

**\*ITEM #3** Development Services requests Ordinance Text Amendments to Subsection 14.34.250(11) to update standards for Conditional Uses for Communication Towers and Antennas. Citywide Application. Dustin Wright (801) 852-6414 dwright@provo.org PLOTA20230187

## **BACKGROUND**

Development Services is proposing to amend the ordinance regulating the standards for conditional uses for communication towers (monopoles) and antennas.

The proposed amendment will align Provo City Code with federal laws that regulate communication towers. Federal law requires approval unless there is a substantial change, such as increasing the height by ten percent. The City Code currently requires a conditional use permit when co-locating additional antennas on existing monopoles, and this does not meet their definition of a substantial change. This text amendment will also add clarification to the process when there is a need to change the tower location.

## **ANALYSIS**

With this amendment, the Planning Commission will be able to approve a location closer to a residential boundary line when certain criteria are met. As each property and its surroundings are unique, it will be helpful to have the flexibility in the Code to allow monopoles to be placed in the best location on these individual lots by considering the surrounding uses and structures.

The proposed amendment also provides clarification on what should be done when there is a desire to change the location. Changes would be required to bring the revised plans back to the Planning Commission and new notifications to be sent out to neighboring property owners.

Currently, the code requires that a conditional use permit is required to have antennas co-located on an existing pole. Federal laws allow these non-substantial additions to be approved. The proposed amendment would have these approved through the building permit review instead of the conditional use permit process.

## **FINDINGS OF FACT**

Sec. 14.020.020(2) establishes criteria for the amendments to the zoning title as follows: **(Staff response in bold type)**

Before recommending an amendment to this Title, the Planning Commission shall determine whether such amendment is in the interest of the public, and is consistent with the goals and policies of the Provo City General Plan. The following guidelines shall be used to determine consistency with the General Plan:

(a) Public purpose for the amendment in question.

**Staff response: The purpose of amendment is to align the City Code with federal laws and to provide clarity and flexibility in the Code so that towers are located in the most appropriate locations.**

(b) Confirmation that the public purpose is best served by the amendment in question.

**Staff response: The amendment removes requirements conditional use permit requirements for items that should only need a building permit to align with federal regulations. The amendment also gives the Planning Commission criteria to follow for approving alternate monopole locations.**

(c) Compatibility of the proposed amendment with General Plan policies, goals, and objectives.

**Staff response: Ensuring that our code stays updated will help in an overall effort to meet the goals and objectives of the city.**

(d) Consistency of the proposed amendment with the General Plan's "timing and sequencing" provisions on changes of use, insofar as they are articulated.

**Staff response: The proposed amendment to the ordinance does not conflict with and timing and sequencing of the General Plan.**

(e) Potential of the proposed amendment to hinder or obstruct attainment of the General Plan's articulated policies.

**Staff response: Staff does not see any potential conflicts from the proposed amendment with the General Plan policies.**

(f) Adverse impacts on adjacent landowners.

**Staff response: No adverse impacts should be created for adjacent landowners.**

(g) Verification of correctness in the original zoning or General Plan for the area in question.

**Staff response: N/A**

(h) In cases where a conflict arises between the General Plan Map and General Plan Policies, precedence shall be given to the Plan Policies.

**Staff response: No conflicts exist between the map and plan in relation to the proposed amendment.**

## **CONCLUSION**

Staff proposes that this text amendment would help will align Provo City Code with federal laws that regulate communication towers.

This amendment will create criteria for the Planning Commission to allow monopoles to be placed in the best location on these individual lots.

If there are location changes to what is shown on the plans, the applicant will need to come back to the Planning Commission with new plans showing the proposed location change to get approval.

## **STAFF RECOMMENDATION**

**Recommend approval** to the Municipal Council for the proposed ordinance text amendment to section 14.34.250(11) to update standards for Conditional Uses for Communication Towers and Antennas.

## **ATTACHMENTS**

1. Proposed Text

## Attachment 1 – Proposed Text

14.34.250(11) Standards for Conditional Uses.

(11) Communications (4715 – Low-Power Radio Communication Towers and Antennas).

...

(b) Cellular facilities consisting solely of wall-mounted or roof-mounted antennas shall be allowed **with a building permit** as a permitted principal use in the A, AI, A1, PO, PF, SC1, SC2, SC3, CG, DT1, DT2, GW, FC1, FC2, ITOD, CM, CA, MP, M1, M2, PIC, OSPR, R&BP and SSC zones subject to the conditions set forth in Subsections (11)(c), (11)(d), (11)(e) and (11)(g)(i) of this Section. Cellular facilities placed ~~as a stealth fixture antenna or placed~~ on a monopole structure shall be allowed as a conditional use in the same zones subject to the provisions of this Section.

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(e) Stealth Fixture Antennas. A stealth fixture antenna is one (1) or more antennas attached to a supporting structure which is disguised as part of the structure or otherwise concealed from public view as much as reasonably possible.

(i) A stealth antenna shall be subject to the following development standards:

(A) A stealth fixture antenna may be attached to an existing or replacement power pole or light pole or disguised as a flagpole, manmade tree, clock tower, steeple or a structure used primarily for another use so long as any antenna located on the structure does not detract visually from the primary use.

(B) When a stealth fixture antenna is attached to an existing or replacement power pole or light pole the following conditions shall be met:

(I) The antenna shall not exceed the height of an existing pole by more than:

1 Ten (10) feet; or

2 Twenty (20) feet if, and only if, the antenna is not located closer to a residential zone boundary than two (2) times the height of the pole;

(II) If a replacement pole is proposed, the pole shall be installed in the same location as the pole being replaced unless the Planning Commission specifically approves a different location as provided in a conditional use permit; and

(III) Any existing light or power pole located in a public right-of-way or in a required front or side yard shall not be increased in height to accommodate a cellular facility antenna; or

(IV) Any replacement pole located in a public right-of-way or in a required front or side yard shall not be higher than the pole that it is replacing.

(C) Each installation shall be approved by the Provo City Power Department (or other utility company, as applicable), including approval and acceptance of any applicable agreements and payment of any required fees. Such approvals shall be received prior to final approval of a conditional use permit.

(D) A structure to which a stealth fixture antenna is attached shall be designed by a state-certified engineer to verify that the structure can support the stealth fixture antenna.

(E) The overall height of any structure proposed to be used for a stealth fixture antenna shall be consistent with any similar structure being used as a model for the stealth structure. Except as otherwise provided in Subsection (11)(e)(i)(B)(I)(2) of this Section, a stealth fixture shall be no more than ten (10) feet higher than the structure to which it is attached; provided the fixture and the structure to which it is attached are consistent with the character of similar structures located in the same area, as determined by the Planning Commission. The Planning Commission shall make specific findings to support its determination.

(F) A stealth fixture antenna, including the mounting structure, shall not exceed thirty (30) inches in diameter; provided, however, that antennas exceeding thirty (30) inches, including the mounting structure, may be permitted if the antenna is a stealth fixture antenna located on or within a clock tower, steeple, manmade tree, or other similar structure.

(G) Equipment and/or equipment shelters used in connection with stealth fixture antennas shall be camouflaged behind an effective year-round landscape buffer and/or wooden fence equal to the height of the proposed equipment. Equipment shelters shall not be located within a utility easement.

(H) Stealth fixture antennas and all associated equipment visible to public view shall be painted to match the color of the structure to which it is attached.

(I) Electrical wiring shall be located within the pole whenever possible and shall be required when a metal replacement pole is provided.

(ii) If a stealth fixture antenna becomes obsolete or the structure to which it is attached is vacated by the operator of the cellular facility, then within ninety (90) days thereafter the cellular facility operator shall remove the antenna and all associated equipment and shall restore the structure to its original condition. If the requirements of this Subsection (11)(e)(ii) are not met, the City shall have the right to enter the subject property and remove the equipment or pole at the expense of the cellular facility operator.

(iii) A **project-plan conditional use permit** application for a stealth fixture antenna shall include the following:

(A) A letter from the applicant stating that the applicant will conform to the requirements of Subsection (11)(e)(ii) of this Section; and

(B) Verification that the applicant owns the property where the stealth fixture antenna is proposed to be located or a copy of a lease agreement with the property owner indicating the antenna may be located on the property.

(iv) If all the conditions set forth in this Subsection (11)(e) cannot be met, the requirements of Subsection (11)(f) of this Section shall apply.

(f) Monopole Structures. A monopole structure is a single cylindrical steel or wooden pole that acts as the support structure for one (1) or more antennas for a cellular facility as provided in this Subsection.

(i) A monopole structure shall comply with the following development standards:

(A) All tower structures shall be of monopole construction. No lattice constructed towers of any kind shall be allowed.

(B) All monopole structures shall be designed by a state-certified engineer to allow co-location of antennas owned by as many as three (3) separate users on a single pole.

(C) No monopole structure shall be located:

(I) Closer to a residential zone boundary than two (2) times the height of the monopole; and

(II) Within a one-half (1/2) mile radius from another monopole unless grid documentation is supplied by an independent consultant stating that antenna co-location is not technically feasible.

(III) The Planning Commission may approve a location closer to a residential zone boundary than allowed in section (11)(F)(i)(C)(I) above subject to the following conditions:

- (1) That under all circumstances the monopole must be located at least one and a quarter (1.25) times the height of the monopole from any residential boundary.
- (2) That the alternate location will reduce visual impacts on the adjacent residential property.
- (3) That the height of the monopole is more consistent with buildings or structures in the alternate location; or
- (4) That the alternate location provides easier or more convenient access for maintenance access due to property slopes or other natural barriers.

(D) A monopole with antennas and antenna support structures shall not be located in a required front setback, front landscaped area, buffer area, or required parking area.

(ii) If a monopole antenna becomes obsolete, then within ninety (90) days thereafter the operator of the cellular facility shall remove the antenna, the top three (3) feet of the antenna footing and all associated equipment, and shall restore the site to its original condition. If the requirements of this Subsection (11)(f)(ii) are not met, the City shall have the right to enter the subject property and remove the equipment or pole at the expense of the cellular facility operator.

(iii) An application for a monopole structure shall include the following:

(A) A letter from the applicant stating that the applicant will permit antenna co-location, will conform to the requirements of Subsection (11)(f)(ii) of this Section, and that the monopole structure is capable of supporting co-located antennas; and

(B) Verification that the applicant owns the property where the monopole structure is proposed to be located, or a copy of a lease agreement with the property owner indicating the antenna may be located on the property.

(iv) Co-location on an existing monopole structure shall be a ~~conditional~~ **permitted** use and shall be handled ~~administratively~~ **with a building permit**.

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(h) Additional Requirements.

(i) Each cellular facility shall be considered as a separate use; and an annual business license shall be required for each such facility.

(ii) In addition to the conditional use standards set forth in Section 14.02.040, Provo City Code, the Planning Commission shall make the following findings for any cellular facility subject to a conditional use permit:

(A) That the proposed structure is compatible with the height and mass of existing buildings and utility structures;

(B) That co-location of the antenna or other existing structures in the same vicinity such as other towers, buildings, water towers, utility poles, etc., is possible without significantly impacting antenna transmission or reception;

(C) That the antenna location blends with existing vegetation, topography and buildings;

(D) That location approval of monopoles will not create a detrimental impact to adjoining properties; and

(E) That location of cellular facility will not interfere with existing transmission signals.

(iii) The Planning Commission must approve the exact location of the monopole on the site. If at any point, during deliberation of the Planning Commission or following the decision of the Planning Commission, there is a need to alter the location of the monopole, a new site plan and elevation drawings showing the proposed location shall be brought back to the Planning Commission for review and approval. Prior to a rehearing by the Planning Commission, neighboring property owners within five hundred (500) feet will be given notice of the Planning Commission meeting.