

Agenda Item: Zoning Motion 2017-4, Communications Facilities Text Changes to UDO

DATE: February 7, 2018
FROM: Mary Jo Gollnitz, Planner

Background/Issue:

As discussed at the public hearing, staff has updated the Communications Facilities text in the UDO in order to meet state and federal regulations.

Proposal/Solution:

- Corrections to typos have been made as noted at the public hearing and by Planning Board.
- Staff has added corrections to Chapter 5 that cross reference Section 155.506.41 Communication Facilities for language to be consistent throughout the UDO.
- Planning Board request for clarification of sub-section headings, along with subsequent alpha/numerical changes are now included.
- Staff has added clarifying language of “*encroachment agreement (permit)*” in several locations at the direction of the Town Attorney.
- One additional paragraph at end of the text explaining the application process for enclosed locations.

Financial Impact:

None

Related Town Goal(s) and/or Strategies:

Quality of Life
Economic Development/Land Use Planning

Recommended Motion/Action:

Approve rezoning application 2017-4 as revised.

***Please note: We have been asked to provide possible language for motions both in favor of, and in opposition to, this Zoning Application. These 2 optional pages are enclosed here, with suggested language regarding this case's Consistency with adopted land use plans and policies, and whether it is Reasonable. Feel free to add or revise these statements to make them fit your Board's conclusions*

The proposed revisions here are either revising current wording or adding new language to current sections. New text is indicated by blue font and current text to be deleted is indicated in blue font with a line through it. Text in red font is in response to Planning Board comments and staff corrections since the public hearing.

Motion #2017-4 UDO Text Changes

Chapter 1:

155.103.C. Definitions Correct and Add:

Collocation: shall mean the mounting or installation of communication (transmitting or receiving) equipment on a structure such as an existing water tower, utility pole, communication tower or facility.

Communications Antenna: shall mean any structure or device used to collect or radiate electromagnetic waves, including directional antennas - such as panels, microwave dishes, and satellite dishes and omni-directional antennas such as whips but not including satellite earth stations **for private use**. Where a set or group of devices work as a single unit, such as three (3) panels facing different directions for three hundred sixty degree (360°) coverage, then that group shall be considered as a single antenna.

Digital Device: shall mean a device that can generate, record, process, receive, transmit, or display information that is represented in discrete numerical form.

Distributed Antenna System (DAS): shall mean a clustered installation of repeater antennas to boost cellular network coverage in areas with weak to no signals. A DAS generally doesn't generate a cellular signal, rather they send and receive signals.

Monopole: shall mean an antenna or pylon consisting of a single pole or rod often a straight element, including a slick stick.

Small Cell Site (SCS): shall be an umbrella term for operator-controlled, low-powered radio access nodes, including those that operate in licensed spectrum and unlicensed carrier-grade Wi-Fi. Small cells typically have a signal range from approximately 32 ft to 650 ft and are fully featured, short range wireless base stations used to complement service from the larger macro cell towers. Small cell sites are a good way to increase mobile phone coverage and data speeds for both voice and data. Sizes range from compact residential to a pole in public right-of-way. SCS are flexible enough to also be deployed indoors in large buildings or venues where large crowds can overwhelm traditional infrastructure.

Slick Stick: shall mean a unipole constructed similar to a flagpole, but without the flag. The intent is to conceal antennas and equipment within the unipole, not to extend beyond the perimeter of the pole itself.



Small Wireless Facility shall mean a wireless facility that meets both of the following: *i)* each antenna is located inside an enclosure of no more than six (6) cubic feet in volume or, case of an antennae, that has exposed elements, the antenna and all of its exposed elements, if enclosed could fit within an enclosure of no more than six (6) cubic feet; and *ii)* all other wireless equipment associated with the facility has a cumulative volume of no more than twenty eight (28) cubic feet in volume. The following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, or other support structures.

Stealth Application: shall mean a concealed wireless facility, designed and intended to make the wireless facility difficult to detect in the public view.

Substantial Modification to Wireless Facility: shall mean the mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the criteria:

- a) Increasing the existing vertical height of the structure by the greater of *i*) more than ten percent (10%) or *ii*) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.
- b) Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance.
- c) Increasing the square footage of the existing equipment compound by more than 2,500 square feet.

Utility Pole: shall mean a structure that is designed for and used to carry lines, cables, or wires for telephone, cable television, or electricity, or provide lighting.

Water Tower: shall mean a water storage tank, a standpipe, or elevated tank situated on a support structure originally and primarily constructed for use as a reservoir or facility to store or deliver water.

Wireless Communication Equipment Base Station: shall mean a fixed point of communication for customer digital device on a carrier network. A specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antenna, coaxial cables, power supplies, and other associated electronics. Base station elements must be in close physical location to SCS, DAS and/or tower.

Wireless Facility: shall mean equipment at a fixed location that enables wireless communications between user equipment and a communications network, including *i*) equipment associated with wireless communications and *ii*) radio transceivers, antennas, wires, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term shall not include any of the following: *(i)* the structure or improvements on, under, within, or adjacent to which the equipment is collocated; *(ii)* Wireless backhaul facilities; *(iii)* Coaxial or fiber optic cable that is between wireless structures or utility poles or town utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna. This definition does not include small and micro wireless facilities.

Wireless Infrastructure Provider: shall mean any person or business entity with a certificate to provide telecommunications service in the State who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures for small wireless facilities but that does not provide wireless services.

Wireless Services: shall mean any services, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using wireless facilities.

Wireless Services Provider: shall mean a person or business entity who provides wireless services.

Wireless support structure: shall mean a new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. Utility poles are not wireless support structures.

Chapter 5:

155.504.1.B.3.a Downtown Overlay District Correct and Add:

3. AREA, YARD AND HEIGHT REGULATIONS. Area, yard, and height regulations shall be determined by the requirements of the underlying zoning district, except that:
 - a. Communications antenna, **wireless facility**, or tower height within the DO District shall not exceed thirty-five feet (35');
 - b. ~~When build-to lines for various categories of streets (Type 1 through Type V, inclusive) are~~

~~required in the Downtown Master Plan, then they shall supersede underlying zoning district requirements.~~

Only wireless stealth applications are allowed in the 100 block of N Trade Street because it is a designated National Historic Commercial District. These wireless facilities shall comply with the requirements in § 155.506.41.

155.504.2.B.6.d Highway NC51 Overlay District (HO)_Correct and Add:

BUILDING HEIGHT. The maximum building height limit of the underlying zoning district shall apply, except that where allowed, communications antennas, wireless facilities, or communications towers shall comply with the height limits given in § 155.506.41. ~~and~~ Communication towers shall be located a minimum straight line distance of one hundred fifty feet (150') from the nearest edge of right-of way to Highway NC51. Where guy wires are used, their point of connection to the ground shall be used to determine the minimum one hundred fifty foot (150') distance. (Ord. 912, passed 1-27-97)

155.506.41 Communications Towers and Antennas Facilities.

- A. The purpose of this section is to: meet requirements of Telecommunications Act of 1996; direct the location of tall communications ~~towers~~ ~~facilities~~ where they have been determined to be least disruptive of existing or developing land use character, specifically to commercial road corridors; protect residential areas and land uses from potential adverse impacts of communications ~~towers~~ ~~facilities~~; preserve the low building profile and character of the downtown; protect land values of adjacent and nearby properties; minimize adverse visual impacts of ~~communications towers~~ ~~any wireless facilities~~ through careful design, siting, landscape screening, and innovative camouflaging techniques; accommodate the growing need for communications ~~towers~~ ~~facilities~~; promote and encourage shared use/collocation of existing and new communications ~~towers~~ ~~facilities~~ as a primary option rather than construction of additional single-use ~~towers~~ ~~facilities~~ ; encourage the use of concealment techniques ~~instead of towers~~ in providing support and height for antennas; protect public safety as it may be impacted by construction, wind damage, electric shock, unauthorized access to facilities, structural damage on non-tower supporting structures, monitoring visitor traffic, lighting for visibility to hospital, traffic, police, or other helicopter or private aircraft, and related considerations. ~~With or without towers, a~~ A communications antenna is considered a principal use or a secondary principal use on any site, except when it is ~~either~~ incidental to a business use on the same lot and used by that business for its operational communications, ~~or is on the same lot as a phone or cable consumer outlet or operations center.~~ They are permitted as a secondary principal use in residential districts (R-20, R-15, R-12, R-9, R-MH, R-VS, and CrC) where a permitted nonresidential principal use exists.

B. SITING HIERARCHY PREFERENCES

The following list indicates the Town's preferences for communications facility locations, in descending order of preference:

- Antenna mounted on/in an existing stealth (concealed) structure or building
- Antenna mounted on/in an existing building/structure
- Antenna mounted on an existing utility or light pole
- Collocation on existing communications tower
- New freestanding stealth structure
- Slick stick
- New non-stealth monopole

These preferences are intended as guidance for development of an application for communication facilities.

B-C. STANDARDS FOR COMMUNICATION TOWERS.

1. RESIDENTIAL DISTRICTS. Antennas may be located in stealth applications on supporting structures which are or will be the principal use or a permitted accessory structure to the principal use of the site in any residential district, and shall not be more than eighty feet (80') in overall height (antenna and supporting structure). Where structures which existed as of June 9, 1997 exceed eighty feet (80') in height, such as electric transmission towers, these structures may also be used for antenna locations. When an existing stealth structure is used, communications antennas may not increase the stealth structure's height by more than twenty feet (20') per antenna, up to forty feet (40') additional in height, and only when such location shall not require the antenna to be lighted.
2. MULTI-FAMILY DISTRICTS. Antennas may be located on buildings or in stealth applications on supporting structures in the R-15MF, R-12MF, SRN, and C-MF districts, and shall not be more than eighty feet (80') in overall height (antenna and supporting structure). Where structures which existed as of June 9, 1997 exceed eighty feet (80') in height, such as electric transmission towers, these structures may also be used for antenna locations. Because these districts typically have multi-story construction, location of antennas on building walls and rooftops is the preferred application. Maximum heights are given in the table below.
3. MIXED USE AND NONRESIDENTIAL DISTRICTS. Antennas may be located on towers or other supporting structures in the R/I district (except as given in table below), and all mixed use or nonresidential districts except the HUC and AU districts up to the overall heights listed below.
4. DOWNTOWN OVERLAY DISTRICT. Only antennas, Distributed Antenna Systems (DAS), and Small Cell Sites may be installed in the Downtown Overlay District, including the HUC district. Communication towers are not permitted in the Downtown Overlay District. See § 155.506.41.D

below for location requirements.

5. TABLE OF MAXIMUM TOWER HEIGHT IN VARIOUS ZONING DISTRICTS

MAXIMUM ANTENNA-COMMUNICATIONS TOWER HEIGHT (FEET) IN MULTI-FAMILY, MIXED USE AND NONRESIDENTIAL ZONING DISTRICTS			
District	Adjacent to any residential zoning district		When no residential district is adjacent
	Non-stealth	Stealth	1 user/2 users/3 users/Trunked Public Safety
R-15MF, R-12MF, SRN, C-MF	Not permitted	80*	80*/ 100/ 120/ not permitted
R/I	Not permitted	80*/***	80*/ 100 / 120 / not permitted
0	50	80*	100*/ 120 / 140 / not permitted
B-1, B-1SCD, B-D	50	80*	120*/ 140 / 160 / not permitted
B-H	50	80*	160*/ 180 / 200 / not permitted
B-3, I-1, MUD, TS, ENT	60	80*	180*/ 200 / 220 / not permitted
I-2	60	80*	200*/ 220 / 240 / 400 **

(Ord. 919, passed 4-28-97)

Note: Communications towers are not permitted in Downtown Overlay per § 155.506.41.C.4.

* Where there are existing nonresidential structures that exceed the above-given height limit (such as electric transmission towers), then these structures may also be used for antenna locations. These limits may be increased by twenty feet (20') for each additional user ~~co-locating~~ collocating on the stealth structure up to an additional forty feet (40'), and only when such location will not require the antenna to be lighted.

** (1) There are no residential zoning districts within one thousand feet (1,000') radius of the proposed tower site.

(2) The owner/developer and/or lessee of the proposed tower must possess a license (see Form FCC 574 or replacement Form FCC 600), to operate a Trunked Public Safety and Special Emergency Radio Services system in accordance with FCC Regulations Part 90, Subpart B and C, 90.15 and 90.33 respectively, and such tower will be used by licensee for the operation of a Trunked Public Safety and Special Emergency Radio Services system.

(3) Location of non-Public Safety system antennas for ~~co-locators~~ collocators shall not be restricted to two hundred forty feet (240') or less, but such ~~co-location~~ collocation antennas shall be located below the principal Public Safety system antennas.

(4) The proposed tower is designed to allow ~~co-location~~ collocation by at least two users and applicant for the tower provides written documentation that a ~~co-locating~~ collocating provider has/can lease space.

*** When utilizing a stealth ~~tower~~ application, the above given height limits may be increased up to an additional 40' at the time of initial construction. Photo simulations must be provided. Said simulations must show all exterior edges of the property. Additional documentation such as coverage maps may also be provided. Site plan to be reviewed and approved by Town Board. (Ord. 1965, passed 9-9-13; Ord. 2025A, passed 6-9-14)

4.6 SPACING DISTANCE SEPARATIONS BETWEEN COMMUNICATIONS TOWERS. Communications Towers shall be spaced from each other by the minimum radius as given below:

COMMUNICATIONS TOWER HEIGHT	MINIMUM DISTANCE
tower under 80 feet to tower under 80 feet	1,200 feet
tower under 200 feet to tower under 200 feet	1,800 feet
tower over 200 feet to tower under 200 feet	2,200 feet

tower under 200 feet to tower over 200 feet	2,200feet
tower over 200 feet to tower over 200 feet	2,500 feet
tower over 240 feet to tower over 240 feet	15,000 feet*

*This limit may be decreased with approval by the Board of Commissioners per § 155.506.41.C.7 below. (Ord. 919, passed 4-28-97)

5.7 MINIMUM LOT AREAS FOR COMMUNICATIONS TOWERS. Different types of communications towers are allowed in different zoning districts. In the R-15MF, R-12MF, SRN, C-MF, R/I and O districts, only monopole towers are permitted. Lattice towers ~~are may be~~ permitted in mixed use and nonresidential districts where communications towers are allowed. Guyed towers ~~are may be~~ allowed only in the I-2 District. Towers requiring guy wires are discouraged due to the extensive footprint necessary for the overall installation. A tower and its related equipment (including guy wire ground connections) must be located on a separate lot or leased portion of a larger lot and must meet setback and yard requirements of the appropriate district. Where a lattice or guyed tower is requested, the applicant must provide documentation, including site plan, from an engineer outlining why ~~another option a monopole~~ is not possible. Minimum lot size for communications towers shall be as follows:

Monopole	100 feet x 100 feet
Lattice	150 feet x 150 feet
Guyed	350 feet x 350 feet

~~These lot size requirements are waived when a stealth or concealed structure is used or when a monopole tower is attached to a mixed use or nonresidential building and all related equipment is located within such building.~~

6.8 REQUIRED LANDSCAPING.

- a. When a communications tower (not a stealth or concealed structure) is requested, the following landscape screening requirements shall apply:
 - i. A one hundred percent (100%) opaque wall or fence six feet (6') or higher around tower, related equipment structure(s), and parking, plus a minimum of two (2) rows of evergreen shrubs, planted in staggered fashion, ten feet (10') on center in each row, with initial plant height of three feet (3'); or
 - ii. A non-opaque fence or wall, six feet (6') or higher around tower, related equipment structure(s), and parking, plus a minimum of three (3) rows of evergreen trees and shrubs planted in staggered fashion so that the plant materials create a fifty percent (50%) opaque screen, six feet (6') high, at time of planting. Trees shall be minimum six feet (6') tall and shrubs shall be three feet (3') tall at time of initial planting. The combination of trees and shrubs shall be expected to create a one hundred percent (100%) opaque screen, six feet (6') tall, within three (3) growing seasons. The required plant material shall be located between the required fence or wall and the lot or lease lines. Vehicular entrance gate openings shall not be directly visible from any public street, or the gates shall be one hundred percent (100%) opaque from the ground up a minimum of six feet (6').
 - iii. All trees and shrubs must be from Matthews Approved Tree and Shrub List located in § 155.606.14.
- b. When a stealth application is employed which does not totally conceal wiring or related equipment at the ground level, such as an electric transmission tower, then the following landscape screening requirements shall apply:
 - i. A one hundred percent (100%) opaque wall or fence, six feet (6') or higher around ground level equipment, structure(s), and parking, plus a minimum of two (2)

rows of evergreen shrubs, planted in staggered fashion, ten feet (10') on center in each row, with initial plant height of three feet (3'); or

- ii. A non-opaque fence or wall, six feet (6') or higher around ground level equipment, structure(s), and parking, plus a minimum of three (3) rows of trees and evergreen shrubs planted in staggered fashion so that the plant materials create a fifty percent (50%) opaque screen three feet (3') high and twenty five percent (25%) opaque screen six feet (6') high at time of planting. Trees shall be minimum six feet (6') tall and shrubs shall be three feet (3') tall at time of initial planting. When located within the easement for electric transmission towers, landscaping plans shall also meet the utility company's requirements.
- iii. All trees and shrubs must be from Matthews Approved Tree and Shrub List located in § 155.606.14.

7.9 SETBACK FROM STREETS AND PROPERTY LINES. ~~All antenna placements shall be subject to the district's setback and yard requirements, as well as the distance requirements given in § 155.601.8. Where the distances given below are different, the more restrictive shall apply.~~ Communications towers are not allowed in the Downtown Overlay. Other than the ~~Special~~ Highway Overlay District, any communications tower up to eighty feet (80') in height shall be set back a minimum of one hundred feet (100') from any public street. Any communications tower between eighty feet (80') and one hundred twenty feet (120') in height shall be set back a minimum of one hundred twenty five feet (125') from any public street. Any communications tower over one hundred twenty (120') feet in height shall be set back a minimum of one hundred seventy five feet (175') from any public street. Where antennas are located in a stealth application, they shall be set back a minimum of forty feet (40') from any public street. In each case, distance shall be measured from edge of right-of-way to the tower, ~~the front of the stealth structure~~, the related equipment, or the guy wire ground connection, whichever is the closest.

8.10. REMOVAL OF TOWERS, ANTENNAS, AND EQUIPMENT. Whenever a tower, ~~or its antennas~~, and/or related equipment ceases to be in active operation, ~~it~~ they shall be removed within one hundred twenty (120) days of inactivation. ~~Notification in writing to the Town Planning office of the final date of operation shall include the anticipated date of removal of all antennas, towers, equipment, and other structures associated with that location. Notification shall be submitted within thirty (30) days of the last day of operation.~~

9. ~~ANNUAL NOTIFICATION. During January of each calendar year, the supporting structure owner and all service providers shall jointly submit annual registration for each antenna location within the Town limits with the Town Planning office. The information provided shall include the location, type of tower or other support, height of tower/antenna, name/address/phone of company and contact person within each company responsible for the antenna and/or support structure, indicate whether or not there are collocating users at the same facility or whether there is the capability to have collocating users at the facility. This information shall be kept for reference and shall be available for public inspection. When an antenna location ceases operation, the user and the support structure owner are jointly responsible for updating their registration information. Both shall notify the Town in writing of the final date of operation, and shall include the anticipated date of removal of all antennas, towers, equipment, and other structures associated with that location. This end usage notice shall be submitted within thirty (30) days of the last day of operation.~~

10.11. SUBMISSION OF ZONING APPLICATION. All ~~antenna~~, new or revisions to existing communications towers, ~~locations or additions~~, including ~~co-locations~~ collocations, which require approval through a zoning action, shall submit a site plan and elevation of the proposed facility ~~improvements~~ as a part of the zoning application. The site plan shall include at a minimum: construction type of the tower/~~other supporting structure~~ and related equipment storage; total height ~~including~~ antenna; whether the tower/~~structure~~ will include or allow for ~~co-location~~ collocation; zoning of all adjacent lots; the nearest residential zoning in a straight-line distance when all adjacent lots are nonresidential; lot boundaries or lease lines; all existing or proposed buildings and structures on the lot, or on larger parcel when a leased portion; method of screening; and vehicular access. If

the ~~antenna~~ request is denied or restricted, a written explanation for the denial or restriction shall be given in the minutes of the Board of Commissioners meeting where such decision is made. (Ord. 912; passed 1/27/97)

- 4.12. So as to promote and encourage shared use/~~co-location~~ collocation of existing communications towers, the foregoing provisions of this § 155.506.41 shall not apply to:
- a. the essentially equivalent replacement of a tower that was in existence as of January 27, 1997; or
 - b. the placement of additional communications antennas and/or supporting or related equipment or equipment buildings on or in the immediate vicinity of a tower that is in existence as of January 27, 1997, provided that any additional equipment or buildings located on the ground shall be reasonably screened from view from the public roadway. (Ord. 920, passed 6-9-97) **[formerly known as § 153.172]**
 - c. increasing the existing vertical height of the structure no greater than ten percent (10%) or the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet (20').

D. **GENERAL STANDARDS FOR WIRELESS FACILITIES OTHER THAN COMMUNICATIONS TOWERS**

Distributed Antenna System (DAS) and Small Cell Sites (SCS) are newer technology in the realm of wireless communications. There are many advantages in the implementation of these types of wireless communications systems. These systems can be adopted and used in residential, suburban, and urban areas where sufficient wireless coverage is lacking. These are relatively small structures that can be easily concealed or placed so that they are not visually obvious or prominent. DAS and Small Cell Sites may be placed within any zoning districts. Certain criteria apply when placing DAS and Small Cell Sites within specific districts.

These standards apply to applications on private property and Town maintained right-of-way.

1. **LOCATIONS OF WIRELESS FACILITIES.**

- a. Adhering to the siting hierarchy in §155.506.41.B, wireless facilities are encouraged to collocate on existing utility and street light poles whenever possible in order to reduce the proliferation of poles in right-of-way.
- b. No new utility pole may be installed for the principal use of wireless facilities if a pole exists within twenty feet (20') of a desired location. If a pole exists within twenty feet (20') of the proposed location but cannot meet the height or load bearing demands for the wireless facility installation, that existing pole can be replaced with an appropriate new pole, not increasing in height more than ten feet (10')
- c. Along town maintained street rights-of-way where there are no existing utility poles (all underground utilities), wireless facilities may be attached to street lights in the public right-of-way. An encroachment agreement (**permit**) must be issued by the Public Works Director before installation. Approval from the owner of the light pole must be submitted with the easement agreement. Equipment cabinet(s) for systems placed on light poles in the rear of private property in utility easements shall be located underground, at the base or on the corresponding light pole.

2. **WIRELESS FACILITIES STANDARDS**

- a. When antennas are placed on top of a building in the Downtown Overlay, wireless facilities must be located within an equipment penthouse, or on top of a building behind the parapet so as not to be seen from the public realm, occupied window, or occupied rooftop when installed. Wireless facilities will be limited to three feet (3') in height above the parapet and must be seventy-five (75) to one hundred (100) percent concealed. Wireless facilities cannot be visible from the public realm and must blend in with the look and design of where they are being located.

- b. Equipment cabinet(s) shall be located at the rear or non-street side of a building not visible to pedestrians. Equipment cabinet(s) for systems placed on utility poles or street lights shall be located underground. Equipment cabinets can be placed on the utility pole ten feet (10') above ground level or at the base of the corresponding utility pole or street light only when the applicant can show proof that underground placement is not feasible. All supporting equipment (meters, switches, ground equipment and the like) must be no more than 28 cubic feet, ten feet (10') from back edge of sidewalk and no more than five feet (5') in height. Sealed drawings shall be provided indicating that the utility pole or street light can physically accommodate the equipment.
- c. Within the ~~Special~~ Highway Overlay district, wireless facilities can be placed on existing buildings or structures including utility poles. New poles for the sole purpose of wireless facilities shall only be placed in the existing driveway locations. Where tree clearing has occurred, it must remain open. They may not be placed in ~~Special~~ HO buffer except for existing cleared area of driveway or interior to the site. **If wireless facilities are placed on top of an existing building, they shall be placed within an equipment penthouse, or behind the parapet. Roof top applications shall be limited to no more than three feet (3') in height above the parapet, concealed from the public realm, and must blend in with the look and design of where they are being located.**
- d. Outside of overlay districts, wireless facilities may be placed on existing utility poles located within the public right-of-way, on buildings or on other structures which can be shown to meet structural integrity. An encroachment agreement (**permit**) must be issued by the Public Works Director before installation. If wireless facilities are placed on top of an existing building, they shall be placed within an equipment penthouse, or behind the parapet. Roof top applications shall be limited to no more than three feet (3') in height above the parapet, concealed from the public realm, and must blend in with the look and design of where they are being located.

3. COLLOCATION

The Town encourages the installation of wireless facilities on existing structures to avoid unnecessary duplication of supporting structures (poles, towers, etc). Collocated facilities and equipment may be separately owned and used by more than one entity.

- a. All new wireless facilities that require the use of support structure shall be designed and constructed to provide opportunity for collocation and utilize neutral host equipment capable of use by multiple additional wireless communication providers.
- b. As a condition of installing a new pole or facility for wireless communication services, the owner of a new pole shall reasonably consent to allowing future requests for collocation by other providers of personal wireless services on reasonable terms and conditions that do not discriminate between similarly situated providers of wireless communication services.
- c. New wireless facilities that cannot be collocated on an existing wireless facility or utility pole must be separated by a minimum of 400 linear feet from any existing wireless facility.

~~E. INSTALLATIONS OF WIRELESS FACILITIES OTHER THAN COMMUNICATIONS TOWERS~~

E. INSTALLATIONS OF NEW POLES IN SINGLE FAMILY RESIDENTIAL DISTRICTS

- 1. The minimum distance of a new pole from any residential structure shall be at least 150% of the pole height and shall not be located directly in front of any residential structure located in a single family zoning district. The minimum setback distance shall be measured from the facility installation to the nearest point of a single family dwelling located in a single family zoning district.
- 2. Along streets and within subdivisions where there are no existing utility poles (all underground utilities), wireless facilities may be attached to street lights in the public right-of-way. Approval

from the owner of the light pole must be submitted with the encroachment agreement (**permit**). Equipment cabinet(s) for systems placed on light poles in the rear of private property in utility easements shall be located underground.

3. New poles may not be erected in a residential area solely for wireless communication equipment attachment unless the applicant has demonstrated it cannot reasonably provide service by:
 - a. Installing poles outside of the residential area;
 - b. Attaching equipment to existing poles within the rights-of-way;
 - c. Installing poles in rights-of-way not contiguous to parcels used for single family residential purposes; or
 - d. Installing poles in rights-of-way contiguous to reverse frontage parcels.
4. All requests for new poles within the rights-of-way in residential neighborhoods shall be in compliance with Matthews Utility Right-of-Way Policy:
 - a. At least 10 business days prior to submitting an application, the applicant shall complete each of the following pre-submission requirements;
 - b. Notify all property owners within 500 feet of proposed pole installations, measured along the public right-of-way, via a door hanger, direct mailing or other means approved by the Town;
 - c. Host a community meeting not less than 30 days after initial notice to present in reasonable detail the proposed draft plan of installation, including facility descriptions, locations, applicable screening, and aesthetic characteristics;
 - d. Receive and consider for a period of 30 days after the community meeting any community comments or proposed alternative locations and designs;
 - e. Host a second meeting to occur not less than 35 days after the initial community meeting to present in reasonable detail the proposed plan of installation, including facility descriptions, locations, relevant screening, and aesthetic characteristics.
5. An encroachment agreement (**permit**) must be issued by the Public Works Director before installation of any new pole in rights-of-way.
6. New poles shall not be constructed of wood. Metal, concrete or fiber materials are appropriate.
7. Any disturbance in street rights-of-way that would require relocation of poles and associated equipment shall be the responsibility of the communications company installing the equipment.
8. The maximum height of the pole shall be the lesser of 50 feet or the height of existing nearby utility poles, except where in the Town's discretion, increased pole height is an acceptable alternative to either reduce the total number of new poles or to allow installation of a pole in a location preferred by the community. The maximum height of an antenna on top of the pole shall be no more than six feet (6') above the height of the pole.

F. APPLICATION PROCESS FOR **ALL** WIRELESS FACILITIES OTHER THAN COMMUNICATIONS TOWERS

Applications for wireless facilities other than communications towers will be processed for completeness determination in accordance with G.S. 400.54(d)(3) within 30 calendar days of submission or an alternate agreed upon time. After any deficiencies are corrected, the application will reviewed within 45 calendar days of determination of completeness or an agreed upon time. If applicant cures identified deficiencies within 30 calendar days and resubmits, the Town will have 30 additional calendar days to approve or deny application.

Applications for the construction of Small Cell Sites, DAS, or a change of addition of equipment and/or antennas for wireless communication services must submit the following information:

1. For all sites:
 - a. Tax and zoning map with the site identified.
 - b. Site development plan attached (three (3) 11"x17" plans and digital)

- c. A written description and map showing the coverage area of the Provider's existing facilities in the general and site-specific areas that are the subject of the Application.
- d. A statement of the telecommunications objectives for the proposed location: 1) whether the proposed facility is necessary to prevent or fill a gap or capacity shortfall in the Applicant or Provider's service area; 2) how it is the least obtrusive means of doing so and if not why; 3) and what are any alternative sites and identify their aesthetic impacts while providing comparable service.
- e. A statement by an authorized representative that the Applicant and/or Provider (as applicable) holds all applicable licenses or other approvals required by the Federal Communications Commission or any other state or federal agency with authority to regulate telecommunications facilities that are required in order for the Applicant to construct the proposed facility.
- f. A statement by an authorized representative that the Applicant or Provider is in compliance with all conditions required for such license and approvals.
- g. Full written description of the wireless facilities shape, height, location, and other dimensions proposed to be installed.
- h. Site development plans, signed and sealed by a professional engineer registered in North Carolina, showing the proposed location of the wireless facilities and existing structures within five hundred (500) feet of the proposed site.
- i. A vertical profile and/or photo simulation of the wireless facilities, indicating the height of the facility and antennas as well as placement of corresponding equipment enclosures.
- j. Photographs of view shed from each proposed facility location, taken in at least four (4) directions.
- k. Description of whether other overhead utilities exist within five hundred (500) feet of the proposed wireless facility location.
- l. The applicant certifies that there will be no danger of collapse, explosion, or underground damage in the course of the project.
- m. If encroachment onto private property is necessary for construction, staging, vehicle/equipment storage, etc. activities, then the permittee is directed to contact and obtain permission from said property owner for such encroachment.

2. For Town maintained public right-of-way locations:

- a. An ~~easement encroachment~~ agreement (~~permit~~) must be submitted to the Public Works Director and the Planning Director in accordance with the Matthews Utility in Public Right-Of-Way Policy.
- b. Written approval from the property owner of any pole or structure stating the Applicant has permission to construct or attach antennas and/or equipment to their pole or structure.
- c. The Applicant must adhere to the Town of Matthews Public Right-of-Way Policy regarding traffic controls for construction/maintenance. Regulations when working within the rights-of-way will be strictly enforced. Failure to comply with such regulations shall constitute a misdemeanor violation.

3. For non right-of-way parcels ~~and structures~~:

- a. ~~For placement on land outside of right-of-way, Written approval from the property owner stating the Applicant has permission~~ must submit written approval from the property owner to construct a facility on their property or attach antennas and/or equipment to their pole or other structure.

- b. For stealth wireless facilities on structures outside of right-of-way, the Applicant must submit written approval from the property owner.

STATEMENT OF CONSISTENCY WITH LOCAL ADOPTED GROWTH POLICIES
Final Decisions on Zoning-Related Issues

ZONING APPLICATION # _____

ZONING MOTION # 2017-4 _____

ADMINISTRATIVE AMENDMENT _____

Matthews Board of Commissioners adopts the checked statement below:

A) The requested zoning action, as most currently amended, is **approved**, and has been found to be **CONSISTENT** with the Matthews Land Use Plan (or other document(s)), and to be **REASONABLE**, as follows:

CONSISTENT: with Matthews Land Use Plan in that it encourages communication facilities be located where they are not intrusive to the public and collocating on existing structures.

REASONABLE: in that it updates language to mirror adopted State and Federal regulations. It corrects language that is outdated and no longer being used. It adds appropriate definitions to the UDO used by other governmental agencies for consistency. Operations of wireless facilities are instrumental to the provision of emergency services.

OR

B) _____ The requested zoning action, as most currently amended, is **not approved**, and has been found to be **INCONSISTENT** with the Matthews Land Use Plan (or other document(s)), and **NOT REASONABLE**, as follows:

INCONSISTENT:

NOT REASONABLE:

OR

C) _____ The requested zoning action, as most currently amended, is **not approved**, although it has been found to be **CONSISTENT** with the Matthews Land Use Plan (or other document(s)), it is **NOT REASONABLE**, as follows:

CONSISTENT:

NOT REASONABLE:

OR

D) _____ The requested zoning action, as most currently amended, is **approved**. This action also **concurrently amends** the Matthews Land Use Plan as specifically outlined below. *(Provide explanation of the change in conditions making the Matthews Land Use Plan inconsistent to meet the development needs of the community, and include reference to specific text in Plan document):*

AMENDMENT TO LAND USE PLAN:

REASONABLE:

(In each case, the Statement must explain why the Board deems the action reasonable and in the public interest (more than one sentence). Reasons given for a zoning request being “consistent” or “not consistent” are not subject to judicial review.)

Date **February 12, 2018**

Draft--in opposition

STATEMENT OF CONSISTENCY WITH LOCAL ADOPTED GROWTH POLICIES
Final Decisions on Zoning-Related Issues

ZONING APPLICATION # _____

ZONING MOTION # 2017-4 _____

ADMINISTRATIVE AMENDMENT _____

Matthews Board of Commissioners adopts the checked statement below:

A) _____ The requested zoning action, as most currently amended, is approved, and has been found to be CONSISTENT with the Matthews Land Use Plan (or other document(s)), and to be REASONABLE, as follows:

CONSISTENT:

REASONABLE:

OR

B) _____ The requested zoning action, as most currently amended, is not approved, and has been found to be INCONSISTENT with the Matthews Land Use Plan (or other document(s)), and NOT REASONABLE, as follows:

INCONSISTENT:

NOT REASONABLE:

OR

C) ___x___ The requested zoning action, as most currently amended, is not approved, although it has been found to be CONSISTENT with the Matthews Land Use Plan (or other document(s)), it is NOT REASONABLE, as follows:

CONSISTENT: with Matthews Land Use Plan in that it encourages communication facilities be located where they are not intrusive to the public and location on existing structures.

NOT REASONABLE: It encourages the proliferation of antennae throughout the town.

OR

D) _____ The requested zoning action, as most currently amended, is **approved**. This action also **concurrently amends** the Matthews Land Use Plan as specifically outlined below. *(Provide explanation of the change in conditions making the Matthews Land Use Plan inconsistent to meet the development needs of the community, and include reference to specific text in Plan document):*

AMENDMENT TO LAND USE PLAN:

REASONABLE:

(In each case, the Statement must explain why the Board deems the action reasonable and in the public interest (more than one sentence). Reasons given for a zoning request being “consistent” or “not consistent” are not subject to judicial review.)

Date **February 12, 2018**