



**PLANNING COMMISSION
STAFF REPORT**

November 7, 2019

AGENDA ITEM: Planning File No. 212-19-TSU: A Telecommunication Special Use Permit Application for the construction of a new telecommunication facility, including a monopole and noncommercial wireless communication antennas, at the existing Xcel Energy electrical substation.

LOCATION: 39 School Road / Unplatted (TR 5-78 Sec 26 Qtr. 3)

ZONING: Public Facilities (PF) District

APPLICANT Xcel Energy / Jaxon Fagan
1800 Larimer Street, Suite 400
Denver, CO 80209

OWNER: Public Service Company of Colorado
PO Box 1979
Denver, CO 80201

NOTICING: Published in the Summit County Journal: 11/01/2019
Mailed to adjacent property owners: 10/24/19
Posted at the Post Office: 10/24/19
Posted at the Site: 10/24/2019

TOWN STAFF: Katie Kent, Planner (970) 668-9131
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PROJECT DESCRIPTION

The applicant, Public Service Company of Colorado (PSCo), is proposing the installation of three noncommercial wireless communication antennas on top of a new monopole located within the secure Summit Substation at 39 School Road. The proposed antennas are a key component to an integrated grid system providing customers faster and more efficient service when outages occur. The proposed Field Area Network (FAN) project is to bring greater value to customers using multiple layers of secure radio networks to provide wireless coverage across PSCo's electric grid. Intelligent devices installed on the grid connect to the wireless network and send information about current grid conditions to PSCo's control centers. Without the proposed improvements, Town of Frisco electrical customers would not receive the benefits of the Advanced Grid project, including quicker, more responsive service, reduced outages, and increased integration of renewable energy. For a more complete description of this project, please refer to the attached application materials.

BACKGROUND

The property is located within the Public Facilities (PF) District which has a maximum building height of twenty-five (25) feet. The proposed antennas are twenty-nine inches tall and would be placed on a new eighty (80) foot tall single steel monopole. A five (5) foot tall lightning rod would be installed on the new monopole. Existing structures exist within the secure substation area.

Below is a vicinity map of the subject property with an aerial photography base layer. The location of the property lines shown on this map vary in accuracy and should only be used for reference purposes. A photograph of the subject property is included for reference.



Vicinity Map



View looking northeast at property (Google Earth, July 2018)

REQUIRED ACTION

Planning Commission: Approval, approval with conditions, or denial of the Special Use Application.

ANALYSIS - FRISCO COMMUNITY PLAN

The following elements of the Frisco Community Plan are applicable to the review of the proposed development:

Vision and Guiding Principles (excerpts)

The vision and guiding principles are a statement of community values. Together, they reflect characteristics that residents value about Frisco today, and the kind of community that residents would like to see Frisco become as it continues to grow and evolve over time. The vision and guiding principles serve as an organizing framework for subsequent chapters and policy guidance in the Community Plan, as well as for the Town Council’s Strategic Plan.

Guiding Principle 3.1

Provide high quality public infrastructure and services to meet current growth needs and accommodate growth.

- **3.1A** *Maintain and improve public infrastructure such as multi-use pathways, roads, sidewalks, and transit, and municipal utilities to maintain high quality of life for the community.*
- **3.1B** **Plan for growth and change – Analyze existing operational levels and plan for efficient implementation of improvements.**
- **3.1C** **Support private sector investment in telecommunication infrastructure to improve service and network reliability for the community.**

The proposed application appears to further the statements above in bold. The proposed new infrastructure will improve service and network reliability for the community while also providing a public service benefit for the community. The application appears to be in conformance with the purpose and recommendations of the Frisco Community Plan.

ANALYSIS – TELECOMMUNICATION FACILITIES [§180-5.2.11]

The purpose and intent of Frisco Town Code 180-5.2.11 Telecommunication Facilities is to accommodate the telecommunication needs of residents and businesses while protecting the public health, safety, and general welfare of the community. The applicant shall demonstrate that its proposed telecommunication facility meets all standards and provisions of Section 5.2.11. All telecommunication facilities not treated as permitted uses pursuant to Section 180-5.2.11.F. are deemed to be special uses and shall require a special use permit. An applicant proposing a telecommunication facility that exceeds the height limitations set by the zoning district in which such facility is proposed shall obtain a special use permit, in lieu of a variance.

The subject property is zoned Public Facilities (PF) District which has a maximum building height of twenty-five (25) feet. Applications to construct telecommunication facilities that require a special use permit shall have a public hearing before the Planning Commission who may

impose any reasonable conditions to ensure that the proposal satisfies the criteria set forth in this Chapter.

5.2.11.C. General Requirements.

Unless otherwise provided by this Chapter or other applicable law, the following general requirements shall apply to all telecommunications facilities located within the Town of Frisco.

1. Federal Requirements

All towers and antennas must meet or exceed the current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Chapter shall bring such towers and antennas into compliance with such revised standards and regulations within the time period required by the controlling federal agency. Failure to bring a tower or antenna into compliance with such revised standards and regulations shall be a violation of this Chapter and constitute grounds for removal of the tower or antenna at the owner's expense.

As stated in the applicant's submitted materials, the construction and operation of the Project is subject to FAA and FCC oversight, review, and approval. PSCo will work with both agencies on their respective reviews. A component of the FCC approval is compliance with Section 106 of the National Historic Preservation Act. As the lead agency, the FCC will conduct the necessary tribal and Colorado State Historic Preservation Officer consultation to assure no adverse effects to historic properties will occur as a result of the Project. The application meets this requirement.

2. Radio Frequency Standards

- a. All owners of telecommunication facilities shall comply with federal standards for radio frequency emissions.*

As stated in the applicant's submitted materials, the construction and operation of the Project is subject to FCC oversight, review, and approval. As part of that approval process, the Project must comply with federal standards for radio frequency emissions. The application meets this requirement.

- b. With the exception of any low power telecommunications facility, at the time of application for a tower, antenna or related telecommunication facilities, and thereafter at the request of the Town upon complaint (but not more than annually), the owner shall submit a project implementation report that provides cumulative field measurements of radio frequency emissions of all antennas installed at the subject site, and that compares the results with established federal standards.*

As stated in the applicant's submitted materials, federal approvals can take six to twelve months. For that reason, PSCo is concurrently obtaining land use permits from local jurisdictions and federal authorizations. PSCo expects the FCC approvals are likely for this Project. To date, of the fifty (50) separate PSCo FAN Project applications submitted to FCC, all of them were permitted. Once approved, a copy of this approval can be submitted as a condition of the permit. PSCo will not construct the Project without FCC approvals. The application meets this requirement.

- c. If, upon review, or at any time any telecommunications facility within the Town is operational, the Town finds that the facility does not meet federal standards, the Town may require corrective action within a reasonable period of time, and if not corrected, may require removal of the telecommunication facilities at the owner's expense. Any*

reasonable costs incurred by the Town, including reasonable consulting costs to verify compliance with these requirements, shall be paid by the owner.

As stated in the applicant's submitted materials, PSCo acknowledges this requirement. The application meets this requirement.

3. Building Codes; Safety Standards

- a. *To ensure the structural integrity of towers, the owner of a tower shall ensure that the tower is of sufficient structural strength to accommodate reasonable co-location, if required, and is maintained in compliance with standards for towers that are published by the Electronic Industries Association, as amended from time to time, and all other applicable codes of the Town.*

As stated in the applicant's submitted materials, drawings depicting the design of the Project are shown in Appendix B and Appendix C. The Project is not designed for co-location. The monopole would be located within the secured Substation yard for cyber security reasons. PSCo must consider cyber security, performance and operation of the FAN network and how these fit with North American Electric Reliability Corporation critical infrastructure protection (NERC-CIP) federal regulations. PSCo feels that the interest of these components is best served by the security and ownership of the Summit Substation. Placement of the antenna and supporting equipment at a co-located structure would require physical access to the Project's high security components by non-PSCo employees. The application meets this requirement.

- b. In addition to any other applicable standards and requirements, the following shall apply to all towers and telecommunication facilities:

- I. *Sufficient anti-climbing measures must be incorporated into each facility to reduce potential for trespass and injury.*

As stated in the applicant's submitted materials, the Project is located within a secure Substation. The Substation is fenced with an existing chain link and metal outrigger on the top of the fence. The application meets this requirement.

- II. *No guy wires employed may be anchored within the area in front of any principal building or structure on a parcel.*

As stated in the applicant's submitted materials, the Project is self-supporting and does not require guy wires. The application meets this requirement.

- III. *All telecommunication facilities shall comply with the power line clearance standards set forth by Colorado Public Utilities Commission.*

As stated in the applicant's submitted materials, the Project complies with the power line clearance standards set forth by Colorado Public Utilities Commission. The application meets this requirement.

- IV. *All telecommunication facilities must be structurally designed and physically sited so that they do not pose a potential hazard to nearby residences or surrounding properties or improvements. Any tower shall be designed and maintained to withstand without failure maximum forces expected from wind, snow, ice, tornadoes, and other natural occurrences, when the tower is fully loaded with antennas, transmitters, and other telecommunication facilities and camouflaging. Initial demonstration of compliance with this requirement shall be provided via submission*

of a report to the Town's Building Official prepared and stamped by a structural engineer licensed in the State of Colorado describing the tower structure, specifying the number and type of antennas it is designed to accommodate, providing the basis for the calculations done, and documenting the actual calculations performed. Proof of ongoing compliance shall be provided upon request.

As stated in the applicant's submitted materials, drawings depicting the design of the Project are shown in Appendix B and Appendix C. The national and local standards used when designing the Project are listed below:

- ANSI/TIA-222-G, Structure Class II, Exposure Category C. Topographic Category 1
- Meets requirements for Ultimate Wind Speed of 155 mph or Risk Category II in accordance with 2015 International Building Code
- Foundation is 25'-6" depth, 5'-6' diameter
- Foundation concrete has a minimum 28-day compressive strength of 4500 psi in accordance with ACE 318-11
- Foundation rebar conforms to ASTM specification A615 Grade 60 and have 3" of concrete cover
- Foundation design based on geotechnical report by Tiax Engineering dated August 27, 2018

The application meets this requirement.

- c. *If, upon inspection, the Town concludes that a telecommunication facility fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of a telecommunication facility, the owner shall have 30 days to bring such telecommunication facility into compliance with such standards. Upon good cause shown by the owner, the Town's Building Official may extend such compliance period not to exceed 90 days from the date of said notice. If the owner fails to bring such telecommunication facility into compliance within said time limit, the Town may remove such telecommunication facility at the owner's expense.*

As stated in the applicant's submitted materials, PSCo acknowledges this requirement. The application will be required to comply with this requirement.

4. Order of Preference

a. Zoning District

Applicants are encouraged to construct alternative telecommunication facilities in commercial districts. An applicant requesting approval to construct a telecommunication facility in a residential district must first demonstrate to the reasonable satisfaction of the Town that a location in a commercial district would not meet the applicant's service needs. Small cell facilities, however, shall be permitted as uses by right in all zone districts, subject to the process and standards described in Section 5.2.11.J.

As stated in the applicant's submitted materials, the project must be constructed in a PSCo owned Substation. The property is zoned Public Facilities; not residential. The application meets this requirement.

b. Facility Type

Wall- or roof-mounted telecommunication facilities and low power telecommunications facilities are preferred over freestanding telecommunication facilities. An applicant requesting approval to construct a freestanding telecommunication facility, which is not a

low power facility must first demonstrate to the reasonable satisfaction of the Town that a wall- or roof-mounted facility is not feasible or is inadequate to provide service. When appropriate, the Town may require that an alternative telecommunication facility that reflects the character of the surrounding property (developed or undeveloped) be employed.

As stated in the applicant's submitted materials, the exact location and height of this Project is strategic to the overall FAN Program. PSCo evaluated the use of existing transmission or distribution structures but determined they are not feasible because of safety concerns and insufficient elevations for signal coverage. There are no walls or roofs on the property. The antennas cannot be located on existing Substation or transmission line equipment due to cyber security concerns as well as clearance requirements for maintenance purposes and to prevent electric flash over. The application meets this requirement.

5. Design Standards

The guidelines set forth in this Subsection 180-5.2.11.C.5 shall apply to the location of all telecommunication facilities governed by this Article VII; provided, however, that the Town may waive these requirements if it determines that the overall intent of this Section 180-5.2.11.C, as defined in 180- 5.2.11.A, is not served by the implementation of a particular guideline with respect to a particular telecommunication facility.

- a. The location and design of a telecommunication facility and any accessory equipment shall use materials, colors, textures, screening, and landscaping that will blend the telecommunication facility to the surrounding natural setting and built environment. Accessory equipment in areas of high visibility shall, where possible, be sited below the ridgeline or designed (e.g., placed underground, depressed, or located behind earth berms) to minimize its profile.*

As stated in the applicant's submitted materials, the monopole would have a galvanized treatment, which is gray in color. The finished color is neutral since it is compatible with the surface treatment and color of the existing transmission structures and equipment and facilities within the Substation yard. The monopole will blend somewhat with the existing 55-foot tall Substation equipment and adjacent transmission structures. The application meets this design requirement.

- b. Any accessory equipment located within an overlay district adopted by the Town must generally conform with the intent of the specific district standards.*

The Project is not located in an overlay district. This design requirement is not applicable.

- c. Roof- and wall-mounted facilities shall be architecturally compatible with and colored to match the building or structure to which they are attached. Wall-mounted facilities shall be mounted as flush to the building wall as possible. A wall-mounted facility shall not encroach into the required setback for the building to which it is attached, and shall not extend across any required utility, pedestrian or sidewalk easement or extend across the property line.*

The proposed equipment is not roof or wall mounted. This design requirement is not applicable.

- d. Freestanding telecommunication facilities shall not be artificially lighted, unless required by the FAA or other applicable governmental authority. If lighting is required, the Town may review the available lighting alternatives and approve the*

design that would cause the least disturbance to the surrounding views. Lighting must be shielded or directed to the greatest extent possible so as to minimize the amount of light falling onto nearby properties, particularly residences.

As stated in the applicant's submitted materials, the Project will not require any additional lighting. The application meets this design requirement.

- e. No portion of any antenna array may extend across a required property setback or beyond the property line.*

As stated in the applicant's submitted materials, the antenna array does not extend across a required property setback or beyond the property line. The setbacks for this zone district are:

Minimum front yard setback: 25 feet
Minimum side yard setback: 15 feet
Minimum rear yard setback: 10 feet

The monopole is located approximately 31 feet from the southeast or front yard property line, 225 feet from the east or side property line and 248 feet from the northwest or rear property line. The 29-inch tall antennas will not exceed the front setback. The application meets this design requirement.

- f. All applicants under this Article VII shall comply with the landscaping requirements and guidelines found in Section 180-6.14 of this Chapter.*

As stated in the applicant's submitted materials, the Project is located within an existing electrical Substation. No new landscaping is proposed. The application meets this design requirement.

- g. The height, bulk, and setback requirements for the telecommunication facility shall be controlled by the district regulations of the zoning district in which the facility is located. Accessory equipment shall be compatible with the surrounding area and must conform with all zoning requirements.*

As stated in the applicant's submitted materials, the antenna array does not extend across a required property setback or beyond the property line. The 29-inch tall antennas will not exceed the front setback. Bulk plane requirements are not applicable to this property. The application meets this design requirement.

6. Co-Location

- a. No building permit shall be granted to construct a new freestanding telecommunication facility unless the applicant first demonstrates to the reasonable satisfaction of the Town that no existing tower or structure can accommodate the applicant's needs. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed telecommunication facility shall consist of one or more of the following:*

- I. No existing towers or structures are located within the geographic area required to meet the applicant's coverage requirements.*
- II. Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.*

- III. *Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.*
- IV. *The applicant's proposed antenna would cause electromagnetic interference with the antennas on the existing towers or structures, or the antennas on the existing towers or structures would cause interference with the applicant's proposed antenna.*
- V. *The applicant demonstrates that there are other limiting factors, including but not limited to engineering factors, that render existing towers and structures unsuitable for co-location.*
- VI. *There is insufficient land area to accommodate the placement of additional accessory equipment on the property.*

As stated in the applicant's submitted materials and described in the Feasibility Study in Appendix E, the exact location and height of this Project is strategic to the overall FAN Program. PSCo evaluated the use of existing transmission or distribution structures but determined they are not feasible because of safety concerns and insufficient elevations for signal coverage. PSCo did not consider other communication structures due to cyber and physical security concerns. PSCo must consider cyber security, performance, and operation of the FAN network and how these fit with North American Electric Reliability Corporation critical infrastructure protection federal regulations. The Substation property provides the opportunity to place the Project monopole within an existing Substation setting on property owned by PSCo. The placement of the Project at other nearby locations would require a potentially similar height structure in a setting potentially less compatible and on property that would need to be purchased by PSCo. For these reasons, this Substation site is the preferred location for the Project. A building permit is not required for the proposed tower and accessory equipment based on the 2012 International Building Code (2012 IBC). The application meets this requirement.

- b. *No telecommunication facility owner or operator shall unreasonably exclude a telecommunication competitor from using the same facility or location. Upon request by the Town, the owner or operator shall provide evidence and a written statement to explain why co-location is not possible at a particular facility or site.*

As stated in the applicant's submitted materials, the possibility of co-location is not feasible for the following reasons:

- o *Safety and access concerns:* The monopole would be located within the secured Substation yard. To allow co-location on the monopole would require allowing access to the yard that contains high voltage electrical equipment. To meet National Electric Safety Code and PSCo safety standards, the co-locator's personnel would have to go through specific training and be escorted any time they would be in the yard. This would require making PSCo personnel available for these activities, which may be problematic due to work loads and schedules.
- o *Cyber Security:* When determining the placement of these components, PSCo must consider cyber-security, and performance and operation of the FAN network and how these fit with North American Electric Reliability Corporation critical infrastructure protection (NERC-CIP) federal regulations. PSCo feels that the interest of these components is best served by the security and ownership of the Poncha Junction Substation. Placement of the antenna and supporting equipment at a co-located structure would require physical access to the Project's high security components by non-PSCo employees.
- o *Interference with electric equipment in the Substation:* Any ground-based equipment required by the co-locator could potentially conflict with the needs of PSCo for the operation and maintenance of the Substation.

- *Engineering limitations of the monopole design:* The monopole and foundation were not designed for any other uses than PSCo's. Redesigning the monopole and its foundation would require additional costs and time, and the load requirements would be unknown.
- *Legal limitations:* In the event PSCo is required to allow co-location, the co-locator would be required to enter into an access and lease agreement, bear all costs associated with any monopole/foundation redesign costs, bear PSCo's costs associated with training and escort needs and meet all safety protocol with the Substation operation and maintenance, both current and future.
- *Maintenance Coordination:* Co-locating on poles with existing PSCo communication equipment requires the coordination of engineering efforts. In addition, any maintenance performed by a colocator on their facilities may impact PSCo's capabilities to use their own equipment.

The application meets this requirement.

- c. *If a telecommunication competitor attempts to co-locate a telecommunication facility on an existing or approved telecommunication facility or location, and the parties cannot reach an agreement, the Town may require a third-party technical study to be completed at the expense of both parties to determine the feasibility of co-location.*

As stated in the applicant's submitted materials, this telecommunication Project is unique in that it is proposed by a publicly regulated utility and not a commercial telecommunications carrier. It is not possible for PSCo to co-locate the FAN antennas on the nearby wireless communications tower or have a commercial provider co-locate on the PSCo Project in the Substation. This would present an unacceptable risk to cyber security and physical security. Even if another tower owner agreed to allow the PSCo on their tower, locating the antennas within the PSCo owned and secured Summit Substation will allow adequate cyber security and physical security protection. The application meets this requirement.

7. Prohibited Use

Advertising or communication of any visual messages from a tower or antenna is prohibited.

As stated in the applicant's submitted materials, no advertising or communication of any visual messages from the Project is proposed. The application meets this requirement.

D. Permit and Application Requirements

1. *Building Permit. It shall be unlawful for any person, firm, or corporation to construct or erect a telecommunication facility without first obtaining a building permit.*

The 2012 International Building Code (2012 IBC) adopted by the Town of Frisco exempts Public Service Agencies from obtaining building permits for transmission, distribution, and metering equipment. The specific language in the 2012 IBC reads as follows:

Section 105.2.3. Public Service Agencies: A permit shall not be required for the installation, alteration, or repair of generation, transmission, distribution, or metering or other related equipment that is under the ownership and control of public service agencies by established right.

A building permit is not required for the proposed tower and accessory equipment. This requirement is not applicable.

G. Special Uses

1. Generally

All telecommunication facilities not treated as permitted uses pursuant to Section 180-5.2.11.F are deemed to be special uses and shall require a special use permit. An applicant proposing a telecommunication facility that exceeds the height limitations set by the zoning district in which such facility is proposed shall obtain a special use permit, in lieu of a variance.

2. Review and Approval

Applications to construct telecommunication facilities that require a special use permit shall be processed according to the following procedure:

a. Pre-Application Conference

The applicant shall schedule an informal conference with the Community Development Department prior to the submittal of an application.

A pre-application meeting with Town of Frisco staff was held on May 22, 2019.

- b. *Information Required. Each applicant requesting special use approval shall submit, in addition to the information required by Section 180-2.5.2 of this Chapter, documentation, signed and sealed by appropriate licensed professionals, showing the location and dimensions of the proposed telecommunication facilities, including information concerning topography, radio frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses, and all other information deemed by the Community Development Department to be necessary to assess compliance with Section 180-5.2.11.*

As stated in the applicant's submitted materials, the project dimension are shown in Appendix B and Appendix C. The location, setbacks, fencing, drive are shown in Appendix A. The radio frequency coverage and tower height requirements are shown in Appendix E. The Summit Substation is bound on the south by County Road 1030/School Road and on the west by State Highway 9/Summit Boulevard. A storage facility, which is zoned Light Industrial, is located to the north. The Summit School District bus barn, which is zoned A-1 in Summit County, is to the east.

- c. *Planning Commission. The Planning Commission, at its next available meeting, a minimum of 45 days after the filing of a complete application, shall hold a public hearing on the application and consider the recommendations of the Community Development Department staff and the merits of the proposed application. The application shall be noticed in accordance with Section 180-2.3.5. In approving any application, the Planning Commission may impose any reasonable conditions to ensure that the proposal satisfies the criteria set forth in this Chapter.*

As stated in the applicant's submitted materials, PSCo acknowledges this requirement.

3. Height

An applicant proposing to construct a telecommunication facility that exceeds the height limitations set by the zoning district in which such facility is proposed shall provide a statement that justifies the need for the proposed facility and height requested. Such a statement shall include evidence that:

- a. *The facility is designed to be the minimum height necessary to provide service;*

As stated in the applicant's submitted materials, the maximum building height in the PF zone district is 25 feet. The surrounding topography, buildings and vegetation exceed 25 feet, so PSCo proposes an 80-foot tall single steel monopole with 5 ft lightning rod. As described in Feasibility Study in Appendix E, this height is a sufficient elevation for signal coverage.

- b. *a greater number of towers built at a lesser height would be inadequate to meet the applicant's service demands*

As stated in the applicant's submitted materials, the exact location and height of this Project is strategic to the overall FAN Program. PSCo did not consider other communication structures due to cyber and physical security concerns. PSCo must consider cyber security, performance, and operation of the FAN network and how these fit with North American Electric Reliability Corporation critical infrastructure protection federal regulations. The placement of the Project at an additional location would require a potentially similar height structure in a setting potentially less compatible and on property that would need to be purchased by PSCo. PSCo believes constructing one 80-foot FAN Tower at the Summit Substation provides the best overall solution when considering coverage and impact to communities.

4. Factors Considered in Granting Special Use Permits for Telecommunication Facilities

In addition to the applicable requirements of this Chapter, the Town shall consider the following factors in determining whether to issue a special use permit:

- a. *Demonstrated need for a facility that exceeds the height limitation for the zoning district; and*

As stated in the applicant's submitted materials, and described in the Feasibility Study in Appendix E, the exact location and height of this Project is strategic to the overall FAN Program. PSCo evaluated the use of existing transmission or distribution structures but determined they are not feasible because of safety concerns and insufficient elevations for signal coverage. PSCo did not consider other communication structures due to cyber and physical security concerns. PSCo must consider cyber security, performance, and operation of the FAN network and how these fit with North American Electric Reliability Corporation critical infrastructure protection federal regulations. The Substation property provides the opportunity to place the Project monopole within an existing Substation setting on property owned by PSCo. The placement of the Project at other nearby locations would require a potentially similar height structure in a setting potentially less compatible and on property that would need to be purchased by PSCo. For these reasons, this Substation site is the preferred location for the Project.

- b. *Proximity of the tower to residential structures and residential district boundaries; and*

The proposed tower is located in an existing secure Substation. The Substation is surrounded by light industrial and public facility uses. The closest residential uses are within Mountain Pines subdivision, across Summit Boulevard.

- c. *Nature of uses on adjacent and nearby properties; and*

The adjoining property adjacent uses are described below.

Location	Land Use	Zoning
North	Storage Facility	Light Industrial (LI)
East	Summit School District bus barn and Middle School	A-1, Summit County
West	Undeveloped	Public Facilities (PF)
South	Fitness Center, Health Services Building and Frisco Public Works Maintenance Shop	Light Industrial (LI)

d. Surrounding topography; and

The surrounding topography is flat. The Substation is surrounded by developed properties that are also graded and flat.

e. Surrounding coverage and tree foliage; and

Surrounding the Substation, there is existing vegetation native to the area. On the west, north and east sides of the Substation, it is surrounded by a species of pine and on the south the Substation faces the sidewalk and road. Across the street on the south side of School Road, there is low lying vegetation and some scattered trees.

f. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness; and

As stated in the applicant's submitted materials, the monopole would have a galvanized treatment, which is gray in color. The finished color is neutral since it is compatible with the surface treatment and color of the existing transmission structures and equipment and facilities within the Substation yard. The monopole will blend somewhat with the existing 55-foot tall Substation equipment and adjacent transmission structures. More information specific to the Telecommunication Design Standards are listed in response to 180-5.2.11.C.5 of this application.

g. Proposed ingress and egress to the property; and

The project will use the existing access to the Substation, which is from County Road 1030/School Road.

h. An evaluation of the applicant's plans for development of its telecommunication facilities within the Town, as well as those plans on file from other telecommunication providers; and

As stated in the applicant's submitted materials, other than the proposed Project at the Summit Substation, PSCo does not have any plans from additional telecommunication facilities within the Town. There are no other plans on file from other telecommunication providers as of the writing of this staff report.

i. An evaluation of the criteria set forth in Sections 180-5.2.11.C and 180-5.2.11.D above; and

An evaluation of the criteria set forth in Sections 180-5.2.11.C is described on pages 14-20 of the submittal materials. An evaluation of the criteria set forth in Sections 180-5.2.11.D is described on pages 21-23 of the submitted narrative.

- j. Availability of suitable existing towers and other structures as discussed in Subsection 180-5.2.11.C.6; and*

As described in the Feasibility Study in Appendix E, the exact location and height of this Project is strategic to the overall FAN Program. PSCo evaluated the use of existing transmission or distribution structures but determined they are not feasible because of safety concerns and insufficient elevations for signal coverage. PSCo did not consider other communication structures due to cyber and physical security concerns. PSCo must consider cyber security, performance, and operation of the FAN network and how these fit with North American Electric Reliability Corporation critical infrastructure protection federal regulations. The Substation property provides the opportunity to place the Project monopole within an existing Substation setting on property owned by PSCo. The placement of the Project at other nearby locations would require a potentially similar height structure in a setting potentially less compatible and on property that would need to be purchased by PSCo. For these reasons, this Substation site is the preferred location for the Project. Additional information addressing the criteria on 180-5.2.11.C.6 is included on pages 18-20 of the submitted narrative.

- k. Any other information that the Town deems reasonably necessary in connection with the review of the application*

The Town of Frisco did not request any additional information. During the May 22, 2019, pre-application meeting, staff suggested that additional photosimulations be developed and that a feasibility study be presented as part of the application. Additional photosimulations were developed and are included in Appendix D. A Feasibility Study is included in Appendix E.

5. The Following Additional Provisions Shall Govern the Issuance of Special Use Permits for Telecommunication Facilities:

- a. In granting a special use permit, the Town may impose conditions to the extent it concludes such conditions are necessary to minimize any adverse effect of the proposed telecommunication facility on adjoining properties.*

Staff does not recommend any special conditions.

- b. Telecommunication facilities approved as a special use shall not require a variance for any specific conditions approved as part of the special use process.*

A variance is not required for this project.

- c. Any information of an engineering nature that the applicant submits, whether civil, mechanical, structural, or electrical, shall be certified by a licensed professional engineer, or a qualified radio frequency engineer.*

As stated in the applicant's submitted materials, all information of an engineering nature was developed by licensed professional engineer and a qualified radio frequency engineer.

6. All applications and the subsequent decision on whether to approve, approve with conditions or deny an application for a special use permit shall be in writing, based upon evidence presented to the Town.

ANALYSIS – AGENCY REVIEWS

Referral Agencies including Town of Frisco Public Works Department, Frisco Sanitation and Summit Fire & EMS were sent information on this project. No concerns were received from any of the agencies.

PUBLIC COMMENT

As of October 31, 2019, the Community Development Department has received public inquiries but no official public comments on the project.

STAFF RECOMMENDATIONS

Recommended Findings

The Community Development Department recommends the following findings pertaining to the Telecommunication Special Use Permit Application for the installation of a new monopole and noncommercial wireless communication antennas within the existing substation yard located at 39 School Road.

Based upon the review of the Staff Report dated November 7, 2019 and the evidence and testimony presented, the Planning Commission finds:

- a. *The applicant has demonstrated a need for a facility that exceeds the height limitation for the zoning district due to the exact location and height being strategic to the overall FAN Program and required elevations and signal coverage. The Substation property provides the opportunity to place the Project monopole within an existing Substation setting on property owned by PSCo. The placement of the structure at other nearby locations would require a potentially similar height structure in a setting potentially less compatible.*
- b. *The location has been determined to be conducive to the special permit request. Specifically, the proposed location is surrounded by light industrial and public facility uses. The closest residential uses are within Mountain Pines subdivision, across Summit Boulevard. The surrounding topography is flat with existing vegetation native to the area*
- c. *The applicant has demonstrated that the design of the tower will reduce visual obtrusiveness by having a gray galvanized treatment which is compatible with the surface treatment and color of existing equipment within the Substation yard.*
- d. *There will be no new access created; the existing access into the Substation yard will be utilized.*

- e. *The applicant has demonstrated compliance with criteria set forth in Frisco Town Code, Sections 180-5.2.11.C. and 180-5.2.11.D. as stated within the Staff Report.*
- f. *The applicant has demonstrated that the use of existing transmission or distribution structures is not feasible due to cyber and physical security concerns. The FAN network shall be operated within North American Electric Reliability Corporation critical infrastructure protection federal regulations.*

Recommended Action

Based upon the findings above, the Community Development Department recommends APPROVAL of the Telecommunication Special Use Permit Application for the construction of a new telecommunication facility, including a monopole and noncommercial wireless communication antennas, at the existing Xcel Energy electrical substation located at 39 School Road.

Recommended Motion

Should the Planning Commission choose to approve this special use permit application, the Community Development Department recommends the following motion:

With respect to File No. 212-19-TSU, I move that the recommended findings set forth in the November 7, 2019, staff report be made and that the recommended conditions set forth therein be taken and that the Planning Commission hereby APPROVES the request for a Telecommunication Special Use Permit Application for the construction of a new telecommunication facility, including a monopole and noncommercial wireless communication antennas, at the existing Xcel Energy electrical substation located at 39 School Road / Unplatted (TR 5-78 Sec 26 Qtr 3)

ATTACHMENTS

Attachments:

- Frisco Town Code, Section 180-5.2.11, Telecommunication Facilities
- Application Materials

cc: Public Service Company of Colorado, Jaxon Fagan

180-5.2.11. TELECOMMUNICATION FACILITIES

A. Purpose and Intent

The purpose and intent of this Section 180-5.2.11 is to accommodate the telecommunication needs of residents and businesses while protecting the public health, safety, and general welfare of the community. The Town Council finds that these regulations are necessary in order to (1) facilitate the provision of wireless telecommunication services to the residents and businesses of the Town; (2) minimize adverse visual effects of towers through careful design and siting standards; (3) avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements; and (4) encourage and maximize the use of existing and approved towers, buildings and other structures to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the community.

B. Applicability

The standards and procedures contained in this Section 180-5.2.11 apply to all applications for approval for telecommunication facilities. The Planned Unit Development process is not available to vary the standards applicable to telecommunication facilities. The applicant shall demonstrate that its proposed telecommunication facility meets all standards and provisions of this Section 180-5.2.11.

1. Amateur Radio Antennas

This Section 180-5.2.11 shall not govern any tower or antenna owned or operated by a federally licensed amateur radio station operator or used exclusively for receive-only antennas. All other applicable zoning district requirements must be met.

2. Residential Services and Small Dish Antennas

This Section 180-5.2.11 shall not govern any residential dish or antenna or the installation of any dish or antenna of less than three feet in diameter or seven square feet of frontal surface area.

3. Pre-existing Telecommunication Facilities

Any telecommunication facility for which Town approval has been properly issued prior to the effective date of this Section 180-5.2.11 shall not be required to meet the requirements of this Section 180-5.2.11 other than the requirements of Sections 180-5.2.11.C (1) through (3), and Sections 180-5.2.11.C (5) through (7). Changes and additions to pre-existing telecommunication facilities must meet the applicable requirements of this Section 180-5.2.11.

C. General Requirements

Unless otherwise provided by this Chapter or other applicable law, the following general requirements shall apply to all telecommunication facilities located within the Town of Frisco.

1. Federal Requirements

All towers and antennas must meet or exceed the current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Chapter shall bring such towers and antennas into compliance with such revised standards and regulations within the time period required by the controlling federal agency. Failure to bring a tower or antenna into compliance with such revised standards and regulations shall be a violation of this Chapter and constitute grounds for removal of the tower or antenna at the owner's expense.

2. Radio Frequency Standards

- a. All owners of telecommunication facilities shall comply with federal standards for radio frequency emissions.
- b. With the exception of any low power telecommunications facility, at the time of application for a tower, antenna or related telecommunication facilities, and thereafter at the request of the Town upon complaint (but not more than annually), the owner shall submit a project implementation report that provides cumulative field measurements of radio frequency emissions of all antennas installed at the subject site, and that compares the results with established federal standards.
- c. If, upon review, or at any time any telecommunications facility within the Town is operational, the Town finds that the facility does not meet federal standards, the Town may require corrective action within a reasonable period of time, and if not corrected, may require removal of the telecommunication facilities at the owner's expense. Any reasonable costs incurred by the Town, including reasonable consulting costs to verify compliance with these requirements, shall be paid by the owner.

3. Building Codes; Safety Standards

- a. To ensure the structural integrity of towers, the owner of a tower shall ensure that the tower is of sufficient structural strength to accommodate reasonable co-location, if required, and is maintained in compliance with standards for towers that are published by the Electronic Industries Association, as amended from time to time, and all other applicable codes of the Town.

- b. In addition to any other applicable standards and requirements, the following shall apply to all towers and telecommunication facilities:
 - i. Sufficient anti-climbing measures must be incorporated into each facility to reduce potential for trespass and injury.
 - ii. No guy wires employed may be anchored within the area in front of any principal building or structure on a parcel.
 - iii. All telecommunication facilities shall comply with the power line clearance standards set forth by Colorado Public Utilities Commission.
 - iv. All telecommunication facilities must be structurally designed and physically sited so that they do not pose a potential hazard to nearby residences or surrounding properties or improvements. Any tower shall be designed and maintained to withstand without failure maximum forces expected from wind, snow, ice, tornadoes, and other natural occurrences, when the tower is fully loaded with antennas, transmitters, and other telecommunication facilities and camouflaging. Initial demonstration of compliance with this requirement shall be provided via submission of a report to the Town's Building Official prepared and stamped by a structural engineer licensed in the State of Colorado describing the tower structure, specifying the number and type of antennas it is designed to accommodate, providing the basis for the calculations done, and documenting the actual calculations performed. Proof of ongoing compliance shall be provided upon request.
- c. If, upon inspection, the Town concludes that a telecommunication facility fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of a telecommunication facility, the owner shall have 30 days to bring such telecommunication facility into compliance with such standards. Upon good cause shown by the owner, the Town's Building Official may extend such compliance period not to exceed 90 days from the date of said notice. If the owner fails to bring such telecommunication facility into compliance within said time limit, the Town may remove such telecommunication facility at the owner's expense.

4. Order of Preference

a. Zoning District

Applicants are encouraged to construct alternative telecommunication facilities in commercial districts. An applicant requesting approval to construct a telecommunication facility in a residential district must first demonstrate to the reasonable satisfaction of the Town that a location in a commercial district would not meet the applicant's service needs. Small cell facilities, however, shall be permitted as uses by right in all zone districts, subject to the process and standards described in Section 5.2.11.J.

b. Facility Type

Wall- or roof-mounted telecommunication facilities and low power telecommunications facilities are preferred over freestanding telecommunication facilities. An applicant requesting approval to construct a freestanding telecommunication facility, which is not a low power facility must first demonstrate to the reasonable satisfaction of the Town that a wall- or roof-mounted facility is not feasible or is inadequate to provide service. When appropriate, the Town may require that an alternative telecommunication facility that reflects the character of the surrounding property (developed or undeveloped) be employed.

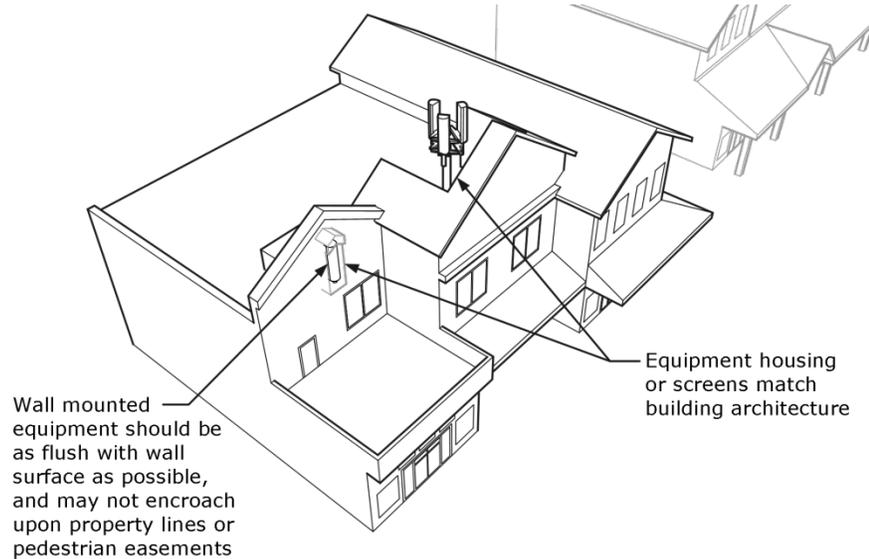
5. Design Standards

The guidelines set forth in this Subsection 180-5.2.11.C.5 shall apply to the location of all telecommunication facilities governed by this Article VII; provided, however, that the Town may waive

these requirements if it determines that the overall intent of this Section 180-5.2.11.C, as defined in 180-5.2.11.A, is not served by the implementation of a particular guideline with respect to a particular telecommunication facility.

- a. The location and design of a telecommunication facility and any accessory equipment shall use materials, colors, textures, screening, and landscaping that will blend the telecommunication facility to the surrounding natural setting and built environment. Accessory equipment in areas of high visibility shall, where possible, be sited below the ridgeline or designed (e.g., placed underground, depressed, or located behind earth berms) to minimize its profile.
- b. Any accessory equipment located within an overlay district adopted by the Town must generally conform with the intent of the specific district standards.
- c. Roof- and wall-mounted facilities shall be architecturally compatible with and colored to match the building or structure to which they are attached. Wall-mounted facilities shall be mounted as flush to the building wall as possible. A wall-mounted facility shall not encroach into the required setback for the building to which it is attached, and shall not extend across any required utility, pedestrian or sidewalk easement or extend across the property line.

Figure 5-F: Roof- and Wall-Mounted Telecommunication Facilities



- d. Freestanding telecommunication facilities shall not be artificially lighted, unless required by the FAA or other applicable governmental authority. If lighting is required, the Town may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. Lighting must be shielded or directed to the greatest extent possible so as to minimize the amount of light falling onto nearby properties, particularly residences.
- e. No portion of any antenna array may extend across a required property setback or beyond the property line.
- f. All applicants under this Article VII shall comply with the landscaping requirements and guidelines found in Section 180-6.14 of this Chapter.
- g. The height, bulk, and setback requirements for the telecommunication facility shall be controlled by the district regulations of the zoning district in which the facility is located. Accessory equipment shall be compatible with the surrounding area and must conform with all zoning requirements.

6. Co-Location

- a. No building permit shall be granted to construct a new freestanding telecommunication facility unless the applicant first demonstrates to the reasonable satisfaction of the Town that no existing tower or structure can accommodate the applicant's needs. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed telecommunication facility shall consist of one or more of the following:
 - i. No existing towers or structures are located within the geographic area required to meet the applicant's coverage requirements.
 - ii. Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
 - iii. Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.
 - iv. The applicant's proposed antenna would cause electromagnetic interference with the antennas on the existing towers or structures, or the antennas on the existing towers or structures would cause interference with the applicant's proposed antenna.
 - v. The applicant demonstrates that there are other limiting factors, including but not limited to engineering factors, that render existing towers and structures unsuitable for co-location.
 - vi. There is insufficient land area to accommodate the placement of additional accessory equipment on the property.
- b. No telecommunication facility owner or operator shall unreasonably exclude a telecommunication competitor from using the same facility or location. Upon request by the Town, the owner or operator shall provide evidence and a written statement to explain why co-location is not possible at a particular facility or site.
- c. If a telecommunication competitor attempts to co-locate a telecommunication facility on an existing or approved telecommunication facility or location, and the parties cannot reach an agreement, the Town may require a third-party technical study to be completed at the expense of both parties to determine the feasibility of co-location.

7. Prohibited Use

Advertising or communication of any visual messages from a tower or antenna is prohibited.

8. Abandonment; Removal

The owner of any telecommunication facility located within the Town shall notify the Community Development Department when such telecommunication facility and any associated accessory equipment is no longer in operation. Upon such notification, or if the telecommunication facility is otherwise determined not to be in operation, the Town shall consider the facility abandoned. For the purposes of this subsection, a telecommunications facility that is not operated for a continuous period of six months shall be deemed to be abandoned. The Town, in its sole discretion, may thereafter require removal of the abandoned facility by the owner and shall notify the owner accordingly. If the facility is not removed within 90 days, the facility shall be considered a nuisance under Chapter 124 of the Town Code and may be removed by the Town. All costs for the removal shall be paid for by the owner of the facility. Upon removal the site shall be restored and/or revegetated to blend with the surrounding environment. After the antenna or tower is removed and the site is restored to the satisfaction of the Town, the Town shall return to the owner the performance bond required pursuant to Section 180-5.2.11.D.2.d. If the antenna or tower is not removed within said 90 days, the Town may remove and dispose of such antenna or tower at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

D. Permit and Application Requirements

1. Building Permit

It shall be unlawful for any person, firm, or corporation to construct or erect a telecommunication facility without first obtaining a building permit.

2. Information Required

In addition to any other information required by this Chapter, the following information shall be submitted with all telecommunication facility building permits:

- a. The identity and legal status of the applicant, including any affiliates.
- b. The name, address, and telephone number of the officer, agent, or employee responsible for the accuracy of the application.
- c. Information sufficient to determine that the applicant has applied for and received any construction permit, operating license, or other approvals required by the FCC to provide telecommunication services or facilities within the Town.
- d. An agreement to post a deposit at the time a permit is issued, in an amount to be set by the Town, reasonably related to the removal costs that may be incurred by the Town, should the applicant fail to comply with any of its obligations with regard to the removal of a telecommunication facility, any accessory equipment, and revegetation of the site.
- e. An agreement to (i) consider co-location proposals from other commercial radio providers with an interest in applicant's facility and (ii) not unreasonably to exclude co-location by such entities, along with a statement explaining how the facility may be used for co-location.
- f. An agreement to notify the Town at least ten days prior to introduction of new services or changes in existing service, and to allow the Town to monitor interference levels with public safety communications during the testing process.
- g. Except for low power telecommunications facilities, a verified statement of a qualified radio frequency engineer certifying that a technical evaluation of existing and proposed facilities indicates no potential interference problems, or if such potential interference problems exist, a description of the nature of the potential interference and a plan to mitigate and eliminate any such interference.
- h. A narrative and map description of the applicant's existing or then currently proposed telecommunication facilities within the Town, and outside of the Town within three miles of its boundaries, including specific information about the location, height, and design of each tower and any accessory equipment. In addition, the applicant shall inform the Town generally of the areas of the Town in which it believes telecommunication facilities may need to be located within the next three years.
 - i. This provision is not intended to be a requirement that the applicant submit its business plan, proprietary information, or make commitments regarding the location of facilities within the Town. Rather, it is an attempt to provide a mechanism for the Town and all applicants for telecommunication facilities to share general information, assisting in master planning process, and promote co-location by identifying areas in which telecommunication facilities might be appropriately constructed for multiple users.
 - ii. The Community Development Department may share such information with other applicants applying for administrative approvals or special use permits under this Article VII or other organizations seeking to locate antennas within the jurisdiction of the Town, provided, however that the Community Development Department is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

- iii. Such other information as the Town may reasonably require.

3. Supplemental Information

After issuance of a permit, each owner or operator of a telecommunication facility shall inform the Town, within 60 days, of any change of the information set forth in this Section 180-5.2.11.D.

E. Fees

In addition to any other fees required by this Chapter or other applicable law, the applicant shall pay a telecommunication facility permit fee. Each application shall be submitted with the telecommunication facility permit fee. Such fee schedule shall be reasonably related to the cost of administering this Section 180-5.2.11. In addition, any reasonable costs incurred by the Town, including reasonable costs to verify compliance with any requirements under this Section 180-5.2.11, shall be paid by the applicant.

F. Permitted Uses

Provided that a telecommunication facility is a permitted use in the applicable zoning district and the use is described in Subsection (b) hereof, said facility shall not require a special use permit. Nevertheless, all such uses shall comply with Subsections 180-5.2.11.C and 180-5.2.11.D and the zoning district regulations for permitted structures in the zoning district in which they are located. Telecommunication facilities shall be considered a permitted use in the following zoning districts: Public Facilities District (PF); Central Core District (CC); Commercial Oriented District (CO); Gateway District (AC); Mixed-Used District (MU). A low power telecommunications facility intended for residential uses and services may be considered a permitted use in all zoning districts. Small cell facilities, however, shall be permitted as uses by right in all zone districts, subject to the process and standards described in Section 5.2.11.J.

1. Specific Uses Considered Permitted Uses

- a. Locating a wall- or roof-mounted facility that is within the maximum height limit and as long as all other requirements of the zoning district are met.
- b. Locating a freestanding telecommunications facility either as the principal use on a site, or on a site where a principal use already exists, so long as all other requirements of this Chapter, including setbacks and height limitations, are met and as long as all accessory equipment on the property disturb less than 350 square feet of lot area.
 - i. No site may have more than one freestanding telecommunications facility as a principal use. If more than one freestanding telecommunications facility is requested, the application for the freestanding telecommunications facility shall be considered a special use.
- c. Installing an antenna on an existing tower, so long as said additional antenna does not exceed the height limit for the zoning district or adds no additional height to said existing structure, does not extend laterally a distance of more than 12 feet, and is consistent with any applicable conditions of approval for the subject site that previously have been imposed by the Town.
- d. Installing an antenna on an existing alternative telecommunication facility, so long as said additional antenna does not exceed the height limit for the zoning district or adds no additional height to said structure, is consistent with any applicable conditions of approval for the subject site that previously have been imposed by the Town and does not negatively affect the aesthetic appearance of the facility such that it no longer acts to camouflage or conceal the presence of antennas or towers.
- e. Installing a low power telecommunications facility on any structure, including a tower, provided:
 - i. That the structure or tower does not exceed the maximum building height on the zoning district plus an additional 12 feet;

- ii. That the low power telecommunications facility is not allowed within any required setback, and any such facility in excess of eight feet in height shall be located one foot from the required setback for each foot in height above eight feet;
- iii. That the earth disturbance associated with providing access and or utilities to a low power telecommunications facility does not exceed 500 square feet; and
- iv. That no solar panels greater than 32 square feet in size are installed in association with a low power telecommunications facility.

2. Design Review and Approval

Applications to construct telecommunication facilities that are permitted uses as provided in this Section 180-5.2.11.F shall undergo site plan review by the Community Development Department in accordance with Section 180-2.5.2 of this Chapter.

G. Special Uses

1. Generally

All telecommunication facilities not treated as permitted uses pursuant to Section 180-5.2.11.F are deemed to be special uses and shall require a special use permit. An applicant proposing a telecommunication facility that exceeds the height limitations set by the zoning district in which such facility is proposed shall obtain a special use permit, in lieu of a variance.

2. Review and Approval

Applications to construct telecommunication facilities that require a special use permit shall be processed according to the following procedure:

a. Pre-Application Conference

The applicant shall schedule an informal conference with the Community Development Department prior to the submittal of an application.

b. Information Required

Each applicant requesting special use approval under this section shall submit, in addition to the information required by Section 180-2.5.2 of this Chapter, documentation, signed and sealed by appropriate licensed professionals, showing the location and dimensions of the proposed telecommunication facilities, including information concerning topography, radio frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses, and all other information deemed by the Community Development Department to be necessary to assess compliance with this Section 180-5.2.11.

c. Planning Commission

The Planning Commission, at its next available meeting, a minimum of 45 days after the filing of a complete application, shall hold a public hearing on the application and consider the recommendations of the Community Development Department staff and the merits of the proposed application. The application shall be noticed in accordance with Section 180-2.3.5. In approving any application, the Planning Commission may impose any reasonable conditions to ensure that the proposal satisfies the criteria set forth in this Chapter.

3. Height

An applicant proposing to construct a telecommunication facility that exceeds the height limitations set by the zoning district in which such facility is proposed shall provide a statement that justifies the need for the proposed facility and height requested. Such a statement shall include evidence that:

- a. The facility is designed to be the minimum height necessary to provide service; and

- b. A greater number of towers built at a lesser height would be inadequate to meet the applicant's service demands.

4. Factors Considered in Granting Special Use Permits for Telecommunication Facilities

In addition to the applicable requirements of this Chapter, the Town shall consider the following factors in determining whether to issue a special use permit:

- a. Demonstrated need for a facility that exceeds the height limitation for the zoning district; and
 - b. Proximity of the tower to residential structures and residential district boundaries; and
 - c. Nature of uses on adjacent and nearby properties; and
 - d. Surrounding topography; and
 - e. Surrounding coverage and tree foliage; and
 - f. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness; and
 - g. Proposed ingress and egress to the property; and
 - h. An evaluation of the applicant's plans for development of its telecommunication facilities within the Town, as well as those plans on file from other telecommunication providers; and
 - i. An evaluation of the criteria set forth in Sections 180-5.2.11.C and 180-5.2.11.D above; and
 - j. Availability of suitable existing towers and other structures as discussed in Subsection 180-5.2.11.C.6; and
 - k. Any other information that the Town deems reasonably necessary in connection with the review of the application.
5. The Following Additional Provisions Shall Govern the Issuance of Special Use Permits for Telecommunication Facilities:
- a. In granting a special use permit, the Town may impose conditions to the extent it concludes such conditions are necessary to minimize any adverse effect of the proposed telecommunication facility on adjoining properties.
 - b. Telecommunication facilities approved as a special use shall not require a variance for any specific conditions approved as part of the special use process.
 - c. Any information of an engineering nature that the applicant submits, whether civil, mechanical, structural, or electrical, shall be certified by a licensed professional engineer, or a qualified radio frequency engineer.
6. All applications and the subsequent decision on whether to approve, approve with conditions or deny an application for a special use permit shall be in writing, based upon evidence presented to the Town.

H. Public Property

- 1. A telecommunication facility applicant proposing to locate a telecommunication facility on any public property or public right-of-way shall contact the Public Works Department and the Community Development Department prior to submitting an application.
- 2. Any telecommunications facility proposed to be located in a public right-of-way is additionally subject to the following requirements:
 - a. The facility must meet all setback and other requirements of the zoning district in which it is located, unless located in a public right-of-way.

- b. The facility must not create any threat or impairment to public health and safety, including but not necessarily limited to blocking vehicular and pedestrian sightlines.
- c. The height of the facility shall not exceed the maximum permitted height of public utility poles located in the same zoning district.

I. Telecommunication Facilities Definitions

The following words and phrases, when used in this section, shall have the meanings ascribed to them in this Subsection 180-5.2.11.

1. Accessory Equipment

Equipment, including telecommunication facilities as defined herein, used to protect and enable radio switching equipment, back-up power, support structures, and other devices incidental to a telecommunication facility, but not including towers, antennas or alternative telecommunication facilities.

2. Alternative Tower Facility

An existing or proposed structure that is compatible with the natural setting and surrounding structures and that camouflages or conceals the presence of the antennae and can be used to house or mount an antenna. Examples include manmade trees, clock towers, bell steeples, light poles, silos, existing utility poles, existing utility transmission towers and other similar alternative designed structures.

3. Antenna

Any exterior apparatus designed for telephonic, radio or television communications through the sending and/or receiving of wireless communications signals.

4. FAA

The Federal Aviation Administration.

5. FCC

The Federal Communications Commission.

6. Height, Tower or Telecommunication Facility

When referring to a tower or telecommunications facility, the distance measured from the ground level to the highest point on the tower or other structure, even if said highest point is an antenna.

7. Micro-Cell Facility

A small wireless facility that is no larger in dimensions than twenty-four inches in length, fifteen inches in width, and twelve inches in height and that has an exterior antenna, if any, that is no more than eleven inches in length.

8. Pre-Existing Towers and Antennas

Shall have the meaning set forth in Section 180-5.2.11.B.3.

9. Public Right-Of-Way or Right-Of-Way

Public streets, alleys, ways, highways, easements, and any other like access dedicated primarily for the use of the public.

10. Small Cell Facility shall mean either:

- a. A personal wireless service facility as defined by the Federal Telecommunications Act of 1996, as amended as of August 6, 2014; or
- b. A wireless service facility that meets both of the following qualifications:
 - i. Each antenna is located inside an enclosure of no more than three cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three cubic feet; and
 - ii. Primary equipment enclosures are not larger than seventeen cubic feet in volume. The following associated equipment may be located outside of the primary equipment enclosure and, if so located, is not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation box, ground-based enclosures, back-up power systems, grounding equipment, power transfer switch, and cut-off switch; or
- c. A Micro-Cell facility, as defined in this section.

11. Small Cell Network

A collection of interrelated small cell facilities designed to deliver wireless service.

12. Telecommunication Facility

A facility that transmits and/or receives electromagnetic wireless communications signals. It includes antennas, microwave dishes, horns, and other types of equipment for the transmission or receipt of such signals, telecommunication towers or similar structures supporting said equipment, equipment buildings, parking area, and other accessory development. The following types of facilities are included within this definition:

- a. **Alternative telecommunication facility**
A telecommunication facility with an alternative design that camouflages or conceals the presence of antennas or towers such as, but not limited to, artificial trees, clock and bell towers, light standards, flagpoles and steeples.
- b. **Freestanding telecommunication facility**
A telecommunication facility that consists of a stand-alone support structure or tower, antennas, and accessory equipment.
- c. **Low power telecommunications facility**
A telecommunications facility necessary to broadcast telecommunications for voice, data or video with emitted power levels less than 36dBm (or such other levels as may be authorized by the Federal Communications Commission to be low power telecommunications) with total frontal surface areas of all antennas not exceeding ten square feet for any single parcel.
- d. **Roof and/or wall mounted telecommunication facility**
A telecommunication facility that is mounted to the roof or any rooftop appurtenance, or to the face of a legally existing building or structure.

13. Tower

Any structure that is designed and constructed primarily for the purpose of supporting one or more antenna, including self-supporting lattice towers, guy towers, or monopole towers. The term includes, but is not limited to, radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers and alternative telecommunication facilities.

J. Standards for Small Cell Facilities and Networks

1. Applicable Requirements

Small cell facilities and small cell networks, shall comply in all respects with the requirements of this Section 5.2.11 applicable to all wireless telecommunication services facilities, with the following exceptions:

- a. Setback;
- b. Design; and
- c. Location.

2. Location

Small cell facilities are permitted in Town rights-of-way, upon facilities in these rights-of-way and on public easements owned by the Town under the following priority:

- a. First, on a Town-owned utility pole, if any, which shall be removed and replaced with a pole designed to contain all antennae and equipment within the pole to conceal any ground-based support equipment and ownership of which pole is conveyed to the Town.
- b. Second, a Town-owned utility pole with attachment of the small cell facilities in a configuration approved by the Town.
- c. Third, on a third-party owned utility pole, (with the consent of the owner thereof), with attachment of the small cell facilities in a configuration approved by the Town.
- d. Fourth, on a traffic signal pole or mast arm in a configuration approved by the Town, or in the case of a CDOT facility, by CDOT.
- e. Fifth, on a freestanding or ground-mounted facility which meets the definition of and requirements for an alternative tower structure in a location and configuration approved by the Town.

3. Height

All small cell facilities shall not exceed two feet above the light pole, traffic signal or other facility or structure to which they are attached, or the maximum height in the relevant zone district, whichever is less. When new utility poles are proposed as an alternative tower, their height shall be similar to existing utility/light poles in the vicinity.

4. Spacing

No small cell facility shall be located within one thousand feet (1000 ft) of any other such facility.

5. Design

Small cell facilities shall be designed to blend with and be camouflaged in relation to the structure upon which they are located (e.g.: painted to match the structure or same material and color as adjacent utility poles). To the greatest degree possible, support equipment shall be located underground.

6. Relocation and Removal

All facilities in Town right-of-way or easements shall be removed and/or relocated at the applicant's expense in the event the Town's use of the right-of-way or easement precludes the continued presence of such facilities.

7. Permitting

All small cell facilities and networks shall be reviewed pursuant to the procedure within this Section 5.2.11. Small cell facilities and networks shall also make application for a permit for work in the right-of-way. The Town may accept applications for a small cell network, provided each small cell facility shall be separately reviewed. The Town may take up to ninety days to process a complete application.

8. Indemnification

The operator of a small cell facility which is permitted to locate on a Town right-of-way or easement or on a Town-owned utility pole, traffic signal or other structure owned by the Town, or within a Town-owned right-of-way or easement, shall, as a condition of permit approval, indemnify the Town from and against all liability and claims arising as a result of that location or attachment, including repair and replacement of damaged poles and equipment, in a form approved by the Town attorney.

9. Bonding

All permits for location of small cell facilities on real property not owned by the small cell permittee shall include as a condition of approval a bond, in form approved by the Town attorney, to guarantee payment for any damages to the real property and removal of the facility upon its abandonment.

10. Permit Expiration

A permit for a small cell facility shall expire nine (9) months after approval unless construction of the permitted structure has been initiated.

180-5.2.12. LIGHT INDUSTRIAL ZONING DISTRICT

A. Offices and Medical Offices

Offices and medical offices on the ground floor are a conditional use. Offices and medical offices not located on the ground floor are a permitted use.

180-5.2.13. MIXTURE OF USES IN THE MIXED USE DISTRICT

For properties located in the Mixed Use District, development shall be a mixture of residential and nonresidential uses, with each such use making up not less than 20 percent of the total gross floor area of all uses within the property. Developments with a lesser mixture of residential or nonresidential uses, including single use developments, are a conditional use.

180-5.3 Accessory Uses and Structures

180-5.3.1. ACCESSORY DWELLING UNITS

- A. Accessory dwelling units shall be no larger than 900 square feet.
- B. Accessory dwelling units shall not be used for short-term rental housing.
- C. Accessory dwelling units shall not be subdivided.
- D. In all districts where accessory dwelling units are permitted or conditional, except the PR and PF Districts, one accessory dwelling unit is permitted per principal dwelling unit or commercial unit.
- E. An accessory dwelling unit shall be counted as a unit of density, unless exempted by Section 180-5.5.1.

180-5.3.2. CARRIAGE HOUSE REQUIREMENTS

- A. A “carriage house” is a separate detached dwelling unit that is incidental and subordinate in size and character to the primary residence and that is located on the same parcel or on a contiguous lot that is under the same ownership as that on which the primary residence is located. A primary residence may have no more than one carriage house. A carriage house may not be accessory to another accessory dwelling unit or carriage house. A carriage house shall be developed in accordance with all applicable requirements of this Chapter.