

Staff Memorandum

Public Hearing – 04/18/18



Overview: Attached for your consideration is a proposed Wireless Communications Initiative Master Plan and corresponding Ordinance that will provide a guiding plan and up-to-date regulations pertaining to the Town's wireless communications facilities. The Town Manager approved the Wireless Communication Initiative in spring of 2017 in response to forthcoming wireless technology changes, new inquiries from the wireless industry, Federal and State regulatory changes and community concerns. The proposed Master Plan and Ordinance for wireless communications facilities will position the Town to benefit from coming changes as well as guard against unwanted impacts. This has been a public process carried out in conjunction with CityScape consultants.

This Staff Memorandum includes a discussion of recommendations, key issues, fiscal impact and required resources.

Recommendations

- *Staff:* That the Council open tonight's public hearing and receive public comment on the Wireless Communications Initiative Master Plan and Land Use Management Ordinance Text Amendment.
- *Advisory Board/Commission Recommendations:*

Advisory Board/Commission	Recommendation	Notes/Edits
Planning Commission	✓	<ul style="list-style-type: none">• Endorses CDC recommendation about auxiliary equipment• Require CDC review WCF design options• Require time limit on temporary WCFs• Require WCF congruence with 2020 Comp. Plan and Future Land Use Plan.• Require measurement of radio frequency (RF) signal strength by providers.• Require hierarchy of adjustment of WCFs
Community Design Commission	✓	<ul style="list-style-type: none">• Require underground vaults for equipment• Concerned that Master Plan encourages use of Town property for tower construction in Town open space.• Require that wireless lease funds be dedicated to libraries and public facilities• Require Town to inventory utility poles• Require buildings to reserve WCF space• Require SUPs for dual-purpose towers, such as clock towers.
Key: ✓: Approval recommended ✗: Denial recommended : Comments		

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Key Issues

Planning Commission Recommendation: At the March 6, 2018 Planning Commission meeting, the Commission unanimously voted (7-0) to recommend enactment of the Wireless Communications Ordinance proposed by staff, with the following added comments below. Additionally, at the March 20, 2018 Planning Commission meeting, the Commission unanimously voted (5-0) to recommend adoption of the Wireless Communication Master Plan resolution proposed by staff, and the Resolution of Consistency with the Comprehensive Plan, with the following added comments below.

- *Auxiliary Small Cell Equipment Concealment:* Commissioners endorsed the CDC recommendation that auxiliary equipment for small cell Wireless Communication Facilities (WCFs) be concealed.

Staff Response: We agree. See staff response to first Planning Commission recommendation.

- *Annual CDC Review of Wireless Communication Facility Design Options:* Commissioners recommended that the CDC review various WCF design options annually in order to provide feedback about pole designs.

Staff Response: We do not agree. The bulk of WCF applications will be administrative and the CDC does not have a review role for such approvals. However, the CDC has a role reviewing elevations for those WCFs that require Special Use Permits and for elevations in the Blue Hill District.

- *Time Limit on Temporary Wireless Communication Facilities:* Commissioners recommended that a two-week time limit be placed on temporary WCFs, such as Cellular on Wheels (COWs).

Staff Response: We agree. We revised the draft Ordinance to include this recommendation.

- *Require WCF Applications to be Congruent with Chapel Hill 2020 Comprehensive Plan and Future Land Use Plan:* Commissioners recommended that Town staff review WCF applications for congruence with the 2020 *Comprehensive Plan and Future Land Use Plan*.

Staff Response: We agree. We will revise the Wireless Communication Facility application form to include these requirements.

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- *Require that WCF Applicants Provide Radio Frequency (RF) Signal Strength Biannually:* Commissioners recommended that WCF applicants measure radio frequency (RF) signal strength biannually and that they be required to meet government standards.

Staff Response: We do not agree. WCF applicants will be required to sign a statement of compliance with WCF applications, pertaining to Federal Communications Commission (FCC) rules, regulations and guidelines, which include RF signal strength.

- *Adjust Hierarchy of WCF Types, Moving Dual-Purpose Tower Down:* Commissioners recommended adjusting the hierarchy of WCF types, by moving New Non-Concealed Rooftop Base Station up and New Concealed Dual-Purpose Tower down in the order of preferences. The reason was that commission members felt that the rooftop WCFs were less visible and prominent than dual-purpose towers.

Staff Response: We agree. Staff have made this change in the Master Plan and Ordinance.

Community Design Commission Recommendation: At the February 27, 2018 Community Design Commission meeting, the Commission unanimously voted (7-0) to recommend adoption of the Wireless Communications Master Plan proposed by staff, with the following added comments below. Additionally, at the March 15, 2018 Community Design Commission meeting, the Commission unanimously voted (5-0) to recommend adoption of the Resolution of Consistency with the Comprehensive Plan and enactment of the Wireless Communication Ordinance, proposed by staff, with the following added comments below.

- *Conceal Small Cell WCF Equipment in Vaults:* Commissioners recommended that auxiliary equipment for small cell facilities be placed in sub-grade vaults.

Staff Response: We agree, but with added flexibility. Staff recommends a hierarchy, with the highest preference being locating auxiliary facilities in underground vaults, followed by six incrementally lesser degrees of concealment. Staff have revised the draft Ordinance to reflect this change.

- *Use of Town Property for Tower Construction:* Commissioners expressed concern that the Master Plan encourages use of Town property for tower construction.

Staff Response: We do not agree. The Master Plan and Ordinance place Town-owned land at the top of the hierarchy for siting most WCFs. The reasoning for this is for the Town to take advantage of a new source of revenue and have the option to enter into lease agreements with Tower owners. However, siting such facilities on Town property would require 1) a WCF applicant to express interest in town-owned property, 2) for the Town to agree to the proposal, and 3) for the Town and applicant to negotiate a lease. Step two in this process could require a Special Use Permit with Council approval,

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depending on the scale of the proposed WCF. Staff, therefore, believe that the demand for siting WCFs on Town-owned property will not necessarily be significant and there will be a public process for those cases where there is a proposal.

- *Dedication of Wireless Lease Funds:* Commissioners recommended that the Town dedicate wireless lease funds to libraries and public facilities.

Staff Response: We do not agree. Should the Town enter into lease agreements, we do not believe there is a compelling reason to limit the use of such funds.

- *Inventory Existing Utility Poles:* Commissioners recommended that the Town inventory existing utility poles.

Staff Response: We agree. The Town currently has a GIS coverage, with a large percentage of utility poles, including Duke Energy, UNC-CH, and wireless communication facilities. The wireless communications consultant inventoried the later, more recently. We think there are still some utility poles that need to be located and that this work should be finished. We have included this recommendation in the Wireless Communications Initiative Master Plan.

- *Reserve Space on Rooftops for WCFs:* Commissioners recommended that new buildings should be required to reserve roof space for locating WCFs.

Staff Response: We do not agree. This seems unnecessary as there is a strong market for locating rooftop WCF base stations because they are 1) desirable for the industry and 2) desirable for building owners, who are happy to obtain lease funds and improved mobile service.

- *Require Special Use Permits for Dual-Purpose Towers:* Commissioners recommended that Special Use Permits be required for dual-purpose towers, such as freestanding clock towers.

Staff Response: We agree. This type of facility, though having another purpose than for a WCF, and which has the wireless communications equipment concealed inside, is in some cases visually prominent. Staff have revised the Ordinance to require Special Use Permits for this type of facility.

Note that staff revised the Wireless Communications Ordinance in response to Planning Commission and Community Design Commission recommendations, and where appropriate, to the corresponding Wireless Communications Master Plan.

Land Use Management Ordinance Amendment Findings of Fact: The proposed Wireless Communications Initiative Land Use Management Text Amendment is attached to this

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memorandum (Attachment 6). All information submitted at the public hearing will be included in the record of the hearing. Based on the information submitted, the Council will consider whether it can make one or more of three required findings (listed below a-c) for enactment of the Land Use Management Ordinance Text Amendment. In order to establish and maintain sound, stable, and desirable development within the planning jurisdiction of the Town, it is intended that the Land Use Management Ordinance shall not be amended except:

- A: To correct a manifest error in the chapter; or
- B: Because of changed or changing conditions in a particular area or in the jurisdiction generally; or
- C: To achieve the purposes of the Comprehensive Plan.

Staff will provide an evaluation of the Zoning Amendment Findings of Fact when this item returns to the Council on May 23, 2018.

Fiscal Impact: The fiscal impact associated with the enactment of the proposed ordinance is the possible income from Town leases for wireless communications facility installations on Town property, where permitted.

Resources: We anticipate additional staff time will be dedicated to review and approve wireless communications facility applications but do not think it will require additional Town staff or financial resources.