



Federal Communications Commission
Washington, D.C. 20554

March 9, 2022

VIA ELECTRONIC MAIL

The Honorable Adam Smith (WA-09)
2264 Rayburn HOB
Washington D.C. 20515

Attn: Victoria Bautista, Legislative Assistant

Re: Constituent Inquiry -- Wireless Tower Permit in a Pet Cemetery

Dear Congressman Smith:

Thank you for forwarding the correspondence from your constituent, Julie Seitz, who contacted your office with a question concerning the authority of local governments to make decisions to approve or deny requests to construct communications towers and other wireless communications facilities.

Section 332(c)(7) of the Communications Act, as amended, intends to preserve the local zoning authority of state and local governments. It provides that: "Except as provided in this paragraph, nothing in this chapter shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities." 47 U.S.C. § 332(c)(7). There are some limitations to that authority, including section 332(c)(7)(B)(i), which provides that state and local governments may not unreasonably discriminate among providers of functionally equivalent services, may not regulate in a manner that prohibits or has the effect of prohibiting the provision of personal wireless services, and must act on applications within a reasonable period of time.

Nevertheless, a state or local government authority is generally responsible for deciding whether to grant a request to deploy a wireless facility in a particular location within its jurisdiction. Thus, state or local governments may enforce their zoning ordinances—which may include consideration of aesthetics, preservation of property value, consistency with neighboring land uses, structural safety, noise, and similar concerns—provided a community acts in a manner consistent with the conditions set out in section 332(c)(7). These decisions are made by the state or local government based on its own laws and the record before it.

I hope this information is helpful. Please let me know if we can be of further assistance to your office.

Sincerely,

Amy Brett

Amy Brett, Acting Chief of Staff
Wireless Telecommunications Bureau
Federal Communications Commission