



DEVELOPMENT SERVICES DEPARTMENT

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To: Design Review Committee
From: Jenah Thornborrow, Development Services Director
Subject: Proposed changes to Table 8-2B-1, 8-2C, Table 8-3A-1, 8-7A-1, and 8-7A-2 to include additional uses and definitions related to wireless facilities
Date: April 15, 2019

Requested Action

Discussion Only

Background

This is an applicant driven proposal. The proposed changes are related to wireless facilities and include changes to Table 8-2B-1, 8-2C, Table 8-3A-1, 8-7A-1, and 8-7A-2. Provided that this application advances, the application is scheduled for hearings on May 5, 2019 with the Design Review Committee, May 15, 2019 with the Planning and Zoning Commission, and on May 28th with the City Council.

Proposed Changes

The proposed changes appear to request that:

- 'Eligible facilities' would be permitted in all zoning districts
- 'Small wireless facilities' would be permitted in all zoning districts subject to an approved contract with the City Council
- 'Eligible facilities' and 'small wireless facilities' would be excluded from code's requirements for 'wireless communication facilities'
- Criteria is provided for eligible facilities and small wireless facilities

Staff's Recommendation Based on Merits of Request:

GCC 8-5B-5 Notes that code changes brought to the City by a entities outside of the City shall complete a pre-application conference with the planning official. This has occurred. The planning official shall make a recommendation on the merits of considering the applicant's request. City staff believes that there are merits to allowing for smaller technology to facilitate wireless communication that would not be required to adhere to the same criteria as a "cell tower". Provided that the governing bodies agree with staff, the application can be brought forward to amend the Garden City Code.

With this being said, staff does have comments, questions and concerns related to the specific amendment proposal provided for review.

Proposed Changes to TABLE 8-2B-1 ALLOWED USES IN ALL BASE ZONING DISTRICTS and Table 8-3A-1

The proposal notes that Small Wireless Facilities are permitted in all base and overlay zoning districts with the provision that may better read:

~~“** Indicates uses that are permitted subject to a contract approved by City Council an approved contract with the City, and, in the City’s discretion, approval by City Council.”~~

Proposed Changes to 8-2C-47 Small Wireless Facilities

Since the proposal notes that this is a use that requires a contract with City Council the criteria could note something along the lines of:

“This use requires a contract with City Council. The contract shall include location, design, terms, and authority”. This way the City Council could approve large swaths of small wireless facilities that are appropriate to the streetscape, neighborhood, etc. and reduce the number of reviews for each individual facility. No other criteria would be necessary in this section of code as it could be contained in the agreement.

However, if specific criteria remains in this section of code, 8-2C-47 A is unnecessary as it is already contained in the use tables.

It should also be noted that Garden City Code 8-2C is dedicated to use specific criteria pertaining to the physical use. There is application and processing information that is contained in the proposed criteria. Perhaps this is better relocated elsewhere in code such as 8-6A or referenced merely stating that review and processing is subject to the Spectrum Act.

Proposed Changes to 8-2C-48 Eligible Facilities Request

Staff questions whether “eligible facilities request” should be considered a use. Perhaps “Eligible Facilities Request” fits better as a term that is referenced to assist in administering changes.

As noted in the proposed section 8-2C-47, the proposed section 8-2C-48 includes administrative and procedural items that staff suggests would be better located elsewhere in code such as in 8-6A or just contain a reference to the Spectrum Act.

Proposed Changes to 8-7A-1: Definitions of Uses

“Distributed Antenna System” is noted as a use in 8-7A-1, but there is no corresponding use requested in the use table. Perhaps this would be better proposed in GCC 8-7A-2 Definitions of Terms.

“Small Wireless Facilities”

- It would be better to say Wireless Communication Facility rather than “WCF”.
- Bold and italic font is not necessary.
- The number of providers that a facility can support is civil in nature and should not be a part of a definition.
- The City may want to retain the ability to review ancillary equipment.

Proposed Changes to 8-7A-2: Definitions of Terms

In general there are a number of new terms that may lose their context when noted in terms related to the entire Garden City Code Title 8. This is reiterated in a number of the comments below.

“Antenna” may better read: “Wireless communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.”

“Eligible Facilities Request” definition is located in 8-7B Definitions of Terms, but should be located in 8-7A Definition of uses as it has been proposed as a use elsewhere in proposed changes to code. Additionally staff suggests that it could be amended to read:

“Any request for modification of an existing tower or base station supportive of wireless communication facilities that does not substantially change the physical dimensions of ~~such~~ the tower or base station, involving:

1. Collocation of new transmission equipment so as long as the height or width of the additional equipment does not exceed the parameters set forth as required allowable changes without a permit in the Spectrum Act (47 U.S.C. Section 1455 (a));
2. Removal of transmission equipment; or
3. Replacement of transmission equipment of the same size or smaller.

“Eligible Support Structure” definition states that it is defined in “this section”. Staff believes this to be a typo. It might better read “Any tower or base station proposed to be utilized for a wireless communication facility ~~as defined in this Section~~, provided that it is preexisting at the time the relevant application is filed with the city under this Section.”

“Existing Structure” This may conflict with other interpretation of existing structure as code is more broadly interpreted outside of the confines of wireless communication facilities. Perhaps the term is unnecessary or could be renamed to be “Existing Eligible Support Structure”. Staff is unclear of the difference between “Existing Structure” and “Eligible Support Structure”.

“Monopole” might better read “Is a support structure for wireless communication facilities that is a single, freestanding pole-type structure supporting one or more Antennas and includes a pole, light pole, traffic light, and any pole used for adornments.”

“Replacement Pole” is more of an interpretation as to how to apply code to replacement structures rather than a term. If it remains as a term it should be reworded to be specific to wireless communication facilities.

“Right-Of-Way” Staff strongly suggests that federal highways not be removed from the definition of rights-of-way. Removing Chinden from this definition may make any landscape, sidewalk, etc. code unenforceable on this roadway.

“Substantial Change (as it relates to wireless communications facilities and small wireless facilities” perhaps this could be relocated to the 8-2C section as criteria for which triggers additional permit processes rather than being a defined term.

“Support Structure” should be renamed to be more specific to “Small Wireless Facilities support structure” to avoid confusion within other sections of code not pertaining to wireless facilities.

8-5B-5 Development Code Amendment: Required Findings

In order to grant a text amendment to the development code, the council shall make the following findings:

1. The text amendment complies with the applicable provisions of the comprehensive plan;

2. The text amendment shall not be materially detrimental to the public health, safety, and welfare; and
3. The text amendment shall not result in an adverse impact upon the delivery of services by any political subdivision providing public services within the city.