



COUNCIL STAFF REPORT

CITY COUNCIL of SALT LAKE CITY

TO: City Council Members

FROM: Brian Fullmer
Policy Analyst

DATE: March 22, 2022

**RE: Stealth Wireless Facilities Zoning Text Amendment
PLNPCM2020-00284**

Item Schedule:

Briefing: March 22, 2022

Set Date: March 22, 2022

Public Hearing: April 5, 2022

Potential Action: April 19, 2022

The Council will be briefed about a request from Celco Partnership (dba Verizon Wireless) to amend the Salt Lake City zoning ordinance to allow stealth cellular towers up to 75 feet tall as a conditional use in the Public Lands (PL) zoning district citywide. Stealth towers are currently limited to 35 feet in height and are allowed in all zoning districts provided they are “completely disguised as another object concealed from view thereby concealing the intended use and appearance of the facility” (Chapter 21A.40.090.E *Salt Lake City Code*).

To qualify as a stealth facility, a tower needs to meet the following requirements:

1. “Conform with the dimensions of the object it is being disguised as,”
2. “Be in concert with its surroundings,” and
3. Meet “the provisions contained in section 21A.36.020, [including] tables 21A.36.020.B and 21A.36.020.C.”

Chapter 21A.36.020.C regulates lot and bulk controls requiring lots and structures meet “the lot area, lot width, yards, building height and other requirements established in the applicable district regulations.” Exceptions are allowed for height, and certain obstructions in a required yard. Height exceptions for church steeples, elevator/stairwell bulkheads, flagpoles, and light poles for sports fields are allowed. Wireless facilities disguised as trees, or another object not listed in the height exception table are not permitted obstructions beyond the maximum height of a zoning district.

The request is associated with the applicant’s proposal to construct a stealth cell tower at the Pioneer Police Precinct located at 1040 West 700 South, but the requested text amendment would apply to all properties within the PL zoning designation citywide.



The applicant first proposed constructing an 80-foot stealth wireless facility disguised as an evergreen tree (known as a “monopine”) at the Pioneer Police Precinct. Planning staff told the applicant non-government structures in the PL zone were limited to 35 feet and the request for an 80-foot tower would be denied. The proposal was then modified to allow stealth cell towers up to 60 feet tall in all zoning districts within the city. After reviewing the Planning staff report and receiving community feedback, the applicant asked for additional time to review their proposal, as well as Planning staff and community concerns. The current proposal is to allow stealth wireless facilities up to 75 feet in the PL zoning district.

PL properties are located throughout the city and are often located near smaller-scale neighborhoods consisting of single- and two-family, or small commercial districts such as Neighborhood Commercial shown in the image below. Uses in the PL zone are typically government owned or operated facilities including schools, libraries, and fire stations. These zoning districts generally limit building height to 30 feet or less.

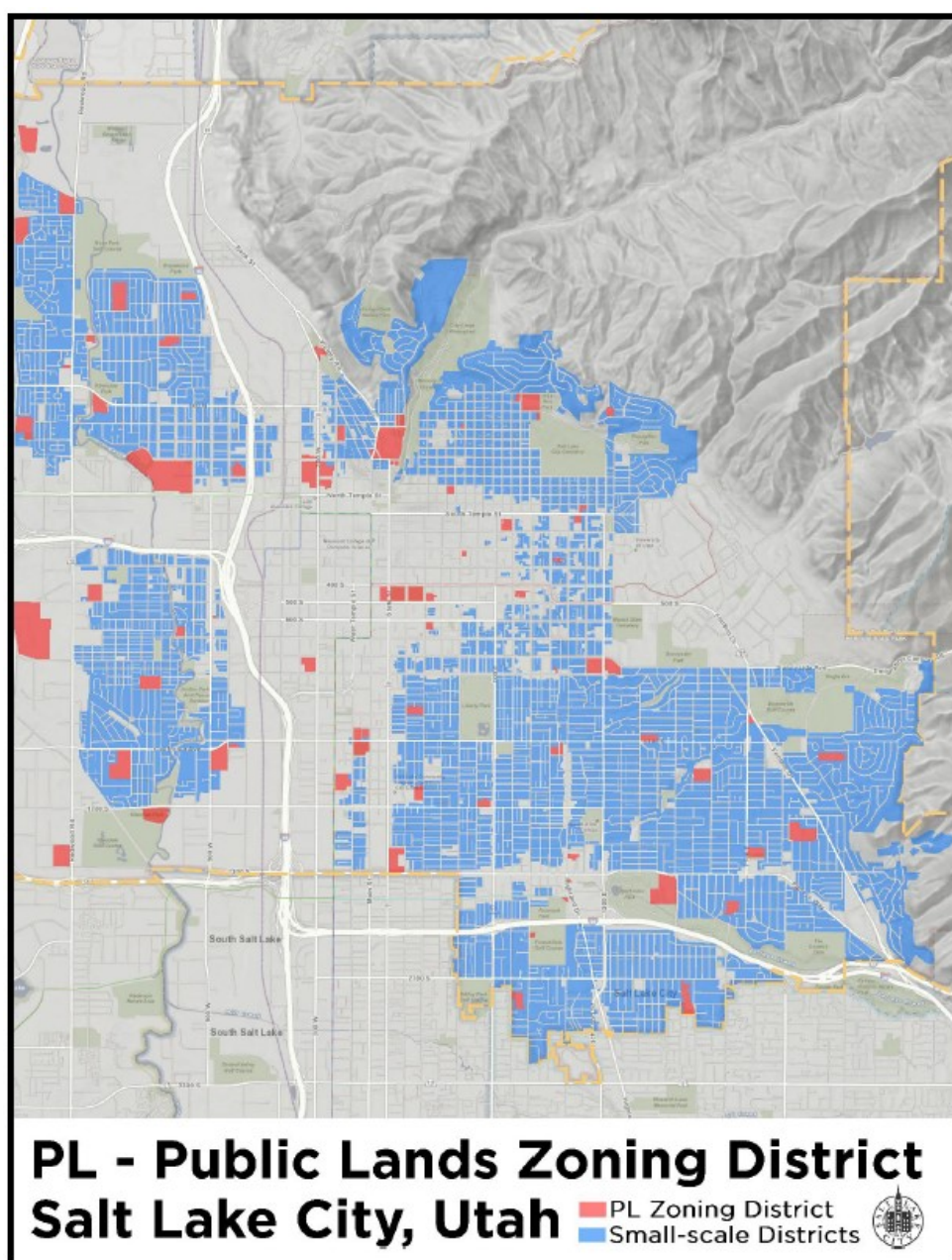


Image courtesy Salt Lake City Planning Division

Planning staff provided the following image comparing the proposed 75-foot height of stealth towers in the PL zoning district to building heights in a variety of adjacent zoning districts.



Image courtesy Salt Lake City Planning Division

The Planning Commission reviewed this proposal at its December 8, 2021 meeting and held a public hearing. There was one comment at the hearing expressing concern about potential radiation near schools, and stated the proposed tower was not in concert with the area. Planning staff noted there were letters to the Commission from the East Liberty Park Community Organization and Yalecrest Community Council (both opposed). The Commission voted 5-0 to forward a negative recommendation to the City Council. One Commissioner abstained but did not say why.

Goal of the briefing: Review the proposed master plan and zoning map amendments, determine if the Council supports moving forward with the proposal.

POLICY QUESTIONS

1. The Council may wish to discuss more how a tower is determined to be “in concert with the surroundings.”
2. The Council may wish to ask the Administration whether there would be requirements such as setbacks or step backs to mitigate impact to adjacent properties.
3. The Council may wish to consider whether there is interest in limiting stealth towers in small neighborhood pocket-parks, and if so, ask whether there could be some minimal parcel size associated with applications.
4. Is the Council supportive of the proposed zoning map amendment?

ADDITIONAL INFORMATION

Planning staff provided the following comparison of existing and proposed stealth wireless facility standards.

| EXISTING REGULATIONS | PROPOSED CHANGES |
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| Definition of “Stealth Antenna”: An antenna completely disguised as another object, or otherwise concealed from view, thereby concealing the intended use and appearance | No change |

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| of the facility. Examples of stealth facilities include, but are not limited to, flagpoles, light pole standards, or architectural elements such as dormers, steeples, and chimneys. | |
| <p>Criteria for determining if an antenna is “stealth”:</p> <ul style="list-style-type: none"> • The antenna must conform to the dimensions of the object it is being disguised as. • The location of the stealth facility must be in concert with its surroundings | No change |
| <p>The height of stealth antennas is limited to the maximum building height of the underlying zoning district unless they are disguised as the following:</p> <ul style="list-style-type: none"> • <i>Chimney</i>-can extend above the maximum height limit of the zone only the amount that is required to meet building regulations. • <i>Church steeples or spires</i> - no height limit • <i>Elevator/stairway tower or bulkhead</i> - can extend up to 16 feet above the maximum height limit in the commercial, manufacturing, downtown, FB-UN2, RO, R-MU, RMF-45, RMF-75, RP, BP, I, UI A, PL, and PL-2 districts. • <i>Flagpole</i> - may apply for conditional use approval to exceed the maximum building height of the zone. • <i>Light poles for sports fields</i> - allowed up to 90 feet or higher with special exception approval. | Stealth antennas in the PL Public Lands Zoning District taller than 35 feet (up to 75 feet in height) would require Conditional Use approval from the Planning Commission. All other stealth towers that meet the existing dimension regulations would still be allowed by-right. |
| Stealth Antennas are allowed in all zoning districts, subject to the dimensions mentioned above. | Conditional Use approval would be required for stealth antennas taller than 35 feet (up to 75 feet in height) in the PL Public Lands District. |

Planning staff identified six key considerations related to the proposal which are found on pages 5-7 of the Planning Commission staff report. They are summarized below. For the complete analysis, please see the staff report.

Consideration 1-Rationale for Denial Recommendation

The following issues regarding the proposed ordinance were found by Planning staff:

1. Standards would not result in predictable outcomes. The regulations would allow any type of stealth facility, not only “monopines.” An applicant could request a stealth facility out of character with the surrounding area such as an elevator bulkhead (see consideration 2 below).
2. The PL District is generally located within neighborhoods with shorter maximum heights. Towers as tall as 75 feet could be out of scale with the neighborhoods.
3. Requiring conditional use approval for these towers would require additional Planning staff and Planning Commission time and resources. Utah State Code makes denying conditional use applications challenging.
4. Proposed language is difficult to interpret (see consideration 6 below).

Planning staff noted the following:

The ordinance already allows stealth cellular facilities in many other contexts in every zoning district, and State Code requires the city to approve small cell facilities in the public right of way. The proposed text amendment is a response to the denial of the proposed facility at the Pioneer Police Precinct. It does not include a thorough analysis of community needs, potential adverse impacts, or unintended consequences.

Consideration 2-Compatibility with Current City Plans, Policies, and Zoning Standards

Current City Code allows stealth wireless facilities taller than the maximum height in a zoning district if they are disguised as a structure or object already allowed to do so (e.g., church steeple, chimney, elevator or stairway or bulkhead). Planning staff found reliance on conditional use standards to mitigate potential impacts of stealth facilities in the PL Zone may not offer protections to residents from adverse effects of future stealth towers. They further found the proposal does not further objectives within the City's adopted plans and policies.

Planning staff noted three factors to evaluate when analyzing stealth wireless facilities' compatibility with current City plans, policies, and zoning standards.

1. Neighborhood Character – most neighborhood plans focus on neighborhood character and impact of future development. Stealth towers can be a desirable alternative to traditional wireless antennas within established neighborhoods. Limiting stealth towers to the PL zoning district may be a method of installing necessary wireless infrastructure consistent with neighborhood plans. However, the proposal relies on conditional use standards when considering neighborhood character.
2. Views of Landscapes and Distinctive Urban Features – *Plan Salt Lake*, the *Central City* and *East Bench* neighborhood plans, along with the Capitol Hill Protective Area Overlay all discuss preservation of viewsheds within the city. Impact to viewsheds should be considered when new wireless facilities are being established. Under the proposed amendment, it is unclear to what extent the requirement to “be in concert with its surroundings” would enable prevention of a stealth tower installation within an established view corridor.
3. Equitable Access to Cellular Services – *Plan Salt Lake* discusses the necessity of cell service access. The Planning Commission staff report states:

If a cell provider is unable to get coverage in a low-income neighborhood because current regulations prevent it, does the City have a responsibility to provide opportunities to expand that coverage into marginalized communities? This is an important question when reviewing zoning regulations for privately provided infrastructure.

Planning staff notes the applicant's maps (found on pages 63-65 of the Planning Commission staff report) demonstrates a need for improved cell service near the proposed tower at the Pioneer Police Precinct. However, Planning found the applicant did not indicate how allowing towers up to the proposed height will improve equitable cellular access in other parts of the city.

The Planning Commission staff report stated:

Because the applicant has not provided an analysis to support this request, staff cannot determine if the proposed amendment is compatible with the adopted plans and policies of the City. The above discussion and the analysis in Attachment D [pages 36-41] show that the applicant has not provided enough information to determine the long-term impacts of their proposal.

Consideration 3–Best Practices for Zoning Ordinance Revisions

It is Planning staff's opinion best practices for zoning ordinance revisions include a holistic approach and response to community needs and concerns. They found the proposed text amendment is responding to standards preventing one project at one location. An analysis of long-term effects of the proposal was not provided by the applicant. Planning stated:

With this piecemeal approach that lacks at least a surface-level analysis of impacts, Staff cannot provide any information on any potential long-term effects this proposal may have on stealth

facilities within the City. Attempting to circumvent existing regulations by modifying them without appropriate analysis of impacts is not the best practice for revising a zoning ordinance.

Consideration 4 – Conditional Uses

Utah State Code requires conditional use approval if reasonable conditions mitigate anticipated detrimental impacts. Planning staff noted under the proposed text amendment, each case would need to be presented to the Planning Commission and would utilize additional Planning staff and Planning Commission resources. They also discussed the potential of establishing false community expectations a stealth antenna application could be denied based on neighborhood input.

Consideration 5 – Federal Regulations Regarding Wireless Communication Facilities

Federal rules limit the City's ability to regulate wireless facilities to only location, aesthetics, and structural safety. Decisions cannot be made based on health concerns or environmental effects of radio frequency emissions.

Consideration 6 – Clarity of Proposed Amendment Language

Planning staff noted existing language in City Code is vague and there have been issues interpreting it. They believe the proposed language would be more challenging to interpret without additional clarification.

ZONING STANDARDS ANALYSIS

Attachment D (pages 36-41) of the Planning Commission staff report outlines zoning map amendment standards that should be considered as the Council reviews this proposal. The standards and findings are summarized below. Please see the Planning Commission staff report for additional information.

| Factor | Finding |
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| Whether a proposed text amendment is consistent with the purposes, goals, objectives, and policies of the city as stated through its various adopted planning documents. | <i>Mixed finding. The proposed amendment is either partially, or not consistent with the goals and policies of applicable master plans.</i> |
| Whether a proposed map amendment furthers the specific purpose statements of the zoning ordinance. | <i>Mixed finding. The proposal either furthers or partially furthers the applicable purpose statements of the zoning ordinance.</i> |
| Whether a proposed text amendment is consistent with the purposes and provisions of any applicable overlay zoning districts which may impose additional standards. | <i>The proposed amendment is consistent with the purposes and provisions of all relevant overlay districts.</i> |

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| The extent to which a proposed text amendment implements the best current, professional practices of urban planning and design. | <i>The proposed amendment does not implement the best current urban planning and design practices.</i> |
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CITY DEPARTMENT REVIEW

Attachment G (page 136 of the Planning Commission staff report) contains a list of City departments that reviewed the proposed text amendment and associated comments, which are included below.

Engineering: “My understanding is that the proposed stealth towers are not small cell wireless facilities and would only occur on private property.”

The Attorney’s Office “does not recommend considering changes to the height of stealth antenna section of City Code without a more comprehensive look at all of the Chapter 21A zoning sections.”

Zoning: “Current code allows for flag poles to reach 60’ in height with a conditional use. Church steeples/spires have no height limit. Light poles for sports fields can reach 90’ by right and taller with a Special Exception. Any stealth antenna facility disguised as one of those three could exceed the height limit of the underlying zoning district. The assertion that the code as currently written does not allow for stealth poles to exceed the maximum height of the underlying zoning district is inaccurate.

The proposed text amendment would allow all stealth facilities (not just the monopines) to exceed the height limit of the underlying zoning district. If the intent is to allow just monopines to be 60’, then the text amendments concerning height should be specifically for monopines rather than all stealth facilities.”

Urban Forestry: “Salt Lake City does have trees that are greater than 60’ tall, and some even pushing 100’. However, the average tree height in our City is probably closer to 30’ than 60’.

Perhaps even more concerning (to me) is where these towers will be located. If the intention is to place them within City R.O.W. (on City park strips) then we have the added issue of the towers taking away valuable tree planting space. It would be worse still if somehow it was permissible to actually remove (or drastically prune) existing city trees to accommodate these towers.

But please note that (in the interest of maximizing the potential of Salt Lake City to grow trees, on its public property) the Urban Forestry Division is very opposed to the loss of existing tree ‘planting locations’ just as we are opposed to the loss of existing trees.”

Other responding City departments (Transportation, Public Utilities, Building Services/Building Services (Fire)) had no concerns with the proposal.

PROJECT CHRONOLOGY

- September 2, 2021-Application submitted in current form.
- May 14, 2020-Petition assigned to Aaron Barlow, Principal Planner (note: previous version of the application was assigned to the planner this date).
- October 5, 2021-Information about petition sent to all Salt Lake City recognized community organizations. The Sugar House, Greater Avenues, and Yalecrest Councils invited the applicant and Planning staff to attend their meetings. The Sugar House, East Liberty Park, Yalecrest and

Greater Avenues councils sent letters to Planning opposing the proposal.

- October 5, 2021- Proposal posted for online open house through December 1, 2021.
- November 22, 2021-Sent to Planning Commission.
- December 8, 2021-Planning Commission public hearing. There was one comment at the public hearing in opposition to proposal. The Commission voted 5-0 to forward a negative recommendation to the City Council, with one Commissioner abstaining.
- February 8, 2022-Transmitted to City Council.
- Note-Because the proposal was forwarded to the Council with a negative recommendation it was not sent to the Attorney's Office for an ordinance to be drafted.