



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

10/29/2012

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Gresham Plan Amendment
DLCD File Number 006-11

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Friday, November 09, 2012

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Ken Onyima, City of Gresham
Gordon Howard, DLCD Urban Planning Specialist
Jennifer Donnelly, DLCD Regional Representative

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FORM

2

DLCD

Notice of Adoption

This Form 2 must be mailed to DLCD within 5-Working Days after the Final Ordinance is signed by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

In person electronic mailed

DEPT OF

OCT 22 2012

LAND CONSERVATION AND DEVELOPMENT

DATE STAMP

For Office Use Only

Jurisdiction: **City of Gresham**

Local file number: **CPA 11-045**

Date of Adoption: **10/16/2012**

Date Mailed: **10/19/2012**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 10/12/2011

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Changes the Development Code to exempt wireless communication facilities that are in the public rights of way from development permit requirements and permits them through the Gresham Revised Code.

Does the Adoption differ from proposal? Please select one

No changes

Plan Map Changed from: **NA**

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

- | | | | | | | | | | | | | | | | | | | |
|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
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Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

35-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. 006-11 (19011) [17211]



*Urban Design & Planning Services
City of Gresham*

CERTIFICATION OF MAILING

FILE NO.: CPA 11-045

PROJECT: Wireless Facilities in ROW

I, TAMMY J. RICHARDSON, CERTIFY THAT I HAVE MAILED THE ATTACHED NOTICE OF DECISION TO THE FOLLOWING PARTIES:

DLCD

**Plan Amendment Specialist
635 Capitol Street, NE #150
Salem, OR 97301-2540**

**Metro
Growth Management
600 NE Grand
Portland OR 97232-2736**

**Carol Rulla
5162 SE 28th Drive
Gresham OR 97080**

**Shanin Prusia
Verizon Wireless
shanin@urbanwirelessinc.com**

SIGNATURE: *Tammy J. Richardson*

DATE OF MAILING: October 19, 2012

BEFORE THE CITY COUNCIL OF THE
CITY OF GRESHAM

IN THE MATTER OF AMENDMENTS TO) Order No. 639
VOLUME 3, DEVELOPMENT CODE, OF THE)
GRESHAM COMMUNITY DEVELOPMENT) CPA 11-045
PLAN, REGARDING THE LOCATION OF)
WIRELESS COMMUNICATION FACILITIES)
ON UTILITY POLES IN THE CITY'S PUBLIC)
RIGHTS-OF-WAY)

On September 18, 2012, the City Council held a public hearing to take testimony on amendments to Volume 3 of the Gresham Community Development Plan as it relates to the location of wireless communication facilities in the public rights-of-way.

The hearing was conducted under Type IV procedures. Mayor Shane T. Bemis presided at the hearing.

The Council closed the public hearing at the September 18, 2012 meeting, and a final decision was made at the October 16, 2012 meeting.

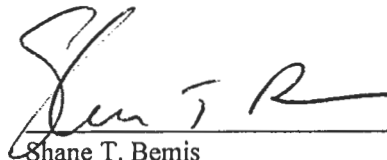
A permanent record of this proceeding is to be kept on file in the Gresham City Hall, along with the original of the Order.

The Council orders that these amendments are approved, adopts the standards, findings and conclusions as stated in the attached Planning Commission Recommendation Order and staff reports.

Dated: October 16, 2012



Erik Kvarsten
City Manager



Shane T. Bemis
Mayor

**BEFORE THE PLANNING COMMISSION OF THE
CITY OF GRESHAM**

TYPE IV RECOMMENDATION ORDER

CPA 11-045

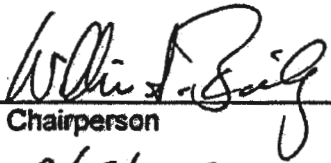
A Type IV Legislative Public Hearing was held on August 13, 2012 to consider proposed amendments to Volume 3, Development Code of the Gresham Community Development Plan regarding **Wireless Communication Facilities in the Public Rights of Way**.

The Planning Commission closed the public hearing at the August 13, 2012 meeting, and a final recommendation was made at the August 13, 2012 meeting.

William Bailey, Chair, presided at the hearing.

A permanent record of this proceeding is to be kept on file in the Gresham City Hall, along with the original of this Type IV Recommendation Order.

The Planning Commission recommends Adoption of the proposed Development Code amendments to the City Council based on the findings, conclusions and recommendations of the August 13, 2012 staff report.



Chairperson
8/13/2012

Date



MEMORANDUM

URBAN DESIGN & PLANNING

STAFF REPORT TYPE IV HEARING – COMPREHENSIVE PLAN AMENDMENT WIRELESS COMMUNICATION FACILITIES

To: Gresham Planning Commission

From: Jonathan Harker, AICP, Urban Design & Planning Director
Ken C. Onyima, AICP, Senior City Planner
David Ris, City Attorney

Hearing Date: August 13, 2012

Report Date: August 2, 2012

File Number: CPA 11-045

Proposal: To adopt comprehensive plan amendments to amend Volume 3, Development Code, of the Gresham Community Development Plan to remove the requirement that Wireless Communication Facilities collocated on existing utility poles in the public rights-of-way obtain a land use development permit. Instead they will be subject to permitting requirements being adopted as part of the Gresham Revised Code.

Exhibits:

- A Draft Amendments to Volume 3 Gresham Community Development Code
- B Proposed Changes to the Gresham Revised Code (For Reference Only)
- C Gresham Revised Code Section 7.50.030 relating to review by an independent hearings officer

Recommendation: Staff recommends adoption of the proposed comprehensive plan amendments

Staff Report Organization and Contents

- Section I is an Executive Summary of the project that provides an overview of proposed Community Development Code changes.
- Section II identifies applicable Development Code procedures that apply to the proposal.
- Section III identifies those current Community Development Plan Goals and Policies that apply to the proposal.
- Section IV identifies the applicable Statewide Planning Goals that apply to the proposal.
- Section V contains findings of fact that indicate how the proposal is consistent with Sections II through IV:
 - Section A is findings of fact for the Community Development Code Procedures.
 - Subsection B is findings of fact for the Community Development Plan Goals and Policies.
 - Subsection C is findings of fact for compliance with Statewide Planning Goals and the Metro Functional Plan.
- Sections VI and VII summarize staff conclusions and recommendations.
- Exhibit A includes proposed amendments to Volumes 3 of the Community Development Code as well as commentary. The commentary provides additional findings for the proposal.
- Exhibit B is the proposed changes to the Gresham Revised Code and is attached for reference only.
- Exhibit C is the Protest and Hearing Section 7.50.030 of the Gresham Revised Code (GRC). This Section is referenced in Section 11 of the proposed GRC amendments found in Exhibit B. It describes a Hearing Officer process when a protest is made of a manager's decision under the proposed GRC amendments of a WCF on a utility pole in the public right-of-way. The Planning Commission requested this information at their June 25, 2012 meeting.

SECTION I EXECUTIVE SUMMARY

Background

Utility poles in the public right-of-way provide a place for utility companies to locate and/or anchor their lines and appurtenances including wireless communication facilities. These facilities are allowed within the public rights-of-way by utility licenses issued pursuant to Gresham Revised Code Article 6.30, Utility License Code. Wireless Communication Facilities (WCF) are currently required to go through a land use review and approval process in order to collocate on these utility poles. WCF is the only utility provider so treated. The Federal Telecommunications Act limits the extent the City may regulate WCFs. These limits include a prohibition on regulations based on the potential

health effects from radio frequencies and regulations that create barriers to entry to WCF services.

To address this issue, the City Council, as a part of the 2011 Council Work Plan, directed staff to recommend appropriate amendments to the Gresham Community Development Code (GCDC), the Utility License Code (GRC Article 6.30), and Public Works Standards related to the siting of WCFs on utility poles in the public rights-of-way. On September 21, 2011, staff presented three alternatives to the City Council for addressing WCFs:

1. Allow WCFs outright like other utility facilities.
2. Allow WCFs outright subject to construction standards such as height and color.
3. Continue existing Development Code regulations.

The City Council chose Option 2 and directed staff to draft comprehensive plan amendments that remove regulation of WCF on utility poles in the public rights-of-way from the Gresham Community Development Code. It further directed that the regulations governing the collocation of WCF on utility poles in the City's public rights-of-way be drafted and placed in the Gresham Revised Code (GRC).

A November 28, 2011 Type IV Legislative Public Hearing before the Planning Commission ended in a denial recommendation based on the Planning Commission finding that a case has not been made to remove the language from the Gresham Development Code to the GRC, and that the changes could be made and maintained in the Development Code and still provide opportunity for citizen participation that is absent from the procedures within the GRC.

As a result of the denial recommendation by the Planning Commission, the City Council postponed their hearing of the matter. Instead they held a policy meeting on December 20, 2011. At that policy meeting Council directed staff to proceed with gathering additional public input including the Planning Commission regarding WCF regulations and scheduling a new Planning Commission hearing.

Following the Council's direction, a new round of public outreach and Planning Commission work session was held to specifically address the draft amendment to the GRC. Public outreach included meeting with the Neighborhood Coalition on February 15, 2012 and a Community Forum on February 22, 2012. On April 9, 2012 the Planning Commission in a work session agreed that the regulation of WCF should be placed in the GRC. The City Council gave similar policy direction at its May 15, 2012 meeting. Also at the June 25, 2012 work session, the Planning Commission reiterated its agreement that the regulation of WCF should be placed in the GRC.

Proposed Community Development Code Amendments Overview

Text changes to the Community Development Code are proposed. The format of the attached Exhibit A is a ~~strike-through~~/underline version with comments inserted into the document to explain the rationale for each proposed change. The overview provided below summarizes the changes:

Amendments to Volume 3, Development Code of the Community Development Plan.

The following amendments are proposed to bring the code into compliance with the City Council's directive of allowing outright wireless communication facilities on utility poles in the City's public rights-of-way:

- Add definitions related to Wireless Communication Facilities. WCF outside of the public rights-of-way will continue to be regulated in the development code. Currently there are no definitions for a WCF and a WCF Tower in the Development Code. The proposed definitions clarify the meaning of the terms.
- Add text providing that WCF on utility poles in the public rights-of-way are not regulated in the Development Code.
- Add text replacing the old terminology of "cell" with current WCF terminology.

Proposed Gresham Revised Code Overview

While a WCF in the public rights of way would no longer be subject to Development Permit requirements, proposed Gresham Revised Code amendments would regulate WCF's. The proposed WCF regulations are contained in Exhibit B, and are significantly more detailed than the regulations currently found in the Development Code. The City will regulate the size, height, appearance and location of WCF's in public rights of way.

The purpose of this Type IV Public Hearing is to receive input from the public and for the Planning Commission to make a recommendation regarding amendments to the Development Code based on the criteria discussed in this staff report. Although the Type IV Public Hearing process and the relevant criteria do not apply to the Gresham Revised Code Amendments, the draft WCF regulations are being included in this staff report for reference. Comments from the public and members of the Planning Commission regarding the draft regulations are welcome.

Draft WCF regulations were provided to the Planning Commission at the June 25, 2012 work session. The following revisions have been made to the draft WCF regulations since that work session:

- The definitions were relocated to the beginning of the code section
- The utility owning the pole must state that the pole is structurally adequate and will safely accommodate the proposed wireless communication facility.
- Subsection 11(d) relating to an independent hearings officer reviewing a waiver or modification was modified to cite only the applicable sections of GRC

7.50.030. Pursuant to the request of the Planning Commission, Attachment C is a copy of GRC 7.50.030 referenced in subsection 11(d).

- Subsection 11(e) was modified to provide the City more authority to minimize the visual impacts of a WCF if a regulation is waived or modified.

The size of WCF equipment cabinets was also discussed at the June 25, 2012 work session. The draft regulations proposed size limits of 30 inches in height, 30 inches parallel to the street (length) and 24 inches perpendicular to the street (width). These limits would apply to pole-mounted cabinets and ground-mounted cabinets located in the public right of way, which includes any public utility easement. No size limits were proposed for cabinets located on private property outside of the public right of way or public utility easement. Cabinets outside of the right of way or public utility easement would be subject to Development Code requirements.

The City surveyed twelve utility cabinets. The largest cabinet (54H x 45L x 25W) was for WCF equipment next to Powell Valley Grade School. Most cabinets were either tall and narrow or short and wide. The height of the cabinets varied from 19 to 55 inches with an average of about 33 inches. The length or distance parallel to the street varied from 16 to 53 inches with an average of about 34 inches. The width or distance perpendicular to the street varied from 12 to 31 inches with an average of about 23 inches.

Based on testimony that WCF's require more space for equipment not used by other utilities, such as back-up batteries, staff recognizes the need for the size limits be higher than the average size of an utility cabinet. Balancing this need with the visual impact of equipment cabinets, and taking into account the alternative to place cabinets on private property, staff recommends Section 6(c) related to cabinet located on the ground be amended to read as follows:

In a single cabinet, at right angles to the street, on the ground in the public right-of-way if located to allow the maximum available width for pedestrians, which in no case shall have less than a four foot clearance. The cabinet shall not exceed 42 inches in height except in a clear vision area in which case the height shall not exceed 36 inches, 42 inches parallel to the street and 30 inches perpendicular to the street.

SECTION II APPLICABLE COMMUNITY DEVELOPMENT CODE PROCEDURES

| | |
|-----------------|--------------------------------|
| Section 11.0201 | Initiation of Application |
| Section 11.0203 | Classification of Application |
| Section 11.0204 | Review Authorities |
| Section 11.0600 | Type IV Legislative Procedures |
| Section 11.1000 | Public Hearings |

**SECTION III
APPLICABLE COMMUNITY DEVELOPMENT PLAN
GOALS & POLICIES**

| | |
|----------------|-----------------------------------|
| Section 10.014 | Land Use Policies and Regulations |
| Section 10.100 | Citizen Involvement |

**SECTION IV
APPLICABLE STATEWIDE PLANNING GOALS AND METRO URBAN
GROWTH FUNCTIONAL PLAN TITLES**

| | |
|-------------------------------|-----------------------|
| Statewide Planning Goal 1 | Citizen Involvement |
| Statewide Planning Goal 2 | Land Use Planning |
| Metro Functional Plan Title 8 | Compliance Procedures |

**SECTION V
FINDINGS OF FACT**

The proposed Community Development Plan text amendment¹ is consistent with all applicable criteria and policies of the Community Development Plan, as indicated in the following findings:

A. Community Development Code Procedures (Volume 3)

1. Section 11.0201 – Initiation. This section provides that only the City Council may initiate a Type IV legislative application to amend the text of the Map or Code of the Gresham Community Development Plan. This project was initiated by the City Council when they adopted the 2011 Council Work Plan on February 1, 2011.

2. Sections 11.0203 and 11.0204 – Classification of Applications and Review Authorities. These sections provide that Type IV procedures are legislative and typically involve the adoption, implementation or amendment of policy by ordinance and that it generally applies to a relatively large geographic area containing many property owners. They also provide that the Planning Commission provide a recommendation on the amendments and the City Council be the decision-making authority. This project meets those conditions, is being processed under the Type IV procedures and will be heard by the City Council.

3. Section 11.0600 – Type IV Legislative Procedures. For a Type IV Comprehensive Plan Amendment this section requires a submittal to the Department of Land Conservation and Development at least 45 days prior to the Planning Commission

¹ Findings of Fact are not required for amendments to the Gresham Revised Code.
Wireless Communication Facilities Code Amendment
August 2, 2012

hearing. This submittal was made on October 12, 2011, which was at least 45 days prior to the initial Planning Commission hearing date of November 28, 2011. This section also requires that hearings be scheduled, a notice published in a newspaper of general circulation in the City and a copy of the decision be mailed to those required to receive such notice. Required notice of public hearing for these proposed text amendments has been published in the *Gresham Outlook* as required by this section.

This section also requires that the Planning Commission shall hold a public hearing and make a recommendation to the Council for an amendment to the Community Development Code and the Community Development Plan. The Council shall hold another public hearing and make a final decision. Interested persons may present evidence and testimony relevant to the proposal. The Planning Commission will make a recommendation and the Council will make a decision that will be based on findings of fact contained in this report and in the hearings record, and a decision will be sent to those who participated in the hearings. A decision shall be made accompanied by findings and an order.

4. Section 11.1000 - Public Hearings. The section provides for a hearing process consistent with Section 11.1000. Both the Planning Commission and the City Council, at public hearings in conformance with provisions of this section, will consider this proposal.

B. Community Development Plan Goals and Policies (Volume II)

This section identifies the applicable Community Development Plan Goals and Policies. The text (italicized) of the Policy is followed by corresponding findings and conclusions. The applicable Policies are grouped by general categories.

1. General Goals & Policies

Section 10.014 Land Use Policies and Regulations

Section 1. Land Use Policies and Regulations.

Goal: Maintain an up-to-date Comprehensive Plan and Implementing regulations as the legislative foundation of Gresham's land use program.

Policy 1: The City's land use program will be consistent with state and regional requirements but also shall serve the best interests of Gresham.

Policy 21: Council may, upon finding it is in the overall public interest, initiate legislative processes to change the Comprehensive Plan text and Community Development Plan Map(s) and Development Code.

Findings

The proposed amendments were initiated by the Council as part of the 2011 Council Work Plan adopted on February 1, 2011. The amendments propose to remove the permitting of WCF when located on a utility pole in public-rights-of way from the Development Code and instead permit them through the Gresham Revised Code. The amendments result in treating the WCF in a manner similar to all other utilities located on utility poles in the public rights-of-way. The Federal Telecommunications Act limits the extent to which a local jurisdiction can regulate WCF. Regulations cannot be based on potential health effects from radio frequencies and cannot create barriers to entry of WCF service. WCF not located in the public rights-of-way will continue to be regulated in the Development Code. The amendments add up-to-date definitions for WCF and WCF towers.

Conclusion

Land Use Goal and Policy 1: Adding updated definitions, treating WCF as other utilities are treated when located on a utility pole in the public rights-of-way and ensuring consistency with the Federal Telecommunications Act is in the best interest of Gresham. The updates are consistent with State and regional requirements, as described in the following findings.

Policy 21: This policy is addressed because the Council initiated the amendments as part of the 2011 Council Work Plan.

The proposed amendments are consistent with the Land Use Goal and Policies 1 and 21.

2. Citizen Involvement Goals & Policies

Section 10.100 Citizen Involvement

Goal: The City shall provide opportunities for citizens to participate in all phases of the planning process by coordinating citizen involvement functions; effectively communicating information; and facilitating opportunities for input.

Policy 1: The City shall ensure the opportunity for citizen participation and input when preparing and revising policies, plans and implementing regulations.

Policy 2: The City shall consider the interests of the entire community and the goals and policies of the Comprehensive Plan when making decisions.

Findings

The above goals and policies require that citizens have opportunities throughout a planning project to be informed and make input to the proposal. The key parts of involving citizens in this project have been through meetings and presentations to the neighborhood coalition and stakeholders. These two bodies have been involved throughout the process starting with the initial broad inquiry on the question of need to change the way wireless communication facilities are regulated to the actual review and input in the proposed code language. Their input helped inform the outcome of the proposed code revision to a great extent.

The following measures were taken to inform citizens and involve them in this project:

- Stakeholders meeting: May 27, 2011
- Introduction of topic to the Planning Commission: June 13, 2011
- Neighborhood Association Coalition Meeting: September 13, 2011
- City Council Policy Meeting: September 20, 2011
- Stakeholders Meeting: October 19, 2011
- Planning Commission Work Session (informal): October 24, 2011
- Planning Commission Hearing: November 28, 2011
- City Council Meeting: December 20, 2011
- Neighborhood Association Coalition Meeting: February 15, 2012
- Community Forum: February 22, 2012
- Planning Commission Work Session: April 9, 2012
- City Council Meeting: May 15, 2012
- Planning Commission Work Session: June 25, 2012
- A webpage information was created for this project

Conclusions:

The Citizen Involvement Goal and its policies are met by the combination of Planning Commission work sessions, presentations to the stakeholders and neighborhood association coalition, a Community Forum as well as providing information on the proposal on the City's Web site.

The proposal is consistent with the applicable citizen involvement goals and policies listed in this section.

C. Metro Urban Growth Management Functional Plan and Statewide Planning Goals

Metro Functional Plan Title 8 Compliance Procedures

Findings

Section 3.07.820 of this title requires that at least 45 days prior to the first evidentiary hearing on an amendment to a comprehensive plan or land use regulation that the City submit the proposed amendments to Metro. Metro may review the amendments and can request that the City provide an analysis of compliance with the Functional Plan.

The City submitted the proposed amendments to Metro on October 12, 2011, which was at least 45 days prior to the first evidentiary hearing of November 28, 2011. Metro has not contacted the City regarding this notice.

Conclusion

The City has submitted the proposed amendments to Metro at least 45 day prior to the first evidentiary hearing. The proposal is consistent with Title 8.

Statewide Planning Goals

Findings

Statewide Planning Goal 1 requires that cities “provide the opportunity for citizens to be involved in all phases of the planning process.”

Statewide Planning Goal 2 requires cities to “establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions. This shall result in land use plans and implementation measures that are consistent with the land use plans.”

A public input process was conducted in the creation of the proposed amendments, which allowed the public to be involved at each stage of the amendment’s development. This included meetings with various stakeholders including Neighborhood Associations, Wireless Communication Facilities industry representatives, utility companies, etc.

The City has a state-acknowledged Comprehensive Plan. Section V of this report describes findings and conclusions that the proposed Comprehensive Plan Amendments are consistent with applicable procedures and applicable goals and policies of the City’s Comprehensive Plan.

Conclusion

The proposed amendments comply with Statewide Planning Goals 1 and 2.

SECTION VI CONCLUSION

The proposed Plan text amendments attached as Exhibit A is consistent with applicable criteria of the Community Development Plan, as indicated by findings contained or referenced in Section V of this report.

The proposed amendment is consistent with all the relevant procedures of the Community Development Plan. It will make it possible for WCF to collocate on utility poles in the City's public rights-of-way without land use approval similar to the facilities of other utilities.

SECTION VII RECOMMENDATION

Staff recommends **adoption** of the proposed comprehensive plan amendments to the City Council as contained in the attached Exhibit A.

End of Staff Report

Proposed new language is double-underlined.
Proposed deleted language is ~~stricken~~

CB 11-12

ORDINANCE NO. 1721

AMENDMENTS TO VOLUME 3, DEVELOPMENT CODE, OF THE GRESHAM COMMUNITY DEVELOPMENT PLAN REGARDING THE LOCATION OF WIRELESS COMMUNICATION FACILITIES ON UTILITY POLES IN THE CITY'S PUBLIC RIGHTS-OF-WAY

Section 1. Volume 3, Development Code is amended as follows:

3.0010 General Terms and Definitions

- Wireless Communication Facility or WCF. An unmanned facility for the transmission of radio frequency (RF) signals for wireless communication, usually consisting of a WCF tower, antennas, cabinet or other enclosed structure containing electronic equipment, cables, wires, conduits, or other transmission and reception devices.
- WCF Tower. A monopole, or other unattached structure erected to support wireless communication facility antennas and connecting appurtenances.

3.0020 Habitat Conservation Area (HCA) Related Terms and Definitions

- **Utility Facilities.** Buildings, structures or any constructed portion of a system which provides for the production or transmission of heat, light, water, power, natural gas, sanitary sewer, stormwater, telephone and cable television, communication and data. Utility facilities do not include stormwater pre-treatment facilities.

SECTION 8.0100
COMMUNITY SERVICES

8.0110 Type I Community Services

~~F. Cellular communication antennas~~ Wireless communication facilities co-located on an existing Community Service approved ~~cell~~ WCF tower or location not in the rights-of-way, provided the required equipment facilities can be contained within the confines of the existing approved site. ~~and, reduced size cellular communication antennas and equipment proposed for location on existing utility poles, provided no on-ground equipment accompanies the antennas and said antennas does not extend out more than two (2) feet from the pole, or, does not extend beyond the easement or public right of way where the power pole is located, whichever distance is less.~~ Such antennas and facilities wireless communication facilities that qualify for Type I review will not be subject to Design Review.

8.0111 Type II Community Services

The following community services may be approved under the Type II procedure:

J. Major utility structures, including but not limited to substations, telephone switching stations, ~~cellular~~ wireless communication facilities that do not meet the requirements for Type I review, and other facilities required for the transmission of power or communications.

8.0114 Design Review and Approval Criteria for Community Services

F. An applicant for a ~~cellular~~ wireless communications facility must co-locate on an existing ~~cell~~ WCF tower, unless it can be reasonably demonstrated that such is not feasible, in which case the new ~~cell~~-WCF tower shall be grouped at the same site, or, be located no closer than 2,000 linear feet from another ~~cell~~ WCF tower. No ~~cell~~ WCF tower shall be located within the LDR-5, LDR-7, TLDR, TR, DRL-1 and DLR-2 Districts, unless such location is absolutely necessary for the maintenance of ~~cellular~~ wireless communications within that ~~cell~~ service area. For all ~~cell~~ WCF tower proposals, the facility shall be located at least 200 feet from the nearest residence and must be constructed to allow co-location of additional ~~antenna~~ wireless communication facilities.

11.0102 Exclusion from Development Code

The following activities do not require a Development Permit except as noted.

E. The following activities do not require a Development Permit, except in the Habitat Conservation Area, Floodplain, and Hillside Physical Constraint Overlay District:

1. The establishment, construction, maintenance, or termination of the following authorized public facilities: public streets, public sidewalks, sanitary sewers, storm sewers, water lines, electrical power and gas ~~distribution~~ lines, communication and data lines, and telephone and television cable ~~transmission~~ lines.

F. Wireless Communication Facilities located in the public rights-of-way under the jurisdiction or control of the City of Gresham.

First Reading: September 18, 2012

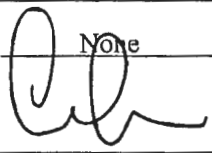
Second Reading: October 16, 2012

Yes: Bemis, Echols, Fuhrer, Kilian, Stegmann, Warr-King, Widmark

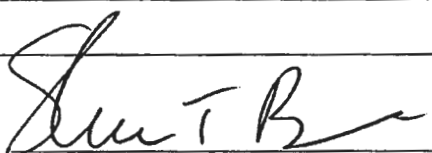
No: None

Absent: None

Abstain: None

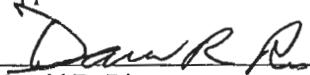


Erik Kvarsten
City Manager

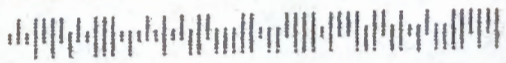


Shane T. Bemis
Mayor

Approved as to Form:



David R. Ris
City Attorney



CITY OF GRESHAM
DEVELOPMENT SERVICES
PLANNING SERVICES
1333 NW EASTMAN PARKWAY
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DLCD
Plan Amendment Specialist
635 Capitol Street, NE #150
Salem, OR 97301-2540