

HEBER CITY CORPORATION
75 North Main Street
Heber City, UT 84032
Planning Commission Meeting

April 22, 2025

6:00 p.m. – Regular Meeting

-Time and Order of Items are approximate and may be changed as Time Permits-

Public notice is hereby given that the monthly meeting of the Heber City Planning Commission will be in the Heber City Office Building, 75 North Main, South door, in the Council Chambers upstairs.

1. Regular Meeting:

- I. Call to Order
- II. Roll Call
- III. Pledge of Allegiance: By Invitation
- IV. Prayer/Thought by Invitation ()
- V. Recuse for Conflict of Interest

2. Consent Agenda:

- I. 03.25.2025 Planning Commission Minutes for Approval

3. Action Items:

- I. Affordable Housing Survey
- II. Central Heber Overlay Zone (CHOZ)
- III. Text Amendment to Chapter 18.110 Telecommunications (Jamie Baron)

4. Work Meeting: N/A

5. Administrative Items:

- I. City Council Communication Item
- II. 2025 PC Training:
The Planning Commissioners will need one hour of training from the link below to fulfill four hours for 2025.
As you complete your training please email Meshelle Kijanen with the Code or Codes where you took your training from:
Any Parts 3 through 6:
https://le.utah.gov/xcode/Title10/Chapter9A/10-9a.html?v=C10-9a_1800010118000101

6. Adjournment:

Ordinance 2006-05 allows Commission Members to participate in meetings via telecommunications media.

In accordance with the Americans with Disabilities Act, those needing special accommodations during this meeting or who are non-English speaking should contact Meshelle Kijanen at the Heber City Offices at 435.657.7898 at least eight hours prior to the meeting.

Posted on 04.17.2025, in the Heber City Municipal Building located at 75 North Main, the Heber City Website at www.heberut.gov, and on the Utah Public Notice Website at <http://pmn.utah.gov>. Notice provided to the Wasatch Wave.

**HEBER CITY CORPORATION
75 North Main Street
Heber City, UT 84032
Heber City Council Meeting
March 25, 2025**

DRAFT Minutes

5:30 p.m. – Regular Meeting

1. Regular Meeting:

I. Call to Order

Chairman Phil Jordan called the Planning Commission Meeting to order at 6:00 p.m. and welcomed everyone present.

II. Roll Call

Planning Commission Present:

Chairman Phil Jordan
Vice-Chair Tori Broughton
Commissioner Darek Slagowski
Commissioner Josh Knight
Commissioner Robert Wilson
Commissioner Greg Royall
Commissioner Robert Mckinley

Planning Commission Absent:

Commissioner Dennis Gunn
Commissioner Dave Richards

Staff Present:

Community Development Director Tony Kohler
Planner Jacob Roberts
Planning Office Admin Meshelle Kijanen
City Engineer Ross Hansen

Staff Participating Remotely:

IT Specialist Anthon Beales
Planning Manager Jamie Baron

Also Present:

Sue Hibbs, Burton Hibbs, Shawn Davis,
Lonny Reed, Cal Johnson, Rachel Kahler,
David Todd, Vickie Todd, Julie Franklin,
Oakley Franklin, Elisha McKenzie,

Also Attending Remotely:

Glen, Kelly Ramirez, Zach Butterfield,
Ashley S. Elyse, George Bennett, Grace
Doerfler, Kati Hemeyer, Quinn Davis,
Sophie, Yvonne Barney

III. Pledge of Allegiance: By Invitation

Commissioner Broughton led the recitation of the Pledge of Allegiance.

IV. Prayer/Thought by Invitation: N/A

V. Recuse for Conflict of Interest N/A

2. Consent Agenda:

I. Request for a Site Plan Expansion for Timberline Ace Hardware, located at 737 S. Main St. (Jacob Roberts) (Moved to Action Item for further discussion)

This agenda item was moved to an action item by Commissioner Knight. Chairman Jordan explained this allowed City Staff to provide more information about the item. This item was discussed second.

Planner Roberts explained the Ace Hardware had requested to expand the building into an adjacent vacant lot, and he shared images of the building to indicate where the original entrance was located. He shared images of the site plan and landscaping plan, and noted the project was located in the C-2 zone and the expansion was in-line with both the zone and the General Plan. He said that the applicant had been notified that they needed to decrease the height and brightness of the lighting lamps in the parking lot. Planner Roberts said the proposed site plan was also compliant with most design requirements, with the exception of the north wall. He said the architect had been notified of this. With the exception of those two conditions, there were no other regulations that needed to be met. Planner Roberts added that Engineering had approved the site plan as well.

Commissioner Knight asked how much square footage this would add to Ace Hardware. The applicant, Lonnie Reed, replied that he was not sure. Planner Roberts replied it would add about 4,600 square feet to the store.

Commissioner Wilson clarified that this request was only for a site expansion; nothing that had to do with the building. Planner Roberts replied that was correct. Chairman Jordan clarified that the applicant was not seeking an exemption from the architectural standards and Applicant Reed confirmed he was not.

Motion: Commissioner Knight moved to Request for a Site Plan Expansion for Timberline Ace Hardware, located at 737 S. Main St. Commissioner Broughton made the second.

Discussion: City Engineer Hanson confirmed that the Engineering Department did not have any concerns.

Voting Yes: Chairman Phil Jordan, Vice-Chair Tori Broughton, Commissioner Darek Slagowski, Commissioner Josh Knight, Commissioner Robert Wilson, Commissioner Greg Royall, Commissioner Robert Mckinley

Voting No: None. The Motion 7-0.

3. Action Items:

I. Public Hearing for the proposed Central Heber Overlay Zone (CHOZ) and Use Options for Historic Buildings (John Janson, Tony Kohler)

This item was discussed first.

Community Development Director Kohler explained this item and provided a history of the Central Heber Overlay Zone. (CHOZ) He explained that the purpose of the public hearing that evening was to consider replacing the existing infill overlay zone with the Central Heber Overlay zone. He noted that public hearings were required for zoning changes and spoke about the noticing process to residents. He also reported that the City had held an Open House recently, which had been well-attended by the public. Community Development Director Kohler recommended that the Planning Commission take no action that evening; but synthesize the feedback that they received and come back for a vote at a future meeting. He listed the options that the Commissioners would have to make their recommendation, and reminded them that City Council held the power to make the final decision about the CHOZ. Lastly, Community Development Director Kohler provided the reasoning for the creation of the CHOZ, noting primarily that the zoning overlay would align the City with their General Plan and also create 'missing middle' housing in Heber.

Planner Janson reported on the feedback that the City had received at the Open House. He first explained the distinction between an overlay and a zone, and noted that several members of the public had been confused about the difference at the Open House. Planner Janson said that many people had brought up building heights, and he noted that building heights were capped at 40 feet in both the R-2 and R-3 zones. Planner Janson also shared a poster that had been displayed at the Open House which clarified that the base zoning districts would remain in place, and assured the public that the overlay was just intended to provide people with more options about how they wanted to develop their properties.

Planner Janson then indicated a map that showed what parts of the City were covered by the overlays. Planner Janson highlighted that one of their goals was to give historic properties more land use options. He also showed which areas would have commercial and residential uses and reiterated Community Development Director Kohler's earlier comment that this plan provided 'missing middle' housing.

Planner Janson reported on the public's opinion about the purpose and uses for the CHOZ. He and Chairman Jordan explained the process they had used in which they gave people green and red dots to place on the posters, which indicated that they either liked or disliked the proposed use. Planner Janson listed some of the general purposes that had been suggested as well as specific uses. Planner Janson listed that some of the proposed residential uses included flag lots, detached accessory units, townhouses, mansion-style apartments, and small lots. Chairman Jordan clarified that accessory units had an owner-occupied requirement and Planner Janson replied that they did, though noted that they needed to work through this with their legal team. Planner

Janson reported that overall, people were not in favor of mansion-style apartments or twin homes in low-density residential areas, although the results were more mixed for the mid-density residential areas.

Planner Janson moved on to flag lots. Chairman Jordan asked for clarification about the lots and Community Development Director Kohler defined flag lots. Planner Janson reported that overall, people approved of flag lots, though noted results were mixed. He added that results were mixed for subordinate dwelling units as well. Planner Janson reported that mansion-style homes and duplexes had received mostly negative feedback.

Planner Janson noted that the poster for townhouses stated there would be no more than four units, but the overlay zone actually stated that there be no more than six. He and Chairman Jordan briefly discussed that they could change this. Planner Janson reported that overall, people were not in favor of townhouses or multi-family courtyard style buildings. Planner Janson added that people approved of most of the proposed design features for multi-family homes, with the exception of the proposed height of 35 feet. He discussed that 35 feet was actually shorter than the maximum height of 40 feet, though it seemed that people wanted the buildings to be even shorter than 35 feet. Community Development Director Kohler commented that some people at the Open House had told him they felt 35 feet was too short. Planner Janson and the Commission briefly discussed height.

Planner Janson moved on to design elements in mixed-use buildings. He again reported that in general, people approved of the proposed design elements with the exception of the suggested height of 35 feet. He reported on commercial buildings as well, and noted that people seemed to be in favor of all of the proposed elements. Chairman Jordan clarified that all of these features were only permitted within the overlay zone and Planner Janson confirmed that was correct.

Planner Janson provided the justification for expanding the uses of historic properties. He shared the results of the public's input, which showed that daycares, mansion-style apartments, and bed and breakfasts had not been popular, although people were generally in favor of the other proposed uses. Planner Janson summarized the results of the Open House and said some of the key findings were that duplexes, twin houses, and mansion-style apartments were unpopular, building height was an issue, results were mixed for flag lots, and low-impact uses were desirable in historic properties.

Chairman Jordan asked the Commisison if they had any questions.

Commissioner McKinley asked for clarification on the distinction between flag lots, subordinate dwelling units, and small lots. Planner Janson replied that internal accessory units were located within the existing home and external accessory units were outside of the building. Planner Janson said that subordinate dwelling units were similar to external accessory units, though these could have their own access and lot. Planner Janson added that subordinate dwelling units were intended to be owner-occupied and affordable.

Chairman Jordan asked about the transition zones. Planner Janson explained that the purple shading on the transition corridor map was intended to connect the railroad and

recreational uses in that area to downtown. Planner Janson commented that the transition corridor was fairly similar to the overlay that the City already had.

Planner Janson clarified that this new overlay zone would bring in infill options that were generally lower density. Planner Janson discussed that the use options were an array of lower-intensity uses that could provide infill, and he commented that cities all over the country were opening up their residential options since people could not find a place to live.

Commissioner Wilson confirmed that the original dwelling for properties that had ADUs or SDUs did not have to be located on the front portion of the lot. Planner Janson confirmed that was correct, and he added that both properties would have access to the front street.

Commissioner Broughton clarified that the zoning in the overlay would not change and Planner Janson replied that was correct. Planner Janson said the zones would remain R-2 and R-3. He also discussed that there were set definitions for low-intensity. Community Development Director Kohler elaborated on that point and said there were a list of standards that included things like building height, parking lot size, hours of operation, and other features.

Commissioner Knight asked if people who had historic homes in the overlay zone would need a conditional use permit to use their home for a business. Planner Janson replied there were a list of permitted uses and conditional uses outlined in the draft document.

Executive Director of the Community Alliance for Main Street Rachel Kahler said that she had been researching the requirements for historic districts. She said that the way the City had outlined standards for historic homes were more specific than the State and federal level requirements for historic commercial use, so she thought it was important that they get the data from the reconnaissance survey before they established the parameters of what constituted a historic building. She said that other than that, what she saw in the overlay plan supported the definition of historic structures, though there could be some contradictions. She also expressed that she would share the results of the survey with the Planning Commission and said that they did have funding, though the federal funding had been placed on hold. She thought they should proceed with the survey, however, since they did have enough funds without federal funds and she also anticipated that the federal funds would be released at some point.

Chairman Jordan moved into the public hearing portion and asked that speakers not repeat questions and keep their comments to three minutes. Planning Office Admin Kijanen read the rules of the public comment section.

Bradley Bacon asked for more clarification about subordinate dwelling units. He asked if he would be able to sell a piece of his property to be turned into a SBU. Chairman Jordan replied that was correct, and clarified that the SBU had to be owner-occupied.

Ken Knight commented that he worked in construction and stated that a building with two stories would have to have a flat roof in order to keep it at 25 feet tall. Mr. Knight

asked about the reason for the changes in Heber City and expressed how expensive the development was. He expressed concern about the changes to the City and said he did not like to see change. He said that Heber should have a western atmosphere and said he did not want to see that change, even though a lot of people were coming into the City from other places. He asked for the Commission to finish the bypass, but otherwise leave things alone.

Ryan Sytel asked if flag lots would need to have their own sewer and utility tie ins. Chairman Jordan replied that they would.

Russ Spagowski commented about 2nd East and said that the overlay would add commercial use options to a street that was otherwise purely residential. He also noted that the commercial options were only available for one side of the street and asked why that was the case. Community Development Director Kohler explained that the transition corridor, which included 2nd East, allowed office and retail, although only if the properties fronted 100 South, 100 East, or 100 West. Community Development Director Kohler elaborated that this meant the commercial uses were not permitted at all locations in the zone. Mr. Spagoski asked if that was unfair to people on the other side of the street and Community Development Director Kohler replied that the residential uses were permitted on both sides of the street; just the commercial uses. Mr. Spagowski asked why businesses were not permitted on both sides of the street and Community Development Director Kohler replied that they needed to determine the boundary somewhere, and said they had determined the boundary based on the General Plan.

Burton Hibs brought up the fact that there were limited places for people to park their cars. Mr. Hibs said that his neighbor had subdivided his lot into three parcels, and there were now cars everywhere on his street. He expressed concerns that parking would get out of control if the lots kept getting smaller and higher-density. Community Development Director Kohler said that the high-density areas were limited and said that townhomes with multiple units were required to have at least two parking stalls per unit. Community Development Director Kohler added that there was also a new bus service in the Valley that may help alleviate the volume of cars over the next several years. The Commission held a short conversation about parking and car ownership. Commissioner Broughton assured Mr. Hibs that there were strict requirements about parking for properties.

Executive Director of the Community Alliance for Main Street Rachel Kahler said that she was encouraged by the progress that had been made in the City to protect their historic homes and buildings. She shared that some owners of historic properties were stressed about affordability and preservation, and said there was a need to balance growth with affordability. She asked if the new Code amendments maintained the charm and culture of Heber City, and opined that the Central Heber provided the 'missing middle' in the community as the new developments were not affordable.

Executive Director of the Community Alliance for Main Street Rachel Kahler felt that the overlay provided more options for homeowners, though she was not in favor of mansion-style apartments or multi-family courtyard style apartments. She

recommended that these housing styles be removed from the proposal and reiterated her central question: do the housing types maintain the charm and style of Heber City? She then stated that this plan was helpful, but did not go far enough in offering meaningful preservation incentives and programs. She thought that Heber City should do more to incentivize historic homeowners to maintain and preserve their homes, and said she was strongly in favor of the creation of a historic district in Heber City.

Yvonne Barney said she was a resident of Central Heber and reported she had spoken with her family about the overlay. She said Central Heber was the last part of Heber City that had a cohesive community feel, and said that atmosphere was being challenged as people moved away and their properties were bought by large corporations. She thought there were options beyond putting in duplexes, townhomes, or similar styles of housing, and she proposed pocket neighborhoods instead. She said she was not opposed to ADUs and said she had a flag lot herself, though she did not like the idea of SDUs. Ms Barney discussed the benefits of pocket neighborhoods and said the concept was similar to courtyard-style apartments, though they featured individual homes rather than apartments. She thought this model could work well in Heber City and noted that pocket neighborhoods could help keep building heights low.

Shawn Davis stated that he lived in the transition district and thanked Planner Janson for his presentation. He said he saw the positive and negative elements of the plan and appreciated the City Staff's efforts. Mr. Davis noted that his home did not follow the City's guidelines for historic homes, though it did meet the State and federal-level criteria. He asked if all of the proposed uses were necessary, and said while he understood things like flag lots, he was not sure about all of the proposals. He commented that he had purchased some lots for his children years ago in case they ever wanted to live in the Valley. He then expressed that he wanted more information about property taxes; specifically if his property tax rate would change if commercial buildings went in near his home.

Commissioner Broughton clarified the historic status and tax status of Mr. Davis's home and she and Community Development Director Kohler discussed the issue briefly. Chairman Jordan clarified that Mr. Davis's property taxes should not change based on what other businesses were opened nearby; his taxes would only change depending on the use of his own home.

Glen Lent commented online. He commented that he loved the overlay idea and said he and his family lived in the Valley. Mr. Lent said his three adult children had no options to live affordably in the area and he hoped this overlay plan would be beneficial for them. He also expressed that he liked the idea of a pocket neighborhood and said he wanted his children to be able to live close by. He felt an obligation as a parent to help solve for the 'missing middle' for the next generation.

Zach Butterfield commented online. He said that he had a flag lot, and he and his wife lived in his in-laws basement. He expressed that he was excited to have an affordable place to live in Heber City.

Russ Pasowski noted there was a typo in Note 2 under 'cafe and restaurants.'

Community Development Director Kohler acknowledged the comment.

Chairman Jordan closed the public hearing.

4. Work Meeting:

I. 5:30 PM CHOZ & Historic Building Uses Workshop

There was no dialogue for this work item. Consultant John Janson and Planners met with the public. Explained posters and answered questions regarding the Central Heber Overlay Zone (CHOZ).

II. Body Art Facility Text Amendment Discussion (Jacob Roberts)

Planner Roberts presented on Body Art Facilities. He provided a history of the item, and noted that they had an applicant who had been permitted by all regulatory agencies for a tattoo shop business before being notified that tattoo shops were prohibited in Heber City. He noted that there was one tattoo shop operating in Heber City with a business license, and explained they had received their license in 2017 before the Code had been changed to prohibit the facilities.

Commissioner Knight asked for the rationale for prohibiting body art facilities. Community Development Director Kohler explained that they had been banned in 2022 when the Code had been updated. Community Development Director Kohler stated that at that time, the City Council had expressed concern about stores like smoke and vape shops, pawn shops, massage parlors, and tattoo shops, which were considered 'sexually oriented businesses.' (SOB) Community Development Director Kohler explained that there was concern about the morality of these businesses and expressed that the City Council wanted to ensure that Heber City was a clean, healthy city. Planner Roberts commented to this text amendment as well and clarified that the only proposed change would impact body art facilities, not the other uses that the City Council had prohibited. Planner Roberts also noted that body art facilities were permitted as a home use business, though this was not ideal for a tattoo shop from a sanitation and hygiene perspective.

Planner Roberts outlined the standards for SOBs and indicated in which parts of town they could be a conditional use. Planner Roberts clarified that body art facilities were not considered to be an SOB, and they were currently not allowed in any part of the City. He added that another issue was that Heber City had no legal definition of 'tattoo.' He noted that things like microblading and permanent makeup were technically considered to be tattoos, and those were permitted in the City. Planner Roberts presented the dictionary definition of 'tattoo,' and recommended that Heber City adopt the State language about body art, which included tattooing. He commented as well that the State heavily regulated body art facilities, so the main thing that the City needed to determine was land use for the facilities.

Planner Roberts reported on other cities that permitted body art facilities. He stated that Payson City was very open, Provo was currently reconsidering body art as part of a Code rewrite, Lehi City allowed them as part of another use, and Midway City prohibited them in all zones. Planner Roberts noted he would expand on the Lehi model later in the presentation. Commissioner Broughton asked how the cities were defining body art

and Planner Roberts replied that they deferred to State Codes, but did not have a specific definition included in their Code.

Planner Roberts outlined the three things that needed to change: update definitions, remove the home occupation loophole, and designate zones for body art facilities. Chairman Jordan asked for clarification about Lehi City. Planner Roberts shared Lehi's definitions for body art and for personal services and noted that tattooing fell under 'body art,' but things like microblading, henna, and permanent makeup were 'personal services.' Planner Roberts also explained that tattooing could be offered as a service in an establishment, as long as it constituted less than 10% of the overall business. Planner Roberts suggested this could be a way to allow tattoo artists to work on Main Street without having a standalone tattoo shop.

The original applicants, Julie and Oakely Franklin, came forward to speak. Chairman Jordan commented that Lehi City considered tattooing to be a medical procedure. Ms. Julie Franklin replied that tattoos were not a medical procedure, though scarification was considered to be. Ms. Julie Franklin noted that tattooing required a license. She then discussed that she understood State Code to supersede City Codes, and said that the City had to meet the State requirements at a minimum. She opined that tattooing be considered a personal service, not body art. She said that permanent makeup was a tattoo. Commissioner Broughton commented that Lehi was not trying to change the definition, just limit the places in the City that those things could be done.

Planner Roberts clarified that it was not his recommendation that Heber adopt Lehi's language; he just wanted to note that their model seemed similar to what Heber wanted to do. Ms. Julie Frankin discussed the distinction between body art and personal services and noted that the things which Lehi considered to be personal services were still considered to be body art under the State Code.

Ms. Julie Franklin also read from the Heber City zoning Code and stated there had been no public hearing to discuss the ban of tattoo shops and other types of businesses. Chairman Jordan confirmed there had been a public hearing. Ms. Julie Franklin noted that massage parlors had been taken off the prohibited list. Ms. Julie Franklin then discussed that there was nothing wrong with tattooing and she did not understand why Heber City did not permit them to operate, when they were not banned at the State level. She opined it was about aesthetics.

Commissioner McKinley asked the applicants about training. Ms. Oakley Franklin replied there was extensive training for tattoo artists. She explained that Utah required a year's worth of training as an apprentice, though people typically trained for three to five years. She elaborated on the process. Ms. Julie Franklin compared the training to other services like microblading, and noted that the tattoo training was far more extensive. Ms. Julie Franklin also commented that some spa businesses added on services like massage and microblading after they received their business license.

Chairman Jordan commented that massage parlors were not allowed in any commercial zone and clarified Ms. Julie Franklin's earlier comment. Commissioner Broughton clarified that massage was not allowed as the only use, though it could be a part of a larger establishment. Chairman Jordan asked Planner Roberts to follow up on the land use for massage parlors, and asked Community Development Director Kohler for his recommendation.

Community Development Director Kohler outlined the process moving forward and clarified that the discussion that evening was a work item. Community Development Director Kohler proposed that a public hearing be held next and he and Chairman Jordan discussed the timeline. Chairman Jordan asked Community Development Director Kohler and Planner Roberts to bring their formal proposal to the Commission before a public hearing be held and Community Development Director Kohler replied he would bring a proposal in the next two weeks, then hold a public hearing two weeks after that.

Chairman Jordan then asked the Planning Commission to give Staff direction. Commissioner Knight asked that State Code be clarified, as well as locations in the City in which tattoo shops could be allowed. Commissioner Knight also noted that tattoos were expensive and said the people who went to tattoo shops spent a long time getting tattoos, so it would be helpful to remove the stigma surrounding them. Commissioner Knight disclosed that he had a tattoo and said most tattoos were personal to the people who got them. Commissioner Knight opined that tattoos be located in C-2 and C-3 zones to help remove the stigma around them and he reiterated his direction to Planner Roberts. Commissioner Broughton agreed with Commissioner Knight's direction to look into the State Code.

Commissioner Slagowski opined that tattoo shops should be allowed in all commercial zones, standalone or attached. Chairman Jordan asked Planner Roberts for precedence as well and requested that he look into the history of the other cities' ordinances surrounding body art facilities. Commissioner Slagowski commented that it seemed as though Lehi was attempting to hide their tattoo shops by having them attached to a bigger salon and the other Commissioners agreed.

Community Development Director Kohler asked for clarification on the Commission's overall perspective. Chairman Jordan anticipated that the Commission would get more feedback during the public hearing about where the tattoo shops should be located. Commissioner McKinley commented that there were tattoo shops in South Jordan and Draper City, so he recommended that Planner Roberts look into those cities. Chairman Jordan commented about perception versus reality and discussed that would be something to contend with. Commissioner Slagowski opined that public perception about tattooing had changed in recent years and felt that tattoo shops would bring foot traffic to Main Street. Chairman Jordan summarized that Commissioners Slagowski, Knight, Wilson, McKinley, and Broughton were in favor of allowing tattoo shops in all commercial zones, with some exceptions.

Ms. Julie Franklin commented that beauty was in the eye of the beholder.

5. Administrative Items:

I. City Council Communication Item

Community Development Director Kohler stated that the City Council had discussed rank choice voting on the 18th. He reported that the Council was moving forward with the Views development, and had also discussed some planned intersection improvements throughout the City. Community Development Director Kohler stated that tree Subcommittee assignments had been made, the budget had been amended, and a

parking study had been accepted, but not adopted. He explained that the Planning Commission would have to review the parking study to work through some of the issues. He noted that the April first meeting had been canceled and the dates for the budget workshops had been set. Lastly, he reported there had been a closed meeting.

II. 2025 PC Training:

Community Development Director Kohler reminded the Commission that the training was a State-level requirement.

The Planning Commissioners will need one hour of training from the link below to fulfill four hours for 2025.

As you complete your training please email Meshelle Kijanen with the Code or Codes where you took your training from:

Any Parts 3 through 6:

https://le.utah.gov/xcode/Title10/Chapter9A/10-9a.html?v=C10-9a_1800010118000101

6. Adjournment: Commissioner Knight motioned to adjourn. All voted aye.

Meshelle Kijanen, Administrative Assistant

DRAFT



Planning Commission Staff Report

MEETING DATE: 4/22/2025
SUBJECT: Affordable Housing Survey
RESPONSIBLE: Jason Glidden
DEPARTMENT: Planning
STRATEGIC RELEVANCE: Community Development

SUMMARY

See Attached Power Point Presentation

RECOMMENDATION

N/A

BACKGROUND

N/A

DISCUSSION

N/A

FISCAL IMPACT

N/A

CONCLUSION

N/A

ALTERNATIVES

N/A

POTENTIAL MOTIONS

ACCOUNTABILITY

Department: Planning
Staff member: Tony Kohler, Community Development Director

EXHIBITS

1. Affordable Housing Discussion

Affordable Housing Discussion & Call to Action

April 2025



Presentation by:



MOUNTAINLANDS
COMMUNITY HOUSING TRUST

Background



In August 2024, Heber City sent housing survey to employees

from:

Heber City

Wasatch County

Midway City

Wasatch School District

Intermountain Health



Received responses from 480 employees

What are we trying to determine?



How many units of affordable housing?



Rental vs. Ownership?



What AMI levels should be targeted?



What type of units should be targeted?

How is housing need calculated?



Rental vs. Ownership

Most people want to buy a home



Some are not in a position to buy

Household
income too low

No savings
(downpayment)

Interest rates too
high



Providing housing for lower income households requires larger subsidies.

What AMI should be target?

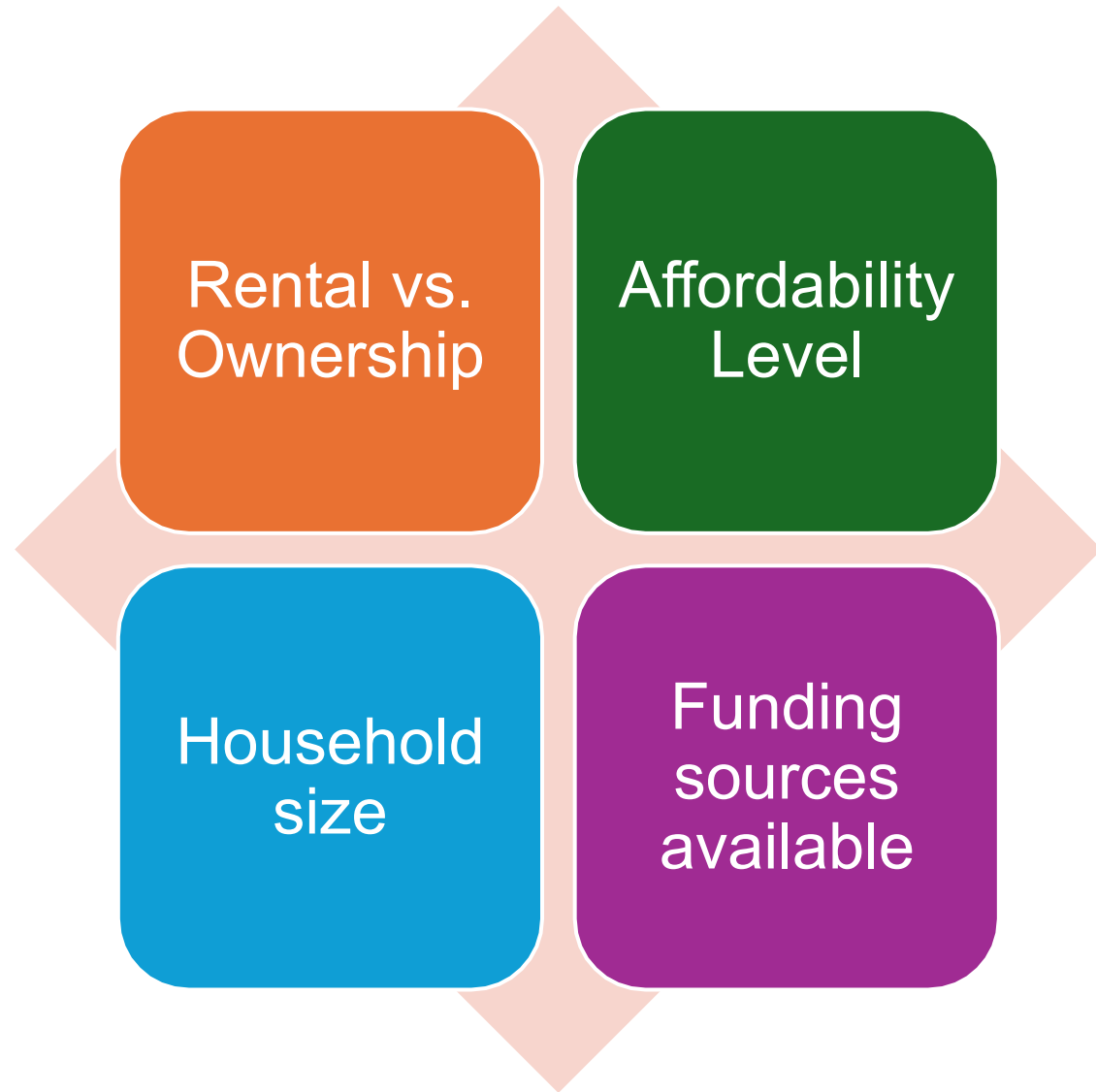


**Where is their
demand or need?**



**What level of
subsidies are
available?**

What type of units?



Labor Breakdown



Construction – 18%



Government – 17%



Hospitality/Leisure – 17%



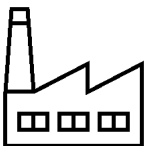
Trade/Transportation/Utility – 15%



ED/Medical Services – 12%



Professional/Business Services – 11%



Manufacturing – 4%



Financial Services – 4%

MAJOR EMPLOYERS 2023

Wasatch County

Rank	Company	Industry	Annual Average Employment
1	Wasatch County School District	Public Education	1000-1999
2	Wasatch County	County Government	250-499
3	Summit Line Construction	Utility System Construction	250-499
4	Intermountain Health Care	Health Care	250-499
5	Wal-Mart	Warehouse Clubs/Supercenters	100-249
6	State Of Utah	State Government	100-249
7	VR Club	Amusement and Recreation	100-249
8	Redmond Minerals	Spice and Extract Manufacturing	100-249
9	Zermatt Resort	Hotels	100-249
10	Smith's Food & Drug	Supermarkets	100-249
11	Heber City	Local Government	100-249
12	Probst Electric	Utility System Construction	100-249
13	Red Ledges Golf Club	Amusement and Recreation	100-249
14	Lee's Marketplace	Supermarkets	100-249
15	Soldier Hollow	Events Promoters	50-99

Living Wage Calculation – Wasatch County

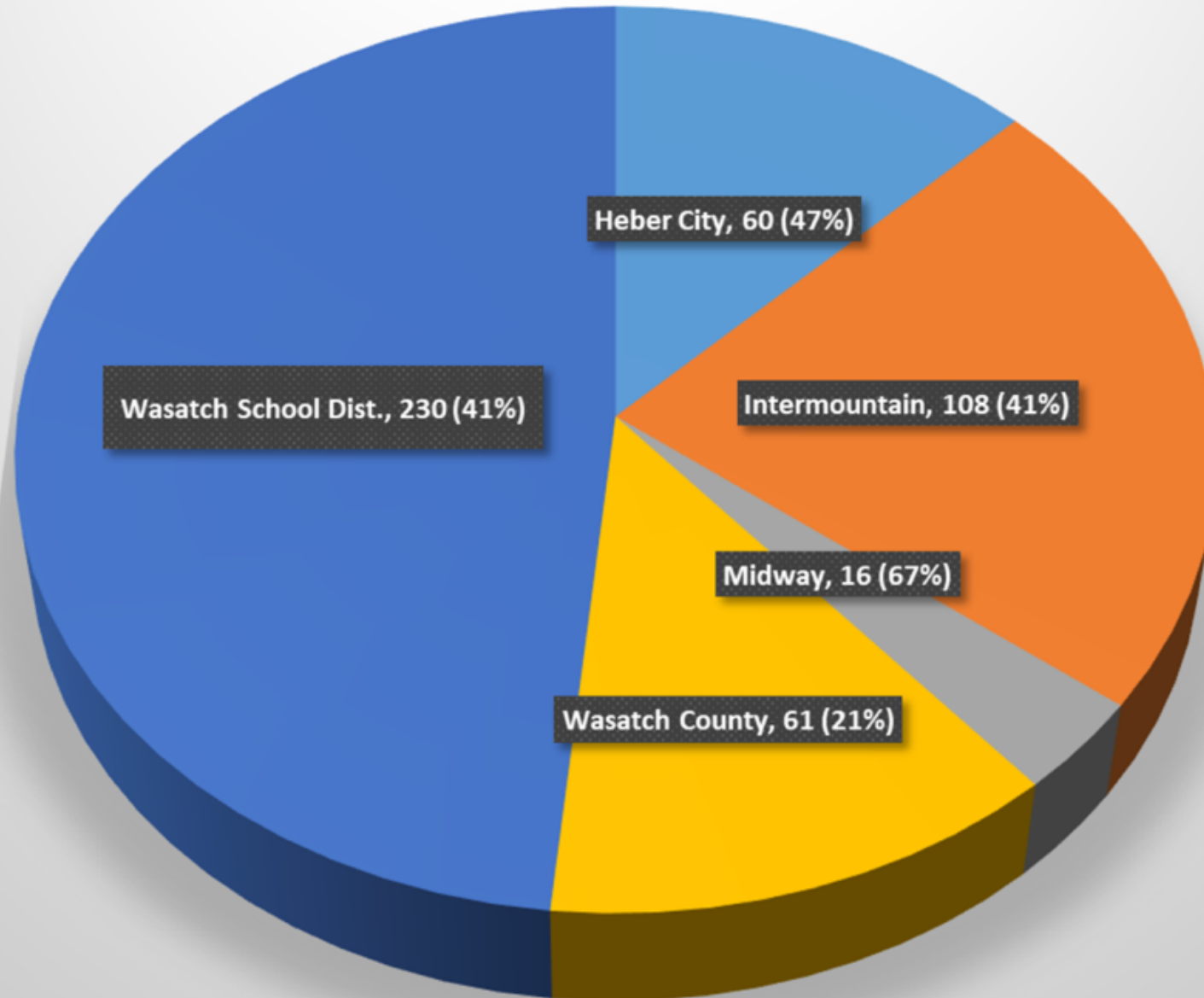
	1 ADULT				2 ADULTS (1 WORKING)				2 ADULTS (BOTH WORKING)			
	0 Children	1 Child	2 Children	3 Children	0 Children	1 Child	2 Children	3 Children	0 Children	1 Child	2 Children	3 Children
Living Wage	\$24.77	\$41.86	\$52.20	\$67.31	\$35.16	\$41.57	\$46.23	\$54.22	\$17.58	\$23.83	\$28.93	\$35.52
Poverty Wage	\$7.52	\$10.17	\$12.81	\$15.46	\$10.17	\$12.81	\$15.46	\$18.10	\$5.08	\$6.41	\$7.73	\$9.05
Minimum Wage	\$7.25	\$7.25	\$7.25	\$7.25	\$7.25	\$7.25	\$7.25	\$7.25	\$7.25	\$7.25	\$7.25	\$7.25

	1 ADULT				2 ADULTS (1 WORKING)				2 ADULTS (BOTH WORKING)			
	0 Children	1 Child	2 Children	3 Children	0 Children	1 Child	2 Children	3 Children	0 Children	1 Child	2 Children	3 Children
Food	\$4,416	\$6,494	\$9,728	\$12,942	\$8,096	\$10,063	\$12,944	\$15,791	\$8,096	\$10,063	\$12,944	\$15,791
Child Care	\$0	\$10,484	\$20,067	\$27,346	\$0	\$0	\$0	\$0	\$0	\$10,484	\$20,067	\$27,346
Medical	\$3,013	\$7,658	\$7,731	\$7,808	\$5,637	\$8,625	\$8,898	\$9,202	\$5,637	\$8,625	\$8,898	\$9,202
Housing	\$12,496	\$17,557	\$17,557	\$24,607	\$15,858	\$17,557	\$17,557	\$24,607	\$15,858	\$17,557	\$17,557	\$24,607
Transportation	\$13,076	\$15,132	\$19,062	\$21,933	\$15,132	\$19,062	\$21,933	\$24,331	\$15,132	\$19,062	\$21,933	\$24,331
Civic	\$3,587	\$6,314	\$6,971	\$8,938	\$6,314	\$6,971	\$8,938	\$9,915	\$6,314	\$6,971	\$8,938	\$9,915
Internet & Mobile	\$1,667	\$1,667	\$1,667	\$1,667	\$2,273	\$2,273	\$2,273	\$2,273	\$2,273	\$2,273	\$2,273	\$2,273
Other	\$4,749	\$9,123	\$9,558	\$11,490	\$9,123	\$10,121	\$11,490	\$12,746	\$9,123	\$10,121	\$11,490	\$12,746
Required annual income after taxes	\$43,004	\$74,429	\$92,339	\$116,729	\$62,433	\$74,671	\$84,033	\$98,864	\$62,433	\$85,155	\$104,100	\$126,210
Annual taxes	\$8,517	\$12,636	\$16,247	\$23,267	\$10,710	\$11,801	\$12,121	\$13,908	\$10,710	\$13,992	\$16,261	\$21,551
Required annual income before taxes	\$51,521	\$87,065	\$108,586	\$139,997	\$73,143	\$86,472	\$96,154	\$112,772	\$73,143	\$99,147	\$120,361	\$147,760

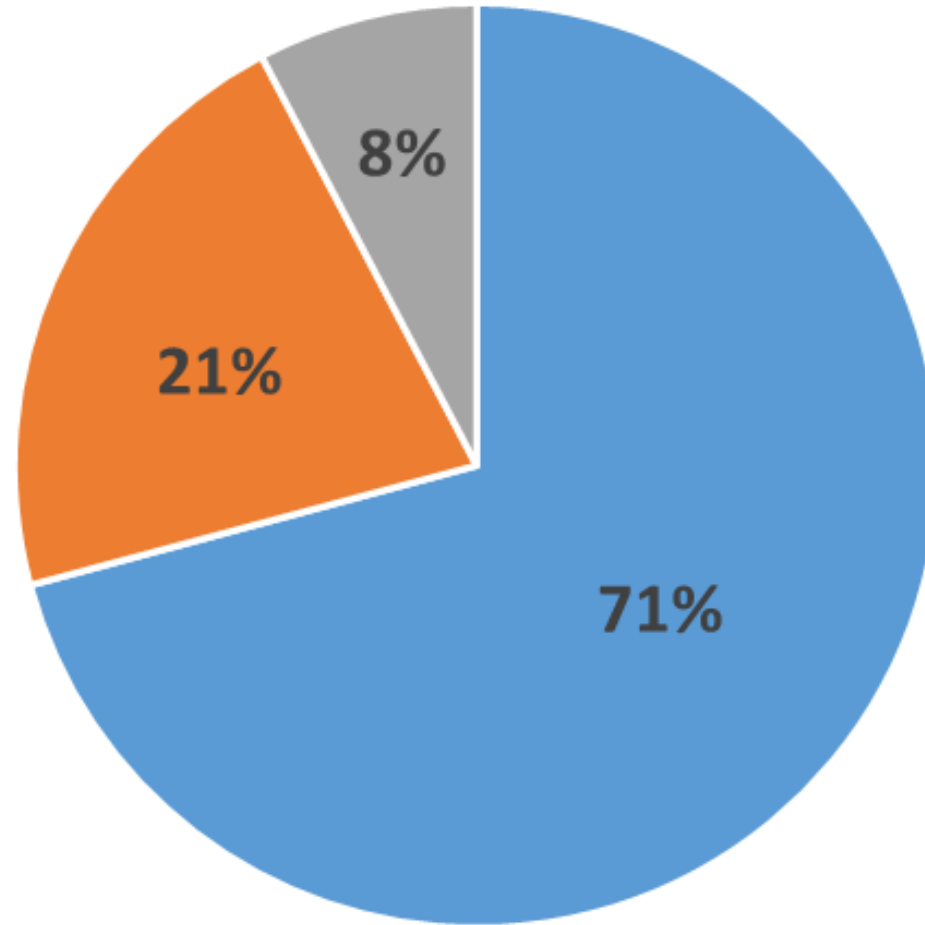
2025 Wasatch County AMI Income Limits (based on household size)

	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
50% AMI	\$47,750	\$54,550	\$61,400	\$68,200	\$73,650	\$79,100	\$84,550	\$90,000
60% AMI	\$57,300	\$65,460	\$73,680	\$81,840	\$88,380	\$94,920	\$101,460	\$108,000
70% AMI	\$66,850	\$76,370	\$85,960	\$95,480	\$103,110	\$110,740	\$118,370	\$126,000
80% AMI	\$76,400	\$87,280	\$98,240	\$109,120	\$117,840	\$126,560	\$135,280	\$144,000
90% AMI	\$85,950	\$98,190	\$110,520	\$122,760	\$132,570	\$142,380	\$152,190	\$162,000
100% AMI	\$95,500	\$109,100	\$122,800	\$136,400	\$147,300	\$158,200	\$169,100	\$180,000
120% AMI	\$114,600	\$130,920	\$147,360	\$163,680	\$176,760	\$189,840	\$202,920	\$216,000
150% AMI	\$143,250	\$163,650	\$184,200	\$204,600	\$220,950	\$237,300	\$253,650	\$270,000

Responses

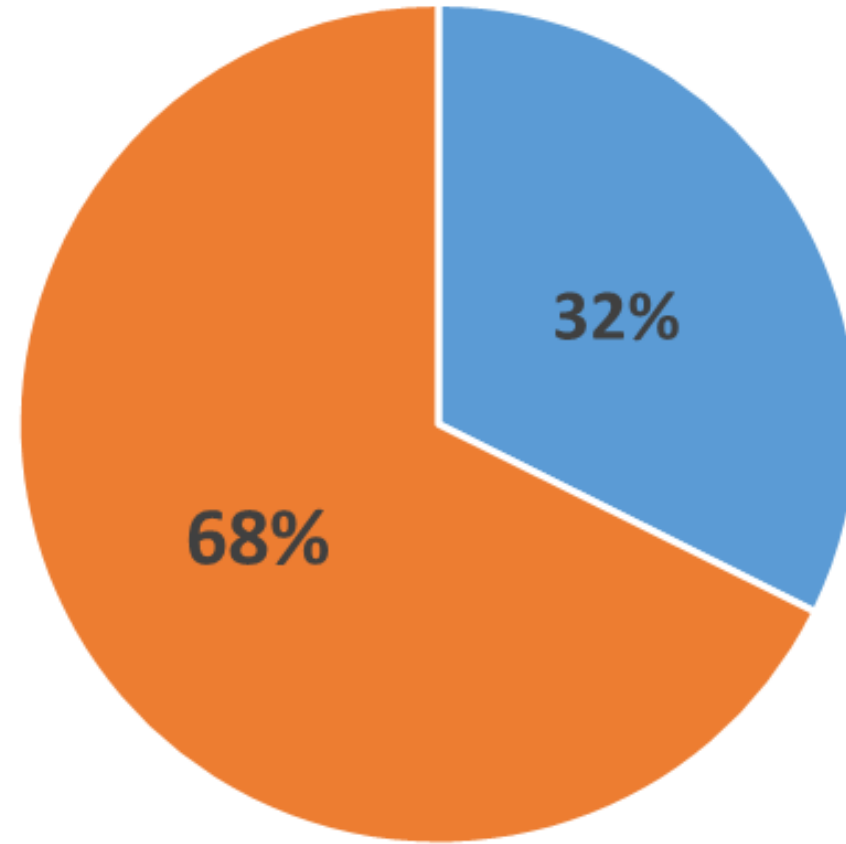


Where do they live?



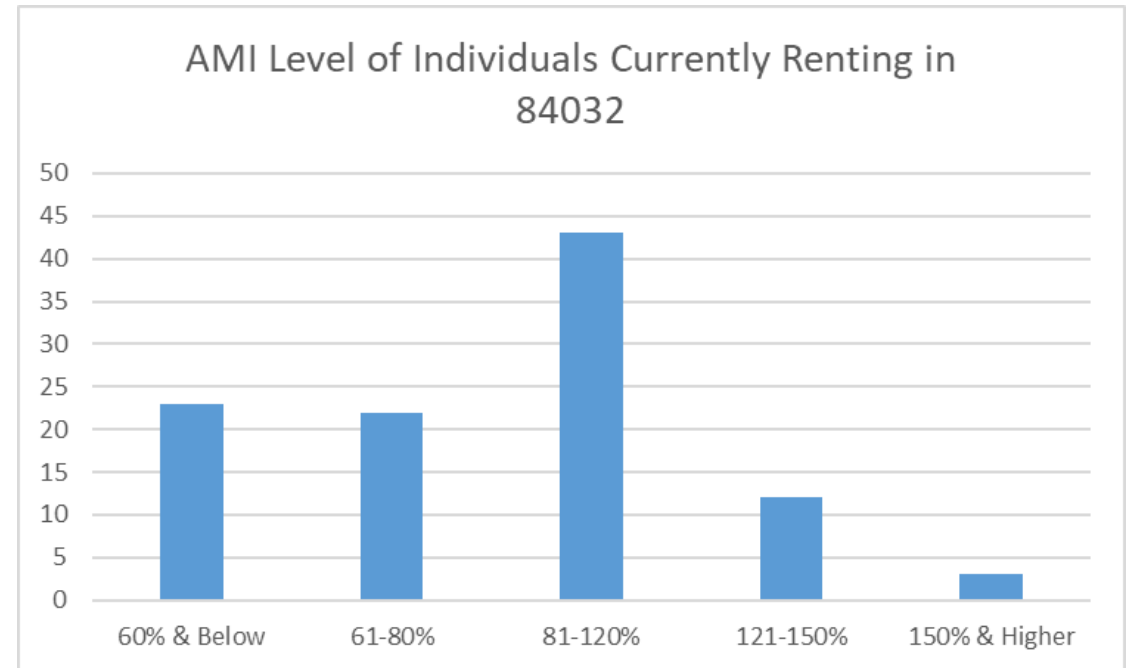
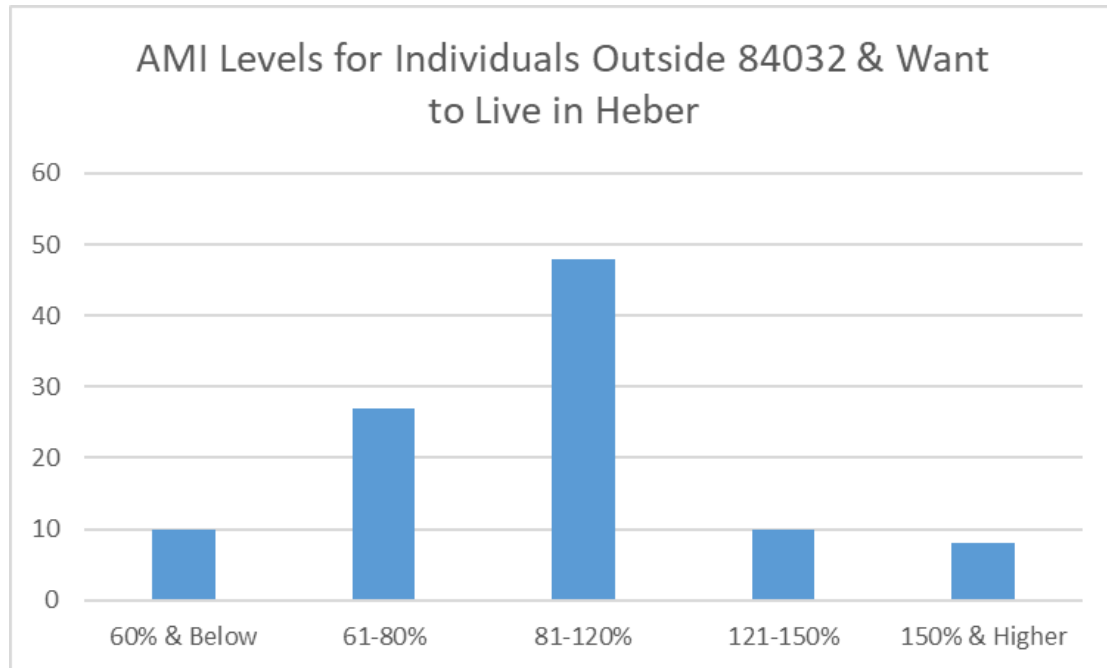
■ Live in 84032 ■ Live outside 84032 and want to move ■ Live outside 84032 and do not want to move

In 84032 - Own or Rent

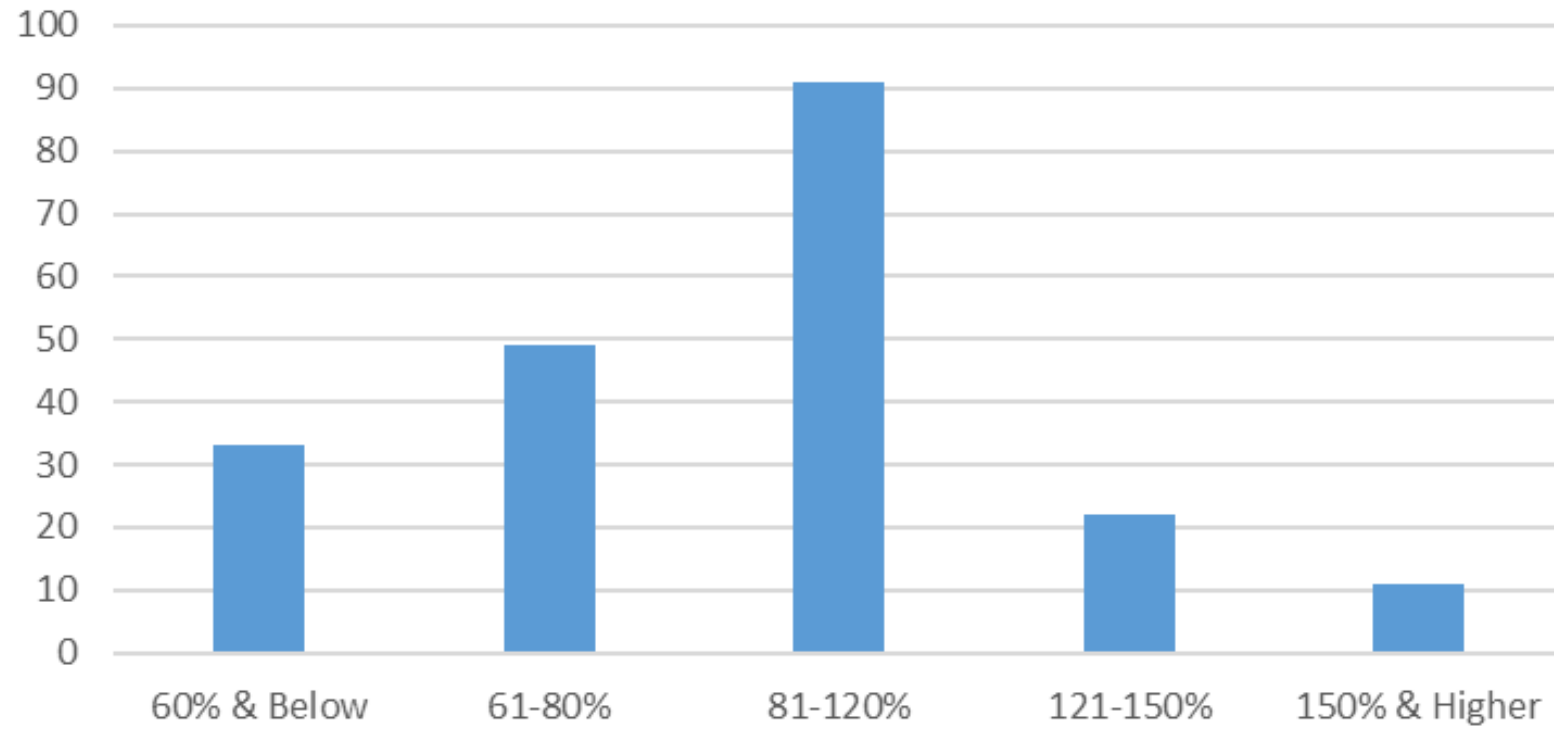


■ Renters ■ Home Owners

AMI Levels of Individuals Wanting to Buy in 84032



AMI Level of All Individuals Wanting to Buy in 84032



Household Information

Outside 84032 and Want to Buy			
	Average family size	2.5	
	Average AMI	97%	
	Average # of cars	1.91	
	Cost burdened Households	31	30%

Current Renters in 84032			
	Average family size	2.8	
	Average AMI	91%	
	Average # of cars	1.98	
	Cost burdened Households	28	27%

Combined Individuals Wanting to Buy in 84032			
	Average Family Size	2.65	
	Average AMI	94%	
	Average # of cars	1.95	
	Cost burdened Households	59	29%

2016-17 Housing Study

Table 1
Annual Housing Needs Projections for Renter Households 2019-2023
Selected Jurisdiction in Summit/Wasatch Region
(Excludes Renters at <30% AMI)

	Total	31%-50%	>50%-60%	>60%-80%	>80%-100%	>100%-120%
Summit County	231	63	23	48	49	48
Snyderville	123	30	13	27	27	26
Eastern Summit	44	12	4	9	9	10
Park City	64	21	6	12	13	12
Wasatch County	102	33	12	19	23	15
Heber City	50	16	11	13	3	7
Wasatch County	52	17	1	6	20	8
Total	333	96	35	67	72	63

Source: James Wood.

Table 2
Annual Housing Needs Projections for Owner Households 2019-2023
Selected Jurisdiction in Summit/Wasatch Region

	Total	>50%-60%	>60%-80%	>80%-100% AMI	>100%-120%
Summit County	198	36	49	49	39
Snyderville	97	21	20	20	11
Eastern Summit	33	5	9	10	9
Park City	68	10	20	19	19
Wasatch County	141	26	52	42	21
Wasatch County (excl. Heber)	71	12	23	22	14
Heber City	70	14	29	20	7
Region Total	339	62	101	91	60

What are we trying to determine?



How many units of affordable housing?



Rental vs. Ownership?



What AMI levels should be targeted?



What type of units should be targeted?



How many units of affordable housing?

400 affordable owner-occupied
units

600 affordable rent units



Rental vs. Ownership?

- 40% Affordable Owner-Occupied
- 60% Affordable Rental



What AMI level should be targeted?

- Based on survey results.
- Rental Housing – 30% - 80% AMI
- Owner-Occupied – 80% - 120% AMI



What type of units should be targeted?

- Affordable Rentals – Multifamily apartments
- Affordable Owner Occupied – Townhomes, detached single family

Possible Strategies



Water Fees reductions



Impact Fees Waiver



Zoning changes



Cash – Grants/loans



Land donation



Tax Rebates



Public/Private Partnerships

Challenges



High Land Cost



High Construction Costs



Zoning



Lack of Coordination



Lack of funding



Public support

Resources



Wasatch Housing Authority



Fee-In-Lieu



Land

Opportunities



REGIONAL
COLLABORATION



SHARED GOALS



FUNDING

Possible Next Steps



Affordable Housing Sub-committee



Land analysis



Workforce
Survey



Housing
Needs
Assessment



Zoning audit



Planning Commission Staff Report

MEETING DATE:	4/22/2025
SUBJECT:	Central Heber Overlay Zone (CHOZ)
RESPONSIBLE:	Tony Kohler, John Janson
DEPARTMENT:	Planning
STRATEGIC RELEVANCE:	Community Development

SUMMARY

After the Central Heber Vision was adopted last year, the City has been working on implementation. Already pieces of the Vision are underway. As part of that Vision, transitions from the commercial/mixed use downtown (the C-3 zone) area into the Central Neighborhoods and the possibility of creating infill options for the Central Neighborhoods became recommendations within the Vision. The draft Central Heber Overlay Zone, CHOZ, is intended to implement those parts of the Vision.

CHOZ includes two sub-districts. One sub-district, the Transition Corridor (TC) covers the transition areas located essentially in a north south direction east and west of the C-3 zone but also including the Midway Lane area, west to about 600 West. The second sub-district, the Central Neighborhoods (CN), covers the downtown existing neighborhood generally in the R-2 and R-3 zones.

A decision was made at the April 8th meeting to postpone to a later date the additional land use options for distinctive historic buildings. That draft is not included in this staff report.

RECOMMENDATION

The Planning Commission held a public hearing on March 28th and received comments from interested residents concerning CHOZ. An open house was held on March 20th with notices advertising the open house and public hearing sent to every property owner. Part of the public hearing included a summary of the comments received at the open house. The Planning Commission evaluated and suggested amendments to the CHOZ on April 8th, mostly concerning the infill housing types to be allowed in each sub-district. After this meeting's deliberations about the design standards for the various housing types, a recommendation to the City Council may be warranted.

BACKGROUND

Envision Heber Phase 3, included the Vision for Central Heber, a grass roots process that created a series of recommendations for the Downtown area.

DISCUSSION

Within the general CHOZ Overlay, there are two sub-districts: Central Neighborhoods for the neighborhoods, and the Transition Corridor District (east and west of Main Street and along Midway Lane). The intent of each district is as follows:

Central Neighborhoods District (CND). The Central Neighborhoods District, as part of the Central Heber Overlay Zone, has been established to allow for various forms of infill. These include flag lots, small lots, and certain missing middle housing types. The CND adds additional housing flexibility to the R-2 and R-3 zones in the Downtown area.

In general, additional uses are proposed, especially for various housing types. Some new housing concepts are proposed including, flag lots, smaller lots (based on your current infill ordinance), courtyard buildings, duplexes, and ADUs which are already allowed

Some spatial requirements have been made more flexible but all development types will accommodate needed easements for Public Works.

Design standards are based on the type of building being proposed.

A new small lot concept is also suggested which would allow for a detached ADU-like lot accessed by a permanent easement with a requirement for the owner to live in the new dwelling.

Transition Corridors District (TCD). The Central Heber Vision suggests an additional mix of uses could be considered as a transition to the residential neighborhoods east and west of the Main Street area and along Midway Lane. The Transition Corridors District (TCD) has been established to promote limited uses with a mix consisting of residential and commercial uses. The mix of uses would allow for medium to higher density residential uses, with occasional corners for lower intensity commercial uses. A portion of the TCD, between 150 West and 150 East, has been identified by the Central Heber Vision, as an area to be considered for rezoning to C-3 Commercial.

CND and TCD options

Duplexes and Twin homes seemed questionable

Townhouse comments were mixed as were Mansion style (3 and 4 plex) buildings

For townhouses staff is suggesting no more than 5 attached units

Flag lots – somewhat positive

Subordinate dwelling units – mixed but could provide an affordable ownership option

Height is an issue – 25' suggested several times by the public – pros and cons to this – market issues are a concern and 25' is considerably lower than what the R-2 and R-3 allow now (40'). Staff suggests that 35' is needed, but the subordinate units, detached ADUs, and flag lots will be lower

TCD Only – generally more acceptable infill options in this transition area

IF multi-family is allowed – having design standards matters

IF commercial is allowed – having design standards matters

IF mixed use buildings are allowed – having design standards matters

From the Public Hearing, the following comments were garnered:

Concerns about parking and traffic impacts

Clarified that utilities are separate for flag lots (subordinate dwelling units too)

Typo on note “2” (fixed in updated draft)

Duplex, town homes, mansion homes, and courtyards were mentioned as inappropriate for the neighborhoods

Concerns raised about real estate investment corporations in homes and then becoming rentals

As a new additional concept, “Pocket Neighborhoods” were discussed. They are not unlike PUDs but likely have more house size restrictions. Adding a new, significant concept like that would suggest the process has to start over. It could be discussed as a separate process.

Positive comments were made about the building materials.

As a result of the input, and the April 8th Planning Commission deliberations, the draft has been updated with possible changes in red and a few portions crossed out. Here is a summary of the **CHOZ changes suggested** after public and PC input and staff evaluation:

- Updated town house section – suggest no more than 5 attached units – Max of 5 total units in a project in the CND but no project size limitation in the TCD, just the 5 attached units
- Revised table 18.83.040.1 Permitted Building Types per District
- Drop commercial daycare from the CND (already was that way in chart, poster differed (sorry) but made it red)
- Double deep flag lots are re-introduced
- Dropped Mansion homes from CND
- Flag lots, detached ADUs, and SDUs will emphasize standards that make them subordinate to avoid the “neighbors in my backyard” issue
- Staff suggests keeping the 35’ height limit as a general standard but that is reduced for flag lots detached ADUs, and SDUs
- The safety requirements for Public works and the Fire Department have been pulled together as a general set of requirements applicable to all new development

FISCAL IMPACT

None at this time.

CONCLUSION

The CHOZ is intended to implement the Central Heber Vision.

ALTERNATIVES

Staff Recommended Option - Approval

I move to recommend approval of the CHOZ as per revisions in red and the attached map.

Alternative 2 - Continuance

I move to recommend approval of the CHOZ with changes in red and the attached map with the following additional or subtracted/deleted items, as per discussions in the meeting,

Alternative 3 - DENIAL

I move to **deny** **the item** with the following findings.

POTENTIAL MOTIONS

ACCOUNTABILITY

Department: Planning
Staff member: Tony Kohler, Community Development Director

EXHIBITS

1. CHOZ Draft 04-08-25

18.83 Central Heber Overlay Zone (CHOZ)

Draft Date: April 14, 2025

18.83.010	Purpose
18.83.020	Permitted and Conditional Uses
18.83.030	Spatial Requirements
18.83.040	Building Typologies & Design Requirements
18.83.050	Visual Screening
18.83.060	Definitions
18.83.070	Related Provisions

18.83.010 Purpose

To implement the Central Heber Vision of the General Plan, the Central Heber Overlay Zone (CHOZ) is hereby created to include two distinct land use districts. If the use of the Overlay is desired by an applicant, the uses and standards of this chapter shall apply.

- A. **Central Neighborhoods District (CND)** is established to allow for various low intensity forms of infill, combined with options to preserve historic homes. Infill options include certain missing middle housing types and historic building use flexibility.
- B. **Transition Corridors District (TCD)** is established to permit a moderate intensity mixture of residential and commercial uses. The TCD serves as a transition area from the C-3 Commercial Zone westward and eastward of Main Street to existing residential neighborhoods. The district also serves as a connecting land use from the C-3 Commercial Zone westward to the area containing the new high school, railroad and Southfield Park. The TCD promotes missing middle housing types, historic building use flexibility, mixed use buildings and lower intensity commercial uses. A portion of this area, located between 150 W/E to the C-3 Commercial Zone, has been identified by the General Plan as an area to be considered for rezoning to the C-3 Commercial Zone, in the future.

18.83.020 Permitted and Conditional Uses

The underlying zone uses remain. The CHOZ includes additional uses and limitations as described below. In order to accomplish the objectives and purposes of this title and to stabilize and protect the essential district characteristics, the following uses are allowed the CHOZ:

A. Land Use Regulations Terms

P = PERMITTED USE (P) A site plan application is required with staff processing. Site plan applications are approved, when and if they meet the ordinance standards.

C = PLANNING COMMISSION CONDITIONAL USE REVIEW (C). A site plan application with Planning Commission review is required.

N = not allowed in the particular overlay area

- B. Within the Table, if a use is not specifically designated below, then it is prohibited, except as specified in the underlying zone.

All uses listed in the use table, that require a building permit shall also require a site plan application.

18.83.020.1 Permitted and Conditional Use Chart

Land Use	CND	TCD	Limitations
Residential attached units	P	P	See Section 18.83.040 for permitted building types per district. 5 or less units per building and project is limited to 5 units.
Residential attached units over 5 units	N	C	See Section 18.83.040 for permitted building types per district.
Artist studios & live-work	N	P	
Office, Retail, Services and Secondhand Stores	N	P	<ul style="list-style-type: none"> • Max 5000 sf footprint • See note 1 below • Tattoo parlors, tobacco shops, adult related businesses, pawn shops & cannabis facilities are prohibited)
Cafes/restaurants, bakery, outdoor dining	N	C	<ul style="list-style-type: none"> • No drive-up windows • No fast food • See note 1 below
Hotels	N	C	See note 1 below
Medical offices, clinics	N	P	See note 1 below
Institutional/Religious, Museums & Public Uses	C	P	
Fitness centers & gymnasiums	N	P	See note 1 below
Commercial day care	N	P	As regulated by State Law
Home occupations, home based pre-school, daycare and micro-school	P	P	As regulated by Section 18.68.609 & State Law
Public/Private schools	C	P	As regulated in State Law and Section 18.68.230. Size limitations may be imposed.
Signs	N	P	<ul style="list-style-type: none"> • As regulated by Section 18.104 • Further limited to one monument sign (max 15 square feet and 4' in height) with a rock/brick base, and one wall sign (max 24 square feet and 3' in height) or one projecting sign (as per the standards in 18.104)

Note 1 - For the TCD, permitted only for properties fronting 100 South and for properties fronting 100 East and 100 West

18.83.030 Spatial Standards

- A. The minimum spatial standards shall be as set forth in the underlying zone, with the addition of Small lots, Flag lots and SDUs, as described below.
- B. The maximum height of all principal structures shall be thirty-five feet and accessory buildings shall follow the requirements of the underlying zone.

18.83.030.1 General Spatial Requirements by Building Type*

Frontage	Min Front Setback	Min Rear Setback	Min Side Setback	Min Area & Depth	Max Height
98-foot min for courtyard building; All other buildings must meet the frontage requirements of the underlying zone	15 feet min from public right of way; 10 feet min for flag lots from PUE/access easement to any building	15 feet to property line	5 feet min to each side property line; 15 feet min from public right of way	As per the underlying zone or as specified in section 18.83.040 98 foot min depth for corner lots	20 foot max for flag lots and SDUs; 35 foot max for all other buildings

*Other standards may apply elsewhere in this code, such as 18.83.040

18.83.040 Building Typologies & Design Requirements

Table 18.83.040.1 of Permitted Building Type per District

Building Typology	CND	TCD
Courtyard Residential Building	N	€
Small lot	P	N
Flag lot (s)	P	P
Subordinate Dwelling Unit (SDU)	P	P
Detached and Internal Accessory Dwelling Unit (ADUs)	P	P
Townhouses (small – no more than 5 attached units per building)	P	P
Townhouse complexes (more than one building)	N	C
Mansion style apartments	N	C
Duplexes	C	C
Twin Homes	P	P
Commercial Building	N	P
Mixed Use Building	N	P

Note 1 – allowed if located within an historic building

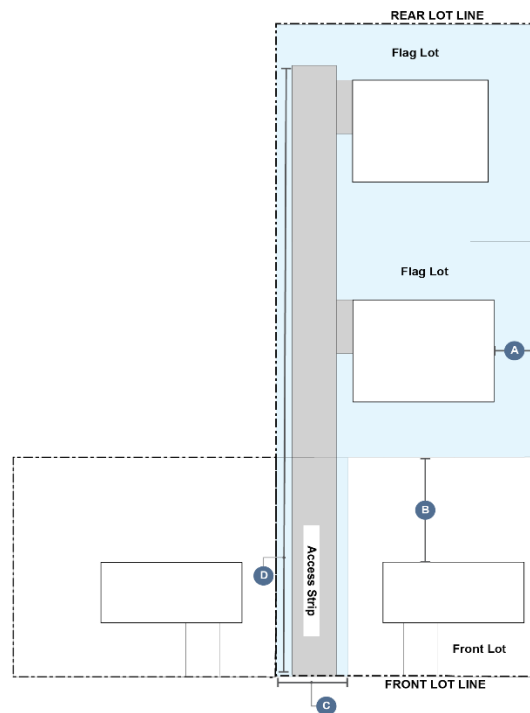
- A. Those who desire to convert homes, lots or other buildings to commercial use or multi-family use shall maintain the required landscaping. No parking is allowed in a front yard.
- B. Rooftops may be used as garden type open space, and/or passive recreation space.
- C. All Rooftop Heating, Ventilating, and Air Conditioning equipment (HVAC) shall be enclosed or screened such that it is not readily recognizable as HVAC equipment.
- D. Special Standards for certain uses and structures.
 1. Non-residential uses shall not produce noise exceeding fifty-five (55) decibels as measured at the property line, vibration, fumes smoke, dust or other particulate matter, odorous matter, heat, humidity, glare, electrical interference or other objectionable effects.
 2. Where garages are built, they shall be wired for a minimum of 220 Volt vehicle charging.
 3. Temporary outdoor sales are allowed.

- a. Shall be at least 17' wide for its entire length from the street to the point where the access strip adjoins the main body of the flag lot;
- b. Shall be paved except for the 5' reserved for landscaping/drainage/snow storage adjacent to the neighboring property line, unless agreed to in writing by the adjoining property owner;
- c. Hard surfaced driveways shall be located a minimum of 5' from any existing home on the original or neighboring lots;
- d. Shall front on a public street; and
- e. Shall not exceed one hundred fifty feet (150') in length unless approved by the Fire Department
 - 1) Where the 5' landscaped area abuts the public street, it shall contain a mailbox (s), displaying the lot address (s), and a gravel or paved area for trash cans.

6. Where two flag lots are proposed behind a lot on the public street, the middle lot may have a zero lot line using the property line adjacent to the furthest lot.

7. Two (2) adjoining flag lots may share a common access strip only if the access strip is twenty (20') wide or greater – this includes a 5' landscaped drainage/snow storage area and 15' of pavement.

8. The access strip portion of a flag lot shall be platted as a contiguous portion of the flag lot(s) or as an easement but require public utility easements for access and public utilities from the original lot and to the adjacent street, in addition to recorded agreements about maintenance by the property owners.

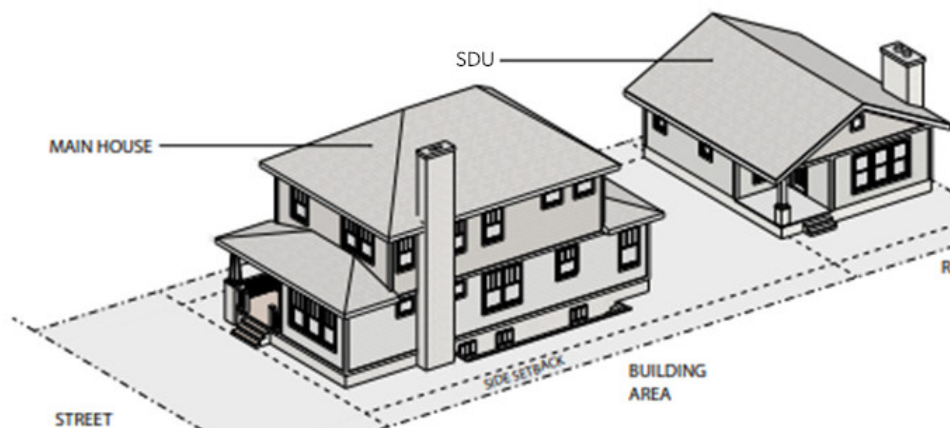


9. The subdivision plat shall include an outline of the buildable area proposed for the home (s).
10. 2 parking spaces are required for ~~the~~ each home, as well as a turnaround area to prevent the need to back out through the driveway/access strip.
11. The address of the flag lot dwelling (s) shall be clearly visible on the home when viewed from the access strip and on the mailbox along the public street.

G. Subordinate Dwelling Units (SDU)

1. These ordinance provisions only apply to lots 5000 square feet and larger and located in the CHOZ. If an SDU can be located on a property, it is considered an additional voluntary benefit provided to the homeowner and therefore is subject to additional regulations.
2. A Permitted use application for a Subordinate Dwelling Unit (SDU) is required. Such applications shall show the footprint and height, materials/design of the SDU, the proposed lot, side yards, rear yards, the designated front yard, and the proposed permanent access easement. In addition, a subdivision plat and processing is required.

3. Standards: The following standards and conditions shall apply to all SDUs:
 - a. Location: A SDU shall only be allowed as part of, or in conjunction with, a single-household dwelling, and SDUs shall contain no more than a one-story (15') building (pitched roof excluded) and shall have minimum side and rear yard of 5 feet. The front yard shall have a minimum of 10' unless adjacent to a street or alley, where 15' minimum is required.
 - b. Number: A maximum of one SDU is allowed and only the original, existing dwelling may contain an additional internal ADU. The SDU shall not have an internal ADU.
 - c. Parking: At least one off-street parking stall shall be provided for the SDU. The required parking space may be a designated tandem space on the original lot as a permanent easement area. Parking spaces shall be identified on the subdivision plat.
 - d. Design And Character: The SDU shall be designed to reflect the architecture of the existing home but as a small home with painted wood, composite wood-like appearing materials, brick or stone exteriors as well as a pitched roof, 3 by 12 minimum.
4. Size: An SDU shall be subordinate to the footprint of the original single-household dwelling. The SDU shall not have less than a three hundred (300) square foot footprint or more than an eight hundred (800) square foot footprint.
5. Lot Size and Frontage:
 - a. The original home shall be located on a lot that is at least 5000 square feet and meet the setbacks as specified in this ordinance.
 - b. No frontage on a public street or alley is required for an SDU, but a walkable or drivable permanent access easement is required (see 11 below).
6. Foundation: The SDU shall be secured to a permanent concrete foundation in accordance with the International Building Code, as adopted and amended by the City.
7. Occupants: The SDU shall be occupied exclusively by one household.

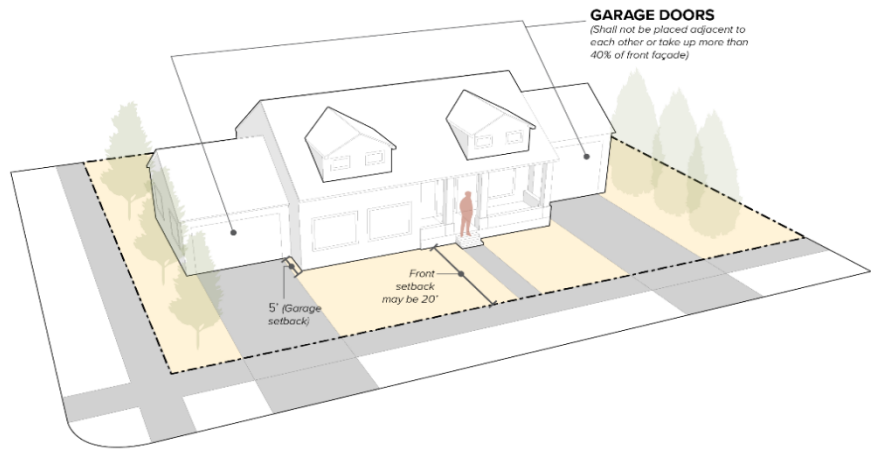


8. The SDU shall be **permanently** occupied by the owner. The City may require the recording of an instrument with the property to notify the public of this requirement.
9. The SDU shall have separate utilities from the original dwelling.

10. An SDU shall have a recorded permanent access easement or a deeded driveway. If the permanent access easement can only accommodate pedestrians, then the original lot shall accommodate the required one additional parking space. Such walkable pathways shall be a width of 5' to 12'.
11. Accessory buildings shall meet the standards for accessory buildings in the existing zone. Accessory buildings shall be subordinate in height to the SDU. Once a front yard is designated, accessory buildings are not allowed in the front yard.
12. The front entry shall include a covered ~~or uncovered~~ porch at least 6' deep and containing at least 60 square feet.

H. Duplexes and Twin homes: as an extra allowance in the CHOZ, construction of a duplex or a twin home is considered an additional voluntary benefit provided to the property owner and therefore is subject to additional regulations.

1. If garages are proposed, the garage door shall encompass no more than 40% of the front façade (A) and shall be recessed, a minimum of 5', as per the drawing below.



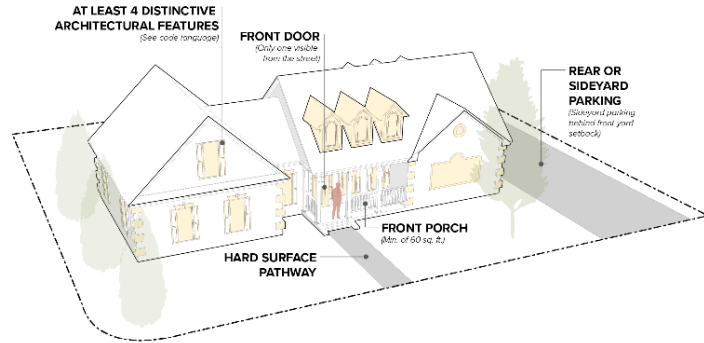
2. If garages are proposed for each unit, they shall not be placed adjacent to each other.
3. Vinyl, aluminum siding and stucco are not allowed.
4. Separate utility lines and connections are required for each unit.
5. Duplexes located on a corner lot shall have one unit facing each street.
6. Twin homes require an agreement between the owners to be recorded specifying how shared walls, roofs, yards and drives are to be maintained.
7. Twin homes require a subdivision plat.

I. Mansion Style Apartments. Mansion Style Homes shall be designed to resemble larger homes, and shall only have one visible front door as viewed from the public street. The front door area shall include a porch with a minimum of 60 square feet and a hard surfaced pathway to the street. Parking shall be provided to rear or side beyond front yard setback. Vinyl, aluminum and stucco wall surfaces are not allowed.

All Mansion Style apartment buildings shall include at least 4 distinctive architectural features from the following list (only one item from each numbered item below, as a minimum) and shall be incorporated in each building:

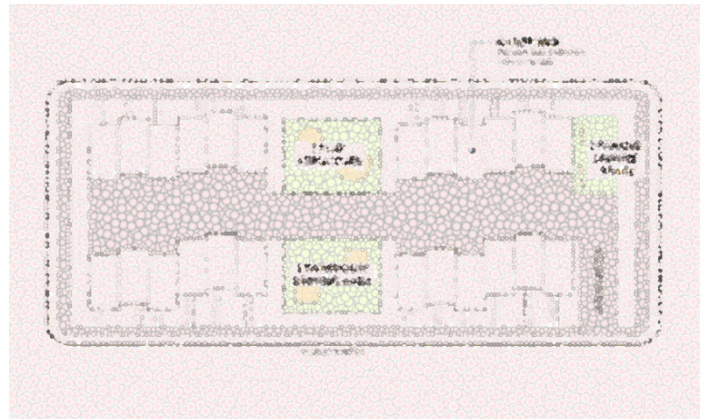
1. Ornamental details such as knee braces, exposed joists, decorative vents, window shutters.
2. Box or bay windows
3. Balconies with at least 50 square feet.
4. A minimum of 5 windows, 12 square foot minimum on the front façade.

5. A substantial/noticeable change of material applied to the front façade.
 6. A substantial/noticeable change of color applied to the front façade.
 7. A change of pattern that is substantial/noticeable on the façade (Example: changing brick work from face brick to a soldier course or basket weave pattern.)
 8. Brick or stone along the front of the building, covering at least 25% of the front of the building.
 9. Materials – brick, stone, wood, cement composite materials, and metal accents
- Separate utilities for each unit are required if condominium units are proposed.



J. Townhouse. Horizontally attached multi-story units in a rowhouse configuration. This

building type can include live/work units. If live work is included, such units shall not exceed 3000 square feet of business usage, not more than 50% of the floor, and no more than 5 employees. If end units face the street, they shall include windows covering at least 25% of the façade for each floor. Parking and private garages shall be to the rear of the building allowing the

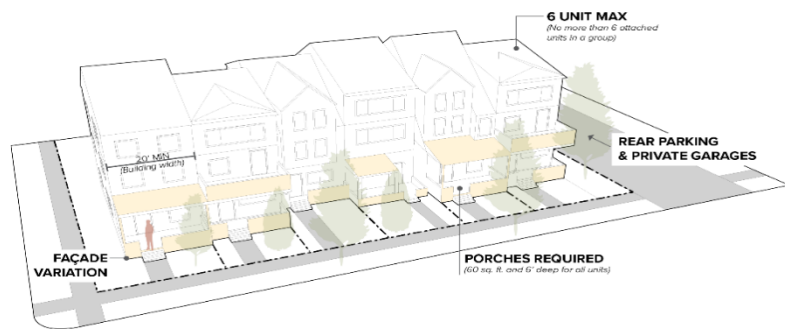


primary façade to front a public street or public greenspace. Garages shall include the infrastructure for a 220 outlet capable of faster car charging. Provide outdoor **covered** balconies or patios for 100% of the units at a minimum of 6 feet deep and 60 square feet each.

Building width shall be a minimum of 20'. Guest parking shall not include any driveway area that accesses a garage. No more than **6 5** attached units per building.

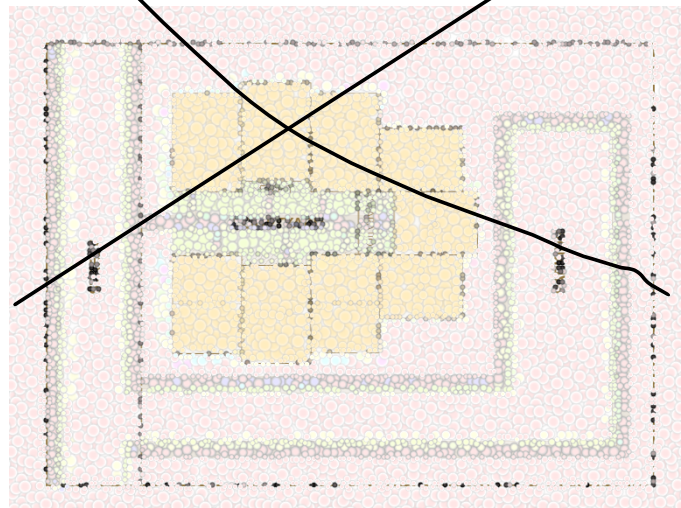
Setbacks **for each unit** shall be varied **at least 2' feet** where a development has more than **5 6**-units.

Townhouse developments with over 12 units shall include at least a play

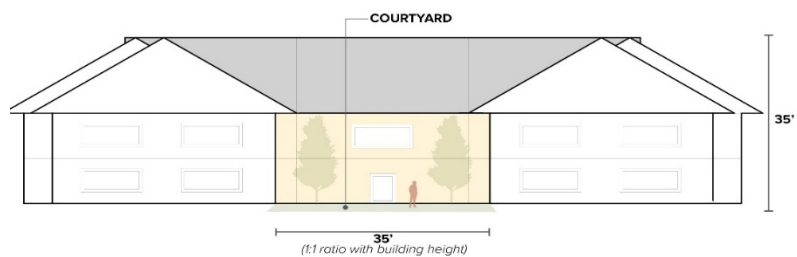


structure and a barbeque/seating area and one passive leisure space of at least 3000 square feet. Separate utilities for each unit are required and may require easements for units that are distant from a public street. Building heights shall not exceed **2-stories in the CND and no more than 3 stories in the TCD, and in no case shall either situation exceed** 35 feet.

K. Multi-family Courtyard Oriented Development: A building (s) that contains residential uses, oriented toward a courtyard with parking to the rear. Provide outdoor covered balconies or patios for 100% of the units at a minimum of 6 feet deep and 60 square feet each. If end units face the street, they shall include windows, covering at least 25% of the façade for each floor. Multi-family developments with over 12 units shall provide recreational amenities, with at least a play structure and a barbeque/seating area and one passive leisure space of at least 3000 square feet. Unit diversity shall be accomplished by constructing at least 20% of the units with different numbers of bedrooms. Parking shall occur at the side or rear of the building. If located to the side, it shall be setback at least 10' and that setback shall be landscaped to obscure the parking lot. Exterior materials of a durable or resilient nature such as brick, stone, composite materials, or other materials of similar quality, hardness, and low maintenance characteristics are required. Roughhewn, exposed wood beams, columns and supports are required for all facades facing a street. New development in the TCD shall incorporate common, locally found materials such as granite, stone, sandstone, wood, and brick as part of the first floor of each building for at least 75% of the first floor, excluding the windows. All stories above the first floor shall incorporate at least 50% of the above specified materials. Stucco and EIFS are prohibited for use as materials on any façade visible from a right-of-way, but may be used on second and third floor if additional scoring provides a brick-like appearance. Other materials may be considered by the Planning Director for soffits, or as accents or unique architectural features. Twenty-five year guaranteed architectural shingles or other longer-lasting materials are required for sloped roofs.



Up to two stories may be constructed for this type of development. Separate utilities for each unit are required and may require easements for units that are distant from a public street.



L. Mixed-use buildings. Intended for a mix of primarily residential with commercial/office or commercial and office uses required to be located on the first floor, and optional above the first floor at or near the front build-to-line with parking to the rear, underground, or podium type. No podium parking is allowed to front a street. This building type may support office, retail, hotel/hospitality or residential uses mixed vertically. For residential units, provide outdoor balconies or patios for 100% of the residential units at a minimum of 6 feet deep and 60 square feet each. No wood burning fireplaces, stoves, appliances, or outdoor fire

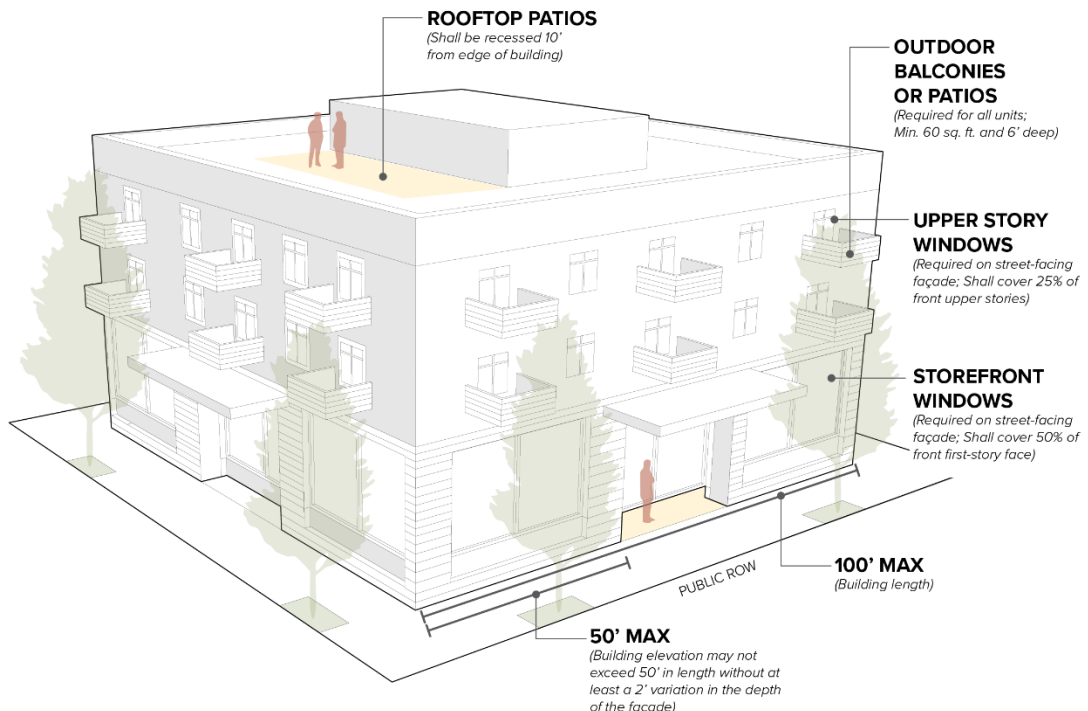
pits are allowed. Provide indoor bike storage or bike lockers. Rooftop patios are allowed but shall be recessed ten feet from the edge of the building.

Exterior materials of a durable or resilient nature such as brick, stone, composite materials, or other materials of similar quality, hardness, and low maintenance characteristics are required. Roughhewn, exposed wood beams, columns and supports are required for all facades facing a street. New development in the TCD shall incorporate common, locally found materials such as granite, stone, sandstone, wood, and brick as part of the first floor of each building for at least 75% of the first floor, excluding the windows. All stories above the first floor shall incorporate at least 50% of the above specified materials. Stucco and EIFS are prohibited for use as materials on any façade visible from a right-of-way, but may be used on second and above stories if additional scoring provides a brick-like appearance. Other materials may be considered, by the Planning Director for soffits, or as accents or unique architectural features. Twenty-five year guaranteed architectural shingles or other longer-lasting materials are required for sloped roofs. 360 degree architectural consistency is required.

No new building elevation may exceed 50 feet in length without at least a 2-foot variation in the depth of the façade along the public right of way and a 1-foot variation on other facades. Residential unit balconies shall not be interpreted to meet this requirement. No single building shall exceed 100 feet.

Parking shall be to the rear of the building.

Storefront windows are required on the street facing façade and street facing windows shall be cover a minimum of 50% of the front first story face and 25 percent of all upper stories.



10 foot wide dry utility easements shall be provided along each public and private right of way. Dry utility placement shall occur in the public Right of Way or through negotiated locations such as the private drive/street, an alley or a public utility easement (PUE) on private property. A determination of the best locations for utilities shall occur during the application process with an application requirement for a conceptual utility plan as part of that process. No above ground utilities, especially utility boxes, shall be placed in the clear

~~view of an intersection or driveway. Any above ground utilities shall be located in an easement (PUE) behind the front face of the building, and preferably to the rear of the building.~~

~~Sewer, water, and irrigation shall be metered from the public ROW and distributed through the development as private ownership. Such extensions are not a City responsibility.~~

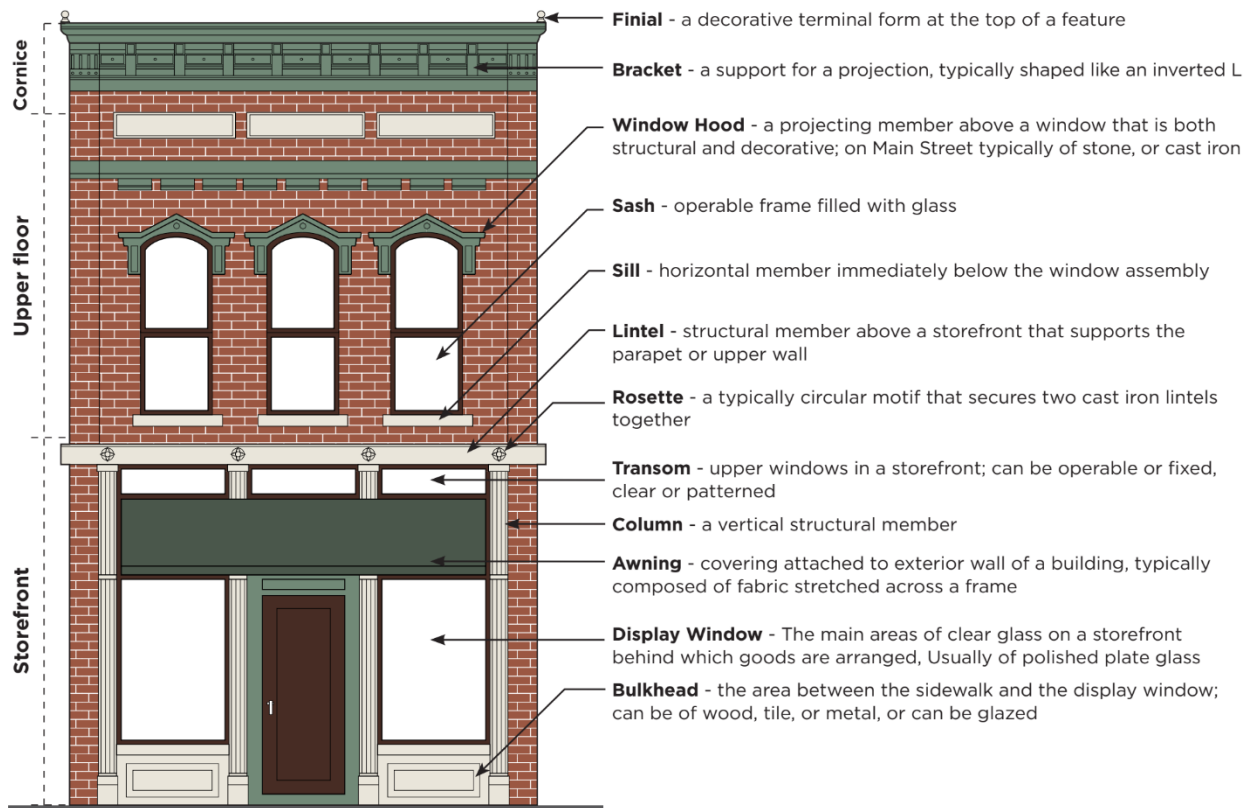
M. Commercial Buildings.

Minimum 2-story building with the primary use of office, retail, civic or commercial use. All such buildings shall include at least 1 vehicle charging station per building.

Exterior materials of a durable or resilient nature such as brick, stone, composite materials, or other materials of similar quality, hardness, and low maintenance characteristics are required. Roughhewn, exposed wood beams, columns and supports are required for all facades facing a street. New development in the TCD shall incorporate common, locally found materials such as granite, stone, sandstone, wood, and brick as part of the first floor of each building for at least 75% of the first floor, excluding the windows. All stories above the first floor shall incorporate at least 50% of the above specified materials. Stucco and EIFS are prohibited for use as materials on any façade visible from a right-of-way, but may be used on second and above stories if additional scoring provides a brick-like appearance. Other materials may be considered, by the Planning Director for soffits, or as accents or unique architectural features. Twenty-five year guaranteed architectural shingles or other longer-lasting materials are required for sloped roofs. 360 degree architectural consistency is required.

Principal entrance shall face the street or be located on the corner of the building and recessed. Front façade shall include a storefront type appearance and include at least two additional features from the sketch below:

ANATOMY OF A MAIN STREET BUILDING



18.83.050 Visual Screening

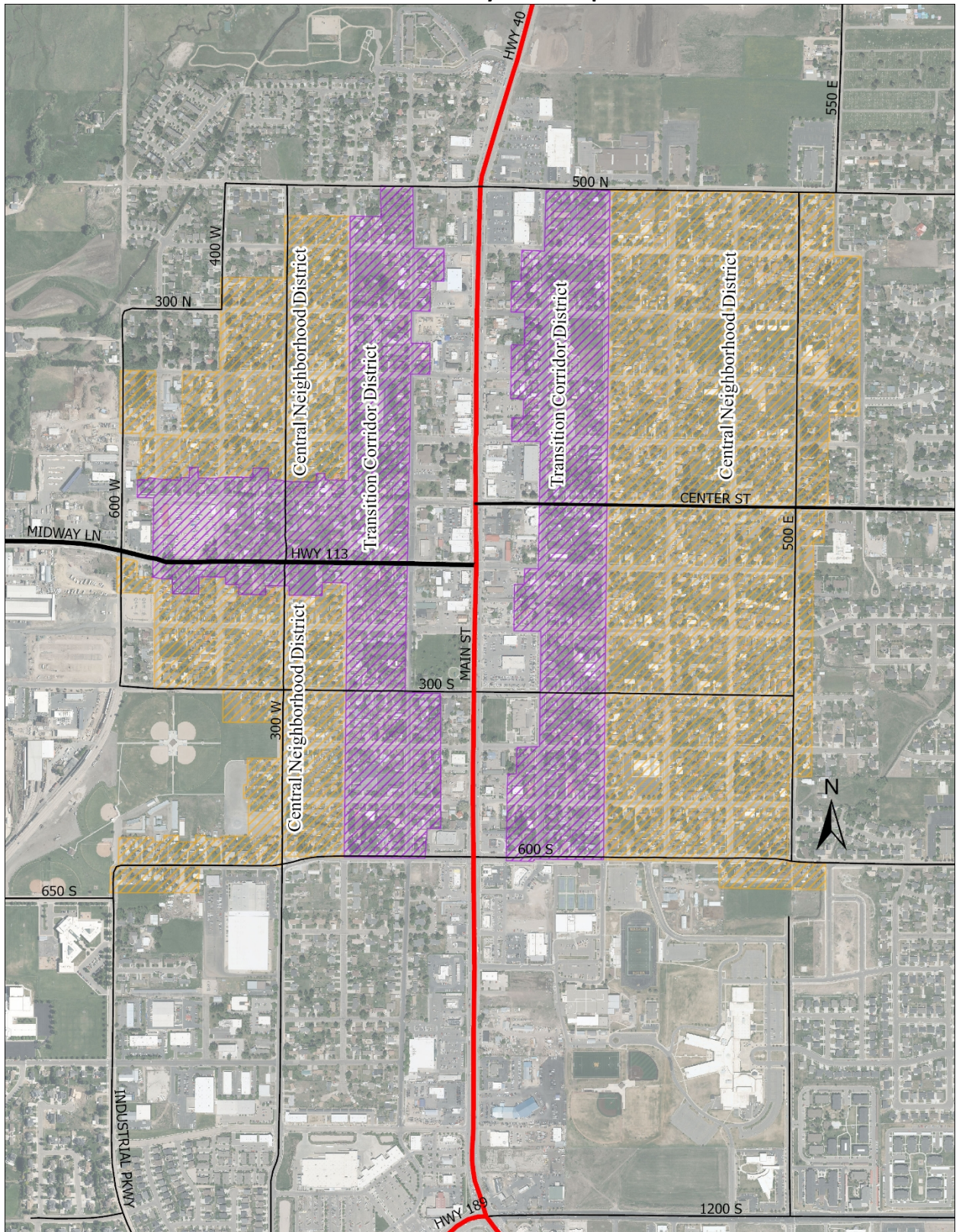
All commercial lots within the zone shall have a six-foot rear yard sight-obscuring fence.

18.83.060 Definitions (added as needed and likely relocated to the definitions chapter)

18.83.070 Related Provisions

Chapter 18.12	Administration
Chapter 18.08	Definitions
Chapter 18.68	Supplementary Regulations
Chapter 18.108	Conditional Use Permits
Chapter 18.72	Off-Street Parking and Loading
Chapter 18.103	Sign Regulations
Chapter 18.78	Lighting
Chapter 18.174	Enforcement
Chapter 18.117	Subdivisions

CHOZ Overlay Zone Map





Planning Commission Staff Report

MEETING DATE: 4/22/2025

SUBJECT: Text Amendment to Chapter 18.110 Telecommunications (Jamie Baron)

RESPONSIBLE: Jamie Baron

DEPARTMENT: Planning

STRATEGIC RELEVANCE: Community and Economic Development

SUMMARY

APC is proposing a text amendment to 18.110 Telecommunications to increase the height of Cell Towers and permit monopole throughout the City to improve the cell coverage in the area. The proposed amendment increases the height in non-residential areas, prohibits poles in the down town area of the City, and maintains the stealth requirements.

The Policy Questions are as follows:

1. Should the City increase the height of cell towers in non-residential areas?
2. Should cell towers be restricted in the down town?
3. Does the City support the use of Stealth poles?

RECOMMENDATION

Staff is recommending the Planning Commission hold a public hearing, take public comment, and forward a positive recommendation of the proposed amendment, with or without changes.

BACKGROUND

APC Towers approached the City about a tower site on the south side of town, as their client is looking to increase cellular coverage in this area. During that process, APC raised the issue of the current height limit of 35' as being problematic, as it would only allow for a single provider and would require more poles to serve the growing population. APC initially proposed (see Exhibit 2) a text amendment that would allow cell towers of 120 feet in height in all areas of the City, including residential zones. Additionally, the proposal removed the stealth requirements. Staff has been working with the applicants to refine the amendment as the planning commission recently received considerable public opposition to a 69-foot tower in a residential neighborhood. Staff and the applicant have worked together on the proposed text amendment (exhibit 3), with the applicant

requesting the removal of the stealth requirements.

The Planning Commission held a public hearing on April 8, 2025. During the public hearing, the public raised concerns about health. The Planning Commission asked for additional information regarding health issues from the state or county health department.

DISCUSSION

Height

The current height limit on Cellular towers is 35'. A 35' tower would only allow for a single provider on the pole. By collocating additional providers, the number of poles is reduced. Each provider needs 15.

In researching other municipalities, most range from 60'-100'.

Other Municipalities

Entity	Height Limit	Process	Where
Heber City	35'	Permitted and Conditional Use	All Zones
Spanish Fork	60'	Permitted	Commercial and Industrial
Saratoga Springs	Zone Maximum - 100', depending on size of property.	Permitted	All Zones
Herriman	50' - 100'	Conditional Use	Most Zones
Midway	40' - 60', up to 80' variance	Conditional Use	All Zones
Wasatch County	60' - 100'	Conditional Use	Industrial, Preservation, Mountain, and Highway Services Zones

The Proposed Heights are as follows:

Commercial, Mixed Use, and Industrial Zones								
C2	C3	C4	MURCZ	NVOZ	I1	I2	BMP	IPF
100'	-	100'	65'	35'	100'	100'	65'	65'

Residential, Mountain, and Agricultural Zones							
R1	R2	R3	PC	MCZ	A2	RA1	RA2
35'	35'	35'	35'	35'	65'	35'	35'

Uses

Commercial, Industrial, and Mixed Use Zones Permitted Use Table
P – Permitted, N – Not Permitted (Prohibited), C – Conditional Use

Telecom Uses	C-2	C-3	C-4	MURCZ	NVOZ	I-1	I-2	BMP	IPF	Limitations
Monopoles	C*	N	C*	C	C	P	P	C	C	Must use stealth when a conditional use. *Not permitted between 500 North and 600 South, and 600 West and 600 East
Lattice Tower	N	N	N	N	N	N	N	N	N	
Guy Tower	N	N	N	N	N	N	N	N	N	
Freestanding - Other	N	N	N	N	N	N	N	N	N	
Roof Mounted	C	C	C	C	C	P	P	P	P	Antenna not to exceed 5' in height when conditional
Wall Mounted	C	N	C	C	C	P	P	C	C	
Stealth Antenna	C	N	C	C	C	P	P	C	C	
Co-Location on Existing Facilities	P	P	P	P	P	P	P	P	P	Facility must be legally constructed, including legal non-conforming facilities that meet the FCC definition of an Eligible Facility
Eligible Facilities Modification	P	P	P	P	P	P	P	P	P	Facilities defined as an Eligible Facility by the FCC

Residential and Agricultural Zones Permitted Use Table
P – Permitted, N – Not Permitted (Prohibited), C – Conditional Use

Telecom Uses	R-1	R-2	R-3	PC	MCZ	A-2	RA-1	RA-2	Limitations
Monopoles	C	C	C	C	C	C	C	C	Must use stealth and be located on government land or private with non-residential uses
Lattice Tower	N	N	N	N	N	N	N	N	
Guy Tower	N	N	N	N	N	N	N	N	
Freestanding - Other	N	N	N	N	N	N	N	N	
Roof Mounted	N	N	N	N	N	N	N	N	
Wall Mounted	N	N	N	N	N	N	N	N	

Stealth Antenna	C	C	C	C	C	C	C	C	Must be located on government land or private land with non-residential uses
Co-Location on Existing Facilities	P	P	P	P	P	P	P	P	Facility must be legally constructed, including legal non-conforming facilities that meet the FCC definition of an Eligible Facility
Eligible Facilities Modification	P	P	P	P	P	P	P	P	Facilities defined as an Eligible Facility by the FCC

Stealth

The City amended the code in 2022 to add stealth requirements to cellular towers. APC is requesting to remove the stealth tower requirements, claiming that the stealth causes the tower to be more noticeable than the regular tower, as well as that some types of stealth reduce the effectiveness of the Cell Towers.

Process

Text Amendments require a mailed summary of the text change to all property owners within the zones the amendment affects. Notices were mailed to all property owners in the C2, C-3, C-4, MURCZ, I-1, I-2, BMP, IPF, MCZ, A2 Zones.

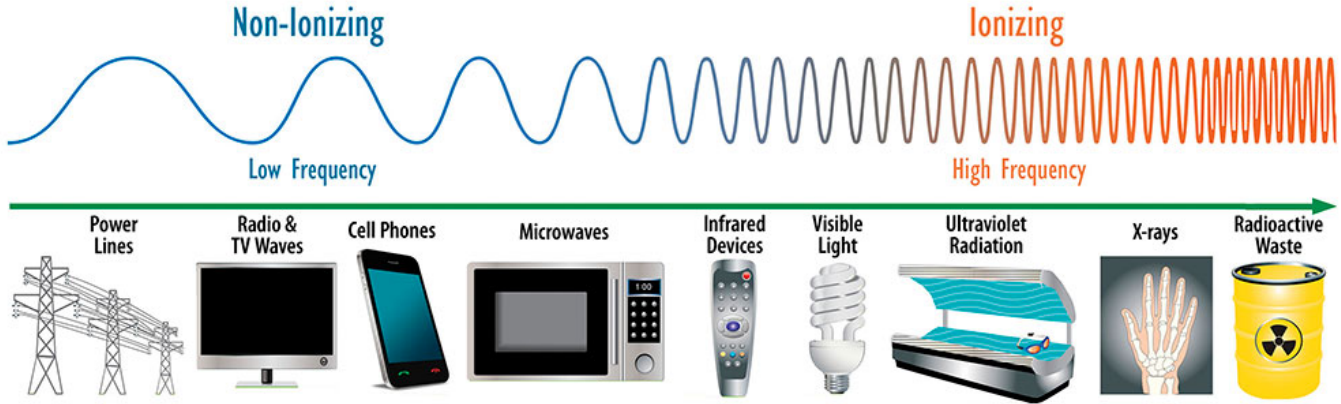
Health Concerns

Staff was able to find information from the Utah Department of Environmental Quality from the Division of Waste Management and Radiation Control. See link below.

[https://deq.utah.gov/waste-management-and-radiation-control/non-ionizing-radiation#:~:text=To%20date%2C%20the%20National%20Cancer,\(801\)%20536%2D0200.](https://deq.utah.gov/waste-management-and-radiation-control/non-ionizing-radiation#:~:text=To%20date%2C%20the%20National%20Cancer,(801)%20536%2D0200.)

The site references national organizations and makes the finding that there is not enough evidence that would warrant additional regulation by the state and that the National Cancer Institute found that "no consistent evidence for an association between any source of non-ionizing EMF and cancer has been found."

Electromagnetic Spectrum



Additionally, the FCC does regular Radio Frequency at a national level. The FCC has issued statements on health issues. See attached RF Safety FAQ.

FISCAL IMPACT

N/A

CONCLUSION

ACP Towers is requesting a text amendment to allow for taller cell towers. The amendment only amends the height in the commercial, industrial, and mixed use zones. This item has been noticed as a public hearing. Staff is recommending the planning commission forward a positive recommendation to the City Council with the following findings and conditions:

Findings

1. The Planning Commission held a public hearing on April 8, 2025.
2. The Planning Commission forwarded a positive recommendation on April 22, 2025.
3. The text amendment allows for additional cellular service to support the community, while preserving residential areas.

Conditions

1. Any conditions or changes by the Planning Commission _____.

ALTERNATIVES

Staff Recommended Option - Positive Recommendation

I move to forward a **positive recommendation** of the Telecommunication Text Amendment as presented, with the findings and conditions as presented in the conclusion of the staff report.

POTENTIAL MOTIONS

ACCOUNTABILITY

Department: Planning
Staff member: Jamie Baron, Planning Manager

EXHIBITS

1. UT-1863 - Text Amendment
2. Original ACP Proposal
3. 18.110 Recommended Proposal
4. Zoning Covg Template - SL03641D RAD Diff - v3
5. RF Safety FAQ
6. 2025-04-21 APC Towers Letter

Proposed Changes to Heber City's Code

Heber City Public Hearing
4/8/2025

 APC Towers

*Existing APC Towers
Telecommunications
Facility in West
Jordan, UT

What Are We Proposing?

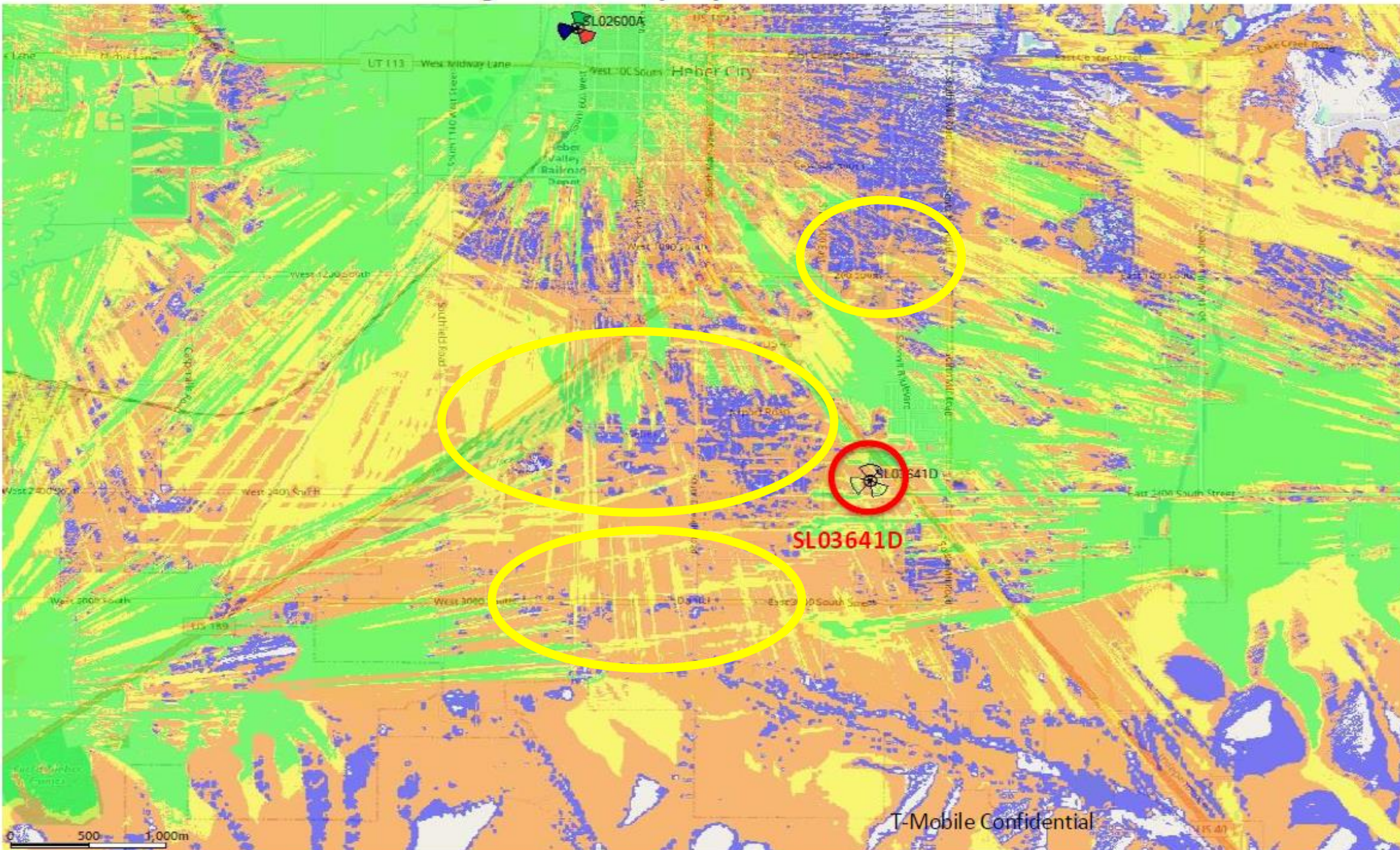
- APC Towers is working with T-Mobile to build a new telecommunications facility in Heber City, UT
- The telecommunications facility would improve cell signal on the south side of Heber City and will allow for other carriers to collocate
- Currently, Heber City's zoning code only allows for 35' tall telecommunications facilities in all zones and has language saying that all telecommunications facilities must be stealth
- APC Towers proposes the following changes to the zoning code:
 - Allow for taller telecommunications facility heights (120' is preferred by APC and T-Mobile) in Commercial Zones
 - Allow for non-stealth telecommunications facilities in Commercial Zones

Why Do We Need Taller Telecommunications Facilities?

- The taller the telecommunications facility the further the signal can travel without being blocked by buildings, trees, hills, etc.
- Allows for additional carriers to collocate rather than building their own telecommunications facility
- Reduces the need for additional telecommunications facilities to be built within the same area due to the higher height
- Carriers have stopped supporting development of multiple short telecommunications facilities in areas with strict ordinances that prohibit the regular height facilities. Instead, they will invest in communities that have more business-friendly ordinances and policies that allow them to deploy fewer towers to cover the same areas
- Better coverage and faster data speeds for customers!

Current T-Mobile Coverage in Heber, UT

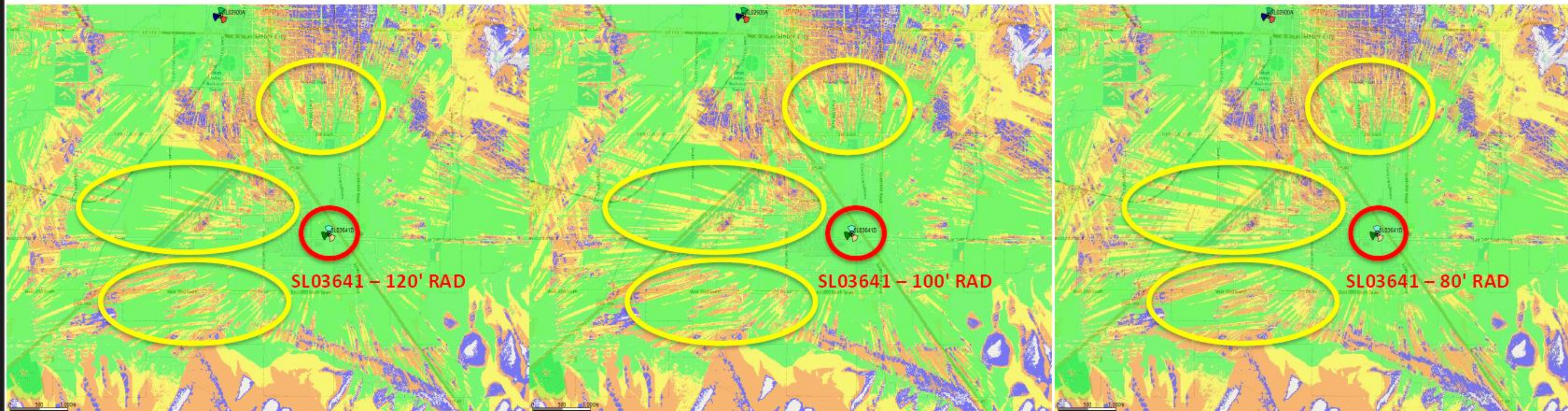
Current coverage without proposed site SL03641D



As the coverage Map shows, in the Blue & Orange areas, Customers experience low/weak signal levels resulting in poor quality calls (garble, sounding like a robot), slow text & SMS messaging, very slow-to-no data speeds. A new site is needed to improve the in-building signal level in this area of Heber, UT

- In-Building Commercial Coverage
- In-Building Residential Coverage
- In-Vehicle Coverage
- Outdoor Coverage

New T-Mobile Coverage showing RAD differences



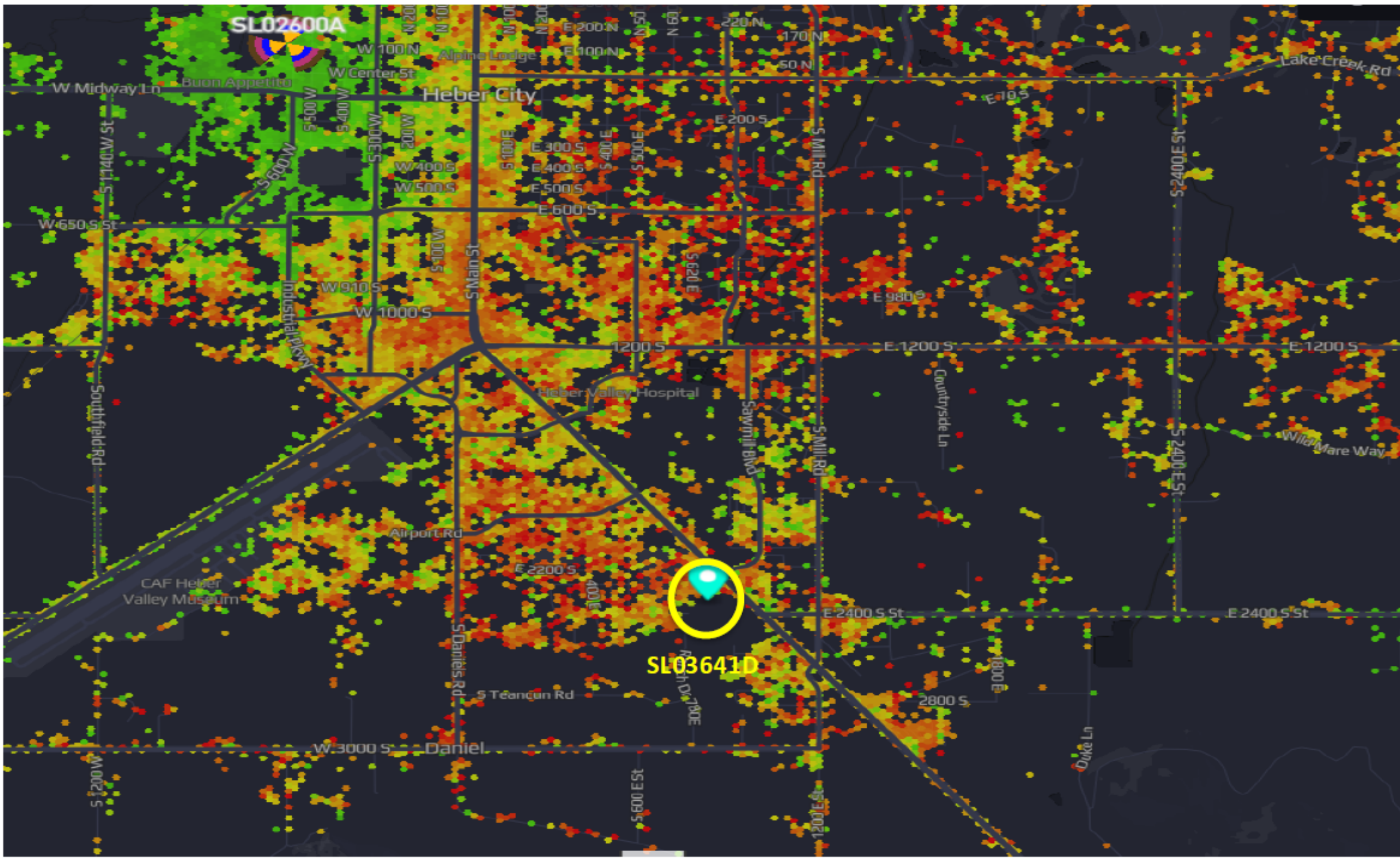
120' RAD will provide In-Building coverage (Green & Yellow) to 1340 more Population and 2.75 sq miles of In-Building level signal than the 80' RAD
120' RAD will provide In-Building coverage (Green & Yellow) to 824 more Population and 1.2 sq miles of In-Building level signal than the 100' RAD

T-Mobile prefers the 120' RAD to cover the most population and sq miles at an in-building signal level within Heber without the need for another site in the southern part of Heber. This will allow more of our customers to make & receive higher quality calls, have faster data speeds and be able to add T-Mobile's Home Internet service.

- In-Building Commercial Coverage
- In-Building Residential Coverage
- In-Vehicle Coverage
- Outdoor Coverage

Current T-Mobile Customer Experience in Heber, UT

Actual Customer Experience in the SL03641D area of Southern Heber

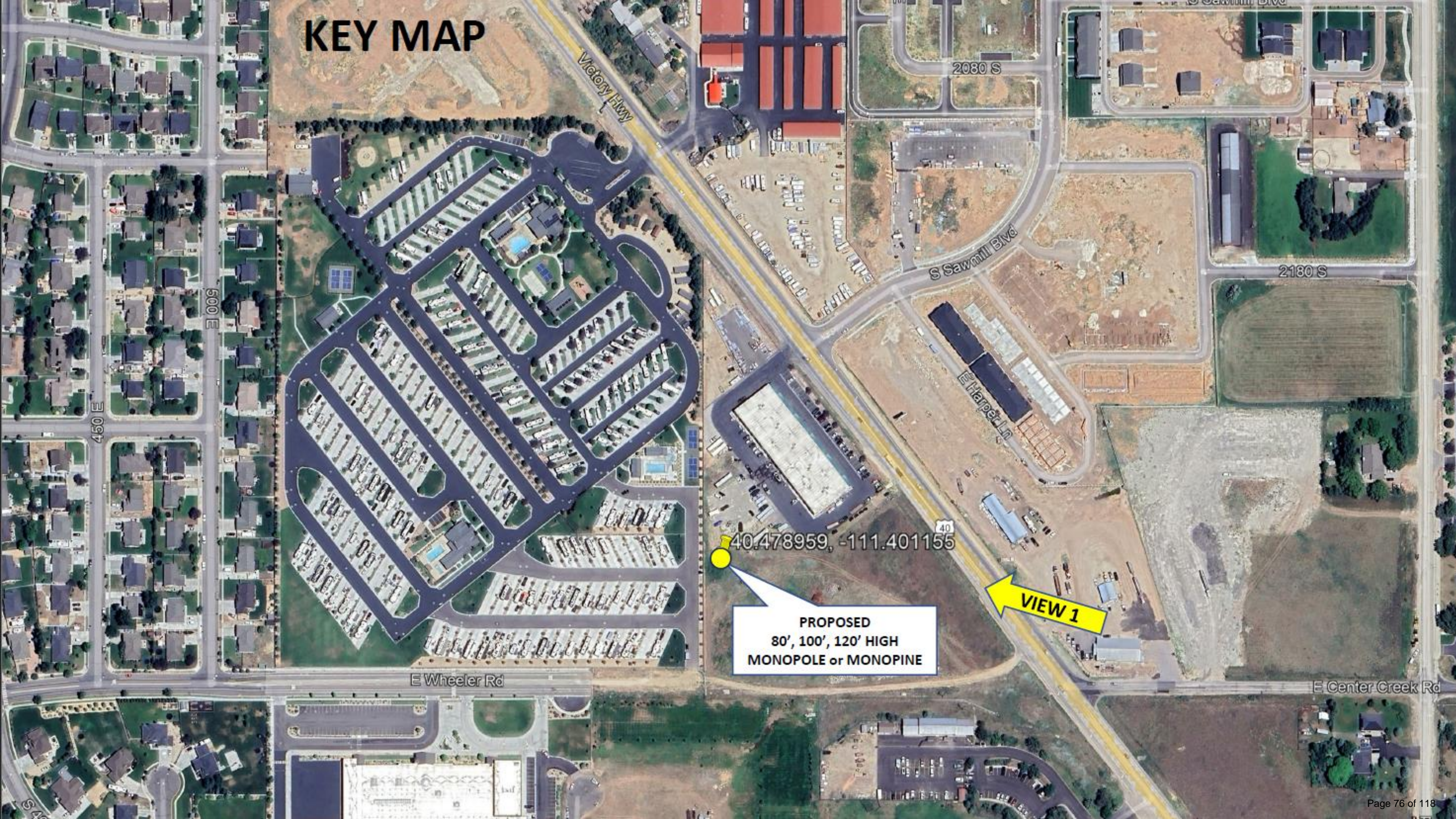


The Orange & Red dots indicate low to very low signal. This means current customers will experience low/weak signal levels resulting in poor quality calls (garble, sounding like a robot), slow text & SMS messaging, very slow-to-no data speeds. A new site is needed to improve the in-building signal level in this part of Heber, UT

Why Are Non-Stealth Telecommunications Facilities Better?

- Stealth telecommunications facilities attract more attention than non-stealth telecommunications facilities
- Monopines (faux trees) will stand out in areas where there's not a lot of trees
- Eyesores
- Stealth sites require additional:
 - Upkeep
 - Construction constraints

KEY MAP



40.478959, -111.401155

**PROPOSED
80', 100', 120' HIGH
MONOPOLE or MONOPINE**

VIEW 1

VIEW 1 - BEFORE



VIEW 1 – 80' HIGH MONPOLE



VIEW 1 – 100' MONOPOLE



VIEW 1 – 120' MONOPOLE



VIEW 1 – 80' MONOPINE



VIEW 1 – 100' MONOPINE



VIEW 1 – 120' MONOPINE



18.110 Telecommunication Facilities

18.110.010 Purpose

18.110.020 Findings

18.110.030 Definitions

18.110.040 Applicability

18.110.050 Application Requirements

18.110.060 Approval Process

18.110.070 Location

18.110.080 Uses

18.110.090 Co-Location

18.110.100 Lease Agreement

18.110.110 Development Standards

18.110.120 Additional Regulation For Monopoles And Towers

18.110.130 Area Limitations For Wall And Roof Mounted Antennas

18.110.140 Safety

18.110.150 Site Requirements

18.110.160 Site Disturbance

18.110.170 Signs

18.110.180 Subdivision And Condominium Covenants

18.110.190 Related Provisions

18.110.200 REPEALED Expansion, Alteration, And Nonconforming Uses

18.110.210 REPEALED Telecommunication Facilities To Permit, As A Conditional Use, A Radio Antenna

18.110.010 Purpose

The purposes of this ordinance are:

- A. To regulate wireless services antennas and related electronic equipment and structures.
- B. To provide for the orderly establishment of wireless services facilities in the City.
- C. To minimize the number of antenna support structures by encouraging the use of stealth or monopole facilities, by encouraging the co-location of multiple antennas on a single structure, by encouraging the location of antennas on pre-existing support structures, and by encouraging the use of City and Government-owned property for antenna support structures.
- D. To establish siting, appearance, and safety standards that will help mitigate potential impacts related to the construction, use and maintenance of wireless services facilities.
- E. To comply with the Telecommunications Act of 1996 by establishing regulations that (1) do not prohibit or have the effect of prohibiting the provision of wireless services, (2) do not unreasonably discriminate among providers of functionally equivalent services, and (3) are not based on the environmental effects of radio frequency emissions to the extent that such facilities comply with the Federal Communication Commission's regulations concerning such emissions.

18.110.020 Findings

The City Council makes the following findings: A. Wireless services devices are an integral part of the rapidly growing and evolving telecommunications industry and present unique zoning challenges and concerns for the City. B. The City needs to balance the interests and desires of the telecommunications industry and its customers to provide competitive and effective telecommunications systems in the City, against the sometimes differing interests and desires of others concerning health, safety, welfare,

aesthetics, and orderly planning of the community. C. The City has experienced an increased demand for wireless services facilities to be located in the City and expects the increased demand to continue into the future. D. It is in the best interests of the City to have quality wireless services available, which necessarily entails the erection of wireless services facilities in the City. E. The unnecessary proliferation of wireless services facilities throughout the City creates a negative visual impact on the community. F. The visual effects of wireless services facilities can be mitigated by fair standards regulating their siting, construction, maintenance and use. G. The City and other government entities own parcels of property spread throughout the City where wireless services facilities can be located so as to be as inoffensive as possible to the residents and businesses of the City. H. Spacing wireless services facilities evenly throughout the city reduces the negative impact created by the proliferation of telecommunication towers. I. Because of the height and appearance of some wireless services facilities, surrounding properties bear a disproportionate share of the negative impacts of a telecommunications tower. J. A private property owner who leases space for a wireless services facility is the only one who receives compensation for the facility, even though numerous other property owners in the area are adversely affected by the location of the facility. K. Encouraging wireless services facilities to be located on City and Government property, with lease payments paid to the City or other Governments instead of an individual property owner, indirectly compensates all citizens of the community for the adverse impacts of the facilities and is therefore the fairest method of distributing burden and benefit. L. Locating antennas on existing buildings and structures, or constructing an antenna as a stealth or monopole facility, creates less of a negative visual impact on the community than the erection of lattice or guy towers. M. Buildings and structures on public property are capable of being used to provide support for antenna arrays, thus reducing the proliferation of towers in all areas of the City. N. The public policy objectives to reduce the proliferation of telecommunication towers and to mitigate their impact can best be facilitated by encouraging the use of less visually intrusive antennas and permitting the locating of wireless communication systems on telecommunication towers and antenna support structures that are located on property owned, leased, or used by the City or other Governments. O. The requirements set forth in this ordinance for the placement of wireless services facilities on property owned, leased or used by the City or other Governments are necessary to protect the health, safety and general welfare of the community. P. The Utah Code grants cities the authority to create or acquire sites to accommodate the erection of telecommunication towers in order to promote the location of telecommunication towers in a manageable area and to protect the aesthetics and environment of the area. The law also allows the City to require the owner of any tower to accommodate the multiple use of the tower by other companies where feasible and to pay the City or other Governments the fair market rental value for the use of any City or other Government-owned site.

18.110.030 Definitions

A. ANTENNA. A device that transmits and/or receives telecommunications and/or radio signals for telecommunications and communication equipment that transmits or receives an electromagnetic radio frequency signal used in the provision of wireless service. B. ANTENNA SUPPORT STRUCTURES. Any structure that can be used for the purpose of supporting an antenna(s). C. ANTENNA, DRIVE TEST. A temporary antenna which is used for field testing of telecommunications signals and possible locations but does not provide telecommunications to customers. D. ANTENNA, ENCLOSED. An antenna or series of individual antennas entirely enclosed inside a structure including but not limited to a cupola or wall of a building or chimney. E. ANTENNA, FREESTANDING. An antenna mounted on or within a stand-alone support structure including but not limited to a wooden pole, steel pole, lattice tower, utility pole, lift tower, light standard, flag pole or other vertical support. F. ANTENNA, ROOF MOUNTED. An antenna or series of individual antennas mounted on a roof of a building. G. ANTENNA, TEMPORARY. An antenna used for a time period of less than thirty (30) days. H. ANTENNA, WALL MOUNTED. An antenna or series of individual antennas mounted fully against the exterior face of a building including on the face of a chimney or penthouse. A wall or face of a building is defined as the entire area of all exposed vertical surfaces of a building that are above ground and facing

approximately the same direction. I. APPLICABLE CODES: The International Building Code, the International Fire Code, the National Electrical Code, the International Plumbing Code, and the International Mechanical Code, as adopted and amended under Utah Code Annotated, title 15A, State Construction and Fire Codes Act. J. APPLICABLE STANDARDS: The structural standards for antenna supporting structures and antenna, known as ANSI/TIA-222, from the American National Standards Institute and the Telecommunications Industry Association. K. APPLICANT: A wireless provider or their authorized agent who submits an application. L. APPLICATION: A request submitted by a wireless provider for a permit to co-locate a small wireless facility in a right-of-way or to install, modify or replace a utility pole or a wireless support structure. M. CITY. The City of Heber, Utah. N. CITY-OWNED PROPERTY. Real property that is owned, leased or controlled by the City. O. CO-LOCATION. The location of telecommunication facility on an existing structure, tower or building in a manner that precludes the need for that telecommunications facility to be located on a free-standing structure of its own. P. DIRECTOR. The Planning Director or designee. Q. ELIGIBLE SUPPORT STRUCTURE: Any monopole, utility pole, wireless support structure or related accessory equipment, as defined in this chapter, provided that it is existing at the time the relevant application is filed with the City. R. EQUIPMENT SHELTER. A cabinet or building used to house equipment for telecommunications facilities. S. GOVERNMENT-OWNED PROPERTY. Real property that is owned, leased or controlled by an agency of State, Federal, or Local government other than Heber City. T. LATTICE TOWER. A self-supporting three or four-sided, open steel frame structure used to support telecommunications equipment. U. MONOPOLE. A ~~structure in the right-of-way erected by an applicant or provider specifically to support SWFs and a~~ single, self-supporting, cylindrical pole constructed without guy wires or ground anchors, that acts as the support structure for antennas. V. MONOPOLE ANTENNA WITH PLATFORM. A monopole with antennas and antenna support structure exceeding two feet (2') in width, but not exceeding fifteen feet (15') in width or eight feet (8') in height. W. MONOPOLE ANTENNA WITH NO PLATFORM. A monopole with antennas and antenna support structure not exceeding two feet (2') in width or ten feet (10') in height. X. PERMIT. Written authorization from the City allowing the provider to perform work pursuant to the installation of a small wireless facility. Y. PERMITTED. An application that is permitted pursuant through the standard building permit process. Z. Personal Wireless Services. Commercial mobile telecommunications services, unlicensed wireless telecommunications services, and common carrier wireless telecommunications exchange access services. AA. Personal Wireless Services Antenna. An antenna used in connection with the provision of personal wireless services. BB. Personal Wireless Services Facilities. Facilities for the provision of personal wireless services. Personal wireless services facilities include transmitters, antennas, structures, supporting antennas, and electronic equipment that is typically installed in close proximity to a transmitter. CC. RIGHT-OF-WAY. Refers to any area within, on, below, or above a public road, highway, street or alley, and may include sidewalks, park-strips and other areas associated with them and controlled by the City. DD. STEALTH TELECOMMUNICATIONS FACILITY. A telecommunications facility which is disguised as another object or otherwise concealed from public view. EE. TELECOMMUNICATIONS. The transmission between or among points specified by a user of information of the user's choosing without change in the form or content of the information as sent or received. FF. TELECOMMUNICATIONS FACILITY. A Telecommunications Facility consists of antenna, equipment shelters and related structures used for transmitting and/or receiving telecommunications and/or radio signals. GG. TOWER. A free-standing structure, such as a monopole tower, lattice tower, or guy tower, that is used as a support structure for antenna(s). HH. WHIP ANTENNA. An antenna that is cylindrical in shape. Whip antennas can be directional or omni directional and vary in size depending on the frequency and gain for which they are designed. II. TECHNICAL NECESSITY. A particular design, placement, construction, or location of a telecommunications facility that is technically necessary for telecommunications consistent with the Federal Telecommunications Act of 1996, as amended.

18.110.040 Applicability

This ordinance applies to both commercial and private low power radio services and facilities, such as “cellular” or PCS (personal communications system) communications and paging systems, and to wireless Internet service providers. This ordinance shall not apply to the following types of communications devices, although they may be regulated by other City ordinances and policies:

A. Amateur Radio. Any antenna owned and operated by an amateur radio operator licensed by the Federal Communications Commission. B. Satellite/television antenna. Any device designed for over-the-air reception of television broadcast signals, multichannel multipoint distribution service or direct satellite service. C. Cable. Any cable television head-end or hub towers and antennas used solely for cable television services.

18.110.050 Application Requirements

Any person desiring to develop, construct or establish a personal wireless services facility in the City shall submit an application for site plan approval to the City. The City shall not consider the application until all required information has been included. A complete application shall include all elements of the proposed telecommunications facility and shall produce all information required by the telecommunications facility application. Applicants shall provide the following submittal requirements.

A. Fee. As adopted by the Heber City Consolidated Fee Schedule. B. Site Plan. A site plan meeting the City’s standard requirements for site plans. C. Written Information.

1. Environment. A full description of the environment surrounding the proposed facility, including a description of adjacent uses, any adjacent residential structures, and any structures and sites of historic significance. 2. Maintenance. A description of the anticipated maintenance needs for the facility, including frequency of service, personnel needs, equipment needs, and traffic noise or safety impacts of such maintenance. 3. Service Area. A description of the service area for the antenna or tower and a statement as to whether the antenna or tower is needed for coverage or capacity. 4. Location. A map showing the site and the nearest or associated telecommunications facility sites within the network. Describe the distance between the telecommunications facility sites. Describe how this service area fits into the service network.

a. An Applicant proposing to erect a new telecommunications facility shall provide documentary evidence that a legitimate attempt has been made to locate the new telecommunications facility on City or Government owned properties, existing buildings or structures or co-location. Such evidence shall include a radio frequency engineering analysis of the potential suitability of existing buildings or structures or co-location sites in the radio frequency coverage area for the proposed telecommunications facility. Efforts to secure such locations shall be documented through correspondence between the applicant and the property owner(s) of the existing buildings, structures or co-location sites. b. Applicants proposing to construct new telecommunications facilities shall document the locations of all of the applicant's existing telecommunications facilities that provide telecommunications within the City, as well as any changes proposed within the following twelve (12) month period, including plans to discontinue or replace such existing telecommunications facilities. Applicants shall provide competent testimony from a radio qualified professional regarding the suitability of potential telecommunications facility locations in relation to the applicant's existing telecommunications facilities. c. Each application shall include a site location alternative analysis describing the location of other sites considered for the proposed telecommunications facility, the availability of those sites, the extent to which other sites do or do not meet the applicant's telecommunications needs and the reason the subject site was chosen for the proposed telecommunications facility. The analysis shall address the following issues:

1) How the proposed location and telecommunications facility relate to the object of providing full telecommunications services within the City area; 2) How the proposed telecommunications facilities

relates to the location of the applicant's existing telecommunications facilities that provide telecommunications within and near the City; 3) How the proposed telecommunications facility relates to the applicant's anticipated need for additional telecommunications facilities that provide telecommunications within and near the City; 4) If applicable, how the applicant's plans specifically relate to, and are coordinated with, the needs of all other telecommunications providers within and near the City.

5. Licenses and Permits. Copies of all licenses and permits required by other agencies and governments with jurisdiction over the design, construction, location and operation of the antenna. 6. Radio Frequency Emissions. A written commitment to comply with applicable Federal Communications Commission radio frequency emission regulations. 7. Visibility Impact. A visual impact study, graphically simulating through models, computer enhanced graphics or similar techniques, the appearance of any proposed telecommunications facility and indicating its view from at least five (5) locations around and within one (1) mile of the proposed telecommunications facility will be most visible. 8. Liaison. The name of a contact person who can respond to questions concerning the application and the proposed facility. Include name, address, telephone number, facsimile number and electronic mail address, if applicable. 9. Additional information requirements for monopoles. If the applicant desires to construct a monopole, the applicant shall also submit a detailed written description of why the applicant cannot obtain coverage using existing buildings or structures. 10. Additional information requirement for facilities not located on highest priority site. If the applicant desires to locate antennas on a site other than the highest priority site (as described in Section 18.110.070), the applicant shall provide the following information to the approving authority:

a. Higher priority sites. The identity and location of any higher priority sites located within the desired service area. b. Reason for rejection of higher priority sites. The reason(s) why the higher priority sites are not technologically, legally or economically feasible. c. Justification for proposed site. Why the proposed site is essential to meet the service demands of the geographic service area and the citywide network.

18.110.060 Approval Process

All telecommunication facilities shall be reviewed by the Planning Director or designee, pursuant to its standard site plan and building permit approval process. Permitted uses are reviewed and approved but the Planning Director or Designee, Conditional Use Permits are approved by the Planning Commission as regulated in Chapter 18.70. It shall be unlawful to install any telecommunication facility without first having a permit from the Planning and Building Departments of the City.

18.110.070 Location

A. Priority of antenna site locations. Personal wireless services antennas shall be located as unobtrusively as is reasonably possible. To accomplish this goal, the provider shall make a good faith effort to locate antennas on sites in the following order of priority:

1. Structures located on City-owned property. Existing buildings, structures and antenna support structures located on City-owned property.
2. Structures located on Government-owned property. Existing buildings, structures and antenna support structures located on Government-owned property.
3. Existing Structures. Lawfully existing buildings, structures and antenna support structures on private property, provided that the buildings, structures or support structures are either: (1) located in a non-residential zone, or (2) located in a residential zone on property that is being used for non-residential uses (e.g. government, school or church). Monopoles located on City or Government-owned property.
4. Monopoles located on City or Government-owned property. Existing Structures. Lawfully existing buildings, structures and antenna support structures on private property, provided that the buildings,

~~structures or support structures are either: (1) located in a non-residential zone, or (2) located in a residential zone on property that is being used for non-residential uses (e.g. government, school or church).~~

5. Monopoles on Non-residential Private Property. Monopoles constructed on private property, provided that the private property is (1) located in a non-residential and non-C-3 commercial zone, or (2) located in a residential zone on property that is used for a non-residential use (e.g. government, school or church).

6. Other. Sites other than those listed above.

B. Burden of Proof. The applicant shall attempt to locate its antennas on sites in the order of priority set forth above. If the applicant desires to locate antennas on a site other than the highest priority site, the applicant shall have the burden of demonstrating to the approving authority why it could not locate antennas on sites with a higher priority than the site chosen by the applicant. To do so, the applicant shall provide the following information to the approving authority.

1. Higher Priority Sites. The identity and location of any higher priority sites located within the desired service area

2. Reason for rejection of higher priority sites. The reason(s) why the higher priority sites are not technologically, legally or economically feasible. The applicant must make a good faith effort to locate antennas on a higher priority site. The City may request information from outside sources to justify or rebut the applicant's reasons for rejecting a higher priority site.

3. Justification for proposed site. Why the proposed site is essential to meet the service demands of the geographic service area and the citywide network.

18.110.080 Uses

A. Permitted Uses

1. Existing Structures on City-owned property. Existing buildings, structures and antenna support structures located on City-owned property. 2. Industrial Zone. Monopoles, roof mounted, wall mounted, and stealth antenna on City, Government, or private property. 3. Commercial C-2 and C-4 Zones. Roof mounted antenna located on private or public property when the antenna is 5 feet or less in height. 4. Monopole towers shall be allowed in any zone.

B. Prohibited Uses. The following antenna types and antenna locations are not permitted:

1. Residential Zones. All telecommunications facilities, including freestanding antenna, roof mounted antenna, wall mounted antenna, and stealth antenna on private property in residential zones 2. Lattice Towers and Guy Towers. All freestanding towers, including lattice towers, guy towers, and other towers, with the exception of monopoles, are prohibited in any zone. ~~3. Monopoles in Residential Zones on Private Property. All freestanding towers and monopoles located on residentially zoned private property, if the residentially zoned property has a residential use (as opposed to a school, church, or other non-residential use). 4. Freestanding towers and monopoles in the C-3 Commercial Zone. All freestanding towers and monopoles are prohibited in the C-3 Commercial Zone.~~

C. Conditional Uses. The following are conditional uses:

1. Stealth Monopoles located in residential and commercial zones on City and Government owned property. 2. Stealth Monopoles located in commercial zones (except C-3 Commercial Zone) on private property. 3. Roof mounted antenna located in commercial zones on City, Government, and private property when the roof antenna exceeds 5 feet in height. 4. Wall mounted antenna located in commercial zones on City, Government, or private property. 5. Enclosed/Stealth antenna located in residential zones

on City, Government, and private property containing non-residential uses. 6. Enclosed/Stealth antenna located in commercial zones on public and private property. 7. Antennas proposed for any other location, provided that the use is not prohibited by this ordinance, and the applicant complies with other applicable laws and regulations. **8. Monopole towers in any zone.**

18.110.090 Co-Location

Every new monopole shall be designed and constructed to be of sufficient size and capacity to accommodate at least ~~two~~**three** additional wireless telecommunications providers on the structure in the future. Any conditional use permit for a monopole may be conditioned upon the agreement of the applicant to allow co-location of other personal wireless providers on such terms as are common in the industry. Co-location on a lot may be permitted by the Planning Director or designee, if all setbacks, design and landscape requirements are met for each telecommunications facility. The application shall include any existing or approved, but unbuilt, telecommunications facility within the telecommunications area that may meet the needs of the applicant. The supplied documentation shall evaluate the following factors:

A. Structural capacity of the antenna towers; B. Geographic telecommunications area requirements; C. Mechanical or electrical incompatibilities; D. Inability or ability to locate equipment on existing antenna towers; and E. Any restriction or limitation of the Federal Communication Commission that would preclude the shared use of the antenna tower.

18.110.100 Lease Agreement

Applicants for telecommunication facilities on public facilities shall sign and agree to a development agreement with the public agency addressing items including, but not limited to access and security, maintenance of site and facilities, utility costs, and a fee for use of the public facility. The City shall enter into a standard lease agreement with the applicant for any facility built on City property. The lease shall contain the condition that the site plan and/or conditional use permit must first be approved by the designated land use authority before the lease can take effect, and that failure to obtain such approval renders the lease null and void.

18.110.110 Development Standards

Standards for Antennas and Antenna Support Structures. Personal wireless services facilities are characterized by the type or location of the antenna structure. There are four general types of antenna structures allowed by this ordinance: wall mounted antennas; roof mounted antennas; monopoles with no platform; and monopoles with a platform. If a particular type of antenna structure is allowed by this ordinance as a permitted or conditional use, the minimum standards for that type of antenna are as follows, unless otherwise provided in a conditional use permit:

A. Wall Mounted Antennas.

1. Maximum Height. Wall mounted antennas may not extend above the roof line of the building or structure or extend more than twelve (12) inches from the face of the building. 2. Setback. Wall mounted antennas shall not be located within one hundred feet (100') feet of any residence. 3. Mounting Options. Antennas mounted directly on existing parapet walls, penthouses, or mechanical equipment rooms are considered to be wall mounted antennas if no portion of the antenna extends above the roof line of the parapet wall, penthouse, or mechanical equipment room. 4. Color. Wall mounted antennas, equipment and supporting structures shall be painted to match the color of the building or structure or the background against which they are most commonly seen. Antennas and the supporting structure on the

building shall be architecturally compatible with the building. Whip antennas are not allowed on a wall mounted antenna structure.

B. Roof Mounted Antennas.

1. Maximum Height. Roof mounted antenna, placed on a flat roof, may extend up to ten (10) feet above the existing structure, provided that the antenna setback from the edge of the roof is a minimum distance equal to or greater than the height of the antenna. Roof mounted antenna, placed on a pitched roof, may extend a maximum of five (5) feet above the existing structure. 2. Setback. Roof mounted antennas shall be located at least five feet (5') from the exterior wall of the building or structure, and at least fifty (50') feet from any residence. 3. Mounting options. Roof mounted antennas may be mounted on top of existing penthouses or mechanical equipment rooms if the antennas and antenna support structures are enclosed or visually screened from view. The screening structure may not extend more than eight (8') feet above the existing roof line of the penthouse or mechanical equipment room. 4. Color. Roof mounted antennas, equipment and supporting structures shall be painted to match the color of the building or structure or the background against which they are most commonly seen. Antennas and supporting structures shall be architecturally compatible with the building.

C. Monopoles with no Platform.

1. Maximum Height and Width. The maximum height of the monopole or monopole antenna shall be ~~thirty five (35)~~ 120 feet. The entire antenna structure mounted on the monopole shall not exceed two feet (2') in width. The antenna itself shall not exceed ten feet (10') in height. 2. Setback. Monopoles shall be set back a minimum of 115% of the height of the monopole from any residential lot line, measured from the base of the monopole to the nearest residential lot line. 3. Color. Monopoles, antennas, and related support structures shall be stealth and painted a neutral color or a color intended to match the stealth concept.

D. Monopoles with Platform.

1. Maximum Height and Width. The maximum height of the monopole or monopole antenna shall be ~~thirty five (35)~~ 120 feet. The antennas and antenna mounting structures on the monopole shall not exceed eight feet (8') in height or fifteen feet (15') in width. The antenna itself shall not exceed ten feet (10') in height. 2. Setback. Monopoles shall be set back a minimum of 115% of the height of the monopole from any residential lot line, measured from the base of the monopole to the nearest residential lot line. 3. Color. Monopoles, antennas, and related support structures shall be stealth and painted a neutral color or a color intended to match the stealth concept.

18.110.120 Additional Regulation For Monopoles And Towers

A. Distance from other Monopoles. Monopoles and towers shall be located at least ~~two thousand feet (2000')~~ one mile (5,280 feet) from each other, except upon a showing of necessity by the applicant, or upon a finding by the City Council that a closer distance would adequately protect the health, safety and welfare of the community. This distance requirement shall not apply to antennas attached to lawful structures such as transmission towers, utility poles, outdoor lighting structures, and water tanks.

B. Location on Parcel. Monopoles shall be located as unobtrusively on a parcel as possible, given the location of existing structures, nearby residential areas, and service needs of the applicant. Monopoles shall not be located in a required landscaped area, buffer area or parking area.

18.110.130 Area Limitations For Wall And Roof Mounted Antennas

Any building may have a combination of wall and roof mounted antennas. The total area for all wall and roof mounted antennas and supporting structures on any one building shall not exceed the lesser of sixty (60) square feet or 5 percent (5%) of each exterior wall of the building.

18.110.140 Safety

A. Regulation Compliance.

1. Compliance with FCC and FAA Regulations. All operators of personal wireless services facilities shall demonstrate compliance with applicable Federal Communication Commission (FCC) and Federal Aviation Administration (FAA) regulations, including FCC radio frequency regulations, at the time of application and periodically thereafter as requested by the City. Failure to comply with the applicable regulations shall be grounds for revoking a site plan or conditional use permit approval. 2. Other Licenses and Permits. The operator of every personal wireless services facility shall submit copies of all licenses and permits required by other agencies and governments with jurisdiction over the design, construction, location and operation of the facility to the City, shall maintain such licenses and permits in good standing, and shall provide evidence of renewal or extension thereof upon request by the City.

B. Protection Against Climbing. Monopoles shall be protected against unauthorized climbing by removing the climbing pegs from the lower 20 feet of the monopole.

C. Fencing. Monopoles and towers shall be fully enclosed by a minimum 6-foot tall fence or wall, as directed by the Planning Director or designee unless the Director determines that a wall or fence is not needed or appropriate for a particular site due to conditions specific to the site.

D. Security Lighting Requirements. Monopoles and towers shall comply with the FAA requirements for lighting. If security lighting is used, the lighting impact on surrounding residential areas shall be minimized by using indirect lighting, where appropriate.

E. Abandonment. The applicant, or the applicant's successor(s) and/or assign(s) shall be responsible for the removal of unused telecommunications facilities within ninety (90) days of abandonment of use. If such tower is not removed by the property owner, then the City may employ all legal measures, including as necessary, obtaining authorization from a court of competent jurisdiction, to remove the tower, and after removal may place a lien on the subject property for all direct and indirect costs incurred in dismantling and disposal of the tower, including court costs and reasonable attorney fees.

1. Notice. Notice to remove shall be given in writing by personal service, or by certified mail addressed to the operator's last known address. 2. Violation. Failure to remove the antennas and monopoles after receiving written notice to remove is a violation of the terms of this Chapter. The City may initiate criminal and/or civil legal proceeding against any person, firm, entity or corporation, whether acting as principal, agent, property owner, lessee, lessor, tenant, landlord, employee, employer or otherwise, for failure to remove antennas and monopoles in accordance with this Chapter. The City may seek a civil injunction requiring the removal of any structures on the site in accordance with this Chapter. Any lease agreement with the City may also stipulate failure to remove the antennas and monopoles after receiving written notice to do so pursuant to this Chapter automatically transfers ownership of the antennas, monopoles, support buildings and all other structures on the site to the City. 3. Nuisance. Abandoned, unmaintained, or telecommunication devices that pose an immediate threat to public health and safety are hereby declared to be a nuisance.

18.110.150 Site Requirements

A. Setbacks. The placement of telecommunications facilities on a lot shall comply with the setbacks of the underlying zone as stated herein. Telecommunications facilities shall comply with the setbacks for main structures and shall not be determined accessory structures.

B. Regulations for Accessory Structures.

1. Storage Areas and Solid Waste Receptacles. No outside storage or solid waste receptacles shall be permitted on the site. 2. Equipment Enclosures. All electronic and other related equipment and appurtenances necessary for the operation of any personal wireless services facility shall, whenever possible, be located within a lawfully pre-existing structure or completely below grade. 3. Accessory Buildings. Freestanding accessory buildings used with a personal wireless services facility shall not exceed 350 square feet and shall comply with the setback requirements for structures in the zone in which the facility is located.

C. Parking. The City may require a minimum of one (1) parking stall for sites containing a monopole, tower, and/or accessory buildings, if there is no parking available on the site.

D. Maintenance Requirements. All personal wireless services facilities shall be maintained in a safe, neat and attractive manner.

E. Landscaping. All sites with a personal wireless services facility shall be landscaped in accordance with the zone requirements where the facility is located.

F. Height. The height shall be measured from the grade or roof beneath to the top of the antenna or mounting hardware, whichever is higher. G. Design

1. Antenna and associated equipment shall incorporate materials and colors present in the context of the surrounding area. Stealth telecommunications in the commercial zones C2 and C4, Chapter 18.28. Stealth design includes structures that look like trees, church steeples, art, large light poles or ones that blend with the building they are located on and are designed in a manner to blend with the existing and natural environment. Monopoles, antennas, and any associated buildings or equipment shall be painted to blend with their surroundings and/or the stealth concept being used. 2. Panel Antennas shall be no more than five square feet (5 sq. ft.) in Area per face.

18.110.160 Site Disturbance

Any application, temporary or permanent, which requires the removal of significant vegetation or proposes any new, or improvements to driveways or roads a length greater than twenty feet (20') and/or a width greater than ten feet (10') wide, shall require a conditional use permit. As used herein, "Significant Vegetation" includes trees six inch (6") in diameter or greater measured four feet six inches (4'6") above the ground, groves of small trees or clumps of oak and maple covering an Area of twenty square feet (20 sq. ft.) or more measured at the drip line. Plans must show all such trees within twenty (20) feet of a proposed telecommunications facility. The Planning Director or designee shall determine the Limits of Disturbance.

18.110.170 Signs

Signs shall only be permitted if they are related to the health and safety of the general public. All proposed signs shall be submitted with the telecommunications facility application and subject to review by the Planning Department for compliance with Chapter 18.103 Sign Regulations.

18.110.180 Subdivision And Condominium Covenants

Many Subdivision and Condominium Covenants may address the location of telecommunications facilities within Condominium units and the lots of a Subdivision. The City is not a party to those covenants, and no permit from the City shall effect the enforceability of such covenants which might be more restrictive than this ordinance. Applicants for the installation of telecommunications facilities are advised to determine what private land use restrictions apply to their site before applying for the permit from the City. If the proposed installation is within the Common Area of a Condominium or Planned Unit Development, and the application submitted is not in the name of the Home Owner's Association or

management committee, the applicant shall provide a letter from the Home Owner's Association or management committee indicating consent to the location of the telecommunications facilities within the Common Area has been granted as a part of the permit application filed with the City.

18.110.190 Related Provisions

• Chapter 18.12 Administration • Chapter 18.08 Definitions • Chapter 18.108 Conditional Use Permits • Chapter 18.72 Off Street Parking and Loading • Chapter 18.103 Sign Regulations • Chapter 18.78 Lighting • Chapter 18.174 Enforcement • Chapter 17 Subdivisions • Heber City C-2/C-4 Zone Design Standards and guidelines

18.110.200 REPEALED Expansion, Alteration, And Nonconforming Uses

This ordinance shall not make existing, non-conforming and/or illegal telecommunication facilities legal or conforming. Any expansion or alteration of a telecommunications facility shall comply with the provisions and procedures of this ordinance. Expansion and alteration include any change to the facility, including but not limited to structural, electrical, aesthetic and functional changes. Non-conforming telecommunication facilities, when expanded or altered, shall meet the requirements of this ordinance.

A. Any pre-existing facilities located in a commercial or industrial zone which were placed without a building permit prior to the effective date of this ordinance may apply for a building permit and be approved if the facility meets the application height, setback and location provisions of this ordinance, subject to Section 18.110.070. B. Existing, illegal facilities which cannot or do not meet the height, setback, and location provisions of this ordinance may apply to the Appeal Authority for a special exception. The Board may approve such an exception, only upon condition it meet all of the following findings:

1. That the existing facility was erected prior to the effective date of this ordinance. 2. That the existing facility is compatible, aesthetically and otherwise, with the surrounding uses. 3. That the facility does not present a prominent position by itself to the skyline, as viewed from the public street, and if so, that said facility may be moved within the site to a position so as not to be visibly prominent in the skyline. 4. That the facility is currently being used and has not been abandoned for a period longer than that allowed by Section 18.110.150 E, of this ordinance.

C. The Appeal Authority may place any additional conditions of approval it may deem fit and advisable to safeguard the aesthetics of the community as viewed from the public street. D. As part of the Conditional Use permit approval for modification of an existing monopole, the Planning Commission may waive the height and setback requirements for approved co-location monopoles in existence prior to this ordinance which are located within the I-1 Industrial Zone.

18.110.210 REPEALED Telecommunication Facilities To Permit, As A Conditional Use, A Radio Antenna

The following use shall be permitted, as a Conditional Use, in the C-3 Central Commercial Zone:

1. A radio antenna may be constructed with a maximum height of 50 feet from ground level, with a minimum setback of 50 feet from main Street, and a minimum setback of 50 feet from any residential zone.
2. Any antenna devices, weather sensing facilities or sending and receiving secondary antennas shall be located on the antenna near the top of the roof of the associated studio building so as not to be observable from Main Street. In no event shall any such antennas or facilities be higher than 50 feet from ground level.

18.110 Telecommunication Facilities

18.110.010 Purpose

18.110.020 Findings

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18.110.050 Application Requirements

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18.110.150 Site Requirements

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18.110.170 Signs

18.110.180 Subdivision And Condominium Covenants

18.110.190 Related Provisions

18.110.200 REPEALED Expansion, Alteration, And Nonconforming Uses

18.110.210 REPEALED Telecommunication Facilities To Permit, As A Conditional Use, A Radio Antenna

18.110.010 Purpose

The purposes of this ordinance are:

- A. To regulate wireless services antennas and related electronic equipment and structures.
- B. To provide for the orderly establishment of wireless services facilities in the City.
- C. To minimize the number of antenna support structures by encouraging the use of stealth facilities, by encouraging the co-location of multiple antennas on a single structure, by encouraging the location of antennas on pre-existing support structures, and by encouraging the use of City and Government-owned property for antenna support structures.
- D. To establish siting, appearance, and safety standards that will help mitigate potential impacts related to the construction, use and maintenance of wireless services facilities.
- E. To comply with the Telecommunications Act of 1996 by establishing regulations that (1) do not prohibit or have the effect of prohibiting the provision of wireless services, (2) do not unreasonably discriminate among providers of functionally equivalent services, and (3) are not based on the environmental effects of radio frequency emissions to the extent that such facilities comply with the Federal Communication Commission's regulations concerning such emissions.

18.110.020 Findings

The City Council makes the following findings: A. Wireless services devices are an integral part of the rapidly growing and evolving telecommunications industry and present unique zoning challenges and concerns for the City. B. The City needs to balance the interests and desires of the telecommunications industry and its customers to provide competitive and effective telecommunications systems in the City, against the sometimes differing interests and desires of others concerning health, safety, welfare,

aesthetics, and orderly planning of the community. C. The City has experienced an increased demand for wireless services facilities to be located in the City and expects the increased demand to continue into the future. D. It is in the best interests of the City to have quality wireless services available, which necessarily entails the erection of wireless services facilities in the City. E. The unnecessary proliferation of wireless services facilities throughout the City creates a negative visual impact on the community. F. The visual effects of wireless services facilities can be mitigated by fair standards regulating their siting, construction, maintenance and use. G. The City and other government entities own parcels of property spread throughout the City where wireless services facilities can be located so as to be as inoffensive as possible to the residents and businesses of the City. H. Spacing wireless services facilities evenly throughout the city reduces the negative impact created by the proliferation of telecommunication towers. I. Because of the height and appearance of some wireless services facilities, surrounding properties bear a disproportionate share of the negative impacts of a telecommunications tower. J. A private property owner who leases space for a wireless services facility is the only one who receives compensation for the facility, even though numerous other property owners in the area are adversely affected by the location of the facility. K. Encouraging wireless services facilities to be located on City and Government property, with lease payments paid to the City or other Governments instead of an individual property owner, indirectly compensates all citizens of the community for the adverse impacts of the facilities and is therefore the fairest method of distributing burden and benefit. L. Locating antennas on existing buildings and structures, or constructing an antenna as a stealth facility, creates less of a negative visual impact on the community than the erection of lattice or guy towers. M. Buildings and structures on public property are capable of being used to provide support for antenna arrays, thus reducing the proliferation of towers in all areas of the City. N. The public policy objectives to reduce the proliferation of telecommunication towers and to mitigate their impact can best be facilitated by encouraging the use of less visually intrusive antennas and permitting the locating of wireless communication systems on telecommunication towers and antenna support structures that are located on property owned, leased, or used by the City or other Governments. O. The requirements set forth in this ordinance for the placement of wireless services facilities on property owned, leased or used by the City or other Governments are necessary to protect the health, safety and general welfare of the community. P. The Utah Code grants cities the authority to create or acquire sites to accommodate the erection of telecommunication towers in order to promote the location of telecommunication towers in a manageable area and to protect the aesthetics and environment of the area. The law also allows the City to require the owner of any tower to accommodate the multiple use of the tower by other companies where feasible and to pay the City or other Governments the fair market rental value for the use of any City or other Government-owned site.

18.110.030 Definitions

- A. ANTENNA. A device that transmits and/or receives telecommunications and/or radio signals for telecommunications and communication equipment that transmits or receives an electromagnetic radio frequency signal used in the provision of wireless service.
- B. ANTENNA SUPPORT STRUCTURES. Any structure that can be used for the purpose of supporting an antenna(s).
- C. ANTENNA, DRIVE TEST. A temporary antenna which is used for field testing of telecommunications signals and possible locations but does not provide telecommunications to customers.
- D. ANTENNA, ENCLOSED. An antenna or series of individual antennas entirely enclosed inside a structure including but not limited to a cupola or wall of a building or chimney.
- E. ANTENNA, FREESTANDING. An antenna mounted on or within a stand-alone support structure including but not limited to a wooden pole, steel pole, lattice tower, utility pole, lift tower, light standard, flag pole or other vertical support.

F. ANTENNA, ROOF MOUNTED. An antenna or series of individual antennas mounted on a roof of a building.

G. ANTENNA, TEMPORARY. An antenna used for a time period of less than thirty (30) days.

H. ANTENNA, WALL MOUNTED. An antenna or series of individual antennas mounted fully against the exterior face of a building including on the face of a chimney or penthouse. A wall or face of a building is defined as the entire area of all exposed vertical surfaces of a building that are above ground and facing approximately the same direction.

I. APPLICABLE CODES: The International Building Code, the International Fire Code, the National Electrical Code, the International Plumbing Code, and the International Mechanical Code, as adopted and amended under Utah Code Annotated, title 15A, State Construction and Fire Codes Act.

J. APPLICABLE STANDARDS: The structural standards for antenna supporting structures and antenna, known as ANSI/TIA-222, from the American National Standards Institute and the Telecommunications Industry Association.

K. APPLICANT: A wireless provider or their authorized agent who submits an application.

L. APPLICATION: A request submitted by a wireless provider for a permit to co-locate a small wireless facility in a right-of-way or to install, modify or replace a utility pole or a wireless support structure.

M. CITY. The City of Heber, Utah.

N. CITY-OWNED PROPERTY. Real property that is owned, leased or controlled by the City.

O. CO-LOCATION. The location of telecommunication facility on an existing structure, tower or building in a manner that precludes the need for that telecommunications facility to be located on a free-standing structure of its own.

P. DIRECTOR. The Planning Director or designee.

Q. ELIGIBLE SUPPORT STRUCTURE: Any monopole, utility pole, wireless support structure or related accessory equipment, as defined in this chapter, provided that it is existing at the time the relevant application is filed with the City.

R. EQUIPMENT SHELTER. A cabinet or building used to house equipment for telecommunications facilities.

S. GOVERNMENT-OWNED PROPERTY. Real property that is owned, leased or controlled by an agency of State, Federal, or Local government other than Heber City.

T. LATTICE TOWER. A self-supporting three or four-sided, open steel frame structure used to support telecommunications equipment.

U. MONOPOLE. A ~~structure in the right-of-way erected by an applicant or provider specifically to support SWFs and a~~ single, self-supporting, cylindrical pole constructed without guy wires or ground anchors, that acts as the support structure for antennas.

V. MONOPOLE ANTENNA WITH PLATFORM. A monopole with antennas and antenna support structure exceeding two feet (2') in width, but not exceeding fifteen feet (15') in width or eight feet (8') in height.

W. MONOPOLE ANTENNA WITH NO PLATFORM. A monopole with antennas and antenna support structure not exceeding two feet (2') in width or ten feet (10') in height.

- X. PERMIT. Written authorization from the City allowing the provider to perform work pursuant to the installation of a small wireless facility.
- Y. PERMITTED. An application that is permitted pursuant through the standard building permit process.
- Z. Personal Wireless Services. Commercial mobile telecommunications services, unlicensed wireless telecommunications services, and common carrier wireless telecommunications exchange access services.
- AA. Personal Wireless Services Antenna. An antenna used in connection with the provision of personal wireless services.
- BB. Personal Wireless Services Facilities. Facilities for the provision of personal wireless services. Personal wireless services facilities include transmitters, antennas, structures, supporting antennas, and electronic equipment that is typically installed in close proximity to a transmitter.
- CC. RIGHT-OF-WAY. Refers to any area within, on, below, or above a public road, highway, street or alley, and may include sidewalks, park-strips and other areas associated with them and controlled by the City.
- DD. STEALTH TELECOMMUNICATIONS FACILITY. A telecommunications facility which is disguised as another object or otherwise concealed from public view.
- EE. TELECOMMUNICATIONS. The transmission between or among points specified by a user of information of the user's choosing without change in the form or content of the information as sent or received.
- FF. TELECOMMUNICATIONS FACILITY. A Telecommunications Facility consists of antenna, equipment shelters and related structures used for transmitting and/or receiving telecommunications and/or radio signals.
- GG. TOWER. A free-standing structure, such as a monopole tower, lattice tower, or guy tower, that is used as a support structure for antenna(s).
- HH. WHIP ANTENNA. An antenna that is cylindrical in shape. Whip antennas can be directional or omni directional and vary in size depending on the frequency and gain for which they are designed.
- II. TECHNICAL NECESSITY. A particular design, placement, construction, or location of a telecommunications facility that is technically necessary for telecommunications consistent with the Federal Telecommunications Act of 1996, as amended.

18.110.040 Applicability

This ordinance applies to both commercial and private low power radio services and facilities, such as “cellular” or PCS (personal communications system) communications and paging systems, and to wireless Internet service providers. This ordinance shall not apply to the following types of communications devices, although they may be regulated by other City ordinances and policies:

- A. Amateur Radio. Any antenna owned and operated by an amateur radio operator licensed by the Federal Communications Commission. B. Satellite/television antenna. Any device designed for over-the-air reception of television broadcast signals, multichannel multipoint distribution service or direct satellite service. C. Cable. Any cable television head-end or hub towers and antennas used solely for cable television services.

18.110.050 Application Requirements

Any person desiring to develop, construct or establish a personal wireless services facility in the City shall submit an application for site plan approval to the City. The City shall not consider the application until all required information has been included. A complete application shall include all elements of the proposed telecommunications facility and shall produce all information required by the telecommunications facility application. Applicants shall provide the following submittal requirements.

A. Fee. As adopted by the Heber City Consolidated Fee Schedule. B. Site Plan. A site plan meeting the City's standard requirements for site plans. C. Written Information.

1. Environment. A full description of the environment surrounding the proposed facility, including a description of adjacent uses, any adjacent residential structures, and any structures and sites of historic significance. 2. Maintenance. A description of the anticipated maintenance needs for the facility, including frequency of service, personnel needs, equipment needs, and traffic noise or safety impacts of such maintenance. 3. Service Area. A description of the service area for the antenna or tower and a statement as to whether the antenna or tower is needed for coverage or capacity. 4. Location. A map showing the site and the nearest or associated telecommunications facility sites within the network. Describe the distance between the telecommunications facility sites. Describe how this service area fits into the service network.

a. An Applicant proposing to erect a new telecommunications facility shall provide documentary evidence that a legitimate attempt has been made to locate the new telecommunications facility on City or Government owned properties, existing buildings or structures or co-location. Such evidence shall include a radio frequency engineering analysis of the potential suitability of existing buildings or structures or co-location sites in the radio frequency coverage area for the proposed telecommunications facility. Efforts to secure such locations shall be documented through correspondence between the applicant and the property owner(s) of the existing buildings, structures or co-location sites. b. Applicants proposing to construct new telecommunications facilities shall document the locations of all of the applicant's existing telecommunications facilities that provide telecommunications within the City, as well as any changes proposed within the following twelve (12) month period, including plans to discontinue or replace such existing telecommunications facilities. Applicants shall provide competent testimony from a radio qualified professional regarding the suitability of potential telecommunications facility locations in relation to the applicant's existing telecommunications facilities. c. Each application shall include a site location alternative analysis describing the location of other sites considered for the proposed telecommunications facility, the availability of those sites, the extent to which other sites do or do not meet the applicant's telecommunications needs and the reason the subject site was chosen for the proposed telecommunications facility. The analysis shall address the following issues:

1) How the proposed location and telecommunications facility relate to the object of providing full telecommunications services within the City area; 2) How the proposed telecommunications facilities relates to the location of the applicant's existing telecommunications facilities that provide telecommunications within and near the City; 3) How the proposed telecommunications facility relates to the applicant's anticipated need for additional telecommunications facilities that provide telecommunications within and near the City; 4) If applicable, how the applicant's plans specifically relate to, and are coordinated with, the needs of all other telecommunications providers within and near the City.

5. Licenses and Permits. Copies of all licenses and permits required by other agencies and governments with jurisdiction over the design, construction, location and operation of the antenna. 6. Radio Frequency Emissions. A written commitment to comply with applicable Federal Communications Commission radio frequency emission regulations. 7. Visibility Impact. A visual impact study, graphically simulating through models, computer enhanced graphics or similar techniques, the appearance of any proposed telecommunications facility and indicating its view from at least five (5) locations around and within one (1) mile of the proposed telecommunications facility will be most visible. 8. Liaison. The name of a

contact person who can respond to questions concerning the application and the proposed facility. Include name, address, telephone number, facsimile number and electronic mail address, if applicable. 9.

Additional information requirements for monopoles. If the applicant desires to construct a monopole, the applicant shall also submit a detailed written description of why the applicant cannot obtain coverage using existing buildings or structures. 10. Additional information requirement for facilities not located on highest priority site. If the applicant desires to locate antennas on a site other than the highest priority site (as described in Section 18.110.070), the applicant shall provide the following information to the approving authority:

a. Higher priority sites. The identity and location of any higher priority sites located within the desired service area. b. Reason for rejection of higher priority sites. The reason(s) why the higher priority sites are not technologically, legally or economically feasible. c. Justification for proposed site. Why the proposed site is essential to meet the service demands of the geographic service area and the citywide network.

18.110.060 Approval Process

All telecommunication facilities shall be reviewed by the Planning Director or designee, pursuant to its standard site plan and building permit approval process. Permitted uses are reviewed and approved but the Planning Director or Designee, Conditional Use Permits are approved by the Planning Commission as regulated in Chapter 18.70. It shall be unlawful to install any telecommunication facility without first having a permit from the Planning and Building Departments of the City.

18.110.070 Location

A. Priority of antenna site locations. Personal wireless services antennas shall be located as unobtrusively as is reasonably possible. To accomplish this goal, the provider shall make a good faith effort to locate antennas on sites in the following order of priority:

1. Structures located on City-owned property. Existing buildings, structures and antenna support structures located on City-owned property.
2. Structures located on Government-owned property. Existing buildings, structures and antenna support structures located on Government-owned property.
3. Monopoles located on City or Government-owned property.
4. Existing Structures. Lawfully existing buildings, structures and antenna support structures on private property, provided that the buildings, structures or support structures are either: (1) located in a non-residential zone, or (2) located in a residential zone on property that is being used for non-residential uses (e.g. government, school or church).
5. Monopoles on Non-residential Private Property. Monopoles constructed on private property, provided that the private property is (1) located in a non-residential and non-C-3 commercial zone, or (2) located in a residential zone on property that is used for a non-residential use (e.g. government, school or church).
6. Other. Sites other than those listed above.

B. Burden of Proof. The applicant shall attempt to locate its antennas on sites in the order of priority set forth above. If the applicant desires to locate antennas on a site other than the highest priority site, the applicant shall have the burden of demonstrating to the approving authority why it could not locate antennas on sites with a higher priority than the site chosen by the applicant. To do so, the applicant shall provide the following information to the approving authority.

1. Higher Priority Sites. The identity and location of any higher priority sites located within the desired service area

2. Reason for rejection of higher priority sites. The reason(s) why the higher priority sites are not technologically, legally or economically feasible. The applicant must make a good faith effort to locate antennas on a higher priority site. The City may request information from outside sources to justify or rebut the applicant's reasons for rejecting a higher priority site.

3. Justification for proposed site. Why the proposed site is essential to meet the service demands of the geographic service area and the citywide network.

18.110.080 Uses

~~A. Permitted Telecommunication Uses are as outlined in the following tables. Any use not listed is prohibited.~~Uses

~~1. Existing Structures on City-owned property. Existing buildings, structures and antenna support structures located on City-owned property.~~

~~2. Industrial Zone. Monopoles, roof mounted, wall mounted, and stealth antenna on City, Government, or private property.~~

~~3. Commercial C-2 and C-4 Zones. Roof mounted antenna located on private or public property when the antenna is 5 feet or less in height.~~

~~B. Prohibited Uses. The following antenna types and antenna locations are not permitted:~~

~~1. Residential Zones. All telecommunications facilities, including freestanding antenna, roof mounted antenna, wall mounted antenna, and stealth antenna on private property in residential zones~~

~~2. Lattice Towers and Guy Towers. All freestanding towers, including lattice towers, guy towers, and other towers, with the exception of monopoles, are prohibited in any zone.~~

~~3. Monopoles in Residential Zones on Private Property. All freestanding towers and monopoles located on residentially zoned private property, if the residentially zoned property has a residential use (as opposed to a school, church, or other non-residential use).~~

~~4. Freestanding towers and monopoles in the C-3 Commercial Zone. All freestanding towers and monopoles are prohibited in the C-3 Commercial Zone.~~

~~C. Conditional Uses. The following are conditional uses:~~

~~1. Stealth Monopoles located in residential and commercial zones on City and Government owned property.~~

~~2. Stealth Monopoles located in commercial zones (except C-3 Commercial Zone) on private property.~~

~~3. Roof mounted antenna located in commercial zones on City, Government, and private property when the roof antenna exceeds 5 feet in height.~~

~~4. Wall mounted antenna located in commercial zones on City, Government, or private property.~~

~~5. Enclosed/Stealth antenna located in residential zones on City, Government, and private property containing non-residential uses.~~

~~6. Enclosed/Stealth antenna located in commercial zones on public and private property.~~

~~7. Antennas proposed for any other location, provided that the use is not prohibited by this ordinance, and the applicant complies with other applicable laws and regulations.~~

Commercial, Industrial, and Mixed Use Zones Permitted Use Table

P – Permitted, N – Not Permitted (Prohibited), C – Conditional Use

<u>Telecom Uses</u>	<u>C-2</u>	<u>C-3</u>	<u>C-4</u>	<u>MURCZ</u>	<u>NVOZ</u>	<u>I-1</u>	<u>I-2</u>	<u>BMP</u>	<u>IPF</u>	<u>Limitations</u>
<u>Monopoles</u>	<u>C*</u>	<u>N</u>	<u>C*</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>C</u>	<u>C</u>	<u>Must use stealth when a conditional use. *Not permitted between 500 North and 600 South, and 600 West and 600 East</u>
<u>Lattice Tower</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	
<u>Guy Tower</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	
<u>Freestanding - Other</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	
<u>Roof Mounted</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>Antenna not to exceed 5' in height when conditional</u>
<u>Wall Mounted</u>	<u>C</u>	<u>N</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>C</u>	<u>C</u>	
<u>Stealth Antenna</u>	<u>C</u>	<u>N</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>C</u>	<u>C</u>	
<u>Co-Location on Existing Facilities</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>Facility must be legally constructed, including legal non-conforming facilities that meet the FCC definition of an Eligible Facility</u>
<u>Eligible Facilities Modification</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>Facilities defined as an Eligible Facility by the FCC</u>

Residential and Agricultural Zones Permitted Use Table

P – Permitted, N – Not Permitted (Prohibited), C – Conditional Use

<u>Telecom Uses</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>PC</u>	<u>MCZ</u>	<u>A-2</u>	<u>RA-1</u>	<u>RA-2</u>	<u>Limitations</u>
<u>Monopoles</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>Must use stealth and be located on government land</u>

									<u>or private with non-residential uses</u>
<u>Lattice Tower</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	
<u>Guy Tower</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	
<u>Freestanding - Other</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	
<u>Roof Mounted</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	
<u>Wall Mounted</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	
<u>Stealth Antenna</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>Must be located on government land or private land with non-residential uses</u>
<u>Co-Location on Existing Facilities</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>Facility must be legally constructed, including legal non-conforming facilities that meet the FCC definition of an Eligible Facility</u>
<u>Eligible Facilities Modification</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>Facilities defined as an Eligible Facility by the FCC</u>

18.110.090 Co-Location

Every new monopole shall be designed and constructed to be of sufficient size and capacity to accommodate at least ~~two~~three ~~additional~~ wireless telecommunications providers on the structure in the future. Any conditional use permit for a monopole may be conditioned upon the agreement of the applicant to allow co-location of other personal wireless providers on such terms as are common in the industry. Co-location on a lot may be permitted by the Planning Director or designee, if all setbacks, design and landscape requirements are met for each telecommunications facility. The application shall include any existing or approved, but unbuilt, telecommunications facility within the telecommunications area that may meet the needs of the applicant. The supplied documentation shall evaluate the following factors:

- A. Structural capacity of the antenna towers;
- B. Geographic telecommunications area requirements;
- C. Mechanical or electrical incompatibilities;
- D. Inability or ability to locate equipment on existing antenna towers; and
- E. Any restriction or limitation of the Federal Communication Commission that would preclude the shared use of the antenna tower.

18.110.100 Lease Agreement

Applicants for telecommunication facilities on public facilities shall sign and agree to a development agreement with the public agency addressing items including, but not limited to access and security, maintenance of site and facilities, utility costs, and a fee for use of the public facility. The City shall enter into a standard lease agreement with the applicant for any facility built on City property. The lease shall contain the condition that the site plan and/or conditional use permit must first be approved by the designated land use authority before the lease can take effect, and that failure to obtain such approval renders the lease null and void.

18.110.110 Development Standards

Standards for Antennas and Antenna Support Structures. Personal wireless services facilities are characterized by the type or location of the antenna structure. There are four general types of antenna structures allowed by this ordinance: wall mounted antennas; roof mounted antennas; monopoles with no platform; and monopoles with a platform. If a particular type of antenna structure is allowed by this ordinance as a permitted or conditional use, the minimum standards for that type of antenna are as follows, unless otherwise provided in a conditional use permit:

A. Wall Mounted Antennas.

1. Maximum Height. Wall mounted antennas may not extend above the roof line of the building or structure or extend more than twelve (12) inches from the face of the building. 2. Setback. Wall mounted antennas shall not be located within one hundred feet (100') feet of any residence. 3. Mounting Options. Antennas mounted directly on existing parapet walls, penthouses, or mechanical equipment rooms are considered to be wall mounted antennas if no portion of the antenna extends above the roof line of the parapet wall, penthouse, or mechanical equipment room. 4. Color. Wall mounted antennas, equipment and supporting structures shall be painted to match the color of the building or structure or the background against which they are most commonly seen. Antennas and the supporting structure on the building shall be architecturally compatible with the building. Whip antennas are not allowed on a wall mounted antenna structure.

B. Roof Mounted Antennas.

1. Maximum Height. Roof mounted antenna, placed on a flat roof, may extend up to ten (10) feet above the existing structure, provided that the antenna setback from the edge of the roof is a minimum distance equal to or greater than the height of the antenna. Roof mounted antenna, placed on a pitched roof, may extend a maximum of five (5) feet above the existing structure. 2. Setback. Roof mounted antennas shall be located at least five feet (5') from the exterior wall of the building or structure, and at least fifty (50') feet from any residence. 3. Mounting options. Roof mounted antennas may be mounted on top of existing penthouses or mechanical equipment rooms if the antennas and antenna support structures are enclosed or visually screened from view. The screening structure may not extend more than eight (8') feet above the existing roof line of the penthouse or mechanical equipment room. 4. Color. Roof mounted antennas, equipment and supporting structures shall be painted to match the color of the building or structure or the background against which they are most commonly seen. Antennas and supporting structures shall be architecturally compatible with the building.

C. Monopoles ~~with no Platform.~~

1. ~~Maximum Height and Width~~ Antenna Height. ~~The maximum height of the monopole or monopole antenna shall be thirty-five (35) feet. The entire antenna structure mounted on the monopole shall not exceed two feet (2') in width.~~ The antenna itself shall not exceed ten feet (10') in height.

2. Setback. Monopoles shall be set back a minimum of 115% of the height of the monopole from any residential lot line, measured from the base of the monopole to the nearest residential lot line.

3. Color. Monopoles, antennas, and related support structures shall be stealth and painted a neutral color or a color intended to match the stealth concept.

~~D. Monopoles with Platform.~~

~~1. Maximum Height and Width. The maximum height of the monopole or monopole antenna shall be thirty five (35) feet. The antennas and antenna mounting structures on the monopole shall not exceed eight feet (8') in height or fifteen feet (15') in width. The antenna itself shall not exceed ten feet (10') in height. 2. Setback. Monopoles shall be set back a minimum of 115% of the height of the monopole from any residential lot line, measured from the base of the monopole to the nearest residential lot line. 3. Color. Monopoles, antennas, and related support structures shall be stealth and painted a neutral color or a color intended to match the stealth concept.~~

D. Tower Height by Zone. The maximum height for any tower shall be as follows:

<u>Commercial, Mixed Use, and Industrial Zones</u>								
<u>C2</u>	<u>C3</u>	<u>C4</u>	<u>MURCZ</u>	<u>NVOZ</u>	<u>I1</u>	<u>I2</u>	<u>BMP</u>	<u>IPF</u>
<u>100'</u>	<u>-</u>	<u>100'</u>	<u>65'</u>	<u>35'</u>	<u>100'</u>	<u>100'</u>	<u>65'</u>	<u>65'</u>

<u>Residential, Mountain, and Agricultural Zones</u>							
<u>R1</u>	<u>R2</u>	<u>R3</u>	<u>PC</u>	<u>MCZ</u>	<u>A2</u>	<u>RA1</u>	<u>RA2</u>
<u>35'</u>	<u>35'</u>	<u>35'</u>	<u>35'</u>	<u>35'</u>	<u>65'</u>	<u>35'</u>	<u>35'</u>

18.110.120 Additional Regulation For Monopoles And Towers

A. Distance from other Monopoles. Monopoles and towers shall be located at least ~~two thousand feet (2000')~~one mile (5,280 feet) from each other, except upon a showing of necessity by the applicant, or upon a finding by the City Council that a closer distance would adequately protect the health, safety and welfare of the community. This distance requirement shall not apply to antennas attached to lawful structures such as transmission towers, utility poles, outdoor lighting structures, and water tanks.

B. Location on Parcel. Monopoles shall be located as unobtrusively on a parcel as possible, given the location of existing structures, nearby residential areas, and service needs of the applicant. Monopoles shall not be located in a required landscaped area, buffer area or parking area.

18.110.130 Area Limitations For Wall And Roof Mounted Antennas

Any building may have a combination of wall and roof mounted antennas. The total area for all wall and roof mounted antennas and supporting structures on any one building shall not exceed the lesser of sixty (60) square feet or 5 percent (5%) of each exterior wall of the building.

18.110.140 Safety

A. Regulation Compliance.

1. Compliance with FCC and FAA Regulations. All operators of personal wireless services facilities shall demonstrate compliance with applicable Federal Communication Commission (FCC) and Federal Aviation Administration (FAA) regulations, including FCC radio frequency regulations, at the time of application and periodically thereafter as requested by the City. Failure to comply with the applicable regulations shall be grounds for revoking a site plan or conditional use permit approval. 2. Other Licenses and Permits. The operator of every personal wireless services facility shall submit copies of all licenses and permits required by other agencies and governments with jurisdiction over the design, construction, location and operation of the facility to the City, shall maintain such licenses and permits in good standing, and shall provide evidence of renewal or extension thereof upon request by the City.

B. Protection Against Climbing. Monopoles shall be protected against unauthorized climbing by removing the climbing pegs from the lower 20 feet of the monopole.

C. Fencing. Monopoles and towers shall be fully enclosed by a minimum 6-foot tall fence or wall, as directed by the Planning Director or designee unless the Director determines that a wall or fence is not needed or appropriate for a particular site due to conditions specific to the site.

D. Security Lighting Requirements. Monopoles and towers shall comply with the FAA requirements for lighting. If security lighting is used, the lighting impact on surrounding residential areas shall be minimized by using indirect lighting, where appropriate.

E. Abandonment. The applicant, or the applicant's successor(s) and/or assign(s) shall be responsible for the removal of unused telecommunications facilities within ninety (90) days of abandonment of use. If such tower is not removed by the property owner, then the City may employ all legal measures, including as necessary, obtaining authorization from a court of competent jurisdiction, to remove the tower, and after removal may place a lien on the subject property for all direct and indirect costs incurred in dismantling and disposal of the tower, including court costs and reasonable attorney fees.

1. Notice. Notice to remove shall be given in writing by personal service, or by certified mail addressed to the operator's last known address. 2. Violation. Failure to remove the antennas and monopoles after receiving written notice to remove is a violation of the terms of this Chapter. The City may initiate criminal and/or civil legal proceeding against any person, firm, entity or corporation, whether acting as principal, agent, property owner, lessee, lessor, tenant, landlord, employee, employer or otherwise, for failure to remove antennas and monopoles in accordance with this Chapter. The City may seek a civil injunction requiring the removal of any structures on the site in accordance with this Chapter. Any lease agreement with the City may also stipulate failure to remove the antennas and monopoles after receiving written notice to do so pursuant to this Chapter automatically transfers ownership of the antennas, monopoles, support buildings and all other structures on the site to the City. 3. Nuisance. Abandoned, unmaintained, or telecommunication devices that pose an immediate threat to public health and safety are hereby declared to be a nuisance.

18.110.150 Site Requirements

A. Setbacks. The placement of telecommunications facilities on a lot shall comply with the setbacks of the underlying zone as stated herein. Telecommunications facilities shall comply with the setbacks for main structures and shall not be determined accessory structures.

B. Regulations for Accessory Structures.

1. Storage Areas and Solid Waste Receptacles. No outside storage or solid waste receptacles shall be permitted on the site. 2. Equipment Enclosures. All electronic and other related equipment and appurtenances necessary for the operation of any personal wireless services facility shall, whenever possible, be located within a lawfully pre-existing structure or completely below grade. 3. Accessory

Buildings. Freestanding accessory buildings used with a personal wireless services facility shall not exceed 350 square feet and shall comply with the setback requirements for structures in the zone in which the facility is located.

C. Parking. The City may require a minimum of one (1) parking stall for sites containing a monopole, tower, and/or accessory buildings, if there is no parking available on the site.

D. Maintenance Requirements. All personal wireless services facilities shall be maintained in a safe, neat and attractive manner.

E. Landscaping. All sites with a personal wireless services facility shall be landscaped in accordance with the zone requirements where the facility is located.

F. Height. The height shall be measured from the grade or roof beneath to the top of the antenna or mounting hardware, whichever is higher. G. Design

1. Antenna and associated equipment shall incorporate materials and colors present in the context of the surrounding area. Stealth telecommunications in the commercial zones C2 and C4, Chapter 18.28. Stealth design includes structures that look like trees, church steeples, art, large light poles or ones that blend with the building they are located on and are designed in a manner to blend with the existing and natural environment. Monopoles, antennas, and any associated buildings or equipment shall be painted to blend with their surroundings and/or the stealth concept being used. 2. Panel Antennas shall be no more than five square feet (5 sq. ft.) in Area per face.

18.110.160 Site Disturbance

Any application, temporary or permanent, which requires the removal of significant vegetation or proposes any new, or improvements to driveways or roads a length greater than twenty feet (20') and/or a width greater than ten feet (10') wide, shall require a conditional use permit. As used herein, "Significant Vegetation" includes trees six inch (6") in diameter or greater measured four feet six inches (4'6") above the ground, groves of small trees or clumps of oak and maple covering an Area of twenty square feet (20 sq. ft.) or more measured at the drip line. Plans must show all such trees within twenty (20) feet of a proposed telecommunications facility. The Planning Director or designee shall determine the Limits of Disturbance.

18.110.170 Signs

Signs shall only be permitted if they are related to the health and safety of the general public. All proposed signs shall be submitted with the telecommunications facility application and subject to review by the Planning Department for compliance with Chapter 18.103 Sign Regulations.

18.110.180 Subdivision And Condominium Covenants

Many Subdivision and Condominium Covenants may address the location of telecommunications facilities within Condominium units and the lots of a Subdivision. The City is not a party to those covenants, and no permit from the City shall effect the enforceability of such covenants which might be more restrictive than this ordinance. Applicants for the installation of telecommunications facilities are advised to determine what private land use restrictions apply to their site before applying for the permit from the City. If the proposed installation is within the Common Area of a Condominium or Planned Unit Development, and the application submitted is not in the name of the Home Owner's Association or management committee, the applicant shall provide a letter from the Home Owner's Association or management committee indicating consent to the location of the telecommunications facilities within the Common Area has been granted as a part of the permit application filed with the City.

18.110.190 Related Provisions

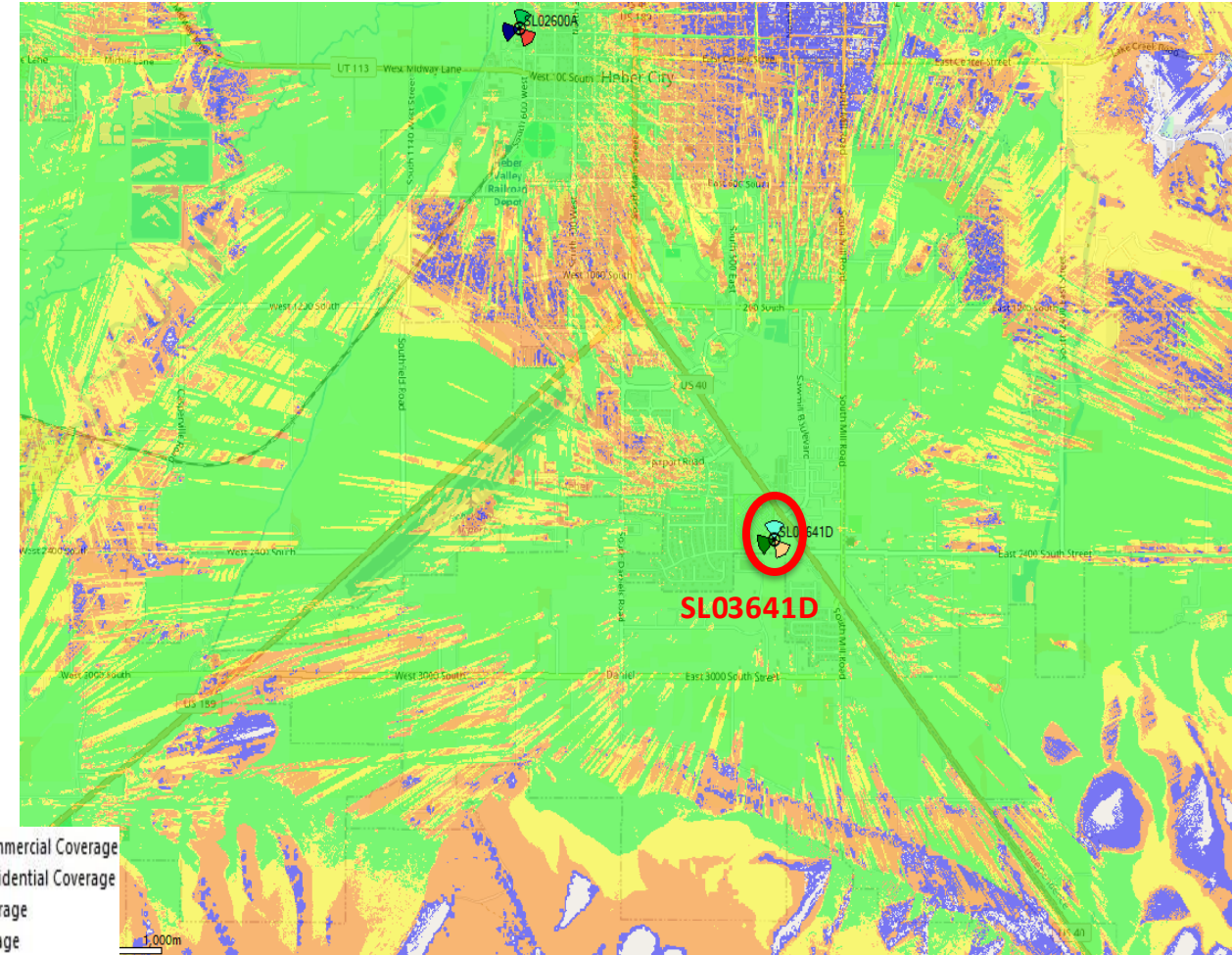
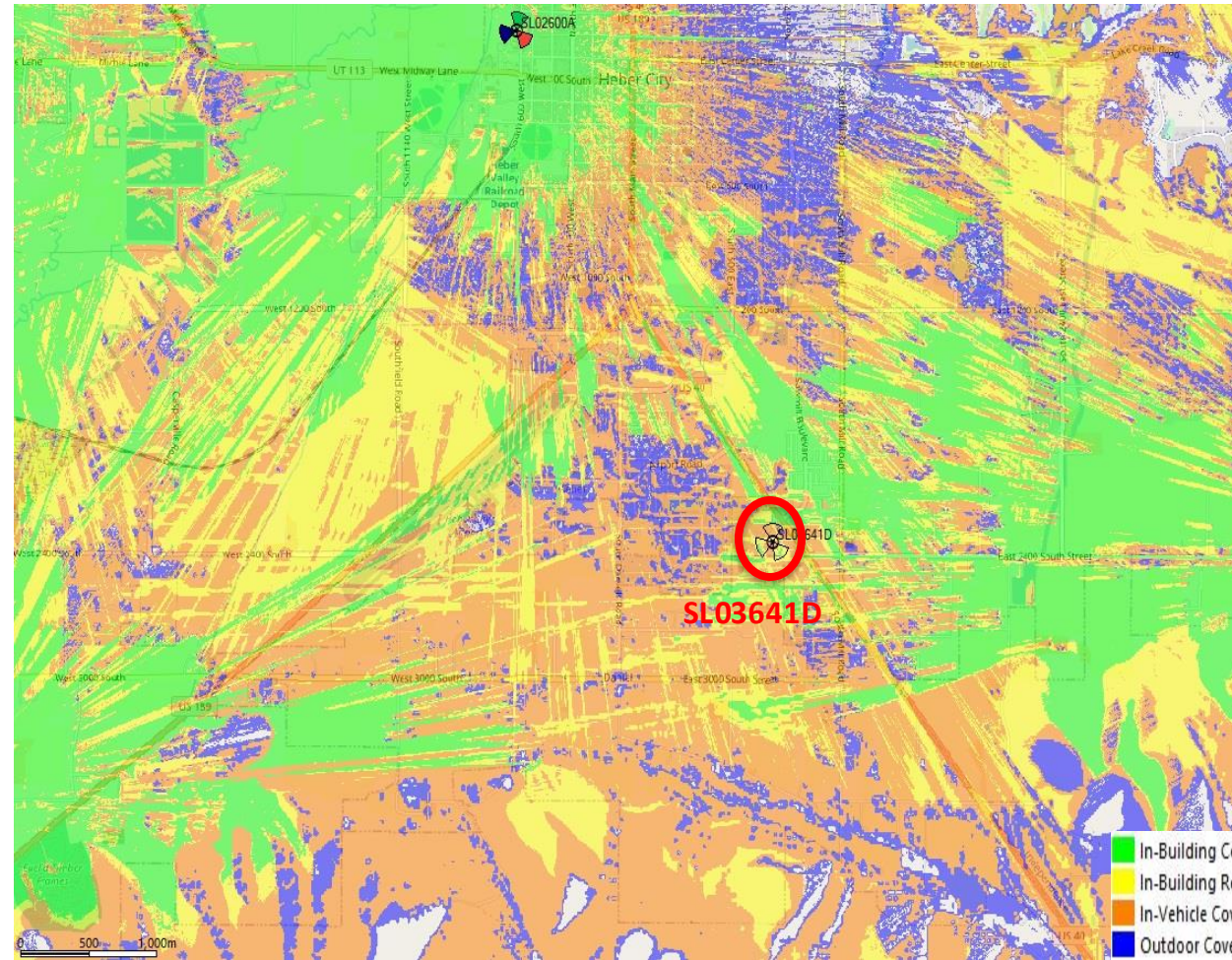
• Chapter 18.12 Administration • Chapter 18.08 Definitions • Chapter 18.108 Conditional Use Permits • Chapter 18.72 Off Street Parking and Loading • Chapter 18.103 Sign Regulations • Chapter 18.78 Lighting • Chapter 18.174 Enforcement • Chapter 17 Subdivisions • Heber City C-2/C-4 Zone Design Standards and guidelines

SL03641 Coverage Comparison Plots

Comparing Current T-Mobile Coverage with 120' RAD

Current coverage without proposed site SL03641D

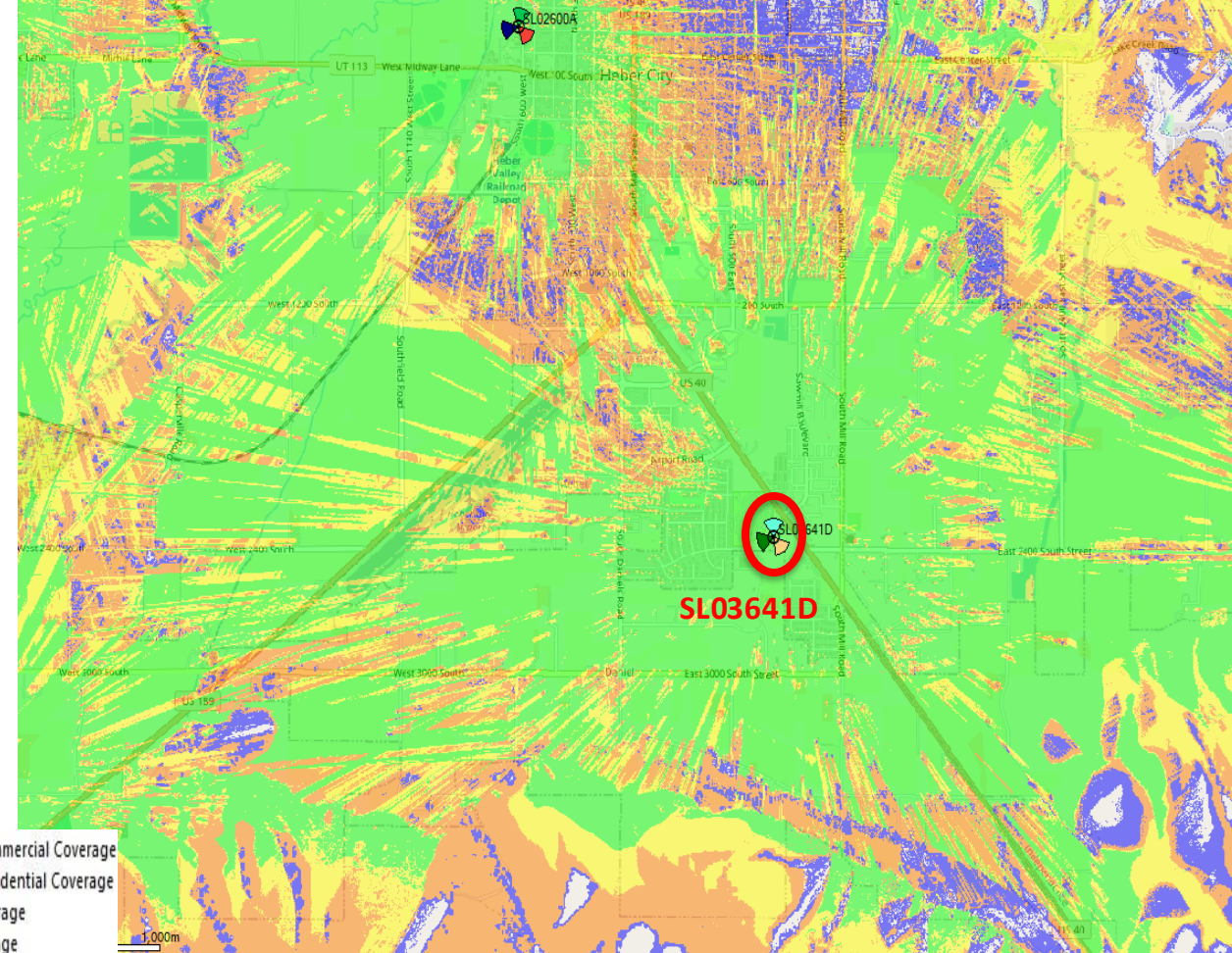
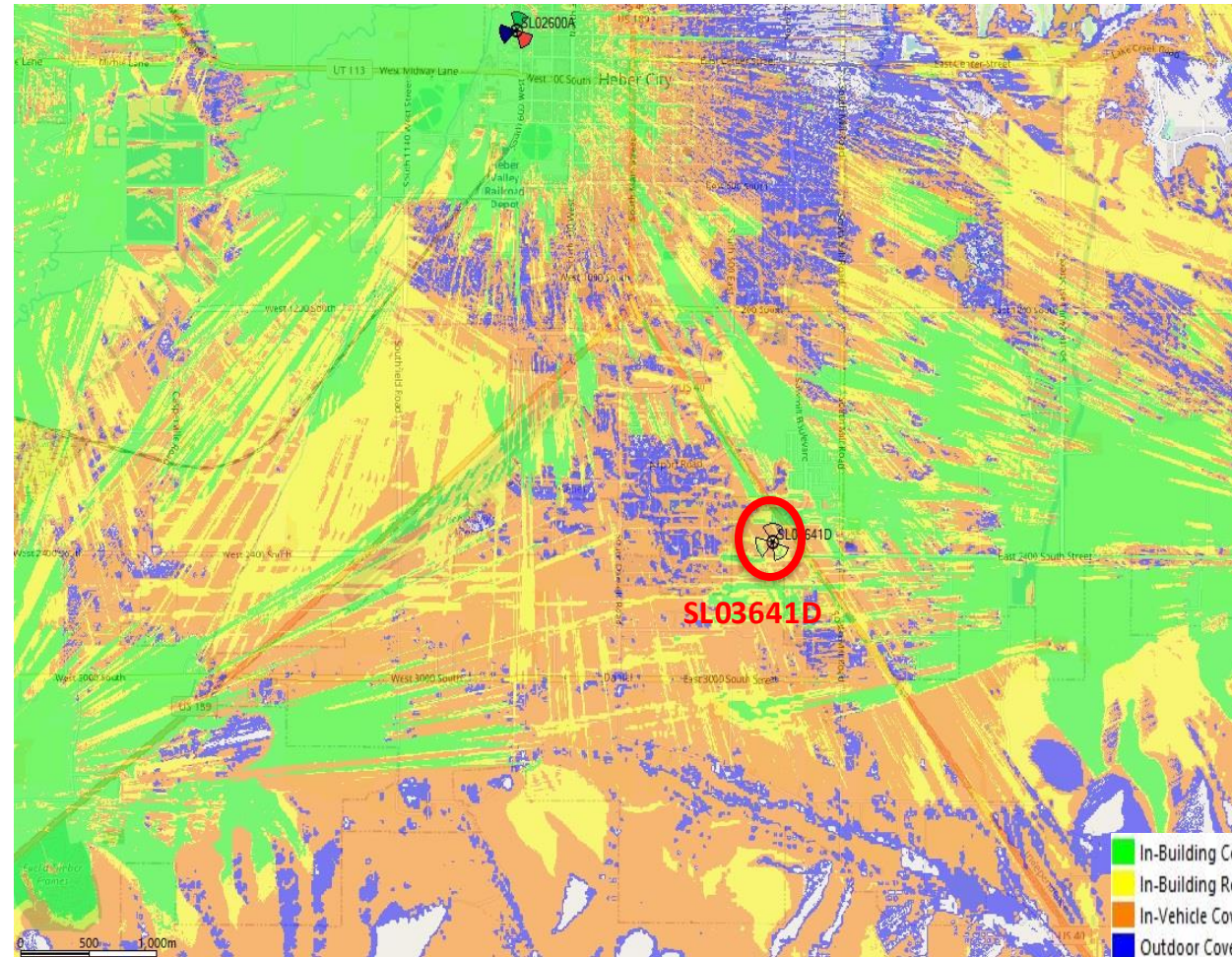
Current coverage with 120' RAD at proposed site SL03641D



Comparing Current T-Mobile Coverage with 100' RAD

Current coverage without proposed site SL03641D

Current coverage with 100' RAD at proposed site SL03641D



New T-Mobile RAD difference coverage advantages

120' RAD will provide In-Building coverage (Green & Yellow) to 5,855 more Population and 6.93 sq miles of In-Building level signal than current signal levels

100' RAD will provide In-Building coverage (Green & Yellow) to 5,513 more Population and 6.55 sq miles of In-Building level signal than current signal levels

120' RAD will provide In-Building coverage (Green & Yellow) to 342 more Population and 0.4 sq miles of In-Building level signal than the 100' RAD

T-Mobile prefers the 120' RAD which improves coverage to the most population and sq miles at an in-building signal level within the southern part of Heber.

This will allow more of our customers to make & receive higher quality calls, have faster data speeds and be able to add T-Mobile's Home Internet service.



RF Safety FAQ - Federal Communications Commission

Frequently asked questions about the safety of radiofrequency (RF) and microwave emissions from transmitters and facilities regulated by the FCC. For further information, contact the FCC's RF Safety Program at rf-safety@fcc.gov or 1-888-225-5322 (under the topic below) www.fcc.gov

ARE WIRELESS CELLULAR AND PCS TOWERS AND ANTENNAS SAFE?

Cellular wireless radio services transmit using frequencies between 824 and 894 megahertz (MHz). Transmitters in the Personal Communications Service (PCS) use frequencies in the range of 1850-1990 MHz. More recently, advanced wireless services have been or are being introduced that transmit at frequencies in the 600, 700, 800, 1695-1780, 1915-1920, 1995-2020, 2110-2200 MHz spectrum ranges. Antennas used for cellular and PCS transmissions are typically located on towers, water tanks or other elevated structures including rooftops and the sides of buildings. The combination of antennas and associated electronic equipment is referred to as a cellular or PCS "base station" or "cell site." Typical heights for free-standing base station towers or structures are 50-200 feet. A cellular base station may utilize several "omni-directional" antennas that look like poles, 10 to 15 feet in length, although these types of antennas are less common in urbanized areas.

In urban and suburban areas, cellular and PCS service providers commonly use "sector" antennas for their base stations. These antennas are rectangular panels, *e.g.*, about 1 by 4 feet in size, typically mounted on a rooftop or other structure, but they are also mounted on towers or poles. Panel antennas are usually arranged in three groups of three each. It is common that not all antennas are used for the transmission of RF energy; some antennas may be receive-only.

At a given cell site, the total RF power that could be radiated by the antennas depends on the number of radio channels (transmitters) installed, the power of each transmitter, and the type of antenna. While it is theoretically possible for cell sites to radiate at very high power levels, the maximum power radiated in any direction usually does not exceed 500 watts.

The RF emissions from cellular or PCS base station antennas are generally directed toward the horizon in a relatively narrow pattern in the vertical plane. In the case of sector (panel) antennas, the pattern is fan-shaped, like a wedge cut from a pie. As with all forms of electromagnetic energy, the power density from the antenna decreases rapidly as one moves away from the antenna. Consequently, ground-level exposures are much less than exposures if one were at the same height and directly in front of the antenna. Measurements made near typical cellular and PCS installations, especially those with tower-mounted antennas, have shown that ground-level power densities are hundreds to thousands of times less than the FCC's limits for safe exposure. This makes it extremely unlikely that a member of the general public could be exposed to RF levels in excess of FCC guidelines due solely to cellular or PCS base station antennas located on towers or monopoles.

When cellular and PCS antennas are mounted at rooftop locations it is possible that a person could encounter RF levels greater than those typically encountered on the ground. However, once again, exposures approaching or exceeding the safety guidelines are only likely to be encountered very close to and directly in front of the antennas. For sector-type antennas, RF levels to rear are usually very low.

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For further information on cellular services go to <https://www.fcc.gov/general/cellular-service>.

ARE CELLULAR AND OTHER RADIO TOWERS LOCATED NEAR HOMES OR SCHOOLS SAFE FOR RESIDENTS AND STUDENTS?

As discussed above, radiofrequency emissions from antennas used for cellular and PCS transmissions result in exposure levels on the ground that are typically thousands of times below safety limits. These safety limits were adopted by the FCC based on the recommendations of expert organizations and endorsed by agencies of the Federal Government responsible for health and safety. Therefore, there is no reason to believe that such towers could constitute a potential health hazard to nearby residents or students.

Other antennas, such as those used for radio and television broadcast transmissions, use power levels that are generally much higher than those used for cellular and PCS antennas. Therefore, in some cases there could be a potential for higher levels of exposure to persons on the ground. However, all broadcast stations are required to demonstrate compliance with FCC safety guidelines, and ambient exposures to nearby persons from such stations are typically well below FCC safety limits. ([Back to Index](#))



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April 21, 2025

VIA E-MAIL AND FIRST-CLASS MAIL

Heber City Council
Heber City Planning Commission
75 North Main Street
Heber City, Utah 84032

Re: APC Towers

Dear City Councilors and Planning Commissioners:

We are counsel to RAGE Development, who submitted an application for a wireless telecommunications facility on behalf of APC Towers. It is our understanding that during a recent meeting to discuss APC Towers' ("APC") application, several residents made comments about the alleged health effects of radiofrequency ("RF") emissions, urging you to consider these as a basis to deny APC's application. We write to provide you with context regarding how the City Council and Planning Commission should consider these claims in order to comply with the duties the federal Telecommunications Act of 1996 (the "TCA") imposes upon Heber City in handling APC's application.

The TCA, in particular 47 U.S.C. § 332(c)(7)(B), imposes a number of limitations on the bases by which a municipality may deny an application for a wireless facility, in order to preserve the regulatory authority of the Federal Communications Commission (FCC) and provide for the deployment of beneficial technology to as many Americans as possible. One of these restrictions, subsection (iv), states that "[n]o State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent such facilities comply with the Commission's regulations concerning such emissions."

The reason behind such a prohibition is because wireless service providers must comply with these federal regulations in order for their facilities to be licensed and permitted to operate, and the FCC carefully determines the safe levels of RF emissions they will allow for facilities such as the facility APC proposes building. *See* 47 C.F.R. § 1.1310. And through the TCA, Congress has "occupied the field," solely designating the FCC as the proper authority to regulate the design and safety of wireless facilities, to the exclusion of state and local authorities, as it is

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entitled to do under its Constitutional authority. As such, Congress places the technical and scientific expertise of the FCC over the opinions of ordinary citizens who, while certainly intelligent, do not contain the expertise of the FCC in order to ensure uniformity in technological standards across the country. *See Farina v. Nokia Inc.*, 625 F.3d 97, 125-26 (3d Cir. 2010). And federal courts have consistently made clear that decisions by state and local authorities in contravention of this provision – denying a wireless facility application based on the supposed environmental effects of that facility – is unlawful and would render such a decision subject to reversal. *See, e.g., T-Mobile Ne. LLC v. Town of Ramapo*, 701 F. Supp. 2d 446, 460 (S.D.N.Y. 2009) (concluding that “any decision actually based on environmental effects is a violation, whether other legitimate reasons factored into the decision or not.”)

Similarly, 47 U.S.C. § 332(c)(7)(B)(iii) requires that a state and local authority denying an application support its denial with “substantial evidence contained in a written record.” Critically for the City’s consideration, federal courts recognize that a decision violates the TCA not only when the substantial evidence offered by those objecting to the site is inadmissible evidence relating to RF emissions, but also when the findings supporting that decision are mere opinions, without and merely pretextual, chosen to conceal the true motivation of RF emissions. *See, e.g., T-Mobile Ne. LLC v. Loudoun Cnty. Bd. of Sup’rs*, 903 F. Supp. 2d 385, 410 (E.D. Va. 2012), *aff’d*, 748 F.3d 185 (4th Cir. 2014) (reversing denial and ordering approval of application when “it is clear from the Board’s written decision on the ... application, as well as the transcript of the hearing on the application, that the Board’s decision was based at least in part on concerns about the environmental effects of RF emissions.”). We ask that the City take this into account in determining the weight it gives to the claims of residents who transparently wish for the City to take action based on RF emissions but offer generalized concerns about other issues, such as views, aesthetics, or property values, in an attempt to give the City an excuse for incorporating their views into the City’s decision.

We understand that local government officials can feel beholden to the opinions of their citizens. However, preserving the rule of law is paramount when, if not upholding the law would exceed authority and result in a decision not supported by the rule of law. Accordingly, we urge you to expressly identify in your hearings on APC’s application that you are legally prohibited from considering evidence concerning alleged effects of RF emissions; and then we ask you to determine, based on the evidence APC provides in support of its application, that the application is appropriate and should be approved.

Please feel free to contact us at your convenience if you have any questions regarding anything in this letter. Thank you very much for your consideration.

Heber City Council
Heber City Planning Commission
April 21, 2025
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Sincerely,

Taft Stettinius & Hollister LLP



Mark W. Williams
Utah Bar No. 10009

MWW/ljk

cc: (via e-mail)
Rocky Schutjer
Ryan T. Shaffer, Esq.