

August 6, 2024

Burbank City Council,

In addition to the appeal letter and fee (\$6,231.02) that is attached, we will be providing additional evidence to support our case by this Friday, August 9, 2024 by 5:00pm. This was approved in advance by Fatima Benitez, Associate Planner. We greatly thank you for consideration in this matter and we look forward to working with you all.

Thank You,



Nicolette LeFebre-Surina  
Concerned School Owners, Neighbors, Parents & Citizens of Burbank



City of Burbank  
 Planning and Transportation Division  
**APPEAL FORM**

150 North Third Street  
 Burbank, California 91502  
 www.burbankusa.com  
 T: 818-238-5250  
 F: 818-238-5150

Any person may file an appeal within 15 days after a decision is made by either the Community Development Director or the Planning Board. The appeal must be accompanied by a filing fee as set forth in the Burbank Fee Resolution. If multiple parties wish to appeal a decision, they may either all sign the same appeal form, or each must submit a separate appeal form with the filing fee. All appeals will be processed at the same time. See Burbank Municipal Code §10-1-1907.1 *et seq.* for additional information.

**Project Address:**  
 800 S. Main St. Burbank 91506

**Project Number:**  
 23-0005025

**Type of Application:**  
 AUP

**Appealing Action of:**  Director  Planning Board

**Action of the Director or Planning Board was:**  Approval  Denial

**Purpose of Appeal:** Please provide applicable code sections and explain reasons for the appeal. Attach additional sheets as necessary.

See attached letter

**Appellant Name:** Nicolette Lefebvre-Surina  
**Second Appellant Name (if applicable):** Nikki Combs

**Mailing address:** [Redacted]

**Appellant Signature:** [Redacted]

**Date:** 8/6/2024

**All appellants must sign official appeal form. Attach additional appeal forms with signatures if more than two appellants.**

Planning Division Use Only	
Filing Fee	Date Received
Receipt No.	Received By
Notes	



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**Project Address:** 800 S Main St. Burbank CA 91504

**Project Number:** 23-0005025

**Type of Application:** AUP

**Appealing Action of:**  Director  Planning Board

**Action of the Director or Planning Board was:**  Approval  Denial

**Purpose of Appeal:** Please provide applicable code sections and explain reasons for the appeal. Attach additional sheets as necessary.

**Appellant Name:** Kristin Horke

**Second Appellant Name (If applicable):** Sarah Humphries



**Appellant Signature:** [Redacted]

**Second Appellant Signature:** [Redacted]

**Date:** Aug 6, 2024

**Date:** 8/6/24

All appellants must sign official appeal form. Attach additional appeal forms with signatures if more than two appellants.

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August 6, 2024

Attention: Burbank City Council  
Appeal of Project #23-0005025

We the local residents, business owners, teachers, students, children, and animals alike are the closest and most immediately impacted by the proposal by Dish Wireless for an AUP for a wireless telecommunications facility at 800 S. Main St., Burbank.

Since we have already appealed to the City Planning Commission and our appeal was denied, we are urgently requesting that the Burbank City Council reconsider our request and deny the AUP for an installation of multiple 5G antennas at 800 S. Main St. Furthermore, we are requesting that the City Council updates and builds a new city ordinance to keep up with the ever changing technology in a safe and humane manner.

We will be bringing additional evidence to support the following, but not limited to:

- First, the public notices mailed to the community were inconsistent, confusing and did not hold transparency as the description of such project was insincere and the city kept evidence from the community. Additionally, they did not notify all the schools in the area that reside within 1000 feet.

Our Village Preschool --- located at 720 South Main St  
William McKinley Elementary School located at 349 W Valencia Ave, Burbank  
Delores Huerta Middle School — located at 420 South Mariposa St.  
Hrashq Preschool — located at 906 South Main St.

- In order to to be approved for an AUP, the use must be compatible with other uses in the general area in which the use is proposed to be located. This location cannot be approved because it is a school and residential zone. There are four schools located within the direct vicinity of the proposed site. And a third of the property is zoned R1.
- In order to be approved for an AUP the conditions imposed are necessary to protect the public health, safety, convenience and welfare. [Added by Ord. No. 3139, eff. 1/28/89; Formerly numbered Section 31-255.22; Renumbered by Ord. No. 3058.] We will present evidence that his location cannot be approved because it does not protect the public health, safety, convenience and welfare.
- The property is in a neighborhood business zone and already bridges municipal code by 10 feet. These antennas would add an additional 10 1/2 feet further violating code with a discrepancy of over 20 feet. Burbank has already denied a telecommunications facility to be installed at Little White Chapel (1711 N Avon) on height restrictions alone. This has set a precedent. The Little White Chapel would have stood at 29ft and the 800 S Main St. building would be over 45 ft. If the Little White Chapel was denied on height restrictions alone, so should this project.

<https://myburbank.com/burbank-city-council-stops-cell-tower-in-a-steeple-others-may-already-exist/>

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- City Planning states "that the applicant has provided documentation, including coverage maps, that the proposed WTF facility will provide wireless and data coverage for a portion of Burbank which currently has a gap in coverage." And the application from Dish Wireless states it "provides significant new coverage on the DISH system." This is a lie. It is the first DISH installation and doesn't close any gaps. The facility is NOT co-located - there is no other facility to co-locate with. It is a brand new installation-for a single company. The facility is not eligible for a co-located building mounted AUP.
- According to the FCC telecommunication act of 1996, applicants are required to provide proof that they have attempted to find alternative placement for telecommunication facilities. The applicant has not done so and states that this site is NOT the one and only site that can meet the DISH network objectives; and that he has not tried to look for other locations.
- The CEQA Clearance under Section 15303 for this project applies to construction of minor accessory structures, installation of new equipment or making minor alterations to land. A brand new WTF facility is not a minor alteration to the use of land. It is not being put in a small structure; and it is not accessory to the building. It is a stand alone facility on the property attached to the roof. Especially given that the land is an R1 /NB split zone that abuts sensitive land uses.

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### **Additional Evidence**

- Violates the following requirements for an AUP:
  - 1."The use is not detrimental to existing uses or to uses specifically permitted in the zone in which the proposed use is to be located." [It absolutely is detrimental to residents and businesses health, safety, and property values, It is detrimental to our children. https://ehtrust.org/cell-tower-at-schools-health-effects-safety-faqs/](https://ehtrust.org/cell-tower-at-schools-health-effects-safety-faqs/)
  - The use will be compatible with other uses in the general area in which the use is proposed to be located." [It is not compatible to the health and safety of children and will negatively effect the small businesses.](#)
  - "The conditions imposed are **necessary to protect the public health, safety, convenience and welfare.** [Added by Ord. No. 3139, eff. 1/28/89; Formerly numbered Section 31-255.22; Renumbered by Ord. No. 3058.]"

There is NO PROTECTION PROVIDED. A 5G telecommunications antenna contributes to air pollution and radiation exposure.

- Insurers rank 5G and electromagnetic radiation as a “high” risk, comparing the issue to lead and asbestos. A 2019 Report by Swiss Re Institute, a world leading provider of insurance, classifies 5G mobile networks as a “high”, “off-the-leash” risk stating, “Existing concerns regarding potential negative health effects from electromagnetic fields (EMF) are only likely to increase. An uptick in liability claims could be a potential long-term consequence” and “[a]s the biological effects of EMF in general and 5G in particular are still being debated, potential claims for health impairments may come with a long latency.” <https://ehtrust.org/key-issues/electromagnetic-field-insurance-policy-exclusions/> **Dish Wireless and the City of Burbank will be held fully liable for any and all negative health effects, fully and not limited to financial loss that may result from the installation of this tower.**
- The parcel of land at 800 S. Main Street is partially zoned for R-1 single family residential, which impacts the permitting process in that the permit grants a non-conforming use of the land. The permit runs with the land and the permit is invalid as the most conservative use of land is residential, which would not work with the 5G towers proposed at this site. Additionally, this land parcel is boarded by R-1 single family residential lots on all sides.
- Numerous US cities and towns are passing ordinances to restrict 5G and the proliferation of wireless antennas near homes and schools with the authority they have. Communities that have passed ordinances to restrict cell antennas near homes and schools include numerous cities in California such as Los Altos, Petaluma, Mill Valley, Malibu, Santa Barbara, Encinitas, Fairfax, Palo Alto, Walnut City and San Diego County as well as Bedford New Hampshire, Mason Ohio and many more. <https://ehtrust.org/usa-city-ordinances-to-limit-and-control-wireless-facilities-small-cells-in-rights-of-ways/> In regards to Burbank Municipal Code, there have been no updates in over 10 years. With our rapidly advancing technology, Burbank codes/ordinances need to be updated to keep up with the every changing technological advances and how those impact the surrounding community. Knowing that other cities in California have codified minimal distances from schools and residents, it proves this kind of objective standard can be implemented and does not run afoul of FCC regulations.
- The FCC has not updated regulations since 1991:**FCC’S REFUSAL TO UPDATE 1996 LIMITS**The legal case challenged the FCC’s 2019 decision not to update its 1996regulations regarding allowable radio frequency radiation (RF) exposures from wireless technologies - including 5G, cell phones, cell towers, Wi-Fi, and wireless networks.**EVIDENCE OF HARMFUL EFFECTS BELOW FCC LIMITS** FCC limits are based on the belief that heating is the only proven harm fromRF. Over 11,000 pages of evidence - 447 exhibits in 27 Volumes - was submitted to the Court

documenting biological effects and illness from wireless radiation exposure below heating levels. Research has found brain damage, headaches, memory problems, reproduction damage, synergistic effects, nervous system impacts, brain cancer, genetic damage, as well as harm to trees, birds, bees, and wildlife.

Reference to 11,000 pages of evidence

<https://ehtrust.org/environmental-health-trust-et-al-v-fcc-key-documents/>

- Wildlife: A local birding expert identified two Cooper's Hawks in the magnolia tree in the lot adjacent to the southeast corner of the parcel located at 800 S. Main Street. Cooper's Hawks are a protected bird species that come back to the same nesting area annually and may reuse their prior year nest. They are an integral part of our ecosystem, and as such, Cooper's Hawks are protected under the U.S. Migratory Bird Act and CITES Appendix II. The emissions by 5G technologies can disrupt the magnetic "compass" that many migrating birds and insects use for navigation, impacting their ability to return. The same radiation can also interfere with the orientation of insects, spiders, and mammals - which are the food sources of Cooper's Hawks and other birdlife present in the area immediately surrounding the proposed project site. Source: [Radiation From Cellphones, Wi-Fi Is Hurting the Birds and the Bees: 5G May Make It Worse - Newsweek](https://ehtrust.org/study-finds-wireless-radiation-affects-wildlife/) <https://ehtrust.org/study-finds-wireless-radiation-affects-wildlife/> All raptors are protected under State law (See Fish and Game Code, Sections 3503, 3503.5, 3505 and 3513, and California Code of Regulation, Title 14, Sections 251.1, 652 and 783-786.6). <https://www.ifaw.org/animals/birds-of-prey>
- FCC Lawsuit: **LANDMARK FEDERAL COURT RULING AGAINST THE FCC** On August 13, 2021 the U.S. Court of Appeals for the D.C. Circuit ruled the Federal Communications Commission (FCC) ignored scientific evidence and failed to provide a reasoned explanation for its determination that its 1996 regulations adequately protect the public against all the harmful effects of wireless radiation. The court ordered the FCC to provide a reasoned determination as to whether the evidence warrants a change to 1996 RF limits especially in regards to: children's vulnerability long-term exposure environmental impacts new technological developments and the ubiquity of wireless how FCC's cell phone tests only measure heat and allow a space between the phone and body. Since the FCC has not responded to the Court, the FCC's limits cannot be stated to rest on an up to date review of the totality of the science. Compliance with FCC limits cannot ensure safety, especially the long term safety of children as the limits are from 1996, with no properly performed review for adequate protection since. Since the FCC has not disclosed the new updated findings, the documentation provided by Dish Cellular stating that they are in compliance is false. [https://www.cadc.uscourts.gov/internet/opinions.nsf/FB976465BF00F8BD85258730004EFDF7/\\$file/20-1025-1910111.pdf](https://www.cadc.uscourts.gov/internet/opinions.nsf/FB976465BF00F8BD85258730004EFDF7/$file/20-1025-1910111.pdf)
- One 5G telecommunications facility catches on fire per month
- Firefighters in CA won exemptions from cell towers when an independent study ruled that the negative health effects and impaired judgement they were experiencing were

directly related to RF-EMR after they were placed on top of their fire station. If firefighters can get an exemption, then much more vulnerable children should have equal opportunity. <https://ehtrust.org/firefighter-unions-opposing-cell-towers/>  
<https://mdsafetech.org/2019/09/28/firefighters-fighting-fires-and-now-cell-towers/>

- After reviewing multiple public records on 800 S Main Street, we discovered a footprint of several exceptions allowing too many accommodations. This building already violates height restrictions as mentioned earlier. Allowing these antennas to be installed opens up new opportunities for all wireless communication companies to participate in locating more antennas atop of 800 S. Main St., at their own discretion, without approval or oversight from the city ever again. Thus building infrastructure clutter, causing not only the look and feel to change, but changing the use of the building as a wireless communications facility. Even with a retainer wall built to maintain aesthetics, it would create a much larger look, increasing roof lines to the building not appropriate for the zoning location, making it aesthetically incompatible. Not only is it aesthetically displeasing to approve the project, it would be irresponsible, as it is intrusive to the land use, whereas the building is located on a side street surrounded by residential homes, buildings and schools.

#### References to harm at levels well below FCC limits

Pearce, J. M. (2020). [Limiting liability with positioning to minimize negative health effects of cellular phone towers.](#) *Environmental Research*, 181, 108845. \_

Balmori, A. (2022). [Evidence for a health risk by RF on humans living around mobile phone base stations: From radiofrequency sickness to cancer.](#) *Environmental Research*, 214, 113851.

Davis, D., Birnbaum, L., Ben-Ishai, P., Taylor, H., Sears, M., Butler, T., & Scarato, T. (2023). [Wireless technologies, non-ionizing electromagnetic fields and children: Identifying and reducing health risks.](#) *Current Problems in Pediatric and Adolescent Health Care*, 53(2), 101374.

Directorate-General for Parliamentary Research Services (European Parliament), & Belpoggi, F. (2021). [Health impact of 5G: Current state of knowledge of 5G related carcinogenic and reproductive/developmental hazards as they emerge from epidemiological studies and in vivo experimental studies.](#) Publications Office of the European Union.

International Commission on the Biological Effects of Electromagnetic Fields (ICBE-EMF), (2022). [Scientific evidence invalidates health assumptions underlying the FCC and ICNIRP exposure limit determinations for radiofrequency radiation: implications for 5G.](#) *Environ Health*. Oct 18;21(1):92.



We thank you for your time and consideration and look forward to meeting with you all and working together to make the City of Burbank a better place for everyone who lives, works and plays here.

Sincerely,

Nicolette LeFabre-Surina  
Concerned School Owners, Neighbors, Parents & Citizens of Burbank