



CITY ZONING COMMISSION
AGENDA-Tuesday, April 4, 2023, 4:30 p.m.
Miller Building, 1st Floor Conference Room
2825 3rd Avenue North, Billings, Montana

NOTICE TO THE PUBLIC

In the event a quorum of the Council is present, no City-related decisions will be made during this meeting or event.

Citizens are invited to:

- Review the Agenda Packet on the City's website at: <https://ci.billings.mt.us/117/Agendas-Minutes>
- View the meeting live online at Facebook: <https://tinyurl.com/yckr478k>

Public comment will be taken only during the Public Comment periods as indicated on the agenda and during the Public Hearings, if any are scheduled, under the Regular agenda. Comments may be sent to Board via email before 10:00 AM on the meeting date. All emails received prior to this time will be read into the record for the public hearing. Comments may be submitted by:

- Mail: City/County Planning Division, 2825 3rd Ave N 4th Floor, Billings, MT 59101
 - Email: bartleyr@billingsmt.gov
- Call in during the Public Comment periods as indicated on the agenda:
 - Citizens may call in during specific Public Comment periods at **406.237.6165**.
All callers will be placed in a queued system and are asked to remain on hold and be patient. Calls will be taken in the order in which they are received. Callers will be limited to 3 minutes of testimony as is customary.
Future delivery methods may be explored as best practice is learned.

Please direct questions to Administrative Secretary Robbin Bartley at bartleyr@billingsmt.gov or 406-247-8676

Call the meeting to order.

Introduction of City Zoning Commission Members and Planning Department Staff.

Public Comment

Approval of Minutes:

The minutes of the Board meeting of January 3, 2023 and March 7, 2023.

Disclosure of any Conflict of Interest-Members of the Commission and Staff

Disclosure of an Outside (Ex Parte Communication)-Members of the Commission and Staff
a. The Exparte Communication Binder is available at the Sign-In and Agenda Station.

Regular Business:

- A. Opening of public hearings.
- B. Reading of rules for the procedure by which the public hearings will be conducted.
- C. Reading of notices of the public hearings on the following items:

Public Hearings:

- a. **City Special Review 996 -- 1010 Grand Avenue -- Request to increase the height of a wireless communication facility (WCF) --** A special review request to allow a 30-foot WCF height increase for an existing facility located at 1010 Grand Avenue, in a Corridor Mixed Use 1 (CMU1) zone district, on Lot 1A of Sunset Sub, 4th Filing and 7th Filing Amended, a .47 acre parcel of land. The lease area for the WCF is south of the principal structure and has an existing height of 46 feet. A pre-application neighborhood meeting was held on February 22, 2023.

Other Business/Announcements

Adjournment

The City Council has designated April 24, 2023, at 5:30 p.m. as the date and time to receive the Zoning Commission

recommendation for the **Special Review** and hold a public hearing.

Before taking any action on an application for a **Special Review**, the City Council shall first consider the findings and recommendations of the City Zoning Commission. Those findings and recommendations will be based on **BMCC 27-1623.D (1 through 9)**. Each zoning district is primarily intended for a predominant type of use as identified in BMCC Table 27-1000.1. There are also a limited number of **specific uses subject to special review that may or may not be appropriate in a particular district**, depending upon all the circumstances of the individual use on the site and in context with surrounding development. Consideration of these uses includes examination of the location, nature of the proposed use, the character of the surrounding development, traffic capacities of adjacent streets, and potential environmental effects, and whether specific conditions can be applied to mitigate the potential negative impacts of the use. **Special review uses are special exceptions to the general terms of Billings Zoning Code.**

In no case shall the City Council approve a special review use other than the one advertised. The City Council shall take one of the following actions on the request: 1) approve the application; 2) conditionally approve the application; 3) deny the application; 4) allow withdrawal of the application; or 5) delay the application for a period not to exceed thirty (30) days.

Testimony regarding the above-mentioned item may also be submitted in writing to the Planning Division, 2825 3rd Avenue North, 4th Floor, Miller Building, Billings, MT 59101 (247-8676) or to the Mayor and City Council, P.O. Box 1178, Billings, MT 59103.

Public hearings are accessible to individuals with physical disabilities. Special arrangements for participation in the public hearings by individuals with hearing, speech, or vision impairment may be made upon request at least three days prior to the hearing. Please notify Robbin Bartley, Administrative Assistant, at 247-8676 or e-mail to bartleyr@billingsmt.gov

City Zoning Commission
Meeting Date: 04/04/2023

Information

Subject

The minutes of the Board meeting of January 3, 2023 and March 7, 2023.

Attachments

BZC_2023_0103

BZC_2023_0307

Chair Larson introduced the Planning Division Staff and Commission: Attending Staff were Nicole Cromwell, Zoning Coordinator and Robbin Bartley, Administrative Assistant.

*RETURNING AGENDA ITEM.

Attending:

Chair Larson called the meeting to order at 4:31 pm.

Public Comment

Chair Larson called for public comments. There were no public comments. Chair Larson closed the public comment portion of the meeting.

Approval of Minutes:

Motion by Commissioner Goss and seconded by Commissioner White to approve the November 1, 2022 meeting minutes with correction.

Disclosure of Conflict of Interest

COMMISSIONER	DISCLOSED	NONE	ABSTAINED	ABSENT
Mike Larson		x		
Daniel J. Brooks				x
David Goss		x		
Greg McCall				x
Trina White		x		

Disclosure of Outside Communication

COMMISSIONER	DISCLOSED	NONE	ABSTAINED	ABSENT
Mike Larson		x		
Daniel J. Brooks				x
David Goss		x		
Greg McCall				x
Trina White		x		

Commissioners White and Goss visited Special Review 995 and Zone Change 1021 locations.

Public Hearings:

City Special Review 995 – Blue Creek Rd & Santiago Blvd – Request for Car Wash – A special review request to allow a carwash facility in a Corridor Mixed Use 1 (CMU1) zone on Lot 1 of Blue Creek Storage Subdivision a .917 acre parcel of land. The applicant has also included requests for variances from the CMU1 Site and Structure regulations in Table 27-400-3 including: (A.1) Build-To Corner, (A.3) Minimum Front Lot

Line coverage, (A.4 & A.5) Front and Street-Side Build-to Ranges, (B.8) Parking location, (D.16) Window and Door requirements, and (D.18) Number of Entries on the Front façade; Sec. 27-1005 (Q.1) Carwash bay doors on the front façade, (Q.3.b) location of open air vacuuming facility in the front or street-side yard. A pre-application neighborhood meeting was held on November 21, 2022.

Staff Recommendation:

Planning staff is recommending approval and adoption of the proposed findings of the 9 criteria for Special Review 995.

- Special Review Uses are “special exceptions” in the zone district – not allowed uses
- Proof of compatibility of the Special Review Use rests with the applicant
- Nine Review Criteria
 1. Consistent with the City’s growth policy
 2. Will not endanger the public health, safety, morals, comfort, or general welfare
 3. Site is adequate in size and topography to accommodate the use
 4. Will not be injurious to the use and enjoyment of other property nor diminish and impair property values
 5. Will not impede the normal and orderly development of the area
 6. Conditions necessary to protect the public health, safety, and general welfare can be established
 7. Site has or will have adequate utilities, access roads, drainage, and/or necessary facilities
 8. Adequate measures taken to provide ingress and egress
 9. The special review use shall, in all other respects, conform to the applicable regulations or as modified by the City Council
 - 1. Approval is for operation of a carwash with 2 auto wash bays and 4 self-service wash bays, 5 outdoor vacuuming stalls on this lot.
 - 2. Substantial conformance with submitted site plan – operational hours from 5 am to 10 pm daily.
 - 3. Building design and elevations as shown on the architectural drawings.
 - 4. Site obscuring wall on the north and southeast property line as shown on plan sheet. Materials will be a masonry wall or facsimile of masonry (Rhino Rock) and will use earth tones. Wood, vinyl and chain link not allowed for this wall location. Proposed sight obscuring fence on south property line may be wood or matte-finish vinyl.
 - 5. Install required number of street trees along the inside of new sidewalk on Santiago Blvd. Deciduous trees that will not impeded existing or future infrastructure. Shielding of vacuum stalls on the west property line will be a combo of ornamental grasses and shrubs including evergreen shrubs.
 - 6. Landscape plan for property will be prepared and stamped by a MT licensed landscape architect.
 - 7. Site plan submitted for Building permit review will include a snow storage area and the location and detail for the trash enclosure.
 - 8. All installed landscaping will be maintained and replaced as needed.
 - 9. Pavement markings to ensure pedestrian and direction of vehicle travel will be provided on the site.
 - 10. No internally illuminated fascia is allowed and all lighting on the building will have full cut-off shields.
 - 11. Max height of parking lot lights will be 15 feet and installed with full cut-off shields.
 - 12. No exterior attached signs on the building façade that faces east.
 - 13. All signs shall comply with code for CMU1 district and any lighted sign will not be lit during non-operational hours.
 - 14. Submit a building permit within 1 year of approval and complete the project within 2 years of building permit issuance.
 - 15. Requested variances and modifications of site and building standards for CMU1 are specifically approve.
 - 16. Minor modifications of the site are allowed (10% or less)

- 17. If special review use ceases for 6 consecutive months or more, a new special review approval is required to re-establish the use.
- 18. Council reserves the right to re-open the conditional approval if the owner fails to respond to a notice of non-compliance with conditions of approval within 45 days. Notice to owner at least 60 days in advance of Council hearing
- 19. Conditions run with the land and are binding on current and future owners.
- 20. Right of building and occupancy permits are contingent on fulfillment of conditions of approval.

Discussion. Questions for staff:

Applicant: Scott Aspenlieder, PEC

He is the agent for the owner, he stated the owner has no objection to any of the proposed conditions. He stated the project has taken a long road to get to this point in the process. He stated it was his understanding the zone change (Zone Change 1017) to CS – Heavy Commercial was denied due to the other types of uses that could occur in that district – not that a car wash facility was not appropriate at this location. He stated any use of the property – car wash or otherwise – would require an applicant to seek variances from the CMU1 district requirements to build to the property line. Mr. Aspenlieder stated the owner lives in Briar wood and also owns Blue Creek Storage directly adjacent to the subject property. He stated he reached out at every opportunity to discuss concerns with the neighborhood, but only one person contacted him about how to work with MDT on a safety study. He stated he sits on the Highway Commission as a representative of this MDT district, and he can offer informed assistance to residents. He stated the County recently sent a letter to MDT requesting a safety study for this section of Blue Creek Road. He stated these studies can take time and would need to be reviewed and recommendations approved by the Highway Commission prior to any improvements by MDT. Mr. Aspenlieder stated only 4 students (SD 2 – Middle School and High School) from Cedar Park subdivision walk down Santiago to catch the bus at Casey's corner. He stated they asked the city (Engineering) if they could build the new sidewalk on the north side of Santiago where it would be the most beneficial to these students, but this was not allowed. The new sidewalk will be built on the south side of Santiago next to the subject property. He stated there has been a queuing analysis that was reviewed by City Engineering. The final conclusions of the queuing analysis were approved by the City Engineer. The analysis shows the automatic wash bay blowers and vacuums on the west side shows the noise at the property lines will be well below even the nighttime maximum in the city code. Mr. Aspenlieder stated the owner has agreed to the restricted hours of operation to find middle ground with the neighborhood. Blue Creek Rd is a commercial corridor at this location south of the Yellowstone River. The zoning is in place and development will happen because the public infrastructure is in place.

Questions for applicant:

Public Hearing: 5:20 PM

Chair Larson opened the public hearing and called for anyone wishing to speak in favor or against Special Review 995.

In Favor:

Opposed:

Mr. Vanica stated he was concerned with the internal traffic circulation and that it may allow cars to queue out onto Santiago Blvd. Mr. Vanica also stated the special review criteria (Criteria 3) specifically requires a proposed use to adhere to the zone district requirements. He also was confused why the applicant is requesting these variations from the code requirements through the special review because the Board of Adjustment normally reviews requests for variances. He stated the Commission should recommend denial based on these irregularities in the process as well as the internal site circulation issues. Michele Johnson stated the residents in the area should have the biggest input on what goes on this property since they will be the most affected. She

stated the service is not needed at this location since it is less than a three minute drive to the Holiday station car wash on South Billings Blvd. She stated the traffic to and from the car wash will just add more confusion to the chaos of traffic on Blue Creek Road. Ms. Johnson stated the comparison of traffic on S 32nd St W to Blue Creek Rd by staff does not make sense. She stated the Cedar Park Subdivision may have a second access road soon. She stated leaving out first responders from the discussion is not wise. She stated the Blue Creek Fire Dept objected to the zone change and their concerns have not been addressed by this application. Cecil Werven stated he is opposed to the application because it has access on the local street and not the commercial street - Blue Creek Road. He stated the Zoning Commission should not be hearing the application because the zone change was denied and Section 27-1611 of the zoning prohibits a subsequent application on the same property for one year. Mr. Werven stated he does not believe MDT actually denied the drive approach on to Blue Creek Road. Wendy Stiff stated the City Council made its decision at the zone change hearing on a 7-3 vote denying the project. She stated it was not denied based on other uses that might be allowed in the CX but by the zone change criteria findings and the proposed use. She stated the County's request for a safety study will bring new information to the Zoning Commission and would be vital information to have prior to any decision on this project. She stated the project does not meet the city's growth policy for infill. The cost burden to the existing residents is too high especially the Cedar Park subdivision residents. She stated Zoning Commissioners would be opposed if this were located on a corner near their own neighborhoods. She stated Mr. Pimley, the owner, did reach out to their newly formed Blue Creek Corridor Commission to join and continue a dialogue. Mr. Pimley has since stopped communication with our group. Charles Stiff spoke in opposition to the request. He stated the location of this car wash makes as much sense as the new Chick-fil-A at Rosebud and 24th St West. He stated all the residents in the room were opposed to the special review. He stated the Zoning Commission should not be hearing this application since the denial of the zone change happened less than one year ago. He stated developers and consultants receive special treatment from staff and Commission. He stated people are tired of the rubber-stamping that goes on at the expense of the existing neighborhoods. He stated both the Ward 3 Council members voted against the zone change. He stated he was concerned the car wash could have bottlenecks if people drive in with trailers or RVs. Sherry Danielson stated she has lived in the Blue Creek area for 43 years and is opposed to the use of this corner for a car wash. She stated she has watched the traffic increase in volume and speed over the years. She stated there are not just trash trucks going to landfill anymore. Landfill traffic includes large 18-wheeler side dump rigs as well as pick up trucks. She stated the road has about three wrecks a year at Jellison and Blue Creek Road and these are not minor fender benders. She stated these crashes take out guardrails and have serious injuries. She stated 250 vehicles using this car wash every day will just add to the terrible traffic situation on Blue Creek Road. She also stated this owner is not managing or maintaining the storage unit property very well. She stated all the trees died that were planted in the front yard and was only mowed twice last summer. She does not believe the owner will take care of this property any better than the storage units. She stated when the owner needs to ask for seven variances, then the Zoning Commission should just deny the request. Heather Haynes stated she was opposed to the application. She stated she has lived here for 12 years and is a single mother of four kids. She stated the out-of-date MDT traffic study does not include any of the new traffic from all the County subdivisions done since 2006. She stated the Assistant Fire Chief for the Blue Creek Fire Department asked MDT for a yellow flashing light on Blue Creek Rd when the fire station moved out of Cedar Park and onto Blue Creek Rd. MDT denied the requested flashing light. She stated the expectation that MDT would make safety improvements is not reasonable. She stated building a new sidewalk on the south side of Santiago is useless. She would not let her kids use it when they would have to cross Santiago to get to Casey's Corner for the school bus. She stated that queuing of cars for the car wash could potentially block Santiago Blvd creating a safety hazard for her neighborhood. She stated the landfill traffic is already a problem and this car wash would just add to that issue. She stated none of the residents in the area need a car wash. Jim Danielson stated he is very concerned about more water getting on Santiago Blvd in the winter. He stated it is already a problem just from the water filling stations on the north side of Santiago. Gregg Morgan stated he probably lives closest to the new car wash property. He stated the applicant has worked to address his concerns. He is not opposed per se and will probably use the car wash when it is built. He stated he is concerned about what use could be allowed by right if this project is denied. He was concerned the alternatives might be worse for the area than the proposed car wash. Terry Henneberry stated he has lived in the area for over 40 years. He stated the owner should have considered connecting this property with the storage unit property before now. He stated the wait time to get out of Cedar Park onto Blue Creek Rd is longer morning and evening. He stated he was not concerned with the vacuum noise because it is the blower

noise that is more powerful. He stated he works up at the airport and the building he has to go into requires a secure entry with an intercom. He stated when the rental car automatic car wash went in about 300 feet away, when the blowers are on, he cannot hear anything on the intercom at the secure door. He stated the use of Santiago Blvd - a local street - for the driveway to the car wash is not right. The street is not a commercial street. He stated he thinks the owner is trying to squeeze too much on the property without regard to its effect on other people.

Rebuttal:

Mr. Aspenlieder provided rebuttal and clarification on the application. He stated there is no way his consulting firm or his clients get special treatment. He stated in the last 10 years representing clients in the city, he has received negative recommendations from staff, from the City Zoning Commission and the City Council. He stated the staff and the public boards all do a great job evaluating projects to make sure they don't impact residents and further the goals of the community. He stated there are some neighbors who are satisfied with work they have done over the last few months to change the overall site plan and iron out issues. Those residents are not here tonight. He stated the issue over the number of students using Casey's Corner for a bus stop is a misrepresentation of my statement. The four students I noted are come down Santiago Blvd. School District 2 picks up 22 students total from Casey's Corner and only four come from the Cedar Park neighborhood.

Public Hearing closed at 5:59 PM

Discussion:

Commissioner Goss stated he was a no vote when this was a Zone Change request. He believes the process would allow a special review and that Zone Changes are a last resort.

Commissioner White is empathetic to the citizens concerns.

Motion

Commissioner Goss made a motion and Commissioner White seconded the motion to approve Special Review 995 with staff findings, recommendation and conditions.

COMMISSIONER	Yes	No	ABSTAINED	ABSENT
Mike Larson	x			
Daniel J. Brooks				x
David Goss	x			
Greg McCall				x
Trina White	x			

The Motion passed to approve Special Review 995 with a 3-0 vote.

City Zone Change 1021 – Vista West – PND – A zone change request from Agriculture (A – County) to Neighborhood 1 (N1), Mixed Residential 2 and 3 (NX2-NX3) and Public 1 (P1) on Tract 1 and 2 of C/S 2828 and the adjacent drain right-of-way, a 27.7 acre parcel of land generally located north of Rocky Vista Way, west of Shiloh Rd and south of Bell Avenue. There is a concurrent petition for annexation. A pre-application neighborhood meeting was held on October 25, 2022.

Staff Recommendation:

Planning staff is recommending approval and adoption of the proposed findings of the 10 criteria for Zone Change 1021. Planning staff recommends approval of the zone change to N1, NX2, NX3 and P1.

New Zoning Tool to allow more efficient land use decisions

- Concurrent with annexation
- Applies to all requests of ≥ 10 acres
- Helps build new neighborhoods that are walkable, sociable and resilient (BMCC 27-801.A)
- Allows phasing of annexation but adoption of full zoning plan in advance
- Provides more detail on new neighborhood infrastructure (streets/roads)
- Re-submittal of Zone Change 1004 – withdrawn in Feb 2022
- Applicant is requesting variance from Sec. 27-804.C requiring connectivity to existing streets (Bell Ave and Obie Lane)
- **Staff is not recommending approval of the variance**
- Zoning meets the Growth Policy and West Billings Neighborhood Plan
- Adjacent uses and zoning compatible with proposed zoning plan
- Meets the PND zone district standards for zoning district assembly, and compatibility with existing zoning

Discussion. Questions for staff:

The applicant conducted a pre-application neighborhood meeting on October 25, 2022, at the King of Glory Church located at 4125 Grand Avenue. Twenty-seven persons attended the meeting including the applicants, Rick Leuthold and John Halverson from Sanderson Stewart, agent for the applicant. The required notification area for all new PND zone changes is 1/4-mile from the property boundary. In this case, over 180 individual property owners and interested parties were notified of the pending zoning application. The summary of the meeting is included in the attachments. In general, the questions from the surrounding owners included interest in the number of new dwelling units. The applicants estimated at the time of the pre-application meeting about 550 units might be built. Attendees asked about the traffic impacts and access to surrounding existing streets. The agents stated they would seek a variance from the requirement to connect to existing streets and a full traffic impact study would be based on whether the requested variances are approved or not approved. A preliminary traffic study was done on the prior zone change proposal that included two vehicle connections to Bell Avenue. In response to a question about management of the development, the agents stated this would be under one management company.

The applicant attended the West End Task Force meeting on November 15, 2022, at the Community Connections Church at 5556 Grand Avenue. Meeting notes from this meeting are also included. A third public meeting was held at Riverfront Park on November 22, 2022, at 10:30 am. Notes from this "public event" are also included.

Planning staff did not receive any written comments or phone calls from the surrounding owners prior to preparing the Zoning Commission report and recommendation. City staff and departments had no negative comments on the proposed annexation and zoning plan except for the requested variance from connecting existing streets to this development. City staff does not support the variance. City staff believes at least one vehicle connection should be made to Bell Avenue and a connection to Obie Lane, a County public road at this time, should be developed. The Zoning Commission did not concur with the staff recommendation to deny the requested connectivity variance. The Zoning Commission did concur with the staff recommendation of approval for the zoning plan.

The Zoning Commission conducted its public hearing on January 3, 2023, and received the staff report, testimony from the agent and from surrounding property owners including, Steve Zeier of Trinity Real Estate, Terry Kaufman of 110 Big Pine Court, Toby Erickson, of 4142 Banbury Place, who was speaking on behalf of the several owners in Legends West and Twin Pines, Missy Erickson of 4142 Banbury Place, Mike Hinthorn of 4160 Bell Avenue, Lisa Owen of 4160 Obie Lane, Nancy Pederson of 26 Twin Pines Lane, and Lincoln Powers of 4185 Obie Lane.

John Halverson of Sanderson Stewart spoke as agent for the property owner, Mr. Rick Dorn. He presented the history of the project for annexation and zone change. He stated the original request had significantly more NX3 zoning and adjacent development was not addressed in the zoning plan. He stated the current proposal respects the adjacent zoning of N2 to the north and the RR1 zoning to the east by providing compatible zoning of N1 to the north and east. In addition, there is a plan for a small lot in the northeast corner, zoned Public 1, and a large central recreation area for all the residents also zoned Public 1. Mr. Halverson stated the request for the variance from the connectivity requirement is based on potential traffic management scenarios and on the requests from the adjacent owners on Obie Lane and Bell Avenue as well as the residents in the developments north of Bell Avenue. He stated there is a proposed pedestrian

connection to Bell Avenue, but the east property line adjoining Obie Lane and Bell Estates subdivision (county) is planned to be fenced off with no connection. He stated the N1 zone on the north and east will allow for compatible dwellings to be developed with similar building heights. Mr. Halverson presented a slide show with a graphic showing the different building heights allowed and the geographic relationship to existing homes to the east and north. He stated the taller buildings in the proposed NX3 zone would be at least 290 feet west of Obie Lane homes and at least 350 feet from homes in Twin Pines. He stated this location is within 1/4 mile of Shiloh Road which is a major corridor in Billings where a variety of housing choices are available including mixed uses at Shiloh Commons with ground-floor retail and apartments above, apartments in Lenhardt Square and to the east of Shiloh Road as well as manufactured home parks to the east. Mr. Halverson stated not everyone who lives in Billings is a homeowner and the latest information shows that at least 35% of the Billings population rents. He stated none of those renters are represented at this meeting. He stated the developer intends to build a variety of housing choices on the property to help create naturally occurring attainable housing. None of the units are intended to be subsidized and will be market rate products.

Mr. Halverson stated the owner provided three opportunities for surrounding owners and the public to learn more about the proposed development prior to submitting the application to the city. The first meeting was by invitation to the surrounding owners in November. The agent also attended the Westend Task Force meeting in November and a public activity in Riverfront Park to ask people about their experiences in Billings, and their opinion on the proposed development plan. Mr. Halverson stated the project was generally well received, but the surrounding owners still had concerns with the access to the property. He stated the application conforms to the city's Growth Policy and Westend Neighborhood Plan. He stated that traffic volume is not dangerous - but traffic speed is dangerous. He stated the illustrated concept plan showing the internal street system is provided with traffic-calming throughout, reducing traffic speed. He stated high traffic volume streets can be designed to make it safe for cars and pedestrians. He stated the location of the project will give these residents the opportunity to use other transportation options and not have to drive everywhere. He stated the recreational, educational and shopping opportunities are all within a comfortable walking distance to the property. Residential density of property makes these nearby amenities and destinations sustainable. Mr. Halverson pointed out the multi-use trail on Shiloh Road is now part of the Billings Marathon Loop and is within walking distance of the newly open medical college at Rocky Vista University. He stated the clear limiting factor for economic growth in Billings is the availability of housing for workers in existing and new businesses. He stated this location within 1 mile of the primary corridor intersection of King Ave West and Shiloh Road makes compact and efficient land use a good choice. Mr. Halverson stated this new zoning plan has almost three times the minimum required open space area for a PND and this will help improve the sustainability of the neighborhood. He stated the city and state investment in Shiloh Road should be supported by well-designed neighborhoods with amenities and not just big yards. He stated the zoning plan is supported and complements both the zoning to the north and east and the south and west.

Mr. Luethold, speaking as an agent for the applicant, stated the annexation and zone change proposal are a good fit with the city's growth policy. He stated Josephine Crossing is a good example on how to handle lots of traffic with pedestrian safety throughout. He stated the developer will contribute to any off site and adjacent right of way improvements that are needed. These needed improvements are identified through a complete traffic study. As part of the previous application, a preliminary traffic study was done, but this is incomplete. A complete traffic study will be required once a zoning plan is finalized and the developer begins work on finalizing the development plan. One of the examples of an off site improvement might be upgrades to the Bell Ave street section where it crosses the drain at Shiloh Road. He stated there are deficiencies in the width and geometry at the crossing and there is a wooden fence in the clear vision area that blocks vehicle sight distance for pedestrians and bicyclists on the multi-use path. Mr. Luethold stated improvements will be done on Bell Avenue where it is adjacent to the property and if other improvements are required by the traffic study, those will be done as well. He stated the variance request is based on requests from the adjacent owners, and based on the perception that this development will add an uncompensated burden on these adjacent neighborhoods. He stated the owner is open to leaving utility easements available to Bell Ave and Obie Lane if needed for future utility connections.

In response to a question from Commission member David Goss, Mr. Luethold stated the reason no access to Obie Lane is provided is the clear concern from these neighbors that people from this new development would wander through the subdivision. Mr. Luethold stated the connection was eliminated in response to their concerns.

Mr. Steve Zeier of Trinity Real Estate stated he was in favor of the zone change. He stated he has no relationship with the developer or the agent but was here to support this type of zoning for the area. He stated as our city has grown, the development of new housing of any type has lagged behind. He stated the one area where we can make a difference in housing costs is in local regulations and by allowing this mixture of zoning to help build housing choices. He also stated his desire to see the new code implemented consistently and fairly across the board.

Terry Kaufman of Twin Pines testified in opposition. She stated the number of dwelling units - 582 - was too many for this 27 acre parcel of land. She stated the answer to the lack of housing is not just a quantity issue -- it also is a quality issue.

She stated there were 4,000 jobs available in Billings recently. Even if every job was taken, there would still be enough apartments for everyone who wants one. She stated the City Council has approved zoning or development of over 2,000 apartments in the last year. She asked whether the City Council or staff has a plan for when all these apartments go vacant when demands subside. She stated the amount of parking required would be too much for this property to accommodate.

Toby Erickson of Legends West spoke in opposition to the zone change. He stated the homeowners in the adjacent subdivisions could not hope to compete with the slick presentation by the developer. He stated he was testifying on behalf of many owners in the adjacent Twin Pines and Legends West subdivision and would appreciate more than three minutes to present his arguments. Chairman Larson allowed Mr. Erickson 15 more minutes than the usual three minutes. He stated the first mention of multifamily development on the property was 10 years ago and that application was withdrawn. At the time, there was no possibility of physically connecting the development to the south, so the only connections were to Bell Ave and Obie Lane. Last year, the applicant came in with a development of mostly 4-story apartment buildings, and no transitional zoning across Bell Ave from Bell Estates. He stated the current proposal has a few more things going for it, but the density is still too high. He stated one row of developed lots with similar dwellings to Twin Pines and Legends West is not enough. He stated it should be much more. He stated the existing city infrastructure cannot support an additional 582 dwelling units in this area. He stated everyone in the room opposes the zone change. He stated there is not enough consideration for the neighbors. He stated the development plan may tick many boxes, but the development just does not fit with the adjacent area. He stated the higher the density, the fewer people tend to care about their surroundings or their neighbors. He stated Bell Avenue is an incomplete street, and it would not be right to put any of the new traffic on Bell Avenue. He stated the existing Bell Ave intersection is deficient and only allows a right turn (south bound) on Shiloh Road. Anyone wanting to go north or east will drive through Legends West, or even Twin Pines or Bonaventure to reach Central Avenue. This puts a traffic burden on our streets we should not have to endure. He stated there is already a good mix of development styles and housing choices in the area and does not see the need to add more apartments. He questioned whether West Billings will be nothing but apartments from now on. He stated apartment developments are not as fire-safe as less dense neighborhoods. He stated there will be significant impacts on schools and there will be higher incidence of crime. He stated these are just results of a higher population - not that people living in apartments are more prone to crime. He stated this will be a negative impact on all types of transportation in the area and there is no benefit to connecting this development to Obie Lane - even a pedestrian connection does not make sense for Obie Lane. He stated Obie Lane has no sidewalks so adding pedestrians to this street will just increase the possibility of car/pedestrian conflicts. He stated Twin Pines is a private development and if this development is connected to Bell Ave, those residents will petition to gate the streets where they connect with Central Ave and Bell Ave. He stated this would not be as safe for these residents if they had to gate their own streets. Legends West is all public streets and connects to Bell Ave - also a public street. It would be unfair to place this cost on existing residents. He stated leaving the area on Bell Avenue is not safe right now especially at peak times. Cars on Shiloh Road are going 50+ mph where Bell Ave intersects. A safe turn onto Shiloh is not really possible during certain times of the day. If new traffic is added, then a queue of cars will back up on Bell Avenue, making the situation that much worse. He stated when the developer presented his preliminary traffic, it showed 1,000 more cars per day using Bell Avenue. Mr. Erickson stated Bell Avenue cannot handle that many additional cars. He stated the zoning buffer is not enough and the proposed N1 is not the same as N2 or RR1. He stated appraisal values of adjacent homes will be reduced and this will result in less marketability of homes and townhomes in the adjacent neighborhoods. He stated most residents of the area feel safe in the homes and on the neighborhood streets. He stated this development will make everything feel less safe.

Missy Erickson of Legends West stated the neighbors are not opposed to development of land. She stated the Career Center and the Home Builders Association have sponsored many student-built homes in the neighborhood. She stated this development is not compatible and there should be much less multifamily on the property.

Mike Hinthorn of Bell Avenue stated the number of people in this development will equal the population of Columbus, MT. He stated this is too many people in such a small area. He stated no workers in the nearby commercial businesses could afford to live in any of these apartments. He stated the potential rent prices are too high for many workers in Billings.

Lisa Owen of Obie Lane stated she was opposed to the zone change. She stated she has lived in the area for 23 years and never imagined she would be looking at a 4-story apartment in the field west of her house. She stated this is not what she thought would be developed west of her subdivision. She stated she thinks she will have to sell her home - now valued between \$400 and \$500 thousand dollars. She stated she is just flabbergasted to think that 582 families will be living on the 27 acres to the west of her house.

Nancy Pederson of Twin Pines stated she was opposed to the development and definitely opposed to any connection to Bell Avenue. She stated all the traffic not just from the development, but traffic from the medical school and other apartments south of Monad Rd would use Bell Ave as a convenient cut through.

Lincoln Powers of Obie Lane testified in opposition. He stated he and his wife invested in their property with the expectation of continued value over time. He stated his property shares a property line with the subject property and so the impact to his land and property value is more than anyone else. He stated if he had known about the plans to build apartments on the land next door 20 years ago, they would never have built here or invested so much time and resources into their home. He stated Obie Lane is in a private subdivision and cannot just be connected to a new street to the west. He stated, if this was required by the city, they would explore their legal options to stop it. He stated he was concerned about what type of fencing the developer proposes to use along the property boundary. He stated there is no doubt their land will be de-valued if this development goes ahead.

Mr. Leuthold provided rebuttal comments to the Zoning Commission. He stated all city departments have reviewed the application and the concept for the development of 582 units. He stated none of those departments expressed hesitation on whether services could be provided to the property safely. The new development will pay its fair share for any off-site improvements that may be required, the new development will pay its property taxes and mill levies to support, police, fire, schools, planning and government in general. Fees for other services like street maintenance, and storm water control will also be paid. He stated he is not a traffic engineer but has worked through many projects that needed a traffic engineer to study the impacts of new traffic. He stated this project, when the entitlements are finalized, will begin the scoping and preparation of a full traffic impact study, the scope of that study will depend on the city's requirement for vehicle connections to adjoining property. He stated Shiloh Road will carry the greatest burden of the new traffic since it is the closest arterial street and is designed to handle at least 50,000 vehicle trips per day. (Shiloh carried about 18,000 vehicles per day in 2021). He stated local streets are designed to handle much less traffic at much lower speeds. Local streets provide circulation within neighborhoods and tend to have less than 1,000 vehicles per day. He stated one of the driving factors of apartment development in Billings is not the normal demand for apartments but new demand from new economic development such as Rocky Vista Medical School and other medical business development. He stated the students and professors of Rocky Vista should be able to live as close to the school as possible - reducing the burden of new traffic trips. He stated he has lived in Billings for 38 years and lived in three different types of neighborhoods from Wells Garden Estates to Rimrock Road to a condo development north of Central Avenue. He stated most of these neighborhoods are "drive-to" only since there are no amenities or services within walking distance. The new reality of development is that people want more amenities closer to their homes and more walk-to services. This development fills this market demand. He stated the city will continue to grow and neighborhoods on the edges of the city will need to adjust as the city grows. He stated he remembers when West Park Plaza was the edge of town, and now it is considered to be a "central" part of the city. He stated the city, through its policies, has guided developers to be more efficient, to use land more deliberately and carefully. He stated this plan meets these policy goals.

The Zoning Commission closed the public hearing. Commission member Trina White made a motion to recommend approval of the zone change and denial of the requested variance from Section 27-804 requiring connectivity to existing streets. The Chairman, Mike Larson, asked if the motion could be amended to exclude the recommendation on the requested variance so that issue could have a separate vote. The motion was amended to exclude a recommendation on the variance and seconded by Commission member David Goss. Commission member Trina White stated that consideration for traffic and vehicles is not the paramount issue. She stated developers work to diminish the impact new traffic has on surrounding neighborhoods, but the neighborhoods should be connected. She stated the cost of housing is rising because of the cost of local and state regulation of building. She stated the new national estimate of the cost to developers to build a single dwelling unit is \$95,000 dollars - and all of that cost is up front before a single shovel goes in the ground. She stated the city is growing as demand is going up for new housing of all types. She stated this has happened since she started as a real estate broker. She stated the expectation that nothing will be built next door on the farm field is not realistic. Commission member David Goss stated he was the first assistant City Administrator back when the city changed its charter. He stated the major issues back then are still the same issues of today - annexation laws, county subdivisions on the edge of the city and how those rules and regulations negatively effected the growth of the city. He stated the city did grow - but it grew out but not up. He stated the city needs to increase density to be more efficient and that includes taller buildings. He stated he does not believe that Bell Avenue has the capacity - even with improvements - to handle the traffic from this development. He stated his support for the requested variance to not connect this development with Bell Avenue. He stated he wished there was an easy answer for this issue of traffic. He stated he supported to motion to recommend approval of the zone change.

Chairman Mike Larson stated he would like to make a substitute motion. Mr. Larson made a motion to recommend approval of both the zone change and the requested variance. He stated it was clear the members wanted to discuss both the zone change and the variance together, and he agrees with Commission member Goss. The motion was seconded by Commission member Goss. Mr. Goss stated he would like to encourage the Council to consider preserving a right-of-way if a future connection is needed and can be done with without damaging the existing neighborhoods. Mr. Larson stated he is not convinced that the new traffic would not have a detrimental impact on Bell Avenue. He stated the current condition of the street shows it should not be used by new traffic from this development. He stated the city can only require so much from one developer,

The motion to recommend approval of the zone change and approval of the requested variance was approved on a 2- 1 vote, with Commission member White voting against the motion. Ms. White stated she supported the zoning but not the requested variance.

Public Hearing:7:10 PM

Chair Larson opened the public hearing and called for anyone wishing to speak in favor or against City Zone Change 1021.

In Favor: Steve Zier

Opposed: As listed above

Public Hearing closed at 7:49PM

Discussion:

Motion

Commissioner Larson made a motion and Commissioner Goss seconded the motion to approve City Zone Change 1021 with staff findings and approve the variances requested.

COMMISSIONER	Yes	No	ABSTAINED	ABSENT
Mike Larson	x			
Daniel J. Brooks				x
David Goss	x			
Greg McCall				
Trina White		x		

The Motion **passed to approve City Zone Change 1021 with a 2-1 vote.**

Other Business:

Adjournment: The meeting adjourned at 8:15 PM.

ATTEST: To be Approved by a motion at the next regularly scheduled meeting.

--Robbin Bartley, Administrative Assistant



**City of Billings Zoning Commission
Meeting Minutes March 7, 2023**

The City of Billings Zoning Commission met on Tuesday, March 7, 2023 at 4:30 p.m., 2825 3rd Ave North, 1st floor conference room of the Miller Building. The public may attend in person or watch the meeting live on Facebook (see below). The Public may call in during specific Public Comment periods at **(406) 237-6165**. All callers will be in a queued system and are asked to remain on hold and be patient. Calls will be taken in the order they are received. Callers will be restricted to 3 minutes of testimony as is customary. Comments may be sent to **Board via email before 1:00 PM on Tuesday, March 7, 2022**. All e-mails received prior to this time will become part of the record for the public hearing. Live coverage can be viewed on the City of Billings Facebook page here; <https://tinyurl.com/yckr478k>

The City Council has designated March 27, 2023, at 5:30 p.m. as the date and time to receive the Zoning Commission recommendation for the **Zone Change** and hold a public hearing. The Council will **conduct a public hearing for the first reading of the ordinance on March 27, 2023**. If approved on first reading, a **second reading will occur on April 10, 2023 at 5:30 pm.**

Commission and Staff		01/03/2023	02/07/2023	03/07/2023	04/04/2023	05/02/2023	06/06/2023	07/05/2023	08/01/2023	09/05/2023	10/03/2023	11/07/2023	12/05/2023
Mike Larson	Chairman	1	-	1									
Daniel J. Brooks	Commissioner	E	-	1									
Greg McCall	Vice Chairman	E	-	1									
Trina White	Commissioner	1		1									
David Goss	Commissioner	1	-	1									
Wyeth Friday	Director, PCSD	-	-	-	-	-	-	-	-	-	-	-	
Monica Plecker	Division Planning Manager	-	-	-	-	-	-	-	-	-	-	-	
Nicole Cromwell	Zoning Coordinator	1	-	1									
Tammy Deines	Planning Clerk	-	-	-									
Dave Green	Planner II	-	-	-									
Karen Husman	Planner I	-	-	-									
Robbin Bartley	Administrative Support	1	-	1									

Total Number of 2022 Applications	01/03/2023	02/07/2023	03/07/2023	04/04/2023	05/02/2023	06/06/2023	07/05/2023	08/01/2023	09/05/2023	10/03/2023	11/07/2023	12/05/2023	TOTAL
Zone Change	1	-	1										2
Special Review	1	-	-										1

Chair Larson introduced the Planning Division Staff and Commission: Attending Staff were Nicole Cromwell, Zoning Coordinator and Robbin Bartley, Administrative Assistant.

*RETURNING AGENDA ITEM.

Attending: Ala A Abdel- Ghafour, Roger Scheidler, Dr. Mamaunaser Durestfl, Jonah Sullivan

Chair Larson called the meeting to order at 4:30 pm.

Public Comment

Chair Larson called for public comments. There were no public comments. Chair Larson closed the public comment portion of the meeting.

Approval of Minutes:

Motion by Commissioner White and seconded by Commissioner Goss to delay the January 3, 2023 meeting minutes.

Disclosure of Conflict of Interest

COMMISSIONER	DISCLOSED	NONE	ABSTAINED	ABSENT
Mike Larson		x		
Daniel J. Brooks		x		
David Goss		x		
Greg McCall		x		
Trina White		x		

Disclosure of Outside Communication

COMMISSIONER	DISCLOSED	NONE	ABSTAINED	ABSENT
Mike Larson		x		
Daniel J. Brooks		x		
David Goss		x		
Greg McCall		x		
Trina White		x		

No Commissioners visited the Zone Change 1022 location.

Public Hearings:

City Zone Change 1022 – 630 Logan Lane – A zone change request from Neighborhood Office (NO) to Neighborhood Mixed Use (NMU) on C/S 169 located in Lot 17 Logan Subdivision, a 7,477 square foot parcel of land. The purpose of the zone change is to allow the establishment of the Billings Islamic Center in an existing commercial structure. A pre-application meeting was held on August 29, 2022, at the subject property.

Staff Recommendation:

Planning staff is recommending approval and adoption of the findings of the 10 review criteria for Zone Change 1022.

The proposed zoning would allow an existing commercial property to be converted to a place of worship for people of the Islamic faith who either live in Billings or are visiting Billings. There are no other locations in Billings that serve as a place of prayer or worship for the Islamic community. The proposed zone aligns with allowed continued light commercial development along the south side of Logan Lane west of the ditch crossing. The NMU district allows neighborhood services, assembly uses and the proposed project will refresh the existing buildings, improving the aesthetic of the property and the south side of Logan Lane.

The proposed zoning is also supported by the Billings Heights Neighborhood Plan that indicated the area between the parallel streets of Main Street and Bench Boulevard would be areas where mixed uses and higher density housing might develop. A gradual and incremental change from residential uses to mixed uses is desirable.

Discussion. Questions for staff:

Commissioner Goss asked staff to explain the difference between a Special Review and a Zone Change. Staff explained a Special Review does not change the underlying zoning.

Applicant: Jonah Sullivan, 2927 Monty’s Circle, 59106
Asked for questions from the Commissioners.

Questions for applicant: None

Public Hearing: 4:44 PM

Chair Larson opened the public hearing and called for anyone wishing to speak in favor or against City Zone Change 1022.

In Favor: Ala A Abdel-Ghafour, 1272 Grubstake Circle, 59105

He stated although the congregation is currently small, there is a need for an Islamic Center, Mosque here in Billings. There are visiting Doctors and Engineers with no place to worship. This location is the first step in as they are, as yet, a small community.

Opposed: None

Public Hearing closed at 4:46 PM

Motion

Commissioner White made a motion and Commissioner Brooks seconded the motion to approve City Zone Change 1022 with staff findings, recommendation and conditions.

COMMISSIONER	Yes	No	ABSTAINED	ABSENT
Mike Larson	x			
Daniel J. Brooks	x			
David Goss	x			
Greg McCall	x			
Trina White	x			

The Motion **passed** to approve City Zone Change 1022 with a 5-0 vote.

Other Business:

Adjournment: The meeting adjourned at 4:50PM.

ATTEST: To be Approved by a motion at the next regularly scheduled meeting.

--Robbin Bartley, Administrative Assistant

Zoning Commission

Date: 04/04/2023
Title: Special Review 996 - 1010 Grand Ave - Increase Wireless Tower Height to 76 feet
Presented by: Nicole Cromwell
Department: Planning & Community Services
Presentation: Yes

Information

RECOMMENDATION

Planning staff recommends conditional approval and adoption of the findings of the review criteria for Special Review 996.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

This is a special review to allow a 30-foot height increase to an existing wireless communication facility (WCF), in a Corridor Mixed Use 1 (CMU1) zone district located at 1010 Grand Avenue. The current WCF is 46 feet in height and the antenna mounted on the WCF brings the overall height to 50 feet. Fifty feet is the maximum height of all WCF in most commercial and mixed use zone districts without a special review approval of the City Council. This provision has been in place since 2001. Increasing the height from 46 feet to 76 feet requires the submission of a special review. A WCF over 50 feet in height, according to local zoning regulations, needs to be at least 1 mile from any other WCF over 50 feet. If the new tower is within this 1-mile radius, then a waiver of this requirement is necessary. A WCF over 50 feet but less than 100 feet must accommodate at least one other comparable antenna in addition to the applicant's antenna. (Sec. 27-1007.C.4 (h and k)). The existing WCF was permitted in August 2001 and completed in 2002. There are three other WCFs within 1 mile of this location, but all of these facilities are 50 feet in height or less.

A special review is not an allowed use but a special exception to the by-right uses within a zone district. Special review is not always required for a particular use depending on the zone district. For example, a religious assembly (church) use requires special review in all neighborhood zones but is an allowed use in the mixed-use zones. A special review can focus on the site development details while a zone change cannot. For this application, we have received detailed information on the proposed use, the traffic patterns in the area, landscaping, drive approaches and similar details. An unmanned WCF facility generally creates little traffic but facility requirements such as back-up generators may cause some impacts on surrounding residents.

APPLICATION DATA

OWNERS: Highland Rim Properties (land, ATC Sequoia (WCF on leased land)

AGENT: Josh Gray, Powder River Development, agent for ATC Sequoia

PURPOSE: Allow increase in existing tower height from 46 feet to 76 feet - antenna may exceed this height, and are not calculated in WCF height in zoning

LEGAL DESCRIPTION: Lot 1A and 7 of Sunset Subdivision 4th Filing - leased parcel I-725

ADDRESS: 1010 Grand Ave

EXISTING LAND USE: 46-foot WCF tower

PROPOSED LAND USE: 76-foot WCF tower

EXISTING ZONING: CMU1

The new zoning code has a variety of considerations and findings before a special review use can be considered acceptable at a particular location. The requirements are set forth in Section 27-1623.D as follows:

1. *The special review use is consistent with the City's growth policy and applicable neighborhood plans, if any;*
2. *The establishment, maintenance, or operation of the special review use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;*
3. *The site is adequate for the proposed use and has the topography to accommodate the use while meeting the other requirements of this Zoning Code, including zone district dimensions, landscaping requirements, and parking.*
4. *The special review use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;*
5. *The special review use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;*
6. *Conditions necessary to protect the public health, safety, and general welfare can be established, including but not limited to conditions on:*
 - (a) *Regulation of the use;*
 - (b) *Special setbacks, buffers, or screening;*
 - (c) *Surfacing of parking areas;*
 - (d) *Street, alley, or service road dedications, improvements, or bonds;*

- (e) Regulation of points of vehicular ingress and egress;*
 - (f) Regulation of signs;*
 - (g) Regulation on the performance of the site, including noise, vibration, and odors;*
 - (h) Regulation of the hours of activities;*
 - (i) Timeframe for development*
 - (j) Duration of use; and*
 - (k) Other relevant conditions that will ensure the orderly development of the site.*
7. Adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided;
 8. Adequate measures have been or will be taken to provide ingress and egress to minimize traffic congestion in public streets; and
 9. The special review use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the city council.

Some of the criteria above are not particularly applicable to the proposed project to increase the height of the existing WCF tower. For example, traffic management and hours of business may not have any relevance to the application. The proposed project will include installation of the tower extension, new ground controller cabinets for T-Mobile and a new perimeter fence to enclose the entire leased area (1,600 sf) behind the commercial building along the Grand Avenue frontage. There are residences to the south and west (100 ft) that have mature landscaping, so the height extension should not impact those properties. The commercial structures in the area do block direct visibility of the ground-mounted equipment and the base of the WCF tower. A 30-foot height increase will make the WCF tower more noticeable from Grand Avenue but will not be distracting or visually damage the area since it is located in area behind primary structures. The plan sheet showing the new fence surround for the leased area indicates a 6-foot chain link fence with 3 strands of barbed wire above the chain link. The code requires any barbed wire to be above and 8-foot fence. The Planning staff is proposing a condition to require a taller fence for the barbed wire. The location will not be within 1 mile of any other WCF tower greater than 50 feet in height.

STAKEHOLDERS

The applicant conducted a pre-application neighborhood meeting on February 22, 2023. One surrounding property owner, Dan Schwarz, attended the meeting. Mr. Schwarz had no concerns with the proposed 30 ft extension to the WCF tower.

Planning staff prepared and mailed the public hearing notice to surrounding property owners, published a legal ad and posted the property with the Zoning Request sign. Planning staff receive no communication on the application from the surrounding owners or the public.

ALTERNATIVES

The City Zoning Commission may take one of the following actions:

- Recommend conditional approval and adoption of the proposed findings to the City Council, as submitted by Planning staff;
- Recommend denial and adopt different findings of the review criteria;
- Delay action of the application until the next regular meeting; or
- Allow the applicant to withdraw the application.

The Zoning Commission may add conditions of approval or amend the recommended conditions of approval. If the Zoning Commission delays the application until the next regular meeting, the public hearing will be kept open to allow additional testimony and submittal of information by the applicant or interested parties. The applicant has not requested a withdrawal of the application. Any substantive change or modification of the application by the applicant, will require another public hearing and notice to surrounding owners.

FISCAL EFFECTS

The Planning Division budget should not be effected by either approval or denial of the requested special review.

SUMMARY

PROPOSED FINDINGS OF THE REVIEW CRITERIA (27-1623.D and E)

Planning staff recommends approval of the requested special review based on the proposed findings of the criteria.

1. The special review use is consistent with the City's growth policy and applicable neighborhood plans, if any. The 2016 Growth Policy is reflected in the policy statements in the Zoning code for Wireless Communication Facilities at Sec. 27-1007.C:

- (a) Provide for the managed development and installation, maintenance modification, and removal of wireless communications infrastructure with the fewest number of wireless communications facilities (WCFs) to complete a network without unreasonably discriminating against wireless communications providers of functionally equivalent services, including all of those who install, maintain, operate, and remove WCFs;*
- (b) Promote and protect the public health, safety, and welfare by reducing the visibility of WCFs to the fullest extent*

possible through techniques including but not limited to camouflage design techniques and undergrounding of the equipment associated with WCFs;

(c) Encourage the deployment of smaller, less intrusive WCFs to supplement existing larger WCFs;

(d) Encourage the use of wall-mounted panel antennas;

(e) Encourage roof-mounted antennas only when wall-mounted antennas will not provide adequate service or are not otherwise feasible;

(f) Encourage the location of antennas and towers in non-residential areas and minimize the total number of antenna support structures throughout the community;

(g) Strongly encourage the co-location of WCFs on new and existing antenna support structures;

(h) Require wireless communication facilities to be located, to the extent possible, in areas where the adverse impact on the community is minimal;

(i) Require wireless communication facilities to be configured in a way that minimizes the adverse visual impact of the towers and antennas; and

(j) Enhance the ability of the providers of wireless communication services to provide such services to the community, as quickly, effectively, and efficiently as possible.

Planning staff finds the proposed WCF tower extension in this location meets the policies and goals as stated in the regulations.

2. The establishment, maintenance, or operation of the special review use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.

Planning staff finds the WCF tower extension at 1010 Grand Avenue will not endanger the public health, safety, morals, comfort or general welfare of the community. Access to reliable communication systems support public health and safety. There are no other WCFs within 1 mile of this location so it is not uncommon for wireless service to be intermittent due to signal loss from terrain or buildings that break "line-of-sight" between WCFs in a local network. The tower extension will allow other providers to co-locate on this facility. The closest residential zone is more than 100 feet from the site. Planning staff received no public input from the public notice, the mailing or posting of the property.

3. The site is adequate in size for the proposed use and has topography to accommodate the use while meeting the other requirements of this Zoning Code, including zone district dimensions, landscaping requirements, and parking. The proposed development meets the code requirements for a WCF in a commercial zone district, surrounded by commercial zone districts. The lease area of 1,600 sf is large enough to accommodate the additional ground equipment. The landscape requirements may be waived in this instance due to the lack of access to water, and the specific location behind buildings that front Grand Avenue. There is no aesthetic value to be gained from a sight-obscuring hedge around the WCF enclosure.

4. The special review use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.

The WCF tower extension should not impact the surrounding use of property that is already developed and will not impair property value in the vicinity. The total property value within 300 feet of the location is a little over \$15,000,000. Investment in new construction generally tends to raise building and property values.

5. The special review use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

This section of Grand Avenue has undergone recent redevelopment including the corner of 9th and Grand Avenue, remodel of MacDonald's at 1046 Grand Avenue, and Wendy's at 1025 Grand Avenue. The addition of 30 feet to the height of this WCF tower will not impede the continued investment in surrounding property.

6. Conditions necessary to protect the public health, safety, and general welfare can be established.

Staff recommends the following conditions of approval for this project based on the findings of the review criteria:

1. The special review approval is for the 30-foot extension of the existing WCF tower located at 1010 Grand Avenue legally described as Lots 1A of Sunset Subdivision 4th and 7th Filings, and within the ATC leased area, as shown on the site plan. No other use or variation from the zoning code requirements is intended or implied with this approval. For the purposes of this special review approval, the height of the WCF tower will be 76 feet. Antenna may extend above this tower height as allowed and specified in the Zoning code.
2. The development of the project shall be done in substantial conformance to the submitted site plan.
3. Any tower enclosure shall be a minimum of 6 feet in height. Any barbed wire or sharp fence material must be placed above a fence of at least 8 feet in height.
4. The developer will submit a request to the Planning Division for Administrative Relief from the landscaping requirement for this location due to the lack of access to water and due to its location behind commercial structures.
5. These conditions run with the land use and are binding upon and must be adhered to by the tower owner and any successors, transferees or assigns.
6. The right of building and occupancy permits are contingent upon the fulfillment of all conditions imposed by this

approval.

7. Adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided. The site is fully serviced by city and private utilities, has adequate drainage, and direct access to the tower location through the alley that connects to 10th St West.

8. Adequate measures have been or will be taken to provide ingress and egress to minimize traffic congestion in public streets.

The access to and from the site and the WCF tower already exists and does not need to be improved for this project.

9. The special review use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the city council.

The proposed project meets all the other Zoning code requirements for a WCF and no variances are needed or requested.

Attachments

Zoning Map and Site Photos
Application and Pre app notes
Site Plan
Chart of Zoning History
Code Sec 27-1007.C

City Special Review 996 – 1010 Grand Avenue – 30-foot WCF tower extension
Zoning Map and Site Photos







Subject Property – view south from Grand Avenue



Subject Property – WCF tower



View west on Grand Avenue



View east on Grand Avenue



View north across Grand Avenue



View west from 10th St West



View north and west from alley

CITY SR 996

APPLICATION FORM

ID: **Billings**

- Project # P2X-22-303

The undersigned as owner(s) of the following described property hereby request a Variance from the terms of the City of Billings Zoning Regulations.

PROPERTY TAX ID # A16683 CITY ELECTION WARD # _____

Legal Description of Property: SUNSET SUBD 4th FILING, S05,T01 S, R26 E, Lot 1A, & 7th FIL AMD (06) (I-725 TELE TOWER HERE) (02)

Address or General Location (If unknown, contact City Engineering): 1010 Grand Ave. Billings, MT

Zoning Classification: CMU1 - Corridor Mixed-Use 1

Size of Parcel (Area & Dimensions): .47

Covenants or Deed Restrictions on Property: Yes _____ No X

If yes, please attach to application

Variance(s) Requested: Change of tower height.

Facts of Hardship: (attach letter)

*** Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): ATC Sequoia LLC

(Recorded Owner) 10 Presidential Way Woburn, MA 01801

(Address)

(Phone Number) _____ (email) _____

Agent(s): Josh Gray (Authorized Rep for American Tower)

(Name) 408 S. Eagle Rd. Suite 200 Eagle, ID 83616

(Address) 925-352-2677 josh.gray@powderriverdev.com

(Phone Number) _____ (email) _____

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Variance. Also, I attest that all the information presented herein is factual and correct.

Signature: See Letter of Authorization Date: _____

(Recorded Owner)



Pre-Application Statement of Owner(s) or Agent(s)

The owner(s), contract purchasers (if any) and agents (if any) are required to submit this completed form and any attachments along with a completed Special Review application packet, including any required fees, for a Special Review to be processed by the Planning Division.

1. **Present Zoning:** CMU1 - Corridor Mixed-Use 1
2. **Written description of the Special Review** including existing conditions and proposed development:
30' Tower Extension, New fenced area, new concrete pad and ice bridge within leased area.
3. **Subject Property Map:** please attach to this form
4. **Legal Description of Property:**
SUNSET SUBD 4th FILING, S05,T01 S, R26 E, Lot 1A, & 7th FIL AMD (06) (I-725 TELE TOWER HERE))02)
5. **Neighborhood Task Force Area:** Yes /// No . If Yes, Name of Task Force and mailing address of Chairperson:
Midtown Community Collaborative 2728 Louise Lane Billings, MT 59102
6. **Roster of persons who attended the pre-application neighborhood meeting:** please attach to this form
7. **A copy of the meeting notice.** please attach to this form
8. **A brief synopsis of the meeting results including any written minutes or audio recording.** please attach to this form
9. **The undersigned affirm the following:**
 - 1) The pre-application neighborhood meeting was held on the 22 , day of 02 , 2023.
 - 2) The Special Review application is based on materials presented at the meeting.

Owner (s): Highland Rim Properties Telephone: _____
Address: 214 Mc Rae Sprague Rd. Email: _____
Forsyth, MT 59327

Agent (s): Josh Gray/Cameron Colgan Telephone: 925-352-2677
Address: 408 S. Eagle Rd Suite 200 Email: josh.gray@powderriverdev.com
Eagle, ID 83616

Public Meeting Minutes

- **Explanation of project and Introduction**
 - 30' tower extension for TMO collocation
 - Expand TMO Coverage
 - Keeps them from building another tower
- **Public Comments**
 - Dan Schwartz – He's ok with the expansion. Not worried



THE PROJECT DEPICTED IN THESE PLANS QUALIFIES AS AN ELIGIBLE FACILITIES REQUEST ENTITLED TO EXPEDITED REVIEW UNDER 47 U.S.C. 1455(A) AS A MODIFICATION OF AN EXISTING WIRELESS TOWER THAT INVOLVES THE COLLOCATION REMOVAL AND/OR REPLACEMENT OF TRANSMISSION EQUIPMENT THAT IS NOT A SUBSTANTIAL CHANGE UNDER CFR 1.61000 (B)(7).

T-MOBILE SITE NUMBER: MT06021A
 T-MOBILE SITE NAME: GRAND AVE-ATC
 SITE TYPE: MONOPOLE
 TOWER HEIGHT: 76'-0"

ASSET #: 412939
 SITE ADDRESS: 1010 GRAND AVE
 COUNTY: YELLOWSTONE
 JURISDICTION: CITY OF BILLINGS
 LAT: 45° 47' 01.2" N
 LONG: 108° 32' 30.3" W

412939
 1010 GRAND AVE
 BILLINGS, MT 59102
 YELLOWSTONE
 CITY OF BILLINGS
 LONG: 108° 32' 30.3" W

MT06021A_Grand Ave - ATC (412939)_Anchor_FCD_Infinigy_11.02.22



274 DISCOVERY DR, SUITE 210
 BOZEMAN, MT 58718



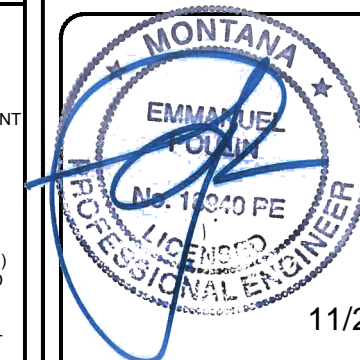
FROM ZERO TO INFINIGY
 the solutions are endless
 50 116TH AVE SE, SUITE 210
 BELLEVUE, WA 98004

T-MOBILE SITE:
 MT06021A
 GRAND AVE-ATC
 ATC SITE:
 412939
 BILGRANDAVE MT
 1010 GRAND AVE
 BILLINGS, MT 59102
 YELLOWSTONE COUNTY

76'-0" MONOPOLE

DRAWINGS ISSUED FOR:

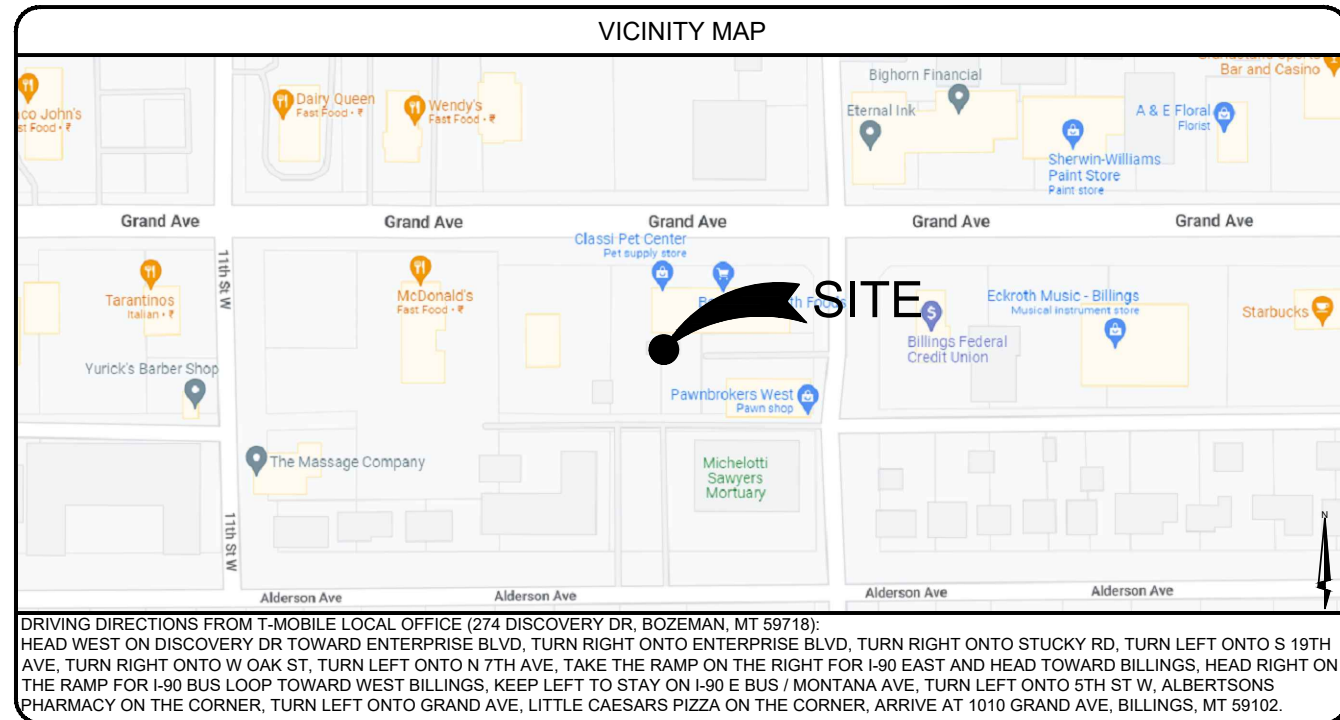
REV.	DATE	DRAWN	DESCRIPTION	QA/QC
A	05/03/22	RCD	PRELIMINARY REVIEW	TT
B	06/02/22	WJR	REVISED PRELIM. REVIEW	TT
0	09/02/22	AF	100% CONSTRUCTION	TT
1	11/02/22	TLT	100% CD REV	PD



SHEET TITLE: TITLE SHEET	
SHEET NUMBER: T-1	REVISION: 1

SITE INFORMATION	
PROPERTY INFORMATION:	
SITE ADDRESS:	1010 GRAND AVE BILLINGS, MT 59102
COUNTY:	YELLOWSTONE
LATITUDE (NAD83):	45° 47' 01.2" N (45.783669°)
LONGITUDE (NAD83):	108° 32' 30.3" W (-108.541751°)
GROUND ELEVATION (NAVD88):	±3205.0' AMSL
JURISDICTION:	CITY OF BILLINGS
APN:	A16683
ZONING:	CMU1 (CORRIDOR MIXED USE 1)
OCCUPANCY CLASSIFICATION:	U
LEGAL DESCRIPTION:	SEE SHEET A-1
CONSTRUCTION INFORMATION:	
AREA OF CONSTRUCTION:	EXISTING
TYPE OF CONSTRUCTION:	V-B
PROPOSED USE:	UNMANNED TELECOMMUNICATIONS FACILITY
HANDICAP REQUIREMENTS:	FACILITY IS UNMANNED AND NOT FOR HUMAN HABITATION. HANDICAPPED ACCESS NOT REQUIRED.
PROPERTY OWNER:	
COMPANY:	HIGHLAND RIM PROPERTIES, INC., A MONTANA CORPORATION
ADDRESS:	214 McRAE SPRAGUE LN
CITY, STATE, ZIP:	FORSYTH, MT 59327
TOWER OPERATOR:	
COMPANY:	AMERICAN TOWER CORPORATION
ADDRESS:	10 PRESIDENTIAL WAY
CITY, STATE, ZIP:	WOBURN, MA 01801
CONTACT:	TIFFANY PRETTY (PROJECT MANAGER)
PHONE:	(425) 391-3447
E-MAIL:	tiffany.pretty@americantower.com
T-MOBILE MICROWAVE PM:	
COMPANY:	T-MOBILE
CONTACT:	SEAN CONNORS
E-MAIL:	Sean.Connors5@t-mobile.com

SHEET INDEX	
SHEET	DESCRIPTION
T-1	TITLE SHEET
T-2	SPECIFICATIONS & NOTES
T-3	SPECIFICATIONS & NOTES
A-1	OVERALL SITE PLAN
A-2	ENLARGED SITE PLANS
A-3	SOUTH ELEVATIONS
A-4	ANTENNA PLAN & RF SCHEDULE
A-4.1	RF PLUMBING DIAGRAM
A-5	EQUIPMENT DETAILS
A-6	EQUIPMENT DETAILS
A-6.1	EQUIPMENT DETAILS
A-6.2	EQUIPMENT DETAILS
A-7	EQUIPMENT DETAILS
A-8	EQUIPMENT DETAILS
A-9	CONSTRUCTION DETAILS
A-10	CONSTRUCTION DETAILS
E-1	UTILITY ROUTING PLAN & DETAILS
E-1.1	ELECTRICAL DIAGRAMS
E-1.2	ELECTRICAL DIAGRAMS
G-1	SCHEMATIC GROUNDING PLAN & NOTES
G-2	GROUNDING DETAILS
DRAWINGS BY OTHERS (17 SHEETS):	
ATTACHED	MONOPOLE EXTENSION DRAWINGS G-001 THRU Z-504
CONTRACTOR SHALL VERIFY ALL PLANS AND EXISTING DIMENSIONS AND CONDITIONS ON THE JOB SITE AND SHALL IMMEDIATELY NOTIFY THE ENGINEER IN WRITING OF ANY DISCREPANCIES BEFORE PROCEEDING WITH THE WORK OR BE RESPONSIBLE FOR SAME.	



DRIVING DIRECTIONS FROM T-MOBILE LOCAL OFFICE (274 DISCOVERY DR, BOZEMAN, MT 59718):
 HEAD WEST ON DISCOVERY DR TOWARD ENTERPRISE BLVD, TURN RIGHT ONTO ENTERPRISE BLVD, TURN RIGHT ONTO STUCKY RD, TURN LEFT ONTO S 19TH AVE, TURN RIGHT ONTO W OAK ST, TURN LEFT ONTO N 7TH AVE, TAKE THE RAMP ON THE RIGHT FOR I-90 EAST AND HEAD TOWARD BILLINGS, HEAD RIGHT ON THE RAMP FOR I-90 BUS LOOP TOWARD WEST BILLINGS, KEEP LEFT TO STAY ON I-90 E BUS / MONTANA AVE, TURN LEFT ONTO 5TH ST W, ALBERTSONS PHARMACY ON THE CORNER, TURN LEFT ONTO GRAND AVE, LITTLE CAESARS PIZZA ON THE CORNER, ARRIVE AT 1010 GRAND AVE, BILLINGS, MT 59102.

PROJECT TEAM	
ARCHITECTURAL & ENGINEERING:	
COMPANY:	INFINIGY ENGINEERING
CONTACT:	PAUL DANNEBERG
PHONE:	(425) 201-4215 x1603
E-MAIL:	pdanneberg@infinigy.com
SITE ACQUISITION:	
COMPANY:	POWDER RIVER DEVELOPMENT SERVICES, LLC
ADDRESS:	408 S EAGLE RD, STE 200
CITY, STATE, ZIP:	EAGLE, ID 83616
CONTACT:	CAMERON COLGAN
PHONE:	(208) 871-0773
E-MAIL:	cameron.colgan@powderriverdev.com

APPROVALS		
THE FOLLOWING PARTIES HEREBY APPROVE AND ACCEPT THESE DOCUMENTS & AUTHORIZE THE SUBCONTRACTOR TO PROCEED WITH CONSTRUCTION AS DESCRIBED HEREIN. ALL CONSTRUCTION DOCUMENTS ARE SUBJECT TO REVIEW BY THE LOCAL BUILDING DEPARTMENT & ANY CHANGES OR MODIFICATIONS THEY MAY IMPOSE.		
APPROVAL:	SIGNATURE:	DATE:
PROJECT MANAGER		
SITE ACQUISITION		
CONSTRUCTION MANAGER		
SITE OWNER		
T-MOBILE	RF ENGINEER	
	DEVELOPMENT MANAGER	
	CONSTRUCTION MANAGER	
	OPS MANAGER	
	REGULATORY REVIEW	
	PROJECT MANAGER	

CODE COMPLIANCE
ALL WORK SHALL BE PERFORMED AND MATERIALS INSTALLED IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE FOLLOWING CODES AS ADOPTED BY THE LOCAL GOVERNING AUTHORITIES. NOTHING IN THESE PLANS IS TO BE CONSTRUED TO PERMIT WORK NOT CONFORMING TO THE LATEST EDITIONS OF THESE CODES.
1. 2018 INTERNATIONAL BUILDING CODE 2. 2018 INTERNATIONAL MECHANICAL CODE 3. 2018 INTERNATIONAL FIRE CODE 4. 2018 UNIFORM PLUMBING CODE 5. 2017 NATIONAL ELECTRICAL CODE 6. 2018 INTERNATIONAL FUEL GAS CODE 7. TIA-222-H OR LATEST EDITION 8. ASCE 7-16 9. NFPA 780 - LIGHTNING PROTECTION CODE 10. ANY OTHER NATIONAL OR LOCAL APPLICABLE CODES, MOST RECENT EDITION 11. LOCAL AMENDMENTS TO THE ABOVE, WHERE APPLICABLE 12. CITY/COUNTY ORDINANCES 13. LIFE SAFETY CODE NFPA-101

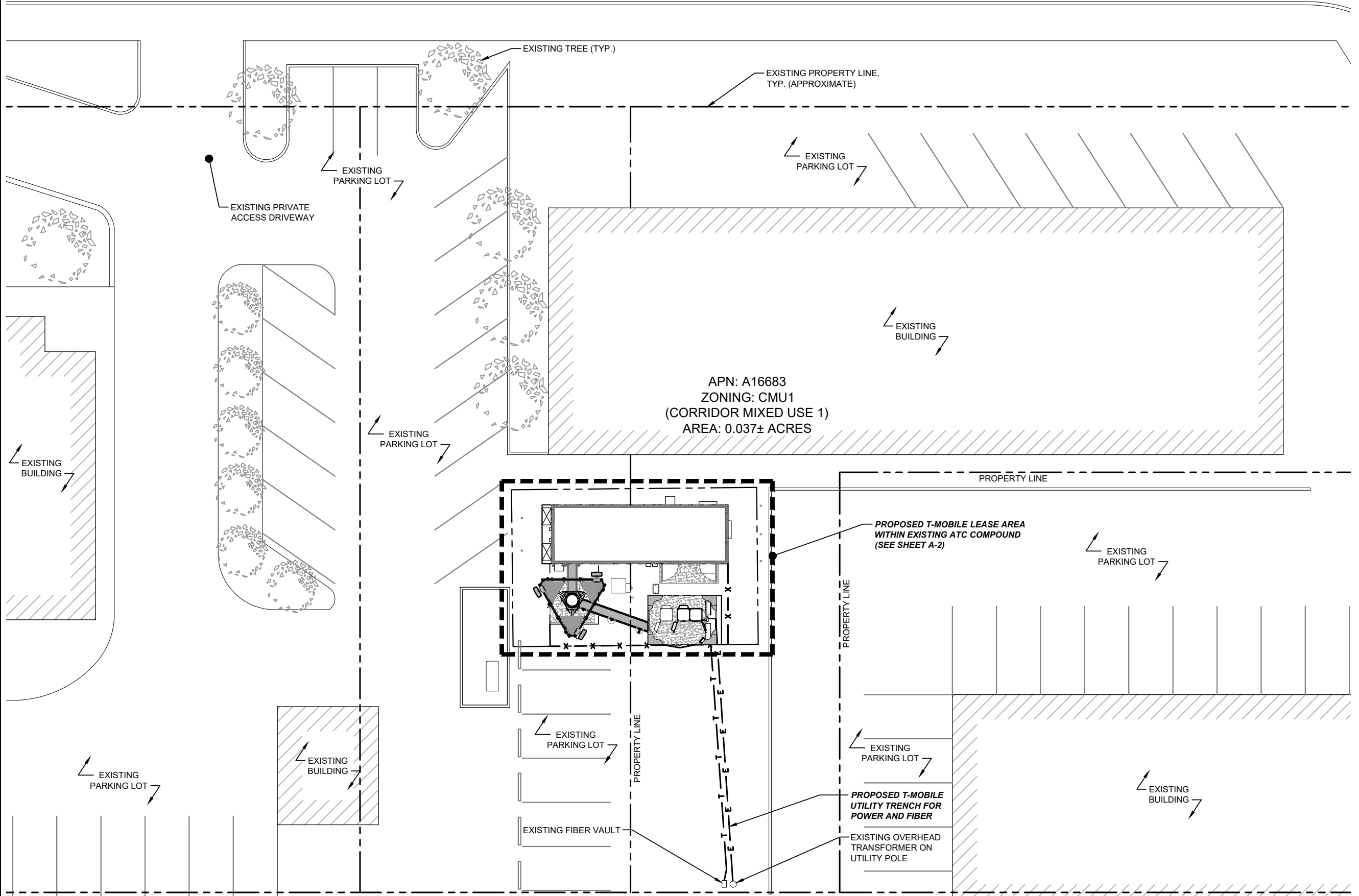
PROJECT DESCRIPTION
T-MOBILE PROPOSES TO COLLOCATE ON AN EXISTING UNMANNED TELECOMMUNICATIONS FACILITY AS FOLLOWS: TOWER SCOPE OF WORK: <ul style="list-style-type: none"> INSTALL 30'-0" TOWER EXTENSION INSTALL A NEWAVE LPK12 ANTENNA PLATFORM INSTALL A NEWAVE LPS30-20 STIFFENER WITH KICKERS AND RING MOUNT INSTALL (3) FFVV-65C-R3-V1 PANEL ANTENNAS INSTALL (3) AHLOA & (3) AHFIG RRU'S INSTALL (1) HCS 2.0 PENDANT STYLE HYBRID CABLE GROUND SCOPE OF WORK: <ul style="list-style-type: none"> INSTALL A 10'-0"x12'-0" CONCRETE PAD & 10'-0"x14'-0" ICE CANOPY INSTALL (1) HPL3 BATTERY CABINET W/ (4) STRINGS OF BATTERIES & (1) HPL3 POWER CABINET W/ (1) AMIA, (2) ABIO AND (1) ABIA W/ BASEBAND MODULES PER RFDS, (1) CSR IXRE ROUTER, (1) VOLTAGE BOOSTER W/ (2) AMPLIFIERS, & (1) EXTRA AMPLIFIER INSTALL (1) UTILITY H-FRAME W/ (1) 4'x4' HOFFMAN BOX, (1) TECH LIGHT W/ TIMER, (1) PPC W/ CAM-LOK, & (1) 200A METER INSTALL AN ICE BRIDGE, (1) GPS ANTENNA, & (1) HCS 2.0 JUNCTION BOX INSTALL UTILITY TRENCH INSTALL FENCE WITH MAN GATE DESIGN IS BASED ON: ATC APPLICATION ID 14050727, REV. #0 RFDS VERSION 1, DATED 08/19/2022 (CONFIG. 6790S_SR_T, 6790S_SR_T) THESE PLANS HAVE BEEN DEVELOPED FOR THE CONSTRUCTION OF AN UNMANNED TELECOMMUNICATIONS FACILITY OWNED OR LEASED BY T-MOBILE IN ACCORDANCE WITH THE SCOPE OF WORK PROVIDED BY T-MOBILE, INCORPORATED IN THE PLANS BY INFINIGY. THESE PLANS ARE NOT FOR CONSTRUCTION UNLESS ACCOMPANIED BY A PASSING STRUCTURAL STABILITY ANALYSIS FOR THE STRUCTURE AND MOUNT PREPARED BY A LICENSED PROFESSIONAL ENGINEER.



INFORMATION CONTAINED WITHIN DRAWINGS IS BASED ON PROVIDED INFORMATION AND IS NOT THE RESULT OF A FIELD SURVEY.

GRAND AVE

LEGAL DESCRIPTION:
SUNSET SUBD 4TH FILING, S05, T01 S, R26 E,
Lot 1A, & 7TH FIL AMD (06) (I-725 TELE TOWER
HERE) (02)



274 DISCOVERY DR, SUITE 200
BOZEMAN, MT 58718



FROM ZERO TO INFINIGY
the solutions are endless
50 116TH AVE SE, SUITE 210
BELLEVUE, WA 98004

T-MOBILE SITE:
MT06021A
GRAND AVE-ATC

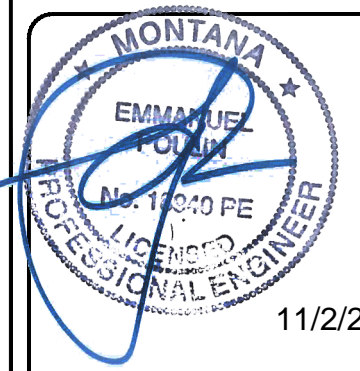
ATC SITE:
412939
BILGRANDAVE MT

1010 GRAND AVE
BILLINGS, MT 59102
YELLOWSTONE COUNTY

76'-0" MONOPOLE

DRAWINGS ISSUED FOR:

REV.	DATE	DRAWN	DESCRIPTION	QA/QC
A	05/03/22	RCD	PRELIMINARY REVIEW	TT
B	06/02/22	WJR	REVISED PRELIM. REVIEW	TT
0	09/02/22	AF	100% CONSTRUCTION	TT
1	11/02/22	TLT	100% CD REV	PD



SHEET TITLE:
OVERALL
SITE PLAN

SHEET NUMBER:
A-1

REVISION:
1

1 OVERALL SITE PLAN

22"x34" SCALE: 1" = 10'-0"
11"x17" SCALE: 1" = 20'-0"

T Mobile

274 DISCOVERY DR, SUITE 200
BOZEMAN, MT 58718



INFINIGY

FROM ZERO TO INFINIGY
the solutions are endless

50 116TH AVE SE, SUITE 210
BELLEVUE, WA 98004

T-MOBILE SITE:
MT06021A
GRAND AVE-ATC

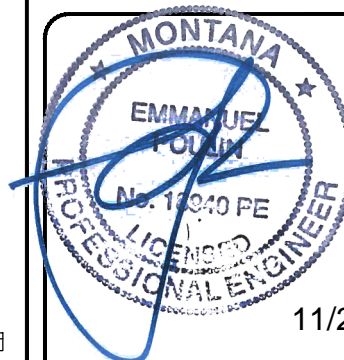
ATC SITE:
412939
BILGRANDAVE MT

1010 GRAND AVE
BILLINGS, MT 59102
YELLOWSTONE COUNTY

76'-0" MONOPOLE

DRAWINGS ISSUED FOR:

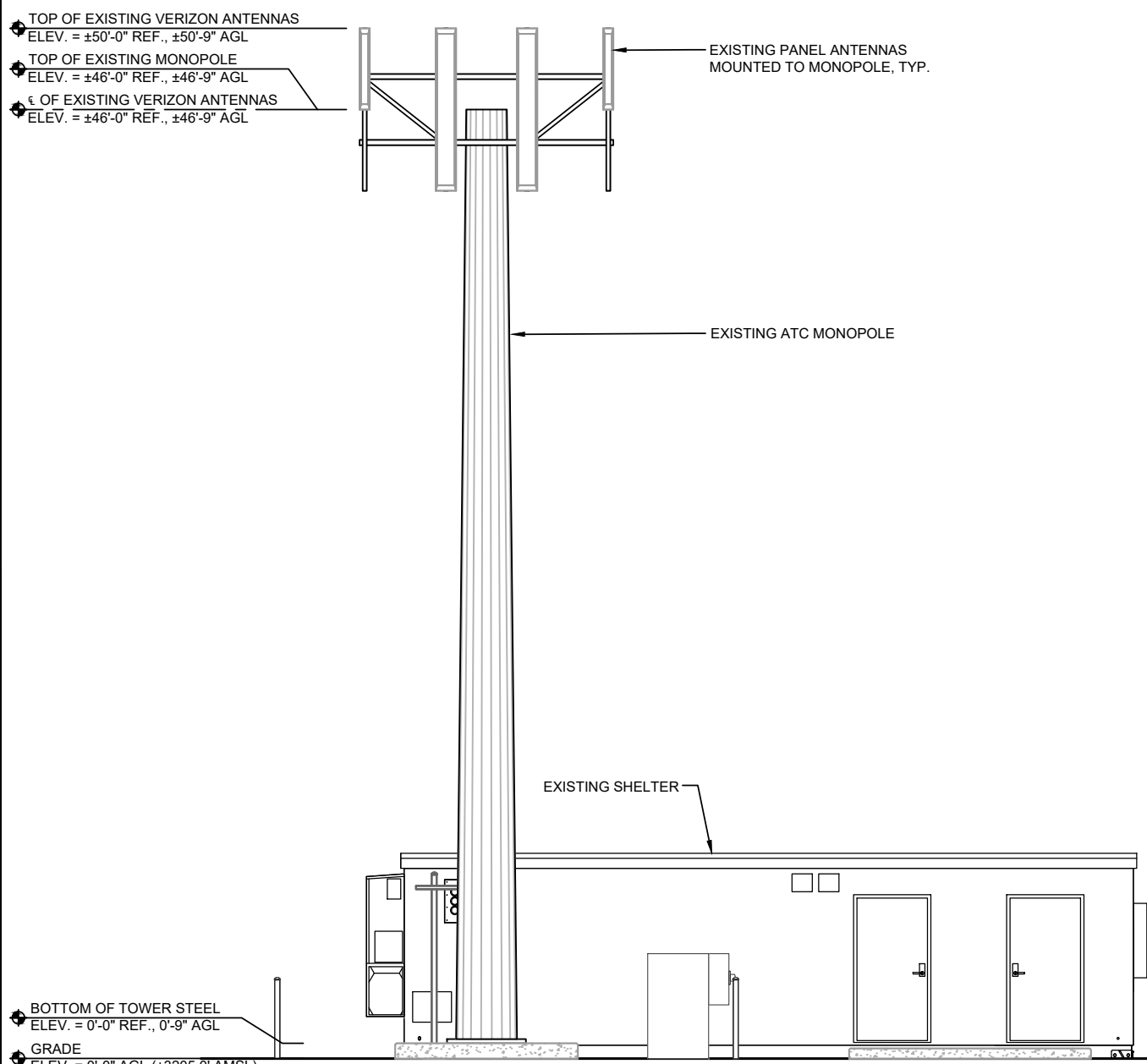
REV.	DATE	DRAWN	DESCRIPTION	QA/QC
A	05/03/22	RCD	PRELIMINARY REVIEW	TT
B	06/02/22	WJR	REVISED PRELIM. REVIEW	TT
0	09/02/22	AF	100% CONSTRUCTION	TT
1	11/02/22	TLT	100% CD REV	PD



SHEET TITLE:
SOUTH
ELEVATIONS

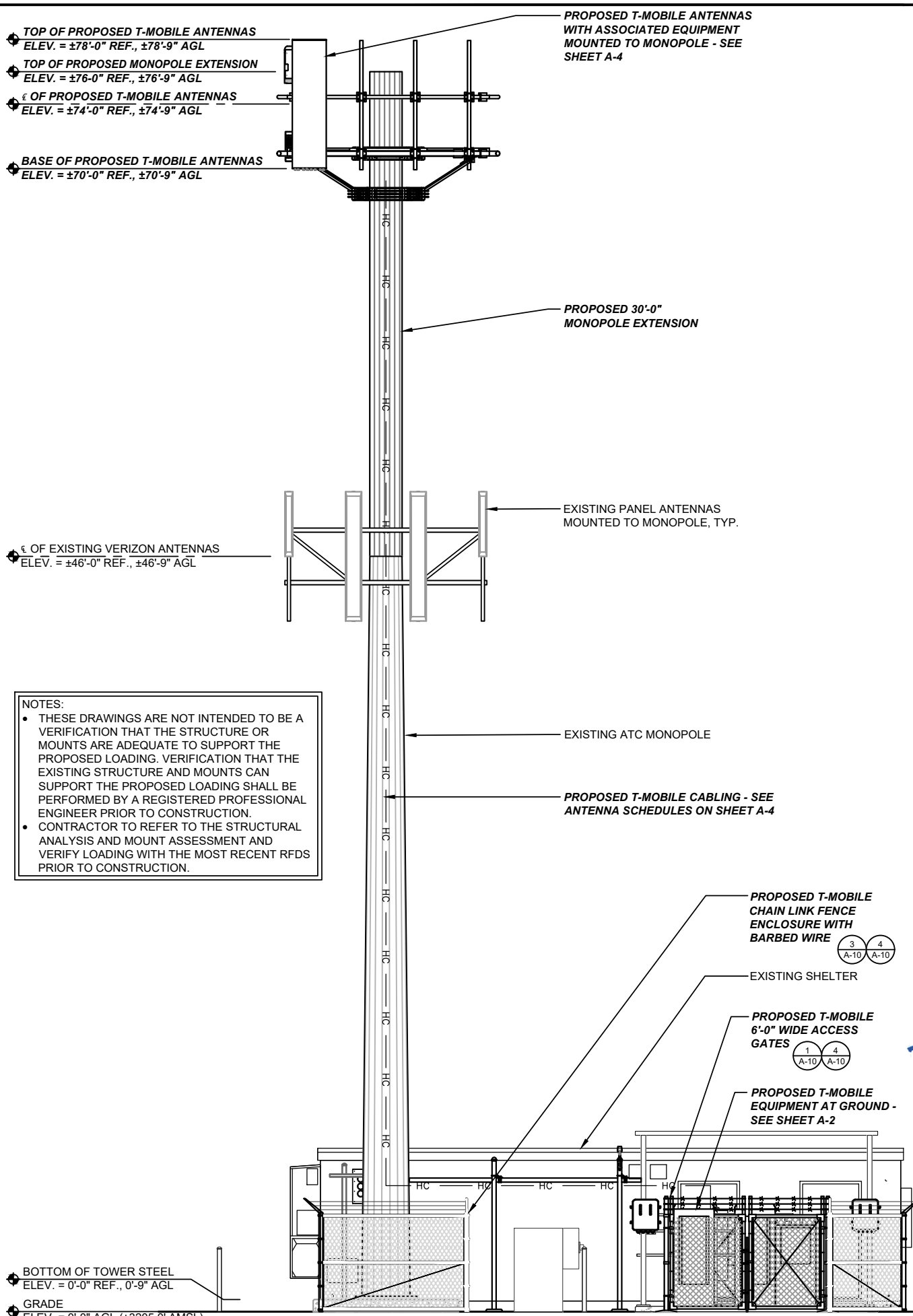
SHEET NUMBER:
A-3

REVISION:
1



2 EXISTING SOUTH ELEVATION

22"x34" SCALE: 1/4" = 1'-0"
11"x17" SCALE: 1/8" = 1'-0"



1 PROPOSED SOUTH ELEVATION

22"x34" SCALE: 1/4" = 1'-0"
11"x17" SCALE: 1/8" = 1'-0"

NOTES:

- THESE DRAWINGS ARE NOT INTENDED TO BE A VERIFICATION THAT THE STRUCTURE OR MOUNTS ARE ADEQUATE TO SUPPORT THE PROPOSED LOADING. VERIFICATION THAT THE EXISTING STRUCTURE AND MOUNTS CAN SUPPORT THE PROPOSED LOADING SHALL BE PERFORMED BY A REGISTERED PROFESSIONAL ENGINEER PRIOR TO CONSTRUCTION.
- CONTRACTOR TO REFER TO THE STRUCTURAL ANALYSIS AND MOUNT ASSESSMENT AND VERIFY LOADING WITH THE MOST RECENT RFDS PRIOR TO CONSTRUCTION.

SUBJECT PROPERTY	Special Review	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
None					
SURROUNDING PROPERTY	Special Review	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
1127 Alderson	668	1/22/2001	50 ft WCF on building	Y	Roof top antenna
1150 W Wicks Lane	243 (County)	4/29/1998	100 ft WCF	Y	
1202 & 1204 W Wicks Lane	270 (County)	1/9/2001	250 ft WCF and tower farm	Y	2 of 3 constructed
1150 W Wicks Lane – N.W.E.	960	1/18/2018	60 ft WCF	Y	For use by Northwestern Energy only
1235 W Wicks Lane	957	10/23/2017	Concealed rooftop	Y	
2132 Grand Ave	684	10/23/2000	160 ft WCF	Y	Constructed
1601 S Shiloh Rd	700	5/29/2001	250 ft WCF	Y	Constructed at 180 ft
704 Dunham Ave	979	10/28/2019	WCF height increase to 66 ft	Y	
286 Southview Dr (Airport)	922	2/23/2015	100 ft WCF	Y	Constructed

Sec. 27-1007

C. *Wireless communication facilities.*

1. *Purpose.* The purpose of this section is to establish regulations for the siting of antenna support structures and antennas on public and private property. The goals of this section are to:
 - (a) Provide for the managed development and installation, maintenance modification, and removal of wireless communications infrastructure with the fewest number of wireless communications facilities (WCFs) to complete a network without unreasonably discriminating against wireless communications providers of functionally equivalent services, including all of those who install, maintain, operate, and remove WCFs;
 - (b) Promote and protect the public health, safety, and welfare by reducing the visibility of WCFs to the fullest extent possible through techniques including but not limited to camouflage design techniques and undergrounding of the equipment associated with WCFs;
 - (c) Encourage the deployment of smaller, less intrusive WCFs to supplement existing larger WCFs;
 - (d) Encourage the use of wall-mounted panel antennas;
 - (e) Encourage roof-mounted antennas only when wall-mounted antennas will not provide adequate service or are not otherwise feasible;

-
- (f) Encourage the location of antennas and towers in non-residential areas and minimize the total number of antenna support structures throughout the community;
 - (g) Strongly encourage the co-location of WCFs on new and existing antenna support structures;
 - (h) Require wireless communication facilities to be located, to the extent possible, in areas where the adverse impact on the community is minimal;
 - (i) Require wireless communication facilities to be configured in a way that minimizes the adverse visual impact of the towers and antennas; and
 - (j) Enhance the ability of the providers of wireless communication services to provide such services to the community, as quickly, effectively, and efficiently as possible.
2. *Applicability.* All wireless communication facilities located on private land within the city zoning jurisdiction shall be subject to this section. This section shall apply to wireless communication facilities upon state and federal lands to the extent of the city's jurisdiction by way of law, pursuant to any memoranda of understanding or otherwise. Only the following facilities shall be exempted from the application of this section:
- (a) Amateur radio stations and antenna support structures that are owned and operated by a federally licensed amateur radio station operator or are exclusively receive-only antennas, provided that the requirements that the height be no more than the distance from the base of the antenna to the property lines is met.
 - (b) Antennas and antenna support structures for land mobile radio and radio and television, regulated in subsection 27-1007.A.
 - (c) Pre-existing WCFs.
 - (1) Any WCF for which a permit has been properly issued prior to the adoption of this zoning code (February 25, 2021) and for which no changes will be made shall not be required to meet the requirements of this section.
 - (2) Changes and additions to pre-existing WCFs (including trading out of antennas for an equal number of antennas) shall meet applicable requirements of subsection 27-1007.C.5, General requirements.
3. *Criteria for major and minor modifications and substantial change.*
- (a) *Major WCF modification.*
 - (1) An alteration of an existing WCF for any purpose that meets the criteria for substantial change.
 - (2) The calculation for modifications shall be cumulative over time following the initial approval of the WCF. No such modification shall be permitted if the support structure will exceed fifty (50) feet or the zoning district height, whichever is applicable.
 - (b) *Minor WCF modification.*
 - (1) An alteration of an existing exterior telecommunications facility or co-location of additional facilities with an existing exterior telecommunications facility in any zone that does not meet or exceeds the thresholds for a major modification, the calculation for which shall be cumulative over time, following the initial approval of the telecommunications facility.
 - (2) No such modification shall be permitted if the modification to the structure will cause the structure to exceed the height limit for the zoning district by more than ten (10) percent.

-
- (c) *Substantially change.* A modification that changes the physical dimensions of an eligible support structure so that after the modification the structure meets any of the following criteria:
- (1) *For towers.*
 - (i) Other than alternative tower structures, the modification increases the height of the tower by more than ten (10) percent; for other eligible support structures, it increases the height of the structure by more than ten (10) percent or more than ten (10) feet, whichever is greater;
 - (ii) The modification involves adding an appurtenance to the body of the tower that would protrude from the tower more than twenty (20) feet, or more than the width of the tower structure at the level of the appurtenance to the body of the structure that would protrude from the side of the structure by more than six (6) feet;
 - (2) *For any eligible support structure.*
 - (i) The modification involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four (4) cabinets;
 - (ii) The modification entails any excavation or deployment outside the current site;
 - (iii) The modification would defeat the concealment elements of the eligible support structure. A change that would undermine the concealment elements of this structure will be considered to defeat the concealment elements of the structure;
 - (iv) The modification does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure equipment, unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that would not exceed the thresholds identified in paragraphs (i), (ii), and (iii) of this definition.
 - (3) For base stations that are not surrounded by a screening wall, the modification involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten (10) percent larger in height or overall volume than any other existing, individual ground cabinet associated with the structure;
 - (4) For purposes of determining whether a substantial change exists, changes in height are measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height are measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to February 22, 2012.
4. *General requirements.* The requirements set forth in this section shall govern the location and construction of all wireless communications facilities governed by this section.
- (a) *Building codes and safety standards.* To ensure the structural integrity of wireless communication facilities, the owner of a facility shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for such wireless communication facilities, as amended from time to time. If upon inspection, the city concludes that a WCF fails to comply with such codes and constitutes a danger to persons or property, then, upon written notice being provided to the owner of the WCF, the owner shall have thirty (30)

days from the date of notice to bring such WCF into compliance. Upon good cause shown by the owner, the zoning coordinator may extend such compliance period not to exceed ninety (90) days from the date of said notice. If the owner fails to bring such WCF into compliance within said time period, the city may remove such WCF at the owner's expense.

- (b) *Regulatory compliance.* All wireless communication facilities must meet or exceed current standards and regulations of the FAA, the FCC, and other local, state or federal agencies with the authority to regulate facilities governed by this section. All wireless communication facilities must comply with all revised standards and regulations within the date established by the agency promulgating the standards or regulations. Failure to meet such revised standards and regulations shall constitute grounds for the removal of the WCF at the WCF owner's expense.
- (c) *Setbacks.*
- (1) Antenna support structures adjacent to residential uses or zoning. Antenna support structures must be set back, from all property lines, a distance equal to one-half (½) the height of the structure from any off-site residential structure or residentially zoned lot. Accessory structures must maintain a minimum of a 15-foot setback from any lot line adjacent to a residential structure or residentially zoned lot, or the required setback of the zoning district where the antenna support structure is located, whichever is greater.
 - (2) Mixed use, commercial, EBURD and industrial zoning setbacks antenna support structures and accessory facilities must meet the minimum yard setback requirements, including arterial setbacks, for the zoning district in which they are located.
- (d) *Lot coverage and height.* Antenna support structures and accessory structures shall not exceed lot coverage requirements for the zoning district in which they are located. Accessory structures shall not exceed the height restrictions for the zoning district in which they are located.
- (e) *Fencing and buffering.*
- (1) *Fencing.* A chain link or solid wood fence, or masonry wall at least six (6) feet in height (eight (8) feet if razor or barbed wire is to be used) shall be constructed and maintained around the perimeter of the antenna support structure site. Climb-proof shields can be substituted for a fence or wall around the structure. Solid fences, at least six (6) feet in height are required adjacent to residential uses and residentially zoned property.
 - (2) *Landscaping.* For all facilities the following will be required: A continuous evergreen hedge at least four (4) feet in height when planted, shall be planted and maintained around the perimeter of the antenna support structure outside of the required fencing and spaced close together to provide a continuous visual screen. Shrubs shall also be planted and maintained around the guy anchors for visual screening purposes. This requirement may be waived through section 27-1614, Administrative relief, where the site does not have access to water.

A performance bond or letter of credit for two hundred fifty (150) percent of the landscaping and fencing materials and labor costs shall be posted with the planning division, prior to building permit approval, to ensure the placement of required landscaping and fencing in accordance with article 27-1200.
 - (3) *Commercial landscaping.* Landscaping requirements shall not apply to antenna support structures located in the heavy industrial (HI) zoning district.
 - (4) *Exceptions for city airport airfield area.* If federal safety and security standards within the city airport's airfield area prevent an antenna support structure from being fenced or landscaped, subsections 4.(e)(1) and 4.(e)(2) will not apply. Documentation of these standards must be submitted with the building permit or special review applications.

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- (f) *Lighting.* Antenna support structures shall not be artificially lighted unless required by the FAA or other local, state, or federal agency. If the FAA requires safety lighting, the use of red beacons is preferred to flashing strobe lights. Security lighting on site may be mounted up to twenty (20) feet high on the tower and shall be directed towards the ground to reduce light pollution, prevent off-site light spillage, and avoid illuminating the tower.

Cut-off security lighting must be used adjacent to residential uses or residentially zoned lots. When incorporated into the approved design of the facility, light fixtures used to illuminate sports fields, parking lots, or similar areas may be included in the facility.

- (g) *Signage.* Signage shall be limited to non-illuminated warning and equipment identification signs.

- (h) *Co-location.*

- (1) Antenna support structures should be designed in all respects to accommodate multiple antennas. If the antenna support structure is over one hundred (100) feet in height, it should be designed to include both the applicant's antenna(s) and at least two (2) additional comparable antennas. If the tower is between fifty (50) and one hundred (100) feet tall it should be designed for at least one additional comparable antenna.
- (2) All new antennas must co-locate on existing or approved antenna support structures or stealth communication facilities. Applicants may request a waiver from the co-location requirement through the special review process. Applicants must demonstrate that co-location is not feasible because there is no existing or approved antenna support structure within the required separation distance of the proposed site can accommodate the applicant's proposed antenna or a critical need exists for the proposed location and it is technically infeasible to locate or co-locate structures at or beyond the required separation distance.

- (i) *Maintenance.*

- (1) Equipment at a wireless communication facility shall be automated to the greatest extent possible to reduce traffic and congestion. Where the site abuts or has access to a collector or local street, access for maintenance vehicles shall be exclusively by means of the collector or local street.
- (2) All property used for the siting of an antenna support structure or antenna shall be maintained, without expense to the city, so as to be safe, orderly, attractive, and in conformity with city codes including those regarding the removal of weeds, trash and landscape maintenance.

- (j) *Visual impact/aesthetics.*

- (1) Wireless communication facilities shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA or other applicable local, state, or federal agency, be painted a neutral color or painted and/or textured to match the existing structure so as to reduce visual obtrusiveness.
- (2) If an antenna is installed on a structure other than a tower, the antenna and associated electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible. Antennas and antenna support structures may be mounted on existing buildings that are thirty (30) feet or more in height above the street grade.
- (3) Roof-mounted antennas and antenna support structures shall not add more than twenty (20) feet to the total height of the building on which they are mounted. Roof-mounted

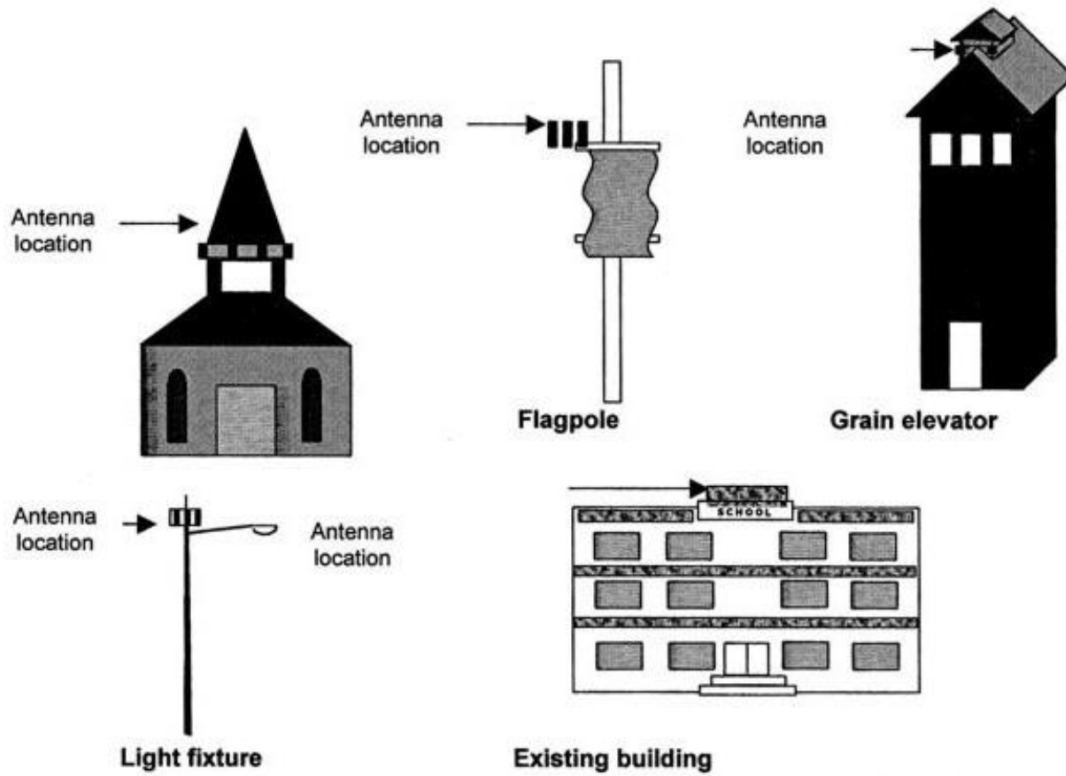
equipment shall be made visually unobtrusive to match existing air conditioning units, stair, elevator towers or other architectural elements. Only monopole antenna support structures with omni-directional (whip) or low profile single-directional (panel) shall be installed on building roofs. Examples of acceptable designs are shown in subsection (o) of this section. Crow's nest antenna arrays are prohibited on roof-top structures.

- (4) Wireless communication facilities attached to new or existing structures shall be designed to blend with the structure's architecture and should be placed directly above, below or incorporated with vertical design elements of a structure.
 - (5) Wireless communication facilities shall be located as to minimize their visibility and not be placed within historic or scenic view corridors as designated by the city council, or by any state or federal law or agency.
 - (k) *Antenna support structure separation.* All antenna support structures over fifty (50) feet in height, regardless of the zoning district in which the structure is located, shall be located at least one mile from any other antenna support structure that is over fifty (50) feet. Up to three (3) antenna support structures located within an approved wireless communication facility tower farm shall be located at least one mile from any other tower farm.
 - (l) *Abandonment and removal.* If a WCF has not been in use for a period of three (3) months, the owner of the WCF shall notify the city of the non-use and shall indicate whether re-use is expected within the ensuing three (3) months. Any WCF that is not operated for a continuous period of six (6) months shall be considered abandoned. The city, in its sole discretion, may require an abandoned WCF to be removed. The owner of the WCF shall remove the same within thirty (30) days of receipt of written notice from the city. If the WCF is not removed within thirty (30) days, the city may remove it at the owner's expense and any approved permits for the WCF shall be deemed to have expired. Additionally, the city, in its sole discretion, shall not approve any new WCF application until the applicant who is also the owner or operator of any such abandoned WCF has removed such WCF or payment for such removal has been made to the city.
 - (m) *Hazardous materials.* No hazardous materials shall be permitted in association with WCFs, except those necessary for the operation of the WCF and only in accordance with all applicable law governing such materials.
5. *Commercial antenna support structures and antennas located in residential zoning districts.*
- (a) *Minor modifications.* Antennas co-located on existing or approved stealth communication facilities or existing or approved antenna support structures which have previously received all required approvals and permits shall be permitted as an allowed use.
 - (b) *New support structures and major modifications.* Antenna support structures and antennas shall be permitted as an allowed use in all residential zoning districts provided they meet all of the following criteria:
 - (1) Stealth communication facilities conforming to all applicable provisions of this zoning code and roof-mounted antennas that do not add more than twenty (20) feet to the total height of the building on which they are mounted shall be permitted as an allowed use only when located on school, government-owned utility, and other government sites. Proposed antennas or antenna support structures that are contrary to this section must be requested as a land use contrary to zoning through the special review process or may be submitted to the board of adjustment for a hearing, whichever is the preference of the owner/agency.
6. *Commercial antenna support structures and antennas located in commercial zoning districts.*

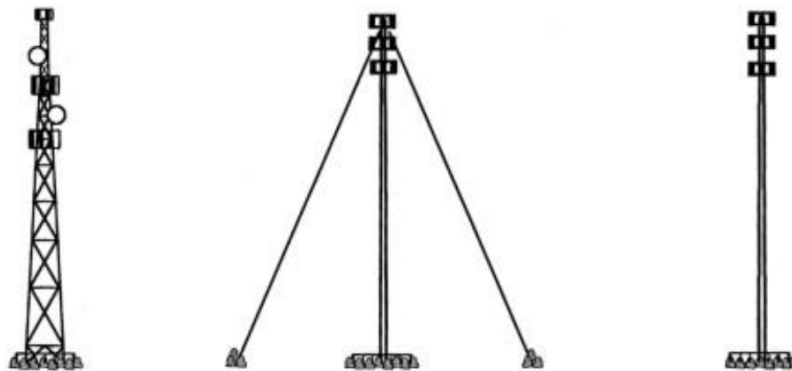
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- (a) *Minor modifications.* Antennas co-located on existing stealth communication facilities or existing antenna support structures which have previously received all required approvals and permits shall be permitted as an allowed use in all commercial zones.
 - (b) New support structures and major modifications shall be considered as follows:
 - (1) Stealth communication facilities shall be permitted as an allowed use in all commercial zoning districts.
 - (2) Antenna support structures shall be permitted as an allowed use in all commercial and mixed-use zoning districts when located on school, government-owned utility, and other government sites. Proposed antennas or antenna support structures that are contrary to this section must be requested through the special review process.
 - (3) Antenna support structures and antennas located in NO, NC, and DX that do not meet the requirements of subsection 6(b)(1) or 6(b)(2) shall be required to obtain special review approval. Wireless communication facility tower farms are not allowed in these zoning districts.
 - (4) Antenna support structures and antennas located in CMU1, CMU2, CX, I1, EBURD, CBD, and P zoning districts shall be permitted as an allowed use provided that the towers meet the requirements subsection 6(b)(1) or 6(b)(2) or the following:
 - (i) Roof-mounted antenna that do not add more than twenty (20) feet to the total height of the building on which it is mounted shall be permitted as an allowed use. See additional requirements for roof-mounted antenna in subsection 4(j)(2).
 - (ii) Antenna support structures fifty (50) feet in height or less shall be permitted as an allowed use.
 - (iii) Antenna support structures that are greater than fifty (50) feet in height shall be required to obtain special review approval.
 - (iv) Wireless communication facility tower farms are permitted with special review approval, except in the CBD and P3 zoning districts.
 - (5) All antenna support structures located in I2 shall be permitted as an allowed use, including tower farms.
7. *Antenna support structures located in parks.* The presence of certain wireless communication facilities may conflict with the purpose of some city owned parks. Wireless communication facilities will be considered only following a recommendation by the city planning division; the city parks, recreation, and cemetery advisory board, and approved by the city council. Factors that will be considered include:
- (a) Public parks of a sufficient scale and character that are adjacent to an existing commercial or industrial use;
 - (b) Commercial recreation areas and major playfields; and,
 - (c) Park maintenance facilities.
8. *Small cell WCF.* The following standards apply in those zones where small cell telecommunications facilities are allowed as a permitted use:
- (a) An antenna may be installed on existing exterior support structures, but the installation of taller poles or new overhead wiring to accommodate the antennas will not be permitted without a special review approval.

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- (1) An antenna may be installed at least twenty (20) feet from the ground in a residential zone or on an existing residential support structure or support structure on privately owned land, or fifteen (15) feet from the ground in a commercial or mixed-use zone or on an existing commercial structure or support structure on privately owned land.
 - (2) An antenna may be mounted on the wall of a building facing the rear lot line at a height of at least twenty (20) feet in a residential zone or when mounted on a residential building, or fifteen (15) feet in a commercial or mixed-use zone or when mounted to a commercial building.
- (b) An antenna must not be installed on or within sixty (60) feet of a single-family or two-family dwelling unit and must not be installed on the front façade of any residence.
 - (c) Cable connecting the antennas to the equipment box shall be contained inside the pole or support structure or shall be flush mounted and covered with a metal, plastic or similar material cap matching the color of the pole or structure on which it is installed, properly secured and maintained by the applicant.
 - (d) Related unstaffed equipment cabinets may be located within a building, an equipment cabinet outside a building, an equipment cabinet on a rooftop, or an equipment room within a building.
 - (1) Such related equipment shall have a maximum square footage of ten (10) square feet with a maximum height of two (2) feet and must be so located and installed in accordance with the applicable setback and other requirements of the zone in which the property is classified.
 - (2) A related unstaffed equipment cabinet may be installed on a rooftop of a building on privately owned land which is at least fifteen (15) feet in height, provided it and all other roof structures do not occupy more than twenty-five (25) percent of the roof area.
 - (e) The applicant shall provide proof that it is a licensed provider and will comply with all applicable federal, state and city laws and regulations, including those regarding wireless communications services.
 - (f) An antenna and equipment box must be installed as a stealth telecommunications facilities on a property within a historic district or that has been designated by the city as a historic resource, and the historic district commission must review such an application.
 - (g) Public property. A private small cell telecommunications antenna may be located on the exterior of public property or attached to an existing support structure owned or operated by the city and shall be a permitted use in all zones.
 - (h) All such small cell telecommunications antennas shall be located and designed so as to minimize visual impact on surrounding properties and from public streets.
 - (i) No signs are permitted in connection with any small cell telecommunications antenna.
 - (j) No lights are permitted on any monopole or antenna unless required by the FCC, the FAA, or the city.
 - (k) No more than one building, pole or other support structure containing a small cell telecommunications facility or co-located facility is permitted on a lot or parcel of land, or for parcels larger than a half-acre, per half-acre of land.
9. *Nonconforming wireless communication facilities.* Antenna support structures and/or facilities in existence on the date of the adoption of these regulations, that do not comply with the requirements of these regulations, (nonconforming antenna support structures) are subject to the following provisions:

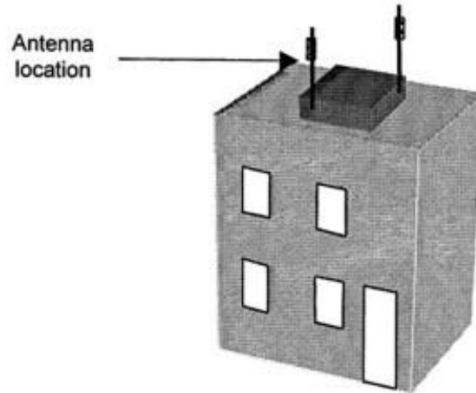
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- (a) Nonconforming antenna support structures may continue their present use but may not be expanded or increased in height without complying with these regulations, except as further provided in this section.
 - (b) Nonconforming antenna support structures which are hereafter damaged and destroyed, by less than fifty (50) percent of its replacement value, due to any reason or cause may be repaired and restored to their former use, location, and physical dimensions subject to obtaining a building permit and other necessary approvals, but without otherwise complying with these regulations. If an antenna support structure is destroyed or damaged by more than fifty (50) percent of its replacement the antenna support structure must be brought into compliance with these regulations.
 - (c) The owner of any nonconforming antenna support structure may make minor modifications in order to improve the structural integrity of the facility, to allow the facility to accommodate co-located antennas or facilities, or to upgrade the facilities to current engineering, technological or communications standards, without having to conform to the provisions of these regulations.
10. *Abandonment.* Wireless communications facilities will be considered abandoned if they are unused by all providers at the facility for a period of six (6) months. Determination of abandonment shall be made by the planning division, which shall have the right to request documentation from the facility owner regarding support or antenna usage. Upon abandonment, the facility owner shall have ninety (90) days to:
- (a) Re-use the facility, or transfer the facility to another owner who will re-use it; or
 - (b) Dismantle the facility. If the facility is not removed within ninety (90) days of abandonment, the city may remove the facility at the facility and/or property owner's expense. If the facility is removed, city approval of the facility expires.
 - (c) If the facility owner is unable to remove the facility within the ninety (90) days due to unusual circumstances, the planning division may grant the facility owner an additional ninety (90) days in which to comply with the requirements of this section.
11. *Nuisances.* Wireless communication facilities, including, without limitation, power source, ventilation and cooling, shall be operated at all times within the city noise regulations, shall not be operated so as to cause the generation of heat that adversely affects a building occupant and shall not be maintained or operated in such a manner as to be a nuisance.
12. *Wireless communication facilities, illustrated examples.*
- (a) *Stealth communication facilities.*



(b) *Antenna support structures.*



(c) *Roof-mounted antenna support structures and antennas.*



13. *Minor modification procedures.*

- (a) Minor modifications to facilities permitted under these regulations shall be approved by the planning division so long as they comply with the original approved design.
- (b) *Timeframe for review.* Subject to the tolling provisions of subsection (c) below, within sixty (60) days of the date on which an applicant submits an application seeking approval under this section, the city shall approve the application unless it determines that the application is not covered by this subsection, or otherwise in non-conformance with applicable codes.
- (c) *Tolling of the timeframe for review.* The 60-day review period begins to run when the application is filed, and may be tolled only by mutual agreement of the city and the applicant, or in cases where the zoning coordinator determines that the application is incomplete:
 - (1) To toll the timeframe for incompleteness, the city must provide written notice to the applicant within thirty (30) days of receipt of the application, specifically delineating all missing documents or information required in the application;
 - (2) The timeframe for review begins running again when the applicant makes a supplemental written submission in response to the city's notice of incompleteness;
 - (3) Following a supplemental submission, the city will notify the applicant within ten (10) days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in subsection 14.(c)(1). In the case of a second or subsequent notice of incompleteness, the city may not specify missing information or documents that were not delineated in the original notice of incompleteness;
 - (4) *Failure to act.* In the event the city fails to act on a request for minor modification, within the timeframe for review (accounting for any tolling), the request shall be deemed granted. The request becomes effective when the applicant notifies the city in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted; and
 - (5) *Interaction with Telecommunications Act Section 332(c)(7).* If the city determines that the applicant's request is not a request for minor modification, the presumptively reasonable timeframe under section 332(c)(7), as prescribed by the FCC's Shot Clock order, will begin to run from the issuance of the city's decision that the application is not a request for minor modification. To the extent such information is necessary, the city may request additional information from the applicant to evaluate the application under section 332(c)(7) reviews.

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- (d) In the event that after submittal of the application, or as a result of any subsequent submittals, applicant modifies the proposed facilities modification described in the initial application, the application as modified will be considered a new application subject to commencement of a new application review period; provided that, applicant and the approval authority may, in the alternative, enter into a mutually agreeable tolling agreement allowing the city to request additional submittals and additional time that may be reasonably necessary for review of the modified application.
- (e) *Decision.* The approval authority shall review a minor modification application to determine if the proposed facilities modification is subject to this section, and if so, if the proposed facilities modification will result in a substantial change to the physical dimensions of an eligible support structure.
- (1) Within sixty (60) days of the date on which the city receives a minor modification application, less any time period that may be excluded under the tolling provisions of this section or a tolling agreement between the applicant and the approval authority, the approval authority shall approve the application and contemporaneously issue a minor modification permit unless the approval authority determines that the application is not subject to this section, or the proposed facilities modification will substantially change the physical dimension of an eligible support structure.
- (2) *Denial.* A minor modification application shall be denied upon determination by the approval authority that the proposed facilities modification is not subject to this section or will substantially change the physical dimensions of an eligible support structure. A proposed facilities modification will substantially change the physical dimensions of an eligible support structure if it meets any of the substantial change criteria. A denial of a minor modification application shall set forth in writing the reasons for the denial and shall be provided to the applicant.
- (3) *Deemed approved application.* An application that has been deemed approved shall be and constitute the equivalent of a minor modification permit, except as may be otherwise determined by a court of competent jurisdiction, and shall be subject to generally applicable enforcement and compliance requirements in the same manner as a minor modification permit issued pursuant to this section.
- (f) *Term of minor modification permit.* A minor modification permit issued pursuant to this section, and any deemed approve application, shall be valid for a term of one hundred eighty (180) days from the date of issuance, or the date the application is deemed approved.
14. *New support structure and major modification procedures.* Applications for new support structures and major modifications to existing antenna support structures permitted under these regulations shall be approved through a special review. Major modifications are any modifications that exceed the definition of minor modifications and constitute a substantial change per subsection 27-1007.C.3.