



Wayzata Planning Commission Meeting Agenda

Monday, June 15, 2015

Community Room,
600 Rice Street East,
Wayzata, Minnesota

- 7:00 p.m.**
- 1. Call to Order and Roll Call, and Approval of Minutes**
 - 2. Workshop Items:**
 - a. Update on Telecommunications Ordinance
 - 3. Other Items:**
 - a. Review and adoption of Planning Commission Report and Recommendation on 250 Bushaway Road for Subdivision and Variances
 - b. Selection of Planning Commission Representative to Lake Effect Selection Committee
 - c. Review of Development Activities
 - d. Other items
- 9:00 p.m.**
- 4. Adjournment**

NOTES:

¹ Time(s) are estimated and provided for informational purposes only.

² Members of the Planning Commission and some staff may gather at the Wayzata Bar and Grill immediately after the meeting for a purely social event. All members of the public are welcome.

CITY OF WAYZATA



PLANNING DEPARTMENT

MEMORANDUM

To: Planning Commission
From: Bryan Gadow, City Planner
Date: June 10, 2015
Re: Workshop on Cellular/Wireless Telecommunications Facilities Ordinance

For the last few years the City Council and Planning Commission have been working on updating the City's Telecommunications Ordinance in order to better regulate the location of new cellular towers and other equipment. This is in part because our current Communication Devices Ordinance (Section 31 of the Zoning Ordinance) does not contain much guidance on the subject.

As a refresher of where we have been, and an update for the new commissioners, I have attached a copy of our working draft of the ordinance and some background material from the League of Minnesota Cities.

Attachments:

- Working Draft Telecom Ordinance
- League of Minnesota Cities Memo

SECTION 31
COMMERCIAL TELECOMMUNICATIONS FACILITIES AND RESIDENTIAL
ACCESSORY COMMUNICATIONS DEVICES

Section 801.31:

- 801.31.1: Purpose and Intent
- 801.31.2: Definitions
- 801.31.3: Exemptions
- 801.31.4: Permit Required for Telecommunication Facilities
- 801.31.5: Minimum Requirements for Telecommunication Facilities
- 801.31.6: Building and Design Standards for Telecommunication Facilities
- 801.31.7: General Standards for Telecommunication Facilities
- 801.31.8: Applications for Telecommunication Facilities Permit
- 801.31.9: Review of Permit Applications
- 801.31.10: Appeals
- 801.31.11: Revocation of Permit
- 801.31.12: No Recourse Against the City
- 801.31.13: Indemnification
- 801.31.14: Severability
- 801.31.15: Residential Accessory Uses

1. Purpose and Intent.

The purpose of this section is to establish objective and balanced regulations for the siting, screening and operation of wireless telecommunication facilities and equipment in order to accommodate Wireless Communication systems within the City while minimizing any adverse impacts on the City's natural resources, aesthetics, public spaces, surrounding neighborhood property values, and the general health, safety and public welfare, all as allowed under applicable Federal law. This section recognizes that these wireless communication systems provide a valuable service to the public but that they are not a public utility. The specific purposes of this section are to:

- A. Specify allowed locations of commercial Telecommunication Facilities and Towers in the City;
- B. Protect residential, recreational and park areas from encroachment by commercial operations, including, but not limited to, Telecommunication Facilities and Towers;
- C. Minimize adverse visual impacts of Telecommunication Facilities and Towers through careful design, optimum siting, appropriate landscaping, and innovative camouflaging techniques;
- D. Require the co-location of Telecommunications Towers and Antenna support structures as a primary option rather than construction of multiple single-use Towers;

- 1
2 E. Require utilization of technological designs that either eliminate or reduce the need for
3 erection of new Tower structures to support Telecommunications Facilities;
4
5 F. Minimize potential damage to property caused by Telecommunication Facilities and
6 Towers by ensuring such structures are soundly and carefully designed, constructed,
7 modified, maintained, and removed when no longer used or are determined to be
8 structurally unsound;
9
10 G. Ensure that Telecommunication Facilities and Towers are compatible with surrounding
11 land uses;
12
13 H. Provide development standards for Wireless Telecommunication Facilities that are
14 consistent with the requirements of the Federal Telecommunications Act of 1996, as
15 amended, or other applicable laws;
16

17 **2. Definitions.**
18

19 For the purposes of this section, the terms below have the meaning given to them, unless the
20 context clearly indicates a different meaning:
21

- 22 A. **“Accessory Equipment”** means the wires, cables, generators, air conditioning units, and
23 other equipment or facilities that are used with Antennas.
24
25 B. **“Applicant”** means any person or entity who files an application for any permit or is
26 party to any lease agreement required by this Ordinance for the construction,
27 replacement, installation, or alteration of wireless communication facility or any
28 component thereof.
29
30 C. **“Antenna”** means any exterior transmitting or receiving device mounted on a Tower,
31 Monopole, building, or other structure and used in communications that radiate or
32 capture electromagnetic waves, digital signals, analog signals, radio frequencies
33 (excluding radar signals), wireless telecommunications signals or other communications
34 signals. “Antenna” does not include a lightning rod.
35
36 D. **“Antenna Support Structure”** means any new or existing Tower, building, water tower,
37 or electric transmission tower carrying over 200 kilo volts of electricity that can be used
38 for the location of Antennas without increasing the height or mass of the existing
39 structure.
40
41 E. **“Engineer”** means a radio, electrical, structural, or mechanical engineer licensed by the
42 state of Minnesota.
43
44 F. **“Equipment Shelter”** means an enclosed structure at the base of or near a
45 Telecommunication Facility, Tower, or Antenna within which are housed, among other
46 things, batteries, generators, air conditioning units, wireless communications or electrical

equipment, or other Accessory Equipment, which may be connected to the Telecommunications Facility, Tower or Antenna by cable.

G. **“Co-location”** means the sharing of structures by two or more wireless service providers on a single support structure or otherwise sharing a common location.

H. **“Monopole”** means a slender self-supporting Tower used to support Antennas and Accessory Equipment.

I. **“Permit Holder”** a person or entity who holds a permit issued pursuant to this Ordinance for a Telecommunications Facility.

J. **“Public Utility Structure”** means a structure which is owned by a governmental agency or utility company and which is used to support illumination devices or lines and other equipment carrying electricity or communications.

K. **“Residential Accessory Communication Devices”** means any satellite dishes, television Antennas, radio Antennas, amateur radio Antennas, and similar communication transmission/reception devices and associated Accessory Equipment that are a permitted accessory use within a residential district.

L. **“Stealth Design”** means state-of-the-art design techniques used to blend the object into the surrounding environment and to minimize the visual impact as much as reasonably possible. Examples of stealth design techniques include architecturally screening roof-mounted Antennas and Accessory Equipment; integrating Telecommunications Facilities into architectural elements; nestling Telecommunications Facilities into the surrounding landscape so that the topography or vegetation reduces their view; using the location that would result in the least amount of visibility to the public, minimizing the size and appearance of the Telecommunications Facilities; and designing Towers to appear other than as Towers, such as light poles, power poles, flag poles, and trees.

M. **“Telecommunications Equipment”** means Antennas, Accessory Equipment, or Towers.

N. **“Telecommunications Facilities”** means any facility or location maintained by a commercial enterprise where Telecommunications Equipment is located.

The following shall not be considered Telecommunication Facilities, and shall be regulated under subsection 801.31.15 below:

- i. Licensed amateur (ham) radio Antennas.
- ii. Television Antennas and satellite dish Antennas for reception within individual homes or businesses.
- iii. Temporary Telecommunication Facilities placed in service during an emergency declared by a government agency.

O. **“Tower”** means any of the following: a ground or roof mounted pole; spire; free standing, self-supporting lattice or monopole structure; or combination thereof taller than fifteen (15) feet, including but not limited to supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an Antenna, meteorological device, or similar apparatus above grade (except amateur radio Antennas).

P. **“Wireless Communications”** means any personal wireless services as defined in the Federal Communications Act of 1996, including FCC licensed commercial wireless Telecommunications services such as cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), global system of mobile communication (GSM), paging and similar services that currently exist or may be developed.

3. **Permit Required for Telecommunication Facilities.**

Prior to the construction or operation of a Telecommunications Facility, the owner and operator of the Telecommunications Facility must obtain a permit for the proposed Telecommunications Facility according to the provisions of this Ordinance, termed a “Telecommunication Facilities Permit”.

4. **Building and Design Standards and Allowed Locations for Telecommunications Facilities.** All Telecommunications Facilities shall be constructed and maintained in accordance with the following standards:

A. **Existing Telecommunication Facilities.**

Existing Telecommunications Facilities located on or attached to existing structures, prior to the adoption of this Ordinance, are regulated by the provisions of the zoning district for each such parcel. Once the leases for existing Telecommunication Facilities expire or are otherwise terminated, the owner of the Telecommunication Facilities shall apply for a permit under this Ordinance and those existing Telecommunications Facilities shall be required to conform to all requirements of this Ordinance for new Telecommunication Facilities. The City may, among other remedies, relocation of equipment, at the Telecommunication Facilities expense, to permitted areas under this Ordinance.

B. **New Telecommunications Facilities.**

- i. New Telecommunications Towers shall be located only on the following parcels owned and controlled by the City of Wayzata without a conditional use permit, with the exact location on such parcels determined at the sole discretion of the Wayzata City Council:

<u>Property Name</u>	<u>Property Identification Number</u>
City of Wayzata Public Works Facility	01-117-23-22-0004

- 1 ii. Antennas shall be located on a new or replacement Tower at the locations
2 permitted for Telecommunications Facilities only if the Applicant
3 complies with the following requirements, in additions to the other
4 requirements of this Ordinance:
5
6 a) The Applicant shall provide an analysis prepared by a radio or electrical
7 engineer demonstrating that the proposed location of the Antennas is
8 necessary to meet the coverage and capacity needs of its system. The
9 analysis shall also show the Antennas would not cause interference with
10 other existing or approved Telecommunications Equipment. The
11 Applicant shall also pay the reasonable expenses of a radio or electrical
12 engineer retained by the City, at the City's option, to review this analysis;
13
14 b) The new or replacement Telecommunications Facilities shall use as many
15 Stealth Design techniques as reasonably possible. Economic
16 considerations or hardships shall not be the sole justification for failing to
17 provide Stealth Design techniques.
18
19 c) The new or replacement Tower and Antenna, including attachments other
20 than lightning rods, shall not exceed 150 feet in height, measured from
21 grade. The City Council may, but shall not be required to, increase this
22 height up to 190 feet if the Council finds the increase in height would not
23 have a significant visual, would not have a negative property value impact
24 on surrounding properties because of proximity, topography or screening
25 by trees or buildings or would accommodate two or more users. The City
26 Council may waive this height limitation for a Tower and/or Antenna is
27 used wholly or partially for essential public services, such as public safety.
28
29 iii. A new Antenna may be attached to an existing public utility structure
30 within a right of way if:
31
32 a) The Antenna does not extend more than fifteen (15) feet above the top of
33 the existing utility structure.
34
35 b) The Antenna is no larger than three (3) cubic feet and has no individual
36 surface larger than four (4) feet.
37
38 c) The Antenna extends outward from the utility structure no more than three
39 (3) feet.
40
41 d) There is no ground mounted equipment.
42
43 e) There is no interference with public safety communications or with the
44 original use of the public utility structure.
45

- 1 f) The Applicant agrees that the Antenna must be removed and relocated, at
2 Applicant's expense, when the road authority requires the removal and
3 relocation of the public utility structure.
4

5 **C. Conditional Use Permits.**
6

- 7 i. Telecommunication Facilities may not be located on any sites other than
8 those that are designated in Section 801.31.6.B unless the Applicant first obtains a
9 conditional use permit for the location. Such a conditional use permit may be
10 approved provided all of the following are met:
11
- 12 a) The requirements of Section 801.04 have been considered and
13 satisfactorily meet.
14
- 15 b) Antennas attached to an existing building do not extend more than twenty
16 (20) feet above the highest point of the building.
17
- 18 c) The Applicant provides an analysis prepared by a radio or electrical
19 engineer demonstrating that the proposed location of the
20 Telecommunication Facility is necessary to meet the coverage and
21 capacity needs of its system. The analysis must also show the
22 Telecommunication Facilities would not cause interference with other
23 existing or approved Telecommunications Equipment. The Applicant
24 must also pay the reasonable expenses of a radio or electrical engineer
25 retained by the City, at the City's option, to review this analysis.
26
- 27 d) The new or replacement Telecommunications Facilities must use as many
28 Stealth Design techniques as reasonably possible. Economic
29 considerations alone are not justification for failing to provide Stealth
30 Design techniques.
31
- 32 g) New or replacement Tower and Antennas, including attachments other
33 than lightning rods, shall not exceed 100 feet in height, measured from
34 grade. The City Council may, but shall not be required to, increase this
35 height to up to 190 feet if the Council finds that the increase in height
36 would not have a significant negative visual or property value impact on
37 surrounding properties because of proximity, topography or screening by
38 trees or buildings or because the proposed Tower and/or Antenna would
39 accommodate two or more users. The City Council may waive this height
40 limitation for a Tower and/or Antenna is used wholly or partially for
41 essential public services, such as public safety.
42
- 43 ii. The City shall have the following priority ranking of land uses (as defined in
44 the City of Wayzata Comprehensive Plan) suitable for potential new or
45 replacement Telecommunication Facilities when considering a conditional use

1 permit application, with (a) being the highest priority and (d) being the lowest
2 priority:

- 3 a) City Owned Property that is adjacent to highway rights of way and
4 not adjacent to or adjoining residential property.
- 5 b) Institutional/Public Property that is not adjacent to or adjoining
6 residential property.
- 7 c) Semi-Public/Private Property that is not adjacent to or adjoining
8 residential property.
- 9 d) Mixed Use Commercial or Service Commercial properties that are
10 not adjacent to or adjoining residential property.

11
12 If the proposed site is not the highest priority listed above, then a detailed
13 explanation shall be provided as to why a site of a higher priority was not
14 selected. The explanations shall include the reason or reasons why such a
15 Conditional Use Permit should be granted for the proposed site and a
16 description of the hardship that would be incurred by the Applicant if the
17 permit were not granted for the proposed site.

18
19 iii. CUPs for new or replacement Telecommunication Facilities shall be
20 prohibited in the following land use categories, as defined in the City of
21 Wayzata Comprehensive Plan:

- 22 a) Parcels guided and utilized for residential purposes, including
23 single family and multiple family.
- 24 b) Parcels guided and utilized for Park or Public Open Spaces
- 25 c) Parcels guided and utilized for Central Business District, Mixed
26 Use Residential, or Downtown Mixed Use District.

27 28 5. **General Standards for Telecommunication Facilities.**

29
30 All Telecommunications Facilities must comply with the following standards.

- 31
32 A. **Vertical projection on Antenna support structures.** Antennas mounted on an
33 existing Antenna support structure shall not extend more than 15 feet above the
34 height of the structure to which they are attached. Wall or façade-mounted
35 Antennas shall not extend above the cornice line and shall be constructed of a
36 material or color that matches the exterior of the building.
- 37
38 B. **Horizontal projection.** Antennas shall not project out from the side of the
39 existing Antenna support structure, Tower or wall or facade by more than three
40 feet.
- 41
42 C. **Fall Zone Analysis.** The Applicant must submit a fall zone analysis report
43 completed by a qualified and licensed engineer which shows the
44 Telecommunications Facilities do not pose a threat to general health, safety and
45 welfare of the City.

- 1 D. **Setbacks.** A new Tower shall meet the building setback that is established for the
2 district where it is to be located and the following additional standards:
3
4 i. The Tower shall be setback from all residential property lines at least one
5 (1) foot for each foot in height, but shall have a minimum setback of at
6 least one hundred (100) feet. The Tower setbacks may be increased by the
7 City Council dependent on the results of the engineered fall zone analysis
8 report submitted by the Applicant as part of the permit application.
9
10 ii. Towers and Telecommunications Facilities shall not encroach upon any
11 easements unless written permission is obtained from the underlying
12 property owner burdened by the easement and the beneficiary of the
13 easement.
14
15 iii. The required setbacks may be reduced or the location in relation to a
16 public street modified, at the sole discretion of the City Council, when the
17 Telecommunications Facility is integrated into an existing or proposed
18 structure such as a building, light or utility pole.
19
20 E. **Height.** The height of an Antenna and Tower shall be the minimum necessary to
21 meet the Applicant's coverage and capacity needs, as verified by an electrical
22 engineer or other appropriate professional. The City Council may waive this
23 requirement if additional height is appropriate for co-location opportunities.
24
25 F. **Exterior surfaces.** Towers and Antennas shall be painted a non-contrasting color
26 consistent with the surrounding area such as: blue, gray, green, brown, or silver,
27 or have a galvanized finish to reduce visual impact. Metal Towers shall be
28 constructed of, or treated with, corrosion-resistant material.
29
30 G. **Underground Equipment Storage.** Accessory Equipment or equipment storage
31 facilities shall be required to be designed and built underground adjacent to the
32 Telecommunications Facility, unless deemed infeasible by the City Council.
33 Only in situations where underground storage is deemed unfeasible, shall above-
34 ground or ground-mounted equipment be permitted, subject to the restrictions of
35 this Ordinance, including, but not limited to screening of existing equipment.
36
37 H. **Ground-mounted equipment.** If deemed unfeasible by the City Council to be
38 built underground, ground-mounted Accessory Equipment or buildings shall be
39 architecturally designed to blend in with the surrounding environment, including
40 the principal structure, or shall be screened from view by suitable vegetation,
41 except where a design of non-vegetative screening better reflects and
42 compliments the character of the surrounding neighborhood. No more than one
43 Equipment Shelter or accessory building is permitted for each Tower. Equipment
44 Shelters or accessory buildings shall be designed to accommodate additional
45 space needed for the co-location of additional Antennas at the site. Design of the
46 building or equipment cabinet, screening and landscaping are subject to a site plan

review by City Staff, Planning Commission, and City Council, and any applicable Design Standards criteria under Section 801.09 of the Wayzata Zoning Ordinance. The Applicant shall be responsible for maintaining the structure in a high-quality condition. If the Applicant abandons or vacates the structure, it shall be forfeited to the City or torn down by the Applicant at their expense, at the discretion of the City Council.

- I. **Construction.** Telecommunications shall be in compliance with all buildings and electrical code requirements. All applicable federal, state and local agency licenses and/or permits shall be obtained. A Tower shall be designed and certified by a licensed structural engineer to be structurally sound and in conformance with the building code. Structural design, mounting and installation of the Telecommunications Facilities shall be in compliance with the manufacturer's specifications. If, upon inspection, the City concludes that a Tower or other portion of a Telecommunications Facility fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the Telecommunication Facility or Tower, the owner shall have thirty (30) days to bring such Tower or Facility into compliance with such standards. Failure to bring such Tower or Facility into compliance with such thirty-day period shall constitute grounds for the removal of the Tower or Facility at the owner's expense.
- J. **Interference with Public Safety Telecommunications.** No Tower or Facility shall interfere with public safety Telecommunications. All Towers and Facilities shall comply with FCC regulations and licensing requirements.
- K. **Security Fencing and Screening.** Telecommunication Facilities and Towers shall be enclosed by security fencing not less than the height of the equipment and shall also be equipped with an appropriate anti-climbing device. Fencing within one hundred (100) feet of a residential or parking property shall be constructed of a well-designed fence of wood or other environmentally sound material, and be compatible with the surrounding character of the area. The Facilities and Towers shall also include a landscape screen around the perimeter of equipment area, as approved by the City Council.
- L. **Other Protections.** The City may require shields to protect from ice falling from Towers, anti-climbing devices to prevent unauthorized persons from climbing Towers, or other appurtenances necessary to protect life and property.
- M. **Noise.** If the proposed Telecommunications Facility includes equipment that causes significant sound levels, sound buffers may be required including but not limited to, baffling, barriers, enclosures, walls and plantings. The Applicant shall submit an acoustical analysis and report prepared by a licensed and/or accredited sound engineer certifying that the noise to be generated from the proposed Telecommunication Facility shall not impact adjacent properties. Said report shall include, without limitation, a written description of all noise generated by

the Facility, including retractable monopole motors, Antenna rotators, power generation, heating or air conditioning, and related equipment, and shall include the estimated times, frequency, duration and decibel levels of the noise.

- N. **Sensitive Habitats.** No Telecommunication Facility shall be located in environmentally sensitive habitats, including but not limited to wetlands, shorelines, established animal habitats, conservation districts, and significant tree groups, unless mitigation measures can be adopted which would reduce potential impacts to levels of non-significance.
- O. **Radio Frequency Emissions.** Telecommunications Facilities shall comply with Federal Communication Commission standards for radio frequency emissions and interference.
- P. **Interference.** No Telecommunication Facility shall be permitted that causes interference with commercial or private use and enjoyment of other legally operating Telecommunications devices including, but not limited to, radios, televisions, personal computers, telephones, personal communications devices, garage door openers, security systems, and other electronic equipment and devices. An Applicant shall furnish a state registered engineer's certification that no such interference shall occur, or identify what interference may occur and how the Applicant shall mitigate any potential interference that may occur.
- Q. **Risk of Danger.** Telecommunications Facilities and Towers shall not pose a risk of explosion, fire, or other danger due to its proximity to volatile, flammable, explosive or hazardous materials. Telecommunication Facilities, Towers, Antennas, and Accessory Equipment shall be subject to state and federal regulations pertaining to non-ionizing radiation and other health hazards related to such Facilities. If new, more restrictive standards are adopted, the Facilities shall be made to comply or continued operations may be restricted by the City Council. The cost of verification of compliance shall be borne by the Applicant.
- R. **Maintenance.** All Telecommunication Facilities and Towers shall at all times (i) be kept and maintained in good condition, order and repair so that the same shall not menace or endanger the life or property of any person, and (ii) allow sufficient access for service vehicles and personnel. Maintenance of equipment shall be scheduled for between 7:00am-6:00pm, Monday through Friday, unless in case of emergency. Service vehicles for equipment maintenance shall be parked on city streets, whenever possible. In the case of maintenance of Telecommunication Facilities on the City Water Tower, service vehicles shall park on the service entrance of the City Water Treatment Plant, whenever possible.
- S. **Co-location opportunity.** The Applicant, the Tower owner, the landowner, and their successors and assigns shall allow the shared use of the Tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use, shall submit a dispute over the potential terms and conditions to

1 binding arbitration, and shall sign the conditional use permit agreeing to these
2 requirements. The City Council may waive these co-location requirements if
3 necessary to implement stealth design.
4

5 i. All Telecommunications Facility providers shall cooperate with each other
6 in co-locating Telecommunication Facilities and shall exercise good faith
7 in co-locating with other licensed carriers and in the sharing of sites,
8 including the sharing of technical information necessary to evaluate the
9 feasibility of collocation. In the event a dispute arises as to a co-location
10 issue, the City may require a third-party technical study to evaluate the
11 feasibility of co-locating at the expense of either or both wireless
12 telecommunications providers;
13

14 ii. All proposed new Towers shall be designed to accommodate both the
15 Applicant's Antennas and Antennas for as many other licensed carriers as
16 can be technically located thereon, but not less than one additional;
17

18 iii. All new Towers and Facilities owned by a telecommunications provider
19 shall be made available for use by the owner or initial user thereof,
20 together with as many other licensed carriers as can be technically located
21 thereon, but not less than one additional;
22

23 iv. All proposed new Towers shall be designed to allow for future
24 rearrangement of Antennas or Tower modifications, and to accept
25 Antennas mounted at varying heights;
26

27 T. **Successors and Assigns.** Any Permit or lease for a Telecommunications
28 Facility shall run with the Property, and shall be binding upon and inure to the
29 benefit of the parties, their respective successors, personal representatives, and
30 assigns.
31

32 U. **External messages.** No advertising message or identification signs, other than
33 warning or equipment information signs as legally required, shall be affixed to the
34 Telecommunications Facilities.
35

36 V. **Lighting.** Telecommunications Facilities or Towers shall not be artificially
37 illuminated unless required by law or by a governmental agency to protect the
38 public's health and safety or unless necessary to facilitate service to ground-
39 mounted equipment. Any lighting or artificial illumination utilized shall be
40 shielded and not cast glare onto adjacent properties.
41

42 W. **On-site employees.** There shall be no employees on the site at a
43 Telecommunications Facility on a permanent basis. Occasional or temporary
44 repair and service activities are allowed.
45

1 X. **Advances in Technology.** All Applicants/Permit Holders shall use and apply
2 any readily available advances in technology that lessen the negative aesthetic
3 effects of Telecommunication Facilities and Towers to the residential
4 communities within the City. The City may review existing structures and
5 compare the visual impact with available technologies in the industry for the
6 purpose of removal, relocation or alteration of these structures in keeping with the
7 general intent of this Ordinance. Such removal, relocation or alteration may be
8 required by the City pursuant to its zoning power and authority.
9

10 Y. **Removal.** After thirty (30) days' notice from the City to the Permit Holder all
11 Telecommunications Facilities, Antennas, or Towers shall be required to be
12 removed at the Permit Holder's expense, if such improvement is found to be in
13 violation of any portion of this Ordinance by the City and such violation is not
14 cured within such thirty day time period. Obsolete or unused
15 Telecommunications Facilities and all related equipment shall be removed within
16 six (6) months after cessation of their use at the site, unless an exemption is
17 granted by the City Council. Telecommunications Facilities and related
18 equipment that have become hazardous shall be removed or made not hazardous
19 within 30 days after written notice to the current Permit Holder and to any
20 separate landowner, unless an exemption is granted by the City Council. Notice
21 may be made to the address listed in the application, unless another one has
22 subsequently been provided, and to the taxpayer of the property listed in the
23 Hennepin County tax records. Telecommunications Facilities and all related
24 equipment that are not removed within this time are declared to be public
25 nuisances and may be removed by the City. The City may assess its costs of
26 removal against the Property.
27

28 Z. **No Recourse Against the City.** Every permit shall provide that, without limiting
29 such immunities as the City or other persons may have under applicable law, an
30 Applicant/Permit Holder shall have no monetary recourse whatsoever against the
31 City or its elected officials, boards, commissions, agents, employees or volunteers
32 for any loss, costs, expense or damage arising out of any provision or requirement
33 of this Ordinance or because of the enforcement or lack of enforcement of this
34 Ordinance or the City's exercise of its authority pursuant to this Ordinance, a
35 permit, a lease, or other applicable law, unless the same shall be caused by
36 criminal acts or by willful gross negligence. Nothing herein shall be construed as
37 a waiver of sovereign immunity.
38

39 **6. Applications for Telecommunications Facilities Permit.**
40

41 Permit Application. In addition to an Applicant's name, address, certificate of survey,
42 grading and landscaping plans, and other such similar information, an application for a
43 permit under this Section shall include the following:
44

45 A. A scaled site plan clearly indicating the location, type and height of the proposed
46 Telecommunication Facility, Tower, or Antenna, on-site land uses and zoning,

adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed equipment and any structures, topography, parking and any other information deemed by the City Staff to be necessary to assess compliance with this Section.

- B. A visual simulation of the proposed Telecommunication Facility Tower or Antenna. Visual simulation shall consist of either a physical mock-up of the Telecommunication Facility Tower or Antenna, balloon simulation, computer simulation, or other similar simulation. In instances where the proposed Telecommunications Facility Tower or Antenna is located near a residential area, photos shall be submitted of the proposed Telecommunication Facility Tower or Antenna from the nearest residential neighbors.
- C. A report from a qualified and licensed professional engineer which:
- i. Demonstrates that the Telecommunication Facility, Tower, Antenna and/or Accessory Equipment comply with the structural and electrical standards of this Section.
 - ii. Describes the Tower height, if utilized.
 - iii. Documents the height above grade for all potential mounting positions for co-locating Antennas and the minimum separation distance between Antennas.
 - iv. Describes the Tower's capacity, if utilized, including the number and type of Antennas it can accommodate.
 - v. A network map describing all of the Applicant's Telecommunications Facilities which provide any coverage within the City's limits.
 - vi. Documents what steps the Applicant shall take to avoid interference with established public safety Telecommunications.
 - vii. Includes an engineer's stamp and registration number.
- D. A written statement acknowledging that failure to comply with this Section and the conditions of permit approval shall result in the revocation of the permit and removal of the Telecommunications Facility, Antenna, and/or Tower;
- E. Documentation that the Applicant has applied for and/or obtained any licenses and/or approvals that are required by federal and state agencies.
- F. A written statement indicating that the expenses incurred by the City to review and process the application, and to enforce the provisions of the permit shall be reimbursed by the Applicant.
- G. A written statement which requires the Applicant to utilize the procedures established by the Federal Communications Commission to resolve any complaints received relating to interference allegedly caused by the Telecommunications Facility, Antenna, and/or Tower.

- 1 H. A written statement indicating that the Applicant shall cooperate in good faith and
2 fair dealing in co-locating Telecommunications Facilities, Antenna and/or
3 Towers.
4
- 5 I. A written statement indicating that the Telecommunications Facility, Antenna,
6 and/or Tower shall be maintained in good and safe condition and its original
7 appearance and concealment, disguise or camouflage elements incorporated into
8 the design at the time of approval shall be preserved. Such maintenance shall
9 include, but not be limited to, painting, repair of equipment, and maintenance of
10 landscaping.
11
- 12 J. A written statement authorizing the City to conduct periodic inspections to
13 determine that the Telecommunications Equipment complies with the provisions
14 of this Section, any conditions of approval and all safety and building codes and
15 permits issued. This statement shall give the City the right to conduct such
16 inspections at any time upon a reasonable notice of five (5) business days to the
17 Applicant, and that all expenses related to such inspections shall be borne by the
18 Applicant.
19
- 20 K. A written statement indicating that the Applicant understands that
21 Telecommunications Facilities, Antennas, and/or Towers which have not been
22 used for six (6) months shall be deemed abandoned, and shall be removed
23 pursuant to this Section.
24
- 25 L. A written statement requiring the Applicant or current Permit Holder to notify the
26 City that the Telecommunications Facility, Antenna, and/or Tower continue to be
27 in operation. The notice of continuing operation shall be sent to the City Manager
28 annually by certified mail within the last two (2) weeks of the month of
29 December.
30

31 **7. Review of Permit Applications.**
32

33 The City shall process all applications for Telecommunication Facilities Permits in a
34 timely manner and in accordance with established procedures and City Code.
35

36 **8. Appeals.**
37

38 At any time within thirty (30) days after a written order, requirement, determination or
39 final decision has been made by the Zoning Administrator or other official interpreting or
40 applying this Section, except for actions taken in connection with prosecutions for
41 violations thereof, the Applicant or any other person affected by such action may appeal
42 the decision in accordance with the provisions of the Zoning Ordinance.
43

44 **9. Revocation of Permit.**
45

1 A material breach of any terms and conditions of a permit issued for a
2 Telecommunication Facility under this Section and the Zoning Ordinance may result in
3 the revocation of the permit by the City. Penalties for a violation of a permit or this
4 Section may include fines and removal of the Telecommunication Facility, Tower, or
5 Antenna at the Applicant's/Permit Holder's expense.
6

7 **10. No Recourse Against the City.**
8

9 Every application for and issued permit shall provide a written acknowledgement,
10 agreement and release from the Applicant and Permit Holder that, without limiting such
11 immunities as the City or other persons may have under applicable law, an Applicant and
12 Permit Holder shall have no monetary recourse whatsoever against the City or its elected
13 officials, boards, commissions, agents, employees or volunteers for any loss, costs,
14 expense or damage arising out of any provision or requirement of this Ordinance or
15 because of the enforcement or lack of enforcement of this Ordinance or the City's
16 exercise of or failure to exercise its authority pursuant to this Ordinance, a permit, a lease,
17 or other applicable law, unless the same shall be caused by criminal acts or by shallful
18 gross negligence. Nothing herein shall be construed as a waiver of sovereign immunity.
19
20

21 **11. Indemnification.**
22

23 Each permit issued pursuant to this Section shall have as a condition of the permit, a
24 requirement that the Applicant indemnify and hold harmless the City and its officers,
25 agents, and employees from actions or claims of any description brought on account of
26 any injury or damages sustained by any person or property resulting from the issuance of
27 the permit and conduct of the activities authorized under said permit.
28

29 **12. Severability.**
30

31 If any section, subsection, sentence, clause or phrase of this Section is for any reason held
32 to be invalid, such decision shall not affect the validity of the remaining portions of this
33 Section. The City Council hereby declares that it would have passed this Section and
34 each section, subsection, sentence, clause , and phrase thereof, irrespective of the fact that
35 any one or more sections, subsections, sentences, clauses, or phrases may be declared
36 invalid.
37

38 **13. Residential Accessory Uses.**
39

40 Residential Accessory Communication Devices are a permitted accessory use within
41 residential districts provided they meet the following conditions:
42

- 43 A. **Use.** They are for use by residents upon whose property the Residential
44 Accessory Communication Devices are located.
45

- 1 B. **Height.** A ground mounted Residential Accessory Communication Device height
2 shall not exceed fifteen (15) feet unless approved as a conditional use permit by
3 the City Council.
4
- 5 C. **Yards.** The Residential Accessory Communication Device shall not be located
6 within the required front yard setback, a required side yard or any side yard
7 abutting a street. Communication devices shall be located five (5) feet or more
8 from rear lot lines and shall not be located within a utility easement.
9
- 10 D. **Roofs.** The Residential Accessory Communication Device may be placed on the
11 roof of any authorized structure on the premises. The height of the Residential
12 Accessory Communication Device shall not exceed six and one-half (6-1/2) feet
13 above the peak of the roof, unless approved by a conditional use permit by the
14 City Council.
15
- 16 E. **Neighboring Property Impact.** In cases where no building permit is required,
17 the Residential Accessory Communication Device shall be so located that in the
18 event it falls, it shall not fall on adjoining property.
19
- 20 F. **Building Permits.** A building permit shall be required for the installation of any
21 Residential Accessory Communication Device which requires a conditional use
22 permit, or for any device which has a structural surface exposure of greater than
23 nine (9) square feet. Building permit applications shall be accompanied by a site
24 plan and structural components data for the Residential Accessory
25 Communication Device, including details of anchoring. The Building Official
26 shall approve the plans before installation.
27
- 28 G. **Color/Content.** Residential Accessory Communication Devices shall be of a
29 neutral color and shall not be painted with scenes or contain letters or messages.
30
- 31 H. **Lightning Protection.** Each Residential Accessory Communication Device shall
32 be grounded to protect against natural lightning strikes in conformance with the
33 National Electrical Code as adopted by the City of Wayzata.
34
- 35 I. **Electrical Code.** Residential Accessory Communication Device electrical
36 equipment and connections shall be designed and installed in conformance with
37 the National Electrical Code as adopted by the City of Wayzata.
38
- 39 J. **Effective Date.** The provisions of this Section shall be applicable to all
40 communication reception/transmission devices erected after _____, 2015.
41 All such structures existing prior to this date shall be addressed as legal non-
42 conforming uses.
43
- 44 K. **Conditional Use Permit.** Residential Accessory Communication Devices not
45 qualifying as a permitted accessory use may be considered and approved through
46 conditional use standards established by Section 801.04 of this Ordinance.
47



INFORMATION

a research memo for city officials

575B4.3

July 1996

Wireless Telecommunications Towers and Antennas

Policy Issues and Zoning Recommendations
for
Personal Communications Systems, Cellular
or Page Antenna Locations

League of Minnesota Cities

The League of Minnesota Cities provides this publication as a general informational memo. It is not intended to provide legal advice and should not be used as a substitute for competent legal guidance. Readers should consult with an attorney for advice concerning specific situations.

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July, 1996

TO: City Managers, Administrators, and Clerks

FROM: Stanley Peskar, General Counsel
Ann Higgins, IGR Representative

RE: Recommendations on Zoning for Wireless Telecommunications Towers and Antennas

Contents of Memorandum

This memorandum contains the text of wireless communications antenna and tower siting and zoning provisions adopted by the City of Bloomington and under consideration by the City of Rosemount. It also contains comment and sample provisions derived from a variety of municipal ordinances from cities throughout the country. Language here is set out to provide additional matters for consideration by staff responsible for drafting revisions to current zoning ordinances.

The memorandum also includes a sample policy statement. Development of such a formal position for your city may be helpful to staff in the preparation of appropriate amendments to local zoning regulations as well as to provide staff with the views of the city council on priorities to be considered in drafting personal communications services (PCS) antenna site leases for facilities to be located on land or structures which the city owns or controls.

Moratorium

The city should consider adopting a moratorium on the siting of new wireless telecommunications towers and antennas only after close consultation with the city attorney. The federal Telecommunications Act of 1996 bars cities from actions that prohibit or have the effect of prohibiting provisions of personal wireless services (including PCS). An unduly lengthy moratorium or one enacted for improper purposes may represent a temporary barrier; therefore, advisors should review relevant challenges to other city moratoria on the basis of the new federal law. Though a sample ordinance is included, if cities have the opportunity to proceed prior to immediate requests for siting, many may have sufficient time to plan for new antenna and tower siting without the necessity of adopting a formal moratorium.

Amateur Radio Towers

When drafting the ordinance, give some thought to whether the city wants to cover amateur radio towers. According to FCC rules, local regulation of placement, screening and height based on health, safety or aesthetics must reasonably accommodate amateur communications and provide minimum practical regulation to protect the city's legitimate communications needs while setting forth minimum practical regulation to accomplish the city's legitimate purposes.

Though there is no definitive binding rule of law, the one case brought to date in the Eighth

Federal District Court circuit, *Pentel v. City of Mendota Heights* (1994), the court overturned the city's denial of a 68-foot radio tower. The city attorney should closely coordinate zoning regulation of amateur radio towers with FCC regulations and applicable case law.

Inventory of Current Tower Sites

Cities should compile an inventory of all towers now located within municipal boundaries to identify potential possible sites for co-location of new facilities as well as to examine the impact of proposed zoning changes on creation of non-conforming tower cities and to more carefully determine the types of towers and locations the city wants to encourage or discourage. The inventory should include information about the address, owner, user(s), height, style, zoning district and a photograph of each tower or antenna. The city should also prepare a map showing the location of current towers. Towers to be inventoried should include those mounted on building walls and located on roofs.

Regulation of EMF

The federal Telecommunications Act of 1996 § 704 prohibits state and local regulation on the basis of eletro-magnetic frequency (EMF) emissions if the facilities meet FCC regulatory standards regarding such emissions.

Regulation of Satellite Dishes

The FCC has exclusive jurisdiction over direct-to-home satellite services: §303. Thus, local ordinances may not prohibit or regulate earth station antennas (satellite dishes) of one meter or less in all areas and two meters or less in commercial areas. Newly adopted FCC rules (that are being challenged by the National League of Cities) pre-empt local regulation except when cities successfully petition the FCC to allow local regulation of the installation or location of these satellite dishes on the basis of proof that local regulation is necessary to protect health and safety.

The FCC has also proposed new rules that pre-empt any local requirements affecting placement of TV antenna and multi point distribution services (MMDS) reception devices.

LMC Zoning Work Group

The League wishes to thank members of the Zoning Work Group who contributed to the outline and information included in this memorandum. They are:

Curt Gutoske, Planner, Inver Grove Heights
Glen Markegard, Associate Planner, Bloomington
Dean Lotter, Administrative Intern, Rosemount
Craig Dawson, Assistant City Manager, Maplewood
Bill DeBlon, Community Development Coordinator, Robbinsdale
Edward Burrell, Finance Director, Roseville
Bob Museus, City Administrator, Hugo
Charles Grawe, Administrative Assistant, Apple Valley
Mary Moga, Planning/Administrative Intern, Bayport
John Burbank, Associate Planner, Cottage Grove
Gary Berg, Senior Planner, Woodbury

MODEL POLICY ON WIRELESS TOWERS

(Modified from proposed Bloomington Policy)

City Council Policy Statement **Regarding Wireless Telecommunication Antennas and Towers**

This policy is established as a guide to city staff in preparing zoning and other regulatory ordinances and in the preparation of site lease agreements which would permit the location of antenna arrays and towers on city-owned or controlled real estate. To the extent that a specific inconsistent zoning or other regulatory ordinance is enacted or a site lease adopted or approved by the council, the ordinance or lease shall control and this policy shall have no binding effect, however, paragraph 2 of Article I, "Priority of Users", and any subsequent amendments thereto shall control over subsequent inconsistent language in individual site leases.

Article I: Regulation Under City Police Power

City actions taken with regard to telecommunication activities, must comply with a number of federal parameters established by the Telecommunications Act of 1996. For example, local actions must foster rather than discourage competition, thus the city will not discriminate against one or a group of providers in favor of another or another group of providers or potential providers. Under the same act, local actions which result in a prohibition on provision of telecommunication services are invalid. Thus staff is directed to facilitate establishment and provision of lawful wireless telecommunications services with the following local objectives in mind.

- minimize the overall number of towers through co-location requirements.
- insure that new towers will be safe and blend into their environment when possible
- that they be placed in suitable locations with residential locations being a last resort.
- that zoning ordinances and other municipal police power regulations be defensible in light of federal and state laws with special attention paid to the new federal requirements.
- that revenue from site leases of city-controlled lands and structures be maximized consistent with achievement of the four preceeding goals.

Article II: Policy regarding use of city-owned land for wireless telecommunication antennas and towers.

1. Introduction

The City of _____ has received requests from wireless telecommunication providers to place wireless telecommunication antennas and towers on city owned property. _____ City Council has determined that a uniform policy for reviewing these requests is desirable.

2. Priority of Users

Priority for the use of City owned land for wireless telecommunication antennas and towers will be given to the following entities in descending order:

- A. City of _____
- B. Public safety agencies, including law enforcement, fire, and ambulance services, which are not part of the City of _____ and private entities with a public safety agreement with the City of _____;
- C. Other governmental agencies, for uses which are not related to public safety; and
- D. Entities providing licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

3. Minimum Requirements

The placement of wireless telecommunication antennas or towers on City owned property must comply with the following requirements.

- A. The antennas or tower will not interfere with the purpose for which the City owned property is intended;
- B. The antennas or tower will have no adverse impact on surrounding private property;
- C. The applicant is willing to obtain adequate liability insurance and commit to a lease agreement which includes equitable compensation for the use of public land and other necessary provisions and safeguards. The fees shall be established by the City Council after considering comparable rates in other cities, potential expenses, risks to the City, and other appropriate factors;
- D. The applicant will submit a letter of credit, performance bond, or other security acceptable to the City to cover the costs of antenna or tower's removal;
- E. The antennas or tower will not interfere with other users who have a higher priority as discussed in Section 2;
- F. Upon reasonable notice, the antennas or tower may be required to be removed at the user's expense.

- G. The applicant must reimburse the City for any costs which it incurs because of the presence of the applicant's antennas or tower and,
- H. The user must obtain all necessary land use approvals.
- I. The applicant will cooperate with the City's objective to promote colocations and thus limit the number of separate antenna sites requested.

4. Special Requirements

The use of certain City owned property, such as water tower sites and parks, for wireless telecommunication antennas or towers brings with it special concerns due to the unique nature of these sites. The placement of wireless telecommunication antennas or towers on these special City owned sites will be allowed only when the following additional requirements are met.

- A. **Water Tower or Reservoir Sites** - The City's water towers and reservoirs represents a large public investment in water pressure stabilization and peak capacity reserves. Protection of the equality of the City's water supply is of prime importance to the City. As access to the City's water storage systems increases, so too increased the potential for contamination of the public water supply. For these reasons, the placement of wireless telecommunication antennas or towers on water tower or reservoir sites will be allowed only when the City is fully satisfied that the following requirements are met.
 - 1. The applicant's access to the facility will not increase the risks of contamination to the City's water supply;
 - 2. There is sufficient room on the structure and/or on the grounds to accommodate the applicant's facility;
 - 3. The presence of the facility will not increase the water tower or reservoir maintenance cost to the City; and
 - 4. The presence of the facility will not be harmful to the health of workers maintaining the water tower or reservoir.
- B. **Parks** - The presence of certain wireless telecommunication antennas or towers represents a potential conflict with the purpose of some City owned parks. In no case shall towers be allowed in designated conservation areas. Wireless telecommunication antennas or towers will be considered only in the following parks after the recommendation of the Parks, Recreation, and Arts Commission and approval of the City Council.
 - 1. Public parks of a sufficient scale and character that are adjacent to an existing commercial or industrial use;
 - 2. Commercial recreation areas and major play fields; and,
 - 3. Park maintenance facilities.

5. Application Process

All applicants who wish to locate a wireless telecommunication antenna or tower on City owned property must submit to the City Manager a completed application and detailed plan that complies with the submittal requirements of the Zoning Ordinance along with other pertinent information requested by the City.

6. Termination

The City Council may terminate any lease if it determines that any one of the following conditions exist:

- A. A potential user with a higher priority cannot find another adequate location and the potential use would be incompatible with the existing use;
- B. A user's frequency broadcast unreasonably interferes with other users of higher priority, regardless of whether or not this interference was adequately predicted in the technical analysis; or,
- C. A user violates any of the standards in this policy or the conditions attached to the City's permission.

Before taking action, the City will provide notice to the user of the intended termination and the reasons for it, and provide an opportunity for the user to address the City Council regarding the proposed action. This procedure need not be followed in emergency situations.

7. Reservation of Right

Notwithstanding the above, the City Council reserves the right to deny, for any reason, the use of any or all City owned property by any one or all applicants.

8. Effective Date

This policy shall be effective from and after its adoption by the city council.

Adopted by Resolution Number:

At the _____ City Council Meeting of:

Bloomington City Council

Policy Statement Regarding the Use of City Owned Land for Wireless Telecommunication Antennas and Towers

1. Introduction

The City of Bloomington has received requests from wireless telecommunication providers to place wireless telecommunication antennas and towers on City owned property. The Bloomington City Council has determined that a uniform policy for reviewing these requests is desirable.

2. Priority of Users

Priority for the use of City owned land for wireless telecommunication antennas and towers will be given to the following entities in descending order:

- A. City of Bloomington;
- B. Public safety agencies, including law enforcement, fire, and ambulance services, which are not part of the City of Bloomington and private entities with a public safety agreement with the City of Bloomington ;
- C. Other governmental agencies, for uses which are not related to public safety; and,
- D. Entities providing licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

3. Minimum Requirements

The placement of wireless telecommunication antennas or towers on City owned property must comply with the following requirements.

- A. The antennas or tower will not interfere with the purpose for which the City owned property is intended;
- B. The antennas or tower will have no adverse impact on surrounding private property (*precise wording under consideration*);
- C. The applicant is willing to obtain adequate liability insurance and commit to a lease agreement which includes equitable compensation for the use of public land and other necessary provisions and safeguards. The fees shall be established by the City Council after considering comparable rates in other cities, potential expenses, risks to the City, and other appropriate factors;
- D. The applicant will submit a letter of credit, performance bond, or other security acceptable to the City to cover the costs of the antenna or tower's removal;

- E. The antennas or tower will not interfere with other users who have a higher priority as discussed in Section 2;
- F. Upon reasonable notice, the antennas or tower may be required to be removed at the user's expense.
- G. The applicant must reimburse the City for any costs which it incurs because of the presence of the applicant's antennas or tower and,
- H. The user must obtain all necessary land use approvals.

4. Special Requirements

The use of certain City owned property, such as water tower sites and parks, for wireless telecommunication antennas or towers brings with it special concerns due to the unique nature of these sites. The placement of wireless telecommunication antennas or towers on these special City owned sites will be allowed only when the following additional requirements are met.

A. Water Tower or Reservoir Sites - The City's water towers and reservoirs represent a large public investment in water pressure stabilization and peak capacity reserves. Protection of the quality of the City's water supply is of prime importance to the City. As access to the City's water storage systems increases, so too increases the potential for contamination of the public water supply. For these reasons, the placement of wireless telecommunication antennas or towers on water tower or reservoir sites will be allowed only when the City is fully satisfied that the following requirements are met.

- 1. The applicant's access to the facility will not increase the risks of contamination to the City's water supply;
- 2. There is sufficient room on the structure and/or on the grounds to accommodate the applicant's facility;
- 3. The presence of the facility will not increase the water tower or reservoir maintenance costs to the City; and,
- 4. The presence of the facility will not be harmful to the health of workers maintaining the water tower or reservoir.

B. Parks - The presence of certain wireless telecommunication antennas or towers represents a potential conflict with the purpose of some City owned parks. In no case shall towers be allowed in designated conservation areas. Wireless telecommunication antennas or towers will be considered only in the following parks after the recommendation of the Parks, Recreation, and Arts Commission and approval of the City Council.

- 1. Public parks of a sufficient scale and character that are adjacent to an existing commercial or industrial use;
- 2. Commercial recreation areas and major playfields; and,
- 3. Park maintenance facilities.

5. Application Process

All applicants who wish to locate a wireless telecommunication antenna or tower on City owned property must submit to the City Manager a completed application and detailed plan that complies with the submittal requirements of the Zoning Ordinance along with other pertinent information requested by the City.

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The City Council may terminate any lease if it determines that any one of the following conditions exist:

- A. A potential user with a higher priority cannot find another adequate location and the potential use would be incompatible with the existing use;
- B. A user's frequency broadcast unreasonably interferes with other users of a higher priority, regardless of whether or not this interference was adequately predicted in the technical analysis; or,
- C. A user violates any of the standards in this policy or the conditions attached to the City's permission.

Before taking action, the City will provide notice to the user of the intended termination and the reasons for it, and provide an opportunity for the user to address the City Council regarding the proposed action. This procedure need not be followed in emergency situations.

7. Reservation of Right

Notwithstanding the above, the City Council reserves the right to deny, for any reason, the use of any or all City owned property by any one or all applicants.

8. Use of Revenue

All revenue generated through the lease of city owned property for wireless telecommunication towers and antennas shall be made payable to the City of Bloomington and transmitted to the City's Department of Finance.

Revenue shall be credited as follows:

- A. To the specific operating activity using the land upon which the wireless telecommunication towers and antennas are located (for example, golf course revenue when located on a golf course, Water Utility Fund when located on water utility property);
- B. To the Park Development Fund if located on park or open space land;
- C. To the General Fund operating activity when the wireless telecommunication towers and antennas are located on City property serving a General Fund operating program (such as ballfields, public playlot areas, etc.); and,
- D. Any revenues not meeting the above criteria shall be applied as general revenues of the General Fund.

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NOTE: The Bloomington City Council adopted a policy statement that is substantively similar to this original on July 15, 1990.

OUTLINE OF ZONING REGULATIONS

League of Minnesota Cities
PCS Zoning Work Group, 1996

I. Purpose and Intent

Comment: If the city has not adopted a general statement of policy, it is recommended that each city establish a written purpose and intent within the zoning ordinance to provide clear direction and understanding of the regulations. It should be noted that this zoning regulation outline is restricted to towers and antennas used for wireless telecommunication facilities such as personal communication services (PCS). This zoning outline has not been prepared with the intent of regulating other types of antennas and towers such as radio and television antennas, residential satellite dishes, or public safety transmitters. Cities may also wish to expand the suggestions herein to address other types of communication facilities.

Examples:

The purpose of this Ordinance is to establish predicable and balanced regulations for the siting and screening of wireless communications equipment in order to accommodate the growth of wireless communication systems within the City of (insert municipality) while protecting the public against any adverse impacts on the City's aesthetic resources and the public welfare. (Boston, MA)

The regulations and requirements of this Ordinance are intended to 1) provide for the appropriate location and development of communication towers to serve the residents and businesses in the City of (insert municipality); 2) minimize adverse visual effects of towers through careful design, siting, and vegetative screening; 3) avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures; and maximize use of any new or existing communication tower to reduce the number of towers needed. (Jupiter, FL)

In order to accommodate the communication needs of residents and business while protecting the public health, safety, and general welfare of the community, the Council finds that these regulations are necessary in order to: 1) facilitate provision of wireless communications services to the residents and businesses of the city; 2) minimize adverse visual effects of towers through careful design and siting standards, 3) avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements; and, 4) maximize the use of existing and

approved towers and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the community. (Bloomington, MN)

II. Definitions

Comment: In order to establish specific zoning standards for PCS antennas and towers, each municipality should adopt specific definitions for such devices to distinguish them from "essential services" or "public utilities" which are often exempt from local zoning ordinances. Such definitions may also be used to apply to other types of antennas and towers as shown in the examples below.

Examples:

Antenna - Equipment used for transmitting or receiving telecommunication, television or radio signals, which is located on the exterior of, or outside of, any building or structure (Spring Lake Park, MN)

A device used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based structures (Burnsville, MN)

Any structure or device used for the purpose of collecting or radiating electromagnetic waves, including but not limited to directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whip antennas. (Bloomington, MN)

Commercial Receiving and or Transmitting Antenna - Any antenna erected for the commercial use of the information. (Burnsville, MN)

Private Receiving and/or Transmitting Antenna - Any antenna erected for the non-commercial use of the information. (Burnsville, MN)

Commercial Wireless Telecommunication Services

Licensed commercial wireless telecommunication services including cellular, personal communications services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized (ESMR), paging, and similar services that are marketed to the general public. (Bloomington, MN)

Public Utility - Persons, corporations, or governments supplying gas, electric, transportation, water, sewer, or land line telephone service to the general public. For the purpose of this ordinance, commercial wireless telecommunication services shall not be considered public utility uses, and are defined separately. (Bloomington, MN)

Tower - Any ground or roof mounted pole, spire, structure, or combination thereof taller than 15 feet, including supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an antenna, meteorological device, or similar apparatus above grade (except amateur radio antennas*)

Any pole, spire, or structure, or combination thereof, to which an antenna is attached, or which is designed for an antenna to be attached, and all supporting lines, cables, wires, and braces. (Spring Lake Park, MN)

Any ground or roof-mounted pole, spire, structure, or combination thereof taller than 15 feet, including supporting lines, cables, wires, braces, and masts, built for the purpose of mounting an antenna, meteorological device, or similar apparatus above grade. (Bloomington, MN)

- * included the language in parentheses if this ordinance is not to affect amateur antenna placements.

III. Zoning Districts

Comment: Each city must determine what zoning district(s) is most appropriate for wireless communication facilities. Federal law allows cities to maintain local zoning authority over such facilities, however, the law states that local government shall not 1) unreasonably discriminate among providers of functionally equivalent services, 2) shall not prohibit or have the effect of prohibiting the provision of personal wireless services, and 3) shall not regulate the placement, construction and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the FCC's regulations concerning such emissions. Therefore, cities cannot outright prohibit PCS or cellular antennas in all districts. It is recommended that cities conduct an inventory of existing communication antennas and towers to determine the current impact and locational pattern of such facilities.

It is estimated that wireless communication facilities may be needed every 1-2 miles along heavily traveled corridors and every 2-4 miles in other areas. This is to allow the providers to achieve complete coverage of a specific geographic region. The exact spacing of antennas will depend on the amount of wireless usage and the local topography of the area. Because zoning and land use patterns vary considerably from community to community, no one recommendation can be provided with respect to the appropriate

zoning district(s) to allow for PCS antenna. Provided below, however, is a general list of what are considered to be primary and secondary land use districts for such facilities.

Primary Land Use Districts

- Industrial Districts
- Commercial Districts
- Freeway/Highway Corridor Districts
- Institutional/Public Districts
- Community Athletic Complexes

Secondary Land Use Districts

- High Density Residential Districts
- Medium Density Residential Districts
- Special Use Districts (i.e., historic or downtown districts)
- Environmentally Sensitive Areas (i.e., shore land or scenic river)
- S.F. Residential Districts

IV. Performance Standards

Comment: The establishment of performance standards to enhance the visual and aesthetic appearance of PCS antennas and towers is perhaps the area where local ordinances can be most improved. Performance standards can be used to reduce the number of new towers by requiring co-location or by establishing incentives to use existing buildings and facilities (i.e., permitted use vs. conditional use). Below are some examples of performance standards found in other cities' ordinances.

It should be emphasized that not all of the provisions listed below need to be incorporated into a city's ordinance to adequately address the use of wireless telecommunication facilities. The need to include such provisions will largely depend on a city's individual circumstances such as location potential for such facilities, form and content of other applicable ordinances, the desire to regulate with strict control (or conversely less control), etc.

Examples:

Co-location Requirements - All commercial wireless telecommunication towers erected, constructed, or located within the City shall comply with the following requirements:

- 1) A proposal for a new commercial wireless telecommunication service tower shall not be approved

unless the City Council finds that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within a one-mile search radius (one half mile search radius for towers under 120 feet in height, one quarter mile search radius for towers under 80 feet in height) of the proposed tower due to one or more of the following reasons:

- a) The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
 - b) The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.
 - c) Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.
 - d) Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.
- 2) Any proposed commercial wireless telecommunication service tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the tower is over 100 feet in height or for at least one additional user if the tower is over 60 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying height.
(Bloomington, MN)

Since the number of opportunities to construct a free-standing tower is limited by this ordinance, the applicant should demonstrate to the satisfaction of the city council that opportunities will be made available for co-locating other antenna on the structure. (Minnetonka, MN)

V. Area Wide Analysis/Proof of Need

The applicant shall demonstrate by providing a coverage/interference analysis and capacity analyses that the location of the antenna as proposed is necessary to meet the frequency reuse and spacing needs of the wireless telecommunication facilities and to provide adequate coverage and capacity to areas which cannot be adequately served by locating the antennas in a less restrictive district (modified from St. Paul, MN)

VI. Proof of Non-Interference

Each application for construction of a wireless telecommunication facility shall include either a preliminary or a certified statement that the construction of the tower, including reception and transmission functions, will not interfere with the radio, television, etc., service enjoyed by adjacent residential and nonresidential properties. In the event only a preliminary statement is submitted with the application, a final certified statement of non-interference will be provided and approved by the city prior to issuance of a building permit. The statement shall be prepared by an engineer licensed to practice in the State of Florida or other professional accepted by the Town. (modified from Jupiter, FL)

VII. Setbacks

Comment: Setbacks are generally regulated by base zoning district. Cities often require 1) setback based on an engineered fall zone analysis, 2) setback equal to height of tower, or 3) with greater setback adjacent to sensitive uses (i.e., residential, schools, churches, parks, etc.)

Example:

Where adjacent parcels are zoned or guided for commercial or industrial uses, setbacks equivalent to those established for the principal structure shall be provided. This standard shall also apply when adjacent to residentially zoned or guided land, that, due to topography, presence of wetlands or similar limitations, the land will not be actively developed for residential use. Setbacks equal to the height of the tower shall be established on sites that are adjacent to parcels developed or able to be developed for residential use. (Minnetonka)

VIII. Lighting:

Information from the APA publication suggests that city ordinances commonly require that lighting meet FAA or FCC requirements and

that lighting not result in glare on adjacent property (most notably in residential sites. Some cities allow "basic security lighting only". Some cities also specify red lights at night and white strobe lighting during the day. Other cities restrict lighting, requiring it to be shielded during the day or because of a scenic overlay district. Other restrictions include restricting height of lighting to 15-20 feet and no flashing lights.

Other options include not allowing illumination by artificial means and no strobe light display unless specifically required by the FAA or other federal or state authority for that particular tower site. When the design of the tower incorporates light fixtures used to illuminate ball fields, parking lots, etc. fixtures may be attached to the tower in an approved tower design. Or no artificial lighting is allowed unless required by law or by a governmental agency to protect public health and safety. Or artificial tower lighting is limited to mandatory safety lighting required by other regulatory agencies with jurisdiction over communications towers. Or security lighting may be allowed around the base of the tower if it does not adversely affect adjacent property owners. Towers shall not be artificially lighted unless required by the Federal Aviation Administration (Minnetonka, MN)

IX: Structural, Design, Height, Screening, Access, and Building Requirements:

Options include requiring the antenna and towers to blend with the surrounding environment, including locating antennas on the roof of an existing building or mounted on building walls or on the sides of water towers. With new towers, especially in residential districts, requirements can mandate they be camouflaged as church steeples or bell towers or to replace existing light standards. Regulating the type and color of towers can also minimize visual impact. (Although monopoles are less intrusive, metal frame towers are better suited to co-location.)

The Bloomington ordinance provides that commercial wireless telecommunication service towers must be a monopole design unless an alternative design would blend better with the surrounding environment.

Heights are generally regulated by base zoning district. Typically ordinances allow 50-100% increase over height allowed in base zoning district and allow greater height by conditional use permit or variance.

Antennas six to 20 feet in height, located on existing buildings are typically permitted under most ordinances. Greater heights are often allowed.

Screening includes security fencing and specifying camouflage as well as emphasis on the attractiveness of the material and affect produced. Most commonly, ordinances submitted to the APA require landscaping around the base of the structure, with the height and depth for vegetation landscaping and screening in many ordinances while others required landscaping only for residential districts. Other options include requirements for standards to be determined by a local zoning board or design review board; requirement for a percentage of total site to be landscaped or screened; tree-planting requirements (such as one 6' tree for every 40' of frontage or "street trees required:). Specific non-vegetative screening commonly includes some form of screening around the base with specific descriptions that include brick masonry walls, chain link fences, solid wood fences, opaque barriers and berms. Some require landscaping or screening height standards of 4-24 feet. Finally, other ordinances require that the landscaping/screening be done in a manner that is compatible with the surrounding character, buildings or landscape

Structure requirements include compliance with Electronics Industry Association (EIA standards and approval by a licensed structural engineer approved or hired by the city. Some of the items I have noted under design requirements probably are more appropriate to this category. With respect to safety considerations, the most conservative setback requirement specified 100 percent of the tower height, plus additional distance of 10-20 feet from the nearest property line or street to protect adjacent property from damage. The fact that some towers are designed to collapse within themselves could also be cited.

Lot requirements could be added here. Although most cities do not include such requirements in their ordinances, those that do, provide for lot size based on the minimum allowed for whatever zoning district the tower is to be sited in. Lot requirements most often cited are given in square footage or acreage and range from 5,000 square feet to 2 acres. A common method for determining lot size is to make it a function of 1) tower height, with the toppling factor being the primary justification; and 2) the concern over proximity of adjacent uses to an EMF source. Some cities provide for separate accessory structure setbacks from both the property line and tower itself.

Accessory buildings and equipment are treated in a wide variety of ways. Some ordinances require that zoning district requirements apply to accessory structures; others did not. Others require only that the structures meet the building code. Others require that in residential districts, structures be designed to fit with the basic residential house design in the area. Others require design review board approval, while others have separate accessory structure setbacks from the property line and tower; others require the structures to have their own landscaping or screening. Where the

tower is an accessory to a principal use, some cities require the related buildings to have the same building design or materials as the principal use.

Example:

Free-standing transmission towers and other antenna devices over 60' in height.

1. Maximum height is limited to 150' above the ground upon which the antenna is placed. The city council may allow towers up to 200' high if the applicant can demonstrate that based upon the topography of the site and surrounding area, siting of the antenna, antenna design, surrounding tree cover and structures and/or through the use of screening, that off-site views of the tower will be minimized.
2. The use of guyed towers is prohibited. Towers must be self-supporting without the use of wires, cables, beams or other means. The design should utilize an open framework or monopole configuration. Permanent platforms or structures exclusive of antennas that serve to increase off-site visibility are prohibited;
3. The base of the tower shall occupy no more than 500 square feet and the top of the tower shall be no larger than the base;
4. Minimum spacing between tower locations is 1/4 mile;
5. Tower locations should provide the maximum amount of screening possible for off-site views of the facility;
6. Existing on-site vegetation shall be preserved to the maximum extent practicable;
7. The installation shall be designed to be compatible with the underlying site plan. The base of the tower and any accessory structures shall be landscaped. Accessory structures will be designed to be architecturally compatible with principal structures on the sit;
8. The tower shall be painted light blue or other color that is demonstrated to minimize visibility. No advertising or identification visible off-site shall be placed on the tower or antennas;
9. Antennas placed upon the tower shall be subject to state and federal regulations pertaining to non-ionizing radiation and other health hazards related to such facilities. If new, more restrictive standards are adopted the antennas shall be made

to comply or continued operations may be restricted by the city council. The cost of verification of compliance shall be borne by the owner and operator of the tower; and

10. Towers shall be provided with security fencing to prevent unauthorized entry. (Minnetonka, MN)

XI. Obsolete or Unused Towers

Example:

All obsolete and unused towers and accompanying accessory facilities shall be removed by the property owner within 12 months of cessation of use (See also the more elaborate language in the Bloomington ordinance enclosed.)

XII. Effect of Ordinance on Existing Towers and Antennas

Example:

Antennas and towers in residential districts and in existence as of March 15, 1973 which do not conform to or comply with this Section are subject to the following provisions:

- 1) Towers may continue in use for the purpose now used and as now existing but may not be replaced or structurally altered without complying in all respects with this Section.
- 2) If such towers are hereafter damaged or destroyed due to any reason or cause whatsoever, the tower may be repaired and restored to its former use, location, and physical dimensions upon obtaining a building permit therefore, but without otherwise complying with this Section, provided, however, that if the cost of repairing the tower to the former use, physical dimensions, and location would be ten percent or more of the cost of new tower of like kind and quality, then the tower may not be repaired or restored except in full compliance with this Section. (Bloomington, MN)

City of Bloomington, Minnesota
Selected Ordinance Provisions Pertaining to Towers

Revisions Approved 7/1/96

CHAPTER 19

ZONING

ARTICLE V. PERFORMANCE STANDARDS

SEC. 19.63.05. TOWERS

(a) **Purpose.** In order to accommodate the communication needs of residents and business while protecting the public health, safety, and general welfare of the community, the Council finds that these regulations are necessary in order to:

- (1) facilitate the provision of wireless telecommunication services to the residents and businesses of the City;
- (2) minimize adverse visual effects of towers through careful design and siting standards;
- (3) avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements; and,
- (4) maximize the use of existing and approved towers and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the community.

(b) **Towers in Residential Zoning Districts.** Towers shall be allowed only in the following residentially zoned areas:

- (1) Towers supporting amateur radio antennas and conforming to all applicable provisions of this Code shall be allowed only in the rear yard of residentially zoned parcels.
- (2) Towers supporting commercial antennas and conforming to all applicable provisions of this Code shall be allowed only in the following residentially zoned locations:
 - (a) Church sites, when camouflaged as steeples or bell towers;
 - (b) Park sites, when compatible with the nature of the park; and,
 - (c) Government, school, utility, and institutional sites.

(c) **Co-Location Requirements.** All commercial wireless telecommunication towers erected, constructed, or located within the City shall comply with the following requirements:

- (1) A proposal for a new commercial wireless telecommunication service tower shall not be approved unless the City Council finds that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within a one mile search radius (one half mile search radius for towers under 120 feet in height, one quarter

mile search radius for towers under 80 feet in height) of the proposed tower due to one or more of the following reasons:

(a) The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

(b) The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.

(c) Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.

(d) Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.

(2) Any proposed commercial wireless telecommunication service tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the tower is over 100 feet in height or for at least one additional user if the tower is over 60 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.

(d) **Tower Construction Requirements.** All towers erected, constructed, or located within the City, and all wiring therefor, shall comply with the requirements set forth of Section 15.14 of this Code.

(e) **Tower and Antenna Design Requirements.** Proposed or modified towers and antennas shall meet the following design requirements.

(1) Towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration.

(2) Commercial wireless telecommunication service towers shall be of a monopole design unless the City Council determines that an alternative design would better blend in to the surrounding environment.

(f) **Tower Setbacks.** Towers shall conform with each of the following minimum setback requirements:

(1) Towers shall meet the setbacks of the underlying zoning district with the exception of industrial zoning districts, where towers may encroach into the rear setback area, provided that the rear property line abuts another industrially zoned property and the tower does not encroach upon any easements.

(2) Towers shall be set back from the planned public rights of way as shown on the most recently adopted Master Street Plan of the City by a minimum distance equal to one half of the height of the tower including all antennas and attachments.

(3) Towers shall not be located between a principal structure and a public street, with the following exceptions:

(a) In industrial zoning districts, towers may be placed within a side yard abutting an internal industrial street.

(b) On sites adjacent to public streets on all sides, towers may be placed within a side yard abutting a local street.

(4) A tower's setback may be reduced or its location in relation to a public street varied, at the sole discretion of the City Council, to allow the integration of a tower into an existing or proposed structure such as a church steeple, light standard, power line support device, or similar structure.

(5) Towers erected on any protected residential parcel as defined in Section 19.47 of this Code are also subject to the setback provisions of Section 15.14 (d) (8) of this Code.

(g) **Tower Height.** All proposed towers shall meet the height restrictions set forth in Section 19.47 of this chapter.

(h) **Tower Lighting.** Towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower.

(i) **Signs and Advertising.** The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

(j) **Accessory Utility Buildings.** All utility buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the underlying zoning district. Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

(k) **Abandoned or Unused Towers or Portions of Towers.** Abandoned or unused towers or portions of towers shall be removed as follows:

(1) All abandoned or unused towers and associated facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the Planning Manager. A copy of the relevant portions of a signed lease which requires the applicant to remove the tower and associated facilities upon cessation of operations at the site shall be submitted at the time of application. In the event that a tower is not removed within 12 months of the cessation of operations at a site, the tower and associated facilities may be removed by the City and the costs of removal assessed against the property.

(2) Unused portions of towers above a manufactured connection shall be removed within six months of the time of antenna relocation. The replacement of portions of a tower previously removed requires the issuance of a new conditional use permit.

(l) **Antennas Mounted on Roofs, Walls, and Existing Towers.** The placement of wireless telecommunication antennas on roofs, walls, and existing towers may be approved by the Planning Manager, provided the antennas meet the requirements of this Code, after submittal of 1) a final site and building plan as specified by Section 19.40.12 of this Code, and 2) a report prepared by a qualified and licensed professional engineer indicating the existing structure or tower's suitability to accept the antenna, and the proposed method of affixing the antenna to the structure. Complete details of all fixtures and couplings, and the precise point of attachment shall be indicated.

(m) **Interference with Public Safety Telecommunications.** No new or existing telecommunications service shall interfere with public safety telecommunications. All applications for new service shall be accompanied by an intermodulation study which provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems. Before the introduction of new service or changes in existing service, telecommunication providers shall notify the City at least ten calendar days in advance of such changes and allow the City to monitor interference levels during the testing process.

(n) **Additional Submittal Requirements.** In addition to the information required elsewhere in this Code, development applications for towers shall include the following supplemental information:

- (1) A report from a qualified and licensed professional engineer which
 - A) describes the tower height and design including a cross section and elevation,
 - B) documents the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas;
 - C) describes the tower's capacity, including the number and type of antennas that it can accommodate;
 - D) documents what steps the applicant will take to avoid interference with established public safety telecommunications;
 - E) includes an engineer's stamp and registration number; and,
 - F) includes other information necessary to evaluate the request.
- (2) For all commercial wireless telecommunication service towers, a letter of intent committing the tower owner and his or her successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.
- (3) Before the issuance of a building permit, the following supplemental information shall be submitted:
 - A) Proof that the proposed tower complies with regulations administered by Federal Aviation Administration; and,
 - B) a report from a qualified and licensed professional engineer which demonstrates the tower's compliance with the aforementioned structural and electrical standards.

(o) **Violations.** Any person who shall violate any of the provisions of this Section shall be guilty of a misdemeanor.

ARTICLE I. GENERAL PROVISIONS

Division B. Definitions

SEC. 19.03. DEFINITIONS.

The following words and terms when used in this Chapter shall have the following meanings unless the context clearly states otherwise:

Antenna - Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including but not limited to directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whip antennas.

Commercial Wireless Telecommunication Services - Licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

Public Utility - Persons, corporations, or governments supplying gas, electric, transportation, water, sewer, or land line telephone service to the general public. For the purpose of this ordinance, commercial wireless telecommunication service facilities shall not be considered public utility uses, and are defined separately.

Tower - Any ground or roof mounted pole, spire, structure, or combination thereof taller than 15 feet, including supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an antenna, meteorological device, or similar apparatus above grade.

Tower, Multi-User - A tower to which is attached the antennas of more than one commercial wireless telecommunication service provider or governmental entity.

Tower, Single-User - A tower to which is attached only the antennas of a single user, although the tower may be designed to accommodate the antennas of multiple users as required in this Code.

ARTICLE IV. DISTRICT REGULATIONS

SEC. 19.47. HEIGHT.

(a) **Purpose** - The purpose of Section 19.47 is to regulate the height of structures in order to maintain the character and scale of the predominant single-family residential development in the City of Bloomington.

(b) **Definitions** -

(1) **Protected residential property** - any property within the City that meets all of the following requirements:

(A) The property is zoned R-1, R-1A, or RS-1 and the property may or may not also have a Planned Development (PD) Overlay classification;

(B) The property is designated on the Comprehensive Plan as Low-Density Residential, Medium-Density Residential, or High-Density Residential; and

(C) The property is used or subdivided for use as residential.

(2) Structure height -

(A) Buildings - the height of buildings shall be determined using 2 methods and both methods must comply with the restrictions of Section 19.47(c) of the City Code.

(i) the number of stories shall be determined by counting the total number of above-grade, habitable floors in the building and shall not include walk-out basements, attics, or underground parking;

(ii) the height of buildings shall be determined by measuring the vertical distance from the lowest exterior grade of the building to the ceiling of the highest habitable story of the building. Habitable stories with sloped ceilings shall be measured to the base of the slope.

(B) Parking structures - the height of parking structures shall be determined by measuring the vertical distance from the lowest exterior grade of the parking structure to the highest point of the permanent structure.

(C) Towers - the height of towers shall be determined by measuring the vertical distance from the tower's point of contact with the ground or rooftop to the highest point of the tower, including all antennas or other attachments. When towers are mounted upon other structures, the combined height of the structure and tower must meet the height restrictions of Section 19.47.

(D) Other structures - the height of all other structures shall be determined by measuring the vertical distance from the lowest exterior grade of the structure to the highest point of any part of the structure.

(E) The final determination of height shall be made by the Issuing Authority in accordance with the guidelines of Section 19.47(b)(2)(A), (B), and (C) of the City Code.

(c) Height Limitations

(1) Buildings and Structures Other Than Towers.

(a) In all single-family residential zoning districts (R-1, R-1A, RS-1) the maximum height of any building shall be 2 stories and the maximum height of any structure, including buildings, shall be 30 feet;

(b) In all other zoning districts, the maximum height of any building or structure, excluding towers, shall be as follows;

Distance of Building or Structure from the Property Lines of any Protected Residential Property				
	0-30 feet	31-300 feet	301-600 feet	over 600 feet
Maximum Height:	2 stories/30 ft.	3 stories/40 ft.	80 ft.	no limit

(2) Towers.

(a) In all protected residential property the maximum height of any tower, including all antennas and other attachments, shall be 30 feet;

(b) In all residential zoning districts other than protected residential property, the maximum height of any tower, including all antennas and other attachments, shall not exceed one foot for each four feet the tower is setback from protected residential property up to a maximum height of 150 feet.

(c) In all non-residential zoning districts, the maximum height of any tower, including all antennas and other attachments, shall not exceed one foot for each two feet the tower is setback from protected residential property up to a maximum height of 150 feet.

(d) Applicability -

(1) In all zoning districts, the maximum height of any structure, building, or portion thereof, other than towers, 600 feet or greater from any protected residential property shall not be governed by Section 19.47 of this Code.

(2) **Exceptions -** The requirements of section 19.47 of this Code shall apply to all structures and developments otherwise permitted under this Code except:

(A) planned developments, when approved as a part of a preliminary and final development plan pursuant to Section 19.38.01 of this Code.

(B) public utility structures, including but not limited to water towers, antennas, lights and signals, power and telephone poles, and poles supporting emergency warning devices.

(C) church sanctuaries, steeples and bell towers.

(D) multi-user towers may exceed the height limitations of Section 19.47 by up to 20 feet.

(E) in accordance with the Federal Communications Commission's preemptive ruling PRB1, towers erected for the primary purpose of supporting amateur radio antennas may exceed 30 feet in height provided that a determination is made by the Planning Manager that the proposed tower height is technically necessary to successfully engage in amateur radio communications.

(e) **Noncompliance -** Noncompliance of characteristics of structures and site development created by the application of Section 19.47 of this Code shall not in any manner limit the legal use of the property, nor in any manner limit the repair, maintenance, or reconstruction of a noncomplying characteristic or feature; however, in no instance shall the degree of noncompliance be increased except as otherwise permitted by this Code.

ARTICLE III. DISTRICT USES

SEC. 19.27. SINGLE FAMILY RESIDENTIAL (R-1A, R-1) DISTRICTS.

(c) Permitted accessory uses -

(12) Towers supporting amateur radio antennas. For related provisions see Sections 15.14, 19.47, and 19.63.05 of this Code.

(d) Conditional uses -

(38) Towers which meet the locational requirements of Section 19.63.05, (b). When reviewing an application for a conditional use permit to erect a tower, it is not required that the City Council make the finding under Section 19.22, subparagraph (1) (E), of this Code. For related provisions see Sections 15.14, 19.47, and 19.63.05 of this Code.

SEC. 19.27.01. LARGE LOT SINGLE FAMILY RESIDENTIAL DISTRICT RS-1.

(b) Uses

(2) Permitted Accessory Uses

I. Towers supporting amateur radio antennas. For related provisions see Sections 15.14, 19.47, and 19.63.05 of this Code.

(3) Conditional Uses -

P. Towers which meet the locational requirements of Section 19.63.05, (b). When reviewing an application for a conditional use permit to erect a tower, it is not required that the City Council make the finding under Section 19.22, subparagraph (1) (E), of this Code. For related provisions see Sections 15.14, 19.47, and 19.63.05 of this Code.

SEC. 19.28.01. MULTIPLE-FAMILY RESIDENTIAL (RM-12) DISTRICTS.

(d) Conditional uses -

(8) Towers which meet the locational requirements of Section 19.63.05, (b). When reviewing an application for a conditional use permit to erect a tower, it is not required that the City Council make the finding under Section 19.22, subparagraph (1) (E), of this Code. For related provisions see Sections 15.14, 19.47, and 19.63.05 of this Code.

SEC. 19.28.02. MULTIPLE-FAMILY RESIDENTIAL (RM-24) DISTRICTS.

(d) Conditional uses -

(7) Towers which meet the locational requirements of Section 19.63.05, (b). When reviewing an application for a conditional use permit to erect a tower, it is not required that the City Council make the finding under Section 19.22, subparagraph (1) (E), of this Code. For related provisions see Sections 15.14, 19.47, and 19.63.05 of this Code.

SEC. 19.28.03. MULTIPLE-FAMILY RESIDENTIAL (RM-50) DISTRICTS.

(d) Conditional uses -

(6) Towers which meet the locational requirements of Section 19.63.05, (b). When reviewing an application for a conditional use permit to erect a tower, it is not required that the City Council make the finding under Section 19.22, subparagraph (1) (E), of this Code. For related provisions see Sections 15.14, 19.47, and 19.63.05 of this Code.

SEC. 19.30. LIMITED BUSINESS (B-1) DISTRICTS.

(d) Conditional uses -

(13) Towers. For related provisions see Sections 15.14, 19.47, and 19.63.05 of this Code.

SEC. 19.31. RETAIL BUSINESS (B-2) DISTRICTS.

(d) Conditional uses -

(30) Towers. For related provisions see Sections 15.14, 19.47, and 19.63.05 of this Code.

SEC. 19.31.01. REGIONAL COMMERCIAL (CR-1) DISTRICTS.

(d) Conditional uses -

(6) Towers. For related provisions see Sections 15.14, 19.47, and 19.63.05 of this Code.

SEC. 19.32. GENERAL BUSINESS (B-3) DISTRICTS.

(d) Conditional uses -

(8) Towers. For related provisions see Sections 15.14, 19.47, and 19.63.05 of this Code.

SEC. 19.33. INDUSTRIAL (I-1, I-2, AND I-3) DISTRICTS.

(d) Conditional Uses -

(28) Towers. For related provisions see Sections 15.14, 19.47, and 19.63.05 of this Code.

SEC. 19.33.01. INDUSTRIAL PARK (IP) DISTRICT.

(d) Conditional Uses -

(8) Towers. For related provisions see Sections 15.14, 19.47, and 19.63.05 of this Code.

SEC. 19.34. FREEWAY DEVELOPMENT (FD-1 AND FD-2) DISTRICTS.

(d) Conditional uses -

(25) Towers. For related provisions see Sections 15.14, 19.47, and 19.63.05 of this Code.

SEC. 19.35. INSTITUTIONAL (IN-1) DISTRICTS.

(d) Conditional uses -

(9) Towers. For related provisions see Sections 15.14, 19.47, and 19.63.05 of this Code.

SEC. 19.37. CENTRAL BUSINESS (CB) DISTRICT.

(d) Conditional uses -

(14) Towers For related provisions see Sections 15.14, 19.47, and 19.63.05 of this Code.

SEC. 19.40.06. MIXED USE DISTRICT CX-2.

(d) Conditional uses -

(20) Towers. For related provisions see Sections 15.14, 19.47, and 19.63.05 of this Code.

SEC. 19.40.07. COMMERCIAL SERVICE DISTRICTS CS-0.5 AND CS-1.

(d) Conditional uses -

(16) Towers. For related provisions see Sections 15.14, 19.47, and 19.63.05 of this Code.

SEC. 19.40.07.01. HIGH INTENSITY MIXED USE DISTRICT HX-2.

(c) Accessory Uses -

(5) Towers. For related provisions see Sections 15.14, 19.47, and 19.63.05 of this Code.

SEC. 19.40.08. COMMERCIAL OFFICE DISTRICTS CS-0.5 AND CO-1.

(d) Conditional uses -

(13) Towers. For related provisions see Sections 15.14, 19.47, and 19.63.05 of this Code.

SEC. 19.40.08.01 COMMERCIAL-OFFICE/MIXED USE DISTRICT CO-2.

(d) Conditional uses -

(16) Towers. For related provisions see Sections 15.14, 19.47, and 19.63.05 of this Code.

SEC. 19.40.09. RESIDENTIAL OFFICE DISTRICT RO-24 AND RO-50.

(d) Conditional uses -

(6) Towers. For related provisions see Sections 15.14, 19.47, and 19.63.05 of this Code.

CHAPTER 15

BUILDINGS AND STRUCTURES

ARTICLE I. BUILDING CODE

SEC. 15.14. CONSTRUCTION AND MAINTENANCE OF ANTENNAE AND SUPPORTING TOWERS.

(a) Definitions. The following words and terms, when used in this Section, shall have the following meanings unless the context clearly indicates otherwise:

Antenna - Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including but not limited to directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whip antennas.

Tower - Any ground or roof mounted pole, spire, structure, or combination thereof taller than 15 feet, including supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an antenna, meteorological device, or similar apparatus above grade.

(b) Permits.

(1) It shall be unlawful for any person, firm, or corporation to erect, construct in place, place or re-erect, replace, or repair any tower without first making application to the Building and Inspection Division and securing a permit therefor as hereinafter provided.

(2) The applicant shall provide at the time of application sufficient information to indicate that construction, installation, and maintenance of the antenna and tower will not create a safety hazard or damage to the property of other persons.

(3) Permits are not required for:

(A) Adjustment or replacement of the elements of an antenna array affixed to a tower or antenna, provided that replacement does not reduce the safety factor.

(B) Antennas and/or towers erected temporarily for test purposes, for emergency communication, or for broadcast remote pick-up operations, provided that all requirements of Subsection (d) are met, with the exception of (d)(3)(C) which is waived. Temporary antennas shall be removed within 72 hours following installation.

(c) **Fee.** The fee to be paid is that prescribed under Building Permit Fees, Section 15.183.

(d) **Construction Requirements.** All antennas and towers erected, constructed, or within the City, and all wiring therefor, shall comply with the following requirements:

(1) All applicable provisions of this Code.

(2) Towers shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards and wind loading requirements of the Uniform Building Code and the Electronics Industry Association.

(3) With the exception of necessary electric and telephone service and connection lines approved by the Issuing Authority, no part of any antenna or tower nor any lines, cable, equipment or wires or braces in connection with either shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk, or property line.

(4) Towers and associated antennas shall be designed to conform with accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.

(5) All signal and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eight feet above the ground at all points, unless buried underground.

(6) Every tower affixed to the ground shall be protected to discourage climbing of the tower by unauthorized persons.

(7) All towers shall be constructed to conform with the requirements of the Occupational Safety and Health Administration.

(8) Antennas and towers shall not be erected in any protected residential parcel as defined in Section 19.47 of this Code in violation of the following restrictions:

(A) Notwithstanding the provisions of Section 19.47 of the Zoning Code, the required setback for antenna and tower not rigidly attached to a building, shall be equal to the height of the antenna and tower. Those antennas and towers rigidly attached to a building, and whose base is on the ground, may exceed this required setback by the amount equal to the distance from the point of attachment to the ground.

(B) No tower shall be in excess of a height equal to the distance from the base of the antenna and tower to the nearest overhead electrical power line which serves more than one dwelling or place of business, less five feet.

(C) Metal towers shall be constructed of, or treated with, corrosive resistant material. Wood poles shall be impregnated with rot resistant substances.

(9) All towers erected within the city must conform to the applicable performance standards in Section 19.63.05 of this Code.

(e) **Existing Antennas and Towers.** Antennas and towers in residential districts and in existence as of March 15, 1973 which do not conform to or comply with this Section are subject to the following provisions:

(1) Towers may continue in use for the purpose now used and as now existing but may not be replaced or structurally altered without complying in all respects with this Section.

(2) If such towers are hereafter damaged or destroyed due to any reason or cause whatsoever, the tower may be repaired and restored to its former use, location, and physical dimensions upon obtaining a building permit therefor, but without otherwise complying with this Section, provided, however, that if the cost of repairing the tower to the former use, physical dimensions, and location would be ten percent or more of the cost of a new tower of like kind and quality, then the tower may not be repaired or restored except in full compliance with this Section.

(f) **Lights and Other Attachments.** No antenna or tower in any protected residential parcel as defined in Section 19.47 of this Code shall have affixed or attached to it in any way except during time of repair or installation any lights, reflectors, flashers, or other illuminating device, except as required by the Federal Aviation Agency or the Federal Communications Commission, nor shall any tower have constructed thereon, or attached thereto, in any way, any platform, catwalk, crow's nest, or like structure, except during periods of construction or repair.

(g) **Number of Towers and Antennas.** Only one tower shall exist at any one time on any one protected residential parcel as defined in Section 19.47 of this Code.

(h) **Inspections.** All towers may be inspected at least once each year by an official of the Building and Inspection Division to determine compliance with original construction standards. Deviation from original construction for which a permit is obtained constitutes a violation of this Section.

Notice of violations will be sent by registered mail to the owner and he will have 30 days from the date the notification is issued to make repairs. The owner will notify the Building and Inspection Division that the repairs have been made, and as soon as possible thereafter, another inspection will be made and the owner notified of the results.

(i) **Violations.** Any person who shall violate any of the provisions of this Section shall be guilty of a misdemeanor.

(j) **Interpretation.** It is not the intention of this Section to interfere with, abrogate, or annul any covenant or other agreement between parties, provided, however, where this Section imposes a greater restriction upon the use or premises for antennas or towers than are imposed or required by other ordinances, rules, regulations, or permits, or by covenants or agreements, the provisions of this Section shall govern.

Draft

**CITY OF ROSEMOUNT
STATE OF MINNESOTA**

ORDINANCE NO. B-

**AN ORDINANCE AMENDING THE CITY ZONING CODE ORDINANCE B
REGULATING COMMERCIAL USE ANTENNA TOWERS**

THE CITY COUNCIL OF THE CITY OF ROSEMOUNT ORDAINS AS FOLLOWS:

Section I. Rosemount City Zoning Ordinance B Section 3.2 is amended by adding the following definitions:

COMMERCIAL USE ANTENNA: A device used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based structures directly or indirectly related to wireless personnel communication services and cellular services.

COMMERCIAL USE ANTENNA TOWER: Any pole, spire, or lattice structures, or combination thereof, to which an antenna is attached, or which is designed for an antenna to be attached, and all supporting materials.

LICENSED ENGINEER: An engineer that is licensed by the Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture and Interior Design.

Section II. Rosemount City Zoning Ordinance B Section 6.1 is amended by adding new paragraph 10 as follows:

Section 6.1 AG Agricultural District

10. Commercial Antennas or devices that transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based structures directly or indirectly related to wireless personal communication services, cellular services, and supporting structures or towers. This use may be permitted only in that part of the City east of Akron Avenue.

Section III. Rosemount City Zoning Ordinance B Section 11.4 is amended by adding the new paragraph F as follows:

Section 11.4 Commercial Antenna Uses

F. The City has received requests regarding the location of commercial use antenna towers within the City of Rosemount. The City Council wishes to have uniform standards set that will allow the establishment of these uses, yet protect the public health of the citizens and the aesthetics of the community.

1. Anyone wishing to establish a commercial use antenna tower in Rosemount needs to obtain an application. The application must be accompanied by a non-refundable application fee. The application fee shall be established by City Council annually. All technical data and all relevant information shall be submitted to the Planning Commission and City Council for its review.

2. Upon receiving approval by the City Council and obtaining the appropriate permits, the following standards for commercial use antenna towers shall be met:

a. A tower shall be designed and situated to be as visually unobtrusive as possible, shall be screened as appropriate, shall not be multi-colored, and shall contain no signage, including logos, except as may be required by any State and Federal regulations.

b. Shall be permitted in Agriculture (AG) zone east of Akron Avenue and not within two (2) miles of another commercial antenna tower.

c. No guy wires shall be used.

d. The setbacks of commercial use antenna towers shall equal the height of the tower. The height of the tower shall be a function of the setback. A commercial use antenna tower can not locate any closer than 500 feet from a residential structure.

e. The structural integrity of a commercial use antenna tower must be approved by a certified engineer.

f. When lighting is used, including when lighting is required by the FAA or other federal or state authority, it shall be oriented inward so as not to project onto surrounding residential property.

g. Non-climbable fencing shall enclose the area on which the commercial use antenna tower is located.

h. Accessory structures to enclose transmission equipment, power equipment, or any equipment located on the ground near the tower that is used in conjunction with the commercial antenna tower.

i. All information as specified in subsections 11.4.A.4. and 14.4 B of this ordinance.

3. Should the commercial use antenna tower owner engage in any activity that violates these standards or endangers the public health safety, and welfare, the City may require the abatement of said tower from its current site. The City will provide notice to the commercial use antenna tower owner of the violations, and provide an opportunity for the owner to address the City Council regarding the proposed action. The City may require immediate abatement in the case that there is an immediate public health threat.

4. All obsolete or unused towers and accompanying accessory facilities shall be removed within six (6) months of the cessation of operations unless a time extension is approved by the City Council. If a time extension is not approved, the tower may be deemed a nuisance pursuant to Minnesota Statute, Section 429. In the event a tower is determined to be a nuisance, the City of Rosemount may act to abate such nuisance and require the removal of the tower at the property owner's expense. The owner shall provide the City with a copy of the notice of the Federal Communication Commission's (FCC) intent to cease operations and shall be given six (6) months from the date of ceasing operations to remove the obsolete tower and all accessory structures. In the case of multiple operators sharing the use of a single tower, this provision shall not become effective until all users cease operations for a period six (6) months. The equipment on the ground is not to be removed until the tower structure has first been dismantled. After the facilities are removed, the site shall be restored to its original, or to an improved state.

Section IV. This ordinance will become effective the day after publication.

Adopted this _____ day of _____, 1996

Cathy Busho, Mayor

ATTEST:

Susan M. Walsh, City Clerk

Published this _____ day of _____, 1996 in the *Rosemount Town Pages*.

NOTE: Assof the third week in July, the City had decided to withdraw this first proposed revision in order to proceed to develop a more comprehensive revision of their zoning ordinance since the wireless telecommunications service provider withdrew a previous request for an amendment to the city zoning ordinance. A final copy of the city's revised zoning ordinance will be forthcoming when it is completed.

Planning Division Memorandum

To: Mayor, Council, and Manager

From: Glen Marksgard, AICP, Associate Planner *GM*

Date: April 9, 1996

Subject: Proposed 90 Day Tower Moratorium

Background

Until recently, wireless telephone service was provided in Bloomington by only two federally licensed providers, US West New Vector Group and ATT Wireless (who bought out Cellular One). In 1995, the Federal Communications Commission (FCC) widened the wireless telecommunications playing field by selling two additional licenses in new frequency ranges (netting \$7 billion dollars nationwide). For this area, those licenses were purchased by Sprint Spectrum and American Portable Telecomm (APT). Both Sprint and APT will provide the next generation digital wireless services commonly referred to as PCS (Personal Communication Services). The FCC may sell additional PCS licenses in the future. A third new wireless telecommunications provider is OneComm, who entered the mix by purchasing several of Motorola's Specialized Mobilized Radio (SMR) licenses and then obtaining FCC approval to attach their enhanced system (ESMR) to the land line telephone network.

The expansion of the wireless telecommunications industry along with its recent technological improvements will have many positive effects on Bloomington's residents, including lower rates, higher quality service, higher security, and the ability to transmit data and video signals from remote locations. Unfortunately, the positive aspects of this new technology will be accompanied by a proliferation of new communications towers. Each of the three new wireless telecommunication providers will need to set up its own antenna and tower infrastructure in the near future. The two existing providers will also require additional tower sites as their systems continue to evolve. Even more towers will be needed as the FCC auctions additional licenses to new providers. Local governments will need to work closely with the wireless telecommunications industry to provide high quality service while minimizing the negative impacts of numerous communication towers.

Federal Telecommunications Act

Another recent telecommunications development is the passage of the Federal Telecommunications Act. The Act originally included language that would override a municipality's zoning controls over telecommunications towers. This language was removed shortly before passage, however, and the Act now reads, "*Except as provided (herein), nothing in this act shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities.*" The Act does place three important limitations on local governments: 1) cities may not "unreasonably discriminate among providers of functionally equivalent services", 2) cities may not "prohibit or have the effect of prohibiting the provision of personal wireless services", and 3) cities may not regulate personal wireless services "on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the (FCC's) regulations concerning such emissions."

Existing Regulations

Over the last 60 days, the city staff has received numerous inquiries from wireless telecommunication providers regarding the location of antennas and towers on city owned and privately owned land. These inquiries along with the recent passage of the Federal Telecommunications Act have forced a re-evaluation of Bloomington's zoning restrictions on wireless telecommunications facilities. In the past, cellular towers in Bloomington have been considered "public utility uses" for the purposes of obtaining development approval. As a "public utility use", the towers are allowed as a permitted use in all zoning districts and are exempt from the height restrictions. Moreover, there are no design requirements or performance standards in place to ensure that the tower blends into its surroundings to the maximum extent possible. As a "public utility use" the existing regulations could, in theory, allow the placement of a 140 foot metal frame tower on a vacant residential lot.

Wireless telecommunications providers do not fit well into the classic "public utility" image. True public utilities have a monopoly on the provision of an essential service and are heavily regulated. Today, with five private providers competing for customers, wireless telecommunications is moving even farther away from what we think of as a "public utility". If, for development approval purposes, wireless telecommunication facilities were not considered "public utility uses", towers would be subject to a very different set of restrictions under Bloomington's current zoning ordinance. First of all, none of the zoning districts reference telecommunication towers as a permitted or conditional use. This fact leaves open to interpretation where towers would be allowed. Moreover, the towers would also be subject to the height limitations for structures. Under these height limitations, a tower over 80 feet in height (which most towers are) would have to be located at least 600 feet from the nearest "protected residential property". These height restrictions would preclude placement of towers in large areas of Bloomington and would leave the city open to the challenge that the regulations "have the effect of prohibiting the provision of personal wireless services" as specified in the Federal Telecommunications Act.

In summary, the regulation of towers under Bloomington's current zoning ordinance depends largely on whether or not they are classified as "public utility uses". When classified as "public utility uses", the existing regulations clearly do not provide Bloomington's residents with adequate protection against the negative impacts of telecommunication towers. When not classified as "public utility uses", the existing regulations become so restrictive that they may violate federal law. Either interpretation is very undesirable for the City of Bloomington.

Ordinance Revisions

Clearly the zoning regulations need to be revised. Ordinance revisions are necessary 1) to facilitate the provision of increased wireless telecommunication service, and 2) to provide adequate performance, design, structural, and location standards to protect the public safety and welfare. The revisions will include a clear definition of "public utilities" and will specify the zoning districts in which towers will be allowed. The revisions will also include reasonable height restrictions for towers near residential uses, incentives to locate antennas on existing towers or buildings, incentives for providers to share tower space in order to minimize the total number of towers, structural requirements, design requirements, setbacks, and other important elements.

Use of City Owned Land

Each of the providers have expressed interest in leasing space on city owned land for their wireless telecommunications facilities. While some city owned land would be inappropriate for such uses, other sites may provide suitable locations and supply a potential revenue stream. It is necessary that the city prepare and adopt a consistent statement of policy regarding the placement of such facilities on city owned land, especially in light of the Federal Telecommunications Act which stipulates that cities may not "discriminate among providers of functionally equivalent services". A formally adopted policy will ensure that requests from competing providers are handled on a consistent basis.

Moratorium

In summary, staff recommends a 90 day moratorium on the construction of towers for the following reasons:

- The existing zoning regulations do not adequately address the unique needs and impacts of wireless telecommunication towers and expose the city to potential legal challenges. Tower requests need to be deferred while appropriate revisions are made to the zoning ordinance.
- The League of Minnesota Cities has formed work groups of municipal officials who will be offering guidance to cities in the form of recommended zoning changes and model lease requirements. This guidance will be a valuable resource and should be available in the month of April.
- The moratorium will allow time for review and comment on proposed ordinance changes by all affected parties, including the providers, the public, and staff's telecommunications consultant. The moratorium will ensure that ordinance changes will not need to be rushed through and that all the issues can be completely examined.
- The moratorium will give the city a chance to adopt a comprehensive policy on the use of city owned land for wireless telecommunications facilities and ensure that requests are handled on a consistent basis.

By limiting the moratorium to 90 days, the city is recognizing the time constraints faced by the new providers in bringing their service on line. There are cities in the area that have adopted twelve month moratoriums. Moreover, the moratorium would not restrict the placement of wireless telecommunications antennas on existing buildings or towers. The city encourages such placement of antennas as a method for reducing the number of freestanding towers.

ORDINANCE NO. 96- 10

AN ORDINANCE ESTABLISHING A 90-DAY MORATORIUM WITHIN THE CITY ON THE CONSTRUCTION OF NEW TOWERS AND ON THE USE AND DEVELOPMENT OF PROPERTY FOR SUCH NEW TOWERS, THEREBY AMENDING CHAPTER 19 OF THE CITY CODE BY ADDING A NEW SECTION 19.23.03 FOR THAT PURPOSE

The City Council of the City of Bloomington hereby ordains:

Section 1. That Chapter 19 of the City Code is hereby amended to read as follows:

CHAPTER 19
ZONING

ARTICLE II. ADMINISTRATION AND PROCEDURE

SEC. 19.23.03 [RESERVED] TOWER MORATORIUM

(a) Preamble

Recent advances in wireless communications technology have resulted in a new generation of cellular communication services. These new services, called "Personal Communications Services" ("PCS"), will likely require numerous antenna locations throughout the community. These antennae may be located on buildings, water towers, and other similar structures, but will also frequently be located on towers constructed or enlarged for that purpose.

Two PCS providers have recently been licensed by the FCC, and additional providers are expected to be licensed in the near future. These entities are expected to pursue antenna sites within the City, and these efforts are expected to include requests to construct new or enlarged communications towers. There is concern that current City ordinances may not adequately address issues relating to these towers, such as the appropriate locations for these towers and the conditions under which they may be allowed within the City, including structural and construction requirements, co-location, setbacks, and height limitations.

There is a need to study these and other issues to determine what regulatory controls may need to be adopted to protect the public health, safety, and welfare. A City staff task force has been studying PCS and tower issues and has been directed to continue to conduct such studies, but additional time is required for this purpose before proposals for amendments to City zoning regulations can be prepared and considered by the City Council at a public hearing.

The Council finds, therefore, that a moratorium is required in order to protect the planning process and to prevent the construction or enlargement of towers and the use and development of lands within the City for such towers pending the completion of necessary studies and the consideration and implementation of new regulations on that subject. At the present time it is expected that the necessary study and implementation can be completed within a 90-day period.

(b) Moratorium Established: Scope: Definition of "Tower"

(1) In accordance with the findings set forth in the Preamble to this ordinance and pursuant to the authority of Minnesota Statutes 462.355 (subd.4), there is hereby established a moratorium on the construction, erection, placement, reconstruction, enlargement, or expansion of towers within the City and on the development and use of property for such purposes.

(2) During the period of the moratorium, applications for final site and building plan approval, building permits, and other permits and approvals related to such tower work shall not be accepted by the City, neither the Planning Commission nor the City Council shall consider or grant approval of any application required for such work, and no building permits for such work shall be issued.

(3) For the purposes of the moratorium, the term "tower" shall mean "any pole, spire, structure, or combination thereof, including supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an antenna, meteorological device, or similar apparatus above grade."

(c) Applicability

The moratorium shall be applicable to property throughout the City.

(d) Exceptions

The moratorium shall not apply to (1) the lawful use of existing towers or the lawful erection of antennae on such existing towers, (2) the repair and/or maintenance of any existing tower provided that such work does not enlarge or expand that tower, (3) work on a tower necessary to preserve health, safety, life, or property in the face of an emergency, and (4) tower work that has received all necessary permits and approvals from the City prior to the effective date of this ordinance.

(e) Penalties

Any person, corporation, or other entity that constructs, erects, places, reconstructs, enlarges, or expands a tower in violation of this Section shall be guilty of a misdemeanor and shall be subject to any additional legal or equitable remedies available to the City.

(f) Effective Date

This Section shall take effect upon its adoption and publication, shall be effective for 90 days from its effective date, and shall expire at that time unless further extended.

Passed and adopted this 15th day of April, 1996.

Coral A. Smith
Mayor

ATTEST:

Louise Lippman
Secretary to the Council

APPROVED:

David R. Bernstein
City Attorney

WAYZATA PLANNING COMMISSION
DRAFT MEETING MINUTES
JUNE 1, 2015

AGENDA ITEM 1. Call to Order, Roll Call and Approval of Minutes.

Vice Chair Iverson called the meeting to order at 7:00 p.m.

Present at roll call were Commissioners: Gonzalez, Ramy, Iverson, Gruber, Young, and Gnos. Absent and excused were: Commissioner Vanderheyden. Director of Planning and Building Gadow and City Attorney David Schelzel were also present.

Vice Chair Iverson asked for approval of the minutes from the May 4, 2015 meeting.

Commissioner Gruber requested the following changes: on page 3, line 44, change "suqare" to "square". On line 17, page 6, change "architecture" to "architect" and on page 9, line 1, is missing the name of the Commissioner who made the motion.

Commissioner Gonzalez stated she had emailed changes to Mr. Gadow.

City Attorney Schelzel stated he had sent grammatical changes to Mr. Gadow.

Commissioner Gruber made a motion, Seconded by Commissioner Gonzalez, to approve the May 4, 2015 meeting minutes as amended. The motion carried unanimously.

AGENDA ITEM 2. Regular Agenda Public Hearing Items:

a. 250 Bushaway Road – Zev and Kristi Oman

- i. Concurrent Preliminary and Final Plat for Three (3) Lot Subdivision**
- ii. Frontage Variance from Subdivision Ordinance**
- iii. Lot Area Variance from Subdivision Ordinance**

Mr. Gadow stated the property owners have submitted a Development Application requesting concurrent preliminary and final plat subdivision approval, a variance from the Subdivision Ordinance for public street frontage for proposed Lot 3, and a variance from the Subdivision Ordinance for lot area under 2-acres. He reviewed the Staff Report, certificate of survey and preliminary plat, the final plat, the grading and utility plan, and the significant tree inventory plan. He explained the Applicant does not have building elevations or plans available for the proposed three (3) lots at this time. He said that as a condition of any approval of this Application, the Planning Commission should consider requiring that the Applicant and/or future homeowner submit plans for review and approval by the Planning Commission and the City Council depicting appearance, scale, mass, construction materials, proportion and scale of roof line and functional plan of the buildings proposed to demonstrate similarity to the characteristics and quality of the existing homes in the neighborhood. The Fire Marshall had also reviewed the

1 application and Lots 1 and 3 would be more than 150-feet from a public road and would require
2 the fire access road be widened to 20-feet to within 150-feet of the Lot 3 building and a fire
3 hydrant be added.

4
5 Commissioner Gonzalez asked who owned the easement and had rights to this easement.

6
7 Mr. Gadow explained there were many property owners along this stretch that have various
8 rights and the City is not a party to this easement.

9
10 Mr. Peter Benincasa, Executive Real Estate, representing the Applicant, provided background on
11 the property and explained the Applicant would like to develop their property similar to the rest
12 of the neighborhood. He said the Applicant already has easement rights and the proposed lot
13 sizes meet the R1 District requirement, but the City made changes to the size requirements after
14 Mr. and Mrs. Oman purchased the property. The adverse feedback this Application has received
15 would be due to previous developments that had issues. The new development would be on the
16 first lot in the neighborhood so this would not impact traffic or provide heavy construction
17 equipment traffic throughout the neighborhood.

18
19 Commissioner Ramy asked if there would be a substantial amount of excavation to orient the
20 homes or provide back yards.

21
22 Mr. Benincasa stated there are several home designs that would fit into the property that would
23 not require substantial excavating.

24
25 Mr. Gadow stated the City would need more information when final plans are proposed in order
26 to understand the grading impacts.

27
28 Vice Chair Iverson asked Mr. Gadow if Lecy Brothers had requested variances for their
29 development.

30
31 Mr. Gadow explained Lecy Brothers had asked for variances for issues pertaining to the
32 roadway. The original PUD proposed by Lecy Brothers had been approved under the R1A
33 District standards, with an 80,000 square foot lot requirement. They had asked for variances
34 regarding the length of the cul-de-sac and the street width of less than 20-feet without curb and
35 gutter. Mr. Gadow said that the R1A Zoning District is more compatible with the Comp Plan's
36 Bushaway Conservation District.

37
38 Commissioner Ramy asked if any Wetland Conservation Districts had jurisdiction over the
39 wetland on Lot 3.

40
41 Mr. Gadow explained there would be no proposed impacts to wetlands with this Application as
42 submitted.

43
44 Commissioner Young asked for clarification on whether the requirements east of Bushaway
45 Road are different than the requirements on the west side of Bushaway Road.

46

1 Mr. Gadow stated the east side of Bushaway is part of the Bushaway Conservation District and
2 the lot size requirement for this district is 2-acres in order to recognize the larger lot estates. The
3 west side of Bushaway Road does have smaller lot sizes because that was the historical
4 development pattern at that time.

5
6 Vice Chair Iverson opened the public hearing at 7:24 p.m.
7

8 Mr. Roy Lecy, Lecy Brothers Homes and Remodeling, 15012 Highway 7, Minnetonka, stated he
9 owns one of the lots in the Enchanted Wood Development and was also the Developer for the six
10 (6) lot Enchanted Wood PUD Development. He stated at the time of the Enchanted Wood
11 Development they had tried to get approval for 1-acre lots but had been told only 2-acre lots
12 would be allowed in this area. They had also been required to increase the width of the existing
13 private roadway from 14-feet to 16-feet in some areas and 20-feet in other areas. He explained
14 the Applicant and two (2) other property owners had sued Lecy Brothers for over burdening the
15 easement. He would like to be sure that this Development is held to the same standards that the
16 Enchanted Wood Development had been held to. He asked where the construction vehicles
17 would turn around. As part of the Lecy Brothers development, the road had been newly
18 constructed from Hwy 101 to their development. He asked who would be responsible for
19 repairing the road damage during construction.
20

21 Commissioner Ramy asked how costs of maintenance of the road was divided among benefited
22 properties.
23

24 Mr. Lecy stated the maintenance was divided equally among the six (6) homes in the Enchanted
25 Wood Development, and they ask the Omans and one other homeowner to contribute to the snow
26 plowing. If there are homes added, then he would like to see a legal requirement or document
27 for these homeowners to pay for the maintenance and snow removal on this road.
28

29 Commissioner Gonzalez stated Lecy Brothers had been granted a variance to have a private
30 street in their development as long as it was widened to meet the requirements of the Fire
31 Marshal. She further noted that private streets are not usually allowed under the Subdivision
32 Ordinance.
33

34 Mr. Gadow stated the existing easement is a 20-foot easement and this does not allow for a full
35 build out of a 20-foot wide street. So, Mr. Lecy had been required to put in a secondary 20-foot
36 access road for the Fire Department. The Fire Marshal is recommending the Applicant work to
37 widen the easement to accommodate a 20-foot wide road.
38

39 Commissioner Gonzalez asked if the City had ever required homes to have sprinkler systems if it
40 is difficult for the Fire Department to access them.
41

42 Mr. Gadow stated the City might not be able to require this unless the home is large enough to
43 require a sprinkler system under the State Fire Code. If the roadway could not be widened, then
44 there are alternatives the Applicant could consider but these would need to be worked out with
45 the City Fire Marshal and potentially the State Fire Marshal.
46

1 Mr. Lecy stated the private street had been required. They had requested a public street that
2 came off of Holdrige and went into the Enchanted Wood Development. The City denied this
3 request due to the opposition from the Holdrige neighborhood. He explained the private road
4 had been widened to 16-feet at the recommendation of the Traffic Engineer.

5
6 Mr. Benincasa stated the Fire Marshal does not have a problem with the road width and the
7 Applicant could put in a fire hydrant. The proposed lots would be the first ones as you entered
8 the neighborhood. He explained Mr. Lecy's development should not be affected by the proposed
9 development.

10
11 There being no further comments, Vice Chair Iverson closed the public hearing at 7:40 p.m.

12
13 Commissioner Young stated the Applicant has commented that the Development would be
14 keeping with the character of the neighborhood. He asked if this would be referring to the lots
15 on the west side of Bushaway Road, which are smaller.

16
17 Mr. Benincasa stated this would be referencing the first home as you come into the
18 neighborhood, on the south or right.

19
20 Commissioner Ramy asked why the Applicant was departing from the previously approved two
21 (2) lot subdivision.

22
23 Mr. Benincasa explained the two (2) lot plan had been in 2009, prior to any development being
24 done. This would have conformed to what had been happening at that time.

25
26 Commissioner Gruber asked if any of the lots in the Enchanted Wood Development were non-
27 conforming.

28
29 Mr. Gadow stated the minimum lot size requirement for the R1A District is 80,000-square feet
30 and the Bushaway Conservation District minimum size requirement is 2-acres or about 86,000-
31 square feet. The 80,000-square foot requirement is more consistent with the Comprehensive
32 Plan guidance for this area. The Comprehensive Plan guides this property for 2-acres but the
33 corresponding Zoning is R1A.

34
35 Vice Chair Iverson asked if the Applicant would be held to the proposed lots and building pads if
36 approved.

37
38 Mr. Gadow explained the Applicant would be held to the lot configuration as shown in the final
39 plat if it were approved. This would be submitted to Hennepin County. The building pads could
40 be shifted within the plats but since there are no architectural renderings of the homes available
41 at this time, Staff would recommend a condition on any approval that any future
42 homeowner/buyer would have to have their building plans and pad layout approved by the
43 Planning Commission and City Council.

44
45 Vice Chair Iverson expressed concerns regarding the number of large trees that would be
46 removed with the proposed building pads and the potential for more if other plans are approved

1 in the future. She stated she would also like to know where the construction traffic would go and
2 how this traffic would not impact the trees. She stated she would like to see a tree preservation
3 plan for those trees that are located close to the proposed building pads. This plan would also
4 have to apply to the future owner of the property.

5
6 Commissioner Gruber asked if this would be considered a premature subdivision. She stated the
7 Commission should know what the criteria are and consider these as part of the Application.

8
9 Mr. Gadow stated there are a number of criteria under Section 805.17 of the Subdivision
10 Ordinance that should be reviewed in order to consider a subdivision premature. The burden is
11 on the Applicant to prove the subdivision is not premature.

12
13 Commissioner Gonzalez clarified the private road was on a private easement and this would not
14 involve the City unless there is a nuisance created for the City.

15
16 City Attorney Schelzel stated the City is not a party to the easement and if there are any issues
17 related to overburdening the easement, then the property owners need to work this out. He stated
18 he would have to look at the section of code on nuisances in order to know whether it would
19 apply in any way. He noted that the background information on the private access is important ,
20 however, because access is one of the criteria to be considered by the City under the Subdivision
21 Ordinance.

22
23 Vice Chair Iverson said would like to see a report that clearly lays out the grading impacts prior
24 to approving the subdivision.

25
26 City Attorney Schelzel stated that staff has suggested including a condition on any approval that
27 future homeowners provide building plans for review and approval to the Planning Commission
28 and City Council. The Planning Commission could add an additional condition to this that
29 when the plans are submitted they must include information on grading and building pads that
30 address Section 3.1.B of the Staff Report.

31
32 Commissioner Ramy stated the Applicant has not provided information showing hardship or
33 unique conditions of the property that would allow for a variance on the lot size.

34
35 Commissioner Young agreed with Commissioner Ramy in that the request for grading
36 information was premature because there are other things to consider prior to this. He stated that
37 when he evaluates this Application, this does not keep with the rhythm of the neighborhood, the
38 lots proposed are significantly smaller than what the Comprehensive Plan guides this property
39 for, the amount of tree loss is not clear and at a minimum is significant, and there is nothing
40 provided by the Applicant to show this is not a premature subdivision. He would like to see
41 these items resolved prior to looking at any grading concerns.

42
43 Commissioner Gonzalez stated page 9 of the Staff Report lays out the Variance Standards of the
44 Subdivision Ordinance. The Applicant would have to demonstrate an undue hardship and that
45 there are circumstances unique to the property that would deprive the Applicant of reasonable
46 use of the land. She said that this is not present in the Application. Granting a variance does not

1 correct inequities resulting from an extreme physical hardship such as topography. Any variance
 2 that is granted requires the Application comply with the Comprehensive Plan and this
 3 Application does not. The variance request for frontage is created by the Applicant and should
 4 not be approved. She would not justify granting a variance because the owner is looking to
 5 maximize their profit.

6
 7 Commissioner Gnos stated the Applicant's letter refers to a neighbor putting in a pool and
 8 removing the serene, quiet atmosphere. He noted that the proposed subdivision would do the
 9 same thing.

10
 11 Commissioner Gruber asked if the Applicant had to prove to the Planning Commission that this
 12 was not a premature subdivision, and whether this should be resolved prior to looking at the
 13 variance requests.

14
 15 Mr. Gadow stated that this would be one of the criteria to be considered by the Planning
 16 Commission.

17
 18 Commissioner Gruber made a motion, seconded by Commissioner Gonzalez, to direct Staff to
 19 prepare a draft Report and Recommendation, for consideration at the next Planning Commission
 20 meeting, recommending denial based on discussions of the Planning Commission, including the
 21 variance standards criteria for the Subdivision Ordinance, the preliminary and final plat criteria,
 22 and the premature subdivision standards. The motion carried unanimously.

23 24 25 **AGENDA ITEM 3. Other Items:**

26 27 **a. Review and adoption of Planning Commission Report and Recommendation on 532** 28 **Ferndale Rd W for Shoreland Conditional Use Permit and Variances**

29
 30 Mr. Gadow reviewed the Report and recommendation of Approval of Shoreland Conditional Use
 31 Permit, Front Yard Setback Variance, Impervious Surface Variance, and Tennis Court Variances
 32 at 532 Ferndale Road West. He noted that this Application had been reviewed at the previous
 33 Planning Commission and staff had been directed to prepare a draft Report and Recommendation
 34 recommending approval on a 3-2 vote. The Planning Commission had indicated a condition of
 35 approval should be that a landscape plan be provided to the City Council. He reviewed the
 36 landscaping plan and the updated Stormwater Management Plan provided by the Applicant.

37
 38 Mr. John Daly, Revision LLC, 153 E. Lake Street, Wayzata, representing the Applicant pointed
 39 out updates that had been made to the proposed plans: the corners of the proposed tennis court
 40 had been "clipped" to address some of the concerns about surface coverage, and the court had
 41 been moved 5-feet further from the lake than originally proposed.

42
 43 Commissioner Gruber asked if a grass court had been considered.
 44

1 Mr. Phil Soran, 5625 Interlocking Circle, Edina, co-Applicant, stated they had considered grass
2 and clay surfaces. The grass would be difficult to maintain and the proposed surface would
3 improve the water retention.

4
5 Commissioner Gruber stated she is not comfortable with the tennis court being so close to the
6 lake, and she would not support this portion of the recommendation.

7
8 City Attorney Schelzel noted that staff had been directed by the Planning Commission at its last
9 meeting to prepare a draft Report and Recommendation recommending approval of the
10 Application for adoption at the present Planning Commission meeting. He suggested the
11 Planning Commission take a vote on adopting the draft Report and Recommendation that had
12 been prepared, and if the Report was not adopted in its entirety, then take separate votes on the
13 various components of the Report.

14
15 Mr. Gadow explained the Lakeshore section of the Code does not designate between principle
16 uses or accessory uses. A water-orientated structure can be as close as 10-feet to the shore.

17
18 Commissioner Young made a motion, seconded by Commissioner Ramy, to adopt the draft
19 Report and Recommendation prepared by staff, recommending approval of Shoreland
20 Conditional Use Permit, Front Yard Setback Variance, Impervious Surface Variance, and tennis
21 Court Variances at 532 Ferndale Road West. The motion failed: 3-ayes and 3-nays (Gruber,
22 Gonzalez, Iverson)

23
24 Commissioner Gnos asked if the Applicant would consider a grass court if Commissioner Gruber
25 would be in favor of the tennis court.

26
27 Commissioner Gruber stated she would be in favor of the tennis court if it were grass.

28
29 Commissioner Gonzalez made a motion, seconded by Commissioner Ramy, to recommend
30 approval of the Front Yard Setback Variance based on the findings of fact in the draft Report and
31 Recommendation, previous discussions, and public comments. The motion carried unanimously.

32
33 City Attorney Schelzel asked if a Shoreland Conditional Use Permit would be required if there
34 were no tennis court.

35
36 Mr. Gadow stated there would not be a need for a Shoreland CUP if the tennis court was not
37 included in the Application.

38
39 Commissioner Young made a motion, seconded by Commissioner Ramy, to recommend
40 approval of the Shoreland Conditional Use Permit based on the findings of fact in the draft
41 Report and Recommendation. The motion failed: 3-ayes and 3-nays (Gruber, Gonzalez,
42 Iverson).

43
44 City Attorney Schelzel explained the outcome of the votes for each request would be forwarded
45 to the City Council.

46

Commissioner Ramy made a motion, seconded by Commissioner Young, to recommend approval of the Impervious Surface Variance based on the findings of fact in the draft Report and Recommendation and public comments. The motion failed: 3-ayes and 3-nays (Gruber, Gonzalez, Iverson).

Commissioner Gnos made a motion, seconded by Commissioner Young, to recommend approval of Variances from the front yard, side yard, and Lakeshore setbacks for accessory uses for installation of a tennis court based on the findings of fact in the draft Report and Recommendation. The motion failed: 3-ayes and 3-nays (Gruber, Gonzalez, Iverson).

b. Review of Development Activities

Mr. Gadow reviewed the items that would be on the next Planning Commission meeting agenda including the draft report for 250 Bushaway Road, the Lake Effect Project, and other workshop items. There will be a joint workshop with the City Council in June to discuss neighborhood zoning.

c. Other Items

Commissioner Gonzalez provided an update on City Council activity including the approval of the Harmony Circle and Central Avenue Applications and the Centennial Home presentation by the Heritage Preservation Board.

Mr. Gadow stated there would be an update on the relocation of the historic home in the 313 Central Avenue Project.

AGENDA ITEM 4. Adjournment.

There being no further business, Commissioner Young made a motion, seconded by Commissioner Ramy, to adjourn the meeting. The motion passed unanimously.

The meeting was adjourned at 8:46 p.m.

Respectfully submitted,

Tina Borg
TimeSaver Off Site Secretarial, Inc.



WAYZATA PLANNING COMMISSION

June 15, 2015

REPORT AND RECOMMENDATION ON APPLICATION FOR CONCURRENT PRELIMINARY AND FINAL PLAT SUBDIVISION AND RELATED VARIANCES AT 250 BUSHAWAY ROAD

DRAFT

SUMMARY OF RECOMMENDATION

1. *Denial of Subdivision request to create 3 lots, and related Concurrent Preliminary and Final Plat*
 2. *Denial of Variances from Subdivision Ordinance to allow:*
 - a. *Use of Private Roadways*
 - b. *Lot Frontage on a Public Street*
 - c. *Street Width Less Than 26 feet*
 - d. *Construction of Roadways Without Curbs and Gutters*
 3. *Denial of Variance from Subdivision Ordinance to allow for 2 lots smaller than the two acre lot minimum in the Bushaway Conservation District*
-

REPORT AND RECOMMENDATION

Section 1. BACKGROUND

- 1.1. Project. Zev and Kristi Oman (the "Applicant") have submitted a development application (the "Application") requesting approval of a three (3) lot subdivision (the "Project") and related variances at 250 Bushaway Road (the "Property").
- 1.2. Application Requests. As part of the Application, the Applicant is requesting approval of the following items:
 - A. Subdivision to create three (3) lots and related Concurrent Preliminary and Final Plat (Section 805) (collectively, the "Proposed Subdivision")
 - B. Variances from Subdivision Ordinance to allow use of existing private driveway to serve Lot 3 (collectively, the "Roadway Variances"):
 1. Use of Private Roadways (Section 805.27.K)
 2. Lot Frontage on a Public Street (Section 805.26.E)
 3. Street Width Less Than Twenty-Six (26) feet (Section 805.29.A)

4. Construction of Roadways Without Curbs and Gutters (Section 805.29.L)
- C. Variance from Subdivision Ordinance to allow for two (2) lots that do not conform with Comprehensive Plan guidance of two (2) acre lot minimum in the Bushaway Conservation District (Section 805.14.E.1) (the “Lot Area Variance”)

1.3 Property. The street address, property identification number and owner of the Property are:

250 Bushaway Road	05-117-22-34-0018	Zev and Kristi Oman
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1.4 Land Use. Land uses along Bushaway Road are single family residential with larger residential estates flanking the east side, and R-2A residential on the west. The Property is zoned R-1, Low Density Single Family District (40,000 SF minimum lot sizes). The Property falls within the Comprehensive Plan’s Bushaway Conservation District, which proscribes a two acre lot minimum unless a variance is granted by the City Council.

1.5 Notice and Public Hearing. Notice of the public hearing on the Application was published in the *Lakeshore Weekly* on May 19, 2015. A copy of the notice was mailed to all property owners located with 350 feet of the Property on May 22, 2015. The public hearing was held at the June 1, 2015 Planning Commission meeting.

Section 2. STANDARDS

2.1 Subdivision and Plat Approval. Chapter 805 of the Wayzata City Code, (the “Subdivision Ordinance”) sets forth the procedure and substantive review criteria for applications for a subdivision. Before any plat can be recorded or of any validity, it must be referred to the City Planning Commission and approved by the City Council as having fulfilled the requirements of the Subdivision Ordinance. Section 805.15 of the Wayzata Subdivision Ordinance allows the City to review a proposed preliminary and final plat simultaneously.

A. Goals. Under Section 805.2.b of the Subdivision Ordinance, subdivisions approved under the Subdivision Ordinance must be guided by the following:

1. Preserve and enhance Wayzata’s “small town” character (Comprehensive Plan).
2. Respect the existing scale, character and pattern of the City, recognizing existing neighborhoods and commercial areas (Wayzata Physical Plan).

3. Provide a balanced housing supply available for all people no matter their income, age, race or ethnicity (Comprehensive Plan).
4. Support a pedestrian environment at a human, not automotive scale (Wayzata Physical Plan).
5. Relate development/redevelopment to the natural characteristics of the land to enhance the development through the preservation of attractive natural amenities (i.e., lakes, wetlands, creeks, wooded areas, slopes, etc.) (Comprehensive Plan).

B. Criteria for Approval. Under Section 805.14.e of the Subdivision Ordinance, the Planning Commission must consider the possible adverse effects of a preliminary plat and report its findings and recommendation to City Council. Its judgment must be based upon, but not limited to, the following factors:

1. The proposed subdivision or lot combination shall be consistent with the Wayzata Comprehensive Plan.
2. Building pads that result from a subdivision or lot combination shall preserve sensitive areas such as lakes, streams, wetlands, wildlife habitat, trees and vegetation, scenic points, historical locations, or similar community assets.
3. Building pads that result from subdivision or lot combination shall be selected and located with respect to natural topography to minimize filling or grading.
4. Existing stands of significant trees shall be retained where possible. Building pads that result from a subdivision or lot combination shall be sensitively integrated into existing trees.
5. The creation of a lot or lots shall not adversely impact the scale, pattern or character of the City, its neighborhoods, or its commercial areas.
6. The design of a lot, the building pad, and the site layout shall respond to and be reflective of the surrounding lots and neighborhood character.
7. The lot size that results from a subdivision or lot combination shall not be dissimilar from adjacent lots or lots found in the surrounding neighborhood or commercial area.

8. The architectural appearance, scale, mass, construction materials, proportion and scale of roof line and functional plan of a building proposed on a lot to be divided or combined shall be similar to the characteristics and quality of existing development in the City, a neighborhood or commercial area.
9. The design, scale and massing of buildings proposed on a subdivided or combined lot shall be subject to the architectural guidelines and criteria for the Downtown Architectural District, Commercial and Institutional Architectural Districts, and Residential Architectural Districts and the Design Review Board/City Council review process outline in Section 9 of the Wayzata Zoning Ordinance.
10. The proposed lot layout and building pads shall conform with all relevant performance standards.
11. The proposed subdivision or lot combination shall not tend to or actually depreciate the values of neighboring properties in the area in which the subdivision or lot combination is proposed.
12. The proposed subdivision or lot combination shall be accommodated with existing public services, primarily related to transportation and utility systems, and will not overburden the City's service capacity.

2.2 Roadway Standards. The Subdivision Ordinance contains the following standards with respect to roadways associated with a new subdivision:

- A. Private Streets. Private streets, except in the case of planned unit developments, are prohibited. (Section 805.27.k)
- B. Lot Frontage. Every lot must have the minimum frontage on a City approved Public Street. (Section 805.26.E)
- C. Widths. Minimum right-of-way widths and pavement widths (face to face of curb) for local and marginal access streets or roads are 50 feet and 26 feet respectively. (Section 805.29.A)
- D. Curb and Gutter. Concrete curb and gutter must be included as part of the required street surface improvement and shall be designed for installation along both sides of all roadways. (Section 805.29.L)

2.3 Lot Area Standard. Under the Wayzata Comprehensive Plan, lots within the Bushaway Conservation District are guided for a two acre minimum, unless a variance is granted by the City Council.

2.4 Variances from Subdivision Ordinance. Section 805.60 of the Subdivision Ordinance allows the City Council to approve variances from the minimum

standards of the Subdivision Ordinance, when, in its opinion, undue hardship may result from strict compliance. In approving any variance, the City Council shall prescribe any conditions that it deems necessary to or desirable for the public interest. In making its approval, the City Council shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity.

A variance shall only be approved when the City Council finds:

1. That there are special circumstances or highly unique conditions affecting the property such that the strict application of the provisions of the Subdivision Ordinance would deprive the applicant of the reasonable use of the applicant's land.
2. That the granting of the variance will not be detrimental to the public health, safety and welfare or injurious to other property in the territory in which property is situated.
3. That the variance is to correct inequities resulting from an extreme physical hardship such as topography.
4. Hardship relating to economic difficulties shall not be considered for the purpose of granting a variance.
5. That the hardship is not a result of an action or actions by the owner, applicant, developer or any agent thereof.

2.5 Premature Subdivision. The Subdivision Ordinance requires the City Council to deny any preliminary plat of a proposed subdivision deemed premature for development. Section 805.16. The burden is on the applicant to show that the proposed subdivision is not premature. Section 805.18. Under Section 805.17 of the Subdivision Ordinance, a subdivision may be deemed premature should any of the following conditions exist:

- a. Lack of Adequate Drainage: A condition of inadequate drainage shall be deemed to exist if:
 1. Surface or subsurface water retention and runoff is such that it constitutes a danger to the structural security of the proposed structures.
 2. The proposed subdivision will cause pollution of water sources or damage from erosion and siltation on downhill or downstream land.
 3. The proposed site grading and development will cause harmful and irreparable damage from erosion and siltation on downstream land.

Factors to be considered in making these determinations may include: average rainfall for the area; the relation of the land to flood plains; the nature of soils and subsoils and their ability to adequately support surface water runoff and waste disposal systems; the slope of the land and its effect on effluents; and the presence of streams as related to effluent disposal.

- b. **Lack of Adequate Water Supply:** A proposed subdivision shall be deemed to lack an adequate water supply if the proposed subdivision does not have adequate sources of water to serve the proposed subdivision if developed to its maximum permissible density without causing an unreasonable depreciation of existing water supplies for surrounding areas.
- c. **Lack of Adequate Roads or Highways to Serve the Subdivision:** A proposed subdivision shall be deemed to lack adequate roads or highways to serve the subdivision when:
 - 1. Roads which serve the proposed subdivision are of such a width, grade, stability, vertical and horizontal alignment, site distance and surface condition that an increase in traffic volume generated by the proposed subdivision would create a hazard to public safety and general welfare, or aggravate an already hazardous condition, and when, with due regard to the advice of Hennepin County and/or the Minnesota Department of Transportation, said roads are inadequate for the intended use, or
 - 2. The traffic volume generated by the proposed subdivision would create unreasonable highway congestion or unsafe conditions on highways existing at the time of the application or proposed for completion within the next two (2) years.
- d. **Lack of Adequate Waste Disposal Systems:** A proposed subdivision shall be deemed to lack adequate waste disposal systems if in subdivisions for which sewer lines are proposed, there is inadequate sewer capacity in the present system to support the subdivision if developed to its maximum permissible density indicated in the Wayzata Comprehensive Plan, as may be amended.
- e. **Consistency with Comprehensive Plan:** The proposed subdivision must be consistent with goals, standards and objectives of the City's Comprehensive Plan. Those include, but are not limited to, the limitation of development on slopes that are in excess of 12% to ensure that there is preservation of vegetation and other practices to assure soil stabilization and development that would enhance natural amenities.

- f. Providing Public Improvements: If public improvements, such as recreational facilities, streets and utilities, reasonably necessitated by the subdivision, which must be provided at public expense, cannot be provided for within the next two (2) fiscal years.
- g. MEQB Policies: The proposed subdivision is inconsistent with the policies the Minnesota Environmental Quality Board (MEQB), as may be amended, and could adversely impact critical environmental areas or potentially disrupt or destroy historic areas which are designated or officially recognized by the City Council in violation of Federal and State historical preservation laws.

Section 3. FINDINGS

Based on the Application materials, staff reports, comments presented at the public hearing, and the standards set forth in Wayzata's Subdivision Ordinance, the Planning Commission of the City of Wayzata makes the following findings of fact with respect to the Proposed Subdivision, the Roadway Variances, and the Lot Area Variance:

3.1 Proposed Subdivision and Plats.

- A. Goals. The Proposed Subdivision is not consistent with all of the goals of the Subdivision Ordinance.
 - 1. The lots and building pads associated with the Proposed Subdivision would not respect the scale, character and pattern of the existing neighborhood. As noted elsewhere in this Report, lots 2 and 3 of the Proposed Subdivision would not conform with the minimum lot size in the Comp Plan's Bushaway Conservation District, and would not be reflective of the size and layout of adjacent properties and the surrounding neighborhood.
 - 2. While the Applicant would be required to make a Parkland dedication pursuant to the Subdivision Ordinance, there would nonetheless be a significant loss of trees, and natural vegetation and topography that give the wooded neighborhood its distinctive natural character and provide important sound and visual buffers for the neighborhood.
- B. Criteria for Approval.
 - 1. Lots 2 and 3 of the Proposed Subdivision would not meet the two acre minimum for the Bushaway Conservation District, at 0.92 acres and 1.03 acres, respectively.

2. The building pads associated with the Project would negatively impact sensitive areas of trees, and natural vegetation and topography that give the wooded neighborhood its distinctive natural character and provide important sound and visual buffers for the neighborhood.
3. Existing stands of significant trees and natural vegetation would be lost. The Application materials show that approximately fifty five (55) trees would need to be removed as a result of the Project.
4. The Proposed Subdivision would adversely impact the scale, pattern or character of the surrounding neighborhood, as it would result in the loss of natural vegetation and topography that give the wooded neighborhood its distinctive natural character and provide important sound and visual buffers for the neighborhood. It would also not be consistent with the surrounding area in terms of creating 2 new smaller lots which do not fit the scale, pattern and character of the surrounding neighborhood.
5. The design of the lots, the proposed building pads, and the site layout of the Proposed Subdivision is not reflective of the surrounding lots and neighborhood character, as noted elsewhere in this Section.

3.2 Roadway Variances and Lot Area Variance.

- A. With respect to the Roadway Variances and Lot Area Variance requested in the Application:
 1. There are no special circumstances or highly unique conditions affecting the Property such that the strict application of the provisions of the Subdivision Ordinance would deprive the Applicant of the reasonable use of the Applicant's land.
 2. Granting of the Roadway Variances and Lot Area Variance would be detrimental to other property in the territory in which Property is situated, as noted elsewhere in this Report.
 3. That the Roadway Variances and Lot Area Variance are not to correct inequities resulting from an extreme physical hardship such as topography.

3.3 Premature Subdivision. Based on the standards outlined in Section 2 and the findings outlined in this Section 3, the Applicant has failed to meet its burden to show that the Subdivision is not premature, including failing to adequately

address issues related to drainage/grading/runoff, roadways and Comprehensive Plan consistency.

Section 4. RECOMMENDATION

- 4.1 Planning Commission Recommendation. Based on the findings in section 3 of this Report, the Planning Commission recommends denial of the Proposed Subdivision, the Roadway Variances and the Lot Area Variance requested in the Application.

Adopted by the Wayzata Planning Commission this 15th day of June 2015.

Voting In Favor:

Voting Against:

Abstaining:

Chair, Planning Commission

CITY OF WAYZATA



PLANNING DEPARTMENT

MEMORANDUM

To: Planning Commission
From: Bryan Gadow, Director of Planning and Building
Date: June 9, 2015
Re: Lake Effect: Signature Project RFP Selection Committee Representative from Planning Commission

As I mentioned at our May 18th meeting, the City Council and our consultant, Mary deLaittre, will be advancing the Lake Effect Project through a design request for proposals (RFP) process to develop a signature project for construction along the City's lakefront. This RFP process solicits design teams to submit proposals that build off of the Lake Effect framework and other work that the City has completed to date, with the goal of a project that is ready for construction.

To assist with the review of the RFP responses and selection of the winning design team, the City Council is creating a Selection Committee composed of design professionals, City Councilmembers, a representative from Planning Commission, Park and Trails, HPB/Historical Society, and representatives from area governmental jurisdictions such as Hennepin County, Three Rivers Park District, and the Minnehaha Creek Watershed District.

There will be some time commitment requested of each participant in the Selection Committee, as the group will begin review of the RFP responses in mid-July, creating a shortlist of teams by beginning of August, with finalist team interviews in mid-August, and winning team selection in early September.

For the Planning Commission, individual members should consider if they desire to serve as the Commission's representative to the Selection Committee. The Commission will discuss and select their representative at the June 15th meeting.

Attached is a copy of the description of the Selection Committee roles and responsibilities, and a copy of the RFP that went out on June 3rd.

LAKE EFFECT: SIGNATURE PROJECT

Supplemental Information

SELECTION COMMITTEE COMPOSITION

The role of the Selection Committee is similar to that of any group overseeing the hiring for a civic project – to select an interdisciplinary design team that has the appropriate skill set, understanding and approach to the project.

The up to 11 Committee members will have design and city building expertise and/or a vested interest in or particular knowledge of the site. Consideration is also given to potential partners, funders and regulatory bodies. It is expected that not all invitees will be able to participate.

The composition of the Selection Committee should be:
2-3 regional design experts

A selection of political and institutional representation:

- 1-2 Wayzata City Council member
- 1- Hennepin County
- 1-Three Rivers
- 1-LMCD
- 1-MCWD
- 1-Railroad

Community Committee representation:

- 1-Historical Society
- 1-Planning Committee
- 1-Parks and Trails Committee

In order to preserve objectivity, Selection Committee names will not be made public until after submissions are received.

SELECTION COMMITTEE JOB DESCRIPTION AND EXPECTATIONS

The Selection Committee will shortlist up to three teams and ultimately select a winning team based on a team's:

- Size and composition (disciplines represented)
- Team project experience and experience working together
- Design philosophy and approach
- Proposed design process and fees

The Committee Members will:

- Evaluate all submissions using established criteria and ranking system
- Convene and shortlist up to three teams based on previous ranking, discussion and voting
- Interview the up to three teams and select a winner through evaluation, discussion and voting

If the number of submissions exceeds 12, the three design professionals will cull through all of the submissions and reduce the number to 8 for full Selection Committee evaluation and shortlisting.

Selection Committee members are discouraged from speaking to design teams or the public throughout the selection and contracting process. All public communication about team selection will be managed through formal communication channels.

City Council will honor the Selection Committee process and choice.

DESIGN PHASES AND DEFINITIONS

© THE AIA

Schematic Design Phase Services

During the first phase—schematic design—a designer consults with the owner to determine project goals and requirements. Often this determines the program for the project. The program is the term used to define the required functions of the project. It should include estimated square footage of each usage type and any other elements that achieve the project goals. During schematic design, a designer commonly develops study drawings, documents, or other media that illustrate the concepts of the design and include spatial relationships, scale, and form for the owner to review. Schematic design also is the research phase of the project, when zoning requirements or jurisdictional restrictions are discovered and addressed. This phase produces a final schematic design, to which the owner agrees after consultation and discussions with the designer. Costs are estimated based on overall project volume. The design then moves forward to the design development phase.

Design Development Phase Services

Design development (DD) services use the initial design documents from the schematic phase and take them one step further. This phase lays out mechanical, electrical, plumbing, structural, and other landscape or infrastructure details. Typically referred to as DD, this phase results in drawings that often specify design elements such as material types and location of windows and doors. The level of detail provided in the DD phase is determined by the owner's request and the project requirements. The DD phase often ends with a formal presentation to, and approval by, the owner.

Construction Document Phase Services

The next phase is construction documents (CDs). Once the owner and designer are satisfied with the documents produced during DD, the designer moves forward and produces drawings with greater detail. These drawings typically include specifications for construction details and materials. Once CDs are satisfactorily produced, the designer sends them to contractors for pricing or bidding, if part of the contract. The level of detail in CDs may vary depending on the owner's preference. If the CD set is not 100-percent complete, this is noted on the CD set when it is sent out for bid. This phase results in the contractors' final estimate of project costs.

Bid Or Negotiation Phase Services

The first step of this phase is preparation of the bid documents to go out to potential contractors for pricing. The bid document set often includes an advertisement for bids, instructions to bidders, the bid form, bid documents, the owner-contractor agreement, labor and material payment bond, and any other sections necessary for successful price bids. For some projects that have unique aspects or complex requirements, the designer and owner elect to have a pre-bid meeting for potential contractors. After bid sets are distributed, both the owner and designer wait for bids to come in. The owner, with the help of the designer, evaluate the bids and select a

winning bid. Any negotiation with the bidder of price or project scope, if necessary, should be done before the contract for construction is signed. The final step is to award the contract to the selected bidder with a formal letter of intent to allow construction to begin.

Construction Phase Services

Contract administration (CA) services are rendered at the owner's discretion and are outlined in the owner-designer construction agreement. Different owner-designer-contractor agreements require different levels of services on the designer's part. CA services begin with the initial contract for construction and terminate when the final certificate of payment is issued. The designer's core responsibility during this phase is to help the contractor to build the project as specified in the CDs as approved by the owner.

Lake Effect: Signature Project

Request for Proposal

An RFP sponsored by the City of Wayzata

wayzatalakeeffect.com



Introduction

Lake Minnetonka is an asset that defines the identity of Wayzata, is an invaluable resource that improves the quality of life for residents and visitors through access to open space, nature and recreation, and contributes to the social, economic and environmental success of the region.

It is within this context that the City of Wayzata initiates a Request For Proposal for The Lake Effect: Signature Project — a proposed revitalization of Wayzata's lakefront. This project is introduced in the Implementation Strategy for the Lake Effect Framework (See Appendix B) and builds on the Lake Effect Framework (See Appendix B).

Project Particulars

Location Background

Since the initial platting by Oscar Garrison in 1854, Wayzata and its citizens have been stewards of one of the region's most prized resources, Lake Minnetonka. Wayzata serves as a gateway to the state's ninth largest lake with over 120 miles of shoreline and nearly 15,000 acres of water. Because of its ease of access and unique location, Wayzata has historically hosted the regions greatest attractions, including the 160' City of St Louis, the first inland vessel in the United States to boast electric lighting. The construction of the Wayzata Depot in 1906 was arguably one of the finest railroad facilities in the entire Great Northern Rail system. Whether arriving by rail from distant destinations thousands of miles away until 1971 or commuting a mere thirteen miles from the center of downtown Minneapolis on today's modern roadways, visitors and residents alike have sought Wayzata as one of the region's greatest destinations for over 140 years. Today, despite Wayzata's relatively small population, it is an economic powerhouse with a residential market tax base of \$1.1 billion and a total tax base of \$1.6 billion.

Site Description

The lakefront is a convergence of many assets, challenges and opportunities. The strategic site encompasses land between the historic Section Foreman House and Shaver Park and between Lake Street and Lake Minnetonka. Important destinations and physical features include the Great Northern Depot, Wayzata Boat Works, public boat docks, the Dakota Bike Trailhead and commercial businesses. (See Appendix A)

A major challenge of the site is the active rail line that separates the lakefront from the city. The opportunity exists to transform the current situation, to bring the lake back into the foreground and create a well-connected public amenity that addresses the needs of a broad constituency.

Project Scope

Goals and Team Composition

The Lake Effect: Signature Project will build on existing physical assets, previous plans and proposals for the area, as well as past exercises in community engagement (see Appendix B). At the same time the selected design team will investigate new opportunities for programming, connectivity, sustainability, infrastructure and public space for the site and adjacent areas to create a forward thinking, year-round, multifunctional destination that reflects the community's values.

The small, interdisciplinary team should have a strong emphasis on urban design and landscape architecture and have the proven ability to unravel a complex, multi-dimensional network of systems and piecemeal features to create a comprehensive integrated whole.

Project Deliverables

The selected Lake Effect: Signature Project design team will create a concept for the site that includes but is not limited to five components:

- Development of critical connections from neighborhoods and adjacent uses, including pedestrian, bicycle, boat and vehicular circulation as well as addressing connections related to the railroad line.
- A schematic design of all physical features
- Estimates of capital costs and long-term maintenance and operations
- A construction phasing plan
- The Lake Effect: Signature Project design team will provide supporting materials focused on visual presentation materials to be used to effectively communicate ideas to cultivate support and financing (see Project Deliverable Format below).

Note: Selected Lake Effect: Signature Project design team will make approximately 4 visits — including research, staff and stakeholder meetings, and community engagement — with project delivery early second quarter 2016.

Project Deliverable Format

Final design will be presented in multiple venues from lay people to design professionals. The Lake Effect: Signature Project project deliverables must be in the form of stand-alone presentations, displayed in public presentations, online and in print documents. Submissions must communicate ideas in a clear and compelling manner that expresses the unique character of the design and team to a variety of audiences.

- For public presentations a variety of formats can be handled including Powerpoint, Keynote and Adobe
- Preferred printable document format is PDF
- Separate images should be JPG at 300dpi

RFP Particulars

Submission Requirements

- Letter of interest expressing why your team would like to participate in the project, what are its distinguishing characteristics and what is your philosophical approach to the project;
- A one-paragraph bio and two-page resume/CV for each lead team member (there should be no more than 3-4 lead team members);
- Up to three examples of projects by lead team members that exemplify experience and expertise in relevant areas or established creative problem solving skills in similarly complex projects.
- Proposed concept development process and fee schedule
- The submission packet should be no more than 32 pages in PDF format.

Design Team Selection

RFP submissions will be judged by a panel of representatives from the sponsoring institution, community stakeholders and industry experts.

Up to three teams will be short-listed and interviewed by the panel. The teams will also be expected to give a public presentation of their portfolio of relevant work. Selection criteria will be based on team composition, qualifications and competitive fee and process proposal.

Key Dates

RFP announcement: 3 June 2015

RFP submission deadline: 10 July 2015

Shortlist announcement: 5 August 2015

Team Interview: 18-20 August 2015

Team selection announcement: 2 September 2015

Wayzata City Council approval: 15 September 2015

Eligibility

The Lake Effect: Signature Project is open to all design professionals and professionals with supporting expertise.

Contact and Entry Submission

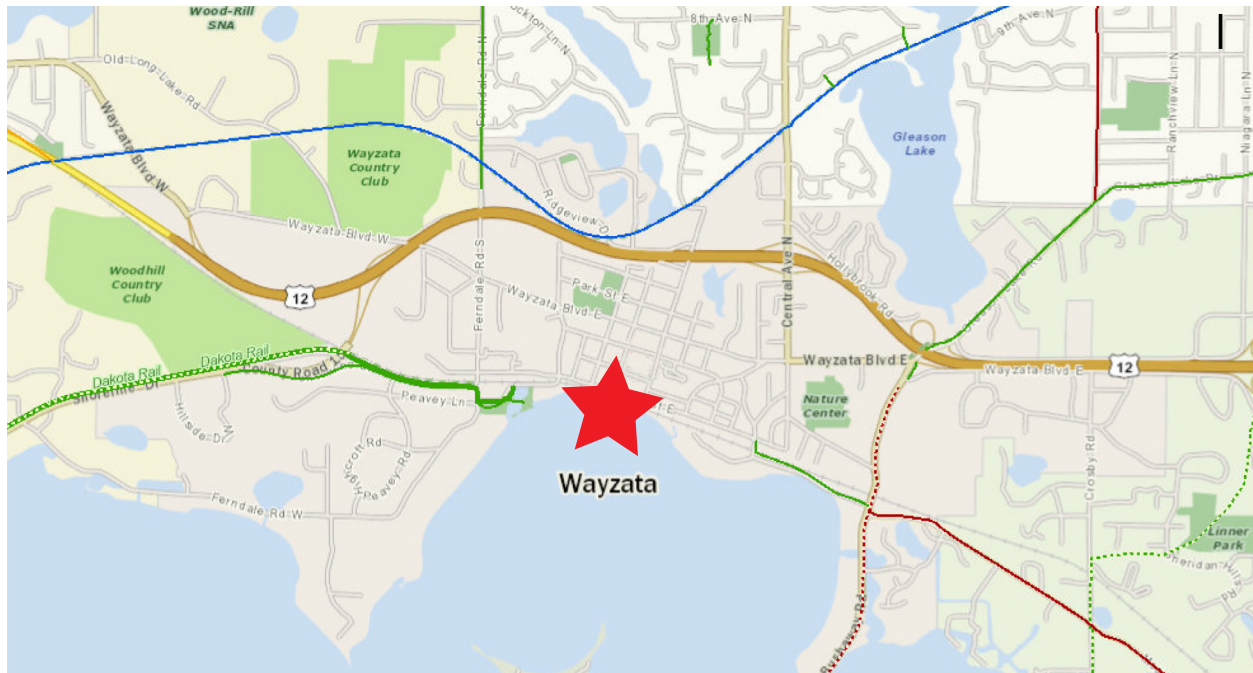
All communication should be sent via email to Mary deLaittre: mary@groundworkcitybuilding.com

All relevant questions will be posted with answers in an FAQ portion of the Lake Effect website — www.wayzatalakeeffect.com

Entries Due On or Before 4pm CST, Friday 10 July 2015. Submissions should be delivered via email, Dropbox or similar platform to mary@groundworkcitybuilding.com.

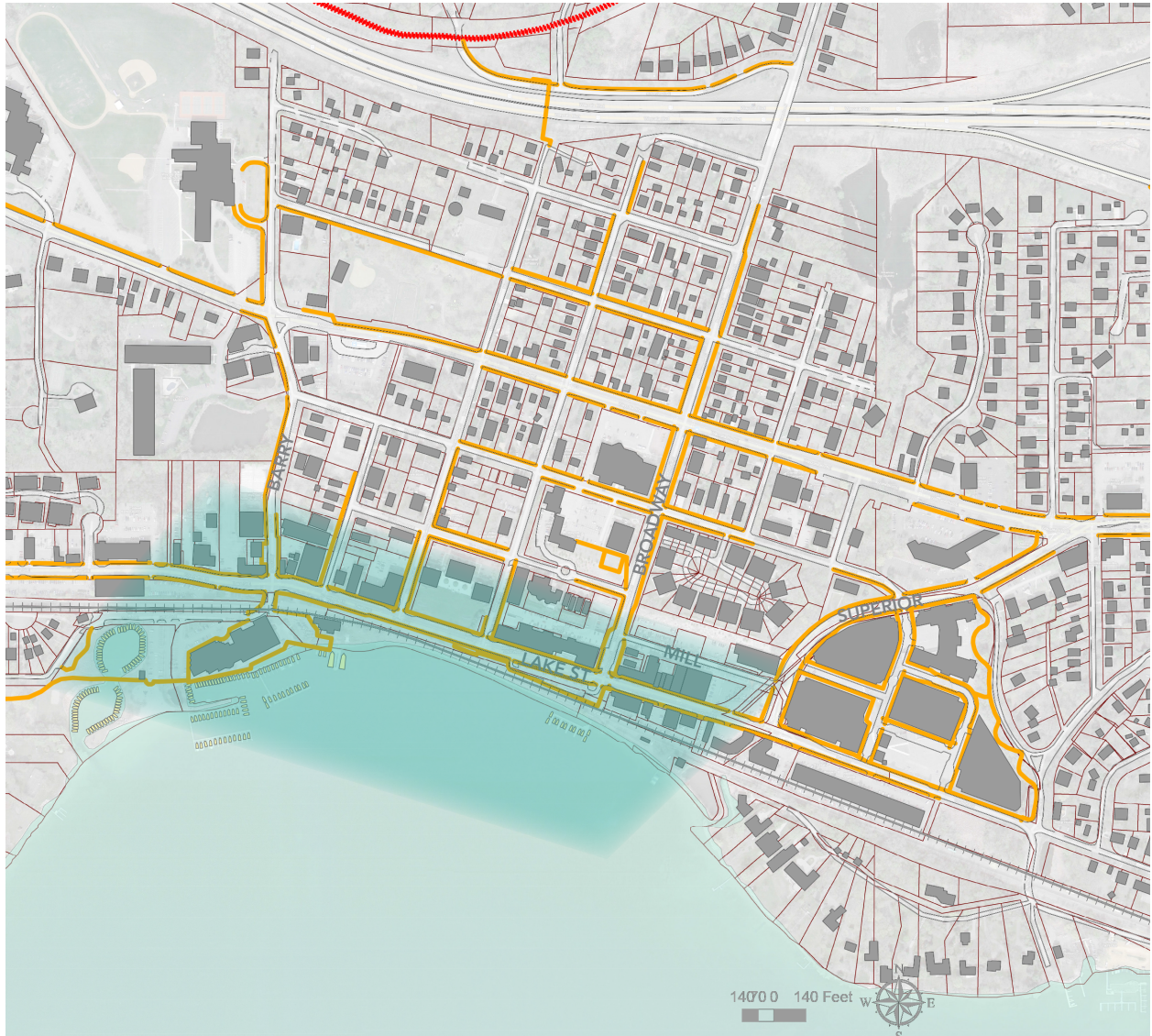
APPENDIX A Lake Effect: Signature Project

Lake Effect: Signature Project – Wayzata Context



APPENDIX A Lake Effect: Signature Project

Lake Effect: Signature Project – Scope Area



Resource List

Background information for guidance in understanding site and context in preparation of RFP

Primary Sources

City of Wayzata: www.wayzata.org

Implementation Strategy for the Lake Effect Framework: www.wayzatalakeeffect.com

Lake Effect: A Development Framework for the City of Wayzata: www.wayzatalakeeffect.com

Task Force Final Report – January 2012: <http://wayzatalakeeffect.com/wp-content/uploads/2015/05/Wayzata-Lakefront-Taskforce-Final-Narrative-Report.pdf>

Secondary Sources

District Plans and Information

Downtown Parking Project: <http://www.wayzata.org/401/Downtown-Parking-Project>

Lake Minnetonka Conservation District: <http://lmcd.org>

Minnehaha Creek Watershed District: <http://www.minnehahacreek.org>

Three Rivers Park 2010 Vision Plan: <http://wayzatalakeeffect.com/wp-content/uploads/2015/05/Three-Rivers-Park-2010-vision-plan.pdf>

Maps and Base Information

Interactive Parks Map: <http://www.wayzata.org/188/Parks-Forestry>

Park Facility Inventory: <http://www.wayzata.org/Facilities?clear=False>

Park & Trails Map from 2030 Comprehensive Plan: <http://www.wayzata.org/DocumentCenter/Home/View/289>

2030 Comprehensive Plan: <http://www.wayzata.org/237/2030-Comprehensive-Plan>

Zoning Map: <http://wayzatalakeeffect.com/wp-content/uploads/2015/05/2015-Wayzata-Zoning-Map.pdf>

Land Use Map: <http://wayzatalakeeffect.com/wp-content/uploads/2015/05/2015-Proposed-Land-Use.pdf>

Community Profile from Metropolitan Council: <http://stats.metc.state.mn.us/profile/detail.aspx?c=02397235>

Stormwater Management: <http://www.wayzata.org/405/Stormwater-Management>

Historic Plans and Maps

1920 Plan for Civic Development: <http://wayzatalakeeffect.com/wp-content/uploads/2015/05/General-Plan-Civic-Development.pdf>

1992 Physical Plan Study: <http://wayzatalakeeffect.com/wp-content/uploads/2015/05/Wayzata-Physical-Plan-1992.pdf>

Old Railroad Map: <http://wayzatalakeeffect.com/wp-content/uploads/2015/05/RR-map.pdf>

2007 Retail Study: <http://wayzatalakeeffect.com/wp-content/uploads/2015/05/Wayzata-Retail-Study-2007.pdf>

Miller Dunwiddie Report for Section Foreman House: <http://wayzatalakeeffect.com/wp-content/uploads/2015/05/Wayzata-Lakefront-Taskforce-Final-Narrative-Report.pdf>