



CITY OF WEST COVINA

PLANNING COMMISSION

**JANUARY 28, 2020, 7:00 PM
REGULAR MEETING**

**CITY HALL COUNCIL CHAMBERS
1444 W. GARVEY AVENUE SOUTH
WEST COVINA, CALIFORNIA 91790**

**Herb Redholtz, Chair
Sheena Heng, Vice Chair
Don Holtz, Commissioner
Gregory Jaquez, Commissioner
Glenn Kennedy, Commissioner**

Please turn off all cell phones and other electronic devices prior to entering the Council Chambers

AMERICANS WITH DISABILITIES ACT

The City complies with the Americans with Disabilities Act (ADA). If you will need special assistance at Planning Commission meetings, please call (626) 939-8433 (voice) or (626) 960-4422 (TTY) from 8 to 5 Monday through Thursday. Do call at least one day prior to the meeting date to inform us of your particular needs and to determine if accommodation is possible. For sign language interpreter services at Planning Commission meetings, please request no less than four working days prior to the meeting.

PUBLIC COMMENTS/ADDRESSING THE COMMISSION

Any person wishing to address the Planning Commission on any matter listed on the agenda or on any other matter within their jurisdiction is asked to complete a speaker card that is provided on the speaker podium and submit the card to a Planning Department staff member.

Please identify on the speaker card whether you are speaking on an agenda item or non-agenda item. Requests to speak on non-agenda items will be heard during “Oral Communications” before the Public Hearing section of the agenda. Oral Communications are limited to thirty (30) minutes. Generally, comments are limited to five minutes per speaker unless further time is granted by the Chairperson. ***The Chairperson may also, at his or her discretion, further limit the time of each speaker in order to accommodate a large number of speakers and/or to ensure that the business of the Planning Commission is effectively conducted.***

Any testimony or comments regarding a matter set for Public Hearing will be heard during the public hearing for that item.

Next Resolution No.20-6018

MOMENT OF SILENT PRAYER/MEDITATION

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF MINUTES

1. Regular meeting, December 10, 2019

ORAL COMMUNICATIONS

This is the time when any member of the public may speak to the Commission on any matter within the scope of duties assigned to the Commission relating to non-agendized or consent calendar items. Other matters included on this agenda may be addressed when that item is under consideration. For all oral communications, the chairperson may impose reasonable limitations on public comments to assure an orderly and timely meeting. The Ralph M. Brown Act limits the Planning Commission and staff's ability to respond to public comments at this meeting. Thus, your comments may be agendized for a future meeting or referred to staff. The Commission may ask questions for clarification, if desired, at this time.

By policy of the Commission, Oral Communications at this time on the agenda is limited to a total of 15 minutes. Persons who are not afforded the opportunity to speak at this time may do so under "Continuation of Oral Communications" later on the agenda.

PUBLIC HEARINGS

2. **Continued from November 26, 2019**
CODE AMENDMENT NO. 16-03
GENERAL EXEMPTION
LOCATION: City-wide
REQUEST: The proposed code amendment will amend Chapter 26 (Zoning) of the West Covina Municipal Code to specify submittal requirements, review process, and standards for Wireless Telecommunication Facilities in the Public Right of Way.
3. **PRECISE PLAN NO. 19-02**
TENTATIVE TRACT MAP NO. 082855
CATEGORICAL EXEMPTION
APPLICANT: David Cook - WC Homes LLC
LOCATION: 1611 & 1623 San Bernardino Road
REQUEST: The applicant is requesting approval of a precise plan and tentative tract map to construct a 105,645-square foot, 24-unit, two-story industrial condominium development located on an existing 4.55-acre lot in the M-1 Zone. The Precise Plan is for the development and architecture of the project site. The Tentative Parcel Map is to subdivide the site into industrial condominium air space lots and a wireless telecommunication site.

4. **CONDITIONAL USE PERMIT 19-13
CATEGORICAL EXEMPTION
APPLICANT: Frank and Michelle Rivera for Jumper's Jungle
LOCATION: 331 N Azusa Ave
REQUEST: The applicant is requesting a conditional use permit to allow the use of a game arcade, Jumpers Jungle, to be in a "Neighborhood Commercial" (N-C) zone.**

NON-HEARING ITEMS - None

5. **INITIATION OF CODE AMENDMENT NO. 20-02
COMMERCIAL STANDARDS CLEAN-UP**

TEN-DAY APPEAL PERIOD: Actions taken by the Planning Commission that are not recommendations to the City Council will become final after ten (10) calendar days unless a written appeal with the appropriate fee is lodged with the City Clerk's Office before close of business on the tenth day.

COMMISSION REPORTS/COMMENTS AND MISCELLANEOUS ITEMS

This is the time when any member of the Commission may bring a matter to the attention of the full Commission that is within the scope of duties assigned to the Commission. Any item that was considered during the Agenda is not appropriate for discussion in this section of the agenda. **NO COMMISSION DISCUSSION OR ACTION CAN BE CONSIDERED AT THIS TIME.** If the Commission desires to discuss an issue raised by a speaker or take an action, the Commission may vote to agendaize the matter for a future meeting.

6. **COMMUNITY DEVELOPMENT DIRECTOR'S REPORT:**
- a. Forthcoming - February 11, 2020
 - b. Announcements:
 - State Mandated Sexual Harassment Training - Elected Officials and Commissioners - March 31, 2020, 6:30 to 9:00 p.m.
 - Planning Commissioner's Academy - March 4 to 6, 2020, Sacramento, CA

7. **CITY COUNCIL ACTION:**

This is an oral presentation of City Council matters and actions, which are in the Commission's area of interest

ADJOURNMENT

City of West Covina
A G E N D A

ITEM NO. 1.

DATE: January 28, 2020

TO: Planning Commission
FROM: Planning Division
SUBJECT: Regular meeting, December 10, 2019

Attachments

Planning Commission Minutes - December 10, 2019

**These minutes are preliminary and are considered unofficial
until adopted at the next Planning Commission meeting.**

A G E N D A

DATE January 14, 2020

ITEM NO.: 1

**MINUTES
REGULAR MEETING OF THE PLANNING COMMISSION
CITY OF WEST COVINA
Tuesday, December 10, 2019**

The regular meeting of the Planning Commission was called to order at 7:00 p.m. in the West Covina Council Chambers. The Commission observed a moment of silent prayer/meditation and Chairman Redholtz lead the Pledge of Allegiance.

ROLL CALL

Present: Heng, Holtz, Jaquez, Kennedy and Redholtz

Absent: None

City Staff Present: Carmany, Anderson, Burns, Aguilar, Martinez and de Zara

APPROVAL OF MINUTES:

1. Regular meeting, November 26, 2019

The minutes were approved as presented.

OTHER MATTERS OR ORAL COMMUNICATIONS

None

PUBLIC HEARINGS

2. **PRECISE PLAN NO. 19-05
CATEGORICAL EXEMPTION
APPLICANT: Theresa K. Plante
LOCATION: 1030 S. Glendora Avenue
REQUEST: The project consists of a proposal to construct an 1,850-square foot commercial building on a 7,497-square foot parcel located at the above-mentioned address.**

Assistant Planner Camillia Martinez presented the staff report. During her presentation she told the Commission that this precise plan had been previously approved but had expired after receiving three extensions. She also spoke about the proposed building, the proposed use and business operation plan. She also told the Commission that a

public hearing notice had been mailed and advertised in the San Gabriel Valley Tribune. At the end of her presentation, Ms. Martinez recommended approval of Precise Plan No. 19-05.

Chairman Redholtz asked if anyone had contacted staff regarding this project.

Chairman Redholtz opened the public hearing.

PROPONENT:

Rosa Cisneros, representing the applicant, explained that the previous precise plan had expired due to problems with the contractor. She told the Commission that a new contractor had been hired to construct the building. In addition, Ms. Cisneros answered questions by the Commission regarding services to be offered by the business, hours of operation, parking, if any changes had been made that are different from the original plan and if the business was a retail business or school.

OPPONENTS:

No one spoke in opposition to the project.

Chairman Redholtz closed the public hearing.

There was a short discussion by the Commission regarding the proposed business being a cosmetology school and if they would require an entitlement for the school.

Motion by Kennedy, seconded by Holtz, to waive further reading and adopt Resolution No. 19-6014. Motion carried 5-0.

Chairman Redholtz said this action is final unless appealed to the City Council within ten (10) days.

3. PRECISE PLAN NO. 19-04
 CONDITIONAL USE PERMIT NO. 19-11
 CATEGORICAL EXEMPTION
 APPLICANT: Danny Reynoso
 LOCATION: 928 South Glendora Avenue
 REQUEST: The applicant is requesting approval of a Precise Plan to allow the construction of a 4,275-square foot building on an 11,450 square-foot vacant lot. The applicant is also requesting the approval of a conditional use permit to allow the use of an automobile repair shop.

Assistant Planner Rene Aguilar presented the staff report. He told the Commission that a precise plan was required for the construction of the building and a conditional use permit was required for the automotive repair business that will be located inside the new building. Mr. Aguilar also spoke about the location of the lot, parking, the number of proposed employees, and the proposed hours of operation for the automotive repair business. He also explained the architecture of the proposed building and recommended approval of both applications.

Chairman Redholtz opened the public hearing.

PROPONENTS:

Danny Reynoso, applicant, Joe Gaston, owner of the business and property, and Mike Touhey spoke in favor of the project.

Mr. Reynoso spoke to the Commission regarding the project as the designer and contractor who will construct the building.

Mr. Gaston spoke about his existing business and how the new business will be conducted. Mr. Gaston also answered questions by the Commission regarding parking the vehicles if they require an overnight stay, noise levels generated by the business, painting of vehicles on the property and how the new business will be conducted. Mr. Aguilar told the Commission that no one had contacted staff regarding this business and Mr. Anderson told the Commission that the neighbors had been contacted by the property owner regarding this proposal.

Mr. Touhey, owner of the Rockview Dairy spoke in support of the project and said he is pleased that there will be a business on the property instead of a vacant lot.

OPPONENTS:

No one spoke in opposition to the project.

Chairman Redholtz closed the public hearing.

There was a short discussion by the Commission regarding the precise plan and the proposed business. Commission Kennedy asked about the zoning of the surrounding properties. There was a short discussion by the Commission regarding past businesses in the area and possible noise generated by the automotive business.

Motion by Holtz, seconded by Jaquez, to waive further reading and adopt Resolution No. 19-6015, approving Precise Plan No. 19-04. Motion carried 5-0.

Motion by Holtz, seconded by Jaquez, to waive further reading and adopt Resolution No. 19-2016, approving Conditional Use Permit No. 19-11. Motion carried 5-0.

Chairman Redholtz said these actions are final unless appealed to the City Council within ten (10) days.

4. CONDITIONAL USE PERMIT NO. 19-12
CATEGORICAL EXEMPTION

APPLICANT: Alexander Nekhaychik

LOCATION: 2340 South Azusa Avenue

REQUEST: The applicant is requesting a conditional use permit to allow an indoor recreational facility use within an existing 14,437 square-foot tenant space, Laser Land, to be in a "Service Commercial" (S-C) Zone.

Assistant Planner Camillia Martinez presented the staff report. During her presentation she spoke about the location, use of the tenant space and the conditional use permit required to operate an indoor recreational center. In addition, she showed a plan of the proposed facility, spoke about the types of activities that will occur there, the proposed hours of operation, available parking for the business, and the public hearing notice that was mailed to surrounding occupants and residents. Staff recommended approval of the request. Chairman Redholtz asked for a clarification of the floor plan.

Chairman Redholtz opened the public hearing.

PROPONENTS:

Alexander Nekhaychick, applicant, explained the proposed operation of the business, activities that will occur on-site, his experience with operating similar businesses in Russia, safety measures to be implemented for various activities taking place at the location, supervision and the number of employees they will hire, ages of the patrons, and possible sales of merchandise and food at the facility.

OPPONENTS:

No one spoke in opposition to the project.

Chairman Redholtz closed the public hearing.

There was a short discussion by the Commission regarding the proposed use and a possible marketing plan for the business.

Motion by Kennedy, seconded by Jaquez, to waive further reading and adopt Resolution No. 19-6017, approving Conditional Use Permit No. 19-12. Motion carried 5-0.

Chairman Redholtz said this action is final unless appealed to the City Council within ten (10) days.

NON-HEARING ITEMS

5. HISTORIC CONTEXT STATEMENT, 1945-1978 & HISTORIC RESOURCE INVENTORY UPDATE.

Community Development Director Jeff Anderson presented the staff report. During his presentation he spoke about the results of the original historic survey in 2006, and the current status of historic properties in West Covina.

Allison Lyons, consultant, addressed the Commission regarding the status of properties identified in the original historic survey, as well as other properties identified in this survey as possible historic buildings.

There was a discussion by the Commission regarding how the results of the study will be used, how properties are identified as potentially eligible for historic status, how often the status of potential historic properties will be updated, if the results of each study will be posted on the city's website and available for citizens to access, how historical designation will affect the owner's ability to make improvements, and the length of time between the first study and this one. The Commission also asked why some homes identified in the first study as potentially historical were no longer eligible, and if the city would be able to force a property owner to list their home as historical.

The Commission also discussed the Richard Neutra house on Wrede Way and asked Ms. Lyons how homes are assessed.

Motion by Redholtz, seconded by Holtz, to receive and file this report. Motion carried 5-0.

6. STUDY SESSION ON SPECIFIC PLANS

Community Development Director Jeff Anderson presented the staff report. During his presentation, Mr. Anderson told the Commission that currently there are approximately

thirty (30) specific plans in West Covina. He also told the Commission that most of the specific plans in West Covina are for residential uses and a few are for commercial developments and churches. There was a discussion by the Commission regarding how the specific plan zoning affects land use and how specific plans affect the General Plan.

COMMISSION REPORTS/COMMENTS AND MISCELLANEOUS ITEMS

None

7. COMMUNITY DEVELOPMENT DIRECTOR'S REPORT:

- a. Forthcoming – December 10, 2019
- b. Project Status Report – December, 2019

Community Development Director Jeff Anderson presented Forthcoming and told the Commission there would not be a meeting on December 24, 2019. He thanked the Commission for their hard work and wished them all Happy Holidays.

Chairman Redholtz thanked staff for their hard work and support and wished everyone Happy Holidays.

8. CITY COUNCIL ACTION

This is an oral presentation of City Council matters and actions, which are in the Commission's area of interest.

Code Amendment No. 19-02, R-1 Zone and Accessory Habitable Quarters and Code Amendment No. 19-03, Temporary Non-Commercial Political Signs will be considered by the City Council at their December 17, 2019 regular meeting.

ADJOURNMENT

Chairman Redholtz adjourned the meeting at 8:57 p.m.

Respectfully submitted:

Lydia de Zara
Senior Administrative Assistant

ADOPTED AS SUBMITTED ON:

ADOPTED AS AMENDED ON:

PLANNING DEPARTMENT STAFF REPORT

SUBJECT

Continued from November 26, 2019

CODE AMENDMENT NO. 16-03

GENERAL EXEMPTION

LOCATION: City-wide

REQUEST: The proposed code amendment will amend Chapter 26 (Zoning) of the West Covina Municipal Code to specify submittal requirements, review process, and standards for Wireless Telecommunication Facilities in the Public Right of Way.

BACKGROUND

On February 16, 2016, the City Council initiated a code amendment related to wireless telecommunication facilities in the public-right-of-way (Attachment No. 2).

The Federal Telecommunications Act is intended to ensure that the public has sufficient access to telecommunication services and local governments cannot prohibit or have the effect of prohibiting the provision of personal wireless services. Cities may only regulate the location and design of Wireless Communication Facilities (WCF) based on aesthetics.

On September 27, 2018, the Federal Communications Commission (FCC) released a Declaratory Ruling and Third Report and Order (FCC Order) significantly limiting local management of Small Wireless Facilities (SWF). In summary, the FCC Order does the following:

- Defines SWFs as facilities (a) mounted on structures 50 feet or less in height (including antennas); or (b) mounted on structures no more than 10% taller than other adjacent structures; or (c) do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 %, whichever is greater; AND each antenna is no more than 3 cubic feet in volume, and the total associated wireless equipment on one structure is no more than 28 cubic feet in volume.
- Limit fees local governments can charge to the actual and reasonable cost of providing service.
- Enacts shot clocks of 60 days for SWFs added to existing structures (regardless of whether the structure already supports a wireless service) and 90 days for SWFs proposing a new structure.
- Exempts from federal preemption aesthetic requirements for SWFs in the PROW unless they are (1) reasonable; (2) no more burdensome than those applied to other types of infrastructure deployments; (3) objective; and (4) published in advance.

On April 4, 2019, the California Supreme Court decided T-Mobile West, LLC vs. City and County of San Francisco, validating that municipalities can regulate the aesthetics of wireless facilities in the right of way.

On April 23, 2019, the Planning Commission adopted design guidelines for small wireless facilities located in the public right-of-way (Attachment No. 3) to address the FCC Order pertaining to aesthetic requirements being reasonable, not burdensome, and published in advance.

At its May 14, 2019 and July 23, 2019 meetings, the Planning Commission held study sessions on wireless facilities in the public right-of-way. During the July 23, 2019 study session, the Planning Commission voted 3-2 to direct staff to draft an ordinance that:

- References Design Guidelines in order to allow flexibility for modifications that may be needed in the future;
- Allows administrative review by staff for all wireless facilities in compliance with Design Guidelines and Planning Commission review if not in compliance with Design Guidelines;
- Identifies a review threshold that requires wireless telecommunication facilities to be at least 250 feet from another wireless telecommunication in order to qualify for administrative review by staff;
- Requires wireless telecommunication facilities to be set back 15 to 30 feet from residential structures (depending on zoning designation).

Commissioners Heng and Holt were the dissenting votes. Commissioner Heng felt that there should be more Planning Commission discussion on the subject.

Subsequent to that discussion, Administrative Use Permit (AUP) applications were submitted for 5 small wireless facilities in the public right-of-way proposed on top of replacement street light poles in the Woodside Village area. These facilities were located off of Amar Road, east of Azusa Avenue. The Planning Commission approved the AUP applications on July 23, 2019 and an appeal was filed on August 5, 2019. On October 1, 2019 the City Council voted 3-2 to overturn the Planning Commission's decision to approve the 5 small wireless facilities and denied the AUP applications. The City Council felt that the proposed small wireless facilities were not sufficiently concealed. Council members Shewmaker and Johnson were the dissenting votes and felt that the proposals should be referred back to the Planning Commission.

While these AUPs were reviewed since the last study session, the code amendment has been drafted based only on the Planning Commission's direction provided during the study sessions.

On November 26, 2019, the Planning Commission held a public hearing to review the Code Amendment No. 16-03. The Planning Commission continued the hearing to January 28, 2020 in order to allow interested parties who were not in town during the week of Thanksgiving the opportunity to attend the meeting. In addition, the Planning Commission gave staff direction to: 1) research ten nearby cities to determine what standards they may be using for design and separation; 2) research if RF Engineers are State licensed; 3) research if the FCC keeps records of RF compliance reports; (4) research the standard size for the base of light poles, and (5) research the standard used by the City of Costa Mesa regarding a 500-foot separation from a provider's facility.

DISCUSSION

The ten nearby cities that were surveyed are: Baldwin Park, Covina, Diamond Bar, Irwindale, La Puente, City of Industry, San Dimas, Walnut, Glendora, and El Monte. Staff also researched Costa Mesa's standards and guidelines for Small Wireless Facilities in the Public Right-of-Way. None of the cities surveyed had a set minimum distance requirement that a small wireless facility must be separated from another small wireless facility. The City of Costa Mesa identifies 500 feet as the minimum separation between facilities in their Design Guidelines, however, this minimum separation serves as a review threshold. The cities of Covina and La Puente allow Small Wireless Telecommunication Facilities in the Public Right-of-Way through an encroachment permit issued by Public Works/Engineering, similar to the West Covina permitting process prior the April 23, 2019 Planning Commission adoption of the Design Guidelines for Wireless Facilities in the Public Right of Way. All other cities surveyed allowed for small wireless facilities through an administrative review process largely based on design guidelines, or code standards with identified list of preferences.

The following table summarizes the survey:

| City | Process | Distance from Residential | Separation between Facilities/Poles |
|-------------------------|--|--|---|
| Baldwin Park | Compliance with Design Guidelines - Administrative (Planning Commission review, if not in compliance) | None | None |
| Covina | Encroachment Permit issued by Public Works | None | None |
| Irwindale | Processed by Public Works | None | None |
| La Puente | Encroachment Permit | None | None |
| City of Industry | Administrative | None | None |
| Diamond Bar | Administrative | Height of pole plus 20% | None |
| San Dimas | Compliance with Design Guidelines - Administrative (Planning Commission if not in compliance) | None | None |
| Walnut | Administrative | None | None |
| Glendora | Administrative for Minor; Planning Commission (CUP) for Major | None | None |
| El Monte | Administrative | None | None |
| Costa Mesa | Administrative (Minor CUP), Planning Commission triggered by Non-compliance with adopted Design Guidelines | 25 feet (per Design Guidelines, review threshold only) | 500 feet (per Design Guidelines, review threshold only) |

Staff researched if radio frequency (RF) Engineers require a State issued license and discovered that RF Engineers are specialist in the Electrical Engineering field. Electrical Engineers are required to be licensed by the State.

Staff contacted the FCC (Federal Communications Commission) to verify if they keep records of RF compliance reports. Unfortunately, staff's several phone calls and e-mails were not returned.

As directed by the Planning Commission, staff randomly measured the width of light poles located in

different areas throughout the City. The diameter of the light poles ranged from 8.5-inches to 9.25-inches.

On January 21, 2019, staff received an email from a member of the public regarding a legal ruling to stop small cells. The email claimed that the D.C. Circuit's August 9, 2019 decision in *United Keetoowah Band of Cherokee Indians in Okla. v. FCC* means that "every application (across the US) for a small cell or wireless transmission facility is rendered incomplete." This is incorrect. Rather, the case has no direct impact in West Covina. Recall that, among other things, the FCC's 2018 small cell decision "streamlined" the approval process for the FCC issuing spectrum for small wireless facilities by stating that the FCC did not need to comply with NEPA (a federal environmental law) and NHPA (a federal historic preservation law) when doing so. The Court held that the FCC's proposal to remove such regulations was illegal, and expressly declined to overturn the FCC's 2018 decision as a whole. That is, federal environmental and historic preservation procedures that apply to the FCC's issuance of spectrum remain in place. Because the city is not involved in the issuance of spectrum, this case does not directly affect the city.

The proposed Code Amendment that was presented to the Planning Commission on November 26, 2019 has not changed and is attached to the resolution for your review (Attachment No. 1). If the Planning Commission chooses to recommend approval of the proposed code amendment, the City Council will hold a public hearing to consider adopting the proposed amendments.

ENVIRONMENTAL DETERMINATION

The proposal is not subject to the California Environmental Quality Act (CEQA) per Section 15061(b)(3) of the CEQA Guidelines, which provides that CEQA only applies to activity that results in direct or reasonably foreseeable indirect physical change in the environment and for activity considered to be a project, respectively. The amendment to the West Covina Municipal Code would not result in a physical change in the environment because it would clarify submittal requires and create development standards for future applications for wireless telecommunication facilities in the public right-of-way.

STAFF RECOMMENDATIONS

Staff recommends that the Planning Commission adopt a resolution recommending approval of Code Amendment No. 16-03 to the City Council.

Submitted by: Jo-Anne Burns, Planning Manager

Attachments

Attachment No. 1 - Resolution Recommending City Council Adoption

Attachment No. 2 - CC Reso 2016-10

Attachment No. 3 - Signed Resolution Design guidelines

Attachment No. 4 - May 14, 2019 Planning Commission Study Session Report

Attachment No. 5 - May 14, 2019 Planning Commission Study Session Minutes (excerpt)

Attachment No. 6 - July 23, 2019 Planning Commission Study Session Report

Attachment No. 7 - July 23, 2019 Planning Commission Study Session Minutes (excerpt)

Attachment No. 8 - November 26, 2019 Planning Commission Staff Report

Attachment No. 9 - November 26, 2019 Planning Commission Minutes (Excerpt)

**PLANNING COMMISSION
RESOLUTION NO.**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF
WEST COVINA, CALIFORNIA, RECOMMENDING TO THE CITY
COUNCIL APPROVAL OF CODE AMENDMENT NO. 16-03, CODE
AMENDMENT RELATED TO WIRELESS TELECOMMUNICATION
FACILITIES IN THE PUBLIC RIGHT OF WAY**

CODE AMENDMENT NO. 16-03

GENERAL EXEMPTION

APPLICANT: City of West Covina

LOCATION: Citywide

WHEREAS, on the 16th day of February 2016, the City Council initiated a code amendment related to wireless telecommunication facilities in the public right-of-way; and

WHEREAS, the Planning Commission, did on May 14, 2019 and July 23, 2019, conduct study sessions to consider the initiated code amendment; and

WHEREAS, the Planning Commission, upon giving the required notice, did on the 26th day of November 2019, conduct a duly advertised public hearing as prescribed by law, and continued the hearing to a date certain of January 28, 2020; and

WHEREAS, the Planning Commission, did on the 28th day of January 2020, conduct a duly advertised public hearing as prescribed by law, and

WHEREAS, studies and investigations made by this Commission and on its behalf reveal the following facts:

1. The City's provisions for wireless telecommunication facilities were last updated in 2011.
2. The Municipal Code currently does not have explicit regulations pertaining specifically to wireless telecommunication facilities in the public right-of-way.
3. On September 27, 2018, the Federal Communications Commission (FCC) released a Declaratory Ruling and Third Report and Order (FCC Order) significantly limiting local management of Small Wireless Facilities (SWF).

4. On April 4, 2019, the California Supreme Court decided T-Mobile West, LLC vs. City and County of San Francisco, validating that municipalities can regulate the aesthetics of wireless facilities in the right of way.
5. It is necessary to amend the municipal code to create transparent procedures and standards regulating wireless telecommunication facilities in the public right-of-way in order to (a) preserve the public right-of-way ("PROW") in the city for the maximum benefit and use of the public, (b) to promote and protect public health and safety, community welfare, and the aesthetic quality of the city consistent with the goals, objectives and policies of the general plan, and (c) to provide for the orderly, managed and efficient development of wireless telecommunications facilities in accordance with the state and federal laws, rules and regulations
6. The proposed action is exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15061(b)(3) of the CEQA Guidelines, in that the proposed action consists of a code amendment, which does not have the potential for causing a significant effect on the environment.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Commission of the City of West Covina as follows:

SECTION NO. 1: The above recitals are true and correct and are incorporated herein as if set forth herein in full.

SECTION NO. 2: Based on the evidence presented and the findings set forth, Code Amendment No. 16-03 is hereby found to be consistent with the West Covina General Plan and the implementation thereof, and that the public necessity, convenience, general welfare, and good zoning practices require Code Amendment No. 16-03.

SECTION NO. 3: Based on the evidence presented and the findings set forth, the Planning Commission of the City of West Covina hereby recommends to the City Council of the City of West Covina that it approves Code Amendment No. 16-03 to amend Chapter 26 (Zoning) of the West Covina Municipal Code as shown on Exhibit "A."

SECTION NO. 4: The Secretary is instructed to forward a copy of this Resolution to the City Council for their attention in the manner as prescribed by law and this Resolution shall go into force and effect upon its adoption.

[continued on next page]

I HEREBY CERTIFY, that the foregoing Resolution was adopted by the Planning Commission of the City of West Covina, at a regular meeting held on the 28th day of January, 2020, by the following vote.

AYES:

NOES:

ABSTAIN:

ABSENT:

DATE:

Herb Redholtz, Chairman
Planning Commission

Jeff Anderson, Secretary
Planning Commission

EXHIBIT A

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA APPROVING CODE AMENDMENT NO. 16-03, RELATED TO WIRELESS TELECOMMUNICATION FACILITIES IN THE PUBLIC RIGHT OF WAY

WHEREAS, the City's provisions for wireless telecommunication facilities were last updated in 2011.; and

WHEREAS, the City's Municipal Code currently does not have explicit regulations pertaining specifically to wireless telecommunication facilities in the public right-of-way; and

WHEREAS, on the 16th day of February 2016, the City Council initiated a code amendment related to wireless telecommunication facilities in the public right-of-way; and

WHEREAS, the Planning Commission, did on May 14, 2019 and July 23, 2019, conduct study sessions to consider the initiated code amendment; and

WHEREAS, the Planning Commission, upon giving the required notice, did on the 26th day of November 2019 and 28th day of January 2020, conduct a duly advertised public hearing as prescribed by law to make recommendations to the City Council to approve Code Amendment No. 16-03; and

WHEREAS, the City Council, upon giving the required notice, did on the __ day of _____, conduct a duly advertised public hearing as prescribed by law on the proposed ordinance; and

WHEREAS, based on review of the State CEQA Guidelines, the City Council finds and determines that the proposed ordinance is statutorily exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3) of the CEQA Guidelines, which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment; and

WHEREAS, the City Council has duly considered all information presented to it, including written staff reports and any testimony provided at the public hearing, with all testimony received being made a part of the public record.

WHEREFORE, THE MAYOR AND THE CITY COUNCIL OF THE CITY OF WEST COVINA HEREBY ORDAINS AS FOLLOWS:

SECTION NO. 1: Section 26-247 of the West Covina Municipal Code is hereby amended to read as follows:

(a) Prior to the granting of a conditional use permit for projects located within all land-use zones it shall be found:

- (1)(a) That the proposed use at the particular location is necessary or desirable to provide a service or facility which will contribute to the general well being of the neighborhood or community.
- (2)(b) That such use will not, under the circumstances of the particular case, be detrimental to the health, safety, peace or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity.
- (3)(c) That the site for the proposed use is adequate in size and is so shaped as to accommodate said use, as well as all yards, spaces, walls, fences, parking, loading, landscaping, and any other features necessary to adjust said use to the land and uses in the neighborhood and make it compatible therewith.
- (4)(d) That the site abuts streets and highways adequate in width and improvements to carry traffic generations typical of the proposed use and that street patterns of such a nature exist as to guarantee that such generations will not be channeled through residential areas on local residential streets.
- (5)(e) That the granting of such conditional use permit will not adversely affect the general plan of the city, or any other adopted plan of the city.

(b) Prior to the granting of a conditional use permit for projects located within the public right-of-way it shall be found that the findings required by Sec. 26-685-11500 have been met.

SECTION NO. 2: The Chapter 26, Article XII, Division 16 title of the West Covina Municipal Code is hereby amended to read as follows:

DIVISION 16 – WIRELESS TELECOMMUNICATION FACILITIES WITHIN ALL LAND-USE ZONES

SECTION NO. 3: Section 26-685.983 of the West Covina Municipal Code is hereby amended to read as follows:

The regulations of this division do not apply to the following:

- (1) Single ground-mounted, building-mounted, or roof-mounted receive-only AM/FM radio or television antennas, DBS dish antennas, amateur and/or citizens band radio antennas, for the sole use of the occupant of the parcel on which the antenna is located.

- (2) Wireless telecommunications facilities owned and operated by the city or other public agency when used for emergency response services, public utilities, operations, and maintenance.
- (3) This exemption does not apply to free-standing or roof-mounted satellite dish antennas greater than twenty-one (21) inches in diameter.
- (4) Wireless telecommunication facilities located in the public right-of-way, which are regulated under Article XII (Special Regulations for Unique Uses), Division 29 (Wireless Telecommunication Facilities in the Public Right-of-Way) of this chapter.

SECTION NO. 4: Section 26-685.984 of the West Covina Municipal Code is hereby amended to read as follows:

- (a) No wireless telecommunication facilities are permitted in residential zones except for the following:
 - (1) Wireless telecommunication facilities listed under section 26-685.983(1) and (2).
 - (2) Wireless telecommunication facilities located in the public right-of-way, which are regulated under Article XII (Special Regulations for Unique Uses), Division 29 (Wireless Telecommunication Facilities in the Public Right-of-Way) of this chapter.
 - (3) Wireless telecommunication facilities located in residential zones that are developed with permitted nonresidential uses.
 - (4) Wireless telecommunication facilities consisting of roof-mounted antennas located on multiple-family residential buildings.
- (b) Antennas with a solid or wire-mesh surface with a diameter or maximum width greater than twelve (12) feet are prohibited in residential zones.

SECTION NO. 5: Division 29 is hereby added to Chapter 26, Article XII of the West Covina Municipal Code to read as follows:

DIVISION 29 – WIRELESS TELECOMMUNICATION FACILITIES IN THE PUBLIC RIGHT-OF-WAY

Sec. 26-685.11000. – Purpose

This division sets forth a uniform and comprehensive set of development standards for the permitting, development, placement, design, installation, operation, and maintenance of wireless telecommunication facilities within the city's public right-of-way. The purpose of these regulations is to provide clear and reasonable criteria to assess and process applications in a consistent and expeditious manner, while reducing the impacts associated with wireless telecommunications facilities. This division provides standards necessary (1) for the preservation of the public right-of-way ("PROW") in the city for the maximum benefit and use of the public, (2) to promote and protect public health and safety, community welfare, and the aesthetic quality

of the city consistent with the goals, objectives and policies of the general plan, and (3) to provide for the orderly, managed and efficient development of wireless telecommunications facilities in accordance with the state and federal laws, rules and regulations, including those regulations of the Federal Communications Commission ("FCC") and California Public Utilities Commission ("CPUC"), and (4) to ensure that the use and enjoyment of the PROW is not inconvenienced by the use of the PROW for the placement of wireless facilities.

Sec. 26-685.11100. - Applicability

- (1) This division applies to the siting, construction or modification of any and all wireless telecommunications facilities proposed to be located in the public right-of-way.
- (2) Pre-Existing Facilities in the PROW. Nothing in this division shall validate any existing illegal or unpermitted wireless facilities. All existing wireless facilities shall comply with and receive an encroachment permit, when applicable, in order to be considered legal and conforming.
- (3) This division does not apply to the following:
 - (a) Amateur radio facilities;
 - (b) OTARD antennas;
 - (c) Facilities owned and operated by the city for its use or for public safety purposes;
 - (d) Any entity legally entitled to an exemption pursuant to state or federal law or governing franchise agreement, excepting that to the extent such the terms of state or federal law, or franchise agreement, are preemptive of the terms of this division, then the terms of this division shall be severable to the extent of such preemption and all remaining regulations shall remain in full force and effect. Nothing in the exemption shall apply so as to preempt the city's valid exercise of police powers that do not substantially impair franchise contract rights;
 - (e) Installation of a COW or a similar structure for a temporary period in connection with an emergency or event at the discretion of the city engineer, but no longer than required for the emergency or event, provided that installation does not involve excavation, movement, or removal of existing facilities.
- (4) Public Use. Except as otherwise provided by state or federal law, any use of the PROW authorized pursuant to this division will be subordinate to the city's use and use by the public.

Sec. 26-685.11200. - Definition

- (1) "Accessory equipment" means any and all on-site equipment, including, without limitation, back-up generators and power supply units, cabinets, coaxial and fiber optic cables, connections, equipment buildings, shelters, vaults, radio transceivers, transmitters, pedestals, splice boxes, fencing and shielding, surface location markers, meters, regular power supply units, fans, air conditioning units, cables and wiring, to which an antenna is attached in order to facilitate the provision of wireless telecommunication services.

- (2) "Antenna" means any system of wires, poles, rods, reflecting discs, or similar devices of various sizes, materials and shapes including but not limited to solid or wire-mesh dish, horn, spherical, or bar configured arrangements, used for the transmission or reception of electromagnetic signals.
- (3) "Antenna array" shall mean two or more antennas having active elements extending in one or more directions, and directional antennas mounted upon and rotated through a vertical mast or tower interconnecting the beam and antenna support, all of which elements are deemed to be part of the antenna.
- (4) "Approval authority" means the city official responsible for reviewing applications for small cell permits and vested with the authority to approve, conditionally approve or deny such applications.
- (5) "Base station" shall have the meaning as set forth in Title 47 Code of Federal Regulations (C.F.R.) Section 1.40001(b)(1), or any successor provision. This means a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network (regardless of the technological configuration, and encompassing DAS and small cells). "Base station" does not encompass a tower or any equipment associated with a tower. Base station includes, without limitation:
- (a) Equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
 - (b) Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small cells).
 - (c) Any structure other than a tower that, at the time the relevant application is filed with the city under this division, supports or houses equipment described in paragraphs 1. and 2. of this definition that has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing that support.
 - (d) "Base station" does not include any structure that, at the time the relevant application is filed under this division, does not support or house equipment described in paragraphs 1. and 2. of this definition. Other structures that do not host wireless telecommunications facilities are not "base stations."
- As an illustration and not a limitation, the FCC's definition of "base station" refers to any structure that actually supports wireless equipment even though it was not originally intended for that purpose. Examples include, but are not limited to, wireless facilities mounted on buildings, utility poles, light standards or traffic signals. A structure without wireless equipment replaced with a new structure designed to bear the additional weight from wireless equipment constitutes a base station.
- (5) "Cellular" means an analog or digital wireless telecommunications technology that is based on a system of interconnected neighboring cell sites.

- (6) "City" means the City of West Covina.
- (7) "Code" means the West Covina Municipal Code.
- (8) "Collocation" means the placement of antennas, dishes, or similar devices owned or used by two (2) or more telecommunication providers on one (1) antenna support structure, building, pole, or structure.
- (9) "Concealed" or "concealment" means camouflaging techniques that integrate the transmission equipment into the surrounding natural and/or built environment such that the average, untrained observer cannot directly view the equipment but would likely recognize the existence of the wireless facility or concealment technique.
- (10) "COW" means a "cell on wheels," which is a portable, self-contained wireless telecommunications facility that can be moved to a location and set up to provide wireless telecommunication services, which facility is temporarily rolled in, or temporarily installed, at a location. Under this division, the maximum time a facility can be installed to be considered a COW is five days. A COW is normally vehicle-mounted and contains a telescoping boom as the antenna support structure.
- (11) "Decorative pole" means any pole that includes decorative or ornamental features, design elements and/or materials intended to enhance the appearance of the pole or the public rights-of-way in which the pole is located.
- (12) "Distributed antenna system" or "DAS" means a network of spatially separated antennas (nodes) connected to a common source (a hub) via a transport medium (often fiber optics) that provide wireless telecommunications service within a specific geographic area or building. DAS includes the transport medium, the hub, and any other equipment to which the DAS network or its antennas or nodes are connected to provide wireless telecommunication services.
- (13) "Eligible facilities request" means any request for modification to an existing eligible support structure that does not substantially change the physical dimensions of such structure, involving:
 - (a) Collocation of new transmission equipment;
 - (b) Removal of transmission equipment;
 - (c) Replacement of transmission equipment (replacement does not include completely replacing the underlying support structure); or
 - (d) Hardening through structural enhancement where such hardening is necessary to accomplish the eligible facilities request, but does not include replacement of the underlying support structure.

"Eligible facilities request" does not include modifications or replacements when an eligible support structure was constructed or deployed without proper local review, was not required to undergo local review, or involves equipment that was not properly approved. "Eligible facilities request" does include collocation facilities satisfying all the requirements for a non-discretionary collocation facility pursuant to Government Code Section 65850.6.

- (14) "Eligible support structure" means any support structure located in the PROW that is existing at the time the relevant application is filed with the city under this division.
- (15) "Existing" means a support structure, wireless telecommunications facility, or accessory equipment that has been reviewed and approved under the city's applicable zoning or permitting process, or under another applicable state or local regulatory review process, and lawfully constructed prior to the time the relevant application is filed under this division. However, a support structure, wireless telecommunications facility, or accessory equipment that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is "existing" for purposes of this division. "Existing" does not apply to any structure that (1) was illegally constructed without all proper local agency approvals, or (2) was constructed in noncompliance with such approvals. "Existing" does not apply where an existing support structure is proposed to be replaced in furtherance of the proposed wireless telecommunications facility.
- (16) "Facility(ies)" means wireless telecommunications facility(ies).
- (17) "FCC" means the Federal Communications Commission.
- (18) "FCC shot clock" means the presumptively reasonable time frame within which the city generally must act on a given wireless application, as defined by the FCC and as may be amended from time to time. The shot clock shall commence on "day zero," which is the day the WTFP application is submitted.
- (19) "Ground-mounted" means mounted to a pole, tower or other freestanding structure which is specifically constructed for the purpose of supporting an antenna or wireless telecommunications facility and placed directly on the ground at grade level.
- (20) "Lattice tower" means an open framework structure used to support one or more antennas, typically with three or four support legs.
- (21) "Located within (or in) the public right-of-way" includes any facility which in whole or in part, itself or as part of another structure, rests upon, in, over or under the PROW.
- (22) "Ministerial permit" means any city-issued non-discretionary permit required to commence or complete any construction or other activity subject to the city's jurisdiction. Ministerial permits may include, without limitation, a building permit, construction permit, electrical permit, encroachment permit, excavation permit and/or traffic control permit.
- (23) "Modification" means a change to an existing wireless telecommunications facility that involves any of the following: collocation, expansion, alteration, enlargement, intensification, reduction, or augmentation, including, but not limited to, changes in size, shape, color, visual design, or exterior material. "Modification" does not include repair, replacement or maintenance if those actions do not involve whatsoever any expansion, alteration, enlargement, intensification, reduction, or augmentation of an existing wireless telecommunications facility.
- (24) "Monopole" means a structure composed of a pole or tower used to support antennas or related equipment. A monopole includes a monopine, monopalm and similar monopoles

camouflaged to resemble faux trees or other faux objects attached on a monopole (e.g. water tower).

- (25) "Mounted" means attached or supported.
- (26) "OTARD antennas" means antennas covered by the "over-the-air reception devices" rule in 47 C.F.R. sections 1.4000 et seq. as may be amended or replaced from time to time.
- (27) "Permittee" means any person or entity granted a wireless telecommunication facilities permit (WTFP) pursuant to this division.
- (28) "Personal wireless services" shall have the same meaning as set forth in 47 United States Code Section 332(c)(7)(C)(i), as may be amended or superseded, which defines the term as commercial mobile services, unlicensed wireless services and common carrier wireless exchange access services.
- (29) "Planning director" means the director of community development, or his or her designee.
- (30) "Pole" means a single shaft of wood, steel, concrete or other material capable of supporting the equipment mounted thereon in a safe and adequate manner and as required by provisions of this code.
- (31) "Public right-of-way" or "PROW" means a strip of land acquired by reservation, dedication, prescription, condemnation, or easement that allows for the passage of people and goods. The PROW includes, but is not necessarily limited to, streets, curbs, gutters, sidewalks, roadway medians, parkways, and parking strips. The PROW does not include land owned, controlled or operated by the city for uses unrelated to streets or the passage of people and goods, such as, without limitation, parks, city hall and community center lands, city yards, and lands supporting reservoirs, water towers, police or fire facilities and non-publicly accessible utilities.
- (32) "City Engineer" means the City Engineer, or his or her designee.
- (33) "Replacement" refers only to replacement of transmission equipment, wireless telecommunications facilities or eligible support structures where the replacement structure will be of like-for-like kind to resemble the appearance and dimensions of the structure or equipment replaced, including size, height, color, landscaping, materials and style.
 - (a) In the context of determining whether an application qualifies as an eligible facilities request, the term "replacement" relates only to the replacement of transmission equipment and does not include replacing the support structure on which the equipment is located.
 - (b) In the context of determining whether a SWF application qualifies as being placed upon a new eligible support structure or qualifies as a collocation, an application proposing the "replacement" of the underlying support structure qualifies as a new pole proposal.

- (34) "Radiofrequency emissions" (RF) means the electromagnetic signals transmitted and received using wireless telecommunication antennas.
- (35) "Section 6409" means Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156, codified as 47 U.S.C. § 1455(a), as may be amended. The Middle Class Tax Relief and Job Creation Act of 2012 is also referenced herein occasionally as the "Spectrum Act".
- (36) "Small cell" means a low-powered antenna (node) that has a range of ten meters to two kilometers. The nodes of a "small cell" may or may not be connected by fiber. "Small," for purposes of "small cell," refers to the area covered, not the size of the facility. "Small cell" includes, but is not limited to, devices generally known as microcells, picocells and femtocells.
- (37) "Small cell network" means a network of small cells.
- (38) "Substantial change" has the same meaning as "substantial change" as defined by the FCC at 47 C.F.R. 1.40001(b)(7). Notwithstanding the definition above, if an existing pole-mounted cabinet is proposed to be replaced with an underground cabinet at a facility where there are no pre-existing ground cabinets associated with the structure, such modification may be deemed a non-substantial change, in the discretion of the planning director and based upon his/her reasonable consideration of the cabinet's proximity to residential view sheds, interference to public views and/or degradation of concealment elements. If undergrounding the cabinet is technologically infeasible such that it is materially inhibitive to the project, the planning director may allow for a ground mounted cabinet. A modification or collocation results in a "substantial change" to the physical dimensions of an eligible support structure if it does any of the following:
- (a) It increases the height of the structure by more than ten percent or more than ten feet, whichever is greater;
 - (b) It involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;
 - (c) It involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets. However, for towers and base stations located in the public rights-of-way, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten percent larger in height or overall volume than any other ground cabinets associated with the structure;
 - (d) It entails any excavation or deployment outside the current site. For purposes of this subsection, excavation outside the current site occurs where excavation more than 12 feet from the eligible support structure is proposed;
 - (e) It defeats the concealment or stealthing elements of the eligible support structure;
or
 - (f) It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure, provided however that

this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in paragraphs 1. through 4. of this definition.

- (g) For all proposed collocations and modifications, a substantial change occurs when:
- (i) The proposed collocation or modification involves more than the standard number of new equipment cabinets for the technology involved, but not to exceed four equipment cabinets;
 - (ii) The proposed collocation or modification would defeat the concealment elements of the support structure; or
 - (iii) The proposed collocation or modification violates a prior condition of approval, provided however that the collocation need not comply with any prior condition of approval that is inconsistent with the thresholds for a substantial change described in this section.

The thresholds and conditions for a "substantial change" described in this section are disjunctive such that the violation of any individual threshold or condition results in a substantial change. The height and width thresholds for a substantial change described in this section are cumulative for each individual support structure. The cumulative limit is measured from the physical dimensions of the original structure for base stations, and for all other facilities sites in the PROW from the smallest physical dimensions that existed on or after February 22, 2012, inclusive of originally approved-appurtenances and any modifications that were approved prior to that date.

(39) "Support structure" means a tower, pole, base station or other structure used to support a wireless telecommunications facility.

(40) "SWF" means a "small wireless facility" as defined by the FCC in 47 C.F.R. 1.6002(l) as may be amended, which are personal wireless services facilities that meet all the following conditions that, solely for convenience, have been set forth below:

- (a) The facility:
- (i) Is mounted on an existing or proposed structure 50 feet or less in height, including antennas, as defined in Title 47 C.F.R. Section 1.1320(d); or
 - (ii) Is mounted on an existing or proposed structure no more than ten percent taller than other adjacent structures; or
 - (iii) Does not extend an existing structure on which it is located to a height of more than 50 feet or by more than ten percent, whichever is greater;
- (b) Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of antenna in 47 C.F.R. Section 1.1320(d)), is no more than three cubic feet in volume;
- (c) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;

- (d) The facility does not require antenna structure registration under 47 C.F.R. Part 17;
 - (e) The facility is not located on Tribal lands, as defined under Title 36 C.F.R. Section 800.16(x); and
 - (f) The facility does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in Title 47 C.F.R. Section 1.1307(b).
- (41) "Telecommunications tower" or "tower" bears the meaning ascribed to wireless towers by the FCC in 47 C.F.R. § 1.40001(b)(9), including without limitation a freestanding mast, pole, monopole, guyed tower, lattice tower, free standing tower or other structure designed and built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. This definition does not include utility poles.
- (42) "Transmission equipment" means equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
- (43) "Utility pole" means any pole or tower owned by any utility company that is primarily used to support wires or cables necessary to the provision of electrical or other utility services regulated by the California Public Utilities Commission. A telecommunications tower is not a utility pole.
- (44) "Wireless telecommunications facility" means a mechanical device, land, and/or structure that is used to transmit and/or receive electromagnetic signals, including but not limited to antennas, microwave dishes, horn, and other types of equipment for the transmission or receipt of such signals, free-standing wireless facilities, equipment buildings or cabinets, parking areas, and other accessory development. Exceptions: The term "wireless telecommunications facility" does not apply to the following:
- (a) Government-owned and operated telecommunications facilities.
 - (b) Emergency medical care provider-owned and operated telecommunications facilities.
 - (c) Mobile services providing public information coverage of news events of a temporary nature.
 - (d) Any wireless telecommunications facilities exempted from this code by federal law or state law.
- (45) "Wireless telecommunications services" means the provision of services using a wireless telecommunications facility or a collocation facility, and shall include, but not be limited to, the following services: personal wireless services as defined in the Federal

Telecommunications Act of 1996 at 47 U.S.C. § 332(c)(7)(C) or its successor statute, cellular service, personal communication service, and/or data radio telecommunications.

(46) "WTFP" means a "wireless telecommunications facility permit" required by this division, which may be categorized as either a major WTFP or a minor WTFP.

Sec. 26-685.11300. - Wireless telecommunications facility permit (WTFP) review authority.

(1) Administration. The planning director is responsible for administering this division. As part of the administration of this division, the director may:

- (a) Interpret the provisions of this division;
- (b) Develop forms and procedures for submission of applications for placement or modification of wireless facilities, and proposed changes to any support structure consistent with this division;
- (c) Collect, as a condition of the completeness of any application, any fee established by this division;
- (d) Establish deadlines for submission of information related to an application, and extend or shorten deadlines where appropriate and consistent with federal laws and regulations;
- (e) Issue any notices of incompleteness, requests for information, or conduct or commission such studies as may be required to determine whether a permit should be issued;
- (f) Require, as part of, and as a condition of completeness of any application, that an applicant for a wireless telecommunication facilities permit send notice to members of the public that may be affected by the placement or modification of the wireless facility and proposed changes to any support structure;
- (g) Subject to appeal as provided herein, determine whether to approve, approve subject to conditions, or deny an application; and
- (h) Take such other steps as may be required to timely act upon applications for placement of wireless telecommunications facilities, including issuing written decisions and entering into agreements to mutually extend the time for action on an application.

(2) Administrative review ("Minor WTFP") required.

- (a) Certain wireless telecommunication facilities, collocations, modifications, or replacements to an eligible support structure is subject to the planning director's review of an Administrative Review application, if the following criteria are met:
 - (i) The proposal is determined to be for a SWF, or an eligible facilities request; and
 - (ii) The proposal complies with the adopted Design Guidelines for Wireless Telecommunication Facilities in the PROW; and

- (iii) The location of the proposed wireless telecommunication facility is no less than 250 feet from an existing or approved wireless telecommunication facility location; and
- (iv) The location of any proposed SWF is no less than 250 feet from the location of a proposed SWF within the same application bundle.
- (b) In the event that the planning director determines that any minor WTFP application submitted does not meet the application criteria of this division, the director shall convert the application to a major WTFP and refer it to the planning commission for consideration at a public hearing.
- (3) Major Wireless Telecommunications Facilities Permit ("Major WTFP") required. All new wireless telecommunications facilities or replacements, collocations, or modifications to a wireless telecommunications facility that are not qualified for an Administrative Review shall require a Major WTFP subject to planning commission hearing and approval unless otherwise provided for in this division.
- (4) Other Permits Required. In addition to any permit that may be required under this division, the applicant must obtain all other required prior permits or other approvals from other city departments/divisions, or state or federal agencies. Any permit granted under this division is subject to the conditions and/or requirements of other required prior permits or other approvals from other city departments/division, state or federal agencies. Building and encroachment permits, and all city standards and requirements therefor, are applicable. The Planning Director and/or Planning Commission approval of any permits pursuant to this division does not constitute an encroachment permit, and/or other permits issued by other city departments/division to allow the physical installation of the wireless telecommunications facility.

Sec. 26-685.11400. - Wireless telecommunications facility permit application submittal requirements.

- (1) General. The applicant shall submit a paper copy and an electronic copy of any application, amendments, modifications, or supplements to a WTFP application, or responses to requests for information regarding a WTFP, including all applications and requests for authorization to construct, install, attach, operate, collocate, modify, reconstruct, relocate or otherwise deploy wireless facilities within the city's jurisdictional and territorial boundaries within the PROWs, in accordance with the provisions of this section.
 - (a) The city requires a pre-application submittal meeting for a major WTFP. The city does not require a pre-application submittal meeting for a minor WTFP; however, the city strongly encourages applicants to schedule and attend a pre-application submittal conference with the approval authority for all proposed minor WTFP projects, and particularly those that involve more than five minor WTFPs.
 - (i) Pre-submittal conferences do not cause the FCC shot clock to begin and are intended to streamline the review process through informal discussion that includes, without limitation, the appropriate project classification and review process; any latent issues in connection with the proposed project, including compliance with generally applicable rules for public health and safety; potential concealment issues or

concerns (if applicable); coordination with other city departments/divisions responsible for application review; and application completeness issues.

- (ii) To mitigate unnecessary delays due to application incompleteness, applicants are encouraged (but not required) to bring any draft applications or other materials so that city staff may provide informal feedback and guidance about whether such applications or other materials may be incomplete or unacceptable. The approval authority shall use reasonable efforts to provide the applicant with an appointment within five working days after receiving a written request and any applicable fee or deposit to reimburse the city for its reasonable costs to provide the services rendered in the pre-submittal conference.
 - (iii) Any request for a pre-submittal conference shall be in writing and shall confirm that any drafts to be provided to the city at the pre-submittal conference will not be deemed as "submissions" triggering the start of any FCC shot clock.
 - (b) All applications for WTFPs shall be initially submitted to the planning division. Each applicant shall fully and completely submit to the city a written application on a form prepared by the Planning division.
 - (c) Major WTFP applications must be submitted to the planning division at a scheduled application submission appointment. City staff will endeavor to provide applicants with an appointment within five business days after receipt of a written request therefor. A WTFP application will only be reviewed upon submission of a complete application therefor. A pre-submission appointment is not required for minor WTFPs.
 - (d) For SWF, applicants may submit up to five individual applications for a WTFP in a batch; provided, however, that SWF in a batch must be proposed with substantially the same equipment in the same configuration on the same support structure type. Each application in a batch must meet all the requirements for a complete application, which includes without limitation the application fee for each site in the batch. If any application in a batch is incomplete, the entire batch shall be deemed incomplete. If any application is withdrawn or deemed withdrawn from a batch as described in this division, the entire batch shall be deemed withdrawn. If any application in a batch fails to meet the required findings for approval, the entire batch shall be denied.
 - (e) If the wireless telecommunications facility will also require the installation of fiber, cable, or coaxial cable, such cable installations shall be included within the application form and processed in conjunction with the proposal for vertical support structure(s). Applicants shall simultaneously request fiber installation or other cable installation when seeking to install antennas in the PROW. Standalone applications for the installation of fiber, cable, or coaxial cable, or accessory equipment designed to serve an antenna must include all features of the wireless telecommunications facility proposed.
- (2) Application Contents—Minor WTFPs. The content of the application form for facilities subject to a minor WTFP shall be determined by the planning director in addition to all other information reasonably deemed necessary, but at a minimum shall include the following:
- (a) The name of the applicant, its telephone number, mailing address, electronic mail address, and contact information, and if the applicant is a wireless infrastructure provider, the

name and contact information for the wireless service provider that will be using the wireless facility.

- (b) The name of the owner of the structure, if different from the applicant, and a signed and notarized owner's authorization for use of the structure.
- (c) A complete description of the proposed wireless telecommunications facility and any and all work that will be required to install or modify it, including, but not limited to, details regarding proposed excavation, if any; detailed site plans showing the location of the wireless telecommunications facility, and dimensioned drawings with specifications for each element of the wireless facility, clearly describing the site and all structures and facilities at the site before and after installation or modification; and a dimensioned map identifying and describing the distance to the nearest residential dwelling unit and any historical structure within 250 feet of the facility. Before and after 360 degree photo simulations shall be provided.
- (d) Documentation sufficient to show that the proposed facility will comply with generally-applicable health and safety provisions of the municipal code and the FCC's radio frequency emissions standards.
- (f) A copy of the lease or other agreement, if any, between the applicant and the owner of the property to which the proposed facility will be attached.
- (g) If the application is for a SWF, the application shall state as such and shall explain why the proposed facility meets the definition of a SWF.
- (h) If the application is for an eligible facilities request, the application shall state as such and must contain information sufficient to show that the application qualifies as an eligible facilities request, which information must demonstrate that the eligible support structure was not constructed or deployed without proper local review, was not required to undergo local review, or involves equipment that was not properly approved. This shall include copies of all applicable local permits in-effect and as-built drawings of the current site. Before and after 360 degree photo simulations shall be provided, as well as documentation sufficient to show that the proposed facility will comply with generally-applicable health and safety provisions of the municipal code and the FCC's radio frequency emissions standards.
- (i) For SWFs, the application shall also contain:

 - (i) Application Fee. The applicant shall submit the applicable SWF WTFP application fee established by city council resolution. Batched applications for Major WTFP projects must include the applicable application fee for each SWF in the batch.
 - (ii) Construction Drawings. The applicant shall submit true and correct construction drawings, prepared, signed and stamped by a California licensed or registered engineer, that depict all the existing and proposed improvements, equipment and conditions related to the proposed project, which includes without limitation any and all poles, posts, pedestals, traffic signals, towers, streets, sidewalks, pedestrian ramps, driveways, curbs, gutters, drains, handholes, manholes, fire hydrants, equipment cabinets, antennas, cables, trees and other landscape features. The construction drawings shall: (i) contain cut sheets that contain the technical

specifications for all existing and proposed antennas and accessory equipment, which includes without limitation the manufacturer, model number, and physical dimensions; (ii) identify all structures within 250 feet from the proposed project site and indicate such structures' overall height above ground level; (iii) depict the applicant's plan for electric and data backhaul utilities, which shall include the locations for all conduits, cables, wires, handholes, junctions, transformers, meters, disconnect switches, and points of connection; and (iv) demonstrate that proposed project will be in full compliance with all applicable health and safety laws, regulations or other rules, which includes without limitation all building codes, electric codes, local street standards and specifications, and public utility regulations and orders.

- (iii) Site Survey. For any SWF proposed to be located within the PROW, the applicant shall submit a survey prepared, signed, and stamped by a California licensed or registered engineer. The survey must identify and depict all existing boundaries, encroachments and other structures within 250 feet from the proposed project site, which includes without limitation all: (i) traffic lanes; (ii) all private properties and property lines; (iii) above and below-grade utilities and related structures and encroachments; (iv) fire hydrants, roadside call boxes and other public safety infrastructure; (v) streetlights, decorative poles, traffic signals and permanent signage; (vi) sidewalks, driveways, parkways, curbs, gutters and storm drains; (vii) benches, trash cans, mailboxes, kiosks and other street furniture; and (viii) existing trees, planters and other landscaping features.
- (iv) Photo Simulations. The applicant shall submit site photographs and 360 degree photo simulations that show the existing location and proposed SWF in context from at least three vantage points within the public streets or other publicly accessible spaces, together with a vicinity map that shows the proposed site location and the photo location for each vantage point.
- (v) Project Narrative and Justification. The applicant shall submit a written statement that explains in plain factual detail whether and why the proposed wireless facility qualifies as a SWF as defined by the FCC in 47 C.F.R. 1.6002(l). A complete written narrative analysis will state the applicable standard and all the facts that allow the city to conclude the standard has been met—bare conclusions not factually supported do not constitute a complete written analysis. As part of the written statement the applicant must also include (i) whether and why the proposed support is a structure as defined by the FCC in 47 C.F.R. § 1.6002(m); and (ii) whether and why the proposed wireless facility meets each required finding for a SWF permit as provided in Section 12.18.060 (Review Procedure).
- (vi) RF Compliance Report. The applicant shall submit an RF exposure compliance report that certifies that the proposed SWF, as well as any collocated wireless facilities, will comply with applicable federal RF exposure standards and exposure limits. The RF report must be prepared and certified by an RF engineer acceptable to the city. The RF report must include the actual frequency and power levels (in watts ERP) for all existing and proposed antennas at the site and exhibits that show the location and orientation of all transmitting antennas and the boundaries of areas

with RF exposures in excess of the uncontrolled/general population limit (as that term is defined by the FCC) and also the boundaries of areas with RF exposures in excess of the controlled/occupational limit (as that term is defined by the FCC). Each such boundary shall be clearly marked and identified for every transmitting antenna at the project site.

- (vii) Regulatory Authorization. The applicant shall submit evidence of the applicant's regulatory status under federal and California law to provide the services and construct the SWF proposed in the application.
- (viii) Site Agreement. For any SWF proposed to be installed on any structure owned or controlled by the city and located within the public rights-of-way, the applicant must enter into a site agreement prepared on a form prepared by the city and approved by the city attorney that states the terms and conditions for such non-exclusive use by the applicant. No changes shall be permitted to the city's form site agreement except as may be indicated on the form itself. Any unpermitted changes to the city's form site agreement shall be deemed a basis to deem the application incomplete.
- (ix) Acoustic Analysis. The applicant shall submit an acoustic analysis prepared and certified by an acoustic engineer for the proposed SWF and all associated equipment including all environmental control units, sump pumps, temporary backup power generators and permanent backup power generators demonstrating compliance with the following noise regulations:

 - 1. Backup generators shall only be operated during periods of power outages, and shall not be tested on weekends or holidays, or between the hours of 7:00 p.m. and 7:00 a.m.;
 - 2. At no time shall equipment noise from any facility exceed an exterior noise level of 55 dBA three feet from the source of the noise if the facility is located in the public right-of-way adjacent to a business, commercial, manufacturing, utility or school zone; provided, however, that for any such facility located within 500 feet of any property zoned residential or improved with a residential use, such equipment noise shall not exceed 45 dBA three feet from the sources of the noise.
 - 3. The acoustic analysis shall also include an analysis of the manufacturers' specifications for all noise-emitting equipment and a depiction of the proposed equipment relative to all adjacent property lines. In lieu of an acoustic analysis, the applicant may submit evidence from the equipment manufacturer that the ambient noise emitted from all the proposed equipment will not, both individually and cumulatively, exceed the applicable limits.
- (x) Wind Load Analysis. The applicant shall submit a wind load analysis with an evaluation of high wind load capacity and shall include the impact of modification of an existing facility.
- (xi) Environmental Data. A completed environmental assessment application, or in the alternative any and all documentation identifying the proposed WTFP as exempt from environmental review (under the California Environmental Quality Act, Public

Resources Code 21000—21189, the National Environmental Policy Act, 42 U.S.C. §4321 et seq., or related environmental laws). Notwithstanding any determination of environmental exemption issued by another governmental entity, the city reserves its right to exercise its rights as a responsible agency to review de novo the environmental impacts of any WTFP application.

- (xii) Traffic Control Plan. A traffic control plan when the proposed installation is on any street in a non-residential zone. The city shall have the discretion to require a traffic control plan when the applicant seeks to use large equipment (e.g. crane).
 - (xiii) Landscape Plan. A scaled conceptual landscape plan showing existing trees and vegetation and all proposed landscaping, concealment, screening and proposed irrigation with a discussion of how the chosen material at maturity will screen the SWF and its accessory equipment.
 - (xiv) CPCN. Certification that applicant is a telephone corporation or a statement providing the basis for its claimed right to enter the PROW. If the applicant has a certificate of public convenience and necessity (CPCN) issued by the California Public Utilities Commission, it shall provide a copy of its CPCN.
 - (xvi) Master Deployment Plan. A master deployment plan showing the locations of existing and proposed small wireless facilities over the next two years.
 - (j) If the applicant contends that denial of the application would prohibit or effectively prohibit the provision of service in violation of federal law, or otherwise violate applicable law, the application must provide all information on which the applicant relies on in support of that claim. Applicants are not permitted to supplement this showing if doing so would prevent the city from complying with any deadline for action on an application or FCC shot clock.
- (3) Application Contents—Major WTFPs. The application form for a major WTFP shall require the following information, in addition to all other information determined necessary by the planning director:
- (a) The name, address, and telephone number of the applicant, owner, and the operator of the proposed wireless telecommunication facility.
 - (b) If the applicant does not, or will not, own the support structure, the applicant shall provide a duly-executed letter of authorization from the owner of the structure. If the owner of the support structure is the applicant, but such owner/applicant will not directly provide wireless telecommunications services, the owner/applicant shall provide a duly-executed letter of authorization from the person(s) or entity(ies) that will provide those services.
 - (c) A full written description of the proposed wireless telecommunications facility and its purpose.
 - (d) Detailed engineering plans of the proposed wireless telecommunications facility and related report prepared by a professional engineer registered in the state documenting the following:
 - (i) Height/elevation, diameter, layout and design of the facility, including technical engineering specifications, economic and other pertinent factors governing selection

- of the proposed design, together with evidence that demonstrates that the proposed facility has been designed to be the least intrusive equipment within the particular technology available to the carrier for deployment.
- (ii) A photograph and model name and number of each piece of the facility or proposed antenna array and accessory equipment included.
 - (iii) Power output and operating frequency for the proposed antenna array (including any antennas existing as of the date of the application serving the carrier identified in the application).
 - (iv) Total anticipated capacity of the wireless telecommunications facility for the subject carrier, indicating the number and types of antennas and power and frequency ranges, which can be accommodated.
 - (v) Sufficient evidence of the structural integrity of the support structure as required by the city.
- (e) A written description identifying the geographic service area to be served by the proposed WTFP, plus geographic or propagation maps showing applicant's service area objectives.
- (f) A justification study which includes the rationale for selecting the proposed wireless telecommunication facility design, support structure and location. A detailed explanation of the applicant's coverage objectives that the proposal would serve, and how the proposed use is the least intrusive means for the applicant to cover such objectives. This shall include:
- (i) A meaningful comparative analysis that includes all factual reasons why the proposed location and design deviates from, or is the least compliant means of, or not the least intrusive location and design necessary to reasonably achieve the applicant's reasonable objectives of covering an established significant gap (as established under state and federal law).
 - (ii) The study shall include all eligible support structures and/or alternative sites evaluated for the proposed major WTFP, and why the alternatives are not reasonably available, technically feasible options that most closely conform to the local values. The alternative site analysis must include the consideration of at least two eligible support structures; or, if no eligible support facilities are analyzed as alternatives, why no eligible support facilities are reasonably available or technically feasible.
 - (iii) If a portion of the proposed facility lies within a jurisdiction other than the city's jurisdiction, the applicant must demonstrate that alternative options for locating the project fully within one jurisdiction or the other is not a viable option. Applicant must demonstrate that it has obtained all approvals from the adjacent jurisdiction for the installation of the extra-jurisdictional portion of the project.
- (g) Site plan(s) to scale, specifying and depicting the exact location of the proposed wireless telecommunications facility, location of accessory equipment in relation to the support structure, access or utility easements, existing utilities, adjacent land uses, and showing compliance with all design and safety requirements set forth in this division.

- (h) A completed environmental assessment application, or in the alternative any and all documentation identifying the proposed WTFP as exempt from environmental review (under the California Environmental Quality Act, Public Resources Code 21000-21189, the National Environmental Policy Act, 42 U.S.C. § 4321 et seq., or related environmental laws). Notwithstanding any determination of environmental exemption issued by another governmental entity, the city reserves its right to exercise its rights as a responsible agency to review de novo the environmental impacts of any WTFP application.
- (i) An accurate visual impact analysis showing the maximum silhouette, view-shed analysis, color and finish palette and proposed screening for the wireless telecommunications facility, including scaled photo simulations from at least three different angles.
- (j) Completion of the RF emissions exposure guidelines checklist contained in Appendix A to the FCC's "Local Government Official's Guide to Transmitting Antenna RF Emission Safety" to determine whether the facility will be "categorically excluded" as that term is used by the FCC.
- (k) For a facility that is not categorically excluded under the FCC regulations for RF emissions, the applicant shall submit an RF exposure compliance report prepared and certified by an RF engineer acceptable to the city that certifies that the proposed facility, as well as any facilities that contribute to the cumulative exposure in the subject area, will comply with applicable federal RF exposure standards and exposure limits. The RF report must include the actual frequency and power levels (in watts effective radio power "ERP") for all existing and proposed antennas at the site and exhibits that show the location and orientation of all transmitting antennas and the boundaries of areas with RF exposures in excess of the uncontrolled/general population limit (as that term is defined by the FCC) and also the boundaries of areas with RF exposures in excess of the controlled/occupational limit (as that term is defined by the FCC). Each such boundary shall be clearly marked and identified for every transmitting antenna at the project site.
- (l) Copies of any documents that the applicant is required to file pursuant to Federal Aviation Administration regulations for the proposed wireless telecommunications facility.
- (m) A noise study prepared by a qualified acoustic engineer documenting that the level of noise to be emitted by the proposed wireless telecommunications facility will comply with this code, including Chapter 15, Article IV (Noise Regulations) of this code.
- (n) A traffic control plan. The city shall have the discretion to require a traffic control plan when the applicant seeks to use large equipment (e.g., crane).
- (o) A scaled conceptual landscape plan showing existing trees and vegetation and all proposed landscaping, concealment, screening and proposed irrigation with a discussion of how the chosen material at maturity will screen the wireless telecommunication facility.
- (p) Certification that applicant is a telephone corporation, or a statement providing the basis for its claimed right to enter the right-of-way. If the applicant has a certificate of public convenience and necessity (CPCN) issued by the California Public Utilities Commission, it shall provide a copy of its CPCN.

- (q) Evidence that the proposed wireless facility qualifies as a personal wireless services facility.
- (r) Address labels for use by the city in noticing all property owners and occupants of properties within 300 feet of the proposed wireless telecommunication facility and, if applicable, all public hearing information required by the municipal code for public noticing requirements.
- (s) Any other information and/or studies reasonably determined to be necessary by the planning director(s) may be required.
- (4) Application Fees and Deposits. For all WTFPs, application fee(s) and the establishment of deposits to cover outside consultant costs shall be required to be submitted with any application, as established by city council resolution and in accordance with California Government Code Section 50030.

 - (a) Reasonable costs of city staff, consultant and attorney time (including that of the city attorney) pertaining to the review, processing, noticing and hearing procedures directly attributable to a WTFP shall be reimbursable to the city. To this end, the planning director, as applicable, may require applicants to enter a deposit reimbursement agreement, in a form approved by the city attorney, or other established deposit accounting mechanism for purposes of obtaining an applicant deposit from which the direct costs of city processing of an application may be drawn-down.
- (5) Effect of State or Federal Law on Application Process. In the event a state or federal law prohibits the collection of any information or application conditions required by this section, the planning director is authorized to omit, modify, or add to that request from the city's application form in consultation with the city attorney. Requests for waivers from any application requirement of this section shall be made in writing to the planning director. The planning director may grant a request for waiver if it is demonstrated that, notwithstanding the issuance of a waiver, the city will be provided all information necessary to understand the nature of the construction or other activity to be conducted pursuant to the WTFP sought. All waivers approved pursuant to this subsection shall be (1) granted only on a case-by-case basis, and (2) narrowly-tailored to minimize deviation from the requirements of the municipal code.
- (6) Applications Deemed Withdrawn. To promote efficient review and timely decisions, any application governed by this division will be automatically deemed withdrawn by the applicant when the applicant fails to tender a substantive response to the city on any application within 30 calendar days after the application is deemed incomplete in a written notice to the applicant. The planning director (as applicable) may grant a written extension for up to an additional 30 calendar days when the applicant submits a written request prior to the application deemed automatically withdrawn that shows good cause to grant the extension.
- (7) Waiver of Applications Superseded by Submission of New Project. If an applicant submits a WTFP application, but substantially revises the proposed facility during the application process prior to any city hearing or decision on such application, the substantially revised application shall be deemed a new application for all processing purposes, including FCC shot clocks, and the prior submittals deemed waived and superseded by the substantially revised application. For purposes of this subparagraph, "substantially revised" means that the project as initially-proposed has been alternately proposed for a location 300 feet or more from the

original proposal or constitutes a substantial change in the dimensions or equipment that was proposed in the original WTFP application.

- (8) Rejection for Incompleteness. WTFPs will be processed, and notices of incompleteness provided, in conformity with state, local, and federal law. If such an application is incomplete, it may be rejected by the planning director by notifying the applicant in writing and specifying the material omitted from the application.

Sec. 26-685.11500. - Review procedure.

- (1) General. Wireless telecommunications facilities shall be installed and modified in a manner that minimizes risk to public safety and utilizes installation of new support structures or equipment cabinets in the PROW only after all existing and replacement structure options have been exhausted, and where feasible, places equipment underground, and otherwise maintains the integrity and character of the neighborhoods and corridors in which the facilities are located; ensures that installations are subject to periodic review to minimize the intrusion on the PROW; and ensures that the city bears no risk or liability as a result of the installations, and that such use does not inconvenience the public, interfere with the primary uses of the PROW, or hinder the ability of the city or other government agencies to improve, modify, relocate, abandon, or vacate the PROW or any portion thereof, or to cause the improvement, modification, relocation, vacation, or abandonment of facilities in the PROW.
- (2) Collocation Encouraged. Where the facility site is capable of accommodating a collocated facility upon the same site in a manner consistent with the permit conditions for the existing facility, the owner and operator of the existing facility shall allow collocation of third-party facilities, provided the parties can mutually agree upon reasonable terms and conditions therefor.
- (3) Findings Required for Approval of a WTFP.
- (a) Minor WTFP for SWF. For minor WTFP applications proposing a SWF, the planning director or planning commission shall approve such application if, on the basis of the application and other materials or evidence provided in review thereof, all of the following findings can be made:
- (i) The facility qualifies as a SWF;
 - (ii) The facility is not detrimental to the public health, safety, and welfare;
 - (iii) The SWF meets applicable requirements and standards of state and federal law;
 - (vi) The facility meets applicable requirements under this division and complies with the adopted Design Guidelines.
- (b) Minor WTFP for EFR. For minor WTFP applications proposing an eligible facilities request, the planning director shall approve such application if, on the basis of the application and other materials or evidence provided in review thereof, all of the following findings can be made:
- (i) That the application qualifies as an eligible facilities request; and
 - (ii) That the proposed facility will comply with all generally-applicable laws.

- (c) Major WTFP. No major WTFP shall be granted unless all of the following findings are made by the applicable decision-maker:

 - (i) The proposed wireless telecommunications facility has been designed and located in compliance with all applicable provisions of this division;
 - (ii) If applicable, the applicant has demonstrated its inability to locate on an eligible support structure;
 - (iii) The applicant has provided sufficient evidence supporting the applicant's claim that it has the right to enter the public right-of-way pursuant to state or federal law, or the applicant has entered into a franchise agreement with the city permitting them to use the public right-of-way;
 - (iv) If applicable, the applicant has provided sufficient evidence supporting the applicant's claim that compliance with the adopted Design Guidelines would be technically infeasible;
 - (v) The applicant has demonstrated the proposed installation is designed such that the proposed installation represents the least intrusive means possible, supported by factual evidence and a meaningful comparative analysis to show that all alternative locations and designs identified in the application review process were technically infeasible or not reasonably available.
- (4) Noticing. The provisions in this section describe the procedures for the approval process, any required notice and public hearings for a WTFP application.

 - (a) Major WTFP Applications. Any major WTFP application shall require notice and a public hearing. The public hearing notices shall be provided as set forth in Section 26-206 of the West Covina Municipal Code.
- (5) Notice of Decision. Within five days after any decision to grant, approve, deny, or conditionally grant any WTFP application, the planning director, as applicable, shall provide written notice based on substantial evidence in the written administrative record including the following:

 - (a) A general explanation of the decision, including the findings required for the decision, if any, and how those findings were supported or not supported by substantial evidence;
 - (b) A general description of the property involved;
 - (c) Information about applicable rights to appeal the decision, costs to appeal, and explanation of how that right may be exercised; and
 - (d) To be given by first class mail to the project applicant and property owner;
 - (e) Once a WTFP is approved, no changes shall be made to the approved plans without review and approval in accordance with this division.
 - (f) Because Section 332(c)(7) of the Telecommunications Act preempts local decisions premised directly or indirectly on the environmental effects of radio frequency (RF) emissions, no decision upon a WTFP shall be premised upon the environmental or health

effects of RF emissions, nor shall public comments be considered to the extent they are premised upon the environmental or health effects of RF emissions.

(6) Appeals.

- (a) An appeal by a wireless infrastructure provider must be taken jointly with the wireless service provider that intends to use the wireless facility. Because Section 332(c)(7) of the Telecommunications Act preempts local decisions premised directly or indirectly on the environmental effects of radio frequency (RF) emissions, appeals of WTFP decision premised on the environmental effects of radio frequency emissions will not be considered.
- (b) WTFP Appeals. Any person claiming to be adversely affected by a decision of a major WTFP pursuant to this division may appeal such decision as provided in accordance with the appeal provisions in Section 26-212 of the West Covina Municipal Code.

Sec. 26-685.11600 - Design and development standards.

(1) Wireless Telecommunication Facility Design and Development Standards. Wireless telecommunication facilities in the PROW are subject to the design and development standards and conditions of approval set forth herein. All wireless telecommunication facilities shall be designed and maintained as to minimize visual, noise and other impacts on the surrounding community and shall be planned, designed, located, and erected in accordance with the following standards:

- (a) Concealment. All Wireless telecommunication facilities shall employ concealment, screening, undergrounding, and camouflage methods and techniques in order to ensure that the facility is visually screened and blends into the environment to prevent the facility from dominating the surrounding area, as well as to be compatible with the architectural character of the surrounding buildings or structures per the adopted Design Guidelines.
- (b) Location.
 - (i) Wireless telecommunication facilities shall not be located within the center median of any street.
 - (ii) SWFs shall not be located within 15 feet from any structure used for residential purposes in the PCD-1 zone.
 - (iii) SWFs shall not be located within 30 feet from any structure used for residential purposes in all other land-use zones outside of the PCD-1 zone.
 - (vi) SWFs may not encroach onto or over any private or other property outside the PROW unless on a recorded utility easement.
 - (v) Wireless telecommunication facilities shall not be located within the drip-line of any tree located on private property as set forth in Section 26-294 (Protection of trees during development activity) of this code.
 - (vi) All wireless telecommunications facilities subject to a major WTFP shall not be located in the PROW adjacent to properties used for residential purposes.

- (vii) All wireless telecommunications facilities subject to a major WTFP shall not be located in the PROW within 100 feet of designated historic buildings.
- (c) Noise. All wireless telecommunication facilities and accessory equipment shall comply with all applicable noise control standards and regulations stated in this division, including the following:

 - (i) Backup generators shall only be operated during periods of power outages, and shall not be tested on weekends or holidays, or between the hours of 7:00 p.m. and 7:00 a.m.;
 - (ii) At no time shall equipment noise from any facility exceed an exterior noise level of 55 dBA three feet from the source of the noise if the facility is located in the public right-of-way adjacent to a business, commercial, manufacturing, utility or school zone; provided, however, that for any such facility located within 500 feet of any property zoned residential or improved with a residential use, such equipment noise shall not exceed 45 dBA three feet from the sources of the noise.
- (d) Landscaping. Wireless telecommunication facilities shall not displace any existing landscape features in the PROW unless: (1) such displaced landscaping is replaced with plants, trees or other landscape features approved by the public services director or his or her designee and (2) the applicant submits and adheres to a landscape maintenance plan. The landscape plan must include existing vegetation, and vegetation proposed to be removed or trimmed, and the landscape plan must identify proposed landscaping by species type, size and location. Landscape maintenance shall be performed in accordance to the public services director, or his or her designee. To preserve existing landscaping in the PROW, all work performed in connection with wireless telecommunication facilities shall not cause any street trees to be trimmed, damaged or displaced. If any street trees are damaged or displaced, the applicant shall be responsible, at its sole cost and expense, to plant and maintain replacement trees at the site for the duration of the permit term.
- (e) No facility shall bear any signs or advertising devices other than certification, warning or other signage required by law or permitted by the city.
- (f) Accessory Equipment. Not including the electric meter, all accessory equipment shall be located underground unless city staff determines that there is no room in the PROW for undergrounding or that undergrounding is not feasible. Such accessory equipment shall be enclosed with a structure and shall be fully screened and camouflaged, including the use of landscaping, architectural treatment or other acceptable alternate screening method. Required electrical meters or cabinets shall be screened and/or camouflaged per the adopted Design Guidelines.
- (g) Support Structures. Only pole-mounted antennas shall be permitted in the PROW. Mounting to all other forms of support structure in the PROW are prohibited.

 - (i) Utility Poles. Wireless telecommunication facilities proposed to be installed on an existing utility pole must install all antennas above the pole unless the applicant demonstrates that mounting the antennas above the pole would be technically infeasible as supported by clear and convincing evidence in the written record. The maximum height of any antenna or equipment above the pole shall not exceed five

- (5) feet. Antennas must be concealed within a shroud. All cables, wires and other connectors must be concealed within the side-arm mount or extension arm of a wood pole and within the inside of any other pole. The maximum horizontal separation between the antenna and the pole shall be the minimum separation required by applicable health and safety regulations.
- (ii) Streetlight Poles. The maximum height of any antenna and equipment shall not exceed five (5) feet above the existing height of other streetlight pole(s) installed along the same street.
- (iii) Replacement Poles. If an applicant proposes to replace a pole that is an eligible support structure to accommodate the proposed facility, the replacement pole shall be designed to resemble the appearance and dimensions of existing poles near the proposed location, including size, height, color, materials and style to the maximum extent feasible.
- (iv) New, Non-Replacement Poles. Wireless telecommunication facilities on a new, non-replacement pole must install a new streetlight pole substantially similar to the city's and/or electric utility provider's standards and specifications but designed to accommodate wireless antennas and accessory equipment located immediately adjacent to the proposed location. If there are no existing streetlights in the immediate vicinity, the applicant may install a metal or composite pole capable of concealing all the accessory equipment either within the pole or within an integrated enclosure located at the base of the pole. The pole diameter shall not exceed 12 inches. All antennas, whether on a new streetlight or other new pole, must be installed above the pole within a single, canister style shroud or radome, and shall comply with the following:
1. The new pole must function for a purpose other than placement of a wireless facility (e.g., street light, street sign poles, etc.).
 2. The design must match the dimensions and design of existing and similar types of poles and antennas in the surrounding areas.
- (h) Obstructions; Public Safety. SWF and any associated equipment or improvements shall not physically interfere with or impede access to any:
- (i) Each component part of a facility shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, incommode the public's use of the right-of-way, or cause safety hazards to pedestrians and motorists.
 - (ii) A facility shall not be located within any portion of the public right of-way interfering with access to a fire hydrant, fire station, fire escape, water valve, underground vault, valve housing structure, or any other public health or safety facility.
 - (iii) Doors, gates, sidewalk doors, passage doors, stoops or other ingress and egress points to any building appurtenant to the rights-of-way;
- (2) Eligible Facilities Request Design and Development Standards. Approved eligible facilities requests for which the findings set forth in Section 26-685.11500 have been made are subject to the following, unless modified by the approving authority:

- (a) WTFP Subject to Conditions of Underlying Permit. Any WTFP granted in response to an application qualifying as an eligible facilities request shall be subject to the terms and conditions of the underlying permit and all such conditions that were applicable to the facility prior to approval of the subject eligible facility request.
 - (b) No Permit Term Extension. The city granting, or granting by operation of law, of an eligible facilities request permit constitutes a federally-mandated modification to the underlying permit or approval for the subject tower or base station. Notwithstanding any permit duration established in another permit condition, the city's granting, or granting by operation of law, of an eligible facilities request permit will not extend the permit term for the underlying permit or any other underlying regulatory approval, and its term shall have the same term as the underlying permit or other regulatory approval for the subject tower or base station.
 - (c) No Waiver of Standing. The city's granting, or granting by operation of law, of an eligible facilities request does not waive, and shall not be construed to waive, any standing by the city to challenge Section 6409(a) of the Spectrum Act, any FCC rules that interpret Section 6409(a) of the Spectrum Act, or any modification to Section 6409(a) of the Spectrum Act.
- (3) Conditions of Approval. All wireless telecommunication facilities shall be subject to conditions of approval as reasonably imposed by the planning director or the approving city body, as applicable, as well as any modification of the conditions of approval deemed necessary by the planning director or approving city body.

Sec. 26-685.11700 Operation and maintenance standards.

All wireless telecommunications facilities must comply at all times with the following operation and maintenance standards:

- (1) The permittee shall at all times maintain compliance with all applicable federal, state, and local laws, regulations and other rules, including, without limitation, those applying to use of the PROW. The permittee shall ensure that all equipment and other improvements to be constructed and/or installed in connection with the approved WTFP are maintained in a manner that is not detrimental or injurious to the public health, safety, and general welfare and that the aesthetic appearance is continuously preserved, and substantially the same as shown in the approved plans at all times relevant to the WTFP.
- (2) Unless otherwise provided herein, all necessary repairs and restoration shall be completed by the permittee, owner, operator or any designated maintenance agent at its sole cost within 48 hours:
 - (a) After discovery of the need by the permittee, owner, operator, or any designated maintenance agent; or
 - (b) After permittee, owner, operator, or any designated maintenance agent receives notification from the city.
- (3) Insurance. The permittee shall obtain and maintain throughout the term of the permit a type and amount of insurance as specified by city's risk management. The relevant policy(ies) shall

name the city, its elected/appointed officials, commission members, officers, representatives, agents, and employees as additional insured. The permittee shall use its best efforts to provide 30 days prior notice to the city engineer of the cancellation or material modification of any applicable insurance policy.

- (4) Indemnities. The permittee and, if applicable, the owner of the property upon which the wireless facility is installed shall defend, indemnify and hold harmless the city, its agents, officers, officials, and employees (a) from any and all damages, liabilities, injuries, losses, costs, and expenses, and from any and all claims, demands, law suits, writs of mandamus, and other actions or proceedings brought against the city or its agents, officers, officials, or employees to challenge, attack, seek to modify, set aside, void or annul the city's approval of the permit, and (b) from any and all damages, liabilities, injuries, losses, costs, and expenses, and any and all claims, demands, law suits, or causes of action and other actions or proceedings of any kind or form, whether for personal injury, death or property damage, arising out of or in connection with the activities or performance of the permittee or, if applicable, the private property owner or any of each one's agents, employees, licensees, contractors, subcontractors, or independent contractors. In the event the city becomes aware of any such actions or claims the city shall promptly notify the permittee and, if applicable, the private property owner and shall reasonably cooperate in the defense. The city shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the city's defense, and the property owner and/or permittee (as applicable) shall reimburse the city for any costs and expenses directly and necessarily incurred by the city in the course.
- (5) Performance Bond. Prior to issuance of a wireless encroachment permit, the permittee shall file with the city, and shall maintain in good standing throughout the term of the approval, a performance bond or other surety or another form of security for the removal of the facility in the event that the use is abandoned or the permit expires, or is revoked, or is otherwise terminated. The security shall be in the amount equal to 100 percent of the cost of removal of the facility as specified in the application for the WTFP or as that amount may be modified by the city engineer in the permit based on the characteristics of the installation. The permittee shall reimburse the city for staff time associated with the processing and tracking of the bond, based on the hourly rate adopted by the city council. Reimbursement shall be paid when the security is posted and during each administrative review.
- (6) Adverse Impacts on Adjacent Properties. Permittee shall undertake all reasonable efforts to avoid undue adverse impacts to adjacent properties and/or uses that may arise from the construction, operation, maintenance, modification, and removal of the facility. All facilities, including each piece of equipment, shall be located and placed in a manner so as to not interfere with the use of the PROW, impede the flow of vehicular or pedestrian traffic, impair the primary use and purpose of poles/signs/traffic signals or other infrastructure, interfere with outdoor dining areas or emergency facilities, or otherwise obstruct the accessibility of the PROW.
- (7) Contact Information. Each permittee of a wireless telecommunications facility shall provide the city engineer with the name, address and 24-hour local or toll free contact phone number of the permittee, the owner, the operator and the agent responsible for the maintenance of the

- facility ("contact information"). Contact information shall be updated within seven days of any change.
- (8) All facilities, including, but not limited to, telecommunication towers, poles, accessory equipment, lighting, fences, walls, shields, cabinets, artificial foliage or camouflage, and the facility site shall be maintained in good condition, including ensuring the facilities are reasonably free of:
- (a) Subsidence, cracking, erosion, collapse, weakening, or loss of lateral support to city streets, sidewalks, walks, curbs, gutters, trees, parkways, street lights, traffic signals, improvements of any kind or nature, or utility lines and systems, underground utility line and systems (water, sewer, storm drains, gas, oil, electrical, etc.) that result from any activities performed in connection with the installation and/or maintenance of a wireless facility in the PROW;
 - (b) General dirt and grease;
 - (c) Chipped, faded, peeling, and cracked paint;
 - (d) Rust and corrosion;
 - (e) Cracks, dents, and discoloration;
 - (f) Missing, discolored or damaged artificial foliage or other camouflage;
 - (g) Graffiti, bills, stickers, advertisements, litter and debris. All graffiti on facilities must be removed at the sole expense of the permittee within 48 hours after notification from the city;
 - (h) Broken and misshapen structural parts; and
 - (i) Any damage from any cause.
- (9) All trees, foliage or other landscaping elements approved as part of the facility shall be maintained in neat, safe and good condition at all times, and the permittee, owner and operator of the facility shall be responsible for replacing any damaged, dead or decayed landscaping. No amendment to any approved landscaping plan may be made until it is submitted to and approved by the planning director and public services director.
- (10) The permittee shall replace its facilities, after obtaining all required permits, if maintenance or repair is not sufficient to return the facility to the condition it was in at the time of installation.
- (11) Each facility shall be operated and maintained to comply with all conditions of approval. The permittee, when directed by the city, must perform an inspection of the facility and submit a report to the planning director and city engineer on the condition of the facility to include any identified concerns and corrective action taken. Additionally, as the city performs maintenance on city-owned infrastructure, additional maintenance concerns may be identified. These will be reported to the permittee. The city shall give the permittee 30 days to correct the identified maintenance concerns after which the city reserves the right to take any action it deems necessary, which could include revocation of the permit. The burden is on the permittee to demonstrate that it complies with the requirements herein. Prior to issuance of a permit under this division, the owner of the facility shall sign an affidavit

attesting to understanding the city's requirement for performance of annual inspections and reporting.

(12) All facilities permitted pursuant to this division shall comply with the Americans with Disabilities Act.

(13) The permittee shall be responsible for obtaining power to the facility and for the cost of electrical usage.

(14) Interference.

(a) The permittee shall not move, alter, temporarily relocate, change, or interfere with any existing structure, improvement, or property without the prior consent of the owner of that structure, improvement, or property. No structure, improvement, or property owned by the city shall be moved to accommodate a permitted activity or encroachment, unless the city determines that such movement will not adversely affect the city or any surrounding businesses or residents, and the permittee pays all costs and expenses related to the relocation of the city's structure, improvement, or property. Prior to commencement of any work pursuant to a wireless encroachment permit, the permittee shall provide the city with documentation establishing to the city's satisfaction that the permittee has the legal right to use or interfere with any other structure, improvement, or property within the PROW or city utility easement to be affected by permittee's facilities.

(b) The facility shall not damage or interfere in any way with city property, the city's operations or the operations of prior-existing, third party installations. The city will reasonably cooperate with the permittee and/or carrier to carry out such activities as are necessary to correct the interference.

(i) Signal Interference. The permittee shall correct any such interference within 24 hours of written notification of the interference. Upon the expiration of the 24-hour cure period and until the cause of the interference is eliminated, the permittee shall cease operation of any facility causing such interference until such interference is cured.

(ii) Physical Interference. The city shall give the permittee 30 days to correct the interference after which the city reserves the right to take any action it deems necessary, which could include revocation of the permit.

(c) The city at all times reserves the right to take any action it deems necessary, in its sole discretion, to repair, maintain, alter, or improve the sites. Such actions may temporarily interfere with the operation of the facility. The city will in all cases, other than emergencies, give the applicant 30 days written notification of such planned, non-emergency actions.

(14) RF Exposure Compliance. All facilities shall comply with all standards and regulations of the FCC and any other state or federal government agency with the authority to regulate RF exposure standards. After transmitter and antenna system optimization, but prior to unattended operations of the facility, the permittee or its representative must conduct on-site post-installation RF emissions testing to demonstrate actual compliance with the FCC Office of Engineering and Technology Bulletin 65 RF Emissions Safety Rules for General Population/Uncontrolled RF Exposure in All Sectors. For this testing, the transmitter shall be

operating at maximum operating power, and the testing shall occur outwards to a distance where the RF emissions no longer exceed the uncontrolled/general population limit.

(a) Testing of any equipment shall take place on weekdays only, and only between the hours of 8:30 a.m. and 4:30 p.m. Testing is prohibited on holidays and weekends.

(15) Records. The permittee shall maintain complete and accurate copies of all permits and other regulatory approvals issued in connection with the facility, which includes without limitation this approval, the approved plans and photo simulations incorporated into this approval, all conditions associated with this approval and any ministerial permits or approvals issued in connection with this approval. In the event that the permittee does not maintain such records as required in this condition or fails to produce true and complete copies of such records within a reasonable time after a written request from the city, any ambiguities or uncertainties that would be resolved through an inspection of the missing records will be construed against the permittee.

(16) Attorney's Fees. In the event the city determines that it is necessary to take legal action to enforce any of these conditions, or to revoke a permit, and such legal action is taken, the permittee shall be required to pay any and all costs of such legal action, including reasonable attorney's fees, incurred by the city, even if the matter is not prosecuted to a final judgment or is amicably resolved, unless the city should otherwise agree with permittee to waive said fees or any part thereof. The foregoing shall not apply if the permittee prevails in the enforcement proceeding.

Sec. 26-685.11800 No dangerous condition or obstructions allowed.

No person shall install, use or maintain any wireless telecommunications facility that in whole or in part rests upon, in or over any public right-of-way, when such installation, use or maintenance endangers or is reasonably likely to endanger the safety of persons or property, or when such site or location is used for public utility purposes, public transportation purposes or other governmental use, or when such facility unreasonably interferes with or unreasonably impedes the flow of pedestrian or vehicular traffic including any legally parked or stopped vehicle, the ingress into or egress from any residence or place of business, the use of poles, posts, traffic signs or signals, hydrants, mailboxes, permitted sidewalk dining, permitted street furniture or other objects permitted at or near said location.

Sec. 26-685.11900 Nonexclusive grant; no possessory interests.

(1) No permit or approval granted under this division shall confer any exclusive right, privilege, license or franchise to occupy or use the public right-of-way of the city for any purpose whatsoever. Further, no approval shall be construed as a warranty of title.

(2) No possessory interest is created by a WTFP. However, to the extent that a possessory interest is deemed created by a governmental entity with taxation authority, the permittee acknowledges that the city has given to the applicant notice pursuant to California Revenue and Taxation Code Section 107.6 that the use or occupancy of any public property pursuant to a WTFP may create a possessory interest which may be subject to the payment of property taxes levied upon such interest. Wireless telecommunications facility operators shall be solely liable for, and shall pay and discharge prior to delinquency, any and all possessory interest

taxes or other taxes, fees, and assessments levied against their right to possession, occupancy, or use of any public property pursuant to any right of possession, occupancy, or use created by the WTFP.

- (3) The permission granted by a WTFP shall not in any event constitute an easement on or an encumbrance against the PROW. No right, title, or interest (including franchise interest) in the PROW, or any part thereof, shall vest or accrue in permittee by reason of a wireless encroachment permit or the issuance of any other permit or exercise of any privilege given thereby.

Sec. 26-685.12000 Permit expiration; abandonment of applications.

- (1) Permit Term. Unless Government Code Section 65964, as may be amended, authorizes the city to issue a permit with a shorter term, a permit for any wireless telecommunications facility shall be valid for a period of ten (10) years, unless pursuant to another provision of this code it lapses sooner or is revoked. At the end of ten (10) years from the date of issuance, such permit shall automatically expire.
- (2) A permittee may apply for a new permit within 180 days prior to expiration. Said application and proposal shall comply with the city's current code requirements for wireless telecommunications facilities.
- (3) Timing of Installation. The installation and construction authorized by a WTFP shall begin within one year after its approval, or it will expire without further action by the city. The installation and construction authorized by a WTFP shall conclude, including any necessary post-installation repairs and/or restoration to the PROW, within 30 days following the day construction commenced.
- (4) Commencement of Operations. The operation of the approved facility shall commence no later than 90 days after the completion of installation, or the WTFP will expire without further action by the city. The permittee shall provide the planning director and city engineer notice that operations have commenced by the same date.

Sec. 26-685.12100 Cessation of use or abandonment.

- (1) A wireless telecommunications facility is considered abandoned and shall be promptly removed as provided herein if it ceases to provide wireless telecommunications services for 90 or more consecutive days unless the permittee has obtained prior written approval from the director which shall not be unreasonably denied. If there are two or more users of a single facility, then this provision shall not become effective until all users cease using the facility.
- (2) The operator of a facility shall notify the planning director and city engineer in writing of its intent to abandon or cease use of a permitted site or a nonconforming site (including unpermitted sites) within ten days of ceasing or abandoning use. Notwithstanding any other provision herein, the operator of the facility shall provide written notice to the planning director and city engineer of any discontinuation of operations of 30 days or more.
- (3) Failure to inform the planning director and city engineer of cessation or discontinuation of operations of any existing facility as required by this section shall constitute a violation of any approvals and be grounds for:

- (a) Litigation;
- (b) Revocation or modification of the permit;
- (c) Acting on any bond or other assurance required by this article or conditions of approval of the permit;
- (d) Removal of the facilities by the city in accordance with the procedures established under this code for abatement of a public nuisance at the owner's expense; and/or
- (e) Any other remedies permitted under this code or by law.

Sec. 26-685.12200 Removal and restoration—Permit expiration, revocation or abandonment.

- (1) Upon the expiration date of the permit, including any extensions, earlier termination or revocation of the WTFP or abandonment of the facility, the permittee, owner or operator shall remove its wireless telecommunications facility and restore the site to the condition it was in prior to the granting of the WTFP, except for retaining the landscaping improvements and any other improvements at the discretion of the city. Removal shall be in accordance with proper health and safety requirements and all ordinances, rules, and regulations of the city. Expired, terminated or revoked wireless telecommunications facility equipment shall be removed from the site at no cost or expense to the city.
- (2) Failure of the permittee, owner or operator to promptly remove its facility and restore the property within ninety (90) days after expiration, earlier termination or revocation of the WTFP, or abandonment of the facility, shall be a violation of this code. Upon a showing of good cause, an extension may be granted by the city engineer where circumstances are beyond the control of the permittee after expiration. Further failure to abide by the timeline provided in this section shall be grounds for:
 - (a) Prosecution;
 - (b) Acting on any security instrument required by this division or conditions of approval of permit;
 - (c) Removal of the facilities by the city in accordance with the procedures established under this code for abatement of a public nuisance at the owner's expense; and/or
 - (d) Any other remedies permitted under this code or by law.
- (3) Summary Removal. In the event any city director or city engineer determines that the condition or placement of a wireless telecommunications facility located in the public right-of-way constitutes an immediate dangerous condition, obstruction of the public right-of-way, or an imminent threat to public safety, or determines other exigent circumstances require immediate corrective action (collectively, "exigent circumstances"), such director or city engineer may cause the facility to be removed summarily and immediately without advance notice or a hearing. Written notice of the removal shall include the basis for the removal and shall be served upon the permittee and person who owns the facility within five business days of removal and all property removed shall be preserved for the owner's pick-up as feasible. If the owner cannot be identified following reasonable effort or if the owner fails to pick-up the property within 60 days, the facility shall be treated as abandoned property.

(4) Removal of Facilities by City. In the event the city removes a wireless telecommunications facility in accordance with nuisance abatement procedures stated in Chapter 15, Article IX (Administrative Nuisance Abatement) of this code or pursuant to the summary removal procedures of subsection (3), above, any such removal shall be without any liability to the city for any damage to such facility that may result from reasonable efforts of removal. In addition to the procedures for recovering costs of nuisance abatement, the city may collect such costs from the performance bond posted and to the extent such costs exceed the amount of the performance bond, collect those excess costs in accordance with this code. Unless otherwise provided herein, the city has no obligation to store such facility. Neither the permittee, owner nor operator shall have any claim if the city destroys any such facility not timely removed by the permittee, owner or operator after notice, or removal by the city due to exigent circumstances.

Sec. 26-685.12300 Effect on other ordinances.

Compliance with the provisions of this division shall not relieve a person from complying with any other applicable provision of this code. In the event of a conflict between any provision of this division and other sections of this code, this division shall control.

Sec. 26-685.12400 State or federal law.

The implementation of this chapter and decisions on applications for placement of wireless telecommunications facilities in the PROW shall, at a minimum, ensure that the requirements of this division are satisfied, unless it is determined that the applicant has established that denial of an application would, within the meaning of federal law, prohibit or effectively prohibit the provision of personal wireless services, or otherwise violate applicable laws or regulations. If that determination is made, the requirements of this division may be waived, but only to the minimum extent required to avoid the prohibition or violation.

Sec. 26-685.12500 Legal nonconforming wireless telecommunications facilities in the right-of-way.

- (1) Legal nonconforming wireless telecommunications facilities are those facilities that existed but did not conform to this division on the date this division became effective.
- (2) Legal nonconforming wireless telecommunications facilities shall, within ten (10) years from the date this division became effective, be brought into conformity with all requirements of this article; provided, however, that should the owner desire to expand or modify the facility, intensify the use, or make some other change in a conditional use, the owner shall comply with all applicable provisions of this code at such time, to the extent the city can require such compliance under federal and state law.
- (3) An aggrieved person may file an appeal to the city council of any decision the planning director, city engineer, or other deciding body made pursuant to this section. In the event of an appeal alleging that the ten-year amortization period is not reasonable as applied to a particular property, the city council may consider the amount of investment or original cost, present actual or depreciated value, dates of construction, amortization for tax purposes, salvage value, remaining useful life, the length and remaining term of the lease under which it is maintained (if any), and the harm to the public if the structure remains standing beyond

the prescribed amortization period, and set an amortization period accordingly for the specific property.

SECTION NO. 6: That the City Clerk shall certify to the passage of this ordinance and shall cause the same to be published as required by law.

SECTION NO. 7: This ordinance shall take effect and be in force thirty (30) days from and after the date of its passage.

PASSED, APPROVED AND ADOPTED this _____.

Tony Wu
Mayor

APPROVED AS TO FORM

ATTEST

Thomas P. Duarte
City Attorney

Lisa Sherrick
Assistant City Clerk

I, CARRIE GALLAGHER, Assistant City Clerk, of the City of West Covina, custodian of the original records, which are public records which I maintain custody and control for the City of West Covina do hereby certify the foregoing Ordinance, being Ordinance No. ____ as passed by the City Council of the City of West Covina, signed by the Mayor of said Council, and attested by the Assistant City Clerk, at a regular meeting of the City Council held on the _____, and that the same was passed by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINED:

Lisa Sherrick
Assistant City Clerk

RESOLUTION NO. 2016-10

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, INITIATING CODE AMENDMENT NO. 16-03 RELATED TO WIRELESS TELECOMMUNICATION FACILITIES IN THE PUBLIC RIGHT OF WAY

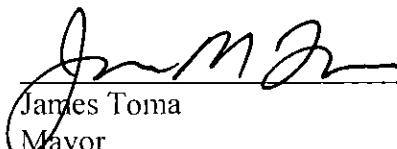
WHEREAS, on February 16, 2016, the City Council requested that a code amendment be initiated regarding considering standards for wireless facilities in the public right-of-way in the West Covina Municipal Code; and

WHEREAS, the studies and investigations made by the City Council and in its behalf reveal the following facts:

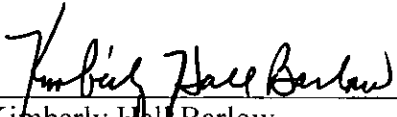
1. Currently, wireless telecommunication facilities located in the public right-of-way are reviewed on a case by case basis. The Zoning section of the Municipal Code addresses wireless telecommunication facilities on private property and government property but does not address facilities in the public right-of-way.
2. It is appropriate to consider development standards for wireless telecommunication facilities in the public right-of-way for aesthetic and safety reasons.
3. The proposed action is considered to be exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15061(b)(3) of the CEQA Guidelines, in that the proposed action consists of a code amendment, which does not have the potential for causing a significant effect on the environment.

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of West Covina, in conformance with Section 26-153(a)(2) of the West Covina Municipal Code, does hereby initiate an application for a Code Amendment related to the wireless telecommunication facilities section of the Municipal Code.

PASSED, APPROVED AND ADOPTED on this 16th day of February, 2016.

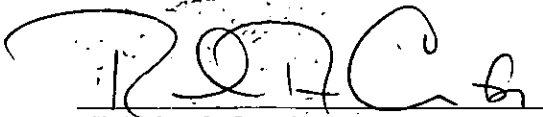

James Toma
Mayor

APPROVED AS TO FORM:



Kimberly Hall Barlow
City Attorney


ATTEST:



Nickolas S. Lewis
City Clerk

I, HEREBY CERTIFY that the foregoing resolution was duly adopted by the City Council of the City of West Covina, California, at a regular meeting thereof on the 16th day of February, 2016, by the following vote of City Council:

AYES: Spence, Warshaw, Wu, Toma
NOES: Johnson
ABSENT: None
ABSTAIN: None



Nickolas S. Lewis
City Clerk

PLANNING COMMISSION
RESOLUTION NO. 19 - 5986

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF
WEST COVINA, CALIFORNIA, ADOPTING DESIGN GUIDELINES
FOR SMALL WIRELESS FACILITIES

GENERAL EXEMPTION

APPLICANT: City of West Covina

LOCATION: Citywide

WHEREAS, the Planning Commission, did on the 23rd day of April 2019, adopted design guidelines for small wireless facilities; and

WHEREAS, studies and investigations made by this Commission and on its behalf reveal the following facts:

1. The Municipal Code currently has standards for Wireless Telecommunication Facilities which were adopted in 1997.
2. The Federal Communications Commission (FCC) has issued Order 18-133 which, among other undertakings, requires that aesthetic standards for small wireless communications facilities in the public right-of-way be 1) reasonable, 2) no more burdensome than applied to other types of infrastructure deployments, 3) objective, and 4) published in advance.
3. It is the desire of the City of West Covina to encourage an aesthetically pleasing local environment. It is also the intent of the City to encourage the expansion of wireless technology because it provides a valuable service to residents and businesses in the city. It is the City's goal to encourage wireless providers to construct new facilities in a way that blends architecturally with the built environment
4. The City of West Covina strives to comply with Federal and State mandates.
5. The proposed action is exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15061(b)(3) of the CEQA Guidelines, in that the proposed action consists of the adoption of design guidelines, which does not have the potential for causing a significant effect on the environment.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Commission of the City of West Covina as follows:

SECTION NO. 1: The above recitals are true and correct and are incorporated herein as if set forth herein in full.

SECTION NO. 2: Based on the evidence presented and the findings set forth, adoption of Design guidelines will promote compliance with Federal Communications Commission (FCC) Order 18-133 while also promoting the City's aesthetic design preferences for such facilities.

SECTION NO. 3: Based on the evidence presented and the findings set forth, the Planning Commission of the City of West Covina hereby adopts the Design Guidelines as set forth on Exhibit "A."

SECTION NO. 4: The Secretary is instructed to forward a copy of this Resolution to the City Council for their attention in the manner as prescribed by law and this Resolution shall go into force and effect upon its adoption.

I HEREBY CERTIFY, that the foregoing Resolution was adopted by the Planning Commission of the City of West Covina, at a regular meeting held on the 23th day of April, 2019, by the following vote.

AYES: Holtz, Heng, Kennedy, Redholtz

NOES: None

ABSTAIN: None

ABSENT: Jaquez

DATE: 4/23/19



Herb Redholtz, Chairman
Planning Commission



Jeff Anderson, Secretary
Planning Commission

EXHIBIT A

(See next page for the Design Guidelines)



CITY OF WEST COVINA SMALL WIRELESS FACILITY DESIGN GUIDELINES IN THE PUBLIC RIGHT OF WAY

Review Process – Small cells require an administrative use permit per WCMC Section 26-685.985. Staff will be recommending approval if facility complies with the following design standards.

Location – Locate 100 feet away from properties used for residential purposes.

Facility and Support Equipment – Facilities should be proposed on existing aggregate light poles. A replacement light pole should be no more than 3 feet from the existing pole location. All facilities shall be designed, textured and colored to match the existing light pole for aesthetic consistency. The base of the pole should be a maximum of 16 inches in diameter. New and/or replacement poles shall be aggregate/marbilite, in a mix, blend, color, and shape/contour to match existing poles in the vicinity.

Narrow Vertical Alignment – Consider the use of shrouds and equipment enclosures that are nearly the same diameter as the pole at a ratio of approximately 1:1 for a more visually streamlined form from the street level. Avoid any tilted arrangement.

Antenna & RRU – Place antenna and RRUs within a shroud above the light pole. RRUs attached to the side of the pole are discouraged; but if required and with discretionary approval, it should use the smallest RRU volume possible and be placed close together with minimal distance from the pole.

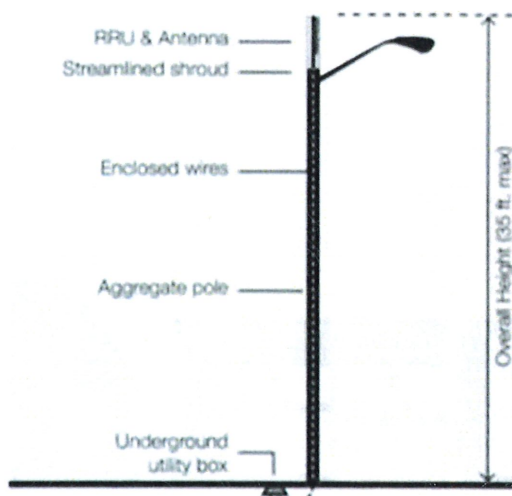
Wires & Cables – Wires and cables should be contained within the shroud and run inside the pole for an orderly appearance. If wiring cannot be contained within the pole, all wiring shall be contained within a conduit that is subdued or matches the adjacent surface and is UV protected.

Signage – Signage shall be limited to the minimum required by the government and electrical utility regulations and shall be as small and least visible as possible.

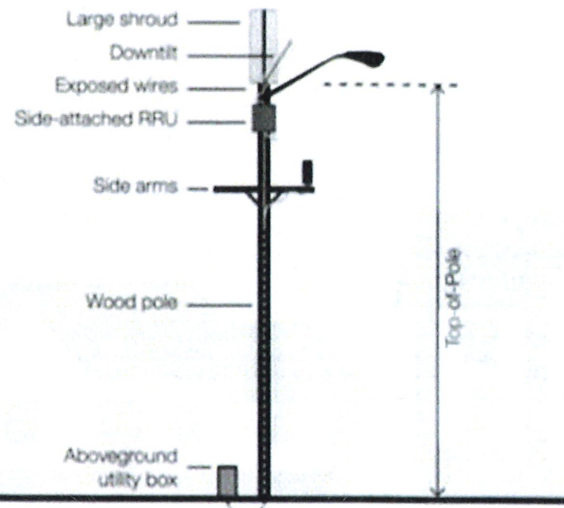
Construction Approach (including power and metering) - Separate freestanding meter pedestals should not be used. Metering should be wireless when possible, and underground if wireless metering is infeasible.

Height- Overall height of the streetlight pole, including mounted equipment, shall be similar to the surrounding poles and not exceed 35 feet in height.

Recommend Approval



Discretionary Review



City of West Covina
Memorandum
A G E N D A

ITEM NO. 2.

DATE: May 14, 2019

TO: Planning Commission

FROM: Planning Division

**SUBJECT: STUDY SESSION - CODE AMENDMENT 16-03
SMALL WIRELESS FACILITIES IN THE PUBLIC RIGHT OF WAY**

BACKGROUND:

On February 16, 2016, the City Council initiated a code amendment related to wireless telecommunication facilities in the public-right-of-way (Resolution No. 2016-10; Attachment No. 1).

The Federal Telecommunications Act is intended to ensure that the public has sufficient access to telecommunication services and local governments cannot prohibit or have the effect of prohibiting the provision of telecommunication services. As telecommunication technology progresses, additional federal and state laws and regulations have limited local authority over telecommunications including wireless facilities.

On September 27, 2018, the Federal Communications Commission (FCC) released a Declaratory Ruling and Third Report and Order (FCC Order) significantly limiting local management of Small Wireless Facilities (SWF) in the public right-of-way (PROW) and on private property. In summary, the FCC Order and existing federal law does the following:

- Defines SWFs as facilities (a) mounted on structures 50 feet or less in height (including antennas); or (b) mounted on structures no more than 10% taller than other adjacent structures; or (c) do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 %, whichever is greater; AND each antenna is no more than 3 cubic feet in volume, and the total associated wireless equipment on one structure is no more than 28 cubic feet in volume.
- Limits local governments to charging only the actual and reasonable cost of providing service and establishes safe harbor fee amounts which will be considered reasonable even if not actual.
- Enacts shot clocks of 60 days for SWFs added to existing structures (regardless of whether the structure already supports a wireless service) and 90 days for SWFs proposing a new structure.
- Prohibits cities from imposing aesthetic requirements for SWFs in the PROW which are not (1) reasonable; (2) no more burdensome than those applied to other types of infrastructure deployments; (3) objective; and (4) published in advance.

However, it must be noted that the FCC Order only applies the above requirement to applications for SWF in the PROW. If it is not a SWF, it would still be subject to an existing discretionary process.

On April 4, 2019, the California Supreme Court decision on *T-Mobile West, LLC vs. City and County of San Francisco, et. al.* was rendered, which validated a city's authority to regulate aesthetics of telecommunication facilities.

On April 23, 2019, the Planning Commission adopted design guidelines for small wireless facilities located in the public right-of-way (Resolution No. 19- 5986; Attachment No. 2) to address the FCC Order pertaining to aesthetic requirements being reasonable, not burdensome, objective, and published in

advance.

DISCUSSION:

Chapter 26 (Zoning), Article XII (Special Regulations for Unique Uses), Division 16 (Wireless Telecommunication Facilities) of the West Covina Municipal Code (WCMC) does not explicitly address SWFs, but allows Wireless Telecommunication Facilities in general to be located in the public right of way (PROW), including residential zones. Section 26-685.985 of the WCMC requires an Administrative Use Permit (AUP) for "other forms of wireless telecommunication facilities not specifically addressed within this division which are designed to integrate with the supporting building or structure and pose minimal visual impacts similar to building and roof-mounted antenna facilities, as determined by the planning director," which can be applied to SWFs in the short-term while the City is working on a code amendment.

Wireless telecommunication providers are considered as telephone companies under their State franchise per the California Public Utilities Code Section 7901, and therefore, are entitled to use the PROW for the installation of their equipment. Although wireless telecommunication providers are entitled to use the PROW, the Public Utilities Code allow cities to condition wireless permits on (1) aesthetics, (2) location of proposed facilities due to public safety reasons (related to the use of the road), or even deny applications in appropriate limited circumstances, and (3) to exercise reasonable control over the time, place and manner of "when, where, and how telecommunications service providers gain entry to the public rights-of-way," including the need for encroachment permits.

The purpose of this study session is to obtain direction from the Planning Commission on the potential contents of the ordinance. The ordinance may encompass the following concerns:

Aesthetics, Separation, and Undergrounding. The City regulates aesthetics through the Small Wireless Facility Design Guidelines that the Commission adopted on April 24, 2019. During the April 24, 2019 Planning Commission meeting, the Commission asked staff to address the separation between poles. Since the California Supreme Court Decision on *T-Mobile West, LLC vs. City and County of San Francisco, et. al.* was just recently rendered on April 4, 2019, many cities within the San Gabriel Valley are still in the process of drafting code amendments to address SWFs. Staff has contacted several cities and was informed that the standard is requiring 250 feet of separation in between poles. In addition to separation in between poles, staff has some concerns regarding the separation of SWFs from residential properties/uses. The current code prohibits free-standing wireless facilities from being located within 100 feet of surrounding single- or multi-family residences. This provision may be considered burdensome because it would effectively prevent SWFs from being installed on the PROW in residential areas. Rather than a separation requirement from the property line, the Commission may consider requiring a smaller separation from residential structures and/or line of sight provisions for new poles. The following are suggested discussion items that the Planning Commission may consider:

- *Should the code amendment be designed based on the Design Guidelines?*
 - *By reference, or codify Design Guidelines?*
 - *Would the Commission like to make any changes to the Design Guidelines?*

Staff recommends that the Planning Commission consider including the Design Guidelines in the code amendment by reference rather than codifying it in its entirety. Codifying the Design Guidelines would be beneficial in the short term because the information would be easy to find and readily available in one location (Municipal Code), but would not allow flexibility for modification that may be needed to address rapidly changing wireless laws and technology in the long term.

- *Is 250 feet of separation in between poles acceptable to the Commission?*

Staff recommends that the Planning Commission consider the 250 foot separation in between poles to be consistent with the standard that other cities are requiring.

- *How much of a separation from residential structures is acceptable to the Planning Commission?*

Staff recommends that the Planning Commission consider a separation distance between 20 - 25 feet from residential structures. This separation is consistent with front setback requirements in residential areas.

- *Would the Planning Commission like to consider adding line-of-sight provisions?*

Staff recommends that the Planning Commission consider prohibiting new poles to be installed in areas directly in front of any windows and/or doors in an attempt to address impacts on residences.

Review/Permitting Process. Processing SWFs in the PROW is a two part process: 1) Aesthetics - Aesthetics is reviewed by the Planning Division to confirm compliance with the published objective city standards; and 2) Safety - Safety is reviewed by the Engineering Division. The Engineering Division ensures that equipment proposed and its installation does not create unsafe traffic situations and does not block the sidewalk (i.e. ADA accessibility). The substantially shorter "shot clocks" established by the FCC Order render discretionary review by the Planning Commission and/or City Council followed by a separate Engineering review/submittal difficult (60 days for SWFs added to existing structures and 90 days for SWFs proposing new structures). The failure to meet the shot clock deadline will be presumed to violate federal law and results in most cases of the application being deemed approved. The following list are examples of processes that could be used in order to expedite the process with the shot clock limit in mind:

1. Administrative review by staff; appeals are reviewed by an independent hearing officer.
2. Administrative review by staff for SWFs added to existing structures; Planning Commission subcommittee review for appeals and/or SWFs proposed on new structures.
3. Administrative review by staff for SWFs added to existing structures; Planning Commission review for appeals and/or SWFs proposed on new structures.
4. Making wireless telecommunications providers responsible for sending public notification to owners and occupants within the notification radius prior to approval.
5. Administrative review by staff for all SWFs in compliance with the Design Guidelines; Planning Commission review if not in compliance of the Design Guidelines.

Staff is recommending Option # 5. Administrative review by staff for all SWFs in compliance with the Design Guidelines; Planning Commission review if not in compliance with the Design Guidelines.

Permitting Conditions. Staff will work with the City Attorney's office in identifying a list of permit conditions that will apply to wireless encroachment permits such as insurance requirements, indemnity, performance bond for removal upon abandonment, maintenance/inspection requirements, and permit time frame.

Subsequent to the study session(s), a second study session could be scheduled if necessary, or a public hearing will be scheduled before the Planning Commission. The Planning Commission will then make a recommendation and the code amendment will be presented to the City Council.

RECOMMENDATION:

Accept the report to support discussion regarding the initiated code amendment and provide further direction/input to staff regarding this code amendment.

Submitted by: Jo-Anne Burns, Planning Manager

Attachments

Attachment No. 1 - City Council Resolution 2016-10

Attachment No. 2 - Planning Commission Resolution No. 19-5986

The Commission continued their discussion regarding possible standards and conditions of approval to be considered with the code amendment. Commissioner Holtz suggested that hours of operation be added to the list of standards. The Commission also asked applicant Mohsen Karimi for his input.

Commissioner Holtz asked that he be allowed to speak regarding why he voted against the code amendment. During his remarks he said he's never encountered a problem purchasing beer and wine in West Covina since there are plenty of places where alcoholic beverages can be purchased within the city. In addition, he said this code amendment was proposed twice before and abandoned both times. Further he expressed his concern about who will police the sales of beer and wine at service station convenience stores.

Commissioner Holtz asked to be excused from the meeting at 8:38 p.m. to attend to a personal matter. Commissioner Holtz then left the Council Chambers.

There was further discussion by the Commission regarding possible standards and conditions to be added to the code amendment. Community Development Director Jeff Anderson suggested that another study session be scheduled to discuss standards and conditions.

Motion by Kennedy, seconded by Jaquez, to direct staff to draft language for Code Amendment No. 18-04. Motion carried 3-1, (Heng opposed, Holtz absent, excused.)

Staff was directed to draft a code and schedule this matter for a public hearing.

2. **STUDY SESSION – CODE AMENDMENT NO. 16-03
SMALL WIRELESS FACILITIES IN THE PUBLIC RIGHT OF WAY**

Planning Manager Jo-Anne Burns presented the staff report. During her presentation, Ms. Burns explained that small cell wireless facilities are placed in the public right-of-way on light poles. She also reminded the Commission that they had adopted design standards to provide staff with guidelines when reviewing new applications.

Staff recommended that guidelines be adopted by reference and suggested that these types of facilities be subject to administrative review for approval. The Commission asked about the requirements from the Federal Communications Commission (FCC) and design standards for small wireless facilities.

Commissioner Heng presented various pictures of small wireless facilities to the Commission to illustrate their sizes and appearance. There was a lengthy discussion regarding the aesthetics, separation and possible undergrounding of these facilities. In addition, the Commission considered the review and permitting process and

permitting conditions. They also discussed line-of-sight provisions, separation standards and separation between poles.

Staff recommended Option No. 5 which would allow for administrative review by staff for all small cell wireless facilities within the design guidelines previously adopted by the Commission. In addition, Option No. 5 provides for Planning Commission review for facilities not in compliance with design guidelines. There was a short discussion regarding the difference between administrative review and an administrative use permit review.

There was a discussion regarding staff's recommendation and how to determine if city design guidelines would comply with FCC design guidelines. After a short discussion, it was the consensus of the Commission to schedule another study session and request the attendance of a representative of the City Attorney's office.

4. STUDY SESSION – DESIGN REVIEW SUBCOMMITTEE GUIDELINES TWO-STORY ADDITIONS

This matter was continued to the next regular meeting, May 28, 2019.

5. ROTATION OF OFFICERS

Community Development Director Jeff Anderson said the rotation of officers is scheduled to take place at the first meeting in May in the Municipal Code. He added that Chairman Redholtz had stepped in to finish the term of the last Chairman who resigned from the Commission at the end of last year.

Chairman Redholtz opened the floor for nominations for the office of Chair for the Planning Commission.

Motion by Heng, seconded by Kennedy, to elect Redholtz as Chair. Motion carried 4-0 (Holtz absent, excused.)

Chairman Redholtz opened the floor for nominations for the office of Vice Chair of the Planning Commission.

Motion by Kennedy, seconded by Jaquez, to elect Heng as Vice Chair. Motion carried 4-0 (Holtz absent, excused.)

COMMISSION REPORTS/COMMENTS AND MISCELLANEOUS ITEMS - None

DATE: July 23, 2019

TO: Planning Commission

FROM: Planning Division

**SUBJECT: STUDY SESSION - CODE AMENDMENT NO. 16-03
SMALL WIRELESS FACILITIES IN THE PUBLIC RIGHT-OF-WAY**

BACKGROUND:

On February 16, 2016, the City Council initiated a code amendment related to wireless telecommunication facilities in the public right-of-way (PROW).

The Federal Telecommunications Act is intended to ensure that the public has sufficient access to telecommunication services and local governments cannot prohibit or have the effect of prohibiting the provision of personal wireless services. Cities may only regulate the location and design of Wireless Communication Facilities (WCF) based on aesthetics or other standards unrelated to the health effects of radio frequency emissions.

On September 27, 2018, the Federal Communications Commission (FCC) released a Declaratory Ruling and Third Report and Order (FCC Order) significantly limiting local management of Small Wireless Facilities (SWF). In summary, the FCC Order does the following:

- Defines SWFs as facilities (a) mounted on structures 50 feet or less in height (including antennas); or (b) mounted on structures no more than 10% taller than other adjacent structures; or (c) do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10%, whichever is greater; AND each antenna is no more than 3 cubic feet in volume, and the total associated wireless equipment on one structure is no more than 28 cubic feet in volume.
- Limit fees local governments can charge to the actual and reasonable cost of providing service.
- Enacts shot clocks of 60 days for SWFs added to existing structures (regardless of whether the structure already supports a wireless service) and 90 days for SWFs proposing a new structure.
- Exempts from federal preemption aesthetic requirements for SWFs in the PROW unless they are (1) reasonable; (2) no more burdensome than those applied to other types of infrastructure deployments; (3) objective; and (4) published in advance.

On April 4, 2019, the California Supreme Court decided T-Mobile West, LLC vs. City and County of San Francisco, validating that municipalities can regulate the aesthetics of wireless facilities in the right of way.

On April 23, 2019, the Planning Commission adopted design guidelines for small wireless facilities located in the public right-of-way (Resolution No. 19-5986; Attachment No. 2) to address the FCC Order pertaining to aesthetic requirements being reasonable, not burdensome, and published in advance.

At its May 14, 2019 meeting, the Planning Commission held a study session on small wireless facilities in the public right-of-way (Code Amendment No. 16-03). During the study session the Planning Commission reached a consensus to: a) identify the Design Guidelines in the Ordinance by reference to allow flexibility for modifications that may be needed in the future, b) draft the Ordinance to require

ministerial review for all SWFs that comply with the Design Guidelines and Planning Commission review for all other facilities, and c) require new poles to be installed between properties. The Planning Commission had questions regarding the maximum distance a SWF pole could be from another pole, and the maximum distance a SWF could be from residential properties. The Planning Commission requested that a representative of the City Attorney be present during the July 23, 2019 study session.

DISCUSSION:

Staff recommends against identifying a separation distance between SWF facilities since this could allow one telecommunications provider to prevent other market entrants from operating in the area. Additionally, the FCC indicated that a City cannot effectively prevent "a provider from replacing its preexisting facilities or collocating new equipment on a structure already in use." A city can, however, establish reasonable aesthetic based requirements to prevent excessive overhead clutter visible from public areas.

As an alternative, staff recommends that the Planning Commission establish a minimum distance threshold that would apply when an applicant requests to install a new SWF within a specified distance of an existing SWF. If the new SWF is placed within the minimum distance threshold, the new SWF can only be approved by the Planning Commission. Staff recommends that the review threshold be between 100 - 250 feet; the larger the minimum distance, the greater the city's legal exposure. In addition, with a larger minimum distance threshold, the more potential applications would be captured, which may place a heavy burden on City resources, and there would be a greater number of applications for Planning Commission review. Staff recommends the 250 foot minimum separation because 5G technologies require a higher band spectrum and, according to the FCC, "some millimeter wave spectrum simply cannot propagate long distances over a few thousand feet - let alone a few hundred."

Establishing a distance prohibition from residential areas may be problematic because it largely prohibits SWFs from being installed in residential areas. As an alternative, staff recommends that the Planning Commission identify a reasonable distance (e.g. 15 feet in the PCD-1 zoning district and 30 feet in all other zoning districts) from a primary residence as the threshold which trips discretionary Planning Commission review. This separation is consistent with front setback requirements in residential areas and would address potential noise concerns and prevent SWF poles from appearing to tower over a residence. Staff's intent with the concept of installing new SWFs between properties is to include that in the Design Guidelines.

After the study session, a public hearing will be scheduled before the Planning Commission. The Planning Commission could then recommend a code amendment be taken to the City Council.

RECOMMENDATION:

Staff recommends that the Planning Commission review the information in the staff report and attachments and provide appropriate direction to staff regarding the code amendment.

Submitted by: Jo-Anne Burns, Planning Manager

Attachments

Attachment No. 1 - May 14, 2019 Planning Commission Study Session Staff Report

Attachment No. 2 - Planning Commission Resolution No. 19-5986 (Adopting Guidelines from Small Wireless Facilities)

5. STUDY SESSION - SUBCOMMITTEE FOR DESIGN REVIEW ONE STORY GUIDELINES

This item was postponed to the next meeting.

6. STUDY SESSION - CODE AMENDMENT NO. 16-03
SMALL WIRELESS FACILITIES IN THE PUBLIC RIGHT-OF-WAY

Planning Manager Jo-Anne Burns presented the staff report. She discussed the previous study session on the code amendment and presented information on separation between small wireless facilities and separation between residential uses and small wireless facilities.

Chairmen Redholtz asked if anyone wanted to address the Commission regarding the matter.

Robert Jystad, Government Relations Manager for Crown Castle stated that a small wireless facility separation of 250 feet was standard and that an increase in the separation could be a problem for wireless providers. He recommended focusing on design standards not separation standards.

The Commission discussed that residents expect a certain level of service from wireless providers and the balance between needs of the provider and neighborhood aesthetic.

Chairman Redholtz stated he was satisfied with the recommended separation between facilities of 250 feet and the separation of residential and small wireless facilities of 15 feet in PCD-1 and 30 feet in other residential zones. He stated he thought the Guidelines should be designed to allow to simplify and allow for more efficient review of proposals. He felt that most of the small wireless facilities should be able to be approved by staff through the Guidelines.

Motion by Redholtz, seconded by Kennedy to direct staff to prepare a draft code amendment of 250 feet between facilities and a separation between residential uses and facilities of 15 feet (PCD-1) and 30 feet (other residential uses). Commissioner Jaquez stated that the issue of colocation reduced his concern on the number that might be proposed over time. Commissioner Heng stated she felt that there should be additional discussion as these decisions would affect all residents. The motion carried 3-2 (Heng, Holtz)

7. STUDY SESSION - CODE AMENDMENT NO. 19-02
R-1 Rear Setbacks/AHQ Standards

Community Development Director Jeff Anderson presented the staff report. He discussed City Council initiation and discussed potential changes to the rear yard setback, the elimination of AHQs and adding a backup standard from garages.

AGENDA

ITEM NO. 2.

DATE: November 26, 2019

PLANNING DEPARTMENT STAFF REPORT

SUBJECT

CODE AMENDMENT NO. 16-03

GENERAL EXEMPTION

LOCATION: City-wide

REQUEST: The proposed code amendment will amend Chapter 26 (Zoning) of the West Covina Municipal Code to specify submittal requirements, review process, and standards for Wireless Telecommunication Facilities in the Public Right of Way.

BACKGROUND

On February 16, 2016, the City Council initiated a code amendment related to wireless telecommunication facilities in the public-right-of-way (Attachment No. 2).

The Federal Telecommunications Act is intended to ensure that the public has sufficient access to telecommunication services and local governments cannot prohibit or have the effect of prohibiting the provision of personal wireless services. Cities may only regulate the location and design of Wireless Communication Facilities (WCF) based on aesthetics.

On September 27, 2018, the Federal Communications Commission (FCC) released a Declaratory Ruling and Third Report and Order (FCC Order) significantly limiting local management of Small Wireless Facilities (SWF). In summary, the FCC Order does the following:

- Defines SWFs as facilities (a) mounted on structures 50 feet or less in height (including antennas); or (b) mounted on structures no more than 10% taller than other adjacent structures; or (c) do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 %, whichever is greater; AND each antenna is no more than 3 cubic feet in volume, and the total associated wireless equipment on one structure is no more than 28 cubic feet in volume.
- Limit fees local governments can charge to the actual and reasonable cost of providing service.
- Enacts shot clocks of 60 days for SWFs added to existing structures (regardless of whether the structure already supports a wireless service) and 90 days for SWFs proposing a new structure.
- Exempts from federal preemption aesthetic requirements for SWFs in the PROW unless they are (1) reasonable; (2) no more burdensome than those applied to other types of infrastructure deployments; (3) objective; and (4) published in advance.

On April 4, 2019, the California Supreme Court decided T-Mobile West, LLC vs. City and County of San Francisco, validating that municipalities can regulate the aesthetics of wireless facilities in the right of way.

On April 23, 2019, the Planning Commission adopted design guidelines for small wireless facilities located in the public right-of-way (Attachment No. 3) to address the FCC Order pertaining to aesthetic requirements

ATTACHMENT NO. 8

being reasonable, not burdensome, and published in advance.

At its May 14, 2019 and July 23, 2019 meetings, the Planning Commission held study sessions on wireless facilities in the public right-of-way. During the July 23, 2019 study session, the Planning Commission voted 3-2 to direct staff to draft an ordinance that:

- References Design Guidelines in order to allow flexibility for modifications that may be needed in the future;
- Allows administrative review by staff for all wireless facilities in compliance with Design Guidelines and Planning Commission review if not in compliance with Design Guidelines;
- Identifies a review threshold that requires wireless telecommunication facilities to be at least 250 feet from another wireless telecommunication in order to qualify for administrative review by staff;
- Requires wireless telecommunication facilities to be set back 15 to 30 feet from residential structures (depending on zoning designation).

Commissioners Heng and Holt were the dissenting votes. Commissioner Heng felt that there should be more Planning Commission discussion on the subject.

Subsequent to that discussion, Administrative Use Permit (AUP) applications were submitted for 5 small wireless facilities in the public right-of-way proposed on top of replacement street light poles in the Woodside Village area. These facilities were located off of Amar Road, east of Azusa Avenue. The Planning Commission approved the AUP applications on July 23, 2019 and an appeal was filed on August 5, 2019. On October 1, 2019 the City Council voted 3-2 to overturn the Planning Commission's decision to approve the 5 small wireless facilities and denied the AUP applications. The City Council felt that the proposed small wireless facilities were not sufficiently concealed. Council members Shewmaker and Johnson were the dissenting votes and felt that the proposals should be referred back to the Planning Commission.

While these AUPs were reviewed since the last study session, the code amendment has been drafted based only on the Planning Commission's direction provided during the study sessions.

DISCUSSION

Based on Planning Commission study sessions a draft ordinance has been prepared. The proposed code amendment would add a new section to the Zoning Code. The draft ordinance provides the following changes to the West Covina Municipal Code (WCMC):

Division 3. - Conditional Use Permit (Section 26-247)

- Clarifies that the existing conditional use permit findings are for projects located within all land-use zones (areas with a zoning designation).
- Cross-references findings within Section 26-685-11500 for projects located within the public right-of-way.

Division 16 - Wireless Telecommunication Facilities

- Clarifies that Division 16 will not apply to wireless telecommunication facilities in the public right-of-way.
- Cross-references where the code section pertaining to wireless telecommunication facilities in the public right-of-way is located and directs readers to the newly created Division 29.

Division 29 - Wireless Telecommunication Facilities in the Public Right-of-Way

ATTACHMENT NO. 8

- New division created.
- Identifies the Planning Director as the person responsible for administering the division.
- Requires an Administrative Review application for minor wireless telecommunication facility permits (small wireless facilities or eligible facilities that comply with the adopted design guidelines, and are located at least 250 feet from another wireless telecommunication facility, and/or at least 250 feet from a proposed wireless telecommunication facility within the same application bundle).
- Requires a Conditional Use Permit for wireless telecommunication facilities that do not qualify for an Administrative Review (major wireless telecommunication facility permits).
- Identifies that Planning Division, Planning Commission, and/or City Council approval does not constitute an encroachment permit and/or the issuance of permits from other City divisions/departments or other government entities.
- Identifies application submittal requirements and application review procedures. Items required for submittal include: application fee, completed application, construction drawings/plans, site survey, photosimulations (360 degrees), project narrative and justifications, RF compliance report, proof of regulatory authorization, site agreement, acoustic analysis, wind load analysis, environmental data, traffic control plan, landscape plan, certificate of public convenience and necessity (CPCN) issued by the California Public Utilities Commission, master deployment plan (for small wireless facilities), and visual impact analysis (in cases where a CUP is required).
- Identifies design and development standards including: concealment requirements and reference to design guidelines, location (e.g. not in median, set back from residential structures), noise, landscaping, accessory equipment (undergrounding), support structures (pole mounted only), and obstructions for public safety prohibited.
- Identifies operation and maintenance standards
- Outlines procedures for permit expiration, abandonment, removal, and legal non-conforming facilities.

Noticing for the proposed code amendment public hearing was published in the San Gabriel Valley Tribune on November 15, 2019.

The proposed amendment has been drafted and the code text is attached to the resolution for your review (Attachment No. 1). If the Planning Commission chooses to recommend approval of the proposed code amendment, the City Council will hold a public hearing to consider adopting the proposed amendments.

ENVIRONMENTAL DETERMINATION

The proposal is not subject to the California Environmental Quality Act (CEQA) per Section 15061(b)(3) of the CEQA Guidelines, which provides that CEQA only applies to activity that results in direct or reasonably foreseeable indirect physical change in the environment and for activity considered to be a project, respectively. The amendment to the West Covina Municipal Code would not result in a physical change in the environment because it would clarify submittal requirements and create development standards for future applications for wireless telecommunication facilities in the public right-of-way.

STAFF RECOMMENDATIONS

Staff recommends that the Planning Commission adopt a resolution recommending approval of Code Amendment No. 16-03 to the City Council.

Submitted by: Jo-Anne Burns, Planning Manager

ATTACHMENT NO. 8

Attachments

Attachment No. 1 - Planning Commission Resolution

Attachment No. 2 - CC Resolution No. 19-10 Initiating Code Amendment No. 16-03

Attachment No. 3 - PC Resolution No. 19-5986 Adopting Design Guidelines for Small Wireless Facilities

Attachment No. 4 - May 14, 2019 Planning Commission Study Session Report

Attachment No. 5 - May 14, 2019 Planning Commission Study Session Minutes (exerpt)

Attachment No. 6 - July 23, 2019 Planning Commission Study Session Report

Attachment No. 7 - July 23, 2019 Planning Commission Study Session Minutes (exerpt)

A G E N D A

DATE: December 10, 2019

ITEM NO.: 1.

**MINUTES
REGULAR MEETING OF THE PLANNING COMMISSION
CITY OF WEST COVINA
Tuesday, November 26, 2019**

The regular meeting of the Planning Commission was called to order at 7:00 p.m. in the West Covina Council Chambers. The Commission observed a moment of silent prayer/meditation and Commissioner Holtz lead the Pledge of Allegiance.

ROLL CALL

Present: Heng, Holtz, Jaquez, Kennedy and Redholtz

Absent: None

City Staff Present: Bettenhauser, Persico, Anderson, Burns, Martinez and de Zara

APPROVAL OF MINUTES:

1. Regular meeting, October 22, 2019

The minutes were approved as presented.

OTHER MATTERS OR ORAL COMMUNICATIONS

None

PUBLIC HEARINGS

2. CODE AMENDMENT NO. 16-03
GENERAL EXEMPTION

LOCATION: Citywide

REQUEST: The proposed code amendment will amend Chapter 26 (Zoning) of the West Covina Municipal Code to specify submittal requirements, review process and standards for Wireless Telecommunication Facilities in the Public Right of Way.

Planning Manager Jo-Anne Burns presented the staff report. During her presentation she spoke about the FCC order that significantly reduced local jurisdiction's ability to limit small wireless facilities and showed the Commission examples of small wireless facilities in surrounding cities. Ms. Burns also explained that local jurisdictions are limited as to the things they're allowed to control. In addition, Ms. Burns told the Commission that small

wireless facilities may be approved administratively by the Community Development Director, or by the Planning Commission. There was a lengthy discussion regarding the approval process and input that will be allowed by residents.

Chairman Redholtz opened the public hearing.

PROPONENTS:

Robert Gystad, representing Crown Castle, expressed his support of the proposed Code Amendment. In addition, he answered questions regarding the design of the small wireless facilities, their location and other technical questions by the Commission.

OPPONENTS:

Fred Sykes, Jerri Potras and Angie Gillingham spoke in opposition to the code amendment. Mr. Sykes expressed his opinion that wireless telecommunication facilities should be placed underground like other utilities. He also expressed his concern that citizens are in danger because of possible radioactive waves emanating from wireless facilities. Ms. Potras expressed concern with the possibility that two small wireless facilities could be placed near her home and she expressed her dislike of their appearance. Ms. Gillingham said she was concerned that citizens wanting to attend this hearing were not able to because of the holiday.

Chairman Redholtz closed the public hearing.

There was a lengthy discussion by the Commission regarding 5G wireless service, the language in the proposed Code Amendment, submittal requirements under the proposed code regarding certification of ARC engineers, design of small wireless facilities, regulations being used in surrounding cities, distance requirements, possible co-location on small wireless facilities and design review guidelines. At the end of the discussion the Commission concurred that this public hearing should be continued to the January 28, 2020 regular Planning Commission meeting and directed staff to 1) research ten nearby cities to determine what standards they may be using for design and separation; 2) research if RF Engineers are State licensed; 3) research if the FCC keeps records of RF compliance reports; (4) research the standard size for the base of light poles, and (5) research the standard used by the City of Costa Mesa of a 500 foot separation from a providers facility.

Motion by Redholtz, seconded by Jaques, to continue the public hearing until January 28, 2020. Motion carried 5-0

PLANNING DEPARTMENT STAFF REPORT

SUBJECT

PRECISE PLAN NO. 19-02

TENTATIVE TRACT MAP NO. 082855

CATEGORICAL EXEMPTION

APPLICANT: David Cook - WC Homes LLC

LOCATION: 1611 & 1623 San Bernardino Road

REQUEST: The applicant is requesting approval of a precise plan and tentative tract map to construct a 105,645-square foot, 24-unit, two-story industrial condominium development located on an existing 4.55-acre lot in the M-1 Zone. The Precise Plan is for the development and architecture of the project site. The Tentative Parcel Map is to subdivide the site into industrial condominium air space lots and a wireless telecommunication site.

BACKGROUND

The subject property is comprised of three different parcels (APNs: 8435-011-005, 8435-015-005, and 8435-015-038) totaling 4.6 acres (200,300 square feet), approximately 2,109 square feet of which is the required 7-foot street dedication, resulting in net lot area of 4.55 acres (198,191 square feet) for the project. The site is located on the east side of San Bernardino Road, mid-block between Irwindale Avenue and Azusa Canyon Road. The site is currently developed with a vacant automotive service facility consisting of two utilitarian buildings constructed in 1953 (former Blackard at 1611 San Bernardino Road), and a vacant hardware store and lumber yard consisting of four utilitarian buildings constructed between 1953 and 1965 (former Barr Lumber at 1923 San Bernardino Road). The existing buildings onsite will be demolished. The existing wireless telecommunication facility (monopine and equipment) located at the rear of 1611 San Bernardino Road will remain in place. The site is designated for industrial land uses by the General Plan and is zoned "Manufacturing" (M-1).

| ITEM | DESCRIPTION |
|---|--|
| ZONING AND GENERAL PLAN | "Manufacturing" (M-1) and "Industrial" |
| SURROUNDING LAND USES AND ZONING | North: Public Storage Facility and Industrial Building - City of Irwindale South: Manzanita Elementary School East: Multifamily Residential Apartment Complex; MF-20 West: Industrial Condominiums; "Manufacturing" (M-1) |
| CURRENT DEVELOPMENT | Vacant automotive service facility; Vacant hardware store and lumber yard; Wireless Telecommunication Facility |
| LEGAL NOTICE | Notices of Public Hearing have been mailed to 270 owners and occupants of properties within 300 feet of the subject site. The Public Hearing Notice was also published in the newspaper and the City's website. |

DISCUSSION

The project involves the demolition of buildings serving a former hardware store/lumber yard, and automotive service facility, and the construct a 105,645-square foot, 24-unit, two-story industrial condominium development located on an existing 4.55-acre lot. The project required approval of a Precise Plan for the development and architecture of the project site, and a Tentative Tract Map for the subdivision of air space lots.

Precise Plan

The proposed project would retain the existing wireless telecommunication facility (monopine and equipment) and would develop the site with two industrial/manufacturing condominium buildings.

Building 1 is located on the front half of the site, is generally linear in configuration with mirror units on its east and west side, and would contain 15 units. It is set back 25 feet from the front property line, 73 feet from the east (side) property line, and 70 feet from the west (side) property line. Building 1 would be 34'-0" in height as measured from the lowest adjacent grade to the highest point, well below the 45 feet maximum height allowed.

Building 2 is located towards the rear of the site, is configured in a "z" shape, and would contain 9 units. Each of the industrial/manufacturing condominiums consists of a roll-up door, a restroom, and small two level office. It is located right along the north property line (rear) with the shape and sitting of the building alongside the north boundary line of 1611 San Bernardino Road (APN 8435-015-038) and alongside the east, north, and a small portion of the west boundary of 1623 San Bernardino Road (APNs 8435-015-037 and 8435-011-005). Building 2 would be 33'-6" in height as measured from the lowest adjacent grade to the highest point, also well below the 45 feet maximum height allowed.

Parking and Circulation

The project site will be accessible via two driveways on San Bernardino Road. The project would include private driveways that would circulate throughout the site and would provide access to the proposed condominium lots. The driveways range from 20 feet to 26 feet in width. Gates will be installed at the front of each drive aisle to provide security after business hours. The gates remain open during regular business hours.

The project would require 211 parking spaces based on a calculation of 1 parking space for every 500 square feet of floor area for the industrial/manufacturing condominium use. The site would accommodate a total of 213 parking spaces (2 more parking spaces than the West Covina Municipal Code requires). No retail uses or any other use that would have parking demands greater than that of the manufacturing or warehousing will be allowed on site. As such, a condition of approval has been added to the resolution requiring that permitted uses be limited to manufacturing and warehousing in the Codes, Covenants, and Restrictions (CC&Rs).

The industrial/manufacturing condominiums are designed with parking spaces directly in front of the roll-up doors. A condition of approval has been included so that the parking spaces that are directly in front of the roll-up doors for that individual unit will be reserved for the owner/tenant of that particular unit.

Lot Coverage

The total lot size is 4.55 acres (198,191 square feet). The Municipal Code permits a maximum lot coverage of 50 percent of the entire parcel (99,095 square feet). The footprint of all buildings on the project site is 95,735 square feet (Building 1, Building 2, and trash enclosures), resulting in 48 percent lot coverage.

Architecture and Landscaping

The buildings would utilize a concrete tilt-up design with stone veneer along the base (approximately 4 feet high) with a flat-roof and corniced parapet. The buildings' openings (windows and doors) are enhanced through a recessed design with a curved element at the top. The parapet at the end of each building will be slightly taller and would feature horizontal score marks. The buildings would be painted a two-tone beige color scheme with blue trim that blends well with the glass windows and doors, and gray metal roll-up doors. The design of the buildings and materials utilized provide depth to the structure.

The proposal includes three separate trash enclosures: two of which are located west and east of Building 1 lining up to the mid portion of the building, and one is located at the northwest side of the property towards the last third of Building 2.

There are no protected trees on the project site. The project, however, would require the removal of 10 non-protected trees to allow for the site grading and construction. According to the Arborist Report, the project may impact the health and stability of five non-protected trees located on the immediately adjacent neighbor to the east of the site. Three of the five trees (Trees #13-15) impacted are likely to survive the impacts, while two of the trees (Trees #1 and 12) may become structurally unstable if roots greater than two inches are severed during construction. A condition of approval has been included in the resolution requiring the applicant/property owner to work with the property owner or management company overseeing the property on the east side of the project to either remove the trees or to protect the trees in place.

The applicant is proposing to provide required landscaping along the front 25-foot setback area adjacent to San Bernardino Road, within the 6-foot side setback area adjacent to the multi-family residential use, and within small planters in the parking lot for every 7 to 10 parking spaces. Landscaping is also proposed along the 3-foot strip bordering the industrial condominium property to the west of the project site, and the area located east of the wireless telecommunication facility (monopine) between the parking spaces and Building 1. Approximately 8.4 percent of the project site will be landscaped, in compliance with the 8 percent minimum landscaping required for commercial development.

A condition of approval to incorporate public art into the proposed project has been included. The Planning Commission will have final approval at a later date on the type of art that will be included in the project. The applicant is required to provide art that is equal in value to one percent of the building valuation or pay in-lieu fees to the City. These in-lieu fees may be used to pay for art projects elsewhere in the City.

The table below summarizes how the project compares with the West Covina Municipal Code (WCMC) standards:

| STANDARD | PROPOSED | REQUIRED/ALLOWED |
|------------------------|------------------------|-------------------------|
| Site Area | 198,191 sq. ft. | Not applicable |
| Lot Coverage | 48.3% (95,735 sq. ft.) | 50.0% (99,095 sq. ft.) |
| Number of Units | 24 | Not Applicable |
| Building Area | | |
| Building 1 | 60,934 sq. ft. | Not Applicable |
| Building 2 | 44,711 sq. ft. | Not Applicable |
| Setbacks | | |
| North (rear) | 0 | 0 |
| South (front) | 25'-0" | 25'-0" |
| East | 6'-0" | 6'-0" |
| West | 0 (closest point) | 0 |
| Height | | |
| Building 1 | 34'-0" | 45'-0" |
| Building 2 | 33'-6" | 45'-0" |
| Parking Spaces | 213 parking spaces | 211 parking space |
| Landscaping | 8.4% (16,706 sq. ft.) | 8.0% (15,855 sq. ft.) |

Tentative Tract Map

The proposed tentative tract map is intended to consolidate the three parcels and subdivide the 4.55-acre lot into 25 lots, including 24 industrial/manufacturing condominiums and one wireless telecommunication facility site. The condominium units would be sold as air space condominiums. The subdivision design requires the approval of a “condominium” map to create an “air space” subdivision of the units and for shared ownership of the common lot. A condition of approval has been included to require the creation of CC&R’s to establish a property owners association.

The project site has approximately 301 feet of frontage on San Bernardino Road. The City’s Master Plan of Streets designates San Bernardino Road as a “Minor Arterial” (four-lane, 80-foot wide right-of-way). To accommodate the Master Plan of Streets right-of-way width, the project will dedicate seven feet of frontage along San Bernardino Road to the City. The dedication area is for street widening purposes.

Therefore, ten-foot wide sidewalks with trees in tree wells are required to be installed as a part of this project.

The proposed map is consistent with the proposed “Industrial and Manufacturing” land use designation of the West Covina General Plan in that the proposed project would result in the operation of an industrial park.

REQUIRED FINDINGS

Findings are required to allow the Planning Commission to approve the precise plan and conditional use permit. Findings are required to be made for each of these individual entitlements. The findings for entitlements are included in each individual resolution (Attachment Nos. 1 and 2) and are also presented below.

Findings necessary for the approval of a **Precise Plan** are as follows:

a. The proposed development plans and the uses proposed are consistent with the General Plan and any applicable specific plan.

The project is a request for a Precise Plan to allow for the construction of a 105,645-square foot, 24-unit, two-story industrial condominium development. The site will be improved with a parking lot accommodating 213 parking spaces. The applicant is also requesting approval of a Tentative Parcel Map for the 25 lot airspace subdivision (including existing wireless telecommunication facility area). The project site is designated as “Industrial” in the City’s General Plan and is zoned “Manufacturing” (M-1). The proposed project is consistent with the following General Plan policies:

- Our Prosperous Community P2.1. Maintain and enhance the City’s current tax base.
- Our Prosperous Community P2.4 Build on and grow West Covina's regional appeal.
- Our Prosperous Community P2.9 Support local businesses.

b. The proposed development is consistent with adopted development standards for the zone and complies with all other applicable provisions of the Municipal Code.

The project consists of a proposal to construct a 105,645-square foot, 24-unit, two-story industrial condominium development. The applicant is also requesting approval of a Tentative Parcel Map for the 25 lot airspace subdivision (including existing wireless telecommunication facility area). The proposed project includes parking lot and landscaping improvements. The proposal complies with the requirements and development standards of the “Manufacturing” (M-1) Zone. Applicable development standards in the Zoning Code include but are not limited to screening requirements; building colors, materials, finishes and exterior design; landscape criteria; building coverage; setbacks and off-street parking requirements.

c. Granting the permit would not be detrimental to the public interest, health, safety, and welfare and would not unreasonably interfere with the use or enjoyment of property in the vicinity of the subject property.

The project site is adjacent to a two-story multifamily residential apartment complex and public storage facility to the east, industrial/manufacturing uses to west and north, and an elementary school to the south. The project will include landscaping and parking lot improvements. The project is designed to be compatible with the structures and uses within the vicinity and would not be detrimental to the public interest, health, safety, and general welfare and would not unreasonably interfere with the use and enjoyment of property.

d. The site is physically suitable for the type, density and intensity of the development being proposed, including vehicle access and circulation, utilities, and the absence of physical constraints.

The "Manufacturing" (M-1) zoning designation allows for a variety of commercial and manufacturing/industrial uses including warehousing, logistics and distribution. The proposed development will be accessible from two driveways along San Bernardino Road. The site is 4.55 acres and, as conditioned, is physically suitable for the proposed project and adequate to accommodate the size and shape of the building, parking and all required development standards set forth in the West Covina Municipal Code. The project is an infill development and is located within an urbanized area where utility connections are readily available.

e. The architecture, site layout, location, shape, bulk and physical characteristics of the proposed development are compatible with the existing and future land uses, and do not interfere with orderly development in the vicinity.

All aspects of the site development are compatible with the existing and future land uses and do not interfere with orderly development in the vicinity. The architecture of the buildings would utilize a concrete tilt-up design with stone veneer along the base and a flat-roof with corniced parapet. The buildings' openings (windows and doors) are enhanced through a recessed design with a curved element at the top. The parapet at the end of each building will be slightly taller and would feature horizontal score marks. The buildings would be painted a two-tone beige color scheme with blue trim that blends well with the glass windows and doors, and gray metal roll-up doors. The design of the buildings and materials utilized provide depth and interest to the structure. The proposed development would be compatible with the design of neighboring structures within the vicinity. All site improvements and proposed landscaping will enhance the overall appearance of the streetscape.

Findings necessary for the approval of a Tentative Tract Map are as follows:

a. The proposed map is consistent with the general plan and any applicable adopted specific plans.

The proposed map is consistent with the "Industrial & Manufacturing" land use designation of the West Covina General Plan in that the proposed industrial condominium park project is compatible with the industrial uses in the vicinity. The project is also consistent with the "Manufacturing" (M-1) Zone.

b. The design or improvement of the proposed subdivision is consistent with the general plan and applicable adopted specific plans.

The design and improvements of the proposed subdivision and precise plan is consistent with the General Plan in that the proposed industrial condominium park project is compatible with industrial uses in the vicinity. The project is also consistent with the "Manufacturing" (M-1) Zone.

c. The site is physically suitable for the type of development.

The site consists of a 4.55-acre lot surrounded by industrial uses on the west, and north sides. Adequate provisions have been incorporated into the design to accommodate the required development standards as specified in the Municipal Code. The site has access from San Bernardino Road.

d. *The site is physically suitable for the proposed density of development.*

The gross land area of the site is approximately 4.55 acres and allows for the subdivision of the land into industrial condominiums. The density of the proposed condominium spaces is suitable since the project generally relates to the subdivision of airspace. Additionally, there is a condition that requires that CC&R's are recorded as a part of this project to ensure orderly operation. The site will be developed in accordance with the grading and construction requirements of the West Covina Municipal Code and the City Engineer.

e. *The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish, wildlife or their habitat.*

The site consists of a 4.55-acre parcel that was developed with a former hardware store/lumber yard and automotive repair building. No known endangered, threatened or rare species or habitats, or designated natural communities, wetlands habitat, or wildlife dispersal, or migration corridors are present on site.

f. *Neither the design of the subdivision nor the type of improvements are likely to cause serious public health problems.*

The proposed map and improvements will have access to a public sanitary sewer system for the removal and disposal of wastewater and to other necessary utility services. The site will be developed in accordance with the standards of the Engineering Division, the Municipal Code, the Uniform Building Code, and other applicable requirements.

g. *The design of the subdivision or the type of improvements will either (i) not conflict with recorded or adjudged easements, acquired by the public at large, for access through or use of, property within the proposed subdivision; or (ii) alternate easements, for access or for use, will be provided, and these will be substantially equivalent to ones previously acquired by the public.*

There are no known easements on the property that would be affected by implementation of the proposed project. Access to the site will be provided via San Bernardino Road.

GENERAL PLAN CONSISTENCY

The City's General Plan Land Use Element designates the subject property for Industrial Uses. The project is consistent with the following General Plan policies:

- Our Prosperous Community P2.1. Maintain and enhance the City's current tax base.
- Our Prosperous Community P2.4 Build on and grow West Covina's regional appeal.
- Our Prosperous Community P2.9 Support local businesses.

ENVIRONMENTAL DETERMINATION

Rincon Consultants, Inc. has reviewed the application and completed the environmental analysis for the project, and determined that the proposed project qualifies for a Class 32 Categorical Exemption pursuant to Section 15332 (In-Fill Development Projects) of the California Environmental Quality Act ("CEQA") Guidelines, Title 14, Chapter 3 of the California Code of Regulation and is thereby exempt from CEQA, Public Resources Code Sections 21000 et seq. In order to determine that the project complies with the Class 32 Categorical Exemption, an arborist report, traffic study, noise survey report, and cultural resources technical report. These studies showed that the project would not result in significant environmental effects.

In order to qualify for the Class 32 Categorical Exemption, the project must meet the following conditions:

a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.

The proposed project meets this requirement. The project site is designated as “Industrial”.

b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.

The proposed project meets this requirement. The project site is less than five acres and is surrounded by urban uses (industrial, commercial, and residential).

c) The project site has no value as habitat for endangered, rare, or threatened species.

The proposed project meets this requirement. The project site is a developed lot and endangered, rare, or threatened species have not been detected within the project site or its surrounding areas.

d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.

The proposed project meets this requirement. The project would not result in any significant effects relating to traffic, noise, air quality, or water quality. A Traffic Impact Analysis and Noise Survey Report was prepared for the project. In addition, the proposed project would be consistent with the SCAQMD Air Quality Management Plan, the Southern California Association of Governments (SCAG) Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS); Climate Change Scoping Plan required by Assembly Bill 32, and the City's Energy Action Plan. Construction contractors would be required to obtain coverage under the National Pollutant Discharge Elimination System (NPDES) General Construction Activity Permit and comply with City Municipal Code Section 9-36 relating to stormwater and urban run-off pollution control.

e) The site can be adequately served by all utilities and public services.

The proposed project meets this requirement. The project site is a developed lot that is adequately served with utilities and public services. There is no evidence that the project cannot be adequately served by all utilities and public services. If evidence comes to light that the site cannot be adequately served by all utilities and public services, construction permits would not be issued for the project.

CONCLUSION

The Precise Plan and Tentative Tract Map will allow for the construction of a 105,645 square-foot, 24 unit, two-story industrial condominium development. The development is in compliance with the Zoning Code and will replace an underused building/site. The project is compatible with the commercial, industrial, and residential uses in the vicinity and will result in additional economic development opportunities in the City. Staff is recommending approval of the proposed project, as the proposed building layout and subdivision are appropriate for the site.

STAFF RECOMMENDATIONS

Staff recommends that the Planning Commission adopt resolutions approving Precise Plan No. 19-02 and Tentative Tract Map No. 082855.

LARGE ATTACHMENTS

- Plans are available for review by the public at the West Covina Planning Division counter.
- Technical studies are available for review on the City's Website at <https://www.westcovina.org/departments/planning/projects-and-environmental-documents>

Submitted by: Jo-Anne Burns, Planning Manager

Attachments

Attachment No. 1 - Precise Plan No. 19-02 Resolution of Approval

Attachment No. 2 - Tentative Tract Map No. 082855 Resolution of Approval

Attachment No. 3 - Categorical Exemption Analysis and Technical Studies

PLANNING COMMISSION

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WEST COVINA, CALIFORNIA, APPROVING PRECISE PLAN NO. 19-02

PRECISE PLAN NO. 19-02

CATEGORICAL EXEMPTION

APPLICANT: David Cook - WC Homes LLC

LOCATION: 1611 & 1623 San Bernardino Road

WHEREAS, there was filed with the City, a verified application on the forms prescribed in Chapter 26, Article VI of the West Covina Municipal Code, requesting approval of a precise plan to:

Construct a 105,645-square foot, 24-unit, two-story industrial condominium development located on an existing 4.55-acre lot in the M-1 Zone, on that certain property described as:

Assessor's Parcel No. 8435-011-005, 8435-015-005, and 8435-015-038, in the records of the Los Angeles County Assessor; and

WHEREAS, a Tentative Tract Map was submitted to Subdivide the 4.55-acre site into 24 industrial condominium air space lots, and the wireless telecommunication site; and

WHEREAS, the Planning Commission upon giving the required notice did on the 28th day of January 2020, conduct a duly advertised public hearing as prescribed by law to consider said application.

WHEREAS, studies and investigations made by this Commission and in its behalf reveal the following facts:

1. The applicant is requesting approval of a precise plan to approve the design and allow the construction of a 105,645-square foot, 24-unit, two-story industrial condominium located on an existing 4.55-acre.
2. The proposed project includes a tentative tract map to subdivide the site into industrial condominium air space lots and a wireless telecommunication site.
3. Appropriate findings for approval of a precise plan of design are as follows:

- a. The proposed development plans and the uses proposed are consistent with the General Plan and any applicable specific plan.
 - b. The proposed development is consistent with adopted development standards for the zone and complies with all other applicable provision of the Municipal Code.
 - c. Granting the permit would not be detrimental to the public interest, health, safety, and welfare and would not unreasonably interfere with the use or enjoyment of property in the vicinity of the subject property.
 - d. The site is physically suitable for the type, density and intensity of the development being proposed, including vehicle access and circulation, utilities, and the absence of physical constraints.
 - e. The architecture, site layout, location, shape, bulk and physical characteristics of the proposed development are compatible with the existing and future land uses, and do not interfere with orderly development in the vicinity.
4. The proposal is considered to be categorically exempt, pursuant to Section 15332, In-Fill Development Project (Class 32) the California Environmental Quality Act (CEQA).

NOW, THEREFORE, the Planning Commission of the City of West Covina does resolve as follows:

1. On the basis of the evidence presented, both oral and documentary, the Planning Commission makes the following findings:
 - a. The project is a request for a Precise Plan to allow for the construction of a 105,645-square foot, 24-unit, two-story industrial condominium development. The site will be improved with a parking lot accommodating 211 parking spaces. The applicant is also requesting approval of a Tentative Parcel Map for the 25 lot airspace subdivision (including existing wireless telecommunication facility area). The project site is designated as "Industrial" in the City's General Plan and is zoned "Manufacturing" (M-1). The proposed project is consistent with the following General Plan policies:

Our Prosperous Community P2.1. Maintain and enhance the City's current tax base.

Our Prosperous Community P2.4 Build on and grow West Covina's regional appeal.

Our Prosperous Community P2.9 Support local businesses.

- b. The project consists of a proposal to construct a 105,645-square foot, 24-unit, two-story industrial condominium development. The applicant is also requesting approval of a Tentative Parcel Map for the 25 lot airspace subdivision (including existing wireless telecommunication facility area). The proposed project includes parking lot and landscaping improvements. The proposal complies with the requirements and development standards of the "Manufacturing" (M-1) Zone. Applicable development standards in the Zoning Code include but are not limited to screening requirements; building colors, materials, finishes and exterior design; landscape criteria; building coverage; setbacks and off-street parking requirements.
 - c. The project site is adjacent to a two-story multifamily residential apartment complex and public storage facility to the east, industrial/manufacturing uses to west and north, and an elementary school to the south. The project will include landscaping and parking lot improvements. The project is designed to be compatible with the structures and uses within the vicinity and would not be detrimental to the public interest, health, safety, and general welfare and would not unreasonably interfere with the use and enjoyment of property.
 - d. The "Manufacturing" (M-1) zoning designation allows for a variety of commercial and manufacturing/industrial uses including warehousing, logistics and distribution. The proposed development will be accessible from two driveways along San Bernardino Road. The site is 4.55 acres and, as conditioned, is physically suitable for the proposed project and adequate to accommodate the size and shape of the building, parking and all required development standards set forth in the West Covina Municipal Code. The project is an infill development and is located within an urbanized area where utility connections are readily available.
 - e. All aspects of the site development are compatible with the existing and future land uses and do not interfere with orderly development in the vicinity. The architecture of the buildings would utilize a concrete tilt-up design with stone veneer along the base and a flat-roof with corniced parapet. The buildings' openings (windows and doors) are enhanced through a recessed design with a curved element at the top. The parapet at the end of each building will be slightly taller and would feature horizontal score marks. The buildings would be painted a two-tone beige color scheme with blue trim that blends well with the glass windows and doors, and gray metal roll-up doors. The design of the buildings and materials utilized provide depth and interest to the structure. The proposed development would be compatible with the design of neighboring structures within the vicinity. All site improvements and proposed landscaping will enhance the overall appearance of the streetscape.
2. That pursuant to all of the evidence presented, both oral and documentary, and further based on the findings above, Precise Plan No. 19-02 is approved subject to the provisions of the West Covina Municipal Code, provided that the physical development of the herein

described property shall conform to said plan and the conditions set forth herein which, except as otherwise expressly indicated, shall be fully performed and completed or shall be secured by bank or cash deposit satisfactory to the Community Development Director, before the use or occupancy of the property is commenced and before the Certificate of Occupancy is issued.

3. That the precise plan shall not be effective for any purpose until the applicant (or a duly authorized representative) has filed at the office of the Community Development Director, his affidavit stating he is aware of, and accepts, all conditions of this precise plan as set forth below. Additionally, no permits shall be issued until the applicant (or a duly authorized representative) pays all costs associated with the processing of this application pursuant to City Council Resolution No. 8690.
4. The costs and expenses of any enforcement activities, including, but not limited to attorneys' fees, caused by the applicant's violation of any condition imposed by this approval or any provision of the West Covina Municipal Code shall be paid by the applicant.
5. That the approval of the precise plan is subject to the following conditions:

PLANNING DIVISION

- a. Comply with plans reviewed by the Planning Commission on January 28, 2020.
- b. Approval of this precise plan is contingent upon, and shall not become effective unless and until approval of Tentative Tract Map No. 082855 (19-02).
- c. These conditions of approval shall be printed on or attached to the working drawings submitted to the Building Division for approval.
- d. That the project complies with all requirements of the "Manufacturing" Zone and all other applicable standards of the West Covina Municipal Code.
- e. The approved use shall not create a public nuisance as defined under Section 15-200 of the West Covina Municipal Code.
- f. The approved use shall be in compliance with the Noise Ordinance (Chapter 15).
- g. This approval shall become null and void if the building permit is not obtained within two (2) years of the date of this approval.
- h. The applicant shall sign an affidavit accepting all conditions of this approval.
- i. That any proposed change to the approved site plan, floor plan or elevations be reviewed by the Planning Division, Building Division, and Fire and Police

Departments and that the written authorization of the Community Development Director shall be obtained prior to implementation.

- j. Graffiti-resistant coatings shall be used on all walls, fences, sign structures or similar structures to assist in deterring graffiti.
- k. Any graffiti that appears on the property during construction shall be cleaned or removed on the same business day.
- l. All outstanding fees and Development Impact Fees will be due at the time of building permit issuance.
- m. All new gutters and downspouts shall not project from the vertical surface of the building pursuant to Section 26-568(a)(3).
- n. This approval does not include approval of signs; a separate sign permit shall be obtained. All signs shall be required to comply with the City of West Covina Sign Code.
- o. All approved materials and colors shall be clearly indicated on the plans.
- p. All new ground-mounted, wall-mounted and/or roof-mounted equipment shall be screened from all views, in a manner that is architecturally compatible with the main building. Plans and elevations indicating the type of equipment and method of concealment shall be submitted to the Community Development Director for review and approval prior to the issuance of building permits.
- q. The location of new electrical transformers, vaults, antennas, mechanical and all other equipment not indicated on the approved plans must be approved by the Community Development Director prior to the issuance of building permit. Provide construction details prior to issuance of a building permit.
- r. An outdoor lighting plan showing electrolier types and locations, average illumination levels, points of minimum illumination and photometric data in conformance with Planning Commission Resolution No. 2513 and as requested shall be submitted to and approved by the Planning Division and the City Engineer.
- s. Building lighting is required to be architecturally integrated with the building design. Standard security wall packs are not acceptable unless they are provided with hooding that is architecturally compatible with the building.
- t. If archaeological resources are discovered during excavation or grading activities, work shall cease in the area of the find until a qualified archaeologist has evaluated the find in accordance with federal, state, and local guidelines, including those set forth in the Public Resources Code Section 21083.2.

- u. The proposed project is required to comply with Section 7050.5 of the California Health and Safety Code in the unlikely event that human remains are encountered during construction. If human remains of Native American origin are discovered during construction activities, the proposed project would be required to comply with state laws, under the jurisdiction of the Native American Heritage Commission (Public Resources Code Section 5097), relating to handling of Native American burials.
- v. The parking lot shall comply with requirements of the Parking Lot Design and Lighting standards.
- w. Prior to the issuance of building permits the applicant shall demonstrate, to the satisfaction of the Community Development Director, that all roof mounted mechanical equipment is placed behind a permanent parapet wall and is completely restricted from all ground level views, pursuant to Section 26-568 of the Municipal Code.
- x. The paved areas at the site shall be maintained clean and free of oil stains. All paved areas shall be pressure washed as needed to maintain the site in a clean and orderly manner.
- y. That prior to final building permit approval, a detailed landscape and irrigation plan in compliance with AB 1881 and executive order 13-29-15 shall be submitted for all planted areas to be affected by project. Plans shall include type, size and quantity of landscape materials and irrigation equipment. All vegetation areas shall be automatically irrigated and a detailed watering program and water budget shall be provided. All damaged vegetation shall be replaced and the site shall be kept free of diseased or dead plant materials and litter at all times. The landscape plan shall also include a combination of trees and shrubs to provide screening along the east property line adjacent to the multifamily residential property.
- z. Comply with Section 26-572 of the WCMC which establishes landscape criteria for parking lots and commercial properties. A minimum of 8% of the lot must be landscaping. An average of at least one (1) tree (minimum 15 gallon) of a species satisfactory to the planning director shall be planted for every ten (10) single row parking stalls or every twenty (20) double row parking stall within the parking lot.
- aa. Comply with all requirements of the “Art in Public Places” ordinance (WCMC Chapter 17), prior to the issuance of building permits. Artwork shall be installed or required fee paid prior to issuance of Certificate of Occupancy.
- bb. All trash enclosure areas must be constructed with a by a 5.5-foot (minimum) wall and include a solid roof cover.

- cc. All trees shall be indicated on the grading plan, including trees on, or near the property line on adjacent properties. The trees shall be marked as to whether they will be preserved or removed. Trees that are preserved should not be topped but should be pruned to preserve their natural form.
- dd. The applicant shall work with the property owner or management company overseeing the multifamily residential apartment complex immediately to the east of the project site to determine if the impacted trees located on the east side neighbor's property will be removed or retained. If the impacted trees are retained, the applicant shall be responsible for ensuring its structural stability and health for a period of five years after the project is completed.
- ee. Prior to the issuance of building permits, the applicant shall submit a detailed wall and fencing plan to the Community Development Director for review and approval. Fences and/or walls shall be constructed along the east property line adjacent to the multifamily residential apartment complex. Said plan shall indicate the locations for all fences and walls, and shall further indicate the height, materials, and colors for all fences and walls. Perimeter block walls (retaining walls) shall be constructed of a decorative material, such as slumpstone or split-face block. The wall and fencing plan shall include the location, design and materials. Wood fences shall include steel posts for maintenance purposes.
- ff. Any sidewalk, hardscape or parking facility, with potholes, broken, raised or depressed sections, large cracks, mud and/or dust, accumulation of loose material, faded or illegible pavement striping or other deterioration shall be repaired.
- gg. Prior to requesting a final inspection, the Planning Division shall inspect the development.
- hh. All new utilities shall be placed underground prior to issuance of Certificate of Occupancy per WCMC 23-273.
- ii. The applicant shall execute an indemnity agreement, in a form provided by the City and approved by the City Attorney, indemnifying the City against any and all actions brought against the City in connection with the approvals set forth herein.
- jj. All approved materials and colors shall be clearly indicated on the plans.
- kk. The Zoning Code gives provisions for up to two one-year extensions to keep entitlements active. Therefore, prior to final approval, (if building permits have not been obtained) you are urged to file a letter with the department requesting a one-year extension of time. The required submittal is a letter stating the reasons why an extension is needed, as well as an applicable processing fee. Please be advised that the applicant will not be notified by the Planning Division about the pending expiration of the subject entitlement.

- ll. The new development shall comply with the Development Impact Fees (Ordinance No. 2286 and Resolution No. 2015-81). Development Impact Fees for non-residential development are calculated at \$1.54 per square foot. The code allows for a credit for existing structures to be demolished. The impact fees will be due at the time of building permit issuance. Please note that the calculated impact fees may change and the applicant will be required to pay the updated fees.

- mm. During construction, the delivery of materials and equipment, outdoor operations of equipment, and construction activity shall be limited to the hours between 9:00 a.m. and 1:00 p.m., and between 4:00 p.m. and 8:00 p.m. (Monday through Friday) and 7:00 a.m. and 8:00 p.m. (Saturdays).

- nn. Engineering Division Requirements:
 - 1. Comply with all conditions contained in Planning Commission Resolution No. 567. Which outlined the requirements of grading, street improvement, exterior lighting, water supply, all bonds, trees, landscaping, drainage, and building related improvements, etc.
 - 2. Sanitary sewers shall be provided to each "lot" in compliance with Municipal Code Chapter 23, Article 2, and to the satisfaction of the City Engineer.
 - 3. The required street improvements shall include that portion of San Bernardino Road contiguous to subject property.
 - 4. All existing concrete wheelchair ramps shall be removed (if required) and reconstructed to meet current ADA requirements.
 - 5. All damaged concrete curbs, gutters, sidewalk, etc., shall be removed and reconstruct per City standard.
 - 6. A Seven-foot wide street dedication is required along San Bernardino Road contiguous to subject property to be recorded in the Office of the Los Angeles County Recorder prior to the issuance of any Engineering Permits.
 - 7. Full-width (10-foot wide) sidewalks (with trees in tree wells) shall be constructed along San Bernardino Road contiguous to subject property.
 - 8. Adequate provision shall be made for acceptance and disposal of surface drainage entering the property from adjacent areas.
 - 9. Parking lot and driveway improvements on private property for this use shall comply with Planning Commission Resolution No. 2513 and be

constructed to the City of West Covina Standards. The parking spaces shall be clearly dimensioned on the site plan and shall at least be 8.5 feet (width) by 18 feet (depth).

10. Prior to approval of a final map, all of the following requirements shall be satisfied:
 - a) A finish grading plan showing existing and proposed elevations and drainage structures (and showing existing and proposed on-site and off-site improvements) shall be submitted to and approved by the Planning Department and Engineering Division.
 - b) A parking lot lighting plan showing electrolier types and locations, average illumination levels, points of minimum illumination and photometric data in conformance with Planning Commission Resolution No. 2513 and as requested shall be submitted to and approved by the City Engineer.
 - c) An itemized cost estimate for all on-site and off-site improvements to be constructed (except buildings) shall be submitted to the Engineering Division for approval. Based upon the approved cost estimates, required fees shall be paid and improvement securities for all on-site and off-site improvements (except buildings) and 100% labor/material securities for all off-site improvements, shall be posted prior to final approval of the plans.
11. The proposed subdivision shall conform to West Covina Municipal Code Chapter 20 - Subdivisions.
12. File Notice of Intent (NOI)
13. Comply with all regulations of the Los Angeles Regional Water Quality Control Board and Article II of Chapter 9 of the West Covina Municipal Code concerning Stormwater/Urban Run-off Pollution control.
14. Conduct sewer capacity study of existing sewer facilities to serve proposed development.
15. Conduct traffic study prepared by engineer (signed and stamped).
16. Geotechnical Investigation Reports
17. Submit hydrology study
18. Color stamped concrete required at entrance to developments.

19. All new on-site utilities shall be placed underground.

oo. Building Division Requirements:

1. All Conditions of Approval as approved by the Planning Commission shall appear as notes on the plans submitted for building plan check and permits.
2. All Conditions of Approval as approved by the Planning Commission shall appear as notes on the plans submitted for building plan check and permits.
3. Building design shall comply with the Current Edition of the California Building Code (CBC).
4. Submit complete construction plans to Building Division for formal plans review.
5. Separate application(s), plan check(s), and permit(s) is/are required for:
 - a) Tenant Improvements
 - b) Grading (see Engineering Division for requirements)
 - c) Demolition work
 - d) Retaining walls (see Engineering Division for requirements)
 - e) Block walls exceeding 6 feet in height
 - f) Signs
 - g) Fire sprinkler/Alarm systems (see Fire Department Prevention Bureau for requirements)
 - h) Plumbing
 - i) Mechanical
 - j) Electrical
6. Complete architectural plans prepared by a State licensed architect will be required. Submit design for review at formal plans review.
7. Complete structural plans with calculations by State licensed engineer or architect will be required. Submit design for review at formal plans review.
8. Compliance to California T-24 Energy regulations will be required. Submit design for review at formal plans review.
9. Compliance to California Green Building Standards Code will be required. Submit design for review at formal plans review.
10. Separate plumbing, mechanical and electrical plan check will be required. Submit design for review at formal plans review.

11. A soils and geology report is required to address the potential for and the mitigation measures of any seismic induced landslide/liquefaction. Soils report shall address foundation design and site preparation requirements.
12. Sanitation District Industrial Waste approval or waiver is required. Please contact (562) 699-7411, Ext 2900 for additional information.
13. All new on-site utility service lines shall be placed underground. All relocated on-site utility service lines shall be underground when the cost or square footage of an addition or alteration exceeds 50% of the existing value or area. WCMC 23-273.
14. A complete code analysis is required. Address type of construction, occupancy, exiting, allowable areas, allowable heights, etc. Provide a summary on the drawing.
15. Compliance with the State of California Accessibility regulations is required, including:
 - a) Building entrances shall be provided with an accessible path of travel connecting the building entrances from the public sidewalk, accessible parking, and other buildings or essential facilities located on the site.
 - b) Accessible parking:
 - i. Shall be located at each main entrance. Where multiple major entrances occur, accessible parking shall be equally distributed among the entrances.
 - c) All restrooms serving the building shall be accessible.
 - d) Drinking fountains (high/low) are required to be accessible.
 - e) All public telephones, if provided, shall be accessible. At least one and 25% shall be equipped for hearing impaired, volume control. At least one telephone shall comply with CBC 1117B.2.9.2 for text telephones where there are at least 4 phones on the site.
16. Fire Alarms and Detection systems may be required. Consult the Fire Department.
17. West Covina Municipal Code requires fire sprinklers for the projects listed below except for open garages as defined by the California Building Code. WCMC § 7-18.13.
18. In all new building with floor areas of five thousand (5,000) square feet of floor area or more. WCMC § 7-18.13.1.
19. Total plumbing fixtures required shall be determined by California Plumbing Code (CPC).
20. ADA ramps shall be designed per CBC 11B-405. Handrails shall be provided both sides with level landings each end.

21. 2% maximum slope shall occur in all ADA parking areas.
 22. The maximum occupant load on the second floor shall be 10 or a second exit is required per CBC Table 1006.3.2(2).
 23. Passing space shall be provided along paths of travel along intervals of 200' per CBC 11B-403.5.3.
 24. An ADA path of travel shall be provided to all units including units 16-17.
- pp. Fire Department Requirements:
1. NFPA 13D/13R/13 Fire Sprinkler System
 2. NFPA 72 – Fire Alarm/Fire Sprinkler Monitoring System
 3. NFPA 10 – Portable Fire Extinguishers
 4. New Fire Flow Test Required
 5. Required Fire Flow of 2000 GPM @ 20 PSI for 2 hours
 6. Required Public Fire Hydrants: Two – Within 250 feet of the Property Line
 7. Required Private Fire Hydrants: One – Within 400 feet of all Buildings on Lot

NOTE: **Additional Fire Department Requirements May be Set upon future review of a full set of architectural plans.*

- qq. Police Department Requirements:
1. CCTV System Requirements:
 - a) 720p (1280x720) minimum recording resolution is required. Increased resolution of 1080p (1920x1080) or better is encouraged
 - b) Minimum H.264 video compression, H.265 is also acceptable
 - c) Real-time recording 30 fps per camera @ 720p resolution
 - d) Use caution when purchasing systems, and insure that each camera will be recording at full resolution and frame rate at the minimum spec, whether it's 720p, 1080p, or better. Recording devices often have limitations and will sometimes be advertised as supporting 720p or

1080p, however the advertising doesn't explain that the higher resolution is only for limited channels, and when maxed out will provide reduced resolution

- e) Minimum 30 day storage retention and archival for each camera (all video) at 720p resolution, 30fps (full frame rate and resolution)
- f) Design your camera system to insure that the privacy of your patrons is not infringed, and do not view or record areas where your patron(s) would have an expectation of privacy. Typically this is easily resolved by the placement of the camera, and is not an issue. However where this could present a problem as the need for both coverage and privacy exists in the same area, camera technology exists that allows for the best of both worlds. Called 'video masking', 'window blanking', and by other names, it allows the area within a larger view to be masked so that private areas cannot be seen, however surrounding areas are still viewable.
- g) The recording device must contain a USB port for police department personnel to easily access system and download video
- h) Video should be exportable in an open file format.
- i) The cameras shall capture, at minimum, the parking lot.

I HEREBY CERTIFY, that the foregoing Resolution was adopted by the Planning Commission of the City of West Covina, at a regular meeting held on the 28th day of January, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

DATE: January 28, 2020

EXPIRATION DATE: January 28, 2022 if not used.

Herb Redholtz, Chairman
Planning Commission

Jeff Anderson, AICP, Secretary
Planning Commission

PLANNING COMMISSION

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WEST COVINA, CALIFORNIA, APPROVING TENTATIVE TRACT MAP NO. 082855

TENTATIVE TRACT MAP NO. 082855

CATEGORICAL EXEMPTION

APPLICANT: David Cook - WC Homes LLC

LOCATION: 1611 & 1623 San Bernardino Road

WHEREAS, there was filed with this Commission a verified application on the forms prescribed in Chapter 26, Article VI of the West Covina Municipal Code, requesting approval of a tentative tract map to:

Subdivide the 4.55-acre site into 24 industrial condominium air space lots, and the wireless telecommunication site on that certain property described as:

Assessor's Parcel Numbers 8435-011-005, 8435-015-005, and 8435-015-038, in the records of the Los Angeles County Assessor; and

WHEREAS, the Planning Commission, upon giving the required notice, did on the 28th day of January, 2020, conduct a duly noticed public hearing to consider said application; and

WHEREAS, a precise plan has been submitted for the approval to construct a 105,645-square foot, 24-unit, two-story industrial condominium development located on an existing 4.55-acre lot in the M-1 Zone; and

WHEREAS, studies and investigations made by this Commission and in its behalf reveal the following facts:

1. The applicant is requesting approval of a tentative tract map to allow the subdivision of a 4.55-acre site into 24 industrial condominium air space lots, and the wireless telecommunication site.

2. The proposed project includes a precise plan for the development of a 105,645-square foot, 24-unit, two-story industrial condominium development located on an existing 4.55-acre lot in the M-1 Zone.
3. Appropriate findings for approval of a tentative tract map are as follows:
 - a. That the proposed map is consistent with applicable general and specific plans.
 - b. That the design or improvement of the proposed subdivision is consistent with applicable general and specific plans.
 - c. That the site is physically suitable for the type of development.
 - d. That the site is physically suitable for the proposed density of development.
 - e. That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish, wildlife or their habitat.
 - f. Neither the design of the subdivision nor the type of improvements are likely to cause serious public health problems.
 - g. That the design of the subdivision or the type of improvements will either (i) not conflict with recorded or adjudged easements, acquired by the public at large, for access through or use of, property within the proposed subdivision; or (ii) alternate easements, for access or for use, will be provided, and these will be substantially equivalent to ones previously acquired by the public.
4. The proposal is considered to be categorically exempt, pursuant to Section 15332, In-Fill Development Project (Class 32) the California Environmental Quality Act (CEQA).

NOW, THEREFORE, the Planning Commission of the City of West Covina does resolve as follows:

1. On the basis of the evidence presented, both oral and documentary, for Tentative Tract Map No. 082855, the Planning Commission makes the following findings:
 - a. The proposed map is consistent with the "Industrial & Manufacturing" land use designation of the West Covina General Plan in that the proposed industrial condominium park project is compatible with the industrial uses in the vicinity. The project is also consistent with the "Manufacturing" (M-1) Zone.

- b. The design and improvements of the proposed subdivision and precise plan is consistent with the General Plan in that the proposed industrial condominium park project is compatible with industrial uses in the vicinity. The project is also consistent with the “Manufacturing” (M-1) Zone.
 - c. The site consists of a 4.55-acre lot surrounded by industrial uses on the west, and north sides. Adequate provisions have been incorporated into the design to accommodate the required development standards as specified in the Municipal Code. The site has access from San Bernardino Road.
 - d. The gross land area of the site is approximately 4.55 acres and allows for the subdivision of the land into industrial condominiums. The density of the proposed condominium spaces is suitable since the project generally relates to the subdivision of airspace. Additionally, there is a condition that requires that CC&R’s are recorded as a part of this project to ensure orderly operation. The site will be developed in accordance with the grading and construction requirements of the West Covina Municipal Code and the City Engineer.
 - e. The site consists of a 4.55-acre parcel that was developed with a former hardware store/lumber yard and automotive repair building. No known endangered, threatened or rare species or habitats, or designated natural communities, wetlands habitat, or wildlife dispersal, or migration corridors are present on site.
 - f. The proposed map and improvements will have access to a public sanitary sewer system for the removal and disposal of wastewater and to other necessary utility services. The site will be developed in accordance with the standards of the Engineering Division, the Municipal Code, the Uniform Building Code, and other applicable requirements.
 - g. There are no known easements on the property that would be affected by implementation of the proposed project. Access to the site will be provided via San Bernardino Road.
2. That pursuant to all of the evidence presented, both oral and documentary, and further based on the findings above, the tentative tract is approved subject to the provisions of the West Covina Municipal Code, provided that the physical development of the herein described property shall conform to said plan and the conditions set forth herein which, except as otherwise expressly indicated, shall be fully performed and completed or shall be secured by bank or cash deposit satisfactory to the Community Development Director, before the use or occupancy of the property is commenced and before the Certificate of Occupancy is issued, and the violation of any of which shall be grounds for revocation of said tentative tract map by the Planning Commission or City Council.

3. That the tentative tract shall not be effective for any purpose until the owner of the property involved (or a duly authorized representative) has filed at the office of the Community Development Director, his affidavit stating he is aware of, and accepts, all conditions of this tentative tract map and precise plan, as set forth below. Additionally, no permits shall be issued until the owner of the property involved (or a duly authorized representative) pays all costs associated with the processing of this application pursuant to City Council Resolution No. 8690.
4. The costs and expenses of any enforcement activities, including, but not limited to attorneys' fees, caused by the applicant's violation of any condition imposed by this approval or any provision of the West Covina Municipal Code shall be paid by the applicant.
5. That pursuant to all of the evidence presented, both oral and documentary, and further based on the findings above, Tentative Tract Map No. 082855, is approved subject to the following conditions:
 - a. Comply with tentative tract map reviewed by the Planning Commission on January 28, 2020.
 - b. Comply with all applicable sections of the West Covina Municipal Code.
 - c. Comply with the development standards of "Manufacturing" (M-1) Zone and all applicable provisions of the West Covina Municipal Code and as redesigned pursuant to conditions of the precise plan of design.
 - d. Approval of this tentative tract map is contingent upon, and shall not become effective unless and until approval of Precise Plan No. 19-02.
 - e. The on-street parking spaces shall be indicated on the plans and shall be striped in accordance with the "Parking Lot Design and Lighting Standards" prior to the final approval of units.
 - f. Comply with all requirements of the "Art in Public Places" ordinance, prior to the issuance of building permits.
 - g. That any proposed change to the approved tentative tract map shall be reviewed by the Planning, Public Works, Fire and Police Departments, and the written authorization of the Community Development Director shall be obtained prior to implementation.
 - h. The proposed subdivision shall conform to West Covina Municipal Code Chapter 20 - Subdivisions.

- i. A declaration of Covenants, Conditions, and Restrictions (CC&R's) shall be prepared by the developer/property owner and submitted to the Community Development Director and the City Attorney. The CC&R's shall be signed and acknowledged by all parties having any record title interest in the property to be developed, and shall make the City a party thereto, and shall be enforceable by the City. The CC&R's shall be reviewed and approved by the City and recorded prior to the recordation of the final tract map. Written proof of recordation with the Los Angeles County Recorder/Registrars Office shall be provided to the Planning Department.
- j. The CC&R's shall include the following:
 - i. A condition that limits the uses of the industrial condominiums to manufacturing and warehouse uses as indicated in the Municipal Code. No retail or office uses, including medical are permitted in these units.
 - ii. A condition that requires the parking spaces directly in front of the roll-up doors to be assigned to the owner of the unit by pavement markings.
 - iii. A condition that prohibits the expansion of the office area within each unit/tenant space beyond what is approved in the Precise Plan.
- k. The applicant shall indemnify, hold harmless and defend the City of West Covina (City), its agents, officers, and employees from any claim, action, proceeding, or damages against the City, its agents, officers, or employees to attack, set aside, void, or annul the approval by the City of this Tract Map. Further, the applicant shall indemnify, hold harmless, and defend the City Of West Covina (City), its agents, officers, and employees from any claim, action, proceeding or damages against the City, its agents, officers, or employees arising out of the action, inaction or negligence of the applicant, its employees, officers, agents, contractors, subcontractors, successors or assigns in planning, engineering, constructing or in any manner carrying out the Tract Map or any improvements required for the Tract Map. The indemnity shall be contained in a written document approved by the City Attorney.
- l. A Property Owners Association shall be established and all common areas shall be owned, operated, and maintained by the Property Owners Association.
- m. Engineering Division Requirements:
 1. Comply with all conditions contained in Planning Commission Resolution No. 567. Which outlined the requirements of grading, street improvement, exterior lighting, water supply, all bonds, trees, landscaping, drainage, and building related improvements, etc.

2. Sanitary sewers shall be provided to each "lot" in compliance with Municipal Code Chapter 23, Article 2, and to the satisfaction of the City Engineer.
3. The required street improvements shall include that portion of San Bernardino Road contiguous to subject property.
4. All existing concrete wheelchair ramps shall be removed (if required) and reconstructed to meet current ADA requirements.
5. All damaged concrete curbs, gutters, sidewalk, etc., shall be removed and reconstruct per City standard.
6. A Seven-foot wide street dedication is required along San Bernardino Road contiguous to subject property to be recorded in the Office of the Los Angeles County Recorder prior to the issuance of any Engineering Permits.
7. Full-width (10-foot wide) sidewalks (with trees in tree wells) shall be constructed along San Bernardino Road contiguous to subject property.
8. Adequate provision shall be made for acceptance and disposal of surface drainage entering the property from adjacent areas.
9. Parking lot and driveway improvements on private property for this use shall comply with Planning Commission Resolution No. 2513 and be constructed to the City of West Covina Standards.
10. Prior to approval of a final map, all of the following requirements shall be satisfied:
 - a) A finish grading plan showing existing and proposed elevations and drainage structures (and showing existing and proposed on-site and off-site improvements) shall be submitted to and approved by the Planning Department and Engineering Division.
 - b) A parking lot lighting plan showing electrolier types and locations, average illumination levels, points of minimum illumination and photometric data in conformance with Planning Commission Resolution No. 2513 and as requested shall be submitted to and approved by the City Engineer.
 - c) An itemized cost estimate for all on-site and off-site improvements to be constructed (except buildings) shall be submitted to the Engineering Division for

approval. Based upon the approved cost estimates, required fees shall be paid and improvement securities for all on-site and off-site improvements (except buildings) and 100% labor/material securities for all off-site improvements, shall be posted prior to final approval of the plans.

11. The proposed subdivision shall conform to West Covina Municipal Code Chapter 20 - Subdivisions.
12. File Notice of Intent (NOI)
13. Comply with all regulations of the Los Angeles Regional Water Quality Control Board and Article II of Chapter 9 of the West Covina Municipal Code concerning Stormwater/Urban Run-off Pollution control.

I HEREBY CERTIFY, that the foregoing Resolution was adopted by the Planning Commission of the City of West Covina, at a regular meeting held on the 28th day of January, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

DATE: January 28, 2020

EXPIRATION DATE: January 28, 2022 if not used.

Herd Redholtz, Chairman
Planning Commission

Jeff Anderson, Secretary
Planning Commission

CATEGORICAL EXEMPTION ANALYSIS AND TECHNICAL STUDIES

All supporting technical studies and the draft Notice of Exemption Document are available for review in the City’s Website: <https://www.westcovina.org/departments/planning/projects-and-environmental-documents>

The following analysis describes how the proposed project meets the requirements for a Class 32 “In-Fill Development” exemption. The statutory language of each requirement is printed in bold italics below, followed by the project-related analysis for each requirement:

(a) The project is consistent with the applicable general plan designation and all applicable general plan policies, as well as with applicable zoning designation and regulations.

The proposed project meets this requirement. The project site is designated as “Industrial”.

- The purpose of the General Plan Industrial land use designation is to encourage intensive manufacturing, processing, warehousing and similar uses, as well as light, clean industries and support offices. Policies 2.1, 2.4, and 2.9 of the City’s General Plan encourages development that fosters economic development. The project site is zoned as “Manufacturing” per the West Covina Municipal Code (WCMC).
- According to the WCMC, the purpose of the M-1 zone is to classify and set standards for those industrial and incidental commercial facilities which are of moderate to heavy intensity and have no objectionable or obnoxious effect on any adjacent property. With approval of the Precise Plan and Tentative Tract Map to allow the industrial condominium complex to be constructed within a manufacturing zone, the proposed project would be consistent with the City’s General Plan and Zoning Code. Therefore, the proposed project would be consistent with requirement “a”.

(b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban areas

The proposed project meets this requirement. The 4.5-acre project site is located at 1611 and 1623 San Bernardino Road in an urbanized area of the City. The site is currently developed with a vacant automotive service facility consisting of two utilitarian buildings constructed in 1953 (former Blackard at 1611 San Bernardino Road), and a vacant hardware store and lumber yard consisting of four utilitarian buildings constructed between 1953 and 1965 (former Barr Lumber at 1923 San Bernardino Road). The project site is located immediately adjacent to a two-story multifamily residential apartment complex and public storage facility to the east, an elementary school to the south, the Southern Pacific Rail Road and manufacturing facility to the north, and an industrial condominium complex to the west. Therefore, due to the size and urban setting of the project site within City limits, the proposed project would be consistent with requirement “b”.

(c) The project site has no value as habitat for endangered, rare, or threatened species.

The proposed project meets this requirement. As discussed above, the project site is located in an

urbanized area of the City predominantly surrounded by commercial and residential uses. The project site is currently developed with a vacant automotive service facility consisting of two utilitarian buildings constructed in 1953 (former Blackard at 1611 San Bernardino Road), and a vacant hardware store and lumber yard consisting of four utilitarian buildings constructed between 1953 and 1965 (former Barr Lumber at 1923 San Bernardino Road). Plant life is limited to non-native and ornamental species used for landscaping. Animal life is comprised of common bird, insect, reptile, and small mammal species. The project site does not contain any riparian habitat and does not contain any streams or water courses necessary to support riparian habitat. Similarly, the project site is not located within or adjacent to the boundaries of any adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or State habitat conservation plan. Therefore, the proposed project has no value as habitat for endangered, rare, or threatened species, and the proposed project would be consistent with requirement “c”.

(d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, water quality, or historic resources.

The proposed project meets this requirement. The following discussion summarizes how the proposed project would not result in any significant effects related to traffic, noise, air quality, water quality, and historic resources. Additional impact analysis details are provided in the Initial Study and technical studies.

Traffic

A Traffic Impact Study was prepared for the proposed project. The traffic analysis concluded that the proposed project would not generate any significant peak-hour traffic impacts on the four analyzed study area intersections during either the Existing Year (2019) Plus Project or Opening Year (2021) Plus Project conditions. Access and circulation associated with the proposed project would be designed and constructed in conformance with all applicable City requirements, including applicable emergency and fire emergency access requirements. The proposed project would not include construction of any roads or the modification of an existing road, that would result in an increase in hazards. The proposed project would generate a baseline/raw trip generation of 43 AM peak hour trips and 43 PM peak hour trips. Applying truck trip factors to account for the project’s estimated truck mix yielded an effective trip generation of 85 AM peak-hour PCE trips (69 inbound trips, 16 outbound trips) and 85 PM peak-hour PCE trips (18 inbound trips, 67 outbound trips). Therefore, the proposed project would not result in any significant effects related to traffic and would be consistent with requirement “d”.

Noise

A Noise Survey Report was prepared for the proposed project. Project construction noise would be temporary and subject to local ordinances governing construction hours, including Section 15-95 of the West Covina Municipal Code. On-site operational noise would be typical of surrounding uses, including the light industrial use bordering the project site to the west, and would not be substantially greater than noise from heavy commercial/light industrial operations (e.g., vehicle and equipment operations) that have historically and recently occurred on the site. Furthermore, off-site operational noise from project traffic would not create a substantial increase in off-site noise since existing noise levels along West San Bernardino Road were

monitored at 70 dBA Leq. Based on traffic volume data from the Traffic Impact Analysis conducted for the proposed project by KOA Corporation in November 2019, West San Bernardino Road is estimated to experience a daily traffic volume of approximately by 15,000 vehicles in the project's opening year (2021). Conservatively adding all 362 project-generated daily vehicle trips to the roadway segment of West San Bernardino Road nearest to the project site would increase existing traffic by approximately two percent. Therefore, the project would not create the doubling of existing traffic volumes on West San Bernardino Road typically required to generate a 3 dBA, or perceptible, increase in traffic noise in the project vicinity. Therefore, the proposed project would be consistent with the surrounding land uses and would not create a significance source of permanent noise. Therefore, the proposed project would not result in any significant effects related to noise and would be consistent with requirement "d".

Air Quality & Greenhouse Gas

Implementation of the proposed project would result in temporary air pollutant emissions and GHG emissions during construction activities. There would be permanent air pollutant and GHG emissions during future operations. Construction emissions would primarily be generated by equipment exhaust and fugitive dust and operational emissions would primarily be generated by on-road vehicles and energy use. The proposed project would not result in significant regional or localized emissions during construction activities or future operations. Also, combined annual construction and operational GHG emissions would not exceed the SCAQMD significance threshold. The proposed project would not expose sensitive receptors to significant toxic air contaminant emissions; and would not generate significant adverse odors. Furthermore, the proposed project would be consistent with the SCAQMD Air Quality Management Plan, the Southern California Association of Governments (SCAG) Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS); Climate Change Scoping Plan required by Assembly Bill 32, and the City's Energy Action Plan. Therefore, the proposed project would not result in any significant effects related to air quality and GHG and would be consistent with requirement "d".

Water Quality

Demolition and grading activities would result in exposed soils and debris, as well as equipment and materials that may contribute pollutants in stormwater runoff. However, the proposed project would be required to comply with all federal, State, and local regulations related to water quality standards and wastewater discharge. Construction contractors would be required to obtain coverage under the National Pollutant Discharge Elimination System (NPDES) General Construction Activity Permit and comply with City Municipal code Section 9-36 relating to stormwater and urban run-off pollution control. In accordance with the requirements of the NPDES permit and Section 9-36 of the City's Municipal Code, the applicant would prepare a standard urban stormwater mitigation plan (SUSMP) and implement best management practices (BMPs) related to erosion and sediment controls to limit the potential for construction activities to result in water quality impacts related to stormwater and site runoff. Compliance with these regulations and policies would reduce the risk of water degradation within the City from soil erosion and other pollutants related to construction activities and potential violations of water quality standards would be minimized through required BMPs. Therefore, the proposed project would not result in significant effects to water quality from construction activities associated. As a result, the proposed project would not degrade water quality and would be consistent with

requirement “d”.

Historic Resources

A Cultural Resources Technical Report was prepared for the project. The cultural resources records search, Native American outreach, and field survey conducted for this study resulted in the identification of two properties containing historic-era buildings: 1611 and 1623 West San Bernardino Road, respectively. The property at 1611 West San Bernardino Road includes a vacant automotive services facility consisting of two utilitarian buildings completed in 1953. The property at 1623 West San Bernardino Road is a hardware store and lumberyard consisting of a primary commercial building completed in 1953 and four ancillary buildings dating to sometime between 1953 and 1965. Both properties were recorded and evaluated and are recommended ineligible for listing in the NRHP and CRHR and for local designation as a City of West Covina Landmark due to a lack of historical or architectural significance. Therefore, neither property is considered a historical resource as defined by CEQA.

The results of the cultural resource assessment did not identify any prehistoric or historic archaeological resources within the project. Results of the site visit revealed surficial sediments throughout the area were disturbed by the construction of the two properties. An assessment of archaeological sensitivity indicates that the project site contains a relatively low potential to encounter intact, subsurface archaeological deposits. The lack of reported prehistoric archaeological remains with a 0.5-mile radius of the project site indicates that the property is not highly sensitive for prehistoric archaeological resources. A review of historical topographic maps and aerial photographs found that the properties were largely used for agricultural purposes prior to the 1950s. As such, it is unlikely that early historic period archaeological remains dating to the late 19th or early 20th centuries would be present within the project site.

No impact related to historical resources would occur and would be consistent with requirement “d”.

(e) The site can be adequately served by all required utilities and public services.

The proposed project meets this requirement. The following discussion analyzes how the proposed project can be adequately served by all required utilities and public services.

Utilities Wastewater

Wastewater generated from the project site is collected by sewer pipelines that are maintained by the City. Wastewater collected by the City is then conveyed to the Sanitation Districts of Los Angeles County (LACSD) trunk sewer pipelines where wastewater is conveyed to the LACSD San Jose Creek Water Reclamation Plant (SJCWRP) and/or the Whittier Narrows Water Reclamation Plant (WNRP). The wastewater treatment operations of these two reclamation plants are subject to the water treatment requirements of the LARWQCB. Therefore, the proposed project would be consistent with requirement “e”.

Water Supply

Water supply that would serve the proposed project would be provided by the City of Azusa Light & Water. The estimated water demand of the proposed project is not expected to exceed

available supplies or the available capacity within the distribution infrastructure that would serve the project site. Prior to the issuance of the building permit, the applicant would be required to verify that the City's water system can accommodate the proposed project's fire flows and all potable water demand. Therefore, the proposed project would be consistent with requirement "e".

Stormwater Drainage

Existing stormwater runoff infrastructure on the project site conveys stormwater from the project site to City storm drains, where stormwater is then conveyed to the San Gabriel River and/or the Rio Hondo River. Much of the project site is covered by impervious surfaces, and upon completion of the proposed project, the project site would continue to be covered with a similar area of impervious surfaces. The stormwater runoff would continue to be conveyed to local storm drains and channels via the curb and gutters. The discharge of stormwater runoff from the project site would not significantly increase compared to existing conditions, and the proposed project would comply with all of the provisions of the NPDES and all applicable requirements issued by the SWRCB and RWQCB. Therefore, the proposed project would be consistent with requirement "e".

Electric Power and Natural Gas

The proposed project would be served by Southern California Edison for electricity, and SoCalGas for natural gas. The proposed project would utilize less-than-one percent of electricity that Southern California Edison provides and less-than-one percent of natural gas that SoCal Gas provides in a typical service year. Therefore, the proposed project would be adequately served with electricity and natural gas and would be consistent with requirement "e".

Telecommunications

The proposed project would require additions of new on-site telecommunications infrastructure to serve the new building and potential upgrades and/or relocation of existing telecommunications infrastructure. Installation of new telecommunications infrastructure would be limited to on-site telecommunications distribution and minor off-site work associated with connections to the public system. Impacts from the installation of any required telecommunications infrastructure, would be short duration and would cease to occur when installation is complete. No upgrades to off-site telecommunications systems are anticipated. Therefore, the proposed project would be adequately served with telecommunications services and would be consistent with requirement "e".

Fire Protection

The West Covina Fire Department (WCFD) provides fire protection and paramedic services to residents and businesses within the City. The proposed project would be constructed in compliance with the requirements of the City's Fire Code and include fire prevention measures. The proposed project would not cause the WCFD to expand the existing Fire Stations within the City. Project construction may generate traffic associated with the movement of construction equipment, removal of demolition and excavation materials, and construction worker trips. Flammable materials and liquids may also be present during construction. However, construction activities are temporary and emergency access would remain available along all surrounding streets. Therefore, the proposed project would be adequately served with fire protection services

and would be consistent with requirement “e”.

Police Protection

The West Covina Police Department (WCPD) provides police protection services to residents and businesses within the City. WCPD headquarters is located at 1444 West Garvey Avenue. Potential increase in police protection services is not anticipated to cause WCPD to construct a new police station or expand the existing WCPD police headquarters to maintain its level of service. Any potential increase in police protection services would be met by the deployment of additional officers at WCPD and/or increased patrols within the vicinity of the project site. In addition, the proposed project site plans would be submitted to the WCPD Crime Prevention unit for review and appropriate on-site security features would be required by WCPD. Project construction may generate traffic associated with the movement of construction equipment, removal of demolition and excavation materials, and construction worker trips. However, construction activities are temporary and emergency access would remain available along all surrounding streets. Therefore, the proposed project would be adequately served with police protection services and would be consistent with requirement “e”.

Schools

The proposed project is industrial condominiums and would not generate any new students or increase the demand on school services. Therefore, the proposed project would be consistent with requirement “e”.

Recreational Facilities

The proposed project would not result in population growth. The proposed project would not substantially increase the use of existing neighborhood and regional parks. Therefore, the proposed project would be adequately served by recreational facilities and would be consistent with requirement “e”.

PLANNING DEPARTMENT STAFF REPORT

SUBJECT

CONDITIONAL USE PERMIT 19-13

CATEGORICAL EXEMPTION

APPLICANT: Frank and Michelle Rivera for Jumper's Jungle

LOCATION: 331 N Azusa Ave

REQUEST: The applicant is requesting a conditional use permit to allow the use of a game arcade, Jumpers Jungle, to be in a "Neighborhood Commercial" (N-C) zone.

BACKGROUND

| ITEM | DESCRIPTION |
|---|---|
| ZONING AND GENERAL PLAN | "Neighborhood Commercial" (N-C) and "Commercial" (C) |
| SURROUNDING LAND USES AND ZONING | North: Neighborhood Commercial (N-C) South: Single-Family Residential (R-1) East: Neighborhood Commercial (N-C) West: Single-Family Residential (R-1) |
| CURRENT DEVELOPMENT | Game Arcade |
| LEGAL NOTICE | Legal Notice was published in the San Gabriel Valley Tribune, and was mailed to 188 owners and occupants of the properties located within 300 feet of the subject site. |

DISCUSSION

The applicant is requesting a Conditional Use Permit to allow the use of a game arcade in an existing tenant space within an existing shopping center building. The proposed Jumper's Jungle is located within an existing 5,600 square-foot tenant space on the corner of E Workman Avenue and N Azusa Avenue. The site is adjacent to the Neighborhood Commercial (N-C) zones on the north and east, and Single-Family Residential (R-1) zones on the south and west.

Jumper's Jungle is an arcade facility where kids of all ages and adults can enjoy fun arcade games and jumpers together in a climate-controlled, safe and hygienic environment. The facility provides various arcade games such as eyeplay, virtual reality, basketball, and air hockey, as well as state-of-the-art, commercial-grade inflatable jumpers, dry slides, obstacle courses, and toddler bounce houses. The arcade facility is also equipped with an area dedicated for traditional arcade and video games, such as Pac Man and Pump It Up Prime 2.

The facility is family-owned and will employ 2 to 3 employees, all of which are owners, family of the owners, or friends of the family. The purpose of this is to provide a simple, fun, and very profitable

ownership experience. The maximum occupancy expected for the game arcade is approximately 60 persons, including staff. Aside from admission from open play hours, Jumper's Jungle will make money by maintaining a fully stocked snack bar. The facility does not prepare any food. All snacks and drinks that are sold will be prepackaged in plastic containers.

Parking

| Jumper's Jungle Floor Area | Sq. Ft. | Parking Requirement | Parking Needed |
|--|----------------|---|-----------------------|
| Customer Service, Entry/Waiting, Storage | 450 | (1) parking space for every 250 sq ft | 2 |
| Adult/Child Waiting Area | 708 (24 seats) | (1) parking space for every (3.5) permanent seats | 7 |
| Children's Play Area | 4,012 | (1) parking space for every 100 sq ft | 41 |
| Other Space (storage, restrooms, water heater, etc.) | 430 | N/A | N/A |
| Total | 5,600 | N/A | 50 |

On September 13, 1994, Variance 997 was approved to allow a parking reduction from the amount of required parking spaces. The parking requirement at the time was 1,097 parking spaces based on the uses. The approved variance reduced the parking to 980 spaces.

The West Covina Municipal Code states that the parking requirements are to be determined per conditional use permit depending on the type of main use, location or if it is a main use arcade. Therefore, the Planning Commission can establish the parking requirement for the proposed use. Planning Staff has used the parking requirements for an indoor recreation facility as a guideline, since it is a similar use. As a result, the staff is recommending that the required parking for Jumper's Jungle be established as 50 parking spaces. The previous tenant operated as a game arcade, similar to the proposed use.

The shopping center has a variety of uses including a trade school, restaurants, medical offices, and retail. The trade school (UEI) utilizes/occupies most of the parking on the south side of shopping center site. The parking requirement for the trade school is 299 spaces. The trade school operates Monday to Friday with day and evening classes. Planning Staff confirmed with the trade school that no classes occur on weekends. Uses such as, restaurants and retail, have vehicular traffic circulating for short periods of time. In addition, retailers and medical offices are typically closed after 6:00 p.m. resulting in less vehicular traffic in the evenings and weekends. Because the proposed use has peak activity on nights and weekends, there is a reduced likelihood of conflict or consistent parking issues. Based on the surrounding uses, parking will be adequate during the proposed hours of operation given that some of the neighboring uses are primarily daytime uses.

REQUIRED FINDINGS

Before an application for a conditional use permit can be approved, the following findings shall be made:

1. That the proposed use at the particular location is necessary or desirable to provide a service or facility that will contribute to the general well-being of the neighborhood or community.

The proposed game arcade area is desirable at the subject location in order to offer an expanded variety of entertainment and recreational alternatives to West Covina residents. The proposed tenant spaces faces away from nearby residential areas in a shopping center with buildings that are set well back from the street. Neighboring uses are office, medical office, trade school, and restaurants. The proposed use is not expected to pose any operational conflicts. Given the mix of existing uses within the shopping center, the availability of adequate parking, and proposed hours of operation, the game arcade use will not create an adverse effect on the surrounding properties and is consistent with the property's underlying zone.

2. That such use will not, under the circumstances of the particular case, be detrimental to the health, safety, peace or general welfare of persons residing or working in the vicinity or injurious to property of improvements in the vicinity.

The project will not be detrimental to the health, safety, peace, or general welfare of persons residing in the vicinity of the site because all construction is required to meet current City Building and Safety and Fire Code requirements, and conditions placed on the project will mitigate any potential adverse effects such as excessive noise or overflow parking. Noise impacts are expected to be minimal as all activities will be located inside the building.

3. That the site for the proposed use is adequate and is so shaped as to accommodate said use, as well as, all yards, spaces, walls, fences, parking, loading, landscaping, and any other features necessary to adjust said use with the land and uses in the neighborhood and make it compatible thereto.

The subject site is adequate in size and shape to accommodate the proposed use. The subject site has an area of 17.4 acres, which is well above the minimum 15,000 square feet required by the Zoning Code for this zone. The site provides 980 parking spaces, no major exterior modifications are contemplated, and the existing building meets all setback and height standards. Likewise, the proposed interior design involves only construction of non-load bearing internal walls. Parking will be adequate during the proposed hours of operation given that the surrounding retailers and medical offices are typically closed after 6:00 p.m. and on weekends. This will result in less vehicular traffic and parking demand that might conflict with the vehicles patronizing the proposed use. The project conforms to the development standards of the underlying zone.

4. That the site abuts streets and highways adequate in width and improvements to carry traffic generations typical of the proposed uses and the street patterns of such a nature exist as to guarantee that such generation will not be channeled through residential areas on local residential streets.

The shopping center fronts upon Azusa Avenue, a four-lane major arterial, which provides direct access to the San Bernardino (I-10) Freeway to the south and the Foothill (I-210) Freeway to the north of the site. The site is accessible from other directions by Workman Avenue (a collector street) to the south and Rowland Avenue (a minor arterial) to the north via Azusa Avenue. Due to the accessibility and capacity of these routes, traffic generated by the project is not expected to impact local residential streets.

5. That the granting of such conditional use permit will not adversely affect the General Plan of the City, or any other adopted plan of the City.

The granting of the conditional use permit will not adversely affect the West Covina General Plan, since the proposed use, that of Game Arcade/Private Recreational Facility, is conditionally permitted within the site's Zoning designation of "Service and Neighborhood Commercial."

GENERAL PLAN CONSISTENCY

The City's General Plan Land Use Element designates the subject property for Commercial Uses. The project is consistent with the following General Plan policies:

Policy 2.1 Maintain and enhance the City's current tax base.

Policy 2.4 Build on and grow West Covina's regional appeal.

ENVIRONMENTAL DETERMINATION

The project is a Categorical Exemption, Class 1 (Section 15301: Existing facilities) pursuant to the requirements of the California Environmental Quality Act of 1970 (CEQA) since the project site involves only interior tenant improvements with no change to the exterior of the building or expansion of the floor area.

CONCLUSION

The proposal of the game arcade would offer a desirable use that expands the variety of entertainment and recreational alternatives to West Covina residents. The proposed non-retail use is compatible with the existing uses in the shopping center and the neighboring residential uses.

STAFF RECOMMENDATIONS

Staff recommends that the Planning Commission adopt a resolution approving Conditional Use Permit No. 19-13.

Submitted by: Eileen Santos, Planning Intern

Attachments

Attachment No. 1 Resolution

Attachment No. 2 - Business Operations Plan

PLANNING COMMISSION

RESOLUTION NO. 20-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WEST COVINA, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. 19-13

CONDITIONAL USE PERMIT NO. 19-13

CATEGORICAL EXEMPTION

APPLICANT: Frank and Michelle Rivera for Jumper's Jungle Family Fun Center

LOCATION: 331 N Azusa Ave

WHEREAS, there was filed with this Commission, a verified application on the forms prescribed in Chapter 26, Article VI of the West Covina Municipal Code, requesting approval of a conditional use permit to:

Allow a game arcade within an existing 5,600 square foot commercial building on certain property described as follows:

Assessor Parcel No. 8455-001-023 as shown on the latest rolls of the Los Angeles County Tax Assessor; and

WHEREAS, the Planning Commission, upon giving the required notice, did on the 16th day of January 2020, conduct a duly advertised public hearing as prescribed by law to consider said application; and

WHEREAS, studies and investigations made by this Commission and in its behalf reveal the following facts:

1. The applicant is requesting approval of a conditional use permit to allow the use of a game arcade, Jumper's Jungle Family Fun Center within an existing shopping center that is zoned as "Neighborhood Commercial"
2. The proposed game arcade anticipates accommodating 2 to 3 employees and up to 60 persons. The game arcade center will be open 7 days a week, 10:00 a.m. to 8:00 p.m.
4. Findings necessary for approval of a conditional use permit are as follows:

- a. That the proposed use at the particular location is necessary or desirable to provide a service or facility that will contribute to the general well being of the neighborhood or community.
 - b. That such use will not, under the circumstances of the particular case, be detrimental to the health, safety, peace or general welfare or persons residing or working in the vicinity or injurious to property or improvements in the vicinity.
 - c. That the site for the proposed use is adequate in size and is so shaped as to accommodate said use, as well as, all yards, spaces, walls, fences, parking, loading, landscaping, and any other features necessary to adjust said use with the land and uses in the neighborhood and make it compatible thereto.
 - d. That the site abuts streets and highways adequate in width and improvements to carry traffic generations typical of the proposed uses and the street patterns of such a nature exist as to guarantee that such generation will not be channeled through residential areas on local residential streets.
 - e. That the granting of such conditional use permit will not adversely affect the General Plan of the City, or any other adopted plan of the City.
5. Pursuant to the California Environmental Quality Act (CEQA), the proposed project is considered to be categorically exempt (Class 1, Existing Facilities) in that it consists of minor alterations of the existing structure in order to operate the requested use.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Commission of the City of West Covina as follows:

1. On the basis of evidence presented, both oral and documentary, the Planning Commission makes the following findings for approval of a conditional use permit:
 - a. The proposed game arcade area is desirable at the subject location in order to offer an expanded variety of entertainment and recreational alternatives to West Covina residents. The proposed tenant spaces faces away from nearby residential areas in a shopping center with buildings that are set well back from the street. Neighboring uses are office, medical office, trade school, and restaurants. The proposed use is not expected to pose any operational conflicts. Given the mix of existing uses within the shopping center, the availability of adequate parking, and proposed hours of operation, the game arcade use will not create an adverse effect on the surrounding properties and is consistent with the property's underlying zone.
 - b. The project will not be detrimental to the health, safety, peace, or general welfare of persons residing in the vicinity of the site because all construction is required to meet current City Building and Safety and Fire Code requirements, and conditions placed on

the project will mitigate any potential adverse effects such as excessive noise or overflow parking. Noise impacts are expected to be minimal as all activities will be located inside the building.

- c. The subject site is adequate in size and shape to accommodate the proposed use. The subject site has an area of 17.4 acres, which is well above the minimum 15,000 square feet required by the Zoning Code for this zone. The site provides 980 parking spaces, no major exterior modifications are contemplated, and the existing building meets all setback and height standards. Likewise, the proposed interior design involves only construction of non-load bearing internal walls. Parking will be adequate during the proposed hours of operation given that the surrounding retailers and medical offices are typically closed after 6 p.m. and on weekends. This will result in less vehicular traffic that will not be in conflict with the proposed use. Other than parking, the project conforms completely to the development standards of the underlying zone.
 - d. The shopping center fronts upon Azusa Avenue, a four-lane major arterial, which provides direct access to the San Bernardino (I-10) Freeway to the south and the Foothill (I-210) Freeway to the north of the site. The site is accessible from other directions by Workman Avenue (a collector street) to the south and Rowland Avenue (a minor arterial) to the north via Azusa Avenue. Due to the accessibility and capacity of these routes, traffic generated by the project is not expected to impact local residential streets.
 - e. The granting of the conditional use permit will not adversely affect the West Covina General Plan, since the proposed use, that of Game Arcade/Private Recreational Facility, is conditionally permitted within the site's land use designation of "Service and Neighborhood Commercial."
2. That pursuant to all of the evidence presented, both oral and documentary, and further based on the findings above, Conditional Use Permit No. 19-13 is approved subject to the provisions of the West Covina Municipal Code provided that the physical development of the herein described property shall conform to said conditional use permit and the conditions set forth herein which, except as otherwise expressly indicated, shall be fully performed and completed or shall be secured by bank or cash deposit satisfactory to the Community Development Director before the use or occupancy of the property is commenced and before a certificate of occupancy is issued, and the violation of any of which shall be grounds for revocation of said conditional use permit by the Planning Commission or City Council.
 3. The conditional use permit shall not be effective for any purpose until the owner of the property involved (or his duly authorized representative) has filed at the office of the Community Development Director his affidavit stating he is aware of, and accepts, all conditions of this conditional use permit as set forth below. Additionally, no permits shall be issued until the

owner of the property involved (or a duly authorized representative) pays all costs associated with the processing of this application pursuant to City Council Resolution No. 8690.

4. The costs and expenses of any enforcement activities, including, but not limited to attorney's fees, caused by the applicant's violation of any condition imposed by this approval or any provision of the West Covina Municipal Code shall be paid by the applicant.
5. That the approval of the conditional use permit is subject to the following conditions:
 - a) Comply with the plans reviewed by the Planning Commission on January 28, 2020.
 - b) Comply with all requirements of the West Covina Municipal Code.
 - c) The game arcade (Jumper's Jungle) is approved for 5,600 square feet. Any addition of modification of the use shall require the submittal of a new conditional permit.
 - d) The conditional use permit may be revoked, amended or suspended by the Planning Commission under the provisions of Section 26-253 of the West Covina Municipal Code.
 - e) The proposed business shall not constitute a public nuisance as defined under Section 15-200 of the West Covina Municipal Code.
 - f) The game arcade (Jumper's Jungle) is approved to operate seven days a week, with the hours of 10:00 a.m. to 8:00 p.m.
 - g) The game arcade shall have a minimum of 2 employees during operating hours at all times.
 - h) No access to the rear abutting Single-Family Residential zone for customers.
 - i) No alcohol shall be allowed in the tenant space.
 - j) The business operator shall ensure that customers are not inebriated and/or under the influence of drugs or alcohol.
 - k) Amplified sound shall not exceed levels that are plainly audible, or vibrations felt on the outside of the tenant space.
 - l) No noise amplifier shall be used at any time for instruction by employees or customers.
 - m) Doors of the building shall be kept closed at all times during class instruction, except when doors are in use, in order to minimize noise impacts onto adjacent properties.

- n) Any speakers inside the tenant space shall be directed towards the front of the tenant space (north).
- o) In the event that the availability of parking is negatively impacted, the Planning Commission shall review the conditional use permit for the use and may, at its discretion, modify or impose new conditions or suspend or revoke the conditional use permit pursuant to Section 26-253 of West Covina Municipal Code.
- p) The parking areas at the site shall be maintained clean and free of oil stains. All paved areas shall be pressure washed as needed to maintain the site in a clean and orderly manner.
- q) The applicant shall comply with maximum occupancy (total number of persons allowed to occupy the facility) requirements, pursuant to applicable Fire and Building Codes.
- r) This approval does not include approval of signs; a separate sign permit shall be obtained prior to the installation of any signs.
- s) Any proposed change to the allowed use of a game arcade shall be first reviewed by the Planning Division, Engineering Division, Building Division, and Fire Department, and shall require the written authorization of the Community Development Director prior to implementation.
- t) Landscaping on the site shall be maintained in a viable and healthy condition. Landscaping areas are to be kept free of litter and diseased or dead plants. Diseased, dead, damaged and/or disfigured plants shall be replaced as deemed necessary by the Community Development Director. The irrigation system shall be maintained in an operative condition.
- u) The Zoning Code gives provisions for up to two one-year extensions to keep entitlements active. Therefore, prior to January 28, 2022, (if building permits have not been obtained) you are urged to file a letter with the department requesting a one-year extension of time. The required submittal is a letter stating the reasons why an extension is needed, as well as an applicable processing fee. Please be advised that the applicant will not be notified by the Planning Division about the pending expiration of the subject entitlement.
- v) The operation of the facility shall comply with the West Covina Noise Ordinance.
- w) Building Division

1. All Conditions of Approval as approved by the Planning Commission shall appear as notes on the plans submitted for building plan check and permits.

2. Building design shall comply with the 2016 California Building Code (CBC). If the Building Plan Check application is received after December 23, 2019 the design shall comply with the 2019 California Building Code (CBC).
3. Separate application(s), plan check(s), and permit(s) is/are required for:
 - a. Tenant Improvements
 - b. Signs
 - c. Fire sprinkler/Alarm systems (*see Fire Department Prevention Bureau for requirements*)
 - d. Plumbing
 - e. Mechanical
 - f. Electrical
4. Complete architectural plans prepared a by State licensed architect will be required. Submit design for review at formal plans review.
5. Compliance to California T-24 Energy regulations will be required. Submit design for review at formal plans review.
6. Compliance to California Green Building Code will be required. Submit design for review at formal plans review.
7. Total plumbing fixtures required shall be determined by California Plumbing Code (CPC).

x) Fire Department

1. NFPA 13D/13R/13 Fire Sprinkler System
2. NFPA 72 – Fire Alarm /Fire Sprinkler Monitoring System
3. NFPA 10 – Portable Fire Extinguishers
4. (New System) New Fire Flow Test Required
5. A Knox key box and labeled master key must be maintained/provide for emergency responder access after business hours.
6. (Existing System) Any modifications to an existing fire sprinkle / fire alarm system must be first approved and permitted by the fire department.
 - Additional Fire Department requirements may be set upon future review of a full set of architectural plans.

I HEREBY CERTIFY, that the foregoing Resolution was adopted by the Planning Commission of the City of West Covina, at a special meeting held on the 28nd day of January, 2020, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

DATE: January 28, 2020

EXPIRATION DATE: January 28, 2022 if not used

Herb Redholtz, Chairman
Planning Commission

Jeff Anderson, Secretary
Planning Commission

**BUILDING USE NARRATIVE FOR
JUMPER'S JUNGLE FAMILY FUN CENTER**

Jumper's Jungle is an arcade facility where kids of all ages and adults can enjoy fun arcade games and jumpers together in a climate-controlled, safe and hygienic environment 7 days per week, from 10am-8pm. Instead of utilizing a yoga mat, swimming pool or universal weight-lifting equipment, we provide walled inflatable jumpers. Jumper's Jungle allows fun and fitness to connect – the kid's don't even know they are exercising while playing arcade games!

We equip our Fun Centers with state-of-the-art, commercial-grade inflatable jumpers, dry slides, obstacle courses, and toddler bounce houses. We also include various arcade games such as eyeplay, virtual reality, air hockey, basketball play and classic arcade games. Each facility is family-owned and will employ 2 to 3 employees, all of which are owners, family of the owners, or friends of the family. Our facilities do not prepare any food. All snacks and drinks that are sold will be prepackaged in plastic containers. The seating area will provide seating for the recreation area during open play and party events. Some of the extra safety precautions will include: Having carpet installed throughout the recreation area; additional 2 inch padding installed at the entrance and exits of the jumpers; a parent or guardian is required to stay with their children at the facility; safety rules will be posted before entering the recreation area; and surveillance cameras will be installed throughout the facility.

During the week the public trickles in and out, 2-4 people at-a-time for play hours between 10am-8pm. Only 4-6 parking spaces are utilized during that time frame. Jumper's Jungle provides space for special use, this is when families celebrate children's birthdays and other similar events (sports teams, school affairs, church groups, etc.). The majority of Jumper's Jungle's event business occurs over the weekend or after 6pm during the week. Therefore, any additional parking spaces that may be needed for these events may be available if neighboring tenants are closed for business over the weekend and after 6pm on weekdays. Our parking study has shown an average ratio of 1.5 children per vehicle or 13 vehicles for 20 children, and an average of 3 guests per vehicle or 13 vehicles for 40 guests.

Jumper's Jungle Family Fun Center practice the *good neighbor* policy with all the tenants in our complex and throughout the community. Jumper's Jungle always makes itself available for non-profit and philanthropic events and occasions after business hours. We pride ourselves as active civic participants!

We appreciate your consideration and look forward to a long and friendly association with your city.

JUMPER'S JUNGLE FAMILY FUN CENTER

City of West Covina
Memorandum
A G E N D A

ITEM NO. 5.

TO: Planning Commission

DATE: January 28, 2020

FROM: Planning Division

**SUBJECT: INITIATION OF CODE AMENDMENT NO. 20-02
COMMERCIAL STANDARDS CLEAN-UP**

BACKGROUND:

Over the past year, staff has noted requests for land uses that were not allowed in certain zones. Due to the popularity of online shopping, the amount tenant space for retail has been curtailed leaving empty tenant spaces that were once utilized by retail uses. In addition, some service businesses are increasing in popularity. Based on the information and requests staff has received, staff is recommending the initiation of a code amendment.

DISCUSSION:

Based on staff discussion and experience, the proposed code amendment would primarily modify land uses in the land use matrix. The land use matrix provides the standards for which businesses are allowed in specific zones. The following are a list of the revisions staff is recommending for land uses.

Barber & Beauty Shops in the Office Professional Zone

- Catering service allowed use in the Office Professional Zone
- Delicatessens allowed use in the Office Professional Zone
- Ice Cream Stores allowed use in the Office Professional Zone
- Tutoring facility allowed use in the Office Professional Zone
- Indoor Recreation Facility in the Neighborhood Commercial and C-2 (Medium Commercial) Zone
- Veterinary Hospital in the Office Professional Zone
- Inclusion of the Incidental Retail Uses matrix (26-598.5) into the land use matrix including;
 - Coffee/Snack Shop
 - Pharmacies
 - Barber and Beauty Shops
- Allow Postal Services as an allowed use in the Neighborhood Commercial Zone
- Revise standards for 36-inch walls between parking spaces and streets in commercial zones (Section 26-575) to allow for landscaping and/or berms to provide the screen.

Generally, a study session is held between the initiation and the public hearing to allow for discussion on what standards should be included in the code amendment. Subsequent to the study sessions, a public hearing will be scheduled before the Planning Commission. Planning Commission will then make a recommendation and the code amendment will be presented to the City Council.

RECOMMENDATION:

Staff has prepared a resolution initiating a code amendment to the West Covina Municipal Code pertaining to land use changes and standards for screen walls.

Submitted by: Jeff Anderson, Community Development Director

Attachments

Attachment No. 1 - Initiation Resolution

ATTACHMENT NO. 1

PLANNING COMMISSION

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WEST COVINA, CALIFORNIA, INITIATING CODE AMENDMENT NO. 20-02 RELATED TO REVISIONS TO COMMERCIAL LAND USES AND STANDARDS

WHEREAS, on January 28, 2020, the Planning Commission considered the initiation of a code amendment related to Commercial Land Uses and Standards in the City of West Covina; and

WHEREAS, the studies and investigations made by the Planning Commission reveal the following facts:

1. The land use matrix has not been amended comprehensively since 2010 with the processing of Code Amendment No. 08-01.
2. The City should periodically review land use standards to determine if the current review process is appropriate.
3. It is appropriate to review the screen wall standards in the commercial zone (Section 26-575) since they have been in effect since 1977.
4. The proposed action is considered to be exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15061(b)(3) of the CEQA Guidelines, in that the proposed action consists of a code amendment, which does not have the potential for causing a significant effect on the environment.

NOW, THEREFORE, BE IT RESOLVED, the Planning Commission of the City of West Covina, in conformance with Section 26-353(b) of the West Covina Municipal Code, does hereby initiate an application for Code Amendment No. 20-02 related to Commercial Land Uses and Standards in the City of West Covina.

I HEREBY CERTIFY, that the foregoing Resolution was adopted by the Planning Commission of the City of West Covina, at a regular meeting held on the 28th day of January, 2020, by the following vote.

AYES:

Resolution No.
Code Amendment No. 20-02
January 28, 2020 - Page 2

NOES:

ABSTAIN:

ABSENT:

DATE: January 28, 2020

Herb Redholtz, Chairman
Planning Commission

Jeff Anderson, Secretary
Planning Commission

City of West Covina
A G E N D A

ITEM NO. 6. a.

DATE: January 28, 2020

TO: Planning Commission
FROM: Planning Division
SUBJECT: Forthcoming - February 11, 2020

Attachments

Forthcoming 2.11.20

FORTHCOMING PLANNING COMMISSION HEARINGS

February 11, 2020

A. CONSENT CALENDAR

None

B. PUBLIC HEARINGS

(1)

ADMINISTRATIVE USE PERMIT NO. 19-37

BURGER IM – SALE OF BEER AND WINE

APPLICANT: Sandipkumar N Ahir

LOCATION: 301 S Glendora Avenue #28

C. NON-HEARING ITEMS

(2)

STUDY SESSION

INITIATION OF CODE AMENDMENT – ADU STANDARDS

(3)

SUBCOMMITTEE FOR DESIGN REVIEW NO. 19-75

CONSTRUCTION OF A NEW SINGLE-STORY HOUSE

APPLICANT: Ngoc Tran

LOCATION: 184 N. Willow Avenue

February 25, 2020

A. CONSENT CALENDAR

None

B. PUBLIC HEARINGS

(1)

TENTATIVE PARCEL MAP NO. 082638

ADMINISTRATIVE USE PERMIT NO. 19-35

SUBDIVISION OF 63,468 SQ FOOT LOT

APPLICANT: Jeremy Yeh

LOCATION: 1177 S Spring Meadow Drive

(2)

CONDITIONAL USE PERMIT NO. 20-01

“ONE SPACE” CONFERENCE ROOMS

APPLICANT: Allison Mack for Plaza West Covina
LOCATION: 2066 Plaza Drive

C. NON-HEARING ITEMS

(2)

STUDY SESSION – CODE AMENDMENT NO. 20-01
FILM PERMIT STANDARDS