



Planning & Development Services

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Memorandum

To: Skagit County Board of County Commissioners
From: Jenn Rogers, Long Range Planner
Re: Planning Commission's Recorded Motion on Amendments to Skagit County Wireless Facilities Code, SCC 14.04 and 14.16
Date: October 11, 2022

Summary

Planning and Development Services (PDS) is providing this staff report in advance of the October 11, 2022, meeting of the Board of County Commissioners on the amendments to the wireless facilities code, Skagit County Code 14.04 and 14.16. This memo serves as a formal transmittal of the Planning Commission Recorded Motion within two weeks of signature. Appendix 1 contains the Planning Commission Recorded Motion and Appendix 2 includes the proposed amendments.

Background

Federal law requires Skagit County to process wireless facilities applications in a timely manner and to provide non-discriminatory access to its rights-of-way for telecommunications purposes. The industry is in the process of installing wireless equipment, including building out 5G networks, to keep up with technological advancement and widespread adoption of smart devices. Wireless providers are required to follow all federal and local regulations regarding installation of their facilities and equipment, including the County's development code requirements.

Since 2018, the Federal Communications Commission (FCC) has been actively involved in issuing rules and regulations regarding the deployment of 5G equipment and facilities. It was the FCC's belief that local governments were unreasonably slowing the roll-out of 5G by either taking too long to process applications or charging too much for use of the right-of-way which, in turn, acted as a barrier to entry for the wireless providers. As such, the FCC adopted five separate "shot clock" time limits within which local governments must decide on small cell or other

applications. The FCC also prescribed what counties and cities may charge for use of their rights-of-way when it comes to small wireless facilities.

Additionally, the FCC issued its classification for small wireless facilities which generally includes up to a 50-foot pole along with corresponding antennas and related equipment. Given that development, along with other guidelines issued by the FCC, it became necessary to update and modernize Section 14.16.720 of the Skagit County Code. The proposed amendments now cover both towers and small wireless facilities (see figure 1 and figure 2 as examples). It should be noted that the County still has the right to promulgate reasonable aesthetic standards for small cells if those standards are published in advance and readily available to the providers. The changes to Section 14.16.720 reflect best practices. They were designed to strike a balance of competing interests between the County and the provider community.



Figure 1 Macro Cell Tower



Figure 2 Small Wireless Facility

Small wireless facilities are small antennas and radios commonly placed on existing infrastructure (such as utility poles, traffic lights, or buildings)

PDS analyzed the proposed amendments under the State Environmental Policy Act (SEPA) and for consistency with the existing comprehensive plan and the unified development regulations. A full proposal was released for public review and comment on August 25, 2022. A public hearing was held with the Skagit County Planning Commission on September 13, 2022. No members of the public provided testimony at the hearing and there were no written comments submitted for the record.

The Planning Commission recorded motion (Appendix 1) was approved on September 27, 2022. The recorded motion includes recommendations for the Board's consideration. The various staff reports, memos, and public noticing documents are available to view on the County's project webpage at the following address:

<https://www.skagitcounty.net/Departments/PlanningAndPermit/WirelessUpdate2022.htm>

This memo serves as a formal transmittal of the Planning Commission recommendation within two weeks of signature.

Public Notice and Participation

On August 25, 2022, the Staff Report for the amendments to the wireless facilities code, Skagit County Code 14.04 and 14.16 was published to the County website. The public notice opened the comment period, noticed the public hearing, and provided the environmental (SEPA) determinations.

Notice was published to the Skagit Valley Herald, the PDS email distribution list, SEPA distribution list, and posted to the PDS and legal notice webpage.

On September 13, 2022, the Planning Commission held a public hearing on the wireless facilities code amendments as authorized by Skagit County Code (SCC) 14.08.080. The hearing was attended by the full Planning Commission and the public had the opportunity to provide comment. A full transcript of the meeting can be found on the [Planning Commission Agenda and Archive page](#).¹

Summary of Planning Commission's Recorded Motion

On September 27, 2022, the Planning Commission deliberated on the proposed amendments. The recorded motion (Appendix 1) was approved on September 27, 2022. The motion carried 8-0-0-1 (one member being absent). Appendix 1 is the Recorded Motion from the Planning Commission recommending the Board adopt the amendments as presented by staff. Code language can be found in Appendix 2.

Planning and Development Services (PDS) Department Recommendation

¹ <https://www.skagitcounty.net/Departments/PlanningCommission/PCminutes.htm>



PDS staff provided recommendations in staff reports to the Planning Commission. The department is supportive of the recommendations in the Planning Commission recorded motion.

Requested Board Action

The Department will present the Planning Commission Recorded Motion and this memo to the Board on Tuesday, October 11, 2022. Proposed amendments can be found in Appendix 2. The BoCC is authorized by SCC 14.08.090 to take the following actions to address the proposed amendments:

1. Adopt the proposed amendments as recommended by the Planning Commission.
2. Adopt the proposed amendments with modifications. Per SCC 14.08.090(2)(b)(i-v), substantial changes to any of the proposals shall require an additional opportunity for public review prior to final action.
3. Decline to adopt the proposed amendments.
4. Remand the issue(s) to the Department or the Planning Commission for additional work, study, review, or refinement.

PDS has prepared an ordinance for Board deliberation on October 25, 2022.

Attachments:

Appendix 1, Planning Commission Recorded Motion, Amendments to Wireless Facilities Code, Skagit County Code 14.04, 14.16

Appendix 2, Amendments to Wireless Facilities Code, Skagit County Code 14.04, 14.16

