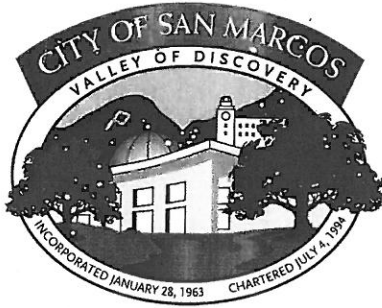


ATTACHMENT C
December 18, 2013 Planning Commission Staff Report



AGENDA REPORT

Meeting of the San Marcos Planning Commission

MEETING DATE: December 18, 2013
SUBJECT: Proposed replacement of Chapter 20.465 (Wireless Telecommunications Facilities) of the San Marcos Municipal Code (SMMC) and affected sections of SMMC Title 20
CASE: P13-0065 (Text Amendment 13-001)

Recommendation

That the City Council consider approving modifications to the SMMC that would supersede and replace Chapter 20.465 of the SMMC in its entirety, as well as the affected sections of SMMC Title 20, and that the City Council consider approving an Addendum to the General Plan Program FEIR that was prepared and adopted for the update to SMMC Chapter 20.465.

Introduction

The City currently regulates Wireless Telecommunications Facilities (WTFs) pursuant to San Marcos Municipal Code Chapter 20.465. The existing zoning regulations were designed to encourage wireless telecommunications facilities to be located on City owned property, on commercial/industrial sites and to incorporate a camouflaged design. WTFs that meet these requirements can be processed administratively by right. If a proposed WTF does not meet the "by right" requirements, the application requires compliance with the Conditional Use Permit process, which requires action by the Planning Commission. The current zoning regulations do not explicitly identify submittal and design requirements for sites that are processed with a Conditional Use Permit (for example, sites within residential and agricultural zones). The proposed revisions to Chapter 20.465 provide a uniform and comprehensive set of procedures and standards for the development, siting, installation, and removal of WTFs, Amateur Radio Facilities, and Over-the-Air Receiving Devices (*e.g.*, television antennas and certain types of satellite antennas) within the City.

Background

With a recently proposed WTF within a residential area, the community expressed concerns about locating proposed wireless telecommunications facilities within residential areas, as well as about how proposed WTFs within residential areas are regulated by the City. On October 22, 2013 the City Council



directed staff to update the Telecommunications Ordinance and obtain the Planning Commission recommendation on proposed revisions within 60 days.

After receiving the City Council's direction, staff researched how other jurisdictions regulate WTFs (including, but not limited to, County of San Diego, Carlsbad, Encinitas, Escondido and Glendale). In addition, staff and our advisors have communicated and met with residents to discuss their concerns with proposed WTFs. Residents have indicated specific concern with siting WTFs within residential and agricultural areas, including the potential for "tree farms" that may be constructed on an individual site. Additionally, a public workshop was held on December 11, 2013 to provide an overview of the proposed regulations and to obtain public input. Attached is a list of public comments made at the workshop. At the hearing, staff will provide an additional overview of public comments made at the workshop and/or received afterwards.

Federal law as interpreted by court decisions preserves a local jurisdiction's authority to regulate WTFs, but with restrictions set forth in the Telecommunications Act of 1996 (TCA) Section 704 and 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012.

TCA Section 704 provides that the City may not "unreasonably discriminate" against any provider; the City may not prevent the completion of a provider's network; the City must process applications in a "reasonable" timeframe (further clarified to include specific "shot clock" timelines); and that the City cannot deny an application based on perceived health risks associated with RF Emissions. Section 6409(a) provides that "[a] state or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station . . ."

The proposed Chapter 20.465 incorporates reasonable regulations and procedures that address community siting and aesthetic concerns while complying with applicable state and federal laws. The revised Chapter is organized into the following sections: Purpose, Applicability, Permit requirements for all WTFs; Location Criteria; Application Content (submittal requirements); Design and Development Standards used by staff to review applications; Maintenance and Operation; Abandonment and Discontinuance of WTFs; Duration of Permits; As-Built requirements, change or transfer of ownership requirements, regulations for Amateur Radio Facilities and Over-the-Air Receiving Devices, compliance obligations, appeal and enforcement procedures, and definitions.

Discussion

The revised Chapter 20.465 regulations are similar to the WTF regulations adopted by the County of San Diego, Carlsbad, and other jurisdictions, but are modified as necessary to meet the specific community needs of the City of San Marcos. For example, structuring the Ordinance to identify "preferred" and "discouraged" locations of a proposed WTF and to define the permit processing requirements based on the design and location of a proposed WTF. The Ordinance also encourages the location of WTFs



outside of residential and other sensitive areas; encourages the use of camouflaged designs and provides for managed development in the City with the fewest number of WTFs required to complete a network.

The provisions of the revised Chapter 20.465 will be applicable to all WTF permit applications received by the City after the Effective Date of the adopted Ordinance and all Wireless Telecommunications Facilities that have been previously approved, but are now or hereafter expanded, modified by the replacement of materially different and/or removal of wireless telecommunications facility equipment, or when one or more new bands of service are activated. The revised Chapter will not be applicable to the City of San Marcos (e.g., the City's public safety radio communications system).

As described above, the Ordinance identifies a two-tier permit process for proposed WTFs based on the location and design of the WTF. For proposed WTFs that incorporate a camouflaged design and are proposed within a "preferred location," applications will be processed with an administrative Wireless Telecommunications Permit. The administrative process is intended to encourage providers to locate within non-residential and other preferred areas within the City.

For WTFs proposed to be sited within a "discouraged location," (which includes residential and agricultural zones/areas), a Conditional Use Permit (CUP) is required. Public noticing in accordance with standard noticing requirements (Chapter 20.505) for CUPs is required. In addition, for sites that are not visible from a public right of way, the applicant will be required to post an additional "Notice of Permit Application" sign within the public right of way at an off-site location (within the notification radius). The Director will determine the most visible location(s) for the off-site sign. A public hearing is also required. WTFs may be permitted in a discouraged location only if the applicant provides technically sufficient and conclusive proof that (a) a significant gap in the provider's service exists, (b) the proposed Wireless Telecommunication Facility is necessary to close a significant gap in the provider's network coverage and there are no less intrusive alternative means to close that significant gap, and (c) no feasible alternative exists to close the significant gap by the installation of one or more Wireless Telecommunications Facility sites in the "preferred" areas of the City.

"Preferred Locations" (processed with an administrative Wireless Telecommunications Facility Permit) are defined as (listed in order of preference):

1. Collocation to existing facilities located in non-residential (and agricultural) zones
2. City owned or operated property and facilities, including public right of way
3. Public Institution Zone (includes park facilities)
4. Public Right-of-Way (camouflaged design)
5. Public and private utility installations (such as water tanks, existing communication tower near Double Peak Regional Park, etc. that are not accessible to the public)
6. Industrial Zones and Business Park Zone (WTFs are limited to developed sites/parcels in the Transitional Zones)

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7. Commercial zones (except SR)
8. Specific Plan Areas that include land use regulations for wireless telecommunications facilities
9. Mixed Use Zones
10. Community facilities in residential zones and areas (such as places of worship, community centers, etc.)
11. Public Right-of-Way (non-camouflaged design)
12. Developed major multi-carrier sites
13. High voltage transmission towers
14. Open Space Zones

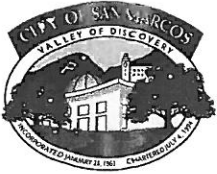
"Discouraged Locations" are defined as follows and are listed in order of preference:

1. Residential and Agricultural zones and areas, including Residential Manufactured Home Park zone (except as noted in "Encouraged Locations")
2. Within any nonresidential zone on a site that contains a legally established residential use
3. Senior-Residential (S-R) Zone
4. Ridgeline Protection and Management Overlay Zone
5. Vacant land
6. Environmentally sensitive habitat
7. All other areas not described above

Chapter 20.465 includes General Regulations (20.465.040) applicable to all proposed WTFs. This section encourages the use of existing structures instead of introducing new structures; requires compliance with the height standard of the underlying zone. The Planning Commission may grant an exception if the proposed WTF is designed at the shortest height technically feasible and is proposed in a location least visible to the public. Siting requirements for all WTFs include compliance with the underlying zone setbacks, except when a proposed freestanding WTF is to be located in or adjacent to a residential area. In that event, the WTF must be set back from the property line by 110% of the WTF height or the underlying zone setback, whichever is greater. The setback is measured from the part of the WTF closest to the property line.

To avoid potential proliferation of visual impacts caused by multiple WTFs, the Chapter also specifies that no more than one (1) new WTF is allowed on any individual parcel in the Residential zones or Agricultural zones. Additionally, in the Residential zones or Agricultural Zones, the minimum separation between every existing and proposed WTFs must be a minimum of one thousand (1,000) feet. However, the separation requirement may be reduced if the applicant provides technically sufficient and conclusive proof that (a) a significant gap in the provider's service exists, (b) the proposed Wireless Telecommunication Facility is necessary to close a significant gap in the carrier's network coverage and there are no less intrusive alternative means to close that significant gap, and (c) no feasible alternative exists to close the significant gap by the installation of one or more Wireless Telecommunications Facility sites in the "Preferred Locations" of the City. Additionally, in residential and agricultural areas,

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no more than two (2) collocated Wireless Telecommunications Facilities may be permitted on any existing Wireless Telecommunications Facility.

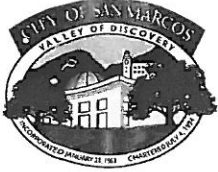
All WTFs must also comply with the City's Noise standards and at the time of application, the provider must substantiate legal access to the facility.

Section 20.465.060 specifies application submittal requirements for all proposed WTFs. The submittal requirements include such items as written documentation-good faith effort to locate in the least intrusive location has been selected; a Geographic Service Area map that shows the proposed WTF in relation to applicant's existing network (within City and ½ mile outside of City; a Visual Impact Analysis that includes photo simulations with and without the proposed WTF; Director has authority to require an on-site mock-up of the proposed WTF; an FCC compliance report for the proposed WTF (which must be cumulative if it is a collocation site); size; potential noise generation and maintenance plan; conceptual landscape/irrigation plan; and a deposit of fees for independent consultant review of plans and technical documents related to the application.

Section 20.465.070 addresses the design and development standards for all proposed WTFs. These standards will be utilized by staff during the review of proposed facilities. The intent is to require the least visually intrusive design regardless of the type of WTF. This can be accomplished through design, use of existing site characteristics, landscaping, etc. to prevent the facility from visually dominating the surrounding area and to hide the installation from surrounding properties. Specific design requirements are identified based on the type of proposed WTF: Standards that are applicable to all WTFs, Building and Structure Mounted WTFs, Ground Mounted Camouflage Monopole WTFs; Miscellaneous WTFs; WTFs in the Public Right-of-Way; and design requirements for equipment enclosures. The Chapter also explicitly prohibits non-camouflaged monopole designs (such as bare metal monopoles, lattice towers, guyed towers, etc.) with a limited exception for proposals to locate WTFs on existing SDGE high voltage towers and the antenna tower located in Double Peak Regional Park (property owned by the County), and WTFs constructed on pre-existing wood utility poles shared by two or more utilities in the public right of way.

Section 20.465.080 specifies maintenance and operation requirements for WTFs. All WTFs are required to be maintained in good condition and all landscaping must be maintained. If landscaping (especially if installed as a screening technique) dies, the applicant, operator, and property owner are responsible to replace with the same size, species, and quantity of the original approval. WTFs must also be maintained free of graffiti, with graffiti promptly removed, and comply with the City's noise requirements. Security and other lighting is only allowed for security purposes or to comply with flag regulations in the event the WTF is camouflaged as a flag pole, and if the WTF is within or adjacent to a residential area, the lighting must be motion sensor activated to reduce potential impacts. If FCC/FAA tower lighting is required by regulation, then special conditions require protection from light pollution at ground level. Lastly, the applicant, owner, and operator are responsible to submit an FCC compliance

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report for RF emissions prior to unattended operation of the facility (cumulative if it is a collocated site). The technical report must be prepared by a qualified engineer. The report must also be submitted on an annual basis. The applicant, operator, or owner is also responsible, at its cost and expense to pay for an independent consultant review of the FCC report. Additionally, when applicable, the applicant will be required to submit an annual Conditional Use Permit compliance report that includes photograph documentation of the existing conditions of the WTF including screening materials (for example, landscaping).

Section 20.465.090 addresses abandonment of WTFs and requires the applicant, operator, and owner to notify the City no less than 60 days prior to the final day of use. Additionally, WTFs no longer operating for a period of 180 days will be considered abandoned by the City. Abandoned WTFs are required to be removed by the applicant, operator, and owner. Failure to remove the WTF can be enforced by the City; because many of these facilities are located on private property, this will require a court order.

Section 20.465.100 specifies the duration of WTF permits is 10 years (but sometimes less if allowed by state law) and also indicates what factors are considered if there is a request to extend the WTF permit.


Sections 20.564.110-180 includes other requirements for WTFs. These include submittal of as-built photographs once a WTF is installed; notification of the City if the WTF ownership or operation is transferred; indemnification of the City; and the obligation of the applicant to comply with all provisions of the Chapter and WTF permit conditions. The appeal and enforcement provisions are specified, which are consistent with Chapter 20.545 (appeals and revocations) of the SMMC. Enforcement is consistent with Chapter 1.12 of the SMMC on a civil basis.

Attachment(s)

- A Requested Action
- B Adopting Resolution
 - a. Existing SMMC Chapter 20.465 (Wireless Telecommunications Facilities Ord.)
 - b. Proposed SMMC Chapter 20.465 (Wireless Telecommunications Facilities Ord.)
- C Addendum to General Plan & Zoning Ordinance Update FEIR (SCH No. 2011071028)
- D Notes from the December 11, 2013 Public Workshop



Prepared by:


Karen Brindley
Principal Planner

Approved/Submitted by:


Jerry Backoff
Planning Division Director

AGENDA ITEM NO. _____



ATTACHMENT A

Requested Action

- Recommend approval to the City Council Text **Amendment 13-001** to supersede and replace Chapter 20.465 of the San Marcos Municipal Code (SMMC) (Telecommunications Facilities) and affected sections of SMMC Title 20

AGENDA ITEM NO. _____

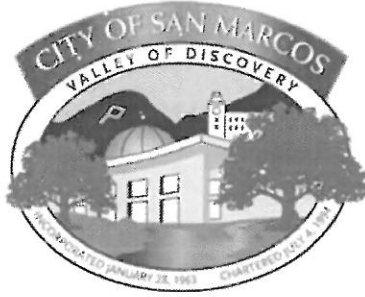


ATTACHMENT B
Adopting Resolution

AGENDA ITEM NO. 2



ATTACHMENT D
January 14, 2014 City Council Report



AGENDA REPORT

Meeting of the San Marcos City Council

MEETING DATE: January 14, 2014
SUBJECT: Proposed replacement of Chapter 20.465 (Wireless Telecommunications Facilities) of the San Marcos Municipal Code (SMMC) and affected sections of SMMC Title 20
P13-0065 (Text Amendment 13-001)

Recommendation

That the City Council consider approving modifications to the San Marcos Municipal Code (SMMC) that would supersede and replace Chapter 20.465 of the SMMC in its entirety, as well as the affected sections of SMMC Title 20, and that the City Council consider approving an Addendum to the General Plan Program Final Environmental Impact Report (FEIR) that was prepared and adopted for the update to SMMC Chapter 20.465.

Board or Commission Action

The Planning Commission voted 6-0 on 12/18/13 to recommend approval to City Council. (See attached Minutes).

Introduction

The City currently regulates Wireless Telecommunications Facilities (WTFs) pursuant to SMMC Chapter 20.465. The existing zoning regulations were designed to encourage WTFs to be located on City owned property, on commercial/industrial sites and to incorporate a camouflaged design. WTFs that meet these requirements can be processed administratively by right. If a proposed WTF does not meet the "by right" requirements, the application requires compliance with the Conditional Use Permit process, which requires action by the Planning Commission. The current zoning regulations do not explicitly identify submittal and design requirements for sites that are processed with a Conditional Use Permit (for example, sites within residential and agricultural zones). The proposed revisions to Chapter 20.465 provide a uniform and comprehensive set of procedures and standards for the development, siting, installation, and removal of WTFs, Amateur Radio Facilities, and Over-the-Air Receiving Devices (e.g., television antennas and certain types of satellite antennas) within the City.



Background

With a recently proposed WTF within a residential area, the community expressed concerns about locating proposed wireless telecommunications facilities within residential areas, as well as about how proposed WTFs within residential areas are regulated by the City. On October 22, 2013 the City Council directed staff to update the Telecommunications Ordinance and obtain the Planning Commission recommendation on the proposed revisions within 60 days.

After receiving the City Council's direction, staff researched how other jurisdictions regulate WTFs (including, but not limited to, County of San Diego, Carlsbad, Encinitas, Escondido and Glendale). In addition, staff and the City's advisors have communicated and met with residents to discuss their concerns with proposed WTFs. Residents have indicated specific concern with siting WTFs within residential and agricultural areas, including the potential for "tree farms" that may be constructed on an individual site. Additionally, a public workshop was held on December 11, 2013 to provide an overview of the proposed regulations and to obtain public input. Attached is a list of public comments made at the workshop, with staff responses. At the Planning Commission hearing, staff also provided an overview of public comments made at the workshop and/or received afterwards.

Federal law as interpreted by court decisions preserves a local jurisdiction's authority to regulate WTFs, but with restrictions set forth in the Telecommunications Act of 1996 (TCA) Section 704 and 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012.

TCA Section 704 provides that the City may not "unreasonably discriminate" against any provider; the City may not prevent the completion of a provider's network; the City must process applications in a "reasonable" timeframe (further clarified to include specific "shot clock" timelines); and that the City cannot deny an application based on perceived health risks associated with RF Emissions. Section 6409(a) provides that "[a] state or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station . . ."

The proposed Chapter 20.465 incorporates reasonable regulations and procedures that address community siting and aesthetic concerns while complying with applicable state and federal laws. The revised Chapter is organized into the following sections: Purpose, Applicability, Permit requirements for all WTFs; Location Criteria; Application Content (submittal requirements); Design and Development Standards used by staff to review applications; Maintenance and Operation; Abandonment and Discontinuance of WTFs; Duration of Permits; As-Built requirements, change or transfer of ownership requirements, regulations for Amateur Radio Facilities and Over-the-Air Receiving Devices, compliance obligations, appeal and enforcement procedures, and definitions.



Discussion

The revised Chapter 20.465 regulations are similar to the WTF regulations adopted by the County of San Diego, Carlsbad, and other jurisdictions, but are modified as necessary to meet the specific community needs of the City of San Marcos. For example, structuring the ordinance to identify “preferred” and “discouraged” locations of a proposed WTF and to define the permit processing requirements based on the design and location of a proposed WTF. The ordinance also encourages the location of WTFs outside of residential and other sensitive areas; encourages the use of camouflaged designs and provides for managed development in the City with the fewest number of WTFs required to complete a network.

The provisions of the revised Chapter 20.465 will be applicable to all WTF permit applications received by the City after the Effective Date of the adopted ordinance and all WTFs that have been previously approved, but are now or hereafter expanded, modified by the replacement of materially different and/or removal of wireless telecommunications facility equipment, or when one or more new bands of service are activated. The revised chapter will not be applicable to the City of San Marcos (e.g., the City’s public safety radio communications system).

As described above, the ordinance identifies a two-tier permit process for proposed WTFs based on the location and design of the WTF. For proposed WTFs that incorporate a camouflaged design and are proposed within a “preferred location,” applications will be processed with an administrative Wireless Telecommunications Permit. The administrative process is intended to encourage providers to locate within non-residential and other preferred areas within the City.

For WTFs proposed to be sited within a “discouraged location,” (which includes residential and agricultural zones/areas), a Conditional Use Permit (CUP) is required. Public noticing in accordance with standard noticing requirements (Chapter 20.505) for CUPs is required. In addition, for sites that are not visible from a public right-of-way, the applicant will be required to post an additional “Notice of Permit Application” sign within the public right-of-way at an off-site location (within the notification radius). The Director will determine the most visible location(s) for the off-site sign. A public hearing is also required. WTFs may be permitted in a discouraged location only if the applicant provides technically sufficient and conclusive proof that (a) a significant gap in the provider’s service exists, (b) the proposed Wireless Telecommunication Facility is necessary to close a significant gap in the provider’s network coverage and there are no less intrusive alternative means to close that significant gap, and (c) no feasible alternative exists to close the significant gap by the installation of one or more Wireless Telecommunications Facility sites in the “preferred” areas of the City.



"Preferred Locations" (processed with an administrative Wireless Telecommunications Facility Permit) are defined as (listed in order of preference):

1. Collocation to existing facilities located in non-residential (and agricultural) zones
2. City owned or operated property and facilities, including public right-of-way
3. Public Institution Zone (includes park facilities)
4. Public Right-of-Way (camouflaged design) – All zones
5. Public and private utility installations (such as water tanks, existing communication tower near Double Peak Regional Park, etc. that are not accessible to the public)
6. Industrial Zones and Business Park Zone (WTFs are limited to developed sites/parcels in the Transitional Zones)
7. Commercial zones (except SR)
8. Specific Plan Areas that include land use regulations for WTFs, which regulations shall be applied to applications for proposed WTFs
9. Mixed Use Zones
10. Community facilities in residential zones and areas (such as places of worship, community centers, etc.)
11. Public Right-of-Way (non-camouflaged design) – All zones
12. Developed major multi-carrier sites
13. High voltage transmission towers
14. Open Space Zones

"Discouraged Locations" are defined as follows and are listed in order of preference:

1. Residential and Agricultural zones and areas, including Residential Manufactured Home Park zone (except as noted in "Encouraged Locations")
2. Within any nonresidential zone on a site that contains a legally established residential use
3. Senior-Residential (S-R) Zone
4. Ridgeline Protection and Management Overlay Zone
5. Vacant land
6. Environmentally sensitive habitat
7. All other areas not described above

The Ordinance also specifies that if a proposed WTF site appears in both the preferred and discouraged location categories then the application must be processed as a discouraged location and subject to applicable provisions of the ordinance.

Chapter 20.465 includes General Regulations (20.465.040) applicable to all proposed WTFs. This section encourages the use of existing structures instead of introducing new structures; requires compliance with the height standard of the underlying zone. The Planning Commission may grant an exception if the proposed WTF is designed at the shortest height technically feasible and is proposed in a location least visible to the public. Siting requirements for all WTFs include compliance with the underlying zone setbacks, except when a proposed freestanding WTF is to be located in or adjacent to a residential area.



In that event, the WTF must be set back from the property line by 110% of the WTF height or the underlying zone setback, whichever is greater. The setback is measured from the part of the WTF closest to the property line.

To avoid potential proliferation of visual impacts caused by multiple WTFs, the Chapter also specifies that no more than one (1) new WTF is allowed on any individual parcel in the Residential zones or Agricultural zones. Additionally, in the Residential zones or Agricultural Zones, the minimum separation between every existing and proposed WTFs must be a minimum of one thousand (1,000) feet. However, the separation requirement may be reduced if the applicant provides technically sufficient and conclusive proof that (a) a significant gap in the provider's service exists, (b) the proposed Wireless Telecommunication Facility is necessary to close a significant gap in the carrier's network coverage and there are no less intrusive alternative means to close that significant gap, and (c) no feasible alternative exists to close the significant gap by the installation of one or more Wireless Telecommunications Facility sites in the "Preferred Locations" of the City. Additionally, in residential and agricultural areas, no more than two (2) collocated Wireless Telecommunications Facilities may be permitted on any existing Wireless Telecommunications Facility.

All WTFs must also comply with the City's noise standards and at the time of application, the provider must substantiate legal access to the facility.

Section 20.465.060 specifies application submittal requirements for all proposed WTFs. The submittal requirements include such items as written documentation-good faith effort to locate in the least intrusive location has been selected; a Geographic Service Area map that shows the proposed WTF in relation to applicant's existing network (within City and ½ mile outside of City); a Visual Impact Analysis that includes photo simulations with and without the proposed WTF; Director has authority to require an on-site mock-up of the proposed WTF; an FCC compliance report for the proposed WTF (which must be cumulative if it is a collocation site); size; potential noise generation and maintenance plan; conceptual landscape/irrigation plan; and a deposit of fees for independent consultant review of plans and technical documents related to the application.

Section 20.465.070 addresses the design and development standards for all proposed WTFs. These standards will be utilized by staff during the review of proposed facilities. The intent is to require the least visually intrusive design regardless of the type of WTF. This can be accomplished through design, use of existing site characteristics, landscaping, etc. to prevent the facility from visually dominating the surrounding area and to hide the installation from surrounding properties. Specific design requirements are identified based on the type of proposed WTF: Standards that are applicable to all WTFs, Building and Structure Mounted WTFs, Ground Mounted Camouflage Monopole WTFs; Miscellaneous WTFs; WTFs in the Public Right-of-Way; and design requirements for equipment enclosures. The Chapter also explicitly prohibits non-camouflaged monopole designs (such as bare metal monopoles, lattice towers, guyed towers, etc.) with a limited exception for proposals to locate



WTFs on existing SDGE high voltage towers and the antenna tower located in Double Peak Regional Park (property owned by the County), and WTFs constructed on pre-existing wood utility poles shared by two or more utilities in the public right of way.

Section 20.465.080 specifies maintenance and operation requirements for WTFs. All WTFs are required to be maintained in good condition and all landscaping must be maintained. If landscaping (especially if installed as a screening technique) dies, the applicant, operator, and property owner are responsible to replace with the same size, species, and quantity of the original approval. WTFs must also be maintained free of graffiti, with graffiti promptly removed, and comply with the City's noise requirements. Security and other lighting is only allowed for security purposes or to comply with flag regulations in the event the WTF is camouflaged as a flag pole, and if the WTF is within or adjacent to a residential area, the lighting must be motion sensor activated to reduce potential impacts. If FCC/FAA tower lighting is required by regulation, then special conditions require protection from light pollution at ground level. Lastly, the applicant, owner, and operator are responsible to submit an FCC compliance report for RF emissions prior to unattended operation of the facility (cumulative if it is a collocated site). The technical report must be prepared by a qualified engineer. The report must also be submitted on an annual basis. The applicant, operator, or owner is also responsible, at its cost and expense to pay for an independent consultant review of the FCC report. Additionally, the applicant will be required to submit an annual Conditional Use Permit compliance report that includes photograph documentation of the existing conditions of the WTF including screening materials (for example, landscaping).

Section 20.465.090 addresses abandonment of WTFs and requires the applicant, operator, and owner to notify the City no less than 60 days prior to the final day of use. Additionally, WTFs no longer operating for a period of 180 days will be considered abandoned by the City. Abandoned WTFs are required to be removed by the applicant, operator, and owner. Failure to remove the WTF can be enforced by the City; because many of these facilities are located on private property, this will require a court order.

Section 20.465.100 specifies the duration of WTF permits is 10 years (but sometimes less if allowed by state law) and also indicates what factors are considered if there is a request to extend the WTF permit.

Sections 20.564.110-180 includes other requirements for WTFs. These include submittal of as-built photographs once a WTF is installed; notification of the City if the WTF ownership or operation is transferred; indemnification of the City; and the obligation of the applicant to comply with all provisions of the Chapter and WTF permit conditions. The appeal and enforcement provisions are specified, which are consistent with Chapter 20.545 (appeals and revocations) of the SMMC. Enforcement is consistent with Chapter 1.12 of the SMMC on a civil basis.



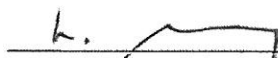
Fiscal Impact

None.

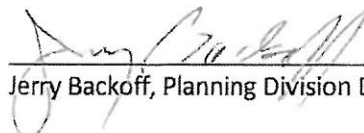
Attachment(s):

- A Requested Action
- B Adopting Ordinance
 - a. Existing SMMC Chapter 20.465 (Wireless Telecommunications Facilities Ord.)
 - b. Proposed SMMC Chapter 20.465 (Wireless Telecommunications Facilities Ord.)
- C Addendum to General Plan & Zoning Ordinance Update FEIR (SCH No. 2011071028)
- D Notes and Staff Responses from the December 11, 2013 Public Workshop and public comments
- E December 18, 2013 Draft Planning Commission Minutes


Prepared by:


Karen Brindley, Principal Planner


Reviewed by:


Jerry Backoff, Planning Division Director

Submitted by:


Lydia Romero, Deputy City Manager

Approved by:


Jack Griffin, City Manager



ATTACHMENT A

Requested Action

- Approve Text Amendment 13-001 to supersede and replace Chapter 20.465 of the San Marcos Municipal Code (SMMC) (Telecommunications Facilities) and affected sections of SMMC Title 20. Approve an Addendum to the General Plan Program EIR that was prepared and adopted for the update to SMMC Chapter 20.465.



ATTACHMENT B

Ordinance

