



Planning Commission

Briefing on Proposed Amendments to Wireless Communication Facilities Regulations

Agenda Date: 4/21/2014
Agenda Item Number:
File Number: 14-0395

Type: report **Version:** 1 **Status:** Filed

Title

Briefing on Proposed Amendments to Wireless Communication Facilities Regulations

Recommended Action

Briefing only; no action required.

Report

Issue:

ATT's proposed amendments to Olympia's Antennas and Wireless Communications Facilities ordinance primarily:

- Allow as permitted uses (not conditional uses/hearing examiner) concealed wireless facilities on any publically owned property (includes schools, parks and others including within Historic Districts); and
- Variety of updates for consistency with recent changes to Federal and State laws (new time limits and further exemptions from SEPA). [Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012; RCW 43.21C.0384 regarding State Environmental Policy Act (SEPA) exemptions].

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Presenter:

Steve Friddle, Principal Planner
Representatives from ATT
Representatives from Coalition of Neighborhood Association

Background and Analysis:

The purpose of this staff report and tonight's briefing is to provide a high level overview addressing basic issues in order to then shift the discussion to identify questions Commissioners have in order to prepare for a future more in-depth detailed briefing and public hearing.

1. **City Process.** Although ATT applied for a specific zoning code amendment (See Attachment 1

Proposed Amendments and Attachment 2 ATT Cover letter), if approved, the ordinance will apply city-wide. This is a legislative process, not a quasi-judicial. To date, the process included:

- **ATT:** Pre-application discussions between city staff and ATT outlining existing code provisions related to future siting options and proposed code amendments;
- **Coalition of Neighborhoods:** The intent is to achieve early neighborhood/applicant communication and understanding of issues/interests. In keeping with the process outlined in the City/CNA memorandum, the CNA set up two subcommittees that have met with AT&T. The first subcommittee is to discuss specific site proposals and the second is to address the proposed code amendments. ATT has met with Olympia's Coalition of Neighborhoods Steering Committee for review and discussion.
- **Expert Consultant Assistance:** To assist the review, the City contracted with an attorney expert in cell tower siting to advise about current State and Federal regulations, applicable case law, ATT's proposal and relationship to existing City ordinance. Chris Bacha, with Kenyon Disend PLLC, will be attending the Planning Commission meeting.
- **Planning Commission** review includes tonight's overview briefing, which will be followed by a more detailed briefing and public hearing on ATT's specific proposal. Following deliberations, it is anticipated that the Commission will develop recommendations on the zoning amendment request to forward to the City Council.
- **City Council** review and action.

2. **A brief history**

- A. ***Moratorium:*** In June 2005, in response to neighborhood concerns over siting a new WCF at 1501 Capitol Way, adjacent to the Historic South Capitol Neighborhood, along with numerous other new WCF's being proposed throughout Olympia, the City Council instituted a moratorium on new WCFs that lasted to March, 2006. The moratorium was instituted because the Council "became concerned that economic recovery, the consolidation of telecommunications companies, and the availability of new technology had led telecommunications companies to prepare for a new round of facility construction, and those facilities had the potential to adversely impact the City of Olympia under the City's obsolete zoning and telecommunications regulations."
- B. ***Master Plan and Ordinance Overhaul:*** In drafting the City's 2006 ordinance, with the assistance of a group of neighborhood leaders, the City hired a consultant to craft a new ordinance and to draft a Wireless Telecommunications Master Plan for Olympia (Attachment # 4). The Master Plan supports the goals of the ordinance by providing the data, the maps, and a set of strategies to "reduce tower infrastructure by improving efforts to morph wireless deployments from various service providers, thereby minimizing tower proliferation by increasing shared sites."

The Master Plan acknowledges (page 22 and 31) that it addresses then current 1G and 2G technologies and that 3G and other future technologies may require additional wireless facility locations to meet coverage and network capacity objectives.

The drafting of the City's 2006 ordinance was spearheaded by a group of neighborhood leaders. Olympia overhauled its telecommunications ordinance in 2006 to create a more comprehensive method to review, evaluate and permit sites for constructing and co-locating new WCFs.

3. **Current Status** - Until amended, the existing 2006 Antennas and Wireless Communication Facilities (AWCF) ordinance continues to be in force. In the past couple of years, the growing demand for wireless services has been met by siting new or upgrading antennas on existing facilities. There has been only one new tower associated with CAPCOM 9-1-1 Service along Pacific Avenue.

4. **Increasing Service Requirements**. The industry shift away from landlines to cell phones and with the dramatic increase in the use of a variety of wireless systems to transmit enormous amounts of data, wireless carriers are now looking to meet the growing demand for service by siting more new facilities in residential neighborhoods to address coverage and capacity. The current economic recovery, industry consolidation, and the ever increasing availability of new technologies, have set the stage for new service demands and a new round of facility construction. Attachment # 3 "Bringing the Latest Technology to Consumers in Washington" is a power point presentation that describes the growth in the industry. It was presented by ATT's Bob Best who served as a panelist on a recent Municipal Research Service Center of Washington State hosted presentation on WCF's. Requests for upgrading existing facilities are coming from all carriers. The request for new transmission facility sites has come from AT&T which is looking to site multiple new facilities in residential areas.

The current code generally favors city owned water tower facilities in siting. Attachment # 5 contains a list of city owned facilities that wireless carriers lease for WCF's. Revenue from these leases provided the Olympia Water Utility approximately \$260,000.00 in 2013. This revenue helps keep water utility rates lower.

5. **Regulatory Framework**. Federal, State and local government each have a role in regulating WCF's. Over the years, addressing the impacts has shifted from local control and permitting toward more exemptions from the State Environmental Policy Act (SEPA) and more federal control. For example, prior to 2006, the Federal government established and regulated associated health standards related to WCF's and local government is barred from addressing health concerns. Since 2006, federal and state government continues to enact laws that generally make it easier to site new facilities to expand their coverage and capacity.

Examples of recent changes to federal and WA State law have been to shorten the time allowed for local government to review permits and revise definitions that expand the ability to site or upgrade WCF on existing structures. The Federal Communications Commission (FCC) is currently in rule making process to clarify how these new laws will be applied. The 2014 State Legislature also passed a law to make it easier to site micro cell facilities, are part of a national

campaign.

6. Olympia's Approach.

As proposed, ATT's request to the City of Olympia is to amend the City's WCF ordinance making it easier for any wireless carrier to site new facilities on new and existing structures, and in historic districts, among other things. AT&T asserts that these changes are needed ensure Olympia's code is "more consistent with federal law...and Washington's new SEPA exemption for wireless facilities." However, it can also be argued that until the Federal Communications Commission (FCC) completes its rule making process that will interpret recent federal laws, except for the shorter permitting time limits and State exemptions, it remains somewhat unclear what if any other changes would need to be made to Olympia's code to bring it into compliance.

7. Tonight's briefing agenda. Staff recommends that:

- A. Staff provide a brief overview of the proposed amendments;
- B. ATT provides an overview of current and future technology advancement, resulting growth in demand, current coverage (gaps & deficiencies), and their perspective on the proposed amendments;
- C. Neighborhood representatives provide their perspective on "**The Elements of a Successful Wireless Facilities Siting Process in Olympia** (Attachment 6); and
- D. Commissioner Questions

Neighborhood/Community Interests (if known):

See attached "**The Elements of a Successful Wireless Facilities Siting Process in Olympia**"

The CNA sub-committee has also set up a web-site. The link to the folder is:

https://drive.google.com/folderview?id=0B8dg-fj-W5TLMkxxVDJoSnRUOG8&usp=drive_web

Other resources: www.msrg.org/subjects <<http://www.msrg.org/subjects>>