

AGENDA

PUBLIC MEETING:

Zoning Commission

City of University Heights, Iowa

Thursday, June 4, 2020

7:00 p.m.

LOCATION:

Meeting to be conducted electronically

Time*	Item
7:00 p.m.	Call to Order Approval of Minutes of March 9, 2020 meeting
7:05 p.m.	Review of applications and comments by Verizon Wireless to locate small cell antennas on existing MidAmerican utility poles in City right-of-way at four locations in University Heights
7:30 p.m.	Opportunity for Public Input
7:45 p.m.	Discussion of report to City Council
8:00 p.m.	Review and comment on draft Comprehensive Plan
8:30 p.m.	Adjournment

*Times are approximate.

Due to the COVID-19 pandemic, the Zoning Commission of the City of University Heights will hold this meeting by electronic means pursuant to Iowa Code § 21.8. If you wish to participate in this meeting, please email Council Member Sara O’Sullivan (sara@university-heights.org) for instructions on how to join the meeting.

If you wish to submit written comments, email the City Clerk, Chris Anderson (city-clerk@university-heights.org).

MEMORANDUM

To: University Heights Zoning Commission

From: Steven E. Ballard
City Attorney

Date: March 7, 2020

Re: Verizon Wireless – Communication Technology Application

Introduction

Verizon Wireless has submitted an application to locate 4 small cell antennas on existing MidAmerican Energy utility poles located within City right-of-way. These antennas are part of Verizon's deployment of a 5G wireless system to improve service locally (in University Heights) and to accommodate increased service needs (consumer and governmental) anticipated in the future.

The Zoning Commission will meet at 6:00 p.m. March 9, 2020, to consider Verizon's application. City Engineer Josiah Bilskemper will circulate Verizon's application (and supporting materials), together with his comments on the application. For now, I am attaching a letter from Verizon that was submitted last year regarding its plans. For clarity, this letter is not the Verizon application, but it does summarize important considerations diving Verizon's intentions and the strategy for moving forward.

Framework for Review

University Heights Ordinance No. 215 regulates use of City right-of-way and sets for a process for reviewing applications such as the one from Verizon.¹ Before reviewing the parameters of the Ordinance, I want to point out that the authority of the City (the City Council and the Zoning Commission) to regulate small cell installations such as those Verizon proposes is extremely limited. Congress, the Federal Communications Commission, and the Iowa Legislature have all adopted laws/regulations severely restricting the power of local authorities (like Cities and Counties) from imposing their own individual rules and regulations.²

As you can imagine, the projected demand for wireless access and service is projected to increase vastly in the coming years. The thrust of the State and Federal regulations that prohibit or restrict City regulation of small wireless equipment is to encourage and permit wireless companies

¹The Ordinance is attached and may be found here, as well: <https://www.university-heights.org/DocumentCenter/View/512/Ordinance-Number-215-PDF?bidId=>

²See Iowa Code ch. 8C (<https://www.legis.iowa.gov/docs/code//8C.pdf>) and the FCC's Order of September 27, 2018 (<https://docs.fcc.gov/public/attachments/FCC-18-133A1.pdf>).

to meet market demands for such technology without having to meet thousands of different City regulations all over the country. One portion of the FCC order (and other laws and regulatory measures) is to encourage wireless companies to make arrangements and deals with the owners of existing utility poles and similar structures (like Mid-American Energy), so that small wireless equipment may be attached to existing infrastructure and the expanded reach of the technology accomplished as quickly as possible. The overall notion is that to promote deployment of enhanced wireless services (demanded by consumers, businesses and governments), providers such as Verizon shouldn't be required to navigate hundreds or thousands of different sets of rules as they set about to install and upgrade wireless systems.

In summary, the Commission's role, as set forth in the attached Ordinance, is to review the application materials Verizon has submitted, provide feedback on those materials, and refer the application on to the City Council with a report (the Commission may direct City Staff to prepare and submit the report). But the authority of the City (the Zoning Commission and the City Council) to regulate small cell installations such as those proposed by Verizon is very limited.

Review Considerations

The Commission's principal role is to review the Verizon application for conformity with the City's application requirements.³ City Engineer Josiah Bilskemper will provide guidance to the Commission; Josiah will comment on the requirements of Ordinance No. 215 and Verizon's application specifics, pointing out additional information that may be required or helpful. The particulars requirements of the application are listed in Ordinance No. 215.08 (highlighting added):

1. Submission Materials and Basis for Approval or Denial. **The following information shall be submitted** to the City Clerk and will be used by the City in review of the application:

- A. The application and accompanying fee as set by the City Council.
- B. One copy of **specifications for all proposed structures**, including a description of the design characteristics and material to be used.
- C. **A site plan drawn to scale showing existing features** including property lines; existing structures and other improvements; all structures within 200 feet of the proposed location; **proposed features** including location and height of all communication towers, antennas, or other equipment, appurtenances, or facilities; **guy wires and anchors**; **photographs or elevation drawings depicting design of the proposed structures**; parking; fences; and landscape plan.
- D. **A current map** or update for an existing map on file **showing the locations of the owner's existing and proposed communication towers**, antennas, or other equipment, appurtenances, or facilities.

³The application form, adopted by the City Council November 12, 2019, is attached.

- E. A report from a structural engineer showing the capacity of all communication towers, antennas, or other equipment, appurtenances, or facilities by type and number, if applicable, and a certification that the communication towers, antennas, or other equipment, appurtenances, or facilities are designed to withstand winds in accordance with ANS/EIA/TIA-222 (latest revision) standards, as well as a proposed plan and schedule for periodic maintenance and inspection of the communication towers, antennas, or other equipment, appurtenances, or facilities by qualified parties.
- F. Identification of the owners of all proposed communication towers, antennas, or other equipment, appurtenances, or facilities.
- G. Written authorization from the site owner for the application.
- H. Evidence that a valid FCC or other Federal or State license for the proposed activity has been applied for or issued if such licensing is required for the proposed communication towers, antennas, or other equipment, appurtenances, or facilities.
- I. An analysis that shows the potential visual impacts of the communication towers, antennas, or other equipment, appurtenances, or facilities, as directed by the City Engineer. The analysis may be required for up to 6 different vantage points to understand and present fully the impact on University Heights and surrounding neighborhoods.

After reviewing Verizon's application and considering Josiah's comments, the Commission will issue a report. (City Staff – Josiah and I – will compile the report, at the Commission's direction.) The report will be provided to Verizon for its review and response. The report will make a recommendation to the City Council – that the application should be approved as submitted; approved with conditions; or not approved. See Ordinance No. 215.08(2).

Exhibit "A" to Resolution No. 19-36

CITY OF UNIVERSITY HEIGHTS, IOWA
APPLICATION - COMMUNICATION TECHNOLOGY EQUIPMENT
To Be Completed By City Staff

Application Number: _____ Accepted By: _____
Date Application deemed Complete: _____ Due Date for Zoning Commission Report: _____

To Be Completed by Applicant

1. Applicant: _____
Contact Person: _____
Address: _____
Phone: _____ Email: _____

2. Licensed Entity Name (Full Legal Name): _____
State of Incorporation: _____
Notification Address: _____
Billing Address: _____

3. Property Owner (if outside of City right-of-way): _____
Contact Person: _____
Address: _____
Phone: _____ Email: _____

4. Owner - Third Party Structures _____
Contact Person: _____
Address: _____
Phone: _____ Email: _____

5. Installation Contractor: _____
Contact Person: _____
Address: _____
Phone: _____ Email: _____

Table with 4 columns: Contact Info, Firm and Contact Name, Phone, E-Mail. Rows include Signatory, Legal, Notification, RF Engineer, Construction Engineer, Real Estate / Site Acq, 24-Hr Emergency Contact.

7. Type of Application:
_____ Cellular Antenna Tower _____ Small Cell Tower _____ New Communications Structure
_____ Small Wireless Facility on Third-Party Structure _____ Other

8. Construction Start Date: _____

9. Construction Completion Date: _____

10. Date Facilities Begin Operating: _____

11. **Location(s) (General Description / Address):** _____
 (If multiple locations, attach a separate sheet)
12. **Present Zoning Designation(s):** _____
13. **Pre-application Meeting Held?** _____ **Attendees:** _____
14. The foregoing information and attachments are true and accurate to the best of my knowledge

 Date Signature of Applicant

 Print Name

Criteria applicable to work within the City right-of-way:

- A. No construction work may occur on the Friday, Saturday or Sunday of any home Iowa football game weekend. All sidewalks and roadways must also be open (and paved) on these weekends.
- B. It is the responsibility of the contractor to keep all work and installed utilities within the City right-of-way
- C. No work shall be done between the hours of 9:00 PM and 7:00 AM.
- D. Traffic control, both vehicular and pedestrian, shall be in accordance with the MUTCD, latest edition. Pedestrian traffic control signs, barricades and detours are required whenever sidewalks are impacted by the work, and all unattended open excavations within the right-of-way shall be fenced.
- E. Iowa One-Call shall be contacted to have buried utilities located prior to any excavation. Storm sewer mapping is available from the City Engineer. The sanitary sewers and water mains within University Heights are owned, operated and maintained by the City of Iowa City.
- F. All areas disturbed within the right-of-way (including tire tracks or rutting from equipment) shall be restored. The applicant is responsible for watering and care of the disturbed areas until they are established. The City Engineer shall determine if disturbed areas have been restored to an equal or better condition. If directed to install sod, the work will be in accordance with SUDAS Specification 9020.
- G. When damaged, pavement and sidewalks are to be replaced in full panels. This includes core drilling holes when locating existing utilities, or any other damage related to the construction. The contractor shall coordinate the location and dimensions of all pavement to be removed and replaced with the City Engineer. The SUDAS specifications and details (current edition) shall be used for pavement reconstruction. The contractor is responsible for providing 48-hour advance notice to the City Engineer to schedule subgrade compaction and concrete testing for new pavement. The applicant shall reimburse the City of University Heights for all costs associated with materials testing work required for pavement replacement.
- H. All paved surfaces are to be protected per Section 7 of University Heights Ordinance #88: "Backhoe equipment outriggers shall be fitted with rubber pads whenever outriggers are placed on any paved surface. Tracked vehicles are not permitted on paved surfaces unless specific precautions are taken to protect the surface. The permittee will be responsible for any damage to existing pavement caused by operation of such equipment." Refer to University Heights Ordinance #88 for all regulations regarding excavations within the city right-of-way.

CITY OF UNIVERSITY HEIGHTS, IOWA
SUBMISSION MATERIALS – COMMUNICATION TECHNOLOGY EQUIPMENT

The following information is required to be submitted with the Application before it will be considered complete: ☐

- All submission materials identified in University Heights Ordinance 215.08.
- A statement of the telecommunications objectives for the proposed location.
- A statement by an authorized representative that the Applicant or provider holds all applicable licenses or other approvals required by the Federal Communications Commission, and any other agency of state or federal government with authority to regulate telecommunications facilities that are required in order for the Applicant to construct the proposed facility.
- A statement by an authorized representative that the Applicant or provider is in compliance with all conditions required for such license and approvals.
- A full description and dimensions of all communications structures and equipment proposed to be installed.
- A site development plan, signed and sealed by a professional engineer registered in Iowa, showing locations of proposed structures and equipment. For applications in which multiple facilities are proposed, an overall site development plan showing all proposed locations must be provided. Additionally, for applications proposing installation of new towers, the site development plan shall show the provider's existing communications structures and equipment within two hundred (200) feet of the proposed site and shall use a current aerial image or overlaid on the site plan.
- A vertical profile sketch or drawing of the communications structures, signed and sealed by a professional engineer registered in Iowa, indicating the height, dimensions and placement of all equipment.
- For sites not within the City right-of-way, written approval from the property owner stating the Applicant or provider has permission to construct a facility on their property. In the case of installations on third-party owned structures, written approval must be submitted from the duly authorized representative of the third-party holding ownership.
- Photographs of view shed at each proposed installation location, taken in at least four directions. Additionally, for applications proposing installation of new towers, the photographs shall have the equipment drawn or rendered on the photographs, shown to scale. The City Engineer may waive these requirements, in whole or in part, at his or her discretion, upon reasonably determining that such requirements are not necessary in light of other information submitted with the Application (or with prior Applications involving the same, or substantially similar, communications structures and equipment.)
- For applications proposing installation of new towers or poles, description of type and ownership of existing overhead utilities within five hundred (500) feet of the proposed facility location.
- Traffic Control Layouts (pedestrian and vehicular) at each proposed location (per the Manual on Uniform Traffic Control Devices (MUTCD), latest edition), and site construction fencing details.
- The project specifications for the construction and installation, including site restoration and maintenance plans.
- Cut sheets and specifications of all proposed equipment, including but not limited to antenna, switches, meters, external wireway systems, relay units, banding and mounting equipment, and any other necessary equipment.
- Notes, details and schematics of the grounding system and layout, handhole or pull box locations and details (with dimensions), utility routing plan, and power and fiber routing details at the pole.

Per ordinance, the application, fee, and all submission materials shall be submitted to the City Clerk.

The review fee is \$500.00 per application, covering up to 5 separate structure or equipment installations, and an additional \$50.00 for each structure or equipment installation requested on the application in excess of 5. Make checks payable to the "City of University Heights."



John Palmtag
Manager – Regulatory Real Estate
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Omaha, NE 68137
402.480.0906
john.palmtag@verizonwireless.com

May 11, 2020

Josiah D. Bilskemper, P.E.
Shive-Hattery, Inc.
2839 Northgate Drive
Iowa City, Iowa 52245
jbilskemper@shive-hattery.com

Re: University Heights, Iowa – Communication Technology Equipment Applications for Small Wireless Facility sites at 255 Koser Avenue, 1509 Oakcrest Avenue, 101 Highland Drive, and 1422 Grand Avenue

Dear Mr. Bilskemper:

As discussed during our conference call on April 14, 2020, enclosed with this letter is information submitted in response to your email of January 9, 2020, regarding the four Applications for Communications Technology Equipment, referenced above, that were delivered to the City on August 2, 2019 (collectively, the “Applications”).

This submittal is for informational purposes only, and Verizon reserves all rights under applicable laws, including those with respect to applicable shot-clocks under the Iowa Cell Siting Act (see attached letter of February 4, 2020, from Verizon outside counsel).

Verizon remains committed to the working relationship with the City, and looks forward to deploying in the City in order to help assist communication connectivity issues in the community.

Sincerely,

Cellco Partnership d/b/a Verizon Wireless

cc: Jeffrey S. Armour (email: jeffrey.armour@verizonwireless.com)
Emily Milewski (email: emily.milewski@verizonwireless.com)
Laura Beth Alms (email: laura.alms@verizonwireless.com)

MEMORANDUM

TO: University Heights Zoning Commission
University Heights City Council

FROM: Josiah Bilskemper, P.E.

DATE: June 1, 2020

RE: Verizon Wireless – Supplemental Application Information
Communication Technology Application (Small Cell Installations)
(255 Koser Avenue, 1509 Oakcrest Avenue, 101 Highland Drive, 1422 Grand Avenue)

Verizon is proposing to install small cell antenna installations on existing MidAmerican wood utility poles at four locations within the right-of-way in University Heights (addresses listed above). Correspondence with Verizon in January 2020 included the review comments below. The Zoning Commission met on March 9, 2020 and requested that Verizon submit responses to the review comments. Verizon submitted supplemental information on May 11, 2020.

Below are the original January 2020 review comments with Verizon’s response (VR) to each item.

After reviewing each of the responses, I do not have any concerns about the scope of the Verizon work being proposed. I provided a few responses below in “blue” text to a few items, primarily related to MidAmerican. This is in reference to a utility pole on Oakcrest, and the underground power needed to supply the pole on Grand Avenue. We can work directly with MidAmerican to address these issues.

The Zoning Commission is scheduled to meet Thursday, June 4, to continue their review process.

In accordance with University Heights Ordinance 215, the Zoning Commission will issue a report that may contain additional submission requirements, recommendation for approval with or without special conditions, or recommendation for denial with rationale. The report shall recommend that the City Council approve or not approve of the applications.

The City Council is scheduled to meet Tuesday, June 9. An agenda item is planned to be included for consideration of the recommendation from the Zoning Commission, and action to either approve the application with no conditions, approve the application with conditions, or disapprove the application.

The review comments and supplemental responses follow, as taken from the supplemental information provided by Verizon on May 11, 2020 (also attached).

Application Review Comments / Questions:

1. For each site, provide estimated dates for construction start and completion, and estimated date when facilities would begin operating.
 - a. VR: Verizon states estimated dates for construction start, completion, or when the facilities will start operating cannot be provided. Will only say that average construction time for construction of a site is within 6-18 months after issuance of the permit. Verizon commits to keep the City advised of work commencement and completion in compliance with applicable codes.



- b. VR: With respect to contractor information, we will not bid out the work until after we have the permit, so we do not know this information at this time.
 - c. JDB: We will stay in correspondence with Verizon to be advised of the start of the construction work and contractor information.
- 2. Provide a statement by an authorized representative that the Applicant or provider holds all applicable licenses or other approvals required by the Federal Communications Commission, and any other agency of state or federal government with authority to regulate telecommunications facilities that are required in order for the Applicant to construct the proposed facility.
 - a. VR: The Permit Applicant avers that Verizon holds all applicable licenses or other approvals required.
- 3. Provide a statement by an authorized representative that the Applicant or provider is in compliance with all conditions required for such license and approvals.
 - a. VR: The Permit Applicant avers that Verizon is in compliance with all conditions required for such license and approvals.
- 4. The current license status is listed as “canceled” on the FCC website. What does this mean? Copy of license detail sheet attached from FCC website.
 - a. VR: “At the end of 2019 Southwestco Wireless Inc. merged into Bell Atlantic Mobile Systems LLC. Please see Exhibit A attached hereto with the current license for Bell Atlantic Mobile Systems LLC.”
- 5. In the case of installations on third-party owned structures, written approval must be submitted from the duly authorized representative of the third-party holding ownership. Attachment 5 to the March 2019 letter shows an October 8, 2018 e-mail from Erik Somers of MidAmerican Energy indicating that the pole locations at 101 Highland Drive and 1509 Oakcrest Avenue are approved, but that the pole locations at 255 Koser Avenue and 1422 Grand Avenue had not yet been finalized.
 - a. Submit a current written approval from a duly authorized representative of MidAmerican confirming that all these locations have been approved.
 - i. VR: “We have received an updated approval with structural design language from MidAmerican Energy. Please see Exhibit B attached hereto.”
 - b. The notes on Sheet T-3 state that the structural design of the pole is by MidAmerican Energy. Provide a statement by an authorized representative of MidAmerican Energy that structural capacity of the poles is suitable for the proposed attachments and accompanying loads.
 - i. VR: “We have received an updated approval with structural design language from MidAmerican Energy. Please see Exhibit B attached hereto.”
- 6. Submit a proposed plan and schedule for periodic maintenance and inspection of the antennas, other equipment, appurtenances and facilities by qualified parties.

- a. VR: "Verizon routinely checks its equipment and makes any necessary repairs, all in compliance with applicable laws. However, there is not a predetermined maintenance schedule applicable to small wireless facilities such as those covered by Verizon's Applications."

General Plan Sheet Comments (applicable to all sites)

7. T-Sheets:

a. Pole Elevation Detail

- i. Is the pole currently installed already the "replacement pole" or is the existing pole going to be replaced with a new pole?

- a. VR: SC1 (Koser) To be replaced soon
- b. VR: SC2 (Oakcrest) Pole replaced 8/29/19
- c. VR: SC3 (Highland) Pole replaced 4/3/18
- d. VR: SC7 (Grand) Original pole does not need replaced

b. Antenna Spec Sheet Detail

- i. What color is the antenna canister?

- a. VR: "Antenna is to be painted bolt brown."

c. Antenna Mount Details

- i. What color are the mount attachments (references brown, black, or gray)?

- a. VR: "To be painted bolt brown."

d. RRU Mount Details

- i. Clarify: What are the two sets of dashed lines running outside the poles (not in conduit) and connecting to the Raycap and the RRU?

- a. VR: "Dashed lines are the fiber to the RRU and fiber from the RRU to the Antenna."

e. In the "Finishes" section, the following is stated: "Contractor to paint antennas, RRU's and related equipment SW4001 Bolt Brown to match pole color."

- i. Who selects the final color, and how many options are available?

- a. VR: "Bolt Brown has been selected to blend in with the new pole."

- ii. Do all of the equipment, brackets, conduits, etc. on the pole get painted the same color, or is there some equipment that doesn't get painted?

- a. VR: "Equipment is to be painted Bolt Brown, brackets to be painted Bolt Brown, Conduits will be gray without paint on them."

- b. JDB: Since all installations are being installed on wood poles, the brown color seems to be a good choice compared to black or gray.

8. G-Sheets:

- a. What is the "ground lead" cable type and size and where does it run on the pole? Is it in conduit?
 - i. VR: "This is a single wire approximately 0.25 inches in diameter that would run next to the conduit to ground the equipment on the pole."
- b. Will ground lead connect to proposed ground rods (new) or an existing ground system?
 - i. VR: "There will be new ground rods if there are not any existing. We will not know until a contractor starts digging at the base of the pole to determine if there is an existing ground system in place."

9. U-Sheets:

- a. Utility Routing Plan
 - i. What size and color of Sch 80 PVC will be installed on the side of the pole for the fiber optic cable?
 - a. VR: "Size and color of Sch 80 PVC: 1-inch gray"
 - ii. For the secondary service, what is the color of the 1" SCH 80 PVC conduit?
 - a. VR: "Color of 1-inch Sch 80 PVC conduit: Gray"
 - iii. For all PVC conduits attached to the pole, what is the distance between where the conduit ends and where the wires connect to the Raycap or the RRU's? In other words, how much exposed wire or cable will be hanging off the poles?
 - a. VR: "Exposed wire: Intent is to have as little exposed wire as possible to make the bends needed (approximately 6-12 inches)."
- b. Conduit Plan
 - i. What is the existing 1-inch conduit labeled on these details? Is that part of this installation?
 - a. VR: "Existing 1-inch conduit are on the sides of the poles that have Underground Power feeds running to them. Our drawings show that there is existing conduit running up the sides of these poles in U-Guards or Conduits currently to supply power to the light fixtures."
- c. Electrical One-Line Diagram
 - i. Confirm where and how the final electrical routing will feed the proposed equipment (plan notes say the final routing is to be verified). Is everything overhead feed except for 1422 Grand Avenue?

- a. VR: "Final routing to be verified with MidAmerican. Overhead power supply on all sites except 1422 Grand Avenue."

Specific Plan Sheet Comments (255 Koser Avenue)

10. Sheet T-3 (Pole Elevation Detail)

- a. What needs to happen so the "Raycap" enclosure can be installed at 16'-0" above "Ground Elevation" instead of 10'-0" minimum (thereby moving the equipment higher on the pole and reducing the visual impact to the streetscape and neighborhood)?
 - i. VR: "Intent is to install Raycap at 16 feet. The 10ft minimum is a MidAm and VZW requirement so no one can jump up to grab it."
- b. Can the equipment be set atop the pole similar to 1422 Grand Avenue?
 - i. VR: "No, will remain as shown on drawings."

Specific Plan Sheet Comments (1509 Oakcrest Avenue)

11. Sheet T-3 (Pole Elevation Detail)

- a. Can the replacement pole be set back further behind the curb (48-inches clear) to move outside of the roadway clear zone?
 - i. VR: "If this is a requirement, we can work with MidAm to move the pole location. City will need to advise."
 - ii. JDB: Recommend taking this opportunity to work with MidAmerican to see if the pole can be moved further behind the curb in conjunction with this work.
- b. What needs to happen to be able to set the cantenna at an elevation of around 20-feet above grade (similar to 255 Koser Avenue), or set on top of the pole (similar to 1422 Grand Avenue), which would move the equipment higher on the pole and reduce visual impact to the streetscape and neighborhood?
 - i. VR: "Will remain as shown on drawings."

Specific Plan Sheet Comments (101 Highland Drive)

12. Sheet T-3 (Pole Elevation Detail)

- a. What needs to happen to be able to set the cantenna at an elevation of around 20-feet above grade (similar to 255 Koser Avenue), or set on top of the pole (similar to 1422 Grand Avenue), which would move the equipment higher on the pole and reduce visual impact to the streetscape and neighborhood?
 - i. VR: "Will remain as shown on drawings."

Specific Plan Sheet Comments (1422 Grand Avenue)

13. Sheet U-2 (Power Routing Plan)

- a. There is not enough detail provided to review this part of the work. When, how and who is installing this underground power connection, and exactly what is being installed? Resubmit with additional detail.
 - i. VR: "The power route information is as provided on the CDs and will be updated upon permit issuance depending on MidAm requirements."
 - ii. JDB: The information provided is not clear or sufficient. This work will be completed separately by MidAmerican. We will work directly with MidAmerican to work out the details and routing of this underground power installation.

Please contact our office if you have questions regarding this report.

Sincerely,

SHIVE-HATTERY, INC.



Josiah Bilskemper, P.E.

JDB

Enc. Verizon Supplemental Materials (May 11, 2020)

Copy: Louise From, Mayor
Chris Anderson, City Clerk
Steve Ballard, City Attorney
Jeff Armour, Verizon Wireless
Emily Milewski, Verizon Wireless
John Palmtag, Verizon Wireless
John Mautino, Stinson LLP

ORDINANCE NO. 215 (as amended)

**AN ORDINANCE REGULATING USE OF CITY PROPERTY, INCLUDING CITY
RIGHT-OF-WAY, AND ESTABLISHING A PROCESS FOR LOCATING EQUIPMENT
RELATED TO COMMUNICATION TECHNOLOGIES**

215.01 Purpose and Policy

215.02 Definitions

215.03 Local Regulation

215.04 Facilities Located on City Property

215.05 Locating Small Wireless Facilities in Residential Zones

215.06 Setback and Maximum Height Requirements

215.07 Abandonment

215.08 Process for Considering Applications

215.09 Home Rule

215.10 Effective Date

215.01 PURPOSE AND POLICY.

The City Council of the City of University Heights, Iowa, finds that in order to promote and protect public health, safety, and welfare; to secure the right of the City to regulate its public property and charge a reasonable fee for use of public property, including City right-of-way; to provide efficient delivery of services by the City and others wishing to utilize communication technologies; and to provide for the regulation and administration and orderly location of communication equipment, it is necessary for the City to establish these uniform rules, regulations and policies.

215.02 DEFINITIONS.

As used in this chapter:

"Antenna" means a device, dish, or array used to transmit or receive telecommunication signals associated with a "wireless facility", as that phrase is defined by Iowa Code § 8C.2, as presently existing or hereafter amended.

"Communications structures" means the electronic, telephonic, or other high-tech transmission, reception, or exchange of data or information between or among points specified by the user of information of the user's choosing, without change in the form or content of the information as sent or received.

"Communications" means towers, pole, or similar structures that support a communications antenna operated for commercial purposes above ground in a fixed location, whether free standing, guyed, or on a building.

"Height" means the distance from ground level at the base of the tower or the base of any supporting structure to the top of the tower or structure including any antenna(s) or other appurtenances.

215.03 LOCAL REGULATION.

The Telecommunications Act of 1996 prohibits the City from establishing policies that discriminate against one or a group of providers in favor of another or another group of providers or potential providers. The following objectives shall be applied consistently to all telecommunications providers that request a location for their communication towers and antennas:

1. To minimize the overall number of communications towers located in the City, providers may be required to participate in collocation agreements where permitted by law.

2. To ensure that new communications towers, excluding those affixed to utility poles or Small Wireless Facilities ("SWF") support structures, will blend into their environment, providers will propose designs consistent with site characteristics.

3. To maximize safety, new communications towers excluding City-owned structures, antennas attached to utility poles, and SWFs, will be located away from population and employment centers and siting of new towers will include fall zone setbacks as specified herein.

This Ordinance intends to establish rights, responsibilities, and procedures consistent with Federal and State Law, including Iowa Code ch. 8C, and not in conflict or derogation of those laws.

215.04 FACILITIES LOCATED ON CITY PROPERTY.

1. Lease Required. Unless otherwise provided by Iowa law, no communications structures, no communications tower, antenna, or other equipment, appurtenance, or facility shall be located or use any public property, including City right-of-way, whether above, below, or at grade, without first obtaining a lease or receiving a franchise from the City. Such lease may specify payment of adequate rent or other consideration as deemed appropriate and reasonable by the City Council and in accordance with State law. Notwithstanding the foregoing, a new lease or other interest will not be required for location and use of SWFs attached to any third-party owned structure, or support structure installed by applicant, lawfully located within or upon City-right-of way or other City property.

2. Insurance Required. The owner of the communications tower, antenna, or other equipment, appurtenance, or facility will produce proof of liability insurance, in an amount specified by the City, for potential injury and damage that could reasonably be caused to City personnel, property and facilities, and other property and casualty loss, by the location of the communications towers, antennas or facilities on City property, including City right-of-way.

3. Priorities. In determining whether to grant an application for use of City right-of-way or other City owned property, including City right-of-way and structures, will be given to the following entities in descending order of priority:

A. All functions of the City.

B. Public safety agencies that are not part of the City, including law enforcement, fire and ambulance services, and private entities with public safety agreements with the City.

C. Other governmental agencies for uses not related to public safety.

D. Entities providing communication services, including cellular, personal communication services, specialized mobilized radio, enhanced specialized mobilized radio, paging and similar services that are marketed to the general public for business and/or personal use.

4. Placement of Facilities. The placement and maintenance of communication towers, antennas, or other equipment, appurtenances, or facilities on City-owned property, including City right-of-way

represents a potential conflict with the purpose of City-owned property, including City right-of-way. Communication towers, antennas, or other equipment, appurtenances, or facilities will be considered for location only on portions of City property, including City right-of-way, that is as remote and distant as possible from places where people regularly live, work, or gather and must be limited in size and character so as to minimize the impact to adjacent property owners; provided, however, that the location preferences set forth in this Section will not apply to location and use of SWFs attached to third-party owned structures, City-owned support structures, or support structures installed by applicanr, lawfully located within or upon City right-of-way or other City property. It is the expressed preference, policy, and goal of the City to locate any and all communication towers, antennas, or other equipment, appurtenances, or facilities below grade.

5. Leases Exclusive to Lessee. Any lease entered into by the City for use of City property, including City right-of-way, shall be exclusive to the lessee identified in the lease and may not be assigned without prior written approval by the City Council, unless otherwise stipulated within such lease. No lessee may enter into a sublease or permit others to access or enjoy rights under the lease without prior written approval by the City Council.

6. Application for Lease/Use of R.O.W. Any person or entity proposing to locate communication towers, antennas, or other equipment, appurtenances, or facilities on City-owned property, including City right-of-way, or otherwise proposing to use City property, including City right-of-way, shall complete an application (in the form attached or as otherwise amended by the City Council by resolution) to the City Engineer.

215.05 LOCATING SMALL WIRELESS FACILITIES IN RESIDENTIAL ZONES

To the extent authorized by Iowa law, this Ordinance hereby proscribes locating communications facilities, including wireless facilities, small wireless facilities, and micro wireless facilities in the R-1 Single-Family Residential Zone, as established and defined by the City Zoning Ordinance.

Locating small wireless facilities in the R-1 Single-Family Residential Zone constitutes and is hereby declared a special or conditional land use. Any person or entity desiring to locate small wireless facilities, including new wireless support structures, in the R-1 Single-Family Residential Zone must obtain a special or conditional land use permit from the City Council after showing

that the proposed use is reasonably necessary and will not be detrimental to neighborhood aesthetics and preserving clear lines of sight and view or otherwise detrimental to public health, safety and welfare.

215.06 SETBACK AND MAXIMUM HEIGHT REQUIREMENTS.

1. Where permitted, a communications tower or other equipment, appurtenance, or facility must be set back from all lot lines a distance equal to or greater than the tower height. Notwithstanding the foregoing, this set-back restriction shall not apply to SWFs attached to third-party owned structures, City-owned support structures, or support structures installed by applicant, lawfully located within or upon City-right-of-way or other City property.

2. Where permitted, a communications tower or other equipment, appurtenance, or facility, excluding SWF support structures, may not extend to a height that is the lesser of the following, unless otherwise provided by Iowa law:

- a. The height restrictions of the Zoning Ordinance;
- b. Forty feet (40') above the ground level at the base of the facility; or
- c. Ten feet (10') above the tallest utility pole within five hundred feet (500') of the facility that existed July 1, 2017.

3. Where permitted, communications towers or other equipment, appurtenance, or facility located on the roof of a structure must be set back at least one foot from the edge of the roof of the structure. This setback requirement shall not apply to communications facilities located above the roof of the structure, if the facilities are:

- A. Appropriately screened from view through the use of panels, walls, fences or other screening techniques approved by the City; or
- B. Camouflaged antennas that are mounted to the exterior of the antenna support structures below the roof but do not protrude more than 24 inches from the side of such an antenna support structure.

215.07 ABANDONMENT.

In the event the use of any communication towers, antennas, or other equipment, appurtenances, or facilities have been discontinued for a period of one hundred eighty (180) consecutive days, the communication towers, antennas, or other equipment, appurtenances, or facilities shall be deemed to be abandoned. Determination of the date of abandonment shall be made by the City Council, which shall have the right to request documentation and/or affidavits from the owner of the communication towers, antennas, or other equipment, appurtenances, or facilities regarding the issue of tower usage. At 181 days after the date of abandonment, without reactivating or upon completion of dismantling or removal, any City approval for the communication towers, antennas, or other equipment, appurtenances, or facilities shall automatically expire. Upon abandonment, the owner of the communication towers, antennas, or other equipment, appurtenances, or facilities shall have 90 days within which to dismantle and remove the communication towers, antennas, or other equipment, appurtenances, or facilities. If not done within this 90 day period, the City may dismantle and remove the communication towers, antennas, or other equipment, appurtenances, or facilities with all costs assessed to the owner.

215.08 PROCESS FOR CONSIDERING APPLICATIONS.

The following procedures shall apply to all proposed communication towers, antennas, or other equipment, appurtenances, or facilities or antenna facilities on public or private property, and to all other proposed uses of City property, including City right-of-way.

1. Submission Materials and Basis for Approval or Denial. To the extent not prohibited by applicable State or Federal law, the following information shall be submitted to the City Clerk and will be used by the City in review of the application:

A. The application and accompanying fee as set by the City Council.

B. One copy of specifications for all proposed structures, including a description of the design characteristics and material to be used.

C. A site plan drawn to scale showing existing features including property lines; existing structures and other improvements; all structures within 200 feet of the proposed location; proposed features including location and height of all communication towers, antennas, or other equipment, appurtenances, or facilities; guy wires and anchors;

photographs or elevation drawings depicting design of the proposed structures; parking; fences; and landscape plan.

D. A current map or update for an existing map on file showing the locations of the owner's existing and proposed communication towers, antennas, or other equipment, appurtenances, or facilities.

E. A report from a structural engineer showing the capacity of all communication towers, antennas, or other equipment, appurtenances, or facilities by type and number, if applicable, and a certification that the communication towers, antennas, or other equipment, appurtenances, or facilities are designed to withstand winds in accordance with ANS/EIA/TIA-222 (latest revision) standards, as well as a proposed plan and schedule for periodic maintenance and inspection of the communication towers, antennas, or other equipment, appurtenances, or facilities by qualified parties.

F. Identification of the owners of all proposed communication towers, antennas, or other equipment, appurtenances, or facilities.

G. Written authorization from the site owner for the application.

H. Evidence that a valid FCC or other Federal or State license for the proposed activity has been applied for or issued if such licensing is required for the proposed communication towers, antennas, or other equipment, appurtenances, or facilities.

I. An analysis that shows the potential visual impacts of the communication towers, antennas, or other equipment, appurtenances, or facilities, as directed by the City Engineer. The analysis may be required for up to 6 different vantage points to understand and present fully the impact on University Heights and surrounding neighborhoods.

J. Additional information, as requested by City representatives, including the City Engineer, to determine that all applicable provisions of the Zoning Ordinance and other City ordinances and regulations are met.

2. Review and Action. The following review process shall be used upon receipt of a fully completed application to the extent not prohibited by applicable State or Federal law:

A. Upon receipt of the application, the City Clerk shall forward copies of the material to the City Council, Zoning Commission, City Engineer, and City Attorney.

B. The Zoning Commission, with assistance from the City Engineer or other City representatives, shall review the application for conformance to City code provisions and issue a report for the applicant's review and response. The report may contain additional submission requirements, recommendation for approval with or without special conditions, or recommendation for denial with rationale; and shall be prepared within 30 days of the application filing. The report shall recommend that the City Council approve or not approve the application.

C. The owner shall provide a response to the Zoning Commission report in writing, and the report, with the owner's response, shall be finalized and placed on the City Council meeting agenda together with the owner's submission materials and all related documents within 30 days of receipt of the response and any additional information required in the report.

D. The City Council may approve the application with no conditions, approve the application with conditions, or disapprove the application.

215.09 HOME RULE.

This chapter is intended to be and shall be construed as consistent with the reservation of local authority contained in the 25th Amendment to the Iowa Constitution granting cities home rule powers. This Ordinance intends to establish rights, responsibilities, and procedures consistent with Federal and State Law, including Iowa Code ch. 8C and not in conflict or derogation of those laws. To such ends, any limitation on the power of the City contained herein is to be strictly construed, and the City reserves to itself the right to exercise all power and authority to regulate and control its local affairs, and all ordinances and regulations of the City shall be enforced against the owners of any communications towers or antennas.

215.10. EFFECTIVE DATE

This ordinance shall become effective upon its passage and publication as provided by law.

and pluralize "tower". Section 215.08(1) add text "To the extent not prohibited by applicable State or Federal law, the". Section 215.08(2) add text "to the extent not prohibited by applicable State or Federal law." Section 215.09 adds text "communications" preceding towers.

Ordinance No. 240 was passed and approved on July 9, 2019, and published in the Iowa City Press-Citizen on the 16th day of July, 2019. Ordinance No. 240 amending Section 215.02 Definitions adds the word "structures" after the word "Communications". Section 215.03(1) adds the text "where permitted by law." Section 215.03(2) adds the text "excluding City-owned structures, antennas attached to utility poles, and SWFs". Section 215.04(1) adds the text "Unless otherwise provided by Iowa law, no communications structures". Adds the text "or support structure installed by applicant". Section 215.04(4) adds the text "City-owned support structures, or support structures installed by applicant". Section 215.06(1) adds the text "City-owned support structures, or support structures installed by applicant,". Section 215.06(2) adds the text "unless otherwise provided by Iowa law."

Steve/UH/Ordinances/Ordinance 214 re telecom and ROW 11 15 17 Amended by 237, 240.

APPLICATION FOR ROW USE

To Be Completed By City Staff

Application Number: _____

Accepted By: _____

Date Application deemed Complete: _____

Public Hearing Date (if applicable): _____

To Be Completed By Applicant

1. Property Owner: _____

Contact Person: _____

Address: _____

Phone: _____ Email: _____

2. Applicant (If different than owner): _____

Contact Person: _____

Address: _____

Phone: _____ Email: _____

3. Licensed Entity Name: _____
(Full legal name)

State of Incorporation: _____

Notification Address: _____

Billing Address: _____

4. Installation Contractor: _____

Contact Person: _____

Address: _____

Phone: _____ Email: _____

5. Contact Info	Firm and Contact Name	Phone	E-Mail
Signatory	_____	_____	_____
Legal	_____	_____	_____
Notification	_____	_____	_____
RF Engineer	_____	_____	_____
Construction Engineer	_____	_____	_____
Real Estate / Site Acq	_____	_____	_____
Emergency Contact	_____	_____	_____

6. Type of Application: _____ Cellular Antenna Tower _____ Small Cell Tower _____ Other

7. Anticipated Start Date: _____

8. Anticipated Completion Date: _____

9. **Location(s) (General Description / Address):** _____

(If multiple locations, you may attach a separate sheet)

10. **Present Zoning Designation(s):** _____

11. **Did you have a pre-application meeting?** _____

If yes, with who? _____

12. The foregoing information and attachments are true and accurate to the best of my knowledge

Date

Signature of Applicant

Print Name

This Section Applicable For Cellular Antenna Towers Only – Not Applicable for Small Cell Towers or Other Uses

_____ I acknowledge that someone able to represent the request will be present at a meeting with City representatives. If no one is present I acknowledge that I run the risk of receiving an unfavorable recommendation due to a lack of information.

SUBMISSION REQUIREMENTS FOR SMALL CELL TOWER USE

The following information is required to be submitted with the Application before it will be considered complete:

A written description and map showing the coverage area of the provider's existing facilities in the general and site-specific areas that are the subject of the Application.

A statement of the telecommunications objectives for the proposed location, whether the proposed facility is necessary to prevent or fill a gap or capacity shortfall in the Applicant or provider's service area, whether it is the least obtrusive means of doing so, and whether there are any alternative sites that would have fewer aesthetic impacts while providing comparable service.

A statement by an authorized representative that the Applicant or provider holds all applicable licenses or other approvals required by the Federal Communications Commission, and any other agency of state or federal government with authority to regulate telecommunications facilities that are required in order for the Applicant to construct the proposed facility.

A statement by an authorized representative that the Applicant or provider is in compliance with all conditions required for such license and approvals.

A full description of the number and dimensions of all Small Cell Towers proposed to be installed.

A site development plan, signed and sealed by a professional engineer registered in Iowa, showing the proposed location of the tower and existing structures within five hundred (500) feet of the proposed site. For Applications in which multiple towers are proposed, an overall site development plan showing all proposed locations must be provided. A current aerial image shall be utilized or overlaid on the site plan showing proposed locations.

A vertical profile sketch or drawing of the towers, signed and sealed by a professional engineer registered in Iowa, indicating the height of the tower and the placement of all antennas and equipment enclosures.

Written approval from the property owner stating the Applicant or provider has permission to construct a facility on their property. In the case of public Right-of-Way or public property, written approval must be submitted from the duly-authorized representative of the governing body holding ownership.

Photographs of view shed from each proposed tower location, taken in at least four directions, and a photograph of the proposed installation location with the proposed equipment drawn or superimposed on the photograph, shown to scale.

Description of whether other Overhead Utilities exist within five hundred (500) feet of the proposed antenna location.

Traffic Control Layouts (pedestrian and vehicular) for all proposed locations (shall be consistent with the Manual on Uniform Traffic Control Devices (MUTCD), latest edition), and site construction fencing details.

The project specifications for the construction and installation, including site restoration plans.

Cut sheets and specifications of all proposed equipment, including but not limited to antenna, switches, meters, external wireway systems, relay units, banding and mounting equipment, and any other necessary equipment.

Notes, details and schematics of the grounding system and layout, handhole or pull box locations and details (with dimensions), utility routing plan, and power and fiber routing details at the pole.

All requested information should be submitted to Staff prior to the required pre-application conference to assure a quick and judicious review of the submittal.

The application review fee is \$500.00 per location. Please make checks payable to the "City of University Heights".

REPORT

To: University Heights City Council

From: University Heights Zoning Commission

Date: June 4, 2020

Re: Verizon Wireless – Communication Technology Application

Introduction

Verizon Wireless has submitted an application to locate 4 small cell antennas on existing MidAmerican Energy utility poles located within City right-of-way. These antennas are part of Verizon’s deployment of a 5G wireless system to improve service locally (in University Heights) and to accommodate increased service needs (consumer and governmental) anticipated in the future.

The Zoning Commission has reviewed and considered Verizon’s application materials, as well as the City Engineer’s requests for additional information, and Verizon’s replies to those requests. The Zoning Commission has also reviewed and considered the report and comments of the City Attorney. The Zoning Commission did not receive public input at either its March 9 or June 4, 2020 meetings

Findings Recommendation

The Zoning Commission finds and concludes that the Verizon application conforms to City Code provisions. The Zoning Commission recommends that the University Heights City Council approve Verizon’s application, subject only to any additional stipulations, requirements, or conditions provided from City Staff, and these additional points:

- _____
- _____
- _____
- _____

This report is provided pursuant to University Heights Ordinance No. 215.08(2).

Upon motion by _____, and seconded by _____, to approve this report, the vote was as follows:

	AYE	NAY	ABSENT	ABSTAIN
Franklin	_____	_____	_____	_____
Haugen	_____	_____	_____	_____
Panther	_____	_____	_____	_____
Rosebrook	_____	_____	_____	_____
Yeggy	_____	_____	_____	_____

Upon Roll Call thus recorded, the Report is declared adopted and approved this 4th day of June, 2020.

UNIVERSITY HEIGHTS ZONING COMMISSION

Stuart Rosebrook, Chair