



**PLANNING COMMISSION REGULAR MEETING
THURSDAY, JANUARY 23, 2020**

BAINBRIDGE ISLAND CITY HALL
COUNCIL CHAMBERS
280 MADISON AVENUE N.
BAINBRIDGE ISLAND, WASHINGTON

AGENDA

1. **CALL TO ORDER/ROLL CALL/CONFLICT OF INTEREST DISCLOSURE - 7:00 PM**
2. **PLANNING COMMISSION MEETING MINUTES - 7:05 PM**
 - 2.a **7:05 PM - November 7, 2020 Meeting Minutes** 5 Minutes
[Planning Commission Minutes DRAFT 110719.pdf](#)
3. **PUBLIC COMMENT ON OFF AGENDA ITEMS- 7:10 PM**
4. **UNFINISHED BUSINESS - 7:20 PM**
 - 4.a **7:20 PM - Ordinance No. 2020-04, Adopting Small Wireless Facility Design Standards** 30 Minutes
[Ordinance No. 2020-04, Adopting Small Wireless Design Standards - Draft for 1-23-20 PCM](#)
[Memo - Summary of Revisions Following December 12, 2019 PC Meeting](#)
[Small Wireless Facilities - Sample Photos of Actual Deployments](#)
 - 4.b **7:50 PM - ADU Ordinance Subcommittee Update** 10 Minutes
5. **PUBLIC HEARING - 8:00 PM**
 - 5.a **8:00 PM - Aveterra Code Amendment Request - Planning** 60 Minutes
[Staff Memo to Planning Commission 23JAN2020.pdf](#)
6. **PLANNING DIRECTOR'S REPORT - 9:00 PM**

Bi-monthly update to include actions taken and upcoming actions by the City Council and to discuss other project related matters.
7. **ADJOURNMENT - 9:15 PM**

GUIDING PRINCIPLES

Guiding Principle #1 - Preserve the special character of the Island, which includes downtown Winslow's small town atmosphere and function, historic buildings, extensive forested areas, meadows, farms, marine views and access, and scenic and winding roads supporting all forms of transportation.

Guiding Principle #2 - Manage the water resources of the Island to protect, restore and maintain their ecological and hydrological functions and to ensure clean and sufficient groundwater for future generations.

Guiding Principle #3 - Foster diversity with a holistic approach to meeting the needs of the Island and the human needs of its residents consistent with the stewardship of our finite environmental resources.

Guiding Principle #4 - Consider the costs and benefits to Island residents and property owners in making land use decisions.

Guiding Principle #5 - The use of land on the Island should be based on the principle that the Island's environmental resources are finite and must be maintained at a sustainable level.

Guiding Principle #6 - Nurture Bainbridge Island as a sustainable community by meeting the needs of the present without compromising the ability of future generations to meet their own needs.

Guiding Principle #7 - Reduce greenhouse gas emissions and increase the Island's climate resilience.

Guiding Principle #8 - Support the Island's Guiding Principles and Policies through the City's organizational and operating budget decisions.



Planning Commission meetings are wheelchair accessible. Assisted listening devices are available in Council Chambers. If you require additional ADA accommodations, please contact the Planning & Community Development Department at (206) 780-3750 or pcd@bainbridgewa.gov by noon on the day preceding the meeting.

Public comment may be limited to allow time for the Commissioners to deliberate. To provide additional public comment, email your comment to pcd@bainbridgewa.gov or mail it to Planning and Community Development, 280 Madison Avenue North, Bainbridge Island, WA 98110.



CITY OF
BAINBRIDGE ISLAND

Planning Commission Regular Meeting Agenda Bill

MEETING DATE: January 23, 2020

ESTIMATED TIME: 5 Minutes

AGENDA ITEM: 7:05 PM - November 7, 2020 Meeting Minutes

AGENDA CATEGORY: Minutes

PROPOSED BY: Jane Rasely

**PREVIOUS PLANNING COMMISSION
REVIEW DATE(S):**

PREVIOUS COUCIL REVIEW DATE(S):

RECOMMENDED MOTION:
Review and Approve

SUMMARY:

BACKGROUND:

ATTACHMENTS:



Planning Commission Special Meeting Thursday, November 7, 2019

Meeting Minutes

1) **CALL TO ORDER/ROLL CALL**

Chair William Chester called the meeting to order at 7:00 PM.

2) **PUBLIC COMMENT ON OFF AGENDA ITEMS**

Amy Aspell spoke about Affordable Housing providing the seven recommendations from the Community Housing Coalition

3) **PUBLIC HEARING**

3.a **Ordinance No. 2019-32 Amending BIMC 2.16.020.S. Housing Design Demonstration Projects (HDDP) Program,**

Chair Chester began the topic with a 30-minute study session.
The public hearing opened at 7:27 PM.

Jane Rein - supported sunsetting the HDDP program.

Joe Dunstan, Design Review Board Chair - Said he had not seen a quality HDDP project come before the DRB yet. **As a citizen**, he supported sunsetting the HDDP Program.

Holly Brewer - Spoke in support of affordable housing being close to public transportation and providing walkability.

Marshall Tappan - Spoke in support of sunsetting the HDDP Program.

Jonathan Davis - Spoke in support of the HDDP Program.

Ron Peltier - Spoke as a citizen and asked if the HDDP Program was supported by the Comprehensive Plan.

The public hearing closed at 7:47 PM.

Long Range Senior Planner Jennifer Sutton began discussion with a draft provided by Commissioner McCormick Osmond.

MOTION: Planning Commission recommends that the HDDP Program should sunset as scheduled by December 31, 2019. Further, the Planning Commission recommends that the draft Ordinance 2019-32 should not go forward.

Quitslund/Pearl: Motion carried 5 - 2

AYES: Mack Pearl, Jon Quitslund, Lisa Macchio, Kim McCormick-Osmond, Don Doman

NOES: Joe Paar, William Chester

ABSENT: None

ABSTAIN: None

MOTION: The Planning Commission recommends that the City Council direct the Planning Commission and staff to draft an interim affordable housing ordinance that includes density incentives to promote green building and affordable housing.

McCormick Osmond/Quitslund: Motion carried 5 - 1

AYES: Mack Pearl, Jon Quitslund, Kim McCormick-Osmond, Don Doman, Joe Paar

NOES: Lisa Macchio

ABSENT: None

ABSTAIN: William Chester

4) **PLANNING DIRECTOR'S REPORT**

Planning & Community Development Director Heather Wright provided an update on City Council actions of interest to the Planning Commission.

5) **ADJOURNMENT**

Meeting adjourned at 9:09 PM.

William Chester, Chair

Jane Rasely, Administrative Specialist



Planning Commission Regular Meeting Agenda Bill

MEETING DATE: January 23, 2020

ESTIMATED TIME: 30 Minutes

AGENDA ITEM: 7:20 PM - Ordinance No. 2020-04, Adopting Small Wireless Facility Design Standards

AGENDA CATEGORY: Ordinance

PROPOSED BY: Robbie Sepler

PREVIOUS PLANNING COMMISSION

REVIEW DATE(S): September 12, 2019, October 24, 2019, and December 12, 2019.

PREVIOUS COUCIL REVIEW DATE(S): May 14, 2019; June 11, 2019; August 13, 2019; October 8, 2019; and October 22, 2019.

RECOMMENDED MOTION:

Discussion.

Prior to making a recommendation to the City Council on this matter, a public hearing is required and the Planning Commission could decide to schedule a public hearing to be held at an upcoming meeting, at the Planning Commission's discretion.

SUMMARY:

Continued Planning Commission consideration of small wireless facility design standards to govern the deployment of small wireless facilities on Bainbridge Island.

In previous Planning Commission discussion, this ordinance was numbered as "Ordinance No. 2019-38." As it is now 2020, the ordinance has been renumbered to be "Ordinance No. 2020-04."

BACKGROUND: Under federal law, the Federal Communications Commission ("FCC") is granted extensive powers to regulate telecommunication services in the United States. On September 5, 2018, the FCC issued an order ("FCC Order") that dramatically changed how local governments can regulate deployments of small wireless facilities ("SWFs"). Some of the order came into effect on January 14, 2019, while the rest of the order came into effect on April 14, 2019. The FCC Order imposes limitations on local municipalities, including the City of Bainbridge Island ("City"), regarding processing and review of all permits associated with the deployment of SWFs, and permanent regulations are needed to ensure that the City is in compliance with what Federal law requires.

The purpose of SWFs is to augment capacity for wireless data traffic in dense areas (primarily downtown cores and residential neighborhoods). SWFs typically consist of an antenna less than 3 cubic feet in volume, an equipment box, and

wiring or "fiber." SWFs are typically mounted on utility or light poles in the right-of-way, or on an existing building or structure located outside of the right-of-way.

On May 14, 2019, in response to the FCC Order, the City Council approved Ordinance No. 2019-15, adopting an interim official control that: created a new Chapter 18.10A, establishing interim small wireless facility design standards; amended Table 18.09.020, BIMC 18.09.030, and BIMC 18.10.010; and repealed and replaced Chapter 18.11 BIMC ("Interim SWFs Design Standards").

On June 11, 2019, the City Council held a public hearing on Ordinance No. 2019-15 to receive public comment on the Interim SWFs Design Standards adopted by Ordinance No. 2019-15.

On August 13, 2019, the City Council directed the Planning Commission to begin work on permanent regulations to replace the Interim SWFs Design Standards adopted by Ordinance No. 2019-15.

On September 12, 2019, the Planning Commission began consideration of permanent regulations to replace the Interim SWFs Design Standards adopted by Ordinance No. 2019-15.

The Interim SWFs Design Standards, adopted by Ordinance No. 2019-15, took effect on May 14, 2019, and were initially set to expire on November 14, 2019. On October 8, 2019, the Council set a public hearing on Ordinance No. 2019-31, proposing to extend the Interim SWFs Design Standards for an additional six-month period. On October 22, 2019, the Council approved Ordinance No. 2019-31, extending the Interim SWFs Design Standards for an additional six-month period, unless terminated earlier by the City Council.

On October 24, 2019, the Planning Commission discussed Ordinance No. 2019-38 and reviewed comments submitted by industry. The Commission requested the following five items from staff:

- (1) A table outlining industry comments;
- (2) Pictures of actual SWFs deployments;
- (3) Map of design zones;
- (4) An option for the placement of SWF equipment on the ground in the right-of-way; and
- (5) An option to allow SWFs on private drives/access easements, which would otherwise be prohibited as a residential use in a residential zone.

On December 12, 2019, the Planning Commission reviewed the items requested on October 24, 2019, and subsequently provided by staff for the meeting. The Planning Commission requested several changes be made to the draft ordinance.

Attached is a revised draft ordinance incorporating the Planning Commission's direction from the December 12, 2019 meeting. A memo from Daniel Kenny, the City's outside counsel retained to advise on these revisions, is also attached which explains the changes made to the draft ordinance stemming from the December 12, 2019 meeting. In addition to

these changes, following further staff review, the revised ordinance also includes a change to Chapter 18.11 BIMC to provide for an expiration date for Eligible Facility Request permits.

ATTACHMENTS:

ORDINANCE NO. 2020-04

AN ORDINANCE of the City of Bainbridge Island, Washington, concerning wireless communications facilities; Amending Title 18 of the Bainbridge Island Municipal Code to add a new Chapter 18.10A BIMC, authorizing and establishing design and concealment standards for small wireless facilities; Amending BIMC 18.10.030 regarding definitions; Revising BIMC 18.10.010 to adopt applicability section; Repealing and replacing in full Chapter 18.11 BIMC concerning eligible facilities requests; Repealing interim official control established by Ordinance No. 2019-15 and extended by Ordinance No. 2019-31.

WHEREAS, the Federal Communications Commission (“FCC”) recently adopted a Declaratory Ruling, Order, and Regulation (“FCC Order”), which imposes limitations on local municipalities including the City of Bainbridge Island (“City”) regarding processing and review of all permits associated with the deployment of small wireless facilities; and

WHEREAS, the adoption of aesthetic standards for deployment of small wireless facilities and utilization of a concurrent process emphasizing administrative review enables compliance with the federal presumptively reasonable time limits for review; and

WHEREAS, the City was required to enact administrative procedures and process to comply with the new presumptive federal safe harbors on or before January 14, 2019; and

WHEREAS, separately, federal law and regulation sets time limits on the processing of applications for eligible facility requests to expand existing structures which do not substantially change the height or profile of the structures used to collocate wireless communications facilities, and which regulations will replace Chapter 18.11 BIMC; and

WHEREAS, the City Council found that the existence of the federal regulations requires the immediate enactment of administrative procedures and processes which can comply with the FCC Order; and

WHEREAS, the City is authorized by state law, including RCW 36.70A.390, to expeditiously adopt interim official control ordinances due to a public emergency for the protection of the public peace, safety, or health while permanent regulations are developed, vetted, and processed through the City’s standard legislative procedures; and

WHEREAS, the City Council found that the adoption of this interim official control ordinance allowed the City to put in place standards to come into compliance with the FCC Order, while providing a meaningful opportunity for its citizens to provide input regarding design, concealment, and other aesthetic standards within the longer timeframe permitted by use of an interim official control ordinance; and

WHEREAS, on May 14, 2019, in response to the FCC Order, the City Council approved Ordinance No. 2019-15, adopting an interim official control that: created a new Chapter 18.10A, establishing interim small wireless facility design standards; amended Table 18.09.020, BIMC 18.09.030, and BIMC 18.10.010; and repealed and replaced Chapter 18.11 BIMC; and

WHEREAS, on May 14, 2019, the City Council also enacted amendments to its existing master permit code provisions, Chapter 19.02 BIMC, and adopted a new Chapter 19.10 BIMC in order to provide a clear permitting procedure for the deployment of small wireless facilities; and

WHEREAS, on June 11, 2019, the City Council held a public hearing on Ordinance No. 2019-15 to receive public comment on the interim official control; and

WHEREAS, on August 13, 2019, the City Council directed the Planning Commission to begin work on permanent regulations to replace the interim official control adopted by Ordinance No. 2019-15; and

WHEREAS, on September 12, 2019, and October 24, 2019, the Planning Commission considered permanent regulations to replace the interim official control adopted by Ordinance No. 2019-15;

WHEREAS, the interim official control, adopted by Ordinance No. 2019-15, took effect on May 14, 2019, and would expire on November 14, 2019, unless extended by the City Council; and

WHEREAS, on October 8, 2019, the City Council set a public hearing for October 22, 2019, on Ordinance No. 2019-31, extending the interim official control originally adopted by Ordinance No. 2019-15 until May 14, 2020; and

WHEREAS, on October 22, 2019, the City Council held a public hearing on Ordinance No. 2019-31 and adopted the ordinance following the close of the public hearing; and

WHEREAS, on October 24, 2019, the Planning Commission considered Ordinance No. 2019-38 and reviewed comments submitted by industry representatives; and

WHEREAS, on December 12, 2019, the Planning Commission further considered Ordinance No. 2019-38; and

WHEREAS, on January 1, 2020, draft Ordinance No. 2019-38 was renumbered to be Ordinance No. 2020-04; and

WHEREAS, on January 23, 2020, the Planning Commission further considered Ordinance No. 2020-04 and [insert outcome of Planning Commission consideration]; and

WHEREAS, on [insert date of required public hearing], the Planning Commission held a public hearing on Ordinance No. 2020-04 and [insert outcome of Planning Commission consideration]; and

WHEREAS, on [insert date], the City Council considered the Planning Commission's recommendation and [insert outcome of Council consideration]; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Repeal of Interim Official Control. The interim official control, originally adopted under Ordinance No. 2019-15 and subsequently extended by Ordinance No. 2019-31, is hereby repealed in its entirety and shall no longer be in force or effect.

Section 2. Amendment of BIMC 18.10.010. Section 18.10.010 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

18.10.010 – Purpose: General Provisions.

A. This chapter addresses the issues of location and appearance associated with wireless communication facilities (“WCFs”). It provides adequate siting opportunities through a wide range of locations and options which minimize safety hazards and visual impacts sometimes associated with wireless communications technology. The chapter encourages siting of facilities on existing buildings or structures, co-location of several providers’ facilities on a single support structure, and visual mitigation measures to maintain neighborhood appearance and reduce visual clutter in the city.

B. Applicability

1. Applicability. The provisions of this chapter shall apply to all new WCFs located within the boundaries of the City, and for any modification to an existing WCF that is not governed by Chapter 18.11 BIMC, provided that this chapter shall not apply to small wireless facilities that are permitted under Chapter 19.10 BIMC and are subject to Chapter 18.10A BIMC.
2. Permit Required. Any person who desires to place any WCF within the boundaries of the city must apply to the city for the appropriate wireless communication facility permit.
3. Lease Required. In addition to the requirement of obtaining the appropriate wireless communication facility permit, if all or a portion of the WCF will be located upon a city-owned structure, or upon non-right-of-way property which is either city-owned or city-leased, the applicant shall be required to enter into a lease agreement with the city for the use of the city property.
4. Master Permit Required. In addition to the requirement of obtaining the appropriate wireless communication facility permit, if all or a portion of the WCF will be located within the city’s right-of-way, the applicant shall be required to obtain a master

permit, consistent with Chapters 19.02 and 19.04 BIMC, from the city for the use of the city's right-of-way.

Section 3. Amendment of Table 18.09.020. The Utility and Telecommunications section of Table 18.09.020 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

UTILITY AND TELECOMMUNICATIONS																				
Note: Utility and telecommunications uses may be subject to additional requirements in BIMC 16.12.030.C.7 .																				
ZONING DISTRICT USE CATEGORY/TYPE	R-0.4	R-1	R-2	R-2.9	R-3.5	R-4.3	R-5	R-6	R-8	R-14	Winslow Mixed Use Town Center					HSR I and II	NC	B/I	WD-1	Use-Specific Standards BIMC 18.09.030
											CC	MA	EA	Gate	Ferry [1]					
Monopole or Lattice Tower	P																	P		
Small Wind Energy Generator	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P/C	P/C	P/C	F-1
Utility, Primary	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P	C	F-2
Public Communications Tower	P	P	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	P	A	F-3
Wireless Communication Facilities, Facility I	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Wireless Communication Facilities, Facility II	P										P	P	P	P	P	P	P	P	P	
Wireless Communication Facilities, Facility III	P																	P	P	
<u>Small Wireless Facilities</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>B-5</u>

Section 4. Amendment of BIMC 18.09.030. Section 18.09.030 of the Bainbridge Island Municipal Code is hereby amended to include a new Subsection 18.09.030.B.5, to read as follows:

5. Small wireless facilities. Except for locations in the right-of-way, small wireless facilities are prohibited on any property containing a residential use in the residential zones. Except where small wireless facilities are intended to be located more than 400 feet from a right-of-way and within an access easement over residential property, the location may be allowed if the applicant affirms that they have property owner permission to locate the facility in the desired location, that the property owner where the facility will be installed has authority to grant such permission to locate the facility and related infrastructure at the designated location pursuant to the terms of the access easement, that the installation is allowed by and consistent with the access easement, that such installation will not frustrate the purpose of the easement or create any access or safety issue, and shall be in compliance with all land use regulations such as, but not limited to, setback requirements.

Section 5. Adoption of New Chapter 18.10A BIMC. Title 18 of the Bainbridge Island Municipal Code is hereby amended to include a new Chapter 18.10A BIMC, to read as follows:

Chapter 18.10A
USE REGULATIONS - SMALL WIRELESS FACILITIES

- 18.10A.010 Purpose.
- 18.10A.020 Applicability.
- 18.10A.030 Definitions.
- 18.10A.040 Design Zones.
- 18.10A.050 Design and Concealment standards for small wireless facilities.
- 18.10A.060 New poles for small wireless facilities and installations in a Design Zone.

18.10A.010 Purpose.

The purposes of this chapter are to set forth regulations for the placement and development of small wireless facilities. Among the purposes included are to:

- A. Manage reasonable access to the right-of-way of the City for communication purposes on a nondiscriminatory basis.
- B. Conserve the limited physical capacity of the public rights-of-way held in public trust by the City.
- C. Ensure that all service providers maintaining facilities or providing services within the City comply with the ordinances, rules, and regulations of the City.
- D. Reduce unnecessary local regulation of providers and services.

- E. Ensure that the City can continue to fairly and responsibly protect the public health, safety, and welfare.
- F. Encourage the provision of advanced and competitive telecommunications, on the widest possible basis to the businesses, institutions and residents of the City.
- G. Minimize potential adverse visual, aesthetic, and safety impacts of small wireless facilities.
- H. Encourage the design of such small wireless facilities to be aesthetically and architecturally compatible with the surrounding built and natural environments where possible.
- I. Encourage the collocation or attachment of small wireless facilities on existing support structures to help minimize the total number and impact of such structures throughout the community.
- J. Reserve to the City and provide for the fullest exercise possible of the authority and discretion of the City to require that:
 - 1. Facilities are installed and maintained within the public rights-of-way in such manner and at such points so as not to inconvenience the public use of the public rights-of-way or to adversely affect the public, safety and welfare; and
 - 2. All non-City users of the rights-of-way shall be required to reimburse and hold harmless the City for the actual costs incurred by the City by reason of the construction or presence in the public rights-of-way of the facilities of such other users.

18.10A.020 Applicability.

Any application for a small wireless facility both inside and outside of the right-of-way shall comply with the following application requirements for a small wireless facility permit described in this chapter. Applications must also comply with the requirements of Chapter 19.10 BIMC. For small wireless facilities inside the right-of-way, the applicant must also comply with the requirements of Chapters 19.02 and 19.04 BIMC.

18.10A.030 Definitions.

For the purpose of this chapter, the following terms, phrases, words, and abbreviations shall have the meanings given herein. Words not otherwise defined shall have their common and ordinary meaning:

- A. “Antenna” means an apparatus designed for the purpose of emitting radiofrequency (“RF”) radiation, to be operated or operating from a fixed location pursuant to FCC authorization, for the provision of personal wireless service and any commingled information services. For purposes of this definition, the term antenna does not include an unintentional radiator, mobile station, or device authorized under 47 CFR Part 15.

- B. “Applicant” means any person or corporation submitting an application for a small wireless facility permit.
- C. “City property” means any real property owned by City, whether in fee or other ownership estate of interest.
- D. “Collocation” means (1) mounting or installing an antenna facility on a pre-existing structure, and/or (2) modifying a structure for the purpose of mounting or installing an antenna facility on that structure. Provided that, for purposes of Eligible Facilities Requests, “collocation” means the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.
- E. “Director” means the Director of Planning and Community Development or his/her designee.
- F. “FCC” or “Federal Communications Commission” means the federal administrative agency, or lawful successor, authorized to regulate and oversee telecommunications carriers, services and providers on a national level.
- G. “Grantee” means a person holding a master permit.
- H. “Light Pole” means a pole used primarily for lighting streets, parking areas, parks or pedestrian paths.
- I. “Master Permit” means the authorization granted by the City to an operator of a telecommunications system, under this title, giving the operator the nonexclusive right to occupy the space, or use facilities upon, across, beneath, or over any public right-of-way in the City, to provide a specified service within a master permit area. Such master permit shall not include or be a substitute for:
1. Any other permit or authorization required for the privilege of transacting and carrying on a business within the City required by the ordinances and laws of the City;
 2. Any permit, agreement or authorization required in connection with operations on or in public streets or property, including, by way of example and not limitation, street cut permits;
 3. Any permits or agreements for occupying any other property of the City or private entities to which access is not specifically granted by the master permit including, without limitation, permits and agreements for placing devices on or in poles, conduits, other structures, or railroad easements, whether owned by the City, or a private entity; or
 4. The right to place devices in the right-of-way, such as pay telephones, for end user use in terminating or originating transmissions.

By way of example, and without limiting the foregoing, this title shall not be read to diminish or in any way affect the authority of the City to control the use of the City’s real estate, fixtures or personal property. Therefore, any person who desires to use such property must obtain

additional approvals, or agreements for that purpose, as may be required by the City.

J. “Public right-of-way” or “right-of-way” means land acquired or dedicated for public roads and streets but does not include:

1. State highways;
2. Land dedicated for road, streets, and highways not opened and not improved for motor vehicle use by the public;
3. Structures, including poles and conduits, located within the right-of-way;
4. Federally granted trust lands or forest board trust lands;
5. Lands owned or managed by the state parks and recreation commission; or
6. Federally granted railroad rights-of-way acquired under 43 U.S.C. Sec 912 and related provisions of federal law that are not open for motor vehicle use.

K. “Service provider” is defined consistently with RCW 35.99.010(6). Service provider shall include those infrastructure companies that provide telecommunications services or equipment to enable the deployment of telecommunication services.

L. “Small wireless” and “small wireless facility” shall have the same meaning as a “small wireless facility” as set forth in 47 CFR 1.6002.

M. “Structure” means a pole, tower, base station, or other building, whether or not it has an existing antenna facility, that is used or to be used for the provision of telecommunications service (whether on its own or comingled with other types of services).

N. “Telecommunications facilities” means the plant, equipment and property including, but not limited to, cables, wires, conduits, ducts, pedestals, electronics, and other appurtenances used or to be used to transmit, receive, distribute, provide or offer wireline or wireless telecommunications service.

O. “Telecommunications service” means the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means for hire, sale, or resale to the general public. For the purpose of this subsection, “information” means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols. For the purpose of this chapter, telecommunications service excludes the over-the-air transmission of broadcast television or broadcast radio signals.

P. “Traffic Signal Poles” means a pole that supports equipment used for controlling traffic, including but not limited to traffic lights, rapid flashing beacons, speed radar, and school zone flashers.

Q. “Transmission equipment” means equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio

transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

R. “Unified enclosure” means a small wireless facility providing concealment of antennas and equipment within a single enclosure.

S. “Utility pole” means a structure designed and used primarily for the support of electrical wires, telephone wires, television cable, traffic signals, or lighting for streets, parking areas, or pedestrian paths.

T. “Wireline” means services provided using a physically tangible means of transmission, including without limitation wire or cable, and the apparatus used for such transmission.

~~18.10A.040 — Design Zones.~~

~~A. — The following areas, as defined in Chapter 18.06 BIMC, are designated as Design Zones for the purpose of siting small wireless facilities:~~

- ~~1. — Mixed Use Town Center;~~
- ~~2. — Neighborhood Centers;~~
- ~~3. — High School Road I and II Zoning Districts; and~~
- ~~4. — In the right-of-way of State Highway 305 from Harborview Drive SE to High School Road.~~

~~B. — Any applicant who desires to place a small wireless facility in a Design Zone must first establish that the applicant cannot locate the small wireless facility outside of the Design Zone. Applications for small wireless facilities in a Design Zone may be approved if the applicant demonstrates that due to technical infeasibility the applicant cannot locate the proposed small wireless facility on an existing or replacement pole within 500 feet of the proposed site and outside of the Design Zone.~~

~~C. — Applications for small wireless facilities within Design Zones are approved or denied by the Director and must comply with a concealment element design described in BIMC 18.10A.060 below.~~

18.10A.050 Design and Concealment standards for small wireless facilities.

Small wireless facility deployments permitted inside or outside the right-of way shall conform to the following design standards:

A. Small wireless facilities attached to existing or replacement non-wooden light poles or utility poles in the right-of-way or non-wooden light poles or utility poles outside of the right-of-way shall conform to the following design criteria:

1. Upon adoption of a City standard small wireless facility pole design(s) within the Design and Construction Standards, an applicant is encouraged to first consider using or modifying the standard pole design to accommodate its small wireless facility without substantially changing the outward visual and aesthetic character of the design. The applicant, upon a showing that use or modification of the standard pole design is either technically or physically infeasible, or that the modified pole design will not comply with the City's ADA, sidewalk clearance requirements and/or would violate electrical or other safety standards, may deviate from the adopted standard pole design and use the design standards as adopted in this subsection A.

~~2. —~~The applicant shall minimize to the extent possible the antenna and equipment space and shall use the smallest amount of enclosure possible to fit the necessary equipment. The antennas and equipment shall be located consistent with .050.E.1. using one of the following methods:

~~(a) — Concealed completely within the pole or pole base. Antennas and the associated equipment enclosures (including disconnect switches and other appurtenant devices) shall be fully concealed within the pole, unless such concealment is otherwise technically infeasible, or is incompatible with the pole design. If within the pole base, the base shall meet the ADA requirements and not impact the pedestrian access route.~~

~~(b) — Located on a pole. If located on a pole, antennas and the associated equipment enclosures (including disconnect switches and other appurtenant devices) must be camouflaged to appear as an integral part of the pole or flush mounted to the pole, meaning for antennas no more than twelve (12) inches off of the pole and for associated equipment no more than six (6) inches off the pole, and must be the minimum size necessary for the intended purpose, but in no event shall any antenna exceed three (3) cubic feet in volume. The equipment enclosure and all other wireless equipment associated with the pole (including but not limited to conduit), including wireless equipment associated with the antenna and any pre-existing associated equipment on the pole, may not exceed twenty-eight (28) cubic feet. If the equipment enclosure is permitted on the exterior of the pole, the applicant is required to place the equipment enclosure behind any banners or road signs that may be on the pole, provided that such location does not interfere with the operation of the banners or signs or the equipment itself. The applicant may propose a side-mounted canister antenna, so long as the inside edge of the antenna is no more than six (6) inches from the surface of the pole. All cables shall be concealed either within the canister antenna or within a sleeve between the antenna and the pole.~~

~~(c) — Underground in a utility vault. If located underground, the access lid to the equipment enclosure shall be located outside the footprint of any pedestrian curb ramp and shall have a nonskid surface meeting ADA requirement if located within an existing pedestrian access route.~~

~~(d) — On private property. If located on private property, the applicant shall submit a copy of a letter of authority from the private property owner prior to the small wireless facility permit issuance.~~

2. The furthest point of any equipment enclosure may not extend more than twenty-eight (28) inches from the face of the pole. Any equipment or antenna enclosures must meet WSDOT height clearance requirements.

3. All conduit, cables, wires and fiber must be routed internally in the non-wooden pole. Full concealment of all conduit, cables, wires and fiber is required within mounting brackets, shrouds, canisters or sleeves if attaching to exterior antennas or equipment.

4. An antenna on top of an existing pole may not extend more than six (6) feet above the height of the existing pole and the diameter may not exceed sixteen (16) inches, measured at the top of the pole, unless the applicant can demonstrate that more space is technically needed. The antennas shall be integrated into the pole design so that it appears as a continuation of the original pole, including colored or painted to match the pole, and shall be shrouded or screened to blend with the pole except for canister antennas which shall not require screening. All cabling and mounting hardware/brackets from the bottom of the antenna to the top of the pole shall be fully concealed and integrated with the pole.

5. Any replacement pole shall substantially conform to the design of the pole it is replacing or the neighboring pole design standards utilized within the contiguous right-of-way. Any replacement pole shall be placed as close to the original pole as possible, but no more than five (5) feet from the existing pole location.

6. The height of any replacement pole may not extend more than six (6) feet above the height of the existing pole or the minimum additional height technically necessary; provided, that the height of the replacement pole cannot be extended further by additional antenna height.

7. The diameter of a replacement pole shall comply with the City's setback and sidewalk clearance requirements and shall, to the extent technically feasible, not be more than a twenty (20) inches measured at the base of the pole, unless additional diameter is needed in order to conceal equipment within the base of the pole, and shall comply with the requirements in subsection E.4 below.

8. The use of the pole for the siting of a small wireless facility shall be considered secondary to the primary function of the pole. If the primary function of a pole serving as the host site for a small wireless facility becomes unnecessary, the pole shall not be retained for the sole purpose of accommodating the small wireless facility and the small wireless facility and all associated equipment shall be removed.

B. Wooden pole design standards. Small wireless facilities located on wooden poles shall conform to the following design criteria:

1. The wooden pole at the proposed location may be replaced with a taller pole for the purpose of accommodating a small wireless facility; provided, that the replacement pole shall not exceed a height that is a maximum of ten (10) feet taller than the existing pole, unless a further height increase is required and confirmed in writing by the pole owner and that such height extension is the minimum extension possible to provide sufficient separation and/or clearance from electrical and wireline facilities.
2. A pole extender may be used instead of replacing an existing pole but may not increase the height of the existing pole by more than ten (10) feet, unless a further height increase is required and confirmed in writing by the pole owner and that such height increase is the minimum extension possible to provide sufficient separation and/or clearance from electrical and wireline facilities. A “pole extender” as used herein is an object affixed between the pole and the antenna for the purpose of increasing the height of the antenna above the pole. The pole extender shall be painted to approximately match the color of the pole and shall substantially match the diameter of the pole measured at the top of the pole.
3. Replacement wooden poles must either match the approximate color and materials of the replaced pole or shall be the standard new wooden pole used by the pole owner in the City.
4. Antennas, equipment enclosures, and all ancillary equipment, boxes and conduit shall be colored, **tinted**, or painted to match the approximate color of the surface of the wooden pole on which they are attached.
5. Antennas shall not be mounted more than twelve (12) inches from the surface of the wooden pole.
6. Antennas should be placed in an effort to minimize visual clutter and obtrusiveness. Multiple antennas are permitted on a wooden pole provided that each antenna enclosure shall not be more than three (3) cubic feet in volume.
7. A canister antenna may be mounted on top of an existing wooden pole, which may not exceed the height requirements described in subsection B.1 above. A canister antenna mounted on the top of a wooden pole shall not exceed sixteen (16) inches **in diameter**, measured at the top of the pole, and shall be colored or painted to match the pole. The canister antenna must be placed to look as if it is an extension of the pole. In the alternative, the applicant may propose a side mounted canister antenna, so long as the inside edge of the antenna is no more than twelve (12) inches from the surface of the wooden pole. All cables shall be concealed either within the canister antenna or within a sleeve between the antenna and the wooden pole.
8. The furthest point of any antenna or equipment enclosure may not extend more than twenty-eight (28) inches from the face of the pole. Any equipment or antenna enclosures must meet WSDOT height clearance requirements.

9. An omni-directional antenna may be mounted on the top of an existing wooden pole, provided such antenna is no more than four (4) feet in height and is mounted directly on the top of a pole or attached to a sleeve made to look like the exterior of the pole as close to the top of the pole as technically feasible. All cables shall be concealed within the sleeve between the bottom of the antenna and the mounting bracket.
10. All related equipment, including but not limited to ancillary equipment, radios, cables, associated shrouding, microwaves, and conduit which are mounted on wooden poles shall not be mounted more than six (6) inches from the surface of the pole, unless a further distance is technically required, and is confirmed in writing by the pole owner.
11. Equipment for small wireless facilities shall be located consistent with 18.10A.050.E.1. attached to the wooden pole or placed in accordance with subsection E.1. ~~For If~~ equipment is allowed to be placed on the pole, the equipment must be placed in the smallest enclosure possible for the intended purpose. ~~The equipment enclosure and all other wireless equipment associated with the utility pole, including wireless equipment associated with the antenna and any pre-existing associated equipment on the pole, may not exceed twenty-eight (28) cubic feet. Multiple equipment enclosures may be acceptable if designed to more closely integrate with the pole design and does not cumulatively exceed twenty-eight (28) cubic feet. The applicant is encouraged to place the equipment enclosure behind any banners or road signs that may be on the pole, provided that such location does not interfere with the operation of the banners or signs or the equipment itself.~~
12. An applicant who desires to enclose both its antennas and equipment within one unified enclosure may do so, provided that such enclosure is the minimum size necessary for its intended purpose and the enclosure and all other wireless equipment associated with the pole, including wireless equipment associated with the antenna and any pre-existing associated equipment on the pole does not exceed twenty-eight (28) cubic feet. The unified enclosure may not be placed more than twelve (12) inches from the surface of the pole. To the extent possible, the unified enclosure shall be placed so as to appear as an integrated part of the pole or behind banners or signs, provided that such location does not interfere with the operation of the banners or signs or the equipment itself. Requirements related to the location of equipment as outlined in 18.10A.050.E.1 do not apply if the antennas and equipment are located within one unified enclosure
13. The visual effect of the small wireless facility on all other aspects of the appearance of the wooden pole shall be minimized to the greatest extent possible.
14. The use of the wooden pole for the siting of a small wireless facility shall be considered secondary to the primary function of the pole. If the primary function of a pole serving as the host site for a small wireless facility becomes unnecessary, the pole shall not be retained for the sole purpose of accommodating the small wireless facility and the small wireless facility and all associated equipment shall be removed.
15. The diameter of a replacement pole shall comply with the City's setback and sidewalk clearance requirements and shall not be more than a 25% increase of the

existing utility pole measured at the base of the pole, unless additional diameter is needed for structural integrity of the pole, and shall comply with the requirements in subsection E.4 below.

16. All cables and wires shall be routed through conduit along the outside of the pole. The outside conduit shall be colored or painted to match the pole. The number of conduit shall be minimized to the number technically necessary to accommodate the small wireless facility.

C. Small wireless facilities attached to existing buildings, shall conform to the following design criteria:

1. Small wireless facilities may be mounted to the sides of a building if the antennas do not interrupt the building's architectural theme.
2. The interruption of architectural lines or horizontal or vertical reveals is discouraged.
3. New architectural features such as columns, pilasters, corbels, or other ornamentation that conceal antennas may be used if it complements the architecture of the existing building.
4. Small wireless facilities shall utilize the smallest mounting brackets necessary in order to provide the smallest offset from the building.
5. Skirts or shrouds shall be utilized on the sides and bottoms of antennas in order to conceal mounting hardware, create a cleaner appearance, and minimize the visual impact of the antennas. Exposed cabling/wiring is prohibited.
6. Small wireless facilities shall be colored, painted and textured to match the adjacent building surfaces, unless otherwise technically infeasible.
7. Small wireless facilities must meet the height requirement of the underlying zoning district.
8. Feed lines and coaxial cables shall be located below the parapet of the rooftop.
9. If a cabinet enclosure cannot be located within the building where the wireless communication facilities will be located, then the City's first preference is for the wireless telecommunication carrier to locate the equipment on the roof of the building. If the equipment can be screened by placing the equipment below the parapet walls, no additional screening is required. If screening is required, the proposed screening must be consistent with the existing building in terms of color, design, architectural style, and material. If the cabinet equipment cannot be located on the roof or within the building then it shall be located underground consistent with subsection E.1.

D. Small wireless facilities mounted on cables strung between existing utility poles shall conform to the following standards.

1. Each strand mounted facility shall not exceed ~~four~~ three (43) cubic feet in volume.
2. Only one strand mounted facility is permitted between any two existing poles.
3. The pole must be able to support the necessary load requirements of the strand mounted facility.
4. The strand mounted devices shall be placed as close as possible to the nearest utility pole, in no event more than five (5) feet from the pole unless a greater distance ~~instance~~ technically necessary or is required by the pole owner for safety clearance.
5. No strand mounted device shall be located in or above the portion of the roadway open to vehicular traffic.
6. Ground mounted equipment to accommodate a shared mounted facility is not permitted except when placed in pre-existing equipment cabinets.
7. Pole mounted equipment shall comply with the requirements of subsections A or B above, as applicable.
8. Such strand mounted devices must be installed to cause the least visual impact and without excess exterior cabling or wires (other than the original strand).
9. Strand mounted facilities are only permitted on poles that have existing overhead wirelines.

E. General requirements for all installation types.

1. All equipment, except antennas and conduit, associated with installations in the R-0.4 zoning district shall be ground mounted, placed underground, completely concealed within the pole, or placed on private property consistent with the regulations identified in (a), (c), (d), and (e) below unless the applicant can demonstrate that each of those possible locations are technically infeasible, in which case the equipment may be placed in accordance with (b) below. All equipment associated with installations in the Mixed Use Town Center, High School Road I and II, and Neighborhood Center zoning districts shall be located on the pole, completely concealed within the pole, or placed on private property consistent with the regulations identified in (a), (b), and (d) below unless the applicant can demonstrate that each of those allowed locations are technically infeasible, in which case the equipment may be placed in accordance with (c) or (e) below. All equipment associated with installations in any other zone not identified above may be installed consistent with one of the methods identified in (a) through (e) below. Ground-mounted equipment in the rights-of-way is prohibited, unless such facilities are placed under ground or the applicant can demonstrate that pole-mounted or undergrounded equipment is technically infeasible. If ground-mounted equipment is necessary, then the applicant shall submit a concealment element plan. Generators

located in the rights of way are prohibited.

- (a) Concealed completely within the pole or pole base. If antennas and associated equipment enclosures (including disconnect switches and other appurtenant devices) are located within the pole or pole base, they shall be fully concealed within the pole. Further, if located within the pole base, the base shall meet the ADA requirements and not impact the pedestrian access route.
- (b) Located on a pole. If located on a pole, antennas and the associated equipment enclosures (including disconnect switches and other appurtenant devices) must be colored, tinted, or painted to match the approximate color of the surface of the pole and appear as an integral part of the pole or flush mounted to the pole, meaning for antennas no more than twelve (12) inches off of the pole and for associated equipment no more than six (6) inches off the pole, and must be the minimum size necessary for the intended purpose, but in no event shall any antenna exceed three (3) cubic feet in volume. The equipment enclosure and all other wireless equipment associated with the pole (including but not limited to conduit), including wireless equipment associated with the antenna and any pre-existing associated equipment on the pole, may not exceed twenty-eight (28) cubic feet. Multiple equipment enclosures may be acceptable if designed to more closely integrate with the pole design and does not cumulatively exceed twenty-eight (28) cubic feet. If the equipment enclosure is permitted on the exterior of the pole, the applicant is required to place the equipment enclosure behind any banners or road signs that may be on the pole, provided that such location does not interfere with the operation of the banners or signs or the equipment itself. The applicant may propose a side mounted canister antenna, so long as the inside edge of the antenna is no more than six (6) inches from the surface of the pole. All cables shall be concealed either within the canister antenna or within a sleeve between the antenna and the pole.
- (c) Underground in a utility vault. If located underground, the access lid to the equipment enclosure shall be located outside the footprint of any pedestrian curb ramp and shall have a nonskid surface meeting ADA requirement if located within an existing pedestrian access route. Antennas are not subject to this paragraph due to technological limitations of such placement.
- (d) On private property. If located on private property, the applicant shall submit a copy of a letter of authority from the private property owner prior to the small wireless facility permit issuance. Any such installation on private property must conform to all applicable regulations, including but not limited to zoning regulations, that apply to that property.
- (e) On the ground in the right-of-way. If the equipment is located on the ground in the right-of-way, the equipment enclosure on the ground and all other wireless equipment associated with the pole (including but not limited to conduit), including wireless equipment associated with the antenna and any pre-existing associated

equipment on the pole, may not exceed twenty-eight (28) cubic feet. The equipment located on the ground shall be placed within one enclosure not to exceed four (4) feet in height. Such enclosure must be colored and designed in a manner that minimize the visual impact of the enclosure. The location of the equipment on the ground must comply with all applicable setback and access requirements including ADA requirements. Prior to the issuance of any permit related to a facility which includes ground mounted equipment in the right-of-way, the applicant must obtain a site-specific agreement from the City to locate such ground mounted equipment.

2. No equipment shall be operated so as to produce noise in violation of Chapter 16.16 BIMC.
3. Small wireless facilities are not permitted on traffic signal poles unless denial of the siting could be a prohibition or effective prohibition of the applicant's ability to provide telecommunications service in violation of 47 USC §§ 253 and 332.
4. Replacement poles and new poles shall comply with the Americans with Disabilities Act (ADA), City construction and sidewalk clearance standards, City ordinance, and state and federal laws and regulations in order to provide a clear and safe passage within the rights-of-way. Further, the location of any replacement or new pole must: be physically possible, comply with applicable traffic warrants, not interfere with utility or safety fixtures (e.g., fire hydrants, traffic control devices), and not adversely affect the public welfare, health or safety.
5. No signage, message or identification other than the manufacturer's identification or identification required by governing law is allowed to be portrayed on any antenna or equipment enclosure. Any permitted signage shall be located on the equipment enclosures and be of the minimum amount possible to achieve the intended purpose (no larger than 4x6 inches); provided, that signs are permitted as concealment element techniques where appropriate.
6. Antennas and related equipment shall not be illuminated except for security reasons, required by a federal or state authority, or unless approved as part of a concealment element plan.
7. Side arm mounts for antennas or equipment must be the minimum extension necessary and may not create a gap of more than twelve (12) inches for wooden poles and no more than six (6) inches for non-wooden poles between the pole and the antennas or equipment.
8. The preferred location of a small wireless facility on a pole is the location with the least visible impact.
9. Antennas, equipment enclosures, and ancillary equipment, conduit and cable, shall not dominate the structure or pole upon which they are attached.
10. Except for locations in the right-of-way, small wireless facilities are prohibited on

any property containing a residential use in the residential zones. Except where small wireless facilities are intended to be located more than 400 feet from a right-of-way and within an access easement over residential property, the location may be allowed if the applicant affirms that they have property owner permission to locate the facility in the desired location, that the property owner where the facility will be installed has authority to grant such permission to locate the facility and related infrastructure at the designated location pursuant to the terms of the access easement, that the installation is allowed by and consistent with the access easement, that such installation will not frustrate the purpose of the easement or create any access or safety issue, and shall be in compliance with all land use regulations such as, but not limited to, setback requirements.

11. The City may consider the cumulative visual effects of small wireless facilities mounted on poles within the rights-of-way when assessing proposed siting locations so as to not adversely affect the visual character of the City. This provision shall not be applied to limit the number of permits issued when no alternative sites are reasonably available nor to impose a technological requirement on the applicant.

12. These design standards are intended to be used solely for the purpose of concealment and siting. Nothing herein shall be interpreted or applied in a manner which dictates the use of a particular technology. When strict application of these requirements would effectively prohibit the applicant from providing a wireless service, alternative forms of concealment or deployment may be permitted which provide similar or greater protections from negative visual impacts to the streetscape.

18.10A.060 New poles for small wireless facilities and installations in a Design Zone.

A. New poles for small wireless facilities ~~or for installations of small wireless facilities in a Design Zone~~ are only permitted if the applicant can establish that:

1. The proposed small wireless facility cannot be located on an existing utility pole or light pole, electrical transmission tower, or on a site outside of the public rights of way such as public non-park property, a building, a transmission tower, or in or on a non-residential use in a residential zone whether by roof or panel-mount or separate structure;
2. The proposed small wireless facility complies with the applicable requirements of BIMC 18.10A.050;
3. The proposed small wireless facility receives approval for a concealment element design, as described in subsection C below;

4. The proposed small wireless facility also complies with Shoreline Management Act, SEPA, and any other relevant law or regulation if applicable; and
 5. No new poles shall be located in a critical area or associated buffer or setback required by Chapter 16.20 BIMC except when determined to be exempt pursuant to Chapter 16.20 BIMC.
- B. An application for a new pole ~~or installation in a Design-Zone~~ is subject to review and approval or denial by the Director.
- C. The concealment element design shall include the design of the screening, fencing, or other concealment technology for a tower, pole, or equipment structure, and all related transmission equipment or facilities associated with the proposed small wireless facility, including but not limited to fiber and power connections.
1. The concealment element design should seek to minimize the visual obtrusiveness of the small wireless facility. The proposed pole or structure should have similar designs to existing neighboring poles in the rights-of-way, including similar height to the extent technically feasible. If the proposed small wireless facility is placed on a replacement pole ~~in a Design-Zone~~, then the replacement pole shall be of the same general design as the pole it is replacing, unless the Department of Planning and Community Development otherwise approves a variation due to aesthetic or safety concerns. Any concealment element design for a small wireless facility should attempt to mimic the design of such pole and integrate the small wireless facility into the design of the pole. Other concealment methods include, but are not limited to, integrating the installation with architectural features or building design components, utilization of coverings or concealment devices of similar material, color, and texture - or the appearance thereof - as the surface against which the installation will be seen or on which it will be installed, landscape design, or other camouflage strategies appropriate for the type of installation. Applicants are required to utilize designs in which all conduit and wirelines are installed internally in the structure.
 2. If the Director has already approved a concealment element design either for the applicant or another small wireless facility along the same public right-of-way or for the same pole type, then the applicant shall utilize a substantially similar concealment element design, unless it can show that such concealment element design is not physically or technologically feasible, or that such deployment would undermine the generally applicable design standards.
- D. Even if an alternative location is established pursuant to BIMC 18.10A.060.A.1, the Director may determine that a new pole in the right-of-way is in fact a superior alternative based on the impact to the City, the concealment element design, the City's Comprehensive Plan and the added benefits to the community.

E. Prior to the issuance of a permit to construct a new pole or ground mounted equipment in the right-of-way, the applicant must obtain a site-specific agreement from the City to locate such new pole or ground mounted equipment. The requirement also applies to the placement of replacement poles when the replacement is necessary for the installation or attachment of the small wireless facility, the replacement structure is higher than the replaced structure, and the overall height of the replacement structure and the wireless facility is more than sixty (60) feet.

F. These design standards are intended to be used solely for the purpose of concealment and siting. Nothing herein shall be interpreted or applied in a manner which dictates the use of a particular technology. When strict application of these requirements would unreasonably impair the function of the technology chosen by the applicant, alternative forms of concealment or deployment may be permitted which provide similar or greater protections of the street scape.

Section 6. Repeal and Replacement of Chapter 18.11 BIMC. Chapter 18.11 of the Bainbridge Island Municipal Code is hereby repealed in its entirety and replaced by the following:

Chapter 18.11 Eligible Facilities Requests

- 18.11.010 Definitions.
- 18.11.020 Application.
- 18.11.030 Qualification as an Eligible Facilities Request.
- 18.11.040 Timeframe for Review.
- 18.11.050 Tolling of the Time Frame for Review.
- 18.11.060 Determination That Application Is Not an Eligible Facilities Request.
- 18.11.070 Failure to Act.
- 18.11.080 Enforcement

18.11.010 Definitions

The following definitions shall apply to Eligible Facilities Requests only as described in this Chapter 18.11 BIMC.

A. “Base Station”: A structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined herein nor any equipment associated with a tower. Base Station includes, without limitation:

1. Equipment associated with wireless communications services as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
2. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems (“DAS”) and small wireless networks).

3. Any structure other than a tower that, at the time the relevant application is filed (with jurisdiction) under this section, supports or houses equipment described in subparagraph (i) and (ii) above that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing that support.

4. The term does not include any structure that, at the time the Eligible Facilities Request application is filed with the City, does not support or house equipment described in subparagraph 1.a and 1.b above.

B. “Collocation”: The mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communication purposes.

C. “Eligible Facilities Request”: Any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving:

1. Collocation of new transmission equipment;
2. Removal of transmission equipment; or
3. Replacement of transmission equipment.

D. “Eligible support structure”: Any tower or base station as defined in this section, provided that it is existing at the time the relevant application is filed with the City.

E. “Existing”: A constructed tower or base station is existing if it has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.

F. “Substantial Change”: A modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

1. For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten (10) feet, whichever is greater;
2. For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty (20) feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet;

3. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and Base Stations, it 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 10% larger in height or overall volume than any other ground cabinets associated with the structure;
4. It entails any excavation or deployment outside the current site;
5. It would defeat the concealment elements of the eligible support structure; or
6. It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided, however, that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified above.

G. “Tower”: Any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul and the associated site.

H. “Transmission equipment”. Equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

18.11.020 Application.

The Director shall prepare and make publicly available an application form used to consider whether an application is an Eligible Facilities Request. The application may not require the applicant to demonstrate a need or business case for the proposed modification. Prior to the issuance of an Eligible Facilities Request permit, the applicant shall pay a permit fee in an amount as determined by the City Council and adopted by resolution.

18.11.030 Qualification as an Eligible Facilities Request.

Upon receipt of an application for an Eligible Facilities Request, the Director shall review such application to determine whether the application qualifies as an Eligible Facilities Request.

18.11.040 Timeframe for Review.

A. Within sixty (60) days of the date on which an applicant submits an Eligible Facilities Request application, the Director shall approve the application unless it determines that the application is not covered by 47 CFR §1.40001 and this Chapter 18.11 BIMC.

B. A permit issued pursuant to this chapter, and any applications deemed granted under BIMC 18.11.070, shall be valid for a term of 12 months from the date of issuance or the date the application has been deemed granted under BIMC 18.11.070.

18.11.050 Tolling of the Time Frame for Review.

A. The sixty (60) day review period begins to run when the application is filed and may be tolled only by mutual agreement by the Director and the applicant or in cases where the Director determines that the application is incomplete. .

1. To toll the timeframe for incompleteness, the Director shall provide written notice to the applicant within thirty (30) days of receipt of the application, clearly and 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 submission in response to the Director's notice of incompleteness.
3. Following a supplemental submission, the Director 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 this subsection. Second or subsequent notice of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.

18.11.060 Determination That Application Is Not an Eligible Facilities Request.

If the Director determines that the applicant's request does not qualify as an Eligible Facilities Request, the Director shall deny the application.

18.11.070 Failure to Act.

In the event the Director fails to approve or deny an application request for an Eligible Facilities Request within the timeframe for review (accounting for any tolling), the request shall be deemed granted. The deemed granted ed application does not become effective until the applicant notifies the Director in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.

18.11.080 Enforcement.

Compliance with the provisions of this chapter is mandatory. Any violation of this chapter shall be enforced, and penalties assessed, in accordance with Chapter 1.26 BIMC.

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Section 7. Corrections. The City Clerk and codifiers of the ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 8. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason, such invalidity shall not affect the validity or effectiveness of the remaining portions of this Ordinance.

Section 9. Effective Date. This ordinance shall take effect and be in force five (5) days from its passage and publication as required by law.

PASSED by the City Council this ____ day of _____ 2019.

APPROVED by the Mayor this ____ day of _____ 2019.

Leslie Schneider, Mayor

ATTEST/AUTHENTICATE:

Christine Brown, CMC, City Clerk

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NUMBER:

2020-04

MEMORANDUM

DATE: January 14, 2020

TO: Bainbridge Island Planning Commission

FROM: Daniel P. Kenny – Ogden Murphy Wallace

RE: Follow-up responses to prior planning commission comments and requests

The following changes were made to the draft code (noted in red ~~striketrough~~/underline within the draft provided) in response to the commission's past comments:

18.09.030.B.5 and 18.10A.050.E.10 – these sections were amended to allow placement of small wireless facilities on residential properties within an access easement in limited circumstances. These revisions match that which was proposed in the staff memo prior to the last commission meeting.

18.10A.040 – Design Zones – Due to changes made later in the code to specifically address placement of equipment on the pole or on the ground, depending on the zone, the design zone section is no longer needed. There was a comment related to conservation zones being a possible design zone, however there are existing code provisions which ensure protection of those zones. See *18.10A.060.A.4* which requires compliance with the Shorelines Management Act, SEPA, and other relevant laws or regulations for new poles with small wireless facilities. See also *19.10.020.E.4*.

18.10A.050.A.2 – Specific equipment installation regulations have been removed from this section and it now kicks to .050.E.1, which is discussed below.

18.10A.050.B.11 – The equipment installation regulations in this section have been removed and a reference to .050.E.1, which is discussed below, has been added.

18.10A.050.B.12 – This section allows a unified enclosure, which is where the equipment and the antenna are in one unit. Because the antenna could not go underground, unified enclosures will need to be allowed on the pole in all zones. A sentence has been added relieving unified enclosures from the requirements of equipment placement outlined in .050.E.1.

18.10A.050.D.1 – The size of allowed strand mounted equipment has been increased to 4 cubic feet per request of industry. This is the standard size we are seeing and this revision makes sense.

18.10A.050.E.1 - The general standards, which apply to any installation, have been revised to include siting requirements for equipment in certain zones. The commission indicated a desire for equipment to be on the pole in the downtown area. I've added certain zones in that area within which equipment would be required on the pole if technically feasible. Please confirm these are the zones the Commission desired. Then, in the R0.4 zone equipment must be on the ground. There are minor references changed in the prior sections to point to the new .050.E.1 for such requirements. If located in a zone not specifically

identified, the equipment must be installed consistent with one of the options, but no preference is identified. The regulations for each possible installation type was taken from .050.A.2.

18.10A.060 – This section used to cover both installations in a design zone as well as new poles. Because design zones were removed, this section has been limited to just new poles. This means that all new pole installations, no matter the zone, must comply with this section as well as .050.E, which are general regulations.

Throughout – there are minor revisions made throughout that address industry comments made and presented to the commission at the two prior meetings. Not all comments resulted in revisions, only those with which the City concurred.

Small Cell Siting and Rights-of-Way:



OGDEN
MURPHY
WALLACE
ATTORNEYS

Las Vegas Strip



Las Vegas



Los Angeles



Los Angeles

Courtesy of
Jonathan Kramer



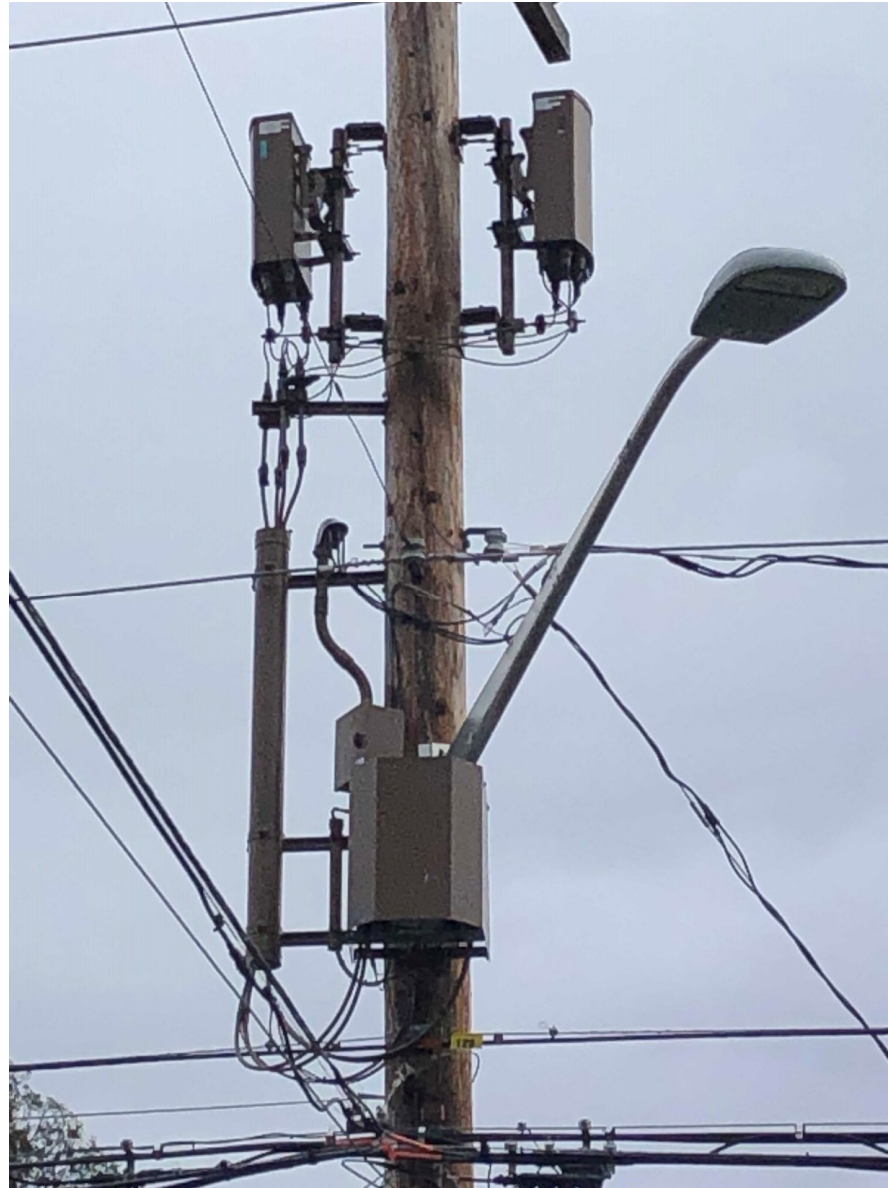
Seattle



Seattle – AT&T on Light Pole



Bellevue



Mercer Island



Seattle – T-Mobile



Contact Us

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Daniel Kenny – dpkenny@omwlaw.com





CITY OF
BAINBRIDGE ISLAND

Planning Commission Regular Meeting Agenda Bill

MEETING DATE: January 23, 2020

ESTIMATED TIME: 10 Minutes

AGENDA ITEM: 7:50 PM - ADU Ordinance Subcommittee Update

AGENDA CATEGORY: Report

PROPOSED BY: Jane Rasely

**PREVIOUS PLANNING COMMISSION
REVIEW DATE(S):**

PREVIOUS COUCIL REVIEW DATE(S):

RECOMMENDED MOTION:

SUMMARY:

BACKGROUND:

ATTACHMENTS:



CITY OF
BAINBRIDGE ISLAND

Planning Commission Regular Meeting Agenda Bill

MEETING DATE: January 23, 2020

ESTIMATED TIME: 60 Minutes

AGENDA ITEM: 8:00 PM - Aveterra Code Amendment Request - Planning

AGENDA CATEGORY: Discussion

PROPOSED BY: Annie Hillier

PREVIOUS PLANNING COMMISSION

REVIEW DATE(S): September 12, 2019

September 26, 2019

December 12, 2019

PREVIOUS COUCIL REVIEW DATE(S):

RECOMMENDED MOTION:

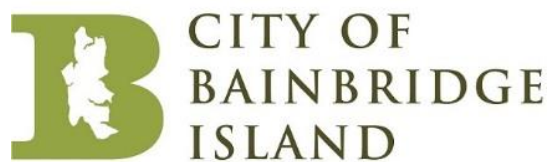
"I move to forward the Planning Commission recommendation for (approval, approval as amended, or denial) to City Council."

SUMMARY:

Planning Commission review and recommendation is required for amendments to BIMC Title 18, which includes holding a public hearing on the proposed code amendment. In making a recommendation on an amendment to BIMC 18.09.030.G.3, the planning commission shall consider all applicable law, the comprehensive plan, public comment, and any necessary documents and approvals. The planning commission's written recommendation and other documents upon which its decision is based shall be immediately transmitted to the city council and department director.

BACKGROUND: See staff memorandum.

ATTACHMENTS:



Department of Planning and Community Development

Memorandum

Date: January 23, 2020
To: Planning Commission
From: Annie Hillier, Planner
Subject: Aveterra Code Amendment Request

Background

The applicant applied for a legislative review of land use regulations (aka “code amendment”) as provided in [BIMC 2.16.180](#), which allows any person or entity to propose an amendment to the BIMC. The applicant’s request includes two potential code changes: 1. To exclude two lots commonly known as the “triangle property” from a 500’ setback in BIMC 18.09.030.G.3 that applies to waste transfer facilities; and 2. To create a use- or parcel-specific dimensional standard that would increase the allowed lot coverage from 10%. If approved, the applicant intends to apply for a conditional use permit (CUP) to locate a compost facility on the triangle property.

At the September 26th, 2019 meeting, the Planning Commission formed a subcommittee to discuss potential issues with the applicant’s request and to identify other legislative options. At the December 12th, 2019 meeting, the full Planning Commission reviewed the subcommittee’s recommendations which included responding to the applicant’s request for a parcel-specific code amendment. The subcommittee also recommended consideration of an alternative, broader code amendment to the use-specific standards for waste transfer facilities in BIMC 18.09.030.G.3 that would apply to all composting facilities, rather than a specific parcel (see December 12, 2019 PC Memo).

At the December 12th, 2019 meeting, the Planning Commission made a motion to deny the code amendment request, including the alternative approach set forth by the subcommittee.

Tonight’s Meeting

Pursuant to BIMC 2.16.180.D, the Planning Commission shall hold a public hearing prior to making their recommendation to the City Council. Any person may participate in the public hearing and the Commission has discretion to limit testimony to relevant, nonrepetitive comments and to set time limits.

In making the recommendation, the Planning Commission shall consider applicable decision criteria of this chapter, all applicable law, the comprehensive plan, public comment, and any necessary documents and approvals.

The Planning Commission shall issue a written recommendation that contains (a) a statement recommending that the proposed amendment be approved, approved as amended, or denied, and (b) a

statement of facts upon which the recommendation is based and the conclusions derived from those facts.

Next Steps:

The Planning Commission's recommendation will be transmitted to the City Council for a final decision.

Summary of Materials

[September 12, 2019 PC Memo](#)

- Details the applicant's original request, including the reason for selecting the triangle property
- Municipal code review
- Comprehensive Plan analysis

[September 26, 2019 PC Memo](#)

- Responds to questions raised by Planning Commission, including information about other possible locations for composting facilities and reason for 500' setback

[December 12, 2019 PC Memo](#)

- Presents the subcommittee's findings, including the alternative, broader code amendment option
- Includes considerations posed by staff regarding the language of the code amendment

Links to previous memorandums are provided above. The entire project file in SmartGov can be viewed using this link: https://ci-bainbridgeisland-wa.smartgovcommunity.com/PermittingPublic/PermitDetailPublic/Index/feb392e5-46c7-49bd-ad1d-a9ec0117f0ed?_conv=1.