

HAYSVILLE PLANNING COMMISSION

Agenda

July 9, 2020

7:00 p.m., Municipal Building, 200 W. Grand

- I. Call to Order
- II. Roll Call
- III. Presentation and Approval of Minutes
 - A. Minutes of April 23, 2020
- IV. Special Order of Business
 - A. Election of Officers
 - i. Chairperson
 - ii. Vice-Chairperson
 - iii. Secretary
- V. New Business
 - A. Consideration of Revisions to the Zoning Ordinance
 - i. Assisted Living Facilities
 - ii. Wireless Communication Facilities
 - iii. Cargo Containers/Temporary Storage Containers
 - B. Review of Historic Master Plan
- VI. Old Business
- VII. Correspondence and Informational Reading
- VIII. Committee Updates
- IX. Off Agenda
- X. Adjournment

HAYSVILLE PLANNING COMMISSION

Minutes

April 23, 2020

Virtual Meeting

The regular Planning Commission Meeting was called to order by Chairperson Tim Aziere at 7:00 p.m. This was a virtual meeting utilizing video conferencing.

Those members present were: Tim Aziere, Bob Wethington, Debbie Coleman, Nicole Franken, Fred Plummer and Mark Williams. Also present was Planning & Zoning Administrator Angela Millspough; Rebecca Mellies, Professional Engineering Consultants (PEC); Greg Blandford, Southern Star, Seth Turner, Southern Star; and Matthew Williams, Metropolitan Area Planning Department (MAPD)

The first item of business were the Minutes of February 13, 2020. Coleman stated that a “t” was left out of the word “West” in the address for Dorner Park.

Motion by Coleman

Second by Wethington

To approve the minutes as corrected.

Aziere yea, Wethington yea, Coleman yea, Franken abstain, Plummer yea, Williams yea

Motion carried

Under New Business members considered a Conditional Use Permit for Utility, Major - Southern Star Central Gas Pipeline, case number CON2020-00014, generally located east of South Meridian Avenue and one quarter-mile south of West 87th Street South. Matt Williams, MAPD, presented the Staff Report stating that this application was filed to request a Conditional Use permit to bring the Southern Star Pipeline property into zoning compliance and allow the construction of an additional storage building. He stated that based upon information available prior to the public hearings, planning staff recommends that the request be approved, subject to the following conditions:

- a. Screening shall be provided on all sides of the property.
- b. The site is to be developed as shown on the Haysville Station Yard Site Plan dated 3/13/2020 by PEC, PA.
- c. Any changes to the site or screening plan shall be reviewed and approved by the Director of Planning prior to issuance of any building permits.
- d. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

Rebecca Mellies, PEC, stated that she was the agent for the applicant and that they were in agreement with all of the conditions except for the screening. There was a discussion on the screening. Greg Blandford, applicant, stated there were safety concerns with their trucks entering and exiting the property if there is screening along Meridian. Coleman asked if the property owners had been notified. Matt Williams stated they had not yet as a date had not yet been set due to the COVID-19 safety restrictions. Millspough stated that this was a recommendation from the Haysville Planning Commission and was not

a public hearing. The actual public hearing would be held before the Metropolitan Area Planning Commission.

Motion by Aziere

Second by Wethington

To recommend approval with the conditions listed in the staff report, but that the screening just be required along the west half of the north property line.

Aziere yea, Wethington yea, Coleman yea, Franken yea, Plummer yea, Williams yea

Motion carried

Also under New Business the Planning Commission considered the Preliminary and Final Plats of the Southern Star Addition to Sedgwick County, Kansas. Millspaugh stated she had only received one comment back from the review and that was that no additional easements were requested at this time. She stated the County was still reviewing the drainage plan. Millspaugh also stated that per recent changes to the Subdivision Regulations the Planning Commission may want to consider limiting the location of the access controls along Meridian.

Motion by Wethington

Second by Coleman

To approve the plats as presented with the restriction that the access points on Meridian be located 300' apart.

Aziere yea, Wethington yea, Coleman yea, Franken abstain, Plummer yea, Williams yea

Motion carried

Franken's reason for abstention was her employment with Professional Engineering Consultants who prepared the Plat. She did not work on this project.

There was no Correspondence and Informational Reading.

There were no Committee Updates.

There was no Off Agenda.

Motion by Coleman

Second by Williams

To adjourn

Aziere yea, Wethington yea, Coleman yea, Franken yea, Plummer yea, Williams yea

Motion carried

The meeting adjourned at 7:37 PM.

MEMORANDUM

TO: Haysville Planning Commission Members
FROM: Angela Millspaugh, Planning & Zoning Administrator
SUBJECT: Assisted Living
DATE: July 1, 2020

The need for senior housing alternatives continues to grow within Haysville and surrounding areas. Currently, Haysville’s Zoning Ordinance addresses Nursing or Convalescent Homes which are only allowed in Light Commercial and Heavy Commercial zoning districts and Senior Living Apartments which, while not specifically defined, are allowed within the Apartment zoning district. There are no provisions for Assisted Living facilities which have grown in popularity in recent years as people and families seek alternatives to nursing homes.

Below are recommendations to include Assisted Living within our Zoning Ordinance. As an Assisted Living facility is residential in nature, staff is proposing such facilities be permitted within residential districts.

DELETE THE FOLLOWING DEFINITIONS:

Nursing or Convalescent Home. A residential health care facility licensed and regulated by the State of Kansas which provides lodging, bed care, in-patient services and supervision for children or the aged who need regular medical attention, or a place of rest for those suffering bodily disorders, but not including facilities for surgical care or emergency medical services or institutions for the care and treatment of mental illness, alcoholism or narcotics addictions.

ADD THE FOLLOWING DEFINITIONS:

Assisted Living
Any place or facility licensed and regulated by the State of Kansas caring for six or more individuals not related within the third degree of relationship to the administrator, operator or owner by blood or marriage and who, by choice or due to functional impairments, may need personal care and may need supervised nursing care to compensate for activities of daily living limitations and in which the place or facility includes apartments for residents and provides or coordinates a range of services including personal care or supervised nursing care available 24 hours-a-day, seven days-a-week for the support of resident independence. The provision of skilled nursing procedures to a resident in an assisted living facility is not prohibited. Generally, the

skilled services provided in an assisted living facility shall be provided on an intermittent or limited-term basis, or, if limited in scope, on a regular basis.

Nursing facility

Any place or facility licensed and regulated by the State of Kansas operating 24 hours a day, seven days a week, caring for six or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments, need skilled nursing care to compensate for activities of daily living limitations.

Skilled nursing care

Services performed by or under the immediate supervision of a registered professional nurse and additional licensed nursing personnel. Skilled nursing includes administration of medications and treatments as prescribed by a licensed physician or dentist; and other nursing functions which require substantial nursing judgment and skill based on the knowledge and application of scientific principles.

ADD "ASSISTED LIVING" AS A CONDITIONAL USE IN THE FOLLOWING DISTRICTS:

"A" Single Family

ADD "ASSISTED LIVING" AS A PERMITTED USE IN THE FOLLOWING DISTRICTS:

"BB" One and Two Family

"B" Two, Three and Four Family

"CC" Apartment

"D" Light Commercial

<p>RECOMMENDATION: Approve the proposed changes and set a public hearing date for August 13 to consider the revisions to the Zoning Ordinance.</p>

MEMORANDUM

TO: Haysville Planning Commission Members
FROM: Angela Millspaugh, Planning & Zoning Administrator
SUBJECT: Wireless Telecommunications Facilities
DATE: July 1, 2020

Below are recommended changes to Wireless Telecommunications Facilities section of the Zoning Ordinance to come into compliance with current state and federal regulations. In 2018

Repeal Section 505 Wireless Telecommunications Facilities and replace it with the attached regulations.

RECOMMENDATION: Approve the proposed changes and set a public hearing date for August 13 to consider the revisions to the Zoning Ordinance.

WIRELESS COMMUNICATION FACILITIES

- 01 **PURPOSE.** This purpose of this article is to ensure that residents and businesses have reliable access to wireless telecommunications networks while also protecting the health, safety, welfare, and aesthetic character of the community. The City of Haysville recognizes that facilitating the development of wireless service technology can be an economic development asset to the City and a benefit to residents. This section is intended to ensure that the placement, construction, and modification of wireless telecommunications facilities complies with all applicable federal and state laws and is consistent with the City’s land use policies, zoning, planning, and design standards.
- 02 **APPLICABILITY.** The provisions of this section apply to wireless infrastructure in the City which is not located in the public right-of-way. Wireless infrastructure in the City which is located within the public right-of-way, including Small Wireless (small cell) and Distributed Antenna System (DAS) facilities, is regulated by Chapter 13, Article 4 of the City Code.
- 03 **DEFINITIONS.** The following terms and definitions are specific to this Article of the Zoning Code.
- (A) **ACCESSORY EQUIPMENT:** Any equipment serving or being used in conjunction with a wireless facility or wireless support structure, including but not limited to utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.
 - (B) **ANTENNA:** Communications equipment that transmits or receives electromagnetic radio signals used to provide wireless services.
 - (C) **APPLICANT:** Any person or entity that is engaged in the business of providing wireless services or the wireless infrastructure required for wireless services, that submits an application.
 - (D) **APPLICATION:** A request submitted by an Applicant to the City for:
 - (1) The construction of a new wireless support structure or new wireless facility;
 - (2) The substantial modification of a wireless support structure or wireless facility; or
 - (3) Collocation of a wireless facility or replacement of a wireless facility.

- (E) **BASE STATION:** A station that includes a structure that currently supports or houses an antenna, transceiver, coaxial cables, power cables, or other associated equipment at a specific site that is authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies, and other associated electronics.
- (1) "Base station" does not mean a macrocell tower or equipment associated with a macrocell tower, and does not include any structure that, at the time the relevant application is filed with the City, does not support or house equipment described in this paragraph.
- (F) **COLLOCATION:** The practice of attaching antennas or other transmission equipment from more than one wireless service provider to an eligible support structure, for the purpose of transmitting or receiving radio frequency signals for communication purposes.
- (G) **DISTRIBUTED ANTENNA SYSTEM (DAS):** A network that distributes radio frequency signals and consists of:
- (1) Remote communications or antenna nodes deployed throughout a desired coverage area, each including at least one antenna for transmission and reception;
- (2) A high capacity signal transport medium that is connected to a central communications hub site; and
- (3) Radio transceivers located at the hub's site to process or control the communications signals transmitted and received through the antennas to provide wireless or mobile service within a geographic area or structure.
- (H) **EXISTING STRUCTURE:** A structure that exists at the time an application to collocate wireless facilities on a structure is filed with the City. The term includes any structure that is currently supporting or designed to support the attachment of wireless facilities, including but not limited to macrocell towers, buildings and water towers.
- (I) **MACROCELL:** A cellular network facility capable of providing radio coverage to a large area, typically with output power in a range of tens of watts. Macrocell antennas may be attached to masts rooftops, or other existing structures, mounted at a height that provides a clear view over surrounding buildings and terrain.
- (J) **MACROCELL TOWER:** A mast built for the primary purpose of supporting antennas and other equipment used to provide wireless telecommunications services, usually from 50 to 199 feet in height.

- (1) LATTICE TOWER: A type of tower consisting of an open steel frame structure, usually with 3 or 4 sides, which may be self-supporting or braced by guy wires.
 - (2) MONOPOLE: A type of tower consisting of a single vertical pole, without guy wires.
- (K) PUBLIC LANDS, BUILDINGS AND FACILITIES: Land owned or operated by a municipality, school district, county, state, or other governmental entity.
- (1) For the purposes of this Article, any real property, structures or facilities under the ownership, control or jurisdiction of the Kansas Secretary of Transportation are not considered "public lands, buildings or facilities".
- (L) PUBLIC RIGHT-OF-WAY: An area of real property in which the authority has a dedicated or acquired right-of-way interest in the real property. It includes the area on, below or above the present and future streets, alleys, avenues, roads, highways, parkways or boulevards dedicated or acquired as right-of-way. a. Public right-of-way does not include any state, federal or interstate highway right-of-way, which generally includes the area that runs contiguous to, parallel with, and is generally equidistant from the center of that portion of the highway improved, designed or ordinarily used for public travel.
- (M) REPLACEMENT: Includes constructing a new wireless support structure of comparable proportions and of comparable height or such other height that would not constitute a substantial modification to an existing structure, in order to support wireless facilities or to accommodate collocation; includes the associated removal of the pre-existing wireless facilities, if any, or wireless support structure.
- (N) SEARCH RING: A shape drawn on a map to indicate the general area within which a wireless services support structure should be located to meet radio frequency engineering requirements, taking into account other factors, including topography and the demographics of the service area.
- (O) SHOT CLOCK: Time limits established by the FCC, within which a state or local government is required to process an application to deploy a wireless infrastructure facility.
- (P) SMALL WIRELESS FACILITY: A cellular network facility capable of delivering high transmission speeds, but over a much smaller coverage area than a MACROCELL TOWER. Also known as a Small Cell Facility.
- (1) A Small Wireless Facility typically consists of a small cell antenna and an associated equipment box.

- (2) Small Wireless Facilities are typically used in urban areas with high demand for wireless services. They are often mounted on either dedicated poles or existing utility poles in the public right-of-way, where they have access to both fiber optic cables and electric power. Sometimes multiple Small Wireless Facilities are clustered on or around one support structure.
- (3) According to the 2018 FCC Declaratory Ruling and Third Report and Order FCC 18-133, a SMALL WIRELESS FACILITY must satisfy the following conditions:
 - (A) Each antenna must be 3 cubic feet or less in volume.
 - (B) All associated equipment must be 28 cubic feet or less in volume.
 - (C) Maximum height. A Small Wireless Facility must meet at least one of the following height restrictions.
 - (1) Must be mounted on a structure which is 50 feet or less in height.
 - (2) Must be mounted on a structure which is no more than 10 percent taller than adjacent structures.
 - (3) When mounted on an existing structure, must not extend the height of that structure by more than 10 feet or by more than 10 percent, whichever is greater.
- (Q) **SUBSTANTIAL MODIFICATION:** A proposed modification to an existing wireless support structure or base station that will substantially change the physical dimensions of the wireless support structure or base station under the objective standard for substantial change, established by the federal communications commission pursuant to FCC 47 C.F.R. 1.40001.
- (R) **TRANSMISSION EQUIPMENT:** Equipment that facilitates transmission for a wireless service licensed or authorized by the federal communications commission including, but not limited to, radio transceivers, antennas, coaxial or fiber optic cable and regular and backup power supply.
 - (1) Transmission equipment includes equipment associated with wireless services including, but not limited to, private, broadcast and public safety services such as wireless local area network services, and services utilizing a set of specifications developed by the institute of electrical and electronics engineers for interface between a wireless client and a base station or between two wireless clients, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul.

- (S) WATER TOWER: A water storage tank or a standpipe, or an elevated tank situated on a support structure that was originally constructed for use as a reservoir or facility to store or deliver water.
- (T) WIRELESS FACILITIES are equipment at a fixed location that enables wireless communications between user equipment and a communications network, including but not limited to:
 - (1) Equipment associated with wireless services such as private, broadcast and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul; and
 - (2) Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies and comparable equipment, regardless of technological configuration.
 - (3) "Wireless facility" does not mean any wired connections from a wireless support structure or base station to a hub or switching location.
- (U) WIRELESS INFRASTRUCTURE PROVIDER: Any person that builds or installs transmission equipment, wireless facilities or wireless support structures, but that is not a wireless services provider.
- (V) WIRELESS SERVICES: "Personal wireless services" and "personal wireless service facilities" as defined in 47 U.S.C. § 332(c)(7)(C), including commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through wireless facilities or any fixed or mobile wireless services provided using wireless facilities.
- (W) WIRELESS SERVICES PROVIDER: A provider of wireless services.
- (X) WIRELESS SUPPORT STRUCTURE: A freestanding structure, such as a monopole, guyed or self-supporting tower or other suitable existing or alternative structure designed to support or capable of supporting wireless facilities.
 - (1) "Wireless support structure" must not include any telephone or electrical utility pole or any tower used for the distribution or transmission of electrical service.
- (Y) UTILITY POLE: A structure owned or operated by a public utility as defined in K.S.A. 66-104, and amendments thereto, a municipality as defined in K.S.A. 75-6102, and amendments thereto, or an electric cooperative as defined in K.S.A. 2016 Supp. 17-4652, and amendments thereto, that is designed specifically for and used to carry lines, cables or wires for telecommunications, cable, electricity or to provide lighting.

ZONING REQUIREMENTS FOR WIRELESS INFRASTRUCTURE.

- (A) Any Applicant wishing to construct, replace, or repair wireless infrastructure in Haysville must first apply for and obtain a Zoning Permit.
- (B) Zoning permits are not required for:
 - (1) Routine maintenance of elements of existing wireless infrastructure.
 - (2) Antennas or other equipment erected temporarily on an existing wireless facility, for test purposes or for emergency communication, which are removed within 72 hours following installation.
- (C) Zoning Small Wireless or DAS facilities.
 - (1) Zoning permits are not required for installation or operation of a small wireless or DAS facility which is located entirely inside a structure, or entirely on the site of a campus, stadium or athletic facility.
 - (2) In residential zoning districts, small wireless or DAS facilities which are not located in a public right-of-way, or entirely inside a structure, or entirely on the site of a campus, stadium or athletic facility, are allowed as a conditional use.
 - (3) In commercial or industrial zoning districts, small wireless or DAS facilities which comply with the district's maximum height restriction are a permitted use.
 - (A) A small wireless or DAS facility which does not comply with the district's maximum height restriction may be allowed as a special use.
- (D) Wireless facility antennas on existing structures. In all commercial or industrial zoning districts, wireless facility antennas which are installed on an existing tower or base station, meet applicable performance standards, and comply with the district's maximum height restriction are a permitted use.
- (E) An antenna which does not comply with the district's maximum height restriction may be allowed as a special use.
- (F) Other Wireless Facilities. In the G zoning district, wireless facility structures, other than small wireless or DAS facilities or antennas mounted on an existing tower or base station, are a permitted use.
 - (1) Wireless facility structures which do not comply with the district's maximum height restriction may be allowed as a special use.

APPLICATION PROCEDURES.

- (A) SHOT CLOCKS are time limits established by the FCC, within which a state or local government is required to process an application to deploy a wireless Infrastructure facility.
 - (1) Shot Clock Start. A shot clock begins running (tolling) on the day the application is submitted.
 - (A) Exception: If an application is submitted on a holiday, the shot clock starts running on the next business day.
 - (2) Applicability.
 - (A) Shot clocks apply to all authorizations necessary for the deployment of personal wireless service, including:
 - (1) License or franchise agreements to access public rights-of way.
 - (2) Required pre-application procedures, public notices, and meetings.
 - (3) Site Plan Review and approval procedures.
 - (4) Building permits, electric permits, and road closure permits.
 - (B) Shot clocks apply to applications submitted in batches.
 - (1) Section 332 of the Communications Act prohibits localities from refusing to accept batched applications. (See 47 U.S.C. § 332).
 - (3) Shot Clocks as determined by the 2018 FCC Declaratory Ruling and Third Report and Order FCC 18-133.
 - (A) For Small Wireless Facilities:
 - (1) To review a small wireless facility application for completeness, and notify the Applicant of missing information in order to reset the shot clock — 10 calendar days [47 C.F.R. §1.6003(d)(1)].
 - (2) To act on an application to collocate a small wireless facility on an existing structure (does not have to be a telecommunications structure) 60 calendar days [47 C.F.R. §1.6003(c)(1)(i)].

(3) To act on an application for a small wireless facility using a new structure — 90 calendar days [47 C.F.R. §1.6003(c)(1)(iii)].

(B) For Other Wireless Facilities:

(1) To review any wireless facility application for completeness, and toll the shot clock if the Applicant is notified in writing the application is not acceptable — 30 calendar days [47 C.F.R. §1.6003(d)(2)(iii)].

(2) To review a resubmission and notify the Applicant of any missing information — 10 calendar days [47 C.F.R. §1.6003(d)(3)(iii)].

(3) To act on a request for a non-substantial modification, including modifications to macro towers — 60 calendar days [47 U.S.C. §1455].

(4) To act on an application to collocate a facility other than a small wireless facility using an existing structure — 90 calendar days [47 C.F.R. §1.6003(c)(1)(ii)].

(5) To act on an application for a facility other than a small wireless facility using a new structure — 150 calendar days [47 C.F.R. §1.6003(c)(1)(iv)].

(B) Approval Deadlines. If the Zoning Administrator does not issue a final decision on a wireless facility application within the shot clock time limits specified above in Section 05, then the Applicant may provide notice to the Zoning Administrator that the time period has lapsed, and the Application is then deemed to be approved. (See K.S.A. 66-2019.)

(C) Incomplete Applications. If the application is materially incomplete, the Zoning Administrator must notify the Applicant that more documents or information are required within 30 days after the application was submitted.

(1) The notification must identify the missing documents or information, and also specify the rule or regulation that requires their submission.

(2) The shot clock will restart at zero on the day the Applicant provides a supplemental application containing the required information.

(A) If the supplemental application does not provide the missing documents or information identified in the original notice, the Zoning Administrator must notify the Applicant within 10 days after the supplemental application was submitted.

- (B) The shot clock will be paused on the day the notice of an incomplete supplemental application is provided to the Applicant, and will resume on the day the Applicant provides a completed supplemental application containing the required information.
- (D) Denial of Application. If an application is denied, the Zoning Administrator will notify the Applicant in writing of the reasons for the denial.
 - (1) Within 30 days of the notice, a party aggrieved by the City's denial of an application may bring an action for review in any court of competent jurisdiction.
- (E) Planning Commission Special Use Review. The Planning Commission must review a special use for any application which is not permitted by right in the underlying zoning district.
 - (1) Exceeding Wireless Facility Height Limitations. In all zoning districts, Applicants may apply to the Planning Commission for a special use to exceed maximum height limitations established in the review criteria for all types of wireless facilities.
- (F) Zoning Administrator Approval. The Zoning Administrator may approve wireless facility Zoning Permit applications for:
 - (1) Modification or replacement of an existing tower or base station.
 - (A) The Zoning Administrator must issue a final decision on the application within 60 calendar days after a complete application is filed.
 - (2) New small wireless or DAS facilities on an existing tower or base station.
 - (A) The Zoning Administrator must issue a final decision on the application within 60 calendar days after a complete application is filed.
 - (3) Installation of a new antenna on an existing tower or base station, if the antenna is permitted by right in the underlying zoning district, and meets applicable performance standards.
 - (A) The Zoning Administrator must issue a final decision on the application within 60 calendar days after a complete application is filed.
 - (4) A new antenna on an existing tower or base station, which substantially changes the physical dimensions of the tower or base station, and which:

- (A) Has been authorized as a special use by the Board of Zoning Appeal.
 - (B) Is permitted by right in the underlying zoning district.
 - (C) Meets applicable performance standards.
 - (D) The Zoning Administrator must issue a final decision on the application within 90 calendar days after a complete application is filed.
- (5) A new tower.
- (A) Has been authorized as a special use by the Board of Zoning Appeals.
 - (B) Is permitted by right in the underlying zoning district.
 - (C) Meets applicable performance standards.
 - (D) The Zoning Administrator must issue a final decision on the application within 150 calendar days after a complete application is filed.
- (G) Notification Requirements.
- (1) For Wireless Facility Applications as a Special Use, the Applicant must provide written notice of the Planning Commission's public hearing to all adjacent and abutting property owners of record within 500 feet of the property parcel for which the exception is being requested.
 - (A) Notice must be provided at least 30 days in advance of the hearing.
 - (B) Notice must be provided by certified mail, return receipt requested.
 - (2) For applications for Zoning Administrator Approval, the Applicant must provide written notice to all adjacent and abutting property owners of record within 500 feet of the property parcel that constitutes the proposed location of the wireless facility.
 - (A) The notice must include:
 - (1) Description of the proposed wireless facility.
 - (2) Plan drawing showing the proposed location and the facility improvements.

- (3) Applicant's contact information.
- (4) A statement that the property owner has 20 days from the date of the notice to provide the City with any input regarding the application.

(B) Notice must be provided by certified mail, return receipt requested.

06 APPLICATION REQUIREMENTS.

(A) Pre-application Conference. A pre-application conference between the Applicant and designated City staff is required before filing an application for modification or replacement of an existing wireless facility, or construction of a new wireless facility.

- (1) The pre-application conference may be waived by the Zoning Administrator.
- (2) The purpose of the pre-application conference is to ensure the Applicant understands all requirements, to address issues that will expedite the review and approval process, and to establish a tentative timeline.
- (3) The pre-application conference does not toll applicable shot-clocks under federal or state law.

(B) Application Contents. Unless waived by the Zoning Administrator, the Applicant must include the following information in an application for a zoning permit for a wireless facility.

- (1) Site plan.
- (2) Landscape plan that demonstrates effective screening as required by Section 501(O) of this Code, with all materials and plant sizes specified.
- (3) Elevation drawings of the proposed wireless facility. Show all towers, base stations, antennas, transmission equipment, accessory equipment, cabinets, fencing, screening, landscaping, lighting, and other improvements related to the facility, including information on specific colors and materials.
- (4) Lighting plan, showing that the proposed wireless facility complies with Federal Aviation Administration regulations.
- (5) Digital before and after photo simulations of the site, demonstrating the visual impact of the proposed wireless facility on the surrounding environment.

- (A) The Zoning Administrator may require photo simulations from any specific vantage point.
- (6) Notices. A statement from the Applicant affirming that required notices were sent in a timely manner.
 - (A) Include a list of the addresses to which notices were sent.
 - (B) Include copies of certified mail return receipts.
- (7) Leased Property. If any part of the wireless facility site is leased, the Applicant must provide a signed copy of the lease, and a signed statement from the property owner indicating the property owner's approval for the proposed wireless facility.
 - (A) The documentation must contain a provision stating that, if the lessee abandons the facilities or terminates the lease and fails to remove the wireless facility, the property owner will be responsible for removing the wireless facility.
- (8) Engineer's Report. A report from a licensed engineer registered in Kansas which:
 - (A) Describes the wireless facility's height and design, including a cross section and elevation.
 - (B) Describes the wireless facility's structural capacity, and its ability to safely accommodate antennas and other equipment.
 - (C) Includes the engineer's seal and license number.
- (9) An application for Zoning Administrator approval of antenna placement on roofs, walls, and existing wireless infrastructure must include a final site and building plan.
- (C) Application Fee. The application must include payment of the application fee, to be paid by the Applicant to the City Clerk. The fee, as stated in Chapter 16, must not exceed statutory maximums as required by K.S.A. 66-2019(c).
 - (1) The fee must reflect the actual costs of processing the application.
 - (2) Total charges and fees assessed by the City must not exceed:
 - (A) \$500 for a collocation application, which is not a substantial modification, small wireless application, or DAS facility application; or

- (B) \$2,000 for an application for a new wireless support structure, or for a collocation application that is a substantial modification of a wireless support structure.
- (D) Consolidated Application for Small Wireless and DAS Facilities. An Applicant may file a single consolidated application for a small wireless network of up to 25 individual small wireless facilities of a substantially similar design in both appearance and function. (See K.S.A. 66-2019(g).)

07 APPLICATION APPROVAL CRITERIA.

(A) Wireless Facility Zoning Criteria.

- (1) Screening. Ground mounted accessory buildings, structures and equipment, which are visible from public ways or any other nearby property, must be screened with a solid wall at least 6 feet in height.
- (2) Signs. No signs may be applied on or attached to any part of a wireless facility, except for associated warning or emergency information signs.

(B) Wireless Facility Location Criteria.

- (1) Only one wireless facility tower or base station is permitted at any one time on any one zoning lot.
- (2) Setbacks. Wireless infrastructure must meet all setback requirements of the underlying zoning district.
 - (A) No minimum setback is required for wireless facility antennas attached to utility transmission support structures, light standards, traffic signals, etc.
- (3) Easements. Wireless infrastructure must not unlawfully encroach on any easements.
- (4) Wireless infrastructure must not be located between a principal structure and a public street.
 - (A) Exception: In industrial zoning districts only, wireless infrastructure may be located between a principal structure and a public street which is not an arterial street.

(C) Wireless Facility Design Criteria.

- (1) All wireless infrastructure and antennas constructed in the City, including all associated electrical components and wiring, must comply with the following requirements:

- (A) All applicable provisions and requirements, including the latest structural standards and wind loading requirements, of the Haysville City Code.
 - (1) Compliance must be certified by a licensed engineer registered in Kansas.
 - (B) Federal Communications Commission Guidelines for wireless infrastructure.
- (2) Tower Design. Towers must be a self-supporting design, or otherwise architecturally compatible with surrounding development.
- (A) Exception: A special use for a guyed tower may be approved by the Governing Body.
- (3) Tower Height Limitations.
- (A) Tower Height is defined as the vertical distance from the wireless facility's point of contact with the ground or building to the highest point of the wireless facility, including all antennas or other attachments, but not including any lightning rod 10 feet or less in height.
 - (B) Maximum Tower Height by Zone.
- (4) Antennas and Accessory Facilities.
- (A) Antennas and visible accessory facilities on rooftops must meet the requirements of Section 501(O) of this Code
 - (1) Antennas attached to a roof must be located as close to the center of the roof as possible.
 - (B) Antennas may be installed on any existing building or structure, excluding single-family residences and their accessory structures, provided that the antennas add no more than 20 feet to the height of the existing structure.
 - (C) Color. Antennas and visible accessory facilities must be colored and finished to be as visually unobtrusive as possible.
- (5) With the exception of public electric and communications service and connection lines, no part of any wireless facility or its associated equipment must at any time extend over a property line.

- (6) Facility Wiring. All low energy conductors extending horizontally above the ground between a wireless facility or antenna and an accessory facility, or between wireless infrastructure, must either be buried underground, or be at least 8 feet above the ground at all points.
 - (A) Facility wiring should not cross over, under, or through private property.
- (7) Utilities. With the exception of emergency power systems, all utilities at a wireless facility site must be installed underground and in compliance with applicable codes.
- (8) Equipment Cabinets. No more than 4 equipment cabinets are permitted per wireless facility, unless otherwise approved by the Planning Commission.
- (9) Equipment Storage. Equipment which is not used in direct support of a wireless facility must not be stored on the wireless facility site, unless the wireless facility is being repaired or an emergency exists.
- (10) Parking Areas and Drives. Parking areas and drives associated with the wireless facility must be designed to provide adequate emergency and service access.
 - (A) Vehicles must not be parked on the wireless facility site, unless the wireless facility is being serviced or inspected, or an emergency exists.
- (11) Landscaping. Wireless infrastructure must meet the requirements of Section 501 of this Code.
 - (A) Maintenance of Wireless Facility Landscaping. The owner or provider is responsible for maintenance of all landscaping.
- (12) Security Fence and Screening. Wireless infrastructure which is not in the right-of-way and which incorporates ground mounted equipment or accessory structures must be surrounded by a security fence and screening at least 6 feet in height, that prevents unauthorized access.
- (13) Lighting. Except for lighting specifically required by the Federal Aviation Administration or other federal or state authority, wireless infrastructure must not be artificially illuminated and must not display strobe lights.
 - (A) Security lighting around the base of a tower may be provided if the lighting is shielded so that no light is directed towards adjacent properties or rights-of-way, and the lighting avoids illuminating the tower.

- (B) When incorporated into the design of the wireless telecommunication facilities, street lights, traffic signal, or light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the wireless facility.
- (C) Temporary lighting for nighttime repairs is permitted.

08 WIRELESS FACILITY INSPECTIONS.

- (A) Wireless facilities must meet operational standards established by the FCC, FAA, EPA and other applicable federal regulatory agencies.
 - (1) If standards are revised, the wireless facility must be brought into compliance within 6 months of the effective date of the revised standards.
 - (2) Failure to comply with federal standards constitutes grounds for removal of the facility at the owner or provider's expense.
- (B) All wireless facilities may be inspected by the Zoning Administrator or their designee, to determine compliance with original construction standards.
 - (1) Deviation from original construction standards constitutes a zoning violation.
 - (2) If the City inspection determines that the wireless facility does not comply with City building codes, and constitutes a danger to persons or property, the Zoning Administrator will notify the wireless facility owner or property owner in writing.
 - (A) The wireless facility owner or property owner must bring the wireless facility into compliance within 30 days following written notice, or the City may order the removal of the wireless facility, or have the wireless facility removed at the owner or property owner's expense.

09 Removal of Abandoned Facilities for Wireless Communication. Any wireless facility that is not operated for 12 continuous months will be considered abandoned and a nuisance.

- (A) The Zoning Administrator will provide written notice to the wireless facility owner or the landowner, that the wireless facility must be removed within 90 days of receipt of the notice.
- (B) The wireless facility owner may be allowed to demonstrate whether the wireless facility has been in operation during the time period in question. The burden of proof is on the owner.

- (C) If the wireless facility is not removed within 90 days, the City may have the wireless facility removed at the wireless facility owner or landowner's expense.

MEMORANDUM

TO: Haysville Planning Commission Members
FROM: Angela Millspaugh, Planning & Zoning Administrator
SUBJECT: Cargo Containers
DATE: July 1, 2020

Below are recommended additions to the Zoning Regulations to address “cargo containers.”

Add the following definition to Section 202 DEFINITIONS

Cargo container (shipping container). Any portable, weather-resistant receptacle, container or other structure that is designed or used for the storage or shipment of household goods, commodities, building materials, furniture, or merchandise.

Add the following Article or Section – Cargo Containers

Cargo containers are permitted only in accordance with the following provisions and standards:

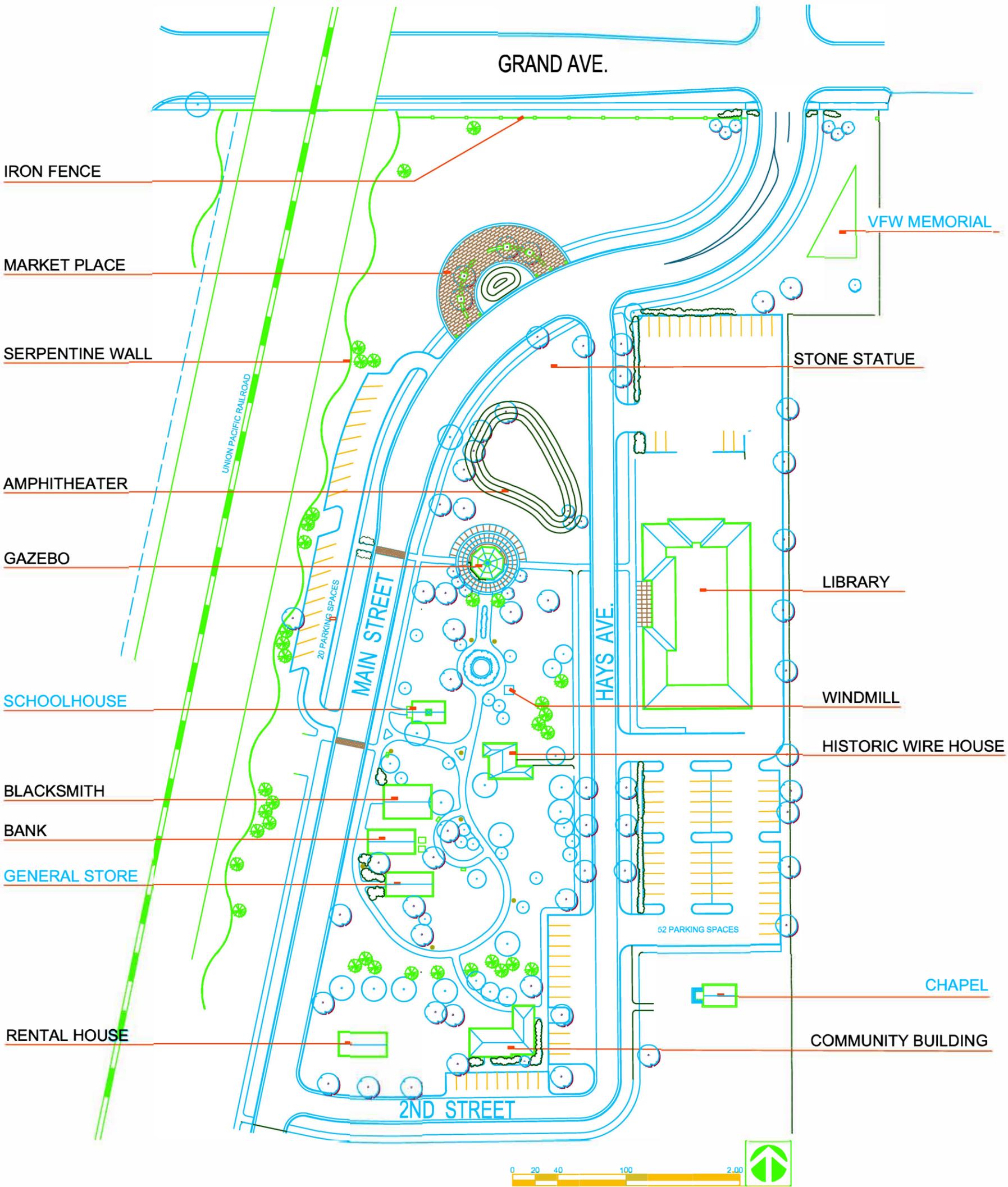
- (a) In a residential zoning district, one cargo container used as a moving pod no larger than 160 square feet and no more than nine feet tall may be used on a temporary basis for up to 30 days within a calendar year.
- (b) In commercial zoning districts D and E cargo containers shall not be visible from a public street either by placement or opaque fence/landscape screening. Any cargo container only visible from the front of buildings on adjacent property shall be set against the primary building and color matched with the building, and shall be limited to one cargo container. In addition, cargo containers shall:
 - (1) Not displace or interfere with required parking, circulation, or emergency access;
 - (2) Not be used as a base, platform, or location for business identification signs or temporary signs;
 - (3) Not be located in any required front or side yard setback adjoining a street right-of-way; and
 - (4) Be located at grade level and not stacked.
- (d) Exceptions to the requirements in subsections (a) through (c) of this section include:
 - (1) Cargo containers used for allowed on-site construction purposes for a period not to exceed the duration of a construction project with a valid building permit and for no more than 180 days for construction projects not requiring a building permit.
- (e) Any legally existing cargo containers made nonconforming on the effective date of the ordinance codified in this section shall conform on or before September 1, 2021.



HISTORIC DISTRICT MASTER PLAN

CITY OF HAYSVILLE 200 W. GRAND P.O. BOX 404 HAYSVILLE, KANSAS 67060





HISTORIC DISTRICT MASTER PLAN

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