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December 5, 2019

VIA E-MAIL

Town of Frisco
Planning Commission
Attn: Bill Gibson
PO Box 4100
Frisco, CO 80443

Re: Planning File No. 104-19-OR: 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.

Dear Commissioners and Mr. Gibson:

We serve as counsel to Verizon Wireless. We appreciate the opportunity to participate in the Town of Frisco's ("Frisco" or "Town") amendment of the 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 ("Code"). As the process moves along, we will strive to be transparent in presenting our position and describing the reasoning behind any concerns we raise. Verizon Wireless wishes to work with the Town to enact regulations which conform to state and federal law, are reasonable for implementation, and are fair to all stakeholders. Verizon Wireless believes that such results can be accomplished.

This letter includes Verizon Wireless's comments to the proposed Code for the Planning Commission's consideration and review in advance of this evening's Planning Commission meeting. Christian Hendrickson, with Sherman & Howard L.L.C. and on behalf of Verizon Wireless, will be in attendance at tonight's Planning Commission meeting to address any questions the Commission may have regarding these proposed

comments. We request the opportunity to discuss these matters with you and the Commission, in tandem with Verizon Wireless's proposed MLA.

A. Verizon Wireless's Comments to Proposed Amendments to the Town's Code

Verizon Wireless respectfully requests the Planning Commission consider the following comments to the current draft of proposed Code. Also, attached you will find a redline of the proposed Code with Verizon Wireless's proposed changes and suggestions as set forth in detail below.

1. Section 5.2.11.J(2) – Location.

Verizon Wireless proposes alternative language to address the Town's location/siting preference for the deployment of small wireless facilities. Verizon Wireless proposes this alternative language which has been adopted by other jurisdictions in Colorado. We believe this language strikes the balance between the Town's preference for collocation on existing facilities, specifically town-owned assets, and allowing for providers to deploy freestanding facilities. Further, Verizon Wireless needs to obtain information regarding the existing facilities that are in Town of Frisco and available to collocate on (e.g. street lights, traffic signals, etc.). This provision should be balanced against the availability of existing facilities or whether providers can collocate on them.

Alternatively, Verizon Wireless proposes including preference language in the Master Lease Agreement that the parties may enter into with respect to small cell facilities. As currently drafted in the proposed Code, the language cuts back on rights granted to wireless providers under Colorado state law.

2. Section 5.2.11.J(3) – Height.

Verizon Wireless respectfully requests this subsection be modified to allow for small cell facilities to extend up to ten (10) feet above the existing pole. As a general matter, Verizon Wireless requires a facility height of 40 feet for small wireless facilities in all areas to be able to meet its RF objectives and deploy wireless services in residential areas where customer demand is the greatest. With respect to attachments to existing poles and facilities, Verizon Wireless requires ten (10) feet above the height of the pole structure in order to deploy existing and future technologies. If small wireless facilities are deployed at a lower height or are restricted in the height above the existing pole, then that will result in the proliferation of more facilities. The lower the height, the more poles or attachments are needed. The higher the height, the less poles and attachments are needed. Thus, Verizon Wireless wants to ensure there is an option for deployment of freestanding small wireless facilities and attachments to existing facilities at the height necessary to provide wireless services and reduce the visual impact by deploying fewer poles at the optimal height.

Also, if the attachments are limited to two (2) feet, Verizon Wireless will not be able to deploy existing or future technologies on that structure or pole at all. It will require the deployment of additional attachments or freestanding poles. For these reasons, Verizon Wireless requests that the Town revise this language to allow for ten (10) feet above the pole.

Further, the Code is not clear on the permissible height for new freestanding small cell facilities. The definition of small cell facilities allows the height of the small cell facilities up to fifty (50) feet. Verizon Wireless would like to confirm with the Town that it will allow new freestanding small cell facilities in the public right-of-way up to fifty (50) feet.

3. Section 5.2.11.J(4) – Spacing (Separation Distance between Freestanding Small Cell Facilities)

Verizon Wireless proposes modifications to the separation distance provision between small cell facilities to allow for the Town Manager to waive the separation requirement in certain circumstances and to limit the separation distance to only between new freestanding small cell facilities (not existing poles or infrastructure to which small cell facilities may attach as they may be closer together). There may be situations where strict adherence to this separation requirement places an undue burden on service providers and effectively prohibits them from serving certain areas. This alternative language we propose has been adopted by other jurisdictions in Colorado. Depending on the height of the facility, small cell facilities may need to be closer together to provide capacity and coverage for the network, or closer locations may achieve certain aesthetics that the Town prefers. Verizon Wireless therefore requests an exception which would allow for some flexibility under certain circumstances.

4. Sections 5.2.11.J(6), (8) and (9) – Relocation and Removal, Indemnification and Bonding

Verizon Wireless requests that these provisions be included in a master license agreement between the Town and the wireless provider. The terms in this section are terms that are usually addressed in the MLA between the Town and a wireless providers for small cell facilities in the public ROW.

Again, Verizon Wireless appreciates the opportunity to comment on the Town of Frisco's proposed amended telecommunications facilities code. We would appreciate the opportunity to talk to you with you and discuss these matters. Thank you.

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Sincerely,

A handwritten signature in blue ink, appearing to read 'MKR', with a long horizontal stroke extending to the right.

Melissa K. Reagan

Encl.

c: Ms. Debbie Essert (via email)
Ms. Laura Alms, Esq. (via email)
Mr. Christian H. Hendrickson, Esq. (via email)