

GOVERNMENT OF THE DISTRICT OF COLUMBIA
ADVISORY NEIGHBORHOOD COMMISSION 3B
GLOVER PARK AND CATHEDRAL HEIGHTS



March 14, 2019

Public Space Committee
District Department of Transportation
1100 4th Street SW
Washington, DC 20024

To the Committee:

Our Advisory Neighborhood Commission (ANC) serving the Glover Park-Cathedral Heights neighborhood in Ward 3 submitted comments to the Public Space Committee (PSC) on the initial draft Design Guidelines for Small Cell Technology in October, and we are pleased to have the chance to comment on the revised draft Design Guidelines issued on February 1, 2019. Efficient telecommunications and data transmission are important to residents and businesses in the District, as are the public safety and well-being of residents and visitors to the city's residential and commercial areas, including protecting safe passage for pedestrians, providing accessible and attractive streetscapes, and preserving the monumental core and historic districts of the city.

In our initial comments in October, we noted our concerns about preserving the visual appearance and scenic vistas of the city as well as the quality of life for residents throughout the District. We also emphasized the importance of preserving the rights of residents and ANCs and other interested groups to receive notice and have opportunities to review and comment on proposed installations of telecommunications equipment, transformers, antennas and poles in the community, and have input on applications to DDOT for public space permits for these facilities. We were particularly concerned about DDOT's proposal to allow each provider to put up as many as 2 poles on a residential or commercial block to hold its small cell units, as close as 10 feet from buildings or other utility poles, plus potentially refrigerator-size auxiliary units above ground.

We appreciate that DDOT has taken the public comments gathered at your hearing on October 15 and Councilmember Cheh's November 19 roundtable and her subsequent letter to DDOT on this topic, and the revised Draft Guidelines incorporate many of the recommended changes. We support the proposed provisions:

- calling for a smaller number of poles holding small cell facilities (one per blockface up to 300 feet long outside outside Areas of Special Interest v. a 2 in the initial draft, and no more than 3 per blockface in any block v. 6 in the initial draft, plus a maximum of 2 per blockface in Areas of Special Interest v. 5 in the initial draft);
- restricting installation of new stand-alone poles to hold small cell antennas and imposing clear requirements on private parties hoping to install new poles;
- calling for any small cell installations to follow specific standards to prevent interference with clear pedestrian paths, curb cuts and other ADA access, building entrances, window openings, fire hydrants, bicycle racks, Capital Bikeshare stations, benches and other street amenities, and security features such as bollards;
- requiring strong and specific protections for street trees and their critical root zones, by requiring any new poles constructed to hold small cell antennas and other equipment to be at least a specified minimum distance away from existing or replacement street trees and avoid intruding on their root zone;
- requiring all new standalone poles for small cell facilities to follow the same standard design;
- convening an expert panel to develop design standards for standalone poles, as Councilmember Cheh suggested;

- adding requirements in new provision 4.2.2 covering applications for small cell installations in Areas of Special Interest (including the Monumental Core and Historic Districts), “a designated hearing and . . . review and comment by the ANCs, NCPC, CFA, and HPO as appropriate.”

We also have several remaining questions and concerns related to enforcement, opportunities for public comment, and consideration of public safety and health. One key question about the language in the revised Draft Guidelines is how a determination will be made about whether applications “comply with these guidelines and all other standards, regulations and laws,” particularly when some of the standards appear to be related to perceptions of the observer rather than an easily measured characteristic. For example, in Historic Districts and Landmarked Properties, the new section 6.2.2 states “small cell technology shall not obstruct contributing vistas and views as designated in the 1997 L’Enfant Plan National Register of Historic Places nominations.” New section 6.3.3.1.4. states, “To the maximum extent possible, avoid pole placement of standalone poles that blocks views to and from building windows or detracts from the building’s architectural quality.” These are important protections; however, the revised Draft Guidelines do not appear to include guidance on who would make that assessment or what the measures would be. We recommend that if an application for small cell installation raises questions of that type, the application should go through a hearing and review and comment by the ANCs, NCPC, CFA, and HPO.

The revised Draft Guidelines note in section 2.4 a general consensus “identifying the need for an independent design process to present options for the appearance of free-standing poles and at-grade cabinetry.” * That process is particularly important in areas such as Historic Georgetown, where there are almost no existing poles along the streets and protecting the visual appearance is an important priority. We also support the recommendation from multiple groups including our neighbor Commissioners in ANC2E in Georgetown that the PSC should provide full-scale mock-up or “pilot” of the proposed designs for standalone poles, small cell attachments, and cabinetry in an actual residential and neighborhood context, not just in schematic drawings without a true street-scape to illustrate the appearance and other effects in the community. That pilot is not included in the new draft, but could perhaps be a recommendation of the expert panel that will be developing design standards.

In our letter to DDOT about the original Draft Guidelines in October, we also noted several issues that remain concerns in the revised Draft Guidelines, related to the Master Licensing Agreements (MLAs) DDOT has signed and proposes to enter with prospective private sector providers of small cell service in the District:

- the absence of opportunities for ANC and public input on what would be included of the MLAs
- the terms of the MLAs that allow providers to go forward with their desired small cell installations without further public review once the provider has received approval for its first installation in a neighborhood.

There is no clear indication in the revised Draft Guidelines that these concerns have been addressed. We hope that through the extensive comments to DDOT subsequent to signing the MLAs, it is clear that providers with MLAs for small cell technology in the District must fulfill the additional provisions adopted by the PSC/DDOT governing installation of small cell infrastructure. They must offer opportunities for public review and comment beyond what was anticipated when the MLAs were signed, including reviews of installations beyond the first one in a neighborhood, especially if there are changes in design, density or other key aspects of the plans.

We understand that the Federal Communications Commission (FCC) has declared limits on the nature of “aesthetics guidelines” that local jurisdictions will be allowed to adopt on governing installation of small cell/5G technology. Some observers have said that design guidelines would only be advisory, rather than legally binding and enforceable regulations. But the FCC order is not a prohibition on local regulations affecting design.**

We also note that though the proposed Draft Guidelines are labeled “design guidelines,” many of the provisions of the provisions are not related to design. For example, sections 7.3 through 7.6 on Streetlight Poles, 8.2 through 8.4 on Pedestrian Path and Amenity Zone, and 9.3 on Third Party Poles appear to be the kind of provisions DDOT

* New section 8.1.1 says “Any Small Cell infrastructure requiring standalone poles is not to be installed until the standalone pole design has been reviewed and formally adopted by the PSC as part of these guidelines.” New section 5.3.1 directs that “Any small cell infrastructure requiring ground level cabinetry is not to be installed until the ground level cabinetry design has been reviewed and formally adopted by the PSC as part of these guidelines.”

** Paragraph 86 of FCC Declaratory Ruling and Third Report and Order WT Docket No. 17-79; WC Docket No. 17-84 issued September 5, 2018, states “*aesthetics requirements are not preempted if they are (1) reasonable, (2) no more burdensome than those applied to other types of infrastructure deployments, and (3) published in advance.*”

applies and enforces for any facilities in public space in the District. Appropriately, the language in these sections uses the words “shall” and “must,” as DDOT regulations generally do. We urge that DDOT distinguish clearly what could be considered “design guidelines” and which provisions are clearly in the realm of public space regulations present and implement the provisions related to protecting public safety, access to public space, and preservation of the trees in the public space as enforceable municipal regulations, not as “design guidelines.”

Finally, as public servants we are concerned about the general welfare, including the health of residents and visitors. Small cell technology is proposed to provide high-speed 5G telecommunications in the District, most likely in the high-frequency portion of the spectrum. The reason that small cell antennas would be placed at relatively short distances from each other is that the high frequency signals lose strength quickly, and it takes a lot of power to send them across any distance. The amount of power required goes up exponentially with the distance. That means that the electromagnetic radiation at each pole and antenna installation has to be very strong, particularly if the transmission is expected to reach receivers more than a few hundred feet away, much less thousands of feet. We do not want adults and children to be harmed by the transmissions from antennas installed just outside their homes, classrooms, or places of work and leisure. We hope that the officials responsible for health and safety in our city and the nation will examine the potential consequences of this technology, at various frequencies and distances from the source, and will give serious consideration to the risks it may impose.

Public policy requires balancing the benefits of each new technology and the risks. We should not sacrifice the health of individuals, particularly children and their future, in a rush to get higher speed telecommunications. It will take time to develop devices capable of using the potential capacity of 5G technology, and many developments and decisions have yet to be made across the country before that happens. For example, 5G communications can make use of a range of frequencies that may require different levels of power and distance between antennas. Some residents have asked whether the levels of exposure to electromagnetic transmissions can be reduced by having the antennas on rooftops or in other locations than on the streetside. If 5G service can be provided by using frequencies and/or devices and infrastructure that would have lower health risks and reduced impacts on the function and appearance of our communities, the time to assess those options is before the antennas are approved and investments are made in a massive new system.

A statement was made at the Public Space Committee meeting on October 15 indicated that DDOT does not have purview over health issues related to applications for public space permits. At that meeting, however, DDOT had presentations about the distance that should be allowed between the small cell antennas mounted on a pole, any associated cabinetry, and electrical wires in order to prevent interference with the transmissions, and those parameters were going to be included in the guidelines for the design and height of poles used for small cell installations. If protecting electronic devices from nearby electrical transmissions can be considered as part of the design guidelines for small cell technology, it seems as if protecting people from interference by nearby transmissions from the poles should also be a consideration. One of the major reasons why DDOT has jurisdiction over permits for construction in public space is to protect public safety. We urge that DDOT take into account the public record on safety effects of 5G transmission, incorporate those findings into its guidelines for small cell installation, and continue to monitor the evolving literature to ensure that District public space regulations governing small cell installation are kept up-to-date with the scientific findings on this matter.

Thank you for your consideration.

Sincerely,



Brian Turmail
Chairman

This letter was approved by a vote of 5-0 at a duly noticed public meeting of ANC3B on March 14, 2019, at which a quorum was present. (Three of the five Commissioners constitute a quorum.)

As part of the same vote, the Commission also voted to designate the Chairman or the Commissioner of ANC3B01 to represent the Commission on this matter.