

Technical Report

Public Hearing – 04/18/18



Topic Overview: The Technical Report discusses the proposed Wireless Communications Master Plan (see Attachment 5) and the associated regulations in the Wireless Communications Ordinance (see Attachment 6) and how the proposed ordinance complies with the Comprehensive Plan.

The breadth of WCF types is expanding as the wireless communications industry deploys new equipment to meet increasing capacity demands. This coincides with changes to the Federal and State law regarding wireless communications. For these reasons, as part of the Town's Wireless Communications Initiative, the WCI Team and consultant have developed a Wireless Communications Master Plan and Ordinance to address these changes.

Current regulations pertaining to wireless communications facilities require Special Use Permits for new WCF towers and administrative approvals for collocated WCFs on existing structures (e.g. buildings and utility towers). The proposed Wireless Communications Master Plan and corresponding Ordinance address the array of technology and regulatory changes, to position the Town for optimum wireless communication benefits while limiting potential downsides.

Text Amendment Summary: The proposal would revise the Land Use Management Ordinance as follows:

- Article 3, Section 3.7, Table 3.7-1 *Use Matrix*.
- Sections 3.8.3(b)(3) and 3.8.3(b)(4), *Exceptions to Setback and Height Regulations*
- Article 6, Section 6.11, *Radio, television or wireless transmitting and/or receiving facility*
- Appendix A, *Definitions*
- Section 5.20, *Wireless Communication Facility*.

Text Amendment Details: Article 3, Section 3.7, Table 3.7-1 *Use Matrix*. Elimination and addition of wireless communication facility use categories to make current (see Table 3.7-1 on next page).

- Eliminating *Radio, television, or wireless transmitting and/or receiving facility*
- Addition of six new wireless communication facility use categories, including 1) Collocation on existing tower or base station, 2) New concealed base station, 3) New non-concealed rooftop base station, 4) New concealed dual-purpose tower, 5) New non-concealed base station, and 6) New non-concealed tower.
- Sections 3.8.3(b)(3), *Exceptions to Setback and Height Regulations*
 - Eliminating height exception for radio and television transmitting towers, or relay towers and replacing with a new section of the ordinance under broadcast towers.

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Table 3.7-1: Use Matrix

Uses	Use Group	GENERAL USE ZONING DISTRICT														Planned Development (PD-)															
		R-LD5	RT	R-LD1	R-1A	R-1	R-2	R-2A	R-3	R-4	R-5	R-6	R-SS-C	TC-1, TC-2, TC-3	CC	N.C.	OI-1	OI-2	OI-3	OI-4	I	LI-CZD	MH	H	SC(N)	SCI	OI	MU	I	DA-1	
<u>Radio, television or wireless transmitting and/or receiving antenna</u>	C	—	—	—	—	—	—	—	—	—	—	—	—	S	—	S	S	S	S	S	S	N	—	—	—	P	P	P	P	—	
Wireless Communication Facilities																															
<u>Collocation on existing tower or base station</u>	C	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	YZ	—	—	—	P _A	P _A	P _A	P _A	—
<u>New concealed base station</u>	C	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	YZ	—	—	—	P _A	P _A	P _A	P _A	—
<u>New concealed dual-purpose small wireless facility tower</u>	C	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	P _A	YZ	—	—	—	P _A	P _A	P _A	P _A	—
<u>New concealed dual-purpose macrocell tower</u>	C	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	YZ	—	—	—	S	S	S	S	—
<u>New non-concealed base station</u>	C	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	YZ	—	—	—	P _A	P _A	P _A	P _A	—
<u>New non-concealed tower</u>	C	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	YZ	—	—	—	S	S	S	S	—

Definitions of uses are listed in Appendix A, and in Section 5.20.3.

* Uses in this table are pursuant to a development agreement. If there is no development agreement governing the site, see Section 3.5.6(f)(1) and (2).

KEY:

"—" Not Permitted;

"S" Permitted as a special use;

"A" Permitted as an accessory use; In LI-CZD refer to Article 6 of this appendix for standards applicable to accessory uses labeled as "AY".

"P" In OI-3, OI-4, LI-CZD and MH: Permitted as a principal use;

"Y" In LI-CZD, permitted under additional prescribed standards in section 6.22

"Z" In LI-CZD, permitted when the town council approves this use as a part of a conditional zoning district rezoning application. Additional prescribed standards in section 6.22 apply to a use labeled as "YZ".

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- Article 6, Section 6.11, *Radio, television or wireless transmitting and/or receiving facility*
 - Relocating minimum gross land area for radio and television towers, by moving it to a new Section 5.20.10(b)(1)(B) of the Wireless Communications Ordinance.
 - Relocating security fencing requirement for site with radio and television towers, by moving it to a new Section 5.20.10.b.(1)(D) of the Wireless Communications Ordinance.
- Appendix A, *Definitions, and*
 - Eliminating definition of *Antenna and Radio, television, or wireless transmitting and/or receiving facility*. The intent of these proposed amendments is to eliminate out of date definitions and replace them with current definitions that correspond to Federal and State law, per Section 5.20.3 of the new Wireless Communications Ordinance.
- Section 5.20, *Wireless Communication Facility*.
 - New Ordinance section that provides up-to-date definitions, hierarchy's of WCF uses and siting preferences (see following examples), detailed requirements and rules, application procedures, etc. Examples excerpted from Section 5.20 follow.

Section 5.20.6 and corresponding Table 5.20-1 provides an example from the proposed Ordinance of a siting hierarchy for WCFs, and process for the wireless industry. Priority is given to existing facilities over new facilities, and rooftop and concealed facilities are given priority over non-concealed facilities, dependent on technical feasibility.

Section 5.20.9(d)(1)(F) provides an example from the proposed Ordinance with a hierarchy of preferences to conceal auxillary equipment for small cell WCFs.

5.20.6 Building Code Requirements, Permits, Fees, WCF Siting Preferences and Wireless Communication Facility Matrix.

- (c) **Wireless Communication Facility Siting Preferences. Siting of new wireless communication facilities of any type shall be in accordance with the siting preferences below and the WCF Use Matrix Table 3.7.1 in Section 3.7. The most preferred option is listed first as number one (1) with the least preferred option last as number six (6). Where a lower-ranked alternative is proposed, the applicant must demonstrate through relevant information why the higher ranked options are not technically feasible, practical or justified given the location of the proposed facilities. This includes but not limited to, an affidavit by a radio frequency engineer demonstrating that despite diligent efforts to adhere to the established preferences**

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within the geographic search area, higher ranked options are not technically feasible, practical or justified given the location of the proposed facilities,

by clear and convincing evidence. The applicant must provide such evidence in its application in order for the application to be considered complete.

The Town desires to minimize the placement, frequency and density of new wireless communication facilities in the right-of-way for public safety considerations and therefore strongly encourages the siting of new wireless communication facilities on existing base stations and towers or on new base stations and towers outside the ROW.

Permitted Wireless Communication Facility Use List is as follows in Table 5.20-1:

<u>Table 5.20-1: Wireless Communication Facility Siting Preferences</u>				
<u>Wireless Communication Facility Type</u>	<u>Tower Example</u>	<u>Base Station Example</u>	<u>Other Examples</u>	<u>Standards</u>
<p><u>1</u></p> <p><u>Collocation on existing tower or base station, located on:</u></p> <p>A. <u>Town owned land</u> B. <u>Other publicly owned land</u> C. <u>Private property*</u> D. <u>Rights-of-way</u></p>				<p><u>5.20.8</u> <u>5.20.9(c)</u></p>
<p><u>2</u></p> <p><u>New concealed base station, located on:</u></p> <p>A. <u>Town owned land</u> B. <u>Other publicly owned land</u> C. <u>Private property*</u> D. <u>Rights-of-way</u></p>	<p><u>Not Applicable</u></p>			<p><u>5.20.8</u> <u>5.20.9(d)</u></p>
<p><u>3</u></p> <p><u>New non-concealed rooftop base station, located on:</u></p> <p>A. <u>Town owned land</u> B. <u>Other publicly owned land</u> C. <u>Private property*</u></p>	<p><u>Not Applicable</u></p>			<p><u>5.20.8</u> <u>5.20.9(d)</u></p>

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Table 5.20-1: Wireless Communication Facility Siting Preferences Continued

<u>Wireless Communication Facility Type</u>		<u>Tower Example</u>	<u>Base Station Example</u>	<u>Other Examples</u>	<u>Standards</u>
4.	<p><u>New concealed dual purpose tower, located:</u></p> <p>A. <u>On Town owned land</u></p> <p>B. <u>On other publicly owned land</u></p> <p>C. <u>On private property*</u></p> <p>D. <u>In rights-of-way</u></p>			Not Applicable	<p><u>5.20.8</u></p> <p><u>5.20.9(c) for inside rights-of-way</u></p> <p><u>5.20.10 for outside rights-of-way</u></p>
5.	<p><u>New non-concealed base station, located in rights-of-way</u></p>	Not Applicable			<p><u>5.20.8</u></p> <p><u>5.20.9(d)</u></p>
6.	<p><u>New non-concealed tower, located on:</u></p> <p>A. <u>Town owned land</u></p> <p>B. <u>Other publicly owned land</u></p> <p>C. <u>Private property*</u></p>			Not Applicable	<p><u>5.20.8</u></p> <p><u>5.20.10</u></p>

***The sub preferences for private property shall be:**

1. **Non-residential districts,**
2. **Multi-family districts (where permitted),**
3. **Single-family residential districts (where permitted) shall only be on lots not used for single-family homes including but not limited to parks, open space, schools, religious institutions, and public safety facilities.**

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5.20.9 Administrative Wireless Communication Facility approvals.

(d)(1)(F) Other wireless equipment. Due to concerns of the impact on sidewalk space, the interruption of line of sights with pedestrian traffic, vehicular parking and transit stops and the visual appearance of clutter in the rights-of-ways, wireless equipment (other than the antenna) for new wireless communication facilities shall be located in accordance with the descending order of preference:

1. **Vaulted underground;**
2. **Concealed internal to the tower;**
3. **Concealed and mounted outside the tower matching the scale and design of the tower;**
4. **Concealed on the ground away from the tower;**
5. **Concealed at the base of the tower;**
6. **Non-concealed on the tower**
7. **Non-concealed on the ground next to the tower or away from tower to be determined on a case by case basis depending on sidewalk and right-of-way width;**

Compliance with the Comprehensive Plan:

- Relevant goals and objectives in the Chapel Hill 2020 Comprehensive Plan include, but are not limited to:
 - A welcoming and friendly community that provides all people with access to opportunities (A Place for Everyone, Goal PFE.4);
 - A community of high civic engagement and participation (A Place for Everyone, Goal PFE.5);
 - Foster success of local businesses (Community Prosperity and Engagement, Goal CPE.2);
 - Promote a safe, vibrant, and connected (physical and person) community (Community Prosperity and Engagement, Goal CPE.3);
 - Create a comprehensive transportation system that provides everybody safe and reasonable access to all the community offers (Getting Around, Goal GA.5);
 - A community that welcomes and supports change and creativity (Good Places, New Spaces, Goal GPNS.6);
 - Take full advantage of ideas and resources to create a thriving economy and incorporate and utilize the intellectual capital that the University and Town create (Town and Gown Collaboration, Goal TGC.1);
 - Improve and expand access to the arts, culture, and intellectual pursuits for both the University and the Town (Town and Gown Collaboration, Goal TGC.2); and
 - Promote access for all residents to health-care centers, public services, and active lifestyle opportunities (Town and Gown Collaboration, Goal TGC.6).