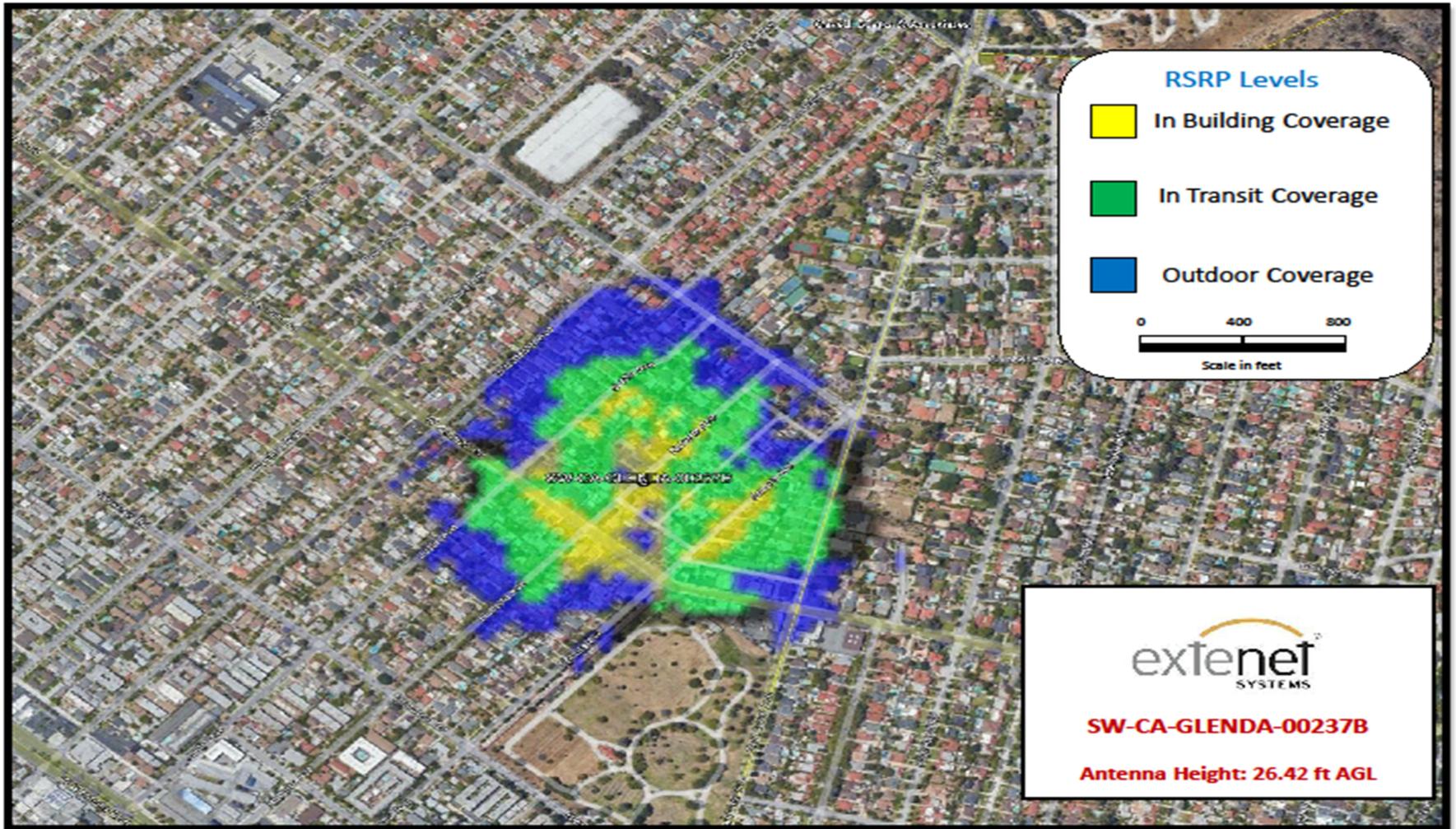
- The proposed site location will adequately fulfill the RF coverage objectives and will eliminate or minimize gaps in pre-existing coverage.
- Provides coverage along the roadway and adjacent areas.
- There are no tall trees or structures in the immediate vicinity of this site which would decrease the RF coverage.

## Aerial View



(Source: Applicant)

# Coverage Map – After



(Source: Applicant)

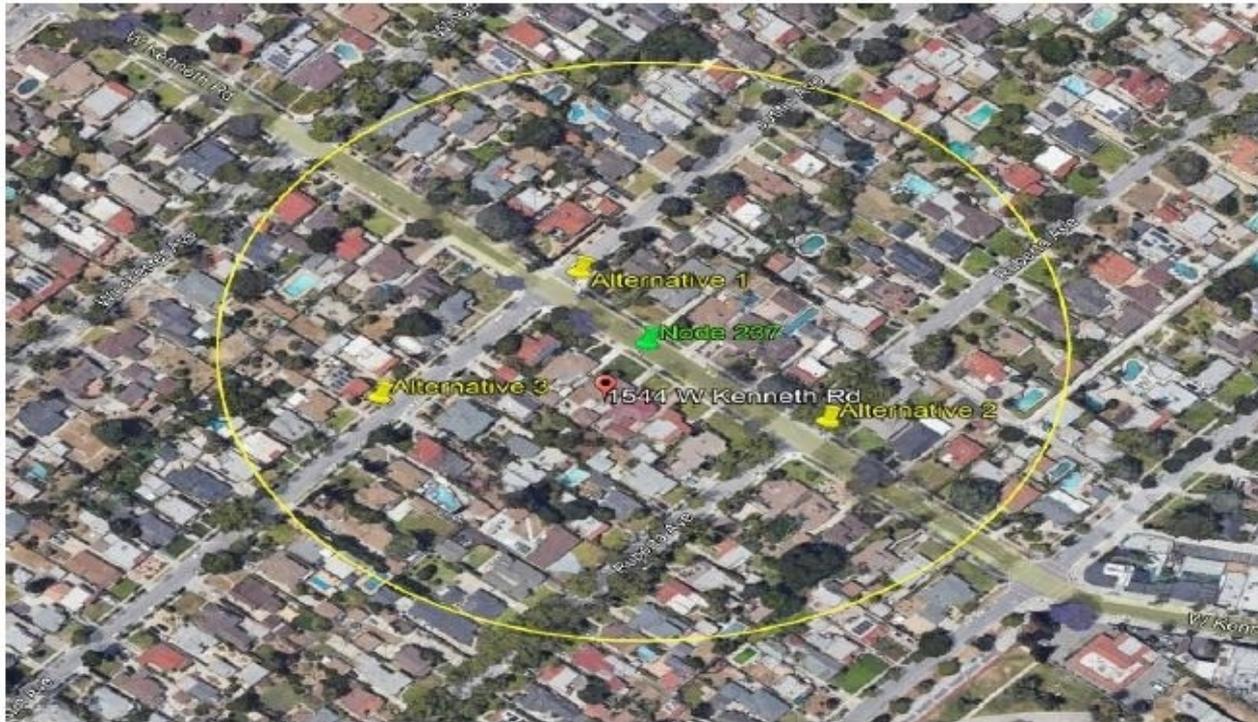


# Proposed Project – Alternative Sites

SW-CA-GLENDA-00237C

Front of 1544 W. Kenneth Rd., Glendale, CA91201

February 2, 2023



(Source: Applicant)



# Addressing Appellant's Contentions on Appeal

Addressing Appellant's contentions relating to the Project:

- Will impact the health and safety of neighbors/tenants/public.
  - FCC has sole jurisdiction over RF health and safety standards.
  - In 2019 FCC determined that a re-evaluation was not warranted.
- Decrease in property values.
  - No expert evidence demonstrating impact on property values.
- **Discrimination towards Armenian American property owners.**
  - Extenet withdrew its application for a proposed location in front of Lutheran Church due to a noticing error.
  - Extenet will be re-submitting the application in front of the same property but on an adjacent street light pole.



# City Council Options

- The City Council DENY the Appeal and UPHOLD the Permit for the Project.
- The City Council GRANT the Appeal, reverse the decision of the Director of Public Works, and continue the matter for staff to prepare written findings consistent with City Council's direction for granting the Appeal.





*#MyGlendale*

