



**4:45 p.m.**

Workshop in the County Council Chambers.

**5:30 p.m.**

Call to order

Opening remarks/Pledge – Chris Sands

Review and approval of agenda.

Review and approval of the minutes of the January 2, 2014 meeting.

**5:35 p.m.**

**Regular Action Items**

(1) **Elections** – for 2014 Planning Commission Chairman and Vice-chairman.

(2) **Public Hearing:** 5:45 p.m. - Amendments to Titles 16 and 17.

(3) **Bert Reese Rezone** – This item moved to March 6, 2014.

(4) **Road to Paradise** – Ann A. Bolinder is requesting a conditional use permit to expand an existing dog breeding business to include pet grooming services on 5.01 acres of property in the Agricultural (A10) Zone located at 7215 South Highway 165, Hyrum.

(5) **Discussion:** Telecommunication Facilities.

(6) **Discussion:** Title 17.18 - Sensitive Areas.

Board Member Reports

Staff reports

Adjourn



**PLANNING COMMISSION MINUTES**

**02 JANUARY 2014**

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4. Title 17.18-Sensitive Areas.....	4

DRAFT

1 **Present:** Chris Sands, Rob Smith, Clair Ellis, Chris Allen, Jason Watterson, Josh Runhaar,  
2 Stephanie Nelson, Chris Harrild, Megan Izatt

3  
4 **Start Time: 5:32:00**

5  
6 **Sands** welcomed and **Watterson** gave opening remarks/pledge.

7  
8 **5:33:00**

9  
10 **Agenda**

11  
12 Item #1 was postponed until next month; the rest of the agenda was passed with no changes.

13  
14 **Minutes**

15  
16 The minutes from November 7, 2013 were passed with the addition of Leslie Larson to the  
17 present line.

18  
19 **05:35:00**

20  
21 **Regular Agenda Items**

22  
23 **#1 Elections**

24  
25 Postponed until February meeting.

26  
27 **#2 Discussion: Amendments to Titles 16 and 17**

28  
29 **Harrild** reviewed the amendments to Titles 16 and 17:

30 16.02.050 and 16.02.070 – Amendments regarding subdivision amendments and boundary  
31 line adjustments that bring the county ordinance into compliance with state code. State code  
32 has been amended and has removed counties authority in the review and approval of  
33 boundary line adjustments. Staff is working to resolve how to handle illegal boundary line  
34 adjustments that occurred prior to the change of state code. This does not affect a boundary  
35 line adjustment within a subdivision. Any change within a legally recorded subdivision  
36 qualifies as a subdivision amendment.

37 16.03.030 [C][9] – “Government control monuments” was replaced with “Cache County  
38 section corners”.

39 16.03.030[D-E] – D-H moved to become C-G. Preferred scale clarified.

40 16.03.040 [A] - placement of setbacks on final subdivision plat clarified.

41 The recommendation from the county surveyor was to identify subdivision setbacks on the  
42 preliminary plat and that it is not necessary to include them on the final plat.

43 16.04, 17.07.040, and 17.10.060 – The term “development agreement” replaced with the  
44 term “improvement agreement”.

1 A development agreement is something different then what we currently do so it has been  
2 replaced with improvement agreement to clear up any miscommunications.

3 17.07.040 – the term “density” defined.

4 The term is now defined as follows:

5 Density: the number of net acres required per dwelling unit as specified in Table 17.10.040.  
6 Net acreage shall be calculated by taking the total gross acreage and subtracting non-  
7 developable sensitive areas (e.g. wetlands, open water, steep slopes) and the area in the  
8 rights-of-way for public roads.

9 Roads and road rights-of-way are not included in the calculation for density. That land is  
10 also not taxed where it is owned by the county. This does have the possibility to create some  
11 non-conforming lots in the county. If a home or building is in the right-of-way the county  
12 will either have to buy the home or building or replace it as part of the cost of widening the  
13 road. The county does encourage farmers to farm right up to the edge of the road and also  
14 allows barbwire fences right along the edge of the road. Setbacks begin beginning at the  
15 edge of the right-of-way.

16  
17 **05:57:00**

18  
19 **#3 Discussion: Telecommunication Facilities**

20  
21 **Harrild** reviewed information to help in shaping a telecommunication facilities ordinance.  
22 Currently if a telecommunication tower request is received to expand an existing conditional use  
23 permit (CUP) they have to first rezone the property and then apply for the CUP. Many of the  
24 telecommunication towers in the county have not been rezoned are considered a non-conforming  
25 use. If development or expansion is proposed on any of those properties, the rezone process is  
26 necessary as permits are not issued on a parcel with a non-conforming use.

27  
28 **Staff and Planning Commission** discussed doing a possible rezone of all current tower  
29 properties that are non-conforming. That is going to require that staff review every site and look  
30 into any concerns or problems with each site. The biggest issues for telecommunication towers  
31 are height and the ability to co-locate. If the county manages telecommunication towers well  
32 then the county doesn't end up with lots of ugly structures and eyesores. Staff doesn't want to  
33 write too many design restrictions into the code so that it can be more site specific based on the  
34 area it will be in. The number of antennas/dishes needs to also be left open to some  
35 interpretation like the tower type. You can limit the number based on co-location points.  
36 Coverage maps will be required to help determine the height of tower needed. The applicant is  
37 going to need to justify the height of a tower. Some commissioners suggested that if a tower is  
38 co-locating on an existing structure and is not adding too much additional height to that structure  
39 a rezone would not be necessary; however if the applicant were to go higher than 40 feet it would  
40 require a rezone. The setback will need to be equal to the height of the tower. Staff suggested  
41 that if a telecommunication tower were to apply for a new building/generator/cabinet or adding  
42 co-locations that it would be a director/zoning clearance. There would still be requirements the  
43 applicant would have to meet, such as uses BLM color swatches for color of materials, but the  
44 process would be simpler.

1 **06:31:00**

2  
3 **#4 Discussion: Title 17.18 – Sensitive Areas**

4  
5 **Harrild** reviewed the current sensitive areas section. The sensitive areas currently include non-  
6 developable and potentially developable areas. Some of the issues that have come up include  
7 crucial wildlife habitat. Currently the entire county qualifies as crucial wildlife habitat. Any  
8 development in those sensitive areas is considered a conditional use and must follow that  
9 process. While this has not been actively enforced, this requires all structures to work through  
10 some sort of sensitive areas assessment process. Staff has identified some considerations to help  
11 the ordinance function:

12 Is there a more detailed habitat layer that can be used?

13 Focus on threatened and endangered species only?

14 Focus on state and/or federally recognized sensitive, specially valued, threatened, endangered  
15 etc. species?

16 Require a wildlife/habitat report?

17 Require a development plan (combination of letter of intent, site plan, and new construction  
18 details for CUPs and subdivisions)?

19 Improve detail of wildlife component, i.e., corridors, nesting, feeding, watering, etc.?

20 How to prevent fragmentation, impairment, alteration, etc.?

21 Mitigation strategies?

22 What is the best way to tie all of this to the ground?

23 Endangered and threatened plant species as a sensitive area?

24 Staff also noted that a ridgeline policy needs more research. Staff questioned if the commission  
25 wanted to include anything on prehistoric, historic, and cultural resources as sensitive areas.

26 Staff would also like to include wording for shallow water table areas that basements and sub  
27 grade structures may be prohibited.

28  
29 **07:00:00**

30  
31 **Staff Reports**

32  
33 Cherry Peak will not be open this season due to weather and other issues. There has been a  
34 district court filing regarding the North Valley Landfill approval issued by the County Council.  
35 The county has not been served on that yet. The last two proposals for the RU 2 zone were  
36 presented at the last County Council meeting and will be discussed at the next meeting. Staff  
37 expressed concerns regarding adding new roads with new developments. There is not enough  
38 money to support the current infrastructure and adding to that burden is causing problems. The  
39 county eliminated all but one capital project this past year and that project wasn't eliminated  
40 because the county had been stockpiling the resources for.

41  
42 **Adjourned**

43  
44 **7:12:00**

### STAFF REPORT: ROAD TO PARADISE CONDITIONAL USE PERMIT

06 February 2014

This staff report is an analysis of the application based on adopted county documents, standard county development practices, and available information. The report is to be used to review and consider the merits of the application. Additional information may be provided that supplements or amends this staff report.

**Agent:** Ann Bolinder

**Parcel ID#:** 01-080-0071

**Staff Determination:** Approval with conditions

**Type of Action:** Administrative

**Land Use Authority:** Cache County Planning Commission

#### PROJECT LOCATION

*Reviewed by: Stephanie Nelson, Planner I*

**Project Address:**

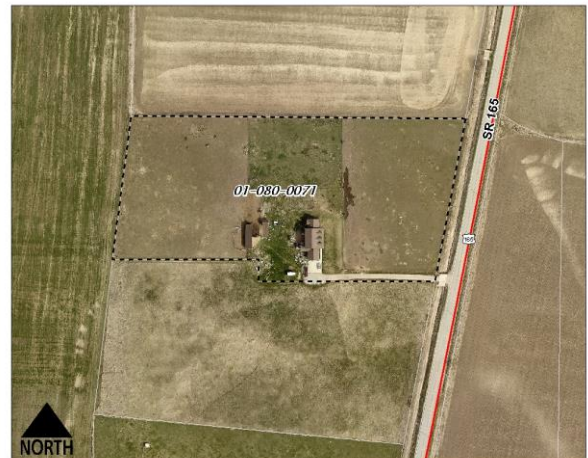
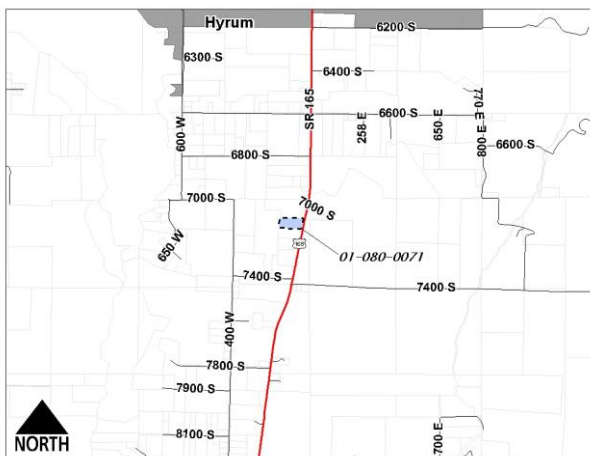
7215 HWY 165  
Hyrum, Utah 84319

**Current Zoning:**  
Agricultural (A-10)

**Acres:** 5.01

**Surrounding Uses:**

North – Agricultural/Residential  
South – Agricultural/Residential  
East – Agricultural/Residential  
West – Agricultural/Residential



#### PROJECT PURPOSE, APPLICABLE ORDINANCE, SUMMARY, AND PUBLIC COMMENT

**Purpose:**

To review and make a recommendation to the County Council regarding the request for a conditional use permit to expand an existing dog breeding business to include pet grooming services on 5.01 acres of property in the Agricultural (A10) Zone.

**Ordinance:**

This proposed use is defined as “7200 Boarding Facility” under Cache County Ordinance §17.07.020 Definitions, and as per §17.09.030 Schedule of Uses by Zone, this use is permitted as a conditional use in the Agricultural (A10) Zone only if reviewed and approved in accordance with the conditional use review procedures of §17.06 Uses. These procedures are detailed under §17.06.060 Conditional Uses and §17.06.070 Standards and Criteria for Conditional Use.

**Summary:**

There is an existing business license clearance on this property that allows for the breeding and sale of dogs, with the limitation of no more than 12 dogs. The current expansion request includes the breeding and sale of up to 15 dogs at any one time, and pet grooming services. The only employees shall be the residents of the property. One to five business clients are expected per business day. Hours of operation will be Monday through Saturday 9:00 AM to 6:00 PM. No new structures are proposed.

**Access:**

- Access to this property is from UDOT Road SR 165 and is adequate as per UDOT review.

**Service:**

- Water supply for fire protection will be provided by Paradise Fire Department.

**Parking:**

- Parking on site is adequate.

**Public Comment:**

Notices were mailed to the property owners located within 300 feet of the subject property. At this time, no public comment regarding this proposal has been received by the Development Services Office.

**STAFF DETERMINATION AND FINDINGS OF FACT (3)**

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It is staff's determination that the request for a conditional use permit for Road to Paradise, located in the Agricultural (A-10) at approximately 7215 Highway 165 Hyrum, Utah 84319 with parcel number 01-080-0071 is in conformance with the Cache County Ordinance and should be approved. This determination is based on the following findings of fact:

1. The Road to Paradise conditional use permit has been revised and amended by the conditions of project approval to address the issues and concerns raised within the public and administrative records.
2. The Road to Paradise conditional use permit has been revised and amended by the conditions of project approval to conform to the requirements of Titles 16 and 17 of the Cache County Code and the requirements of various departments and agencies.
3. The Road to Paradise conditional use permit has been reviewed in conformance with §17.06.070 of the Cache County Ordinance, Standards and Criteria for Conditional Use, and conforms to said title, pursuant to the conditions of approval.

**CONDITIONS OF APPROVAL (4)**

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The following conditions must be met for the development to conform to the Cache County Ordinance and the requirements of county service providers.

1. Prior to recordation the proponent shall meet all applicable standards of the Cache County Ordinance.
2. No more than 15 dogs shall be allowed on site at any one time, including breeding and grooming services.
3. As per the Cache County Ordinance, any employees of this business must be residents of the property.
4. Any further expansion or modification of the facility or site shall require the approval of the designated land use authority.







## **AMENDMENTS TO TITLES 16 AND 17**

**16.02.050 and 16.02.070** – Amendments to requirements for subdivision amendments and boundary line adjustments to bring the county ordinance into compliance with state code.

**16.03.030 [C][9]** - "government control monuments" replaced with "Cache County section corners"

**16.03.030 [D-H]** - D-H moved to become C-G. Preferred scale clarified.

**16.03.040 [A]** placement of setbacks on final subdivision plat clarified

**16.04, 17.07.040, and 17.10.060** – The term “development agreement” replaced with the term “improvement agreement”.

**17.07.040** – the term “density” defined

- G. All areas to be preserved for farm use and/or open space areas as a result of a cluster subdivision approval shall be preserved. These areas shall only be used, and shall be maintained in accordance with the conditions of the cluster subdivision approval as approved by the Ceounty Ceouncil. Such area(s) shall be noted on the subdivision plat as an agricultural or open space area with future residential and commercial development prohibited.
- H. The maximum density, or number of lots allowed, is based on the total amount of developable land. "Developable land" is defined as land that is not restricted by hill slopes (grades greater than 20 percent), wetlands, floodplains, natural water features, or other lands that may be deemed undevelopable in conformance with Title 17.18 of this code or as determined by the Planning Ceommission or Ceounty Ceouncil.

**16.02.070: Lot-Boundary Line Adjustments:**

- A. Within a legally recorded subdivision: An agreement to adjust ~~lot-property~~ lines between adjoining properties within or affecting the boundary of a legally recorded subdivision requires the approval of the land use authority and ~~may-must~~ be executed upon the approval and completion of a subdivision amendment~~recording of an appropriate deed if: (see 16.02.050.)~~
- B. Outside a legally recorded subdivision: In compliance with section 17-27a-522 and 523, Utah Code Annotated, 1953, as amended, an agreement to adjust property lines between adjoining properties must meet the standards of, and shall be recorded in the office of the Cache County Recorder, and is not subject to the review of the Cache County land use authority.
- C. All properties amended by a boundary line adjustment are subject to the regulations of the Cache County Code. Where boundaries are adjusted between properties that do not share the same zone, the zoning designation does not adjust with the adjusted property lines. Base and/or overlay zoning districts shall not be amended except through the formal process as identified in this Code and by the State.
- ~~1. No new dwelling lot or housing unit results from the lot line adjustment;~~
- ~~2. The lot sizes, frontages, and configurations are consistent with this title and Title 17 of this code;~~
- ~~3. No lot is made to be undevelopable without variances, special approvals, or other considerations;~~
- ~~4. All property owners that are directly affected by the adjustment consent to the lot line adjustment;~~
- ~~5. The lot line adjustment does not result in a remnant piece of land that did not exist previously;~~
- ~~6. The lot line adjustment does not result in the violation of any applicable zoning district requirements;~~
- ~~7. The lot line adjustments do not substantially alter legal lots that may otherwise need further review of the Planning Commission of the County Council in the form of a subdivision amendment.~~
- B. ~~The applicants requesting the lot line adjustment shall provide the zoning administrator with the following material:~~
- ~~1. A record of survey showing the two (2) parcels or lots identifying the existing lot line dividing two (2) parcels and the proposed new lot line after the adjustment including the legal description for each new lot or parcel.~~

17.20.010 Purpose.....1  
17.20.020 Definitions.....1  
17.20.030 Approval Authority .....1  
17.20.040 Application and Review Procedure.....2  
17.20.050: General Standards and Design Requirements.....4

**17.20.010: Purpose**

- A. To assure a comprehensive review of impacts of such facilities, and to protect the health, safety and welfare of the county’s citizens while attempting to ensure access to reliable wireless communications services throughout the county.
- B. To ensure the placement, construction and modification of telecommunication facilities is consistent with the county’s land use policies.
- C. To minimize the impact of wireless telecommunication facilities, to encourage the co-location of wireless telecommunication facilities on existing structures, and to establish a fair and efficient process for review and approval of applications.

**17.20.020: Definitions**

All uses and structures specified in this chapter are defined within §17.07, "Definitions", of this title. Any other uses or structures not defined in this title shall be interpreted as defined by State and/or Federal Code or Rule.

**17.20.030: Approval Authority**

The authority responsible for the review and/or approval and the permits required for telecommunication facilities is as follows:

**A. Major Modification - Conditional Use Permit**

Requests for major modifications to legal, existing, conforming and nonconforming or new telecommunication facilities must obtain a conditional use permit in accordance with the standards set forth in this chapter and §17.06 of this title. Such modifications shall be considered as follows:

- 1. Improvements to existing Telecommunication Facilities or Support Structures that result in some material change to the Facility or Support Structure. Major Modifications include, but are not limited to:
  - a. An increase in Support Structure height.
  - b. Replacement of a Support Structure, except as provided in §17.20.030 [B][1]unless it is of like height and placement.
  - c. A new Telecommunication Facility with Support Structure(s) and any accessory equipment and/or structures.

**B. Minor Modification - Administrative Zoning Clearance**

Requests for minor modifications to legal, existing, conforming telecommunication facilities shall require the review and approval of the Director of Development Services in accordance with the standards set forth in this chapter. Such modifications shall be considered as follows:

- 1. Improvements to existing Telecommunication Facilities or Support Structures that result in some material change to the facility or Support Structure but of a level, quality or

intensity that is less than a major modification. Minor Modifications include, but are not limited to:

- a. The co-location of antennas and/or dishes.
- b. The placement of equipment and/or structures that are accessory to an existing Telecommunication Facility, such as utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters, foundations, concrete slabs on grade, guy anchors, generators, and transmission cable supports.
- c. The replacement of an existing Support Structure with a new or modified Support Structure at a height that is equal to or less than the existing structure and in a similar location.

#### C. Exempt

The following are exempt from the requirements of this chapter:

1. Typical Maintenance of existing Telecommunication Facilities and Support Structures.
2. Antennas used by residential households solely for broadcast radio and television reception. Antennas shall not exceed the maximum structure height as identified in 17.10.040 of this title.
3. Satellite antennas used solely for residential, household, or agricultural purposes. Antennas shall not exceed the maximum structure height as identified in 17.10.040 of this title.
4. COWs (Carrier or Cell on Wheels) placed for a period of not more than one hundred twenty (120) days at any location within the county after a declaration of an emergency or a disaster by the Governor or by the responsible official of the county.

### **17.20.040: Application and Review Procedure**

#### A. Conditional Use Permit

1. All requests shall be reviewed and considered consistent with the procedures for the review of a conditional use as provided in Chapter 17.06.070 of this title, the standards of this chapter, and must include the following:
  - a. A completed zoning clearance application signed by the applicant.
  - b. A copy of the lease or a letter of authorization from property owner evidencing the applicant's authority to pursue a conditional use permit.
  - c. A development plan prepared and certified by an appropriate professional that consists of:
    - i. Property boundaries, setbacks, topography, elevation views, and dimensions of improvements drawn to scale.
    - ii. A written description and scaled drawings of the proposed Support Structure, including structure height, ground and structure design, and proposed materials.
    - iii. The number and type of proposed antennas and their height above ground level, including the proposed placement of antennas on the Support Structure.
    - iv. A line-of-sight diagram or photo simulation, showing the proposed Support Structure set against the skyline and viewed from at least three (3) directions within the surrounding areas.
  - d. A copy of the supporting federal certifications as follows:

- i. Federal Communications Commission (FCC) license for the facility, or a signed, notarized statement from the owner and/or operator of the facility attesting that the facility complies with all current FCC regulations.
    - ii. Certification by the applicant that the proposed facility complies with all FCC standards for radio emissions.
    - iii. Certification by an appropriate professional that the proposed facility will comply with all of the applicable standards of the American National Standards Institute (ANSI), the Electronics Industries Association Standard for Antenna Towers and Antenna Support Structures, and any other applicable technical and structural codes.
  - e. A written description of how the proposed facility fits into the applicant's telecommunication network. As part of this description, the applicant shall describe anticipated maintenance needs, including frequency of service, personnel needs, equipment needs, and traffic, noise, or safety impacts of such maintenance. In all cases, the equipment at a Telecommunication Facility shall be automated to the greatest extent possible to reduce traffic, congestion, and noise associated with maintenance and upkeep of the facility.
  - f. As applicable, a statement justifying why co-location with an existing facility is not feasible. Such a statement shall include:
    - i. Such technical information and other justifications as are necessary to document the reasons why co-location is not a viable option.
    - ii. A list of all existing structures considered as alternatives to the proposed location. The applicant shall provide a written explanation why the alternatives considered were either unacceptable or infeasible due to technical, physical, or financial reasons. If an existing Support Structure was listed among the alternatives, applicant must specifically address why the modification of such Support Structure is not a viable option.
    - g. As applicable, a statement that the proposed Support Structure will be made available for co-location to other service providers at commercially reasonable rates.
    - h. Application fee.
- B. Administrative Zoning Clearance**
- 1. All requests must include the following:
    - a. A completed zoning clearance application signed by the applicant.
    - b. A copy of the lease or a letter of authorization from property owner evidencing the applicant's authority to pursue a zoning clearance.
    - c. A development plan prepared and certified by an appropriate professional that consists of:
      - i. Graphic and written descriptions of proposed improvements related to the requirements listed in this chapter and including property boundaries, setbacks, topography, elevation views, dimensions of improvements, the number and type of proposed antennas and their height above ground level, including the proposed placement of antennas on the Support Structure.
    - d. Application fee.
- C. Exempt: No application or review required.**

### **17.20.050: General Standards and Design Requirements**

Unless otherwise specified herein, all telecommunication facilities and accessory structures are subject to the following standards and requirements:

#### **A. Design**

1. Support Structures shall be subject to the following:
  - a. Must be designed to accommodate multiple telecommunication providers.
  - b. The compound area surrounding a Support Structure must be of sufficient size to accommodate accessory equipment for each telecommunication provider.
  - c. Unless otherwise required by the Federal Communications Commission, the Federal Aviation Administration, or the county land use authority, Support Structures shall have a galvanized silver or gray finish.
2. Stealth Communication Facilities shall be designed to accommodate the co-location of other antennas whenever economically and technically feasible or aesthetically appropriate, as determined by the land use authority.
3. Upon the request of the applicant, the Planning Commission may waive the requirement that new Support Structures accommodate the co-location of other service providers if the applicant can identify, and the Planning Commission agrees, that co-location at the site is not essential to the public interest, or that the construction of a shorter Support Structure with fewer antennas will promote community compatibility.

#### **B. Setbacks**

1. Property Lines. Unless otherwise stated herein, Support Structures shall be setback from all property lines a distance equal to their height measured from the base of the structure to its highest point. Other accessory equipment and/or structures shall be governed by the setbacks required by the underlying base zoning district.
2. Residential Dwellings. Unless otherwise stated herein, Support Structures shall be setback from all off-site residential dwellings a distance equal to the height of the structure plus ten (10) feet.
3. The land use authority shall have the authority to reduce or waive any required setback upon the request of the applicant if the Telecommunication Facility accessory equipment and/or structures will be less visible as a result of the diminished setback. The land use authority must also find that the reduction or waiver of the setback is consistent with the purposes and intent of this ordinance. The structure must still meet the underlying setback requirements of the base zoning district.

#### **C. Height**

1. Outside the RU2 and RU5 Zone, Support Structures shall not exceed a height equal to \_\_\_\_\_ feet from the base of the structure to the top of the highest point. Any proposed Support Structure shall be designed to be the minimum height needed to meet the service objectives of the applicant.
2. Within the RU2 and RU5 Zone, Support Structures shall not exceed a height equal to \_\_\_\_\_ feet from the base of the structure to the top of the highest point. Any proposed Support Structure shall be designed to be the minimum height needed to meet the service objectives of the applicant.
3. In all zones, the Planning Commission shall have the authority to reduce or waive the height restrictions listed in this section upon the request of the applicant, and a satisfactory showing of need for a greater height. With the waiver request, the applicant shall submit such technical information or other justifications as are necessary to

document the need for the additional height to the satisfaction of the Planning Commission including, but not limited to:

- a. A radio frequency analysis indicating the coverage of existing communications sites, coverage prediction, and design radius, together with a certification from the applicants radio frequency (RF) engineer that the proposed design is intended to improve coverage or capacity potential or reduce interference, and that the proposed facility cannot be achieved by any other alternative such as a stealth facility, attached facility, replacement facility, or co-location.

**D. Aesthetics**

1. **Lighting and Marking.** Telecommunication facilities and Support Structures shall not be lighted or marked except as required by the Federal Communications Commission or the Federal Aviation Administration (FAA).
2. **Signage.** Signs located at a Telecommunication Facility shall be limited to ownership and contact information, FCC antenna registration number (if required) and any other information as required by government regulation. Commercial advertising is strictly prohibited.
3. **Landscaping.** In all zones, the land use authority shall have the authority to impose reasonable landscaping requirements surrounding accessory equipment and/or structures. Required landscaping shall be consistent with surrounding vegetation and shall be maintained by the facility owner. The land use authority may choose to not require landscaping for sites that are not visible from the public right-of-way or adjacent property or in instances where in the judgment of the land use authority, landscaping is not appropriate or necessary.

**E. Accessory structures, including any buildings, cabinets or shelters, shall be used only to house equipment and other supplies in support of the operation of the Telecommunication Facility or Support Structure. Any equipment not used in direct support of such operation shall not be stored on the site.**

1. If accessory equipment is at ground level in the RU2 or RU5 Zone, the land use authority may require that the building or shelter be faced with brick or other suitable material on all sides and that the compound area is surrounded by landscaping. The accessory equipment must conform to the setback standards of the applicable base zoning district. In the situation of stacked equipment buildings, additional screening/landscaping measures may be required.

**F. Additional Provisions**

**1. Abandonment, and Removal**

- a. **Abandonment.** Any Telecommunication Facility or Support Structure that is not operated for a period of twelve (12) consecutive months shall be considered abandoned.
- b. **Removal.** The owner of the Telecommunication Facility or Support Structure shall remove the Facility within six (6) months of its abandonment.

**2. Multiple Uses on a Single Parcel or Lot**

Telecommunication Facilities may be located on a parcel containing another principal use on the same site.



## Definitions to be added to 17.07.040 with Telecommunications Ord.:

**6240 TELECOMMUNICATION FACILITY:** Any manned or unmanned location for the transmission and/or reception of radio frequency signals, or other wireless communications, and usually consisting of an antenna or group of antennas, transmission cables, and equipment cabinets, and may include an antenna support structure. Accessory uses include, but are not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters, foundations, concrete slabs on grade, guy anchors, generators, and transmission cable supports. A facility used for the transmission or reception of electromagnetic or electro-optic information, which is placed on a structure. This use is not required to be located on a building lot or to comply with the minimum lot size requirement for the district in which it is located.

**ANTENNA:** Any apparatus designed for the transmitting and/or receiving of electromagnetic waves including, but not limited to, telephonic, radio or television communications. Types of antennas include, but are not limited to: omni-directional (whip) antennas, sectorized (panel) antennas, multi or single bay (FM & TV), yagi, or parabolic (dish) antennas.

**CARRIER ON WHEELS OR CELL ON WHEELS (COW):** A portable self-contained cell site that can be moved to a location and set up to provide personal wireless services on a temporary or emergency basis. A COW is normally vehicle-mounted and contains a telescoping boom as the Antenna support structure.

**CO-LOCATION:** The practice of siting multiple wireless carriers, service providers, and/or radio common carrier licensees on the same antenna support structure or attached wireless communication facility using different and separate antenna, feed lines, and radio frequency generating equipment.

**STEALTH COMMUNICATIONS FACILITY:** A communications facility, accessory structure, or equipment compound that is not readily identifiable as such, and is designed to be aesthetically compatible with existing and proposed building(s) and uses on a site. There are two types of stealth facilities:

- A. Attached – Examples include, but are not limited to: Painted antenna and feed lines to match the color of a building or structure, faux windows, dormers or other architectural features that blend with an existing or proposed building or structure.
- B. Freestanding – Examples usually have a secondary, obvious function which may be, but is not limited to the following: Church steeple, windmill, bell tower, clock tower, cupola, light standard, flagpole with or without a flag, or tree.

**SUPPORT STRUCTURE:** A vertical projection composed of metal or other material with or without a foundation that is designed for the express purpose of accommodating antennas at a desired height. Support structures do not include any device used to attach antennas to an existing building, unless the device extends above the highest point of the building by more than ten (10) feet and not to exceed maximum structure height as identified in 17.10.040 of this title.

Types of support structures include, but are not limited to: Guyed, lattice, and monopole structures, utility poles, and other freestanding, self-supporting structures.

**TELECOMMUNICATION FACILITY, TYPICAL MAINTENANCE:** – Ensuring that Telecommunication Facilities and Support Structures are kept in good operating condition. Typical Maintenance includes inspections, testing and modifications that maintain functional capacity and aesthetic and structural integrity. For example, the strengthening of a Support Structure’s foundation or of the Support Structure itself. Typical Maintenance includes replacing antennas and accessory equipment on a like-for-like basis within an existing Telecommunication Facility and relocating the antennas of approved Telecommunication Facilities to different height levels on an existing monopole, lattice, guyed or similar structure upon which they are currently located. Typical Maintenance does not include Minor and Major Modifications.

- i. Wherever a front yard is required for a lot facing on a street for which an official map has been recorded in the office of the county recorder, the depth of such front yard shall be measured from the mapped road right of way line provided by the official map.
- ii. Where an official map has not been recorded, measurements shall be made from the existing right of way line or from the proposed right of way line, as required by this title or indicated in the transportation element of the Cache Countywide Comprehensive Plan or indicated in the CMPO long range transportation plan for the Logan urbanized area.
- c. Exceptions; the area of required setbacks shall be open to the sky and unobstructed, except for the following:
  - i. The ordinary projections of roof eaves, bay windows, window wells, basement access ways, skylights, sills, belt courses, cornices, chimneys, flues, and other ornamental features which project into a setback not more than four feet (4'); provided, however, that there shall remain a minimum of eight feet (8') to side property lines;
  - ii. Uncovered steps leading to the main entrance in the front yard which are no more than four feet (4') in height and do not cause any danger or hazard to traffic by obstructing the clear view of the street or intersection.

~~6.—Exceptions to Height Limitations:~~

~~a. Roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, and/or parapet walls, skylights, towers, steeples, flagpoles, chimneys, smoke stacks, water tanks, wireless or television masts, silos, solar collectors, windmills or similar structures, and public uses and utilities may be erected above the height limits herein prescribed, but no space above the height limits shall be allowed for the purpose of providing additional floor space, and no height exception is permitted above the maximum allowed under applicable airport overlay zones. Height shall be measured from the average finished grade of the structure.~~

- B. Supplemental development standards specific to the Mineral Extraction and Excavation (ME) zoning district are located within Chapter 17.13 of this title.
- C. Supplemental development standards specific to the Resort Recreation (RR) zoning district are located within Chapter 17.14 of this title.
- D. Supplemental development standards regarding sensitive areas for all zoning districts are located within Chapter 17.18 of this title.

**17.10.060: Improvement Agreements:**

Improvement agreements for improvements and/or conditions imposed by ordinance or by a land use authority within Title 17 may be issued in compliance with §§16.04.110 and 16.04.120.



April 23, 1996

FEDERAL COMMUNICATIONS COMMISSION

# FACT SHEET

Information provided by the Wireless Telecommunications Bureau

## NEW NATIONAL WIRELESS TOWER SITING POLICIES

The Telecommunications Act of 1996 contains important provisions concerning the placement of towers and other facilities for use in providing personal wireless services. Most state and local communities have worked closely with cellular and other wireless service providers on such placement plans, but this new law establishes new responsibilities for communities and for the Federal Communications Commission (FCC). The rapid expansion in the wireless industry makes these issues even more important.

This fact sheet is intended to explain the new provisions and to help state and local governments as they deal with the complex issues of facilities siting in their local communities. At the end of this fact sheet, you will find names of contacts for additional information about this area and other issues before the FCC.

Section 704 of the Telecommunications Act of 1996 (the "1996 Act") governs federal, state and local government oversight of siting of "personal wireless service" facilities. The 1996 Act establishes a comprehensive framework for the exercise of jurisdiction by state and local zoning authorities over the construction, modification and placement of facilities such as towers for cellular, personal communications service (PCS), and specialized mobile radio (SMR) transmitters:

- The new law preserves local zoning authority, but clarifies when the exercise of local zoning authority may be preempted by the FCC.
- Section 704 prohibits any action that would discriminate between different providers of personal wireless services, such as cellular, wide-area SMR and broadband PCS. It also prohibits any action that would ban altogether the construction, modification or placement of these kinds of facilities in a particular area.
- The law also specifies procedures which must be followed for acting on a request to place these kinds of facilities, and provides for review in the courts or the FCC of any decision by a zoning authority that is inconsistent with Section 704.

- Finally, Section 704 requires the federal government to take steps to help licensees in spectrum-based services, such as PCS and cellular, get access to preferred sites for their facilities. Federal agencies and departments will work directly with licensees to make federal property available for this purpose, and the FCC is directed to work with the states to find ways for states to accommodate licensees who wish to erect towers on state property, or use state easements and rights-of-way.

The attachments to this fact sheet seek to provide information concerning tower siting for personal wireless communications services. They include a summary of the provisions of Section 704 of the 1996 Act, the actual text of Section 704, and a technical information summary that describes the cellular, wide-area SMR and broadband PCS technologies that underlie the majority of requests for new tower sites.

Questions about the Telecommunications Act of 1996 generally may be addressed to Sheryl Wilkerson in the FCC's Office of Legislative and Intergovernmental Affairs, 202-418-1902 (e-mail: [swilkers@fcc.gov](mailto:swilkers@fcc.gov)). Questions about tower siting, licensing issues or technical matters may be addressed to Steve Markendorff, Deputy Chief, Commercial Wireless Division in the Wireless Telecommunications Bureau, 202-418-0620, (e-mail: [smarkend@fcc.gov](mailto:smarkend@fcc.gov)).

This Fact Sheet is available on our fax-on-demand system. The telephone number for fax-on demand is 202-418-2830. The Fact Sheet may also be found on the World Wide Web at <http://www.fcc.gov/wtb/wirehome.html>.

## **SUMMARY OF SECTION 704 OF THE TELECOMMUNICATIONS ACT OF 1996**

The following is a summary of key provisions. The text of Section 704 is reproduced in its entirety as an attachment to this summary.

### 1. Local Zoning Authority Preserved

Section 704(a) of the 1996 Act amends Section 332(c) of the Communications Act ("Mobile Services") by adding a new paragraph (7). It preserves the authority of state and local governments over decisions regarding the placement, construction, and modification of personal wireless service facilities, except as provided in the new paragraph (7).

### 2. Exceptions

#### a. States and Localities May Not Take Discriminatory or Prohibiting Actions

Section 704(a) of the 1996 Act states that the regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof shall not unreasonably discriminate among providers of functionally equivalent services and shall not prohibit or have the effect of prohibiting the provision of personal wireless services. 47 U.S.C. §332(c)(7)(B)(i).

Review: Any person that is adversely affected by a state or local government's action or failure to act that is inconsistent with Section 332(c)(7) may seek expedited review in the courts. 47 U.S.C. §332(c)(7)(B)(v).

#### b. Procedures for Ruling on Requests to Place, Construct or Modify Personal Wireless Service Facilities

Section 704(a) also requires a State or local government to act upon a request for authorization to place, construct, or modify personal wireless service facilities within a reasonable time. Any decision to deny a request must be made in writing and be supported by substantial evidence contained in a written record. 47 U.S.C. §332(c)(7)(B)(ii), (iii).

#### c. Regulations Based On Environmental Effects of RF Emissions Preempted

Section 704(a) of the 1996 Act expressly preempts state and local government regulation of the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the FCC's regulations concerning such emissions. 47 U.S.C. §332(c)(7)(B)(iv).

Review: Parties may seek relief from the FCC if they are adversely affected by a state or local government's final action or failure to act that is inconsistent with this provision. 47 U.S.C. § 332(c)(7)(B)(v).

### 3. Federal Guidelines Concerning RF Emissions

Section 704(b) requires the FCC to prescribe and make effective new rules regarding the environmental effects of radio frequency emissions, which are under consideration in ET Docket 93-62, within 180 days of enactment of the 1996 Act.

*NOTE: The pendency of this proceeding before the FCC does not affect the rules which currently are in effect governing the environmental effects of radio frequency emissions. Section 704(b) gives preemptive effect to these existing rules. See related attachments to the Fact Sheet.*

4. Use of Federal or State Government Property

a. Federal Property

Section 704(c) of the 1996 Act requires the President (or his designee) to prescribe procedures by which the federal government may make available on a fair, reasonable and nondiscriminatory basis, property, rights-of-way and easements under their control, for the placement of new spectrum-based telecommunications services.

b. State Property

With respect to facilities siting on state property, Section 704(c) of the 1996 Act requires the FCC to provide technical support to States to encourage them to make property, rights-of-way and easements under their jurisdiction available for the placement of new spectrum-based telecommunications services.

*NOTE: Information concerning technical support for tower siting which the FCC is making available to state and local governments is attached to the Fact Sheet.*

5. Definitions

"Personal wireless services" include commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services. 47 U.S.C. §332(c)(7)(C)(i).

"Commercial mobile services" are defined in Section 332 of the Communications Act and the FCC's rules, and include cellular telephone services regulated under Part 22 of the FCC's rules, SMR services regulated under Part 90 of the FCC's rules, and PCS regulated under Part 24 of the FCC's rules. 47 C.F.R. §20.9.



"Unlicensed wireless services" are defined as the offering of telecommunications services using duly authorized devices which do not require individual licenses; direct-to-home satellite services are excluded from this definition. 47 U.S.C. §332(c)(7)(C)(iii).

**COMPLETE TEXT OF SEC. 704 OF THE TELECOMMUNICATIONS ACT OF 1996**

**SEC. 704. FACILITIES SITING; RADIO FREQUENCY EMISSION STANDARDS.**

(a) NATIONAL WIRELESS TELECOMMUNICATIONS SITING POLICY- Section 332(c) (47 U.S.C. 332(c)) is amended by adding at the end the following new paragraph:

“(7) PRESERVATION OF LOCAL ZONING AUTHORITY-

“(A) GENERAL AUTHORITY- Except as provided in this paragraph, nothing in this Act shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities.

“(B) LIMITATIONS-

“(i) The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof--

“(I) shall not unreasonably discriminate among providers of functionally equivalent services; and

“(II) shall not prohibit or have the effect of prohibiting the provision of personal wireless services.

“(ii) A State or local government or instrumentality thereof shall act on any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time after the request is duly filed with such government or instrumentality, taking into account the nature and scope of such request.

“(iii) Any decision by a State or local government or place,

construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record.

“(iv) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions.

“(v) Any person adversely affected by any final action or failure to act by a State or local government or any instrumentality thereof that is inconsistent with this subparagraph may, within 30 days after such action or failure to act, commence an action in any

court of competent jurisdiction. The court shall hear and decide such action on an expedited basis. Any person adversely affected by an act or failure to act by a State or local government or any instrumentality thereof that is inconsistent with clause (iv) may petition the Commission for relief.

(C) DEFINITIONS- For purposes of this paragraph--

(i) the term 'personal wireless services' means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services;

(ii) the term 'personal wireless service facilities' means facilities for the provision of personal wireless services; and

(iii) the term 'unlicensed wireless service' means the offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services (as defined in section 303(v)).'

(b) RADIO FREQUENCY EMISSIONS- Within 180 days after the enactment of this Act, the Commission shall complete action in ET Docket 93-62 to prescribe and make effective rules regarding the environmental effects of radio frequency emissions.

(c) AVAILABILITY OF PROPERTY- Within 180 days of the enactment of this Act, the President or his designee shall prescribe procedures by which Federal departments and agencies may make available on a fair, nondiscriminatory basis, property, rights-of-way, and easements under their control for the placement of new telecommunications services that are dependent, in whole or in part, upon the utilization of Federal spectrum rights for the transmission or reception of such services. These procedures may establish a presumption that requests for the use of property, rights-of-way, and easements by duly authorized providers should be granted absent unavoidable direct conflict with the department or agency's mission, or the current or planned use of the property, rights-of-way, and easements in question. Reasonable fees may be charged to providers of such telecommunications services for use of property, rights-of-way, and easements. The Commission shall provide technical support to States to encourage them to make property, rights-of-way, and easements under their jurisdiction available for such purposes.

## **TECHNICAL INFORMATION CONCERNING CELLULAR, SPECIALIZED MOBILE RADIO AND PERSONAL COMMUNICATIONS SERVICES**

**April 1996**

### **Cellular Information**

The FCC established rules and procedures for licensing cellular systems in the United States and its Possessions and Territories. These rules designated 306 Metropolitan Statistical Areas and 428 Rural Service Areas for a total of 734 cellular markets and spectrum was allocated to license 2 systems in each market. Cellular is allocated spectrum in the 824-849 and 869-894 MHz ranges. Cellular licensees are generally required to license only the tower locations that make up their outer service contour. Licensees desiring to add or modify any tower locations that are within an already approved and licensed service area do not have to submit an application for that location to be added to their cellular license, although they may need FCC approval if the antenna would constitute a major environmental action (See question 2, below) or would exceed the criteria specified in Part 17 of the FCC's Rules ("Construction, Marking and Lighting of Antenna Structures"). Part 17 includes criteria for determining when construction or placement of a tower would require prior notification to the Federal Aviation Administration (FAA). (See question 3, below.)

A cellular system operates by dividing a large geographical service area into cells and assigning the same frequencies to multiple, non-adjacent cells. This is known in the industry as frequency reuse. As a subscriber travels across the service area the call is transferred (handed-off) from one cell to another without noticeable interruption. All the cells in a cellular system are connected to a Mobile Telephone Switching Office (MTSO) by landline or microwave links. The MTSO controls the switching between the Public Switched Telephone Network (PSTN) and the cell site for all wireline-to-mobile and mobile-to-wireline calls.

### **Specialized Mobile Radio (SMR) Information**

Specialized Mobile Radio (SMR) service licensees provide land mobile communications on a commercial (*i.e.*, for profit) or private basis. A traditional SMR system consists of one or more base station transmitters, one or more antennas and end user radio equipment which often consists of a mobile radio unit either provided by the end user or obtained from the SMR operator. The base station receives either telephone transmissions from end users or low power signals from end user mobile radios.

SMR systems operate in two distinct frequency ranges: 806-821/851-866 MHz (800 MHz) and 896-901/935-940 MHz (900 MHz). 800 MHz SMR services have been licensed by the FCC on a site-by-site basis, so that the SMR provider must approach the FCC and receive a license for each and every tower/base site. In the future the FCC will license this band on a wide-area market approach. 900 MHz SMR was originally licensed in 46 Designated Filing Areas (DFAs) comprised of only the top 50 markets in the country. The Commission is in the process of auctioning the remainder of the United States and its Possessions and Territories in the Rand McNally defined 51 Major Trading Areas.

## **PCS Information**

Broadband PCS systems are very similar to the cellular systems but operate in a higher frequency band, in the 1850-1990 MHz range. One other difference is that the FCC used different market areas for licensing purposes. The FCC used the Rand McNally definitions for 51 Major Trading Areas (MTAs) and 493 Basic Trading Areas (BTAs). PCS was allocated spectrum for six Broadband PCS systems and 26 Narrowband systems. The six Broadband PCS systems will be licensed as follows: two Broadband PCS licenses will be issued for each of the 51 MTAs and four for each of the 493 BTAs. The 26 Narrowband systems will be licensed as follows: eleven Narrowband PCS licenses will be issued for nationwide systems, six for each of five regional areas, seven for each of the 51 MTAs and two for each of the 493 BTAs.

PCS licensees are issued a blanket license for their entire market area and are not required to submit applications to license individual cell sites unless construction of the facility would be a major environmental action or would require FAA notification. Major environmental actions are defined by the National Environmental Policy Act of 1969 that is discussed in question 2, below. Therefore, the FCC has no technical information on file concerning PCS base stations.

## **Frequently asked questions concerning tower siting for personal wireless services.**

### **1. Do local zoning authorities have any authority to deny a request for tower siting?**

**Answer:** Yes. The Telecommunications Act of 1996 specifically leaves in place the authority that local zoning authorities have over the placement of personal wireless facilities. It does prohibit the denial of facilities siting based on RF emissions if the licensee has complied with the FCC's regulations concerning RF emissions. It also requires that denials be based on a reasoned approach, and prohibits discrimination and outright bans on construction, placement and modification of personal wireless facilities.

**2. What requirements do personal wireless communications licensees have to determine whether a site is in a flood plain? A historical sites must also comply with the National Environmental Policy Act of 1969 (NEPA). as well as other mandatory federal environmental statutes. The FCC's rules that implement the federal environmental statutory provisions are contained in sections 1.1301-1.1319. The FCC's environmental rules place the responsibility on each applicant to investigate all the potential environmental effects, and disclose any significant effects on the environment in an Environmental Assessment (EA), as outlined in section 1.1311, prior to constructing a tower. The applicant is required to consult section 1.1307 to determine if its proposed antenna structure will fall under any of the listed categories that may significantly affect the environment. If it does, the applicant must provide an EA prior to proceeding with the tower construction and, under section 1.1312, must await FCC approval before commencing any such construction even if FCC approval is not otherwise required for such construction. The FCC places all proposals that may significantly impact the environment on public notice for a period of 30 days, seeking any public comments on the proposed structures.**

**The categories set forth in section 1.1307 include:**

**Wilderness Area**  
**Wildlife Preserve**  
**Endangered Species**  
**Historical Site**  
**Indian Religious Site**  
**Flood Plain**  
**Wetlands**  
**High Intensity White Lights in Residential Neighborhoods**  
**Excessive Radiofrequency Radiation Exposure**

**3. Are there any FCC regulations that govern where towers can or cannot be placed?**

**Answer:** The FCC mandates that personal wireless companies build out their systems so that adequate service is provided to the public. In addition, all antenna structures used for communications must be approved by the FCC in accordance with Part 17 of the FCC Rules. The FCC must determine if there is a reasonable possibility that the structure may constitute a menace to air navigation. The tower height and its proximity to an airport or flight path will be considered when making this determination. If such a determination is made the FCC will specify appropriate painting and lighting requirements. Thus, the FCC does not mandate where towers must be placed, but it may prohibit the placement of a tower in a particular location without adequate lighting and marking.

**4. Does the FCC maintain any records on tower sites throughout the United States? How does the public get this information (if any)?**

**Answer:** The FCC maintains a general tower database on the following structures: (1) any towers over 200 feet, (2) any towers over 20 feet on an existing structure (such as a building, water tower, etc.) and (3) towers that are close to airports that may cause potential hazards to air navigation. The FCC's licensing databases contain some base site information for Cellular and SMR systems. The general tower database and the Cellular and SMR data that may be on file with the FCC is available in three places:

(1) Cellular licensing information is available in the Public Reference Room of the Wireless Telecommunications Bureau's Commercial Wireless Division. The Public Reference Room is located on the fifth floor of 2025 M Street, NW, Washington, DC 20554, telephone (202)418-1350. On-line database searches of cellular licensing information along with queries of the FCC's general tower database can also be accomplished at the Public Reference Room.

(2) People who would like to obtain general tower information through an on-line public access database should call or write Interactive Systems, Inc., 1601 North Kent St., Suite 1103, Arlington, VA 22209, telephone 703-812-8270.

(3) The FCC does not duplicate these records, but has contracted with International Transcription Service, Inc. to provide this service. Requests for copies of information should be addressed to International Transcription Service, Inc. (ITS, Inc.), 2100 M St., NW, Suite 140, Washington, DC 20037, telephone 202-857-3800.

#### **5. Why do Cellular and PCS providers require so many tower sites?**

**Answer:** Low powered transmitters are an inherent characteristic of Cellular Radio and Broadband PCS. As these systems mature and more subscribers are added, the effective radiated power of the cell site transmitters is reduced so frequencies can be reused at closer intervals thereby increasing subscriber capacity. There are over 30 million mobile/portable cellular units and more than 22 thousand cell sites operating within the United States and its Possessions and Territories. PCS is just beginning to be offered around the country. Due to the fact that Broadband PCS is located in a higher frequency range, PCS operators will require more tower sites as they build their systems to provide coverage in their service areas as compared to existing Cellular carriers. Therefore, due to the nature of frequency reuse and the consumer demand for services, Cellular and PCS providers must build numerous base sites.

#### **6. Can Cellular, SMR and PCS providers share tower structures?**

**Answer:** Yes, it is technologically possible for these entities to share tower structures. However, there are limits to how many base station transmitters a single tower can hold and different tower structures have different limits. Moreover, these providers are competitors in a more and more competitive marketplace and may not be willing to share tower space with each other. Local zoning authorities may wish to retain a consulting engineer to evaluate the proposals submitted by wireless communications licensees. The consulting engineer may be able to determine if there is some flexibility as to the geographic location of the tower.

#### **7. Is the Federal government helping to find ways to accommodate multiple licensees of personal wireless services?**

**Answer:** Yes. The FCC has designated Steve Markendorff, Chief, Broadband Branch, Commercial Wireless Division, Wireless Telecommunications Bureau, FCC to ask and respond to questions concerning tower siting issues. His telephone number is 202-418-0620. Also, President Clinton issued an Executive Memorandum on August 10, 1995 directing the Administrator of General Services (GSA), in coordination with other Government departments and agencies, to develop procedures to facilitate appropriate access to Federal property for the siting of mobile services antennas. GSA recently released "Government-Wide Procedures for Placing Commercial Antennas," 61 Fed Reg 14,100 (March 29, 1996). For further information contact James Herbert, Office of Property Acquisition and Realty Services, Public Building Service, General Services Administration, 18th & F Streets, NW, Washington, DC 20405, telephone 202-501-0376.



**8. Have any studies been completed on potential hazards of locating a tower/base site close to residential communities?**

**Answer:** In connection with its responsibilities under NEPA, the FCC considers the potential effects of radiofrequency (RF) emissions from FCC-regulated transmitters on human health and safety. Since the FCC is not the expert agency in this area, it uses standards and guidelines developed by those with the appropriate expertise. For example, in the absence of a uniform federal standard on RF exposure, the FCC has relied since 1985 on the RF exposure guidelines issued in 1982 by the American National Standards Institute (ANSI C95.1-1982). In 1991, the Institute of Electrical and Electronic Engineers (IEEE) issued guidelines designed to replace the RF ANSI exposure guidelines. These guidelines (ANSI/IEEE C95.1-1992) were adopted by ANSI. The Telecommunications Act of 1996 mandates that the FCC complete its proceeding in ET Docket 93-62, in which it is considering updating the RF exposure guidelines, no later than early August 1996. Copies of this proceeding can be obtained from the International Transcription Service, Inc. (ITS), telephone 202-857-3800. Presently, RF emission requirements are contained in Section 1.1307(b) of the FCC's rules, 47 C.F.R. §1.1307(b), for all services. PCS has service specific RF emission provisions in Section 24.52 of the FCC's rules, 47 C.F.R. § 24.52.

Additional information concerning RF emission hazards can be obtained through a variety of sources:

- (1) Information concerning RF hazards can be obtained on the World Wide Web at <http://www.fcc.gov/oet/faqs>. RF safety questions are answered and further RF documents and information are contained under the Cellular Telephony Section.
- (2) OET Bulletins 56 and 65 concerning effects and potential RF hazards can be requested through the Radiofrequency Safety Program at 202-418-2464. Additionally, any specific questions concerning RF hazards can be answered by contacting the FCC at this phone number.

The FCC maintains a Communications and Crisis Management Center which is staffed 24 hours a day, seven days a week. In the event of an emergency, such as a radiofrequency hazard threatening public safety or health, you may call 202-632-6975. The watch officer who answers at that number can contact our compliance personnel in your area and dispatch them within a matter of hours.

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**17.18.010 Purpose**

The purpose of this chapter is to provide a mechanism for the protection of those areas of Cache County which are determined to be environmentally sensitive or that may pose a potential threat or danger to development. This chapter is intended to:

- A. Protect the general health, welfare, and safety of the citizens of Cache County.
- B. Minimize public and private property damage and emergency tax assistance.
- C. Provide an awareness of, and mitigation strategies for, development within sensitive areas.
- D. Provide a mechanism to determine developable acreage for development within Cache County.

**17.18.020: Definitions**

All terms in this chapter are defined within §17.07, "Definitions", of this title. Any other terms not defined in this title shall be interpreted as defined by State and/or Federal Code or Rule.

**17.18.030 Review Process**

The sensitive area review process consists of three primary steps and consideration of reasonable use:

- A. Sensitive Area Determination: The Development Services Department shall provide mapping and an initial determination of the approximate location of known sensitive areas. These maps will provide the most current and accurate data accessible to the county, and may be updated as new or more accurate data becomes available. The initial determination may require the applicant to pursue further site specific analysis or study to confirm the location of sensitive areas as defined within this Chapter. In some cases, hazards may not be mapped but may be present on a site and such cases shall be required to meet the requirements of this Title.
- B. Sensitive Area Analysis: A Sensitive Area Analysis shall be submitted with any application for development on property containing sensitive areas and shall include an analysis, determination, and a development plan including proposed mitigation.
- C. Suitability Determination: The county shall review the Sensitive Area Analysis and shall report their findings to the applicant and land use authority. In addition:
  - 1. The applicant must identify significant, adverse impacts on sensitive areas and include appropriate mitigation measures for noted impacts.
  - 2. The land use authority, prior to hearing any application for a development proposed to be located wholly or partially, within any sensitive area as identified by this Chapter, shall provide notice and opportunity for comments and recommendations from state and federal agencies with additional oversight including but not limited to, the Utah Division of Wildlife Resources, (DWR), Utah Department of Environmental (DEQ), United States

Forest Service (USFS), Bureau of Land Management (BLM), US Army Corps of Engineers, etc., and as applicable.

- D. Hardship Relief:** If the applicant demonstrates that the regulations imposed by this ordinance would deny all reasonable use of the subject property, the County Council, following the receipt of a recommendation from the Planning Commission, may modify the exercise of these requirements to provide the applicant reasonable use of the property and may provide a modified determination of development potential. The County Council shall not modify regulations imposed by State and/or Federal Law and/or Rule.

#### **17.18.040 Sensitive Areas Analysis**

A Sensitive Areas Analysis shall be submitted with any application for development on property containing sensitive areas and shall include an analysis, determination, and a development plan including proposed mitigation as identified below.

- A. Analysis and Determination:** The Sensitive Areas Analysis shall provide an analysis and professional determination for each sensitive area.
- 1. Non-Developable**
    - a. Wetlands:** As determined necessary by the county, an approved jurisdictional wetland delineation report and concurrence report from the United States Army Corps of Engineers shall be required as part of the wetland analysis.
    - b. Steep Slopes:** A topographic map depicting the contours of all steep and moderate slopes at an interval of five feet or as determined by the Director.
    - c. Natural Waterways and Open Water:** A map depicting all stream corridors as defined by their high water marks.
  - 2. Potentially Developable Areas**
    - a. Moderate Slopes:** Development may be permitted upon county review and approval of a geotechnical report. The analysis should also include:
      - i.** The location and description of existing natural and man-made features on and surrounding the site, including general topography and soil characteristics and a copy of the Soil Conservation Service soil survey for the site.
      - ii.** The location and description of proposed changes to the site, including any grading and excavation, vegetation removal, the location and profiles of proposed roadways, the location of proposed utility lines, the location of existing and proposed buildings and structures, and the location of all other proposed site features.
      - iii.** The identification of measures proposed for soil and sediment control, including a schedule of the sequence for the installation of planned erosion and sediment control measures, including anticipated starting and completion dates.
      - iv.** Plans for the proposed vegetation of all disturbed site areas.
    - b. Ridgelines:** A map depicting the crest and 100 foot vertical buffer of any significant ridge lines or hill tops within the parcel boundary. Development within this area may be permitted upon county review and approval in keeping with the purpose and standards of this chapter.
    - c. Floodplain and Floodway:** A hydrological report including information on groundwater levels, drainage channels and systems, and base elevations in floodplains.

- d. Important Habitat Areas: A Habitat Management Plan prepared by a professional, qualified in the areas of ecology, wildlife biology, or other relevant disciplines that includes the following:
  - i. The ecological and wildlife use characterization of the property explaining the species of wildlife using the areas, the times or seasons the area is used by those species, and the value (e.g. feeding, watering, cover, nesting, roosting, or perching) that the area provides for such wildlife species.
  - ii. Wildlife movement corridors;
  - iii. Special wildlife habitat features (e.g. key nesting sites, feeding areas, calving or production areas, use areas for migrant song birds and grassland birds, deer and elk winter concentration areas) as identified by the Utah Division of Wildlife, and also including areas of high terrestrial or aquatic insect diversity.
  - iv. Areas inhabited and/or frequently utilized by any species identified by state or federal agencies as threatened or endangered.
  - v. Special flora habitat features (e.g. soil types, hydrologic influences, symbiotic species, etc.) of species identified by the State of Utah on the rare or watch list, and threatened, endangered, or candidate species as identified by the US Fish and Wildlife Service (USFWS).
  - vi. The general ecological functions provided by the site and its features.
  - vii. An analysis of how proposed development activities impact the Important Habitat Areas and associated species.
- e. Geologic Hazards: A geotechnical report in compliance with 17.18.060.
- f. Wildfire Hazards: A fire protection report that identifies potential fire hazards, mitigation measures, access for fire protection equipment, existing and proposed fire flow capability and compliance with the Utah Wildland Interface Code (See §15.08 of the County Code).
- g. Historic, Prehistoric, and Cultural Resources: Identify any sites and/or structures determined to have historical or archaeological significance to the community, the region, or the State of Utah. This includes properties eligible for the National Register of Historic Places.

**17.18.050 Standards and Development Plan:** These standards are provided to ensure that any development proposed wholly, or in part, within a sensitive area recognizes the physical and environmental constraints of the development site. These standards shall supplement, and are in addition to, other development standards provided by County Code, State, and/or Federal Code or Rule. At the time of application, provide a Development Plan for the property that addresses and includes the following.

- A. Non-Developable: As applicable, provide a description of all impacts and mitigation regarding development activities that will or are likely to impact any non-developable areas on the property.
  - 1. Wetlands: No building, structure, construction, excavation, or land filling shall occur on any area determined to be a jurisdictional wetland without the approval and necessary wetlands permit(s), as required by the U.S. Army Corps of Engineers. Where potential wetlands exist, wetland delineation may be required.
  - 2. Steep Slopes: No building, structure, construction, excavation, or land filling shall occur on any area determined to be a steep slope.

3. Natural waterways and open water: All proposed development adjacent to year round or ephemeral natural waterways or open water, shall be subject to the following, but excluding bridges, boat ramps, culverts, dams, trestles, and similar structures:
    - a. A minimum setback of fifty (50) feet for all structures and one hundred (100) feet for all on-site septic systems shall be required. Additional setback may be required, if necessary, as determined by the Planning Commission to avoid the possibility of any stream or water pollution.
    - b. Any work within 30 feet of the top of bank shall obtain a state or federal approval and/or permit.
    - c. The ordinary high water mark as determined by Cache County shall be the point of reference as to the edge of the waterway.
    - d. The introduction of concentrated sources of pollution into the waterways is prohibited including, but not limited to, septic tanks, untreated sewage, commercial and residential garbage, manure, dead animals, waste, and other hazardous materials.
- B. Potentially Developable**
1. Moderate Slopes: Any development proposed for areas identified as a moderate slope shall require a geotechnical report as defined by this chapter.
  2. Ridgelines: No structure, accessory structure, satellite dish, deck, patio or removal of significant vegetation shall occur in the ridgeline setback, except as provided below:
    - a. If any portion of a legal existing parcel of record falls within the ridgeline setback, any development on that parcel shall make every effort to place all development on the most suitable portion of the lot taking into consideration the standards of this title.
    - b. All disturbance and development shall stay out of the ridgeline setback to the maximum extent possible. If, due to the location, size and configuration of the parcel, that is not possible, the land use authority may approve an exception in keeping with the purpose and standards of this chapter.
  3. Floodplain and/or Floodway: See §15.28 of the County Code.
  4. Important Habitat Areas: Strategies that preserve important habitat and prevent fragmentation are encouraged. When new development is proposed within important habitat areas, mitigation methods shall be designed and implemented, including, but not limited to, those listed below.
    - a. Construction shall be organized and timed to minimize disturbance of State of Utah Sensitive Species or Species of Concern occupying or using on-site and adjacent natural areas.
    - b. If the development site contains or is within five hundred feet (500') of a natural area or habitat area, and the Sensitive Areas Analysis shows the existence of State of Utah Sensitive Species or Species of Concern, the Development Plan shall include provisions to ensure that any habitat contained in any such natural area shall not be disturbed or diminished, and to the maximum extent feasible, such habitat shall be enhanced.
    - c. If the development site contains existing natural areas that connect to other off-site natural areas, to the maximum extent feasible the development plan shall preserve such natural area connections. If natural areas lie adjacent to the development site, but such natural areas are not presently connected across the development site, then the development plan shall, to the extent reasonably feasible, provide such connection. Such connections shall be designed and constructed to allow for the continuance of

- existing wildlife movement between natural areas and to enhance the opportunity for the establishment of new connections for movement of wildlife.
- d.** If wildlife or flora that may create conflicts for future occupants of the development is known to exist in areas adjacent to or on the development site, then the Development Plan must include provisions to minimize these conflicts to the extent reasonably feasible.
  - e.** Facilitate wildlife movement across areas dominated by human activities by:
    - i.** Maintaining connectivity between open space parcels on adjacent and near-by parcels and subdivisions such that the result will be a larger contiguous area of open space;
    - ii.** Locating roads and development away from natural travel corridors used by wildlife, such as riparian areas;
    - iii.** Minimizing fencing types that inhibit the movement of big game species. Use of fencing within subdivisions or boundaries of subdivisions, commercial, industrial or multi-family development shall be minimized;
    - iv.** Minimizing the visual contrast between human-dominated areas, including individual lots, and less disturbed terrain in surrounding areas, for example, by retaining or planting native vegetation and trees around a house or accessory building and maintaining consistent grading between developed and natural areas.
  - f.** Mimic features of the local natural landscape in developed areas by:
    - i.** Retaining as much pre-development, high quality habitat as possible, including large patches of natural, vegetated areas that have not yet been fragmented by roads or residential development;
    - ii.** Minimizing levels of disturbance to trees, the under-story vegetation, and other structural landscape features during construction;
    - iii.** Designing house lots in a fashion consistent with local natural habitats, for example, by preserving and landscaping with natural, native vegetation.
    - iv.** Reclaiming disturbed areas, such as degraded landscapes, roadsides, and other infrastructure disturbances by using seed and other selective plantings.
- 5.** Geologic hazards: For those areas determined by review to contain geologically unstable conditions, development may be permitted by the county upon the review and approval of a geotechnical report identifying the following:
- a.** The accurate location of all geologic hazards including, but not limited to, faults, landslides, steep slopes, unstable soils, etc.
  - b.** The location and description of proposed changes to the site, including any grading and excavation, vegetation removal, the location and profiles of proposed roadways, the location of proposed utility lines, the location of existing and proposed buildings and structures, and the location of all other proposed site features.
  - c.** The identification of measures and actions proposed to mitigate the risks from earthquake, landslides, and soil disturbance including a schedule of the sequence for the installation of planned mitigation actions, including anticipated starting and completion dates.
  - d.** No critical facility (excluding transportation lines or utilities which by their nature may cross active faults or structures) designed for human occupancy shall be built astride a geologic hazard. The Planning Commission may increase building setback

requirements where information from a geotechnical report indicates conditions warrant a greater setback distance.

6. Wildfire hazards: As applicable, provide a description of all impacts and mitigation regarding development activities that will or are likely to impact and/or be impacted by wildfire hazards on the property. Measures to mitigate wildfire hazards and risks may be required based on the recommendation and review of the Cache County Fire District.
7. Historic, Prehistoric, and Cultural Resources: Any sites and/or structures determined to have historical or archaeological significance to the community, the region, or the State of Utah shall require the review of, and comment from, the State Historic Preservation Office (SHPO). This includes properties eligible for the National Register of Historic Places.

#### **17.18.060 Geotechnical Report Minimum Standards**

When a geotechnical report is required, the county shall review each report against the minimum standards as noted below. The county and this ordinance may also identify and include additional requirements depending upon site specific conditions and hazards.

- A. A geotechnical report shall be prepared by a qualified professional. The report shall be signed and dated by the preparer and shall also include the qualifications of the preparer.
- B. The report shall be site specific and identify all known or suspected potential geotechnical or natural hazards, originating on-site or off-site, affecting the particular property.
- C. The report shall include a detailed site map showing the location of the hazard(s) with delineation of the recommended setback distances from such hazard(s) and the recommended location for proposed structures.
- D. The report shall address the potential effects of the hazard(s) on the proposed development and occupants, thereof, in terms of risk and potential damage.
- E. The report shall contain recommendations for avoidance or mitigation of the effects of the hazard(s). The evidence on which the recommendations and conclusions are based shall be clearly stated in the report. Trench logs, aerial photographs, references with citations, and other supporting information as applicable, shall also be included in the report.
- F. Whenever a potential natural hazard is identified by a geotechnical report under this chapter, the owner of such parcel shall record a restrictive covenant running with the land in a form satisfactory to the county prior to the approval of any development or subdivision of such parcel which shall include the following:
  1. Notice of the existence and availability of the geotechnical report that identifies the natural hazards for public inspection in the Development Services Department, and;
  2. An agreement by the owner of the parcel and any successor in interest to comply with any conditions set by the Planning Commission to minimize potential adverse effects of the natural hazard(s).

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**17.18.10 17.18.010 Purpose**

The purpose of this chapter is to provide a mechanism for the protection of those areas of Cache County which are determined to be environmentally sensitive or that may pose a potential threat or danger to development. This chapter is intended to:

- A. Protect the general health, welfare, and safety of the citizens of Cache County.
- B. Minimize public and private property damage and emergency tax assistance.
- C. Provide ~~for~~ an awareness of, and mitigation strategies for, development within sensitive areas.
- D. Provide a mechanism ~~with which~~ to determine developable acreage for development within Cache County.

**17.18.020: Definitions**

All terms in this chapter are defined within §17.07, "Definitions", of this title. Any other terms not defined in this title shall be interpreted as defined by State and/or Federal Code or Rule.

**17.18.030 Review Process**

The sensitive area review process consists of three primary steps and consideration of reasonable use:

- A. Sensitive Area Determination: The Development Services Department shall provide mapping and an initial determination of the approximate location of known sensitive areas. These maps will provide the most current and accurate data accessible to the county, and may be updated as new or more accurate data becomes available. The initial determination may require the applicant to pursue further site specific analysis or study to confirm the location of sensitive areas as defined within this Chapter. In some cases, hazards may not be mapped but may be present on a site and such cases shall be required to meet the requirements of this Title.
- B. Sensitive Area Analysis: A Sensitive Area Analysis shall be submitted with any application for development on property containing sensitive areas and shall include an analysis, determination, and a development plan including proposed mitigation.
- C. Suitability Determination: The county shall review the Sensitive Area Analysis and shall report their findings to the applicant and land use authority. In addition:



1. The applicant must identify significant, adverse impacts on sensitive areas and include appropriate mitigation measures for noted impacts.
2. The land use authority, prior to hearing any application for a development proposed to be located wholly or partially, within any sensitive area as identified by this Chapter, shall provide notice and opportunity for comments and recommendations from state and federal agencies with additional oversight including but not limited to, the Utah Division of Wildlife Resources, (DWR), Utah Department of Environmental (DEQ), United States Forest Service (USFS), Bureau of Land Management (BLM), US Army Corps of Engineers, etc., and as applicable.

**D. Hardship Relief:** If the applicant demonstrates that the regulations imposed by this ordinance would deny all reasonable use of the subject property, the County Council, following the receipt of a recommendation from the Planning Commission, may modify the exercise of these requirements to provide the applicant reasonable use of the property and may provide a modified determination of development potential. The County Council shall not modify regulations imposed by State and/or Federal Law and/or Rule.

#### **17.18.020 Non-Developable Sensitive Areas Defined**

~~The following areas are non-developable. None of the acreage encumbered by any of the following sensitive areas may be considered for development density, and none of the areas may be built upon or within except for required public utility and facilities. Any acreage encumbered by the following sensitive areas may be appealed to the Cache County Council, and a determination of their development potential may be made.~~

- ~~1. Jurisdictional Wetlands: As defined by the U.S. Army Corps of Engineers.~~
- ~~2. Steep Slopes: Where the rise or fall of the land is equal to or exceeds thirty (30) percent over a horizontal distance of twenty (20) feet or greater.~~

~~Natural waterways or open waterPotentially Developable Sensitive Areas Defined The following areas are determined to be sensitive areas of Cache County and are subject to the requirements of this Chapter. These areas may be built upon based on the requirements of this section and other applicable County, State, and Federal requirements.All acreage encumbered by any of the following sensitive areas may be considered for development density at the discretion of the Cache County Council. Additional requirements within these areas are addressed within 17.18.070 Supplementary Development Standards.~~

- ~~1. Steep Slopes: Where the rise or fall of the land is equal to or exceeds twenty (20) percent over a horizontal distance of twenty (20) feet or greater.~~
- ~~2. Floodplains: As identified and defined by Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM).~~
- ~~**D. Crucial Wildlife Habitat:** As identified by the State Division of Wildlife Resources (DWR).~~
- ~~**E. Geologic Hazards:** Earthquake fault lines, or areas prone to debris flows, landslides, high or extreme liquefaction potential, and rock falls as identified by the U.S. Geological Survey (USGS).~~
- ~~**F. Wildfire Hazards:** Areas of the county designated as having moderate to extreme potential for wildfires hazards as identified by the Bureau of Land Management (BLM).~~
- ~~1. Historic, Prehistoric, and Cultural Resources:~~

#### **17.18.040 Sensitive Areas Analysis**

A Sensitive Areas Analysis shall be submitted with any application for development on property containing sensitive areas and shall include an analysis, determination, and a development plan including proposed mitigation as identified below.

A. Analysis and Determination: The Sensitive Areas Analysis shall provide an analysis and professional determination for each sensitive area. below:

1. Non-Developable

- a. Wetlands: As determined necessary by the county, an approved jurisdictional wetland delineation report and concurrence report from the United States Army Corps of Engineers shall be required as part of the wetland analysis.
- b. Steep Slopes: A topographic map depicting the contours of all steep and moderate slopes at an interval of five feet or as determined by the Director.
- c. Natural Waterways and Open Water: A map depicting all stream corridors as defined by their high water marks.

2. Potentially Developable Areas

- a. Moderate Slopes: Development may be permitted upon county review and approval of a geotechnical report. The analysis should also include:
  - i. The location and description of existing natural and man-made features on and surrounding the site, including general topography and soil characteristics and a copy of the Soil Conservation Service soil survey for the site.
  - ii. The location and description of proposed changes to the site, including any grading and excavation, vegetation removal, the location and profiles of proposed roadways, the location of proposed utility lines, the location of existing and proposed buildings and structures, and the location of all other proposed site features.
  - iii. The identification of measures proposed for soil and sediment control, including a schedule of the sequence for the installation of planned erosion and sediment control measures, including anticipated starting and completion dates.
  - iv. Plans for the proposed vegetation of all disturbed site areas.
- b. Ridgelines: A map depicting the crest and 100 foot vertical buffer of any significant ridge lines or hill tops within the parcel boundary. Development within this area may be permitted upon county review and approval in keeping with the purpose and standards of this chapter.
- c. Floodplain and Floodway: A hydrological report including information on groundwater levels, drainage channels and systems, and base elevations in floodplains.
- d. Important Habitat Areas: A Habitat Management Plan prepared by a professional, qualified in the areas of ecology, wildlife biology, or other relevant disciplines that includes the following:
  - i. The ecological and wildlife use characterization of the property explaining the species of wildlife using the areas, the times or seasons the area is used by those species, and the value (e.g. feeding, watering, cover, nesting, roosting, or perching) that the area provides for such wildlife species.
  - ii. Wildlife movement corridors;
  - iii. Special wildlife habitat features (e.g. key nesting sites, feeding areas, calving or production areas, use areas for migrant song birds and grassland birds, deer and

- elk winter concentration areas) as identified by the Utah Division of Wildlife, and also including areas of high terrestrial or aquatic insect diversity.
- iv. Areas inhabited and/or frequently utilized by any species identified by state or federal agencies as threatened or endangered.
- v. Special flora habitat features (e.g. soil types, hydrologic influences, symbiotic species, etc.) of species identified by the State of Utah on the rare or watch list, and threatened, endangered, or candidate species as identified by the US Fish and Wildlife Service (USFWS).
- vi. The general ecological functions provided by the site and its features.
- vii. An analysis of how proposed development activities impact the Important Habitat Areas and associated species.
- e. Geologic Hazards: A geotechnical report in compliance with 17.18.060.
- f. Wildfire Hazards: A fire protection report that identifies potential fire hazards, mitigation measures, access for fire protection equipment, existing and proposed fire flow capability and compliance with the Utah Wildland Interface Code (See §15.08 of the County Code).
- g. Historic, Prehistoric, and Cultural Resources: Identify any sites and/or structures determined to have historical or archaeological significance to the community, the region, or the State of Utah. This includes properties eligible for the National Register of Historic Places.

**17.18.050 Standards and Development Plan:** These standards are provided to ensure that any development proposed wholly, or in part, within a sensitive area recognizes the physical and environmental constraints of the development site. These standards shall supplement, and are in addition to, other development standards provided by County Code, State, and/or Federal Code or Rule. At the time of application, provide a Development Plan for the property that addresses and includes the following.

- A. Non-Developable: As applicable, provide a description of all impacts and mitigation regarding development activities that will or are likely to impact any non-developable areas on the property.
  - 1. Wetlands: No building, structure, construction, excavation, or land filling shall occur on any area determined to be a jurisdictional wetland without the approval and necessary wetlands permit(s), as required by the U.S. Army Corps of Engineers. Where potential wetlands exist, wetland delineation may be required.
  - 2. Steep Slopes: No building, structure, construction, excavation, or land filling shall occur on any area determined to be a steep slope.
  - 3. Natural waterways and open water: All proposed development adjacent to year round or ephemeral natural waterways or open water, shall be subject to the following, but excluding bridges, boat ramps, culverts, dams, trestles, and similar structures:
    - a. A minimum setback of fifty (50) feet for all structures and one hundred (100) feet for all on-site septic systems shall be required. Additional setback may be required, if necessary, as determined by the Planning Commission to avoid the possibility of any stream or water pollution.
    - b. Any work within 30 feet of the top of bank shall obtain a state or federal approval and/or permit.
    - c. The ordinary high water mark as determined by Cache County shall be the point of

reference as to the edge of the waterway.

- d. The introduction of concentrated sources of pollution into the waterways is prohibited including, but not limited to, septic tanks, untreated sewage, commercial and residential garbage, manure, dead animals, waste, and other hazardous materials.

**B. Potentially Developable**

- 1. Moderate Slopes: Any development proposed for areas identified as a moderate slope shall require a geotechnical report as defined by this chapter.
- 2. Ridgelines: No structure, accessory structure, satellite dish, deck, patio or removal of significant vegetation shall occur in the ridgeline setback, except as provided below:
  - a. If any portion of a legal existing parcel of record falls within the ridgeline setback, any development on that parcel shall make every effort to place all development on the most suitable portion of the lot taking into consideration the standards of this title.
  - b. All disturbance and development shall stay out of the ridgeline setback to the maximum extent possible. If, due to the location, size and configuration of the parcel, that is not possible, the land use authority may approve an exception in keeping with the purpose and standards of this chapter.
- 3. Floodplain and/or Floodway: See §15.28 of the County Code.–
- 4. Important Habitat Areas: Strategies that preserve important habitat and prevent fragmentation are encouraged. When new development is proposed within important habitat areas, mitigation methods shall be designed and implemented, including, but not limited to, those listed below.
  - a. Construction shall be organized and timed to minimize disturbance of State of Utah Sensitive Species or Species of Concern occupying or using on-site and adjacent natural areas.
  - b. If the development site contains or is within five hundred feet (500') of a natural area or habitat area, and the Sensitive Areas Analysis shows the existence of State of Utah Sensitive Species or Species of Concern, the Development Plan shall include provisions to ensure that any habitat contained in any such natural area shall not be disturbed or diminished, and to the maximum extent feasible, such habitat shall be enhanced.
  - c. If the development site contains existing natural areas that connect to other off-site natural areas, to the maximum extent feasible the development plan shall preserve such natural area connections. If natural areas lie adjacent to the development site, but such natural areas are not presently connected across the development site, then the development plan shall, to the extent reasonably feasible, provide such connection. Such connections shall be designed and constructed to allow for the continuance of existing wildlife movement between natural areas and to enhance the opportunity for the establishment of new connections for movement of wildlife.
  - d. If wildlife or flora that may create conflicts for future occupants of the development is known to exist in areas adjacent to or on the development site, then the Development Plan must include provisions to minimize these conflicts to the extent reasonably feasible.
  - e. Facilitate wildlife movement across areas dominated by human activities by:
    - i. Maintaining connectivity between open space parcels on adjacent and near-by parcels and subdivisions such that the result will be a larger contiguous area of open space;

- ii. Locating roads and development away from natural travel corridors used by wildlife, such as riparian areas;
  - iii. Minimizing fencing types that inhibit the movement of big game species. Use of fencing within subdivisions or boundaries of subdivisions, commercial, industrial or multi-family development shall be minimized;
  - iv. Minimizing the visual contrast between human-dominated areas, including individual lots, and less disturbed terrain in surrounding areas, for example, by retaining or planting native vegetation and trees around a house or accessory building and maintaining consistent grading between developed and natural areas.
- f. Mimic features of the local natural landscape in developed areas by:
- i. Retaining as much pre-development, high quality habitat as possible, including large patches of natural, vegetated areas that have not yet been fragmented by roads or residential development;
  - ii. Minimizing levels of disturbance to trees, the under-story vegetation, and other structural landscape features during construction;
  - iii. Designing house lots in a fashion consistent with local natural habitats, for example, by preserving and landscaping with natural, native vegetation.
  - iv. Reclaiming disturbed areas, such as degraded landscapes, roadsides, and other infrastructure disturbances by using seed and other selective plantings.
5. Geologic hazards: For those areas determined by review to contain geologically unstable conditions, development may be permitted by the county upon the review and approval of a geotechnical report identifying the following:
- a. The accurate location of all geologic hazards including, but not limited to, faults, landslides, steep slopes, unstable soils, etc.
  - b. The location and description of proposed changes to the site, including any grading and excavation, vegetation removal, the location and profiles of proposed roadways, the location of proposed utility lines, the location of existing and proposed buildings and structures, and the location of all other proposed site features.
  - c. The identification of measures and actions proposed to mitigate the risks from earthquake, landslides, and soil disturbance including a schedule of the sequence for the installation of planned mitigation actions, including anticipated starting and completion dates.
  - d. No critical facility (excluding transportation lines or utilities which by their nature may cross active faults or structures) designed for human occupancy shall be built astride a geologic hazard. The Planning Commission may increase building setback requirements where information from a geotechnical report indicates conditions warrant a greater setback distance.
- ~~4.~~ Wildfire hazards: As applicable, provide a description of all impacts and mitigation regarding development activities that will or are likely to impact and/or be impacted by wildfire hazards on the property. Measures to mitigate wildfire hazards and risks may be required based on the recommendation and review of the Cache County Fire District.
- 6.
7. Historic, Prehistoric, and Cultural Resources: Any sites and/or structures determined to have historical or archaeological significance to the community, the region, or the State of Utah shall require the review of, and comment from, the State Historic Preservation



Office (SHPO). This includes properties eligible for the National Register of Historic Places.

#### **~~17.18.040 Sensitive Areas Overlay Map~~**

~~A map indicating the approximate location of indentified sensitive lands shall be available at the County's Development Services Office. The sensitive lands map will provide the best available data, and may be updated as new or more accurate data becomes available. All mapped data is reference material only, and may require site specific analysis or study to confirm the location of sensitive lands as defined within Title 17. In some cases, hazards may be present on a site without having been mapped and shall be required to meet the requirements of this Title.~~

~~A. Cache County automatically adopts all FEMA effective Flood Insurance Studies and all effective FEMA Flood Insurance Rate Maps.~~

#### **~~17.18.050 All development(s) to be Considered a Conditional Use in Sensitive Areas~~**

~~Because of the environmental conditions existing in sensitive areas, all developments proposed within an area determined to be a sensitive area shall be considered a conditional use and shall be reviewed and considered consistent with the procedures for the review of a conditional use as provided in this Title.~~

#### **~~17.18.060 Review of Proposed Development in Sensitive Areas~~**

~~The Land Use Authority, prior to hearing any application for a development proposed to be located wholly or partially, within any sensitive area as identified by this Chapter, shall provide notice and opportunity for comments and recommendations from the reviewing agencies, as applicable.~~

#### **~~17.18.070 Supplementary Development Standards~~**

~~1. These standards are provided to ensure that any development proposed wholly, or in part, within a sensitive area recognizes the physical and environmental constraints of the development site. These standards shall supplement, and are in addition to, other development standards provided by this Title., maps issued by Federal Emergency Management Agency Flood Insurance Rate Map (FIRM) CECS for the review and approval of Manager~~

~~A. Steep Slopes Development may be permitted by the County upon the review and approval of an engineering geotechnical report:~~

~~i. The location and description of existing natural and man-made features on and surrounding the site, including general topography and soil characteristics and a copy of the Soil Conservation Service soil survey for the site.~~

~~ii. The location and description of proposed changes to the site, including any grading and excavation, vegetation removal, the location and profiles of proposed roadways, the location of proposed utility lines, the location of existing and proposed buildings and structures, and the location of all other proposed site features.~~

~~iii. The identification of measures proposed for soil and sediment control, including a schedule of the sequence for the installation of planned erosion and sediment control measures, including anticipated starting and completion dates.~~

~~iv. Plans for the proposed vegetation of all disturbed site areas.~~

- ~~**B. Jurisdictional Wetlands**—No building, structure, construction, excavation or land filling shall occur on any area determined to be a jurisdictional wetland without the approval and necessary wetlands permit(s), as required by the U.S. Army Corps of Engineers. Where potential wetlands exist, a wetlands delineation may be required.~~
- ~~**C. Mapped Floodplain**~~
- ~~1. All buildings, structures, construction, excavation or land filling proposed within a mapped floodplain, as identified on the latest maps issued by Federal Emergency Management Agency Flood Insurance Rate Map (FIRM) or located within the County's one hundred (100) foot buffer zone from a designated floodplain shall provide an Elevation Certificate from a State Certified Surveyor and be approved by the County Floodplain Manager.~~
  - ~~2. Methods of reducing flood losses.~~
    - ~~a. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which may result in increased erosion or in flood heights or velocities;~~
    - ~~b. Require the uses vulnerable to floods, including facilities which serve such uses, to be protected against flood damage at the time of initial construction;~~
    - ~~c. Control the alteration of natural floodplains, stream channels, and natural protective barriers which help accommodate or channel flood waters;~~
    - ~~d. Control filling, grading, dredging, and other development which may increase flood damage; and~~
    - ~~e. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.~~
- ~~**D. Natural Waterways and Open Water**—All proposed development adjacent to a natural waterway or open water, shall be subject to the following, but excluding bridges, boat ramps, culverts, dams, trestles, and similar structures:~~
- ~~1. A minimum setback of fifty (50) feet for all structures and one hundred (100) feet for all on-site septic systems shall be required. Additional setback may be required, if necessary, as determined by the Planning Commission to avoid the possibility of any stream or water pollution.~~
  - ~~2. The stripping of any vegetation area is prohibited within the fifty (50) foot setback.~~
  - ~~3. The mean high water mark shall be the point of reference as to the edge of the waterway.~~
  - ~~4. The introduction of concentrated sources of pollution into the waterways is prohibited including, but not limited to, septic tanks, untreated sewage, commercial and residential garbage, manure, dead animals, waste, and other hazardous materials.~~
- ~~**E. Crucial Wildlife Habitat**—The Utah Division of Wildlife shall be provided noticed of any development, (building, structure, construction, excavation, or land filling) that occurs on any area determined to be crucial wildlife habitat. The County will accept review and/or comment within 21 days of said notice.~~
- ~~**F. Earthquake Fault Areas and Areas Prone to Landslide**—For those areas identified as an active or potential mapped earthquake fault and landslide areas, or areas determined by review to contain geologically unstable conditions, development may be permitted by the County upon the review and approval of an engineering geotechnical report identifying the following:~~
- ~~a. Accurately identifying the location of earthquake faults and landslide areas.~~
  - ~~b. The location and description of proposed changes to the site, including any grading and excavation, vegetation removal, the location and profiles of proposed roadways, the~~

~~location of proposed utility lines, the location of existing and proposed buildings and structures, and the location of all other proposed site features.~~

~~c. The identification of measures and actions proposed to mitigate the risks from earthquake, landslides, and soil disturbance including a schedule of the sequence for the installation of planned mitigation actions, including anticipated starting and completion dates.~~

~~d. No critical facility (excluding transportation lines or utilities which by their nature may cross active faults or structures) designed for human occupancy shall be built astride an active fault. No structure designed for human occupancy shall be built on a fault scarp. Footing setbacks from a fault scarp shall meet the requirements of the International Uniform Building Code. The Planning Commission may increase footing setback requirements where information from a geotechnical report indicates a slope condition warrant a greater setback distance.~~

#### ~~G. Wildfire Hazards~~

~~2. Development shall provide for ready access to fire and other emergency equipment and for routes of escape to safely handle evacuations.~~

~~3. Measures to mitigate wildfire hazards and risks may be required based on the recommendation and review of the Cache County Fire District.~~

#### **17.18.080060 ——— Engineering Geotechnical Report Minimum Standards**

When a geotechnical report is required, the county shall review each report against the minimum standards as noted below. The county and this ordinance may also identify and include additional requirements depending upon site specific conditions and hazards.

**A.** ~~An engineering~~ geotechnical report shall be prepared by a ~~licensed geotechnical engineer or licensed geologist~~ qualified professional. The report shall be signed and dated by the preparer and shall also include the qualifications of the preparer.

**B.** The report shall be site specific and identify all known or suspected potential geotechnical or natural hazards, originating on-site or off-site, affecting the particular property.

**C.** The report shall include a detailed site map showing the location of the hazard(s) with delineation of the recommended setback distances from such hazards(s) and the recommended location for proposed structures.

**D.** The report shall address the potential effects of the hazard(s) on the proposed development and occupants, thereof, in terms of risk and potential damage.

**E.** The report shall contain recommendations for avoidance or mitigation of the effects of the hazard(s). The evidence on which the recommendations and conclusions are based shall be clearly stated in the report. Trench logs, aerial photographs, references with citations, and other supporting information as applicable, shall also be included in the report.

~~—All Engineering Geotechnical Reports submitted to the County shall be reviewed by the Utah Geological Survey for completeness, accuracy, and appropriate recommendations.~~

#### **17.18.090 Disclosure of a Natural Hazard by an Engineering Geotechnical Report.**

**F.** Whenever a potential natural hazard is identified by a ~~required~~ geotechnical report under this ~~c~~Chapter, the owner of such parcel shall record a restrictive covenant running with the land in a form satisfactory to the ~~c~~County prior to the approval of any development or subdivision of such parcel which shall include the following:

**1.** Notice of the existence and availability of the ~~engineering~~ geotechnical report that



identifies the natural hazards for public inspection in the ~~County Zoning Office~~ Development Services Department,<sup>3</sup> and;

2. An agreement by the owner of the parcel and any successor in interest to comply with any conditions set by the ~~County~~ Planning Commission to minimize potential adverse effects of the natural hazard(s).

~~17.18.100 Areas of Potential Sand and Gravel Deposits~~

~~A. Areas containing potential sand and gravel deposits have been identified and mapping is available when reviewing mineral extraction requests.~~

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## Definitions to be added to 17.07.040 with Sensitive Areas:

### SENSITIVE AREA:

- A. Non-Developable: The following sensitive areas shall not be considered developable. Any acreage encumbered by said areas shall not be considered when calculating development density and no development shall occur therein except for required public utilities and/or facilities.
1. Wetlands: As defined by the U.S. Army Corps of Engineers.
  2. Steep slopes: The rise or fall of the land is equal to or exceeds thirty (30) percent over a horizontal distance of twenty (20) feet or greater.
  3. Natural waterways: As defined by this title.
- B. Potentially Developable: The following areas are determined to be sensitive areas of Cache County and are subject to the requirements of this Chapter. Development may occur in these areas in compliance with this section and any other applicable County, State, and/or Federal requirements.
1. Moderate Slopes: The rise or fall of the land is equal to or exceeds twenty (20) percent over a horizontal distance of twenty (20) feet or greater and is less than thirty (30) percent.
  2. Ridgelines: 100 vertical feet on either side of the crest of a significant ridge line or hill top as viewed within 2 miles from a designated roadway. Designated roadways include 89, 91, 30, etc.
  3. Floodplain and/or Floodway: As identified and defined by Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM), and areas of shallow ground water susceptibility as identified by the Utah Geological Survey (UGS).
  4. Important Habitat Areas: As identified in the Important Habitat Areas map.
  5. Geologic Hazards: Major geographic and geologic features, the depth of bedrock, structural features, folds, fractures, etc., and potential slide and other high hazard areas such as mine shafts and avalanche paths.
  6. Wildfire Hazards: Areas of the county designated as Wildland-Urban Interface.
  7. Historic, Prehistoric, and Cultural Resources: Any sites and/or structures determined to have historical or archaeological significance to the community, the region, or the State of Utah. This includes properties eligible for the National Register of Historic Places.

WATERWAY, MANMADE: All manmade drainage systems including, but not limited to, all canals, culverts, reservoirs, and other manmade-constructed drainages.

WATERWAY, NATURAL: Those areas varying in width along and including, but not limited to, rivers, lakes, ponds, streams, creeks, gullies, springs, faults or washes which are natural drainage channels as determined by the ~~zoning administrator~~Director of Development Services.

2. The operation of the crusher to be allowed only from seven o'clock (7:00) A.M. to five o'clock (5:00) P.M.;
  3. No operation shall occur within the extraction operation on the following holidays:
    - a. Memorial Day;
    - b. July 4 and 24;
    - c. Labor Day;
    - d. Thanksgiving;
    - e. Christmas; and
    - f. New Years.
  4. The Planning Commission may allow for variation to the above hours and days of operation based on need and effect.
- D. All activities shall be maintained and operated in such a way as to minimize light, fumes, dust, and smoke emissions.

**17.13.080: Development and Reclamation Agreement:**

After the applicant has obtained approval of the mineral extraction and excavation master plan as described above, the approval shall be put in the form of a development agreement negotiated by the County Attorney and executed by the County Executive pursuant subject to the direction of the Planning Commission. The agreement shall include the following:

- A. A legal description of the land;
- B. A copy of the conditional use permit;
- C. A copy of the approved mineral extraction and excavation master plan;
- D. All final grading and slope for reclamation of the extraction operation shall meet the requirements of appendix J of the currently adopted international building code;
- E. A financial guarantee for the rehabilitation and reclamation;
- F. Other specific requirements, rights and peculiarities pertinent to the project.

**17.13.090: Compliance by Existing Operations:**

Compliance and enforcement under this chapter shall be subject to constitutional protections and state law regarding existing nonconforming uses. Requirements shall not be imposed that are unreasonable with respect to operations related to a nonconforming excavation that is legally proven to have occurred prior to the enactment of this chapter. Subject to the limitations stated herein, within twenty four (24) months after the adoption of this chapter, all existing mineral extraction and excavation operations shall reasonably comply with the provisions set forth within this chapter, or alternatively, request the Planning Commission to grant a full or partial exemption from the terms hereof.

**17.13.100 Areas of Potential Sand and Gravel Deposits**

- A. Areas containing potential sand and gravel deposits have been identified and mapping is available when reviewing mineral extraction requests.**