



NOTICE OF AGENDA
PUBLIC MEETING/WORK SESSION
Twin Falls City Planning & Zoning Commission
Wednesday, August 6, 2014 12:00PM
Council Chambers
305 3rd Avenue East Twin Falls, ID 83301

PLANNING & ZONING COMMISSION MEMBERS

CITY LIMITS:

Nikki Boyd Jason Derricott Tom Frank Kevin Grey Gerardo "Tato" Munoz Christopher Reid Jolinda Tatum
Chairman Vice-Chairman

AREA OF IMPACT:

Ryan Higley Steve Woods

CITY COUNCIL LIAISON:

Rebecca Mills Sojka

I. CALL MEETING TO ORDER:

1. Confirmation of quorum
2. Introduction of staff

II. GENERAL PUBLIC INPUT:

III. DISCUSSION ITEMS FROM THE COMMUNITY DEVELOPMENT STAFF AND/OR THE PLANNING & ZONING COMMISSION:

1. Review proposed code amendment items update
2. Identify upcoming P&Z agenda items.
3. General Commission training

IV. UPCOMING PUBLIC MEETINGS (held at the City Council Chambers unless otherwise posted):

1. Public Hearing – Tuesday, **August 12, 2014**

V. ADJOURN MEETING:

Si desea esta información en español, llame Leila Sanches al (208) 735-7287

Any person(s) needing special accommodations to participate in the above noticed meeting should contact Lisa A. Strickland at (208) 735-7267 at least two (2) working days before the meeting.

CITY OF TWIN FALLS

PLANNING & ZONING COMMISSION

Public Hearing Procedures for Zoning Requests

1. Prior to opening the public meeting, the Chairman shall review the public hearing procedures, confirm a quorum is present and introduce staff present.
2. Individuals wishing to testify or speak before the Commission shall wait to be recognized by the Chairman, approach the microphone/podium, state their name and address, then commence with their comments. Following their statements, they shall write their name and address on the Sign-In record sheet(s) located on a separate table near the entrance of the chambers. The administrative assistant shall make an audio recording of each public meeting.
3. **The Applicant, or the spokesperson for the Applicant, shall make a presentation** on the application/request. No changes to the request may be made by the applicant after the publication of the Notice of Public Hearing – WHICH IS A MINIMUM OF 15 DAYS PRIOR TO PUBLIC HEARING. **The applicant's presentation should include the following:**
 - **A complete explanation and description of the request.**
 - **Why the request is being made.**
 - **Location of the Property.**
 - **Impacts on the surrounding properties and efforts to mitigate those impacts.**The Applicant is limited to 15 minutes, unless a written request for additional time is received and granted by the Chairman prior to commencement of the public meeting.
4. Upon completion of the applicant's presentation City Staff will present a staff report which shall summarize the application/request, history of the property, if any, staff analysis of the request and any recommendations.
 - **The Commission may ask questions of staff or the applicant pertaining to the request at this time.**
5. The public will then be given the opportunity to provide public testimony/input/comments regarding the request.
 - **The Chairman may limit public testimony to no more than two (2) minutes per person.**
 - **Five (5) or more individuals, having received personal public notice of the application under consideration, may select a spokesperson by written petition. The spokesperson shall be limited to 15 minutes.**
 - **No written comments, including e-mail, received after 12:00 o'clock noon on the date of the hearing will be accepted for consideration by the hearing body. Written comments, including e-mail, received by 12:00 o'clock noon or before the date of the hearing shall be either read into the record or displayed on the overhead projector either during or upon the completion of public comment.**
 - **Following the Public Testimony, the applicant is permitted a maximum five (5) minutes rebuttal to respond to Public Testimony.**
6. Following the Public Testimony and Applicant's response, the Public Input portion of the public hearing shall be closed-**No further public testimony is permitted.** Commission Members, as recognized by the Chairman, shall be allowed to request clarification of any public testimony received of the Applicant, Staff or any person who has testified. The Chairman may again establish time limits.
7. The Chairman shall then close the Public Hearing. The Commission shall deliberate on the request. Deliberations and decisions shall be based upon the information and testimony provided during the Public Hearing. **Once the Public Hearing is closed, additional testimony from the staff, applicant or public is not allowed.** Legal or procedural questions may be directed to the City Attorney.

**** Any person not conforming to the above rules may be prohibited from speaking. Persons refusing to comply with such prohibitions may be asked to leave the hearing and thereafter removed from the room by order of the Chairman.**

Proposed New ZDA Section

Will replace the PUD sections in its entirety

10-2-1: DEFINITIONS:

ZONING DEVELOPMENT AGREEMENT: A written commitment by a property owner or developer concerning the use or development of a subject parcel. A Zoning Development Agreement may be required as a condition of rezoning of a subject parcel where a variety of uses may be desired in a preplanned environment with more flexible standards than normally apply to the use of land in a standard zoning district.

10-6-1: ZDA, ZONING DEVELOPMENT AGREEMENT:

10-6-1.1: PURPOSE:

A Zoning Development Agreement (ZDA) is designed to accommodate appropriate combinations of uses that may be planned, developed, and operated as integral land use units either by a single owner or a combination of owners. A ZDA is intended to accomplish some, or all of the following:

- (A) Foster and promote a variety of appropriate land-use combinations in a preplanned development pattern;
- (B) Encourage developers to use a creative approach in land development;
- (C) Retain and conserve natural land and topographic features;
- (D) Promote greater use of streetscape and pedestrian oriented aesthetics;
- (E) Promote the creation and efficient use of open spaces;
- (F) Create flexibility and variety in the location of improvements on lots;
- (G) Provide flexibility in development standards to facilitate creative land development concepts.

10-6-1.2: UNDERLYING ZONING DISTRICT:

Each ZDA shall accompany a request to rezone a subject property to one or more underlying zoning districts that comply with the Comprehensive Plan.

10-6-1.3: USE REGULATIONS:

Land uses in a ZDA shall conform to the standards and regulations of the underlying zoning district(s), unless otherwise approved and included within the ZDA.

10-6-1.4: ZDA STANDARDS:

The following property development standards shall apply to all land and buildings in a ZDA:

- (A) Development requirements for each ZDA shall be set forth in the written commitment document and may include, but not be limited to: uses, density, lot area, lot width, lot depth, yard depths and widths, building height, building elevations, coverage, floor area ratio, parking, access, screening, landscaping, architectural standards, project phasing or scheduling, management associations, and other requirements as the Planning & Zoning Commission and/or the City Council may deem appropriate.
- (B) The ZDA shall conform to all sections of City Code Title 10 unless specifically addressed in the written commitment document. All applications to the City shall list all requested variations from the standard requirements. Applications without this list may be considered incomplete.
- (C) A ZDA subject parcel shall be a minimum of two (2) acres unless the Planning & Zoning Commission recommends and the City Council finds that property of less than two (2) acres is suitable as a PUD by virtue of:
 - 1. Unique character; or

2. In-fill development; or
3. Topography or landscaping features; or
4. Qualifying as an isolated problem area.

10-6-1.5: ZDA CONCEPTUAL DEVELOPMENT PLAN:

A ZDA shall include a Conceptual Development Plan that illustrates the standards contained therein. This plan shall be submitted by the applicant at the time of the zoning and ZDA request. The plan shall show the applicant's intent for the use(s) of the land within the proposed ZDA in a visual manner and be supported by written documentation of proposals and standards for development. Dependent on the nature of the ZDA request, this plan may be submitted as a residential plan, non-residential plan, or a mixed-use combination plan. For a mixed-use development, the plan shall comply with requirements for both the residential and non-residential plans.

- (A) **Residential Conceptual Development Plan** - A Conceptual Development Plan for residential land use shall set forth the land use proposals in a manner to adequately illustrate the type and nature of the proposed development. The plan may include, but is not limited to, the proposed general land use, streets, thoroughfares, storm drainage, and preliminary lot arrangements. The applicant shall submit text material to further explain the characteristics of the plan, which may include, but shall be not limited to, access, density, building height, screening, landscaped areas, project scheduling, parks and open space, and other pertinent development data. The applicant may also submit renderings or elevations to illustrate proposed architectural standards or requirements.
- (B) **Non-Residential Conceptual Development Plan** - A Conceptual Development Plan for non-residential uses shall set forth the land use proposals in a manner to adequately illustrate the type and nature of the proposed development. The applicant shall also submit text material to further explain the characteristics of the plan. The plan and text material may include, but is not limited to, the types of use(s), topography and boundary of ZDA subject parcel, the size, type and location of buildings and building sites, proposed ingress and egress, physical features of the site, existing streets, storm water management, alleys and easements, location of future public facilities, building height and location, parking, landscaping, screening, project scheduling and other information to adequately describe the proposed development and to provide data for approval that is to be used in preparing the final development plan(s). The applicant may also submit renderings or elevations to illustrate proposed architectural standards or requirements.

10-6-1.6: CONFORMANCE TO THE CONCEPTUAL DEVELOPMENT PLAN:

Final development plans, including plats, construction plans, and/or site plans, submitted for the development of the ZDA subject parcel shall conform to the approved Conceptual Development Plan. Details on the final development plan(s) with minor variations from the Conceptual Development Plan may be approved by the Administrator, or designated City official without public hearing. If it is determined that a proposed change(s) does not conform to the Conceptual Development Plan and/or the development standards in one (1) or more of the following ways, the ZDA written commitment document shall be adequately amended, using the initial approval process contained herein, prior to approval of the final development plan(s)

- (A) the basic relationship of the proposed development to adjacent property,
- (B) the permitted uses,
- (C) increase in density,
- (D) increase in building height,
- (E) increase in building coverage of the site,
- (F) reduction in the off-street parking ratio,
- (G) reducing the building setbacks provided at the boundary of the site,
- (H) significantly alter any open space plans, or
- (I) Significantly alter the overall design theme, major architectural elements, or building materials.

10-6-1.7: PROCEDURE:

- (A) Any applicant requesting approval of a ZDA shall schedule a pre-submittal meeting with the Administrator, or his/her designee.
- (B) The procedure for establishing a ZDA shall follow the procedure for zoning map amendments as set forth in City Code 10-14 with the following addition. The Planning & Zoning Commission shall complete a preliminary review of the proposed Conceptual Development Plan at a meeting prior to the public hearing for a zoning district and zoning map amendment.
- (C) Each ZDA written commitment document shall be signed and notarized by the property owner(s) and shall include the following:
 - 1. A legal description of the ZDA subject parcel boundary, including legal descriptions of each underlying zoning district, if multiple underlying districts are included.
 - 2. A statement as to the purpose and intent of the ZDA.
 - 3. A list of the ZDA development requirements that vary from the standard development requirements of the underlying zoning district.
 - 4. A Conceptual Development Plan.
 - 5. An expected development schedule. If no development has occurred on the ZDA subject parcel within the time identified, the Planning & Zoning Commission and City Council may review the original ZDA development requirements and Conceptual Development Plan to ensure their continued validity. If the City determines the concept is no longer valid, then:
 - a. The City may initiate a process to change the zoning classification, or
 - b. New ZDA development requirements and/or a new Conceptual Development Plan may be required to be approved prior to the City issuing a building permit for any portion of the ZDA subject parcel.
 - 6. A statement, signed by the property owner(s) and notarized, indicating a commitment to develop the subject parcel in conformance with the ZDA.
- (D) The City Council shall not adopt an ordinance rezoning the subject parcel until the property owner/developer has submitted a complete and signed ZDA written commitment document. The signed ZDA written commitment document shall be attached as an exhibit to the rezoning ordinance and recorded in the office of the County Recorder.
- (E) Approval of a ZDA shall be based on the following standards:
 - 1. The proposed uses shall not be detrimental to any surrounding uses; nor shall they be detrimental to the health, safety and general welfare of the public.
 - 2. Any variation from the underlying zoning district development requirements must be warranted by the design and amenities incorporated in the conceptual development plan.
 - 3. The underlying zoning district and the Conceptual Development Plan shall conform to the Comprehensive Plan.
 - 4. Existing and/or proposed streets and utility services must be suitable and adequate for the proposed development.

List of Code Sections to be Updated from PUD to ZDA

7-8-3: USE OF PUBLIC OR PRIVATE WATER SUPPLY REQUIRED:

(F) Notwithstanding the foregoing, the use of the City's potable water supply as the primary source of irrigation water in all new developments shall be prohibited. For purposes of this subsection, the term "new development" means any new subdivision or PUD, or any development of any parcel of land of two (2) acres or larger that is not part of a subdivision or PUD. (Ord. 2607, 4-26-1999)

7-8-4: CONNECTION TO PUBLIC WATER LINE, PROCEDURE:

(E) Notwithstanding the foregoing, the use of the City's potable water supply as the primary source of irrigation water in all new developments shall be prohibited. For purposes of this subsection, the term "new development" means any new subdivision or PUD, or any development of any parcel of land of two (2) acres or larger that is not part of a subdivision or PUD. (Ord. 2607, 4-26-1999)

10-2-1: DEFINITIONS:

BUSINESS PARK: A development approved through the PUD process that contains a number of separate manufacturing, commercial, office and supporting uses and open space. (Ord. 2786, 6-1-2004)

OFF PREMISES SIGN: A sign mounted on property other than that occupied by the use being advertised by said sign. This definition shall exclude signs located within an approved PUD advertising a nonresidential use or nonresidential uses located within that PUD and approved as part of a master sign plan through the PUD process. (Ord. 3005, 6-6-2011)

PLANNED UNIT DEVELOPMENT: A tract of land on which a variety of residential, commercial and manufacturing uses may coexist in a preplanned environment with more flexible standards than normally apply to the use of land in a standard zoning district.

10-4-2.2: USE REGULATIONS:

(B) Special Uses: A special use may be granted for a permanent use that is not in conflict with the comprehensive plan and that is not permitted outright because it may conflict with other uses in the district unless special provisions are taken. Special use permits may be granted for the following uses:

6. Residential:

d. Residential PUD, not to exceed SUI density.

10-4-8.2: USE REGULATIONS:

(A) Permitted Uses: Buildings, structures or premises shall be used and buildings and structures shall hereafter be erected, altered or enlarged only for the following uses:

4. Manufacturing:
 - a. Business park PUD only.

10-4-11.2: USE REGULATIONS:

(B) Special Uses: A special use permit may be granted for a permanent use that is not in conflict with the Comprehensive Plan and that is not permitted outright because it may conflict with other uses unless special provisions are taken. Special use permits may be granted for the following uses:

6. Residential:
 - c. Residential PUD (not to exceed SUI density).

10-4-14.1: PURPOSE:

This District is intended to provide for a mixture of commercial, professional and residential uses in a unified environment planned and approved through the PUD process. (Ord. 2526, 5-20-1996)

10-4-14.3: PROPERTY DEVELOPMENT STANDARDS:

(A) Lot Area:

2. Residential Uses: Residential uses less than five (5) units and not attached to a commercial use shall provide the minimum lot area of the R6 District or as determined by the PUD process.

(D) Yards:

2. Residential Uses: Residential uses less than five (5) units and not attached to a commercial use shall conform to the yard standards of the R6 District or as determined through the PUD process.

(F) Landscaping:

1. Commercial uses shall provide landscaping equal to ten percent (10%) of the total required parking area or three percent (3%) of the total land area, whichever is greater or as determined by the PUD process.

10-4-15.1: PURPOSE:

This District is intended to provide for a mixture of residential housing types in a unified environment planned and approved through the PUD process.

10-4-16.1: PURPOSE:

This district is intended to promote development which will serve or complement the College Of Southern Idaho while allowing for a mixture of land uses in a unified environment planned and approved through the PUD process.

10-4-16.3: PROPERTY DEVELOPMENT STANDARDS:

(A) Use Of Lots: As provided for in the PUD development plan.

10-4-19.4: PROPERTY DEVELOPMENT STANDARDS:

(C) Building Height: No building shall exceed thirty five feet (35') in height or the maximum building height limitation set forth below, whichever is less. All heights are to be measured from the existing canyon rim elevation or the existing ground level elevation at the building site, whichever is greater.

4. Building height exception: Notwithstanding the foregoing:

a. Additional building height beyond one hundred feet (100') from the canyon rim may be allowed for hotel/convention centers, through the PUD process, in the canyon rim overlay zone within one thousand feet (1,000') of state administered highways serving as gateway arterials, as defined in section [10-7-12](#) of this title. For purposes of this section, the term "hotel/convention center" shall be defined as a full service hotel with a convention center designed to accommodate a minimum of five hundred (500) convention attendees. A citizens' design review committee, appointed by the mayor, shall make recommendations to the planning and zoning commission for any building higher than thirty five feet (35').

b. Additional building height beyond fifty feet (50') from the canyon rim may be allowed in that portion of the canyon rim overlay district located between Washington Street North and Blue Lakes Boulevard North through the PUD process, in a PUD that consists of more than ten (10) acres and that constitutes a private/public mixed use development. The term "private/public mixed use development" is defined as a development which promotes a mixture of cultural and commercial activities in the PUD through:

(2) Promotion of community interaction among members of the public, through a combination of required PUD property uses; open spaces and canyon rim trail system access. Permitted uses in such PUD shall include commercial, professional, residential and cultural activities. A citizens' design review committee, appointed by the mayor, shall make recommendations to the planning and zoning commission for any building higher than twenty five feet (25'). (Ord. 2851, 3-6-2006)

10-4-19.5: PUD REQUIREMENT:

All development except existing residential lots in the Canyon Rims Overlay District shall be part of an approved **planned unit development**. (Ord. 2526, 5-20-1996)

10-4-21.1: PURPOSE:

This Overlay District is intended to provide for limited commercial and service activities within residential zoning districts and serving the local neighborhood, and which are integrated into a residential setting. Development of this overlay is allowed only through the **PUD** process. (Ord. 2526, 5-20-1996)

10-4-21.3: PROPERTY DEVELOPMENT STANDARDS:

(K) Additional Requirements:

1. Nonresidential uses: The following additional requirements shall also be met:

f. Additional requirements as may be determined by the city council through the **PUD** process.

10-5-1: DESIGNATION OF ZONING SUBDISTRICTS:

There are hereby established the following zoning subdistricts for the City:

ZONING SUBDISTRICT SHORT TITLE

Planned Unit Development PUD

Mobile Home Park MHP

Mobile Home Subdivision MHS

In designating a zoning subdistrict a prefix is added which corresponds to one of the basic zoning district regulations.

10-6-1: PUD, PLANNED UNIT DEVELOPMENT SUBDISTRICTS:

10-6-1.4: PROPERTY DEVELOPMENT STANDARDS:

The following property **development** standards shall apply to all land and buildings in **planned unit development** subdistricts:

(A) Project Size:

1. The minimum project size shall be two (2) acres for a basic zoning subdistrict unless the commission and city council find that property of less than two (2) acres is suitable as a **planned unit development** by virtue of:

(E) Approval of a **PUD** Subdistrict:

1. Preliminary **Development** Plan. The petitioner for a **planned unit development** subdistrict may, after pre-application conferences with the planning staff, submit a

preliminary **development** plan to the Commission for review, which **development** plan shall include the following:

4. Findings Required. The Planning Commission shall recommend to the Council approval, approval with modifications, or disapproval of the final **development** plan. Upon approval, the plan shall constitute the zoning requirements and subdivision plat for the land in the **planned unit development** subdistricts.

5. Approval of a **planned unit development** subdistrict shall be based on the following standards:

b. The density of the **planned unit development** shall be in substantial conformity with the density of surrounding zoning districts.

f. The execution of a **PUD** agreement signed by the developer and the City which delineates commitments of the developer to the City and of the City to the developer. (Ord. 2124, 10-15-1984)

10-6-2.4: PROPERTY **DEVELOPMENT STANDARDS:**

(E) Approval Of A MHP Subdistrict:

4. Findings Required: The planning commission shall recommend to the council approval, approval with modifications, or disapproval of the final **development** plan. Upon approval, the plan shall constitute the zoning requirements and subdivision plat for the land in the **planned unit development** subdistricts.

5. Approval: Approval of a **planned unit development** subdistrict shall be based on the following standards:

b. The density of the **planned unit development** shall be in substantial conformity with the density of surrounding zoning districts.

10-6-3: BUSINESS PARK **PUD:**

A "business park", as defined herein, may be established through the **PUD** process, with the following development requirements:

(D) Landscaping equal to ten percent (10%) of the site shall be provided with a master landscape plan approved through the **PUD** process. Parking lots of more than twenty five (25) vehicles shall have landscaped islands within the parking lot breaking up large asphalt areas. A thirty five foot (35') wide landscaped buffer with berming at least four feet (4') high shall be required on any street fronting any residential property.

(E) A master sign plan shall be approved as part of the **PUD**.

(F) Architectural standards shall be approved through the **PUD** process for buildings within the business park.

10-11-2: LANDSCAPING:

(B) Approval And Completion:

1. A landscaping plan conforming to the minimum requirements of this section shall be submitted for approval as part of the development map whenever a **PUD** or MHP zoning

subdistrict is submitted for approval. A landscaping plan conforming to the minimum requirements of this section shall be submitted for approval as part of the application for a building permit to construct any building.

4. Within required landscaped areas, display of vehicles, trailers, pickup shells, tires or any other items for sale is prohibited except upon city approved display pads provided through **planned unit development (PUD)** agreements or approval through the special use permit process. No such display pads shall be approved within fifteen feet (15') of the sidewalk or future sidewalk. (Ord. 2620, 8-2-1999)

10-11-3: SCREENING:

(A) Screening Required:

2. Screening shall be required between an MHP zoning subdistrict and any other zoning district or subdistrict except another MHP or MHS subdistrict and screening may be required between a **PUD** or MHS zoning subdistrict and any other zoning district or subdistrict. The zoning subdistrict shall provide any required screening.

10-12-2-3: PRELIMINARY PLAT:

(C) Content Of Preliminary Plat: The contents of the preliminary plat and related information shall be in such form as stipulated by the Commission; however, additional maps or data as deemed necessary by the Administrator may also be required.

3. Appropriate information that sufficiently details the proposed **development** within any special **development** area, such as hillside, **planned unit development**, flood plain, cemetery, mobile home, large scale **development**, hazardous and unique areas of **development**.

10-12-4-2: REQUIRED IMPROVEMENTS:

(L) Mailboxes: Mailbox locations shall conform to the following standards: (Ord. 2472, 12-19-1994)

4. In **PUD** and MHP overlays with private streets and in commercial and industrial zones, mailbox locations shall be reviewed and approved by the U.S. postal service.

(P) Pressure Irrigation System:

1. Pursuant to section **7-8-3** of this code, the use of the city's potable water supply as the primary source of irrigation water in all new developments shall be prohibited. For purposes of this subsection, the term "new development" means any new subdivision or **PUD**, or any development of any parcel of land of three-fourths ($\frac{3}{4}$) of an acre or larger that is not part of a subdivision or **PUD**.

10-12-5-3: PLANNED UNIT DEVELOPMENTS AND CONDOMINIUM SUBDIVISIONS:

Planned unit and condominium **developments** shall be subject to requirements set forth in this Title and also subject to all provisions herein contained.

(B) Site Development Plan: The developer shall provide the Commission with a colored rendering of adequate scale to show the completed development that will include at least the following where applicable:

1. Architectural style and building design.
2. Building materials and color.
3. Landscaping.
4. Screening.
5. Solid waste areas.
6. Parking.
7. Open space.

A concept site development plan may be approved by the Commission but shall be conditioned upon approval of a final site development plan before final approval of the PUD or Condominium Subdivision.

10-6-1.2: OVERLAY CONCEPT:

Each zoning district within a development may be overlaid by one or more zoning subdistricts having the same prefix as the underlying zoning district. Such a zoning subdistrict shall be called the basic zoning subdistrict. To allow for the mixing of certain uses and for increasing densities in a planned development, each basic zoning subdistrict may be overlaid by one or more secondary zoning subdistricts having a prefix which is different from the underlying zoning district and subdistrict. (Ord. 2012, 7-6-1981)

10-7-17: WIRELESS COMMUNICATIONS FACILITIES:

(A) Regulations:

1. Use: The placement, use or modification of any wireless communication facility is subject to the provisions of this section.
 - a. Residential zones: New freestanding towers are prohibited. Wireless communication facilities attached to utility poles, existing towers or facades attached to nonresidential buildings are permitted subject to the provisions of this section.
 - b. Nonresidential zones: Lattice towers are prohibited. Other wireless communication facilities are permitted subject to the provisions of this section.
2. Preferred Locations And Facility Types:
 - a. Site Selection Criteria: A master development plan is to be created, prior to any wireless communication facility permit request, based upon engineering constraints and desired areas of service. Wireless communication facilities shall be located on a master development plan in the following priority order:
 - (1) Collocation on an existing tower, structure or building. The applicant shall have the burden of proving that there are no feasible existing structures upon which to locate as described in this section.
 - (2) Publicly owned property.
 - (3) Other nonresidential buildings or vacant nonresidentially zoned land.
 - b. Priority Order: Facility types are preferred in the following priority order:
 - (1) Roof mounted.
 - (2) Facade mounted.
 - (3) Utility pole mounted.
 - (4) Freestanding.
3. Collocation: Collocation is considered to be a visually unobtrusive installation method because the equipment is attached to an existing structure. Collocation of a wireless communication facility shall require only approval of the administrator.
4. New Freestanding Towers: No new tower shall be permitted unless the applicant demonstrates that no existing tower or structure can accommodate the applicant's proposed wireless communication facility. Evidence submitted to demonstrate the unavailability of other towers or structures shall address all of the following:

a. An RF engineering analysis of all utility poles, regardless of height, and of all towers or structures thirty five feet (35') in height or higher, within a one thousand three hundred twenty foot (1,320') radius of the proposed wireless communication facility site.

b. The fees, costs or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for collocation are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

5. Prohibitions: The following are prohibited or restricted:

a. Lattice towers are prohibited.

b. Interference with city and public safety communication systems and/or area television or radio broadcast is prohibited.

c. Freestanding towers within residentially zoned areas are prohibited.

d. Diagonal bracing is permitted only to anchor the antenna to an existing building to which the antenna is attached.

(B) Application Procedure: The administrator shall be the granting authority for wireless communication facility collocating on existing structures or utility poles in accordance with the standards set forth below. All other wireless communications facilities shall require a special use permit from the planning and zoning commission. An application for a special use permit for a wireless communication facility shall contain the information set forth below, in addition to the standard application information required for all special use permits:

1. A site plan including location, type and height of the proposed wireless communication facility with setbacks, property lines, adjacent land uses, structures and zoning.

2. Elevation drawings or before and after photographs/drawings simulating and specifying the location and height of the antennas, support structures, equipment enclosures and other accessory uses.

3. The master development plan showing the location of all existing and proposed wireless communication facility sites of the applicant within the city and its area of impact, including the service area of each wireless communication facility.

4. Evidence demonstrating the unavailability of collocation, as set forth above.

5. Certification from the applicant's engineer that collocation of additional antennas for at least one additional provider is possible on the proposed pole, and a signed and notarized statement by the applicant agreeing to accommodate collocation of additional antennas on the tower and that the applicant agrees to enter into leases with other providers allowing use of the tower at a monthly lease rate not to exceed one-half ($1/2$) the capital cost of the tower, excluding the equipment to be used exclusively by the applicant, paid over fifteen (15) years

at (7 percent interest) an interest rate not to exceed the Dow Jones twenty (20) year bond index, as published by the Wall Street Journal thirty (30) days prior to the lease date, plus one-half ($\frac{1}{2}$) the land lease. The maximum monthly lease rate shall be included in the application.

6. A lease agreement with the landholder that allows other providers to locate equipment on the subject property, and provides that if the provider fails to remove the wireless communication facility and equipment within one hundred eighty (180) days of its discontinued use, the responsibility for removal shall belong to the landholder.

(C) Standards:

1. Roof Mounted:

a. Height: Roof-mounted wireless communications facilities may extend above the highest portion of the roof, including parapet walls, by a distance equal to its distance to the nearest exterior wall. The maximum height for any roof-mounted facility, including the building, shall be one hundred feet (100'). (Ord. 2700, 7-16-2001)

b. Setback: Roof-mounted wireless communications facilities shall be set back from the edge of the building the height of the antenna and support system.

c. Lighting: Lighting of antennas or support structures shall be prohibited except as required by the FAA.

2. Facade Mounted:

a. Height: Facade-mounted wireless communications facilities may not exceed five feet (5') above the facade to which it is attached.

b. Setback: Maximum projection of eighteen inches (18"), but may not encroach into the public right of way.

c. Attachment: The antenna and supporting electrical and mechanical equipment must be the same color as the supporting structure so as to make the antenna and related equipment as unobtrusive as possible.

3. Utility Pole Mounted:

a. Height: Maximum height of one hundred thirty three percent (133%) of the height of the original utility pole or an additional fifteen feet (15'), whichever is greater.

b. Lighting: Lighting of antennas or support structures shall be prohibited except as required by the FAA.

c. Attachment: The antenna shall be either fully concealed within the utility pole or face

mounted (not to exceed 18 inches from the face of the pole). Standoffs and amps platforms are prohibited.

d. Pole Replacement: Existing utility poles may be replaced with a new utility pole of the same height, dimensions and appearance as the existing utility pole.

e. Equipment Enclosures: Aboveground equipment enclosures on utility poles in the right of way shall not exceed twelve (12) cubic feet in volume and shall be constructed so as to minimize their visual impact. Aboveground equipment enclosures off the right of way shall meet building line setbacks in the underlying district, and shall be finished to blend in with the surrounding area. If a security fence is installed, landscaping and screening shall be installed to visually screen the aboveground equipment enclosure. Landscaping and screening shall consist of a combination of trees, foliage and shrubs of dense spacing in the form of either: 1) a screening wall or fence surrounded by a five foot (5') wide landscape planter; or 2) a ten foot (10') wide landscape planter without a screening wall or fence. All landscaping shall be watered, fertilized and maintained as necessary. All dead plantings shall be replaced within thirty (30) days.

f. Relocation Of Utilities: In the event the utilities located on a utility pole are relocated underground, the wireless communication facility shall be relocated to another location pursuant to the requirements of this section.

4. Freestanding:

a. Height: Freestanding towers shall not exceed one hundred feet (100') in height as measured from the ground.

b. Setback: Setbacks shall be measured from the base of the tower to the property line of the parcel on which it is located. Towers shall be set back from all residential and residentially zoned property one hundred twenty five percent (125%) of the tower height as measured from ground level.

c. Color: Freestanding towers shall be a neutral color, simulate a standard utility pole, or otherwise be camouflaged or disguised so as to make the tower as unobtrusive as possible.

d. Attachment: The antenna shall be either fully concealed within the tower or face mounted (not to exceed 18 inches from the face of the tower). Standoffs and amps platforms are prohibited.

e. Landscaping: Landscaping and screening shall be installed to visually screen the support structure and aboveground equipment enclosures. Landscaping and screening shall consist of a combination of trees, foliage and shrubs of dense spacing in the form of either: 1) a screening wall or fence surrounded by a five foot (5') wide landscape planter; or 2) a ten foot (10') wide landscape planter without a screening wall or fence. All landscaping shall be watered, fertilized and maintained as necessary. All dead plantings shall be replaced within thirty (30) days.

f. Lighting: Lighting of antennas or support structures shall be prohibited except as required

by the FAA.

g. Maintenance: All facilities and landscaping shall be properly maintained. (Ord. 2678, 1-16-2001)

(D) Modification: Modification to any existing wireless communication facility, which includes construction involving the replacement of support structure apparatus, antennas or any exterior alteration, shall comply with all the requirements of this chapter.

(E) Abandonment: Upon abandonment or discontinuation of use, the carrier shall physically remove the wireless communication facility within ninety (90) days of the date of abandonment or discontinuation of use, and restore the site to its original condition. The carrier shall provide to the city, prior to issuance of a permit, a performance bond in the amount of twenty thousand dollars (\$20,000.00) or a bond equal to a written estimate from a qualified tower removal contractor to guarantee that the facility will be removed when no longer in use. The city shall be named as an obligee in the bond and must approve the bonding company. (Ord. 2850, 2-21-2006)

10-13-2-2: SPECIAL USE:

- (A) Definition: A special use is a use otherwise prohibited by the terms of this Title in a given zone, but which may be allowed with conditions under specific provisions of this Title and when not in conflict with a comprehensive plan.
- (B) Authority to Grant: The Commission may authorize in specific cases special uses, subject, however, to the minimum conditions and requirements of the zoning district in which they are located and subject to additional conditions and requirements necessary to protect the best interest of affected persons and the City as a whole.
- (C) Application: An application for special use permit shall be filed with the Administrator by at least one owner or lessee of property for which such special use is proposed or for which an expansion of more than twenty five percent (25%) over the original square footage approved through the special use permit process or a total increase in square footage over ten thousand (10,000) square feet, whichever is less, or relocation of an existing special use is proposed. At a minimum, the application shall contain the following information:
1. Name, address and phone number of applicant.
 2. Legal description of property.
 3. Description of existing use.
 4. Zoning district.
 5. Description of proposed special use.
 6. A plan of the proposed site for the special use showing the location of all buildings, parking and loading areas, traffic access and traffic circulation, open spaces, landscaping, refuse and service areas, utilities, signs, yards and such other information as the Commission may require to determine if the proposed special use meets the intent and requirements of this Title.
 7. A narrative statement evaluating the effects on adjoining property; the effect of such elements as noise, glare, odor, fumes and vibration on adjoining property; a discussion of the general compatibility with adjacent and other properties in the district; and the relationship of the proposed use to a comprehensive plan.
- (D) Standards Applicable to Special Uses: The Commission shall review the particular facts and circumstances of each proposed special use in terms of the following standards and shall find adequate evidence showing that such use at the proposed location:

REVIEWED AT 07-02-2014 WORK SESSION

1. *Will, in fact, constitute a special use as established by zoning requirements for the zone involved.*
2. *Will be harmonious with and in accordance with the general objectives or with any specific objective of a comprehensive plan and/or zoning regulations.*

3. *Will be designed, constructed, operated and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.*
4. *Will not be hazardous or disturbing to existing or future neighboring uses.*
5. *Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer and schools; or that the persons responsible for the establishment of the proposed use shall be able to provide adequately any such services.*
6. *Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.*
7. *Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any person, property or to the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.*
8. *Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares.*
9. *Will not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance.*

(E) Restrictions: In granting any special use, the Commission may prescribe appropriate conditions, bonds and safeguards in conformity with this Title. Violations of such conditions, bonds or safeguards, when made a part of the terms under which the special use is granted, shall be deemed a violation of this Title.

(F) Public Hearing: Upon receipt of the application for a special use, the Commission shall hold a public hearing, publish notice in the newspaper and give written notice to all parties as required for variance permits. (Ord. 2124, 10-15-1984)

(G) Action By Commission: Within thirty (30) days after the public hearing, the Commission shall either approve, conditionally approve or disapprove the application as presented. If the application is approved or approved with modifications, the Commission shall direct the Administrator to issue a special use permit listing the specific conditions specified by the Commission for approval.

Upon granting of a special use permit, conditions may be attached to a special use permit including, but not limited to, those:

1. Minimizing adverse impact on other developments.
2. Controlling the sequence and timing of development.
3. Controlling the duration of development.
4. Assuring that development is maintained properly.
5. Designating the exact location and nature of development.
6. Requiring the provision for on-site or off-site public facilities or services.
7. Requiring more restrictive standards than those generally required in this Title.

Prior to granting a special use permit, the Commission may request studies from the planning staff or public agencies concerning social, economic, fiscal and environmental effects of the proposed special use. A special use permit shall not be considered as establishing a binding precedent to grant other special use permit.

Upon granting or denying an application the Commission shall specify:

1. The regulations and standards used in evaluating the application.
2. The reasons for approval or denial.
3. The actions, if any, that the applicant could take to obtain a permit.

The applicant or any affected person who appeared in person or in writing before the Commission may appeal the decision of the Commission to the Council, provided a written appeal is submitted to the Council within fifteen (15) days from the Commission's **action**. (Ord. 2620, 8-2-1999)

(H) Notification To Applicant: Within ten (10) **(LETTER IS MAILED W-FOF)** days after a decision has been rendered the Administrator shall provide the applicant with written notice of the action on the request. (Ord. 2124, 10-15-1984)

(I) Transfer, Review And Discontinuance Of Special Use Permits: A special use permit is not transferable from one parcel of land to another, but may be transferable from one owner to another, provided all conditions of the special use permit continue to be met except special use permits issued for in-home daycare services and for home occupations which are not transferable from one owner to another.

Special uses which have not been established within one year of the date of issuance of the special use permit, may be reviewed by the Commission to determine if the facts and circumstances have changed; the Commission may call for a new special use permit application.

A special use which has been discontinued for a period of one year shall not be reestablished without a new special use permit. (Ord. 2620, 8-2-1999)

(J) Appeal To The Council: Upon receipt of an appeal from the action of the commission, the council shall set a hearing date, under the same provisions as the commission hearing, to consider all information, testimony and the commission's minutes of the public hearing to reach a decision to uphold, conditionally uphold or overrule the decision of the commission. (Ord. 2124, 10-15-1984)

(K) Conditional Approval: If a special use permit is approved on condition that certain improvements be made to the subject property, no permit shall be issued until the applicant has provided proof that the conditions have been complied with. If the applicant fails to provide **proof of compliance within six (6) months of approval, the special use permit shall be void.** (Ord. 2773, 12-15-2003)

10-13-2-3: REVOCATION OF ZONING PERMITS:

(A) Any privilege, permit or license, hereinafter called permit, granted pursuant to this title, including any permit granted prior to the passage of this section, and with the exception of rezone requests, may be revoked for the following reasons:

1. When a significant change in the use which does adversely impact neighboring developments occurs.
2. For violation of supplementary conditions, safeguards and/or restrictions imposed by the city council or the planning and zoning commission at the time the permit was granted.
3. Use of a zoning permit or certificate for a use other than the use for which said permit or certificate was issued.

(B) A petition for revocation may be initiated in the following manner:

1. By adoption of a motion by the commission for revocation of the permit.
2. By adoption of a motion by the council for revocation of the permit.
3. By the filing of a petition by an aggrieved property owner or person who has an existing interest in property within the area affected by the contested use.

(C) Notice of initiation of revocation proceedings shall be provided to the permit holder in writing within fifteen (15) days of the filing of the petition for revocation or the passage of a motion initiating revocation proceedings. Notice shall include the following:

1. The name of the party or parties petitioning for a permit revocation.
2. The date and time of passage of a motion to revoke by the zoning body, or the date of filing of the petition to revoke.
3. The change in circumstances which has been alleged to have occurred and the adverse impact which said change in circumstances is expected to have.
4. The supplementary conditions, safeguards and restrictions alleged to have been violated. (Ord. 2045, 7-6-1982)

(D) A public hearing on the motion or petition to revoke shall be held before the appropriate zoning body. The permit holder, city staff and/or any aggrieved party may present testimony or other evidence at said hearing. Said hearing shall be held within forty five (45) days of the filing of a petition for revocation or the passage of a motion initiating revocation proceedings. (Ord. 2620, 8-2-1999)

(E) The decision of the zoning body hearing a revocation proceeding shall be based on the record. If said zoning body finds substantial evidence on the record that continuance of the use in question will result in a significant adverse impact on the surrounding developments or other affected parties, and that the permit holder is unable or unwilling to alleviate the adversity, or if said zoning body finds substantial evidence on the record that conditions, safeguards or restrictions imposed by the commission or council have been violated, the zoning body may revoke the permit in question.

(F) A permit which has been revoked may be reinstated only by reapplying for said permit. (Ord. 2045, 7-6-1982)

(G) Within ten (10) days after a decision has been rendered, the administrator shall provide the permit holder with written notice of the action taken.

Upon receipt of a decision from the planning and zoning commission, an aggrieved party may appeal to the city council. The council shall set a hearing date and shall hold a public hearing pursuant to the provisions provided herein. (Ord. 2620, 8-2-1999)