

**SPECIAL JOINT GRAND JUNCTION AND MESA COUNTY
PLANNING COMMISSION MEETING**

April 26, 2016 MINUTES

6:00 p.m. to 9:21 p.m.

The special joint meeting of the City of Grand Junction and Mesa County Planning Commissions was called to order at 6:00 p.m. by Chairman Reece. The public hearing was held in the City Hall Auditorium located at 250 N. 5th Street, Grand Junction, Colorado. The meeting was also called to order by Chairman Price for Mesa County.

In attendance, representing the City Planning Commission, were Christian Reece (Chairman), Ebe Eslami (Vice-Chairman), Jon Buschhorn, Kathy Deppe, Keith Ehlers, George Gatseos, and Bill Wade.

In attendance, representing the County Planning Commission, were Rusty Price (Chairman), Bob Erbisch, William Page, Secretary, George Skiff, Ron Wriston, Bill Somerville.

In attendance, representing the City's Administration Department - Community Development, was Greg Moberg, (Development Services Manager) David Thornton (Principal Planner), and Rick Dorris (Development Engineer).

In attendance, representing Mesa County was Kaye Simonson (Lead Planner).

Also present was Jamie Beard (Assistant City Attorney) Shelly Dackonish (City Staff Attorney) and Steve Smith (GIS Analyst).

Lydia Reynolds was present to record the minutes.

There were 4 citizens in attendance during the hearing.

Call to Order

City Commissioner Reece called the City Planning Commission meeting to order.

County Commissioner Price called the meeting to order on behalf of the Mesa County Planning Commission.

Announcements, Presentations And/or Visitors

None

Consent Agenda

Chairman Reece briefly explained there were no items on the Consent Agenda.

***** ITEMS NEEDING INDIVIDUAL CONSIDERATION *****

Public Hearing Items

1. Wireless Master Plan

The City of Grand Junction Planning Commission will consider a recommendation to City Council and the Mesa County Planning Commission will consider Adoption of the Wireless Master Plan, an amendment to the Grand Junction Comprehensive Plan, which is intended to help guide the development and construction of wireless infrastructure and align the needs of wireless broadband service providers with government and community objectives.

CITY FILE #	CPA-2016-113
REPRESENTATIVE:	City of Grand Junction Planning Division
PLANNER:	David Thornton, (970)244-1450
COUNTY FILE #:	2016-0049 MP
REPRESENTATIVE:	Mesa County Planning Division
PLANNER:	Kaye Simonson, (970) 255-7189

The Wireless Master Plan is a joint effort between the City of Grand Junction and Mesa County.

City Staff Recommendation: Forward recommendation to City Council of approval.

County Staff Recommendation: Approval

Staff Presentation

Kaye Simonson (County-Lead Planner) stated she would like to enter the file for Project 2016-0049 MP, the Mesa County Master Plan, Mesa County Land Development Code, and the presentation as Exhibit A into the record.

David Thornton (City-Principal Planner) stated he would like to enter the staff report of file CPA-2016-113, the presentation and the proposed Wireless Master Plan into the record.

Ms. Simonson explained that the goal of the Wireless Master Plan (WMP) is to facilitate the creation of an optimized wireless telecommunications environment that is efficient, capable, and meets the long-term forecasted user requirements of the businesses, residents and visitors in the City of Grand Junction and Mesa County.

Ms. Simonson noted that this project has been in the works for just over a year with CityScape consultants, and they are listening in on the meeting and are available via email to answer any questions.

Ms. Simonson explained that the intent of the plan is to balance goals of providing good wireless network services while minimizing visual impacts. Ms. Simonson noted that the diverse landscape of Mesa County, with a mix of urbanized areas along with rural areas, creates a challenge to provide good wireless coverage for residents, businesses, visitors and 911-Emergency Services.

Another intent of the plan was to have a planning tool for developing planning policies for future wireless infrastructure that maximizes network coverage while minimizing number of new facilities.

Ms. Simonson informed the Commissioners that a few years ago there was a significant update to FCC regulations and the plan will incorporate current FCC Regulations into the planning process.

Ms. Simonson showed a slide that highlighted the following key points of the FCC Regulations:

- Preserve local zoning authority but prohibits discriminating among providers or effectively prohibiting provision of wireless service.
- Set deadlines for local review and decision based on the type of facility and the type of application process it is going through.
- Require written decisions on applications.
- Prohibit decisions based on concerns over radio frequency (RF).
- Cannot prohibit FAA-required lighting

A slide of the study area was displayed, and Ms. Simonson pointed out the Grand Junction/Persigo 201 boundary was the main portion. Study area "A" included Lower Valley, Palisade, and DeBeque. Study area "B" included more rural areas; Glade Park, Gateway, Whitewater, Collbran and Plateau Valley. Finally, area "C" was the Highway Corridors which included areas of I-70, Highways 50, 65,330 and Highway 141.

Ms. Simonson described the study process that included the following steps:

- Inventory existing wireless infrastructure and model current theoretical coverage
- Overlay 10-year growth projections to identify future coverage and capacity network needs
- Determine community preferences for wireless infrastructure using public surveys and meetings
- Analyze results and make recommendations for meeting deployment objectives over next 10-15 years

A slide of the contents of the infrastructure inventory (Appendix A) to the plan was displayed and the following information for each facility included facility owner, service provider, type, height of facility, collocation potential, latitude & longitude, parcel number and address and jurisdiction & vicinity. The intent is to have the inventory mapped in GIS.

Ms. Simonson explained that the Appendix A will be updated as changes occur. By having it as an Appendix, updates to the inventory can be made to keep it current, without changes to the Master Plan.

The next slide displayed was a modeling map that showed coverage of the study area and illustrated high and low frequencies. The modeling was done to show current coverage gaps and propose ways to fill them.

Ms. Simonson displayed a chart of the inventory analysis that listed the various study areas and the existing sites, projected fill-in (10 to 15 years) and the estimated build-out (including public safety).

Mr. Thornton stated that surveys and meetings were held to determine community preference for types of facilities. A slide with pictures of current facilities in the study area was displayed that included non-concealed as well as concealed facilities. Other examples of favored facility types was displayed that included both rural and urban types.

Mr. Thornton explained that one of the goals of the study was to determine priority sites. Mr. Thornton wanted to emphasize that they are priority in that they have been vetted. Properties that are on the Priority Site List may be eligible for expedited administrative review. A slide was displayed that illustrated the criteria for consideration that included:

- Be located within the Grand Junction Persigo 201 Boundary.
- Be one acre minimum in lot size.
- Have vehicular access to an improved public right-of-way.
- Have access to utilities.
- Be outside the 100 year flood plain.
- Must meet all City development standards and zoning code.
- Concealment is required and owner must identify the type of concealment proposed. Changes would require a conditional use permit (CUP).

Mr. Thornton went on to say that the Master Plan suggests that on a regular bases, the list of priority sites can be opened for the community, both public and private (in the 201 Persigo Boundary), to apply to have their property considered for the Priority List. A slide listing the proposed Priority Site List was shown. It was compiled during the study process. Mr. Thornton noted that all applicants that met the criteria were on the list.

Mr. Thornton showed a slide listing the conclusions of the Wireless Plan that included the following key points:

- Urban areas, Interstates and major highway corridors will continue to have the most facilities and the greatest area of network coverage.

- Existing 2G and 3G network equipment will be phased out.
- Short term network deployments will consist primarily of 4G services designed to enhance capacity.
- 4G networks will transition to 5G over the next 3-10 years.
- New 4G and 5G networks will be designed to provide wireless broadband.
- County-wide, approximately 40 new sites will be needed over the next 10 to 15 years.
- Small Cell capacity sites will be installed in urban areas to address the increasing data demands of subscribers.
- Public/Private partnerships should be encouraged that coordinate the construction of future emergency service sites in areas that also improve private wireless services.
- Public broadband initiatives that create fiber availability to tower sites may incentivize private service providers in rural and remote areas to develop more infrastructure.
- Rural and remote communities should contact their service providers to report network concerns and request solutions for poor network coverage.

The Wireless Plan identified eight action items that Mr. Thornton discussed:

- 1.) Maintain the wireless facilities inventory as facilities are added or modified and make it available to the public on-line.
- 2.) Prepare amendments to the City and County development codes that update zoning requirements and review procedures for wireless telecommunications facilities to make the codes compliant with current FCC regulations.
 - i. Update the development codes as needed when regulations change.
- 3.) Maintain the Priority Site List
- 4.) Seek out public/private partnerships to encourage the development of wireless facilities in rural areas that are underserved and have significant coverage gaps.
- 5.) Where feasible, plan for the ability to collocate private wireless facilities on public safety communication infrastructure, in order to fill coverage gaps and provide better service to residents.
- 6.) Encourage the development of broadband infrastructure that will help support the development of wireless infrastructure.
- 7.) Work with economic development partners to seek out opportunities to expand wireless telecommunication facilities to support business development.
- 8.) Maintain awareness of evolving concealment options so the design and planning processes of new towers will blend visually within the community they serve.

Mr. Thornton gave a brief overview of the plan adoption process to date. There have been 4 public meetings with stakeholders and other interested members of

the public. A WMP Survey was conducted to determine preferences of tower types and use of public property. In addition, the CityScape consultants assisted meetings with service providers and tower owners. Mr. Thornton showed a list of five City and County workshops that were held. The draft final plan was made available for public review April 15, 2016. In addition to tonight's joint meeting and public hearing, the item will go before the City Council at a public hearing scheduled for June 1, 2016.

Mr. Thornton noted that the WMP is an element of the Comprehensive Plan and is supported by Goal 11: Public facilities and services for our citizens will be a priority in planning for growth. Additionally, Policy A which states: "The City and County will plan for locations...to serve the public health, safety and welfare, and to meet the needs of existing and future growth."

Chairman Price asked if the Grand Junction PD and the County Sherriff's Department has been contacted and if they have suggestions regarding the security of these sites as they include public safety.

Ms. Simonson stated that the Grand Junction Regional Communications Center was one of the key partners in the study. In addition, they are a review agency for any of the applications that come before the County.

Ms. Simonson noted that in addition to the Comprehensive Plan, there are other area plans that support the WMP initiative. Ms. Simonson displayed a slide with the following related key points:

Mesa/Powderhorn Plan:

- SVC 3.D: Telecommunications providers shall be encouraged to expand and upgrade infrastructure in order to improve accessibility to cell phone service and to provide reliable and fast internet.
- ED 1.B: Encourage telecommunication companies to improve infrastructure for wireless and internet, to support business development.

Glade Park Plan:

- SVC 1.H (Goal for Adequate Public Safety): Support efforts to improve coverage and reliability of internet and wireless communications infrastructure.

Grand Junction adopted an Economic Development Plan (EDP) a couple years ago and Mr. Thornton explained how the WMP supports goals of this plan as follows:

- Section 1.4 of the EDP focuses on providing technology infrastructure that enables and supports private investment.

- Expanding broadband capabilities and improving wireless and/or cell coverage to underserved areas are key objectives of the EDP.
- The City has determined that the development of a Wireless Master Plan (WMP) for eventual inclusion in the City's Comprehensive Plan would be a positive step toward accomplishing those objectives.

City of Grand Junction Review Criteria and Recommendation

Mr. Thornton explained that the City of Grand Junction Zoning & Development Code Criteria for an amendment to the Comprehensive Plan is addressed in Section 21.02.130(C)(1) and displayed a slide illustrating how the WMP meets the criteria:

The Comprehensive Plan can be amended if the City finds that the proposed amendment is consistent with the vision (intent), goals and policies of the Plan and it meets one of the following criteria:

- (i) (events invalidate original premises and findings) is not applicable
- (ii) (change in character or condition of the area) is met
- (iii) (adequate public and community facilities) is met
- (iv) (inadequate supply of suitably designated land) is met
- (v) (benefits to the community) is met

Findings of Facts and Conclusions

Mr. Thornton stated that the proposed amendments are consistent with the purpose and intent of the Comprehensive Plan and the review criteria in Section 21.02.130 of the Zoning and Development Code have been met.

Mr. Thornton's recommendation was to forward a recommendation of Approval of the Wireless Master Plan (CPA-2016-113) to the Grand Junction City Council.

Mesa County Review Criteria and Recommendation

Ms. Simonson noted that the Mesa County Master Plan amendment approval criteria is found in Section 3.2.8 of the Land Development Code which states "The Planning Commission may approve proposed Master Plan Amendments only if consistent with the overall purpose and intent of the Mesa County Master Plan, and the general approval criteria of Section 3.1.17C." Ms. Simonson displayed a slide that listed the criteria and the results of whether the criteria had been met as follows:

- 3.2.8.A (error in original Master Plan) is not applicable
- 3.2.8.B (events invalidate original premises and findings) is met
- 3.2.8.C (change in character or condition of the area) is met
- 3.2.8.D (consistent with goals and policies of the Master Plan) is met
- 3.2.8.E (adequate public and community facilities) is met

- 3.2.8.F (inadequate supply of suitably designated land) is met
- 3.2.8.G (benefits to the community) is met
- 3.1.17.A (complies with Land Development Code) is met
- 3.1.17.B (consistent with review comments) is met
- 3.1.17.C (consistent with IGAs) is met

Ms. Simonson recommendation was to approve the Wireless Master Plan (PRO 2016-0049 MP) and certify the amendment to the Board of County Commissioners. The basis for the adoption is that the Wireless Master Plan **does meet** all applicable approval criteria found in Section 3.2.8 and Section 3.1.17 of the Mesa County Land Development Code. Ms. Simonson stated that the County Planning Commission would not adopt the resolution at this hearing and that it would occur following final City Council action; they would only be approving the plan at this time.

Chairman Price and Chairman Reece asked their Commissioners if they had questions for staff at this time. Hearing none, Chairman Reece asked if there were questions or comments from the public.

Questions/Comments from Public

Ms. Meghan Winokur, an attorney with Holland and Hart, Aspen, CO informed the Commissioners that she is in attendance to provide a letter provided by her client, the American Tower Corporation. American Tower has been working with City and County staff and CityScape regarding the WMP as well as the proposed amendments to the City Ordinance.

Ms. Winokur stated that American Tower does not have any requests or comments regarding the WMP, but they do have specific comments regarding the proposed City amendment to the ordinance. The building classification standards for new steel communication towers.

Noting that there are three class standards for towers, the industry default is a class II building requirement unless there are specific circumstances requiring the higher standard. Ms. Winokur pointed out that the ordinance as it is currently drafted, calls for a class III building standard to be required for new towers which significantly increases the cost for constructing new towers.

Commissioner Wade asked what the cost difference is between a class II and class III tower. Ms. Winokur stated that the cost difference is due to the requirement for stronger steel and foundation requirements. It was noted that this difference does not have impact on the amount of carriers or co-locates that can be on the tower.

Chairman Reece asked if there were differences in appearance to the two types of towers. Ms. Winokur stated that she was not aware of any differences to appearance, but she would be happy to verify that with the American Tower engineer.

Chairman Price asked if American Tower has been involved with any of the committees that have been working on the study for the past year. Ms. Winokur stated that she is not aware of the entire history of American Tower's participation in the study, but she is aware of the fact that they have been in touch with the staff over recent months.

Commissioner Erbisch asked if Ms. Winokur was addressing the classification of towers on buildings or free standing. Ms. Winokur clarified that their request referred to new tower construction.

Chairman Reece asked Mr. Thornton if he could clarify the concern. Noting that American Tower's issue is with the ordinance and not the WMP, Mr. Thornton advised that the Commission discuss this concern during the public hearing portion of the amendment to the ordinance which is the second item on the meeting agenda.

Commissioner Page asked what the cost difference was in constructing a Class II tower vs a Class III tower and noted that it may be cheaper to construct to Class III standards at construction rather than upgrade later.

Ms. Winokur stated that she was informed by American Tower that the cost difference is about thirty percent. She went on to say that American Tower would like to see the focus be on ways to reduce non-redundancy, which is to create a system where you have redundancy in the coverage. Another emphasis is to ensure towers have some type of back-up power supply. Ms. Winokur stated that the Class III standard is designed for areas of National Defense or where there are large populations in case a tower was to fall.

Chairman Reece thanked Ms. Winokur for her comments and noted she would have an opportunity to speak during the public hearing for the amendment to the ordinance.

Commissioner Discussion

Referring to the WMP, Commissioner Gatseos stated that he felt the study was both comprehensive and detailed with many opportunities for input from both the community and the contractors.

Commissioner Ehlers expressed a concern about the "priority site" determinations as it relates to public and private ownership, and asked if it is only addressed in the ordinance, or is it in the WMP as well. Mr. Thornton clarified that the WMP allows for the ordinance to address the priority site list, but how that is implemented is left to the appropriate local jurisdictions.

Ms. Simonson added that the study was open to both public and private entities and both entities can request to be reviewed and added as a priority site in the future as well.

Chairman Price stated that security was a concern discussed at their workshops and he would like to know if private vs. public property is an issue.

Ms. Dackonish (City Staff Attorney) stated that the goal of the Priority Sites was to steer the industry to the coverage gaps that were identified in the Plan.

Ms. Simonson noted that the security of a site is specific to the individual design of a site and would be determined during the review process. The WMP identifies potential coverage and does not go into that level of detail.

Commissioner Ehlers expressed concern about calling the sites “Priority.” Recognizing the sites have been vetted, he feels another word such as “appropriate” may be more suitable. Commissioner Ehlers felt that calling sites a “Priority” lends itself to a level of interpretation and discussion at approval hearings that may present an unfair bias to public-owned land in the coverage gap over a privately owned property that meets the same criteria.

Questions for Staff

Commissioner Gatseos asked if the process and the resulting WMP will result in the City being able to obtain more service for the citizens.

Mr. Thornton stated that he was pleased with the work that the consultants have done and feels the WMP will hopefully attract and allow service providers to fill in the coverage gaps.

Commissioner Erbisch asked if there is strong enough language that would encourage the industry to provide better coverage to rural areas.

Ms. Simonson replied that the construction of towers is industry driven. The WMP is the first step to address the issues. The plan encourages public-private partnerships and for example, Collbran, has a tower constructed for Public Safety that is co-locatable.

Mr. Thornton noted that the Priority Site is an administrative review and will never result in a neighbor vs neighbor situation at a public hearing. The applicant would have to abide by the type of tower that was vetted on the list. The list is a tool for the industry to use as a starting point, but they would never be required to locate on a public property.

MOTION: (Commissioner Eslami) “Madam Chairman, I move to make a recommendation of approval of the Wireless Master Plan, CPA-2016-113, to the Grand Junction City Council.”

Commissioner Wade seconded the motion. A vote was called and the motion passed unanimously by a vote of 7-0.

Chairman Price asked the County Commissioners for a motion to close the public hearing. Hearing a motion but not voting, Chairman Price declared the public portion of the meeting closed for Mesa County Planning Commission.

Ms. Simonson noted that a roll call vote is needed. There was discussion as to what action needs to be taken. Ms. Simonson stated that the Commission needs to make a motion to take action on the WMP. Ms. Simonson clarified that the County Planning Commission will make adoption of a resolution at a future meeting. Ms. Simonson further explained that typically with joint plans there is a motion to approve the plan, but withhold the resolution until after the City has completed their portion.

Motion: Commissioner Erbisch moved to approve the WMP
Second: Commissioner Wriston

Roll call vote:

Commissioner Erbisch - Yes
Commissioner Somerville- Yes
Commissioner Wriston- Yes
Commissioner Skiff- Yes
Commissioner Page- Yes
Chair Price- Yes

Motion Passes: 6-0

Joint Meeting Adjourned

Chairman Reece adjourned the Joint Meeting of the Mesa County Planning Commission and the City of Grand Junction Planning Commission and informed the audience that there will be a brief break before the next item.

Break

After a short break, Chairman Reece reconvened the meeting of the City of Grand Junction Planning Commission.

2. Zoning Code Amendment

The City of Grand Junction Planning Commission will consider a recommendation to the City Council of the adoption of a zoning code amendment to amend the section on communication facilities.

CITY FILE# ZCA-2016-112
REPRESENTATIVE: City of Grand Junction Planning Division
PLANNER: David Thornton, (970)244-1450, davidt@ci.grandjct.co.us

Staff Presentation

David Thornton, (Principal Planner) explained that this amendment to the Zoning and Development Code is addressing Telecommunications (Wireless) Facilities in order to implement the WMP.

Mr. Thornton went on to say the proposed Code amendments serve four primary purposes:

- (1) to implement the Wireless Master Plan;
- (2) to conform regulations governing telecommunications facility development to federal regulations;
- (3) to limit and/or manage unnecessary proliferation of unsightly towers by encouraging co-location of wireless facilities and
- (4) to establish standards for development which encourage safe and effective development of wireless facilities while minimizing their impacts on surrounding land uses.

Mr. Thornton explained that without a Master Plan the wireless industry will install infrastructure based on their individual business needs, which results in a proliferation of unsightly towers and spotty coverage.

The Master Plan is intended to guide the industry to utilize existing infrastructure to the greatest extent possible, and to install new towers in the most effective locations and in the most efficient manner, so as to provide maximum coverage with a minimum number of unsightly towers. The proposed Telecommunications Facilities Ordinance encourages maximum co-locations on single towers, use of concealed tower technology, tower placement that fills coverage gaps identified in the Master Plan, and high quality emergency communication (911 services).

Mr. Thornton wanted to emphasize that 911 (Grand Junction Emergency Services) funded the Wireless Master Plan study which is an important component to the study.

Mr. Thornton displayed a proposed use table/matrix and explained that the current code has one item in the "use category" for Telecommunication Facilities and all towers require a Conditional Use Permit (CUP). The proposed amendment will separate out different types of facilities and not all will require a CUP. For example, if a proposed tower location is listed on the WMP Priority Site list, then it has already been vetted and will not require a CUP.

Ms. Dackonish (Staff Attorney) explained that part of the purpose of the code amendment will help bring the code into compliance with Federal legislation and FCC regulations. Ms. Dackonish went on to say that although the regulations have been in place for a while and followed informally, this WMP study was a comprehensive approach to addressing compliance.

Ms. Dackonish displayed a slide that outlined the Federal regulations which state that local governments must:

- Allow carriers to deploy wireless facilities
- Treat providers equally
- Act expeditiously in deciding applications
- Issue a written decision based on substantial evidence that is not speculation and does not relate to concerns about RF emissions
- Respect areas of federal control (lighting – FAA; RF emissions)

It was noted that radio frequency emissions are exclusively regulated by federal standards and have been determined to be harmless therefore it cannot be a basis for denial of a facility.

The FCC interpreted what the broad federal legislation acts meant and as a result, time limits for rendering decisions on applications was established. Decisions on applications for new facilities must be completed in 150 days and 90 days for co-locations or modification of existing structures. This has since been changed to 60 days for colocation/modification applications when FCC regulations (FCC 2014 R&O) implemented the Spectrum Act. Additionally, the basis for decisions must be in writing and must be issued contemporaneously with the decision.

Ms. Dackonish displayed a slide regarding the Spectrum Act (2012) which explained that local government “may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station”

The FCC 2014 R&O defined for purposes of co-location of “substantial increase to the size of a tower” the following criteria;

- Addition of antenna on a tower that would increase its height by greater of 10% or 20 vertical feet; or
- Addition of antenna that requires installation of more than standard number of equipment cabinets (not to exceed 4), or more than 1 new equipment shelter; or
- Addition of antenna that would increase the girth (width) of the tower by more than 20 feet; or
- Addition of the antenna would involve excavating around the tower site beyond the existing boundaries of the property associated with the facility.

Ms. Dackonish explained that if an applicant’s proposal for an existing tower falls into the non-substantial change parameters, a decision must be rendered in 60 days but if it is not, it is “deemed” approved.

It was noted that Federal preemption does not apply when a local government is acting as a landlord and is not using its police power / regulatory authority. Therefore the proposed ordinance includes a preference for siting on public property, so that the City can require tower design, such as concealment, which will mitigate a new tower’s visual impact to the neighborhood

Ms. Dackonish informed the Commission that she had heard from American Tower about a week prior to tonight's meeting, but they are taking the comments regarding Class III requirements into consideration. A conference call was set up, however their engineer was not in attendance during the call. She has also been working closely on a lease with SBA, another tower company. Ms. Dackonish stated that SBA has not commented on the Class III requirement and she has not heard from other tower companies regarding the standard.

Mr. Thornton stated that the Ordinance proposes changes to regulations relating to Telecommunications Facilities which:

- Comply with Federal statutory and regulatory requirements
- Implement the community's preference for use of existing structures to the maximum extent before constructing new ones
- Encourage DAS and small cell deployment and inclusion of public safety communications equipment
- Incorporate other public commentary from surveys, such as concealment, appropriate zone districts, etc.

Mr. Thornton displayed a slide highlighting a variety of topics that the proposed ordinance addresses.

Mr. Thornton emphasized that the Ordinance is specific in the hierarchy of the preference order of types of Wireless Facilities. Generally, Co-locating new wireless services on existing facilities is preferred, constructing a new tower is least preferred and to do so one must demonstrate that "higher ranked options are not technically feasible, practical or justified given the location of its proposed facilities, by clear and convincing evidence."

Mr. Thornton noted that the use of a "Priority Site" is noted in the use table. Ms. Dackonish added that it is also in section 5 in the "siting preferences" in hopes of getting towers in the "gaps" first.

Mr. Thornton displayed a slide that listed the hierarchy of the siting preferences as follows:

- (1) Co-locate or combine on or with existing facility
- (2) Conceal on a Base Station
- (3) Non-concealed on a Base Station
- (4) Replacement of existing Telecommunications Facilities
- (5) Dual Purpose Facility
- (6) Concealed small cell site
- (7) Non-concealed small cell site
- (8) Distribute Antenna System (DAS)
 - Attached DAS
 - New Freestanding DAS

- (9) Concealed Wireless Tower
- (10) Non-concealed Wireless Towers

Mr. Thornton stated that the proposed ordinance favors publicly owned property over non-public property for future telecommunication facility sites for three reasons; public safety, aesthetics and revenue and gave examples of each. Mr. Thornton noted that an applicant can select a lower-ranked preference wherever the higher ranked options are not technically feasible, practical and/or justified. This was kept intentionally broad so as to provide maximum flexibility for the applicant.

Mr. Thornton showed several slides that displayed a preference schedule for the different types of facilities and explained the hierarchy of criteria.

Findings of Fact/Conclusions & Conditions

Mr. Thornton stated that after reviewing the proposed text amendments for Telecommunication Facilities, ZCA-2016-112, the following findings of fact, conclusions and conditions have been determined:

The Proposed Text Amendments will

1. Implement the Wireless Master Plan;
2. Respond to the mandates of the Telecommunications Act of 1996, the Middle Class Tax Relief and Job Creation Act of 2012, and other applicable federal and state laws limiting local discretion to regulate location of personal wireless service facilities (PWSF);
3. Limit and/or manage the unnecessary proliferation of unsightly towers by encouraging co-location of wireless facilities; and
4. Establish standards for development which encourage safe and effective development of wireless facilities while minimizing their impacts on surrounding land uses.

Questions for Staff

Commissioner Gatseos was concerned about the appearance of the Distribute Antenna System (DAS) sites and asked if the ordinance will effectively address the aesthetics. Ms. Dackonish explained that in addition to standards listed for DAS sites such as screening and setbacks, some of the DAS sites will be added to existing street lights and traffic light poles. In addition, the DAS sites are lower and will not be seen from as far away as towers.

Ehlers asked if the intent of staff, by means of the ordinance, was to provide an unfair advantage to use City property for these priority sites. Mr. Thornton stated that as a community, we value private market and private property rights and did not want to create an ordinance where everyone had to go to a public site. In addition, there may not be public property where a site is needed.

Based on the study, it is projected that there could be a need for 11 to 18 new towers over the next 10 to 15 years. If one or two tower applications came in per

year, the City would like to encourage the industry to locate on publicly owned sites to allow for 911 emergency services and aesthetics to be considered. The study has set Priority Sites based on coverage gaps, but the market needs may change over time.

Chairman Reece asked the ordinance provisions are able to control aesthetics because the process is being streamlined and not requiring a CUP. Chairman Reece also asked what allows the City to require more stringent requirements for a tower company to locate on a municipal property verses a privately owned property. Ms. Dackonish explained that the status of the City as a landlord verses a governmental entity comes into play.

Commissioner Wade referred to the Priority Sites and asked if a private company wished to locate in an area that has both public and private sites, would the applicant get to decide where they want to locate. Mr. Thornton stated they would and the Priority Sites on private land would have the same expedited administrative review process as would a public Priority Site.

Commissioner Ehlers indicated that his understanding of the ordinance is that a public owned property has an advantage in that they rate higher on the hierarchy list and an applicant would have to document that a higher ranked option is not technically feasible, practical or justified. Commissioner Ehlers expressed concern that if all else being equal, the public Priority Site would be favored over the private Priority Site and he would like to see the playing field equal.

Ms. Dackonish stated that the ordinance is designed to give a preference to public Priority Sites as a tool to encourage and steer the industry to areas of greater gaps in coverage.

Chairman Reece asked if a private property owner is able to get their site listed as a Priority Site, and a public site is also a Priority Site, would the evaluation continue through the hierarchy list. Ms. Dackonish stated that the applicant would be the one to decide which site to bring forward.

Discussion continued regarding public Priority Sites verses private Priority Sites and Commissioner Buschhorn expressed concern that the need for "clear and convincing evidence" required for a private site may a sticking point. Ms. Dackonish explained that the ordinance is intended to encourage the applicant to look at publicly owned land first. As a governmental entity, the City cannot require a private landowner to meet certain criteria, only the standards that are listed in the ordinance.

Chairman Reece asked if the reasons to locate on a private verses public property is considered administratively. Ms. Dackonish clarified that by the time a CUP is brought to the Planning Commission for recommendation that site location has been established and is considered acceptable after staff review. Chairman Reece noted that if it is a Priority Site, then it would not need a CUP.

Commissioner Ehlers stated that the public Priority Site preference would create an advantage for the City. Ms. Dackonish agreed that it would. Commissioner Ehlers stated that if the intent of the ordinance is to create an advantage to the publicly owned sites over equal privately owned sites when they can meet the same standards, then he has a strong objection to it.

Ms. Dackonish emphasized that the language used “not technically feasible, practical or justified” was intentional broad enough to allow for a variety of situations where a case can be made that a private property was more suitable for the applicant’s needs and gave some examples such as elevations, a building in the way or access being too restrictive.

Commissioner Eslami felt that the City, as a landlord, is justified in participating in a free enterprise system that uses incentives for customers.

Chairman Reece expressed concern that there is an appearance that if you don’t go choose a Public property, then the City could make more requirements on a private property location, and she does not see that as a fair advantage.

Commissioner Wade felt that if the Priority Site designation process had been better publicized, then there would be many more private properties on the list.

Chairman Reece commented that there had been conversations as to how often the City would open the application process for Priority Sites and she feels that it should always be open. If it could not be made an open process then she would have a hard time moving the ordinance forward. Ms. Dackonish noted that City Council could direct staff to create a policy and establish how often to have the process open. She said it could be brought forward to City Council as part of the recommendation, however it would be an informal policy direction that staff would follow but not be a part of the WMP or the ordinance.

Chairman Reece inquired about the possibility that City revenue generated becomes an issue with TABOR. Ms. Dackonish clarified that lease from real property is not a tax so therefore would not apply. Chairman Reece asked if language needs to be incorporated into the ordinance to plan for the revenue sources coming in from the leases. Ms. Dackonish stated that this ordinance is for use specific site standards for tele-communication facilities and not revenue directing ordinances. She added that they have been looking at options for revenues, such as a possible enterprise fund for broadband, wireless and 911, however that would be a policy direction they would have to get from City Council.

Commissioner Ehlers asked if there was a specific set of criteria that a property owner could meet and be assured that they will become a Priority Site. Mr. Thornton read a list of the criteria for Priority Site status that is in the WMP and gave examples of how they could meet the criteria.

Commissioner Ehlers stated then asked, if there is a set criteria to become a Priority Site and someone is able to meet the criteria, why do they have to apply

to become a Priority Site. His concern is that there doesn't seem to be a mechanism in place that addresses how to become a Priority Site. Commissioner Ehlers asked if it is appropriate to be moving forward with the ordinance if that mechanism is not identified. Ms. Dackonish wanted to clarify that the Priority Sites are to steer the industry to specific coverage gaps, however the industry can apply to have a tower elsewhere.

Commissioner Wade stated that the issue they have is how the priority system works and if it is fair.

Commissioner Gatseos understands the goal is to streamline the process, induce the market providers to come into coverage gaps and to try to facilitate the 10 year build-out of towers. Noting a lot of discussion around semantics, Commissioner Gatseos stated that he is not fond of the word "priority" and thinks "approved" or "preferred" may be better and asked if there is a way to improve on the writing of the ordinance. Ms. Dackonish advised the Commission that they can forward the recommendation to Council with additional language to clarify concerns they may have.

Chairman Reece advised the Commissioners that if they are not comfortable going through the language and moving it forward at this time, they can remand it back to staff or continue it into another hearing.

Mr. Thornton suggested that they don't remand it back to staff because what is set forth is the staff's recommendation based on the WMP, public input, and an entire study and the outcome of that probably won't change. Mr. Thornton stated that if they table the item because they need more time to work on how to modify the language of the motion to address concerns the Commission has, that is one thing, but staff will have the same recommendation.

Mr. Moberg, Development Services Manager, clarified that the ordinance was not crafted solely by staff, but was a result of many public hearings and comments. There were also several Council-people on that committee and involved in the process. Mr. Moberg emphasized that the ordinance brought forward was based on a lot of input and technical information with the help of expert consultants in this field.

Addressing the Commissioners, Chairman Reece asked if they were comfortable making changes and forwarding them to City Council, or would they like to remand it back and work on modifications.

Commissioner Ehlers sees the issue as what would the recommendation look like, and what is it trying to do. If the intent is to try and provide an advantage for public land then he is in opposition as to the way it is currently written. If it is not the intent to make private land owners go through more processes to be at the same level of acceptance as the public land, then he would feel comfortable to send it forward with a strong recommendation that the language be revised so it does not look like there is an advantage.

Commissioner Wade stated that he is in favor of clarifying the language at the next workshop on May 4th so they are clear on the intent of the language. Ms. Dackonish suggested that the intent is clear, that outside of the Priority Sites, there is a preference for City owned property, then publicly owned and then private property.

Ms. Dackonish asked if this is the only concern they would like to further discuss. Chairman Reece said she is interested in further discussion as to the Class III verses Class II tower construction requirement.

Given that the Joint Planning Commissions have passed the WMP, Commissioner Gatseos was in favor of taking the time to try to rework the language to send forth the best ordinance they can.

The Commissioners continued to discuss the issue and it was the consensus that they wanted to review the language. Chairman Reece noted that if the additional conversations were productive and given all the public input that has already gone into the study, they may be able to put it on the Consent Agenda for the May 10th meeting.

Public Comment

Chairman Reece opened the meeting up for public comment and Ms. Winokur, on behalf of American Tower Corporation said she was available for questions.

Referring to the document that Ms. Winokur had provided to the Commissioners earlier in the meeting, Chairman Reece asked where the information had come from. Ms. Winokur stated that excerpt is from a document of industry standards that were developed by the Telecommunications Industry Association.

Commissioner Ehlers asked if their concern is that a Class III will be required by policy when a Class II may be acceptable. Ms. Winokur stated that they would like to see the ordinance consistent with industry standards that say a Class III may not always be required.

Ms. Dackonish explained that the City adopted the 2012 International Building Code (IBC). The City has chosen to require the more stringent standards of a Class III. Ms. Dackonish pointed out that Class III is recommended for critical structures and the City considers the 911 component a critical structure. CityScape has a team of engineers that work all over the country and they feel that the Class III standards is the direction the field is going in.

Chairman Reece questioned why all the towers are required to be Class III when it appears Emergency Services (911) is the only applicable category for our area. Ms. Dackonish explained that potentially all new towers could host Emergency Services (911), therefore the plan supports the requirement.

Referring to the handout of Class III requirements, Commissioner Buschhorn felt that there is a difference between emergency radio communications that the Sheriff's Office or Police Department uses versus cell phone and internet coverage. Commissioner Buschhorn referenced the "emergency, rescue and disaster operations" criteria for Class III requirements and stated that he does not feel 911 phone calls fit that criteria.

Commissioner Wade asked if they had looked at other cities in Colorado to see if they made the Class III a requirement. Ms. Dackonish replied that they had relied on the expertise of their consultants and the issue had not come up until this week.

Commissioner Wade asked how many tower companies do we currently have in our area. Ms. Dackonish indicated that she believed the number to be two or three, but that SBA is the main one. She noted that they were given the proposed plan and to this date, have not commented on the Class III versus Class II requirement. Mr. Thornton said that he was talking earlier in the day to a private consultant who is working with the City on a tower for SBA currently. He said the consultant had been in the business 12 years and has done over 200 towers and they all have been Class III. Mr. Thornton referenced a chart on page 17 of the WMP and the inventory indicated that SBA has 19 towers and American Tower has seven and Crown Castle International and Verizon have five. Mr. Thornton went on to say there are 19 towers county-wide whose owners are unknown because there are no permits on file for them.

Commissioner Gatseos asked Ms. Winokur about the "approximate" 30 percent cost increase to build to Class III standards over a Class II tower. Ms. Winokur stated that she did not have the exact range of increase and that American Tower is asking for time to discuss the blanket Class III requirement.

Commissioner Discussion

Commissioner Ehlers asked staff to look into the "thirty percent" cost difference. His concern that if the tower is cost prohibited it may impact the kind of wireless service we are getting. Ms. Dackonish stated that they had asked American Tower for that information but have not received it as of this date, but they will bring it forward when they receive it.

Mr. Moberg reiterated that there is no problem scheduling an extra workshop. All of the items on the May 10th agenda are consent except for one so there will be an open public hearing opportunity then. Mr. Moberg suggested that if the Commissioners feel strongly about lowering the requirement to Class II, they could craft a motion striking that language. However, if more discussion is desired, then a workshop can be scheduled.

Chairman Reece asked for a motion. Chairman Wade asked Ms. Beard if they need to act on the proposed motion. Ms. Beard clarified that the Commission can create a motion with modified terms. Ms. Beard went on to say that it is preferable to phrase the motion as a motion for approval and the Commissioner

can vote in favor or not. Discussion continued regarding the difference of remanding it back to staff, or tabling the hearing and phrasing of the motion.

Commissioner Ehlers suggested a motion for a recommendation to approve the ordinance as proposed with a caveat that any language that provides a benefit or bias toward public land verses private property owner, be stricken.

Chairman Reece asked Commissioner Ehlers if he wanted to address the Class III issue in the motion. Commissioner Ehlers stated that he would need more information on that. Chairman Reece asked the Commissioners if they clearly understand the motion. Hearing that some were not, Chairman Reece agreed that she felt it was left up to interpretation and not sure what it really means.

Ms. Dackonish stated that from her perspective it was clear and they would just strike the public property preference out of the hierarchy in the ordinance.

Commissioner Buschhorn state that he was not comfortable re-working a motion and not seeing it written down. In addition, he felt more discussion was needed.

MOTION: (Commissioner Wade) “Madam Chairman, I move that we defer any action on recommending approval or denial of the proposed ordinance until we have another workshop where we can get some of our questions clarified.”

Commissioner Deppe seconded the motion. A vote was called and the motion passed unanimously 7-0

Discussion continued about when to have a workshop. Commissioner Gatseos asked for additional information about the Class III verses Class II tower construction.

Other Business

None

Adjournment

The Planning Commission meeting was adjourned at 9:21 p.m.