



RECORD OF PROCEEDINGS

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**Regular Meeting of the  
Planning Commission for the Town of Frisco  
Town Hall, 1 East Main Street  
Thursday, December 5, 2019  
5:00 P.M.**

**Call to Order:** Andy Stabile, Chair, opened the meeting.

**Roll Call:** Present: Andy Held, Lina Lesmes, Donna Skupien, Andy Stabile, and Kelsey Withrow  
Absent: Robert Anton Franken and Jason Lederer

**Minutes:** The November 7, 2019 Planning Commission meeting minutes were approved unanimously.

**Public Comment (non-agenda items):** There were no public comments.

**Agenda Items:**

1. Planning File No. 104-19-ORD: A code text amendment to Chapter 180 of the Code of Ordinances of the Town of Frisco, concerning zoning, by amending Section 5.2.11 thereof, concerning telecommunications facilities, to revise regulations concerning small cell wireless facilities to conform to Federal Communications Commission requirements and limitations.

Interim Community Development Director Bill Gibson noted that the Planning Commission is providing a recommendation to Town Council on this item. Mr. Gibson described the proposed changes to the Unified Development Code (UDC) as are outlined in the staff report. Mr. Gibson noted that the existing provisions of §180-5.2.11, Telecommunication Facilities, Unified Development Code do not fully comply with the requirements and limitations of FCC rulings and Town Staff is proposing code text amendments outlined in a draft by the Town Attorney to bring the Town Code into FCC compliance. He noted that future code amendments may be needed to further address design guidelines for 5G. Mr. Gibson further noted that Commission has the option to recommend approval per the staff report with future amendments to follow or, table the item to a future date. Mr. Gibson again stated that from a Staff perspective, we would like to be in compliance with Federal standards.

**Commission Questions for Staff included:**

- Commissioner Withrow asked why the TOF is just now doing this and what the ramifications would be if we do not meet FCC standards. Staff responded no one has approached us to install 5G technology until the past few months.
- Commissioner Withrow questioned what the industry standards and heights were in order to include them in the Code. Staff responded that this information is not known at present and would be part of phase 2 which would be another amendment.
- Commissioner Held questioned if there was a publication put out by the FCC. Staff responded yes online there is a publication.
- Commissioner Held asked if the health effects of these towers was addressed. Staff responded that they would meet federal regulations.

- Commissioner Withrow asked if passing phase 1 would mandate that phase 2 passes. It would be hard to write a code when we don't have a good understanding of what's happening with 5G to see the full scope? Staff responded that this is not a new use, the code already allows small cell towers to go up; we just haven't seen any installed.
- Commissioner Skupien asked if phase 1 was to meet compliance only; and, what if during phase 2 something comes up on the Master Plan or FCC? Staff responded that likely our hands will be tied because we are not allowed to prohibit this technology. What is the time line? Staff responded that if we don't like the fact that our code is in violation with FCC and the exposure that comes with that, and, would like to update the code; we should act sooner than later.
- Commissioner Lesmes questioned whether the 5G towers would need Design Standards for Main St. Staff responded we are focused on Main St. due to it being the heart of the community. Staff also noted that there are practical engineering issues that need to be addressed.
- Commissioner Withrow asked how often these FCC regulations are updated. Staff responded that the FCC regulations are updated with the pace of technology.
- Commissioner Skupien asked if hypothetically something on Main St. had to be redone, is it worth thinking about the use of Granite St. Further, would the town have to pay for it? Staff will need to work that out and possibly any cost could be passed on to the applicant. Staff could send out an RFP to incorporate line of site on Main St, not Granite.
- Commissioner Stabile questioned if the proposed text amendment passed tonight as presented, will that bring the TOF into compliance with the FCC. Staff responded yes. Commissioner Stabile asked if there is a potential that we run out of time to update the code before receiving a 5G application. Staff responded yes. Commissioner Stabile asked if it would be advisable to wait for phase 2 and have the amendment complete and concise and certainly we would want to get to phase 2 as quickly as possible. Staff responded that we are at greater exposure to conflict with applicants and code that doesn't meet federal standards.
- Commissioner Withrow asked if the Federal requirements supersede the town code and Staff responded yes.
- Commissioner Lesmes stated that the proposed code is pretty strict and would be very limiting to anyone. Staff responded that right now the code is vague and general. It would help if the town code were clearer, more black and white.
- Commissioner Stabile questioned if the Commission chose to approve the amendments in phases, what would be included in phase 1? Staff responded that there are two things: the antenna height and the spacing piece – 1000 ft. is feasible and can be deviated from but the applicants must demonstrate the need to change the spacing.
- Commissioner Stabile asked if there we could recommend Applicant to back off the height limit in phase 1. Staff responded that you could recommend similar language for the height that counsel had for the spacing limitation – put in the same caveat.

Applicant, Christian Hendrickson, Esq. with Sherman & Howard, counsel for Verizon Wireless was introduced. Applicant stated that if the codes are clearer, it makes it better for everyone. The goal, from a feasibility point is to set-up the technical requirements. Applicant discussed the height language and provided information on what other municipalities were using. Verizon would like to provide better service for the Town of Frisco. Sometimes spacing at 1000 feet works and sometimes it does not. He expressed the desire to have a technical meeting showing what is possible. Mr. Hendrickson stated the Colorado allows for poles in ROW. He addressed the health concerns expressed by Commission stating that the Telecommunications Act of 1996 prohibits towns from regulating this type of technology based on health concerns. Further, the FCC websites have good links online regarding the 1996 Act.

#### **Commissioner Questions:**

- Commissioner Lesmes asked when you talk about the telecommunications antennas being 10 ft. above the light pole what height do you think the light pole is? Staff responded that Main St.

street lights are approximately 20 ft. Applicant responded that the 10 ft. must be above what you are attaching the telecommunications antennas to.

- Commissioner Lesmes asked if there was a certain height above ground that the poles needed to be. For example, if a light pole is only 15' tall you're getting to 25'. Mr. Hendrickson responded that the ideal height is 40 ft. (30 ft. off the ground).
- Commissioner Lesmes questioned the height and width of the poles in Denver. Mr. Hendrickson provided a photo and stated that the poles are wider at the base for stability and 30-40 ft. tall. They look very much like other poles on the street.
- Commissioner Stabile asked what size the pole would be if we don't have anything to attach it to. Staff replied that ideally the telecommunications equipment would be attached to a light pole, etc. A standalone pole would not be ideal and would be at the bottom of the priority list
- Commissioner Withrow questioned why the antenna would not be put on rooftops? Staff replied that 5G telecommunication antennas must be in line of site.

**Public Comments (agenda items):**

No public comments.

**Commissioner Discussions:**

- Commissioners discussed the importance of bringing Town Code into compliance with FCC standards and agreed this is paramount.
- Commissioners discussed the relative urgency of a Phase 2 concerned that if this is not acted upon, the Town could end up with more towers.
- Commissioner Stabile expressed concern over linking this matter with the upcoming Main St. Master Plan due to the length of time the Master Plan will take to complete; however, it was suggested that maybe technology be addressed first in the Master Plan.
- The Commission expressed the desire to facilitate the best service and technology for the town.
- Commissioners thought it best to proceed with the language that the Town Attorney had prepared.

WITH RESPECT TO PLANNING FILE NO. 104-19-OR, COMMISSIONER HELD MOVED THAT THE RECOMMENDED FINDINGS SET FORTH IN THE DECEMBER 5, 2019 STAFF REPORT BE MADE AND THAT THE PLANNING COMMISSION RECOMMENDS APPROVAL TO TOWN COUNCIL OF THE PROPOSED CODE TEXT AMENDMENTS TO CHAPTER 180 OF THE CODE OF ORDINANCES OF THE TOWN OF FRISCO, CONCERNING ZONING, BY AMENDING SECTION 5.2.11 THEREOF, CONCERNING TELECOMMUNICATIONS FACILITIES, TO REVISE REGULATIONS CONCERNING SMALL CELL WIRELESS FACILITIES TO CONFORM TO FEDERAL COMMUNICATIONS COMMISSION REQUIREMENTS AND LIMITATIONS.

Motion seconded by Commissioner Lesmes.

**Vote:**

FRANKEN	ABSENT
HELD	YES
LEDERER	ABSENT
LESMES	YES
SKUPIEN	YES
STABILE	YES
WITHROW	YES

***MOTION CARRIED***

**Staff and Commissioner Updates:**

- Mr. Gibson stated that Staff received a response from Xcel Energy as to the reasoning behind the location of the monopole; however, the response was not acceptable to Staff and Staff requested Xcel to provide a more substantive explanation. To date there has not been a reply to that request.
- Reminder, the Town Holiday party is next Friday, 12/13/2019. If you have not sent an RSVP, please do so.
- Mr. Gibson noted that the Summit County's Hazard Mitigation Plan needs updating in order for Summit County to be eligible for federal emergency assistance. The County is taking the lead on this project. Please take their survey online by 12/13/2019. A draft of the update will be out early January 2020.
- There will be no meeting on 12/19/2019.
- Due to the New Year holiday, we will try not to have a meeting on 1/2/2020.
- Thrift & Treasure is talking with Public Works regarding Ferrell Gas not allowing parking in the back lot. Commissioner Stabile expressed the desire to have this issue handled before summer.
- Commissioner Stabile asked about the hiring status of the Community Development Director. Staff noted that interviews are scheduled for the week of 12/9/2019.
- Commissioner Withrow asked for an update on the Foote's Rest project. Staff replied that they met with the Applicant and there is a large punch list, financing is now in place, and they're looking at spring to break ground.
- Commissioner Stabile asked if there was an update on the CDOT project. Staff responded that CDOT is due to start in the spring.

**Adjournment:**

There being no further business, Commissioner Withrow moved to adjourn, seconded by Commissioner Skupien. Motion passed unanimously and the meeting adjourned at 6:11 p.m.

Respectfully submitted,

Cheryl Mattka  
Community Development Department