

# *City of Brisbane*

## *Memo*

To: Honorable Mayor and City Council

From: Sheri Marie Spediacci, City Clerk

**RE:** Ordinance No. 595 to amend the Brisbane Municipal Code Title 17  
Wireless Telecommunications Facilities

The ordinance listed above was introduced at the City Council Meeting of May 7, 2015.  
No changes were made at that time.

It is on this agenda for consideration of adoption.

# *City of Brisbane*

## *Agenda Report*

TO: Honorable Mayor and City Council

FROM: Community Development Director via City Manager

SUBJECT: Ordinance No. 595 to Amend Brisbane Municipal Code Title 17, Wireless Telecommunications Facilities

DATE: May 7, 2015

### **City Council Goals:**

To provide for effective and efficient delivery of City services. (Goal #1)

### **Purpose:**

To update the Zoning Ordinance to be consistent with new Federal Communications Commission rules regarding wireless telecommunications facilities.

### **Recommendation:**

That the City Council introduce Ordinance No. 595.

### **Background/Discussion:**

The Federal Communications Commission (FCC) recently adopted rules clarifying the application of two existing Federal laws (the Communications Act and the Spectrum Act) regulating wireless telecommunication facilities. The City is required to bring our local regulations into compliance with these FCC regulations, which requires minor amendments to the Zoning Ordinance.

In summary, the new FCC rules specifically define “minor modifications” to existing wireless telecommunications facilities and require that local governments implement a non-discretionary approval process for such minor modifications. While the new regulations are discussed in further detail in the attached Planning Commission report, minor modifications as defined by the FCC include collocation of new transmission equipment, removal of transmission equipment, or replacement of transmission equipment at an existing facility that does not substantially change the physical dimensions of the facility.

The Zoning Ordinance currently requires some level of discretionary review for all wireless telecommunication facilities and is therefore inconsistent with the new FCC regulations. The proposed amendments to BMC 17.32.032 define a class of minor modifications consistent with

the FCC regulations and establish a non-discretionary approval process as required for minor modifications. The recommended changes are discussed in detail in the attached Planning Commission report. The proposed amendments are the minimum necessary to ensure compliance with Federal regulations. The ordinance's current limitations on the location of wireless facilities remain in place, and no changes are proposed to the processing requirements for new facilities or alterations which do not qualify as minor modifications.

The Planning Commission reviewed the proposed ordinance at its April 9, 2015 meeting and unanimously recommended approval.

**Fiscal Impact:**


None.

**Measure of Success:**

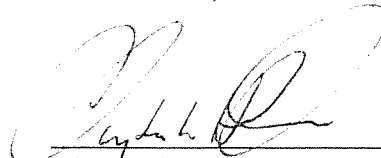
Bringing the City's zoning regulations into compliance with federal law.

**Attachments:**

Redline version of draft Wireless Telecommunications Ordinance  
Draft Ordinance No. 595  
April 9, 2015 Planning Commission staff report  
Planning Commission minutes for April 9, 2015 (excerpt)  
Planning Commission Resolution RZ-1-15 (draft ordinance not included)



John Swiecki, Community Development Director



Clay Holstine, City Manager

**“REDLINE” VERSION OF WIRELESS TELECOMMUNICATIONS ORDINANCE  
AMENDMENTS**

**Proposed deletions shown in strike-through and proposed *new language in italics.***

**Title 17**

**ZONING**

**Chapter 17.32 General Use Regulations**

**17.32.032 - Wireless telecommunications facilities.**

A. Purpose. The purpose of these regulations is to accommodate wireless telecommunication facilities in a manner which will not adversely impact surrounding uses and properties and is compatible with the community.

B. Definitions. The following definitions shall be applicable to this section:

1. *“Minor modification” means any request for collocation of new transmission equipment, removal of transmission equipment, or replacement of transmission equipment at an existing facility that does not result in a substantial modification to the physical dimensions of the facility.*

2. *“Existing facility” means any wireless telecommunications facility lawfully constructed and in operation at the time a request to modify said facility is made.*

~~3.~~ 3. *“Residential district” means the following districts as shown on the city's zoning map: R-1 Residential district; R-2 Residential zoning district; R-3 Residential zoning district; R-BA Brisbane acres residential district; PD planned development district for the Northeast Ridge, and the site of any property located within the SCRO Southwest Bayshore commercial district having a residential structure existing or to be constructed thereon.*

4. *“Substantial modification” means a modification to an existing facility that meets any of the following criteria:*

a. *For wireless telecommunications towers outside of public rights-of-way, an increase in the height of the existing tower by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for wireless telecommunications towers in the public rights-of-way and for all base stations, an increase in the height of the existing tower or base station by more than 10% or 10 feet, whichever is greater; or*

b. *For wireless telecommunications towers outside of public rights-of-way, an appurtenance that protrudes from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for wireless telecommunications towers in the public rights-of-way and for all base stations, an appurtenance that protrudes from the edge of the structure more than six feet; or*

- c. Installation of more than four cabinets;
- d. Any excavation or construction outside the structural footprint of the wireless telecommunications tower or base station;
- e. Defeats one of more of the existing concealment elements of the wireless telecommunications tower or base station; or
- f. Does not comply with conditions associated with the prior approval of construction or modification of the wireless telecommunications tower or base station, unless the non-compliance is due to a change that would otherwise not be defined as "substantial modification" as identified herein.

~~2-~~ 5. "Wireless telecommunication facility" means a base station, tower, and associated transmission equipment (as those terms are defined in 47 Code of Federal Regulations, section 1.40001(b)), ~~structure, antenna, pole, and related improvements~~ established for the purpose of providing commercial wireless transmission of voice data, images or other information, including but not limited to radio, television, cellular phone service, personal communication service and paging services. Noncommercial antennas, radio and television signals, and noncommercial satellite dishes are excluded.

#### C. Location Requirements, ~~Existing Facilities.~~

1. Prohibition. Wireless telecommunication facilities are prohibited in all of the following locations:

- a. All open space districts;
- b. All residential districts; and
- c. Any location within six hundred (600) feet from the nearest boundary of a residential district.

2. Allowable Locations-Permits. *New wireless telecommunication facilities or substantial modifications to existing facilities* may be allowed at any location not subject to the prohibition set forth in subsection (C)(1) above, upon the granting of either an administrative permit by the zoning administrator or a use permit by the planning commission, as may be applicable. The administrative permit or use permit shall also constitute a design permit for the facility and a separate design permit shall not be required. The permit may be issued subject to any conditions or requirements deemed appropriate by the approving authority to mitigate potential impacts that may be caused by the proposed facility. *Minor modifications are subject only to building permit approval.*

3. Existing Facilities. Wireless telecommunication facilities lawfully installed prior to the effective date of this section, within any location that would be prohibited under subsection (C)(1) above, shall be allowed to continue pursuant to the approval granted for such facilities and shall not be classified as nonconforming uses.

#### D. Administrative Permit.

1. Issuance of Administrative Permit by Zoning Administrator. Wireless telecommunication facilities that comply with the applicable development and operational standards set forth in subsection G of this section, may be approved by an administrative permit granted by the zoning administrator under any of the following circumstances:

- a. Building or roof-mounted antenna;
- b. Antennae which are architecturally integrated with a building so as not to be recognized as antennae;
- c. Co-location of equipment to an existing approved support structure;
- d. Antennas mounted on other existing structures or similar replacement structures, such as water tanks, utility poles, light poles, or ball field lighting;
- e. A stealth facility constructed to appear as another object such as a tree, flag pole, or architectural feature;
- f. Expansion of an existing support structure up to a maximum height of seventy (70) feet, or the addition of dish antennae up to four (4) feet in diameter or whip antennae on existing support structures.

2. Notice to Adjacent Property Owners. If the zoning administrator determines that an administrative permit should be granted, the zoning administrator shall give written notice of such intended decision to all persons shown on the latest adopted tax roll as owning property within three hundred (300) feet from the boundaries of the site on which the wireless telecommunication facilities will be located. The notice shall generally describe the nature, design and location of the proposed facilities and advise the property owners that they may submit written comments on the intended decision by a certain date, which shall be not less than ten (10) days from the date of mailing the notice. The notice shall also advise the property owners that they have the right to appeal a decision of the zoning administrator to the planning commission. The zoning administrator shall send a copy of the final decision on the application to each person who has submitted written comments within the time prescribed in the notice.

3. Referral to Planning Commission. The zoning administration may refer any application to the planning commission for a decision thereon if the zoning administrator determines that the application does not, or may not, qualify for an administrative permit, or if there are special circumstances concerning the application that would justify a public hearing and consideration by the planning commission. An application referred by the zoning administrator to the planning commission shall be processed in accordance with the same procedure applicable to a use permit.

E. Use Permit. A use permit granted by the planning commission pursuant to Chapter 17.40 of this title shall be required for any wireless telecommunication facility that does not qualify for a building permit or an administrative permit under *subsections C and D* of this section.

F. Application Requirements. In addition to any other documents that must be furnished as part of the administrative permit or use permit application, the applicant shall also provide the following items:

1. A photo simulation showing the appearance of the proposed facility where most prominent from public view.
2. Documentation showing that alternative sites for the proposed facility were considered and the reasons for rejecting such sites.

3. For use permit applications only, plans showing that the proposed facility has been designed for co-location of at least one other carrier, or if not, the reasons why a design for co-location cannot be used for that facility.

G. Development and Operational Standards. All wireless telecommunication facilities subject to administrative or use permit approval shall comply with the following development and operational standards:

1. Facilities shall be sited to minimize views from the public right-of-way and screened by buildings and/or trees where possible.
2. Facilities shall not create an overconcentration of poles or visible equipment so as to avoid excessive visual impacts in localized areas.
3. The height of antennae and support structures shall be limited to the minimum necessary to provide adequate coverage while avoiding the proliferation of additional facilities. However, an antenna or its support structure shall not exceed seventy (70) feet in height, unless a variance from this limitation is granted by the planning commission pursuant to Chapter 17.46 of this title.
4. Where an equipment building accompanies the structure, it shall be designed, colored and textured to match adjacent buildings or screened from view. Landscaping may be required to screen views of the facility from the public right-of-way.
5. Underground vaults may be required in order to mitigate physical, aesthetic, or safety considerations which cannot be otherwise mitigated.
6. All facilities shall be designed to prevent unauthorized access.
7. All new wireless telecommunication facilities shall be designed and operated in conformance with applicable American National Standards Institute (ANSI) standards and in compliance with all applicable Federal Communication Commission (FCC) standards.
8. Support structures shall be either galvanized steel or painted to blend with their surroundings. Permitted dishes and antennae shall be galvanized steel or painted to match the existing building or support structure.

H. Removal of Facilities. If a facility is abandoned or if the administrative permit or the use permit is revoked or becomes void, then the facility shall be removed.

## ORDINANCE NO. 595

### AN ORDINANCE OF THE CITY OF BRISBANE AMENDING SECTION 17.32.032 OF THE MUNICIPAL CODE REGARDING WIRELESS TELECOMMUNICATIONS FACILITIES

The City Council of the City of Brisbane hereby ordains as follows:

**SECTION 1.** Section 17.32.032 of the Brisbane Municipal Code is hereby amended to read as follows:

17.32.032 - Wireless telecommunications facilities.

A. Purpose. The purpose of these regulations is to accommodate wireless telecommunication facilities in a manner which will not adversely impact surrounding uses and properties and is compatible with the community.

B. Definitions. The following definitions shall be applicable to this section:

1. "Minor modification" means any request for collocation of new transmission equipment, removal of transmission equipment, or replacement of transmission equipment at an existing facility that does not result in a substantial modification to the physical dimensions of the facility.

2. "Existing facility" means any wireless telecommunications facility lawfully constructed and in operation at the time a request to modify said facility is made.

3. "Residential district" means the following districts as shown on the city's zoning map: R-1 Residential district; R-2 Residential zoning district; R-3 Residential zoning district; R-BA Brisbane acres residential district; PD planned development district for the Northeast Ridge, and the site of any property located within the SCRO Southwest Bayshore commercial district having a residential structure existing or to be constructed thereon.

4. "Substantial modification" means a modification to an existing facility that meets any of the following criteria:

a. For wireless telecommunications towers outside of public rights-of-way, an increase in the height of the existing tower by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for wireless telecommunications towers in the public rights-of-way and for all base stations, an increase in the height of the existing tower or base station by more than 10% or 10 feet, whichever is greater; or

b. For wireless telecommunications towers outside of public rights-of-way, an appurtenance that protrudes from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for wireless telecommunications towers in the public rights-of-way and for all base stations, an appurtenance that protrudes from the edge of the structure more than six feet; or

c. Installation of more than four cabinets;



- d. Any excavation or construction outside the structural footprint of the wireless telecommunications tower or base station;
- e. Defeats one or more of the existing concealment elements of the wireless telecommunications tower or base station; or
- f. Does not comply with conditions associated with the prior approval of construction or modification of the wireless telecommunications tower or base station, unless the non-compliance is due to a change that would otherwise not be defined as “substantial modification” as identified herein.

5. “Wireless telecommunication facility” means a base station, tower, and associated transmission equipment (as those terms are defined in 47 Code of Federal Regulations, section 1.40001(b)) established for the purpose of providing commercial wireless transmission of voice data, images or other information, including but not limited to radio, television, cellular phone service, personal communication service and paging services. Noncommercial antennas, radio and television signals, and noncommercial satellite dishes are excluded.

#### C. Location Requirements

1. Prohibition. Wireless telecommunication facilities are prohibited in all of the following locations:

- a. All open space districts;
- b. All residential districts; and
- c. Any location within six hundred (600) feet from the nearest boundary of a residential district.

2. Allowable Locations-Permits. New wireless telecommunication facilities or substantial modifications to existing facilities may be allowed at any location not subject to the prohibition set forth in subsection (C)(1) above, upon the granting of either an administrative permit by the zoning administrator or a use permit by the planning commission, as may be applicable. The administrative permit or use permit shall also constitute a design permit for the facility and a separate design permit shall not be required. The permit may be issued subject to any conditions or requirements deemed appropriate by the approving authority to mitigate potential impacts that may be caused by the proposed facility. Minor modifications are subject only to building permit approval.

3. Existing Facilities. Wireless telecommunication facilities lawfully installed prior to the effective date of this section, within any location that would be prohibited under subsection (C)(1) above, shall be allowed to continue pursuant to the approval granted for such facilities and shall not be classified as nonconforming uses.

#### D. Administrative Permit.

1. Issuance of Administrative Permit by Zoning Administrator. Wireless telecommunication facilities that comply with the applicable development and operational standards set forth in subsection G of this section may be approved by an administrative permit granted by the zoning administrator under any of the following circumstances:

- a. Building or roof-mounted antenna;

- b. Antennae which are architecturally integrated with a building so as not to be recognized as antennae;
- c. Co-location of equipment to an existing approved support structure;
- d. Antennas mounted on other existing structures or similar replacement structures, such as water tanks, utility poles, light poles, or ball field lighting;
- e. A stealth facility constructed to appear as another object such as a tree, flag pole, or architectural feature;
- f. Expansion of an existing support structure up to a maximum height of seventy (70) feet, or the addition of dish antennae up to four (4) feet in diameter or whip antennae on existing support structures.

2. Notice to Adjacent Property Owners. If the zoning administrator determines that an administrative permit should be granted, the zoning administrator shall give written notice of such intended decision to all persons shown on the latest adopted tax roll as owning property within three hundred (300) feet from the boundaries of the site on which the wireless telecommunication facilities will be located. The notice shall generally describe the nature, design and location of the proposed facilities and advise the property owners that they may submit written comments on the intended decision by a certain date, which shall be not less than ten (10) days from the date of mailing the notice. The notice shall also advise the property owners that they have the right to appeal a decision of the zoning administrator to the planning commission. The zoning administrator shall send a copy of the final decision on the application to each person who has submitted written comments within the time prescribed in the notice.

3. Referral to Planning Commission. The zoning administration may refer any application to the planning commission for a decision thereon if the zoning administrator determines that the application does not, or may not, qualify for an administrative permit, or if there are special circumstances concerning the application that would justify a public hearing and consideration by the planning commission. An application referred by the zoning administrator to the planning commission shall be processed in accordance with the same procedure applicable to a use permit.

E. Use Permit. A use permit granted by the planning commission pursuant to Chapter 17.40 of this title shall be required for any wireless telecommunication facility that does not qualify for a building permit or an administrative permit under subsections C and D of this section.

F. Application Requirements. In addition to any other documents that must be furnished as part of the administrative permit or use permit application, the applicant shall also provide the following items:

- 1. A photo simulation showing the appearance of the proposed facility where most prominent from public view.
- 2. Documentation showing that alternative sites for the proposed facility were considered and the reasons for rejecting such sites.
- 3. For use permit applications only, plans showing that the proposed facility has been designed for co-location of at least one other carrier, or if not, the reasons why a design for co-location cannot be used for that facility.

G. Development and Operational Standards. All wireless telecommunication facilities subject to administrative or use permit approval shall comply with the following development and operational standards:

1. Facilities shall be sited to minimize views from the public right-of-way and screened by buildings and/or trees where possible.
2. Facilities shall not create an overconcentration of poles or visible equipment so as to avoid excessive visual impacts in localized areas.
3. The height of antennae and support structures shall be limited to the minimum necessary to provide adequate coverage while avoiding the proliferation of additional facilities. However, an antenna or its support structure shall not exceed seventy (70) feet in height, unless a variance from this limitation is granted by the planning commission pursuant to Chapter 17.46 of this title.
4. Where an equipment building accompanies the structure, it shall be designed, colored and textured to match adjacent buildings or screened from view. Landscaping may be required to screen views of the facility from the public right-of-way.
5. Underground vaults may be required in order to mitigate physical, aesthetic, or safety considerations which cannot be otherwise mitigated.
6. All facilities shall be designed to prevent unauthorized access.
7. All new wireless telecommunication facilities shall be designed and operated in conformance with applicable American National Standards Institute (ANSI) standards and in compliance with all applicable Federal Communication Commission (FCC) standards.
8. Support structures shall be either galvanized steel or painted to blend with their surroundings. Permitted dishes and antennae shall be galvanized steel or painted to match the existing building or support structure.

H. Removal of Facilities. If a facility is abandoned or if the administrative permit or the use permit is revoked or becomes void, then the facility shall be removed.

**SECTION 2.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Brisbane hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

**SECTION 3.** This Ordinance shall be in full force and effect thirty days after its passage and adoption.

\* \* \*

The above and foregoing Ordinance was regularly introduced and after the waiting time required by law, was thereafter passed and adopted at a regular meeting of the City Council of the City of Brisbane held on the \_\_\_\_ day of \_\_\_\_\_, 2015, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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Terry O'Connell, Mayor

ATTEST:

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Sheri Marie Spediacci, City Clerk

APPROVED AS TO FORM:

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Michael Roush, City Attorney

# *City of Brisbane*

## *Planning Commission Agenda Report*

**TO:** Planning Commission For the Meeting of 4/9/2015

**FROM:** Julia Capasso, Associate Planner, via John Swirecki, Community Development Director

**SUBJECT:** **Zoning Text Amendment RZ-1-15** to amend Brisbane Municipal Code Title 17, Chapter 17.32, Section 17.32 pertaining to wireless telecommunications facilities.

**REQUEST:** To amend Brisbane Municipal Code Section 17.32.032, Wireless Telecommunications Facilities, by revising definitions and modifying City procedures to bring them into conformance with new Federal Communications Commission requirements.

**RECOMMENDATION:** Recommend that the City Council adopt the draft ordinance, via adoption of Resolution RZ-1-15.

**ENVIRONMENTAL DETERMINATION:** For minor zoning amendments where it can be seen with certainty that there is no possibility that the activity in question may have significant effect on the environment, the activity is not subject to the California Environmental Quality Act (CEQA). This general rule is contained in State CEQA Guidelines Section 15061(b)(3).

**APPLICABLE CODE SECTIONS:** Regulations pertaining to wireless telecommunications facilities are contained in BMC Section 17.32.032.

### **BACKGROUND AND ANALYSIS:**

In January of 2015, the Federal Communications Commission (FCC) adopted new rules clarifying two existing Federal laws (Communications Act and Spectrum Act) governing the installation and use of wireless telecommunications facilities nationwide. The newly adopted rules clarify existing language in the statutes that establish different classes and review timeframes for requests to construct new wireless telecommunications facilities or modify existing facilities, and define certain key terms related to wireless telecommunication facilities.

Existing language in the Spectrum Act requires local governments to administratively approve a request to modify an existing wireless telecommunications facility that does not substantially change the physical dimensions of the facility. However, until the FCC's rules were adopted, the definition of "substantially change" was not established and application of the standard was left to the discretion of local governments. The new FCC rules provide clear and narrow definitions of what constitutes "substantial changes" to an existing facility. The FCC rules also clarify that changes to existing facilities should be considered cumulatively; i.e., each request for modification must be compared to the original approval of the facility to determine whether or not it proposes a substantial change to the facility. This allows local governments to limit the ability of applicants to apply for separate and cumulative minor modifications that, when taken as a whole, would result in a substantial change to the facility.

Implementation of the new FCC rules will require changes to the City's administrative policies and §17.32.032 of the Municipal Code, as discussed further in the table and analysis below.

Federal Law	FCC Rule	Implementation Required	Required City Action
Communications Act Section 332(c)(7)	New processing timeframes for projects that involve new facilities or substantial modifications to existing facilities.	Administrative; adjust review timeframe, no Municipal Code changes required.	Update internal policy and public handouts and submittal checklists.
Spectrum Act Section 6409(a)	Prohibits jurisdictions from requiring discretionary review of projects involving minor modifications to existing facilities.	Municipal Code changes required.	Amend BMC Section 17.32.032 to add non-discretionary (building permit) approval for minor modifications to existing facilities, and to define minor modifications.

*Existing Code Requirements for Wireless Telecommunications Facilities*

The City Council adopted Ordinance 508 in 2005, adding a new section 17.32.032 to the Brisbane Municipal Code regarding the establishment of wireless telecommunications facilities in Brisbane. The intent of the ordinance was to accommodate wireless telecommunications facilities in a manner compatible with the community that would prevent adverse impacts to surrounding land uses.

Under the existing ordinance, an Administrative Permit from the Zoning Administrator is required for certain types of wireless telecommunication facilities, limited to installation of new antennas on a roof, building or other existing structure, co-location of equipment, stealth facilities, and expansion of an existing support structure within certain limits (see BMC §17.32.032.D.1). A Use Permit from the Planning Commission is required for any action not subject to an Administrative Permit. Consistent with the respective administrative noticing requirements for Zoning Administrator and Planning Commission, all decisions or hearings related to administrative permit or use permit review are publicly noticed to adjacent properties.

*Draft Ordinance*

The draft ordinance (attached) proposes discrete amendments to BMC §17.32.032 to exempt requests for minor modifications to existing wireless telecommunications facilities from administrative or use permit approval, consistent with the FCC rules. Under subsection B, the ordinance proposes new definitions of pertinent terms, including "minor modification" and "substantial modification," and modifies the existing definition of "wireless telecommunication

facility.” These definitions are consistent with the definitions adopted by the FCC. An amendment to subsection C is proposed to clarify that applications for minor modifications are subject only to building permit approval.

Staff notes that no changes are proposed to the ordinance’s limitations on the location of wireless facilities, or to the review and approval process of projects that do not qualify for building permit approval. The proposed amendments are the minimum necessary to ensure compliance with Federal regulations.

**STAFF RECOMMENDATION:**

Adoption of draft Resolution RZ-1-15, recommending approval of the draft ordinance to the City Council.

**ATTACHMENTS:**

Draft Resolution RZ-1-15, with draft ordinance attached (NOT INCLUDED)  
Redline version of draft ordinance (NOT INCLUDED)

Excerpt  
BRISBANE PLANNING COMMISSION  
Action Minutes of April 9, 2015  
Regular Meeting

H. NEW BUSINESS

1. PUBLIC HEARING: Zoning Text Amendment RZ-1-15 to amend Brisbane Municipal Code Title 17, Chapter 17.32, Section 17.32 pertaining to wireless telecommunications facilities.

Associate Planner Capasso gave the staff report and answered questions from Commissioners regarding the Federal Communications Commission (FCC) requirements. Chairperson Do opened the public hearing. Debbie Horne shared her concerns with antennas potentially being installed on homes in her neighborhood, and that property owners could be profiting from commercial antennas without being taxed by the City. Staff noted that the existing ordinance prohibits commercial wireless telecommunications facilities in residential districts and within 600 feet of residential districts and that revenue generation and taxation was the purview of the City Council.

Chairperson Do closed the public hearing. Commissioner Munir motioned and Commissioner Parker seconded to adopt Resolution RZ-1-15, recommending approval of the draft ordinance to the City Council. The motion carried 3-0.



RESOLUTION RZ-1-15

A RESOLUTION OF THE PLANNING COMMISSION OF BRISBANE  
RECOMMENDING TO THE CITY COUNCIL THE ADOPTION OF  
ZONING TEXT AMENDMENT RZ-1-15,  
TO AMEND TITLE 17, SECTION 17.32.032 OF THE MUNICIPAL CODE PERTAINING TO  
WIRELESS TELECOMMUNICATIONS FACILITIES

WHEREAS, on January 8, 2015 the Federal Communications Commission (FCC) published a Report and Order in the Federal Register to clarify the requirements of section 6409(a) of the Spectrum Act and section 332(c)(7) of the Telecommunications Act, specifically to define key terms and processing timelines pertaining to State and local government review of applications to modify an existing wireless telecommunications facility or to construct a new facility; and

WHEREAS, the attached draft ordinance contains amendments to Section 17.32.032 of the Brisbane Municipal Code pertaining to the permitting of wireless telecommunications facilities to bring the Zoning Ordinance into conformance with the FCC's Report and Order; and

WHEREAS, on April 9, 2015, the Planning Commission conducted a duly noticed hearing of the draft ordinance amendments, at which time any person interested in the matter was given an opportunity to be heard; and

WHEREAS, the Planning Commission found that the recommended zoning amendments are minor in nature and it can be seen with certainty that there is no possibility that adoption of the zoning amendments will have a significant effect on the environment, the activity is not subject to the California Environmental Quality Act (CEQA) per the general rule contained in State CEQA Guidelines Section 15061(b)(3); and

NOW, THEREFORE, based upon the evidence presented, both written and oral, the Planning Commission of the City of Brisbane hereby RECOMMENDS that the City Council adopt the attached ordinance.

ADOPTED this ninth day of April, 2015, by the following vote:


AYES: Do, Munir, Parker

NOES:

ABSENT: Reinhardt

  
Tuong Van Do  
Chairperson

ATTEST:

  
JOHN A. SWIECKI, Community Development Director